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INQUIRIES AND SUGGESTIONS

This publication was prepared under the editorial direction of Rose Steinman, with Carol Blanchard as Chief Editor assisted by Loren Myers. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office will be welcomed by Fred J. Emery, Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

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1500.83 (a)(34) corrected 33026
1500.85 Effective date 34874
(a)(6) republished 43391
1500.131 Removed 31773
1505.3 (e)(1) revised 34280
(b)(1)(iii) added; (b)(3) revised; (d) republished 43392
1507 Effective date 34874
1511 Added 33279
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1700.14 (a)(1)(ii) revised 20291
1702 Added 44804

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1.3 (z) revised 42750
1.8 Removed 23993
1.9 Revised 23993
1.10 (a) revised 23993
1.10a Added 23993
1.10b Revised 23993
1.10c Revised 23993
1.10d Revised 23994
1.14 Revised 23994
1.47 Added 42751
1.48 Revised 42752
15.03 (a) Revised 25485
140.71 Added 39033
147.3 (b)(5)(ii) correctly designated 42851
155.2 (c) and (e) interpretations 35004

Chapter II—Securities and Exchange Commission

200.30–3 (a)(25) added 30835
(a)(4) revised 36250
(a)(26) added 40903
200.80 (c)(1) and (2); (d)(2), (6)(ii), and (9)(ii) revised 40189
(c)(1)(ii) corrected 44807
200.308 (a)(2) and (b)(1) revised 40190
200.309 (e)(2) amended 40190
200.310 Amended 40190
200.735–4 (b)(5) revised; (b)(7) added 30834
203.7 (a) revised 37809
210.3–16 (t)(1)(i)(C) (*v*) (a) to (*iv*) amended; (t)(G) added 27880
210.3–16 (q) revised 44809
(q) revised 44809
210.5–04 Schedule I revised 46513
210.12–02 Revised 46513, 51569
211 Interpretative releases 28999, 33282, 42310, 44807, 44983, 49445
230.458 Removed 35829
231 Interpretative releases 22139, 33282, 42196, 43058, 45294
Effective date at 8–26–77 removed 46047
Interpretative releases 51570
239.11 Effective date note added 40900
Form S–1 effective date stayed to 4–30–78 41406
239.18 Effective date note added 40900
Form S–11 effective date stayed to 4–30–78 41406
239.26 Amended 22140
240.10b–10 Added 25323
240.13a–13 Revised 24084
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240.13b–1 Removed 24065
240.13d–1—240.13d–2 Effective date stayed to 4–30–78 41406
240.13d–1 Effective date note and superseded text added 40900
240.13d–2 Effective date note and superseded text added 40900
240.13d–3 Effective date note and superseded text added 40900
Effective date stayed in part to 4–30–78 41406
240.13d–4 Effective date note and superseded text added 40900
Effective date stayed to 4–30–78 41406
240.13d–5—240.13d–7 Effective date stayed to 4–30–78 41406
240.13d–5 Effective date note added 40901
240.13d–6 Effective date note added 40901
240.13d–7 Effective date note added 40901
240.13d–101 Amended 38347
Effective date note and superseded text added 40901
240.14a–3 (b)(9) revised 24064
(d) text revised; (d) Note 1 revised; (d) Note 3 added 35955
240.14a–101 Effective date note and superseded text added 40901
Schedule 14A effective date stayed to 4–30–78 41406
240.14a–102 Effective date note and superseded text added 40902
Schedule 14B effective date stayed to 4–30–78 41406
240.14b–1 Added 35955
240.14c–3 (a)(9) revised 24064
240.14c–101 Schedule 14C effective date stayed to 4–30–78 41406
240.14d–1 (a), (c)(4), (d), and (e) revised; (g) added 38347
240.14d–100 Added 38348
240.14d–102 Effective date note added 40901
240.15Ab–1 Removed 36415
240.15Ag–1 Removed 38415
240.15c2–11 (f)(4)(T) republished; effective date extended to 7–31–77 27881
(f)(4)(T) revised; extension of time to 1–31–78 39090

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240.15c3–1 (c)(2)(vi)(E) revised 19127
(c)(2)(iv)(C) and (f) revised; (c)(2)(vi)(M) and (f)(3)(iii) amended 23800
(b)(2), (c)(2)(iv)(B), (E), (vi)(M), (xii) and (xiii), and (f)(3)(iii) revised 27223
(a)(6)(ii) and (c)(2)(x)(a)(7) and (B)(1) revised; (a)(6)(v) and (7) added 31776
(c)(2)(vi)(E) revised 31780
(c)(2)(iv)(C) and (f)(1) revised 38902
(c)(2)(vi)(M) and (f)(3)(iii) amended 38903
240.15c3–1a (c)(8) revised 27224
240.15c3–1d (b)(11) added 31778
240.15c3–3 (d)(4) added 23790
Comment date extended 35643
240.15c3–3a Revised 27224
240.15d–13 Revised 24065
(c)(1) revised 27880
240.16b–3 (e)(2) and (3) Revised 33285
240.17a–3 (a)(14) added 40903
240.17a–4 (b)(8) introductory text revised; (b)(9) added 23787
(e)(4) added 40903
(e)(4) corrected 42851
(i) added 47552
240.17a–5 (a)(2)(i) through (iii) and (3), (b)(1), (c)(2) introductory text and (3), (d)(1)(iii) and (2) revised 23787
(e)(1)(i), (2), (4) introductory text and (4)(iii)(B) through (F), (f)(2), (g)(1)(iv) and (3) revised; (b)(6) added 23787
(g)(1)(iv) effective date extended to 1–1–78 in part 35643
240.17a–10 (a), (b), and (d) revised 23789
240.17a–11 (a), (b)(1) and (2) revised; (b)(4) added 23789
240.17a–13 (b)(5) revised 23790
240.17a–19 Revised 23790
240.17a–20 Revised 23790
240.17f–1 (a), (b), (e) and part of (d) eff. 10–3–77; remaining text eff. 1–2–78 32534
(b)(1)(i), (2), and (4) revised; (f) added 40903
Revised 41025
240.17Ac3–1 Added 44984
240.17Ad–1—240.17Ad–7 Added 32411
240.19d–1 Added 36415
240.19d–2 Added 36416
240.19d–3 Added 36417
240.19h–1 Added 36417
241 Interpretative releases 31780, 33282, 43058
Effective date at 8–26–77 removed 46047
249.210 Effective date note added 40902
Form 10 effective date stayed to 4–30–78 41406
249.310 Effective date note added 40902
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249.312 Form 12–K removed 24065
249.504k Added 47553
249.617 Revised 23790
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249.1200 Amended 40904, 41027
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259.5s Form U5S amended 24253
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270.2a–5 Added 41406
270.24e–2 Added 31782
271 Interpretative releases 28999, 33282, 42196, 43058, 44810, 45294
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275.206(3)–2 Added 29301
275.206A–1(T) Revised 21770

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2.13 (b) amended ---- 30612
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2.60 (c) revised ---- 30612
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2.67a (a)(1)(i) and (ii), and (a)(2) revised ---- 30612
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3.114 (c) revised ---- 17451
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3.186 Revised ---- 17451
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3.221—3.231 (Subpart D) Redesignated as 3c.101—3c.111 (Subpart B) and edtorial changes ---- 17451
3.241—3.246 (Subpart E) Redesignated as 3c.201—3c.206 (Subpart C) and editorial changes ---- 17451
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35.13 (b)(4)(iii) amended ---- 30155, 30613
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1000.1 (a)(10), (11) and (12) added 22146
1000.7 (b) added 34499
1000.9 Added 22146

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1.2 (c) table amended 32535, 47191
1.3 (d) table amended 32535
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24.13 Effective date postponed to 8-22-77 21785
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133.33 (a)(2) amended 41279
134.43 (a) amended 49452
148.19 Amended 25324
153.46 Table amended 38177
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210.36 (b)(5) revised 40428

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210.2 Revised 18058
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404.704 (b)(3) revised 30357
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404.1401 Revised 18272
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404.1411 Removed 18274
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404.1413 Added 18274
405 Redesignated as 42 CFR 405 52826
405.415 (d)(1), (2), and (3) headings added; (d)(3) existing text designated as (d)(3)(i) and heading added; (d)(3)(ii) added 45897
405.504 (a)(2) and (3)(i) and (ii) revised 18275
405.1625—405.1697 (Subpart P) Heading revised 44220
405.1695 Added 44220
405.1696 Added 44220
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416.337 Added 39099

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416.340 (b)(2) revised; (d) added 39099
416.705 Text revised and redesignated as (a); (b) added 39099
416.901—416.985 (Subpart I) Appendix 1 corrected 21770, 30357
416.1126 Added 17441
416.1145 (b)(4-a) added 17441
416.1146 (b) revised 44221
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416.1212 (a) revised 40192
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625 Revised 46712
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5.37 (a)(6) added 32770
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5.59 Added 39101
5.61 Revised 29856
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8.36 (c) comment time extended 24254
10.40 (e)(2) corrected 19127
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10.105 (d) corrected 19127
12.22 (a) introductory text and (1), (b) introductory text, (c), and (d) corrected 19127
12.24 (b)(6) and (d) corrected 19127
12.26 Corrected 19127
12.28 Introductory text, and (b)(1)(ii) and (2)(ii) corrected 19127

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52.120 (c)(11) added 36999
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52.125 (d) through (g) removed; (h) added 36999
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303 Heading revised 55348
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1005.8 (b)(3) added 48739
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1006 Heading revised 44860
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1067.30-1—1067.30-5 (Subpart 1067.30) Added 56197
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1068.6 Authority citation revised *3165
1068.9-1—1068.9-5 (Subpart) Removed *18038
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73.186 (a) introductory text, (1) and (5) and (b)(1), (3), (5), and (7) revised; (a)(6) added 44178
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73.257 (b)(7) revised; (c) redesignated as (d); new (c) added 53026
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73.275 (a)(5) revised; (a)(8) added 44179
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73.556 (a) introductory text amended; (a)(2) removed 53027
73.557 (b)(7) amended; (c) redesignated as (d); new (c) added 53027
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73.565 (b), (d) introductory text and (1) revised; (e) through (h) redesignated as (f) through (i); new (e) added 44179
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73.573 (a)(5) revised; (a)(8) added 44180
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73.682 (a)(22) added 56325
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73.689 (a)(2)(iii) revised; (a)(2)(iv) added *36829
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74.15 (b) revised *14728
74.181 (b) revised; (c) redesignated as (d) and revised; new (c) added *9179
74.281 (b) revised; (c) redesignated as (d) and revised; new (c) added *9179
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74.581 (b) revised; (c) redesignated as (d) and revised; new (c) added *9180
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74.681 (b) revised; (c) redesignated as (d) and revised; new (c) added *9180
74.682 (a) revised *36830
74.781 (b) revised; (c) and (d) redesignated as (d) and (e) and revised; new (c) added *9180
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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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DOT/OPSO	LABOR		DOT/OPSO	LABOR
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	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
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Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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INTERIOR/FWS—Mark Twain National Wildlife Refuge, Ill.; open to fox and squirrel hunting..... 39393; 8–4–77

Medicine Lake National Wildlife Refuge, Mont.; open to hunting..... 39392; 8–4–77

ICC—Common Carriers of property by rail; remittance of demurrage charges. 39390; 8–4–77

Rail common carriers of property; remittance of demurrage..... 39390; 8–4–77

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State—Consular services, change in fees. 35829; 7–12–77

USDA/AMS—Amendments to standards for certified seed..... 38573; 7–29–77

Milk in the Southern Michigan marketing area; order..... 38584; 7–29–77

Milk in the Tennessee Valley Marketing Area; milk marketing order. 40888; 8–12–77

FSQS—Standards for grades of canned ripe olives..... 38585; 7–29–77

Carriers of animals; vehicle emergencies; change in notification procedure..... 39086; 8–2–77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

Table of Effective Dates and Time Periods—September 1977

This table is for use in computing dates certain in connection with documents which are published in the FEDERAL REGISTER subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for FEDERAL REGISTER scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published monthly in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
September 1	September 16	October 3	October 17	October 31	November 30
September 2	September 19	October 3	October 17	November 1	December 1
September 6	September 21	October 6	October 21	November 7	December 5
September 7	September 22	October 7	October 25	November 7	December 6
September 8	September 23	October 11	October 25	November 7	December 7
September 9	September 26	October 11	October 25	November 8	December 8
September 12	September 27	October 12	October 27	November 11	December 12
September 13	September 28	October 13	October 28	November 14	December 12
September 14	September 29	October 14	October 31	November 14	December 13
September 15	September 30	October 17	October 31	November 14	December 14
September 16	October 3	October 17	October 31	November 15	December 15
September 19	October 4	October 19	November 3	November 18	December 19
September 20	October 5	October 20	November 4	November 21	December 19
September 21	October 6	October 21	November 7	November 21	December 20
September 22	October 7	October 25	November 7	November 21	December 21
September 23	October 11	October 25	November 7	November 22	December 22
September 26	October 11	October 26	November 10	November 25	December 27
September 27	October 12	October 27	November 11	November 28	December 27
September 28	October 13	October 28	November 14	November 28	December 27
September 29	October 14	October 31	November 14	November 28	December 28
September 30	October 17	October 31	November 14	November 29	December 29

AGENCY ABBREVIATIONS USED IN HIGHLIGHTS AND REMINDERS

(This List Will Be Published Monthly In First Issue Of Month.)

USDA—AGRICULTURE DEPARTMENT

AMS—Agricultural Marketing Service
ARS—Agricultural Research Service
ASCS—Agricultural Stabilization and Conservation Service
APHIS—Animal and Plant Health Inspection Service
CCC—Commodity Credit Corporation
CEA—Commodity Exchange Authority
CSRS—Cooperative State Research Service
EMS—Export Marketing Service
ERS—Economic Research Service
FmHA—Farmers Home Administration
FCIC—Federal Crop Insurance Corporation
FAS—Foreign Agricultural Service
FNS—Food and Nutrition Service
FSQS—Food Safety and Quality Service
FS—Forest Service
PSA—Packers and Stockyards Administration
RDS—Rural Development Service
REA—Rural Electrification Administration
RTB—Rural Telephone Bank
SCS—Soil Conservation Service

COMMERCE—COMMERCE DEPARTMENT

Census—Census Bureau
DIBA—Domestic and International Business Administration
EDA—Economic Development Administration
MA—Maritime Administration
MBE—Minority Business Enterprise Office
NBS—National Bureau of Standards
NFPCA—National Fire Prevention and Control Administration
NOAA—National Oceanic and Atmospheric Administration
NSA—National Shipping Authority
NTIS—National Technical Information Service
PTO—Patent and Trademark Office

DOD—DEFENSE DEPARTMENT

AF—Air Force Department
Army—Army Department
DCPA—Defense Civil Preparedness Agency
DIA—Defense Intelligence Agency
DLA—Defense Logistics Agency

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Engineers—Engineers Corps
Navy—Navy Department

HEW—HEALTH, EDUCATION, AND WELFARE DEPARTMENT

ADAMHA—Alcohol, Drug Abuse, and Mental Health Administration
CDC—Center for Disease Control
FDA—Food and Drug Administration
HCFA—Health Care Financing Administration
HDSO—Human Development Services Office
HRA—Health Resources Administration
HSA—Health Services Administration
NIH—National Institutes of Health
OE—Office of Education
PHS—Public Health Service
RSA—Rehabilitation Services Administration
SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT

CARF—Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD—Community Planning and Development, Office of Assistant Secretary
FDAA—Federal Disaster Assistance Administration
FHEO—Fair Housing and Equal Opportunity, Office of Assistant Secretary
FHC—Federal Housing Commissioner, Office of Assistant Secretary for Housing
FIA—Federal Insurance Administration
GNMA—Government National Mortgage Association
ILSRO—Interstate Land Sales Registration Office
NCA—New Communities Administration
NCDC—New Community Development Corporation
NVACP—Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR—INTERIOR DEPARTMENT

BPA—Bonneville Power Administration
BIA—Bureau of Indian Affairs
BLM—Bureau of Land Management
FWS—Fish and Wildlife Service
GS—Geological Survey
MESA—Mining Enforcement and Safety Administration
Mines—Mines Bureau
NPS—National Park Service
OHA—Office of Hearings and Appeals
Reclamation—Reclamation Bureau
SMRE—Surface Mining Reclamation and Enforcement Office

JUSTICE—JUSTICE DEPARTMENT

DEA—Drug Enforcement Administration
INS—Immigration and Naturalization Service
LEAA—Law Enforcement Assistance Administration
NIC—National Institute of Corrections

LABOR—LABOR DEPARTMENT

BLS—Bureau of Labor Statistics
BRB—Benefits Review Board
ESA—Employment Standards Administration
ETA—Employment and Training Administration
FCCPO—Federal Contract Compliance Programs Office
LMSEO—Labor Management Standards Enforcement Office
OSHA—Occupational Safety and Health Administration
P&WBP—Pension and Welfare Benefit Programs
W&H—Wage and Hour Division

STATE—STATE DEPARTMENT

AID—Agency for International Development
FSGB—Foreign Service Grievance Board

DOT—TRANSPORTATION DEPARTMENT

CG—Coast Guard
FAA—Federal Aviation Administration
FHWA—Federal Highway Administration
FRA—Federal Railroad Administration
MTB—Materials Transportation Bureau
NHTSA—National Highway Traffic Safety Administration
OHMO—Office of Hazardous Materials Operations
OPSO—Office of Pipeline Safety Operations
SLS—Saint Lawrence Seaway Development Corporation
UMTA—Urban Mass Transportation Administration

TREASURY—TREASURY DEPARTMENT

ATF—Alcohol, Tobacco and Firearms Bureau
Customs—Customs Service
Comptroller—Comptroller of the Currency
ESO—Economic Stabilization Office (temporary)
FS—Fiscal Service
IRS—Internal Revenue Service
Mint—Mint Bureau
PDB—Public Debt Bureau
RSO—Revenue Sharing Office

INDEPENDENT AGENCIES

ATBCB—Architectural and Transportation Barriers Compliance Board
CAB—Civil Aeronautics Board
CASB—Cost Accounting Standards Board
CEQ—Council on Environmental Quality
CFTC—Commodity Futures Trading Commission
CITA—Textile Agreements Implementation Committee
CPSC—Consumer Product Safety Commission
CRC—Civil Rights Commission
CSA—Community Services Administration
CSC—Civil Service Commission
CSC/FPRAC—Federal Prevailing Rate Advisory Committee
EEOC—Equal Employment Opportunity Commission
EXIMBANK—Export-Import Bank of the U.S.
EPA—Environmental Protection Agency
ESSA—Endangered Species Scientific Authority
ERDA—Energy Research and Development Administration
FCC—Federal Communications Commission
FCSC—Foreign Claims Settlement Commission
FDIC—Federal Deposit Insurance Corporation
FEA—Federal Energy Administration
FHLBB—Federal Home Loan Bank Board
FPC—Federal Power Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
GSA—General Services Administration
GSA/ADTS—Automated Data and Telecommunications Service
GSA/FPA—Federal Preparedness Agency
GSA/FSS—Federal Supply Service
GSA/NARS—National Archives and Records Service
GSA/PBS—Public Buildings Service
ICC—Interstate Commerce Commission
ICP—Interim Compliance Panel (Coal Mine Health and Safety)
ITC—International Trade Commission
LSC—Legal Services Corporation
NASA—National Aeronautics and Space Administration
NCUA—National Credit Union Administration
NFAH/NEA—National Endowment for the Arts
NFAH/NEH—National Endowment for the Humanities
NLRB—National Labor Relations Board
NRC—Nuclear Regulatory Commission
NSF—National Science Foundation
NTSB—National Transportation Safety Board
OFR—Office of the Federal Register
OMB—Office of Management and Budget
OPIC—Overseas Private Investment Corporation
PADC—Pennsylvania Avenue Development Corporation
PRC—Postal Rate Commission
PS—Postal Service
RB—Renegotiation Board
RRB—Railroad Retirement Board
ROAP—Reorganization, Office of Assistant to President
SBA—Small Business Administration
SEC—Securities and Exchange Commission
TVA—Tennessee Valley Authority
USIA—United States Information Agency
VA—Veterans Administration
WRC—Water Resources Council

presidential documents

Memorandum of August 2, 1977

Comprehensive Review of Natural Resources and Environmental Programs

Memorandum for the Heads of Executive Departments and Agencies

THE WHITE HOUSE,
Washington, August 2, 1977.

I have directed my Reorganization Project staff at the Office of Management and Budget to review the organization of all Federal responsibilities for managing natural resources and protecting the environment.

These responsibilities are now dispersed among 8 Departments and numerous agencies, involving 160,000 employees and expenditures of more than $17 billion a year. Other Departments and agencies are involved less directly. There is no way to coordinate their policies and actions. This situation has led to difficulties in managing resources and safeguarding the environment; waste of time and money; confusion to the public; and ineffective coordination of geophysical and environmental research and technology.

This organizational review will seek better ways to set policy, make decisions about resource management and environmental quality, improve research and technical support, and assure consistency in programs.

Its success will depend on active participation by members of Congress, the Federal departments and agencies, State, local and regional officials, interested groups, and individual citizens.

Jimmy Carter

[FR Doc.77-25790 Filed 8-31-77;12:15 pm]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1976/1977 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1976 and 1977. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

For a Checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the Cumulative List of CFR Sections Affected, which is revised monthly.

The rate for subscription service to all revised volumes issued for 1977 is $350 domestic, $75 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1977):

Title	Price
1	$1.65
2 [Reserved]	
3	3.00
4	3.25
5	4.70
7 Parts:	
0–45	5.30
46–51	4.20
52	5.20
53–209	5.80
210–699	6.10
700–749	4.10
750–899	1.80
900–944	4.25
945–980	2.40
981–999	2.50
1000–1059	4.25
1060–1119	4.40
1120–1199	3.20
1200–1499	4.20
1500–end	7.25
8	2.80
9	6.80
10 Parts:	
0–199	4.40
200–end	4.60
11 (Rev. 5/1/77)	2.30
12 Parts:	
1–299	7.40
300–end	7.30
13	4.20
14 Parts:	
1–59	6.00
60–199	5.10
200–1199	6.20
1200–end	2.20
15	5.35
16 Parts:	
0–149	$5.50
150–999	4.25
1000–end	3.00
CFR Unit (Rev. as of April 1, 1977):	
17	6.75
18 Parts:	
1–149	4.25
150–end	4.00
19	5.75
20 Parts:	
01–399	3.25
400–499	5.00
500–end	4.00
21 Parts:	
1–99	3.25
100–199	4.75
200–299	2.10
300–499	5.00
500–599	4.00
600–1299	3.50
1300–end	4.25
23	5.50
24 Parts:	
0–499	5.00
500–end	5.25
26 Parts:	
1 (§§ 1.301–1.400)	3.75
1 (§§ 1.501–1.640)	4.00
30–39	4.35
300–499	4.35
600–end	2.40
CFR Unit (Rev. as of July 1, 1976):	
28	3.10
29 Parts:	
0–499	7.30
500–1899	5.50
1900–1919	7.55
1920–end	4.05
30	4.80
31	5.65
32 Parts:	
1–39 (V.I) (Rev. 11/1/75)	5.80
(V.II) (Rev. 11/1/75)	7.40
(V.III) (Rev. 11/1/75)	5.10
40–399	6.50
400–589	5.20
590–699	3.10
700–799	7.85
800–999	6.05
1000–1399	2.20
1400–1599	3.65
1600–end	1.95
32A	2.90
33 Parts:	
1–199	6.20
200–end	5.85
34	1.00
35	3.50
36	3.40
37	2.20
38	7.20
39	2.75
40 Parts:	
0–49	3.15
50–59	6.80
60–99	5.70
100–399	4.50
400–end	6.70
41 Chapters:	
1–2	5.70
3–6	5.90
7	$1.85
8	1.80
9	4.35
10–17	4.15
19–100	3.55
101–end	6.80
CFR Index	3.20
CFR Unit (Rev. as of Oct. 1, 1976):	
42	5.95
43 Parts:	
1–999	3.10
1000–end	6.00
44 [Reserved]	
45 Parts:	
1–99	3.45
100–199	10.00
200–499	3.15
500–end	6.40
46 Parts:	
1–29	2.15
30–40	2.20
41–69	4.00
70–89	2.10
90–109	1.95
110–139	1.90
140–165	4.00
166–199	2.65
200–end	7.25
47 Parts:	
0–19	3.80
20–69	5.00
70–79	4.90
80–end	6.20
48 [Reserved]	
49 Parts:	
1–99	2.05
100–199 (Rev. 12/31/76)	6.50
200–999	7.55
1000–1199	3.95
1200–1299	7.40
1300–end	3.60
50	4.20

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Regulation 571]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period Sept. 2–8, 1977. This regulation is needed to provide for orderly marketing of fresh Valencia oranges for the regulation period because of the production and marketing situation confronting the orange industry.

EFFECTIVE DATE: September 2, 1977.

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FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3545.

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of Valencia oranges, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantities of Valencia oranges that may be marketed from District 1, District 2, or District 3 during the specified week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation for the quantities of Valencia oranges that should be marketed during the specified week. The recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors covered in the order. The committee further reports the fresh market demand for Valencia oranges continues easy.

Average f.o.b. price was $4.58 per carton on 515 cars for the week ended August 25, as compared with $4.59 per carton on 613 cars the previous week. Track and rolling supplies at 246 cars were down 58 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantities of Valencia oranges which may be handled should be established as provided in this regulation.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information become available upon which this regulation is based and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted for preparation for such effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for Valencia oranges and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning such provisions and effective time has been provided to handlers of Valencia oranges. It is necessary, to effectuate the declared policy of the act, to make this regulation effective during the period specified. The committee meeting was held on August 30, 1977.

§ 908.871 Valencia Orange Regulation 571.

(a) Order. (1) The quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period September 2, 1977, through September 8, 1977, are hereby fixed as follows:

(i) District 1: 234,000 cartons;

(ii) District 2: 366,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended: 7 U.S.C. 601-674)

Dated: August 31, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-25774 Filed 8-31-77;11:22 am]

[Pear Reg. 7, Amdt. 2]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Grade, Size and Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment continues current minimum grade, size, and container requirements for shipments of fresh Bartlett and Max-Red (Max-Red and Red Bartlett) varieties of pears grown in California through July 31, 1978. The amendment takes into consideration the marketing situation facing the California pear industry, and is necessary to assure that shipments of pears will be of suitable quality and size in the interest of consumers and producers.

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: On August 8, 1977, notice was published in the FEDERAL REGISTER (42 FR 39989; 42691), that the Department was considering an amendment of § 917.445 Pear Regulation 7, which would continue for the period September 1, 1977, through July 31, 1978, grade, size, and container requirements currently in effect through August 31 1977. The regulation is effective under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The notice provided that all written comments in connection with the proposed amendment be submitted not later than August 23, 1977. None were received. On August 29, 1977, Pear Regulation 7, Amendment 1 was issued, increasing the amount of size 165 pears which could be shipped to 17.647 percent.

The grade and size requirements are designed to permit shipment of ample supplies of fruit of acceptable grades and sizes in the interest of both growers and consumers. The container requirements are necessary to assure that containers are properly marked as to variety, and that the fruit contained therein is protected during transit. The amendment is consistent with the objectives of the act of promoting orderly marketing and protecting the interest of consumers.

After consideration of all relevant matter presented, including the proposal set forth in the notice, the recommendations and information submitted by the Pear Commodity Committee, established under the amended marketing agreement and order, and other available information, it is found that the limitation of handling of pears, as provided, will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of such pears are currently in progress and this amendment should be applicable to all such pear shipments in order to effectuate the declared policy of the act; (2) this amendment is necessary to extend regulations currently in effect for the balance of the season; (3) notice of this proposed amendment allowing 15 days for public comment was published in the FEDERAL REGISTER; (4) compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by September 1, 1977; and (5) the regulation currently in effect was recommended by the Pear Commodity Committee during an open meeting at which all interested persons were afforded an opportunity to submit their views.

The provisions of § 917.445 Pear Regulation 7 (42 FR 35937) are amended to read as follows:

§ 917.445 Pear Regulation 7.

(a) During the period September 1, 1977, through July 31, 1978, no handler shall ship:

(1) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears which do not grade at least U.S. Combination with not less than 85 percent by count, of the pears grading at least U.S. No. 1;

(2) Any box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such pears are of a size not smaller than the size known commercially as size 150: *Provided*, That a handler may ship, during any day from any shipping point, a quantity of such pears which are smaller than the size known commercially as size 150 if (i) such smaller pears are not smaller than the size known commercially as size 165, and (ii) the quantity of such smaller pears shipped from such shipping point does not, at the end of any day during the aforesaid period, exceed 17.647 percent of such handler's total shipments of such pears, shipped from the same shipping point, which are not smaller than the size known commercially as size 150;

(3) Any box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such box or container is stamped or otherwise marked in plain sight and in plain letters, on one outside end with the name of the variety; and

(4) Any box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears in volume fill cartons (not packed in rows and not wrap packed) unless (i) such cartons are well filled with pears fairly uniform in size; (ii) Such pears are packed fairly tight; (iii) there is an approved top pad in each carton that will cover the fruit with no more than ¼ inch between the pad and any side or end of the carton; and (iv) the top of the carton shall be securely fastened to the bottom: *Provided*, That 10 percent of the cartons in any lot may fail to meet the requirements of this paragraph.

(b) *Definitions.* (1) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

(2) "Size known commercially as size 150" means a size of pear that will pack a standard pear box, packed in accordance with the specifications of a standard pack, with 150 pears and that a 12-pound random sample, representative of the size of the pears in the box or container, contains not more than 39 pears.

(3) "Size known commercially as size 165" means a size of pear that will pack a standard pear box, packed in accordance with the specifications of a standard pack, with 165 pears and that a 12-pound random sample representative of the size of the pears in the box or container, contains not more than 43 pears.

(4) "Standard pear box" means the container so designated in Section 1380.9 of the Regulations of the California Department of Food and Agriculture.

(5) "U.S. No. 1", "U.S. Combination" and "standard pack" shall have the same meaning as when used in the U.S. Standards for Pears (Summer and Fall) 7 CFR 51.1260-51.1280.

(6) "Approved top pad" shall mean a pad of wood-type excelsior construction, fairly uniform in thickness, weighing at least 160 pounds per 1,000 square feet (e.g., an 11 inch by 17 inch pad will weigh at least 21 pounds per 100 pads) or an equivalent made of material other than wood excelsior approved by the committee.

(Secs. 1-19, 48 Stat. 31, as amended, (7 U.S.C. 601-674).)

Dated, August 29, 1977, to become effective September 1, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-25688 Filed 8-31-77;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES AND OTHER OPERATIONS

PART 1438—NAVAL STORES

Subpart—1977 Gum Naval Stores Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final Rule.

SUMMARY: This rule provides producers with the detailed operating provisions of the 1977 Naval Stores Purchase Program. These provisions provide guidelines which will enable the producer to regulate the size of his harvest after April 1, 1977 (the trees are prepared during the winter months), in line with the level of encouragement provided by the program. This rule will enable producers to obtain price support on 1977 crop gum naval stores.

EFFECTIVE DATE: April 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charlie B. Robbins, (ASCS), (202) 447-4634, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: The previous program regulations, applicable to 1976 crop gum naval stores, published at 41 FR 133, provided for a loan and purchase program. These regulations contain provisions relating only to a purchase program. It is essential that these provisions be made effective as soon as possible as the harvest season began on April 1, 1977. Accordingly, it is hereby found and determined that compliance with the notice, public participation procedure and effective date provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, these regulations are issued without compliance with such procedure.

FINAL RULE

Accordingly, 7 CFR 1438.1636 through 1438.1660 and the title of the subpart are revised to read as follows, effective as to 1977 crop gum naval stores. The material previously appearing in this subpart remains in full force and effect as to the crop years to which it was applicable.

Subpart—1977 Gum Naval Stores Purchase Program

Sec.
1438.1636 General statement.
1438.1637 Administration.
1438.1638 Eligible producer.
1438.1639 Eligible naval stores.
1438.1640 Warehouse receipts.
1438.1641 Eligibility requirements.
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1438.1660 Prairie Village ASCS Commodity Office and ASCS Data Systems Field Office.

AUTHORITY: Sec. 4, 5, 62 Stat. 1070, 1072 (15 U.S.C. 714 b, c); secs. 301, 401, 63 Stat. 1053, 1054 (7 U.S.C. 1421, 1447).

Subpart—1977 Gum Naval Stores Purchase Program

§ 1438.1636 General statement.

This subpart contains the regulations which set forth the requirements with respect to a purchase program for the 1977 crop gum naval stores. Price support will be made available through purchases of eligible gum rosin from individual producers and the American Turpentine Farmers Association Cooperative (hereinafter referred to as "ATFA"). ATFA may sell to CCC any or all eligible gum rosin acquired from eligible members by delivering the gum rosin to CCC. An eligible producer may sell to CCC any or all of his eligible gum rosin by delivering the gum rosin to CCC. As used in this subpart, "CCC" means the Commodity Credit Corporation and "ASCS" means the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

§ 1438.1637 Administration.

(a) *Responsibility.* The Grains, Oilseeds and Cotton Division, ASCS, will administer this subpart under the general direction and supervision of the Deputy Administrator, Programs, in accordance with program provisions and policy determined by the CCC Board of Directors and the Executive Vice President, CCC. In the field, this subpart will be administered by the State and County Agricultural Stabilization and Conservation Committees (hereinafter called "State Committee" and "County Committee"), Prairie Village ASCS Commod-

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ity Office (PVCO), and the ASCS Data Systems Field Office (DSFO).

(b) *Documents.* Any member of the county committee, the county executive director, or other employee of the county ASCS office designated by the county executive director to act in his behalf is authorized to approve documents in accordance with the provisions of this program except where otherwise specified in this subpart. Any such designation shall be in writing and a copy thereof shall be on file in the county office.

(c) *Limitation of authority.* The authority conferred by this subpart to administer the naval stores purchase program does not include authority to modify or waive any of the provisions of this subpart.

(d) *State committee.* The State committee may take any action which is authorized or required by this subpart to be taken by the county committee but which has not been taken by such committee. The State committee may also (1) correct or require a county committee to correct any action which was taken by such county committee but which is not in accordance with this subpart or (2) require a county committee to withhold taking any action which is not in accordance with this subpart.

(e) *Executive Vice President, CCC.* No delegation of authority herein shall preclude the Executive Vice President, CCC, or his designee, from determining any question arising under this subpart or from reversing or modifying any determination made pursuant to a delegation of authority in this subpart.

§ 1438.1638 Eligible producer.

(a) *Producer.* An eligible producer shall be a producer who (1) is a participant in the Naval Stores Conservation Program for 1977 or otherwise follows one or more forestry conservation practices established by State and Federal Forestry services, and (2) has made satisfactory arrangements to pay any indebtedness to the U.S. Department of Agriculture or any of its agencies, as evidenced by the debt records maintained by the Agricultural Stabilization and Conservation County Committees of the U.S. Department of Agriculture.

(b) *Estates and trusts.* A receiver of an insolvent debtor's estate, an executor or an administrator of a deceased person's estate, a guardian of an estate, a ward, or an incompetent person, and trustee of a trust estate will be considered to represent the insolvent debtor, the deceased person, the ward or incompetent person, and the beneficiary of a trust respectively, and the production of the receiver, executor, administrator, guardian, or trustee shall be considered to be the production of the person he represents. Purchase documents executed by such legal representative will be accepted by CCC only if they are legally valid and such person has the authority to sign the applicable documents.

(c) *Minors.* A minor who is otherwise an eligible producer shall be eligible for price support only if he meets one of the following requirements: (1) The right of majority has been conferred on him by court proceedings or statute; (2) a guardian has been appointed to manage his property and the applicable price support documents are signed by the guardian; (3) any agreement signed by the minor is cosigned by a financially responsible person; or (4) a bond is furnished under which a surety guarantee to protect CCC from any loss incurred for which the minor would be liable had he been an adult.

(d) *Approved by county committee.* If a producer has been convicted of a criminal act or has made a misrepresentation in connection with any price support program, the producer may be denied price support until the county committee is satisfied that CCC will be fully protected against any possible loss other than the loss assumed by CCC under the regulations in this subpart.

§ 1438.1639 Eligible naval stores.

Naval stores must meet the requirements of this section, in addition to other applicable eligibility requirements of this subpart and the applicable annual supplement thereto, in order to be eligible for delivery under purchase.

(a) *Oleoresin.* "Eligible oleoresin" means crude pine gum (oleoresin) which was produced in 1977 in the United States by an eligible producer.

(b) *Rosin.* "Eligible rosin" means gum rosin which: (1) Was processed by the Olustee or a similar method from eligible oleoresin; (2) grades "K" or better; (3) is packed one grade to a net weight of 517 pounds in eligible metal drums; (4) is transparent and free from visible foreign materials; and (5) contains no extraneous matter resulting from chemical or other treatment of the rosin or of the oleoresin or trees from which it came; and (6) conforms as to softening point to not less than Federal Specifications LLL–R–626b to wit: 158° Fahrenheit (American Society for Testing and Materials Method No. E–28–67N).

(c) *Federal inspection.* All gum rosin tendered for purchase must be federally graded, inspected and weighed or the weight checked by Federal Inspectors employed or licensed by CCC.

(d) *Metal drums.* "Eligible metal drums" means metal drums constructed in accordance with the following requirements:

(1) Prime, zinc coated galvanized steel sheets.

(2) Body, head and bottom a minimum gauge of 29.

(3) Minimum zinc coating (Hot dip ATSM designation A 525—latest revision), coating class C–60 and a minimum check limit triple-spot test of .60 ounce per square foot.

(4) Straight side construction with approximate outside dimensions of: (i) Diameter 22⅝ inches by (ii) height at chimes of 35$^{7}/_{8}$ inches.

(5) A collapsible cone head with a liquid capacity of 12 to 15 quarts, a center hole with a diameter of 3¼ to 6½ inches with a ¼ inch side flange equipped with a friction cap flanged to match and fit securely over the center flange.

(6) The bottom shall be slightly convex or "dished", and

(7) The seams shall be one vertical straight ⅜ inch hook-type along the side and ¼ double horizontal on each end.

§ 1438.1640 Warehouse receipts.

(a) *General.* Warehouse receipts representing gum rosin to be delivered to CCC for purchase must meet the requirements of this section and any other requirements contained in the regulations in this subpart. A separate warehouse receipt must be submitted for each grade of gum rosin.

(b) *Manner of issuance and endorsement.* Warehouse receipts must be issued in the name of ATFA or the producer and properly endorsed in blank so as to vest title in the holder. Receipts must be issued by an approved warehouse, must be negotiable, must cover eligible gum rosin actually in storage in the warehouse and must be registered or recorded with appropriate State or local officials when required by State law.

(c) *Entries.* Each warehouse receipt must show:

(1) Number of containers;
(2) Gross weight;
(3) Net weight; and
(4) Grade.

§ 1438.1641 Eligibility requirements.

(a) *Requesting price support.* To obtain price support on eligible gum rosin: (1) ATFA must notify the county ASCS office of the county in which its principal office is located of its intention to sell eligible gum rosin by completing a Purchase Agreement (Form CCC–614), no later than December 31, 1977; and (2) An eligible producer must notify the county ASCS office of the county of his residence of his intention to sell eligible rosin by completing a Purchase Agreement (Form CCC–614), no later than December 31, 1977.

(b) *Beneficial interest.* To be eligible for price support, the beneficial interest in the gum rosin must be in the producer tendering it for purchase and must have always been in him, or in him and a former producer whom he succeeded as producer before the oleoresin was harvested: *Provided,* That, when a producer's eligible oleoresin is commingled in the processing operation with oleoresin produced in the United States by other producers, the rosin credited to the producer as representing the processed equivalent of his eligible oleoresin will be deemed to be, if otherwise eligible, eligible rosin produced by such producer: *And provided further,* That heirs who succeed to the beneficial interest of a deceased producer shall be eligible for price support as producers whether such succession occurs before or after harvest of the oleoresin. A producer shall not be considered to have divested himself of the beneficial interest in the gum rosin if he enters into a contract to sell or gives an option to sell his rosin if, under the contract or option, he retains control, risk of loss, and title to the rosin subject to such agreement, and retains control of its production. For purchases made from

ATFA, the beneficial interest in the gum rosin must always have been in the producer members who delivered the gum rosin to ATFA or must have always been in them and former producers whom they succeeded before the oleoresin was harvested, except as provided in the case of heirs of a deceased producer. Gum rosin acquired by ATFA shall not be eligible for price support if the producer members who delivered the gum rosin to ATFA do not retain the right to share in the proceeds from the marketing of the gum rosin as provided in Part 1425 of this chapter.

(c) *Succession of interest.* To meet the requirements of sucession to a former producer, the rights, responsibilities, and interest of the former producer, with respect to production and harvest of oleoresin, shall have been substantially assumed by the person claiming succession. Mere purchase of the oleoresin prior to processing, without acquisition of any additional interest in the production unit, shall not constitute sucession of interest.

(d) *Doubtful cases.* Any producer or association in doubt as to whether his interest in the gum rosin complies with the requirements of this section should, before requesting price support, make available to the county committee all pertinent information which will permit a determination to be made by CCC.

§ 1438.1642 Restriction in use of agents.

Individual producers or ATFA shall not delegate to any person, (or his representative) who has any interest in storing, processing, or merchandising gum rosin, authority to exercise on their behalf any of the rights or privileges under this program or any instrument executed in obtaining price support under this program, unless the person (or his representative) to whom authority is delegated is serving in the capacity of a farm manager for the producer. Any delegation of authority given in violation of this section shall be without force and effect and shall not be recognized by CCC.

§ 1438.1643 Availability.

(a) *Where to request price support.* (1) ATFA shall request price support at the county ASCS office of the county where its office is located, and (2) producers shall request price support at the county ASCS office of the county of their residence.

(b) *Availability date.* The final availability date applicable to purchases will be December 31, 1977.

(c) *Quantity eligible for purchase.* (1) ATFA may sell to CCC any or all of its eligible gum rosin: *Provided,* That, ATFA notifies the county ASCS office of its intention to sell its eligible gum rosin by completing a Purchase Agreement (Form CCC–614), indicating the approximate quantity of gum rosin it will sell to CCC, no later than the availability date specified herein. (2) An individual producer may sell to CCC any or all of his eligible gum rosin: *Provided,* That, he notifies the county ASCS office of his intention to sell his eligible gum rosin by completing a Purchase Agreement (Form CCC–614), indicating the approximate quantity of gum rosin he will sell to CCC, no later than the availability date specified herein.

(d) *Delivery.* Delivery points for purchases shall be limited to those approved by the Grains, Oilseeds and Cotton Division, ASCS. Purchases will not be made of gum rosin not stored in approved warehouses. The producer or ATFA offering gum rosin for purchase which is not stored in an approved warehouse shall be responsible for delivery to an approved warehouse before CCC will accept delivery for purchase. Delivery instructions issued by the County ASCS office will specify the warehouse to which gum rosin not stored in approved warehouses shall be delivered for purchase.

§ 1438.1644 Approved storage.

Purchases will be made by CCC only if the gum rosin is in the custody of an approved warehouse.

§ 1438.1645 Warehouse charges.

Prior to the time that the gum rosin is acquired by CCC, storage, inspection, and all other charges (except receiving and loading out charges in the warehouse in which the gum rosin is acquired by CCC) accruing through the final availability date shall be paid or arranged for. CCC will assume warehouse storage charges accruing after the gum rosin is acquired by CCC.

§ 1438.1646 Applicable forms.

The forms for use in connection with this program shall be as follows: Form CCC–614, Purchase Agreement; Form CCC–679, Lien Waiver; Form CCC–691, Commodity Delivery Notice; Form CCC–692, Settlement Statement; and such other forms as may be prescribed by CCC. These forms may be obtained in State and county ASCS offices and from the Grains, Oilseeds and Cotton Division, ASCS.

§ 1438.1647 Liens.

If there are any liens or encumbrances on the gum rosin, waivers that will fully protect the interest of CCC must be obtained even though the liens or encumbrances are satisfied from the purchase proceeds.

§ 1438.1648 Delivery charges.

A delivery charge of 1 cent per hundredweight shall be paid by producers on the quantity of gum rosin delivered to CCC.

§ 1438.1649 Setoffs.

(a) *Facility and drying equipment.* If any installments on any loan made by CCC on farm storage facilities and drying equipment are due and payable under the provisions of the note evidencing such loan out of any amount due the producer under these regulations, the amount due the producer, after deduction of applicable fees and charges and amounts due prior lienholders, shall be applied to such installment(s).

(b) *Producers listed on claims control record.* If a producer is indebted to CCC or to any other agency of the United States and such indebtedness is listed on the claims control record, amounts due the producer under the program provided in this subpart, after deduction of amounts payable on farm storage facilities or drying equipment and other amounts provided in paragraph (a) of this section, shall be applied as provided in the Secretary's Setoff Regulations, Part 13 of this title to such indebtedness.

(c) *Producer's right.* Compliance with the provisions of this section shall not deprive the producer of any right he might otherwise have to contest the justness of the indebtedness involved in the setoff action either by administrative appeal or by legal action.

§ 1438.1650 Determination of quantity and quality.

(a) *Quantity for purchase.* The quantity of eligible gum rosin acquired by CCC shall be the net weight shown on the warehouse receipt.

(b) *Quality for settlement.* Settlement for eligible gum rosin acquired by CCC shall be made on the basis of the grade shown on the warehouse receipt.

§ 1438.1651 Advances by ATFA.

ATFA will make advances to eligible producers, on eligible rosin or the rosin content of eligible oleoresin, based on the support level of $63.30 per standard barrel (435 lbs. net weight each) or oleoresin, processed basis, less allowable retains. Only eligible rosin on which such advances have been made to producers by ATFA will be eligible for ATFA to tender to CCC for purchase.

§ 1438.1652 Settlement.

(a) General. Except as provided in § 1438.1653 and paragraph (b) of this section, settlement for eligible gum rosin acquired by CCC will be made on the basis of the quantity and grade of such gum rosin as provided in this section and other applicable provisions of this subpart. The settlement value of gum rosin shall be the sum of the support rate for each grade acquired times the quantity acquired at the time of settlement.

(b) *Approved warehouse storage.* Settlement for gum rosin stored in an approved warehouse and acquired by CCC shall be made on the basis of the net weight and grade shown on the warehouse receipt.

(c) *Payments of amount due.* Payment of amount due on purchases will be made by draft drawn on CCC by the county office.

(d) *Ineligible gum rosin inadvertently accepted by CCC.* If ineligible gum rosin is inadvertently accepted by CCC, the settlement value shall be the lower of the market value, as determined by CCC, as of the date of delivery or the support price. The provisions of § 1438.1653 shall be applicable to settlement on ineligible gum rosin where there has been a fraudulent representation on the part of ATFA or any individual producer.

§ 1438.1653 Personal liability.

(a) *Fraud.* If ATFA or a producer makes a fraudulent representation in a price support purchase by CCC or in price support purchase documents, the producer or ATFA shall be personally liable,

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aside from any additional liability under criminal or civil fraud statutes, for any loss which CCC sustains upon the gum rosin delivered under the purchase. For the purpose of this program such loss shall be deemed to be the price paid on the gum rosin delivered under the purchase program, plus all costs sustained by CCC in connection with the gum rosin together with interest on such amounts, less the lowest of the following: The market value, as determined by CCC, as of the close of the market on the date of delivery; the sales price of the gum rosin, if the rosin is sold in order to determine its market value; or CCC's purchase price.

(b) *Overdisbursement.* If the amount disbursed exceeds the price support value of the gum rosin upon settlement, determined as authorized under this subpart, the ATFA or producer receiving the overdisbursement shall be personally liable for the repayment of the amount of such excess.

§ 1438.1654 Charges not to be assumed by CCC.

CCC will not assume any charges for administrative and operating expense of ATFA or for insurance, storage, packaging and processing charges incurred by ATFA or individual producers.

§ 1438.1655 Handling payments and collections not exceeding $3.

In order to avoid administrative costs of making small payments and handling small accounts, amounts of $3 or less which are due the producer or ATFA will be paid only upon his request. Deficiencies of $3 or less, may be disregarded unless demand for payment is made by CCC.

§ 1438.1656 Death, incompetency, or disappearance.

In case of death, incompetency, or disappearance of any producer who is entitled to the payment of any sum in settlement of a purchase payment shall, upon proper application to the county office which made the purchase, be made to the persons who would be entitled to such producer's payment under the regulations contained in Part 707 of this title—Payments Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent.

§ 1438.1657 Support rates.

The 1977 crop gum rosin purchase rates per hundredweight, packed in eligible metal drums and stored in the custody of an approved warehouse are:

Grade:	*Purchase rate*
X	$17.50
WW	17.50
WG	16.75
N	16.35
M	15.95
K	15.50

§ 1438.1658 Management of CCC owned inventory.

In the event CCC acquires gum rosin under the price support program and enters into an agreement with ATFA to manage such inventory, CCC will reimburse ATFA for the administrative and operating expenses, approved by CCC, incurred by ATFA in the handling and preservation of such gum rosin.

§ 1438.1659 Definitions.

As used in the regulations in this subpart and in all instructions, forms and documents in connection therewith, the words and phrases listed in this section shall have the meaning assigned to them herein unless the context or subject matter otherwise requires.

(a) *General.* The following phrases: "State committee" and "county committee" shall each have the same meaning as the definitions of such term in the regulations pertaining to Reconstitution of Farms and Allotments, Part 719 of this title and any amendments thereto.

(b) *Settlement value.* The term "settlement value" means the value at which settlement is made on the gum rosin offered for purchase, as determined under the provisions of the regulations in this part.

(c) *Charges.* The term "charges" means all fees, costs, and expenses incident to insuring, carrying, handling, storing, conditioning, and marketing gum rosin.

(d) *The regulations in this subpart.* The term "the regulations in this subpart" means the regulations in Subpart—1977 Gum Naval Stores Purchase Program together with any supplements and amendments thereto.

(e) *Request price support.* The term "request price support" means the execution of a Purchase Agreement (Form CCC–614).

§ 1438.1660 Prairie Village ASCS Commodity Office and ASCS Data Systems Field Office.

The PVCO serves all States for naval stores. Accounting, recording and reporting for all States will be handled through the DSFO, Post Office Box 205, Kansas City, Missouri 64141.

NOTE.—It is hereby certified that the economic effects of this action have been carefully evaluated in accordance with Executive Order 11821 and OMB Circular A–107.

Signed at Washington, D.C., on August 25, 1977.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.77–25608 Filed 8–31–77;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.4]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart C—Farm Labor Housing Loan Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration is deleting the provision in its regulation which requires funds included in the loan for payment of interest to be collected and applied as a regular payment at the time of the loan closing. This action is being taken since this provision is inconsistent with the promissory note.

EFFECTIVE DATE: This revision is effective September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul R. Conn, 202–447–7207.

SUPPLEMENTARY INFORMATION:

§ 1822.75 [Amended]

In § 1822.75(c)(5) of Subpart C, Part 1822, Title 7, Code of Federal Regulations (31 FR 14148, 42 FR 4407) the second sentence is deleted. The sentence to be deleted reads as follows: "Any funds included in the loan for the payment of interest will be collected and applied as a regular payment at the time of loan closing." It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This deletion, however, is not published for proposed rulemaking since the purpose of the change is to correct a current inconsistency in the regulation and any delay would be contrary to the public interest.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: August 23, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77–25540 Filed 8–31–77;8:45 am]

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

[FmHA Instruction 440.3]

PART 1888—SPECIAL ASSISTANCE TO DROUGHT STRICKEN AREAS

New Methods for Determining Amount of Development Grant Assistance

AGENCY: Farmers Home Administration, USDA.

ACTION: Final Rule.

SUMMARY: The Farmers Home Administration issues amended regulations to provide new methods for determining the amount of development grant assistance for projects serving rural communities suffering from drought. This action is brought about by the need for emergency assistance through grants and/or loans and the intended effect is to ameliorate the impact of the drought conditions.

EFFECTIVE DATE: September 1, 1977. Comments must be received on or before October 3, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles B. Hart, 202–447–5717.

SUPPLEMENTARY INFORMATION: Part 1888 of Chapter XVIII, Title 7, Subchapter G, "Miscellaneous Regulations," in the Code of Federal Regulations (42 FR 19322; 42 FR 23158) is amended. The purpose of this amendment is to provide new methods for determining the amount of development grant assistance for projects serving rural communities suffering from drought, as set forth in the new paragraph (d) of § 1833.13; the present paragraph (d) is redesignated paragraph (e) without change. This change in the administration of grant funds is being implemented to assure that rural communities are receiving equitable treatment with their urban counterparts. It is the policy of the department that rules relating to public property, loans, grants, benefits, or contract shall be published for comment notwithstanding the exemptions in 5 U.S.C. 553. This amendment, however, is not published for proposed rulemaking since any delay in administering this currently needed assistance would be contrary to the public interest. However, comments will be accepted and material thus submitted will be evaluated and acted upon in the same manner as if the document were a proposal. However, this addition will remain effective until amended in order to permit the public business to proceed expeditiously. Accordingly, new paragraph (d) of § 1888.13 reads as follows:

§ 1888.13 Loans and grants to rural communities for water supply assistance.

* * * * * *

(d) The provisions of paragraph (b)(1) of § 1823.472 of this chapter determining the need for a development grant will not apply for those grant requests under this authority. Grant assistance will be determined as follows:

(1) Calculate one percent (1 percent) of the median family income of those individuals located within the service area covered by the project multiplied by the number of families or users served; this amount is the applicant's annual available debt service.

(2) Calculate the amount needed annually to service all existing indebtedness of the applicant.

(3) Subtract paragraph (d)(2) of this section from paragraph (d)(1) of this section. This is the net annual available debt service.

(4) Calculate the amount of debt that could be amortized during the estimated useful life of the project with the net annual available debt service calculated under paragraph (d)(3) of this section.

(5) Subtract from the total allowable project cost the amount determined in paragraph (d)(4) of this section. The remainder will be the maximum amount of grant assistance for the project except that the amount of FmHA grant assistance shall not exceed fifty percent (50%) of the total eligible project development costs.

(6) Projects primarily designed to eliminate existing or immediately foreseeable threats to health and safety problems, which are factually documented as such, may receive up to twenty percent (20%) of the total eligible project development costs in the form of grant assistance. This provision is designed to assure that in those cases where the calculations under paragraph (d)(5) of this section results in an FmHA grant of less than twenty percent (20%) of the eligible project development cost for "health and safety" projects as described in this paragraph, additional FmHA grant assistance may be provided up to the twenty percent (20%) limit.

(7) The provisions of paragraph (d) of this section shall be retroactive to May 6, 1977, for those projects for which funds have not been obligated or where funds have been obligated but not advanced to the borrower.

(7 U.S.C. 1989; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: August 26, 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77–25421 Filed 8–31–77;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

Amendments to Chapter To Revoke or Revise Certain Reporting Requirements

AGENCY: U.S. Nuclear Regulatory Commission

ACTION: Final Rule

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to revoke three reporting requirements, to revise four reporting requirements to require telephone notification only and to revise two reporting requirements to increase the threshold for reporting damage to property. These amendments reduce the reporting burden on NRC licensees.

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerald L. Hutton, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Tel. (301) 492–7211.

SUPPLEMENTARY INFORMATION: The Commission is revoking the following reporting requirements which are no longer necessary or duplicate information which is furnished to the Commission pursuant to other reporting requirements:

(a) 10 CFR 32.60, Report of Transfer of Americium-241 to persons generally licensed under 10 CFR 31.8.

(b) 10 CFR 32.63, Report of transfer of strontium-90 to persons generally licensed under 10 CFR 31.10.

(c) 10 CFR 70.39(d), Report of transfer of plutonium to persons generally licensed under 10 CFR 70.19.

The Commission also is amending the reporting requirements in §§ 20.402(a), 73.71(a), 73.71(b), and 150.16(b) to require telephone notification only. Paragraphs 20.403(a) and 20.403(b) are being amended to increase the threshold for reporting damage to property.

Since the amendments set forth below relate to minor matters and are intended to provide relief from, rather than to impose, restrictions under regulations currently in effect the Commission has found that good cause exists for omitting general notice of proposed rule making and public procedure thereon as unnecessary and for making the rule effective on September 1, 1977 without the customary 30 day waiting period.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 20, 32, 70, 73, and 150 are published as a document subject to codification.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

§ 20.402 [Amended]

1. Paragraph (a) of § 20.402 of 10 CFR Part 20 is amended by deleting the words "and telegraph, mailgram, or facsimile,".

§ 20.403 [Amended]

2. Paragraph (a)(4) of § 20.403 is amended by deleting "$1,000" and substituting therefor "$200,000".

3. Paragraph (b)(4) of § 20.403 is amended by deleting "$1,000" and substituting therefor "$2,000".

PART 32—SPECIAL LICENSES TO MANUFACTURE, DISTRIBUTE OR IMPORT CERTAIN ITEMS CONTAINING BY-PRODUCT MATERIAL

§§ 32.60 and 32.63 [Revoked]

4. Sections 32.60 and 32.63 of 10 CFR Part 32 are revoked.

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PART 70—SPECIAL NUCLEAR MATERIAL

§ 70.39 [Amended]

5. Paragraph (d) of § 70.39 of 10 CFR Part 70 is revoked.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

§ 73.71 [Amended]

6. Paragraph (a) of § 73.71 of 10 CFR Part 73 is amended by deleting the words "and telegraph, mailgram, or facsimile".

7. Paragraph (b) of § 73.71 is amended by deleting the words "and telegraph, mailgram, or facsimile,".

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES UNDER SECTION 274

§ 150.16 [Amended]

8. Paragraph (b) of § 150.16 of 10 CFR Part 150 is amended by deleting the words "and telegraph, mailgram, or facsimile".

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841).)

Dated at Bethesda, Maryland this 17th day of August 1977.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.77-25074 Filed 8-31-77;8:45 am]

PART 70—SPECIAL NUCLEAR MATERIAL

Issuance of Licenses; Amendment

NOTE.—This document originally appeared at page 43821 in the FEDERAL REGISTER for August 31, 1977. It is reprinted in this issue to meet the assigned day-of-the-week publication schedule.

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Interim rule.

SUMMARY: NRC is amending its regulations on an interim basis to exempt exports of special nuclear material which is diluted in such a way that it is no longer usable for any nuclear activity relevant from the point of view of safeguards, or is practicably irrecoverable, from the requirement that the export be subject to an agreement for cooperation. This amendment would conform NRC export regulations to internationally recognized standards and eliminate an unnecessary administrative burden.

DATES: Effective: August 31, 1977. Comment period expires: October 17, 1977.

ADDRESS: Send comments to: Secretary, Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

FOR FURTHER INFORMATION CONTACT:

Mr. R. Neal Moore, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: 301-492-7984.

SUPPLEMENTARY INFORMATION: Section 57 d. of the Atomic Energy Act of 1954, as amended (Act), authorizes the Commission to "exempt certain classes or quantities of special nuclear material or kinds of uses or users from the requirements for a license * * * when it makes a finding that the exemption * * * would not be inimical to the common defense and security and would not constitute an unreasonable risk to the health and safety of the public."

In November 1976, the Commission received a request from the Kerr-McGee Nuclear Corporation to export to Mexico less than 5 grams of low enriched uranium (special nuclear material) as an entrapped contaminant in 15 pieces of used standard laboratory testing equipment and fuel fabrication machinery which had been sold to the Instituto Nacional de Energia Nuclear (INEN) in Mexico, D.F. Recently, the NRC staff was further informed by NUSAC, Inc., the agent for Kerr-McGee Nuclear Corporation, that its client holds a letter of credit issued by INEN which expires August 31, 1977.

Under present regulations, the Commission is precluded from issuing an export license for this material because there is no agreement for cooperation with Mexico pursuant to Section 123 of the Atomic Energy Act.

Under other circumstances, small quantities of special nuclear material could be exported to countries which do not have an agreement for cooperation with the United States by exporting the material under the auspices of the United States/International Atomic Energy Agency (IAEA) Agreement for Cooperation. However, the IAEA system for the application of safeguards provides that "safeguards shall terminate on nuclear material * * * upon determination by the Agency that it has been consumed, or has been diluted in such a way that it is no longer usable for any nuclear activity relevant from the point of view of safeguards, or has become practicably irrecoverable." (INFCIRC/153 and INFCIRC/66/Rev. 2) In such cases, therefore, no useful purpose would be served and an unnecessary administrative burden would be entailed in bringing such exports under the U.S./IAEA Agreement for Cooperation.

A letter dated August 17, 1977 from the Department of State has forwarded the Executive Branch view favoring issuance of the proposed license of Kerr-McGee Nuclear Corporation and an appropriate exemption under Section 57d. of the Act for this case.

While this is the first such case which has arisen, the Commission recognizes that there could be future proposed exports of special nuclear material which is diluted in such a way as to have no relevance from the point of view of safeguards, or is practicably irrecoverable. As with the present case, it is expected that future cases would also involve small quantities of material. At any rate, no such export license would be issued unless the Commission had determined that the proposed export would not be inimical to the common defense and security. Therefore, the Commission has decided to exercise the authority granted under Sections 53, 54, and 57d. of the Act to facilitate such material exports.

The Commission has determined that such action would not be inimical to the common defense and security and would not constitute an unreasonable risk to the health and safety of the public.

In view of the longstanding pendency of this minor case, the Executive Branch's view on the merits of the export license application, the need for timely action expressed by the applicant, the insignificant amounts of the material involved, the fact that the material is practicably irrecoverable and not relevant from the safeguards standpoint, and the fact that the amendment will relieve a restriction, the Commission has also found that the customary 30-day notice of proposed rulemaking and public procedures thereon are unnecessary and contrary to the public interest and that good cause exists why this regulation should be made effective on an interim basis upon publication in the FEDERAL REGISTER without the customary 30-day notice.

This interim rule will expire on March 1, 1978, unless extended by the Commission. The Commission expects to make a decision by March 1, 1978, on whether the interim rule should be made permanent.

All interested persons who desire to submit written comments or suggestions for consideration in connection with making the interim rule permanent should send them to the Secretary of the Commission, Washington, D.C. 20555, Attention: Docketing and Service Section by October 17, 1977. Copies of comments on the interim amendment may be examined at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5 of the United States Code, the following amendment to Title 10, Chapter 1, Code of Federal Regulations, Part 70 is adopted on an interim basis and published as a document subject to codification and effective upon publication in the FEDERAL REGISTER (August 31, 1977).

Section 70.31(e) of 10 CFR Part 70 is amended to read as follows:

§ 70.31 Issuance of licenses.

* * * * *

(e) When a license is sought to authorize the export of special nuclear material, the Commission will determine whether the export is under the terms of an agreement for cooperation, except for proposed exports on or before March 1, 1978, of special nuclear material which is diluted in such a way that it is no longer usable for any nuclear activity relevant from the point of view of safeguards, or is practicably irrecoverable. No license authorizing export of special nuclear material will be issued if the Commission finds that the issuance of such license would be inimical to the interests of the United States.

(Secs. 53, 161, Pub. L. 83-703, 68 Stat. 930, as amended, 948, as amended, (42 U.S.C. 2073, 2201); Sec. 57d., Pub. L.93-377, 88 Stat. 475 (42 U.S.C. 2077); Sec. 201, Pub. L 93-438, 88 Stat. 1243 (42 U.S.C. 5841).)

Dated at Washington, D.C. this 26th day of August, 1977.

SAMUEL J. CHILK,
Secretary for the Commission.

[FR Doc.77-25411 Filed 8-30-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-SW-32; Amdt. 39-3026]

PART 39—AIRWORTHINESS DIRECTIVES

Mooney Aircraft Corporation Models M20E, F, and J Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Airworthiness Directive requires a visual check of oil coolers on certain Mooney airplanes with an incorrectly assembled oil cooler.

DATES: Effective date, August 31, 1977, and was effective upon receipt of the airmail letter dated August 2, 1977, for all recipients of the airmail letter. Compliance required before further flight after the effective date of this AD.

FOR FURTHER INFORMATION CONTACT:

Martin J. Saunders, Propulsion Section (ASW-214), Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 524.

SUPPLEMENTARY INFORMATION: Two incorrectly assembled Stewart-Warner model 8432F1 oil coolers were found. One during a production flight test and the other during inventory inspection following the production flight test incident. The mode of incorrect assembly allows oil to pass directly through the end of the oil radiator without passing through the oil fins, resulting in little or no oil cooling, and during some flight conditions, the inlet oil temperature exceeds manufacturers' approved limits.

DRAFTING INFORMATION

The principal authors of this document are Martin J. Saunders, Aerospace Engineer, Flight Standards Division, and Joseph A. Kovarik, Regional Counsel, Southwest Region, Federal Aviation Administration.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, effective August 31, 1977, and was effective upon receipt for all recipients of the airmail letter dated August 2, 1977, which contained this amendment, by adding the following new AD:

MOONEY: Applies to Models M20E (Serial Numbers 101 through 466, 470 through 1217, 1219, 1221, 1223 through 1308, 670001 through 670062, 690001 through 690073, 700001 through 700039, 700041 through 700043, 700045 through 700052, 700055, 700056, 700060, 700061, 21-0001 through 21-1180); M20F (Serial Numbers 670001 through 670363, 670365 through 670385, 670387 through 670482, 670484 through 670539, 680001 through 680206, 690001 through 690090, 690092, 700001 through 700061, 700063, 700066 through 700070, 700072, 22-0001 through 22-1437); M20J (Serial Numbers 24-0001 through 24-0237, 24-0241, 24-0242, 24-0245, 24-0248 through 24-0255) airplanes with a Stewart-Warner model 8432F1 oil cooler.

Compliance: Required before further flight, unless already accomplished.

To prevent overheating of engine oil, accomplish the following:

1. Remove the top cowl on Mooney Model M20J airplanes, the left side cowl on Mooney Model M20E or F airplanes; visually check the engine oil cooler to determine if there is a "V" notch between the center welds and the row of smaller edge notches, as shown in the attached picture, Figure I.

a. If a "V" notch is found on the fourth (4th) and/or fifth (5th) plate on the side having the oil ports, as displayed in Figure I, and no such "V" notch is found on the opposite side, make an entry in the aircraft maintenance records indicating that this AD has been accomplished, and the airplane may be returned to service.

b. If no "V" notice is found as depicted in Figure I, or if there are any other similar notches in any other location, replace the oil cooler with an airworthy Stewart-Warner model 8432F1 oil cooler before further flight.

A pilot may perform the visual checks outlined in paragraph 1.a.

NOTE.—The pilot must make an entry in the maintenance record in accordance with FAR § 43.9 to indicate compliance with this AD.

NOTE.—Mooney Special Notice Letter 7/22/77 pertains to this same subject.

2. Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration.

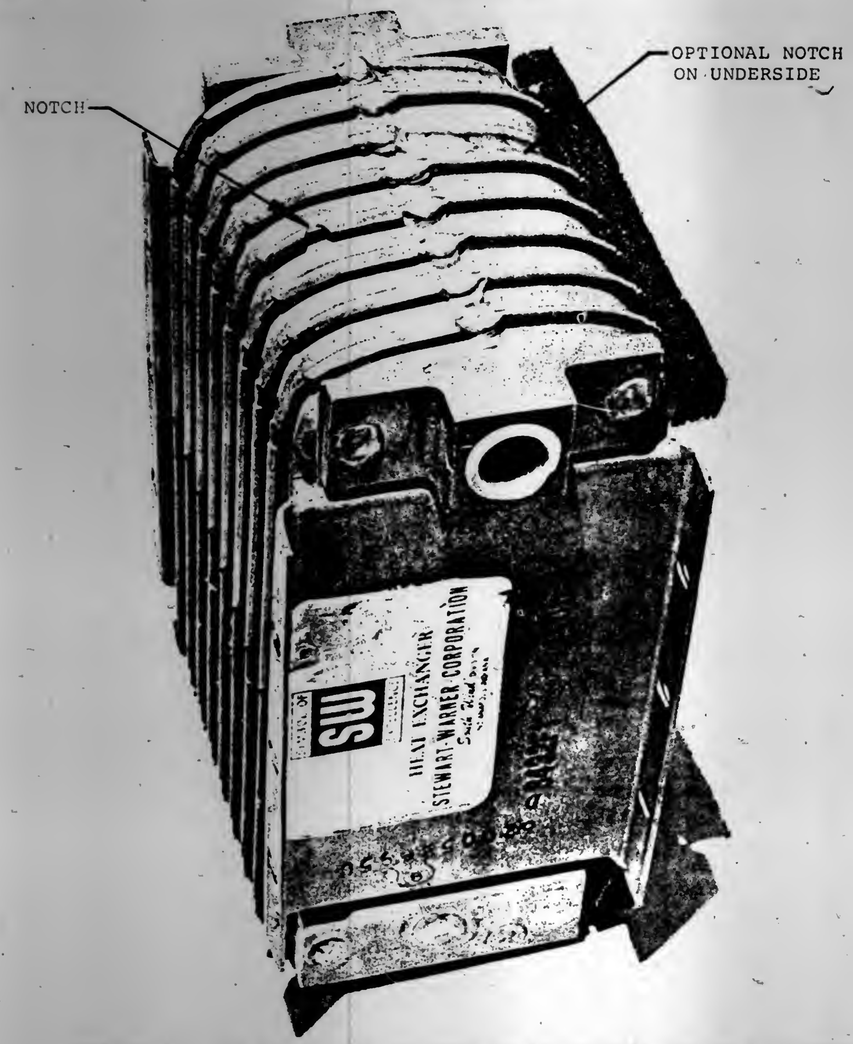
(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Texas, on August 22, 1977.

HENRY L. NEWMAN,
Director,
Southwest Region.

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Either (1) one or (2) two notches in the formed pan as indicated above must be evident and must be in the same end of the cooler as the inlet and outlet ports.

FIGURE I

[FR Doc.77-25447 Filed 8-31-77;8:45 am]

[Docket No. 77-GL-19; Amdt. 39-3011]

PART 39—AIRWORTHINESS DIRECTIVES

Detroit Diesel Allison Model 250-C20/C20B/C20C and 250-B17/B17B Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, supersedure of existing Airworthiness Directive.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which supersedes AD 77-10-13, and, in addition to incorporating those provisions originally set forth in AD 77-10-13, requires modification or replacement of the third stage turbine wheel on Detroit Diesel Allison 250-C20 and 250-B17 engines presently equipped with wheels of Part Number (P/N) 6887113 or P/N 6888633. This AD is being adopted in response to several instances of third stage turbine blade failure on 250-C20 series engines. Compliance with this AD will prevent possible turbine blade failure due to vibratory fatigue which results in engine power loss.

DATE: Effective date September 6, 1977. Compliance schedule—As prescribed in the body of this AD.

ADDRESSES: Copies of the Detroit Diesel Allison Commercial Engine Bulletins referenced herein may be obtained by contacting: Detroit Diesel Allison, Division of General Motors Corp., P.O. Box 894, Indianapolis, Ind. 46206.

Copies of the Bell Helicopter Textron Service Bulletins referenced herein may be obtained by contacting: Bell Helicopter Textron, P.O. Box 482, Fort Worth, Tex. 76101.

Copies of the service information incorporated in this AD are contained in the Rules Docket, Office of the Regional Counsel, 2300 E. Devon Avenue, Des Plains, Ill. 60018; and at FAA Headquarters, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

W. Ashworth, Engineering and Manufacturing Branch, Flight Standards Division, AGL-214, Federal Aviation Administration, 2300 E. Devon Avenue, Des Plains, Ill. 60018; telephone 312-694-4500, extension 308.

SUPPLEMENTARY INFORMATION: There recently have been several instances of third stage turbine blade failure on 250-C20 series engines equipped with P/N 6887113 turbine wheels. As a result, in each instance a severe power loss was experienced.

Each of these failures resulted from high cycle fatigue. Analysis and testing indicate that the most probable cause of these failures is high vibratory stress developed in the blades when the wheel is operated at a speed that excites the disc at a resonant frequency.

Amendment 39-2904, 42 FR 26199, AD 77-10-13 as amended by 39-2929, 42 FR 32521, imposed a turbine speed restriction on Detroit Diesel Allison 250-C20, C20B; C20C, B17, and B17B engines, compliance with which does not completely eliminate the risk of failure. After issuing Amendment 39-2929, the Federal Aviation Administration determined that replacement or modification of the third stage power turbine wheel would preclude third stage power turbine blade failure due to vibratory fatigue. Therefore, the Federal Aviation Administration is superseding Amendment 39-2929 with a new AD that requires third stage power turbine wheel replacement or modification on these Detroit Diesel Allison engines.

This superseding AD does, however, retain the operating restrictions imposed by AD 77-10-13 which is required for coverage, to the extent thereby provided, of affected wheels until they reach time in service which renders applicable the additional provisions of this AD.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In accordance with Departmental Regulatory Reform, dated March 23, 1976, an evaluation of the anticipated impacts has been made and it is expected that within a normal range of pertinent considerations the proposal will be neither costly nor controversial.

DRAFTING INFORMATION

The principal authors of this document are W. Ashworth, Flight Standards Division, Great Lakes Region, and J. McLaughlin, Office of the Regional Counsel, Great Lakes Region.

ADOPTION OF THE AMENDMENT

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

DETROIT DIESEL ALLISON. Applies to 250-C20, C20B, C20C, B17, and B17B engines equipped with third stage turbine wheel part numbers 6887113 and 6888633 installed in aircraft certificated in all categories.

Compliance required before further flight, unless already accomplished.

(a) To reduce the risk of engine power loss resulting from third stage turbine blade failure, provide placards, markings, flight manual changes or other appropriate information advising flight crews to avoid sustained operation of the engine between 90 and 98 percent N_2 except during transients while maintaining safe flight practices. This restriction also applies to autorotation practice and engine idle during engine out simulation on multi-engine aircraft. An acceptable means of compliance for Bell Helicopter Textron 206 series rotorcraft is prescribed by Bell Helicopter Textron Service Bulletin Numbers 206L-77-9 for Bell 206L rotorcraft and 206B-77-6 for Bell 206B rotorcraft. (Detroit Diesel Allison Commercial Service Letters No. 1062 Rev. 1 for the 250-C20 series engines and No. 1031 Rev. 1 for the 250-B17 series engines also pertain to this subject).

Compliance required within the next 1500 hours time in service after the effective date of this AD or at next turbine disassembly, whichever comes first, unless already accomplished.

(b) Remove the third stage turbine wheel in accordance with the applicable approved engine overhaul manual. Third stage turbine wheel Part Numbers 6887113 and 6891588 shall then be modified in accordance with Detroit Diesel Allison Commercial Engine Bulletins No. 1114 for the C20 series engines and No. 1084 for the B17 series engines or be replaced by wheel P/N 6898551 or 6898567. All modified wheels shall be reidentified as P/N 6896863 or 6896873 respectively. Upon completion of this modification, action required by (a) is obviated.

The manufacturer's specifications and procedures identified in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Detroit Diesel Allison, Division of General Motors Corp., P.O. Box 894, Indianapolis, Ind. 46206, and Bell Helicopter Textron, P.O. Box 482, Fort Worth, Tex. 76101. These documents also may be examined at the FAA Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018 and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C. and at the Great Lakes Region.

This supersedes Amendment 39-2904, 42 FR 26199, AD 77-10-13, as amended by Amendment 39-2929, 42 FR 32521.

This amendment becomes effective September 6, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill. on August 22, 1977.

LEON C. DAUGHERTY,
Acting Director,
Great Lakes Region.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.77-25446 Filed 8-31-77;8:45 am]

[Airspace Docket No. 77-RM-9]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Redesignation of Control Zone, Livingston, Mont.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the effective time for the Livingston, Mont., Control Zone from continuous to part-time to establish effective times for this control zone which coincide with

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the availability of weather reporting service at this location.

EFFECTIVE DATE: 0901 GMT September 22, 1977.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division (Attn: ARM-500), 10455 East 25th Avenue, Aurora, Colo. 80010.

FOR FURTHER INFORMATION CONTACT:

Clyde A. Powers, Airspace Specialist, Operations, Procedures and Airspace Branch, ARM-538, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colo. 80010, telephone 303-837-3937.

SUPPLEMENTARY INFORMATION: The Livingston, Mont., Flight Service Station currently provides full-time weather reporting service to support the full-time Livingston, Mont., Control Zone. Beginning September 22, 1977, operational hours for the Livingston, Mont., Flight Service Station will be changed from full-time to the periods from 060 to 2200 hours local time daily and weather reporting services will not be available during periods when this facility is closed. Therefore, the present continuous effective period for the Livingston, Mont., Control Zone must be revised to establish effective times for this control zone coincidental with the availability of weather reporting service by the Livingston, Mont., Flight Service Station.

Furthermore, it is anticipated that seasonal changes will have a minor affect on air traffic activities at Livingston, Mont., and it will be necessary to adjust the Livingston, Mont., Flight Service Station operating hours and associated weather service to accommodate these changing air traffic activities. Therefore, the revised Livingston, Mont., Control Zone designation provides for changes in the effective periods for this control zone by Notice to Airmen with continuous publication of these effective periods in the Airman's Information Manual.

It has been determined that aeronautical activities at Livingston, Mont., do not warrant full-time operation of the Livingston, Mont., Flight Service Station. Since effective periods for the Livingston, Mont., Control Zone are contingent on the availability of weather reporting service at that location, it was further determined that issuance of a notice of proposed rulemaking for this amendment would be impractical and not within the public interest.

DRAFTING INFORMATION

The principal authors of this document are Clyde A. Powers, Air Traffic Division, and Daniel J. Peterson, Office of Regional Counsel, Rocky Mountain Region.

Accordingly, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR 71.171) is amended, effective 0901 GMT September 22, 1977, as follows:

Amend § 71.171 (42 FR 355) by adding the following: Livingston, Mont. This control zone is effective during the specific dates and times established in advance by a Notice of Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1346); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Aurora, Colo., on August 22, 1977.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.77-25443 Filed 8-31-77;8:45 am]

[Airspace Docket No. 77-EA-63]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of VOR Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will realign low altitude VOR Airways (V-58-167) in part between Kingston, N.Y., and Hartford, Conn., and also extend (V-433) approximately 2 NM to the north. This airway realignment is designed to provide more efficient routings to aircraft transiting this area.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. David F. Solomon, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-8530.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to realign low altitude VOR Airways (V58-167) in part between Kingston, N.Y., and Hartford, Conn., and to extend (V-433) approximately 2 NM to the north. Subpart C of Part 71 of the Federal Aviation Regulations was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 307).

This airway realignment is designed to provide more efficient routings to aircraft transiting this area, thereby increasing the prospects for time and fuel conservation.

Under the circumstances presented, the FAA concludes that this action is of benefit to the flying public and a minor matter on which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Mr. David F. Solomon, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) is amended, effective 0901 GMT, December 1, 1977, as follows:

In V-58 "INT Kingston 100° and Hartford, Conn., 268° radials; Hartford;" is deleted and "Hartford, Conn.;" is substituted therefor.

In V-167 "INT Kingston 100° and Hartford, Conn., 268° radials; Hartford;" is deleted and "Hartford, Conn.;" is substituted therefor.

In V-433 "and Hartford, Conn., 268° radials." is deleted and "and Hartford, Conn., 272° radials." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE: The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 26, 1977.

EDWARD J. MALO,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-25441 Filed 8-31-77;8:45 am]

[Docket No. 77-SO-26]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Marco Island, Florida, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates a 700-foot transition area in the vicinity of Marco Island, Fla. This action provides necessary controlled airspace for accommodation of IFR operations at the Marco Island Airport.

EFFECTIVE DATE: 0901 G.m.t., October 6, 1977.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

Donald Ross, Airpsace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320; telephone 404-763-7646.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the FEDERAL REGISTER on June 30, 1977, (42 FR 33343) which proposed the designation of the Marco Island, Fla., 700-foot transition area. No. objections were received from this notice.

DRAFTING INFORMATION

The principal authors of this document are Donald Ross, Airspace and Procedures Branch, Air Traffic Division, and Ronald R. Hagadone, Office of Regional Counsel.

ADOPTION OF AMENDMENT

Accordingly, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, October 6, 1977, by adding the following:

MARCO ISLAND, FLORIDA

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Marco Island Airport (Lat. 25°59'-46'' N., Long. 81°40'22'' W.); within 3 miles each side of the 164° bearing from the Marco Island RBN (Lat. 26°00'01'' N., Long. 81°40'-30'' W.); extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

NOTE: The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on August 19, 1977.

GEORGE R. LACAILLE,
Acting Director, Southern Region.

[FR Doc.77-25107 Filed 8-31-77;8:45 am]

[Airspace Docket No. 77-WA-11]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Terminal Control Area

Correction

In FR Doc. 77-23435, appearing at page 41112 in the issue of Monday, August 15, 1977, the second line of the third full paragraph in the second column of page 41113 should read, "from 10,000 feet MSL to and including 12,500".

[Airspace Docket No. 77-WE-6]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns Jet Route No. 1 south of Mission Bay, Calif., to a radial that will overlie the Tijuana, Mexico, VOR rather than the Tijuana NDB. This action will permit the United States jet route to line up with the Mexican jet route.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On July 14, 1977, the FAA published for comment a proposal to realign a segment of Jet Route No. 1 southeast of Mission Bay, Calif. (42 CFR 36272). Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objections.

THE RULE

This amendment to Part 75 of the Federal Aviation Regulations realigns the United States segment of Jet Route No. 1 to go from Mission Bay, Calif., to the Tijuana, Mexico, (TIJ) VOR.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (42 FR 707) is amended, effective 0901 GMT, December 1, 1977, as follows:

In Jet Route No. 1 "Tijuana, Mexico, NDB," is deleted and "Tijuana, Mexico, VOR," is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 25, 1977.

EDWARD J. MALO,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-25435 Filed 8-31-77;8:45 am]

[Airspace Docket No. 77-WA-8]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Waypoint Name Changes; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In a rule published in the FEDERAL REGISTER of August 4, 1977, Volume 42, page 39379, amendment paragraph, item 9, line 2 on page 39380, 124°05'00'' W., is incorrect. It should be 124°50'00'' W.

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch, (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-3715.

SUPPLEMENTARY INFORMATION: FEDERAL REGISTER Document 77-22379 was published on August 4, 1977 (42 FR 39379) with an effective date of October 6, 1977, and changed the names of several waypoints to be identical to reporting points where they are collected. An incorrect geographic coordinate was inadvertently published describing the waypoint CLUKK in J964R (item 9). Action is taken herein to correct this error.

ADOPTION OF THE CORRECTION

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 77-22379, appearing at page 39379 in the FEDERAL REGISTER of August 4, 1977, in the amendment paragraph, item 9 is amended by deleting (124°05'-00'' W.) and substituting (124°50'00'' W.) therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 135 (c)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Issued in Washington, D.C., on August 26, 1977.

EDWARD J. MALO,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-25442 Filed 8-31-77;8:45 am]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 17152; Amdt. No. 1088]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

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DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For purchase.—Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By subscription.—Copies of all SIAPs, mailed weekly, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The current annual subscription price is $150.00; add $30.00 for each additional copy mailed to the same address.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS–730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202–426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 9) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure, before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR–VOR/DME SIAPs identified as follows:

* * * *effective October 20, 1977*

Prescott, AZ—Prescott Municipal Airport, VOR–A, Amdt. 2
Livermore, CA—Livermore Municipal, VOR/DME–A, Amdt. 3
Columbus, GA—Columbus Metropolitan, VOR–A, Amdt. 18
Griffin, GA—Griffin-Spalding County, VOR/DME Rwy 13, Amdt. 3
Montague, MA—Turners Falls, VOR–A, Amdt. 1
Bradford, PA—Bradford Regional, VOR Rwy 32, Amdt. 2
Bradford, PA—Bradford Regional, VOR/DME Rwy 14, Amdt. 5
Charleston, CS—Charleston AFB/MUNI, VOR Rwy 3 (TAC) Amdt. 7

* * * *effective September 8, 1977.*

Burlington (Mt. Vernon), WA—Bay View, VOR Rwy 10, Original

NOTE: The FAA published an amendment in Docket No. 17063, Amdt. No. 1084 to Part 97 of the Federal Aviation Regulations (42 FR 39380; August 4, 1977) under section 97.23 effective September 22, 1977, which is hereby amended as follows: Douglas, GA—Douglas Muni., VOR–A, Amdt. No. 2 is rescinded.

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

* * * effective September 8, 1977.

Columbus, GA—Columbus Metropolitan, LOC (BC) Rwy 23, Amdt. 8

* * * effective September 8, 1977.

Brunswick, GA—Glynco Jetport, LOC Rwy 7, Amdt. 3, cancelled

3. By amending § 97.27 NDB/ADF SIAPS identified as follows:

* * * effective October 20, 1977.

Columbus, GA—Columbus Metropolitan, NDB Rwy 5, Amdt. 23
Sylvester, GA—Sylvester, NDB Rwy 1, Amdt. 3
Meridian, MS—Key Field, NDB Rwy 1, Amdt. 16
Bradford, GA—Bradford Regional NDB Rwy 32, Amdt. 12
Clemson, SC—Clemson-Oconee County, NDB–A, Amdt. 2

4. By amending § 97.29 ILS–MLS SIAPs identified as follows:

* * * effective October 20, 1977.

Columbus, GA—Columbus Metropolitan, ILS Rwy 5, Amdt. 18
Meridian, MS—Key Field, ILS Rwy 1, Amdt. 20
Bradford, PA—Bradford Regional, ILS Rwy 32, Amdt. 7

* * * effective September 8, 1977.

Brunswick, GA—Glenco Jetport, ILS Rwy 7, Orig.

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * effective October 20, 1977.

Columbus, GA—Columbus Metropolitan, RADAR–1, Amdt. 4
San Antonio, TX—San Antonio International, RADAR–1, Amdt. 21

* * * effective September 22, 1977.

Lafayette, LA—Lafayette Regional, RADAR–1, Original

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * effective October 20, 1977.

Houston, TX—Hull Field, RNAV Rwy 17, Amdt. 2
Houston, TX—Hull Field, RNAV Rwy 35, Amdt. 1

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 24 FR 6489 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

NOTE: The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., on August 26, 1977.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE: The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.77–25440 Filed 8–31–77;8:45 am]

[Docket No. 17158; Amdt. No. 121–137]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Flight Time Limitations: Flag Air Carriers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends the flight time limitations pertaining to pilots utilized by flag air carriers who serve with different flight crews in a calendar month. The FAA has determined that the current rule is not consistent with the rule as it existed prior to recodification. Since it was not intended that the recodification program make any substantive changes to the regulations, the current rule is being amended accordingly.

DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald A. Schroeder, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202–755–8715.

SUPPLEMENTARY INFORMATION: Section 121.487 of the Federal Aviation Regulations specifies flight time limitations applicable to pilots serving with flag air carriers. The purpose of § 121.487 is to provide a method for determining which flight time limitations govern a pilot who serves with multiple flight crews during the course of a calendar month.

The current rules in § 121.487 state that the flight time limitations governing pilots who serve with multiple flight crews during the course of a calendar month are those contained in either §§ 121.481, 121.483, or 121.485. Section 121.481 specifies daily, weekly, monthly, and yearly flight time limitations; § 121.483 specifies daily, monthly, yearly, and quarterly flight time limitations; and § 121.485 provides for quarterly and yearly flight time limitations.

It has come to our attention that the wording of paragraphs (b)–(e) of § 121.487 imposes all of the flight time limitations of either §§ 121.481, 121.483 or 121.485 on pilots who serve with multiple flight crews during the course of a calendar month. The FAA has determined, however, that it was intended that paragraphs (b)–(e) of § 121.487 should only apply the monthly and quarterly flight time limitations contained in §§ 121.481, 121.483, and 121.485, and should not apply the daily, weekly and yearly flight time limitations of those sections.

Special Civil Air Regulation No. 386F, adopted February 26, 1963, was the predecessor to current § 121.487 (b)–(e). This special regulation contained provisions which governed pilots serving with multiple flight crews during the course of a calendar month, and it applied only the monthly and quarterly flight time limitations.

When the FAA proposed to recodify Parts 40, 41, and 42 of the Civil Air Regulations (including all special regulations associated with those parts) into what is now Part 121 of the Federal Aviation Regulations (29 FR 12182, August 26, 1964), the agency stated that changes in substance were not within the scope of the recodification program. In addition, the revision note contained in § 121.487 of the FAA's notice of proposed rulemaking relating to the recodification indicated that S.R. 386F and § 41.323 were combined to create § 121.487 (29 FR 12214).

Since S.R. 386F applied only the monthly and quarterly flight time limitations to pilots serving with multiple flight crews, if § 121.487 (b)–(e) imposed other limitations it would constitute a substantive change and would be contrary to the stated purpose of the recodification program. Accordingly, the FAA is amending paragraphs (b)–(e) of § 121.487 to make them conform to the meaning of S.R. 386F and to the agency's intent in adopting Part 121 as part of the recodification program.

This clarifying amendment removes an unintended restriction and is necessary to be consistent with the stated policy of the FAA governing its regulatory recodification program. Accordingly, I find that notice and public procedure hereon are unnecessary and that good cause exists for making this amendment effective on less than 30 days notice.

DRAFTING INFORMATION

The principal authors of this document are Charles H. Huettner, Flight Standards Service, and Marshall S. Filler, Office of the Chief Counsel.

THE AMENDMENTS

In consideration of the foregoing, Part 121 of the Federal Aviation Regulations is amended, effective September 1, 1977, by revising paragraphs (b)–(e) of § 121.487 to read as follows:

§ 121.487 Flight time limitations: Pilots not regularly assigned.

* * * * *

(b) The monthly flight time limitations for a pilot who is scheduled for duty aloft for more than 20 hours in two-pilot crews in any calendar month, or whose assignment in such a crew is interrupted more than once in that calendar month by assignment to a crew consisting of two or more pilots and an additional flight crewmember, are those set forth in § 121.481.

(c) Except for a pilot covered by paragraph (b) of this section, the monthly and quarterly flight time limitations for a pilot who is scheduled for duty aloft for more than 20 hours in two-pilot and additional flight crewmember crews in any calendar month, or whose assignment in such a crew is interrupted more than once in that calendar month by assignment to a crew consisting of three pilots and additional flight crewmember, are those set forth in § 121.483.

(d) The quarterly flight time limitations for a pilot to whom paragraphs (b) and (c) of this section do not apply and who is scheduled for duty aloft for a total of not more than 20 hours within any calendar month in two-pilot crews (with or without additional flight crewmembers) are those set forth in § 121.485.

(e) The monthly and quarterly flight time limitations for a pilot assigned to each of two-pilot, two-pilot and additional flight crewmember, and three-pilot and additional flight crewmember crews in a given calendar month, and who is not subject to paragraph (b), (c), or (d), of this section, are those set forth in § 121.483.

(Secs. 313(a), 601, 604, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1424), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., on August 29, 1977.

LANGHORNE BOND,
Administrator.

[FR Doc.77–25614 Filed 8–31–77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

PART 1—GENERAL PROCEDURES

Subpart B—Rules and Rulemaking Under Sec. 18(a)(1)(B) of the FTC Act As Amended by Public Law 93–637

TRADE REGULATION RULEMAKING PROCEDURES

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: This document establishes procedures for handling communications with respect to trade regulation rulemaking proceedings to Commissioners or members of Commissioners' personal staff by persons not employed by the Commission. It further clarifies that the entire rulemaking record is publicly available. These amendments are made in light of recent court decisions and are procedural in nature.

DATES: Effective date: September 1, 1977. Comments by: October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Thomas A. Sheehan, Attorney, Office of General Counsel, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580, (202–523–3990).

ADDRESSES: Send comments to: Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Ave., NW., Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Having examined its rulemaking procedures in light of the recent decisions by the Court of Appeals for the District of Columbia in *Home Box Office, Inc.* v. *FCC*, D.C. Cir. No. 75–1280 (March 25,

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1977; special concurring opinion by MacKinnon, J., May 20, 1977) and *Action for Children's Television* v. *FCC*, No. 74-2006 (D.C. Cir. July 1, 1977), the Commission has determined, as an exercise of discretion, to add a new section, § 1.18 (c), to its Rules of Practice. This new section will require that communications relating to a rulemaking proceeding be made only during the regular course of the proceeding, thus ensuring that they become part of the rulemaking record and providing an opportunity for comment on such communications. Section 1.18(c) provides that, after a rulemaking proceeding has commenced, all communications concerning the merits of that proceeding from persons not employed by the Commission to Commissioners, or members of their personal staffs, are prohibited. If a prohibited communication does occur it will be placed on the Commission's public record but will not be considered by the Commission when it reviews the record of the proceeding. Requests for information as to the status of a rulemaking proceeding are not subject to these restrictions. Section 1.18 (b) is amended to reflect the Commission's current practice of making the entire rulemaking record publicly available. The titles to § 1.18 and § 1.18(a) are also being amended.

While this rule is effective September 1, 1977, the Commission invites comments on it on or before October 3, 1977. Comments should be addressed to the Office of the Secretary. The Commission will review all comments received and take whatever action, if any, it deems appropriate.

In consideration of the foregoing, 16 CFR Chapter 1 is amended as follows:

By amending § 1.18(b) and adding § 1.18(c) to read as follows:

§ 1.18 Rulemaking Record.

(a) *Definition.*

* * * * *

(b) *Public availability.* The rulemaking record shall be publicly available except when the presiding officer, for good cause shown, determines that it is in the public interest to allow any submission to be received in camera subject to the provisions of § 4.11 of this chapter.

(c) *Communications to Commissioners and their attorney advisors.* Except as provided by the Commission, pursuant to § 1.14(a) of the Rules of Practice, after commencement of a trade regulation rule proceeding, no person not employed by the Commission shall communicate, orally or in writing, with any Commissioner or any member of a Commissioner's personal staff, with respect to the merits of that proceeding. If a prohibited communication does occur, the communication will be placed on the public record on receipt. In the case of an oral communication, the Commissioner or staff member shall place on the public record a memorandum setting forth the contents of such communication and the circumstances thereof. Such communications or memoranda will not be part of the rulemaking record.

By direction of the Commission, Commissioners Collier and Dole dissenting.

JAMES A. TOBIN,
Acting Secretary.

DISSENTING STATEMENT OF COMMISSIONER COLLIER TO COMMISSION DECISION TO ADOPT AMENDMENT TO § 1.18 OF THE COMMISSION'S RULES OF PRACTICE

I dissent from this modification of the Commission's rules, not because I believe that off-the-record communications with respect to the merits of rulemaking proposals should be permitted, but because the Commission has declined to provide an adequate opportunity for such communications to be made on-the-record.

In my opinion, our current rules are seriously deficient in their failure to provide for oral presentations to the Commissioners by designated representatives in rulemaking proceedings. Section 1.14 of our Rules provides: "Where it believes that it should have further information or additional views of interested persons as to the form and content of the rule, it may withhold final action pending the receipt of such additional information or views." As implemented by the Commission to date, this Rule has not provided for the regular opportunity by interested persons to make oral presentations to the full Commission.

In contrast, we provide in adjudicative proceedings that: "Oral arguments will be held in all cases on appeal to the Commission, unless the Commission otherwise orders upon its own initiative or upon request of any party made at the time of filing his brief." § 3.52(f). In practice, this Rule generally results in the Commission's granting oral argument.

The same presumption favoring oral presentations at the close of rulemaking proceedings should be created. These presentations, like post-record written comments, should be based upon information already in the record. See § 1.13(h). The opportunity should be afforded to representatives of various interests that were selected by the presiding officer. See § 1.13(d)(5)(D). See also § 1.17.

I have no quarrel with controlling communications to Commissioners during the course of rulemaking proceedings. The failure to do so can render our orderly procedures for accumulating relevant information and views a nullity if not a charade. But I object to an absolute ban on such communications (in contrast, for example, to placing them on the public record), unless and until the Commission establishes a proper forum for receipt of oral presentations.

DISSENTING STATEMENT OF COMMISSIONER DOLE

I agree that the Commission should tighten up its procedures for dealing with contacts between Commissioners and outside parties on the merits of pending rulemaking proceedings. Otherwise, the elaborate procedures established for the development and analysis in public of a rulemaking record could be compromised.

However, I disagree with the solution adopted by the majority. I believe that the purpose of this rule could have been served in a less restrictive way, modeled along the lines of the draft recommendations recently issued by the Administrative Conference of the United States, Select Committee on Ex Parte Communications. I would have preferred a rule requiring that, after commencement of a trade regulation rulemaking proceeding, all written communications from any person not employed by the Commission received by any Commissioner and addressed to the merits of the proposed rule be placed on the public record. In addition, all oral communications of substantive significance from any person not employed by the Commission addressed to the merits of the proposed rule and made privately to any Commissioner would be required to be summarized and placed on the public record. It has been my policy in the past, when meeting with any person outside the agency concerning agency business, to have an FTC staff member present, and I would have continued this policy.

The solution I would have preferred is consistent with the current emphasis on open government conducive to developing all relevant information and the accessibility of government decision-makers to any member of the public. It is also consistent with the traditionally flexible, legislative nature of informal rulemaking. At the same time, this solution would have ensured that the public and reviewing courts were provided with a record of all considerations presented to the agency.

[FR Doc.77-25666 Filed 8-31-77;8:45 am]

SUBCHAPTER A—ORGANIZATION, PROCEDURES, AND RULES OF PRACTICE

PART 4—MISCELLANEOUS RULES

Restrictions on Ex Parte Communications

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The rule amends the Commission's Rules of Practice to reflect the provisions of the Government in the Sunshine Act, and to clarify the coverage of the rule with respect to communications between Commission decisionmakers and Commission staff.

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Jerome A. Tintle, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580 (202-523-3487).

SUPPLEMENTARY INFORMATION: The Commission published a notice of proposed rulemaking at 42 FR 33041 (June 29, 1977) inviting comments to be filed by July 29, 1977 on a proposed amendment of § 4.7 of the Commission's Rules of Practice. The amendments reflect the provisions of section 4 of the Government in the Sunshine Act, Pub. L. 94-409. No comments were received.

Accordingly, 16 CFR 4.7 is amended to read as follows:

§ 4.7 Ex Parte Communications.

(a) *Definitions.* For purposes of this section, "ex parte communications" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or proceeding.

(b) *Prohibited ex parte communications.* While a proceeding is in adjudicative status within the Commission, except to the extent required for the disposition of *ex parte* matters as authorized by law, (1) no person not employed by the Commission, and no employee or agent of the Commission who performs investigative or prosecuting functions in adjudicative proceedings, shall make or knowingly cause to be made to any member of the Commission, or to the Administrative Law Judge, or to any other employee who is or who reasonably may be expected to be involved in the decisional process in the proceeding, an ex parte communication relevant to the merits of that or a factually related proceeding; and (2) no member of the Commission, the Administrative Law Judge, or any other employee who reasonably may be expected to be involved in the decisional process in the proceeding, shall make or knowingly cause to be made to any person not employed by the Commission, or to any employee or agent of the Commission who performs investigative or prosecuting functions in adjudicative proceedings, an ex parte communication relevant to the merits of that or a factually related proceeding.

(c) *Procedures.* A Commissioner, the Administrative Law Judge or any other employee who is or who may reasonably be expected to be involved in the decisional proces who receives or who makes or knowingly causes to be made, a communication prohibited by paragraph (b) of this section shall promptly provide to the Secretary of the Commission: (1) All such written communications; (2) memoranda stating the substance of and circumstances of all such oral communications; and (3) all written responses, and memoranda stating the substance of all oral responses, to the materials described in clauses (1) and (2) of this subsection. The Secretary shall make relevant portions of any such materials part of the public record of the Commission, pursuant to Section 4.8, and place them in the docket binder of the proceeding to which it pertains, but they will not be considered by the Commission as part of the record for purposes of decision unless introduced into evidence in the proceeding. The Secretary shall also send copies of the materials to or otherwise notify all parties to the proceeding.

(d) *Sanctions.* (1) Upon receipt of an ex parte communication knowingly made or knowingly caused to be made by a party and prohibited by paragraph (b) of this section, the Commission, Administrative Law Judge, or other employee presiding over the proceeding may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the Commission, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation. The Commission may take such action as it considers appropriate, including but not limited to, action under Section 4.1 (e) (2) and 5 U.S.C. Section 556(d).

(2) A person, not a party to the proceeding who knowingly makes or causes to be made an ex parte communication prohibited by paragraph (b) of this section shall be subject to all sanctions provided herein if he subsequently becomes a party to the proceeding.

(e) The prohibitions of this section shall apply from the time the Commission votes to issue a complaint in an adjudicative proceeding or votes to conduct adjudicative hearings on issues arising in rulemaking proceedings under the Fair Packaging and Labeling Act.

(f) The prohibitions of paragraph (b) of this section do not apply to communications between Commissioners and employees or agents of the Commission who perform investigative or prosecutorial functions in adjudicative proceedings, when such communications are occasioned by and concern: (1) the initiation, conduct or disposition of a separate investigation or adjudicative proceeding, whether or not it involves a party already in an adjudicative proceeding; (2) proceedings outside the scope of Section 3.2, including matters in state or federal courts and before other governmental agencies; (3) nonadjudicative functions of the Commission, including but not limited to obligations under § 4.11 or communictions with Congress; or (4) the disposition of a consent settlement under § 3.25 executed by some but not all respondents. *Provided however,* That to the extent such communications relate to a fact in issue in a pending adjudicative proceeding, such portions will be placed in the docket binder of the proceeding to which it pertains. The prohibitions of paragraph (b) of this section also do not aply to communications between Commissioners, the Administrative Law Judge, or any other employee who is involved in the decisional process, and any employee who has been directed by the Commission or requested by an individual Commissioner or Administrative Law Judge, to assist in the decision of an adjudicative proceeding. Such employee shall not, however, have performed an investigative or prosecutorial function in that or a factually related proceeding.

By direction of the Commission.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc.77-25673 Filed 8-31-77;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. R-77; 3322]

PART 1912—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Servicing Companies

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this notice is to provide an update of § 1912.7 and of Title 24 of the Code of Federal Regulations as previously published.

DATES: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

The entries are to read as follows:

§ 1912.7 Servicing Companies.

The following servicing companies have been designated to issue standard flood insurance policies and service claims under those policies pursuant to the Natural Flood Insurance Program as implemented by this subchapter of Title 24 of the Code of Federal Regulations.

ALABAMA

The Hartford Insurance Group, Atlanta Center, 250 Piedmont Avenue NW., P.O. Box 1720, Atlanta, Ga., 30308 (404-658-1414).

ALASKA

Industrial Indemnity Company of Alaska, P.O. Box 307, Anchorage, Alaska 99510 (907-279-9441).

ARIZONA

Aetna Technical Services, Inc., 3225 North Central Avenue, Phoenix, Ariz. 85102 (602-264-8821).

ARKANSAS

The Travelers Indemnity Company, 700 South University, P.O. Box 51, Little Rock, Ark. 72203 (501-664-5085).

CALIFORNIA

Fireman's Fund American Insurance Co., P.O. Box 2323, Los Angeles, Calif. 90051 (213-381-3141).

COLORADO

CNA Insurance, 1660 Lincoln Street—Suite 1800, Denver, Colo. 80203 (303-861-0561).

CONNECTICUT

Aetna Insurance Company, P.O. Box 1779, Hartford, Conn. 06101 (203-523-4861).

D.C.—DISTRICT OF COLUMBIA

DISTRICT OF COLUMBIA

Insurance Company of North America, 5225 Wisconsin Avenue, NW., Washington, D.C. 20015 (202-244-2000).

DELAWARE

General Accident F&L Assurance Corp., Ltd., 414 Walnut Street, Philadelphia, Pa. 19106 (215-238-5512).

FLORIDA

The Travelers Indemnity Company, 1516 East Colonial Drive, Orlando, Fla. 32803 (305-896-2001). Toll free: (800-432-4876).

GEORGIA

The Hartford Insurance Group, Atlanta Center, 250 Piedmont Avenue NW., P.O. Box 1720, Atlanta, Ga. 30308 (404—658-1414).

HAWAII

First Insurance Company of Hawaii, Ltd., P.O. Box 2866, Honolulu, Hawaii 96803 (808—548-5511).

IDAHO

Aid Insurance Company, Snake River Division, 1845 Federal Way, Boise, Idaho 83701 (208—343-4931).

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ILLINOIS

State Farm Fire & Casualty Company, 2309 East Oakland Avenue, Bloomington, Ill. 61709 (309—662-6742).

INDIANA

American States Insurance Company, 500 North Meridian Street, Indianapolis, Ind. 46204 (317—262-6696).

IOWA

Employers Mutual Casualty Company, P.O. Box 884, Des Moines, Iowa 50304. (515—280-2511).

KANSAS

Royal-Globe Insurance Companies, 5200 West 110th Street, P.O. Box 7600, Overland Park, Kans. 66207 (913—341-7600).

KENTUCKY

CNA Insurance, 580 Walnut Street, Suite 1000, Cincinnati, Ohio 45202 (513—579-9000).

LOUISIANA

Aetna Technical Services, Inc., 2025 Canal Street—Suite 210, New Orleans, La. 70112 (504—821-3626).

MAINE

Commercial Union Assurance Company, c/o Campbell, Payson & Noyes, 27 Pearl Street, Box 527 Pearl Street Station, Portland, Maine 04116 (207—774-1431). Toll free: (800—482-0131).

MARYLAND

U.S. Fidelity & Guaranty Company, Metropolitan Department, Baltimore Branch Office, P.O. Box 13576, Baltimore, Md. 21203 (301—547-3605, 3697, 3698). Toll free: (800—492-1966).

MASSACHUSETTS (EASTERN)

Commercial Union Assurance Company, 1 Beacon Street, Boston, Mass. 02108 (617—725-6128).

MASSACHUSETTS (WESTERN)

Aetna Insurance Company, P.O. Box 1779, Hartford, Conn. 06101 (203—523-4861).

MICHIGAN

Insurance Company of North America, 900 Tower Drive, Troy, Mich. 48098 (313—879-5250), (313—879-5254).

MINNESOTA (EASTERN)

The St. Paul Companies, 60 E. Marie Avenue, West St. Paul, Minn. 55118 (612—455-6600).

MINNESOTA (WESTERN)

The St. Paul Companies, 7900 Xerxes Avenue, South, Minneapolis, Minn. 55431 (612—835-2600).

MISSISSIPPI

The Travelers Indemnity Company, 5360 Interstate 55 North, P.O. Box 2361, Jackson, Miss. 39205 (601—958-5600).

MISSOURI (EASTERN)

MFA Insurance Company, 1817 West Broadway, Columbia, Mo. 65201 (314—445-8441)

MISSOURI (WESTERN)

Royal-Globe Insurance Company, 5200 West 110th Street, P.O. Box 7600, Overland Park, Kans. 66207 (913—341-7600).

MONTANA

The St. Paul Fire and Marine Co., The Hamm Building—Room 254, 408 St. Paul Street, St. Paul, Minn. 55102 (612—227-9581).

NEBRASKA

Royal-Globe Insurance Company, 5200 West 110th Street, P.O. Box 7600, Overland Park, Kans. 66207 (913—341-7600).

NEVADA

The Hartford Insurance Group, P.O. Box 500, Reno, Nev. 89504 (702—329-1061).

NEW HAMPSHIRE

Commercial Union Assurance Company, 1 Beacon Street, Boston, Mass. 02108 (617—725-6128).

NEW JERSEY

Great American Insurance Company, 5 Dakota Drive, Lake Success, N.Y. 11040 (201—224-4200).

NEW MEXICO

CNA Insurance, 1660 Lincoln Street—Suite 1800, Denver, Colo. 80203 (303—861-0561).

NEW YORK

Great American Insurance Company, 5 Dakota Drive, Lake Success, N.Y. 11040 (516—755-6900).

NORTH CAROLINA

Kemper Insurance, 1229 Greenwood Cliff, Charlotte, N.C. 28204 (704—372-7150).

NORTH DAKOTA

The St. Paul Companies, The Hamm Building—Room 254, 408 St. Peter Street, St. Paul, Minn. 55102 (612—227-9581).

OHIO (NORTHERN)

Commercial Union Insurance Company, 1300 East 9th Street, Cleveland, Ohio 44114 (216—522-1060).

OHIO (SOUTHERN)

CNA Insurance, 580 Walnut Street, Suite 1000, Cincinnati, Ohio 45202 (513—579-9000).

OKLAHOMA

St. Paul Fire and Marine Insurance Companies, 2000 Classen Center North, Oklahoma City, Okla. 73106 (405—528-7041).

OREGON

State Farm Fire & Casualty Company, 4600 25th Avenue NE., Salem, Oreg. 97303 (503—393-0101).

PENNSYLVANIA

General Accident F&L Assurance Corp., Ltd., 414 Walnut Street, Philadelphia, Pa. 19106 (215—238-5512).

PUERTO RICO

Commonwealth Insurance Company, P.O. Box S-4471, San Juan, P.R. 00905 (809—723-4618).

RHODE ISLAND

American Universal Insurance Company, 144 Wayland Avenue, Providence, R.I. 02904.

SOUTH CAROLINA

Maryland Casualty Company, P.O. Box 11615, Charlotte, N.C. 28209 (704—525-8330).

SOUTH DAKOTA

The St. Paul Companies, The Hamm Building—Room 254, 408 St. Peter Street, St. Paul, Minn. 55102 (612—227-9581).

TENNESSEE

CNA Insurance, P.O. Box 410, 1101 Kermit Drive, Nashville, Tenn. 37217 (615—367-0500).

TEXAS

St. Paul Fire & Marine Insurance Co., 2100 Travis Street, 9th Floor, Houston, Tex. 77002 (713—654-9984).

UTAH

CNA Insurance, 1660 Lincoln Street—Suite 1800, Denver, Colo. 80203 (303—759-1500).

VERMONT

Commercial Union Assurance Company, 1 Beacon Street, Boston, Mass. 02108 (617-725-6128).

VIRGINIA

Insurance Company of North America, 5225 Wisconsin Avenue NW., Washington, D.C. 20015 (202-244-2000).

WASHINGTON

Fireman's Fund American Insurance Co., 1000 Plaza Building 600, 6th and Stewart, Seattle, Wash. 98101 (206-587-3200).

WEST VIRGINIA

U.S. Fidelity & Guaranty Company, 3324 McCorkle Avenue SE., Charleston, W. Va. 25304 (304-344-1692).

WISCONSIN

Aetna Insurance Company, 5735 East River Road, Chicago, Ill. 60631 (312-693-2500).

WYOMING

CNA Insurance, 1660 Lincoln Street—Suite 1800, Denver, Colo. 80203 (303-861-0561).

VIRGIN ISLANDS

Commonwealth Insurance Company, P.O. S-4471, San Juan, Puerto Rico 00905 (809-723-4618).

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969) as amended, 39 F.R. 2787, Jan. 24, 1974.

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25557 Filed 8-31-77;8:45 am]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER X—HOUSING

PART 261—HOUSING IMPROVEMENT PROGRAM

Program Category Cost Limitations

AUGUST 22, 1977.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Rulemaking.

SUMMARY: The purpose of the amendment is to increase the cost limitation of the program categories. This change is made to meet the increasing prices in labor and materials.

DATES: This amendment will become effective September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. G. Ronald Peake, Chief, Division of Housing Assistance, Bureau of Indian Affairs, U.S. Department of the Interior, Washington, D.C. 20245, (202-343-4876), who is also primary author of this amendment.

This rulemaking is being published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Part 261 of Subchapter X, Chapter I of Title 25 of the Code of Federal Regulations is amended by amending § 261.4(b)(3) and (d)(3) to read:

§ 261.4 Program categories.

• • • • • •

(b) • • •

(3) The cumulative total expenditure of the Housing Improvement Program funds should not exceed $13,000 for any one dwelling.

• • • • • •

(d) • • •

(3) The cumulative total expenditure of funds may not exceed $30,000 for a dwelling and equipment. (In the case of Alaska, the total expenditure of funds may not exceed $40,000.) The occupant will be responsible for all maintenance of the completed dwelling, and all utility fees, deposits or costs required for service. All contractor built houses must contain a one-year warranty against defects, materials, and workmanship.

• • • • • •

RAYMOND V. BUTLER,
Acting Deputy Commissioner.

[FR Doc.77-25493 Filed 8-31-77;8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS) DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

MEDICAL ASSISTANCE PROGRAM

Title Change

AGENCY: Health Care Financing Administration, (HCFA), HEW.

ACTION: Final rule.

SUMMARY: This rule amends current regulations for the medical assistance program (Title XIX, Social Security Act) to reflect the change in title of the official responsible for the Medicaid program in the regions. The change in title results from a recent HEW reorganization. Under the Departmental Reorganization Order published March 9, 1977 (42 FR 13262), certain responsibilities for the medical assistance program formerly held by the Social and Rehabilitation program (SRS) were transferred to HCFA.

EFFECTIVE DATE: June 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Margaret O. Schnoor, 202-245-1960.

SUPPLEMENTARY INFORMATION: Current regulations in Title 45, Chapter II, assign certain authorities for action on medical assistance program matters to the Regional Commissioner, SRS. Examples are approval of State plans, approval of cost-finding methods, etc. Under the March 9, 1977 reorganization, these matters are now within HCFA jurisdiction and the authorities will be exercised by the Regional Medicaid Director.

The Department finds that there is good cause to dispense with notice of proposed rulemaking since this change of designation is required by the Department's reorganization and merely reflects the abolishment of SRS and the establishment of HCFA, with corresponding changes in exercise of authority by regional officials. No substantive changes in authority result from this redesignation. Accordingly, notice of proposed rulemaking and public comment would serve no useful purpose and would result in unnecessary delays in conducting the Department's business.

Parts 200-299, Chapter II, Title 45 of the Code of Federal Regulations are amended as follows:

PART 201—GRANTS TO STATES FOR PUBLIC ASSISTANCE PROGRAMS

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

1. In Parts 201 and 205, all references to "Regional Commissioner" and "SRS Regional Commissioner" are changed to "Regional Commissioner, or with respect to the medical assistance program under title XIX, Regional Medicaid Director".

PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

2. In Part 249 all references to the "Regional Commissioner", "SRS Regional Commissioner", "Regional Commissioner, Social and Rehabilitation Service" and "Social and Rehabilitation Service Regional Commissioner" are changed to "Regional Medicaid Director".

PART 250—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

3. In Part 250 all references to the "Regional Commissioner", "SRS Regional Commissioner", "Regional Commissioner, Social and Rehabilitation Service" and "Social and Rehabilitation Service Regional Commissioner" are changed to "Regional Medicaid Director".

§ 250.70 [Amended]

4. In Part 250, § 250.70(a)(2), "The Regional Office of the Special (Sic) and Rehabilitation Service" is changed to "the Regional Office of the Health Care Financing Administration."

PART 252—MEDICAL ASSISTANCE PROGRAMS: RELATED RESPONSIBILITIES

5. In Part 252, all references to the "Regional Commissioner", "SRS Regional Commissioner", "Regional Commissioner, Social and Rehabilitation Service" and "Social and Rehabilitation Service Regional Commissioner" are changed to "Regional Medicaid Director".

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

NOTE.—The Health Care Financing Administration has determined that this document does not require preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: August 15, 1977.

ROBERT A. DERZON,
Administration, Health Care Financing Administration.

Approved: August 27, 1977.

HALE CHAMPION,
Acting Secretary.

[FR Doc.77-25597 Filed 8-31-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of National Wildlife Refuges in Oklahoma and Texas to Hunting

OKLAHOMA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Salt Plains National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 22 through November 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Salt Plains National Wildlife Refuge, Route 1, Box 49, Jet, Okla. 73749; Telephone: 405-626-4794.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer is permitted on Salt Plains National Wildlife Refuge, but only on the area designated by signs as open to hunting. This open area, comprising 2,341 acres, is delineated on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Participants will be determined through special drawing. Applications must be made on special pre-addressed forms. General instructions for obtaining and completing these special application forms are available from Salt Plains National Wildlife Refuge, or from the Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln, Oklahoma City, Okla. 73105. Special applications must be obtained in the manner outlined in these general instructions no earlier than July 11, 1977, and no later than August 22, 1977. Completed applications must be submitted by August 22, 1977. Hunting shall be in accordance with all State regulations covering the hunting of deer subject to the following special conditions:

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1. The dates of the bow hunting season shall be October 22, 23, 29, and 30, 1977.

2. The dates of the primitive rifle hunting season shall be November 5 and 6, 1977.

3. The dates of the modern gun hunting season shall be November 19, 20, 22, 23, 26, and 27, 1977.

4. Hunters must check in at the refuge office prior to entering the assigned hunting area and must check out at the refuge office upon leaving the area.

5. Shooting hours on the refuge will end each day at sunset.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

TEXAS

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Aransas National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 22 through October 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Aransas National Wildlife Refuge, Box 68, Austwell, Tex. 77950; Telephone: 512-286-3559.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public archery hunting of deer and feral hogs on a portion of the Aransas National Wildlife Refuge is permitted from noon September 22 through September 26, 1977; September 30 through October 3, 1977; and October 7 through October 9, 1977. That portion of the refuge open to hunting is designated by signs and delineated on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all State and Federal regulations covering the hunting of deer and feral hogs subject to the following special conditions:

1. A bag limit of 3 deer, either sex, but not to include more than 2 bucks, may be taken by each hunter. There is no limit as to the number of feral hogs that may be taken.

2. All hunters must check in and out of the hunt area at the refuge entrance on Texas Farm Road 2040.

3. A valid 1977-78 Texas hunting license is required of each participant. A current State archery tag is also required.

4. All hunting arrows must bear the name and address of the user in a non-water-soluble medium.

5. No target or field arrows are permitted on the refuge.

6. Taking, or attempting to take wildlife species other than deer or feral hogs is prohibited.

7. All motor vehicles must travel only on the shell-surfaced roads of the refuge.

8. No deer may be removed from the refuge without a metal transportation seal being attached to the carcass by a refuge officer.

9. In the event of the arrival of whooping cranes, the refuge or any portion thereof may be immediately closed to hunting.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 26, 1977.

JERRY L. STEGMAN,
Acting Regional Director,
Albuquerque, N. Mex.

[FR Doc.77-25601 Filed 8-31-77;8:45 am]

PART 32—HUNTING

Opening of the J. Clark Salyer National Wildlife Refuge, North Dakota, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of J. Clark Salyer National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977, through November 20, 1977; November 24, 1977, through November 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Jon M. Malcolm, J. Clark Salyer National Wildlife Refuge, Upham, N. Dak. 58789, Telephone No. 701-768-3223.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory gamebirds; for individual wildlife refuge areas.

Hunting of geese is permitted on the J. Clark Salyer National Wildlife Refuge, North Dakota, from October 1, 1977 through December 11, 1977 (Canada Geese season closes November 13, 1977), and hunting of ducks and coots is permitted from October 1, 1977, through November 20, 1977, and November 24, 1977 through November 27, 1977, only on the area designated by signs as open to migratory waterfowl hunting. This open area comprising 2,850 acres is delineated on a map available at the refuge headquarters and from the office of the Regional Director, P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Blinds—Temporary blinds of approved material may be constructed.

2. Retrieving zones—Retrieving zones will be designated by signs. Possession of firearms in retrieving zones is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 25, 1977.

JON M. MALCOLM,
Refuge Manager.

[FR Doc.77-25602 Filed 8-31-77;8:45 am]

PART 32—HUNTING

Opening of Swan Lake National Wildlife Refuge, Missouri, to Public Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public hunting of Swan Lake National Wildlife Refuge is compatible with objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 25, 1977, through December 8, 1977, or until the harvest quota of 25,000 Canada geese is reached whichever occurs first.

FOR FURTHER INFORMATION CONTACT:

Alfred O. Manke, P.O. Box 68, Sumner, Missouri 64681. Telephone—AC816/856-3323.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting for geese only is permitted only on designated areas comprising 2,500 acres within Swan Lake National Wildlife Refuge, Missouri. Hunting shall be in accordance with all applicable State and Federal regulations subject to the following conditions:

1. Each hunter must obtain a State permit issued at the checking station prior to hunting, hunt only from his lottery-assigned blind, fire no more than ten (10) shells, and include not more than one (1) Canada goose in his daily bag.

2. Authorized officials may retrieve legally shot geese falling inside the refuge boundary for the hunters who shot them.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 26, 1977.

ALFRED O. MANKE,
Refuge Manager.

[FR Doc.77-25603 Filed 8-31-77;8:45 am]

PART 33—SPORT FISHING

Opening of Seedskadee National Wildlife Refuge, Wyoming, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Seedskadee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1, 1978, through December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

H. J. Johnson, Refuge Manager, Seedskadee National Wildlife Refuge, Fontenelle Route, Via Kemmerer, Wyo. 83101 Area Code 307-877-6334.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on Seedskadee National Wildlife Refuge, Wyo. All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to sport fishing. Maps of the area are available at the refuge office, Fontenelle Route, Via Kemmerer, Wyo. 83101 and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, CO 80225. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

AUGUST 24, 1977.

H. J. JOHNSON,
Refuge Manager.

[FR Doc.77-25600 Filed 8-31-77;8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[7 CFR Part 1822]

[FmHA Instruction 444.3]

RURAL HOUSING LOANS AND GRANTS

Section 502 Rural Housing Weatherization Loans

AMENDMENT.

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rulemaking.

SUMMARY: The Farmers Home Administration (FmHA) is considering revising its regulations to make section 502 Rural Housing Weatherization (RHW) loans available to rural consumers of Public Utilities (utilities). The revisions will also allow RHW loan funds to be used to pay for inspection and technical services provided by the utility and thereby extend the availability of the program. This action is brought about by the need to extend this credit to more members of the public.

DATES: Comments must be received on or before October 3, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be made available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Edward R. Tuner, (202-447-4296).

SUPPLEMENTARY INFORMATION: It is proposed to amend Subpart B of Part 1822, Chapter XVIII, Title 7, Code of Federal Regulations. This amendment will provide simplified procedures for making and servicing FmHA Section 502 Rural Housing loans to finance home improvements that will reduce energy consumption for rural homeowners and will include rural public utility consumers. At the present time only Rural Electric Cooperative Consumers may use the simplified procedures. Under the provisions of the Cooperative Agreement which is attached as Exhibit A to this subpart, participating utilities will receive applications and process, close, and service section 502 Rural Housing Weatherization loans for eligible utility consumers. The Farmers Home Administration will determine the eligibility of applicants, and approve the loans based upon certifications provided by the applicants and the utility. The amendment also allows loan funds to be used for inspection and technical services provided by the utility. Editorial changes have also been made.

As proposed, Subpart B reads as follows:

SUBPART B—SECTION 502 RURAL HOUSING WEATHERIZATION LOANS

Sec.

1822.21 General.
1822.22 Objective.
1822.23 Cooperative Agreement.
1822.24 Loan approval authority.
1822.25 County office responsibilities.
1822.26 State Director's responsibilities.

AUTHORITY: 42 U.S.C. 1480, delegation of authority by the Secretary of Agriculture, 7 CFR 2.23 delegation of Authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.

Subpart B—Section 502 Rural Housing Weatherization Loans

§ 1822.21 General.

This Regulation provides policies and procedures and delegates the authority for processing and approving Section 502 Rural Housing Weatherization (RHW) loans made under Title V of the Housing Act of 1949, as amended. Public Utilities (utilities) are amortized herein to process and service Section 502 rural housing loans to utility consumers for weatherization purposes. Loans will be made in accordance with this regulation and 7 CFR Part 1822, Subpart A §§ 1822.3 (c), and (d), and § 1822.5 (FmHA Instruction 444.1, paragraphs III C and D and paragraph V). Subpart A of § 1822.3 (e), (n), (o), and § 1822.4 (FmHA Instruction 444.1, paragraph (E), (N), (O), and paragraph IV) also are applicable to this regulation, except as modified herein or in Exhibit A.

§ 1822.22 Objective.

The objective of the Farmers Home Administration (FmHA) in making Section 502 RHW loans is to assist rural homeowners in making improvements to their homes that will reduce energy consumption and provide a more comfortable living environment for their families, or in the case of farmowners, for tenants, sharecroppers, farm managers, or farm laborers living in houses located on their farms.

§ 1822.23 Cooperative agreement.

Exhibit A of this regulation is a Cooperative Agreement which sets forth the procedures and regulations for making and servicing Section 502 RHW loans to consumers served by participating utilities. The FmHA State Director is authorized to enter into a Cooperative Agreement with any public utility with headquarters located in his State. He will be responsible for providing sufficient training to ensure that all of the provisions of the agreement are understood and that the utility has the ability to make and service loans in the manner prescribed.

§ 1822.24 Loan approval authority.

The Director, Finance Office or his delegated representative will be the authorized approval official for Section 502 RHW Loans. Loans will be approved based solely upon information and certifications on the completed Form FmHA 444-20, "Application and Promissory Note for Rural Housing Weatherization." The certifications will be as follows:

(a) Applicant certifies:

(1) That the applicant has an ownership interest in the housing to be weatherized and it is occupied by the applicant or is located on the applicant's farm and is occupied by a tenant, sharecropper, farm manager or farm laborer.

(2) The adjusted annual income of all adults residing with the applicant.

(3) That with the addition of the weatherization improvements, the housing being improved will provide decent, safe, and sanitary living conditions.

(4) The applicant will, at the request of the FmHA, proceed with diligence to refinance the indebtedness through cooperative or other responsible private credit sources whenever the FmHA determines that the applicant's circumstances and earning capacity are such that the applicant is able to do so upon reasonable terms and conditions, and that the occupancy of the housing will continue as provided in paragraph (a) (1) of this section.

(5) That the applicant has received Form FmHA 410-9, "Statement Required by the Privacy Act."

(6) That the applicant is unable to provide the weatherization improvement needed with the applicant's own resources and that the applicant is unable to secure the credit necessary for this purpose from other sources upon terms and conditions which the applicant can reasonably be expected to fulfill. The applicant certifies that the statements made in the application are true, complete and correct to the best of the applicant's knowledge and belief, and they are made in good faith to obtain a loan.

(b) The utility certifies:

(1) The applicant's property is located in a rural area as set forth in the Cooperative Agreement.

(2) The applicant has paid bills owed to the utility in a satisfactory manner.

(3) The information furnished by the applicant is correct to the best of the utility's knowledge.

(4) The weatherization work has been completed to the satisfaction of the applicant who has authorized payment.

(5) The required Truth in Lending Form and Privacy Act Form have been delivered to the applicant.

§ 1822.25 County Office responsibilities.

(a) *Loan making.* County Offices will not process or approve Section 502 RHW loans authorized by this regulation. However, applicants for weatherization loans who are not participating utility consumers or who do not appear to be eligible for an RHW loan will be referred to the FmHA. The applications will be handled in accordance with Part 1822 Subpart A or Part 1904 Subpart G as appropriate.

(b) *Loan servicing.* When a utility notifies the FmHA Finance Office that an RHW loan is 90 days delinquent and forwards the loan account records to the Finance Office, the loan will be assigned a county office code, a case number, and loan number. Form FmHA 444-20 will be forwarded to the Finance Office through the State Office to the appropriate county office for further servicing in accordance with the appropriate FmHA Regulation.

§ 1822.26 State Director's responsibility.

In addition to the administrative policy matters covered in item (J) of the Cooperative Agreement, the State Director should request an additional allocation of loan funds if they are needed in his State(s). The State Director is responsible for seeing that his State's funding allocations are not exceeded, and that the utility is notified in the future of any interest rate, income limit, or other program changes. Also, the utilities are to be provided the list of historic places and historic districts so that the utility is able to notify the State Director so that he can comply with the National Historic Preservation Act of 1966, as amended; and Executive Order 11593, including the procedures prescribed by the advisory council on Historic Preservation in 36 CFR Part 800.

EXHIBIT A

COOPERATIVE AGREEMENT

between

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and

FARMERS HOME ADMINISTRATION

Purpose

This Cooperative Agreement and attachments established authorities and procedures whereby the _____ (Name of organization)

_____ (Address) _____ (Phone No.)

a _____ utility, (Enter type of utility such as Rural Electric Co-op, Gas, Water, or Investor Owned Electric Company)

hereinafter referred to as the "utility," will process and service section 502 rural housing (RHW) loans, authorized under the Housing Act of 1949, to weatherize the dwellings of its consumers. It is agreed that the utility will receive loan applications and process, close, and service loans as provided in this agreement. The Farmers Home Administration, hereinafter referred to as the "FmHA," will determine the eligibility of applicants for loans for authorized purposes, based upon certifications provided by the applicant and the utility and will approve the loans.

Effective date of this memorandum

This agreement shall be effective on the date of the last signature hereto.

Duration of agreement

This agreement shall continue to be in effect until all loans made are collected by the utility or returned to the FmHA for servicing because of delinquency or other justified reasons.

Policies

The utility will inform its consumers that FmHA loans will be made available to eligible applicants through the utility. Loans will be made under the existing laws and regulations governing the FmHA and utility. Regulations and guidance for loan making and loan servicing are provided in this part of the agreement.

A. Loan Eligibility. Loans may be made to applicants who:

1. Have an ownership interest in the housing to be weatherized. The housing must either be occupied by the applicant or be located on the applicant's farm and occupied by his/her tenant, sharecropper, farm manager, or farm laborer. The housing must be served by the utility and located in a rural area. A rural area is defined in 7 CFR 1822.3 (c) and identified by the State Director pursuant to paragraph N, 1 of this agreement. The dwelling, after improvements are completed, must be adequate for the family needs and be decent, safe, and sanitary.

2. Have an income of not more than the moderate-income limit for the State, as set forth in Exhibit D of FmHA Instruction 444.1 available in any FmHA office. For the purpose of this agreement, "income" is defined as the net business income plus gross income from all other sources planned to be received during the next 12 months by all adults who will occupy the applicant's home.

3. Are unable to pay for the needed improvements without a loan and are unable to obtain a loan from another source on terms they could reasonably expect to meet.

B. Terms.—1. The interest rate used will be the rate in effect for FmHA Section 502 RH loans on the date the application is submitted to the utility. The FmHA State Director will notify the utility of the interest rate to be charged.

2. The loan will not exceed $1,500 (except in Alaska not to exceed $3,000) and will be evidenced by a promissory note on Form FmHA 444-20, "Application and Promissory Note for Rural Housing Weatherization Loan."

3. The term of the loan will not exceed 5 years. Shorter repayment periods are recommended for smaller loans.

C. Loan Purposes. Loan funds may be used to buy and install weatherproofing items such as insulation, siding, caulking material, and storm windows and doors. Loan funds of not more than $25 (except in Alaska, not to exceed $50) plus 1 percent of the cost of weatherization work may be used to pay for technical services such as determining the type and amount of weatherization improvements needed and obtaining cost estimates, or inspections made or arranged for by the utility to insure that weatherization improvements are properly completed.

D. Minimum Standards. Weatherization improvements must meet FmHA's minimum standards for existing housing (at this time, HUD MPS 4900.1 § 100-8), or standards established by the utility, whichever are greater. All improvements to the property will conform to applicable laws, ordinances, codes, and regulations which relate to the safety and the sanitation of the dwelling.

E. Loan Processing.—1. The utility will assist its consumers in completing an application and promissory note on Form FmHA 444-20.

2. The utility will provide or arrange for technical assistance as needed to determine improvements to be made and their costs.

3. The utility will certify that the applicant has paid bills owned to the utility in a satisfactory manner, and process loans for eligible applicants. Applicable Loan Disclosure and Truth in Lending requirements must be met by the utility.

4. The utility may contract with the applicant to do the weatherization work or arrange for the improvements to be installed by a contractor satisfactory to the utility and the applicant. In either case, the applicant will sign a contract agreement covering the planned improvements. Also, the applicant may act as his/her own contractor provided the utility is reasonably sure the applicant has the necessary skills and labor available to perform the work.

5. Each month, the utility will mail a completed Form FmHA 444-22, "Billing Statement," with attached Form FmHA 444-20 to the FmHA Finance Office, 1520 Market Street, St. Louis, MO 63103, for those applicants who are to receive an FmHA loan where payment is authorized by the applicant for work satisfactorily completed. The FmHA will approve the loan and notify the borrower. The Finance Office will then obligate the loans and send a single check to the utility for the total loans approved and obligated each month. If an individual loan cannot be approved, the Finance Office will notify the utility of the reason(s) for disapproval.

F. Payment for the Work. The utility will pay the contractor after making such inspection of the work as it deems necessary. The agreement between the contractor and the homeowner should require the contractor to warrant and guarantee for a period of 90 days from the date of completion that the work is free from all defects due to faulty materials or workmanship and that the contractor shall promptly make such corrections as may be necessary by reason of such defects.

G. Account Servicing. 1. The utility will follow acceptable accounting practices in maintaining and servicing the borrower's account during the life of the loan. Scheduled note payments will be collected with the borrower's utility service billing. The FmHA will provide the monthly payment amortization table to be used by the utility. For billing cycles other than monthly, the amortization factors to be used will first be approved by the FmHA Finance Office.

2. The utility will remit to the Finance Office, all collections received from borrowers weekly or when receipts reach $2,500, whichever occurs first. Form FmHA 444-23, "Payment Transmittal to the Farmers Home Administration," will be used for this purpose, summarizing payments by FmHA loan number assigned to the utility.

3. When the borrower's account is paid in full, the utility will forward Form FmHA 444-24, "Notification of Final Payment or Transfer of Loan to Farmers Home Administration," to the Finance Office. The Promissory Note will be marked "PAID" and returned to the utility for distribution to the borrower.

4. If the utility is unable to collect the FmHA payment from the borrower and the borrower's account becomes more than 90 days delinquent, the utility will submit Form FmHA 444-24, "Notification of Final Pay-

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ment or Transfer of Account to Farmers Home Administration," to the Finance Office and notify the borrower of the action taken. The Finance Office will send the borrower's Promissory Note through the State Office to the appropriate county office for further servicing of the account as provided in FmHA regulations. Once an account has been transferred to FmHA, the utility must no longer accept payments from the borrower.

5. Under no circumstances can a borrower's indebtedness be transferred to another borrower.

6. For income tax purposes, the utility will be responsible for informing the borrower of the interest paid on the loan for each calendar year by January 31 of the next calendar year.

7. On a semi-annual basis, the FmHA Finance Office will send to each utility a detailed list of advances and payments for reconciliation purposes.

8. Interest on unpaid interest shall not be charged.

H. *Bonding.* Fidelity bonding coverage must be provided for the utility officials entrusted with the receipt, custody, and disbursement of funds. The amount of the bond must be at least equal to the maximum amount of money that the utility officials will have access to at any one time.

I. *Inspection of Records.* The utility will provide FmHA (or other appropriate Federal Agencies) at all reasonable times, access to all books and records relating to FmHA loans made to its consumers under the provisions of this Agreement.

J. *Referrals to FmHA.* Applicants who are unable to qualify for a loan as provided herein because the cost of repairs will exceed $1,500, because of lack of repayment ability, or because the applicant is not a utility consumer should be referred to the FmHA County Office serving the area for further consideration of eligibility under other FmHA programs.

K. *Equal Opportunity Clause.* This equal opportunity clause applies to the utility executing the Cooperative Agreement rather than to the contractor performing weatherization work.

1. In the Equal Opportunity clause the term "contractor" means the "utility" and "contract" means "Cooperative Agreement."

2. During the performance of this contract, the contractor agrees as follows:

(a) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited, to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Farmers Home Administration setting forth the provisions of his nondiscrimination clause.

(b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(c) The contractor will send to each labor union or representative or workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Farmers Home Administration, advising the said Labor union or workers' representative of the contractor's commitments under this agreement as required pursuant to section 301 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The contractor will comply with all provisions of such Executive Order and of all relevant rules, regulations, and orders of the Secretary of Labor and of any prior authority which remain in effect.

(e) The contractor will furnish all information and reports required by such Executive Order, rules, regulations, and orders, or pursuant thereto, and will permit access to his books, records, and accounts by the Farmers Home Administration and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further contracts in accordance with procedures authorized in such Executive Order and such other sanctions may be imposed and remedies invoked as provided in the such Executive Order or by any such rule, regulation, or order, or as otherwise provided by law.

(g) The contractor will include the provisions of the FmHA Equal Opportunity Agreement (Form FmHA 400–1 available in all FmHA offices) in every subcontract or purchase order, unless exempted by such rules, regulations, or orders, so that such provisions will be binding upon each such subcontractor or vendor. The contractor will take such action as the Farmers Home Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Farmers Home Administration, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

L. *Personal Benefit Clause.* No member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this agreement or to any benefit to arise therefrom, unless it be made with a corporation for its general benefit.

M. *Payment for Services.* Consumers may be charged customary fees for technical services provided in determining the type and amount of weatherization improvements, obtaining cost estimates, and for inspections made to insure that the improvements have been properly completed. Loan funds may only be used for these purposes to the extent set forth in paragraph C. However, neither the FmHA nor the applicant/borrower will pay a loan origination or packaging fee, nor will a fee be paid for servicing the account during the life of the loan.

N. *Administrative Policy.* The FmHA State Director, in conjunction with the signing of this agreement, will advise the utility of the following:

1. Eligible rural areas.
2. The interest rate to be charged.
3. The current income limits.
4. Any funding limitations likely to be encountered in the forseeable future.
5. The processing requirements for this type of loan.
6. Consideration is to be given the potential effect of any weatherization loan made on a historic property. Each State Historic Preservation Officer maintains survey data on historic properties in the State. The State Director should communicate regularly with the SHPO to keep informed about properties included in the State survey data and should make such information available to the utility. The State Director must provide the utility a list of historic properties (including districts) listed or determined eligible for listing in the National Register of Historic Places. (Listings and updates are published regularly in the "Federal Register".) Before weatherization improvements are made to historic buildings, the utility must contact the State Director. The State Director, in accordance with FmHA Procedure 1901–F, will assure that the proposed improvement will not damage the historic integrity or fabric of the building.
7. The FmHA State Director will be responsible for seeing that the utility is notified in the future of any interest rate, income limit, or other program changes. The State Director will provide the needed forms for loan processing to the utility. The utility will advise the State Director when additional forms are required or assistance is needed. This address of the FmHA State Office is _____ (Address)

_____ (Phone No.)

_____ (Name)

_____ (Title of Co-op Official)

Date: _____

_____ (Name)

_____ (State Director)

Date: _____

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: August 24, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77–25434 Filed 8–31–77;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[9 CFR Part 447]

AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

General Conference Committee and Plan Conference—Withdrawal of Proposal to Terminate

AGENCY: Agricultural Research Service, USDA.

ACTION: Withdrawal of proposal to terminate the General Conference Committee and Plan Conference of the National Poultry Improvement Plan.

SUMMARY: This notice announces the withdrawal of Proposed Rule FR Docket 77–18592 (42 FR 33041) which would terminate the General Conference Committee and the biennial Plan Conference of the National Poultry Improvement Plan. The Department ruled in favor of the nearly unanimous opposition expressed by poultry trade associations, hatcherymen, breeders, poultrymen, State officials, avian pathologists, and

University personnel to the proposed rulemaking.

EFFECTIVE DATE: September 1, 1977.

ADDRESS: Raymond D. Schar, Agricultural Research Service, U.S. Department of Agriculture, BARC East, Beltsville, Md. 20705.

FOR FURTHER INFORMATION CONTACT:

Raymond D. Schar, 301–344–2227.

The purpose of this notice is to announce that the Administrator of the Agricultural Research Service is closing Docket No. 77–18592 without further action and does not now intend to institute additional proceedings on the subject of terminating the General Conference Committee and biennial Plan Conference of the National Poultry Improvement Plan.

In Federal Register Docket No. 77–18592, published on June 29, 1977, the Administrator of the Agricultural Research Service issued an advance notice of proposed rulemaking, inviting interested persons to comment on the Proposal to Terminate the General Conference Committee and biennial Plan Conference of the National Poultry Improvement Plan (42 FR 33041). Upon review of the comments received in response to that invitation, the Administrator of the Agricultural Research Service, in consultation with the Secretary of Agriculture, has determined that it would not be in the public interest to terminate the General Conference Committee and the Plan Conference Committee of the National Poultry Improvement Plan.

Done at Washington, D.C. this 26th day of August 1977.

T. W. EDMINSTER,
Administrator,
Agricultural Research Service.

[FR Doc.77–25450 Filed 8–31–77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 40]

LICENSING OF SOURCE MATERIAL

General License for Government Agencies' Operational Use of Small Quantities of Source Material

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering an amendment to its regulations to include Federal, State, and local governmental agencies' research, development, education, or operational use of small quantities of source material in the general license which authorizes certain persons to use small quantities of source material. This rule change was requested by the United States Air Force Radioisotope Committee. Its implementation would lessen the existing administrative burden of specific licensing requirements for thorium coated lenses.

DATES: Comment period expires October 31, 1977.

ADDRESSES: Written comments or suggestions for consideration in connection with the proposed amendments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone: 301–443–6911.

Deborah A. Bozik, Office of Standards

SUPPLEMENTARY INFORMATION: By letter dated October 30, 1974, the United States Air Force Radioisotope Committee, Wright-Patterson Air Force Base, Ohio, filed with the Nuclear Regulatory Commission a petition for rule making (PRM–40–20) requesting that the Commission amend the general license in 10 CFR 40.22, "Small Quantities of Source Material," to (a) authorize use and transfer of source material under that general license by Federal agencies for operational purposes, and (b) authorize USAF possession and operational use of thorium, as a fluoride salt, in anti-reflective lens coatings on thermal imaging lenses of the Forward Looking Infra-Red (FLIR) imaging system.

The general license in 10 CFR 40.22 of the NRC regulations now authorizes certain persons (physicians, pharmacists, commercial and industrial firms, and research educational, and medical institutions) to use and transfer not more than fifteen pounds of source material at any one time for research, educational, or commercial purposes, provided that no person shall receive more than 150 pounds of source material in any one calendar year. These generally licensed persons are exempt from the provisions of Parts 19, 20, and 21 of the Commission's regulations. At the present time, thorium coated lenses are manufactured and used commercially under this general license

Since the general license in 10 CFR 40.22 is not available to government agencies, the U.S. Air Force was required to obtain a specific license authorizing it to possess and use thorium, as a fluoride salt, in anti-reflective lens coatings on thermal imaging lenses of the Forward Looking InfraRed (FLIR) imaging system. Since the coating on the lens is greater than 75% by weight thorium it is not exempt from licensing pursuant to 10 CFR 40.13(a) which exempts any material containing less than 0.05% source material. Since the thorium coats the lens and is not evenly distributed in the finished lens, it is not exempt from licensing pursuant to 10 CFR 40.13(c) (7) which exempts finished optical lenses containing less than 30% thorium.

The major hazard associated with source material arises from the inhalation or ingestion of such material and not from external radiation. The operational uses which may be made of less than fifteen pounds of source material make the inhalation or ingestion of any significant quantities of material unlikely.

The thorium coated lenses described in the U.S. Air Force's petition for rule making are an example of the type of product which would be generally licensed for operational use if the proposed amendment to 10 CFR 40.22(a)(4) were adopted. The maximum source material would be 33.9 milligrams per lens, and the Air Force would require 16.4 grams to 38.2 grams of source material if full deployment of the current generation thermal imaging system is made. The source material in these lenses presents negligible, if any, radiation hazard. Based on the maximum of fifteen pounds of source material at any one time, not more than a few millirem per year dose would be received; therefore the use of thorium coated lenses presents no substantial radiation hazard.

The proposed amendment to 10 CFR 40.22(a)(4) would make it unnecessary for Federal, State, and local governmental agencies to obtain specific licenses to use small quantities of source material for research, development, educational, or operational purposes. Extension of the general license in 10 CFR 40.22 to these agencies would not significantly change existing NRC policy regarding use and transfer of not more than fifteen pounds of source material at any one time. The number of increments of fifteen pounds that would be added by the governmental agencies' use of small quantities of source material would not increase significantly since the number of Federal, State, and local governmental agencies is still very small compared to the number of commercial and industrial firms authorized to use small quantities of source material under 10 CFR 40.22.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Section 553 of Title 5 of the United States Code, notice is hereby given that the adoption of the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 40 is contemplated.

1. Section 40.22 of 10 CFR Part 40 is amended by revising paragraph (a)(4) to read as follows:

§ 40.22 Small quantities of source material.

(a) A general license is hereby issued authorizing use and transfer of not more than fifteen (15) pounds of source material at any one time by persons in the following categories:

• • • • •

(4) Commercial and industrial firms and research, educational and medical institutions and Federal, State and local governmental agencies for research,

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development, educational, commercial or operational purposes;

• • • • •

(Secs. 62, 63, 161, Pub. Law 83-703, 68 Stat. 932, 933, 948 (42 U.S.C. 2092, 2093, 2201); sec. 201, as amended, Pub. Law 93-438, 88 Stat. 1242, Pub. Law 94-97, 89 Stat. 413 (42 U.S.C. 5841).)

Dated at Bethesda, Md., this 18th day of August 1977.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.77-25269 Filed 8-31-77;8:45 am]

[10 CFR Part 73]

PHYSICAL PROTECTION OF PLANTS AND MATERIALS

Upgraded Guard Qualification, Training and Equipment Requirements; Extension of Comment Period

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Extension of comment period.

SUMMARY: On July 5, 1977, NRC published a proposed rule to upgrade guard qualification, training and equipment requirements for security personnel protecting against theft of special nuclear material and industrial sabotage of nuclear facilities or nuclear shipments (42 FR 34321). Comments were requested by August 19, 1977. Several commenters have requested more time to comment. In view of the complexity of the rule and the concerns expressed by commenters, the NRC is hereby extending the comment period to expire September 19, 1977.

DATES: Comments must be received on or before September 19, 1977.

ADDRESSES: Comments or suggestions for consideration in connection with the proposed amendments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. R. J. Jones, Chief, Material Protection Standards Branch, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301-443-6973).

Dated at Washington, D.C. this 24th day of August 1977.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.77-25410 Filed 9-1-77;8:45 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 308]

RULES OF PRACTICE AND PROCEDURES

Procedures and Standards Applicable to Suspensions and Prohibitions Where Felony Charged

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rules.

SUMMARY: The procedures and standards set forth in these proposed rules would be applicable to proceedings by the Board of Directors of the Federal Deposit Insurance Corporation to suspend and/or prohibit from participation any officer or director or other person participating in the conduct of the affairs of an insured State nonmember bank, where such person is charged with a felony involving dishonesty or breach of trust. These proposed rules are intended to make available to such persons specific procedures for hearings in such cases and are believed by the Board to be necessary because of the decision in *Feinberg v. Federal Deposit Insurance Corporation*, 420 F. Supp. 109 (D.D.C. 1976), holding that an order suspending an indicted individual where no such hearing is held is unconstitutional.

DATE: Comments must be received on or before September 26, 1977.

ADDRESS: Interested persons are invited to submit written data, views or arguments regarding the proposed rules to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429. All written comments submitted will be made available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT:

Werner Goldman, Counsel, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, telephone 202-389-4616.

Accordingly, the Board of Directors of the Federal Deposit Insurance Corporation hereby proposes to amend 12 CFR Part 308 as set forth below.

§ 308.35 [Amended]

1. Amend § 308.35 by inserting the phrase "Except as otherwise specifically provided in Subpart F of this part," immediately before the first sentence thereof, and by revising the second sentence thereof to read: "The procedures for issuing such orders prescribed in section 8 of said Act will be followed and hearings required thereunder will be conducted in accordance with the rules and procedures set forth in this subpart, Subpart A of this part, and, where applicable, Subpart F of this part."

§ 308.41 [Deleted]

2. Delete § 308.41.

3. Add a new Subpart F by adding the following new sections 308.50-.58;

Subpart F—Procedures and Standards Applicable to Suspensions and Prohibitions Where Felony Charged

§ 308.50 Scope.

The rules and procedures set forth in this subpart are applicable to proceedings by the Board of Directors to suspend or remove any director or officer of an insured State nonmember bank (other than a District bank) or any other person participating in the conduct of the affairs of such a bank, or to prohibit such director, officer or other person from further participation in the conduct of the affairs of such a bank, or both, where such individual is charged in any State, Federal or territorial information or indictment, or in any complaint authorized by a United States attorney, with the commission of or participation in a felony (or a misdemeanor under State or territorial law which, because of the length of the maximum sentence that may be imposed, is equivalent to a felony under Federal law) involving dishonesty or breach of trust.

§ 308.51 Notice of suspension or prohibition.

Whenever a director or officer of an insured State nonmember bank (other than a District bank) or any other person participating in the conduct of the affairs of such bank, is charged in any State, Federal or territorial information or indictment, or in any complaint authorized by a United States attorney, with the commission of or participation in a felony (or a misdemeanor under State or territorial law which, because of the length of the maximum sentence that may be imposed, is equivalent to a felony under Federal law) involving dishonesty or breach of trust, the Board of Directors, upon a preliminary determination that the offense alleged in the information, indictment or complaint is, or may be, one involving dishonesty or breach of trust, shall, by written notice served upon such director, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the affairs of the bank, or both. A copy of the notice of suspension also shall be served upon the bank.

§ 308.52 Notice of hearing.

(a) Any notice of suspension and/or prohibition issued pursuant to § 308.51 shall be accompanied by a further notice to the individual that he may request in writing a hearing at which he may present evidence and argument as to why the suspension and/or prohibition should not contique in effect. Any notice of the opportunity for a hearing shall be accompanied by a description of the hearing procedure and the criteria to be considered.

(b) A request for a hearing filed pursuant to paragraph (a) above, shall state with particularity the relief desired, the grounds therefor, and shall include, when available, supporting evidence. Such petition and supporting evidence shall be filed in writing with the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429.

(c) If an individual fails to request a hearing, or fails to appear at a hearing, either in person or by attorney, or fails to submit a written argument where a hearing has been waived pursuant to § 308.54, the suspension and/or prohibition shall remain in effect until such information, indictment or complaint is finally disposed of or until terminated by the Board of Directors.

§ 308.53 Hearing.

(a) After the receipt of request for a hearing, complying with § 308.52, the Executive Secretary of the FDIC will order a hearing to commence within the next succeeding 30 days in Washington, D.C. or such other place as is designated by the Executive Secretary, before a person designated by the Board of Directors of the FDIC to conduct such hearings.

(b) The notice of the hearing shall be served by the Executive Secretary upon the party or parties afforded the hearing and shall set forth the time and place of the hearing and the name and address of the presiding officer.

(c) The subject individual may appear at the hearing through counsel, or personally with counsel. The individual shall have the right to introduce relevant and material evidence and to present an oral argument before the presiding officer. A member of the staff of the Office of the General Counsel of the FDIC may attend the hearing and may participate as a party. Neither the formal rules of evidence nor the adjudicative procedures of the Administrative Procedure Act (5 U.S.C. 554-557) shall apply to the hearing. The proceedings shall be recorded and a transcript will be furnished to the individual, upon request and after the payment of the cost thereof. Witnesses may be presented, within specified time limits, so long as a list of such witnesses is furnished to the presiding officer prior to the hearing. Witnesses shall not be sworn, unless specifically requested by either party or the presiding officer. The presiding officer may ask questions of any witness and each party shall have the opportunity to cross-examine any witness presented by an opposing party. Upon the request of either the subject individual or the representatives of the Office of the General Counsel, the record shall remain open for a period of five (5) business days following the hearing, during which time the parties may make any additional submissions to the record. Thereafter, the record shall be closed.

(d) The presiding officer will make his recommendations to the Board of Directors, where possible, within ten (10) business days following the close of the record.

§ 308.54 Waiver of hearing.

The subject individual may, in writing, waive an oral hearing and instead elect to have the matter determined by the Board of Directors on the basis of written submissions alone.

§ 308.55 Decision of Board of Directors.

(a) Within thirty (30) days following receipt of the presiding officer's recommendations, or receipt of the subject individual's written submissions where hearing has been waived pursuant to § 308.54, the Board of Directors shall render its decision. The decision shall include a statement of the basis for the decision and such statement shall be provided to the subject individual and the bank.

(b) The Board of Directors may extend said thirty (30) day time period for good cause, but in no instance to exceed sixty (60) days from the date of the hearing or receipt of the subject individual's written submissions where hearing has been waived pursuant to § 308.54. Where such an extension is required, the individual will be notified of the reason for the extension and the expected date upon which a final decision will be rendered.

§ 308.56 Reconsideration by the Board of Directors.

(a) The subject individual shall have ten (10) business days following receipt of the decision of the Board of Directors in which to petition the Board for an initial reconsideration.

(b) The subject individual also shall be entitled to petition the Board of Directors for reconsideration of its decision anytime after the expiration of a twelve-month period from the date of the Board of Directors' decision. Provided, however, that no petition for reconsideration may be made within 12 months of a previous petition.

(c) Any petition shall state with particularity the basis for reconsideration, the relief sought, or any exceptions the individual has to the Board's finding. An individual's petition may be accompanied by a memorandum of points and authorities in support of his petition and any supporting documentation the individual may wish to have considered.

(d) No hearing need be granted on such petition for reconsideration. The Board of Directors shall promptly render its decision following receipt of the petition.

§ 308.57 Relevant considerations.

In deciding the question of suspension under this subpart the Board of Directors will consider the following:

(a) Whether the alleged offense: (1) is a felony (or a misdemeanor under State or territorial law which, because of the length of the maximum sentence that may be imposed, is equivalent to a felony under Federal law), and (2) involved dishonesty or a breach of trust;

(b) Whether the continued presence of the subject individual in his position constitutes a possible danger to the safety of deposits or the soundness of an insured bank because of: (1) the nature and extent of the individual's participation in the affairs of the insured bank, or (2) the nature of the offense with which the individual has been charged, or (3) both;

(c) Whether there is cause to believe that there may be an erosion of public confidence in the integrity, safety, or soundness of a particular bank or the banking system (either generally or in the particular locality in which the bank is situated) if the subject individual is permitted to remain in his position in an insured bank; and

(d) Whether the individual is covered by the bank's fidelity bond and, if so, whether the bonding company is likely to revoke the bond or whether coverage under the bond will be affected adversely as a result of the indictment.

(e) The Board of Directors may consider any other factors which, in the specific case, appear relevant to continuing a suspension order in effect, except that it shall not consider the ultimate question of the guilt or innocence of the subject individual with regard to the offense with which he has been charged.

§ 308.58 Removal and/or Permanent Prohibition.

In the event that a judgment of conviction with respect to such offense is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Board of Directors may issue and serve upon such director, officer, or other person an order removing him from office and/or prohibiting him from further participation in any manner in the conduct of the affairs of the bank except with the consent of the Board of Directors. A copy of such order will also be served upon such bank, whereupon such director or officer shall cease to be a director or officer of such bank. A finding of not guilty or other disposition of the charge will not preclude the Board of Directors from thereafter instituting proceedings to remove such director, officer, or other person from office and/or to prohibit further participation in bank affairs, pursuant to the provisions of Section 8(e) of the Federal Deposit Insurance Act.

(Sec. 2[8], Pub. L. 797, 64 Stat. 879, as amended, sec. 202, Pub. L. 89-695, 80 Stat. 1046, 1050 (12 U.S.C. 1818); sec. 2[9], Pub. L. 797, 64 Stat. 881-82 (12 U.S.C. 1819).)

By order of the Board of Directors, dated August 22, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc.77-25541 Filed 8-31-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 21]

[Docket No. 17147; Notice 77-19]

PARTS MANUFACTURER APPROVALS—EXPORT AIRWORTHINESS APPROVALS

Miscellaneous Proposals

AGENCY: Federal Aviation Administration (FAA), DOT.

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ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This NPRM proposes—(1) to revise the application and reporting requirements applicable to Parts Manufacturer Approvals (PMA), (2) to provide for the issuance of export certificate of airworthiness for unassembled normal category rotorcraft, and (3) to provide for the issuance of export airworthiness approvals for aeronautical products that do not meet certain requirements if the importing country agrees to accept the products in such condition. The FAA believes that these proposals, if adopted, will relieve PMA holders and applicants for export airworthiness approvals from unnecessary burdens with no adverse effect on safety. The NPRM also proposes to update certain form number references and to clafiy the means by which an applicant for a PMA can show that the design of the applicant's part is identical to the design of a part that is covered under a type certificate.

DATES: Comments must be received on or before November 1, 1977.

ADDRESSES: Send comments on the proposals to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24) Docket No. 17147, 800 Independence Avenue, SW., Washington, D.C., 20591.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, telephone 202-755 8716.

SUPPLEMENTARY INFORMATION:

COMMENT SOLICITATION AND INFORMATION FOR OBTAINING ADDITIONAL COPIES OF NPRM

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rules. The proposals contained in this notice may be changed in the light of comments received. All comments submited wil be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA—public contact, dealing with the substance of the proposed rules, will be placed in the Rules Docket.

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

DISCUSSION OF PROPOSALS

Due to the diverse subject matter dealt with in this notice the discussion of the rule changes proposed is divided into several parts under descriptive headings.

PMA APPLICATION AND REPORTING REQUIREMENTS

The lead-in sentence of § 21.303(c) and § 21.303(c)(2) require, in pertinent part, that an application for a PMA be made to the FAA Regional Office of the region in which the manufcturing facility is located and must include the name and address of the manufacturing facilities at which the parts to be covered by the PMA are to be manufactured. In addition, § 21.303(j) provides that PMA holders shall notify the FAA, in writing, within 10 days from the date the manufacturing facility at which the part is manufactured is relocated or expanded to include additional facilities at other locations.

Based on a recent review of these regulations, the FAA has found that varying interpretations have led to different applications of these requirements. While the FAA must have access to the manufacturing facilities utilized in the production of PMA parts in order to provide necessary surveillance, there appears to be no reason in the interest of safety why a PMA holder should submit and the FAA maintain a list of those facilities. The PMA holder must maintain this information in order to assure that all manufacturing is controlled by his fabrication inspection system. So long as this information is made available to the FAA on request, further notification and the maintenance of a list of manufacturing facilities by the FAA creates unnecessary paperwork and duplication of records, and places an undue administrative and financial burden on the PMA holder and the FAA. However, it should be noted that with respect to manufacturing facilities located outside the United States, the information is necessary inasmuch as a PMA is not issued in such cases unless the Administrator finds under § 21.303(g) that the location of the facilities outside the United States places no burden on the FAA in administering the applicable airworthiness requirements. Therefore, it is proposed to amend the lead-in of § 21.303(c) and § 21.303(c)(2) to require an application for a PMA to be made to the regional office in which the applicant is located rather than in the region in which the manufacturing facilities are located, and that the application include the address of the applicant. In addition, § 21.303(j) would be revised to require that each PMA holder maintain a record of the address of each of the manufacturing facilities at which its PMA parts have been manufactured in the preceding two years, and to make the records available upon request for inspection by the Administrator. However, as proposed herein, if a manufacturing facility is to be located outside of the United States, the PMA application would continue to be required to include the name and address of the facility. In addition, if a manufacturing facility is to be relocated or expanded to include facilities outside of the United States, the PMA holder would be required to notify the FAA prior to the date of that relocation or expansion. A notification would also be required within 10 days when the PMA holder's address, if specified in its application for a PMA, is changed.

SHOWING OF IDENTICALNESS TO OBTAIN PMA

Section 21.303(c)(4) requires that each application for a PMA include test reports and computations necessary to show that the design of a part meets the requirements applicable to the product on which the part is to be installed unless the applicant shows that the design of the part is identical to the design of a part that is covered under a type certificate.

The FAA has permitted applicants for PMAs to show identicalness by a number of methods one of which is the submittal, along with the design of his part, of a certifying statement indicating that the design of his part is identical to a design previously approved under a type certificate. Under this method, applicants have been required to adequately identify the previously approved design to the FAA. Based on several inquiries, the FAA believes that a certain amount of confusion may exist with respect to this as well as the other methods of showing identicalness that are permitted under § 21.303(c)(4). Therefore, an amendment to § 21.303(c)(4) is being proposed to clarify that provision by specifying the available methods of showing identicalness under that paragrtph. However, it should be noted that if, based on the comments received, the FAA determines that one or more of the methods specified should not be allowed, the proposal will be revised accordingly.

FORM NUMBER REVISIONS

Sections 21.327(f)(1) and 21.335(e)(2) contain references to form numbers which are obsolete. Accordingly, it is proposed that those sections be revised to reference the current form numbers.

EXPORT APPROVAL OF UNASSEMBLED ROTORCRAFT

Section 21.325(b), in part, requires that new aircraft be assembled and flight-tested in order to qualify for an export airworthiness approval. Exceptions are provided in the rule for small airplanes and gliders manufactured under production certificates but not for rotorcraft. Section 21.327(f)(2), in part, requires that each application for an export airworthiness approval for a rotorcraft include a weight and balance report based on an actual weighing of the aircraft.

It has come to the attention of the FAA that manufacturers of normal category rotorcraft may desire to export their aircraft unassembled. Based on the request of one such manufacturer, the FAA has granted an exemption to provide for the issuance of export airworthiness approvals for its unassembled normal category rotorcraft. The export of these unassembled aircraft facilitate air freight shipment, and the FAA believes, based on experience with § 21.325(b) and the exemption, that the assembly of these aircraft following shipment can be accomplished with no adverse effect on safety. Therefore, it is proposed to amend § 21.325(b) to permit the issuance of export airworthiness approvals for unassembled normal category rotorcraft. Consistent with this, § 21.327(f)(2) would also be revised to provide for the export of these rotorcraft without actual weighing.

It should be noted that, as with small airplanes and gliders, the importing state would be fully advised in advance as to the status of the rotorcraft since, under § 21.327(e), it would be required that the application for an export airworthiness approval be accompained by a written statement from the importing country indicating that it will validate the export airworthiness approval of each unassembled aircraft which has not been flight-tested.

EXPORT AIRWORTHINESS APPROVALS EXCEPTIONS APPROVED BY IMPORTING STATES

Sections 21.329, 21.331, and 21.333 specify the standards and maintenance requirements which must be met to obtain an export airworthiness approval. In no case are these requirements less comprehensive than those applicable to products to be used in the U.S. To the contrary certain requirements applicable to export products do not apply to products intended for domestic use. On a number of occasions, the FAA has been informed by foreign airworthiness authorities that compliance with specific FAA export requirements was neither necessary nor desired in a particular situation.

The primary purpose of an export airworthiness approval is to notify the purchasers and the importing state of the airworthiness status of a product. The FAA believes that this purpose can be accomplished without requiring compliance with all FAA requirements provided that the importing state agrees. Therefore, amendments to §§ 21.321, 21.329, 21.331, and 21.333 are proposed herein to provide for the issuance of an export airworthiness approval for a product which does not meet one or more specific FAA requirements for the issuace of that approval if the importing state indicates to the FAA that compliance with the specific FAA requirement is not necessary. Section 21.325 would also be revised to provide for the listing on the export airworthiness approval of those FAA requirements that the product does not meet. In addition, § 21.327(e) would be revised to require a written statement from the importing state indicating that it will validate the export airworthiness approval for a product that does not meet specific FAA requirements.

It should be noted that this proposed rule change would provide for the issuance of export airworthiness approvals for used engines, propellers, and Class II aeronautical products that have not been newly overhauled as is required under §§ 21.329 and 21.331. In this connection the FAA has issued exemptions that provided for the issuance of export airworthiness approvals for used engines and Class II products where an importing state indicated that it would accept those products that were satisfactorily maintained under a continuous airworthiness maintenance program but were not newly overhauled.

The principal authors of this document are Mr. C. Risner, Flight Standards Service, Mr. S. Podberesky, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Part 21 of the Federal Aviation Regulations (14 CFR Part 21) as follows:

1. By revising the lead-in of § 21.303 (c) and by revising §§ 21.303 (c)(2), (c)(4), and (j) to read as follows:

§ 21.303 Replacement and modification parts.

• • • • • •

(c) An application for a Parts Manufacturer Approval is made to the Regional Office of the region in which the applicant is located and must include the following:

• • • • • •

(2) The name and address of: (i) The applicant; and

(ii) Any manufacturing facilities located outside of the United States at which the parts are to be manufactured.

• • • • • •

(4) Test reports and computations necessary to show that the design of the part meets the airworthiness requirements of the Federal Aviation Regulations applicable to the product on which the part is to be installed. However, these test reports and computations need not be submitted if the applicant shows that the design of the part is identical to the design of a part that is covered under a type certificate by submitting, in addition to the data required by paragraph (c)(3) of this section:

(i) A copy of the FAA-approved design of the identical part covered under the type certificate;

(ii) A statement by the applicant stating that the design of the applicant's part is identical to that of a part covered under the type certificate. The statement must completely identify the part covered under the type certificate by the part name, part number, and drawing revisions and revision dates, if any; or

(iii) A statement from the holder of the type certificate that the design of the applicant's part is identical to that of the part covered under the type certificate. The statement must completely identify the part approved under the type certificate by part name, part number, and drawing revisions and revision dates, if any.

If the design of the part was obtained by a licensing agreement, evidence of that agreement must be furnished.

• • • • • •

(j) The holder of a Parts Manufacturer Approval shall:

(1) Maintain and make available for inspection by the Administrator upon request, a current list containing the address of each manufacturing facility at which parts have been manufactured in the preceding two years. The list must be maintained:

(i) For Parts Manufacturer Approvals issued on the basis of an application submitted prior to (the effective date of this amendment), at the principal location of the holder of the Parts Manufacturer Approval; and

(ii) For other Parts Manufacturer Approvals, at the address specified in accordance with § 21.303(c)(2)(i) of this section in the application for a Parts Manufacturer Approval; and

(2) Notify the FAA in writing. (i) Before the manufacturing facilities at which the parts are manufactured are relocated to include additional facilities at locations outside the United States or expanded to include such facilities; or

(ii) Within 10 days after the date the address specified in accordance with § 21.303(c)(2)(i) of this section is changed.

• • • • • •

2. By revising § 21.321(b)(1) to read as follows:

§ 21.321 Applicability.

• • • • • •

(b) • • •

(1) A Class I product is a complete aircraft, aircraft engine, or propeller, which:

(i) Has been type certificated in accordance with the applicable Federal Aviation Regulations and for which Federal Aviation Specifications or type certificate data sheets have been issued; or

(ii) Is identical to a type certificated product specified in paragraph (b)(1)(i) of this section in all respects except as is otherwise acceptable to the civil aviation authority of the importing state.

• • • • • •

3. By replacing the word "either" in the lead-in of § 21.325(b)(1) with the word "any", by deleting the word "or" from the end of § 21.325(b)(1)(i), by deleting the period and adding a semicolon and the word "or" at the end of § 21.325(b)(1)(ii), and by adding new §§ 21.325(b)(1)(iii) and (c) to read as follows:

§ 21.325 Export airworthiness approvals.

• • • • • •

(b) • • •

(1) • • •

(iii) A normal category rotorcraft type certificated under Part 6 of the Civil Air Regulations or Part 27 of the Federal

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Aviation Regulations and manufactured under a production certificate.

• • • • •

(c) *Export airworthiness approval exceptions.* If the export airworthiness approval is issued on the basis of a written statement by the importing state as provided for in § 21.327(e)(4), the requirements that are not met and the differences in configuration, if any, between the product to be exported and the related type certificated product are listed on the export airworthiness approval as exceptions.

4. By deleting the word "or" from the end of § 21.327(e)(2), by deleting the period and adding a semi-colon and the word "or" at the end of § 21.327(e)(3), and by adding a new § 21.327(e)(4) to read as follows:

§ 21.327 Application.

• • • • •

(e) • • •

(4) A product that does not meet a requirement specified in §§ 21.329, 21.331, or 21.333, as applicable, for the issuance of an export airworthiness approval. The written statement must list the requirements not met.

• • • • • •

5. By replacing the words "FAA Form 317" in § 21.327(f)(1) with the words "FAA Form 8130–9", by deleting the words "and all rotorcraft" in the second sentence of § 21.327(f)(2), by inserting a comma and the words "normal category rotorcraft, and gliders" between the words "category airplanes" and "may" in the fourth sentence of § 21.327(f)(2), and by replacing the last word in the fourth sentence of § 21.327(f)(2) with the word "aircraft".

6. By revising the lead-in of § 21.329, by deleting the phrase "subject to the special requirements of the importing country" from the end of § 21.329(a), and by adding a new § 21.329(g) to read as follows:

§ 21.329 Issue of export certificates of airworthiness for Class I products.

An applicant is entitled to an export certificate of airworthiness for a Class I product if he shows at the time the product is submitted to the Administrator for export airworthiness approval that it meets the requirements of paragraphs (a) through (f) of this section, as applicable, except as provided in paragraph (g) of this section:

• • • • •

(g) A product need not meet a requirement specified in paragraphs (a) through (f) of this section, as applicable, if acceptable to the importing country and the importing country indicates that acceptability in accordance with § 21.327(e)(4) of this part.

7. By revising the lead-in of § 21.331, by redesignating the lead-in of § 21.331 as § 21.331(a) and §§ 21.331 (a) through (d) as §§ 21.331 (a)(1) through (a)(4), respectively, and by adding a new § 21.331(b) to read as follows:

§ 21.331 Issue of airworthiness approval tags for Class II Products.

(a) An applicant is entitled to an export airworthiness approval tag for a Class II product if he shows, except as provided in paragraph (b) of this section, that:

• • • • •

(b) A product need not meet a requirement specified in paragraph (a) of this section if acceptable to the importing country and the importing country indicates that acceptability in accordance with § 21.327(e)(4) of this part.

8. By revising the lead-in of § 21.333, by redesignating the lead-in of § 21.333 as § 21.333(a) and §§ 21.333 (a) through (c) as §§ 21.333 (a)(1) through (a)(3), respectively, and by adding a new § 21.333(b) to read as follows:

§ 21.333 Issue of export airworthiness approved tags for Class III products.

(a) An applicant is entitled to an export airworthiness approval tag for a Class III product if he shows, except as provided in paragraph (b) of this section, that:

• • • • •

(b) A product need not meet a requirement specified in paragraph (a) of this section if acceptable to the importing country and the importing country indicates that acceptability in accordance with § 21.327(e)(4) of this part.

§ 21.335 [Amended]

9. By amending § 21.335(e)(2) by replacing the words "FAA Form 500 and Form 1362" with the words "AC Form 8050.3 and FAA Form 8100–2."

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.45.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., on August 24, 1977.

R. P. SKULLY,
Director, Flight Standards Service.

[FR Doc.77–25445 Filed 8–31–77;8:45 am]

[14 CFR Part 39]

[Docket No. 77–WE–25–AD]

AIRWORTHINESS DIRECTIVES

Hiller Model UH–12, C, D, E(4 place), L, E–L and L4's Converted From E4's

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt a new Airworthiness Directive on all Hiller UH–12 series helicopters which will require installation of a guard on the fuel shutoff valve control handle to preclude inadvertent movement to the "off" position.

DATES: Comments must be received on or before October 7, 1977.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The applicable Service Bulletin No. 72–1 dated June 17, 1977 or later FAA approved revision, may be obtained from: Hiller Aviation, 2075 West Scranton Avenue, Porterville, Calif. 93257.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. Telephone 213–536–6351.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There has been at least one reported case of inadvertent actuation of the fuel valve control lever to the "off" position in flight that resulted in unexpected fuel starvation to the engine and caused forced autorotation on a Hiller Model UH–12 helicopter.

Since this condition is likely to develop in other helicopters of the same type design, the proposed Airworthiness Directive would require the installation of a guard on the control handle of the fuel shutoff valve.

DRAFTING INFORMATION

The principal authors of this document are Henry R. Kulewicz, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

HILLER HELICOPTERS: Applies to Hiller Model UH–12C, D, E(4 place), L, E–L, and L4's, certificated in all categories incorporating control levers P/N 72229 or 72210. All aircraft serial numbers up to No. 5024 are included. S/N No. 5024 and subsequent will have the guard installed at the time of manufacture.

(a) To prevent hazardous engine power loss from inadvertent shutoff of the fuel control valve, within the next 100 hours time in service after the effective date of this AD, unless already accomplished, install a guard on the fuel shutoff valve handle in accordance with the instructions described in Paragraph 2B in Hiller Service Bulletin No. 72–1 dated June 17, 1977, or later FAA approved revision.

(b) Equivalent methods of fabrication and installation of a guard on the fuel shutoff valve handle may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(c) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to operate helicopters to a base for accomplishment of the modification required by paragraph (a) of this AD.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Los Angeles, California on August 19, 1977.

HERMAN C. BLISS,
Acting Director, Federal Aviation Administration, Western Region.

[FR Doc.77–25438 Filed 8–31–77;8:45 am]

[14 CFR Part 39]

[Docket No. 77–WE–22–AD]

AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC–9 and Military C–9 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an Airworthiness Directive (AD) that would require repetitive inspections or replacement of the engine pylon rear spar upper straps (caps) on the McDonnell Douglas Model DC–9 and Military C–9 Series airplanes for fatigue cracks to preclude failure that could result in separation of the engine from the aircraft.

DATES: Comments must be received on or before October 6, 1977.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

Copies of Douglas DC–9 Service Bulletins A54–31, Revision 1 and 54–31 may be obtained by writing to: McDonnell Douglas Corporation 3855 Lakewood Boulevard, Long Beach, California 90846. Attention: L. A. Eisenberg, C1–750, (54–60.)

Copies of the Service Bulletin are contained in the Rules Docket in Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Wallace M. Frei, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, telephone 213–536–6351.

SUPPLEMENTARY INFORMATION: There have been two reported failures of the engine pylon rear spar upper strap (cap) on McDonnell Douglas DC–9 airplanes. These failures have initiated at the inside diameter of the bearing hole of the strap and are caused by fatigue. McDonnell Douglas issued Service Bulletin A54–31, dated March 15, 1976, which detailed the procedure for conducting ultrasonic and magnetic particle inspections in the lug area of the engine pylon rear upper spar strap (cap), to detect cracks. The service bulletin specifies that the strap be initially ultrasonically inspected and if no cracks are detected the part should be reinspected within 2400 landings. If cracks are suspected the part must be replaced or magnetic particle inspected. Magnetic particle inspection requires the removal of the bearing. The bearing can only be replaced twice before it is necessary to replace the strap, because of the difficulty of satisfactorily restaking the bearing. If cracks are detected by the magnetic particle inspection the strap must be replaced prior to further flight with a new original part. The new original part must be reinspected after 20,000 landings. If no cracks are detected the strap must be reinspected within 2400 landing. The operator may delete the ultrasonic inspection if he performs the magnetic particle inspection.

McDonnell Douglas has subsequently issued Service Bulletin 54–31, dated August 24, 1976, which replaces each original engine pylon rear spar upper strap (cap) with a redesigned part with increased lug area. This increased lug area provides greater strength, which reduces the likelihood of fatigue cracking. The incorporation of Service Bulletin 54–31 eliminates the inspections required in Service Bulletin A54–31.

Failure of the engine pylon upper rear strap results in drooping of the engine and possible separation of the engine from the aircraft.

Since evidence indicates that this condition is likely to exist in aircraft of the same type design, the proposed AD would require repetitive inspections or replacement of the engine pylon rear upper spar straps (caps) with the original type design straps or redesigned straps per DC–9 Service Bulletin 54–31.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they desire. Information on the economic, environmental, and energy impact that might result because of the adoption of the proposed rule is also requested. Communications should identify the airworthiness docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. All communications received before the closing date will be considered by the Administrator before taking action upon the proposed rule. The proposal contained in the notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Airworthiness Rule Docket for examination by interested persons.

DRAFTING INFORMATION

The principal authors of this document, are Stanton R. Wood. Aircraft Engineering Division, and DeWitte T. Lawson, Jr. Office of the Regional Counsel.

PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

McDONNELL DOUGLAS: Applies to Model DC–9 and Military C–9 Series Airplanes certificated in all categories, Fuselage Numbers 1 through 851, inclusive, which correspond to the factory serial numbers listed in Douglas DC–9 Service Bulletin No A54–31, Revision 1, dated December 22, 1976, or later FAA approved revisions.

To detect cracks and prevent possible failure of the engine pylon aft upper spar straps (caps) comply with the following:

(a) For airplanes with 35,000 or more landings on the effective date of this AD, within the next 600 landings unless already accomplished within the last 1800 landings and thereafter at intervals not to exceed 2400 landings, accomplish Paragraph (f).

(b) For airplanes with 30,000 to 34,999 landings on the effective date of this AD, within the next 900 landings, unless already accomplished within the last 1500 landings, and thereafter at intervals not to exceed 2400 landings, accomplish Paragraph (f).

(c) For airplanes with 25,000 to 29,999 landings on the effective date of this AD, within the next 1200 landings, unless already accomplished within the last 1200 landings, and thereafter at internals not to exceed 2400 landings, accomplish Paragraph (f).

(d) For airplanes with 20,000 to 24,999 landings on the effective date of this AD, within the next 2,000 landings, unless already accomplished within the last 400 landings, and thereafter at intervals not to exceed 2400 landings, accomplish Paragraph (f).

(e) For airplanes with less than 20,000 landings on the effective date of this AD,

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within the first 2,000 landings, after accumulating 20,000 landings, and thereafter at intervals not to exceed 2400 landings, accomplish Paragraph (f).

(f) (1) Ultrasonically inspect the engine pylon aft upper spar straps (caps), part number 9958154-5/-6 or 9958154-37/-38 per Paragraph 2.B of Douglas DC-9 Service Bulletin A54-31 dated December 22, 1976 or later FAA approved revision, or an alternate method approved by the Chief, Aircraft Engineering Division, Western Region. If no cracks are detected repeat the inspection in 2400 landings. If there is evidence of cracking, magnetic particle inspection per Paragraph 2.C may be used to confirm the evidence of cracking. If cracks are detected, before further flight, replace the strap with new part numbers 9958154-5/-6 or 9958154-37/-38 and resume the inspections after the part has accumulated 20,000 landings or modify in accordance with Douglas Service Bulletin 54-31 dated August 24, 1976 or later FAA approved revision.

(2) At the option of the operator, the ultrasonic inspection may be deleted if the magnetic particle inspection is accomplished. If the magnetic particle inspection procedure is used, after two bearing replacements it is necessary to replace the strap with a new part, number 9958154-5/-6 or 9958154-37/-38 or modified per Douglas Service Bulletin 54-31 dated August 24, 1976 or later FAA approved revision.

(g) Upon completion of modification of the engine pylon rear spar straps (caps) per Douglas Service Bulletin 54-31 dated August 24, 1976 or later FAA approved revision the inspection requirements of this AD are terminated.

(h) For the purpose of complying with this AD, the number of landings may be determined by dividing each airplane's hours in service by the operator's appropriate fleet average time from takeoff to landing. This procedure is subject to acceptance by the assigned FAA maintenance inspector.

(i) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to authorize operation of an airplane to a base for the accomplishment of the inspections required by this AD.

(j) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.)

NOTES.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, California on August 19, 1977.

HERMAN C. BLISS,
Acting Director, Federal Aviation Administration, Western Region.

[FR Doc.77-25439 Filed 8-31-77;8:45 am]

[14 CFR Parts 71 and 75]

[Airspace Docket No. 76-AL-15]

COLORED FEDERAL AIRWAYS, REPORTING POINTS AND JET ROUTES

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to realign Green 8 Airway, Green 11 Airway and Jet Route No. 115; also, to rescind and designate reporting points in the area of the Aleutian Islands/Alaskan Peninsula. The U.S. Air Force has advised that seven of its air navigation aids, upon which routes are designated, will be decommissioned. The proposed actions will substitute other navigation aids which will permit the continuation of route structures in the same general area.

DATES: Comments must be received on or before September 26, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 76-AL-15 Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501.

The official docket may be examined at the following location: FAA Office of the Chief Counsel Rules Docket, (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. All communications received on or before September 26, 1977, will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communication must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering amendments to Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) that would: [1]

1. Realign a segment of Green 8 Airway to extend from Shemya, Alaska, NDB via Adak, Alaska, NDB; Dutch Harbor, Alaska, NDB; INT Dutch Harbor 043°T(029°M) and the Cold Bay, Alaska, NDB/LOM 253°T (236°M) bearings; Cold Bay NDB/LOM; King Salmon, Alaska, NDB/LOM; INT King Salmon NDB/LOM 055°T (034°M) and the Kachemak, Alaska, NDB 263°T (239°M) bearings; Kachemak NDB; thence as presently aligned.

2. Realign a segment of Green 11 Airway to extend from Cold Bay, Alaska, NDB/LOM via INT Cold Bay NDB/LOM 041°T (024°M) and Port Heiden, Alaska, NDB 246°T (226°M) bearings; thence as presently aligned.

3. Realign Red 99 Airway to extend from King Salmon, Alaska, NDB/LOM via Iliamna, Alaska, NDB; to Kachemak, Alaska, NDB.

4. Add Dutch Harbor NDB, as an Alaskan Low Altitude Reporting Point.

5. Delete DEPTH, Big Mountain NDB, and Nikolski NDB, Alaskan Low Altitude Reporting Points.

6. Add Dutch Harbor NDB, as an Alaskan High Altitude Reporting Point.

7. Delete Nikolski NDB, an Alaskan High Altitude Reporting Point.

8. Realign Jet Route No. 115 segment from Adak, Alaska , NDB to Cold Bay, Alaska, VOR via Dutch Harbor, Alaska, NDB.

ICAO CONSIDERATIONS

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the

[1] Maps filed as part of the original document.

Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

DRAFTING INFORMATION

The principal authors of this document are Everett L. McKisson, Air Traffic Service, and Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (42 FR 305 and 707) as follows:

1. In § 71.103 (42 FR 305) G-8 is amended to read as follows:

G-8 From Shemya, Alaska, NDB, 20 AGL Adak, Alaska, NDB; 20 AGL Dutch Harbor Alaska, NDB; 20 AGL INT Dutch Harbor NDB 043° and Cold Bay, Alaska, NDB 253° bearings; 20 AGL Cold Bay NDB; King Salmon, Alaska, NDB; INT King Salmon NDB 055° and Kachemak, Alaska, 263° bearings; Kachemak NDB; Wildwood, Alaska, NDB; INT Wildwood NDB 034° and Campbell Lake, Alaska, NDB 254° bearings; Campbell Lake NDB; INT Campbell Lake NDB 032° and Skwenta, Alaska, NDB 111° bearings; Glenallen, Alaska, NDB; INT Glenallen NDB 052° and Nabesna, Alaska, NDB 252° bearings; Nabesna NDB.

2. In § 71.103 (42 FR 305) G-11 is amended to read as follows:

G-11 From Cold Bay, Alaska, NDB via INT Gold Bay NDB 041° and Port Helden, Alaska, NDB 246° bearings, 20 AGL Port Helden NDB; 73 miles 85 MSL, 101 miles 65 MSL, 37 miles 20 AGL, to Woody Island, Alaska, NDB.

3. In § 71.107 (42 FR 306) R-99 is amended to read as follows:

R-99 From King Salmon, Alaska, NDB via Iliamna, Alaska, NDB; to Kachemak, Alaska, NDB.

4. In § 71.211 (42 FR 638) "Dutch Harbor, Alaska, NDB" is added. "Big Mountain, Alaska, NDB" is deleted. "DEPTH:" title and text is deleted. "Nikolski, Alaska, NDB" is deleted.

5. In § 71.213 (42 FR 640) "Dutch Harbor, Alaska, NDB" is added, also "Nikolski, Alaska, NDB" is deleted.

6. In § 75.100 (42 FR 707) Jet Route No. 115 "Nikolski, Alaska, NDB;" is deleted and "Dutch Harbor, Alaska, NDB;" is substituted therefor.

(Secs. 307(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 4, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-25437 Filed 8-31-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-EA-47]

PROPOSED ALTERATION OF VOR AIRWAYS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to realign VOR low altitude airways (V-36, V-157, and V-273) in part by utilizing the Teterboro, N.J., and Canarsie, N.Y., TVOR/DMEs.[1] These actions will allow the FAA to establish profile descent procedures into Kennedy International Airport. Profile descent is a procedure whereby the arriving aircraft are normally allowed to descend for landing in a fuel/time savings manner. Accordingly, adoption of this proposal should result in fuel and time savings to the users, reduced controller workload and further standardization of the profile descent procedures.

DATES: Comments must be received on or before October 3, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 77-EA-47, FAA, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. David F. Solomon, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 25091; telephone: 202-426-8530.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before October 3, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign VOR low altitude airways (V-36, V-157, and V-273) in part by utilizing the Teterboro, N.J., and Canarsie, N.Y., TVOR/DMEs. These actions will allow the FAA to establish profile descent procedures into Kennedy International Airport. The FAA believes that these actions will result in fuel and time savings to the users.

ICAO CONSIDERATIONS

As part of this proposal relates to the navigable airspace outside the United

[1] Map filed as part of original document.

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States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

Drafting Information

The principal authors of this document are Mr. David F. Solomon, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Regulations (14 CFR Part 71) as republished (42 FR 307) as follows:

In V–36, "Kennedy, N.Y." is deleted and "Teterboro, N.J.; INT Teterboro 121°T (132°M) and Deer Park, N.Y., 209°T (221°M) radials." is substituted therefor.

In V–157, "Colts Neck, N.J.; to Kingston, N.Y." is deleted and "INT Robbinsville 033°T (043°M) and Teterboro, N.J., 196°T (207°M) radials; Teterboro; Kingston, N.Y." is substituted therefor.

In V–723, "From INT Sparta, N.J., 133° and Solberg, N.J., 051° radials; Sparta;" is deleted and "From INT Deer Park, N.Y., 209°T (221°M) and Canarsie, N.Y., 169°T (180°M) radials; Canarsie; Teterboro, N.J.; Sparta, N.J.;" is substituted therefor.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE: The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Exectiuve Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., on August 26, 1977.

EDWARD J. MALO,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77–25444 Filed 8–31–77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21369; RM–2903]

FM BROADCAST STATION IN WHITEHALL, WISCONSIN

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a first FM assignment to Whitehall, Wisconsin, at the request of Whitehall Broadcasting Co. Petitioner states the proposed assignment would provide county residents with new and information concerning their County Government.

DATES: Comments must be received on or before October 7, 1977, and reply comments must be received on or before October 27, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202–632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 22, 1977.

Released: August 31, 1977.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Whitehall, Wisconsin).

By the Chief, Broadcast Bureau:

1. *Petitioner, Proposal and Comments:* (a) Petition for rulemaking,[1] filed June 1, 1977, by Whitehall Broadcasting Co. ("petitioner") proposing the assignment of Channel 272A to Whitehall, Wisconsin, as a first FM assignment to that community.

(b) The channel could be assigned in full conformity with our minimum distance separation requirements. There were no oppositions to the proposal.

(c) Petitioner states that it will apply promptly for a construction permit if the channel is assigned.

2. *Community Data:*

(a) *Location:* Whitehall, seat of Trempealeau County, is located approximately 56 kilometers (35 miles) southeast of Eau Claire, Wisconsin.

(b) *Population:* Whitehall—1,486; Trempealeau County—23,334.[2]

(c) There is no local broadcast service in Whitehall or Trempealeau County.

3. *Economic Data:* Petitioner states that Whitehall is the largest community in Trempealeau County. It notes that agriculture is the principal occupation, particularly dairying and raising of beef cattle. Petitioner submitted information from the U.S. County and City Data Book, U.S. Bureau of Census, which indicates a level of manufacturing, retail sales, and other business activity in the county which would appear to provide an adequate economic base for the proposed station.

4. Petitioner states that the proposed assignment would provide county residents with news and information concerning their county government.

5. In light of the above information and the fact that the proposed FM station would provide the community with a first full-time local broadcast service, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Rules, with regard to Whitehall, Wisconsin, as follows:

City	Channel No.	
	Present	Proposed
Whitehall, Wis.		272A

6. Authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated herein.

NOTE: A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

7. Interested parties may file comments on or before October 7, 1977, and reply comments on or before October 27, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202 (b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

[1] Public Notice of the filing of the petition was given on June 15, 1977 (Report No. 1053).

[2] Population figures are taken from the 1970 U.S. Census.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc.77–25542 Filed 8–31–77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Parts 172, 173, 174, 175, 176, 179]

[Docket No. HM–139 Notice No. 77–8]

INDIVIDUAL EXEMPTIONS, CONVERSION TO REGULATIONS OF GENERAL APPLICABILITY

Transportation of Hazardous Materials

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The Materials Transportation Bureau is considering amending the regulations governing the transportation of hazardous materials to incorporate therein a number of changes based on existing exemptions which have been granted to individual applicants allowing them to perform particular functions in a manner that varies from that specified by the regulations. Adoption of these exemptions as rules of general applicability would provide wider access to the benefits of transportation innovations recognized as effective and safe.

DATES: Comments by September 30, 1977.

ADDRESS COMMENTS TO: Section of Dockets, Office of Hazardous Materials Operations, Materials Transportation Bureau, Department of Transportation Washington, D.C. 20590. It is requested that five copies be submitted.

FOR FURTHER INFORMATION CONTACT:

Alan I. Roberts, Director, Office of Hazardous Materials Operations, 2100 Second Street SW., Washington, D.C. 20590 (202–426–2075).

SUPPLEMENTARY INFORMATION: Each of the proposed amendments described in the table below is founded upon either: (1) Actual shipping experience gained under an exemption, or (2) the data and analysis supplied in the application. In each case the resulting level of safety being afforded the public is considered at least equal to the level of safety provided by the current regulations. Primary drafters of this proposal are Darrell L. Raines, and John C. Allen, Office of Hazardous Materials Operations, and George W. Tenley, Jr., Office of the Assistant General Counsel for Materials Transportation Law.

These proposals would not significantly affect the costs of regulatory enforcement, nor would additional costs be imposed on the private sector, consumers, or Federal, State or local governments, since these proposals would merely authorize the general use of shipping alternatives previously available to only a few users under exemptions. The safety record of shipments under the identified exemptions demonstrates that significant environmental impacts would not result from any of the proposals. Adoption of an amendment derived from an existing exemption would obviate the need for that exemption and effectively terminate it. Upon such termination, the holder of the exemption and parties thereto would be individually notified. Adoption of an amendment derived from an application for exemption should provide the relief sought, in which event the exemption request would be denied and the applicant so notified. In the event the Bureau decides not to adopt any of these proposals each pertinent application would be evaluated and acted upon in accordance with the applicable provisions of the exemption procedures in 49 CFR Part 107, Subpart B. Consequently, persons commenting on proposed amendments may wish to address both the proposed amendment and the exemption application. Consideration of comments of the merits of including within an amendment modes of transportation other than those for which the exemption application requested is anticipated. Each mode of transportation for which a particular exemption is authorized or requested is indicated in the "Nature of Exemption or Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. The status of the exemption action is indicated in the column titled Identification Number where prefix "E" means an exemption has been issued and prefix "SP" means a special permit exists under previous authorities. The suffix "No" means no applications for exemptions are pending, but the Bureau is taking action by this proposal; the suffix "X" means a renewal application is pending; the suffix "P" means one or more party status applications are pending; and the suffix "N" means a new application for exemption is pending.

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Proposed amendments of hazardous materials regulations to terminate special permits and exemptions

Identification No.	Applicant holder	Regulation affected	Nature of exemption or application	Nature of proposed amendment
E 3780-No	American Cyanamid Co..	173.328(a)(3)	Authorizes shipments of cyanogen chloride (containing less than 0.9 pct water), a class A poison, in DOT specification 3AA480, 3AA480, or 3A480X cylinders as specified in sec. 173.332(a)(2). (Modes 1 and 2.)	To add par. (a)(3) to read: (3) Cyanogen chloride (containing less than 0.9 pct water) may also be packaged as prescribed by sec. 173.332(a)(2) of this subchapter
E 6127-No	Monsanto Co.	173.373(a)	Authorizes shipments of orthonitroaniline in insulated DOT specification MC-304, MC 307, MC 310, MC 311, or MC 312 tank motor vehicles having a steel inner tank. Commodity must be loaded in a liquefied state at a temperature not to exceed 180° F. (Mode 1.)	To add par. (6) to read: (6) Specification MC 304, MC 307, MC 310, MC 311, or MC 312 (secs. 178.340, 178.342, 178.343 of this subchapter). Tank motor vehicles. If the cargo tank is constructed with bottom outlets, they must meet secs. 178.342-5(a) and 178.343-5 of this subchapter. Cargo tank must be insulated and have a steel inner tank. Authorized only for orthonitroaniline loaded in a liquefied state at a temperature not over 180° F. Not authorized for transportation by water.
E 6238-No	Vicksburg Chemical Co...	173.182(b)(6)(i)	Authorizes shipments of potassium nitrate in DOT specification 41P plastic bag having a net weight of not over 81 lb. (Modes 1 and 2.)	To revise par. (i) to read: (i) Specification 41P (sec. 178.241 of this subchapter). All plastic bags. Maximum authorized net weight is 81 lb. Authorized only for ammonium nitrate mixed fertilizer, ammonium nitrate fertilizer (containing no more than 0.2 pct carbon) and potassium nitrate.
E 6502-No SP 6640-X	Allied Chemical Corp., Air Products & Chemicals, Inc.	173.34(e)(15)(ii)	Authorizes shipments of sulfur hexafluoride in DOT specifiion 3A and 3AA cylinders with the retest period specified in 49 CFR 173.34(e) extended to 10 yr. (Modes 1 and 2.)	To revise par. (15)(ii) to read: (15) • • • (i) • • • (ii) The cylinder is used exclusively for Air, argon, cyclopropane, ethylene, helium, hydrogen, krypton, neon, nitrogen, nitrous oxide, oxygen, sulfur hexafluoride, xenon, and permitted mixtures thereof (see sec. 173.301(a)) and permitted mixtures of these gases with up to 30 pct by volume of carbon dioxide. These commodities must have a dewpoint at or below minus 52° F at 1 atm.
E 6504-No	Chevoron Chemical Co.	173.353(a)(7)	Authorizes shipments of methyl bromide and ethylene dibromide mixtures in tin-plated metal cans packed in a specification 12B30 liberboard box. (Mode 1.)	To add par. (a)(7) to read: (7) Specification 12B30 (sec. 178.205 of this subchapter). Fiberboard box with inside tinplated metal cans containing not more than 6 oz of product per can. Cans must be capable of withstanding a pressure of 75 lb/in at 130° F. without leakage or permanent distortion. Not more than 12 cans may be packed snugly in the outside fiberboard box. Authorized only for methyl bromide and ethylene dibromide mixtures, liquid.
E 6838-No	Air Cruisers Co., Douglas Aircraft, American Airlines.	173.108(a), 175.3	Authorizes shipments of liferafts or slide rafts containing not more than 5 signal devices. (Modes 1, 3, 4, and 5.)	To add "Liferafts, inflatable" to 172.101[1] and to add para. 173.906 to read as follows:
(Add)		173.906	Liferafts, inflatable	An inflatable liferaft, serviced and ready for use as a lifesaving appliance aboard a vessel or aircraft, containing small quantities of hazardous materials which are required as part of the lifesaving appliance; e.g., a nonflammable compressed gas with no subsidiary hazards packaged in a cylinder complying with DOT regulations, class C explosives in the form of pyrotechnic devices, and flammable liquids in the form of a repair kit capable of repairing punctures in the buoyancy compartments, etc., must be packed in strong outside packagings.
E 7090-No E 7248-No E 7249-No	E. I. du Pont de Nemours & Co.; Atlas Powder.	176.415(c)	Authorizes the loading and unloading of certain packagings of nitro carbo nitrate and ammonium nitrate fertilizers at nonisolated port facilities. (Mode 3.)	To add par. (c)(5) to read: (5) If the material is ammonium nitrate (organic coated), ammonium nitrate-phosphate, an ammonium nitrate mixture containing more than 60 pct ammonium nitrate, or nitro carbo nitrate in nonrigid combustible packaging and loaded in freight containers or roll-on, roll-off highway vehicles, it may be loaded or unloaded at a nonisolated facility provided that facility meets the approval of the Coast Guard captain of the port.
E 7211-No	Kerr-McGee Chemical Corp.	173.251(b)(3)	Authorizes shipments of boron tribromide in DOT specification 37A steel drums with inside glass containers suitably cushioned and meeting requirements of sec. 173.251(b)(1). (Modes 1, 2, 3, and 5.)	To add para. (b)(3) to read: (3) Specification 37A (sec. 178.131 of this subchapter) steel drums with inside glass receptacles not over 1-qt capacity each. Inside containers and cushioning must comply with para. (b)(1) of this section. Not more than 4 8-oz glass receptacles or 2 1-qt glass receptacles may be packed within 1 8-gal 37A drum. Not more than 12 8-oz glass receptacles or 8 1-qt glass receptacles may be packed within 1 30-gal 37A drum. Completed package must meet test requirements of sec. 178.131-11 of this subchapter.
E 7470-No	Cities Services Co., Hooker Chemical & Plastics Corp., U.S. Industrial Chemicals Co., Phelps Dodge Corp.	173.241(a)(3), 179.200-18(b)(1), 179.201-1(a).	Authorizes shipments of various corrosive liquids in DOT specification 103AW, 103BW, 111A60W2, 111A100-W2, and 111A100W5 tank car tanks having bursting pressure increased from 45 to 60 lb/in² on 103AW, 103BW, and 111A60W2 cars and from 75 to 100 lb/in² on 111A100W2 and 111A100W5 cars. (Mode 2.)	To revise para. (a)(3) to read: (3) Outage requirements for tank cars. In-tank cars, outage must be calculated to percentage of the total capacity of the tank; i.e., shell and dome capacity combined. If the dome of the tank car does not provide sufficient outage, then vacant space must be left in the shell to make up the required outage. The outage for tank cars must not be less than 2 pct except that the outage for specification 103A, 103B, 103C, 103E, 103A-AL, 103C-AL, 104AW, 103CW, 103EW, 103ANW, 103A-ALW, tank cars must not be less than 1 pct.
		179.200-18(b)(1)	To increase the vent bursting pressure to not more than 100 pct of tank test pressure.	To revise para. (b)(1) to read: (1) When permitted in sec. 179.201-1, each tank or compartment used for the transportation of corrosive liquids, flammable solids, oxidizing materials, or poisonous liquids or solids, class B, need not be equipped with safety relief valves, but if not so equipped shall have 1 safety vent at least 1¼ in inside diameter, of an approved design which will prevent interchange with fixtures prescribed in sec. 179.200-16(a), and closed with a frangible disk of lead or other approved material of a thickness that will rupture at not more than 100 pct of tank test pressure. Means for holding disk in place shall be such as to prevent distortion or damage to disk when applied. Safety vent closure shall be chained or otherwise fastened to prevent misplacement. All tanks equipped with vents shall be stenciled NOT FOR FLAMMABLE LIQUIDS."
		179.201-1		To revise the individual specification requirements in sec. 179.201-1 to read:[2]
E 7711-No	Illinois Central Gulf RR..	174.25(a)(2)(i)	Authorizes the use of the capital letter "X" instead of asterisks (*) or the symbol for number (#).	To revise par. (a)(2)(i) to read: (i) In letters not less than ⅜ of an inch high, or (ii) In bold, upper-case letters not less than ⅛ of an inch high inside a rectangle made with any symbol such as asterisks (*), dollar sign ($), capital (X), or the symbol for number (#).
E 7810-X	Allied Chemical Corp....	173.314(c)	Authorizes shipments of dichlorodifluoromethane in DOT specification 106A500 and 106A500X multi-unit tank car tanks. (Mode 3.)	To revise note 7 to read: Note 7: Specification 106A or 110A tanks authorized only for transportation by rail freight, cargo vessel, and highway. (See 174.204, 176.200, and 177.834(m) of this subchapter for special requirements.)
7815-N	Miller Transporters, Inc..	173.119(m)(11)	Requests authority to transport acrylonitrile, a flammable liquid which is also poisonous, in DOT specifications MC 305 and MC 306 cargo tanks. (Mode 1.)	To revise par. (m)(11) to read: (11) Specification MC 305, MC 306, or MC 307 (secs. 178.340, 178.341, 178.342 of this subchapter). Tank motor vehicle meeting sec. 178.343-2(c) of this subchapter. Not authorized for flammable liquids which are also organic peroxides.

[1] See the following table:

§ 172.101 Hazardous materials table.

(1)	(2)	(3)	(4)	(5)		(6)		(7)		
				Packaging		Maximum net quantity in 1 package		Water shipments		
*/W/A	Hazardous materials description and proper shipping names	Hazard class	Label(s) required (if not excepted)	(a) Exceptions	(b) Specific requirements	(a) Passenger-carrying aircraft or rail car	(b) Cargo-only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
AW	Liferafts, inflatable	ORM-C	None	None	173.906	1 per inaccessible cargo compartment.	No limit	1, 2	1, 2	

[2] See the following table:

§ 179.201-1 Individual specification requirements.

DOT specifications	103A-ALW	103AW	103ALW	103ANW	103BW	103CW	103DW	103EW
(Revised) Minimum expansion capacity (see 179.200-14).	1 pct in dome	2 pct in dome	2 pct in dome	1 pct in dome	2 pct in dome	1 pct in dome	2 pct in dome	1 pct in dome.
(Revised) Vent-bursting pressure, pounds per square inch.	45	60	45	45	60	45	45	45.
	103W	104W	111A60ALW1	111A60ALW2	111A60W1[1]	111A60W2	111A60W5	111A60W7
(Revised) Minimum expansion capacity (see 179.200-14).	2 pct in dome	2 pct in dome	2 pct in tank	2 pct in tank	2 pct in tank	2 pct in tank	2 pct in tank	2 pct in tank.
(Revised) Vent-bursting pressure, pounds per square inch.	45	45	45	45	45	60	45	45.
	111A100ALW1	111A100ALW2	111A100W1[1]	111A100W2[1]	111A100W3	111A100W4	111A100W5	111A100W6	111A60F1,[1] 111A100F1,[1] 111A100F2[1]
(Revised) Minimum expansion capacity (see 179.200-14).	2 pct in tank	2 pct in tank	2 pct in tank	2 pct in tank	2 pct in tank	Footnote	2 pct in tank	2 pct in tank	
(Revised) Vent-bursting pressure, pounds per square inch.	75	75	75	100	75	75	100	75	

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a)(4) of App. A to Part 102.)

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C. on August 24, 1977.

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Operations.

[FR Doc.77-25111 Filed 8-31-77;8:45 am]

DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
[50 CFR Part 17]
ENDANGERED AND THREATENED WILDLIFE AND PLANTS
Proposed Threatened Status nd Critical Habitat for Little Kern Golden Trout

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Service proposes to determine the Little Kern golden trout (*Salmo aguabonita whitei*) to be a Threatened species and idenaify Critical Habitat for this species. This action is being taken because of the threatened modification of its habitat and the existing threats of hybridization with the introduced rainbow trout. This proposal would protect the populations of pure Little Kern golden trout and its habitat. This species occurs in Tulare County, California.

DATES: All relevant comments and materials with regard to this proposed rulemaking received no later than December 1, 1977, will be considered.

ADDRESSES: Comments and materials concerning this proposed rulemaking, preferably in triplicate, should be sent to the Director (FWS/OES), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202/343-4646).

SUPPLEMENTARY INFORMATION: Background.

Section 4(a) of the Act states:

General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) the present or threatened destruction, modification, or curtailment of its habitat or range;

(2) overutilization for commercial, sporting, scientific, or educational purposes;

(3) disease or predation;

(4) the inadequacy of existing regulatory mechanisms; or

(5) other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

SUMMARY OF FACTORS AFFECTING THE SPECIES

These findings are summarized herein under each of the five criteria of Section 4(a) of the Act. These factors, and their application to the Little Kern golden trout, are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.*

The Little Kern golden trout is only known from the Little Kern River in Tulare County, California. In the Little Kern River watershed, the water quality of the streams inhabited by this fish is generally good. However, forestry management plans under consideration call for logging activities in a large portion of the drainage basin in which the trout occurs. This would result in an alteration

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of existing water quality by increasing temperature and siltation which would seriously threaten the survival of the Little Kern golden trout.

2. *Overutilization for commercial sporting, scientific, or educational purposes.* Not applicable.

3. *Disease or predation.* Not applicable.

4. *The inadequacy of existing regulatory mechanisms.* Not applicable.

5. *Other natural or manmade factors affecting its continued existence.* Rainbow trout were introduced into the Little Kern River System in the 1930's. Subsequent hybridization between the Little Kern golden trout and the introduced rainbow trout resulted in a reduction in the number of pure populations of Little Kern golden trout. At present, pure populations of Little Kern golden trout exist only in headwater streams which were not stocked with rainbow trout or have barrier falls which have prevented upstream migration of rainbow trout.

CRITICAL HABITAT

Section 7 of the Act, entitled "Interagency Cooperation", states:

The Secretary shall review other programs administered by him and utilize such programs in futherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

An interpretation of the term Critical Habitat was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764–17765).

The areas delineated below do not necessarily include the entire Critical Habitat of the Little Kern golden trout and modifications to Critical Habitat descriptions may be proposed in the future. In accordance with Section 7 of the Act, all Federal departments and agencies would be required to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the Critical Habitat of the Little Kern golden trout found within the areas delineated below.

Until publication of final Section 7 regulations, all Federal departments and agencies should, in accordance with Section 7 of the Act, consult with the Secretary of the Interior with respect to any action which is considered likely to affect Critical Habitat within the delineated areas. Consultation pursuant to Section 7 should be carried out using the procedures contained in the "Guidelines to Assist the Federal Agencies in Complying with Section 7 of the Endangered Species Act of 1973" which have been made available to the Federal agencies by the Service.

CRITICAL HABITAT DETERMINATION

Based upon literature reviews, Critical Habitat for the Little Kern golden trout includes the following areas (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species):

Little Kern River: California, Tulare County. Main channel of Little Kern River and all streams tributary to the Little Kern River above the junction of the Little Kern River and the Kern River.

EFFECTS OF THE RULEMAKING

The effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below.

Endangered Species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. All of those prohibitions and exceptions also apply to any Threatened species unless a special rule pertaining to that Threatened species has been published and indicates otherwise. The regulations referred to above, which pertain to Endangered species, are found at Section 17.21 of Title 50 and, for the convenience of the reader, are reprinted below.

§ 17.21 Prohibitions.

(a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c)(1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwhithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c)(2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

"(5) Notwithstanding paragraph (c)(1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take Endangered Species, for conservation programs in accordance with the Cooperative Agreement, provided that such taking is not reasonably anticipated to result in: (i) the death or permanent disabling of the specimen; (ii) the removal of the specimen from the State where the taking occurred; (iii) the introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or (iv) the holding of the specimen in capivity for a period of more than 45 consecutive days."

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

Example. A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whopping crane.

(2) Notwithstanding paragraph (d)(1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

Regulations published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412) provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species.

In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Pursuant to Section 4(b) of the Act, the Director will notify the Governor of California with respect to this proposal and request his comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and effective in the conservation of any Endangered or Threatened species as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the Little Kern golden trout;

(2) The location of and reasons why any habitat of the Little Kern golden trout should or should not be determined to be Critical Habitat as provided for by Section 7 of the Act;

(3) Additional information concerning the range and distribution of the Little Kern golden trout.

Final promulgation of the regulations on the Little Kern golden trout will take into consideration the comments and any additional information received by the Director and such communications may lead him to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240, and may be examined during regular business hours or can be obtained by mail. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

This proposed rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884), and the primary author is Dr. James D. Williams, Office of Endangered Species (202/343–7814).

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter 1, Title 50 of the Code of Federal Regulations, as set forth below:

It is proposed to amend § 17.11 by adding in alphabetical order the following to the list of animals:

§ 17.11 Endangered and threatened wildlife.

Species			Range				
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
Fish:							
Trout, Little Kern golden	*Salmo aguabonita whitei*	NA.	USA (California)	Entire	T	17.44(c)	

Section 17.44 is amended by adding a new paragraph (c) as follows:

§ 17.44 Special rules—fishes.

• • • • • •

(c) Little Kern golden trout (*Salmo aguabonita whitei*).

(1) All provisions of § 17.31 apply to this species, except that it may be taken in accordance with applicable State law.

(2) Any violation of State law will also be a violation of the Act.

Subpart I of Part 17 (Interagency Cooperation) is amended by adding the following streams as Critical Habitat:

§ 17.95 Critical habitat—fish and wildlife.

• • • • • •

(e) Fishes • • •

(8) Little Kern golden trout.

(i) The following streams are Critical Habitat for the Little Kern golden trout (*Salmo aguabonita whitei*):

Little Kern River: California, Tulare County. Main channel of Little Kern River and all streams tributary to the Little Kern River above the junction of the Little Kern River and the Kern River.



NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 25, 1977.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc.77-25543 Filed 8-31-77;8:45 am]

National Oceanic and Atmospheric Administration

[50 CFR Part 259]

INTERIM FISHING VESSEL CAPITAL Construction Fund Procedures

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Proposed Rule.

SUMMARY: The Fishing Vessel Capital Construction Fund program provides for the deferment of Federal Income Tax on income from the operation of vessels when that income is reserved for the construction or reconstruction of fishing vessels. This proposed rule would expand the definition of "eligible" and "qualified" vessels.

"Eligible" vessels are those whose income is subject to tax deferment. "Qualified" vessels are those whose construction or reconstruction is paid for with tax deferred income from the fund. Under existing rules both "eligible" and "qualified" vessels are limited to vessels which earn significant income from catching, processing and transporting fish for commercial purposes. This proposed rule would amend the definition of "qualified" vessels by substituting as the prime test whether or not such vessels are docu-

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mented by the U.S. Coast Guard for operation in the fisheries. Thus, commercial vessels carrying fishing parties for hire would be included in the definition of a "qualified" vessel if, in addition to documentation in the coastwise trade, such vessels are also documented in the fisheries. In addition, this proposed rule would amend the definition of "eligible" vessels by substituting as the prime test whether or not such vessels are operated in the foreign or domestic commerce of the United States (foreign trade, coastwise trade, fisheries trade are all acceptable).

The cause of this action is the restrictive definition of the term "fishing vessel" and present program procedures. That term, as presently defined, excludes commercial vessels with dual documentation in the coastwise and fisheries trades which carry fishing parties for hire. This action proposes to broaden the term to include this class of commercial fishing vessels.

The regulations are also amended to include vessels under five net tons, but not under two net tons, as provided for by the Tax Reform Act of 1976.

DATES: Comments must be received no later than October 3, 1977.

ADDRESS: Send comments to: Financial Assistance Division, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Michael L. Grable, Chief, Financial Assistance Division, National Marine Fisheries Service, Washington, D.C. 20235, Telephone 202—634–7496.

SUPPLEMENTARY INFORMATION: Existing rules governing administration of the Fishing Vessel Capital Construction Fund program appear at 50 CFR Part 259. The program is authorized by Section 607 of the Merchant Marine Act, 1936, as amended, (46 U.S.C. 1177).

In order to allow a better understanding of the changes, amended § 259.30 (a) and (b) are proposed here in their entirety.

The proposed amendment follows:

Substitute for § 259.30 (a) and (b) the following:

§ 259.30 Application for Interim Capital Construction Fund Agreement ("Interim CCF Agreement").

(a) *General qualifications.* To be eligible to enter into an Interim CCF Agreement an applicant must:

(1) Be a citizen of the United States (citizenship requirements are those for documenting vessels in the coastwise trade within the meaning of section 2 of the Shipping Act, 1916, as amended);

(2) Own or lease one or more eligible vessels (as defined in sec. 607(k)(1) of the Act) operating in the foreign or domestic commerce of the United States.

(3) Have an acceptable program for the acquisition, construction, or reconstruction of one or more qualified vessels (as defined in sec. 607(k)(2) of the Act.) Qualified vessels must be for commercial operation in the fisheries of the United States. If the qualified vessel is 5 net tons or over, it must be documented in the fisheries of the United States. Dual documentation in both the fisheries and the coastwise trade of the United States is permissible. Any vessel which will carry fishing parties for hire must be inspected and certified (under 46 CFR Part 176) by the U.S. Coast Guard as qualified to carry more than six passengers. The program must be a firm representation of the applicant's actual intentions. Vague or contingent objectives will not be acceptable.

(b) *Content of application.* Applicants seeking an Interim CCF Agreement may make application by letter providing the following information:

(1) Proof of U.S. citizenship;

(2) The first taxable year for which the Interim CCF Agreement is to apply (see § 259.33 for the latest time at which applications for an Interim CCF Agreement relating to a previous taxable year may be received);

(3) The following information regarding each "eligible vessel" which is to be incorporated in Schedule A of the Interim CCF Agreement for purposes of making deposits into a CCF pursuant to section 607 of the Act:

(i) Name of vessel,

(ii) Official number, or, in the case of vessels under 5 net tons, the State registration number were required,

(iii) Type of vessel (i.e., catching vessel, processing vessel, transporting vessel, charter vessel, barge, passenger carrying fishing vessel, etc.

(iv) General characteristic (i.e., net tonnage, fish-carrying capacity, age, length, type of fishing gear, number of passengers carried or in the case of vessels operating in the foreign or domestic commerce the various uses of the vessel, etc.

(v) Whether owned or leased and, if leased, the name of the owner, and a copy of the lease,

(vi) Date and place of construction,

(vii) If reconstructed, date of redelivery and place of reconstruction.

(viii) Trade (or trades) in which vessel is documented and date last documented.

(ix) If a fishing vessel, the fishery of operation (which in this section means each species or group of species—each species must be specifically identified by acceptable common names—of fish, shellfish, or other living marine resources which each vessel catches, processes, or transports or will catch, process, or transport for commercial purposes such as marketing or processing the catch),

(x) If a fishing vessel, the area of operation (which for fishing vessels means the general geographic areas in which each vessel will catch, process, transport, or charter for each species or group of species of fish, shellfish, or other marine resources).

(4) The specific objectives to be achieved by the accumulation of assets in a Capital Construction Fund (to be incorporated in Schedule B of the Interim CCF Agreement) including:

(i) Number of vessels,

(ii) Type of vessel (i.e., catching, processing, transporting or passenger carrying fishing vessel),

(iii) General characteristics (i.e., net tonnage, fish-carrying capacity, age, length, type of fishing gear, number of passengers carried),

(iv) Cost of projects,

(v) Amount of indebtedness to be paid for vessels to be constructed, acquired, or reconstructed (all notes, mortgages, or other evidences of the indebtedness must be submitted as soon as available, together with sufficient additional evidence to establish that the full proceeds of the indebtedness to be paid from a CCF under and Interim CCF Agreement, were used solely for the purpose of the construction, acquisition, or reconstruction of Schedule B vessels),

(vi) Date of construction, acquisition, or reconstruction,

(vii) Fishery of operation (which in this section means each species or group of species—each species must be specifically identified by acceptable common name—of fish, shellfish, or other living marine resources).

(viii) Area of operation (which in this section means the general geographic areas in which each vessel will operate for each species or group of species of fish, shellfish, or other living marine resources).

Dated: August 23, 1977.

By order of the Administrator, National Oceanic and Atmospheric Administration.

RICHARD A. FRANK,
Administrator.

[FR Doc.77-25617 Filed 8-31-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON RULEMAKING AND PUBLIC INFORMATION

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Rulemaking and Public Information of the Administrative Conference of the United States, to be held at 10:00 a.m., September 15, 1977, at the ICC Building, 12th and Constitution Avenue NW., Hearing Room A, Washington, D.C.

The Committee will meet to discuss the new FTC trade regulation rulemaking procedures project being conducted by Professor Barry Boyer.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this Committee meeting, contact Joseph B. Scott (202–254–7020). Minutes of the meeting will be available on requests.

JOSEPH B. SCOTT,
Executive Director.

AUGUST 24, 1977.

[FR Doc.77-25529 Filed 8-31-77;8:45 am]

COMMITTEE ON AGENCY DECISIONAL PROCESSES

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Agency Decisional Processes of the Administrative Conference of the United States, to be held at 9:30 a.m., Thursday, September 15, 1977 in the office of Ginsburg, Feldman, & Bress, 1700 Pennsylvania Avenue NW., Suite 300, Washington, D.C.

The Committee will meet to discuss Professor Edward T. Tomlinson's study of statutory time limits for agency action. The Committee will also review the current status of other pending projects.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, D.C. 20037, at least two days in advance. The Committee Chairman may, if he deems it appropriate, permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this Committee meeting contact David Pritzker (202–254–7065). Minutes of the meeting will be available on request.

JOSEPH SCOTT,
Executive Director.

AUGUST 26, 1977.

[FR Doc.77-25530 Filed 8-31-77;8:45 am]

COMMITTEE ON GRANTS, BENEFITS AND CONTRACTS

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-563), notice is hereby given of the tentative scheduling of a meeting of the Committee on Grants, Benefits and Contracts of the Administrative Conference of the United States, for 10:15 a.m., Thursday, September 15, 1977, in the library of the Administrative Conference, 2120 L Street NW., Suite 500, Washington, D.C.

The Committee will meet to discuss with Professor Lee Albert a possible project on mechanisms for resolving disputes under block grants.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, D.C. 20037, at least two days in advance. The Committee Chairman may, if he deems it appropriate, permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this Committee meeting, contact David B. H. Martin, 202–254–7065. Minutes of the meeting will be available on request.

JOSEPH B. SCOTT,
Executive Director.

AUGUST 30, 1977.

[FR Doc.77-25694 Filed 8-31-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A497]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Hill County, Tex., as a result of extreme drought April 15 to July 14, 1977.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than October 25, 1977, for physical losses and May 24, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C. this 25th day of August 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77-25429 Filed 8-31-77;8:45 am]

[Notice of Designation Number A498]

WYOMING

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Wyoming Counties as a result of severe hailstorms June 9, 11, 12, 16, 18, 20, 21 and July 4, 1977, in Goshen County; June 16, 18 and July 14, 1977, in Laramie County; and June 18 and 20, 1977, in Platte County:

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Ed Herschler that such designation be made.

Applications for emergency loans must be received by this Department no later than October 25, 1977, for physical losses and May 24, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed

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rulemaking and invite public participation.

Done at Washington, D.C., this 25th day of August 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77-25430 Filed 8-31-77;8:45 am]

Forest Service

MAUMELLE-SALINE UNIT

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Maumelle-Saline Unit Plan, Quachita National Forest, USDA-FS-R8-FES (Adm.) 77-06.

This unit covers 66,590 acres of National Forest land located in Perry, Saline and Garland counties, Ark. Major actions proposed are the management of human resources, environmental protection, natural resource management, and protection and administration of the Maumelle-Saline Unit.

This draft environmental statement was transmitted to CEQ August 23, 1977. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Rm. 3210, 12th St. and Independence Ave. SW., Washington, D.C. 30350.
USDA, Forest Service, 1720 Peachtree Road, NW., Rm. 804, Atlanta, Ga. 30309.
USDA, Forest Service, Ouachita National Forest, P.O. Box 1270, Federal Building, Hot Springs, Ark. 71901.
USDA, Forest Service, Wiona Ranger District, Perryville, Ark. 72126.

A limited number of single copies are available upon request to Forest Supervisor, Ouachita National Forest, P.O. Box 1270, Federal Building, Hot Springs, Ark. 71901.

Comments are invited from the public, and from State and Local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Ouachita National Forest, P.O. Box 1270, Federal Building, Hot Springs, Ark. 71901. Comments must be received by October 22, 1977, in order to be considered in the preparation of the final environmental statement.

Dated: August 23, 1977.

ROBERT F. WILLIAMS,
Regional Environmental Coordinator.

[FR Doc.77-25531 Filed 8-31-77;8:45 am]

TIMBER MANAGEMENT PLAN, ALLEGHENY NATIONAL FOREST

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture has prepared a final environmental statement on the Timber Management Plan for the Allegheny National Forest, USDA-FS-R9-FES-(ADM)-77-03.

The environmental statement concerns a proposed plan for managing the timber resource on the Allegheny National Forest for the period 7/1/76 through 9/30/84. The Allegheny National Forest is located in parts of Warren, Forest, Elk, and McKean Counties, Pennsylvania.

This final environmental statement was transmitted to CEQ on August 22, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3231, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, Eastern Region, 633 West Wisconsin Ave., Milwaukee, Wis. 53203.
USDA, Forest Service, Allegheny National Forest, Spiridon Bldg., Box 847, Warren, Pa. 54552.

A limited number of single copies are available upon request to Forest Supervisor, Allegheny National Forest, Spiridon Building, Box 847, Warren, Pa. 16365.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

AUGUST 22, 1977.

JAMES H. FREEMAN,
Director, Planning, Programming and Budgeting.

[FR Doc.77-25532 Filed 8-31-77;8:45 am]

Packers and Stockyards Administration

[P. and S. Docket No. 5485]

Notice of Order Extending Period of Suspension of Modifications of Rates and Charges

On July 25, 1977, an order was issued instituting the following proceeding under Title III of the Packers and Stockyards Act, 1921, as amended, 42 Stat. 159, as amended (7 U.S.C. 181 *et seq.*):

Emmett Livestock Commission, Inc., Emmett, Idaho.

Such order, among other things, suspended and deferred the operation and use by the respondent of modifications of his current schedule of rates and charges to become effective July 25, 1977, for a period of thirty days beyond the time such modifications would otherwise go into effect.

Notice is hereby given that, since the hearing in this proceeding could not be concluded within such period of suspension, an order has been issued in the above proceeding suspending and deferring the operation and use of such modifications of the current schedule of rates and charges for a further period of thirty days beyond the date when such modifications would have otherwise become effective.

Done at Washington, D.C., August 26, 1977.

CHARLES B. JENNINGS,
Administrator,
Packers and Stockyards Administration.

[FR Doc.77-25581 Filed 8-31-77;8:45 am]

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

NATIONAL ADVISORY COMMITTEE ON AN ACCESSIBLE ENVIRONMENT

Public Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) that a meeting of the National Advisory Committee on an Accessible Environment will be held on September 18, 19, and 20, 1977 at 9 a.m. The September 18 meeting will be held at the Washington Hilton Hotel, 1919 Connecticut Avenue NW., Washington, D.C. The September 19 meeting will be held at Gallaudet College, 7th and Florida Avenues NE., Washington, D.C. in the Student Union. The September 20 meeting will be held at the Department of Health, Education, and Welfare, South Building, Room 1331, 330 C Street SW., Washington, D.C.

The National Advisory Committee on an Accessible Environment is established under the 1974 amendments to the Rehabilitation Act, Pub. L. 93-516, 29 U.S.C. 792, et seq. The Committee is established to provide advice, guidance, and recommendations to the Architectural and Transportation Barriers Compliance Board in carrying out its functions.

The meeting of the Committee shall be open to the public. On the first day, the Committee will discuss the status of activities since the previous meeting and call for government spokespersons to report on program activities and plans of the Architectural and Transportation Barriers Compliance Board. The full Committee will then break into subcommittee meetings to discuss specific area concerns. On the second day during the morning session, the reports and recommendations of the subcommittees will be presented to the full Committee. During the afternoon of the second day, the National Advisory Committee will host a Public Awareness Session concerning the activities and enabling legislation of the Architectural and Transportation Barriers Compliance Board and its Advisory Committee. On the third day, the Committee will meet in conjunction with the Architectural and Transportation Barriers Compliance Board.

Persons interested in attending the meeting should contact Ms. Laurinda Steele, Coordinator, Architectural and Transportation Barriers Compliance Board, Mary E. Switzer Building, 330 C Street SW., Washington, D.C. 20201, Telephone 202-245-1801.

ROBERT JOHNSON,
Executive Director Architectural and Transportation Barriers Compliance Board.

[FR Doc.77-25533 Filed 8-31-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Order No. 77-8-135; Docket No. 29123, Agreement C.A.B. 26210 R-1 through R-23, Agreement C.A.B. 26212 R-1 through R-4, Agreement C.A.B. 26213 R-1 through R-20]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Western Hemisphere Passenger Fares; Order on Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 26th day of August 1977.

By Order 77-3-62, March 11, 1977, the Board disapproved that portion of an agreement among the member carriers of the International Air Transport Association (IATA), which proposed increases in normal economy and excursion fares in the United States-Caribbean area for effect April 15, 1977. The Board found that the proposed economy fare level would be above cost, and that approval of the increased excursion fares would result in earnings above the Board's 12-percent return-on-investment (ROI) guideline for the four U.S. carriers serving this market.[1] Pan American has filed a petition for reconsideration of that decision.

Pan American alleges that the Board's disapproval of the proposed fare increases was based on a mistaken application of an ROI standard, contending that implicit in the Board's findings was the conclusion that the 12-percent standard for domestic passenger fares is equally applicable to Caribbean fares. Pan American contends that this standard has no applicability to international operations because, inter alia, the risks involved in international operations are greater than those involved in domestic operations and that the historical data upon which the cost of debt and equity capital were determined for purposes of developing that standard are now outdated. Pan American further claims that the standard was misapplied in the instant case because it was used as a maximum return rather than as a standard to be achieved on an average basis over the long run. The carrier also states that American's profits are overstated and that Delta's operations are given too much weight; both of which tend to distort the composite return in the Caribbean.

Pan Ameircan goes on to contend that the Board's treatment of demand elasticity is incorrect. The carirer states that the Board permitted use of an elasticity factor in evaluating international fare agreements up to 1976 and has used, and continues to use, an elasticity factor in its evaluation of doemstic fare proposals. Pan Amerıcan alleges that it properly applied the concept in the case of the proposed Caribbean fares, despite the Board's claim to the contrary. It states that the Board's reasoning to the effect that elasticity estimates are not acceptable because they involve a great deal of speculation could equally be applied to other aspects of the carriers' forecasts which the Board routinely accepts.

Finally, Pan Ameircan alleges that the Board's disapproval of the proposed increase in normal economy fares is unreasonable since there is only a small difference between economy-class yield and average cost in its Caribbean services. The carrier claims that the Federal Aviation Act only requires a reasonable relationship between each fare category and average cost, not complete identity. Moreover, since normal economy-fare passengers involve costs in excess of the average, the Board's disapproval of the proposed economy fares is arbitrary, according to Pan Ameircan. The carirer also contends that American's costs in the Caribbean are understated, and that the Board's failure to include Eastern's cost and yield data resulted in a skewing of the industry's picture.

The Board finds that the petition raises no issues not adequately dealt with in our decision or that warrant reconsideration, and consequently the petition will be denied.

In disapproving the proposed increase in Caribbean normal economy fares, the Board acted consistently with decisions taken in other rate-making areas designed to prevent overcharging passengers who cannot avail themselves of discount fares. Based on data supplied by Pan American and American, the Board found that yield on the proposed normal economy fare was significantly in excess of average economic cost.[2] Although not so stated in the order, the data indicated that the yield would have exceeded economic cost by approximately 25 percent. Pan American's argument that the absence of Eastern's data resulted in a biased yield/cost comparison would not alter our conclusion even were it to be accepted.[3] Eastern's forecast normal economy yield of 13.28 cents, as given by Pan American, is 6.2 percent above its economic cost per RPM of 12.51 cents.[4] Thus, yield would remain well in excess of average cost on a composite basis, even if Eastern's data were included.[5]

The Board employed the 12-percent ROI standard developed in the Domestic Passenger-Fare Investigation (DPFI), Docket 21866, as a guideline in evaluating the Caribbean fare agreement, just as it has done in evaluating all international rate and fare agreements since 1972. Pan American apparently does not take issue with the concept of an ROI guideline in evaluating international rate agreements but argues, rather, that 12 percent is not the correct level; that it should be higher, primarily to account for the greater risks allegedly involved in international operations. However, no showing has been made here which would justify an alternative, for present purposes, to the 12-percent return found reasonable in Phase 8 of the DPFI. The carriers incur debt and raise equity on a system or corporate basis and the data studied by the Board in Phase 8 reflect international as well as domestic operations. Application of the 12-percent ROI as a benchmark in evaluating international operations, therefore, appears reasonable, based on currently available information. In any event, the Board has specifically requested the carrier parties to the North Atlantic Fare Investigation, Docket 27918, to address this issue (Order 77-7-4, July 1, 1977).

In reaching its disposition of the agreement, the Board estimated that the combined ROI of the four U.S. carriers in the U.S.-Caribbean market, after adjustments, would be 13.8 percent under the proposed fares. Disapproval of the proposed increase in normal economy fares had the effect of reducing this return to approximately 12.4 percent, still considered excessive by the Board, and prompted disapproval of the proposed increase in excursion fares, as well. Pan American claims that the Board's failure to permit a fare increase which would result in a 12.4-percent composite return indicates a rigid application of 12 percent as a ceiling. We do not agree. In our view, it is a question of where to draw the line around the 12-percent guideline depending on the level and structure of fares presented for approval. In any event, subsequent to the Board's disapproval of the IATA-agreed four-percent increase in excursion fares, the Board permitted the U.S. carriers to increase excursion fares by slightly more than three percent, effective May 15, 1977, pursuant to unilateral tariff filings. The carriers' justifications indicate a composite ROI of 11.9 percent under these new fares. Thus, no useful purpose would be served were the Board to grant

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[1] The four U.S. carriers are American Airlines, Inc. (American), Delta Air Lines, Inc. (Delta), Eastern Air Lines, Inc. (Eastern), and Pan American World Airways, Inc. (Pan American).

[2] Average economic cost is total operating expense per revenue passenger-mile (RPM) plus a 12-percent return.

[3] Eastern and Delta did not supply the information requested in Order 76-11-141, November 29, 1976, regarding economy-class yields and were, therefore, not included in the analysis.

[4] Pan American gives the difference as 3.3 percent based on a cost per RPM of 12.86 cents. The Board's figure is taken from Eastern's data in Appendix A of the subject order, which Pan American does not challenge.

[5] Although Pan American claims that carriage of normal economy-fare passengers involves costs in excess of average cost, it does not provide an estimate of this difference. It is quite likely that the difference, if any, is relatively small. This issue will be reviewed in the North Atlantic Fares Investigation, Docket 27918.

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Pan American's petition with respect to this issue.[6]

Pan American also points to the fact that Delta operates only one flight per week to the Caribbean area and that the composite 12.4 percent return was overly influenced by the operations of this carrier, since excluding Delta from the computation would have produced a composite return below 12 percent. It is, of course, axiomatic that any change in the weighting of individual items which make up an average will alter that average. Beyond that, however, Pan American has provided no grounds for excluding Delta's operations from the composite return. Delta's is a small operation in the Caribbean although, in addition to the one weekly frequency cited by Pan American, the carrier operates three daily round trips to Nassau, the Bahamas, and Bermuda. Delta's size is not a valid basis for excluding the carrier from the composite return of the U.S. carriers.

As the Board noted in its order, the real problem in determining the appropriate fare level for the Caribbean is the fact that there is a wide disparity in earnings among the four U.S. carriers in this market. Delta and American realize a relatively high level of earnings while both Pan American and Eastern are substandard in this respect and both continue to reduce their operations in this area. Pan American's claim that Delta's Caribbean operations are too insignificant to be included in the composite return, as well as its claim that American's Caribbean costs are understated, are really calls for basing disposition of Caribbean fare agreements on its own revenue need and that of Eastern.[7] As indicated in our earlier order, the Board is quite aware of this situation and is receptive to suggestions that might provide a more satisfactory opportunity for all carriers to earn a reasonable return. However, we cannot ignore the fact that, as among the U.S. carriers, Delta and American operate almost half the revenue passenger-miles to/from the Caribbean. The combined return of these two carriers under a continuation of present fares was forecast at approximately 20 percent, and was expected to climb to about 24 percent under the IATA-proposed fare increases. We cannot accept the proposition that these impressive results be ignored.

Pan American's interpretation of the Board's position on price elasticity of demand appears to miss the central point.[8] In the Board's view, the case for a specific elasticity coefficient in any given international market has not been made to date. Given the complex international fare structure, with its myriad cross-elasticities, the differing mix of business and discretionary travel in various markets, and the difficulty in forecasting economic and demographic variables for a large number of foreign countries, to cite some of the more obvious problems, it is not surprising that there is a lack of persuasive evidence on demand elasticity in the international arena.[9] The Board does not deny the existence of demand elasticity, but we find the entire subject of forecasting so speculative that the type of refinement involved in such an adjustment, which in itself is highly speculative, is simply not acceptable.[10]

We therefore conclude that the issues raised by Pan American are not sufficient to warrant reversal of our disapproval of fare increases in Order 77–3–62, and Pan American's petition will therefore be denied.

Accordingly, *it is ordered*, that:

The petition of Pan American World Airways, Inc., for reconsideration of Order 77–3–62 be denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[11]

PHYLLIS T. KAYLOR,
Secretary.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23rd day of August, 1977.

[Order 77–8–107; Docket Nos. 29580; 30241; 31311]

ALLEGHENY AIRLINES, ET AL.

Order

By the Civil Aeronautics Board.[11]

filed July 28, 1976, Allegheny Airlines seeks removal of its one-stop restriction in Cincinnati-Cleveland market (Docket 29580).[1]

In addition, on December 21, 1976, Wright Air Lines, Inc., filed an application in Docket 30241, for a certificate of public convenience and necessity authorizing it to provide nonstop service between Cincinnati and Cleveland. On December 23, 1976, Wright filed a motion for hearing on its application.

In support of its Subpart M application, Allegheny alleges, inter alia, that (1) the Cincinnati-Cleveland market is served on a nonstop basis by only one carrier, American Airlines; [2] (2) its service pattern will result in a significant improvement over American's existing service; (3) it will achieve a $464,000 excess over its return and tax requirement; and (4) improved Cincinnati-Cleveland authority would result in better operational flexibility in the western part of its system.

In support of its Subpart A application, Wright alleges, inter alia, that (1) its proposed service, consisting of two daily-round trip flights, would be designed to meet the needs of local business travelers wishing to make a one day commuter trip between Cincinnati and Cleveland; [4] (2) its service would end the historic downgrading of service by the incumbents in the market; (3) its service would be to Burke Lakefront Airport in Cleveland, a downtown airport, and would be a substantial added convenience to business travelers; [4] (4) it would not

[6] Pan American claims that the Board under-estimated American's fuel cost, citing the fact that the carrier's February fuel price increased by 43 percent over the January price used by the Board. It appears that this increase was temporary since the May price is 25.91 cents per gallon, well below the January price of 27.51 cents per gallon used by the Board.

[7] As evidence of its claim that American's Caribbean costs are understated, Pan American cites the fact that while only 12 percent of American's system operating revenue comes from its Latin American Division, approximately 27 percent of its system operating profit comes from that Division. However, only about one quarter of American's Latin American Division revenue comes from the Caribbean passenger operations under consideration here; the balance comes from operations to/from Mexico, Puerto Rico and the Virgin Islands, as well as from cargo and charter operations. The data cited by Pan American shed very little light on the issue of American's allocation of costs to the Caribbean.

[8] In Order 77–2–32, the Board stated that there was no evidence that the carriers perform all the steps required for the proper application of an elasticity coefficient. In its petition here, Pan American has provided information in addition to that contained in its original justification which indicates that the carrier has, in fact, followed the correct procedure in applying elasticity.

[9] The difficulties of producing reliable estimates of elasticity in international markets are stressed by most authors who attempt it. For a general discussion of these problems, see, for example, Guy Orcutt, "Measurement of Price Elasticities in International Trade," The Review of Economics and Statistics (May 1950), pp. 118–127. Furthermore, studies of the North Atlantic market indicate that the demand curve is relatively elastic within the range of observed prices. See, for example, M. Straszheim, The International Airline Industry (Washington: The Brookings Institution, 1969), M. H. Cooper and A. K. Maynard, The Price of Air Travel (London: The Institute of Economic Affairs, 1971), and W. Watkins and D. Kaylor, Forecast of Scheduled International Air Travel of U.S. Flag Carriers 1971–1980 (Washington: Civil Aeronautics Board, 1971). The facts that the carriers use coefficients in the relatively inelastic range to adjust their traffic forecasts in this market and that they do not make corresponding adjustments in their forecast load factor tend to support the Board's contention that the carriers' use of elasticity is somewhat self-serving.

[10] Although the Board employs an elasticity coefficient of −0.7 for domestic fares, which was developed pursuant to a full investigation in Phase 7 of the DPFI, it has virtually no effect on fares as long as the load-factor adjustment is made.

[11] All Members concurred except Chairman Kahn and Member Bailey who did not participate.

[1] The Board stayed further procedural steps with respect to Allegheny's application by Order 76–8–59, August 11, 1976.

[2] Although Trans World Airlines has unrestricted authority, it has not provided service since 1966.

[4] Existing service in the market consists of (1) American's nonstop flights, departing Cincinnati at 7:00 a.m., 1:55 p.m. and 7:25 p.m., and departing Cleveland at 7:55 a.m. and 8:35 p.m., and (2) Allegheny's one-stop flights, departing Cincinnati at 7:00 a.m. and departing Cleveland at 9:53 p.m. Wright's proposed nonstop flights would depart Cincinnati at 9:05 a.m. and 6:45 p.m., and depart Cleveland at 7:30 a.m., and 5:10 p.m. Official Airline Guide, August 1, 1977.

[4] Allegheny and American serve Cleveland Hopkins International, which is located 10 miles to the southwest of Cleveland. Burke Lakefront, on the other hand, is located less than one mile north of the city.

divert traffic from the incumbents, American and Allegheny, but rather would substantially stimulate the market; and (5) it can operate the route at a profit and achieve a six-percent return on investment.

Statements requesting dismissal of Allegheny's application were filed by American and Delta Air Lines. American contends that its Cincinnati-Cleveland load factors are distinctly unsatisfactory, averaging only 50.3% in the first six months of 1976, and that, therefore, there is no need for an additional nonstop carrier in the market. Delta argues that the grant of new authority in the Cincinnati-Cleveland market is too complex to be heard under Subpart M because of TWA's dormant authority and the existence of multiple air carriers holding various degrees of authority between Cincinnati and Cleveland.[5]

The City of Cleveland filed an answer in support of Wright's application and the Greater Cincinnati Chamber of Commerce, the Kenton County Airport Board, and the City of Cincinnati filed a joint answer in support of Allegheny's application.

Upon consideration of the above pleadings and all the relevant facts, we have decided, pursuant to Subpart A of the Board's Rules, to institute the Cincinnati-Cleveland Nonstop Route Proceeding, Docket 31311, for the purpose of considering whether the public convenience and necessity require the certification of an additional carrier or carriers to provide nonstop service between Cincinnati and Cleveland, Ohio. The applications of Wright and Allegheny will be consolidated into this proceeding. In view of the fact that TWA's authority has been dormant since 1966, we will also place in issue, pursuant to our authority under section 204 of the Act, the question of whether TWA's nonstop Cincinnati-Cleveland authority should be altered, amended, modified or suspended pursuant to section 401(g) of the Act,[6] or whether it should be suspended pursuant to section 401(j).

Although this proceeding will be conducted pursuant to Subpart A of the Board's Rules, rather than Subpart M, we direct that the administrative law judge move as expeditiously as possible in processing these applications. In addition, we note that no objections have been filed to Wright's application. Accordingly, if by the date of the prehearing conference there is no opposition to that application, we propose to use show cause procedures to process Wright's request.

By Notice of Environmental Rejection, issued with this order, the Chief, Legal Division, Bureau of Operating Rights, has found, pursuant to section 312.13 of the Board's Procedural Regulations, that the proceeding instituted herein is not one which could lead to a "major Federal action significantly affecting the quality of the environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. However, that conclusion is not intended to foreclose any party from presenting evidence (subject to the usual evidentiary rules in force in CAB proceedings) or from making arguments with respect to relevant environmental issues. Nor are we foreclosed from consideration of environmental facts which might be relevant to our decision.

Accordingly, *it is Ordered*, That:

1. A proceeding to be known as the Cincinnati-Cleveland Nonstop Route Proceeding, Docket 31311, be instituted and be set down for hearing before an administrative law judge of the Board at a time and place hereinafter designated as the orderly administration of the Board's docket permits;

2. The proceeding instituted by paragraph 1, above, shall include consideration of the following issues:

(a) Do the public convenience and necessity require certification of an additional air carrier or carriers to engage in nonstop air transportation between Cincinnati, Ohio, and Cleveland, Ohio?

(b) If the answer to (a) is in the affirmative, which air carrier(s) should be authorized to engage in such service?

(c) What conditions, if any, should be placed on the operation of such carrier(s)?

(d) Should Trans World Airlines' nonstop authority between Cincinnati and Cleveland be altered, amended, modified, or suspended pursuant to section 401(j) of the Act?[7]

3. The applications of Wright Air Lines, in Docket 30241, and Allegheny Airlines, in Docket 29580, be consolidated into the proceeding instituted by paragraph 1, above;

4. Any authority awarded in this proceeding will be ineligible for subsidy;

5. The Motion of Wright Air Lines for hearing be granted; and

6. Applications, motions to consolidate and petitions for reconsideration of this order shall be filed within twenty days from the service date of this order and answers thereto shall be filed within 10 days thereafter.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[8]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–25578 Filed 8–31–77;8:45 am]

[Docket No. 31311]

CINCINNATI-CLEVELAND NONSTOP ROUTE PROCEEDING

Notice of Environmental Rejection

In connection with their respective applications for nonstop authority between Cincinnati, Ohio, and Cleveland, Ohio, consolidated into the above referenced proceeding by Order 77–8–107, dated August 23, 1977, Allegheny Airlines and Wright Air Lines submitted environmental evaluations pursuant to section 312.12(a)(1) of the Board's Procedural Regulations.

Wright's environmental evaluation is based upon the assumption that it would operate two daily nonstop round-trip flights between Cincinnati and Cleveland, using Convair 600 equipment. Allegheny's calculations are based upon the assumption that it would add two daily round trips between Cincinnati and Cleveland, one of which would extend beyond Cleveland to Toronto, and the other of which would extend to Hartford/Springfield. Allegheny would use BAC–1–11 equipment.

Pursuant to sections 312.8 and 312.13 of the Board's Procedural Regulations, the undersigned—having reviewed the environmental evaluation and other available information with respect to the applications described above and having been duly designated by the Director, Bureau of Operating Rights, pursuant to section 312.8—hereby finds that any subsequent Board action approving, denying, or otherwise acting upon such applications would not constitute a "major Federal action significantly affecting the quality of the environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

Dated at Washington, D.C., August 23, 1977.

BARBARA A. CLARK,
Chief, Legal Division,
Bureau of Operating Rights.

[FR Doc.77–25579 Filed 8–31–77;8:45 am]

COMMISSION ON CIVIL RIGHTS

NEBRASKA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Nebraska Advisory Committee (SAC) of the Commission will convene at 10:30 am on September 26, 1977, and will end at 2:00 pm, at the Howard Johnson's Motel, 3650 South 72nd Street, Caribbean Room, Omaha, Nebraska.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Old Federal Office Building, Room 3103, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting is to review and discuss the Committee's private sector employment study and to discuss future SAC activities.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 29, 1977.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc.77–25469 Filed 8–31–77;8:45 am]

[5] Allegheny, American, Delta, and TWA.

[6] This issue will include the question of the deletion of TWA's nonstop authority.

[7] This issue will include the question of the deletion of TWA's nonstop authority.

[8] All Members concurred.

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WYOMING ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee (SAC) of the Commission will convene at 10:30 a.m. on September 24, 1977 and will end at 12:30 p.m., at the Job Service Center, 506 West 17th Street, Cheyenne, Wyoming.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado, 80202.

The purpose of the meeting is to discuss future projects and Commission procedures.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 29, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-25470 Filed 8-31-77;8:45 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

FOOTLIGHT PARADE, INC.

Notice of Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Footlight Parade, Inc., 180 Varick Street, New York, N.Y. 10014, a producer of footwear for women, was accepted for filing on August 24, 1977, pursuant to Section 251 of the Trade Act of 1974 (P.L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-25536 Filed 8-31-77;8:45 am]

COMMISSION ON FEDERAL PAPERWORK

PUBLIC MEETING

Notice is hereby given of the fifteenth regular meeting of the Commission on Federal Paperwork to be held on September 9, 1977, in Room 2154, Rayburn House Building, Washington, D.C.

The meeting will begin at 9:00 a.m. and will continue until approximately 12:00 noon. The meeting will be open to the public. The Commission will review progress on approved projects, including reports in the following areas: Information Resource Management, Federal Reports Act of 1942/The Clearance Process, Ombudsman Activities, Summary Impact Studies, Information Value/Burden Assessment, Service Management and the Final Summary Report.

Anyone wishing to attend the meeting is invited. For further details, contact the Commission on Federal Paperwork, Room 2000, 1111 20th Street NW., Washington, D.C. 20582, telephone—202-653-5400.

FRANK HORTON,
Chairman.

[FR Doc.77-25701 Filed 8-31-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

PRODUCT SAFETY ADVISORY COUNCIL

Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Meeting: Product Safety Advisory Council.

SUMMARY: This notice announces a meeting of the Product Safety Advisory Council (PSAC) on Monday, September 19, 1977 from 9:00 a.m. to 5:00 p.m. and Tuesday, September 20, 1977 from 9:00 a.m. to 4:00 p.m. in the Third Floor Hearing Room, 1111 18th St. NW., Washington, D.C.

SUPPLEMENTARY INFORMATION: The Advisory Council was established by Section 28 of the Consumer Product Safety Act (CPSA), which provides that the Commission may consult with the Council before prescribing a consumer product safety rule or taking other action under the Act.

The proposed agenda for this meeting is as follows:

Monday, September 19—9 a.m. to 5 p.m.

(1) *Orientation/Current Status of CPSC Activities.* This portion of the meeting is intended to familiarize newly appointed Council members with the legislative mandate of the Commission and to bring the full Council up to date on current Commission activities, including Section 15, CPSA, (substantial hazards); Section 12, CPSA, (imminent hazards); Section 27(e), CPSA, (labeling); information and education; Commissioning of State officials for the purpose of performing inspections and investigations under four of the Acts administered by CPSC; NEISS revision (CPSC data-collection system); and the role of the Advisory Council.

(2) *Voluntary Standards Policy.* Discussion and review of CPSC experience to date with voluntary standards efforts, proposed draft policy statement on voluntary standards, and Council viewpoints on a pending issue related to whether CPSC should "endorse" voluntary standards determined to be effective.

Tuesday, September 20—9 a.m. to 4 p.m.

(1) *Committee Management Regulations.* A review of CPSC Committee Management Regulations including conflict of interest guidelines, travel procedures, and other administrative matters pertaining to membership on the Advisory Council.

(2) *Interagency Activities on Hazardous Substances.* A review and discussion of the interagency agreement between CPSC, FDA, EPA, and OSHA to examine, assess, and redesign, if necessary, the processes by which each agency regulates chemicals which impact people and the environment to determine ways these agencies may collectively and effectively control hazardous materials for the protection of the public health.

(3) *Legislative Initiatives for FY 1979.* A review of possible legislative plans submitted to OMB with the FY 1979 Budget request.

(4) *Open Discussion.* Plans for the next meeting; election of PSAC member chairperson, and other items of interest to Council members.

The meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentations to the Advisory Council should notify the Office of the Secretary (see address below) by September 12, 1977.

The notification should list the name of the individual who will make the presentation, the person, company, group or industry on whose behalf the presentation will be made, the subject matter and the approximate time requested.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Dee Wilson, Committee Management Officer, Office of the Secretary, Suite 300, 1111 18th St., N.W., Washington, D.C. 20207 (202-634-7700).

Dated: August 29, 1977.

RICHARD E. RAPPS,
Secretary.

[FR Doc.77-25427 Filed 8-31-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

TSCA/INTERAGENCY TESTING COMMITTEE

Meetings

This notice is intended to advise all interested persons of the TSCA Interagency Testing Committee meeting established under Section 4(e) of the Toxic Substances Control Act for the purpose of making recommendations to the Administrator of the Environmental Protection Agency regarding priorities for issuance of requirements for testing chemical substances and mixtures.

On Thursday, September 8, 1977, the TSCA/ITC will meet at 9 a.m., Room 2010, New Executive Office Building, 726 Jackson Place NW. The Committee will review public comments received on (1) the procedures used in developing the Preliminary List; (2) the content of the Preliminary List; and (3) the specific types of test data needed on substances appearing on the Preliminary List. These comments will assist the Committee in establishing a criteria for selecting chemicals to appear on the final list. Interested persons are invited to attend.

The TSCA/ITC will meet on Thursday, September 15, 1977, at 9 a.m., Room 2010, New Executive Office Building, 726 Jackson Place NW. The Committee plans to reduce the list of chemicals for consideration in the final report. If required, the meeting will extend to September 16. The public is invited. No meeting is scheduled for September 22.

Dated: August 30, 1977.

WARREN R. MUIR,
Chairman, TSCA/ITC.

[FR Doc.77-25715 Filed 8-31-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

ROCKY MOUNTAIN ARSENAL, COLORADO

Filing of Final Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army on September 2, 1977 provided the Council on Environmental Quality with the Final Environmental Impact Statement concerning Part I—Pilot Containment Operations at the Rocky Mountain Arsenal, Colorado.

Copies of the statement have been forwarded to concerned Federal, State and local agencies. Interested organization or individuals may obtain copies from Office of the DA Project Manager for Chemical Demilitarization and Installation Restoration, Building E4585, ATTN: DRCPM-DR-T (CPT J. R. Kolmer), Aberdeen Proving Ground, MD, phone 301-671-2270.

In the Washington area, inspection copies may be seen in the Environmental Office, Office of the Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, D.C. 20310, phone 202-694-1163.

Dated: August 26, 1977.

CHARLES R. FORD,
Acting Assistant Secretary of the Army (Civil Works).

[FR Doc.77-25582 Filed 8-31-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. I-383]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

AUGUST 29, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's rules, regulations and its Policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

Correction Report No. I-378 dated 8-15-77. Entry should have read as follows:

CO 592-DSE-P-77—Rocky Mountain Corporation for Public Broadcasting and School District No. 1 in the city and county of Denver and State of Colorado.

AK 634-DSE-MP-P-77—RCA Alaska Communications, Inc. (KE25), Unalakleet, AK. Modification of Construction permit to make several changes of technical and operating particulars.

MN 627-DSE-P/L-77—John Edmund Kiernat, d.b.a. Community Cable Co., Ortonville, MN. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 45°19'00" N. Long. 96°26'36" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5-meter antenna.

PR 629-DSE-P/L-77—Cable Television of Puerto Rico, Bayamon, PR. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 18°18'53" N. Long. 66°09'25" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10-meter antenna.

ND 630-DSE-P/L-77—Communications Systems, Inc., Dickinson, ND. For authority to construct a domestic communication satellite receive-only Earth station at this location. Lat. 46°55'26" N. Long. 102°43'59" W. Rec. freq: 3700-4200 MHz. Emission 36000 F9. With a 4.5-meter antenna.

FL 631-DSE-MP-77—Southland Satellite Services, Inc., Merritt Island, FL. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 28° 26'28" N. Long. 80°42'59" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10-meter antenna.

MD 632-DSE-P/L-77—First Television Corp., Salisbury, MD. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 38°24'13" N. Long. 75° 37'28" W. Rec. freq: 3700-4200 MHz. No emission listed. With a 6-meter antenna.

HI 633-DSE-P/L-77—Oceanic Cablevision, Inc., Kahe Point, HI. For authority to construct a domestic communications satellite receive-only Earth station at this location. Lat. 21°21'04" N. Long. 158°07'35" W. Rec. freq: 3700-4200 MHz. No emission listed. With a 10-meter antenna.

IL 635-DSE-P/L-77—Satellite Networks Inc., McCook, IL. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 41°47'25" N. Long. 87° 50'40" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10-meter antenna.

LA 636-DSE-P/L-77—Seemore TV Co., Inc., Bastrop, LA. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 32°46'57" N. Long. 91° 56'08" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5-meter antenna.

OK 637-DSE-ML-77—Trans-am Communications Co., a division of Eastern Oklahoma Television Co. (KD30), Ada, OK., modification of license to change the existing license to permit the utilization of a 5-meter antenna.

[FR Doc.77-25492 Filed 8-31-77;8:45 am]

FM AND TV TRANSLATOR APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: August 24, 1977.

Released: August 30, 1977.

Notice is hereby given pursuant to §§ 1.572(c) and 1.573(d) of the Commission's rules, that on October 21, 1977, the TV and FM translator applications listed below will be considered as ready and available for processing. Pursuant to §§ 1.227(b)(1) and 1.519(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on October 20, 1977, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on October 21, 1977.

The attention of any party in interest desiring to file pleadings concerning any pending TV and FM translator application, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

VHF TV TRANSLATOR APPLICATIONS

BPTTV-5866 (new), Black Gap Wildlife Management Area, Tex., Mountain Zone TV. Req: Channel 7, 174-180 MHz, 1 watt. Primary: KOSA-TV, Odessa, Tex.

BPTTV-5867 (new), Black Gap Wildlife Management Area, Tex., Mountain Zone TV. Req: Channel 11, 198-204 MHz, 1 watt. Primary: KMOM-TV, Monahans, Tex.

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BPTTV-5868 (new), Gallup, Area South of Sheep Springs and Nachitti Area North, N. Mex., New Mexico Broadcasting Co. (NSL). Req: Channel 3, 60–66 MHz, 100 watts. Primary: KGGM–TV, Albuquerque, N. Mex.

BPTTV-5869 (new), Carrizo Indian Community and Mud Canyon, N. Mex., Apache Tribe of Mescalero. Req: Channel 11, 198–204 MHz, 1 watt. Primary: KGGM–TV, Albuquerque, N. Mex.

BPTTV-5871 (KO8DC), Hayden, Colo., Yampa Valley TV Association Inc. Req: Change frequency to Channel 9, 186–192 MHz.

BPTTV-5872 (K12DY), Hayden, Colo., Yampa Valley TV Association, Inc. Req: Change frequency to Channel 3, 60–66 MHz.

BPTTV-5873 (new), Merizo, Territory of Guam, Guam Educational Telecommunications Corporation. Req: Channel 4, 66–72MHz, 10 watts. Primary: KGTF–TV, Mangilao, Territory of Guam.

BPTTV-5875 (K10KE), Plain & Lake Wenatchee Area, Wash., Lake Wenatchee TV, Inc. Req: Change primary TV station to KAPP–TV, Channel 35, Yakima, Washington and change via to K69BF, Stemilt, Coluckum and Wenatchee Area, Wash.

BMPTTV-899 (K11NW), Mescalero Apache Reservation, N. Mex., Apache Tribe of Mescalero. Req: Change primary TV station to KGGM–TV, Channel 13, Albuquerque, N. Mex., and change via to BPTTV–5869, Carrizo Indian Community and Mud Canyon, N. Mex.

BMPTTV-900 (K12KU), Mescalero, N. Mex., Apache Tribe of Mescalero, Req: Change primary TV station to KGGM–TV, Channel 13, Albuquerque, N. Mex., and change via to BPTTV–5869, Carrizo Indian Community and Mud Canyon, N. Mex.

UHF TV TRANSLATOR APPLICATIONS

BPTT-3251 (new), Kilauea (Kaual), Hawaii, Hawaii Public Broadcasting Authority. Req: Channel 62, 758–764 MHz, 100 watts. Primary: KHET–TV, Honolulu, Hawaii.

BPTT-3303 (new), Lyon Mountain and Standish, N.Y., International Television Corporation. Req: Channel 66, 782–788 MHz, 10 watts. Primary: WEZF–TV, Burlington, Vt.

BPTT-3304 (new), Logan, Utah, Cache County Municipal Corp. Req: Channel 55, 716–722 MHz, 100 watts. Primary: KUTV–TV, Salt Lake City, Utah.

BPTT-3305 (new), Logan, Utah, Cache County Municipal Corp. Req: Channel 57, 728–734 MHz, 100 watts. Primary: KTVX–TV, Salt Lake City, Utah.

BPTT-3306 (new), Logan, Utah, Cache County Muncipal Corp. Req: Channel 59, 740–746 MHz, 100 watts. Primary: KSL–TV, Salt Lake City, Utah.

BPTT-3307 (new), Logan, Utah, Cache County Muncipal Corp. Req: Channel 61, 752–758 MHz, 100 watts. Primary. KUED–TV, Salt Lake City, Utah.

BPTT-3308 (new), Bellows Falls, Vt., Mount Mansfield Television, Inc. Req: Channel 62, 758–764 MHz, 100 watts. Primary: KCAX–TV, Burlington, Vt.

BPTT-3309 (new), Brattleboro, Vt., Mount Mansfield Television, Inc. Req: Channel 69, 800–806 MHz, 100 watts. Primary: WCAX–TV, Burlington, Vt.

BPTT-3310 (new), Rutland, Vt., Mount Mansfield Television, Inc. Req: Channel 69, 800–806 MHz, 100 watts. Primary: WCAX–TV, Burlington, Vt.

BPTT-3312 (new), Hornsby Ranch, Newkirk and Montoya, N. Mex., New Mexico Broadcasting Co. (NSL). Req: Channel 59, 740–746 MHz, 100 watts. Primary: KGGM–TV, Albuquerque, N. Mex.

BPTT-3313 (K72AX), Tucumari, N. Mex., UHF TV Association. Req: Change primary TV station to KGGM–TV, Channel 13, Albuquerque, N. Mex. and operate via BPTT–3312, Hornsby Ranch, Newkirk and Montoya, N. Mex.

BPTT-3314 (new), Carrizozo, N. Mex., New Mexico Broadcasting Co. (NSL). Req: Channel 65, 776–782 MHz, 100 watts. Primary: KGGM–TV, Albuquerque, N. Mex.

BPTT-3315 (new), Austin, Tex., Spanish International Communications Corporation. Req: Channel 42, 638–644 MHz, 1000 watts. Primary: KWEX–TV, San Antonio, Tex.

BPTT-3316 (K72DB), Waipake, Hawaii, Hawaii Public Broadcasting Authority. Req: Change frequency to Channel 66, 782–788 MHz.

BPTT-3317 (new), Lake Placid, N.Y., International Television Corporation. Req: Channel 55, 716–722 MHz, 100 watts. Primary. WEZF–TV, Burlinton, Vt.

BPTT-3318 (new), Bakersfield, Calif., Spanish International Communications Corporation. Req: Channel 39, 620–626 MHz, 1000 watts. Primary: KFTV–TV, Hanford-Fresno, Calif.

BPTT-3323 (new), Victorville, Apple Valley, Adelanto, Silver Lakes and Phelan, Calif., International Panorama TV Inc. Req: Channel 64, 770–776 MHz, 100 watts. Primary: KLXA–TV, Fontana, Calif.

[FR Doc.77-5491 Filed 8-31-77;8:45 am]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Pub. L. 92–463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

EXECUTIVE COMMITTEE MEETING

TUESDAY, SEPTEMBER 20, 1977

The next Executive Committee meeting will be on Tuesday, September 20, 1977, in Conference Room 847, 1919 M Street NW., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendees; Adoption of Agenda.
3. Acceptance of Minutes of Executive Committee meetings.
4. Committee Reports.
5. Approval of new Membership Applications.
6. Administrative Action items.
7. Report on Constitutional Amendment Balloting.
8. Discussion and approvals for 1978 Assembly Meeting.
9. Summary Reports and Announcements.
10. New business.
11. Establishment of next meeting date.

Special Committee No. 66—"Receiver Standards for the Maritime Mobile Service."

Notice of 42nd meeting, Wednesday, September 21, 1977, 9:30 a.m. (Full-day meeting), Conference Room A–205, 1229 20th Street NW., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Adoption of Agenda; Appointment of Rapporteur.
3. Acceptance of SC–66 Summary Record.
4. Continue preparation of MMS R–5, Standard for "General Purpose Marine Receivers".
5. Discussion of problem areas.
6. Solicitation of work assignments.
7. Other business.
8. Establishment of next meeting date.

H. R. Smith, Chairman, SC–66, ITT Mackay Marine, 441 U.S. Highway No. 1, Elizabeth, N.J. 07202. Phone: (201) 527–0300.

Special Committee No. 71—"VHF Automated Radiotelephone Systems."

Notice of third meeting, Monday, September 26, 1977, 10:00 a.m. (Full-day meeting).

NOTE.—Originally scheduled date of September 19 has been deferred until September 26.

Conference Room A–110, 1229 20th Street NW., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendees; Adoption of Agenda.
3. Acceptance of SC–71 Summary Record.
4. Morning Session: Presentation and discussion relating to use of public telephone network.
5. Afternoon Session: Presentations and discussion of regulatory matters and the use of automated system features for communications relating to safety and vessel movements.
6. Other business.
7. Establishment of next meeting date.

John J. Renner, Chairman, Advanced Technology Systems, Inc., 2425 Wilson Blvd., Arlington, Va. 22201. Phone: (703) 525–2664.

To comply with the advance notice requirements of Pub. L. 92–463, a comparatively long interval of time occurs between publication of this notice and an actual meeting. Consequently, there is no absolute certainty that the listed meeting room will be available on the day of a meeting. Those planning to attend a meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for a meeting will be available at the meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat. (Phone (202) 632–6490.)

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees, and a Special Committee final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public. Written statements are preferred but by previous arrangement, oral presentations will be permitted within time and space limitations.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-25490 Filed 8-31-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

Availability of Final Programmatic Environmental Impact Statement on Allocation of Petroleum Feedstocks to Synthetic Natural Gas Plants

AGENCY: Federal Energy Administration.

ACTION: Notice of Availability of the Final Programmatic Environmental Impact Statement on the Allocation of Petroleum Feedstocks to Synthetic Natural Gas Plants.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA), 42 U.S.C. 4332(2)(C), the Federal Energy Administration (FEA) has prepared the final programmatic environmental impact statement (EIS) on the allocation of petroleum feedstocks to synthetic natural gas (SNG) plants.

The draft programmatic EIS was made available to the Council on Environmental Quality and to to the public on June 2, 1977. The final EIS (FES 77–4) includes comments received by FEA on the draft EIS (DES 77–4) and FEA analyses and responses to these comments.

DATE: Comments by September 30, 1977.

ADDRESS: Written comments to: Executive Communications, Box PA, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Finn K. Neilsen (Regulatory Programs), Room 6318, 2000 M Street NW., Washington, D.C. 20461 (202–254–9730).

Robert J. Stern (Office of Environmental Impact), Room 7119, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202–566–9760).

Janine Landow-Esser (Office of General Counsel), Room 5113, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202–566–9380).

SUPPLEMENTARY INFORMATION: Allocation and use of naphtha, liquefied petroleum gases (LPG's) and natural gas liquids (NGL's) for the purpose of manufacturing SNG are currently controlled by FEA under the authority of the Emergency Petroleum Allocation Act of 1973, as amended, and FEA's implementing regulations, the Mandatory Petroleum Allocation Regulations (10 C.F.R. Part 211). Preparation of the programmatic EIS was undertaken in support of a reassessment of FEA's SNG feedstock allocation policy.

FEA will allow a minimum of 30 days for interested parties to comment before taking any administrative action with regard to the SNG feedstock allocation policy.

COMMENT PROCEDURE

Single copies of the final programmatic EIS (FES 77–4) are available upon request from the National Energy Information Center, Room 1404, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461. Copies of the EIS will also be available for public review in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Interested parties are invited to submit written comments with respect to the final EIS to Executive Communications, Box PA, Room 3317, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the documents submitted to FEA with the designation "Final Programmatic SNG EIS (FES 77–4)". Ten copies should be submitted. All comments should be received by FEA no later than September 30, 1977, in order to ensure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in one copy only, in accordance with the procedures set forth at 10 CFR 205.9(f). Any material not accompanied by a statement of confidentiality will be considered to be non-confidential. FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., August 25, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-25268 Filed 8-31-77;8:45 am]

FEDERAL MARITIME COMMISSION

PORT OF SEATTLE AND PORT OF SEATTLE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 21, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Wash. 98111.

Agreement No. T–3507, between Port of Seattle, in the capacity of Grantor on behalf of the State of Washington, and Port of Seattle (Port), in the capacity as user, provides for the 30-year grant to Port of a waterway and street permit for certain areas described in the agreement to be used by Port itself or by others under a subpermit. As compensation, Port will pay $1.00 per year for use of the areas by itself or another governmental body for noncommercial purposes under a subpermit. Port will pay as additional rental only those revenues which are received under subpermits which: (1) do not have structures or improvements constructed or owned by Port; and (2) are being used by a subpermittee for commercial purpose.

By Order of the Federal Maritime Commission.

Dated: August 26, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-25537 Filed 8-31-77;8:45 am]

[Independent Ocean Freight Forwarder License No. 1071]

STANDARD SHIPPING CO., D.B.A. (CAMERINO FERNANDEZ MONTESINOS)

Order of Revocation

On August 15, 1977, Standard Shipping Co. (Camerino Fernandez Montesinos d.b.a.) New Orleans, La. 70130, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1071 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), Section 5.01(b), dated June 30, 1975;

It is ordered, That Independent Ocean Freight Forwarder License No. 1071 issued to Standard Shipping Co., be and is hereby revoked effective August 15, 1977 without prejudice to reapply for a license in the future.

It is further ordered That, a copy of this Order be published in the FEDERAL REGISTER and serve upon Standard Shipping Company.

LEROY F. FULLER,
Director, Bureau of Certification and Licensing.

[FR Doc.77-25538 Filed 8-31-77;8:45 am]

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GENERAL SERVICES ADMINISTRATION

[Temporary Regulation D-61]

FEDERAL PROPERTY MANAGEMENT REGULATIONS

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Labor to make appropriate arrangements with State and local law enforcement agencies to use facilities and services at seven Job Corps Centers under exclusive legislative jurisdiction.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation. a.* Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and the Act of June 1, 1949 (62 Stat. 281), as amended, authority is hereby delegated to the Secretary of Labor to make appropriate arrangements with State and local agencies to utilize the facilities and services of agencies at the Job Corps Centers over which the Department of Labor has determined that the United States has exclusive legislative jurisdiction. This authority extends to the Job Corps Centers in Edinburg Ind.; Morganfield, Ky.; Excelsior Springs, Mo.; San Marcos, Tex.; McKinney, Tex.; Edison, N.J.; and Astoria, Oreg.

b. The Secretary of Labor may redelegate this authority to any officer or employee of the Department of Labor.

c. This authority shall be exercised in accordance with the limitations and requirements of the above cited acts and the policies, procedures, and controls prescribed by the General Services Administration.

Dated: AUGUST 23, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77-25534 Filed 8-31-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

Public Meeting

AGENCY: National Advisory Council on Equality of Educational Opportunity.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the proposed agenda of the forthcoming meeting of the National Advisory Council on Equality of Educational Opportunity. It also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C., Appendix 1, 10(a)(21)). This document is intended to notify the general public of their opportunity to attend.

DATE AND PLACE OF MEETING: September 23rd/24th; Albuquerque, New Mexico.

ADDRESS: Four Seasons Motor Inn, 2500 Carlisle Boulevard, NW., P.O. Box 30087, Albuquerque, New Mexico.

FOR FURTHER INFORMATION, CONTACT:

Rosemarie Maynez, Administrative Assistant, NACEEO, 1325 G Street, NW., Suite 710, Washington, D.C. 20005. Phone: 202-724-0221.

The National Advisory Council on Equality of Educational Opportunity is established under Section 716 of the Emergency School Aid Act (Pub L. 9-318, Title VII, as amended by Pub. L. 93-380 and Pub. L. 94-482). The Council is established to: (1) Advise the Assistant Secretary for Education with respect to the operation of the program authorized under the Emergency School Aid Act (ESAA), including the preparation of regulations and the development of criteria for the approval of applications; and (2) review the operation of the program with respect to its effectiveness in achieving its purpose as stated in the Act and with respect to the Assistant Secretary's conduct in the administration of the program.

The meeting, which is open to the public, will convene at 9:30 a.m. until 4:30 p.m. on Friday, September 23rd, and reconvene at 9:30 a.m. until 12:00 noon on Saturday, September 24th. Primarily, the focus of attention concerns the present regulatory requirements of the ESAA program contrasted against the background of small rural districts with a heavy concentration of minority students. ESAA directors from several small districts throughout the state, along with the EEO state department personnel will make presentations to the Council concerning the effect that the recent interpretation of ESAA eligibility by the former Commissioner of Education will have on their district's attempt to meet their specialized needs. Verbal reports from the three main Task Forces of NACEEO will also be presented to the main group, not for action but for information. A program delegate from the U.S. Office of Education, Equal Educational Opportunity division, will also be in attendance and will give the Council an update on program activities.

Requests for oral presentations by the public before the Council must be submitted in writing to the Executive Director of NACEEO, Mr. Leo A. Lorenzo, and should include the names of all persons seeking an appearance, the party or parties which they represent, and the purpose for which the presentation is requested. Following the presentation, the statement in writing shall be submitted to the Executive Director. In the event that the tentative agenda is completed prior to the projected time, the Council will adjourn the meeting.

Records of all meetings are kept at NACEEO headquarters, 1325 G Street, NW., Suite 710, Washington, D.C. 20005, and are available for public inspection.

Signed at Washington, D.C., on August 29, 1977.

LEO A. LORENZO,
Executive Director.

[FR Doc.77-25605 Filed 8-31-77;8:45 am]

Office of Education

ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

Schedule and Agenda

AGENCY: Office of Education, HEW.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of the next public meeting of the Advisory Committee on Accreditation and Institutional Eligibility. It also describes the functions of the Committee. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend and to participate.

DATES: September 27, 1977, 1:00 p.m. to 5:00 p.m., local time; September 28, 9:00 a.m. to 4:45 p.m.; September 29, 9:00 a.m. to 5:00 p.m.; and September 30, 9:00 a.m. to 12:00 noon. Requests for oral presentations before the Committee must be received on or before September 15, 1977. All written material which a party wishes to file may be submitted at any time and will be considered by the Advisory Committee.

ADDRESS: Holiday Inn—Bethesda, 8120 Wisconsin Avenue, Bethesda, Md. 20014.

FOR FURTHER INFORMATION CONTACT:

John R. Proffitt, Director, Division of Eligibility and Agency Evaluation, Office of Education, Room 3030, ROB 3, 400 Maryland Avenue SW., Washington, D.C. 20202 (202-245-9873).

The Advisory Committee on Accreditation and Institutional Eligibility is established pursuant to Section 253 of the Veteran's Readjustment Assistance Act (Chapter 33, Title 38, United States Code). The Committee is directed to:

1. Review all current and future policies relating to the responsibility of the Commissioner for the recognization and designation of accrediting agencies and associations wishing to be designated as nationally recognized accrediting agencies and associations, and recommend desirable changes in criteria and procedures;

2. Review all current and future policies relating to the responsibility of the Commissioner for the recognition and listing of State agencies wishing to be designated as reliable authority as to the quality of public postsecondary vocational education, and of nurse education, and recommend desirable changes in criteria and procedures;

3. Review and advise the Commissioner of Education in the formation of all current and future policy relating to the matter of institutional eligibility;

4. Review the provisions of current legislation affecting Office of Education responsibility in the area of accreditation and institutional eligibility and suggest needed changes to the Commissioner of Education;

5. Develop and recommend to the Commissioner of Education criteria and procedures for the recognition and designation of accrediting agencies and associations in accordance with legislative provisions, Presidential directives, or interagency agreements;

6. Review and recommend to the Commissioner of Education for designation as nationally recognized accrediting agencies and associations of reliable authority all applicant accrediting agencies and associations which meet criteria established under (5) above;

7. Develop and recommend to the Commissioner of Education criteria and procedures for the recognition, designation and listing of State agencies in accordance with statutory provisions, Executive Orders, or interagency agreements;

8. Review and recommend to the Commissioner of Education for designation as State agencies of reliable authority as to the quality of public postsecondary vocational education, and of nurse education, all applicant State agencies which meet criteria established under (7) above;

9. Develop, under the authority of the Vocational Education Act of 1963, as amended, and recommend for the approval of the Commissioner of Education, standards and criteria for specific categories of private vocational training institutions which have no alternative route by which to establish eligibility for Federal funding programs;

10. Develop, under the authority of the Higher Education Act of 1965, as amended, and recommend for the approval of the Commissioner of Education, standards and criteria for specific categories of institutions of higher education, for which there is no recognized accrediting agency or association, in order to establish eligibility for participation in the student loan programs authorized by Title IV-B thereof;

11. Maintain a continuous review of Office of Education administrative practice, procedures and judgments relating to accreditation and institutional eligibility and advise the Commissioner of needed changes;

12. Keep within its purview the accreditation and approval process as it develops in all levels of education;

13. Advise the Commissioner of Education concerning the relations of the Office with accrediting agencies or associations, or other approval bodies as the Commissioner may request.

14. Advise the Commissioner of Education, pursuant to the Bureau of the Budget (Office of Management and Budget) policy dated December 23, 1954, regarding the award of degree-granting status to Federal agencies and institutions.

15. Not later than March 31 of each year, make an Annual report of its activities, findings and recommendations.

The meeting of September 27, 28, 29 and 30, 1977, will be open to the public. This meeting will be held at the Holiday Inn, Bethesda, Md. The Committee will review petitions and reports by accrediting and State approval agencies for initial or continued recognition by the U.S. Commissioner of Education. The Committee also will hear presentations by representatives of the petitioning agencies and interested third parties, and will review policy items pertaining to accreditation and institutional eligibility. In addition, the Committee will review a request by Luna Vocational-Technical Institute, Las Vegas, N. Mex., for a determination of satisfactory assurance that it will meet accrediting standards of a nationally recognized accrediting agency within a reasonable period of time. Agencies having petitions and reports pending before the Committee are:

American Library Association, Committee on Accreditation.
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Curriculum Review Board, American Association of Medical Assistants.
American Osteopathic Association.
American Podiatry Association, Council on Podiatry Education.
Arkansas State Board for Vocational Education.
Council on Social Work Education, Commission on Accreditation.
National Accreditation Association for Psychoanalysis, Inc.
National Association of Schools of Music.
North American Association of Buddhist Schools and Colleges.
North Central Association of Colleges and Schools, Commission on Institutions of Higher Education.
Oklahoma State Board of Vocational and Technical Education.
Society of American Foresters.
Utah State Board for Vocational Education.

Requests for oral presentations before the Committee should be submitted in writing to the Director, Division of Eligibility and Agency Evaluation, Office of Education, Room 3030, ROB 3, 400 Maryland Avenue SW., Washington, D.C. 20202. Requests should include the names of all persons seeking an appearance, the party or parties which they represent, and the purpose for which the presentation is requested. Requests must be received by the Division of Eligibility and Agency Evaluation on or before September 15, 1977. Time constraints may limit oral presentations. However, all additional written material that a party wishes to file will be considered by the Advisory Committee.

Records shall be kept of all Committee proceedings, and shall be available for public inspection at the Division of Eligibility and Agency Evaluation.

Signed at Washington, D.C. on August 25, 1977.

JOHN R. PROFFITT,
Director, Division of Eligibility and Agency Evaluation, Office of Education.

[FR Doc.77-25598 Filed 8-31-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-534]

INTERAGENCY DROUGHT EMERGENCY COORDINATING COMMITTEE

Designation of Additional Emergency Drought Impact Areas

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of additional designation of Emergency Drought Impact Areas by the Interagency Drought Emergency Coordinating Committee of 1977.

DATED August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack W. McGraw, Director, Preparedness Office, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202—634-7845).

Acting upon the request of the Governor, the Interagency Drought Emergency Coordinating Committee designated the following as Emergency Drought Impact Areas:

ALABAMA—5 ADDITIONAL COUNTIES

Colbert.	Lauderdale.
Lawrence.	Limestone.
Madison.	

The designation of an Emergency Drought Impact Area does not confer entitlement to drought assistance. Individuals and communities must meet the separate eligibility requirements established by each agency before assistance may be provided.

Under the authority granted to the Administrator as Secretary to the Committee by the Memorandum of Agreement (42 FR 21855, April 29, 1977), I have provided this designation for the public record.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-25431 Filed 8-31-77;8:45 am]

[Docket No. NFD-535]

INTERAGENCY DROUGHT EMERGENCY COORDINATING COMMITTEE

Designation of Additional Emergency Drought Impact Areas

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of additional designation of Emergency Drought Impact Areas by the Interagency Drought Emergency Coordinating Committee of 1977.

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DATED: August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack W. McGraw, Director, Preparedness Office, Federal Disaster Assistance Administration Department of Housing and Urban Development, Washington, D.C. 20410 (202–634–7845).

Acting upon the request of the respective Governors, the Interagency Drought Emergency Coordinating Committee designated the following as Emergency Drought Impact Areas:

INDIANA—1 ADDITIONAL COUNTY

Madison.

MICHIGAN—4 ADDITIONAL COUNTIES

Berrien.	Gratiot.
Cass.	Van Buren.

VIRGINIA—3 ADDITIONAL COUNTIES

Carroll.	Grayson.
Floyd.	

The designation of an Emergency Drought Impact Area does not confer entitlement to drought assistance. Individuals and communities must meet the separate eligibility requirements established by each agency before assistance may be provided.

Under the authority granted to the Administrator as Secretary to the Committee by the Memorandum of Agreement (42 FR 21855, April 29, 1977), I have provided this designation for the public record.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77–25432 Filed 8–31–77;8:45 am]

[Docket No. NFD–536]

INTERAGENCY DROUGHT EMERGENCY COORDINATING COMMITTEE

Designation of Additional Emergency Drought Impact Areas

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of additional designation of Emergency Drought Impact Areas by the Interagency Drought Emergency Coordinating Committee of 1977.

DATED: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack W. McGraw, Director, Preparedness Office, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, (202–634–7845).

Acting upon the request of the respective Governors, the Interagency Drought Emergency Coordinating Committee designated the following as Emergency Drought Impact Areas:

GEORGIA—3 ADDITIONAL COUNTIES

(The entire State has now been designated.)

Rabun	Towns
Union	

LOUISIANA—2 ADDITIONAL PARISHES

Bossier	Natchitoches

MISSISSIPPI—6 ADDITIONAL COUNTIES

Choctaw	Lowndes
Clay	Noxubee
Kemper	Oktibbeha

NORTH CAROLINA—1 ADDITIONAL COUNTY

Columbus

VERMONT—3 ADDITIONAL COUNTIES

Chittenden	Rutland
Franklin	

VIRGINIA—8 ADDITIONAL INDEPENDENT CITIES

Chesapeake	Poquoson
Hampton	Portsmouth
Newport News	Suffolk
Norfolk	Virginia Beach

WASHINGTON—1 ADDITIONAL COUNTY

Jefferson

The designation of an Emergency Drought Impact Area does not confer entitlement to drought assistance. Individuals and communities must meet the separate eligibility requirements established by each agency before assistance may be provided.

Under the authority granted to the Administrator as Secretary to the Committee by the Memorandum of Agreement (42 FR p1855, April 29, 1977), I have provided this designation for the public record.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77–25433 Filed 8–31–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Albuquerque Area Office, Redelegation Order 2, Amdt. 3]

CHIEF, SOUTHWEST TITLE PLANT

Delegation of Authority Relating to Administrative Modifications in Probate Cases

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

This authority is issued under the authority delegated to the Commissioner of Indian Affairs from the Secretary of the Interior in 230 DM 1 and redelegated by the Commissioner to the Area Directors in 10 BIAM 3.

The Albuquerque Area Office Redelegation Order 2 was published beginning on page 3763 of the February 26, 1970, FEDERAL REGISTER (35 FR 3763) and subsequently amended. It is further amended by adding a PART 4—Authority of Chief, Southwest Title Plant.

Section 4.272(a) of Title 43 of the Code of Federal Regulations authorizes the Commissioner of Indian Affairs to modify the inventory of property in the estate of a deceased Indian when, subsequent to the issuance of a decision under 43 CFR 4.240 or 4.296, it is found that trust property or an interest therein belonging to a descendant has not been included in the inventory. The Commissioner's authority is delegated to Area Directors in 10 BIAM 3.1.

The redelegation in new Part 4 is now being published, and also made retroactive to July 1, 1973 (the date on which the Southwest Title Plant was transferred to the jurisdiction of the Albuquerque Area Office) in order to formalize a previous verbal redelegation to the Title Plant.

New Part 4 reads as follows:

PART 4—AUTHORITY OF CHIEF, SOUTHWEST TITLE PLANT

SECTION 4.1 *Administrative Modification.* The authority of the Area Director of the Albuquerque Area Office to modify the inventory on any trust property referred to in 43 CFR 4.272(a) and on which the Southwest Title Plant maintains the title records is hereby redelegated to the Chief, Southwest Title Plant, and to persons authorized to act in his or her stead during his or her absence.

Effective Date: This redelegation authority is made retroactive to July 1, 1973.

Approved July 8, 1977.

CELESTINO PAPUYO,
Acting Area Director.

Approved: August 24, 1977.

THEODORE C. KRENZKE,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc. 77–25495 Filed 8–31–77; 8:45 am]

TURTLE MOUNTAIN BAND OF CHIPPEWA INDIANS, TURTLE MOUNTAIN RESERVATION, NORTH DAKOTA

Transfer of Federally Owned Lands

AUGUST 24, 1977.

This notice is published in exercise of authority by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

On June 3, 1977, pursuant to authority contained in the Federal Property and Administrative Services Act of 1949, as amended by Pub. L. 93–599 dated January 2, 1975 (88 Stat. 1954), the below-described property was transferred by the Director, Real Property Division, Denver Regional Office of the General Services Administration, to the Area Director, Aberdeen Area Office, Bureau of Indian Affairs, without reimbursement, to be held in trust for the benefit and use of the Turtle Mountain Band of Chippewa Indian Tribe, Turtle Mountain Reservation, North Dakota:

T. 162 N., R. 70 W., Fifth Principal Meridian, North Dakota.
Section 3, SE¼SW¼SE¼, S½NE¼SW¼SE¼, W½SW¼SE¼SE¼, SW¼NW¼SE¼SE¼.

These lands, containing 22.50 acres more or less, are to be treated as and receive the same benefits and protection as other trust lands held for the benefit and use of the Turtle Mountain Band of Chippewa Tribe. Appropriate notation will be made in the land records of the Bureau of Indian Affairs.

THEODORE C. KRENZKE,
Acting Deputy Commissioner, of Indian Affairs.

[FR Doc.77–25494 Filed 8–31–77;8:45 am]

Bureau of Land Management

[Colorado 15142]

COLORADO

Partial Termination of Proposed Withdrawal and Reservation of Lands

Notice of a Forest Service, U.S. Department of Agriculture application, Colorado 15142, for withdrawal and reservation of lands for public purposes was published as F.R. Doc. 72–4500, on page 6122–6123 of the issue of March 24, 1972. The applicant agency has cancelled its application insofar as it affects the following described lands:

SAN JUAN NATIONAL PARK
NEW MEXICO PRINCIPAL MERIDIAN

ROARING FORK CAMPGROUND

T. 39 N., R. 11 W.
Sec. 31: SE¼NW¼SE¼, SW¼NE¼SE¼, E½NE¼SW¼SE¼, SE¼SE¼
The above area aggregates 65 acres.

Therefore, pursuant to the regulations contained in 43 CFR Part 2310, such lands, at 10:00 a.m., on September 30, 1977 will be relieved of the segregative effect of the above-mentioned application.

THOMAS N. HARDIN,
Chief, Branch of Adjudication.

[FR Doc.77–25518 Filed 8–31–77;8:45 am]

[NM 31468]

NEW MEXICO

Application

AUGUST 26, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 32 N., R. 12 W.,
Sec. 23, SE¼NW¼;
Sec. 28, NE¼SE¼.

This pipeline will convey natural gas across 0.46 miles of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–25519 Filed 8–31–77;8:45 am]

[NM 31466]

NEW MEXICO

Application

AUGUST 26, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 24 S., R. 27 E.,
Sec. 30, SE¼NE¼.

This pipeline will convey natural gas across 0.170 miles of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–25520 Filed 8–31–77;8:45 am]

[NM 21791]

NEW MEXICO

Application; Correction

AUGUST 24, 1977.

In Federal Register Doc. 77–23776, appearing on pages 41486 and 41487 in the issue of August 17, 1977, the following corrections are hereby made:

65°07'35.2" (column 3, line 70 on page 41486) is corrected to 65°07'37.9"; and

59°52'51.5" (column 2, line 69 on page 41487) is corrected to 55°52'51.5".

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–25521 Filed 8–31–77;8:45 am]

[NM 31460]

NEW MEXICO

Application

AUGUST 26, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for seven 4-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 8 W.,
Sec. 5, S½SE¼;
Sec. 8, E½NW¼;
Sec. 18, SE¼NW¼, NE¼SW¼ and NW¼SE¼;
Sec. 31, lots 12, 13, 19 and 20.
T. 29 N., R. 9 W.,
Sec. 21, lots 3, 4 and NW¼SE¼;
Sec. 22, E½SW¼ and NW¼SE¼.
T. 30 N., R. 9 W.,
Sec. 30, SE¼NE¼ and NE¼SE¼.

These pipelines will convey natural gas across 3.10 miles of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief Branch of Lands and Minerals Operations.

[FR Doc.77–25522 Filed 8–31–77; 8:45 am]

[NM 31463 and 31465]

NEW MEXICO

Applications

AUGUST 25, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for a cathodic protection station site and a 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R. 27 E.,
Sec. 22, E½NW¼.
T. 9 S., R. 29 E.,
Sec. 22, SE½SE¼;
Sec. 23, N½NW¼;
Sec. 27, N½NE¼, SW¼NE¼ and E½SW¼.

The site and pipeline will be used in connection with natural gas operations and will cross 1.456 miles of public lands in Chaves and Eddy Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether

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the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

STELLA V. GONZALES,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-25523 Filed 8-31-77;8:45 am]

[NM 31460, 31461, 21462, and 31464]

NEW MEXICO

Applications

AUGUST 25, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for an underground cable and three 4½-inch pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.

T. 28 N., R. 6 W., Sec. 33, NE¼SE¼; Sec. 34, lot 4 and NW¼SW¼.
T. 26 N., R. 7 W., Sec. 3, lots 1, 4 and N½SW¼.

The cable and pipelines will be used in connection with natural gas operations and will cross 0.979 miles of public lands in Rio Arriba County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

STELLA V. GONZALES,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-25524 Filed 8-31-77;8:45 am]

[NM 31439]

NEW MEXICO

Application

AUGUST 24, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Natural Gas Pipeline Co. of America has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.

T. 20 S., R. 24 E., Sec. 24, NE¼SE¼.

This pipeline will convey natural gas across 0.043 miles of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-25525 Filed 8-31-77;8:45 am]

[OR 15295]

OREGON

Order Providing for Opening of Public Lands

AUGUST 23, 1977.

1. In an exchange of lands made under the provisions of section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following lands have been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 11 S., R. 26 E., sec. 24, S½SE¼; sec. 25, E½NE¼.
T. 11 S., R. 27 E., sec. 19, lot 4, SE¼SW¼, and S½SE¼; sec. 29, W½W½, and SE¼SW¼; sec. 30, lots 1 and 2, E½, and E½NW¼; sec. 31, SE¼SE¼; sec. 32, N½N½, S½SW¼, and W½SE¼.
T. 12 S., R. 27 E., sec. 5, lots 2, 3, and 4, SE¼NW¼, and NE¼SW¼.

The areas described aggregate 1,561.45 acres in Grant County, Oreg.

2. The subject lands are located in the vicinity of Rudio Mountain, 6 to 10 air miles north of Dayville, Oreg., and approximately 30 air miles northwest of the City of John Day. Elevation ranges from 3,900 to 5,200 feet above sea level, and the topography varies from gently sloping to moderately steep slopes of up to 50 percent. Vegetation consists of scattered stands of ponderosa pine and Douglas fir with large areas covered with sagebrush, juniper, and native grasses. The lands have been in the past used for grazing and timber production. They remain valuable for these uses and will be managed, together with adjoining public lands, for multiple use.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described above are hereby open to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.), and the mineral leasing laws. All valid applications received at or prior to 10 a.m. October 3, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oreg. 97208.

FREDERICK S. CRAFTS,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.25526 Filed 8-31-77;8:45 am]

[Wyoming 60685]

WYOMING

Application

AUGUST 24, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an application for a right-of-way to construct a 4" I.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 20 N., R. 94 W.,
sec 8, S½NW¼.
T. 20 N., R. 95 W.,
sec. 12, SE¼SE¼.

The pipeline will transport natural gas from a well in section 8, T. 20 N., R. 94 W., to present facilities in section 12, T. 20 N., R. 95 W.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1299 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-25527 Filed 8-31-77;8:45 am]

[Wyoming 60303]

WYOMING

Application

AUGUST 24, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Mountain Fuel Supply Co. of Salt Lake City, Utah filed an application for a right-of-way to construct a 3½-inch pipeline for the purpose of transporting gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 19 N., R. 112 W., sec. 20, N½SE¼ and SE¼SE¼.

The pipeline will transport gas from the Wilson Ranch Well No. 5 in sec. 20 to an existing pipeline in sec. 22, all within T. 19 N., R. 112 W., in Lincoln County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land

Management, Rock Springs, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-25528 Filed 8-31-77;8:45 am]

[NM 31294]

NEW MEXICO

Application

AUGUST, 22, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Natural Gas Pipeline Company of America has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 28 E.,
Sec. 7, SE¼SE¼;
Sec. 8, SW¼NE¼, N½SW¼ and SW¼SW¼;
Sec. 18, N½NE¼.

This pipeline will convey natural gas across 1.419 miles of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-25395 Filed 8-31-77;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant. Minnesota Dept. of Natural Resources, Ecological Services Section, Monitoring and Control Unit, 390 Centennial Office Building, St. Paul, Minnesota 55155.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Mark one only)
☐ IMPORT OR EXPORT LICENSE [X] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH NEW OR REVISED LICENSE OR PERMIT IS NEEDED.
To survey mussels in the St. Croix, Mississippi and Minnesota Rivers and salvage dead specimens of Lampsilis higginsi.

3. APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Minnesota Dept. of Natural Resources
Ecological Services Section
Monitoring and Control Unit
390 Centennial Office Building
St. Paul, MN 55155 (612/296-2835)

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING
☐ OWN ☐ LEASE ☐ MISC. ☐ BUS.
HEIGHT WEIGHT
DATE OF BIRTH COLOR HAIR COLOR EYES
PHONE NUMBER WHERE EMPLOYED SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS CORPORATION, PART OF A BUSINESS, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OF KIND OF BUSINESS, AGENCY, OR INSTITUTION
Natural Resource Management.
The monitoring and control unit includes among other duties monitoring of effects of power plants, and mussel surveys would mainly be in conjunction with that work.

ANY BUSINESS, AGENCY OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Howard F. Krosch, Coordinator, Monitoring & Control Unit
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Lower 52 miles of the St. Croix River, and Mississippi River, from Hastings to Alma, and Minnesota River.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMITS ☐ YES [X] NO
(If yes, list license or permit number)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES [X] NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF

10. DESIRED EFFECTIVE DATE: as soon as possible

11. DURATION NEEDED: Indefinite

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (SEE 50 CFR 13.12(a)(2) THRU (6)) IS ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
See attachment

CERTIFICATION
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (Do not type) — DATE: 15 July 77
Howard F. Krosch

3-200
16-741

1. I am seeking a permit to salvage dead specimens of the Higgin's Eye mussel (Lampsilis higginsi) of both sexes. The collecting method used (wading and crowfoot bar dredge or brail) is not selective as to sex, but smaller and younger individuals will be taken and returned to the wild. No larve will be taken. The purpose is to notify the proper agencies of the State of Minnesota so that protective measures can be taken to protect mussel beds containing endangered mussels and significant populations of mussel species.

2. The animal I wish to collect is still in the wild.

3. Lampsilis higginsi and other mussels are difficult to identify in the field so the mussels collected will be sent to Dr. David Stansbery at the Ohio State University Museum. Less than five specimens from each mussel bed will be sent to Dr. Stansbery for identification and all others collected will be returned to the river.

4. One dead specimen has been collected near Lakeland, Minnesota, in the St. Croix River (approximately 16.5 river miles) and I am waiting for a permit so the mussel specimen can be sent to Dr. David Stansbery at the Ohio State University Museum for positive identification.

V 42 170 SEP 1 77 UMI

5. Science Museum of Minnesota, 30 East 10th Street, St. Paul, Minnesota.

6. N/A.

7. No contracts on agreements are involved.

8. (i) I am an employee with the Minnesota Department of Natural Resources and I am currently collecting mussel specimens for a collection to be used for identifying other mussels collected by field personnel in their specific duties.

(ii) Collecting will be conducted from May to September annually at selected sites. Wading and the crowfoot bar dredge or brail will be used for sample collection. Not every mussel bed will be sampled every year.

(iii) When the Lampsilis higginsi is found, the proper authority will be notified so that habitat can be protected as much as possible.

(iv) Any specimen not identified as Higgin's Eye pearly mussel in the field will be sent to Dr. Stansbery for identification and becomes part of the Minnesota Science Museum collection.

12. Attachment.

It is anticipated that virtually all of the specimens to be sent to Dr. Stansbry will be salvaged dead shells of specimens of *Lampsilis higginsi*. As such, no preservatives will be necessary; although the shells will be carefully packed in appropriate cushioning materials to help them withstand the tender mercies of the U.S. Postal Service while in transit.

Should it be necessary to preserve recently dead specimens or any others containing soft parts, these will be preserved in a solution of ethanol or formalin or by freezing, as is deemed best.

Those specimens to be retained in museum collections will be stored and cared for according to the standard protocol in the particular museum.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1098-C07; please refer to this number when submitting comments. All relevant comments received on or before October 3, 1977, will be considered.

Dated: August 25, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-25511 Filed 8-31-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant. Florida Game and Fresh Water Fish Commission, Farris Bryant Building, 620 South Meridian Street, Tallahassee, Fla. 32304.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

OMB NO. 42-R1670

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Permit to take Eastern Brown Pelicans for purposes of pesticide monitoring (see attached sheet).

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Florida Game and Fresh Water Fish Comm.
620 S. Meridian Street
Tallahassee, FL 32304
904/488-3831
(for specific info. call 904/376-6481)

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
State institution constitutionally authorized as responsible for wildlife and fresh water aquatic life.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
Florida Game & Fresh Water Fish Comm.
and
Louisiana Wildlife & Fisheries Comm.

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
O. E. Frye, Jr., Dir.
904/488-2975 (R. M. Brantly, eff. 7/1/77)

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
N/A

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Florida coastal areas, Louisiana coastal areas

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number)
Banding permit #6072, Endangered Species Cooperative Agreement

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE: 1 June 1977
11. DURATION NEEDED: 30 June 1980

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.22 1), 2), 3), 4), 5), 6), 7), & 8)-i, ii, iii, iv

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Robert M. Brantly
DATE 06-24-77

9-200 (8/74)

AMENDMENT TO FLORIDA COOPERATIVE AGREEMENT COVERING EASTERN BROWN PELICAN (SUPPLEMENTAL INFORMATION)

17.22 (a) See attached form 3-200.

(1) Eastern Brown Pelican) (*Pelecanus occidentalis carolinensis*).—To take *not* more than twenty-five (25 individuals each year of either sex and any age class from coastal Florida. Total not to exceed twenty-five (25) individuals per year. Specimens to be used in pesticide monitoring programs. As part of this study some or all specimens will be transportated to coastal areas of Louisiana and released. Subsequent to release some or all birds may be collected periodically to ascertain their accumulation rate of pesticides and other chemical pollutants. Specimens not transported to Louisiana will be analyzed for pesticide residues accumulated in Florida.

(2) All animals will be taken from the wild.

(3) All specimens will be taken in the most humane manner.

(4) Wildlife has not been removed from the wild.

(5) Pelicans taken from Florida and transported to Louisiana will be under the jurisdiction of the Louisiana Wildlife and Fisheries Commission, 400 Royal Street, New Orleans, Louisiana 70130.

(6) Any live animal to be covered by this amendment will be in free flying state. Will not be held in captivity for more than thirty (30) days.

(7) See attached copy of cooperative agreement.

(8) See (1).

ii. Not more than twenty-five (25) Eastern Brown Pelicans will be taken as nestlings or shot as free flying birds from coastal Florida. Total birds taken not to exceed twenty-five (25) per year. Nestlings will be transported to Coastal Louisiana and released in less than thirty (30) days. Specimens will be analyzed for pesticide residues in laboratories in Florida or Louisiana. Results will ultimately be published in bona fide scientific journals. Interim results will appear in annual federal aid job progress reports. (See attached reprint & reports for additional information)

iii. The Eastern Brown Pelican Recovery Team (Lovett E. Williams, Florida Game and Fresh Water Fish Commission, Leader) has identified this monitoring program as an integral part of the restocking effort now being carried out in Louisiana. This removal will not affect Florida's stable population of approximately 20,000 pelicans (see attached population papers).

iv. Usable skin, skeletons, and internal organs will be donated to any interested public museum or research facility.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1081-07; please refer to this number when submitting comments. All relevant comments received on or before October 3, 1977, will be considered.

Dated: August 25, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, United States Fish and Wildlife Service.

[FR Doc.77-25512 Filed 8-31-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant. Jeanette Williams Bale, Rural Route 1, Post Office Box 981, Venice, Fla. 33595.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

OMB NO. 42-R1670

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To purchase one male and one female captive born sub-adult Cheetahs (Acinonyx jubatus) from Wildlife Management Services, Inc., Grand Prairie, Texas, for the purpose of propagation and exhibition. Wildlife Management Services, Inc. is a subsidiary of International Animal Exchange, Ferndale, Michigan. The Cheetahs are located at Lion Country Safari, Grand Prairie, Texas.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Jeanette Williams Bale
Rural Route 1
Post Office Box 981
Venice, Florida 33595
813-488-1991

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☒ MRS. ☐ MISS ☐ MS. | HEIGHT 5' 7" | WEIGHT 125 lbs.
DATE OF BIRTH March 18, 1942 | COLOR HAIR blond | COLOR EYES blue
PHONE NUMBER WHERE EMPLOYED 202-833-2700 | SOCIAL SECURITY NUMBER 264-15-9817
OCCUPATION Professional animal trainer and performer

5. IF "APPLICANT" IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
N/A

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
The Cheetahs are to be purchased from Wildlife Management Services, Inc., a subsidiary of International Animal Exchange.

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
See Exhibit "A"

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents) A valid interstate health certificate will be obtained prior to consummation of the sale.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N/A

10. DESIRED EFFECTIVE DATE: As soon as possible
11. DURATION NEEDED: To permit completion of the transaction described herein.

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
See Exhibit "A" attached hereto.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Jeanette Williams Bale
DATE June 21, 1977

9-200 (8/74)

EXHIBIT "A"

The following information is submitted in accordance with § 17.22(a) of Title 50, Chapter I, Subchapter B, Part 17 of the Code of Federal Regulations:

(1) The Applicant seeks a permit to purchase and transport two sub-adult Cheetahs (*Acinonyx jubatus*)—one male and one female.

(2) Both Cheetahs were born at Lion Country Safari Park, Grand Prairie, Tex. on October 7, 1976.

(3) The Applicant desires to purchase both Cheetahs from Wildlife Management Services, Inc., Grand Prairie, Tex. No wild caught animals will be involved in the proposed transaction since the subject Cheetahs are captive bred and captive born from an established group of breeding Cheetahs at the Lion Country Safari Park at Grand Prairie, Tex.

(4) See item (2) above.

(5) The Applicant's principal activity is the presentation of trained animal acts under a contract with Ringling Bros. Barnum & Bailey Combined Shows, Inc. Its main office is at 1015 18th Street NW., Washington, D.C. It has two traveling units which present circus productions at various places throughout the United States and Canada. The Applicant is a member of one of the traveling units and maintains a winter quarters facility in Venice, Fla. where she returns each year for rehearsals and the off-season. It is anticipated that the Cheetahs described in this application will be maintained, exhibited and bred on the Applicant's traveling unit.

(6) (i) The subject Cheetahs will always have adequate space utilization. During transit between performance sites the animals will be confined to transport cages six feet ten inches long, three feet five inches wide and three feet eleven inches high. Permanent water troughs are present in the transport cages. During performance locations, which range from two days to over two months in duration, the Cheetahs will be maintained in a portable cyclone fence enclosure ten feet wide by forty feet long. This will allow space utilization of up to four hundred feet depending on local facilities.

(ii) Since the 1880's, the Applicant's family has maintained and exhibited members of the Family Felidae. The Applicant is a fourth generation performer and has been a professional animal trainer and exhibitor for the past eighteen years. The Applicant's family circus, Circus Williams (until 1969 one of the three largest circuses in Europe), has received official governmental recognition in Europe for excellence in the maintenance and care of their animal collection. Their animal collection has included several species of now endangered members of the Felidae family.

The professional animal staff employed by the Applicant's employer (Ringling Bros. Barnum & Bailey Combined Shows, Inc.) will care for the Cheetahs that are the subject of the present application. This includes a staff veterinarian, para-veterinarian and a number of animal handlers and trainers with cumulative experience in handling and maintaining felidae in excess of two hundred years. In addition, the Applicant's employer has on the staff a Veterinary Consultant who has been responsible for the maintenance and care of Cheetahs at a major zoological park in the United States.

(iii) The Applicant is willing to participate in cooperative breeding programs and to maintain or contribute data to an appropriate studbook.

In addition, the Applicant, in accordance with the letter of agreement attached hereto, intends to return the Cheetahs which are the subject of this permit application to the

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seller's facility (Lion Country Safari Park) at Grand Prairie, Tex. for controlled reintroduction to the resident Cheetah breeding groups maintained there. The return of the subject Cheetahs would be at appropriate intervals consistent with current available research regarding the reproductive physiology and behavior of the species. The intent of this agreement would be to improve and facilitate successful propagation of the subject Cheetahs.

(iv) The two Cheetahs that are the subject of this application will be transported from Lion Country Safari, Grand Prairie, Tex. to the Applicant in appropriate transport crates that shall be a minimum of four feet in length, three feet in width and three feet in height. The floors of the transport crates will have an adequate amount of bedding and the crates will have adequate ventilation for the animals. The Applicant, her employer and their current staff have had extensive experience in transporting animals of this type. The animals will be accompanied in transit by professional personnel experienced in animal transportation.

(v) During the past five years the Applicant has not exhibited Cheetahs or wildlife of the same genus and therefore has experienced no mortalities.

(7) A copy of the agreement pursuant to which the subject Cheetahs would be periodically returned to Lion Country Safari for propagation purposes is attached hereto.

(8) The exhibition of animals is the Applicant's profession and has been an essential aspect of the presentation of the Applicant's family circus. From the late 1800's until recently the Applicant and her family have owned and maintained an extensive animal inventory. The Applicant and her family have an excellent breeding record with the rare species they have exhibited and maintained. The Applicant is sincerely concerned with the conservation of endangered and threatened species.

The Applicant desires to become self-sufficient, to the extent possible, with respect to the animals she exhibits. The Applicant, therefore, desires to obtain breeding stock of the species *Acinonyx jubatus*. It is in furtherance of this objective of propagation that the Applicant desires to obtain the two Cheetahs that are the subject of this application.

The subject Cheetahs will be given adequate opportunity to engage in social and other behavior necessary for reproduction; and under the supervision and care of the Applicant and associated professional staff, and in accordance with the agreement attached hereto whereby the animals will be periodically reintroduced to the breeding groups at Lion Country Safari Park, the Applicant believes that the subject Cheetahs will reproduce. The Applicant will keep and maintain offspring for further breeding and exhibition and any Cheetahs that are surplus to the Applicant's needs will be made available to respected and accredited organizations which have experienced staffs and which share the Applicant's conservation goals. The placement of any surplus animals will be made with the intent of establishing a captive self-sustaining population of this species.

The Applicant and her employer, Ringling Bros. Barnum & Bailey Combined Shows, Inc., play a unique role in the education of millions of people as to the need to preserve and protect the survival of endangered species such as the Cheetah. The Applicant appears annually in approximately forty cities throughout the United States and Canada, many of which do not have zoos or other animal parks. Last year the Applicant was viewed by over three million people. The diversity of the circus presentation attracts many persons who might not otherwise visit zoos and animal parks in or near their communities. Therefore, for millions of children and adults, their experience of seeing and enjoying these Cheetahs and other species of wildlife at the circus is the only means by which they may gain an appreciation for such wildlife. Development of public awareness and appreciation for wildlife is a vital step in the process of protecting endangered species. Thus, in addition to enhancing propagation, the Applicant believes that her ownership and exhibition of these Cheetahs will enhance the survival of the species.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1095-07; please refer to this number when submitting comments. All relevant comments received on or before October 3, 1977, will be considered.

Dated: August 25, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, United States Fish and Wildlife Service

[FR Doc.77-25513 Filed 8-31-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant. Oklahoma City Zoo, Rt. 1, Box 1, Oklahoma City, Okla. 73111, Lawrence Curtis, Director.

ATTACHMENT 6.

OMB NO. 42-R1570

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE [X] PERMIT to export an endangered species

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Export two (2) young, adult female Barasingha (Cervus duvaucalii) from the Oklahoma City Zoo to Tiergarten, Nurnberg, W. Germany for breeding in captivity.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Oklahoma City Zoo
Rt. 1, Box 1
Oklahoma City, Oklahoma 73111
(405) 424-3344

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Zoological, educational or scientific propogation

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
N/A

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. 405/424-3344
Lawrence Curtis, Director
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Export from Oklahoma City Zoo to Tiergarten der Stadt Nurnberg, AM Tiergarten 30, 85 Nurnberg West Germany

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [X] YES ☐ NO
(If yes, list license or permit number(s))
73EZ2

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [X] YES ☐ NO
(If yes, list jurisdictions and type of document(s)) Valid permit from West Germany will be in hand prior to shipment.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE: 15 August 77
11. DURATION NEEDED: 6 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (To be used) [signature] DATE: July 11, 1977

3-200
(6/74)

OKLAHOMA CITY ZOO,
Oklahoma City, Okla., July 11, 1977.

DIRECTOR,
U.S. Fish & Wildlife Service,
Wildlife Permit Office,
Washington, D.C.

DEAR SIR: Please consider this our application to export an endangered species of animal within the context of Endangered and Threatened Wildlife and Plants Part 17 Subpart C, Article 17.22 for enhancement of propagation, and within the context of the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

(a) (1) exportation of two young, adult female barasingha deer (*Cervus duvaucelii*).
(2) (i) N/A.
(ii) N/A.
(iii) was born in captivity.
(3) N/A—see (2) (iii).
(4) born and raised at the Oklahoma City Zoo. Route 1, Box 1, Oklahoma City, Okla. 73111.
(5) Tiergarten der Stadt Nurnberg, AM Tiergarten 30, 85 Nurnberg, West Germany.
(6) (i) See attachment 1. Lawrence Curtis, Director of the Oklahoma City Zoo and Ernest Hagler, Assistant Director, have visited Tiergarten der Stadt Nurnberg since 1974. They found the facilities for ungulates exemplary and consisting of large wooded enclosures. A wide variety of exotic ungulates were maintained and were healthy and strong in appearance. Husbandry practices were excellent.
(ii) See attachment 1.
(iii) The Oklahoma lCty Zoo is willing to
(iii) The Oklahoma City Zoo is willing to participate in a cooperative breeding program and to maintain or contribute to a studbook for the wildlife covered by this application.
(iv) These animals will be shipped in crates meeting or exceeding current I.A.T.A. regulations and shipped by the most appropriate airline from the Oklahoma City Zoo to Tiergarten der Stadt Nurnberg. Complete feeding and watering instruction will accompany the shipping crates.
(i) See attachment 2.
(7) See attachment Nos. 3, 4, 5.
(8) The Oklahoma City Zoo currently maintains a heard of two male and seven female barasingha (Swamp Deer). This herd has produced 24 births with 11 deaths between 1972 and July 1977. Seven animals have been placed in other collections. Based on our reproductive record with Barasingha, we feel justified that the sale and transfer of two females from our herd does not reduce its breeding potential, but enhances the breeding potential of the species in another competent zoological park, and allows us to continue to produce offspring of this species without overpopulation in our herd.
(i) See U.S.D.I. form 3-200 (Item 2) attached.
(ii) See (6) (iv).
(iii) See (8).
(iv) In the event of the death of the animals in question, the carcasses will be made available for preservation as scientific specimens to an institution(s) of hgher learning for pest mortem study, if the death(s) should occur within the legal boundaries of the United States. Upon importation of the animals, Tiergarten Nurnberg will be responsible to German authorities and CITES regulations.

It is our understanding that form 3-200 (enclosed) provides the certification necessary for this permit application.

Sincerely,

LAWRENCE CURTIS,
Zoo Director.

Att: 1. Description of facilities and qualifications of the consignee.
2. History of mortality in *Cervus duvecelii* at Oklahoma City Zoo.
3. Telegram dated 6-15-77 (copy).
4. West German Importation Permit Applied for and pending dated July 11, 1977 (copy).
5. Letter dated March 14, 1977 (copy).
6. Form 3-200.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1152-C07; please refer to this number when submitting comments. All relevant comments received on or before October 3, 1977, will be considered.

Dated: August 25, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-25514 Filed 8-31-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Eugene Clayton Burkey, R.D. No. 1, Box 11, Loretto, Pa. 15940.

OMB NO. 42-R1570

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ● PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
to be able to buy and sell pheasants included in the Captive Self Sustaining Population through interstate commerce. We propagate these in order to insure their survival. Sale would be for propagation purposes only, or to zoos and parks, etc., for public appreciation.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Eugene Clayton Burkey
R.D. # 1, Box 11
Loretto, Pennsylvania 15940
1-814-886-2823

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT: 5' 11" | WEIGHT: 180
DATE OF BIRTH: 9/23/31 | COLOR HAIR: lt. brn. | COLOR EYES: blue
PHONE NUMBER WHERE EMPLOYED: 1-814-886-8188 | SOCIAL SECURITY NUMBER: 206-26-5112
OCCUPATION: chemistry teacher

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Raising birds is my hobby. I am a secondary school teacher by profession but aviculture is my hobby and I have been raising birds of various types for about 25 years.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
none

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
does not apply
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
does not apply

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
R.D. # 1, Box 11
Loretto, Pennsylvania 15940
Cambria County

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES [X] NO
(If yes, list license or permit number(s))
not applicable for the birds I raise in the state of Pennsylvania

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES [X] NO
(If yes, list jurisdictions and type of document(s))
not applicable for the birds I raise in the state of Pennsylvania

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ not applicable

10. DESIRED EFFECTIVE DATE: Sept. 1, 1977
11. DURATION NEEDED: 2 year intervals

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR part 17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (To be used) [signature] DATE: 7/8/77

3-200
(6/74)

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Applicant: Eugene Clayton Burkey, R.D. No. 1, Box 11, Loretto, Pa. 15940.

(i) Pheasants: Hume's Bartail (Syrmaticus humiae), Swinhoe (Lophura swinhoii), Mikado (Syrmaticus mikado), Brown Eared (Crossoptilon manichuricum), Edward's (Lophura edwardsi), Elliots (Syrmaticus elliotti), Palawan Peacock Pheasant (Polyplectron emphanum).

I would like to be able to buy and sell the above in United States interstate commerce. Birds purchased or sold are for propagation purposes generally. From time to time breeders need to acquire unrelated bloodlines to maintain vigorous birds with stamina.

(2) iii—born in captivity in the United States of America.

(3) It is my intention to buy and sell birds within the United States and that were born in captivity. Birds are shipped in solid, yet soft crates that would eliminate injury.

(4) Birds purchased and sold will be within the limits of the United States. Those purchased will have been born from captive populations and those sold will have been born and reared at my own homestead.

(5) Birds are housed on my own property at R.D. No. 1, Box 11, Loretto, Pennsylvania 15490 in Cambria County. Pairs of birds are housed according to their individual needs. Aviaries are kept as vermin proof as is possible and vary in size from 10' x 10' x 5' to 10' x 18' x 5'. A few aviaries are 15' x 20' x 5'.

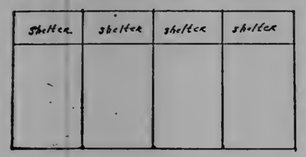
(6) (i) Please turn to the last page for diagrams of the area and facilities where the pheasants are maintained

(ii) Although I had pheasants as a teenager 30 years ago, I have been breeding and rearing them as a serious hobby since 1969, 7 years ago. Each year I propagate 100–250 young from various species. I have raised quality progeny in numbers from the following: Blue Eared, Mikado, Himalayan Monal, Cheer, Amherst, Golden and their legitimate mutations, Ringnecks, Reeves, Hume's Bartail, Elliots, White Crested Kalij, Linneated Kalij, Silver, Swinhoe, etc. My background in ornithology is self attained but good. Several of my articles on the rearing of pheasants have been published in magazines such as the American Pheasant and Waterfowl Society Magazine, the Gazette, and the Oregon Game Breeder's Magazine. I have a B.S. degree in Chemistry and have done graduate work at Rensselaer Polytechnic Institute in Natural Science.

(iii) I am willing to participate in a cooperative breeding program and to maintatin a studbook as well as supply contributive data for any program that will help prevent the extinction of these pheasants.

(6) (i) Description and diagrams of the area and facilities where the pheasants are maintained and housed.

The whole aviary area is arranged in a rectangle shape. Aviaries are variable in size according to the requirements of the bird. Some are 10' × 10' × 5', 10' × 18' × 5', and a few are 15' × 20' × 5' in dimension. Basically, the individual aviaries look like the following drawing:



The aviaries are on a slanting slight hill on our 4 acre lot and are in back of the main homestead. Several tall hickory and maple trees are interdispersed so as to provide shade during the hot summer months. One inch galvanized poultry netting is used on most of the pens, although we are switching to galvanized heavy wire which does not have to be replaced as often. The pens are wired down into the ground on the outside edge to prevent the entry of any possible rodents. Aviaries contain perches for roosting, food-containers, gravel containers, and water containers. The shelters on the back of the pens protect the birds and give them refuge from rain and snow.

(6) (iv) The containers used for shipping depend upon the size and number of birds being transported. The containers are double lapping and are made of solid cardboard. Seams are taped and there are 8 air holes in each box. The bottom of the box contains absorbent litter. Boxes are 12'' x 12'' x 16'' and 12'' x 18'' x 24'' depending upon size needed. It is not good to use boxes of large size for small birds. Orange halves or grapefruit halves are used as a source of water for the birds. This prevents spillage while in transit. Food in the form of pellets or grain can be provided. It has been my experience that most shipments of pheasants arrive at their destination within the United States in 24 to 36 hours, sometimes much less. Birds are shipped from a nearby airport. The customer knows in advance the time of the shipment. He picks up the birds himself at his airport terminal. This prevents layovers.

(v) In proportion to the number of birds we have successfully raised during the past 5 years our losses have been light. We have never had an outbreak of any type of contagious disease that killed off large numbers of birds. Occasionally a bird is lost by flying into a roof support. One Elliots hen tore a toenail loose this winter and died of blood loss before I discovered her. Swinhoe are subject to Blackhead which is prevented by medicated feed and Emtryl during their early weeks. When mature they become immune. The respiratory mycroplasmas that sometimes develop in Elliots and Humes are prevented by inoculation with Tylan or the use of aureomycin, etc. When I first began to breed pheasants we had some losses until I learned how to treat and then how to prevent disease. Some pheasants are by nature, long-lived. Others simply die of old age when 7 to 10 years old. I lost one Hume's hen last year. The male came into breeding condition during the middle of a very warm spell in mid-winter and picked the hen's eye out. My birds were blood tested two years ago by the State of Pennsylvania at my request for shipment to the State of Maine which required this. The tests were good and shipment was made. Of the birds on the list we almost never lose an adult bird. Young chicks are sometimes lost. Two years ago we lost some young Elliots that were transferred from a brooder coop to another building during a warm spell. An unseasonal cold front resulted in their chilling.

(7) There are no contracts or agreements.

(8) I wish to continue maintaining, breeding, purchasing, and selling these birds for propagation purposes. If it were not for such programs in the world, the Nene goose, Swinhoe, and Mikado would be no more in existence.

(ii) The birds are provided with good food, needed housing, and an atmosphere conducive to contentment so that they will reproduce.

(iii) Experiences I've had that yield better results in the reproduction of pheasants are shared with others through various publications. I feel that if any of these birds do become extinct in their homeland there will always be a source for rebuilding the wild population from the captive population. My pheasantry is a source of education for many who visit and can at least appreciate what a threatened species is.

(iv) If I were to become incapacitated so that care of my birds was no longer possible, they would be sold to other competent breeders who would know how to care for them and propagate them.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2–1150–C07; please refer to this number when submitting comments. All relevant comments received on or before October 3, 1977, will be considered.

Dated: August 25, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, United States Fish and Wildlife Service.

[FR Doc.77-25515 Filed 8-31-77;8:45 am]

THREATENED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under Section 4(d), 16 USC 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant: Charles E. Dubacher, Berkshire Bird Paradise, Rd No. 1, Petersburg, N.Y. 12138.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (do not use)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
CSSP permit for the propagation and preservation of those species covered there in.To be sold,exchanged or purchased to or from qualified breeders holding valid permits.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Charles E. Dubacher
Berkshire Bird Paradise
Rd #1,Petersburg,New York
(518) 279-3801

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING.
☒ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 5' 9" WEIGHT: 135
DATE OF BIRTH: oct. 11 1952
COLOR HAIR: blond COLOR EYES: green
PHONE NUMBER WHERE EMPLOYED: (518) 279-3801
SOCIAL SECURITY NUMBER: 111-40-7731
OCCUPATION: game bird breeding center owner
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
Berkshire Bird Paradise

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING
EXPLAIN TYPE OR KIND OF BUSINESS, ACTIVITY, OR INSTITUTION
Game Bird Breeding Center
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Charles Dubacher owner 279-3801
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Berkshire Bird Paradise
Rd# 1 Petersburg,N.Y

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number)
12-PR-38 N.Y

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdiction and type of document(s))

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE, ENCLOSED IN AMOUNT OF $

10. DATE(S) DESIRED EFFECTIVE

11. DURATION NEEDED: 2 years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED IN THE TYPE OF LICENSE/PERMIT INDICATED IN ITEM 1 ABOVE IS ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF SPECIES UNDER WHICH ATTACHMENT ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Charles E. Dubacher
DATE 7-7-77

3-200
16-741

ATTACHMENT 17.33 TO CSSP PERMIT

1. A Captive Self Sustaining Permit is requested for the following species: Swinhoe Pheasant—Lophura swinhoeli, Edward's Pheasant—Lophura edwardsi, Elliots Pheasant—Syrmaticus elliotti, Bar-Tailed Pheasant—Syrmaticus humiae, Mikado Pheasant—Syrmaticus mikado, Brown Eared Pheasant—Crossoptilon mantchuricum, White Eared Pheasant—Crossoptilon crossoptilon drouyni, Palawan Peacock Pheasant—Polypectron emphanum.

The applicant desires a permit to authorize unlimited transactions with others holding the same permit through interstate commerce for the 2 year permit period, with the permit being able to be renewed acording to sect. 13.24.

2. All the pheasant species are kept in a secluded wooded area with the area designed to be conducive to natural habitats. The inside of the aviary is planted as well to suit the specific needs of that species. Ex. Our bartailed preasant aviaries are densely planted with hemlock creating a very shaded habitat.

All species have closed shelters for nesting purposes as well as to keep the birds safe during inclement weather.

The size of the aviary is dessigned as well to meet the needs of the species there contained. Aviaries range from 8 x 25 x 6, 8 x 8 x 50, 8 x 50 x 150.

The waterfowl are kept in covered duck flights for protection against predators. Hawaiian koloa and laysan teal are kept in separate aviaries to insure pureness of the species. Those species requiring heat for winter are kept in a heated building.

3. Applicant has been propagating pheasants for 10 years and watefowl for 5 years. I presently am raising a number of the species covered under this permit. Presently doing research with Syrmaticus mikado and Lophura swinhoeli. This being behavioral research as well as developing natural nutrition diets. The applicant is in constant contact with a number of leading ornithologists and aviculturists.

The applicant holds a valid N.Y. State endangered species permit with membership in the following organizations.

1. American Pheasant and Waterfowl Society.
2. World Pheasant Association (IUCN).
3. Northeastern Avicultural Society.
4. The applicant is willing to participate in a cooperative breeding program and to contribute data to a stud book.
5. The applicant will use shipping containers designed to meet the various specifications necessary for the comfort of the birds in transit. With food water and specific instructions printed on the container I have shipped and received many birds across the states with out any losses.
6. The applicant has lost only a very small number of birds these being lost to predators. In waterfowl this loss has been eliminated with covered duck flights. Predatory birds of prey cause a small loss strafing the pens causing an occasional broken neck. Occassional losses occur as a result of severe lightning storms. Only losses in young atock was due to powerfailure or ocassional deformities. These problems are remedied with a generator. Deformaties are steadily fewer as we develop special diets for the breeders as well as the young. The applicant still has the first pair of pheasants owned.

The applicant has acquired permission from state biologists to bring any sick or injured endangered specie to the state lab.

7. The applicant is making this application for proper authorization to engage in interstate commerce with pheasants, waterfowl listed. This is to enable the applicant to cover expensive costs with the sale of the progeny, to qualified aviculturists. Also to insure that our bloodlines are kept strong. The sale of the progeny will help to cover costs of several research projects already underway. The CSSP is a valuable buffer for these species to prevent extinction, with the hopeful reintroduction of these species to the wild state.

These species are viewed by hundreds of visitors with emphasis on education and occasional lectures. The applicant has also earned the praise from 3 area newspapers.

(ii) Upon termination of my breeding program, all species of birds whether endangered or not will be distributed among qualified aviculturists.

Sincerely,

CHARLES E. DUBACHER.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Serv office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2–1136–25; please refer to this number when submitting comments. All relevant comments received on or before October 3, 1977, will be considered.

Dated: August 25, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, United States Fish and Wildlife Service.

[FR Doc.77-25516 Filed 8-31-77;8:45 am]

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Bureau of Land Management

[Colorado 14442]

COLORADO

Partial Termination of Proposed Withdrawal and Reservation of Lands

AUGUST 24, 1977.

Notice of a Forest Service, U.S. Department of Agriculture application, Colorado 14442, for withdrawal and reservation of lands for public purposes was published as F.R. Doc. 72-692, on page 745, 746 of the issue of January 18, 1972. The applicant agency has cancelled its application insofar as it affects the following described lands:

SAN JUAN NATIONAL FOREST

NEW MEXICO PRINCIPAL MERIDIAN

STUMP LAKES CAMPGROUND

T. 37 N., R. 7 W., Protraction Diagram No. 27 dated November 12, 1964.

A portion of Section 9 beginning near the center of the section at a point three chains west of the outlet of the north of two small lakes:

Thence due South 8 chains,
Thence due East 5 chains,
Thence due South 15 chains,
Thence due East 25 chains,
Thence due North 20 chains,
Thence due West 5 chains,
Thence due North 15 chains,
Thence due West 25 chains,
Thence due South 12 chains, to the point of beginning.

LOST LAKE CAMPGROUND

T. 37 N. R. 7 W., Protraction Diagram No. 27, dated November 12, 1964.

A portion of Sections 17, 18, 19 and 20 beginning at a point which is 9 chains due west of where creek leaves north end of Lake:

Thence due South 11 chains,
Thence due East 5 chains,
Thence due South 20 chains,
Thence due East 15 chains,
Thence due North 20 chains,
Thence due East 5 chains,
Thence due North 25 chains,
Thence due West 20 chains,
Thence due South 5 chains,
Thence due West 5 chains,
Thence due South 9 chains,
to the point of beginning.

DUTCH CREEK CAMPGROUND

T. 37 N., R. 9 W.
Sec. 7, S½NE¼NE¼, N½SE¼NE¼;
Sec. 8, N½SW¼NW¼.

JONES CREEK CAMPGROUND

T. 37 N., R. 9 W.
Sec. 16, W½W½SE¼.

WILDCAT PICNIC GROUND

T. 39 N., R. 11 W.

A portion of Section 28 beginning at a point on the southeast line of the Lightning Placer M. S. 20784 which is S. 36°10' W., 1122 feet from Corner Number 1 (Corner Number 1 of M.S. 20784 lies S. 73°47' W., 1778.87 feet from the NE corner of Section 28); thence from the point of beginning, S. 36°10' W., 792 feet along the southeast line of M. S. 20784 to a point; thence N. 79°30' E., 1650 feet to a point; thence N. 27° E., 594 feet to a point; thence S. 87° E., 330 feet and S. 87° W., 1188 feet to the point of beginning.

NAVAJO LAKE RECREATION SITE

T. 41 N., R. 11 W.
Sec. 1, W½SW¼NE¼, E½SE¼NW¼.

SWITCHBACK CAMPGROUND

T. 41 N., R. 11 W.
Sec. 22, NE¼NE¼, E½E½NW¼NE¼, E½NE¼SW¼NE¼, N½SE¼NE¼.

BURNETTE CANYON CAMPGROUND

T. 30 N., R. 12 W.
Sec. 35, SE¼SE½SE¼.
Sec. 36, SW¼SW¼, W½SE¼SW¼.

The areas described aggregate 484.38 acres.

Therefore, pursuant to the regulations contained in 43 CFR, Part 2310, such lands, at 10:00 a.m., on September 30, 1977, will be relieved of the segregative effect of the above-mentioned application.

THOMAS N. HARDIN,
Chief, Branch of Adjudication.

[FR Doc.77-25517 Filed 8-31-77;8:45 am]

[Civil No. 1983-73]

NATURAL RESOURCES DEFENSE COUNCIL, INC., ET AL., AND CECIL ANDRUS, SECRETARY OF THE INTERIOR, ET AL.

Notice of Proposed Deviation From Scheduled Preparation of Environmental Impact Statements on Livestock Grazing

In the matter of the Natural Resources Defense Council Inc., et al., Plaintiffs, v. Cecil Andrus, Secretary of the Interior, et al., Defendants.

The final judgment of June 18, 1975, in this case set forth a schedule for the preparation of a series of environmental impact statements (EIS's) by the Bureau of Land Management (BLM), Department of the Interior, on livestock grazing on public lands in the eleven Western States. Paragraph 10 of the judgment contemplates the possibility of material deviations from the judgment and provides for notice as follows:

10. If the Federal Defendants believe, in good faith, that circumstances dictate that any material deviations must be made, then in that event, the Federal Defendants shall give Notice to the Court wherein a detailed explanation shall be made of the deviation which is anticipated to occur together with the reason(s) therefor. This Notice shall be filed prior to the anticipated implementation of such deviation, and contemporaneously a copy of such Notice shall be sent by registered mail to all parties to this action (No. 1983-73) and such Notice shall be published in the FEDERAL REGISTER. Thereafter, if objections are filed with the court within 30 days from the date of publication in the FEDERAL REGISTER the Federal Defendants and the objecting parties may make such motions and present evidence to the court as to them seems proper, and the court shall determine if such deviations shall be allowed to occur or make any other appropriate order; provided, however, that if no objections are filed with the court within such 30-day period, BLM shall be authorized to implement such deviation.

Paragraph five of the judgment provides that "During FY 1977 through and including FY 1981 the EIS's will be completed in accordance with the schedule shown in Exhibit B[1] of the Agreement (which comprises a total of 70 EIS's on approximately 104,000,000 acres)." The current schedule requires completion of eleven impact statements by September 30, 1977, the end of the fiscal year. So far, one final EIS has been completed covering the Challis unit in Idaho. Three draft EIS's have been released: San Luis (Colorado), Uncompahgre (Colorado), and Rio Puerco (New Mexico).

Difficulties encountered in the preparation of the Challis EIS and others currently in progress, along with passage of the Federal Land Policy and Management Act of 1976 (FLPMA), 90 Stat. 2743, 43 U.S.C. 1701, et seq., required reevaluation of the entire process of preparing livestock grazing environmental statements. During preparation of the Challis EIS, data and planning deficiencies became clear. The major problem was lack of baseline resource data, especially on vegetative productivity, soils, and wildlife. In addition, the land use plan (management framework plan or MFP) did not define resource management goals, adequately consider nongrazing resource values or make definite, trackable land use decisions. As a result of these problems and similar ones on other EIS's now in process, the Department of the Interior adopted a new policy for EIS preparation and improved resource inventories. These policy changes were also responsive to FLMPA which requires periodic and systematic resource

[1] Exhibit B was filed as a part of the original document. Copies are available, at cost, at the BLM/330 United States Department of the Interior, Washington, D.C. 20240.

inventories and multiple use land use planning.

The new EIS policy has three parts. First, the long term strategy will be to prepare EIS's on the allocation of vegetative resources proposed in the Bureau's MFP's. In addition, a few EIS's will be prepared on total MFP's to test this approach. This long range strategy will require greatly improved resource inventories. Second, a short term strategy was adopted involving completion of eight EIS's now in process on allotment management plans (AMP's). As an interim strategy for preparing EIS's between now and implementation of the long range strategy, statements will be written on the current range program based on available data. The proposed action will be (a) specified management actions based on existing data such as adjustment and control of livestock numbers and season of use, adjustment and management of wild horses and burros, and initiation of livestock grazing systems; and/or (b) AMP approval; and/or (c) MFP approval of vegetation allocation. This strategy requires reordering of the schedule so that areas with the best available inventory data are covered first. The Department also decided to intensify all BLM resource inventories, utilizing current available data to the extent possible and collecting resource data actually needed for the Bureau's management decisions.

The Department of the Interior recognizes the need to comply with the court order and the National Environmental Policy Act. In complying though, EIS's must be prepared which adequately analyze the environmental impact of livestock grazing and its viable alternatives. Proposed actions must be based on current and reliable data which has been utilized to develop land use and activity plans. In order to achieve this goal, the Department of the Interior now proposes a material deviation schedule from 1977 to 1981 as shown in Exhibit A which is attached hereto and made a part hereof. In addition, a supplemental impact statement will be prepared on the Challis Unit in Idaho by December 1, 1979.

The proposed schedule modification is needed because:

1. It is necessary to realign EIS boundaries in all states to conform to planning and administrative boundaries. The boundaries identified in the settlement agreement frequently do not conform to existing planning unit boundary lines or administrative jurisdictions. The new proposals would correct this. For example in New Mexico, Utah, and Wyoming, EIS schedules and boundaries must be realigned to conform more closely to Regional Coal EIS boundaries in order to facilitate coordinated data gathering and planning. Such boundary adjustments should result in increased efficiency and reduced cost for inventories and other work. The new boundaries are shown in Exhibit B which is attached hereto and made a part hereof.

2. The present schedule does not balance the EIS workload equitably between Districts nor does it consider each District's capability to do the job. The new proposal would provide better distribution of State and District workloads and permit sufficient time for completing needed inventories and planning before work begins on the next area. In addition, it allows for adjustments in manpower and skills needed to complete the job in each District.

3. BLM no longer has jurisdiction over the Kofa, Sheldon and Charles M. Russell Wildlife Rfugees, totaling 2,187,000 acres, since by Congressional action, 90 Stat. 199 (1976), these areas are now administered by the Fish and Wildlife Service. The Fish and Wildlife Service is actively discussing with NRDC a FWS proposal to develop management plans for these areas in conjunction with an environmental assessment record. Any deviation necessitated by these plans and reviews, will be made separately pursuant to these discussions.

4. As discussed above, preparation of the Challis EIS indicated serious data gaps and that additional data must be collected in the field before adequate EIS's and grazing plans can be prepared. Present resource inventories were compiled with limited available information which is inadequate for evaluation of proposed grazing systems, allocation of forage between competing range users and assessment of impacts. Specific up-to-date, onsite information is needed on: (a) Present and potential grazing capacities for livestock, wild horses and burros, and wildlife; (b) range condition and apparent trend; (c) soil erosion conditions; (d) range suitability; (e) soils; and (f) other related resource uses and values that interrelate with livestock grazing.

5. The Challis EIS process also indicated planning deficiencies. Specifically, many of the Bureau's plans fail adequately to define resource management goals, to consider fully all resource values, and to make definite, trackable land use decisions. More time is needed to complete or revise MFP's so that adequate direction can be provided for the livestock grazing program.

Dated: August 30, 1977.

CECIL D. ANDRUS,
Secretary of the Interior.

This document is presented to the court in compliance with paragraph 10 of the judgment as a material deviation from the original schedule.

Respectfully submitted,

ERIC GOULD,
Land and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530 (202-739-3797).

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Bureau of Land Management
Grazing Environmental Statement Schedule 1978-81

Exhibit A

State	SHORT TERM Name	Acres (000)	Final ES	INTERIM Name	Acres (000)	Final ES	LONG TERM Name	Acres (000)	Final ES	TOTAL ES No.s	TOTAL Total Acres (000)
Arizona	San Simon Cerbat-Blk. Mountain	1,347	1978	Vermillion	1,340	1979	Blk. Canyon-Skull Valley	338	1981	5	5,622
		1,200	1978	Shivwits	1,397	1980					
California	Tuledad-Home Camp	641	1978	Cow Head-Masc. Desert	793	1980	McCain Valley	74	1981	6	12,962
					11,006	1980	Mount Dome	34	1981		
							Owens Valley	414	1981		
Colorado	San Luis	516	1978		1,277	1979				6	4,961
	Uncompahgre	526	1978		1,507	1980					
					585	1980					
					590	1980					
Idaho					590	1979	Sun Valley	243	1981	6	2,874
					337	1979	North Idaho	160	1981		
					1,264	1980					
					280	1980					
					2,169	1979				2	3,127
					938	1980					
Montana					3,414	1979					
					3,646	1980				2	7,060
Nevada					869	1979	So. Rio Grande	2,156	1981	5	5,983
New Mexico	Rio Puerco	393	1978		1,592	1979					
					973	1980					
					643	1979				2	1,557
Oregon					914	1980					
Utah	Hot Desert	530	1978		171	1979	Ashley Creek	540	1981	8	5,893
					223	1979	Price River	1,252	1981		
					199	1979					
					480	1980					
Wyoming	Sandy	1,714	1978		2,498	1980				3	3,707
					655	1979					
					1,338	1980					
		6,867			41,668			5,211		45	53,746

[FR Doc.77-25665 Filed 8-31-77;8:45 am]

Bureau of Reclamation

PECOS RIVER BASIN WATER SALVAGE PROJECTS, NEW MEXICO–TEXAS

Public Hearing on Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the Pecos River Basin Water Salvage Project, New Mexico-Texas. This statement (INT DES 77–27, dated August 18, 1977) was made available to the public on August 19, 1977.

The draft environmental statement deals with a phreatophyte management program consisting of the selective clearing of saltcedar from the flood plain of the Pecos River from Santa Rosa, New Mexico, to Girvin, Texas.

Public hearings will be held at the Holiday Inn, Santa Rosa, N. Mex., on October 3, 1977; Roswell Inn, Roswell, N. Mex., on October 4, 1977; and Holiday Inn, Pecos, Tex., on October 5, 1977, to receive views and comments from interested organizations or individuals relating to the environmental impacts of this program. The hearings will commence at 7 p.m. and recess at 11 p.m. Oral statements at the hearings will be limited to a period of 10 minutes. Speakers will not trade their time to obtain a longer oral presentation; however, the person authorized to conduct the hearing may allow any speaker to provide additional oral comment after all persons wishing comment have been heard. Speakers will be scheduled according to the time preference mentioned in their letter or telephone request whenever possible, and any scheduled speaker not present when called will lose his privilege in the scheduled order and his name will be recalled at the end of the scheduled speakers. Requests for scheduled presentation will be accepted up to 4 p.m., September 27, 1977, and any subsequent requests will be handled on a first-come-first-served basis following the scheduled presentation.

Organizations or individuals desiring to present statements at the hearing should contact the office of the Regional Director, Bureau of Reclamation, Herring Plaza, H–4377, Amarillo, Tex. 79101, telephone 806–376–2401, and announce their intention to participate. Written comments from those unable to attend and from those wishing to supplement their oral presentation at the hearing should be received by October 12, 1977, for inclusion in the hearing record.

Dated: August 29, 1977.

J. D. ELLINGBOE,
Acting Commissioner of Reclamation.

[FR Doc.77-25584 Filed 8-31-77;8:45 am]

LEGAL SERVICES CORPORATION

UPPER PENINSULA LEGAL SERVICES

Grants and Contracts

AUGUST 26, 1977.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355, 88 Stat. 378, 42 U.S.C. 2996–2996l. Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated, of such grant, contract, or project * * *"

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Upper Peninsula Legal Services, Sault St. Marie, Michigan to serve the Indian population in Michigan.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Northern Virginia Regional Office, 1730 North Lynn St., Suite 600, Rosslyn, Arlington, Va. 22209.

THOMAS EHRLICH,
President.

[FR Doc.77-25467 Filed 8-31-77;8:45 am]

NATIONAL COMMUNICATIONS SYSTEM

DIGITAL INTERFACE CHARACTERISTICS FOR DATA COMMUNICATIONS EQUIPMENT

Proposed Federal Standard 1031

The Administrator of the General Services Administration (GSA) is responsible, under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the National Communications System (NCS)[1] was designated by the Administrator, GSA, as the responsible agent for the development of telecommunication standards for NCS interoperability and the computer-communications interface. The Federal Telecommunication Standards Committee (FTSC) was established under the administration of NCS to accomplish this mission. Additionally, the Secretary of Commerce is authorized, under the provisions of Pub. L. 89–306, to develop and establish uniform Federal automatic data processing standards.

[1] DoD Directive 5100.41, "Arrangements for Discharge of Executive Agent Responsibilities for the NCS"—filed as part of original document.

The proposed Federal Standard is part of a series of joint Federal Telecommunication Standards and Federal Information Processing Standards (FIPS) falling within the area of mutual responsibility to the NCS and National Bureau of Standards (NBS) as defined in FIPS PUB[2] 23 and NCS Circular 175–1.[3]

Proposed FED–STD–1031 with the companion FIPS PUB, adopts proposed EIA Standard SP1194C, which specifies the functional and mechanical interface between data terminal equipment and data circuit-terminating equipment in applications where data is transmitted over telecommunication networks employing predominantly analog (i.e., non-digital) transmission facilities. The original announcements for this standard were made in FEDERAL REGISTER, Volume 40, No. 235, December 5, 1975, and Volume 41, No. 200, October 14, 1976. As a result of a number of comments received, further development work was accomplished to provide a greatly improved interface for the future. In particular, agreements which establish compatibility internationally with the provisions of SP1194C have now been reached in the International Telegraph and Telephone Consultative Committee (CCITT) and the International Organization for Standardization (ISO).

A proposed EIA Industrial Electronics Bulletin, Application Note on Interconnection between Interface Circuits Using RS–XYZ and RS–232C, provides further information on the transition from existing RS–232C interfaces to SP1194C (RS–XYZ). Copies of this document, as well as the proposed EIA standard, can be obtained from the Office of the Manager, National Communications System, Attn: NCS–TS, Washington, D.C. 20305.

Prior to submission of the final endorsement of this proposed Federal Standard and the companion FIPS Publications to the Department of Commerce (DOC); the Office of Telecommunications Policy (OTP), Executive Office of the President; and GSA, it is essential that proper consideration is given to the needs and views of industry, the public, and State and local governments. The purpose of this Notice is to solicit such views. Interested parties may submit their comments to the Office of the Manager, National Communications System, Attn: NCS–TS, Washington, D.C. 20305. All comments should be

[2] Filed as part of original. Copies available from U.S. Government Printing Office, Washington, D.C. 20402.

[3] Filed as part of original. Copies available from Office of the Manager, NCS, Washington, D.C. 20305.

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submitted within 60 days of the date of this Notice.

MAURICE W. ROCHE,
Director, Correspondence and Directives Office of the Assistant Secretary of Defense (Comptroller).

AUGUST 29, 1977.

PROPOSED FEDERAL STANDARD

TELECOMMUNICATIONS: GENERAL PURPOSE 37-POSITION AND 9-POSITION INTERFACE BETWEEN DATA TERMINAL EQUIPMENT AND DATA CIRCUIT-TERMINATING EMPLOYING SERIAL BINARY DATA INTERCHANGE

NOTE.—This draft standard was prepared by the Office of the Manager, National Communications System, and is subject to change. Do not use prior to approval.

1. *Scope.*

1.1 *Description.* This standard specifies the functional and mechanical interface characteristics for data terminal equipment (DTE) and data circuit-terminating equipment (DCE) primarily for data applications using analog telecommunication networks.

1.2 *Purpose.* Federal telecommunication standards are to facilitate interoperability between telecommunication facilities and systems of the Federal Government and compatibility of these facilities and systems at the computer-communications interface with data processing equipment.

1.3 *Application.* This standard is to be used together with other Federal Standards by all Federal agencies in the design and procurement of DTEs and DCEs.

2. *Applicable documents.* The following documents of the issue in effect on the date of invitation for bids or request for proposals, form part of this standard to the extent specified herein:

Electronic Industries Association (EIA) Standard RS- (tentatively identified as RS XYZ/SP1194C), General Purpose 37-position and 9-position Interface for Data Terminal Equipment and Data Communication Equipment Employing Serial Binary Data Interchange.

EIA Industrial Electronics Bulletin , Application Note on Interconnection between Interface Circuits Using RS-XYZ and RS-232C.

(For copies of EIA documents, write to Electronic Industries Association, 2001 Eye Street, N.W., Washington, D.C. 20006.)

Federal Standard 1020.
Telecommunications: Electrical Characteristics of Balanced Voltage Digital Interface Circuits.

Federal Standard 1030.
Telecommunications: Electrical Characteristics of Unbalanced Voltage Digital Interface Circuits.

3. *Requirement.* This standard adopts the EIA Standard RS-(XYZ).

NOTE: The proposed EIA standard is presently being balloted by EIA as SP 1194C. This note will be removed from this document when the proposed standard is finally approved by both the Federal Government and EIA.

The electrical characteristics of Federal Standard 1030 shall apply as specified for RS-423 and of Federal Standard 1020 shall apply as specified for RS-422. One of the following additional provisions shall also apply for equipment meeting this standard:

A. For applications where interoperation is required with equipment conforming to EIA standard RS-232C, generators on all Category I circuits shall conform to Federal Standard 1030 and the provisions described by EIA Industrial Electronics Bulletin —— shall be met.

B. For applications, where interoperation is required with equipment conforming to MIL-STD-188C or MIL-STD-188-100 (unbalanced low level) interface), generators on all Category I circuits shall conform to Federal Standard 1030 (MIL-STD-188-114, unbalanced circuits) and shall have an option which will allow changing the signal sense from the negative mark to positive mark.

C. For all new applications where a transition capability from either RS-232C or MIL-STD-188C/MIL-STD-188-100 is not required, all provisions of RS-XYZ apply. Category I circuits may implement either FED-STD-1020 or FED-STD-1030 as prescribed in Section 6.11 of RS-XYZ. When FED-STD-1020 is employed for MIL-STD-188 applications, the additional provision of MIL-STD-188-114 shall apply.

4. *Changes.* When a Federal agency considers that this standard does not provide for its essential needs, a statement citing inadequacies shall be sent in duplicate to the General Services Administration, Federal Supply Service, Washington, D.C. 20406, in accordance with provisions of Federal Property Management Regulations 41 CFR 101-29.3. The General Services Administration will determine the appropriate action to be taken and will notify the agency.

Preparing Activity:
National Communications System, Office of Technology and Standards, Washington, D.C. 20305.

FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATION——
(date)

ANNOUNCING THE STANDARD FOR GENERAL PURPOSE 37-POSITION AND 9-POSITION INTERFACE FOR DATA TERMINAL EQUIPMENT AND DATA CIRCUIT-TERMINATING EQUIPMENT EMPLOYING SERIAL BINARY DATA INTERCHANGE

Federal Information Processing Standards are issued by the National Bureau of Standards, pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. General Purpose 37-Position and 9-Position Interface for Data Terminal Equipment and Data Circuit-Terminating Equipment Employing Serial Binary Data Interchange (FIPS Pub ——).

Category of Standard. Hardware Standard, Data Transmission.

Explanation. This Federal Information Processing Standard is one of a series prescribing the interface parameters for interconnecting digital components and equipment. Each standard in this series addresses a particular interconnection, specifying the electrical, functional, and mechanical characteristics required at the interface to ensure interoperability across the designated interconnection boundary. This standard is applicable to the interconnection of data terminal equipment (DTE) and data circuit-terminating equipment (DCE) employing serial binary data interchange with control information being interchanged on separate control circuits. This standard is intended for use in applications employing analog telecommunication facilities.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Institute for Computer Sciences and Technology, National Bureau of Standards.

Cross Index. a. Electronic Industries Association Standard RS-XYZ entitled "General Purpose 37-Position and 9-Position Interface for Data Terminal Equipment and Data Circuit-Terminating Equipment Employing Serial Binary Data Interchange" (adopted as Federal Standard 1031).

b. Electronic Industries Association Industrial Electronics Bulletin —— entitled "Application Note on Interconnection Between Interface Circuits Using RS-XYZ and RS-232C".

c. Electronic Industries Association Standard RS-422 entitled "Electrical Characteristics of Balanced Voltage—Digital Interchange Circuits" (adopted as Federal Standard 1020).

d. Electronic Industries Association Standard RS-423 entitled "Electrical Characteristics of Unbalanced Voltage Digital Interface Circuits" (adopted as Federal Standard 1030).

e. Federal Standard 1020 entitled "Telecommunications: Electrical Characteristics of Balanced Voltage Digital Interface Circuits" (see item c above).

f. Federal Standard 1030 entitled "Telecommunications: Electrical Characteristics of Unbalanced Voltage Digital Interface Circuits" (see item d above).

g. Federal Standard 1031 entitled "General Purpose 37-Position and 9-Position Telecommunications: Transitional Interface Between Data Terminal Equipment and Data Circuit-Terminating Equipment Employing Serial Binary Data Interchange" (see item a above).

Applicability. This Federal Information Processing Standard pertains to the interconnection between data terminal equipment (DTE) and data circuit-terminating equipment (DCE) where:

(1) The data terminal equipment is designed to interconnect with analog (in contrast to digital) telecommunication facilities;

(2) Serial binary data, timing and control signals are conveyed across the interface at the dc baseband level on separate parallel circuits.

This standard shall be used by all agencies of the Federal Government in the acquisition of data terminal and data communication equipment and services conforming to the above criteria. While this standard is not intended to hasten the obsolescence of equipment currently in the Federal inventory, it is applicable to the planning, design, and procurement of all new data terminal equipment and services and related data communication networks and systems.

Specifications. Federal Information Processing Standard (FIPS ——), General Purpose 37-Position and 9-Position Interface for Data Terminal Equipment and Data Circuit-Terminating Equipment Employing Serial Binary Data Interchange, adopts, by reference, the provisions of the following voluntary industry standards and bulletin developed and approved under the sponsorship of the Electronic Industries Association:

(1) The interface functional, timing, and mechanical characteristics are as specified by RS-XYZ.

(2) The Electrical characteristics of either RS-422 or RS-423 are specified for all category I interchange circuits (see Section 2.1.1 of RS-XYZ) in accordance with item 4 below and the Qualifications that follow.

(3) The Electrical characteristics of RS-423 are specified for all category II interchange circuits (see Section 2.1.2 of RS-XYZ) in accordance with item 4 below.

(4) The provisions of Industrial Electronics Bulletin —— are prescribed as appropriate for interoperability with equipment conforming to the EIA RS-232C interface standard.

Implementation Schedule. All applicable equipment ordered on or after the date of this FIPS PUB must be in conformance with this standard unless a waiver has been obtained in accordance with the procedures described below. This standard is not applicable in the following cases:

(a) For equipment installed or on order prior to the date of this FIPS PUB.

(b) Where procurement actions are into the solicitation phase (i.e., Request for Proposals or Invitation for Bids have been issued) on the date of this FIPS PUB.

Qualifications. Category I and II circuits, defined by RS-XYZ, Section 2.1, shall be implemented with either RS-422 or RS-423 in accordance with one of the following criteria:

(a) The provisions of RS-XYZ, Section 6.11 shall apply to category I circuits for new applications where the DTEs or DCEs will not be required to interconnect with existing installed equipment conforming to other interface standards such as EIA RS-232C, IEEE 488, MIL-STD-188C or MIL-STD-188-100, i.e., either RS-422 or RS-423 may be employed as appropriate to the application requirements. Category II circuits shall employ RS-423.

(b) DTEs and DCEs that will be interconnected with equipment conforming to EIA Standard RS-232C shall employ RS-423 for all category I and II circuits as described by EIA Industrial Electronics Bulletin ——.

(c) DTEs and DCEs that will be interconnected with equipment conforming to either MIL-STD-188C or MIL-STD-188-100 shall employ unbalanced circuits as prescribed by MIL-STD-188-114 incorporating a manual provision for changing the signal sense from positive to negative mark for all category I and II circuits.

Waiver Procedure. Proposed waivers relating to the procurement of equipment using non-standard interfaces will be coordinated in advance with the General Services Administration according to the procedure described in paragraph 6, Changes, of the joint Federal Information Processing Standard and Federal Standard affixed to this FIPS PUB. It is suggested that a request for waiver include the following information:

(a) A brief, narrative description of the existing or planned teleprocessing or data communication systems to which the waiver applies, including:

(1) Statement of purpose and principal function of the system.

(2) Potential or planned use of the facilities employed with this system to interchange information with similar systems operated within the agency or by other agencies.

(b) A brief description of the system configuration, including a listing of accountable features, such as numbers and costs of data processors, terminals, modems, and communication lines, identifying those items to which the waiver applies.

Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. When ordering, refer to Federal Information Processing Standards Publication —— (NBS-FIPS-PUB-——), title, and Accession Number. Payment may be made by check, money order, or deposit account.

[FR Doc.77-25604 Filed 8-31-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR ASTRONOMY

Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Laboratory and Theoretical Astrophysics of the Advisory Panel for Astronomy
Date and time: September 22, 1977—10:00 a.m. to 5:30 p.m.
Place: Room 642, 1800 G Street N.W., Washington, D.C.
Type of Meeting: Open.
Contact person: Dr. Alexander Dalgarno, Harvard College Observatory, 60 Garden Street, Cambridge, Massachusetts 02138, (617-495-4403).
or
Dr. William E. Howard, National Science Foundation, Division of Astronomical Sciences, Washington, D.C. 20550, (202-632-5717).
Purpose of Subpanel: To review NSF programs in Laboratory and Theoretical Astrophysics.
Agenda: Will incude the following discussion and presentations:

SEPTEMBER 22, 1977

10 a.m.—Introduction.
10:30 a.m. Discussion of Procedures.
11 a.m.—Presentations by NSF Staff.
12 m—Lunch.
1 p.m.—Review of current activities.
2:30 p.m.—Arrangements for Subpanel Report.
4 p.m.—Adjourn.

SUMMARY MINUTES: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

M. REBECCA WINKLER,
Acting Committee Management Officer.

AUGUST 29, 1977.

[FR Doc.77-25465 Filed 8-31-77;8:45 am]

PHYSICALLY HANDICAPPED IN SCIENCE PROGRAM

Procedure for Proposal Submission

The National Science Foundation (NSF) plans in FY 1978 to make a small number of awards for projects to: (1) Identify and provide information on the problems of the physically handicapped in becoming scientists and ways to overcome these problems, and (2) to develop student science training models directly involving handicapped students at the secondary and college levels.

Four types of projects will be supported: (1) Conferences, (2) workshops, (3) studies, and (4) science training models which directly involve groups of handicapped students. Proposals may request up to a maximum of $50,000 for each project. During FY 1977 available funds permitted the support of 11 projects at a cost of $481,000. Funding for FY 1978 is expected to remain at approximately the same level.

Draft guidelines for the preparation and submission of proposals for FY 1978 may be requested directly from the Physically Handicapped in Science Program, Directorate for Science Education, National Science Foundation, Washington, D.C. 20550. The closing date for submission of proposals to the Physically Handicapped in Science Program is November 7, 1977. Questions may be directed to Dr. Lafe R. Edmunds, 202-282-7150.

MARIAN R. WINKLER,
Acting Committee Management Officer.

AUGUST 29, 1977.

[FR Doc.77-25466 Filed 8-31-77;8:45 am]

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FEDERAL POWER COMMISSION

[Project No. 1051]

ALASKA POWER & TELEPHONE CO.

Issuance of Annual License(s)

AUGUST 24, 1977.

On June 8, 1976, Alaska Power & Telephone Company, Licensee for the Skagway Project, located on the Reid Falls, Dewey, Icy and Snyder Creeks in the Skagway-Yakutat Census Division near the Town of Skagway, Alaska, filed an application for a new license pursuant to the Federal Power Act and Commission regulations thereunder.

The license Project No. 1051 was issued effective April 14, 1930, for a period ending August 29, 1977. In order to authorize the continued operation and maintenance of the project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to Alaska Power & Telephone Company.

Take notice that an annual license is issued to Alaska Power & Telephone Company for the period August 30, 1977, to August 29, 1978, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Skagway Project No. 1051 subject to the terms and conditions of the original license. Take further notice that if issuance of a new license does not take place on or before August 29, 1978, a new annual license will be issued each year thereafter, effective August 30 of each year, until such time as a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25475 Filed 8-31-77;8:45 am]

[Docket No. E-8884]

CAROLINA POWER & LIGHT CO.

Filing of Settlement Agreement

AUGUST 24, 1977.

Take notice that on July 22, 1977, the Carolina Power and Light Company (CP&L) submitted a Settlement Agreement in the above mentioned docket to the Federal Power Commission. A Motion seeking approval of the proposed Settlement Agreement was also filed. The matter is now before the Commission for consideration.

The proposed Settlement provides that CP&L will refund $4,667,493 to its municipal wholesale customers, and $4,017,129 to its electric cooperative customers plus interest at 9% per annum for the period from the date of each monthly bill payment until the date of refund. These refunds will be made on a pro rata percentage basis. CP&L will retail all other amounts collected subject to the refund from the customers in Docket No. E-8884. Intervenors ElectriCities, North Carolina Electric Membership Corporation and Four County Electric Membership Corporation agreed to cease all litigation in Phase I and Phase II of Docket No. E-8884 including any litigation or reopened proceedings with respect to the Allowance For Funds Used During Construction (AFDUC).

The proposed Settlement is in complete settlement of all issues as to the dollars which CP&L was entitled to receive from the sale-for-resale municipal and electric cooperative customers for service rendered during the period January 2, 1975 through April 30, 1976.

Any person wishing to do so may submit comments in writing concerning the proposed Settlement Agreement to the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before September 30, 1977. The Settlement Agreement is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25479 Filed 8-31-77; 8:45 am]

[Docket No. CP77-47]

COLUMBIA GULF TRANSMISSION CO.

Petition To Amend

AUGUST 24, 1977.

Take notice that on August 8, 1977,[1] Columbia Gulf Transmission Company (Petitioner), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP77-47 a petition to amend the Commission's order of February 7, 1977 issued in the instant docket (57 FPC) pursuant to Section 7 of the Natural Gas Act and Section 157.7(b) of the Commission's Regulations thereunder (18 CFR 157.7 (b)) so as to provide for an increase in the total expenditures for the construction of budget facilities to $12,000,000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Petitioner indicates that on February 7, 1977, it was granted authorization in the instant docket to construct during the calendar year 1977 and to operate such budget facilities as set out therein, limiting the total expenditures to $7,000,000 with no single onshore project to exceed $1,500,000 and no single offshore project to exceed $2,500,000. Petitioner states that the availability of gas supplies earlier than anticipated and the revised forecast of gas purchase facilities operationally necessary in 1977 mandate that it acquire and have available authorization to utilize the total amount of $12,000,000 available to it under the Regulations. It is indicated that the forecasted expenditures, as revised, during the calendar year 1977 exceed the limitations of the Commission's order issued in the instant docket on February 7, 1977 as it is now operative; therefore, Petitioner requests that paragraph (D) of said order be amended to increase the therein provided limitation upon total expenditures to $12,000,000.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 16, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25476 Filed 8-31-77;8:45 am]

[Docket No. ER77-529]

COLUMBUS AND SOUTHERN OHIO ELECTRIC CO.

Order Accepting for Filing Proposed Rate Schedules, Suspending Proposed Rate Changes, Establishing Procedures, Granting Intervention, and Setting Price-Squeeze Issues for Hearing

AUGUST 26, 1977.

On July 29, 1977, Columbus and Southern Ohio Electric Company (hereinafter Columbus) tendered for filing a proposed increase in rates and charges to three municipal customers.[1][2] Columbus also tendered for filing revised rates for the City of Columbus, Ohio, to become effective January 1, 1978.[3] The total filing would increase the Company's revenues by $2,500,889 (22.43%) for the 12-month period ending June 30, 1978. The Company requested waiver of the notice requirements to allow the revised rates to become effective as of July 1, 1977, as to the three municipal customers. The Company also requested waiver of the rule that prohibits filing more than 90 days in advance of the proposed effective date for the revised rates for the City of Columbus.

Notice of the tendered filing was issued August 5, 1977, with all protests or petitions to intervene due on or before August 19, 1977. On August 17, 1977, a petition to intervene and protest was filed by the City of Westerville, Ohio. The City requested a five-month suspension period—the maximum statutory period. The City of Columbus, Ohio, on August 18, 1977, filed a petition to intervene.

Our review indicates that the proposed rates filed by Columbus have not been shown to be just and reasonable and

[1] The application was initially tendered for filing on August 8, 1977; however, the fee required by Section 159.1 of the regulations under the Natural Gas Act (18 CFR 159.1) was not paid until August 18, 1977; thus, filing was not completed until the latter date.

[1] Cities of Westerville, Jackson and the Village of Glouster, all in Ohio. (See Appendix A for Designations.)

[2] Columbus' present agreement with the City of Columbus will expire December 31, 1977. According to Columbus' transmittal letter, it will apply the tariff rate to the City of Columbus after the expiration of its present contract.

therefore, may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. We also find that good cause does not exist to grant waiver of the notice requirements to allow Columbus' request for an effective date of July 1, 1977. Accordingly, we shall suspend the proposed rates for the three municipal customers for one day, to become effective August 30, 1977, subject to refund. Furthermore, we find good cause to grant waiver of the 90-day rule therefore accepting for filing the proposed rates to the City of Columbus. Accordingly, we shall suspend the proposed rates for the City of Columbus for one day to become effective January 2, 1978, subject to refund.

Our examination of the proposed tariff reveals that the billing demand for the City of Columbus is computed differently from that of other municipal customers. The billing demand provision applicable to the City of Columbus is a form of peak-load pricing and would apparently result in lower cost of power to the City of Columbus if it is able to shift load to off-peak periods. Accordingly, the Commission will direct the Company to show cause why the billing provision applicable to the City of Columbus should not be available to all tariff customers.

The City of Westerville raises a "price squeeze" allegation [3] in its filing. To conform with our Order No. 563, additional procedures must be set so as to effectuate these policies. We will direct the Administrative Law Judge to convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the petitioner's request for data necessary to present its *prima facie* showing on the price-squeeze issue.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the proposed increased rates and charges tendered by Columbus on July 29, 1977, establishing procedures for that hearing, and that the proposed increased rates and charges be accepted for filing, suspended, and the use thereof deferred, all as hereinafter ordered.

(2) Participation by the City of Westerville and the City of Columbus in this proceeding may be in the public interest.

(3) Good cause exists to deny Columbus' request for waiver of the notice requirements to allow the revised rates to become effective July 1, 1977.

(4) Good cause exists to accept Columbus' request for waiver of the rule that prohibits filing rates more than 90 days in advance of the proposed effective date.

(5) Good cause exists to establish "price squeeze" procedures to effectuate the Commission's policy announced in Order No. 563.

(6) Good cause exists to direct Columbus to show cause why the billing provisions applicable to the City of Columbus should not be available to all tariff customers.

[3] FPC v. Conway Corporation, 426 U.S. 271 (1976).

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly Sections 205, 206, 301, 308 and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Columbus in this proceeding.

(B) Pending such hearing and decision thereon, the proposed increased rates and charges filed by Columbus on July 29, 1977 and identified above as associated with the three municipal customers are hereby accepted for filing, suspended and the use thereof deferred until August 30, 1977, when they shall become effective, subject to refund.

(C) Pending such hearing and decision thereon, the proposed increased rates and charges filed by Columbus on July 29, 1977 and identified above as associated with the City of Columbus are hereby accepted for filing, suspended and the use thereof deferred until January 2, 1978, when they shall become effective, subject to refund.

(D) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before December 15, 1977.

(E) A Presiding Administrative Law Judge to be determined by the Chief Administrative Law Judge for that purpose shall preside at a prehearing conference in this proceeding to be held on January 4, 1978, at 10:00 a.m. (ET) in a hearing of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(F) The City of Westerville and the City of Columbus are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* That participation of such intervenor shall be limited to the matters affecting asserted rights and interests specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any orders entered in this proceeding.

(G) The Administrative Law Judge shall convene prehearing conference within 15 days from the date of this order for the purpose of hearing the City of Westerville's request for data required to present its case, including a *prima facie* showing, on the price-squeeze issue. Columbus shall be required to respond to the discovery requests authorized by the Administrative Law Judge within 30 days and the City of Westerville shall file its case-in-chief on the price-squeeze issue within 30 days after Columbus' response.

(H) The Company is hereby ordered to show cause why thhe billing provisions applicable to the City of Columbus should not be available to all tariff customers.

(I) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A.—*Columbus and Southern Ohio Electric Company—Docket No. ER77-529*

Designation	Other party	Description
FPC Electric Tariff 2d revised vol. No. 1, original sheet No. 1-3, (supersedes FPC Electric Tariff 1st revised vol. No. 1 and 1st revised sheets thereto).	Tariff customers.	Revised tariff rate.
Service agreement under FPC Electric Tariff 2d revised vol. No. 1 (supersedes rate schedule FPC No. 25).	City of Columbus.	Unexecuted service agreement under tariff.

[FR Doc.77-25487 Filed 8-31-77;8:45 am]

[Docket No. ER77-562]

CONNECTICUT LIGHT AND POWER CO.

Transmission Agreement

AUGUST 24, 1977.

Take notice that on August 22, 1977, Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to the Transmission Agreement dated June 29, 1977 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) North Attleborough Electric Department (NAED).

CL&P states that the Transmission Agreement provides for a transmission service to NAED during the period from July 1, 1977 to October 31, 1977.

CL&P indicates that the transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities system determined in accordance with Section 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee, multiplied by the number of kilowatts which NAED is entitled to receive.

CL&P requests an effective date of July 1, 1977 for the Transmission Agreement, and therefore requests waiver of the Commission's notice requirements.

HELCO and WMECO have filed certificates of concurrence in this docket.

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CL&P states that copies of this rate schedule have been mailed or delivered to HELCO, Hartford, Connecticut, WMECO, West Springfield, Massachusetts and NAED, North Attleboro, Massachusetts.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 14, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on le with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25480 Filed 8-31-77;8:45 am]

[Docket No. ER76-45]

CONSUMERS POWER CO.

Filing

AUGUST 24, 1977.

Take notice that Consumers Power Company (Consumers), on August 8, 1977, tendered for filing a letter to Southeastern Michigan Rural Electric Cooperative, Inc., establishing July 26, 1977 as the in-service date (and the effective date of the contract) for wholesale electric service to 7727 Springville Highway, Cambridge Township, Lenawee County, Michigan.

In compliance with the terms of the Settlement Agreement approved by Commission order in this docket dated March 7, 1977, Consumers, on July 22, 1977 (noticed on August 2, 1977) tendered for filing service agreements for wholesale electric service to three delivery points of Southeastern Michigan Rural Electric Cooperative, Inc., including a contract dated July 6, 1977, for serivce to be delivered at 7727 Springville Highway, Cambridge Township, Lenawee County, Michigan. Consumers stated that service to this delivery point was to commence when construction of certain facilities was completed.

Consumers states that copies of the letter establishing the in-service date were served on the customer and on the Michigan Public Service Commission.

Any person desiring to protest said filing should file a protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Section 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.10). All such protests should be filed on or before August 31, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25477 Filed 8-31-77;8:45 am]

DEPARTMENT OF WATER RESOURCES STATE OF CALIFORNIA

[Project No. 2100]

Application for Approval of Proposed Easement Within Project Boundary

AUGUST 24, 1977.

Public notice is hereby given that an application for Commission approval of an easement for a proposed wildlife habitat area was filed May 31, 1977, under the Federal Power Act (16 U.S.C. §§ 791(a)-825(r) (1970)), by the Department of Water Resources, State of California (correspondence to: Mr. George P. Panos, Division of Land and Right of Way, Department of Water Resources, State of California, P.O. Box 388, Sacramento, California 95802). The easement for the proposed wildlife habitat area would be located on the lands of the Feather River Project, FPC Project No. 2100, on the Feather River and its tributaries in Butte County, California.

The application seeks Commission approval of a proposed easement over 26.97 acres of project land to be granted by the State of California Department of Water Resources to the State of California Department of Fish and Game for the purpose of establishing, operating and maintaining a wildlife habitat area. This area, designated as parcel no. ORO-B-9-C, is located in Section 27, T. 19 N., R. 3 E, M.D.M., Butte County, near Thermalito Afterbay Dam and adjacent to the existing Oroville Wildlife Area. No construction is proposed.

Any person desiring to be heard or to make protest with reference to said application should on or before October 11, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. § 1.8 or § 1.10 (1976)). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25478 Filed 8-31-77;8:45 am]

[Docket Nos. CI77-590, et al.]

ET AL, INC., ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

AUGUST 26, 1977.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 6, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.[2]	Pressure base
C177-590 B 6-22-77.	El al, Inc., 301 Cameron Bldg., Oklahoma City, Okla. 73106.	Kansas-Nebraska Natural Gas Co., Inc., Bradbridge Field, Edwards County, Kans.	Depleted	
C177-591 B 6-22-77.	do	do	do	
C177-599 B 6-27-77.	Halliburton Oil Producing Co., 300 Cameron Bldg., Oklahoma City, Okla., 73106.	Kansas-Nebraska Natural Gas Co., Inc., Macksville Field, Stafford County, Kansas and Zook, Hearn, Shady and Snowberger Fields, Pawnee County, Kans.	do	
C177-608 B 8-9-77.	Sanford P. Fagadau, 1301 Dresser Bldg., 1505 Elm St., Dallas, Tex. 75201.	Lone Star Gas Company bluegrove North-Area Field, Clay County, Tex.	(1)	

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

[1] Applicant desires to assist Lone Star in the realignment of its gas system in order to better serve gas customers in the Wichita Falls area and prevent the drain on its limited interstate supplies, as proposed by Lone Star in its application for abandonment authorization and as approved by the Commission on Apr. 29, 1977.

[FR Doc.77-25474 Filed 8-31-77;8:45 am]

[Docket No. FR-77-559]

FITCHBURG GAS & ELECTRIC LIGHT CO.

Initial Rate Filing

AUGUST 24, 1977.

Take notice that Fitchburg Gas & Electric Light Company (Fitchburg) on August 19, 1977, tendered for filing as an Initial Rate Schedule an Electric Generating Capability Sales Agreement between Fitchburg and Public Service Company of New Hampshire (New Hampshire). Fitchburg indicates that the Agreement provides for the sale by Fitchburg to New Hampshire of 15.0 MW of electric generating capability during November 1, 1977 through October 31, 1979.

Fitchburg states that copies of this Agreement have been sent to the State of New Hampshire Public Utilities Commission and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 9, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25481 Filed 8-31-77;8:45 am]

[Docket No. ES77-54]

IOWA SOUTHERN UTILITIES CO.

Application

AUGUST 24, 1977.

Take notice that on August 15, 1977, the Iowa Southern Utilities Company (Applicant), filed an application seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of $30,000,000 aggregate principal amount of unsecured short term promissory notes and commercial paper notes.

Applicant is incorporated under the laws of the State of Delaware with its principal business office at Centerville, Iowa, and is engaged in the electric utility business in 24 counties in Iowa.

Applicant proposes to issue Notes to both commercial banks and to commercial paper dealers. Applicant states that the Notes issued to commercial banks will not exceed $30,000,000 and that the Notes to be issued to commercial paper dealers will not exceed 25 percent of the Applicant's most recent twelve months' revenue from the sale of electricity and gas, which would presently permit the issuance of $16,600,000.

Applicant states that the interest rate on the Notes issued to commercial banks will not exceed 110 percent of the prime interest rate. Applicant anticipates that the interest rate on commercial paper at the time of issuance will, in general, average ¼ percent to 1 percent below the prime bank rate; however, Applicant states that on occasions the interest rate could exceed the prime rate.

Notes issued to commercial banks will mature no later than 92 days from date of issuance. Commercial paper notes will mature no later than 270 days from date of issue. Notes will be issued from time to time prior to January 1, 1980.

Applicant states that the proceeds from the issuance of the securities will be added to its general funds, which general funds will be used, among other things, to provide interim funds for construction expenditures to be made in 1978 and 1979.

Any person desiring to be heard or to make any protest with reference to said Application should on or before September 6, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25482 Filed 8-31-77;8:45 am]

[Docket No. RM74-16]

NATURAL GAS COMPANIES ANNUAL REPORT OF PROVED DOMESTIC GAS RESERVES: FPC FORM NO. 40

Order Granting Rehearing for Purposes of Further Consideration and Notice of Intent To Act

AUGUST 26, 1977.

On July 29, 1977, the following parties filed applications for rehearing of Order No. 526-B issued June 30, 1977: Gulf Oil Corporation and The Superior Oil Company; and Amoco Production Company. On August 1, 1977, the following additional parties filed applications for rehearing: Amerada Hess Corporation; Tenneco Oil Company; Exxon Corporation; Marathon Oil Company; and C&K Petroleum, Inc., C&K Offshore Company and C&K Marine Production Company. On August 8, 1977, Jake L. Hamon filed an application for rehearing and reconsideration, which, because it is not timely under Section 19 of the Natural Gas Act, must be treated as an application for reconsideration. On August 5, 1977, Amoco Production Company moved for a partial stay of order No. 526-B.

Order No. 526-B, issued after a court remand, prescribed FPC Form No. 40 requiring the submission of data on Proved Domestic Gas Reserves including data on a reservoir basis. The applications for rehearing discuss numerous issues at length and require further consideration by the Commission than is afforded by the statutory period. Amoco Production's motion for a partial stay should be considered in the light of the applications for rehearing.

The Commission finds: The applications for rehearing and reconsideration filed in this proceeding should be granted for further consideration.

V 42 170 SEP 1 77 UMI V

The Commission orders: (A) The applications for rehearing and reconsideration filed herein are hereby granted for purposes of further consideration.

(B) The Commission intends to issue an order on Amoco Production's motion for a partial stay and it should not be deemed denied under § 1.12(e) of the Commission's rules.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25489 Filed 8-31-77;8:45 am]

[Docket Nos RP72-74, RP74-6, RP72-74, RP-74-6, (Phase I and Phase II), RP71-3, RP-77-12, RP77-15, and CP74-329]

SOUTHERN NATURAL GAS CO., ET AL.

Certifications of Proposed Settlement Agreement

AUGUST 24, 1977.

In the matter of Southern Natural Gas Co., Carolina Pipeline Co. v. Southern Natural Gas Co., Atlanta Gas Light Co. v. Southern Natural Gas Co.

Take notice that on August 12, 1977, Southern Natural Gas Co. (Southern) submitted a settlement in the above-entitled proceedings; and on August 15, 1977, the Presiding Administrative Law Judges certified to the Commission for its consideration a Stipulation and Agreement dated August 9, 1977, together with the related hearing records in each of those proceedings except Docket Nos. RP77-12 and RP77-15 in which no hearing has been convened.

The proposed settlement results from discussions among Southern, the Commission staff, and interested parties in the proceedings, and purports to resolve all issues in such cases except the issues in Phase II of Docket Nos. RP72-74 and RP74-6 relating to the City of Austell Natural Gas System.[1] The proposed permanent curtailment plan will be incontestable for a period of two years from the date on which a Commission order approving such plan in accordance with the terms of the Stipulation and Agreement becomes final and non-appealable.

The Stipulation and Agreement, among other things, provides for the following:

(1) The establishment of a permanent curtailment plan for Southern based on Opinion Nos. 747, 747-A, and 747-B with the modifications to Section 9 of the General Terms and Conditions of Southern's FPC Gas Tariff, Sixth Revised Volume No. 1 as contained in Article III of the Stipulation and the corrections included in Article IV thereof; (2) the continuance of Southern's currently effective Index of Requirements with certain changes set forth in Appendix C of the Stipulation as part of Southern's permanent curtailment plan; (3) the proscription of any change in the currently effective Index of Requirements to reflect growth in natural gas requirements of any priority since the end of the base period in February, 1973; (4) within ten days after the date upon which a Commission order approving this Stipulation and Agreement is final and non-appealable, the various parties shall seek to dismiss pending court and/or administrative actions relating to or resulting from the operation of curtailment plans in effect on the Southern system since January 11, 1972; (5) the claim by the parties that to their knowledge no adverse environmental impact would result from the adoption by the Commission and implementation by Southern of the permanent curtailment plan proposed in the Stipulation; and (6) the Stipulation and Agreement represents a negotiated settlement of the above-captioned proceedings and does not constitute an acceptance of principles that may underlie the permanent curtailment plan delineated therein.

Any person desiring to be heard or to make any protest with reference to said filing of settlement agreement should file, on or before September 6, 1977, such comments or petitions to intervene with the Federal Power Commission, Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to these proceedings. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. Persons that have previously filed a notice or petition for intervention in any of these proceedings need not file additional notices or petitions to become parties with respect to the instant filing. The filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-5483 Filed 8-31-77; 8:45 am]

[Docket No. CI77-298]

TENNECO, INC., AMOCO PRODUCTION CO., ET AL.

Further Extension of Time

AUGUST 25, 1977.

On August 17, 1977, Mobil Oil Corp. (Mobil) filed a motion to further extend the time for filing its direct evidence in the above designated proceeding, as set by Commission Order issued June 6, 1977, and modified by Notice issued June 30, 1977. Mobil submits that an extension is necessary in order that it have adequate time to digest the extensive evidence which has been filed by Tenneco, Inc. (Tenneco), and to prepare evidence which coherently responds to that of Tenneco.

Upon consideration, notice is hereby given that the procedural dates set by the June 30, 1977, Notice in the above docket are extended as follows:

Filing of direct testimony and evidence by all respondents on or before September 30, 1977.

Pre-hearing conference, October 25, 1977, at 10:00 A.M. E.D.T. in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25486 Filed 8-31-77;8:45 am]

[Docket No. RP71-11, (PGA77-4)]

TENNESSEE NATURAL GAS LINES, INC.

Order Granting Rehearing, Accepting and Making Effective Alternate Tariff Sheets, Suspending Tariff Sheets Accepted by Prior Order, Initiating Hearing, and Establishing Hearing Procedures

AUGUST 26, 1977.

On July 27, 1977, the Tennessee Public Service Commission (TPSC) filed an application for rehearing requesting that the PGA rate increase accepted for filing by letter order issued June 30, 1977, in the captioned docket, be suspended and that an investigation into the proper calculation of PGA rates be ordered. For the reasons set forth below, the Commission grants TPSC's application for rehearing, orders appropriate relief and establishes hearing procedures for resolution of the issues raised by TPSC in its application for rehearing.

The instant proceeding was initiated on June 1, 1977, when Tennessee Natural Gas Lines Inc. (Tennessee Natural) filed alternate sets of revised tariff sheets reflecting increased PGA rates. One set of PGA rates[1] incorporated supplier increases of 4.98 cents per Mcf plus a 1.64 cents per Mcf surcharge to recoup, over a 12-month period, the costs of emergency gas purchases made during the 1976-77 winter. The alternate set[2] excluded all costs of emergency purchases and included a current rate adjustment of 4.98 cents per Mcf reflecting regular supplier rate increases exclusively.

On June 9, 1977, Tennessee Natural amended its June 1, 1977, filing by tendering substitute tariff sheets.[3] The substitute sheets reduced the surcharge adjustment for emergency purchases to correct a billing error made by one of its emergency suppliers. The substitute filing made June 9, 1977, which incorporated a 4.9 cents per Mcf increase for current purchases and a 1.51 cents per Mcf surcharge, was accepted for filing by the Commission by letter order issued June 30, 1977, and the revised PGA rates were permitted to become effective, as requested by Tennessee Natural, on July 1, 1977.

[1] The parties request that the case involving the City of Austell Natural Gas System be assigned a new docket number.

[1] Twenty-First Revised Sheet No. PGA-1 and Sixteenth Revised Sheet No. PGA-2 to Tennessee Natural's FPC Gas Tariff, First Revised Volume No. 1.

[2] Alternate Twenty-First Revised Sheet No. PGA-1 and Alternate Sixteenth Revised Sheet No. PGA-2 to Tennessee Natural's FPC Gas Tariff, First Revised Volume No. 1.

[3] Substitute Twenty-First Revised Sheet No. PGA -1 and Substitute Sixteenth Revised Sheet No. PGA -2 to Tennessee Natural's FPC Gas Tariff, First Revised Volume No. 1.

On June 16, 1977, within the time period allowed by the Commission for such filings and prior to the date of the Commission's letter order, TPSC filed a notice of intervention in the captioned proceeding. The notice of intervention, which served to make TPSC a party to the proceeding,[4] requests that the Commission suspend operation of Tennessee Natural's revised tariff sheets and order an investigation into the proper allocation of the costs of emergency gas supplies. TPSC questions whether the costs of emergency purchases have been allocated equitably between Tennessee Natural's jurisdictional and nonjurisdictional customers. TPSC's notice points out that a portion of the emergency gas purchased by Tennessee Natural during this past winter may have been used to serve Tennessee Natural's Priority 2, nonjurisdictional customers.

Unfortunately, as the result of an apparent administrative error, TPSC's notice of intervention never appeared as part of the record upon which the Commission issued the June 30, 1977, letter order. TPSC's substantive objections to the propriety and legality of the PGA increase were not considered by the Commission when it issued the subject letter order. Accordingly, the Commission finds that the record in this proceeding was materially deficient and, consequently, that good cause exists to grant rehearing of the June 30 letter order.

The Commission also finds that the issues raised by TPSC in its application for rehearing (which issues were entirely incorporated in TPSC's June 16, 1977, notice of intervention) cannot be resolved on the basis of the current record and that a further investigation is required. The Commission therefore shall establish procedures for an informal resolution of the issues raised by TPSC, or, alternatively, if the parties cannot fairly resolve the issues, for a full, evidentiary hearing.

Based on the foregoing considerations, the Commission, acting pursuant to section 19 of the Natural Gas Act,[5] shall modify the order of June 30, 1977, by suspending Tennessee Natural's proposed PGA rate increase including the surcharge for one day until July 2, 1977, and shall set for hearing the issue of the reasonableness of Tennessee Natural's allocation of emergency gas costs between jurisdictional and nonjurisdictional customers. Since no issue has been raised concerning Tenessee Natural's current gas cost adjustment, the proposed rates excluding the unrecovered purchased gas cost surcharge shall be accepted for filing and approved, effective July 1, 1977. This procedure properly limits Tennessee Natural's refund liability to the surcharge revenues which are in dispute.

The Commission finds: It is necessary and proper in carrying out the provisions of the Natural Gas Act that TPSC's application for rehearing be granted as hereinafter ordered.

The Commission orders: TPSC has filed a timely notice of intervention in this proceeding and its application for rehearing is granted. The June 30, 1977, letter order in the captioned docket is modified as provided by the terms of this order.

(B) Pursuant to sections 4, 5, 8, 15, and 19 of the Natural Gas Act and the Commission's rules and regulations a hearing shall be held to determine the justness and reasonableness of Tennessee Natural's allocation of emergency gas costs between its jurisdictional and nonjurisdictional customers.

(C) The alternate set of tariff sheets filed June 1, 1977, as described herein, is accepted for filing and made effective as of July 1, 1977. Pending hearing and decision, the substitute filing of June 9, 1977, is suspended for one day, and made effective on July 2, 1977, subject to refund.

(D) An informal conference shall be convened by the Commission staff within 30 days from the date of this order for the purpose of resolving the issues in this proceeding. Further procedures, if any, as may be required following conclusion of the conference shall be prescribed by the Presiding Law Judge upon motion by the parties to the proceeding, including the staff.

(E) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge pursuant to 18 CFR 3.5(d), shall be assigned to this proceeding for the purposes set forth in this order and to preside over any hearings which ultimately may be required.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25488 Filed 8-31-77;8:45 am]

[Docket No. ER77-560]

UNION ELECTRIC CO.

Revised Service Schedule

AUGUST 24, 1977.

Take notice that on August 19, 1977, Union Electric Co. (Union) tendered for filing an Amendment and revised Appendices A, B and D to the Electric Service Agreement dated December 15, 1955 between Union and Missouri Power & Light Company.

Union indicates that the revisions being filed primarily reflect the addition of a new delivery point, modification of certain contract capacities and correction factors, and a reduction in a facilities charge.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 9, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25484 Filed 8-31-77;8:45 am]

[Docket No. RP77-114]

WESTERN TRANSMISSION CORP.

Order Accepting for Filing and Suspending Proposed Rate Increase, Initiating Hearing, and Establishing Procedures

AUGUST 24, 1977.

On July 25, 1977, Western Transmission Corporation (Western) tendered for filing in this docket proposed changes to its FPC Tariff[1] which would increase its revenues for jurisdictional natural gas sales and services by $128,934 annually based upon actual operations for the 12 months ended April 30, 1977, as adjusted. Western requests the proposed increase be permitted to become effective on September 1, 1977. For the reasons stated below, the Commission shall accept the proposed rate increase for filing, suspend it for one day, and set the matter for hearing.

Western requests an increase of 3.2 cents per Mcf in its transportation and resale rates based on increased costs and a claimed rate of return of 10.40 percent on rate base. Western claims that despite increases in the volumes of gas transported and sold, it has nevertheless realized a deficit in recent years.

Western submitted statements L, M, and N pursuant to section 154.63 of the Commission's regulations and requests waiver of the regulations so as not to be required to file statements A through K, O, and P. In view of the relatively small amount of increase sought, the time and expense which would be required to prepare the additional statements, and the fact that the statements submitted are adequate for purposes of the Commission's review and determination, the Commission finds that good cause exists to grant the requested waiver, provided however, that Western may be required to submit statement P if found to be necessary for purposes of the hearing initiated by this order. This matter shall be determined by the Presiding Law Judge.

[4] 18 CFR § 1.8(1) as interpreted by *Pub. Serv. Comm'n of N.Y. v. FPC*, 295 F. 2d 140 (D.C. Cir. 1961).

[5] The relevant language is as follows: "Any person * * * aggrieved by an order issued by the Commission in a proceeding under this act to which such person * * * is a party may apply for a rehearing within thirty days after issuance of such order. * * * Upon such application the Commission shall have power to grant or deny rehearing or to abrogate or modify its order without further hearing."

[1] Fourth Revised Sheet No. 4 to Original Tariff Volume No. 1.

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Public notice of Western's filing was issued on August 5, 1977, providing for protests or petitions to intervene to be filed on or before August 19, 1977. On April 18, 1977, Colorado Interstate Gas Company (CIG) filed a petition to intervene. The Commission finds that the public interest may be served by CIG's participation in this proceeding.

Based upon a review of Western's filing the Commission finds that the proposed higher rates have not been shown to be just and reasonable and may be unjust, unreasonable, or otherwise unlawful. Accordingly, the Commission shall accept Western's proposed rate increase for filing, suspend its use for one day or until September 2, 1977, when it shall be permitted to become effective, subject to refund, and shall set the matter for hearing.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the increased rates and charges proposed by Western, and that the same be accepted for filing and suspended as provided by this order.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Western.

(B) Pending hearing and decision, Western's proposed rate increase is accepted for filing and suspended for one day, or until September 2, 1977, when it shall be permitted to become effective, subject to refund, upon motion filed by Western in accordance with the provisions of the Natural Gas Act.

(C) Waiver of section 154.63 of the Commission's regulations is granted as to statements A through K and O. As to statement P, the request for waiver is referred to the Presiding Administrative Law Judge.

(D) The Commission staff shall prepare and serve top sheets on all parties on or before October 11, 1977.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(F) CIG is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission; *provided, however,* that participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *provided, further,* that the admission of such intervenor shall not be considered as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25485 Filed 8-31-77;8:45 am]

[Docket No. CP73-329, (PGA77-5)]

CHATTANOOGA GAS CO.

Proposed PGA Rate Adjustment

AUGUST 23, 1977.

Take notice that on August 8, 1977, Chattanooga Gas Company, a Division of Jupiter Industries, Inc., (Chattanooga) tendered for filing proposed changes to Original Volume No. 1 of its FPC Gas Tariff to be effective on August 1, 1977 consisting of the following revised tariff sheets:

Twenty Fourth Revised Sheet No. 6

Chattanooga states that the sole purpose of this Revised Tariff Sheet is to adjust Chattanooga's LNG rates pursuant to the PGA provision in Section 5 of the General Terms and Conditions of its FPC Tariff to reflect increased purchased gas costs resulting from a PGA rate increase and a general rate increase by Southern Natural Gas Company, (Southern) in Docket Nos. RP73-64 and RP77-31.

Chattanooga requests that its Twenty Fourth Revised Sheet No. 6 be made effective on August 1, 1977, the proposed effective date of the underlying increases by Southern.

Chattanooga states that copies of the filing have been mailed to all of its jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 2, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25458 Filed 8-31-77;8:45 am]

[Docket No. ER76-709]

CINCINNATI GAS AND ELECTRIC

Extension of Time

AUGUST 23, 1977.

On August 12, 1977, the village of Georgetown, Ohio (Georgetown), filed a motion to extend the time for complying with Ordering Paragraph (C) of the Commission Order issued July 25, 1977, in the above designated proceeding.

Upon consideration, notice is hereby given that the date within which Georgetown shall file the statement required by Ordering Paragraph (C) is extended to and including October 10, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25463 Filed 8-31-77;8:45 am]

[Docket No. G-18545]

CITIES SERVICE GAS CO.

Petition to Amend

AUGUST 23, 1977.

Take notice that on August 15, 1977, Cities Service Gas Company (Petitioner), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. G-18545 a petition to amend the Commission's order of March 7, 1960 (23 FPC 481), issued in the instant docket pursuant to Section 7 of the Natural Gas Act so as to permit and approve the abandonment of the sale of certain volumes of gas to Western Gas Interstate Company (Western) and to authorize additional exchange arrangements, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the Commission's order issued March 7, 1960, in the instant docket, Petitioner was authorized to make the sale of volumes of gas to and to exchange volumes of gas with Western pursuant to a gas purchase contract, dated November 4, 1949, as modified by an exchange agreement dated July 11, 1951, and an amendment dated October 24, 1955, between Applicant and Southwestern Public Service Company (Western's predecessor-in-interest). These agreements were filed as Petitioner's Rate Schedule X-14 to its FPC Gas Tariff, Original Volume No. 2, it is said.

Petitioner states that it purchases volumes of gas from Skelly Oil Company's, now Getty Oil Company (Getty), Jones A No. 1 and B No. 1 wells located in Texas County, Oklahoma, and that pursuant to the terms of the gas purchase contract dated November 14, 1949, this gas is resold to Western at rates based on the price paid by Petitioner to Getty.

It is indicated that pursuant to the terms of its contract with Western, Petitioner notified Western on March 18, 1977, that it was terminating this sale after May 22, 1977, but that it was willing to continue the sale on a month to month basis pending negotiation between

Petitioner and Western regarding execution of a new agreement for the exchange of the gas covered by the terminated agreement.

Petitioner states that it and Western purchase gas from the Fanning No. 1 Well located in Texas County, Oklahoma, and Western's share of this gas is delivered to Petitioner at the wellhead. Pursuant to the July 11, 1951, amendment equivalent volumes were to be redelivered to Western at a point in Texas County, Oklahoma, it is indicated.

It is stated that since 1959, at the request of Western or its predecessors-in-interest, redelivery of volumes by Petitioner has been on an intermittent basis and at January 1, 1977, Petitioner owed Western approximately 141 million cubic feet of gas under the exchange agreement.

It is indicated that on January 9, 1977, due to emergency conditions on the systems of Western and its affiliated company, Southern Union Gas Company (Southern Union), Western and Petitioner entered into an emergency exchange to reduce the exchange imbalance and to supplement gas which Petitioner sells to Southern Union at an existing point of interconnection between Petitioner's and Western's pipeline (the Adams Delivery Point) located in Texas County, Oklahoma, and that such emergency exchange terminated on March 9, 1977.

Petitioner states that in order to correct the imbalance of gas owed to Western and to prevent an increase in the deficit exchange balance, Petitioner and Western have entered into a new exchange agreement, and that this new agreement supersedes all agreements and amendments thereto presently included in Petitioner's Rate Schedule X-14 to its FPC Gas Tariff, Original Volume No. 2. Pursuant to the terms of the new exchange agreement, the volumes of gas previously sold to Western would be delivered to Western as a part of the exchange and the deficit exchange balance of gas owed by Petitioner to Western is transferred to and would be redelivered to Western in accordance with its terms.

It is indicated that pursuant to the new agreement, volumes of gas received by Petitioner for Western's account from the Fanning No. 1 Well (Fanning Exchange Point), and volumes of gas delivered to Petitioner for Western's account at an existing point of interconnection near the Northeast corner of Section 36, Township 4 North, Range 14 ECM, Texas County, Oklahoma (North Guymon Exchange Point), would be exchanged for volumes of gas delivered to Western by Petitioner at the following delivery points in Texas County, Oklahoma.

(1) The Adams delivery point, located in the Northwest Quarter (NW/4) of Section 30, Township 5 North, Range 19 ECM. (This is the delivery point of the present delivery to Western for the account of Southern Union).

(2) The West Guymon exchange point, located in the Northeast Quarter (NE/4) of Section 4, Township 2 North, Range 14 ECM. (Deliveries at this point will be made intermittently at Western's request).

(3) The Jones A and B exchange point, located in Section 3, Township 1 North, Range 12 ECM. (This is the delivery point of the sale to Western, which is being terminated.)

Petitioner states that subject to the ability of it to deliver and Western's ability to receive such gas, Petitioner would deliver volumes of gas in addition to the exchange volumes as may be requested by Western until the balance owing to Western is reduced to an amount equal to the volumes Petitioner receives each month from Western; however, the total deliveries by Petitioner to Western would not exceed 1,500 Mcf per day.

No new facilities are necessary to effectuate these arrangements as all of the proposed receipts and deliveries of gas would be made through existing interconnections, it is said.

Petitioner asserts that these proposals would correct the deficit balance of volumes of gas owed to Western by Petitioner, prevent an increase in the deficit balance, and would provide needed volume of gas to customers of Western and its affiliate, Southern Union, in the rural areas of Texas and Beaver Counties, Oklahoma.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 13, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25451 Filed 8-31-77;8:45 am]

[Project No. 2389]

ECONOMIC DEVELOPMENT CORP.

Application for Transfer of License and Application for Approval of Lease

AUGUST 23, 1977.

Public notice is hereby given that an application was filed on June 6, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a-825r, for transfer of license by the Economic Development Corporation of Augusta (Transferor) and Augusta Development Corporation (Transferee) (Correspondence to: Irving Isaacson, Esq., Brann and Isaacson, 140 Lisbon Street, Lewiston, Maine) for Project No. 2389 located on the Kennebec River in the City of Augusta, Kennebec County, Maine.

Also contained in the application was a request for approval of a lease to the Edwards Manufacturing Co., Inc. of the project facilities.

Project No. 2389 consists of a 1,200-acre reservoir, a 917-foot long dam, intake works, a canal, penstock and three power stations with a total installed capacity of 3,500 kW. The electric power generated at the project is used in operating textile machinery.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 3, 1977, file with the Federal Power Commission, 825 N. Capitol Street N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. §1.8 or §1.10 (1977). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25459 Filed 8-31-77;8:45 am]

[Docket No. RP72-140 (PGA77-4)]

GREAT LAKES GAS TRANSMISSION

Proposed Changes in PGA Gas Tariff Under Purchased Gas Adjustment Clause Provisions

AUGUST 23, 1977.

Take notice that Great Lakes Gas Transmission Company (Great Lakes), on August 5, 1977, tendered for filing Twenty-Fourth Revised Sheet No. 57, to its FPC Gas Tariff, First Revised Volume No. 1, proposed to be effective September 21, 1977.

Great Lakes states that its sole supplier of natural gas, Trans-Canada Pipe-Lines Limited (TransCanada), will increase the rates for gas purchased by Great Lakes effective September 21, 1977. The increase is the result of the National Energy Board of Canada's order issued July 7, 1977 amending TransCanada's licenses for the export of natural gas to Great Lakes by establishing that the price to be received for the gas to be exported shall be at a rate of $2.16 in United States currency per Mcf of one thousand British Thermal Units per cubic foot equivalent gas at a temperature of 60 degrees Fahrenheit and a pressure of 14.73 pounds per square inch absolute adjusted on the ratio of the actual BTU content per cubic foot to 1,000 BTU per cubic foot.

Great Lakes also states that copies of this filing have been served upon its customers and the Public Service Commissions of Minnesota, Wisconsin and Michigan.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and

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Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 2, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25456 Filed 8-31-77;8:45 am]

[Docket No. RI77-119]

W. D. GREENSHIELDS AND W. D. GREENSHIELDS, INC.

Petition for Special Relief

AUGUST 23, 1977.

Take notice that on August 1, 1977, W. D. Greenshields and W. D. Greenshields, Inc. (Petitioner), P.O. Box 630 Ponca City, Oklahoma 74601, filed a petition for special relief in Docket No. RI77-119, pursuant to Section 2.76 of the Commission's Rules of Practice and Procedure.

Petitioner seeks authorization to charge $1.44 per Mcf for gas sold to Cities Service Gas Company from stripper wells located in Payne County, Oklahoma. Petitioner states that unless the requested increase from $.67 and $1.02 per Mfc to $1.44 per Mfc is granted, further gathering, compressing and delivering of gas would be uneconomical.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25462 Filed 8-31-77;8:45 am]

[Docket Nos. CS69-102, et al.]

HOLLY CORP., ET AL.

Applications for "Small Producer" Certificates[1]

AUGUST 23, 1977.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Applicant
CS69-102	Aug. 9, 1977	Holly Corp., 2909 Republic National Bank Tower, Dallas, Tex.
CS76-457	June 13, 1977	Frank D. Gorham, Jr., P.O. Box 453, Albuquerque, N. Mex. 87103.
CS77-594	June 6, 1977	Jack D. Hodgen Operating Co., Inc., 1108 Bass Bldg., Enid, Okla. 73701.
CS77-595	June 8, 1977	Columbia Drilling Co., 2626 Richmond, suite B, Houston, Tex. 77098.
CS77-596	June 9, 1977	Virgil Beagles, P.O. Box 2167, Roswell, N. Mex. 88201.
CS77-597	do	Bobby R. Baldock, P.O. Box 550, Roswell, N. Mex. 88201.
CS77-598	do	A. D. Sobbery, P.O. Box 801, Roswell, N. Mex. 88201.
CS77-599	do	Natural Gas Operations, P.O. Box 788, Duncan, Okla. 73533.
CS77-600	do	Gladys Sketch, 3541 Dimond Ave., No. 7, Oakland, Calif. 94601.
CS77-601	June 10, 1977	J. E. McAnally, 403 Juanita, Carlsbad, N. Mex. 88220.
CS77-602	do	Reliable Energy Co., 4725 West Quincy, Denver, Colo. 80236.
CS77-657	July 1, 1977	Jean C. James, 407 Lion Oil Bldg., El Dorado, Ark. 71730.
CS77-658	do	D. R. James, Jr., 407 Lion Bldg., El Dorado, Ark. 71730.
CS77-659	do	Jean C. James, Trust No. 1, 407 Lion Bldg., El Dorado, Ark. 71730.
CS77-726	Aug. 1, 1977	James T. Cliburn, 1600 Broadway, suite 430, Denver, Colo. 80202.
CS77-728	Aug. 8, 1977	Howard I. Mason, 1221 Rocky River Rd., Houston, Tex. 77056.
CS77-729	do	Michael Sunders Shearn, 3101 Fort Blvd., El Paso, Tex. 79930.
CS77-730	do	C. J. Scott, 10318 Willowgrove, Houston, Tex. 77035
CS77-731	do	Frank W. Harrison, Jr., P.O. Box 51943 OCS, Lafayette, La. 70505.
CS77-733	do	Robert C. Pettit, 1100 Milam Bldg., suite 580, Houston, Tex. 77002.
CS77-734	do	Harry Dillon Hodges, Box 50, Ames, Okla.
CS77-735	do	Edwin C. Meredith, 101 Iroquois Dr., Marietta, Ohio 45750.
CS77-736	Aug. 12, 1977	Centurion Oil & Gas Corp., P.O. Box 1463, Midland, Tex. 79702.
CS77-737	do	Edward R. Hudson and William A. Hudson, 1000 First National Bldg., Fort Worth, Tex. 76102.
CS77-738	do	Clyde E. Thompson, 712 Denver Center Bldg., Denver, Colo. 80203.
CS77-739	Aug. 15, 1977	Jerry B. Brammer, 5724 Walla, Fort Worth, Tex. 76133.
CS77-740	Aug. 12, 1977	Ellwood Foundation and The Ellwood Corp., 2500 First City National Bank Bldg., Houston, Tex. 77002.
CS77-741	Aug. 15, 1977	Edward R. Hudson, Jr. and William A. Hudson, II, 1000 First National Bldg., Fort Worth, Tex. 76102.
CS77-742	do	Davis Energy, Inc., 500 McFarlin Bldg., Tulsa, Okla. 74103.
CS77-743	do	Aaron and Taylor Pany, P.O. Box 32, Cameron, W. Va.
CS77-744	do	Shasta Minerals, Inc. et al, 500 Southwest Tower, Houston, Tex. 77002
CS77-745	do	Bank of Oklahoma, Jeanette R. Fleeger, Trust Bank of Oklahoma, P.O. Box 2300, Tulsa, Okla. 74192.
CS77-746	do	Graham Energy Corp., 5301 North Causeway Blvd., Metairie, La. 70002.
CS77-747	do	Doran & Associates, Inc., 733 Washington Rd., Pittsburgh, Pa. 15228
CS77-748	do	Frank B. Adams, 716 Wilson Bldg., Corpus Christi, Tex. 78476.
CS77-749	do	Astin Corp., 2639 Walnut Hill Lane, Suite 129, Dallas, Tex. 75229.
CS77-750	do	John P. Lockridge, 712 Denver Center Bldg., Denver, Colo. 80203.
CS77-751	Aug. 16, 1977	Arden Oil Corp., 1200 Wall Towers West, Midland, Tex. 79702.

[FR Doc.77-25449 Filed 8-31-77;8:45 am]

[Docket No. CP70-22]

MICHIGAN WISCONSIN PIPE LINE CO.

Petition To Amend

AUGUST 23, 1977.

Take notice that on August 15, 1977, Michigan Wisconsin Pipe Line Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP70-22 a petition to amend the Commission's order of April 30, 1970, as amended, issued in the instant docket (43 FPC 635), pursuant to Section 3 of the Natural Gas Act so as to authorize the continued importation of natural gas from Canada at an increase import rate of $2.16 (United States) per Mcf effective September 21, 1977, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner indicates that pursuant to the Commission's Opinion No. 577 and order issued April 30, 197, it was authorized to import 50,000 Mcf of Canadian natural gas per day from TransCanada Pipe-Lines Limited (TransCanada) at a point on the International Boundary near Emerson, Manitoba.

Petitioner states that pursuant to the Commission's order of September 9, 1976, in the instant docket, it is presently authorized to import gas from Canada at the rate of $1.94 (Canadian) per Mcf. It is stated that on June 23, 1977, the Canadian Minister of Energy, Mines and Resources announced that the price of Canadian natural gas exported to the United States would be further increased from the present $1.94 (Canadian) per Mcf to $2.16 (United States) per Mcf effective September 23, 1977, and that the National Energy Board of Canada's Order No. AO-7-GL-38 affirmed that increase to be effective September 21, 1977.

Petitioner states that the gas it imports from Canada forms a vital portion of its gas supply. In addition to the 50,000 Mcf per day of Canadian gas that it purchases from TransCanada, Petitioner also purchases 271,000 Mcf per day of Canadian gas from Midwestern Gas Transmission Company and 13,000 Mcf per day from Great Lakes Gas Transmission Company, and that in total this represents deliveries of 334,000 Mcf per day, it is said.

Petitioner indicates that it is imperative that this petition for amended import authorization be filed at this time to afford the Commission the maximum possible time before September 21, 1977, to act thereon.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 13, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25457 Filed 8-31-77;8:45 am]

[Docket No. RP74-100]

NATIONAL FUEL GAS SUPPLY CORP.

Proposed Changes in FPC Gas Tariff

AUGUST 23, 1977.

Take notice that National Fuel Gas Supply Corporation ("National") on August 4, 1977, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1. The proposed change does not reflect any changes in revenues but only proposes to change the PGA section of National's tariff to provide for tracking future changes in the cost of coke oven gas purchased from Donner-Hanna Coke Corporation.

National states that copies of this filing were served upon the company's jurisdictional customers and the regulatory commissions of the States of New York, Ohio and Pennsylvania.

Any person desiring to be heard or to protest said filings should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 1, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25461 Filed 8-31-77;8:45 am]

[Docket No. CP77-564]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Application

AUGUST 23, 1977.

Take notice that on August 12, 1977, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago Illinois 60603, filed in Docket No. CP77-564 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of certain additional volumes of shrinkage gas to Dorchester Gas Producing Company's (Dorchester) Hooker Gasoline Plant in Texas County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant purchases gas from Dorchester in the Hugoton Field, Texas County, Oklahoma, pursuant to a gas purchase contract dated December 1, 1946, as amended, and that by an amendment dated May 6, 1976, Applicant and Dorchester agreed to amend their contract as follows:

1. To limit Dorchester's removal of hydrocarbons from the gas stream to 25 percent of the Btu's in the gas stream delivered to Dorchester's gasoline plant.

2. To replace the existing price provision, that provides for a 10 percent reduction in price in the event the Btu's in the stream delivered to Applicant fall below 960 Btu's per cubic foot and a 20 percent reduction if the Btu's are delivered at 950 Btu's, with a proportional adjustment in price if the Btu's per cubic feet are more or less than 965 Btu's per cubic foot.

Applicant states that under the current contract, Dorchester must deliver gas at a minimum Btu level of 950 Btu's per cubic foot, and that Dorchester currently delivers gas at an approximate Btu level of 960. If Dorchester were to increase the efficiency of its plant, it could remove approximately 33 percent of the Btu's in the gas stream and still meet the current minimum Btu delivery obligation, it is indicated. It is stated that the amendment sets a limit on processing that would limit shrinkage to 25 percent of the Btu's entering the gasoline plant, and Applicant would receive more Btu's under the amendment than it would if Dorchester exercised its fully processing license under the current contract.

Applicant states that the amendment effectively reduces the downward penalty for delivery of gas at less than 960 Btu's per cubic feet, but Applicant could not benefit from the present price reduction provision as Dorchester would receive less than the minimum price.

Applicant further states that the amendment includes a specifc waiver by Dorchester of its right to receive the minimum price, thus allowing Applicant and its customers to receive the benefit of any downward adjustment, and that in return for Dorchester's waiver, Applicant has agreed to delete the percentage penalties discussed above.

It is stated that the gas delivered under the December 1, 1946 contract is part of approximately 78,000 Mcf per day purchased by Applicant from Dorchester and other sellers in the Hugoton Field, and that the gas purchased by Applicant is transported from the Field by Dorchester to Applicant's Compressor Station No. 101. Applicant states that after receipt at Station 101, Applicant compresses the gas and then transports it approximately 1/5 of a mile through Applicant's 26-inch Hooker lateral to a gasoline plant owned and operated by Dorchester, and Dorchester processes and dehydrates the gas and redelivers the stream to Applicant at the outlet of the gasoline plant.

It is indicated that on June 21, 1977, the Commission issued its "order granting Application to Amend certificate and Making Determination on Petition for Declaratory Order" (June 21 Order) in Docket No. G-4907 and Docket No. CP76-431, which order permitted Dorchester to deliver lower Btu gas to Applicant than provided for in the December 1, 1946 base contract, to the extent necessary to effectuate the Amendment.

Any person desiring to be heard or to make any protest with reference to said application should on or before Septem-

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

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ber 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25455 Filed 8-31-77;8:45 am]

[Docket No. CP77-563]

OKLAHOMA NATURAL GAS CO.

Application

AUGUST 23, 1977.

Take notice that on August 11, 1977, Oklahoma Natural Gas Company (Applicant), 624 South Boston Avenue, Tulsa, Okla. 74119, filed in Docket No. CP77-563 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of up to 100,000 Mcf of natural gas per day to Natural Gas Pipeline Company of America (Natural) for a one-year period, commencing on the day of first delivery, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to sell to Natural, pursuant to a gas service agreement dated August 3, 1977, between the two parties, such quantities of gas as Applicant would have available at the outlet of meter stations which are located in Woodward and Custer Counties, Okla., from time to time, over a one-year period. Applicant states that such deliveries would not interfer with its service to its regular customers and deliveries would be suspended or not made if such service is threatened.

It is stated that Natural has advised Applicant that additional volumes of gas are needed on Natural's system to help maintain current levels of deliveries to its existing customers and thereby avoid deeper and unanticipated curtailment.

Applicant indicates that over the one-year period of this contract, it may have volumes of gas which it may be able to make available to Natural without the need to construct or operate any new facilities. The natural gas would be available from Applicant's system supply and would be deliverable at the aforesaid points of interconnection between the two systems. Applicant indicates that it would charge Natural for such gas $2.05 per million Btu's for a term of one year from the date of first delivery.

Applicant states that inasmuch as its gas supply basically is obtained from producers whose sales are not subject to the Commission's regulation, it is necessary that there be no assertion of jurisdiction by the Commission over said producers during the term of this sale. Applicant further states that it is essential to the operation of its system that it be assured that (1) its facilities continue to be exempt from the Commission's regulation; (2) Applicant be relieved from any account and reporting requirements to the Commission other than reporting the volumes sold and the price paid for gas pursuant to the requested certification; (3) the sale be terminated without further action by Applicant and without further order by the Commission one year from the date of first delivery; and (4) any independent producer or other supplier of gas to Applicant remain exempt from the Commission's regulation.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25452 Filed 8-31-77;8:45 am]

[Docket No. ER76-532]

PACIFIC GAS AND ELECTRIC CO.

Further Extension of Time

AUGUST 23, 1977.

On August 11, 1977, the Secretary of the Interior filed a motion for rescheduling of the procedural dates in the above captioned proceeding. The filing and hearing dates were previously extended by notices issued February 28, 1977, and June 2, 1977.

The instant motion requests that the procedural dates either be stayed pending resolution of Pacific Gas and Electric Company's (PG&E) January 31, 1977, Motion for Approval of Settlement Agreement, or that they be extended to such future dates as will permit the Commission to complete consideration of PG&E's Motion and afford all parties sufficient time to make the necessary filings should that Motion be denied. The motion states that all parties to the proceeding and Staff Counsel do not object to the requested relief.

Upon consideration, notice is hereby given that the procedural dates in the above proceeding are modified as follows:

Filing of evidence in answer to PG&E's case-in-chief—October 3, 1977.
Filing of trial briefs by parties answering evidence—October 17, 1977.
Filing of PG&E's rebuttal evidence—October 31, 1977.
Filing of PG&E's trial brief—November 14, 1977.
Hearing—November 28, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25454 Filed 8-31-77;8:45 am]

[Docket No. CP70-7, (Phase II)]

SOUTHERN NATURAL GAS CO.

Petition To Amend

AUGUST 23, 1977.

Take notice that on August 12, 1977, Southern Natural Gas Company (Petitioner), P.O. Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP70-7 (Phase II) a petition to amend the Commission's order of October 29, 1969 (42 FPC 944), as amended, issued in the instant docket pursuant to Section 7 of the Natural Gas Act so as to authorize an increase in the contract demand sales of natural gas to Alabama Gas Corporation (Alagasco) to 418,527 Mcf of natural gas per day, the delivery of such additional gas at the delivery point formerly used to serve the Town of Rainbow City, Ala., and the abandonment of the sales of natural gas to the Town of Rainbow City, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that pursuant to the Commission's order of October 29, 1969, issued in the instant docket Petitioner was authorized, inter alia, to sell and deliver to Alagasco contract demands aggregating 408,725 Mcf, and that by an amending order issued October 20, 1971, Petitioner was authorized to sell and deliver to Alagasco contract demands aggregating 408,725 Mcf. It is further indicated that in 1974, Alagasco acquired four municipal distribution systems previously served by Petitioner, and that by an amending order issued July 16, 1974, the Commission approved an increase in the aggregate of Alagasco's contract demand to 414,965 Mcf. In 1976, Alagasco again acquired a municipal distribution system previously served by Petitioner, and on July 21, 1976, the Commission authorized an increase in Alagasco's aggregate contract demands to 417,347, it is indicated.

By the aforemention October 29, 1969, order issued in this proceeding, Petitioner was authorized to sell and deliver to The Water Works, Gas and Sewer Board of the Town of Rainbow City, Ala., a maximum delivery obligation of 1,180 Mcf.

Petitioner states that on August 3, 1977, Alagasco petitioned the Alabama Public Service Commission (APSC) for permission to purchase the Rainbow City natural gas system and to accept the assignment of Petitioner's service agreement with The Water Works, Gas and Sewer Board of the Town of Rainbow City.

Consequently Alagasco has requested that Petitioner amend the current service agreement between Petitioner and Alagasco to include therein the proposed changes. Petitioner asserts that the proposed new delivery point with 1,180 Mcf of contract demand would be offset by the elimination of service to the Town of Rainbow City.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 15, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25453 Filed 8-31-77;8:45 am]

[Docket Nos. CI76-753, CI76-754, and CI76-755]

TENNECO OIL CO., ET AL.

Amended Application for Optional Procedure Certification

AUGUST 22, 1977.

Take notice that on July 18, 1977, Tenneco Oil Company (Tenneco Oil), Tenneco Exploration Ltd. (Exploration I), and Tenneco Exploration II, Ltd. (Exploration II) filed amendments to requests for certification under Section 2.75 respectively in Docket Nos. CI76-753, CI76-754, and CI76-755 for the purchase and sale of natural gas from Eugene Island Block 367, offshore Louisiana, at an initial price of $2.9771 per Mcf with 5 cents per Mcf annual escalations, or an increase from the application filed November 18, 1976, at an initial price of $2.8037 per Mcf with 5 cents per Mcf annual escalations. The filings under Section 2.75 on November 18, 1976, amended its September 3, 1976 applications for a certificate of public convenience and necessity filed pursuant to Section 2.56a.

The subject gas would be produced by Tenneco Exploration, Ltd. and Tenneco Exploration II, Ltd. and sold to Tenneco Oil for resale to Tennessee Gas Pipeline Company, less one-fourth (¼), which amount Tenneco Oil proposes to transport onshore for its own uses.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commision's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25404 Filed 8-31-77;8:45 am]

[Docket Nos. RP73-94, (PGA77-3a)]

VALLEY GAS TRANSMISSION, INC.

Purchased Gas Cost Adjustment Filing

AUGUST 23, 1977.

Valley Gas Transmission, Inc. ("Valley"), on August 5, 1977, submitted for filing as part of its PFC Gas Tariff Original Volume No. 1, its proposed Substitute Eleventh Revised Sheet No. 2A. The proposed effective date is July 1, 1977.

Valley states that the Tariff Sheet is filed pursuant to its Purchased Gas Cost Adjustment Provision. The proposed changes involve Valley's "Current Gas Cost Adjustment." The adjustments are supported by computations attached to the filing.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 2, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25480 Filed 8-31-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-322]

LONG ISLAND LIGHTING CO. (SHOREHAM NUCLEAR POWER STATION, UNIT 1)

Order

In a telephone conference call held August 24, 1977, the Board was advised that the petitioner Suffolk County did not receive the Board's Order of August 1, 1977, until last week. That Order granted Suffolk County leave to file an amended petition within thirty days from the date of service. Petitioner Suffolk County requests that the time to file an amended petition be extended to September 16, 1977. That request is granted.

The special prehearing conference which has been set down for September 26, 1977, is postponed until October 18, 1977, to be held at 1:00 p.m., in the Port Jefferson Village Hall, 121 West Broadway (Route 25A), Port Jefferson, Long Island, New York.

Dated this 25th day of August 1977, At Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

JOHN M. FRYSIAK,
Chairman.

[FR Doc.77-25263 Filed 8-31-77;8:45 am]

[Docket No. STN 50-546 and STN 50-547]

PUBLIC SERVICE CO. OF INDIANA, INC., ET AL.

Issuance of Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10 (e) (1) and (2) of the Nuclear Regulatory Commission's (Commission) regulations, the Commission has authorized the Public Service Company of Indiana, Inc. on behalf of itself and the Wabash Valley Power Association to conduct certain site activities in connection with the Marble Hill Nuclear Generating Station, Units 1 and 2, prior to a decision regarding the issuance of construction permits.

The activities that are authorized are within the scope of those authorized by 10 CFR 50.10(e)(1), and include the fol-

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lowing: site preparation, land clearing, grading and excavation for plant facilities; construction of 138 KV line from existing transmission line for construction power, and installation of on-site distribution system; installation of condensate storage tanks, water wells, water distribution system, concrete batch plant; installation of fire pumphouse and pumps, temporary and portions of permanent outdoor fire protection systems; construction of dike for settling pond, warehouses, site fencing, construction buildings, parking lot, on-site service roads, on-site railroad sidings and spurs; construction of 10½ mile rail spur to Nabb, Indiana, including a railroad bridge; and construction of temporary concrete ring foundations needed for containment liner assembly.

Any activities undertaken pursuant to this authorization are entirely at the risk of the applicants, and the grant of the authorization has no bearing on the issuance of construction permits with respect to the requirements of the Atomic Energy Act of 1954, as amended, and rules, regulations, or orders promulgated pursuant thereto.

A partial initial decision on matters relating to the National Environmental Policy Act and site suitability from the standpoint of radiological health and safety was issued by the Atomic Safety and Licensing Board in the above captioned proceeding on August 22, 1977. A copy of (1) the Partial Initial Decision; (2) the applicants' Preliminary Safety Analysis Report and amendments thereto; (3) the applicants' Environmental Report and amendments thereto; (4) the staff's Final Environmental Statement dated September 1976; (5) the staff's Site Suitability Report dated July 1976; and (6) the Commission's letter of authorization dated August 24, 1977 are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and the Madison-Jefferson County Public Library, 420 West Main Street, Madison, Ind.

Dated at Bethesda, Md., this 24th day of August 1977.

For the Nuclear Regulatory Commission.

RICHARD S. CLEVELAND,
Acting Chief, Environmental Projects, Branch No. 1, Division of Site Safety, and Environmental Analysis.

[FR Doc.77-25264 Filed 8-31-77;8:45 am]

[Docket Nos. STN 50-546, 50-547]

PUBLIC SERVICE CO. OF INDIANA, INC. (MARBLE HILL NUCLEAR GENERATING STATION, UNITS 1 AND 2)

Evidentiary Hearing on Health and Safety Issues

An evidentiary hearing on health and safety issues will be held at the Madison-Jefferson County Public Library, 420 West Main Street, Madison, Indiana. The hearing will begin at 1:00 p.m. (local time) on September 26, 1977. It is anticipated that it will continue throughout the week.

With the withdrawal of the Louisville Water Company, renumbered Contention No. 12 is no longer an issue, but the Board will expect both Applicants and Staff to have witnesses available on this subject in case the Board has questions. Renumbered Contention No. 13 (City of Madison and Jefferson County, Ky.) will be litigated.

The public is invited to attend. Limited appearance statements will be called for at the commencement of the proceeding from those members of the public who did not give a statement at the prior proceeding. Oral statements will be limited to five (5) minutes each, but a written statement without limitation on length may be submitted to the Board.

It is so ordered.

Dated at Bethesda, Maryland this 24th day of August, 1977.

For the Atomic Safety and Licensing Board.

ELIZABETH S. BOWERS,
Chairman.

[Docket No. 50-312]

SACRAMENTO MUNICIPAL UTILITY DISTRICT

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 12 to Facility Operating License No. DPR-54, issued to Sacramento Municipal Utility District (the licensee), which revised Technical Specifications for operation of the Rancho Seco Nuclear Generating Station (the facility) located in Sacramento County, California. The amendment is effective as of its date of issuance.

The amendment makes minor changes in Sections 3.3, 4.1 and 5.41 of Appendix A, removes pages from Section 4.10 of Appendix A that are already in Appendix B, corrects a typographical error in Section 2.5.c of Appendix B, and clarifies Section 2.6.2.E of Appendix B.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 21, 1977, (2) Amendment No. 12 to License No. DPR-54, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Business and Municipal Department, Sacramento City-County Library, 828 I Street, Sacramento, California. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 18th day of August 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-25266 Filed 8-31-77;8:45 am]

[Docket No. 50-363]

JERSEY CENTRAL POWER & LIGHT CO., FORKED RIVER NUCLEAR GENERATING STATION, UNIT 1

Receipt of Application for Amendment to Construction Permit

The U.S. Nuclear Regulatory Commission (the Commission) has received an application for amendment to construction permit for Forked River Nuclear Generating Station, Unit 1 (Forked River), located in Ocean County, New Jersey. Jersey Central Power & Light Company is presently the sole owner of Forked River. By this application, Jersey Central Power & Light Company (Jersey Central), Metropolitan Edison Company (Met-Ed), and Pennsylvania Electric Company (Penelec), each of which is a wholly-owned operating subsidiary of General Public Utilities Corporation, request an amendment to Construction Permit No. CPPR-96 adding Met-Ed and Penelec as co-owners of Forked River. Jersey Central will retain exclusive responsibility for the design, construction and operation of Forked River.

Prior to issuance of the proposed amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations.

For further details with respect to this action, see the application for amendment dated March 29, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Ocean County Library, Brick Township Branch, Brick Town, N.J. 08723.

Dated at Bethesda, Md., this 26th days of August, 1977.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactor Branch 4, Division of Project Management.

[FR Doc.77-25398 Filed 8-31-77;8:45 am]

[Docket No. 50-585]

GENERAL ATOMIC CO.

Application for and Commission Consideration of Issuance of Facility Export License

Please take notice that General Atomic Company, San Diego, California, has submitted to the Nuclear Regulatory Commission an application for a license to authorize the export of a TRIGA Mark II pool-type research reactor with a thermal power level of 1000 kilowatts to Bangladesh and that the issuance of such license is under consideration by the Nuclear Regulatory Commission.

No license authorizing the proposed reactor export will be issued until the Nuclear Regulatory Commission determines that such export is within the scope of and consistent with the terms of an applicable agreement for cooperation arranged pursuant to Section 123 of the Atomic Energy Act of 1954, as amended (Act), nor until the Nuclear Regulatory Commission has found that:

(a) The application complies with the requirements of the Act, and the Commission's regulations set forth in 10 CFR, Chapter 1, and

(b) The reactor proposed to be exported is a utilization facility as defined in said Act and regulations.

Unless on or before October 3, 1977, a request for a hearing is filed with the Nuclear Regulatory Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of the Office of International Programs may, upon the determinations and findings noted above, cause to be issued to General Atomic Company a facility export license and may cause to be published in the FEDERAL REGISTER a notice of issuance of the license.

A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md. this 4th day of August, 1977.

For the Nuclear Regulatory Commission.

MICHAEL A. GUHIN,
Assistant Director, Export Import and International Safeguards, Office of International Programs.

[FR Doc.77-25399 Filed 8-31-77;8:45 am]

[Docket No. 50-315]

INDIANA AND MICHIGAN ELECTRIC CO., INDIANA AND MICHIGAN POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 21 to Facility Operating License No. DPR-58, issued to Indiana and Michigan Electric Company and Indiana and Michigan Power Company (the licensees), which revised the Technical Specifications for operation of the Donald C. Cook Nuclear Plant Unit No. 1 (the facility), located in Berrien County, Mich. The amendment is effective as of the date of its issuance.

The amendment changed the Appendix B Technical Specifications to delete the requirement to limit the rate of temperature change of circulating water discharged to Lake Michigan and to eliminate inconsistencies between the Appendix A and Appendix B Technical Specifications for the facility.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4), a environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the October 24, 1975 and May 13, 1977 applications for amendment and supplement dated February 18, 1977, and (2) Amendment No. 21 to License No. DPR-58. Both of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Mich. 49085. A single copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating reactors.

Dated at Bethesda, Md., this 18th day of August 1977.

For the Nuclear Regulatory Commission.

PAUL W. O'CONNOR,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-25400 Filed 8-31-77;8:45 am]

[Docket No. 50-62]

UNIVERSITY OF VIRGINIA

Proposed Renewal of Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering renewal of Facility Operating License No. R-66 issued to University of Virginia (the licensee), for operation of the University of Virginia Reactor (UVAR) located on the campus of the University of Virginia in Charlottesville, Va.

The renewal would extend the expiration date of Facility Operating License No. R-66 to September 13, 1997, in accordance with the Licensee's application for renewal, dated March 9, 1977.

Prior to renewal of Facility Operating License No. R-66, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations.

By October 3, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the proposed renewal of the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioners' contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER Notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

A petition for leave to intervene must be accomplished by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated March 9, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md. this 25th day of August 1977.

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For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-25401 Filed 8-31-77;8:45 am]

[Docket No. 40-8502]

WYOMING MINERAL CORP., IRIGARAY PROJECT, JOHNSON COUNTY, WYOMING

Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, Wyoming Mineral Corporation has filed an environmental report, transmitted by letter dated July 29, 1977, in support of their application for a license to receive, possess, use and transfer source material in the course of production-scale uranium solution mining activities on the Irigaray Property in Johnson County, Wyoming. The report, which discusses environmental considerations related to the proposed operation, is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555. Copies of the report are also being made available at the State Clearinghouse, State Planning Coordinator, Office of the Governor, Capitol Building, Cheyenne, Wyo. 82001.

After the environmental report has been analyzed by the staff, a draft environmental statement will be prepared. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and Local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Silver Spring, Md., this 25th day of August, 1977.

For the Nuclear Regulatory Commission.

LELAND C. ROUSE,
Chief, Fuel Processing and Fabrication Branch, Division of Fuel Cycle and Material Safety.

[FR Doc.77-25402 Filed 8-31-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE PILGRIM NUCLEAR STATION, UNIT NO. 2

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Subcommittee on the Pilgrim Nuclear Station, Unit No. 2, will hold a meeting on September 22, 1977, at the Ramada Inn, 225 McClellan Highway, Boston, Mass. 02128. The purpose of this meeting is to continue the review of the application of the Boston Edison Company for a permit to construct Unit No. 2 of the Pilgrim Nuclear Station.

The agenda for subject meeting shall be as follows: Thursday, September 22, 1977, 8:30 a.m. until conclusion of business.

The subcommittee may meet in open Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the subcommittee will meet in an open session ot hear presentations by and hold discussions with representatives of the NRC Staff, the Boston Edison Company, and their consultants, pertinent to this review.

At the conclusion of these sessions, the subcommittee may caucus in an open session to determine whether the matters identified in the Executive Sessions have been adequately covered and whether the project is ready for review by the full committee.

In addition, it may be necessary for the subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with subsection 10(d) of Public Law 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552 b (c) (4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 copies to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the committee's purview.

Persons desiring to mail written comments may do so by sending a copy thereof in time for consideration at this meeting. Comments postmarked no later than September 15, 1977, addressed to Mr. Gary R. Quittschreiber, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Wash., D.C. 20555, and at the Plymouth Public Library, North Street, Plymouth, Mass. 02360.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on September 21, 1977 to the Office of the Executive Director of the committee (telephone 202-634-1374, Attn: Mr. Gary R. Quittschreiber) between 8:15 a.m. and 5:00 p.m. e.d.t.

(d) Questions may be asked only by members of the subcommittee, its consultants, and Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc., being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement

at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regardingthe applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. Gary R. Quittschreiber, of the ACRS office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after September 29 and December 22, 1977, respectively, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Plymouth Public Library, North Street, Plymouth, Mass. 02360.

Copies may be obtained upon payment of appropriate charges.

Dated: August 29, 1977.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-25615 Filed 8-31-77;8:46 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, NUCLEAR REGULATORY COMMISSION

Revised Notice of Meeting

The meeting notice for the meeting to be held on September 8-10, 1977, in Room 1046, 1717 H Street, NW., Washington, D.C., is revised as detailed below. This revision adds a discussion of the regional tectonics of the Pacific-Northwest area and is necessary since review of the tectonic situation applicable to the Skagit Nuclear Plant impacts on other reactors, including operating facilities, in the Pacific Northwest area.

Thursday, September 8, 1977, 1:00-1:30 p.m.: Executive Session (Open)—The Committee will hear and discuss the report of the ACRS Subcommittee and consultants who may be present related to the seismic and geologic features of the Skagit Nuclear Power Project and the regional tectonics of the Pacific-Northwest area. Portions of this session will be closed if necessary to discuss Proprietary Information applicable to this project.

1:30 p.m.-4:00 p.m.: Regional Tectonics Applicable to the Skagit Nuclear Power Project Site and the Pacific-Northwest Area (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC Staff, the U.S. Geological Survey, and their consultants, related to seismic and geologic considerations applicable to the proposed site for the Skagit Nuclear Power Project and the Pacific-Northwest region. Portions of this session will be closed if required to discuss Proprietary Information related to this facility.

Friday, September 9, 1977, 5:30 p.m.-6:30 p.m.: Executive Session (Open/Closed)—The Committee will discuss its proposed report to the Nuclear Regulatory Commission on the San Joaquin Nuclear Project. Portions of this session will be closed as required to protect Proprietary Information and matters involved in NRC adjudicatory proceedings.

Dated: August 29, 1977.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-25618 Filed 8-31-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, WORKING GROUP NO. 2 OF THE SUBCOMMITTEE ON REACTOR SAFETY RESEARCH AND THE REACTOR FUEL SUBCOMMITTEE

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), Working Group No. 2 of the ACRS Subcommittee on Reactor Safety Research and the Reactor Fuel Subcommittee will hold a joint meeting on September 22-23, 1977 at the Le Baron Hotel, 1350 N. First Street, San Jose, CA 95112. The purpose of this meeting is to discuss water reactor safety research and development pertaining to fuel behavior and materials and metallurgy, and to discuss improved fuel concepts for boiling water reactors.

The agenda for subject meeting shall be as follows:

Thursday, September 22, and Friday, September 23, 1977, 8:30 a.m. until conclusion of business each day. The Working Group and Subcommittee may meet in open Executive Session, with any of their consultants who may be present, to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Working Group and the Subcommittee will meet in open session to hear presentations by and to hold discussions with representatives of the NRC Staff and their consultants, and with representatives of the General Electric Company and the Electric Power Research Institute.

At the conclusion of these sessions, the Working Group and the Subcommittee may caucus in an open session to determine whether the matters identified in the initial session have been adequately covered and to decide whether additional meetings of the Working Group and/or Subcommittee are necessary.

In addition, it may be necessary for the Working Group and the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Practicable considerations may dictate alterations in the above agenda or schedule. The Chairman of the meeting is empowered to conduct it in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 copies to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a copy thereof in time for consideration at this meeting. Comments postmarked no later than September 15, 1977 to Mr. Thomas G. McCreless, ACRS, NRC, Washington, DC 20555, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the beginning of the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group and the Subcommittee will receive oral statements on topics relevant to their purview at an appropriate time chosen by the Chairman of the meeting.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on September 21, 1977 to the Office of the Executive Director of the Committee (telephone 202/634-1374, Attn: Mr. Thomas G. McCreless) between 8:15 a.m. and 5:00 p.m. EDT.

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(d) Questions may be asked only by members of the Working Group, the Subcommittee, their consultants, and the Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) Persons with agreements or order permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. Thomas G. McCreless, of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after September 30 and December 23, 1977, respectively, at the NRC Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: August 29, 1977.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-25619 Filed 8-31-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, WORKING GROUP NO. 5 OF THE SUBCOMMITTEE ON REACTOR SAFETY RESEARCH

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), Working Group No. 5 of the ACRS Subcommittee on Reactor Safety Research will hold a meeting on September 20, 1977 in Room 1167, 1717 H Street NW., Washington, DC 20555. The purpose of this meeting is to review various research activities in support of fuel cycle development, including health and environmental aspects and safeguarding special nuclear materials.

The agenda for the subject meeting shall be as follows:

Tuesday, September 20, 1977, 8:30 a.m. until conclusion of business—The Working Group may meet in open Executive Session, with any of its consultants who may be present, to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Working Group will meet in open session to hear presentations by and to hold discussions with representatives of the NRC Staff, their consultants, and with representatives of other organizations participating in safety research in the above areas.

At the conclusion of these sessions, the Working Group may caucus in an open session to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Working Group to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a copy to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a copy thereof in time for consideration at this meeting. Comments postmarked no later than September 13, 1977 to Mr. John C. McKinley, ACRS, NRC, Washington, DC 20555, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the beginning of the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on September 19, 1977 to the Office of the Executive Director of the Committee (telephone 202/634-1371, Attn: Mr. John C. McKinley) between 8:15 a.m. and 5:00 p.m. EDT.

(d) Questions may be asked only by members of the Working Group, its consultants, and the Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

Persons with agreements or orders permitting access to propriety information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the

agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. John C. McKinley, of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after September 27 and December 20, 1977, respectively, at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: August 29, 1977.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-25616 Filed 8-31-77;8:45 am]

[Docket No. 50-245]

NORTHEAST NUCLEAR ENERGY CO., ET AL.

Granting of Relief From ASME Section XI Inservice Inspection (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Northeast Nuclear Energy Company, The Hartford Electric Light Company, Western Massachusetts Electric Company and Connecticut Light and Power Company. The relief relates to the inservice inspection (testing) program for the Millstone Nuclear Power Station, Unit No. 1 (the facility), located in Waterford, Conn. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief consists of (1) exemption from examination of inaccessible vessel and piping welds, (2) exemption from testing certain valves and measuring pump parameters, and (3) exceptions to hydrostatic testing requirements.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief. Prior public notice of this action was not required since the granting of this relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the request for relief dated May 27, 1977, (2) the Commission's letter to the licensee dated August 26, 1977.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Conn. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 26th day of August 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-25622 Filed 8-31-77;8:45 am]

[Docket No. 50-312]

SACRAMENTO MUNICIPAL UTILITY DISTRICT

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 13 to Facility Operating License No. DPR-54 issued to Sacramento Municipal Utility District, which revised Technical Specifications for operation of the Rancho Seco Nuclear Generating Station, located in Sacramento County, Calif. The amendment is effective as of its date of issuance.

The amendment to the Technical Specifications incorporates provisions for steam generator tube inspection to be consistent with the guidance contained in Regulatory Guide 1.83, Revision 1, dated July 1975.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 26, 1976, as revised June 21, 1977, (2) Amendment No. 13 to License No. DPR-54, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Business & Municipal Department, Sacramento City-County Library, 828 I Street, Sacramento, Calif. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 23rd day of August, 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-25624 Filed 8-31-77;8:45 am]

[Docket No. 50-266]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Granting of Relief From ASME Section XI Inservice Inspection (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Wisconsin Electric Power Company and Wisconsin Michigan Power Company. The relief relates to the inservice inspection (testing) program for the Point Beach Unit No. 1 (the facility) located in Two Creeks, Wis. The ASME Code requirements are incorporate by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance

The relief consists of exemption from the requirements for measuring certain parameters in the Pump and Valve Testing Program and from performing certain pressure vessel weld inspections in the Inservice Inspection Testing Program.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief. Prior public notice of this action was not required since the granting of this relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief will not result in any significant environmental impact

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and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the request for relief dated May 20, 1977, (2) the Commission's letter to the licensee dated August 26, 1977.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Document Department—University of Wisconsin, Stevens Point Library, Attn: Mr. Arthur M. Fish, Stevens Point, Wis. 54481. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 26th day of August 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-25623 Filed 8-31-77;8:45 am]

[Docket No. P-564A]

PACIFIC GAS AND ELECTRIC CO. (STANISLAUS NUCLEAR PROJECT, UNIT 1)

Amended Notice and Order for Conference With Counsel Regarding Discovery

AUGUST 26, 1977.

Due to a conflict with religious observances, and at the request of all counsel, the previously-entered notice and order of August 24, 1977 for a conference with counsel in connection with discovery matters is hereby amended.

The Board will hold a conference with all counsel regarding discovery objections and procedures in San Francisco, Calif. on September 8–9, 1977. This conference will commence at 9:30 a.m. at the U.S. Customs House, 555 Battery Street, Room 102, San Francisco, Calif. 94102.

Any briefs or other papers which counsel desire to file in advance of the conference should be in the hands of the members of the Board on or before September 6, 1977.

It is so ordered.

For the Atomic Safety and Licensing Board.

Dated at Bethesda, Md. this 26th day of August 1977.

MARSHALL E. MILLER,
Chairman.

[FR Doc.77-25621 Filed 8-31-77;8:45 am]

STATE WORKSHOPS FOR REVIEW OF NRC HIGH LEVEL WASTE

Repository Site Suitability Criteria

The disposal of high-level nuclear wastes is one of the most important issues now facing Federal energy agencies. The U.S. Energy Research and Development Administration (ERDA) [1] has been authorized by the Congress to develop repositories for high-level wastes and its schedule calls for an operational facility by 1985. The U.S. Nuclear Regulatory Commission (NRC) has licensing and regulatory authority over ERDA repositories, including authority to set siting criteria which ERDA repositories would be required to meet prior to NRC licensing.

NRC plans to develop criteria on which to judge whether a proposed site for a geologic repository is suitable, i.e., is capable of containing radionuclides for periods of time adequate to protect the public health and safety and the environment. Environment in this regard can be taken in a broad sense as including not only impact on biota, but socio-economic impacts as well. The initial technical analysis has been performed and preliminary criteria have been developed. NRC is now analyzing and assessing the impacts of those criteria.

To aid in its analysis and assessment, NRC is planning three independent reviews of the site suitability criteria development effort as early as possible: a peer review by experts outside of NRC; a review by the National Academy of Sciences; and a review by State officials. All three reviews are intended to assure (1) that no important relevant factor has been missed in the analysis; (2) that the analysis is sound; and (3) that the criteria are both understandable and capable of application.

For State review, NRC is holding three regional workshops (Eastern, Central, and Western United States) to discuss the preliminary site suitability criteria. The governors and legislative leadership of each State have been invited to send representatives to participate in one of the three workshops. Information developed at the workshops will be considered in the criteria development effort prior to completing the draft environmental impact statement.

The two-day workshops have been scheduled for the last two weeks in September. They will provide, prior to formal publication of the criteria, a means of including State officials' views in the siting criteria development process at an early stage.

The report resulting from each workshop will be part of the documentation used in NRC's deliberations in preparing draft site suitability criteria. These draft criteria, fully supported by a draft environmental impact statement, will be published for comment in early 1978.

The workshop locations and dates are as follows:

Western: September 19 to 21, Stouffer's Denver Inn, 3203 Quebec Street, Denver, Colo.

Central: September 25 to 27, Fontainebleau Motor Hotel, 4040 Tulane Avenue, New Orleans, La.

Eastern: September 28 to 30, Holiday Inn Center City, 18th and Market Street, Philadelphia, Pa.

These workshops are being held to obtain the views of, and to provide the opportunity for discussion among, State officials; however, all sessions will be open to public attendance and observation. Reports of the workshops will be filed in the NRC Public Document Room.

Persons who wish further information about these workshops or who wish to observe should write Dr. Herbert Kress, Workshop Director, Potomac Research, Incorporated (PRI), 7655 Old Springhouse Road, Westgate Research Park, McLean, Va. 22101, or call (703) 790-5363, extension 394, giving name, address and phone number.

Copies of "Workshop Material for State Review of Site Suitability Criteria for High Level Waste Repositories" (NUREG-0326) will be available from the National Technical Information Services, Springfield, Va. 22161, on or about September 19, 1977 at current prices. Single copies are available to the extent of supply from the Office of State Programs, Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Md. this 26th day of August 1977.

For the Nuclear Regulatory Commission.

ROBERT T. JASKE,
Acting Director, Office of State Programs.

[FR Doc.77-25620 Filed 8-31-77;8:45 am]

[1] The functions of ERDA were transferred to the new Department of Energy by the Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (1977).

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 77-35]

SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

Highway Safety Recommendations H-77-9 and H-77-10.—A Federal Government effort to develop a uniform system of rail-highway grade crossing warning devices which would better attract the attention of motorists to approaching trains is urged by the National Transportation Safety Board. The recommendations resulted from investigation of the August 8, 1976, grade crossing collision at Stratton, Nebr. A minister and eight of the 16 children he was driving to Sunday School in a church-owned bus were killed at Stratton's Beaver Avenue crossing when struck by a Burlington Northern freight train.

Investigation revealed that the train, travelling at 57 mph, struck the rear of the bus when it approached and entered the crossing without slowing or stopping. The impact tore the body of the bus from its chassis and ejected all but one of its occupants. All eight of the survivors were injured.

The driver of the bus was familiar with the crossing which was protected by a crossbuck, a wigwag signal, and a bell. The warning devices were activated as the train approached the crossing. A witness stated that the wigwag signal was working and that the bell was ringing. He also heard the train horn and saw the two fixed headlights illuminated on the approaching locomotive.

The circumstances of this accident clearly indicate that in spite of the operations of the wigwag signal and the train horn, and the illumination of the locomotive headlights, the busdriver was not alerted to the approching train. It also demonstrates that this crossing poses a serious hazard to the inattentive driver. Accident data show that a majority of those involved in grade crossing accidents are familiar with the crossing and, in spite of the driver's perception of a potential hazard at the crossing, a habit of inattention is formed after repeated crossings without the presence of a train. Something more is needed to attract the attention of these motorists to the hazard.

Accordingly, the Safety Board on August 23 recommended that the Federal Highway Administration and the Federal Railroad Administration:

Combine efforts to develop and implement a uniform system of warnings to attract the attention of motor vehicle drivers approaching railroad/highway grade crossings. (Class III, Longer Term Followup) (H-77-9).

In a separate letter forwarded August 23 to the Mayor of Stratton, Nebraska, the Safety Board recommended that the city of Stratton:

In cooperation with the Burlington Northern Railroad, Inc., install an improved railroad/highway grade crossing protection system on Beaver Avenue in accordance with the *Recommended Practices of the Association of American Railroads (1974)*. (Class II, Priority Followup) (H-77-10).

The Safety Board advised the Mayor of Stratton that because of the important role of this crossing in the local transportation system, the volume of traffic using the crossing, and the obsolescence of the current wigwag system, the crossing should be protected by an improved, attention-getting warning system. The Board suggested that one such system that might be considered is the traffic-activated highway traffic light signal. Motorists are familiar with the signal, observed compliance by motorists is excellent, violations are enforceable, and they would be no more expensive to install, operate, and maintain than flashing lights. The device would display a red signal only when a train was approaching, and it could be activated in the same manner as current electrically operated control devices.

A formal report on the investigation of the Stratton accident will be made available by the Safety Board within the next few weeks.

Pipeline Safety Recommendations P-77-18 through 20.—Three Class I, urgent followup, recommendations were issued by the Safety Board on August 22 to the Cherokee Water and Gas Board of Cherokee, Ala. The recommendations were made as a result of the ongoing investigation into the low-order gas explosion, followed by fire, which destroyed a house in Cherokee on July 30, 1977. One person in the house suffered third-degree burns, was hospitalized, and died on August 3.

Investigation of the accident indicates that natural gas, leaking from a broken 2¼-inch cast-iron gas main, migrated into the house via a recently backfilled sewer trench and was ignited by a cigarette lighter. The sewer laterals were perpendicular to and below the gas main. Earth settlement of the sewer backfill, aided by recent heavy rainfall, caused the failure of the cast-iron main, which was owned by the Cherokee Water and Gas Board (Cherokee).

The Safety Board finds that Cherokee previously has experienced cast-iron gas main failures due to earth settlement over its recently installed sewers; the potential for additional failures may exist where segments of its cast-iron gas mains have been disturbed by sewer construction and have been left unsupported.

Federal regulations (49 CFR 192.755) regarding protection of cast-iron pipelines require that when an operator has knowledge that the support for a segment of a buried cast-iron pipeline is disturbed by earth movement, that segment of the pipeline must be protected, as necessary, against damage. As soon as feasible, permanent protection must be provided for the disturbed segment from damage that might result from external loads.

Additionally, 49 CFR 192.721—Distribution systems; patrolling, states:

(a) The frequency of patrolling mains must be determined by the severity of the conditions which could cause failure or leakage, and the consequent hazards to public safety.

(b) Mains in places or on structures where anticipated physical movement or external loading could cause failure or leakage must be patrolled at intervals not exceeding 3 months.

Apparently, Cherokee did not take these protective actions when it first became aware of the earth settlement problem. Accordingly, the Safety Board now recommends that Cherokee:

Require, during the remainder of its sewer construction program and all future construction programs, the support and protection of its cast-iron gas mains in accordance with Federal regulations and in a manner acceptable to the Alabama Public Service Commission. (P-77-18).

Examine, support, and protect where necessary, in accordance with Federal regulations and in a manner acceptable to the Alabama Public Service Commission, those segments of cast-iron gas mains that have been disturbed already by this sewer construction project. (P-77-19).

Immediately begin to patrol its gas distribution system as frequently as necessary while the potential exists for gas main failure due to settlement. (P-77-20).

RESPONSES TO SAFETY RECOMMENDATIONS

Aviation: A-77-26 through 29.—Federal Aviation Administration letter of August 10 is in response to recommendations issued during the Safety Board's investigation of the Texas International Airlines accident at Denver, Colo., last November 16. (See 42 FR 28194, June 2, 1977.) The recommendations concern: The emergency evacuation training of all DC-9 operators, specifically with regard to operation of the tail cone exit (A-77-26); the dissemination of safety information, developed as a result of accident experience, to principal air carrier inspectors and operators of similar equipment and assurance of their compliance with related directives (A-77-27); issuance of an Air Carrier Operations Bulletin clarifying the designation of the DC-9 tail cone exit as a required exit and requiring that passengers are informed of the availability and operation of the tail cone exit in an emergency (A-77-28); and issuance of an Airworthiness Directive to require that an emergency light source be located close to the DC-9 tail cone release handle, or that the handle be self-illuminating (A-77-29).

In answer, FAA reports that the flight attendant training program has been changed to require hands-on training on all emergency exits, including the tail cone exit. Also, the Texas International Airlines (TXI) recurrent training program was revised this year to include hands-on training in emergency lighting conditions in operating the tail cone exit. This is in addition to training in the mockup and observation of a Douglas Aircraft Co. film on operating the tail cone exit. All TXI flight attendants had completed the revised recurrent training by May 1977, FAA reported.

ACOB 8-7-46, Crewmember Emergency Training, provides guidance to FAA field personnel as specified in 14 CFR 121.417(c)(2) and (4), according to FAA. Inspections of air carrier flight attendant training programs were conducted last January and all were found in compliance with 14 CFR 121.417.

FAA reports that Notice of Proposed Rulemaking 77-12, published July 21 at 42 FR 37417 as a result of the FAA Operations Review Conference, specifies that initial and recurrent training for each crewmember will be required on each type of aircraft in which they serve. Actual operation of emergency exits, fire extinguishers, and oxygen bottles are included, as are instructions on the additional forces which will be encountered due to unusual cabin deck angle, high wings, and structural deformation.

FAA's procedure for timely issuance of instructions to field and regional offices relating to safety in air carrier operations includes immediate notification by telegram. Less urgent matters are handled by ACOB's. A followup system to provide regions and headquarters with feedback concerning industry actions is used when appropriate. FAA also requires a review of accident information in training programs.

On March 7 FAA regional offices were notified that the tail cone exit on all models of the Douglas DC-9 is a required exit. They were asked to ensure that assigned carriers include reference to the exit in oral briefings and on passen-

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ger information cards as required by 14 CFR 121.571. And with reference to A–77–29, FAA considers that the emergency lighting conditions in proximity to the release handle are adequate.

Marine: M–74–31.—U.S. Coast Guard letter of August 10 concerns the requirement that all operators of chemical tank vessels be required to maintain updated operating manuals aboard each ship showing the proper operation of the piping system for anticipated transfer operations. This recommendation was made by the Safety Board following investigation into the death of three ship's officers on board the *SS William T. Steele* at Guayanilla, Puerto Rico, November 18, 1972.

Coast Guard reports publication of a rulemaking proposal May 9 at 42 FR 23517. The Safety Board has concurred in this proposal; see 42 FR 28196, June 2, 1977.

Pipeline: P–77–9 through 12.—National Fuel Gas Distribution Corp. responded August 5 to Safety Board recommendations issued following investigation into the death of two gas company servicemen last March 26 in Buffalo, N.Y. The men were asphyxiated from carbon monoxide inhalation after they entered a manhole to check out a gas leak. (See 42 FR 33392, June 30, 1977.)

National Fuel Gas Distribution Corp. reports, re P–77–9, that as of August 5 all appropriate operating personnel have been retrained in the established procedures for working in vaults and manholes, and, re P–77–10 through 12, that the 12-inch diameter gas main involved in the Buffalo accident was shut down on the date of the accident and has remained out of service. Recently a decision was reached to permanently abandon this line.

SAFETY BOARD COMMENTS ON COAST GUARD'S PROPOSED RULEMAKING

On August 22 the Safety Board forwarded to the U.S. Coast Guard comments on NPRM CGD 77–063, Improved Emergency Steering Standards for Oil Tankers, which was published May 16 at 42 FR 24869. The Safety Board generally supports the proposal to amend 33 CFR 157, Rules for Tank Vessels Carrying Oil in Bulk.

Commenting on the proposed revision to 33 CFR 157.20, the Board believes that an alarm to indicate failure of the rudder to respond to input orders of the helm is an excellent concept to use in an effort to reduce the risks of accidents. The Board believes, however, that such an alarm with a designed 30-second delay feature could be detrimental to safety.

The Board believes that all new vessels and existing vessels that undergo major alterations should be required to have, in addition to the proposed rudder-error alarm, the indicator and alarm systems currently proposed in the revision to 46 CFR 111.93–11, subject to Board comments of August 4 regarding that rulemaking in docket CGD 74–125, published June 24 at 42 FR 40793; August 11, 1977, for Board comments.) In addition to its comments regarding that rulemaking, the Board also recommended on August 4 in a separate letter to the Coast Guard that both locations —the pilothouse and main machinery control station—be required. The Board believes that the pilot lights and the curcuit breaker alarms at both locations should be added to the requirements in section 33 CFR 157.20. The recommendations issued August 4 to the Coast Guard, Nos. M–77–8 through 14, resulted from investigation into the collision last February 24 of the SS *Marine Floridian* with the Benjamin Harrison Bridge near Hopewell, Va.

Commenting on proposed revisions to 33 CFR 157.20a, the Board believes that all new vessels should be required to be fitted with two steering gear control systems with the characteristics proposed in paragraph (b)(1) of this section. Those steering gear control systems and power systems should be designed so that one action of the control switch in the pilothouse will automatically activate either system and operate all the ancillary devices necessary to provide torque to the rudder stock, tiller, or quadrant, as proposed in Board comments regarding section 111.93–7(e)(2) of the proposal to revise 46 CFR Subchapter J (CGD 74–125).

The Board further believes that vessels of 1,600 or more gross tons in restricted or congested waters should be required to have two steering systems with pilothouse switching or be required to man the emergency steering station in order to regain rudder movement at the earliest possible time.

Regardless of which method is used to comply with section 157.20a—redundant control systems or manning—the Board believes that explicit instructions for changing steering controls should be posed in the pilothouse, steering gear spaces, and emergency steering stations.

The feasibility of requiring the operation of both units of an electrohydraulic steering system simultaneously should be determined, as the Board recommended in the *Marine Floridian* case, and if such operation is found to be safe, a requirement should be established to operate both in restricted or congested waters.

Finally, with reference to improved steering gear standards, the Safety Board's August 22 letter reiterates *Marine Floridian* recommendations M–77–10 and M–77–12.

NOTE.—The above notice consists of summaries of safety recommendation letters issued by the Safety Board and other correspondence relating to recommendations made available, and responses to recommendations received, during the week preceding publication of this notice in the FEDERAL REGISTER. The recommendation letters in their entirety are available to the general public; single copies are obtainable without charge. Copies of the full text of responses to recommendations and other Board correspondence may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by the recommendation number and date of publication of this notice. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

AUGUST 29, 1977.

[FR Doc.77–25609 Filed 8–31–77;8:45 am]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

WORKING GROUP ON BASIC RESEARCH IN THE DEPARTMENT OF DEFENSE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the Office of Science and Technology Policy announces the following meeting:

NAME: Working Group on Basic Research in the Department of Defense.

DATE: November 3 and 4, 1977.

TIME: 9:00 a.m. to 4:00 p.m.

PLACE: Room 3104, New Executive Office Building, 17th and Pennsylvania Avenue, NW., Washington, D.C. 20500

TYPE OF MEETING: Open.

CONTACT PERSON:
Dr. William P. Raney, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500, telephone 202—395–3934.

SUMMARY MINUTES: May be obtained from the Office of Science and Technology Policy, Washington, D.C. 20500.

PURPOSE OF ADVISORY COMMITTEE: The Office of Science and Technology Policy is conducting a study which will lead to the formulation of policy governing the performance of basic research by or for the mission agencies. Under the guidance of the Steering Committee on Basic Research in the DOD is to examine the policies and procedures and research programs of that agency for adequacy and balance between near-term and long-term technical objectives.

AGENDA: 9:00 a.m. to 4:00 p.m. Planning meeting to discuss detailed objectives of the study, methods of approach, and work schedule and assignments.

WILLIAM MONTGOMERY,
Executive Officer.

[FR Doc.77–25606 Filed 8–31–77;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[DOC 301–12]

THROWN SILK

Public Hearings on Proposed Action

Pursuant to Section 301(e)(1) of the Trade Act of 1974, regulations of the Office of the Special Representative for Trade Negotiations (STR) (Title 15 CFR 2006.5) and Executive Order No. 11846, the Section 301 Committee solicited public views on a proposed action in the form of quotas and/or increased duties against imports of silk mufflers, scarves, shawls, veils and handkerchiefs from Japan. Those public views were solicited in a notice published in the FEDERAL REGISTER of July 13, 1977, at page 36040.

By letter dated July 27, 1977, the Secretary/Treasurer of the Fashion Accessories Association has requested that a public hearing be held on the proposed action. Such a hearing will be held at 10:00 A.M. on Thursday, September 29, 1977, at the Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C., Room 730. For the purpose of this hearing the scope of products from Japan to be considered for possible quantitative restraint in the form of quotas, and/or increased duties is widened to include (in addition to the silk products listed in the earlier notice) the following products: pig and hog leather, woven fabrics wholly of silk, and marking pens having a wick-like tip of felt or other material, provided for in items 121.50, 337.10, 337.20, 337.30, 337.40, and 760.15 of the Tariff Schedules of the United States Annotated (TSUSA). Imports into the U.S. in 1976 of the items listed above from Japan totaled $9.026 million.

Requests to present oral testimony and accompanying briefs must be received on or before September 22, 1977. Interested persons are advised to refer to the regulations promulgated by the Office of the Special Representative for Trade Negotiations covering procedures to be followed in all Section 301 proceedings (40 FR 39397—August 28, 1975, 15 CFR Ch. 20, Part 2006). Briefs submitted in response to the earlier notice need not be repeated for purposes of this hearing, as they will automatically be made part of the documentation for this hearing. Those who have already submitted briefs may, of course, present a supplemental brief if they wish to address the additional product coverage of this notice.

A. *Submission of Briefs and Requests To Present Oral Testimony*—Requests for oral testimony and submission of written briefs should conform to the procedures set forth in 15 CFR Part 2006.6 and 2006.7 (40 FR 39497—August 28, 1975).

B. *Rebuttal Briefs*—In order to assure parties the opportunity to contest information provided by other interested parties, rebuttal briefs may be filed within 15 days after the close of the hearings.

C. *Attendance at Hearings*—The hearings will be open to the public.

RICHARD R. RIVERS,
Acting Deputy Special Representative for Trade Negotiations.

[FR Doc.77–25428 Filed 8–31–77;8:45 am]

COLOR TELEVISION RECEIVERS

Set forth below is a copy of a letter to the U.S. Customs Service regarding the implementation of an orderly marketing agreement concluded with the Government of Japan on May 20, 1977, effective July 1, 1977, concerning trade in color television receivers. These directives supplement directives given in a June 23, 1977 letter to the U.S. Customs Service which was published in the FEDERAL REGISTER on June 27, 1977 (42 FR 32755).

AUGUST 8, 1977.

HON. ROBERT E. CHASEN,
Commissioner,
U.S. Customs Service,
Department of the Treasury,
Washington, D.C. 20220

DEAR MR. COMMISSIONER: This letter contains additional requests regarding the orderly marketing agreement between the Governments of the United States and Japan on color television receivers and is supplemental to those requests contained in my letter of June 23, 1977. Pursuant to the terms of this agreement and in accordance with Presidential Proclamation 4511 of June 24, 1977, it is requested that you take the additional actions described as follows:

1. With reference to requested action number 3 of my June 23 letter, the wording "the appropriate or correct certification by category" shall be interpreted to mean an original certification with the correct category and quantity by category thereon.

2. Reports should be made to this Office covering the total quantity of units imported within TSUSA 685.2066 and 685.2067 which are certified.

3. The Government of Japan has informed this Office that its consular offices are to be the point of contact for importers who lack the appropriate or correct certification.

This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT S. STRAUSS,
Special Representative for Trade Negotiations.

RICHARD R. RIVERS,
Acting Deputy Special Representative for Trade Negotiations.

[FR Doc.77–25595 Filed 8–31–77;8:45 am]

GENERALIZED SYSTEM OF PREFERENCES (GSP)

Acceptance of Petition for Review of Product Eligibility Under the GSP

Notice is hereby given of acceptance for review of a petition for modification of the list of articles receiving duty-free treatment under the GSP as provided for in Title V of the Trade Act of 1974 (88 Stat. 2066–2071, 19 U.S.C. 2461–2465). This petition indicates the existence of unusual circumstances warranting an immediate review by the Trade Policy Staff Committee (TPSC). The description of the petition is as follows:

1. Tariff Schedules of the United States (TSUS) item number and description—696.50, floating dry docks.

2. Petitioner—Multnoma County Labor Council, AFL–CIO.

3. Action requested—Withdrawal of GSP benefits.

4. Action taken—Petition accepted for review and public hearing scheduled.

All interested parties are invited to submit their views on the requested action to the Chairman of the TPSC, Room 728, 1800 G Street NW., Washington, D.C. 20506. Written comments should be received no later than the close of business September 6, 1977.

Notice of Public Hearing. The TPSC will hold public hearings at the Office of the Special Representative for Trade Negotiations, Room 730, 1800 G Street NW., Washington, D.C. beginning at 10:00 a.m. on Thursday, September 8, 1977, and continuing until all witnesses wishing to appear have been heard.

Requests to present oral testimony. All requests to present oral testimony, and accompanying written briefs, must be received by the Secretary of hte TPSC, Room 728, 1800 G Street NW., Washington, D.C. 20506 (202–395–7201) not later than the close of business Tuesday, September 6, 1977. Requests to present oral testimony should conform to the regulations codified at 15 CFR Chapter XX, Parts 2001–2003, and should contain the name, address, telephone number, and official position of the party making the request and of the party who will present the oral testimony. It is preferable that oral testimony not duplicate written material, but emphasize the main points contained in the briefs or petition.

Written briefs. Briefs should conform to the above cited regulations (15 CFR 2001–2003), should be submitted in 20 copies, and should contain the name and address of the party submitting the brief. Information submitted as business confidential information must contain a nonconfidential summary and must be easily separable from other information.

Public inspection of information. Subject to the regulations of the TPSC, and except for business confidential information, all written materials filed in connection with the hearings will be open to public inspection by appointment at the Office of the TPSC, Room 728, 1800 G

Attendance at the hearings. The hearings will be open to the public.

RICHARD RIVERS,
Acting Deputy Special Trade Representative.

[FR Doc.77–25416 Filed 8–31–77;8:45 am]

RAILROAD RETIREMENT BOARD

RAILROAD UNEMPLOYMENT INSURANCE ACT; BEGINNING OF A "PERIOD OF HIGH UNEMPLOYMENT"

Determination

In accordance with the provisions of section 2(h)(4) of the Railroad Unemployment Insurance Act (45 U.S.C. 352 (h)(4), as amended by section 1(e) of Pub. L. 94–92, the Railroad Retirement Board has determined that a "period of high unemployment" (as defined in section 2(h)(2) of the Act, as amended) shall begin on September 2, 1977. Consequently, extended unemployment benefits under the second proviso of section 2(c) of that Act, as amended by section 1(d)(2) of Pub. L. 94–92, will be payable in registration periods beginning on and after that date.

By authority of the Board.

Dated: August 30, 1977.

ROBERT A. RUSSELL,
Washington Liaison Officer.

[FR Doc.77–25705 Filed 8–31–77;8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 20150, (70-6037)]

ARKANSAS POWER & LIGHT CO.

Proposal To Enter Into Installment Sales Agreements in Connection With the Issuance of Pollution Control Revenue Bonds

AUGUST 26, 1977.

Notice is hereby given that Arkansas Power & Light Company, First National Building, Little Rock, Arkansas 72203, ("AP&L"), a wholly owned subsidiary company of Middle South Utilities, Inc., a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 9(a), 10, and 12(d) of the Act and Rule 44 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

In order to comply with prescribed federal, state and local standards with respect to air and water quality and the disposal of sewage and solid waste it has been and will be necessary to construct certain facilities for pollution control purposes at two 700 MW nominally rated coal fired generating units known as White Bluff Unit Nos. 1 and 2 ("White Bluff Plant") presently under construction in Jefferson County, Arkansas. AP&L has sold a 35% undivided interest in the White Bluff Plant to Arkansas Electric Cooperative Corporation (HCAR No. 20076) and plans to sell a 5% undivided interest in the White Bluff plant to the City of Jonesboro, Arkansas by September 1, 1977. AP&L now proposes to dispose of, and to contract to acquire, its anticipated 60% undivided interest ("Pollution Facilities") in certain of the pollution control facilities at the White Bluff Plant and its 60% undivided interest ("Industrial Facilities") in certain machinery, equipment and other facilities at the White Bluff Plant.

In order to effect such transactions, AP&L proposes to enter into two separate installment sale agreements ("Agreements") with Jefferson County, Arkansas ("County"), which will provide for the acquisition, construction and installation of the Pollution Facilities and the Industrial Facilities on behalf of the County. The Agreement relating to the Pollution Facilities will contemplate the issuance by the County under a trust indenture between the County and a trustee of not to exceed $50,000,000 aggregate principal amount of its Pollution Control Revenue Bonds, Series 1977 (Arkansas Power & Light Company Project) ("Pollution Bonds"). The net proceeds of the sale of Pollution Bonds will be used to defray the cost of construction of the Pollution Facilities. The Agreement relating to the Industrial Facilities will contemplate the issuance by the County under a trust indenture between the County and a trustee of $1,000,000 aggregate principal amount of its Industrial Development Revenue Bonds, Series 1977 (Arkansas Power & Light Company Project) ("Industrial Bonds"), the net proceeds of which would be used to defray the cost of construction of the Industrial Facilities. The operative terms and provisions of the two Agreements and the Pollution Bonds and the Industrial Bonds (collectively "Bonds") and the respective indentures ("Indentures") under which they are to be issued will be substantially identical.

The Agreements will provide for the sale of the Facilities by the County to AP&L subject to a lien and security interest retained by the County and the payment by AP&L of the purchase price of the Facilities, together with interest thereon, in semi-annual installments over a term of years. In the Agreements AP&L will assent to the assignment and pledge to the trustees under the Indentures of the rights of the County in the Facilities and of the County's interest in, and of the moneys receivable by the County under, the Agreements, except for certain rights to indemnification and reimbursement of expenses.

The Agreements will further provide that the purchase price of the Facilities payable by AP&L will be such amount as shall be sufficient (together with other moneys held by the trustees under the Indentures and available therefor) to pay the principal of the Bonds as the same becomes due and payable. AP&L under the Agreements will also agree to pay interest on the unpaid balance of the purchase price of the Facilities equal to the premium, if any, and interest on the Bonds. Under the Agreements AP&L will also be obligated to pay (i) the fees and charges of the trustee and any paying agent or agents under the Indentures, (ii) all expenses incurred by the County in connection with its rights and obligations under the Agreements, (iii) all expenses necessarily incurred by the County or the trustees under the Indentures in connection with the transfer or exchange of Bonds and (iv) all other payments which AP&L agrees to pay under the Agreements.

The Agreements will provide that AP&L may at any time prepay all or any portion of the unpaid balance of the purchase price of the Facilities, together with interest thereon, in whole or in part, such payment to be sufficient (together with other moneys held by the trustees under the Indentures and available therefor) to redeem on or after October 1, 1987, a specified principal amount of Bonds in the manner and to the extent provided in the Indentures, including any applicable premium, which will be 3% of the principal amount in the 11th year and which will reduce by ½ of 1% annually thereafter.

The Agreements will also provide that, upon occurrence of certain events relating to the operation of the White Bluff Plant or the Facilities, AP&L may at any time repay the entire unpaid balance of the purchase price of the Facilities together with interest thereon. It will also provide that in the event of certain rulings of the Internal Revenue Service or certain court determinations relating to the taxability of the interest on the Bonds, AP&L shall be obligated to prepay the entire unpaid balance of the purchase price of the Facilities, together with accrued interest. The payments by AP&L in such circumstances shall be sufficient (together with other moneys held by the trustees under the Indentures and available therefor) to pay the principal of all Bonds together with interest accrued or to accrue to the redemption date.

It is proposed that the Bonds will be issued as either serial bonds ("Serial Bonds") or term bonds ("Term Bonds"), or a combination thereof. The Term Bonds will mature not later than 30 years from the first day of the month in which they are initially issued and will be subject to a mandatory cash sinking fund. Serial Bonds, if any, will mature at various times prior to the maturity of the Term Bonds. The effect of the mandatory cash sinking fund of the Term Bonds together with the serial maturities of the Serial Bonds, if any, will be calculated to retire no less than 25% of the aggregate principal amount of the Bonds prior to ultimate maturity on the first day of the month in which the Bonds are issued in the year 2007. The Indentures will provide for the application of such of the proceeds of the Bonds which, after completion of the Facilities, may remain unused for the redemption or purchase of the Bonds, at the direction of AP&L.

In order to provide security for the performance of AP&L's obligations under the Agreements, AP&L will grant to the County a lien on and security interest in ("County Lien") the Facilities. The County will assign the County Lien to the trustees pursuant to the Indentures.

The Agreements will provide that prior to the sale of the Facilities by the County to AP&L, AP&L will convey to the County such portions of the Facilities as have already been constructed or acquired by AP&L, subject to the lien of AP&L's Mortgage and Deed of Trust, dated as of October 1, 1944, made by the Company to Morgan Guaranty Trust Company of New York and John W. Flaherty, as Trustees, as supplemented and amended.

It is contemplated that the Bonds will be sold by the County pursuant to arrangements with a group of underwriters represented by Salomon Brothers, Goldman, Sachs & Co. and Stephens Inc. In accordance with the laws of the State of Arkansas, the interest rate to be borne by the Bonds will be fixed by the County. AP&L will not be party to the underwritten arrangements; however, the Agreements provide that the terms of the Bonds and their sale by the County, shall be satisfactory to AP&L. AP&L understands that interest payable on the Bonds will be exempt from federal income taxes under the provisions of the Internal Revenue Code. AP&L has been advised that the annual interest rates on obligations, interest on which is so tax exempt, historically have been and can be expected at the time of issuance of the Bonds to be 1% to 2% lower than the rates of obligations of like tenor and comparable quality, interest on which is fully subject to federal income tax.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $120,000,000, including legal fees of $62,000 and accounting fees of $13,000. AP&L has applied to the Arkansas Public Service Commission in connection with the proposed transactions. It is stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than September 16, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-25497 Filed 8-31-77;8:45 am]

[File Nos. 2-52263, (22-8125)]

THE BRITISH PETROLEUM COMPANY LIMITED AND BP PIPELINES INC.

Application and Opportunity for Hearing

AUGUST 24, 1977.

Notice is hereby given that the British Petroleum Company Limited (an English corporation) ("BP") and BP Pipelines Inc. (a Delaware corporation) ("BP Pipelines") have filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission ("Commission") that the trusteeships of Morgan Guaranty Trust Company of New York (the "Bank") under a certain indenture which is qualified under the Act and under a new indenture which is not qualified under the Act are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under such qualified indenture.

Section 310(b) of the Act provides, *inter alia*, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of this Section provides, with certain exceptions, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture of the same obligor. However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for hearing thereon, that trusteeship under the indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any of such indentures.

BP and BP Pipelines allege that:

1. The Bank, as Trustee, has entered into an Indenture dated as of December 1, 1974 (the "1974 Indenture") with Sohio/BP Trans Alaska Pipeline Finance Inc. (which name has since been changed to Sohio/BP Trans Alaska Pipeline Capital Inc.), a Deleware corporation ("Capital"), pursuant to which there has been issued $250,000,000 principal amount of Capital's 9¾% Debentures Due 1999 (the "Capital Debentures"). The 1974 Indenture was filed as Exhibit 4 to Registration Statement No. 2-52263 under the Securities Act of 1933, and such Indenture has been qualified under the Act.

2. Capital is owned by 32.2% by BP Pipelines, a wholly owned subsidiary of BP, and 67.8% by Sohio Pipe Line Company ("Sohio Pipe Line"), a wholly owned subsidiary of The Standard Oil Company ("Sohio"). Simultaneously with the issuance and sale of the Capital Debentures, Capital applied the proceeds thereof to the purchase of a note of BP Pipelines (the "BP Pipelines Note") in a principal amount equal to 32.2% of the Capital Debentures and a note of Sohio Pipe Line in a principal amount equal to 67.8% of the Capital Debentures. The BP Pipelines Note is guaranteed by BP and has been pledged to the Bank, as Trustee under the Capital Indenture, to secure payment of the Capital Debentures. The Capital Debentures are also secured by the pledge of rights under the completion agreement and financing agreement of BP referred to below. BP is obligated with respect to 32.2% in principal amount of the Capital Debentures pursuant to its unsecured guarantee of the BP Pipelines Note and it is also committed under a completion agreement and a financing agreement with BP Pipelines to advance funds sufficient to enable BP Pipelines to pay its share of the construction costs of its interest in the Trans Alaska Pipeline System and all of its financial obligations, including those which relate to the Capital Debentures, as they become due. Sohio is obligated with respect to the remaining 67.8% in principal amount of the Capital Debentures.

3. On July 14, 1977, the City of Valdez, Alaska (the "City") and the Bank, as Trustee, entered into an Indenture dated as of July 1, 1977 (the "1977 Indenture") pursuant to which the City issued $350,000,000 aggregate principal amount of its 6% Marine Terminal Revenue Bonds (Sohio Pipe Line Company and BP Pipelines Inc. Projects) Series A, Due July 1, 2007 (the "Bonds"). The Bonds are being issued to provide funds for the acquisition, construction and equipping of certain docks, wharves and facilities directly related thereto and real property and interests therein constituting a portion of the Trans Alaska Pipeline System Marine Terminal (the "TAPS Marine Terminal") being constructed in Port Valdez in the City. The City has acquired a leasehold interest in a portion of the undivided interest of BP Pipelines in the TAPS Marine Terminal (the "BP Pipelines Project") pursuant to a Lease, dated as of July 1, 1977 (the "BP Pipelines Lease"), between the City and BP Pipelines, and the City has acquired a leasehold interest in a portion of the undivided interest of Sohio Pipe Line in the TAPS Marine Terminal (the "Sohio Pipe Line Project") pursuant to a Lease, dated as of July 1, 1977 (the "Sohio Pipe Line Lease"), between the City and Sohio Pipe Line. The City has subleased the BP Pipelines Project to BP Pipelines pursuant to a Sublease Agreement, dated as of July 1, 1977 (the "BP Pipelines Sublease"), between the City and BP Pipelines, and the City has subleased the Sohio Pipe Line Project to Sohio Pipe Line pursuant to a Sublease Agreement, dated as of July 1, 1977 (the "Sohio Pipe Line Sublease"), between the City and Sohio Pipe Line. The Bonds will be payable from and secured by subrents derived under the BP Pipelines Sublease, which subrents will be sufficient to pay 32.2% of the principal of, premium, if any, and interest on the Bonds, and by subrents derived under the Sohio Pipe Line Sublease, which subrents will be sufficient to pay 67.8% of the principal of, premium, if any, and interest on the Bonds. In addition, pursuant to a Guarantee Agreement, dated as of July 1, 1977 (the "BP Guarantee Agreement"), BP has guaranteed to the Trustee, for the benefit of the holders of the Bonds and of the coupons appertaining thereto, the payment of 32.2% of the principal of, premium, if any, and interest on the Bonds, and pursuant to a Guarantee Agreement, dated as of July 1, 1977, Sohio has guaranteed to the Trustee, for the benefit of the holders of the Bonds

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and of the coupons appertaining thereto, the payment of 67.8% of the principal of, premium, if any, and interest on the bonds. The obligations of BP and Sohio under the Guarantee Agreements are several and not joint obligations of BP and Sohio, respectively. The Bonds have not been registered under the Securities Act of 1933 on the basis of the exemption provided by Section 3(a) (2) thereof, and the 1977 Indenture has not been qualified under the Act on the basis of the provisions of Section 304(b) thereof.

4. Under Section 8.09(c) (1) of the 1974 Indenture, the Bank shall not be deemed to have a conflicting interest by reason of acting as Trustee under the 1977 Indenture if BP and BP Pipelines shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeships under the 1974 Indenture and under the 1977 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under one of such Indentures.

5. No default has at any time existed under the 1974 Indenture or the 1977 Indenture. BP's obligations in respect of the Capital Debentures and the Bonds are wholly unsecured and rank equally *pari passu*. BP Pipelines' obligations in respect of the Capital Debentures and the Bonds are wholly unsecured and rank equally *pari passu*. The 1974 Indenture (including the BP Pipelines Note Purchase Agreement referred to therein) includes covenants of BP relating to limitations on liens and consolidation, merger and sale, all of which apply to the future. Except for the covenant relating to consolidation, merger and sale, there is no other comparable covenant of BP included in the 1977 Indenture (including the BP Guarantee Agreement). The 1974 Indenture (including the BP Pipelines Note Purchase Agreement referred to therein) includes covenants of BP Pipelines relating to limitations on liens, sale and leaseback transactions and consolidation, merger and sale, all of which apply to the future. Except for the covenant relating to consolidation, merger and sale, there are no comparable covenants of BP Pipelines included in the 1977 Indenture (including the BP Pipelines Lease and BP Pipelines Sublease).

6. Such differences as exist between the 1974 Indenture and the 1977 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under either of the said Indentures.

BP and BP Pipelines have waived (a) notice of hearing, (b) hearing on the issues raised by said application and (c) all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street NW., Washington, D.C.

Notice is further given that any interested person may, not later than September 15, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-25498 Filed 8-31-77;8:45 am]

[File No. 1-7040]

FRIGITRONICS, INC.

Application To Withdraw From Listing and Registration

AUGUST 19, 1977.

In the matter of Frigitronics, Inc., common stock, $.10 par value.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

This security has become listed and registered on the New York Stock Exchange, and the issuer states that it "does not see any particular advantage in the dual trading of its stock inasmuch as trading of such stock on the American Stock Exchange has dwindled to a nominal amount." The issuer also believes "that continued dual listing would no longer serve the purpose of stimulating competition among the market makers of such stock."

The American Stock Exchange, Inc. has not objected to this application.

Any interested person may, on or before September 16, 1977 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-25499 Filed 8-31-77;8:45 am]

[File No. 1-575]

H. W. RICKEL & CO.

Application To Withdraw From Listing and Registration

AUGUST 24, 1977.

In the matter of H. W. Rickel & Co., Common stock, $2.00 par value.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Boston Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The issuer has experienced large economic losses and has concluded that it would be in its best interests to have trading concentrated with market makers in the Detroit metropolitan area rather than on the Boston Stock Exchange, Inc.

The Boston Stock Exchange, Inc. has not objected to this application, and the Company will be subject to the reporting requirements under the Securities Exchange Act of 1934.

Any interested person may, on or before September 21, 1977 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished by the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-25500 Filed 8-31-77;8:45 am]

[File No. 500-1]

HOLOGRAPHIC DEVELOPMENT CORPORATION OF AMERICA

Suspension of Trading

AUGUST 25, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Holographic Development Corporation of America being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10:00 a.m. (EDT) on August 25, 1977 through September 3, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-25501 Filed 8-31-77;8:45am]

[Release No. 9909 (811-2484)]

J. P. CABOT SHORT-TERM FUND, INC.

Filing of Application

AUGUST 24, 1977.

Notice is hereby given that the J. P. Cabot Short-Term Fund, Inc., 104 South Central Avenue, Valley Stream, N.Y. 11580 ("Applicant"), an open-end, nondiversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on July 25, 1977, pursuant to Section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

Applicant states that it was organized as a Maryland corporation on April 29, 1974 and registered under the Act by filing a Notification of Registration Form N-8A with the Commission on May 1, 1974. It further states that its shareholders on October 22, 1976 voted to adopt a plan of liquidation and dissolution, and that, pursuant to such plan, a liquidating dividend equal to $1.00 per share was paid to its shareholders who had not redeemed prior to that date. Applicant represents that it presently has no assets and no shareholders.

Section 8(f) of the Act provides, in part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 19, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-25502 Filed 8-31-77;8:45 am]

[Release No. 20148, (70-5831)]

NATIONAL FUEL GAS CO. AND NATIONAL FUEL GAS SUPPLY CORP.

Proposal To Extend Maturity of a Note of a Subsidiary Held by a Holding Company

AUGUST 25, 1977.

Notice is hereby given that National Fuel Gas Company, 30 Rockefeller Plaza, New York, New York 10020, ("National"), a registered holding company, and its wholly-owned subsidiary, National Fuel Gas Supply Corporation, 308 Seneca Street, Oil City, Pennsylvania 16301, ("Supply") have filed post-effective amendments to an application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 9(a), 10, 12(b) and 12(f) of the Act and Rules 43 and 45 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application-declaration, which is summarized below for a complete statement of the proposed transaction.

On May 10, 1976 the Commission issued an order in this matter (HCAR No. 19521) authorizing, among other proposed transactions, National to issue and sell, through December 31, 1976, unsecured short-term notes to The Chase Manhattan Bank, N. A. ("Chase") in a maximum aggregate principal amount of $7,000,000 at any one time outstanding. These notes were to mature no later than twelve months from the date of issue. The proceeds of the sale of such notes have been loaned to certain of National's subsidiaries, including $4,900,000 to Supply, in exchange for notes of those subsidiaries. Pursuant to this authority National issued and sold its twelve month note to Chase on December 31, 1976 and loaned the proceeds to Supply in exchange for Supply's note maturing December 31, 1977. National prepaid its note to Chase on March 28, 1977; Supply's corresponding note to National has not been prepaid. Supply has used the $4,900,000 to develop existing wells to serve as gas storage facilities. Upon receipt of Federal Power Commission authorization for certain related transactions, these facilities will be transferred to National Gas Storage Corporation ("Storage"), a corporation presently being organized as a subsidiary of National, in exchange for the assumption of Supply's $4,900,000 note to National.

National has been informed that the above-mentioned Federal Power Commission authorization regarding Storage will be received before April 1978. Therefore, it is proopsed that the maturity of Supply's $4,900,000 note to National be extended from December 31, 1977 to December 31, 1978. The interest rate and other terms of the note will remain the same. If authorization is received from the Federal Power Commission prior to December 31, 1978 the promissory note will be prepaid upon the completion of the transactions involving Storage.

No special fees, commissions or expenses are anticipated in connection with the consummation of the proposed transaction. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 19, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-25503 Filed 8-31-77; 8:45 am]

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[Release No. 20149 (70-5915)]

NATIONAL FUEL GAS CO. AND NATIONAL FUEL GAS SUPPLY CORP.

Proposal To Convert Noninterest-Bearing Intrasystem Loan to an Interest-Bearing Loan

AUGUST 26, 1977.

Notice is hereby given that National Fuel Gas Company, 30 Rockefeller Plaza, New York, New York 10020, ("National"), a registered holding company, and a wholly-owned subsidiary, National Fuel Gas Supply Corporation, 308 Seneca Street, Oil City, Pennsylvania 16301, ("Supply"), have filed post-effective amendments to an application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 9(a), 10, 12(b) and 12(f) of the Act and Rules 43 and 45 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

By orders dated November 17, 1976 (HCAR No. 19760), February 14, 1977 (HCAR No. 19882) and March 24, 1977 (HCAR No. 19956) the Commission authorized National to issue and sell debentures and to loan a portion of the proceeds to certain of its subsidiaries. National was authorized to use up to $19,400,000 of the proceeds of the debenture sale to acquire securities of National Gas Storage Company ("Storage"), a corporation presently being organized as a subsidiary of National. The acquisition of Storage's securities by National is dependent upon Federal Power Commission ("FPC") authorization of related transactions involving Storage. Accordingly, National was authorized by this Commission to loan up to $19,400,000 aggregate principal amount to Supply pending receipt of such FPC authorization. The FPC authorization has not yet been obtained and noninterest-bearing loans have been made to Supply for the preliminary development of storage properties which will later be transferred to Storage, for working capital, for the purchase of gas placed in summer storage and for temporary investment.

FPC authorization is not now expected until April 1978; therefore, National and Supply propose that the above-mentioned authority to make loans of the proceeds of National's debenture sale to Supply, pending receipt of the FPC authorization involving Storage, be modified to authorize the loaning or reloaning to Supply of up to $19,400,000 aggregate principal amount at an annual interest rate of 8.7 percent, which is equal to the effective cost of money incurred by National in the issuance of its debentures, namely 8.657 percent, rounded to the next highest multiple of 1/10 of 1 percent. Supply's notes will be prepaid upon the completion of the transactions involving Storage which require FPC approval.

No special and separable fees, commissions and expenses are anticipated in connection with the proposed transaction. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 19, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other section as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-25504 Filed 8-31-77; 8:45 am]

[Release No. 34-13889; File No. SR-NSCC-77-5]

NATIONAL SECURITIES CLEARING CORP.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 5, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change consists of the agreements governing the interregional interface service of National Securities Clearing Corporation (NSCC). The fees and charges relating thereto (Interface Fees) are set forth in Exhibit No. 1 attached hereto.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to state agreements pertaining to NSCC's Interregional Interface Service (Interface Service) and the Interface Fees.

NSCC's SCC and ASECC Divisions have each entered into agreements (Interregional Interface Agreements) with Midwest Clearing Corp. (MCC), Pacific Clearing Corp. (PCC) and Stock Clearing Corp. of Philadelphia (SCCP). Members of NSCC's SCC and ASECC Divisions who enter into agreements with NSCC and any of MCC, PCC or SCCP (referred to each as XCC) participate in the interregional interface between the SCC Division or ASECC Division and XCC, pursuant to which all trades (other than mutually agreed upon exceptions for operational or other purposes) whether made on the floor of the New York Stock Exchange, Inc. or the American Stock Exchange, Inc. or in other market places in designated securities, shall be settled through the system of only one of the clearing agencies, as more fully described in Exhibit 3 to NSCC's filing.

The costs and revenues resulting from NSCC's operation of the interfaces for the 12 months ended June 30, 1977 is as follows:

REVENUE AND EXPENSES

	Revenue	Expense[1]	Profit/(loss)
1976:			
July	$30,815	$46,278	($15,163)
August	29,860	53,920	(24,060)
September	35,742	47,302	(11,560)
October	37,121	52,945	(15,824)
November	41,542	51,498	(9,956)
December	61,573	63,433	(1,860)
1977:			
January	65,790	65,921	(131)
February	55,694	54,237	1,457
March	59,592	69,894	(10,302)
April	55,246	57,381	(2,135)
May	56,246	63,045	(6,799)
June	58,639	59,392	(753)
Total	587,860	685,246	(97,386)
Average per month	48,988	57,104	(8,115)
Average per month in 1977	58,534	61,645	(3,111)

[1] This expense includes only facilities management costs and does not include allocation of clearing corporation overhead or clearing corporation financing costs

Reference is made to Exhibit 3 to NSCC's filing for views concerning the appropriateness of the interface fees.

The proposed rule change relates to NSCC's carrying out the purposes of Section 17A of the Securities Exchange Act of 1934 (Act), by fostering cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, removal of impediments to and perfection of the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and linking of clearance and settlement facilities pursuant to Section 17A(a)(1)(D) of the Act.

No comments were received on the proposed rule change.

NSCC perceives no burden on competition as a consequence of the proposed rule change.

On or before October 6, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 22, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

AUGUST 25, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

NATIONAL SECURITIES CLEARING CORP.
NEW YORK, N.Y., *July 27, 1977.*

JACK NELSON, *President*

To: *NSCC Participants.*
Attention: *Managing Partner/Officer.*
Subject: *Interface Fees.*

When clearing interfaces were first created in New York, it was recognized that the operation of these services would add to clearing corporation costs, but at the same time would provide internal savings to participants who used them. Therefore, National Securities Clearing Corp.'s SCC and ASECC Divisions, and their predecessors, have been charging an "Interface Fee" to the specific users who benefited from the service. These fees were based on the number of transactions leaving NSCC's system for settlement at another clearing corporation, or entering NSCC's system for settlement from another clearing corporation, and were set at fifty cents for each round-lot transaction, twenty-five cents for each odd-lot transaction, and twenty cents for each exercise or assignment.

The rationale behind charging fees to user participatnts was simple: the clearing corporation needed to generate revenues which would be approximately equal to the cost of providing the interface service. Furthermore, since both SCC and ASECC Division participants have historically paid the additional expense of other special services provided to them, it was consistent that interface costs should also be borne by those participants who used the service and benefited from it.

As a condition of the Securities and Exchange Commission's January 3, 1977 order approving NSCC's registration as a clearing agency, NSCC is required to offer to operate such interfaces under an agreement wherein the parties to the interfaces would not charge each other for interface movements or charge their participants, either an interface fee or any fee which would operate as an interface fee. This condition was to be satisfied prior to the commencement of consolidated operations.

NSCC's proposed fee schedule, released to interested parties for comment on June 16, 1977, anticipated the elimination of these charges. It had been NSCC's intent to retain the existing interface charges until this revised pricing structure was implemented coincident with the start of consolidated operations. However, other clearing corporations, and their parent exchanges, have asked that these interface fees be eliminated prior to the start-up of a consolidated NSCC operation, because they feel these fees place them at a competitive disadvantage.

The Board of Directors of National Securities Clearing Corp. believes that cooperative action in the movement towards the national clearance and settlement system is a necessity. Accordingly, in the interest of furthering progress towards consolidation, NSCC's Board has determined that it would be appropriate to immediately modify its present interface fee policy. Specifically, on July 25, 1977, NSCC adopted a policy wherein interface fees will not be assessed for transactions settled through an interface when the cooperating clearing corporation does not assess a comparable interface fee nor impose a general fee structure which essentially operates as an interface fee. In those cases where the cooperating clearing corporation does assess such a fee or has a general fee structure which operates as an interface fee, NSCC will maintain its charge but only for those transactions that are similar to the transactions being assessed (either directly or indirectly) by the cooperating clearing corporation.

As a result of this policy revision, the following changes will become effective on August 1, 1977:

1. All interface fees on transactions made between NSCC and Pacific Clearing Corp. will be eliminated.

2. Midwest Clearing Corp. (MCC) presently assesses a fifty cent per side interface fee for transactions compared by MCC which settle at NSCC but does not impose a similar fee for transactions compared at NSCC and settled at MCC. Accordingly, interface fees for trades compared at MCC and settled at NSCC will be eliminated, while interface fees for trades compared at NSCC and settled at MCC will be retained.

3. The general fee structure of Stock Clearing Corp. of Philadelphia (SCCP) imposes full trade recording and settlement charges for transactions compared at SCCP and settled at NSCC, a practice which essentially operates as an interface fee. SCCP does not impose an interface fee on transactions compared at NSCC and settled at SCCP. Accordingly, fees for trades compared at SCCP and settled at NSCC will be eliminated, while interface fees for trades compared at NSCC and settled at SCCP will be retained.

4. Interface fees for exercises and assignments reported to NSCC by Options Clearing Corp. will be eliminated.

If you have any questions on the above, please call Jack Quirke at 212-248-0720.

JACK NELSON.

[FR Doc.77-25508 Filed 8-31-77;8:45 am]

[Release No. 34-13882; File No. SR-NYSE-77-21]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Changes

Pursuant to Section 19(b)(1) of the Securities Exchange act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 1, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED AMENDMENTS TO THE CERTIFICATE OF INCORPORATION AND CONSTITUTION

The text of the proposed amendments is attached as Exhibit I.

PURPOSE OF THE PROPOSED AMENDMENTS

The proposed changes would broaden access to the New York Stock Exchange market by enabling all qualified broker/dealers to become Exchange members by:

(1) Paying annual fees of $25,000 for physical presence and the right to establish and maintain facilities on the Floor of the Exchange.

(2) Paying annual fees of $13,500 for electronic order access to the Floor facilities of another member and direct access to the Designated Order Turnaround System.

(3) Paying an annual fee to be determined by the Board of Directors for physical access to the Options Floor facilities for market-making activities.

The number of annual memberships made available will be determined by floor space and facilities limitations as not to interfere with the Exchange's ability to administer its affairs and facilitate transactions in Exchange listed securities on its Floor.

The annual members described above will be entitled to vote in all elections and on all matters except a merger, consolidation, dissolution or final liquidation of the Exchange; or any proposal which would amend any of the rights or limitations of such members; or any proposal which would amend any rights to or participation in the Gratuity Fund. Annual members having only electronic access and persons holding options memberships will have one-half vote on matters for which they are entitled to vote; while annual members with pysical presence on the Floor will have one vote on such matters.

We are mindful of the requirement contained in the 1975 Amendments to the Securities Exchange Act of 1934 that:

"The rules of the exchange assure a fair representation of its members in the selection of its directors and the administration of its affairs * * *"

The Exchange feels fair and good reasons exist for distinguishing among the classes of its members, with respect to the vote that is accorded to each class, as well as the matters upon which each class of member may vote. Included in these reasons are the investment which present members have made in the Exchange in terms of capital, contribution to the development of its market and the smaller investment and risk which the annual member undertakes.

It is our firm belief that the difference between the classes of members should be recognized in determining the

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vote to be accorded to them, and that this is accomplished in conformity with the applicable law.

Annual membership fees were computed to achieve an equitable allocation of dues among members. Annual Floor membership dues (payable by annual members with physical presence on the Floor) were determined by linking them to the current replacement value of a membership. This was done by applying member firms' median 1972–1976 pre-tax rate of return on equity capital (18.8%) to a estimated $120,000 NYSE replacement value per membership. Adding the current membership dues of $1,500 and the additional $1,800 fee paid for each member on the Trading Floor (which permanent members will continue to pay) to the return on member equity yielded a total of $25,900. It was decided to round this down to an even $25,000.

The determination of annual dues for electronic order access does not lend itself to the above approach, because there is no way to establish the proportion of membership replacement value allocable to electronic access. Therefore, it was decided that dues for electronic access should be set at a level which would allow the Exchange to recover the cost of regulating annual electronic access members. Although average cost of regulation of future members cannot be determined with great accuracy, estimates put average cost of such regulation as high as $11,000 for the year 1975. Since regulatory costs are primarily payroll and it would probably be well into 1977 before annual membership, if approved, would go into effect, the 1975 estimate was increased by 11%. (This adjustment allows for the annual 7–8% increment in the NYSE's cost per employee.) Thus, 1977 regulatory costs are estimated at $12,200 per electronic access member. The current yearly dues of $1,500 were added to this figure to arrive at $13,500 (rounded down) as the annual payment for electronic access membership.

The proposed amendments would also permit any member holding an equity interest in the Exchange to enter into a contractual arrangement to lease his membership for a specified term of years to a qualified registered broker/dealer. The lessee would be the member under the Exchange Constitution and rules (except for purposes of the Gratuity Fund) and would be regulated accordingly. The lessee would not pay into nor share the benefits of the Gratuity Fund nor could he be elected as a Trustee thereof. All other voting rights of the membership would accrue to the lessee, subject to any proxy stating otherwise. The lessee would not be entitled to receive any distribution of the assets of the Exchange in the event of liquidation, dissolution, or winding-up of the Exchange.

Finally, the proposed amendments contain "housekeeping" changes which are designed to recognize certain differences between equity and non-equity members with regard to the applicability of various Constitutional provisions.

Basis Under the Act

(i) The proposed amendments will enable the Exchange to enforce compliance by its non-equity members and lessees of equity holders by defining such persons as members for purposes of Exchange rules regulating its membership.

(ii) The proposed amendments are consistent with Section 6(b)(2) of the Act in that they enable any qualified perons to become Exchange members.

(iii) The amendments are consistent with Section 6(b)(3) of the Act in that they provide for a fair representation of members in the selection of directors and administration of Exchange affairs. As stated hereinabove under Purpose of the Proposed Amendments, the Exchange believes the one-half vote accorded persons holding electronic access and options membership is justified in view of the investment which present members have made in the Exchange in terms of capital, contribution to the development of its market and the smaller investment and risk which the annual member undertakes.

(iv) The proposed amendments are consistent with Section 6(b)(4) of the Act in that they contemplate the equitable allocation of reasonable dues, fees and other charges among members of the Exchange. The method used in arriving at the initial dues to be charged annual Floor members and electronic access members is described in detail in Purpose of the Proposed Amendments hereinabove.

(v) The proposed amendments will increase access to the New York Stock Exchange market and encourage greater participation. The Exchange submits that, in general, such changes tend to remove impediments to the mechanism of a free and open market and are consistent with Section 6(b)(5) of the Act.

(vi) All members and lessees of equity holders will be subject to rules, including disciplinary rules, since all are deemed members.

(vii) Is inapplicable.

(viii) Is inapplicable.

Comments Received From Members, Participants, or Others

No comments were solicited or received on the subject amendments.

Burden on Competition

The proposed changes will not impose any burden on competition.

On or before October 6, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the abovementioned self-regulatory organization comments, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 22, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

AUGUST 22, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

Exhibit I

Text of Proposed Amendments

Deleted language in brackets [ ]. New language *italicized*. Words in CAPS are amendments Pending SEC Approval in File No. SR-NYSE-77-21.

Proposed Amendments to Certificate of Incorporation

The Certificate of Incorporation shall be amended as follows:

(a) Paragraph 8 of the Certificate of Incorporation providing, among other things, for the election of the Trustees of the Gratuity Fund of the Exchange shall be amended to read as follows:

"8. Individuals or corporate trustees may from time to time be appointed for any funds or other property of the Exchange, including without limitation the funds known as the Gratuity Fund and the Special Trust Fund heretofore established by the Constitution of the Exchange. The trustees of the Gratuity Fund of the Exchange shall consist of the Chairman of the Board of [Governors] *Directors* and six elected trustees, of whom two shall be elected annually for a term of three years by the members of the Exchange entitled to vote for the election of [Governors] *trustees of the Gratuity Fund*. Any vacancy among the six elected trustees of the Gratuity Fund may be filled by the Board of [Governors] *Directors* until the next annual election of the Exchange."

(b) The following new paragraph 13 shall be added to the Certificate of Incorporation:

"13. Members. The classes of membership in the Exchange shall include the regular members, presently fixed by the Constitution of the Exchange at 1366, plus annual members having physical access to the trading floor of the Exchange, annual members having only electronic access to such trading floor, and annual members having physical access to the trading floor of the Exchange to engage in activities as an options market maker. The number, classification, rights (including voting rights), duties and obligations of, and the limitations and restrictions upon, each class of member of the Exchange, shall be as provided herein and in the Constitution of the Exchange and the Rules of its Board of Directors.

"The members of the Exchange other than the regular members thereof shall have no interest in, and no right whatsoever to share in the distribution of, the assets of the Exchange in the event of any voluntary or involuntary final liquidation, dissolution or winding up of the affairs of the Exchange. In such event, after paying or making provision for the payment of all liabilities of the Exchange, the assets of the Exchange shall be distributed equally among the then existing regular members; provided, however, that in the event a regular member is, at the time of such dissolution, indebted to the Exchange for any unpaid initiation fees, fines, dues, assessments or other fees or charges, he shall nonetheless be entitled to share in the distribution of the assets of the Exchange equally with other regular members but any such arrears shall be deducted by the Exchange from any share to which he may be entitled.

"Neither the consolidation or merger of the Exchange, nor the sale, lease or conveyance of all or a part of its assets shall be deemed a final liquidation, dissolution or winding up of the affairs of the Exchange within the meaning of the foregoing provisions of this Paragraph 13."

Proposed Amendments to Constitution

Article VII

Elections—Exchange Meetings

Annual Election—Positions to be Filled

Sec. 1. A meeting of the members of the Exchange *entitled to vote thereat* shall be held annually for the election of Directors of the Exchange, a Nominating Committee and Trustees of the Gratuity Fund, all as provided in this Article, and for the transaction of any other proper business, on the second Monday in May in each year or, if the Exchange is not open for business on that day, on the next succeeding business day. The meeting shall be held immediately following the close of business on the Exchange on such day, in the Board Room of the Exchange or at such other place as may be fixed in advance by the Board of Directors. At such annual election there shall be elected by the membership by ballot:

(1) In the year 1972 a class of ten Directors to serve for the term of one year and a class of ten Directors to serve for the term of two years, the members of which classes shall meet the qualifications described in Article II; and in each year thereafter a class of ten Directors to serve for the term of two years, the members of which shall meet the qualifications described in Article II;

(2) a Nominating Committee of eight members to serve for the term of one year which shall have the required composition provided in Section 2 of this Article;

(3) two Trustees of the Gratuity Fund to serve for the term of three years, who shall be members of the Exchange as provided in Section 1 of Article XVII; and

(4) persons to fill any vacancies in the Board of Directors or in the Trustees of the Gratuity Fund, who shall meet the required qualifications for the positions to be filled.

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Nominating Committee

Sec. 2. The Nominating Committee shall be composed of:

(a) Four representatives of the public, none of whom shall be, or be affiliated with, a broker or dealer in securities; and

(b) Four members or allied members, each of whom is a principal executive officer and a director of a member corporation, or a member of the managing committee, or (in the absence of any such committee) a principal partner of a member firm, or a member of the Exchange who is not *an officer* [a holder of voting stock] in any member corporation or a partner in any member firm.

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Nominees by Petition and Arrangement of Ballot

Sec. 4.

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Death, Withdrawal or Disqualification of Nominees

In case of the death, withdrawal, disqualification or failure to qualify, at any time in advance of the annual election, of a nominee proposed by the Nominating Committee for one of the offices or positions to be filled at such annual election, the election of a person to fill such office or position shall not be held at the annual meeting of the members of the Exchange, but this shall not delay the election of persons to fill all other offices or positions. The Board of Directors, by the affirmative vote of a majority of the Directors then in office, thereupon may declare such office or position vacant and may elect a person to fill the vacancy to hold office until the seventh day after the annual election of the Exchange in the succeeding year or may, in its discretion, direct that such office or position be filled by vote of the members of the Exchange *entitled to vote thereon* at a special meeting of the members. If such special meeting shall be directed, the Board shall call the meeting and determine the procedure for nominations and voting by proxy at the meeting.

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Election Procedure

Sec. 8. Promptly after the names of all the nominees for election at the annual meeting of the members of the Exchange have been reported to the Exchange, the Secretary of the Exchange shall mail notice of the annual meeting as provided in Section 12 of this Article to each member *entitled to vote thereat*. With the notice the Secretary shall furnish a form of proxy which shall designate the members of the Nominating Committee, or any one or more of them, as persons authorized to act thereunder at the annual meeting. The proxy shall list the names of all nominees for election at the annual meeting as provided in Section 4 of this Article and shall provide, by boxes or otherwise, means by which a member may designate the nominees for whom votes shall be cast under the proxy. The proxy shall provide that in the absence of such designation all votes under the proxy shall be cast for the persons nominated by the Nominating Committee. All proxies to the Nominating Committee received at or before the annual meeting shall, unless revoked, be voted as specified thereon in each election to fill an office or position which is held at the annual meeting, and the votes thereunder may be cast by any one or more members of the Nominating Committee present at the annual meeting. Any member *entitled to vote*, except one who has executed an irrevocable proxy to a member firm or member corporation as provided in Section 11 of this Article, may attend and vote in person or may designate one or more members or allied members of the Exchange (*or the lessor of his membership, if any*) other than the members of the Nominating Committee to act for him by proxy at the annual meeting.

Quorum

Sec. 9. *Members entitled to cast* a majority of [all the members] *the total number of votes entitled to be cast at any meeting* present in person or by proxy, shall constitute a quorum at any meeting of the members of the Exchange for the transaction of any business, but the members present *and entitled to vote thereat* may adjourn any meeting despite the absence of a quorum.

Voting Requirements

Sec. 10. [Any member of the Exchange in good standing shall be entitled to vote in an election or upon any other matter at any meeting of members of the Exchange.]

(a) Each of the memberships, described in Section 1(a) of Article IX, held by a member in good standing, shall be entitled to one vote on each office or position to be filled at any election of Directors or of the Nominating Committee or upon any other matter at any meeting of the members of the Exchange.

(b) A member described in Section 1(b) of Article IX, in good standing, shall be entitled to one vote on each office or position to be filled at any election of Directors or of the Nominating Committee or upon any other matter at any meeting of the members of the Exchange; provided, however, that, except as otherwise provided by law, such member shall not be entitled to vote on any of the following matters:

(i) any sale, lease, exchange or other disposition of all, or substantially all, the assets of the Exchange;

(ii) any merger or consolidation in which the Exchange is to participate as a constituent corporation within the meaning of the New York Not-For-Profit Corporation Law;

(iii) any dissolution or final liquidation of the Exchange;

(iv) any proposal to amend any of the rights and privileges or limitations thereon pertaining to such a member as provided in Section 1 of Article IX, or in this subsection (b);

(v) any proposal to amend Article XVI or Article XVII; or

(vi) any election of Trustees of the Gratuity Fund.

(c) A member described in Section 1(c) or Section 1(d) of Article IX, in good standing, shall be entitled to one-half vote on each office or position to be filled at any election of Directors or of the Nominating Committee or upon any other matter at any meeting of the members of the Exchange; provided, however, that, except as otherwise provided by law, such member shall not be entitled to vote on any of the following matters:

(i) any sale, lease, exchange or other disposition of all, or substantially all, the assets of the Exchange;

(ii) any merger or consolidation in which the Exchange is to participate as a constituent corporation within the meaning of the New York Not-For-Profit Corporation Law;

(iii) Any dissolution or final liquidation of the Exchange;

(iv) any proposal to amend any of the rights and privileges or limitations thereon pertaining to such a member as provided in Section 1 of Article IX or in this subsection (c);

(v) any proposal to amend Article XVI or Article XVII; or

(vi) any election of Trustees of the Gratuity Fund.

Except as provided in Section 5 of this Article, the election of a person to any position or office shall be by a plurality of the votes cast *by the members entitled to vote thereon*, in person or by proxy, at a meeting of the members. Whenever any corporate action, other than the election of a person to a position or office, is to be taken by vote of the members of the Exchange *as provided in this Section* it shall, except as otherwise required by law or by this Constitution, be authorized by a majority of the votes cast, *by the members entitled to vote thereon* in person or by proxy, at a meeting of the members.

Proxy

Sec. 11. A member may authorize another person or persons to act for him by proxy at any meeting of the members of the Ex-

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change, subject to the provision of this Section. Except as hereinafter provided, only one or more members or allied members of the Exchange may be designated by a member to act for him by proxy, and every proxy shall be personally signed by the member giving it, shall be valid only for a specified meeting and any adjournment of adjournments of such meeting, shall be revocable at the pleasure of the member executing it and shall be delivered to the Secretary of the Exchange at or before the meeting for which it is given.

A member whose membership in the Exchange is subject to an a-b-c agreement in the partnership articles of a member firm or in an agreement with a member corporation shall execute and file with the Secretary of the Exchange an irrevocable proxy, in form satisfactory to the Exchange, authorizing such member firm or member corporation or its nominee or nominees, as a pledgee so long as such a-b-c agreement remains in effect, to represent and act as attorney-in-fact for the member in voting on any and all matters whatsoever, ordinary or extraordinary, at any annual or special meeting of members of the Exchange, or in expressing consent or dissent without a meeting, and in any and all things incidental thereto, such as requesting the call of or calling special meetings of members of the Exchange, proposing by petition nominees for offices or positions to be filled at elections, or proposing amendments to the Constitution, or executing for and on behalf of the member waivers of notice or revocable proxies delegating authority, including discretionary authority, to act for and in place of the attorney-in-fact at any meeting of the members of the exchange or otherwise. A member firm or member corporation holding such an irrevocable proxy may from time to time by written notice filed with the Secretary of the Exchange designate one or more general partners of such firm or principal executive officers of such corporation to exercise any and all authority under such proxy.

A member described in Section 2 of Article IX may execute and file with the Secretary of the Exchange a proxy, in form satisfactory to the Exchange, authorizing the lessor of such member's membership or the member firm in which such member is a general partner or the member corporation in which such member is an officer, during the term of the lease, to represent and act as attorney-in-fact for the member in voting on any and all matters whatsoever, ordinary or extraordinary, at any annual or special meeting of members of the Exchange held during such term, or in expressing consent or dissent without a meeting, and in any and all things incidental thereto, such as requesting the call of or calling special meetings of members of the Exchange, proposing by petition nominees for offices or positions to be filled at elections, or proposing amendments to the Constitution, or executing for and on behalf of the member waivers of notice.

SPECIAL MEETING

Sec. 12. Whenever members are required or permitted to take any action at a meeting, written notice shall be given stating the place, date and hour of the meeting and, unless it is the annual meeting, indicating that it is being issued at the direction of the person or persons calling the meeting. Notice of a special meeting (including any such meeting to be held in conjunction with an annual meeting) shall also state the purpose or purposes for which the meeting is called. The Secretary of the Exchange shall mail a copy of the notice of any meeting, not less than ten nor more than fifty days before the date of the meeting, to each person who [is a member], on the day the notice is mailed, *is a member who would be entitled to vote at such meeting*, and shall deliver a copy to each [member elected] *person who becomes a member entitled to vote at such meeting* thereafter and prior to the meeting or any adjournment thereof. If a member shall have filed with the Secretary an irrevocable proxy, as provided in Section 11 of this Article, the Secretary shall concurrently mail a copy of the notice of any meeting, together with any accompanying form of proxy, to the member firm or member corporation holding such irrevocable proxy, for the attention of one of the general partners or principal executive officers, if any, at the time designated to exercise authority under such proxy.

When a meeting is adjourned to another time or place, it shall not be necessary to give any notice of the adjourned meeting, if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and at the adjourned meeting any business may be transacted that might have been transacted on the original date of the meeting.

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ARTICLE IX

MEMBERSHIP—ALLIED MEMBERSHIP—MEMBER FIRMS—MEMBER CORPORATIONS

[MEMBERS, ALLIED MEMBERS AND APPROVED PERSONS]

Sec. 1. The membership of the Exchange shall consist of

(a) Subject to the provisions of Section 2 of this Article, 1366 members of the Exchange, each of whom shall, upon liquidation, dissolution, or winding up of the affairs of the Exchange, have distributive rights in its assets; and

(b) Such number of members of the Exchange, as the Board of Directors may from time to time determine, consistent with available physical floor space and facilities, each of whom shall have paid an annual dues, which shall entitle such member, during the period for which dues hae been paid and while such member remains in good standing, to enter physically upon the trading floor and to have facilities thereon for the execution of orders; and

(c) Such number of members of the Exchange, as the Board of Directors may from time to time determine, each of whom shall have paid an annual dues, which shall entitle such member, during the period for which dues have been paid and while such member remains in good standing, to maintain electronic or telephonic access to (i) the floor facilities of a member, member firm or member corporation, and (ii) the Designated Order Turnaround System of the Exchange, and (iii) such other automated trading systems of the Exchange as the Board of Directors may from time to time determine; and

(d) such number of members of the Exchange, as the Board of Directors shall from time to time determine, consistent with available physical floor space and facilities, each of whom shall have paid an annual dues, which shall entitle such member, during the period for which dues have been paid and while such member remains in good standing to enter physically upon the trading floor, and to have facilities thereon, to engage in activities as an options market maker.

None of the members described in subsections (b), (c) or (d) of this Section shall have any interest in or any right to share in any distribution of the assets of the Exchange in the event of any liquidation, dissolution, or winding up of the affairs of the Exchange.

Sec. 2. A member described in subsection (a) of Section 1 of this Article in good standing may lease his membership to a person approved by the Exchange subject to and in accordance with such rules as may be adopted from time to time by the Board of Directors. During the term of such lease, the lessee, rather than the lessor, shall for all purposes of the Constitution and the Rules thereunder be deemed to be the member of the Exchange, except that the lessor shall be deemed to be the member for the purposes of Article XVI and shall be entitled to receive, with respect to such membership, any distribution of the assets of the Exchange in the event of any liquidation, dissolution, or winding up of the affairs of the Exchange.

Sec. 3. There may be an unlimited number of allied members and approved persons.

ELIGIBILITY

Sec. [2] *4.* To be eligible for [election as a member of] *membership in* the Exchange, a person must be at least the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business. [; any person elected shall have all the rights and privileges and shall be under all the duties and obligations of a member of the Exchange in accordance with the Constitution.]

ELECTION, REINSTATEMENT, READMITTANCE TO MEMBERSHIP

Sec. [3] *5.*

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INITIATION FEE

Sec. [4] *6.* (a) Each person (hereinafter referred to as a "new member"), *upon becoming a member* [elected to membership] *described in Section 1(a) of this Article*, shall pay to the Exchange an initiation fee which shall be determined as follows:

[(a)] *(1)* in the event that that the new member shall have purchased such membership through a membership auction facility furnished by the Exchange [,] the initiation fee shall be the lesser of seventy-five hundred dollars or such amount as shall be equal to ten per cent of the purchase price paid for the membership;

[(b)] (2) in the event that:

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(v) the new member shall have a contractual obligation to the same member organization to transfer the membership of the new member to such person as may be designated by the member organization, which obligation shall be upon substantially the same terms and conditions of said contractual obligation of the outgoing member to the member organization, then the initiation fee shall be the lesser of seventy-five hundred dollars or such amount as shall be equal to five per cent of the purchase price at which the most recent contractual sale of a membership occurred through the auction facility prior to the date on which notice of the member shall have been posted [.] ; *and*

[(c)] (3) in the event that the membership of a new member shall have been acquired in the manner other than as contemplated in either clause [(a)] *(1)* or clause [(b)] *(2)* of this [sentence] *Section*, the initiation fee shall be the lesser of seventy-five hundred dollars or such amount as shall be equal to ten per cent of the purchase price at which the most recent contracted sale of a membership occurred through the auction facility prior to the date on which notice of the new member shall have been posted.

(b) Notwithstanding the foregoing provisions of this Section, the Board of Directors may by rule eliminate the initiation fee payable by a new member or reduce such fee below the minimum otherwise provided in this Section. The Board of Directors may also by rule require the payment of an initiation fee upon the commencement or termination, or both, of any lease of membership referred to in Section 2 of this Article.

NON-PAYMENT OF INITIATION FEE

Sec. [5] *7.* If the initiation fee *payable by* [of] a member is not paid on the day of his *admission* [election], his *admission* [election] shall be void.

SIGNING CONSTITUTION

Sec. [6] *8.* No person [elected] *admitted* to membership shall be *entitled* [admitted] to [the] *any* privileges thereof until he shall have signed the Constitution of the Exchange. By such signature he pledges himself to abide by the same as the same has been or shall be from time to time amended, and by all rules adopted pursuant to the Constitution.

USE OF FACILITIES OF EXCHANGE

Sec. [7] *9.*

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ALTERNATES ON FLOOR FOR DIRECTORS OR OFFICERS

Sec. [8] *10.*

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ALTERNATES OF FLOOR DURING NATIONAL EMERGENCIES

Sec. [9] *11.*

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ARTICLE X

DUES AND FINES—CHARGE ON NET COMMISSIONS—OTHER CHARGES—PENALTY FOR NON-PAYMENT

DUES

AMOUNT FIXED BY BOARD OF DIRECTORS

Sec. 1 *(a)* The dues payable by a member *described in Section 1(a) or Section 2 of Article IX*, [of the Exchange] exclusive of fines and of such other charges as may be imposed pursuant to the Constitution and of the contributions under Article XVI, shall be fixed by the Board of Directors from time to time and shall not exceed one thousand five hundred dollars in any calendar year. *Such* [The] dues shall be payable in advance on January 1, April 1, July 1, and October 1. The amount of each installment shall be determined by the Board of Directors at least three days before the date on which the same is payable.

(b) The dues payable by a member described in Section 1(b) of Article IX, exclusive of fines and of such other charges as may be imposed pursuant to the Constitution, shall be fixed by the Board of Directors from time to time, and shall be not less than $25,000 annually. Such dues shall be paid in full prior to admission to membership, and prior to any renewal of such member's membership.

(c) The dues payable by a member described in Section 1(c) of Article IX, exclusive of fines and of such other charges as may be imposed pursuant to the Constitution, shall be fixed by the Board of Directors from time to time, and shall be not less than $13,500 annually. Such dues shall be paid in full prior to admission to membership, and prior to any renewal of such member's membership.

(d) The dues payable by a member described in Section 1(d) of Article IX, exclusive of fines and of such other charges as may be imposed pursuant to the Constitution, shall be fixed by the Board of Directors from time to time. Such dues shall be paid in full prior to admission to membership, and prior to any renewal of such member's membership.

[When payable]

EXEMPTION TO MEMBERS IN ARMED FORCES

The Board of Directors may, on the request of a member who, in time of national emergency for this country,

(a) is on active duty in the armed forces of the United States, or

(b) is on active duty in the armed forces of any nation or state which is then allied or associated with the United States, and who, in the determination of the Board is not able to avail himself of the privileges provided in Article IX, Section [15] *11* exempt such member from the payment of dues, under such terms and conditions and to such extent as the Board may prescribe.

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ALLOCATIONS OF DUES

The dues [for each quarter] *payable by any member described in Section 1(a) or Section 2 of Article IX* may be divided by the Board into two parts, one of which shall constitute the member's contribution to the current expenses of the Exchange for the quarter, as estimated by the Board, and the other of which shall constitute the member's contribution [for the quarter] towards the capital investment of the Exchange, which shall include advances to its subsidiaries to cover capital expenditures.

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PENALTY FOR NONPAYMENT

Sec. 5. A member *described in Section 1 (a) or Section 2 of Article IX* who shall not pay his dues, or *any member who shall not pay* a fine, or a contribution under Article XVI, or any other sums due to the Exchange, within forty-five days after the same shall become payable shall be reported by the Treasurer to the Chairman of the Board and, after written notice mailed to him of such arrearages, may be suspended by the Board of Directors until payment is made.

Should payment not be made within one year after payment is due, the membership of [the] a delinquent *member described in Section 1(a) or Section 2 of Article IX* may be disposed of by the Board on at least ten days' written notice mailed to [him] *such member (and to the lessor of his membership, if any)* at [his] *the* address registered with the Exchange.

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LIABILITY FOR DUES AND CONTRIBUTIONS UNTIL TRANSFER

Sec. 7. Notwithstanding the death or expulsion of a member *described in Section 1(a) or Section 2 of Article IX*, [his] *the* membership *of such member* until transferred *as provided in Section 1 of Article XI* shall continue liable for dues to the Exchange, as from time to time fixed by the Board of Directors, for contributions under the provisions of Article XVI, and for payments under Sections 8, 9 and 11 of this Article.

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ARTICLE XI

TRANSFER OF MEMBERSHIP-TERMINATION OF ALLIED MEMBERSHIP

TRANSFER OF MEMBERSHIP

Sec. 1. A transfer of membership *of a member describde in Section 1(a) of Article IX and the leasing of such a membership* may be made upon the approval of the transfer *or lease* by the Board. *A membership of a member described in Sections 1(b), 1(c), 1(d) or 2 of Article IX shall not be transferable.* Notice of [the] a proposed transfer *or of such a proposed leasing of membership* shall be posted on the bulletin board for at least ten days prior to transfer *or the commencement of such lease*, which notice shall specify the date on which the proposed transfer *or lease* will be [considered] *effective*. Consideration of [a] *any* proposed transfer *or lease* may be postponed from time to time. Notice of the date of such postponed consideration shall be posted promptly on the bulletin board.

For purposes of this Article neither the leasing of a membership as referred to in Section 2 of Article IX or the surrender of the membership upon the termination of such lease shall be considered a transfer of membership.

CONTRACTS ON THE EXCHANGE BY TRANSFERORS

Sec. 2. A member proposing to transfer his membership *or to lease his membership in accordance with the rules* shall not after the posting of notice thereof make any contract on the Exchange for settlement on or after the date on which such proposed transfer *or lease* will [be considered by the Board] *become effective* unless such member is a general partner in a member firm which will continue to be a member firm or is [A HOLDER OF VOTING STOCK] *AN OFFICER* in a member corporation which will continue to be a member corporation notwithstanding the completion of such transfer *or the effectiveness of such lease*, in which case such member may make contracts on behalf of any member, member firm or member corporation whose status as such will continue subsequent to the date of the completion of such transfer *or the effectiveness of such lease*. If a contract with such member is made after the posting of notice of the proposed transfer for settlement on or after the date on which such proposed transfer will be considered by the Board, it shall not, if such transfer is approved, be the basis of a claim against the proceeds of such transfer under sub-division Third of Section 3 of this Article. However, if such member is a general partner in a member firm which will continue to be a member firm or is [A HOLDER OF VOTING STOCK] *AN OFFICER* in a member corporation which will continue to be a member corporation, notwithstanding the completion of such transfer, such a contract may be the basis of a claim under said sub-division Third of Section 3 against the proceeds of the subsequent transfer of the membership of any general partner in such firm or of any [HOLDER OF VOTING STOCK] *OFFICER* in such corporation, including the transferee of such membership provided he is or becomes at the time of such transfer a general partner in such member firm or [THE HOLDER OF VOTING STOCK] *AN OFFICER* in such member corporation.

WHEN CONTRACTS MATURE

All open Exchange Contracts of a transferring member *or of a member who is leasing his membership* and of his firm or corporation shall mature on the full business day preceding the date on which such proposed transfer *or lease becomes effective*, [will be considered by the Board], unless such firm or corporation will continue to be a member firm or member corporation notwithstanding the completion of such transfer *or effectiveness of such lease*, and if not settled before 2:15 p.m. of such preceding full business day, shall be closed out as in the case of an insolvency, unless the same are assumed or taken over by another member, member firm or member corporation.

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MEMBERSHIP OF DECEASED MEMBER

Sec. 4. When a member *described in Section 1(a) of Article IX* dies, his membership may be disposed of by the Board of Directors.

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DEATH OF SOLE EXCHANGE MEMBER

GENERAL PARTNER

Sec. 5. (a) If, upon the death of a member *described in Section 1(a) of Article IX*, who, at the time of his death, was a general partner in a member firm in which no other general partner is a member of the Exchange, the following conditions exist:

(1) The partnership articles of such firm provide for the continuance of the firm, and

(2) The deceased member shall have agreed in the partnership articles of such member firm that such continuing firm, if permitted by the Board of Directors to have the status of a member firm, shall be entitled to have the use of his membership from the date of his death until the termination of such status of such continuing firm or until a member of the Exchange be admitted to such firm as a general partner, and that, in so far as may be necessary for the protection of creditors of the continuing firm, and subject to the Constitution and Rules of the Exchange, the proceeds of his membership shall be an asset of the continuing partnership during such period, and

(3) Such continuing partnership shall be permitted by the Board of Directors to have the status of a member firm, then upon the transfer of the membership of such deceased member the proceeds thereof shall be applied to the same purposes and in the same order of priority as if such member had continued to be a member of the Exchange and a general partner in such continuing firm until the date of the termination of such status, or until a member of the Exchange is admitted to such firm as a general partner, whichever event occurs first.

DIRECTOR

(b) If, upon the death of a member *described in Section 1(a) of Article IX* who, at the time of his death, was an officer [AND HOLDER OF VOTING STOCK] of a member corporation in which no other officer [AND HOLDER OF VOTING STOCK] is a member of the Exchange, the following conditions exist:

(1) The member corporation continues in business, and

(2) The deceased member shall have agreed in a writing filed with the Exchange that such member corporation, if permitted by the Board of Directors to have the status of a member corporation, shall be entitled to have the use of his membership from the date of his death until the termination of such status of such corporation or until a member of the Exchange becomes an officer of [AND A HOLDER OF VOTING STOCK IN] such corporation; and that, in so far as may be necessary for the protection of creditors of the corporation, and subject to the Constitution and Rules of the Exchange, the proceeds of his membership shall be an asset of the corporation during such period, and

(3) Such corporation shall be permitted by the Board of Directors to have the status of a member corporation, then upon the transfer of the membership of such deceased member the proceeds thereof shall be applied to the same purposes and in the same order of priority as if such member had continued to be a member of the Exchange and an officer of [AND A HOLDER OF VOTING STOCK IN] such corporation until the date of the termination of such status, or until a member of the Exchange becomes an officer of [AND A HOLDER OF VOTING STOCK IN] such corporation, whichever event occurs first.

MEMBERSHIP OF EXPELLED MEMBER

Sec. 6. When a member *described in Section 1(a) of Article IX* is expelled or becomes ineligible for reinstatement, his membership may be disposed of by the Board of Directors.

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ARTICLE XIII

INSOLVENT MEMBERS-SUSPENSION-REINSTATEMENT

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TIME LIMIT FOR REINSTATEMENT

Sec. 4. If the Board of Directors determines, after not less than 10 days notice to a member *described in Section 1(a) of Article IX who is* suspended under the provisions of this Article, that the protection of the persons, firms and corporations entitled to make claim against the proceeds of the transfer of the membership under Section 3 of Article XI or of the creditors of the member firm or member corporation in which such member is or was last a general partner or [HOLDER OF VOTING STOCK] *AN OFFICER*, requires the transfer of the membership of such member, such membership may be disposed of by the Board of Directors.

In any case, if [a] *such* member suspended under the provisions of this Article is not reinstated as provided in Section 5 of this Article within one year from the time of his suspension, or within such further time as the Board of Directors may grant, his membership shall be disposed of by the Board of Directors.

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ARTICLE XIV

EXPULSION AND SUSPENSION FROM MEMBERSHIP OR FROM ALLIED MEMBERSHIP-DISCIPLINARY PROCEEDINGS

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SUSPENSION OR EXPULSION OF MEMBERS OF SUSPENDED OR EXPELLED ORGANIZATION

Sec. 22

FAILURE OF ORGANIZATION TO PAY FINE

Whenever the Treasurer shall report to the Chairman of the Board that a member firm or member corporation has neglected to pay a fine for forty-five days after the same became payable, the allied membership of each allied member who is a general partner in such member firm [OR A HOLDER OF VOTING STOCK] *AND OF EACH ALLIED MEMBER* in such member corporation shall terminate, unless the Board of Directors shall have granted an extension of time to pay such fine, and any member who is a general partner in such member firm or [A HOLDER OF VOTING STOCK] *AN OFFICER* in such member corporation may be suspended by the Board of Directors until payment of such fine is made. Should payment not be made within one year after payment is due, the membership of any such member *who is described in Section 1(a) or Section 2 of Article IX* may be disposed of by the Board, on at least ten days written notice mailed to such members *and to the lessor of his membership*, if any at [his] *the* address registered with the Exchange.

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ARTICLE XVI

THE GRATUITY FUND

INITIAL CONTRIBUTION

Sec. 1. Every person who shall become a member of the Exchange shall pay to the Trustees of the Gratuity Fund the sum of fifteen dollars before he shall be admitted to the privilege of membership. *For the purpose of this Article the term member shall mean any one of the members described in Section 1(a) of Article IX, but shall not include the lessee of any such membership.*

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ARTICLE XVII

THE TRUSTEES OF THE GRATUITY FUND

DUTIES

Sec. 1. The execution of the provisions of the preceding Article, and the management and distribution of the Fund created thereunder shall be under the charge of a Board of Trustees, acting as agent for the Exchange, to be known as "The Trustees of the Gratuity Fund," and to consist of the Chairman of the Board of Directors and six members of the Exchange *described in Section 1(a) of Article IX* elected by the membership.

ARTICLE XX

AMENDMENT OF THE CONSTITUTION

PROCEDURE

CONSTITUTIONAL CHANGES

Sec. 1. The provisions of this Constitution may be amended or repealed and new provisions may be adopted, only by the members of the Exchange *who are entitled to vote thereon* in accordance with the procedure specified in this Article.

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PROPOSING AMENDMENTS

Sec. 3. Amendments may be proposed in the following manner:

(a) By one or more members of the Board of Directors.

(b) By the signed petition of not less than one hundred and seventy-five members of the Exchange (*who would be entitled to vote on the proposed amendment*) setting forth the proposed amendment and filing the same with the Secretary of the Exchange who shall present it to the Board of Directors at the next regular meeting of the Board. After the expiration of not less than two weeks following the presentation of such proposed amendment to the Board of Directors, the Board may direct that it be submitted, with or without the approval of the Board, to the members[hip for] *entitled to* vote thereon (*or to all members if required by law*) at a special meeting if [the] *such* members of the Exchange called for the purpose; provided, however, that in any case the Board of Directors shall, within seven weeks after such proposed amendment has been presented to the Board, direct such submission to [the] *such* members[hip].

Any such proposed amendment when approved by the affirmative vote of a majority of the Directors then in office or submitted as directed in Sub-section (b) above, shall be posted on the bulletin board and submitted to the members[hip for] *entitled to* vote thereon (*or to all members if required by law*) at a special meeting of [the] *such* members of the Exchange called for the purpose.

NOTICE OF MEETING

Sec. 4. Notice of any special meeting of the members of the Exchange called pursuant to this Article shall be given by the Secretary of the Exchange as provided in Section 12 of Article VII. With the notice the Secretary shall furnish a form of proxy designating not less than three members of the Exchange selected by the Board of Directors to serve as a Proxy Committee authorized to act for members at the special meeting. The proxy shall provide by boxes or otherwise, means by which a member may specify that his vote be cast for or against the proposed amendment. The proxy shall further provide as to how it will be voted if not so specified. All proxies to the Proxy Committee shall, unless revoked, be voted as specified or otherwise provided thereon, and the votes thereunder may be cast by any one or more members of the Proxy Committee present at the special meeting. Any member *entitled to vote*, except one who has executed an irrevocable proxy to a member firm or member corporation as provided in Section 11 of Article VII, may attend and vote in person or may designate one or more members or allied members of the Exchange (*or the lessor of his membership, if any*) other than the members of the Proxy Committee to act for him by proxy at the special meeting.

QUORUM

Sec. 5. If a quorum shall not be present, in person or by proxy, at the place and time fixed for a special meeting of the members called pursuant to this Article, the meeting shall be adjourned to reconvene at the same time and place on the day two weeks thereafter or, if the Exchange is not open for business on that day, on the next succeeding business day. If a quorum shall not then be assembled, the meeting shall be dissolved and the proposed amendment shall not become effective. For the adoption of any proposed amendment it shall, except as otherwise required by law or by this Constitution, be authorized by a majority of the votes cast *by the members entitled to vote thereon* at the special meeting at which it is submitted, provided that a quorum is present, in person or by proxy.

Sec. 6. Notwithstanding the foregoing provisions of this Article, no amendment to the Constitution shall ever be made which will impair in any essential particular, the obligation of each member, *within the meaning of that term as used in Article XVI*, to contribute, as provided in Article XVI, to the provision for the families of deceased members, unless such amendment shall be authorized by a unanimous vote, or by the written consent, of all *such* [the] members of the Exchange.

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[FR Doc.77-25510 Filed 8-31-77;8:45 am]

[Rel. No. 9910, (812-4087)]

NORTH RIVER SECURITIES CO., INC.

Filing of Application Pursuant to Section 17(b) of the Act for an Order Exempting Proposed Transaction From Section 17(a) of the Act

AUGUST 24, 1977.

Notice is hereby given that North River Securities Co., Inc., 595 Madison Avenue, New York, New York 10022, ("Applicant"), a non-diversified, closed-end management investment company registered under the Investment Company Act of 1940 (the "Act"), filed an application on January 27, 1977, and an amendment thereto on August 8, 1977, for an order pursuant to Section 17(b) of the Act exempting certain transactions proposed to be entered into by Applicant from the provisions of Section 17(a) of the Act. All interested persons are referred to the application which is on file with Commission for a statement of the representations contained therein, which are summarized below.

Applicant entered into an agreement dated as of November 3, 1976 (the "Purchase Agreement") with Hyman Katz ("Katz") providing for the sale by Applicant to Katz of 60,000 shares (the "Shares") of the Common Stock of Plant Industries, Inc., a Delaware corporation ("Plant"). The closing of such sale is conditioned upon the issuance of an order by the Commission to the effect that the proposed transaction is exempt from the provisions of Section 17(a) of the Act. The purchase price for the Shares is $6.50 per share or $390,000 in the aggregate, which will be evidenced by a note to be issued by Katz for $290,000 dated as of November 3, 1976, which note will provide for payment of one half of the principal amount one year after the closing date under the Purchase Agreement ("Closing Date") and the remainder two years after the Closing Date and will bear interest commencing on November 3, 1976 at a floating rate equal to the prime rate of Citibank, New York, as in effect from time to time, but not less than 7%.

To secure payment of the aforesaid note, Katz will pledge the Shares and an additional 60,000 shares currently owned by him (collectively, the "Pledged Shares") to Applicant pursuant to the terms of a pledge agreement which will be entered into on the Closing Date. Pursuant to the terms of the pledge agreement, Katz will pledge additional shares of Plant to the extent that the "market value", as defined in the pledge agreement, becomes less than 200% of the outstanding principal amount of the note. Katz will pay the expenses incidental to the preparation and carrying out of the Purchase Agreement to a maximum of $5,000. Applicant will pay any expenses over such amount.

Plant has agreed with Applicant that in the event Katz defaults on the note and Applicant becomes the owner of the Pledged Shares, Plant will extend to the additional 60,000 Pledged Shares and any additional Plant shares pledged pursuant to the pledge agreement and maintain with respect to such shares certain registration rights under the Securities Act of 1933 previously held by Applicant.

Sections 17(a)(2) and 17(a)(3) of the Act, in pertinent part, prohibit an affiliated person of an affiliated person of a registered investment company from knowingly selling to or purchasing from such registered investment company any security (other than certain excepted securities not herein involved) or borrowing money or other property from such registered investment company. Section 17(b) of the Act provides, however, that the Commission, upon application, may exempt a transaction from the provisions of Section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve any overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of each registered investment company and with the general purposes of the Act.

Section 2(a)(3) of the Act includes within the definition of an "affiliated person" of another person any person owing 5% or more of the outstanding voting securities of such other person, any person 5% or more of whose outstanding voting securities are owned by such other person, and any officer or director of such other person. Section 2(a)(28) of the Act includes "a company" within the definition of a "person".

Without taking into account the proposed sale to Katz, Applicant owns 349,700 shares of Common Stock of Plant, or approximately 12.2% of its outstanding Common Stock. Thus Plant is an affiliated person of Applicant. Similarly, without taking into account such proposed sale, Katz owns of record and beneficially 324,948 shares of Common Stock of Plant or approximately 11.3% of its outstanding Common Stock. Katz is also Chairman of the Board and Chief Executive Officer of Plant. Katz is thus an affiliated person of Plant and thereby an affiliated person of an affiliated person of Applicant.

Based upon the foregoing, the proposed sale of the Shares to Katz pursuant to the Purchase Agreement might be deemed to be in violation of Sections 17(a)(2) and 17(a)(3) of the Act. Accordingly, Applicant requests an order of the Commission pursuant to Section 17(b) of the Act permitting Applicant to sell Katz the Shares in accordance with the provisions of the Purchase Agreement and permitting the pledge by Katz of the Plant shares to Applicant to secure the note evidencing the purchase price for the Shares.

The application states that because of Applicant's substantial equity interest in Plant, it has a significant interest in the management of such company and Applicant believes that it is desirable to provide added incentive to the Chief Executive Officer of Plant through giving him the opportunity to purchase additional shares of common stock of the company which he manages. The application further states that such desirability is enhanced by the fact that Applicant will derive a cash profit as a result of the transaction based upon an average cost to Applicant of $6.00 per share of all of the shares of Plant held by Applicant. On November 3, 1976, the date this sale was agreed upon, the last reported sale price of a share of Plant on the American Stock Exchange was $7.00. Although the market price was slightly higher than the $6.50 price to Katz, the application states that the Shares which Applicant is selling to Katz are unregistered shares and could not have been sold in the open market.

Applicant represents that to its knowledge there are no other agreements relating to securities of Plant nor are there any material business relationships in each case between Katz and Applicant or any of its officers, directors or 5% stockholders other than as disclosed in the application.

Applicant contends that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned, and that the transaction is consistent with its policies and with the general policies, provisions and purposes of the Act.

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Notice is further given that any interested person may, not later than September 19, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delgated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-25505 Filed 8-31-77;8:45 am]

[Release No. 13883, (SR-PSE-77-10)]

AUGUST 23, 1977.

PACIFIC STOCK EXCHANGE INC.

Order Approving Proposed Rule Change

On April 20, 1977, the Pacific Stock Exchange Incorporated, Los Angeles Division, 618 South Spring Street, Los Angeles, California 90014, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b–4 thereunder, copies of a proposed rule change regarding the non-applicability to market makers of the rule requiring members to give up the name of the clearing member through whom a transaction is executed; definition of stop-loss orders; conducting accommodation liquidations; obligations of market makers in making bids and offers; split transactions as contingent orders; and floor citations. This filing was amended August 12, 1977.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13566 (May 23, 1977)), and by publication in the FEDERAL REGISTER (42 FR 28177 (June 2, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on April 20, 1977, as amended, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-25506 Filed 8-31-77;8:45 am]

[Realease No. 34-13880; File No. SR-PSE-77-21]

PACIFIC STOCK EXCHANGE INC.

Self-Regulatory Organizations; Proposed Rule Change By

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on August 15, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

PSE'S STATEMENT OF THE TERMS OF SUBSTANCE AND BASIS AND PURPOSE OF THE PROPOSED RULE CHANGE

The Pacific Stock Exchange Incorporated ("PSE") hereby requests to amend Section 8(b) of Rule II of the Rules of its Board of Governors to effect a change in execution procedure for dual issue odd lot market orders from a two minute from receipt of order to next sale basis.

Current execution procedures require that odd lot market orders in dual issues be executed on the primary market two (2) minutes subsequent to the order's entry on the PSE Floor. On occasion, this procedures has caused unnecessary delays in report turnaround time due to the additional handling necessitated by the two (2) minute holding period.

The implementation of a next sale pricing procedure will enable our firms to receive reports of PSE market order odd lot executions within a short period of time. Therefore, the proposed rule change promotes just and equitable principles of trade and removes the impediments to the perfection of the mechanism of a free and open market.

Comments have neither been solicited nor received from members on the proposed rule change.

The proposed rule change imposes no burden on competition.

On or before October 6, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 25049. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 22, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-25509 Filed 8-31-77;8:45 am]

[File No. 1-5374]

WYLE LABORATORIES

Application to Withdraw From Listing and Registration

AUGUST 24, 1977.

In the matter of Wyle Laboratories, common stock, no par value, 5¼% Convertible Subordinated Debentures.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified securities from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

This security has been listed and registered on the New York Stock Exchange, Inc., and the management of the Company has concluded that the costs of maintaining the listing on both exchanges outweighs the benefits to be derived therefrom.

The American Stock Exchange, Inc. has not objected to this application, and the Company will be subject to Section 13 reporting requirements.

Any interested person may, on or before September 21, 1977 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished by the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-25507 Filed 8-31-77;8:45 am]

NATIONAL MARKET ADVISORY BOARD

Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1 10(a), that the National Market Advisory Board will conduct open meetings on September 19 and 20, and October 17 and 18, 1977, in Room 776, 500 North Capitol Street, Washington, D.C. Initial notice of the September meeting was published in the FEDERAL REGISTER on July 1, 1977.

The summarized agenda for the October meeting will be published in the FEDERAL REGISTER at a later date. The summarized agenda for the September meeting is as follows:

1. Discussion of a supplementary report to the Congress pursuant to Section 11A(d)(3)(B) of the Securities Exchange Act of 1934.

2. Discussion of a Board letter to the Commission regarding:

(a) A composite quotation system for listed securities.

(b) A broker's obligation to obtain "best execution" for its customer.

(c) Proposed Commission rules 15c5–1 [A], [B], [C], and [D] regarding overreaching.

3. Discussion of possible means of linking market centers and providing system-wide limit order protection.

4. Discussion of such other matters as may properly be brought before the Board.

Further information may be obtained by writing Martin L. Budd, Executive Director, National Market Advisory Board Staff, Securities and Exchange Commission, Washington, D.C. 20549.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 22, 1977.

[FR Doc.77-25496 Filed 8-31-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

JOINT COMMITTEE ON AGRICULTURAL DEVELOPMENT OF THE BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given of the third meeting of the Joint Committee on Agricultural Development of the Board for International Food and Agricultural Development on September 20, 1977.

The purpose of this meeting is to review the guidelines for Committee operations; to review a questionnaire to be sent to the university community for expanding the information on university interests and capabilities for participating in the Title XII program; to discuss the status of Title XII pilot projects; to review the status of development assistance programs in various A.I.D. countries; and related matters.

The meeting will begin at 9 a.m., will adjourn at 5:30 p.m., and will be held at the Ramada Inn, Rosslyn, 1900 Fort Myer Drive, Arlington, Va. The meeting room designation will be posted in the lobby of the Ramada Inn on the day of the meeting. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Fletcher Riggs, Deputy to the Associate Assistant Administrator, Technical Assistance Bureau, is designated as A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 703–235–9001.

Dated: August 24, 1977.

FLETCHER RIGGS,
Agency for International Development Advisory Committee Representative, Joint Committee on Agricultural Development Board for International Food and Agricultural Development.

[FR Doc.77-25396 Filed 8-31-77;8:45 am]

JOINT RESEARCH COMMITTEE OF THE BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given of the third meeting of the Joint Research Committee of the Board for International Food and Agricultural Development on September 22 and 23, 1977.

The purpose of this meeting is to review progress being made on three pilot Collaborative Research Projects; to review priorities for future research activities; to further revise the draft paper on Committee guidelines; and to plan additional Collaborative Research Projects.

The meeting will begin at 9 a.m., will adjourn at 5:30 p.m., and will be held at the Texas A & M University Agricultural Research and Extension Center, located seven miles north of Lubbock, Texas, on Amarillo Highway. The meeting will be held in the Center auditorium. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Associate Assistant Administrator, TAB, is designated as A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20533, or telephone him at 703–235–9001.

Dated: August 19, 1977.

ERVEN J. LONG,
Agency for International Development Advisory Committee Representative, Joint Research Committee Board for International Food and Agricultural Development.

[FR Doc.77-25397 Filed 8-31-77;8:45 am]

[Public Notice 564]

CULTURALLY SIGNIFICANT OBJECTS FROM THE PEOPLE'S REPUBLIC OF BULGARIA

Notice is hereby given of the following determination:

Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985), Executive Order 11312 of October 14, 1966 (31 FR 13415, October 18, 1966) and delegation of authority number 113 of December 23, 1966 (32 FR 58, January 5, 1967), I hereby determine that (1) the 541 objects described in the list[1] filed as a part of this determination imported from the People's Republic of Bulgaria pursuant to a loan agreement of August 5, 1977, by the Committee for Culture of the People's Republic of Bulgaria with Dr. Jan Fontein, Director of the Museum of Fine Arts, Boston, Massachusetts, for temporary exhibition without profit within the United States are of cultural significance and that (2) the temporary exhibition or display of such objects entitled "Thracian Treasures from Bulgaria" at the Museum of Fine Arts, Boston, Massachusetts, beginning on or about September 30, 1977, to on or about October 30, 1977, is in the national interest.

Public notice of this determination is ordered to be published in the FEDERAL REGISTER.

WILLIAM K. HITCHCOCK,
Acting Assistant Secretary for Educational and Cultural Affairs.

AUGUST 25, 1977.

[FR Doc.77-25539 Filed 8-31-77;8:45 am]

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[1] The amendment was for the purpose of eliminating certain proposed definitions of terms which the Exchange has elected to make the subject of a separate filing.

[1] Itemized list of Objects included in the Exhibition "Thracian Treasures from Bulgaria"; list filed as part of original document.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

DISCONTINUANCE CRITERIA FOR AIRPORT TRAFFIC CONTROL TOWERS

Policy Formulation

PURPOSE

The Federal Aviation Administration (FAA) invites all interested parties to comment on alternative approaches to the discontinuance or continued Federal operation of selected airport traffic control towers (ATCT's) currently in the U.S. air traffic control system. Policy and criteria for establishment and discontinuance of airport traffic control tower service are stated in FAA Order 7031.2B, Airway Planning Standard Number One—Terminal Air Navigation Facilities and Air Traffic Control Services. A change to this policy and criteria is being considered as outlined below.

BACKGROUND

Criteria for the establishment of airport traffic control towers (ATCT's) have been published by FAA and its predecessor organization since 1951. Criteria for the discontinuance of ATCT services have been available since 1956. Since their original publication, establishment criteria have been revised three times. With each revision, criteria have become increasingly more stringent, requiring higher levels of service for tower establishment eligibility. Current criteria for towers are contained in FAA Order 7031.2B, Airway Planning Standard Number One, Change 3 dated October 16, 1975.

While discontinuance criteria have been similarly tightened for new facilities, FAA has maintained "grandfather" clauses for towers commissioned under previous establishment criteria. The "grandfather" approach relates discontinuance of an existing tower to the criteria in effect at the time the tower was programmed or established. The effect of this approach is to protect towers already in service from the same scrutiny required of newer facilities.

ATCT establishment and discontinuance criteria were last revised in October 1975. This revision based criteria on economic analysis. However, when revised criteria were adopted in 1975, grandfather clauses for discontinuance were retained because economic studies of this problem had not yet been completed. Towers programmed prior to 1977 continued to be evaluated using discontinuance criteria in effect at the time the particular tower was programmed. Those programmed during or after 1977 under current establishment criteria must meet much more rigorous discontinuance criteria and undergo site-specific benefit-cost analysis. This benefit-cost approach identifies a location as being a candidate for discontinuance wherever benefits from continued tower operation are less than current operating and maintenance costs.

Some towers "protected" by the grandfather approach have been operating since the 1950's with no real pressure to discontinue operations. This may have stemmed from the realization that there were relatively few affected locations. However, with the third (1975) revision of establishment criteria, FAA became concerned over the possible cumulative impact of criteria on ATCT closures. Additionally, during coordination of proposed tower criteria, several industry groups questioned the rationale for retaining grandfather clauses. The General Accounting Office also has questioned the continued use of these clauses for tower discontinuance. This led to an examination of the desirability of continuing that approach. FAA, as part of a preliminary study, has applied the recently adopted, economically based discontinuance criteria to existing tower locations to test the impact of eliminating grandfather clauses. The results are significant in that out of an inventory of 425 commissioned towers, 73 locations are identified where in FY 1978 discounted costs of operation will exceed quantified benefits of enhanced safety and improved efficiency of airport operations. In contrast, if grandfather clauses are retained (for towers programmed prior to 1977), only 8 sites are currently candidates for discontinuance according to FY 1978 forecast operations data. It is estimated that closure of each existing tower will result in an annual per-site saving of approximately $200,000 on the basis of operating and maintenance (O&M) costs. Net savings, i.e., cost less benefit, would be less.

A decision regarding ATCT closures has not yet been made by the agency. Efforts to consolidate services, even where no service was being lost (flight service station automation, for example), have shown the sensitivity to changes in the system especially where facility closures are involved.

The benefit-cost approach for screening candidates for tower discontinuance (those that are established or programmed during or after 1977) compares annual operating and maintenance costs to the analytically derived dollar value of benefits. ATCT benefits include the reduction of expected collision and accident rates and reduced landing delays. Considered in the benefit-cost methodology are a mix of aircraft types (air carrier, air taxi, general aviation, and military) and levels of local and itinerant traffic operating within the terminal area. Also considered are the percentage of passengers and crew aboard each generic category of aircraft who might be fatally or seriously injured should a collision or other type of tower-preventable accident occur. Potential aircraft losses including accident investigation costs and cargo value are also factored into the benefit-cost analysis. Costs and benefits are discounted over a 15-year forecast period at an annual rate of 10 percent. Aircraft activity forecast data is obtained from the official FAA Terminal Area Forecast. When 15-year discounted costs of continued tower operation exceed discounted benefits, the facility is validated for discontinuance.

At present there is no known way to quantify benefits associated with a tower being operated as part of a larger National Aviation System, and thus such benefits are excluded from current criteria consideration. While the omission of such benefits in determining new tower establishments is a practical necessity, it might be argued that once a tower is commissioned, intangible system benefits are a factor which must somehow be explicitly considered in any disestablishment discussion. The extent to which this is a decision factor influences the choice of alternatives which FAA pursues. This factor is discussed in the alternatives below.

Report Number FAA-ASP-77-6, "An Analysis of Continued Operation of Selected Airport Traffic Control Towers," available from FAA, provides a comprehensive description of the benefit-cost approach to assess the merits of continued Federal funding of towers. The report identifies 73 towers with costs exceeding quantified benefits over a 15-year forecast period (FY 1978–92). Should ATCT discontinuance criteria be revised to delete grandfather clauses, it is anticipated that Report FAA-ASP-77-6 would provide a substantial portion of the approach methodology and justification. Much of the background data for the following alternatives can be found in the report. Copies are available from the Federal Aviation Administration, Office of Aviation System Plans.

ALTERNATIVES

The FAA invites all interested parties to comment on alternative approaches to the discontinuance or continued Federal operation of certain airport traffic control towers. In light of the foregoing discussion of background and historical pattern of ATCT criteria development, the agency can proceed according to one of several alternative lines. Possible alternatives on Federal decisions regarding closure of towers are to:

1. Continue Federal operation of all existing towers.
2. Apply existing ATCT discontinuance criteria which identify eight potential sites for discontinuance in FY 1978.
3. Cease operation of all (73) towers at which there is a net operating loss (O&M costs exceed benefits expected during the period FY 1978–92).
4. Cease operation of a portion (about 35–40) of the "noneconomic" towers.
5. Continue Federal operation, until FY 1980, of all towers at which there is a net operating loss with the intention of affording to state or local interests an opportunity to assume operation by that time.

Recommendations are needed on which alternative action the FAA should pursue. The rationale for each alternative follows.

1. *Continue Federal operation of all existing towers.* Retaining all towers continues Federal subsidization regardless of economic merit of continued operation. Although the FAA is considering the closure of a limited number of towers, to date only one facility has been decommissioned on the basis of cost-saving considerations.

The rationale for retaining towers must be based on the forecast growth of aircraft operations; that is, with the passage of time, increased operational activities will eventually result in benefits exceeding O&M costs. The longer the agency defers criteria application, the fewer sites for discontinuance are identified. By virtue of revised establishment criteria, we are assured that no new poor investments will enter the system and normal traffic growth will cause those in the system to look increasingly better. Not decommissioning towers will keep the aviation system operating at current status, providing historical levels of service.

There is a fundamental problem with this approach, however. Retaining the status quo permits tower continuance to remain influenced largely by the interests of those most immediately affected, rather than by the public interest in optimizing the National Aviation System as a whole. Significant funds would be lost by failing to discontinue towers identified by criteria. For example, the net discounted "loss" (costs less benefits) of continuing to operate all 73 towers where operating and maintenance costs exceed benefits is $22 million for the 15-year period FY 1978–92. Thus, it could be said that persons favoring this alternative value current "system benefits" of operating these towers over the 15-year period at $22 million. Appendix A lists those 73 tower locations where O&M costs exceed benefits for FY 1978–92.

2. *Apply existing ATCT discontinuance criteria.* This approach would discontinue Federal operation of all towers identified by current discontinuance criteria. Closure of the eight towers expected to be identified for discontinuance in FY 1978 (See Appendix B for affected sites) amounts to a total annual saving of $1.7 million in operating and maintenance costs. Discounted net savings, i.e., factoring in benefits of continued facility operations, amount to $4 million over the period FY 1978–92. Persons favoring this alternative would be said to assign continued operation of the remaining 65 (73 minus 8) towers a "system benefit" of $18 million ($22 million minus $4 million).

This approach has the beneficial impact of discontinuing operations of the economically poorest tower locations while not imposing subsequent benefit-cost analysis on capital investments made on other bases. Because of the more stringent establishment criteria, no poor new investment will enter the system, and expected increases in activity will make the remaining towers look economically better. However, retention and application of existing criteria, while making some improvement in the fiscal soundness of the aviation system, continues Federal operation of numerous locations which are not expected to be economically viable in the near future. This could be an argument against continued investment in new aviation facilities since present funds are not used to maximum advantage.

3. *Cease operation of all towers which yield an economic loss.* This approach is to terminate operation of all 73 towers at which operating and maintenance costs are expected to exceed the benefits of continued tower operation (Appendix A). When benefits do not exceed O&M costs, it can be argued that even if the "sunk cost" of constructing the tower is ignored, continued tower operation is an unjustifiable subsidy and should be discontinued. Closure of 73 facilities with costs exceeding benefits would result in an annual reduction in O&M costs of $14 million per year or net discounted costs less benefits of $22 million over 15 years. Since such a decision is based solely on quantifiable (safety and efficiency) benefits, it implies that any system benefit attributed to a tower has no value. Further, this approach gives no weight to the possibility that a tower might requalify for establishment within, say, a 10- to 15-year period. Thus, an argument for continued tower operation is the saving of capital funds required for ATCT reestablishment several years hence had the tower first been closed.

4. *Cease operation of a portion of the "noneconomic" towers.* This approach would be to discontinue service of a portion of the 73 towers where costs of continued Federal operation exceed aviation benefits. The process would not be arbitrary but would be based on a systematic accounting of factors beyond quantifiable costs and benefits. An example of such an approach would be to eliminate from discontinuance consideration all "noneconomic" towers expecting to meet establishment criteria within 15 years. That is, tower service would not be discontinued if it is expected to be renewed within 15 years. (See Appendix C for affected facilities.) This would ensure that towers discontinued on the basis of lack of economic merit would not qualify for reestablishment during a reasonable time frame and thus not require substantial new investment of capital funds. Because establishment criteria explicitly include amortized construction costs, requalification for service will be dependent upon substantial increases in total airport operations or the emergence of considerable air carrier or air taxi activity.

Nonetheless, it is currently estimated that of 73 tower sites operating at an economic loss, 38 locations would meet or exceed current benefit-cost tower establishment criteria by FY 1992. On this basis, 35 towers would qualify for discontinuance of service under this alternative. This represents a 52 percent decrease in the number of identified facilities when compared to the decision rule basing tower closure entirely on current economic merit (Alternative 3). Closure of 35 towers would result in a net "saving" of $16 million over the FY 1978–92 period, or 73 percent of the total $22 million "saving" should all 73 facilities be discontinued. Thus, persons favoring this alternative could be said to value the "system benefit" of towers at $6 million ($22 million minus $16 million).

However, continuing operations at 38 financially unsound towers would mean in excess of $7 million for O&M expenditures annually, which could be viewed as an unwarranted Federal subsidy until such time as the towers requalified for establishment. Further, if a considerable number of these facilities do not meet establishment levels within 15 years, the FAA would have continued to subsidize a significant number of towers on the basis of an unfulfilled expectation of traffic increase.

5. *Continue Federal operation until 1980 with the intention of affording to state or local interests an opportunity to assume operation by that time.* This approach would continue Federal operation for only two years at all towers at which operating and maintenance costs exceed benefits of retention of service. State or local interests would be encouraged to use this transition period to assess their position on whether or not to assume operations funding, presumably on the basis that significant state and local benefits are not recognized in FAA's economic analysis. In the event that, within two years, tower activity grows to levels exceeding discontinuance standards (benefits equal to or exceeding costs), the Federal Government would continue operation.

Of 73 towers that show a net discounted 15-year economic loss (costs exceeding benefits for FY 1978–92), 13 facilities are expected to yield a net discounted economic profit (benefits equal to or exceeding costs) within two years. Thus, the Federal Government would be expected to cease operations at 60 locations by 1980 if state or local interests do not take over. (See Appendix D.) Cessation of activity at all 60 sites represents a net saving of $21 million over FY 1978–92. Thus, a person advocating this approach could be said to value the "system benefit" of towers at $1 million ($22 million minus $21 million).

Continued state or local operation of these 60 towers, while not cost-beneficial at the Federal level, would be at the option of state and local officials who themselves would determine if such operation is warranted by payoffs associated with tower continuance. On the other hand, it could be argued that if the towers warrant being retained in the National Aviation System, they should be operated and maintained by the Federal Government, not numerous separate government entities.

The Federal Aviation Administration invites comments and suggestions on the above alternatives from all interested parties. Written comments should be directed to:

Federal Aviation Administration, Director, Office of Aviation System Plans, ASP-1, 800 Independence Avenue, S.W., Washington, D.C. 20591. Attention: Notice of Policy Formulation.

Copies of all referenced literature can be obtained from that office. All com-

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ments received before October 15, 1977, will be considered prior to a decision on application of ATCT criteria for discontinuance.

Issued at Washington, D.C. August 23, 1977.

QUENTIN S. TAYLOR,
Acting Administrator.

APPENDIX A

Listing of 73 ATCT's Identified by Alternative 3 (Cease operation of all towers which yield an economic loss).

Alaska	
Kodiak	Valdez
Arizona	
Flagstaff	Goodyear
Arkansas	
Pine Bluff	West Memphis
Texarkana	
California	
Chico	Merced
Fresno (Chandler)	Redding
Imperial	Salinas
Marysville	
Florida	
Jacksonville (Craig)	St. Petersburg
Key West	(Whitted)
Miami (Dade)	
Georgia	
Athens	Valdosta
Brunswick	
Idaho	
Twin Falls	
Illinois	
Bloomington	Galesburg
Danville	Marion
Indiana	
Bloomington	Terre Haute
Muncie	
Kansas	
Hutchinson	
Kentucky	
Owensboro	Paducah
Louisiana	
Alexandria	
Maryland	
Hagerstown	
Michigan	
Benton Harbor	Traverse City
Mississippi	
Greenville	Meridian
Jackson (Hawkins)	
Missouri	
Cape Girardeau	St. Joseph
St. Louis (Spirit of)	
New Mexico	
Hobbs	Santa Fe
New York	
Ithaca	Poughkeepsie
North Carolina	
Hickory	New Bern
Kinston	
Ohio	
Cleveland (Burke)	
Oklahoma	
Ardmore	Lawton
Enid	
Oregon	
Pendleton	
Puerto Rico	
Mayaguez	
South Carolina	
Florence	Myrtle Beach
Greenville	Spartanburg
Tennessee	
Knoxville	
(Downtown)	
Texas	
Brownsville	Laredo
College Station	McAllen
Harlingen	Plainview
Utah	
Ogden	
Washington	
Olympia	Walla Walla
Tacoma (Industrial)	
West Virginia	
Lewisburg	Wheeling
Wisconsin	
Appleton	

APPENDIX B

Listing of 8 ATCT's Identified by Alternative 2. (Apply existing ATCT discontinuance teria).

Alaska	
Kodiak	
Arkansas	
Pine Bluff	West Memphis
California	
Marysville	
Florida	
Miami (Dade)	
Illinois	
Danville	
Puerto Rico	
Mayaguez	
Wisconsin	
Appleton	

APPENDIX C

Listing of 35 ATCT's Identified by Alternative 4 (Cease operation of a portion of the "noneconomic" towers).

Alaska	
Kodiak	Valdez
Arkansas	
Pine Bluff	West Memphis
California	
Fresno (Chandler)	Marysville
Florida	
Miami (Dade)	
Georgia	
Athens	Valdosta
Brunswick	
Idaho	
Twin Falls	
Illinois	
Danville	Galesburg
Kentucky	
Owensboro	
Maryland	
Hagerstown	
Missouri	
St. Louis (Spirit of)	St. Joseph
New Mexico	
Hobbs	Santa Fe
New York	
Ithaca	Poughkeepsie
North Carolina	
Kinston	New Bern
Puerto Rico	
Mayaguez	
South Carolina	
Myrtle Beach	Spartanburg
Tennessee	
Knoxville (Downtown)	
Texas	
Brownsville	Plainview
Laredo	
Washington	
Olympia	Walla Walla
Tacoma (Industrial)	
West Virginia	
Lewisburg	Wheeling

APPENDIX D

Listing of 60 ATCT's Identified by Alternative 5 (Continue federal operation until 1980).

Alaska	
Kodiak	Valdez
Arizona	
Flagstaff	
Arkansas	
Pine Bluff	West Memphis
Texarkana	
California	
Fresno (Chandler)	Merced
Imperial	Redding
Marysville	Salinas
Florida	
Jacksonville (Craig)	St. Petersburg
Miami (Dade)	(Whitted)
Georgia	
Athens	Valdosta
Brunswick	
Idaho	
Twin Falls	
Illinois	
Danville	Marion
Galesburg	
Indiana	
Bloomington	Terre Haute
Kansas	
Hutchinson	
Kentucky	
Owensboro	
Louisiana	
Alexandria	
Maryland	
Hagerstown	
Mississippi	
Greensville	Meridian
Jackson (Hawkins)	
Missouri	
St. Louis (Spirit of)	St. Joseph
New Mexico	
Hobbs	Sante Fe
New York	
Ithaca	Poughkeepsie
North Carolina	
Hickory	New Bern
Kinston	
Oklahoma	
Ardmore	Lawton
Enid	
Oregon	
Pendleton	
Puerto Rico	
Mayaguez	
South Carolina	
Greenville	Spartanburg
Myrtle Beach	
Tennessee	
Knoxville (Downtown)	
Texas	
Utah	
Ogden	*Utah*
Washington	
Olympia	
Tacoma (Industrial)	
Walla Walla	
West Virginia	
Laredo	Brownsville
Plainview	Harlingen
Wheeling	Lewisburg
Wisconsin	
Appleton	

[FR Doc.77-25426 Filed 8-31-77;8:45 am]

Office of Pipeline Safety Operations

[Notice No. 77-5; Docket No. OPSO-47]

GAS PIPELINE SAFETY

Grant-in-Aid Program

This notice is issued to inform the public of the criteria and procedures established by the Materials Transportation Bureau (MTB) for determining a State's eligibility to participate in the grant-in-aid program under Section 5(f) of the National Gas Pipeline Safety Act, as amended (49 U.S.C. 1674(f)) (the Act). Although monies are not presently available to fund the Section 5(f) grant program, the following detailed information is provided so that States may have a factual basis for expressing, to MTB, their desire to participate in such a program. Knowing the extent of State interest will then allow MTB to accurately estimate the level of funding necessary to fuly implement the Section 5(f) grant program.

Section 5(f) was enacted by Pub. L. 94-477 on October 11, 1976 (Natural Gas Pipeline Safety Act of 1968, Amendments of 1976), and provides:

(f)(1) During the fiscal year ending September 30, 1978, the Secretary shall, in accordance with regulations issued by the Secretary taking into account the needs of the respective States, pay to each State agency out of funds appropriated or otherwise made available one hundred percent of the cost (not to exceed $60,000 for each State agency) of not more than three full-time natural gas pipeline safety inspectors in addition to, and not in lieu of, the number of natural gas pipeline safety inspectors maintained by such State agency in calendar year 1977.

(2) Not later than September 30, 1977, any State may apply to receive funds under paragraph (1) for the calendar year 1978.

(3) Each State agency which receives funds under paragraph (1) shall continue to maintain during calendar years 1979 and 1980 not less than the number of full-time natural gas pipeline safety inspectors which were maintained by such State agency in calendar year 1978.

(4) Any State in which the State agency fails to meet its obligations under paragraph (3) shall reimburse the Secretary for a sum equal to 50 percent of the funds received by such State under this subsection in proportion to which such State agency has failed to meet its obligations.

In order to take "* * * into account the needs of the respective States" it became necessary for MTB to determine the level of inspection effort that would be reasonably required by each State agency to maintain a satisfactory gas pipeline safety program. MTB recognized that this determination was of major significance in deciding a State's eligibility to receive Section 5(f) funding. The appropriateness of several criteria including miles of pipelines, age of pipelines, number of services, corrosive nature of States' soil, geographic area of the State, number, size, and quality of gas operators, number of gas incidents and fatalities were considered for making this determination. After carefully reviewing the propriety of each criterion and the availability of data, MTB decided that the level of inspection effort for each State would be based on the following three criteria: (1) Number of metered gas services, (2) miles of distribution main (for States acting as DOT's interstate agent, includes miles of transmission), and (3) number of distribution operators. Moreover, statistical data relating to these three criteria would be obtained from the MTB data bank developed from the 1975 Distribution and Transmission annual reports.

In order to arrive at a correlation between the chosen criteria and an adequate inspection effort that would be applicable to all States, MTB considered it a sound approach to base the correlation on program data of selected State agencies that are thought to have "good gas pipeline safety programs." In response to this approach, State agencies with such programs were identified by the MTB Regional Chiefs, their opinion being based on various factors including MTB internal State monitoring records.

Data was subsequently retrieved from MTB's data bank concerning the number of services, miles of pipline, number of operators subject to State jurisdiction, and the person-years currently expended on inspection by the above selected States. MTB then related, by graphical representation, each of the three chosen criteria to the level of inspection effort currently being expended. From the graphical representations, "approximate regression curves" were established which approximated the correlation between each of the three criteria and inspection effort. These curves were used in conjunction with MTB's judgment to develop the following mathematical formulas for determining the satisfactory level of inspection effort in person-years under each criterion:

Number of Services

1. Less than 900,000 services in State inspection;

$$\text{Inspection effort}^1 = .5 + \frac{\text{Number of Services in State.}}{200{,}000 \text{ services}}$$

2. More than 900,000 services in State inspection;

$$\text{Inspection effort}^1 = 5.0 + \frac{\text{Number of Services in State, 900,000 services}}{1{,}000{,}000 \text{ services}}$$

Miles of Pipeline

1. Less than 20,000 miles in State inspection:

$$\text{Inspection effort}^1 = .5 + \frac{\text{Miles in State.}}{4{,}000 \text{ miles}}$$

2. More than 20,000 miles in State inspection:

$$\text{Inspection effort}^1 = 5.5 + \frac{\text{Miles in State—20,000 miles.}}{15{,}000 \text{ miles}}$$

Number of Operators

$$\text{Inspection effort}^1 = .5 + \frac{\text{Number of Operators in State.}}{18 \text{ operators}}$$

[1] In person-years.

The resulting inspection effort under each criterion was then averaged giving equal weight to each criterion. MTB considered that this average represented the person-years of inspection effort that a State must devote to gas pipeline safety to maintain a good program. The average for each State calculated as described above is available from MTB upon request. Because of the unavailability of data concerning master meter operators, person-year requirements as calculated by MTB do not reflect a State's inspection requirements over master meter operators. Therefore, those States having jurisdiction over master meters and/or petroleum gas operators and desiring to participate in the 5(f) funding program should inform MTB of the need to adjust the calculations regarding person-year requirements.

Section 5(f) provides that 100 percent funding will be available only for inspectors that are in addition to and not in leu of the number of natural gas pipeline safety inspectors maintained by a State agency in calendar year 1977. To determine the "1977 Level of Inspection Effort," MTB used the most current data available. This information was obtained from Attachment 6 of the 1977 5(a) certifications and 5(b) agreements and re-

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lates to inspection effort being expended by States on January 1, 1977. This information is also available from MTB upon request.

However, the true "1977 Level of Inspection Effort" should reflect any increases or decreases of person-years of inspection effort made in a State program between January 1, 1977, and the time their letter of intent to participate in the 5(f) funding program was submitted to MTB. Therefore, when applicable, a State must adjust the January 1, 1977, figures to reflect such increases or decreases. Since the person-years a State devotes to pipeline safety is not constant and change from day to day, the adjustment must be accomplished by calculating the average increase or decrease of person-years the State devoted to pipeline safety from January 1, 1977, to the time their letter of intent was submitted to MTB.

For a State to be eligible to receive section 5(f) funding, a deficiency of inspection effort, determined by subtracting the 1977 level of inspection effort (adjusted if necessary) from the level of inspection effort required to maintain a good gas pipeline safety program (as calculated by MTB), must exist.

Although inspection effort deficiencies often contain fractional person-years, MTB believes that eligibility for 5(f) funding should be expressed in terms of whole person-years. This would avoid the problem of a State having to decide whether to hire a full-time gas pipeline safety inspector to cover a fractional person-year deficiency, knowing that if the full-time inspector is hired only that portion of his inspection effort equal to the fractional deficiency will be eligible for 5(f) reimbursement. Expressing 5(f) eligibility in terms of whole person-years also eases the burden of States and the MTB in administering the 5(f) program. Therefore, MTB has decided that in arriving at the maximum person-years that can qualify for 100 percent Federal reimbursement under section 5(f), all fractional person-year deficiencies will be rounded as follows: Deficiencies of .25 or greater rounded up to the nearest whole number, to a maximum of 3 person-years; deficiencies of .24 or less rounded down to the nearest whole person-year (including zero person-years).

Table I below shows, for each State, the number of person-years qualifying for 5(f) funds based on the person-year deficiencies arrived at by MTB using the calculations described above.

Table I

Schedule of States Qualifying for Section 5(f) Funding *

State	Person-years Qualifying for 5(f) funds
Alabama	0
Alaska	1
Arizona	2
Arkansas	0
California	3
Colorado	1
Connecticut	1
Delaware	1
Florida PSC	0
Florida Fire Marshal	3
Georgia	0
Hawaii	1
Idaho	1
Illinois	2
Indiana	3
Iowa	3
Kansas	3
Kentucky	0
Louisiana	1
Maine	0
Maryland	2
Massachusetts	3
Michigan	2
Minnesota	0
Mississippi	0
Missouri	1
Montana	1
Nebraska	1
Nevada	0
New Hampshire	1
New Jersey	1
New Mexico	1
New York	0
North Carolina	0
North Dakota	1
Ohio	2
Oklahoma	2
Oregon	0
Pennsylvania	1
Rhode Island	0
South Carolina	0
South Dakota	1
Tennessee	0
Texas	3
Utah	1
Vermont	1
Virginia	1
Washington	1
West Virginia	0
Wisconsin	3
Wyoming	0
District of Columbia	1
Puerto Rico	0
TOTAL	57

* The above figures are only valid if adjustments to reflect a State's jurisdiction over master meter operators and/or petroleum gas operators or changes to the January 1, 1977, level of inspection effort are unneccessary.

MTB also made the following determinations relevant to section 5(f):

1. *Cost of an Inspector.* Costs qualifying for 5(f) funds include, in addition the gas inspector's salary, all expenses which are directly related to his inspection activity (such as training, travel, etc.). However, 100 percent reimbursement for these expenses under section 5(f) may not exceed $60,000 for each State agency or $25,000 for any one inspector. Expenses in excess of these amounts may be eligible for up to 50 percent reimbursement under section 5(c) of the Natural Gas Pipeline Safety Act of 1968.

2. *Eligibility for Section 5(f) Funding Program.* State agencies that qualify for section 5(f) funding (see Table I) and that desire to participate in the section 5(f) funding program must indicate their intent to participate in writing by September 30, 1977 to:

Director, Materials Transportation Bureau, Department of Transportation, 2100 Second Street SW., Washington, D.C. 20590

Any eligible State agency that intends to participate in the section 5(f) funding program must also participate in the 1978 gas pipeline safety grant-in-aid program authorized by section 5(c) of the Act, and must submit the required MTB forms for participation in the section 5(c) funding program by September 30, 1977.

3. *Recordkeeping requirements.* Each State participating in the section 5(f) funding program will be responsible for insuring that the Procedural Guide for the Gas Pipeline Safety Grant Program (copies will be made available upon request to the above address is followed and that program funds have been accounted for under its provisions. Section 225.10(b) of the Guide requiring daily time records showing the status of each gas pipeline safety employee for the total day must be stringently followed in order to qualify for 100 percent reimbursement of section 5(f) funds.

4. *Request for Reimbursement Under Section 5(f).* State agencies will be reimbursed for expenses under section 5(f) in accordance with section 190 of the Procedural Guide for the gas pipeline safety program. Reimbursement under section 5(f) will be achieved by submitting a supplemental form which will be included in the 1978 yearend request for reimbursement form. No reimbursement for 5(f) funds will be made at midyear. This form, which will be mailed in January of 1979, will require the person-years qualified for reimbursement under section 5(f) to be calculated in the following manner:

Line (A) total technical person-years expended in 1978.

Line (B) total technical person-years expended in 1977.[1]

Line (C) total additional person-years expended in 1978 (line A less line B).

Line (D) maximum person-years eligible for section funds per Table I of this notice.

Line (E) person-years qualifying for section 5(f) funds (line C or line D whichever is less).

[1] NOTE.—Must reflect the increases or decreases in person-years expended made in the State's gas pipeline safety program from January 1, 1977, and the time the letter of intent to participate in the 5(f) funding program was submitted to MTB.

EFFECTIVE DATE

The criteria and procedures established by this notice are effective on August 29, 1977. However, comments on this notice will be considered by MTB and may be a basis for amending this notice.

PRINCIPAL AUTHORS

The principal authors of this notice are James M. Cayelli, State Programs Officer, and Robert L. Beauregard, Attorney, Office of the General Counsel.

Address: Send comments to:

Director, Office of Pipeline Safety Operations, Department of Transportation, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590.

(49 U.S.C. 1674(f), 49 CFR 1.53(a))

CESAR DELEON,
Acting Director, Office of Pipeline Safety Operations.

[FR Doc.77-25657 Filed 8-31-77;8:45 am]

National Highway Traffic Safety Administration

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

Notice of Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of a special planning group of the National Highway Safety Advisory Committee to be held September 21, 1977, at the Denver Marina Hotel, 303 W. Colfax Street, Denver, Colorado.

The planning group will meet for one day from 8:30 a.m. to 5:00 p.m. to plan future meeting schedules and agendas for the full Committee's work over the next year.

Attendance is open to the interested public but limited to the space available. Meeting room will be posted on the hotel meeting board. With the approval of the Chairman, members of the public may present oral statements at the meeting. Any member of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the Secretary of Transportation.

Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C., on August 26, 1977.

WM. H. MARSH,
Executive Secretary.

[FR Doc.77-25375 Filed 8-31-77;8:45 am]

TRUCK AND BUS SAFETY SUBCOMMITTEES

Cancellation of Public Meeting

On August 18, 1977 notice of a public meeting of the Truck and Bus Safety Subcommittees was published in the FEDERAL REGISTER. This meeting was scheduled to take place on September 7 at the DOT Headquarters Building in Washington, D.C. The items on the agenda for the meeting will be taken up at the Truck and Bus Safety Subcommittees meeting on September 20.

Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street SW., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C. on: August 29, 1977.

WM. H. MARSH,
Executive Secretary.

[FR Doc.77-25468 Filed 8-31-77;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 77-12]

ADVISORY COMMITTEE ON EXPLOSIVES TAGGING

Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Advisory Committee on Explosives Tagging will be held on September 29, 1977, at the Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., Room 5041 beginning at 9:00 a.m. (e.d.t.).

The Advisory Committee will discuss detailed proprietary scientific and technical data concerning various candidate explosive tagging systems that can be used in the detection and identification of explosives. The information which will be presented and discussed during the meeting will constitute trade secrets and commercial or financial information obtained from a person and privileged or confidential within the ambit of Title 5, United States Code, Section 552b(c)(4). Accordingly, the meeting of the Advisory Committee will, under authority of Section 10(d) of the Federal Advisory Committee Act (Public Law 82-463), not be open to the public.

All communications regarding this Advisory Committee meeting should be addressed to the Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, Attention: Mr. Robert F. Dexter, Committees Manager, Technical Services Division, Explosives Technology Branch. Room 8233.

Dated: August 22, 1977.

REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.77-25415 Filed 8-31-77;8:45 am]

WATER RESOURCES COUNCIL

WATER RESOURCES POLICY REVIEW

Change of Schedule

The Chairman of the Water Resources Council, Secretary of the Interior Cecil B. Andrus announced on August 26th a change in the schedule of the national water resources policy review. He set November 20, 1977 as the date for the closing of the record for public comments on the option papers published in the FEDERAL REGISTER on August 19, 1977, Vol. 42, No. 161, page 41943. Previously, the time for completion of the review has been extended by 90 days, so that the President's decision in regard to policy changes would be made in February 1978.

GUY R. MARTIN,
Alternate to the Chairman, Water Resources Council, Chairman, Water Resources Policy Committee.

AUGUST 29, 1977.

[FR Doc.77-25535 Filed 8-31-77;8:45 am]

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INTERSTATE COMMERCE COMMISSION

[No. 469]

ASSIGNMENT OF HEARINGS

AUGUST 29, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 58035 (Sub-No. 12), Trans-Western Express, LTD., now assigned September 20, 1977, at Denver, Colo., will be held in Room 595 Federal Courthouse, 1961 Stout Street.

MC-1977 (Sub-No. 26), Northwest Transport Service, Inc., now assigned September 21, 1977, at Denver, Colo., will be held in Room 595, Federal Courthouse, 1961 Stout Street.

MC 118431 (Sub-No. '24), Denver Southwest Express, Inc., now assigned September 26, 1977, at Denver, Colo., will be held in Room 595, Federal Courthouse, 1961 Stout Street.

AB 119 (Sub-No. 1), Fort Worth and Denver Railway Company, Abandonment Between Sterley and Silverton in Floyd and Briscoe Counties, Tex., now assigned September 29, 1977, at Plainview, Tex., will be held in 64th District Courtroom, Hale County Courthouse.

MC 143013, Roger Chilton, d.b.a. Chilton Trucking Co., now assigned October 3, 1977, at Houston, Tex., will be held in Tax Court, Room 7006, Federal Building & Courthouse, 515 Rusk Ave.

MC 2900 (Sub-No. 293), Ryder Truck Lines, Inc., now being assigned for continued hearing on November 7, 1977 (2 weeks), at Atlanta, Ga., at the Atlanta American Motor Hotel, Carnegie Way and Spring Street.

MC 133689 (Sub-No. 104), Overland Express, Inc., now being assigned November 1, 1977 (2 days), at St. Paul, Minn., in a hearing room to be later designated.

MC 133689 (Sub-No. 120), Overland Express, Inc., now being assigned November 3, 1977 (2 days), at St. Paul, Minn., in a hearing room to be later designated.

MC 140942 (Sub-No. 1), Cloverdale Transportation Co., now being assigned November 7, 1977 (1 day), at St. Paul, Minn., in a hearing room to be later designated.

MC 112805 (Sub-No. 3), St. Cloud Charter Service, Inc., now being assigned November 8, 1977 (2 days), at St. Paul, Minn., in a hearing room to be later designated.

MC 134477 (Sub-No. 14), Schanno Transportation, Inc., now being assigned November 10, 1977 (2 days), at St. Paul, Minn., in a hearing room to be later designated.

MC 66746 (Sub-No. 19), John L. Kerr & G. O. Kerr, Jr., d.b.a. Shippers Express, now assigned October 31, 1977, in Jackson, Miss., is canceled and application dismissed.

MC 129600 (Sub-No. 28), Polar Transport, Inc., now being assigned November 8, 1977 (1 day), for hearing in Miami, Fla., in a hearing room to be later designated.

MC 105813 (Sub-No. 219), Belford Trucking Co., Inc., now being assigned November 9, 1977 (3 days), for hearing in Miami, Fla., in a hearing room to be later designated.

MC 115491 (Sub-No. 133), Commercial Carrier Corp., now being assigned November 4, 1977 (1 day), for hearing in Tampa, Fla., in a hearing room to be later designated.

MC 118159 (Sub-No. 205), National Refrigerated Transport, Inc., now being assigned November 15, 1977 (1 day), for hearing in Tampa, Fla., in a hearing room to be later designated.

MC 142672 (Sub-No. 4), David Beneux Produce & Rucking, Inc., now being assigned October 6, 1977 (1 day), at Philadelphia, Pa., in a hearing room to be later designated.

MC 117119 (Sub-No. 632), Willis Shaw Frozen Express, Inc., and MC 133566 (Sub-No. 89), Gangloff & Downham Trucking Company, Inc., now being assigned October 7, 1977 (1 day), at Philadelphia, Pa., in a hearing room to be later designated.

MC 107295 (Sub-No. 844), Pre-Fab Transit Co., now assigned October 12, 1977, at Columbus, Ohio, will be held in Room 235, Federal Bldg., 85 Marconi Blvd.

MC 106398 (Sub-No. 770), National Trailer Convoy, Inc., now assigned October 13, 1977, at Columbus, Ohio, will be held in Room 235, Federal Bldg., 85 Marconi Blvd.

MC 103066 (Sub-No. 54), Stone Trucking Co., now assigned October 14, 1977 at Columbus, Ohio, will be held in Room 235, Federal Bldg., 85 Marconi Blvd.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-25589 Filed 8-31-77;8:45 am]

[Notice No. 216]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission by October 3, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants, if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77244, filed August 3, 1977. Transferee: Jackie R. Smithson, Sr., Doing Business As Jack's Wrecker Service, 5913 South Broadway, Oklahoma City, Okla. 73109. Transferor: J. V. Harrison, doing business as Harrison Wrecker Service, 1405 SW. 26 Street, Oklahoma City, Okla. 73108. Applicants' representative: Charles D. Dudley, 280 National Foundation Life Bldg., 3535 NW 58th St., Oklahoma City, Okla. 73112. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 134390 (Sub-No. 1), issued July 16, 1973, as follows: (1) Wrecked or disabled motor vehicles (except trailers designed to be drawn by passenger automobiles), from points in Arkansas, Colorado, Kansas, Louisiana, Missouri, Nebraska, New Mexico, and Texas, to Oklahoma City, Okla.; and (2) replacement vehicles for wrecked or disabled motor vehicles in (1) above, by use of wrecker equipment only, from Oklahoma City, Okla., to points in Arkansas, Colorado, Kansas, Louisiana, Missouri, Nebraska, New Mexico, and Texas. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77252, filed August 5, 1977. Transferee: Gary D. Allen, P.O. Box 14, Kirk, Colo., 80824. Transferor: John G. Riedesel, Doing Business As Riedesel Truck Line, P.O. Box 11, Kirk, Colo. 80824. Applicants' representative: Charles M. Williams, KIMBALL AND WILLIAMS, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 103331 issued November 29, 1965, as follows: Livestock, agricultural commodities, feed, fertilizer, farm machinery, and implements and parts threfor, and emigrant movables, between points in a described portion of Colorado; between points in a described portion of Colorado on the one hand, and, on the other, points in Dundy County, Nebr., and points in a described portion of Kansas; restriction: The service authorized above is restricted against operation between incorporated municipalities on U.S. Highway 36 from Cope, Colo., to the Colorado-Kansas State line, inclusive, and operation in the transportation of emigrant movables between incorporated municipalities in the described territory; Livestock and grain from points in a described portion of Yuma and Kit Carson Counties, Colo., to St. Francis, Kans.; and General commodities, with normal exceptions, between points in Yuma, Kit Carson, and Washington Counties, Colo., on the one hand, and, on the other, rail heads in Yuma, Kit Carson, and Washington Counties, Colo. Transferee is presently authorized to operate as a common carrier under Certificate No. MC 97471 (Sub-No. 2). Application has been filed for temporary authority under section 210a(b).

No. MC-FC-77253, filed August 8, 1977. Transferee: Carl E. Parnell, 1211 W. Locust St., Belvidere, Ill. 61008. Transferor: Robert M. Swanson, 820 Wayne St., Belvidere, Ill. 61008. Applicant's representative: Abraham A. Diamond, Attorney at Law, 29 South LaSalle St., Chicago, Ill. 60603. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 136443 (Sub-No. 2), issued March 5, 1973, as follows: *Non-dairy cream substitutes*, in bulk, in tank vehicles, from Rockford, Ill., to Janesville, Wis., with no transportation for compensation on return except as otherwise authorized. *Ice cream mix*, in bulk, in tank vehicles, from Belvidere, Ill., to Portage and Montfort, Wis., with no transportation for compensation on return except as otherwise authorized. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a (b).

No. MC-FC-77255 filed August 8, 1977. Transferee: LOWTHER TRUCKING CO., INC., 521 S. Anderson Road, P.O. Box 3117 C.R.S., Rock Hill, S.C. 29730 Transferor: Lowther Trucking Co., A Corporation, 521 South Anderson Road, P.O. Box 3117 C.R.S., Rock Hill, S.C. 29730. Applicants' representative: J. Wesley Lowther, President, Lowther Trucking Co., Inc. (same as above). Authority sought for purchase by transferee of the operating rights of transferor as set forth in Permit No. MC-115789 (Sub-No. 3); and Certificate Nos. MC-114098 (Sub-No. 3); MC-114098 (Sub-No. 5); MC-114098 (Sub-No. 17); MC-114098 (Sub-No. 23); MC-114098 (Sub-No. 37); and MC-114098 (Sub-No. 39) issued April 8, 1977; September 19, 1958; November 17, 1960; April 7, 1977; April 7, 1977; November 30, 1967; and July 2, 1963 respectively, as follows: (1) Asphalt protective coatings, from Rock Hill, S.C., to points in North Carolina, Virginia, West Virginia, those in Tennessee on and east of U.S. Highway 27, Alabama, Georgia, and Florida; (2) Materials, supplies and equipment, used in the manufacture and distribution of asphalt protective coatings (except in bulk, in tank vehicles), from points in Georgia, and Kimberton, Pa., to Rock Hill, S.C.; Operations are limited to a transportation service to be performed under a continuing contract, or contracts, with Monsey Products Co., of Rock Hill, S.C.; Hulled cottonseed, in bulk, From Charlotte, N.C., to Augusta, Ga.; and Ground cottonseed flakes, in bulk, from Augusta, Ga., to Charlotte, N.C.; Fertilizer, in bulk, in tank and hopper-type vehicles, and in bags, from Spartanburg, S.C., to points in North Carolina; Building or roofing slabs (made of Portland cement with wood fibre or wood chips aggregate), on flatbed trailers, from Richmond, Va., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, and those points in that part of Tennessee west of U.S. Highway 27, South Carolina, Mississippi, Louisiana, Arkansas, Oklahoma, and Texas; Composition boards and sheets (not including wall boarding or insulation boarding) from Black Mountain, N.C., to points in South Carolina, and those in that part of Tennessee west of U.S. Highway 27, Kentucky, New York, (except points in the New York Commercial Zone, as defined by the Commission) and points in Pennsylvania (except points within 25 miles of Philadelphia, including Philadelphia); Building or roofing slabs, from Newark, Ohio, to points in West Virginia; Hardboard, from Conway, N.C., and points within ten miles thereof, to points in Iowa, Arkansas (except Benton, Ark.), Illinois, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Mississippi, Oklahoma, Texas (except Houston, Tex.), Wisconsin, and that part of Tennessee on and west of U.S. Highway 25-E. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77264, filed August 15, 1977. Transferee: TRI STATE TOURS, INC., P.O. Box 307, Galena, Ill. 61036. Transferor: Lewis G. Hilliard, d.b.a. Tri State Tours, P.O. Box 307, Galena, Ill. 61036. Applicant's representative: J. G. Dail, Jr., Attorney at Law, P.O. Box 567, McLean, Va. 22101. Authority sought for purchase by transferee of the authority to operate as a broker, of transferor as set forth in License Nos. MC-12655 and sub numbers 2 and 3 issued October 18, 1966, April 18, 1975, and July 11, 1977 respectively as follows: Passengers and their baggage, in the same vehicle with passengers, in round-trip tours, beginning and ending at Dubuque, Iowa, and extending to points in the United States, except Alaska and Hawaii. Passengers in round-trip all-evxpense tours, beginning and ending at Rock Island, Ill., and points within 50 miles thereof, and extending to points in the United States, including the District of Columbia. Passengers and their baggage, in special and charter operations, in round-trip, all expense tours, beginning and ending at Galena, Ill., and Hazel Green, Cuba City, Shullsburg, and Benton, Wis., and extending to points in the United States (including Alaska and Hawaii). Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a (b).

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-25585 Filed 8-31-77;8:45 am]

[Notice No. 107TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 25, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 51146 (Sub-No. 514TA) filed August 5, 1977. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials*, from the facilities of Fry Division of Owens Corning Fiberglass located at or near North Kansas City, Mo., to points in Iowa, Minnesota, North Dakota, South Dakota, and Wisconsin; and from the facilities of Fry Division of Owens Corning Fiberglass located at or near Summit, Ill., to points in Minnesota, North Dakota and South Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Fry Division of Owens Corning Fiberglass, Summit, Ill. (P.O. Argo) 60501. (G. A. Homeier). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 60014 (Sub-No. 56TA), filed August 5, 1977. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cementitious wood fiber roof deck panels*, from the plantsite of Martin Fireproofing Georgia, Inc., at or

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near Elberton, Ga., to points in Connecticut, Delaware, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Martin Fireproofing Georgie, Inc., P.O. Box 768, Elberton, Ga. 30635. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 113362 (Sub-No. 310TA), filed August 4, 1977. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: Milton D. Adams, P.O. Box 429, Austin, Minn. 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packing plants* (except hides and commodities in bulk) from the plant site of George A. Hormel & Co. located at Springfield, Mo., to points in Wisconsin and the Upper Penninsula of Michigan, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Geo. A. Hormel & Co. P.O. Box 800, Austin, Mo. 55912. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309

No. MC 114045 (Sub-No. 474TA), filed August 8, 1977. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, Tex. 75261. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Photographic materials, supplies and equipment*, in vehicles equipped with mechanical refrigeration, from Teterboro, N.J., to Reno, Nev., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Agfagevaert, Inc., 275 North Street, Teterboro, N.J. 07608. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 114457 (Sub-No. 325TA), filed August 9, 1977. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James C. Hardman, 33 N. LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel doors, steel door frames, and brass, bronze, copper and steel hardware*, from the plantsite of The Ceco Corporation at or near Milan, Tenn., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont, for 180 days. Supporting shipper: The Ceco Corporation, 5601 W. 26th St., Chicago, Ill. 60650. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 115162 (Sub-No. 380TA), filed August 5, 1977. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same as above). Authority sought to operate as a *common carrier, by* motor vehicle, over irregular routes, tranporting: *Ground clay*, in containers, from the plant sites of Floridin Company at or near Havana and Quincy, Fla., and Ochlocknee, Ga., to points in the states of Alabama, Arkansas, Mississippi, Louisiana, Georgia, South Carolina, North Carolina, Tennessee and Kentucky, for 180 days. Supporting shipper: Floridin Company, Berkeley, Springs, W. Va. 25411. Send protests to: Mable E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Rm. 1616–2121 Building, Birmingham, Ala. 35203.

No. MC 115162 (Sub-No. 381 TA), filed August 5, 1977. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit or pipe, cement, containing asbestos fibre, and fittings therefor*, from the plant site of Cement Asbestos Products Company (Subsidiary of ASARCO Incorporated), at or near Ragland, Ala., to all points in the states of Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Cement Asbestos Products Company (Subsidiary of ASARCO Incorporated), 611 Olive St., Suite 1755, St. Louis, Mo. 63101. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Rm. 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 123255 (Sub-No. 114TA), filed August 10, 1977. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn and corn products*, from Parts, Ill., to points in the States of Connecticut, Maryland, Massachusetts, New Jersey, New York, and Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Illinois Cereal Mills, Inc., 616 South Jefferson Street, Paris, Ill. 61944. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg., and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 123887 (Sub-No. 11TA), filed August 8, 1977. Applicant: L. J. NAVY TRUCKING CO., 2300 Eighth Avenue, Huntington, W. Va. 25703. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, W. Va. 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* in containers, from the plantsite of Miller Brewing Co., at South Volney, N.Y., to Charleston, Huntington, and Williamson, W. Va., for 180 days. Supporting shippers: James Mazzei, President, Capitol Beverage Co., 500 Hunt Avenue, Charleston, W. Va. 25302. Allene L. Hall, Vice President and Secretary, Atomic Distributing Co., 417 R 2nd Ave., Huntington, W. Va. 25701. Dominic J. Gentile, President, Mingo Bottling Co., Inc., Box 1057, Williamson, W. Va. 25661. Send protests to: H. R. White, District Supervisor, Interstate Commerce Commission, 3108 Federal Office Bldg., 500 Quarrier Street, Charleston, W. Va. 25301.

No. MC 126736 (Sub-No. 100TA), filed August 9, 1977. Applicant: FLORIDA ROCK AND TANK LINES, INC., 155 East 21st Street, P.O. Box 1559, Jacksonville, Fla. 32201. Applicant's representative: L. H. Blow (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulfuric acid* in bulk in tank vehicles, from the plant site of Occidental Chemical Co., near White Springs, Fla., to North Carolina, South Carolina and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cities Service Company, P.O. Drawer 50360, Atlanta, Ga. 30302. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 127539 (Sub-No. 59TA), filed August 12, 1977. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Avenue East, Tacoma, Wash. 98421. Applicant's representative: Michael D. Duppenthaler, 515 Lyon Building, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Margarine, mayonnaise and peanut butter*, in vehicles equipped with mechanical refrigeration, from the plantsite of Shedds Food Products at or near Sunnyvale, Calif., to points in Oregon and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Shedds Food Products, 1484 Kaifer Road, Sunnyvale, Calif. 94086. Send protests to: L. D. Boone, Transportation

Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 128205 (Sub-No. 32TA), filed August 3, 1977. Applicant: BULKMATIC TRANSPORT CO., 12000 S. Doty Avenue, Chicago, Ill. 60628. Applicant's representative: Stephen H. Loeb, 180 N. LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, from St. Louis, Mich., to Hamilton County, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Michigan Salt Co., D. F. Rittenberry, 2 North Riverside Plaza, Chicago, Ill. 60606. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 129903 (Sub-No. 8TA), filed August 10, 1977. Applicant: EMPORIA MOTOR FREIGHT, INC., P.O. Box 1103, Route 5, Emporia, Kans. 66801. Applicant's representative: John L. Richeson, Second and Main Street, Ottawa, Kans. 66067. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *High temperature insulation, for furnaces, and materials* used in the installation thereof, from the plantsite of Pyro-Bloc, a division of Sauder Industries, Inc., Emporia, Kans., to all points in the United States of America, for 180 days. Supporting shipper: Pyro-Bloc, a division of Sauder Industries, Inc., 204 Aeroglide, Emporia, Kans. 66801. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 147 Federal Bldg. 7 U.S. Courthouse, 44 S. E. Quincy, Topeka, Kans. 66683.

No. MC 133095 (Sub-No. 170TA), filed August 12, 1977. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, 2603 W. Euless Blvd., Euless, Tex. 76039. Applicant's representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electronic equipment and materials, equipment and supplies* used in the manufacture and distribution thereof (except commodities in bulk), between Sequin, Tex., and Chicago, Ill., for 180 days. Supporting shipper: Motorola, Inc., Automotive Products Division, 1299 E. Algonquin Road, Schaumburg, Ill. 60196. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Ft. Worth, Tex. 76102.

No. MC 134022 (Sub-No. 28TA), filed August 5, 1977. Applicant: RICHARD A. ZIMA, doing business as ZIPCO, P.O. Box 715, West Bend, Wis. 53095. Applicant's representative: Richard A. Zima; 3462 Townhall Road, Kewaskum, Wis. 53040. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* in containers, except in bulk, and advertising and promotional materials when shipped with malt beverages and the return of used empty containers, from Chicago, Ill., to Louisville, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Peter Hand Brewing Company, 1000 W. North Avenue, Chicago, Ill. 60622 (Harry E. Singer). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 134375 (Sub-No. 15TA), filed August 9, 1977. Applicant: ELDON GRAVES, doing business as ELDON GRAVES TRUCKING, Box 3044, Union Gap, Wash. 98903. Applicant's representative: Robert G. Gleason, 1127—10th East, Seattle, Wash. 98102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cedar shakes and shingles*, from the plant site of Red Cedar Products, Inc., located at or near Amanda Park, Wash., to points in California, movement to be made on flatbed equipment, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Red Cedar Products, Inc., Route 1, Box 300, Amanda Park, Wash. 98526. Send protests to: District Supervisor R. V. Dubay, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 SW. Yamhill Street, Portland, Oreg. 97204.

No. MC 135082 (Sub-No. 52TA), filed August 10, 1977. Applicant: BURSCH TRUCKING, INC., doing business as ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road NE., Albuquerque, N. Mex. 87125. Applicant's representative: Randall A. Sain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, wood products, and millwork*, from Idaho, Oregon, and Montana to Arizona, Colorado, New Mexico, Kansas, Oklahoma, and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Sagebrush Sales Company, Inc., 6300 State Road 47 SE., Albuquerque, N. Mex. 87108. American Forest Products Corporation, 100 Menau Blvd. NE., Albuquerque, N. Mex. 97107, Duke City Lumber Company, Inc., P.O. Box 25807, Albuquerque, N. Mex. 87125. Send protests to: Darrell W. Hammons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, N. Mex. 87101.

No. MC 135696 (Sub-No. 5TA), filed August 5, 1977. Applicant: LAKE PORT TRUCKING AND LEASING, INC., 620 South Stange Road, Elmore, Ohio 43416. Applicant's representative: Arthur R. Cline, 420 Security Building, Toledo, Ohio 43604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Alfalfa *products*, from Blissfield, Mich., to points in Cumberland County, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Consolidated Mills, Inc., Box 6, 6771 Silberhorn Road, Blissfield, Mich. 49228. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 136888 (Sub-No. 10TA), filed August 3, 1977. Applicant: NORMAN & SON, INC., 2520 North 69th Street, Houston, Tex. 77020. Applicant's representative: Phillip Robinson, P.O. Box 2207, Austin, Tex. 78768. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Activated carbons*, in bulk, in dump vehicles, between Bayport, Tex., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Calgon Corporation, P.O. Box 1346, Pittsburgh, Pa. 15230. Send protests to: District Supervisor John F. Mensing, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk, Houston, Tex. 77002.

No. MC 140878 (Sub-No. 2TA) (correction), filed May 6, 1977, published in the FEDERAL REGISTER issue of June 6, 1977, and republished as corrected this issue. Applicant: SOUTHSIDE TRUCKING CO., INC., 401 Murray's Avenue, Alexandria, Va. 22301. Applicant's representative: Henry U. Snavely, 410 Pine Street, Vienna, Va. 22180. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulation*, and (2) *equipment, materials, and supplies* used in the manufacture, sale, distribution, and installation of insulation, between the facilities of Cellin Manufacturing, Inc., at Lorton, Va., and Guilderland, N.Y., on the one hand, and, on the other, points in Connecticut, Delaware, District of Columbia, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia, restricted in (1) and (2) above (A) against the transportation of commodities in bulk, and (B) to the performance of a transportation service under a continuing contract or contracts with Cellin Manufacturing, Inc., of Lorton, Va., for 180 days. Supporting shipper(s): Cellin Manufacturing, Inc., 9610 Gunston Road, Lorton, Va. 22079. Send protests to: Interstate Commerce Commission, 12th & Constitution Avenue NW., Room 1413, District Supervisor W. C. Hersman, Washington, D.C. 20423. The purpose of this republication is to add six additional destination states as originally

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sought by applicant but inadvertently omitted. Note any protest filed should be directed only to those new or additional states reflected herein. Any interested party filing a protest to the six additional destination states are advised that said protests will be treated as a petition for reconsideration.

No. MC 141443 (Sub-No. 3TA), filed August 10, 1977. Applicant: JOHN LONG TRUCKING, INC., 1030 E. Denton Street, Sapulpa, Okla. 74066. Applicant's representative: Wilburn L. Williamson, 3535 NW. 58th Street, 280 National Foundation Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden boxes*, from Jonesboro, Ark., to points in Montana, New Mexico, Oregon, and Texas, for 180 days. Supporting shipper: Southern Wooden Box, Inc., P.O. Box 339, 1100 East Johnson Ave., Jonesboro, Ark. 72401. Send protests to: District Supervisor Joe Green, Rm. 240 Old Post Office Bldg., 215 NW. Third Street, Oklahoma City, Okla. 73102.

No. MC 143565TA, filed August 3, 1977. Applicant: HIGHWAY TRANSPORTATION COMPANY, P.O. Box 1327, Bangor, Maine 04401. Applicant's representative: Frederick T. McGonagle, 36 Main Street, Gorham, Maine 04038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sulphur*, in bulk, in tank vehicles, from the port of entry on the International Boundary Line, between the United States and Canada located at or near Calais, Maine to Searsport, Maine, under a continuing contract or contracts with Delta Chemicals, Inc., for 180 days. Supporting shipper: Delta Chemicals, Inc., P.O. Box 414, Searsport, Maine 04974. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 307, 76 Pearl Street, Portland, Maine 04111.

No. MC 143594TA, filed August 11, 1977. Applicant: NATIONAL BULK TRANSPORT, INC., 1300 Hibernia Building, New Orleans, La. 70113. Applicant's representative: Charles W. Singer, 240 E. Commercial Blvd., Fort Lauderdale, Fla. 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid amorphous polypropylene*, in bulk, in tank vehicles, from Bayport, Tex., to Crowley, La., for 180 days. Supporting shipper: Hercules Incorporated, Atlanta, Ga. 30308. NOTE.—Applicant has been substituted as the applicant in MC Docket No. 110988 (Sub-No. 321). Send protests to: District Supervisor, Ray C. Armstrong, Jr., 701 Loyola Ave., 9038 Federal Bldg., New Orleans, La. 70113.

PASSENGER APPLICATION

No. MC 143578TA, filed August 10, 1977. Applicant: WILSON BUS CO., INC., 314 Alexander St., Fayetteville, N.C. 28301. Applicant's representative: Wilmer B. Hill, Suite 805, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations, and in special operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in Cumberland, Sampson, Johnston, Wilson, Greene and Bladen Counties, N.C., and extending to points on and east of the Mississippi River, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately thirty-four (34) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

By the Commission

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-25586 Filed 8-31-77;8:45 am]

[Notice No. 106TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 24, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representatives, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 48958 (Sub-No. 135TA) (correction), filed July 15, 1977, published in the FEDERAL REGISTER issue of August 9, 1977, and republished as corrected this issue. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 E. 51st Avenue, P.O. Box 16404, Denver, Colo. 80216. Applicant's representative: Lee E. Lucero (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat products, meat by-products, and articles distributed by meat packinghouses*, as described in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from all points in Iowa, Dakota City, Fremont, Schuyler, Scottsbluff and West Point, Nebr.; Holton and Kansas City, Kans.; and Kansas City, Mo., to all points in Arizona, California, Colorado, New Mexico and Utah, for 180 days. Supporting shipper(s): American Beef Packers, Inc., Highway 59 North, Oakland, Iowa 51560. Farmland Foods, Inc., Dept. 44, 3315 N. Oak Trafficway, Kansas City, Mo. 64116. Send protests to: Roger L. Buchanan District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, Colo. 80202. The purpose of this republication is to add the state of Colorado as an destination point in lieu of Connecticut as was previously published in error.

No. MC 51146 (Sub-No. 517TA), filed August 12, 1977. Applicant: SCHNEIDER TANK LINES, INC., 2661 South Broadway, Green Bay, Wis. 54306. Applicant's representative: Paul Schneider (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Spent chemicals*, in bulk, from points in Michigan, Minnesota, Ohio and Wis., to Union, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Southern California Chemical Co., Inc. 17415 E. Jefferson Street, Union, Ill. 60180. (James W. Andrews.) Send protests to: Gail Daugherty Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 71642 (Sub-No. 27TA), filed August 4, 1977. Applicant: CONTRACTUAL CARRIERS, INC., Harmony Industrial Park, Allen Drive, Newark, Dela. 19711. Applicant's representative: Samuel W. Earnshaw, 833 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products* (except commodities in bulk), Between Newark, Del., on the one hand, and, on the other, Jackson, Tenn.; Urbana, Ohio; Concord, N.H.; and Chicago, Ill., and the Commercial Zone thereof, for the account of Westvaco Corp., New York, N.Y., under a continuing contract, or contracts, with Westvaco Corp., for 180 days. Supporting shipper(s): Westvaco Corp., Westvaco Building, 299 Park Avenue, New York, N.Y. 10017. Send protests to: Monica A. Blodgett Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 72495 (Sub-No. 18TA), filed August 8, 1977. Applicant: DON SWART TRUCKING, INC., Box 49, Route 2, Wellsburg, W.Va. 26070. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Granulated slag*, in bulk in dump vehicles, from the plantsite of H. B. Reed & Co., Inc., at or near Cresap, W. Va., to the plantsite of CertainTeed Corporation at or near Avery, Ohio, for 180 days. Supporting shippers: H. B. Reed & Co., Inc., 8149 Kennedy Ave., Highland, Ind. 46322. CertainTeed Corp., P.O. Box 860, Valley Forge, Pa. 19482. Send protests to: J. A. Niggemyer, District Supervisor, Interstate Commerce Commission, 416 Old Post Office Building, Wheeling, W. Va. 26003.

No. MC 78228 (Sub-No. 64TA) (correction), filed July 14, 1977, published in the FEDERAL REGISTER issue of August 2, 1977, and republished as corrected this issue. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, Pa. 15220. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in dump vehicles, from Clarksburg, and Nettie, W. Va., and five miles thereof to Catlettsburg, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Calgon Corp., P.O. Box 1346, Pittsburgh, Pa. 15230. Send protests to: John J. England District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Avenue, Pittsburgh, Pa. 15222. The purpose of this republication is to add the rest of the territorial description.

No. MC 105566 (Sub-No. 150TA), filed August 8, 1977. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, 6901 Old Keene Mill Road, Suite 406, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials, plastic granules, plastic pellets, proprietary antifreeze preparations and anti-freeze* (except in bulk), from Mapleton and Morris, Ill., to points in Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Northern Petrochemical Co., 2350 E. Devon Avenue, Des Plaines, Ill. 60018. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 107403 (Sub-No. 1029TA), filed August 11, 1977. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr., (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry caustic soda*, in bulk, in tank vehicles, from Deer Park, Tex., to St. Louis, Mo., for 180 days. Supporting shipper(s): Diamond Shamrock Corp., 1100 Superior Avenue, Cleveland, Ohio 44114. Send protests to: Monica A. Blodgett Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 107496 (Sub-No. 1101TA), filed August 11, 1977. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pebble lime*, in bulk, from Sequiota, Mo., to Hawesville, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Western Kraft, P.O. Box 130, Hawesville, Ky. 42348. Send protest to: Herbert W. Allen District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 108393 (Sub-No. 125TA), filed August 9, 1977. Applicant: SIGNAL DELIVERY SERVICE INC., 201 S. Ogden Avenue, Hinsdale, Ill. 60521. Applicant's representative: Thomas B. Hill (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts of electrical and gas appliances and equipment, materials and supplies* used in the manufacture, distribution and repair of electrical and gas appliances, except commodities in bulk, in tank vehicles, between Portland, Ind., and Findlay, Ohio, performed under a continuing contract or contracts with the Whirlpool Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Whirlpool Corporation, Carl R. Anderson, Director of Transportation Administrative Center, Benton Harbor, Mich. 49022. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, 219 S. Dearborn Street, Room 1386, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 110525 (Sub-No. 1205TA), filed August 11, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Avenue, Downington, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrogen peroxide*, in bulk, in tank vehicles, from Woodstock, Tenn. (near Memphis), to Lynch, Wyo., for 180 days. Supporting shipper(s): E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, Dela. 19898. Send protests to: Monica A. Blodgett Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 112822 (Sub-No. 424TA), filed August 11, 1977. Applicant: BRAY LINES, INCORPORATED, P.O. Box 1191, 1401 N. Little Street, Cushing, Okla. 74023. Applicant's representative: Charles D. Midkiff, 1401 Little Street, P.O. Box 1191, Cushing, Okla. 74023. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Frozen foods* (except in bulk), from Cameron, Hidalgo and Willacy Counties, Tex., to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, and Wis., for 180 days. Supporting shipper(s): Bluebonnet Foods, Inc. Monte Alto, Tex. 78538. Send protests to Joe Green District Supervisor, Room 240 Old Post Office Building, 215 NW. Third Street, Oklahoma City, Okla. 73102.

No. MC 14004 (Sub-No. 171TA), filed August 12, 1977. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. 72209. Applicant's representative: Winston G. Chandler, 8828 New Benton Highway, Little Rock, Ark. 72209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mobile Modular structures*, in initial movements, in truckaway service, from Broken Arrow, Okla., to points and places in the United States, including Alaska but excluding Hawaii, for 180 days. Supporting shipper(s): Porta-Structure Corp. 777 N. Redbud, Suite 9, Broken Arrow, Okla. 74012. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 115821 (Sub-No. 29TA), filed August 12, 1977. Applicant: FRANK BEELMAN, d/b/a BEELMAN TRUCK CO., St. Lobory, Ill. 62282. Applicant's representative: Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from Saline, Franklin, Jefferson, Williamson, Gallatin, Marion, Hamilton, Hardin, Pope, Johnson, Union and Jackson Counties, Ill., to points in Vigo, Vermillion, Knox, Hamilton, Floyd and Gibson Counties, Ind., for 180 days. Supporting ship-

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per(s): John P. Masselink Fuel Manager, Public Service Company of Indiana, Inc., 1000 E. Main Street, Plainfield, Ind. 46168. Send protests to: Harold C. Jolliff District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 116073 (Sub-No. 362TA), filed August 5, 1977. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett, P.O. Box 919, Moorhead, Minn. 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, complete or in sections, in initial movements, from the plantsite of Skyline Corporation at or near Boise, Idaho, to all points in the states of Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Skyline Corporation, P.O. Box 5754, Boise, Idaho 83706. Send protests to: Ronald R. Mau District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 117088 (Sub-No. 7TA), filed August 4, 1977. Applicant: ASPHALT TRANSPORT, INC., P.O. Box 10416, 3000 Curlene Hwy., New Orleans, La. 70121. Applicant's representative: Edward W. Winter, 235 Rosewood Drive, Metairie, La. 70005. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Drilling mud*, in bulk, in tank vehicles, from Galveston and Houston, Tex., to Cameron, La., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cameron Offshore Services, Inc. Suite 504, Louisiana Savings & Loan Bldg. 901 Lakeshore Drive, Lake Charles, La. 70602. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 701 Loyola Avenue, 9038 Federal Building, New Orleans, La. 70113.

No. MC 117613 (Sub-No. 19TA), filed August 5, 1977. Applicant: D. M. BOWMAN, INC., Route 9, Box 26, Hagerstown, Md. 21740. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Waste oil*, from Clayton, N.J., and its commercial zone to Baltimore, Md., and its commercial zone, under a continuing contract or contracts with Maryland Liquid Disposal, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Maryland Liquid Disposal, Inc., Post Office Box 4059, Baltimore, Md. 21222. Send protests to: Interstate Commerce Commission, 12th & Constitution Avenue NW., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 117765 (Sub-No. 234TA), filed August 5, 1977. Applicant: HAHN TRUCK LINE, INC., 5315 NW., 5th Street, P.O. Box 75218, Oklahoma City, Okla. 73107. Applicant's representative: R. E. Hagan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Memphis, Tenn., to Akron, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: O'Neil Brothers Dis., Co., 10 South Custer, Akron, Colo. 80720. Send protests to: District Supervisor Joe Green, Rm. 240 Old Post Office Bldg., 215 NW. Third Street, Oklahoma City, Okla. 73102.

No. MC 118159 (Sub-No. 222TA), filed August 11, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor, P.O. Box 51366, Dawson Station, Tulsa, Okla. 74151. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen ice milk and low caloric products* (except in bulk), in vehicles equipped with mechanical refrigeration, from Hutchinson, Kans. to Richland Center, Green Bay and Milwaukee, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): International Dairy Queen, Inc., 5701 Green Valley Drive, Bloomington, Minn. 55437. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Building, 215 NW., Third Street, Oklahoma City, Okla. 73102.

No. MC 119654 (Sub-No. 35 TA), filed August 12, 1977. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, Ind. 46952. Applicant's representative: Morman R. Garvin, 815 Merchants Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, caps, covers, and tops, and cartons*, between Plainfield, Ill., and St. Louis, Mo., for 180 days. Supporting shipper(s): Kerr Glass Manufacturing Corporation, P.O. Box 97, Sand Springs, Okla. 74063. Send protests to: J. H. Gray District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 125699 (Sub-No. 3TA) (amendment), filed July 15, 1977, published in the FR issue of August 4, 1977, and republished as amended this issue. Applicant: WILLARD E. DURBIN, doing business as DURBIN AUTO SERVICE, 421 South Mulberry Street, Hagerstown, Md. 21740. Applicant's representative: Daniel B. Johnson, 1123 Munsey Building, 1329 E Street, NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, crushed, and shredded automobiles and shredded residues and scrap*, used or to be used in a recycling process. Between the plantsite of Conservit, Inc., at or near Hagerstown, Md., on the one hand, and, on the other, points in and east of Wisconsin, Iowa, Missouri, Tennessee, and Alabama, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Conservit, Inc., P.O. Box 1517, Hagerstown, Md. 21740. Send protests to: Interstate Commerce Commission, 12th & Constitution Avenue NW., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20403. The purpose of this republication is to amend applicant's request of authority.

No. MC 136035 (Sub-No. 10TA) (correction), filed July 19, 1977, published in the FEDERAL REGISTER issue of August 9, 1977, and republished as corrected this issue. Applicant: W. S. DUNNING & SON, INC., 131 D. South Balmar Street, West Chester, Pa. 19380. Applicant's representative: Gerald K. Gimmel, 4 Professional Drive, Suite 145, Gaithersburg, Md. 20760. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Louisville, Ky., to points in New York, Massachusetts, New Jersey, Pennsylvania, Maryland, Michigan, Ohio, Indiana, Tennessee, Georgia, Alabama, Florida, Louisiana, Texas, North Carolina, South Carolina, Illinois, Arkansas, Mississippi and Missouri, under a continuing contract, or contracts, with Paramount Foods, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Suporting shipper(s): Paramount Foods, Inc., 2800 Fern Valley Road, Louisville, Ky. 40213. Send protests to: Monica A. Blodgett Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106. The purpose of this republication is to add the State of South Carolina to the territorial description.

No. MC 140883 (Sub-No. 15TA) (correction), filed July 7, 1977, published in the FEDERAL REGISTER issue of July 28, 1977, and republished as corrected this issue. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle, NE., Atlanta, Ga. 30345. Applicant's representative: K. Edward Wolcott, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Aquariums, aquarium supplies, materials and supplies* (except in bulk), utilized in the manufacture and distribution of aquariums, from Canton, Ga., to points in Arizona, California, Colorado, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming, for 180 days. Supporting shipper: O'Dell Manufacturing Incorporated, P.O. Box 1242, Univerter Road, Canton, Ga. 30114. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Rm. 300, Atlanta, Ga. 30309.

The purpose of this republication is (1) to change applicant's assigned docket number; (2) to make carrier a contract carrier in lieu of common carrier; and (3) to list Iowa as a destination State in lieu of the State of Louisiana.

No. MC 143563TA, filed August 3, 1977. Applicant: R. C. MOORE, INC., Box 346, Waldoboro, Maine 04572. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth St. NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood products*, from Skowhegan, Maine, to points in the United States, except Alaska and Hawaii, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Solon Manufacturing, Skowhegan, Maine 04976. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 307, 76 Pearl Street, Portland, Maine 04111.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-25587 Filed 8-31-77;8:45 am]

[Notice No. 108TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 26, 1977.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the services it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the potestant's information.

Except as otherwise specifically noted, each applicant States that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 5227 (Sub-No. 29TA), filed July 28, 1977. Applicant: EXKLEY TRUCKING, INC., P.O. Box 201, Mead, Nebr. 68041. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese products*, from the facilities of Swan Enterprises, Inc., at or near Hebron, Nebr., and the facilities of Sullivan County Cheese Corp., at or near Mila, Mo., to Norman, Okla.; Elk Grove Village, Franklin Park, and Villa Park, Ill.; Boston, Mass.; West Paterson, N.J.; Brooklyn, Schenectady and Buffalo, N.Y.; Livonia and Detroit, Mich.; Toledo and Macedonia, Ohio; Avondale and Pittsburgh, Pa.; Camp Springs, Md.; Denver, Colo.; Albuquerque, N. Mex.; Phoenix, Ariz.; Los Angeles, Calif.; Salina, Kans.; Omaha, Nebr.; and Duluth, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Roy Mitchell, president, Swan Enterprises, Inc., Sullivan County Cheese Corp., Hebron, Nebr. 68370. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 13845 (Sub-No. 6 TA), filed August 11, 1977. Applicant: DONALD RUSSELL, d.b.a. FRANK RUSSELL & SON, 401 S. Ida Street, West Frankfort, Ill. 62806. Applicant's representative: William C. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mining machinery, mining supplies, and equipment therefor*, between points in Illinois on and south of Interstate 70, on the one hand, and, on the other, points in Colorado, Utah, and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): William J. Orlandi, Vice President of Operations, Zeigler Coal Company, P.O. Box 100, Johnston City, Ill. 62951. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 59640 (Sub-No. 52TA), filed July 28, 1977. Applicant: PAULS TRUCKING CORP., Three Commerce Drive, Cranford, N.J. 07106. Applicant's representative: Charles J. Williams, 1815 Front Street, Scotch Plains, N.J. 07076. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise*, as is dealt in by wholesale, retail, and chain grocery and food business houses, catalogue showroom stores, and homes center stores, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business (except commodities in bulk), for the account of Supermarkets General Corporation, between Woodbridge and Edison, N.J., and North Berick, Maine, on the one hand, and, on the other, Manchester and Franklin, N. Hamp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Supermarkets General Corporation, 301 Blair Road, Woodbridge, N.J. 07095. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 95876 (Sub-No. 207TA), filed August 5, 1977. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, P.O. Box 1377, St. Cloud, Minn. 56301. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal culverts*, from Shakopee, Minn., to Norfolk and Hastings, Nebr., for 180 days. Supporting shipper: Wheeler Division of St. Regis Paper Co., Box 160, West Des Moines, Iowa 50265. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 105501 (Sub-No. 21TA), filed August 5, 1977. Applicant: TERMINAL WAREHOUSE CO., INC., 1851 Raddison Road NE., Blaine, Minn. 55434. Applicant's representative: Joseph J. Dudley, W-1260 1st National Bank Bldg., St. Paul, Minn. 55101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast and prestressed concrete products* (except in bulk), from Lino Lakes, Minn., to points in North Dakota and Montana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Molin Concrete Products, 415 Lilac Drive, Lino Lakes, Minn. 55014. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 107515 (Sub-No. 1095TA), filed July 18, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road, P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby and Richard M. Tettelbaum, Suite 375, 3379 Peachtree Rd., N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings, ceramictile and such commodities* as are used or useful in the installation of floor coverings and ceramictile, from Piqua and Canton, Ohio to Springfield, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: C & C Floor Covering, Inc., 524 College,

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Springfield, Mo. 65806. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Rm. 546, Atlanta, Ga. 30309.

No. MC 110525 (Sub-No. 1203TA), filed August 4, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Avenue, P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Varnish*, in bulk, in tank vehicles, from Waverly, N.Y., to Scranton, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Viking Chemical Products, Inc., 456 Broad Street, Waverly, N.Y. 14892. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 111729 (Sub-No. 710TA), filed July 5, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cut flowers, decorative greens and green plants*, when moving at the same time and in the same vehicle with commodities the transportation of which is subject to economic regulation, (1) from Denver, Colo., to points in Colorado, on traffic having an immediately prior movement by air, rail or motor vehicle. (2) From Seattle, Wash., to points in Washington on traffic having an immediately prior movement by air, rail or motor vehicle. (3) From Portland, Oreg., to points in Oregon, on traffic having an immediately prior movement by air, rail or motor vehicle, for 180 days. Supporting shipper: Escambia Treating Co., P.O. box 17108, Pensacola, Fla. 32522. Send protests to: District Supervisor, G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 120427 (Sub-No. 5TA), filed August 5, 1977. Applicant: WILLIAMS TRANSFER, INC., P.O. Box 34, Adams, Nebr. 68301. Applicant's representative: John K. Walker, P.O. Box 488, Grand Island, Nebr. 68801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aeration pipe and irrigation systems*, (1) from Kearney, Nebr., to Fort Benton and Sidney, Mont., and Nampa, Idaho.; (2) from Grand Island, Nebr., to Stuttgart, Ark.; Albert Lea, Minn.; Nampa, Idaho., Vale, Oregon.; Antigo, Wis.; and Detroit, Mich., for 180 days. Supporting shipper(s): Gerald L. Richards Heinzamn Mfg. Co., West Highway 330, Grand Island, Nebr. 68801. Lloyd A. Wilkie, Ace Irrigation & Mdg. Co., Box 1887, Kearney, Nebr. 68847. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 120646 (Sub-No. 22TA), filed August 11, 1977. Applicant: BRADLEY FREIGHT LINES, INC., 35 Garfield St., Asheville, N.C. 28803. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Bldg., Penn. Ave. & 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts, and wooden products*, from Asheville, N.C., to points in that part of Tennessee on and east of U.S. Highway 127, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia Pacific Corporation, P.O. Box 9648, Asheville, N.C. 28805. Send protests to: District Supervisor Terrell Price, Interstate Commerce Commission, Mart Office Bldg., Rm. CC-516, 800 Briar Creek Rd., Charlotte, N.C. 28205.

No. MC 121664 (Sub-No. 24 TA), filed August 5, 1977. Applicant: G. A. HORNADY, CECIL M. HORNADY, and B. C. HORNADY, a partnership, d.b.a. HORNADY BROTHERS TRUCK LINE, P.O. Box 846, Monroeville, Ala. 36460. Applicant's representative: W. E. Grant, 1702 First Avenue, South, Birmingham, Ala. 35233. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, between Lynn, Ala., and points in Georgia, Florida, South Carolina, and Tenn., restricted to shipments originating at or destined to HP& V Lumber Company at Lynn, Ala., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): H. P. & V. Lumber Company, P.O. Box 64, Delmar, Ala. 35551. Send protests to: Mabel E. Holston Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616—2121 Building, Birmingham, Ala. 35203.

No. MC 124711 (Sub-No. 46 TA), filed August 4, 1977. Applicant: BECKER CORP., P.O. Box 1050, 2643 West Central, El Dorado, Kans. 67042. Applicant's representative: T. M. Brown, 233 Ciudad Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses, liquid feeds, and liquid feed supplements*, in bulk, in tank vehicles, from the facilities of Cargill, Inc., at or near Garden City, Kans., to points in Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cargill, Inc. P.O. Box 9300, Minneapolis, Minn. 55440. Send protests to: M. E. Taylor District Supervisor, Interstate Commerce Commission, 101 Litwin Bldg., Wichita, Kans. 67202.

No. MC 127974 (Sub-No. 10 TA), filed August 8, 1977. Applicant: P. LIEDTKA TRUCKING, INC., 110 Patterson Avenue, Trenton, N.J. 08610. Applicant's representative: Alan Kahn, Suite 1920, Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plasterboard and plasterboard joint systems*, from the facilities of The Flintkote Company in Camden, N.J., to points in that part of Pennsylvania east of the western boundaries of the Counties of Tioga, Lycoming, Clinton, Centre, Huntingdon and Bedford, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Flintkote Company, 480 Central Avenue, East Rutherford, N.J. 07073. Send protests to: Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 128685 (Sub-No. 27TA), filed August 4, 1977. Applicant: DIXON BROS., INC., P.O. Drawer 8, Newcastle, Wyo. 82701. Applicant's representative: Jerome Anderson, 100 Transwestern Building, 404 North 31st Street, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Iron and steel and iron and steel articles*, from Sioux Falls, S. Dak. to points in Wyoming and Montana, for 180 days. Supporting shipper: Eager Steel Company, P.O. Drawer E., 909 S. 7th Avenue, Sioux Falls, S. Dak. 57101. Send protests to: District Supervisor, Paul A. Naughton, Interstate Commerce Commission, Rm. 105 Federal Bldg., and Court House, 111 South Wolcott, Casper, Wyo. 82601.

No. MC 129455 (Sub-No. 23 TA), filed August 4, 1977. Applicant: CARRETTA TRUCKING, INC., P.O. Box 887, Paramus, N.J. 07607. Applicant's representative: Charles J. Williams, 1815 Front Street, Scotch Plains, N.J. 07076. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Disposable aluminum articles, and disposable plastic articles, expanded* from Niles and Wheeling, Ill., to points in Pennsylvania, Maryland, New Jersey, New York, Connecticut,

Massachusetts, California, Arizona, and Colo., under a continuing contract, or contracts, with E-Z Por Corporation located at Niles, Ill., for 180 days. Supporting shipper(s): E-Z Por Corporation, 7227 Oak Park, Niles, Ill. 60648. Send protests to: Joel Morrows District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 135213 (Sub-No. 8TA), filed August 2, 1977. Applicant: JOE GOOD, d.b.a. GOOD TRANSPORTATION, P.O. Box 335, 830 Shoshone Avenue, Lovell, Wyo. 82431. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from Powell, Wyo., to points in Montana, Washington, Nebraska, Colorado and S. Dak., under a continuing contract, or contracts, with Cream Of The Valley Dairies, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cream Of The Valley Dairies, Inc. P.O. Box 659, Powell, Wyo. 82435. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 105 Federal Bldg. and Court House, 111 South Wolcott, Casper, Wyo. 82601.

No. MC 136332 (Sub-No. 5TA), filed August 11, 1977. Applicant: A. & M. TRANSPORT LTD., P.O. Box 11, Havelock, New Brunswick, Canada EOA 1WO. Applicant's representative: Frederick T. McGonagle, 36 Main Street, Gorham, Maine 04038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lime and lime products*, in bulk and in bags, from the ports of entry located on the International Boundary Line between the United States and Canada, located in Aroostook County, Maine, to points in Aroostook County, Maine, under a continuing contract, or contracts, with Havelock Lime Works, Ltd., for 180 days. Supporting shipper: Havelock Lime Works, Ltd., Havelock, New Brunswick, Canada. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 307, 76 Pearl Street, Portland, Maine 04111.

No. MC 138328 (Sub-No. 40 TA), filed August 11, 1977. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, 14507 Frontier Road, P.O. Box 37308, Omaha, Nebr. 68137. Applicant's representative: Donna Ehrlich, 14507 Frontier Road, Omaha, Nebr. 68128. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferrous and nonferrous scrap metals*, from points in Colorado, Indiana, New Mexico, and Texas, to Omaha, Nebr.; and East Alton, Ill., for 180 days. Supporting shipper(s): Darold O. Wichman Traffic Manager, Aaron Ferer & Sons, Co. 909 Abbott Drive, Omaha, Nebr. 68102. Send protests to: Carroll Russell District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 139014 (Sub-No. 1 TA), filed August 8, 1977. Applicant: COHEY TRUCKING CO., 3015 Vermont Avenue, Baltimore, Md. 21227. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Suspension ceiling grid systems and components*, from the plantsite of Chicago-Metallic Corporation at Baltimore, Md., to the District of Columbia, Virginia, New Jersey, New York, Pennsylvania and Md., for 180 days. Supporting shipper(s): Mr. Hugh Amos, Chicago-Metallic Corporation, 6750 Santa Barbara Court, Baltimore, Md. 21227. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Bldg., Baltimore, Md. 21201.

No. MC 139121 (Sub-No. 2 TA), filed August 2, 1977. Applicant: V. C. PRODUCE EXPRESS LTD., 3156 Nortland Canada. Applicant's representative: Clyde H. MacIver, 1900 Peoples National Bank Bldg., 1415 Fifth Avenue, Seattle, Wash. 98171. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint*, from ports of entry on the International Boundary line between the United States and Canada located in Washington, to California, Arizona, Nevada and N. Mex., restricted to traffic originating at points in British Columbia, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): MacMillan Bloedel Limited, 1075 West Georgia Street, Vancouver, B.C. Canada. Send protests to: L. D. Boone Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., Seattle, Wash. 98174.

No. MC 139420 (Sub-No. 18 TA), filed August 10, 1977. Applicant: ART GREENBERG, dba., GLACIER TRANSPORT, P.O. Box 428, Grand Forks, N. Dak. 58201. Applicant's representative: James B. Hovland, 414 Gate City Bldg., P.O. Box 1637, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Matches and woodenware*, from the facilities of Diamond International Corporation at or near Cloquet, Minn., to Reno, Nev., Phoenix, Ariz.; Denver, Colo.; Salt Lake City, Utah, Milwaukee, Oregon and points in Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Diamond International Corporation, 733 Third Avenue, New York, N.Y. 10017. Send protests to: Ronald R. Mau District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 140471 (Sub-No. 4TA), filed July 19, 1977. Applicant: R. J. C. TRANSPORT CORP., 23 S. Main St., Pearl River, N.Y. 10965. Applicant's representative: Ronald I. Shapss, 450 Seventh Ave., New York, N.Y. 10001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper carbons, ribbons, inked ribbon tape, cleaning compound, paper forms, printing ink, paper sets, typewriter pads, plastic articles, teletype perforated tapes, paper, alcohol solvent, machine covers, plastic pellets, and materials, equipment and supplies* (except commodities in bulk, and those which because of size or weight require the use of special equipment), between the facilities of the Burroughs Corp. at or near City of Industry, Calif., Bardstown, Ky., Park Ridge, N.J., and Rochester, N.Y., on the one hand, and, on the other, points in Alabama, California, Massachusetts, Connecticut, Kentucky, New Jersey, New York, Ohio, Pennsylvania, and Texas, under a continuing contract or contracts with the Burroughs Corp. of Park Ridge, N.J. Restricted against the transportation of commodities between the City of Industry, Calif., on the one hand, and, on the other, points in California, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Burroughs Corp., 76 Park Ave., Park Ridge, N.J. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 140842 (Sub-No. 5TA), filed August 3, 1977. Applicant: B AND P MOTOR LINES, INC., P.O. Box 727, Forest City, N.C. 28043. Applicant's representative: George W. Clapp, 109 Hartsville St., P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Air cleaners, fuel and oil filters, air cleaner cartridges, and oil filter cartridges, and materials and supplies* used in the marketing or distribution of the foregoing commodities, from Dillon, S.C., to Des Moines, Iowa, Kansas City, Kans., Minneapolis and St. Paul, Minn., St. Louis, Mo., Omaha, Nebr., Oklahoma City and Tulsa, Okla., Dallas and Houston, Tex., and points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, under a continuing contract, or contracts, with Wix Corp., for 180 days. Supporting Shipper: Wix Corp., P.O. Box 1967, Gastonia, N.C. 28052. Send protests to: District Supervisor Terrell Price, Interstate Commerce Commission, 800 Briar Creek Rd., Mart Office Bldg. CC-516, Charlotte, N.C. 28205.

No. MC 142508 (Sub-No. 8TA), filed August 12, 1977. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 14031 "L" St., Omaha, Nebr. 68137. Applicant's representative: Joseph Winter, 33 No. LaSalle St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Table sauce* (other than frozen), from the facilities of Kikkoman Foods, Inc., at Walworth, Wis., to points in California,

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for 180 days. Supporting shipper(s): W. E. Nelson Manager of Administration, Kikkoman Foods, Inc. P.O. Box 69, Walworth, Wis. 53184. Send protests to: Carrol Russell District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 143464 (Sub-No. 1TA), filed August 2, 1977. Applicant: JOHNNY B. ROACH, Route 1, Box 30, Royston, Ga. 30662. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and lime*, in bags and bulk, from Tyner, Tenn., Andrews, N.C., Anderson, S.C., and Ownes, S.C., to Royston, Ga., under a continuing contract or contracts with Farmers Mutual Exchange, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Farmers Mutual Exchange, P.O. Box 495, Royston, Ga. 30662. Send protests to: Terrecia L. Standridge, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, Ga. 30309.

No. MC 143512TA, filed July 15, 1977. Applicant: ALL CORPS., 838 Hutchison St., Vista, Calif. 92083. Applicant's representative: Wayne E. Faulkner (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bakery goods*, for the account of Pogens Family Bakery Inc., between the plant site of Pogens Family Bakery Inc. at Compton, Calif., and Boston, Mass.; Chicago, Ill.; Denver, Colo.; Kansas City, Mo.; Milwaukee, Wis.; Minneapolis, Minn.; Las Vegas, Nev.; Philadelphia, Pa.; Portland, Oreg.; Seattle, Wash.; Washington, D.C.; and Waterbury, Conn. (2) *Bakery good ingredients*, viz; oats, flour, sugar and prepared bakery mix: From Minneapolis, Minn., to the plant site of Pogens Family Bakery, Inc., at Compton, Calif., for 180 days. Supporting shipper: Pogens Family Bakery, Inc., 1800 S. Anderson Ave., Compton, Calif. 90220. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 143529 (Sub-No. 1TA), filed August 1, 1977. Applicant: NORTH & SOUTH LINES, INC., 2710 South Main St., Harrisonburg, Va. 22801. Applicant's representative: Robert B. Walker, Goff, Sims, Cloud, Stroud & Shepherd, 915 Pennsylvania Building, 425 13th St. NW., Washington, D.C. 20004. Authority to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated containers*, knocked down, from Harrisonburg, Va., to points in Delaware, Maryland, North Carolina, New Jersey, New York, Pennsylvania, West Virginia and the District of Columbia, under a continuing contract, or contracts, with Packaging Corp. of America, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Packaging Corp. of America, Harrisonburg, Va. Send protests to: Danny R. Beeler District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 143541 (Sub-No. 1TA), filed August 4, 1977. Applicant RICHARD A. AND BARBARA SWAIM, doing business as, R. & B. TRUCK LINE CO., 2608 S. 36th Ave., Yakima, Wash. 98903. Applicant's representative: Earle V. White, 2400 S. W. Fourth Ave., Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Long Beach and Wilmington, Calif., to Portland, Oreg., Kent and Seattle, Wash., for 180 days. Supporting shippers: Standard Fruit & Steamship Co., 17880 Sky Park Circle No. 104, Irvine, Calif. 92714. Albertson's, Inc., 302 SE. Washington, St., Portland, Oreg. 97214. Albertsons Distribution, 19801 78th Ave., South Kent, Wash. 98031. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 143560 (Sub-No. 1TA), filed August 1, 1977. Applicant: STANLEY TRANSPORTS CO., 2641 Faxon Ave., Memphis, Tenn. 38112. Applicant's representative: John Paul Jones, P.O. Box 3140, Front Street Station, Memphis, Tenn. 38103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Belleville, Ill., to Memphis, Tenn., under a continuing contract or contracts with Shelby Sales Company, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Shelby Sales Co., Inc., 2606 Faxon, Memphis, Tenn. 38112. Send protests to: Mr. Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building—Suite 2006, 100 North Main St., Memphis, Tenn. 38103.

No. MC 143568 (Sub-No. 1TA), filed August 12, 1977. Applicant: SIMMONS TRUCKING, INC., P.O. Box 71, Glenwood, Mo. 63541. Applicant's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal and fly ash*, between points in Mo., Iowa and Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Missouri Mining, Inc., P.O. Box 207, Unionville, Mo. 63565. Send protests to: Vernon V. Coble, District Supervisor Interstate Commerce Commission, 600 Federal Building, 911 Walnut St., Kansas City, Mo. 64106.

No. MC 143569TA, filed August 4, 1977. Applicant: JAMES PARRAMORE, dba. PARRAMORE TRUCKING CO., P.O. Box 1413, Valdosta, Ga. 31601. Applicant's representative: C. E. Walker, P.O. Box 1085, Columbus, Ga. 31902. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Poles, piling, posts, lumber and lumber materials*, between all points in the States of Alabama, Florida, Georgia, South Carolina and N.C., for 180 days. Supporting Shipper(s): Clark-Hill Lumber Co., Inc., Gulf Life Tower, Jacksonville, Fla. 32207. The Langdale Co., P.O. Box 1088, Valdosta, Ga. 31601. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla 32202.

No. MC 143585TA, filed August 10, 1977. Applicant: HAROLD TYLER, TYLER TRUCKING, 2820 Larimore Ave., Omaha, Nebr. 68111. Applicant's representative: Harold Tyler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel, seed bed mix, and top dressing* for landscaping or golf course greens, from points in Nebr., to points in South Dakota, Iowa, Missouri and Kans., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lyman-Richey Sand & Gravel Corporation, William R. Brooks, Vice President and Treasurer, 4315 Cuming St., Omaha, Nebr. 68131. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 143587TA, filed August 11, 1977. Applicant: SOUTHERN PAPER STOCK COMPANY, P.O. Box 622, Spartanburg, S.C. 29304. Applicant's representative: William P. Jackson, Jr., P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard*, from the facilities of Union Camp Corporation at or near Prattville, Ala., to the facilities of Union Camp Corporation at or near Spartanburg, S.C., *Waste or scrap paper*, from Spartanburg, S.C., to the facilities of Union Camp Corporation at or near Prattville, Ala., restricted to the transportation of shipments under a continuing contract, or contracts, with Union Camp Corporation for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Union Camp Corporation, 1600 Valley Road, Wayne, N.J. 07470. Send protests to: Strotheid District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, S.C. 29201.

PASSENGER APPLICATIONS

No. MC 84728 (Sub-No. 63 TA), filed August 4, 1977. Applicant: SAFEWAY TRAILS, INC., 1200 I Street, NW., Washington, D.C. 20005. Applicant's representative: Gayla L. Campbell, 1500 Jackson St., Suite 422, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express and newspapers* in the same vehicle with passengers. From junction U.S. Highway 40 and N.J. Highway 55 near Malaga, N.J.; thence over New Jersey Highway 55 to Vineland, N.J.; thence over city streets to New Jersey Highway 54; thence over New Jersey Highway 54 to junction N.J. Highway 54 and U.S. Highway 40 at Buena, N.J. and return over the same route serving all intermediate points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately forty (40) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Interstate Commerce Commission, 12th and Constitution Avenue, NW., Room 1413, W. C. Hersman, District Supervisor Washington, D.C. 20423.

No. MC 143564TA, filed August 2, 1977. Applicant: BANANA BELT BUS SERVICE, INC., 717 East Grant, Spearfish, S. Dak. 57783. Applicant's representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, S. Dak. 57701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, between Belle Fourche, S. Dak., and Colony, Wyo., including points within five miles of such points, for 180 days. Supporting shippers: IMC Foundry Products, 17350 Ryan Rd., Detroit, Mich. 48212, Robert A. Falconer, Production Manager, Federal Bentonite 609 5th Ave., Belle Fourch, S. Dak. 57717, Calvin Geis, Production Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, S. Dak. 57501.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-25588 Filed 8-31-77;8:45 am]

[AB 12 (Sub-No. 52)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Kaplan and Eunice, In Acadia, St. Landry and Vermilion Parishes, Louisiana

AUGUST 23, 1977.

The Interstate Commerce Commission hereby gives notice that: 1. The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. 2. A notice setting forth this conclusion was served July 11, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 77-25590 Filed 8-31-77; 8:45 a.m.]

[Ex Parte 241, Rule 19; Exemption No. 63, Amdt. No. 18]

BESSEMER AND LAKE ERIE RAILROAD CO., AND CONSOLIDATED RAIL CORP.

Mandatory Car Service Rules

Upon further consideration of Exemption No. 63 issued February 12, 1974.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 63 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire November 30, 1977.

This amendment shall become effective August 31, 1977.

Issued at Washington, D.C., August 23, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 77-25591 Filed 8-31-77; 8:45 am]

[Ex Parte 241, Rule 19; Rev. Exemption No. 55, Amdt. No. 2]

NORFOLK AND WESTERN RAILWAY CO. AND CONSOLIDATED RAIL CORP.

Mandatory Car Service Rules

Upon further consideration of Revised Exemption No. 55 issued November 23, 1976.

It is ordered, That, under authority vested in me by Car Service Rule 19, Revised Exemption No. 55 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire November 30, 1977.

This amendment shall become effective August 31, 1977.

Issued at Washington, D.C., August 23, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-25593 Filed 8-31-77;8:45 am]

[Ex Parte 241, Rule 19; Exemption No. 109, Amdt. No. 6]

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY CO. AND CONSOLIDATED RAIL CORP.

Mandatory Car Service Rules

Upon further consideration of Exemption No. 109 issued March 2, 1976.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 109 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire November 30, 1977.

This amendment shall become effective August 31, 1977.

Issued at Washington, D.C., August 23, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-25592 Filed 8-31-77;8:45 am]

[Rev. S.O. No. 1252; Order No. 6, Amdt. No. 2]

BALITIMORE AND OHIO RAILROAD CO.

Rerouting Traffic

Upon further consideration of I.C.C. Order No. 6, (The Baltimore and Ohio Railroad Company) and good cause appearing therefor:

It is ordered, That: I.C.C. Order No. 6 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 28, 1978, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., August 31, 1977, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 23, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-25594 Filed 8-31-77;8:45 am]

[Volume No. 32]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

AUGUST 26, 1977.

PETITIONS FOR MODIFICATION, INTERPRETATION, OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

NOTICE

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

The Commission has recently provided for easier identification of substantive petition matters and all documents should clearly specify the "docket", "sub", and "suffix" (e.g. M1, M2) numbers identified by the FEDERAL REGISTER notice.

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An original an done copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.237)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioners representative, or petitioner if no representative is named.

No. MC 17829 (Sub-No. 12) (M1) (notice of filing of petition to modify the territorial description) filed August 8, 1977. Petitioner: DISILVA TRANSPORTATION, INC., 30 Middlesex Avenue, Somerville, Mass. 02145. Petitioner's representative: James F. Martin, Jr., 69 Milliken Avenue, Franklin, Mass. 02038. Petitioner holds a motor *contract carrier* permit in No. MC 17829 (Sub-No. 12), issued December 23, 1968, authorizing transportation, over irregular routes, of *such merchandise* as is dealt in by wholesale, retail, and chain stores and food business houses, and in connection therewith, *equipment, materials,* and *supplies* used in the conduct of such business (except commodities in bulk), (1) between Portland, Maine, Southboro, Mass., Hartford, Conn., and South Kearny, N.J., on the one hand, and, on the other, points in New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, and those in that part of New York, on and south of a line beginning at the Vermont-New York State line and extending along New York Highway 7 to Binghamton, thence along Interstate Highway 81 to the New York-Pennsylvania State line; (2) between Somerville and Southboro, Mass., Hartford, Conn., and South Kearney, N.J., on the one hand, and, on the other, points in Maine; and (3) between Somerville, Mass., on the one hand, and, on the other, points in New Hampshire (except Keene), Vermont (except Brattleboro), Massachusetts, Connecticut, Rhode Island, New Jersey, and those in that part of New York on and south of a line beginning at the Vermont-New York State line and extending along New York Highway 7 to Binghamton, thence along Interstate Highway 81 to the New York-Pennsylvania State line, under a continuing contract, or contracts, with First National Stores, Inc., of Somerville, Mass. By the instant petition, petitioner seeks to modify the above authority to read as follows: *Such merchandise* as is dealt in by wholesale, retail, and chain stores and food business houses, and in connection therewith, *equipment, materials,* and *supplies* used in the conduct of such business (except commodities in bulk), (1) between Portland, Maine, Southboro, Mass., Hartford and Windsor Locks, Conn., and South Kearny, N.J., on the one hand, and, on the other, points in New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, and those in that part of New York on and south of a line beginning at the Vermont-New York State line and extending along New York Highway 7 to Binghamton, thence along Interstate Highway 81 to the New York-Pennsylvania State line; (2) between Somerville and Southboro, Mass., Hartford and Windsor Locks, Conn., and South Kearny, N.J., on the one hand, and, on the other, points in Maine; and (3) between Somerville, Mass., on the one hand, and, on the other, points in New Hampshire (except Keene), Vermont (except Brattleboro), Massachusetts, Connecticut, Rhode Island, New Jersey, and those in that part of New York on and south of a line beginning at the Vermont-New York State line and extending along New York Highway 7 to Binghamton, thence along Interstate Highway 81 to the New York-Pennsylvania State line, under a continuing contract, or contracts with First National Stores, Inc., of Somerville, Mass.

No. MC 75320 (Sub-No. 173) (MI) (notice of filing of petition to delete restriction), filed August 5, 1977. Petitioner: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, Mo. 65801. Petitioner's representative: John A. Crawford, P.O. Box 22567, Jackson, Miss. 39205. Petitioner holds a motor *common carrier* certificate in No. MC 75320 (Sub-No. 173), issued March 31, 1975, authorizing transportation, over regular routes, of *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Durant, Okla., and Texarkana, Ark., serving no intermediate points: from Durant over U.S. Highway 70 to junction U.S. Highway 271 near Hugo, Okla., thence over U.S. Highway 271 to junction U.S. Highway 82 at or near Paris, Tex., thence over U.S. Highway 82 to Texarkana, and return over the same route, restricted against the transportation of traffic originating at, destined to, or interlined with connecting carriers at (1) Memphis, Tenn., and points within its commercial zone, or (2) points in that part of Arkansas located on and north of a line beginning at the Oklahoma-Arkansas State line, and extending over U.S. Highway 64 to Conway, Ark., thence over Interstate Highway 40 to Little Rock, Ark., and thence over U.S. Highway 70 to the Arkansas-Tennessee State line, including points in the commercial zone of each such point." By the instant petition, petitioner seeks to modify the above authority by deleting the restriction which reads "restricted against the transportation of traffic originating at, destined to, or interlined with connecting carriers at (1) Memphis, Tenn., and points within its commercial zone, or (2) points in that part of Arkansas located on and north of a line beginning at the Oklahoma-Arkansas State line, and extending over U.S. Highway 64 to Conway, Ark., thence over Interstate Highway 40 to Little Rock, Ark., and thence over U.S. Highway 70 to the Arkansas-Tennessee State line, including points in the commercial zone of each such point."

No. MC 109825, M1 (notice of filing of petition to add an additional base point), filed: August 2, 1977. Applicant: MASHKIN FREIGHT LINES, INC., P.O. Box 87, East Hartford, Conn. 06102. Applicant's representative: Chandler L. van Orman, 704 Southern Building, Washington, D.C. 20005. Petitioner seeks modification of two separate grants of operating authority contained within its lead certificate by adding to each the point of East Hartford, Conn. Petitioner presently holds authority to transport, as pertinent, over irregular routes, *General commodities* (with the usual exceptions). Between points and places in the towns of Chester and Saybrook, Conn., on the one hand, and, on the other, points and places in Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island. Between Essex, Conn., on the one hand, and, on the other, points and places in Massachusetts, New Jersey, New York, Pennsylvania and Rhode Island. By tacking these separate grants with its Sub-No. 9 certificate, which authorizes the transportation of General Commodities between all points in Conn., Petitioner has been providing a through service for the public. This tacking was permitted by Order served April 18, 1975, in MC–F–12226. By this petition Mashkin seeks only to add East Hartford to each of the separate grants so that they would read: Between points and places in the towns of Chester, Saybrook, and East Hartford, Conn., on the one hand, and, on the other, points and places in Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island. Between Essex and East Hartford, Conn., on the one hand, and, on the other, points and places in Massachusetts, New Jersey, New York, Pennsylvania and Rhode Island. The proposed modification would allow Mashkin to reduce its fuel consumption by joining the two grants at East Hartford, the site of its only terminal, and bypassing Essex and Saybrook. No new operations would result. Petitioner's motor *common carrier* Certificate, in MC 109825 was issued December 27, 1949.

No. MC 112822 (Sub-No. 117 (MI) (notice of filing of petition to modify territorial description), filed July 28, 1977. Petitioner: BRAY LINES INCORPORATED, P.O. Box 1191, 1401 North Little St., Cushing, Okla. 74023. Petitioner's representative: Nancy P. Bigbee, 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, Colo. 80264. Petitioner holds a motor *common carrier* certificate in No. MC 112822 (Sub-No. 117), issued August 22, 1977, authorizing transportation over irregular routes, of Malt beverages, from Fort Worth, Tex., to Las Cruces, Roswell, Albuquerque, and Santa Fe, N. Mex., and Grand Junction, Greeley, Denver, Glenwood Springs, Sterling, Durango, Pueblo, Colorado Springs, Steamboat Springs, and Salida, Colo. By the instant petition, petitioner seeks to modify the above authority by modifying the territorial description to read: "from Fort Worth, Tex., to Las Cruces, Roswell, Albuquerque, and Santa Fe, N. Mex., and points in Colorado".

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 114273 (Sub-119) (MI) (notice of filing of petition to modify a certificate), filed July 18, 1977. Petitioner: CRST, Inc., P.O. Box 68, Cedar Rapids, Iowa 52406. Petitioner's representative: Donald K. Twite (same address as petitioner). Petitioner holds a motor *common carrier* certificate in No. MC 114273 (Sub No. 119), issued March 6, 1973, authorizing transportation over irregular routes of *Steel Welding Wire* from Troy, Ohio to points in Colorado, Iowa, Kansas, Minnesota, Missouri, Nebraska, North, Dakota, Oklahoma, South Dakota, and Texas. By the instant petition, petitioner seeks to modify the authority above, so as to read: *Steel Welding Wire and Welding Machines, Welding Compounds and Welding Accessories when moving in mixed loads with Steel Welding Wire.* From Troy, Ohio to points in Colorado, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas.

No. MC 117119 (Sub-No. 548) M1 (notice of filing of petition to modify a certificate) filed August 8, 1977. Petitioner: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Petitioner's representative: Martin M. Geffon, P.O. Box 338, Willingboro, N.J. 08046. Petitioner holds a motor *common carrier* certificate in No. MC–117119 (Sub-No. 548), issued November 12, 1976, authorizing transportation over irregular routes, of *Chemicals* (except in bulk), and *personal industrial safety devices,* in mixed loads, in vehicles equipped with mechanical refrigeration, from points in Somerset County, N.J., and Pleasants County, W. Va., to points in California and Texas, with no transportation for compensation on return except as otherwise authorized. Restriction: The authority granted herein is restricted to the transportation of traffic originating at the facilities of American Cyanamid Company in the above-named Counties. By the instant petition, petitioner seeks to modify the above authority by deleting the words "in mixed loads" so as to allow the transportation of chemicals independently from the industrial safety devices.

No. MC 119734 M1 (notice of filing of petition to modify a restriction), filed July 8, 1977. Petitioner: JOE CALABRESE, doing business as CALABRESE TRUCKING SERVICE, 1548 Grimes, Modesto, Calif. 95351. Petitioner's representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, Calif. 94108. Petitioner holds a motor *common carrier* Certificate in No. MC 119734, authorizing transportation, as pertinent over irregular routes, *general commodities,* except those of unusual value, livestock, household goods as defined by the Commission, petroleum products, in bulk, in tank vehicles, heavy machinery, and construction equipment, and commodities requiring special equipment, from the site of the Stockton General Depot at or near Lathrop and Lyoth, Calif., to Alameda, Oakland, Berkeley, Richmond, and San Francisco, Calif., with no transportation for compensation on return except as otherwise authorized. By the instant petition, petitioner seeks to modify the above restriction by deleting "with no transportation for compensation on return" by reflecting inbound traffic and substituting in lieu of Stockton General Depot, to service between United States Government facilities at Stockton, Lathrop, and Lyoth, Calif., on the one hand, and, on the other, Alameda, Oakland, Berkeley, Richmond, and San Francisco Calif.

No. MC 129808 (Sub-No. 20 (MI) (Notice of filing of petition to add a commodity), filed July 25, 1977. Petitioner: GRAND ISLAND CONTRACT CARRIER, INC., P.O. Box 2078, Grand Island, Nebr. 68801. Petitioner's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Petitioner holds a motor *contract carrier* Permit in No. MC 129808 (Sub-No. 20), issued March 15, 1977, authorizing transportation, over irregular routes, (1) *Irrigation pipe and fittings* (except iron and steel articles and earth drilling commodities), from the plant site and warehouse facilities of Heinzman Manufacturing Co., Division of Heinzman Engineering, Inc., at or near Grand Island, Nebr., to points in the United States (except Alaska and Hawaii and those in the Davenport, Iowa-Rock Island and Moline, Ill., Commercial Zone, as defined by the Commission), with no transportation for compensation on return except as otherwise authorized; and (2) *materials, supplies and equipment* used in the manufacture, sale, and distribution of irrigation pipe and fittings (except iron and steel articles, earth drilling commodities, and commodities in bulk), from Lewisport and Hawesville, Ky., Oswego, N.Y., Lancaster, Pa., Los Angeles, Calif., and Seattle, Wash., to the plant site and warehouse facilities of Heinzman Manufacturing Co., at or near Grand Island, Nebr., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract or contracts, with Heinzman Manufacturing Co., of Grand Island, Nebr. By the instant petition, petitioner seeks to include "travelers and hose reel" in the commodity description in (1) and (2) above.

No. MC 133841 (Sub-No. 2) (M1) (Notice of filing of petition to delete restriction), filed July 14, 1977. Petitioner: DAN BARCLAY, INC., 362 Main Street, Lincoln Park, N.J. 07035. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner holds a motor *common carrier* certificate in No. MC 138841 (Sub-No. 2), issued May 26, 1977, authorizing transportation, over irregular routes, of Air pollution control, solar cooling, and heating units, and equipment, materials, and supplies used in the manufacture and installation thereof, (except commodities in bulk), between the facilities of the Edwards Engineering Corporation, located at or near Pompton Plains, N.J., on the one hand, and, on the other, points in the United States, (except Alaska and Hawaii), restricted to shipments originating at or destined to the above-named points. By the instant petition, petitioner seeks to modify the above authority by deleting the restriction which reads: "restricted to shipments originating at or destined to the above-named points.

No. MC 135532 (M1) (Notice of filing of petition to delete restriction), filed July 26, 1977. Petitioner: FURNITURE WHOLESALERS, INC., 61 Pearce St., Fall River, Mass 02720. Petitioner's representative: Andrew Shabshelowitz, 263 Walnut St., Fall River, Mass. 02722. Petitioner holds a motor *contract carrier* Permit in No. MC–135532 issued May 19, 1976, authorizing transportation over irregular routes, of *Crated new household furniture* and *new household furnishings,* from Fall River, Mass., to points in Connecticut, Rhode Island, and Bristol County, Mass.; and *returned shipments,* of the above-named commodities, from points in Connecticut, Rhode Island, and Bristol County, Mass., to Fall River, Mass. Restrictions: The service authorized herein is subject to the following conditions: (1) The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Bassett Furniture Industries, of Bassett, Va.; (2) Said carrier shall maintain completely separate accounting systems of its private and for-hire operations; and (3) Said carrier shall not at the same time and in the same vehicle transport property both as a private carrier and as a carrier for hire. By the instant petition, petitioner seeks to modify the above authority by deleting the restriction in (3) above.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the pur-

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pose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 134287 (Sub-No. 1) (Republication) filed June 6, 1975, published in the FEDERAL REGISTER issue of July 17, 1975, and republished this issue. Applicant: BELLEVUE TRUCKING COMPANY, a corporation, P.O. Box 146, Warren, Ohio 44482. Applicant's representative: Paul F. Beery, 8 East Broad Street, Ninth Floor, Columbus, Ohio 43215. An Order of the Commission, Review Board Number 1, dated August 18, 1976, and served August 25, 1976, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of (1) *steel*, from Philadelphia, Pa., to points in Connecticut and Massachusetts; (2) *copper* (a) from Carteret, N.J., to points in Connecticut, Massachusetts, and Rhode Island, and (b) from Queens, N.Y., to points in Rhode Island; (3) *lead and zinc*, from Wilmington, Del., and Philadelphia, Pa., to points in Connecticut; and (4) *lead*, from Wilmington, Del., to points in Pennsylvania, restricted in (1) through (4) above to the transportation of commodities requiring the use of special equipment; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the grant of authority in (4) above to all points in Pennsylvania in service from Wilmington, Del., in lieu of to points within 200 miles of Newark, N.J.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 200 (Sub-No. 292), filed July 19, 1977. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, Missouri 64106. Applicant's represenative: Ivan E. Moody (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass materials and fiberglass products, fibrous glass textile materials, fibrous glass textile products, fibrous glass mineral wool products, plastic materials, and plastic products*, from the plant site and warehouse facilities of Owens-Corning Fiberglas Corporation at or near Newark, Ohio to points in the states of Arkansas, Louisiana, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Missouri or Columbus, Ohio.

No. MC 2900 (Sub-No. 309), filed July 25, 1977. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, Fla. 32203. Applicant's representative: S. E. Somers, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: General Commodities (except household goods as defined by the Commission, Classes A and B explosives, commodities in bulk and those requiring special equipment): Serving the plant site and facilities of Bassett-Walker Knitting Company at or near Stuart, Va. as an off route point in connection with applicant's presently authorized regular routes.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Greensboro, N.C.; or Washington, D.C.

No. MC 2900 (Sub-No. 310), filed July 25, 1977. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, Fla. 32203. Applicant's representative: S. E. Somers, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: General Commodities (except household goods as defined by the Commission, Classes A and B explosives, commodities in bulk and those requiring special equipment): Serving the plantsite and facilities of the Chrysler Corporation at or near Bogalusa, La. as an off route point in connection with applicant's presently authorized regular routes.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.; or Washington, D.C.

No. MC 3101 (Sub-No. 4), filed July 20, 1977. Applicant: SCHAUM TRANSFER COMPANY, a corporation, 410 East Davis Street, St. Louis, Missouri 63111. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Indiana 46204. Authority sought to operate as a *contract carrier*, by motor *vehicle*, over irregular routes, transporting: *Iron and steel articles*, from St. Louis, Missouri, to Alabama, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Ohio, Oklahoma, Tennessee and Wisconsin, restricted to a continuing contract or contracts with Mississippi Valley Structural Steel, a division of Debron Corporation, St. Louis, Missouri and Stupp Bros. Bridge & Iron Co., St. Louis, Missouri.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either St. Louis, Missouri or Chicago, Illinois.

No. MC 3252 (Sub No. 97), filed July 25, 1977. Applicant: Merrill Transport Co., (a corporation), 1037 Forest Avenue, Portland, Me. 04104. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, Mass. 02043. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting Muriatic Acid, in bulk, in rubber lined tank vehicles from Orrington, Maine to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey and Pennsylvania.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests it be held at either Portland, Maine, or Boston, Massachusetts.

No. MC 5623 (Sub-No. 34), filed July 15, 1977. Applicant: ARROW TRUCKING CO., a corporation, P.O. Box 7280, Tulsa, OK 74105. Applicant's representative: J. G. Dall, Jr., P.O. Box 567, McLean, VA 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *pre-cut log buildings, knocked down, and materials and supplies used in the construction of such commodities*, from Claremore, OK, to points in Illinois, Missouri, Arkansas, Louisiana, Texas, Kansas, Colorado, Nebraska, Iowa, Minnesota, and South Dakota.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Tulsa, OK.

No. MC 5623 (Sub-No. 35), filed July 19, 1977. Applicant: ARROW TRUCKING CO., a corporation, P.O. Box 7280, Tulsa, OK 74105. Applicant's representative: J. G. Dall, Jr., P.O. Box 567, McLean, VA 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *pipe, boiler tubing and fabricated steel pipe, boilers and boiler parts including valves, coal crusher-feeders and burners, fabricated steel weldments, steel castings, and steel plate*, from the plantsites of Riley Stoker Corp., at Erie, PA, and Sapulpa, OK, to points in the United States, (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Boston, MA, or Washington, DC.

No. MC 13250 (Sub-No. 137), filed July 19, 1977. Applicant: J. H. ROSE TRUCK LINE, Inc., P.O. Box 16190, Houston, Texas 7702. Applicant's representative: James M. Doherty, 500 West Sixteenth Street, P.O. Box 1945, Austin, Texas 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Boats;* and (2) *parts attachments, accessories* and *supplies* for the commodities described in (1) above between the plantsite of Watercraft America, Inc., located at or near New Smyrna Beach, Florida, on the one hand, and, on the other, points in the United States, including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Jacksonville, Florida, or Atlanta, Georgia.

No. MC 22182 (Sub-No. 32), filed July 19, 1977. Applicant: NU-CAR CARRIERS, INC., 950 Haverford Road, Bryn Mawr, Pennsylvania 19010. Applicant's representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, Maryland 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New automobiles, new trucks*, and *new motor homes*, in truckaway service, in secondary movements, between Jacksonville, Fla., on the one hand, and, on the other, points in Alabama, Arkansas, Kentucky, Mississippi and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Jacksonville, Fla. or Washington, D.C.

No. MC 25562 (Sub 31), filed July 19, 1977. Applicant: A. R. GUNDRY, INC., 85 Stanton Street, Rochester, N.Y. 14611. Applicant's representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, Ohio 44114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lubricating grease*, in bulk, in tank vehicles, from Buffalo, N.Y., to Sparrows Point, Md.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held in Washington, D.C.

No. MC 29120 (Sub-No. 204), filed July 25, 1977. Applicant: ALL-AMERICAN, INC., 900 West Delaware, P.O. Box 769, Sioux Falls, S. Dak. 57101. Applicant's representative: Dennis Riswold (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Coolers, heat exchangers or equilizers for air, gas or liquids and such commodities as are used in the manufacture of coolers, heat exchangers or equalizers including materials, supplies and accessories*, between the plantsite and storage facilities utilized by Heat Transfer Division, McCord Corporation at Canton, S. Dak., on the one hand, and, on the other, New Stanton, Pa., and points in Indiana, Michigan, and Ohio, restricted to traffic originating at or destined to the above-named facilities, at Canton, S. Dak.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Sioux Falls, S. Dak.

No. MC 30000 (Sub-No. 4), filed July 19, 1977. Applicant: KENTUCKY TRANSPORT CORPORATION, Suite 381, 400 Sherburn Lane, Louisville, Ky. 40207. Applicant's representative: William L. Willis, 708 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of foodstuffs and related products, except in bulk, moving in vehicles equipped with mechanical refrigeration between the warehouse sites of Louisville Freezer Center in Jefferson County, Ky., on the one hand, and, on the other, all points in Alabama, Arkansas, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia, restricted to the transportation of freight having an origin or destination at the warehouse sites of Louisville Freezer Center, under a continuing contract or contracts with Louisville Freezer Center, Louisville, Ky.

NOTE.—If a hearing is deemed necessary applicant requests that it be held at Louisville, Frankfort, or Lexington, Ky.

No. MC 39167 (Sub-No. 12), filed July 19, 1977. Applicant: C. J. Rogers Trans. Co., a Corporation, 2947 Greenfield Road, Melvindale, Mich. 48122. Applicant's representative: David A. Turano, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *adhesives, building materials, composition board, gypsum* and *gypsum products, gypsum board paper, mineral fiber products*, and *paint* and *paint products*, and *materials, equipment*, and *supplies* used in the manufacture, packaging, installation, or distribution of the above base commodities (except commodities in bulk), between the facilities of the United States Gypsum Company at or near Gypsum, Ohio (Portage Township, Ottawa County), on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Maryland, Michigan, New York, Ohio, Pennsylvania, West Virginia and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it it be held at either Columbus, Ohio or Washington, D.C.

MC 42011 (Sub-No. 35), filed July 19, 1977. Applicant: D. Q. WISE & CO., INC., P.O. Drawer "L", Tulsa, Okla. 74112. Applicant's representative: J. Michael Alexander, 136 Wynnewood Professional Bldg., Dallas, Tex. 75224. Authority sought to operate as a *common carrier* motor vehicle, over irregular routes, transporting: (1) *Cooling towers and accessories, materials and supplies*, for cooling towers (except in bulk); and, (2) *materials and supplies* used in, or in connection with, manufacturing, fabricating or distribution of commodities in (1) above (except in bulk) between Tulsa, Okla., on the one hand, and on the other, points in Arkansas, Arizona, California, Colorado, Kansas, Louisiana, Mississippi, Missouri, Nevada, New Mexico, New York, Ohio, Pennsylvania, Tennessee, and Texas. Restricted to shipments originating at or destined to facilities of E. D. Goodfellow Co., Inc., located at or near Tulsa, Okla.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Dallas, Tex., or Tulsa, Okla.

No. MC 42487 Sub-No. 868, filed July 25, 1977. Applicant: Consolidated Freightways Corporation of Delaware, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: V. R. Oldenburg, P.O. Box 5138, Chicago, Ill. 60680. Authority is sought to operate as a *common carrier*, by motor vehicle, over regular routes transporting: *General commodities* (except those of unusual value, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Serving the plantsite and warehouse facilities of The Goodyear Tire & Rubber Company, located at or near Lawton, Okla., as an off-route point in connection with carrier's presently authorized regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Washington, D.C. or Cleveland, Ohio.

No. MC 43685 (Sub-No. 23), filed July 14, 1977. Applicant: MERCER TRUCKING COMPANY, INC., N. 1414 Francher Road, P.O. Box 11585, Spokane, Wash. 99211. Applicant's representative: GEORGE H. HART, 1100 IBM Building, Seattle, Wash. 98101. Author-

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ity sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting lumber, from ports of entry on the International Boundary line between the United States and Canada located on and east of U.S. Highway 97 in Washington, to points in Oregon, restricted to the transportation of traffic originating in foreign commerce.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Seattle or Spokane, Wash.

No. MC 47583 (Sub-No. 53), filed July 25, 1977. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, Kans. 66115. Applicant's representative: D. S. Hults, P.O. Box 225, Lawrence, Kans. 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibrous Glass Products and Materials, mineral wool, mineral wool products and materials, insulated air ducts, insulating products and materials; glass fiber rovings, yarn and strands, glass fiber mats and mattings*, from the plant site and storage facilities of Certain-Teed Products Corporation/CSG Group, located at or near Kansas City, Kans., and Pauline, Kans., to points in Minnesota and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 47912 (Sub-No. 3), filed July 25, 1977. Applicant: JONES TRANSFER LINES, INC., Route No. 2, Pike Lake, Hartford, Wis. 53027. Applicant's representative: Michael S. Varda, 121 South Pinckney Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving Allenton, Wis., as an off-route point in connection with presently held regular route authority.

NOTE.—Applicant requests that if hearing is held, that it be in Milwaukee, Wis.

No. MC 51146 (Sub-No. 510), Filed July 19, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Wayne Downing (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods and foodstuffs* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of Kraft, Inc. at Champaign, Ill. to points in Conn., Del., Maine, Mass., N.H., N.J., R.I., Vt., Va., and the District of Columbia; and to points in Md., N.Y., and Pa. that are on and east of Interstate Highway 81, restricted to traffic originating at and destined to the above named origins and destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be at Chicago, Ill.

No. MC 52598 (Sub-No. 6), filed July 25, 1977. Applicant: SIOUX CITY REFRIGERATED EXPRESS, INC., P.O. Box 301, West Point, Nebr. 68788. Applicant's representative: Stanley C. Olsen, Jr., 7525 Mitchell Road, Eden Prairie, Minn. 55343. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wheels, wheel rims, related mounting hardware, hubs and clamps* from the plantsites and facilities of Peterson Manufacturing Company, at or near Plainfield, Illinois to points in Alabama, Arkansas, Florida, Georgia, Idaho, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Ohio, Oklahoma, Oregon, South Carolina, Tennessee, Texas and Washington under a continuing contract or contracts with Peterson Manufacturing Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.; Chicago, Ill.; or Omaha, Nebr.

No. MC 52704 (Sub-No. 150), filed July 19, 1977. Applicant: GLENN McCLENDON TRCKING COMPANY, INC., P.O. Drawer "H", LaFayette, Ala. 36862. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St. NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products* (except in bulk), from the plantsites and warehouse facilities of United Salt Corporation in Fort Bend and Harris Counties, Tex., to points in North Carolina, South Carolina and to Bristol, Va.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 56679 (Sub-No. 96), filing date July 18, 1977. Applicant: BROWN TRANSPORT CORP., 352 University Avenue SW., Atlanta, Ga. 30315. Applicant's representative: John T. Coon, Director of Commerce, 352 University Avenue SW., Atlanta, Ga. 30315. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and Paper Products* from Savannah, Ga., to New York, N.Y. and points in Pennsylvania, New Jersey, Maryland, and Delaware.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Georgia or Washington, D.C. Common control may be involved.

No. MC 56679 (Sub-No. 97), filed July 15, 1977. Applicant: BROWN TRANSPORT CORP., 352 University Avenue, SW., Atlanta, Ga. 30315. Applicant's representative: John T. Coon, 352 University Avenue SW., Atlanta, Ga. 30315. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General Commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment due to size and weight: (1) between Atlanta, Ga., and Miami, Fla. in connection with carrier's otherwise authorized regular route operations, serving the following highway junctions for the purposes of joinder only: junction of Interstate Highway 75 and U.S. Highway 82 at or near Tifton, Ga.; junction of Interstate Highway 75 with Interstate Highway 10 at or near Lake City, Fla.; from Atlanta, Ga. over Interstate Highway 75 to its junction with Interstate Highway 475 in Monroe County, Ga., thence over Interstate Highway 475 to its junction with Interstate Highway 75 in Bibb County, Ga., thence over Interstate Highway 75 to Tampa, Fla., thence over U.S. Highway 41 to Miami and return over the same route; (2) between junction of Interstate Highway 75 with U.S. Highway 82, at or near Tifton, Ga., and Jacksonville, Fla., in connection with carrier's otherwise authorized regular route operations, serving the terminii for purposes of joinder only; from junction of Interstate Highway 75 with U.S. Highway 82 at or near Tifton, Ga., over U.S. Highway 82 to Waycross, Ga., thence over U.S. Highways 1 and 23 to Jacksonville, Fla. and return over the same routes; (3) between junction of Interstate Highway 75 with Interstate Highway 10 near Lake City, Fla. and Jacksonville, Fla., in connection with carrier's otherwise authorized regular route operations, serving the terminii for purposes of joinder only; from junction of Interstate Highway 75 with Interstate Highway 10, near Lake City, Fla. over Interstate Highway 10 to Jacksonville, Fla., and return over the same routes.

(4) Between Jacksonville, Fla. and junction of Florida Highway 200 with Interstate Highway 75 in Marion County, Fla., in connection with carrier's otherwise authorized regular routes, serving Jacksonville for the purposes of joinder only; from Jacksonville over U.S. Highway 301 to Ocala, Fla., thence over Florida Highway 200 to junction with Interstate Highway 75 in Marion County, Fla., and return over the same route; (5) between junction of Interstate Highway 75 with U.S. Highway 27 in Marion County, Fla., and Miami, Fla., in connection with carrier's otherwise authorized regular routes; from junction of Interstate Highway 75 with U.S. Highway 27 in Marion County, Fla., over U.S. Highway 27 to Miami, Fla., and return over the same route; (6) between Jacksonville, Fla. and Key West, Fla., in connection with carrier's otherwise authorized regular routes, serving Jacksonville for purposes of joinder only; from Jacksonville over Interstate Highway 95 to junction Florida Highway 60 in Indian River County, Fla., thence over Florida Highway 60 to Vero Beach, Fla., thence over U.S. Highway 1 to Key West, and return over the same route; (7) between Daytona Beach, Fla., and Tampa, Fla., in connection with carrier's otherwise authorized regular routes; from Daytona Beach over Interstate Highway 4 to Tampa, and return over the same route;

serving as intermediate and off-route points on or in connection with the above-described alternate routes, all points in Brevard, Broward, Charlotte, Citrus, Clay, Collier, Dade, DeSoto, Flagler, Glades, Herdee, Hendry, Hernando, Highland, Hillsborough, Indian River, Lake, Lee, Manatee, Marion, Martin, Monroe, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Seminole, Sumter, and Volusia Counties, Fla.

NOTE.—The above routes are sought as alternate regular routes for operating convenience only in connection with applicant's otherwise authorized regular route operations. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 57697 (Sub-No. 7), filed July 20, 1977. Applicant: LESTER SMITH TRUCKING, INC., P.O. Box 16424, Denver, Colo. 80216. Applicant's representative: Michael J. Norton, P.O. Box 2135, Suite 404 Boston Bldg., Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: lumber, lumbermill products, sawmill products, wood products, composition board, and wallboard, from points in Wyoming to points in Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo., or Salt Lake City, Utah.

No. MC 57697 (Sub-No. 8), filed July 25, 1977. Applicant: LESTER SMITH TRUCKING, INC., 2645 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Michael J. Norton, P.O. Box 2135, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting aluminum pipe, pipe fittings, plastic pipe, and plastic pipe fittings, from York, Nebr. to points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming.

NOTE.—Common control may be involved. If a hearing is necessary applicant requests that it be held at either Denver, Colo. or Omaha, Nebr.

No. MC 60014 (Sub-No. 51), filed July 25, 1977. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Aluminum and aluminum products, and equipment, materials and supplies used in the manufacture and processing of aluminum and aluminum products, except commodities in bulk, between the facilities of Martin Marietta Aluminum, Inc., at or near Lewisport, Ky., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Virginia, Delaware, Maryland, New Jersey, New York, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, and Maine.

NOTE.—If a hearing is deemd necessary, the applicant requests it be held at Washington, D.C.

No. MC 60687 (Sub-No. 22), filed July 11, 1977. Applicant: ARKIN TRUCK LINE, INCORPORATED, 1600 S. Indiana Avenue, Chicago, IL. 60616. Applicant's representative: Donald S. Mullins, 4704 W. Irving Park Road, Chicago, Ill. 60641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Paper; Pulpboard Forms and Shapes, Not Corrugated, Molded*, 40 pound density or greater per cubic foot; From Plymouth, Indiana, to points in Illinois, Kentucky, that part of Michigan on and South of Interstate Highway 96, Ohio, and Tennessee. (B) *Paper; Equipment and Supplies Used in the Operation of a Paper Manufacturing Plant and/or Used in the Manufacturing of Paper Articles;* From points in Illinois, Kentucky, that part of Michigan on and South of Interstate Highway 96, Ohio, and Tennessee, To Plymouth, Indiana. (C) *Printed Matter and Materials, Supplies and Equipment Used in the Maintenance and Operation of Printing Houses (except commodities in bulk in tank vehicles)*: (1) Between Gallatin, Tennessee, on the one hand, and, on the other, points in Illinois (except Chicago, Dwight, and Mattoon), Indiana (except Crawfordsville, Plymouth, and Warsaw), Kentucky (except Glasgow), that part of Michigan on and South of Interstate Highway 96, and Ohio (except Willard); (2) Between the facilities of R. R. Donnelley & Sons Co., at Chicago, Ill., on the one hand, and, on the other, points in Indiana (except Crawfordsville, and except on printed matter to Indiana points North of U.S. Highway 24), Kentucky (except Glasgow), Ohio (except Willard), and Tennessee (except Gallatin); (3) Between Glasgow, Ky., on the one hand, and, on the other, points in Illinois (except Chicago, Dwight, and Mattoon), Indiana (except Crawfordsville and Warsaw), that part of Michigan on and South of Interstate Highway 96, Ohio (except Willard), and Tennessee (except Gallatin); (4) Between Crawfordsville, Indiana, on the one hand, and, on the other, points in Kentucky (except Louisville), that part of Michigan on and South of Interstate Highway 96, and Tennessee (except Gallatin).

(5) Between Willard, Ohio, on the one hand, and, on the other, points in Illinois (except Chicago and points bounded by a line beginning at the Illinois-Indiana State line and extending west along U.S. Highway 6 to junction Illinois Highway 53, thence north along Illinois Highway 53 to junction unnumbered highway near Illinois Highway 22, thence north along unnumbered highway to junction Illinois Highway 22, thence eastward along Illinois Highway 22 to Lake Michigan including points on the indicated portions of the Highways specified), Kentucky (except Glasgow), that part of Michigan on and South of Interstate Highway 96, and Tennessee (except Gallatin). All of preceding (A), (B), and (C) limited to a transportation service to be performed under a continuing contract with R. R. Donnelley & Sons Co.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill. Common control may be involved.

No. MC 61403 (Sub-No. 245), filed July 18, 1977. Applicant: THE MASON AND DIXON TANK LINES, INC., Highway 11-W, P.O. Box 969, Kingsport, Tenn. 37662. Name of Representative: Mr. W. C. Mitchell, Suite 1201, 370 Lexington Avenue, New York, N.Y. 10017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Chemicals and materials and supplies* used in their manufacture, in bulk, in tank vehicles, between Dover, Ohio, on the one hand, and, on the other, points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 61440 (Sub-No. 160), filed July 14, 1977. Applicant: LEE WAY MOTOR FREIGHT, INC., P.O. Box 82488, Oklahoma City, Okla. 73108. Applicant's representative: Richard H. Champlin (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General Commodities* (except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), 1. Between Memphis, Tenn., and Oklahoma City, Okla.: From Memphis over U.S. Highway 61 to junction with U.S. Highway 63, thence over U.S. Highway 63 to Jonesboro, Ark., thence over Arkansas Highway 18 to junction with Arkansas Highway 226, thence over Arkansas Highway 226 to junction with U.S. Highway 67, thence over U.S. Highway 67 to Little Rock (also from Memphis over U.S. Highway 70 to Little Rock), thence over Interstate Highway 30 to junction with Interstate Highway 40, thence over Interstate High-

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way 40 to junction with Interstate Highway 540, thence over Interstate Highway 540 to Fort Smith, Ark. (also over Interstate Highway 40 to junction with Arkansas Highway 7, thence over Arkansas Highway 7 to junction with Arkansas Highway 22, thence over Arkansas Highway 22 to Fort Smith, Ark.), thence over U.S. Highway 64 to junction with Interstate Highway 40 at or near McKey, Okla., thence over Interstate Highway 40 to Oklahoma City, and return over the same route. 2. Between Little Rock, Ark., and Texarkana, Ark.: From Little Rock over U.S. Highway 65 to junction with Arkansas Highway 81, thence over Arkansas Highway 81 to junction with Arkansas Highway 4, thence over Arkansas Highway 4 to junction with Arkansas Highway 8, thence over Arkansas Highway 8 to junction with U.S. Highway 79 (also from Little Rock over U.S. Highway 167 to junction with U.S. Highway 79), thence over U.S. Highway 79 to Magnolia, Ark., and thence over Arkansas Highway 19 to junction with U.S. Highway 82 approximately 1 mile north of Magnolia (also as above to junction of U.S. Highway 79 and Arkansas Highway 98 at or near McNeil, Ark., thence over Arkansas Highway 98 to junction with U.S. Highway 82 at or near Lumber, Ark.) thence over U.S. Highway 82 to Texarkana (also from Little Rock over Interstate Highway 30 to Texarkana), and return over the same route. 3. Between Texarkana, Ark., and Rogers, Ark.: From Texarkana over U.S. Highway 71 to Rogers (also from Texarkana over U.S. Highway 71 to junction with Arkansas Highway 59, and thence over Arkansas Highway 59 to junction with Arkansas Highway 68, thence over Arkansas Highway 68 to junction with U.S. Highway 71, and thence to Rogers as above), and return over the same route.

4. Between Oklahoma City, Okla., and Texarkana, Ark.: From Oklahoma City over Interstate Highway 40 to junction with U.S. Highway 177, thence over U.S. Highway 177 to junction with Oklahoma Highway 13, thence over Oklahoma Highway 13 to junction with Oklahoma Highway 3, thence over Oklahoma Highway 3 via Antlers to junction with U.S. Highway 70, thence over U.S. Highway 70 to junction with U.S. Highway 71, and thence over U.S. Highway 71 to Texarkana, and return over the same route. Serving all intermediate points in Arkansas and all other points in Arkansas as off-route points, and serving the following intermediate and off-route points in Oklahoma: Ada, Broken Arrow, Cushing, Durant, Guthrie, Lindsay, Nowata, Pryor, Stillwater, and points within 20 miles of Oklahoma City. Restriction: Service over the above-described regular routes is restricted against the transportation of commodities (except fruits, vegetables, batteries, battery parts, fibre board boxes, glass and glassware, oil in packages, and canned goods) (1) originating at points in Arkansas and destined to points in the United States located east of a north-south line extending along the eastern borders of Montana, Wyoming, Colorado, and New Mexico or (2) originating at points located within the described Eastern Territory and destined to points in Arkansas.

NOTES.—Common control may be involved. Applicant intends to tack the authority sought herein to other authority contained in MC 61440 and subs thereto to provide a through service. Applicant further states that it will not object to the institution of a condition that the authority sought herein will not be severable by sale or otherwise from applicant's present authority described in certificate MC 61440 (Sub-No. 154), which encompasses authority over irregular routes to serve all of the authority sought herein. No new authority is sought in that this application merely seeks to convert an irregular route authority to regular route authority. If a hearing is deemed necessary, applicant requests that it be held at Oklahoma City, Okla., or Little Rock, Ark.

MC 63417 (Sub-No. 108), filed July 19, 1977. Applicant: BLUE RIDGE TRANSFER COMPANY, INC., P.O. Box 13447, Roanoke, Va. 24034. Applicant's representative: William E. Bain, P.O. Box 13447, Roanoke, Va. 24034. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting *Glass Containers* from Knox, Marienville and Parker, Pa to Atlanta, Gainesville and Statesboro, Georgia and Cheriton, Va. and returned shipments from above destinations to above origins.

NOTE.—If hearing is deemed necessary, applicant requests it be held in Pittsburgh, Pa. or Roanoke, Va.

No. MC 63417, (Sub-No. 109), filed July 19, 1977. Applicant: BLUE RIDGE TRANSFER, CO., INC., P.O. Box 13447, Roanoke, Va. 24034. Applicant's representative: William E. Bain (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Flat glass*, from the facilities of PPG Industries, Inc., located at or near Crystal City, Mo., to Rocky Mount, Va.

NOTE.—If a hearing is deemed necessary applicant requests it be held in Roanoke, Va. or Pittsburgh, Pa.

No. MC 66886 (Sub-No. 57), filed July 19, 1977. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, Missouri, 64108. Applicant's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, Missouri 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mining equipment, accessories, attachments, and parts for mining equipment, and equipment, materials*, and supplies used in the manufacturing of *mining equipment (except commodities in bulk)*, between the plantsite and storage facilities of Reading U.S., Inc. located at or near Orange Park, Florida, on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Utah, Wisconsin and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 69492 (Sub-No. 56), filed July 25, 1977. Applicant: HENRY EDWARDS, d.b.a. HENRY EDWARDS TRUCKING COMPANY, P.O. Box 97, Clinton, Kentucky 43201. Applicant's representative: Walter Harwood, P.O. Box 15214, Nashville, Tenn. 37215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting rubber, rubber products, and such other commodities as are manufactured and/or dealt in by rubber manufacturers, from the plantsite and warehouse facilities of The General Tire and Rubber Company, located at or near Mayfield, Ky., and the plantsite and warehouse facilities of The Goodyear Tire & Rubber Company, located at or near Union City, Tennessee, to points in Michigan on and east of U.S. Hwy. 27 from the Indiana-Michigan State Line to its junction with Michigan State Hwy. 21, thence on and south of Michigan Hwy. 21 eastwards to Port Huron, Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Memphis, Tenn. or Akron, Ohio.

No. MC 72243 (Sub-No. 55), filed July 25, 1977. Applicant: THE AETNA FREIGHT LINES, INCORPORATED, 2507 Youngstown Road, Box 250, Warren, Ohio 44482. Applicant's representative: Leroy Hallman, 4555 First National Bank Building, Dallas, Texas 75202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Gypsum wallboard* from the plantsite and storage facilities of Weyerhaeuser Company, Inc. located at Briar, Arkansas, to Alabama, Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, Tennessee, Texas, Virginia and Wisconsin; (2) *Lumber and plywood* from the plant site and storage facilities of Weyerhaeuser Company, Inc. located at Dierks, Arkansas and Mountain Pine, Arkansas to Alabama, Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, Tennessee, Texas, Virginia and Wisconsin: (3) *Treated lumber, posts, poles and piling* from the plant site and storage facilities of Weyerhaeuser Company, Inc. located at DeQueen, Arkansas, to Alabama, Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, Tennessee, Texas, Virginia and Wisconsin; (4) *Lumber* from the plant site and storage facilities of Weyerhaeuser Company, Inc. located at Murfreesboro, Arkansas to Alabama, Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, Tennessee, Texas, Virginia and Wisconsin; (5) *Lumber, plywood and cross ties*, from the plant site and storage facilities of Weyerhaeuser Company, Inc., located at

Wright City, Oklahoma to Alabama, Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, Tennessee, Texas, Virginia and Wisconsin; (6) *Particle board and boards or sheets* made from wood products from the plant site and storage facilities of Weyerhaeuser Company, Inc., located at Craig, Oklahoma, to Alabama, Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, Tennessee, Texas, Virginia and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex., or Little Rock, Ark.

No. MC 80653 (Sub-No. 5), filed July 19, 1977. Applicant: DAVID GRAHAM COMPANY, a corporation, P.O. Box 115, Croydon, Pa. 19020. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: commodities the transportation of which because of size or weight requires the use of special equipment between the piers or wharves in Philadelphia, Pa., on the one hand, and, on the other, points in Pennsylvania, restricted to traffic moving in foreign commerce.

NOTE.—Applicant states it presently holds authority to serve the Philadelphia piers on a radial basis to and from points in various States. If a hearing is deemed necessary, applicant requests that it be held in Philadelphia, Pa. Applicant and Norbet Trucking Corp. are commonly controlled and Norbet presently holds contract carrier authority in No. MC 136530 and subs thereunder, therefore dual operations may be involved.

No. MC 82492 (Sub-No. 160), filed July 19, 1977. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared foodstuffs* (except commodities in bulk), from the plant site and warehouse facilities of the Pillsbury Company at New Albany, Ind., to points in Michigan and Ohio. Restricted to traffic originating at the named origin and destined to the named destination states.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 89913 (Sub-No. 66), filed July 14, 1977. Applicant: FRISCO TRANSPORTATION COMPANY, (a corporation), 906 Olive Street, St. Louis, Mo. 63101. Applicant's representative: Donald E. Ransom (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) serving the plant site and warehouse facilities of Nubbin Ridge Charcoal, Inc., located sixteen (16) miles south of West Plains, Mo., on Missouri Highway 17, as an off-route point in connection with applicant's presently authorized regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Springfield, Mo. or Washington, D.C.

No. MC 92068 (Sub-No. 19), filed July 11, 1977. Applicant: MUTUAL TRANSPORTATION, INC., President and Fleet Streets, Baltimore, Md. 21202. Applicant's representative: Walter T. Evans, 7401 Wisconsin Avenue, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities as are dealt in or used by retail and discount department stores* from the facilities of Mutual Transportation, Inc., at Baltimore, Maryland and Washington, D.C. to: (a) the facilities of the K-Mart Stores of S. S. Kresge Company at Frederick, Hagerstown, and Lexington Park, Maryland; and Fredericksburg and Manassas, Virginia, (b) the facilities of the S. S. Kresge Store of the S. S. Kresge Company at Hagerstown, Maryland; (c) the facilities of the Zayre Corporation Stores at Frederick and Hagerstown, Maryland, (d) the facilities of the Woolworth Stores of F. W. Woolworth Company at Hagerstown, Maryland; and Manassas, Virginia, and (e) the facilities of the WOOLCO Stores of F. W. Woolworth Company at Frederick, Maryland; and Fredericksburg, Virginia. (2) *Returned shipments of the commodities in (1) above*, from: (a) the facilities of the K-Mart Stores of S. S. Kresge Company at Frederick, Hagerstown, and Lexington Park, Maryland; and Fredericksburg and Manassas, Virginia, (b) the facilities of the S. S. Kresge Store of S. S. Kresge Company at Hagerstown, Maryland, (c) the facilities of the Zayre Corporation Stores at Frederick, and Hagerstown, Maryland, (d) the facilities of the Woolworth Stores of F. W. Woolworth Company at Hagerstown, Maryland; and Manassas, Virginia, and (e) the facilities of the WOOLCO Stores of F. W. Woolworth Company at Frederick, Maryland; and Fredericksburg, Virginia to the facilities of Mutual Transportation, Inc., at Baltimore, Maryland; and Washington, D.C.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 94201 (Sub-No. 150) filed July 25, 1977. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, Ga. 30316. Applicant's representative: Maurice F. Bishop, 601–09 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the plantsite of Goodyear Tire & Rubber Company at or near Lawton, Okla., on the one hand, and, on the other, points in Alabama, Connecticut, Florida, Georgia, Illinois, Indiana, Massachusetts, New Jersey, North Carolina, Ohio, Rhode Island, South Carolina, Tennessee, and the following points and points within their respective commercial zones: Washington, D.C.; Wilmington, Del.; Louisville, Ky.; Baltimore, Md.; New York, N.Y.; Philadelphia, Pa.; Richmond and Norfolk, Va.; Camden, Crossett, El Dorado, Jonesboro, Little Rock, Texarkana and West Memphis, Ark.; Kansas City and Topeka, Kans.; Baton Rouge, Golden Meadow, Grand Isle, Lake Charles, Lockport, Monroe, New Orleans, Ruston, and Shreveport, La.; Columbus, Greenwood, Hattiesburg, Jackson, Laurel, Meridian, Moss Point, Pascagoula, Vicksburg and Greenville, Miss.; Carthage, Kansas City and Springfield, Mo.; Baytown, Beaumont, Dallas, Forth Worth, Garland, Gladewater, Greenville, Houston, Longview, Orange, Plano, Port Arthur, Texas City and Texarkana, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 94350 (Sub-No. 397), filed July 11, 1977. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers* designed to be drawn by passenger automobiles, in initial movements (except travel trailers and camping trailers); and (2) *buildings*, in sections, mounted on wheeled undercarriages, from origins which are points of manufacture, from Shenandoah County, Va., to points in Delaware, Kentucky, Maryland, New Jersey, North Carolina, Pennsylvania, Tennessee, and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 94350 (Sub-No. 990), filed July 25, 1977. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, 1144 W. Griffin Road, Lakeland, Fla. 33802. Applicant's representative: Benjy W. Fincher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) Glass containers and container accessories, between the plantsite and warehouse facilities of the Kerr Glass Manufacturing Corporation located in Wilson County, N.C., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, Ohio, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia and Wisconsin and (2) Materials, equipment and supplies used in the manufacture and distribution of glass containers and container accessories,

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From points in the states named in (1) above to the plantsite and warehouse facilities of Kerr Glass Manufacturing Corporation located in Wilson County, North Carolina.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Oklahoma City, Okla.; Washington, D.C., or Tampa, Fla.

No. MC 98154 (Sub-No. 18), filed July 15, 1977. Applicant: BRUCE CARTAGE, INCORPORATED, 3460 East Washington Road, Saginaw, Michigan 48601. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, Michigan 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *general commodities, except household goods as defined by the Commission and motor vehicles when transported in special equipment*, between Midland, Michigan and Detroit, Michigan restricted to traffic having a prior or subsequent movement by rail or water.

NOTE.—Applicant is under common control with C. D. B., Incorporated, a contract carrier applying for authority in MC 143002 and subnumbers thereto. Therefore, dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, Applicant requests that it be held at Lansing, Michigan or Saginaw, Michigan.

No. MC 98438 (Sub-No. 4), filed July 15, 1977. Applicant: TOMPKINSVILLE TRANSFER CO., INC., 209 West Second St., Tompkinsville, Ky. 42167. Applicant's representative: Robert M. Pearce, P.O. Box 1899, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment): (1) Between Glasgow, Ky. and the junction of Kentucky Highway 90 with Kentucky Highway 163 (near Beaumont, Ky.), serving all intermediate points, restricted against service between Louisville, Ky. and Glasgow, Ky. and points in their respective commercial zones. From Glasgow, Ky. over Kentucky Highway 90 to its junction with Kentucky Highway 163 and return over the same route. (2) Between the junction of Kentucky Highway 163 with Kentucky Highway 90 (near Beaumont, Ky.) and Tompkinsville, Ky., serving all intermediate points, restricted against service between Louisville, Ky. and Glasgow, Ky. and points in their respective commercial zones. From the junction of Kentucky Highway 163 with Kentucky Highway 90 over Kentucky Highway 163 to Tompkinsville, Ky. and return over the same route. (3) Between Tompkinsville, Ky. and the junction of Kentucky Highway 100 with Interstate Highway 65 serving all intermediate points on Kentucky Highway 100 east of Hickory Flat, Ky. Restricted against serving Franklin, Ky. and points in its commercial zone. From Tompkinsville, Ky. over Kentucky Highway 100 to its junction with Interstate Highway 65 and return over the same route. (4) Between junction of Kentucky Highway 100 with Interstate Highway 65 and Nashville, Tenn., serving no intermediate points, and serving the junction of Interstate Highway 65 with Kentucky Highway 100 for purposes of joinder only, and restricted against service between Nashville, Tenn. and Glasgow, Ky. and points in their respective commercial zones. From junction of Kentucky Highway 100 with Interstate Highway 65 over Interstate Highway 65 to Nashville, Tenn. and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Nashville, Tenn.

MC 103051 (Sub No. 404), filed July 19, 1977. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue, North, Nashville, TN 37209. Applicant's representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Detergent*, in bulk, in tank vehicles, from Charlotte, North Carolina to points in Georgia, Florida, Louisiana, Mississippi, South Carolina and Virginia.

NOTE.—If a hearing is deemed necessary applicant requests that it be held at Nashville, Tennessee or Atlanta, Georgia.

No. MC 103993 (Sub-No. 899), filed July 19, 1977. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, Indiana 46514. Applicant's representative: Paul D. Borghesani, 28651 U.S. 20 West, Elkhart, Indiana 46514. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vacuums mounted on undercarriages*, from Kent County, Mich., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, Applicant requests it be held at Detroit, Michigan or Chicago, Illinois.

MC 104523 (Sub-No. 66), filed July 19, 1977. Applicant: HUSTON TRUCK LINE, INC., P.O. Box 17, Friend, Nebraska 68359. Applicant's representative: Michael J. Ogborn, 300 NSEA Building, P.O. Box 82028, Lincoln, Nebraska 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite clay, lignite, and bentonite products*, From the plantsite of American Colloid Company, located at or near Malta, Montana. To points in Colorado, Illinois, Iowa, Kansas, Missouri, Nebraska, Oklahoma, South Dakota, Texas and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Omaha, Nebr., or Denver, Colo.

No. MC 105006 (Sub-No. 5), filed July 18, 1977. Applicant: L. L. SMITH TRUCKING, a corporation, P.O. Box 566, Powell, Wyoming 82435. Applicant's representative: John P. Thompson, 450 Capitol Life Center, Denver, Colorado 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) *Chemicals in containers, drilling muds and drilling additives*, (a) between points in Nevada, New Mexico, and Utah, on the one hand, and, on the other, points in Arizona, Colorado, Idaho, Montana, North Dakota, South Dakota and Wyoming, (b) between points in Wyoming, on the one hand, and, on the other, points in Arizona and Idaho; and (2) *Bentonite*, from points in Wyoming, to points in Idaho, Nevada, New Mexico and Utah.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colorado.

No. MC 106074 (Sub-No. 33), filed July 18, 1977. Applicant: B AND P MOTOR LINES, INC., P.O. Box 727, Forest City, N.C. 28043. Applicant's representative: Archie B. Culbreth, Suite 248, 1252 West Peachtree Street, N.W, Atlanta, Ga. 30309. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Salt and salt products* (except in bulk), from the plantsites and warehouse facilities of United Salt Corp. in Fort Bend and Harris Counties, Tex., to points in North Carolina, South Carolina, points in Georgia on and north of Interstate 20, points in Tennessee on and east of U.S. Hwy. 127, and Bristol, Va.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga. Applicant holds contract carrier authority in No. MC 140842 (Sub-No. 1), therefore dual operations may be involved.

No. MC 106074 (Sub-No. 34), filed July 19, 1977. Applicant: B AND P MOTOR LINES, INC., 710 Oakland Road, P.O. Box 727, Forest City, N.C. 28043. Applicant's representative: George W. Clapp, 109 Hartsville Street, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cans and can ends*, iron or steel, from the plantsite and warehouse facilities of RJR Foods, Inc., at Plymouth, Ind., to Atlanta, Ga.; Ortonville, Minn.; Lockport, N.Y.; Haskell, Okla.; South Brunswick, N.J.; and Highlands, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Winston-Salem, or Charlotte, N.C. Applicant holds contract carrier authority in MC 140842 Sub 1, therefore dual operations may be involved. Common control may also be involved.

No. MC 106557 (Sub-No. 7), filed July 25, 1977. Applicant: PAMCO, INC., P.O. Box 926, Columbus, Ohio 43216. Applicant's representative: Boyd B. Ferris, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Rendering products, by-products, and hides between Columbus, Ohio, on the one hand, and, on the other, points in Wisconsin, New Jersey, New Hampshire, Massachusetts, New York, and Maine, under a continuing contract or contracts with Inland Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio.

No. MC 107107 (Sub-No. 456), filed July 19, 1977. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 N.W. 42nd Avenue, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Neoprene insulated wire*, in vehicles equipped with mechanical refrigeration, from points in Texas, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 107403, (Sub-No. 1025), filed July 20, 1977, Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr., (same address as applicant). Authority sought to operate as a *common carrier*, over irregular routes, transporting Muriatic Acid, in bulk, in tank vehicles, (1) from Deer Park, Tex., to points in Arkansas, Louisiana, Mississippi and Oklahoma; and (2) from Norco, La., to points in Arkansas and Oklahoma.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held in Washington, D.C.

No. MC 107403, (Sub-No. 1026), filed July 20, 1977. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr., (same address as applicant). Authority sought to operate as a *common carrier*, over irregular routes, transporting Naval Stores and Products and Derivatives thereof (including tall oil and tall oil products), in bulk, in tank vehicles, from De Ridder, La. to points in California.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Washington, D.C.

MC 107496 (Sub-No. 1093), filed July 25, 1977. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center, 666 Grand Avenue, Des Moines, Ia. 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, Ia. 50304. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: (1) *Hydrogen peroxide* from Memphis, Tenn. to points in Wyoming; and (2) *Water-Reducing Admixtures*, in bulk, in tank vehicles, from North Judson, Ind. to points in Indiana, Illinois, Michigan, Wisconsin, Iowa, Minnesota, Ohio, Kentucky, West Virginia, and Missouri.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

Docket No. MC 107515 (Sub-No. 1092), filed July 14, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road, Post Office Box 308, Forest Park, Ga. 30050. Applicant's representative: Richard M. Tettelbaum, Suite 375, 3379 Peachtree Road NE., Atlanta, Ga. 30329. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Floor coverings, ceramic tile and such commodities* as are used or useful in the installation of floor coverings and ceramic tile (except commodities in bulk), from Piqua and Canton, Ohio, to Springfield, Mo.

NOTE.—Applicant controls Refrigerated Transport, Inc., which has contract carrier authority in MC 126436 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Atlanta, Ga.

No. MC 107515 (Sub-No. 1093), filed ATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, in the transportation of canned and bottled foodstuffs, from the plantsite and warehouse facilities of Bruce Foods Corp. at Cade and Lozes, La., to points in Alabama, Florida, Georgia, Mississippi, Missouri, Oklahoma, Kansas, Nebraska, Iowa, Illinois, Minnesota, and Wisconsin. Restriction: Restricted to traffic originating at the named origins and destined to the named destination States.

NOTE.—Applicant holds contract carrier authority in No. MC 126436 (Sub-No. 2), and other subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 107515 (Sub-No. 1096), filed July 21, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, Georgia 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, Georgia 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: CARPETING, FLOOR COVERINGS and TUFTED TEXTILE PRODUCTS, (1) from points in Georgia north of U.S. Highway 78 and west of U.S. Highway 441 to points in Kansas, Missouri, Colorado, Nebraska, Arizona and California, and (2) from Dalton, Ga. to that portion of Iowa on and west of U.S. Highway 59. Restricted to traffic originating at named origins.

NOTE.—Applicant holds motor contract carrier authority in No. MC 126436 (Sub-No. 2) and other subs, therefore, dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 107544 (Sub-No. 139), filed July 19, 1977. Applicant: LEMMON TRANSPORT CO., INC., P.O. Box 580, Marion, Va. 24354. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting Sodium Sulfate (Salt Cake), in bulk, in tank vehicles from Nitro, West Virginia, to points in Kentucky, Maryland, Ohio and Pennsylvania.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C., or Roanoke, Va.

MC 109124 (Sub-No. 32), filed July 18, 1977. Applicant: SENTLE TRUCKING CORP., P.O. Box 7850, Toledo, Ohio 43619. Applicant's representative: James M. Burtch, 100 E. Broad Street, Columbus, Ohio 43215. Authority to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives, building materials, composition board, gypsum and gypsum products gypsum board paper, mineral fiber products*, and *paint and paint products*, and *materials, equipment, and supplies* used in the manufacture, packaging, installation or distribution of the above base commodities (except commodities in bulk), between the facilities of United States Gypsum Co. at or near Gypsum (Portage Township, Ottawa County) Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Michigan, Maryland, New York, Ohio, Pennsylvania, West Virginia and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicants requests it be held at Chicago, Ill., or Columbus, Ohio.

No. MC 109533 (Sub-No. 88) (Amendment), filed April 11, 1977, published in the FEDERAL REGISTER issue of May 5, 1977, and republished as amended this issue. Applicant: OVERNITE TRANSPORTATION CO., a corporation, P.O. Box 1216, Richmond, Va. 23209. Applicant's representative: E. T. Liipfert, Suite 1100, 1660 L St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Norfolk, Va., and Elkton, Md.: From Norfolk over U.S. Highway 13 to junction U.S. Highway 40, thence over U.S. Highway 40 to Elkton and return over same route, serving all intermediate points. (2) Between Salisbury, Md., and Cambridge, Md.: From Salisbury over U.S. Highway 50 to Cambridge and return over same route, serving all intermediate points. (3) Between Dover, Del., and Goldsboro, Md.: From Dover over Delaware Highway 8 to Delaware-Maryland State line, thence over Maryland Highway 311 to Goldsboro and return over the same route, serving all intermediate points. (4) Between Bridgeville, Del., and Federalsburg, Md.: From Bridgeville over unnumbered highway to junction of Delaware Highway 18, thence over Delaware 18 to Delaware-Maryland State line, thence over Maryland Highway 318 to Federalsburg, and return over same route, serving all intermediate

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points. In connection with Routes 1, 2, 3, and 4 above, service is sought at points in New Castle, Kent, and Sussex Counties, Del.; Dorchester, Wicomico, Worcester and Somerset Counties, Md.; and Accomack and Northampton Counties, Va., as off-route points.

NOTE.—The purpose of this republication is to amend the proposed off-route authority by requesting service "at" named points in lieu of service "to" named points, in order to clarify that applicant wishes two-way service in the proposed off-route territory. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 109772 (Sub-No. 28), filed July 25, 1977. Applicant: ROBERTSON TRUCK-A-WAYS, INC., 7101 East Slauson Avenue, Los Angeles, Calif. 90040. Applicant's representative: Arthur J. Woodard, 7101 East Slauson Avenue, Los Angeles, Calif. 90040. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Motor vehicles* (except those which have been repossessed, embezzled, stolen, or wrecked and except trailers and self-propelled motor vehicles weighing less than 1,000 pounds), in secondary movements, in truckaway service, Between points in California, Colorado, Idaho, Montana, Nevada, Utah, and Wyoming, on the one hand, and, on the other, points in Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, Calif.

No. MC 110988 (Sub-No. 345), filed July 19, 1977. Applicant: SCHNEIDER TANK LINES, INC., 4321 West College Avenue, Appleton, Wis. 54911. Applicant's representative: Paul C. Schneider (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids* and *chemicals*, in bulk, in tank vehicles from La Crosse, Wis., to points in Illinois, Indiana, Iowa, the Upper Peninsula of Michigan, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 111729 (Sub-No. 712), filed July 18, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Laboratory specimens, and business papers, records and audit and accounting media of all kinds*. Between Memphis, Tenn. and Ripley, Miss.

NOTE.—Applicant holds motor contract carrier authority in MC 112750 and Sub-Numbers thereunder, and therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 112822 (Sub-No. 422), filed July 19, 1977. Applicant: BRAY LINES INC., 1401 North Little Street, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Charles D. Midkiff (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Duluth, Minn., and Superior, Wis., to points in Colorado. Restricted to the transportation of traffic originating at the plantsite and warehouse facilities of Jeno's, at or near Duluth, Minn., and Superior, Wis.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Minneapolis or St. Paul, Minn., or Chicago ,Ill.

No. MC 112822 (Sub-No. 423), filed July 18, 1977. Applicant: BRAY LINES INC., 1401 North Little Street, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Charles D. Midkiff (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (not frozen and except in bulk): (1) from the facilities of the Clorox Co., at or near Atlanta, Ga., to points in Arkansas, Kansas, Louisiana, Missouri, and Texas; (2) from the facilities of the Clorox Co., at or near Oakland, Calif., to points in Montana, Oregon, Utah, Washington, and Wyoming; and (3) from the facilities of the Clorox Co., at or near Houston, Tex., to points in Arkansas, Louisiana, Mississipi, New Mexico, and Oklahoma.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Francisco or Los Angeles, Calif.

MC 113459 (Sub-No. 111), filed July 18, 1977. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Bldg., Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Metal castings, pulleys, and sheaves, from the plantsite of the Electron Corp., located at Blackwell, Okla., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Dallas, Tex., or Oklahoma City, Okla.

MC 113459 (Sub-No. 112), filed July 19, 1977. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Bldg., Dallas, Tex. 75224. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Electric cable*, on reels from the plantsite of The Superior Cable Co., located at Brownwood, Tex., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, Utah, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Dallas, Tex., or Oklahoma City, Okla.

No. MC 113528 (Sub-No. 34), filed July 19, 1977. Applicant: MERCURY FREIGHT LINES, INC., P.O. Box 1247, Mobile, Ala. 36601. Applicant's representative: Joy Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, including paneling, from the facilities of Vanply, Inc., at or near Many, La., to points in Alabama, Georgia, North Carolina, South Carolina.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Mobile, Ala., or Shreveport, La.

No. MC 113678 (Sub-No. 695), filed July 15, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet and floor covering*, and materials and supplies useful or used in the installation of carpet and floor covering (except commodities in bulk in tank vehicles): From Greensboro, North Carolina to points in Florida, Georgia, Illinois, Louisiana, Missouri, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or Chicago, Ill.

No. MC 113678 (Sub-No. 696), filed July 15, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products*, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 200 and 766 (except commodities in bulk): From Salt Lake City, Utah to points in California and Colorado.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Salt Lake City, Utah, or Denver, Colo.

No. MC 113678 (Sub-No. 697), filed July 21, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet and floor covering*, and materials and supplies useful or used in the installation of carpet and floor covering (except commodities in bulk in tank vehicles), (1) From Eddystone, Pennsylvania, to points in Alabama, Florida, Georgia, Illinois, Kentucky, Louisiana, Missouri,

North Carolina, South Carolina, Tennessee, and Wisconsin; and (2) From Trenton, New Jersey, to points in Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Missouri, Nebraska, North Carolina, South Carolina, Tennessee, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at: Washington, D.C., or Chicago, Ill.

No. MC 114045 (Sub-No. 471), filed July 21, 1977. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, Tex. 75261. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs, Frozen Bakery Goods, Frozen Pizzas, Frozen Pies, meat, fish or poultry*, from Salisbury, Maryland and Downingtown, Pennsylvania, to points in Ohio and Michigan.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Philadelphia, Pa. or Washington, D.C.

No. MC 114045 (Sub-No. 472), filed July 25, 1977. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, Tex. 75261. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roasted and Instant Coffee, and dry beverage preparations*, from Edgewater, New Jersey to Arizona, Colorado, New Mexico, Utah, Oregon, Washington and California.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Philadelphia, Pa. or Washington, D.C.

No. MC 114045 (Sub-No. 473), filed July 25, 1977. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, Tex. 75261. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, Synthetic Rubber Liquid, Plasticizers, Liquid Resins*, from Moss Point, Miss., to points in Pennsylvania, New Jersey, Massachusetts, New York.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Philadelphia, Pa. or Washington, D.C.

No. MC 114087 (Sub-No. 14), filed July 15, 1977. Applicant: DECATUR TRANSIT, INC., P.O. Box 1784, Decatur, Ala. 35602. Applicant's representative: Daniel H. Markstein, Jr., 512 Massey Building, Birmingham, Ala. 35203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *coke* in bulk from the plant site of Monsanto Company in Decatur, Ala. to the plant site of Carborundum Corporation in Hickman, Ky., under a continuing contract or contracts with Monsanto Co.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Decatur, Ala. or Washington, D.C.

No. MC 114457 (Sub No. 317), filed July 20, 1977. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James C. Hardman, 33 N. LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, plastic products and products manufactured and distributed by manufacturers and converters of paper and paper products*, from Louisville, Kentucky, to points in Illinois, Indiana, Wisconsin and Missouri.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Paul, Minn. or Chicago, Ill.

No. MC 114457 (Sub No. 318), filed July 25, 1977. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James C. Hardman, 33 North LaSalle Street, Suite 2108, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter* from Minneapolis, Minnesota to Versailles, Ky.

NOTE.—If hearing is deemed necessary, applicant requests that it be held at Chicago, Ill. or St. Paul, Minn.

No. MC 114457 (Sub No. 320), filed July 26, 1977. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers* from Warner Robins, Georgia to Williamsburg, Va.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Atlanta, Ga., or Washington, D.C.

No. MC 114457 (Sub No. 322), filed July 26, 1977. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James C. Hardman, 33 North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel doors, steel door frames, and brass, bronze, copper and steel hardware*, from the plantsite of The Ceco Corporation at or near Mila, TN, to points in Connecticut, Maine, Massdchusetts, New Hampshire, Rhode Island and Vermont.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either St. Paul, Minn. or Chicago, Ill.

MC 115162 (Sub-No. 376), filed July 19, 1977. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fire brick, fire clay, furnace or kiln lining, refractory products and commodities*, incidental to the installation thereof (except commodities in bulk, in tank vehicles); and *materials and supplies*, used in the manufacture and production of fire brick, fire clay, furnace or kiln lining, refractory products and commodities incidental to the installation thereof (except commodities in bulk, in tank vehicles), (1) between points in Audrain and Callaway Counties, Mo., on the one hand, and, on the other, points in Arkansas, Tennessee, North Carolina, South Carolina, Kentucky, Maryland, Virginia, Kansas, and Oklahoma; and (2) between Thermo, Tex., on the one hand, and, on the other, points in Alabama, Arkansas, Georgia, Florida, Louisiana, Missouri, Kentucky, Mississippi, Oklahoma, Tennessee, North Carolina, South Carolina, Kansas, and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, Mo., or Washington, D.C.

No. MC 115322 (Sub-No. 136), filed July 19, 1977. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, Fla. 32809. Applicant's representative: L. W. Fincher, P.O. Box 426, Tampa, Fla. 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and storage facilities of Abel's Bagels, at Buffalo, N.Y., to points in Delaware, Maryland, West Virginia, and District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. or Buffalo, N.Y. Common control may be involved.

MC 115331 (Sub-No. 426), filed July 19, 1977. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, Mo. 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, Ill. 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-alcoholic beverages, in containers, and materials and supplies* used or useful in the production, distribution and sales of non-alcoholic beverages between Warrenton, Mo., on the one hand, and, on the other, points in Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Nebraska, Ohio, Oklahoma, Pennsylvania, Tennessee, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at St. Louis or Kansas City, Mo.

No. MC 115496 (Sub-No. 56), filed July 19, 1977. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, Ga. 31014. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, Ga. 30349. Authority to operate as a *common carrier*, by motor vehicle, over irregular routes in the transporation of, *Lumber*, (1) From the facilities of Gilman Paper Company

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located at Dudley (Laurens County), Georgia, and at or near Blackshear (Pierce County), Georgia, to points in Texas, Louisiana, Arkansas, Missouri Illinois, Wisconsin, Michigan (lower peninsular), Indiana, Ohio, West Virginia, Maryland, Delaware, District of Columbia, New Jersey, Pennsylvania, New York, and: (2) From the plantsite of Building Products Division, Gilman Paper Company located approximately eight (8) miles north of Middleburg, (Clay County) Florida, to points in Georgia, Alabama, Mississippi, Louisiana, Texas, Arkansas, Missouri, Illinois, Wisconsin, Michigan (lower peninsula), Indiana, Ohio, Kentucky, Tennessee, North Carolina, South Carolina, Virginia, West Virginia, District of Columbia, Delaware, New Jersey, Pennsylvania and New York.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Atlanta, Ga.

No. MC 115496 (Sub-No. 57) filed July 18, 1977. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, Ga. 31014. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, Georgia 30349. Authority to operate as a *common carrier*, by motor vehicle, over irregular routes in the transportation of, *Plywood and composition board* from the plantsite and warehouse facilities of Day Companies, Inc. in Randolph County, Ga., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado and New Mexico.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 115841 (Sub-No. 544), filed July 25, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg., 100, Knoxville, Tenn. 37919. Applicant's representative: Chester G. Groebel (same address as applicant). Authority sought to operate as a *common carrier*, over irregular routes transporting: (1) *Foodstuffs*, non-frozen, from points in the Lower Peninsula of Michigan to points in North Carolina, South Carolina, and points in Georgia North of U.S. Highway 80; and (2) *Plastic and rubber articles*, from Sturgis, Mich., when moving in mixed loads with foodstuffs to destinations in (1) above.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Lansing, Grand Rapids or Detroit, Mich.

No. MC 115841 (Sub-No. 545), filed July 25, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg., 100, Knoxville, Tenn. 37919. Applicant's representative: Clayton R. Byrd (same address as applicant). Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Hickory chips, liquid smoke (flavoring compound) and foodstuffs*, from the plantsite and storage facilities utilized by Hickory Specialties, Inc., in Cumberland County, Tennesee to points in the United States, (except Hawaii and Alaska). Restricted to shipments originating at the above mentioned origin points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Nashville, Tenn. or Atlanta, Ga.

No. MC 115931 (Sub-No. 44), filed July 20, 1977. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, Mont. 59801. Applicant's representative: Gene P. Johnson, P.O. Box 2471, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Lumber and lumber products*, From Riverton, Wyoming to points in Illinois, Iowa and Wisc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be at Portland, Oreg.

No. MC 116314 (Sub-No. 33), filed July 19, 1977. Applicant: MAX BINSWANGER TRUCKING (a corporation), 13846 Firestone Boulevard, Santa Fe Springs, Calif. 90670. Applicant's representative: Carl H. Fritze, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting, *Fly ash* and *bottom ash*, in bulk, from points in Clark County, Nevada to points in Arizona, New Mexico and Utah.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, California or Las Vegas, Nev.

No. MC 116325 (Sub-No. 75), filed July 15, 1977. Applicant: JENNINGS BOND, d.b.a BOND ENTERPRISES, P.O. Box 8, Lutesville, Mo. 63762. Applicant's representative: Jennings Bond, P.O. Box 8, Lutesville, Mo. 63762. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay and clay products* (except in bulk), from Scott and Stoddard Counties, Missouri, to points in Minnesota, Iowa, Arkansas, Louisiana, Wisconsin, Illinois, Pennsylvania, New York, Maryland, Mississippi, Michigan, Indiana, Kentucky, Tennessee, Alabama, Ohio, West Virginia, Virginia, North Carolina, South Carolina, Florida and Georgia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Louis, Mo. or Washington, D.C.

No. MC 117639 (Sub-No. 10), filed July 25, 1977. Applicant: PICK'S PACK HAULER, INC., d.b.a. PICK'S PACK HAULER, 1214 East South Street, Hastings, Nebr. 68901. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebr. 68509. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick and clay products*, from Weir and Kanopolis, Kans., to points in Nebraska, under contract with Lumbermen's Brick & Supply Co.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, Nebr., or Lincoln, Nebr.

No. MC 117686 (Sub-No. 178), filed July 20, 1977. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Blvd., P.O. Box 417, Sioux City, Iowa 51102. Applicant's representative: Mr. George L. Hirschbach (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Clothing, and wearing apparel, and all component parts used in the manufacture thereof* (except in bulk), from Los Angeles, Calif.; and Seattle, Wash., to Minneapolis, Minn.; and (2) *Clothing and wearing apparel, and al component parts used in the manufacture thereof, and materials, supplies and equipment*, used in the manufacture and sale of clothing and wearing apparel (except in bulk), (a) from Hamilton and Guin, Ala., to Minneapolis, Minn.; Memphis, Tenn.; and Winfield, La.; (b) from Crossville, Tenn. to Minneapolis, Minn.; (c) from Memphis, Tenn. to points in California; (d) from Gastonia, Belmont, and Albermarle, N.C., to Minneapolis, Minn.; (e) from Thomaston, Ga. to Minneapolis, Minn.; (f) from Points in South Carolina and Florida to Minneapolis, Minn.; (g) from Paris, Tex. to Memphis, Tenn. and Arkadelphia, Ark.; (h) from Winfield, La. to Memphis, Tenn.; (i) from Minneapolis, Minn. to points in Alabama, California, Georgia, Florida, Tennessee, Texas, Virginia, and Washington. Restriction: Parts I and II above are restricted to traffic originating at the plant site and storage facilities of Munsingwear Company and destined to the above named destinations.

NOTE.—Applicant states it has filed a Section 5 application to purchase a permit presently held by Minn.-Cal., Inc. of Mandan, N.D.; therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Minneapolis, Minn. or Chicago, Ill.

No. MC 117765 (Sub-No. 232), filed July 15, 1977. Applicant: Hahn Truck Line, Inc., 5315 NW. 5th St., P.O. Box 75218, Oklahoma City, Okla. 73107. Applicant's representative: R. E. Hagan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Malt Beverages*, in containers, from Laredo, Tex., to points in Kansas and Missouri.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Oklahoma City, Okla.

No. MC 117765 (Sub-No. 233), filed July 25, 1977. Applicant: Hahn Truck Line, Inc., 5315 NW. 5th St., P.O. Box 75218, Oklahoma City, Okla. 73107. Applicant's representative: R. E. Hagan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: Treated and untreated poles and posts, from Buffalo, Dwyer, Elk Mountain, and Tie Siding, Wyo.; and Aspen and Fort Collins, Colo., to points in Kansas and Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Oklahoma City, Okla.

No. MC 117883 (Sub-No. 216), filed July 25, 1977. Applicant: SUBLER TRANSFER, INC., 100 Vista Drive, Versailles, Ohio 45380. Applicant's representative: Neil E. Hannan, P.O. Box 62, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Dairy Products from the plantsite and storage facilities of Beaver Meadow Creamery and Beaver Meadow By-Product Corporation located at or near DuBois, Pa. to points in Illinois, Indiana, and Ohio. Restricted to traffic originating at the named origin and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C. or Columbus, Ohio.

No MC 117940 (Sub-No. 226), filed July 11, 1977. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman, P.O. Box 104, Maple Plain, Minn. 55359. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: Such commodities as are dealt in by or used in the operation of retail department stores (except foodstuffs, commodities in bulk, and household goods as defined by the Commission) from New York, N.Y.; Boston, Mass.; and Philadelphia, Pa. Commercial Zones to the facilities of Nordstrom, Inc., in Tukwila, Wash.; and in Seattle, Tacoma, Yakima, Spokane, Bremerton, Bellingham, and Bellevue, Wash. Restricted to traffic originating at named origins and destined to the facilities of Nordstrom's at named destination.

NOTE.—If hearing is deemed necessary; the applicant requests it be held at Seattle, Wash. Applicant holds contract carrier authority in No. MC 114789 (Sub-No. 16 and other subs); therefore dual operations may be involed.

No. MC 118089 (Sub-No. 24), filed July 19, 1977. Applicant: ROBERT HEATH TRUCKING, INC., 2909 Avenue C, P.O. Box 2501, Lubbock, Tex. 79408. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes transportign: Meats, meat products, and meat by-products, and articles distributed by meat packinghouses, as described in sections A and C of Appendix 1 to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except frozen foods, hides, and commodities in bulk), from the plantsite and storage facilities utilized by Columbia Foods, Inc., a subsidiary of Iowa Beef Processors, Inc., at or near Wallula, Wash., to points in Texas.

NOTE.—Common control may be involved. A carrier affiliated with Applicant holds contract carrier authority in MC 139309 and Subs thereto, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Seattle, Wash.

No. MC 118535 (Sub-No. 104), filed July 25, 1977. Applicant: TIONA TRUCK LINE, INC., 111 So. Prospect, Butler, Mo. 64730. Applicant's representative: Jim Tiona, Jr., 111 So. Prospect, Butler, Mo. 64730. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Urea Formaldehyde Resin and concentrate, agents, chemicals; from Mayes County, Okla. to points in Alabama, Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Ohio, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming; and on return, empty containers from the destination points in (1) above to the origin points in (1) above.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Kansas City, Mo.

No. MC 118776 (Sub-No. 22), filed July 6, 1977. Applicant: C. L. CONNORS, INC., 3820 Wisman Lane, Quincy, Ill. 62301. Applicant's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone, limestone products, trace minerals, and trace mineral ingredients*, from the plantsite of Calcium Carbonate Company at Quincy, Ill., to points in Alabama, Arkansas, Colorado, Delaware, Georgia, Louisiana, Maryland, Mississippi, Montana, New York, Virginia, and West Virginia.

NOTE.—Common control may be involved: If a hearing is deemed necessary, applicant requests that it be held at St. Louis, Mo.

No. MC 119493 (Sub-No. 153), filed July 21, 1977. Applicant: Monkem Company, Inc., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: Harry Ross, 58 South Main Street, Winchester, Ky. 40391. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, roofing materials and roofing supplies (except liquid in bulk)* from Little Rock, Ark. to points in Texas, Oklahoma, Kansas, Iowa, Missouri, Illinois, Indiana, Kentucky, and Tennessee.

NOTE.—If a hearing is deemed necessary the applicant requests that it be held in Little Rock, Ark.

No. MC 119493 (Sub-No. 154), filed July 21, 1977. Applicant: MONKEM CO., INC., Post Office Box 1196, Joplin, Mo. 64801. Applicant's representative: Harry Ross, 58 South Main Street, Winchester, Ky. 40391. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and siding materials, composition shingles, rolled roofing, roofing compound and accessories thereto* from plantsites and storage facilities of Elk Corp., at or near Stephens and Camden, Ark., to points in Missouri, Oklahoma, Texas, Kentucky, Tennessee, Alabama, Mississippi and Louisiana.

NOTE.—If a hearing is deemed necessary the applicant requests that it be held at Little Rock, Ark.

No. MC 11955 (Sub-No. 17), filed July 18, 1977. Applicant: OIL AND INDUSTRY SUPPLIERS LTD., P.O. Box 3500, Calgary, Alberta T2P 2P9, Canada. Applicant's representative: Ray F. Koby, 314 Montana Building, Great Falls, Mont. 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in bulk, in tank vehicles, from the port of entry on the International Boundary line between the United States and Canada, located at or near International Falls, Minn., to Duluth and St. Paul, Minn., restricted to traffic originating in Ontario, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at any city in Montana. Common control may be involved.

No. MC 119626 (Sub-No. 11), filed July 19, 1977. Applicant: ILL.-PAC. COAST TRANSPORTATION CO. (A corporation), 1601 Market Street, Madison, Ill. 62060. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts*, as described in Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, and exempt poultry products when transported in the same vehicle, from Muncie, Ind., St. Louis, Mo., and points in Illinois, to points in Washington, Oregon, California, Nevada, Utah, Arizona and New Mexico.

NOTE.—Applicant states that it presently holds operating authority to transport the involved commodities from St. Louis, Mo., to Los Angeles, San Francisco, and Stockton, Calif.; from Springfield, Ill., to San Diego, Sacramento, Los Angeles and San Francisco, Calif.; between Chicago, Ill. and St. Louis, Mo.; from Springfield, Ill., to Las Vegas, Nev.; and from the plantsite of Krey Packing Co., B. Constantino and Sons Co., Inc., and Continental Meat Distributors, Inc., at St. Louis, Mo., Springfield, Ill. and Chicago, Ill., to points in Arizona, Nevada, and New Mexico. Applicant will seek cancellation of all duplicating authority upon grant of this application. If a hearing is deemed necessary, applicant requests that it be held at St. Louis, Mo. or Indianapolis, Ind.

No. MC 119700 (Sub-No. 31), filed July 18, 1977. Applicant: STEEL HAULERS, Inc., 306 Ewing Avenue, Kansas City, Mo. 64125. Applicant's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, Mo. 64125. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal buildings, prefabricated, knocked down, and component parts and accessories and damaged and refused shipments on return*, from the plantsite and warehouse facilities of Pascoe Steel Corp., located at or near Wathena, Kans., to points in Arkansas, Illinois, Louisiana, Michigan, Missouri, Oklahoma, Texas and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Kansas City, Mo.

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No. MC 119988 (Sub 116), filed July 20, 1977. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, Tex. 75901. Applicant's representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *Common Carrier*, by motor vehicle, over irregular routes, transporting: *Paint, Stain* and *Varnish* (except in bulk) from Louisville, Ky. to points in Oklahoma, Texas, Arkansas, Louisiana, Tennessee, Mississippi and Alabama.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 119988 (Sub-No. 117), filed July 25, 1977. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Highway 103 East, Lufkin, Tex. 75901. Applicant's representative: Hugh T. Matthews 2340 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Hardware, conveyors* and *conveyor equipment, furniture, power equipment, wheel goods,* and *bicycles* and *parts* thereof and attachments and accessories therefor and *materials, equipment* and *supplies* used in the manufacture and distribution thereof, between Indianola, Miss., on the one hand, and, on the other, points in Minnesota, Wisconsin, Iowa and Missouri.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas Tex.

No. MC 119988 (Sub No. 118), filed July 25, 1977. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, Tex. 75901. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *treated lumber mill products*, from points in Jefferson County, Ark., to points in Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 119991 (Sub-No. 15), filed July 19, 1977. Applicant: YOUNG TRANSPORT, INC., Post Office Box 3, Logansport, Ind. 46947. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides and skins*, from points in Florida to South St. Paul, Minn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C. or Chicago, Ill.

No. MC 120646 (Sub-No. 19) (Correction), filed May 17, 1977, published in the FEDERAL REGISTER issues of June 30 and July 28, 1977, and republished as corrected this issue. Applicant: BRADLEY FREIGHT LINES, INC., 35 Garfield St., Asheville, N.C. 28803. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Building, Pennsylvania Ave. & 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture and furniture parts*, from the plant sites and warehouse facilities of Broyhill Industries, located at or near Arcadia, La., to points in the United States (except Alaska and Hawaii); and (2) *materials, supplies and equipment*, used in the manufacture of new furniture, *and new furniture*, from points in the United States (except Alaska and Hawaii), to the origin points named in (1) above.

NOTE.—The purpose of this republication is to correct applicant's requests of authority. If a hearing is deemed necessary applicant requests that it be held at Asheville N.C. or Washington, D.C.

No. MC 120761 (Sub-1 No. 26), filed July 18, 1977. Applicant: NEWMAN BROS. TRUCKING CO., 6559 Midway Road, P.O. Box 13302, Fort Worth, Tex. 76118. Applicant's representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing and roofing materials and supplies* used or useful in the installation thereof from the plantsite and storage facilities of The Celotex Corp. at or near Camden, Ark., to points in Louisiana, Oklahoma and Texas; and (2) *composition board and materials* used or useful in the installation thereof from the plantsite and storage facilities of The Celotex Corp. at or near Marrero, La., to points in Arkansas, Oklahoma and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Texas., or Little Rock, Arkansas, Common control may be involved.

Docket No. MC 121654 (Sub-No. 5), filed July 19, 1977. Applicant: COASTAL TRANSPORT & TRADING CO., a corporation, Post Office Box 7438, Savannah, Ga. 31408. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, iron and steel articles, and iron and steel products*, from Savannah, Ga., to points in Alabama, Florida, North Carolina, South Carolina, Mississippi, Louisiana and Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Savannah, or Atlanta, Ga.

Docket No. MC 121654 (Sub-No. 6), filed July 19, 1977. Applicant: COASTAL TRANSPORT & TRADING CO., a Corporation, Post Office Box 7438, Savannah, Ga. 31408. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood paneling and composition board*, from the plantsite and warehouse facilities of Champion International, at Charleston and Orangeburg, S.C., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Cincinnati, Ohio, or Atlanta, Ga.

No. MC 121664 (Sub No. 23), filed July 19, 1977. Applicant: G. A. HORNADY, CECIL M. HORNADY, AND B. C. HORNADY DOING BUSINESS AS, HORNADY BROTHERS TRUCK LINE, Box 846, Monroeville, Ala. 36460. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Lumber, Lumber Products, Plywood and Particleboard, Between points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, Texas and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Birmingham or Montgomery, Ala.

No. MC 123056 (Sub-No. 6), filed July 25, 1977. Applicant: FREDONIA TRUCK LINE, INC., Highway 96 and Jackson Street, Fredonia, Kans. 66736. Applicant's representative: Laurel D. McClellan, P.O. Box 478, 430 N. 7th, Fredonia, Kans. 66736. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: (1) *Dehydrated alfalfa pellets*, in bulk, from Fredonia, Kans., to points in Arkansas, Missouri (except St. Louis), Oklahoma, and Texas (except Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties, Tex.); under a continuing contract or contracts with Fredonia Dehydrating and Milling Co., of Fredonia, Kans.; and (2) *Livestock feed pellets* from Fredonia, Kans., to points in Oklahoma; under a continuing contract or contracts with Fredonia Cooperative Association of Fredonia, Kans.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Wichita, Kans. or Kansas City, Mo.

No. MC 123638 (Sub-No. 5), filed July 25, 1977. Applicant: S & R AUTO AND TRUCK SERVICE, INC., 1525 Cliffwood Place, Charlotte, N.C. 28203. Applicant's representative: Edward K. Stokes, 1525 Cliffwood Place, Charlotte, N.C. 28203. Authority to engage in operation, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of (1) *wrecked, disabled, repossessed and impounded motor vehicles, and replacements therefor*, and (2) *motor vehicles including trucks, tractors, buses, and trailers (except trailers designed to be drawn by passenger automobile)*, by use of wrecker equipment only, between points in North Carolina and South Carolina, on the one hand, and, on the other, points in that part of the United States located in and east of Wisconsin, Illinois, Missouri, Arkansas and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Charlotte, Winston-Salem or Raleigh, N.C.

No. MC 124004 (Sub-No. 42), filed July 21, 1977. Applicant: RICHARD DAHN, INC., 620 West Mountain Road, Sparta, N.J. 07871. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, over irregular routes transporting: Scrap metals in dump vehicles, between points in Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, Delaware, New York, Connecticut, Massachusetts, W. Virginia, Rhode Island, Vermont, New Hampshire, Maine, Ohio, New Jersey (except points in the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester and Salem) and District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y. or Washington, DC.

No. MC 124078 (Sub-No. 740), filed July 19, 1977. Applicant: SCHWERMAN TRUCKING CO., A Corporation, 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: James R. Ziperski, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials, flakes, granules, powder or solid mass*, in bulk, in tank vehicles, from Brunswick, Georgia to points in Alabama, North Carolina, South Carolina, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga. Common control may be involved.

No. MC 124692 (Sub-No. 177), filed July 25, 1977. Applicant: SAMMONS TRUCKING, (A Corporation), P.O. Box 4347, Missoula, Mont. 59806. Applicant's representative: J. David Douglas (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete products* (except in bulk), from Lino Lakes and Coates, Minn., to points in Idaho, Montana, North Dakota and South Dakota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, Minn.

No. MC 124947 (Sub-No. 63), filed July 26, 1977. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Road, Stroud, Okla. 74079. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) Iron, steel, zinc, lead, and articles or products thereof; (b) building and construction materials, supplies, and equipment (other than self-propelled) and; (c) curing compounds, from the plantsites and warehouse facilities of the Penn-Dixie Steel Corp. located at Kokomo, Fort Wayne, Ind.; Toledo and Columbus, Ohio; Lansing and Grand Rapids, Mich.; Denver, Colo.; Albuquerque, N. Mex.; Centerville, Iowa; Blue Island and Joliet, Ill., to points in the United States (except Alaska and Hawaii); and (2) Materials, equipment and supplies used in the manufacture and distribution of commodities in (1) above, from points in the United States (except Alaska and Hawaii), to the origin points in (1) above, restricted against the transportation of commodities in bulk, and, restricted in (1) above to traffic originating at the plantsite facilities of Penn-Dixie Steel Corp., and further restricted in (2) above to traffic destined to the plantsite facilities of Penn-Dixie Steel Corp.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Salt Lake City, Utah or Chicago, Ill.

No. MC 125433 (Sub-No. 109), filed July 19, 1977. Applicant: F-B TRUCK LINE COMPANY (a Corporation), 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) tractors, (2) industrial, construction, excavating, and material handling equipment, and (3) parts and attachments for (1) and (2) above (except truck tractors, truck tractor attachments, and commodities which by reason of size or weight require the use of special equipment), from the facilities of J. I. Case Company at or near Burlington and Bettendorf, Iowa, to points in California, Oregon, Washington, Idaho, Montana, Nevada, Utah, and Arizona.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Salt Lake City, Utah, or San Francisco, Calif.

No. MC 125433 (Sub-No. 110), filed July 21, 1977. Applicant: F-B TRUCK LINE COMPANY, a Corporation, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: David J. Lister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting snowmobiles, from Lancaster County, Nebr. to points in Washington, Oregon, Idaho, Montana, Utah, Wyoming, Colorado, North Dakota, South Dakota, Nebraska, Minnesota, Iowa, Wisconsin, Illinois, Michigan, Indiana, Ohio, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, and Maine and further including ports of entry on the International Boundary line between the United States and Canada located in Washington, Idaho, Montana, North Dakota, Minnesota, Michigan and New York, restricted to traffic originating at facilities utilized by Kawasaik Motors Corp., U.S.A.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Salt Lake City, Utah, or Los Angeles, Calif.

No. MC 125699 (Sub-No. 4), filed July 15, 1977. Applicant: WILLARD E. DURBIN d.b.a., DURBIN AUTO SERVICE, 421 S. Mulberry Street, Hagerstown, Md. 21740. Applicant's representative: Daniel B. Johnson, 4304 East-West Highway, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *wrecked, crushed, and shredded automobiles and shredded residues and scrap*, used or to be used in a recycling process between, Hagerstown Md., on the one hand, and, on the other, points in and east of Wisconsin, Iowa, Missouri, Tennessee, and Alabama.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Hagerstown, Md.

No. MC 126672 (Sub-No. 4), filed July 15, 1977. Applicant: JOHN N. BROCKLESBY TRANSPORT LIMITED, 11175 Parkway Blvd., Montreal, Quebec, Canada H1J 1S2. Applicant's representative: L. C. Major, Jr., Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, Va. 22312. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in tank vehicles, and in bags, from ports of entry between the United States and Canada located at points in Maine, New Hampshire, Vermont, and New York to points in Connecticut, Rhode Island, and Massachusetts, restricted to shipments originating at the facilities of Independent Cement, Inc., and St. Lawrence Cement Co., located in the Province of Quebec, Canada.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Washington, D.C. Common control may be involved.

No. MC 127283 (Sub-No. 12), filed July 19, 1977. Applicant: SILICA SAND TRANSPORT, INC., Box 212, Routes 47 and 71, Yorkville, Ill. 60560. Applicant's representative: Albert A. Andrin, 180 North La Salle Street, Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sand in bulk*, (1) from Marston, N.C., to points in Ohio, Pennsylvania and West Virginia; and (2) from Ottawa, Minn., to points in Ohio, Pennsylvania, and West Virginia, under contract with Halliburton Services, Division of Halliburton Company.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at Chicago, Ill.

No. MC 127991 (Sub-No. 4), filed July 14, 1977. Applicant: P. F. HUNTLEY COMPANY, a Corporation, E. 6305 Mallon, Spokane, Wash. 99206. Applicant's representative: Christopher J. Dietzen, 708 Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from points in Long Beach and Wilmington, Calif., to Pacific Fruit and Produce warehouses, at Pasco and Spokane, Wash.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant

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requests it be held at either Spokane or Seattle, Wash.

No. MC 128095 (Sub-No. 16), filed July 19, 1977. Applicant: PARKER TRUCK LINE, INC., P.O. Box 1402, Tupelo, Miss. 38801. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Microfoam*, from the facilities of E. I. Du Pont De Nemours & Company at Wurtland, Ky., to points in Arkansas, Mississippi, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Jackson, Miss., or Washington, D.C.

No. MC 128392 (Sub-No. 2), filed July 15, 1977. Applicant: HARNER'S EXPRESS, INC., 6541 Eastern Avenue, Baltimore, My. 21224. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M Street, NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *paper and paper articles* from the plantsite and facilities of Container Corporation of America at or near Baltimore, Md., to points in Virginia and the District of Columbia, under a continuing contract or contracts with Container Corporation of America.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Baltimore, Md., or Washington, D.C. Applicant holds common carrier authority in No. MC 46036 (Sub-No. 1), therefore dual operations may be involved.

No. MC 128555 (Sub-No. 17), filed July 17, 1977. Applicant: MEAT DISPATCH, INC., 2103 17th Street, East, Palmetto, Florida 33561. Applicant's representative: Robert D. Gunderman, Suite 710 Statler Hilton, Buffalo, N.Y. 14202. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: Printed matter, materials and supplies used in the manufacture or production of such printed matter, and scrap paper for recycling, (except commodities in bulk and commodities which, because of size or weight, require the use of special equipment), between Buffalo, N.Y., on the one hand, and, on the other, points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, restricted to a transportation service to be performed under a continuing contract or contracts with Arcata Graphics—Buffalo, a subsidiary of Arcata National Corporation.

NOTE.—Applicant holds common carrier authority in MC 136123, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Buffalo, N.Y.

No. MC 128831 (Sub-No. 13), filed July 20, 1977. Applicant: DIXON RAPID TRANSFER, INC., Route 64–E, Mt. Morris, Ill. 61054. Applicant's representative: Robert H. Levy, 29 South LaSalle St., Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting pipe and duct used in heating, cooling, airconditioning and exhaust systems, materials and supplies used in the installation thereof, and building construction, wall sections and accessories and parts used in the installation thereof, from the plantsite of United S/M Division of United McGill Corp., located at Westerville, Ohio, to points in Illinois, Indiana, Iowa, Minnesota, Nebraska, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill. Common control may be involved.

No. MC 129712 (Sub-No. 13), filed July 25, 1977. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 954, McDonough, Ga. 30253. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) Iron and steel and iron and steel articles, between the facilities of Nucor Steel at or near Darlington, S.C., on the one hand, and, on the other, points in Mississippi, Tennessee, Texas, Nebraska, Illinois, Wisconsin, Michigan, Indiana, Kentucky, Alabama, Georgia, Florida, North Carolina, Virginia, West Virginia, Ohio, Pennsylvania, Maryland, New York, New Jersey, Connecticut, Rhode Island, Masachusetts, Vermont, New Hampshire and Maine; and (2) materials, equipment and supplies used, sold or dealt in by steel mills, between the States named in (1) above, on the one hand, and, on the other, the facilities of Nucor Steel located at or near Darlington, S.C., under a continuing contract or contracts with Nucor Steel, a Division of Nucor Corp.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or Atlanta, Ga.

No. MC 129712 (Sub-No. 14), filed July 25, 1977. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 954, McDonough, Ga. 30253. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Buildings, metal, knocked down, and component parts thereof; electrical conduits; electric wire and moldings; pipe and pipe fittings; metal tubing; asphalt, solid or liquid, in packages; and supplies, equipment and materials used in the installation and maintenance of the foregoing named commodities; and advertising material, printed, from the plantsite of Walker-Parkersburg, a Division of Textron, Inc., at or near Parkersburg, W. Va., to points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with Walker-Parkersburg, a Division of Textron, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Washington, D.C. or Atlanta, Ga.

No. MC 133095 (Sub-No. 168), filed July 19, 1977. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: A. J. Swanson, 521 South 14th St., P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* (except commodities in bulk), from Baltimore, Md., to points in the United States (except Alaska, Hawaii, and Maryland).

NOTE.—Applicant holds motor contract carrier authority in No. MC 136032 and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Dallas, Tex. or Washington, D.C.

No. MC 134006 (Sub-No. 4), filed July 12, 1977. Applicant: PARKER & SON TRUCKING, INC., 4520 Maywood Ave., Vernon, Calif. 90058. Applicant's representative: Richard Parker, 4520 Maywood Ave., Vernon, Calif. 90058. Authority to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, (except in bulk), from Phoenix, Ariz., to Concord, Vallejo and Hayward, Calif.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles or San Diego, Calif.

No. MC 134029 (Sub-No. 6), July 20, 1977. Applicant: SIGEL'S HAULING, INC., P.O. Box 286, Cadiz., Ohio 43907, Applicant's representative: Paul F. Beery, 275 East State St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Used machinery, used equipment, and materials and supplies incidental to, or used in, the construction, development, operation, and maintenance of facilities for the discovery, development, and production of coal, (except commodities in bulk and iron and steel and iron and steel articles). (1) Between points in Noble, Lawrence, and Gallia Counties, Ohio; Pike, Martin, Menifee, Morgan, and Logan Counties, Ky.; Brooke and Hancock Counties, W. Va.; and Washington County, Pa., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), and (2) Between points in Belmont and Jefferson Counties, Ohio, on the one hand, and, on the other, points in the United States (except Alaska, Hawaii, Ohio, Pennsylvania, West Virginia, Kentucky, Indiana, and Illinois). Restriction: The operations herein are restricted (1) to transportation of machinery and equipment that require dismantling or erection for purposes of transportation, and (2) to traffic originating at or destined to the coal mine construction, stripping, and storage locations of Ohio Coal and Construction Corp.; Universal Coal and Energy Co., Inc., West Virginia Energy, Inc., Penn United Energies, Inc., Triex Excavating Co., and Coal Industries of West Virginia, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio.

No. MC 134029 (Sub-No. 7), filed July 20, 1977. Applicant: SIGEL'S HAULING, INC., P.O. Box 286, Cadiz, Ohio 43907. Applicant's representative: Paul F. Beery, 275 East State St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Used machinery, used equipment, and materials and supplies incidental to, or used in, the construction, development, operation, and maintenance of facilities for the discovery, development, and production of coal, (except commodities in bulk and iron and steel and iron and steel articles), Between points in Mercer, Putnam, Schuyler, Sullivan, Boone, Adair, Randolph, Monroe, Callaway, Cooper, Saline, Carroll, Montgomery, Ralls, Howard and Shelby Counties, Mo., and Davis and Appanoose Counties, Iowa, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to the transportation of machinery and equipment that requires dismantling or erection for purposes of transportation; and further restricted to traffic originating at or destined to the coal mine construction, stripping, and storage locations of Missouri Mining Inc., and Universal Coal and Energy Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Columbus, Ohio.

MC 134477 (Sub-No. 183), filed July 19, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Rd., West St. Paul, Minn. 55118: Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting, meats, meat products, meat by-products and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Morris Rifkin & Sons at or near So. St. Paul, Minn. to Dallas and Fort Worth, Tex. Restricted to the transportation of traffic originating at the above named origin and destined to the above named destination points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 134599 (Sub-No. 156), filed July 14, 1977. Applicant: INTERSTATE CONTRACT CARRIER CORP., 265 West 2700 South, P.O. Box 748, Salt Lake City, Utah 84110. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery* (except commodities in bulk or those which because of size or weight require the use of special handling or equipment), from Sulphur Springs, Tex., to points in Washington, Oregon, California, Idaho, Nevada, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Arkansas and Louisiana, under continuing contract with Hollywood Brands, Division of Consolidated Foods Corp.

NOTE.—Applicant holds motor common carrier authority in No. MC 139906 therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr., or Salt Lake City, Utah.

No. MC 134838 (Sub-No. 17), filed July 11, 1977. Applicant: SOUTHEASTERN TRANSFER & STORAGE CO., INC., P.O. Box 39236, Bolton Station, Atlanta, Ga., 30318. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St. NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Savannah, Ga., to points in Alabama, Florida, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee.

NOTE—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 134884 (Sub-No. 11), filed July 19, 1977. Applicant: FARWEST FURNITURE TRANSPORT, INC., 6840–112th Avenue SE., Renton, Wash. 98055. Applicant's representative: Bruce E. Mitchell, 3379 Peachtree Rd. NE., Suite 375, Atlanta, Ga. 3326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: New furniture and fixtures, from points in Montana to points in Wyoming, Colorado, New Mexico, Utah, Arizona, Nevada and California.

NOTE—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 134922 (Sub-No. 231), filed July 25, 1977. Applicant: B. J. McAdams, Inc., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Plastic materials and products, powders, granules and pellets (except in bulk), from Kobuta, Pa. to Arizona, New Mexico, Nevada, Utah, California, Oregon, Washington, and Idaho.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the Applicant requests it be held at Washington, D.C., or Philadelphia, Pa.

No. MC 134979 (Sub-No. 10), filed July 18, 1977. Applicant: DAGGETT TRUCK LINE, INC., Frazee, Minn. 56544. Applicant's representative: Gene P. Johnson, P.O. Box 2471, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pet food, milk replacer and dried molasses*, from Owatonna and Minneapolis, Minn., to points in Idaho, Montana, North Dakota, and Washington, under a continuing contract or contracts with Farmers Union Grain Terminal Association, located at Sioux Falls, S. Dak.

NOTE.—Applicant holds common carrier authority in MC 124159 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Fargo, N. Dak.; Sioux Falls, S. Dak.; or St. Paul, Minn.

No. MC 135082 (Sub-No. 45) (Amendment), filed April 11, 1977. Published in the FR issue of May 5, 1977, republished as amended this issue. Applicant: BURSCH TRUCKING, INC., d.b.a., ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road NE., Albuquerque, N. Mex. 87125. Applicant's representative: Don F. Jones, P.O. Box 26748, 415 Rankin Road NE., Albuquerque, N. Mex. 87125. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber, lumber products, wood products and millwork* (except commodities in bulk when moving in tank vehicles), (a) between points in Arizona, Colorado, and New Mexico, (b) from points in Arizona, Colorado, and New Mexico, to points in Kansas, Missouri, Oklahoma, Arkansas, Louisiana, and Texas, (c) from points in Arizona, Colorado, and New Mexico, to points in California, Idaho, Oregon, Montana, Nevada, and Washington; (d) from points in Kansas, Missouri, Oklahoma, Arkansas, Louisiana, and Texas, to points in Arizona, Colorado, and New Mexico; (e) from points in California, Idaho, Montana, Nevada, Oregon, Washington, Utah, and Wyoming, to points in Arizona, Colorado, New Mexico, Kanasas, Oklahoma, Missouri, Arkansas, Louisiana, and Texas; (2) *Resin and wax emulsion, in shipper-owned containers*, between points in New Mexico, on the one hand, and, on the other, points in Texas and Arkansas; and (3) *Machinery, equipment and supplies destined to sawmills, lumber products and wood products mill locations* (except commodities in bulk when moving in tank vehicles), from points in the United States on and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada, to points in Arizona, Colorado, and New Mexico, restricted against traffic moving between points in the States of Colorado, Utah, and Wyoming.

NOTE.—The purpose of this republication is to amend applicant's requests of authority. Applicant intends to tack the separate authorities herein sought under Item 1, subparagraphs, a, b, c, d and e above, at points in the common gateway States of Arizona, Colorado, and New Mexico in order to provide a through service from the origin States specified in subparagraph d to the destination States specified in subparagraph c, and authority to so tack and provide said through service is hereby sought and re-

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quested in this application. Pre-hearing conference scheduled November 8, 1977, at the offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 135170 (Sub-No. 24), filed July 19, 1977. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, Md. 21632. Applicant's representative: James C. Hardman, 33 N. LaSalle St., Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic and metal products*, from Federalsburg, Md. to points in Delaware, Florida, Georgia, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Virginia, and West Virginia; and (2) *Materials, equipment, and supplies used in the manufacture of metal and plastic products*, from points in above named States to Federalsburg, Md. Restrictions: The above transportation will be performed under a continuing contract with Maryland Plastics, Inc., and is restricted against the transportation of commodities in bulk and against commodities which, because of size or weight, require the use of special equipment.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 135684 (Sub-No. 51) (Correction), filed March 31, 1977, published in the FR issue of May 26, 1977, as No. MC 87720 (Sub-No. 165), and republished as corrected this issue. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Rd., Flemington, N.J. 08822. Applicant's representative: Ronald L. Knorowski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and pet food, and materials, equipment and supplies* used in the manufacture, sale and distribution of animal and pet food, between points in Connecticut, Delaware, Illinois, Indiana, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and the District of Columbia, and Atlanta, Ga., a nonradial movement.

NOTE.—The purpose of this republication is (1) to indicate that the docket number for this proceeding has been reassigned No. MC 135684 (Sub-No. 51), in lieu of No. MC 87720 (Sub-No. 165); and (2) to clarify that a nonradial movement is sought. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 135691 (Sub-No. 17) filed July 21, 1977. Applicant: DALLAS CARRIERS CORP., 3610 Garden Brook Drive, P.O. Box 34080, Dallas, Tex. 75234. Applicant's representative: J. Max Harding, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Automotive parts and accessories, automotive jacks and cranes (not self-propelled), hand, elcctric and pneumatic tools, advertising materials, premiums, racks, display cases and signs*, from the plantsite and warehouse facilities of Walker Manufacturing Company located at or near Arden, N.C., to points in the United States (except Alaska and Hawaii); and (b) *Materials, supplies and equipment used in the manufacture, sale and distribution of the aforementioned commodities*, from points in the United States (except Alaska and Hawaii) to the plantsite and warehouse facilities of Walker Manufacturing Company located at or near Arden, N.C. Restriction: All restricted against commodities in bulk or those requiring special equipment, and further restricted to traffic originating at or destined to the plantsite and warehouse facilities utilized by Walker Manufacturing Company at or near Arden, N.C., under a continuing contract or contracts with Walker Manufacturing Company, of Racine, Wis.

No. MC 135965 (Sub-No. 4) filed July 19, 1977. Applicant: J. P. Wiest dba Wiest Truck Line, 1305 6th Avenue SW., Jamestown, N. Dak. 58401. Applicant's representative: James B. Hovland, P.O. Box 1637, 414 Gate City Building, Fargo, N.Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: prefabricated metal buildings, knocked down, and parts and attachments for prefabricated metal buildings, from Oklahoma City, Okla., to points in North Dakota, under a continuing contract, or contracts, with North Star Steel, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Minneapolis or St. Paul, Minnesota or Bismarck, N. Dak.

No. MC 135982 (Sub-No. 16), filed July 21, 1977. Applicant: S. L. Harris, doing business as P.B.I., P.O. Box 7130, Longview, Tex. 75601. Applicant's representative: Bernard H. English, 6270 Firth Road, Forth Worth, Tex. 76116. Authority sought to operate as a *common carrier*, motor vehicle, over irregular routes, transporting: (1) *Metal containers, metal container ends, and* (2) *shrouds, pallets, chipboard, and dunnage materials*, (1) from Longview, Tex., to Memphis, Tenn., and (2) from Memphis, Tenn., to Longview, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Dallas or Fort Worth, Tex.

No. MC 136035 (Sub-No. 9), filed July 19, 1977. Applicant: W. S. Dunning & Son, Inc., 131 D South Balmar Street, West Chester, Pa. 19380. Applicant's representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, Md. 20760. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs and food products*, from Louisville, Ky., to points in New York, Massachusetts, New Jersey, Pennsylvania, Maryland, Michigan, Ohio, Indiana, Tennessee, Georgia, Alabama, Florida, Louisiana, Texas, North Carolina, South Carolina, Illinois, Arkansas, Mississippi, Missouri, Washington, Oregon, California, Virginia, West Virginia, Connecticut, and Rhode Island; (2) rejected and returned shipments of the commodities specified in (1) above, from the destination territory listed in (1) above, to the facilities of Paramount Foods, Inc., in Louisville, Ky., and; (3) materials and supplies (except commodities in bulk), used in the manufacture, production, distribution, and sale of commodities listed in (1) above, from the destination territory named in (1) above, to the facilities of Paramount Foods, Inc., in Louisville, Ky., under a continuing contract, or contracts, with Paramount Foods, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 136069 (Sub-No. 9), filed July 21, 1977. Applicant: COIN DEVICES CORP., 1130 Chestnut St., Elizabeth, N.J. 07201. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coins, currency, checks and food stamps*, Between Easton, Pa., on the one hand, and, on the other, the Fidelity Union Bank, Newark, N.J., and National State Bank, Elizabeth, N.J., under a continuing contract or contracts with Village Super Market, Inc., Springfield, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y. or Newark, N.J.

No. MC 136285 (Sub No. 26), filed July 25, 1977. Applicant: SOUTHERN INTERMODAL LOGISTICS, INC., Post Office Box 1375, Thomasville, Ga. 31792. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Post Office Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting *Iron and steel articles*, from Savannah, Ga., to points in Florida, Georgia, North Carolina, South Carolina, Alabama, Tennessee, Kentucky, and Mississippi.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

MC 136285 (Sub No. 27), filed July 20, 1977. Applicant: SOUTHERN INTERMODAL LOGISTICS, INC., P.O. Box 1375, Thomasville, Ga. 31792. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Roofing and roofing materials* (except commodities in bulk), from points in Chatham County, Ga., to points in Florida, South Carolina, North Carolina, Alabama, and Tennessee; and (2) *Materials and supplies* used in the manufacture, distribution, and installation of roofing (except commodities in bulk), from points in Florida, South Carolina, North Carolina, Alabama and Tennessee, to points in Chatham County, Ga.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Washington, D.C. Common control may be involved.

No. MC 136669 (Sub-No. 15), filed July 18, 1977. Applicant: PROCESSED BEEF EXPRESS, INC., P.O. Box 522, Dakota City, Nebr. 68731. Applicant's representative: Eugene D. Anderson, 910 17th Street, N.W., Suite 428, Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Such merchandise as is sold by and used by retail department stores* (except commodities in bulk), from New York, N.Y., to Kansas City, Mo., Kansas City, Kans. Commercial zone, restricted to a continuing contract or contracts with R. H. Macy and Company, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Kansas City, Mo. or Omaha, Nebr. Common control may also be involved.

No. MC 136796 (Sub-No. 3), filed July 19, 1977. Applicant: CHARLES OTTO, d.b.a. OTTO TRANSFER, 417 Elm Street, Delano, Minn. 55328. Applicant's representative: John B. Van de North, Jr., W–2200, First National Bank Building, Saint Paul, Minn. 55101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Insulation products* (except in bulk and except cellulose products), from Rockford, Minnesota, to points in Colorado, Montana, Wyoming, Kansas, Nebraska, Missouri, Michigan, Wisconsin, Iowa, North Dakota, South Dakota, Kentucky, Indiana and Illinois (except points in Cook County), under a continuing contract or contracts with Minnesota Diversified Products, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either St. Paul or Minneapolis, Minn.

No. MC 138126 (Sub-No. 18), filed July 19, 1977. Applicant: WILLIAMS REFRIGERATED EXPRESS, INC., Old Denton Road, Federalsburg, Md. 21632. Applicant's represeptative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables*, from Ridgely, Md. to points in Virginia, North Carolina, South Carolina, Georgia and Florida.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Washington, D.C.

No. MC 138235 (Sub-No. 15), filed July 25, 1977. Applicant: DECKER TRANSPORT COMPANY, INCORPORATED, 412 Route 23, Pompton Plains, N.J. 07444. Applicant's representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *Contract Carrier*, by motor vehicle, over irregular routes, transporting: *Hardware, conveyors* and *conveyor equipment, furniture, power equipment*, and *wheel goods* and *parts, attachments*, and *accessories* therefor, and *materials, equipment*, and *supplies* utilized in the manufacture and distribution thereof (except in bulk), Between Indianola, Mississippi, on the one hand, and, on the other, points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Arkansas, Louisiana, Alabama, Tennessee, Georgia, Florida, South Carolina, North Carolina, Virginia and West Virginia, under a continuing contract or contracts with MTD Products, Inc. of Willard, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Dallas, Tex.

MC 138878 (Sub-No. 7), filed July 1, 1977. Applicant: JOHN S. WATSON, d.b.a. JOHN S. WATSON TRUCKING COMPANY, Route 2, Box 94, Weston, W. Va. 26452. Applicant's representative: John M. Friedman, 2930 Putnam Ave., Hurricane, W. Va. 25526. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting *Steel Tubing*, from Jane Lew, W. Va., to points in Massachusetts, Connecticut, Wisconsin, Minnesota, Texas, Arkansas, Missouri, Kansas, Oklahoma, Iowa, Colorado, Nebraska, California, Oregon and Washington.

NOTE.—If a hearing is deemed necessary, Applicant requests that it be held at Charleston, W. Va.

No. MC 139356 (Sub-No. 2), filed July 11, 1977. Applicant: MIDLAND TRANSPORTATION, INC., 145 North Main, East Wenatchee, Wash. 98801. Applicant's representative: Michael D. Duppenthaler, 515 Lyon Bldg., 607 3rd Ave., Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferrosilicon*, in bulk, in dump trucks and trailers, from the facilities of The Hanna Mining Company located at or near Rock Island, Wash., to Portland, Oreg.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Wenatchee, Wash., or Seattle, Wash.

No. MC 139369 (Sub-No. 7), filed July 20, 1977. Applicant: RAEMARC, INC., 1531 Taylor Ave., Racine, Wis. 53403. Applicant's representative: Paul R. Bergant, 10 South LaSalle St., Suite 1600, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier* by motor vehicle over irregular routes, transporting: (1) Materials and supplies (except commodities in bulk) use in the manufacture of agricultural, industrial and construction machinery and equipment; (2) parts and attachments for agricultural, industrial and construction machinery and equipment. Between points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin, under contract with J I Case Company.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Illinois.

No, MC 139713 (Sub-No. 4), filed July 19, 1977. Applicant: DONALD M. NASS, d.b.a. DON NASS TRUCKING, 210 Front St., Clinton, Wis. 53525. Applicant's representative: Nancy J. Johnson, 4506 Regent St., Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Malt beverages*, from Newport, Kentucky to South Beloit, Ill. and points in Wisconsin on and south of U.S. Highway 16.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Madison or Milwaukee, Wis., or Dubuque, Iowa.

No. MC 140379 (Sub-No. 3), filed July 19, 1977. Applicant: TRANSPORT SERVICE, INC., 999 Pontiac Avenue, Cranston, RI 02920. Applicant's representative: Jeffrey A. Vogelman, 6121 Lincolnia Rd., Suite 400, Overlook Bldg., Alexandria, Va. 22312. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hot rolled steel sheets and coils, hot rolled steel bands, cold rolled steel sheets and coils, black plate in coils, and wire and rod*, from Chicago, Ill.; Warren, Youngstown, and Steubenville, Ohio; Wheeling, W. Va.; Sharon, Pittsburgh, Johnstown, and Fairless, Pa., and Sparrows Point, Md., to the facilities of Newman-Crosby Steel, Inc. at Pawtucket, R.I., and (2) *Cold rolled steel strip, band steel, flat wire*, and *straight and cut steel lengths*, from the facilities of Newman-Crosby Steel, Inc. at Pawtucket, R.I., to points in Georgia, Illinois, Indiana, Kentucky, Michigan, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, and Virginia. The sought authority is restricted to a transportation service to be performed, under a continuing contract, or contracts, with Newman-Crosby Steel, Inc. of Pawtucket, R.I.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Providence, R.I. or Boston, Mass.

No. MC 140511 (Sub-No. 5), filed July 26, 1977. Applicant: AUTOLOG CORPORATION, 319 W. 101 Street, New York, N.Y. 10025. Applicant's representative: Larsh B. Mewhinney, 235 Mamaroneck Ave., White Plains, N.Y. 10605. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used passenger automobiles, vans and pickup trucks up to three-quarter ton; and baggage, sporting equipment and personal effects of the owners thereof* when moving with used passenger automobiles, vans and pickup trucks up to three-quarter ton, in secondary movements, in truckaway service, between points in the United States (except Alaska and Hawaii), in non radial movement.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 140612 (Sub-No. 24), filed July 25, 1977. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, Iowa 52406. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor

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vehicle, over irregular routes, transporting: *Such merchandise as is dealt in or used by retail stores,* (except foodstuffs and commodities in bulk). Between the distribution facilities of Ardan Wholesale, Inc. located at or near Des Moines, Iowa on the one hand, and on the other points in Nevada, California and Seattle, Washington.

NOTE.—Applicant holds motor contract carrier authority in No. MC 138003 and sub numbers thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Lincoln, Nebraska or Des Moines, Iowa.

No. MC 140665 (Sub-No. 11), filed July 25, 1977. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, Mo. 65767. Applicant's representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Metal, plastic, or glass coatings; Porcelain materials; clay or clay products; paint; color additives; chemicals; plastic materials; ceramic materials; insulating materials; glassware; refractories; fiberglass; furnace or kiln supplies;* and *materials and supplies used in the production or marketing of the above commodities* (except commodities in bulk), Between the facilities of the Ferro Corporation located in Cuyahoga Heights, Walton Hills, Sebring, and East Liverpool, Ohio; Nashville, Tennessee; Dresden, New York; Pittsburgh, Pennsylvania; Hammond, Indiana; Chicago and Bartlett, Illinois; Houston and Tyler, Texas, on the one hand, and, on the other, points in Arizona, California, Colorado, Nevada, New Mexico, Utah, Wyoming, Montana, Idaho, Oregon, and Washington.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Cleveland, Ohio or Washington, D.C.

No. MC 140678 (Sub-No. 2), filed July 19, 1977. Applicant: ROBERT PATRICK McCARTHY, d.b.a. TRICO, P.O. Box 1319, Tulare, Calif. 93274. Applicant's representative: Randall M. Faccinto, 100 Pine St., Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Dry fertilizer,* in bulk, (1) from El Centro, Bena, Edison, Stockton, Helm and Hercules, Calif., to points in Arizona, Nevada, Utah, Colorado, Idaho, Oregon, and Washington; and (2) from Pocatello and Conda, Idaho, and Wendover, Utah, to points in California, under a continuing contract, or contracts, in (1) and (2) above with Valley Nitrogen Producers, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either San Francisco, or Fresno, Calif.

No. MC 140829 (Sub-No. 54) filed July 20, 1977. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative, William J. Hanlon, 55 Madison Ave., Morristown, N.J. 07960. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products and articles,* distributed by meat packing houses from the plantsite and/or storage facilities utilized by Land O'Frost, Inc. at or near Searcy, Arkansas to points in Arizona, California, Colorado, Connecticut, Kansas, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Virginia and Washington, D.C., restricted to the transportation of traffic originating at the named origin and destined to points in the above named destination States.

NOTE.—Applicant holds contract carrier authority in MC 136408 (Sub-No. 7) and other subs, therefore, dual operations may be involved. If a hearing is deemed necessary, the applicant requests it to be held in Washington, D.C.

No. MC 140846 (Sub-No. 7), filed July 25, 1977. Applicant: CENTRAL DELIVERY SERVICE OF MASSACHUSETTS, INC., 125 Magazine St., Boston, Mass. 02119. Applicant's representative: Jeremy Kahn, Suite 733, Investment Bldg., Washington, D.C. 20005. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Advertising matter, consisting of camera-ready, paste-ups and layouts,* from Somerville, Mass., to Derry, N.H.; Newport, Pawtucket, and Providence, R.I.; and East Hartford, Ansonia, Bristol, Middletown, Naugatuck, New Britton, New London, Torrington, Winsted, Meriden, Bridgeport, Danbury, New Haven, Norwich, Waterbury, and Milford, Conn., restricted (1) against the transportation of any package or article weighing more than 10 pounds or exceeding 108 inches in length and girth combined, and each package or article shall be considered as a separate and distinct shipment; (2) against the transportation of packages or articles weighing in the aggregate more than 30 pounds from one consignor at one location to one consignee at one location on any one day; (3) to the transportation of packages or articles accomplished within 24 hours of the time in which the package or article is tendered for transportation; and (4) to transportation to be performed under a continuing contract or contracts with First National Stores, Somerville, Mass.

NOTE.—A carrier affiliated with applicant holds common carrier authority in MC 138480 and Sub Nos. thereunder; therefore, dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass.

No. MC 140927 (Sub-No. 4), filed July 19, 1977. Applicant: F. J. CAREY, JR., TRANS., INC., 35 Brett St., Brockton, Mass. 02401. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Sodium chloride and pumice,* in bulk, in dump vehicles, from Boston, Mass. to points in Connecticut.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass.

No. MC 141033 (Sub-No. 28), filed July 21, 1977. Applicant: CONTINENTAL CONTRACT CARRIER CORP., P.O. Box 1257, City of Industry, Calif. 91749. Applicant's representative: R. A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Wire and cable* (except commodities in bulk and those which by reason of size or weight require the use of special equipment), from Rome, N.Y., to points n the United States (except Alaska & Hawaii) and (2) *returned, refused or rejected shipments* of wire and cable from points in the United States (except Alaska & Hawaii) to Rome, N.Y. Restricted to the transportation of commodities originating at the plant sites and facilities of Cyprus Wire and Cable Company.

NOTE.—Applicant holds contract carrier authority in MC 124796 (Sub-No. 11) and other subs, therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Albany, New York or Washington, D.C.

No. MC 141076 (Sub No. 13), filed July 21, 1977. Applicant: ROGERS MOTOR LINES, INC., R.D. No. 2, P.O. Box 338D2, Hackettstown, N.J. 07848. Applicant's representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Confectionery* and *confectionery products,* in vehicles equipped with mechanical refrigeration (except in bulk), from the plant site and storage facilities of M & M/MARS, Division of MARS, Inc. at or near Hackettstown, N.J. and Elizabethtown, Pa. to points in Michigan and Ohio, restricted to traffic originating at the above-named origins and destined to points in the named destination states.

NOTE.—Applicant holds motor contract authority in MC 140781. Therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y. or Washington, D.C.

No. MC 141317 (Sub No. 2), filed July 18, 1977. Applicant: R. J. L. CORPORATION, P.O. Box 125, Shelburn, Ind. 47879. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Corrugated plastic drainage tubing* from the plant site and warehouse facilities of Certain-Teed/Daymond Co. at or near Towanda, Ill., to points in Missouri, Kansas, Arkansas, Tennessee, Kentucky, Indiana, Ohio, Iowa, Minnesota, Wisconsin, Michigan, Pennsylvania, New York, Nebraska and West Virginia, under a continuing continuing contract or contracts with Certain-Teed/Daymond Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 141414 (Sub-No. 2), filed July 25, 1977. Applicant: TOTO PURCHASING & SUPPLY CO., INC., 275 Highland Avenue (Rear), Las Vegas, Nev. 89106. Applicant's representative: Carl H. Fritze, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *gypsum wallboard and gypsum lath,* palletized, from points in Clark County, Nevada, to points in California, except Los Angeles, Orange, Riverside and San Bernardino Counties.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Las Vegas, Nev. or Los Angeles, Calif.

No. MC 141849 (Sub-No. 6), filed July 25, 1977. Applicant: RAY LOCKRIDGE TRUCKING, INC., 95 Lawrenceville Industrial Park, Circle N.E., Lawrenceville, Ga. 30245. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, Ga. 30349. Authority to operate as a *contract carrier,* by motor vehicle, over irregular routes in the transportation of, *plastic articles* (except in bulk), from points in Newton and Rockdale Counties, Ga. to points in West Virginia, under a continuing contract or contracts with Mobile Chemical Company, Plastics Division of Macedon, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga.

No. MC 141914 (Sub-No. 13), filed July 21, 1977. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, Okla. 74332. Applicant's representative: Gary Brasel, Mezzanine Floor, Beacon Building, Tulsa, Okla. 74103. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: Plastic products, wood products, and sporting goods, from the plant site of Forster Manufacturing Company, Inc., located at Wilton and Strong, Maine, to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Portland, Maine.

No. MC 142040 (Sub-No. 3), filed July 14, 1977. Applicant: AMBER DELIVERY SERVICE, INC., 25 Franklin Street, Malden, Mass. 02148. Applicant's representative: Joseph T. Bambrick, Jr., P.O. Box 216, 217 Old Airport Road, Douglassville, Pa. 19518. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Middlesex, Norfolk and Suffolk Counties, Mass., on the one hand, and, on the other, points in Androscoggin, Cumberland, Franklin, Hancock, Knox, Lincoln, Oxford, Penobscot, Sagadahoc, Somerset, and Waldo Counties, Maine, and Belknap, Carroll, Cheshire, Coos, Grafton, Merrimack, Strafford, and Sullivan Counties, N.H., restricted to individual articles not exceeding 200 pounds and shipments not exceeding 500 pounds from one consignor to one consignee in a single day, and further restricted to shipments destined to or originating at an individual residence.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass. or Chicago, Ill.

No. MC 142353 (Sub-No. 3), filed July 15, 1977. Applicant: ADAMS SAND CO., INC., Highway 90, General Delivery, Mossy Head, Fla. 32434. Applicant's representative: Edward L. Adams, Highway 90, General Delivery, Mossy Head, Fla. 32434. Authority to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials* in bulk, in side-dump trailers from Cottondale and Pace, Fla., to points in Alabama and Georgia on and South of U.S. Highway 80 and West of Interstate 75.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Tallahassee, Fla.

No. MC 142356 (Sub-No. 4), filed July 20, 1977. Applicant: J. S. BRYANT TRUCKING COMPANY, INC., Route 3, Box 214C, Lynchburg, Va. 24504. Applicant's representative: Michael L. Rigsby, 200 West Grace Street, Suite 415, Richmond, Va. 23220. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *scrap iron and shredded scrap steel,* between Washington, D.C., on the one hand, and, on the other, points in Lynchburg, Radford, and Roanoke, Va., under a continuing contract or contracts with Lynchburg Foundry Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Lynchburg, Va.

No. MC 142549 (Sub-No. 1), filed July 15, 1977. Applicant: WALNUT HILL WRECKER SERVICE, INC., 11500 Stemmons Freeway, Suite 112, Dallas, Tex. 75229. Applicant's representative: D. Paul Stafford, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *wrecked, disabled, or repossessed vehicles and replacement vehicles for wrecked, disabled or repossessed vehicles, by use of wrecker equipment,* between Dallas County, Texas, on the one hand, and, on the other, points in the United States (except New Mexico, Arizona, Colorado, Kansas, Oklahoma, Missouri, Arkansas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, Alaska, and Hawaii.)

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held in Dallas, Tex.

No. MC 142766 (Sub-No. 6), filed June 20, 1977. Applicant: WHITE TIGER TRANSPORTATION, INC., 115 Jacobus Ave., Kearny, N.J. 07032. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, N.J. 07934. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Agricultural insecticides, fungicides,* and *chemicals,* in mechanical refrigerated equipment, from points in the New York, N.Y. Commercial Zone as defined by the Commission and Piers in New York, N.Y. Harbor as defined by the Commission, to Bakersfield, San Francisco, Lathrop, Calif.; Danbury and Wallingford, Conn.; Wilmington and Atlas Point, Del.; Miami, Eaton Park, Tampa, Fla.; Savannah, Ga.; Carpentersville, Chicago, Northbrook, Rockford, Ill.; Indianapolis, South Bend, Ind.; Burlington, Iowa; Auburn, Maine; Boston, Chelsea, Westminister, Pittsfield, Mass.; Smithfield, Mich.; Minneapolis, Minn.; Picayune, Miss.; St. Louis, Kansas City, St. Joseph, Mo.; Buffalo, White Plains, Rochester, N.Y.; Burgaw, N.C.; Ashtabula, Cincinnati, Columbus, Cleveland, Dublin, Toledo, Akron, Ohio; Neville Island, Philadelphia, Pittsburgh, Pa.; Kingsport, Tenn.; Dallas, Houston, Tex.; Saukville, Port Washington, Milwaukee, Wis., under a continuing contract, or contracts, with Solchem Incorporated.

NOTE.—Applicant has motor common carrier authority pending in NO. MC 143236 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either New York, N.Y., or Washington, D.C.

No. MC 142855, filed July 19, 1977. Applicant: ORANGEBURG TRUCKING, INC., P.O. Drawer 1164, Orangeburg, S.C. 29115. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, S.C. 29201. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Woodchips, sawdust, and bark,* from Elgin and Orangeburg, S.C., to Augusta and Savannah, Ga.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Columbia, S.C., Charlotte, N.C., or Augusta, Ga.

No. MC 142914 (Sub-No. 1), filed July 19, 1977. Applicant: RAYMOND C. GRIFFITH, dba Griffith Transport, P.O. Box 244, Esbon, Kans. 66941. Applicant's representative: Eugene W. Hiatt, 207 Casson Building, 603 Topeka Boulevard, Topeka, Kans. 66603. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: Meat scraps, offal products, lungs, tripe, hearts, liver, tails and switches, spleens, cheek meats, lips, pancreas, glands, Salisbury glands and fats, weasland, head meats, beef tongue and tallow, animal, from Mankato, Kans., to points in Nebraska, Iowa, Missouri, Oklahoma, Colorado, Arkansas, Texas, and Illinois, under a continuing contract or contracts with Dubuque Packing Company of Mankato, Kans.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Salina, Topeka, or Kansas City, Kans. or Kansas City, Mo.

No. MC 143027 (Sub-No. 1), filed July 19, 1977. Applicant: MICHAEL J. RESUDEK, doing business as CAPITOL CARTAGE CO., 3521 International Ln., Madison, Wis. 53704. Applicant's representative: Michael J. Resudek (same address as applicant). Authority sought to oper-

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ate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, Classes A & B explosives, those which because of size or weight require special equipment, and those of unusual value), between Dane County Regional Airport, Madison, Wis., and Greater Rockford Airport, Rockford, Ill., restricted to traffic having a prior or subsequent movement by air.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 143059 (Sub-No. 3), filed July 19, 1977. Applicant: MERCER WATER & SEWER TRANSPORTATION CO., 1021 N. Calhoun Street, P.O. Box 4474, Fort Worth, Tex. 76106. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron pipe fittings*, from the plantsite of J. P. Ward Foundries, Inc., at or near Blossburg (Tioga County), Pa., to points in the United States (except Alaska or Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., Louisville, Ky.

No. MC 143127 (Sub-No. 1), filed July 15, 1977. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Rd., Rochester, N.Y. 14623. Applicant's representative: S. Michael Richards, P.O. Box 225, 44 North Ave., Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Foodstuffs* from Yates, Wayne, Ontario, Genesee, Livingston, Orleans, and Monroe Counties, N.Y., to points in Illinois, Indiana, Kentucky, Michigan, and Wisconsin.

NOTE.—Applicant holds motor contract carrier authority in No. MC-138991 (Sub-No. 2 and others); therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either New York City or Syracuse, N.Y.

Docket MC 143157 (Sub-No. 1), filed July 18, 1977. Applicant: BILBO FREIGHT LINES, INC., 2722 Singleton Blvd., Dallas, Tex. 75212. Applicant's representative: Austin L. Hatchell, 1102 Perry Brooks Bldg., Austin, Tex. 78701. Authority sought as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and Gypsum Products and Materials and Supplies used in the distribution of Gypsum and Gypsum Products (except in bulk)*, from Acme, Tex., to points in Texas, restricted to shipments moving in foreign commerce, and under a continuing contract or contracts with Georgia Pacific Corporation, Gypsum Division.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Dallas or Forth Worth, Tex.

No. MC 143184 (Sub-No. 2), filed July 19, 1977. Applicant: DARREL W. PRICE, doing business as MODULAR WEST TRANSPORT, 349 33rd Street, Ogden, Utah 84401. Applicant's representative: Frank M. Wells, 550 24th Street, Ogden, Utah 84401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *modular buildings* and *related equipment* and *furnishings*, from Ogden, Utah, to points in Wyoming, Montana, Colorado, Nevada, Idaho, Oregon, and Washington, under a continuing contract or contracts with First Rocky Mountain Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Salt Lake City, Utah.

No. MC 143193, filed July 18, 1977. Applicant: JUNEAU TRANSIT, INC., 105 North 8th Street, Manitowoc, Wis. 54220. Applicant's representative: Leslie J. Valleskey, 105 North 8th Street, Manitowoc, Wis. 54220. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ethyl Alcohol* in bulk in tank vehicles, from Juneau, Wis., to points in Minnesota, Iowa, Indiana, Illinois and Michigan, and *brewer's yeast* in bulk in tank vehicles from points in Minnesota, Iowa, Indiana, Illinois and Michigan, to Juneau, Wis., under a continuing contract or contracts with Milbrew, Inc. of Milwaukee, Wis.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Milwaukee, Madison, or Green Bay, Wis.

No. MC 143249 (Sub-No. 2), filed July 21, 1977. Applicant: MID-EASTERN TRANSPORTATION, INC., Sugar Hollow Road, Box 1834, Morristown, Tenn. Applicant's representative: Roland M. Lowell, 618 United American Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *clocks, new furniture, parts of furniture, and parts* used in manufacture of furniture, (1) Between New Albany, Ind., Newcomerstown, Ohio and Knoxville, Tenn. (2) From New Albany, Ind., Newcomerstown, Ohio and Knoxville, Tenn. to points in Alabama, Florida and Georgia (3) From points in Cocke, Jefferson and Hamblin Counties, Tenn. to points in Alabama, Florida and Georgia.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Knoxville or Nashville, Tenn.

No. MC 143280 (Sub-No. 2), filed July 20, 1977. Applicant: SAFE TRANSPORTATION COMPANY, a corporation, 1975 Oakcrest Avenue, Roseville, Minn. 55113. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, glass container closures and glass container packaging materials and cartons*, from Shakopee, Minn. to points in Illinois, Iowa, Missouri and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minnesota.

No. MC 143301 (Sub-No 2), filed July 20, 1977. Applicant: SPAULDIN ALLISON, doing business as ALLISON TRUCKING, Route 2, Box 162, Horse Shoe, N.C. 28742. Applicant's representative: George W. Clapp, 109 Hartsville Street, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from points in Bell County, Ky., and Campbell and Morgan Counties, Tenn., to the plantsite of Olin Corporation located at or near Pisgah Forest, N.C.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Asheville, N.C.

No. MC 143435 (Sub-No. 1), filed July 18, 1977. Applicant: MONDAY'S EXPRESS, INC., 201 Johnson St., Covington, Ky. 41011. Applicant's representative: Charles P. Gore, 107 Church St., Lexington, Ky. 40507. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Premixed clay*, from Cincinnati, Ohio, to McMinnville, Tenn.; (2) *raw castings*, from McMinnville, Tenn.; to Cincinnati, Ohio; Buffalo and Akron, N.Y.; Lake City, Minn.; and Detroit, Mich.; and (3) *empty metal containers*, from Detroit, Mich.; to McMinnville, Tenn.; under contract with Powermatic/Houdaille, Inc.; at McMinnville, Tenn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Lexington, or Louisville, Ky., or Cincinnati, Ohio.

No. MC 143449 (Sub-No. 1), filed July 5, 1977. Applicant: RED BALL WRECKER SERVICE, INC., 235 West 10th, Wichita, Kans. 67203. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Bldg., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicles over irregular routes, transporting: *Wrecked and disabled or repossessed vehicles and trailers and replacement vehicles and trailers for such wrecked or disabled vehicles*, between points in Kansas, on the one hand, and points in the United States (except Alaska and Hawaii), on the other hand. Restricted against trailers designed to be drawn by passenger automobiles, mobile homes, buildings in sections, traveling on their own or removable undercarriages, unless they are wrecked.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Topeka, Kans. or Kansas City, Mo.

No. MC 143497, filed July 15, 1977. Applicant: S. J. BROWNING CORP., New Plain Road, Northfield, Mass. 01360. Applicant's representative: David M. Marshall, 101 State Street—Suite 304, Springfield, Mass. 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes transporting: *Stoves, fireplaces, building materials, and materials and supplies used in the manufacture and sale of such commodities* (except in bulk, in tank vehicles), between Orange and Boston, Mass.; Camden, N.J.; New York, N.Y.; Baltimore, Md.; Savannah, Ga.; and Raleigh, N.C. on the one hand, and, on the other, points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas and Louisiana under a continuing contract or contracts with Interncontinental Building Products.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass.; Albany, N.Y. or Washington, D.C.

No. MC 143498, filed July 19, 1977. Applicant: THOMAS PRODUCE COMPANY OF MOUNT AIRY, INC., North Carolina Hwy. No. 220 South, P.O. Box 16707, Greensboro, N.C. 27406. Applicant's representative: Michael F. Morrone, 1150 17th Street NW., Suite 1000, Washington, D.C. 20036. Authority to operate as a *contract carrier*, by motor vehicle, over iregular routes, transporting: *cloth, dry goods and fabrics* from Danville, Va. to Los Angeles, Calif. and points in Los Angeles County, Calif. under a continuing contract or contracts with Dan River, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Washington, D.C. or Greensboro, N.C.

No. MC 143499, filed July 21, 1977. Applicant: DOUBLE NICKEL TRANSPORT LTD., 32 North Lexow Avenue, Nanuet, N.Y. 10954. Applicant's representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, N.Y. 10528. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastics and Plastic Articles* (except in bulk), from Terre Haute, Ind., DeRidder, La., and Mount Vernon, N.Y. to points in the United States, except Alaska, Arizona, Colorado, Hawaii, Idaho, Nebraska, New Mexico, Oklahoma, and Wyoming; and (2) *Materials and supplies used in the production of plastics and plastic articles* (except in bulk), from Lampoc, Calif.; Windsor Locks, Conn.; Atlas Point and Edge Moor, Del.; McCook, Ill.; Ville Platt and Westlake, La.; Baltimore, Laurel and Texas, Md.; Framingham, Mass.; Melvindale, Mich.; Hamilton, Miss.; St. Louis, Mo.; Bayonne, Bound Brook, Carlstadt, Gloucester City, Lodi, Newark, Parsippany, Perth Amboy, Sayreville, Secaucus, S. Plainfield, Tom's River, and Union, N.J.; Glens Falls, Rensselaer, and New York, N.Y.; Ashtabula, Cincinnati, Cleveland, Dover, and Painesville, Ohio; Bethlehem, Easton, Stockertown, Washington, and Williamsport, Pa.; Coventry, R.I.; Kingsport, Tenn.; Willow Island, W.Va.; and ports of entry located on the International Boundary Line between the United States and Canada in Maine, Michigan, New Hampshire, New York, and Vermont to Terre Haute, Ind., DeRidder, La., and Mount Vernon, N.Y., under a continuing contract or contracts with Ampacet Corp., of Mount Vernon, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at White Plains, N.Y.

No. MC 143500, filed July 20, 1977. Applicant: R. B. CARRIERS, INC., 4425 Highway 31E, Jeffersonville, Ind. 47130. Applicant's representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, Md. 20760. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) plumbing fixtures and fittings and related equipment from the plantsites and storage facilities of American Standard, Inc., at Tiffin, Ohio, and Louisville, Ky., to points in and west of Montana, Wyoming, Colorado, and New Mexico; and (2) materials, supplies and equipment used in the manufacture, production, distribution and sale of the commodities in (1) above from points in and west of Montana, Wyoming, Colorado, and New Mexico to the plantsites and storage facilities of American Standard, Inc., at Tiffin, Ohio and Louisville, Ky., under a continuing contract or contracts in (1) and (2) above with American Standard, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 143501, filed July 20, 1977. Applicant: R. G. C. CARGO CARRIERS, INC., 16901 Van Dam Road, South Holland, Ill. 60473. Applicant's representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, Md. 20760. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: fire fighting equipment and parts, and equipment, materials and supplies used in the manufacture, installation and repair thereof (except commodities in bulk), between Northbrook, Ill., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with General Fire Extinguisher Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 143502, filed July 20, 1977. Applicant: THE GOOD MECHANIC AUTO COMPANY, INC., 7224 Euclid Avenue, Cleveland, Ohio 44103. Applicant's representative: Paul F. Beery, 275 East State Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Wrecked, disabled and repossessed motor vehicles, trailers, and busses (except trailers designed to be drawn by passenger automobiles), and (2) replacement vehicles for wrecked or disabled motor vehicles and trailers (except trailers designed to be drawn by passenger automobiles), by use of wrecker equipment only, between Summit, Cuyahoga and Lake Counties, Ohio, on the one hand, and, on the other, points in Pennsylvania, New York, West Virginia, Kentucky, Indiana, Illinois and Michigan.

NOTE.—Common control may be involved. If a hearing is deemed necessary the applicant requests that it be held at Columbus, Ohio.

No. MC 143503, filed July 20, 1977. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, Calif. 93031. Applicant's representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: New furniture, new home furnishings, and accessories, between the facilities of Englander Triangle, Inc., located at or near Detroit, Mich., on the one hand, and on the other points in Williams, Fulton, Lucas, Ottawa, Sandusky, Wood, Henry, and Defiance Counties, Ohio.

NOTE.—Applicant holds contract carrier authority in MC 136211 (Sub-No. 1) and other subs, therefore, dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Detroit, Mich., or Los Angeles, Calif.

No. MC 143516, filed July 25, 1977. Applicant RAIL HIGHWAY TRANSPORTATION, INC., 2850–6 East River Road, Dayton, Ohio 45439. Applicant's Representative: Thomas F. Kilroy, Suite 406 Executive Building, 6901 Old Keene Mill Road, Springfield, Va. 22150. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting general commodities having a prior or subsequent movement by rail or water between Dayton, Columbus, and Cincinnati, Ohio, on the one hand, and, on the other, points in Ohio.

NOTE.—If a hearing is deemed necessary, the Applicant requests that it be held in Cincinnati, Ohio, or Washington, D.C.

No. MC 143518, filed July 20, 1977. Applicant: GREAT AMERICAN TRANSPORTATION, INC., 1284 Central Street, Leominster, Mass. 01453. Applicant's representative: David M. Marshall, 101 State Street, Suite 304, Springfield, Mass. 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting paper, plastic, paper, plastic and metal articles, corrugated cartons; and materials, supplies and equipment used in the manufacture of such commodities (except in bulk, in tank trucks), between the plants and facilities of Erving Paper Mills located in Brattleboro, Vt.; Erving, Baldwinville, and Orange, Mass.; Hinsdale, N.H.; Ligonier, Ind.; Hialeah, Fla.; Lockland, Ohio, and Mount Vernon, Ga., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with Erving Paper Mills.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Albany, N.Y.; Hartford, Conn.; Boston, Mass., or Washington, D.C.

No. MC 143519, filed July 22, 1977. Applicant: MALO TRANSPORT (1971), INC., 22 St. Jacques Street, St. Paul, Joliette, Quebec, Canada. Applicant's representative: Robert D. Gunderman, Suite 710 Statler Hilton, Buffalo, N.Y. 14202. Authority sought to operates as a *contract carrier*, by motor vehicle, over irregular routes, transporting: lime and lime products, in bulk, in tank vehicles, between ports of entry located on the International Boundary line between the United States and Canada in New York, Vermont, New Hampshire, and Maine,

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on the one hand, and, on the other, points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and Bellefonte, Pa., restricted to the transportation of traffic originating at or destined to the plantsite or facilities of Domtar Chemicals Limited, at or near Joliette, Quebec, under a continuing contract or contracts with Domtar Chemicals Limited.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Buffalo, N.Y.

No. MC 143520, filed July 21, 1977. Applicant: AAA MIDWEST VAN LINES, INC., 1350 Stimmel Road, Columbus, Ohio 43223. Applicant's representative: E. H. van Deusen, P.O. Box 97, 220 West Bridge Street, Dublin, Ohio 43017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used Household Goods* (restricted to the transportation of traffic in pickup and delivery service, having a prior or subsequent movement beyond the area authorized, on a through bill of lading issued by freight forwarder); between points in Franklin County, Ohio, on the one hand, and, on the other, points in Athens, Belmont, Carroll, Coshocton, Crawford, Delaware, Fairfield, Franklin, Gallia, Guernsey, Harrison, Hocking, Holmes, Jackson, Jefferson, Knox, Lawrence, Licking, Madison, Marion, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pickaway, Pike, Richland, Ross, Scioto, Seneca, Stark, Tuscarawas, Union, Vinton, Washington, and Wyandot Counties, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at San Francisco, Calif.

No. MC 143521, filed, July 19, 1977. Applicant: TWEHOUS EXCAVATING COMPANY, INC., Route 3, Jefferson City, Mo. 65101. Applicant's representative: James C. Swearengen, P.O. Box 456, Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction and contractors' machinery and equipment*, such as bulldozers, crawler tractors, cranes, shovels, motor graders, front-end loaders, rollers, scrapers, rippers and other such equipment which, because of size or weight, requires the use of special equipment, between points in Bollinger, Butler, Cape Girardeau, Dunklin, Miss.; New Madrid, Pemiscot, Scott, Stoddard, and Wayne, Counties, Mo., on the one hand, and, on the other, points in Alexander, Bond, Clay, Clinton, Crawford, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Johnson, Lawrence, Marion, Massac, Pope, Pulaski, Richland, Saline, Union, Wabash, Washington, Wayne, White and Williamson Counties, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo.

No. MC 143522, filed July 25, 1977. Applicant: CONSOLIDATED CARRIERS, INC., 302 Haugh Drive, Pittsburgh, Pa. 15237. Applicant's representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, Tenn. 37412. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those which because of size or weight require the use of special equipment), from Erie and Niagara Counties, N.Y., to points in Arizona, California, Nevada, Oregon, and Washington. Restricted to traffic originating at points in Erie and Niagara Counties, N.Y. and, further restricted to traffic moving for the account of Empire State Shippers Association, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 143526 filed July 19, 1977. Applicant: JIMMIE DAVIS, doing business as FOUR WAY HOUSE MOVERS, Route 5, Box 174, Lubbock, TX 79407. Applicant's representative: Thomas F. Sedberry, 1102 Perry-Brooks Building, Austin, TX 78701. Authority sought as a *common carrier*, by motor vehicle, over irregular routes, transporting: Houses and Prefabricated Buildings, intact or in sections (except when transported on wheeled undercarriages equipped with hitchball connectors), from Lubbock County, Tex., to points in Colorado, Kansas, New Mexico and Oklahoma.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Lubbock or Dallas, Tex.

No. MC 143527, filed July 19, 1977. Applicant: JACQUELINE A. RUNYON, d.b.a. SOS TOWING, 6931 N.E. Union Ave., Portland, Oreg. 97211. Applicant's representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, Oreg. 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wrecked, disabled, stolen, repossessed,* and *abandoned motor vehicles*, and *replacement motor vehicles* therefor, by use of wrecker equipment; and (2) *Machinery* with motor power removed, by use of wrecker equipment, between points in Oregon, Washington, Idaho and California.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Portland, Oreg.

No. MC 1515 (Sub-No. 235), filed July 20, 1977. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077. Applicant's representative: W. L. McCracken (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over regular routes, transporting: Passengers and their baggage in the same vehicle with passengers in one way and round trip special operations, (1) between Mountain Home, Idaho, and Elko, Nevada, serving all intermediate points: From Mountain Home over Idaho State Highway 51 to the Idaho-Nevada State Line, thence over Nevada State Highway 51 to Elko, Nev., and return over the same route, (2) between the junction of U.S. Highway 30 and U.S. Highway 93, west of Twin Falls, Idaho, and the junction of U.S. Highway 93 and U.S. Highway 40 and Interstate Highway 80, east of Wells, Nev., serving all intermediate points: From the junction of U.S. Highway 30 and U.S. Highway 93, over U.S. Highway 93 to junction U.S. Highway 40 and Interstate Highway 80, and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 13300 (Sub-No. 91), filed July 11, 1977. Applicant: CAROLINA COACH CO., d.b.a. Carolina Trailways, a Corporation, 1201 S. Blount St., P.O. Box 1591, Raleigh, N.C. 27602. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave. and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *passengers and their baggage and express and newspapers* in the same vehicle with passengers: (1) Between the junction of U.S. Highway 13 and U.S. Highway 9 and Harbeson, Del., serving all intermediate points: From junction of U.S. Highway 13 and U.S. Highway 9 near Laurel, Del., thence over U.S. Highway 9 to Harbeson, Del., and return over the same route; (2) Between Lewes, Del., and Atlantic City, N.J., serving no intermediate points: From Lewes, Del., across the Delaware Bay via the Lewes, Del.—Cape May, N.J. Ferry, to Cape May Point, N.J., thence over U.S. Highway 9 to junction New Jersey Highway 109, thence over New Jersey Highway 109 to junction Garden State Parkway, thence over Garden State Parkway to junction Atlantic City Expressway, thence over Atlantic City Expressway to Atlantic City, N.J., and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dover, Del. and Atlantic City, N.J.

No. MC 106120 (Sub-No. 4), filed July 21, 1977. Applicant: BADGER COACHES, INC., 200 West Beltline Highway, Madison, WI 53713. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: Passengers and their baggage, in charter and special operations, between points in Dane, Jefferson, Waukesha and Milwaukee Counties, Wis., on the one hand, and points in the United States (including Alaska and excluding Hawaii), on the other.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Madison or Milwaukee, Wis.

No. MC 141063 (Sub-No. 3), filed July 19, 1977. Applicant: THE CITY CONTRACT BUS SERVICE, INC., P.O. Box 2182, Jacksonville, FL 32203. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St. NW., Atlanta, GA 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers who are employees of the Seaboard Coast Line Industries* Family Lines, *and their baggage*, between points along the railroad lines of the Seaboard Coast Line Industries Family Lines in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Tennessee, Virginia and West Virginia, under a continuing contract or contracts with Seaboard Coast Line Industries.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 143459 (Sub-No. 1) (Correction), filed July 1, 1977, published in the FEDERAL REGISTER issue of August 18, 1977, and republished as corrected this issue. Applicant: ARROW-POCONO LINES, INC., 81-14 Baxter Ave., Elmhurst, N.Y. 11373. Applicant's representative: L. C. Majors, Jr., P.O. Box 11278, Alexandria, Va. 22312. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage, and unaccompanied baggage*, in the same vehicle with passengers, in special and charter limousine operations, between New York, N.Y., points in Nassau and Westchester Counties, N.Y., and points in New Jersey, on the one hand, and, on the other, points in Carbon, Lehigh, Luzerne, Monroe, Northampton, Pike and Wayne Counties, Pa., restricted to the transportation of not more than eleven passengers in any one vehicle, not including the driver.

NOTE.—The purpose of this republication is to indicate the correct authority. If a hearing is deemed necessary, the applicant requests that it be held at either New York, N.Y. or a place subsequently to be selected and arranged for by applicant in the Pocono resort area of the Pennsylvania territory as specified in the application.

No. MC 143508, filed July 25, 1977. Applicant: ASHBOURNE TRANSPORTATION CO., A Corporation, 827 E. Glenside Ave., Wyncote, PA 19117. Applicant's representative: Anthony C. Vance, 1300 Old Chain Bridge Rd., McLean, VA 22101. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting *passengers and their baggage* in charter operations, beginning and ending at points in Philadelphia County, PA, and extending to points in Delaware and New Jersey.

NOTE.—Common control may be involved. If a hearing is necessary, applicant requests that it be held at Philadelphia, PA.

No. MC 130454 filed July 25, 1977. Applicant: CARTAN TRAVEL BUREAU, INC., One Crossroads of Commerce, Rolling Meadows, Ill. 60008. Applicant's representative: Lawrence J. Latto, 734 Fifteenth St., NW., Washington, D.C. 20005. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Rolling Meadows, Ill., to sell or offer to sell the transportation of *passengers, and their baggage*, individually and in groups, in special and charter operations, and sightseeing and pleasure tours, by motor vehicle, between points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-13307. Authority sought for purchase by CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, Mo., 65801, of a portion of the operating rights of McALISTER TRANSFER, INC., 2415 Lincoln Avenue, York, NB., 68467, and for acquisition by F. G. CAMPBELL, individually and as trustee U/A dated 5/22/74 with Commerce Bank of Springfield, MO., also of Springfield, MO., 68501, of control of such rights through the purchase. Applicants' attorneys: Phineas Stevens, P.O. Box 22567, Jackson, MS., 39205, and Donald L. Stern, Suite 530, Univac Bldg., 7100 W. Center Road, Omaha, NB., 68106. Operating rights sought to be transferred: That portion of Certificate MC-60912 authorizing General Commodities, with the usual exceptions, as a common carrier over regular routes, between Omaha, Nebraska and Lincoln, Nebraska, and return over the same route serving no intermediate points and serving the off route point of Council Bluffs, Iowa. The application seeks approval of the acquisition of the described authority through a partial assignment to Campbell Sixty-Six Express, Inc., of a Purchase Agreement between Bee Line Motor Freight, Inc., 1804 Paul Street, Omaha, NB., 68102, and McAllister Transfer, Inc., for the purchase by Bee Line Motor Freight, Inc. of all operating authority of McAllister Transfer, Inc. The Purchase Agreement between Bee Line Motor Freight, Inc. and McAllister Transfer, Inc., is the subject of Section 5 and 210a(b) applications filed and docketed MC-F-13306. The authority sought to be acquired joins with that of Campbell Sixty-Six Express, Inc. at Omaha, Nebraska. Acquisition of the subject authority would authorize operations between Lincoln, Nebraska on the one hand, and, on the other, points served by Campbell Sixty-Six Express, Inc. pursuant to authority issued in MC-75320 and subs thereto, and as operator (in part) of Transamerican Freight Lines, Inc. (MC-F-12713) and Western Gillette, Inc. (MC-F-13157). The authorities of Campbell Sixty-Six Express, Inc. authorized operations in the states of Texas, Oklahoma, Kansas, Nebraska, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Tennessee, Kentucky, Illinois, Wisconsin, Indiana, Ohio, Pennsylvania, New York, Alabama, and Georgia. Approval of this application and the herein noted application of Bee Line Motor Freight, Inc. and McAllister Transfer, Inc. will result in a division of that portion of the certificate of McAllister Transfer, Inc. authorizing the transportation of general commodities, with the usual exceptions over regular routes between Omaha, Nebraska and Grand Island, Nebraska. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC-F-13306 is a directly related matter.

No. MC-F-13309. Authority sought for purchase by CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, N.C., 28445, of a portion of the operating rights of SECURITY CARRIERS, INC., P.O. Box 3368, Amarillo, TX., 79506, and for acquisition by C. W. FLETCHER and MARY W. FLETCHER, P.O. Box 26, Holly Ridge, N.C., 28445, on control of such rights through the purchase. Applicants' attorney: Roland M. Lowell, 618 United American Bank Bldg., Nashsville, TN. 37219. Operating rights sought to be transferred: Meats, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Description in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), as a common carrier over irregular routes, from the facilities of Swift Fresh Meats Company at or near Cactus (Moore County), Texas to points in Ohio, West Virginia, Virginia, Maryland, Delaware, New Jersey, New York, Pensylvania, Connecticut, Rhode Island, Vermont, New Hampshire, Massachusetts, Maine and the District of Columbia. Vendee is authorized to operate as a common carrier in Arkansas, Connecticut, the District of Columbia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Virginia, and West Virginia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13312. Authority sought for purchase by LEWIS TRUCK LINES, INC. Lisbon, N. Dak., 58054, of the operating rights of VERNON MARTELL, Bismarck, N. Dak. 58501, and for acquisition by ROBERT J. LEWIS, Lisbon, N. Dak., 58054, of control of such rights through the purchase. Applicants' attorney: Michael E. Miller, 502 First National Bank Bldg., Fargo, N. Dak. 58102, and

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Charles E. Johnson, P.O. Box 1982, Bismarck, N. Dak., 58501. Operating rights sought to be transferred: General commodities, with exceptions, as a common carrier over irregular routes, in interstate or foreign commerce, between points in Emmons County, N. Dak., on the one hand, and, on the other, points in North Dakota, as more fully described in Certificate MC-142235 issued May 24, 1977. Vendee is authorized to operate as a common carrier in North Dakota, Minnesota and South Dakota. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13314. Authority sought by CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025, to purchase a portion of the operating rights of M & M TRANSPORTATION COMPANY, Debtor-in-Possession, 750 Third Avenue, New York, N.Y., 10017, and for acquisition by CONSOLIDATED FREIGHTWAYS, INC., 601 California Street, San Francisco, CA., 94108, of control of such rights through the purchase. Applicant vendee's attorney: E. T. Lilpfert, Suite 1000, 1660 L Street, NW., Washington, D.C. 20036; applicant vendor's attorney: William J. Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Operating rights sought to be purchased: (1) General commodities, with exceptions, as a common carrier over regular routes between Utica, New York, and Malone, New York, as more fully described in Certificate No. MC-69275, Sub-40; (2) General commodities, with exceptions, as a common carrier, over irregular routes, (a) between Oswego, Rochester and Watertown, New York, restricted to transportation moving to, from or through Watertown, New York; (b) between points in Oneida County, New York, on the one hand, and on the other, points in Franklin, Jefferson, Lewis, and St. Lawrence Counties, New York; (c) between points in St. Lawrence County, New York; (d) from points in St. Lawrence County, New York to points in Jefferson County, New York, with no transportation for compensation on return except as otherwise authorized; (e) from points in Franklin, Jefferson, and Lewis Counties, New York, to points in St. Lawrence County, New York, with no transportation for compensation on return except as otherwise authorized; the authority listed above in 2(a) through 2(e) is restricted against the transportation of frozen prepared foods when moving in mixed loads with fish, including shellfish, from Gloucester, Massachusetts, and Boston, Massachusetts, to points in the described area; (3) General commodities, with exceptions, as a common carrier over irregular routes, between points within the municipalities of Boston, Chelsea, Revere, Everett, Malden, Somerville, Medford, Cambridge, Newton and Quincy, and points within the township limits of Winthrop, Watertown, Needham, Denham, Brookline and Milton, Massachusetts, excluding points in the commercial zones beyond the municipal and township limits thereof, on the one hand, and, on the other, points in Maine. The rights listed in Paragraph 3 are embodied in a certificate issued to Nelson Freightways, Inc., in Docket No. MC-60186. Vendor has contracted to purchase these rights from Newson Freightways, Inc., and has received permission from the Commission in Docket MC-F-12440 to operate said rights under temporary authority. Vendor is assigning its rights under its contract to purchase the operating authority listed in Paragraph 3 to vendee. Vendee is authorized to operate as a common carrier in all states except Hawaii pursuant to Certificate No. MC-42487 and related sub numbers thereunder. Application has been filed for temporary authority under section 210a(b).

ABANDONMENT APPLICATIONS

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A Certificate of Abandonment will be issued to the applicant carriers 30 days after this Federal Register publication unless the instructions set forth in the notices are followed.

[Docket No. AB-6 (Sub-No. 42)]

BURLINGTON NORTHERN INC. ABANDONMENT BETWEEN NIFA AND WEST BATAVIA IN KANE COUNTY, ILL.

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on June 29, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Burlington Northern Inc. of its line of railroad extending from milepost 4.00 near Nifa, Ill., and milepost 7.15 near West Batavia, Ill., a distance of 3.15 miles located in Kane County, Ill. A certificate of abandonment will be issued to the Burlington Northern Inc. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-10 (Sub-No. 8)]

NORFOLK AND WESTERN RAILWAY COMPANY ABANDONMENT IN THE CITY OF RADFORD, MONTGOMERY COUNTY, VIRGINIA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on July 8, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Norfolk and Western Railway Company of a line of railroad extending from milepost 1.77, on the north side of Forest Street Bridge in the City of Radford, Virginia, to the end of the Radford Branch at milepost 4.17, a distance of 2.4 miles, in Montgomery County, Virginia. A certificate of abandonment will be issued to the Norfolk and Western Railway Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AM-36 (Sub-No. 4)]

OREGON SHORT LINE RAILROAD COMPANY ABANDONMENT AND ABANDONMENT OF OPERATIONS BY UNION PACIFIC RAILROAD COMPANY—PORTION OF GRACE BRANCH IN CARIBOU COUNTY, IDAHO

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on July 8, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment of the Oregon Short Line Railroad Company and the abandonment of operations by the Union Pacific Railroad Company of a portion of the Grace Branch extending from milepost 5.78 in a southerly direction to milepost 6.91 at the end of the line, a total distance of 1.13 miles, in Caribou County, Idaho. A certificate of abandonment will be issued to the Oregon Short Line Railroad Company and the Union Pacific Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-55 (Sub-No. 8]

SEABOARD COAST LINE RAILROAD COMPANY ABANDONMENT BETWEEN BRUCE AND PORTSMOUTH IN THE CITIES OF CHESAPEAKE AND PORTSMOUTH, VIRGINIA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on April 29, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment, by the Seaboard Coast Line Railroad Company of a portion of its branch line between milepost AB-230.85 near Bruce, Virginia, and milepost AB-234.73 near Portsmouth, Virginia, a distance of 3.88 miles, 0.21 mile located in the City of Chesapeake, Virginia, and 3.67 miles located in the City of Portsmouth, Virginia. A certificate of abandonment will be issued to the Seaboard Coast Line Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment; to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

MOTOR CARRIER ALTERNATE ROUTES DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC 29555 (Deviation No. 19), BRIGGS TRANSPORTATION CO., North 400, Griggs-Midway Bldg., St. Paul, Minn. 55104, filed August 4, 1977. Carrier proposes to operate as a *common*

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carrier, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Des Moines, Iowa, over U.S. Highway 65 to junction Interstate Highway 70, thence over Interstate Highway 70 to Kansas City, Mo., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Des Moines, Iowa over U.S. Highway 6 to junction U.S. Highway 275 near Council Bluffs, Iowa, thence over U.S. Highway 275 to junction Iowa Highway 2, thence over Iowa Highway 2 to junction U.S. Highway 71 near Clarinda, Iowa, thence over U.S. Highway 71 to Kansas City, Mo., and return over the same route.

No. MC 30204 (Deviation No. 26), HEMINGWAY TRANSPORT, INC., 438 Dartmouth St., New Bedford, Mass., filed August 5, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Newark, N.J., over Interstate Highway 78 to junction Interstate Highway 81, thence over Interstate Highway 81 to junction U.S. Highway 22, thence over U.S. Highway 22 to junction U.S. Highway 220, at Duncansville, Pa., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Newark, N.J., over U.S. Highway 22 to junction unnumbered highway, thence over unnumbered highway via Easton, Bethlehem, and Allentown, Pa., to junction U.S. Highway 22, thence over U.S. Highway 22 to Harrisburg, Pa., thence over U.S. Highway 11 to Hagerstown, Md., thence over U.S. Highway 40 to Cumberland, Md., thence over U.S. Highway 220 to Duncansville, Pa., and return over the same route.

No. MC 30504 (Deviation No. 25), TUCKER FREIGHT LINES, INC., P.O. Box 3144, South Bend, Ind. 46619, filed August 2, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Springfield, Mo., over U.S. Highway 66 to junction Missouri Highway 5, thence over Missouri Highway 5 to junction U.S. Highway 54, thence over U.S. Highway 54 to junction U.S. Highway 63, thence over U.S. Highway 63 to Waterloo, Iowa, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Springfield, Mo., over U.S. Highway 66 to junction U.S. Highway 71, thence over U.S. Highway 71 to Kansas City, Mo., thence over Alternate U.S. Highway 69 to junction U.S. Highway 69, thence over U.S. Highway 69 to Des Moines, Iowa, thence over U.S. Highway 65 to junction Iowa Highway 330, thence over Iowa Highway 330 to Marshalltown, Iowa, thence over Iowa Highway 14 to junction Iowa Highway 57, thence over Iowa Highway 57 to junction U.S. Highway 20, thence over U.S. Highway 20 to Waterloo, Iowa, and return over the same route.

No. MC 30504 (Deviation No. 26), TUCKER FREIGHT LINES, INC., P.O. Box 3144, South Bend, Ind. 46619, filed August 3, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Springfield, Mo., over U.S. Highway 66 to junction Missouri Highway 5, thence over Missouri Highway 5 to junction U.S. Highway 54, thence over U.S. Highway 54 to junction U.S. Highway 63, thence over U.S. Highway 63 to junction U.S. Highway 30 near Tama, Iowa, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Springfield, Mo., over U.S. Highway 66 to junction U.S. Highway 71, thence over U.S. Highway 71 to Kansas City, Mo., thence over Alternate U.S. Highway 69 to junction U.S. Highway 69, thence over U.S. Highway 69 to Des Moines, Iowa, thence over U.S. Highway 65 to junction Iowa Highway 330, thence over Iowa Highway 330 to Marshalltown, Iowa, thence over Iowa Highway 14 to junction Iowa Highway 57, thence over Iowa Highway 57 to junction U.S. Highway 20, thence over U.S. Highway 20 to Waterloo, Iowa, and return over the same route.

No. MC 30504 (Deviation No. 27), TUCKER FREIGHT LINES, INC., P.O. Box 3144, South Bend, Ind. 46619, filed August 3, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Cincinnati, Ohio over U.S. Highway 27 to junction U.S. Highway 33, thence over U.S. Highway 33 to junction Indiana Highway 13, thence over Indiana Highway 13 to junction U.S. Highway 131 and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Cincinnati, Ohio over U.S. Highway 52 to junction U.S. Highway 31, thence over U.S. Highway 31 to junction U.S. Highway 33, thence over U.S. Highway 33 to junction Indiana Highway 120, thence over Indiana Highway 120 to junction Indiana Highway 15, thence over Indiana Highway 15 to junction Michigan Highway 103, thence over Michigan Highway 103 to junction U.S. Highway 131, and return over the same route.

No. MC 41432 (Deviation No. 29), EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, P.O. Box 10125, Dallas, Tex. 75207, filed August 8, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Jacksonville, Tex., over U.S. Highway 79 to Rockdale, Tex., thence over U.S. Highway 77 to Hallettsville, Tex., thence over Alternate U.S. Highway 90 to Seguin, Tex., (2) From Jacksonville, Tex., over U.S. Highway 79 to Rockdale, Tex., thence over U.S. Highway 77 to Hallettsville, Tex., thence over Alternate U.S. Highway 90 to Seguin, Tex., thence over Texas Highway 46 to New Braunfels, Tex., and (3) From Jacksonville, Tex., over U.S. Highway 79 to Rockdale, Tex., thence over U.S. Highway 77 to Hallettsville, Tex., thence over Alternate U.S. Highway 90 to Seguin, Tex., thence over Texas Highway 123 to San Marcos, Tex., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Jacksonville, Tex., over U.S. Highway 69 to Alto, Tex., thence over Texas Highway 21 to Crockett, Tex., thence over U.S. Highway 287 to Corrigan, Tex., thence over U.S. Highway 59 to Houston, Tex., thence over U.S. Highway 90 to San Antonio, Tex., thence over U.S. Highway 81 to San Marcos, Tex., and return over the same route.

No. MC 56640 (Deviation No. 3), DELTA LINES, INC., P.O. Box 2081, Oakland, Calif. 94604, filed July 14, 1977. Carrier's representative: Marshall Berol, 601 Calif. St., San Francisco, Calif. 94108. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From junction Interstate Highway 5 and California Highway 89 over California Highway 89 to junction California Highway 44, thence over California Highway 44 to junction California Highway 36, (2) From junction Interstate Highway 5 and California Highway 89 over California Highway 89 to junction California Highway 36, and (3) From junction Interstate Highway 5 and California Highway 44 over California Highway 44 to junction California Highway 36 and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Mt. Shasta, Calif., over Interstate Highway 5 (formerly U.S. Highway 99) to Red Bluff, Calif., thence over California Highway 99 to junction California Highway 36, thence over California Highway 36 to Susanville, Calif., and return over the same route.

No. MC 65916 (Deviation No. 3), WARD TRUCKING CORP., Ward Tower, 2nd Ave. and 7th St., Greenwood, Altoona, Pa. 16603, filed August 2, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Blairsville, Pa., over U.S. Highway 22 to Murrysville, Pa., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Blairsville, Pa., over U.S. Highway 119 to junction U.S. Highway 322 near DuBois, Pa., thence over U.S. Highway 322 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Pennsylvania Highway 18, thence over Pennsylvania Highway 18 to Rochester, Pa., thence over unnumbered highway via Aliquippa, Pa., to Sewickley, Pa., thence over Pennsylvania Highway 65 to Pittsburgh, Pa., thence over U.S. Highway 22 to Murrysville, Pa., and return over the same route.

Motor Carrier Alternate Route Deviations

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PASSENGERS

No. MC 109780 (Deviation No. 48), CONTINENTAL TRAILWAYS, 1505 S. Central Ave., Los Angeles, Calif. 90021, filed August 10, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Seligman, Ariz., over Interstate Highway 40 to Kingman, Ariz., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Seligman, Ariz., over U.S. Highway 66 to Kingman, Ariz., and return over the same route.

Motor Carrier Intrastate Application(s)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Maine Docket No. X–23 filed August 10, 1977. Applicant: THIBEAULT EXPRESS, INC., Turner St., Brunswick, Maine 04011. Certificate of Public Convenience and Necessity sought to operate a freight service follows: Transportation of *General commodities* and provide for the interlining of shipments with carriers whose terminals are located in Scarboro, Maine, with respect to A–1 through A–3 below: A–1 From Portland-South Portland, Maine, to Bath and Lisbon, Maine as follows: Between Lisbon and Brunswick, Maine including Lisbon, Lisbon Center, Lisbon Falls, Pejepscot, Topsham, Bath, and Brunswick, serving to and/or from all points. A–2 from or to Freeport, Yarmouth and Portland, South Portland, Maine with only such freight as is shipped from or destined to points Lisbon to Brunswick inclusive as listed above. A–3 between Brunswick and Harpswell, Maine passing through and serving Great Island, Cundy's Harbor, Orr's Island and Bailey Island, Maine. Intrastate, interstate and foreign commerce authority. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the Maine Public Utilities Commission, State House Annex, Capitol Shopping Center, Augusta, Maine 04333 and should not be directed to the Interstate Commerce Commission.

Maine Docket No. X–71 filed August 15, 1977. Applicant: DUGAS EXPRESS CO., 101 Knox St., Lewiston, Maine 04240. Certificate of Public Convenience and Necessity sought to operate as a *common carrier*, from Portland-South Portland, Maine, to Lewiston, Maine, passing through and serving with pick-up and delivery service in both directions, the following points: Lewiston, Auburn, Danville Junction, Gray, New Gloucester, Upper Gloucester, West Falmouth, Portland, and South Portland.

NOTE.—Applicant proposes to provide for the interlining of shipments with carriers whose terminals are located in Scarboro, and Biddeford, Maine with respect to authority above. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the Maine Public Utilities Commission, State House Annex, Capitol Shopping Center, Augusta, Maine 04333 and should not be directed to the Interstate Commerce Commission.

Maine Docket No. X–256 filed August 15, 1977. Applicant: FOGG & JORDAN, INC., doing business as, MERRILL'S EXPRESS, 16 Allen Ave. Extension, Falmouth, Maine 04105. Applicant's representative: John G. Feehan, One Canal Plaza, Portland, Maine 04101. Certificate of Public Convenience and Necessity sought to operate as a *common carrier* as follows: A–1 Portland-South Portland, Maine, to Pownal, Maine, handling freight to and or from Portland-South Portland, Cumberland Center, Cumberland Junction, North Falmouth, North Pownal, Pownal Center, North Yarmouth, Walnut Hill, West Cumberland, and West Pownal, Maine; A–2 Irregular Routes, Household goods, between points in Portland, Maine, and between said points on the one hand, and, points in Maine, on the other hand, and Scarborough, Maine, restricted to the interlining of freight only. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the Maine Public Utilities Commission, State House Annex, Capitol Shopping Center, Augusta, Maine 04333 and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-25320 Filed 8-31-77;8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern Time), Thursday, September 1, 1977.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Open to the public.

MATTER TO BE CONSIDERED:

Veterans Preference Act; Suggested Amendments

In response to a request from the General Accounting Office, the Commission will consider its position on proposals to change current laws concerning certain employment preference given to veterans.

A majority of the entire membership of the Commission determined by a recorded vote that the business of the Commission requires that this meeting be held in order to provide a timely response to the General Accounting Office, and that no earlier announcement was possible.

The vote was as follows: In favor of change:

Eleanor Holmes Norton, Chair
Ethel Bent Walsh, Commissioner
Daniel E. Leach, Commissioner

Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634–6748.

This Notice Issued August 29, 1977.

[S–1209–77 Filed 8–30–77;9:10 am]

2

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 43176, August 26, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, August 31, 1977.

CHANGES IN THE MEETING: Addition of the following closed item to the meeting:

Proposed increase in annuities for Board Plan retirees and survivor annuitants.

This item will follow consideration of the following announced open items:

1. Issues related to simplication of the advertising and open end credit provisions of the Truth in Lending Act.
2. Postponement of the effective date of the descriptive billing requirements of Regulation Z (Truth in Lending) relating to cash advance checks.
3. Possible amendments to (a) Regulation H (Membership of State Banking Institutions in the Federal Reserve System) to require that State member banks, or subsidiaries, that are registered clearing agencies must file notice with the Board of all final disciplinary sanctions imposed by them on firms participating in the operations of the clearing agency, and (b) Regulation H and Regulation Y (Bank Holding Companies), pursuant to requirements of the Securities Exchange Act, to establish procedures for requesting stays and review by the Board of disciplinary sanctions and denials of participation imposed by bank clearing agencies. (Proposed earlier for public comment; Docket No. R–0042).
4. Proposed amendments to the Board's Rules Regarding Delegation of Authority, concerning approval of certain categories of foreign branch applications.
5. Report to the Federal Deposit Insurance Corporation regarding the competitive factors involved in the proposed merger of The First National Bank of Canton, Canton, Mississippi, with The Mississippi Bank, Jackson, Mississippi.
6. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, (202–452–3204).

Dated: August 30, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[S–1211–77 Filed 8–30–77;10:00 am]

3

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10:00 a.m., Tuesday, September 6, 1977. The closed portion of the meeting will commence at the conclusion of the open discussion.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Part of the meeting will be open; part will be closed.

MATTERS TO BE CONSIDERED:

Open portion:

1. Proposed acquisition of computer equipment at the Federal Reserve Bank of St. Louis.
2. Proposal to purchase property and construct an addition at the Omaha Branch of the Federal Reserve Bank of Kansas City.
3. Proposal to operate an automated clearing house at Little Rock, Arkansas.
4. Any agenda items carried forward from a previously announced meeting.

Closed portion:

1. Proposed renovations to the Federal Reserve Bank of Kansas City building.
2. Proposed property acquisition at the New Orleans Branch of the Federal Reserve Bank of Atlanta.
3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board: (202–452–3204).

Dated: August 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S–1207–77 Filed 8–29–77;2:15 pm]

4

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Thursday, September 8, 1977. [NM–77–27].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594.

STATUS: The first item on the agenda will be open to the public; the second item will be closed to the public.

MATTERS TO BE CONSIDERED:

1. *Discussion.*—Closeout of Safety Recommendations A–72–3, A–75–80, A–77–7, and R–73–11.
2. *Discussion.*—Staff processing of safety recommendations following a major accident.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, (202–755–4930).

[S–1210–77 Filed 8–30–77;9:10 am]

5

NUCLEAR REGULATORY COMMISSION.

Meetings during the week of August 22, 1977 (Change Notice).

APPROVAL: By unanimous vote on August 24, 1977, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules that Commission business requires that these agenda items be held on less than one week's notice to the public. The need for the meetings did not arise until August 24 and immediate discussion is required because timely consideration of issues requires meeting at this time.

On August 24, 1977, the Nuclear Regulatory Commission (all members participating) voted unanimously to close the second meeting:

MEETINGS: FRIDAY, AUGUST 26, 9:00 a.m.:

1. Request by Carolina Power & Light Company to Store Spent Fuel Discharged from the H. B. Robinson Reactor at Branswick Units 1 and 2 and to Have Such Storage Indemnified. (Open.)
2. Discussion of Personnel Matter. (Closed-Exemption 6.) The meeting will be to discuss a personnel matter.

ATTENDANCE: At the Closed Meeting will be Commissioners only.

PLACE: Commissioners' Conference Room, 1717 H St., NW., Washington, D.C.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, Office of the Secretary, telephone 202–634–1410.

Dated: August 25, 1977.

WALTER MAGEE,
Chief, Operations Branch, Office of the Secretary.

[S–1204–77 Filed 8–26–77;10:54 am]

6

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Friday, August 26, 1977.

PLACE: Commissioners' Conference Room, 1717 H St., NW., Washington, D.C.

STATUS: Open/Closed (Additional Items).

MATTERS TO BE CONSIDERED:

9:00 a.m.:

1. Request by Carolina Power & Light Company to Store Spent Fuel Discharged from the H. B. Robinson Reactor at Brunswick Units 1 and 2 and to Have Such Storage Indemnified. (Open.)
2. Discussion of Draft Administration Bill for Nuclear Plant Licensing Reform (continuation of 8/24 meeting). (Closed-Exemption 9.)
3. Discussion of Personnel Matter. (Closed-Exemption 6.)

11:30 a.m.:

Briefing on Pending ALAB Reviews (continuation of 8/24 meeting). (Closed-Exemption 10.)

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee (202–634–1410).

WALTER MAGEE,
Chief, Operations Branch, Office of the Secretary.

AUGUST 25, 1977.

[S–1203–77 Filed 8–26–77;10:54 am]

7

SECURITIES AND EXCHANGE COMMISSION.

TIME AND DATE: August 29, 1977, 11:00 a.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

STATUS: Closed meeting.

SUBJECT MATTER:

Consideration of litigation matter.

Chairman Williams, Commissioners Loomis, Evans, and Pollack voted to close the meeting and determined that no earlier notice thereof was possible.

AUGUST 29, 1977.

[S–1208–77 Filed 8–29–77;2:50 pm]

8

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10:30 a.m., September 6, 1977.

PLACE: Room 6135, FDIC Building, 530 17th Street, NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Request pursuant to section 19 of the Federal Deposit Insurance Act for the Corporation's consent to service of a person convicted of an offense involving dishonesty or a breach of trust as a director, officer, or employee of an insured bank:

Name of person and of bank authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. (c)(6)).

Recommendations regarding the liquidation of assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,167–1—International City Bank and Trust Company New Orleans, Louisiana.
Case No. 43,169–1—First State Bank of Northern California San Leandro, California.
Case No. 43,173–NR—United States National Bank San Diego, California.
Case No. 43,174–1—First State Bank of Northern California San Leandro, California.
Case No. 43,176–SR—Sharpstown State Bank Houston, Texas.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, (202–389–4446).

[S–1214–77 Filed 8–30–77; 2:46 pm]

9

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, August 31, 1977.

PLACE: Room 856, 1919 M Street, NW., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Request for oral argument filed by American Radio Relay League, Inc., in the proceeding concerning marketing of external frequency amplifiers (Docket No. 21116).
General—2—Request for oral argument filed by American Radio Relay League, Inc., in the proceeding concerning type acceptance of equipment marketed for use in the Amateur Radio Service (Docket No. 21117).
General—3—International radiotelephone and radiotelegraph regulations for fishing vessels: Draft of (IMCO) Convention on Safety of Fishing Vessels (Docket No. 20122).
General—4—Zero-Based Budgeting—Commission-wide Priorities.
Common Carrier—1—Notice of Proposed Rule Making relating to amendment of Annual Report Forms M for telephone companies, O for wire-telegraph and ocean-cable carriers and R for radiotelegraph carriers (RM–2765).
Common Carrier—2—Request filed on June 21, 1977 by Carpenter Radio that the Commission furnish it hearing transcripts without charge (Docket No. 21256).
Cable Television—1—Petition for special relief filed by Lower Bucks Cablevision, Inc., operator of a cable television system serving discrete areas of Bristol Borough, Bristol Township and Middletown Township, Pennsylvania.
Cable Television—2—Application[s] for Certificate[s] of Compliance (CAC–6504–6509), filed by Mid-Hudson Cablevision, Inc., operator of existing cable systems at the Village and Town of Catskill, the Village and Town of Athens, City of Hudson, and Town of Greenport, New York.

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Assignment of License and Transfer of Control—1—Application for consent to voluntary transfer of control of Westport Television, Inc., licensee of UHF station KBMA-TV, Kansas City, Missouri, from Benno C. Schmidt and BMA Properties, Inc., to Scripps-Howard Broadcasting Company (BTC-8303).

Renewal—1—Petition to deny, filed by Vincent L. Hoffart against the pending broadcast license renewal applications of Dena Pictures, Inc. and Alexander Broadcasting Co., d.b.a. Kaye-Smith Enterprises, for Stations WUBE and WUBE FM, Cincinnati Ohio (BR-278, BRH-471).

Complaints and Compliance—1—Petition for reconsideration, filed May 31, 1977, by Musical Heights, Inc., licensee of station WZYQ-FM, Braddock Heights, Maryland, of a Commission By Direction letter granting a short-term license renewal to radio station WZYQ-FM (BRH-2761).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone 202-632-7260.

Issued: August 24, 1977.

[S-1199-77 Filed 8-26-77;4:52 pm]

10

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:00 a.m. on Tuesday, September 6, 1977, the Federal Deposit Insurance Corporation's Board of Directors will meet in open session to consider the following matters:

Disposition of minutes of previous meetings

Applications for Federal deposit insurance:

The Peoples Commercial Bank, to be located at 73 Troy Road, East Greenbush, New York, for Federal deposit insurance.

Brighton Bank, to be located at 7101 South 2000 East, Salt Lake City, Utah, for Federal deposit insurance.

Northern Hancock Bank & Trust Co., to be located at Third and Washington Streets, Newell, West Virginia, for Federal deposit insurance.

Applications for consent to establish branches:

The Citizens Savings Bank, Ithaca, New York, for consent to establish branches within the Pyramid Mall, 40 Catherwood Road, Village of Lansing, Ithaca, New York, and within the East Hill Plaza Shopping Center, corner of Judd Falls Road and Ellis Hollow Road, Town of Ithaca, New York.

Richmond County Savings Bank, West New Brighton, New York, for consent to establish a branch at 132 Avenue U, southwest corner of West 8th Street, New York (Brooklyn), New York.

Requests for extensions of time in which to establish branches:

The Arizona Bank, Phoenix, Arizona, for an extension of time to February 1, 1978 in which to establish a branch at Southern Avenue and Longmore Drive, Mesa, Arizona.

Bank of Mt. Juliet, Mount Juliet, Tennessee, for an extension of time to September 17, 1978 in which to establish a branch at the intersection of Route 3, South Mount Juliet Road and Interstate 40, Mount Juliet, Tennessee.

Application for consent to establish three remote service facilities (electronic branches):

Niagara County Savings Bank, Niagara Falls, New York, for consent to establish remote service facilities (electronic branches) in Super Duper Supermarkets at 3185 Southwestern Boulevard (Unincorporated Area), Orchard Park, New York, and at 123 Grey Street, East Aurora, New York, and in Sample, Incorporated, at 1631 Hertel Avenue, Buffalo, New York.

Recommendation regarding the liquidation of assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum re: American Bank & Trust Company, New York, New York.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Powell, Goldstein, Frazer & Murphy, Atlanta, Georgia, in connection with the liquidation of The Hamilton Bank and Trust Company, Atlanta, Georgia.

Mize, Thompson & Blass, Gulfport, Mississippi, in connection with the liquidation of International City Bank and Trust Company, New Orleans, Louisiana.

Sullivan & Worcester, Boston, Massachusetts, in connection with the receivership of Surety Bank and Trust Company, Wakefield, Massachusetts.

Patterson & Patterson, Whitfield, Manikoff and White, Bloomfield Hills, Michigan, in connection with the receivership of Birmingham Bloomfield Bank, Birmingham, Michigan.

Mize, Thompson & Blass, Gulfport, Mississippi, in connection with the liquidation of Bank of Picayune, Picayune, Mississippi.

Parsons, Canzona, Blair & Warren, Red Bank, New Jersey, in connection with the liquidation of The Bank of Bloomfield, Bloomfield, New Jersey.

Hughes, Hubbard & Reed, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Strasburger & Price, Dallas, Texas, in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

Miller & Martin, Chattanooga, Tennessee, in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

Recommendation with respect to the amendment of Corporation rules and regulations:

Memorandum and resolution proposing the final adoption of amendments to Part 303 of the Corporation's rules and regulations, entitled "Applications, Requests and Submittals," so as to include applications for mergers or assumption transactions within the current procedures applied to all other application proceedings.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Report of the Executive Secretary regarding the transmittal of "no significant effect" competitive factor reports.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Division of Liquidation, for the period June 16, 1977-August 16, 1977, detailing all disbursements in excess of $10,000 and all sales of real estate properties in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee, pursuant to authority delegated by the Board of Directors.

Reports with respect to security transactions authorized by the Chairman.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Alan R. Miller, Executive Secretary of the Corporation, at (202) 389-4446.

Dated: August 30, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1221-77 Filed 8-30-77;3:45 pm]

11

FEDERAL DEPOSIT INSURANCE CORPORATION.

FEDERAL DEPOSIT INSURANCE

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:45 a.m. on Tuesday, September 6, 1977, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by authority of section 552b(d)(4), (c)(4), (c)(8), (c)(9)(A)(ii), and (c)(10) of title 5, United States Code, to consider the following matters:

Application of proposed bank for Federal deposit insurance coincident with conversion of a savings and loan association into a mutual savings bank:

Capital Mutual Savings Bank, Olympia, Washington, for Federal deposit insurance.

Applications for consent to establish branches:

First Marine Bank & Trust Company of the Palm Beaches, Riviera Beach, Florida, for consent to establish a branch at 1201 East Blue Heron Boulevard, Riviera Beach, Florida.

North Conway Bank, North Conway, New Hampshire, for consent to establish a branch at Route 16, Bartlett (Glen), New Hampshire.

North New York Savings Bank, White Plains, New York, for consent to establish a branch at 120 North Village Avenue, Village of Rockville Centre, New York.

Application for consent to move a branch:

Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico, for consent to move a branch from the corner of Calle Patriota Pozo and Calle Juan Ramon Veles to the corner of Calle Patriota Pozo and Carretera No. 2, Manati, Puerto Rico.

Applications for consent to merge and establish branches:

First Bank and Trust, Boynton Beach, Florida, an insured State nonmember bank, for consent to merge under its charter, and with the title "First Bank and Trust, Palm Beach County," with First Bank, Delray Beach, Florida, Delray Beach, Florida, and First Bank West, Palm Beach County (P.O. Lake Worth), Florida, also insured State nonmember banks, and to establish the two offices of First Bank, Delray Beach, Florida and the sole office of First Bank West as branches of the resultant bank.

Southern Bank and Trust Company, Greenville, South Carolina, an insured State nonmember bank, for consent to merge under its charter and title with Morgan Bank and Trust, Spartanburg, South Carolina, also an insured State nonmember bank, and to establish the two offices of Morgan Bank and Trust as branches of the resultant bank.

Recommendations regarding the liquidation of assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,156-L—Reserves for Losses and Allotments for Insurance Expenses.

Case No. 43,165-L—Franklin National Bank, New York, New York.

Case No. 43,166-L—Northeast Bank of Houston, Houston, Texas.

Case No. 43,171-SR—American Bank & Trust Company, New York, New York.

Case No. 43,172-NR—United States National Bank, San Diego, California.

Case No. 43,175-NR—United States National Bank, San Diego, California.

Case No. 43,178-SR—Sharpstown State Bank, Houston, Texas.

Case No. 43,180-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Pryor, Cashman, Sherman and Flynn, New York, New York, in connection with the receivership of American Bank & Trust Company, New York, New York.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings or termination-of-insurance proceedings against certain insured banks:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8), (c)(9)(A)(ii), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(10)).

The meeting will be held in Room 6135 of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Alan R. Miller, Executive Secretary of the Corporation, at (202) 389-4446.

Dated: August 30, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1220-77 Filed 8-30-77;3:46 pm]

12

NUCLEAR REGULATORY COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: August 29, 1977 (42 FR 43475).

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Thursday, September 1.

CHANGES IN THE MEETING:

9:00 a.m.:

1. Discussion of Personnel Matter (Closed-Exemption 6) (Continuation of 8/26 meeting; replaces Budget Markup Meeting which is cancelled).
2. Discussion of Draft Administration Bill for Nuclear Plant Licensing Reform (Closed—Exemption 9) (As Announced) (Note.—8/26 meeting on this not held).

2:00 p.m.:

Briefing on Physical Search Requirements (Open/Closed status to be determined).

Dated: August 31, 1977.

WALTER MAGEE,
Chief Operations Branch,
Office of the Secretary.

[S-1228-77 Filed 8-31-77;11:33 am]

V 42 170 SEP 1 77 UMI

federal register

THURSDAY, SEPTEMBER 1, 1977

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Base Flood Elevation Determinations for Various Communities

V 42 170 SEP 1 77 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-3218]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Sunnyvale, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elecations (100-year flood) listed below for selected locations in the City of Sunnyvale, Calif. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 456 West Olive Street, Sunnyvale, California.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Donald Logan, City Hall, P.O. Box 607, 456 West Olive Street, Sunnyvale, California 94088.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevation (100-year flood) for the City of Sunnyvale, California, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Calabazas Creek	Mountain View-Alviso Rd.	8
	Bayshore Freeway	18
	Central Expressway	37
	Southern Pacific RR	47
	Lochinvar Ave.	128
Sunnyvale East Channel.	Caribbean Dr.	8
	Mountain View-Alviso Rd.	11
	Ahwanee Ave.	25
	Wolfe Rd.	45
	Kifer Rd.	62
	Southern Pacific RR	74
	Iris Ave.	109
	Dunholme Way	163
Sunnyvale West	Caribbean Dr.	8
	Mathilda Ave.	13
	Mountain View-Alviso Rd.	24
	Bayshore Freeway	26

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–24703 Filed 8–31–77;8:45 am].

[24 CFR Part 1917]

[Docket No. FI-3219]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Belle Glade, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Belle Glade, Fla. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 110 Southwest Avenue East, Belle Glade, Fla.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor W. R. Kirk, City Hall, 110 Southwest Avenue East, Belle Glade, Fla. 33430.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Belle Glade, Fla., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Okeechobee	Land lake way of Hoover Dike.	25

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2687, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–24704 Filed 8–31–77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3220]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Town of Briny Breezes, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Briny Breezes, Fla. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall-Briny Breezes, 5000 North Ocean Boulevard, Boynton Beach, Fla.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Hugh David, Town Hall-Briny Breezes, 5000 North Ocean Boulevard, Boynton Beach, Fla. 33435.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Briny Breezes, Fla., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Intracoastal waterway at coast.	Marine Way and Dock Dr.	7
	West end of North and South Heron Dr.	7
	West end of Mallard Dr.	7
Inland	Bayan Blvd. and Cardinal Dr.	7
	Bayan Blvd. and Flamingo Dr.	7
	Bayan Blvd. and Mallard Dr.	7
Atlantic Ocean	Shoreline north and south corporate limits.	7

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 4, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–24705 Filed 8–31–77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3221]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Town of Cloud Lake, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Cloud Lake, Fla. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 1 Lang Road, Cloud Lake, Fla.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Brooks Cagle, Town Hall, 1 Lang Road, Cloud Lake, Fla. 33406.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Cloud Lake, Fla., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rainfall and ponding.	Lang Rd.	12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–24706 Filed 8–31–77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3222]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Town of Hypoluxo, Fla.

AGENCY: Federal Insurance Administrator, HUD.

V 42 170 SEP 1 77 V UMI

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Hypoluxo, Fla. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 7450 South U.S. Highway 1, Hypoluxo, Fla.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor John H. Cook, Town Hall, 7450 South U.S. Highway 1, Hypoluxo, Fla. 33462.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Hypoluxo, Fla., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Worth at coast	East end of Park Lane East	7
Inland	Neptune Dr.	7

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24707 Filed 8-31-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3223]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Pahokee, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Pahokee, Fla. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 171 North Lake Avenue, Pahokee, Fla.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Duncan Padgett, City Hall, 171 North Lake Avenue, Pahokee, Fla. 33476.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Pahokee, Florida, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Okeechobee	Stickey Rd.[1]	23
	Rock Pit Rd.[1]	23
	Kismet Ave.[1]	23
	Juniper Ave.[1]	23

[1] Extended.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24708 Filed 8-31-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3224]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Village of Rosemont, Cook County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100–year flood) listed below for selected locations in the Village of Rosemont, Cook County, Illinois. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the Bulletin Board in the Mayor's Office, 9301 West Bryn Mawr Avenue, Rosemont.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Dan E. Stephens, 9301 West Bryn Mawr Avenue, Rosemont, Ill. 60018.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100–year flood) for the Village of Rosemont, Cook County, Illinois in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100–year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Des Plaines River	Downstream corporate limits.	626
	Kennedy Expressway (downstream crossing).	628
	Kennedy Expressway (upstream crossing).	628
	Higgins Rd.	627
	Upstream corporate limits.	628
	Devon.	628
Willow Creek	Downstream corporate limits.	627
	River Rd.	630
	Northwest Tollway	641
	Interstate 294	641
	Ruby St.	641
	Route 72	635
	Soo Line Dr.	640
	Orchard Dr.	640
	Route 45	641
	Lee St.	643
	Upstream corporate limits.	643

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24709 Filed 8-31-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3225]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Township of Park, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Park, Michigan. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Township Hall, 1464 Ottowa Beach Road, Holland, Mich.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. E. J. Van Wieren, Park Township Supervisor, Township Hall, 1464 Ottowa Beach Road, Holland, Mich. 49423.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100–year flood) for the Township of Park, Michigan, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected actions are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pine Creek	Ottawa Beach Rd.	583
	West Lakewood Blvd.	586
	James St.	590

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24710 Filed 8-31-77;8:45 am]

V 42 170 SEP 1 77 UMI

[24 CFR Part 1917]

[Docket No. FI-3226]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Township of Whitney, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Whitney, Mich. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Whitney Township Hall, Au Gres, Mich.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Ken W. Fox, Township Supervisor, Township of Whitney, North U.S. 23, Au Gres, Mich.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Whitney, Michigan, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saginaw Bay	Along the shoreline	584

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24711 Filed 8-31-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3227]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Plymouth, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Plymouth, Minn. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showed the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 3025 Harbor Lane, Plymouth, Minn.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediatley notify Mayor Al Hilde, Jr., City Hall, 3025 Harbor Lane, Plymouth, Minn. 55441.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Plymouth, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 43 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bassett Creek	County and State Aid Highway 18.	887
	Exit ramp	888
	Minnesota Highway 55.	888
	Entrance ramp	888
	6th Ave.	888
	Chicago & Northwestern RR.	889
	South Shore Dr.	889
Plymouth Creek	Medicine Lake Rd.	891
	26th Ave.	928
	Xenium Ave.	931
	Interstate Highway 494.	937
	Fernbrook Lane	949
	Field crossing	954
	do.	957
	Vicksburg Lane	963
	Dunkirk Lane	980
	Minnesota Highway 55.	981

(National Flood Act of 1968 (Title XIII of Housing and Urban Development Act of 1968, effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24712 Filed 8-31-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3228]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Carroll County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Carroll County, Miss. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Carroll County Courthouse, Carrollton, Miss.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. George W. Galey, President, Board of County Supervisors, Carroll County Courthouse, c/o Chancery Clerk' Office, Carrollton, Miss. 38917.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Ceventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Carroll County, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Yazoo River	County road	126
	do.	125
Big Sand Creek (near McCarley).	Upstream McCarley Rd.	265
	Downstream McCarley Rd.	264
Big Sand Creek (near North Carrollton).	George St.	227
Potacocowa Creek	State Highway No. 7.	152
Teoc Creek	do.	163
Talobusha River	Avalon Bridge	135
	Whaley Bridge	134
	Illinois Central Gulf RR.	131
Bogsley Creek	North corporate limits, North Carrollton.	222

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24713 Filed 8-31-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3229]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Holland, Pemiscot County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Holland, Pemiscot County, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Main Street, Holland, Mo. 63853.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Rockey Booker, Mayor, City of Holland, City Hall, P.O. Box 97, Holland, Mo. 63853.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Holland, Mo., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pemiscot Bayou	At the downstream limit of study.	248
	0.37 mi upstream from limit of study.	253
	At the downstream face of unnamed road.	254
	do.	256
	At the upstream face limit of study.	256

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24714 Filed 8-31-77;8:45 am]

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[24 CFR Part 1917]

[Docket No. FI-3230]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Town of DeWitt, Onondaga County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of DeWitt, Onondaga County, New York.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to quality or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, 6565 Kinne Road, DeWitt, New York 13214.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Royal Maxwell, Town Supervisor of DeWitt, Town Hall, 6565 Kinne Road, DeWitt, New York 13214.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581, or toll-free line, 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of DeWitt, Onondaga County, New York, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing building and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Buttermut Creek	Kirkville Rd.	409
	New York Route 290	414
	Cedar Bay Rd.	419
	New York Route 5	424
	Interstate Route 481	428
	Andrews Rd.	433
	Jamesville Rd. (northern crossing).	454
	Jamesville Rd. (southern crossing).	483
	Jamesville Quarry Rd.	540
	Seneca Turnpike	583
	Southern town boundary.	607
Ley Creek, main branch.	Western town boundary.	379
	Confluence with north and south branches.	379
Ley Creek, north branch.	Confluence with south branch.	379
	New York State throughway.	381
	Molloy Rd.	386
	Thompson Rd.	388
	Aviation Rd.	390
	Northern Blvd.	390
	Maxwell Park Bridge.	393
	Collamer Rd.	396
Ley Creek, south branch.	Confluence with north branch.	379
	New York Route 298	383
	Court St.	394
	Thompson Rd.	398
	James St.	402
Meadow Brook	Confluence with Old Erie Canal feeder.	431
	Jamesville Rd. (downstream).	445
	Jamesville Rd. (upstream).	471
Old Erie Canal	Entire length within town of DeWitt.	428

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator (34 FR 2680), February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24715 Filed 8-31-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3231]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Village of East Rockaway, Nassau County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of East Rockaway, Nassau County, New York.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the office of the Village Clerk, Village Hall, 376 Atantic Avenue, East Rockaway.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Theodore S. Reinhard, 376 Atlantic Avenue, East Rockaway, New York 11518.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line, 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of East Rockaway, Nassau County, New York in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Hewlett Bay	Wesley Dr.	8.3
	Thompson Dr.	8.3
	Intersection of Emmet Ave. and Adams St.	8.3
	Chathay Rd.	8.3
	Dart St.	8.3
	Lawson Ave.	8.3
	1st Ave.	8.3
	3d Ave.	8.3
	John St.	8.3
	Front St.	8.3
	Pearl St.	8.3
	Intersection of Payne Circle and Waverly Ave.	8.3
	Intersection of Ocean and East Atlantic Aves.	8.3
	New St.	8.3
	Davis St.	8.3

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator (34 FR 2680, February 27, 1969), as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24716 Filed 8-31-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3232]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Lockport, Niagara County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Lockport, Niagara County, New York.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the bulletin board in the Municipal Building, 1 Locks Plaza, Lockport, New York.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Michael Shanley, Mayor of Lockport, Municipal Building, 1 Locks Plaza, Lockport, New York 14094.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Lockport, Niagara County, New York, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Eighteenmile Creek.	Stone Rd. (C.R. 23)	361
	Gooding St.	440
	William St. (upstream).	465
	Clinton St. (upstream).	487
	Wilson Parkway (extended).	617
	Davison Rd.	621
Gulf Branch	Niagara St. (upstream).	470
	Michigan St. (extended).	400
	Trowbridge St. (extended).	366
Lincoln Avenue branch.	Hoover Parkway (extended).	632

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24717 Filed 8-31-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3233]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Town of Ontario, Wayne County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Ontario, Wayne County, New York.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Ontario Town Hall, 1850 Ridge Road, Ontario, New York 14519.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Robert Pinkney, Town Supervisor, Town of Ontario, Town Hall, 1850 Ridge Road, Ontario, New York 14519.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Ontario, New York, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also

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be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mill Creek	Downstream of Driveway Bridge.	254
	Downstream of Ginna access road.	257
	Downstream of Farm Bridge.	261
	Upstream of Lake Rd.	268
	400 ft downstream from Farm Bridge.	268
	100 ft downstream from Farm Bridge.	273
	Downstream of Slocum Rd.	296
	5,150 ft upstream from Slocum Rd.	332
	1,100 ft downstream from confluence with tributary.	348
	Downstream of Willitts Rd.	362
	Downstream of Farm Bridge.	378
	Downstream of Lake Side.	384
	Downstream of Berg Rd.	398
	Downstream of ConRail.	421
	Upstream of the dam	435
	Upstream of Ridge Rd.	440
	Downstream of Clevenger Rd.	456
	Downstream of Whitney Rd.	469
Bear Creek	100 ft downstream of Lake Rd.	249
	3,300 ft upstream of Lake Rd.	271
	Downstream of Driveway Bridge.	312
	Upstream of Bear Creek Dr.	330
	550 ft downstream of Furnaceville Rd.	346
	Kenyon Rd.	388
	50 ft downstream of ConRail.	406
	250 ft downstream of Ridge Rd.	430
	20 ft downstream from Paddy Lane.	448
Dennison Creek	Upstream of Slocum Rd.	366
	Downstream of ConRail.	419
	50 ft downstream of Paddy Lane.	458
	Downstream of Whitney Rd.	476
Dennison Creek Tributary	Downstream of Slocum Rd.	411
	Downstream of ConRail.	416
	Downstream of Ridge Rd.	430
	2,140 ft upstream of Ridge Rd.	448
Fourmile Creek	Downstream of Farm Bridge.	405
	Downstream of County Line Rd.	419

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24718 Filed 8-31-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3234]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Village of Spencerport, Monroe County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Spencerport, Monroe County, N.Y.

These base flood elevations are the basis for the flood plain managemept measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the bulletin board in the Village Hall, 27 West Avenue, Spencerport, N.Y.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Edward Fosmire, Mayor of Spencerport, 27 West Avenue, Spencerport, N.Y. 14559.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year-flood) for the Village of Spencerport, Monroe County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
West Branch, Northrup Creek.	Hawthorne Rd.	566
	Nichols St.	560
	Brockport Rd.	532
	Village Walk	521
	ConRail	506
Northrup Creek	Coleman Ave.	566
	Prospect Ave.	559
	Maplewood Ave.	521
	ConRail	511
	Erie Canal	495
	Downstream corporate limits.	477

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968) as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24719 Filed 8-31-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3235]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Town of West Bloomfield, Ontario County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of West Bloomfield, Ontario County, N.Y.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review

at the Town Hall, West Bloomfield, N.Y. 14585.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Raymond L. Parrish, Supervisor of the Town of West Bloomfield, County Road 14, Holcomb, N.Y. 14469.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of West Bloomfield, Ontario County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Honeoye Creek	North corporate limits.	670
	Route 65	684
	Martin Rd.	705
	U.S. Highway No. 20.	742
	Gleason Rd. (extended).	774
	Gray Rd.	792
	South corporate limits	793

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77 24720 Filed 8-31-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3236]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Town of Fuquay-Varina, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Fuquay-Varina, N.C. These base blood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 131 South Fuquay Avenue, Fuquay-Varina, N.C.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor R. Douglas Powell, Town Hall, P.O. Box 35, 131 South Fuquay Avenue, Fuquay-Varina, N.C. 27526.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Fuquay-Varina, N.C., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing building and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Terrible Creek	North Carolina State Rd. 1301.	345
	North Carolina State Rd. 1401.	290
Angier Creek	North Carolina State Rd. 2770.	309
	North Carolina State Rd. 2767.	340
	Durham & Southern RR.	363
Kenneth Creek	U.S. 401	291
	North Carolina State Rd. 1100.	309
	Norfolk & Southern RR.	344
	North Carolina State Rd. 1103.	362
	North Carolina 42	378
Bradley Creek	U.S. 401	285
Rocky Rd. branch	Norfolk & Southern RR.	345
Kenneth branch	North Carolina 42	374
	North Carolina State Rd. 1104.	378
	Norfolk & Southern RR.	287

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PARRICIA ROBERTS HARRIS,
Secretary.

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federal register

THURSDAY, SEPTEMBER 1, 1977
PART III



CONSUMER PRODUCT SAFETY COMMISSION

TOYS AND OTHER ARTICLES INTENDED FOR USE BY CHILDREN UNDER 8 YEARS OF AGE

Technical Requirements Identifying Sharp Metal or Glass Edges

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CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1500]

IDENTIFICATION OF CERTAIN TOYS AND OTHER ARTICLES PRESENTING POTENTIAL LACERATION INJURY HAZARDS DUE TO SHARP METAL OR GLASS EDGES

Proposed Technical Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed Regulation.

SUMMARY: The Commission is proposing a regulation that would establish technical requirements for toys and other articles intended for use by children under 8 years of age. These requirements would identify sharp metal or glass edges on such children's articles that could injure children. If the Commission identifies sharp metal or glass edges on particular children's articles that present an unreasonable risk of injury to children under 8 years of age, it will initiate rulemaking proceedings to ban those articles.

DATES: Comments must be received on or before October 3, 1977. The proposed effective date would be 365 days after publication of final requirements.

ADDRESS: Send comments to the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Elaine H. Besson, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 (301—492–6453).

SUPPLEMENTARY INFORMATION: On January 7, 1975, the Consumer Product Safety Commission, pursuant to section 2(f)(1)(D) of the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261(f)(1)(D), proposed regulations to ban toys intended for children under 8 years of age[1] that present an unreasonable risk of personal injury from laceration or avulsion hazards due to sharp edges (40 FR 1488). The proposed regulations also set forth test criteria for determining whether toys intended for children under 8 years of age present those hazards.

At the Commission meeting of April 7, 1977, the Commission voted to withdraw its proposed regulations and to repropose the sharp edge test criteria, with certain changes, as a technical requirements regulation.

The effect of the technical requirements regulation proposed in this document, if issued in final form, would be to identify toys containing sharp metal or glass edges that the Commission preliminarily believes are hazardous to children under 8 years of age. Because such toys may not necessarily present a mechanical hazard under the FHSA (section 2(s), 15 U.S.C. 1261(s)), the Commission is not proposing a regulation that would automatically classify such toys as banned hazardous substances. Instead, the Commission will regulate such toys on a product-by-product basis whenever the test procedures identify them as presenting sharp metal or glass edges and the Commission believes that they present a mechanical hazard as defined in the FHSA.

The Commission's reasons for its proposal of this product-by-product regulatory approach for toys with metal or glass edges and the manner in which the Commission will use this approach are discussed below.

RATIONALE FOR REPROPOSAL

The Commission has decided to withdraw the January 7, 1975, proposed regulation and to repropose the sharp edge test criteria, with certain changes, as a technical requirements regulation for the following reasons:

1. In response to the January 7, 1975, proposed sharp edge regulation, the Commission received extensive comment which criticized both the technical requirements and the sharp edge test procedure. Considerable staff effort analyzing those comments has resulted in the staff recommendation that substantial technical changes be made in the proposal. These changes are discussed more fully in the section entitled "Changes to the Proposal" below.

2. The proposed banning regulation of January 7, 1975, and the technical requirements regulation proposed below include in their scope all products intended for children within an age span ranging from 0 to 8 years. However, the Commission believes that it would be unwise to attempt to apply a single sharp edge test criterion in a self-executing banning regulation to the numerous products which make up the play environment of children between the ages of 0 and 8 years. Sharp edge tests on toys conducted by the Commission staff showed that some edges which were classified sharp by the test instrument and were accessible by the crieria of the proposed regulations may not constitute an unreasonable risk of injury.

3. Staff analyses of the Commission's injury data associated with products intended for children indicate that injuries to young children are predominantly lacerations, punctures and avulsions. However, many of these injuries appear to occur as a result of some form of violent activity such as swinging or throwing the product, or running and subsequently falling on it. Although this type of activity and the resultant potential risk of injury associated with children's products are included within the term "reasonably foreseeable damage or abuse," as used in the FHSA (15 U.S.C. 1261(s)), the proposed banning regulations of January 7, 1975 were never intended to address such activity or risk. Rather, that proposal was aimed at the casual handling of toys, which includes the range of activity associated with unpacking, handling, operating, and playing with toys, including foreseeable misuse and types of play not intended by the manufacturer. The degree of injury that results from throwing or swinging toys at high velocities is more a function of velocity than the detailed geometry of the edge.

For the reasons discussed above, the Commission is proposing in the regulation below certain technical requirements for manufacturers to follow in designing and manufacturing toys without sharp edges.

Toys that do not comply with the technical requirements will be reviewed by the Commission and its staff on a product-by-product basis for further regulatory action. Under this approach, toys not meeting the technical requirements would not be classified as banned hazardous substances under the FHSA until they are the subject of a completed proceeding under section 2(f)(1)(D) of the FHSA (15 U.S.C. 1261). In contrast, under the approach that was proposed in January 1975, toys not meeting the sharp edge test criteria would have been automatically banned.

The Commission believes that consumers, State and local governments, and other interested persons should be given an opportunity to comment on the technical requirements regulation followed by a product-by-product banning approach before the Commission adopts it.

BACKGROUND

In response to the Commission's January 7, 1975, proposed regulation on sharp edges, comments were received from 34 individual toy manufacturers or importers, five trade associations, five consumers, three testing organizations, two retailers, and one consumer group.

The Commission's responses and conclusions to the major issues raised in the comments that are pertinent to the proposal are discussed below.

1. *Injury data.* Several commentors contend that the sharp edge regulations as proposed would not reduce or eliminate any of the injuries reported in the Commission's National Electronic Injury Surveillance System (NEISS) because 60 percent of the injuries discussed in the Commission's in-depth investigations result from falling or impacting a toy and not the casual handling of toys.

Other commentors content that NEISS data is not an adequate basis for proposing the sharp edge regulations and several commentors state that an analysis of NEISS reports suggests that the regulations, as proposed, were not warranted by the injury statistics cited.

The Commission points out that NEISS surveillance data are primarily an indicator of need and not a justification for regulation. The NEISS data do not distinguish between product-caused and product-related injuries and do not identify whether an injury resulted from the normal use or the reasonably foreseeable misuse of a product. Such information is obtained through in-depth investigations that are performed by the Commission. However, NEISS surveillance data provide information on the type and severity of injuries and the ages of those being injured. Therefore NEISS data are only one factor the Commission uses in making its findings of an unreasonable risk of injury pursuant to the FHSA.

The Commission offers the following explanation of how NEISS surveillance data are applicable to the regulation proposed below.

A review of NEISS injury data indicates that a substantial number of children under 8 years of age are receiving laceration and avulsion injuries from toy-related accidents. In calendar year 1976 an estimated 43,300 children under 8 years of age were treated in hospital emergency rooms for such injuries.

In order to determine the extent to which lacerations and punctures are occurring from toys intended for children under 8 years of age, the Commission staff divided toys into the following three categories.

a. Toys primarily intended for use by children under the age of 8 years.

b. Toys primarily intended for use by children 8 years to 14 years of age.

c. Toys intended for use by children in both age groups.

Of the estimated 43,300 injuries treated in 1976, an estimated 9,000 were associated with products intended specifically for use by children under 8 years of age. An additional 30,800 injuries were associated with products intended for use by children in both the under 8 year and in the 8-to-14 year age groups.

In addition based on NEISS estimates, laceration and avulsion injuries accounted for over half (approximately 53 percent) of all toy related injuries to children under 8 years of age.

The Commission points out that injuries of the type addressed by the regulation being proposed are serious enough to require emergency room treatment as shown by the fact that NEISS surveillance data are obtained from reports of injuries that are treated in hospital emergency rooms. The Commission belives that a purchaser of toys for children under 8 years of age does not expect such articles to cause laceration or avulsion injuries to the children using them. The Commission therefore finds that toys that can lacerate skin and cause bleeding, during normal use or reasonably foreseeable misuse, constitute an unreasonable risk of injury.

The Commission notes that while many toy-related laceration injuries may cause only minor bleeding, some injuries are more severe. Such injuries warrant the adoption of reasonable regulations to reduce or eliminate their occurrence.

The Commission emphasizes that the proposed technical requirements are intended to set a standard of safety to reduce the risk of injury not only for the products currently available to young children, but also for the new and redesigned products for which there is no hazard experience data available to the Commission. The Commission estimates that between 3000 and 5000 new children's products are introduced into the marketplace each year. It is anticipated therefore that the technical requirements proposed below will reduce the occurrence of laceration and avulsion injuries associated with the new products that will be available for children.

The injury reports and the Commission staff's analysis of injuries related to sharp edges on toys may be seen in the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C., during working hours Monday through Friday.

2. *Sharp Edge Test Criteria*—a. *Sharp edge tester.* The proposed January 7, 1975 regulations prescribed a sharp edge test developed for the Commission by the National Bureau of Standards (NBS). The sharp edge test was designed to distinguish, on the basis of sharpness, between sharp and dull edges that children can contact during the casual handling of toys. Casual handling includes the range of activity associated with unpacking, handling, operating, and playing with toys, including foreseeable misuse and other types of play not intended by the manufacturer. However, such foreseeable misuse does not include throwing or swinging a toy at high velocities.

Under the sponsorship of the Commission and its predecessor agency, the Bureau of Product Safety, Food and Drug Administration, the NBS conducted research on certain aspects of human skin cutting. The results are set forth in an NBS report entitled "Some Cutting Experiments on Human Skin and Synthetic Materials", NBSIR 73–262 (October 1973). In the study, tests were performed in which the cutability of excised cadaver skin was examined using "standard edges" of differing edge geometries. The edges for these tests were selected for having typical geometries and varied abilities to cut skin. Skin samples were wrapped around a cylindrical hardwood mandrel that turned a single rotation while the test edge was held stationary and a known force applied. The resultant data were summarized for various force levels and the edges were ranked in order of sharpness.

In a related effort, NBS reported in a document entitled "A Study of the Strength Capabilities of Children Ages Two through Six," NBSIR 73–156 (August 1973), that the average maximum gripping force for children 5 years of age is 20 lbs. Older children are stronger and reach larger force levels but have more accurate sense of judgment and are less likely to indiscriminately grasp an object with maximum force. The Commission believed that a force level of 20 pounds was a reasonable base to determine the force level for the sharp edge test method. Data from these two NBS reports established the criteria which was used as a basis for the sharp edge test proposed on January 7, 1975.

NBS developed a prototype test device for sharp edges in toys which is described in an NBS report entitled "An Inspection Procedure for Detecting Hazardous Edges," NBSIR 74–428 (April 1974). The device is designed to be handheld, usable in any orientation, and easy to operate. The diameter of the rotating mandrel approximates the size of a child's finger and is wrapped with a simulated skin. Material suitable for use with the test device as the simulated skin is a tape made from polyetrafluoroethylene (TFE) and has an adhesive backing to provide for easy mounting on the mandrel.

The Commission's January 7, 1975 proposed regulations specified a test based on the device developed by NBS. The proposed test method established the sharpness of an edge by its ability to cut through a specified simulated skin at force of 3.8 pounds which was found to simulate behavior of human skin at a force of 20 pounds.

Because various brands and lots of polytetrafluorothylene tape have differing degrees of cutability, the Commission proposed a tape qualifying procedure along with the sharp edge test method. Certain standard edges which NBS had chosen as sharp and dull edges based on the human skin cutting tests were used to select and qualify the tape, thereby reducing variability in results obtained during actual testing. This would allow several tapes to qualify.

The NBS reports cited above may be seen in the Office of the Secretary, CPSC, 1111 18th Street, Washington, D.C., during working hours Monday through Friday.

b. *Articulated probe.* A three-knuckle articulated probe, designed by Underwriters Laboratories (UL) to simulate the penetration of a finger into a small slot or hole, was specified in the proposal on January 7, 1975, for use in determining the accessibility of sharp edges to children. An edge that is accessible to this probe was determined to be accessible to a child and therefore subject to the sharp edge test. The dimensions for the probe were based on the depth of penetration of fingers into slots and holes having respective widths and diameters ranging from 0.125 inch to 1.0 inch of 100 adult males, 100 adult females, and 100 children. The dimensions used to construct the probe were set so that no more than five percent of the group with the greatest finger penetration (adult females) could reach into the slots and holes to a length greater than that of the probe.

Use and Abuse Test Procedures. The proposed regulations referenced Commission regulations that prescribe test procedures for simulating the use and abuse of toys and games (16 CFR 1500.50 through 1500.53, published in the FEDERAL REGISTER on January 7, 1975 (40 FR 1480)). These tests are preformed in order to simulate the normal use and reasonably foreseeable damage or abuse that is included in the statutory definition of mechanical hazard.

As the regulations were originally proposed, any toy intended for children under 8 years of age would be classified as

[1] The Commission intends that the scope of this technical requirements regulation will include other articles intended for use by children under 8 years of age as well as toys. However in an effort to simplify reading the preamble, the term toy(s) hereafter will be used inclusively for both toys and other articles intended for use by children.

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a hazardous substance and, therefore, a banned hazardous substance if such toy failed to comply with the accessibility and sharp edge test method before or after being subjected to the appropriate use and abuse tests.

CHANGES TO THE PROPOSAL

1. *Test Criteria.* In response to the proposal of January 7, 1977, the Commission received many comments which criticized the test procedures, the background experiments which were used to establish the criteria for the proposed tester, and the tester itself. The majority of the comments questioned the rationale for selecting, as the average maximum gripping force of a 5-year-old child, the 20-pound force level at which children may grasp toys during play. The selection of this force as the force at which any edge can be expected to be applied to human skin without causing a bleeding cut produced an extremely stringent requirement which, if promulgated under FHSA would, in the opinion of many manufacturers, be impossible to meet. The commenters questioned the validity of the data presented in the NBS report "Some Cutting Experiments on Human Skin and Synthetic Materials," NBSIR 73-262. The comments noted the apparent absence of an established relationship between the cutability of skin samples excised from cadavers, the NBS tests, and the cutability of skin on human body. It was pointed out that the NBS tests were performed on skin which had had the subdermal fat removed and was backed by a hardwood mandrel. It was theorized that skin on the human body, which in most locations has a resilient subdermal fatty layer, would not be cut as easily as the excised skin in the NBS tests.

In addition, many commenters questioned the applicability of the proposed sharp edge test to plastics.

The Commission believes these comments have merit. Therefore, additional staff research has been conducted in support of the reproposal below. The test procedure has been reviewed with the goal of revising the requirements such that only edges which are similar to those known to have caused injury or which on a "reasonable man" basis could be judged hazardous would fail the requirements.

The results of additional testing and review of the originally proposed sharp edge test method have led the Commission to the conclusion that the sharp edge test and requirements be reproposed with the changes discussed in paragraphs 2, 3, 4, 5 and 6 below.

2. *Sharp edge test procedure.* a. Tape specifications. In addition to the many comments addressing the severity of the test requirements in the proposed sharp edge regulation, the notice drew much criticism aimed at the repeatability of the test method. As proposed, the test method allowed the use of any roll of TFE tape as a cut indicator, provided it could be calibrated by a specified procedure which incorporated the use of certain standard edges. The lack of availability of standard edges on a commercial basis made the calibration method impractical for most affected manufacturers to use. Furthermore, it was found that even tape which proved to be acceptable by the calibration procedure may provide differing results if different brands of tape were used because the acceptable range was too large.

Additional tests were performed to determine the cutting variability of a single brand of tape from different rolls as well as the variability within a single roll. As a result of those tests, the Commission staff has recommended the use of a single brand of tape known as CHR type 'T' TFE tape. The use of this tape is specified in footnote 4 to section (e)(3) of the technical requirements proposed below.

In addition, during subsequent testing of rolls of tape it was found that TFE tape is temperature sensitive and undergoes a temperature transition at 30° C (86° F). At this point the cutability characteristics of the TFE tape may change. The staff have, therefore, recommended a change in the test procedure which limits the permissible temperature of the tape while the test is being performed. (See section (e)(3) of the technical requirements below.)

b. Force level. As discussed above extensive comments to the January 7, 1975, proposal led to the reevaluation of certain aspects of the tester and test method. As proposed a force of 3.8 pounds was applied to an edge to determine if it was hazardous based on its ability to cut through the tape.

The Commission staff reviewed test results from the NBS studies and sought additional information on skin cutting characteristics.

The staff also reviewed the results of tests performed by the Department of Anatomy at the University of Virginia. Blades with edges of similar geometries to those of the NBS tests, were examined for their cutting ability on live and dead pigs' skin and on cadaver skin, both on the body and excised from the body.

The tests were performed over a range of force levels. These tests did not support the implication that human skin and pigs' skin differ in their resistance to cutting since excised samples of each behaved generally in similar ways in cutting tests. Skin with subcutaneous tissue removed (as used in the NBS tests) and cadaver skin in place over bone (leg skin over shinbone) showed the least resistance to cutting injury.

In a summary of observations on cuts, the University of Virginia report was able to identify blades with certain edge geometries which are considered sharp since they consistently cut deeply into or through the skin under the application of light forces. Other blades, however, rarely cut skin unless it was tested with the subcutaneous tissue removed against a hard backing and were considered dull.

Copies of the University of Virginia report may be seen in the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C., during working hours Monday through Friday.

A further examination of In-depth Investigation Reports (IDI's) concerning toy related laceration injuries showed that exposed edges on toys punched from sheet metal which had not been deburred or otherwise treated were a common cause of injury.

To determine the mandrel force at which hazardous toy edges would cut TFE tape, the Commission staff conducted some tests on edges taken from toy samples. These samples were of the same manufacturer and model as toys which were reported by IDI's to have caused laceration injuries to children during normal play. All were toys which were stamped from sheet metal and all had an accessible edge on which ragged burrs or feathering subjectively indicated the presence of a hazard.

A roll of TFE tape was selected which had exhibited a cutting performance which was in the middle of the force range observed for those tapes which were tested against a single edge in the tape variability tests previously discussed in paragraph 2a of this section. The toy edges were tested with a bench model sharp edge tester using that tape. The minimum force which was required to consistently cause cuts in the TFE tape with toy edges ranged from 1.00 to 1.35 pounds depending on the sharpness of the edges. The sharpest of the toy edges would consistently cut tape at 1.00 pound and might also have cut at lower forces. The bench tester in its present form has a minimum force of 1.00 pound. Based on staff recommendations, the Commission is proposing that the same basic test procedure as contained in the January 7, 1975, proposal be incorporated in the technical requirements regulation proposed below. A proposed maximum mandrel force has been designated as 1.35 pounds (6.00 newtons), because this was the minimum force required to consistently fail all of the tested edges which had caused laceration injuries.

Detailed engineering drawings for a suitable sharp edge tester which meets the requirements stated in section (d)(2) of the proposal below are available at a minimum cost from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

3. *Limitation to metal and glass edges.* a. Many commenters question the applicability of the proposed sharp edge test to plastics. They question whether the requirements should be applied to toys constructed on non-metals, when the supporting research was limited to metal edges.

Upon reexamining the basis for proposing application of the sharp edge regulations to toys constructed of all materials, the Commission makes the following observations:

i. The research performed by NBS upon which the design of the sharp edge test procedure is based, and the subsequent research by the University of Virginia determined the laceration hazards of only metal edges. No determinations of the laceration hazards of nonmetal edges were performed.

ii. Certain physical properties of glass (modulus of elasticity and hardness) which determine its resistance to deformation are closer to those properties of metal than to plastic or other nonmetals from which toys are constructed. For example, glass possesses a hardness quality similar to metal and metal alloys and has a modulus of elasticity of about 10,000,000 pounds per square inch that is within the modulus range of aluminum alloys, which is 9,900,000 to 10,300,000 pounds per square inch. Plastics, however, are relatively soft and generally have modulus of elasticity below 750,000 pounds per square inch.

Based on staff recommendations, the Commission concludes, therefore, that the scope of the proposed regulations should be limited to toys containing edges constructed of metal and/or metal alloys or glass and that are intended for children under 8 years of age. For purposes of the regulations, the Commission is defining the term glass as a hard, brittle, amorphous substance produced by fusion, usually consisting of mutually dissolved silica and silicates that also contain soda and lime. It may be transparent, translucent, or opaque.

The Commission will consider at a later time whether there is a need to address the potential laceration hazards of nonmetal materials except glass used in toys that are intended for children under 8 years of age.

4. *Accessibility criteria*—a. *Probes.* In reexamining the research supporting the proposed articulated probe, the Commission finds that the probe, designed by UL was intended to prevent electric shock where simple contact results in serious injury. UL based the design of the articulated probe on the finger penetration depth of 100 adult males, 100 adult females, and 100 children. The Commission therefore has redrafted the accessibility criteria to simulate only accessibility for children's fingers.

The Commission selected the anthropometric measurements [1] of young children for the lengths and the diameters of the small and middle fingers as well as the dimensions for hand clearance. Because children up to the age of 8 years are in a period of rapid growth, the anthropometric measurements were divided into two age groups—0 to 3 years and over 3 years up to 8 years of age.

To insure protection of the greatest number of children in each age group, the Commission selected anthropometric measurements that reflect the following assumptions:

i. That the younger children in each age group have narrower hands and therefore can reach into openings which would be inaccessible to an older child.

ii. That the older children in each age group have longer fingers and therefore can touch the inside components of toys which would be inaccessible to a younger child.

Furthermore, anthropometric data are not available for the dimensions of a child's index finger. Those dimensions have been approximated by averaging the respective dimensions of the small and middle finger of children in the two age groups.

In the 0 to 3-year age group, measurements for a fifth-percentile 3-month-old's small and middle fingers were averaged and used to approximate the diameter of the index finger. Measurements for a 95th-percentile 3-year-old's small and middle fingers were averaged and used to approximate the length of the index finger. The minimum hand-clearance measurement of a fifth-percentile 3-month-old child was selected. These measurements were then used to define the dimensions of probe A.

For explanatory purposes, the various percentiles refer to how the size and proportions of one child within a particular age range compare with respect to the size and proportions of other children in the same age range. For example, a fifth-percentile 3-month-old child represents a child of this age, the size of whom is such that 95 percent of the children of same age are larger and only five percent are smaller.

Similarly for the over 3-year to 8-year age group, measurements for the small and middle fingers of a fifth-percentile child 37–42 months of age were averaged and used to approximate the diameter of the index finger. Measurements for the small and middle fingers of a 95th-percentile child 85–96 months of age were averaged and used to approximate the length of the index finger. The minimum hand-clearance dimensions for a fifth-percentile child 37–42 months of age were selected. These dimensions were then used to define the dimensions of probe B.

Accordingly, probes A and B shown in figure 2 of the regulation below are to be used as follows:

Probe A is to be used to determine the accessibility of edges in holes, recesses, or openings on toys intended for children 3 years of age or less.

Probe B is to be used to determine the accessibility of edges in holes, recesses, or openings on toys intended for children over 3 years up to 8 years of age.

The Commission notes that the accessibility probes are articulated in two rather than three places, as was the proposed articulated probe, because only two finger joints customarily go through an opening that will not accept the entire hand.

Detailed engineering drawings to enable the construction of the redesigned accessibility probes shown in figure 2 of the regulation below are available at a minimal cost from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207.

Based on staff recommendations and the anthropometric measurements from the University of Michigan study on the physical characteristics of children (cited in footnote 2, above) for two age groups—0 to 3 years and over 3 years up to 8 years of age, the Commission has defined accessibility for holes, recesses, and openings on toys and other children's articles as described in the following sections b, c, and d. (Holes, recesses, and openings will be referred to hereafter in this paragraph, 4, as openings).

b. *Finger access.* Section 1500.49 (c)(3)(i) of the proposed regulation proposed below provides that access into openings which are large enough to accept a child's finger but too small to accept a child's hand shall be determined by the appropriate accessibility probe shown in figure 2 of the regulation below.

The Commission notes that as indicated in section (c)(3)(i) of the proposal below each of the two joints on the probe may be rotated up to 90 degrees to simulate knuckle movement and that the total depth of insertion for accessibility shall be up to the collar on the probe that is appropriate for either the 0 to 3-year age group (probe A) or the over 3-year to 8-year age group (probe B).

The Commission points out that the diameter of the collar on each probe is representative of the hand-clearance diameter of a fifth percentile child in the youngest age category within each age group. For the 0 to 3-year age group, the youngest age category is 0–3 months of age and for the over 3-year to 8-year age group, the youngest age category is 37–42 months of age.

c. *Hand access but not shoulder access.* Section (c)(3)(ii) of the proposed regulation proposed below provides that access into openings large enough to accept a child's hand and arm but too small to admit the child's torso (body trunk) shall be determined by the dimensions of the entrance of the opening. Such openings include openings that are larger than the width of a child's hand but smaller than the breadth of a child's shoulders. For the reasons given below, the Commission finds that a depth-of-insertion factor of two and one-quarter multiplied by the minor dimension of an opening is appropriate to determine the accessibility of edges in such openings.

The Commission defines a minor dimension of an opening in footnote 1 to section (c)(3)(i), as the diameter of the largest sphere that will pass through the opening. The minor dimension of an opening can be determined by using a pair of calipers. This dimension multiplied by two and one-quarter determines the maximum depth of insertion for accessibility.

The Commission points out that the value of two and one-quarter is the approximate average of the ratio of arm length to shoulder breadth for a 50th percentile child in each of the two age groups—0 to 3 years and over 3 years to 8 years of age. For example, the depth of insertion into an opening with a minor dimension slightly smaller than the breadth of a child's shoulders will be slightly less than the length of the child's arm.

[1] All measurements were obtained from the University of Michigan's study, "Physical Characteristics of Children as Related to Death and Injury for Consumer Product Design and use" (Highway Safety Research Institute, The University of Michigan, Ann Arbor, Mich. 48105).

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The Commission notes that the detachable extensions on the accesibility (finger) probes shown in figure 2 of the regulation below are appropriate for determining the accessibility of edges recessed in openings that are larger than the diameter for hand clearance but smaller than the dimension for shoulder breadth. For testing purposes, the appropriate insertion depth should be marked on the probe extension by any suitable means and is the distance from that mark to the tip of the simulated finger. The probe, attached to the probe extension, should be inserted in any direction into the opening up to the depth of the previously made mark. Each probe joint may be rotated up to 90 degrees to simulate knuckle movement and any edge that can be contacted by the finger portion of the probe, forward of the probe collar, shall be considered accessible.

d. *Total accessibility.* The Commission has decided that openings larger than the breadth of a child's shoulders shall be considered totally accessible. Therefore section (c)(3)(iii) of the regulation proposed below makes provision for the use of probes for such openings.

For the 0 to 3-year age group, the Commission believes that a shoulder breadth measurement of 7.36 inches is appropriate. This measurement represents a fifth-percentile one-year-old child, since children who are under one-year of age are less mobile and therefore are less likely to climb into cavities than children who are one-year of age or older.

For the over 3-year to 8-year age group, the Commission believes that a shoulder breadth measurement of 9.00 inches is appropriate. This measurement represents a fifth percentile child in the age category of 37–42 months.

The Commission believes that since significant growth occurs within the 0 to 3-year and the over 3-year to 8-year age groups, the measurements of 7.36 and 9.00 inches, respectively, provide an appropriate margin of safety in the tests for accessibility.

The Commission believes that for toys intended for children 0 to 3-years of age, access into openings with a minor dimension (defined above in paragraph 4–c) of 7.36 inches or larger shall be considered totally accessible to a child. For toys intended for children over 3 years to 8 years of age, access into openings with a minor dimension of 9.00 inches or larger shall be considered totally accessible to a child. Because openings that are totally accessible to children in the 0–8 years age span may contain smaller openings that are not totally accessible to such children, access into these smaller openings shall be determined by the appropriate procedures explained about in paragraphs 4—b or c.

e. *Inaccessible edges.* From the results of sharp edge tests conducted on a representative sample of toys, the Commission observes that tabs and other protrusions or edges do not present a laceration hazard if such protrusions or edges are flush with the toy or other protecting surface. The Commission therefore finds that an edge shall be considered inaccessible if it is protected by an adjacent surface and any gap between the edge and the adjacent surface does not exceed 0.020 inch both before and after application of the appropriate use and abuse test procedures referenced in section (b)(1) of the regulations proposed below.

Accordingly, the accessibility criteria explained above in this paragraph 4 are included below in proposed § 1500.49(c).

5. *Product-by-product regulatory approach.* The technical requirements regulation concerning toys containing edges is proposed under the authority of section 10 of the FHSA as a regulation for the efficient enforcement of the FHSA. Like the use and abuse regulations (16 CFR 1500.50 through 1500.53), the proposed regulation would establish testing criteria but would not itself ban any toy intended for children under 8 years of age. The testing criteria include the sharp edge test instrument, the accessibility probes, and the use and abuse tests. If any toy contains metal or glass edges that are identified as sharp, the Commission and its staff will evaluate the toy to determine if it presents a mechanical hazard.

If any such toy does appear to present a mechanical hazard under section 2(s) of the FHSA, the Commission will propose that it be classified as a hazardous substance (and thus a banned hazardous substance) according to sections 2(f)(1)(D), 2(q)(1)(A), and 3(e)(1) of the FHSA (15 U.S.C. 1261, 1262). Interested persons will be notified of the proposal and will have an opportunity to comment to the Commission, in accordance with the Administrative Procedure Act (5 U.S.C. 553). Notification will be by publication of the proposal in the FEDERAL REGISTER or by actual notice to the manufacturer of the affected toy, with notice to the general public, where appropriate. After the Commission and its staff evaluate all comments received, the Commission will issue a final regulation classifying the toy as a hazardous substance (and thus a banned hazardous substance) if the Commission believes that the toy presents a mechanical hazard.

If the Commission decides that a toy containing an edge, identified as sharp by the test criteria, does not present a mechanical hazard, the Commission will not initiate regulatory action against that toy.

Since this proposed regulation does not in itself ban toys, the Commission will follow the procedures described in this section and will review those toys which fail the sharp edge test criteria on a product-by-product basis. The Commission therefore encourages manufacturers of children's products to make every effort to insure that their product lines comply with the technical requirements because products which fail the test criteria may be subject to additional regulatory action which may lead to those products being declared banned hazardous substances.

6. *Use and abuse test procedures.* The proposed regulation below would require testing sharp edges before and after application of the appropriate use and abuse test procedures (16 CFR 1500.50 through 1500.53). These test procedures published as final regulations in the FEDERAL REGISTER of January 7, 1975 (40 FR 1480), do not in and of themselves ban toys and games. Rather, they are for use in exposing potential hazards that result from the normal use or the reasonably foreseeable damage or abuse to which toys and games may be subjected.

The use and abuse test procedures are to be used whenever they are referenced in regulations that are issued pursuant to the FHSA. Such regulations may identify particular mechanical hazards as defined by section 2(s) of the FHSA, which provides, in part, that (a toy) may be determined to present a mechanical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury from edges.

Bites tests for various age categories are among the Commission's use and abuse test procedures for simulating normal use or reasonably foreseeable damage or abuse. With regard to the bite tests, the Commission finds, based on staff recommendations, that there is some doubt whether children can bite at the force levels specified in each of the bite tests and maintain these forces for the specified ten seconds.

The Commission's research for the bite test procedures and force levels included a study by Dr. Wilton M. Krogman.[*] A copy of the study by Dr. Krogman may be seen in the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C., during working hours Monday through Friday.

After considering the Krogman study and the staff's recommendations, the Commission concludes that the bite tests prescribed by §§ 1500.51(c), 1500.52(c), and 1500.53(c) should not be referenced in the proposed regulation below. Section (b)(1) of the regulation proposed below reflects this decision.

EXEMPTIONS

1. *Individual products.* Certain children's products are covered by specific regulations under the FHSA. In the case of bicycles and baby cribs, the Commission notes that these products are covered by comprehensive regulations that address the hazard of sharp edges.

Therefore, the Commission proposes to exempt from this technical requirements regulation the bicycles and baby cribs in categories that are addressed in the following three sets of individual product banning regulations:

a. Full-size baby cribs (16 CFR 1500.18(a)(13) and Part 1508) promulgated in the FEDERAL REGISTER of November 21, 1973 (38 FR 32129).

b. Bicycles (16 CFR 1500.18(a)(12) and Part 1512), amended November 13, 1975 (40 FR 52815 and 52828), published in the FEDERAL REGISTER in entirety as amended January 28, 1976 (41 FR 4144) and corrected (printer's error) February 6, 1976 (41 FR 5386).

c. Non-full-size baby cribs (16 CFR 1500.18(a)(14) and Part 1509) promulgated in the FEDERAL REGISTER of February 12, 1976 (41 FR 6238).

2. *Model and craft kits.* An industry association requested that any sharp edge regulation exempt model and craft kits because the data, test methods, and other criteria on which the regulation would be based are wholly inapplicable and irrelevant to the essential nature and use patterns of such kits.

The Commission considers adding such an exemption unnecessary because most children under 8 years of age do not have the dexterity and the reading ability for assembling complicated model and craft kits. The Commission believes also that model and craft kits in the marketplace today are usually not intended for use by children under 8 years of age. Therefore, the Commission finds that such kits are excluded from the scope of the proposed regulation below.

For purposes of the exclusion, the Commission recognizes that model and craft kits are articles containing components which may be unfinished and which require assembly or other necessary processing by the user in order to arrive at a finished product.

3. *Toys and other articles with functional sharp edges.* The Commission is proposing to exempt from the technical requirements those toys that have sharp edges by reason of their functional purpose, such as toy scissors and tool kits: *Provided,* The toy is identified by a conspicuous, legible and visible label as having sharp edges. The Commission is also proposing an exemption for other children's articles that have sharp edges by reason of their functional purpose, such as children's ice skates and children's cutlery. For purposes of both exemptions, non-functional sharp edges may be present on the toy or other article.

PREEMPTION

Section 18(b)(1)(B) of the FHSA, as amended, states:

> Except as provided in paragraphs (2), (3) and (4), if under regulations of the Commission promulgated under or for the enforcement of section 2(q) a requirement is established to protect against a risk of illness or injury associated with a hazardous substance, no State or political subdivision of a State may establish or continue in effect a requirement applicable to such substance and designed to protect against the same risk of illness or injury unless such requirement is identical to the requirement established under such regulations.

The regulations proposed below are requirements established to protect against the hazard of sharp edges on toys intended for children under 8 years of age and they are Commission regulations issued for the enforcement of section 2(q) of the FHSA. Therefore, if the regulations proposed below are issued in final form, the Commission believes and intends that state and local governments would be prohibited from establishing or enforcing any nonidentical requirement that addresses the hazard of sharp edges on toys intended for children under 8.

The Commission's proposed regulations are "technical requirements" that establish manufacturing criteria for toys intended for children under 8. As long as states or local governments use these same criteria to regulate such toys, their regulations would be considered to be identical to the Commission's regulations. Even if a state or local government were to impose different penalties or use different procedures to regulate toys, there would be no preemption as long as the manufacturing criteria were identical. As an example, if a state were to ban automatically any toy not meeting the criteria, the Commission's position is that such a ban is not preempted by the Commission's technical requirements.

EFFECTIVE DATE

It is contemplated that the effective date will be 365 days from publication of a final regulation establishing technical requirements to identify toys with potentially hazardous sharp metal or glass edges for all products subject to the regulation and introduced into interstate commerce after that date. For purposes of the regulation, introduction into interstate commerce is defined as follows: A toy manufactured outside the United States is introduced into interstate commerce when it is first brought within a U.S. port of entry. A top manufactured in the United States is introduced into interstate commerce (a) at the time of its first interstate sale, or (b) at the time of its first intrastate sale if one or more of its components and/or raw materials were received interstate.

ENVIRONMENTAL CONSIDERATIONS

An assessment of the potential environmental impact has been made of proposed § 1500.49 establishing technical requirements to identify toys and other articles that are intended for use by children under 8 years of age and that have sharp metal or glass presenting a potential laceration or avulsion injury hazard. The Commission concludes that there are no potentially significant environmental impacts associated with the proposal. Therefore, there is no need for an environmental impact statement. A copy of the environmental assessment may be inspected at the Office of the Secretary.

METRIC CONVERSION

Throughout the regulation English figures are used. The metric approximations in parentheses are included for convenience and information only.

THE PROPOSAL

Accordingly, pursuant to provision of the Federal Hazardous Substances Act (secs 2(s), 10(a), 74 Stat. 378 (15 U.S.C. 1261, 1269)) in accordance with the provisions of 5 U.S.C. 553, and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–573, sec. 30(a), 86 Stat. 1231 (15 U.S.C. 2079(a)), the Commission proposes to amend 16 CFR Part 1500 by adding a new § 1500.49 as follows:

§ 1500.49 Technical requirements for determining a sharp metal or glass edge in toys and other articles intended for use by children under 8 years of age.

(a) *Objective.* The sharp edge test method prescribed by paragraph (d) of this section will be used by the Commission in making a preliminary determination that metal or glass edges on toys and other articles intended for use by children under 8 years of age, and such edges exposed in normal use or as a result of reasonably forseeable damage or abuse of such toys and articles present a potential risk of injury by laceration or avulsion under section 2(s) of the Federal Hazardous Substances Act (15 U.S.C. 1261(s)). The Commission will further evaluate toys and other articles with edges that are identified as presenting a potential risk of laceration or avulsion injury to determine the need for individual product regulation.

(b) *Scope.*—(1) *General.* The sharp edge test of paragraph (d) of this section is applicable to toys or other articles containing metal or glass edges that are introduced into interstate commerce on or after (365 days after publication in the FEDERAL REGISTER of a final regulation). The sharp edge test shall be applied to any portion of the test sample before and after subjecting the test sample to the use and abuse tests of § 1500.51, 1500.52, and 1500.53 (excluding the bite test—paragraph (c) of each section).

(2) *Exemptions.* (i) Toys and other children's articles that are the subject of any of the following regulations are exempt from this § 1500.46: The regulations for bicycles, non-full-size baby cribs, and full-size baby cribs (Parts 1508, 1509, and 1512 of this chapter.)

(ii) Toys that by reason of their functional purpose necessarily present the hazard of sharp metal or glass edges and that do not have any nonfunctional sharp metal or glass edges are exempt from this section: *Provided,* The toy is identified by a conspicuous, legible, and visible label at the time of any sale, as having functional sharp metal or glass edges. Examples of these are a pair of toy scissors or toy tool kits.

(iii) Articles, besides toys, intended for use by children that by reason of their functional purpose necessarily present the hazard of sharp metal or glass edges and that do not have any nonfunctional sharp metal or glass edges are exempt from this section. Examples of these are children's ice skates and children's cutlery.

(3) *Definitions*—(i) *Glass.* For the purpose of this regulation the Commission defines glass as a hard, brittle, amorphous substance produced by fusion, usually consisting of mutually dissolved silica and silicates that also contain soda and lime.

[*] Manual and Oral Strengths of American White and Negro Children, Ages 3–6," by Dr. Wilton Krogman (the study by Dr. Krogman, dated September 1, 1971, was sponsored by the Closure Committee of the Glass Container Manufacturers Institute, Inc.).

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(ii) *Metal.* For the purpose of this regulation the Commission intends the word metal to include both elemental metals and metal alloys.

(c) *Accessibility*—(1) *General.* Any metal or glass edge that is accessible either before or after the tests of §§ 1500.51, 1500.52, and 1500.53 (excluding the bite test—paragraph (c) of each section) are performed shall be subject to the sharp edge test of paragraph (d) of this section.

(2) *Accessible edges.* (i) An accessible metal or glass edge for a toy or article intended for children 3 years of age or less is one that can be contacted by any portion forward of the collar of the accessibility probe designated as probe A in figure 2 of this section.

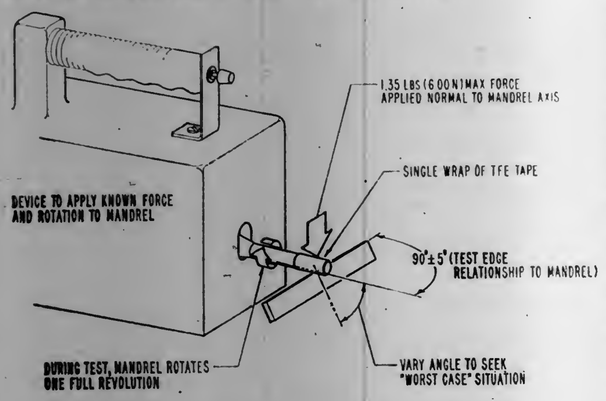
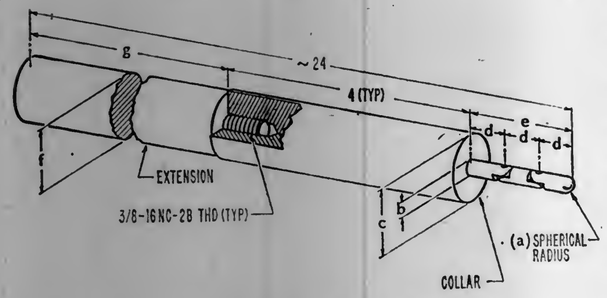


FIG 1—PRINCIPLE OF SHARP EDGE TEST



		a	b	c	d	e	f	g
(CHILDREN 0-36 MONTHS INCL)	PROBE A	.110	.220	1.020	.577	1.731	1	18 9/32
(" 37-96 " ")	PROBE B	.170	.340	1.510	.760	2.280	1 1/2	17 25/32

ALL DIMENSIONS IN INCHES

FIG 2—ACCESSIBILITY PROBES

(ii) An accessible edge for a toy or article intended for children over 3 years up to 8 years of age is one that can be contacted by any portion forward of the collar of the accessibility probe designated as Probe B in figure 2 of this section.

(iii) An accessible edge for a toy or article intended for children of ages spanning both age groups is one that can be contacted by any portion forward of the collar of either Probe A or Probe B, as shown in figure 2 of this section.

(3) *Insertion depth.* (i) For any hole, recess, or opening having a minor dimension[4] smaller than the collar diameter of the appropriate probe, the total insertion depth for accessibility shall be up to the collar on the appropriate probe. Each probe joint may be rotated up to 90 degrees to simulate knuckle movement.

(ii) For any hole, recess, or opening having a minor dimension larger than the collar diameter of Probe A, but less than 7.36 inches (186.9 millimeters), when Probe A is used, or a minor dimension larger than the collar diameter of Probe B, but less than 9.00 inches (228.6 millimeters), when Probe B is used, the total insertion depth for accessibility shall be determined by inserting the appropriate probe with the extension, shown in Figure 2, in any direction up to two and one quarter times the minor dimension of the hole, recess, or opening, measured from any point in the plane of the opening. Each probe joint may be rotated up to 90 degrees to simulate knuckle movement.

(iii) For any hole, recess, or opening having a minor dimension of 7.36 inches (186.9 millimeters) or larger when Probe A is used, or a minor dimension of 9.00 inches (228.6 millimeters) or larger when Probe B is used, the total insertion depth for accessibility is unrestricted unless other holes, recesses, or openings within the original hole, recess, or opening are encountered with dimensions specified in paragraph (c)(3)(i) or (ii) of this section. In such instances, the appropriate paragraphs (c)(3)(i) or (ii) of this section shall be followed. If both probes are to be used, a minor dimension that is 7.36 inches (186.9 millimeters) or larger shall determine unrestricted access.

(4) *Inaccessible edges.* Metal or glass edges shall be considered inaccessible without testing with a probe if they lie adjacent to a surface of the test sample, and any gap between the edge and the adjacent surface does not exceed 0.020 inch (0.50 millimeter) both before and after the tests of 1500.51, 1500.52, and 1500.53 (excluding the bite test—paragraph (c) of each section) are performed. For example, a lap joint in which a metal edge is overlapped by a parallel surface, any burr or feather-edge on the side closest to the protecting parallel surface is considered inaccessible if the gap between the edge and the parallel surface is no greater than 0.020 inch (0.50 millimeter).

(d) *Sharp edge test method*—(1) *Principle of operation*—The test shall be performed with a sharp edge tester[5] which contains a cylindrical mandrel capable of rotation at a constant velocity. The full circumference of the mandrel shall be wrapped with a single layer of polytetrafluoroethylene (TFE) tape as specified in paragraph (e)(3) of this section. The mandrel shall be applied to the edge to be tested with a normal force of up to but not exceeding 1.35 pounds (6.00 Newtons) such that the edge contacts the approximate center of the width of the tape as shown in figure 1 of this section. The mandrel shall be rotated through one complete revolution while maintaining the force against the edge constant. Linear motion of the mandrel along the line of the edge shall be prevented. The edge shall be identified as sharp if it completely cuts through the tape for a length of not less than ½ inch (13 millimeters) at any force up to 1.35 pounds (6.00 Newtons).

(2) *Procedure* (i) The edge of the sample to be tested shall be held in such a manner that it does not move during the test. If the full mandrel force of 1.35 pounds (6.00 Newtons) causes the edge to bend, a reduced mandrel force may be used.

(ii) Part of the test sample may need to be removed to allow the sharp edge testing device to test an edge that is accessible by the criteria of paragraph (c) of this section. Such dismantling of the test sample could affect the rigidity of the edge in question. The sharp edge test shall be performed with the edge supported so that its stiffness approximates but is not greater than the edge stiffness in the assembled sample.

(iii) Conduct of a sharp edge test is as follows: Wrap one layer of polytetrafluoroethylene (TFE) tape, described in paragraph (e)(3) of this section, around the full circumference of the mandrel in an unstretched state. The ends of the tape shall be either butted or overlapped not more than 0.10 inch (2.5 millimeters). Apply the mandrel, at the approximate center of the tape, to the edge of the test sample with a force of up to, but not greater than 1.35 pounds (6.00 newtons) measured in a direction at right angles to the mandrel axis. The mandrel shall be placed so that its axis is at 90 degrees ±5 degrees to the line of a straight test edge or 90 degrees ±5 degrees to a tangent at the point of contact with a curved test edge. The point of contact between the test edge and the mandrel shall be in the approximate center of the width of the tape. The axis of the mandrel may be positioned anywhere in a plane which is at right angles to either the line of a straight test edge or to a tangent at the point of contact with a curved test edge. The operator should seek the orientation most likely to cause the edge to cut the tape. Maintain the force against the edge and rotate the mandrel through one complete revolution while preventing any linear motion of the mandrel along the edge. Release the mandrel from the edge and remove the tape without enlarging any cut or causing any score to become a cut. A cut in the tape with a length of not less than ½ inch (13 millimeters) identifies an edge as sharp.

(e) *Specifications for sharp edge test equipment.* The following specifications shall apply to the equipment to be used in sharp edge test described in paragraph (d) of this section:

(1) The rotation of the mandrel shall produce a constant tangential velocity of 1.00±0.08 inch per second (25.4±2.0 millimeters per second) during the center 75 percent of its rotation and shall have a smooth start and stop.

(2) The mandrel shall be made of steel. The test surface of the mandrel shall be free of scratches, nicks, or burrs and shall have a surface roughness no greater than 16 microinches (0.40 micron). The test surface shall have a hardness no less than 40 as measured on the Rockwell "C" scale, as determined pursuant to ASTM E 18–74 entitled "Standard Test Methods for Rockwell Hardness and Rockwell Superficial Hardness of Metallic Materials," published July 1974.[6] The diameter of the mandrel shall be 0.375±0.005 inch) (9.35±0.12 millimeters). The mandrel shall be of suitable length to carry out the test.

(3) The tape shall be pressure-sensitive polytetrafluoroethylene (TFE) high temperature electrical insulation tape as described in MIL–I–23594B. The thickness of the polytetrafluoroethylene backing shall be between 0.0026 inch (0.066 millimeter) and 0.0035 inch (0.089 millimeter).[7] The adhesive shall be a pressure-sensitive silicone polymer with a nominal thickness of 0.003 inch (.08 millimeter). The width of the tape shall not be les than ¼ inch (6 millimeters). While conducting sharp edge tests the temperature of the tape shall be maintained between 70°F (21.1° C) and 80°F (26.6° C).

(f) For the purpose of conformance with the technical requirements prescribed by this § 1500.49, the English figures shall be used. The metric approximations are provided in parentheses for convenience and information only.

Interested persons are invited to submit, on or before October 3, 1977, written comments regarding this proposal. The Commission will consider late comments to the extent practicable. Comments and any accompanying data or material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, 1111 18th Street, N.W., Washington, D.C. 20207. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the Office of the Secretary, at the above address, during working hours Monday through Friday.

Dated: August 26, 1977.

RICHARD RAPPS,
Secretary,
Consumer Product Safety Commission.

[FR Doc.77-25414 Filed 8-31-77;8:45 am]

[4] The minor dimension of an opening is the diameter of the largest sphere that will pass through the opening.

[5] Engineering drawings for a suitable portable sharp edge test instrument are available from the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

[6] Copies available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

[7] The tape that the Commission will use for the sharp edge test is CHR type "T" manufactured by The Connecticut Hard Rubber Co., New Haven, Connecticut.

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federal register

THURSDAY, SEPTEMBER 1, 1977
PART IV

ENVIRONMENTAL PROTECTION AGENCY

CLASSIFICATION BY REGULATION OF USES OF PESTICIDE PRODUCTS FOR RESTRICTED USE

Optional Procedures and Lists of Certain Pesticide Products

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UMI

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER—PESTICIDE PROGRAMS

[FRL 769-7; OPP-30015]

PART 162—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Optional Procedures for Classification of Pesticide Uses by Regulation

AGENCY: Office of Pesticide Programs, Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This regulation establishes optional procedures for the classification by regulation of uses of pesticide products for restricted use.

The Agency is undertaking this action in order to comply with the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, requirement that pesticide uses be classified for either restricted or general use. By establishing these procedures the Agency will also be supporting the applicator certification program and providing an additional measure of environmental protection. Those uses that are not classified restricted via this process have been left unclassified as additional data will have to be examined prior to proposing a general use classification.

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

James H. White, Project Leader (WH-570), Office of Pesticide Programs, Environmental Protection Agency, Room E509A, 401 M Street SW., Washington, D.C. 20460, Telephone: 202-755-8297.

SUPPLEMENTARY INFORMATION: The Agency is also publishing three other related documents in this separate part. Comments pertaining to all four documents from the FIFRA Scientific Advisory Panel and the U.S. Department of Agriculture (USDA), and the responses of the Deputy Assistant Administrator for Pesticide Programs to these comments are published as an appendix to this rulemaking document.

One of the documents (OPP-30016) adds subsections to § 162.30 relating to compliance, amendments of registrations, labeling, hearing rights, and enforcement. Although those subsections are also procedural in nature, they will not apply until after the promulgation of a final rule under § 162.30(c)(3). Accordingly, the Agency has determined, in the public interest, to promulgate the additional subsections as proposed regulations and to specifically solicit public comment.

Another document (OPP-30017) is a proposed rule listing 23 active ingredients which have been reviewed by the Agency thus far. Some of the uses of these active ingredients have been classified for restricted use; others remain unclassified.

The fourth document (OPP-30018) is an advance notice of proposed rulemaking which presents a list of active ingredients which the Agency intends to review and classify. Additional information is being solicited.

Section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, provides that as part of the registration of a pesticide the Administrator shall classify its uses as being for general use or restricted use. It further provides that a use shall be classified as restricted if the Administrator determines that the use of the pesticide, when applied in accordance with its directions for use, warnings and cautions, or in accordance with a widespread and commonly recognized practice, may generally cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, including injury to the applicator. The regulatory restriction may take the form of a requirement that the product having a restricted use be applied only by or under the direct supervision of a certified applicator, or such other requirement as the Administrator may provide by regulation.

The Act further provides that the Administrator is to reregister and classify all previously registered pesticides by October 21, 1977, and must implement State programs for the certification of applicators by that same date. However, unforeseen difficulties with the reregistration process have seriously delayed progress, and current projections for the completion of reregistration and classification extend well beyond the October 1977 deadline. Nevertheless, classification of substantial numbers of pesticide products is desirable in order to lessen the risks involved in pesticide use, to preserve the integrity of the certification program, and to provide needed support for the States in this area. Accordingly, the Agency has decided to proceed with classification apart from the reregistration process.

In order to accomplish this goal as expeditiously as possible, the Administrator has established an optional procedure which will allow him, at his discretion to classify uses by means of rulemaking. This procedure will not necessarily apply to individual products or individual uses of individual products, but rather will provide for classification of uses by groups of products. Thus, the Administrator may describe a group comprised of all products which contain a particular active ingredient or contain a particular active ingredient in a particular concentration range, formulation type, or combination of concentration range and formulation type. He may then classify for restricted use some or all uses of the products in that group. This approach will be consistent with the generic registration authority being requested of the Congress.

The Agency wishes to emphasize that the establishment of this optional procedure for classification by regulation does not alter the status of classification as an integral part of the registration or reregistration processes. This is merely an optional procedure and, as explained more fully below, it will focus on the "incremental" risk/benefit analysis established by § 162.11(c). This will involve a comparison of restricted and unrestricted use, and a use will be classified if the incremental risks of unrestricted use outweigh the incremental benefits of unrestricted use. Classification is also appropriate if it will avoid the need to cancel a use of a pesticide in a situation where, but for the classification and imposition of restrictions, the risks of that use would exceed the benefits. That decision will require an evaluation of the overall risks and benefits associated with a use, and will be accomplished during the "rebuttable presumption against registration" (RPAR) process set forth in § 162.11 (a) and (b). Evaluations of overall risks and benefits will also occur in making decisions whether to register or reregister products, and classification decisions made in those contexts also may focus on reduction of overall risks. Moreover, since this optional procedure only involves an incremental, and not an overall risk/benefit analysis, a decision under the optional procedure to restrict (or not to restrict) a use of a product will not in any way imply that the product will (or will not) ultimately satisfy the statutory standards governing registration or reregistration.

In determining whether to classify a use of a group of products as restricted under this procedure, the Administrator shall apply the criteria specified in § 162.11(c) (1), (2), and (4). If these criteria for general use are not met, the Administrator will perform the incremental risk/benefit analysis outlined in § 162.11(c). This incremental risk/benefit analysis requires the Administrator to compare the incremental benefits of unrestricted use (those over and above the benefits of restricted use) with the incremental risks of unrestricted use (those over and above the risks of restricted use).

In evaluating the incremental risks of unrestricted use, the Administrator will focus on those risks which could be reduced by restriction. This would include reduction of risk to the applicator (by a requirement that the applicator be certified or under the direct supervision of a trained, certified applicator) as well as reduction of risk to non-applicators, fish and wildlife, and non-target species. Conversely, in evaluating the incremental benefits of unrestricted use, the Administrator will focus on benefits which would be lost if the use were restricted. The predominant factor here will be the extent to which the imposition of a restriction will limit access to, or the availability of, a product.

If the Administrator determines that the incremental risks of unrestricted use outweigh the incremental benefits from unrestricted use, he will classify the use as restricted. Before reaching a final decision to classify, however, the Administrator will also consider whether specific standardized language can be developed for incorporation on the labels

of products in the affected groups, which would be adequate to reduce the risk of unreasonable adverse effects on the environment so as to eliminate the need for restricted classification of use(s) of any product so labeled. If the Administrator affirmatively determines that such language has been developed, he shall not classify the use for restricted use.

If the Administrator tentatively determines to classify a use of a group of products as restricted, he will publish a notice of proposed rulemaking in the FEDERAL REGISTER describing the category of products, identifying the use proposed to be classified as restricted, and setting forth the nature of the proposed restrictions. These restrictions may include a limitation to application by or under the direct supervision of a certified applicator, or may take the form of any other regulatory restriction, including those described in § 162.11(c)(5). The notice will also contain a summary of the basis for the proposed classification and will state how an interested person may obtain further information concerning the basis for the proposed action.

After publication of the notice, there will be a comment period of at least 45 days during which a registrant or any other interested party may submit written comments on the proposed classification and the proposed restriction(s). These comments may specifically include any pertinent test data, including data relating to the criteria specified in § 162.11(c) (1), (2), and (4), and may suggest proposed label and labeling language for the group which, if contained in the label and labeling of any product in the group would, in the opinion of the commenter, eliminate the need for restricted use classification of that product. It should be stressed that any suggested language must be of general applicability to the entire group of products; the Agency will generally not review proposed modifications on an individual product-by-product basis as a part of this rulemaking.

After consideration of the comments received, the Administrator may publish a final rule in the FEDERAL REGISTER classifying a use of all products within a product group as restricted and establishing the use restrictions pertaining to that use. The final rule would also specify standardized language which, if contained in the label or labeling of any product in the group, will eliminate the need for restricted use classification of that product. The Administrator is required to notify by certified mail all registrants whose products may be affected by the restriction.

The Administrator has determined that there are compelling public interest reasons for these regulations to be made effective at this time without notice and opportunity for comment by the public. These regulations contain rules of Agency procedure. Section 553 (b) of the Administrative Procedure Act, Title 5, U.S.C., provides that all regulations governing procedure or practice may be published without the requirement of notice and opportunity for public comment. These regulations impose no new substantive requirements or standards for classification, but merely specify and explain the procedures that the Agency will use in classifying uses by regulation. These procedures shall take effect upon publication. Any delay in the effectiveness of these procedures may interfere with the orderly and timely classification of pesticide products by regulation.

Finally, the Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis Statement under Executive Orders 11821 and 11949 and OMB Circular A-107

Effective on September 1, 1977, Part 162 is amended as set forth below.

Dated: August 16, 1977.

DOUGLAS M. COSTLE,
Administrator.

(Secs. 3, 25(a), Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 et seq.).)

Part 162 of 40 CFR is amended by adding the new § 162.30 to read as follows:

§ 162.30 Optional procedures for classification of pesticide uses by regulation.

(a) *Restricted use classification groups.* The Administrator may by regulation, describe a group of products having common characteristics, and may, by regulation, classify for restricted use (see FIFRA section 3(d)) some or all uses of all products included in that group. Such a group may be comprised of:

(1) Those products which contain active ingredients in common; or

(2) Those products which contain active ingredients in common and are in a particular concentration range, formulation type, or combination of concentration range and formulation type.

(b) *Criteria.* A use shall be classified for restricted use if the Administrator determines that the incremental risks of unrestricted use outweigh the incremental benefits of unrestricted use. The Administrator shall apply the criteria specified in § 162.11(c)(1), (2), and (4) to make this determination.

(c) *Procedure.* (1) If the Administrator preliminarily determines that some or all uses of a group of products should be classified for restricted use under this section, he shall publish a notice of proposed rulemaking in the FEDERAL REGISTER describing the group of products, the use(s) proposed to be classified as restricted, and the nature of the proposed restrictions. Such notice shall also set forth a summary of the basis for the proposed classification and state how an interested person may obtain further information concerning the basis for the proposed action.

(2) After publication of the notice in the FEDERAL REGISTER, a registrant or any other interested party may submit written comments on the proposed classification and the proposed restriction(s). Pertinent test data and other information may be submitted, as may proposed label and labeling language which, if contained in the label and labeling of any product in the group would, in the submitter's opinion, eliminate the need for a restricted use classification of the product. The comment period shall be not less than 45 days.

(3) After consideration of the comments received, the Administrator may publish a final rule in the FEDERAL REGISTER classifying a use as restricted and specifying the terms of restriction. The Administrator shall notify by certified mail all registrants whose products have uses that are restricted.

(4) The final rule may also specify language which, if contained in the label and labeling of any product in the group, would eliminate the need for a restricted use classification of the product.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., June 15, 1977.

MR. EDWIN JOHNSON,
Deputy Assistant Administrator, Office of Pesticide Programs, Environmental Protection Agency, Washington, D.C.

DEAR MR. JOHNSON: This letter is in response to your June 1, 1977 transmittal letter concerning the classification of restricted use pesticides by regulation. The Department supported the concept of classification by regulation in testimony before Congressional committees in April and June of this year. We have emphasized the need to implement the restricted use program on schedule and agree with EPA's opinion that the program cannot be initiated in a timely manner through the reregistration process. Accordingly, we continue to endorse the concept of establishing restricted use categories on the basis of regulations, and hope that these preliminary suggestions assist your agency in its consideration of this important topic.

1. The preamble to the proposed regulations states "that restriction will only have a minimal impact on availability because of the large number of certified applicators and the relative lack of difficulty of obtaining applicator certification." (p. 4). This statement may not adequately permit consideration of specific effects of a restricted classification for all uses, particularly the minor usee. We believe that deletion of the statement would avoid any appearance of pre-judgment of the effects of restricted use classification, and would permit greater agency flexibility in the classification program.

2. In 40 CFR 162.30 (a) through (c), as proposed states: "The Agency will not review proposed [label] modifications on an individual product-by-product basis" (p. 6). In our opinion there probably will be instances where individual product consideration may be beneficial. Accordingly, the proposal would better serve the public interest if the word "generally" were inserted between the words "not" and "review."

3. At page 2, in the Supplementary Information section, the foregoing problem is again emphasized. The proposed regulations provide that: 'This procedure will not apply to individual products or individual uses of individual products, but rather will provide for classification of uses by groups of products." This deficiency can be remedied by inserting the word "necessarily" between the words "not" and "apply."

4. Under proposed § 162.30(i) it will be difficult to enforce equitably the requirement for relabeling of existing stocks at the retail level within the proposed periods. Therefore, we suggest that an extended time schedule be adopted as an effective date rather than

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utilizing prosecutorial discretion regarding violations. It seems unfair to place a retail dealer in violation of the EPA regulations because he did not have time to relabel his inventory. State regulatory agencies that have had extensive experience with the problem of existing inventories have found it desirable to provide one year for compliance with relabeling requirements.

5. Proposed §§ 162.30(d) through (i) may limit the scope of the hearings provided by FIFRA under section 6(b)(1) regarding changes in classification and under section 3 on applications for registration. The rationale for the proposed regulation is that a previous opportunity to present evidence will have been provided by the agency through its notice of intent to classify products as restricted and the opportunity for comment on the proposal. The rule-making procedure might be improved by also providing for adjudicative procedure, where desired.

The Department appreciates this opportunity to comment on the proposed regulations for classification. We continue to believe that the standards for determining those pesticides and their uses that require restriction need to be amended. In some instances, the criteria in 40 CFR 162.11(c)(1), (2) and (4) are inappropriate and must be amended before the classification process to be established pursuant to these regulations can be reasonably accomplished. Finally, it must emphasize that we have not had time to complete a comprehensive evaluation of the actual proposed list of restricted uses of particular pesticides, and are, therefore, obliged to stress that we will present our opinions regarding that matter after your agency publishes the initial proposal.

Sincerely,

ERRETT DECK,
Coordinator, Office of Environmental Quality Activities.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., June 20, 1977.

Mr. EDWIN JOHNSON,
Deputy Assistant Administrator, Office of Pesticide Programs, U.S. Environmental Protection Agency, Washington, D.C.

DEAR MR. JOHNSON: In reviewing a copy of my June 15, 1977 letter regarding the classification of restricted uses of pesticides by regulation, I find that a paragraph of my rough draft was left out. This paragraph quoted below will provide you with approval for you to publish the proposed procedures and proposed restricted uses of pesticides as per your desired schedule.

"In order to expedite your publication of the proposed optional procedures as well as the final optional procedures, we will comment on both within the 15 days provided for final regulations. Although the Department has not had time to complete evaluation of the actual proposed restricted uses of certain pesticides, it is suggested that you proceed with the publication of the proposed restricted uses. We will be willing to assist your agency in the evaluation of the comments that are received on these uses prior to your final adoption."

Sincerely,

ERRETT DECK,
Coordinator, Office of Environmental Quality Activities.

July 19, 1977.

Mr. ERRETT DECK,
Coordinator, Office of Environmental Quality Activities, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. DECK: We have received your letter expressing your suggestions relating to the proposed regulations under Section 3(d) and 25(a) of FIFRA for the classification of pesticides. We greatly appreciate your cooperation and quick response on this topic. The mutual agreement to waive the statutory review periods will greatly speed up the implementation of this needed proram. Our response to your specific comments is noted below.

1. We accept your suggestion to delete this sentence to allow more flexibility in the classification program.

2. We accept your suggestion to add the word "generally" to that sentence. This also will provide for flexibility.

3. We accept your suggestion to insert the word "necessarily" to the specific sentence in keeping with suggestion No. 2 above.

4. We accept your suggestion to extend the time periods for the relabeling of pesticides. We have extended the time for relabeling at the retail level from 90 to 180 days. We also have changed the time schedule to function as an effective date rather than using prosecutorial discretion regarding violations. If the written comments strongly indicate that the relabeling deadlines be further extended, the Agency will consider such extension in promulgation of final regulations.

5. We have not changed the wording of proposed § 162.30(h) regarding the scope of hearings allowed under this procedure. The Agency wants to limit the scope of such hearing to prevent the introduction of unrelated issues at a hearing based on a classification issue. This approach will help to shorten lengthy administrative hearings.

Thank you again for working with us in implementing the classification program.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)

SCIENTIFIC ADVISORY PANEL

Review of FIFRA Section 3(d) Draft Optional Procedures for Classification of Pesticide Uses by Regulations

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel has completed review of final proposed rulemaking for classification of pesticide uses by regulation. Expedited procedures were followed throughout the review in order to assist the U.S. Environmental Protection Agency to rapidly move forward with a regulatory program on classification of pesticides which is a critical aspect of successful implementation of programs for certification of operators under Section 4(c)(4) of FIFRA.

In response to a request by EPA for scientific support while reviewing the document, the Panel conducted a series of open meetings to markup a progressively improving proposed regulation. Following each session, the Agency would appropriately amend the document in consideration of public comments and recommendations of the Panel. The Panel reviewed the classification of pesticides document and associated materials provided by EPA in support of the proposal in open meetings as follows: subcommittee meetings at Bryce Mountain, Va., during the period April 22-23, 1977, and April 29, 1977; and formal Panel review in Washington, D.C. during the period May 26-27, 1977. In addition, the Chairman and Vice-Chairman of the Advisory Panel met in Executive Session in Washington on July 7, 1977 to certify that the document reflecting final Agency Policy was appropriately amended in accordance with recommendations of the Panel and to conduct a final telephonic roll-call of the membership.

Maximum public participation was encouraged at all meetings. In addition to comments by representatives of EPA, public comments were received during the meetings from the pesticide industry, the U.S. Department of Agriculture, the Environmental Defense Fund, and representatives of the National Agricultural Chemicals Association. Public notice of all meetings was published in the FEDERAL REGISTER on April 7, 1977; May 11, 1977; and May 20, 1977. Written statements were received from the following sources: American Cyanamid Company, Chevron Chemical Company, Dow Chemical Company, E. I. duPont and Company, Mobay Chemical Company, Pennwalt Corporation, Union Carbide Corporation, and Velsicol Chemical Corporation.

On the basis of consideration of all matters brought during Panel meetings, matters brought out in written statements from the public, and careful review of the proposed regulations, the Panel submits the following report:

The FIFRA Scientific Advisory Panel feels that the document describing Optional Procedures for Classification of Pesticide Uses by Regulation, as written in the draft dated 30 June 1977, deals effectively with this procedure.

The Panel agrees with all proposed classification of pesticide uses as restricted except for aldicarb. Data currently available for review by the Panel on aldicarb does not warrant restriction of use of this product. The basis for restriction of use is the potential avian hazard of aldicarb. The Scientific Advisory Panel does not feel that the data reviewed by the Panel on this pesticide supports a demonstrated avian hazard as a result of the use of this product in the recommended manner. Additional comments relative to this potential hazard are solicited by the Panel.

A majority of the FIFRA Scientific Advisory Panel concurred in the above report following a special telephonic poll of the membership by Dr. Torgeson and Dr. Neal on July 7, 1977. No votes were recorded from Drs. Davies, Davis, and Metcalf due to their unavailability on the day of the poll.

For the Chairman.

Certified as an accurate report of findings:

H. WADE FOWLER, JR., PH. D.,
Executive Secretary, FIFRA Scientific Advisory Panel.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., July 21, 1977.

Subject: Review of Proposed Procedures for Classification of Pesticide Uses by Regulation.

From: Deputy Assistant Administrator for Pesticide Programs.

To: H. Wade Fowler, Jr., Ph.D., Executive Secretary, FIFRA Scientific Advisory Panel.

I have received the report of the Scientific Advisory Panel based on their review of the proposed procedures for the classification of pesticide uses by regulation. I am pleased with the manner and depth of review by the Panel. In addition, EPA is appreciative of the expeditious handling of this proposal. The review made by the Panel as well as the input received at their public review and in written statements aided greatly in the development of these regulations.

The Agency recognizes that the Panel does not agree with the decision of EPA's scientific personnel to restrict some uses of aldicarb. I assume that this disagreement is limited to the agricultural uses of aldicarb and does not include the proposed restrictions for greenhouse and nursery uses. If this is not the case, please advise. To receive additional input on this issue the agency will propose to restrict uses of aldicarb in order to receive written comments from other parties. A final decision will be made after considering any additional written comments that may be received regarding the proposal.

Thank you again for your support on the classification document.

EDWIN L. JOHNSON.

[FR Doc.77-25417 Filed 8-31-77;8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 162]

[FRL 769-8; OPP-30016]

CLASSIFICATION OF PESTICIDE USES BY REGULATION

Optional Procedures

AGENCY: Office of Pesticide Programs, Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends 40 CFR 162.30 and establishes the procedures to be followed by registrants after the promulgation of a final rule classifying a use of a pesticide product for restricted use. The purpose of this proposed rulemaking is to provide proposed deadlines for submittal of appropriate applications for amended registration, label, and labeling requirements for restricted use products, enforcement procedures, and a discussion of the hearing rights of pesticide registrants. This notice also proposes to amend 40 CFR 162.10 by deleting the requirement for applicator categories on the label and revising the restricted use classification label statement.

DATE: Comments must be received on or before October 3, 1977.

ADDRESS COMMENTS TO: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Comments should be filed in triplicate and bear the identifying notation "OPP-30016." All written comments will be available for public inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

James H. White, Project Leader (WH-570), Office of Pesticide Programs, Environmental Protection Agency, Room E509A, 401 M Street, SW., Washington, D.C. 20460, 202-755-8297.

SUPPLEMENTARY INFORMATION: Three related documents are also published in this part of the FEDERAL REGISTER. Comments pertaining to all four documents are published as an appendix to the rulemaking document.

Subsections (a), (b), and (c) of § 162.30, which are published on and effective as of this date, established optional procedures for the classification of pesticide uses by regulation. These proposed subsections ((d), (e), (f), (g), (h), and (i)), which are also procedural in nature, relate to matters following the promulgation of a final rule classifying a use as restricted; compliance, amendments of registrations, labeling, hearing rights, and enforcement. Since these subsections will not be applicable until a use is actually restricted under the procedures outlined in subsections (a), (b), and (c), the Agency has determined, in the public interest, to specifically solicit comment on the subsections contained in this notice.

COMPLIANCE

Under the proposal, after publication of a final rule classifying a use of a group of products as restricted, the Administrator would issue a notice of intent to cancel the registration of a product in tha group unless the registrant, not later than 45 days after the effective date of the final rule, had submitted an appropriate application for amended registration based solely on the changes required in this regulation. No other types of amendments will be considered under this procedure.

The contents of that application would be determined by two factors. The first factor would be whether the final rule specified standardized language which, if contained in the label and labeling of any product in the group, would eliminate the need for restricted use classification of that product. If the final rule did specify such language, the application for amended registration could be based solely on a proposed label and proposed labeling which incorporated the standardized language.

The second factor would be whether or not all the uses of the product had been classified for restricted use. If all uses were restricted (and the final rule did not provide for standardized labeling language), the application for amended registration would have to be based solely on a proposed label and proposed labeling which complied with proposed § 162.30(g). The label would have to contain the statement of restricted use classification required by § 162.10(j)(2) and the labeling would have to contain directions for use which are consistent with the terms of restriction. The amended label could consist of an adhesive sticker which contains the statement of restricted use classification required by § 162.10(j)(2).

If some but not all uses had been classified for restricted use (and the final rule did not provide for standardized labeling language), the registrant would have two options. First, he might base his application for amended registration on a proposed label and labeling which complied with proposed § 162.30(g) with respect to the uses which had been classified as restricted; the label and labeling could also contain directions for use for the remaining, unclassified uses. The amended label could consist of an adhesive sticker which contains the statement of restricted use classification required by § 162.10(j)(2). According to 40 CFR 162.10(j) a product which bears directions for both restricted and unrestricted uses may only be sold to certified applicators or persons under their direct supervision. In addition, it would be a use inconsistent with the labeling for an individual, other than a certified applicator or someone under his direct supervision, to use such a product even for its unclassified uses. Second, the registrant might instead request that the existing registration be "split" into two registrations, one pertaining only to the uses which had been classified for restricted use, and the other pertaining only to the remaining unclassified uses. In this case, the application would request amendment of the existing registration to pertain to the restricted uses only or to the restricted uses and unclassified uses, and would propose a label and labeling for this registration which comply with proposed § 162.30(g). The amended label could consist of an adhesive sticker which contains the statement of restricted use classification required by § 162.10(j)(2). The application would also request issuance of a new registration number for the remaining unclassified uses. These types of registrations will not be handled as "new" registrations under 40 CFR 162.6 requiring the submission of new data nor considered as reregistrations of currently registered products. Rather, these types of requests will be handled routinely by issuing a new registration number without a data review.

A third option was considered, but is not included in these proposed regulations. Under that option, the registrant could request that the registration be amended to permit the product to be marketed under a label which would pertain only to uses that had not been classified for restricted use, but which would bear a legend stating that certain other uses are classified for restricted use, and which would refer the purchaser to the retailer for further information. There would also be supplementary restricted-use labeling which would comply with proposed § 162.30(g). An application under that option would include copies of both the label and the supplementary labeling intended to accompany the label; would state that the product will be marketed with the label, and that shipments of the product to retailers will include or be accompanied by the supplementary labeling; and would state that retailers will be instructed not to distribute or sell products bearing the supplementary labeling unless the retailer's customer furnishes suitable evidence that he is entitled to purchase pesticide products which have a use classified as restricted. That option would have the advantage of limiting the distribution, marketing, and storage problems which would be presented if the registrant had to distribute two products in order to comply with these regulations. It would be, however, a difficult option to implement and enforce. Consequently, it is not included in the regulations at this time, but the Agency is specifically soliciting comments respecting this or similar options.

The Administrator, in accordance with the procedures set out in § 162.6, would conditionally accept the proposed label and labeling submitted in support of an application for amended registration if he determined that they complied with applicable requirements.

In the case of an application for a new registration of a product which has a use classified as restricted, the Administrator would issue a notice of intent to deny registration unless the proposed label and labeling submitted as part of the application for new registration met the pertinent requirements of proposed

§ 162.30(d)(2)(i) or § 162.30(d)(2)(ii). Thus, an applicant for new registration would have two alternatives: he could propose a label and labeling which contain the standardized language specified in the final rule, if applicable; or he could propose a label and labeling which comply with proposed § 162.30(g) with respect to the uses which have been classified for restricted use and which may also contain directions for use for the remaining unclassified uses. A restricted use classification made under this regulation will generally apply to new registrations of that pesticide unless the applicant for a new registration submits new information that convinces the Agency that a particular use should not be restricted. If this happens, the Agency will propose to amend the regulation by removing that use from the restricted list.

CONSIDERATION OF DATA

Since the use of data by the Agency to classify a use of a registrant's product as restricted does not give advantage or benefit to the registrant, it is not "considered • • • in support of" an application for new or amended registration. Therefore, a registrant would not be required to offer (in applications made under paragraphs (d) and (e)) to compensate under FIFRA section 3(c)(1)(D) the owner(s) of the data used by the Agency to reach a decision under paragraph (b). Moreover, the Agency would be free to use data to reach such decisions despite allegations that the data is protected from disclosure to the public under FIFRA section 10(b).

HEARING RIGHTS

If the Administrator issued a notice of intent to cancel or deny registration, he would thereafter issue a final order of cancellation or denial of registration unless the registrant or applicant requested a hearing in accordance with Section 6(b)(1) or 3(c)(6) of FIFRA. However, the rulemaking proceeding under § 162.30(b) by then will already have provided an ample opportunity, during the comment period, for examination and challenge of the factual basis of the Administrator's proposed classification, for submission of relevant data relating to any risk criterion or to the risk/benefit analysis, and for submission of suggested label and labeling language which would eliminate the need for classification. Therefore, in the interest of promoting administrative efficiency and to avoid prolonged and duplicative evidentiary hearings, the hearing would be limited to the sole issue (as to which the registrant or applicant would have the affirmative burden of proof) of whether the registrant or applicant had submitted an application for new or amended registration which complied with the provisions of this section. If the registrant or applicant failed to sustain its burden of proof, the Administrator would issue a final order cancelling or denying registration.

ENFORCEMENT LIABILITIES

If any person fails to comply with any of the labeling requirements set out in this regulation, the product may be considered to be misbranded; misbranding violations will be handled under the regular enforcement proceedings contained in FIFRA.

Section 2(q)(2)(B) states that:

A pesticide is misbranded if the labeling does not contain a statement of the use classification under which the product is registered

Section 12(a)(1)(E) makes it unlawful for any person in any State "to distribute, sell, offer for sale, hold for sale, ship, deliver or offer to deliver, to any person • • • any pesticide which is • • • misbranded."

Section 12(a)(2)(E) states that:

It shall be unlawful for any person who is a registrant, wholesaler, dealer, retailer, or other distributor to advertise a product registered under this Act for restricted use without giving the classification of the product assigned to it under Section 3.

Section 12(a)(2)(F) states that:

It shall be unlawful for any person to make available for use, or to use, any registered pesticide classified for restricted use for some or all purposes other than in accordance with section 3(d) and any regulations thereunder.

Registrants whose products have a use which has been classified for restricted use must comply with the time deadlines as set forth in this regulation. Failure to comply with the requirements of this regulation may subject registrants to civil penalties under Section 14(a)(1) or criminal penalties under Section 14(b)(1). Misbranded products may also be subject to a "stop sale, use or removal" order, or seizure, under Section 13 of FIFRA.

Within 90 days after a product's amended labeling has been conditionally accepted, registrants must affix the amended label to all quantities of such products within their control. The Agency considers products at the distributor level to be within the effective control of a registrant. Registrants are accordingly encouraged to distribute amended labeling to their customers in a timely manner, with directions on how such labeling is to be affixed. The amended labeling may be in the form of an adhesive sticker or an adhesive label to cover the old label until the use of the new labeling reaches each level of the distribution process. Registrants, by establishment, must also certify to the Agency that they have affixed such amended labeling to all quantities of such products within their control. After the 90 day period, no such product may be released for shipment by a registrant unless it bears the amended labeling.

Within 180 days after conditional acceptance of a restricted product's amended labeling, retailers or other persons engaged in the sale or distribution of the product must affix the amended labeling to all quantities of such products within their control. After the 180 day period, no such product may be sold or distributed unless it bears the amended labeling.

Any wholesaler, dealer, retailer, or other distributor who makes available any restricted use pesticide to applicators who are neither certified nor working under the supervision of a certified applicator would be in violation of Section 12(a)(2)(F) and subject to enforcement liability under Section 14 of FIFRA.

In advertising a pesticide, failure to properly include the classification of a restricted use pesticide is a violation of Section 12(a)(2)(E) and may subject a registrant, dealer, distributor, or other person engaged in the distribution or sale of an restricted use pesticide to enforcement action under Section 14.

The Agency recognizes that the deadlines contained in this regulation are short. In keeping with the general objective of achieving a smooth transition, the Agency intends to apply these requirements in a common sense manner.

LABEL WORDING

The Agency is also proposing to amend 40 CFR 162.10 by revising § 162.10(j)(2)(i)(B). This amendment would change the wording of the statement which appears on the label of a restricted use pesticide to read: "For retail sale to and use only by Certified Applicators or persons under their direct supervision, and only for those uses covered by the Certified Applicator's certification." Certified applicators or persons under their direct supervision may not purchase or use restricted use pesticides for uses that are not covered by the applicator's certification. The purpose of the proposed change is to clarify that an applicator who is certified for one or more restricted uses of a product is not necessarily certified for all restricted uses of that product.

Finally, the Agency is proposing to delete 40 CFR 162.10(i)(2)(x)(D), which currently requires that the category or categories of certified applicator(s) to whom use is restricted be placed on the label. The Agency has determined that this requirement is unnecessary, since a certified applicator or person under his direct supervision is limited to those uses covered by the applicator's certification. In addition, the designation of the category of applicator on the label would administratively complicate the regulatory work of State officials, especially where subcategories have been instituted.

NOTE.—The Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Order 11821 and 11949 and OMB Circular A-107.

Dated: August 16, 1977.

DOUGLAS M. COSTLE,
Administrator.

40 CFR Part 162 is proposed to be amended by deleting § 162.10(i)(2)(x)-(D) and by revising § 162.10(j)(2)(i)(B) to read as follows:

§ 162.10 Labeling requirements.

• • • • • • •

(j) • • •

(2) • • •

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(i) • • •

(B) Directly below this statement on the front panel, a summary statement of the terms of the restriction shall appear. If use is restricted to certified applicators, the following statement is required: "For retail sale to and use only by Certified Applicators or persons under their direct supervision, and only for those uses covered by the Certified Applicator's certification." If, however, other regulatory restrictions are imposed, the Administrator will define the appropriate wording for the terms of the restriction by regulation.

It is proposed to amend Part 162 of 40 CFR by adding the following new paragraphs (d) through (i) to § 162.30 (Optional Procedures for Classification of Pesticide Uses by Regulation).

§ 162.30 Optional procedures for classification of pesticide uses by regulation.

• • • • • •

(d) *Compliance: Currently registered products.* Unless the registrant submits an appropriate application for amended registration within 45 days after the effective date of the final rule, the Administrator shall issue a notice of intent to cancel the registration of a pesticide product which has a use classified under this section for restricted use.

(1) *Amended registration; all uses restricted.* If all uses of a product have been classified for restricted use, the application for amended registration shall be based solely on a proposed label and proposed labeling which:

(i) Contain the language specified in the final rule under paragraph (c) (4) of this section, if applicable; or

(ii) comply with paragraph (g) of this section.

(2) *Amended registration; some but not all uses restricted.* If some but not all uses of a product have been classified for restricted use, the application for amended registration shall:

(i) Be based solely on a proposed label and proposed labeling which contain the language specified in the final rule under paragraph (c) (4) of this section, if applicable; or,

(ii) Be based solely on a proposed label and proposed labeling which comply with paragraph (g) of this section with respect to the uses which have been classified as restricted, and which may also contain use directions for the remaining unclassified uses; or

(iii) Request that the registration be split into two registrations. One registration may pertain only to those uses that have been classified for restricted use or pertain to the uses which have been classified as restricted and which may also contain use directions for the remaining uses; the application shall propose a label and labeling for this product which comply with paragraph (g) of this section, and shall request amendment of the existing registration accordingly. The other registration shall pertain only to those uses not classified for restricted use; the application shall propose a label and labeling for this product, and shall request issuance of a new registration number for the product.

(3) *Conditional acceptance.* The Administrator, in accordance with § 162.6, shall conditionally accept the proposed label(s) and labeling submitted under paragraph (d) (1) or (d) (2) of this section, if he determines that they comply with the applicable requirements of this section.

(e) *Compliance: new products.* The Administrator shall issue a notice of intent to deny an application for registration of a new pesticide product, any use of which has been classified for restricted use under this section, unless the proposed product label(s) and labeling meet the pertinent requirements of paragraph (d) (2) (i) or (d) (2) (ii) of this section. An applicant may submit new data that indicates that a previously restricted use should not be restricted.

(f) *Consideration of data.* It is the Administrator's position that the fact that he relied upon an item of data in making a determination under paragraph (b) of this section would not mean that the item of data would thereby have been "• • • considered by the Administrator in support of any • • • application for registration • • •" within the meaning of Section 3(c) (1) (D) of the Act.

(g) *Label and labeling.* A pesticide product which has a use classified for restricted use shall bear a label which contains the statements of restricted use classification required by § 162.10(j) (2). Any labeling accompanying a pesticide product, any use of which has been classified for restricted use, shall contain directions for use which are consistent with the terms of the restriction.

(h) *Hearing rights.* If the Administrator issues a notice of intent to deny or cancel registration in accordance with paragraph (d) or (e) of this section, he shall issue a final order of denial or cancellation of registration unless the applicant or registrant, as provided by aw:

(1) requests a hearing in accordance with section 3(c) (6) or 6(b) (1) of the Act, which hearing shall be limited to the sole issue of whether the applicant or registrant has submitted an application for new or amended registration which complies with the provisions of this section; and

(2) sustains the affirmative burden of proving that it has submitted an application for new or amended registration which complies with the provisions of this section.

(i) *Enforcement.* (1) No product classified for restricted use may be released for shipment by the registrant after the 90th day after receiving conditional acceptance of the amended labeling unless the product bears such amended labeling.

(2) No product classified for restricted use may be distributed or sold by a retailer or other person after the 180th day after the product's labeling has been conditionally accepted unless the product bears such amended labeling.

(3) Registrants must submit the following certification statement within 120 days after receiving conditional acceptance of amended labeling:

I certify that all pesticides within my effective control, which are subject to the regulations concerning the classification of pesticide uses found at § 162.30, have been labeled with the amended labeling submitted under § 162.30 (d) (1) or (d) (2).

This certification statement shall be submitted by each production establishment of the registrant to the Regional Office (% Regional Enforcement Director) having jurisdiction over the State in which the establishment is located.

(Secs., 3, 25(a), Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 136 et seq.).)

[FR Doc.77-25418 Filed 8-31-77;8:45 am]

[40 CFR Part 162]

[FRL 770-1; OPP-30017]

PESTICIDE USE RESTRICTIONS

AGENCY: Environmental Protection Agency, Office of Pesticide Programs.

ACTION: Proposed Rule.

SUMMARY: This proposed rule amends 40 CFR Part 162 by adding a new § 162.31, which lists uses of certain pesticide products that the Agency proposes to classify as restricted under the procedures of 40 CFR 162.30. The purpose is to notify and solicit comments from registrants, users and other interested parties on these proposed use restrictions.

DATE: Comments must be received on or before October 17, 1977.

ADDRESS COMMENTS TO: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Comments should be filed in triplicate and bear the identifying notation "OPP-30017." All written comments will be available for public inspection from 8:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

James H. White, Project Leader (WH-570), Office of Pesticide Programs, Environmental Protection Agency, Room E509A, 401 M Street SW., Washington, D.C. 20460. (202-755-8297).

SUPPLEMENTARY INFORMATION: Three related documents are also published in this part of the FEDERAL REGISTER. Comments pertaining to all four documents are published as an appendix to the rulemaking document.

Section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, requires the Administrator to classify uses of pesticides as "general" or "restricted." The criteria for classifying a use are contained in 40 CFR 162.11(c). The procedures by which the Administrator may, by rulemaking, classify a use of a pesticide as "restricted" have been set out in § 162.30.

This rulemaking proceeding will allow interested persons to comment on, and propose modifications to, the Agency's proposed classification decisions. Following a forty-five day comment period,

EPA will carefully consider the information and data received, modify its proposed decisions as necessary, and publish in the FEDERAL REGISTER the Agency's final classification decisions relating to the pesticide uses under consideration.

DETERMINATION OF PRIORITIES

The Agency selected a set of potentially hazardous chemicals from those previously identified by the Office of Pesticide Programs as "Candidate Chemicals for Restricted Use" and concentrated on classifying the restricted uses of these chemicals at this time. This "candidate" list of chemicals was released on December 2, 1976, and written comments on the list were officially requested in the March 11, 1977, FEDERAL REGISTER Notice of "Intent to Develop a Regulation Regarding the Classification of Restricted Use Pesticides" (42 FR 13581). The criteria used to select the first set of chemicals primarily related to the toxicity of the active ingredient, the availability of data, the complexity of the classification decision, and the resources available for the classification effort. Prior to its release, the December list was reviewed and commented on by scientific groups from California, Indiana, New York, and North Carolina, as well as by a group of scientists assembled in Washington.

The December "candidate" list of active ingredients was compiled using two earlier lists of chemicals likely to have restricted uses. The purpose of these lists was to assist State regulatory and training officials in developing their certification and training programs required under section 4 of FIFRA, as amended. The earlier lists were intended to assist the State Lead Agencies and the Cooperative Extension Services in concentrating their efforts on those applicators of pesticides that would most likely need to be certified.

Chemicals were included on the earlier lists for three reasons:

(1) They exceeded the hazard indications of Toxicity Category I which are specified in 40 CFR 162.10(h);

(2) They were listed by State officials and the U.S. Department of Agriculture as chemicals with important agricultural uses; and

(3) One or more of the uses of each is currently being restricted by one or more States.

These factors were also considered when the December list was compiled and in determining the priority of chemicals proposed to be classified in this notice.

CLASSIFICATION CRITERIA AND PROCEDURES

The FIFRA requires the Administrator to classify a pesticide, or particular use or uses of a pesticide, as "restricted" if such use or uses may generally cause unreasonable adverse effects on the environment, including injury to the applicator. Adhering to these mandates, the Agency promulgated regulations on July 3, 1975, setting forth registration, reregistration and classification procedures (40 FR 28242). The criteria for classification are stated in § 162.11(c). These criteria relate to acute toxicity and subacute, chronic or delayed effects on man or other nontarget organisms (including mammalian and avian species, aquatic organisms, and nontarget plants). To apply these criteria, the Agency assembled a group of toxicologists and environmental specialists.

Their review included examination of data concerning mammalian acute oral LD50, acute inhalation LC50, acute dermal LD50, primary eye and skin effects, avian acute oral LD50, avian subacute dietary LC50, fish acute LC50 for cold and warm water species as necessitated under 162.11(c)(2).

The assembled material was reviewed by EPA toxicologists who determined classification based on potential hazards to humans and domestic animals under criteria outlined in § 162.(11)(c)(2). This review covered acute toxicity based on oral, dermal, inhalation and ocular routes of exposure. This was followed by a review conducted by fish and wildlife specialists of environmental hazards to nontarget organisms under the criteria outlined in § 162.11(c)(2). Data on toxicity to mammalian, avian and fish species were examined and a classification opinion provided.

If any of the uses of a chemical failed to meet the criteria for general use classification under § 162.11(c)(2), the reviewers proceeded to consider the adequacy of labeling under the procedures outlined in § 162.11(c)(3). Sample labels of products in a particular use group were reviewed to see if adequate labeling was present to remove that use from consideration as restricted.

Such removal is authorized if justified by the adequacy of label and label directions, the type of formulation, the method of packaging, or other factors that would reduce the potential hazard to the point where restriction is not warranted. The label samples did not indicate that adequate labeling was generally present for those uses which are now proposed to be restricted. This step was followed by a review of epidemiological studies, use history, accident data, monitoring data, or other evidence that could influence the classification decision as authorized under § 162.11(c)(4).

These opinions were then studied by review teams made up of both Agency personnel and outside experts, formed to deal separately with insecticides, rodenticides, fumigants, fungicides, and herbicides. The teams reviewed the classification opinions as well as the scientific support material.

Under § 162.11(c)(2), a use restriction is to be based on an incremental risk/benefit analysis. When a pesticide use fails to satisfy the general use criteria of §§ 162.11(c)(1) and 162.11(c)(2), a significant risk is indicated. The Agency presumes that a use restriction will reduce that risk. If there are no significant benefits of unrestricted use, any significant risk of unrestricted use would outweigh the benefits of unrestricted use. If the benefits of unrestricted use are significant, the benefit/risk analysis becomes more comprehensive. In applying this standard, the Agency found no significant benefits of unrestricted use that outweighed the risks of unrestricted use for those uses proposed to be classified as restricted by this notice.

These step-by-step reviews led to a tentative classification decision summary on each active ingredient. Comments on the decision summaries were received from several State Lead Agencies, State Cooperative Extension Services, as well as the U.S. Department of Agriculture, EPA Regional Offices, major manufacturers, user groups, environmental interest groups and selected scientists such as members of the Inter-Society Consortium for Plant Protection (ISCPP). The EPA teams refined the tentative classification decision summaries based on input from these groups. The decision summaries were then reviewed by the Registration Division product managers. Copies of the decision summaries may be obtained by specifying the active ingredient and writing to the Project Leader at the address cited above.

The proposed regulation lists the active ingredients and the formulations being considered, cites the criteria exceeded, and lists other supporting information on each active ingredient. By means of this proposed regulation, EPA is soliciting additional information through public comment that may be helpful in making the final classification decision. To be considered, this information must be received on or before October 17, 1977. Following review of the comments received in response to the proposed regulations, EPA will make its final classification decisions relative to the chemicals listed in the regulation.

STATUS OF CLASSIFICATIONS

This proposed regulation only serves to classify uses as restricted. If a use is not restricted by this regulation, it does not mean that it is classified as general under Section 3 of FIFRA. The Agency may at any time classify further uses as restrictive. New information received by the Agency may indicate that a use should be classified as restricted or general, or that cancellation action should be initiated. Pesticide uses not reviewed and/or classified at this time will be further prioritized on the basis of potential hazard and will be classified in the future, either by regulation or through the registration/reregistration process.

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: August 16, 1977.

DOUGLAS M. COSTLE,
Administrator.

(Secs. 3(d), 25(a), Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 et seq.).)

It is proposed to amend Part 162 of 40 CFR by adding a new § 162.31 to read as follows:

§ 162.31 Pesticide use restrictions.

The following uses of pesticides are restricted as specified under 162.30:

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ACTIVE INGREDIENT	FORMULATION	USE PATTERN	CLASSIFICATION	CRITERIA INFLUENCING RESTRICTION
ACROLEIN	As sole active ingredient. No mixtures registered.	All uses	Restricted	Inhalation hazard to humans. Residue effects on avian species and aquatic organisms.
ACRYLONITRILE	In combination with carbon tetrachloride. No registrations as the sole active ingredient.	All uses	Restricted	Other hazards-accident history of both acrylonitrile and carbon tetrachloride products.
ALDICARB	As sole active ingredient. No mixtures registered.	All uses	Restricted	Outdoor uses-Residue effects on avian species. Indoor uses-Accident history.

ACTIVE INGREDIENT	FORMULATION	USE PATTERN	CLASSIFICATION	CRITERIA INFLUENCING RESTRICTION
ALLYL ALCOHOL	All formulations	All uses	Restricted	Acute dermal toxicity.
ALUMINUM PHOSPHIDE	As sole active ingredient. No mixtures registered.	All uses	Restricted	Inhalation hazard to humans.

ACTIVE INGREDIENT	FORMULATION	USE PATTERN	CLASSIFICATION	CRITERIA INFLUENCING RESTRICTION
AZINPHOS METHYL	All liquids with a concentration greater than 13.5%.	All uses	Restricted	Inhalation hazard to humans.
	All dusts and wettable powders	All uses	Restricted	Other hazards-use and accident history.
	All liquids with a concentration of 13.5% and below.	1) All domestic uses 2) All uses on orchards, citrus, nut crops, and ornamentals 3) All aerial applications Non-domestic ground uses except to orchards, citrus, nut crops, ornamentals, and cranberries.	1) Restricted 2) Restricted 3) Restricted Unclassified	1) Acute dermal toxicity. Acute oral toxicity. 2) Residue effects on mammalian species. 3) Effects on aquatic organisms from drift.

ACTIVE INGREDIENT	FORMULATION	USE PATTERN	CLASSIFICATION	CRITERIA INFLUENCING RESTRICTION
AZINPHOS METHYL (continued)	Liquid formulations 13.5% or less in combination with endrin, toxaphene, endosulfan.	All uses	Unclassified	Classification will be based on evaluation of the hazards of endrin, toxaphene, endosulfan.
	All formulations.	All aerial applications.	Restricted	Effects on aquatic organisms from drift.
	All formulations.	Cranberries	Restricted	Effects on aquatic organisms.
CALCIUM CYANIDE	As sole active ingredient. No mixtures registered.	All uses	Restricted	Inhalation hazard to humans.
DEMETON	1% fertilizer formulation, 1.985% granular formulation.	All uses, including domestic uses.	Restricted	Domestic uses — Acute oral toxicity. Acute dermal toxicity. Non-domestic outdoor uses-Residue effects on avian and mammalian species.
	All granular formulations, emulsifiable concentrates and concentrated solutions.	All uses	Restricted	Acute dermal toxicity. Residue effects on mammalian and avian species.

ACTIVE INGREDIENT	FORMULATION	USE PATTERN	CLASSIFICATION	CRITERIA INFLUENCING RESTRICTION
ENDRIN	All emulsions, dusts, wettable powders, pastes, and granular formulations 2% and above.	All uses	Restricted	Acute dermal toxicity. Hazard to non-target organisms.
	All concentrations less than 2%.	All uses	Restricted	Hazard to non-target organisms.
ETHYL PARATHION	All granular and dust formulations greater than 2%, fertilizer formulations, wettable powders, emulsifiable concentrates, concentrated suspensions, concentrated solutions.	All uses	Restricted	Inhalation hazard to humans. Acute dermal toxicity. Residue effects on mammalian, aquatic, avian species.
	Smoke fumigants	All uses	Restricted	Inhalation hazard to humans.
	Dust and granular formulations 2% and below.	All uses	Restricted	Other hazards-accident history.

ACTIVE INGREDIENT	FORMULATION	USE PATTERN	CLASSIFICATION	CRITERIA INFLUENCING RESTRICTION
FLUOROACETAMIDE/1081	As sole active ingredient in baits. No mixtures registered.	All uses.	Restricted	Acute oral toxicity.
HYDROCYANIC ACID	As sole active ingredient. No mixtures registered.	All uses	Restricted	Inhalation hazard to humans.
METHOMYL	As sole active ingredient in 1% to 2.5% baits (except 1% fly bait)	Non-domestic outdoors-agricultural crops, ornamental and turf. All other registered uses.	Restricted	Residue effects on mammalian species.
	All concentrated solution formulations.		Restricted	Other hazards-accident history.
	90% wettable powder formulations (not in water soluble bags)		Restricted	Other hazards-accident history.
	90% wettable powder formulation in water soluble bags.		Unclassified	
	All granular formulations.		Unclassified	

ACTIVE INGREDIENT	FORMULATION	USE PATTERN	CLASSIFICATION	CRITERIA INFLUENCING RESTRICTION
METHOMYL (continued)	25% wettable powder formulation.		Unclassified	
	In 1.24% - 2.5% dusts as sole active ingredient and in mixtures with fungicides and chlorinated hydrocarbon, inorganic, organic phosphate and biological insecticides		Unclassified	
METHYL BROMIDE	All formulations in containers greater than 1.5 lbs.	All uses	Restricted	Other hazards — accident history.
	Containers with not more than 1.5 lbs. of methyl bromide with 0.25% to 2.0% chloropicrin as an indicator.	Single applications (non-domestic use) for soil treatment in closed systems.	Unclassified	
	Container with not more than 1.5 lbs. having no indicator.	All uses	Restricted	Other hazards — accident history.

ACTIVE INGREDIENT	FORMULATION	USE PATTERN	CLASSIFICATION	CRITERIA INFLUENCING RESTRICTION
METHYL PARATHION	All dust and granular formulations less than 5%.	All uses	Restricted	Other hazards-accident history. All foliar applications restricted based on residue effects on mammalian and avian species.
	Microencapsulated	All uses	Restricted	Residue effects on avian species. Hazard to bees.
	All dust and granular formulations 5% and greater and all wettable powders and liquids.	All uses	Restricted	Acute dermal toxicity. Residue effects on mammalian and avian species.
MEVINPHOS	All emulsifiable concentrates and liquid concentrates.	All uses	Restricted	Acute dermal toxicity. Residue effects on mammalian and avian species.
	Psycodid filter fly liquid formulations.	All uses	Restricted	Acute dermal toxicity.
	2% Dusts	All uses	Restricted	Residue effects on mammalian and avian species.

ACTIVE INGREDIENT	FORMULATION	USE PATTERN	CLASSIFICATION	CRITERIA INFLUENCING RESTRICTION
PARAQUAT (dichloride) and PARAQUAT bis(methyl sulfate)	All formulations and concentrations except those listed below.	All uses	Restricted	Other hazards-Use and accident history, human toxicological data.
	Pressurized spray formulation containing .44% Paraquat bis(methyl sulfate) and 15% petroleum distillates as active ingredients.	Spot weed and grass control.	Unclassified	
	Liquid fertilizers containing concentrations of .025% Paraquat dichloride and .03% Atrazine; .03% Paraquat dichloride and .37% Atrazine, .04% Paraquat dichloride and .49% Atrazine.	All uses	Unclassified	

ACTIVE INGREDIENT	FORMULATION	USE PATTERN	CLASSIFICATION	CRITERIA INFLUENCING RESTRICTION
PICLORAM	All formulations and concentrations except Tordon 101 R.	All uses	Restricted	Hazard to non-target organisms (specifically non-target plants both crop and non-crop; and aquatic organisms). It should be noted that in addition to the above criteria considerable emphasis for restriction was based on the existing stewardship program restricting certain uses by the principal registrant and recurring reports of phytotoxicity to such economically important crops as tomatoes, potatoes, tobacco, legumes and succulent ornamentals caused by contaminated water supplies (1 ppb range) from runoff and leaching.
	Tordon 101 R Forestry Herbicide containing 5.4% Picloram and 20.9% 2,4-D.	Control of unwanted trees by cut surface treatment.	Unclassified	
SODIUM CYANIDE (Note: M-44 sodium cyanide capsules may only be used by certified applicators who have also taken the required additional training)	All capsules and ball formulations.	All uses	Restricted	Inhalation hazard to humans.
SODIUM FLUOROACETATE	All solutions and dry baits	All uses	Restricted	Acute oral toxicity. Hazard to non-target organisms. Use and accident history.

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ACTIVE INGREDIENT	FORMULATION	USE PATTERN	CLASSIFICATION	CRITERIA INFLUENCING RESTRICTION
STRYCHNINE	All dry baits, pellets and powder formulations greater than .5%.	All uses	Restricted	Acute oral toxicity. Hazard to non-target avian species. Use and accident history.
	All dry baits, pellets and powder formulations.	All uses calling for burrow builders.	Restricted	Hazard to non-target organisms.
	All dry baits, pellets and powder formulations .5% and below.	All uses except subsoil. All subsoil uses.	Restricted Unclassified	Hazard to non-target organisms.
SULFOTEPP	Sprays and smoke generators.	All uses	Restricted	Inhalation hazard to humans.
TEPP	Emulsifiable concentrate formulations.	All uses	Restricted	Inhalation hazard to humans. Dermal hazard to humans. Residue effects on mammalian and avian species.

[FR Doc.77-25419 Filed 8-31-77;8:45 am]

[40 CFR Part 162]

[FRL 770-27; OPP-30018]

PESTICIDE USE RESTRICTIONS

Advance Notice of Proposal Rulemaking

AGENCY: Environmental Protection Agency, Office of Pesticide Programs.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice lists certain pesticides whose uses may be proposed to be restricted under § 162.31. The purpose of this notice is to solicit more information on these chemicals so that the Agency can make an informed decision on whether or not to propose any use of these pesticides as restricted.

DATE: Comments must be received on or before October 3, 1977.

ADDRESS COMMENTS TO: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, 401 "M" Street SW., Washington, D.C. 20460. Comments should be filed in triplicate and bear the identifying notation "OPP-30018." All written comments will be available from 8:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

James H. White, Project Leader (WH-570), Office of Pesticide Programs, Environmental Protection Agency, Room E509A, 401 M Street SW., Washington, D.C. 20460 202-755-8297.)

SUPPLEMENTARY INFORMATION: Three related documents are also published in this Part of the FEDERAL REGISTER. Comments pertaining to all four documents are published as an appendix to the rulemaking document.

Section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972 and 1975 (Pub. L. 92-516, 86 Stat. 983; Pub. L. 94-140, 89 Stat. 755; 7 U.S.C. 136 et seq.), requires the Administrator to classify uses of pesticides as "general" or "restricted." The procedures which the Administrator may use to classify a use by regulation are set out in 40 CFR 162.30. Certain pesticide uses have been proposed to be restricted in 40 CFR 162.31. The Agency is currently considering proposing uses of certain other pesticides as restricted. These pesticides are considered by the Agency to have a high priority in the classification process.

The purpose of this notice is to solicit additional information in the form of written comments that would impact on the proposed classification decision. Information that would be valuable to this process includes technical data such as dermal and inhalation studies on specific formulations and the use history of the pesticide and its formulations. Use history would include accident reports involving injury to applicators, fish and wildlife or other non-target organisms. Also of interest would be reports on the positive aspects of pesticide usage, i.e., field experience with no discernible adverse effects.

In the past the Agency has formally requested additional information on certain chemicals under the authority of section 6(a)(2) of FIFRA. The Agency wants to avoid duplicate requests for information and the classification process will utilize any information previously submitted under 6(a)(2). Therefore, it will not be necessary for a registrant to resubmit any such information. Furthermore, the request for information under this notice is not a formal requirement for the registrants, but has been proposed merely to afford all interested parties a chance to submit any information they believe would impact on the classification decision of the chemicals cited in this section.

Interested persons are invited to submit their arguments or views with respect to any pesticide listed in this advance notice, together with any support data or documentation they may wish to submit on or before October 3, 1977.

The following is a list of chemicals to be considered next for classification:

Carbofuran
Carbon disulfide
Chlorfenvinphos
Chloropicrin
Clonitralid
Cycloheximide
Dicrotophos
Dimethoate
Dioxathion
Diquat
Disulfoton
Endosulfan
Endothall
EPN
Ethoprop
Ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate
Ethylene dibromide
Ethylene dichloride
Fensulfothion
Fenthion
Fonofos
Formaldehyde
Hexachlorobenzene
Methamidophos
Methidathion
Monocrotophos
Nicotine (alkaloid)
O,O-bis (p-chlorophenyl) acetimidoylphosphoramidothioate
Oxamyl
Oxydemeton methyl
Phorate
Phosphamidon
Phosphorus
Temephos
Terbufos
Toxaphene
Xlyene (aquatic uses)
Zinc phosphide

This advance notice of proposed rulemaking is issued under the authority of Section (40 CFR 162) of the amended FIFRA.

Dated: August 16, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-25420 Filed 8-31-77;8:45 am]

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federal register

THURSDAY, SEPTEMBER 1, 1977

PART V



CONSUMER PRODUCT SAFETY COMMISSION

■

LEAD-CONTAINING PAINT

Banned Hazardous Products

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Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER B—CONSUMER PRODUCT SAFETY ACT REGULATIONS

PART 1145—REGULATION OF PRODUCTS SUBJECT TO OTHER ACTS UNDER THE CONSUMER PRODUCT SAFETY ACT

Lead-Containing Paint and Certain Consumer Products Bearing Lead-Containing Paint

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission issues a final rule determining that it is in the public interest to regulate lead-containing paint and certain consumer products bearing such paint under the Consumer Product Safety Act (CPSA) rather than the Federal Hazardous Substances Act (FHSA). (See also FR Doc. 77-25473 published elsewhere in this part of the FEDERAL REGISTER.) According to the CPSA, the Commission may not regulate under the CPSA a risk of injury that could be eliminated or reduced to a sufficient extent under the FHSA, unless the Commission finds by rule that it is in the public interest to do so.

EFFECTIVE DATE: This rule becomes effective February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles M. Jacobson, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, phone 301-492-6400.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 10, 1976, by publication of a notice in the FEDERAL REGISTER (41 FR 33636), the Commission proposed a rule finding, under section 30(d) of the Consumer Product Safety Act (15 U.S.C. 2079 (d), that it is in the public interest to regulate lead-containing paint and toys and furniture bearing such paint under the CPSA rather than under the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261-1264). Section 30(d) of the CPSA, as amended by the Consumer Product Safety Commission Improvements Act of 1976 (Pub. L. 94-284; 90 Stat. 510), 15 U.S.C. 2079(d)), provides that:

> (d) A risk of injury which is associated with a consumer product and which could be eliminated or reduced to a sufficient extent by action under the Federal Hazardous Substances Act . . . may be regulated under [the CPSA] only if the Commission by rule finds that it is in the public interest to regulate such risk of injury under [the CPSA].

Also on August 10, 1976, the Commission proposed a regulation under the CPSA that would declare the following to be banned hazardous products (41 FR 33637): (1) lead-containing paint and similar surface-coating materials containing more than a safe level of lead, (2) toys, and other articles intended for use by children, bearing lead-containing paint and similar surface-coating materials containing more than a safe level of lead, and (3) articles of furniture bearing lead-containing paint or other similar surface-coating materials containing more than a safe level of lead. In the same document, the Commission also announced a proceeding under the 1976 amendments to the Lead-Based Paint Poisoning Prevention Act (LBPPPA) to determine a "safe level" of lead in paint.

The Commission also proposed to revoke the existing FHSA regulations that ban lead-containing paint above the 0.5 percent level and toys and other articles intended for use by children bearing such paint (16 CFR 1500.17(a)(6)) at the time any final CPSA regulations covering these products are issued in order to prevent an unnecessary duplication of regulations (41 FR 33640).

The Commission's rationale in the proposed 30(d) rule for proceeding under the CPSA rather than FHSA was that the LBPPPA required the Commission to determine a safe level of lead in paint within six months after June 23, 1976, and that the evidentiary hearing required for FHSA rulemaking would be too time consuming for LBPPPA purposes. In addition, the Commission noted that the requirement for an oral presentation of views under the CPSA and the requirement for an oral hearing under the LBPPPA are compatible and could be consolidated procedurally because both hearings are informal.

COMMENTS ON THE PROPOSAL

In response to the proposal, two comments were received.

The National Paint and Coatings Association (NPCA), in written and oral comments, suggested that the LBPPPA proceeding be consolidated with a proceeding under the FHSA rather than under the CPSA. The NPCA stated that evidentiary hearings are only required by the FHSA when objections based on reasonable grounds are filed to a regulation. The commenter went on to assert that if reasonable grounds are established by legally valid objections, then it is in the public interest to hold the evidentiary hearings.

In response to this comment, the Commission notes that the oral hearing held on September 13, 1976, on both the LBPPPA and CPSA matters provided ample opportunity for public participation in the rulemaking process, and the Commission does not agree that a formal hearing under the FHSA would be in the public interest. The September 13 hearing allowed a full range of opinions to be heard on the proposed rules. In addition, written rebuttal comments after the hearing were permitted. Thus, all interested persons were given the opportunity to fully participate in the proceedings, unhindered by the strictures of a formal evidentiary hearing.

In addition to written and oral comments on the proposal, public comment was solicited on a draft environmental impact statement, made public on February 4, 1977, that was submitted to the President's Council on Environmental Quality, pursuant to the provisions of the National Environmental Policy Act (42 U.S.C. 4321-4347). The draft statement posed a wide range of alternatives for regulating lead-containing paint and certain consumer products bearing such paint, thereby providing yet another forum for public input into the proposed rules.

The NPCA also stated that it was concerned that its pending petitions (see 37 FR 25849) to exempt certain products from the FHSA lead paint regulations will now have to be refiled couched in terms that apply to the provisions of the CPSA. The Commission points out that the subject matter of all of the pending FHSA exemptions has been considered in issuing the CPSA banning regulation (see FR Doc. 77-25472, appearing elsewhere in this part of the FEDERAL REGISTER). Refiling of these petitions is, therefore, not necessary.

The only other commenter on the proposed rule, the Toy Manufacturers of America, Inc., supported the consolidation of proceedings under the LBPPPA and CPSA pursuant to section 30(d) and the issuance of a final banning regulation under the CPSA.

Accordingly, the Commission finds that the public interest requires the regulation of lead-containing paint and certain other consumer products bearing such paint under the provisions of the CPSA rather than the FHSA. Therefore, pursuant to section 30(d) of the Consumer Product Safety Act (Sec. 30(d), Pub. L. 92-573, 86 Stat. 1231, as amended 90 Stat. 510; 15 U.S.C. 2079(d)), the Commission amends Title 16, Chapter II, by adding to Subchapter B a new Part 1145, reading as follows:

Sec.
1145.1 Scope.
1145.2 Paint (and other similar surface-coating materials) containing lead; toys, children's articles, and articles of furniture bearing such paint (or similar surface-coating materials); risk of lead poisoning.

AUTHORITY: Sec. 30(d), Pub. L. 92-573, 86 Stat. 1231, as amended 90 Stat. 510; 15 U.S.C. 2079(d).

§ 1145.1 Scope.

In this Part 1145, the Commission establishes rules which provide that risks of injury associated with consumer products that could be eliminated or reduced to a sufficient extent by action under the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261-1274), the Poison Prevention Packaging Act of 1970 (PPPA) (15 U.S.C. 1471-1476), or the Flammable Fabrics Act (FFA) (15 U.S.C. 1191-1204) will be regulated under the Consumer Product Safety Act (CPSA) (15 U.S.C. 2051-2081). Section 30(d) of the CPSA, as amended, provides that a risk of injury which is associated with a consumer product and which could be eliminated or reduced to a sufficient extent by action under the FHSA, PPPA, or the FFA may be regulated under this act only if the Commission by rule finds it is in the public interest to regulate such risk of injury under this act.

§ 1145.2 Paint (and other similar surface-coating materials) containing lead; toys, children's articles, and articles of furniture bearing such paint (or similar surface-coating materials); risk of lead poisoning.

(a) The Commission finds that it is in the public interest to reduce the risk of lead poisoning to young children from the ingestion of paint and other similar surface-coating materials by action under the Consumer Product Safety Act rather than under the Federal Hazardous Substances Act because of the desirability of consolidating the public procedures related to such regulation with the proceeding to determine a safe level of lead under the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801-4846), as amended by the National Consumer Health Information and Health Promotion Act of 1976 (Pub. L. 94-317; 90 Stat. 705-706). Consolidation of these proceedings facilitates greater public participation and a more expeditious resolution of the issues.

(b) Paint an dother similar surface-coating materials containing lead and toys, children's articles, and articles of furniture bearing such paint or other similar surface-coating materials that present a risk of lead poisoning to young children by ingestion shall therefore be regulated under the Consumer Product Safety Act. Such regulation shall include all directly related pending and future rulemaking, as well as all directly related pending and future action on petitions.

Effective date: This Part shall become effective February 28, 1978.

(Authority: Sec. 30(d), Pub. L. 92-573, 86 Stat. 1231, as amended 90 Stat. 510; 15 U.S.C. 2079(d)).

Dated: August 26, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-25471 Filed 8-31-77;8:45 am]

SUBCHAPTER B—CONSUMER PRODUCT SAFETY ACT REGULATIONS

PART 1303—LEAD-CONTAINING PAINT AND CERTAIN CONSUMER PRODUCTS BEARING LEAD-CONTAINING PAINT

Establishment as Banned Hazardous Products

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission declares that the following products are banned hazardous products under the Consumer Product Safety Act:

1. Paint and other similar surface-coating materials containing more than 0.06 percent lead.
2. Toys, and other articles intended for use by children, bearing paint or other similar surface-coating materials containing more than 0.06 percent lead.
3. Furniture articles bearing paint or other similar surface-coating materials containing more than 0.06 percent lead.

The Commission issues this ban in order to eliminate or reduce the unreasonable risk of injury associated with lead poisoning in children.

DATES: Effective date: The regulation issued below applies to the enumerated products that are manufactured after February 27, 1978.

ADDRESSES: All material which the Commission has that is relevant to this rule may be seen in, or copies obtained from, the Office of the Secretary, Consumer Product Safety Commission, 3rd Floor, 1111 18th Street, Washington, D.C. 20207.

FOR FURTHER INFORMATION, CONTACT:

Charles M. Jacobson, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, telephone 301-492-6400.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 10, 1976, the Commission proposed a rule (16 CFR Part 1150, issued below as 16 CFR Part 1303) to declare the following products to be banned hazardous products under the Consumer Product Safety Act (CPSA): (1) paint and similar surface-coating materials containing more than a safe level of lead, (2) toys and other articles intended for use by children, that bear paint or other similar surface-coating materials containing more than a safe level of lead, and (3) furniture articles bearing paint or other similar surface-coating materials containing more than a safe level of lead (41 FR 33637). What would be deemed to be a "safe level" was proposed to be a percentage that would be determined by the Commission in a proceeding conducted, after the proposal, under the Lead-Based Paint Poisoning Prevention Act (LBPPPA), as amended (42 U.S.C. 4801-4846). This proceeding under the LBPPPA was also initiated by a notice in the August 10, 1976, issue of the FEDERAL REGISTER (41 FR 33636). A detailed history of the Commission's involvement with proceedings to regulate lead-based paint is given in the preamble of the FEDERAL REGISTER notice that proposed the ban under the CPSA (41 FR 33637) and in section I-A of the Final Environmental Impact Statement on Lead Content in Paint, copies of which may be obtained from the Office of the Secretary.

The LBPPPA, as amended by the National Consumer Health Information and Health Protection Act of 1976 (Pub. L. 94-317), directed the Commission to determine, by December 23, 1976, whether a level of lead in excess of 0.06 percent but not over 0.5 percent, was safe. If the Commission were unable to determine a safe level of lead in this range, paint manufactured after June 22, 1977, containing more than 0.06 percent lead would be considered "lead-based paint." As explained in the FEDERAL REGISTER of February 16, 1977 (42 FR 9404), the Commission, after holding a hearing and considering comments on the issue, determined (on December 16, 1976) that the available data and information did not support a finding that a level of lead in paint above 0.06 percent but not over 0.5 percent is safe. Accordingly, the congressionally-established definition of "lead-based paint" under the LBPPPA as paint having more than 0.06 percent lead became automatically effective on June 23, 1977. The LBPPPA as amended directs the Department of Health, Education, and Welfare to take action with respect to lead-based paint on cooking, eating, and drinking utensils, and the Department of Housing and Urban Development is directed to take action with respect to lead-based paint in residential structures constructed or rehabilitated with Federal assistance. The Consumer Product Safety Commission is directed to "take such steps and impose such conditions as may be necessary or appropriate to prohibit the application of lead-based paint to any toy or furniture article."

The Commission proposed 16 CFR Part 1150 (now Part 1303) in order to reduce the unreasonable risk of injury associated with lead-containing paint having more than a safe level of lead. The setting of the 0.06 percent definition of lead-based paint as the level to be regulated by Part 1303 is intended to accomplish this result, and it will also comply with the directive of the LBPPPA that the Commission should take steps to prohibit the application of lead-based paint to any toy or furniture article. It should be noted, however, that the Commission's action is broader than the LBPPPA's directive in that the paint itself is declared to be a banned hazardous product, as are articles, other than toys, intended for the use of children.

CU PETITION

The Commission's action has the effect of granting a petition filed February 24, 1975, by Consumers Union, requesting a regulation that would ban household paint and toys or other children's articles bearing paint containing more than 0.06 percent lead. (Petition numbers CP 75-15 and HP 75-14.)

FHSA REGULATIONS

There is a regulation currently in effect under the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261-1274, that declares household paints and other similar surface-coating materials containing more than 0.5 percent lead to be banned hazardous substances (16 CFR 1500.17(a)(6)). In addition, toys, and other articles intended for use by children, bearing such paint or similar surface-coating materials, are banned. Artists' paints and related materials were subsequently exempted from this regulation. A provision that would have been effective January 1, 1974, to reduce the allowable lead content in these substances to 0.06 percent was stayed by the Food and Drug Administration (FDA) on August 10, 1972 (37 FR 16078), and subsequently by the Commission on December 27, 1973 (38 FR 35302) and December

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9, 1974 (39 FR 42902). (The Commission assumed the functions under the FHSA from the FDA on May 14, 1973.)

Before the functions under the FHSA were transferred to the CPSC, the National Paint and Coatings Association (NPCA), a trade association representing the surface coatings manufacturing industry, petitioned the FDA to amend 21 CFR 191.9 (a)(6) (now 16 CFR 1500.17(a)(6)) to exempt the lead-containing coatings listed below from classification as banned hazardous substances for consumer use.

1. Automotive, agricultural, and industrial equipment refinish coatings.

2. Industrial (and commercial) building and equipment maintenance coatings, including traffic and safety marking coatings.

3. Graphic arts coatings (products marketed solely for application on billboards, road signs, and similar uses and for identification marking in industrial buildings).

4. Touch-up coatings for automobiles, agricultural and industrial equipment, lawn and garden equipment, boats, outboard motors, motorized recreational vehicles, and appliances.

5. Exterior marine coatings for small craft application.

6. Exterior rubber-based roof coatings.

7. Exterior primer coatings for wood siding containing extractives (products marketed solely for application on redwood and cedar).

On December 5, 1972, FDA published in the FEDERAL REGISTER (37 FR 25849) a proposal to exempt these seven types of coatings from classification as banned hazardous substances. This notice also stayed the regulation's applicability to these products pending the issuance of the final exemption regulation. In addition, as requested by NPCA's petition, it was proposed that these products have the following inscriptions on their labels:

WARNING

CONTAINS LEAD. DRIED FILM OF THIS PAINT MAY BE HARMFUL IF EATEN OR CHEWED.

Do not apply on toys and other children's articles, furniture, or interior surfaces of any dwelling or facility which may be occupied or used by children.

Do not apply on those exterior surfaces of dwelling units, such as window sills, porches, stairs, or railings to which children may be commonly exposed.

Keep out of reach of children.

To date, this proposal has not been acted upon by FDA or CPSC (which assumed jurisdiction over the FHSA regulation in 1973). Although, as explained below, the Commission is issuing 16 CFR Part 1303 under the authority of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051–2081, the Commission has considered the merits of these requests for exemptions in issuing Part 1303. An explanation of the Commission's reasons for granting or denying each exemption is given below under the heading "NPCA Exemption Requests."

It should be noted, however, that 16 CFR Part 1303, issued below, is broader than the existing FHSA regulation in that Part 1303 also applies to furniture articles bearing paint or similar surface-coating material containing more than 0.06 percent lead.

During the time that Part 1303 is effective, the present regulations under the FHSA will be revoked (see FR Doc. 77-25473 published elsewhere in this part of the FEDERAL REGISTER).

CPSA RULE

In the August 10, 1976, FEDERAL REGISTER notice that proposed the ban under the CPSA, the Commission also proposed a rule (16 CFR Part 1145), which would constitute the Commission's finding that it is in the public interest to regulate paint and other similar surface-coating materials, and toys, children's articles, and furniture articles bearing such paint or other similarly surface-coating materials, under the Consumer Product Safety Act rather than the Federal Hazardous Substances Act. Section 30(d) of the CPSA requires the Commission to make the finding, by rule, before it may regulate, under the CPSA, a risk of injury which could be eliminated to a sufficient extent by action under the FHSA. In FR Doc. 77-25471, published elsewhere in the Rules and Regulations section of this issue of the FEDERAL REGISTER, the Commission has issued this rule.

Section 9(a)(2) of the CPSA provides that the Commission shall give interested persons an opportunity for the oral presentation of data, views, or arguments relating to the proposal of a ban, in addition to an opportunity to make written submissions. The oral proceeding for comments on the proposed ban was held on September 13, 1976, and was combined with the oral hearing for the LBPPPA proceeding to determine if a safe level of lead between 0.06 percent and 0.5 percent could be ascertained. The comments that were made on the proposal in that hearing are addressed below in the section of this notice entitled "Safe Level of Lead in Paint, on Toys and on Furniture".

Pursuant to section 9(a)(1) of the CPSA, the date by which the Commission must either issue a rule or withdraw the proposal has been extended to September 2, 1977, for the reasons stated in FEDERAL REGISTER notices published October 6, 1976 (41 FR 44126), and July 7, 1977 (42 FR 34892).

SUMMARY OF COMMENTS

The Commission received 58 comments on its August 10, 1976, proposal to ban lead-containing paint for consumer use and certain consumer products bearing such paint. In addition, over 200 comments were received on the December 5, 1972, Food and Drug Administration proposal (37 FR 25849) to exempt 7 types of paints and coatings from classification as banned hazardous substances under the FHSA. As previously discussed, those 7 exemptions were never finally acted upon, although the regulation was stayed as to these products. The comments on the 7 exemption requests are analyzed below, and exemptions to the final CPSA ban are granted or denied based on the merits of the requests for FHSA exemptions. The issues raised by the comments and the Commission's reasons why the Commission did or did not change the proposal in response to the comments are explained below.

1. *Safe Level of Lead in Paint, on Toys and on Furniture.* In the FEDERAL REGISTER of August 10, 1976, the Commission proposed to regulate lead-containing paint at the LBPPPA level for consumer product paints and for toys, other articles for use by children, and furniture bearing such paint. On February 16, 1977 (42 FR 9404), the Commission announced its decision (of December 16, 1976) under the LBPPPA that the available scientific information is insufficient to determine if a level of lead in paint above 0.06 percent but not over 0.5 percent is safe.

Prior to the December 16, 1976, decision, the Commission received many comments on the danger to children of lead in paint, and in particular on the question of what percentage level of lead in paint should be allowed in any regulation issued by the Commission. The February 16, 1977 document discusses these comments. They are also briefly summarized below.

The National Academy of Sciences (NAS), in a report submitted to the Commission entitled Recommendations for the Prevention of Lead Poisoning in Children, stated that a 0.5 percent lead in paint level represents a hazard to children with pica for paint and specifically recommended that the deliberate addition of lead to paint for residential buildings or other surfaces accessible to children be immediately discontinued and that a level not to exceed 0.06 percent lead in the final dried product be set for regulatory purposes. The NAS Report criticized the animal studies conducted for the CPSC in 1974 that recommended a 0.5 percent limit for not adequately simulating the conditions found in young children. (See, T. Kneip, et al., Lead Toxicity Studies in Infant Baboons—A Toxicological Model for Childhood Lead Poisoning, Draft of Final Report, N.Y. Institute of Environmental Medicine, November 1974; R. Purdy, et al., Toxicological Investigation of Chronic Lead Paint Ingestion in the Juvenile Baboon, Final Report, Southwest Foundation for Research and Education, Dec. 1974.)

Comments from the Center for Disease Control of the Department of Health, Education, and Welfare, urged the Commission to adopt a level below 0.5 percent. The Center for Disease Control stated that they believed a 0.06 percent level to be achievable and enforceable. In addition, several medical experts, and several consumer groups expressed opinions in support of the 0.06 percent lead level.

The National Paint and Coatings Association (MPCA) stated it would support a standard of "no lead intentionally added in the formulation of the product". They suggested, however, that a level of 0.2 percent would be necessary in order to provide a margin for inadvertent contamination of paint with lead.

Representatives of the toy industry recommended adoption of a 0.25 percent lead level, primarily to achieve uniformity with certain foreign standards. Neither the NPCA nor those representing the toy industry, however, provided toxicity data to support a determination that the suggested levels were safe.

Two commenters stated that the ultimate objective is to manufacture lead-free paint, but they recognized that, for the present, a 0.06 percent level is more practical because an allowance must be made for possible lead contamination of raw materials and manufacturing equipment.

Having considered all comments, written and oral with respect to the determination of a safe level of lead in paint for purposes of a CPSA banning regulation, the Commission sees no reason to deviate from its proposal to use the LBPPPA safe level for lead in paint as the maximum allowable lead content in this banning regulation. The Commission points out that it is unaware of any data or information sufficient to establish the safety of lead at a level over 0.06 percent.

As far as the problem of inadvertent contamination of paint with lead is concerned, the Commission notes that NPCA itself has stated that most current consumer paints comply with a 0.06 percent level. More stringent housekeeping practices by manufacturers should bring the other paints within the prescribed limit. This issue is further discussed in the section of this preamble entitled "Economic Considerations".

Finally, the Commission cannot ignore the legislative mandate embodied in the LBPPPA, which strongly suggests that no level higher than 0.06 percent lead in paint is safe by mandating a 0.06 percent standard in the absence of an affirmative finding that a higher level is safe. Consequently, for purposes of this CPSA regulation, consumer product paints containing more than 0.06 percent lead and toys and other children's articles and furniture bearing such paint are banned hazardous products.

2. *Scope.* In response to the proposal of August 10, 1976, industry representatives asked that certain items of furniture and certain paints be excluded from the ban.

Several commenters requested that metal furniture, including metal chests, desks, and bed frames be excluded from the furniture that would be banned by the proposal. The commenters stated that the coatings on this furniture are resistant to chewing by children since they are baked on at high temperatures, making them hard and durable.

The Commission declines to exempt metal furniture because it has not received sufficient data to justify an exemption. The Commission points out, however, that manufacturers of metal furniture may petition for an exemption of such articles in accordance with the criteria set out in the section of this Preamble entitled "Future Exemption Requests".

Commenters also requested that home appliances, such as ranges, refrigerators, and dishwashers, fixtures such as bathroom fixtures, toilet seats, kitchen cabinets, and lighting fixtures be excluded from the scope of the ban. The reasons given for these requests were that coatings on appliances and fixtures are hard and durable and tightly adhere to the products, making it difficult for children to chew or chip the coatings by biting.

The Commission notes that because the August 10, 1976 proposal contained no definition of the term "furniture article," there has apparently been some confusion as to the coverage of the term. The Commission points out that it does not consider appliances or fixtures to be furniture. Therefore, the items are outside the scope of this banning regulation.

Several commenters suggested that window shades, wall hangings, venetian blinds and similar items should be excluded from the ban. The Commission does not consider these items to be furniture, so they are therefore not within the scope of the regulation.

The NPCA and some manufacturers asked that mirrors with lead-containing mirror backing paint be exempted from the ban because there is no history of the paint having been ingested by children, the paint is inaccessible, and the paint itself is not sold to consumers. In addition, the lead is important as an anti-corrosive and adhesive. The commenters note that while the life of a mirror without a backing of lead-containing paint is only 2 or 3 years, the life of a mirror with such a backing is estimated at 25 to 40 years.

The Commission agrees with the commenters' arguments. Since mirrors which are part of furniture articles are furniture within the scope of the ban, the Commission grants an exemption for such mirrors which have lead-containing backing paint. The Commission notes, however, that this exemption only extends to the mirror itself; a wooden frame around a mirror, for instance, must comply with the provisions of this regulation.

The Commission has also decided to exempt artists' paints and related materials from the regulation. The Commission proposed to exempt this category of paints in the August 10, 1976 document, and these products are exempted from the FHSA regulation (16 CFR 1500.17(a)(6)(i)(D)) that currently bans paints containing more than 0.5 percent lead and toys and other children's articles bearing such paint. The Commission notes that over the years it has not been made aware of any problems resulting from the FHSA exemption and concludes that the exemption should be continued in effect.

3. *NPCA Exemption Requests.* As previously mentioned in the FEDERAL REGISTER of December 5, 1972 (37 FR 25849), the Food and Drug Administration, published in response to a petition by the National Paint and Coatings Association, seven proposed exemptions from the banning regulation on lead-containing paints and other similar surface-coating materials that had been issued under the Federal Hazardous Substances Act (FHSA). The seven proposed exemptions involve certain refinish coatings, industrial maintenance coatings, graphic arts coatings, touchup coatings, exterior marine coatings, exterior roof coatings, and exterior primer coatings. These are further identified below. Mandatory cautionary labeling for the subject products was also proposed.

Effective May 14, 1973, functions under the FHSA were transferred to the Consumer Product Safety Commission by section 30(a) of the Consumer Product Safety Act (15 U.S.C. 2079(a)). The Commission has considered the merits of the December 5, 1972, proposal in this CPSA regulation. Over 200 comments were received on the proposed exemptions. While 115 of the comments generally supported the proposals, others were critical of various aspects of the proposed exemptions. The principal issues raised and the Commission's conclusions are as follows:

(a) *Automotive, agricultural, and industrial equipment refinish coatings.* Many commenters stated that because these products are not generally distributed through consumer channels and because they are applied on surfaces generally not accessible to children, the possibility of ingestion of lead-containing paint chips by children is extremely remote. The commenters further pointed out that these special coatings are so expensive compared to household paints that it is highly unlikely that they would be used on either the interior or exterior of a house.

A public interest research group disagreed with the proponents of this proposed exemption because it believes that there is no guarantee that children will not acquire lead in their blood from these products, even though they may not be generally available in or around the household. However, those favoring the exemption maintain that the proposed cautionary labeling would effectively protect people from using such coatings on home surfaces or other surfaces accessible to children.

The Commission notes that since this regulation is being promulgated under the CPSA, the Commission's rulemaking powers are limited to articles which are "consumer products". Section 3(a)(1)(C) of the CPSA specifies that "motor vehicles and motor vehicle equipment" are excluded from the scope of the act. National Highway Traffic Safety Administration (NHTSA) attorneys have informed the Commission that paint specifically for use on automobiles is "motor vehicle equipment" under NHTSA jurisdiction. Therefore, since automotive coatings are excluded from Commission jurisdiction under the CPSA, no exemption for them need be granted. The coatings are outside the scope of this regulation.

Nevertheless, agricultural and industrial equipment refinish coatings, to the extent they are customarily available to

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consumers, are within the Commission's regulatory power under the CPSA. With regard to these two types of coatings, the Commission concludes that they pose no substantial hazard to children because the products on which they are used are not generally accessible to children and therefore, these coatings are exempted from the regulation, provided they are labeled in accordance with section 1303.3 (a).

(b) *Industrial (and commercial) building and equipment maintenance coatings, including traffic and safety marking coatings.* Industrial paints consist of glossy enamels and red lead primers and are used on machinery, equipment, steel doors and frames, and steel structural members and as safety marking paint. Commercial building maintenance coatings include a wide range of paints for use on plumbing, electrical conduits and equipment, steel doors, as well as exposed steel structural members.

Nearly all the responses received favored exempting these coatings. Since the coatings, commenters reasoned, are applied to surfaces which are not likely to be chewed by children, such as highways and bridges, they cannot be viewed as creating a substantial hazard to children. Many commenters also noted that lead-containing pigments, such as red lead, are essential in aiding against corrosion and weathering of industrial and commercial buildings and equipment. In addition, they pointed out that no satisfactory substitute for yellow lead chromate has been found for use in traffic paint.

A contrary view expressed by some commenters is that, while these products are not customarily produced or distributed for sale to or for use by consumers nor easily accessible to children, the small-size packaging of these special coatings makes them available to the consuming public and thus accessible to children. Also, a building which is industrial or commercial may later become residential. However, those in favor of the exemption stated that precautionary labeling would prevent any misuse of such coatings in the home.

While most industrial and commercial maintenance coatings are not available to consumers and therefore are not "consumer products" within the scope of the ban, the Commission realizes that some industrial and commercial coatings may be customarily sold to consumers through retail or wholesale sources or otherwise made available for their use. The Commission believes, however, that the likelihood that these consumer products will be used on surfaces accessible to children is small. In addition, the Commission believes that the precautionary labeling provisions of section 1303.3(a) which inform consumers of the areas on which the paints may not safely be applied, will adequately address any danger of misuse of these products.

The Commission recognizes the importance of red lead primers in preventing the corrosion of steel structures and yellow lead chromate in insuring the durability and brilliance of traffic paint. Therefore, the Commission agrees to exempt the subject coatings.

(c) *Graphic art coatings (products marketed solely for application on billboards, road signs and similar uses and for identification marking in industrial buildings.)* Most of the comments on this proposed exemption favored granting it. The main reasons given for why such an exception would be justified were that these lead-containing paints are necessary to insure durability and brilliance of color and pose no hazard to children since they are not sold or intended for consumer use. Some commenters stressed that since there presently exists no acceptable non-leaded colorant, denying the exception would inevitably result in increased costs, which the consuming public would ultimately bear.

Some consumer groups stated that graphic art coatings are packaged in such a form that they are suitable for consumer use and, therefore, should be included within the scope of this regulation.

The Commission notes that while graphic art coatings are generally applied by professional sign painters and are usually not sold to consumers, the signs (billboards, road signs, etc.) are often for the use of consumers. Therefore, graphic art coatings are "consumer products."

The Commission, however, believes the coatings should be exempt from the scope of this regulation. The Commission finds that the coatings are normally applied to areas which are inaccessible to children. Although the Commission recognizes that occasionally graphic art coatings may be brought into the home, this would not be frequent. The Commission believes the precautionary labeling specified in the rule should address any potential problem of application to inappropriate surfaces.

(d) *Touchup coatings for automobiles, agricultural and industrial equipment, lawn and garden equipment, boats, outboard motors, motorized recreational vehicles, and appliances.* Industry comments supporting this proposed exemption stated that it is unlikely that children would chew on the hard metal surfaces to which these touchup coatings are applied. In addition, manufacturers expressed concern over the absence of an appropriate substitute material.

Other commenters urged that these coatings not be exempted because they are readily available for consumer use.

As previously discussed, coatings specifically designed for use on automobiles are considered motor vehicle equipment and are excluded from the Commission's jurisdiction under the CPSA. Similarly, U.S. Coast Guard officials inform that coatings applied to boats or their component parts are considered boat equipment which could be subjected to safety regulation under the Federal Boat Safety Act of 1971. (CPSA section 30(a)(1)(G) excludes boats and boat equipment which could be subjected to safety regulation under the Federal Boat Safety Act from the definition of "consumer product.") Coatings applied to motorized recreational vehicles would in most instances be motor vehicle equipment or boat equipment. Therefore, it is not necessary that touchup coatings specifically for use on automobiles, boats, motorized recreational vehicles and outboard motors be exempted by the Commission since they are not within the scope of the regulation.

Touch-up coatings for agricultural and industrial equipment, lawn and garden equipment, and appliances, are available to consumers and therefore, fall within the coverage of the CPSA. The Commission has decided to grant an exemption for these coatings. The Commission notes that the coatings are applied over small areas and on surfaces which do not lend themselves to chewing by children. In addition, the Commission finds that the warning label required by section 1303.3(a) will provide additional protection by indicating to the purchaser that such coatings should not be applied to any surface accessible to children.

(e) *Exterior marine coatings for small craft application.* The comments endorsing this proposed exemption emphasized that lead-containing marine coatings are necessary to control corrosion since no effective substitute for lead is currently available. Other comments opposed this proposal because small craft are often stored in the vicinity of consumers' homes and the coatings may, therefore, be accessible to children.

The CPSA excludes boats and boat equipment which could be subjected to safety regulation under the Federal Boat Safety Act of 1971 from the definition of "consumer product". Since exterior marine coatings for small craft are considered to be "boat equipment," the Commission concludes that it need not exempt these products, because they are not within the jurisdiction of the CPSA.

(f) *Exterior rubber-based roof coatings.* Commenters favoring the proposed exemption stated that lead oxides are the only known materials available for improving the water resistance of roofs. They also stressed that roofs are surfaces not easily accessible to children.

However, some commenters opposed exempting these coatings because roofs are often used as play areas for urban children and therefore, the lead content of the coatings would be accessible to children. They further maintained that lead oxides used as curing agents for liquid coatings are replaceable by other metallic oxides as well as certain metal-free organic substances.

The Commission has decided to deny the request for this proposed exemption because it is possible that roofs could be converted into play areas, thereby exposing children to a dangerously high level of lead. The Commission believes that there are practical and acceptable substitutes for lead oxides in such products. In addition, the Commission has concluded that an exemption should not be granted because industry has failed to provide sufficient information regarding these products to convince the Commission to act favorably on the request.

(g) *Exterior primer coatings for wood siding containing extractives (products marketed solely for use on redwood and cedar).* Commenters favoring this proposed exemption stated that the primers are inaccessible to children and that lead compounds are necessary in these primers in order to prevent discoloration of cedar and redwood before the topcoat is applied.

Several commenters, including an industry commenter, strongly opposed the exclusion of these coatings from the regulation. They recognized that a primer need only be used once and thus, there is no build up of layers (the primary cause of lead poisoning), but indicated that this does not eliminate the possibility of children ingesting low-level lead paint chips. Also, the commenters pointed out that many wood primer coatings are suitable for a variety of wood surfaces, such as interior wood paneling and wood trim, and are not exclusively for outdoor use. The commenters further stressed that there are presently available several non-lead substitutes which have provided satisfactory results in preventing discoloration.

The Commission concludes that these lead-containing primers should not be exempted because the interior surfaces (e.g., paneling, trim) and exterior surfaces (e.g., siding, porches, or decks) to which these primers are applied are accessible to children. Also, since non-lead substitutes are readily available and are produced by the leading paint manufacturers, banning wood primer coatings containing more than 0.06 percent lead should not create an unreasonable burden on industry.

4. *Economic Considerations.* Many comments on the proposed regulation related to the economic and practical effects of lowering the permissible lead level for paints and other similar surface coatings. These comments and comments on the draft environmental statement are extensively addressed in the final environmental impact statement which is on file with the Council on Environmental Quality and is available for public inspection in the Office of the Secretary. The economic comments on the August 10, 1976 proposal are briefly discussed below.

The primary economic effect of the proposed regulation would be to eliminate the use of lead driers in paints since lead pigments are already precluded from practical use under the FHSA 0.5 percent lead restriction. Several industry commenters noted that as a result of the elimination of lead driers, the drying time of solvent-thinned paints would be lengthened and in fact, outside painting with these products at temperatures below 50° F and 70 percent or more relative humidity might not be feasible.

The Commission does not dispute the accuracy of the industry claim. However, the Commission points out that the painting industry has always been plagued by the vagaries of the weather and outdoor painting is not normally done during periods of precipitation, freezing temperatures, and high winds. In addition, at more moderate temperatures, other driers, particularly zirconium, may be substituted for lead with little or no sacrifice to solvent-thinned paint performance.

Other industry comments stated that the adoption of the 0.06 percent level for consumer paints would force a manufacturer who produced both consumer and commercial type paints to segregate his equipment to prevent contamination of the consumer paint. The commenters further noted that this creates a heavy burden and might put certain small manufacturers out of business. A consumer group, however, pointed out that even without the 0.06 percent requirement, manufacturers must maintain strict housekeeping standards because they routinely mix various colors, resins, and solvents.

The Commission agrees that present operating procedures in the paint industry require segregation of ingredients and equipment and the maintenance of good housekeeping practices to assure tint and color fidelity of paints. The Commission believes that the prevention of contamination of consumer products with residues from previously manufactured batches of industrial paints should require only strict adherence to established practices. Further, if additional housekeeping requirements are necessary to maintain the lead level within prescribed limits, the Commission does not believe that the increased costs will be great.

Industry representatives also commented that adoption of the 0.06 percent level would result in significantly increased costs for manufacturers since they would have to test paints to determine that lead levels comply with the ban.

First of all, the Commission notes that several commenters, including NPCA, stated that most household paints today comply with the 0.06 percent level. Studies sponsored by the Commission have shown that over 95 percent of latex-based and nearly 70 percent of oil-based paints intended for consumers have lead levels at or below 0.06 percent See "CPSC Lead-in-Paint Marketplace Survey, 1974–1975".) In addition, the Commission does not agree that small manufacturers may not be able to afford the costs of testing paints for lead at a level of 0.06 percent. The data available to the Commission indicate that the costs of testing are very small compared with the total price of a gallon of paint. The Commission believes that the costs of testing may be further reduced by requiring certification of lead content from suppliers and by increased quality control to reduce the need for testing each batch of products.

5. *Exemption for Catalyzed Coatings for Radio-Controlled Powered Model Aircraft.* On March 19, 1976, NPCA petitioned (HP 76–11) for the exemption of coatings marketed solely for use on radio-controlled powered model aircraft from classification as a banned substance under the lead-in-paint regulations of the Federal Hazardous Substances Act.

The Commission has determined to grant this petition and to issue an exemption for these coatings at this time. Catalyzed coatings marketed solely for use on radio-controlled powered model aircraft are, therefore, exempt from this banning regulation, provided they are labeled in accordance with section 1303.3 (a).

In granting the exemption, the Commission recognizes that the planes to which these coatings are applied are relatively expensive and are marketed mainly for adult use. In addition, the coatings themselves are expensive, are sold in small amounts, and are specialized. Therefore, it is unlikely that they would be used on surfaces from which it may reasonably be expected that children would ingest the dried paint film.

6. *Future Exemption Requests.* The Commission points out that it will consider other exemption requests that are brought to its attention. The requests should comply with the Commission's Procedures for Petitioning for Rulemaking Under Section 10 of the Consumer Product Safety Act (16 CFR 1110, 41 FR 43126, September 29, 1976) and should be accompanied by technical data establishing such facts as why lead is an essential component of the product(s) and/or why the product(s) presents no risk of ingestion by children. A specific description of the product, including the complete chemical formulation and the product's name, the product's characteristics after application, promotional and labeling information, and information on the use patterns of the product should also be supplied. In addition, it would be helpful to the Commission in evaluating requests if manufacturers would include with their submissions information on their substitution plans should the exemption be denied and information on whether the product is currently being distributed.

Manufacturers may request confidential treatment of portions of submitted information in accordance with the Commission's regulations under the Freedom of Information Act. (16 CFR § 1015, issued February 27, 1977 at 42 FR 10490.)

7. *Testing.* A number of comments recommended that the Commission adopt and include in the rule a uniform quantitative method of testing for lead in paint. The Commission has decided not to prescribe any specific method for testing paints for their lead content. The Commission recognizes that analytical chemistry is a dynamic science and that the inclusion of a specific procedure within the rule might reduce scientific activity and initiative. It might also delay the use of newer, and possibly simpler, procedures. Any scientifically acceptable method can be used to determine the lead content of consumer paints. The Commission, upon request, will supply details of the procedure used by its laboratories for this purpose.

8. *Effective date.* Commenters have suggested various effective dates for the

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regulation, ranging from 6 months to 5 years after promulgation. One commenter suggested that the 0.06 percent level be phased in gradually over a one to three year period.

The Commission notes that those manufacturers who presently produce paint containing more than 0.06 percent lead must reformulate their product to use non-lead driers, order and receive and certify ingredients, test pilot batches, set up production of the product, and arrange for testing of production batches. Manufacturers of children's articles and furniture must be able to locate certified supplies of complying paint.

The Commission believes that a 180-day effective date would give all but the most inefficient firms enough time to become fully aware of the requirements of the regulation and make the adjustments in production outlined above. The Commission also believes that manufacturers of products which must use complying paint will be able to make the necessary arrangements within this time period. The Commission notes that many paints already comply with the 0.06 percent level.

In addition, the Commission points out that it has received no data convincingly demonstrating the need for a longer period of time to comply.

Section 9(d)(1) of the CPSA states that if the Commission wants to make a consumer product safety rule effective more than 180 days from the date of promulgation, the Commission must make a special finding that a later effective date is in the public interest. The Commission is unable to make such a finding with regard to this ban. The Commission has determined, however, to make this ban applicable only to products subject to the ban that are manufactured after the effective date. The Commission believes that applicability of the regulations to all goods in commerce on the effective date would pose very difficult compliance problems for the wholesalers or retailers of either paint or painted products. The impact would probably be especially large on small businesses. The Commission concludes that such an impact is unwarranted in view of the purpose of the regulation to prevent the future buildup of unnecessarily high levels of lead in layers of dried paint. Moreover, this policy is consistent with the LBPPPA in which "lead-based paint" is defined as paint containing more than 0.06 percent lead manufactured after the act's effective date (June 23, 1977). Paint manufactured prior to the effective date of the CPSA regulation but sold after that date must still comply with the 0.5 percent limit of the FHSA regulation so the Commission believes that the public will not be unprotected while paint inventories are depleted.

DESCRIPTION OF THE BAN

Terms of the ban. In Part 1303, the following consumer products are declared to be banned hazardous products under section 8 of the Consumer Product Safety Act:

(1) Paint and similar surface-coating materials that contain lead or lead compounds and in which the lead content (calculated as lead metal) exceeds 0.06 percent of the total weight of the nonvolatile content of the paint or the weight of the dried paint film.

(2) Toys and other articles intended for use by children that bear paint or similar surface-coating materials that contain lead or lead compounds and in which the lead content (calculated as lead metal) exceeds 0.06 percent of the total weight of the nonvolatile content of the paint or the weight of the dried paint film.

(3) Furniture articles that bear paint or similar surface-coating materials that contain lead or lead compounds and in which the lead content (calculated as lead metal) exceeds 0.06 percent of the total weight of the nonvolatile content of the paint or the weight of the dried paint film.

"Paint and similar surface-coating materials," "toys and other articles intended for use by children," and "furniture articles" are defined in § 1303.2. The definition of "furniture articles" indicates that appliances such as ranges, refrigerators, and dishwashers, fixtures such as bathroom fixtures, kitchen cabinets, and chandeliers, and other household items such as window shades and venetian blinds are not covered by the regulation.

The following products are specifically exempted from the ban:

(1) Mirrors which are part of furniture articles to the extent they bear lead-containing backing paint.

(2) Artists' paints and related materials.

The following products are specifically exempted from the ban, provided they bear the cautionary labeling specified in § 1303.3(a):

(1) Agricultural and industrial equipment refinish coatings.

(2) Industrial (and commercial) building and equipment maintenance coatings, including traffic and safety marking coatings.

(3) Graphic art coatings (i.e., products marketed solely for application on billboards, road signs, and similar uses and for identification marking in industrial buildings).

(4) Touchup coatings for agricultural equipment, lawn and garden equipment, and appliances.

(5) Catalyzed coatings marketed solely for use on radio-controlled model powered aircraft.

Scope and application. Since this ban is being issued under the Consumer Product Safety Act, the rule applies only to those products that are "consumer products" as defined in section 3(a)(1) of the Act. Accordingly, the regulation applies to items subject to the ban that are customarily produced or distributed for sale to or for the use, consumption, or enjoyment of consumers. Paints and coatings for motor vehicles and boats are not included within the scope of the ban. In addition to those products which are sold directly to consumers, the ban applies to products which are used or enjoyed by consumers after sale, such as paints used in apartments, schools, hospitals, parks, playgrounds, and public buildings or other areas where consumers will have direct access to the painted surface.

FINDINGS

1. *CPSA Section 8.* Section 8(1) and (2) of the CPSA require that, before issuing a consumer product safety rule declaring a product to be a banned hazardous product, the Commission shall find (1) that the product presents an unreasonable risk of injury and (2) that no feasible safety standard can adequately protect the public from the unreasonable risk of injury associated with the product.

(a) *Unreasonable risk of injury.* This regulation is intended to reduce or eliminate the unreasonable risk of injury associated with lead poisoning in children. The main source of lead in childhood lead poisoning is lead-containing paint. Lead-containing paint or peelings are sometimes eaten by children, especially those with pica (a poorly understood phenomenon meaning the repetitive ingestion of nonfood substances). Certain surfaces, such as toys or furniture, are easily accessible to children for the ingestion of such chips and therefore, present a particular hazard.

The adverse health effects of such poisoning in children are numerous and can cause a wide range of disorders such as hyperactivity, slowed learning ability, withdrawal, blindness, and even death. These effects are discussed in more detail in section 1303.5(a) of Part 1303.

The Commission believes that the Congressional intent expressed in the amended LBPPPA is for all paint for consumer use which meets the LBPPPA definition of "lead-based paint," as determined by the Commission in LBPPPA proceedings, and certain consumer products bearing such paints (notably toys and other children's articles and furniture) to be considered as presenting an "unreasonable risk of injury" as that term is used in sections 8 and 9 of the CPSA. This intent is manifested in the LBPPPA by provisions directing this and other federal agencies to take certain regulatory actions with respect to "lead-based paint", including the specific provision directing the CPSC to prohibit the application of "lead-based paint" to any toy or furniture article.

In addition, in determining whether a specific risk of injury is "unreasonable", the Commission balances the probability that the risk will result in harm and the gravity of the harm against a rule's effect on the product's utility, cost, and availability to the consumer.

The Commission notes that the seriousness of the lead poisoning problem is well documented. (See National Academy of Sciences, Recommendations for the Prevention of Lead Poisoning in Children, Washington, D.C., July, 1976.) The Commission further points out that its own studies have shown that over 95 percent of latex-based and nearly 70 percent of oil-based paints intended for consumers have lead levels at or below 0.06 percent. The Commission believes that the elimination of lead driers in paints will not affect their utility since in most cases satisfactory substitutes are currently available. Therefore, the Commission concludes that the impact of this ban on the utility, cost, and availability of paints, toys and other children's articles, and furniture is outweighed by the need to protect the public from the hazard associated with lead-containing paints.

Accordingly, the Commission finds that the following products present an unreasonable risk of injury:

1. Paint and other similar surface-coating materials that contain lead or lead compounds of which the lead content (calculated as lead metal) is in excess of 0.06 percent lead which is defined under the LBPPPA as lead-based paint.

2. Toys and other articles intended for use by children that bear any paint or similar surface-coating materials containing more than 0.06 percent lead.

3. Articles of furniture that bear any paint or similar surface-coating materials containing more than 0.06 percent lead.

(b) *No Feasible Safety Standard.* The Commission is not aware of a technologically feasible procedure for detoxifying a hazardous quantity of lead when present in paint. Accordingly, the Commission finds that a safety standard for paint and similar surface-coating materials containing more than 0.06 percent lead is not feasible and would not adequately protect the public from the unreasonable risk of injury associated with these products.

2. *CPSA Section 9(b).* Section 9(b) of the CPSA, 15 U.S.C. 2058(b), as amended requires the Commission to consider and take into account in the promulgation of a rule the special needs of elderly and handicapped persons to determine the extent to which such persons may be adversely affected by such rule. The Commission has considered these needs and has determined that no adverse effect on elderly or handicapped persons will result from this regulation. It is in the best interest of the entire public, including the elderly and handicapped, that overall lead levels in paint be reduced.

3. *CPSA Section 9(c).* Section 9(c) of the CPSA requires that prior to promulgating a consumer product safety rule the Commission shall consider and shall make appropriate findings for inclusion in such a rule as to: (1) The degree and nature of the risk of injury the rule is designed to eliminate or reduce; (2) the approximate number of consumer products, or types or classes thereof, subject to such rule; (3) the need of the public for the consumer products subject to such rule, and the probable effect of such rule upon the utility, cost, or availability of such products to meet such need; (4) any means of achieving the effect of the order while minimizing adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with the public health and safety; (5) that the rule is reasonably necessary to eliminate or reduce an unreasonable risk associated with such product; and (6) that the promulgation of the rule is in the public interest (15 U.S.C. 2058(c)).

The findings required by Section 9(c) of the act have been made by the Commission and are incorporated in § 1303.5 of the rule below.

ENVIRONMENTAL IMPACT OF THE BAN

Pursuant to its responsibilities under the National Enviromnental Policy Act (NEPA) (42 U.S.C. 4321–4347 as amended by Pub. L. 94–83, August 8, 1975), the Commission has considered the potential environmental effects of this regulation and has prepared an environmental impact statement to reflect this. A draft statement was submitted to the Council on Environmental Quality which, in the FEDERAL REGISTER of February 4, 1977 (42 FR 6879), announced that the document was available for public comment. Pursuant to Council Guidelines (40 CFR 1500 et seq.), public comment was allowed for 45 days from publication of the notice of availability.

The Commission addressed the comments that were received in the final statement, dated May 2, 1977. The availability of the final impact statement was announced in the FEDERAL REGISTER of June 10, 1977 (42 FR 29948). The final statement may be inspected in the Office of the Secretary of the Commission.

CONCLUSION

Having considered the published proposal, the oral and written responses to the proposal, and other relevant material, the Commission issues a ban of lead-containing paint, toys and other children's articles, and furniture bearing such paint as set forth below.

Therefore, pursuant to the provisions of the Consumer Product Safety Act (secs. 8 and 9, 86 Stat. 1215–17, as amended, 90 Stat. 506, 15 U.S.C. 2057, 2058), a new Part 1303 is added to Title 16, Chapter II, Subchapter B, as follows:

PART 1303—LEAD-CONTAINING PAINT AND CERTAIN CONSUMER PRODUCTS BEARING LEAD-CONTAINING PAINT

Sec.
1303.1 Scope and application.
1303.2 Definitions.
1303.3 Exemptions.
1303.4 Banned hazardous products.
1303.5 Findings.

AUTHORITY: Secs. 8, 9, 86 Stat. 1215–1217, as amended 90 Stat. 506; 15 U.S.C. 2057, 2058.

§ 1303.1 Scope and application.

(a) In this Part 1303, the Consumer Product Safety Commission declares that paint and similar surface-coating materials for consumer use that contain lead or lead compounds and in which the lead content (calculated as lead metal) is in excess of 0.06 percent of the weight of the total nonvolatile content of the paint or the weight of the dried paint film (which paint and similar surface-coating materials are referred to hereafter as "lead-containing paint") are banned hazardous products under sections 8 and 9 of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2057, 2058. (See Parts 1145.1 and 1145.2 for the Commission's finding under section 30(d) of the Consumer Product Safety Act (CPSA) that it is in the public interest to regulate lead-containing paint and certain consumer products bearing such paint under the CPSA.) The following consumer products are also declared to be banned hazardous products:

(1) Toys and other articles intended for use by children that bear "lead-containing paint".

(2) Furniture articles for consumer use that bear "lead-containing paint".

(b) This ban applies to the products in the categories described in paragraph (a) of this section that are manufactured after February 27, 1978, and which are "consumer products" as that term is defined in section 3(a)(1) of the Consumer Product Safety Act. Accordingly, those of the products described above that are customarily produced or distributed for sale to or for use, consumption, or enjoyment of consumers in or around a household, in schools, in recreation, or otherwise are covered by the regulation. Paints and coatings for motor vehicles and boats are not included within the scope of the ban because they are outside the statutory definition of "consumer product". In addition to those products which are sold directly to consumers, the ban applies to products which are used or enjoyed by consumers after sale, such as paints used in residences, schools, hospitals, parks, playgrounds, and public buildings or other areas where consumers will have direct access to the painted surface.

(c) The Commission has issued the ban because it has found (1) that there is an unreasonable risk of lead poisoning in children associated with lead content of over 0.06 percent in paints and coatings to which children have access and (2) that no feasible consumer product safety standard under the CPSA would adequately protect the public from this risk.

§ 1303.2 Definitions.

(a) The definitions in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052) shall apply to this Part 1303.

(b) For purposes of this Part:

(1) "Paint and other similar surface-coating materials" means a fluid, semi-fluid, or other material, with or without a suspension of finely divided coloring matter, which changes to a solid film when a thin layer is applied to a metal, wood, stone, paper, leather, cloth, plastic, or other surface. This term does not include printing inks or those materials which actually become a part of the substrate, such as the pigment in a plastic article, or those materials which are actually bonded to the substrate, such as by electroplating or ceramic glazing.

(2) "Lead-containing paint" means paint or other similar surface coating

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materials containing lead or lead compounds and in which the lead content (calculated as lead metal) is in excess of 0.06 percent by weight of the total nonvolatile content of the paint or the weight of the dried paint film.

(3) "Toys and other articles intended for use by children" means those toys and other articles which are intended to be entrusted to or for use by children. This would not include all articles to which children might have access simply because they are present in a household.

(4) "Furniture article" means those movable articles, (i) used to support people or things; (ii) other functional or decorative furniture articles, including, but not limited to, products such as beds, bookcases, chairs, chests, tables, dressers, desks, pianos, console televisions, and sofas. The term "furniture article" does not include appliances, such as ranges, refrigerators, dishwashers, clothes washers and dryers, air conditioners, humidifiers, and dehumidifiers; fixtures such as bathroom fixtures, built-in cabinets, chandeliers, windows, and doors; or household items such as window shades, venetian blinds, or wall hangings and draperies.

§ 1303.3 Exemptions.

(a) The categories of products listed in paragraph (b) of this section are exempted from the scope of the ban established by this Part 1303, provided:

(1) That these products bear on the main panel of their label, in addition to any labeling that may be otherwise required, the signal word "Warning" (unless some other signal word is required) and the following statement: "Contains Lead. Dried Film of This Paint May Be Harmful If Eaten or Chewed."

(2) (i) That these products also bear on their label the following additional statement or its practical equivalent:

Do not apply on toys and other children's articles, furniture, or interior surfaces of any dwelling or facility which may be occupied or used by children.

Do not apply on exterior surfaces of dwelling units, such as window sills, porches, stairs, or railings, to which children may be commonly exposed.

Keep out of reach of children.

(ii) If the statement required by the preceding paragraph (a) (2) (i) is placed on a label panel other than the main panel, the label statement required to be on the main panel by paragraph (a) (1) of this section shall contain the following additional statement: "See other cautions on —— (insert 'side' or 'back', as appropriate) panel."

(3) That the placement, conspicuousness, and contrast of the label statements required by this section (a) comply with the requirements of the Federal Hazardous Substances Act at 16 CFR 1500.121.

(b) The following products are exempt from the scope of the ban established by this Part 1303, provided they comply with the requirements of paragraph (a) of this section:

(1) Agricultural and industrial equipment refinish coatings.

(2) Industrial (and commercial) building and equipment maintenance coatings, including traffic and safety marking coatings.

(3) Graphic art coatings (i.e., products marketed solely for application on billboards, road signs, and similar uses and for identification marking in industrial buildings).

(4) Touchup coatings for agricultural equipment, lawn and garden equipment, and appliances.

(5) Catalyzed coatings marketed solely for use on radio-controlled model powered aircraft.

(c) The following products are exempt from the scope of the ban established by Part 1303 (no cautionary labeling is required):

(1) Mirrors which are part of furniture articles to the extent that they bear lead-containing backing paint.

(2) Artists' paints and related materials.

§ 1303.4 Banned hazardous products.

The following consumer products, manufactured after February 27, 1978, unless exempted by § 1303.3, are banned hazardous products (see the definitions in section 1303.2):

(a) Paint and other similar surface-coating materials which are "lead-containing paint."

(b) Toys and other articles intended for use by children that bear "lead-containing paint."

(c) Furniture articles that bear "lead-containing paint."

§ 1303.5 Findings.

(a) *The degree and nature of the risk of injury.* (1) The Commission finds that the risk of injury which this regulation is designed to eliminate or reduce is lead poisoning in children. The adverse effects of this poisoning in children can cause a range of disorders such as hyperactivity, slowed learning ability, withdrawal, blindness, and even death. The final Environmental Impact Statement on Lead in Paint which is on file with the President's Council on Environmental Quality (and available for inspection in the Office of the Secretary) contains in Appendix A a detailed discussion of the health effects of lead in paint. These effects will only be summarized here.

(2) Lead is a cumulative toxic heavy metal which, in humans, exerts its effects on the renal, hematopoietic, and nervous systems. Newer concepts indicate that there are three stages to childhood lead poisoning. The adverse health effects in the first stage are not clinically present but metabolic changes can be observed. During the second stage or symptomatic stage such symptoms as loss of appetite, vomiting, apathy, drowsiness, and inability to coordinate voluntary muscle movements occur. The aftereffects of this stage include seizure disorders as well as various behavioral and functional disorders which are often included under the heading of minimal brain dysfunction. Studies suggest that this syndrome may include hyperactivity, impulsive behavior, prolonged reaction time, perceptual disorders and slowed learning ability. The adverse health effects of the third stage may be permanent and can include blindness, mental retardation, behavior disorders, and death.

(3) The Commission notes that children with pica are of special concern with regard to lead poisoning. Pica, the repetitive ingestion of nonfood substances, occurs in 50 percent of children between the ages of one and three, and studies indicate that at this age lead is absorbed more rapidly than lead is absorbed in adults. Pica for paint is believed to be episodic and can occur 2 to 3 times a week.

(4) The Commission also notes that there are no reports of injuries caused by lead paint poisoning in the Commission's National Electronic Injury Surveillance System (NEISS) data, which reflect hospital emergency room treatment. Lead paint poisonings result from a chronic hazard rather than from an acute hazard of the type generally treated in emergency rooms; and NEISS reporting, therefore, does not reflect this type of chronic hazard or injuries.

(5) Former U.S. Surgeon-General Jesse L. Steinfeld, however, estimated in 1971 that 400,000 pre-school American children have elevated body lead burdens. The National Bureau of Standards in 1972 estimated that 600,000 young children have unduly high lead blood content.

(b) *Products subject to this ban.* (1) The products banned by this rule are listed in section 1303.4.

(2) The term "paint" comprises a variety of coating materials such as interior and exterior household paints, varnishes, lacquers, stains, enamels, primers, and similar coatings formulated for use on various surfaces. Based on 1976 data, the Commission estimates that over 400 million gallons of paint a year valued at approximately $2.5 billion could potentially be subject to this rule.

(3) All products commonly known as toys and other articles intended for the use of children are subject to this rule. The categories of products within this classification are numerous and include items and equipment for play, amusement, education, physical fitness, and care of children. Retail sales in 1976 of products considered to be toys or other articles intended for use of children are estimated at around $4 billion.

(4) For the purposes of this rule, furniture articles are certain movable articles used to support people or things or other functional or decorative furniture articles such as couches, beds, tables, chairs, chests, and the like. Appliances and similar equipment, household fixtures, and certain other household items such as window shades, blinds, wall hangings, and the like are not included within the definition of furniture. The regulation applies to furniture for use in households, schools, in recreation, or otherwise. In 1972, the value of shipments of items of furniture such as those named above was as follows: wood household furniture $2,716 million; metal household furniture $859 million; wood television and radio cabinets $293 million; and $190 million for other household furniture made of plastic, reed and rattan. (Not included in the above are some $2 billion worth of upholstered furniture and $300 million in convertible sofas, chair beds and studio couches.)

(c) *Need of the public for the products and effects of the rule on their utility, cost, and availability.* (1) The public need for paints of various types and for furniture and other articles is substantial and well established. The Commission finds that the need of the public for paint containing more than 0.06 percent lead or for the affected products that are coated with materials containing more than 0.06 percent lead is limited. The Commission has determined that there are products containing more than the 0.06 percent level of lead which meet a public need and for which substitutes are either not available or are not sufficiently effective and to which access by children to the coatings or the surfaces to which they are applied is unlikely. Accordingly, these products have been specifically exempted from the scope of the regulation in § 1303.3.

(2) The Commission finds that the effects of this rule on the cost, utility, and availability of paints and painted articles will be small. The Commission notes that over 95 percent of latex-based and nearly 70 percent of oil-based paints have lead levels at or below the level set by Part 1303.

(i) *Costs.* The Commission estimates that the added costs to the consumer for paints affected by this rule will not exceed 5 to 10 cents per gallon. Costs to consumers for furniture and for toys and other articles intended for the use of children are not expected to increase as the result of compliance with the regulation.

(ii) *Utility.* The Commission finds that for water-based or latex paints and coatings subject to this rule, reducing the amount of allowable lead to 0.06 percent will not have adverse effects on their utility. For certain solvent-thinned coatings, however, lead driers will have to be replaced by non-lead driers such as zirconium to comply with the 0.06 percent level (Driers are not used in latex paints). An impact on the paint industry may result because current non-lead driers may not dry satisfactorily in low temperatures or high humidity conditions, and so the painting industry in some areas at certain times of the year may suffer a reduction of effective painting time.

(iii) *Availability.* Substitutes at comparable prices are available for paints and for products banned by this rule. The Commission believes that the reduction of lead to a level of 0.06 percent will not affect the availability of water-based or latex paints. Sales of such coatings currently exceed sales of solvent-based coatings, and because of the drying problem mentioned above, the trend toward increased use of water-based paints may be accelerated somewhat by the effects of the ban.

(d) *Alternatives.* (1) The Commission has considered other means of achieving the objective of this rule, but has found none that would cause less disruption or dislocation of manufacturing and other commercial practices, consistent with public health and safety.

(2) The Commission estimates that this ban may, because of testing costs and the necessity for improved housekeeping practices in the manufacture of paint and similar surface-coating materials to prevent lead contamination, have some relatively minor adverse effect on individual firms within some markets.

(3) The Commission, however, finds that competition will not be adversely affected by this rule. Although costs of reformulation and testing may be relatively higher for small manufacturers than large manufacturers, these costs are not so onerous as to lead to greater concentration in the industry. The period of time before the effective date is sufficient to minimize problems of compliance with the rule.

(4) The reduction of the permissible level of lead in paint will affect paint manufacturers, raw materials suppliers, professional and non-professional painters, and manufacturers of furniture and children's articles. For those producers of paint which are already subject to the regulations under the Federal Hazardous Substances Act (FHSA), the impact of this CPSA ban will involve only a change to non-lead driers since lead pigments are precluded from practical use under the 0.5 percent lead restriction now in effect under the FHSA (16 CFR 1500,17 (a)(6)). The manufacturers of some painted furniture who were not affected by the 0.5 percent limit under the FHSA may now be, if they use lead pigments or driers. Producers of children's articles who were subject to the 0.5 percent FSHA limit will have to ensure that the paint they use conforms to the 0.06 percent level.

(e) *Conclusion.* The Commission finds that this rule, including its effective date, is reasonably necessary to eliminate or reduce the unreasonable risk of lead poisoning of young children that is associated with the banned products which are described in § 1303.4 and that promulgation of the rule is in the public interest.

Effective date: February 28, 1978.

(Secs. 8, 9, 86 Stat. 1215–1217, as amended 90 Stat. 506; 15 U.S.C. 2057, 2058.)

Dated: August 26, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-25472 Filed 8-31-77;8:45 am]

SUBCHAPTER C—FEDERAL HAZARDOUS SUBSTANCES ACT REGULATIONS

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES, ADMINISTRATION AND ENFORCEMENT REGULATIONS

Certain Lead-Containing Paint; Toys and Other Articles Bearing Such Paint Intended for Use by Children

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission issues an amendment partially revoking a regulation under the Federal Hazardous Substances Act (FHSA) declaring certain lead-containing paint, and toys or other articles intended for use by children bearing such paint, to be banned hazardous substances. The amendment provides that the FHSA regulation will not be applicable to products manufactured after February 27, 1978, but will continue to apply to products manufactured on and prior to that date. This amendment is necessary because elsewhere in this issue of the FEDERAL REGISTER the Commission issues a new regulation under the Consumer Product Safety Act for certain lead-containing paint and toys and furniture bearing such paint manufactured after February 27, 1978.

EFFECTIVE DATE: The amendment issued below is effective February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles M. Jacobson, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, telephone 301–492–6400.

SUPPLEMENTARY INFORMATION: On August 10, 1976, by publication of a notice in the FEDERAL REGISTER (41 FR 33637), the Commission proposed a rule under section 8 of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2057, declaring the following to be banned hazardous products: (1) Lead-containing paint and similar surface-coating materials containing more than a safe level of lead, (2) toys and other articles intended for use by children bearing lead-containing paint or other similar surface-coating materials containing more than a safe level of lead, and (3) articles of furniture bearing lead-containing paint or other similar surface-coating materials containing more than a safe level of lead. At the same time the Commission proposed to revoke the existing regulation (16 CFR 1500.17(a)(6)) under the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261–1274, relating to lead-containing paint and toys and other articles intended for use by children, bearing such paint, when the final CPSA banning regulation is issued.

The determination of a safe level of lead in paint was made by the Commission in accordance with a separate proceeding under the Lead-Based Paint Poisoning Prevention Act (LBPPPA) (42 U.S.C. 4801 et. seq.), as amended (Pub. L 94–317). In the FEDERAL REGISTER of February 16, 1977 (42 FR 9404), the Commission announced its decision that available scientific information is insufficient to establish that a level of lead in paint above 0.06 percent but not over 0.5 percent is safe. A final CPSA rule incorporating this determination and implementing the proposed ban appears elsewhere in this part of the FEDERAL REGISTER (see FR Doc. 77–25472, supra).

The Commission is amending 16 CFR 1500.17(a)(6), which was issued under the FHSA, to prevent an unnecessary

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duplication of regulations now that final CPSA lead-in-paint rules are being issued at 16 CFR Part 1303. The Commission has decided not to revoke 16 CFR 1500.17(a)(6) entirely as proposed, so that products manufactured before the effective date of the CPSA ban will still be subject to a lead limit. Currently, 16 CFR 1500.17(a)(6) declares as banned hazardous substances any paint or other similar surface-coating material that contains lead compounds in which the lead content (calculated as lead metal) is in excess of 0.5 percent of the total weight of the contained solids or dried paint film. Section 1500.17(a)(6) also declares as banned hazardous substances any toy or other article intended for use by children that bears such paint or coating material.

Section 1500.17(a)(6) also contains certain provisions (subdivisions (i)(A) and (ii)(A)) that were stayed as a result of objections filed pursuant to section 701(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)). The stayed provisions would have lowered the 0.5 percent permitted level of lead to 0.06 percent. Thus, only the 0.5 percent level prescribed by § 1500.17(a)(6) is in effect. (See FEDERAL REGISTER documents of August 10, 1972 (37 FR 16078), December 27, 1973 (38 FR 35302), and December 9, 1974 (39 FR 42902).)

The CPSA banning regulation appearing elsewhere in this part of the FEDERAL REGISTER (see FR Doc. 77-25472) includes the exemption for artists' paint presently contained in § 1500.17(a)(6). The CPSA regulation also disposes of all outstanding exemption proposals and petitions to amend § 1500.17(a)(6).

The Commission points out that the sole purpose of this amendment is to prevent an unnecessary duplication of regulations. Therefore, the amendment to partially revoke 16 CFR 1500.17(a)(6) is conditional upon Part 1303 continuing in full force and effect. If, at any time, any requirement of Part 1303 relating to products within the scope of 16 CFR 1500.17(a)(6) is stayed, revoked, or set aside by judicial or other action, the amendment partially revoking 16 CFR 1500.17(a)(6) is withdrawn, and a FEDERAL REGISTER notice will be issued reinstating the appropriate portions of 16 CFR 1500.17(a)(6).

AMENDMENT

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (sec. 2(f)(1)(A), (q), 74 Stat. 372, 374, as amended by 80 Stat. 1304–1305; (15 U.S.C. 1261 (f)(1)(A), (q)) and the Federal Food, Drug and Cosmetic Act (section 701 (e), (f), (g), 52 Stat. 1055, 1056, as amended 70 Stat. 919, 72 Stat. 948; (21 U.S.C. 371 (e)(f)(g))) and under authority vested in the Commission by the Consumer Product Safety Act (sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission amends 16 CFR Part 1500.17(a)(6) by adding a new subparagraph (iii) as follows:

§ 1500.17 Banned hazardous substances.

(a) * * *

(6) * * *

(iii) Since the Commission has issued comprehensive regulations for lead-containing paint and certain consumer products bearing such paint at the 0.06 percent level under the Consumer Product Safety Act (see 16 CFR Part 1303), subparagraphs (i) and (ii) of section 1500.17(a)(6) are revoked as to the subject products manufactured after February 27, 1978.

This revocation is conditional upon Part 1303 continuing in full force and effect.

(Secs. 2 (f)(1)(A), (q), 74 Stat. 372, 374, as amended 80 Stat. 1304–1305 (15 U.S.C. 1261 (f)(1)(A), (q)); secs. 701 (e), (f), (g), 52 Stat. 1055, 1056, as amended 70 Stat. 919, 72 Stat. 948 (21 U.S.C. 371 (e), (f), (g)); sec. 30(a), 86 Stat. 1231 (15 U.S.C. 2079(a)).)

Effective date: The amendment is effective February 28, 1978.

Dated: August 26, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-25473 Filed 8-31-77;8:45 am]

federal register

THURSDAY, SEPTEMBER 1, 1977

PART VI



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

OPERATIONS REVIEW PROGRAM NOTICE NO. 6

General Operating and Flight Rules and Related Airworthiness Standards

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 23, 25, 27, 29, and 91]

[Docket No. 17154; Notice No. 77-20]

OPERATIONS REVIEW PROGRAM NOTICE NO. 6

General Operating and Flight Rules and Related Airworthiness Standards

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice describes the FAA's disposition of certain proposals discussed at the Operations Review Conference. After consideration of these proposals, the FAA has determined that certain amendments to the rules applicable to aircraft, airmen and special issues are needed to expand, clarify or simplify these rules and to provide a level of safety commensurate with the development and expansion of the aviation system. Certain other proposals were withdrawn by their proponents. Other proposals are being removed from further consideration after review by the FAA. The proposals, withdrawals and removals are contained in this notice.

DATES: Comments must be received on or before December 1, 1977.

ADDRESSES: Send comments on the proposals in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 17154, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Donald A. Schroeder, Safety Regulations Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-755-8715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adoption of the proposals contained in this notice are invited. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before December 1, 1977 will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

For convenience, each proposal in this notice is numbered separately. The FAA requests that interested persons, when submitting comments, refer to proposals by these numbers and by the sections to which they relate.

Availability of This Notice

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

Background

The aviation industry in the United States and abroad has grown substantially during the last ten years. Paralleling its rapid growth and numerous technological advances are significant changes in the operating environment in which airmen, air agencies and aircraft operators function.

To enable the FAA to become even more responsive to the needs of the general public and the aviation community in fulfilling the Agency's aviation safety responsibilities, the FAA issued Notice No. 75-9 (40 FR 8585; February 28, 1975) inviting all interested persons to submit proposals for consideration during the Operations Review Program.

In response to that invitation, the FAA received more than 5,000 individual comments contained in 123 submissions. Based on these comments and on the Compilation of Proposals, the FAA prepared a number of working documents for the Operations Review Conference held in Arlington, Va., on December 1-5, 1975. The FAA distributed those documents to each person who participated in the Operations Review Program and to all other interested persons who requested them.

The Operations Review Conference was attended by more than 600 persons. Various committees discussed all the scheduled agenda items during the conference. Summaries were given by the FAA Committee Chairmen at the close of discussions on each agenda item. Persons present were given the opportunity to correct those oral summaries. Those summaries were edited and combined with an attendee list for the conference and with transcripts of certain plenary session speeches and were distributed to all attendees and to all persons requesting them in accordance with a Notice of Availability (Notice No. 75-9A; 41 FR 9413; March 4, 1976).

The Proposals

This notice deals with selected proposals concerning Part 91 contained in the following Operations Review Committee Workbooks:

Committee No.:	Title
1	Aircraft Equipment and Requirements.
2	Aircraft Maintenance.
3	Aircraft Operating Rules.
4	Airmen Certification.
10	Special Issues.

A number of the proposals contained in both the Compilation and the working documents are not included in this notice. The proposals listed in Appendices I and II fall into two categories as follows: Appendix I—Proposals withdrawn; Appendix II—Proposals removed from further consideration.

Drafting Information

The principal authors of this document are J. T. Morse and T. G. Walenta, Flight Standards Service, and R. B. Elwell, Office of the Chief Counsel.

The Proposed Amendments

Accordingly, the Federal Aviation Administration proposes to amend Parts 23, 25, 27, 29, and 91 of the Federal Aviation Regulations (14 CFR Parts 23, 25, 27, 29, and 91) as follows:

PART 23—AIRWORTHINESS STANDARDS; NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

6-1. By amending § 23.1413 by adding a new paragraph (c) to read as follows:

§ 23.1413 Safety belts and harnesses.

• • • • • •

(c) Each safety belt must be equipped with a metal-to-metal buckle or latching device.

Explanation. Aircraft safety belts of the metal-to-fabric type use serrated cams that tighten against the webbing material of the safety belt and are usually actuated by a throwover type buckle. Usage has shown that the cam's action will wear and deteriorate the webbing material causing a loss of friction which allows the webbing to slip under the cam. As a result, the belt fails to lock effectively. These proposals provide for a metal-to-metal buckle or latching device which are designed to prevent this.

Ref. Proposal No. 205; §§ 23.1413, 25.-1413, 27.1413, 29.1413, and 91.33(b)(12); Committee 1; Agenda Item B-1.

PART 25—AIRWORTHINESS STANDARDS; TRANSPORT CATEGORY AIRPLANES

6-2. By amending § 25.1413 by adding a new paragraph (d) to read as follows:

§ 25.1413 Safety belts.

• • • • • •

(d) Each safety belt must be equipped with a metal-to-metal buckle or latching device.

Explanation. See explanation for Item 6-1.

Ref. Proposal No. 205; §§ 23.1413, 25.-1413, 27.1413, 29.1413, and 91.33(b)(12); Committee 1; Agenda Item B-1.

PART 27—AIRWORTHINESS STANDARDS; NORMAL CATEGORY ROTORCRAFT

6-3. By amending § 27.1413 by adding a new pargraph (c) to read as follows:

§ 27.1413 Safety belts.

• • • • • •

(c) Each safety belt must be equipped with a metal-to-metal buckle or latching device.

Explanation. See explanation for Item 6-1.

Ref. Proposal No. 205; §§ 23.1413, 25.-1413, 27.1413, 29.1413, and 91.33(b)(12); Committee 1; Agenda Item B-1.

PART 29—AIRWORTHINESS STANDARDS; TRANSPORT CATEGORY ROTORCRAFT

6-4. By amending § 29.1413 by designating the current provision as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 29.1413 Safety belts: passenger warning device.

• • • • • •

(b) Each safety belt must be equipped with a metal-to-metal buckle or latching device.

Explanation. See explanation for Item 6-1.

Ref. Proposal No. 205; §§ 23.1413, 25.-1413, 27.1413, 29.1413, and 91.33(b)(12); Committee 1; Agenda Item B-1.

PART 91—GENERAL OPERATING AND FLIGHT RULES

6-5. By amending § 91.4 by revising the heading, by designating the current provision as paragraph (b), and by adding a new paragraph (a) to read as follows:

§ 91.4 Aircraft operator responsibility.

(a) No person may release an aircraft under their control to another person for the purpose of flight unless that person first determines who intends to serve as pilot in command and determines that the pilot in command has current certificates and ratings for the flight operation intended.

(b) • • •

Explanation. Current § 91.4 uses the word "operate" with respect to aircraft, however, the word is used only in reference to a pilot in command of aircraft requiring more than one required pilot. There is no general requirement for the person who releases an aircraft to another for flight to first determine who intends to serve as pilot in command and to then determine that the pilot in command has current certificates and ratings as provided in the regulations. Section 91.4(a) is proposed to expressly require this.

Ref. Proposal No. 164; § 91.4; Committee 4; Agenda Item C.

6-6. By amending § 91.14 by amending the heading, by redesignating paragraphs (a)(1) and (a)(2) as paragraphs (a)(2) and (a)(3) respectively, and by adding a new paragraph (a)(1) to read as follows:

§ 91.14 Use of safety belts.

(a) Unless otherwise authorized by the Administrator—

(1) No pilot may take off a U.S. registered civil aircraft (except a free balloon that incorporates a basket or gondola and an airship) unless the pilot in command of that aircraft ensures that each person on board is briefed on how to fasten and unfasten his safety belt.

• • • • • •

Explanation. A recent survivable accident involving an aircraft that caught fire after impact resulted in a casualty because a passenger, attempting to rescue a disabled passenger, was unable to release the safety belt. To prepare passengers to cope with such emergencies, they should be briefed before takeoff on how to fasten and unfasten safety belts. Since current § 91.14 does not require that briefing, this proposal would add a new § 91.14(a)(1) to require it. Additionally, the heading is changed to reflect the expanded applicability of the rule.

Ref. Proposal No. 173; § 91.14; Committee 3; Agenda Item A.

6-7. By amending § 91.21 (a) and (b)(3) to read as follows:

§ 91.21 Flight instruction; simulated instrument flight and certain flight and certain flight tests.

(a) No person may operate a civil aircraft (except a manned free balloon) that is being used for flight instruction unless that aircraft has fully functioning dual controls. However, instrument flight instruction may be given in a single-engine airplane equipped with a single, functioning, throwover control wheel, in place of fixed, dual controls of the elevator and ailerons, when:

(1) The instructor has determined that the flight can be conducted safely; and

(2) The person manipulating the controls has at least a private pilot certificate with appropriate category and class ratings.

(b) • • •

(3) Except in the case of lighter-than-air aircraft, that aircraft is equipped with fully functioning dual controls. However, simulated instrument flight may be conducted in a single-engine airplane, equipped with a single, functioning, throwover control wheel, in place of fixed, dual controls of the elevator and ailerons, when—

(i) The safety pilot has determined that the flight can be conducted safely; and

(ii) The person manipulating the control has at least a private pilot certificate with appropriate category and class ratings.

• • • • • •

Explanation. Current § 91.21 prohibits a person from operating a civil aircraft for flight instruction unless that aircraft has fully functioning dual controls. The FAA has issued twelve exemptions since June 1962, which allowed the Aircraft Owner's and Pilots Association (AOPA) and the AOPA Air Safety Foundation to conduct simulated instrument instruction at flight training clinics using single-engine airplanes equipped with a single, functioning throwover control wheel in place of the fixed dual controls of the elevator and ailerons. This proposal would allow the use of a single-engine airplane equipped with a single, functioning, throwover control wheel for instrument flight instruction and simulated instrument flight. The instrument flight instructor or safety pilot, as appropriate, must first determine that the flight can be conducted safely and that the pilot manipulating the controls has at least a private pilot certificate with appropriate category and class ratings.

Ref. Proposal No. 183; § 91.21 (a) and (b)(3); Committee 3; Agenda Item A.

6-8. By adding a new § 91.22 to read as follows:

§ 91.22 Fuel requirements for flight under VFR.

(a) No person may begin a flight in an airplane under VFR unless (considering wind and forecast weather conditions) there is enough fuel to fly to the first point of intended landing and, assuming normal cruising fuel consumption—

(1) During the day, to fly after that for at least 30 minutes; or

(2) At night, to fly after that for at least 45 minutes.

(b) No person may begin a flight in a rotorcraft under VFR unless (considering wind and forecast weather conditions) there is enough fuel to fly to the first point of intended landing and, assuming normal cruising fuel consumption, to fly after that for at least 20 minutes.

Explanation. This proposal moves the 30 minute VFR day fuel reserve, now required in § 91.207 (which provides for large and turbine powered multiengine airplanes) to a new § 91.22 so that this requirement will apply to all airplanes. Additionally, fuel requirements are added for night VFR flight and rotorcraft operations. Although the proposal recommended that at least a one hour fuel reserve be required for night VFR beyond the first point of intended landing, the FAA has determined that a 45 minute reserve is sufficient.

Over the past five years, approximately 140 fuel exhaustion accidents have occurred in the United States. Most of these accidents involved VFR flight under Part 91, many occurred at night and many involved rotorcraft. This proposal should help to prevent similar occurrences and enhance aviation safety. Section 91.207 would be deleted (see Item 7-19).

Ref. Proposal No. 185; § 91.22; Committee No. 3; Agenda Item 1.

6-9. By revising § 91.23 to read as follows:

§ 91.23 Fuel requirements for flight in IFR conditions.

(a) Except as provided in paragraph (b) of this section, no person may operate a civil aircraft in IFR conditions

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unless it carries enough fuel (considering weather reports and forecasts, and weather conditions) to—

(1) Complete the flight to the first airport of intended landing;

(2) Fly from that airport to the alternate airport; and

(3) Fly after that for 45 minutes at normal cruising speed.

(b) Paragraph (a)(2) of this section does not apply if—

(1) Part 97 of this subchapter prescribes a standard instrument approach procedure for the first airport of intended landing; and

(2) For at least one hour before and one hour after the estimated time of arrival at the airport, the weather reports or forecasts or any combination of them, indicate—

(i) The ceiling will be at least 1500 feet above the lowest circling MDA; or if circling is not authorized for the airport, a ceiling of at least 1500 feet above the lowest published instrument approach minimum or 2000 feet above the airport elevation, whichever is higher; and

(ii) Visibility will be at least three miles, or two miles more than the lowest applicable visibility minimums, whichever is greater, or the instrument approach procedure to be used at the first airport of intended landing.

Explanation. Current § 91.23, in part, bases the determination of whether an alternate airport is required on an altitude above the published minimum obstruction clearance altitude (MOCA), minimum en route IFR altitude (MEA), or the altitude prescribed for the initial approach segment of the instrument approach procedure of the airport of first intended landing. Flight planning would be simpler if a ceiling forecast is used which provides that for at least one hour before and one hour after the estimated time of arrival at the airport, the weather reports or forecasts or any combination of them indicate that the ceiling will be at least 1500 feet above the lowest circling minimum descent altitude (MDA), or, if circling is not authorized for the airport, a ceiling of at least 1500 feet above the lowest published instrument approach minimum, or 2000 feet above the airport elevation, whichever is higher. This proposal incorporates these provisions.

Additionally, the improved performance and reliability of modern aircraft makes it unnecessary to base the need for an alternate airport upon weather forecasts covering the period two hours before and two hours after the estimated time of arrival at the first airport of intended landing. This proposal reduces the time to one hour before and one hour after, respectively.

Current § 91.23 bases the designation of an alternate airport solely on forecast weather. This proposal would allow the use of weather reports, forecasts, or a combination of them. This should provide more planning flexibility in making decisions as to the need for an alternate airport.

The visibility requirements in this proposal have been changed to the lowest applicable visibility minimums instead of the lowest authorized landing minimum visibility. The term "applicable" means that visibility minimums are limited by the navigational equipment in the aircraft to be used.

Ref. Proposal No. 186; § 91.23; Committee No. 3; Agenda Item I.

6–10. By revising § 91.25 (a)(2) and (d) to read as follows:

§ 91.25 VOR equipment check for IFR operations.

(a) • • •

(2) Has been operationally checked within the preceding ten hours of flight time and was found to be within the limits of the permissible indicated bearing error set forth in paragraph (b) or (c) of this section.

• • • • • •

(d) Each person making the VOR operational check as specified in paragraph (b) or (c) of this section shall enter the date, place, bearing error, aircraft tachometer time, or, in its absence, the aircraft time to date, and his signature in the aircraft log or other record. In addition, if a test signal radiated by the repair station, as specified in paragraph (b)(1) of this section, is used, an entry must be made in the aircraft log or other record by the repair station certificate holder or his representative certifying to the bearing transmitted by the repair station for the check and the date of transmission.

Explanation. This proposal deletes the ten-day VOR operational check requirement in current § 91.25(a)(2). Since changes in the receiving characteristics of VOR equipment are likely to be related more to flight time than calendar time, the ten-day requirement is not necessary. Also, the improved reliability of VOR equipment supports this change in test requirements.

Current § 91.25(d) does not require the recording of the aircraft time on the VOR operational check entry in the aircraft log or other record. Thus, it may be difficult to determine if the VOR operational check had been conducted within the past ten hours of flight time. This proposal makes it easier for a person making a VOR operational check to determine the time since the last check by requiring a recording of aircraft time in the log or other record. There is no useful purpose for retaining a permanent record of these checks and the word "permanent" would be deleted.

Ref. Proposal Nos. 191, 194 and 195; § 91.25(d); Committee 2; Agenda Item K.

6–11. By amending § 91.29 by adding a new paragraph (c) to read as follows:

§ 91.29 Civil aircraft airworthiness.

• • • • • •

(c) The pilot in command of a civil aircraft shall ensure that mechanical discrepancy noted during flight is entered in the aircraft log and maintenance record of the aircraft upon completion of the next landing following the the detection of the discrepancy.

Explanation. The recording of mechanical discrepancies noted during flight should help to ensure that these irregularities will be brought to the attention of the next operator of the aircraft, thus enhancing safety.

Ref. Proposal No. 304; § 91.29; Committee 2; Agenda Item P.

6–12. By revising § 91.33(b)(12) to read as follows:

§ 91.33 Powered civil aircraft with standard category U.S. airworthiness certificates; instrument and equipment requirements.

• • • • • •

(b) • • •

(12) Except as to airships, an approved safety belt for each occupant who has reached his second birthday. After (two years after the effective date of the amendment based on this notice), each safety belt must be equipped with an approved metal-to-metal buckle or latching device. The rated strength of each safety belt shall not be less than that corresponding with the ultimate load factors specified in the current applicable aircraft airworthiness requirements considering the dimensional characteristics of the safety belt installation for the specific seat or berth arrangement. The webbing of each safety belt shall be replaced as required by the Administrator.

Explanation. See explanation for Item 6–1.

Ref. Proposal No. 205; §§ 23.1413, 24.143, 27.1413, 29.1413, and 91.33(b)(12).

§ 91.36 [Amended]

6–13. By inserting the words "for altitudes ranging from sea level to the maximum operating altitude of the aircraft" immediately before the period at the end of § 91.36(b).

Explanation. Data correspondence accuracy for a given installation needs to be accurate for the operating conditions actually encountered. There is no practical need for accuracy above the maximum operating altitude of the aircraft. The proposal, therefore, states the requirement that the equipment need only be tested and calibrated to transmit altitude data for altitudes ranging from sea level to the maximum operating altitude of the aircraft.

Ref. Proposal No. 215; § 91.36(b); Committee 1; Agenda Item B–1.

§ 91.45 [Amended]

6–14. By changing the semicolon to a period and adding the sentence, "Takeoffs with full controllability from wet runways may be approved for a specific model aircraft without a showing of actual operating takeoff techniques if justified on the basis of relevant engineering data" immediately after § 91.45(a)(3)(ii).

• • • • • •

Explanation. Current § 91.45(a)(3)(ii) requires an actual demonstrated takeoff on a wet runway with one engine inoperative for the specific model aircraft to be approved for ferry flight and allows no latitude for approval based solely on engineering findings. This proposal would allow approval after review of relevant engineering data. There would be no change in the existing level of safety since a wet runway test would still be required if engineering findings are not conclusive.

Ref. Proposal No. 224; § 91.45(a)(3)(ii); Committee 3; Agenda Item 3.

6–15. By revising § 91.54(a)(2) to read as follows:

§ 91.54 Truth in leasing clause requirement in leases and conditional sales contracts.

(a) • • •

(2) The name and address (printed or typed) and the signature of the person responsible for operational control of the aircraft under the lease or contract of conditional sale, and certification by that person that he understands his responsibilities for compliance with applicable Federal Aviation Regulations.

• • • • • •

Explanation. This proposal provides for more positive identification by requiring a printed or typed name and address. In many contracts, the signature of the responsible individual is not legible and the address is absent. This information would assist the FAA in monitoring large aircraft lease operations.

Ref. Proposal No. 230; § 91.54; Committee 10; Agenda Item E.

6–16. By amending § 91.83(b) to read as follows:

§ 91.83 Flight plan; information required.

• • • • • •

(b) *Exceptions to applicability of paragraph (a)(9) of this section.* Paragraph (a)(9) of this section does not apply if Part 97 of this subchapter prescribes a standard instrument approach procedure for the first airport of intended landing and, for at least one hour before and one hour after the estimated time of arrival, the weather reports or forecasts or any combination of them, indicate—

(1) The ceiling will be at least 1,500 feet above the lowest circling MDA; or if circling is not authorized for the airport, a ceiling of at least 1,500 feet above the lowest published instrument approach minimum or 2,000 feet above the airport elevation, whichever is higher; and

(2) Visibility will be at least three miles, or two miles more than the lowest applicable visibility minimum, whichever is greater, for the instrument approach procedure to be used at the first airport of intended landing.

Explanation. This change is necessary for consistency with § 91.23. See explanation for Item 7–10.

Ref. Proposal No. 248; § 91.83; Committee 3; Agenda Item I.

§ 91.193 [Amended]

6–17. Section 91.193 is amended by deleting the words "more than six but" in paragraph (c)(3).

Explanation. Present § 91.193(c)(3) requires that one hand fire extinguisher must be conveniently located in the passenger compartment of each airplane accommodating more than six but less than 31 passengers. In consideration of passenger safety, the FAA believes that one hand fire extinguisher should be readily available in the passenger compartment of each airplane accommodating less than 31 passengers.

Ref. Proposal No. 321; § 91.193(c)(3); Committee No. 10; Agenda Item G.

§ 91.201 [Amended]

6–18. Section 91.201 is amended by inserting the words "or sideways" between the words "forward" and "under" in paragraph (b).

Explanation. A number of passenger seats have been installed which have sufficient space between the inboard leg and the aisle to allow an item of baggage to be stowed under the seat and have no restraint sideways. The proposed amendment would allow the stowage of carry-on baggage under passenger's seats only if it would not slide forward or sideways. The current rule prohibits only the forward slide of baggage. The additional restraint should prevent under seat baggage from sliding into the aisle and would further enhance passenger safety.

Ref. Proposal No. 324; § 91.201(b); Committee 10; Agenda Item G.

§ 91.207 [Amended]

6–19. By deleting § 91.207.

Explanation. See explanation for Item 6–8.

Ref. Proposal No. 185A; § 91.207; Committee No. 3; Agenda Item I.

6–20. By amending § 91.213(c) to read as follows:

§ 91.213 Second in command requirements.

• • • • • •

(c) No person may designate a pilot to serve as second in command nor may any pilot serve as second in command of an airplane required under this section to have two pilots, unless that pilot meets the qualifications for second in command prescribed in § 61.55 of this chapter.

Section 91.213(a) specifies that, except as provided in § 91.213(c), no person may operate a large airplane without a pilot designated as second in command. Section 91.213(c) limits the requirement for a second in command (in a large aircraft) to airplanes "requiring two pilots under the type certification requirement." The qualification requirements for second in command contained in § 61.55 applies to all large airplanes regardless of the number of pilots required for type certification. To make it clear that all large aircraft require a second in command, § 91.213 proposes to amend current paragraph (c) to delete ". . . requiring two pilots under the type certification requirements . . .," thus correcting the current inconsistency.

Ref. Proposal No. 330; § 91.213(c); Committee 4; Agenda Item D.

APPENDIX I.—Proposals Withdrawn By Proponent

[The proposals listed below were withdrawn by their proponents after the publication of the committee workbooks. The proponents or other interested persons may submit similar proposals in the future. The withdrawal of FAA proposals does not commit the FAA to any future course of action.]

14 CFR (FAR section)	Proposal No.	Committee No.	Agenda item	Proponent
Pt. 91	153	None	None	Federal Aviation Administration.
Pt. 91	154	None	do	Do.
91.3	162	3	A	Do.
91.5	165	None	None	Do.
91.11	170	None	do	Do.
91.11(a)(1)	177	None	do	Do.
91.30	181	10	H	Do.
91.34(a)	182	3	A	Do.
91.33	187	3	I	Aircraft Owners and Pilots Association.
91.34(b)	188	1	B–1	Federal Aviation Administration.
91.34(c)	189	None	None	Aircraft Owners and Pilots Association.
91.39(b)(2)	197	10	D	Federal Aviation Administration.
91.39(b)	198	10	D	Ministry of Transport, Canada.
91.29	200	None	None	Secretariat General a L'Aviation Civile.
91.39(a)	201	2	N	Federal Aviation Administration.
91.21(b)	202	1	B–1	Do.
91.33	203	None	None	Do.
91.33(b)	204	1	B–1	Do.
91.33(a)	207	None	None	Pacific Southwest Airlines.
91.33(b)(2)	208	1	B–1	Federal Aviation Administration.
91.37	210	2	B	Do.
91.39(b)	218	None	None	Do.
91.39(d)	219	None	do	Do.
91.51(e)	225	3	A	Do.
91.54(b)	231	10	E	Do.
91.54(c)(1)	232	10	E	Do.
91.83(a)	246	None	None	Do.
91.33 (b) and (c)	247	5	D	Do.
91.105	248	None	None	Do.
91.165	274	None	do	Do.
91.173(a)(2)(i)	296	None	do	Do.
91.177(a)	302	None	do	Do.
91.181	311	10	E	Do.
91.198(d)	322	1	B–2	Do.
91.193(c)	323	1	B–2	Do.
91.209(a)(3)	327	3	H	Do.

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APPENDIX II.— Proposals Removed From Consideration From The Operations Review Program

[Based on the FAA's review of the discussion at the Operations Review Conference and of the information submitted by interested persons, the following proposals considered at the Operations Review Conference are removed from consideration for the reasons listed.]

14 CFR (FAR section)	Proposal No.	Committee No.	Agenda item	Proponent
Pt. 91	148	10	A	Pacific Southwest Airlines.
Pt. 91 or 121	156	10	A	Association of Flight Attendants.
Pt. 91	158	1	B-1	C. Hewitt.
Pt. 91D	159	1	B-1	National Transportation Safety Board.
Pt. 91D	160	1	B-1	Do.
91.1	161	3	A	Secretariat General a L'Aviation Civile.
91.3(b)	163	3	A	Air Taxi and Commercial Pilots Association.
91.3(c)	166	3	A	Pacific Southwest Airlines.
91.3(c)	166A	3	A	Do.
91.9	168	3	A	Air Transport Association of America.
91.30	169	3	A	S. Lyon.
91.11(a)(1)	171	10	B	Air Transport Association of America.
91.11	172	10	B	Do.
91.19	180	3	A	Do.
91.21	184	3	A	Air Line Pilots Association.
91.25	190	3	K	Air Transport Association of America.
91.29	192	3	K	Aircraft Owners and Pilots Association.
91.25(b)(1)	193	3	K	Do.
91.29	199	3	N	Aircraft Owners and Pilots Association.
91.33(b)	209	1	B-1	National Air Transport Association.
91.33(e)	210	1	B-1	Sun Chemical Corp.
91.33	211	1	B-1	Do.
91.33(e)	212	1	B-1	General Motors Corp.
91.33(e)	213	1	B-1	Do.
91.33	214	1	B-1	General Aviation Manufacturers Association.
91.33	216	1	B-1	Sun Chemical Corp.
91.40	220	3	A	Aircraft Owners and Pilots Association.
91.41(h)	221	3	N	S. Corso.
91.57	223	1	B-2	Air Line Pilots Association.
91.53	229	1	B-2	Do.
91.58	230	10	A	Aircraft Owners and Pilots Association.
91.55	233	3	B	Air Transport Association of America.
91.33 (b), (e)	244	5	D	R. Taylor.
91.33 (b), (e)	245	6	D	Aircraft Owners and Pilots Association.
91.170	305	3	F	Sun Chemical Corp.
91 subpt. D	310	3	A	D. K. Hillery.
91.209 and 91.209	325	10	G	Do.
91. app. A	336	1	B-2	Sun Chemical Corp.
91. app. A-4	337	3	N	S. Corso.

Proposal 148 This proposal would have amended Part 91 Subpart A to impose cross wind landing restrictions other than those listed in the Airplane Flight Manual. The FAA believes that the current regulations are adequate and the proposal is unnecessary.

Proposal 158 This proposal would have amended §§ 91.33 and 91.52 to allow small aircraft to operate below 3,000 feet with no radio, emergency locator transmitter, or anti-collision lights. The FAA believes that these amendments are not appropriate since the current regulations provide a level of safety which should not be reduced.

Proposal 159 This proposal would have amended Part 91 to require shoulder harnesses to be installed and used in all small airplanes. Part 23 has been amended to require, in newly manufactured aircraft, the installation of a safety belt and shoulder harness for each front seat and a safety belt or safety belt and shoulder harness for other seats. Part 91 has been amended to require, after July 18, 1978, the use of a shoulder harness at crew stations (if the harness is installed). Small aircraft manufactured after July 18, 1979 shall have an approved shoulder harness for each front seat. Hence, the FAA believes that there is not sufficient justification for a requirement to retrofit all small aircraft at this time.

Proposal 160 This proposal would have amended Part 91 to require the use of a white flashing strobe light of high intensity, when required by the aircraft's airworthiness certificate, in place of incandescent lights. The FAA believes that the regulations should specify performance standards and not a particular type of light.

Proposal 161 This proposal would have amended § 91.1 to allow, within the United States, the use of operational rules of other countries as well as the use of rules contained in Annex 6 of the Convention on International Civil Aviation. The FAA believes that the current regulations are adequate and to change them, as proposed, could lead to confusion and adversely affect safety.

Proposal 163 This proposal would have extended the authority of the pilot in command to deviate from any rule to the extent necessary to meet the emergency. Section 91.3 provides for deviation from Subparts A & B when in-flight emergencies require immediate action by the pilot. Deviation authority from all FARs would not enhance safety. Insufficient justification was presented for broadening the emergency authority provisions.

Proposal 166 This proposal would have added a new § 91.5(c) to require additional preflight actions concerning information on landing field conditions. The FAA believes that current data available to the pilot provides an acceptable level of safety.

Proposal 166A This proposal would have amended the preflight actions of the pilot as required by § 91.5 to insure that each pilot has the latest available information concerning obstructions that might exist on the planned route of travel. The FAA believes the proposal is unworkable since much of the information proposed as needed is not available.

Proposal 168 This proposal would have revised § 91.9 to include a stipulation that "No person may intentionally operate an aircraft in a careless or reckless manner • • •" Since proof of intent is extremely difficult, the proposed amendment would make § 91.9 nearly unenforcable. Hence, the FAA disagrees with this proposal.

Proposal 169 This proposal would have eliminated § 91.10 on the basis it is superfluous in view of § 91.9. The FAA does not agree since persons operating aircraft in a careless or reckless manner on the ground are provided for in § 91.10.

Proposal 171 This proposal would have amended § 91.11 by increasing, beyond the current eight hour limitation, the period of time which crewmembers of a civil aircraft must abstain from the consumption of alcoholic beverages. The FAA considers the eight hour restriction valid in the absence of sufficient data presented to support a change.

Proposal 180 This proposal would have amended § 91.19 to exempt handheld electronic calculators from the current usage limitations in that section. Since the evidence presented is inconclusive as to whether such calculators could cause electronic interference, the FAA believes that the current restrictions are necessary.

Proposal 184 This proposal would have revised § 91.21 to prohibit instrument training devices that cover any portion of the windshield; limiting all airborne simulated instrument conditions to the use of a hood worn by the pilot. The FAA agrees with the need for adequate vision during training situations; however, certain tested devices satisfactorily fulfill the safety requirements of § 91.21(b). A ban on all methods of simulation, except for the hood, could discourage future development of training devices.

Proposal 190 This proposal would have changed requirements affecting the tolerances and time limitations allowed for the VOR check. The FAA has determined that insufficient justification was presented to assure the same level of safety.

Proposal 192 This proposal would have revised § 91.25 to differentiate between aircraft flown for hire and others in the requirements for the VOR equipment check for IFR operations. The FAA

believes the IFR environment is a common system; therefore, the same standards should apply for all operations. Secondly, the proposal would have extended the required operational check for VOR equipment to 90 days. As indicated in the explanation for the proposed amendment to § 91.25, (Items 7–10), the FAA believes that changes in the receiving characteristics of VOR equipment are likely to be related more to flight time than calendar time. Hence, the FAA does not support the proposed extension of the required operational check to 90 days.

Proposal 193 This proposal would have amended certain paragraphs of § 91.25 by imposing more stringent standards of accuracy tests for VOR equipment. The FAA believes there was insufficient statistical data presented to support a change, nor any indication that the change would contribute to flight safety.

Proposal 199 This proposal would have amended § 91.29 to require the owner or operator of a civil aircraft to provide the pilot with an aircraft that has been maintained and inspected as required by the applicable rules of Subpart C of Part 91 and in accordance with the provisions of other applicable parts. The FAA believes that there is no need for additional rulemaking since current rules require the owner/operator to inspect and maintain his aircraft.

Proposal 209 This proposal would have deleted § 91.33(b)(11). The FAA believes this would not be in the interest of safety since this section is designed as a minimum requirement to protect passengers carried for hire over water and beyond power-off gliding distance from shore.

Proposal 210 This proposal would have amended § 91.33 by adding additional requirements for instrument lighting during night VFR conditions. The FAA has determined that insufficient justification was presented for a rule change.

Proposal 211 This proposal would have amended § 91.33 to require altimeter tests in accordance with Part 43, Appendix F for all IFR flight, and added a requirement for a vertical speed indicator. The FAA has determined that insufficient justification was presented for a rule change.

Proposal 212 This proposal would have allowed a flight to enter an altitude above 24,000 feet with an inoperative DME. The FAA believes that flight above 24,000 feet without a DME should apply only to emergency conditions when the DME fails in flight while above 24,000 feet.

Proposal 213 This proposal would have deleted § 91.33(e) requiring DME for flight above 24,000 feet MSL. The FAA has determined that insufficient justification was presented for a rule change.

Proposal 214 This proposal would have deleted § 91.35(b) requiring an accuracy test of automatic pressure altitude reporting equipment. The FAA believes this operational requirement is necessary to ensure proper calibration of equipment required under § 91.24 and such a deletion could adversely affect safety.

Proposal 216 This proposal would have added a new paragraph to Part 43 requiring an entry in the aircraft records of work performed. The FAA believes the intent of the proposal is adequately covered by current § 43.9.

Proposal 220 This proposal would have amended § 91.40 to allow limited category aircraft to carry cargo for hire. The FAA believes public safety would be adversely affected by allowing the proposed operations.

Proposal 221 This proposal would have amended § 91.41(h) to change the maintenance inspection concept for provisionally certificated aircraft. The FAA believes the inspections required by the current regulations provide the required level of safety.

Proposals 226 and 228 These proposals would have deleted portions of § 91.52(b) and § 91.52(f) concerning emergency locator transmitters. The FAA has determined that insufficient justification was presented for a rule change.

Proposal 229 This proposal would have eliminated § 91.53, which requires the reporting of certain aircraft information. The FAA is of the opinion that the report is necessary to insure an efficient and safe air traffic system that responds to the needs of the public.

Proposal 233 This proposal would have amended § 91.55 and Appendix B of Part 91 to allow aircraft operations in excess of Mach 1, subject to the current conditions prescribed in Section 2(b) of Appendix B of Part 91, without the operator first obtaining an authorization based on a showing that conditions and limitations can be met. The issue of sonic boom and protection of public health and welfare should be treated separately under the procedures specified in Section 611 of the Federal Aviation Act of 1958, as amended by the Noise Control Act of 1972.

Proposal 244 and 245 These proposals would have changed § 91.83(b) which specifies alternate airport weather minimums. Concern was expressed with interpretation, clarity, and applicability of the present requirements. The FAA believes the changes to § 91.23 (Proposal Nos. 186 and 187) will incorporate the major recommendations and should satisfactorily relieve these problems, increase the effectiveness of the regulations, and promote a higher level of safety.

Proposal 303 This proposal would have added a "mechanical reliability report" under § 91.179. The FAA believes the present voluntary reporting system to be desirable and that such a requirement would be burdensome to the general aviation industry.

Proposal 316 This proposal would have added a new § 91.184 to impose flight and duty time limitations on flight crewmembers in certain Part 91 operations. The FAA has determined that insufficient justification was presented for a rule change.

Proposal 325 This proposal would have amended the regulations to provide for stowage of carry-on baggage on airplanes having a seating capacity of more than four passengers. Present rules prohibit the stowage of carry-on baggage aboard an airplane having a seating capacity of more than 19 passengers, unless stowage is conducted in accordance with paragraph (a) and (b) of § 91.201. Since airplanes with a seating capacity of more than four passengers do not normally have room available in the cabin to stow baggage and cargo, except in the approved cargo bin and baggage racks, the proposed rule change is not feasible.

Proposal 336 This proposal would have amended Part 91, Appendix A2(b)(3) by requiring the externally vented static pressure system to be appropriately heated or have equivalent means of preventing malfunctioning due to ice on the static source. The FAA believes this requirement to be adequately covered by § 23.1325 and § 25.1325 of the Federal Aviation Regulations.

Proposal 337 This proposal would have amended Part 91, Appendix A4 by deleting all details of Category II maintenance schedules requiring the publication of these rules in an advisory circular form. The FAA believes these practices should be retained in a regulatory form and a relaxation of these rules would derogate safety in Category II operations.

(Secs. 313, 314, and 601 through 610 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C. on August 24, 1977.

[FR Doc.77–25436 Filed 8–31–77;8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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Title 3—The President

PROCLAMATION 4518

National Lupus Week, 1977

By the President of the United States of America

A Proclamation

The medical challenge which the disease lupus erythematosus presents is the subject of many research projects in hospitals and medical centers throughout the United States. The disease most often strikes during its victims' most active and productive years, and can affect many organs of the body with inflammation and changes in structure and function.

The cause of lupus still eludes investigators, but promising leads into its relationship to the immune system, as well as to other factors, may yield new understanding of the origin of this chronic inflammatory disease. which afflicts an estimated fifty thousand new victims annually.

The Federal Government is supporting an aggressive program of research into the cause and treatment of lupus, which, it is hoped, will ultimately lead to its prevention or control. Genetic studies suggesting the role of heredity in the occurrence of lupus have begun to provide important information. The study of immunity, the body's ability to resist disease, is now pointing the way to an understanding of the relationship to lupus of abnormal immune reactions of the body. Although a cure must await further knowledge of the basic cause, presently available forms of treatment can frequently delay the often grave consequences of the disease.

In recognition of the seriousness of lupus and America's commitment to its control, the Congress, by joint resolution approved July 25, 1977, has requested the President to issue a proclamation designating the week of September 18 through 24, 1977, as National Lupus Week and calling for its appropriate observance.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the week of September 18 through 24, 1977, as National Lupus Week. I invite the Governors of the several States and the Commonwealth of Puerto Rico, the Mayor of the District of Columbia, the chief officials of local governments, the medical profession, and the people of the United States to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of August, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.

Jimmy Carter

[FR Doc.77–25864 Filed 8–31–77;4:42 pm]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

PART 701—NATIONAL RURAL ENVIRONMENTAL PROGRAMS FOR 1975 AND SUBSEQUENT YEARS

Forestry Incentives Program

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to revise the regulations concerning cost-sharing with the same landowner more than once on the same acreage. Previous rules allowed cost-sharing only once except where plantations were heavily overtopped by hardwood sprouts. This rule would allow repetitive timber stand improvement measures on the same acreage where recommended by the service forester as sound silvicultural practice.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert J. Mondloch, (ASCS) (202–447–6221).

SUPPLEMENTARY INFORMATION: The Forestry Incentives Program provides cost-sharing for landowners to reforest or improve existing stands of forest trees. Previous rules allowed cost-sharing only once on the same acreage with the same landowner, except where plantations needed release from hardwood sprouts. This rule has been found to be too restrictive and silviculturally unsound. Direct seeding is an economical way of reforestation yet frequently requires thinning within 3 years. Successive thinnings in a dense stand may be the only feasible way of treatment. Thinning followed by a later pruning is a common and sound practice. The winter planting season is rapidly approaching. Accordingly, it is hereby found and determined that compliance with notice, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest.

Accordingly, 7 CFR § 701.41 is amended to read as follows:

§ 701.41 Restoration of practices.

(a) Cost-sharing may be authorized under the program only for the establishment or installation of the practices contained in this part. Cost-sharing may not be authorized for repeating any of the practices in this part with the same owner on the same acreage, except as provided in paragraph (b) or (c) of this section.

(b) Cost-sharing may be authorized for the replacement, enlargement, or restoration of practices for which cost-sharing has been allowed under the program only if all of the following conditions exist:

(1) Replacement or restoration of the practice is needed to solve the problem;

(2) The failure of the original practice was not due to the lack of proper maintenance by the current operator; and

(3) The county committee believes that the replacement or restoration of the practice merits consideration under the program to an equal extent with other practices.

(c) Cost-sharing may be authorized for timber stand improvement measures carried out in repetitive steps where, in the judgement of the forester, the stand treatment warrants such silvicultural practice.

(Sec. 4, 49 Stat. 164, Secs. 7–15, 16(a), 16(f), 16A, 17, 49 Stat. 1148, as amended, 71 Stat. 176, 71 Stat. 426, 72 Stat. 864, 75 Stat. 233, 86 Stat. 676; (16 U.S.C. 590g-590o, 590p(a), 590pA, 590q); Secs. 1001–1009, 87 Stat. 241 (16 U.S.C. 1501–1510).)

Signed at Washington, D.C., on August 23, 1977.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-25292 Filed 9-1-77;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 108]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period September 4–10, 1977. This regulation is needed to provide for orderly marketing of fresh lemons for the regulation period because of the production and marketing situation confronting the lemon industry.

EFFECTIVE DATE: September 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. (202–447–3545).

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such lemons, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the specified week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation for the quantity of lemons it consider advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for lemons is very similar to last week, good on size 140's and smaller, but poorer on larger sizes. Average f.o.b. price was $6.73 per carton the week ended August 27, 1977, compared to $6.65 per carton the previous week. Track and rolling supplies at 165 cars were up 15 cars from last week.

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(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for lemons and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time had been provided to handlers of lemons. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified. The committee meeting was held on August 30, 1977.

§ 910.408 Lemon Regulation 108.

(a) • • •

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period September 4, 1977, through September 10, 1977, is established at 200,000 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: August 31, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–25913 Filed 9–1–77;12:04 pm]

[Pear Reg. 7, Amdt. 1]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Grade, Size, and Container

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment increases the percentage of size 165 fresh Bartlett and Max-Red (Max-Red and Red Bartlett) varieties of pears grown in California which may be shipped, effective August 29, 1977. The amendment takes into consideration the marketing situation facing the California pear industry, and is consistent with the size composition of the estimated crop.

EFFECTIVE DATE: August 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202–447–3545).

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Pear Commodity Committee, established under the marketing agreement and order, and other available information, it is found that the regulation of handling of pears, as provided in this amendment will tend to effectuate the declared policy of the act.

Amendment of the regulation is necessary to permit pear handlers to ship a larger percentage of 165 size pears, because of the large amount of small sized pears, particularly in the Lake District, and as estimates of total fresh shipments are reduced. The committee now estimates total 1977 season fresh Bartlett pear shipments at 3,400 carlots, compared with 4,210 estimated earlier. The amendment should result in increased shipments because it would increase the amount of size 165 pears permitted to be shipped to 17.647 percent, from the current 5.263 percent.

It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of pears.

The provisions in paragraph (a)(2) of § 917.445 Pear Regulation 7 (42 FR 35937) are hereby amended to read as follows:

§ 917.445 Pear Regulation.

• • • • • •

(a) • • •

(2) Any box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such pears are of a size not smaller than the size known commercially as size 150: *Provided*, That a handler may ship, during quantity of such pears which are smaller than the size known commercially as size 150 if (i) such smaller pears are not smaller than the size known commercially any day from any shipping point, as cially as size 165, and (ii) the quantity of such smaller pears shipped from such shipping point does not, at the end of any day during the aforesaid period, exceed 17.647 percent of such handler's total shipments of such pears, shipped from the same shipping point, which are not smaller than the size known commercially as size 150;

• • • • • •

(Secs. 1–19, 48 Stat. 31, as amended, (7 U.S.C. 601–674).)

Dated: August 29, 1977, to become effective August 29, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–25689 Filed 9–1–77;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 73—SCABIES IN CATTLE

Areas Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to quarantine portions of Monterey and San Benito Counties in California because of the existence of cattle scabies. Psoroptic cattle scabies was confirmed in Monterey and San Benito Counties, California, by Veterinary Services Laboratories. Therefore, in order to prevent the dissemination of cattle scabies it is necessary to quarantine the infested areas.

EFFECTIVE DATE: August 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goats, Equine and Ectoparasites Staff, USDA, APHIS, VS, Federal Building, Room 737, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8322.

SUPPLEMENTARY INFORMATION: These amendments quarantine portions of Monterey and San Benito Counties in California because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the areas quarantined.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies, is hereby amended as follows:

In § 73.1a, a new paragraph (d) is added to read:

§ 73.1a Notice of quarantine.

• • • • • •

(d) Notice is hereby given that cattle in certain portions of the State of California are affected with scabies, a contagious, infectious, and communicable disease; and, therefore, the following areas in such State are hereby quarantined because of said disease:

1. That portion of Monterey County comprised of secs. 25, 26, 27, 28, 29, 32, 33, 34, 35, and 36, T. 15 S. R. 5. E.

2. That portion of Monterey County comprised of secs. 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, 15, 16, 22, 23, 24, 25, 26, and 27, T. 16 S., R. 5 E.

3. That portion of Monterey County comprised of secs. 17, 18, 19, 20, 29, 30, 31, and 32, T. 15 S., R. 6 E.

4. That portion of Monterey County comprised of secs. 5, 7, 18, and 19, T. 16 S., R. 6 E.

5. That portion of San Benito County comprised of secs. 15, 16, 21, 22, 28, 33, and 34, T. 15 S., R. 6 E.

• • • • • •

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

The amendments impose certain further restrictions necessary to prevent the interstate spread of cattle scabies and must be made effective immediately to accomplish their purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and contrary to the public interest, and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 29th day of August 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

PIERRE A. CHALOUX,
Deputy Administrator, Veterinary Services.

[FR Doc.77–25692 Filed 9–1–77;8:45 am]

PART 78—BRUCELLOSIS

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

BRUCELLOSIS AREAS

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Animal and Plant Health Inspection Service is amending its Brucellosis Regulations. These amendments update the Brucellosis regulations by providing the current status of various counties and States which have been designated Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, or Noncertified Areas for purposes of interstate movement of cattle and bison from such areas. This action is required because of the change in the Brucellosis status of the areas affected.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. A. D. Robb, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Hyattsville, Maryland, Room 805, (301–436–8713).

(b) *Specific Counties Within States.*

SUPPLEMENTARY INFORMATION: The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area in § 78.1(1): Butte and Clark Counties in Idaho; Decatur, Monroe, and Sioux Counties in Iowa; and Barber, Brown, Chase, Clark, Ellsworth, Gray, Hamilton, Kearny, Kiowa, Meade, Ness, Pottawatomie, Pratt, Rawlins, Republic, Rooks, Rush, Saline, Shawnee, Stanton, and Wichita Counties in Kansas.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively, are amended to read as follows:

§ 78.20 Certified Brucellosis-Free Areas.

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States.*

Arizona, California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

Alabama. Dale, Geneva.

Arkansas. Baxter, Benton, Boone, Bradley, Calhoun, Carroll, Clay, Cleveland, Columbia, Dallas, Drew, Fulton, Garland, Grant, Greene, Johnson, Madison, Marion, Monroe, Montgomery, Newton, Ouachita, Pike, Searcy, Sharp, Stone, Union, Woodruff.

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kiowa, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld.

Florida. Baker, Bay, Brevard, Calhoun, Citrus, Dixie, Escambia, Franklin, Gadsden, Gulf, Hamilton, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa, Orange, Santa Rosa, Seminole, Taylor, Wakulla, Walton, Washington.

Georgia. Appling, Atkinson, Bacon, Banks, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene, Habersham, Jeff Davis, Johnson, Jones, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Schley, Screven, Stephens, Taylor, Telfair, Toombs, Treutlen, Twiggs, Upson, Ware, Washington, Wayne, Wheeler, White, Wilkinson.

Idaho. Ada, Adams, Bear Lake, Benewah, Blaine, Boise, Bonner, Boundary, Butte, Camas, Canyon, Clark, Clearwater, Custer, Idaho, Kootenai, Latah, Lemhi, Lewis, Nez Perce, Owyhee, Payette, Power, Shoshone, Valley, Washington, Yellowstone National Park.

Illinois. Adams, Alexander, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Hardin, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Jo Daviess, Johnson, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pike, Pope, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Whiteside, Will, Williamson, Winnebago, Woodford.

Iowa. Adair, Adams, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cherokee, Chickasaw, Clarke, Clay, Clinton, Dallas, Davis, Decatur, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Johnson, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Pocahontas, Polk, Pottawattamie, Poweshiek, Plymouth, Scott, Shelby, Sioux, Tama, Taylor, Van Buren, Wapello, Warren, Washington, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas. Barber, Brown, Chase, Cheyenne, Clark, Commanche, Doniphan, Ellsworth, Ford, Gove, Graham, Grant, Gray, Greeley, Hamilton, Haskell, Hodgeman, Johnson, Kearny, Kiowa, Lane, Logan, Marshall, Meade, Ness, Norton, Pawnee, Phillips, Pottawatomie, Pratt, Rawlins, Republic, Riley, Rooks, Rush, Saline, Scott, Shawnee, Sheridan, Stanton, Thomas, Trego, Wallace, Washington, Wichita.

Kentucky. Bell, Breathitt, Campbell, Clay, Edmonson, Floyd, Harlan, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missouri. Audrain, Dunklin, Gasconade,

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Hickory, Jackson, Laclede, Lewis, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

New Mexico. Bernalillo, Catron, Colfax, Dona Ana, Grant, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Otero, Rio Arriba, Sandoval, San Juan, Santa Fe, Sierra, Socorro, Taos, Torrance.

South Dakota. Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Blount, Campbell, Carter, Claiborne, Davidson, Fentress, Grainger, Greene, Grundy, Hamblen, Hancock, Jefferson, Johnson, Knox, Lake, Lewis, Meigs, Morgan, Perry, Polk, Roane, Robertson, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren, Warren, White.

Texas. Brewster, Childress, Comal, Crane, Ector, Gray, Hansford, Hartley, Hemphill, Irion, Jeff Davis, Kerr, Kimble, Lipscomb, Llano, Loving, Mason, Newton, Pecos, Reagan, Roberts, Sterling, Terrell, Val Verde, Ward, Winkler.

Utah. Beaver, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arrovo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guaynabo, Guavanilla, Gurabo, Hormigueros, Humacao, Isabela, Jayuya, Juana Diaz, Juncos, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Quebradillas, Rincon, Rio Grande, Rio Piedras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, San Sebastian, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, Yabucoa, Yauco.

§ 78.21 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.*

Alaska, Louisiana, Nebraska, Oklahoma.

(b) *Specific Counties Within States.*

Alabama. Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Etowah, Escambia, Fayette, Franklin, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell, St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Ashley, Chicot, Clark, Cleburne, Conway, Craighead, Crawford, Crittenden, Cross, Desha, Faulkner, Franklin, Hempstead, Hot Spring, Howard, Independence, Izard, Jackson, Jefferson, Lafayette, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Miller, Mississippi, Nevada, Perry, Phillips, Poinsett, Polk, Pope, Prairie, Pulaski, Randolph, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, Washington, White, Yell.

Colorado. Mesa, Yuma.

Florida. Alachua, Bradford, Broward, Charlotte, Clay, Collier, Columbia, Dade, De Soto, Duval, Flagler, Gilchrist, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Okeechobee, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Sumter, Suwanee, Union, Volusia.

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Dawson, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin, Jackson, Jasper, Jefferson, Jenkins, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Terrell, Thomas, Tift, Towns, Troup, Turner, Union, Walker, Walton, Warren, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Bannock, Bingham, Bonneville, Caribou, Cassia, Elmore, Franklin, Fremont, Gem, Gooding, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida, Teton, Twin Falls.

Illinois. Massac.

Iowa. Allamakee, Appancose, Cerro Gordo, Clayton, Crawford, Delaware, Guthrie, Harrison, Jefferson, Jones, Ringgold, Sac, Story, Union, Wayne.

Kansas. Allen, Anderson, Atchison, Barton, Bourbon, Butler, Chautauqua, Cherokee, Clay, Cloud, Coffey, Cowley, Crawford, Decatur, Dickinson, Douglas, Edwards, Elk, Ellis, Finney, Franklin, Geary, Greenwood, Harper, Harvey, Jackson, Jefferson, Jewell, Kingman, Labette, Leavenworth, Lincoln, Linn, Lyon, Marion, McPherson, Miami, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Osage, Osborne, Ottawa, Reno, Rice, Russell, Sedgwick, Seward, Sherman, Smith, Stafford, Stevens, Sumner, Wabaunsee, Wilson, Woodson, Wyandotte.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jackson, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Clairborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, Georges, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchison, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cass, Cedar, Charlton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, De Kalb, Dent, Douglas, Franklin, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Iron, Jasper, Jefferson, Johnson, Knox, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, Marion, McDonald, Mercer, Miller, Mississippi, Monroe, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

New Mexico. Chaves, Curry, De Baca, Eddy, Guadalupe, Lea, Mora, Quay, Roosevelt, San Miguel, Union, Valencia.

South Dakota. Jones, Stanley.

Tennessee. Bedford, Benton, Bledsoe, Bradley, Cannon, Carroll, Cheatham, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, Decatur, DeKalb, Dickson, Dyer, Fayette, Franklin, Gibson, Giles, Hamilton, Hardeman, Hardin, Hawkins, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Jackson, Lauderdale, Lawrence, Lincoln, Loudon, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Monroe, Montgomery, Moore, Obion, Overton, Pickett, Putnam, Rhea, Rutherford, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Washington, Wayne, Weakley, Williamson, Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Grayson, Gregg, Grimes, Gaudalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Martin, Matagorda, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Polk, Potter, Presidio, Rains, Randall, Real, Red River, Reeves, Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Schackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Yoakum, Young, Zapata, Zavala.

Utah. Box Elder, Cache.

Wyoming. Lincoln.

Puerto Rico. Arecibo, Camuy, Carolina, Hatillo, Las Piedras, Naguabo.

§ 78.22 Noncertified Areas.

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

(a) *Entire States.*

(b) *Specific Counties Within States.*

Missouri. Morgan.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

The amendments impose certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. They should be made effective promptly in order to accomplish their purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 29th day of August 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Deputy Administrator,
Veterinary Services.

[FR Doc.77-25693 Filed 9-1-77;8:45 am]

CHAPTER III—FOOD SAFETY AND QUALITY SERVICE MEAT AND POULTRY INSPECTION DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—MANDATORY MEAT INSPECTION

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

Minimum Cooking Requirements for Cooked Beef Roast

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes the requirement that all cooked beef roast be cooked to a minimum internal temperature of 145° F. (63° C.). There has been increasing evidence in recent months that *Salmonella* food poisoning has been caused by consumption of cooked beef roast. Heating cooked beef roast to the required temperature will destroy the *Salmonella* food poisoning organisms.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. R. Engel, Director, Scientific Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–2326).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Recent outbreaks of human salmonellosis involving the consumption of commercially produced cooked beef roast have been carefully investigated and evaluated by the epidemiologists and laboratories of local, State, and Federal agencies. The data produced supports the following conclusions:

1. The physical nature of raw beef roasts is such that the penetration of microorganisms, including *Salmonella* into the deepest portions of the roasts may occur. Gaps in intermuscular fascia, knife cuts and deep folds are some of the physical features that contribute to such penetration. Deep inoculation of *Salmonella* bacteria and other microorganisms may also occur during boning, packing, defrosting and precook handling of the raw roasts or by the flow of natural juices during the cooking process.

2. There is presently no minimum temperature requirement for all beef roasts cooked during processing. Consequently, some cooking procedures currently in use do not assure the death of *Salmonella* bacteria in the interior of cooked beef roasts. In investigating some recent cases of human salmonellosis, Food Safety and Quality Service employees have conducted epidemiological studies and follow-up laboratory examinations of cooked beef roasts. They have discovered the same species of *Salmonella* in the interior of the roasts and in the human subjects. Results of these studies are available from Dr. R. Engel. (RA)

3. The failure of current cooking procedures for this product to kill all *Salmonella* bacteria has resulted in a significant public health hazard. In the last 24 months alone commercially produced cooked beef roast has been incriminated as the product responsible for 10 outbreaks involving a conservatively estimated 110 cases of human salmonellosis.

4. A minimum temperature of 145°F. (63° C.) in all parts of each beef roast is necessary to assure the death of all *Salmonella* bacteria that may be present. This conclusion is supported by numerous scientific papers on the time-temperature relationships required to kill *Salmonella* bacteria in foods. Some of these references are:

Angelotti et al. 1959. Time-temperature effects on salmonellae and staphylococci in foods. I. Behavior in broth cultures and refrigerated foods. Technical Report F 59–2. U.S. Dept. of Health, Ed. and Wel.; Public Health Service; Ch., O.

Baird-Parker, A.C. et al. 1970. The effect of water activity on the heat resistance of heat sensitive and heat resistant strains of salmonellae. J. App. Bact. 33, 515–522.

Moran, A.B. 1975. Report on beef cooked to temperature lower than 145° F. Parts one, two and three. USDA, APHIS, MPI. Unpublished.

Ng., H. et al. 1969. Heat resistance of *Salmonella:* the uniqueness of *Salmonella senftenberg* 775 W. App. 1. Micro. 17, No. 1 (78–82).

Bayne, H.G. et al. 1964. Heat resistance of *Salmonella typhimurium* and *Salmonella senftenberg* 775–W in chicken meat. Poultry Sci. 43:1302–1303.

Of the 10 outbreaks mentioned in paragraph 3 above, six have been discovered since the beginning of August. Of the conservatively estimated 110 cases of salmonellosis, 54 have been discovered since the first of August. Most of this great increase in the number of cases found results from intensive Federal-State investigation into the incidence of human salmonellosis following the consumption of this product.

The Administrator has now determined that an imminent health hazard exists. Therefore, under the authority contained in the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), he hereby amends Part 318 of the Federal Meat Inspection Regulations (9 CFR Part 318) to add a new § 318.17 to read as follows:

§ 318.17 Cooking requirements for cooked beef roast.

Cooked beef roast shall be prepared by a cooking procedure that produces a minimum temperature of 145° F. (63° C.) in all parts of each roast.

(Section 21, 34 Stat. 1264, 21 U.S.C. 621; 42 FR 35625, 35631.)

Immediate regulation of this problem is required in order to protect the public health. Further, it does not appear that additional relevant information would be made available by public participation in rulemaking proceedings on this amendment. Accordingly, it is found upon good cause under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect

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to this amendment are impracticable, unnecessary, and contrary to the public interest, good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., on August 31, 1977.

ROBERT ANGELOTTI,
Administrator,
Food Safety and Quality Service.

[FR Doc.77-25868 Filed 9-1-77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Amendments Clarifying Entitlements Treatment of Exchanges for the Strategic Petroleum Reserve

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: The Federal Energy Administration (FEA) hereby adopts amendments to the domestic crude oil allocation (entitlements) program to clarify the entitlements treatment of exchanges or matching purchase and sales transactions which the Federal Government enters into in connection with the acquisition of crude oil for storage in the Strategic Petroleum Reserve (SPR). This rule provides that refiners or other firms which enter into exchanges or matching purchase and sales transactions with the Federal Government for the delivery of crude oil for storage in the SPR shall not receive entitlements for the delivery of that crude oil. In such cases, the entitlements shall be issued to the refiner or other firm from which the Federal Government purchases imported crude oil for purposes of satisfying its obligation pursuant to the exchange or matching purchase and sale transaction.

EFFECTIVE DATE: Date of issuance, as set forth below.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (FEA Reading Room), 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461 (202–566–9161).

Allen Hoffard (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461 (202–566–9633).

Michael E. Carosella (SPR Program Office), 1726 M Street NW., Room 330, Washington, D.C. 20461 (202–634–5500).

Douglas McIver (Entitlements Program Office); 2000 M Street NW., Room 6128I, Washington, D.C. 20461 (202–254–8660).

Michael Paige or Fred Wolgel (Office of General Counsel), 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202–566–9565—Paige); (202–566–2454—Wolgel).

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

II. DISCUSSION OF COMMENTS

III. AMENDMENTS ADOPTED

I. BACKGROUND

On August 3, 1977, FEA issued a notice of proposed rulemaking and public hearing which proposed amendments to the domestic crude oil allocation (entitlements) program to clarify the entitlements treatment of exchanges or matching purchase and sales transactions having the same effect as exchanges which the Government enters into in connection with the acquisition of crude oil for the SPR (42 FR 39990, August 8, 1977). Under the provisions of a final rule adopted on April 25, 1977, refiners or other firms receive entitlements for sales of imported crude oil for storage in the SPR (42 FR 21761, April 29, 1977).

In its August 3 notice, FEA explained that in many instances it will be less expensive and more efficient to acquire crude oil for the SPR through exchanges or matching purchase and sales transactions than to acquire crude oil only through direct purchases. Because there has been uncertainty as to which firm would receive entitlement issuances for sales of crude oil to the SPR where such sales are in connection with an exchange or matching purchase and sale transaction, FEA issued the August 3 notice to propose a rule to clarify the entitlements treatment in such instances.

The August 3 notice of proposed rulemaking basically provided that refiners or other firms which enter into exchanges or matching purchase and sales transactions with the Federal Government for the delivery of crude oil for storage in the SPR would not earn entitlements for the delivery of that crude oil. The proposal provided that the entitlements would be earned by the refiner or other firm from which the Federal Government purchases crude oil for purposes of satisfying its obligation pursuant to the exchange or matching purchase and sale transaction.

II. DISCUSSION OF COMMENTS

FEA received five comments in response to the August 3 notice. Four of the comments supported the proposal. The fifth comment argued that the adjustment to crude oil runs to stills made by the firm selling the replacement oil to the Government should be limited to the volume of crude oil actually delivered into the SPR. For example, if firm A delivered 99,000 barrels of crude oil for storage in the SPR pursuant to an exchange agreement with the Government, and the Government purchased 100,000 barrels of crude oil from firm B for delivery to firm A, firm B would be permitted to include only 99,000 barrels in its crude oil runs to stills if this suggestion was adopted. FEA does not believe that it is equitable to treat firms selling crude oil to the Federal Government for redelivery to another firm on a basis any different than firms selling crude oil directly for storage in the SPR. Accordingly, FEA has determined not to adopt this suggestion.

III. AMENDMENTS ADOPTED

The amendments adopted today are, with one exception discussed below, as proposed in the August 3 notice of proposed rulemaking. Section 211.67(d)(6) is amended to provide that a refiner will not earn entitlements for delivery of crude oil to the Federal Government for storage in the SPR, where that delivery is part of an exchange or part of a matching purchase and sale transaction which has the same effect as such an exchange. In such cases, the entitlements shall be earned by the refiner or other firm from which the Government purchases imported crude oil for purposes of satisfying its obligation pursuant to the exchange or matching purchase and sale transaction. The entitlement issuances to such refiner or other firm shall be on the same basis as those with respect to refiners or other firms from which imported crude oil is acquired for storage in the SPR. Section 211.67(d)(7) is also amended to provide the same entitlements treatment as described above for firms other than refiners that enter into exchange agreements or matching purchase and sales transactions with the Federal Government.

An example of the application of the amendments adopted would be as follows: the Government would contract to receive 100 barrels of crude oil delivered to the SPR in the month of July from firm A, in exchange for which the Government would deliver 100 barrels of imported crude oil to firm A in September. In September, the Federal Government would purchase 10 barrels of imported crude oil from firm B to be delivered to firm A and thus fulfill the Government's obligation under the exchange agreement. Under the amendments adopted today, firm B would earn entitlements for delivering 100 barrels of imported crude oil to the Government for redelivery to firm A on the same basis as if the imported crude oil were delivered to the Federal Government for storage in the SPR. Under the reporting procedures described in the April 25 final rule, firm B's September sale to the Government would be reported in October as an adjustment to firm B's August crude oil runs to stills.

In the August 3 notice of proposed rulemaking, FEA stated that the proposed amendments would not affect the treatment of crude oil exchanges or matching purchase and sales transactions under § 211.67(g). Under § 211.67(g), no domestic crude oil is deemed transfered in an exchange or matching purchase and sale transaction in which only quality and location differentials are given effect in the calculation of the exchange ratio. The amendments adopted today will permit the Federal Government to acquire domestic crude oil for storage in the SPR, in those limited cases where that domestic crude oil is not purchased directly, but is acquired through an exchange for imported crude oil purchased by the Government. It is important to note here that the FEA is currently in the process of evaluating whether or not domestic crude oil should be purchased directly for storage in the SPR.

The amendments adopted today do not limit the Government to exchanges and matching purchase and sales transactions in which only quality and location differentials are given effect, and provide that in any case where a refiner or other firm delivers crude oil to the SPR pursuant to an exchange or matching purchase and sale transaction, no domestic crude oil shall be deemed to have been transferred. Thus, refiners and other firms who enter into exchanges or matching purchase and sales transactions with the Federal Government will be deemed to retain the domestic crude oil given up in such transactions even where such agreements reflect factors other than quality or location differentials. The provisions of § 211.67(g)(2) have been incorporated by reference, so that refiners or other firms will include the volumes of domestic crude oil given up in such transactions in their crude oil receipts at the time such volumes would be included in a firm's crude oil receipts under the provisions of § 211.67(g)(2). Section 211.67(g)(2) generally provides that the volume of domestic crude oil given up in an exchange are included in a firm's crude oil receipts at the time the crude oil acquired pursuant to the exchange would have constituted a crude oil receipt.

The FEA has determined that the August 3 notice of proposed rulemaking does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-163, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below.

Issued in Washington, D.C., August 30, 1977.

ERIC J. FYGI,
Acting General Counsel.

Section 211.67 is amended by adding the following at the ends of the first sentences of subparagraphs (6) and (7) of paragraph (d):

§ 211.67 Allocation of domestic crude oil.

* * * * * * *

(d) *Adjustments to volume of crude oil runs to stills.*

* * * * * * *

(6) * * *; and *provided further, that,* in any case where the United States Government acquires crude oil for storage in the Strategic Petroleum Reserve pursuant to an exchange or matching purchase and sale transaction, the refiner from which that crude oil is acquired for storage in the Strategic Petroleum Reserve shall not be eligible for any entitlement issuances under this subparagraph (6), nor shall any domestic crude oil be deemed to have been transferred by that refiner in that exchange or transaction and such retained volumes of domestic crude oil shall be included in its crude oil receipts under the provisions of § 211.67(g)(2), but a refiner or firm other than a refiner from which the United States Government acquires imported crude oil for purposes of satisfying its obligation pursuant to that exchange or transaction shall be eligible for entitlement issuances on the same basis as refiners from which imported crude oil is acquired for storage in the Strategic Petroleum Reserve.

(7) * * *; and, *provided further, that,* in any case where the United States Government acquires crude oil for storage in the Strategic Petroleum Reserve pursuant to an exchange or matching purchase and sale transaction, the firm from which that crude oil is acquired for storage in the Strategic Petroleum Reserve shall not be eligible for any entitlement issuances under this subparagraph (7), nor shall any domestic crude oil be deemed to have been transferred by that firm in that exchange or transaction of such retained volumes of domestic crude oil shall be included in its crude oil receipts under the provisions of § 211.67(g)(2), but a refiner or firm other than a refiner from which the United States Government acquires imported crude oil for purposes of satisfying its obligation pursuant to that exchange or transaction shall be eligible for entitlement issuances on the same basis as refiners from which imported crude oil is acquired for storage in the Strategic Petroleum Reserve.

[FR Doc.77-25741 Filed 9-1-77;8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regulations No. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart P—Certification and Recertification; Requests for Payment Replacement of Lost, Stolen or Forged Medicare Checks

AGENCY: Health Care Financing Administration, HEW.

ACTION: Final rule.

SUMMARY: This rule provides procedures for the replacement of lost, stolen, or forged Medicare checks. It also provides that state law will govern reclamation proceedings to recover the amounts of checks paid to unauthorized persons. The rule is necessary because (1) the Medicare law does not include any directions as to the procedures to follow in these situations and (2) checks issued by Medicare fiscal intermediaries and carriers are not covered by Federal law and regulations governing checks issued by the Treasury of the U.S. The rule is intended to provide procedures in regulation form to reimburse beneficiaries for their Medicare checks which have been lost, stolen, or destroyed and to protect the Medicare trust funds from theft or fraud.

DATES: The amendments will be effective October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Stanley Katz, Division Director, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301–594–9319.

SUPPLEMENTARY INFORMATION: On February 20, 1976, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (41 FR 7785). The Notice made known proposed amendments to Subpart P, Regulations No. 5 (20 CFR Part 405) regarding replacement of lost, stolen, or forged Medicare checks.

The amendments relate principally to Medicare checks drawn on commercial banks rather than the Treasury of the United States, and provide for: (1) Issuance of new checks by the Health Care Financing Administration's (HCFA's) Medicare fiscal intermediaries and carriers if the original checks have been lost, stolen, or paid to unauthorized persons; (2) reclamation proceedings to recover the proceeds of checks paid to unauthorized persons; and (3) issuance of substitute checks, if the original checks have not been negotiated, for example because they were mutilated or destroyed.

Since checks issued by Medicare fiscal intermediaries and carriers to disburse title XVIII health insurance program funds are drawn on commercial banks, rather than the Treasury of the United States, they are not subject to Federal law and regulations governing Treasury checks. These regulations, therefore, provide that the HCFA rather than the Treasury Department, will coordinate investigations to determine whether Medicare checks issued by intermediaries and carriers were paid to unauthorized persons as a result of a forged endorsement. These investigations may include analysis of all types of evidence of unauthorized negotiation in addition to that relating to the endorsement itself. The amendments also provide that appropriate State laws will be utilized in the reclamation proceedings to recover the proceeds of forged checks or checks paid

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to unauthorized persons. The desired result of the amendments will be more prompt reimbursement to beneficiaries by the HOFA of Medicare checks which have been lost, stolen or destroyed. Under ordinary circumstances, a check may be replaced following an administrative determination that a check was lost, stolen or paid on a forged or unauthorized endorsement. The title of Subpart P of Part 405 is being revised to encompass the scope of the new amendments.

Interested persons were given 30 days from the date of publication in the FEDERAL REGISTER to submit data, views or arguments with regard to the proposed changes. Comments and suggestions received with regard to this Notice of Proposed Rule Making (NPRM), responses thereto, and changes in the proposed amendments are summarized below:

Three comments were received in response to the proposed amendments:

1. The first suggested that the requirements in the amendments for settlement of a claim prior to the recovery of the check be changed to provide that the payee must not knowingly have participated, either directly or indirectly, in the proceeds of the negotiation or payment. The amendments published under NPRM stated that the payee must not have participated either directly or indirectly in the proceeds of the negotiation or payment, and did not distinguish between "knowing" and "unknowing" participation in the proceeds. The suggested change was not adopted. Since a payee who participated in the proceeds has already benefited from the program payment, settlement in the payee's favor would permit payment in excess of the benefit amount due, rather than provide protection against the loss of the proceeds of the check.

2. The second comment requested that § 405.1696 be revised to provide that corporate trustees appointed by the various State courts to act in a representative capacity for payees be authorized to sign claims based only upon information and belief. If a payee is deceased or incompetent, the authorized representative may file a claim for replacement or reissuance of a lost, stolen, destroyed, or forged check issued on behalf of the payee based upon the representative's best information and belief. Therefore, paragraphs (b) and (c) of § 405.1696 have been amended to clarify the limited responsibility of an authorized representative in this respect.

3. The third comment suggested that consideration should be given to establishing maximum time periods for the check replacement and reclamation procedures set forth in §§ 405.1696 (a), (b), and (c) and 405.1697. It is not feasible to adopt this proposal because the length of time required to complete an investigation and the time required by the HCFA to verify forgery will vary considerably based upon the particular circumstances in each case. It is the intent of the amendments that carriers and intermediaries issue replacement checks and make settlement as soon as the safeguards against abuse in §§ 405.1696 (b) and (c) are met.

4. Some editorial changes have been made. "Health Care Financing Administration" or "HCFA" has been substituted for "Social Security Administration" or "SSA." This reflects the Reorganization Order of the Secretary of Health, Education, and Welfare (42 FR 13262) of March 9, 1977, which transferred the Bureau of Health Insurance, SSA and delegations pertaining to the Bureau from the Commissioner of SSA to the Administrator, Health Care Financing Administration. The Bureau is responsible for administering the Medicare program.

After due consideration of the comments received, the amendments are hereby adopted as revised and set forth below.

(Secs. 205(a), 1102, 1814, 1815, 1816, 1833, 1842, 1871, 1872, and 1874; 53 Stat. 1368, as amended, 49 Stat. 647, as amended, 79 Stat. 294, as amended, 79 Stat. 297, 79 Stat. 302, as amended, 79 Stat. 309, as amended, 79 Stat. 331, and 79 Stat. 332; 42 U.S.C. 405(a), 1302, 1395f, 1395g, 1395h, 1395l, 1395u, 1395hh, 1395ll, and 1395kk.)

(Catalog of Federal Domestic Assistance Programs No. 13.800, Health Insurance for the Aged—Hospital Insurance; No. 13.801, Health Insurance for the Aged—Supplementary Medical Insurance.)

NOTE.—The Health Care Financing Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 (November 27, 1974) as amended by Executive Order 11949 (December 31, 1976) and OMB Circular A-107.

Dated: July 27, 1977.

ROBERT A. DERZON,
Administrator, Health Care, Financing Administration.

Approved: August 30, 1977.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

Part 405 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below.

1. The title of Subpart P of Part 405 which presently reads "Certification and Recertification; Requests for Payment" is revised to read as follows:

Subpart P—Certification and Recertification; Claims and Benefit Payment Requirements; Check Replacement Procedures

2. New §§ 405.1695 through 405.1697 are added to read as follows:

§ 405.1695 Replacement of U.S. Government checks that are lost, stolen, defaced, mutilated, destroyed, or paid on forged endorsements.

The Treasury Department is responsible for the investigation and settlement of claims in connection with Treasury checks issued on behalf of the Health Care Financing Administration (HCFA) when HCFA serves as fiscal intermediary (see §§ 405.651, 405.654) for direct dealing Medicare providers. The HCFA will forward reports of lost, stolen, defaced, mutilated, destroyed, or forged Treasury checks to the Treasury Department disbursing center responsible for issuance of the check. Replacement or reclamation of such Treasury checks will be undertaken in accordance with Treasury Department regulations (31 CFR Parts 235, 240 and 245).

§ 405.1696 Replacement of intermediary and carrier checks that are lost, stolen, defaced, mutilated, destroyed, or paid on forged endorsements.

(a) The Health Care Financing Administration (HCFA) is responsible for coordinating the investigation and settlement of claims in connection with intermediary and carrier checks, including the determination that a check endorsement has been forged. Those checks which are suspected of having a forged endorsement will be analyzed by the HCFA and a determination will be made concerning the authenticity of the endorsement. A payee dissatisfied with such a determination may obtain an independent administrative review upon request. HCFA will forward reports concerning lost, stolen, defaced, mutilated, destroyed, or forged carrier and intermediary checks to the issuing office of the Medicare intermediary or carrier.

(b) The carrier or intermediary will make settlement in favor of the payee prior to the recovery of the amount of the check (see § 405.1697) if the facts in the case establish:

(1) That the check is still outstanding and has not been paid; or

(2) That the check has been paid on a forged endorsement of the payee's name, and:

(i) The payee has not participated either directly or indirectly in the proceeds of such negotiation or payment, and

(ii) The payee states in writing, after examining the check or copy thereof, that the endorsement on the check is not the payee's; or the payee's authorized representative states in writing, after examining the check or copy thereof, that the endorsement on the check is not the payee's to the best of the representative's knowledge or belief.

(c) If the check has not been paid, the carrier or intermediary will enter and maintain a stop payment order against the check, and will issue another check. In those cases where the beneficiary or his authorized representative requests another check in place of a defaced, mutilated, or destroyed check, the carrier or intermediary will obtain any remains of the check available and issue a substitute check.

§ 405.1697 Reclamation proceedings in cases of forgery of intermediary and carrier checks.

Checks issued by Medicare fiscal intermediaries and carriers to disburse title XVIII health insurance program payments are drawn on commercial banks and not the Treasury of the United States; and for this reason, such checks are not subject to the Federal laws and Treasury Department regulations which govern Treasury checks. When the Health Care Financing Administration determines that a check has been paid on a forged endorsement, the intermediary or carrier will make settlement in favor of the payee pursuant to § 405.1696 (b)(2), and the Medicare intermediary or carrier will take appropriate action to recover the amount of the forged check in accordance with the applicable State law.

[FR Doc.77-25714 Filed 9-1-77;8:45 am]

[Reg. No. 16]

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart K—Income and Exclusions

Subpart L—Resources and Exclusions

EXCLUSION OF JUDGMENT PAYMENTS TO MEMBERS OF THE GRAND RIVER BAND OF OTTAWA INDIANS

AGENCY: Social Security Administration, DHEW.

ACTION: Final rules.

SUMMARY: The amendments to Regulations No. 16, Subparts K and L of Title 20 of the Code of Federal Regulations (20 CFR) concern an exclusion of per capita judgment payments made to, or held in trust for, members of the Grand River Band of Ottawa Indians from consideration as income or a resource under the Supplemental Security Income (SSI) program. The amendments are required by section 6 of Pub. L. 94-540, effective October 18, 1976, and exclude from consideration as income or a resource funds received or held in trust pursuant to a judgment in Indian Claims Commission docket numbered 40-k. The purpose of the amendments is to reflect this exclusion.

EFFECTIVE DATE: The amendments shall be effective September 2, 1977.

ADDRESSES: Although the Notice of Proposed Rule Making is being dispensed with for the reasons cited in the Supplementary Information section, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203, on or before October 17, 1977.

Copies of all comments receive in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Mr. S. J. Weissman, Legal Assistant Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone: 301—594-7341.

SUPPLEMENTARY INFORMATION: Pub. L. 94-540 provides for the disposition of funds appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198), to pay a judgment to the Grand River Band of Ottawa Indians in Indian Claims Commission docket numbered 40-K. The judgment funds are to be distributed on a per capita basis to, or held in trust for, persons determined to be eligible by the Secretary of the Interior.

Section 6 of Pub. L. 94-540 further provides that the funds distributed per capita or held in trust shall not be considered income or resources or otherwise utilized as a basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled to under the Social Security Act or any other Federal or federally assisted program.

Thus, such payments will not be considered as income or a resource for SSI benefit purposes. The amendments, in accordance with the statutory exclusion, will prevent SSI benefit reduction for eligible Grand River Band of Ottawa Indians and allow a limited number to become eligible for SSI benefits.

These amendments to the regulations are being published in final because they are substantive rules which grant an exclusion of certain income and resources as required by section 6 of Pub. L. 94-540. Thus, the Notice of Proposed Rule Making is being dispensed with because a delay in implementing these amendments would be impracticable, unnecessary, and contrary to the public interest (5 U.S.C. 553(b)(B)).

Accordingly, 20 CFR 416.1146(b) and 416.1236(a)(2) are being revised to reflect the exclusion in Pub. L. 94-540.

(Secs. 1102, 1611, 1612, 1613, 1631, Social Security Act, 49 Stat. 647, as amended, 86 Stat. 1466, 86 Stat. 1468, 86 Stat. 1470, and 86 Stat. 1475 (42 U.S.C. 1302, 1382, 1382a, 1382b, 1383); sec. 6, Pub. L. 94-540, 90 Stat. 2504)

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

NOTE.—The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: July 22, 1977.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: August 27, 1977.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below:

1. Section 416.1146 is amended by revising paragraph (b) to read as follows:

§ 416.1146 Exclusions from income; provided by other statutes.

For the purpose of § 416.1145(a), payments or benefits provided under a Federal statute other than title XVI of the Social Security Act where exclusion from income is required by such statute include:

* * * * * *

(b) Judgment payments to members of the Blackfeet and Gros Ventre Tribes of Indians under the provisions of Pub. L. 92-254 (86 Stat. 65, 25 U.S.C. 1264); and judgment payments distributed to members of the Grand River Band of Ottawa Indians in Indian Claims Commission docket numbered 40-K under the provisions of Pub. L. 94-540 (90 Stat. 2503).

* * * * * *

2. Section 416.1236 is amended by revising paragraph (a)(2) to read as follows:

§ 416.1236 Exclusions from resources; provided by other statutes.

(a) For the purpose of § 416.1210(j), payments or benefits provided under a Federal statute other than title XVI of the Social Security Act where exclusion from resources is required by such statute include:

* * * * * *

(2) Judgment payments to members of the Blackfeet and Gros Ventre Tribes of Indians under the provisions of Pub. L. 92-254 (86 Stat. 65, 25 U.S.C. 1264); and judgment payments distributed to, or held in trust for, members of the Grand River Band of Ottawa Indians in Indian Claims Commission docket numbered 40-K under the provisions of Pub. L. 94-540 (90 Stat. 2503).

* * * * * *

[FR Doc.77-25679 Filed 9-1-77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Subpart B—Redelegations of Authority from the Commissioner of Food and Drugs

ELECTRONIC PRODUCTS

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations for delegations of authority regarding exemptions from performance standards and prohibited acts for certain classes of electronic products, and in addition, amends a regulation to correct a reference to the Public Health Service

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Act. This regulation will provide for a more timely and orderly decisionmaking process.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert L. Miller, Office of Administration (HFA-340), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4976).

SUPPLEMENTARY INFORMATION: The amendment to § 5.87 gives the Deputy Director of the Bureau of Radiological Health the same authorities as those granted to the Director of the Bureau of Radiological Health concerning exemptions from performance standards for electronic products and adds a new delegation of authority to the Director and Deputy Director of the Bureau relating to exemptions from prohibited acts. Section 5.91 is being revised to correct a typographical error in the reference to the Public Health Service Act.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis, unless prohibited by a restriction written into the document designating him as "acting," or unless it is not legally permissible.

Therefore, under the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (secs. 354 through 360F, 82 Stat. 1173-1186 (42 U.S.C. 263b through 263n)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 5 is amended by revising §§ 5.87 and 5.91 to read as follows:

§ 5.87 Exemption of electronic products from performance standards and prohibited acts.

The Director and Deputy Director of the Bureau of Radiological Health are authorized to exempt from performance standards any electronic product intended for use by departments or agencies of the United States under section 358(a)(5) of the Public Health Service Act, and to exempt an electronic product or class of products from all or part of the provisions of section 360B(a) of the Public Health Service Act under section 360B(b) of that act.

§ 5.91 Dealer and distributor direction to provide data to manufacturers of electronic products.

The Director and Deputy Director of the Bureau of Radiological Health and the Director of the Division of Compliance of that Bureau are authorized to direct dealers and distributors of electronic products to furnish information on first purchasers of such products to the manufacturer of the product under section 360A(f) of the Public Health Service Act.

Effective date: This regulation shall be effective September 2, 1977.

(Secs. 354 through 360F, 82 Stat. 1173-1186 (42 U.S.C. 263b through 263n).)

Dated: August 25, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25675 Filed 9-1-77;8:45 am]

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 75F-0207]

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVE COATINGS AND COMPONENTS

Subpart C—Substances for Use as Components of Coatings

RESINOUS AND POLYMERIC COATINGS

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is amending the food additive regulations to provide for the use of a copolymer as a modifier of resinous and polymeric coatings for food-contact articles. This order is based on a petition proposing such a regulation.

DATES: Effective September 2, 1977. Objections by October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-472-5690).

SUPPLEMENTARY INFORMATION: Notice was given in the FEDERAL REGISTER of September 3, 1975 (40 FR 40568), that a food additive petition (FAP 5B3059) had been filed by the law firm of Keller and Heckman, 1150 17th St. NW., Washington, D.C. 20036, on behalf of Monsanto Co., proposing that § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300) (formerly § 121.2514, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), be amended in paragraph (b)(3)(xx) to provide for the safe use of a copolymer of 2-ethylhexyl acrylate and ethyl acrylate as a component of resinous and polymeric coatings for food-contact articles.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that § 175.300 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 175 is amended in § 175.300(b)(3)(xx) by alphabetically inserting a new item in the list of substances, to read as follows:

§ 175.300 Resinous and polymeric coatings.

* * * * * * *

(b) * * *

(3) * * *

(xx) Acrylics and their copolymers as the basic polymer:

* * * * * * *

2-Ethylhexyl acrylate-ethyl acrylate copolymers prepared by copolmerization of 2-thelhexyl acrylate and ethyl acrylate in a 7/3 weight ratio and having a number average molecular weight range of 5,800 to 6,500 and a refractive index, n_D^{25} (40 percent in 2,2,4-trimethyl pentane of 1.4130-1.4190; for use as a modifier for nylon resins complying with § 177.1500 of this chapter and for phenolic and epoxy resins listed in paragraph (b)(3)(vi) and (viii) of this section, respectively, at a level not to exceed 1.5 percent of the coating.

* * * * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 3, 1977, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Five copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective September 2, 1977.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: August 26, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25655 Filed 9-1-77;8:45 am]

[Docket No. 77F-0064]

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

Plasticizers in Polymeric Substances

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Based on a petition by Dow Chemical U.S.A., the agency is amending the food additive regulations to provide for safe use of polypropylene glycol as a plasticizer for polystyrene plastics intended to contact food.

DATES: Effective September 2, 1977; objections by October 3, 1977.

ADDRESS: Written objections to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204 (202-472-5690).

SUPPLEMENTARY INFORMATION: Notice was given in the FEDERAL REGISTER of April 19, 1977 (42 FR 20347) that a petition (FAP 6B-3233) had been filed by Dow Chemical U.S.A., Midland, MI 48640, proposing that § 178.3740 *Plasticizers in polymeric substances* (21 CFR 178.3740) be amended to provide for safe use of polypropylene glycol as a plasticizer for polystyrene plastics intended to contact food.

The Commissioner of Food and Drugs, having evaluated the data in the food additive petition and other relevant material, concludes that the regulation should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 178 is amended in § 178.3740 by alphabetically inserting a new item in paragraph (b), to read as follows:

§ 178.3740 Plasticizers in polymeric substances.

* * * * * * *

(b) List of substances:

Substances	*Limitations*
* * *	* * *
Polypropylene glycol (CAS registry No. 25322-69-4) (minimum mean molecular weight 1,200).	For use only in polystyrene plastics, identified in sec. 177.1640(a)(1), in an amount not to exceed 6 pct by weight of the finished food-contact article.
* * *	* * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 3, 1977 submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective September 2, 1977.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: August 23, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25424 Filed 9-1-77;8:45 am]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 76N-0453]

ANTIBIOTIC DRUGS

Vidarabine Monohydrate; Vidarabine Monohydrate Ophthalmic Ointment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the antibiotic drug regulations to provide for the certification of vidarabine monohydrate ophthalmic ointment. Pursuant to section 507 of the Federal Food, Drug, and Cosmetic Act, the manufacturer has supplied sufficient data and information to establish the safety and efficacy of vidarabine monohydrate ophthalmic ointment.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Joan Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301-443-4290).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs, having evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of vidarabine monohydrate ophthalmic ointment, concludes that the data supplied by the manufacturer concerning the subject antibiotic drug product are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Parts 430, 436, and 455 (21 CFR Parts 430, 436, and 455) to provide for its certification.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 430—ANTIBIOTIC DRUGS: GENERAL

1. Part 430 is amended:

a. In § 430.4 by adding new paragraph (a)(44), to read as follows:

§ 430.4 Definitions of antibiotic substances.

(a) * * *

(44) *Vidarabine.* Vidarabine is a purine glycoside antibiotic substance produced by the growth of *Streptomyces antibioticus*, and each of the same substances produced by any other means is a kind of vidarabine.

b. In § 430.5 by adding new paragraphs (a)(60) and (b)(60), to read as follows:

§ 430.5 Definitions of master and working standards.

(a) * * *

(60) *Vidarabine.* The term "vidarabine master standard" means a specific lot of vidarabine that is designated by the Commissioner as the standard of comparison in determining the potency of the vidarabine working standard.

* * * * * * *

(b) * * *

(60) *Vidarabine.* The term "vidarabine working standard" means a specific lot of a homogeneous preparation of vidarabine.

* * * * * * *

c. In § 430.6 by adding new paragraph (b)(62) to read as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

* * * * * * *

(b) * * *

(62) *Vidarabine.* The term "microgram" applied to vidarabine means the vidarabine activity (potency) contained in 1.0674 micrograms of the vidarabine master standard.

* * * * * * *

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

2. Part 436 is amended in § 436.33(b) by alphabetically inserting a new item into the table to read as follows:

§ 436.33 Safety test.

* * * * * * *

(b) * * *

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Antibiotic drug	Diluent (diluent number as listed in sec. 436.31)	Test dose: Concentration in units or milligrams of activity per milliliter	Test dose: Volume in milliliters to be administered to each mouse	Route of administration as described in para (c) of this section
Vidarabine	5	40 mg	0.5	Intraperitoneal.

PART 455—CERTAIN OTHER ANTIBIOTIC DRUGS

3. Part 455 is amended:

a. In Subpart A by adding new § 455.90a to read as follows:

§ 455.90a Sterile vidarabine monohydrate.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Vidarabine monohydrate is the monohydrate form of 9-β-D-arabinofuranosyl-9H-purin-6-amine. It is a white to off-white powder. It is so purified and dried that:

(i) Its vidarabine content is not less than 845 micrograms and not more than 985 micrograms of vidarabine per milligram.

(ii) It is sterile.

(iii) It passes the safety test.

(iv) Its loss on drying is not less than 5 percent and not more than 7 percent.

(v) Its specific rotation in dimethylformamide at 25° C is −60.5° ± 4.5°.

(vi) It passes the identity test for vidarabine.

(2) *Labeling.* In addition to the labeling requirements prescribed by § 432.5(b) of this chapter, this drug shall be labeled "vidarabine".

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for vidarabine content, sterility, safety, loss on drying, specific rotation, and identity.

(ii) Samples required:

(*a*) For all tests except sterility: 10 packages, each containing approximately 500 milligrams.

(*b*) For sterility testing: 20 packages, each containing approximately 200 milligrams.

(b) *Tests and methods of assay*—(1) *Vidarabine content*—(i) *Apparatus and reagents*—(*a*) Glass chromatographic column, 1.0 centimeter internal diameter and 30 centimeters long, with a coarse fritted glass disc in the bottom and fitted with a stopcock in the stem.

(*b*) Anion exchange resin: IRA 904 (Rohm & Haas) or equivalent.

(*c*) Borate buffer, pH 10: Dissolve 12.37 grams of boric acid in 900 milliliters of distilled water. Adjust the solution to pH 10 with 5*N* sodium hydroxide and dilute to 1,000 milliliters with distilled water.

(*d*) Propylene glycol—5 percent solution: Add sufficient distilled water to 50 milliliters of propylene glycol to make a volume of 1,000 milliliters.

(*e*) Resin column: Soak 3 grams of the anion exchange resin overnight in 50 milliliters of borate buffer, pH 10. Slurry the resin in the buffer and transfer mixture into the chromatographic column. Withdraw the buffer and wash the resin with an additional 25 milliliters of borate buffer, pH 10. Wash the buffer from the resin by passing 25 milliliters of distilled water through the chromatographic column. Place a small pledget of glass wool on top of the resin.

(ii) *Preparation of vidarabine sample and working standard solutions:* Accurately weigh approximately 30 milligrams of the vidarabine sample or working standard into a 100-milliliter volumetric flask. Add approximately 80 milliliters of distilled water and heat on a steam bath for 15 minutes. Shake until the powder is dissolved. Cool to room temperature and dilute to volume with distilled water.

(iii) *Procedure.* Support the resin column in a vertical position and place a 100-milliliter volumetric flask under the tip. Transfer 4.0 milliliters of the standard solution to the resin column. Open the stopcock and allow the standard solution to enter the resin. Elute the resin column with 5 percent propylene glycol solution at a rate of approximately 1 milliliter per minute. Continue to collect the eluate until volume reaches the 10-milliliter mark of the volumetric flask. Using a suitable spectrophotometer equipped with 1.0-centimeter cells and 5 percent propylene glycol solution as the blank, determine the absorbance of the eluted working standard solution at the absorbance peak at approximately 255 nanometers. Treat each sample solution in a similar manner. Calculate the vidarabine content as follows:

$$\text{Microgram per milligram} = \frac{A_1 \times \text{weight of standard in milligrams} \times \text{potency of standard in micrograms per milligram}}{A_2 \times \text{weight of sample in milligrams}}$$

where:

A_1 = Absorbance of the eluted sample solution at 255 nm;
A_2 = Absorbance of the eluted working standard solution at 255 nm.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e) (2) of that section, except use 100 milligrams in lieu of 300 milligrams.

(3) *Safety.* Proceed as directed in § 436.33 of this chapter, except observe the mice for 14 days.

(4) *Loss on drying.* Proceed as directed in § 436.200(e) of this chapter.

(5) *Specific rotation.* Using a solution containing 10 milligrams of vidarabine per milliliter in dimethylformamide and a polarimeter tube 1.0 decimeter in length, proceed as directed in § 436.210 of this chapter, except determine the specific rotation at 365 nanometers.

(6) *Identity.* Proceed as directed in § 436.211 of this chapter, using the 0.5 percent potassium bromide disc prepared as described in paragraph (b) (1) of that section.

b. In Subpart D by adding new § 455.390 to read as follows:

§ 455.390 Vidarabine monohydrate ophthalmic ointment.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Vidarabine monohydrate ophthalmic ointment contains in each gram vidarabine monohydrate equivalent to 28.11 milligrams of vidarabine in a suitable and harmless base. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of vidarabine that it is represented to contain. It is sterile. It passes the test for metal particles. The vidarabine monohydrate used conforms to the standards prescribed by § 455.90a(a)(1).

(2) *Labeling.* In addition to the labeling requirements prescribed by § 432.5 of this chapter, this drug shall be labeled "vidarabine ophthalmic ointment".

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The vidarabine monohydrate used in making the batch for vidarabine content, sterility, safety, loss on drying, specific rotation, and identity.

(*b*) The batch for vidarabine content, sterility, and metal particles.

(ii) Samples required:

(*a*) The vidarabine monohydrate used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 16 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Vidarabine content.* Proceed as directed in § 455.90a(b)(1); except, prepare the sample as follow.: Accurately weigh approximately 1 gram of the ointment into a 100-milliliter volumetric flask. Add approximately 80 milliliters of distilled water and heat on a steam bath for 15 minutes. Shake to dissolve the vidarabine. While the ointment is still liquid, add 10 milliliters of heptane. Swirl gently to dissolve the ointment. Cool to room temperature and add sufficient distilled water to raise the heptane layer into the constricted portion of the flask. Aspirate off the heptane layer and discard it. Bring the water layer to mark with distilled water. Calculate the percent vidarabine content as follows:

$$\text{Percent vidarabine} = \frac{A_1 \times \text{weight of standard in milligrams} \times \text{potency of standard in micrograms per milligram}}{A_2 \times \text{weight of ointment in milligrams} \times 10}$$

where:

A_1 = Absorbance of the eluted sample solution at 255 nm;
A_2 = Absorbance of the eluted working standard solution at 255 nm.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e) (3) of that section.

(3) *Metal particles.* Proceed as directed in § 436.206 of this chapter.

Since the conditions prerequisite to providing for certification of this drug have been complied with and as the matter is noncontroversial, the Commissioner finds for good cause that prior notice and public procedure are impracticable and unnecessary, and that the amendment may become effective upon the day of publication. Interested persons may, on or before October 3, 1977 file with the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written comments, in quadruplicate and identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

Effective date. This regulation shall be effective September 2, 1977.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

Dated: August 26, 1977.

MARY A. MCENIRY,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.77-25422 Filed 9-1-77;8:45 am]

[Docket No. 76N-0337]

PART 432—PACKAGING AND LABELING OF ANTIBIOTIC DRUGS

Packaging of Antibiotic Drugs for Parenteral Use

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule clarifies the packaging requirements for drugs intended for parenteral use. It provides for single-dose and light-resistant containers and use of container materials other than glass, in response to the need for additional kinds of containers.

EFFECTIVE DATE: October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Joan Eckert, Bureau of Drugs (HFD–140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–4292).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs proposed in the the FEDERAL REGISTER of September 15, 1976 (41 FR 39328), that § 432.1 (21 CFR 432.1) be amended to clarify the packaging requirements for drugs intended for parenteral use.

The present description of containers used for antibiotic drugs intended for parenteral use provides only for containers of colorless, transparent glass with closures through which hypodermic needles may be introduced. But the need for, or desirability of, additional kinds of containers has become apparent. In fact, some parenteral antibiotic drug products have been approved for marketing in ampules, prefilled syringes, and amber-colored glass vials. The proposal provided for such single-dose and amber-colored containers and it removed the restriction that excludes container materials other than glass.

Interested persons were given 60 days to submit written comments on the proposal.

One comment came from a glass manufacturer who felt that the term "light amber color" was ambiguous and that the container should conform to the United States Pharmacopeia (U.S.P.) light transmission standards for light-resistant containers.

The Commissioner considers this comment valid, but he finds that the terminology "light-resistant as defined by the U.S.P." is more appropriate than the wording suggested in the comment. This definition in the U.S.P. takes into account the light transmission standards suggested by the respondent. The Commissioner is revising the regulations accordingly.

A second comment concerned the addition of the words "labeled quantity" to the part of the regulations that requires each container to be filled with a sufficient excess of drug. The respondent interpreted these words to mean that each vial must be labeled with the number of doses contained therein.

The intent of the proposed regulation was not to require any labeling changes. The words "labeled quantity" were added merely to provide for vials containing the antibiotic drug as a dry powder in contrast with those containing a solution. All vials must be filled with a sufficient excess of drug to enable the withdrawal of the quantity the vial is labeled to contain. The Commissioner has considered this comment and has concluded that no change in the proposed regulation is necessary.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512 (n), 59 Stat. 463 as amended, 82 Stat. 350–351 (21 U.S.C. 357, 360b(n) and under authority delegated to the Commissioner (21 CFR 5.1), Part 432 is amended in § 432.1 by revising paragraph (b) to read as follows:

§ 432.1 Packaging requirements.

* * * * *

(b) If it is intended for parenteral use and the container is glass, it shall be transparent and colorless or light-resistant as defined by the U.S.P. The containers are closed either by fusion or by application of suitable closures, in such manner as to prevent contamination or loss of content. Multiple-dose containers are closed by a substance through which a hypodermic needle may be introduced and withdrawn without removing the closure or destroying its effectiveness. Each container shall be filled with a quantity or a volume in excess of that designated, which excess shall be sufficient to permit the withdrawal and administration of the labeled quantity or volume, whether administered in single or multiple doses.

* * * * *

Effective date: This amendment shall become effective October 3, 1977.

(Secs. 507, 512(n), 59 Stat. 463 as amended, 82 Stat. 350–351 (21 U.S.C. 357, 360b(n)).)

Dated: August 26, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25412 Filed 9-1-77;8:45 am]

[Docket No. 76N-0171]

PART 510—NEW ANIMAL DRUGS

Chloroform as an Ingredient of Drugs for Animal Use; Final Order Establishing New Animal Drug Status

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The document establishes that animal drugs containing chloroform as an ingredient are new animal drugs and that they must be the subject of an approved new animal drug application for marketing. This action is taken because chloroform has been determined to be a carcinogen.

EFFECTIVE DATE: October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

David N. Scarr, Bureau of Veterinary Medicine (HFV–214), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301–443–3183).

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SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of November 30, 1976 (41 FR 52482), the agency issued a proposal that all animal drugs containing chloroform as an ingredient are new animal drugs within the meaning of section 201(w) of the Federal Food, Drug, and Cosmetic Act or misbranded under section 502 of the act (21 U.S.C. 321(w), 352). Interested persons were given till December 30, 1976, to submit comments. No comments were received in response to the proposal. Therefore, the Commissioner of Food and Drugs is establishing the regulation as proposed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 301, 501, 502, 512, 701(a), 52 Stat. 1042–1043 as amended, 1049–1050 as amended, 1055, 82 Stat. 343–351 (21 U.S.C. 331, 351, 352, 360b, 371(a)) and under authority delegated to the Commissioner (21 CFR Part 5.1), Part 510 is amended to add § 510.413 to read as follows:

§ 510.413 Chloroform used as an ingredient (active or inactive) in animal drug products.

(a) Chloroform has been used as an ingredient in animal drug products such as cough preparations, liniments, and some pastes. Although considered safe for many years, recent information has become available associating chloroform with carcinogenic effects in animals. Studies conducted by the National Cancer Institute have demonstrated that the oral administration of chloroform to mice and rats induced hepatocellular carcinomas (liver cancer) in mice and renal tumors in male rats.

(b) Any drug product intended for use in or on animals and containing chloroform as an ingredient is deemed to be either (1) a new animal drug within the meaning of section 201(w) of the act, and unsafe within the meaning of section 512 of the act and adulterated under section 501 of the act and subject to regulatory action under sections 301, 501, and 512 of the act; or (2) misbranded under section 502 of the act, and therefore subject to regulatory action under sections 301 and 502 of the act. Any animal drug product containing chloroform in residual amounts from its use as a processing solvent during manufacture of the drug product, or from the synthesis of a drug ingredient, is not, for the purpose of this regulation, considered to contain chloroform as an ingredient.

(c) Any holder of an approved new animal drug application for a drug product containing chloroform as an ingredient shall submit to the Food and Drug Administration on or before October 3, 1977, a supplemental application providing for a revised formulation removing chloroform as an ingredient.

(1) The supplemental application shall contain:

(i) A full list of articles used as components and a full statement of the composition of the drug product.

(ii) The date that the composition of the drug product will be changed.

(iii) Data showing that the change in composition does not interfere with any assay or other control procedures used in manufacturing the drug product, or that the assay and other control procedures are revised to make them adequate.

(iv) Data available to establish the stability of the revised formulation and, if the data are too limited to support a conclusion that the drug will retain its declared potency for a reasonable marketing period, a commitment from the applicant:

(*a*) To test the stability of marketed batches at reasonable intervals;

(*b*) To submit the data as they become available; and

(*c*) To recall from the market any batch found to fall outside the approved specifications for the drug.

(v) Copies of the label and all other labeling to be used for the drug product—a total of nine copies if in final printed form, three copies if in draft form.

(2) If such drug product contains more than 1 percent chloroform, the revised formulation containing no chloroform shall not be marketed before the receipt of written notice of approval of the supplemental application by the Food and Drug Administration.

(3) If such drug product now contains 1 percent or less chloroform, the revised formulation containing no chloroform may be marketed after submission of the supplemental application but prior to the receipt of written notice of its approval by the Food and Drug Administration.

(d) Any sponsor of a "Notice of Claimed Investigational Exemption for a New Animal Drug" (INAD notice) for an animal drug product containing chloroform as an ingredient shall amend the INAD notice on or before October 3, 1977, to revise the formulation removing chloroform as an ingredient.

(e) The Commissioner will initiate action to withdraw approval of a new animal drug application or terminate an INAD notice in accordance with the applicable provisions of section 512 of the act and Parts 511 and 514 of this chapter upon failure of a holder of an approved new animal drug application or sponsor of an INAD notice to comply with the provisions of paragraph (c) or (d) of this section.

(f) Any drug product intended for animal use containing chloroform as an ingredient that is introduced or delivered for introduction into interstate commerce following the effective date of this regulation will be subject to regulatory action under sections 301, 501, 502, and 512 of the act.

Effective date: October 3, 1977.

(Secs. 301, 501, 502, 512, 701(a), 52 Stat. 1042–1043 as amended, 1049–1050 as amended, 1055, 82 Stat. 343–351 (21 U.S.C. 331, 351, 352, 360b, 371(a)).)

Dated: August 25, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25413 Filed 9-1-77;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Phenylbutazone Tablets and Boluses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application filed by Western Research Labs, Inc., providing for the use of a 100 milligram phenylbutazone tablet for the relief of inflammatory conditions associated with a musculoskeletal system of dogs. This application reflects the National Academy of Sciences/National Research Council (NAS/NRC) evaluation of the product.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Henry C. Hewitt, Bureau of Veterinary Medicine (HFV–112), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3430).

SUPPLEMENTARY INFORMATION: In accordance with section 512(i) of the act, Part 520 of the regulations is amended to reflect approval of a new animal drug application (NADA 102–824V) filed by Western Research Labs., Inc., 301 South Cherokee St., Denver, Colo. 80223.

This application concerns a product which is similar to those evaluated by the National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group (see the FEDERAL REGISTER of August 12, 1970 (35 FR 12790)). The NAS/NRC report reviewed certain drug products containing phenylbutazone marketed by Jensen-Salsbery laboratories, specifically:

1. Jen-Sal Butazolidin Injectable, 20 percent (200 milligrams per milliliter).
2. Jen-Sal Butazolidin Bolus (horses only), 4 grams per bolus.
3. Jen-Sal Butazolidin Tablets (horses only), 1 gram per tablet.
4. Jen-Sal Butazolidin Tablets (dogs only), 100 milligrams per tablet.

The Academy evaluated these drugs as probably effective as a nonhormonal anti-inflammatory agent for use in horses and dogs. The Academy noted that:

1. The package insert implies the drug results in permanent cures for certain conditions. The Academy felt these statements are not supported by adequate documentation.
2. The analgesic activity of the drug has not been documented. The Academy notes this effect may be the result of the drug's anti-inflammatory properties.
3. No controlled experimental studies appear to have been performed in dogs or horses.
4. The drug's use in the treatment of otitis externa in dogs is doubtful.
5. Instructions for dosage in dogs could be improved.
6. Package label for the injectable drug does not state route of administration.
7. Evidence has not been supplied indicating the boluses and tablets disintegrate in the gastrointestinal tract to produce the desired effects.

The Food and Drug Administration concurred in the Academy's evaluation and concluded that additional labeling information was required on the dosage schedule to improve clarity, such as reference to frequency of administration and maximum daily dose. It further stated that veterinary drugs of this type are prescription drugs and should bear the veterinary prescription legend. Holders of NADA's were provided 6 months to submit adequate documentation in support of the labeling used.

Jensen-Salsbery Laboratories submitted supplemental NADA's providing for safe and effective use of phenylbutazone tablets, boluses, and injections in dogs and horses. Their applications were approved by a regulation in the FEDERAL REGISTER of May 26, 1972 (37 FR 10662). These products were approved for the relief of inflammatory conditions associated with the musculoskeletal system in dogs and horses. It is administered orally to dogs at a dosage level of 20 milligrams per pound of body weight in three divided doses daily with the maximum daily dosage of 800 milligrams. It is administered orally to horses at a dosage level of 1 to 2 grams per 500 pounds of body weight daily, not to exceed 4 grams per day. Use of the drug is limited to veterinary prescription use and for nonfood animals only. It is administered intravenously at one-half the oral dosage.

The current regulation for oral use of phenylbutazone tablets and boluses in dogs and horses is editorially revised to reflect that the drug has been NAS/NRC reviewed, that the existing approvals comply with the evaluation, and that submission of similar applications reflecting the same conditions of use and dosage regimen need not include data required by § 514.111 (21 CFR 514.111), but require submission of bioequivalency and safety data.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulation (21 CFR 514.11(e)(2)(ii)), a summary of the safety data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC–20), Food and Drug Administration, Department of Health, Education, and Welfare, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. and 4 p.m., Monday through Friday, except on Federal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 520 is amended by revising § 520.1720a, to read as follows:

§ 520.1720a Phenylbutazone tablets and boluses

(a) *Specifications.* Each tablet contains 100, 200, or 400 milligrams, or 1 gram of phenylbutazone. Each bolus contains 2 or 4 grams of phenylbutazone.

(b) *Sponsor.* See sponsor numbers in § 510.600(c) of this chapter, as follows:

(1) No. 017220 for use of 100- or 400-milligram or 1-gram tablets, or 2- or 4-gram boluses, in dogs and horses.

(2) No. 000010 for use of 100- or 200-milligram or 1-gram tablets in dogs and horses.

(3) Nos. 000031, 000591, 000856, 000864, 011519, and 012518 for use of 100-milligram or 1-gram tablets in dogs and horses.

(4) Nos. 000832 and 011519 for use of 100-milligram tablet in dogs.

(5) No. 011398 for use of 1-gram tablets in horses.

(c) *Conditions of use.*—(1) *Dogs.*—(i) *Amount.* Twenty milligrams per pound of body weight daily.[1]

(ii) *Indications for use.* The drug is used for the relief of inflammatory conditions associated with a musculoskeletal system.[1]

(iii) *Limitations.* Administer in three divided doses daily. Do not exceed a total daily dose of 800 milligrams regardless of body weight. Administer at a relatively high dosage level for the first 48 hours and then reduce gradually to a maintenance dosage level with the lowest dosage maintained at a level capable of producing the desired clinical response. Federal law restricts this drug to use by or on the order of a licensed veterinarian.[1]

(2) *Horses.*—(i) *Amount.* One to two grams per 500 pounds of body weight daily.[1]

(ii) *Indications for use.* The drug is used for the relief of inflammatory conditions associated with the musculoskeletal system.[1]

(iii) *Limitations.* Do not exceed a daily dosage of 4 grams per day. Administer at a relatively high dosage level for the first 48 hours and then reduce gradually to a maintenance dosage level with the lowest dosage maintained at the level capable of producing the desired clinical response. Not for use in animals intended for food purposes. Federal law restricts this drug to use by or on the order of a licensed veterinarian.[1]

Effective date. September 2, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: August 25, 1977.

PHILIP D. CAZIER,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.77-25423 Filed 9-1-77;8:45 am]

[1] These conditions are NAS/NRC reviewed and deemed effective Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter.

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

CFR Correction

In Title 21 (Parts 500–599) of the Code of Federal Regulations, revised as of April 1, 1977, Footnote 1 in § 546.110c beginning on page 305 and cited in paragraphs (c)(5)(iii)(*a*) and (*b*) and (iv)(*a*) and (*b*) was inadvertently omitted on page 307. It reads as set forth below:

[1] These claims are NAS/NRC reviewed and are deemed effective. Applications for these uses need not include the effectiveness data specified by § 514.111 of this chapter.

[Docket No. 77N–0186]

PART 570—FOOD ADDITIVES

Irradiation and Radiation Sources; Republication

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document republishes the authority for irradiation in the production, processing, and handling of animal feed and pet food. This authority was inadvertently omitted in the Food and Drug Administration recodification of regulations relating to animal feed and pet food.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert S. Brigham, Bureau of Veterinary Medicine (HFV–238), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, (301–443–6243).

SUPPLEMENTARY INFORMATION: In a document published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302), FDA recodified certain regulations relating to food for human consumption. Among the regulations recodified were those which concern irradiation in the production processing, and handling of food for human consumption. The regulations were transferred from former Part 121, which related to food for human consumption as well as, in certain instances, to animal feed and pet food. In a companion document in the same issue of the FEDERAL REGISTER (42 FR 14091), the recodified regulations that also pertained to animal feed and pet food were transferred to Part 570, which pertains to animal feed and related products. However, the regulations pertaining to authority for irradiation in the production, processing, and handling of animal feed and pet food were inadvertently omitted in the companion document.

Since this document merely republishes the authority for irradiation in the production, processing, and handling of animal feed and pet food, notice and public procedure are not required.

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Therefore, Part 570 is amended by adding new § 570.12 to read as follows:

§ 570.12 Irradiation in the production, processing, and handling of animal feed and pet food.

Regulations providing for irradiation in the production, processing and handling of food in Part 179 of this chapter are incorporated in Subchapter E as applicable to use in the production, processing, and handling of animal feed and pet food.

Effective date: This amendment shall be effective September 2, 1977.

Dated: August 26, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25656 Filed 9-1-77;8:45 am]

SUBCHAPTER F—BIOLOGICS

[Docket No. 77N-0047]

PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS

Normal Serum Albumin (Human) and Plasma Protein Fraction (Human); Extension of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Extension of effective date.

SUMMARY: This document extends the time within which manufacturers must comply with §§ 640.82(d) and 640.92(d) concerning the sodium content of Normal Serum Albumin (Human) and Plasma Protein Fraction (Human). The Commissioner has concluded that a 6-month extension of the effective date will provide sufficient time for manufacturers to comply with the regulations and relieve any undue hardships in implementing the processing changes.

DATES: Effective September 2, 1977; compliance with §§ 640.82(d) and 640.92(d) by February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Al Rothschild, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-1920.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued in the FEDERAL REGISTER of May 31, 1977 (42 FR 27575) additional standards for Normal Serum Albumin (Human) and Plasma Protein Fraction (Human). Under §§ 640.82(d) and 640.92(d), the Commissioner required that the sodium content of the final Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) products, respectively, shall be 130 to 160 millieuivalents per liter, regardless of protein concentration. Although these sodium requirements are more stringent than those originally proposed in the FEDERAL REGISTER of February 20, 1975 (40 FR 7456), the Commissioner concluded that the more stringent requirements would significantly improve the safe use of these products. (See 42 FR 27577, paragraph 22.) It was anticipated that the prescribed range for sodium content could be implemented at the same time as the other additional standards since most products currently on the market contain at least 130 milliequivalents sodium per liter. However, the Commissioner has received requests from manufacturers to extend the effective date for compliance with §§ 640.82(d) and 640.92(d). It has been noted that the establishment of an absolute minimum of 130 milliequivalents will require changes in processing from the methods that currently result in most, but not all, products achieving this level. These processing changes will have to be tested to assure that they do not adversely affect the product as it is approved in the license application and now in use. Verification will promote a safe transition to the new method and the continued quality of the product.

Accordingly, the Commissioner is granting a 6-month extension. Changes in processing methods, and the results of verification testing, must be submitted to the Director, Bureau of Biologics, in the form of a license amendment. Manufacturers should note that the labeling requirements remain effective November 28, 1977.

Therefore, in order to provide sufficient time for the manufacturers to comply with the regulations, the Commissioner extends the effective date for compliance with §§ 640.82(d) and 640.92(d) to February 28, 1978.

Dated: August 25, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25674 Filed 9-1-77;8:45 am]

SUBCHAPTER J—RADIOLOGICAL HEALTH

[Docket No. 75N-0259]

PART 1010—PERFORMANCE STANDARDS FOR ELECTRONIC PRODUCTS: GENERAL

Exemptions From Performance Standards for Products Intended for United States Government Use

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule provides for exemptions from radiation safety performance standards for electronic products that are intended for use by departments or agencies of the United States. The rule is made to facilitate Federal procurement or construction of needed electronic products, which generally differ in design and application from those used by the general public. The rule provides that either the manufacturer or procuring agency may request the exemption.

EFFECTIVE DATE: October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Melvyn R. Altman, Bureau of Radiological Health (HFX-460), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3426.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of September 30, 1975 (40 FR 44846), the Commissioner of Food and Drugs proposed to add new § 1010.5 (21 CFR 1010.5) to provide for exemptions from radiation safety standards for electronic products intended for use by departments or agencies of the United States.

In part, the proposal would have made the commercial manufacturer of an electronic product responsible for applying for any needed exemption from standards after procurement specifications had been finalized by the Federal agency.

In response to comments received concerning the proposal and those provided at a public meeting of January 29, 1976 (see meeting notice published in the FEDERAL REGISTER of December 19, 1975 (40 FR 58883)), the Commissioner withdrew the earlier proposal and issued a revised proposed rule in the FEDERAL REGISTER of October 1, 1976 (41 FR 43412).

The procedures in the October 1, 1976 proposal provided that products to be exempted under section 358(a)(5) of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602, 42 U.S.C. 263b et seq.) might be manufactured either by Federal agencies or by private concerns. It also provided that either the procuring agency or the manufacturer could apply for the exemption. In addition, it was broadened to include administrative procedures for exemption applications under section 360B(b) of the act for electronic products or classes of products intended for U.S. government research, investigations, studies, demonstrations, or training, or for reasons of national security.

Four comments were submitted in response to the reproposal: one a supplement to a letter that commented on the September 30, 1975 proposal, two from manufacturers of electronic products, one from a hospital, and the fourth from an association of physicians. A summary of the comments on the reproposal and the Commissioner's conclusions follow:

1. One comment suggested that a statement of assumption of liability should be required from the procuring agency and from the manufacturer and implied that the applicant for exemption should be required to specify, in its application; the mechanism that would be used in taking corrective action in case of nonadherance to radiation safety procurement specifications.

In paragraph 5 of the preamble to the October 1, 1976 reproposal, the Commissioner stated that the procuring agency, as a matter of course, will be responsible for assuring that acquired products meet the contract procurement specifications and that, if the procuring agency does not require that a manufacturer take corrective action in cases of nonadherence, FDA could withdraw the exemption from the agency. Similarly, if the manufacturer has obtained the exemption and does not adhere to its provisions, FDA could withdraw the exemption. No new evidence of the need for a statement of assumption of liability was presented by the comment, and the Commissioner still disagrees that such a statement is necessary. He also believes that it is not reasonable to require applicants to specify, in advance, plans for corrective action mechanisms. Corrective action procedures would depend on the nature and severity of the radiation safety problems associated with the products in question. Accordingly, no change is made in the final rule.

2. One manufacturer appeared to object to the proposed regulation because he assumed that exemptions for products intended for local and State government agencies could not be obtained. Another comment suggested that exemptions should be available to nongovernment manufacturers and assemblers of medical X-ray equipment.

The Commissioner notes that although § 1010.5 provides the administrative exemption procedures only for products intended for Federal agencies, section 360B (b) of the act authorizes exemption for any product or class of products intended for research, investigations, studies, demonstrations, or training, or for reasons of national security, regardless of whether the product or class is intended for Federal agency use. No procedural regulations for exempting products not intended for Federal agency use have been promulgated because, to date, there have been no requests for such exemptions. Because there exists authority under section 360B(b) of the act, requests for exemptions for products not intended for Federal use could be granted. Conditions may, however, be imposed on such exemptions as necessary to protect the public health and safety.

3. One comment requested that procurement specifications be required as part of all applications for exemptions.

The October 1, 1976 reproposal established two separate sets of criteria (§ 1010.5 (a)(1) and (a)(2)) for exemption eligibility, only one of which included a requirement that procurement specifications must provide for control of radiation emissions. The Commissioner advises that the two sets of criteria were established to include exemption authority under two separate provisions of the act. Section 358(a)(5) of the act requires that the procuring agency prescribe procurement specifications governing emissions of electronic product radiation, while section 360B(b) of the act contains no such requirement. The Commissioner therefore believes that to require procurement specifications for all exemption requests is beyond the intent of the act, and, in addition, would be an unnecessary burden in some cases.

4. One comment suggested that the procuring agency should be notified of exemptions granted, amended, or withdrawn.

The Commissioner agrees to provide such notification when so requested by the procuring agency. Section 1010.5(b) is amended accordingly.

5. One comment urged that § 1010.5 (e)(2) be revised so that the procuring agency would be solely responsible for compliance with modifications to an exemption imposed by the Director, Bureau of Radiological Health, under his authority to amend or withdraw an exemption.

The Commission believes that a change in this regulation is not needed. As stated in paragraph 2 of the preamble to the reproposal, the potential problems and additional expense resulting from modification of an exemption could be dealt with by appropriate contingency clauses written into the procurement contract or by mutual agreement between the procuring agency and the manufacturer on an amended contract.

6. One comment suggested that the regulation would be improved by certain word changes.

The Commissioner agrees. In response to the comment and on his own initiative, he is making the following changes where appropriate: the words "issue[d]" and "approve[d]" are changed to "grant-[ed]", and the word "inform" is changed to "notify". In addition, in the first sentence of § 1010.5(e)(1) the word "containing" is replaced with the phrase "including in the written notice of exemption"; and in § 1010.5(b) the words "this part" are replaced with "this subchapter.".

Therefore, under the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (secs. 358 and 360B, 82 Stat. 1177-1179 (42 U.S.C. 263f and 263j) and under authority delegated to the Commissioner, (21 CFR 5.1) Part 1010 is amended by adding new § 1010.5 to Subpart A. to read as follows:

§ 1010.5 Exemptions for products intended for United States Government use.

(a) *Criteria for exemption.* Upon application by a manufacturer (including assembler) or by a United States department or agency, the Director, Bureau of Radiological Health, Food and Drug Administration, may grant an exemption from any performance standard under Subchapter J of this chapter for an electronic product, or class of products, otherwise subject to such standard when he determines that such electronic product or class is intended for use by departments or agencies of the United States and meets the criteria set forth in paragraphs (a) (1) or (2) of this section.

(1) The procuring agency shall prescribe procurement specifications for the product or class of products governing emissions of electronic product radiation, and the product or class shall be of a type used solely or predominantly by a department or agency of the United States.

(2) The product or class of products is intended for research, investigations, studies, demonstration, or training, or for reasons of national security.

(b) *Consultation between the procuring agency and the Food and Drug Administration.* The United States department or agency that intends to procure or manufacture a product or class of products subject to electronic product radiation safety standards contained in this subchapter should consult with the Bureau of Radiological Health, Food and Drug Administration, whenever it is anticipated that the specifications for the product or class must deviate from, or be in conflict with, such applicable standards. Such consultation should occur as early as possible during development of such specifications. The department or agency should include in the specifications all requirements of such standards that are not in conflict with, or are not inappropriate for, the special or unique uses for which the product is intended. The procuring agency should indicate to the Bureau of Radiological Health if it desires to be notified of the approval, amendment, or withdrawal of the exemption.

(c) *Application for exemption.* An application for exemption, or for amendment or extension thereof, shall be submitted in quintuplicate to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852. For an exemption pursuant to the criteria prescribed in paragraph (a)(1) of this section, the application shall include the information prescribed in paragraph (c)(1) through (12) of this section. For an exemption pursuant to the criteria prescribed in paragraph (a)(2) of this section, the application shall include the information prescribed in paragraph (c)(3) through (12) of this section. An application for exemption, or for amendment or extension thereof, and correspondence relating to such application shall be made available for public disclosure in the office of the Hearing Clerk, except for confidential or proprietary information submitted in accordance with Part 4 of this chapter. Information classified for reasons of national security shall not be included in the application. Except as indicated above, the application for exemption shall include the following:

(1) The procurement specifications for the product or class of products that govern emissions of electronic product radiation.

(2) Evidence that the product or class of products is of a type used solely or predominantly by departments or agencies of the United States.

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(3) Evidence that such product or class of products is intended for use by a department or agency of the United States.

(4) A description of the product or class of products and its intended use.

(5) An explanation of how compliance with the applicable standard would restrict or be inappropriate for this intended use.

(6) A description of the manner in which it is proposed that the product or class of products shall deviate from the requirements of the applicable standard.

(7) An explanation of the advantages to be derived from such deviation.

(8) An explanation of how means of radiation protection will be provided where the product or class of products deviates from the requirements of the applicable standard.

(9) The period of time it is desired that the exemption be in effect, and, if appropriate, the number of units to be manufactured under the exemption.

(10) The name, address, and telephone number of the manufacturer or his agent.

(11) The name, address, and telephone number of the appropriate office of the United States department or agency purchasing the product or class of products.

(12) Such other information required by regulation or by the Director, Bureau of Radiological Health, to evaluate and act on the application.

(d) *Amendment or extension of an exemption.* An exemption is granted on the basis of the information contained in the original application. Therefore, if changes are needed in the radiation safety specifications for the product, or its use, or related radiation control procedures such that the information in the original application would no longer be correct with respect to radiation safety, the applicant shall submit in advance of such changes a request for an amendment to the exemption. He also shall submit a request for extension of the exemption, if needed, at least 60 days before the expiration date. The application for amendment or extension of an exemption shall include the following information:

(1) The exemption number and expiration date.

(2) The amendment or extension requested and basis for the amendment or extension.

(3) If the radiation safety specifications for the product or class of products or the product's or class of products' use or related radiation control procedures differ from the description provided in the original application, a description of such changes.

(e) *Ruling on an exemption.* (1) The Director, Bureau of Radiological Health, may grant an exemption including in the written notice of exemption such conditions or terms as may be necessary to protect the public health and safety and shall notify the applicant in writing of his action. The conditions or terms of the exemption may include specifications concerning the manufacture, use, control, and disposal of the excess or surplus exempted product or class of products as provided in the Code of Federal Regulations, Title 41, Subtitle C. Each exemption will be assigned an identifying number.

(2) The Director, Bureau of Radiological Health, shall amend or withdraw an exemption whenever he determines that such action is necessary to protect the public health or otherwise is justified by provisions of the act or this subchapter. Such action shall become effective on the date specified in the written notice of the action sent to the applicant, except that it shall become effective immediately when the Director determines that it is necessary to prevent an imminent health hazard.

(f) *Identification of equipment covered by exemption.* The manufacturer of any product for which an exemption is granted shall provide the following identification in the form of a tag or label permanently affixed or inscribed on such product so as to be legible and readily accessible to view when the product is fully assembled for use or in such other manner as may be prescribed in the exemption:

CAUTION

This electronic product has been exempted from Food and Drug Administration radiation safety performance standards prescribed in the Code of Federal Regulations, Title 21, Chapter I, Subchapter J, pursuant to Exemption No. ------, granted on ----------

Effective date. This regulation shall become effective on October 3, 1977.

(Secs. 358 and 360B, 82 Stat. 1177-1179 (42 U.S.C. 263f, 263j))

Dated: August 25, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25676 Filed 9-1-77;8:45 am]

[Docket No. 75N-0331]

PART 1020—PERFORMANCE STANDARDS FOR IONIZING RADIATION EMITTING PRODUCTS

Performance Standard for Diagnostic X-Ray Systems and Their Major Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule amends the performance standard for diagnostic X-ray systems and their major components to: (1) change the applicability of the X-ray standard to include image receptor supports for mammographic X-ray systems and add a definition of these components, (2) revise the X-ray field limitation and alignment requirements for mammographic X-ray systems and attachments, (3) establish a limit on the transmission of the X-ray beam through the image receptor support on mammographic X-ray systems, (4) allow alternative means for limiting and aligning the X-ray field for certain special purpose X-ray systems, and (5) modify the test method for measuring exposure reproducibility.

EFFECTIVE DATES: November 1, 1977, except § 1020.31(b)(2) and (1), which will be effective September 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Harvey Rudolph, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3426).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of February 23, 1976 (41 FR 7957), the Commissioner of Food and Drugs proposed to amend § 1020.31 (21 CFR 1020.31) regarding X-ray field limitation and alignment, beam transmission, and exposure reproducibility. Fifteen comments were received on that proposal within the 60-day comment period. In response to several of the comments and a request by a manufacturers' association, a public meeting was held on July 21, 1976 (see the FEDERAL REGISTER of July 19, 1976 (41 FR 29739)) to discuss the reasonableness and technical and clinical feasibility of the proposal. As a result of that meeting and the comments on the original proposal, the Commissioner issued a second notice of proposed rulemaking, which was published in the FEDERAL REGISTER of March 4, 1977 (42 FR 12441), to add "image receptor support" to the list of definitions in § 1020.30(b) (21 CFR 1020.30(b)) and to the list of components that must be certified by the manufacturer in § 1020.30(a)(1) (21 CFR 1020.30(a)(1)). A 30-day public comment period was allowed for the second proposal, during which only one comment was received.

Of the 15 comments received in response to the February 23, 1976 proposal, 2 were submitted by medical practitioners, 1 by the Environmental Protection Agency, 1 by a State health agency, 10 by representatives of affected manufacturers, and 1 by a national manufacturers' association. The comment on the March 4, 1977, proposal was submitted by a manufacturer. The issues raised in these letters have been analyzed, and a summary of the Commissioner's analysis and final actions follows.

A. IMAGE RECEPTOR SUPPORTS

One comment expressed concern that the use of the phrase "in a horizontal plane" in the definition of image receptor support in § 1020.30(a)(54) might be misinterpreted to mean that the image receptor support could only be maintained in a horizontal orientation. The Commissioner recognizes that in most mammographic X-ray systems the image receptor support can be rotated out of a horizontal position so that different views of the breast may be recorded. The definition contained in § 1020.30(b)(54) does not prohibit such a design. The intent of the definition is to assure that the X-ray beam transmission limit contained in § 1020.31(l) will be applied to any image receptor support capable of holding the image receptor in the horizontal plane, whether the support is fixed or movable, such that any possible gonad dose is minimized. The definition does not place any restriction on an image receptor support that may be provided with the mammographic X-ray system. It merely describes the type of image receptor support that must be certified as meeting the requirements of the X-ray standard. Therefore, no change from the proposal is required.

B. REPRODUCIBILITY TESTING

Two comments stated that the proposed amendment to § 1020.31(b)(2) concerning exposure reproducibility would have little effect on retake rates and that very little dose savings would occur. In addition, two other comments claimed that the 0.05 coefficient of variation of radiation exposures specified in § 1020.31(b)(1) was too strict when combined with the proposed change in exposure reproducibility testing and suggested either an effective date of 2 years following publication of the final rule to allow for possible redesign or a 0.1 coefficient of variation.

Comments of this type were received at the time the diagnostic x-ray equipment performance standard, §§ 1020.30 through 1020.32 (21 CFR 1020.30 through 1020.32), was first proposed and published in the FEDERAL REGISTER of October 8, 1971 (36 FR 19607). The Commissioner determined then that the 0.05 coefficient of variation was necessary to eliminate inconsistency and the resultant need for retakes and to facilitate the establishment of optimum technique charts for minimizing patient exposure. For example, if the assumption is made that the exposure latitude for a diagnostically useful film is +20 percent and that the exposures follow a normal distribution, x-ray equipment which just meets a 0.1 coefficient of variation requirement would produce diagnostically unusable radiographs 5 percent of the time independently of the care exercised by the equipment operator. Under the same assumptions, equipment meeting a 0.05 coefficient of variation requirement, however, would reduce this contribution to the retake rate to less than 1 percent.

The proposed amendment requires that variable controls for technique factors be set to alternate values during reproducibility testing. The comments have interpreted this as being stricter than the current regulations. Before the promulgation of the x-ray standard, x-ray exposure reproducibility data were obtained from manufacturers using a protocol similar to the proposed testing procedure. A summary of this data is on file with the Hearing Clerk. At that time, it was found that most of the x-ray generators being sold could meet the reproducibility criteria. Although the Commissioner acknowledges that the revision in the test method may be a more stringent test than currently used by some manufacturers, adequate evidence has not been submitted to justify an effective date in excess of 1 year following publication of this final rule.

Several comments questioned the ability of certain existing x-ray systems to meet the reproducibility requirements. They claimed that equipment with continuously variable x-ray generator controls would have difficulty due to the poor response characteristics of electrically driven motors. It was also noted that parallax errors introduced by the reading of meters and dial settings could contribute significantly to poor reproducibility. The Commissioner agrees that these types of problems can occur and that for such x-ray systems the new compliance testing procedure may prove more stringent. However, in order to be useful, the reproducibility requirements must be met under clinical conditions. In diagnostic radiology, an x-ray system with variable technique factors will probably be subject to frequent changes in the setting of the x-ray controls. The proposed test method is intended to simulate the clinical environment to assure that the benefits of reproducible x-ray exposures will accrue in practical situations. Because appropriately designed meters and dials can correct errors such as parallax and because no data have been submitted to show that the requirements cannot be met by state-of-the-art designs, the Commissioner concludes that the proposed amendment concerning reproducibility testing will become final without change.

C. FIELD LIMITATION FOR EQUIPMENT USED WITH INTRAORAL IMAGE RECEPTORS

One comment on proposed § 1020.31(f)(1) stated that, considering the size of intraoral film packets and the level of current technology with regard to aligning the image receptor, field sizes ought to be limited to 5.0 and 6.0 centimeters (cm), respectively. For several commonly used film sizes in dental radiography, such a restriction would mean that full coverage of the film with the x-ray field would not always be obtained. When errors due to positioning of dental film packets are also considered, conecutting problems could become substantial. Further restriction of the x-ray field could lead to a higher incidence of nondiagnostic dental radiographs and possibly to more wasted radiation than would be saved by the added field restriction. The Commissioner rejects this comment because no data were presented to demonstrate that such a requirement would provide equivalent diagnostic information or would not lead to an increase in the retake rate.

In the preamble to the final order establishing the diagnostic x-ray equipment performance standard, published in the FEDERAL REGISTER of August 15, 1972 (37 FR 16461), the Commissioner responded to a comment concerning the precision of the numerical requirements of the standard in which he stated that normal roundoff procedures could be employed in determining compliance with such numerical requirements. It was, in part, problems with interpretation of this statement that led to the proposal to specify the field limitation requirements of § 1020.31(f)(1) more accurately. Since the proposal was published, it has been noted that similar problems can be foreseen in the interpretation of the accuracy implied by other numerical limits contained in the diagnostic x-ray equipment standard. Hence, the Commissioner has determined that an overall policy should be established regarding the accuracy of limits given in the x-ray standard and how roundoff procedures may or may not be applied in determining compliance.

While roundoff of measurement results might generally be permissible, section 360B(a)(5)(B) of the Public Health Service Act (42 U.S.C. 263i) states that it is prohibited for a manufacturer "to issue * * * a certification * * * when the issuer, in the exercise of due care, would have reason to know that such certification is false or misleading in a material respect." Therefore, manufacturers may not use roundoff precedures that result in the certification of a product known to exceed a limit imposed by a performance standard. The Commissioner has concluded that numerical limits contained in the x-ray standard should continue to be stated in absolute terms to avoid giving the erroneous impression that numerical roundoff could permit certification of a noncompliant product. Thus, if the standard limits the x-ray field to a 6 cm diameter circle, a measured maximum field dimension greater than 6 cm may not be a basis for certification of compliance. Under this policy, the proposal to amend § 1020.31(f)(1) is unnecessary and is withdrawn.

The Commissioner is aware that misinterpretations in the use of the numerical roundoff methods may have led to questionable certification of diagnostic x-ray components or systems. In this sense, such treatment of numerical limits as absolute limits may have the effect of an additional restriction on certification procedures. In order not to impose undue hardship, the Commissioner proposes to use his authority under section 360C(d) of the Public Health Service Act (42 U.S.C. 263k(d)) and may, if the deviation is insubstantial, consider as minor violations any certifications found to be invalid due to misapplication of numerical roundoff methods until September 5, 1978. After that date, it will be the obligation of all manufacturers to adjust rejection levels or any other quality control criteria such that they assure total compliance with the absolute limits set by the diagnostic x-ray equipment performance standard.

D. FIELD LIMITATION AND ALIGNMENT FOR MAMMOGRAPHIC AND OTHER SPECIAL PURPOSE X-RAY SYSTEMS

Several comments stated that the difficulty in patient positioning associated with mammography and the need to include the majority of the breast in the examination may not have been evalu-

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ated sufficiently in proposing the requirement in § 1020.31(f)(3) that the x-ray beam be contained entirely within the image receptor. It was suggested that the x-ray beam be allowed to extend past the edge of the image receptor adjacent to the chest wall by up to 2 percent of the source-image receptor distance. In addition, during the July 21, 1976, meeting, it was demonstrated that if the beam were confined within the boundary of the image receptor, some loss of diagnostic information could occur. This is true for most image receptors and poses a significant problem for xeroradiography where the strong electric field gradient at the edge of the exposed area of the image receptor causes a loss of toner particles such that diagnostic information is lost. The overlap of the x-ray field with a small portion of the chest wall would allow the entire breast up to the chest wall to be visualized.

The Commissioner agrees with these arguments and notes that, due to the low energy x-rays used in mammography and the typical angle of incidence of the x-ray beam to the chest wall and the high attenuation of the x-ray beam in the boney structure of the chest wall, the allowed overlap will not cause a significant gonad dose. Therefore, § 1020.31(f)(3) in this final order reflects the suggested change.

The labeling requirements for mammographic x-ray systems and components proposed in § 1020.31(f)(4) caused confusion among several of those commenting on the proposal. One comment expressed the opinion that the proposal could only be applied to mammography systems where the beam-limiting device and image receptor support were marketed by the same manufacturer. Two other comments indicated that the proposal to change § 1020.31(f)(4)(ii) and (iii) appeared to specify compatibility of the beam-limiting device and image receptor support to a degree that would be commercially restrictive and might prohibit the use of general purpose x-ray systems for mammography. It was also argued that the regulation could be interpreted to require that the image receptor itself contain labeling information. This subject of labeling was also discussed at the July 21, 1976 open meeting.

The Commissioner concludes that the issues raised in the comments received on the original proposal and the discussion at the open meeting necessitate a revision of the proposed amendment. In addition, he has determined that it is necessary to have a more simple and concise statement of the labeling requirements for mammographic x-ray systems that use the beam-limiting device for compression of the breast. Thus, the proposed changes in § 1020.31(f)(4)(ii) and (iii) are set forth in § 1020.31(f)(3) in this final regulation and reworded to reflect the concerns expressed in the comments.

One additional comment pointed out an ambiguity in the original wording of proposed § 1020.31(f)(4). As written, it appeared that systems designed for use with extraoral as well as intraoral image receptors would be subjected to the field limitation and alignment requirements for either type of use rather than for only extraoral use. This was not the Commissioner's intent, and the final rule contains clarifying language on this point.

E. X-RAY BEAM TRANSMISSION LIMIT FOR MAMMOGRAPHIC X-RAY SYSTEMS

Two comments noted that although the transmission limit was intended for systems designed only for mammography, the proposal does not accurately reflect this and could be interpreted as applying to other types of x-ray systems that may use mammographic attachments. The Commissioner agrees and has clarified § 1020.31(l) in this final rule.

In the comments and the public meeting on the proposal, questions were raised over the usefulness and achievability of the transmission limit of 0.1 milliroentgen per tube activation. One consideration was the contribution of scatter radiation to the measurements made. The added weight and bulk of the image receptor support were additional concerns. In general, there was little disagreement on the utility of minimizing the magnitude of the transmitted X-Ray beam. However, there was some concern that the trend toward the use of higher peak kilovoltages (kVp) in mammography would make it difficult to achieve such a low transmission limit.

The transmission limit is intended to minimize that portion of the unused X-Ray beam which can be reduced by means of a performance standard. The Commissioner recognizes that the contribution to patient dose from scattered radiation would be difficult to control and notes that the proposal was designed only to minimize that portion of the beam which passes through the image receptor. The final rule clarifies this point. Even assuming a peak tube potential of 70 kVp (much higher than currently used for mammography) and the worst case exposure conditions, the added weight of lead or lead-equivalent material necessary to reduce the exposure beneath the image receptor supports on systems now manufactured is not significant. The Commissioner is aware that the trend toward the use of higher peak tube potentials makes the transmission limit more difficult to achieve. However, it is also true that the higher peak tube potentials generate X-Ray beams that also penetrate body tissues more readily and could contribute to a greater gonad dose. He has, therefore, determined that the transmission limit shall remain as 0.1 milliroentgen per tube activation.

There were two comments regarding the requirement that compliance be tested at the maximum peak tube potential. They noted that many systems use tubes rated at voltages higher than the maximum voltage allowed by other components of the system. The Commissioner recognizes that this problem could occur, and has concluded that the final rule must state that compliance be measured at the maximum rated peak tube potential for the system. For example, if the generator supplied with the system can operate only at or below 50 kilovolts and the X-Ray tube is rated at 75 kilovolts, compliance will be measured at 50 kilovolts and at the maximum rated product of tube current and time for that potential.

The Commissioner has carefully considered the environmental effects of the amendments and, because the action would not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. Copies of the FDA environmental impact assessment and other pertinent background data on which the Commissioner relies in promulgating these amendments are on file and may be seen at the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f)) and under authority delegated to him (21 CFR 5.1), the Commissioner amends Part 1020 as follows:

1. In § 1020.30 by adding paragraphs (a)(1)(v) and (b)(54) to read as follows:

§ 1020.30 Diagnostic X-ray systems and their major components.

(a) • • •

(1) • • •

(v) Image receptor support devices for mammographic X-ray systems manufactured after September 5, 1978.

• • • • • •

(b) • • •

(54) "Image receptor support" means, for mammographic systems, that part of the system designed to support the image receptor in a horizontal plane during a mammographic examination.

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2. In § 1020.31 by revising paragraphs (b)(2), (d), (e), and (f)(2); by revising paragraph (f)(3) and redesignating it as (f)(4); and by adding new paragraphs (f)(3) and (l) to read as follows:

§ 1020.31 Radiographic equipment.

• • • • • •

(b) • • •

(2) *Measuring compliance.* Determination of compliance shall be based on 10 consecutive measurements taken within a time period of 1 hour. Equipment manufactured after September 5, 1978 shall be subject to the additional requirement that all variable controls for technique factors shall be adjusted to alternate settings and reset to the test setting after each measurement. The percent line-voltage regulation shall be determined for each measurement. All values for percent line-voltage regulation shall be within ±1 of the mean value for all measurements. For equipment having automatic exposure controls, compliance shall be determined with a sufficient thickness of attenuating material in the useful beam such that the technique factors can be adjusted to provide individual exposures of a minimum of 12 pulses on field emission equipment rated for pulsed operation or no less than one-tenth second per exposure on all other equipment.

• • • • • •

(d) *Field limitation and alignment for mobile and stationary general purpose x-ray systems.* Except when spot-film devices or special attachments for mammography are in service, mobile and stationary general purpose, radiographic x-ray systems shall meet the following requirements:

• • • • • •

(e) *Field limitation and alignment on stationary general purpose x-ray equipment.* Except when spot-film devices or special attachments for mammography are in service, stationary general purpose x-ray systems shall meet the following requirements in addition to those prescribed in paragraph (d) of this section:

• • • • • •

(f) • • •

(2) *X-ray systems designed for one image receptor size.* Radiographic equipment designed for only one image receptor size at a fixed SID shall be provided with means to limit the field at the plane of the image receptor to dimensions no greater than those of the image receptor, and to align the center of the x-ray field with the center of the image receptor to within 2 percent of the SID, or shall be provided with means to both size and align the x-ray field such that the x-ray field at the plane of the image receptor does not extend beyond any edge of the image receptor.

(3) *Systems designed for or provided with special attachments for mammography.* Radiographic systems designed only for mammography and general purpose radiographic systems, when special attachments for mammography are in service, shall be provided with means to limit the useful beam such that the x-ray field at the plane of the image receptor does not extend beyond any edge of the image receptor at any designated SID except the edge of the image receptor designed to be adjacent to the chest wall where the x-ray field may not extend beyond this edge by more than 2 percent of the SID. This requirement can be met with a system which performs as prescribed in paragraphs (f)(4)(i), (ii), and (iii) of this section. When the beam-limiting device and image receptor support device are designed to be used to immobilize the breast during a mammographic procedure and the SID may vary, the SID indication specified in paragraphs (f)(4)(ii) and (iii) of this section shall be the maximum SID for which the beam-limiting device or aperture is designed. In addition, each image receptor support intended for installation on a system designed only for mammography shall have clear and permanent markings to indicate the maximum image receptor size for which it is designed.

(4) *Other x-ray systems.* Radiographic systems not specifically covered in paragraphs (d), (e), (f)(2) and (3), and (g) of this section and systems covered in paragraph (f)(1) of this section, which also are designed for use with extraoral image receptors and when used with an extraoral image receptor, shall be provided with means to limit the x-ray field in the plane of the image receptor so that such field does not exceed each dimension of the image receptor by more than 2 percent of the SID, when the axis of the x-ray beam is perpendicular to the plane of the image receptor. In addition, means shall be provided to align the center of the x-ray field with the center of the image receptor to within 2 percent of the SID, or means shall be provided to both size and align the x-ray field such that the x-ray field at the plane of the image receptor does not extend beyond any edge of the image receptor. These requirements may be met with:

(i) A system which performs in accordance with paragraphs (d) and (e)(1) of this section; or, when alignment means are also provided, may be met with either:

(ii) An assortment of removable, fixed-aperture, beam-limiting devices sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is designed. Each such device shall have clear and permanent markings to indicate the image receptor size and SID for which it is designed; or

(iii) A beam-limiting device having multiple fixed apertures sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is designed. Permanent, clearly legible markings shall indicate the image receptor size and SID for which each aperture is designed and shall indicate which aperture is in position for use.

• • • • • •

(l) *Transmission limit for image receptor supporting devices used for mammography.* For x-ray systems manufactured after September 5, 1978 which are designed only for mammography, the transmission of the primary beam through any image receptor support provided with the system shall be limited such that the exposure 5 centimeters from any accessible surface beyond the plane of the image receptor supporting device does not exceed 0.1 milliroentgen for each activation of the tube. Exposure shall be measured with the system operated at the minimum SID for which it is designed. Compliance shall be determined at the maximum rated peak tube potential for the system and at the maximum rated product of tube current and exposure time (mAs) for that peak tube potential. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

Effective date: The new paragraph (l) in § 1020.31 (21 CFR 1020.31) concerning the x-ray transmission limit for mammographic x-ray systems and the change to § 1020.31(b)(2) for reproducibility testing will be effective on September 8, 1978. All other amendments will be effective on November 1, 1977.

(Sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f).)

Dated: August 22, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25425 Filed 9-1-77;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Community Services Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Staff Assistant, Office of Interagency and External Affairs, is excepted from the competitive service under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3373(g)(2) is added as set out below:

§ 213.3373 Community Services Administration.

• • • • • •

(g) *Office of Interagency and External Affairs.* • • •

(2) One Staff Assistant.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25784 Filed 9-1-77;8:45 am]

PART 213—EXCEPTED SERVICE

Federal Energy Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C one position of Special Assistant to the Assistant Administrator for Regulatory Programs because the position is confidential in nature.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3388(o)(1) is amended as set out below:

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§ 213.3388 Federal Energy Administration.

* * * * *

(o) *Office of the Assistant Administrator for Regulatory Programs.*

(1) Three Special Assistants to the Assistant Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25785 Filed 9-1-77;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. 3323]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL FLOOD HAZARD AREAS

Communities with Minimal Hazard Areas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the Special Flood Hazard areas, that it is appropriate at this time to convert the communities listed below to the Regular Program without determining base flood elevations.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh St. SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: In these areas, there is no reason not to make full limits of coverage available. The available limits of coverage for flood insurance in these communities is increased to $70,000 for 1–4 family residential structures, $200,000 for other residential and commercial structures, $20,000 for contents of residential structures, and $200,000 for contents of commercial structures. Flood insurance is available at Zone C rates throughout the entire community.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Association servicing company for the State.

The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the FEDERAL REGISTER.

Section 1915.7 is added; the entry reads as follows:

§ 1915.7 List of communities with minimal hazard areas.

State	County	Community name
Alabama	Butler	City of Georgiana.
Do.	Geneva	City of Hartford.
Do.	Coffee	Town of New Brockton.
Do.	Covington	Town of River Falls.
Idaho	Boundary	City of Bonners Ferry.
Iowa	Dubuque	City of Epworth.
Kansas	Harvey	City of Burrton.
Do.	Johnson and Wyandotte.	City of Lake Quivira.
Louisiana	Bossier	Town of Benton.
Do.	Tangipahoa.	Town of Independence.
Do.	Madison	Village of Mound.
New York	Wyoming	Village of Perry.
Do.	Lewis	Village of Turin.
North Carolina	Halifax	Town of Hobgood.
Ohio	Butler	City of Hamilton.
Oklahoma	Washington.	Town of Copan.
Pennsylvania	Lehigh	Township of Upper Saucon.
Washington	King	City of Seattle.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25558 Filed 9-1-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Paroling, Recommitting and Supervising Federal Prisoners; Correction

AGENCY: The United States Parole Commission.

ACTION: Correction.

SUMMARY: This document is to correct certain typographical errors in the publication of the Commission's rules which appeared on August 5, 1977, at 42 FR 39808.

EFFECTIVE DATE: August 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael A. Stover, Office of the General Counsel, United States Parole Commission, 320 First Street NW., Washington, D.C. 20537, Telephone 202–724–3092.

SUPPLEMENTARY INFORMATION: The publication of the Commission's rules which appeared at 42 FR 39808, August 5, 1977 contained several typographical errors which require correction. These are as follows:

In § 2.14 *Subsequent proceedings.* In paragraph (b) (1), the words "presumptive parole dates" should read "presumptive parole date". (42 FR 39812) In (b) (2) (iii) "commence" should be substituted for the word "commerce". (42 FR 39812)

In § 2.17 *Original Jurisdiction Cases,* paragraph (b) (2) (ii) should read:

(b) * * *

(2) * * *

(i) * * * Was part of a large scale criminal conspiracy or a continuing criminal enterprise" instead of "was part of a large scale criminal conspiracy of a criminal enterprise." (42 FR 39812)

In § 2.20 *Paroling Policy Guidelines: statement of general policy.* In the offense severity table, the words "(in months)" should appear under the heading "Guidelines for decisionmaking" and not under the sub-heading "offender characteristics". (42 FR 39813, 39814 and 39815).

In § 2.23 *Delegation to hearing examiners.* In paragraph (b), first sentence, substitute the word "required" for the word "requested". (42 FR 39815)

In § 2.33 *Release of Plans.* Omit the word "of" in the title of this rule (42 FR 39817).

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a) (1) and 4204 (a) (6), 28 CFR Chapter I, Part 2, is amended as set forth above, effective August 29, 1977.

Dated: August 29, 1977.

CURTIS C. CRAWFORD,
Acting Chairman,
United States Parole Commission.

[FR Doc.77-25699 Filed 9-1-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 750-4]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Alabama—Approval of Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: This rule includes the incorporation by reference of EPA's New Source Performance Standards (40 CFR Part 60), and the requirements for continuous monitoring of stationary sources (40 CFR 51.19).

ADDRESSES: Copies of the information submitted by Alabama and the Alabama plan itself may be examined by the public during normal hours at the following locations:

Air Programs Branch, Air & Hazardous Materials Division, Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Ga. 30308.

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Alabama Air Pollution Control Commission, State of Alabama Department of Public Health, 645 South McDonough Street, Montgomery, Ala. 36104.

FOR FURTHER INFORMATION CONTACT:

Eliot Cooper, Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Ga. 30308, 404–881–3286.

SUPPLEMENTARY INFORMATION: On October 28, 1976, the State of Alabama submitted for EPA's approval these revisions to the Alabama State Implementation Plan after proper notice and public hearing (October 4, 1976). Subsequently, EPA announced receipt of these revisions in the FEDERAL REGISTER on January 24, 1977. Comments were solicited and no comments were received.

No provision was made for the continuous monitoring of nitrogen oxide emissions from fossil fuel-fired steam generators and nitric acid plants since no Air Quality Control Regions in Alabama are required to develop a control strategy for nitrogen dioxide. Also, opacity monitoring for existing petroleum refinery fluid bed catalytic cracking unit catalyst regenerators is not required in the proposal since no units of greater than 20,000 barrels per day of fresh feed capacity exist in Alabama. Accordingly, 40 CFR Part 52 is amended as follows:

Subpart B—Alabama

1. In § 52.50, paragraph (c) is amended by adding subparagraph (17) as follows:

§ 52.50 Identification of Plan.

* * * * *

(c) * * *

(17) Regulations equivalent to EPA's New Source Performance Standards (40 CFR Part 60) and continuous monitoring of stationary sources (40 CFR 51.19).

(Sec. 110, Clean Air Act (42 U.S.C. 1857c-5))

Dated: June 23, 1977.

BARBARA BLUM,
Acting Administrator.

[FR Doc.77-25662 Filed 9-1-77;8:45 am]

SUBCHAPTER C—AIR PROGRAMS

[FRL 771-2]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Massachusetts Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Ten large fossil fuel utilization facilities in the Southeastern Massachusetts Air Pollution Control District (SEMAPCD) are approved to burn 2.2 percent sulfur content residual fuel oil in accordance with revised Regulation 5.1, "Sulfur Content of Fuels and Control Thereof." Four fuel burning sources in the affected size category in the SEMAPCD are disapproved and must continue to burn 1.0 percent sulfur content fuel oil. Final action has not been taken for the three remaining sources in the affected size category.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Wallace Woo, Air Branch, EPA Region I, Room 2113, JFK Federal Building, Boston, Mass. 02203 (617–233–5609).

SUPPLEMENTARY INFORMATION: On May 31, 1972 (37 FR 10872) pursuant to section 110 of the Clear Air Act and 40 CFR Part 51, the Administrator approved, with exceptions, the Massachusetts Implementation Plan for the attainment of National Ambient Air Quality Standards (NAAQS).

On June 3, 1977 there was published in the FEDERAL REGISTER (42 FR 28554) a proposal for a change in the sulfur content of fuel burned by large fossil fuel burning sources in the (SEMAPCD). The SEMAPCD is the same geographic area as the Massachusetts portion of the Metropolitan Providence Interstate Air Quality Control Region (AQCR). The revision would allow fossil fuel utilization facilities in the SEMAPCD having an energy input capacity rated at one hundred million Btu per hour or greater to burn fossil fuel with a sulfur content not in excess of 1.21 pounds per million Btu heat release potential (approximately equivalent to 2.2 percent sulfur content residual fuel oil by weight) until May 1, 1978. All other sources would continue to burn fossil fuel with a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately equivalent to 1.0 percent sulfur content residual fuel oil by weight), in conformance with the originally-approved State Implementation Plan (SIPP).

The revision also requires that the use of the higher sulfur fuel by each source be approved and a permit be granted by the Massachusetts Department of Environmental Quality Engineering (the Massachusetts Department) prior to use, in order to insure that the NAAQS will not be violated. The Massachusetts Department has the authority to set conditions of approval, including requiring particulate stack testing and the establishment of a network of total suspended particulate (TSP) monitors and continuous ambient sulfur dioxide monitors at specified locations in the vicinity of the approved facility.

Exceedence of the NAAQS for SO_2 recorded by any monitor in the vicinity of the facility would be grounds for requiring an immediate and permanent return to the use of lower sufur fuel by the source involved. Further, no source will be permitted to continue burning higher sulfur fuel if the stack testing results show that the source has particulate emissions in excess of the emission limitation under the present SIP. All permits granted will be revocable if there is evidence of noncompliance with any other applicable SIP regulation.

On the basis of air quality dispersion modeling, the Regional Administrator listed in the proposed rulemaking notice ten sources which could be approved to burn the higher sulfur fuel without causing NAAQS violations for SO_2. He also listed four sources which were shown by the modeling to have the potential to violate the NAAQS for SO_2 if they were to burn the higher sulfur content fuel. He did not propose action on the three remaining sources in the applicable size category, pending further evaluation of their air quality impact. These sources will be temporarily excluded from implementing the provisions of the revision until final action is taken.

During the comment period, comments were received from the Federal Energy Administration (FEA) and Olin Corporation (Olin).

FEA recommended that temporary fuel switching be permitted when SO_2 levels are predicted to exceed the NAAQS. Fuel switching as a means of maintaining the NAAQS, also known as a "supplementary control system" (SCS), is an illegal control strategy in this situation. As set forth in the FEDERAL REGISTER of February 18, 1976 (41 FR 7452), SCS is only acceptable in very limited instances, none of which apply here. Consequently, EPA cannot consider such a recommendation.

FEA also expressed concern that an exceedence of the NAAQS for SO_2 would be grounds for an immediate and permanent return to the lower sulfur fuel by the source involved. A decision to revoke the permit at this point would be based upon an evaluation of the exceedence. However, as stipulated by the Massachusetts Department, a violation of the NAAQS for SO_2 will result in an automatic revocation of the approval to burn the higher sulfur fuel. A violation of the NAAQS is defined as two exceedences of the NAAQS, since each monitoring site is allowed one excursion above the standard per year. Violations of the NAAQS are not permitted by the Clean Air Act.

Both the primary and secondary NAAQS are considered in evaluating the approvability of the sources and in determining whether standards are violated.

Olin informed the Regional Administrator that they no longer operate the plant in Freetown, for which SO_2 primary and secondary standards violations were predicated. It has come to EPA's attention that the plant is now owned by Polaroid Corporation and is not presently in operation. However, in disapproving this plant, EPA is continuing to rely on the information and modeling provided in the Massachusetts Department's technical support documentation.

After evaluation of the State's submittal, the Administrator has determined that the Massachusetts revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Massachusetts Implementation Plan.

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FEDERAL REGISTER, VOL. 42, NO. 171—FRIDAY, SEPTEMBER 2, 1977

(Sec. 110(a), Clean Air Act, as amended, (42 U.S.C. 1857c-5(a)).)

Dated: August 29, 1977.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart W—Massachusetts

1. Section 52.1120(c) is amended by adding a new paragraph (12) as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(12) A revision to Regulation 5.1, Sulfur Content of Fuels and Control Thereof, for the Southeastern Massachusetts Air Pollution Control District, submitted on December 30, 1976 by the Secretary of Environmental Affairs.

2. Section 52.1126 is amended by adding a new paragraph (d) as follows:

§ 52.1126 Control strategy: Sulfur oxides.

* * * * *

(d) Massachusetts Regulation 5.1 for the Southeastern Massachusetts Air Pollution Control District is approved except as to the following sources which remain subject to the previously approved requirements of Regulation 5.1 which stipulates that sources are permitted to burn fossil fuel having a sulfur content not in excess of 0.55 pounds per million. Btu heat release potential (approximately equivalent to 1.0 percent sulfur content residual fuel oil by weight):

Facility formerly operated by Olin Chemicals and now owned by Polaroid Corp., Freetown, Mass.
Duro Finishing Co., Fall River, Mass.
Stevens Realty Co., Fall River, Mass.
Taunton Municipal Light, West Water Street plant, Taunton, Mass.
Harodite Finishing Co., Dighton, Mass.
Montaup Electric Co., Somerset Station, Somerset, Mass.
New England Power Co., Brayton Point Station, Somerset, Mass.

[FR Doc.77-25742 Filed 9-1-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 4—DEPARTMENT OF AGRICULTURE

PART 4-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Architect-Engineer Services

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule amends the Agriculture Procurement Regulations by adding new section covering architect-engineer (A-E) services which supplements coverage in the Federal Procurement Regulations.

DATE: This rule is effective on September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Douglas I. Metzger, Office of Operations, Procurement, Grants and Agreements Management Staff, United States Department of Agriculture, Washington, D.C. 20250 (202-447-7527).

SUPPLEMENTARY INFORMATION: This amendment involves matters relating to agency management and contracting and, while not subject by law to the notice and public procedure requirements for rule making under 5 U.S.C. 553, is subject to the Secretary's Statement of Policy (36 FR 13804). The amendment corrects or clarifies existing policy. No useful purpose would be served by public participation, and it is found upon good cause, in accordance with the Secretary's Policy Statement, that notice and other public procedures with respect to the amendment are impracticable and unnecessary.

1. The Table of Contents is amended by adding the following new subpart:

Subpart 4-4.10—Architect-Engineer Services

4-4.1001 General.
4-4.1004-1 Estatblishment of architect-engineer evaluation boards.
4-4.1004-4 Action by agency head or his authorized representative.

AUTHORITY: 5 U.S.C. 301, 40 U.S.C. 486(c).

Subpart 4-4.10—Architect-Engineer Services

2. New Subpart 4-4.10 is added as follows:

§ 4-4.1001 General.

Achitect-engineer sevices for projects which fall within the definition of a "public building" contained in section 13 of the Public Buildings Act of 1959 (40 U.S.S. 612) may be procued only after obtaining proper authorization from GSA in accordance with Subpart 101-19.4 of this title and Subpart 104-17.4 of the Agriculture Property Management Regulations.

§ 4-4.1004-1 Establishment of architect-engineer evaluation boards.

(a) Each agency headquarters and each field contracting office where architect-engineer (A-E) contracts are awarded shall establish an architect-engineer evaluation board in accordance with § 1-4.1004-1 of this title. The board shall be established in coordination with the contracting officer. It shall be composed of at least three members, one of which will serve as chairman. All members shall be selected from the technical program area and appointed in writing by an appropriate official. The contracting officer, while not a member of the board, will act in an advisory capacity in matters of procurement policies and procedures and should be intimately involved in the total evaluation process.

§ 4-4.1004-4 Action by agency head or his authorized representative.

(a) Review and final selection of qualified architect-engineer firms, as prescribed in § 1-4.1004-4 of this title, shall be made by an appropriate agency management official from the technical or administrative area who is not currently serving as a member of the evaluation board.

(5 U.S.C. 301, 40 U.S.C. 486(c).)

Done at Washington, D.C. this 29th day of August 1977.

E. ALVAREZ,
Director, Office of Operations.

[FR Doc.77-25686 Filed 9-1-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER D—TARIFFS AND SCHEDULES

[Docket No. 35867 [1]]

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES, AND CLASSIFICATIONS OF MOTOR CARRIERS

PART 1310—FREIGHT RATE TARIFFS AND CLASSIFICATIONS OF MOTOR COMMON CARRIERS

Construction, Filing, and Posting of Tariffs of Common Carriers of Property by Motor Vehicle and Tariffs of Certain Common Carriers by Water

AGENCY: Interstate Commerce Commission, Washington, D.C. 20423.

ACTION: Final rules.

SUMMARY: Regulations proposed in 1973 to govern the construction, posting, and filing of tariffs of motor common property carriers and certain water carriers are being further modified and adopted. This further modification is necessary to eliminate objectionable requirements brought to our attention by numerous parties. This action generally will grant additional relief to the carriers.

EFFECTIVE DATES: The effectiye date of the regulations is October 5, 1977. New tariffs filed on or after October 5, 1978 must conform to the new regulations. Tariffs on file on that date must conform 1 year later.

FOR FURTHER INFORMATION CONTACT:

William P. Geisenkotter, Chief, Section of Tariffs, Interstate Commerce Commission, Washington, D.C. 20423 Phone Phone No. 202-275-7739.

SUPPLEMENTARY INFORMATION: The Commission on July 5, 1973, instituted a rulemaking proceeding (38 FR 20852) under docket No. 35867 to consider the revision of regulations which govern the construction, filing, and posting of tariffs of common carriers of property by motor vehicle and tariffs of common carriers of property by water which contain joint motor-water rates or provisions governing such rates. Many substantial and important changes were proposed. It was indicated that the regulations needed revising for the purposes of, among other things, (1) updating; (2) clarifying; (3) incorporating the modifying provisions of general special permission authorities; (4) adding restrictions to eliminate or correct practices which have been the source of justifiable complaints; (5) canceling regulations no longer needed; and (6) accomplishing overall tariff simplification and improvement.

The Commission on July 16, 1974, instituted a related rulemaking proceeding (39 FR 4787) under docket No. 35867 (Sub-No. 1) to consider the amendment of the regulations which were proposed under docket No. 35867 for the purpose of including therein regulations for the prescription of standard headings and standard item numbers for assignment to the most commonly published rules in tariffs of Class I common carriers of property by motor vehicle and in tariffs of publishing agents of common carriers of property by motor vehicle.

The participation was substantial. Upon consideration of the entire record, the Commission decided to adopt, with modification, the regulations proposed in docket No. 35867 and to not adopt the regulations proposed in docket No. 35867 (Sub-No. 1). A report and order (41 FR 30591) was served July 9, 1976, ordering the modified rules into effect April 15, 1977, and discontinuing the proceedings.

Petitions for reconsideration of the modified rules have been filed. The petitioners request many changes, of which some have real merit. The Commission has therefore decided, through the instant document, to further modify the regulations proposed in docket No. 35867 and to adopt the regulations as further modified. The document also reflects a number of changes made on the Commission's own motion.

Part 1310 of this title will be amended to reflect the modifications. This part will replace Subpart B of Part 1307. The date on and after which new tariff publications must conform to the regulations is October 5, 1978. The date by which all publications must conform is October 5, 1979.

Issued at Washington, D.C.

H. G. HOMME, Jr.,
Acting Secretary.

In § 1310.0, paragraph (c) is amended to read as follows:

§ 1310.0 General Provisions.

* * * * *

(c) * * *

(1) Except as otherwise authorized, all tariff publications filed on or after October 5, 1977, but prior to October 5, 1978, shall conform either to the regulations in this part or to those in Subpart B of Part 1307. Once any original tariff or an amendment to a tariff is filed under the regulations in this part, any reissue of or subsequent amendment to that tariff shall also conform to the regulations in this part. Except as otherwise authorized by special tariff authority, all tariff publications filed on or after October 5, 1978, must conform to the regulations in this part. Except as otherwise authorized by special tariff authority or in §§ 1310.3(b)(3), 1310.4(a), 1310.4(e)(1), 1310.4(f)(3), 1310.4(h), and 1310.27(a) (rules 3, 4, and 27), all tariff publications filed prior to October 5, 1978, which do not conform to the regulations in this part shall be brought into conformity therewith on or before October 5, 1979.

(2) For reasons it considers to be sufficient, the Commission may direct the reissue of any tariff, power of attorney, or concurrence at any time. However, prior to October 5, 1983, the Commission will not strike from its files, nor direct the reissue of, powers of attorney and concurrences already on file on October 5, 1978, solely because they are on the old previously prescribed MFXA and MFXC forms.

* * * * *

In § 1310.1 paragraphs (e) and (g)(3) are amended to read as follows:

§ 1310.1 Filing tariffs (rule 1).

* * * * *

(e) *Tariff publications not consecutively numbered.* An original tariff, a supplement, or an original or revised page tendered for filing which is out of the sequence required by the regulations of this part must be accompanied by a separate letter affirming that a publication bearing the skipped over designation will be filed and indicating the approximate date of such filing.

* * * * *

(g) * * *

(3) Rates, charges, rules, or other provisions which have been filed with the Commission must be allowed to become effective and remain in effect for a period of at least 30 days before being changed, canceled, or withdrawn, unless otherwise authorized by the Commission. Check sheets (see § 1310.10(d)(13) of this part) in loose-leaf tariffs are not subject to the requirements of this subparagraph (3).

* * * * *

In § 1310.2, paragraph (d) is amended to read as follows:

§ 1310.2 Posting tariffs (rule 2).

* * * * *

(d) *Period of notice.* Except as otherwise authorized, each tariff publication must be posted continuously from a date at least 30 days prior to the effective date. When the Commission permits or requires a different period of notice for filing, the tariff publication shall be posted at least that number of days before the effective date.

* * * * *

In § 1310.4, paragraphs (a), (e)(1), (f)(3), (f)(4), and (h)(1) are amended to read as follows:

§ 1310.4 Form, size, and printing (rule 4).

(a) *Form, size, durability, and method of printing.* Except as otherwise provided in this part as to certain kinds of tariffs, all original tariffs filed on and after the conformity date of this part, and amendments, to such tariffs, shall be of size not less than 8 by 11 inches and not more than 8½ by 11 inches. If, prior to such date, a tariff on file is of a different size, amendments thereto must either be of the same dimensions as the original tariff or be of the prescribed size, except that once an amendment of the prescribed size is filed, all subsequent amendments thereto must also be of that size. Reissues of the tariff shall be of the prescribed size. All original tariffs and amendments thereto shall be in book, pamphlet, single sheet, or loose-leaf form, be in the English language, and printed or prepared by other process on paper of good quality providing durable copies. Copies filed with the Commission and posted shall be clearly and permanently legible in every respect, free from blurring or distortion of content, and free from smudged or darkened background. Typewritten sheets, handwritten material, carbon copies, or proof sheets shall not be used for filing or posting. All copies filed and posted must be identical. (Sec § 1310.9(g) (rule 9) blanket supplements.)

* * * * *

(e) * * *

(1) Pages of an original bound tariff or supplements thereto field on or after the conformity date of this part shall be consecutively numbered employing Arabic numerals. The title page shall not be numbered. If the reverse side of the title page is used for the publication of tariff matter, it shall bear the page number "2," the next page "3," and so on. If the reverse side of the title page is left blank, that side shall be unnumbered, the next page numbered "1," the next "2," and so on. Except for the title page, all pages containing tariff matter shall be numbered. Any numbered page intentionally left blank shall so state thereon. Both the inside and outside of a back cover to a bound tariff or supplement may contain printed matter. At the bottom of the last numbered page the following shall be shown: "(The End)." Original bound tariffs and supplements thereto (if any) on file prior to the conformity date need not be amended to revise the page numbering system of such publications, but all subsequent supplements shall comply.

* * * * *

(f) *Loose-leaf Tariffs.*

* * * * *

(3) Pages of an original loose-leaf tariff filed on or after the conformity date of this part shall be consecutively numbered employing Arabic numerals

[1] This proceeding is consolidated with Docket No. 35867 (Sub-No. 1), Standard Headings and Standard Item Numbers for Commonly Published Rules in Tariffs of Class I Motor Carriers of Property and of Agents.

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only. Fractional or decimal numbers, or letter prefixes or suffixes, may not be used. The first page following the title page shall be designated as "Original Page 1," the next page designated as "Original Page 2," and so on. Omit the words "No." and "Number." Tariffs filed prior to the conformity date of this part which do not show page 1 (original or revised) on the first page following the title page need not be reissued provided the tariffs otherwise comply with the requirements of this part. See § 1310.10(d) (7) and (8) (rule 10) for number designations to be employed on original pages added subsequent to the filing of an original tariff.

(4) Each page shall show the page designation in the upper corner opposite the binding edge corner. When the tariff is one published on both sides of the sheet, this would be the upper right-hand corner on one page and the upper left-hand corner for the next higher numbered page published on the reverse side. The page designation of a tariff published on both sides of the sheet may be shown in both upper corners of each page. See § 1310.10(d) (rule 10) as to cancellation of prior issues of the same page, and § 1310.3(b)(2) (rule 3) for placement of the ICC number.

* * * * *

(h) *Items and numbering systems.*

(1) The Commission believes that simplicity would be better served by a reduction in the number of different categories of provisions, each with its own numbering system. Items, with item numbers, should be employed to the greatest extent possible. Rule numbers and index numbers may not be used for tariff provisions, except that tariffs filed prior to the conformity date of this part which contain such numbers shall continue the same system in subsequent amendments for the life of such tariffs. (Section numbers, class-rate table numbers, and note numbers, and numbers or letters within an item, may be used.) When arranging the contents, items should be relatively limited in size for convenience in handling amendments, but each essentially complete in itself. An original tariff should allow sufficient unused numbers within each numerical sequence used therein so that the use of other than whole numbers will be unnecessary when assigning numbers to future provisions. All numbering systems shall employ Arabic numerals.

* * * * *

In § 1310.5, paragraph (b) is amended to read as follows:

§ 1310.5 Title page of original tariffs (rule 5).

* * * * *

(b) *ICC number and cancellation notice.* In the upper righthand corner shall be shown the tariff's ICC number. Immediately thereunder shall be shown the ICC (MF-ICC) number of each tariff, if any, canceled thereby, except that if the cancellations are numerous, the ICC (MF-ICC) numbers of the tariffs canceled may be shown immediately preceding the table of contents, and a reference to that cancellation notice shown under the ICC number on the title page.

* * * * *

In § 1310.6 paragraphs (f)(3)(iii), and (h)(1) are hereby amended to read as follows:

§ 1310.6 Contents of tariff (rule 6).

(See §§ 1310.14, 1310.22, 1310.24, 1310.25, 1310.27, and 1310.28 (rules 14, 22, 24, 25, 27, and 28) for provisions which may be filed on less than 30 days' notice.)

* * * * *

(f) * * *

(3) * * *

(iii) If a tariff names a rate from or to a state or county without specifying the points in such state or county, a reference to the number of the item (or page) containing such rate shall be shown at the beginning of or in its proper alphabetical sequence in the appropriate index.

* * * * *

(h) * * *

(1) Except where the regulations in this part permit omission of reference to certain kinds of governing tariffs, each tariff governed in any way by others must provide a list of such tariffs, arranged in columnar form, the columns headed as follows:

Title or Kind of Tariff
Issuing Agent or Carrier
Tariff No.
ICC (MF-ICC) No.
For Special Provisions See_____

Each such governing tariff shall be separately listed, the information called for by the headings fully explained, and the table headed by a provision reading:

This tariff is governed, except as otherwise provided herein, by the following described tariffs, and by supplements or loose-leaf page amendments thereto or successive issues thereof:

If there are no separate items explaining or further qualifying the application of any such particular tariff, the last column should be omitted.

* * * * *

In § 1310.7, paragraphs (a)(9) and (p)(2) are amended to read and paragraph (r) is added as follows, and in paragraph (k) add the hyphenated word "One-factor" before the word "Through", in the caption; in the next line, after the word "joint", add the hyphenated word, "one-factor".

§ 1310.7 Statement of rates (rule 7).

(a) * * *

(9) Joint rates having intermodal application only over motor and water carriers, and rates restricted to apply only on shipments having a prior or subsequent movement by water carriers may be stated in cents, in dollars, or in dollars and cents per cubic foot or other space-occupied basis, provided it is clearly and explicitly stated how the determination is made.

* * * * *

(k) [Amended]

* * * * *

(p) * * *

(2) Any tariff naming class rates may provide for the application of such rates from or to unnamed points by including the rule set forth in subparagraph (4) of this paragraph. Before a tariff may include the rule, the tariff must provide, as a minimum, class rates for all points within the territorial coverage thereof which the carriers or carriers participating in the rule have authority to serve which are shown as points on the official state maps issued by the particular state authorities or on commercial maps equivalent thereto.

* * * * *

(r) *Statement required when classification basis exceeded.* It is a principle of longstanding that classification classes or ratings and rules, together with the class rates governed thereby, generally provide the highest rates and charges which an article should bear. It follows that any tariff provision (e.g. exceptions rating, commodity rate, charge, rule, et cetera) the application of which in any case would result in a higher charge than otherwise would result from application of the classification class or rating and rules to the class rates would require special justification. Therefore, accompanying the tender to the Commission of a tariff, supplement, or loose-leaf page which names such a tariff provision, there shall be a clear statement by the publishing motor common carrier or agent of the justification relied upon to warrant the higher charges. Any such publication not accompanied by a statement of justification shall be subject to rejection. This paragraph does not apply (1) in connection with minimum charges for small shipments (provided they are based on weights not over 500 pounds), (2) with respect to publication of rates and provisions for a special service which under the tariff the shipper has the option of using by requesting it in writing (e.g., expedited service, exclusive use of vehicle, et cetera), and (3) where no class rates are maintained by the carrier for whose account the class or rating, commodity rate or rule is published. Nor does this rule serve to prohibit publications of class rate arbitraries under authority of section 1310.7 (b) of this part. (See §§ 1310.7(h)(3) and 1310.13 for provisions governing the alternation of commodity rates with class rates, and see § 110.17(c) prohibiting alternation of exceptions with the classification.)

* * * * *

In § 1310.9, paragraphs (b)(1) and (d)(2) are amended to read as follows:

§ 1310.9 Supplements (rule 9).

(See §§ 1310.14, 1310.22, 1310.24, 1310.25, 1310.27, and 1310.28 (rules 14, 22, 24, 25, 27, and 28) for provisions which may be filed on less than 30 days' notice.)

* * * * *

(b) * * *

(1) Every supplement of ten or more pages issued to a bound tariff, except blanket supplements and general increase or reduction conversion table supplements, shall provide near the front of the supplement a cumulative list of all items and numbered units that have been added, canceled, or changed by supplement together with reference to the number of the supplement where each is last shown.

* * * * *

(d) * * *

(2) Except as otherwise authorized, the following is the maximum number of supplements to a tariff that may be in effect at any time and the maximum number of pages they may contain.

Number of pages in original tariff, including title page, inclusive	Number of effective supplements permitted	Maximum number of pages effective supplements may contain
1 to 2	None	None.
3 to 4	1[1]	2.
5 to 8	1	4.
9 to 16	2	8.
17 to 80	2, plus 2 additional supplements of not to exceed 4 pages each.	Not to exceed 50 pct of the number of pages in the original tariff.
81 to 200	3, plus 2 additional supplements of not to exceed 4 pages each.	Do.
201 to 500	4, plus 2 additional supplements of not to exceed 4 pages each.	Do.
501 to 800	5, plus 1 additional supplement of not to exceed 4 pages.	Do.
801 or more	6, plus 1 additional supplement of not to exceed 4 pages.	Do.

[1] The tariff of 3 or 4 pages, if supplemented hereunder, must be canceled within 180 days of the effective date of such supplement.

* * * * *

In § 1310.10, paragraphs (b)(3), (d)(9), (g)(2), and (h) are amended to read and paragraph (j)(13) is added as follows:

§ 1310.10 Amendments (rule 10).

(See §§ 1310.14, 1310.22, 1310.24, 1310.25, 1310.27, and 1310.28 (rules 14, 22, 24, 25, 27, and 28) for provisions which may be filed on less than 30 days' notice.)

* * * * *

(b) * * *

(3) The list of participating carriers published in a loose-leaf tariff may be amended only by republication of the page upon which it appears. Additions, cancellations, and changes shall be indicated as such. The names of canceled carriers shall be republished on a separate page or on pages at the end of the participating carrier list, indicating when the cancellation was first effective, until all provisions in the tariff referring specifically to the canceled carrier have been removed from the effective pages, after which the cancellation listing of the carrier may be omitted. Reference shall be made on the page or pages containing the participating carrier list to the page or pages containing the list of canceled carriers.

* * * * *

(d) * * *

(9) The number of sheets containing thereon pages (including check sheets) canceled from the tariff may not exceed six times the number of sheets containing effective tariff matter (including check sheets). Sheets containing only pages on which no tariff matter is printed except for notations such as "Intentionally left blank," "Tariff provisions canceled. This page series discontinued," or "Rates canceled," or except for provisions necessary to accommodate the format of the tariff such as the page designation, the ICC designation, the name of the carrier or agent, the name of the issuing party, and the address of the carrier or agent, are not included in the count of sheets containing effective matter within the meaning of this rule. The tariff must be canceled by the time this maximum ratio is reached.

* * * * *

(g) * * *

(2) The reissued matter shall be uniformly designated by a number within a square (or an authorized substitute—see § 1310.6(n)(7) (rule 6), the number corresponding to the number of the supplement from which the matter is reissued, and the explanation thereof must appear in the supplement in which the reference mark is used. The explanation must identify the matter as reissued and either (i) specify the date upon which the supplement became effective (for example, "[1] Reissued from Supplement No. 1, effective [here show effective date of supplement]" or (ii) be published in substantially the following manner:

□ (with number enclosed) Reissued from supplement bearing the number enclosed within the square. See item [here insert number of item referred to, explaining the method of denoting reissued matter in supplements].

If the latter method is used, the rules section of the tariff shall contain an item (the number of which will be inserted in the explanation of the reference mark denoting matter reissued from a prior supplement) reading substantially as follows:

METHOD OF DENOTING REISSUED MATTER IN SUPPLEMENTS

Matter brought forward without change from a supplement being canceled into another supplement will either be designated as reissued (i) by a complete statement to that effect in direct connection with the reissued matter, indicating the number of the supplement in which the reissued matter first appeared in its currently effective form, or (ii) by a reference mark [here show □, □ or □, which ever single type is adopted in the tariff] enclosing a number, the number being that of the supplement in which the reissued matter first appeared in its currently effective form. To determine its original effective date, consult the supplement in which the reissued matter first became effective.

* * * * *

(h) *Change in the explanation of reference marks and notes.* A change in the explanation of a general reference mark or general note (a reference mark or note adopted for general and continued use in the tariff—see §1310.6(n)(2) (rule 6)) governing tariff provisions published elsewhere in the tariff or prior supplement should not require the tariff user to conduct a search for its use in order to determine the effect. Therefore, any change in or cancellation of an explanation of such a reference mark or such a note, or change in or cancellation of an item or other provisions such explanation refers to in turn, shall be accompanied by

(1) A republication of all tariff provisions in the tariff as amended which employ the use of the reference mark or note;

(2) The publication of the number of each item or page (positioned with the changed or canceled explanation or changed or canceled tariff provision referred to in turn by the explanation), identifying the supplement, if any, containing tariff provisions which refer to the reference mark or note; or

(3) The publication of a notation (positioned with the changed or canceled explanation or changed or canceled tariff provision referred to in turn by the explanation) explaining the change and the general effect the change will have on the provisions employing the mark or note. Sufficient details must be published to clearly indicate the intent of the change. For example, if a reference explained as "minimum weight 40,000 pounds" is changed to "minimum weight 50,000 pounds," the notation would include information to the effect that the change results in increasing the minimum weight by 10,000 pounds for each truckload and therefore would substantially increase freight charges on all shipments which move under tariff provisions subject to the change.

Also, each page containing such a change or cancellation shall bear a notation at the top to the effect that the page contains a changed or canceled reference mark or note, or changed or canceled tariff provision referred to by the mark or note. This paragraph shall not apply to the explanation of the reference mark (E) or (*E*) used in referring to an item showing expiration dates.

* * * * *

(j) * * *

(13) Conversion supplements and companion supplements or loose-leaf pages forming part of the same general adjustment as the conversion supplements may change tariff matter which will not have been in effect for 30 days. Subsequent supplements or loose-leaf pages filed prior to the effective date of the conversion supplement may change or cancel on lawful notice matter changed by the conversion supplement

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before the change in the conversion supplement has been in effect for 30 days.

In § 1310.11, paragraphs (a)(9) and (b)(5) are amended to read as follows:

§ 1310.11 Transfer or cancellation of provisions (rule 11).

(a) • • •

(9) Transfer of provisions from an agent's tariff to the tariff of a carrier. A carrier's tariff may not direct the cancellation of a tariff, either in whole or in part, of an agent. Transfer may only be effected by cancellation by the agent and publication by the carrier, each as to its own issue. A common effective date for both actions shall be arranged to prevent conflict in rates or absence of any effective rates. The tariffs shall refer to each other in the manner and to the extent provided in § 1310.11(b)(6) of this part.

(b) • • •

(5) Amend the tariff to be canceled in part in the regular manner (by supplement if a bound tariff, or by revised pages if a loose-leaf tariff), making specific cancellations of provisions. If a bound tariff, and the amount of tariff matter it would be necessary to publish to comply would require more than four complete pages (including the title page), or if a loose-leaf tariff, and the reissuance of more than one-fourth the effective pages would be required to comply, the cancellation may be effected by a statement for the purpose published in a special supplement issued to the tariff. The statement shall specifically identify the material canceled (numbers of the items, units, tables, sections, pages, etc.) and state what provisions in what tariffs will thereafter apply in the absence thereof. The supplement must be permitted to remain in effect for the life of the tariff, or in the case of loose-leaf tariffs until all the affected pages have been reissued (such reissued pages must refer to the supplement action). A supplement to a bound tariff may contain both cancellation in the regular manner and cancellation by statement. A supplement containing only matter necessary for the partial cancellation is exempt from supplemental limit provisions of this part. In bound tariffs, any reissue in a subsequent supplement of an item or unit affected by the statement form of cancellation shall specifically cancel the prior item or unit "as amended by" the canceling supplement.

• • • • •

In § 1310.14, paragraph (d) is amended to read as follows:

§ 1310.14 Suspended matter (rule 14).

• • • • •

(d) *Suspended matter reissued before supplement announcing suspension is issued.* If a bound tariff and if, prior to the filing of the supplement announcing suspension, a carrier or agent files a later supplement which contains as reissues the matter suspended in the previous supplement, the supplement announcing the suspension shall specifically by statement (not reissue) cancel from the later supplement such reissued matter. Such statement of cancellation must itself have an effective date, and such date must be the same as the date upon which the reissued matter is indicated to become effective in the later supplement, giving not less than 10 days' notice. As used in this paragraph, "reissued matter" means matter republished without change and designated or referenced as reissued matter in the manner required by § 1310.10(g) (rule 10). Items or other tariff provisions which direct the cancellation of a previous showing of such matter do not constitute reissued matter which the suspension supplement may cancel, even though no actual change in the provision is made. Tardiness in filing any supplement announcing a suspension may result in the rejection of the later supplement which cancels the suspended matter.

• • • • •

In § 1310.17, paragraph (d) is amended to read as follows:

§ 1310.17 Classification, exceptions, rules, and dangerous articles tariffs; precedence of class rates (rule 17).

• • • • •

(d) *Rules tariffs.* Governing rules and similar provisions may be published in a separate tariff filed in the name of an agent or a carrier. As to any one rate tariff published by a carrier as its own issue there may not be more than one governing rules tariff of its own issue and not more than one governing rules tariff of its agent's issue. As to any one rate tariff published by an agent there may not be more than one governing rules tariff, which must be the issue of that agent. A carrier may not publish in its own issue rules which cover the same service, practice, or privilege provided for its account in the tariff of its agent. Either the agent's tariff rule must indicate nonapplication for its account, or the carrier's tariff rule must be indicated as an exception to the rule of its agent and clearly identify what rule. An exception, when taken, must indicate it is to the complete rule, section, or other identifiable unit affected, and an exception must be a complete rule, section, or other identifiable unit in itself. Every effort should be made to republish entire rules that are relatively small or that name relatively few exceptions. For the purposes of this paragraph, the following tariffs shall not be considered rules tariffs.

1. Tariffs containing exclusively rules and charges applying to terminal and other services and other matters covered by § 1310.15 (rule 15).

2. Classification tariffs authorized by paragraph (a) of this section.

3. Classification exceptions tariffs authorized by paragraph (c) of this section, provided they do not contain rules or other provisions authorized to be included by § 1310.17(c)(4) (rule 17).

4. Rate basis books authorized by § 1310.18 (rule 18).

5. Tariffs containing rules and regulations governing the acceptance and transportation of dangerous articles (hazardous materials).

6. Substituted freight service directories authorized by § 1310.30 (rule 30).

7. Tariffs confined to providing basis numbers (by intersection of headline and sideline points) for determination of class rates or column commodity rates in other tariffs.

8. Tariffs authorized by § 1310.19 (rule 19) of this part listing carriers' operating authorities.

9. Tariffs containing exclusively rules and practices governing the investigation and disposition of loss and damage claims.

10. Distance guides authorized by § 1310.16 (rule 16).

• • • • •

In § 1310.26, paragraphs (g)(5) and (i) are amended to read as follows:

§ 1310.26 Applications for special tariff authority.

• • • • •

(g) • • •

(5) Except in connection with an application to correct clerical, typographical, or otherwise obvious errors in publication, the application shall state whether or not such carriers have been advised of the proposed provisions and whether or not they have been advised that it is proposed to file such provisions on less (or on not less) than 30 days' notice. If competitive carriers have expressed their views in regard to the proposed provisions, a brief statement of their views shall be given.

• • • • •

(i) *Confirmatory application.* When special tariff authority is requested by telegram because of an emergency which does not permit timely filing, the telegram must state all pertinent facts required in this section and include a statement that a written application and filing fee is being sent. An application (with the required fee) confirming the request shall be transmitted as soon as possible after the telegraphic request, and, in any event, not later than noon of the next working day. (The application and fee must be transmitted regardless of whether the request is granted or denied.)

• • • • •

In § 1310.27, paragraph (a) is amended to read as follows:

§ 1310.27 Concurrences or powers of attorney—transfer of agent (rule 27).

(a) *Different situations.* The construction, filing, cancellation or revocation of powers of attorney or concurrences, and the construction and filing of publications when one agent takes over another involve many different kinds of situations each of which requires different procedures to be followed. Below are summarized many kinds of situations together with a reference in each instance to the paragraph in this section that contains the regulations governing that situation.

(1) To authorize an individual to act as agent, see paragraphs (b)(1) and (b)(2) of this section.

(2) To authorize a corporation to act as agent, see paragraphs (b)(1) and (b)(3) of this section.

(3) To limit the authority of a power of attorney, see paragraphs (b)(4) and (b)(5) of this section.

(4) To give concurrence in a particular tariff of a carrier, see paragraphs (c)(1) and (c)(2) of this section.

(5) To give general concurrence to a carrier, see paragraphs (c)(1) and (c)(3) of this section.

(6) When the principal agent dies or is disabled, see paragraphs (j), (k)(2), (k)(3), and (l) of this section.

(7) When the alternate agent dies or is disabled, see paragraphs (k)(2), (k)(3), and (l) of this section.

(8) When an agent takes over another agent or a corporation as agent changes its name, see paragraphs (k)(1), (k)(3), and (l) of this section.

(9) To cancel a power of attorney or concurrence, see paragraph (o) of this section.

(10) To revoke a power of attorney or concurrence, see paragraph (p) of this section. Instruments already on file October 5, 1978, prepared on the previously prescribed MFXA and MFXC forms are not required to be reissued effective before October 5, 1983, solely to convert to the new forms. Nevertheless, carriers should act to replace them as soon as possible, but in any event before such date.

• • • • •

[FR Doc.77-25737 Filed 9-1-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 26—PUBLIC ENTRY AND USE

Use of Roads and Trails Within Charles M. Russell National Wildlife Range and UL Bend National Wildlife Refuge, Mont.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that all vehicular traffic within the Charles M. Russell National Wildlife Range and the UL Bend National Wildlife Refuge will be restricted to established roads and trails not closed to the general public.

DATES: Year around (September 1, 1977 through August 31, 1978).

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Charles M. Russell National Wildlife Range, P.O. Box 110, Lewistown, Mont. 59457; telephone: 406–538–8707.

SUPPLEMENTARY INFORMATION:

§ 26.34 Special regulations concerning public access, use and recreation for individual wildlife refuges.

Entrance to, travel on, and the exit from the Charles M. Russell National Wildlife Range and the UL Bend National Wildlife Refuge is permitted only on well-established roads and trails not closed to the general public. All off-road vehicle use is prohibited including the retrieval of downed game.

1. An "established" road or trail should be regarded and identified as one which:

(a) Appears to be permanent; and

(b) Is wide enough to accommodate the vehicle being used upon it; and

(c) Is either a road or trail which has been excavated, graded or constructed or one which has been so habitually used by vehicular, animal or pedestrian traffic that the surface of the ground has been permanently displaced or eroded and is substantially free of grass or other vegetation.

2. Tracks or trails which have become overgrown with vegetation are not established roads or trails.

Boundaries of these wildlife refuge areas are delineated on maps available at the refuge headquarters at Lewistown, Mont. and from the office of the Area Manager, U.S. Fish and Wildlife Service, Federal Building, 316 North 26th Street, Billings, Mont. 59101.

The provisions of this special regulation supplement the regulations which govern use of roads and trails on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 26. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

LARRY L. CALVERT,
Refuge Manager, Charles M. Russell National Wildlife Range.

AUGUST 18, 1977.

[FR Doc.77-25610 Filed 9-1-77;8:45 am]

PART 26—PUBLIC ENTRY AND USE

Opening of Charles M. Russell National Wildlife Range and UL Bend National Wildlife Refuge, Mont., to Camping

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to camping within both the Charles M. Russell National Wildlife Range and the UL Bend National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide addition recreational opportunity to the public.

DATES: Year around (September 1, 1977 through August 31, 1978).

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Charles M. Russell National Wildlife Range, P.O. Box 110, Lewistown, Mont. 59457; telephone: 406–538–8707.

SUPPLEMENTARY INFORMATION:

§ 26.34 Special regulations concerning public access, use and recreation for individual national wildlife refuges.

Camping on the Charles M. Russell National Wildlife Range is permitted year-round. All forms of camping are limited to 14 days within any 30-day period, except in State parks where State regulations apply. These special regulation areas are delineated on maps available at refuge headquarters, Lewistown, Mont., and from the office of the Area Manager, U.S. Fish and Wildlife Service, Federal Building, 316 North 26th Street, Billings, Mont. 59101.

The provisions of this special regulation supplement the regulations which govern public access, use, and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 26. The Public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

LARRY L. CALVERT,
Refuge Manager, Charles M. Russell National Wildlife Range.

AUGUST 12, 1977.

[FR Doc.77-25611 Filed 9-1-77;8:45 am]

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FEDERAL REGISTER, VOL. 42, NO. 171—FRIDAY, SEPTEMBER 2, 1977

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 948 and 980]

IRISH POTATOES GROWN IN COLORADO—AREA NO. 2, VEGETABLES: IMPORT REGULATIONS

Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would require fresh market shipments of potatoes grown in Colorado—Area No. 2 to be inspected and meet minimum grade, size and maturity requirements. The regulation should promote orderly marketing of such potatoes by keeping less desirable qualities and sizes from being shipped to consumers.

DATE: Comments due September 19, 1977.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447-3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 97 and Order No. 948, both as amended, regulate the handling of potatoes grown in designated counties of Colorado Area No. 2. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Colorado Area No. 2 Potato Committee, established under the order, is responsible for its local administration.

This notice is based upon recommendations made by the committee at its public meeting in Monte Vista, Colo., on August 18, 1977.

The grade, size, maturity and inspection requirements recommended herein are similar to those which have been issued during past seasons. They are necessary to prevent potatoes of low quality or undesirable sizes from being distributed in fresh market channels. They will also provide consumers with good quality potatoes consistent with the overall quality of the crop and standardize the quality of the potatoes shipped from the production area in order to provide the consumer with a more acceptable product.

The proposed requirements this year would be U.S. No. 2 or better grade, with a minimum size of 2 inches for round varieties, 1⅞ inches for long varieties and 1½ inches for export. Size B may be shipped if U.S. No. 1, or better grade. Maturity requirements would be "moderately skinned" for all varieties, except that for the Russet Burbank and Red McClure varieties, any grade better than U.S. No. 2 must be no more than "slightly skinned." These maturity requirements would terminate on October 31, 1977.

Exceptions would be provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

Shipments would be permitted to certain special purpose outlets without regard to the grade, size, maturity and inspection requirements, provided that safeguards are met to prevent such potatoes from reaching unauthorized outlets. Seed would be exempted because requirements for this outlet differ greatly from those for fresh market. Shipments for use as livestock feed would likewise be exempt. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments would be exempt. Also potatoes for most processing uses are exempt under the legislative authority for this part.

Requirements for export shipments differ from those for domestic markets. While the standard quality requirements are desired in foreign markets, smaller sizes are more acceptable. Therefore, different requirements for export shipments are proposed.

The proposal is as follows:

§ 948.378 Handling regulation.

During the period September 26, 1977, through June 30, 1978, no person shall handle any lot of potatoes grown in Area No. 2 unless such potatoes meet the requirements of paragraphs (a), (b), and (c) of this section, or unless such potatoes are handled in accordance with paragraphs (d), (e), or (f) of this section. The maturity requirements specified in paragraph (b) shall terminate October 31, 1977, at 1977, at 11:59 p.m. M.S.T.

(a) *Minimum grade and size requirements.* (1) *Round varieties.* U.S. No. 2, or better grade, 2 inches minimum diameter.

(2) *Long varieties.* U.S. No. 2, or better grade, 1⅞ inches minimum diameter.

(3) *All varieties.* Size B, if U.S. No. 1, or better grade.

(4) *All varieties for export.* 1½ inches minimum diameter.

(b) *Maturity (skinning) requirements.* (1) *Russet Burbank and Red McClure varieties.* For U.S. No. 2 grade not more than "moderately skinned" and for other grades not more than "slightly skinned."

(2) *All other varieties.* Not more than "moderately skinned."

(c) *Inspection.* (1) No handler shall handle any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purposes of operation under this part it is hereby determined pursuant to paragraph (d) of § 948.40, that each inspection certificate shall be valid for a period not to exceed 5 days following the date of inspection as shown on the inspection certificate.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of potatoes for which an inspection certificate is required unless each shipment is accompanied by a copy of the inspection certificate applicable thereto and the copy is made available for examination at any time upon request.

(d) *Special purpose shipments.* (1) The grade, size, maturity and inspection requirements of paragraphs (a), (b) and (c) of this section and the assessment requirements of this part shall not be applicable to shipments of potatoes for:

(i) Livestock feed;

(ii) Relief or charity; or

(iii) Canning, freezing, and "other processing" as hereinafter defined.

(2) The grade, size, maturity and inspection requirements of paragraphs (a), (b) and (c) of this section shall not be applicable to shipments of seed pursuant to § 948.6 but such shipments shall be subject to assessments.

(e) *Safeguards.* Each handler of potatoes which do not meet the grade, size, and maturity requirements of paragraphs (a) and (b) of this section and which are handled pursuant to paragraph (d) for any of the special purposes set forth therein shall:

(1) Prior to handling, apply for and obtain a Certificate of Privilege from the committee;

(2) Furnish the committee such reports and documents as requested, including certification by the buyer or receiver as to the use of such potatoes; and

(3) Bill each shipment directly to the applicable processor or receiver.

(f) *Minimum quantity.* For purposes of regulation under this part, each person may handle up to but not to exceed 1,000 pounds of potatoes without

regard to the requirements of paragraphs (a), (b) and (c) of this section, but this exception shall not apply to any shipment which exceeds 1,000 pounds of potatoes.

(g) *Definitions.* The terms "U.S. No. 1," "U.S. No. 2," "Size B," "slightly skinned," and "moderately skinned" shall have the same meaning as when used in the U.S. Standards for Potatoes (7 CFR 51.1540-51.1566), including the tolerances set forth therein. The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form of stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

(h) *Applicability to imports.* Pursuant to § 8e of the act and § 980.1. Import regulations (7 CFR 980.1), Irish potatoes of the red skinned round type, except certified seed potatoes, imported into the United States during the period September 26, 1977, through June 30, 1978, shall meet the grade, size, and quality requirements specified in paragraph (a) of this section, and during the period September 26 through October 31, 1977, shall be not more than "moderately skinned."

Dated: August 30, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-25738 Filed 9-1-77;8:45 am]

[7 CFR Part 1133]

MILK IN THE INLAND EMPIRE MARKETING AREA

Termination of Proceeding on Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of proceeding on proposed suspension of rules.

SUMMARY: This action terminates a proceeding on a proposal to suspend certain provisions of the Inland Empire milk marketing order. The provisions relate to how much milk not needed for fluid (bottling) use may be moved directly from farms to manufacturing plants and still be priced under the order. Suspension of the provision, for the months of September, October and November 1977, was requested by a cooperative association to help it continue the association of members' milk with the order.

Several cooperative associations and a number of dairy farmers filed comments opposing the proposed suspension. Because of the conflicting viewpoints by interested parties, no action to change the order is being taken until the matter can be explored in depth at a public hearing.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., 20250 (202-447-7183).

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Proposed Suspension of Certain Provisions, issued August 4, 1977; published August 9, 1977 (42 FR 40216).

Notice is hereby given pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), of the termination of the proceeding as set forth in a notice of a proposal to suspend certain provisions of the order regulating the handling of milk in the Inland Empire marketing area. The aforesaid notice of proposed suspension was issued August 4, 1977 (42 FR 40216). Interested persons were invited to submit views, data or arguments to the Hearing Clerk not later than August 18, 1977.

The provisions that were proposed to be suspended for the months of September, October and November 1977 are as follows:

In § 1133.13(c) (1) and (2), the words "50 percent in any of the months of September through March, and", and the words "in any of the months of April through August".

STATEMENT OF CONSIDERATION

The proposed suspension would have increased the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants during the months of September through November 1977. In the case of a cooperative, the limit would be increased from 50 percent to 70 percent of its total member milk received at all pool plants or diverted therefrom. For the operator of a pool plant, the higher 70 percent limit would apply to the milk received at or diverted from such pool plant from producers who are not members of a cooperative that has diverted milk. The suspension was requested by a cooperative association that supplies the market with a substantial part of its fluid needs and handles much of the market's reserve milk supplies.

The cooperative contends that a substantial increase in milk production by producers supplying the market coupled with a decline in fluid milk sales make it necessary for the cooperative to divert to nonpool plants more reserve milk supplies beginning in September than normally. Without the suspension, the cooperative expects that some milk of its member producers who have regularly supplied the fluid market will be excluded from the pool in September. The cooperative asked for the suspension on an interim basis pending an opportunity to review the diversion provisions at a hearing.

A number of dairy farmers individually and several cooperative associations representing a substantial number of producers on the market submitted written views opposing the proposed suspension.

The principal objection to the proposed relaxation of allowable diversions for the three-month period was the concern that additional unneeded Grade A milk supplies would be pooled that would further depress producer returns. It was pointed out by some dairy farmers who filed views on this matter that because of recent drought conditions in the area, producers have been faced with higher feed costs. In this connection, it was contended that the additional milk that would be pooled through a relaxation of the diversion allowance would be from areas generally outside of the market's normal supply area and from dairy farmers who have been unaffected by drought conditions. This situation, they suggest, would impose additional hardships on producers regularly associated with the fluid market.

In view of the conflicting viewpoints among interested parties, it is concluded that the requested suspension should not be implemented on the basis of this proceeding. Instead, the matter should be considered at a public hearing where the issue may be explored in depth: Accordingly, the proceeding begun in this matter on August 4, 1977, is hereby terminated.

A notice of hearing is being issued concurrently with this termination of proceeding.

Signed at Washington, D.C., on August 29, 1977.

WILLIAM T. MANLEY,
Deputy Administrator, Program Operations.

[FR Doc.77-25690 Filed 9-1-77;8:45 am]

[7CFR Part 1133]

[Docket No. AO-275-A29]

MILK IN INLAND EMPIRE MARKETING AREA

Hearing on Proposed Amendments To Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider a dairy farmer cooperative's proposal to temporarily amend certain provisions of the Inland Empire milk marketing order. The provisions proposed to be amended relate to how much milk not needed for fluid (bottling) use may be moved directly from farms to manufacturing plants and still be priced under the order. The cooperative association contends that the requested order changes are needed to help it continue the association of member milk with the

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order during the next several months. The proposed changes would apply September, October and November 1977.

DATE: September 15, 1977,

ADDRESS: Ramada Inn, Spokane International Airport, Spokane, Wash.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–7183).

SUPPLEMENTAL INFORMATION: Notice is hereby given of a public hearing to be held at the Ramada Inn, Spokane International Airport, Spokane, Wash., beginning at 9:30 a.m., local time, on September 15, 1977, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Inland Empire marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Evidence will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR Part 900.12(d)) with respect to proposal No. 1. Evidence also will be taken to determine whether, in the alternative, any such emergency conditions would warrant the use of a temporary suspension procedure to effectuate prompt implementation of any action found, on the basis of the testimony and evidence, to be imperative.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY NORTHWEST DAIRYMEN'S ASSOCIATION

PROPOSAL 1

Amend § 1133.13(c)(1) and (2) by deleting the words "50 percent in any of the months of September through March, and", and the words "in any of the months of April through August,", to be applicable only for the months of September through November 1977.

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE

PROPOSAL 2

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, James A. Burger, West 1028 Rosewood Avenue, P.O. Box 7504, Spokane, Wash., 99208; or from the Hearing Clerk, Room 1077–South, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on August 29, 1977.

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc.77-25691 Filed 9-1-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 205]

OIL IMPORT REGULATIONS

Amendments to Guidelines for Granting Exception Relief

AGENCY: Federal Energy Administration.

ACTION: Proposed rulemaking.

SUMMARY: The Federal Energy Administration (FEA) hereby gives notice of a proposal to amend the Guidelines for granting exception relief from Part 213 (Oil Import Regulations). Under this proposal, persons authorized to import residual fuel oil into District I on a fee-exempt basis pursuant to an historical allocation, will be exempt from fees with respect to all of their projected requirements for the current allocation period. This amendment is intended to alleviate dislocations in the distribution of fee-exempt licenses which could impair competition among residual fuel oil marketers, and increase costs to consumers during the upcoming heating season. In addition, in order that the present exclusion of nonhistorical importers from the program not be exacerbated by this action, and thereby lead to economic hardship, FEA is also proposing to authorize all other persons desiring to import residual fuel oil into District I during the current allocation period to do so on a fee-exempt basis.

Written comments will be received and a public hearing will be held with respect to this proposal:

DATES: Comments by September 22, 1977, 4:30 p.m.; requests to speak by September 19, 1977, 4:30 p.m.; hearing date: September 28, 1977, 9:30 a.m.

ADDRESSES: Comments and requests to speak to: Executive Communications, Room 3317, Federal Energy Administration, Box OY, Washington, D.C. 20461; Hearing location: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), 2000 M Street NW., Room Room 2222, Washington, D.C. 20461 (202–254–3345).

Ed Vilade (Media Relations), 12th & Pennsylvania Ave. NW., Room 3104, Washington, D.C. 20461 (202–566–9833).

Robert Moore (Regulatory Programs), 2000 M Street NW., Room 6114C, Washington, D.C. 20461 (202–254–8620).

Sandra Sherman (Office of General Counsel), 12th & Pennsylvania Avenue NW., Room 5119, Washington, D.C. 20461 (202–566–9380).

SUPPLEMENTARY INFORMATION:

I. Background.
II. Proposed Amendment.
III. Comment Procedure.

I. BACKGROUND

Under Proclamation No. 3279, as amended, as implemented by § 213.15 of the Mandatory Oil Import Regulations, 1,450,000 barrels per day of residual fuel oil may be allocated, fee-exempt, during the curernt allocation period (May 1, 1977–April 30, 1978) to deepwater terminal operators in PAD District I who participated in the Mandatory Oil Import Program in 1973. Under the scheduled phase-out of fee exemptions in the Proclamation, this figure represents fifty percent (50%) of the level in effect on April 1, 1973, i.e., 2,900,000 barrels per day. This latter figure was the amount of residual fuel oil for which companies requested import authority under the quota system, which exempted imports of residual fuel oil from any limitation, and authorized firms to import amounts necessary to satisfy their contractual obligations. When the fee system replaced the quota system on May 1, 1973, this figure was carried over, subject to the scheduled phase-out, and initial fee-exempt allocations were distributed by reference to the amounts that firms had previously certified were required for their needs during the period from April 1, 1973, through March 31, 1974.

Thus, under the terms of the transition from the quota to the fee, the requirements of all terminal operators were initially satisfied, and they were in the same relative competitive position, as far as exemption from the fee was concerned. However, because some firms had substantially overestimated their needs and in light of changes in marketing patterns and expansions subsequent to 1973, and notwithstanding the uniform phase-out of the fee, the relative competitive position of these operators no longer bears any relation to their initial position, with some firms having much larger fee-exempt allocations than others in relation to their total needs. Thus, some firms have a surplus of fee-exempt licenses in the current allocation period, while other firms will be required to purchase varying amounts of fee-paid licenses at $0.63 per barrel in order to meet contractual obligations. FEA has calculated that for the current allocation period, the ratio of imports to allocations made pursuant to § 213.15 ranges from 0 percent to 130 percent. Similarly the ratio of projected 1977 imports to 1973 actual imports ranges from 0 percent to

366 percent. Hence, the maldistribution of fee-exempt licenses among District I importers is exceptionally severe. Thus, notwithstanding that there are sufficient fee-exempt allocations to meet all projected import requirements for the current allocation period (1.3 million barrels per day), the intention of the Program that fees begin to take effect when demand exceeds exemptions will be thwarted. In addition, since certain firms will be required to purchase licenses, it is probable that the cost to consumers will be increased, notwithstanding the availability of sufficient fee-exempt licenses, since the market price of residual fuel oil would be determined to a large extent by the highest-cost supplies. Under this assumption, of course, holders of fee-exempt licenses would realize a significantly higher return on their sales of residual fuel oil than those firms required to purchase licenses. Under any assumption as to residual fuel oil prices, holders of fee-exempt licenses would possess a real competitive advantage.

In order to alleviate the dislocation in fee exemptions which has developed since the fee system was established, FEA is proposing to amend its regulations as described below. This amendment also reflects FEA's concern that any remedial action taken by it not create inequities with respect to nonhistorical importers currently excluded from § 213.15, who would be ineligible for any benefits conferred on participating importers.

II. PROPOSED AMENDMENTS

Under the proposal, the "Guidelines for the Disposition of Requests for Exceptions from Part 213", Appendix II of Subpart D of Part 205, would be amended by adding Special Guideline I. This special guideline would provide that for the allocation period of May 1, 1977, through April 30, 1978, any person desiring to import residual fuel into District I would be deemed to be experiencing extreme hardship to the extent that his available fee-exempt licenses, if any, are less than his contractual obligations or other projected needs for that period. In order to meet those obligations and needs, such persons will be authorized to obtain additional fee-exempt licenses by certifying the amount of their incremental requirements to the Director of Oil Imports. The Director would issue the additional licenses except where he determines that issuance thereof would not be in accordance with the objectives of the Proclamation. Once issued, such licenses would be subject to the applicable provisions of Part 213, including the prohibition on sale or transfer of product licenses at § 213.22. Any licenses remaining unused at the end of the allocation period would expire. In order to facilitate this procedure, FEA is also proposing to amend § 205.52 to provide an excepton to the general rule that applications for relief from Part 213 be filed with the Office of Exceptions and Appeals. Applications for an allocation would, rather, be filed directly with the Director of Oil Imports.

Under the proposal, firms not currently eligible for allocations under § 213.15 will be able to receive allocations under Special Guideline I. This is intended to prevent any economic hardship that could result with respect to such persons if FEA's proposed remedial action were limited to historical importers.

It should be noted that FEA is continuing to evaluate the Mandatory Oil Import Program and may adopt further changes in the future. Thus, any allocations granted pursuant to the Guideline proposed in this notice, would be subject to future revocation or change.

III. COMMENT PROCEDURES

1. WRITTEN COMMENTS

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposal set forth in this notice. Comments should be identified on the outside envelope and on documents submitted with the designation "Special Guideline I: Residual Fuel Oil," Box OY. Fifteen copies should be submitted. All comments received by FEA will be available for public inspection in the FEA Reading Room, Room 2106, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

2. PUBLIC HEARINGS

a. *Request procedure.* The times and places for the hearings are indicated in the dates section of this preamble. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the next business day following the date of the hearing.

Any person who has an interest in the proposed amendments issued today, or who is a representative of a group or class of persons that has an interest in today's proposed amendments, may make a written request for an opportunity to make an oral presentation. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through the day before the hearing.

Each person selected to be heard will be so notified by the FEA before 4:30 p.m., e.d.s.t., September 21, 1977, and must submit 100 copies of his or her statement to Regulations Management, Room 2214, 2000 M Street, NW., Washington, D.C., before 4:30 p.m., e.d.s.t., September 27, 1977.

b. *Conduct of the hearings.* The FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearings will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearings, to Executive Communications, FEA, before 4:30 p.m., e.d.s.t., September 22, 1977. Any person who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made and the entire record of the hearings, including the transcript, will be retained by the FEA and made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

In the event that it become necessary for the FEA to cancel a hearing, FEA will make every effort to publish advance notice in the FEDERAL REGISTER of such cancellation. Moreover, FEA will notify all persons scheduled to testify at the hearing. However, it is not possible for FEA to give actual notice of cancellations or changes to persons not identified to FEA as participants. Accordingly, persons desiring to attend a hearing are advised to contact FEA on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality

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of the environment. The Administrator had no comments on this proposal.

NOTE.—The FEA has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185. Trade Expansion Act of 1962, Pub. L. 87-794, as amended; Proclamation No. 3279, as amended.)

In consideration of the foregoing, it is proposed to amend Part 205 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., August 29, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 205.52 is amended in paragraph (b) by adding a new subparagraph (3) to read as follows:

§ 205.52 Where to file.

* * * * * * *

(b) * * *

(3) All applications for exemption to § 213.15 by persons seeking to import residual fuel oil into District I in order to satisfy contractual obligations or other projected needs for the allocation period May 1, 1977, through April 30, 1978, shall be filed with the Director of Oil Imports in accordance with Special Guideline I in Appendix II of this subpart.

2. Appendix II of Subpart D of Part 205 is amended by adding a new Special Guideline I to read as follows:

SPECIAL GUIDELINES I

For the allocation period May 1, 1977 through April 30, 1978, any person desiring to import residual fuel oil into District I shall be deemed to be experiencing an exceptional hardship to the extent that his available fee-exempt licenses, if any, are less than his contractual obligations or other projected needs for that period. Any person so deemed may receive additional fee-exempt licenses in the amount required to meet such obligations or needs by certifying his additional requirements to the Director of Oil Imports. The Director shall issue a license for the amount certified, except where he determines that issuance thereof would not be in accordance with the objectives of Proclamation No. 3279, as amended.

Any license issued pursuant to this Special Guideline shall be subject to the limitations contained in § 213.15(e). Licenses which remain unused at the end of the allocation period shall expire at that time.

[FR Doc.77-25663 Filed 9-1-77;8:45 am]

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Notice of Opportunity for Comment

AGENCY: Federal Energy Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Administration gives notice that it intends to develop test procedures for heat pumps and that interested persons may submit written data, views, and arguments with respect to the development of test procedures for heat pumps.

DATES: Comments by September 15, 1977, 4:30 p.m., e.d.t.

ADDRESSES: Comments to Room 3309, Federal Energy Administration, Box OI, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

James A. Smith, (Program Office), Room 207—Old Post Office Building, 12th & Pennsylvania Avenue NW., Washington, D.C. 20461 (202-566-4635).

Elliott D. Light, (Office of the General Counsel), Room 7150—Federal Building, 12th & Pennsylvania Avenue NW., Washington, D.C. 20461 (202-566-9750).

SUPPLEMENTARY INFORMATION: The Energy Policy and Conservation Act (Act) (Pub. L. 94-163), as amended by section 161 of the Energy Conservation and Production Act (Pub. L. 94-385), requires the implementation of an energy conservation program for consumer products other than automobiles. Section 323 of the Act requires the Federal Energy Administration (FEA) to prescribe test procedures for covered products. Among their uses, the test procedures will be used in monitoring the progress of manufacturers toward meeting the energy efficiency improvement targets prescribed in accordance with section 325 of the Act and by the Federal Trade Commission in developing labeling rules under section 324 of the Act. Labeling rules are intended to provide consumers with energy information which will assist them in making purchasing decisions concerning appliances.

FEA intends to request that the National Bureau of Standards develop test procedures for heat pumps pursuant to section 323 of the Act. At this time, FEA is interested in comments from interested persons on the design of test procedures to serve both the labeling and targets elements of the appliance program.

Interested persons are invited to submit comments with respect to the development of test procedures for heat pumps. Comments are especially desired on the following: the technical aspects of testing heat pumps; the cost and time required to perform such testing; any data concerning the number of heat pumps in use, the number of hours of operation of heat pumps in both their cooling and heating modes and the geographical distribution of heat pumps. Comments should be sent to Executive Communications, Room 3309, Box OI, Federal Energy Administration, Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on documents submitted to FEA with the designation "Heat Pumps—Development of Test Procedures." Fifteen copies should be submitted. All comments received by September 15, 1977, before 4:30 p.m., e.d.t., will be considered.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. FEA reserves the right to determine the confidential status of that information or data and to treat it accordingly.

Issued in Washington, D.C., August 29, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-25678 Filed 9-1-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 134]

COUNTRY OF ORIGIN MARKING

Extension of Time for Comments Concerning Proposed Change of Position Relating to Country of Origin Marking of Radios, Stereo Systems, Television Sets, and Other Similar Consumer Electronic Products

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of extension of time for comments.

SUMMARY: This notice extends the period of time permitted for the submission of comments in response to the Custom Service's proposal to change its position with respect to the acceptable country of origin marking of radios, stereo systems, television sets, and other similar consumer electronic products. This extension will permit the preparation and submission of more detailed comments by interested members of the public.

DATES: Comments must be recived on or before October 3, 1977.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

John T. Roth, Attorney, Regulations and Legal Publications Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-8237).

SUPPLEMENTARY INFORMATION: On August 3, 1977, the Customs Service published in the FEDERAL REGISTER (42 FR 39227) a notice of its intention to change its position with respect to the acceptable country of origin marking of radios, stereo systems, television sets, and other similar consumer electronic products. This change is being considered because many such articles of foreign origin carry a brand name which does not suggest foreign origin and, when offered for sale, are displayed in such a manner that a prospective purchaser is unable to examine the merchandise to determine the country of origin until the article has been purchased and unpacked at home. The Customs Service has determined that its current practice of permitting these articles to be marked as to country of origin on the back of the article, where labels showing the model number and other technical data are normally affixed, may no longer result in the articles being conspicuously marked in a manner that will indicate to the ultimate purchaser the country of origin.

The Customs Service proposes to require that radios, stereo systems, television sets, and similar consumer electronic products be marked with the country of origin on the front, top, or sides of the article in a manner which would ensure the visibility of the marking when the article is on display. The Customs Service continues to invite written comments from the public regarding this proposed rule, but all comments must be received on or before October 3, 1977.

LEONARD LEHMAN,
Assistant Commssioner,
Regulations and Rulings.

[FR Doc.77-27512 Filed 9-1-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 145, 150, 172, 180, 189, 310, 430, 510, 589, and 700]

[Docket No. 77N-0065]

SACCHARIN AND ITS SALTS

Proposed Rule Making; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Extension of time for comment on proposed rule.

SUMMARY: This document extends to October 3, 1977, the comment period on the Commissioner of Food and Drugs' proposal to restrict the use of saccharin, published in the FEDERAL REGISTER of April 15, 1977 (42 FR 19996). The comment period on that proposal expired on August 31, 1977.

DATE: Written comments by October 3, 1977.

ADDRESS: Written comments (preferably four copies) to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

GENERAL

Ronald J. Wylie, Compliance Regulations Policy Staff (HFC-10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3480).

FOODS

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-472-5690).

HUMAN DRUGS

Paul Fehnel, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3640).

COSMETICS

Heinz Eiermann, Bureau of Foods (HFF-440), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-245-1530).

VETERINARY DRUGS

Edward Ballitch, Bureau of Veterinary Medicine (HFV-231), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3363).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of April 15, 1977 (42 FR 19996), the Commissioner issued a proposal to revoke the interim food additive regulation (21 CFR 180.37) permitting the use of saccharin in certain types of human food; to establish a regulation prohibiting the use of saccharin in food for animals; to eliminate saccharin from all cosmetics and most human drugs and all animal drugs; and to permit the marketing of saccharin as a single-ingredient drug sold over the counter pending the submission and final action on new drug applications (NDA's) for such products.

In the FEDERAL REGISTER of July 1, 1977 (42 FR 33768), the Commissioner extended the comment period until August 31, 1977, to permit comments to be submitted on two recent epidemiological studies that relate to the effects of saccharin consumption on humans.

On August 18, 1977, the Calorie Control Council filed suit in the United States District Court for the Northern District of Georgia under the Freedom of Information Act (5 U.S.C. 552) seeking documents from the Food and Drug Administration (FDA) related to saccharin (*Calorie Control Council et al.* v. *Food and Drug Administration*, N.D. Ga., Civil Action No. C-77-1374A). The Council's suit seeks an order compelling FDA to comply with its requests under the Freedom of Information Act and to keep the comment period open for 60 days thereafter. By letter dated August 19, 1977, the Council was advised that the comment period would be kept open until October 3, 1977, in order to provide time to ascertain the status of the various requests under the Freedom of Information Act filed by the Council and to discuss disposition of these requests. The letter also stated that a request for a further extension of the comment period would be entertained once the status of those requests is determined.

The Commissioner has decided that the extension of the comment period already granted to the Calorie Control Council should apply to all interested persons.

Accordingly, interested persons may, on or before October 3, 1977, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments preferably in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding the Commissioner's proposal. The envelope containing the comments should be prominently marked "Saccharin." Received comments may be seen in the agove office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 29, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc.77-25627 Filed 8-30-77;10:26 am]

LIBRARY OF CONGRESS

[37 CFR Part 201]

[Docket RM77-7]

NONDRAMATIC LITERARY OR MUSICAL WORKS

Objection to Noncommercial Performances

AGENCY: Library of Congress, Copyright Office.

ACTION: Proposed rule.

SUMMARY: The purpose of this notice of proposed rulemaking is to inform the public that the Copyright Office of the Library of Congress is considering the adoption of a new regulation designed to implement clause (4) of section 110 of the Act for General Revision of the Copyright Law. This clause provides for the service of notices of objection for the purpose of preventing certain noncommercial performances of nondramatic literary and musical works. The proposed regulation would establish requirements governing the content and manner of service of the notices.

We invite interested persons to participate in the making of the new regulation by submitting relevant written views, arguments, or other comments.

DATES: Initial comments should be received on or before September 23, 1977. Reply comments should be received on or before October 3, 1977.

ADDRESS: Five copies of all written comments should be submitted, if by mail, to: Office of the General Counsel, Copyright Office, Library of Congress, Caller Number 2999, Arlington, Va. 22202; or, if by hand, to: Office of the General Counsel, Copyright Office, Room 519, Crystal Mall, Bldg. No. 2, 1921 Jefferson Davis Highway, Arlington, Va.

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FOR FURTHER INFORMATION CONTACT:

Jon Baumgarten, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559 (703–557–8731).

SUPPLEMENTARY INFORMATION: Section 110(4) of the first section of Pub. L. 94–553 (90 Stat. 2541) deals with the performance of nondramtic literary or musical works otherwise than in transmissions to the public. It provides generally that such a performance, even if carried out before an audience, is exempt from copyright liability if two basic conditions are both met: (1) The performance must be "without any purpose of direct or indirect commercial advantage"; and (2) there must not be "payment of any fee or other compensation for the performance to any of its performers, promotors, or organizers."

Assuming these conditions are met, the exemption applies if there is "no direct or indirect admission charge" or, alternatively, if "the proceeds, after deducting the reasonable costs of producing the performance, are used exclusively for educational, religious, or charitable purposes. * * *" In cases where proceeds are to be derived from an admission charge, the statute also provides a procedure under which a copyright owner can prevent the performance by serving an advance notice of objection.

Under the statute, this notice must be in writing and signed by the copyright owner or the owner's authorized agent. It must be served on the person responsible for the performance at least seven days before the date of the performance, and it must state the reasons for the objection. The Act also provides that notices of objection must "comply in form, content, and manner of service with requirements that the Register of Copyrights shall prescribe by regulation."

We propose that these matters be covered by the addition of a new § 201.13 to the regulations of the Copyright Office. Proposed § 201.13 assumes that, at the time when he or she serves the notice, the copyright owner has already acquired some advance knowledge or report of a planned performance. Since the proposed regulation does not of itself impose any obligation on the person responsible for the performance to give the copyright owner advance notice of it,[1] the chances are that, at the time the copyright owner serves a notice of objection, some information about the performance will be lacking. For example, the copyright owner may not know the precise time when the performance is to be given, or its exact place, or the particular works to be performed, or whether or not an admission fee is to be charged. For these reasons, we are proposing certain alternatives concerning the information to be included in a notice. Also, since a notice of objection can be effective only if there is an admission charge, we are proposing to require the copyright owner to make clear that, if no admission fee is charged, the notice will have no legal effect and can be disregarded.

In setting forth alternatives concerning the contents of the notice, we have tried not only to take into account the difficulties faced by copyright owners lacking specific information, but also to judge these difficulties in the light of the legislative history of section 110(4). This history suggests that notices of objection were not intended to consist of general or blanket prohibitions, but were intended to be the result of individual copyright owners' decisions based on personal objections to having their works used without permission for "educational, religious, or charitable" fund-raising activities with which they were not in sympathy.[2] The proposed regulation attempts to strike a reasonable balance between the statute's intention to tie the objection to the cirumstances of a particular performance and the practical problems facing a copyright owner if information required in the notice is too detailed.

Accordigly, proposed § 201.13(c)(1)(ii) does not require that the notice include the exact date or place of performance where either fact is not known to the copyright owner. However, the notice must be directed to a specific performance, and not merely to any future performance for which the recipient might be responsible. The proposed rule would require the copyright owner, as an alternative to identifying a particular time and place, to state all of the information available to the owner about the plans for the performance, and the source of that information. This alternative is not intended to waive or otherwise affect the seven-day requirement for advance service imposed by the Act.

Proposed § 201.13(c)(1)(iii) requires, as a general rule, that the notice of objection specify the title and at least one author of each work covered by the copyright owner's notice of objection. However, since the owner may not know precisely which works are planned to be included in the performance, no limit is placed on the number of works that can be covered by a particular owner's notice. Moreover, recognizing that some copyright owners may object to a particular performance of any and all of their works, and that the total number of works involved may be too large to permit separate identification, § 201.13(c)(2) proposes to permit the serving of a notice of objection covering a group of works without separate identification under certain carefully defined conditions.

In addition to comments on the foregoing and the proposed regulation general, we invite specific comments on the following:

(1) Section 102 of the Transitional and Supplementary Provisions of Pub. L. 94–553 states: "This Act becomes effective on January 1, 1978, except as otherwise expressly provided by this Act. * * *" Since section 110(4) requires the service of notice "at least seven days before the date of the performance," and performances may take place during the first seven days of 1978, what should be the effective date of the regulation?

(2) In view of the short time period provided for notice, should the regulation provide for service by telegram, or similar means of communication, as alternatives to personal service or service by first-class mail?

Copies of all comments will be available for inspection and copying between the hours of 8 a.m. and 4 p.m., Monday through Friday, in the Public Information Office of the Copyright Office, Room No. 101, Crystal Mall, Building 2, 1921 Jefferson Davis Highway, Arlington, Va.

Proposed Regulation. We propose to amend Part 201 of 37 CFR Chapter II by adding a new § 201.13 to read as follows:

§ 201.13 Notices of objection to certain noncommercial performances of nondramatic literary or musical works.

(a) *Definitions.* (1) A "Notice of Objection" is a notice, as required by section 110(4) of title 17 of the United States Code as amended by Pub. L. 94–553, to be served as a condition of preventing the noncommercial performance of a nondramatic literary or musical work under certain circumstances.

(2) A "performing rights society" is an organization coming within the definition provided by section 116(e)(3) of title 17 of the United States Code as amended by Pub. L. 94–553.

(b) *Form.* The Copyright Office does not provide printed forms for the use of persons serving Notices of Objection.

(c) *Contents.* (1) A Notice of Objection must clearly state that the copyright owner objects to the performance, and must include all of the following:

(i) Reference to 17 U.S.C. § 110(4) as the statutory authority on which the Notice of Objection is based;

(ii) The date and place of the performance to which an objection is being made; however, if the exact date or place of a particular performance, or both, are not known to the copyright owner, it is sufficient if the Notice describes all of the information the copyright owner has about the plans for a particular performance and the source of that information.

(iii) Clear identification, by title and at least one author, of the particular nondramatic literary or musical work or works, to the performance of which the copyright owner thereof is lodging objection. A Notice may cover any number of separately identified copyrighted works owned by the copyright owner serving the objection. A blanket notice without separate identification of copyrighted works, and purporting to cover all or a part of the works written by, owned by, or capable of being licensed by a particular individual or organization, shall have no legal effect except under the conditions specified in clause (2) of this paragraph (c).

(iv) A concise statement of the reasons for the objection.

(2) A blanket notice lacking separate identification of the particular copyrighted works covered by the objection shall be valid only if all of the following conditions are met and the Notice so states:

(i) Among the owners of copyrights in the works covered by the Notice, there shall be at least one owner who is common to all such copyrights, and the Notice shall clearly identify that owner and shall be served by or with the authority of such owner.

(ii) The copyright owner serving or authorizing service of the Notice: (A) lacks complete knowledge of the particular works to be performed; and (B) wishes to lodge objection to a particular performance of any or all works of which he or she is copyright owner.

(iii) The total number of nondramatic literary or musical works covered by the Notice must be more than one hundred, making it impracticable to identify them separately.

(iv) If the Notice is served on behalf of the copyright owner by an agent or performing rights society, such owner must have expressly authorized the agent or society to object to the particular performance and to include within the scope of the objection all of the works covered by the Notice.

(v) The Notice shall identify, by name, address, and telephone number, a particular individual whom the person responsible for the performance can contact to determine whether a particular work planned for performance is in fact covered by the Notice.

(3) A Notice of Objection must also include clear and prominent statements explaining that:

(i) A failure to exclude the works identified in the Notice from the performance in question may subject the person responsible for the performance to liability for copyright infringement; and

(ii) The objection is without legal effect if there is no direct or indirect admission charge for the performance, and if the other conditions of 17 U.S.C. § 110(4) are met.

(d) *Signature and Identification.* A Notice of Objection shall bear the actual handwritten signature of the copyright owner or the owner's duly authorized agent, accompanied by the full name, address, and telephone number of that person, typewritten or printed legibly by hand. A Notice signed on behalf of a copyright owner by an agent or performing rights society shall clearly identify the copyright owner whom the agent or society represents.

(e) *Service.* A Notice of Objection shall be served on the person responsible for the performance by personal service, or by first-class mail.

(17 U.S.C. 207, and under the following sections of Title 17 of the United States Code as amended by Pub. L. 94–553; §§ 110(4); 702.)

Dated: August 26, 1977.

BARBARA RINGER,
Register of Copyrights.

Approved by:

DANIEL J. BOORSTIN,
Librarian of Congress.

[FR Doc.77-25713 Filed 9-1-77;8:45 am]

[1] In dealing only with the notice of objection to be served by the copyright owner, we have followed the literal text of the Act. It has been argued that "it appears to have been Congress' intention that those responsible for the performance would notify the copyright owner or his duly authorized agent of the details of the planned performance. . . ." Korman, *Performance Rights in Music Under Sections 110 and 118 of the 1976 Copyright Act*, 22 N.Y.L.S.L. Rev. 521, 527, (1977). The proposed regulation is not intended in any way to prejudge or affect the validity or invalidity of this argument.

[2] See, e.g., H.R. Rep. No. 94–1476, 94th Cong., 2d Sess., Sept. 3, 1976, at 86.

INTERSTATE COMMERCE COMMISSION

(49 CFR Part 1003)

[EX PARTE NO. 55 (Sub-No. 25)]

LIST OF FORMS

Revision of Application Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rules.

SUMMARY: The Interstate Commerce Commission (Commission) is proposing to revise the application forms for permanent motor carrier, broker, water carrier and freight forwarder authority, by requiring the inclusion of certain additional material by applicants and witnesses through which minimal prerequisites for a grant of operating authority could be established. The Commission also proposes an internal restructuring of its case processing procedure. These revisions would expedite the issuance of certificates, permits and licenses in those proceedings where no opposition is encountered.

DATES: Written comments should be filed with the Commission on or before October 3, 1977.

ADDRESSES: Send comments to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423. Phone: (202–275–7292).

SUPPLEMENTARY INFORMATION: On June 2, 1977, a Staff Task Force was established for the purpose of investigating the Commission's present-day administration of the Interstate Commerce Act, particularly as it relates to motor carriers, and recommending improvements in motor carrier regulation. In its report, issued July 6, 1977, the Staff Task Force, after concluding that the increase in motor carrier application filings during the current (1977) fiscal year necessitated the easing and streamlining of entry controls, made 39 specific recommendations for improving motor carrier regulation. The proposed revisions contemplated in this rulemaking are an outgrowth of Recommendation No. 1 contained in the Staff Task Force report.

OVERVIEW OF CURRENT APPLICATION AND CASE PROCESSING PROCEDURES AND NEED FOR IMPROVEMENT

Current Commission application and case processing procedures are multifaceted processes, the first (or initiating) part of which involves the filing by applicant of a standarized form which essentially calls for (1) the identity of applicant, (2) the authority sought, (3) a caption or summary of the authority sought suitable for publication in the Federal Register (4) the authority held, (5) the statutory impediments (common control or dual operations), if any, to authorization of the proposed service, and (6) a certification of support from a supporting witness indicating a willingness to appear and testify concerning the need for a proposed service. After the application is received at the Commission, it is examined by clerical staff for completeness and accuracy but not for legal sufficiency and compliance with current policy relative to commodity and territorial descriptions. Thereafter a caption is sent to the Federal Register for publication to afford notice to competititors and other interested persons. A 30-day protest period is allowed following publication in the Federal Register, after which time the proceeding is either designated for handling under the modified procedure or assigned to an oral hearing. The order designating the proceeding for handling under the modified procedure also will fix the date on or before which an applicant must submit to the Commission and serve upon protestants, if any, its verified statements in support of the application (case-in-chief).

After an applicant's verified statements in support of the application have been filed, if the application is unopposed (or if, following submission by applicant of its verified statements in support of the application, protestants withdraw their protests), the application proceeding is referred immediately to a decisionmaker for disposition. Following decision, an order is prepared and served upon applicant which, in the event the sought authority is granted, is then required to comply with applicable provisions of the Interstate Commerce Act and the Commission's rules and regulations before an appropriate certificate, permit, or license finally may be issued.

While current case processing procedure may appear to be suitable in opposed application proceedings, it is unnecessarily time-consuming where applications are unopposed. Over 8 months is now required to process the average unopposed application proceeding. Although the proposed revisions would affect all application proceedings, whether

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opposed or unopposed, substantial savings would be realized by applicants, their supporting witnesses, and the Commission only in unopposed application proceedings. This represents, however, a significant number of proceedings. During the 6-month period ending June 30, 1977, an average of 145 unopposed application proceedings, or approximately 25 percent of all (opposed and unopposed) application proceedings decided on their merits, were processed each month.

DISCUSSION OF PROPOSED REVISIONS

A substantial portion of the delay and expense inherent in the application and case processing procedures outlined above could be eliminated, at least insofar as unopposed application proceedings are concerned, by the simple expedient of requiring applicants and their supporting witnesses to supply enough information with their applications to enable the Commission lawfully to authorize the proposed service where the application is unopposed. As a necessary adjunct to revision of the application forms, the Commission coincidentally would restructure its internal case processing procedure.

Under the proposed revisions, applicants would be required to append to their application forms (1) a current balance sheet and income statement, (2) a list describing their equipment and their pertinent terminal locations, (3) a brief statement concerning the feasibiiyt of the proposed operation, and (4) a certification of familiarity with applicable safety regulations. Applicants' supporting witnesses would be required to include in their certifications of support (1) a brief description of the transportation services currently employed, and (2) the extent to which the proposed service, if authorized, would be used.

For its part, the Commission, in restructuring its internal case processing procedure, would restaff its existing captions unit with qualified paralegal personnel who, upon receipt of applications conforming to the revised standards, would review the applications for completeness, accuracy, and legal sufficiency and, if necessary would modify descriptions to conform to the current Commission policy or simplifying grants of authority. The applications would then be referred through an appropriate decisionmaker to the FEDERAL REGISTER as a short-form order. Each short-form order so published would (1) recite the authority sought, (2) make other necessary and appropriate findings, and (3) indicate that in the absence of legally sufficient and timely filed protests, or other legal impediments which would require consideration on a more fully developed record, a certificate, permit, or license will be issued to applicant upon compliance with applicable statutory and regulatory prescriptions. The order-notice would be, in effect, an initial decision which would become effective automatically in the absence of a valid protest.

Aside from the obvious savings of time and expense for applicants and their supporting witnesses, the Commission, upon implementation of this proposal, would experience a substantial and continuous reduction in the overall amount of time that must be spent on processing pending application proceedings, thereby freeing staff and decisionmaking bodies alike to concentrate efforts upon reducing the backlog of opposed application proceedings. Additionally, in those proceedings where opposition is encountered, the application would be in proper form for easier processing either at a hearing or under the modified procedure.

The proposed revisions would not increase the overall burden upon applicants and their supporting witnesses; they merely require that easily accessible information be submitted at an earlier stage in the proceeding. The proposal affects neither the substantive law nor the procedural integrity of the Commission's decisionmaking process; nor is it intended to straightjacket applicants and their supporting witnesses whose ability to develop information contained in the revised application forms will not be forfeited subsequently either under the modified procedure or at oral hearing should opposition surface.

Interested persons are invited to submit written comments concerning the proposed revisions. It is not anticipated, at this time, that oral hearings will be held. The Commission intends to issue a final decision in this regard within 60 days from the last day during which written comments may be filed.

DATES: Written comments should be filed with the Commission on or before October 3, 1977.

ADDRESSES: Send comments to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

Accordingly, the Commission proposes to revise application forms OP–OR–9, OP–OR–11, OP–WC–20, and OP–FF–10 for operating authority (1) by including in the instructions of each application form an unnumbered paragraph to read as follows:

In addition to the other information required in this form, applicant also is required to append to the form the following information:

(a) a current balance sheet and income statement;

(b) a list describing its equipment and its pertinent terminal locations;

(c) a brief statement concerning the feasibility of the proposed operation; and

(d) a certification of familiarity with applicable safety regulations; and (2) by inserting in the certification of support to each application form immediately preceeding the words "The undersigned shipper supports the following applications for authority similar to that sought in this application. (If none, so state)", the following unnumbered paragraphs:

Described briefly the transportation services currently employed:

Indicate the extent to which applicant's proposed service, if authorized, would be utilized by you (i.e., volume to be tendered applicant).

This notice of proposed rulemaking is promulgated under the authority contained in 49 U.S.C. §§ 304, 904, and 1003; and 5 U.S.C. § 553, and was adopted formally at a General Session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 16th day of August, 1977.

By the Commission (Commissioner Hardin not participating).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-25858 Filed 9-1-77;8:4 5am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 26]

RUBY LAKE NATIONAL WILDLIFE REFUGE, NEVADA

Public Entry and Use; Proposed Special Regulations; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations, correction.

SUMMARY: This document clarifies the proposed special regulations for Ruby Lake National Wildlife Refuge, Nev., published on August 25, 1977 (42 FR 42883).

Because of an inadvertent omission, the proposed regulations did not make it known that Ruby Lake National Wildlife Refuge is in the state of Nevada. This omission caused an error to appear in the table of contents for that day's issue of the FEDERAL REGISTER. The proposed regulations did not specifically state that the refuge is in Nevada, and the table of contents erroneously indicated that this refuge was in Oregon. This clarification is necesary to ensure that any interested parties are not confused.

DATES: Comments regarding the proposed special regulations must (still) be submitted by September 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Lawrence G. Kline, Division of National Wildlife Refuges, U.S. Fish and Wildlife Service, Washington, D.C. 20420; telephone 202–343–4305.

Dated: August 26, 1977.

HARVEY K. NELSON,
Director, U.S. Fish and Wildlife Service.

[FR Doc.77-25711 Filed 9-1-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

FOOD STAMP PROGRAM

Public Hearings

Notice is hereby given of the intent of the Department of Agriculture to hold public hearings on the Food Stamp Program. The purpose of the hearings will be to consider public comments and concerns about the operations and procedures of the Food Stamp Program prior to the preparation of regulatory changes which will be necessitated by the proposed legislative reforms of the Food Stamp Act of 1977.

The authorizing legislation for the Food Stamp Program expires September 30, 1977. Extension and reform of the program is being considered as part of the Food and Agriculture Act of 1977.

The Food Stamp Program provides low-income households with an opportunity to obtain a nutritionally adequate diet by increasing their food purchasing power through the issuance of a food coupon allotment. The food coupon allotment differs by household size and represents the cash equivalent of what a family of that size needs to purchase the Department's "thrifty food plan." The household must pay cash for the allotment based on its income level, but in no event will the household have to pay more than 30 percent of its net income after certain expenses are deducted. The coupons are used by the household to purchase food at local authorized retail stores.

The Food Stamp Program is operative in all 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. Approximately 16 million persons participate in the program monthly. Over $661 million in coupons are issued monthly of which $399 million represent benefits to participating households in the form of bonus coupons (bonus coupons are the difference between the amount of the coupon allotment and what the household has to pay for the allotment and is 100 percent federally subsidized).

Among the major reforms in the proposed Food Stamp Act of 1977 are elimination of the purchase requirement so that eligible households receive only the bonus amount of coupons, a standard deduction in lieu of some itemized deductions, and other measures to simplify administration, make the program more accessible to eligible households, and reduce fraud and abuse.

The Department of Agriculture intends to hold a public hearing in each of the seven Regions of the Food and Nutrition Service, prior to the preparation of regulatory changes. All hearings will be held from 9 a.m. to 5 p.m. and from 7 p.m. to 9 pm on the dates listed below. The hearings may be continued on the following day if public demand warrants. The locations and dates for the hearings are:

OCTOBER 4—BOSTON, MASS.

Morse Auditorium, Museum of Science, Science Park

OCTOBER 11—LOS ANGELES, CALIF.

Music Room, The Biltmore Hotel, 515 South Olive Street

OCTOBER 11—ATLANTA, GA.

Georgia Ballroom, Sheraton-Atlanta Hotel, West Peachtree Street, near North Avenue.

OCTOBER 13—DENVER, COLO.

Room 269, 1823 Stout Street.

OCTOBER 13—CHICAGO, ILL.

Hearing Room No. 2, 17th Floor, Illinois Department of Registration and Education, 55 East Jackson Boulevard.

OCTOBER 18—DALLAS, TEX.

First Presbyterian Church, Harwood and Wood Streets.

OCTOBER 18—BALTIMORE, MD.

War Memorial Hall, Lexington and Gay Streets.

The FNS Regional Offices will also hold public hearings in selected rural locations during the month of October. For times, dates and locations, please contact the Regional Information Directors listed at the end of this Notice.

Persons interested in participating in the hearings should contact the Regional Information Director for Food and Nutrition Service listed at the end of this Notice. Toll-free or collect call telephone numbers are provided for the Regional Offices. Information on the legislative changes in the proposed Food Stamp Act of 1977, and a description of issues on which the Department is especially interested in comment at the hearings, will be available from the Regional Offices. Please indicate which hearing you will attend, who will be speaking on your behalf, and approximately how long your testimony will be. Written comments may be submitted before October 21 for those that wish to comment but are unable to attend one of the hearings in person.

The appropriate Regional Information Director and toll-free number to contact for your State are:

NEW ENGLAND REGIONAL OFFICE

Catherine Jensen, 34 Third Avenue, Burlington, Mass. 01803.
From Massachusetts, call toll-free: 1–800–842–1343.
From Connecticut, Maine, New Hampshire, Rhode Island, or Vermont, call toll-free: 1–800–225–1127.

MID-ATLANTIC REGIONAL OFFICE

Joseph H. Dunphy, 1 Vahlsing Center, Route 526, Robbinsville, N.J. 08691
From New Jersey, call toll-free: 1–800–792–6808.
From Delaware, District of Columbia, Maryland, New York, Pennsylvania, or West Virginia, call toll-free: 1–800–257–9111.
From Puerto Rico or the Virgin Islands, call collect: 809–753–4487.

SOUTHEAST REGIONAL OFFICE

Ted Hightower, 1100 Spring Street NW., Atlanta, Ga. 30309.
From Georgia, call toll-free: 1–800–282–0414.
From Alabama, Florida, Kentucky, Mississippi, North Carolina, South Carolina, or Tennessee, call toll-free: 1–800–241–1755.

MIDWEST REGIONAL OFFICE

Russell T. Forte, 536 South Clark Street, Chicago, Ill. 60605.
From Illinois, call toll-free: 800–972–3188.
From Indiana, Michigan, Minnesota, Ohio, or Wisconsin, call toll-free: 800–621–3199.

SOUTHWEST REGIONAL OFFICE

Ronald J. Rhodes, 1100 Commerce Street, Dallas, Tex. 75242.
From Texas, call toll-free: 1–800–492–9720.
From Arkansas, Louisiana, New Mexico, or Oklahoma, call toll-free: 1–800–527–7223.

MOUNTAIN PLAINS REGIONAL OFFICE

Craig Foreman, 1823 Stout Street, Room 219, Denver, Colo. 80202.
From Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, or Wyoming, call toll-free: 1–800–525–8222.

WESTERN REGIONAL OFFICE

Benedicto Montoya, 550 Kearney Street, Room 400, San Francisco, Calif. 94108.
From California, call toll-free: 1–800–652–1875.
From Arizona, Idaho, Nevada, Oregon, or Washington, call toll-free: 1–800–227–4982.
From Alaska, call collect: 415–556–7391.
From Guam, call: 246–5333.
From Hawaii, call collect: 546–3144.

Dated: August 30, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77-25763 Filed 9-1-77;8:45 am]

Food Safety and Quality Service

EXPERT PANEL ON NITRITES AND NITROSAMINES

Meeting and Agenda

Notice is hereby given of a meeting of the Expert Panel on Nitrites and Nitrosamines to be held in Room 1G042, For-

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restal Building, 10th and Independence Avenue SW., Washington, D.C., September 19, 1977, at 9:30 a.m.

The agenda of the meeting will consist of: (1) Discussion of topics pertinent to decisions on nitrite use in meat and poultry, and (2) the adoption of recommendations to be present in the Panel's final report.

The meeting will be open to the public and under the direction of the Panel Chairperson or her designee. Written statements may be filed with the Panel before or after the meeting. Any member of the public who has further questions should contact the Issuance Coordination Staff, Technical Services, Food Safety and Quality Service, U.S. Department of Agriculture, Room 4905, South Agriculture Building, Washington, D.C. 20250, Area Code (202) 447-6189. Any person who wishes to file a statement may send such statement to the Issuance Coordination Staff at the above address.

Done at Washington, D.C., on August 31, 1977.

ROBERT ANGELOTTI,
Administrator,
Food Safety and Quality Service.

[FR Doc.77-25867 Filed 9-1-77;8:45 am]

Forest Service

CENTRAL NEVADA PLANNING UNIT

Availability of Amendment to Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared an amendment to the final environmental statement for the Central Nevada Planning Unit, Toiyabe National Forest, Nev. The Forest Service report number is USDA-FS-FES (Adm) R4-75-16.

As a result of a request for reconsideration of the decision to implement the land management plan, the Forest Supervisor agreed to reinventory and to reevaluate the wilderness characteristics of roadless areas. After completing the reinventory and reevaluation on the roadless area situation, two additional wilderness study areas, totaling 12,355 acres, were identified. They are adjacent to the Arc Dome and Arc Dome Extension wilderness study areas. Also, additional roadless study areas not identified in the previous study are evaluated in the amendment.

This amendment to the final environmental statement was transmitted to CEQ on August 26, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave. SW., Washington, D.C. 20250.

Regional Planning Office, USDA, Forest Service, Federal Building, Room 4120, 324-25th Street, Ogden, Utah 84401.

Forest Supervisor, Toiyabe National Forest, 111 North Virginia Street, Room 601, Reno, Nev. 89501.

District Forest Ranger, Austin Ranger District, Austin, Nev. 89310.

District Forest Ranger, Tonopah Ranger District, P.O. Box 939, Tonopah, Nev. 89049.

A limited number of single copies are available upon request to Forest Supervisor John J. Lavin, Toiyabe National Forest, 111 North Virginia Street, Room 601, Reno, Nev. 89501.

Copies of the amendment to the final environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Dated: August 25, 1977.

EINAR L. ROGET,
Deputy Chief.

[FR Doc.77-25661 Filed 9-1-77;8:45 am]

Rural Electrification Administration

INDIANA STATEWIDE RURAL ELECTRIC COOPERATIVE, INC., HOOSIER ENERGY DIVISION

Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Impact Statement in occardance with section 102 (2)(C) of the National Environmental Policy Act of 1969, in connection with a request for a loan guarantee commitment from the Rural Electrification Administration for Hoosier Energy Division, P.O. Box 908, Indiana Statewide R.E.C., Inc., of Bloomington, Ind. 47401. This loan guarantee commitment will assist in obtaining financing for the construction of two 490 MW coal-fired steam generating units near Merom, Ind., and associated transmission facilities.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C., Room 4043 or at the borrower address indicated above.

Final REA action wtih respect to this matter (including any release of funds) may be taken after October 3, 1977, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 1st day of September 1977.

JOSEPH VELLONE,
Acting Administrator, Rural Electrification Administration.

[FR Doc.77-25893 Filed 9-1-77;10:42 am]

CIVIL SERVICE COMMISSION

CIVIL SERVICE COMMISSION

Grant of Authority to Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Civil Service Commission to fill by noncareer executive assignment in the excepted service the position of Director, Congressional Relations, Office of the Chairman.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25644 Filed 9-1-77;8:45 am]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Equal Employment Opportunity Commission to fill by noncareer executive assignment in the excepted service on a temporary basis the position of Executive Assistant to the Chair (Compliance and Enforcement), Office of the Chair.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25045 Filed 9-1-77;8:45 am]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Grant of Authority to Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Equal Employment Opportunity Commission to fill by noncareer executive assignment in the excepted service on a temporary basis the position of Executive Assistant to the Chair (Legal) Office of the Chair.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25646 Filed 9-1-77;8:45 am]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Grant of Authority to Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Equal Employment Opportunity Commission to fill by noncareer executive assignment in the excepted service on a temporary

basis the position of Executive Assistant to the Chair (Program and Policy), Office of the Chair.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25647 Filed 9-1-77;8:45 am]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Revocation of Authority to Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Equal Employment Opportunity Commission to fill by noncareer executive assignment in the excepted service the position of Executive Assistant to the Chairman, Office of the Chairman.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25648 Filed 9-1-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

NATIONAL CANCER INSTITUTE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00154. Applicant: National Cancer Institute, Building 10, Room 8B14, Bethesda, Md. 20014. Article: Electron Microscope, Model EM 400 HMG, Water chiller and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used to examine human tissues, animal tissues, tissue culture cells, and molecules and replicas derived therefrom. Investigations will be conducted to compare malignant cells and their normal counterparts, in order to understand basic phenomena such as membrane structure and its relationship to known unique functional properties of various human tumors, such as antibody and lectin molecule binding. Further, the lineage, clinical evolution and molecular identity of related tumors, such as the lymphomas and childhood sarcomas may be determined by characterizing and studying isolated membrane molecules by immunoelectron microscopy.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (June 23, 1976).

Reasons: The description of the applicant's research and/or educational purposes establishes the fact that a conventional transmission electron microscope comparable to the foreign article is pertinent to the purposes for which the article is intended to be used. We are advised by the National Bureau of Standards (NBS) in its memorandum dated July 15, 1977, that it knows of no conventional transmission electron microscope which was being manufactured in the United States at the time the foreign article was ordered. ("Conventional transmission electron microscopes" are not to be confused with "scanning electron microscopes" which were manufactured domestically at the time the article was ordered and are still being manufactured in the United States.)

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-25638 Filed 9-1-77;8:45 am]

NATIONAL, INSTITUTES OF HEALTH

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00208. Applicant: National Institutes of Health, National Eye Institute, Bldg. 6, Rm. 213, 9000 Rockville Pike, Bethesda, Md. 20014. Article: Ultrotome IV Ultramicrotome, Model LKB 2128-010 and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of eye tissues of the human in both normal and pathological conditions. Experiments on the visual system will include: (1) fine structural study of the photosensitive lamellar membranes of the photoreceptor cells following light exposure in various conditions; (2) phagocytic activity of the pigment epithelium of the retina; (3) fine structural study of the retina and cornea of vitamin A deficient animals; (4) cytologic study of the cataractous lenses; and (5) experimentally induced eye diseases in animals. Materials will be embedded in the epoxy resin appropriate for the material being studied before sectioning.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a cutting speed range of 0.1 to 50 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by the National Bureau of Standards (NBS) in its memorandum dated June 29, 1977, that (1) cutting speeds in the excess of 4mm/sec are pertinent to the applicant's research studies and (2) the domestic instrument does not provide the pertinent feature. We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-25639 Filed 9-1-77;8:45 am]

RUSH—PRESBYTERIAN—ST. LUKES MEDICAL CENTER, ET AL.

Application for Duty-Free Entry of of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United

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States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER. Amended regulations issued under cited Act, (15 CFR 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77–00282. Applicant: Rush-Presbyterian-St. Luke's Medical Center, Dept. of Pathology, 1753 West Congress Parkway, Chicago, Illinois 60612. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produktor AB, Sweden. Intended use of Article: The article will be used for thin sectioning of biological materials including animal and human speciments, which will be studied in several research projects using electron microscopy. The research projects will include ultrastructural changes in normal and pathological animal tissues and cells. Cytochemical studies on enzyme and subcellular organelle localization in cells will be done for morphometric studies of red blood cell membranes. In addition, the article will be used for instruction given in electron microscopy techniques and the ultrastructure of tissues which includes tissue processing, thin-sectioning on an ultramicrotome, and studying the ultrastructure with an electron microscope. Application received by Commissioner of Customs: July 22, 1977.

Docket Number: 77–00283. Applicant: New Jersey Medical School, Dept of Anatomy, College of Medicine & Dentistry of N.J., 100 Bergen Street, Newark, New Jersey 07103. Article: Electron Microscope, Model EM 201. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of Article: The article is intended to be used for the following research projects: (1) Studies of developmental aspects of ovarian follicles of the teleost Oryzias latipes by morphologic, histochemical and isotope autoradiographic techniques at the ultrastructural level.

(2) Studies of ionic, protein and bulk fluid transport across membranes of the isolated perfused lung, (3) Investigation of how hypoxia, imposed during the prenatal and neonatal periods, affects the development of the brain, (4) Localization of sites of pulmonary fat embolism and investigation to determine specifically the extent of lipoprotein lipase accumulation at the sites of injury as well as lipases in general, (5) Studies of nerve regeneration and r elation of glia to neurons in *Fundulus majalis*, (6) Studies of the cellular movement and establishment of synaptic communication in the cerebellum of frog during metamorphosis, and (7) Studies of various organs and tissues of the grey lethal mouse and its phenotypically normal littermates.

In addition, the article will be used for educational purposes in the courses Electron Microscopy, Experimental Electron Microscopy and Ultrastructural Research. Application received by Commissioner of Customs: August 1, 1977.

Docket Number: 77–00310. Applicant: National Institute of Environmental Health Sciences, NIH, DHEW, Laboratory of Environmental Biophysics, NIEHS, P.O. Box 12233, Research Triangle Park, N.C. 27709. Article: Automatic Recording Spectropolarimeter, Model J–40A. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use of article: The article is intended to be used for the investigation of the circular dichroism spectra of proteins and nucleic acids and their complexes with noncovalently bound small molecules (drugs, xenobiotics, environmental agents, etc.). The objectives of the investigations are to relate the circular dichroism spectra to the arrangement of molecular groups in three-dimensional space. The three-dimensional arrangements of molecular groups will in turn be used to derive the basic molecular forces which stabilize the structure of proteins and nucleic acids and their complexes with small molecules. Application received by Commissioner of Customs: July 21, 1977.

Docket Number: 77–00311. Applicant: The University of Texas Health Science Center at Houston, Medical School, P.O. Box 20708, Houston, Texas 77025. Article: Isotope Ratio Mass Spectrometer, Model 602C and Accessories. Manufacturer: VG Micromass Ltd., United Kingdom. Intended use of article: The article is intended to be used in the following research areas: (1) Investigation of mechanisms of action of aldolases—to provide an understanding into the metabolism of living cells and the intricate mechanisms of their enzyme catalysts. (2) Studies of stable isotopes in metabolism in man. (3) Study of nutrition in man using ^{15}N—to provide a detailed insight into the various processes which govern the uptake and utilization of one of the major constitutents of man's diet, protein.

In addition, the article will be used to teach the techniques of utilizing these tracers and will include extensive use by students not familiar with sophisticated instrumentation which will involve a special course, "Instrumental Methods in Medical Research." Application received by Commissioner of Customs: July 22, 1977.

Docket Number: 77–00312. Applicant: Children's Hospital Medical Center, 300 Longwood Avenue, Boston, Massachusetts 02155. Article: Electron Microscope, Model JEM–100S, Haskris Water Recirculator and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the study of ultrastructure of biological materials and single brain neurons in experiments to be conducted involving characterization of brain cell development. The instrument will also be used for graduate instruction in ultra technique. Application received by Commissioner of Customs: July 22, 1977.

Docket Number: 77–00313. Applicant: University of Wisconsin, The McArdle Laboratory, Madison, Wis. 53706. Article: Electron Microscope, Model H–500–5 and Accessory. Manufacturer: Hitachi Perkin-Elmer, Japan. Intended use of article: The article is intended to be used in experimental oncology (cancer research) in studies of biological ultrastructure. The principal projects in which the article will be used are:

(1) Ultrastructure and mapping of the genomes of oncogenic DNA viruses—studies involving a structural analysis and map location of SV40 virus-specific RNAs using the "R loop" method and that of chemically coupling ferritin to the ends of RNA molecules as well as direct visualization of RNA molecules with the extremely high resolution capable with this microscope;

(2) Mapping and regulation of transcription of bacterial virus genomes—molecular mapping of many deletions and other arrangements in the genome, using the heteroduplex mapping technique by electron microscopy,

(3) Ultrastructure of junctional complexes of primary cultures of hepatocytes—investigation of the ultrastructure of junctional complexes formed between two hepatocytes in cell culture, and

(4) Ultrastructure of ribosomal precursor RNA molecules—studies to visualize with the electron microscope the ribosomal precursor RNAs (45s, 41s 32s, etc.) taken from cells treated with base analogues including 5-azacytidine, 5-fluorouracil, 8-azaguanine, and 6-thioguanine.

Application received by Commissioner of Customs: July 22, 1977.

Docket Number: 77–00314. Applicant: The University of Michigan, 5419 Medical Science Bldg. I, Department of Biology Chemistry, Ann Arbor, Mich. 48109. Article: Spectropolarimeter, Model J–40C with Alternate Measurement Accessory. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use of article: The article is intended to be used for the investigation of circular dichroism and magnetic circular dichroism (MCD) spectra of the peptides, proteins and metalloproteins and their complexes with non-covalently bonded molecules. The objectives of the investigations are to relate the circular dichroism spectra to the arrangement of molecular groups in three-dimensional space. In turn, the three-dimensional arrangement of molecular groups will be used to derive the basic molecular forces which stabilize the arrangement and the relationships between molecular arrangement and effect of the molecules on biological systems. Application received by Commissioner of Customs: July 22, 1977.

Docket Number: 77–00315. Applicant: Rutgers, The State University Nuclear Physics Laboratory, Frelinghuysen Road, Piscataway, N.J. 08854. Article: Compressor Sextupole and Accessories. Manufacturer: ANAC Inc., New Zealand. Intended use of article: The article is intended to be used to investigate spins, parities, energy levels, and energy-level gross structure in atomic nucleic being studied. Elastic and inelastic proton and deuteron scattering experiments will be carried out with angular distributions, angular correlations, and excitation functions being measured. The experiments will be conducted to study the spin-dependent effects of nuclear forces and those properties of nuclear states which require the use of atomic beams. The article will also be used in a research program by graduate students working for the Ph. D. degree and will be used to meet the dissertation requirement for that degree. Application received by Commissioner of Customs: July 26, 1977.

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Docket Number: 77–00316. Applicant: Veterans Administration Hospital, 11201 Benton Street, Loma Linda, Calif. 92354. Article: Electron Microscope, Model EM 10A. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for examination of tissue specimens including kidney biopsy, liver biopsy, and many muscle biopsy from VA patients as part of a routine anatomical pathology service. Specific application includes the study of red cell shape at the magnification of 30,000 times. The article will also be used for the training of pathology residents and postdoctoral fellows. Medical technician trainees, as well as a wide variety of students in order health related professions will have access to the article. Application received by Commissioner of Customs: July 26, 1977.

Docket Number: 77–00317. Applicant: University of California, Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: (6) each; Kits, Preamplifier, CO_2 Laser, Consisting of Main Discharge Electrodes and Accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used to amplify the short-pulses produced in the oscillator-switch out section to an energy level capable of efficiently extracting the stored energy in the large power amplifier modules of the eight-beam system. This eight-beam system will play an important role in determining the feasibility of producing useful fusion energy from pulsed, hige power CO_2 laser systems. Application received by Commissioner of Customs: July 26, 1977.

Docket Number: 77–00318. Applicant: Worcester Polytechnic Institute/Alden Research Laboratory, 30 Shrewsbury Street, Holden, Mass. 01520. Article: Miniature Propeller Flowmeter. Manufacturer: Delft Hydraulics Laboratory, Netherlands. Intended use of article: The article is intended to be used for measurement of current patterns specifically, investigations of spatial and temporal velocity variations of water flow having poor water quality. Typical experiments concern the influence of water currents on sediment transport, thermal plumes, fish behavior, coastal engineering and the design of various types of hydraulic structures. The article will be used by undergraduate students for special projects, thesis, and for research as part of graduates research assistantships. Application received by Commissioner of Customs: July 27, 1977.

Docket Number: 77–00319. Applicant: University of California School of Medicine, Dermatology Section (111G), 4150 Clement Street, San Francisco, Calif. 94121. Article: Electron Microscope, Model EM 10A and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be in the study of the cell biology of skin, particularly of the epidermis. Investigations will be conducted with the following objectives:

(1) To define membrane and cellular structures of the epidermis which subserve the barrier function,

(2) To characterize and localize major depots of lipids, of presumed importance for barrier function, within the epidermis, and

(3) To elucidate major pathways of percutaneous absorption, i.e., to determine which classes of polar vs. non-polar substances utilize intercellular vs. transcellular routes.

Application received by Commissioner of Customs: August 1, 1977.

Docket Number: 77–00320. Applicant: University of Miami, Rosenstiel School of Marine and Atmospheric Science, 4600 Rickenbacker Causeway, Miami, Fla. 33149. Article: Thermometer and Accessories. Manufacturer: Watanabe Keiki Manufacturing Co., Japan. Intended use of article: The article is intended to be used for educational purposes in MSC-101, Survey of Oceanography, a course concerning introduction to oceanography, methods, and techniques. Application received by Commissioner of Customs: August 1, 1977.

Docket Number: 77–00321. Applicant: University of North Carolina, Wilmington, P.O. Box 3725, Azalea Station, Wilmington, N.C. 28401. Article: CD-4 Parkinson-Cowan Dry Gasometer and Accessories. Manufacturer: Barchard Engineering, Ltd., Canada. Intended use of article: The article is intended to be used in the course PED 316 Exercise Physiology which is concerned with human physiological response to exercise and training. The course objectives are to enable students to:

(1) Accurately describe the processes of exercise metabolism relative to a basic understanding of work physiology.

(2) Demonstrate a satisfactory level of knowledge concerning physiological adaptation to exercise and training specific to the circulatory and respiratory systems in both normal and abnormal environments,

(3) Demonstrate skill in techniques of determining circulorespiratory fitness including the interpretation of results,

(4) Construct individual and/or group training regimens based on sound physiological training principles in terms of progressive increases in workload and desired outcome,

(5) Demonstrate knowledge of human thermal regulation as it relates to prevention of heat exhaustion and heat stroke during adverse working conditions, and

(6) Identify several sources for keeping up-to-date through reading in reputable journals which report scientific research in exercise physiology.

Application received by Commissioner of Customs: August 1, 1977.

Docket Number: 77–00322. Applicant: Albert Einstein College of Medicine, 1300 Morris Park Avenue, Bronx, N.Y. 10461. Article: Microcalorimetry System, Model LKB 10700. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in the investigation of the pre-polymerization phase of the gelation of Hemoglobin S which will help to understand the mechanism of the polymerization process. Application received by Commissioner of Customs: August 3, 1977.

Docket Number: 77–00324. Applicant: Purdue University, Purchasing Department, ADMS Building, West Lafayette, Ind. 47907. Article: DDV–11–C Rheovibron Dynamic Viscoelastometer, DDV–LFS Low Frequency Sweep System, and DDV–SF Set Grips for testing Shear Modulus. Manufacturer: Toyo Baldwin Co., Ltd., Japan. Intended use of article: The article will be used for studies of a range of glassy and crystalline materials, primarily inorganic in character, which are of interest in materials science. The experiment will consist of determinations of the temperatures at which small fibers of these glasses, or small crystals of B-alumina type materials, dissipate mechanical energy at fixed frequency of mechanical stressing, and of the frequency range over which mechanical energy is dissipated at fixed temperatures. The objectives of this experiment are (1) to characterize the shape of the mechanical loss spectrum to permit comparison with the shape of the electrical loss spectrum at the same temperature and pressure for superionic conducting crystalline materials with this object of understanding the material characteristics necessary to produce superionic conducting ability and (ii) to study the shape and temperature dependence of the mechanical loss spectrum in both primary and secondary relaxation regions in glassy materials to permit comparisons with electrical relaxation and magnetic relaxation characteristics. Application received by Commissioner of Customs: August 3, 1977.

Docket Number: 77–00325. Applicant: United States Energy Research and Development Administration, P.O. Box 550, Richland, Wash. 99325. Article: Camera, Image Converter Imacon Model 790/520 and accessories. Manufacturer: Hadland Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used for the investigation of recording photographic images of transient events in experiments to see if laser heated solenoid will provide energy. The article and accessories will be attached to the laser beam tube in such a way as to allow them to be used to photograph the events which occur during the experiments. Application received by Commissioner of Customs: August 3, 1977.

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Docket number: 77-00326. Applicant: Sandia Laboratories, Kirtland AFB, East Albuquerque, N. Mex. 87115. Article: Transistorized Power Source—For Tungsten Inert Gas Welding. Manufacturer: The Welding Institute, United Kingdom. Intended use of article: The article is intended to be used in a wide range of applications including but not limited to the following materials: (a) austenitic stainless steel; (b) Fe-Ni-Co alloys; (c) molybdenum and its alloys; (d) tungsten and its alloys; (e) high strength alloy steel; and (f) aluminum alloys. Experimentation will involve study of a wide range of pulse forms in order to manipulate weld pool solidification and dendritic spacing. In particular, the dependence of the fracture toughness of welds on the microstructures will be investigated. Also, the control of solidification to avoid hot cracking will be studied. Application received by Commissioner of Customs: August 3, 1977.

Docket number: 77-00327. Applicant: Duke University, Durham, N.C. 27710. Article: LKB 2127-001 and 2127-021 Tachophor complete with TachoFrac complete, with Power Supply Unit equipped with Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of spinal fluid samples from patients with neurological diseases, especially multiple sclerosis. Proposed studies will attempt to: (1) define further the specificity of the nucleotide-rich material (NRM); (2) determine whether the NRM contains DNA, RNA or nucleoprotein; (3) determine whether the NRM exists in the cerebrospinal fluid free or complexed to IgG; and (4) isolate the NRM from CSF or tissues. The major objective of the studies will be to determine whether the NRM is derived from host tissues or from foreign elements, such as a virus. Application received by Commissioner of Customs: August 3, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-25700 Filed 9-1-77;8:45 am]

ST. FRANCIS HOSPITAL, ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00187. Applicant: St. Francis Hospital, 929 North St. Francis, Wichita, Kans. 67214. Article: Ultramicrotome, Model LKB 2128-010 and accessories. Manufacturer: LKB-Produkter AB, Sweden. Intended use of article: The article will be used to section human kidney, liver and neoplasmas (tumors) which will vary in density and fragility. Investigations will include ultrastructural studies on normal and pathologic human tissue to establish the exact nature of the disease process in order that the right modality of treatment will be given to the patient. Identification of virus particles by electron microscopy is a part of clinical virus research which includes viral hepatitis and other virus-related diseases. The article will also be used for the training of pathology residents in pathologic anatomy which will involve a study of general principles on technique and the use of the electron microscope to study the fine structure of cells and various subcellular organelles in different disease processes. Application received by Commissioner of Customs: April 1, 1977. Advice submitted by the Department of Health, Education, and Welfare on: June 24, 1977.

Docket number: 77-00190. Applicant: US Army Environmental Hygiene Agency, Aberdeen Proving Ground, Md. 21010. Article: Ultramicrotome, Model LKB 8800A Ultrotome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to study biological materials including animal, plant and particulate specimens. Materials will vary in density and fragility. Investigations will include ultrastructural studies on normal and pathologic animal and plant tissues, identification and counting of particulate specimens, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host-parasite interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments. The objectives pursued in the course of these investigations are to understand early pathological alterations in tissues (as induced in animal models) and to correlate these changes with clinical alterations seen in human diseased tissues. By understanding early alterations, we may begin to formulate preventive treatments in human diseases. Application received by Commissioner of Customs: April 1, 1977. Advice submitted by the Department of Health, Education, and Welfare on: June 24, 1977.

Docket number: 77-00198. Applicant: Oklahoma Children's Memorial Hospital, 940 NE. 13th Street, Oklahoma City, Okla. 73126. Article: (Ultramicrotome) Ultratome, Model UM IV 2128-010 LKB and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the examination and investigation of biological materials related primarily to effects of disease or experimental conditions on living systems. Experiments to be conducted will include: (i) Studies of viral infestations as possible etiological explanations for various diseases in children, (ii) Studies of role of platelets and plasma clotting proteins in the formation of clots both in vivo and in model systems, (iii) Studies of specific labeling of membrane constituents to map topography of membranes and changes which alter when parameters are altered. In addition, the article will be used for educational purposes in a course in electron microscopy to train people in fields other than morphological sciences how to use electron microscopy to acquire information about the molecular structure of their experimental systems to augment their own particular expertise. Application received by Commissioner of Customs: April 21, 1977. Advice submitted by the Department of Health, Education, and Welfare on: June 24, 1977.

Docket number: 77-00199. Applicant: Massachusetts General Hospital, Department of Pathology, Fruit Street, Boston, Mass. 02114. Article: LKB 8800A Ultrotome III Ultromicrotome. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to study biological, mainly mammalian tissues, and culture systems derived form experimental animals and man, and exhibit both normal and pathologic structure. Properties of materials and phenomenon to be studied are those necessary for the understanding of cellular interactions in culture systems including tumor destruction, and those necessary for the understanding of vesicular transport of macromolecules into and out of individual cells under varying experimental conditions. The experiments to be conducted are designed to elucidate the function of basophils and mast cells in cell-mediated hypersensitivity reactions, particularly with regard to an understanding of the role of these cells in immunologic tumor rejection. The objectives to be pursued in the course of the investigation are to reveal at the ultrastructural level the structural basis and accurate quantitation of transport of macromolecules into and from cells under physiological and pathologic conditions. Application received by Commissioner of Customs: April 21, 1977. Advice submitted by the Department of Health, Education, and Welfare on: June 24, 1977.

Docket number: 77-00214. Applicant: Birth Defects Institute, Embryology Laboratory, Albany Medical Center Receiving Dock, 12 New Scotland Ave., Albany, N.Y. 12208. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section animal tissues that have been embedded in hardened epoxy resins. These specimens will be used for ultrastructural studies on tissues and cells, cyto and histochemical studies on enzyme and subcellular organelle localization in cells induced by changes in their biochemical and physical environments. Application received by Commissioner of customs: April 25, 1977. Advice submitted by the Department of Health, Education, and Welfare on: July 11, 1977.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, is being manufactured in the United States. Reasons: Each of the foreign articles provides a range of cutting speeds equal to or better than 0.1 to 20 millimeters per second. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Model MT-2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high-quality sections that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application (Docket Number 69-00665-33-46500), which relates to the duty-free entry of an article that is identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior application (Docket Number 70-00077-33-46500) which also relates to an article that is identical to those described above, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments.

For these reasons, we find that the Sorvall Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purpose as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-25643 Filed 9-1-77;8:45 am]

TELECOMMUNICATIONS EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Telecommunications Equipment Technical Advisory Committee will be held on Tuesday, September 20, 1977, at 10:00 a.m. in Room 4833, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Telecommunications Equipment Technical Advisory Committee was initially established on April 5, 1973. On March 12, 1975 and March 16, 1977, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to telecommunications equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has five parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Discussion on draft sections of Findings—Volume I of the annual report.

(4) Review of export control regulations with a view towards their simplification and clarification.

EXECUTIVE SESSION

(5) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on April 22, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meetting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close a series of meetings or portions of meetings of the Telecommunications Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on May 25, 1977, (42 FR 26682).

Dated: August 29, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.77-25660 Filed 9-1-77;8:45 am]

UNIVERSITY OF CALIFORNIA, SAN DIEGO, ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Accessories for Foreign Instruments

The following is a consolidated decision on applications for duty-free entry of accessories for foreign instruments pursuant to Section 6(c) of the Educational Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consoli-

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dated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00180. Applicant: University of California, San Diego, Dept. of Neurosciences, School of Medicine, La Jolla, Calif. 92093. Article: JEOL JEM-100C-ASID-4D High Resolution Scanning Attachment. Manufacturer: JEOL Ltd., Japan. Intended us of article: The article is an accessory designed for use with the JEM-100C transmission electron microscope. Both will be used in a wide variety of research and teaching projects; in particular, the article will permit the transmission electron microscope to be used as an ultra high resolution scanning microscope for the study of the structure of biological cells and tissues. Induced among these will be nerve tissues and phenomena associated with neurological diseases; the supramolecular structure of excitable membranes; and serial sections of subcellular regions of neurons, suitable for computer reconstruction. Experiments will be highly varied in nature but all will concentrate on studies of cell surface morphology. In addition, the article will be used primarily in a course: "Workshop in Electron Microscopy" which introduces studies to standard preparative techniques for both scanning and transmission electron microscopy. Application received by Commissioner of Customs: March 28, 1977. Advice submitted by the Department of Health, Education, and Welfare on: July 11, 1977.

Docket Number: 77-00189. Applicant: Washington University School of Medicine, 660 South Euclid, St. Louis, Mo. 63110. Article: ASID-4D Scanning System for JEM 100C Electron Microscope. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is an accessory for an electron microscope which is intended to be used to study native and reconstituted liproproteins, vascular tissues, endocrine tissues, cell membranes, etc. The ultrastructural as well as immunological and biological activity of native and synthetic liproproteins will be characterized and compared in studies designed to elucidate the structure and function of apoproteins and lipid constituents of liproproteins and their role in the pathogenesis of atherosclerotic vascular disease. The permeability of capillaries and venules of the heart to electron dense markers including ferritin and peroxidase type markers will be examined in a variety of pathophysiological conditions including diabetes mellitus and ischemic injury in studies designed to investigate the pathogensis of diabetic microangiopathy and ischemic injury to vessels. Experiments will also be performed to demonstrate and characterize insulin receptor sites on fat cell membranes using ferritin labeled insulin conjugates. Application received by Commissioner of Customs: April 1, 1977. Advice submitted by the Department of Health, Education, and Welfare on: June 24, 1977.

Docket Number: 77-00192. Applicant: The Pennsylvania State University, University Park, Pa. 16802. Article: Goniometer stage assembly and scanning attachments for EM 300. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The articles are accessories to an existing electron microscope which allows the electron microscope to be used to analyze suitably prepared thin sections of biological samples for a large array of chemical elements. Some of the tissue and cells to be studied are bone (cells and matrix), avian oviduct mucosa, intestinal mucosa, and enamel organ. Experiments will be conducted to obtain an accurate description of the pathway of several physiologically important elements during their translocation across cells, to identify the cellular sites of localization of these elements and to ascertain quantitatively and qualitatively the changes in the subcellular distribution of their elements in certain pathological conditions. In addition, the article will be used for educational purposes in the courses: Biophysics 585—to develop an understanding of the structure and function of cells by observing them at the ultrastructural level and to learn how to prepare and interpret electron micrographs and Biophysics 600—in which students perform research for a graduate degree. Application received by Commissioner of Customs: April 4, 1977. Advice submitted by the Department of Health, Education, and Welfare on: June 24, 1977.

Docket Number: 77-00197. Applicant: William Paterson College, 300 Pompton Road, Wayne, N.J. 07470. Article: Cryokit for Cryo-ultramicrotomy, Model LKB 14800-1 and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to study the effects of cryo-protectants on animal tissues, e.g., heart, spleen, and liver tissues of rats. The experiments to be conducted include the use of cryoprotectants, such as fluorocarbon compounds, as a media for storing frozen tissues for extended periods of time. Enzyme activity levels will be measured and the tissue will be examined under the electron microscope for structural damage. The objectives pursued in the course of the investigations include the development of a suitable media for storing frozen organs so that when the tissue is thawed there is negligible damage to the structure and the biochemical activities of the organ. In addition, the article will be used in the courses: Electron Microscopy and Independent Study to prepare undergraduate students for jobs as electron microscopy technicans and graduate students for conducting research and for preparation for thesis work for their doctorate in other institutions. Application received by Commissioner of Customs: April 21, 1977. Advice submitted by the Department of Health, Education, and Welfare on: June 24, 1977.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States.

Reasons: The applications relate to compatible accessories for instruments that have been previously imported for the use of the applicant institutions. The articles are being manufactured by the manufacturers which produced the instruments with which they are intended to be used. We are advised by the Department of Health, Education, and Welfare (HEW) in the respectively cited memoranda that the accessories are pertinent to the applicants' intended uses and that it knows of no comparable domestic articles.

The Department of Commerce knows of no similar accessories manufactured in the United States which are interchangeable with or can be readily adapted to the instruments with which the foreign articles are intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-25642 Filed 9-1-77;8:45 am]

UNIVERSITY OF CHICAGO

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 77-00249. Applicant: University of Chicago, Operator of Argonne National Lab., 9700 South Cass Avenue, Argonne, Ill. 60439. Article: Backward-wave millimeter microwave oscillator and accessories. Manufacturer: Thomson-CSF, France. Intended use of article: The article is intended to be used in proton polarized target (PPT) facilities which are used to conduct high energy physics (HEP) research on the scattering produced by high energy K's and π's, etc., on a proton polarized target, i.e., material which has a large fraction of its protons pointing in the same direction. There are certain HEP experiments such as the measurement of A and R, the scattering amplitudes and phases of weak resonance which can only effectively be measured with PPT targets.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a 68.85 to 71.00 gigahertz frequency range. The National Bureau of Standards (NBS) advises in its memorandum dated July 14, 1977 that (1) the capability of the article described above is pertinent to the applicant's research purposes and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-25640 Filed 9-1-77;8:45 am]

UNIVERSITY OF FLORIDA

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00222. Applicant: University of Florida, College of Engineering, Chemical Engineering, 227 CHE, Gainesville, Fla. 32611. Article: NMR Spectrometer, Model JNM-C-60-HL. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used by staff members and students for studies of biological materials such as lipids, proteins, hormones, vitamins, and membranes, as well as engineering materials such as asphalt, crude oils, surfactants, pigments, and various colloids by means of nuclear magnetic resonance spectroscopy. The following are the major projects which will be carried out with the article: (a) The structure of water in microemulsions. (b) The mechanisms of phase inversion of micro- and macro-emulsions. (c) Molecular motions in liquid-crystalline structures. (d) The equilibrium rate of exchange of molecules at the air-liquid interface. (e) Micelle formation and solubilization in surfactant solutions. (f) Molecular interactions in biological membranes. (g) The structure of absorbed phases on solids. (h) The structure of fluid mixtures and electrolyte solutions. (i) NMR spectroscopy for fluorocarbon studies. (j) Applications of NMR spectroscopy in asphalt research. (k) Mechanisms, reactions, and activity of thiosulfonates and disulfides. (l) Synthesis of new polymers for use in extreme environments. (m) Donor-acceptor complexes of fluorine compounds. (n) Nonclassical aromaticity in hydrogen-bonded systems. (o) The effect of metal ions of unsaturated hydrocarbons in relation to boundary lubrication. (p) Interaction of oxygen with fluorocarbons. (q) NMR spectroscopic studies of polymeric fluids. In addition, the article will be used for teaching purposes in chemical engineering courses.

Comments: Comments dated June 14, 1977 were received from Varian Associates (Varian). Varian alleged inter alia that its Model XL-100 Nuclear Magnetic Resonance (NMR) spectrometer is of equivalent scientific value to the foreign article for such purposes as the article is intended to be used. Varian also alleged that, as early as September 1969, "ease of operation" was felt to be a key feature of the XL-100. Sole support for Varian's allegations was a copy of the introductory ad for the XL-100, which described this instrument as a "high resolution research system" and as "the easiest to use research NMR spectrometer on the market".

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (June 24, 1971).

Reasons: This application is a resubmission of Docket Numbers 72-00063-01-77030, 73-00262-01-77030, 76-00026-01-77030, and 77-00002 which were denied without prejudice to resubmission on August 30, 1972, April 3, 1975, July 9, 1976 and February 1, 1977, respectively for informational deficiencies. Although the foreign article can be equipped with a variety of accessories to increase its versatility as well as its complexity, the foreign article as ordered by the applicant is a relatively unsophisticated instrument which is amenable to use by large numbers of relatively inexperienced individuals with moderate supervision. The most closely comparable domestic instrument available at the time the foreign article was ordered was the Model XL-100 NMR spectrometer manufactured by Varian. Through the years the Model XL-100 has undergone steady improvement and now, due to added automation, is considered much simpler than the XL-100 initially produced. However, at the time of order the XL-100, which was designed to be a research instrument with a great deal of versatility (especially in the study of a number of nuclei and in the employment of various double resonance experiments), had (even without added accessories) the unavoidable complexity that usually accompanies such a degree of sophistication. Although the XL-100 in existence at the time of order could probably be used for teaching under certain restrictive conditions, freedom of use by a large number of relative neophytes was not advisable. (In this connection, it is noted that Varian's introductory ad for the XL-100 did not indicate that this instrument was receptive for use in any kind of training program). The applicant provided evidence to show that inexperienced individuals including a very large number of undergraduate students will be using the foreign article in research and training. The National Bureau of Standards (NBS) and the Department of Health, Education, and Welfare (HEW) advised in their memoranda dated July 25, 1977 and July 5, 1977, respectively that the relatively lower degree of complexity of the foreign article compared to the XL-100 is pertinent to the purposes for which the foreign article is intended to be used. Both of these agencies also advise that the Model XL-100 NMR spectrometer was not of equivalent scientific value to the foreign article for such educational purposes as this article is intended to be used at the time the foreign article was ordered.

Thus, based on advice of NBS and HEW, our review of the application and factual information in our possession (specifications, textbooks, etc.), we find that the Model XL-100 NMR spectrometer was not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-25641 Filed 9-1-77;8:45 am]

National Bureau of Standards

CHARACTER SETS FOR OPTICAL CHARACTER RECOGNITION

Proposed Revision of Federal Information Processing Standard

Under the provisions of Public Law 89-306 and Executive Order 11717, the Secretary of Commerce is authorized to establish uniform Federal Automatic Data Processing (ADP) Standards. A revised standard for Character Sets for Optical Character Recognition is being recommended for use by Federal agencies in their Optical Character Recognition (OCR) data entry systems.

Prior to the submission of this proposed revision to the Secretary of Commerce for approval, it is essential to assure that proper consideration is given to the needs and views of manufacturers,

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the public, and state and local governments. The purpose of this notice is to solicit such views.

This revised Federal Information Processing Standard contains two basic sections: (1) An announcement section which provides information concerning the applicability and implementation of the standard, and (2) a specification section which defines the technical parameters of the standard. Both sections are provided with this notice.

Interested parties may obtain copies of the referenced voluntary standards, ANSI X3.49–1975—Character Set for Optical Character Recognition (OCR-B), and X3.2–1976—Print Specifications for Magnetic Ink Character Recognition (MICR), from the American National Standards Institute, 1430 Broadway, New York, N.Y. 10018. Copies of X3.17–197X, Character Set and Print Quality for Optical Character Recognition (OCR-A), are available from the NBS Office of ADP Standards Management.

Comments should be submitted to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. Comments to be considered must be submitted within 90 days of the date of this notice.

Date: August 29, 1977.

ARTHUR O. McCOUBREY,
Acting Director.

[FR Doc.77-25629 Filed 9-1-77;8:45 am]

National Oceanic and Atmospheric Administration

WEATHER MODIFICATION ADVISORY BOARD

Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., App. 1 (Supp. V, 1975), notice is hereby given of the fourth meeting of the Weather Modification Advisory Board.

The Weather Modification Advisory Board will meet from 2 p.m. to 6:15 p.m. on September 23, 1977, and from 9 a.m. to 6:30 p.m. on September 24, 25 and 26, 1977, in Boulder, Colo., at locations indicated in the agenda. Evening sessions will be scheduled when necessary.

The Board was established in January 1977 (42 FR 4512, 1–25–77), to advise the Secretary of Commerce on matters of a national policy, a national research and development program, and other aspects of weather modification as outlined in the National Weather Modification Policy Act of 1976 (Pub. L. 94–490), enacted on October 13, 1976. The Board consists of 17 members, with a balanced representation selected from scientific, academic, commercial, consumer, legal, and environmental groups, who are appointed by the Secretary of Commerce.

The purpose of this meeting is to discuss reports of consultant working groups, consolidate various weather modification issues, assign study tasks, begin drafting parts of the Board's report and plan future meetings. The Board will also hear from local and State officials concerned with the Colorado Weather Modification Program and from opponents of weather modification activity.

The agenda for the meeting is:

SEPTEMBER 23 (FRIDAY)

2–2:15 p.m.—Introductory remarks (Conference Room Fleischman Building, National Center for Atmospheric Research, Boulder, Colo.).
2:15–6:15 p.m.—Presentation and discussion of working group report, "The Case for Weather Modification: Science, Technology, Economic Benefits and Obstacles."

SEPTEMBER 24 (SATURDAY)

9 a.m.–12:30 p.m.—(Conference Room, Rodeway Inn, Boulder, Colo.). Discussion with Local and State Officials on Colorado's regulatory and operational programs. Opponents of weather modification activity will also present their views.
12:30–2 p.m.—Recess for lunch with speaker covering Utah's weather modification program.
2–6:30 p.m.—Presentation and discussion of working group report on international, institutional and legal aspects of weather modification.

SEPTEMBER 25 (SUNDAY)

9 a.m.–12:30 p.m.—(Rodeway Inn conference room). Presentation and discussion of working group report on weather modification research, operations, demonstration, and funding.
12:30–2 p.m.—Recess for lunch.
2–4 p.m.—Continuation of discussion.
4–6:30 p.m.—Presentation and discussion of working group report on possible weather modification techniques.

SEPTEMBER 26 (MONDAY)

9 a.m.–12:30 p.m.—(Fleischman Building, National Center for Atmospheric Research, Boulder, Col.). Discussion and resolution of weather modification issues, assignment of study tasks and planning for future meetings.
12:30–1:30 p.m.—Recess for lunch.
1:30–6:30 p.m.—Writing session for initial drafts of sections of the Board's report.
6:30 p.m.—Adjournment.

The meeting will be open to the public and a period will be set aside at the discretion of the Chairman for oral comments or questions by the public which do not exceed 10 minutes each. More extensive questions or comments should be submitted in writing before September 20. Other public statements regarding Board affairs may be submitted at any time before or after the meeting. Seating will be available for the public on a first-come first-served basis at the Fleischman Building and the Rodeway Inn conference rooms.

Copies of the minutes will be available on request 30 days after the meeting.

Inquiries may be addressed to Dr. Ronald L. Lavoie, Director, Environmental Modification Office, National Oceanic and Atmospheric Administration, Rockville, Md. 20852, phone: 301–443–8721.

Dated: August 31, 1977.

T. P. GLEITER,
Assistant Administrator for Administration.

[FR Doc.77-25870 Filed 9-1-77;8:46 am]

Office of the Secretary

ADVISORY COMMITTEES

Termination

Notice is hereby given of the termination of five advisory committees as a result of the recent Annual Comprehensive Review of Advisory Committees.

The committees and their respective termination dates are as follows:

Census Advisory Committee on State and Local Area Statistics (June 30, 1977).
Commerce Technical Advisory Board's Panel on Energy Policy (March 2, 1977).
Federal Information Processing Standards Task Group 15 (May 31, 1977).
Industry Advisory Committee on Metal Scrap Problems (June 30, 1977).
Secretary's Advisory Council (March 25, 1977).

Dated: August 26, 1977.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc.77-25684 Filed 9-1-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committe has received a proposal to add to Procurement List a commodity to be produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 6, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703–557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

This notice supersedes the notice of proposed addition of this commodity which was published in the FEDERAL REGISTER on August 30, 1977 (42 FR 43659).

It is proposed to add the following commodity to Procurement List 1977, November 18, 1976 (41 F.R. 50975):

Class 6645

Clock, Wall, 6645–01–046–8849.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-25749 Filed 9-1-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1977 commodities to be produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 6, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703–557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1977, November 18, 1976 (41 FR 50975):

Class 7330

Pad, Bakery 7330–00–379–4439. (The above for GSA Supply Distribution facilities in Regions 3 and 6 only.)

Class 8115

Box, Wood, 8115–00–935–6528.

Class 8465

Clipboard, Pilot's, 8465–01–012–9174.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-25707 Filed 9-1-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Availability

The following is a list of environmental impact statements received by the Council on Environmental Quality from August 22 through August 26, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability (October 17, 1977). The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307A, Washington, D.C. 20250 (202–447–6827).

FOREST SERVICE

Draft

Klamath Basin Working Circle, Timber Plan, Lake and Klamath Counties, Oreg., August 26: Proposed is a revision of the 10-year Timber Resource Plan for the Klamath Basin Working Circle of the Fremont and Winema National Forests. The Working Circle is located in Lake and Klamath Counties, South Central Oregon. Five alternatives are presently under consideration. The preferred alternative proposes a potential yield of 234 MMBF/year. This is based on the sustained yield and even flow concept. Intensive timber management practices are proposed that will enable a greater harvest during the plan period. Roads will be constructed, skid trails opened up and a general disturbance of portions of the forest floor will occur. (ELR Order No. 71046.)

SOIL CONSERVATION SERVICE

Final

Furnace Brook Watershed, Warren County, N.J., August 23: The proposed channel improvement is a component of the Furnace Brook Watershed Project, which is designed to reduce floodwater damages in the village of Oxford, New Jersey. The planned work involves the enlargement and deepening of a 1530 foot reach of Furnace Brook. This work will complement the previously installed upstream floodwater retarding structure to provide a 100-year level of flood protection to the village. Short term biological impacts will result. Comments made by: USDA, DOD, HEW, DOI, EPA, AHP, State and local agencies. (ELR Order No. 71030.)

CANAL ZONE GOVERNMENT

Draft

White Amur Introduction, Canal Zone Waters, August 23: Proposed is the introduction of 250,000 white amur (Ctenopharyngodon idella) into Gatun Lake as a biological control for the submerged aquatic weed Hydrilla verticillata. Although present in the lake for at least fifty years, hydrilla has grown rapidly in recent years until an estimated 12 percent of the lake is densely infested. Current management techniques employing copper sulfate have not been successful in limiting the spread of this species of aquatic weed. The Panama Canal Company proposes to transport 125,000 fingerling white amur a year for two consecutive years and place them into two small lakes that are confluent with Gatun Lake. (ELR Order No. 71032.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, SW., Washington, D.C., 20314 (202–693–6795).

Final

Mississippi R. Flood Control, Prairie du Chien, Crawford County, Wis., August 23: The proposed action is a mixture of floodplain evacuation, flood proofing, and continued floodplain regulations within the 100-year floodplain at Prairie du Chien, located on the Mississippi River. The plan recommends that Praire du Chien designate a somewhat larger floodplain and that all residential homeowners with houses at ground elevations between 625 and 630.5 feet have the option of partially flood proofing their homes at project expense. (St. Paul District) Comments made by: EPA, AHP, USDA, DOC, DOI, DOT, State agencies. (ELR Order No. 71033.)

Supplement

Gulf ICW, Texas, Channel to Arkansas Pass (S–1), Texas, August 22: This statement supplements a final EIS filed with CEQ in May 1974 and relates to the Gulf Intracoastal Waterway, Texas, tributary channel to Arkansas Pass. The proposed action involves designation of a former residential area located within the city of Arkansas Pass for disposal of dredged material in connection with new work dredging and future maintenance of the project. This supplement addresses designating Disposal Area No. 7, a former residential area, to be used as a disposal site in association with new work, and maintenance dredging of the Tributary Channel to Arkansas Pass. (Galveston District.) (ELR Order No. 71021.)

DEPARTMENT OF DEFENSE

U.S. NAVY

Contact: Office of the Chief of Naval Operations, (OP-941D), Navy Department, Washington, D.C. 20350.

Supplement

Project Seafarer, Electric and Magnetic Fields (S–1), August 18: This statement supplements a draft EIS filed with CEQ and relates to the biologic effects of electric and magnetic fields associated with proposed Project Seafarer. This report has been prepared by the Committee on Biosphere Effects of Extremely-Low-Frequency Radiation in response to a request from the U.S. Navy for a study of the possibility that plants, people, and other animals would be harmed by the electric and magnetic fields associated with operation of the transmitter of the Seafarer communication system proposed by the Navy. (ELR Order No. 71051.)[1]

ENVIRONMENTAL PROTECTION AGENCY

Contact: Please refer to the separate notice published by EPA in this issue of the FEDERAL REGISTER for the appropriate EPA contact.

Draft

Boulder Wastewater Treatment Facilities, Boulder County, Colo., August 23: Proposed are the design and construction of additional wastewater treatment facilities for the city of Boulder, Colorado. This statement identifies alternatives for providing Boulder with improved wastewater facilities to meet the needs of its residents. The projected service area contains approximately 140 square miles and is bounded by the foothills to the west, Davison Mesa to the south and Gunbarrel Hill to the north. The population of the planning area is projected to be 129,000. (Region VIII.) (ELR Order No. 71025.)

Final

N. Monterey County Facilities Plan, Monterey County, Calif., August 23: The pro-

[1] Due to administrative oversight, the notice of receipt of the supplemental EIS prepared by the Department of the Navy concerning Biologic Effects of Electric and Magnetic Fields Associated with Proposed Project Seafarer was omitted from the last CEQ FEDERAL REGISTER listing. The statement was received by the Council on August 18, 1977.

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posed Facilities Plan is designed to improve water quality by improving wastewater treatment service to residents in the southern Monterey Bay-lower Salinas Valley region of Monterey County, Calif. The major objective of the project is to eliminate public health hazards and water quality problems being caused by existing wastewater discharges to Monterey Bay, the Salinas River, Tembladero Slough, and Elkhorn Slough. In addition, the plan seeks to supply the additional wastewater treatment capacity needed to accommodate anticipated growth in the area. (Region IX.) Comments made by: COE, USCG, DOI, USDA, EPA, HEW, DOT, FPC, AHP, State and local agencies, groups and individuals. (ELR Order No. 71034.)

Steamboat Springs, 201 Wastewater Facilities, Routt County, Colo., August 26: Proposed is the provision of federal matching funds for regional wastewater treatment in the Steamboat Springs region through the authority of the Water Pollution Control Act. The principal river drainage is the Yampa River which is in poor condition. This project is intended to consolidate the five existing point sources of sewage effluent into one plant designed to achieve stated water quality goals. Plant site options include use of the existing city lagoon site or a new location three miles west of the city lagoons. (Region VIII.) Comments made by: EPA, FEA, USDA, DOI, DOT, State and local agencies. (ELR No. 71050.)

Albuquerque Wastewater Treatment Facilities, New Mexico, August 25: Proposed is the construction of 105 miles of new interceptor and collector sewer lines for the City of Albuquerque. Also, relief interceptors will be constructed parallel to overloaded lines and lift and odor control stations will be upgraded. It is proposed that 1 mgd of effluent be sold to the Public Service Company of New Mexico for use as cooling water. All other effluent will be discharged to the Rio Grande as at present. Adverse impacts include consumption of energy, materials, chemicals and financial resources; generation of small amounts of non-recycled wastes; and continued discharge to the River. (Region VI) Comments made by: COE, DOT, AHP, USDA, State and local agencies. (ELR Order No. 71041.)

Supplement

W. Contra Costa Co. Wastewater Program (S-2), Contra Costa County, Calif., August 26: This statement supplements a final EIS filed with CEQ in January 1977, and relates to the West Contra Costa County Wastewater Management Program (Wet Weather Flow Treatment, Plant Rehabilitation and Regional Sludge Handling at the San Pablo Sanitary District). The project proposes to provide wastewater treatment for wet weather infiltration-inflow flows to the San Pablo Sanitary District (SPSD) treatment plant, rehabilitate or replace some treatment facilities at the SPSD, and provide a sludge transport pipeline from the Richmond treatment plant to the SPSD. (ELR Order No. 71048.)

FEDERAL ENERGY ADMINISTRATION

Contact: Mr. Robert Stern, Director, Office of Environmental Programs, Federal Energy Administration, New Post Office Building, Room 7119, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202-566-9760).

Draft

Crude Oil Price Incentive Rulemakings Effects, August 26: Proposed is the implementation of a new set of price regulations by the Federal Energy Administration. These regulations, pursuant to the Energy Policy and Conservation Act (EPCA) and the Energy Conservation and production Act (EPCA), are intended to ameliorate the impact of inflation and provide additional price incentives for crude oil production. Execution of the EPCA is to be a 3-state process; this EIS analyzes the effect of State II of the crude oil price regulations. The proposed regulations provide for monthly upward adjustments of the composite price, beginning in March 1976, to take into account the effects of inflation and to provide additional production incentives. (ELR Order No. 71049.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Executive Director, Environmental Affairs Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405 (202-566-0405).

Final

Metallurgy Research Center, Salt Lake City, Salt Lake County, Utah, August 24: The proposed action is the construction of a new Metallurgy Research Center for the Bureau of Mines, Department of Interior. The Center will replace the current building in Salt Lake City and will house approximately 120 full- and 20 part-time employees. The project will require the commitment of 34 acres of land and will have an impact upon the cultural and historic resources of the area. Comments made by: AHP, COE, HEW, DOI, EPA, NRC, State and local agencies, interest groups. (ELR Order No. 71040.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202-755-6308).

Draft

Taylor Ranch Community, Bernalillo County, N. Mex., August 23: Proposed is the acceptance of the Taylor Ranch Planned Community in Albuquerque, New Mexico for mortgage insurance purposes. The development of the 1093.6-acre area calls for single family homes, multi-family homes, apartments, schools, a civic center, shopping and commercial areas, and park and recreation facilities. Major adverse impacts of the proposed project would include removal of the archaeological resources of the site, and creation of significant traffic congestion and safety hazard on Coors Road unless transportation alternatives are implemented. (ELR Order No. 71028.)

Heritage Hills Subdivision, New Mexico, August 23: Proposed is the acceptance of the Heritage Hills Subdivision in Albuquerque, N. Mex. for mortgage insurance purposes. The 306-acre development will be composed of single family homes, a park, an elementary school site and an area reserved for future development. Adverse effects include short term crowding in existing middle and high school facilities and an associated impetus for construction of new facilities. (ELR Order No. 71029.)

Country Colony Subdivision, Montgomery County, Tex., August 23: Proposed is FHA approval for mortgage insurance for Superior Homes, Inc.'s 300.22 acre Country Colony Subdivision in southeastern Montgomery County, Texas. This request for mortgage insurance reflects the fact that the development will exceed the 500-lot threshold, thus requiring an EIS. Adverse effects of the development include increased air and noise pollution, and increased demand upon community services. (ELR Order No. 71023.)

Westpoint Development, Tarrant County, Tex., August 23: Proposed is the acceptance of the 1,311-acre Westpoint Development for mortgage insurance purposes. The development, located on I-30 and West Loop 820 approximately 10 miles west of the Forth Worth Central Business District, is designed to accommodate a 1985 population of 13,300 persons with a housing supply of 4,600 units. Of these housing units, 3,650 are single-family homes and 950 units are apartments, cluster, condominiums, townhomes, duplexes and other multi-family units. The proposed development also provides for schools, parks, commercial and shopping centers and other community facilities. (ELR Order No. 71024.)

Camden Park Subdivision, Harris County, Tex., August 23: Proposed is the acceptance of the 316-acre Camden Park Subdivision for mortgage insurance purposes. Project plans call for the development of single-family homes, with some commercial reserves in Harris County, Texas. Adverse effects include the loss of agricultural land and an increased demand for fossil fuels through heavy dependence on the automobile for transportation. (ELR Order No. 71031.)

North Spring Subdivision, Harris County, Tex., August 24: Proposed is the acceptance of North Spring Joint Venture's 1125-acre North Spring Subdivision in the northern part of Harris County, Texas for mortgage insurance purposes. The proposed development plan calls for the construction of approximately 3300 housing units with additional acreage reserved for commercial, open space and recreational use. Adverse effects include increased automobile traffic, vehicle emissions, and noise levels. (ELR Order No. 71036.)

Greensbrook and Lake Forest Subdivisions, Harris County, Tex., August 26: The proposed action is for the Department of HUD to accept for HUD-FHA mortgage insurance purposes the Greensbrook and Kings Lake Forest Subdivisions located in the northeast section of Harris County, Texas. When completed in approximately ten years, the subdivisions will contain approximately 2,628 single family homes plus recreational facilities to serve the subdivisions. Adverse effects include the removal of potential forestland and livestock grazing land from production. (ELR Order No. 71047).

Final

Oak Tower, Oak Park, Cook County, Ill., August 24: Proposed is the provision of FHA mortgage insurance for 472 residential units in a structure with two nineteen-story towers located at Lake Street and Forest Avenue in Oak Park, Illinois. Adverse effects include construction related pollution, increased traffic, potential for alteration of the existing setting of an historically significant district, and potential to stimulate a trend of high intensity development which could overload some components of the physical infrastructure. Comments made by: EPA, FPC, DOI, DOT, State and local agencies, and concerned groups. (ELR Order No. 71037.)

Sangaree Planned Community, Berkeley County, S.C., August 26: Proposed is the development of the Sangaree Planned Community on a 1,200 acre tract in Berkeley County, South Carolina, 70% of which will be single family residential. Other long range land uses include multifamily, offices, light commercial, light industrial, and public and quasi-public buildings. Sangaree is proposed to be totally developed over a 6-15 year period. Adverse effects include the conversion of open and wooded land to urban use. Comments made by: EPA, COE, USAF, FPC, GSA, HEW, ERDA, DOI, USDA, State and local agencies, and interest groups. (ELR Order No. 71045.)

Section 104(h)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD).

Draft

Bulloch Co., Ala.—Rural Water System Improvement, Bulloch County, Ala., August 24: Proposed is the provision of a new rural water service to the Cornerstone, Thompson and Fitzpatrick communities in northwestern Bulloch County, Alabama. Also, existing service in the Greenwood community will be upgraded and interconnected to the Union Springs water system and the South Bulloch water system. The proposed improvements will service approximately 222 rural households. Adverse effects include short-term minor sedimentation of streams and an existing potential for limited erosion. (ELR Order No. 71035.)

Rock Hall, S.C.—Johnson Street Extension, York County, S.C., August 25: Proposed is the construction of the Johnson Street Extension, a one mile, five-lane road passing to the west of the downtown center of Rock Hall, South Carolina and connecting to a 1.3 mile, three-lane road which connects with S.C. 274 at the Village Plaza Shopping Center. The project would also involve the clearance of about 25 acres in census tract 5, near the City Post Office, which would be redeveloped for commercial, wholesale and light manufacturing uses. Adverse effects include short term relocation of displaced residents and increased levels of air and noise pollution. (ELR Order No. 71044.)

Final

Santa Rosa, S. Park Neighborhood Development, Sonoma County, Calif., August 23: This statement provides a comprehensive analysis of the environmental consequences of full implementation of the South Park Neighborhood Development Program in Santa Rosa, California. Redevelopment activities have been underway in the neighborhood for over three years and are anticipated to continue for another ten. Specific features of the plan are the rezoning of a seven-block area to be totally commercial, the expansion of a neighborhood park, and the construction of a new roadway completing a beltway around the neighborhood. Alternatives include cessation of redevelopment, and reduced funding. Comments made by: USDA, AHP, DOI, DOT, EPA, DOD, and State agencies. (ELR Order No. 71026.)

Norfolk, Va.—Downtown West Conservation Projects, August 22: Proposed is the revitalization of the Central Business District of Norfolk, Virginia through the Downtown-West Conservation Project. Three main types of action will take place in the 101-acre area: clearance of structures which are sources of blight for adjacent properties or which cannot be rehabilitated; reworking and upgrading of worn-out public improvements; and rehabilitation of all other properties to meet project standards. The project is expected to ameliorate adverse environmental conditions. Comments made by: EPA, USDA, DOT, DOI, COE, AHP, DOC, USN, and State and local agencies. (ELR Order No. 71001.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF OUTDOOR RECREATION

Final

Proposed Oregon National Historic Trail, August 25: The statement concerns Federal legislation that would designate the historic route of the Oregon Trail from Independence, Missouri to Oregon City, Oregon as a component of the National Trails System, within the new category of National Historic Trails and Travelways, and establish trail segments and a travelway for public use. Increased public use would result in increased damage to soils, vegetation, historic remnants, and artifacts. Acquisition along high-potential route segments will ultimately total approximately 4,000 acres. Comments made by: AHP, USDA, DOC, COE, DOT, FPC, EPA, HEW, HUD, DOI, State agencies, and private organizations. (ELR Order No. 71042.)

BUREAU OF RECLAMATION

Final

Coronado Project, Maricopa County, Ariz., August 25: Proposed is a joint project, involving the Department of Interior and the Department of Agriculture, associated with the Salt River Project's proposed electrical generating plant at St. John's, Arizona. The facilities are intended to meet the future needs of Maricopa County and of the "Eastern Mining Area." The generating plant, wellfields, pipelines, limestone source, and railroad would occupy 3,516 acres of land and the transmission line would occupy 526 acres. Negative effects include the impact of access roads, tower sites and staging areas on soils, forage, vegetation, and archeological resources. Comments made by: DOI, USDA, HEW, FPC, DOT, ICC, State and local agencies, and groups and individuals. (ELR Order No. 71043.)

GEOLOGICAL SURVEY

Final

Eagle Butte Mine, Amax Coal Co., Lease, Campbell County, Wyo., August 23: Proposed is approval of the surface mining and reclamation plan for Amax Coal Company's Eagle Butte mine in Campbell County, Wyoming. The project calls for mining of 566.2 million tons of coal over a 39-year period, at a rate of 16 million tons per year, on a total of 3,520 acres of Federal coal land and 640 acres of State coal land. The mining will result in the destruction of a total of 3,446 acres of land, degradation of water and open space quality, loss of wildlife habitat, and increased burden on social and economic institutions. Comments made by: HEW, EPA, ICC, DOI, State and local agencies, and concerned groups and individuals. (ELR Order No. 71027.)

DEPARTMENT OF STATE

BUREAU OF OCEANS AND INTERNATIONAL, ENVIRONMENTAL, AND SCIENTIFIC AFFAIRS

Contact: Mr. William Mansfield, III, Office of Environmental Affairs, Department of State, Washington, D.C. 20520.

Draft

New Panama Canal Treaty, August 26: Proposed is the conclusion of a new Panama Canal Treaty with the Republic of Panama concerning the operation and defense of the Panama Canal. The statement examines the alternatives of taking no action on the proposed Treaty, postponing further action on the Treaty, implementing the Treaty's provisions, and the possibility of a new treaty with stronger environmental safeguards. Other elements discussed in the EIS are a proposed Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal and an AID loan for watershed management, which has been proposed in connection with the Canal Treaty. (ELR Order No. 71057).[2]

[2] The period for comment on this draft has been reduced from the usual 45 days to 30 days.

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Final

William P. Hobby Airport, Houston, Tex., August 23: The statement refers to the construction of two runways parallel to two existing runways at the William P. Hobby Airport for use by light aircraft. The new runways will be marked and lighting will be installed. Associated taxiways, a new fire and rescue station, and extended drainage and sewer systems will also be installed. Adverse impacts include increased levels of air and noise pollution. Comments made by: EPA, DOI, HEW, HUD, COE, State and local agencies, and concerned interest groups. (ELR Order No. 71022.)

FEDERAL HIGHWAY ADMINISTRATION

Final

Bailey Ave., Peter-Neatum Streets, Hinds County, Miss., August 24: The proposed construction project is located within the city limits of Jackson, Mississippi. The project is approximately 1,876 feet in length and extends in a northerly direction from Peter to Neatum Streets. Construction is to take place on existing right of way where feasible; however, approximately 2.2 acres of right-of-way will be required. The completed project will provide a basic four-lane facility meeting criteria for an arterial (Region 4). Comments made by: EPA, DOI, USDA, HUD, and State agencies. (ELR Order No. 71038.)

Forest Highway 13 (U.S. Rte. 2), Montana, August 24: The statement refers to the proposed construction of 3.6 miles of Forest Highway Rte. 13 (U.S. Rte. 2), from the Essex Bridge easterly to just east of the Burlington Northern R.R. underpass. Stream pollution will increase during construction. A 4(f) determination is necessary because the project is almost entirely within Glacier National Park. Comments made by: DOI USDA, EPA, FPC, DOT, State agencies, and concerned groups and persons. (ELR Order No. 71039.)

NICHOLAS C. YOST,
Acting General Counsel.

[FR Doc.77-25680 Filed 9-1-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

M-X BURIED TRENCH CONSTRUCTION AND TEST PROJECT

Public Hearing and Availability of Draft Environmental Impact Statement

An informal public hearing will be held for the purpose of soliciting comments from the public on the Draft Environmental Impact Statement (EIS) on the M-X Buried Trench Construction and Test Project proposed in the San Cristobal Valley on the Luke Air Force Base Range in Yuma County, AZ. The hearing is scheduled to be conducted on September 19, 1977 at 7:30 pm at the Antelope Union High School, Box 26, Route 1, Wellton, AZ 85356. Any changes to this schedule will be publicized in the local news media.

The project includes the construction of two sections of underground tunnel totaling approximately 21,500 feet in length. The proposed construction project will provide essential cost and con-

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struction data to analyze conceptual protective structures for the mobile, land-based Intercontinental Ballistic Missile (ICBM) System known as the MX. The construction will also serve as a test bed for mechanisms designed to punch through the tunnel roof and erect a dummy missile to simulate launch position. The Draft EIS on the proposed project was filed with the Council on Environmental Quality (CEQ) on August 5, 1977. Limited copies of the Draft EIS are available from:

Civil Engineering Division, SAMSO/MNND Norton AFB, CA 92409.

In addition, copies of the Draft EIS have been placed in the following libraries for public reference:

Arizona Collection, University Library, Arizona State University, Temple, AZ 85281.
University Library, Documents Section, University of Arizona, Tucson, AZ 85721.
Arizona Department of Library and Archives, 3rd Floor, State Capitol, Phoenix, AZ 85007.
Library Arizona Western College, Yuma, AZ 85364.
Library, Maricopa County, Community College District, P.O. Box 13349, Phoenix, AZ.
Library, Pima College, 2202 West Anklam Rd., Tucson, AZ 85709.
Miss Gertrude Thayer, Librarian, Maricopa County Free Library, Regional Headquarters, 125 West Washington, Phoenix, AZ 85003.
Mr. Clarence M. Dial, Librarian, Mesa Public Library, Maricopa County System, 59 East First St., Mesa, AZ 85203.
Phoenix Public Library, 12 East McDowell, Phoenix, AZ 85004.
Mrs. Frances E. Thomas, Librarian, Yuma City County Library, Regional Headquarters 350 South 3rd St., Yuma, AZ 85364.
Tempe Public Library, Maricopa County System, 3300 South Mill Ave., Tempe, AZ 85281.
Tucson Public Library, Regional Headquarters, 200 South 6th Ave., Tucson, AZ 85701.

The Presiding Officer at the Hearing will be Colonel Allan C. Smith, Chief Circuit Judge, 5th Judiciary Circuit, USAF Trial Judge, Travis Air Force Base, CA 94535.

The following procedures will be followed during the informal public hearing. Individual speakers will be limited to five minutes, with ten minutes for a group spokesman. There will be no relinquishing of time by one speaker to another. Written statements, in addition to or in lieu of oral presentations will be accepted. The closing date for including written communications in the hearing record is five days after date of puublic hearing. Submit written communications to the presiding officer or as directed at the public hearing.

Other persons not able to participate in the public hearing have until September 26, 1977 to submit their written comments to the Deputy for Environment and Safety, Office of the Secretary of the Air Force (SAF/MIQ), Washington, D.C. 20330.

For further information, contact Mr. Wayne Hudson, Environmental Planning Division, Headquarters U.S. Air Force, 202-695-1422.

FRANKIE S. ESTEP,
Federal Register Liaison, Directorate of Administration.

[FR Doc.77-25871 Filed 9-1-77;9:27 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON CRUISE MISSILES

Advisory Committee Meeting

The Defense Science Board Task Force on Cruise Missiles will meet in closed session on September 19 and 20, 1977, in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will provide an analysis of the major issues concerning strategic cruise missile employment, theater cruise missile employment and potential defenses to the U.S. deployment of cruise missile systems.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

AUGUST 30, 1977.

[FR Doc.77-25864 Filed 9-1-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 786-1]

AMBIENT AIR MONITORING EQUIVALENT METHOD DESIGNATION

ASARCO Model 500 SO_2 Monitor

Notice is hereby given that the EPA, in accordance with 40 CFR Part 53 (40 FR 7044, February 18, 1975), has designated another equivalent method for the measurement of ambient concentrations of sulfur dioxide. The new equivalent method is an automated method (analyzer) which utilizes a measurement principle based on the increase in the electrolytic conductance of a chemical solution from absorption of sulfur dioxide. The method is: EQSA-0877-024, "ASARCO Model 500 Sulfur Dioxide Monitor," operated on a 0-0.5 ppm range.

The application for an equivalent method determination for this method was submitted by ASARCO Inc., 3422 South 700 West, Salt Lake City, Utah 84119. A notice of receipt of the application appeared in the FEDERAL REGISTER, Vol. 41, June 9, 1976, page 23225.

A test analyzer representative of this method has been tested by a representative of the applicant, in accordance with the test procedures specified in 40 CFR Part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as an equivalent method. The information submitted by the applicant will be kept on file at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As an equivalent method, this method is acceptable for use by States and other control agencies for purposes of § 51.-17(a) of 40 CFR Part 51 ("Requirements for Preparation, Adoption, and Submittal of Implementation Plans") as amended on February 18, 1975 (40 FR 7042). For such use, the method must be used in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see description of the method above). Vendor modifications of a designated method used for purposes of § 51.17(a) are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users were promulgated on March 17, 1976 (41 FR 11255).

In general, the designation applies to any analyzer which is identical to the analyzer described in the designation. In many cases, similar analyzers manufactured prior to the designation may be upgraded (e.g., by minor modification or by substitution of a new operation or instruction manual) so as to be identical to the designated method and thus achieve designated status at modest cost. The manufacturer should be consulted to determine the feasibility of such upgrading.

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B-1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) If such an analyzer has one or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been designated as reference or equivalent methods.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a reference or equivalent method designation

applicable to the analyzer has been cancelled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representations), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated non-compliance with any of these conditions should be reported to: Director, Environmental Monitoring and Support Laboratory, Department E (MD-76), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

Designation of this equivalent method will provide assistance to the States in establishing and operating their air quality surveillance systems under 40 CFR 51.17(a). Additional information concerning this action may be obtained by writing to the address given above.

STEPHEN J. GAGE,
Assistant Administrator for Research and Development.

AUGUST 26, 1977.

[FR Doc.77-25743 Filed 9-1-77;8:45 am]

[FRL 785-7; OPP-180140]

MARYLAND DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Terramycin To Control Bacterial Spot on Peaches, Nectarines, and Plums

The Environmental Protection Agency (EPA) has granted a specific exemption to the Maryland Department of Agriculture (hereafter referred to as the "Applicant") to use no more than 17,830 pounds of Terramycin to control bacterial spot on peaches, nectarines, and plums involving approximately 900 acres in Maryland. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street S.W., Room E-315, Washington, D.C. 20460.

According to the Aplicant, bacterial spot is caused by the bacterium *Xanthomonas pruni;* bacterial spot affects leaves, fruit, and tender growing shoots. Growers consider bacterial spot a very destructive disease. If infection occurs early in the season, constant defoliation causes the trees to lose vigor and consequently, to evoke smaller total crop yield and smaller fruit. Infected fruit develop cracks and a mottled appearance; both of these render the fruit unmarketable. The Aplicant stated that the future crop yields also tend to be smaller. Wet weather conditions favor development of the disease. The Applicant stated that bacterial spot symptoms usually appear early in June in Maryland.

According to the Applicant, registered pesticides have proven ineffective in the past to control bacterial spot in the State. Cyprex-captan mixes have been used but were not efficacious and copper hydroxide has demonstrated phytotoxicity.

The Applicant proposed to use the product Myco Shield Agricultural Terramycin, manufactured by Pfizer Chemical Division, at the rate of 45.32 ounces of Terramycin/acre (11.33 ounces of Terramycin/100 gallons of water) per application by ground spray. There will be a maximum of 7 applications. Application will be made by growers.

The Applicant stated that the annual peach, nectarine, and plum crop yield in Maryland is approximately 500,000 bushels valued at about $3 million. One-fifth (⅕) of this crop is of the susceptible varieties. The Applicant estimated that damage to susceptible varieties by bacterial spot may be approximately 5%-25%, eliciting an economic loss of about $30,000-$150,000 annually.

EPA has determined that, under heavy inoculum pressure, Terramycin (the calcium complex of oxytetracycline) would be needed to prevent large scale losses of peaches, nectarines, and plums infected with bacterial spot. Tolerances for oxytetracycline hydrochloride were previously established at 0.35 ppm on pears; currently, a tolerance of 0.1 ppm in or on pears for the calcium complex of oxytetracycline has been proposed. Tolerances for peaches are pending. The use of this pesticide for this exemption is not expected to have any adverse effects to either man or the environment. Therefore, a residue level not exceeding 0.1 ppm has been determined by EPA to be adequate to protect the public health.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of bacterial spot on peaches, nectarines, and plums has or is about to occur; (b) there is no pesticide presently registered and available for use to control the bacterial spot in Maryland; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the bacterial spot is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until August 15, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Myco Shield Agricultural Terramycin (containing the calcium complex of oxytetracycline), manufactured by Pfizer Chemical Division, is authorized;

2. Application rate shall be 45.32 ounces of Terramycin/acre (11.33 ounces of Terramycin/100 gallons of water) per application by ground spray;

3. A maximum of 7 applications of Terramycin may be made;

4. A maximum of 17,830 pounds of Terramycin may be applied;

5. The duration of the application period shall be from June 10, 1977, until August 15, 1977;

6. A maximum of 900 acres in Maryland may be treated;

7. Application of Terramycin shall be by growers;

8. Workers shall not enter orchards after Terramycin application until foliage is dry;

9. There shall be a 21-day preharvest interval;

10. The Applicant shall notify Niagara (a subsidiary of FMC), sole distributor of this material, that records of the sale of this material shall be kept and made available. These records shall include the name and address of the purchaser, and the quantity of material purchased;

11. An Extension Plant Pathologist at the University of Maryland shall coordinate the program; he shall make all initial recommendations of Terramycin application, based on observation of disease, past history of the disease, and local weather conditions. County agricultural agents will assist the Pathologist in monitoring the program. A newsletter or agricultural bulletin shall be promulgated informing growers about program criteria;

12. A residue level of oxytetracycline not exceeding 0.1 ppm has been deemed adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

13. All label precautions shall be followed;

14. A final report shall be submitted to EPA by the end of 1977, summarizing the results of this program; and

15. The Applicant shall inform EPA immediately of any adverse effects resulting from this program and shall be responsible for the performance of all provisions of this exemption.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: August 29, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-25739 Filed 9-1-77;8:45 am]

SEP 2 7 1977 V 42 171 UMI

[FRL 786-4; OPP-50323]

PENNWALT CORP.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 4581-EUP-24. Pennwalt Corporation, Tacoma, Washington 98401. This experimental use permit allows the use of 2,510 pounds of the insecticide methyl parathion on almonds, cabbage, conifers, cranberries, cucumbers, melons, peanuts, peppers, potatoes, squash, strawberries, sugar beets, turf, and turnips to evaluate control of various insects. A total of 2,884 acres is involved; the program is authorized only in the States of California, Maine, Michigan, Minnesota, Nebraska, New York, North Dakota, Oregon, Texas, Virginia, Washington, and Wisconsin. The experimental use permit is effective from July 15, 1977, to July 15, 1978. Permanent tolerances for residues of the active ingredient in or on almonds, cabbage, cranberries, cucumbers, melons, peanuts, peppers, potatoes, squash, strawberries, sugar beets, and turnips have been established (40 CFR 180.121).

No. 40285-EUP-:. Degesch America, Inc., Vienna, Virginia 22180. This experimental use permit allows the use of 235 pounds of the insecticide magnesium phosphide on cereal grains on board cargo ships to evaluate control of insects which infest cereal grains. A total of 1,440,000 bushels of cereal grain is involved; the program is authorized only in the States of Alabama, Louisiana, Mississippi, South Carolina, Texas, and Virginia. The experimental use permit is effective from July 20, 1977, to July 20, 1978. This permit is being issued under the condition that all treated grain will be exported.

No. 27586-EUP-19. U.S. Department of Agriculture, Washington, D.C. 20250. This experimental use permit allows the use of an insecticide which is a mixture of 575 pounds of technical malathion, and 1,700 pounds of methyl eugenol on undeveloped grassland, scrub, and areas where there is no permanent human habitation, and no bodies of water or permanent streams to attract and kill Oriental fruit fly males. A total of 9,600 acres is involved; the program is authorized only in the State of Hawaii. The experimental use permit is effective from July 13, 1977, to July 13, 1978.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; (7 U.S.C. 136(a) *et seq.*)).)

Dated: August 26, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-25746 Filed 9-1-77;8:45 am]

[FRL 786-2]

SCIENCE ADVISORY BOARD EXECUTIVE COMMITTEE, SUBCOMMITTEE ON SCIENTIFIC CRITERIA FOR ENVIRONMENTAL LEAD

Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Subcommittee on Scientific Criteria for Environmental Lead of the Science Advisory Board will be held at 9:00 a.m. on October 7, 1977 in Conference Room A (Room 1112), Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va.

The purpose of the meeting will be to provide advice and consultation on air quality criteria for atmospheric lead and, specifically, to review and comment on a draft document entitled, "Air Quality Criteria for Lead," External Review Draft No. 3, August 1977, prepared by the Agency's Office of Research and Development.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460, by c.o.b. September 30, 1977. Please ask for Ms. Barbara Robinson or Mrs. Ilene F. Stein.

The telephone number is 703-557-7720.

RICHARD M. DOWD,
Staff Director,
Science Advisory Board.

AUGUST 29, 1977.

[FR Doc.77-25744 Filed 9-1-77;8:45 am]

[FRL 786-3; OPP-50326]

STAUFFER CHEMICAL CO. AND CHEVRON CHEMICAL CO.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 476-EUP-85. Stauffer Chemical Co., Richmond, Calif. 94804. This experimental use permit allows the use of 280 pounds of the herbicide S-ethyl dipropylthiocarbamate and 40 pounds of the herbicide trifluralin on sugarbeets to evaluate control of pigweed, lambsquarters, nightshade, Russian thistle, barnyard grass, and a variety of annual grasses, annual broadleaf and perennial weeds. A total of 120 acres is involved; the program is authorized in the State of Idaho and Washington. The experimental use permit is effective from November 11, 1977, to November 11, 1978. Permanent tolerances for residues of S-ethyl dipropylthiocarbamate and trifluralin in or on sugarbeets have been established (40 CFR 180.117 and 40 CFR 180.207).

No. 239-EUP-73. Chevron Chemical Co., Richmond, Calif. 94804. This experimental use permit allows the use of the remaining supply of approximately 1,000 pounds of the resin soaking-herbicide paraquat dichloride remaining from last year's experimental program on conifers. A total of approximately 3,000 acres is involved; the program is authorized only in the States of Alabama, Arkansas, California, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and Washington. The experimental use permit is effective from July 20, 1977, to July 20, 1978.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751 (7 U.S.C. 136(a) *et seq.*))

Dated: August 30, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-25745 Filed 9-1-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

FOURTH ANTHRACITE COAL CONFERENCE

Conference

Notice is hereby given that the fourth Anthracite Coal Conference will be held on September 15, 1977, from 1 p.m. to 4 p.m. at the Gus Genetti Motor Lodge, Route 309, Hazelton, Pa. This meeting is a follow-up to the third Anthracite Coal Conference held on August 18, 1977, at the Reading Motor Inn in Wyomissing, Pa. Notice is also given that the five subgroups to the Conference, appointed at the first meeting on June 28, 1977, will hold meetings before the fourth conference.

The urgency of convening both the subgroup meetings and fourth conference results from FEA's responsibility to study ways of improving the production of anthracite coal. Analysis and recommendations to this end must be completed by mid-October. It is therefore essential to call these meetings immediately, thereby reducing the customary advance period of notice normally given.

The schedule of subgroup meetings is as follows:

UTILIZATION SUBGROUP

September 9, 1977, 10 a.m. Pennsylvania Power and Light Co. Building Two, North Ninth St., Allentown, Pa.
Agenda: Preliminary conclusions and recommendations on progress for assistance/report.

ENVIRONMENTAL SUBGROUP

September 1, 1977, 10 a.m. Main Capital Building, Room 225, Harrisburg, Pa.
Agenda: Final report of study on environmental issues concerning land use conflicts, water quality, refuse disposal, restoration/rehabilitation.

MARKETING (TRANSPORTATION) SUBGROUP

September 7, 1977, 10 a.m. ConRail, 214 Six Penn Center Plaza, Philadelphia, Pa.
Agenda: Preliminary policy recommendations on the structure and economics of rail transportation in the anthracite region.

The agenda for the September 15 conference will be an assessment of the preliminary recommendations by the Task Force, in conjunction with presentations by individual members on major issues previously identified at the August 18 conference.

These meetings will be open to the public. The Chairman is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement will be permitted to do so, either before or after the meeting.

Further information concerning this meeting may be obtained from Stephen T. Minihan, Room 3502, FEA Headquarters, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 202-566-6230.

Transcripts of the conference will be available for public review and copying at the Freedom of Information Public Reading Room, Room 217, FEA Headquarters, 12th and Pennsylvania Avenue NW., Washington, D.C. between the hours of 8 a.m. and 4:30 p.m. Monday through Friday except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on August 29, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-25625 Filed 9-1-77;8:45 am]

SOUTH DAKOTA ENERGY CONSERVATION PLAN

Negative Determination of Environmental Impact

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the State of South Dakota, of its State Energy Conservation Plan. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321, et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of this plan, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration has determined that an environmental impact statement is not required for this plan.

Single copies of the environmental assessment of the State Plan for South Dakota are available upon request from the FEA National Energy Information Center, Room 1406; 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Copies of the environmental assessment will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

A copy of the State Plan is available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views or arguments with respect to the environmental assessments to Executive Communications, Box PB, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—South Dakota Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by 4:30 p.m. e.d.s.t., September 9, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., August 29, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-25626 Filed 9-1-77;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[No. AC-44]

TRI-COUNTY SAVINGS AND LOAN ASSOCIATION, CAMDEN, N.J.

Post Approval Amendment of Conversion Application (Final Action)

AUGUST 30, 1977.

Notice is hereby given that on August 18, 1977, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 77-513, approved the amendment to the application of Tri-County Savings and Loan Association, Camden, New Jersey, for permission to convert to the stock form of organization. The application to convert was approved on May 4, 1977, by Resolution No. 77-279. Copies of the application are available for inspection at the Office of the Secretary of said Corporation, 320 First Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, N.Y. 10048.

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc.77-25706 Filed 9-1-77;8:45 am]

FEDERAL RESERVE SYSTEM

COMMUNITY BANKS OF FLORIDA, INC.

Acquisition of Bank

Community Banks of Florida, Inc., Seminole, Fla., has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 80 percent or more of the voting shares of The County Bank, Palmetto, Fla. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 26, 1977.

Board of Governors of the Federal Reserve System, August 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-25708 Filed 9-1-77;8:45 am]

NEW VIRGINIA BANCORPORATION

Acquisition of Bank

New Virginia Bancorporation, Springfield, Va., has applied for the Board's ap-

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proval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842 (a)(3)) to acquire 100 percent of the voting shares of the successor by merger to Bank of Warrenton, Warrenton, Va. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 23, 1977.

Board of Governors of the Federal Reserve System, August 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc 77-25709 Filed 9-1-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of September 1977:

DRUG ABUSE TRAINING REVIEW COMMITTEE

Date and time: September 27-28, 8:30 a.m. to 5:00 p.m.

Place: 8th Floor Conference Room, One Central Plaza, 11300 Rockville Pike, Rockville, Maryland 20852.

Type of Meeting: Open—September 27, 8:30 a.m. to 9:30 a.m.

Closed—Otherwise

Contact—Mr. James F. Callahan, Rockwall Building, Room 640, 11400 Rockville Pike, Rockville, Maryland 20852, 301-443-4922.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to Drug Abuse Training Activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 8:30 a.m. to 9:30 a.m. September 27, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse and Mental Health Administration, pursuant to the provisions of Title 5, U.S. Code 552b(c)(6) and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

DRUG ABUSE PREVENTION REVIEW COMMITTEE

Date and time: September 30, 9 a.m.

Place: 9th Floor Conference Room, SW., One Central Plaza Building, 11300 Rockville Pike, Rockville, Maryland 20852.

Type of meeting: Open—September 30, 9 to 11 a.m.

Closed—Otherwise

Contact: Mrs. Linda S. Jackson, Rockwall Building, Room 752, 11400 Rockville Pike, Rockville, Maryland 20852, 301-443-2450.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to prevention activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9 a.m. to 10 a.m. September 30 the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact person listed above. The NIDA Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. Ken Howard, Director, Office of Communications and Public Affairs, NIDA, Room 110, Rockwall Building, 11400 Rockville Pike, Rockville, Md. 20852, 301-443-6500.

Dated: August 26, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc 77-25279 Filed 9-1-77, 8:45 am]

ADVISORY COMMITTEES

Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of October 1977:

MENTAL HEALTH SERVICES RESEARCH REVIEW COMMITTEE

Date and time: October 5-7, 9 a.m.

Place: Gramercy Inn, Parkview Room, 1616 Rhode Island Avenue NW., Washington, D.C. 20036.

Type of Meeting: Open—October 5, 9 to 10 a.m.

Closed—Otherwise

Contact: James T. Cumiskey, Parklawn Building, Room 11C-17, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3764.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to mental health services research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9 a.m. to 10 a.m., on October 5, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

CRIME AND DELINQUENCY REVIEW COMMITTEE

Date and time: October 5-7, 9 a.m.

Place: Plaza Room, DuPont Plaza Hotel, 1500 New Hampshire Avenue NW., Washington, D.C. 20036.

Type of meeting: Open—October 5, 9 to 10:00 a.m.

Closed—Otherwise

Contact: Carol Beall, Room 18C-04, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland, 20857, 301-443-3728.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research and training activities in crime and delinquency individual violent behavior, and related law and mental health interactions, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9 a.m. to 10:30 a.m., October 5, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

METROPOLITAN MENTAL HEALTH PROBLEMS REVIEW COMMITTEE

Date and time: October 13-15, 9 a.m.

Place: Meeting Room B, Holiday Inn, 2306 Wisconsin Avenue NW., Washington, D.C.

Type of meeting: Open—October 13, 9 to 9:30 a.m.

Closed—Otherwise.

Contact: Mrs. Phyliss Pinzow, Parklawn Building, Room 15-93, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3374.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to metropolitan mental health problems and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9 a.m. to 9:30 a.m., October 13, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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ALCOHOL TRAINING REVIEW COMMITTEE

Date and time: October 13-15, 9 a.m.

Place: Conference Room A, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Type of meeting: Open—October 13, 9 to 11 a.m.

Closed—Otherwise

Contact: Dr. Nathan Rosenberg, Parklawn Building, Room 14C-17, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-1056.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism, ADAMHA, relating to training activities and make recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism.

Agenda: From 9 a.m. to 11 a.m., October 13, the meeting will be open for reports and announcements of administrative and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse and Mental Health Administration, pursuant to the provisions of Section 552(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

INTERAGENCY COMMITTEE ON FEDERAL ACTIVITIES FOR ALCOHOL ABUSE AND ALCOHOLISM

Date and time: October 18; 9:30 a.m. to 4:30 p.m.

Place: Conference Rooms "G" and "H", Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Type of meeting: Open meeting.

Contact: James Vaughan, Parklawn Building, Room 16C-10, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3888.

Purpose: The Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism (1) evaluates the adequacy and technical soundness of all Federal programs and activities which relate to alcohol abuse and alcoholism and provides for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities, and (2) seeks to coordinate efforts undertaken to deal with alcohol abuse and alcoholism in carrying out Federal health, welfare, rehabilitation, highway safety, law enforcement, and economic opportunity laws.

Agenda: This meeting will feature a presentation by Dr. Thomas Bryant, Chairman of the President's Commission on Mental Health and a report on alcoholism programs in the Veterans Administration. In addition, a report will be given regarding current legislation and working group activities. This meeting will be open to the public.

PERSONALITY AND COGNITION RESEARCH REVIEW COMMITTEE

Date and time: October 16-18; 9 a.m.

Place: Executive Room, Dupont Plaza Hotel, Dupont Plaza, Washington, D.C. 20036.

Type of meeting: Open—October 16, 9 to 10 a.m.

Closed—Otherwise.

Contact: Shirley Maltz, Parklawn Building, Room 10C-06, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3942.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9 a.m. to 10 a.m., October 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

ALCOHOL RESEARCH REVIEW COMMITTEE

Date and Time: October 26-28, 9 a.m.

Place: Maryland Room, Holiday Inn, Bethesda, Maryland 20014

Type of meeting: Open—October 26, 9 to 10 a.m.

Closed—Otherwise

Contact: Dr. James C. Teegarden, Parklawn Building, Room 16C-26, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4223.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to research activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9 a.m. to 10 a.m., October 26, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6) Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

BOARD OF SCIENTIFIC COUNSELORS, NIMH

Date and time: October 27-28, 9 a.m. (Oct. 27), 9:30 a.m. (Oct 28).

Place: Building 36, Conference Room 1B-07, National Institutes of Health, Bethesda, Maryland 20014

Type of meeting: Open—October 27, 9:30 to 10 a.m.

Closed—Otherwise

Contact: Dr. John C. Eberhart, Building 36, Room 1A-05, National Institutes of Health, Bethesda, Maryland 20014, 301-496-3501.

Purpose: The Board of Scientific Counselors provides expert advice to the Director, NIMH, on the mental health intramural research program through periodic visits to the laboratories for assessment of the research in progress and evaluation of productivity and performance of staff scientists.

Agenda: The Board will meet in Building 36, Room 1B-07, Bethesda, Maryland, for approximately 30 minutes for a report by the Director and Deputy Director of Intramural Research, NIMH, on recent administrative developments. The remainder of the two-day session will be devoted to the review of intramural research projects from the Laboratory of Developmental Psychology, and the evaluation of individual scientific programs, and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Sec. 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

PRECLINICAL PSYCHOPHARMACOLOGY RESEARCH REVIEW COMMITTEE

Date and time: October 27-28; 9 a.m.

Place: Sheraton-Park Hotel, Suite G-100 and G-101, 2600 Woodley Road, N.W., Washington, D.C.

Type of meeting: Open—October 27, 9 to 9:30 a.m.

Closed—Otherwise.

Contact: Nina Young, Parklawn Building, Room 9-97, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3454.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to preclinical psychopharmacology research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9 a.m. to 9:30 a.m. October 27, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

CLINICAL PROJECTS RESEARCH REVIEW COMMITTEE

Date and Time: October 27-29, 9 a.m.

Place: Twin Bridges Marriott Hotel, 3300 Jefferson Davis Highway, Arlington, Va. 22202 20001

Type of meeting: Open—October 27, 9 a.m.

Closed—Otherwise

CONTACT: Harriet German, Parklawn Building, Room 10C-5, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3367

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to clinical research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9 a.m. to 10 a.m., October 27, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact person listed above. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. Edwin Lord, Deputy Director, Division of Scientific and Public Information, NIMH, Room 15-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-36600. The NIAAA Information Officer who will furnish summaries of the meeting and rosters of the committee members is Mr. Harry Bell, Associate Director for Public Affairs, National Institute on Alcohol Abuse and Alcoholism, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-4493-3306.

Dated: August 26, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-25403 Filed 9-1-77;8:45 am.]

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Office of Education

FULBRIGHT-HAYS TRAINING GRANTS

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 102 (b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)(6)), applications are being accepted from eligible institutions for Fulbright-Hays training grants.

Eligible applicants for Fulbright-Hays training grants are as follows:

A For the Faculty Research Abroad program, accredited institutions of higher education.

B For the Doctoral Dissertation Research Abroad program, accredited institutions of higher education which offer doctoral programs in the fields of foreign languages and area studies.

C. For the Group Projects Abroad program, accredited institutions of higher education, State departments of education, private non-profit educational organizations, and consortiums of such entities.

D For the Foreign Curriculum Consultants program, accredited institutions of higher education, State departments of education, local public school systems, private non-profit educational organizations, and consortiums of such entities.

Applications must be received by the U.S. Office of Education Application Control Center on or before November 4, 1977.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Washington, D.C. 20202, Attention (as applicable): 13.438A Faculty Research Abroad; 13.439A Foreign Curriculum Consultants; 13.440A Group Projects Abroad; or 13.441A Doctoral Dissertation Research Abroad. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail no later than October 31, 1977 as evidenced, by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the International Studies Branch, Division of International Education, Bureau of Higher and Continuing Education, Office of Education, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. 20202.

D. *Estimated Distribution of Program Funds.* The amount of funds available for the Fulbright-Hays Training programs for Fiscal Year 1978 will be approximatley $3,000,000 in addition to the equivalent of $1,830,000 in special foreign currencies. The tentative number of awards for each program and their estimated average costs are as follows: Faculty Research Abroad—90 fellowships at an average cost of approximately $10,400; Doctoral Dissertation Research Abroad—125 fellowships at an average cost of approximately $9,300; Group Projects Abroad—45 grants at an average cost of approximately $52,600; and Foreign Consultants—25 grants at an average cost of $13,000.

The above statement with regard to the expected distribution of funds is an estimate and is for information purposes only; it does not bind the Office of Education except as may be required by applicable statute and regulation.

E. *Applicable regulations.* Awards made pursuant to this notice will be subject to the Office of Education General Provisions Regulations (45 CFR Part 100a) and the regulations for Modern Foreign Language Training and Area Studies (45 CFR Part 148).

(22 U.S.C. 2452(b)(6).)

(Catalog of Federal Domestic Assistance Programs: 13.438A Fulbright-Hays Training Grants—Faculty Research Abroad; 13.439A Fulbright-Hays Training Grants—Foreign Curriculum Consultants; 13.440A Fulbright-Hays Training Grants—Group Projects Abroad; 13.441A Fulbright-Hays Training Grants Doctoral Dissertation Research Abroad.)

Dated: August 30, 1977.

JOHN ELLIS,
Acting U.S. Commissioner of Education.

[FR Doc 77-25672 Filed 9-1-77;8:45 am]

GIFTED AND TALENTED MODEL PROJECTS

Closing Date for Receipt of Applications for Programs for Gifted and Talented Competitive Continuation Assistance Contracts

Notice is hereby given that pursuant to the authority contained in Section 404(g) of Pub. L. 93-380 (20 U.S.C. 1863(g)), applications are being accepted for continuation contracts of assistance from public and private agencies to continue and operate model projects. Applications for continuation awards are competitive with other applications for continuation awards in the same year (45 CFR 160b.4 (c)(2)). Funds are available for contracts to continue the operation of model projects presently in operation pursuant to an approved project period in excess of one year. Continuation applications must be received by the U.S. Office of Education Application Control Center on or before November 21, 1977.

A *Application sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Washington, D.C. 20202, Attention: 13.562C. Applications sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 16, 1977 as evidenced by the U.S. Postal Service Postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.* The amount of funds which is expected to be available in Fiscal Year 1978 for the continuation of Gifted and Talented programs is $1,328,360, out of which $210,000 is projected for Model Projects. The anticipated number of continuation assistance contracts for Gifted and Talented Model Projects is five. The funding level of multi-year Model Projects has been in the approximate range of $40,000 in the past operational year. It is projected that many of these continuation projects may be funded at the same level this Fiscal Year.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any pattern of distribution, except as required by the applicable provisions of the Gifted and Talented regulations, and appropriation acts.

Further information and application forms may be obtained from the Office of Gifted and Talented, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202.

D. *Applicable regulations.* Assistance contract awards made pursuant to this notice are subject to the Regulations published in the FEDERAL REGISTER on May 6, 1976 (41 FR 18660, 45 CFR Part 160b, Subpart F) and the Office of Education General Provisions Regulations (45 CFR Part 100a).

(20 U.S.C. 1863(g))

(Catalog of Federal Domestic Assistance Number 13.562, Gifted and Talented.)

Dated: August 29, 1977.

JOHN ELLIS,
Acting U.S. Commissioner of Education.

[FR Doc 77-25671 Filed 9-1-77;8:45 am]

HANDICAPPED CHILDREN'S EARLY EDUCATION PROGRAM

Closing Date for Receipt of Initial Applications

Notice is hereby given that pursuant to the authority contained in sections 623 and 624 of the Education of the Handicapped Act (20 U.S.C. 1423, 1424), the U.S. Commissioner of Education has established a final closing date of November 9, 1977 for receipt of applications. Applications for New Model Demonstration Projects (13.444A) must be received on or before the above date. The notice of closing for non-competing continuations will be published separately.

The funding level of the Handicapped Children's Early Education Program in Fiscal Year 1978 is expected to be $22,000,000. These funds will be made available for new and non-competing continuation demonstration projects, technical assistance support activities, and outreach projects. The approximate number of new demonstration awards is 70. During previous years of the program, funding for new demonstration projects has averaged between $60,000 and $70,000.

Projects approved for funding under this program will be for a three-year period with annual review of progress. The funding level and distribution of project funds are predicated upon the allotment of funds and may vary according to the final appropriation made available during a specific fiscal year.

Applications must be received by the U.S. Office of Education Application Control Center on or before

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Washington, D.C. 20202, Attention: 13.444A. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail no later than November 4, 1977 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be delivered to the U.S. Office of Education, Application Control Center, Room 5673 Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications for new awards will not be accepted by the Application Control Center after 4:00 p.m., Washington, D.C. time, on the closing date.

C. *Program Information and forms.* Information and applications may be obtained from the Division of Innovation and Development, Bureau of Education for the Handicapped, U.S. Office of Education, Rm. 3100 Donohue Building, 400 Maryland Avenue SW., Washington, D.C. 20202. Applications will be available on or about September 12, 1977.

D. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) and the applicable program regulations (45 CFR Parts 121, 121d).

(20 U.S.C. 1423, 1424.)

(Catalog of Federal Domestic Assistance No. 13.444A, Handicapped Children's Early Education Program.)

Dated: August 29, 1977.

JOHN ELLIS,
Acting U.S. Commissioner of Education.

[FR Doc 77-25669 Filed 9-1-77; 8:45 am]

HANDICAPPED RESEARCH AND DEMONSTRATION

Closing Date for Receipt of Applications

Notice is hereby given that, pursuant to the authority contained in sections 641 and 642 of Part E of the Education of the Handicapped Act (20 U.S.C. 1441, 1442), applications are being accepted for support for research and related purposes related to education of the handicapped. This announcement covers applications for new awards only for the Field Initiated Studies program. Under this program, the Office of Education is interested in a broad range of research-related projects focusing on the education of handicapped children.

Applications must be received by the U.S. Office of Education Application Control Center on or before December 7, 1977.

A. *Availability of funds and estimated number and amount of awards.* The estimated total amount of funds available for support of new Field Initiated Studies projects is $3,000,000. Based on a mean grant amount in recent years of approximately $90,000, we anticipate that about 33 new grants will be awarded. The range of funding for 1977 projects was from $8,496 to $286,231 per year. However, the large majority of awards have been for under $100,000 per year.

B. *Multiple year awards.* While there is no legal limit on the duration of projects, the vast majority of Field Initiated projects are for one to three years. In the event that assistance is provided for multiple year projects, grant awards will be made for a budget period of a single year's duration with continuation awards made on a non-competitive basis subject to satisfactory performance as determined pursuant to 45 CFR 121h.4 (b) and the availability of funds in future fiscal years.

C. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Washington, D.C. 20202, Attention: 13.44C. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than December 2, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mailrooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date of such mailrooms or other documentary evidence or receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

D. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m., Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted by the Application Control Center after 4:00 p.m., Washington, D.C. time, on the closing date.

E. *Program information and forms.* Further information and application forms may be obtained from the Research Projects Branch, Bureau of Education for the Handicapped, Office of Education, 400 Maryland Avenue SW., (Donohue, 3165), Washington, D.C. 20202.

F. *Applicable regulations.* The regulations applicable the this program include the Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) and the applicable program regulations. (45 CFR Parts 121 and 121h).

(20 U.S.C. 1441, 1442.)

Dated: August 29, 1977.

(Catalog of Federal Domestic Assistance, No. 13.443, Handicapped Research and Demonstration.)

JOHN ELLIS,
Acting U.S. Commissioner of Education.

[FR Doc.77-25670 Filed 9-1-77;8:45 am]

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HANDICAPPED RESEARCH AND DEMONSTRATION

Closing Date for Receipt of Applications; Correction

In the notice of closing date for receipt of applications under Part E of the Education of the Handicapped Act, published at 42 FR 39479 (August 4, 1977), the following corrections are made.

Paragraph 3: Applications must be received by the U.S. Office of Education Application Control Center on or before the following dates: First Cycle, November 8, 1977; and for the Second Cycle, March 17, 1978.

Paragraph C(1): (1) The application was sent by registered or certified mail not later than November 3, 1977 for First Cycle, and March 13, 1978 for Second Cycle, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service, or

Paragraph E:

E. *Program information and forms.* Further information and application forms may be obtained from the Research Projects Branch, Bureau of Education for the Handicapped, Office of Education, 400 Maryland Avenue SW., (Donohoe, 3165), Washington, D.C. 20202. Complete application material will be available on or about September 9, 1977.

(20 U.S.C. 1441, 1442.)

Dated: August 25, 1977.

(Catalog of Federal Domestic Assistance, No. 13.443 Handicapped Research and Demonstration.)

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc.77-25668 Filed 9-1-77;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Amendment to Notice of Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Amendment to the FEDERAL REGISTER Notice, Wednesday, August 17, 1977, page 41479.

DATES: Full Council Meeting: September 17, 1977, from 9:00 a.m. to 10:30 a.m., closed.

ADDRESS: Hotel Adolphus, 1321 Commerce Street, Dallas, Tex. The meeting on September 17, 1977, from 9:00 a.m. to 10:30 a.m. will be closed to the public. During that time the Council will discuss its annual evaluation of personnel performance on an individual basis. This discussion will include consideration of the qualifications and fitness of individual staff members, and will touch upon many matters which would constitute a serious invasion of privacy if conducted in an open session. Such matters are protected under the authority of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and under the exemptions contained in the Government in the Sunshine Act, Section 552b(c) (2) and (6) of Title 5 U.S.C., (Pub. L. 94-409), 45 CFR § 5.71 (a) and (c).

Signed at Washington, D.C. on August 17, 1977.

STUART A. TONEMAH,
Executive Director, National Advisory Council on Indian Education.

[FR Doc 77-25300 Filed 9-1-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Meeting

AGENCY: Office of Education National Advisory Council on Women's Educational Programs.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Women's Educational Programs and its Executive, Federal Policy and Practices, Legislation, Program and Public Information Committees. It also describes the functions of the Council. Notice of the meeting is required pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). This document is intended to notify the general public of their opportunity to attend.

DATE: September 18, 2:30 to 5:30 p.m.; September 19, 8:30 a.m. to 5:00 p.m.; September 20, 1977 from 8:30 a.m. to 4:30 p.m.

ADDRESS: 1832 M Street, NW., No. 821, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Kathleen Maurer, National Advisory Council on Women's Educational Programs, 1832 M St. NW., No. 821, Washington, DC. 20036 (202-653-5848).

The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 93-380, Section 408 (f) (1). The Council is mandated to (a) advise the Commissioner with respect to general policy matters relating to the administration of the Women's Educational Equity Act of 1974; (b) advise and make recommendations to the Assistant Secretary concerning the improvement of educational equity for women; (c) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to Section 408 of Pub. L. 93-380, including criteria developed to insure an appropriate distribution of approved programs and projects throughout the Nation; (d) make such reports to the President and the Congress on the activities of the Council as it determines appropriate; (e) develop criteria for the establishment of program priorities; and (f) disseminate information concerning its activities under Section 408 of Pub. L. 93-380.

The meeting of the Executive Committee will take place on September 18 from 2:30 p.m. to 5:30 p.m. The agenda will include preparation for the Council meeting. The meetings of the Federal Policies and Practices Committee, the Legislation Committee and the Program Committee will take place on September 19 from 8:30 a.m. to 4:00 p.m. The agenda for the Federal Policy and Practices Committee will include discussion of FY 78 plans for Committee investigation of how Federal policies and programs affect women. The agenda for the Legislation Committee will include discussion of Title IX and pending legislation and regulations as they affect women. The agenda for the Program Committee will include discussion of monitoring and evaluation efforts directed toward the WEEA Program. The meeting of the Public Information Committee will take place from 12:00 p.m. to 2:00 p.m. on September 19. The agenda for that Committee will include discussion of FY 78 criteria for Committee operation, dissemination of Council reports and Council participation in the November National Women's Conference.

The Meeting of the National Advisory Council on Women's Educational Programs will take place from 4:00 to 5:00 p.m. on September 19 and from 8:30 a.m. to 4:30 p.m. on September 20. The agenda will include (1) report of the Executive Director; (2) report of the Women's Program Staff; (3) discussion of the FY 78 budget proposal; (4) personnel procedures; (5) action on committee reports; (6) discussion of athletics for women; and (7) plans for future activities.

All of the Council and committee and Council meetings will be open to the public. Records will be kept of all Council proceedings and will be available for public inspection at the Council offices at Suite 821, 1832 M Street NW., Washington, D.C.

Signed at Washington, DC on August 29, 1977.

JOY R. SIMONSON,
Executive Director.

[FR Doc 77-25683 Filed 9-1-77;8:45 am]

TITLE I AUDIT APPEAL

Acceptance of Application for Appeal

Notice is hereby given that, pursuant to the notice establishing the Title I Audit Hearing Board (37 FR 23002, October 27, 1972), an application for an appeal before the Board has been received from the State of North Carolina and it has met the jurisdictional requirements of section 5 of the notice establishing the Board. The appeal involves the allowability of specified expenditures of funds under Title I of the ESEA during the period of July 1, 1967, through June 30, 1971. The amount sought for recovery from the State is $25,516, of which $19,339 deals with State-wide eligibility questions, $5,656 with allegedly improper use of audio-visual equipment, and $521

with salaries at the Pitt County local education agency. The Audit Control Number is ACN: 20159-04.

The Prehearing Conference will be held at 10:30 a.m. on October 20, 1977, in Room 4173, 400 Maryland Avenue SW., Washington, D.C.

Section 7(c) of the Notice setting up the Board provides:

(c) *Intervention by third parties.* (1) Interested third parties may, upon application to the Board Chairman, intervene in proceedings conducted under this notice. Such application must indicate to the satisfaction of the Board Chairman that the intervener has information relative to the specific issues raised by the final audit determination and that such information will be useful to the Hearing Panel in resolving those issues.

(2) When third parties are given leave to intervene in accordance with subparagraph (1) above, such parties shall be afforded the same opportunities as other parties to present written materials, to participate in informal conferences, to call witnesses, to cross-examine other witnesses, and to be represented by counsel.

All such applications for intervention will be considered if received on or before October 6, 1977.

(20 U.S.C. 241a, 1232c)

Dated: August 29, 1977.

JOHN ELLIS,
Acting United States Commissioner of Education.

(Catalog of Federal Domestic Assistance Number 13.428, Educationally Deprived Children—Local Educational Agencies)

[FR Doc.77-25667 Filed 9-1-77;8:45 am]

[Docket No. 76N-0402; DESI 7937]

CERTAIN ANTIHISTAMANIC DRUGS USED IN ALLERGY

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces the conditions for marketing certain antihistamine drugs for the indications for which they continue to be regarded as effective and offers an opportunity for a hearing concerning those indications reclassified as lacking substantial evidence of effectiveness.

DATES: Hearing requests due on or before October 3, 1977.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 7937, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Supplements (identify with NDA number): Division of Surgical-Dental Drug Products (HFD-160), Rm. 18B-08, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC-18), Rm. 4-62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3650).

SUPPLEMENTARY INFORMATION: In a notice (DESI 7937) published in the FEDERAL REGISTER of June 6, 1972 (37 FR 11277), the Food and Drug Administration classified the antihistaminic drug products described below as less than effective for their labeled indications (possibly effective and lacking substantial evidence of effectiveness). A subsequent notice was published in the FEDERAL REGISTER of February 6, 1974 (39 FR 4679) (Docket No. FDC-D-683 (now Docket No. 764N-0402)), and corrected by a notice published on March 27, 1974 (39 FR 11323), reclassifying the products to effective for the treatment of seasonal and perennial allergic rhinitis, and vasomotor rhinitis. Other indications related to the relief of symptoms of cough, cold, or allergy remained as possibly effective The notice classified all other indications as lacking substantial evidence of effectiveness. The notice stated that the labeling of these particular products could continue to include the possibly effective indications related to the relief of symptoms of cough, cold, or allergy as provided for in a notice published in the FEDERAL REGISTER of December 14, 1973 (38 FR 34481), which granted a temporary exemption from the time limits established for completing certain phases of the drug efficacy study (DESI) program, for certain oral prescription drugs offered for relief of cough, cold, allergy, and related symptoms. That exemption included antihistamines and, therefore, covered the drugs that are the subject of this notice. The exemption was granted because of the close relationship between, and the similarities in, drugs sold over-the-counter (OTC) and thus subject to review in the ongoing OTC study (21 CFR Part 330), and prescription drugs offered for relief of cough, cold, allergies, and related symptoms, and the active ingredients common to both. Postponement of final evaluations on the DESI prescription products enabled the agency to consider the recommendations of the OTC review panel in addition to any evidence submitted by NDA holders in response to various DESI notices covering antihistamine-containing products. Those recommendations and a proposed monograph for over-the-counter cold, cough, allergy, bronchodilator, and antiasthmatic (CCABA) drugs were published in the FEDERAL REGISTER on September 9, 1976 (41 FR 38312). No person has submitted additional data in response to the DESI notice of February 6, 1974. Therefore, the Director of the Bureau of Drugs has reclassified the drug products described below as lacking substantial evidence of effectiveness for the indications previously classified as possibly effective. He concludes that these evaluations are not inconsistent with the recommendations of the OTC review panel. This notice offers an opportunity for hearing concerning the possibly effective indications, which are now reclassified to lacking substantial evidence of effectiveness, and states the conditions for marketing the drugs for the indications for which they continue to be regarded as effective. Persons who wish to request a hearing may do so on or before October 3, 1977.

The notice that follows does not pertain to the indications classified in the February 6, 1974, notice as lacking substantial evidence of effectiveness. No person requested a hearing concerning them, and they are no longer allowable in labeling. Any such product labeled for those indications is subject to regulatory action.

1. NDA 8-305; Pyronil Tablets containing pyrrobutamine phosphate; Eli Lilly & Co., Box 618, Indianapolis, Ind. 46206.

2. NDA 10-897; Theruhistin Tablets containing isothipendyl hydrochloride; Ayerst Laboratories, Division of American Home Products Corp., 685 Third Ave., New York, N.Y. 10017.

3. NDA 11-078; Theruhistin Syrup containing isothipendyl hydrochloride; Ayerst Laboratories.

4. NDA 7-937; Neohetramine Hydrochloride Tablets containing thonzylamine hydrochloride; Warner-Chilcott Laboratories, Division Warner-Lambert Co., 201 Tabor Rd., Morris Plains, N.J. 07950.

(NDA 10-395, which was included in the June 6, 1972 and February 6, 1974 notices will be the subject of a future FEDERAL REGISTER notice.)

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). The Director recognizes that thonzylamine hydrochloride at specific dosage levels is included in the proposed monograph published on September 9, 1976, for CCABA drugs that are generally recognized as safe and effective for OTC use (Category I). The proposed monograph would permit the OTC marketing of this product at dosage levels previously limited to prescription dispensing and reviewed as prescription drugs in the drug efficacy study (DESI). The Food and Drug Administration's position with respect to the marketing

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of such drug products is set forth in 21 CFR 330.13. That regulation states that certain Category I drugs may be marketed over-the-counter after the date of publication of a proposed monograph and prior to the effective date of a final monograph, subject to the risk that the Commissioner of Food and Drugs may not accept the panel's recommendation and may instead adopt a different position that may require relabeling, recall, or other regulatory action. A tentative decision not to accept a panel's recommendation may be published in the FEDERAL REGISTER at any time. Thus, although, thonzylamine hydrochloride which is covered by this DESI notice may now be marketed OTC, since there has been no final decision on this matter, this notice sets forth the conditions for approval and marketing this drug as a prescription drug. Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for the above drugs except in the case of thonzylamine hydrochloride when marketed OTC in conformance with the proposed monograph for CCABA drugs. An approved new drug drug application is a requirement for marketing such drug products, except for thonzylamine hydrochloride when marketed in conformance with the proposed monograph for OTC CCABA drugs.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drugs are effective for the indications listed in the labeling conditions below. The drugs now lack substantial evidence of effectiveness for the indications evaluated as possibly effective in the February 6, 1974, notice.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein. If any drug product in this notice is included in the final order that establishes a monograph for OTC cold, cough, allergy, bronchodilator and antiasthmatic products, the marketing of such drug product will thereafter comply with the conditions of the final order establishing the monograph. In the interim period the drug product must comply with the following conditions for approval and marketing unless the manufacturer or distributor markets the drug in compliance with the proposed monograph and the drug has not been designated by the Commissioner as one for which he has made a tentative decision not to accept the panel's recommendation.

1. *Form of drug.* The drugs are in tablet form suitable for oral administration. Isothipendyl hydrochloride may also be in syrup dosage form.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations and the labeling bears adequate information for safe and effective use of the drug. The indications are as follows:

For treatment of seasonal and perennial allergic rhinitis, and vasomotor rhinitis.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before November 1, 1977, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s) and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before October 3, 1977, a written notice of appearance and request for hearing, and (2) on or before November 1, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 333(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given above) between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: July 20, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-25650 Filed 9-1-77;8:45 am]

[Docket No. 77N-0089; DESI 6290]

CERTAIN ANTIHISTAMINIC PREPARATIONS FOR ORAL OR RECTAL ADMINISTRATION

Drugs for Human Use: Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces the conditions for marketing certain antihistamine drugs for the indications for which they continue to be regarded as effective and offers an opportunity for a hearing concerning those indications reclassified as lacking substantial evidence of effectiveness.

DATE: Hearing requests due on or before October 3, 1977.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 6290, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Supplements (identify with NDA number): Division of Surgical-Dental Drug Products (HFD-160), Rm. 18B-08, Bureau of Drugs.
Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.
Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.
Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC-18), Rm. 4-62.
Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.
Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301-443-3650).

SUPPLEMENTARY INFORMATION: In a notice (DESI 6290; Docket No. FDC-D-324 (now Docket No. 77N-0089)) published in the FEDERAL REGISTER of June 18, 1971 (36 FR 11758), the Food and Drug Administration classified the antihistaminic drug products described below as effective for certain indications and less than effective for other labeled indications (probably effective, possibly effective and lacking substantial evidence of effectiveness). The notice provided an opportunity for a hearing on the indications concluded at that time to lack substantial evidence of effectiveness. The notice also provided opportunity for manufacturers of such products to present evidence in support of the probably effective and possibly effective indications.

Subsequently, a notice published in the FEDERAL REGISTER on December 14, 1973 (38 FR 34481) granted a temporary exemption from the time limit established for completing certain phases of the drug efficacy study (DESI) program, for certain oral prescription drugs offered for relief of cough, cold, allergy, and related symptoms. That exemption included antihistamines and, therefore, covered the drugs that are the subject of this notice. The exemption was granted because of the close relationship between, and the similarities in, drugs sold over-the-counter (OTC) and thus subject to review in the ongoing OTC study (21 CFR Part 330), and prescription drugs offered for relief of cough, cold, allergies, and related symptoms, and the active ingredients common to both. Postponement of final evaluations on the DESI prescription products enabled the agency to consider the recommendations of the OTC review panel in addition to any evidence submitted by NDA holders in response to various DESI notices covering antihistamine-containing products. Those recommendations and a proposed monograph for over-the-counter cold, cough, allergy, bronchodilator, and antiasthmatic (CCABA) drugs were published in the FEDERAL REGISTER on September 9, 1976 (41 FR 38312). Since no person has submitted additional data in response to the DESI notice of June 18, 1971 for the drug products described below, the Director of the Bureau of Drugs has reclassified them as lacking substantial evidence of effectiveness for the indications previously classified as probably effective or possibly effective. He concludes that these evaluations are not inconsistent with the recommendations of the OTC review panel.

The temporary exemption granted by the December 14, 1973 notice, as it pertains to these drugs, is revoked in a separate notice appearing elsewhere in this issue of the FEDERAL REGISTER. The notice herein offers an opportunity for hearing concerning the indications now reclassified to lacking substantial evidence of effectiveness, and states the conditions for marketing the drugs for the indications for which they continue to be regarded as effective. Persons who wish to request a hearing may do so on or before October 3, 1977.

The notice that follows does not pertain to the indications stated in the June 18, 1971 notice to lack substantial evidence of effectiveness. No person requested a hearing concerning them, and they are no longer allowable in labeling. Any such product labeled for those indications is subject to regulatory action.

1. Preparations containing bromodiphenhydramine hydrochloride:
   a. Ambodryl Kapseals (NDA 7-984);
   b. Ambodryl Elixir (NDA 8-476); and
   c. Ambodryl Syrup (NDA 8-745); Parke, Davis & Co., Joseph Campau at the River, Detroit, MI 48232.
2. Preparation containing chlorpheniramine maleate: Chlor-Trimeton Tablets and Syrup (NDA 6-921); Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033
3. Preparation containing diphenylpyraline hydrochloride: Diafen Tablets (NDA 9-970); Riker Laboratories, Inc., Subsidiary of 3M Co., 19901 Nordhoff St., Northridge, CA 91324.
4. Preparations containing promethazine hydrochloride:
   a. Phenergan Tablets (NDA 7-935);
   b. Phenergan Syrup (NDA 8-381); and
   c. Phenergan Rectal Suppositories (NDA 10-926 and NDA 11-689); Wyeth Laboratories, Division, American Home Products Corp., P.O. Box 8299, Philadelphia, PA 19101.
5. Preparation containing pheniramine maleate: Trimeton Tablets (NDA 6-461); Schering Corp.
6. Preparation containing pyrilamine maleate: Diaminide Maleate Tablets (NDA 7-

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119): Merck Sharp & Dohme, Division Merck & Co., Inc., West Point, PA 19486. (Although the initial notice listed Neo-Antergen Maleate as the name of the product marketed under NDA 7-119, the correct name is Diamine Maleate.)

7. Preparations containing tripelennamine hydrochloride or tripelennamine citrate:

a. Pyribenzame Tablets (NDA 5-914);

b Pyribenzamine Elixir (NDA 5-914); Ciba Pharmaceuticals Co., Division of Ciba-Geigy Corp., 556 Morris Ave., Summit, NJ 07901.

The following drug product was neither submitted for review by the National Academy of Sciences-National Research Council nor included in the June 18, 1971 notice, but the conclusions described in this notice apply to it:

Pyraline Hydrochloride Tablets (NDA 9-132); containing diphenylpyraline hydrochloride, Nopco Chemical Co., Division Diamond Shamrock Chemical Co., 350 Mt. Kemble Ave., Morristown, NJ 07960.

NDA's 5-845, 7-638, 10-533, 12-649, and 13-220, which were included in the June 18, 1971 notice, will be the subjects of future FEDERAL REGISTER notices. NDA 6-290, which was also included in the June 18, 1971 notice, was deferred to the OTC review in a notice published in the FEDERAL REGISTER of May 23, 1972 (37 FR 10457).

In a notice published in the FEDERAL REGISTER of February 8, 1972 (37 FR 2851), the approval of NDA 7-119 was withdrawn on the ground of failure to submit required reports under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)). At the time that notice was published, no final conclusions concerning the less-than-effective indications (probably effective and possibly effective) had been reached. Those conclusions have now been reached and the purpose of including NDA 7-119 in this notice is to inform all interested persons of the conclusions and offer them the opportunity to request a hearing concerning all issues relating to its legal status.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). The Director recognizes that chlorpheniramine maleate, pheniramine maleate, and pyrilamine maleate, at specific dosage levels, are included in the proposed monograph published on September 9, 1976, for CCABA drugs that are generally recognized as safe and effective for OTC use (Category I). The proposed monograph would permit the OTC marketing of those products at dosage levels previously limited to prescription dispensing and reviewed as prescription drugs in the drug efficacy study (DESI). The Food and Drug Administration's position with respect to the marketing of such drug products is set forth in 21 CFR 330.13. That regulation states that certain Category I drugs may be marketed over-the-counter after the date of publication of a proposed monograph and prior to the effective date of a final monograph, subject to the risk that the Commissioner of Food and Drugs may not accept the panel's recommendation and may instead adopt a different position that may require relabeling, recall, or other regulatory action. A tentative decision not to accept a panel's recommendation may be published in the FEDERAL REGISTER at any time. Thus, although some products covered by this DESI notice may now be marketed OTC, since there has been no final decision on this matter, this notice sets forth the conditions for approval and marketing of those drugs as prescription drugs. Supplemental new drug applications are required to revise the labeling in and to update approved applications providing for such drugs except in the case of those drug products mentioned above now marketed OTC in conformance with the proposed monograph for CCABA drugs. An approved new drug application is a requirement for marketing such drug products, except those marketed in conformance with the proposed monograph for OTC CCABA drugs. Although promethazine hydrochloride also was included in the proposed OTC monograph, the Commissioner has tentatively decided not to accept that panel recommendation, as stated in the preamble to the proposed monograph (41 CFR 38312). An approved new drug application is required for all dosage levels of this drug.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person any request an opinion of the applicability of this notice to a specific drug he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drugs are effective for the indications listed in the labeling conditions below. The drugs now lack substantial evidence of effectiveness for the other indications evaluated as probably or possibly effective in the June 18, 1971 notice.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein. If any drug product in this notice is included in the final order that establishes a monograph for OTC cold, cough, allergy, bronchodilator and antiasthmatic products, the marketing of such drug product will thereafter comply with the conditions of the final order establishing the monograph. In the interim period the drug product must comply with the following conditions for approval and marketing unless the manufacturer or distributor markets the drug in compliance with the proposed monograph and the drug has not been designated by the Commissioner as one for which he has made a tentative decision not to accept the panel's recommendation.

1. *Form of drug.* a. The drugs are in a conventional dosage form suitable for oral administration.

b. Promethazine hydrochloride may also be in a suppository form suitable for rectal administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

BROMODIPHENHYDRAMINE HYDROCHLORIDE

Perennial and seasonal allergic rhinitis.
Vasomotor rhinitis.
Allergic conjunctivitis due to inhalant allergens and foods.
Mild, uncomplicated allergic skin manifestations of urticaria and angioedema.
Amelioration of allergic reactions to blood or plasma.
Dermographism.
As therapy for anaphylactic reactions adjunctive to epinephrine and other standard measures after the acute manifestations have been controlled.

CHLORPHENIRAMINE MALEATE

Perennial and seasonal allergic rhinitis.
Vasomotor rhinitis.
Allergic conjunctivitis due to inhalant allergens and foods.
Mild, uncomplicated allergic skin manifestations of urticaria and angioedema.
Amelioration of allergic reactions to blood or plasma.
Dermographism.
As therapy for anaphylactic reactions adjunctive to epinephrine and other standard measures after the acute manifestations have been controlled.

DIPHENYLPYRALINE HYDROCHLORIDE

Perennial and seasonal allergic rhinitis.
Vasomotor rhinitis.
Allergic conjunctivitis due to inhalant allergens and foods.
Mild, uncomplicated allergic skin manifestations of urticaria and angioedema.
Amelioration of allergic reactions to blood or plasma.
Dermographism.
As therapy for anaphylactic reactions adjunctive to epinephrine and other standard measures after the acute manifestations have been controlled.

PROMETHAZINE HYDROCHLORIDE

Perennial and seasonal allergic rhinitis.
Vasomotor rhinitis.
Allergic conjunctivitis due to inhalant allergens and foods.
Mild, uncomplicated allergic skin manifestations of urticaria and angioedema.
Amelioration of allergic reactions to blood or plasma.
Dermographism.
As therapy for anaphylactic reactions adjunctive to epinephrine and other standard measures after the acute manifestations have been controlled.
Preoperative, postoperative, or obstetric sedation.

Prevention and control of nausea and vomiting associated with certain types of anesthesia and surgery.
Therapy adjunctive to meperidine or other analgesics for control of postoperative pain.
Sedation in both children and adults as well as relief of apprehension and production of light sleep from which the patient can be easily aroused.
Active and prophylactic treatment of motion sickness.
Antiemetic effect in postoperative patients.

PHENIRAMINE MALEATE

Perennial and seasonal allergic rhinitis.
Vasomotor rhinitis.
Allergic conjunctivitis due to inhalant allergens and foods.
Mild, uncomplicated allergic skin manifestations of urticaria and angioedema.
Amelioration of allergic reactions to blood or plasma.
Dermographism.
As therapy for anaphylactic reactions adjunctive to epinephrine and other standard measures after the acute manifestations have been controlled.

PYRILAMINE MALEATE

Perennial and seasonal allergic rhinitis.
Vasomotor rhinitis.
Allergic conjunctivitis due to inhalant allergens and foods.
Mild, uncomplicated allergic skin manifestations of urticaria and angioedema.
Amelioration of allergic reactions to blood or plasma.
Dermographism.
As therapy for anaphylactic reactions adjunctive to epinephrine and other standard measures after the acute manifestations have been controlled.

TRIPLENNAMINE HYDROCHLORIDE AND CITRATE

Perennial and seasonal allergic rhinitis.
Vasomotor rhinitis.
Allergic conjunctivitis due to inhalant allergens and foods.
Mild, uncomplicated allergic skin manifestations of urticaria and angioedema.
Amelioration of allergic reactions to blood or plasma.
Dermographism.
As therapy for anaphylactic reactions adjunctive to epinephrine and other standard measures after the acute manifestations have been controlled.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before November 1, 1977, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (ANDA) (21 CFR 314.-1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug project named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before October 3, 1977, a written notice of appearance and request for hearing, and (2) on or before November 1, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21

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U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: July 20, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-25653 Filed 9-1-77;8:45 am]

Food and Drug Administration

[Docket No. 76N-0353; DESI 9760 and 12180]

CERTAIN ANTILIPEMIC DRUGS

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice sets forth the conditions for marketing the drug products described below for the indication for which they continue to be regarded as effective and offers an opportunity for a hearing concerning the indications reclassified as lacking substantial evidence of effectiveness. The drugs are antilipemic agents.

DATES: Hearing requests due on or before October 3, 1977. Supplements to approved NDA's due on or before November 1, 1977.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 9760 and 12180, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Supplements (identify with NDA number): Division of Metabolic and Endocrine Drug Products (HFD-130), Rm. 14B-03, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC-18), Rm. 4-62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857. (301-443-3650).

SUPPLEMENTARY INFORMATION: In notices (DESI 9760) published in the FEDERAL REGISTER of April 15, 1972 (37 FR 7535) as amended on March 19, 1973 (38 FR 7270); and (DESI 12180) published in the FEDERAL REGISTER of August 12, 1972 (37 FR 16421), the Food and Drug Administration announced its conclusions that the drugs described below are (1) effective as adjunctive therapy in addition to diet and other measures in the treatment of hypercholesterolemia and hyperbetalipoproteinemia; and possibly effective for all their other labeled indications. The manufacturers have deleted the possibly effective indications from the labeling of the drugs. No person has submitted any data in support of the possibly effective indications, and those indications are now reclassified as lacking substantial evidence of effectiveness.

In order to clarify when these drugs are to be used FDA has reworded the effective indication to read as follows: as adjunctive therapy in the treatment of patients with hypercholesterolemia and hyperbetalipoproteinemia who do not respond adequately to diet and other measures.

1. NDA 12-180; Nicalex Tablets containing 625 mg aluminum nicotinate; merrell-National Laboratories, Division Richardson-Merrell Inc., P.O. Box 15260, Cincinnati, OH 45215.

2. NDA 11-313; Nicotinic Acid Tablets containing 500 mg niacin; formerly marketed by Merrell-National Laboratories.

3. NDA 11-578; Efacin Tablets containing 500 mg niacin; Person & Covey Inc., 616 Allen Ave., Glendale, CA 91201.

4. NDA 9-760; Cytellin Suspension containing 3 grams sitosterols per 15 cubic centimeters; Eli Lilly & Co., P.O. Box 618, Indianapolis, IN 46206.

The following drug not included in the above notices, but dealt with as a reformulated product in a notice of September 25, 1973 (38 FR 26752), is being included in this notice.

NDA 11-073; Wampocap Capsules containing 500 mg niacin; Wampole Laboratories, Division Carter-Wallace, Inc. Half Acre Rd., Cranbury, NJ 08512.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drugs are effective for the indication in the labeling conditions below. The drugs now lack substantial evidence of effectiveness for the indications evaluated as possibly effective in the April 15, 1972 and August 12, 1972 notices.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Aluminum nicotinate and niacin are in tablet or capsule form and sitosterols are in suspension form, suitable for oral administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indication is as follows for aluminum nicotinate, sitosterols, and niacin (given at a dosage rate of 1 to 2 grams a day):

As adjunctive therapy in the treatment of patients with hypercholesterolemia and hyperbetalipoproteinemia who do not respond adequately to diet and other measures.

c. The following statement is to follow the "Indications" section either enclosed in a block or in italics:

Notice: It has not been established whether the drug-induced lowering of serum cholesterol or triglyceride levels has a beneficial effect, no effect, or a detrimental effect on the morbidity or mortality due to atherosclerosis including coronary heart disease. Investigations now in progress may yield an answer to this question.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before (insert date 60 days after date of publication in the FEDERAL REGISTER), the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

c. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a) (5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommendd, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201 (p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before October 3, 1977, a written notice of appearance and request for hearing, and (2) on or before November 1, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing is required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but mut set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: August 23, 1977.

RICHARD A. TERSELIC,
Acting Director, Bureau of Drugs.

[FR Doc.77-25409 Filed 9-1-77;8:45 am]

[Docket No. 77N-0244; DESI 12101]

COMBINATION DRUG CONTAINING SYROSINGOPINE AND HYDROCHLOROTHIAZIDE

Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice reclassifies the combination drug syrosingopine and hydrochlorothiazide to lacking substantial evidence of effectiveness, proposes withdrawal of approval of the new drug application, and offers an opportunity for a hearing on the proposal.

DATES: Hearing requests due on or before October 3, 1977.

ADDRESSES: Communications forward in response to this notice should be identified with the reference number DESI 12101 and the docket number appearing in the heading of this notice, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Request for Hearing: Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65. Request for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301-443-3650).

SUPPLEMENTARY INFORMATION: In a notice (DESI 12101) published in the FEDERAL REGISTER of February 12, 1973 (38 FR 4281), the Food and Drug Administration (FDA) announced its conclusion that the combination drug product described below is less than effective (possibly effective) for its labeled indications. The drug has been used as an antihypertensive agent.

NDA 12-101; Singoserp-Esidrix Tablets (2 strengths) containing syrosingopine and hydrochlorothiazide; Ciba Phamaceutical Co., Division of Ciba-Geigy Corp., 556 Morris Ave., Summit, NJ 07901.

Pursuant to the notice of February 12, 1973, Ciba submitted data from six clinical studies of similar design to support its claims for effectiveness of the

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Singoserp-Esidrix combination. The studies were conducted under double-blind conditions. Following a 6-week placebo lead-in period, patients were randomly assigned to one of four treatment groups and were given one tablet three times a day for 8 weeks of either placebo, hydrochlorothiazide 25 milligrams, syrosingopine 1 milligram, or the combination syrosingopine-hydrochlorothiazide. Patients were seen at 2-week intervals and effectiveness was measured by comparing systolic and diastolic blood pressures in the sitting, standing, and lying positions (a total of 6 blood pressure comparisons) during the treatment period with the baseline blood pressures for each position. The baseline was the average of the pressures at the last two visits of the placebo lead-in period. The changes in blood pressure were then compared for the various treatments. Ciba also defined a "satisfactory response". This was considered to be a decrease in blood pressure by more than 20 percent of the control or a reduction of diastolic pressure to 90 millimeters of mercury or below.

In this review of the submitted data, only the comparison between the Esidrix and the Esidrix-Singoserp treatment groups need be considered, as the contribution of Singoserp to the combination, not the effectiveness of Esidrix, is in question.

The individual studies were conducted by Drs. Adams, Atkins, Cristofori, Hollander, Nolan, and Willson. The Hollander study was not subjected to separate statistical analysis because too few patients were involved. In the Willson study, which included only 10 patients, the comparisons between the two treatments revealed only slight differences (favoring the combination), that were not considered significant. The Atkins study, which involved 48 patients, slightly favored Esidrix for all six blood pressure comparisons (systolic and diastolic in each of the three positions), although not at statistically significant levels. Only the Nolan study showed a substantial advantage for the combination over Esidrix, with differences of from 6 to 9 millimeters of mercury in the sitting, standing, and lying diastolic pressure. These differences were statistically significant. The Adams study, which was of comparable size to the Nolan study, produced results that favored the single ingredient Esidrix over the combination Esidrix-Singoserp, and for several blood pressure comparisons at a statistically significant level. The Cristofori study tended to favor the combination, although only for certain blood pressure comparisons. Perhaps more important, however, the largest average difference Cristofori found between any blood pressure measurement during combination treatment and the same measurement on Esidrix was 2.8 millimeters of mercury.

The results of the individual studies comparing Esidrix to Esidrix-Singoserp can therefore be summarized as follows: (1) Two studies (Nolan, Cristofori) favored the combination over the single drug; however, only one of these (Nolan) showed a clinically meaningful difference between the two groups; (2) one study (Adams) favored the single drug over the combination; and (3) two studies (Atkins, Willson) did not show significant differences between the two treatments; one of these favored the single drug, while the other favored the combination. Although these results could suggest that Singoserp contributes somewhat to the effect of the Singoserp-Esidrix combination, the data are inconsistent and none of the studies demonstrated a satisfactory response as defined by Ciba.

In addition to its analysis of the individual studies, Ciba submitted an analysis of the results of pooling the data from all six studies. It was reasonable for Ciba to have combined these results because in all six studies patient populations were essentially similar and the protocol used was identical. In combining these data, however, Ciba excluded the largest group of patients, those studied by Dr. Atkins. Ciba excluded Dr. Atkin's data because some of his results differred significantly from the results of the other five studies. Specifically, the placebo in Atkins study showed a fall in sitting blood pressure during the 8-week treatment period, even though these patients already had been on a placebo for the 6 weeks prior to treatment. This unexpected fall in blood pressure was not seen in patients receiving placebos in the other five studies. The credibility of any study from which data have been excluded in this way, however, must be considered in doubt, particularly when the exclusion improves the apparent performance of the drug.

The pooled data for all 6 studies (including Atkins) reveals there was no significant difference between the combination and Esidrix in lying or sitting diastolic blood pressure. There was a significant difference in supine diastolic pressure, but the mean difference was only 2 millimeters of mercury. The systolic blood pressures in all three positions were significantly lower with the combination than with Esidrix alone. In each case, however, the difference was only 2 to 3 millimeters of mercury. The lack of effect on diastolic pressure is more apparent when the Atkins study is included—an important observation, as it is the change in diastolic pressure that most physicians rely upon in following antihypertensive therapy. It should be noted that despite the unusual response of the placebo group in the Atkins study, the blood pressure response of patients on active drugs was similar to that seen in the other studies. These responses favored the single ingredient Esidrix group, although not at a statistically significant level.

The analysis of the pooled data excluding the Atkins study is still unimpressive. The mean difference in diastolic blood pressure ranges from 1.11 millimeters of mercury in the supine position to 3.59 millimeters of mercury in the standing position. Only in the standing position is the difference statistically significant. The changes in systolic pressure range from 3.95 to 5 millimeters of mercury.

The submitted data thus fail to demonstrate a consistent difference among treatments favoring the combination drug in these blood pressure comparisons. The results of the six individual studies are inconsistent in that some favor the combination Singoserp-Esidrix while others favor the single drug Esidrix. In only one case is the difference favoring the combination more than a few millimeters of mercury. The pooled analysis, including the Atkins study (which should be included as no satisfactory reason has been given to exclude it), shows even smaller differences. In this analysis the largest difference in diastolic pressures seen is just 2 millimeters of mercury. The largest difference in systolic pressures seen is somewhat over 2.5 millimeters of mercury. Although these data provide a suggestion that Singoserp contributes minimally to the effect of an Esidrix-Singoserp combination, the data fall far short of the requirements of substantial evidence.

A notice published in the FEDERAL REGISTER of July 12, 1977 (42 FR 35897) withdrew approval of NDA 11-565 for Singoserp Tablets containing syrosingopine, one of the components of Singoserp-Esidrix. The withdrawal was based on a lack of substantial evidence of effectiveness for its use as an antihypertensive agent.

On the basis of all of the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5) and 21 CFR 300.50, demonstrating the effectiveness of the drug.

Therefore, notice is given to the holder(s) of the new drug application(s) and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) (or if indicated above, those parts of the application(s) providing for the drug product(s) listed above) and all amendments and supplements thereto on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice of opportunity for

hearing applies to all persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (address given above).

In addition to the ground(s) for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

If an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before October 3, 1977, a written notice of appearance and request for hearing, and (2) on or before November 1, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved DNA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate. Such submissions except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: August 25, 1977.

RICHARD A. TERSELIC,
Acting Director,
Bureau of Drugs.

[FR Doc.77-25408 Filed 9-1-77;8:45 am]

[Docket No. 76N-0402]

DRUGS FOR HUMAN USE

Drug Efficacy Study Implementation; Revocation of Exemption

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The temporary exemption for certain antihistamine drug products, which permitted them to remain on the market beyond the time limit scheduled for implementation of the drug efficiency study, is revoked.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-43-3650).

SUPPLEMENTARY INFORMATION: In a notice appearing elsewhere in this issue of the FEDERAL REGISTER, the Food and Drug Administration is reclassifying the possibly effective indications for the antihistamine drugs described below (DESI 7937); the drugs are now deemed as lacking substantial evidence of effectiveness. These products have been allowed to remain on the market labeled for their possibly effective indications because of their close relationship to drugs sold over-the-counter (OTC) and thus subject to review in the ongoing OTC study (21 CFR Part 330). The temporary exemption was announced in notices published in the FEDERAL REGISTER of December 14, 1973 (38 FR 34481) and February 6, 1974 (39 FR 4679) (corrected by a notice published in the FEDERAL REGISTER of March 27, 1974 (39 FR 11323)). A proposed monograph for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drugs was published in the FEDERAL REGISTER of September 9, 1976 (41 FR 38312). Because the recommendations of the proposed monograph are not inconsistent with the evaluations of the drugs described below, which were announced in the February 6, 1974, notice, and as no person has submitted additional data, or expressed an intent to perform additional studies for the exempted possibility effective indications of that notice, the temporary exemption granted by the December 14, 1973, and February 6, 1974, notices, as it pertains to these drugs, is hereby revoked. These drugs include the following:

1. NDA 8-305; Pyronil Tablets, containing pyrrobutamine phosphate; Eli Lilly & Co., Box 618, Indianapolis, Ind. 46206.

2. NDA 10-897; Theruhistin Tablets, containing isothipendyl hydrochloride; Ayerst Laboratories, Division of American Home Products Corp., 685 Third Ave., New York, N.Y. 10017.

3. NDA 11-078; Theruhistin Syrup, containing isothipendyl hydrochloride; Ayerst Laboratories.

4. NDA 7-937; Neohetramine Hydrochloride Tablets, containing thonzylamine hydrochloride; Warner-Chilcott Laboratories, Division Warner-Lambert Co., 201 Tabor Rd., Morris Plains, N.J. 07950.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1).

Dated: August 26, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc.77-25649 Filed 9-1-77;8:45 am]

[Docket No. 77N-0089]

DRUGS FOR HUMAN USE

Drug Efficacy Study Implementation; Revocation of Exemption

AGENCY: Food and Drug Administration.

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ACTION: Notice.

SUMMARY: The temporary exemption for certain antihistamine drug products, which permitted them to remain on the market beyond the time limit scheduled for implementation of the drug efficacy study, is revoked.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD–32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3650).

SUPPLEMENTARY INFORMATION:

In a notice appearing elsewhere in this issue of the FEDERAL REGISTER, the Food and Drug Administration is reclassifying the probably and possibly effective indications for the antihistamine drugs described below (DESI 6290); the drugs are now deemed as lacking substantial evidence of effectiveness. A temporary exemption, in a notice published in the FEDERAL REGISTER of December 14, 1973 (38 FR 33481), we granted for these drug products, allowing them to remain on the market as labeled for their probably and possibly effective indications because of their close relationship to drugs sold over-the-counter (OTC) and thus subject to review in the ongoing OTC study (OTC procedures are described in 21 CFR Part 330). A proposed monograph for OTC cold, cough, allergy bronchodilator, and antiasthmatic drugs was published in the FEDERAL REGISTER of September 9, 1976 (41 FR 38312). Because the recommendations of the proposed monograph are not inconsistent with the evaluations of the drugs described below, which were announced in a notice published in the FEDERAL REGISTER of June 18, 1971 (36 FR 11758), and as no person has submitted additional data, or expressed an intent to perform additional studies for the exempted probably and possibly effective indications of that notice, the temporary exemption granted by the December 14, 1973, notice, as it pertains to these drugs, is hereby revoked. These drugs include the following:

(1) Preparations containing bromodiphenhydramine hydrochloride:
(a) Ambodryl Kapseals (NDA 7–984);
(b) Ambodryl Elixir (NDA 8–476); and
(c) Ambodryl Syrup (NDA 8–745); Parke, Davis & Co., Joseph Campau at the River, Detroit, Mich. 48232.

(2) Preparations containing chlorpheniramine maleate: Chlor-Trimeton Tablets and Syrup (NDA 6–921); Schering Corp., Galloping Hill Rd., Kenilworth, N.J. 07033.

(3) Preparation containing diphenylpyraline hydrochloride: Diafen Tablets (NDA 9–970); Riker Laboratories, Inc., Subsidiary of 3M Co., 19901 Nordhoff St., Northridge, Calif. 91324.

(4) Preparations containing promethazine hydrochloride:
(a) Phenergan Tablets (NDA 7–935);
(b) Phenergan Syrup (NDA 8–381); and
(c) Phenergan Rectal Suppositories (NDA 10–926 and NDA 11–689); Wyeth Laboratories, Division, American Home Products Corp., P.O. Box 8299, Philadelphia, Pa. 19101.

(5) Preparation containing pheniramine maleate: Trimeton Tablets (NDA 6–461); Schering Corp.

(6) Preparation containing pyrilamine maleate: Diaminide Maleate Tablets (NDA 7–119); Merck Sharp & Dohme, Division Merck & Co., Inc., West Point, Pa. 19486. (Although the June 18, 1971 notice listed Neo-Antergan Maleate as the name of the product marketed under NDA 7–119, the correct name is Diaminide Maleate.)

(7) Preparations containing tripelennamine hydrochloride or tripelennamine citrate:
(a) Pyribenzamine Tablets (NDA 5–914); and
(b) Pyribenzamine Elixir (NDA 5–914); Ciba Pharmaceutical Co., Division of Ciba-Geigy Corp., 556 Morris Ave., Summit, N.J. 07901.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1).

Dated: August 26, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–25651 Filed 9–1–77;8:45 am]

[Docket No. 76G–0348]

DYNAMIT NOBEL–KAY FRIES CHEMICALS, INC.

Withdrawal of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the withdrawal without prejudice of the petition (GRASP) 5G0057) proposing affirmation that a triglyceride mixture of caprylic and capric acids for use as a surface finishing agent, formulation aid, release agent and in dietary foods is generally recognized as safe (GRAS).

Dated: August 24, 1977.

DONALD W. RIESTER,
Acting Director, Bureau of Foods.

[FR Doc.77–25652 Filed 9–1–77;8:45 am]

[Docket No. 76N–0305]

GRAS SAFETY REVIEW OF BUTYLATED HYDROXYANISOLE

Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is announcing that a public hearing will be held for butylated hydroxyanisole so that data, information, and views can be presented orally to determine if that category of food ingredients is generally recognized as safe (GRAS) or subject to a prior sanction.

DATES: Hearing, September 26, 1977.

ADDRESS: The hearing will be held in the Holiday Inn, 8120 Wisconsin Ave., Bethesda, MD 20014.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF–335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, (202–472–4750). George W. Irving, Jr., Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014, (301–530–7033).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of June 7, 1977 (42 FR 29105), the Commissioner of Food and Drugs issued a notice advising the public that an opportunity would be provided for the oral presentation of data, information, and views at public hearings to be conducted by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (hereinafter referred to as the Select Committee), concerning the safety of the following four categories of food ingredients—butylated hydroxyanisole, hypophosphites, rennet, and vegetable oils—and the Select Committee's tentative determination of whether or not they are GRAS or subject to a prior sanction. No requests were received for a hearing on hypophosphites, rennet, or vegetable oils. Accordingly, no hearing will be held on these food ingredients.

The Select Committee received requests from the Food Research Institute, University of Wisconsin, Madison, Wis. 53706, and Eastman Chemical Products, Inc., Kingsport, Tenn. 37662, asking for an opportunity to appear at a public hearing on butylated hydroxyanisole to make an oral presentation.

The request for a hearing on butylated hydroxyanisole from Northwest Food Processors Association, Cascade Plaza, Protland, OR 97223, was later withdrawn. No other requests for a hearing on butylated hydroxyanisole were received.

In accordance with the procedures set forth in the June 7, 1977, FEDERAL REGISTER notice, announcemtnt is hereby made that a hearing on butylated hydroxyanisole will be held 2 p.m., September 26, 1977, in the Holiday Inn, 8120 Wisconsin Ave., Bethesda, MD 20014. Those who have requested an opportunity to make oral presentations will be expected to complete their presentations within the periods indicated and in accordance with the following schedule: September 26, 1977, 2 p.m. to 3:45 p.m. J. R. Allen, et al., Food Research Institute, University of Wisconsin—20 minutes; B. D. Astill, Eastman Kodak Company, Kingsport, TN—45 minutes.

Dated: August 25, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–25406 Filed 9–1–77;8:45 am]

[Docket No. 77N–0196]

REVIEW PANEL ON NEW DRUG REGULATION FINAL REPORT

Hearing

[Docket No. 77N–0196]

AGENCY: Food and Drug Administration.

ACTION: Notice of public hearing.

SUMMARY: The Commissioner of Food and Drugs announces that a public hearing will be held on September 29, 1977, to receive information and views from interested persons on recommendations contained in the Final Report of the Review Panel on New Drug Regulation.

DATES: Public hearing on September 29, 1977, at 9 a.m.; written notice of participation must be filed by September 16, 1977.

ADDRESSES: Written notice of participation to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857. Copies of the Final Report and copies of the Interim Reports of the Panel referred to in the Final Report may be obtained by writing to the Public Health Service Forms and Publications Distribution Center, 12100 Parklawn Drive, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Bruce Brown, Office of the Executive Secretariat (HF–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3380).

SUPPLEMENTARY INFORMATION: In 1975 the Secretary of Health, Education, and Welfare appointed a Review Panel on New Drug Regulation to review current policies and procedures of the Food and Drug Administration (FDA) relating to the approval and disapproval of drugs for marketing in the United States; to evaluate the implementation of these policies and procedures by FDA; to ascertain the nature, extent, and adequacy of public, industry, and professional participation in this review process; and, insofar as the Panel identified any deficiencies, to recommend improvements in the policies and procedures, including changes that might be effectuated through administrative action and those that might require additional legislative authority.

Between November 1976 and May 1977, the Panel submitted to the Secretary 17 interim reports and staff papers on particular aspects of FDA regulation. On May 31, 1977, the Panel submitted its Final Report summarizing the findings and recommendations of its 27-month inquiry. The Panel's principal conclusions were:

1. The system of new drug regulation that requires governmental premarket clearance of prescription drugs, based on evidence of safety and effectiveness, is fundamentally sound.

2. FDA is neither pro- nor anti-industry in its review and approval of new drugs.

3. Implementation of the system of new drug regulation by FDA needs substantial improvement. The Panel proposed a wide range of legislative, administrative, and procedural reforms to achieve this objective.

Copies of the Final Report, together with the interim and staff reports, are on display in the office of the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857. Additional copies of these reports have been printed and may be obtained from the Public Health Service Forms and Publications Distribution Center, 12100 Parklawn Drive, Rockville, Md. 20857.

On June 2, 1977, the Secretary asked the Commissioner of Food and Drugs to undertake a thorough and careful review of all recommendations offered by the Panel and to identify the actions that the Commissioner will take to implement those recommendations of the Panel with which he agrees. The Secretary further directed that this "review of the Panel's report and recommendations should be informed by full consultation with public interest groups, consumer organizations, the affected industries and other interested persons." As one aspect of this consultation, the Commissioner published a notice in the FEDERAL REGISTER of June 14, 1977 (42 FR 30432) inviting interested persons to submit comments on the Panel's report and specific recommendations, for use by the Commissioner in reaching final decisions on these matters. Comments were requested to be filed on or before August 15, 1977, and may be seen in the office of the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. and 4 p.m., Monday through Friday.

In light of the comments received and because of the public interest in and importance of the Panel's proposals, the Commissioner believes that further opportunity should be provided for interested persons to present information and views on the Panel's report and recommendations, as well as on the comments submitted to FDA regarding them. Accordingly, a public hearing will be held on September 29, 1977, pursuant to 21 CFR Part 15, to receive further comments. The purpose of the hearing is to provide an open forum for the presentation of views concerning the validity and/or merit of specific findings and recommendations and their applicability or practicability, as well as to foster greater consideration of the Panel's proposals among the regulated industry and the general public. Although the hearing will encompass all aspects of the Panel's report, there are several specific areas of consideration on which the Commissioner particularly seeks advice. These are:

1. Relations and communications with regulated industries.
2. Trade secrets and freedom of information policies.
3. Improvement in new drug review procedures.
4. Expansion of postmarketing authorities.
5. Prescribing for unapproved use of drugs.

The hearing will take place at 9 a.m.

The hearing will take place at 9 a.m., in Conference Rm. E, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857. The presiding officer will be Dr. Donald Kennedy, Commissioner of Food and Drugs.

A written notice of participation must be filed pursuant to 21 CFR 12.45 with the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857 not later than September 16, 1977. The envelope containing the notice of participation should be prominently marked "Review Panel Hearing." The notice of participation itself must contain the Hearing Clerk Docket No. 77N–0196, the name, address, and telephone number of the person desiring to make a statement along with any business affiliation, a summary of the scope of the presentation, and the approximate amount of time being requested for the presentation. A schedule for the hearing will be mailed to each person who files a notice of participation; the schedule will also be available from the FDA Hearing Clerk. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations.

In the event that the responses to this notice of hearing are so numerous that insufficient time is available to accommodate the full amount of time requested in the notices of participation received, FDA will allocate the available time among persons making the oral presentations to be used as they wish. Formal written statements (preferably in quadruplicate) may be presented to the presiding officer on September 29, 1977, for inclusion in the administrative record.

The hearing will be open to the public. Any interested person who files a written

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notice of participation may be heard with respect to matters relevant to the issues under consideration.

Dated: August 27, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77-25682 Filed 9-1-77;8:45 am]

[Docket No. 77N-0221]

SAFETY OF CERTAIN FOOD INGREDIENTS

Opportunity for Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces an opportunity for public hearing on the safety of certain acrylates, citrates and citric acid, corn silk, and sodium oleate and sodium palmitate to determine if they are generally recognized as safe (GRAS) or subject to a prior sanction. This action accords with procedures of a comprehensive safety review that the agency is conducting. Interested persons are given an opportunity to give their views on the safety of these substances.

DATES: Requests to make oral presentations at the public hearing must be postmarked on or before October 3, 1977.

ADDRESSES: Written requests to the Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014, and to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-472-4750).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued, in the FEDERAL REGISTER of July 26, 1973 (38 FR 20053), a notice advising the public that an opportunity would be provided for oral presentation of data, information, and views at public hearings to be conducted by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (hereafter, the Select Committee), about the safety of ingredients used in food to determine if they are GRAS or subject to a prior sanction.

The Commissioner now gives notice that the Select Committee is prepared to conduct a public hearing on the following categories of food ingredients:

Acrylates used in paper and paperboard food-packaging materials (monomeric ethyl acrylate, monomeric methyl acrylate, polymeric ethyl acrylate, polymeric methyl acrylate); citrates and citric acid (citric acid, sodium citrate, potassium citrate, calcium citrate, isopropyl citrate, stearyl citrate, triethyl citrate); corn silk; and sodium oleate and sodium palmitate used in paper and paperboard food-packaging materials will provide an opportunity before the Select Committee reaches its final conclusions, for any interested person(s) to present scientific data, information, and views on the safety of these substances, in addition to those previously submitted in writing pursuant to notices published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20051, 20053) and April 17, 1974 (39 FR 13798).

The Select Committee has reviewed all the available data and information on the categories of food ingredients listed above and has reached one of the five following tentative conclusions on the status of each:

1. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.

2. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current and in the manner now practiced. However, it is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard. (This finding does not apply to the substances covered by this notice.)

3. Although no evidence in the available information demonstrates a hazard to the public when it is used at levels that are now current and in the manner now practiced, uncertainties exist requiring that additional studies be conducted. (This finding does not apply to the substances covered by this notice.)

4. The evidence is insufficient to determine that the adverse effects reported are not deleterious to the public health when it is used at levels that are now current and in the manner now practiced. (This finding does not apply to the substances covered by this notice.)

5. The information available is not sufficient to make a tentative conclusion.

The following table lists each ingredient, the Select Committee's tentative conclusion (keyed to the five types of conclusions listed above), and the available information on which the Select Committee reached its conclusions:

Substance	Select committee tentative conclusion	Scientific literature review Order number	Animal study report Order number	Other information
Monomeric and polymeric ethyl acrylate and methyl acrylate used in paper and paperboard food packaging:	----------	PB-234-897/AS	----------	a. Letter dated Dec. 17, 1976, from G. A. Richter, Rohm and Haas Co. Philadelphia, Pa.
Monomeric ethyl acrylate.	1		----------	b. Letter dated Mar. 8, 1977, and attachments from Linda Taylor, FDA.
Monomeric methyl acrylate.	1			
Polymeric ethyl acrylate.	1		----------	c. Report dated Mar. 3, 1950, by Munch Research Labs., Inc., Upper Darby, Pa.
Polymeric methyl acrylate.				
Citrate and citric acid:	----------	PB-223-550/AS PB-241-967/AS	Teratologic evaluation of citric acid (71-54) by Food and Drug Research Labs. Inc., under FDA contract (PB-223-814/AS).	d. Letter dated July 31, 1953, from LaWall and Harrison, Philadelphia, Pa. a. Human intake data taken from "A Comprehensive Survey of Industry on the Use of Food Chemicals. Generally Recognized as Safe (GRAS)," available from the National Technical Information Service, PB Nos. 221-921 through 221-949.
Citric acid				
Sodium citrate	1			
Potassium citrate.	1			
Calcium citrate.	1			
Isopropyl citrate.	1			
Stearyl citrate	1			
Triethyl citrate.	1		Mutagenic evaluation (host-mediated assay, cytogenetics, dominant lethal assay) of citric acid (71-54) by Litton Bionetics, Inc., under FDA contract (PB-245-463/AS).	b. Investigation of the toxic and teratogenic effects of GRAS substances to the developing chicken embryo; citric acid. Submitted by Mississippi State University.

Substance	Select committee tentative conclusion	Scientific literature review Order number	Animal study report Order number	Other information
			Mutagenic evaluation (tier 1) of potassium citrate (75-4) by Litton Bionetics, Inc., under FDA contract (PB-245-518/AS). Mutagenic evaluation (tier 1) of triethyl citrate (75-10) by Litton Bionetics, Inc., under FDA contract (PB-257-866/AS). Mutagenic evaluation (tier 1) of sodium citrate (75-12) by Litton Bionetics, Inc., under FDA contract (PB-254-510/AS).	c. Investigations of the toxic and teratogenic effects of GRAS substances to the developing chicken embryo; potassium citrate. FDA in-house report. d. Investigations of the toxic and teratogenic effects of GRAS substances to the developing chicken embryo; sodium citrate. FDA in-house report. e. Investigation of the toxic and teratogenic effects of GRAS substances to the developing chicken embryo; triethyl citrate. FDA in-house report. f. Chronic oral toxicity studies of triethyl citrate in dogs. Submitted by Fleischmann Laboratories. g. Triethyl citrate lifetime study on rats. Submitted by Fleischmann Laboratories.
Corn silk	5	PB-234-900/AS	----------	a. Human intake data taken from "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe (GRAS)," available from the National Technical Information Service, PB Nos. 221-921 through 221-949.
Sodium oleate and sodium palmitate used in paper and paperboard food packaging:		PB-241-968/AS	----------	a. Human intake data taken from "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe (GRAS)," available from the National Technical Information Service, PB Nos. 221-921 through 221-949.
Sodium oleate	1			b. Evaluation of the health aspects of aluminum compounds as food ingredients (SCOGS-43), submitted by FASEB.
Sodium palmitate.	1			c. Evaluation of the health aspects of hydrogenated fish oil as a food ingredient (SCOGS-66), submitted by FASEB. d. Evaluation of the health aspects of tall oil as it may migrate to foods from packaging materials (SCOGS-68), submitted by FASEB. e. Evaluation of the health aspects of tallow, hydrogenated tallow, stearic acid and calcium stearate as food ingredients (SCOGS-54), submitted by FASEB.

Reports in the table with "PB" prefixes may be obtained from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22151.

In addition to the information contained in the documents listed in the table above, the Select Committee supplemented, where appropriate, their reviews with specific information from specialized sources as announced in a previous hearing opportunity notice published in the FEDERAL REGISTER of September 23, 1974 (39 FR 34218).

The Select Committee's tentative reports on (1) acrylates used in paper and paperboard food-packaging materials (monomeric ethyl acrylate, monomeric methyl acrylate, polymeric ethyl acrylate, polymeric methyl acrylate), (2) citrates and citric acid (citric acid, sodium citrate, potassium citrate, calcium citrate, isopropyl citrate, stearyl citrate, triethyl citrate), (3) corn silk, and (4) sodium oleate and sodium palmitate used in paper and paperboard food-packaging materials are available for review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and also at the Public Information Office, Food and Drug Administration, Rm. 3807, 200 C St. SW., Washington, D.C. 20204. In addition, all reports and documents used by the Select Committee to review the ingredients are available for review in the office of the Hearing Clerk.

To schedule the public hearing, the Select Committee must be informed of the number of persons who wish to attend and the amount of time requested to give their views. Accordingly, any interested person who wishes to appear at the public hearing to make an oral presentation shall so inform the Select Committee in writing, addressed to: The Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014. A copy of each such request shall be sent to the Hearing Clerk, address noted above, and all requests shall be placed on public display in that office. Any such request must be postmarked on or before October 3, 1977, shall state the substance(s) on which an opportunity to present oral views is requested, and shall state how much time is requested for the presentation. As soon as possible thereafter, a notice announcing the date, time, place, and scheduled presentations for any public hearing that may be requested will be published in the FEDERAL REGISTER.

The purpose of the public hearing is to receive data, information, and views not previously available to the Select Committee about the substances listed above. Information already contained in the scientific literature reviews and in the tentative Select Committee report shall not be duplicated, although views on the interpretation of this material may be presented.

Depending on the number of requests for opportunity to make oral presentations, the Select Committee may reduce the time requested for any presentation. Owing to time limitations, individuals and organizations with common interests are urged to consolidate their presentations. Any interested person may, in lieu of an oral presentation, submit written views, which shall be considered by the Select Committee. Three copies of such written views shall be addressed to the Select Committee at the address noted above, and must be postmarked not later than 10 days before the scheduled date of the hearing. A copy of any written views shall be sent to the Hearing Clerk, Food and Drug Administration, and shall be placed on public display in that office.

A public hearing will be presided over by a member of the Select Committee. Hearings will be transcribed by a reporting service, and a transcript of each hearing may be purchased directly from the reporting service and will also be placed on public display in the office of the Hearing Clerk, Food and Drug Administration.

Dated: August 25, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25405 Filed 9-1-77;8:45 am]

[Docket No. 77N-0025]

SPECIFICATION, MANUFACTURING, AND USE INFORMATION ON CERTAIN GRAS OR PRIOR-SANCTIONED HUMAN FOOD INGREDIENTS

Amended Request for Data and Information

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice amends the request for submittal of data and information on (1) food-grade specifications, (2) manufacturing practices, and (3) extent of food use of certain generally recognized as safe (GRAS) or prior-sanc-

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tioned human food ingredients, which appeared as a notice in the FEDERAL REGISTER of May 31, 1977 (42 FR 27676).

DATE: Available data and information may be submitted until October 1, 1977.

ADDRESS: Written submissions to the Food and Nutrition Board, GRAS/Food Additives Survey Office (JH 224), National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20418.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF–335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202–472–4750).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of May 31, 1977 (42 FR 27676), the Food and Drug Administration (FDA) requested submission of data and information on (1) food-grade specifications, (2) manufacturing procedures, and (3) use data for certain generally recognized as safe (GRAS) and prior-sanctioned food ingredients. The information was requested to provide sufficient data to complete FDA reviews of the affirmed GRAS status of these ingredients. The Commissioner had previously determined that without such data it may not be possible to affirm a substance as GRAS or to specify the conditions under which it may be safely used in food. The notice requested submission of data and information by August 1, 1977.

While recognizing FDA's need for this data and information, the National Academy of Sciences—National Research Council's (NAS/NRC) Committee on GRAS/Food Additive Surveys informed FDA in a letter, dated July 7, 1977, of its concern over a potential problem that may arise as part of this request. Because some of the substances included in the above-described notice are also included in the NAS current survey of industry food additives, colors, and certain flavors and GRAS ingredients (as announced in the FEDERAL REGISTER of June 17, 1977 (42 FR 30894)), the Committee expressed concern that the industry may be confused over two such requests for similar information on these ingredients. The Committee also suggested that it is unnecessary to request the food industry to submit this data and information to both NAS and FDA, and it said that inadequate data may be submitted because of the dual request. The Committee therefore suggested that the information requested in the FDA notice of May 31, 1977 be sent to the Food and Nutrition Board (address below) and that the deadline for submission of such data be extended to October 1, 1977 to coincide with completion of the current NAS survey.

The Commissioner has carefully considered the NAS request and agrees with it. Therefore, to minimize any potential for confusion and to facilitate complete and timely responses to both the FDA request of May 31, 1977 and the NAS survey, the Commissioner makes the following amendments to the May 31 notice:

1. Offerors of all data and information in response to the May 31 notice are requested to submit such data and information to the Food and Nutrition Board, GRAS/Food Additive Survey Office (JH 224), National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20418, attention Mr. Durward F. Dodgen 202–389–6537 or Kenneth R. Fulton 202–389–6330.

2. The deadline for submittal of data and information in response to the May 31 notice is extended to October 1, 1977, to coincide with the deadline date of the current NAS survey.

3. Data and information submitted in response to the May 31 notice should be submitted within the format requirements of the current NAS survey questionnaire. Questionnaires should be requested from the above-designated NAS-GRAS/Food Additive Survey Office personnel, as indicated in the FEDERAL REGISTER notice of June 17, 1977 (42 FR 30894).

The NAS Committee will receive and process responses to the FDA request and provide specification, manufacturing, and composites of use information to FDA. Individual responses on food use of the ingredients will be retained by NAS and will not be supplied to FDA.

Dated: August 26, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25407 Filed 9-1-77;8:45 am]

[Docket No. 77N–0203; DESI 12342]

TRANYLCYPROMINE SULFATE

Drugs for Human Use; Drug Efficacy Study Implementation: Permission for Drug to Remain on the Market

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice specifies the conditions under which tranylcypromine sulfate tablets may remain on the market pending completion and review of planned clinical studies to determine its effectiveness in treating certain types of depression.

DATES: Protocols due on or before October 3, 1977.

Studies must be in progress within 60 days after receipt of Bureau of Drugs approval or comments on protocols.

Studies must be completed within 1 year after starting.

ADDRESSES: All submissions pursuant to this notice should be identified with the words "Paragraph XIV Drugs—Category XX—Tranylcypromine Sulfate" placed in a box in the upper portion of the cover letter, and should be directed to the Division of Neuropharmacological Drug Products, Psychopharmacology Unit (HFD–120), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Ronald Kartzinel, Bureau of Drugs (HFD–120), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–4020).

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of December 14, 1972 (37 FR 26623), the Commissioner of Food and Drugs informed manufacturers of prescription drugs for human use of the future schedule for implementation of the Drug Efficacy Study. That notice listed certain drugs, together with the justification for their medical need, which may remain on the market pending completion of scientific studies to determine effectiveness, and provided for future additions to, or deletions from, that list. Tranylcypromine sulfate tablets is now being added to that list, as discussed below.

In a notice (DESI 12342) published in the FEDERAL REGISTER of September 1, 1970 (35 FR 13855), the Food and Drug Administration announced its conclusion that the drug product described below is less than effective (probably effective) for symptomatic relief in patients who have severe depression, are not candidates for electroconvulsive therapy, have failed to respond satisfactorily to other antidepressant therapy, and are hospitalized or under similar close supervision. Additional data were submitted by the manufacturer, but they were determined not to provide substantial evidence of effectiveness.

NDA 12–342; Parnate Tablets containing tranylcypromine sulfate; Smith Kline & French Laboratories, Division of SmithKline Corp., 1500 Spring Garden St., Philadelphia, Pa. 19101.

The position of FDA that Parnate is probably effective was identical with the conclusion of the Panel on Psychiatric Drugs of the National Academy of Sciences-National Research Council, Drug Efficacy Study Group. Although the Panel had commented that solid proof of efficacy is far from evident, in its General Comments, the Panel had stated as follows:

> Despite the side effects of this group of drugs, the Panel feels that monoamine oxidase inhibitors should be available to the practitioner to provide a greater range of treatment for selected depressed populations. Clinical experience suggests that monoamine oxidase inhibitors may be effective in a small and as yet poorly delineated group of depressed patients.

In 1971 it was the consensus of members of the FDA Neuropharmacology Advisory Committee that there are instances in which Parnate treatment results in a remission of a depressive illness which has failed to respond to other measures. It was the opinion of those consulted that Parnate should be available with restricted labeling.

In July 1973, Smith Kline & French submitted a supplemental application providing for revised labeling and requested a waiver of the requirement of clinical trials to prove effectiveness, on the basis of ethical considerations involved in such trials. The Food and Drug Administration granted the waiver, and on September 5, 1973, the supplemental application was approved. The indication approved was "Parnate is indicated for symptomatic relief of severe reactive or endogenous depression in hospitalized or closely supervised patients who have not responded to other antidepressant therapy."

Since the approval of September 5, 1973, the information available concerning Parnate and other monoamine oxidase inhibitors has been thoroughly reviewed by FDA with the assistance of the Psychopharmacological Agents Advisory Committee and its Subcommittee on Monoamine Oxidase Inhibitors. The purpose of this exhaustive review was to determine whether the data available provide substantial evidence of effectiveness. On April 21, 1975, Smith Kline & French submitted material concerning the safety and effectiveness of Parnate in treating depressed patients for consideration by the Subcommittee on Monoamine Oxidase Inhibitors. The data were thoroughly reviewed by a member of the Subcommittee and a member of the Bureau of Drugs Division of Neuropharmacological Drug Products. Their report was presented to the Subcommittee on May 15, 1975, and to the full Committee on June 26–27, 1975.

The Director of the Bureau of Drugs considered the findings of the Committee and concluded that, while there is some suggestive evidence of efficacy, the studies available did not meet the statutory criteria for substantial evidence of effectiveness.

The conclusions of the review were communicated to Smith Kline & French by letter of August 25, 1975. The letter pointed out that, in accordance with Paragraph XIV of the order entered on October 11, 1972, by Judge William B. Bryant of the U.S. District Court for the District of Columbia, and published in the FEDERAL REGISTER of December 14, 1972 (37 FR 26623), a limited number of drugs may remain on the market pending completion of scientific studies to determine effectiveness when there is compelling justification of the medical need for the drug. The letter invited Smith Kline & French to submit information to justify such a medical need, along with a commitment to carry out the necessary efficacy studies. The firm subsequently submitted satisfactory documentation of the medical need, but, in a meeting on December 10, 1975, with members of the Bureau of Drugs, expressed reluctance, because of ethical considerations, to conduct additional clinical studies, and urged that the requirement for additional studies be waived.

Since FDA granted the waiver of clinical studies and approved the supplemental application on September 5, 1973, as discussed above, it was demonstrated that adequate and well-controlled studies can be successfully conducted with a monoamine oxidase inhibitor without violating ethical precepts or patients' rights. Under the circumstances of a lack of substantial evidence of effectiveness and evidence that well-controlled studies could be conducted, the Director of the Bureau of Drugs concluded that approval of the new drug applicaion for Parnate should be withdrawn. Accordingly, a notice of opportunity for hearing on a proposal to withdraw approval of the new drug application was published in the FEDERAL REGISTER of October 5, 1976 (41 FR 43942).

On November 2, 1976, the firm requested a hearing, and on November 16, 1976, cited material previously submitted to the Bureau of Drugs, that indicated that the firm was making arrangements for the necessary clinical studies.

The Commissioner of Food and Drugs now concludes that, in view of sufficient justification of the medical need for the drug and assurance that the necessary clinical studies will be undertaken, the probably effective classification of tranylcypromine sulfate tables should be reinstated and the drug should be permitted to remain on the market pending completion and review of such studies. A notice appearing elsewhere in this issue of the FEDERAL REGISTER rescinds the October 5, 1976, notice.

Accordingly, a new section is hereby added to the list of drugs which may remain on the market (paragraph 3 of the notice of December 14, 1972, as amended) to read as follows:

XX. TRANYLCYPROMINE SULFATE

In a notice published in the FEDERAL REGISTER of September 1, 1970 (35 FR 13855), the Food and Drug Administration announced its conclusion that Parnate Tablets (tranylcypromine sulfate) (DNA 12–342) is less than effective (probably effective) for symptomatic relief in patients who have severe depression, are not candidates for electroconvulsive therapy, have failed to respond satisfactorily to other antidepressant therapy, and are hospitalized or under similar close supervision. Information subsequently submitted by Smith Kline & French Laboratories, holder of the NDA, provided suggestive evidence of efficacy, but did not meet the statutory criteria for substantial evidence of effectiveness. It has ben determined that adequate and well-controlled clinical studies can be successfully conducted with such drugs without violating ethical precepts or patients' rights. There is adequate justification of the medical need for tranylcypromine sulfate in patients who have not responded to other antidepressant therapy. Tranylcypromine is one of a small number of drugs which reputedly exert antidepressant action through inhibition of the enzyme monoamine oxidase. Whereas the majority of patients respond to the administration of tricyclic antidepressants which offer a greater ease of clinical administration and do not require the drug and dietary restrictions necessary to the safe use of monoamine oxidase inhibitors, some patients do not respond to tricyclic drugs and require a trial with other available drug classes or modalities of antidepressant therapy. Smith Kline & French has assured the agency that it intends to conduct the necessary studies. The Commissioner of Food and Drugs concludes, therefore that tranylcypromine sulfate tablets may remain on the market pending completion and review of studies to determine effectiveness. The specific conditions under which tranylcypromine sulfate tablets may remain on the market are as follows:

1. *Labeling.* The drug shall be labeled as probably effective for symptomatic relief of severe reactive or endogenous depression in hospitalized or closely supervised patients who have not responded to other antidepressant therapy.

2. *Studies.* On or before October 3, 1977, the manufacturer or distributor of any such product, if he has not already done so, shall submit protocols to the Division of Neuropharmacological Drug Products, Psychopharmacology Unit (HFD–120), Bureau of Drugs, for at least two adequate and well-controlled studies by independent investigators or for a multi-clinic study in which the data of at least three investigators can be evaluated independently, to determine whether or not the product is effective for the indication.

The Bureau of Drugs will review submitted protocols within a 30-day period and will provide to the manufacturer or distributor notice of approval or comments.

(b) Within 60 days after receipt of the Bureau's approval or comments on the protocol, studies shall be in progress and the manufacturer or distributor shall so notify the Division of Neuropharmacological Drug Products in writing.

(c) At 6–month intervals after studies have begun, the manufacturer or distributor shall submit a progress report stating the number of patients and investigators in the studies, the number of studies completed, and the number continuing.

(d) Within 12 months after starting the studies, the manufacturer or distributor shall submit data on the completed study to the Division of Neuropharmacological Drug Products.

3. It will be acceptable to the Food and Drug Administration for manufacturers of tranylcypromine sulfate tablets to conduct studies in cooperation with one another and to submit a joint protocol.

Failure of any manufacturer or distributor of tranylcypromine sulfate tablets, whether or not his drug is the sub-

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ject of a new drug application, to comply with the requirements of this notice, or to show adequate progress, will result in regulatory action to remove the drug product from the market.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 505, 701, 52 Stat. 1052–1053, as amended, 1055–1056, as amended (21 U.S.C. 355, 371)), the Administrative Procedure Act (5 U.S.C. 553, 554), and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: August 24, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25278 Filed 9-1-77;8:45 am]

[Docket No. 76N-0156; DESI 12342]

TRANYLCYPROMINE SULFATE

Rescission of Opportunity for Hearing

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice rescinds a notice of opportunity for hearing published October 5, 1976, that proposed to withdraw approval of the new drug application (NDA 12–342) for Parnate (tranylcypromine sulfate) Tablets, a drug used in the treatment of certain types of depression. The drug's classification is reinstated as probably effective and, in a notice appearing elsewhere in this issue of the FEDERAL REGISTER, the Commissioner of Food and Drugs announces the conditions under which tranylcypromine sulfate tablets may remain on the market pending completion and review of additional clinical studies concerning its effectiveness.

DATE: Effective September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert H. Hahn, Bureau of Drugs (HFD–32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3650).

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of October 5, 1976 (41 FR 43942) the Director of the Bureau of Drugs offered an opportunity for hearing on his proposal to issue an order withdrawing approval of the following new drug application:

NDA 12–342; Parnate Tablets containing tranylcypromine sulfate; Smith Kline & French Laboratories, Division of SmithKline Corp., 1500 Spring Garden St., Philadelphia, Pa. 19101.

The basis of the proposed action was that there is lack of substantial evidence that the drug is effective for its claimed indications. In response to the notice, the firm cited submissions previously made to the Bureau of Drugs that indicated that it was making arrangements to conduct the necessary adequate and well-controlled clinical studies to determine the effectiveness of the drug. Having been assured that such studies are to be conducted, the Commissioner of Food and Drugs has concluded that Parnate should be added to the list of drugs temporarily exempt from further implementation of the Drug Efficacy Study pending completion and review of the required studies. A notice announcing that conclusion appears elsewhere in this issue of the FEDERAL REGISTER. The notice of opportunity for hearing of October 5, 1976, is hereby rescinded.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: July 27, 1977.

J. RICHARD CROUT,
Director Bureau of Drugs.

[FR Doc.77-25277 Filed 9-1-77;8:45 am]

Health Resources Administration

DETERMINATION OF POPULATION OF HEALTH SERVICE AREAS

Section 1516 of the Public Health Service Act, as added by the National Health Planning and Resources Development Act of 1974 (Pub. L. 93–461), authorizes the Secretary of Health, Education, and Welfare to make grants (hereinafter referred to as "planning grants") to health systems agencies to assist them in meeting their costs. The amount of the planning grant to each health systems agency, as provided in the regulations governing this program (42 CFR Part 122, Subpart C), is determined in accordance with a formula set forth in the regulations, and is based in part upon a determination by the Secretary of the population of the health service area to be served by each agency. Section 122.205 of the governing regulations provides that the Secretary will determine the population of such areas based upon the latest available estimate from the Department of Commerce, and will publish annually in the FEDERAL REGISTER a list of all health service areas and their populations as so determined. The purpose of this Notice is to set forth the populations of the health service areas designated. In the future, the populations of the health service areas will be published prior to the final allocation of funds in each fiscal year. Pursuant to section 1536 of the Act, certain States (District of Columbia, Rhode Island and Hawaii) as well as the Virgin Islands, Guam, the Trust Territories of the Pacific Islands, and American Samoa do not have health service areas established within them or health systems agencies designated for them but are nonetheless eligible to receive planning grants, based in part upon their population. This Notice also sets forth the population of such areas.

The latest available Department of Commerce comparable estimates of the populations of the health service areas are the July 1, 1975, estimates which appear in the current Population Reports, series P–26. The issues from series P–26 publish the population of States by counties and by equivalent major incorporated jurisdictions, and were used to determine the population of the areas within all States except those listed below. The Department of Treasury, Office of Revenue Sharing, "Tribe List and Extract" was used to clarify the populations of health service areas in Arizona and the health service area that includes portions of Arizona, New Mexico, and Utah.

Series P–25 Population Reports lists the population of States and Territories by counties, incorporated places, and selected minor jurisdictions. Issues from this series were used to determine, by aggregation of data for local jurisdictions, the populations of Alaska, Connecticut, Illinois, and Massachusetts, as well as the population of the District of Columbia.

Estimates of July 1, 1973, Population Reports, series P–25 indicate the population of Puerto Rico, American Samoa, Guam, Virgin Islands, and the Trust Territories of the Pacific Islands. These are the latest available estimates from the Department of Commerce for the outlying territories.

Accordingly, the Secretary has made the following determination of populations of the health service and other areas as described above.

Dated August 24, 1977.

HAROLD MARGULIES,
Deputy Administrator, Health Resources Administration.

Health service area population, 1975
Department of Commerce estimate

	Health service area	Population
Alabama	1	697,700
	2	217,500
	3	852,500
	4	401,600
	5	676,800
	6	661,900
See Georgia No. 5	(7)	
Alaska	1	40,800
	2	229,000
	3	72,900
American Samoa	1,536	28,200
Arizona	1	1,337,156
	2	564,103
	3	145,450
Includes Utah No. 2–6,620, and New Mexico No. 2–47,260	4	127,670
	5	107,700
Arkansas	1	649,200
	2	550,700
	3	401,700
	4	454,200
California	1	561,500
	2	1,067,000
	3	523,200
	4	1,455,900
	5	1,672,900
	6	699,500
	7	1,173,400
	8	567,500
	9	1,120,200
	10	717,700
	11	6,944,900
	12	1,248,000
	13	1,710,200
	14	1,671,600

	Health service area	Population
Colorado	1	1,720,200
	2	583,900
	3	230,000
Connecticut	1	631,455
	2	592,173
	3	499,964
	4	994,667
	5	496,671
Delaware	1	579,200
District of Columbia	1,536	712,000
Florida	1	583,700
	2	557,200
	3	707,100
	4	1,188,200
	5	1,027,600
	6	793,000
	7	635,500
	8	872,500
	9	1,490,000
Georgia. See Tennessee No. 3	(1)	
	2	511,900
	3	2,053,700
Includes South Carolina No. 5–91,600	4	583,700
	5	761,900
Includes Alabama No. 7–16,000	6	524,100
	7	530,500
Guam	1,536	100,000
Hawaii	1,536	864,900
Idaho	1	820,800
Illinois	1	572,400
	2	693,900
	3	562,400
	4	775,700
	5	502,600
	6	3,899,391
	7	2,812,437
	8	787,900
	9	440,800
	10	425,900
Includes Iowa No. 3–188,700	(11)	
See Missouri No. 3	1	1,923,700
Indiana	2	2,127,900
	3	1,259,900
Iowa:		
Includes Nebraska No. 4–14,700	1	2,523,100
See Nebraska No. 3	(2)	
See Illinois No. 10	(3)	
Kansas	1	418,922
	2	501,100
	3	787,400
See Missouri No. 1	(4)	
Kentucky	1	1,739,200
	2	1,401,700
See Ohio No. 1	(5)	
Louisiana	1	1,371,900
	2	1,335,800
	3	1,082,800
Maine	1	1,039,500
Maryland	1	900,700
	2	564,000
	3	815,600
Massachusetts	4	2,137,000
	5	274,100
	1	820,594
	2	676,766
	3	480,558
	4	2,235,718
Michigan	5	964,933
	6	647,597
	1	4,705,700
	2	674,300
	3	753,100
	4	1,022,900
	5	583,100
	6	741,500
	7	591,800
	8	325,000
Minnesota:		
See North Dakota No. 2	(1)	
Including Wisconsin No.7–130,200	2	470,200
See North Dakota No. 3	(3)	
	4	411,900
	5	1,919,700
	6	522,000
	7	393,600
	1	2,345,600
Mississippi		
Missouri: Including Kansas No. 4–466,900	1	1,342,100
	2	1,033,500
Including Illinois No. 11–575,000	3	2,369,300
	4	562,600
	5	476,900
Montana	1	747,900
Nebraska	1	616,300
	2	374,000
Including Iowa No. 2–172,700	3	709,800
See Iowa No. 1	(4)	
Nevada	1	239,500
	2	332,500
New Hampshire	1	817,900
New Jersey	1	1,324,600
	2	1,974,900
	3	582,800
	4	1,970,900
	5	1,465,300
New Mexico	1	1,102,730
See Arizona No. 4	(2)	
New York	1	1,745,400
	2	1,206,600
	3	1,421,600
Includes Pennsylvania No. 8–102,200	4	415,400
	5	1,354,600
	6	1,886,100
	7	7,567,900
	8	2,622,600
North Carolina	1	934,922
	2	1,037,900
	3	927,700
	4	744,100
	5	830,900
	6	974,200
North Dakota	1	284,700
Includes Minnesota No. 1–157,000	2	307,300
Includes Minnesota No. 3–191,800	3	393,300
Ohio: Includes Kentucky No. 2–202,600	1	1,713,500
	2	1,119,300
	3	401,100
	4	1,007,200
	5	1,566,400
	6	700,400
	7	826,900
	8	968,200
	9	2,244,100
	10	762,200
Oklahoma	1	2,711,800
Oregon	1	1,007,300
	2	981,400
	3	2,209,600
Pennsylvania	1	3,791,400
	2	901,400
	3	869,800
	4	1,341,200
	5	724,300
	6	2,913,200
	7	751,400
See New York No. 4	(8)	
	9	493,300
Puerto Rico	1	2,951,000
Rhode Island	1,536	926,800
South Carolina	1	756,000
	2	789,200
	3	561,500
	4	617,000
See Georgia No. 4	(5)	
South Dakota	1	683,000
Tennessee: Includes Virginia No. 6–84,600	1	468,100
	2	758,900
Includes Georgia No. 1–98,400	3	550,500
	4	1,350,900
	5	421,800
	6	820,500
Texas	1	335,300
	2	343,100
	3	435,200
	4	620,800
	5	2,804,000
	6	1,183,600
	7	684,200
	8	1,092,800
	9	1,212,000
	10	587,300
	11	2,625,500
	12	312,500
Trust Territory	1,536	107,500
Utah	1	1,200,520
See Arizona No. 4	(2)	
Vermont	1	471,000
Virginia	1	624,700
	2	998,500
	3	1,076,400
	4	900,400
	5	1,281,500
See Tennessee No. 1	(6)	
Virgin Islands	1,536	82,600
Washington	1	2,174,800
	2	489,900
	3	413,700
	4	468,700
West Virginia	1	1,802,800
Wisconsin	1	795,700
	2	1,791,300
	3	458,200
	4	466,500
	5	558,500
	6	373,600
See Minnesota No. 2	(7)	
Wyoming	1	374,000
Total	212	216,321,947

[FR Doc.77-25343 Filed 9-1-77;8:45 am]

HEALTH PROFESSIONS AND NURSING STUDENT LOANS

"Low-Income Levels" for Loan Repayment

Under sections 741(*l*) and 836(*j*) of the Public Health Service Act, and the applicable program regulations, the Secretary of Health, Education, and Welfare may repay, upon application by an individual, all or part of the individual's educational loans made after November 17, 1971, for meeting the costs of training at a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or nursing if the Secretary determines that the individual:

(1) Failed after November 17, 1971, to complete the health professions studies leading to the individual's first professional degree or to complete the specified nursing studies for which the loan(s) was made;

(2) Is in exceptionally needy circumstances;

(3) Is from a low-income or disadvantaged family; and

(4) Has not resumed or cannot reasonably be expected to resume the course of study within two years following the date on which the individual ended his studies.

Sections 57.217(c) and 57.317(c) of the applicable program regulations (42 CFR Part 57, Subparts C and D) require the Secretary to publish annually in the FEDERAL REGISTER the low-income levels which will be used in determining an applicant's eligibility for this repayment program.

This Notice updates the income levels that are used in determining what is a "low-income family" for purposes of repayment of educational loans by the Secretary under sections 741(*l*) and 836(j) of the Public Health Service Act. These income levels, together with other relevant factors such as value of assets, unusual expenses, income available to the individual, etc., are also considered in determining whether an applicant is "in exceptionally needy circumstances" or is from a "disadvantaged family."

The income figures below were taken from low-income levels, published by the U.S. Bureau of the Census, using an index adopted by a Federal Interagency

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Committee for use in a variety of Federal Programs, then multiplied by a factor of 1.3 for adaptation to the Health Professions and Nursing Student Loan Programs, and have been updated to reflect increases in the Consumer Price Index through December 31, 1976.

Size of parents' family (includes only dependents listed on Federal income tax form):	Income level [1]
1	$3,800
2	5,000
3	5,900
4	7,600
5	8,900
6 or more	10,000

[1] Rounded to $100—adjusted gross income for calendar year 1976.

Dated: August 19, 1977.

HAROLD MARGULIES,
Deputy Administrator,
Health Resources Administration.

[FR Doc.77-25308 Filed 9-1-77;8:45 am]

National Institutes of Health

DIVISION OF RESEARCH GRANTS

Workshop

Notice is hereby given of a Workshop on Mechanism of Localized Bone Resorption to be held by the Oral Biology and Medicine Study Section and the General Medicine B Study Section at the Shoreham Americana Hotel, Washington, D.C., November 14, 1977, from 8:00 a.m. to adjournment and November 15, 1977, from 8:30 a.m. to adjournment.

Further information may be obtained from Dr. Thomas M. Tarpley, Jr., Executive Secretary, Oral Biology and Medicine Study Section, Westwood Building, Room 325, telephone 301/496-7818, and Dr. William F. Davis, Jr., Executive Secretary, General Medicine B Study Section, Westwood Building, Room 322, Telephone 301/496-7730.

This workshop will be open to the public. Attendance by the public will be limited to space available.

Dated: August 25, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc.77-25296 Filed 9-1-77;8:45 am]

NATIONAL DIABETES ADVISORY BOARD

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Diabetes Advisory Board on October 19, 1977, 8:30 a.m. to 5:00 p.m., in Room 529A, South Portal Building of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C.

In addition, the Executive Committee of the Board will have a meeting on October 18, 1977, 8:30 a.m. to 5:00 p.m. at the same location. The meetings, which will be open to the public both days from 8:30 a.m. to 5:00 p.m., are being held to continue review of the status and implementation of the long-range plan to combat diabetes formulated by the National Commission on Diabetes. Attendance by the public will be limited to space available.

Messrs. James N. Fordham or Leo E. Tracy, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Md. 20014 (301-496-3583), will provide summaries of the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.847, National Institutes of Health)

SUZANNE FREMEAU,
Committee Management Officer, NIH.

[FR Doc.77-25295 Filed 9-1-77;8:45 am]

OFFICE OF MANAGEMENT ANALYSIS AND SYSTEMS

Statement of Organization, Functions and Delegations of Authority

Correction

In FR Doc. 77-20084 appearing in the issue of Thursday, July 14, 1977, at page 36312, paragraph "B" should read as follows:

B. The Office of Management Analysis and Systems: (1) Recommends management policies; (2) implements approved policies and assesses their effectiveness; (3) establishes management control mechanisms and administers the management-by-objectives process; (4) analyzes organizational structures and management procedures and recommends improvements; (5) applies management science and systems analysis techniques and, (6) controls the development of information systems and implements the Department's policies on the collection, storage, and dissemination of information.

SAFETY AND OCCUPATIONAL HEALTH STUDY SECTION

Notice of Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), the Center for Disease Control announces the following National Institute for Occupational Safety and Health Committee meeting:

Name: Safety and Occupational Health Study Section.
Date: October 20-21, 1977.
Place: Quality Inn, 2775 Van Ness Avenue, San Francisco, Calif.
Time: 9 a.m.
Type of Meeting: Open: 9 a.m. to 10:30 a.m. on October 20, 1977. Closed: Remainder of meeting.
Contact Person: C. Ilana Howarth, Acting Executive Secretary, 5600 Fishers Lane, Parklawn Bldg., Room 9-63, Rockville, Md. 20857, phone 301-443-4493.
Purpose: The Committee is charged with the initial review of research, training, demonstration, and fellowship grant applications for Federal assistance in program areas administered by the National Institute for Occupational Safety and Health, and with advising the Institute staff on training and research needs.

Agenda: Agenda items for the open portion of the meeting will include reading of minutes of previous meeting, and administrative and staff reports. Beginning at 10:30 a.m., October 20, 1977, through adjournment on October 21, 1977, the Study Section will be performing the initial review of research grant and training grant applications for Federal Assistance, and will not be open to the public, in accordance with the provisions set forth in Section 552b(c)(6), Title 5 U.S. Code, and the Determination of the Director, Center for Disease Control, pursuant to Public Law 92-463. Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: August 25, 1977.

WILLIAM C. WATSON, JR.,
Director, Center for Disease Control.

[FR Doc.77-25702 Filed 9-1-77;8:45 am]

Office of the Secretary

SUPPLEMENTARY MEDICAL INSURANCE FOR THE AGED AND DISABLED

Economic Index for Period July 1977 through June 1978

Notice is hereby given that the economic index applicable to prevailing charges for physicians' services under the program of Supplementary Medical Insurance for the Aged and Disabled (Part B of Title XVIII of the Social Security Act, commonly known as "Medicare Part B") is 1.357 for the period July 1, 1977 through June 30, 1978. This represents an increase of 6.35 percent over the index of 1.276 applicable for the prior 12 months, computed pursuant to section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)), as amended by section 224(a) of Pub. L. 92-603 (42 U.S.C. 1395u), sections 2 and 3 of Pub. L. 94-368 (42 U.S.C. 1395u), and as implemented by 20 CFR 405.504(a)(3).

The increase in the economic index over the base value of 1.000 is the maximum allowable increase in any prevailing charge for physicians' services in the period July 1977 through June 1978 over the corresponding prevailing charge for the same service in the same geographic area in fiscal year 1973. It is calculated by increasing the economic index for the period July 1976 through June 1977 (as adjusted for certain revisions in the Bureau of Labor Statistics indexes) by the weighted average of the increases in calendar year 1976 over calendar year 1975 in several indexes published by the Bureau of Labor Statistics, and by an index of the increase in physicians' malpractice insurance premiums based on a survey of the premiums charged in 47 States and in the District of Columbia by several major insurers. However, pursuant to sections 2 and 3 of Pub. L. 94-368, as implemented by regulations published in the FEDERAL REGISTER (42 FR 18274) on April 6, 1977, the application of the economic index may not result in a lowering of the allowable prevailing charges for physicians' services below the levels that were in effect for the fiscal year ending June 30, 1975.

A separate component to reflect the effect of malpractice insurance premium increases on physician practice expenses was previously included for the first time in the economic index calculated for the 12-month period beginning in July 1976. To accommodate the lack of prior (separate) data on malpractice insurance costs, the other components of the index have again been computed on an annual basis to reflect the changes in these components in 1976 over 1975 and in 1975 over 1974. The calendar year 1974 data used for these components in the calculation of the economic index, in turn, reflect the cumulative increases since calendar year 1971. Therefore (with appropriate adjustments for the malpractice insurance data) the economic index (1.357) for the 12-month period beginning in July 1977 reflects the cumulative change in the components of the index since calendar year 1971, as is intended by section 1842(b)(3) of the Social Security Act as amended by Pub. L. 94-368, and by § 405.504(a)(3)(i) of Regulations No. 5.

The calculation reflects information that became available from the Bureau of Labor Statistics after the economic index for the period July 1976 through June 1977 was announced in the FEDERAL REGISTER on September 8, 1976, and put into effect. The economic index for a particular period must necessarily be calculated on the basis of the best information that is available at the time the calculation is made and put into effect. Therefore, the new data have been used to calculate the economic index for the period July 1977 through June 1978 in order to provide the most accurate calculation that is possible at this time of the changes that have taken place in the components of the index since the base year (calendar year 1971).

Calendar year 1976 charge data will be used to determine reasonable charges for the period July 1, 1977 through June 30, 1978. The table below shows the derivation of the economic index.

FOR FURTHER INFORMATION CONTACT:

Paul Riesel, Bureau of Health Insurance, 301-594-9595, or David R. McKusick, Office of the Actuary, 301-594-2864, 6401 Security Boulevard, Baltimore, Md. 21235.

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Derivation of the Economic Index for the Period July 1977 Through June 1978

	1971 Base Value[1]	1974 Value[1]	1975 Value[1]	1976 Value[1]	Ratio of 1974 Values to 1971 Values	Weights[4] (Percent)	Ratio of 1975 Values to 1974 Values	Weights[5] (Percent)	Ratio of 1976 Values to 1975 Values	Weights[6] (Percent)
1. Hourly earnings of nonsupervisory workers in finance, insurance and real estate	3.27	3.82	4.13	4.36	1.1682	0.37x40	1.0812	0.37x40	1.0557	0.43x40
2. Housing component of the consumer price index	124.3	150.6	166.8	177.2	1.2116	0.14x40	1.1076	0.15x40	1.0624	0.10x40
3. Private transportation component of the consumer price index	116.6	136.6	149.8	164.6	1.1715	0.06x40	1.0966	0.07x40	1.0988	0.05x40
4. Drugs and pharmaceutical component of the wholesale price index	102.4	112.7	126.6	134.0	1.1006	0.09x40	1.1233	0.09x40	1.0585	0.08x40
5. All other, miscellanous, expenses (tied to the entire consumer price index)	121.3	147.7	161.2	170.5	1.2176	0.34x40	1.0914	0.28x40	1.0577	0.27x40
6. Premiums for malpractice insurance	--	--	--	--	--	--	1.8400[2]	0.04x40	1.4170[2]	0.07x40

	1971 Base Value[1]	1974 Value[1]	1975 Value[1]	1976 Value[1]	Ratio of 1974 Values to 1971 Values	Weights[4] (Percent)	Ratio of 1975 Values to 1974 Values	Weights[5] (Percent)	Ratio of 1976 Values to 1975 Values	Weights[6] (Percent)
7. Average weekly earnings of production and nonsupervisory workers	127.28	154.45	163.89	176.29	1.2135	--	1.0611	--	1.0757	--
8. Index of output per man-hour of employed nonfarm workers	106.3[3]	107.5[3]	109.2[3]	113.3[3]	1.0113	--	1.0158	--	1.0375	--
9. Change in average weekly earnings net of change in output per man-hour	--	--	--	--	1.1999	60	1.0446	60	1.0368	60
Economic index for fiscal year 1976 adjusted for revisions in BLS statistics since the announcement[7]					1.1940					

	1971 Base Value 1/	1974 Value 1/	Ratio of 1975 Values to 1971 Values	1975 Value 1/	Ratio of 1976 Values to 1971 Values	1976 Value 1/	Ratio of 1974 Values to 1971 Values	Weights 4/ (Percent)	Ratio of 1976 Values to 1975 Values	Weights 6/ (Percent)
Increase factor of the economic index over fiscal year 1976 value							1.0761			
Economic index for the period July 1976-June 1977 adjusted for revisions in BLS statistics since the announcement 7/							1.2849			
Increase factor of the economic index over the period July 1976-June 1977 value									1.0559	
Economic Index for the period July 1977-June 1978									1.3567	

1/ All component values of the economic index except line 6 are from The Monthly Labor Review published by the U.S. Department of Labor.

2/ Derived from a survey of several major insurance companies.

3/ BLS revised the values of line 8 for all years since the time of the previous announcements of the economic index.

4/ The weights, excluding the malpractice component, were derived from Medical Economics (November 20, 1972) and Profile of Medical Practice (1974 edition).

5/ The weights, including the malpractice component, for 1975, were derived from Medical Economics (December 8, 1975) and Profile of Medical Practice (1974 edition).

6/ The weights, including the malpractice component, for 1976, were derived from a special study.

7/ See text for explanation.

(Secs. 1102, 1832, 1833, 1842(b)(3), and 1871 of the Social Security Act; 49 Stat. 647, as amended, 79 Stat. 302, 79 Stat. 310, 79 Stat. 331; 42 U.S.C. 1302; 1395k, 1395l, 1395u, and 1395hh; sec. 224(a) of Pub. L. 92-603, 86 Stat. 1395; 42 U.S.C. 1395u; secs. 2 and 3, Pub. L. 94-368, 90 Stat. 997, 42 U.S.C. 1395u.)

(Catalog of Federal Domestic Assistance Program No. 13.801, Health Insurance for the Aged and Disabled—Supplementary Medical Insurance.)

Date: August 27, 1977.

HALE CHAMPION,
Acting Secretary.

[FR Doc. 77-25596 Filed 9-1-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 8/26/77 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

ENVIRONMENTAL PROTECTION AGENCY

Reporting Chemical Substances for Inventory, section 8 (a) and (b) Toxic Substance Control Act, single time, chemical manufacturers, processors and importers, Ellett, C. A., 395-5867.

DEPARTMENT OF COMMERCE

Bureau of Census: Survey of Federal General Revenue Sharing and Antirecession Fiscal Assistance Expenditures, RS-900 and 901, single time, local government officials, Ellett, C. A., 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration: Patterns of Utilization of Contraceptive Services for Teenagers, single time, teenage title X clinic users and dropouts, Richard Eisinger, 395-6140.

Office of Education:

Financial Status and Performance Reports for Domestic Mining and Mineral Fuel Conservation Fellowships Program, OE-405-1, 405-2, annually, institutions of higher education, Lowry, R. L., 395-3772.

Endorsement of Defaulted Notes (National Direct Student Loan Program), OE 553, on occasion, institutions of postsecondary education, Kathy Wallman, 395-6140.

REVISIONS

VETERANS ADMINISTRATION

Application for Headstone or Marker, 40-1330, on occasion, relatives of deceased veterans, Caywood, D. P., 395-3443.

DEPARTMENT OF AGRICULTURE

Economic Research Service: Survey of Hired Farmworkers—December 1976 CPS, CPS-1, single time, 53,000 households in Dec. CPS National Sample, Strasser, A., 395-5867.

EXTENSIONS

U.S. CIVIL SERVICE COMMISSION

CSC Audit Function Questionnaire, PPW-1, annually, firms engaged in manufacturing wholesale trade and trans, Warren Topelius, 395-5872.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education: Certificate of Project Costs Capitalized, Interest, Higher Education Facilities Act, OE 1144, OE 1143, on occasion, institutions of higher education, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-25761 Filed 9-1-77;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 08/29/77 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Farmers Home Administration: Community Facilities Survey, single time, FMHA county supervisors and facility administrators, Natural Resources Division, 395-6827.

REVISIONS

VETERANS ADMINISTRATION

Notice of Change in Student Status—Institutional Course Only, 22-1999B, on occasion, certifying officials of schools, Warren Topelius, 395-5872.

DEPARTMENT OF COMMERCE

Bureau of Census: Atomic Energy Products and Services, MA-38Q, annually, manufacturers of atomic energy products, C. Louis Kincannon, 395-3211.

Selected Industrial Air Pollution Control Equipment, MA-35J, annually, manufacturing establishments, C. Louis Kincannon, 395-3211.

Footwear Production, M31A, monthly, footwear manufacturers, C. Louis Kincannon, 395-3211.

Footwear Production and Shipments, MA-31A, annually, footwear manufacturers, C. Louis Kincannon, 395-3211.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management: Communication Site Request, 2860-1, on occasion, commercial firms; State highway commissions, Warren Topelius, 395-5872.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service:

Destination Data for Delivery of Donated Foods, FNS-7, on occasion, State distributing agencies, human resources division, Warren Topelius, 395-3532.

Food Preference Report, FNS-35, annually, State distributing agencies and school districts, human resources division, Warren Topelius, 395-3532.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-25762 Filed 9-1-77;8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 29th day of August, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

Applications Received During the Week Ending Aug. 26, 1977

Name of applicant	Location of enterprise	Principal product or activity
Lewisburg Chiropractic Clinic	Lewisburg, W. Va	Chiropractic, professional service.
Lyon Oil Co	Millwood, W. Va	Petroleum storage and refining facility.
Oleksa Enterprises, Inc	Morgantown, W. Va	Rental of real estate, fuel distributorship, and trucking operation.
Davis Casket Co., Inc	Americus, Ga	Manufacture and marketing steel caskets.
Isomedix, Inc	Spartanburg, S.C	Medical supply sterilization center.
John Lee McMinn	Water Valley, Miss	Retail building materials.
Sharrock Elevator, Inc	Edison, Ohio	Manufacture of feed and fertilizer.
Town Hall Estates	Clayton, N. Mex	Nursing care.

[FR Doc.77-25710 Filed 9-1-77;8:45 am]

VERMONT

Ending of Extended Benefit Period and Federal Supplemental Benefit Period

This notice announces the ending of the Extended Benefit Period and the Federal Supplemental Benefit Period in the State of Vermont, effective on September 3, 1977.

BACKGROUND

The Federal-State Extended Unemployment Compensation Act of 1970 (title II of Pub. L. 91-373; 84 Stat. 695, 708) created a program of extended unemployment benefits (referred to as Extended Benefits) as a permanent part of the Federal-State Unemployment Compensation Program, for unemployed individuals who have exhausted their rights to regular unemployment benefits under State and Federal unemployment compensation laws. Extended Benefits are payable during an Extended Benefit Period, which is triggered on in a State when unemployment in the State or in all States collectively reaches the high levels set in the Act. During an Extended Benefit Period the maximum amount of Extended Benefits which is payable to eligible individuals is up to 13 weeks. An Extended Benefit Period commenced in the State of Vermont on April 7, 1974

The Emergency Unemployment Compensation Act of 1974 (Pub. L. 93-572), enacted December 31, 1974) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular benefits and Extended Benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which is payable to eligible individuals is up to 13 weeks. A Federal Supplemental Benefit Period commenced in the State of Vermont on January 5, 1975.

The statutes also provide that benefit periods in a State will trigger off when unemployment in the State is no longer at the high levels set in the Acts. A benefit period actually terminates at the end of the third week after the week for which there is an "off" indicator. In Vermont both the Extended Benefit Period and the Federal Supplemental Benefit Period have triggered off.

DETERMINATION OF "OFF" INDICATORS

The employment security agency of the State of Vermont has determined in accordance with the applicable statutes and regulations that the average rate of insured unemployment in the State for the period consisting of the week ending on August 13, 1977, and the immediately preceding twelve weeks, was less than 5.0 percent.

Therefore, I have determined in accordance with the applicable statutes and regulations, and as authorized by the Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was an Extended Benefit "off" indicator and a Federal Supplemental Benefit "off" indicator in the State of Vermont for the week ending on August 13, 1977, and that both the Extended Benefit Period and the Federal Supplemental Benefit Period in that State terminates on September 3, 1977.

INFORMATION FOR CLAIMANTS

Any individual to whom Extended Benefits or Federal Supplemental Benefits were payable in the State (whether or not any payment actually was made), for any portion of the last week of the Federal Supplemental Benefit Period, will have an additional eligibility period beginning immediately following the end of the Federal Supplemental Benefit Period. During the additional eligibility period the individual will be entitled to Federal Supplemental Benefits to the same extent as if the Federal Supplemental Benefit Period continued to be in effect. The additional eligibility period will have a duration of 13 weeks, unless it is terminated sooner by reason of the beginning of a new Federal Supplemental Benefit Period in the State. There will not be an additional eligibility period for Extended Benefits.

Individuals currently filing claims for Extended Benefits or Federal Supplemental Benefits will receive written notices from the Vermont Department of Employment Security of the end of the Extended Benefit Period and the Federal Supplemental Benefit Period in that State and its effect on their entitlement to Extended Benefits and Federal Supplemental Benefits. The notice to any individual who will have an additional eligibility period following the Federal Supplemental Benefit Period will include information concerning potential entitlement to Federal Supplemental Benefits during the additional eligibility period.

Persons who wish information about their rights to Extended Benefits and Federal Supplemental Benefits in the State of Vermont should contact the nearest office of the Vermont Department of Employment Security in their locality.

Signed at Washington, D.C., on August 29, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc.77-25725 Filed 9-1-77;8:45 am]

Occupational Safety and Health Administration

[V-77-11]

DAYCO CORP.

Variance and Interim Order

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTIONS: (1) Notice of application for variance and interim order; (2) Grant of interim order.

SUMMARY: This notice announces the application of the Dayco Corp. Springfield Plant for a variance and interim order pending a decision on the application for a variance from the standard prescribed in 29 CFR 1910.107(c)(6) concerning spray finishing using flammable and combustible materials. It also announces the granting of an interim order until a decision is rendered on the application for variance.

DATES: The effective date of the interim order is September 2, 1977. The last date for interested persons to submit comments is October 3, 1977. The last date for affected employers and employees to request a hearing on the application is October 3, 1977.

ADDRESSES: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-3668, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination, at the above address, telephone: 202-523-7121.

or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 911 Walnut Street—Room 3000, Kansas City, Mo. 64106.

U.S. Department of Labor, Occupational Safety and Health Administration, 1627 Main Street—Room 1100, Kansas City Mo. 64108.

SUPPLEMENTARY INFORMATION:

NOTICE OF APPLICATION

Notice is hereby given that the Dayco Corp., Springfield Plant, Battlefield Road and Scenic Drive, Springfield, Mo. 65804 has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.107(c)(6) spray finishing using flammable and combustible material.

The address of the place of employment that will be affected by the application is as follows:

Dayco Corporation, Springfield Plant, Battle Road and Scenic Drive, Springfield, Mo. 65804.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by § 1910.107(c)(6) which requires, in part, that electrical wiring, motors and other equipment outside of but within 20 feet of any spraying area, and not separated therefrom by partitions shall not produce sparks under normal conditions and shall otherwise conform to the provisions of Subpart S for Class 1, Division II Hazardous Locations.

The applicant asserts that cylindrical drums used to mainufacture power transmission belts are sprayed on the surface with a material containing flammable and combustible material in their spray booth. The spray booth has a powered exhauster maintaining 150 feet per minute air velocity on the face of the spray booth. The applicant contends that it has the necessary equipment installed to: (1) insure that the required air velocity is maintained, (2) sprinkle the space within the spray booth on the downstream and upstream sides of the filters, (3) interlock the spraying pump to the ventilation blower, and (4) have the electrical wiring and electrical equipment outside of the spraying area conform to the National Electrical Code NFPA 70-1975.

GRANT OF INTERIM ORDER

It appears from the application for a variance and interim order and from the application that as required by section 6(d) of the Act, the operation of the spray booth in the manner precribed will provide to the affected employees a place of employment as safe as that which would be provided if the applicant complied with 29 CFR 1919.107(c)(6). It further appears that an interim order is necessary to prevent undue hardship to the applicant and its employees pending a decision on the variance. Therefore it is ordered, pursuant to the authority in section 6(d) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.-11(c) and in Secretary of Labor's Order No. 8-76 (41 FR 25059), that Dayco Corp. be, and it is hereby, authorized to operate their spray booths in the manner described within the application provided that the follow provisions are met:

(1) The ventilation shall be such so that the concentration of solvent vapors or dust from spraying may not exceed five (5) percent of the Lower Flammable Limit (LFL), five feet from the face and any opening in the booth, and in any low lying places between five feet and 20 feet from the face and any openings in the booth.

(2) The spraying equipment shall be interlocked with the ventilation system so that the spraying equipment cannot be operated unless the ventilation is in operation.

(3) Monitoring shall be conducted by a competent person with a combustible gas meter for the solvent vapors or an air sampling device for the dust for an initial period of at least three months. Monitoring must be done during peak spraying and immediately after spraying once a week for the first month and thereafter once a month for the last two months.

(4) Procedures shall be written, using the spraying experience gained during the monitoring period, listing the conditions for spraying, such as amounts of minimum ventilation (natural or mechanical or both), maximum volume and type of spraying material applied per hour, and the number and type of spray apparatus. A summary of the monitoring results and spraying procedures shall be available for inspection. The procedures shall become part of the training for all employees that perform spraying in the spray booth.

(5) If concentrations exceed five percent of the LFL at five feet from the face or any openings in the spray booth, or in any low lying places between five feet and 20 feet from the face or any openings in the booth, all spraying shall cease immediately with the ventilation system remaining in operation at least until the concentration is down to five percent of

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the LFL at five feet from the face or any openings in the booth or any low lying places between five feet and 20 feet from the faces or any openings in the booth. Spraying may not proceed until controls have been implemented to maintain the levels at five percent or less of the LFL at five feet from the face and any openings in the spray booth or in any low lying places between five feet and 20 feet from the face or any openings in the booth.

(6) When increased volume or new equipment is used that may require increased ventilation to maintain five percent of the LFL, monitoring shall be repeated and the procedures adjusted if necesary to include any changes.

Dayco Corp. shall give notice of this interim order to employees affected therby by the same means required to be used to inform them of the application for a variance.

This interim order shall remain in effect until a decision is rendered on the application for a variance.

Signed at Washington, D.C., this 26th day of August 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-25727 Filed 9-1-77;8:45 am]

Occupational Safety and Health Administration

MINNESOTA STATE STANDARDS

Approval

Correction

In FR Doc. 77-22926, appearing on page 40276 in the issue of Tuesday, August 9, 1977, the second through fifth full paragraphs in the third column of the page should be inserted between the second and third full paragraphs of the document as published.

Pension and Welfare Benefit Programs

ADVISORY COUNCIL ON EMPLOYEE WELFARE AND PENSION BENEFIT PLANS

Meeting

Pursuant to Section 512 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1142) a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m. on Tuesday, September 20, 1977, in the Federal Ballroom North, Quality Inn—Capitol Hill, 415 New Jersey Avenue NW., Washington, D.C.

The meeting will be open to the public. The purpose of the meeting is to discuss the items listed in the following agenda:

1. Swearing-in of Jozetta H. Srb.
2. Status report of Advisory Council recommendations.
3. Department of Labor progress report since last Advisory Council meeting.
4. Impact of ERISA fiduciary standards on investment of pension assets.
5. Investment Work Group report.
6. Small Plans Impact Work Group report.
7. Establishment of Work Group on Communication of Benefit Information to Participants and Beneficiaries of Employee Benefit Plans.
8. Council suggestions for new study projects for work groups.

Any member of the public may file a written statement concerning the topics under this agenda by submitting 30 copies on or before the close of business Monday, September 19, 1977, to the Administrator of Pension and Welfare Benefit Programs, New Department of Labor Building, 200 Constitution Avenue NW., Room N4629, Washington, D.C. 20216.

Persons desiring to attend should notify Mr. Edward F. Lysczek, Executive Secretary oft he Advisory Council, New Department of Labor Building, 200 Constitution Avenue NW., Room N4629, Washington, D.C. 20216, or may call Area Code 202-523-8753.

Signed at Washington, D.C. this 29th day of August 1977.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs.

[FR Doc.77-25757 Filed 9-1-77;8:45 am]

[TA-W-1648]

ANNA-RUBINA, INC., PORT ISABEL, TEX.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1648: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 14, 1977 in response to a worker petition received on February 10, 1977 which was filed by the workers on behalf of workers engaged in shrimp fishing for Anna-Rubina, Inc., Port Isabel, Tex.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977, (42 FR 13082). No public hearing was requested and none was held.

The information upon which the determination was made principally from officials of Anna-Rubina, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

The Department's investigation has revealed that the decline in the quantity of shrimp caught by Anna-Rubina in 1976 was due to several factors including adverse weather conditions occurring during the height of the shrimp season in November and December which kept the trawlers in port, the lack of shrimp available in the known fishing grounds, and because the 200 mile fishing restriction imposed by the Mexican government prevented domestic shrimpers from fishing off the Mexican coastal waters.

Ann-Rubina's only customer buys all the shrimp that Anna-Rubina, Inc. is able to supply. This customer purchases imported shrimp when Rubina and other domestic suppliers are unable to meet the customer's requirements.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with shrimp produced by Anna-Rubina, Inc., Port Isabel, Texas have not contributed importantly to the total or partial separation of workers of that firm as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-25354 Filed 9-1-77;8:45 am]

Office of the Secretary

ANWELT CORP. ET. AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 12, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 12, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 15th day of August 1977.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Anwelt Corp. (workers)..	Fitchburg, Mass.....	Aug. 15,1977	Aug. 11,1977	TA-W-2,252	Men's and women's work shoes and boots.
Command Print Works, Inc. (workers).	Farmingdale, N.Y..	June 9,1977	June 4,1977	TA-W-2,253	Textile printed fabrics.
Crown Pants Co. (ACTWU).	Hammonton, N.J....	Aug. 15,1977	Aug. 10,1977	TA-W-2,254	Men's pants.
Hart, Schaffner & Marks, Gleneagles Division (ACTWU).	Chisholm, Minn.....do.....	Aug. 8,1977	TA-W-2,255	Men's jackets.	
Johnson Farmer Chain Co. (workers).	Lebanon, Pa.....do.....	Aug. 10,1977	TA-W-2,256	Buoy mooring chain and bridles.	
Kaiser Steel Corp. (United Steelworkers of America).	Fontana, Calif.....do.....	July 15,1977	TA-W-2,257	Bars, rods, hot rolled sheet and tin mill products.	
Riverside Sportswear, Inc. (workers).	Elmwood Park, N.J.	Aug. 10,1977	Aug. 1,1977	TA-W-2,258	Women's apparel.
Harry Schuilder Co. (ILGWU).	Los Angeles, Calif....	Aug. 4,1977	.....do.....	TA-W-2,259	The selling of ladies, coats.

[FR Doc.77-25352 Filed 9-1-77;8:45 am]

[TA-W-2137]

ARKAY PANTS CO., FALL RIVER, MASSACHUSETTS

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2137: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 13, 1977 in response to a worker petition received on June 10, 1977 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's and boys' outerwear at the Fall River, Massachusetts plant of the Arkay Pants Company.

The notice of investigation was published in the FEDERAL REGISTER on June 24, 1977 (42 FR 32328). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Arkay Pants Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the investigation revealed that criterion (2) has not been met.

The Arkay Pants Company, a manufacturer, consists of one plant in Fall River, Massachusetts engaged in the production of boys' winter coats.

Since Arkay produces only on order, production and sales are the same. Company production in terms of quantity increased 15.4 percent in 1975 compared to 1974 and increased 16.9 percent in 1976 compared to 1975. Company production increased 27.2 percent in the first six months of 1977 compared to the first six months of 1976. Production increased in each of the last three quarters of 1976 and the first two quarters of 1977 when compared to the like quarters of the preceding year.

As a result of Arkay's recent history of increased sales, the plant has had periods of full production, forcing Arkay to use outside contractors to fulfill increasing customer requirements of merchandise. There is no indication that current workers are threatened with any involuntary separations from employment at the Fall River, Massachusetts plant of the Arkay Pants Company.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales or production of boys' coats at the Fall River, Massachusetts plant of the Arkay Pants Company have not declined absolutely as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-25355 Filed 9-1-77;8:45 am]

AVALON DYEING FINISHING CO. ET. AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separations began or threatened to begin and the subdivision of the firm involved.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

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Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 12, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 12, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 18th day of August 1977.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Avalon Dyeing Finishing Co., Inc. (workers).	Haledon, N.J.	Aug. 15, 1977	Aug. 2, 1977	TA-W-2,275	Dyeing and finishing of cloth.
Mutual Manufacturing Co. (workers).	Lawrence, Mass.	Aug. 17, 1977	Aug. 17, 1977	TA-W-2,276	Men's coats.
Quality Sportswear (workers).	Haledon, N.J.	Aug. 16, 1977	Aug. 3, 1977	TA-W-2,277	Coats.
Shutzer Manufacturing Co. (workers).	Lawrence, Mass.	Aug. 17, 1977	Aug. 17, 1977	TA-W-2,278	Men's and some ladies' jackets.

[FR Doc.77-25353 Filed 9-1-77;8:45 am]

[TA-W-1497]

BETHLEHEM STEEL CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1497: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976, in response to a worker petition received on Decemeber 15, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers producing reinforcing bars and welded pipe at the Steelton, Pa., plant of Bethlehem Steel Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3366). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bethlehem Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, the investigation has revealed that criterion (4) has not been met.

A. WELDED PIPE

Customers of the Steelton plant that were surveyed by the Department have not switched purchases of welded pipe from the Steelton plant to foreign sources. Customers of the Steelton plant who decreased purchases of welded pipe from that plant in 1976 indicated that their decreases were attributable to a decline in construction of gas transmission lines. One customer attributed his decline to a switch to other domestic sources, coupled with a general decline in sales.

B. REINFORCING BARS

Customers of the Steelton plant that were surveyed by the Department have not switched purchases of reinforcing bars from the Steelton plant to foreign sources. Customers who decreased purchases from the Steelton plant attributed their decreases to a decline in construction projects.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with welded pipe and reinforcing bars produced at the Steelton plant have not contributed importantly to the total of partial separation of workers at that plant as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-25729 Filed 9-1-77;8:45 am]

[TA-W-1498]

BETHLEHEM STEEL CORP.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1498: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976, in response to a worker petition received on December 15, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers producing industrial fasteners, wire, and reinforcing bars at the Vernon, Calif. plant of the Bethlehem Steel Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2370). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bethlehem Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met for workers producing either industrial fasteners or carbon steel wire. The investigation also revealed that without regard to whether any of the other criteria have been met, criterion (4) has not been met for workers producing reinforcing bars.

SIGNIFICANT TOTAL OR PARTIAL SEPARATION

Workers at the Vernon plant that were separately identifiable by product line.

A. INDUSTRIAL FASTENERS

Employment of workers engaged in employment related to the production of industrial fasteners declined 26 percent in 1976 compared to 1975.

B. WIRE

Employment of workers engaged in employment related to the production of wire declined 22 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

A. INDUSTRIAL FASTENERS

Sales decreased in quantity 16 percent in 1976 compared to 1975. Production in quantity decreased 43 percent in 1976 compared to 1975.

B. WIRE

Sales decreased in quantity 5 percent in 1976 compared to 1975. Production decreased in quantity 2 percent in 1976 compared to 1975.

INCREASED IMPORTS

A. INDUSTRIAL FASTENERS

Imports of nuts, bolts, and large screws of iron and steel increased in 1973 to 544.5 million pounds from 474.2 million pounds in 1972, increased further to 776.4 million pounds in 1974, decreased in 1975 to 534.7 million pounds, then increased again in 1976 to 704.5 million pounds. The ratio of imports of nuts, bolts, and large screws of iron and steel to domestic producer's shipments was 33.5 percent in 1972, and increased every year thereafter through 1976 when it was 97.7 percent.

Imports of small screws of iron or steel was 97,097,000 pounds in 1972, increased to 121,790,000 pounds in 1973, increased further in 1974 to 134,459,000 pounds, decreased in 1975 to 61,489,000 pounds, then increased in 1976 to 108,250,000 pounds. The ratio of imports of small screws of iron or steel to domestic production was 23.7 percent in 1972, increased to 25.7 percent in 1972, increased further in 1974 to 28.6 percent, decreased in 1975 to 17.9 percent, then increased again in 1976 to 25.7 percent.

B. WIRE

Imports of carbon steel wire decreased from 515.3 thousand tons in 1972 to 433.2 thousand tons in 1973. In 1974, imports increased to 553.8 thousand tons, then declined to 349.6 thousand tons in 1975. In 1976, imports increased 6.3 percent to 371.8 thousand tons. The ratio of imports to domestic shipments of carbon steel wire decreased from 23.3 percent in 1972 to 17.5 percent in 1973. In 1974, the ratio increased to 22.6 percent, then decreased to 22.0 percent in 1975. In 1976, the ratio decreased to 19.9 percent.

CONTRIBUTED IMPORTANTLY

A. INDUSTRIAL FASTENERS

The Department contacted some customers of the Vernon plant that bought industrial fasteners. Many of these customers contacted indicated that they purchased imports. Some customers had decreased purchases from the Vernon plant and increased purchases of imports. These firms stated that the cheaper price of the imports was the major reason for their switch.

B. WIRE

The Department contacted some customers of the Vernon plant that bought carbon steel wire products. Some of the customers contacted indicated that they purchased imports. Some of these customers decreased purchases from the Vernon plant and increased purchases of imported wire.

C. REINFORCING BARS

The Department contacted some customers of the Vernon plant that bought reinforcing bar. None of these increased purchases of imports in 1976 while decreasing purchases from the Vernon plant. Firms who decreased purchases from the Vernon plant most frequently cited a lack of business, particularly a decline in construction, as the reason for their decrease in purchases from the Vernon plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with industrial fasteners and carbon steel wire products produced at the Vernon, Calif., plant of Bethlehem Steel Corp. contributed importantly to the total or partial separations of workers engaged in the production of such products at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Vernon, Calif., plant of the Bethlehem Steel Corp., engaged in employment related to the production of either industrial fasteners or carbon steel wire and wire products who became totally or partially separated from employment on or after November 15, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

It is further concluded that increases of imports of articles like or directly competitive with reinforcing bars produced at the Vernon, Calif., plant of the Bethlehem Steel Corp. did not contribute importantly to the total or partial separations of workers engaged in the production of such products as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-25730 Filed 9-1-77;8:45 am]

[TA-W-1967]

BOULET SPORTSWEAR, LTD., NEW YORK, NEW YORK

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1597; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 7, 1977 in response to a worker petition received on April 5, 1977 which was filed on behalf of workers and former workers producing men's sportswear and underwear at Boulet Sportswear, Ltd., New York, New York.

The notice of investigation was published in the FEDERAL REGISTER on April 15, 1977 (42 FR 19939). No public hearing was requested, and none was held.

The information upon which the determination was made was obtained principally from officials of Boulet Sportswear, Ltd., its customers, the National Cotton Council, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment at Boulet Sportswear (all salaried workers) increased 121 percent in 1975 compared to 1974, decreased 6 percent in 1976 compared to 1975, then decreased 18 percent to the first quarter of 1977 compared to the first quarter of 1976.

Boulet Sportswear, did not reduce weekly hours of employment of its (salaried) workers.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total company sales (men's pants, underwear, sweaters and shirts) increased

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30 percent in value (adjusted for price changes) in the second quarter of 1976 compared to the second quarter of 1975, then decreased in value 10, 45, and 59 percent, respectively, in the third and fourth quarters of 1976 and the first quarter of 1977 compared to each like quarter in the previous year.

Sales of men's pants in value (adjusted for price changes) were unchanged in the second quarter of 1976 compared to the second quarter of 1975, then decreased 41, 72, and 81 percent, respectively, in the third and fourth quarters of 1976 and in the first quarter of 1977 compared to each like quarter in the previous year. Men's pants represented 40 percent of total company sales in 1976.

Sales of men's underwear (including briefs and robes) increased 87 percent in value (adjusted for price changes) in the second quarter of 1976 compared to the second quarter of 1975, then decreased 13, 11, and 17 percent, respectively, in the third and fourth quarters of 1976 and the first quarter of 1977 compared to each like quarter in the previous year. Underwear represented 40 percent of total company sales in 1976.

Sales of men's sweaters increased in value (adjusted for price changes) 744 and 66 percent, respectively, in the third and fourth quarters of 1976 compared to each like quarter in 1975, then decreased 28 percent in the first quarter of 1977 compared to the first quarter in 1976. Men's sweaters represented 11 percent of total company sales in 1976.

Sales of men's shirts decreased in value (adjusted for price changes) 40, 6, 61, and 94 percent, respectively, in the last three quarters of 1976 and the first quarter of 1977 compared to each like quarter in the previous year. Men's shirts accounted for 9 percent of total company sales in 1976.

Sales are primarily to customer order. Neither production nor finished goods inventory data are maintained by the company.

INCREASED IMPORTS

Imports of men's and boys' dress and sport trousers and shorts decreased in quantity both absolutely and relative to domestic production in 1973 and 1974 compared to the previous year, then increased both absolutely and relatively in 1975 and 1976 compared to the previous year. These imports increased from 55,508 thousand units in 1975 to 73,209 thousand units in 1976, then increased from 14,623 thousand units in the first quarter of 1976 to 17,152 thousand units in the first quarter of 1977. The ratio of imports to domestic production increased from 34.1 percent in 1975 to 41.9 percent in 1976.

Imports of men's and boys' underwear, knit and not knit, decreased in quantity both absolutely and relative to domestic production in 1973 and 1974 compared to the previous year, then increased both absolutely and relatively in 1975, and increased absolutely in 1976 compared to the previous year. These imports increased from 1,443 thousand dozen in 1975 to 1,507 thousand dozen in 1976, then decreased from 421 thousand dozen in the first quarter of 1976 to 399 thousand dozen in the first quarter of 1977. The ratio of imports to domestic production decreased from 2.2 percent in 1975 to 2.1 percent in 1976.

Imports of men's and boys' sweaters, knit cardigans, and-pullovers increased in quantity both absolutely and relative to domestic production in 1973 compared to 1972, then decreased both absolutely and relatively in 1974 compared to 1973. These imports decreased absolutely, but increased relative to domestic production in 1975 compared to 1974, then increased both absolutely and relatively in 1976 compared to 1975. These imports increased from 20.4 million units in 1975 to 26.5 million units in 1976, then increased from 2.7 million units in the first quarter of 1976 to 2.8 million units in the first quarter of 1977. The ratio of imports to domestic production increased from 36.6 percent in 1975 to 67.8 percent in 1976.

Imports of men's and boys' woven sport shirts decreased in quantity both absolutely and relative to domestic production in 1973 compared to 1972, then increased both absolutely and relatively each year thereafter through 1976 compared to the previous year. These imports increased from 61,008 thousand units in 1975 to 79,820 thousand units in 1976, then decreased from 15,701 thousand units in the first quarter of 1976 to 14,852 thousand units in the first quarter of 1977. The ratio of imports to domestic production increased from 38.7 percent in 1975 to 48.6 percent in 1976.

Imports of men's and boys' knit sport and dress shirts, excluding T-shirts increased in quantity absolutely and relative to domestic production in 1973 compared to 1972, decreased absolutely and relatively in 1974 compared to 1973, and increased absolutely and relatively in 1975 compared to 1974. These imports increased 12 percent absolutely in 1976 compared to 1975, then decreased 1 percent in the first quarter of 1977 compared to the first quarter in 1976. The ratio of imports to domestic production decreased from 22.9 percent in 1975 to 22.6 percent in 1976.

CONTRIBUTED IMPORTANTLY

Customers who were surveyed stated that they had switched purchases of sportswear primarily pants, sweaters and shirts from Boulet Sportswear to imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's sportswear produced by Boulet Sportswear, Ltd., contributed importantly to the total or partial separation of the workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of sportswear at Boulet Sportswear, Ltd., New York, New York, who became totally or partially separated from employment on or after July 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of August 1977.

BRIAN TURNER,
Executive Assistant to the Deputy Under Secretary for International Affairs.

[FR Doc.77-25356 Filed 9-1-77;8:45 am]

[TA-W-1710]

CAPITOL GARTER CO., INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1710; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977 in response to a worker petition received on February 25, 1977 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing girdles, brassieres, pants liners, panty briefs, and garter belts at the New York, New York plant of the Capitol Garter Company, Incorporated.

The notice of investigation was published in the FEDERAL REGISTER on March 15, 1977 (42 FR 14185). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Capitol Garter Company, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard as to whether any of the other criteria have been met, criterion (4) has not been met.

The Department's investigation has revealed that the overriding factor in the decline in sales and eventual closing of the Capitol Garter Company, Incorporated was the bankruptcy and withdrawal from the retail trade of Capitol Garter's largest customer in late 1975. This customer's purchases had accounted for approximately sixty percent of Capitol Garter's total sales in 1974 and 1975. Unable to replace this lost business, Capitol Garter's sales declined 58.3 percent in 1976 compared to 1975 and the company ceased all operations in December 1976.

Other customers of Capitol Garter indicated that they were not purchasing imported girdles. These customers indicated that they had held purchases from Capitol Garter at relatively constant levels in 1976 compared to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with girdles, brassieres, panty briefs, pants liners, and garter belts produced at the Capitol Garter Company, Incorporated, New York, New York have not contributed importantly to the total or partial separations of workers at that firm as required for certification under Title II, Chapter 2 of the Trade Act of 1974.

Signed in Washington, D.C., this 23rd day of August 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-25731 Filed 9-1-77;8:45 am]

[TA-W-1711]

CAPRI COATS, PANORAMA CITY, CALIF.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1711: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 3, 1977, in response to a worker petition received on March 1, 1977, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's and misses' coats at Capri Coats, Panorama City, Calif.

The notice of investigation was published in the FEDERAL REGISTER on March 15, 1977 (42 FR 14185). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Capri Coats, David L. Maffei Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the criteria have been met for Capri Coats.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Production of Capri Coats began in October 1975. Employment of production workers at Capri Coats increased in the second, third, and fourth quarters of 1976 compared to the previous quarter, 8 percent, 81 percent, and 4 percent, respectively. Employment of production workers declined 2 percent for the period November through December 1976 compared to the same period in 1975. All production workers were terminated on December 17, 1976.

In 1976 the plant was closed due to lack of work for one week in January and one week in February and for the months of March and April.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Capri Coats produced coats on a contract basis, therefore production is equivalent to sales.

Sales and production in quantity (units) of women's and misses' coats increased in the second, third, and fourth quarters of 1976 compared to the previous quarter, 17 percent, 49 percent, and 42 percent, respectively. Sales and production decreased 16 percent for the November through December 1976 period as compared to the same period in 1975. Production ceased on December 17, 1976.

Total sales and production of women's and misses' coats for all five plants of the David L. Maffei Co. (parent company of Capri Coats) declined 5 percent in quantity from 1975 to 1976 and declined 35 percent in the first quarter of 1977 compared to the first quarter of 1976.

INCREASED IMPORTS

Imports of women's and misses' coats increased in absolute terms, from 1972 to 1973, decreased from 1973 to 1974, and increased from 1974 to 1975. Imports increased absolutely 48 percent from 1975 to 1976 and increased absolutely 17 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratio of imports to domestic production and consumption increased from 35.4 percent and 26.1 percent, respectively, in 1975 to 52.2 percent and 34.3 percent, respectively, in 1976.

CONTRIBUTED IMPORTANTLY

Capri Coats produced exclusively for one manufacturer. The manufacturer reduced purchases from Capri Coats from 1975 to 1976 because his sales had declined. Customers of this manufacturer, who were surveyed reduced purchases from the manufacturer and increased purchases of imported women's and misses' coats in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's and misses' coats produced by Capri Coats contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Capri Coats, Panorama City, Calif., who became totally or partially separated from employment on or after February 14, 1976, and before April 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers who became totally or partially separated on or after April 1, 1977, are denied certification.

Signed at Washington, D.C., this 19th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-25357 Filed 9-1-77;8:45 am]

[TA-W-1548]

CURLEE CLOTHING CO., INC., MAYFIELD, KY.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1548: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 4, 1977, in response to a worker petition received on that date which was filed on behalf of workers and former workers engaged in employment related to the production of men's suits, vests, sportcoats, and slacks, at the Mayfield, Ky., plant of the Curlee Clothing Co., Inc.

The notice of investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5499). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Curlee Clothing Co., Inc., its customers, the U.S. Department of Commerce, the U.S. In-

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ternational Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at both plants of the Curlee Clothing Co. (Mayfield, Ky. and Winchester, Ky.) decreased 25 percent from 1974 to 1975, and 3 percent from 1975 to 1976.

Average employment of production workers at the Mayfield, Ky., plant of the Curlee Clothing Co., decreased 24 percent from 1974 to 1975, and 16 percent from 1975 to 1976.

Average employment of production workers at the Winchester, Ky., plant of the Curlee Clothing Co., decreased 27 percent from 1974 to 1975, and increased 21 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales at the Curlee Clothing Co., Inc., including both the Mayfield, Ky., and Winchester, Ky. plants) decreased in quantity and value 27 percent and 25 percent, respectively, from 1974 to 1975, and 10 percent and 5 percent, respectively, from 1975 to 1976.

Production of men's sportcoats at the Mayfield, Ky., plant of Curlee decreased in quantity 42 percent from 1974 to 1975, and 21 percent from 1975 to 1976.

Production of men's slacks at the Mayfield, Ky., plant of Curlee decreased in quantity 26 percent from 1974 to 1975, then increased 9 percent from 1975 to 1976.

Production of men's sportcoats at the Winchester, Ky., plant of Curlee decreased in quantity 43 percent from 1974 to 1975, then increased 56 percent from 1975 to 1976.

Production of men's vests at the Mayfield, Ky., and Winchester, Ky., plants of Curlee was begun in 1976.

INCREASED IMPORTS

Imports of men's and boys' tailored dress coats and sportcoats increased absolutely from 1972 to 1973, decreased from 1973 to 1974, then increased from 1974 to 1975. Imports increased 27 percent absolutely from 1975 to 1976 and the ratio of imports to domestic production increased from 28.2 percent in 1975 to 32.4 percent in 1976.

Imports of men's and boys' tailored suits increased absolutely in every year compared to the previous year from 1973 through 1976. Imports increased 15 percent absolutely from 1975 to 1976 and the ratio of imports to domestic production increased from 18.3 percent in 1975 to 20.0 percent in 1976.

Imports of men's and boys' dress and sport trousers and shorts decreased absolutely in 1973 and 1974 compared to the previous years, then increased in 1975 compared to 1974. Imports increased absolutely 32 percent from 1975 to 1976 and the ratio of imports to domestic production increased from 34.1 percent in 1975, to 41.9 percent in 1976.

Imports of men's and boys' tailored suit vests increased absolutely in every year compared to the previous year from 1973 through 1976. Imports increased 129 percent absolutely from 1975 to 1976, and the ratio of imports to domestic production decreased from 16.0 percent in 1975 to 12.9 percent in 1976.

CONTRIBUTED IMPORTANTLY

Customers of Curlee Clothing Co. were surveyed regarding their purchases of men's suits, vests, sportcoats, and slacks. Many of the customers surveyed decreased their purchases from Curlee from 1975 to 1976, and increased their purchases from other domestic sources who manufacture offshore.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's suits, vests, sportcoats, and slacks, produced at the Mayfield, Ky., plant of the Curlee Clothing Co., Inc. contributed importantly to the total or partial separation of the workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers at the Mayfield, Ky., plant of the Curlee Clothing Co., Inc., who became totally or partially separated from employment on or after December 14, 1975, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of August 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-25358 Filed 9-1-77;8:45 am]

[TA-W-2125]

DELL KNITWEAR INC., BRONX, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2125: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 7, 1977 in response to a worker petition received on June 7, 1977 which was filed on behalf of workers and former workers producing children's sweaters at the Bronx, New York plant of Dell Knitwear, Inc.

The notice of investigation was published in the FEDERAL REGISTER on June 16, 1977 (42 FR 30936). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Dell Knitwear, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that without regard to whether the other criteria have been met, the fourth criterion has not been met.

Average employment of production workers at the Bronx, N.Y. plant of Dell Knitwear increased 25.5 percent in 1976 compared to 1975, increasing in each quarter of 1976 compared to the same quarters in 1975; employment further increased 25.6 percent in the first quarter of 1977 compared to the same quarter in 1976.

Employment at Dell Knitwear follows a definite seasonal pattern. In 1976, as in the previous year, employment increased gradually from March to November. In December 1976 and January 1977, employment declined sharply, following the pattern of a year earlier. Employment again began to increase during February and March 1977. The trade adjustment assistance program was not intended to cover total or partial separations that would have occurred regardless of the level of imports, e.g., those resulting from seasonal factors.

There is no indication that current workers are threatened with any involuntary separations from employment at the Bronx, N.Y. plant.

As stated in the petition, the workers at Dell Knitwear, Inc. are seeking adjustment assistance benefits for unemployment experienced during 1975. Section 223(b) (1) of the Trade Act of 1974 states that a certification shall not apply to workers separated more than one year before the date of the petition. The petition was dated June 1, 1977.

A survey representative of Dell Knitwear's customers indicated that none had decreased purchases from Dell Knitwear in 1976 compared to 1975 while increasing purchases of imported children's sweaters.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that imports like or directly competitive with children's sweaters produced at the Bronx, N.Y. plant of Dell Knitwear, Inc. did not contribute importantly to the separations of workers at that plant.

Signed at Washington, D.C., this 19th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-25359 Filed 9-1-77;8:45 am]

[TA-W-2064]

KIDDY KRAFT MANUFACTURING, PHILADELPHIA, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2064: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 11, 1977 in response to a worker petition received on May 6, 1977 which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing juntors' coats at Kiddy Kraft Manufacturing, Philadelphia, Pa.

The notice of investigation was published in the FEDERAL REGISTER on May 24, 1977 (42 FR 26481). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Kiddy Kraft Manufacturing, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation reveals that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The plant was closed in the first quarter of 1976 since Kiddy Kraft received no orders, and was closed during one week in March and three weeks in April 1977 because of a decrease in orders. Employment steadily decreased from the third quarter of 1976 through the first quarter of 1977.

Employment declined 1.6 percent in the third quarter of 1976 compared to the third quarter of 1975 and declined 14.1 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975. Employment then declined 87.5 percent and 32.9 percent in April and May, respectively, in 1977 compared to April and May in 1976.

The average number of weekly hours worked by production employees declined 2.6 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Kiddy Kraft was closed in the first quarter of 1976. Sales and production declined 9.5 percent in the third quarter of 1976 compared to the second, declined 8.9 percent in the fourth quarter of 1976 compared to the third, and declined 66.7 percent in the first quarter of 1977 compared to the fourth quarter of 1976. Production declined 78.2 percent and 23.0 percent in April and May, respectively of 1977 compared to April and May 1976.

INCREASED IMPORTS

Imports of women's, misses and children's coats and jackets increased from 1972 to 1973, decreased from 1973 to 1974 and increased from 1974 to 1975. Imports increased 48.5 percent from 1,517,000 dozen in 1975 to 2,252,000 dozen in 1976. The ratio of imports to domestic production and consumption decreased from 1972 to 1974 and increased from 30.9 percent and 23.6 percent, respectively, in 1974 to 52.2 percent and 34.3 percent, respectively, in 1976.

CONTRIBUTED IMPORTANTLY

A customer who represented over 50 percent of orders received by Kiddy Kraft in 1976 decreased orders to Kiddy Kraft in 1976 and began placing orders with foreign contractors.

As a result of a decrease in the number of coats ordered, employment declines were experienced at Kiddy Kraft in the third and fourth quarters of 1976 and the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with juniors' coats produced by Kiddy Kraft Manufacturing, Philadelphia, Pa., contributed importantly to the total or partial separation of workers of that plant. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers at Kiddy Kraft Manufacturing, Philadelphia, Pa., who became totally or partially separated from employment on or after May 6, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-25360 Filed 9-1-77;8:45 am]

[TA-W-1754]

L. K. SHAPIRO ASSOCIATES, INC., AND MARDOR OF CALIFORNIA, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1754: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977 in response to a worker petition received on March 1, 1977 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's coats at L. K. Shapiro Associates, Inc., Los Angeles, California. The investigation was expanded to include Panorama Garment Corporation, Van Nuys, California, and Mardor of California, Incorporated, Los Angeles, California, both wholly-owned subsidiaries of L. K. Shapiro Associates, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of L. K. Shapiro Associates, Inc., its customers, the U.S. Department of Commerce, the U.S. In-

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ternational Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production.

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

L. K. Shapiro Associates, Inc., designs, sells and provides the administration for the manufacture of women's coats. The actual production, cutting, sewing, and trimming of the coats is done for L. K. Shapiro by contractors.

Panorama Garment Corporation and Mardor of California were both wholly-owned subsidiaries of L. K. Shapiro. Panorama and Mardor were commissioned contractors, producing women's coats exclusively for L. K. Shapiro. All production and employment at Panorama Garment Corporation ceased in March 1975, prior to February 14, 1976, the earliest possible impact date for this case.

Sales of women's coats by L. K. Shapiro increased both in quantity and value from 1975 to 1976. Customers surveyed indicated that they did not reduce their purchases of women's coats from L. K. Shapiro in favor of imported coats.

In December 1976 officials of L. K. Shapiro decided to close Mardor of California and to contract all coat production to outside domestic contractors. This was done in order to minimize the overhead expenses needed to operate Mardor during seasonal periods of low demand.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's coats produced by L. K. Shapiro Associates, Incorporated and by Mardor of California, Incorporated, Los Angeles, California did not contribute importantly to the total or partial separations of the workers of these firms.

Signed at Washington, D.C., this 23rd day of August 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-25732 Filed 9-1-77;8:45 am]

[TA-W-2045]

LILYETTE BRASSIERE CO., INC., NEW YORK, N.Y. AND HATO REY, PUERTO RICO

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2045: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 3, 1977 in response to a worker petition received on May 2, 1977 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers engaged in work related to the production of brassieres at the New York, N.Y. warehouse of Lilyette Brassiere Co., Inc. The investigation was subsequently expanded to include workers producing brassieres at the firm's Hato Rey, Puerto Rico plant.

The notice of investigation was published in the FEDERAL REGISTER on May 20, 1977, (42 FR 25941). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lilyette Brassiere Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers declined 4.4 percent in 1976 compared to 1975 and 33.5 percent in the first quarter of 1977 compared to the same quarter in 1976.

The New York warehousing facilities were shut down on February 28, 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of brassieres declined 16.3 percent in 1976 compared to 1975 and 51.6 percent in the first quarter of 1977 compared to the same quarter in 1976.

Lilyette's production takes place at a company owned plant in Hato Rey, Puerto Rico which operates under the name Lily of Puerto Rico, Inc.

INCREASED IMPORTS

Imports of brassieres, bra-lettes and bandeaux increased each year, from 5.967 million dozens in 1972 to 8.751 million dozens in 1976, and increased from 1.831 million dozens in the first quarter of 1976 to 2.235 million dozens in the same quarter in 1977.

CONTRIBUTED IMPORTANTLY

A survey representative of Lilyette's customers indicated that several customers decreased their purchases from Lilyette in 1976 compared to 1975 and in the first quarter of 1977 compared to the same quarter in 1976, while increasing their purchases of imported brassieres.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with brassieres produced at the Hato Rey, Puerto Rico plant of Lilyette Brassiere Co., Inc. and shipped from New York, New York warehouse of Lilyette Brassiere Co., Inc. contributed importantly to the total or partial separations of the workers at those plants. In accordance with the provisions of the Act, I make the following certification:

"All workers engaged in employment related to the production, storage, and shipping of brassieres at the Hato Rey, Puerto Rico plant (Lily of Puerto Rico, Inc.) and the New York, N.Y. warehouse of Lilyette Brassiere Co., Inc., who became totally or partially separated from employment on or after April 28, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 19th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration & Planning.

[FR Doc.77-25361 Filed 9-1-77;8:45 am]

LOW-CARBON FERROCHROMIUM

On July 11, 1977, the International Trade Commission determined that increased imports of low-carbon ferrochromium are not a substantial cause of serious injury to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (42 FR 36896).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever the ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The Department of Labor has concluded its report on low-carbon ferrochromium. The report found as follows:

1. Since April 3, 1975, the effective date of the adjustment assistance program, the Department of Labor has received three petitions for certification of eligibility for adjustment assistance from workers engaged in the production of low-carbon ferrochromium. To date, the Department has certified two of these petitions, and an investigation is in process in the remaining case. As of April 30, 1977, an estimated 290 workers had been certified for adjustment assistance and $611,181 had been paid out to 258 of them in the form of trade readjustment allowances supplemental to any unemployment insurance that a worker may also have received.

2. Over the first half of 1977, overall employment in the low-carbon ferrochromium industry has not changed much from the depressed level reached in late 1976. In view of recent improvements in the stainless steel industry, which is the primary user of low-carbon ferrochromium, the Department of Labor does not expect further layoffs in the industry over the balance of the year.

3. The three domestic plants which produce low-carbon ferrochromium have all laid off substantial numbers of workers since early 1976. Approximately 225 of these workers have still not been rehired by their former employers. Unemployment rates in all of the affected local areas, which are all located in eastern Ohio, are either close to or somewhat below the national average. Consequently the reemployment prospects of most of the laid off workers are fair.

4. The Comprehensive Employment and Training Act (CETA) programs appear to be capable of meeting the program claims of most of the displaced workers. Although actual levels of enrollment are somewhat higher than expected levels in the available programs, funding appears to be more than adequate to sustain them. The Employment and Training Administration through the State Employment Service has the authority to produce additional training when CETA funds are not available.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting the Office of Trade Adjustment Assistance, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210 (phone 202-523-7665).

Signed at Washington, D.C. this 22nd day of August 1977.

HOWARD D. SAMUEL,
Deputy Under Secretary, International Affairs.

[FR Doc.77-25362 Filed 9-1-77;8:45 am]

[TA-W-2026]

PICATO, MANCHESTER, CONN.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2026: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 25, 1977 in response to a worker petition received on April 22, 1977 which was filed on behalf of workers and former workers producing women's coordinated sportswear at the Manchester, Conn. plant of Picato, a wholly owned subsidiary of the General Mills Corp.

The notice of investigation was published in the FEDERAL REGISTER on May 13, 1977 (42 FR 23656). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Picato, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) that articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) that such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at the Manchester, Connecticut plant of Picato increased 19.4 percent in 1976 compared to 1975 and then decreased 11.1 percent in the January-April period of 1977 compared to the January-April period of 1976. Average weekly hours worked decreased 11.9 percent in the January-April period of 1977 compared to the January-April period of 1976.

Picato ceased all operations on June 15, 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales in quantity decreased 13.0 percent in 1976 compared to 1975 and then increased 39.1 percent in the first quarter of 1977 compared to the first quarter of 1976. Sales ceased in the second quarter of 1977 when the company closed.

INCREASED IMPORTS

Imports of women's, misses', and children's coats and jackets were recorded at 1,769,000 dozen in 1972; 1,807,000 dozen in 1973; 1,478,000 dozen in 1974; and 1,517,000 dozen in 1975. In 1976 imports rose to 2,252,000 dozen, an increase of 48.5 percent from 1975. For the first quarter of 1977, imports increased to 590,000 dozen, representing an increase of 16.6 percent compared to 506,000 dozen in the first quarter of 1976. The ratio of imports to domestic production increased from 30.9 percent in 1974 to 35.4 percent in 1975 and to 52.2 percent in 1976.

Imports of women's, misses', and children's slacks and shorts decreased from 12,094,000 dozen in 1972 to 8,923,000 dozen in 1974 and then increased to 10,067,000 dozen in 1975. In 1976 imports rose to 11,040,000 dozen, an increase of 9.7 percent from 1975. For the first quarter of 1977, imports decreased to 3,373,000 dozen, representing a decline of 4.5 percent compared to 3,531,000 dozen in the first quarter of 1976. The ratio of imports to domestic production increased from 30.3 percent in 1974 to 33.0 percent in 1975 and to 39.0 percent in 1976.

Imports of women's, misses', and children's blouses and shirts increased in each year from 17,265,000 dozen in 1972 to 26,113,000 dozen in 1975. In 1976 imports rose to 30,273,000 dozen, an increase of 15.9 percent from 1975. For the first quarter of 1977, imports decreased to 8,280,000 dozen, representing a decline of 14.3 percent compared to 9,657,000 dozen in the first quarter of 1976. The ratio of imports to domestic production increased from 50.2 percent in 1973 to 70.4 percent in 1975 and to 76.0 percent in 1976.

Imports of women's misses', and children's skirts decreased from 593,000 dozen in 1972 to 254,000 dozen in 1974 and then increased to 508,000 dozen in 1975. In 1976 imports rose to 780,000 dozen, an increase of 53.5 percent from 1975. For the first quarter of 1977, imports were recorded at 103,000 dozen, representing a decline of 61.3 percent compared to 266,000 dozen in the first quarter of 1976. The ratio of imports to domestic production increased from 4.9 percent in 1974 to 10.6 percent in 1975 and to 12.2 percent in 1976.

Imports of women's, misses', and children's dresses decreased from 2,242,000 dozen in 1972 to 1,578,000 dozen in 1974 and then increased to 1,655,000 dozen in 1975. In 1976 imports declined to 1,614,000 dozen, a decrease of 2.5 percent from 1975. For the first quarter of 1977, imports were recorded at 371,000 dozen, representing an increase of 1.1 percent compared to 367,000 dozen in the first quarter of 1976. The ratio of imports to domestic production increased from 6.3 percent in 1973 to 8.0 percent in 1975 before declining to 7.9 percent in 1976.

Imports of women's, misses', and children's sweaters decreased from 8,087,000 dozen in 1972 to 7,990,000 dozen in 1973 and then increased to 8,965,000 dozen in 1975. In 1976 imports rose to 9,613,000 dozen, an increase of 7.2 percent from 1975. For the first quarter of 1977, imports were recorded at 816,000 dozen, representing a decline of 33.4 percent compared to 1,225,000 dozen in the first quarter of 1976. The ratio of imports to

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domestic production increased from 94.2 percent in 1973 to 115.1 percent in 1975 and to 122.3 percent in 1976.

CONTRIBUTED IMPORTANTLY

A survey of customers of Picato indicated that some of these customers switched their purchases of women's sportswear from Picato to imported items. Style, quality, and price influenced these customers to buy imported women's sportswear.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with women's jackets, slacks, shorts, blouses, shirts, skirts, dresses, and sweaters produced at the Manchester, Connecticut plant of Picato contributed importantly to the separations of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers at the Manchester, Connecticut plant of Picato who became totally or partially separated from employment on or after October 11, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 19th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-25363 Filed 9-1-77;8:45 am]

[TA-W-556]

McLOUTH STEEL CO., TRENTON, MICH.

Revised Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor issued a Notice of Determination on March 31, 1976, and published in the FEDERAL REGISTER on April 9, 1976 (41 FR 15082) certifying workers engaged in employment related to the production of stainless steel cold rolled sheet and strip at the Detroit, Mich., plant of McLouth Steel Co. and denying workers engaged in the production of carbon steel sheet, strip, slabs, pig iron, and stainless steel hot rolled strip at the Trenton, Mich., plant and workers engaged in the production of carbon steel cold rolled sheet and strip at the Gibraltar, Mich., plant of McLouth Steel Co.

At the request of the United Steelworkers of America, a review investigation was instituted. The review investigation reexamined the case history and additional information submitted by the petitioners and officials of McLouth Steel Co. concerning the Trenton, Mich., plant.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met with respect to workers producing stainless steel hot rolled strip at the Trenton, Mich., plant of McLouth Steel Co.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Four major units of the Trenton plant are primarily involved in the production of stainless steel hot rolled strip: melt shop furnace No. 7, mold preparation, stainless slab conditioning, and the slab reheat furnace.

Total hours worked on the production of stainless steel hot rolled strip in those units declined 74.4 percent from 1974 to 1975 and then increased 102.9 percent from 1975 to 1976. Total hours worked decreased in each quarter of 1975 when compared to the same quarter in 1974.

Layoffs attributable to declines in stainless steel production are not separately identifiable in the labor turnover data for the Trenton plant. However, the average number of people on layoff status increased 2,215 percent from 1974 to 1975 and then declined 88 percent from 1975 to 1976. Layoffs in 1975 equaled 59 percent of average annual employment.

SALES AND/OR PRODUCTION HAVE DECLINED ABSOLUTELY

Production of stainless steel hot rolled strip at the Trenton, Mich., plant of McLouth Steel declined 76.8 percent from 1974 to 1975 and then increased 147.2 percent from 1975 to 1976.

All of the stainless steel hot rolled strip produced at Trenton is shipped to the Detroit plant for cold rolling. Sales of stainless steel cold rolled sheet and strip at the Detroit plant of McLouth declined 74 percent from 1974 to 1975.

INCREASED IMPORTS

Imports of stainless steel hot and cold rolled sheet and strip decreased absolutely and relatively from 1972 to 1973 and then increased absolutely and relatively from 1973 to 1974 and from 1974 to 1975. From 1975 to 1976, imports increased by 18 percent from 66.0 thousand tons to 78.2 thousand tons. The ratio of imports to domestic shipments increased from 7.5 percent in 1974 to 15.1 percent in 1975 and then decreased to 11.1 percent in 1976.

CONTRIBUTED IMPORTANTLY

The Department's determination in TA-W-556 denied workers producing stainless steel hot rolled strip at the Trenton plant because stainless steel constituted less than 5 percent of Trenton's production and because employees work interchangeably on all products.

The evidence developed during the Department's reinvestigation indicates that although production of stainless steel hot rolled strip is a small percentage of total production at the Trenton, Mich., plant, a separate group of the most senior employees in the plant are engaged in stainless steel production in the melt shop furnace No. 7, mold preparation, stainless slab conditioning, and slab reheat furnace units. The stainless steel operation is staffed by a seniority system in which employees exercise preferences for jobs according to their length of service. Positions in stainless steel production are generally filled by the most senior employees in the plant. When stainless steel production declines and jobs in the stainless operation terminate, stainless steel employees can bump into jobs in carbon steel production, according to their seniority.

The Department's first investigation revealed that McLouth Steel operates an integrated production process between its Trenton, Mich. plant and its Detroit, Mich., plant in the manufacture of stainless steel cold rolled sheet and strip. All of the stainless steel hot rolled strip produced at the Trenton plant is sent to Detroit for cold rolling. Customers of the Detroit plant indicated that they had decreased their purchases of stainless steel sheet and strip from the subject firm and had increased purchases of imports.

CONCLUSION

After careful review of the facts obtained in the reinvestigation of TA-W-556, McLouth Steel Co., Trenton, Mich., I concluded that increases in imports of stainless steel hot and cold rolled sheet and strip like or directly competitive with the stainless steel hot and cold rolled sheet and strip produced at McLouth Steel Co. contributed importantly to the total or partial separations of workers in the Trenton, Mich., plant of that firm. In accordance with the provisions of the Act, I hereby issue the following revised determination:

All workers who became totally or partially separated from employment related to the production of stainless steel hot rolled strip on or after December 29, 1974, in the melt shop furnace No. 7, mold preparation, stainless slab conditioning, and slab reheat furnace units of the Trenton, Mich., plant of McLouth Co. are eligible to apply for adjustment assistance benefits under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-25364 Filed 9-1-77;8:45 am]

[TA-W-2069]

QUAKER TROUSER CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2069: investigation regarding eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 12, 1977 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing men's dress pants at the Quaker Trouser Company, Philadelphia, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on May 24, 1977 (42 FR 26482). No public hearing was requested an none was held.

The information upon which the determination was made was obtained principally from information provided by officials of Quaker Trouser Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at Quaker Trouser Company decreased 14 percent in 1976 compared to 1975 and decreased 33 percent in the first quarter of 1977 compared to the same quarter of 1976.

SALES OR PRODUCTON, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales by the Quaker Trouser Company decreased 14 percent in 1975 compared to 1974, decreased 8 percent in 1976 compared to 1975 and decreased 40 percent in the first five months of 1977 compared to the same period of 1976.

INCREASED IMPORTS

Imports of men's and boy's dress and sport trousers and shorts increased from 39.8 million units in 1974 to 55.5 million units in 1975, and increased to 73.2 million units in 1976. Imports increased from 14.6 million units in the first quarter of 1976 to 17.1 million units in the same period of 1977. The ratio of imports to domestic production increased from 18.2 in 1974 to 34.1 in 1975 and increased to 41.9 in 1976.

CONTRIBUTED IMPORTANTLY

Customers of Quaker Trouser Company who were surveyed have decreased purchases from Quaker Trouser and stated that they purchase imported men's pants.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's pants produced by Quaker Trouser Company contributed importantly to the separations of workers of that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers of Quaker Trouser Company, Philadelphia, Pennsylvania who became totally or partially separated from employment on or after May 9, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 23rd day of August 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-25733 Filed 9-1-77;8:45 am]

[TA-W-2179]

ROCKWELL INTERNATIONAL, DRAPER DIVISION, HOPEDALE, MASSACHUSETTS

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2179: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 24, 1977 which was filed by the United Steelworkers of America on behalf of workers and former workers producing weaving looms at the Hopedale, Massachusetts plant of Rockwell International.

The notice of investigation was published in the FEDERAL REGISTER on July 12, 1977, (42 FR 35904). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Rockwell International, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers decreased 17.7 percent in the first 5 months of 1977 compared to the same period of 1976.

Average employment of salaried workers decreased 5.2 percent in the first 5 months of 1977 compared to the same period of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of weaving looms decreased 39.8 percent in the first 5 months of 1977 compared to the same period of 1976.

Production of weaving looms decreased 38.0 percent in the first 5 months of 1977 compared to the same period of 1976.

INCREASED IMPORTS

Imports of shuttle broadloom weaving machines increased from 211 units in the first 4 months of 1976 to 365 units in the same period of 1977.

Imports of shuttleless broadloom weaving machines decreased from 1,534 units in the first 4 months of 1976 to 802 units in the same period of 1977.

CONTRIBUTED IMPORTANTLY

Some of the customers surveyed by the Office of Trade Adjustment Assistance indicated that they have increased purchases of imported weaving looms while decreasing purchases of domestically produced weaving looms.

A certification of eligibility to apply for adjustment assistance, issued under provisions of the Trade Act of 1974, expires on August 12, 1977—two years from its date of issuance.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with weaving looms produced at Hopedale plant of Rockwell International, Draper Division contributed

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In December 1976 officials of L. K. Shapiro decided to close Mardor of California and to contract all coat production to outside domestic contractors. This was done in order to minimize the overhead expenses needed to operate Mardor during seasonal periods of low demand.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's coats produced by L. K. Shapiro Associates, Incorporated and by Mardor of California, Incorporated, Los Angeles, California, did not contribute importantly to the total or partial separations of the workers of these firms.

Signed at Washington, D.C., this 23rd day of August 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-25732 Filed 9-1-77;8:45 am]

such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers declined 4.4 percent in 1976 compared to 1975 and 33.5 percent in the first quarter of 1977 compared to the same quarter in 1976.

The New York warehousing facilities were shut down on February 28, 1977.

Signed at Washington, D.C. this 19th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration & Planning.

[FR Doc.77-25361 Filed 9-1-77;8:45 am]

LOW-CARBON FERROCHROMIUM

On July 11, 1977, the International Trade Commission determined that increased imports of low-carbon ferrochromium are not a substantial cause of serious injury to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (42 FR 36896).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever the ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are

State Employment Service has the authority to produce additional training when CETA funds are not available.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting the Office of Trade Adjustment Assistance, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210 (phone 202-523-7665).

Signed at Washington, D.C. this 22nd day of August 1977.

HOWARD D. SAMUEL,
Deputy Under Secretary, International Affairs.

[FR Doc.77-25362 Filed 9-1-77;8:45 am]

[TA-W-2026]

PICATO, MANCHESTER, CONN.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at the Manchester, Connecticut plant of Picato increased 19.4 percent in 1976 compared to 1975 and then decreased 11.1 percent in the January-April period of 1977 compared to the January-April period of 1976. Average weekly hours worked decreased 11.9 percent in the January-April period of 1977 compared to the January-April period of 1976.

Picato ceased all operations on June 3, 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales in quantity decreased 13.0 percent in 1976 compared to 1975 and then increased 39.1 percent in the first quarter of 1977 compared to the first quarter of 1976. Sales ceased in the second quarter of 1977 when the company closed.

INCREASED IMPORTS

Imports of women's, misses', and children's coats and jackets were recorded

percent in 1974 to 10.6 percent in 1975 and to 12.2 percent in 1976.

Imports of women's, misses', and children's dresses decreased from 2,242,000 dozen in 1972 to 1,578,000 dozen in 1974 and then increased to 1,655,000 dozen in 1975. In 1976 imports declined to 1,614,000 dozen, a decrease of 2.5 percent from 1975. For the first quarter of 1977, imports were recorded at 371,000 dozen, representing an increase of 1.1 percent compared to 367,000 dozen in the first quarter of 1976. The ratio of imports to domestic production increased from 6.2 percent in 1973 to 8.0 percent in 1975 before declining to 7.9 percent in 1976.

Imports of women's, misses', and children's sweaters decreased from 8,087,000 dozen in 1972 to 7,990,000 dozen in 1973 and then increased to 8,965,000 dozen in 1975. In 1976 imports rose to 9,813,000 dozen, an increase of 7.2 percent from 1975. For the first quarter of 1977, imports were recorded at 816,000 dozen, representing a decline of 33.4 percent compared to 1,225,000 dozen in the first quarter of 1976. The ratio of imports to

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domestic production increased from 94.2 percent in 1973 to 115.1 percent in 1975 and to 122.3 percent in 1976.

CONTRIBUTED IMPORTANTLY

A survey of customers of Picato indicated that some of these customers switched their purchases of women's sportswear from Picato to imported items. Style, quality, and price influenced these customers to buy imported women's sportswear.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with women's jackets, slacks, shorts, blouses, shirts, skirts, dresses, and sweaters produced at the Manchester, Connecticut plant of Picato contributed importantly to the separations of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers at the Manchester, Connecticut plant of Picato who became totally or partially separated from employment on or after October 11, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 19th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-25363 Filed 9-1-77;8:45 am]

[TA-W-556]

McLOUTH STEEL CO., TRENTON, MICH.

Revised Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor issued a Notice of Determination on March 31, 1976, and published in the FEDERAL REGISTER on April 9, 1976 (41 FR 15082) certifying workers engaged in employment related to the production of stainless steel cold rolled sheet and strip at the Detroit, Mich., plant of McLouth Steel Co. and denying workers engaged in the production of carbon steel sheet, strip, slabs, pig iron, and stainless steel hot rolled strip at the Trenton, Mich., plant and workers engaged in the production of carbon steel cold rolled sheet and strip at the Gibraltar, Mich., plant of McLouth Steel Co.

At the request of the United Steelworkers of America, a review investigation was instituted. The review investigation reexamined the case history and additional information submitted by the petitioners and officials of McLouth Steel Co. concerning the Trenton, Mich., plant.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met with respect to workers producing stainless steel hot rolled strip at the Trenton, Mich., plant of McLouth Steel Co.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Four major units of the Trenton plant are primarily involved in the production of stainless steel hot rolled strip: melt shop furnace No. 7, mold preparation, stainless slab conditioning, and the slab reheat furnace.

Total hours worked on the production of stainless steel hot rolled strip in those units declined 74.4 percent from 1974 to 1975 and then increased 102.9 percent from 1975 to 1976. Total hours worked decreased in each quarter of 1975 when compared to the same quarter in 1974.

Layoffs attributable to declines in stainless steel production are not separately identifiable in the labor turnover data for the Trenton plant. However, the average number of people on layoff status increased 2,215 percent from 1974 to 1975 and then declined 88 percent from 1975 to 1976. Layoffs in 1975 equaled 59 percent of average annual employment.

SALES AND/OR PRODUCTION HAVE DECLINED ABSOLUTELY

Production of stainless steel hot rolled strip at the Trenton, Mich., plant of McLouth Steel declined 76.8 percent from 1974 to 1975 and then increased 147.2 percent from 1975 to 1976.

All of the stainless steel hot rolled strip produced at Trenton is shipped to the Detroit plant for cold rolling. Sales of stainless steel cold rolled sheet and strip at the Detroit plant of McLouth declined 74 percent from 1974 to 1975.

INCREASED IMPORTS

Imports of stainless steel hot and cold rolled sheet and strip decreased absolutely and relatively from 1972 to 1973 and then increased absolutely and relatively from 1973 to 1974 and from 1974 to 1975. From 1975 to 1976, imports increased by 18 percent from 66.0 thousand tons to 78.2 thousand tons. The ratio of imports to domestic shipments increased from 7.5 percent in 1974 to 15.1 percent in 1975 and then decreased to 11.1 percent in 1976.

CONTRIBUTED IMPORTANTLY

The Department's determination in TA-W-556 denied workers producing stainless steel hot rolled strip at the Trenton plant because stainless steel constituted less than 5 percent of Trenton's production and because employees work interchangeably on all products.

The evidence developed during the Department's reinvestigation indicates that although production of stainless steel hot rolled strip is a small percentage of total production at the Trenton, Mich., plant, a separate group of the most senior employees in the plant are engaged in stainless steel production in the melt shop furnace No. 7, mold preparation, stainless slab conditioning, and slab reheat furnace units. The stainless steel operation is staffed by a seniority system in which employees exercise preferences for jobs according to their length of service. Positions in stainless steel production are generally filled by the most senior employees in the plant. When stainless steel production declines and jobs in the stainless operation terminate, stainless steel employees can bump into jobs in carbon steel production, according to their seniority.

The Department's first investigation revealed that McLouth Steel operates an integrated production process between its Trenton, Mich. plant and its Detroit, Mich., plant in the manufacture of stainless steel cold rolled sheet and strip. All of the stainless steel hot rolled strip produced at the Trenton plant is sent to Detroit for cold rolling. Customers of the Detroit plant indicated that they had decreased their purchases of stainless steel sheet and strip from the subject firm and had increased purchases of imports.

CONCLUSION

After careful review of the facts obtained in the reinvestigation of TA-W-556, McLouth Steel Co., Trenton, Mich., I concluded that increases in imports of stainless steel hot and cold rolled sheet and strip like or directly competitive with the stainless steel hot and cold rolled sheet and strip produced at McLouth Steel Co. contributed importantly to the total or partial separations of workers in the Trenton, Mich., plant of that firm. In accordance with the provisions of the Act, I hereby issue the following revised determination:

All workers who became totally or partially separated from employment related to the production of stainless steel hot rolled strip on or after December 29, 1974, in the melt shop furnace No. 7, mold preparation, stainless slab conditioning, and slab reheat furnace units of the Trenton, Mich., plant of McLouth Co. are eligible to apply for adjustment assistance benefits under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-25364 Filed 9-1-77;8:45 am]

[TA-W-2069]

QUAKER TROUSER CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2069: investigation regarding eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 12, 1977 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing men's dress pants at the Quaker Trouser Company, Philadelphia, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on May 24, 1977 (42 FR 26482). No public hearing was requested an none was held.

The information upon which the determination was made was obtained principally from information provided by officials of Quaker Trouser Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at Quaker Trouser Company decreased 14 percent in 1976 compared to 1975 and decreased 33 percent in the first quarter of 1977 compared to the same quarter of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales by the Quaker Trouser Company decreased 14 percent in 1975 compared to 1974, decreased 8 percent in 1976 compared to 1975 and decreased 40 percent in the first five months of 1977 compared to the same period of 1976.

INCREASED IMPORTS

Imports of men's and boy's dress and sport trousers and shorts increased from 39.8 million units in 1974 to 50.5 million units in 1975, and increased to 73.2 million units in 1976. Imports increased from 14.6 million units in the first quarter of 1976 to 17.1 million units in the same period of 1977. The ratio of imports to domestic production increased from 18.2 in 1974 to 34.1 in 1975 and increased to 41.9 in 1976.

CONTRIBUTED IMPORTANTLY

Customers of Quaker Trouser Company who were surveyed have decreased purchases from Quaker Trouser and stated that they purchase imported men's pants.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's pants produced by Quaker Trouser Company contributed importantly to the separations of workers of that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers of Quaker Trouser Company, Philadelphia, Pennsylvania who became totally or partially separated from employment on or after May 9, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 23rd day of August 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-25733 Filed 9-1-77;8:45 am]

[TA-W-2179]

ROCKWELL INTERNATIONAL, DRAPER DIVISION, HOPEDALE, MASSACHUSETTS

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2179: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 27, 1977 in response to a worker petition received on June 24, 1977 which was filed by the United Steelworkers of America on behalf of workers and former workers producing weaving looms at the Hopedale, Massachusetts plant of Rockwell International.

The notice of investigation was published in the FEDERAL REGISTER on July 12, 1977, (42 FR 35904). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Rockwell International, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers decreased 17.7 percent in the first 5 months of 1977 compared to the same period of 1976.

Average employment of salaried workers decreased 5.2 percent in the first 5 months of 1977 compared to the same period of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of weaving looms decreased 39.8 percent in the first 5 months of 1977 compared to the same period of 1976.

Production of weaving looms decreased 38.0 percent in the first 5 months of 1977 compared to the same period of 1976.

INCREASED IMPORTS

Imports of shuttle broadloom weaving machines increased from 211 units in the first 4 months of 1976 to 365 units in the same period of 1977.

Imports of shuttleless broadloom weaving machines decreased from 1,534 units in the first 4 months of 1976 to 802 units in the same period of 1977.

CONTRIBUTED IMPORTANTLY

Some of the customers surveyed by the Office of Trade Adjustment Assistance indicated that they have increased purchases of imported weaving looms while decreasing purchases of domestically produced weaving looms.

A certification of eligibility to apply for adjustment assistance, issued under provisions of the Trade Act of 1974, expires on August 12, 1977—two years from its date of issuance.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with weaving looms produced at Hopedale plant of Rockwell International, Draper Division contributed

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importantly to the total or partial separations of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Hopedale plant of Rockwell International, Draper Division who became totally or partially separated from employment on or after August 12, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-25365 Filed 9-1-77;8:45 am]

[TA-W-1759]

TRUE FORM FOUNDATIONS, DARBY, PENNSYLVANIA

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1759: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977 in response to a worker petition received on March 1, 1977 which was filed by the Philadelphia Dress Joint Board of the International Ladies Garment Workers Union on behalf of workers and former workers producing women's underwear at the Darby plant of True Form Foundations.

The Notice of Investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15472). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of True Form Foundations, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that the without regard to any of the other criteria, the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATION

Average employment of production workers increased 1 percent in 1975 compared to 1974, declined 2 percent in 1976 compared to 1975, and declined 9 percent in the first quarter of 1977 compared to the first quarter of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total company sales in quantity increased 28 percent in the third quarter of 1976 compared to the third quarter of 1975, increased 14 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975 and increased 13 percent in the first quarter of 1977 compared to the first quarter of 1976.

Sales in value, increased 29 percent in 1976 compared to 1975.

Cutting production at Darby, in quantity, increased 12 percent in the third quarter of 1976 compared to the third quarter of 1975, declined 6 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975, and increased 5 percent in the first quarter of 1977 compared to the first quarter of 1976.

Sewing production at Darby, in quantity, increased 15 percent in 1976 compared to 1975 and declined 7 percent in the first quarter of 1977 compared to the first quarter of 1976.

Packing production at Darby, in quantity, declined 16 percent in the third quarter of 1976 compared to the third quarter of 1975, increased 16 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975, and declined 13 percent in the first quarter of 1977 compared to the first quarter of 1976.

INCREASED IMPORTS

Imports of brassieres, bra-lettes, and bandeaux increased absolutely in 1973 and 1974 when compared to the previous year, increased in 1975 compared to 1974, increased 26 percent in 1976 compared to 1975, and increased 22 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratio of imports to domestic production increased from 42.3 percent in 1975 to 50.3 percent in 1976.

Imports of corsets and girdles declined absolutely in 1973 and increased in 1974 when compared to the previous year, increased in 1975 compared to 1974, increased 69 percent in 1976 compared to 1975, and increased 13 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratio of imports to domestic production increased from 3.1 percent in 1975 to 5.3 percent in 1976.

Imports of women's, misses', and juniors' underwear, which includes briefs and pant liners, declined absolutely in 1973 and 1974 when compared to the previous year, increased in 1975 compared to 1974, increased 28 percent in 1976 compared to 1975, and increased 61 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratio of imports to domestic production increased from 2.3 percent in 1975 to 2.6 percent in 1976.

CONTRIBUTED IMPORTANTLY

Customers responding to an OTAA survey represented over 33 percent of company sales. None of these customers decreased purchases from True Form and increased purchases of imports. Total company sales at True Form increased from 1975 to 1976.

True Form began importing brassieres in 1973. Company imports represent less than 2 percent of total sales. The imported brassieres are offered as periodic low cost sale items.

Company wide sales which includes sewing production from the Darby plant, two other domestic company owned plants and from two domestic contractors increased from 1975 to 1976 and in the first quarter of 1977 compared to the first quarter of 1976. Therefore any decrease in production at the Darby plant was offset by an internal switch in production to other company owned domestic plants.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increase of imports like or directly competitive with brassieres, girdles, all-in-ones, pant liners, and briefs produced at the Darby, Pennsylvania plant of True Form Foundations did not contribute importantly to the total or partial separation of the workers at that plant.

Signed at Washington, D.C. this 19th day of August 1977.

JAMES F. TAYLOR,
Director, Officer of Management, Administration and Planning.

[FR Doc.77-25366 Filed 9-1-77;8:45 am]

[TA-W-1563]

U.S. STEEL CORP. CENTRAL FURNACES

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1563: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 10, 1977 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing pig iron at the Lorain, Ohio plant of U.S. Steel Corp.

The notice of investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5456). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials U.S. Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, criterion three (3) has not been met.

Evidence developed in the Department's investigation revealed that imports of pig iron decreased from 427,000 tons in 1975 to 370,000 tons in 1976 Imports decreased from 102,000 tons in the first quarter of 1976 to 39,000 tons in the first quarter of 1977.

There are no imports of hot metal.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with pig iron and hot metal produced at the Central Furnaces of U.S. Steel Corp., Lorain, Ohio have not contributed importantly to the decline in sales or production of the plant or to the total or partial separations of workers of that plant as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-25734 Filed 9-1-77;8:45 am]

[TA-W-1436]

U.S. STEEL CORP., DUQUESNE, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1436: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976 in response to a worker petition received on November 15, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon and alloy hot rolled bar-size light shapes at the Duquesne Work of the U.S. Steel Corp. Pittsburgh, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 901). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of U.S. Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision has decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased either actual, or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the investigation has revealed that criterion four (4) has not been met.

Evidence developed in the Department's investigation revealed that the Duquesne Works of the U.S. Steel Corp. produced carbon and alloy hot rolled bar-size light shapes. Imports or carbon steel bar-size light shapes have declined steadily each year from 1974 through 1976. The imports to shipments ratio declined each year from 53.1 percent in 1974 to 19.5 percent in 1976. The survey conducted by the Office of Trade Adjustment Assistance reflects the decline in import purchases by end users. Customers responding stated that either they did not purchase imported steel bars or that they have decreased purchases of imported steel bars in 1976 compared to 1975. Some customers reported increased purchases of domestically produced steel bar-size light shapes.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with carbon and alloy hot rolled bar-size light shapes produced at the Duquesne Works of the U.S. Steel Corporation have not contributed importantly to the total or partial separations of workers of that firm as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of August, 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-25368 Filed 9-1-77;8:45 am]

[TA-W-1449]

UNITED STATES STEEL CORP., TORRANCE, CALIFORNIA

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1449: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon steel structural shapes and steel bars at the Torrance, Calif. plant of U.S. Steel Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on January 7, 1977 (42 FR 1542). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from information and publications provided by the officials of U.S. Steel Corp., its customers, the U.S. International Trade Commission, U.S. Department of Commerce, American Iron and Steel Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

V 42 171 SEP 2 77 UMI

The Department's investigation has revealed that with respect to carbon steel structural shapes production, all of the above criteria have been met. With respect to bar production, without regard to whether the other criteria have been met, criterion (4) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of workers producing structural shapes at the Torrance plant declined 39.2 percent in the first eleven months of 1976 compared to the same period in 1975. Average weekly hours worked declined 13.3 percent in the first eleven months of 1976 compared to the like period in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of structural shapes at the Torrance plant declined 49.0 percent in volume in the first eleven months of 1976 compared to the first eleven months of 1975.

INCREASED IMPORTS

Imports of carbon steel structural shapes declined annually from 1,614.0 thousand short tons in 1972 to 804.9 thousand short tons in 1975 and increased in 1976 to 1,351.4 thousand short tons. The ratio of imports to domestic shipments increased from 19.5 percent in 1975 to 40.0 percent in 1976.

CONTRIBUTED IMPORTANTLY

Customers of structural shapes who were surveyed indicated that they reduced purchases from the Torrance plant of U.S. Steel while increasing purchases of imported structural shapes.

Customers of steel bars who were surveyed indicated either that they did not purchase any imported steel bars or that they did not shift their purchases of steel bars made at the Torrance plant to imported steel bars. Furthermore, employment of workers producing steel bars at the Torrance plant increased 32.2 percent in the first eleven months of 1976 compared to the same period in 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the carbon steel structural shapes produced at the Torrance, Calif. plant of U.S. Steel Corporation contributed importantly to the total or partial separations of the workers producing carbon steel structural shapes at that plant. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers engaged in employment related to the production of carbon steel structural shapes at the Torrance, Calif. plant of U.S. Steel Corp. who became totally or partially separated from employment on or after November 15, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that imports of steel bars did not contribute importantly to total or partial separations of workers producing steel bars at the Torrance plant as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-25367 Filed 9-1-77;8:45 am]

[TA-W-1840]

WHITINSVILLE SPINNING RING CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1840: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 21, 1977 in response to a worker petition received on February 23, 1977 which was filed by three former employees on behalf of workers and former workers producing steel twister rings and steel spinning rings at the Whitinsville, Mass. plant of Whitinsville Spinning Ring Co.

The Notice of Investigation was published in the FEDERAL REGISTER on March 5, 1977 (42 FR 18158). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Whitinsville Spinning Ring Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers declined 10 percent in 1976 compared to 1975 and declined 10 percent in the first quarter of 1977 compared to the first quarter of 1976. The company began laying off production employees in February 1977 in anticipation of closing the plant. Most production employees were laid off by April 8, 1977. Some workers remained for close-out operations and they are expected to be laid off soon.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of rings manufactured at the Whitinsville plant increased nine percent in value in 1976 compared to 1975. In the first quarter of 1977, sales increased compared to the first quarter of 1976 as all remaining raw faterials were used up. In April 1977, all production ceased.

The company has no plans to resume production at the Whitinsville, Mass. plant. Sales values were adjusted for inflation using the wholesale Price Index commodity for spinning rings and twister rings as published by the Bureau of Labor Statistics.

INCREASED IMPORTS

U.S. Imports of spinning rings and twister rings increased from 16.6 thousand units in 1972 to 39.0 thousand units in 1973 and 41.0 thousand units in 1974 before declining to 21.5 thousand units in 1975 and 20.1 thousand units in 1976. Imports increased from 5.0 thousand units in the first three months of 1976 to 6.6 thousand units in the first three months of 1977.

The ratio of imports to domestic production increased from 2.7 percent in 1972 to 6.0 percent in 1973, 8.6 percent in 1974 and 10.0 percent in 1975 before declining to 8.5 percent in 1976. The ratio of imports to domestic production increased from 8.8 percent in the first three months of 1976 to 10.1 percent in the first three months of 1977.

CONTRIBUTED IMPORTANTLY

Whitinsville Spinning Ring Co. reported to the Department that in recent years some of their customers had shifted purchases from its domestic steel twister rings to its imported psm rings. (Twister rings and psm rings are substitutable items.) Customers confirmed this. In addition, some customers reported that they reduced purchases of steel spinning rings from Whitinsville because they switched to imported steel spinning rings.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with spinning rings and twister rings produced at the Whitinsville, Mass. plant of Whitinsville Spinning Ring Co. contributed importantly to the total or partial separations of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Whitinsville, Massachusetts plant of Whitinsville Spinning Ring Co. who became totally or partially separated from employment on or after February 21, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 23rd day of August 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-25735 Filed 9-1-77;8:45 am]

[TA-W-1654]

WONDERING BOY

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1654: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 15, 1977, in response to a worker petition received on February 10, 1977, which was filed on behalf of workers and former workers engaged in shrimp fishing at Wondering Boy in Port Isabel, Tex.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13095). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Wondering Boy, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, criterion (4) has not been met.

CONTRIBUTED IMPORTANTLY

The Department's investigation has revealed that Wondering Boy's only customer buys all the shrimp that Wondering Boy is able to supply. This customer only purchases imported shrimp when Wondering Boy and other domestic suppliers are unable to meet the customer's requirements.

The decline in the quantity of shrimp caught by the trawler in 1976 was due to several factors including adverse weather conditions occurring during the height of the shrimp season in November and December which kept the trawler in port, the lack of shrimp available in the known fishing grounds, and the imposition of a 200 mile fishing restriction by the Mexican government which prevented domestic shrimpers without permits from fishing in Mexican coastal waters.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with shrimp produced by the Wondering Boy, Port Isabel, Tex., have not contributed importantly to the total or partial separations of workers of that firm as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 23rd day of August 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-25736 Filed 9-1-77;8:45 am]

[TA-W-1909]

WOODBURY MANUFACTURING CO., WILKES BARRE, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1909; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 24, 1977 in response to a worker petition received on March 24, 1977 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing sportswear at the Wilkes Barre, Pa. plant of Woodbury Manufacturing Co.

The Notice of Investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19175). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Woodbury Manufacturing Co.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (2) has not been met.

The Woodbury Manufacturing Co. produces men's and women's jackets and blazers. The manufacturing is done on a contract basis with an apparel manufacturer.

Evidence developed in the Department's investigation revealed that production in terms of quantity of men's and women's jackets and blazers at the Woodbury Manufacturing Co. increased 69.6 percent in 1976 compared to 1975. Production increased 20.0 percent in the first quarter of 1977 compared to the first quarter of 1976.

Production and sales data at the Woodbury Manufacturing Co. are equivalent.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that neither sales nor production at the Wilkes-Barre, Pa. plant of the Woodbury Manufacturing Co. have decreased as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of August 1977.

JAMES F. TAYLOR,
Director, Office and Management, Administration and Planning.

[FR Doc.77-25369 Filed 9-1-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-77-795]

ADVISORY COMMITTEE

First Meeting

AGENCY: Department of Housing and Urban Development.

ACTION: Notice is given of the initial meeting of the Task Force on Housing Costs, whose functions were published at 42 FR 27679. Notice is given also of the initial meeting of any committee formally established by the Task Force.

SUMMARY: *Task Force and Committee Meetings:* The initial meeting of the full Task Force will be held on October 5 and 6, 1977. The full Task Force will convene each day at 9:30 am in the Departmental

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Conference Room, Tenth Floor (Room 10233), Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Any committee of the Task Force which is then established may convene also during this period. Information about the time and place of any such committee meeting will be available to the public during this period in Room 7110, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410 Telephone: 202–755–6076.

SUPPLEMENTARY INFORMATION: The purpose of and agendas for these initial meetings may include, but are not limited to, the following:

1. Certification and qualification of Task Force members;

2. Review and comment on written materials provided by HUD staff concerning factors that affect the cost of housing and concerning actions that might reduce such costs;

3. Consideration of other issues and ideas not raised in these materials;

4. Testimony from members of the general public;

5. Discussion of the merits of all suggested actions;

6. Discussion of recommendations to the Secretary of HUD concerning actions the Federal Government, particularly HUD, might take to reduce the cost of new housing to the consumer;

7. Establishment of Task Force organization, and appointment of officers and committees;

8. Scheduling of additional Task Force meetings and any committee meetings; and

9. Consideration of other Task Force business.

ADDRESS: Committee Management Officer Douglas C. Brooks, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Douglas C. Brooks 202–755–9086, or Donald K. McLain 202–755–5333.

Task Force and committee meetings will be open to the public.

Issued at Washington, D.C., August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary, Department of Housing and Urban Development.

[FR Doc.77–25898 Filed 9–1–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 31470]

NEW MEXICO

Application

AUGUST 26, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Natural Gas Pipeline Company of America has applied for one 4-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 24 S., R. 26 E.,
Sec. 34, SE¼SE¼.
T. 25 S., R. 26 E.,
Sec. 3, lot 1.

This pipeline will convey natural gas across 0.440 miles of public lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–25703 Filed 9–1–77;8:45 am]

[NM 31473]

NEW MEXICO

Application

AUGUST 26, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gulf Oil Corporation has applied for one 3-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 31 E.,
Sec. 19, SE¼NE¼;
Sec. 20, S½NW¼, NE¼SW¼, N½SE¼, and SW¼SE¼;
Sec. 21, NW¼SW¼;
Sec. 29, NW¼NE¼.

This pipeline will convey natural gas across 1.911 miles of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–25704 Filed 9–1–77;8:45 am]

Bureau of Land Management

[OR 336]

OREGON

Order Providing for the Opening of Public Land

Correction

In FR Doc. 20953 appearing on page 37447 in the issue for Thursday, July 21, 1977, the following correction should be made.

In the first column on page 37447, the second line under the heading, "WILLAMETTE MERIDIAN", now reading, "Sec. 20 S½SW¼ and SW¼SW¼", should read, "Sec. 20 S½SW¼ and SW¼SE¼".

Fish and Wildlife Service

ISSUANCE OF PERMIT FOR MARINE MAMMAL

On September 8, 1976, a notice was published in the FEDERAL REGISTER (Vol. 41, No. 175) that an application had been filed with the Fish and Wildlife Service by California Department of Fish and Game, Sacramento, Calif., for a permit to conduct scientific research on sea otters.

Notice is hereby given that on August 26, 1977, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Fish and Wildlife issued a permit to California Department of Fish and Game, subject to certain conditions set forth therein. The permit is available for public inspection during normal business hours (7:45 a.m.–4:15 p.m.) at the Fish and Wildlife Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Dated: August 29, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc.77–25631 Filed 9–1–77;8:45 am]

THREATENED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under Section 4(d), 16 USC 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant: Antonio Di Paolo, 3 Bradford Road, Beverly, Mass. 01915.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR: ☐ EXPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Captive self Sustaining Pap. Kinds
Buy, sell, transport in interstate commerce.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Antonie Di Paolo
3 Bradford Road
Beverly, Mass. 01915
(617) 922-5241

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 5'6" WEIGHT: 170
DATE OF BIRTH: 12-14-34 RACE: Caucasian
PHONE NUMBER WHERE EMPLOYED: 48 4668 SOCIAL SECURITY NUMBER: 016-30-1861
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: X

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: X
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
as above

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number(s))
Waterfowl sale and Dispossal PRT 2-172 B O

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO
(If yes, list jurisdictions and type of document)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF

10. DESIRED EFFECTIVE DATE: As S.A.P.

11. DURATION NEEDED: 2 years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (see 50 C.F.R. 13.12 AND 13.21) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 C.F.R. UNDER WHICH ATTACHMENTS ARE PROVIDED.
Title 5017.33

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE: (In ink) Antonie Di Paolo
DATE: 6/11/77

3-200
16-742

1. Pheasant species to be covered by this permit application is: Brown-eared Manchurian (*Crossoptilon mantchuricum*), White-eared Manchurian (*Crossoptilon crossoptilon*), Elliot's (*Syrmaticus ellioti*), Mikado (*Syrmaticus mikado*), Edward's (*Lophura edwardsi*), Swinhoe's *Lophura swinhoii*). Black-throated bobwhite or Black masked (*Colinus nigrogularis*). When I receive the requested permit it will enable me to sell legally the surplus stock from my existing breeders as listed above.

2. The pens are 5 x 21 and 6 feet high; 6 x 21 and 8 x 21 and 6 feet high. The water containers are made of galvanized steel; 4 x 4 x 10; the food containers are 3 x 6 x 10 covered for weather protection. Each pen has evergreen trees and grass covered with wire so the birds can eat the grass and not kill the roots. For weather protection the back of the pens are covered with wood and shingles 6 feet high.

3. I have been raising birds for about 10 years. I took a poultry course at the Essex Agricultural School in Danvers, Mass. Last year I was Vice-President of the Northeastern Avicultural Society. This year I am President of the club. I also belong to the American Waterfowl Society and to the Gazette.

4. I will participate in any breeding program and maintain or contribute data to a "Studbook" as directed by the U.S. Fish and Wildlife Service.

5. All birds shipped will be in unused wire bound wooden crates, padded to prevent scalping or injury. Food and water containers will be secured in the crates. There will be enough room and size for the bird to stand and move around. The crates will be marked with "Live Birds—Please Rush" on four sides of the crates.

6. So far I have been fortunate not to have any of these birds die. All my pens are protected by 4 ft. chain link fence. The 4 ft. fence circles the area where the birds are kept. At the top of the fence is electric wire for added protection.

7. So far I have been successful with my birds and as a result I have surplus of the young and also I am interested in getting new birds for the blood line. This permit will enable me to buy and sell from ones that have this license to keep these birds from becoming extinct.

7ii I hope never to have to give up raising birds for my hobby. I also hope my son would carry on. If it happens that I cannot continue or my son I will dispose of the birds to only qualified breeders that have this permit or as directed by the regulations of the U.S. Fish and Wildlife Service.

c I understand that the above permit will enable me to transact only to those holding the permit. I should also state that at any time my birds can be seen.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2–1175–25; please refer to this number when submitting comments. All relevant comments received on or before October 3, 1977, will be considered.

Dated: August 30, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77–25632 Filed 9–1–77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant: Elmer A. Heft, 398 Lake St., Green Lake, Wis. 54941.

V 42 1171 SEP 2 77 UMI

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (check only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Authorization to ship 1 pair of White Earred Pheasants for Breeding from New York to Wisconsin

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Elmer A. Heft
398 Lake St.
Green Lake, Wis.

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 5ft 9in | WEIGHT: 145
DATE OF BIRTH: Apr. 8,1899 | COLOR HAIR: Brown | COLOR EYES: Brown
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER: 392-20-1342
OCCUPATION: Retire from Abstract Business
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE PERMIT: None

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OF KIND OF BUSINESS, AGENCY, OR INSTITUTION: N.A.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: N.A.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED: N.A.

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
398 Lake St.
Green Lake, Wis.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number(s)): PRT 2 434 TW, PRT 2 750 TW

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: None

10. DESIRED EFFECTIVE DATE: Date of issue

11. DURATION NEEDED: 2 Years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (see 50 C.F.R. 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 C.F.R. UNDER WHICH ATTACHMENTS ARE PROVIDED: 17.33

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Elmer A. Heft
DATE: July 14, 1977

3-200 GPO 835-042

Most of these pens have Japanese Yews planted in them. All aviaries are predator proof, having a shed in the rear. These aviaries are located on three acres of land.

(3) I have raised pheasants for the past thirty eight years, and have had the pheasants listed above during most of this time. In 1974 I received the Grand Master Breeder Award given by the American Game Bird Breeder's Cooperative Federation being the second one to receive this award. I have also received many other breeding awards.

(4) I am willing to participate in a cooperate breeding program. I have raised a large number during the years of the pheasants listed above.

(5) I have shipped hundreds of pheasants and know what size of containers or coops to ship them in without harming the birds as different pheasants need different kinds of crates.

(6) During the years that I have had the pheasants listed above you will lose some to old age and other causes, but have had no serious illness.

(7) I have been raising the pheasants listed above so that the future generations will have these birds. I have had hundreds of people come to see these birds which they cannot see in their native habitat. I have had hundreds of school children come to see my birds.

(8) When I retire I hope that the pheasants that I have will go to other breeders to propagate them for future generations.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1181-07; please refer to this number when submitting comments. All relevant comments received on or before October 3, 1977, will be considered.

Dated: August 30, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-25633 Filed 9-1-77;8:45 am]

THREATENED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under Section 4(d), 16 USC 1533(d), of the Endangered Species Act of 1973 (Public Law 93-205).

Applicant: Harold H. Polk, 2953 Fairchild, Wayzata, Minn. 55391.

ATTACHMENTS 17.33 TO PERMIT REQUEST

(L) "Captive Self-Sustaining Population" permit is requested for the following species of pheasants:

(1) Brown-eared pheasant (*Crossoptilon mantichuricum*).

(2) White-eared pheasant (*Crossoptilon crossoptilon drouyni*).

(3) Bar-tailed pheasant (*Symraticus humiae*).

(4) Mikado pheasant (*Syrmaticus mikado*).

(5) Palawan peacock pheasant (*Polypectron emphanum*).

(6) Elliots pheasant (*Syrmaticus ellioti*).

(7) Edwards pheasant (*Lophura edwardsi*).

I seek a permit to authorize an unlimited number of transactions through interstate commerce over a two year period of time for the 7 species of pheasants listed above in this paragraph, with the permit being subject to renewal according to section 13.24.

(2) I have 100 aviaries varying in size from 12 by 18 feet to ones that are 12 by 50 feet.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (check only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Authorization to engage in interstate commerce with six of the threatened species of pheasants which have been determined to exist in "Captive Self-Sustaining Populations" within the United States for a period of 2 years.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is required)
Harold H. Polk
2953 Fairchild
Wayzata, Minnesota 55391
612-473-6026

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 5ft-11in | WEIGHT: 200 lbs.
DATE OF BIRTH: Oct. 18, 1908 | COLOR HAIR: Brown | COLOR EYES: Blue
PHONE NUMBER WHERE EMPLOYED: 612-473-6026 | SOCIAL SECURITY NUMBER: 557 10 0231
OCCUPATION: Aviculturalist & Cert. Pub. Accountant.
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE PERMIT: None

5. IF "APPLICANT" IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OF KIND OF BUSINESS, AGENCY, OR INSTITUTION: Not Applicable
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: Not Applicable
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED: Not Applicable

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
2953 Fairchild
Wayzata, Minnesota 55391
and
R.F.D. #1
Clearwater, Minn. 55320

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number(s)): 3PR 2263

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO
(If yes, list jurisdictions and type of documents): Not required.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: Not Applicable

10. DESIRED EFFECTIVE DATE: Date of Issuance

11. DURATION NEEDED: 2 years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (see 50 C.F.R. 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 C.F.R. UNDER WHICH ATTACHMENTS ARE PROVIDED: 17.33

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Harold H. Polk
DATE: 7-18-77

ATTACHMENT 17.33 TO PERMIT REQUEST

(1) A "Captive Self-Sustaining Population" permit is requested for the following species of pheasants:

(1) Brown Eared pheasants (*Crossoptilon mantichuricum*).

(2) Humes Bartailed pheasant (*Syrmaticus humiae*).

(3) Mikado pheasant (*Syrmaticus mikado*).

(4) Palawan pheasant (*Polypectron emphanum*).

(5) Edwards pheasant (*Lophura edwardsi*).

(6) Swinehoe's pheasant (*Lophura swinhoii*).

The applicant seeks a permit to authorize an unlimited number of transactions by interstate commerce over a two year period of time for the six species of pheasants identified above, with the permit subject to renewal in accordance with section 13.24.

(2) The applicant possesses numerous pheasant aviaries of varying sizes. The largest of which is 25' by 125' by 6' and the smallest is 10' by 10' by 6' for breeding pairs. The greatest number are 16' by 16' by 6'. Each pen is constructed of one inch wire netting on the sides. The same one inch netting is on the tops in either wire or nylon. Fourteen of the aviaries have individual housing not less in size than 8' by 8' by 5' for protection from the elements. The balance of the aviaries share three communal buildings, appropriately sectioned to relate to the outside enclosures. A photograph shows the representative pens and is attached as Attachment A.

Nineteen of the aviaries are located on a two acre lot, immediately adjacent to the applicant's residence, the others are on a ten acre area adjacent to applicant's caretaker's residence. At least a hundred additional acreas are available.

(3) Applicant has been propagating pheasants for ten or more years. He already has five of the species referred to in this permit application, in his aviaries and consequently is experienced in breeding and raising them.

The applicant is a member of the following wildlife organizations:

The Wildfowl Trust (England). American Pheasant and Waterfowl Society. Minnesota Pheasant and Waterfowl Society. Oregon Pheasant Breeders. He is presently serving as the Secretary-Treasurer of the Minnesota Pheasant and Waterfowl Society. He is an accredited Pullorum-Typhoid tester for the State of Minnesota Livestock Sanitary Board.

(4) The applicant is ready and willing to participate in a cooperative breeding program and to contribute data for a stud book.

(5) The applicant will continue to use shipping crates of a crush proof nature provided with food and water in each use of public transportation. To date no losses have been experienced in transportation.

(6) Pheasant losses have been a minimal fraction of one per cent. Such as did occur, were primarily due to predators such as the horned owl and racoons. This has been cleared by double overhead netting with a space of two feet between so that the owl's strike force is dissipated before reaching the second netting.

(7) (i) The applicant is making this application to purchase, sell or trade in interstate commerce the six pheasants listed in item (1) of this attachment. The permit, if granted, will enable the applicant to improve the bloodline strength of the offspring from the pheasants he now possesses and to dispose of the progeny he raises each year to qualified breeders in other States. Sales will assist in partially defraying the costs of propagation of the identified species. Granting the permit will also serve to increase the virility and strength of the species and thus enhance the survival of the "captive Self-Sustaining Population" in the United States. The applicant does not breed pheasants for economic purposes, rather, it is the enjoyment and pleasure of serving to preserve these beautiful birds for the future to enjoy and possibly in a small way contributing to the reintroduction of them into their natural home and habitat when political situations will allow.

(7) (ii) Upon termination of the applicant's breeding activity for any reason not presently apparent, the pheasants covered in this application as well as any others, then in the applicant's possession, will be gifted to qualified breeders who share the same standards and enjoyment.

Sincerely,

HAROLD H. POLK.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1197-25; please refer to this number when submitting comments. All relevant comments received on or before October 3, 1977, will be considered.

Dated: August 30, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-25634 Filed 9-1-77;8:45 am]

THREATENED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under Section 4(d), 16 USC 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Henry Doorly Zoo, Riverview Park, Omaha, Nebr. 68107.

V 42 171 SEP 2 77 UMI

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

OMB NO. 42-R1470

1. APPLICATION FOR (Use only one)
☐ IMPORT OR EXPORT LICENSE [X] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
captive self-sustaining population permit for Jaguar (Panthera onca), Leopard (Panthera pardus), and Tiger (Panthera tigris)

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Henry Doorly Zoo
Riverview Park
Omaha, NE 68107

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Dr. Lee G. Simmons
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
Nebraska

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Henry Doorly Zoo
Riverview Park
Omaha, NE 68107

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [X] YES ☐ NO
(If yes, list license or permit numbers)
PRT2-549 PRT-7-205-S-Z

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of document)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF

10. DESIRED EFFECTIVE DATE: 8-1-77

11. DURATION NEEDED: Two years

12. ATTACHMENTS: THE SPECIFICATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE: Lee G. Simmons, DVM
DATE: 7/20/77

3-200
16-740

GPO 895-042

HENRY DOORLY ZOO,
OMAHA ZOOLOGICAL SOCIETY,
Omaha, Neb., July 19, 1977.

DIRECTOR (FWS/LE),
U.S. Fish & Wildlife Service, U.S. Department of the Interior, Washington, D.C.

DEAR SIR: The Henry Doorly Zoo is applying for a captive, self-sustaining population permit for transactions involving jaguars, leopards, and tiger. Detailed application requirement descriptions follow:

Application requirements (section 17.33):

1. The common and scientific names of the species sought to be covered by the permit, the activity sought to be authorized.

Species applied for: Jaguar, *Panthera onca*, Leopard, *Panthera pardus*, and Tiger, *Panthera tigris*. The activity sought to be authorized is the selling and receiving in interstate commerce the above listed species. We request the permit for maximum duration period of two years.

2. A complete description, including photographs or diagrams of the area, and facilities where such wildlife will be housed and cared for.

All animals listed in this application will be housed in a new cat complex. The $2.5 million building consists of a total of twenty-one inside and outside public displays and forty-eight behind-the-scenes cat holding areas and dens. Artificial rockwork, trees, waterfalls, or ponds are provided in most of the public displays. A floor plan and a paper describing the building in considerable more detail are attached.

3. A brief resume of the technical expertise of the persons who will care for such wildlife.

Resumes of the Henry Doorly Zoo staff and of the cat area supervisor are attached. All these personnel have had experience in managing and propagating felines.

4. A statement of the applicant's willingness to participate in a cooperative breeding program and to maintain or contribute data on a studbook.

We are willing to participate in a cooperative breeding program and to contribute data to a studbook.

5. A detailed description of the type, size, and construction of all containers into which such wildlife will be placed during transportation.

The shipping crates will exceed minimum standards required by the International Air Transport Association (IATA). Feeding and water facilities are built into the crates.

6. For the 5 years preceding the date of the application provide a detailed description of all mortalities involving the species covered in the application.

During the past five years, there have been eleven mortalities involving species covered in this application:

Species	ID No.	Date of death	Cause of death
Jaguar	131	Apr. 7, 1974	Injuries from fight with mate.
Do	1988	June 15, 1974	Unknown—died day of birth.
Do	1989	July 14, 1976	Euthanized because of injuries inflicted by adjoining jaguar.
Leopard	2744	June 3, 1977	Urinary infection (1 week old) at time of death.
Do	2743	June 14, 1977	Urinary infection and G.I. (1 month old) at time of death.
Sumatran Tiger	2100	May 17, 1975	Injuries by mother.
Do	2048	July 21, 1974	Do.
Do	3	June 19, 1976	See attached autopsy report.
Do	521	....do	Do.
Do	1122	....do	Do.
Do	1616	....do	Do.
Do	1617	....do	Do.

The Henry Doorly Zoo has two full-time veterinarians on its staff. An active program of preventive medicine is maintained. A nursery/hospital building is located on the zoo grounds. The zoo receives excellent cooperation from local hospitals and universities. The replacement of the old cat quarters with the new cat complex building will greatly increase our ability to manage these species. Injuries from adjoining animals should be minimized since solid walls, not bars, now divide adjoining enclosures. The building's many behind-the-scenes dens and the capability for closed circuit television monitoring should reduce mother inflicted injuries. The knowledge gained from the Sumatran tiger deaths should prevent another occurrance. All pesticide application at the zoo is now performed only by the staff veterinarian.

7. A full statement of the reasons why the applicant is justified in obtaining the permit including (i) the details of the activities sought to be authorized by the permit.

(i) The applicant requests authorization to be permitted to buy, sell, or trade the captive self-sustaining species listed in the application. These activities would facilitate gene-pool management, propagation, and exhibition of these species. The Henry Doorly Zoo has had excellent success in breeding felines. The addition of the new cat complex allows us to house additional animals. We intend to reproduce these additional captive self-sustaining species with the best interests of gene-pool management in mind. To accomplish this, we will need the ability to acquire and sell or trade these animals.

(ii) The planned disposition of such wildlife upon termination of the activities sought to be authorized.

The University of Nebraska at Lincoln Museum of Natural History or the University of Omaha's Biology Department receives suitable carcasses after thorough post mortem examination. Carcasses or "part thereof" are also utilized by the zoo's docents as part of their educational program for the Henry Doorly Zoo.

"I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I, Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001."

Sincerely,

LEE G. SIMMONS,
Director.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1215-25; please refer to this number when submitting comments. All relevant comments received on or before October 3, 1977, will be considered.

Dated: August 30, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-25632 Filed 9-1-77;8:45 am]

THREATENED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under Section 4(d), 16 USC 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Larry T. Smith, Box 27, Berlin, Ga. 31722.

V 42 171
SEP 2 77
UMI

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

OMB NO. 42-R1679

1. APPLICATION FOR (Check only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: Activities
Unlimited ~~Intrsta~~ for propagation and Interstate Sale of Endangered and threatened Species now classified as having Captive Self-sustaining Populations. (CSSP)

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
LARRY T SMITH
BOX ~~XX~~ 27.
BERLIN, GA. 31722
912-231-2132

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

☒ MR. ☐ MRS. ☐ MISS ☐ MS.	HEIGHT 5'9"	WEIGHT 175
DATE OF BIRTH 29 Jul 35	COLOR HAIR Brn	COLOR EYES Brn
PHONE NUMBER WHERE EMPLOYED 912-333-4111 Ext 3217	SOCIAL SECURITY NUMBER 253-52-2047	
OCCUPATION U S Air Force		

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Route 4, Box 539B, Tallahassee, Fl 32301
Leon County

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number)
Migratory Waterfowl Permit# 9-FR-1189

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of document)
State of Florida Game Farm License #17.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE: 15 Sep 77

11. DURATION NEEDED: 2 Yrs (Renewable)

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.33 (a) (1) thru (7)

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (Do not stamp) Larry T Smith
DATE 29 Jul 77

3-200 (6/74) GPO 885-042

Attachments 17.33

1. The following Species are sought to be covered by this Permit.
a. Pheasant, Brown Eared (*Crossoptilon Manichuricum*).
b. Pheasant, Edwards (*Lophura Edwardsi*).
c. Pheasant, Bartail (*Syrmaticus Humiae*).
d. Pheasant, Mikado (*Syrmaticus Mikado*).
e. Pheasant, Palawan Peacock (*Polyplectron emphanum*).
f. Pheasant, Swinhoes (*Lophura Swinhoii*).
This Permit is sought for unlimited activities in buying and selling Interstate Endangered Species not classified CSSP.

2. See Atch page 2 and 3.

3. I have approx 22 years experience raising and propagating these and similar Wildlife. I have, during this time successfully propagated all breeds of Pheasants now listed in 17.7 as CSSP. My helper has 6 years experience caring for these and similar wildlife and has assisted in propagating all breeds of pheasants now listed as CSSP.

4. I would be most happy to participate in a cooperative breeding program and maintain or contribute data on a studbook.

5. All containers for shipping are constructed of wood and fiber board with sufficient vents to insure a supply of air. Food and water containers are provided with holes to facilitate replenishing should it become necessary. The size of shipping containers are determined by the breed of pheasant but will in all cases allow three inches of head clearance when standing erect. Length will be twice the length of the bird and min eighteen inches wide. The top of containers have sponge inside to insure top of birds head is not injured. Instructions and extra feed are atch to containers for shipping agents if additional feed and water is necessary. I have never lost or injured a bird when shipping.

6. During the past 5 years, to the best of my knowledge and records, the following pheasants have been lost to disease and or accidents. 1972 None. 1973 (2) Swinhoes destroyed due to sliped tendons in legs. 1974 (1) Grey Peacock killed by falling tree during storm. Tree has since been removed. 1975 (3) Elliotts, (2) Mikados, (2) Brown Eared, (1) Palawan. The Autopsy revealed Botulism caused death. Feed analysis proved positive and feed company paid off portion of cost of birds. This feed had been manufactured only 6 days. 1976 (1) Grey peacock cock bird killed by hen. Boards with 4" legs were put in pens

for pheasants to get under and not depend on foliage alone for protection. (1) Mikado Respiratory Infection. No flock medication was recommended by Vet. 1977 (1) Elliott Brooder accident. Removed all loose objects from around top of brooder. (1) Elliott *Aspergillosis*. Removed birds from pen until all leaves and grass were removed.

This list is mostly from memory of the first three years since my records are no longer available. The shed I kept my egg and breeding records caught fire and burned.

7. I feel I am justified in obtaining this permit since I process all the CSSP Pheasants and have successfully propagated them. I need the permit to be able to sell Interstate the offspring of these birds. I also must have new blood shipped in to keep my stock strong. These Pheasants will be sold to other breeders processing a CSSP Permit.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1248-25; please refer to this number when submitting comments. All relevant comments received on or before October 3, 1977, will be considered.

Dated: August 30, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-25636 Filed 9-1-77;8:45 am]

THREATENED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under Section 4(d), 16 USC 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Thomas J. Sims, 3169 McCorkendale Road, Caledonia, N.Y. 14423.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

OMB NO. 42-R1679

1. APPLICATION FOR (Check only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: I have several ornamental pheasants for 7 years. I have several ~~ornamental~~ pheasants and have been raising extra to sell with the endangered species would offset the endangered species would offset the enclosure and time. I stopped raising young of other birds. Now I wanted like to start raising and selling young of these birds to help pay my yearly bill. I do this you help and if I cannot sell my young to help pay my yearly bill, I cannot afford to keep the birds.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Thomas J. Sims
3169 McCorkendale Rd.
Caledonia, New York 14423
716-538-4455

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

☒ MR. ☐ MRS. ☐ MISS ☐ MS.	HEIGHT 5'9"	WEIGHT 150
DATE OF BIRTH 3-17-37	COLOR HAIR Brown	COLOR EYES Brown
PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER 132-28-9802	
OCCUPATION Rochester Telephone Corp. Installer-Repairman		

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
3165 McCorkendale Rd.
Caledonia, N.Y. 14423

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit number)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ NO, ☐ YES
(If yes, list jurisdictions and type of document) I have a New York State permit & researches birds though I understand it's in process for a license & permit for CSSP

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF

10. DESIRED EFFECTIVE DATE: Sept. 1, 1977

11. DURATION NEEDED: 2 years

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.33 1, 2, 3, 4, 5, 6, 7

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (Do not stamp) Thomas J Sims
DATE 7/25/77

3-200 (6/74) GPO 885-042

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(1) Pheasant Bar-tailed Syrmaticus humiae
" Swinhoe Lophura Swinhoii
" Elliot Syrmaticus ellioti

(2) Pens are 10 ft. x 20 ft. With a 10 ft. by 4 ft. solid shelter on west end.



also equipped with automatic waterers

(3) I have been raising Swinhoe and Elliot pheasants for 17 years. Bar-tailed about 10 years.

Until the endangered species act went into effect I raised about 125 young each year of these breeds. I stopped raising young at that time as due to the restrictions I could not sell my young and I could not afford to feed that many birds and I would have run out of pen space. Now with the CSSP I will be able to sell the young to help toward the feed bill so I have once again started hatching young. Though I have been raising ornamental pheasants for 17 years; my wife has over 30 years experience as her father has raised these birds for at least that long, and it has become a combined family hobby.

(4) I am willing to cooperate in any way possible to insure the survival of endangered or threatened Species.

(5) I use wire bound wooden crates with padded tops for transportation. They are equipped with containers for feed and water. I have always used these for shipping and have never had any trouble.

(6) The first year the endangered species act went into effect I lost my young due to crowded conditions and fighting. This happened because I did not feel I should sell the young without permits which at that time were impossible to get. Other than that I've only lost birds due to old age.

(7) It is my opinion the only way any species of ornamental pheasants will survive is through captive propagation. There are many people like myself who do this as a hobby, but we must be able to sell our young to help pay feed bills and pay for pen repairs; also to obtain new blood lines if something should happen to one of our breeding pairs.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1247-25; please refer to this number when submitting comments. All relevant comments received on or before October 3, 1977, will be considered.

Dated: August 30, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-25635 Filed 9-1-77;8:45 am]

National Park Service

GOLDEN GATE NATIONAL RECREATION AREA ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Advisory Commission will be held at 9:30 a.m. (PDT) on Saturday morning, September 24, 1977 at the Fort Mason Visitor Center, Golden Gate National Recreation Area Headquarters, San Francisco, California.

The Advisory Commission was established by Public Law 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service system in Marin and San Francisco counties.

Members of the Advisory Commission are as follows:

Mr. Frank Boerger, *Chairman*
Ms. Amy Meyer, *Secretary*
Mr. Ernest Ayala
Mr. Richard Bartke
Mr. Fred Blumberg
Ms. Daphne Greene
Mr. Peter Haas, Sr.
Mr. John Jacobs
Ms. Ginnny Park Li
Mr. Joseph Mendoza
Mr. John Mitchell
Mr. Merritt Robinson
Mr. Jack Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

The major item on the agenda will be briefings by National Park Service staff to update the Advisory Commission on the current status of the Golden Gate National Recreation Area.

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact Jerry L. Schober, Acting General Manager, Bay Area National Parks, Fort Mason, San Francisco, Calif. 94123, telephone 415-556-2920.

Minutes of the meeting will be available for public inspection by October 28, 1977 in the Office of the General Manager, Bay Area National Parks, Fort Mason, San Francisco, Calif.

Dated: August 25, 1977.

BRUCE M. KILGORE,
Acting Regional Director, Western Region.

[FR Doc.77-25077 Filed 9-1-77 8:45am]

Office of the Secretary

[INT FES 77-36]

PROPOSED ALUNITE PROJECT IN BEAVER COUNTY, UTAH

Availabilty of Final Environmental Impact Statement

Pursuant to Section 102(2) (c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental impact statement for a proposed Alunite mining and processing plant in Beaver County, Utah. The environmental impact statment considers the possible effects the proposed construction and operation of an Alunite processing plant, open-pit mine, water system, transportation system, and employment of approximately 1,000 people would have on the environment.

The final environmental impact statement has been submitted to the Council on Environmental Quality and made available to government agencies and the public.

Copies of the final statement are available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C. 20240.
Utah State Office, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.
Cedar City District Office, 1579 North Main St., Cedar City, Utah 84720.
Cedar City Public Library, 136 West Center St., Cedar City, Utah 84720.
Milford City Office, 55 West 400 South, Milford, Utah 84751.
County Recorder's Office, Beaver County Courthouse, Beaver, Utah 84713.

A limited number of single copies of the final statement are available upon request to the District Manager, Cedar City District, Bureau of Land Management, P.O. Box 729, 1579 North Main St., Cedar City, Utah 84720.

GEORGE L. TURCOTT,
Associate Director, Bureau of Land Management.

Approved: June 20, 1977.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

AUGUST 31, 1977.

[FR Doc.77-25764 Filed 9-1-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

TELEVISION RECEIVERS FROM JAPAN

Termination of Preliminary Investigation

Notice is hereby given that—(1) The United States International Trade Commission instituted this preliminary investigation on March 26, 1976, pursuant to section 603 of the Trade Act of 1974 (19 U.S.C. 2482) to determine whether to institute an investigation under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337). A Notice of Preliminary Investigation was published in the FEDERAL REGISTER on April 8, 1976 (41 FR 14949), and on December 20, 1976, the preliminary investigation was suspended pending further notice of the Commission (41 FR 55949, December 23, 1976). This Commission has given careful consideration to this preliminary investigation on the basis of the most efficient allocation of Commission resources, the public interest, and recent developments with respect to the importation of these articles. As a result of such consideration, the Commission hereby terminates this preliminary investigation.

(2) The Commission hereby quashes the subpoenas of September 10, 1976, issued under the authority of this preliminary investigation. Further, all motions pending before the Commission in this preliminary investigation are hereby denied as moot. The Commission makes no determination at this time as to whether to institute an investigation under section 337.

By order of the Commission.

Issued: August 29, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-25630 Filed 9-1-77;8:45 am]

LEGAL SERVICES CORPORATION

BOARD OF DIRECTORS; COMMITTEE ON REGULATIONS

Meeting

The next meeting of the Committee on Regulations of the Legal Services Corporation Board of Directors will be held on Wednesday, September 14, 1977, at the O'Hare Hilton, Chicago, Ill.

The meeting will begin at 9:30 a.m. and will be for the purpose of considering proposed regulations implementing the Government in the Sunshine Act, amendments to the ByLaws of the Legal Services Corporation, and such other business as may arise.

The meeting is open to the public.

THOMAS EHRLICH,
President.

[FR Doc.77-25809 Filed 9-1-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1358]

OREGON

Declaration of Disaster Loan Area

All counties in the State of Oregon constitute a disaster area as a result of drought caused by severe crop losses during the 1976 crop year and continuing into the 1977 crop year, and dry wells.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 14, 1977, and for economic injury until the close of business on May 12, 1978, at:

Small Business Administration, District Office, Federal Building—Room 676, 1220 SW. Third Avenue, Portland, Oreg. 97204.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 12, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-25681 Filed 9-1-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[No. 470]

ASSIGNMENT OF HEARINGS

AUGUST 30, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified

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of cancellation or postponements of hearings in which they are interested.

MC 140845 (Sub-No. 4), Hoke Bus Lines, Inc., now assigned October 17, 1977, at Lima, Ohio, will be held in Court Room 3, 4th Floor, U.S. Courthouse, Corner of North & Main Street. No 36647, McComas Truck Lines, Inc. and Metal Spand, Inc.—Investigation of Practices now being assigned November 29, 1977 (2 days), at Dallas, Tex., in a hearing room to be later designated.

MC 124947 (Sub-No. 55), Machinery Transports, Inc., now being assigned December 1, 1977 (2 days), at Dallas, Tex. in a hearing room to be later designated.

AB 12 (Sub-No. 20), Southern Pacific Transportation Co.—Abandonment of Its Line of Railroad—In Victoria, Goliad, Bee, San Patricio, Jim Wells, Brooks, and Hidalgo Counties, Tex., FD 28078 Southern Pacific Transportation Co.—Construction and Operation Between Lines of Missouri Pacific Railroad Co. and the Texas Mexican Railway Co. at Robstown, Nueces County, Tex., and FD 28024, Southern Pacific Transportation Co.—Trackage Rights—Over Missouri Pacific Railroad Company Between Harlingen and Placedo, in Cameron and Victoria Counties, Tex., now being assigned December 5, 1977 (1 week), at Goliad, Tex., in a hearing room to be later designated.

MC 132789, Wetco, Inc., d.b.a. Key Limousine, now assigned October 3, 1977, at Salt Lake City, Utah, is postponed indefinitely.

MC 2890 (Sub-No. 51), American Bus Lines, Inc., now assigned September 13, 1977, at Chicago, Ill. is cancelled and application dismissed.

MC 109780 (Sub-No. 72), Continental Trailways, Inc., now assigned September 13, 1977, at Chicago, Ill., is cancelled and application dismissed.

AB 43 (Sub-No. 27), Illinois Central Gulf Railroad Co., Abandonment Between Seely and Mande in Williamson County, Ill., and FD 28360, American Rail Heritage, Ltd.—Acquisition and Operation—Over The Illinois Central Gulf Railroad Co., Located in Williamson County, Ill., now being assigned November 7, 1977 (1 week), at Marion, Ill., in a hearing room to be later designated.

MC 119792 (Sub-No. 61), Chicago Southern Transportation Co., now being assigned November 3, 1977 (2 days), at St. Louis, Mo., in a hearing room to be later designated.

MC 140612 (Sub-No. 19), Robert F. Kazimour, now being assigned November 2, 1977 (1 day), at St. Louis, Mo., in a hearing room to be later designated.

MC 134477 (Sub-No. 169), Schanno Transportation, Inc., now being assigned December 7, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 138308 (Sub-No. 22), KLM, Inc., now being assigned December 1, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 1838 (Sub-No. 11), S & K Trans, Inc., now being assigned November 8, 1977, for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 27817 (Sub-No. 129), H. C. Gabler, Inc., now being assigned November 17, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.

No. 36580, Oilfield Pipe or Tubing, Colorado to Points in the Southwest, now assigned September 7, 1977, at Dallas, Tex., is postponed indefinitely.

No. 36615, Burlington Northern, Inc., Chicago, Rock Island & Pacific Railroad Co., & Union Pacific Railroad Co.—Investigation of Freight Service Colorado Points, now assigned September 8, 1977, at Washington, D.C., is postponed indefinitely.

MC 8964 (Sub-No. 32), Witte Transportation Co., now assigned November 1, 1977, at St. Paul, Minn., is postponed indefinitely.

MC 138635 (Sub-No. 32), Carolina Western Express, Inc., now assigned October 17, 1977, at San Francisco, Calif., will be held in Room 510, 211 Main Street.

AB 12 (Sub-No. 45), Southern Pacific Transportation Co., Abandonment between Biola Junction & Biola, in Fresno County, Calif., now assigned October 12, 1977, at Fresno, Calif., will be held in Fresno Chamber of Commerce, 2331 Fresno Street.

MC 2900 (Sub-No. 298), Ryder Truck Lines, Inc., now assigned October 12, 1977, at Atlanta, Ga., is canceled and application dismissed.

MC 112304 (Sub-No. 118), Ace Doran Hauling & Rigging Co., now being assigned November 15, 1977, for hearing at Interstate Commerce Commission in Washington, D.C.

MC 125018 (Sub-No. 4), Tennessee Truck Lines, Inc., now being assigned November 15, 1977, for hearing at Interstate Commerce Commission in Washington, D.C.

MC 136786 (Sub-No. 113), Robco Transportation, Inc., now being assigned November 29, 1977, for prehearing conference at Interstate Commerce Commission in Washington, D.C.

MC 117119 (Sub-No. 626), Willis Shaw Frozen Express, Inc., now being assigned November 30, 1977, for hearing at Interstate Commerce Commission in Washington, D.C.

MC 113678 (Sub-No. 649), Curtis, Inc., now being assigned December 6, 1977, for hearing at Interstate Commerce Commission in Washington, D.C.

No. 36500, Burt M. Gifford, Et. al. v. Ringsby Truck Lines, Inc., and No. 36613, Bob E. Courtney, Et. al. v. Ringsby Truck Lines, Inc., now being assigned November 2, 1977 (3 days), at Boise, Idaho, in a hearing room to be later designated.

MC 139495 (Sub.-No. 200), National Carriers, Inc., now being assigned November 7, 1977 (1 day), at Denver, Colo., in a hearing room to be later designated.

MC 85465 (Sub-No. 61), West Nebraska Express, Inc., now being assigned November 8, 1977 (1 day), at Denver, Colo., in a hearing room to be later designated.

MC 83835 (Sub-No. 143), Wales Transportation, Inc., now being assigned November 9, 1977 (1 day), at Denver, Colo., in a hearing room to be later designated.

MC 113678 (Sub-No. 669), Curtis, Inc., now being assigned November 14, 1977 (2 days), at Denver, Colo., in a hearing room to be later designated.

MC 113678 (Sub-No. 654), Curtis, Inc., now being assigned November 10, 1977 (2 days), at Denver, Colo., in a hearing room to be later designated.

MC 129387 (Sub-No. 31), Payne Transportation, Inc., now being assigned November 16, 1977 (3 days), at Denver, Colo., in a hearing room to be later designated.

MC 125519 (Sub-No. 4), Ralph Moyle, Inc., now being assigned November 15, 1977 (1 day), at Chicago, Ill., in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-25722 Filed 9-1-77;8:45 am]

[Exemption No. 122; Amdt. 7]

BALTIMORE AND OHIO RAILROAD CO. ET AL.

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

To: The Baltimore and Ohio Railroad Co.
The Chesapeake and Ohio Railway Co.
Consolidated Rail Corp.
Western Maryland Railway Co.

Upon further consideration of Exemption No. 122 issued April 2, 1976.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 122 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to *expire November 30, 1977.*

This amendment shall become effective August 31, 1977.

Issued at Washington, D.C., August 23, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-25718 Filed 9-1-77;8:45 am]

[EXEMPTION NO. 134; Amdt. 1]

CONSOLIDATED RAIL CORP. AND MISSOURI-KANSAS-TEXAS RAILROAD CO.

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

To: Consolidated Rail Corp.
Missouri-Kansas-Texas Railroad Co.

Upon further consideration of Exemption No. 134 issued March 14, 1977.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 134 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to *expire February 28, 1978.*

This amendment shall become effective August 31, 1977.

Issued at Washington, D.C., August 23, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-25720 Filed 9-1-77;8:45 am]

DETROIT, TOLEDO, AND IRONTON RAILROAD CO. AND NORFLOK AND WESTERN RAILWAY CO.

[Revised Exemption No. 111; Amdt. 2]

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

To: The Detroit, Toledo and Ironton Railroad Co. Norfolk and Western Railway Co.

Upon further consideration of Revised Exemption No. 111 issued December 9, 1976.

It is ordered, That, under authority vested in me by Car Service Rule 19, Revised Exemption No. 111 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to *expire November 30, 1977.*

This amendment shall become effective August 31, 1977.

Issued at Washington, D.C., August 23, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-25721 Filed 9-1-77;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

AUGUST 30, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43419—*Pipeline Rates—Petroleum Products from the Southwest.* Filed by Williams Pipe Line Company, (No. 9), for interested carriers. Rates on petroleum products, as described in the application, from specified points in Kansas and Oklahoma, to specified points in Missouri, Iowa, and Illinois.

Grounds for relief—Market and carrier competition.

Tariffs—Williams Pipe Line Company tariffs Nos. 4, 6, and 3-B, I.C.C. Nos. 5, 8, and 10, respectively. Rates are published to become effective on September 25, 1977.

FSA No. 43420—*Pipeline Rates—Liquid Fertilizers from the Southwest.* Filed by Williams Pipe Line Company, (No. 10). Rates on liquid fertilizers, as described in the application, from Verdigris (Tulsa), Oklahoma, to Jordan and Greenwood, Indiana, the intermediate points; Dublin, Indiana, the end destination.

Grounds for relief—Motor-water competition.

Tariff—Williams Pipe Line Company tariff No. 7, I.C.C. No. 9. Rates are published to become effective on September 28, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-25723 Filed 9-1-77;8:45 am]

[Exemption No. 116; Amdt. 7]

GRAND TRUNK WESTERN RAILROAD CO. AND NORFOLK AND WESTERN RAILWAY CO.

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

To: Grand Trunk Western Railroad Co.
Norfolk and Western Railway Co.

Upon further consideration of Exemption No. 116 issued March 8, 1976.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 116 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to *expire November 30, 1977.*

This amendment shall become effective August 31, 1977.

Issued at Washington, D.C., August 23, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc 77-25719 Filed 9-1-77;8:45 am]

[No. 36629]

LOUISIANA INTRASTATE TRAFFIC

Demurrage and Storage Charges

In the matter of petition for investigation of demurrage and storage rates and charges within the State of Louisiana.

Petitioners, 15 class I common carriers by railroad [1] subject to Part I of the Interstate Commerce Act and also operating in intrastate commerce in the state of Louisiana, filed a joint petition under section 13(3) of the Interstate Commerce Act on July 11, 1977, requesting that this Commission institute an investigation of Louisiana intrastate demurrage and storage rules, classifications, regulations and practices affecting demurrage and storage rates and charges, under sections 1(6), 13 and 15a of the Interstate Commerce Act, in which petitioners will seek to increase the demurrage and storage rates and charges on Louisiana intrastate freight traffic to those now in effect on interstate freight traffic by changing intrastate storage rules and free time for loading. The proposed results would conform to J. F. Doyle Freight Tariff 4-J.

[1] The Alabama Great Southern Railroad Company, The Arkansas & Louisiana Missouri Railway Company, Chicago Rock Island and Pacific Railroad Company, The Atchison, Topeka and Santa Fe Railway Company, Illinois Central Gulf Railroad Company, The Kansas City Southern Railway Company, Louisiana & Arkansas Railway Company, Louisiana Southern Railway Company, Louisville and Nashville Railroad Company, Missouri Pacific Railroad Company, New Orleans & Lower Coast Railroad Company, New Orleans Terminal Company, St. Louis Southwestern Railway Company, Southern Pacific Transportation Company, and Tremont & Gulf Railway Company.

Petitioners sought the changes in intrastate storage rates in an application filed October 5, 1976, with the Louisiana Public Service Commission. A hearing was held on February 15, 1977, and the application denied on April 27, 1977. Petitioners also sought the changes in demurrage rules for free time by application filed August 27, 1976, with the Louisiana Public Service Commission. A hearing was held on January 20, 1977, and the application denied March 25, 1977. A request for rehearing was denied April 27, 1977. No final action was taken by the State commission within 120 days of the filing of either application.

Petitioners contend that present interstate rail demurrage and storage rates and charges from, to, and within Louisiana are just and reasonable and that the proposed intrastate rates and charges will not exceed a just and reasonable level; that transportation conditions for intrastate traffic in Louisiana are not more favorable than for interstate traffic; that traffic moving subject to present Louisiana intrastate rail demurrage and storage rates and charges fails to provide its fair share of earnings; and that the present Louisiana intrastate rail demurrage and storage charges create undue and unreasonable advantage, preference, and prejudice between persons and localities in intrastate commerce within Louisiana and interstate and foreign commerce, and result in undue, unreasonable, and unjust discrimination against and an undue burden on interstate commerce in violation of sections 13 and 15a of the Interstate Commerce Act, among others, to the extent that they do not conform to those applicable to interstate commerce, as published in J. F. Doyle Freight Tariff 4-J.

Under sections 13(4) and 13(5) of the Interstate Commerce Act, this Commission is directed to institute an investigation into the lawfulness of intrastate rail freight rates and charges, upon filing of a petition by the railroads pursuant to section 13(3) of the Act, after the appropriate State agency has failed to take final action within 120 days after a carrier by railroad has filed with such appropriate State body a change in an intrastate rate, fare, or charge, or a change in a classification, regulation, or practice that has the effect of changing such a rate, fare or charge, for the purpose of adjusting such rate, fare or charge to the rate charged on similar traffic in interstate or foreign commerce. This Commission may act notwithstanding the laws or constitution of any State, or the pendency of any proceeding before any State court or other State authority. The failure of the Public Service Commission of the State of Louisiana to act finally within 120 days of the filing by petitioners of their applications vested exclusive authority in this Commission.

Wherefore, and good cause appearing therefor:

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It is ordered, That the petition be, and it is, hereby granted; and that an investigation, under sections 13 and 15a of the Interstate Commerce Act, be, and it is, hereby instituted to determine whether the Louisiana intrastate rail demurrage and storage rates and charges in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantage, preference, or prejudice as between interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to conform to those applicable to interstate commerce, as published in J. F. Doyle Freight Tariff 4–J; and to determine if any rates, charges, classifications, regulations or practices shall be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

It is further ordered, That all common carriers by railroad operating in the State of Louisiana subject to the jurisdiction of this Commission, be, and they are, hereby made respondents in this proceeding.

It is further ordered, That all persons who wish to participate actively in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before September 19, 1977. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. The Commission desires participation of only those who intend to take an active part in the proceeding.

It is further ordered, That as soon as practicable after the date of indicating a desire to participate in the proceeding has passed, the Commission will serve a list of names and addresses of all persons upon whom service of all pleadings must be made and that thereafter this proceeding will be assigned for oral hearing or handling under modified procedure.

And it is further ordered, That a copy of this order be served upon each of the petitioners and respondents herein; that the State of Louisiana be notified of the proceeding by sending copies of this order and of the instant petition by certified mail to the Governor of the State of Louisiana and the Louisiana Public Service Commission; and that further notice of this proceeding be given to the public by depositing a copy of this order in the Office of the Secretary of the Interstate Commerce Commission, at Washington, D.C., and by filing a copy with the Director, Office of the FEDERAL REGISTER, for publication in the FEDERAL REGISTER.

This is not a major Federal Action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 23rd day of August 1977.

By the Commission, Commissioner Murphy.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-25717 Filed 9-1-77;8:45 am]

[No. 36638]

OREGON INTRASTATE FREIGHT RATES AND CHARGES—1977

Petition for Investigation

By the joint petition authorized under section 13(3) of the Interstate Commerce Act, filed July 22, 1977, petitioners, three common carriers by railroad[1] subject to Part I of the Interstate Commerce Act, and also operating in intrastate commerce in the State of Oregon, request that this Commission institute an investigation of their Oregon intrastate freight rates and charges, under sections 13 and 15(a) of the Interstate Commerce Act, wherein they will seek an order authorizing them to increase such rates and charges in the same amounts authorized for interstate application by this Commission in Ex Parte No. 330, Increased Freight Rates—West and Interterritorial 1976, and Ex Parte No. 336, Increased Freight Rates and Charges—1977.

By tariff filed on December 8, 1976, with the Public Utility Commissioner of Oregon, petitioners sought to make the increase granted in Ex Parte No. 330, supra, applicable on Oregon intrastate traffic, effective on January 13, 1977. On January 12, 1977, said Commissioner denied the increase to petitioners. The tariff was suspended until May 12, 1977, and its suspension was renewed until November 12, 1977.

By tariff filed on January 31, 1977, with said Commissioner, petitioners sought to make the increase granted in Ex Parte No. 336, supra, applicable on Oregon intrastate traffic, effective on March 8, 1977. On February 18, 1977, said Commissioner denied the increase to petitioners. The tariff was suspended until July 6, 1977, and its suspension renewed until January 6, 1978.

Petitioners contend that present interstate freight rates from, to, and within Oregon are just and reasonable and that the proposed intrastate rates will not exceed a just and reasonable level; that transportation conditions for intrastate traffic in Oregon are not more favorable than for interstate traffic; that traffic moving under present Oregon intrastate rail freight rates and charges fails to provide its fair share of earnings; and, that the present Oregon intrastate rail freight rates and charges create undue and unreasonable advantage, preference, and prejudice between persons and localities in intrastate commerce within Oregon and interstate and foreign commerce, and result in undue, unreasonable, and unjust discrimination against and an undue burden on interstate commerce in violation of sections 13 and 15(a) of the Interstate Commerce Act, among others, to the extent that they do not include the increases authorized in Ex Parte No. 330, supra, and Ex Parte No. 336, supra.

Under sections 13(4) and 13(5) of the Interstate Commerce Act, this Commission is directed to institute an investigation into the lawfulness of intrastate rail freight rates and charges, upon filing of a petition by a carrier by railroad pursuant to section 13(3) of the act, after the appropriate State agency has reached a final decision or has failed to act within 120 days after a carrier by railroad has filed with such appropriate State body, a change in an intrastate rate, fare, or charge for the purpose of adjusting such rate, fare, or charge to the rate charged on similar traffic moving in interstate or foreign commerce. This Commission may act notwithstanding the laws or constitution of any State, or the pendency of any proceeding before any State court or other State authority.

Wherefore, and good cause appearing therefor:

It is ordered, That the petition be, and it is, hereby granted; and that an investigation under sections 13 and 15(a) of the Interstate Commerce Act be, and it is, hereby instituted to determine whether the Oregon intrastate rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantage, preference, or prejudice as between interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 330, supra, and Ex Parte No. 336, supra; and to determine if any rates or charges, or maximum or minimum charges, or both, shall be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

It is further ordered, That all common carriers by railroad operating in the State of Oregon subject to the jurisdiction of this Commission, be, and they are, hereby made respondents in this proceeding.

It is further ordered, That all persons who wish to actively participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before September 19, 1977. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. The Commission desires participation of only those who intend to take an active part in the proceeding.

It is further ordered, That as soon as practicable after the date of indicating a desire to participate in the proceeding

[1] Burlington Northern, Inc., Oregon Electric Railway Company, and Oregon Trunk Railway Company.

has passed, the Commission will serve a list of names and addresses of all persons upon whom service of all pleadings must be made and that thereafter this proceeding will be assigned for oral hearing or handling under modified procedure.

And it is further ordered, That a copy of this order be served upon each of the petitioners and respondents herein; that the State of Oregon be notified of the proceeding by sending copies of this order of the instant petition by certified mail to the Governor of the State of Oregon and the Public Utility Commissioner of Oregon; and that further notice of this proceeding be given to the public by depositing a copy of this order in the Office of the Secretary of the Interstate Commerce Commission, at Washington, D.C., and by filing a copy with the Director, Office of the FEDERAL REGISTER, for publication in the FEDERAL REGISTER.

NOTE.—This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 24th day of August 1977.

By the Commission, Commissioner Murphy.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-25724 Filed 9-11-77;8:45 am]

[Section 5a Appl. No. 46 (Amdt. 12); and Appl. 49]

SOUTHERN MOTOR CARRIERS RATE CONFERENCE, INC. AND CENTRAL AND SOUTHERN MOTOR FREIGHT TARIFF ASSOCIATION, INC.

Agreement and Notice

AUGUST 25, 1977.

The Commission is in receipt of a joint application for and on behalf of the motor carriers party to the above-entitled agreements for approval of a revised agreement.

Filed August 15, 1977 by:

M. M. Gordon, President, Central and Southern Motor Freight Tariff Assn. Inc., 2722 Crittenden Drive, Louisville, Ky. 40209.
Forrest M. Durrett, President, Southern Motor Carriers Rate Conference, Inc., 1307 Peachtree St., N.E., Atlanta, Ga. 30309.

Of Counsel:

Sol I. Golden, Arnall, Golden and Gregory, Tenth Floor Sutton Federal Bldg., Atlanta, Ga. 30303.
Homer S. Carpenter, Rice, Carpenter and Carraway, 1600 Wilson Blvd., Arlington, Va. 22209.
John Womack, Central and Southern Motor Freight Tariff Association, Inc., P.O. Box 21339, Louisville, Ky. 40209.

The application involves: Proposed merger of the Central and Southern Motor Freight Tariff Association, Inc. into the Southern Motor Carriers Rate Conference, Inc., under revised organization and procedures and broadened territorial scope to encompass rates between southern and central territories; changes to comply with the standards promulgated in Ex Parte No. 297, 349 I.C.C. 811 and 351 I.C.C. 437; and petition for termination of approval in Section 5a Application No. 49, Central and Southern Motor Freight Tariff Association, Inc.—Agreement, upon approval of the revised agreement.

The complete application may be inspected at the Office of the Commission, in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing on or before October 3, 1977. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application, without further or formal hearing.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-25716 Filed 9-1-77;8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern Time), Tuesday, September 6, 1977.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Open to the public.

MATTER TO BE CONSIDERED:

A proposed time-phased plan for implementation of new compliance and litigation procedures in all EEOC field offices.

NOTE: Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at (202-634-6748).

This notice Issued August 30, 1977.

[S-1217-77; Filed 8-30-77;3:08 pm]

2

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, No. 166, Friday, August 26, 1977, page 43175.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Wednesday, Augst 31, 1977, at the conclusion of the open meeting to be held at 9:00 a.m.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall (202-376-3012).

CHANGE IN THE MEETING: The following item has been withdrawn from the agenda for the closed meeting:

Application for Permission to Organize a Federal Association.
No. 65, August 31, 1977.

[S-1226-77; Filed 8-31-77;11:22 am]

3

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., September 6, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall (202-376-3012).

MATTERS TO BE CONSIDERED:

EFTS-RSU Application—First Federal Savings and Loan Association of Madison, Madison, Wis.

RSU Application—"YES" Systems, First National Bank of Chicago, Chicago, Ill.

Branch Office Application and Redesignation of Existing Home Office as a Branch Office—Guaranty Federal Savings and Loan Association of Wyandotte, Wyandotte, Mich.

Consideration of Amendments relating to Loans in Excess of 80% of Value; Deletion of References to Charter E. and Charter K.

Application for Modifications of Conditions Approving Membership and Insurance for First Southern Savings and Loan Association, Nashville, Tenn.

Service Corporation Activity Application—HONOFED Corporation, Honolulu, Hawaii, a wholly-owned Service Corporation of Honolulu Federal Savings and Loan Association, Honolulu, Hawaii.

Limited Facility Application—Franklin Society Federal Savings and Loan Association, New York, N.Y.

Service Corporation Activity — Washington Federal Savings and Loan Association of Miami Beach, Miami Beach, Fla.

RSU Applications—Cleveland Federal Savings and Loan Association of Cuyahoga County, Cleveland, Ohio and Cardinal Federal Savings and Loan Association, Cleveland, Ohio.

Application for Permission to Organize a Federal Savings and Loan Association—Jackie O. Isom, et al., Hamilton, Ala. No. 66, August 31, 1977.

[S-1227-77; Filed 8-31-77;11:22 am]

FEDERAL POWER COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: pub. 8/29/77 42 FR 43473.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., August 31, 1977.

CHANGE IN THE MEETING: The following items have been added:

Item No., and Docket No., and Company

P-8.—ER77-530, Ohio Edison Company.
P-9.—Project No. 2130—California, Pacific Gas and Electric Company.
P-10.—Project No. 2105—California, Pacific Gas and Electric Company.
P-11.—Project No. 2107—California, Pacific Gas and Electric Company.
P-12.—Project No. 2079—California, Placer County Water Agency.
P-13.—Applications for Modification of Streamflow and Reservoir Regulation at Licensed Hydroelectric Projects.
G-10.—CP77-399, Mid Louisiana Gas Company, CP77-430, Texas Eastern Transmission Corporation. CP77-469, Transcontinental Gas Pipe Line Corporation.

KENNETH F. PLUMB,
Secretary.

[S-1212-77; Filed 8-30-77;3:46 pm]

5

FEDERAL POWER COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: pub. 82977 42 FR 43473.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., August 31, 1977.

CHANGE IN THE MEETING: The following item has been added:

Item No., and Docket No. and Company

G-12.—CP77-547, Transcontinental Gas Pipe Line Corporation.

KENNETH F. PLUMB,
Secretary.

[S-1222-77; Filed 8-31-77;8:55 am]

6

FEDERAL RESERVE SYSTEM.

Correction

In FR Doc. 77-1175 appearing on page 43176 in the issue of Friday, August 26, 1977, the following changes should be made in the middle column of this page:

1. In the first line, "of Regulation 2" should read "of Regulation Z".
2. In the first and second lines of paragraph 3., "Regulation R" should read "Regulation H", and in the sixth line of this same paragraph 3., "fle" should read "file".

7

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., September 8, 1977.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

PORTION OF THE MEETING OPEN TO THE PUBLIC:

Docket 182, *Fort Sill Apache.*
Docket 229, *Navajo.*
FY 1979 Budget Submission to OMB (reflecting termination of Commission on September 30, 1978).

PORTION OF THE MEETING CLOSED TO THE PUBLIC: Personnel.

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006. Tel. (202-653-6174).

[S-1215-77; Filed 8-30-77;2:46 pm]

8

INTER-AMERICAN FOUNDATION.

TIME AND DATE: 6:30 p.m.-10 p.m., September 15, 1977.

PLACE: Board Room, Inter-American Foundation, 1515 Wilson Blvd., Rosslyn, Va. 22209.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of May 5, 1977 Board of Directors meeting.
2. Consideration of financial report.
3. Project funding portfolio review.
4. Consideration of project proposals.

CONTACT PERSON FOR MORE INFORMATION:

Hugh B. Key (841-3812).

[S-1216-77; Filed 8-30-77;2:46 pm]

9

INTERSTATE COMMERCE COMMISSION.

AUGUST 30, 1977.

TIME AND DATE: 9:30 a.m., Tuesday, September 6, 1977.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Open regular conference.

MATTERS TO BE CONSIDERED:

1. *Motor Carrier Task Force Recommendation 22:* Standards for determining appeals. (General discussion. A final vote is not contemplated).
2. *Motor Carrier Task Force Recommendation 28:* Name changes of carriers and shippers. (A more detailed staff proposal will be circulated prior to the conference. A final vote may be taken).
3. *Motor Carrier Task Force Recommendation 31:* Time limits in rulemaking proceedings. (General discussion. A final vote is not contemplated).

CONTACT PERSON FOR MORE INFORMATION:

Office of Information and Consumer Affairs, Douglas Baldwin, Director, Telephone: (202-275-7252).

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-1223-77; Filed 8-31-77;8:55 am]

10

INTERSTATE COMMERCE COMMISSION.

AUGUST 30, 1977.

TIME AND DATE: 2:30 p.m., Tuesday, September 6, 1977.

PLACE: Room 5124, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Notice of open meeting.

MATTER TO BE CONSIDERED:

Division 3, Division Chairman Brown and Commissioners MacFarland and Christian voted unanimously to hold a meeting to consider the following agenda:

1. Review of present Division workload.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Hildred Hersman, Confidential Assistant to Commissioner Brown, telephone: (202-275-7535).

[S-1224-77; Filed 8-31-77;8:55 am]

11

THE RENEGOTIATION BOARD.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 41213, August 15, 1977.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Wednesday, September 7, 1977, 10 a.m.

CHANGES IN MEETING: Item 8 is added to the previously announced agenda.

MATTER TO BE CONSIDERED:

Board Meeting Concerning: AMF Incorporated (Formerly American Machine & Foundry Company). Consolidated with: AMF Beaird, Inc., W. J. Voit Rubber Corporation, The Cuno Engineering Corporation. Fiscal Year Ended December 31, 1968.

STATUS: Open to the public.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., (202-254-8277).

Dated: August 30, 1977.

GOODWIN CHASE,
Chairman.

[S-1213-77; Filed 8-30-77;2:46 pm]

12

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of September 5, 1977, Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Wednesday, September 7, 1977, at 10 a.m. An open meeting will be held on Thursday, September 8, 1977, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)A and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Chairman Williams, Commissioners Loomis, Evans, and Pollack determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Wednesday, September 7, 1977, at 10 a.m. will be:

Formal orders of investigation.

Referral of investigative files to Federal, State or Self Regulatory authorities.

Institution of administrative proceedings.

Institution of injunctive actions.

Matters relating to issuer registration statements.

Regulatory matters arising from or bearing enforcement implications.

Other litigation matters.

The subject matter of the open meeting scheduled for Thursday, September 8, 1977, at 10 a.m. will be:

1. The transmittal to Congress of a legislative proposal to implement the Commission's recommendations in its Final Report on Bank Securities Activities.

2. Request for hearing received on the application of The Vanguard Group, Inc. and the Vanguard Funds for an order which would permit the investment companies to assume the responsibility for and the expenses of the distribution of their shares.

3. Proposal by the Municipal Securities Rulemaking Board (MSRB) to adopt MSRB Rule G-12, which is intended to codify uniform industry practices for the

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processing, clearance, and settlement of transactions in municipal securities.

4. Proposal by the Municipal Securities Rulemaking Board (MSRB) to adopt MSRB Rule G–15, which would establish confirmation delivery and disclosure requirements for transactions in municipal securities.

5. Proposed adoption of Form SECO–4–77, which amends the annual assessment schedule for nonmember ("SECO") broker-dealers for fiscal year 1977.

6. Petition for Commission Review filed by The Valley Fair Corporation concerning the denial of the company's request for an extension of time to file an annual report for the fiscal year ended April 24, 1977.

7. Proposed adoption of amendments of Rules 5–02, 5–04, and 12–02 of Regulation S–X, which require more detailed disclosures by commercial and industrial companies of investments in marketable securities and other security investments.

8. Application filed by The Columbia Gas System, Inc. for an order to issue and sell short-term notes and commercial paper and request for hearing by the State of Ohio regarding this application.

9. Freedom of Information Act Appeal of Jack H. Taylor, Jr., concerning material excised from certain investigative opening and closing reports.

10. Proposed report to Senator Abourezk, responding to the questionnaire of the Senate Subcommittee on Administrative Practice and Procedure concerning the Commission's procedures for the waiver of fees under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT:

Lawrence A. Horn at (202–376–8065).

AUGUST 30, 1977.

[S–1225–77; Filed 8–31–77;9:44 am]

13

UNITED STATES INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 43474 8/29/77.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., September 6, 1977.

CHANGES IN THE MEETING: Item on the agenda expanded as follows: 6. Investigations AA1921–167 and –168 (Pressure-Sensitive Plastic Tape from Italy and West Germany)—approval of the report (if necessary).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, (202–523–0161).

[S–1219–77; Filed 8–30–77;3:30 pm]

14

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., September 13, 1977.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
5. Malleable cast-iron pipe and tube fittings (Inv. TA–201–25)—briefing by the staff.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary (202–523–0161).

[S–1218–77;Filed 8–30–77;3:30 pm]

15

CIVIL SERVICE COMMISSION.

TIME AND DATE OF MEETING: 9 a.m., September 6, 1977.

PLACE: Commissioners' Meeting Room, Room 5H09 (fifth floor), 1900 E Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Approval of proposed budget for fiscal year 1979.

CONTACT PERSON FOR MORE INFORMATION:

Georgia Metropulos, Office of the Executive Assistant to the Commissioners, 202–632–5556.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[S–1234–77; Filed 9–1–77;11:23 am]

federal register

FRIDAY, SEPTEMBER 2, 1977

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

NATIONAL FLOOD INSURANCE PROGRAM

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Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202—755–5581 or toll free line 800—424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 03, published on August 24, 1973 in 38 FR 22776, indicates that Lot 11, Block 4015, at 223 Brookside Avenue, Ridgewood, N.J., as recorded in Book 6021, Page 478, in the office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area. Map No. H 340067 Panel 03 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24732 Filed 9-1-77;8:45 am]

PART 1920—PROCEDURE FOR MAP CORRECTION

[Docket No. FI-196]

Letter of Map Amendment for the Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 01, published on August 24, 1973 in 38 FR 22776, indicates that Lot 14, Block 4605, at 552 Stevens Avenue, Ridgewood, N.J., as recorded in Book 5027, Page 363 through 366, in the office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area. Map No. H 340067 Panel 01 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area iedntified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24733 Filed 9-1-77;8:45 am]

[Docket No. FI-277]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Borough of Waldwick, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 9, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Borough of Waldwick, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Borough of Waldwick, New Jersey, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340078A Panel 02, published on January 9, 1974 in 39 FR 1433, indicates that Lot 19, Block 73G, located at 25 Malcolm Street, Waldwick, N.J., as recorded in Book 6165, Page 359, in the office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area. Map No. H 340078A Panel 02 is hereby corrected to reflect the existing structure on the above property is not within the Special Flood Hazard Area identified on January 9, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24734 Filed 9-1-77;8:45 am]

PART 1920—PROCEDURE FOR MAP CORRECTION

[Docket No. FI-297]

Letter of Map Amendment for the City of Mountain View, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 27, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Mountain View, Calif. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the City of Mountain View, Calif., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 060347A Panel 05, published on June 27, 1974, in 39 FR 23263, indicates that Lot 33, Montibello Acres, Mountain View, Calif., as recorded in Volume X of Maps, Pages 1 through 3, in the office of the Recorder of Santa Clara County, Calif., is within the Special Flood Hazard Area. Map No. H 060347A Panel 05 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on June 14, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24725 Filed 9-1-77;8:45 am]

[Docket No. FI-454]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Sacramento County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 28, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list includes Sacramento County, Calif. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for Sacramento County, Calif., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 060262 Panel 10, published on January 28, 1975, in 40 FR 4126, indicates that Parcel No. 1, Parcel No. 2 and Parcel No. 3, at 2545 Fulton Avenue, Sacramento County, Calif., as recorded in Book 69–10–01, Pages 280 through 282, in the office of the Recorder of Sacramento County, Calif., is within the Special Flood Hazard Area. Map No. H 060262 Panel 10 is hereby corrected to reflect that existing building Nos. 1 through 7 on the above property are not within the Special Flood Hazard Area identified on January 10, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24726 Filed 9-1-77;8:45 am]

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PART 1920—PROCEDURE FOR MAP CORRECTION

[Docket No. FI-685]

Letter of Map Amendment for the City of Camarillo, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On September 8, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Camarillo, Calif. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the City of Camarillo, Calif., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 065020A Panel 07, published on September 8, 1975 in 40 FR 41511, indicates that Lots 52 through 61, Tract 2417, Camarillo, Calif., as recorded in Book 68 of Miscellaneous Records (Maps), Pages 40 through 43, in the office of the Recorder of Ventura County, Calif., are within the Special Flood Hazard Area. Map No. H 065020A Panel 07 is hereby corrected to reflect the above property is not within the special Flood Hazard Area identified on July 19, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24723 Filed 9-1-77;8:45 am]

PART 1920—PROCEDURE FOR MAP CORRECTION

[Docket No. FI-755]

Letter of Map Amendment for the City of Oak Grove, Missouri

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On May 13, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Oak Grove, Mo. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the City of Oak Grove, Mo., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 290694 Panel 02, published on May 13, 1975 in 40 FR 20811, indicates that Lots 1 through 26, Royal Oak West, Oak Grove, Mo., as recorded in Book 35, Page 7, in the office of the Clerk and Recorder of Jackson County, Mo., are within the Special Flood Hazard Area. Map No. H 290694 Panel 02 is hereby corrected to reflect the above property is not within the special Flood Hazard Area identified on July 11, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24731 Filed 9-1-77;8:45 am]

PART 1920—PROCEDURE FOR MAP CORRECTION

[Docket No. FI-2252]

Letter of Map Amendment for the City of Huntington Beach, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1976, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Huntington Beach, Calif. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the City of Huntington Beach, Calif., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the

basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. N. 065034A Panel 12, published on August 24, 1976 in 41 FR 35709, indicates that Lots 1, 23, 24 and 27 through 33, Tract No. 8961 and Lots 7 through 10 and 20, Tract No. 8332, Huntington Beach, Calif., as recorded in Plat Book No. 388, Pages 11 through 13 and Plat Book No. 367, Pages 36 and 37, respectively, in the office of the Recorder of Orange County, Calif., are within the Special Flood Hazard Area. Map No. H 065034A Panel 12 is hereby corrected to reflect the existing structures on the above property are not within the Special Flood Hazard Area identified on August 9, 1974 and August 27, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24724 Filed 9-1-77;8:45 am]

PART 1920—PROCEDURE FOR MAP CORRECTION

[Docket No. FI-2291]

Letter of Map Amendment for the Town of Grove, Okla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On September 10, 1976, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Town of Grove, Okla. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Town of Grove, Okla., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 400385 Panels 03 and 05, published on September 10, 1976 in 41 FR 38501, indicate that Lots 1 through 10, Block 1; Lots 11 through 17, Block 2; Lots 1 through 11, Block 5; and Lots 2 through 10, and 13, Block 4, John Cox 1st Addition, Grove, Okla., as recorded in Book 263B, Pages 450 through 452, in the office of the Clerk of Delaware County, Okla., is within the Special Flood Hazard Area. Map No. H 400385 Panels 03 and 05 are hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on October 29, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24735 Filed 9-1-77;8:45 am]

PART 1920—PROCEDURE FOR MAP CORRECTION

[Docket No. FI-2600]

Letter of Map Amendment for the City of Arvada, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On February 14, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the city of Arvada, Colo. It has been determined by FIA, after further technical review of the Flood Insurance Rate Map for the city or Arvada, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H&I 085072A Panel 08, published on February 14, 1977 in 42 FR 9110, indicates that Lot 16, Block 1, Park View Subdivision, Arvada, Colo., as recorded in Book 22, Page 3, in the office of the Clerk and Recorder of Jefferson County, Colo., is within the Special Flood Hazard Area. Map No. H&I 085072A Panel 08 is hereby corrected to reflect that the existing structure on the above property is within Zone B and is not within the Special Flood Hazard Area identified on July 13, 1972.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24727 Filed 9-1-77;8:45 am]

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[Docket No. FI-2600]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Bedford, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On February 14, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the town of Bedford, Mass. It has been determined by FIA, after further technical review of the Flood Insurance Rate Map for the Town of Bedford, Mass., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H&I 255209A Panel 04, published on February 14, 1977 in 42 FR 9112, indicates that Lot 39, Woodmoor Acres, section III, located at 1 Winchester Drive, Bedford, Mass., as recorded in Book 10566, Page 250, in the Registry of Deeds, Southern District, of Middlesex County, Mass., is within the Special Flood Hazard Area. Map No. H&I 255209A Panel 04 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on September 7, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974.)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24728 Filed 9-1-77;8:45 am]

PART 1920—PROCEDURE FOR MAP CORRECTION

[Docket No. FI-2600]

Letter of Map Amendment for the Town of Bedford, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On February 14, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Town of Bedford, Mass. It has been determined by FIA, after further technical review of the Flood Insurance Rate Map for the town of Bedford, Mass., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H&I 255209A Panel $4, published on February 14, 1977 in 42 F.R. 9112, indicates that Lot 21, Woodmoor Acres, section II, located at 1 Woodmoor Drive, Bedford, Mass., as recorded in Book 10187, Page 46, in the Registry of Deeds, Southern District, of Middlesex, County Mass., is within the Special Flood Hazard Area. Map No. H&I 255209A Panel 04 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on September 7, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24729 Filed 9-1-77; 8:45 am]

[Docket No. FI-2600]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Bedford, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On February 14, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Town of Bedford, Mass. It has been determined by FIA, after further technical review of the Flood Insurance Rate Map for the Town of Bedford, Mass., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H&I 255209A Panel 04, published on February 14, 1977 in 42 FR 9112, indicates that Lot 35, Woodmoor Acres, Section III, located at 10 Fern Way, Bedford, Mass., as recorded in Book 10566, Page 250, in the Registry of Deeds, Southern District, of Middlesex County, Mass., is within the Special Flood Hazard Area. Map No. H&I 255209A Panel 04 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on September 7, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974))

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24730 Filed 9-1-77;8:45 am]

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federal register

FRIDAY, SEPTEMBER 2, 1977
PART III



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

NITRATES AND NITRITES IN POULTRY PRODUCTS

Statement of Policy; Request for Data

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 77N-0222]

NITRATES AND NITRITES IN POULTRY PRODUCTS

Statement of Policy; Request for Data

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs determines that nitrates and nitrites as currently used in manufacturing poultry products are food additives, and he establishes a program for obtaining information required to resolve definitively questions about their safe use. The agency will entertain requests for the issuance of interim food additive regulations authorizing the continued use of nitrates and nitrites in poultry products, if the requests are accompanied by a commitment to conduct testing to demonstrate (1) that the requested uses do not result in the formation of cancer-causing nitrosamines before the food is ingested; (2) that the requested levels of nitrates or nitrites are otherwise safe for human consumption; and (3) that use as a preservative is necessary to prevent the growth of *Clostridium botulinum* and the resulting production of botulinal toxin in the food.

DATE: Written requests for issuance of interim food additive regulations and comments from interested persons must be submitted on or before November 1, 1977.

ADDRESS: Written requests, supporting data and information, and other comments should be submitted (in quadruplicate) to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-472-5690).

SUPPLEMENTARY INFORMATION: This document sets forth and explains the conclusion of the Commissioner of Food and Drugs that nitrates (sodium nitrate ($NaNO_3$), also known as soda niter, nitrate of soda and chile saltpeter; and potassium nitrate (KNO_3), also known as saltpeter and nitrate of potash) and nitrites (sodium nitrite ($NaNO_2$); potassium nitrite (KNO_2)), if used as preservatives or characterizing ingredients in the manufacture of poultry products, such as smoked poultry, chicken hot dogs, and turkey hams, are considered food additives under section 201(s) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(s)). The same substances may be color additives under section 201(t) of the act (21 U.S.C. 321(t)), if used essentially for the purpose of affecting color. This notice outlines the conditions under which such substances may continue to be used in poultry products, and establishes a schedule for resolving persistent issues concerning the safety of these substance.

Pursuant to § 180.1 (21 CFR 180.1), the Commissioner will entertain requests for the issuance of interim food additive regulations authorizing the use of nitrates and nitrites in poultry products, pending the conduct of prescribed safety tests. Further, the Commissioner will, in response to proper request, consider the inclusion of nitrates and nitrites on the list of provisionally approved color additives, subject to the conditions specified below. Such requests must be submitted to the Food and Drug Administration (FDA) within 60 days, accompanied by specified information and by commitments to undertake, and report to the agency the results of, three types of safety-related tests. Food or color additive petitions in the format set forth in § 71.1 or § 171.1 (21 CFR 71:1 or 171.1) will also be necessary if these substances are to be considered for long-term approval as food or color additives.

The Commissioner also invites the submission of data and views from any interested person respecting the use of nitrates and nitrites in poultry products, including (1) the need for, and appropriateness of, continued use of nitrates and nitrites in specific types of poultry products, (2) the safety of nitrates and nitrites, and (3) the potential for nitrates or nitrites to form nitrosamines in poultry products prior to their ingestion by humans. The Commissioner is particularly interested in receiving views bearing on the nature of any further long-term testing necessary to resolve conclusively issues about the safety of nitrates and nitrites as curing agents in poultry products.

Comments on this notice, and any pertinent information, should be submitted to the Hearing Clerk at the above address by November 1, 1977, to permit evaluation at the same time that the agency is considering any requests for interim food additive status or provisional color listing.

If the Commissioner receives requests for interim food additive status or provisional color listing supported by reasonable grounds, he will issue proposals to that effect in the FEDERAL REGISTER and invite submission of further comments before taking final action on the requests. Should the Commissioner determine that any requested use of nitrates or nitrites in poultry fails to provide reasonable grounds to support issuance of a proposal, he will deny the request and determine that the use is unlawful. The Commissioner will not permit the use of nitrites in any poultry product in which nitrosamines are found prior to ingestion by humans. However, pending submission of requests for interim food additive status and final action by FDA, current uses of nitrates and nitrites in poultry products will not be regarded by FDA as causing the products to be adulterated under the act.

BACKGROUND

Nitrates and nitrites have long been used in the curing of several types of poultry products, in some instances for at least 30 years. Previously, FDA has considered such uses to be covered by "prior sanctions" issued before September 6, 1958, by the U.S. Department of Agriculture (USDA) under the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*). Those uses were thus not subject to the food additive provisions of sections 201(s) and 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(s) and 348). On April 22, 1977, and on July 15, 1977, however, the Commissioner received letters from the Assistant Secretary of Agriculture for Food and Consumer Services, Ms. Carol Tucker Foreman, which conclude, based on available information, that USDA had not officially approved the use of nitrates and nitrites in poultry products under the Poultry Products Inspection Act before passage of the Food Additives Amendment of 1958 and that, therefore, such uses are not covered by valid prior sanctions. Assistant Secretary Foreman asked the Commissioner to determine whether use of nitrates and nitrites in poultry products is considered a food additive or color additive use and whether those uses are safe.

The clarification by USDA of its position on the prior sanction status of nitrates and nitrites in poultry products has prompted a reexamination of FDA's own understanding of the status of these compounds, resulting in the issuance of this notice. The Food and Drug Administration has no basis for independently questioning Ms. Foreman's conclusion, and further, the Commissioner believes that the conclusion of USDA about whether it had issued, for these uses, prior sanctions that satisfy the terms of section 201(s) of the act is dispositive.

Furthermore, as a matter of policy the Commissioner has for some time maintained that the category of prior-sanctioned substances used in food represents an anomaly in the law. This anomally justifies a narrow construction of those provisions that shelter compounds used as food additives from the basic requirements of the Food Additives Amendment of 1958. Debate over the prior-sanctioned status of nitrates and nitrites has for too long deflected attention from the central issues on the use of these substances. These issues include (1) whether nitrates or nitrites are useful in reducing the risk of botulism that could result from the ingestion of contaminated poultry products, (2) whether nitrates or nitrites form cancer-causing nitrosamines in poultry products prior to ingestion, and (3) whether nitrates or nitrites are otherwise safe for human consumption. The Commissioner concludes, with Assistant Secretary Foreman, that the time has come to assemble the data required to resolve these questions.

HISTORY OF THE USE OF NITRATES AND NITRITES IN POULTRY PRODUCTS

Nitrates and nitrites have been used for centuries, directly or indirectly, in the curing of meat and poultry. The unique organoleptic qualities of cured meats and some poultry products are often the result of the use of nitrates and nitrites. At the present time nitrates and nitrites are used in the production of such foods to preserve them and to impart the taste, texture, and color that consumers, through long exposure, have come to associate with such foods.

Nitrates (sodium nitrate ($NaNo_3$) and potassium nitrate (KNO_3)) and nitrites (sodium nitrite ($NaNO_2$) and potassium nitrite (KNO_2)) are water soluble inorganic salts. Nitrates are transformed to nitrites in food and in the gastrointestinal tract through bacterial and enzymatic action. It is possible, but as yet not well documented, that nitrates may also be transformed to nitrites in meat by strictly chemical reactions.

Appreciation of the role of nitrates and nitrites in retarding growth of and toxin development by *Clostridium botulinum* has increased over the last 40 years. *C. botulinum* is a microorganism that is ordinarily quite harmless when naturally present in the soil or in the sea. *C. botulinum* becomes a source of concern only when it grows in food; it then produces a toxin which, if ingested, causes botulism, an acute food poisoning marked by a high mortality rate. Nitrates and nitrites have been shown to be effective in inhibiting the growth of *C. botulinum* in chopped ham (Christiansen, L. N., et al., "Effect of Nitrite and Nitrate on Toxin Production by *Clostridium botulinum* and on Nitrosamine Formation in Perishable Canned Comminuted Cured Meat," Applied Microbiology, 25:357 (1973)); in bacon (Christiansen, L. N., et al., "Effect of Sodium Nitrite on Toxin Production by *Clostridium botulinum* in Bacon," Applied Microbiology, 27:733 (1974)); in wieners (Hustad, G. O., et al., "Effect of Sodium Nitrite and Sodium Nitrate on Botulinal Toxin Production and Nitrosamine Formation in Wieners," Applied Microbiology, 26:22 (1973)); in summer style sausage (Christiansen, L. N., et al., "Effect of Sodium Nitrite and Nitrate on *Clostridium botulinum*. Growth and Toxin Production in a Summer Style Sausage," Journal of Food Science, 40:488 (1975)); and in some smoked fish (unpublished data).

Several literature references document the long use of nitrates and nitrites in the curing of poultry products, and reflect the growth of commercial use of these substances. For example, in October 1938, A. K. Besley and S. J. Marsden of the USDA Bureau of Animal Industry, issued (A&D No. 28) "Suggestions for Curing and Smoking Turkeys," and stated: "A suitable curing mixture consists of 6 pounds of salt, 3 pounds of sugar and 2 ounces of saltpeter (potassium nitrate) dissolved in 4½ gallons of water. This pickle contains approximately 13 percent of salt and has a salinometer reading of about 70° at a temperature of 38° F. Experience has shown that about four times this indicated quantity of pickle is required to cover 100 pounds of moderately large, drawn turkeys when packed carefully in a 50-gallon barrel."

In 1941, P. J. Schaible and J. A. Davidson of the Chemistry and Poultry Sections, Michigan Agricultural Station, wrote in "Boning, Curing, and Smoking Poultry Meat," The U.S. Egg and Poultry Magazine, pp. 228-230, and 255-256: "In small numbers, poultry has been cured and smoked for many years on farms. Although the product has not been uniform in appearance or taste and has been high priced, customers have shown sufficient interest to encourage a few firms specializing in unusual meat delicacies to enter the field. Goose breasts and legs have been cured and smoked for some time, but of recent years attention has been directed to turkey." Saltpeter (potassium nitrate) is included in the curing formulations given. In 1941, Besley and Marsden of USDA, in "A Study of Turkey Curing and Smoking," Poultry Science, pp. 496-506, presented some of the experimental evidence obtained in studying the curing and smoking of turkeys. The authors stated: "The presence of saltpeter in the cure resulted in a pink cast to the white meat and a rich, red-colored dark meat, typical of cured lean pork."

In the past few years, many new food products have been developed using poultry in lieu of red meat. Sodium nitrite is used in many of these products, which have the same basic characteristics as red meat items and are known by such names as "Chicken Hot Dogs," "Chicken Franks," and "Turkey Ham." The use of chicken in hot dogs was sanctioned by USDA on October 3, 1969.

It is the responsibility of FDA to evaluate the safety of all additives to foods, including meat, poultry, and egg products, and to publish regulations prescribing safe conditions of use. However, USDA has responsibility for enforcing quantitative restrictions and assuring proper use of additives in meat, poultry, and egg products. Furthermore, USDA has independent authority to prohibit use of food additives in meat and poultry, even though their use may have been approved by FDA.

SAFETY OF NITRATES AND NITRITES IN POULTRY PRODUCTS

Current USDA requirements specify that the use of nitrates, nitrites, or any combination of these, shall not result in more than 200 parts per million (ppm) nitrite, calculated as sodium nitrite, in the finished product (9 CFR 381.147(f)(3)). This apparently was the amount considered necessary to accomplish the desired characterizing and preservative effects.

Nitrates occur in practically all parts of the environment but primarily in water and vegetables. It has been estimated that the drinking water consumed by an average resident in the United States contains 0.7 ppm nitrate and that the average nitrate content of vegetables ranges from 13 ppm in dry beans to 2,760 ppm in beets (White, J. W., Jr., "Relative Significance of Dietary Sources of Nitrate and Nitrite," Journal of Agricultural and Food Chemistry, 23:886 (1975), as corrected in the same journal, 24:202 (1976)). Leafy vegetables such as lettuce, cabbage, and broccoli are also high in nitrates. Nitrates have a very low toxicity that has been reported to be of the same order as the toxicity of sodium chloride (Institute of Food Technologists' Expert Panel on Food Safety and Nutrition, "Nitrites, Nitrates, and Nitrosamines in Food—a Dilemma," Food Technology/Journal of Food Science, 37:989 (1972). Sodium nitrate has been fed to rats up to 10 percent in the diet for their lifetime. Other than some depression in growth at levels above 1 percent, no adverse effects were noted in these animals (Lehman, A. J., "Nitrates and Nitrites in Meat Products," Association of Food and Drug Officials, U.S. Quarterly Bulletin, 22:136 (1958)).

Nitrites, on the other hand, occur less frequently in the environment but are more toxic. In pigs that were fed up to 18.3 milligrams of potassium nitrite per kilogram of body weight there was no effect on weight gain or feed efficiency, but methemoglobinemia (impairment of ability of blood to carry oxygen) was apparent. When fed potassium nitrite at more than 21.3 mg/kg body weight, the pigs died (London, W. T., et al., "An Attempt to Produce Chronic Nitrite Toxicosis in Swine," Journal of the American Veterinary Medical Association, 150:398 (1967)). Methemoglobinemia is also seen in man, particularly in infants accidentially exposed to nitrites (Committee on Nutrition, "Infant Methemoglobinemia. The Role of Dietary Nitrate," Pediatrics, 46:475 (1970)).

Nitrites have not been shown to be carcinogenic or teratogenic at any dose level. However, additional research is currently being carried out. A recent report in Science, 196:1,000 (1977) discussed the mutagenic activity of nitrite-treated foods. Extracts of Japanese raw fish, beef, and hot dogs treated with nitrite were evaluated using the *Salmonella typhimurium* test. The raw fish extracts exhibited mutagenic activity, but the beef and hot dog samples were not mutagenic. Additionally, FDA has supported a dominant lethal study in rats on potassium nitrite and potassium nitrate. These studies, funded under contract to Stanford Research Institute, were recently completed (June 1977). Preliminary conclusions indicate that potassium nitrate is nonmutagenic in the rat, and that potassium nitrite may be a mutagen in the rat at 112, 373, and 1,120 ppm in the diet.

R. Preussman has reviewed the chronic toxicity of nitrites (Proceedings of the International Symposium on Nitrite in Meat Products, held at the Central Institute for Nutrition and Food Research TNO, ZEIST, the Netherlands, September 10-14, 1973, pp. 217-226) and summarizes the work of several investigators. One investigator (Druckery) gave 100 milligrams of nitrite per kilogram of body weight to rats over the lifespan of

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three generations. Except for a (probably not significant) shortening of the lifespan and a reduction in hemoglobin concentration, no adverse toxic effects of the treatment were noted; reproduction of treated animals was not affected and no teratogenic effects were observed in the offspring. Another investigator (Sander) added 1 percent sodium nitrite to the diet of rats for 117 days and observed the animals until natural death; he saw no tumors or other serious toxic effect.

An ongoing study with sodium nitrite in the rat is discussed later in this document in connection with a study involving the simultaneous feeding of sodium nitrite and an amine in rats.

Although the values for the ingestion of nitrates and nitrites by the population of the United States are not well documented, J. White ("Relative Significance of Dietary Sources of Nitrate and Nitrite," Journal of Agricultural and Food Chemistry, 23:886 (1975) as corrected in the same journal 24:202 (1976)) has estimated the average daily ingestion of nitrates and nitrites for a United States resident to be 99.8 and 11.22 milligrams, respectively. More than four-fifths of the dietary intake of nitrates is from vegetables and less than one-tenth from cured meats, including poultry products. Three-fourths of the nitrite entering the human stomach originates in saliva, and approximately one-fifth from cured meats including poultry products.

While nitrites have not been shown to be carcinogenic, it is known that nitrites can, under certain conditions, combine with secondary or tertiary amines to form compounds known as nitrosamines. There are many different nitrosamines, some of which are known carcinogens. Nitrosamines have been detected occasionally at low levels in various cured meat products, but not with any consistency in any except fried bacon. Nitrosamines were detected in 3 out of 34 frankfurter samples at 11 to 84 parts per billion (Wasserman, A. E., et al., "Dimethylnitrosamine in Frankfurters," Food and Cosmetics Toxicology, 10:681 (1972)), in 5 out of 59 prepared meat products at 10 to 80 parts per billion (Sen, N. P., "The Evidence of Presence of Dimethylnitrosamine in Meat Products," Food and Cosmetics Toxicology, 10:219 (1972)), and in 1 ham sample out of 51 samples of various meat products, at 5 parts per billion (Fazio, T., et al., "Analysis of Nitrite and/or Nitrate—Processed Meats for N-Nitrosodimethylamine," Journal of the Association of Official Analytical Chemists, 54:1157 (1971)). N-Nitrosopyrolidine was detected in all 22 samples of fried bacon at levels up to 139 parts per billion (Havery, D. C., et al., "Survey of Food Products for Volatile N-Nitrosamines," Journal of the Association of Official Analytical Chemists, 59:540 (1976)). Cured poultry products have not been comprehensively examined to determine whether they contain nitrosamines. Indications of traces of apparent nitrosamines were observed in two of four chicken frankfurter products recently examined in an FDA laboratory.

The mutagenic properties of nitrosamines have been studied extensively in various systems. McCann et al. document nitrosamine compounds which have been shown to be mutagenic in selected bacterial test systems (Proceedings of the National Academy of Sciences of the USA, 72:5135 (1975)).

Nitrosamines have been formed experimentally in the gastrointestinal tracts of mice, rats, and rabbits by simultaneous administration of nitrites and secondary amines. In vitro experiments have shown for both animals and man that nitrosamine formation can occur under conditions normally present in the stomach (Sen, N. P. et al., "Formation of *N*-Nitrosamines from Secondary Amines and Nitrite in Human and Animal Gastric Juice," Food and Cosmetics Toxicology, 7:301 (1969)). It is not known whether this phenomenon is increased or even affected by ingestion of foods containing nitrites. In human subjects with gastric hypoacidity (low stomach acidity) who were administered a drink containing both diphenylamine and sodium nitrate, bacterial reduction of nitrate to nitrite and formation of diphenylnitrosamine (a noncarcinogen) was demonstrated (Sander, J. and F. Seif, "Bacterial Reduction of Nitrate in the Human Stomach, as a Cause of Nitrosamine Formation," Arzneimittel Forschung, 19:1091 (1969)).

Cancer has occurred in laboratory animals in experiments in which high levels of nitrites and secondary amines were fed to the animals. These experiments indicate the possibility of the formation of carcinogenic nitrosamines in the bodies of animals. As would be expected, the levels of nitrites employed in these studies far exceeded the levels commercially used in human foods. A study conducted recently at the Massachusetts Institute of Technology under FDA contract (R. C. Shank and P. M. Newberne, "Dose-Response Study of the Carcinogenicity of Dietary Sodium Nitrite and Morpholine in Rats and Hamsters," Food and Cosmetics Toxicology, 14:1 (1976)), although possibly flawed, has suggested a dose-response relationship for the induction of liver and lung tumors in rats fed combinations of sodium nitrite and morpholine (a cyclic amine) when the nitrite levels in the diet were of the order used in commercially prepared human foods.

The study also suggests, in the rat, a possible relationship between the feeding of sodium nitrite alone and an increased incidence of lymphoreticular tumors. The significance of these tumors is, however, unclear because of a variety of uncertainties with respect to the feeding of nitrite alone in this study. These uncertainties include the possible interaction of nitrite with the semisynthetic diet that was used, the possible influence of the diet itself, and the fact that in this study, as in other studies of combined nitrite and secondary amine, the nitrite group itself represented a control group. Because of these uncertainties, FDA has sponsored an additional study to examine directly the questions of potential nitrite carcinogenicity. This study is nearing completion and to date has shown no indication that sodium nitrite is carcinogenic.

Questions about the potential carcinogenicity of nitrites have persisted for several years, and have dominated discussions about the proper regulatory action on their continued use. In 1973, the Secretary of Agriculture established an Expert Panel on Nitrites, Nitrates, and Nitrosamines, consisting of scientific experts both within and outside government, to advise him whether the use of nitrates and nitrites in the curing of meats and poultry constituted a public health hazard, and if so, whether such use should be restricted or prohibited.

The USDA Expert Panel is to conclude its deliberations in September 1977 and to thereafter make recommendations to the Secretary of USDA. The recommendations will address such considerations as the levels of nitrite in all cured meat products; the formation of nitrosamines and an evaluation of their dangers; evaluation of currently available alternatives to nitrite use; and a review of products, if any, in which nitrites are used solely for color or other organoleptic purposes.

Legal Status of Nitrates and Nitrites in Poultry Products

Section 201(s) of the Federal Food, Drug, and Cosmetic Act defines "food additive" as follows:

> The term "food additive" means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food • • • if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use; except that such term does not include—
>
> • • • • •
>
> (3) A color additive; or
>
> (4) Any substance used in accordance with a sanction or approval granted prior to the enactment of this paragraph pursuant to this Act, the Poultry Products Inspection Act (21 U.S.C. 451 and the following) or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260), as amended and extended (21 U.S.C. 71 and the following). • • •.

Under this definition, substances sanctioned by USDA for use in poultry products under the Poultry Products Inspection Act prior to the enactment of the Food Additives Amendment of 1958 (September 6, 1958) are not considered "food additives". A substance that is prior-sanctioned need not be covered by an effective food additive regulation in order to be used, nor need its safety have been demonstrated in accordance with modern toxicological standards. If FDA determines that such a substance is not safe, the agency has the burden of demonstrating that it causes foods in which it is used to be adulterated under section 402(a)(1) or (2)(A) of the act (21 U.S.C. 342(a)(1), (2)(A)). Furthermore, because they are not food additives, prior-sanctioned substances are not subject to section 409(c)(3)(A) (the Delaney anticancer clause) of the act (21 U.S.C. 348(c)(3)(A)).

Section 201(t)(1) of the act defines "color additive":

> The term "color additive" means a material which—
>
> (A) Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source and
>
> (B) When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable (alone or through reaction with other substance) of imparting color thereto; except that such term does not include any material which the Secretary, by regulation, determines is used or intended to be used) solely for a purpose or purposes other than coloring.

This definition makes no provision for continued use of substances that had been sanctioned by FDA or USDA prior to enactment of the Color Additive Amendments of 1960. However, the amendments permited the "provisional listing" and continued use, pending completion of safety testing, of substances meeting the definition of a color additive already in use in food in 1960.

There are no FDA regulations that independently authorize the commercial use of nitrates and nitrites in poultry products, either as food additives or as color additives, nor has FDA itself issued a prior sanction permitting their use. In § 170.60(b) (21 CFR 170.60(b)), FDA regulations do, however, recognize their use, based on the belief that USDA had issued valid prior sanctions.

The longstanding use of nitrates and nitrites in poultry products is reflected in several documents. Ms. Foreman's letter indicates that, as far back as November 20, 1958, USDA authorized the use of nitrates and nitrites for specific purposes in certain poultry products. Additionally, USDA issued the Products Inspection Regulations, published in the Federal Register of May 16, 1972 (37 FR 9706), which include nitrates and nitrites on the list of substances permitted to be used in poultry. Nitrates and nitrites appear under the heading, "Curing agents," for the listed purpose "to fix color" (9 CFR 381.147(f)(3)).

FDA's belief that § 381.147(f)(3) rested on a prior USDA sanction is reflected in FDA's own proposal on nitrates and nitrites published in the Federal Register of November 3, 1972 (37 FR 23456). A portion of that proposal (proposed §§ 121.2007 and 121.2008 (21 CFR 121.-2007 and 121.2008)) would have established regulations recognizing and governing the prior-sanctioned uses of nitrates and nitrites in both meat and poultry products. Proposed §§ 121.2007 and 121.2008 would have listed amounts of nitrates and nitrites for use in poultry, as well as meat products, that coincide with the levels specified in § 381.-147(f)(3) of USDA's Poultry Products Inspection Regulations. Section 170.60(b) (21 CFR 170.60(b)) also reflects FDA's belief that USDA had issued a prior sanction. This FDA regulation explicitly mentions a prior sanction covering the use of nitrates and/or nitrites "in the commercial curing of meat and meat products and poultry products • • •". Thus, although FDA had not issued a prior sanction for nitrates and nitrites in poultry products, the Commissioner believed that USDA, the agency with primary jurisdiction over meat and poultry products, had done so. On this basis, FDA included the prior sanctions in § 170.60 and proposed to include them in §§ 121.2007 and 121.2008.

Assistant Secretary Foreman's April 22, 1977 letter to the Commissioner squarely rebuts the assumption on which FDA had previously operated. The letter states that "(B)ased upon our review of available information, it does not appear that there is such a prior sanction or approval of nitrates and nitrites in poultry products." In the absence of prior sanctions, FDA must determine—as Assistant Secretary Foreman's letter requests—whether there is any other legal basis for the use of nitrates and nitrites in poultry products. Initial inquiry must be directed to the question of whether nitrates and nitrites in poultry products are "food additives" or "color additives", or both, as those terms are defined in section 201 (s) and (t) of the act. The answer depends on the purposes for which the substances are used.

Assistant Secretary Foreman's letter states: "nitrates and nitrites 'impart color' when added to white or brown poultry meat in that nitrates and nitrites cause such poultry meat to turn a reddish color." Nitrates and nitrites added to poultry products would appear, therefore, to meet the definition of a color additive in section 201(t) of the act. Indeed, if nitrates or nitrites are used solely for coloring, they are clearly color additives. However, FDA has not approved a color additive petition for nitrates or nitrites in poultry products under section 706 of the act (21 U.S.C. 376) and neither currently appears on the list of colors provisionally listed for use in food in § 81.1 (21 CFR 81.1)).

On the other hand, consideration of the levels of nitrates and nitrites currently permitted by USDA for use in poultry products suggests that the substances are being used, and have been permitted for use, for purposes in addition to imparting color. Indeed, it would appear that the predominant purposes for which nitrates and nitrites are used in poultry products are other than coloring. The amount of nitrates or nitrites needed to fix color in a poultry product is approximately 20 ppm. Yet USDA regulations under 9 CFR 381.147(f)(3) permit up to 200 ppm nitrates or nitrites in finished poultry products. That level is the amount generally thought necessary to prevent the growth of *Clostridium botulinum* and the formation of toxin, and thus to preserve products in which such formation might occur.

It is well established that when a tolerance is necessary for safe use, no food additive or color additive may be used in food in excess of the amount reasonably required to produce the intended effect; see sections 409(c)(4) and 706(b)(7) of the act (21 U.S.C. 348(c)(4), 376(b)(7)). Thus, although 9 CFR 381.147(f)(3) does not identify preservation or characterizing effects as the purposes for which nitrates and nitrites are used in poultry products, the amounts permitted by USDA suggest that these noncolor uses are, and generally have been, the predominant functions of nitrate and nitrite use.*.

A substance used to preserve food is a food additive unless it falls within one of the exceptions to the statutory definition. The definition of a "food additive" in section 201(s) of the act excludes a number of categories of substances added to food—including substances that were sanctioned by USDA or FDA prior to September 6, 1958, substances generally recognized as safe (GRAS), and color additives. As previously noted, USDA has advised that it had not sanctioned the use of nitrates and nitrites in poultry products prior to the effective date of the Food Additives Amendment of 1958. The Commissioner concludes that nitrates and nitrites used in poultry products are neither prior-sanctioned nor covered by any other exception to the statutory definition of "food additive".

As previously explained, the definition of "food additive" in section 201(s) of the act excludes GRAS substances. While nitrates and nitrites in poultry products may at one time have been considered GRAS, they are not now viewed as GRAS by FDA, nor does the Commissioner have any indication that USDA now considers them to be GRAS.

As noted above, one effect of adding nitrates and nitrites to poultry products is to impart color. The statutory definition of color additive could be read literally to include any substance that imparts color, and the statutory definition of food additive to exclude any substance that is a color additive, thus making the two categories of substances mutually exclusive. The Commissioner does not believe that this result was intended by Congress, and it does not correspond with sound public policy or historical practice under the act. In the Color Additive Amendments of 1960, Congress was amending a statute under which, since 1958, substances used to color food had been treated as food additives or as coal tar dyes. A primary purpose of the Color Additive Amendments of 1960 was to do away with these differences in the treatment of color additives. As stated in the Report of the House Committee on Interstate and Foreign Commerce, accompanying H.R. 7624, the amendments: would do away with the differences in legal require-

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ments and treatment as between the so-called coal-tar colors and other color additives, and would establish an integrated and internally consistent basis for determining the admissibility of any coloring material for use in or on foods, drugs, or cosmetics (other than hair dyes). This would be accomplished by excepting color additives (as defined in the bill) from the term "food additive"; repealing the present provisions for listing and certification of coal-tar colors; enacting, as part of a single section (sec. 706), comprehensive provisions for the separate listing of any color additives suitable and safe for general or restricted use in foods, drugs, or cosmetics, and for their certification (or exemption from certification) and making other amendments to the act to mesh with these provisions.

The bill would embrace all color additives whether or not synthesized and whether or not capable of derivation from a coal-tar constituent. From the point of view of determining safety of use, there is no sound scientific basis for distinguishing between a color additive extracted from a plant, animal, or mineral source and one which is synthesized with a chemical structure which will bring it under the term "coal-tar color". The bill would therefore establish common ground rules for all such colors.

There is no evidence in the legislative history of the Color Additive Amendments of 1960 that Congress, when it modified the definition of food additive, intended to exempt additives to foods that are used primarily for a purpose other than coloring but also satisfy the sweeping definition of color additive. Rather, the intent appears to have been to exempt those substances used solely as color additives from the definition of food additives so that petitioners for "non-coal-tar" colors would be relieved of the burden of having to demonstrate safety twice, under both the food additive and the color additive provisions of the act.

Section 70.3(g) of the FDA color additive regulations (21 CFR 70.3(g)) has been interpreted consistently with the recognition that a substance may be both a food additive and a color additive, reflecting the fact that some ingredients added to food may serve more than one technological purpose. Thus, the exception for color additives in section 201(s) does not preclude a substance from being both a color additive and a food additive, depending on its uses and effects, and therefore subject to the requirements of both sections 409 and 706 of the act.

Therefore, nitrates and nitrites, when used in poultry products at levels necessary to accomplish their preservative effect, are food additives within the meaning of section 201(s) of the act. No food additive petition for the use of nitrates and nitrites as a preservative in poultry products, however, has been approved by FDA. Furthermore, as previously noted, neither nitrates nor nitrites are currently approved as color additives or listed among the colors provisionally authorized for use in food.

It might be argued that, under these circumstances, a literal reading of the act requires immediate termination of the use of nitrates and nitrites in all poultry products. In the Commissioner's judgment, however, such precipitous action would fail to take into account the important health benefits that preservatives provide in preventing botulism, and therefore such action may not be warranted for the protection of the public health. Although significant safety issues have been raised about the use of nitrates and nitrites, their immediate elimination from all poultry and meat products would likewise pose serious safety concerns.

Some current uses of nitrates and nitrites may not be necessary to prevent the growth of *Clostridium botulinum*. There may also be uses in poultry that result in the formation of nitrosamines in foods before they are eaten. Consequently, the Commissioner believes that the immediate objective of both USDA and FDA should be to eliminate all nonpreservative uses of nitrates and nitrites for which substantial evidence of safety is lacking. This document is directed to this end and to establish a schedule for the completion of any further testing needed to resolve the questions of the safety of the addition of nitrates and nitrites to poultry products where nitrosamines are not performed, and to identify, and eliminate, any uses in poultry that result in preformed cancer-causing nitrosamines.

In the past, when the Commissioner has been reasonably certain that a substance with a long history of use may continue to be used safely, FDA has issued an interim food additive regulation that permits continued but limited use while required data are accumulated to enable the agency to make a final decision about the approvability of the substance (see 21 CFR Part 180).

The Commissioner has reached no final judgment about whether an interim food additive regulation covering even restricted uses of nitrates and nitrites in poultry products would be appropriate. However, he will consider proposing to establish an interim food additive regulation if USDA or other interested parties submit appropriate requests. The criteria for issuing an interim food additive regulation are set forth in § 180.1. Requests must address each criterion and provide all pertinent data and information needed to enable the agency to evaluate fully the request. The information required is more fully described in the concluding section of this notice.

The authority of FDA to issue interim food additive regulations permitting continued use of substances about which safety questions have been raised pending the accumulation of data to resolve those questions has been judicially upheld (*Jacobson v. Edwards*, Civil Action No. 445-71 (D.D.C. July 6, 1971), CCH FDC Reports paragraph 40, 817, p. 42, 114, *aff'd* No. 71-2046 (D.C. Cir. Dec. 15, 1972)).

Agency regulations make no provision for the issuance of "interim color additive regulations," however, and some question might be raised about FDA authority to add a substance to the provisional list of colors for the first time in 1977, some 17 years after the passage of the Color Additive Amendments of 1960. Although the Commissioner would have reservations about placing nitrates and nitrites on the provisional list at this late date, it is his opinion, upon careful consideration of the provisions and history of the 1960 amendments, that under appropriate circumstances, nitrates and nitrites could lawfully be so added. The legality of such action, however, is but one issue to be addressed. Clearly, the more important issue is whether nitrates and nitrites used as color additives are or would be safe. The Commissioner has no reason at the present time to propose the addition of nitrates and nitrites to the provisional list of colors. So far as he is now aware, neither type of substance is being used in poultry products solely for the purpose of affecting color. While some current users of nitrates and nitrites in poultry products undoubtedly desire the coloring effect of nitrates and nitrites used for preservation, FDA has not historically required dual approval of additives used for purposes that also affect color.

The Commissioner therefore will not require the submission of companion requests for both interim food additive status and provisional color listing for any use of nitrates or nitrites as a preservative or characterizing ingredient in poultry products.

The Commissioner would consider petitions for the "permanent" listing of nitrates or nitrites used solely for the purpose of coloring, at levels no higher than necessary to accomplish a coloring effect. If, contrary to his current understanding, nitrates and nitrites are currently being used in poultry products essentially as color additives, the Commissioner would also entertain requests for their provisional listing as color additives, subject to the following conditions: (1) A petition for "permanent" listing is filed simultaneously; (2) the requested color additive uses are ones that were in commercial use prior to July 12, 1960; (3) the Commissioner can be satisfied that provisional listing would pose no significant risk to public health; and (4) the request is accompanied by a commitment promptly to conduct the studies necessary to establish the safe conditions of use.

Issues on Which Data and Views Are Requested

The most important criterion for issuance of an interim food additive regulation under § 180.1 is the assurance that continued use of a substance will pose no significant risk to the health of consumers. In determining whether, for any uses in poultry products, nitrates and nitrites satisfy this criterion, the Commissioner will consider all information submitted with any requests for interim food additive status or for provisional color additive listing. He will also welcome views and scientific data submitted

by other interested persons and organizations, including the USDA Expert Panel that is considering the uses of nitrates and nitrites in curing meat and poultry products.

Before concluding that continued use of nitrates or nitrites in a product does not pose a significant risk to human health, the Commisioner must be satisfied that such use does not result in the formation of cancer-causing nitrosamines in the food before it is ingested, regardless of whether such formation occurs during production or when the product is prepared for eating. In addition, the Commissioner will carefully evaluate all available data relating to the toxicity of nitrates and nitrites when directly ingested.

To assist persons who wish to comment on, or submit data concerning, the policy announced in this document, the Commissioner has identified several questions on which the agency specifically requests information and advice:

(1) To what extent is botulinal toxin a genuine concern in poultry products? Which products?

(2) To what extent are nitrates and nitrites effective in preventing the growth of *C. botulinum* and formation of botulinal toxin in poultry products? Are there other compounds that would be equally effective? What levels of nitrates and nitrites are needed to prevent the growth of *C. botulinum* and formation of botulinal toxin?

(3) What is the chemical action of nitrates/nitrites in poultry products?

(4) What is the biochemical mechanism of the coloring or color-fixing properties of nitrates and nitrites?

(5) What additional studies are necessary to resolve the foregoing questions, as well as the outstanding safety issues discussed above?

The Commissioner advises that he will entertain requests for the issuance of interim food additive regulations or for provisional listing as a color additive. To the extent that the types of data identified in questions (1) through (4) above cannot be presented in response to this notice, requestors must express a willingness to commit themselves to conduct any studies that are necessary for resolution of the unanswered questions within a reasonable period of time. This requirement would obviously extend to any studies identified in the comments received in response to question (5).

A request for an interim food additive regulation is not required to be accompanied by a request for provisional listing and a petition for "permanent" listing as a color additive to support a coloring effect that is a consequence of the food additive use for which the request is filed. The Commissioner concludes that any request providing sufficient supporting grounds for the proposal of an interim food additive regulation would at the same time be sufficient to support the safety of any coloring effect.

Therefore, the Commissioner does not, at this time, perceive any useful purpose to be served by requiring an accompanying color additive petition in these circumstances. If the Commissioner should conclude that additional information is needed with respect to any coloring effect, he would require further submissions in the future.

Dated: August 25, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

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federal register

FRIDAY, SEPTEMBER 2, 1977
PART IV

DEPARTMENT OF LABOR

Office of Employee Benefits Security

DEPARTMENT OF THE TREASURY

Internal Revenue Service

■

EMPLOYEE STOCK OWNERSHIP PLANS

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Title 29—Labor

CHAPTER XXV—EMPLOYEE BENEFITS SECURITY OFFICE, DEPARTMENT OF LABOR

PART 2550—RULES AND REGULATIONS FOR FIDUCIARY RESPONSIBILITY

Exemption for Loans to Employee Stock Ownership Plans

AGENCY: Department of Labor.

ACTION: Final regulations.

SUMMARY: These regulations under sections 408(b)(3), 407(d)(5) and 407(d)(6) of the Employee Retirement Income Security Act of 1974 (the Act) set forth requirements relating to the exemption for loans to employee stock ownership plans (ESOPs), the definition of the term employee stock ownership plan and the definition of the term qualifying employer security. These regulations are intended to provide guidance for the public in complying with the law. They affect all employees who are participants in an ESOP and all employers who establish ESOPs.

EFFECTIVE: Generally effective for plan years ending after December 31, 1974.

FOR FURTHER INFORMATION CONTACT:

Rhea Schwartz, Department of Labor, Room C–4508, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202–523–6855).

SUPPLEMENTARY INFORMATION:

Background

On July 30, 1976, the Department of Labor (the Department) published in the FEDERAL REGISTER (41 FR 31870), a proposal to adopt regulations 29 CFR 2550.408b–3, 2550.407d–5 and 2550.407d–6 under section 408(b)(3), 407(d)(5) and 407(d)(6) of the Act. Similar Internal Revenue Service provisions appeared at the same time (41 FR 31833).

By notice published in the FEDERAL REGISTER on October 19, 1976, the public was invited to comment orally or in writing not only upon issues addressed in the proposed regulations, but also upon issues addressed by section 803(h) of the Tax Reform Act of 1976 (90 Stat. 1590) and by the Conference Report of the Committee of Conference on H.R. 10612 (H.R. Rep. No. 94–1515, 94th Cong., 2d Sess., 539–542 (1976)), as both relate to ESOPs. A public hearing was held on November 12, 1976.

Both substantive and structural changes in the proposed regulations were made after consideration of all the comments received. Thus, the regulations, as adopted, differ considerably from the proposed regulations. Certain provisions have been added. Others are restructured or deleted. However, many changes are designed solely to simplify the regulations. Therefore, no substantive inference should be drawn solely from the fact that a particular proposed provision has been either deleted or restructured.

Major Substantive Deletions

Special requirements for use of loan proceeds

Several comments suggest major revisions to proposed sections 2550.408b–(3)(b)(1)(ii) (B) through (F). These provisions relate to requirements with respect to voting stock; non-voting common stock, preferred stock and other equity securities; unrestricted dividend rights; and to the overall limitation on employer securities (other than certain common stock or convertible securities) acquired with loan proceeds. The majority recommended deletion. This document makes the deletion.

However, this deletion does not mean that the Department is unconcerned with the nature of securities acquired by an ESOP with the proceeds of an exempt loan. The acquisition of securities by an ESOP will be judged under the requirements of section 404(a)(1) of the Act.

Major Substantive Additions

Rights of first refusal

Section 2550.408b–3(i) is added under the regulations, as adopted, to permit an ESOP to acquire employer securities that are subject to a right of first refusal.

Many comments stress the necessity of a right of first refusal to protect small, closely-held corporations, whose securities are not publicly traded, from dilution of control, takeovers by competitors and inadvertent "going public". The regulations, as adopted, reflect the comments by permitting a 14-day right of first refusal in favor of the employer, the ESOP, or both. However, the securities subject to a right of first refusal must not be publicly traded at the time the right of first refusal is sought to be exercised. Also, the selling price and other terms of the purchase under such a right of first refusal must be not less favorable to the seller of such securities than the greater of the fair market value of the securities or the purchase price and other terms offered by a third party buyer making a good faith offer.

Major Revisions

(1) *Definition of "Publicly Traded"*

In response to a number of comments, the concept of "publicly traded" is expanded under the regulations, as adopted, to include securities quoted on a system sponsored by a national securities association registered under section 15A(b) of the Securities Exchange Act. The primary effect of this change is to limit the extent to which a put option is required.

(2) *Scope of ESOP Loan Exemption*

Many comments suggest that the proposed amendment limiting the scope of the ESOP loan exemption to the prohibitions of section 406(a) of the Act is not supported by the Act or its legislative history. The same criticism is made concerning the requirement that loans involving fiduciary self-dealing must be arranged and approved by an independent fiduciary.

Based upon a review of the comments and the legislative history, the scope of the ESOP loan exemption is expanded under the regulations, as adopted. The only prohibited transactions to which the exemption under section 408(b)(3) does not apply are those arising under section 406(b)(3), relating to the receipt by a fiduciary of any consideration for his own personal account from a party dealing with a plan. Also, the independent fiduciary requirement is eliminated under the regulations, as adopted.

The ERISA Conference Report states that, because of potential problems with respect to ESOP loans by parties in interest, "the conferees intend that all aspects of these transactions will be subject to special scrutiny by the Department of Labor and the Internal Revenue Service to ensure that they are primarily for the benefit of plan participants and beneficiaries" (H.R. Rep. No. 93–1280, 93d Cong., 2d Sess., 313 (1974)). The regulations, as adopted, make it clear that the "special scrutiny" for ESOP transactions referred to by the conferees is not meant to require an administrative exemption for loans by fiduciaries. Rather, the language is interpreted as requiring the careful examination of these transactions to ensure that they are primarily for the benefit of participants and their beneficiaries and that they satisfy the requirements of section 404(a)(1) of the Act.

(3) *Primary Benefit Requirement*

The requirement that a loan to an ESOP be made primarily for the benefit of participants and beneficiaries of the plan is expressed with greater specificity under the regulations, as adopted. In response to comments requesting clarification of this provision, two tests are added under § 2550.408b–3(c) to illustrate how a determination can be made with respect to whether a transaction meets the primary benefit requirement. The first test, derived from the ERISA Conference Report, involves a determination based upon the projected net effect of the loan on the ESOP over the duration of the transaction (See ERISA Conference Report, p. 313). The second test requires that the terms of an ESOP loan be at least as favorable as a comparable loan resulting from arm's-length negotiations involving independent parties.

(4) *Default*

The proposed regulations restrict the transfer of plan assets in the event of default to a failure to meet the loan payment schedule. As suggested in the comments, the regulations, as adopted, are less restrictive. The limitation on the transfer of plan assets in the event of default applies only to loans in which the party in interest extends credit in a form other than a guarantee.

(5) *Release from encumbrance*

The proposed regulations require securities to be released from encumbrance in at least equal annual amounts. This rule is eliminated from the regulations,

as adopted, because, as pointed out in the comments, it is unnecessarily rigid. Instead, the regulations, as adopted, now provide, as a general rule, for release of securities from encumbrance as principal and interest are paid. Also, an alternative rule now permits release from encumbrance with reference to principal payments only. In the case of loans made after November 1, 1977, the alternative applies only to loans with a term of ten years or less that require payments at a cumulative rate not less rapid than level annual payments. In these cases, interest payments will not be disregarded unless based on standard loan amortization tables.

The regulations, as adopted, note that the release of securities in unequal annual amounts may reflect conditions causing plan disqualification if contributions are not substantial and recurring or if the limitations on annual additions under section 415 of the Code are exceeded.

(6) *Put Options*

The comments address various aspects of the put option provision of the proposed regulation. Several comments express concern over the strain on an employer's cash supply that could result from the continuous exercise of put options by participants, unless installment payments were permissible. Others point out that under certain circumstances, the corporate laws of several states prohibit corporations from purchasing their own securities, and that certain corporations, e.g., banks, may be absolutely prohibited by law from issuing put options.

The regulations, as adopted, relating to put options reflect many of these comments. Therefore, they differ considerably from the proposed regulations.

The regulations, as adopted, address the problem that arises if an employer is prohibited by law from honoring a put option. In such cases, a third party other than the ESOP must be bound to honor the put option. They also make it clear that the ESOP must not be bound under any circumstances to honor a put option. However, it may be granted the option to assume the rights and obligations of the employer at the time that the put option is exercised.

The minimum duration of the put option is reduced to fifteen months. However, if, for example, the employer or a designated third party were prohibited by law from honoring a put option, the fifteen-month period runs only when the legal restriction ceases to apply. Also, a security not subject to a put option when distributed must be subject to the requirements for put options, if, for example, it ceases to be publicly traded within 15 months after distribution.

Other new put option provisions include a limitation on the number of years over which periodic payments under a put option may be spread and a prohibition of certain payment restrictions. Also, the scope of the put option requirement is expanded to include publicly traded securities that are not freely tradable because of certain restrictions.

(7) *Special Rules for Certain Exempt Loans*

A number of comments indicate the need to permit retroactive amendment to certain ESOP loans to prevent inadvertent prohibited transactions in loan agreements consummated in good faith prior to the publication of the regulations, as adopted. In light of these comments, the proposed regulations are modified to provide transitional relief.

The regulations, as adopted, provide special rules for loans entered into before January 1, 1976. These loans are not subject to the provisions relating to puts, calls or other options, buy-sell or similar arrangements; liability of ESOPs; default; release from encumbrance; rights of first refusal; put options; and other loan terms. They are subject to the remaining provisions of the regulation because these provisions could be reasonably anticipated by reading the statutory provisions relating to ESOPs.

Other special rules apply more restrictively to loans made between January 1, 1976 and November 1, 1977. These additional restrictions embody provisions contained in Technical Information Release 1413, guidelines relating to ESOPs, published on November 4, 1975 (1975–50 I.R.B. 16). However, these special rules would allow an ESOP loan made during such period to be exempt for the entire loan period even though such loan fails to satisfy the three additional provisions under the special rule for release from encumbrance, or the provisions relating to rights of first refusal and default.

In addition, a loan may be retroactively amended under the regulations, as adopted, to comply with the default and put option provisions. Under the special rule for put options, a security distributed without a put option will satisfy the regulations, as adopted, as of the date of distribution if by November 1, 1977 the security becomes subject to a put option satisfying the regulations. The 15-month period for the duration of the put option begins with the date on which the security becomes subject to the put option.

(8) *Valuation of Securities Subject to Rights of First Refusal and Put Options*

The selling price of a security subject to a right of first refusal must be no less favorable to the plan than the greater of the price offered by a buyer, other than the employer or the ESOP, making a good faith offer to purchase the security, or the fair market value determined under 26 CFR 54.4975–11(d)(5). The price at which a put option must be exercisable is the fair market value of the security determined in accordance with 26 CFR 54.4975–11(d)(5).

Definition of the Term "Employee Stock Ownership Plan"

Section 407(d)(6) of the Act defines the term "employee stock ownership plan" and § 2550.407d–6 contains requirements that a plan must meet under section 407(d)(6). In addition, § 2550.–407d–6 of the regulations, as adopted, provides that ESOPs must comply with such other requirements as the Secretary of the Treasury adopts by regulation under section 4975(e)(7) of the Internal Revenue Code (see 26 CFR 54.–4975–11)(a) through (f) in this issue of the FEDERAL REGISTER).

Definition of Qualifying Employer Security

The term "other equity security" is included in the definition of "qualifying employer security" under the Code but not under section 407(d)(5) of the Act. The proposed regulations are silent on this difference. One comment suggests that this difference is of substantive significance. Since insufficient justification is offered in support of this suggestion, no change is made.

The regulations set forth below are adopted pursuant to the authority contained in section 505 of the Act (Pub. L. 93–406, 88 Stat. (29 U.S.C. 1135)).

Accordingly, Part 2550 of Chapter XXV of Title 29 of the Code of Federal Regulations is amended by inserting §§ 2550.408b–3, 2550.407d–5 and 2550.–407d–6 as set forth below:

Paragraph 1. § 2550.408b–3 is inserted in the appropriate place to read as set forth below:

§ 2550.408b–3 Loans to Employee Stock Ownership Plans.

(a) *Definitions.* When used in this section, the terms listed below have the following meanings:

(1) *ESOP.* The term "ESOP" refers to an employee stock ownership plan that meets the requirements of section 407(d)(6) of the Employee Retirement Income Security Act of 1974 (the Act) and 29 CFR 2550.407d–6. It is not synonymous with "stock bonus plan." A stock bonus plan must, however, be an ESOP to engage in an exempt loan. The qualification of an ESOP under section 401(a) of the Internal Revenue Code (the Code) and 26 CFR 54.4975–11 will not be adversely affected merely because it engages in a non-exempt loan.

(2) *Loan.* The term "loan" refers to a loan made to an ESOP by a party in interest or a loan to an ESOP which is guaranteed by a party in interest. It includes a direct loan of cash, a purchase-money transaction, and an assumption of the obligation of an ESOP. "Guarantee" includes an unsecured guarantee and the use of assets of a party in interest as collateral for a loan, even though the use of assets may not be a guarantee under applicable state law. An amendment of a loan in order to qualify as an exempt loan is not a refinancing of the loan or the making of another loan.

(3) *Exempt loan.* The term "exempt loan" refers to a loan that satisfies the provisions of this section. A "non-exempt loan" is one that fails to satisfy such provisions.

(4) *Publicly traded.* The term "publicly traded" refers to a security that is listed on a national securities exchange registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) or that is quoted on a system sponsored by a national securities association regis-

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tered under section 15 A(b) of the Securities Exchange Act (15 U.S.C. 78o).

(5) *Qualifying employer security.* The term "qualifying employer security" refers to a security described in 29 CFR 2550.407d–5.

(b) *Statutory exemption*—(1) *Scope.* Section 408(b)(3) of the Act provides an exemption from the prohibited transaction provisions of sections 406(a) and 406(b)(1) of the Act (relating to fiduciaries dealing with the assets of plans in their own interest or for their own account) and 406(b)(2) of the Act (relating to fiduciaries in their individual or in any other capacity acting in any transaction involving the plan on behalf of a party (or representing a party) whose interests are adverse to the interests of the plan or the interests of its participants or beneficiaries). Section 406(b)(3) does not provide an exemption from the prohibitions of section 406(b)(3) of the Act (relating to fiduciaries receiving consideration for their own personal account from any party dealing with a plan in connection with a transaction involving the income or assets of the plan).

(2) *Special scrutiny of transaction.* The exemption under section 408(b)(3) includes within its scope certain transactions in which the potential for self-dealing by fiduciaries exists and in which the interests of fiduciaries may conflict with the interests of participants. To guard against these potential abuses, the Department of Labor will subject these transactions to special scrutiny to ensure that they are primarily for the benefit of participants and their beneficiaries. Although the transactions need not be arranged and approved by an independent fiduciary, fiduciaries are cautioned to scrupulously exercise their discretion in approving them. For example, fiduciaries should be prepared to demonstrate compliance with the net effect test and the arm's-length standard under paragraphs (c)(2) and (3) of this section. Also, fiduciaries should determine that the transaction is truly arranged primarily in the interest of participants and their beneficiaries rather than, for example, in the interest of certain selling shareholders.

(c) *Primary benefit requirement*—(1) *In general.* An exempt loan must be primarily for the benefit of the ESOP participants and their beneficiaries. All the surrounding facts and circumstances, including those described in paragraphs (c)(2) and (3) of this section, will be considered in determining whether such loan satisfies this requirement. However, no loan will satisfy such requirement unless it satisfies the requirements of paragraphs (d), (e) and (f) of this section.

(2) *Net effect on plan assets.* At the time that a loan is made, the interest rate for the loan and the price of securities to be acquired with the loan proceeds should not be such that plan assets might be drained off.

(3) *Arm's-length standard.* The terms of a loan, whether or not between independent parties, must, at the time the loan is made, be at least as favorable to the ESOP as the terms of a comparable loan resulting from arm's-length negotiations between independent parties.

(d) *Use of loan proceeds.* The proceeds of an exempt loan must be used, within a reasonable time after their receipt, by the borrowing ESOP only for any or all of the following purposes:

(1) To acquire qualifying employer securities.

(2) To repay such loan.

(3) To repay a prior exempt loan. A new loan, the proceeds of which are so used, must satisfy the provisions of this section.

Except as provided in paragraphs (l) and (j) of this section or as otherwise required by applicable law, no security acquired with the proceeds of an exempt loan may be subject to a put, call, or other option, or buy-sell or similar arrangement while held by and when distributed from a plan, whether or not the plan is then an ESOP.

(e) *Liability and collateral of ESOP for loan.* An exempt loan must be without recourse against the ESOP. Furthermore, the only assets of the ESOP that may be given as collateral on an exempt loan are qualifying employer securities of two classes: those acquired with the proceeds of the exempt loan and those that were used as collateral on a prior exempt loan repaid with the proceeds of the current exempt loan. No person entitled to payment under the exempt loan shall have any right to assets of the ESOP other than:

(1) Collateral given for the loan,

(2) Contributions (other than contributions of employer securities) that are made under an ESOP to meet its obligations under the loan, and

(3) Earnings attributable to such collateral and the investment of such contributions.

The payments made with respect to an exempt loan by the ESOP during a plan year must not exceed an amount equal to the sum of such contributions and earnings received during or prior to the year less such payments in prior years. Such contributions and earnings must be accounted for separately in the books of account of the ESOP until the loan is repaid.

(f) *Default.* In the event of default upon an exempt loan, the value of plan assets transferred in satisfaction of the loan must not exceed the amount of default. If the lender is a party in interest, a loan must provide for a transfer of plan assets upon default only upon, and to the extent of the failure of the plan to meet the payment schedule of the loan. For purposes of this paragraph, the making of a guarantee does not make a person a lender.

(g) *Reasonable rate of interest.* The interest rate of a loan must not be in excess of a reasonable rate of interest. All relevant factors will be considered in determining a reasonable rate of interest, including the amount and duration of the loan, the security and guarantee (if any) involved, the credit standing of the ESOP and the guarantor (if any), and the interest rate prevailing for comparable loans. When these factors are considered, a variable interest rate may be reasonable.

(h) *Release from encumbrance*—(1) *General rule.* In general, an exempt loan must provide for the release from encumbrance of plan assets used as collateral for the loan under this paragraph. For each plan year during the duration of the loan, the number of securities released must equal the number of encumbered securities held immediately before release for the current plan year multiplied by a fraction. The numerator of the fraction is the amount of principal and interest paid for the year. The denominator of the fraction is the sum of the numerator plus the principal and interest to be paid for all future years. See § 2550.408b–3(h)(4). The number of future years under the loan must be definitely ascertainable and must be determined without taking into account any possible extensions or renewal periods. If the interest rate under the loan is variable, the interest to be paid in future years must be computed by using the interest rate applicable as of the end of the plan year. If collateral includes more than one class of securities, the number of securities of each class to be released for a plan year must be determined by applying the same fraction to each class.

(2) *Special rule.* A loan will not fail to be exempt merely because the number of securities to be released from encumbrance is determined solely with reference to principal payments. However, if release is determined with reference to principal payments only, the following three additional rules apply. The first rule is that the loan must provide for annual payments of principal and interest at a cumulative rate that is not less rapid at any time than level annual payments of such amounts for 10 years. The second rule is that interest included in any payment is disregarded only to the extent that it would be determined to be interest under standard loan amortization tables. The third rule is that subdivision (2) is not applicable from the time that, by reason of a renewal, extension, or refining, the sum of the expired duration of the exempt loan, the renewal period, the extension period, and the duration of a new exempt loan exceeds 10 years.

(3) *Caution against plan disqualification.* Under an exempt loan, the number of securities released from encumbrance may vary from year to year. The release of securities depends upon certain employer contributions and earnings under the ESOP. Under 26 CFR 54.4975–11(d)(2) actual allocations to participants' accounts are based upon assets withdrawn from the suspense account. Nevertheless, for purposes of applying the limitations under section 415 of the Code to these allocations, under 26 CFR 54.4975–11(a)(8)(ii) contributions used by the ESOP to pay the loan are treated as annual additions to participants' accounts. Therefore, particular caution must be exercised to avoid exceeding the maximum annual additions under section 415 of the

Code. At the same time, release from encumbrance in annually varying numbers may reflect a failure on the part of the employer to make substantial and recurring contributions to the ESOP which will lead to loss of qualification under section 401(a) of the Code. The Internal Revenue Service will observe closely the operation of ESOPs that release encumbered securities in varying annual amounts, particularly those that provide for the deferral of loan payments or for balloon payments. See 26 CFR 54.4975–7(b)(8)(iii).

(4) *Illustration.* The general rule under paragraph (h)(1) of this section operates as illustrated in the following example:

Example. Corporation X establishes an ESOP that borrows $750,000 from a bank. X guarantees the loan which is for 15 years at 5% interest and is payable in level annual amounts of $72,256.72. Total payments on the loan are $1,083,850.80. The ESOP uses the entire proceeds of the loan to acquire 15,000 shares of X stock which is used as collateral for the loan. The number of securities to be released for the first year is 1,000 shares, i.e., 15,000 shares × $72,256.72/$1,083,850.80 = 15,000 shares × 1/15. The number of securities to be released for the second year is 1,000 shares, i.e., 14,000 shares × $72,256.72/$1,011,594.08 = 14,000 shares × 1/14. If all loan payments are made as originally scheduled, the number of securities released in each succeeding year of the loan will also be 1,000.

(i) *Right of first refusal.* Qualifying employer securities acquired with proceeds of an exempt loan may, but need not, be subject to a right of first refusal. However, any such right must meet the requirements of this paragraph. Securities subject to such right must be stock or an equity security, or a debt security convertible into stock or an equity security. Also, they must not be publicly traded at the time the right may be exercised. The right of first refusal must be in favor of the employer, the ESOP, or both in any order of priority. The selling price and other terms under the right must not be less favorable to the seller than the greater of the value of the security determined under 26 CFR 54.4975–11(d)(5), or the purchase price and other terms offered by a buyer, other than the employer or the ESOP, making a good faith offer to purchase the security. The right of first refusal must lapse no later than 14 days after the security holder gives written notice to the holder of the right that an offer by a third party to purchase the security has been received.

(j) *Put option.* A qualifying employer security acquired with the proceeds of an exempt loan by an ESOP after September 30, 1976, must be subject to a put option if it is not publicly traded when distributed or if it is subject to a trading limitation when distributed. For purposes of this paragraph, a "trading limitation" on a security is a restriction under any Federal or State securities law or any regulation thereunder, or an agreement (not prohibited by this section) affecting the security which would make the security not as freely tradable as one not subject to such restriction. The put option must be exercisable only by a participant, by the participant's donees, or by a person (including an estate or its distributee) to whom the security passes by reason of a participant's death. (Under this paragraph "participant" means a participant and the beneficiaries of the participant under the ESOP.) The put option must permit a participant to put the security to the employer. Under no circumstances may the put option bind the ESOP. However, it may grant the ESOP an option to assume the rights and obligations of the employer at the time that the put option is exercised. If it is known at the time a loan is made that Federal or state law will be violated by the employer's honoring such option, the put option must permit the security to be put, in a manner consistent with such law, to a third party (e.g., an affiliate of the employer or a shareholder other than the ESOP) that has substantial net worth at the time the loan is made and whose net worth is reasonably expected to remain substantial.

(k) *Duration of put option.*—(1) *General rule.* A put option must be exercisable at least during a 15-month period which begins the date the security subject to the put option is distributed by the ESOP.

(2) *Special rule.* In the case of a security that is publicly traded without restriction when distributed but ceases to be so traded within 15 months after distribution, the employer must notify each security holder in writing on or before the tenth day after the date the security ceases to be so traded that for the remainder of the 15-month period the security is subject to a put option. The number of days between the tenth day and the date on which notice is actually given, if later than the tenth day, must be added to the duration of the put option. The notice must inform distributees of the terms of the put options that they are to hold. The terms must satisfy the requirements of paragraphs (j) through (l) of this section.

(l) *Other put option provisions.*—(1) *Manner of exercise.* A put option is exercised by the holder notifying the employer in writing that the put option is being exercised.

(2) *Time excluded from duration of put option.* The period during which a put option is exercisable does not include any time when a distributee is unable to exercise it because the party bound by the put option is prohibited from honoring it by applicable Federal or state law.

(3) *Price.* The price at which a put option must be exercisable is the value of the security, determined in accordance with paragraph (d)(5) of 26 CFR 54.4975–11.

(4) *Payment terms.* The provisions for payment under a put option must be reasonable. The deferral of payment is reasonable if adequate security and a reasonable interest rate are provided for any credit extended and if the cumulative payments at any time are no less than the aggregate of reasonable periodic payments as of such time. Periodic payments are reasonable if annual installments, beginning with 30 days after the date the put option is exercised, are substantially equal. Generally, the payment period may not end more than 5 years after the date the put option is exercised. However, it may be extended to a date no later than the earlier of 10 years from the date the put option is exercised or the date the proceeds of the loan used by the ESOP to acquire the security subject to such put option are entirely repaid.

(5) *Payment restrictions.* Payment under a put option may be restricted by the terms of a loan, including one used to acquire a security subject to a put option, made before November 1, 1977. Otherwise, payment under a put option must not be restricted by the provisions of a loan or any other arrangement, including the terms of the employer's articles of incorporation, unless so required by applicable state law.

(m) *Other terms of loan.* An exempt loan must be for a specific term. Such loan may not be payable at the demand of any person, except in the case of default.

(n) *Status of plan as ESOP.* To be exempt, a loan must be made to a plan that is an ESOP at the time of such loan. However, a loan to a plan formally designated as an ESOP at the time of the loan that fails to be an ESOP because it does not comply with section 401(a) of the Code or 26 CFR 54.4975–11 will be exempt as of the time of such loan if the plan is amended retroactively under section 401(b) of the Code or 26 CFR 54.4975–11(a)(4).

(o) *Special rules for certain loans.*—(1) *Loans made before January 1, 1976.* A loan made before January 1, 1976, or made afterwards under a binding agreement in effect on January 1, 1976 (or under renewals permitted by the terms of such an agreement on that date) is exempt for the entire period of such loan if it otherwise satisfies the provisions of this section for such period, even though it does not satisfy the following provisions of this section:

(i) The last sentence of paragraph (d);

(ii) Paragraphs (e), (f), and (h)(1) and (2); and

(iii) Paragraphs (i) through (m), inclusive.

(2) *Loans made after December 31, 1975, but before (insert 60 days after publication of final regulations).* A loan made after December 31, 1975, but before November 1, 1977, or made afterwards under a binding agreement in effect on November 1, 1977 (or under renewals permitted by the terms of such an agreement on that date) is exempt for the entire period of such loan if it otherwise satisfies the provisions of this section for such period even though it does not satisfy the following provisions of this section:

(i) Paragraph (f);

(ii) The three provisions of paragraph (h)(2); and (iii) paragraph (i).

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(3) *Release rule.* Notwithstanding paragraphs (o) (1) and (2) of this section, if the proceeds of a loan are used to acquire securities after November 1, 1977, the loan must comply by such date with the provisions of paragraph (h) of this section.

(4) *Default rule.* Notwithstanding paragraphs (o) (1) and (2) of this section, a loan by a party in interest other than a guarantor must satisfy the requirements of paragraph (f) of this section. A loan will satisfy these requirements if it is retroactively amended before November 1, 1977, to satisfy these requirements.

(5) *Put option rule.* With respect to a security distributed before November 1, 1977, the put option provisions of paragraphs (j), (k), and (l) of this section will be deemed satisfied as of the date the security is distributed if by December 31, 1977, the security is subject to a put option satisfying such provisions. For purposes of satisfying such provisions, the security will be deemed distributed on the date the put option is issued. However, the put option provisions need not be satisfied with respect to a security that is not owned on November 1, 1977, by a person in whose hands a put option must be exercisable.

Par. 2. § 2550.407d–5 is inserted in the appropriate place to read as set forth below:

§ 2550.407d–5 Definition of the term "qualifying employer security".

(a) *In general.*—For purposes of this section and section 407(d) (5) of the Employee Retirement Income Security Act of 1974 (the Act), the term "qualifying employer security" means an employer security which is:

(1) Stock; or

(2) A marketable obligation, as defined in paragraph (b) of this section and section 407(e) of the Act.

(b) For purposes of paragraph (a) (2) of this section and section 407(d) (5) of the Act, the term "marketable obligation" means a bond, debenture, note, or certificate, or other evidence of indebtedness (hereinafter in this paragraph referred to as "obligation") if:

(1) Such obligation is acquired—

(i) On the market, either

(A) At the price of the obligation prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or

(B) If the obligation is not traded on such a national securities exchange, at a price not less favorable to the plan than the offering price for the obligation as established by current bid and asked prices quoted by persons independent of the issuer;

(ii) From an underwriter, at a price—

(A) Not in excess of the public offering price for the obligation as set forth in a prospectus or offering circular filed with the Securities and Exchange Commission, and

(B) At which a substantial portion of the same issue is acquired by persons independent of the issuer; or

(iii) Directly from the issuer at a price not less favorable to the plan than the price paid currently for a substantial portion of the same issue by persons independent of the issuer;

(2) Immediately following acquisition of such obligation,

(i) Not more than 25 percent of the aggregate amount of obligations issued in such issue and outstanding at the time of acquisition is held by the plan, and

(ii) At least 50 percent of the aggregate amount referred to in paragraph (A) is held by persons independent of the issuer; and

(3) Immediately following acquisition of the obligation, not more than 25 percent of the assets of the plan is invested in obligations of the employer or an affiliate of the employer.

Par. 3. § 2550.407d–6 is inserted in the appropriate place to read as set forth below:

§ 2550.407d–6 Definition of the term "employee stock ownership plan".

(a) *In general.*—(1) *Type of plan.* To be an "ESOP" (employee stock ownership plan), a plan described in section 407(d) (6) (A) of the Employee Retirement Income Security Act of 1974 (the Act) must meet the requirements of this section. See section 407(d) (6) (B).

(2) *Designation as ESOP.* To be an ESOP, a plan must be formally designated as such in the plan document.

(3) *Retroactive amendment.* A plan meets the requirements of this section as of the date that it is designated as an ESOP if it is amended retroactively to meet, and in fact does meet, such requirements at any of the following times:

(i) 12 months after the date on which the plan is designated as an ESOP;

(ii) 90 days after a determination letter is issued with respect to the qualification of the plan as an ESOP under this section, but only if the determination is requested by the date in paragraph (a) (3) (i) of this section; or

(iii) A later date approved by the Internal Revenue Service district director.

(4) *Addition to other plan.* An ESOP may form a portion of a plan the balance of which includes a qualified pension, profit-sharing, or stock bonus plan which is not an ESOP. A reference to an ESOP includes an ESOP that forms a portion of another plan.

(5) *Conversion of existing plan to an ESOP.* If an existing pension, profit-sharing, or stock bonus plan is converted into an ESOP, the requirements of section 404 of the Act, relating to fiduciary duties, and section 401(a) of the Internal Revenue Code (the Code), relating to requirements for plans established for the exclusive benefit of employees, apply to such conversion. A conversion may constitute a termination of an existing plan. For definition of a termination, see the regulations under section 411(d) (3) of the Code and section 4041 (f) of the Act.

(6) *Certain arrangements barred.*—(i) *Buy-sell agreements.* An arrangement involving an ESOP that creates a put option must not provide for the issuance of put options other than as provided under § 2550.408b–3(j), (k) and (l). Also, an ESOP must not otherwise obligate itself to acquire securities from a particular security holder at an indefinite time determined upon the happening of an event such as the death of the holder.

(b) *Plan designed to invest primarily in qualifying employer securities.* A plan constitutes an ESOP only if the plan specifically states that it is designed to invest primarily in qualifying employer securities. Thus, a stock bonus plan or a money purchase pension plan constituting an ESOP may invest part of its assets in other than qualifying employer securities. Such plan will be treated the same as other stock bonus plans or money purchase pension plans qualified under section 401(a) of the Code with respect to those investments.

(c) *Regulations of the Secretary of the Treasury.* A plan constitutes an ESOP for a plan year only if it meets such other requirements as the Secretary of the Treasury may prescribe by regulation under section 4975(e) (7) of the Code. (See 26 CFR 54.4975–11).

Signed at Washington, D.C., this 18th day of August, 1977.

IAN LANOFF,
Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration.

[FR Doc.77–25695 Filed 8–30–77;2:42 pm]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7506]

PART 54—PENSION, ETC. EXCISE TAX

Employee Stock Ownership Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to employee stock ownership plans ("ESOP's"). Changes in the applicable tax law were made by the Employee Retirement Income Security Act of 1974 (ERISA). Together with temporary regulations published elsewhere in today's FEDERAL REGISTER, these regulations are intended to provide guidance for the public in complying with the law. They affect all employees who participate in ESOP's and employers who establish ESOP's.

DATE: The regulations are generally effective for plan years ending after December 31, 1974.

FOR FURTHER INFORMATION CONTACT:

Thomas Rogan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3478).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On July 30, 1976, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part I) under section 301 of the Internal Revenue Code of 1954 and to the Pension, etc. Excise Tax Regulations (26 CFR Part 54) under section 4975 (d) (3), (e) (7), and (e) (8) of the Code (41 FR 31833). Similar Department of Labor provisions appeared at the same time (41 FR 31870).

By a notice published in the FEDERAL REGISTER on October 19, 1976, the public was invited to comment orally or in writing not only upon issues addressed in the proposed amendments, but also upon issues addressed by section 803(h) of the Tax Reform Act of 1976 (90 Stat. 1590) and by the Conference Report of the Committee of Conference on H.R. 10612 (H.R. Rep. No. 94–1515, 94th Cong., 2d Sess., 539–542 (1976)), as both relate to ESOP's.

A public hearing was held on November 12, 1976. After consideration of all comments, some of the amendments are adopted as revised by this Treasury decision. Others are revised and re-proposed elsewhere in today's FEDERAL REGISTER. Also, temporary regulations parallel to the re-proposed amendments are adopted elsewhere in today's FEDERAL REGISTER.

Both substantive and structural changes are made in the proposed amendments. Thus, the final regulations differ considerably from the proposed amendments. Certain provisions are added. Others are restructured or deleted. However, many changes are designed solely to simplify the final regulations. Therefore, no substantive inference should be drawn solely from the fact that a particular proposed amendment is either deleted or restructured.

MAJOR SUBSTANTIVE DELETIONS

(1) TREATMENT OF SALE AS REDEMPTION

Many comments object to the proposed amendment under § 1.301–1(1). The amendment would result in treating some ESOP transactions as dividends distributed by the employer to shareholders. Some of the comments question the legal validity of this proposal, its application solely to ESOP's, and its failure to identify specific transactions to which the proposal would apply. In order that these comments may be considered further, this proposal is withdrawn. Guidance on this matter may be expected within the context of shareholder transactions with employee plans in general.

(2) SPECIAL REQUIREMENTS FOR USE OF LOAN PROCEEDS

Several comments suggest major revisions to proposed § 54.4975–7(b) (2) (i) (B) (2) *through* (5). These provisions relate to requirements with respect to voting stock; to non-voting common stock, preferred stock or other equity securities; to unrestricted dividend rights; and to the overall limitation on employer securities (other than certain common stock or convertible securities) acquired with loan proceeds. The majority recommend deletion. This document makes the deletion.

However, this deletion does not mean that the Department of Labor and the Internal Revenue Service are unconcerned with the nature of securities acquired by an ESOP with the proceeds of an exempt loan. The acquisition of securities by an ESOP will be judged by the Department of Labor under the requirements of section 404(a) (1) of ERISA.

(3) PASS-THROUGH OF VOTING RIGHTS

The comments reflect a mixed reaction to the proposed amendment relating to the exercise of voting and other rights attributable to securities owned by an ESOP. Particularly, the comments focus on the provision requiring the pass-through of voting rights to participants with respect to allocated securities. Some comments favor the proposed amendments. Others suggest minor modifications. However, most of the comments object to the treatment of ESOP's differently in this respect from other qualified employee plans.

Because of these comments, the proposed § 54.4975–11(d) is withdrawn. The requirements generally applicable with respect to the exercise of rights under qualified employee plans apply to ESOP's.

MAJOR SUBSTANTIVE ADDITIONS

(1) RIGHTS OF FIRST REFUSAL

Section 54.4975–7(b) (9) is added under the final regulations to permit an ESOP to acquire employer securities that are subject to a right of first refusal.

Many comments stress the necessity of a right of first refusal to protect small, closely held corporations whose securities are not publicly traded from dilution of control, takeovers, by competitors, and inadvertent "going public". The final regulations reflect the comments by permitting a 14-day right of first refusal in favor of the employer, the ESOP, or both. However, the securities subject to a right of first refusal must not be publicly traded at the time the right is sought to be exercised. Also, the selling price and other terms of the purchase under a right of first refusal must not be less favorable to the seller of the security than the greater of the fair market value of the security or the purchase price and other terms offered by a third party making a good faith offer.

MAJOR REVISIONS

(1) DEFINITION OF "PUBLICLY TRADED"

In response to a number of comments, the concept of "publicly traded" is expanded under the final regulations to include securities quoted on a system sponsored by a registered national securities association. The primary effect of this change is to limit the extent to which a put option is required.

(2) SCOPE OF ESOP LOAN EXEMPTION

Many comments suggest that the proposed amendment limiting the scope of the ESOP loan exemption to the prohibitions of section 4975(c) (1) (A) through (D) is not supported by ERISA or its legislative history. The same criticism is made concerning the requirement that loans involving fiduciary self-dealing must be arranged and approved by an independent fiduciary.

Based upon a review of the comments and the legislative history, the scope of the ESOP loan exemption is expanded under the final regulations. The only prohibited transactions to which the exemption under section 4975(d) (3) does not apply are those arising under section 4975(c) (1) (F), relating to the receipt by a fiduciary of any consideration for his own personal account from a party dealing with a plan. Also, the independent fiduciary requirement is eliminated under the final regulations.

The ERISA Conference Report states that, because of potential problems with respect to ESOP loans by disqualified persons, "the conferees intend that all aspects of these transactions will be subject to special scrutiny by the Department of Labor and the Internal Revenue Service to ensure that they are primarily for the benefit of plan participants and beneficiaries" (H.R. Rep. No. 93–1280, 93d Cong., 2d Sess., 313 (1974)). The final regulations make it clear that the "special scrutiny" for ESOP transactions referred to by the conferees is not meant to require an administrative exemption for loans by fiduciaries. Rather, the language is interpreted as requiring the careful examination of these transactions to ensure that they are primarily for the benefit of participants and their beneficiaries and that they satisfy the requirements of section 404(a) (1) of ERISA.

(3) PRIMARY BENEFIT REQUIREMENT

The requirement that an ESOP loan be made primarily for the benefit of participants and beneficiaries of the plan is expressed with greater specificity under the final regulations. In response to comments requesting clarification of this provision, two tests are added under § 54.4975–7(b) (3) to illustrate how a determination can be made with respect to whether a transaction meets the primary benefit requirement. The first test, derived from the ERISA Conference Report, involves a determination based on the projected net effect of the loan on the ESOP over the duration of the transaction. (See ERISA Conference Report, p. 313.) The second test requires that the terms of an ESOP loan be at least as favorable as a comparable loan resulting from armslength negotiations involving independent parties.

(4) DEFAULT

The proposed amendment restricts the transfer of plan assets in the event of default to a failure to meet the loan payment schedule. As suggested in the comments, the final regulations are less restrictive. The limitation on the transfer of plan assets in the event of default applies only to loans in which the disqualified person extends credit in a form other than a guarantee.

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(5) RELEASE FROM ENCUMBRANCE AND SUSPENSE ACCOUNT

The proposed amendments require securities to be released in at least equal annual amounts from encumbrance and from a suspense account. This rule is eliminated from the final regulations because, as pointed out in the comments, it is unnecessarily rigid. Instead, the final regulations now provide, as a general rule, for release of securities from encumbrance and the suspense account as principal and interest are paid. Also, an alternative rule now permits release from encumbrance and from the suspense account with reference to principal payments only. In the case of loans made after November 1, 1977, the alternative applies only to loans with a term of 10 years or less that require payments at a cumulative rate not less rapid than level annual payments. In these cases, interest payments will not be disregarded unless based on standard loan amortization tables.

The final regulations note that the release of securities in unequal annual amounts may reflect conditions causing plan disqualification if contributions are not substantial and recurring or if the limitations on annual additions under section 415 are exceeded.

(6) PUT OPTIONS

The comments address various aspects of the put option provision under the proposed amendments. Several comments express concern over the strain on an employer's cash supply that could result from the continuous exercise of put options by participants, unless installment payments were permissible. Others point out that under certain circumstances, the corporate laws of several states prohibit corporations from purchasing their own securities, and that certain corporations, e.g., banks, may be absolutely prohibited by law from issuing put options.

The final regulations relating to put options reflect many of these comments. Therefore, they differ considerably from the proposed amendments.

The final regulations address the problem that arises if an employer is prohibited by law from honoring a put option. In such cases, a third party other than the ESOP must be bound to honor the put option. They also make it clear that the ESOP must not be bound under any circumstances to honor a put option. However, it may be granted the option to assume the rights and obligations of the employer at the time that the put option is exercised.

The minimum duration of the put option is reduced to 15 months. However, if, for example, the employer or a designated third party is prohibited by law from honoring a put option, the 15-month period runs only when the legal restriction ceases to apply. Also, a security not subject to a put option when distributed must be subject to the requirements for put options if, for example, it ceases to be publicly traded within 15 months after distribution.

Other new put option provisions include a limitation on the number of years over which periodic payments under a put option may be spread and a prohibition of certain payment restrictions. Also, the scope of the put option requirement is expanded to include publicly traded securities that are not freely tradable because of certain restrictions.

(7) SPECIAL RULES FOR CERTAIN EXEMPT LOANS

A number of comments indicate the need to permit retroactive amendment of certain ESOP loans to prevent inadvertent prohibited transactions in loan agreements consummated in good faith before the publication of the final regulations. In light of these comments, the proposed amendments are modified to provide transitional relief.

The regulations provide special rules for loans entered into before January 1, 1976. These loans are not subject to the requirements relating to puts, calls or other options, or buy-sell or similar arrangements; liability of ESOP's; default; release from encumbrance; rights of first refusal; put options; and other loan terms. They are subject to the remaining provisions of the regulation because these provisions could be reasonably anticipated by reading the statutory provisions relating to ESOP's.

Other special rules apply more restrictively to loans made between January 1, 1976, and November 1, 1977. These additional restrictions embody provisions contained in Technical Information Release 1413, guidelines relating to ESOP's, published on November 4, 1975 (1975-50 I.R.B. 16). However, these special rules would allow an ESOP loan made during this period to be exempt for the entire loan period even though the loan fails to satisfy the three additional provisions under the special rules for release from encumbrance or the provisions relating to rights of first refusal and default.

In addition, a loan may be retroactively amended under the final regulations to comply with the default and put option provisions. Under the special rule for put options, a security distributed without a put option will satisfy the final regulations as of the date of distribution if by November 1, 1977 the security becomes subject to a put option satisfying the regulations. The 15-month period for the duration of the put option begins with the date on which the security becomes subject to the put option.

(8) TRANSITIONAL RULES FOR PLANS

The comments also note that transitional rules are lacking under the proposed amendments for plan qualification as an ESOP. This relief is available under the final regulations for ESOP's established before November 1, 1977 if they are amended by December 31, 1977, to satisfy the final regulations.

(9) PURCHASE OF LIFE INSURANCE

Many comments criticize the limitation in the proposed amendments on the purchase of life insurance policies with ESOP assets that are not the proceeds of an exempt loan. That limitation is deleted. Thus, in general, the rules applicable to purchases of life insurance by qualified plans apply to ESOP's. However, the rule of the proposed amendments restricting the use of exempt loan proceeds by an ESOP is unchanged. Thus, an ESOP loan is not exempt if life insurance policies are acquired with the loan proceeds.

(10) VALUATION

Many comments urge deletion of the requirement that an annual certificate of value must be provided in certain situations. The final regulations delete this requirement. They also add the requirement that any determination of value must be made in good faith. In the case of a transaction involving a plan and a disqualified person, this determination must be made as of the date of the transaction. In all other cases, it must be made as of the most recent valuation date under the plan.

An independent appraisal is recognized as a good faith determination of value. However, in the case of a transaction between a plan and a disqualified person, a determination based only on an independent appraisal may not be conclusive.

(11) QUALIFYING EMPLOYER SECURITY

The term "other equity security" is included in the definition of "qualifying employer security" under the Code but not under section 407(d) (5) of ERISA. The proposed amendments are silent on this difference. One comment suggests that this difference is of substantive significance. Since insufficient justification is offered in support of this suggestion, no change is made.

GUIDELINES SUPERSEDED

Questions and answers relating to ESOP's were published in Technical Information Release (TIR) 1413 on November 4, 1975, as guidelines pending the issuance of regulations. The regulations under this Treasury decision supersede the following of those questions and answers in so far as they apply to ESOP's:

(1) G-1, relating to definition of ESOP;

(2) F-3, relating to rights of first refusal;

(3) F-4, relating to call options;

(4) F-5, relating to buy-sell arrangements with shareholders;

(5) F-6, to the extent that the first paragraph of the answer applies to section 4975(e)(7)(A), relating to the funding of ESOP's;

(6) F-9, relating to incidental life insurance; and

(7) F-10, relating to loans to ESOP's.

DRAFTING INFORMATION

The principal author of this regulation was Thomas Rogan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service, Treasury Department, and Department of Labor participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, 26 CFR Part 54 is amended as follows:

Paragraph 1. There is inserted in the appropriate place the following new section:

§ 54.4975-7 Other statutory exemptions.

(a) [Reserved].

(b) *Loans to employee stock ownership plans*—

(1) *Definitions.* When used in this paragraph (b) and § 54.4975-11, the terms listed below have the following meanings:

(i) *ESOP.* The term "ESOP" refers to an employee stock ownership plan that meets the requirements of section 4975(e)(7) and § 54.4975-11. It is not synonymous with "stock bonus plan." A stock bonus plan must, however, be an ESOP to engage in an exempt loan. The qualification of an ESOP under section 401(a) and § 54.4975-11 will not be adversely affected merely because it engages in a non-exempt loan.

(ii) *Loan.* The term "loan" refers to a loan made to an ESOP by a disqualified person or a loan to an ESOP which is guaranteed by a disqualified person. It includes a direct loan of cash, a purchase-money transaction, and an assumption of the obligation of an ESOP. "Guarantee" includes an unsecured guarantee and the use of assets of a disqualified person as collateral for a loan, even though the use of assets may not be a guarantee under applicable state law. An amendment of a loan in order to qualify as an exempt loan is not a refinancing of the loan or the making of another loan.

(iii) *Exempt loan.* The term "exempt loan" refers to a loan that satisfies the provisions of this paragraph (b). A "non-exempt loan" is one that fails to satisfy such provisions.

(iv) *Publicly traded.* The term "publicly traded" refers to a security that is listed on a national securities exchange registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) or that is quoted on a system sponsored by a national securities association registered under section 15A(b) of the Securities Exchange Act (15 U.S.C. 78o).

(v) *Qualifying employer security.* The term "qualifying employer security" refers to a security described in § 54.4975-12.

(2) *Statutory exemption.*—(i) *Scope.* Section 4975(d)(3) provides an exemption from the excise tax imposed under section 4975(a) and (b) by reason of section 4975(c)(1)(A) through (E). Section 4975(d)(3) does not provide an exemption from the imposition of such tax by reason of section 4975(c)(1)(F), relating to fiduciaries receiving consideration for their own personal account from any party dealing with a plan in connection with a transaction involving the income or assets of the plan.

(ii) *Special scrutiny of transaction.* The exemption under section 4975(d)(3) includes within its scope certain transactions in which the potential for self-dealing by fiduciaries exists and in which the interests of fiduciaries may conflict with the interests of participants. To guard against those potential abuses, the Internal Revenue Service will subject these transactions to special scrutiny to ensure that they are primarily for the benefit of participants and their beneficiaries. Although the transactions need not be arranged and approved by an independent fiduciary, fiduciaries are cautioned to exercise scrupulously their discretion in approving them. For example, fiduciaries should be prepared to demonstrate compliance with the net effect test and the arm's-length standard under paragraph (b)(3)(ii) and (iii) of this section. Also, fiduciaries should determine that the transaction is truly arranged primarily in the interest of participants and their beneficiaries rather than, for example, in the interest of certain selling shareholders.

(3) *Primary benefit requirement.*—(i) *In general.* An exempt loan must be primarily for the benefit of the ESOP participants and their beneficiaries. All the surrounding facts and circumstances, including those described in paragraph (b)(3)(ii) and (iii) of this section, will be considered in determining whether the loan satisfies this requirement. However, no loan will satisfy the requirement unless it satisfies the requirements of paragraphm (b)(4), (5), and (6) of this section.

(ii) *Net effect on plan assets.* At the time that a loan is made, the interest rate for the loan and the price of securities to be acquired with the loan proceeds should not be such that plan assets might be drained off.

(iii) *Arm's-length standard.* The terms of a loan, whether or not between independent parties, must, at the same time the loan is made, be at least as favorable to the ESOP as the terms of a comparable loan resulting from arm's-length negotiations between independent parties.

(4) *Use of loan proceeds.* The proceeds of an exempt loan must be used within a reasonable time after their receipt by the borrowing ESOP only for any or all of the following purposes:

(i) To acquire qualifying employer securities.

(ii) To repay such loan.

(iii) To repay a prior exempt loan. A new loan, the proceeds of which are so used, must satisfy the provisions of this paragraph (b).

Except as provided in paragraph (b)(9) and (10) of this section or as otherwise required by applicable law, no security acquired with the proceeds of an exempt loan may be subject to a put, call, or other option, or buy-sell or similar arrangement while held by and when distributed from a plan, whether or not the plan is then an ESOP.

(5) *Liability and collateral of ESOP for loan.* An exempt loan must be without recourse against the ESOP. Furthermore, the only assets of the ESOP that may be given as collateral on an exempt loan are qualifying employer securities of two classes: those acquired with the proceeds of the loan and those that were used as collateral on a prior exempt loan repaid with the proceeds of the current exempt loan. No person entitled to payment under the exempt loan shall have any right to assets of the ESOP other than:

(i) Collateral given for the loan.

(ii) Contributions (other than contributions of employer securities) that are made under an ESOP to meet its obligations under the loan, and

(iii) Earnings attributable to such collateral and the investment of such contributions.

The payments made with respect to an exempt loan by ESOP during a plan year must not exceed an amount equal to the sum of such contributions and earnings received during or prior to the year less such payments in prior years. Such contributions and earnings must be accounted for separately in the books of account of the ESOP until the loan is repaid.

(6) *Default.* In the event of default upon an exempt loan, the value of plan assets transferred in satisfaction of the loan must not exceed the amount of default. If the lender is a disqualified person, a loan must provide for a transfer of plan assets upon default only upon and to the extent of the failure of the plan to meet the payment schedule of the loan. For purposes of this subparagraph (6), the making of a guarantee does not make a person a lender.

(7) *Reasonable rate of interest.* The interest rate of a loan must not be in excess of a reasonable rate of interest. All relevant factors will be considered in determining a reasonable rate of interest, including the amount and duration of the loan, the security and guarantee (if any) involved, the credit standing of the ESOP and the guarantor (if any), and the interest rate prevailing for comparable loans. When these factors are considered, a variable interest rate may be reasonable.

(8) *Release from encumbrance.*—(i) *General rule.* In general, an exempt loan must provide for the release from encumbrance under this subdivision (i) of plan assets used as collateral for the loan. For each plan year during the duration of the loan, the number of securities released must equal the number of encumbered securities held immediately before release for the current plan year multiplied by a fraction. The numerator of the fraction is the amount of principal and interest paid for the year. The denominator of the fraction is the sum of the numerator plus the principal and interest to be paid for all future years. See § 54.4975-7(b)(8)(iv). The number of future years under the loan must be definitely ascertainable and must be determined without taking into account any possible extensions or renewal po-

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riods. If the interest rate under the loan is variable, the interest to be paid in future years must be computed by using the interest rate applicable as of the end of the plan year. If collateral includes more than one class of securities, the number of securities of each class to be released for a plan year must be determined by applying the same fraction to each class.

(ii) *Special rule.* A loan will not fail to be exempt merely because the number of securities to be released from encumbrance is determined solely with reference to principal payments. However, if release is determined with reference to principal payments only, the following three additional rules apply. The first rule is that the loan must provide for annual payments of principal and interest at a cumulative rate that is not less rapid at any time than level annual payments of such amounts for 10 years. The second rule is that interest included in any payment is disregarded only to the extent that it would be determined to be interest under standard loan amortization tables. The third rule is that this subdivision (ii) is not applicable from the time that, by reason of a renewal, extension, or refinancing, the sum of the expired duration of the exempt loan, the renewal period, the extension period, and the duration of a new exempt loan exceeds 10 years.

(iii) *Caution against plan disqualification.* Under an exempt loan, the number of securities released from encumbrance may vary from year to year. The release of securities depends upon certain employer contributions and earnings under the ESOP. Under § 54.4975–11(d)(2) actual allocations to participants' accounts are based upon assets withdrawn from the suspense account. Nevertheless, for purposes of applying the limitations under section 415 to these allocations, under § 54.4975–11(a)(8)(ii) contributions used by the ESOP to pay the loan are treated as annual additions to participants' accounts. Therefore, particular caution must be exercised to avoid exceeding the maximum annual additions under section 415. At the same time, release from encumbrance in annual varying numbers may reflect a failure on the part of the employer to make substantial and recurring contributions to the ESOP which will lead to loss of qualification under section 401(a). The Internal Revenue Service will observe closely the operation of ESOP's that release encumbered securities in varying annual amounts, particularly those that provide for the deferral of loan payments or for balloon payments.

(iv) *Illustration.* The general rule under paragraph (b)(8)(i) of this section operates as illustrated in the following example:

Example. Corporation X establishes an ESOP that borrows $750,000 from a bank. X guarantees the loan, which is for 15 years at 8% interest and is payable in level annual amounts of $72,256.72. Total payments on the loan are $1,083,850.80. The ESOP uses the entire loan proceeds to acquire 15,000 shares of X stock which is used as collateral for the loan. The number of securities to be released for the first year is 1,000 shares, i.e., 15,000 shares × $72,256.72/$1,083,850.80 = 15,000 shares x 1/15. The number of securities to be released for the second year is 1,000 shares, i.e., 14,000 shares × $72,256.72/$1,011,594.08 = 14,000 shares × 1/14. If all loan payments are made as originally scheduled, the number of securities released in each succeeding year of the loan will also be 1,000.

(9) *Right of first refusal.* Qualifying employer securities acquired with proceeds of an exempt loan may, but need not, be subject to a right of first refusal. However, any such right must meet the requirements of this subparagraph (9). Securities subject to such right must be stock or an equity security, or a debt security convertible into stock or an equity security. Also, the securities must not be publicly traded at the time the right may be exercised. The right of first refusal must be in favor of the employer, the ESOP, or both in any order of priority. The selling price and other terms under the right must not be less favorable to the seller than the greater of the value of the security determined under § 54.4975–11(d)(5), or the purchase price and other terms offered by a buyer, other than the employer or the ESOP, making a good faith offer to purchase the security. The right of first refusal must lapse no later than 14 days after the security holder gives written notice to the holder of the right that an offer by a third party to purchase the security has been received.

(10) *Put option.* A qualifying employer security acquired with the proceeds of an exempt loan by an ESOP after September 30, 1976, must be subject to a put option if it is not publicly traded when distributed or if it is subject to a trading limitation when distributed. For purposes of this sumfparagraph (10), a "trading limitation" on a security is a restcition under any Federal or state securities law, any regulation thereunder, or an agreement, not prohibited by this paragraph (b), affecting the security which would make the security not as freely tradable as one not subject to such restriction. The put option must be exercisable only by a participant, by the participant's donees, or by a person (including an estate or its distributee) to whom the security passes by reason of a participant's death. (Under this subparagraph (10), "participant" means a participant and beneficiaries of the participant under the ESOP.) The put option must permit a participant to put the security to the employer. Under no circumstances may the put option bind the ESOP. However, it may grant the ESOP an option to assume the rights and obligations of the employer at the time that the put option is exercised. If it is known at the time a loan is made that Federal or state law will be violated by the employer's honoring such put option, the put option must permit the security to be put, in a manner consistent with such law, to a third party (e.g., an affiliate of the employer or a shareholder other than the ESOP) that has substantial net worth at the time the loan is made and whose net worth is reasonably expected to remain substantial.

(11) *Duration of put option.*—(i) *General rule.* A put option must be exercisable at least during a 15-month period which begins on the date the security subject to the put option is distributed by the ESOP.

(ii) *Special rule.* In the case of a security that is publicly traded without restriction when distributed but ceases to be so traded within 15 months after distribution, the employer must notify each security holder in writing on or before the tenth day after the date the security ceases to be so traded that for the remainder of the 15-month period the security is subject to a put option. The number of days between such tenth day and the date on which notice is actually given, if later than the tenth day, must be added to the duration of the put option. The notice must inform distributees of the terms of the put options that they are to hold. Such terms must satisfy the requirements of paragraph (b)(10) through (12) of this section.

(12) *Other put option provisions.*—(i) *Manner of exercise.* A put option is exercised by the holder notifying the employer in writing that the put option is being exercised.

(ii) *Time excluded from duration of put option.* The period during which a put option is exercisable does not include any time when a distributee is unable to exercise it because the party bound by the put option is prohibited from honoring it by applicable Federal or state law.

(iii) *Price.* The price at which a put option must be exercisable is the value of the security, determined under § 54.4975–11(d)(5).

(iv) *Payment terms.* The provisions for payment under a put option must be reasonable. The deferral of payment is reasonable if adequate security and a reasonable interest rate are provided for any credit extended and if the cumulative payments at any time are no less than the aggregate of reasonable periodic payments as of such time. Periodic payments are reasonable if annual installments, beginning with 30 days after the date the put option is exercised, are substantially equal. Generally, the payment period may not end more than 5 years after the date the put option is exercised. However, it may be extended to a date no later than the earlier of 10 years from the date the put option is exercised or the date the proceeds of the loan used by the ESOP to acquire the security subject to the put option are entirely repaid.

(v) *Payment restrictions.* Payment under a put option may be restricted by the terms of a loan, including one used to acquire a security subject to a put option made before November 1, 1977. Otherwise, payment under a put option must not be restricted by the provisions of a loan or any other arrangement, including the terms of the employer's articles of incorporation, unless so required by applicable state law.

(13) *Other terms of loan.* An exempt loan must be for a specific term. Such loan may not be payable at the demand

of any person, except in the case of default.

(14) *Status of plan as ESOP.* To be exempt, a loan must be made to a plan that is an ESOP at the time of such loan. However, a loan to a plan formally designated as an ESOP at the time of the loan that fails to be an ESOP because it does not comply with section 401(a) of the Code or § 54.4975–11 will be exempt as of the time of such loan if the plan is amended retroactively under section 401(b) or § 54.4975–11(a)(4).

(15) *Special rules for certain loans.*—(i) *Loans made before January 1, 1976.* A loan made before January 1, 1976, or made afterwards under a binding agreement in effect on January 1, 1976 (or under renewals permitted by the terms of the agreement on that date) is exempt for the entire period of the loan if it otherwise satisfies the provisions of this paragraph (b) for such period, even though it does not satisfy the following provisions of this section: the last sentence of paragraph (b)(4) and all of paragraph (b) (5), (6), (8) (i) and (ii), and (9) through (13), inclusive.

(ii) *Loans made after December 31, 1975, but before November 1, 1977.* A loan made after December 31, 1975, but before November 1, 1977 or made afterwards under a binding agreement in effect on November 1, 1977 (or under renewals permitted by the terms of the agreement on that date) is exempt for the entire period of the loan if it otherwise satisfies the provisions of this paragraph (b) for such period even though it does not satisfy the following provisions of this section: paragraph (b)(6) and (9) and the three additional rules listed in paragraph (b)(8)(ii).

(iii) *Release rule.* Notwithstanding paragraph (b)(15)(i) and (ii) of this section, if the proceeds of a loan are used to acquire securities after November 1, 1977, the loan must comply by such date with the provisions of paragraph (b)(8) of this section.

(iv) *Default rule.* Notwithstanding paragraph (b)(15)(i) and (ii) of this section, a loan by a disqualified person other than a guarantor must meet the requirements of paragraph (b)(6) of this section. A loan will meet these requirements if it is retroactively amended before November 1, 1977 to/meet these requirements.

(v) *Put option rule.* With respect to a security distributed before November 1, 1977, the put option provisions of paragraph (b) (10), (11), and (12) of this section will be deemed satisfied as of the date the security is distributed if by December 31, 1977, the security is subject to a put option satisfying such provisions. For purposes of satisfying such psovisions, the security will be deemed distributed on the date the put option is issued. However, the put option provisions need not be satisfied with respect to a security that is not owned on November 1, 1977, by a person in whose hands a put option must be exercisable.

Par. 2. There are inserted in the appropriate place the following new sections:

§ 54.4975–11 "ESOP" requirements.

(a) *In general.*—(1) *Type of plan.* To be an "ESOP" (employee stock ownership plan), a plan described in section 4975(e)(7)(A) must meet the requirements of this section. See section 4975(e)(7)(B).

(2) *Designation as ESOP.* To be an ESOP, a plan must be formally designated as such in the plan document.

(3) *Non-terminable provisions.* [Reserved]

(4) *Retroactive amendment.* A plan meets the requirements of this section as of the date that it is designated as an ESOP if it is amended retroactively to meet, and in fact does meet, such requirements at any of the following times:

(i) 12 months after the date on which the plan is designated as an ESOP;

(ii) 90 days after a determination letter is issued with respect to the qualification of the plan as an ESOP under this section, but only if the determination is requested by the time in paragraph (a)(4)(i) of this section; or

(iii) A later date approved by the district director.

(5) *Addition to other plan.* An ESOP may form a portion of a plan the balance of which includes a qualified pension, profit-sharing, or stock bonus plan which is not an ESOP. A reference to an ESOP includes an ESOP that forms a portion of another plan.

(6) *Conversion of existing plan to an ESOP.* If an existing pension, profit-sharing, or stock bonus plan is converted into an ESOP, the requirements of section 404 of the Employee Retirement Income Security Act of 1974 (ERISA) (88 Stat. 877), relating to fiduciary duties, and section 401(a) of the Code, relating to requirements for plans established for the exclusive benefit of employees, apply to such conversion. A conversion may constitute a termination of an existing plan. For definition of a termination, see the regulations under section 411(d)(3) of the Code and section 4041(f) of ERISA.

(7) *Certain arrangements barred.*—(i) *Buy-sell agreements.* An arrangement involving an ESOP that creates a put option must not provide for the issuance of put options other than as provided under § 54.4975–7(b)(10), (11) and (12). Also, an ESOP must not otherwise obligate itself to acquire securities from a particular security holder at an indefinite time determined upon the happening of an event such as the death of the holder.

(ii) *Integrated plans.* [Reserved]

(8) *Effect of certain ESOP provisions on section 401 (a) status.*—(i) *Exempt loan requirements.* An ESOP will not fail to meet the requirements of section 401(a)(2) merely because it gives plan assets as collateral for an exempt loan under § 54.4975–7(b)(5) or uses plan assets under § 54.49757(b)(6) to repay an exempt loan in the event of default.

(ii) *Individual annual contribution limitation.* An ESOP will not fail to meet the requirements of section 401(a)(16) merely because annual additions under section 415(c) are calculated with respect to employer contributions used to repay an exempt loan rather than with respect to securities allocated to participants.

(iii) *Income pass-through.* [Reserved].

(9) *Transitional rules for ESOP's established before November 1, 1977.* A plan established before November 1, 1977 that otherwise satisfies the provisions of this section constitutes an ESOP if it is amended by December 31, 1977, to comply from November 1, 1977 with this section even though before November 1, 1977 the plan did not satisfy paragraphs (c) and (d)(2), (4), and (5) of this section.

(10) *Additional transitional rules.* [Reserved].

(b) *Plan designed to invest primarily in qualifying employer securities.* A plan constitutes an ESOP only if the plan specifically states that it is designed to invest primarily in qualifying employer securities. Thus, a stock bonus plan or a money purchase pension plan constituting an ESOP may invest part of its assets in other than qualifying employer securities. Such plan will be treated the same as other stock bonus plans or money purchase pension plans qualified under section 401a with respect to those investments.

(c) *Suspense account.* All assets acquired by an ESOP with the proceeds of an exempt loan under section 4975(d)(3) must be added to and maintained in a suspense account. They are to be withdrawn from the suspense account by applying § 54.4975–7(b)(8) and (15) as if all securities in the suspense account were encumbered. Such assets acquired before November 1, 1977, must be withdrawn by applying § 54.4975–7(b)(8) or the provision of the loan that controls release from encumbrance. Assets in such suspense accounts are assets of the ESOP. Thus, for example, such assets are subject to section 401(a)(2).

(d) *Allocations to accounts of participants.*—(1) *In general.* Except as provided in this section, amounts contributed to an ESOP must be allocated as provided under § 1.401–1(b)(ii) and (iii) of this chapter, and securities acquired by an ESOP must be accounted for as provided under § 1.402(a)–1(b)(2)(ii) of this chapter.

(2) *Assets withdrawn from suspense account.* As of the end of each plan year, the ESOP must consistently allocate to the participants' accounts non-monetary units representing participants' interests in assets withdrawn from the suspense account.

(3) *Income.* Income with respect to securities acquired with the proceeds of an exempt loan must be allocated as income of the plan except to the extent that the ESOP provides for the use of income from such securities to repay the loan.

(4) *Forfeitures.* If a portion of a participant's account is forfeited, qualifying employer securities allocated under paragraph (d)(2) of this section must be forfeited only after other assets. If interests in more than one class of qualifying employer securities have been allocated to the participant's account, the

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participant must be treated as forfeiting the same proportion of each such class.

(5) *Valuation.* For purposes of § 54.4975–7(b) (9) and (12) and this section, valuations must be made in good faith and based on all relevant factors for determining the fair market value of securities. In the case of a transaction between a plan and a disqualified person, value must be determined as of the date of the transaction. For all other purposes under this subparagraph (5), value must be determined as of the most recent valuation date under the plan. An independent appraisal will not in itself be a good faith determination of value in the case of a transaction between a plan and a disqualified person. However, in other cases, a determination of fair market value based on at least an annual appraisal independently arrived at by a person who customarily makes such appraisals and who is independent of any party to a transaction under § 54.4975–7(b) (9) and (12) will be deemed to be a good faith determination of value.

(e) *Multiple plans.*—(1) *General rule.* An ESOP may not be considered together with another plan for purposes of applying section 401(a) (4) and (5) or section 410(b) unless:

(i) The ESOP and such other plan exist on November 1, 1977, or

(ii) Paragraph (e) (2) of this section is satisfied.

(2) *Special rule for combined ESOP's.* [Reserved]

(f) *Distribution.*—(1) *In general.* Except as provided in paragraph (f) (2) and (3) of this section, with respect to distributions, a portion of an ESOP consisting of a stock bonus plan or a money purchase pension plan is not to be distinguished from other such plans under section 401(a). Thus, for example, benefits distributable from the portion of an ESOP consisting of a stock bonus plan are distributable only in stock of the employer. Also, benefits distributable from the money-purchase portion of the ESOP may be, but are not required to be, distributable in qualifying employer securities.

(2) *Exempt loan proceeds.* If securities acquired with the proceeds of an exempt loan available for distribution consist of more than one class, a distributee must receive substantially the same proportion of each such class. However, as indicated in paragraph (f) (1) of this section, benefits distributable from the portion of an ESOP consisting of a stock bonus plan are distributable only in stock of the employer.

(3) *Income.* [Reserved]

§ 54.4975–12 Definition of the term "qualifying employer security".

(a) *In general.* For purposes of section 4975(e) (8) and this section, the term "qualifying employer security" means an employer security which is:

(1) Stock or otherwise an equity security, or

(2) A bond, debenture, note, or certificate or other evidence of indebtedness which is described in paragraphs (1), (2), and (3) of section 503(e).

(b) *Special rule.* In determining whether a bond, debenture, note, or certificate or other evidence of indebtedness is described in paragraphs (1), (2), and (3) of section 503(e), any organization described in section 401(a) shall be treated as an organization subject to the provisions of section 503.

(Secs. 4975(e) (7) and 7805, Revenue Code of 1954 (88 Stat. 976, 68A Stat. 917; 26 U.S.C. 4975(e) (7), 7805).)

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: August 26, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

[FR Doc. 77-25696 Filed 8-30-77;2:52 pm]

[T.D. 7507]

PART 141—TEMPORARY EXCISE TAX REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Certain Requirements for Employee Stock Ownership Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to employee stock ownership plans ("ESOP's"). Changes in the applicable tax laws were made by the Employee Retirement Income Security Act of 1974 and the Tax Reform Act of 1976. Together with final regulations published elsewhere in today's FEDERAL REGISTER, these regulations are intended to provide guidance for the public in complying with the law. They affect all employees who participate in ESOP's and employers who establish ESOP's.

DATE: The regulations are generally effective for plan years ending after December 31, 1974.

FOR FURTHER INFORMATION CONTACT:

Thomas Rogan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3478).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On July 30, 1976, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 301 of the Internal Revenue Code of 1954 and to the Pension, etc. Excise Tax Regulations (26 CFR Part 54) under section 4975 (d) (3), (e) (7), and (e) (8) of the Code (41 FR 31833). Similar Department of Labor provisions appeared at the same time (41 FR 31870).

By a notice published in the FEDERAL REGISTER on October 19, 1976, the public was invited to comment orally or in writing not only upon issues addressed in the proposed amendments, but also upon issues addressed by section 803(h) of the TAX Reform Act of 1976 (90 Stat. 1590) and by the Conference Report of the Committee of Conference on H.R. 10612 (H.R. Rep. No. 94–1515, 94th Cong., 2d Sess., 539–542 (1976)), as both relate to ESOP's.

A public hearing was held on November 12, 1976. After consideration of all the comments regarding the proposed amendments, certain of those amendments are adopted and others are re-proposed elsewhere in today's FEDERAL REGISTER. The temporary regulations adopted in this Treasury decision incorporate by reference the re-proposed amendments.

The temporary regulations also incorporate by reference a proposal relating to an amendment under the TAX Reform Act of 1976. The notice of this proposed amendment to the regulations is published for the first time along with the re-proposed amendments relating to the Employee Retirement Income Security Act.

ISSUES ADDRESSED

The temporary regulations contain provisions relating to the following issues;

(1) Non-terminable plan provisions,
(2) Integrated plans,
(3) Special multiple plan rule for combined ESOP's, and
(4) Current payment of income to participants.

GUIDELINES SUPERSEDED

Questions and answers relating to ESOP's were published in Technical Information Release (TIR) 1413 on November 4, 1975, as guidelines pending the issuance of regulations. The temporary regulations under this Treasury decision supersede question and answer G–8, relating to the distribution of dividends.

DRAFTING INFORMATION

The principal author of this regulation was Thomas Rogan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, 26 CFR Part 141 is amended by inserting in the appropriate place the following new section:

§ 141.4975–11 "ESOP" requirements.

Until superseded by final regulations, the provisions under § 54.4975–11 as published with notice of proposed rule making in the FEDERAL REGISTER for Friday, September 2, 1977 (42 FR 44396) apply.

There is need for immediate guidance with respect to the provisions contained

in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Secs. 4975(e) (7) and 7805, Internal Revenue Code of 1954 (88 Stat. 976, 68A Stat. 917; 26 U.S.C. 4975(e) (7), 7805).)

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: August 26, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

[FR Doc.77-25697 Filed 8-30-77;2:42 pm]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 54]

[LR-75-77]

EMPLOYEE STOCK OWNERSHIP PLANS

Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to employee stock ownership plans ("ESOP's"). Changes in the applicable tax law were made by the Employee Retirement Income Security Act of 1974 and the Tax Reform Act of 1976. The regulations would provide the public with the guidance needed to comply with the law. They would affect all employees who participate in ESOP's and employers who establish ESOP's.

DATE: Written comments and requests for a public hearing must be delivered or mailed by October 3, 1977. The amendments are generally proposed to be effective for plan years ending after December 31, 1974.

ADDRESS: Send comments and requests for public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-75-77), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Thomas Rogan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3478).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On July 30, 1976, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 301 of the Internal Revenue Code of 1954 and to the pension, etc. Excise Tax Regulations (26 CFR Part 54) under section 4975(d)(3), (e)(7), and (e)(8) of the Code (41 FR 31833). Similar Department of Labor provisions appeared at the same time 41 FR 31870).

By a notice published in the FEDERAL REGISTER on October 19, 1976, the public was invited to comment orally or in writing not only upon issues addressed in the proposed amendments, but also upon issues addressed by section 803(h) of the Tax Reform Act of 1976 (90 Stat. 1590) and by the Conference Report of the Committee of Conference on H.R. 10612 (H.R. Rep. No. 94-1515, 94th Cong., 2d Sess., 539-542 (1976)), as both relate to ESOP's.

A public hearing was held on November 12, 1976.

After consideration of all the comments regarding the proposed amendments, some of those amendments are revised and reproposed in this document. Others are adopted by a Treasury decision published elsewhere in today's FEDERAL REGISTER. Also, temporary regulations parallel to the proposed and reproposed amendments contained in this document are adopted in today's FEDERAL REGISTER.

The proposed amendments also contain a provision relating to section 803 (h) of the Tax Reform Act of 1976.

NONTERMINABLE PLAN PROVISIONS

The proposed amendments would require an ESOP to include provisions protecting the rights of participants under securities acquired with the proceeds of an exempt loan. Thus, after an exempt loan is repaid or after the plan ceases to be an ESOP, these securities would remain subject to the put option requirements if they were subject to them at the time of the loan. The plan could not be amended to provide otherwise.

INTEGRATED PLANS

Integrated ESOP's would not be permitted after November 1, 1977. However, ESOP's in existence and integrated on that date could continue to operate without amendment. The plan provisions relating to the integration level and the integration percentage could not be increased by later amendments. However, the integration level could continue to increase under the plan if geared to a variable figure determined apart from the plan such as the taxable wage base under the Social Security Act.

DISTRIBUTION OF INCOME

The proposed amendment would provide rules for the current payment of income under ESOP's.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of this regulation was Thomas Rogan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part 54 are as follows:

Section 54.4975-11 is amended by—

1. Revising paragraph (a)(3), (7)(ii), (8)(iii), and (10),
2. Adding a new sentence at the end of paragraph (d)(3),
3. Revising paragraph (e)(2), and
4. Revising paragraph (f)(3).

These revised and added provisions read as follows:

§ 54.4975-11 "ESOP" requirements.

(a) *In general.* • • •

(3) *Nonterminable provisions.* An ESOP must provide that, notwithstanding the fact that it ceases to be an ESOP, qualifying employer securities acquired with proceeds of an exempt loan will continue after the loan is paid to be subject to § 54.4975-7(b)(4), (10), (11), and (12) relating to put, call or other options and to buy-sell or similar arrangements. Thus, for example, an ESOP must provide that publicly traded securities acquired with exempt loan proceeds must, if the plan ceases to be an ESOP after their acquisition, satisfy the put option provisions in the event that the securities cease to be publicly traded within 15 months after their distribution.

• • • • • •

(7) *Certain arrangements barred.* • • •

(ii) *Integrated plans.* An ESOP established after November 1, 1977, must not be integrated directly or indirectly with contributions or benefits under Title II of the Social Security Act (42 U.S.C. 401) or under the Railroad Retirement Act of 1937 (45 U.S.C. 228a). ESOP's established and integrated before such date may remain integrated. However, such plans must not be amended to increase the integration level or the integration percentage. Such plans may in operation continue to increase the level of integration if under the plan such increase is limited by reference to a criterion existing apart from the plan.

(8) *Effect of certain ESOP provisions on section 401(a) status.* • • •

(iii) *Income pass-through.* An ESOP will not fail to meet the requirements of section 401(a) merely because it provides for the current payment of income under paragraph (f)(3) of this section.

• • • • • •

(10) *Additional transitional rules.* Notwithstanding paragraph (a)(9) of this section, a plan established before November 1, 1977, that otherwise satisfies the provisions of this section constitutes an ESOP if by December 31, 1977, it is amended to comply from November 1, 1977, with this section even though before such date the plan did not satisfy the following provisions of this section:

(i) Paragraph (a)(3) and (8)(iii);

(ii) The last sentence of paragraph (d)(3); and

(iii) Paragraph (f)(3).

• • • • • •

(d) *Allocations to accounts of participants.* • • •

(3) *Income.* • • • Certain income may be distributed currently under paragraph (f)(3) of this section.

• • • • • •

(e) *Multiple plans* • • •

(2) *Special rule for combined ESOP's.* Two or more ESOP's, one or more of which does not exist on November 1, 1977, may be considered together for purposes of applying section 401(a)(4) and (5) or section 410(b) only if the proportion of qualifying employer securities to total plan assets is substantially the same for each ESOP and—

(i) The qualifying employer securities held by all ESOP's are all of the same class; or

(ii) The ratios of each class held to all such securities held is substantially the same for each plan.

(3) *Amended coverage, contribution, or benefit structure.* For purposes of paragraph (e)(1)(i) of this section, if the coverage, contribution, or benefit structure of a plan that exists on November 1, 1977 is amended after that date, as of the effective date of the amendment, the plan is no longer considered to be a plan that exists on November 1, 1977.

(f) *Distribution.* • • •

(3) *Income.* Income paid with respect to qualifying employer securities acquired by an ESOP in taxable years beginning after December 31, 1974, may be distributed at any time after receipt by the plan to participants on whose behalf such securities have been allocated. However, under an ESOP that is a stock bonus plan, income held by the plan for a 2-year period or longer must be distributed under the general rules described in paragraph (f)(1) of this section. (See the last sentence of section 803(h), Tax Reform Act of 1976.)

• • • • • •

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc.77-25698 Filed 8-30-77;2:42 pm]

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FRIDAY, SEPTEMBER 2, 1977
PART V



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

COASTAL ENERGY IMPACT PROGRAM PROJECT ASSESSMENTS AND ENVIRONMENTAL IMPACT STATEMENTS

Environmental Guidelines for Preparation

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

COASTAL ENERGY IMPACT PROGRAM PROJECT ASSESSMENTS AND ENVIRONMENTAL IMPACT STATEMENTS

Environmental Guidelines for Preparation

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of guidelines.

SUMMARY: The purpose of these guidelines is to provide coastal States and local communities with a detailed description of the environmetnal information necessary as part of their applications for certain kinds of assistance under the Coastal Energy Impact Program (CEIP), section 308 of the Coastal Zone Management Act of 1972, as amended. These guidelines are designed to solicit information essential to the environmental review process required under the National Environmental Policy Act of 1969 (NEPA).

FOR FURTHER INFORMATION CONTACT:

Joellyn Murphy, National Oceanic and Atmospheric Administration, Office of Coastal Zone Management, 3300 Whitehaven Street NW., Washington, D.C. 20235 (202–634–4249).

SUPPLEMENTARY INFORMATION:

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

Each applicant requesting CEIP funding for a proposed project must complete an Environmental Impact Assessment, based on the following guidelines, to be submitted with the initial application. A copy of the EIA will be sent to the Coastal Energy Impact Program, OCZM/NOAA, Room 372, 3300 Whitehaven Street NW., Washington, D.C. 20235.

An EIA documents the analysis of environmental impacts associated with alternative courses of action studied during the decision making process. The assessment aids in the selection of the best alternative for the siting and construction of a proposed project.

I. CEIP GUIDELINES: ENVIRONMENTAL ASSESSMENT INFORMATION

A. PROCEDURES FOR PREPARING ENVIRONMENTAL IMPACT ASSESSMENTS

The purpose of an environmental impact assessment is to document the analysis of environmental impacts associated with alternative courses of action studied by the applicant during the development of the project proposal, so as to aid OCZM in making its determination as to whether an environmental impact statement (EIS) must be prepared in accordance with the National Environmental Policy Act of 1969. The assessment should also aid the applicant in the selection of an alternative as the proposed course of action. Because the environmental assessment will be used by OCZM in making its decision on the need for an EIS, the information contained in the assessment should be presented in a manner which clearly and succinctly describes the significant environmental impacts that may be associated with the proposed project and its alternatives. These guidelines are intended to aid the applicant in developing an EIA which will serve these needs.

1. *General Project Description*

Identify name of site, type of proposed facility and operation. Identify all specific elements of the project including size, land area, capacity in applicable units affected. Identify the project briefly and identify whether it is an alteration or modification of an existing facility, an additional facility by itself or in an existing complex, or one of the first facilities in a new complex. If it is part of a new complex, the review should address the entire complex rather than only the immediate construction activity addressed in the grant application.

2. *Beneficiaries*

a. Identify the name and size of the community, county or region to be affected.

b. Identify the new or expanded coastal energy activity which is triggering the proposed project.

c. Document the increases in employment and the anticipated increase in population in the community, county/town, or region.

3. *Project Alternatives*

This section shall describe the full range of options from which the proposed project was chosen, the adverse and beneficial environmental impacts of those options, and the reasons the various alternatives were not chosen (for example, different sites or designs, mitigating measures, etc.).

This section will be reviewed by the Office of Coastal Zone Management (OCZM) to determine if the most environmentally appropriate site, design, and timing for the proposed project has been selected.

The general procedure to be used in developing a description for each alternative is as follows:

(a) Describe what is the effect on the area if no action is taken.

(b) Determine objectives of the action, expressed in terms of desired accomplishment.

(c) Determine a general design for any physical structures required for the alternative. Describe possible approaches.

(d) Select a general site if the action involves a major facility.

(e) Develop a general description of the facility and its surrounding environment during construction and after completion of construction.

(f) Describe the character or nature, including existing use, of the environment physically affected, including any downstream uses of water bodies being altered.

(g) Prepare a short (e.g., one page) general description of each alternative. The description should be based on available maps, a visual reconnaissance of the site, and available literature. As an example, if the alternative were a hydroelectric dam, the description could consist simply of a "hydroelectric dam at about river mile 597 with a reservoir elevation of 1,290 ft. and a tailwater elevation of 950 ft. The turbines would be designed for a maximum flow rate of 80,000 cfs (corresponding to generation of 1800/NWe) and no fish ladders or navigation locks would be provided. The reservoir would extend upstream to mile 700. Lands to be inundated are currently used for agriculture. The river contains an important salmon spawning area and provides passage for numerous upstream migrants, etc."

4. *Project Design*

Briefly summarize engineering design. Applicants are advised to employ project design features and techniques which will result in the choice of the alternative providing the least disturbance to the surrounding environment.

Applicants having projects in the later stage of design or with final drawings completed will review all aspects of the project design and development for compatibility with environmental standards.

Environmental protection features with respect to design must meet Federal, State and local requirements, and where Federal, State or local environmental codes and ordinances differ, the most demanding standards must be incorporated into the project design.

5. *Compliance with State and Local Environmental permits and procedures.*

Indicate if the proposed project is subject to State/local environmental regulations and permit procedures. Summarize the results of compliance with these requirements and attach available documentation.

6. *Environmental Summary*

Briefly summarize the major unavoidable environmental problems of the proposed project. Evaluation of environmental impacts will be considered by the applicant in depth when filling out Section I B of these Guidelines.

7. *Short-Term and Long-Term Impacts of Project*

The short-term commitment of environmental resources will be compared to the proposed project's cumulative, long-term impacts. This section thus will discuss "trade offs": what long-term environmental productivity will be enhanced by the short-term uses of the environment in the proposed project. Special attention should be given to effects upon ecological inter-relationships, and to long-term hazards to human health and safety.

8. *Any irreversible and irretrievable commitment of resources which would be involved if the proposed project were implemented*

This section shall discuss and quantify, when possible, any irreversible or irretrievable uses of resources in the proposed project. "Resources" should be defined broadly to include not only air and water quality, but also archeological or historical sites, the habitats of threatened or endangered species, dedicated uses areas such as parks and valuable, environmentally productive areas such as wetlands.

9. *Federal/State Agency Involvement*

a. Identify Federal/State agency funding of other projects as a result of the same coastal energy activity (if applicable). Attach comments received from the A–95 clearinghouse process.

b. Environmental Analysis of Participating Federal Agencies. Indicate if another Federal agency is participating in the project either through the provision of additional funds, a companion project, or a permit review authority. Summarize the results of the involved agency's environmental impact analysis and attach available documentation.

c. Identify existing and proposed area-wide planning agencies (both Federal and State) for the area under consideration.

d. Was the proposed project ever considered by other public funding agencies? Summarize the results.

10. *Consultation and coordination with others*

Since one of the intentions of NEPA was to open an important part of the planning process, environmental study, to public review and comment, all private and public organizations which have cooperated in or contributed to the preparation of the environmental information document should be listed. OCZM will review each project proposal to determine if the public has participated adequately at the earliest stages of a legally mandated public process.

11. *Processing*

Upon receipt, the applicant's Environmental Impact Assessment will be reviewed by the CEIP staff. When the EIA document for a proposed project is complete the usual review period will be 10 days.

In the event of omissions in the study or the need for additional information, the applicant will be advised to submit or provide additional necessary data and material. Where review of the Environmental Impact Assessment discloses need for revisions, applicant will be notified of the necessary changes.

In those instances where the support of a project would produce a significant effect on the environment, it may be necessary to request the applicant to develop materials to be used in preparing a draft Environmental Impact Statement which will be reviewed and issued by the Department of Commerce. (Section II).

B. GUIDELINES FOR ANALYZING SIGNIFICANT ENVIRONMENTAL IMPACTS

The ten categories listed are areas of environmental concern regulated by Federal law. The proposed project must consider in detail potential effects it will have on each of these areas and must conform to permit and public notice requirements.

1. *Land Use*

a. *Development Impact:* (1) Describe the project site and its present use.

(2) Describe the existing land use plan and zoning designations for the project area. Determine whether the plan and zoning are consistent with each other and with the zoning ordinance. Will a zoning amendment be necessary to permit construction of the project?

b. *Impact on other Community Facilities.* If the proposed project is a new or expanded community facility system, does it have the capacity to provide for:

(1) Nursing Homes or Hospitals: 200 units (beds) or more.

(2) Subdivisions: Typical proposed lot size 6000 sq. ft. or greater = 100 units or more.

(3) Multifamily structures: Typical proposed lot size under 6000 sq. ft. = 200 units or more. This was a threshold limit established by HUD, 4010.1 CHG, Nov. 4, 1974.

If the facility has the potential to expand the size of a community beyond these thresholds then special attention must be given to the impact on other community facilities such as schools, hospitals, recreational resources, transportation facilities, fire stations, libraries. Current capacities of the existing public facilities of the area including waste water treatment and water supply systems need to be identified and future demands on their capacities projected.

c. *Submit a small-scale map,* using USGS topographic map 1:24,000 and U.S. Soil Conservation soil/slope maps, locating environmental features of the area in relation to the proposed project:

Dunes	Farmland
Beaches	Seismic conditions
Slippage soils	Streams and creeks
Steep slopes	Wildlife habitats
Wetlands	Proximity to dedicated public use areas
Areas of scenic beauty	Highways and secondary roads
Floodplains	Designated historic preservation areas
Woodlands	
Aquifer recharge areas	

d. *Floodplains.* According to Executive Order 11988, dated May 24, 1977, the term floodplain means "the lowland and relatively flat areas adjoining inland and coastal waters including flood-prone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year." This Executive Order requests that all agencies must protect the values and benefits of floodplains and reduce risks of flood losses by not conducting, supporting or allowing action located in flood plains unless it is the only practicable alternative. Use available HUD floodplain boundary maps, or more detailed U.S. Army Corps of Engineers maps or other available floodplain information, to locate the project in relation to the 100-year floodplain.

If it is determined from the environmental analysis that the only feasible location for the project is a designated floodplain, then the design of the project must (i) minimize potential harm to the floodplain, (ii) meet flood-proof standards under the National Flood Insurance Program and (iii) insure that the project in compliance with the Flood Disaster Protection Act is a special flood hazard area as specified in Section 102 (a) Title I.

e. *Wetlands.* "The term 'wetlands' means those areas that are inundated by surface or ground water with a frequency sufficient to support, and under normal circumstances does or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds." This definition was contained in Executive Order 11990, dated May 24, 1977.

According to the Order, Federal assistance for new construction located in wetlands should be avoided unless the agency finds that there is no practicable alternative and that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use.

The term "new construction" includes "draining, dredging, channeling, filling, diking, impounding and related activities and any structures or facilities begun or authorized after the effective date of the Order (May 25, 1977)."

Each Federal agency is also required to provide opportunity for early public review on any plans or proposals for new construction in wetlands.

The nation's wetlands are also protected by section 404 of the Federal Wate Pollution Control Act of 1972 which requires the applicant to apply for a permit for dredge and fill activities in wetlands from the U.S. Army Corps of Engineers. The permit must be obtained by the applicant prior to submission of the application for CEIP funding.

Evaluation of the cumulative effect of piecemeal changes in wetland areas is emphasized in the Corps regulations. No permit is granted unless the benefits of the proposed alteration outweigh the damage to the wetlands resource and the proposed alteration is necessary to achieve those benefits. The applicant must further provide sufficient data on the availability of feasible alternative sites.

If the proposed project will either be located in or adjacent to a wetlands using the above definition, please estimate the project location on the U.S. Geological Survey topographical map exhibit, 1:24,000 (See Section B, Subsection 1(c)) and complete the following check list.

Do the wetlands within the impact area provide:

Feeding for waterfowl, migratory birds and other species.[1]

Wintering areas for waterfowl.[1]

Nursery areas.[1]

Breeding areas.[1]

[1] Identify major species of mammals, fishes, birds, reptiles and amphibians.

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Barrier Islands.[1]
Grass Beds.
Shellfish Beds.[1]
Drainageways.
Vegetated Tidelands (salt marshes and mangrove swamps).
Buffer areas.
Migration Pathways.[1]
Filter areas for pollution. (Specify proximity to urban areas and industrial facilities.)
Recharge areas for ground water and aquifers.
Fish and Wildlife game refuge.[1]
Wildlife habitat, including endangered species (Specify type of habitat).[1]
Dedicated Public Use Areas.
Has the applicant applied for or received a permit from the U.S. Army Corps of Engineers?
Has the applicant applied for or received a permit from the State/local wetlands management authority?
Give the name and address of the State and local wetlands management authority.

Information on the resident and migratory species of wildlife and the functions performed by the wetlands in question can be obtained from the U.S. Fish and Wildlife Service field offices, local and State game and fish agencies, local wetlands commissions and other related agencies.

f. Farmland. The Coastal Zone Management Act designates farmland in production as a preferred economic activity in the coastal zone. If the proposed project site will incorporate existing farmland either under production or not in production, complete the following check list:

Does any portion of the project site meet the criteria for prime farmland as defined by U.S. Soil Conservation Service USDA in the Land Inventory and Monitoring Memo-3 (October 31, 1975).
Is the site in a special agricultural district designated by either the State or local governments?
Is the cropland on the site significantly used by wildlife for feeding, nesting or breeding areas?
Is the site located in a district designated by any planning agency as farmland?

Information for this section can be obtained from the nearest Soil Conservation Service office of the Department of Agriculture, the State Conservation/State Extension Services or other appropriate agencies.

g. Wildlife Habitat. (1) The Federal Fish and Wildlife Coordination Act of 1958 recognized the value of wildlife and wildlife habitat as a national resource to be conserved and protected. If the proposed project, or any one of the alternatives, is located in or adjacent to a natural area (wetlands, cropland, dedicated use area), providing wildlife habitat, determine the major effects of the action on the habitat area assessing the extent of the impact.

i. What are the primary species of animals, birds and reptiles common to the area?
ii. What land area will be altered? In what manner?
iii. Are any rare or endangered species indigenous to the proposed altered lands?[2]

[2] If the answer is yes, please describe in greater detail.

iv. Will there be a change in vegetation or stream flow patterns over a large area of land which would affect habitat?[2]
v. Can habitats elsewhere be purchased and improved to accommodate lost population?[2]
vi. What special habitats, such as food, cover, nesting and breeding areas will be changed and what will be the effects of the changes?
vii. What are the important commercial and sports species utilized in this area?
viii. Will the action alter migration patterns (waterfowl, fish, wildlife)?

(2) Concern for various species of fish, wildlife, and plants endangered by economic growth and development without accompanying conservation measures led to the enactment of the Federal Endangered Species Act of 1973.

Therefore, please indicate whether the proposed project could:

i. Jeopardize the continued existence of any endangered or threatened species (flora and fauna), and
ii. Result in the destruction or modification of a habitat or a portion of such habitat of endangered or threatened species.

This analysis shall be conducted in consultation with the Regional Directors of the U.S. Fish and Wildlife Service and/or the Regional Directors of the National Marine Fisheries Service. If there appears to be an effect, the CEIP office shall be notified and shall coordinate the project with the Regional Directors of the U.S. Fish and Wildlife Service. The results of this coordination shall be included in the assessment and considered in the environmental impact consideration.

2. Noisc Impacts

New construction or substantial rehabilitation of noise sensitive land uses such as nursing homes, hospitals, group practice facilities and the location of day care or community counselling services must be justified if it is located in unacceptable noise zones.

To determine if the proposed project is in an unacceptable noise zone, apply Noise Abatement and Control Standards set by HUD Circular 1390.2.

a. *Unacceptable Noise Standards.*[3]—Exceeds 80 dB(A) 60 minutes per 24 hours. Exceeds 75 dB(A) 8 hours per 24 hours.

b. *Optimal Noise Standards.*—Does not exceed 45 dB(A) more than 30 minutes per 24 hours.

c. *The following is a noise standard reference guide:*

Near airport—Jet plane 100 ft. away—average 130 db(A) internal combustion aircraft engine—average 110 dB(A).

Near traffic—Busy street—average 80 dB(A). Automobile at 35–40 M.P.H. average 70 dB(A). Subway train passing station—100 dB(A).

Near large industry: (identify). Pneumatic riveter—average 130 dB(A). Pneumatic drill, 20 ft. away—90 dB(A).

[3] The decibel values for those sound levels measured using A-weighting network of a standardized sound level meter. The A-weighting approximates the response of the human ear to noise.

Are there TV or radio transmission facilities within three horizontal miles of the facility? If so, describe.

3. Air Quality

Federal air quality standards to meet national air quality goals are divided into two categories: primary standards designed to protect human health, and less stringent secondary standards to protect property and aesthetics.

Each State has the primary responsibility to assure air quality by the establishment of implementation plans which specify the manner in which national primary and secondary ambient air quality control regions will be achieved and maintained within the various air quality control regions (title I, section 107) of the Clean Air Act. To determine if the proposed action will have an effect on air quality sufficient to require a detailed assessment, the following should be submitted for the proposed project and considered for each alternative (if applicable).

a. Types of contaminants, specifically toxic or nuisance pollutants such as carbon monoxide, nitrogen dioxide, sulfur oxides, organic compounds, photochemical oxidants, suspended particulate matter, hydrogen sulfide, lead, fluoride, calcium oxide, and beryllium.

b. Proximity to human habitations, especially if within one mile of airports, schools, residential areas, etc. because of possible effects on visibility, esthetic, health, vegetation, and animal life.

c. Topographic features—influencing air currents and ventilation factor.

d. Ventilation factors as measured by volume of air available for the dispersal of pollutants which is dependent upon the character and height of the temperature inversion layer and the amount of windflow. Undesirable effects can be caused in areas that have high frequency of temperature inversions and low wind speeds (0–5 mph).

e. Air pollution history of the area where the action would take place, especially if local air quality standards are being exceeded.

f. Existing industrial concentration and associated air contaminants.

g. Potential for changes in the microclimate of the area (i.e., the climatic structure of the air space near the ground such as temperature, humidity, wind, air pollution, etc.).

This information is available from the State Air Quality Control Board or from the Regional EPA Offices.

Wherever there is some variation between State (or local) and Federal air quality standards, the strictest one applies to the project.

4. Water Quality

Each State is required to set water quality standards for State waters within its boundaries and to set effluent limitations and total maximum daily loads of pollutants including thermal discharges in order of the severity of pollution.

a. *Standards.*—For projects discharging effluents into the waterways, applicable effluent limitations and state water

quality standards for the impact area should be listed. Information can be obtained from the State water control authority or the Regional EPA Office. Water quality problems already identified by local/State or Federal agencies should be specified.

b. *Environmental effects.*—To determine whether the proposed project will cause significant environmental effects on the biota or human usage of water, the following information should be considered for each alternative and submitted for the proposed project (if applicable).

(1) Will the water temperature change? Indicate volume and temperature of merging waters.

(2) Will the water solids content change because of increased suspension of solids, increased settling of solids, or a change in dissolved solids?

(3) Will there be a significant change in nitrogen saturation?[4]

(4) Will there be any change in concentration of hazardous chemicals or radionuclides?[4]

(5) Will there be a change in pathogens?[4]

(6) Will impoundments or changes in water temperature change the rate of eutrophication?[4]

(7) Will the taste or odor change.[4]

(8) Do any of these changes in water quality create conditions which are outside of permissible or desirable conditions as expressed by water quality standards or general social opinion?[4]

5. Waste Water Treatment Plants

If the proposed project is a waste water treatment plant, the following information is requested. This information follows closely the information needed for the facility—planning process developed by EPA for its municipal grants construction program for sewage treatment works, authorized under Title II of the FWPCA. The purpose of coordinating the CEIP grant program with EPA's program is to insure that the intent of the Federal Water Pollution Control Act is carried out.

a. *State Continuing Planning Process or Related Projects and Basin Plans.*—Plans for the proposed treatment plant must conform to applicable approved basin plans prepared under section 303 of the FWPCA. Under the State continuing planning process, "segments" of the nation's waterways have been classified initially as "water quality limited" or "effluent limited". "Water quality limited" segments are those which cannot be expected to meet established water quality standards even if all point sources achieve the effluent limitations required by section 301 of FWPCA. "Effluent limited" segments are those where water quality standards can be achieved after all point sources meet the effluent limitations required by section 301.

b. *Effluent Limitations.*—The assessment should list the effluent limitations applicable to the facility being planned. These effluent limitations normaly may be found in a municipal permit issued under the National Pollutant Discharge Elimination System. A copy of the municipal permit should be attached to the assessment.

If the proposed project is on a "water quality limited" waterway the applicable water quality standards should be obtained from the State and briefly be summarized in the assessment, in addition to effluent limitations necessary to meet the applicable water quality standards.

If the proposed treatment plant will discharge into an "effluent limited" stream segment, secondary treatment must be provided as a minimum (40 CFR Part 133 "Secondary Treatment Information," FEDERAL REGISTER Vol. 38 No. 159, August 17, 1973, pp. 22298–22299). Discharge limitations for treatment plants on "water quality limited" segments will be determined in the basin planning process or, if not available, in conjunction with the permit program.

c. *Areawide Waste Treatment Management Plans.*—Areawide plans, authorized under section 208 of the FWPCA, are to set forth a comprehensive management program for collection and treatment of wastes and for controlling pollution from all point and non-point sources. Indicate whether the proposed project has been considered, is part of, or has been rejected by, the areawide 208 plan or statewide nondesignated area plan.

d. *Title II, section 201 EPA grant program.*—Is the proposed waste treatment project on the State priority list? If so, has it been rejected by EPA or any other Federal agency,

e. *Municipal permits.*—The Waste Water Treatment Plant plan must, as a minimum, conform with all applicable permit requirements and include a copy of the permit if already obtained.

f. *Planning Area for Alternatives.*—The facility planning area for any new waste water treatment should be large enough to analyze the cost-effective alternative methods of waste transport, treatment handling and disposal of sludge and disposal of treated effluent. It should also be large enough to analyze both the primary and secondary (induced growth) effects of alternatives.

(1) Provide a USGS topographic map showing the planning area, the boundaries of political jurisdictions, boundaries of streams, lakes, water impoundments and water basin and service areas of existing waste treatment systems.

(2) Existing waste water flows and treatment systems. Provide an inventory of existing waste water treatment systems, including services, treatment plants, effluent disposal or reuse methods, sludge disposal methods, and flows and waste reduction measures if any in the planning area.

g. *Develop and Evaluate Alternatives.*—The alternative of optimizing performance of existing facilities should be considered first. The level of treatment attainable with optimum performance should serve as a baseline for planning additions or modifications to the treatment system.

Regional Solutions. The possibility of a regional solution to waste water treatment problems should be explored early in the planning process to reduce the number of options requiring detailed consideration to a manageable number. Regional solutions may include interconnection of facilities, construction of one or more large facilities to eliminate the need for many small facilities and joint management of facilities to improve operation and maintenance and reduce costs. Joint facilities may involve interceptors, treatment plants and sludge and effluent disposal systems.

Existing plans which address regional options should be referenced and important conclusions summarized in the assessment. Further analysis of options will not be necessary if regional questions are resolved by existing plans.

h. *Infiltration and Inflow.*—Absent a State certification that excessive infiltration/inflow does not exist, then estimate the infiltration/inflow into the system. Approximate, on a preliminary basis, the costs of treating the existing problems versus the costs of rehabilitating the sewer system to eliminate the problem.

i. *Dredging and Filling.*—Title IV, Permits and Licenses (section 404(a)), authorized the U.S. Army Corps of Engineers to regulate discharging of dredge or fill material into navigable waters by issuing permits. Section 303(b) directs EPA to develop guidelines with the U.S. Corps of Engineers to evaluate the disposal sites for the fill in terms of the effect on municipal water supplies, shellfish beds, fishery areas (including spawning and breeding areas), wildlife or recreational areas.

For projects with dredging and filling activities, describe the type, composition and quantity of the material to be dredged, the method of dredging and the site and plans for disposal of the dredged material.

6. Solid Waste Management

Indicate all aspects of the project including beneficiaries' operations, and known indirect effects which will necessitate the disposal of solid wastes. Indicate the kinds and expected quantities of solid wastes involved and the disposal techniques to be used. Evaluate the adequacy of these techniques especially in relationship to air and water quality. Indicate if recycling or recovery programs are or will be used. Cite any contacts with appropriate experts.

7. Human Population

Will the construction of the facility disrupt one of the following services to a human population for more than 24 hours: water, electrical power, natural gas, or sewage. Indicate the number of people to be relocated and arrangements being made for the relocation. A project must comply with requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Pub. L. 91–686).

[4] If the answer is yes, please quantify with the best available information.

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8. *Transportation*

Describe available transportation networks such as highways and rail. Estimate the increase in motor vehicle traffic and the ability of existing roads to safely accommodate this increase. Describe new traffic patterns which will arise because of project. Discuss how these new traffic patterns will affect the land uses described above especially residential, hospitals, schools and recreational. Describe the consistency of the project's transportation impacts with the transportation plans for the area and any air quality thresholds. Cite any contact with appropriate experts.

9. *Wild and Scenic Rivers*

Indicate whether the project will affect a river or portion of it which is either included in the National Wild and Scenic Rivers System or designated for potential addition to the system. If so, an analysis shall be conducted through discussions with the appropriate regional office of the Bureau of Outdoor Recreation, the U.S. Department of Agriculture when forest service lands are involved, and appropriate State agencies having implementation authorities. Summarize the results of these discussions. If there appears to be an effect, the CEIP program staff shall be notified and will then coordinate the project with the Secretary of Interior or Agriculture, as required.

The results of this formal coordination shall be included in the assessment and considered in the environmental impact determination.

10. *Historic Preservation*

In this section, steps shall be taken to comply with the "Procedures for the Protection of Historic and Cultural Properties." First, indicate that the National Register of Historic Places has been reviewed and whether there are any listed properties located within the area to be affected by the project. Second, indicate the steps taken such as historical/archeological surveys to determine if there are any properties eligible for listing located within the affected area. Summarize the results of the consultation with the State Historic Preservation Officer (SHPO) and attach appropriate documentation. Discuss the views of any other experts contacted. Based upon the above review process and the views of the SHPO, state whether or not an eligible or listed property will be affected.

If there will be an effect, discuss all of the steps and protective measures taken to complete the "Procedures." Describe the affected property and the nature of the effect.

Describe alternative solutions. For example, the Public Buildings Cooperative Use Act will allow the Public Buildings Service of the General Services Administration (GSA) to locate Federal offices in buildings of historic and architectural value and encourage mixed commercial and cultural uses.

II. PROCEDURES FOR PREPARING ENVIRONMENTAL IMPACT STATEMENTS (EIS)

The Environmental Impact Assessment prepared for a proposed project will be reviewed by the OCZM Associate Administrator in accordance with these guidelines, and with Department of Commerce Administrative Order 216-6, and a "Notice of Intent" or a "Notice of Negative Declaration" will be issued.

Notice of Intent.—A notice of intent is a CEIP letter, memorandum or news release that notifies appropriate Federal, State and local agencies, and the public that the OCZM intends to prepare an environmental statement on a particular action based on the environmental assessment and review.

Notice of Negative Declaration.—A notice of negative declaration is a CEIP letter, memorandum or news release notifying appropriate Federal, State, and local agencies, and the public that an environmental statement is not required and will not be prepared on a particular action.

A. REGIONAL EIS

The Associate Administrator may determine that a Regional EIS will be prepared if a group of related projects are concentrated in a geographic area. A regional EIS will be prepared by the CEIP staff in coordination with the appropriate local, State, and Federal interests.

B. DECISIONS OF ADEQUATE PRIOR ENVIRONMENTAL REVIEW

The Associate Administrator can determine that the Environmental Impact Assessment on a project has received "adequate" prior environmental review. Projects which have been the subject of prior assessment either by the Department of Commerce, or another Federal agency, or have been covered by an areawide Environmental Impact Statement shall not require additional environmental assessment if the following conditions are met:

1. An environmental review pursuant to NEPA has been undertaken by a Federal agency and completed within the last three years;

2. The prior review has been evaluated by CEIP staff and found to be:

a. Sufficiently detailed and accurate in its description of the proposed action to allow a substantive judgment of the environmental consequences of those actions;

b. Currently accurate in its description of existing and prospective site and technology conditions which might affect the contemplated project;

3. The prior review has not been subjected to legal challenge, or if challenged, was found by the court to be adequate, and no further legal action is pending;

4. There are no identifiable adverse consequences to the proposed CEIP action which are environmentally significant and which might be mitigated or prevented through evaluation and/or project modification.

C. "THIRD PARTY" AGREEMENTS

If in the application process for section 308 (E) and (G) Grants it becomes evident that an EIS will be required, the responsible official may seek the applicant's interest in developing a draft EIS by the "third party" method. Generally, such an agreement should be established prior to the development of the applicant's Environmental Impact Assessment and serve the purpose of such environmental impact assessment.

Such agreement will not be initiated unless both the applicant and OCZM have agreed to its establishment. Under a third party agreement, both the applicant and OCZM have certain minimum responsibilities. The applicant will be responsible for retaining a third party consultant to prepare materials for use in the EIS. OCZM shall approve the selection of the third party consultant and shall base such approval on the objectiveness of the consultant, including such factors as the degree of financial independence, the ability to make a free and independent appraisal of environmental impact, and the absence of conflicting interest. In all cases OCZM will be responsible for the scope and content of the assessment or impact statement prepared under NEPA.

T. P. GLEITER,
Assistant Administrator for Administration.

AUGUST 26, 1977.

[FR Doc.77-25599 Filed 9-1-77;8:45 am]

federal register

FRIDAY, SEPTEMBER 2, 1977

PART VI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

STATE ADULT EDUCATION PROGRAMS

Maintenance of Effort

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 166]

STATE ADULT EDUCATION PROGRAMS

Maintenance of Effort

AGENCY: Office of Education, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule prescribes new maintenance of effort requirements and provisions for waiver for maintenance of effort for State adult education programs. Under existing regulations no payment could be made to a State that failed to maintain its previous year's level of effort. The proposed rule would allow a State an opporunity to deviate from the maintenance of effort requirements with a corresponding reduction of Federal funds, if any, to be determined by the nature of the circumstances causing the deviation.

DATES: Comments on or before October 17, 1977.

ADDRESSES: Comments should be addressed to Paul V. Delker, U.S. Office of Education, Regional Office Building No. 3, 7th and D Streets SW., Room 5056, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Paul V. Delker, 202-245-2278.

SUPPLEMENTARY INFORMATION: Under the authority contained in section 307(b) of the Adult Education Act, 20 U.S.C. 1206, and section 431A of the General Education Provisions Act, 20 U.S.C. 1232, as amended by section 323 of Pub. L. 94-482, the Education Amendments of 1976, the Commissioner of Education, with the approval of the Secretary of Health, Education and Welfare, proposes to amend § 166.51 et seq. of the regulations for State Adult Education Programs (45 CFR Part 166) to establish new requirements for maintenance of effort by States and their political subdivisions.

Summary of the amended maintenance of effort requirement and provisions for waiver. Under existing regulations for the administration of the Adult Education Act, the State must certify that there will be available for expenditure by the State, including its political subdivisions, for adult education from non-Federal sources during the fiscal year for which the allotment is made an amount equal to not less than the total amount expended for such purposes from such sources during the preceding fiscal year.

The proposed regulation provides that the State shall certify that there was available for expenditure by the State for adult education from non-Federal sources for the preceding fiscal year an amount which was not less than the fiscal effort per student or the aggregate amount expended for such purposes from such sources during the second preceding fiscal year. Accordingly, the States may compute maintenance of fiscal effort on either a per student or aggregate expenditure basis.

In addition, the proposed regulations provide for three types of exceptions through a notification or waiver process. First, a State is allowed a maximum percentage reduction in fiscal effort of five percent below the base year for the years for which the Act is in effect. A percentage reduction is computed by dividing the amount of the reduction for the preceding year by the amount of the State's expenditures in the base year. The use of a percentage reduction by the State will not cause a corresponding reduction in the Federal share.

Secondly, the proposed regulations Commissioner may waive the maintenance of effort provision for exceptional circumstances. Exceptional circumstances, which carry a penalty of pro rata reduction of the Federal allocation, include situations where the State educational agency or local educational agency had at least some control of the events resulting in decreased expenditures, but nevertheless made a reasonable effort in a timely fashion to comply with the maintenance of effort requirement.

Thirdly, the proposed regulations contain the standards by which the Commissioner may waive the maintenance of effort provision for very exceptional circumstances. Very exceptional circumstances, which do not carry a penalty of pro rata reduction of the Federal allocation, include situations where the State educational agency or local educational agency had no control of the events resulting in decreased expenditures, but made a reasonable effort in a timely fashion to comply with the maintenance of effort requirement.

The proposed regulations also provide that in the event the Commissioner determines that it would not be equitable to grant a waiver for very exceptional circumstances, the Commissioner may grant a waiver for exceptional circumstances.

The regulations provide, however, that the Commissioner will not consider a waiver to be equitable to reflect exceptional or very exceptional circumstances unless the State agrees to restore future expenditure levels to the level which existed prior to the fiscal year for which the waiver was granted.

PUBLIC COMMENT TO THE NOTICE OF INTENT TO ISSUE REGULATIONS

As a first step in the regulation process, the Commissioner published a Notice of Intent to Issue Regulations in the FEDERAL REGISTER on November 22, 1976 (41 FR 51550-51559). The public was invited to offer comment, advice and guidance to the Office of Education in response to identified or other issues relating to the development of regulations for this amendment. The suggestions received from the public have been given consideration in the preparation of this proposed rule.

The public's comments and the Commissioner's responses to these comments are summarized as follows:

Issue (a)—Aggregate Expenditures. Should aggregate expenditures be considered on an individual or a statewide basis?

Comment. One State agency commented that it was its commitment to provide total matching funds for the program rather than to require matching from local educational agencies. This practice, they assure, has proved attractive to local educational agencies and has resulted in more adults receiving much-needed basic education programs.

Response. Since the legislation refers to aggregate expenditures by the State from non-Federal sources, the Commissioner has interpreted this to mean expenditures on a statewide basis.

Issue (b)—Per Pupil Expenditures. Is there any justifiable basis for using per pupil expenditures in determining maintenance of effort?

Comment. Several comments were received with the recommendation that per student effort not be used to determine maintenance of effort. Reasons given were that adult student open enrollment concepts, non-fixed hours of instruction, flexible scheduling, and ADA/ADM factors for adults are not general measures of student enrollment.

Response. Because the statute provides for the option of the States' using per pupil expenditure in determining that effort has been maintained, the regulation must also provide for this alternative. The State may, however, continue to use the aggregate expenditure method.

Issue (c)—Waivers. What constitutes "exceptional" or "very exceptional" circumstances in determining waiver of the maintenance of effort requirement?

Comment. A local educational agency responded that conditions such as strikes involving in-school services, school closings, statewide strikes, and increased costs for non-controllable budget items (such as fuel) could reduce the amount available for adult education and that these examples should be included in the criteria governing very exceptional circumstances.

Response §§ 166.54 and 166.55. Consideration has been given to each of these situations. These proposed regulations provide that exceptional circumstances include situations where the State educational agency or local educational agency had at least some control of the events resulting in decreased expenditures. Very exceptional circumstances include situations where the State educational agency or local educational agency had no control of the events resulting in decreased expenditures.

Citations of legal authority. As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232 (a)), a citation of the statutory or other legal authority for each section of the regulation has been placed in parentheses on the line following the text of the section.

Invitation to comment. Interested persons are invited to submit comments, suggestions, and recommendations to be considered prior to the issuance of the final rule. Comments, suggestions, or recommendations may be sent to the address given at the beginning of this notice. All comments received on or before October 17, 1977, will be considered. All comments submitted will be available for public inspection both during and after the comment period, in Room 5056, Regional Office Building 3, 7th and D Streets SW., Washington, D.C., between 8:30 a.m. and 4:00 p.m., Monday through Friday of each week.

Authority. This proposed rule is issued under the authority of section 307(b) of the Adult Education Act, 20 U.S.C. 1206, and section 431A of the General Education Provisions Act, 20 U.S.C. 1232, as amended by section 323 of Pub. L. 94-482, the Education Amendments of 1976.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Program No. 13.400, Adult Education—Grants to States.)

Dated: July 7, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: August 27, 1977.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

PART 166—STATE ADULT EDUCATION PROGRAMS

In the table of contents preceding the regulations, certain section and subpart designations are amended or added to read as follows:

Amend title of Subpart E and add the following new sections:

Subpart E—Federal Financial Participation; Payments and Reports

Sec.
166.46 Approved State plan as a condition for payment.
166.47 Reports.

Amend title of Subpart F and add the following sections:

Subpart F—Maintenance of Effort

166.51 Maintenance of effort.
166.52 Withholding of payments.
166.53 Allowable percentage reduction.
166.54 Waiver of maintenance of effort under exceptional circumstances.
166.55 Waiver of maintenance of effort under very exceptional circumstances.
166.56 Restoration of expenditure levels.
166.57 Definitions for Subpart F.

§ 166.27 [Amended]

2. In § 166.27 the cross reference to the reporting requirements regulation is changed from § 166.52 to § 166.47.

3. The title of Subpart E is amended to read as follows:

Subpart E—Federal Financial Participation; Payments and Reports

4. Section 166.51 is renumbered and amended to read as follows:

§ 166.46 Approved State plan as a condition for payment.

Payments to States under the Act will be made only after the Commissioner has approved the State plan submitted in accordance with the requirements of the Act, these regulations, and the GEPR.

§ 166.52 [Renumbered § 166.47]

5. Section 166.52 Reports is renumbered § 166.47 and transferred in toto to Subpart E.

6. Subpart F and new §§ 166.51 through 166.57 are added as follows:

Subpart F—Maintenance of Effort

§ 166.51 Maintenance of effort.

A State shall maintain its fiscal effort on either a per student basis or on an aggregate expenditure basis for adult education from all non-Federal sources compared to the amount expended from all non-Federal sources in the previous year.

(Sec. 307(b); 20 U.S.C. 1206)

§ 166.52 Withholding of payments.

Except as provided in § 166.53 through § 166.55, the Commissioner will not make any payment to a State in any fiscal year unless the Commissioner finds that the fiscal effort of the State for adult education from all non-Federal sources from the preceding fiscal year was not less than the fiscal effort per student or the aggregate amount expended for adult education purposes from all non-Federal sources during the second preceding fiscal year.

(Sec. 307(b); 20 U.S.C. 1206)

§ 166.53 Allowable percentage reduction.

(a) A State shall compute a percentage reduction in fiscal effort by dividing the amount of the reduction for the preceding fiscal year by the amount of the State's expenditures in the base year. ("Base year" is defined in § 166.57(c).)

(b) The Commissioner will consider the maintenance of effort requirement in § 166.51 satisfied if the reduction in expenditures on a per student or on an aggregate basis in the preceding fiscal year, when added to the sum of any percentage reductions previously determined, does not exceed five percent. A State is allowed a maximum percentage reduction of five percent below the base year for the years for which the Act is in effect.

(c) A State intending to use the allowable percentage reduction shall notify the Commissioner. A State shall submit the notification with the annual program plan or as an amendment to the annual program plan.

Example of allowable percentage reduction. If the fiscal effort of a State, including its local educational agencies, for adult education in fiscal year 1977 is three percent less than its fiscal effort in its base year (e.g., FY 1976), the State must notify the Commissioner in its annual program plan for fiscal year 1978 or as an amendment to the annual program plan. The State may then use the remaining two percent of its allowable reduction in subsequent years. For example, when the State submits its annual program plan for fiscal year 1979, it may notify the Commissioner that non-Federal expenditures in fiscal year 1978 were two percent less than they were in the base year. At this point the State has used up its maximum allowable five percent reduction, and may not again reduce its non-Federal expenditures below the base year unless it applies for and is granted a waiver under § 166.54 or § 166.55.

(Sec. 431A(a) of GEPA; 20 U.S.C. 1232)

§ 166.54 Waiver of maintenance of effort under exceptional circumstances.

(a) The Commissioner may waive the maintenance of effort requirement in section 307(b) of the Act and § 166.51 if the Commissioner determines it would be equitable to do so in view of exceptional circumstances affecting the State.

(b) A State shall submit a request for a waiver under paragraph (a) of this section with the annual program plan or an amendment to the annual program plan. A State shall include in the request for a waiver the reason for the request and any additional information the Commissioner may require.

(c) In any case in which a waiver is granted under this section, the Commissioner will reduce the amount of the Federal payment for the current fiscal year in the exact proportion to which the fiscal effort per student or aggregate expenditure was less than 100 percent for the second preceding fiscal year. For example, if a State, having received a waiver under this section, reduced its expenditures in the preceding fiscal year 20 percent below the second preceding fiscal year, the Commissioner will reduce the amount of the Federal payment in the current fiscal year by 20 percent.

(d) Exceptional circumstances include situations where the State educational agency or local educational agency had at least some control of the events resulting in decreased expenditures, but nevertheless made a reasonable effort in a timely fashion to comply with section 307(b) of the Act. Exceptional circumstances as determined by this standard include, but are not limited to, the following situations:

(1) The State decreased its aggregate expenditures for the adult education program due to a justifiable mistake such as a reasonable anticipation of a decrease in enrollment which for unforeseen reasons failed to materialize; or

(2) A newly constituted governing body of the State educational agency had made a reasonable effort to maintain expenditures, but it could not do so due to the continuing effect of the predecessor governing body's policy.

(e) Exceptional circumstances also include situations described in §166.55 (d) where the Commissioner has determined that it would not be equitable to grant a waiver for very exceptional circumstances.

(f) The Commissioner will not grant a waiver in any case where the State educational agency or local educational agency had the fiscal resources available for use to meet the maintenance of effort requirement of the Adult Education Act but failed to spend them.

(Implements Sec. 431A(b)(1)(A) of GEPA; 20 U.S.C. 1232)

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§ 166.55 Waiver of maintenance of effort under very exceptional circumstances.

(a) The Commissioner may waive the maintenance of effort requirement in section 307(b) of the Act and §166.51 if the Commissioner determines it would be equitable to do so in view of very exceptional circumstances affecting the State.

(b) A State shall submit a request for a waiver under paragraph (a) with the annual program plan or an amendment to the annual program plan. A State shall include in the request for a waiver the reason for the request and any additional information the Commissioner may require.

(c) In any case in which a waiver is granted under this section, the Commissioner will not reduce the Federal payment for the current fiscal year.

(Sec. 431A(b)(1)(B) of GEPA)

(d) Very exceptional circumstances include situations where the State educational agency or local educational agency had no control of the events resulting in decreased expenditures but made a reasonable effort in a timely fashion to comply with section 307(b) of the Act. Very exceptional circumstances as determined by this standard include, but are not limited to, the following situations:

(1) The tax base of the State, including its local educational agencies, has decreased very significantly due to several factors: e.g., the removal of property from the tax roll because of urban renewal, government acquisition of previously taxed property in substantial amount, or natural or man-made disaster of taxable property;

(H.R. 94-1071, p. 233)

(2) The capacity to raise funds for adult education is out of the control of the State educational agency because of a very substantial need of the State to reduce fiscal resources for education in general, or fiscal resources have been diverted very significantly to other functions which are not within the control of the State educational agency;

(H.R. 94-1071, p. 233)

(3) Situations which occur in States where State law requires that a local educational agency must go to the voters for special levies to meet operating expenses over and above those guaranteed by the State, and the local educational agency has gone to the voters as many times as State law permits and has failed to gain voter approval;

(H.R. 94-1071, p. 233)

(4) The State, in the second year preceding the year for which the annual program plan is submitted, incurred a substantial nonrecurring expense which did not result in an increase in the fiscal effort of its regular adult education program;

(5) Decreased expenditures by the State which are directly attributable to strikes involving educational and/or service personnel;

(6) Reductions of services to adults which are directly attributable to energy shortages or conservation measures which resulted in a general reduction of educational services throughout the State or any of its local educational agencies; or

(7) The tax revenues of the State or its local educational agencies are reduced due to the State's adoption of an equalization formula.

(Implements sec. 431A(b)(1)(B) of GEPA: 20 U.S.C. 1232; H.R. 94-1701, p. 233)

(e) The Commissioner will not grant a waiver in any case where the State educational agency or local educational agency had the fiscal resources available for use to meet the maintenance of effort requirement but failed to spend them.

(Implements sec. 431A(b)(1)(B) of GEPA: 20 U.S.C. 1232)

§ 166.56 Restoration of expenditure levels.

The Commissioner will consider a waiver under § 166.54 or § 166.55 equitable in order to reflect exceptional circumstances or very exceptional circumstances (as the case may be) only if the State agrees to restore future expenditure levels to the level which existed prior to the year for which the waiver was granted. If in any future year expenditures are not restored to the level, the Commissioner will not consider the maintenance of effort requirement of section 307(b) of the Act satisfied unless the Commissioner grants an additional waiver for that year.

Example. A State expends $1,000,000 in non-Federal resources for the adult education program in fiscal year 1976. The non-Federal expenditures in fiscal year 1977 are $800,000. The State applies for a waiver of maintenance of effort in fiscal year 1978 because of the reduction in fiscal year 1977. A waiver is granted in fiscal year 1978 for the reduction in fiscal year 1977. In determining its level of expenditures for fiscal year 1978, the State cannot use $800,000 (the level of expenditures in fiscal year 1977) but must use the $1,000,000 (the level of expenditures in fiscal year 1976).

(Implements Sec. 431A(b) of GEPA; 20 U.S.C. 1232)

§ 166.57 Definitions for Subpart F.

(a) The "preceding fiscal year" for purposes of computing maintenance of expenditure means the first twelve-month fiscal period most commonly used in the State for official reporting purposes which is prior to the period for which the current annual program plan will be in effect.

(b) The "second preceding fiscal year" means the second twelve-month period most commonly used in a State for official reporting purposes, which is prior to the period for which the current annual program plan will be in effect.

(c) The "base year" means the first or second fiscal year as determined by the State which precedes the fiscal year in which the State first uses the allowable percentage reduction. The base year may not be a fiscal year which, because of reduced non-Federal expenditures in that year, was the basis for a waiver granted under § 166.54 or § 166.55.

(Sec. 431A(a) of GEPA; 20 U.S.C. 1232)

Appendix A [Amended]

7. Assurance (8) of the State-Federal Agreement set forth in Appendix A of this part is amended to read as follows:

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(8) The statement checked below reflects the State's maintenance of effort for the preceding fiscal year:

-- (a) The State had available for expenditure for adult education from non-Federal sources for the preceding fiscal year an amount which was not less than the fiscal effort per student or the aggregate amount expended for adult education purposes from non-Federal sources during the second preceding fiscal year; OR

-- (b) Notification of reduction under regulation § 166.53 and supporting documentation are attached (Base year used for notification purposes is fiscal year 19--.); OR

-- (c) Request for waiver under exceptional circumstances, together with supporting documentation, is hereby submitted as an attachment to this plan; OR

-- (d) Request for waiver under very exceptional circumstances, together with supporting documentation, is hereby submitted as an attachment to this plan.

[FR Doc.77-25687 Filed 9-1-77;8:45 am]

federal register

FRIDAY, SEPTEMBER 2, 1977

PART VII

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions; Index to General Wage Determination Decisions as of August 5, 1977

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DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

Iowa	IA77–4213
	IA77–4215

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Arkansas:	
AR77–4106	May 27, 1977.
AR77–4107	June 3, 1977.
AR77–4112 and AR77–4114	June 10, 1977.
AR77–4147	July 1, 1977.
AR77–4178	Aug. 19, 1977.
District of Columbia:	
DC77–3040	Mar. 18, 1977.
Florida:	
FL76–1014	Jan. 23, 1976.
FL77–1028 and FL77–1029	Mar. 18, 1977.
FL77–1034	Apr. 1, 1977.
FL77–1044	Mar. 1, 1977.
FL77–1049	Apr. 29, 1977.
FL77–1091	July 8, 1977.
FL77–1098	Aug. 5, 1977.
FL77–1099	Aug. 12, 1977.
Illinois:	
IL76–2144	Nov. 25, 1976.
IL77–2112	Aug. 5, 1977.
Iowa:	
IA77–4090 and IA77–4096	Aug. 26, 1977.
Maryland:	
MD77–3041	Mar. 18, 1977.
MD77–3086	Aug. 5, 1977.
Massachusetts:	
MA77–3063	Aug. 12, 1977.
New Jersey:	
NJ77–3093	July 8, 1977.
Pennsylvania:	
PA77–3303	Feb. 18, 1977.
PA77–3043	Apr. 8, 1977.
PA77–3050; PA77–3053; PA 77–3054; PA77–3055; PA 77–3056; PA77–3057; PA 77–3058.	May 13, 1977.
PA77–3059	May 20, 1977.
PA77–3061	June 10, 1977.
PA77–3100	July 15, 1977.
PA77–3102; PA77–3103; PA 77–3104.	July 22, 1977.
West Virginia:	
WV77–3101	Do.
Wisconsin:	
WI77–2110	Do.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision Numbers are in parentheses following the numbers of the decisions being superseded.

Iowa:	
IA76–4120 (IA77–4212)	July 23, 1976.
IA76–4124 (IA77–4212)	Nov. 19, 1976.
IA77–4110 (IA77–4212)	June 10, 1977.
IA76–4121 (IA77–4210)	July 23, 1976.
IA77–4041 (IA77–4210)	Feb. 25, 1977.
IA76–4122 (IA77–4211); IA 76–4123 (IA77–4211).	July 23, 1976.
IA77–4041; IA77–4042 (IA 77–4211).	Feb. 25, 1977.
IA77–4089 (IA77–4209)	May 6, 1977.
IA77–4117 (IA77–4214)	June 24, 1977.
Massachusetts:	
MA76–2098 (MA77–3065); MA76–2099 (MA77–3066.	Aug. 13, 1976.
MA76–2101 (MA77–3068)	Aug. 20, 1976.
Michigan:	
MI77–2071 (MI77–2127)	June 3, 1977.
New York:	
NY77–3110 (NY77–3118)	July 29, 1977.
Ohio:	
OH77–2069; OH–2077 and OH77–2078 (OH77–2122).	May 13, 1977.
OH77–2074 and OH77–2075 (OH77–2133).	Do.
Oklahoma:	
OK77–4073 (OK77–4216)	Apr. 1, 1977.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

General Wage Determination Decision No. CO75–5061 (with Modification No. 1) Adams, Arapahoe, Denver, and Jefferson Counties, Colo., for residential construction is cancelled. Agencies with residential construction projects pending in these locations should utilize the project determination procedure by submitting form SF–308. See Regulations Part 1 (29 CFR), Section 1.5. Contracts for which bids have been opened shall not be affected by this notice, and consistent with 29 CFR 1.7(b)(2), the incorporation of Decision No. CO75–5061 in contract specifications the opening of bids for which is within ten (10) days of this notice need not be affected.

General Wage Determination Decision No. SD77–5019, Minnehaha County, S. Dak., for residential construction is cancelled. Agencies with residential construction projects pending in these locations should utilize the project determination procedure by submitting form SF–308. See Regulations Part 1 (29 CFR), Section 1.5. Contracts for which bids have been opened shall not be affected by this notice, and consistent with 29 CFR 1.7(b)(2), the incorporation of Decision No. SD77–5019 in contract specifications the opening of bids for which is within ten (10) days of this notice need not be affected.

General Wage Determination Decision No. WA77–5008, Yakima County, Wash., for residential construction is cancelled. Agencies with residential construction projects pending in these locations should utilize the project determination procedure by submitting form SF–308. See Regulations Part 1 (29 CFR), Section 1.5. Contracts for which bids have been opened shall not be affected by this notice, and consistent with 29 CFR 1.7(b)(2), the incorporation of Decision No. WA77–5008 in contract specifications the opening of bids for which is within ten (10) days of this notice need not be affected.

Signed at Washington, D.C., this 26th day of August 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

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NEW DECISION

STATE: Iowa COUNTIES: [illegible], Cherokee, Clay, Dickinson, Emmet, Kossuth, Lyon, O'Brien, Osceola, Palo Alto, Plymouth, Sac, Shelby, Woodbury, and Ida

DECISION NO.: IA77-4215 DATE: Date of Publication
DESCRIPTION OF WORK: Heavy and Highway Construction except work on or pertaining to the Big Sioux River.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$5.50				
Cement Masons	5.40				
Laborers:					
Group 1	5.10	.20	.10		
Group 2	4.60	.20	.10		
Group 3	4.35	.20	.10		
Group 4	4.00	.20	.10		
Group 5	3.60	.20	.10		
Group 6	3.40				
Power Equipment Operators:					
Group 1	5.65	.40	.20		
Group 2	5.30	.40	.20		
Group 3	4.80	.40	.20		
Group 4	4.20	.40	.20		
Truck Drivers	4.30	.15	.05		

LABORERS (HEAVY & HIGHWAY CONSTRUCTION CLASSIFICATION DEFINITIONS)

GROUP I - Pipe Layer (Utilities); Sand Blaster
GROUP II - Form Setter (Structures); Grade Checker
GROUP III - Caulkers, Jointer, Painter, Grouter & Joint Assembler; Cure Cart Operator; Form Setter (Paving) and Expansion Joint Assembler; Paving Sawman; Power Buggyman; Rakers
GROUP IV - Air, Gas & Electric Tool Operator; Cement Finisher Helper; Concrete Processing Material & Monitors; Stringman on Paving Work
GROUP V - Common Labor; Dump Person and Spotter; Fence Erector; Scaleman; Handling and Placing of Metal Mesh, Dowel Bars, Reinforcing Bars and Chairs
GROUP VI - Flag Person

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION CLASSIFICATION DEFINITIONS

GROUP I - Power Shovel, Crane, Backhoe and Dragline, Dredge Engineer, Dredge Leverman; Hoisting Engineer (Steel Erection); Motor Patrol (Finish); Piledriver Machine; Master Mechanic; Sideboom Tractor; Horizontal Boring Machine
GROUP II - Central Mix Plant; Paver or Self-propelled Spreader; Tow or Push Boat; C.M.I. Paver; C.M.I. Subgrader (or equivalent); Asphalt Plant; Scraper (over 12 c.y.); Bulldozer (Finish); Push Cat; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed; Asphalt Heater-Planer; Concrete Pump; Self-propelled Curb Machine
GROUP III - Motor Patrol (Rough); Front End Loader (3 c.y. or over); Scraper (12 c.y. & under); Bulldozer (Rough); Asphalt Roller; Mechanics-Welders; Group Equipment Greaser; Concrete Curb Breaking Machine; Concrete Widening Machine; Paving Breaker; Barber-Greene, Haiss Loader or similar machine; Crawler Tractor Pulling Ripper, Disc, Sheepsfoot or Flat Roller; Self propelled Sheepsfoot Roller; Self propelled Roller, Distributor; Screening and Washing Plant; Self-propelled Vibrating Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on Concrete); Flexplane; Bull Float; Form Grader
GROUP IV - Boiler, Mechanical Broom; Oiler or Mechanics Helper or Group Greaser Helper; Farm Type Tractor (pulling disc, harrow or roller); Welding Machine; Pump Operator (other than dredge); Broom and Winch Truck; Compressor; Tank Car Heater (combination boiler and booster); Pumps on Well Points and Deep Wells for Dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat; Batch Plant dry; Spreader Attachments; Utility Tractor With Attachments

NEW DECISION

STATE: Iowa COUNTIES: Des Moines, Louisa, and Muscatine (excluding the City of Burlington and abutting municipalities and the Burlington Ordance Plant.

DECISION NO.: IA77-4215 DATE: Date of Publication
DESCRIPTION OF WORK: Heavy and Highway Construction excluding work on or pertaining to the Mississippi River.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$6.15				
Cement Masons	6.15				
Laborers:					
Group 1	5.40	.20	.10		
Group 2	4.90	.20	.10		
Group 3	4.65	.20	.10		
Group 4	4.40	.20	.10		
Group 5	4.20	.20	.10		
Group 6	4.30				
Power Equipment Operators:					
Group 1	6.50	.40	.20		
Group 2	6.10	.40	.20		
Group 3	5.75	.40	.20		
Group 4	5.10	.40	.20		
Truck Drivers	5.05	.20	.05		

LABORERS (HEAVY & HIGHWAY CONSTRUCTION CLASSIFICATION DEFINITIONS)

GROUP I - Pipe Layer (Utilities); Sand Blaster
GROUP II - Form Setter (Structures); Grade Checker
GROUP III - Caulkers, Jointer, Painter, Grouter & Joint Assembler; Cure Cart Operator; Form Setter (Paving) and Expansion Joint Assembler; Paving Sawman; Power Buggyman; Rakers
GROUP IV - Air, Gas & Electric Tool Operator; Cement Finisher Helper; Concrete Processing Material & Monitors; Stringman on Paving Work
GROUP V - Common Labor; Dump Person and Spotter; Fence Erector; Scaleman; Handling and Placing of Metal Mesh, Dowel Bars, Reinforcing Bars and Chairs
GROUP VI - Flag Person

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION CLASSIFICATION DEFINITIONS

GROUP I - Power Shovel, Crane, Backhoe and Dragline; Dredge Engineer, Dredge Leverman; Hoisting Engineer (Steel Erection); Motor Patrol (Finish); Piledriver Machine; Master Mechanic; Sideboom Tractor; Horizontal Boring Machine
GROUP II - Central Mix Plant; Paver or Self-propelled Spreader; Tow or Push Boat; C.M.I. Paver; C.M.I. Subgrader (or equivalent); Asphalt Plant; Scraper (over 12 c.y.); Bulldozer (Finish); Push Cat; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed; Asphalt Heater-Planer; Concrete Pump; Self-propelled Curb Machine
GROUP III - Motor Patrol (Rough); Front End Loader (3 c.y. or over); Scraper (12 c.y. & under); Bulldozer (Rough); Asphalt Roller; Mechanics-Welders; Group Equipment Greaser; Concrete Curb Breaking Machine; Concrete Widening Machine; Paving Breaker; Barber-Greene, Haiss Loader or similar machine; Crawler Tractor Pulling Ripper, Disc, Sheepsfoot or Flat Roller; Self-propelled Sheepsfoot Roller; Self-propelled Roller, Distributor; Screening and Washing Plant; Self-propelled Vibrating Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on Concrete); Flexplane; Bull Float; Form Grader
GROUP IV - Boiler, Mechanical Broom; Oiler or Mechanics Helper or Group Greaser Helper; Farm Type Tractor (pulling disc, harrow or roller); Welding Machine; Pump Operator (other than dredge); Broom and Winch Truck; Compressor; Tank Car Heater (combination boiler and booster); Pumps on Well Points and Deep Wells for Dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat; Batch Plant-dry; Spreader Attachments; Utility Tractor With Attachments

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DECISION NO. AR77-4106 - Mod. #5 (42 FR 27563 - May 27, 1977) Conway, Faulkner, Van Buren, Cleburne and Perry Counties, Arkansas	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE: SHEET METAL WORKERS	$10.25	.45	.44		.05
DECISION NO. AR77-4107 - Mod. #3 (42 FR 28757 June 3, 1977) Pulaski County, Arkansas					
CHANGE: SHEET METAL WORKERS	$10.25	.45	.44		.05
DECISION NO. AR77-4112 - Mod. #3 (42 FR 30104 - June 10, 1977) Garland, Hot Springs, and Clark Counties, Arkansas					
CHANGE: SHEET METAL WORKERS	$10.25	.45	.44		.05
DECISION NO. AR77-4114 - Mod. #4 (42 FR 30106 - June 10, 1977) Sebastian, Crawford and Washington Counties, Arkansas					
CHANGE: SHEET METAL WORKERS	$10.25	.45	.44		.05

DECISION NO. AR77-4147 - Mod. #3 (42 FR 34155 - July 1, 1977) Union and Ouachita Counties, Arkansas	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE: SHEET METAL WORKERS	$9.75	3%+.55	.40		.16
OMIT: FOOTNOTES: a - Includes 3% Sasmi b - Includes .02 National Training Fund.					

DECISION NO. AR77-4173 - Mod. #1
(42 FR 42063 - August 19, 1977)
Jefferson County, Arkansas

CHANGE DESCRIPTION OF WORK TO READ "BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including four stories); Building Construction includes construction of sheltered enclosures, with walk-in access for the purpose of housing persons, machinery, equipment or supplies; includes, in all construction of such structures, the installation inside the building of utilities and equipment, both above and below ground level, as well as excavation and foundation."

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
PLASTERERS	$8.85				.02
SHEET METAL WORKERS	10.25	.45	.44		.05

DECISION #DC77-3040 - Mod. # 6 (42 FR 15292 - March 18, 1977) Washington, D. C.	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change: BUILDING AND HEAVY CONSTRUCTION: (INCLUDING WMATA - RRTS)					
Asbestos Workers	$11.92	.59	.89		.03
Electricians	11.40	.65	1%+.80		.13
Line Construction:					
Linemen, cable splicers, equipment operators	12.41	.45	3%		1/2 of 1%
Truck with winch, truck pole or steel handling	7.53	.45	3%		1/2 of 1%
Groundmen (0 to 1 year)	6.11	.45	3%		1/2 of 1%
Groundmen (1 to 2 years)	7.02	.45	3%		1/2 of 1%
Groundmen (over 2 years)	7.27	.45	3%		1/2 of 1%
Plumbers	11.12	1.00	1.00		.27
Roofers:					
Composition	9.57	.56	.30		
Slate, tile, mopmen, waterproofers, sprayers, sprandrel and ironite	10.13	.56	.30		
Helpers	6.79	.56	.30		
Sheet metal workers	11.14	1.07	1.21		.14
Steamfitters, refrigeration and air conditioning mechanic	11.48	.75	1.00		.16
Truck Drivers:					
Boom trucks	8.45	.415	.425	e+f	
Small dump, water sprinkler, grease and oil	8.20	.415	.425	e+f	
Flat, pick-up hauling materials, small euclids, dump over 8 wheels	8.30	.415	.425	e+f	
Trailers, low boys, tarctor pull	8.50	.415	.425	e+f	
Helpers	8.05	.415	.425	e+f	
Carryalls, large euclids, euclid water sprinkler	8.60	.415	.425	e+f	
Mechanics	8.35	.415	.425	e+f	

DECISION #DC77-3040 - Mod. # 6, (Cont'd.)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
SEWER & WATER LINES: (EXCLUDING WMATA - RAPID RAIL TRANSIT SYSTEM)					
TRUCK DRIVERS:					
Dump trucks	6.10	.415	c		
Dump trucks over 8 wheels	6.20	.415	c		
Flat trucks	6.20	.415	c		
Trailers	6.45	.415	c		
Fuel and oil trucks	6.10	.415	c		
Euclids	6.60	.415	c		

Footnote:
c. $10.00 per week when employee has worked 90 days and work three days in any work week.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Decision #FL76-1014 - Mod. #3 (41 FR 3597 - January 23, 1976) Hillsborough County, Florida					
Change:					
Electricians:					
Commercial:					
Electricians	8.77	4.5%	3%+3%	4%	.10
Cable splicers	9.12	4.5%	1%+3%	4%	.10
Industrial:					
Electricians	9.95	4.5%	1%+3%	4%	.10
Cable splicers	10.30	4.5%	1%+3%	4%	.10
Decision # FL77-1028 - Mod. # 5 (42 FR-15262 - March 18, 1977) Alachua County, Florida					
Change:					
Asbestos workers	11.01	.45	.55		.04
Decision # FL77-1029 - Mod. # 3 (41 FR-15264 - March 18, 1977) Dade County, Florida					
Change:					
Electricians:					
Wiremen	11.25	4½%	3%	8½%	1%
Cable splicers	11.75	4½%	3%	8½%	1%
Laborers:					
Air tool operators, pipelayers	6.70	1.00	.37		
Laborers	6.60	1.00	.37		
Mason tenders, mortar mixers	6.70	1.00	.37		
Plasterers tenders	6.88	1.00	.37		
Line Construction:					
Linemen	9.60	4½%	3%+2%	5%	3/4 of 1%
Groundmen	48%JR	4½%	3%+2%	5%	3/4 of 1%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Decision # FL77-1034 - Mod. # 4 (42 FR-17761 - April 1, 1977) Martin & Palm Beach Counties, Florida.					
Change:					
Line Construction:					
Linemen	11.13	3.5%	2%+3%		3/8 of 1%
Cable splicers	11.43	3.5%	2%+3%		3/8 of 1%
Winch truck operators	8.87	3.5%	2%+3%		3/8 of 1%
Groundmen	6.06	3.5%	2%+3%		3/8 of 1%
Truck drivers	7.29	3.5%	2%+3%		3/8 of 1%
Heavy equipment operators	10.92	3.5%	2%+3%		3/8 of 1%
Decision # FL77-1044 - Mod. # 4 (42 FR-17764 - March 1, 1977) Volusia County (except Cape Kennedy, Kennedy Space Flight Center and Cape Canaveral Air Force Station), Florida					
Change:					
Asbestos workers	11.01	.45	.55		.04
Decision # FL77-1049 - Mod. # 4 (42 FR-22080 - April 29, 1977) Leon County, Florida					
Change:					
Asbestos workers	11.01	.45	.55		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Decision # FL77-1091 - Mod. # 2 (42 FR-35538 - July 8, 1977) Broward County, Florida					
Change:					
Plumbers	10.65	.65	.60		.07
Decision # FL77-1098 - Mod. # 1 (42 FR-39871 - August 5, 1977) Orange County, Florida					
Change:					
Bricklayers:					
Bricklayers	8.70	.50	.40		.03
Stonemasons	8.70	.50	.40		.03
Marble masons	8.70	.50	.40		.03
Plasterers	8.70	.50	.40		.03
Cement masons	8.70	.50	.40		.03
Decision # FL77-1099 - Mod. # 1 (42 FR-41060 - August 12, 1977) Duval County, Florida					
Change:					
Asbestos workers	11.01	.45	.55		.04
Plasterers	7.33	.40	.30		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
DECISION #IL76-2144 - Mod. #4 (41 FR 52247 - November 25, 1976) Fulton, Hancock, Henderson, Knox, McDonough, Mercer, Peoria, Stark, Tazewell & Warren Counties, Illinois					
CHANGE:					
Power Equipment Operators:					
Remainder of Counties					
Group 1	$11.05	.45	.80		.05
Group 2	10.85	.45	.80		.05
Group 3	10.27	.45	.80		.05
Group 4	10.00	.45	.80		.05
Group 5	8.56	.45	.80		.05
Electricians:					
Peoria & Tazewell Cos; Twps of Essex Valley & W. Jersey in Stark Co; Remainder of Fulton County	11.67	.50	3%+.50		1%
Linemen:					
Peoria, Tazewell, Stark, Fulton, Hancock, Henderson, Knox, McDonough & Warren Counties:					
Linemen	11.33	.45	3%		.5%
Groundman Equip. Opr.- Class 1	10.57	.45	3%		.5%
Groundman Truck Driver:					
W/Winch	7.90	.45	3%		.5%
WO/Winch	7.52	.45	3%		.5%
Groundman Class "A"	7.17	.45	3%		.5%
Truck Drivers:					
Group I	9.70	.60	a28.00		
Group II	10.10	.60	a28.00		
Group III	10.30	.60	a28.00		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL77-2112 - Mod. #1 (42 FR 39873 - August 5, 1977) Peoria & Tazewell Counties, Illinois					
CHANGE:					
Electricians	$11.67	.50	3%+.50		1%
Boilermakers	11.45	.95	1.00		.03
Power Equipment Operators:					
Group 1	11.32	.45	.80		.05
Group 2	11.12	.45	.80		.05
Group 3	10.745	.45	.80		.05
Group 4	10.47	.45	.80		.05
Group 5	9.86	.45	.80		.05
Dredging Construction:					
Group 1	11.32	.45	.80		.05
Group 2	11.12	.45	.80		.05
Group 3	10.745	.45	.80		.05
Group 4	10.47	.45	.80		.05
Group 5	9.86	.45	.80		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #IA77-4090-Mod. # 2 (42 FR - August 26,1977) Cerro Gordo County (City of Mason City), Iowa					
Change:					
Heavy and Highway:					
Cement Masons	$7.08	.45			
Decision #IA77-4096- Mod. # 3 (42 FR - August 26,1977) Webster County (City of Fort Dodge), Iowa					
Change:					
Heavy and Highway:					
Carpenters and Piledrivermen	$7.08	.45			
Cement Masons	7.08	.45			

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MD77-3041 - Mod. # 6 (42 FR 15268 - March 18, 1977) Montgomery and Prince Georges Counties, Maryland; Arlington County, Virginia; D. C. Training School, and for WMATA - Rapid Rail Transit System Projects Only, Alexandria, Virginia					
Change:					
BUILDING CONSTRUCTION (INCLUDING WMATA - RRTS)					
Asbestos Workers	$11.92	.59	.89		.03
Electricians	11.40	.65	1%+.80		.13
Line Construction:					
Linemen, cable splicers, equipment operators	12.41	.45	3%		1/2 of 1%
Truck with winch, truck pole or steel handling	7.53	.45	3%		1/2 of 1%
Groundmen (0 to 1 year)	6.11	.45	3%		1/2 of 1%
Groundmen (1 to 2 years)	7.02	.45	3%		1/2 of 1%
Groundmen (over 2 years)	7.27	.45	3%		1/2 of 1%
Plumbers	11.12	1.00	1.00		.27
Roofers:					
Composition	9.57	.56	.30		
Slate, tile mopmen, waterproofers, scrapers, spandrel, and ironite	10.13	.56	.30		
Helpers	6.79	.56	.30		
Sheet metal workers	11.14	1.07	1.21		.14
Steamfitters, refrigeration and air conditioning mechanic	11.48	.75	1.00		.16
TRUCK DRIVERS:					
Boom trucks	8.45	.415	.425	e+f	
Small dump, water sprinkler, grease and oil	8.20	.415	.425	e+f	
Flat, pick-up hauling materials, small euclids, dump over 8 wheels	8.30	.415	.425	e+f	
Trailers, low boys, tractor pulls	8.50	.415	.425	e+f	
Helpers	8.05	.415	.425	e+f	
Carryalls, large euclids, tunnel work under ground	8.60	.415	.425	e+f	
Mechanics	8.35	/415	.425	e+f	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MD77-3086 - Mod. #1 (42 FR-39880 - August 5, 1977) Allegany & Garrett Counties, Maryland					
Change:					
Sheet Metal Workers	$10.92		.28		.02

DECISION NO. MA77-3063- Mod 01 (42 FR 41077- August 12, 1977) Berkshire County, Massachusetts	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians	$10.09	.55	3%+.09		.02

DECISION #NJ77-3093 - Mod. #2 (42 FR-35567 - July 8, 1977) Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union, & Warren Counties, New Jersey	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Air Conditioning & Refrigeration Mechanic	$8.35	.065	.31	m	.04
Bricklayers, Stone masons, Cement masons, & Plasterers:					
Zone 1	11.20	.72	.45		.05
Line Construction:					
Zone 5:					
Linemen, Cable splicers, Line equipment operators, & Groundmen	12.95	6%	3% + .55		
Plumbers & Pipefitters:					
Zone 2	12.09	1.04	.90		.20
Zone 3	12.09	1.04	.90		.20
Plumbers & Steamfitters:					
Zone 3	12.09	1.04	.90		.20
Zone 4	12.09	1.04	.90		.20

DECISION #PA77-3033 - Mod. # 6 (42 FR 10268 - February 18, 1977) Northampton County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	$12.80	1.05	1.00		.02
Painters:					
Remainder of County					
Brush	8.70	1.00	.60		
Structural Steel	9.45	1.00	.60		
Spray	10.41	1.00	.60		
DECISION #PA77-3043 - Mod. # 5 (42 FR 18783 - April 8, 1977) Carbon, Monroe County, including Tobyhanna Army Depot, and Pike County, Pennsylvania					
Change:					
Boilermakers	12.80	1.05	1.00		.02
DECISION #PA77-3050 - Mod. # 5 (42 FR 24669 - May 13, 1977) Lackawanna, Susquehanna, Wayne, and Wyoming Counties, Pennsylvania					
Change:					
Boilermakers	12.80	1.05	1.00		.02
DECISION #PA77-3053 - Mod. # 4 (42 FR 24672 - May 13, 1977) Elk, Forest, McKean & Warren Counties, Pennsylvania					
Change:					
Carpenters & Soft Floor Layers					
Zone 1	9.80	6%	8%	6%	.40 of 1%
Glaziers					
Zone 3	10.09	.72	.82	.83	.01
Ironworkers					
Zone 1	10.74	1.86	1.01		.15
Painters:					
Zone 4					
Brush & Roller	9.00				
Spray	10.15				

DECISION #PA77-3054 - Mod. # 5 (42 FR 24677 - May 13, 1977) Bedford, Cambria, Cameron, Clarion, Clarion, Clearfield, Jefferson, Crawford & Venango Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers & Stonemasons					
Zone 2	$10.35	.75	.95		
Ironworkers					
Zone 3	10.74	1.86	1.10		.15
Glaziers					
Zone 1	10.09	.72	.82	.83	.01
Marble Setters					
Zone 4	9.98	.75	1.30		
Painters:					
Zone 1					
Commercial					
Brush & Roller	9.04	.75	.45		.12
Spray	9.54	.75	.45		.12
Industrial					
Brush	10.04	.75	.45		.12
Spray	10.54	.75	.45		.12
DECISION #PA77-3055 - Mod. # 4 (42 FR 24688 - May 13, 1977) Greene, Somerset & Potter Counties, Pennsylvania					
Change:					
Boilermakers					
Zone 1	12.80	1.05	1.00		.02
Glaziers					
Zone 1	10.09	.72	.82	.83	.01
Painters:					
Zone 2					
Commercial					
Brush & Roller	9.04	.75	.45		.02
Spray	9.54	.75	.45		.02
Industrial					
Brush	10.04	.75	.45		.02
Spray	10.54	.75	.45		.02

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DECISION #PA77-3056 - Mod. # 4 (42 FR 24698 - May 13, 1977) Lehigh County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Change:					
Boilermakers	$12.80	1.05	1.00		.02
DECISION #PA77-3057 - Mod. # 4 (42 FR 24700 - May 13, 1977) Sullivan County, Pennsylvania					
Change:					
Boilermakers	12.80	1.05	1.00		.02
DECISION #PA77-3058 - Mod. #3 (42 FR 24702 - May 13, 1977) Erie County, Pennsylvania					
Change:					
Electricians	11.30	4.5%	3%+.36	.70	.06
Ironworkers	10.74	1.86	1.01		.15
Plasterers	9.36	.60	1.00		.015
Painters:					
Brush	8.71	.60	.50		.03
Structural Steel	9.38	.60	.50		.03
Spray	9.38	.60	.50		.03
DECISION #PA77-3059 - Mod. # 4 (42 FR 26176 - May 20, 1977) Luzerne County, Pennsylvania					
Change:					
Boilermakers	12.80	1.05	1.00		.02

DECISION #PA77-3061 - Mod. # 3 (42 FR 30133 - June 10, 1977) Armstrong, Allegheny, Beaver, Butler, Fayette, Indiana, Washington & Westmoreland Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Change:					
Bricklayers					
Zone 2	$11.25	.75	1.20		
Glaziers	10.09	.72	.82	.83	.01
Marble Setters					
Zone 1	9.98	.75	1.30		
Painters					
Zone 6					
Commercial					
Brush	9.04	.75	.45		.02
Spray	9.54	.75	.45		.02
Industrial					
Brush	10.04	.75	.45		.02
Spray	10.54	.75	.45		.02
Stonemasons					
Zone 1	10.64	.75	1.50		
Sprinkler Fitters					
Zone 1	11.59	.65	.95		.04
Terrazzo Workers					
Zone 1	10.66	.75	.95		
Tile Setters					
Zone 1	9.38	.75	2.00		
DECISION #PA77-3100 - Mod. # 3 (42 FR 36775 - July 15, 1977) Columbia, Montour & Snyder Counties, Pennsylvania					
Change:					
Boilermakers	12.80	1.05	1.00		.02

DECISION #PA77-3102 - Mod. # 3 (42 FR 37754 - July 22, 1977) Clinton, Centre, Huntingdon, Fulton & Mifflin Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Change:					
Boilermakers	$12.80	1.05	1.00		.02
Painters:					
Zone 2					
Commercial					
Brush & Roller	9.04	.75	.45		.02
Spray	9.54	.75	.45		.02
Industrial					
Brush, Steel & Tank	10.04	.75	.45		.02
Spray	10.54	.75	.45		.02
Add:					
Glaziers					
Zone 1	10.09	.72	.82	.83	.01
Zone 2	9.39	.40	.40		.01
AREA COVERED BY GLAZIERS ZONES					
ZONE-1 --Centre, Fulton, Huntingdon & Mifflin Counties					
ZONE-2 --Clinton County					
DECISION #PA77-3103 - Mod. # 2 (42 FR 37759 - July 22, 1977) Bradford, Tioga & Union Counties, Pennsylvania					
Change:					
Boilermakers	12.80	1.05	1.00		.02
DECISION #PA77-3104 - Mod. # 2 (42 FR - 37762 - July 22, 1977) Lancaster County, Pennsylvania					
Change:					
Boilermakers	12.80	1.05	1.00		.02

DECISION #WV77-3101 - Mod. #2 (42 FR-37773 - July 22, 1977) State of West Virginia excluding the Counties of Berkeley, Jefferson, Morgan, Nicholas, & Preston	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Omit:					
Grant, Hardy, & Mineral Counties from Area 3 for Roofers					
Add:					
Roofers:					
Area 4 - Grant, Hardy, & Mineral Counties:					
Composition Roofers	$9.05	.45	.40		
Composition Mopmen	9.30	.45	.40		
Slaters	9.20	.45	.40		
Change:					
Electricians:					
Brooke (remainder of county) & Hancock (except Grant Twp.) Counties:					
Wiremen	12.00	6%	9%	8%	½ of 1%
Cable splicers	12.40	6%	9%	8%	½ of 1%
Hancock County - Grant Twp. only:					
Wiremen	10.26	8%	6½%	8%	1%
Cable splicers	10.66	8%	6½%	8%	1%
Line Construction:					
Brooke (except Buffalo Twp.) & Hancock (except Grant Twp.) Counties:					
Linemen & Equipment Operators	12.00	6%	9%	8%	½ of 1%
Cable splicers	12.40	6%	9%	8%	½ of 1%
Groundmen	7.80	6%	9%	8%	½ of 1%
Hancock County - Grant Twp. only:					
Linemen & Equipment Operators	10.26	8%	6½%	8%	1%
Cable splicers	10.66	8%	6½%	8%	1%
Truck drivers & Groundmen	9.36	8%	6½%	8%	1%

DECISION #WV77-3101 - Mod. #2 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Marble, Terrazzo, & Tile Finishers: Cabell, Lincoln, Mason (that portion south of the Kanawha River), & Wayne Counties:	$ 8.73	.30	.30		
Roofers:					
Area 3					
Commercial:					
Roofers	10.70		.10		.01
Waterproofers	11.20		.10		.01
Unprotected roofing or reroofing:					
Roofers	8.05		.10		.01
Waterproofers	8.55		.10		.01
Sheet Metal Workers: Area 1	10.92		.28		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. WI77-2110 - MOD #1 (42 FR 37773 - July 22, 1977) Columbia, Dane, Iowa, Sauk Counties, Wisconsin					
ADD:					
Roofers	$10.40				

SUPERSEDEAS DECISION

STATE: Iowa

COUNTIES: Adair, Adams, Audubon, Calhoun, Carroll, Cass, Clark, Crawford, Decatur, Fremont, Greene, Guthrie, Harrison, Ida, Lucas, Mills, Monona, Montgomery, Page, Ringgold, Sac, Shelby, Taylor Union, Wayne, Woodbury, and Pottawattamie east of Minden, York, Washington and Silver Creek Townships

DECISION NO: IA77-4212 Date: Date of Publication
Supersedes Decisions IA76-4120 dated July 23,1976 in 41 FR 30481; IA76-4124 dated November 19,1976 in 41 FR 51239; and IA77-4110 dated June 10,1977 in 42 FR 30079
DESCRIPTION OF WORK: Heavy and Highway Construction excluding work on or pertaining to the Missouri River

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$5.70				
Cement Masons	5.60				
Laborers:					
Group 1	5.30	.20	.10		
Group 2	4.80	.20	.10		
Group 3	4.55	.20	.10		
Group 4	4.20	.20	.10		
Group 5	3.80	.20	.10		
Group 6	3.60				
Power Equipment Operators:					
Group 1	5.85	.40	.20		
Group 2	5.50	.40	.20		
Group 3	5.00	.40	.20		
Group 4	4.40	.40	.20		
Truck Drivers	4.50	.15	.05		

LABORERS (HEAVY & HIGHWAY CONSTRUCTION CLASSIFICATION DEFINITIONS)

GROUP I - Pipe Layer (Utilities); Sand Blaster
GROUP II - Form Setter (Structures); Grade Checker
GROUP III - Caulkers, Jointer, Painter, Grouter & Joint Assembler; Curb Cart Operator; Form Setter (Paving) and Expansion Joint Assembler; Paving Sawman; Power Buggyman; Rakers
GROUP IV - Air, Gas & Electric Tool Operator; Cement Finisher Helper; Concrete Processing Material & Monitors; Stringman on Paving Work
GROUP V - Common Labor; Dump Person and Spotter; Fence Erector; Fireman; Handling and Placing of Metal Mesh, Dowel Bars, Reinforcing Bars and Chairs
GROUP VI - Flag Person

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION CLASSIFICATION DEFINITIONS

GROUP I - Power Shovel, Crane, Backhoe and Dragline, Dredge Engineer, Dredge Leverman; Hoisting Engineer (Steel Erection); Motor Patrol (Finish); Piledriver Machine; Master Mechanic; Sideboom Tractor; Horizontal Boring Machine
GROUP II - Central Mix Plant; Paver or Self-propelled Spreader; Tow or Push Boat; C.M.I. Paver; C.M.I. Subgrader (or equivalent); Asphalt Plant; Scraper (over 12 c.y.); Bulldozer (Finish); Push Cat; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed, Asphalt Heater-Planer, (concrete Pump; Self-propelled Curb Machine
GROUP III - Motor Patrol (Rough); Front End Loader (4 c.y. or over); Scraper (12 c.y. & under); Bulldozer (Rough), Asphalt Roller; Mechanics-Welders; Group Equipment Greaser; Concrete Curb Breaking Machine; Concrete Widening Machine; Paving Breaker, Barber-Greene, Hass Loader or similar machine; Crawler Tractor Pulling Ripper, Disc, Sheepsfoot or Flat Roller; Self-propelled Sheepsfoot Roller; Self-propelled Roller, Distributor; Screening and Washing Plant; Self-propelled Vibrating Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on Concrete); Flexplane; Bull Float; Form Grader
GROUP IV - Boiler, Mechanical Broom; Oiler or Mechanics Helper or Group Greaser Helper; Farm Type Tractor (pulling disc, harrow or roller); Welding Machine; Pump Operator (other than dredge); Broom and Winch Truck; Compressor; Tank Car Heater (combination boiler and booster); Pumps on Well Points and Deep Wells for dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat; Batch Plant-dry; Spreader Attachments; Utility Tractor With Attachments

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SUPERSEDEAS DECISION

STATE: Iowa

COUNTIES: Benton, Boone, Buchanan, Cedar, Clinton, Dallas, Delaware, Dubuque, Jackson, Jasper, Johnson, Jones, Madison, Marion, Marshall, Story, Warren, Webster, and Pottawattamie west of the eastern boundaries of Minden, York, Washington and Silver Creek Townships (excluding the Cities of Ames, Clinton, Council Bluffs, Dubuque, Fort Dodge, and Iowa City and their abutting municipalities)

DECISION NO.: IA77-4210 DATE: Date of Publication

Supersedes Decisions IA76-4121 dated July 23, 1976 in 41 FR 30482 and IA77-4041 dated February 25, 1977 in 42 FR 11210

DESCRIPTION OF WORK: Heavy and Highway Construction excluding work on or pertaining to the Mississippi and Missouri Rivers.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$6.46				
Cement Masons	6.46				
Laborers:					
Group 1	5.57	.20	.10		
Group 2	5.39	.20	.10		
Group 3	5.20	.20	.10		
Group 4	5.09	.20	.10		
Group 5	5.01	.20	.10		
Group 6	4.80				
Power Equipment Operators:					
Group 1	6.85	.40	.20		
Group 2	6.70	.40	.20		
Group 3	6.55	.40	.20		
Group 4	6.25	.40	.20		
Truck Drivers	5.47	.20	.05		

LABORERS (HEAVY & HIGHWAY CONSTRUCTION CLASSIFICATION DEFINITIONS)

GROUP I - Pipe Layer (Utilities); Sand Blaster
GROUP II - Form Setter (Structures); Grade Checker
GROUP III - Caulkers, Jointer, Painter, Grouter & Joint Assembler; Cure Cart Operator; Form Setter (Paving) and Expansion Joint Assembler; Paving Sawman; Power Buggyman; Rakers
GROUP IV - Air, Gas & Electric Tool Operator; Cement Finisher Helper; Concrete Processing Material & Monitors; Stringman on Paving Work
GROUP V - Common Labor; Dump Person and Spotter; Fence Erector; Scaleman; Handling and Placing of Metal Mesh, Dowel Bars, Reinforcing Bars and Chairs
GROUP VI - Flag Person

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION CLASSIFICATION DEFINITIONS

GROUP I - Power Shovel, Crane, Backhoe and Dragline; Dredge Engineer, Dredge Leverman; Hoisting Engineer (Steel Erection); Motor Patrol (Finish); Piledriver Machine; Master Mechanic; Sideboom Tractor; Horizontal Boring Machine
GROUP II - Central Mix Plant; Paver or Self-propelled Spreader; Tow or Push Boat; C.M.I. Paver; C.M.I. Subgrader (or equivalent); Asphalt Plant; Scraper (over 12 c.y.); Bulldozer (Finish); Push Cat; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed; Asphalt Heater-Planer; Concrete Pump; Self-propelled Curb Machine
GROUP III - Motor Patrol (Rough); Front End Loader (3 c.y. or over); Scraper (12 c.y. & under); Bulldozer (Rough); Asphalt Roller; Mechanics-Welders; Group Equipment Greaser; Concrete Curb Breaking Machine; Concrete Widening Machine; Paving Breaker; Barber-Greene, Haiss Loader or similar machine; Crawler Tractor Pulling Ripper, Disc, Sheepsfoot or Flat Roller; Self-propelled Sheepsfoot Roller; Self-propelled Roller, Distributor; Screening and Washing Plant; Self-propelled Vibrating Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on Concrete); Flexplane; Bull Float; Form Grader
GROUP IV - Boiler, Mechanical Broom; Oiler or Mechanics Helper or Group Greaser Helper; Farm Type Tractor (pulling disc, harrow or roller); Welding Machine; Pump Operator (other than dredge): Broom and Winch Truck; Compressor; Tank Car Heater (combination boiler and booster); Pumps on Well Points and Deep Wells for Dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat; Batch Plant-dry; Spreader Attachments; Utility Tractor With Attachments

SUPERSEDEAS DECISION

STATE: Iowa

COUNTIES: Allamakee, Appanoose, Bremer, Butler, Cerro Gordo, Chickasaw, Clayton, Davis, Fayette, Floyd, Franklin, Grundy, Hamilton, Hancock, Hardin, Henry, Howard, Iowa, Jefferson, Keokuk, Lee, Mitchell, Monroe, Poweshiek, Tama, Van Buren, Wapello, Washington, Winnebago, Winneshiek, Worth and Wright Counties (Excludes Mason City and Abuting Municipalities)

DECISION NO.: IA77-4211 DATE: Date of Publication

Supersedes Decisions IA76-4119 dated July 23, 1976 in 41 FR 30483; IA76-4123 dated July 23, 1976 in 41 FR 30484; IA77-4041 dated February 25, 1977 in 42 FR 11210; and IA77-4042 dated February 25, 1977 in 42 FR 11211.

DESCRIPTION OF WORK: Heavy and Highway construction except work on or pertaining to the Mississippi River

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$5.70				
Cement Masons	5.70				
Laborers:					
Group 1	5.30	.20	.10		
Group 2	4.80	.20	.10		
Group 3	4.55	.20	.10		
Group 4	4.20	.20	.10		
Group 5	3.90	.20	.10		
Group 6	3.75				
Power Equipment Operators:					
Group 1	6.00	.40	.20		
Group 2	5.65	.40	.20		
Group 3	5.15	.40	.20		
Group 4	4.55	.40	.20		
Truck Drivers	4.40	.20	.05		

LABORERS (HEAVY & HIGHWAY CONSTRUCTION CLASSIFICATION DEFINITIONS)

GROUP I - Pipe Layer (Utilities); Sand Blaster
GROUP II - Form Setter (Structures); Grade Checker
GROUP III - Caulkers, Jointer, Painter, Grouter & Joint Assembler; Cure Cart Operator; Form Setter (Paving) and Expansion Joint Assembler; Paving Sawman; Power Buggyman; Rakers
GROUP IV - Air, Gas & Electric Tool Operator; Cement Finisher Helper; Concrete Processing Material & Monitors; Stringman on Paving Work
GROUP V - Common Labor; Dump Person and Spotter; Fence Erector; Scaleman; Handling and Placing of Metal Mesh, Dowel Bars, Reinforcing Bars and Chairs
GROUP VI - Flag Person

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION CLASSIFICATION DEFINITION

GROUP I - Power Shovel, Crane, Backhoe and Dragline; Dredge Engineer, Dredge Leverman; Hoisting Engineer (Steel Erection); Motor Patrol (Finish); Piledriver Machine; Master Mechanic; Sideboom Tractor; Horizontal Boring Machine
GROUP II - Central Mix Plant; Paver or Self-propelled Spreader; Tow or Push Boat; C.M.I. Paver; C.M.I. Subgrader (or equivalent); Asphalt Plant; Scraper (over 12 c.y.); Bulldozer (Finish); Push Cat; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed; Asphalt Heater-Planer; Concrete Pump; Self-propelled Curb Machine
GROUP III - Motor Patrol (Rough); Front End Loader (3 c.y. or over); Scraper (12 c.y. & under); Bulldozer (Rough); Asphalt Roller; Mechanics-Welders; Group Equipment Greaser; Concrete Curb Breaking Machine; Concrete Widening Machine; Paving Breaker; Barber-Greene, Haiss Loader or similar machine; Crawler Tractor Pulling Ripper, Disc, Sheepsfoot or Flat Roller; Self-propelled Sheepsfoot Roller; Self-propelled Roller, Distributor; Screening and Washing Plant; Self-propelled Vibrating Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on Concrete); Flexplane; Bull Float; Form Grader
GROUP IV - Boiler, Mechanical Broom; Oiler or Mechanics Helper or Group Greaser Helper; Farm Type Tractor (pulling disc, harrow or roller); Welding Machine; Pump Operator (other than dredge): Broom and Winch Truck; Compressor; Tank Car Heater (combination boiler and booster); Pumps on Well Points and Deep Wells for Dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat; Batch Plant-dry; Spreader Attachments; Utility Tractor With Attachments

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SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Black Hawk
DECISION NO: IA77-4209 DATE: Date of Publication
Supersedes Decision No. IA77-4089, dated May 6, 1977 in 42 FR 23345
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), and Heavy and Highway Construction.

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.55	.40	.60		.10
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS AND STONEMASONS	9.79	.38	.50		
CARPENTERS:					
Carpenters; Piledrivermen	8.08	.38	1.00		
Millwrights	8.48	.38	1.00		
CEMENT MASONS	8.50	.45	.91		
ELECTRICIANS:					
Electricians	11.22	.45	3%		3/4%
Coble Splicers	11.56	.45	3%		3/4%
ELEVATOR CONSTRUCTORS	9.535	.495	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70% JR	.485	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50% JR				
IRONWORKERS	10.565				.02
LABORERS:					
GROUP 1- Common laborers; Carpenters' helpers; moving; wrecking & demolition	7.50	.45	.20		
GROUP 2- Mason tenders; hod carriers; machine and air tool operators	7.60	.45	.20		
GROUP 3- Powderman	7.75	.45	.20		
LATHERS	7.24	.31			
LINE CONSTRUCTION:					
GROUP 1- Cable splicers; Lineman; welder; technicians; all rigs setting assembled "H" fixtures and steel transmission structures	9.32	.45	5%	b	1/2%
GROUP 2- Groundman; truck driver (without winch); Experienced (not less than 6 months)	6.06	.45	5%	b	1/2%
GROUP 3- Groundman; truck driver (with winch)	6.24	.45	5%	b	1/2%
GROUP 4- Blaster; special equipment operations (hole digging machines; all tractions, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	7.46	.45	5%	b	1/2%
GROUP 5- Groundman- 1st 6 mos.	5.13	.45	5%	b	1/2%

DECISION NO. IA77-4209

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush, roller	$ 8.08		.20		.03
Tapers	8.18		.20		.03
Spray	8.58		.20		.03
PLASTERERS	9.87	.45			
PLUMBERS AND STEAMFITTERS	9.78	.60	.85		.08
ROOFERS	9.20				
SHEET METAL WORKERS	10.65	.50	.22		.02
SOFT FLOOR LAYERS	8.08	.38	1.00		
SPRINKLER FITTERS	11.48	.65	.95		.08
TILE SETTERS	7.01	.31		.25	
TRUCK DRIVERS:					
Up to 6 tons	5.14	.25	.30		
Helpers	4.97	.25	.30		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE:
a - Employer contributes 4% of basic hourly rate for over 5 years' service and 2% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Six Paid Holidays A thru F
b . Seven paid holidays - A thru G

PAID HOLIDAYS:
A- New Years's Day; B- Memorial Day; C- Independence Day; D- Labor Day; E- Thanksgiving Day; F- Christmas Day; G- Friday after Thanksgiving

DECISION NO. IA77-4209

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$9.56	.50	.50		.05
GROUP 2	9.435	.50	.50		.05
GROUP 3	8.59	.50	.50		.05
GROUP 4	8.265	.50	.50		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derricks; piledrivers and extractors; caisson rigs; side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)
GROUP 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting steel and grating); economobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ tons); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pumps; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (Gomaco, C-450 or equal)
GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 cfm or more); pumps 3" or over; welding machine 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 KW & over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); ditching machine under 8"
GROUP 4 - Oilers; mechanical heaters; truck crane drivers; permanent elevators

DECISION NO. IA77-4209

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN	$8.13	.45			
CEMENT MASONS	8.13	.45			
LABORERS:					
GROUP 1	7.30	.30	.20		
GROUP 2	7.05	.30	.20		
GROUP 3	6.80	.30	.20		
GROUP 4	6.65	.30	.20		
GROUP 5	6.55	.30	.20		

LABORERS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Sandblasters; Powderman and Blaster; Pipe layer, sewer, water, telephone conduits, etc.; Sewer utility man; Gunnite nozzleman; Diamond and core drills, powered by air; All work performed by Laborers working from a boatswain chair, swinging stage, life belt, tag line or block and tackle; Drill operator of air tracs, wagon drills and similar drills
GROUP 2 - Tree climber; Form setters; Rakers; Boxtenders; Asphalt curb machines: Potmen, not mechanical; Bull float, hand operated; Scalers; Timbermen; Underpinning and shoring; Caissons over 12 ft.; Grade checker and cutting torches on demolition work
GROUP 3 - Power buggyman; Concrete and paving sawman; Form liner, expansion joint assembler; Bottom man; Caulker and jointer and painter; Timber and chain saw man; Mechanical grouters; Automatic concrete power curbing machines; Strem or stretcherman on post-tension or pre-stressed concrete on or off the job; Powderman helpers
GROUP 4 - Form tamper; Air, gas and electric tool operators, vibrators, barco hammer, paving breakers, spaders, tampers; electric drills, hammers and jack hammers; Tree groundmen; Chuck tenders; Drill helpers, tool room men and checkers; Sand blaster helper; Concrete processing material and monitors; Cement finishers' helpers; Stringman on paving work
GROUP 5 - Fence erectors; Handling and placing of metal mesh, dowel bars, reinforcing bars and chairs; Dumpmen and spotters; Carrying reinforcing rods; Corrugated culvert pipe; Concrete drainage pipe; Stake chaser, seeding, mulching and planting of trees, shrubs and flowers; Water boy; Common laborers; Rodmen; Tending to carpenters; Hot asphalt labor

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (City of Waterloo & abutting municipalities)					
GROUP 1	$8.62	.60	.60		.05
GROUP 2	8.22	.60	.60		.05
GROUP 3	7.82	.60	.60		.05
REMAINDER OF THE COUNTY:					
GROUP 1	7.49	.60	.60		.05
GROUP 2	7.09	.60	.60		.05
GROUP 3	6.69	.60	.60		.05
TRUCK DRIVERS	7.14	.45			

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Power shovel, crane, backhoe and dragline; central mix plant operator; dredge engineer; dredge leverman; paver or spreader operator; hoisting engineer (steel erection); motor patrol; piledriver machine; concrete mixer; tow or push boat operator; master mechanic; C.M.I. paver; C.M.I. subgrader (or equivalent); asphalt plant; front end loader; scraper; bulldozer; push cat tractor pulling scraper; sideboom tractor; churn or rotary drill; trenching machine (Cleveland 80 or similar capacity); asphalt laydown; asphalt screed; asphalt heater-planer unit; asphalt roller; self-propelled elevating grader or similar machine; spreader (concrete); Horizontal boring machine; mechanics-welders; group equipment greaser; concrete pump; self-propelled curb machine

GROUP 2 - Concrete curb breaker; concrete widening machine; paving breaker; barber-greene, haiss loader or similar machine; tractor pulling ripper, disc, sheepsfoot or flat roller; self-propelled sheepsfoot roller; self-propelled roller (other than asphalt); distributor; screening and washing plant; self-propelled vibrating compactor; trenching machine (other than above); steel placing machine; conveyor; finishing machine (on concrete); flexplane; bullfloat; form grader

GROUP 3 - Boiler; mechanical broom; oiler or mechanics helper or Group greaser helper; farm-type tractor (pulling disc, harrow or roller); welding machine; pump operator (other than dredge); boom and winch truck; compressor; tank car heater (combination boiler and booster); pumps on well points and deep wells for dewatering; truck crane combination driver-oiler; concrete curbing machine safety boat operator; batch plant (dry)

SUPERSEDEAS DECISION

STATE: Iowa
DECISION NO.: IA77-4214
COUNTY: Pottawattamie
DATE: Date of Publication
Supersedes Decision No. IA77-4117 dated June 24, 1977 in 42 FR 32470
DESCRIPTION OF WORK: Building Construction in entire County (does not include single family homes and garden type apartments up to and including 4 stories), and Heavy and Highway Construction in the City of Council Bluffs and abuting Municipalities (excluding work on or pertaining to the Missouri River.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.62	.40	.51		.03
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS; Stonemasons	10.18	.50	.40		
CARPENTERS:					
Carpenters	9.33	.40	.30	.60	.03
Piledrivermen	9.455	.40	.30	.60	.03
Millwrights	9.58	.40	.30	.60	.03
CEMENT MASONS	9.82	.50	.40		
DRYWALL TAPERS & FINISHERS	10.34	.55		.50	.04
ELECTRICIANS	12.38	.68	1%+.65		.06
ELEVATOR CONSTRUCTORS	10.99	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.55	.55	.35		.01
IRONWORKERS:					
Ornamental; Reinforcing; Structural	8.88	.50	.55	1.00	.05
LABORERS:					
Common laborers	7.17	.50	.40		.05
Mason Tenders; mortar mixers	7.315	.50	.40		.05
Pipelayers	7.45	.50	.40		.05
Plasterers' tenders	7.485	.50	.40		.05
LINE CONSTRUCTION:					
Cable Splicers; Lineman; welders; Technicians; all rigs setting assembled "H" fixtures & steel transmission structures	9.32	.45	5%	b	½%
Groundman; truck driver (without winch); experienced (not less than 6 months)	6.06	.45	5%	b	½%
Groundman; truck driver (with winch)	6.24	.45	5%	b	½%
Blaster; Special equipment operator (hole digging machines, all tractors, transmission lines equipment other than assembled "H" fixtures)	7.46	.45	5%	b	½%
Groundman - 1st 6 months	5.13	.45	5%	b	½%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush; Paperhangers	8.55		.25		
Highwork; spray; stage; structural steel	9.13		.25		
PLASTERERS	9.68	.50	.40		
PLUMBERS	11.19	.60	.75		.10
ROOFERS:					
Slate; Tile	9.68	.15	.20		.01
Composition	9.98	.15	.20		.01
SHEET METAL WORKERS	11.14	.50			.06
SPRINKLER FITTERS	11.48	.65	.95		.08
STEAMFITTERS	11.99	.60	.75		.15
TERRAZZO WORKERS; TILE SETTERS; MARBLE SETTERS	9.45		.25		
TERRAZZO, TILE AND MARBLE SETTERS FINISHERS	6.50				
TRUCK DRIVERS:					
Single axle	8.025	.50	.40		
Tandem axle	8.10	.50	.40		
Trailer; lowboys	8.225	.50	.40		
Lumber carriers	8.40	.50	.40		

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for over 5 years service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six paid holidays - A thru F.

b. Seven paid holidays - A thru G.

PAID HOLIDAYS
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS:					
Group 1	9.56	.50	.50		.05
Group 2	9.435	.50	.50		.05
Group 3	8.59	.50	.50		.05
Group 4	8.265	.50	.50		.05

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

Group 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.,; tower crane; truck cranes and cherry pickers over 15 ton rated capacity; derricks; piledrivers and extractors; caisson rigs; side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)

Group 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting steel or grating); economobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes and cherry pickers (15 tons and under); concrete mixers (1 yard and over); ditching machine (8' and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pumps; temporary hoist cage operated; second man on locomotive

Group 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (over 125 CFM); Pumps 3" or over; welding machines 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 K.W. and over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self propelled tampers; air and electric tuggers (other than above); ditching machine under 8"

Group 4 - Oilers; mechanical heaters; truck crane drivers; permanent elevators

HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS9.1	$9.11	.50	.40	.60	.05
CEMENT MASONS	9.28	.50	.40		
LABORERS:					
Common laborers	6.20	.50	.40	.20	.05
Towboat & DredgeDeckhands	6.30	.50	.40	.20	.05
Form setters helpers	6.40	.50	.40	.20	.05
Rakers & screedmen on asphalt work;mortar mixers; chain saw operators	6.38	.50	.40	.20	.05
Pipelayers; concrete saw operators	6.45	.50	.40	.20	.05
Form setters & precast manhole setters, inlet builders and manhole setters	6.83	.50	.40	.20	.05
POWER EQUIPMENT OPERATORS:					
Group 1	8.62	.60	.60		.05
Group 2	8.22	.60	.60		.05
Group 3	7.82	.60	.60		.05
TRUCK DRIVERS:					
Single axle	7.28	.50	.30		
Tandem axle, euclids, power lift form trucks	7.34	.50	.30		
Three axle tandem	7.39	.50	.30		
Lowboys, tractor trailer, water pulls	7.47	.50	.30		
Tandem dump with auxiliary end dump trailer	7.52	.50	.30		
Lumber carrier	7.64	.50	.30		

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Power Shovel, Crane, Backhoe and Dragline; central mix plant operator; dredge engineer; dredge leverman; paver or spreader operator; hoisting engineer (steel erection); motor patrol; piledriver machine; concrete mixer; tow or push boat operator; master mechanic; CMI paver; CMI subgrader (or equivalent); asphalt plant; front endloader; scraper; bulldozer; push cat; tractor pulling scraper; sideboom tractor; churn or totary drill; trenching machine (Cleveland 80 or similar capacity); asphalt laydown; asphalt screed; asphalt heater-planer unit; asphalt roller; self-propelled elevating grader or similar machine; spreader (concrete); horizontal boring machine; mechanics-welders; group equipment greaser; concrete pump; self-propelled curb machine

GROUP 2 - Concrete curb breaker; concrete widening machine; paving breaker; barber-greene, haiss loader or similar machine; tractor pulling ripper, disc, sheepsfoot or flat roller; self-propelled sheepsfoot roller; self-propelled roller (other than asphalt); distributor; screening and washing plant; self-propelled vibrating compactor; trenching machine (other than above); steel placing machine; conveyor; finishing machine (on concrete); flexplane; bull float; form grader

GROUP 3 - Boiler, mechanical broom; oiler or mechanics helper or group greaser helper; farm-type tractor (pulling disc, harrow or roller); welding machine; pump operator (other than dredge); boom and winch truck; compressor; tank car heater (combination boiler and booster); pumps on well points and deep wells for dewatering; truck crane combination driver-oiler; concrete curbing machine; safety boat operator; batch plant (dry)

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Essex
DECISION NO.: MA77-3065 DATE: Date of Publication
Supersedeas Decision No. MA76-2098, dated August 13, 1976 in 41 FR 34514
DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartment up to and including 4 stories), heavy, highway, and marine construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	10.26	.80	.80		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS & STONE MASONS:					
Andover, Boxford, Danvers, Lawrence, Lynn, Lynnfield, Marblehead, Methuen, Middleton, Nahant N. Andover, Peabody, Salem, Saugus, Swampscott & Topsfield	9.90	.70	1.25		.06
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Bricklayers: Andover, Boxford, Danvers, Lawrence, Lynn, Lynnfield, Marblehead, Methuen, Middleton, Nahant, N. Andover, Peabody, Salem, Saugus, Swampscott and Topsfield	8.42	.70	.75		.06
Remainder of County	10.45	1.00	.60		.06
CARPENTERS & SOFT FLOOR LAYERS:					
Amesbury, Boxford, Georgetown, Groveland, Haverhill, Newbury, Newburyport, Rowley, Salisbury, W. Newbury, Lynn, Lynnfield, Nahant, Saugus and Swampscott	10.20	.60	1.00		.07
Andover, Lawrence, Methuen, N. Andover and W. Andover	10.20	.60	1.00		.07
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Carpenters: ANdover, Lawrence, Methuen, N. Andover & W. Andover	0.67	.60	1.00		.02
Remainder of County	9.50	.70	1.00		

DECISION NO. MA77-3065

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS & PLASTERERS:					
Amesbury, Boxford, Georgetown, Groveland, Haverhill, Lawrence, Merrimac, Methuen, N. Andover, Salisbury & West Salisbury	9.69	.70	.75		
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Plasterers: Amesbury, Boxford, Georgetown, Groveland, Haverhill, Lawrence, Merrimac, Methuen, N. Andover, Salisbury, W. Salisbury	8.24	.70	.75		
Danvers, Lynn, Lynnfield, Marblehead, Middleton, Nahant, Peabody, Salem, Saugus, Swampscott and Topsfield	9.30	.50	.85		.05
Remainder of County	9.45	.60	.60		.05
ELECTRICIANS:					
Andover, Lawrence, Methuen and North ANdover	10.02	.35	3%+.20		.02
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Electricians: Andover, Lawrence, Methuen and North Andover	9.03	.75	1%+.40		.02
Lynn, Lynnfield, Nahant, Saugus and Swampscott	11.25	.75	1%+1.55		.05
Amesbury, Boxford, Georgetown, Groveland, Haverhill, Merrimac, Newbury, Newburyport, Rowley, Salisbury & W. Newbury	10.88	.70	3%+.20		.02
Remainder of County:					
Electrical contracts over $30,000	10.05	.85	3%+.26		.02
Electrical contract $30,000 and less	9.55	.85	3%+.26		.02

DECISION NO. MA77-3065

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS	11.445	.545	.35		.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35		.02
ELEVATOR CONSTRUCTORS' HELPERS	50%JR				
GLAZIERS	10.40	.57	.64		.03
IRONWORKERS	10.49	.70	1.50		.06
LABORERS (BUILDING):					
Laborers, carpenter tenders, wrecking laborers	7.50	.60	.70		.10
Jackhammer ops; pavement breakers; asphalt rakers; carbide core drilling machines; chain saw ops; pipelayers, barco type jumping tampers, laser beam ops, concrete ops, mason tenders, mortar mixers, ride-on motorized buggy ops, dence beam rail erectors and plasterers tenders	7.75	.60	.70		.10
Air track, block pavers, rammers curb setters	8.00	.60	.70		.10
Blaster, powdermen	8.25	.60	.70		.10
Open air caisson, cylindrical work and boring crew:					
Laborers, top man	7.50	.60	.70		.10
Helper	7.62	.60	.70		.10
Bottom man	8.25	.60	.70		.10
Driller	8.37	.60	.70		.10
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Laborers	6.38	.60	.70		.10
LATHERS	9.25	.45	.55		.05
LEADBURNERS	9.25	.35			.01
LINE CONSTRUCTION:					
Linemen	11.50	.65	1%+.50		3/8 of 1%
Equipment Operators	10.78	.65	1%+.50		3/8 of 1%
Driver Groundman	8.57	.65	1%+.50		3/8 of 1%
Groundman	7.18	.65	1%+.50		3/8 of 1%
MARBLE, TILE SETTERS & TERRAZZO WORKERS	9.80	.85	1.10		

DECISION NO. MA77-3065

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' HELPERS	9.95		.25		
MILLWRIGHTS	10.20	.60	1.00		.07
PAINTERS:					
Essex, Gloucester, Manchester, & Rockport:					
Brush	6.20	.30			
Spray	6.65	.30			
Roller	6.50	.30			
Remainder of County:					
New Construction:					
Brush and tapers	9.76	.72	1.05		.04
Sandblasters and spray	10.76	.72	1.05		.04
Steel (new & repaint-steel)	11.88	.72	1.05		.04
Repaint & alterations (all others)	8.61	.72	1.05		.04
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Painters: Lawrence, Methuen, N. Andover and Andover	8.30	1.05	.72		.04
PILEDRIVERMEN	10.15	.60	1.00		
PLUMBERS & STEAMFITTERS:					
Andover, Georgetown, Groveland, Lawrence, Methuen & N. Andover	10.50	.73	.69		.05
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Plumbers: Andover, Georgetown, Groveland, Lawrence, Methuen, and N. Andover	8.70	.73	.65		.05
Lynn, Lynnfield, Nahant, Saugus, and Swampscott:					
Plumbers	11.20	1.02	1.28		.05
Steamfitters	11.76	.94	1.20		.07
Remainder of County	10.15	1.35	.52		.05

DECISION NO. MA77-3065

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Haverhill and Lawrence	7.30				
Remainder of County	9.75	.70	1.20		.05
Re-roofing & repair	9.20	.70	1.20		.05
Pitch work	10.75	.70	1.20		.05
SHEET METAL WORKERS	10.23	1.16	1.10		.06
SPRINKLER FITTERS	11.63	.65	.95		.08
TERRAZZO WORKERS' HELPERS	9.95		.25		.05
TILE SETTERS' HELPERS	8.71	.85	.25		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Holidays: A through F

c. Holidays: A through F, Washington's Birthday, Good Friday & Christmas Eve provided the employee has worked 45 full days during the 120 calender days prior to the holiday & the regular scheduled work days immediately preceding and following the holiday.

d. Holidays: A through F, & Dunker Hill Day provided the employee has been employed 10 working days prior to any 1 of the listed holidays.

DECISION NO. MA77-3065

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	7.50	.60	.70		.10
CLASS II	7.75	.60	.70		.10
CLASS III	8.00	.60	.70		.10
CLASS IV	8.25	.60	.70		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

DECISION NO. MA77-3065

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	10.61	1.10	.80	a	.02
CLASS II	10.49	1.10	.80	a	.02
CLASS III	8.86	1.10	.80	a	.02
CLASS IV	9.67	1.10	.80	a	.02
CLASS V	7.84	1.10	.80	a	.02
CLASS VI	8.32	1.10	.80	a	.02

CLASSIFICATIONS

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills,post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour
CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paving screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)
CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pullsometers, concrete mixers, values controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragn pump, lighting plants
CLASS IV Assistant engineers (firemen)
CLASS V Oilers (other than truck cranes and gradalls)
CLASS VI Oilers on truck cranes and gradalls

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

DECISION NO. MA77-3065

HEAVY & HIGHWAY CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	10.61	1.10	.80	a	.02
Hourly premium for boom lengths including jib					
Over 150 feet + $ .45					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
GROUP 2	10.49	1.10	.80	a	.02
GROUP 3	8.86	1.10	.80	a	.02
GROUP 4	9.67	1.10	.80	a	.02
GROUP 5	7.84	1.10	.80	a	.02
GROUP 6	8.32	1.10	.80	a	.02

CLASSIFICATIONS

GROUP 1 Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines,three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, portable steam boilers, porteble steam generators, rollers, spreaders. asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers

GROUP 3 Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generators, lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)

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DECISION NO. MA77-3065

CLASSIFICATIONS CONT'D

GROUP 4 Assistant engineers (firemen)

GROUP 5 Oilers (other than truck cranes & gradalls)

GROUP 6 Oilers (on truck cranes & gradalls)

FOOTNOTES:

a. Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

DECISION NO. MA77-3065

MARINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP I	10.61	1.10	.80	a	.02
GROUP II	11.61	1.10	.80	a	.02
GROUP III	10.56	1.10	.80	a	.02
GROUP IV	10.49	1.10	.80	a	.02
GROUP V	8.86	1.10	.80	a	.02
GROUP V	9.67	1.10	.80	a	.02
GROUP VII	7.84	1.10	.80	a	.02
GROUP VIII	8.32	1.10	.00	a	.02

CLASSIFICATIONS

GROUP I - Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers two or more drum machines, lighters, derricks boats, trenching, mechanics hoists pavement breakers, cement concrete pavers, draglines, hoisting engines, pumpcrete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site, paving concrete mixers; Booms over 150' including jib - additional $.45 per hour - Booms over additional $1.15 per hour; Booms over 250' including jib - additional $1.75 per hour; Booms over 295' including jib additional $2.50 per hour

GROUP II - Master Mechanic

GROUP III - Swinger Engines

GROUP IV - Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scraper, tandem scrapers, concrete pumps, bulldozers, tractors york rakes, mulching machines, rollers, spreaders, tampers self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance, cal tracks, ballast, regulator, switch tampers, rail anchor machines, tire trucks

GROUP V - Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, well point systems, augers - powered by independence engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulsometers, concrete mixers, conveyors

GROUP VI - Assistan engineers (firemen)

DECISION NO. MA77-3065

CLASSIFICATIONS

GROUP VII - Oilers and apprentices (other than truck cranes and gradalls)

GROUP VIII - Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. 10 paid holidays: A through F; Washington's Birthday; Patriots' Day; Columbus Day & Veterans' Day

DECISION NO. MA77-3065

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
CLASS I	7.24	.545	.575	a+b	
CLASS II	7.39	.545	.575	a+b	
CLASS III	7.44	.545	.575	a+b	
CLASS IV	7.54	.545	.575	a+b	
CLASS V	7.64	.545	.575	a+b	
CLASS VI	7.89	.545	.575	a+b	
CLASS VII	8.14	.545	.575	a+b	

CLASSIFICATIONS

CLASS I Station wagons, panel trucks and pickup trucks

CLASS II Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators

CLASS III Three axle equipment and tirsmen

CLASS IV Four and five axle equipment

CLASS V Specialized earth moving equipment under 35 tons othe than conventional type trucks, low bed, vachual, mechanics, paving restoration equipment, mechanics

CLASS VI Specialized earth moving equipment over 35 tons

CLASS VII Trailers for earth moving equipment, (double hookup)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

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SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Franklin
DECISION NO.: MA77-3066 DATE: Date of Publication
Supersedes Decision No. MA76-2099, dated August 13, 1976 in 41 FR 34519
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	9.95	.94	1.25		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS, CEMENT MASONS, PLASTERERS, STONE MASONS, MARBLE TILE, TERRAZZO WORKERS, CAULKER, AND CLEANER POINTER	9.55	.55	.80		.06
CARPENTERS & SOFT FLOOR LAYERS:					
Irving, Warwick, Orange & N. Orange	10.20	.60	1.00		.07
Leverett, Shutesbury and Sunderland	9.30	.45	1.00		.02
Remainder of County	9.30	.45	1.00		.02
Monroe & Monroe Bridge	8.79	.95	1.00		.04
ELECTRICIAN:					
Hawley, Monroe and Rowe	10.09	.55	3%+.69		.02
Remainder of County:					
Electrical contracts $75,000.00 & over	10.51	.70	1%+.40		.02
Electrical contracts under $75,000.00	8.60	.70	1%+.40		.02
Shaft and tunnel work	11.01	.70	1%+.40		.02
ELEVATOR CONSTRUCTORS	9.71	.445	.29	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	9.45	.47	.45		
IRONWORKERS:					
Structural, ornamental and reinforcing	9.60	.70	1.50		.09
LABORERS: Building					
Laborers, carpenter tenders, wrecking laborers	7.50	.60	.70		.10
Asphalt rakers, carbide, core drillers, chain saw op., pipe layers jackhammer & paving breaker ops., barco-type jumping tampers, laser beam ops., concrete pump ops., mason tenders, mortar mixers, & ride-on motorized buggy op. and plasterers tenders	7.75	.60	.70		.10

DECISION NO. MA77-3066

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONT'D)					
Air track ops., block pavers rammers, & curb setters	8.00	.60	.70		.10
Powdermen and blasters	8.25	.60	.70		.10
Open air caisson, underpinning work and test boring crew:					
Bottom man	8.25	.60	.70		.10
Top man	7.50	.60	.70		.10
Driller	8.37	.60	.70		.10
Helper	7.62	.60	.70		.10
LATHERS	9.40	.45	.25		.01
Drywall	8.30	.45	.25		.01
LINE CONSTRUCTION:					
Linemen	10.16	.40	1%	b,	3/8 of 1%
Equipment Operators	9.48	.40	1%	b	3/8 of 1%
Driver groundmen	7.32	.40	1%	b	3/8 of 1%
MARBLE SETTERS' HELPERS	8.95				
MILLWRIGHTS	10.20	.60	1.00		.07
PAINTERS:					
Brush & roller	8.92	.65	.46		.03
Spray	11.8933	.8666	.5333		.04
Swing stage under 40' and steel	9.107	.65	.40		.03
Swing stage over 40' and steel	9.42	.65	.40		.03
PILEDRIVERMEN	10.15	.65	1.00		
PLUMBERS & STEAMFITTERS:					
Monroe, Towe and Western part of Charlemont	9.97	.65	.50		.02
Orange	10.02	.60	.65	.40	.05
Remainder of County	10.45	.60	.60		.02
ROOFERS:					
Composition, damp waterproof	9.165	.82	1.06		
Slate, tile, precast concrete	9.82	.82	1.06		
SHEET METAL WORKERS	9.41	.85	1.16		.03
SPRINKLER FITTERS	11.38	.60	.90		.08

Welders receive rate prescribed for craft performing operation to which welding is incidental.

DECISION NO. MA77-3066

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service of 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay. Plus six paid holidays; A through F.

b. Holidays; A through F, Washington's Birthday, Patriots Day providing employee has been employed for a period of five (5) working days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday. One floating holiday per year.

DECISION NO. MA77-3066

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	7.50	.60	.70		.10
CLASS II	7.75	.60	.70		.10
CLASS III	8.00	.60	.70		.10
CLASS IV	8.25	.60	.70		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

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DECISION NO. MA77-3066

CLASSIFICATIONS CONT'D

CLASS V Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-Propelled Material Spreaders, A Frame Trucks, Fork Lifts ip to 15 feet

CLASS VI Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps-4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers, Rubber, Tire Roller, Compactors or other machines used for pulverizing, Grading or Seeding

CLASS VII Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on Grease Truck, and Grease Trucks with hand greasing equipment

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Holidays: A through F, Veterans' Day and Columbus Day

DECISION NO. MA77-3066
HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	9.73	.85	.75	a	.07
CLASS II	9.53	.85	.75	a	.07
CLASS III	9.33	.85	.75	a	.07
CLASS IV	8.96	.85	.75	a	.07
CLASS V	8.24	.85	.75	a	.07
CLASS VI	7.78	.85	.75	a	.07
CLASS VII	7.03	.85	.75	a	.07
* The Above Rates Are For Contracts $175,000.00 and Above					
POWER EQUIPMENT OPERATORS:					
CLASS I	9.45	.85	.75	a	.07
CLASS II	9.25	.85	.75	a	.07
CLASS III	9.05	.85	.75	a	.07
CLASS IV	8.68	.85	.75	a	.07
CLASS V	8.00	.85	.75	a	.07
CLASS VI	7.55	.85	.75	a	.07
CLASS VII	6.82	.85	.75	a	.07
* The Above Rates Are for Contracts Under $175,000.00					

CLASSIFICATIONS

CLASS I Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrate Pavers, on site Processing Plant (Engineer in charge), Dragline, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader-5¼ yards and over, Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Pavers, Automatic Graders-Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine

CLASS II Rotary Drill (with mounted Compressor), Compressor House 3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5¼ yards, Scraper-21 yards and over (Struck Load), Forklifts-7 ft. lift and over or 3 ton capacity and over, Sonic Hammer Console

DECISION NO. MA77-3066

CLASSIFICATION CONT'D

CLASS III Bulldozer, Push Cats, Scrapers-up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders-up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well Point Operators, Electric Pumps used in Well Point system, Tiremen, Pumps-16 inches or over total discharge, Compressors (1 or 2) (}) cu. ft. and over, Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck Self-Propelled Hydraulic Cranes-up to 10 ton

CLASS IV Asphalt Roller-up to 10 ton

CLASS V Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant

CLASS VI Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheeps-foot toller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil

CLASS VII Compressor (up to 315 cu. ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines, A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat

FOOTNOTES:
a. Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving Day and Christmas Day

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DECISION NO. MA77-3066

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
CLASS I	6.80	.485	.575	a+b	
CLASS II	6.95	.485	.575	a+b	
CLASS III	7.00	.485	.575	a+b	
CLASS IV	7.10	.485	.575	a+b	
CLASS V	7.20	.485	.575	a+b	
CLASS VI	7.45	.485	.575	a+b	
CLASS VII	7.70	.485	.575	a+b	

CLASSIFICATIONS

CLASS I Station wagons, panel trucks and pickup trucks

CLASS II Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators

CLASS III Three axle equipment and tiremen

CLASS IV Four and five axle equipment

CLASS V Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoration equipment, mechanics

CLASS VI Specialized earth moving equipment over 35 tons

CLASS VII Trailers for earth moving equipment, (double hookup)

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Hampshire
DECISION NO.: MA77-3068 DATE: Date of Publication
Supersedes Decision No. MA76-2101, dated August 20, 1976 in 41 FR 35369
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

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DECISION NO. MA77-3068

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	9.95	.94	1.25		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS, PLASTERERS, CEMENT MASONS, STONE MASONS, MARBLE TILE & TERRAZZO WORKERS, CAULKER CLEANER, POINTERS	9.55	.55	.80		.06
CARPENTERS	9.65	.45	.65		.02
ELECTRICIANS:					
Belchertown, Ware	9.85	.70	1%+.30	.43	.03
Middlefield, Cummington & Plainfield	10.09	.55	3%+.69		.02
Remainder of County:					
Electrical contracts under $75,000.00	8.60	.70	1%+.40		.02
Electrical contracts $75,000 and over	10.51	.70	1%+.40		.02
ELEVATOR CONSTRUCTORS' HELPERS	9.71	.445	.29	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	9.45	.47	.45		
IRONWORKERS, STRUCTURAL, ORNAMENTAL & REINFORCING	9.60	.70	1.50		.09
LABORERS: (BUILDING):					
Laborers, wrecking laborers, carpenters & cement finisher tenders	7.50	.60	.70		.10
Asphalt rakers, Carbide core driller ops., chain saw oprs., pipelaysrs, jackhammer & paving breaker op., barco-type jumping tampers, laser beams ops., concrete pumpe ops. & wagon drill ops., mason tenders, mortar mixers & ridge on motorized buggy ops & plasterer tenders	7.75	.60	.70		.10
Air track ops., block pavers, rammers & curb setters	8.00	.60	.70		.10
Powdermen and blasterers	8.25	.60	.70		.10
LABORERS: (CONT'D)					
Open air caisson, underpinning work and boring crew: (entire county)					
Bottom man	8.25	.60	.70		.10
Top man	7.50	.60	.70		.10
Test boring:					
Driller	8.37	.60	.70		.10
Helper	7.62	.60	.70		.10
LATHERS	9.40	.45	.25		.01
Drywall	8.30	.45	.25		.01
LINE CONSTRUCTION					
Linemen	10.16	.40	1%	c	3/8 of 1%
Equipment Operator	9.48	.40	1%	c	3/8 of 1%
Driver Groundman	7.32	.40	1%	c	3/8 of 1%
MARBLE & TILE SETTERS HELPERS & TERRAZZO WORKERS' HELPERS	8.95				
MILLWRIGHTS	10.20	.60	1.00		.07
PAINTERS:					
Brush & Roller	8.92	.65	.40		.03
Spary	11.8933	.8666	.5333		.04
Swing stage under 40' steel	9.17	.65	.40		.03
Swing stage over 40' steel	9.42	.65	.40		.03
PILEDRIVERMEN	10.15	.60	1.00		.03
PLUMBERS & STEAMFITTERS:					
Belchertown, Granby, Huntington, Middlefield, South Hadley, Ware					
Plumbers	9.85	.96	1.00	d	.05
Steamfitters	10.68	.56	.95	e	.03
Remainder of County:					
Plumbers and Steamfitters	10.45	.85	.85		.02
ROOFERS:					
Composition, damp, waterproof	9.165	.82	1.06		
Slate, tile, precast concrete	9.82	.82	1.06		
SHEET METAL WORKERS	9.41	.85	1.16		.03
SPRINKLER FITTERS	11.28	.60	.90		.08
Welders receive rate prescribed for craft performing operation to which welding ie incidental					

DECISION NO. MA77-3068

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; D-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F.

c. Holidays: A through F, Washington's Birthday and Patriots Day providing employee has been employed for a period of five (5) working days prior to the holiday and the regular scheduled working day preceding and following the holiday.

d. July 4th and Labor Day provided worker employed 7 days before holiday

e. July 4th and Labor Day - $08 per hour employer contribution to make two paid holidays.

DECISION NO. MA77-3068

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	7.50	.60	.70		.10
CLASS II	7.75	.60	.70		.10
CLASS III	8.00	.60	.70		.10
CLASS IV	8.25	.60	.70		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

DECISION NO. MA77-3068
BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	9.73	.85	.75	a	.07
CLASS II	9.53	.85	.75	a	.07
CLASS III	9.33	.85	.75	a	.07
CLASS IV	8.96	.85	.75	a	.07
CLASS V	8.24	.85	.75	a	.07
CLASS VI	7.78	.85	.75	a	.07
CLASS VII	7.03	.85	.75	a	.07

CLASSIFICATIONS

CLASS I Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Bakchoes, Gradalls, Elevating Graders, Pile Driving Rigs, Concrete Road Pavers, three drum Hoisting and Trenching Machines, Belt-type Loaders, Front End Loader-5½ yards or over, Dual Drum Paver, Automatic Grader (i.e. C.M.I.) Combination Back Hoe-Loader-3/4 yard hoe or over

CLASS II Rotary Drill (with mounted compressor), compressor house (3 to 6 compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Graders, Front End Loaders-4 yards to 5½ yards, two Drum Hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers-21 yards and over (struck load), Sonic Hammer Console

CLASS III Combination Backhoe-Loader-up to 3/4 hoe, Bulldozers, Push Cats, Scraper-up to 21 yards (Struck Load)-self propelled or tractor drawn, Tireman, Front End Loaders-up to 4 yards, Asphalt Paver, Asphalt Roller-10 ton or over, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete Pumps and similar type pumps, Engineer or Fireman on High Pressure Boilar (on job), Self-Loading Batch Plant, Well Point, Electric Pumps used in Well Point System, Pumps-12 inches and over (total discharge), compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators, (manually or remote controls), Grout Pumps, Boom Truck, Hydraulic Cranes-under 10 ton

CLASS IV Asphalt Roller-under 10 ton

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CLASSIFICATIONS CONT'D

CLASS V Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-Propelled Material Spreaders, A Frame Trucks, Fork Lifts ip to 15 feet

CLASS VI Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps-4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers, Rubber, Tire Roller, Compactors or other machines used for pulverizing, Grading or Seeding

CLASS VII Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on Grease Truck, and Grease Trucks with hand greasing equipment

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Holidays: A through F, Veterans' Day and Columbus Day

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HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	9.73	.85	.75	a	.07
CLASS II	9.53	.85	.75	a	.07
CLASS III	9.33	.85	.75	a	.07
CLASS IV	8.96	.85	.75	a	.07
CLASS V	8.24	.85	.75	a	.07
CLASS VI	7.78	.85	.75	a	.07
CLASS VII	7.03	.85	.75	a	.07
* The Above Rates Are For Contracts $175,000.00 and Above					
POWER EQUIPMENT OPERATORS:					
CLASS I	9.45	.85	.75	a	.07
CLASS II	9.25	.85	.75	a	.07
CLASS III	9.05	.85	.75	a	.07
CLASS IV	8.68	.85	.75	a	.07
CLASS V	8.00	.85	.75	a	.07
CLASS VI	7.55	.85	.75	a	.07
CLASS VII	6.82	.85	.75	a	.07
* The Above Rates Are for Contracts Under $175,000.00					

CLASSIFICATIONS

CLASS I Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processing Plant (Engineer in charge), Draglins, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader-5½ yards and over, Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Pavers, Automatic Graders-Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine

CLASS II Rotary Drill (with mounted Compressor), Compressor House 3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5½ yards, Scraper-21 yards and over (Struck Load), Forklifts-7 ft. lift and over or 3 ton capacity and over, Sonic Hammer Console

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CLASSIFICATIONS CONT'D

CLASS III Bulldozer, Push Cats, Scrapers-up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders-up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well Point Operators; Electric Pumps used in Well Point system, Tiremen, Pumps-16 inches or over total discharge, Compressors (1 or 2) ()) cu. ft. and over, Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck Self-Propelled Hydraulic Cranes-up to 10 ton

CLASS IV Asphalt Roller-up to 10 ton

CLASS V Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powerod Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant

CLASS VI Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheeps-foot toller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil

CLASS VII Compressor (up to 315 cu. ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines, A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat

FOOTNOTES:
a. Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving Day and Christmas Day

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
CLASS I	7.24	.545	.575	a+b	
CLASS II	7.39	.545	.575	a+b	
CLASS III	7.44	.545	.575	a+b	
CLASS IV	7.54	.545	.575	a+b	
CLASS V	7.64	.545	.575	a+b	
CLASS VI	7.89	.545	.575	a+b	
CLASS VII	8.14	.545	.575	a+b	

CLASSIFICATIONS

CLASS I Station wagons, panel trucks and pickup trucks

CLASS II Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators

CLASS III Three axle equipment and tiremen

CLASS IV Four and five axle equipment

CLASS V Specialized earth moving equipment under 35 tons othe than conventional type trucks, low bed, vachual, mechanics, paving restoration equipment, mechanics

CLASS VI Specialized earth moving equipment over 35 tons

CLASS VII Trailers for earth moving equipment, (double hookup)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

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SUPERSEDEAS DECISION

STATE: Michigan
DECISION NO.: MI77-2127
Supersedes Decision No.: MI77-2071, dated June 3, 1977 in 42 FR-28763
DESCRIPTION OF WORK: Building Construction (Including Residential) and Heavy (Excluding Bridge, Airport and Sewer) Construction.

COUNTIES: *See below
DATE: Date of Publication

*Counties: Macomb, Monroe, Oakland, Washtenaw, & Wayne

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Monroe County	11.83	.50	1.00		.04
Twps. of Bridgewater, Dexter, Freedom, Lima, Lydon, Manchester, Sharon & Sylvan in Washtenaw County	9.36	.79	1.28		.02
Remainder of Counties & the Remainder of Washtenaw County	11.39	1.24	1.19		
BOILERMAKERS:					
Monroe County	13.10	.70	1.00		.03
Remainder of Counties	11.17	1.00	1.20	1.50	.03
BRICKLAYERS & STONEMASONS:					
West of Hwy # 23 in Monroe Co.	10.34	.86	.55		
Washtenaw County	13.33		1.00		
Remainder of Counties & East of Hwy. # 23 in Monroe County	12.83	.80	8%+.10		.05
CARPENTERS & PILEDRIVERMEN					
Washtenaw County	11.14	.60	.50		.01
Remainder of Counties	11.11	.75	10%	11%	.04
CEMENT MASONS:					
South of Hwy. # 151 in Monroe County	12.64	.50			.02
Washtenaw County	13.13		1.00		
Remainder of Counties & North of Hwy. # 151 in Monroe County	11.71	.80	10%		.02
ELECTRICIANS:					
Washtenaw County	11.05	.50+4%	1%+.55	10%	2%
Monroe County:					
Building	12.35	.50	3%+.55		2%
Residential	6.78	.50	1%+.55		.02
Remainder of Counties:					
Building	12.00	1.95	3%+1.06		.03
Residential	12.00	1.95	3%+1.06		.03

DECISION NO. MI77-2127

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Monroe County:					
Constructors	12.15	.545	.35	4%	.02
Helpers	70%JR	.545	.35	4%	.02
Helpers (prob.)	50%JR				
Washtenaw County					
Constructors	11.32	.495	.35	4%	.02
Helpers	70%JR	.495	.35	4%	.02
Helpers (prob.)	50%JR				
Remainder of Counties					
Constructors	11.75	.545	.35	4%	.02
Helpers	70%JR	.545	.35	4%	.02
Helpers (prob.)	50%JR				
GLAZIERS	9.77	.55	.65		
IRONWORKERS:					
Monroe County	12.30	.93	1.11		.05
Remainder of Counties:					
Structural & Ornamental	10.80	8%	14%	17%	.09
Reinforcing	10.10	.98+.25	15%	15%	.07
Fence Erectors	9.80	8%	14%	17%	.09
Riggers & machinery Erectors	10.00	1.10	1.71	16%	.02
LABORERS: (BUILDING, RESIDENTIAL & HEAVY)					
Monroe County:					
Construction Laborer & Carpenter helper	9.74	.55	.35	.55	.04
Mortar Mixer, Mason & Plaster Tender, Carpenter Helper, Cement mason Helper, Tool Operator & Caisson Worker	9.94	.55	.35	.55	.04
LATHERS:					
S.W. Corner of Monroe County & Western Portion of Washtenaw Co.	8.85	.64	.1[illegible]	.50	.01
Remainder of Counties: Eastern Portion of Washtenaw County & Remainder of Monroe County	10.92	.97+.35	.72		
MILLWRIGHTS:					
Washtenaw County	11.14	.60	.50		.01
Remainder of Counties	10.80	.80	11%	24%	.06

NOTICES

DECISION NO. MI77-2127

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE MASONS:					
Washtenaw County	13.33		1.00		
Remainder of Counties:					
Marble Mason	12.12	.60	1.00		
Marble Mason Helpers	10.37	.85	.80		
PAINTERS:					
Washenaw County					
Brush	10.27	.43	.20		.02
Spray	11.02	.43	.20		.02
Taper	10.67	.43	.20		.02
Remainder of Counties					
Brush	10.70	.74	1.00	1.00	50.00 P/Y
Spray:					
to 40' height	11.20	.74	1.00	1.00	50.00 P/Y
Over 40' height	11.325	.74	1.00	1.00	50.00 P/Y
PLASTERERS:					
South of Hwy. # 151 in Monroe Co.	12.20	.65			.01
Washtenaw County	12.55		.90		
Remainder of Counties & Remainder of Monroe County	11.65		.70	.65	
PLUMBERS & STEAMFITTERS:					
Monroe County	10.53	.75	.70		.07
Washtenaw County	10.16	.75+.15	.75		.10
Remainder of Counties:					
Plumbers	10.12	1.48	1.20	1.25	.05
Pipefitters	10.55	1.55	1.30	1.35	.05
ROOFERS:					
Monroe County	11.51	.73	.85		.02
Washtenaw County					
Composition	10.50	.85	.50	1.05	.10
Slate	11.25	.85	.50	1.05	.10
Remainder of Counties					
Composition	10.81	.80	.80	1.00	
Slate	11.81	.80	.80	1.00	
SHEET METAL WORKERS:					
Monroe County	11.825	.65	1.00		.045
Remainder of Counties	10.135	1.60	10%	11%	.11

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Washenaw County	11.14	.60	.50		.01
Remainder of Counties	10.00	.86	7%	8%	.03
SOUND & COMMUNICATION WORKERS:					
Wayne, Oakland & Macomb Cos:					
Electrical Technician	8.28	a1.60	a6.00		
Electrical Techician Jr.	6.86	a1.60	a6.00		
SPRINKLER FITTERS:					
Monroe County	11.92	.65	.95		.08
Remainder of Counties	12.185	.90	.90		.10
TILE & TERRAZZO WORKERS:					
Washenaw County	13.35		1.00		
Remainder of Counties:					
Terrazzo Workers	11.29	.60	1.00		
Terrazzo Workers' Helpers	10.11	.60	.40	.65	
Tile Setters	11.68	.60	1.00		
Tile Setters' Helpers	9.27	.85	.80	.90	
TRUCK DRIVERS: Building & Heavy Construction:					
Pole Trailer; Low Boys; Straddle Carrier; Double Bottoms & special Load Permits	9.90	a24.00	a28.00		
Semi Drivers	9.80	a24.00	a28.00		
All Other TRUCK Drivers	9.65	a24.00	a28.00		
TRUCK DRIVERS: Underground Construction					
Truck Drivers (Except dump trucks of 8 cubic yrds. capacity or over, pole trailers, semis, low boys, Euclid, double bottom & Fuel trucks	9.08	a24.00	a28.00		
Truck Drivers on dump trucks 8 cubic yards capacity or over, Pole trailers, semis & fuel trucks	9.21	a24.00	a28.00		
Low boys, Euclid & double bottom driver	9.41	a24.00	a28.00		

NOTICES

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DECISION NO. MI77-2127

LABORERS BUILDING, RESIDENTIAL & HEAVY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Washtenaw County:					
GROUP 1	8.59	.55	.35	.75	.04
GROUP 2	8.79	.55	.35	.75	.04
GROUP 3	8.91	.55	.35	.75	.04
Wayne, Oakland & Macomb Cos:					
GROUP 1	8.93	.80	.80	.85	
GROUP 2	9.01	.80	.80	.85	
GROUP 3	9.11	.80	.80	.85	
GROUP 4	9.16	.80	.80	.85	
GROUP 5	9.18	.80	.80	.85	
GROUP 6	9.26	.80	.80	.85	
GROUP 7	9.31	.80	.80	.85	
GROUP 8	9.68	.80	.80	.85	

LABORERS: BUILDING, RESIDENTIAL & HEAVY
Washenaw County:

GROUP 1 - All Construction Laborers not specified below
GROUP 2 - Mortar mixers; Material Mixers (hand or machine) Air, Gas, Electric Tool Operators; Power Buggie Operators; Scaffold Building or Diamantler; Windlass Operators; Tar and Kettle Operators
GROUP 3 - Crock or Pipe Layers; Caisson Workers

Wayne, Oakland & Macomb Counties:

GROUP 1 - All Construction Laborers not specidied below
GROUP 2 - Mortar Mixers, Scaffold Builders
GROUP 3 - Signal Men, Air gas or electric tool operators, Windlass and Tugger operator, Jackahmmer and Vibrator Operator
GROUP 4 - Crock grade man
GROUP 5 - Furnace Battery Heater Helper
GROUP 6 - Crock and Pipe Layers
GROUP 7 - Caisson Workers
GROUP 8 - Lansing Burners, Blasters, Powderman

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LABORERS: OPEN CUT CONSTRUCTION WASHENAW COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	7.70	.55	.35	.55	.04
CLASS 2	7.78	.55	.35	.55	.04
CLASS 3	7.83	.55	.35	.55	.04
CLASS 4	7.88	.55	.35	.55	.04
CLASS 5	7.93	.55	.35	.55	.04
WAYNE, OAKLAND, & MACOMB COS:					
CLASS 1	8.36	.75	.60	.75	.04
CLASS 2	8.44	.75	.60	.75	.04
CLASS 3	8.49	.75	.60	.75	.04
CLASS 4	8.54	.75	.60	.75	.04
CLASS 5	8.59	.75	.60	.75	.04
MONROE COUNTY					
CLASS 1	7.70	.55	.35	.55	.04
CLASS 2	7.80	.55	.35	.55	.04
CLASS 3	7.90	.55	.35	.55	.04
CLASS 4	7.95	.55	.35	.55	.04
CLASS 5	8.05	.55	.35	.55	.04

CLASS 1 - Construction Laborer
CLASS 2 - Mortar, & Material Mixers, Concrete form man, Signal Man, Wheel Point, Man, Manhole, Headwall & catch Basin Building, Guard Rail Builders & fence Erectors.
CLASS 3 - Air, gasoline, Electric Tool Ope., Vibrator Op., Drillers, Pumpman Tar Kettle Oprs., bracers, rodder, Reinfroced Steel or Mesh (under 40 H.P.) Windlass & Tugger Man
CLASS 4 - Trench Excavating Grade Man
CLASS 5 - Pipelayer

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LABORERS: TUNNEL, SHAFT & CASSION CONSTRUCTION WASHTENAW & MONROE COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	8.33	.55	.35	.55	.04
CLASS 2	8.41	.55	.35	.55	.04
CLASS 3	8.45	.55	.35	.55	.04
CLASS 4	8.61	.55	.35	.55	.04
CLASS 5	8.81	.55	.35	.55	.04
CLASS 6	9.06	.55	.35	.55	.04
Wayne, Okaland & Macomb Cos:					
CLASS 1	8.36	.75	.60	.75	.04
CLASS 2	8.44	.75	.60	.75	.04
CLASS 3	8.94	.75	.60	.75	.04
CLASS 4	8.64	.75	.60	.75	.04
CLASS 5	8.84	.75	.60	.75	.04
CLASS 6	9.09	.75	.60	.75	.04

CLASS 1 - Tunnel, Shaft & cassion laborer, dump man, Shanty man, Hog house tender, Testing Man (on gas)
CLASS 2 - Manhole, Beadwall catch basin builder, Bricklayer's Tender, Mortar man, Materiel mixer, fence Erector & Guard rail Builder
CLASS 3 - Air Tool operator (Jackhammer amn, Brush Hammer man & Grinding Man) First Bottom man, Second bottom man, Cage Tender, Car pusher, carnier man, Concrete man, concrete form man, Concrete repair man, Cement invert laborer, Cement finisher, concrete shoveler, conveyor man, Floor man, Gasoline & Electric Tool operator, Gunnite man, grout operator, Heading dinry man, inside lock tender, pea gravel operator, pump man, outside lock tender, Vibrator man, top signal man switch man, track man, Tugger man, Utility man, Vibrator man, Winch Operator, concrete saw operator (under 40 H.P.)
CLASS 4 - Tunnel, shaft & cassion mucker, Bracer man, Under Plate man, Long Haul Dinky driver & well point man
CLASS 5 - Tunnel, shaft, & Cassion Miner, Driller Runner, Key board Operator, Power Knife operator, reinforced steel or mash man (Wire Mesh, Steel Mats, Dowell Bars, Etc.)
CLASS 6 - Dynamite man & Powerman

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LANDSCAPE LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS "A" Landscape Specialist, including air, gas, diesel, electric tool and/or equipment	$6.57				
CLASS "B" Landscape Laborers, Truck Drivers, Material Haulers & Small Power Equipment	4.82				

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LINE CONSTRUCTION Wayne, Macomb, Oakland Cos; Remainder of Washenaw & Monroe Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen - Technician	12.79	1.00	7%		4%
Cable splicers	13.34	1.00	7%		4%
Combination Equipment Operator & Groundman	10.31	1.00	7%		4%
Combination Driver-Groundman	9.72	1.00	7%		4%
Groundman	8.97	1.00	7%		4%
LINE CONSTRUCTION: Twps. of Lyndon, Manchester, Sharon & Sylvan in Washenaw Co; Twps. of Bedford, Erie LaSalle & Whiteford in Monroe County					
Lineman; Heavy Equipment operator	9.73	.45	3%	a	.5%
Cable Splicers	10.13	.45	3%	a	.5%
Combination Digger operator; Tractor operator Groundman: 1st 6 months	7.04	.45	3%	a	.5%
Over 6 months	7.61	.45	3%	a	.5%
Light Equipment operator Groundman; Distribution Line Truck Driver Operator: 1 st 6 months	6.12	.45	3%	a	.5%
Over 6 months	6.67	.45	3%	a	.5%
Combination Winch Truck Driver Groundman: 1st 6 months	5.57	.45	3%	a	.5%
Over 6 months	6.37	.45	3%	a	.5%
Combination Truck Driver Groundman	5.38	.45	3%	a	.5%

FOOTNOTES:

DECISION NO. MI77-2127

MICH-1-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	12.04	.80	1.00	10%	.05
CLASS B	11.81	.80	1.00	10%	.05
CLASS C	11.58	.80	1.00	10%	.05
CLASS D	11.20	.80	1.00	10%	.05
CLASS E	10.05	.80	1.00	10%	.05
CLASS F	9.16	.80	1.00	10%	

CLASS A - Crane with boom & jib or leads 220' or longer
CLASS B - Crane with boom and jib or leads 140' or longer
CLASS C - Regular Crane Operator
CLASS D - Regular Engineer
CLASS E - Engineer when operating Compressor (or welding machine)
CLASS F - Firemen or oiler

MICH-2-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	

CLASS A - Engineer when operation combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom & jib 140' or longer Tower crane & derrick operator (where opeators work stations is 501 Or more above first sub level
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or fireman

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POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip fom paver slope paver, conveyor loader (euclid type)
CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ yd or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

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SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Hampshire
DECISION NO.: MA77-3068 DATE: Date of Publication
Supersedes Decision No. MA76-2101, dated August 20, 1976 in 41 FR 35369
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	9.95	.94	1.25		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS, PLASTERERS, CEMENT MASONS, STONE MASONS, MARBLE TILE & TERRAZZO WORKERS, CAULKER CLEANER, POINTERS	9.55	.55	.80		.06
CARPENTERS	9.65	.45	.65		.02
ELECTRICIANS:					
Belchertown, Ware	9.85	.70	1%+.30	.43	.03
Middlefield, Cummington & Plainfield	10.09	.55	3%+.69		.02
Remainder of County:					
Electrical contracts under $75,000.00	8.60	.70	1%+.40		.02
Electrical contracts $75,000 and over	10.51	.70	1%+.40		.02
ELEVATOR CONSTRUCTORS' HELPERS	9.71	.445	.29	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	9.45	.47	.45		
IRONWORKERS, STRUCTURAL, ORNAMENTAL & REINFORCING	9.60	.70	1.50		.09
LABORERS: (BUILDING):					
Laborers, wrecking laborers, carpenters & cement finisher tenders	7.50	.60	.70		.10
Asphalt rakers, Carbide core driller ops., chain saw oprs., pipelayers, jackhammer & paving breaker op., barco-type jumping tampers, laser beams ops., concrete pumps ops. & wagon drill ops., mason tenders, mortar mixers & ridge on motorized buggy ops & plasterer tenders	7.75	.60	.70		.10
Air track ops., block pavers, rammers & curb setters	8.00	.60	.70		.10
Powdermen and blasterers	8.25	.60	.70		.10

DECISION NO. MA77-3068

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONT'D)					
Open air caisson, underpinning work and boring crew: (entire county)					
Bottom man	8.25	.60	.70		.10
Top man	7.50	.60	.70		.10
Test boring:					
Driller	8.37	.60	.70		.10
Helper	7.62	.60	.70		.10
LATHERS	9.40	.45	.25		.01
Drywall	8.30	.45	.25		.01
LINE CONSTRUCTION					
Linemen	10.16	.40	1%	c	3/8 of 1%
Equipment Operator	9.48	.40	1%	c	3/8 of 1%
Driver Groundman	7.32	.40	1%	c	3/8 of 1%
MARBLE & TILE SETTERS HELPERS & TERRAZZO WORKERS' HELPERS	8.95				
MILLWRIGHTS	10.20	.60	1.00		.07
PAINTERS:					
Brush & Roller	8.92	.65	.40		.03
Spary	11.0933	.8666	.5333		.04
Swing stage under 40' steel	9.17	.65	.40		.03
Swing stage over 40' steel	9.42	.65	.40		.03
PILEDRIVERMEN	10.15	.60	1.00		.03
PLUMBERS & STEAMFITTERS:					
Belchertown, Granby, Huntington, Middlefield, South Hadley, Ware					
Plumbers	9.85	.96	1.00	d	.05
Steamfitters	10.68	.56	.95	e	.03
Remainder of County:					
Plumbers and Steamfitters	10.45	.85	.85		.02
ROOFERS:					
Composition, damp, waterproof	9.165	.82	1.06		
Slate, tile, precast concrete	9.82	.82	1.06		
SHEET METAL WORKERS	9.41	.85	1.16		.03
SPRINKLER FITTERS	11.38	.60	.90		.08
Welders receive rate prescribed for craft performing operation to which welding is incidental					

NOTICES

DECISION NO. MA77-3068

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; D-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F.

c. Holidays: A through F, Washington's Birthday and Patriots Day providing employee has been employed for a period of five (5) working days prior to the holiday and the regular scheduled working day preceding and following the holiday.

d. July 4th and Labor Day provided worker employed 7 days before holiday

e. July 4th and Labor Day - $08 per hour employer contribution to make two paid holidays.

DECISION NO. MA77-3068

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	7.50	.60	.70		.10
CLASS II	7.75	.60	.70		.10
CLASS III	8.00	.60	.70		.10
CLASS IV	8.25	.60	.70		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

NOTICES

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DECISION NO. MA77-3068
BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	9.73	.85	.75	a	.07
CLASS II	9.53	.85	.75	a	.07
CLASS III	9.33	.85	.75	a	.07
CLASS IV	8.96	.85	.75	a	.07
CLASS V	8.24	.85	.75	a	.07
CLASS VI	7.78	.85	.75	a	.07
CLASS VII	7.03	.85	.75	a	.07

CLASSIFICATIONS

CLASS I Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Bakchoes, Gradalls, Elevating Graders, Pile Driving Rigs, Concrete Road Pavers, three drum Hoisting and Trenching Machines, Belt-type Loaders, Front End Loader-5¼ yards or over, Dual Drum Paver, Automatic Grader (i.e. C.M.I.) Combination Back Hoe-Loader-3/4 yard hoe or over

CLASS II Rotary Drill (with mounted compressor), compressor house (3 to 6 compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Graders, Front End Loaders-4 yards to 5¼ yards, two Drum Hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers-21 yards and over (struck load), Sonic Hammer Console

CLASS III Combination Backhoe-Loader-up to 3/4 hoe, Bulldozers, Push Cats, Scraper-up to 21 yards (Struck Load)-self propelled or tractor drawn, Tireman, Front End Loaders-up to 4 yards, Asphalt Paver, Asphalt Roller-10 ton or over, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete Pumps and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-Loading Batch Plant, Well Point, Electric Pumps used in Well Point System, Pumps-12 inches and over (total discharge), compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators, (manually or remote controls), Grout Pumps, Boom Truck, Hydraulic Cranes-under 10 ton

CLASS IV Asphalt Roller-under 10 ton

DECISION NO. MA77-3068

CLASSIFICATIONS CONT'D

CLASS V Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-Propelled Material Spreaders, A Frame Trucks, Fork Lifts up to 15 feet

CLASS VI Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps-4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers, Rubber, Tire Roller, Compactors or other machines used for pulverizing, Grading or Seeding

CLASS VII Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on Grease Truck, and Grease Trucks with hand greasing equipment

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Holidays: A through F, Veterans' Day and Columbus Day

DECISION NO. MA77-3068
HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	9.73	.85	.75	a	.07
CLASS II	9.53	.85	.75	a	.07
CLASS III	9.33	.85	.75	a	.07
CLASS IV	8.96	.85	.75	a	.07
CLASS V	8.24	.85	.75	a	.07
CLASS VI	7.78	.85	.75	a	.07
CLASS VII	7.03	.85	.75	a	.07
* The Above Rates Are For Contracts $175,000.00 and Above					
POWER EQUIPMENT OPERATORS:					
CLASS I	9.45	.85	.75	a	.07
CLASS II	9.25	.85	.75	a	.07
CLASS III	9.05	.85	.75	a	.07
CLASS IV	8.68	.85	.75	a	.07
CLASS V	8.00	.85	.75	a	.07
CLASS VI	7.55	.85	.75	a	.07
CLASS VII	6.82	.85	.75	a	.07
* The Above Rates Are for Contracts Under $175,000.00					

CLASSIFICATIONS

CLASS I Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processing Plant (Engineer in charge), Dragline, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader-5½ yards and over, Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Pavers, Automatic Graders-Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine

CLASS II Rotary Drill (with mounted Compressor), Compressor House 3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5½ yards, Scraper-21 yards and over (Struck Load), Forklifts-7 ft. lift and over or 3 ton capacity and over, Sonic Hammer Console

DECISION NO. MA77-3068

CLASSIFICATIONS CONT'D

CLASS III Bulldozer, Push Cats, Scrapers-up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders-up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well Point Operators, Electric Pumps used in Well Point system, Tiremen, Pumps-16 inches or over total discharge, Compressors (1 or 2) () cu. ft. and over, Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck Self-Propelled Hydraulic Cranes-up to 10 ton

CLASS IV Asphalt Roller-up to 10 ton

CLASS V Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant

CLASS VI Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheeps-foot toller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil

CLASS VII Compressor (up to 315 cu. ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines, A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat

FOOTNOTES:
a. Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving Day and Christmas Day

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DECISION NO. MA77-3068

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
CLASS I	7.24	.545	.575	a+b	
CLASS II	7.39	.545	.575	a+b	
CLASS III	7.44	.545	.575	a+b	
CLASS IV	7.54	.545	.575	a+b	
CLASS V	7.64	.545	.575	a+b	
CLASS VI	7.89	.545	.575	a+b	
CLASS VII	8.14	.545	.575	a+b	

CLASSIFICATIONS

CLASS I Station wagons, panel trucks and pickup trucks

CLASS II Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators

CLASS III Three axle equipment and tiremen

CLASS IV Four and five axle equipment

CLASS V Specialized earth moving equipment under 35 tons othe than conventional type trucks, low bed, vachual, mechanics, paving restoration equipment, mechanics

CLASS VI Specialized earth moving equipment over 35 tons

CLASS VII Trailers for earth moving equipment, (double hookup)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: DUTCHESS
DECISION NO.: NY77-3118 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY77-3110 dated July 29, 1977 in 42 FR 38873
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and Highway construction

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.495	.79	1.57		
BOILERMAKERS	12.33	5%	15%	7%	.02
BRICKLAYERS, CEMENT MASONS, MARBLE SETTERS, PLASTERERS, STONE MASONS AND TILE SETTERS	9.30	1.85	2.00	a	.05
CARPENTERS, BUILDING:					
Wappingers Falls, New Hackensack Pawling and Beacon, carpenters, piledrivermen and soft floor layers	10.88	98	.76	.85+b+c	.10
Remainder of County: Carpenters and soft floor layers	10.87	.90	.80	1.00	.10
CARPENTERS, HEAVY AND HIGHWAY:					
Wappingers Falls, New Hackensack, Pawling, and Beacon: Carpenters	10.88	.98	.76	.85+b+c	.10
Remainder of County: Carpenters	10.87	.90	.80	1.00+c	.10
CEMENT MASONS, BRICKLAYERS, STONE MASONS (HEAVY & HIGHWAY)	9.80	1.85	2.00	d	.05
ELECTRICIANS:					
Twps. of Pawling, Beacon, Fishkill, E. Fishkill	10.60	.79	3% +.75	.60	½%
Remainder of County	10.00	.75	1%+.85	5%+b+e	½%
Entire County: except Beacon and Fishkill: Repair, renovation, alteration and new installations of Electricial systems in light commercial and industrial property, herein defined to include stores, gas stations, motels and hotels	6.55	.79	3%	.30	½%

DECISION NO. NY77-3118

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS	10.59	.495	.32	f+g	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.41	.495	.32	f+g	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB)	5.295				
GLAZIERS	11.20	.66	1.66	.67	.01
IRONWORKERS, STRUCTURAL, ORNA. & REINFORCING	9.75	1.45	2.02	1.50	
LATHERS	10.80		.15		.01
LEAD BURNERS	10.75	.40	.25	h	.01
LINE CONSTRUCTIONS:					
Lineman	11.10	.50	1%+.50	i	3/8%
Cable splicer	12.21	.50	1%+.50	i	3/8%
Groundman digging machine operator	9.99	.50	1%+.50	i	3/8%
Groundman mobile equipment operator	8.88	.50	1%+.50	i	3/8%
Groundman truck driver	8.325	.50	1%+.50	i	3/8%
Groundman dynamite man & Mechanic	8.88	.50	1%+.50	i	3/8%
MARBLE SETTERS HELPERS	10.45			j	
PAINTERS:					
Brush	9.08	.52	.20	k	
Bridges, towers, fire escapes, smoke stacks, flag poles, swing state, window jacks, boat swain chair, safety belts, and spray structural steel	10.08	.52	.20	k	
PILEDRIVERMEN:					
Dock & wharf builders	11.45	1.40	1.78	.70	.04
PLUMBERS AND STEAMFITTERS	10.00	1.90	.80	1.30	.05
ROOFERS, ASPHALT SHINGLE	7.65	1.00	1.65	1	.35
ROOFERS, SLATE & TILE, ASBESTOS, SLAB, ASPHALT BUILTUP	10.15	1.00	1.65	1	.35
ROOFERS, PITCH, PITCH BUILTUP	10.65	1.00	1.65	1	.35
SHEET METAL WORKERS	10.24	10%	.17%	10%	.02
SPRINKLER FITTERS	11.86	.65	.95		.08
TERRAZZO WORKERS' HELPERS	10.50			j	
TILE SETTERS' HELPERS	10.15			j	
WELDERS - receive prescribed for craft performing operation to which welding is incidental					

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DECISION NO. NY77-3118

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; Christmas Day.

FOOTNOTES:

a. PAID HOLIDAYS: A through F; and 2 hours off on election day for the purpose of voting.

b. Employees receive 2 hours off on election day for purpose of voting.

c. PAID HOLIDAYS: A through F providing the employee works 7 days before and after the holiday.

d. PAID HOLIDAYS: A through F; Washington's Birthday; Good Friday; Columbus Day; Veteran's Day and November Election Day.

e. PAID HOLIDAYS: A through F provided the employee is on the payroll 2 weeks prior to the holiday.

f. PAID HOLIDAYS: Athrough F.

g. Employer contributes 2% of the basic hourly rate for 6 months to 5 years of service or 4% of the basic hourly rate for 5 years or more of service as vacation pay credit.

h. PAID HOLIDAYS: A through F; Washington's Birthday; Good Friday; and Christmas Eve providing the employee has worked 30 full days during the 90 calendar days prior to the holiday, and the regular scheduled work days immediately preceeding and following the holiday.

i. PAID HOLIDAYS: A through F, Washington's Birthday; Election Day for President; and Election of Governor of New York provided the employee works the day before and the day after the holiday.

j. PAID HOLIDAYS: A through F, Washington's Birthday; Lincoln's Birthday; Good Friday; and Columbus Day provided the employee is employed 3 days before the holiday or any of the 3 days following the holiday.

k. PAID HOLIDAYS: Independence Day providing the employee works within the period of June 20 to July 4th.

l. Employee receives 2 hours off with pay on Election Day for the purpose of voting provided the employee has received 4 hours pay that day.

DECISION NO. NY77-3118

LABORERS: BUILDING	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
General laborers, Mason tender carpenter tender, labor stripping, cleaning forms, labor sweepers, cleaners, grading, digging ditches	$7.98	.96	1.60	a+.40	
Hod carriers, plasterers helpers, scaffold builders (padlock and self supporting scaffold 14 feet or under all runways, mortar mixers,(machine and hand), concrete mixers (by machine under 21 E), vibrators, form setters, pipelayers, asphalt rakers, handling reinforcement rods, working labor foremen, drillers, jackhammer operator, signalman, gunniting, motorbugs, water pump 2" or under, barco machine, wreckers, paving breakers, power saw operators, other machine operators	8.23	.96	1.60	a+.40	
Blasters, laser beam operator	8.38	.96	1.60	a+.40	

FOOTNOTES:

a. Two hours off with pay on Election Day.

DECISION NO. NY77-3118

SEWER, ROAD, STREET AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Apprentice Tr.
Laborers:					
General laborers AND Concrete men, joint setter, signal man, mason tender, pipe layer, riprap and dry stone layers, asphalt workers, screed bar operator, steel tod carrier, jackhammerman, wagon driller, air-trac operator, nippers, powderman, high scalers, power buggy operator, vibratory operator, other compactor, wrecking laborers, gunite and sandblasting, coal passer	$8.15	.96	1.65	a	
Concrete finisher on Highways, blaster, form setter, laser beam operator	8.40	.96	1.65	a	
	8.75	.96	1.65	a	

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

a. Holiday's: A through F and Lincoln's Birthday, Washington's Birthday, Good Friday, Columbus Day, Veteran's Day and November Election Day provided the employee works (7) calendar days before or after the holiday.

DECISION NO. NY77-3118

POWER EQUIPMENT OPERATORS, BUILDING: Poughkeepsie and South	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Thereof:					
GROUP I	$13.48	6%+1.00	10%+b	a	1½%
GROUP II	12.565	6%+1.00	10%+b	a	1½%
GROUP III	12.4225	6%+1.00	10%+b	a	1½%
GROUP IV	12.28	6%+1.00	10%+b	a	1½%
GROUP V	11.1375	6%+1.00	10%+b	a	1½%
GROUP VI					
A	14.795	6%+1.00	10%+b	a	1½%
B	13.9925	6%+1.00	10%+b	a	1½%
C	9.78	6%+1.00	10%+b	a	1½%
D	12.9925	6%+1.00	10%+b	a	1½%
E	11.7075	6%+1.00	10%+b	a	1½%
F	12.565	6%+1.00	10%+b	a	1½%
G	17.7075	6%+1.00	10%+b	a	1½%
H	11.1375	6%+1.00	10%+b	a	1½%
I	17.4225	6%+1.00	10%+b	a	1½%
J	15.7075	6%+1.00	10%+b	a	1½%
K	16.7075	6%+1.00	10%+b	a	1½%
L	13.98	6%+1.00	10%+b	a	1½%
M	14.48	6%+1.00	10%+b	a	1½%
GROUP VII	13.7075	6%+1.00	10%+b	a	1½%

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION

GROUP I

Backhoe Oliver 88, Fordson, dynahoe, dual purpose & similar machine, Barber Green loader-euclid loader or similar type, cherry picker (cableway), compressor (steel erection), conway or similar mucking machines, dragline, gradall, shovel, backhoe, etc., (crawler or truck), front end loaders, hydraulic boom, Jersey spreader, Letourneau or Tournapull (scrapers over 20 yds. struck), mucking machines, pavement breaker (air ram), paver (concrete), pulsemeter, push button (buzz box) elevator, road boring machine, road mix machines, Roas carrier & similar machines, post hole digger, shovel (tunnels), side boom, spreader (asphalt), scoopmobile-tractor-shovel over 1-¼ yds., trenching machines, tractor type demolition equipment, winch truck "A" Frame

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DECISION NO. NYT7-3118

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION (CONT'D)

GROUP II
Compactor self-propelled, grader, bulldozer D7 & similar tractors with a draw bar horsepower of 100 & over maintenance engineer, mechanic (outside) all types, welder, scraper-20 yds. struck & under, machine pulling sheep's foot roller, etc., roller 4 ton and over, vib. roller

GROUP III
Asphalt plant, boiler (high pressure), bulldozer D6 & similar tractors with a draw bar horsepower less than 100, compressor, compressor plant, concrete mixing plants, concrete pump, conveyor belt machine-irrespective of motor size, fireman, forklift, forklift (electric), joy drill or similar tractor drilling machine, loader-1-¼ yds., & under, lighting unit (portable & generator), locomotive (all sizes), mixer concrete-21E & over, portable asphalt plant, portable batch plant, portable crusher, quarry master, stone crusher, welding machine (steel erection excavation), well drilling machine, well point system

GROUP IV
Air tractor drill, batch plant, bending machine, concrete breaker, concrete spreader, compressor to 125 cu. ft., curb cutter machine, dust collector, farm tractor (all types), finishing machine concrete, material hooper-sand-stone-cement, mixer-concrete-under 21E, Muching grass spreader, heater-all types, pump, pump station (water & sewer), pump-gypsum, etc., concrete, pump-plasterer roller under 4 ton, spreading & fine grading machine, steam Jenny, steel Jenny, steel cuting machine, sweeper, syphon pump air steam, tar joint machine, Turbo jet burner or similar equipment vibrator (1 to 5) fine grading machine

GROUP V
Concrete saw, mechanic's helper, oiler (fuel truck), oiler (grease truck), paint compressor, welder's helper

GROUP VI
A. Master mechanic
B. Helicopter hoist op.
C. Oiler, asphalt paver, utility man
D. Welder - certified
E. SEcond engineer on cranes 30 ton and over
F. Cable splicer
G. Helicopter pilot
H. Helicopter signalman
I. Engineer, all tower cranes, all climbing cranes and all cranes of 100 ton and regardless of how the same is rigged (except for pile rigs)

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POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION (CONT'D)

GROUP VI (CONT'D)
J. Cranes (crawlers or truck) 100 ft. but less than 149 ft
K. Cranes (crawlers or truck) 149 ft. and over
L. Loaders op. (over 5 yd. capacity)
M. Shovel op. (over 4 yd. capacity)

GROUP VII
Concrete-portable hoist, crane & hoist engineer-steel (concrete, material, supe structure, sub-structure), derrick (stone-steel), elevator & cage, engineer-pile driver, overheadcrane, power house plant, telephies, whirly, hoist (single, double or triple drum), hoist (portable mobile unit), hoist engineer-concrete (crane, derrick, mine hoist), hoist engineer material

FOOTNOTES:
a. Holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, November Election Day, Veteran's Day, Thanksgiving Day and X-Mas Day.

b. Employer contributes $2.00 per day to an Annuity Fund.

NOTICES

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BUILDING CONSTRUCTION - POWER EQUIPMENT OPERATORS: REMAINDER OF COUNTY

GROUP 1: Oilers

GROUP 2: Firemen and heavy duty greasers, all boilers and steam generators

GROUP 3: Pumps, vibrators, concrete mixers, spreaders, concrete finishing machines, mortar mixers, air compressors, dust collectors, welding machines well points, two or more Herman Nelson and like heaters, batch and plant op., seed and mulching machines, generators, temporary light plants, concrete pump, beltcrete power pac (beltcrete system), electric submersible pump 4" and over

GROUP 4: Dinkey locomotives, Barber Greene loaders, loaders and conveyors, tractors, scoopmobiles, bulldozers, road rollers, form fine graders, power brooms and sweepers

GROUP 5: Black top spreaders, black top rollers, high lifts, fork lifts, one drum hoist or hod hoists, post hole diggers, traxcavators, core and well well drillers (one drum), economobile and similar type machines, elevators, A-L frame winches, power hoisting (single drum)

GROUP 6: LeTourneau graders or scrapers, trenching machines, push cart

GROUP 7: Tractor road pavers, cranes, power road graders, shovels, backhoes, draglines, pile drivers, hoists two or more drums, three drum engines, hysters, two drum and swinging engines, three drum swinging engine, locomotive cranes, gradalls, hydrocrane, model CHB Vibrotamp or similar, Murphy type diesel generator-beltcrete system, side booms, hydro hammer, tractor mounted drill (quarry master), euclid loaders, concrete pumps, all CMI equipment, concrete central mix plant, automated asphalt, concrete central plant, derrick, whirlies, tower cranes, cableways, hydraulic cranes, power hoisting (2 drum and over), mucking machine

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$9.99	.85	.60	a	.10
GROUP 2	10.06	.85	.60	a	.10
GROUP 3	10.17	85	.60	a	.10
GROUP 4	10.36	85	60	a	.10
GROUP 5	10.69	.85	.60	a	.10
GROUP 6	10.84	.85	.60	a	.10
GROUP 7	11.02	.85	.60	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F.

DECISION NO. NYT7-3118
Poughkeepsie and South Thereof:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS, HEAVY & HIGHWAY					
GROUP I	$11.75	6%+1.00	9½%+.25	a	1½%
GROUP II	10.96	6%+1.00	9½%+.25	a	1½%
GROUP III	10.825	6%+1.00	9½%+.25	a	1½%
GROUP IV	10.70	6%+1.00	9½%+.25	a	1½%
GROUP V	9.70	6%+1.00	9½%+.25	a	1½%
GROUP VI	11.95	6%+1.00	9½%+.25	a	1½%
GROUP VII	11.325	6%+1.00	9½%+.25	a	1½%
GROUP VIII	9.70	6%+1.00	9½%+.25	a	1½%
GROUP IX	11.625	6%+1.00	9½%+.25	a	1½%
GROUP X	10.70	6%+1.00	9½%+.25	a	1½%
GROUP XI	10.575	6%+1.00	9½%+.25	a	1½%
GROUP XII					
A	10.7875	6%+1.00	9½%+.25	a	1½%
B	9.575	6%+1.00	9½%+.25	a	1½%
C	8.75	6%+1.00	9½%+.25	a	1½%
D	15.45	6%+1.00	9½%+.25	a	1½%
E	12.20	6%+1.00	9½%+.25	a	1½%
F	15.20	6%+1.00	9½%+.25	a	1½%
G	12.95	6%+1.00	9½%+.25	a	1½%

POWER EQUIPMENT OPERATORS - HEAVY AND HIGHWAY

GROUP I
Auger, auto grader, backhoe Oliver 88, Fordson, dynahoe, dual purpose and similar machines, barber green loader-euclid loader or similar type, central mix plant operator, cherry picker (cableway), compactor with blade, concrete portable hoist, C.M.I. or similar Conway or similar mucking machines, crane (crawler or truck) dragline, gradall, shovel backhoe, etc., derrick (stone-steel), elevator & cage, front end loaders, hoist single, double, triple drum, hoist portable mobile unit, hoist engineer-concrete (crane-derrick-mine hoist), hoist engineer-material, hydraulic boom, LeTourneau or Tournapull (scrapers over 20 yards struck), mucking machines, overhead crane, paver (concrete), power house plant, pulsometer, push button (buzz box) elevator, road mix machines, Ross carrier and similar machines, shovel (tunnels), side boom, spreader (Asphalt), scoopmobile-tractor-shovel over 1½ yards, trenching machines, telephies, tractor type demolition equipment, whirly, winch truck "A" Frame

NOTICES

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POWER EQUIPMENT OPERATORS - HEAVY AND HIGHWAY (CONT'D)

GROUP II
Compactor self-propelled, grader, bulldozer D7 and similar tractors with a draw bar horsepower of 100 and over, maintenance engineer, mechanic (outside) all types, welder, scrapers 20 yards struck and under, shop foreman, vibratory roller, etc., roller 4 ton and over

GROUP III
Aephalt plant, boiler (high pressure), bulldozer D6 and similar tractors with a draw bar horsepower less than 100, compressor plant, concrete pump, conveyor belt machine-irrespective of motor size, firemen, forklift, forklift (electric), joy drill or similar tractor drilling machine, loader-1½ yds. and under, locomotive (all sizes), machine pulling sheeps foot roller, mixer concrete-21E and over, portable asphalt plant, portable batch plant, portable crusher, quarry master, stone crusher, well drilling machine, well point system

GROUP IV
Air tractor drill, batch plant, bending machine, concrete breaker, concrete spreader, curb cutter machine, farm tractor (all types), finishing machine-concrete, material hopper-sand-stone-cement, mulching grass spreader, roller under 4 ton, shop mechanic (not employed on job site), spreading & fine grading machine, steel cutting machine, sweeper, syphon pump-air-steam, tar joint machine, Turbo jet burner or similar equipment, fine grading machine

GROUP V
Concrete saw, mechanic's helper, oiler, oiler (fuel truck), oiler (grease truck)

GROUP VI
Hoist engineer-steel, sub-struct., engineer-pile driver

GROUP VII
Welder-certified crawlers or truck: 100 ft. but less than 149 ft. $2.00 per hour additional crawlers or truck: 149 ft. and over $3.00 per hour additional loader operators: Over 5 cu. yd. capacity $.50 per hour additional shovel operators: Over 4 cu. yd. capacity $1.00 per hour additional

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POWER EQUIPMENT OPERATORS - HEAVY AND HIGHWAY (CONT'D)

GROUP VIII
Stockroom or stockroom attendant, paint compressor, pump under 4" or any combination not equal to 4" roller motorized (walk behind, welder's helper

GROUP IX
Compressor (steel erection)

GROUP X
Compressor, lighting unit (portable and generator), welding machine (steel erection excavation)

GROUP XI
Compressor to 125 cu. ft., dust collector, mixer-concrete under 21E, heater-all types, pump 4" and over, pump station (water and sewer), pump-gypsum, etc., pump-plasterer, steam jenny syphon pump-air-steam, tar-joint machine, vibrator (1 to 5)

GROUP XII
A. Jersey spreader, pavement breaker (air ram), post hole digger
B. Safety man 60 ton crane & over, helicopter signalman
C. Oiler asphalt paver, utility man
D. Helicopter pilot
E. Helicopter hoist operator
F. Engineer, tower crane, 3900 monitowac or over or similar (rail, truck, or crawler mounted
G. Master mechanic

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Good Friday; Columbus Day; November Election Day and Veteran's Day.

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POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr.
Remainder of County:					
GROUP I	$10.15	.90	.60	a	.15
GROUP II	9.82	.90	.60	a	.15
GROUP III	9.10	.90	.60	a	.15
GROUP IV	8.27	.90	.60	a	.15

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays A through F; providing the employee works the working day before and after the holiday

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

Group I - Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or ove crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over) head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel.

Group II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lobs. and over), hoist (one drum) Kolman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greaseman/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

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POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

Group III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

Group IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet- (concrete or pavement grinder), power broom (towed), power hesterman, revinius widener, shell winder, steam cleaner, tractor.

DECISION NO. NYTT-3118

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
Drivers on LeTourneau tractors, double barrel Euclids, Athey wagon and similar equipment (except when hooked to scrapers), low beds, I-Bean, pole trailers, road oil distributors, tire trucks tractors and trailers with 5 axle and over	10.00	.95	.95	a+b	
Equipment 25 yards and over up to and including 30 yard bodies cable dump trailers, powder snf dynamite trucks	9.90	.95	.95	a+b	
Equipment up to and including 24 yards bodies, mixer trucks, dump crete trucks and similar types of equipment, fuel trucks and all other tractor trailers	9.70	.95	.95	a+b	
Ten wheelers, grease trucks and tiller men	9.60	.95	.95	a+b	
Straight trucks	9.50	.95	.95	a+b	
Pick-up trucks used for hauling material parts escort man over the road	9.50	.95	.95	a+b	
Helpers	9.40	.95	.95	a+b	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day and F-Christmas Day

FOOTNOTE:
a. Holidays: A through F; Washington's Birthday; Election Day; Veteran's Day, Lincoln's Birthday, Election Day, Good Friday.

b. 3 day bereavement pay (spouse, mother, father, mother in law, father in law, grandmother, grandfather, sister, brother, children, grandchildren.

SUPERSEDEAS DECISION

STATE: OHIO
DECISION NUMBER: OH77-2132
COUNTIES: *SEE BELOW
DATE: Date of Publication
Supersedes Decision Nos.: OH77-2069, dated May 13, 1977 in 42 FR 24636;
OH77-2077, dated May 13, 1977 in 42 FR 24647; &
OH77-2078, dated May 13, 1977 in 42 FR 24649
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to & including 4 stories)

*ALLEN, AUGLAIZE, CRAWFORD, DEFIANCE, ERIE, HANCOCK, HARDIN, HENRY, HURON, KNOX, LOGAN, MARION, MERCER, MORROW, OTTAWA, PAULDING, PUTNAM, RICHLAND, SANDUSKY, SENECA, VAN WERT, WILLIAMS, WOOD, & WYANDOT

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Allen, Defiance, Mercer, Paulding, Van Wert, & Williams Cos.	$12.30	.50	.75		
Auglaize, & Logan Cos.	11.07	.75	1.00		.02
Crawford, Hardin, Knox, Marion, & Morrow Cos.	12.67	.45	.85		.02
Erie (W½), Hancock, Henry, Ottawa, Putnam, Sandusky, Seneca, Wood, & Wyandot Cos.	11.83	.50	1.00		.04
Erie (E ½), & Huron Cos.	13.93				
Richland Co.	12.185	.50	.80		.02
BOILERMAKERS	13.10	.70	1.00		.03
BRICKLAYERS; Marble setters; Terrazzo workers; & Tile setters:					
Allen, Auglaize, Mercer, & Van Wert Cos.	11.08		.20		
Crawford, Hardin, Marion, Morrow, Richland, Wyandot (except Twps. of Crawford, Ridge, Richland, & Tymochtee) Cos.	10.63	.60	1.00		.02
Defiance, Henry (except Twps. of Monroe, Barlo, Liberty, Washington, Richfield, Marion, & Damascus & that part of Harrison outside city limits of city of Napoleon), Paulding, Putnam, & Williams Cos.:					
Bricklayers; Marble setters	11.30	.60			
Erie, Hancock, Huron, Ottawa, Sandusky, Seneca, Wood (Perry & Bloom Twps.), & Wyandot (Tymochtee, Crawford, Ridge, & Richland Twps.), & Island of Lake Erie North of Sandusky	11.14	.60	.50		.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Henry (Twps. of Washington, Damascus, Richfield, Barlo, Liberty, Harrison, Monroe, & Marion), & Wood (except Perry, Bloom, Perryborough, Ross, & Lake Twps.) Cos.	$11.86	.65	.45		.01
Knox Co.	10.33	.60	.50		.02
Logan Co.	10.60				
Wood (Twps. of Perryborough, Ross, & Lake) Co.	11.655	.73	.80		.01
CARPENTERS:					
Allen, Auglaize, Hardin, Knox, Logan, Marion, Mercer, Morrow, Putnam, Van Wert, & Wyandot Cos	9.87	.40	.70		.02
Crawford, Erie, Hancock (Fostoria), Huron, Ottawa, Richland, Sandusky, Seneca, & Wood (Fostoria) Cos.	10.66	.70	1.00	a	.04
Defiance, Henry, Paulding, & Williams Cos.	11.54	.93	.75		
Hancock & Wood Cos. (excluding Fostoria)	11.97	.73	.50		.05
CEMENT MASONS:					
Allen, Auglaize, Hardin, Logan, & Mercer, Van Wert Cos.	10.20	.50			.05
Crawford, Marion, Morrow, Richland, & Wyandot Cos.	10.55				
Defiance, Paulding & Williams Cos.	11.40	.50			
Erie, Huron, Ottawa, Sandusky, Seneca, Wood (Perry & Bloom Twps.), & Wyandot (Twps. of Tymochtee, Crawford, Ridge, & Richland), & Island of Lake Erie North of Sandusky	11.14	.60	.50		.01
Hancock, Henry, Putnam, & Wood (except Perry & Bloom Twps.) Cos.	12.64	.50			.02
Knox Co.	9.90	.50	.20		.03

DECISION NO. OH77-2132

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Allen, Auglaize, Hardin, Logan, Mercer, Van Wert, & Wyandot (Twps. of Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge, & Salem) Cos.	$11.44	.32	3%+.37		.04
Crawford, Huron (Twps. of Richmond, New Haven, Ripley, & Greenwich), Knox (Twps. of Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown, & Jefferson), Marion, Morrow, Richland, & Wyandot (Twps. of Sycamore, Crane, Eden, Pitt, & Antrim) Cos.	11.35	.45	3%+.30		.1%
Defiance, Hancock, Henry, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, & Wood Cos.	12.35	.50	3%+.55		.2%
Erie, & Huron (Twps. of Lyme, Ridgefield, Norwalk, Townsend, Wakeman, Sherman, Peru, Bronson, Hartland, Clarksfield, Norwick, Greenfield, Fairfield, Fitchville, & New London) Cos.	11.85	.53	3%		.1%
Knox (Twps. of Jackson, Clay, Morgan, Miller, Milford, Hilliard, Butler, Harrison, Pleasant, & College) Co.	10.90	.28	3%+.60		.03
ELEVATOR CONSTRUCTORS:					
Allen, Auglaize, Defiance, Mercer, Paulding, Putnam, Van Wert, & Williams Cos.:					
Elevator constructors	9.66	.495	.32	4%+b+c	.02
Helpers	70%JR	.495	.32	4%+b+c	.02
Helpers (Prob.)	50%JR				
Crawford, Hardin, Knox, Logan, Marion, Morrow, & Richland Cos.:					
Elevator constructors	11.16	.545	.35	4%+b+c	.02
Helpers	70%JR	.545	.35	4%+b+c	.02
Helpers (Prob.)	50%JR				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Erie & Huron Cos.:					
Elevator constructors	$11.955	.545	.35	4%+b+c	.02
Helpers	70%JR	.545	.35	4%+b+c	.02
Helpers (Prob.)	50%JR				
Hancock, Henry, Ottawa, Sandusky, Seneca, Wood, & Wyandot Cos.:					
Elevator constructors	12.15	.545	.35	4%+b+c	.02
Helpers	70%JR	.545	.35	4%+b+c	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Allen, Auglaize, Crawford, Hancock, Hardin, Mercer, Putnam, Van Wert, & Wyandot Cos.	8.55		.50		
Defiance, Henry, Ottawa, Sandusky, Seneca, Williams, & Wood Cos.	10.525	.50	.85		.01
Erie, & Huron Cos.	11.98	.55	.65		.01
IRONWORKERS:					
Allen, Auglaize, Logan (W 2/3), & Mercer Cos.:					
Within 15 mi. radius of Local Union #290	10.96	.90	1.25		.04
Beyond 15 mi. radius of Local Union #290	11.11	.90	1.25		.04
Crawford, Hardin, Knox, Logan (Rem. of Co.), Marion, Morrow, & Wyandot Cos.	11.10	.90	1.55		.05
Defiance, Paulding, Putnam, Van Wert, & Williams Cos.	11.20	.90	1.20		.02
Erie, & Huron Cos.	12.22	.80	1.10		.03
Hancock, Henry, Ottawa, Sandusky, Seneca, & Wood Cos.	12.30	.93	1.11		.05
Richland Co.:					
Ornamental; Reinforcing; & Structural	11.08	.70	.75		.03
Sheeter-roof	11.58	.70	.75		.03
Sheeter-side	11.33	.70	.75		.03
Bucker-up	11.205	.70	.75		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Auglaize, Logan, & Mercer Cos.	$11.04		.20		.01
Crawford, Knox, Logan, Marion, Morrow, & Wyandot Cos.	10.65		.10		.01
Defiance, Hancock, Ottawa, Paulding, Sandusky, Seneca, Williams, & Wood Cos.	11.90	.65	.10		.01
Erie, & Huron Cos.	12.45				.01
LEADBURNERS	10.75	.40		d	.01
MARBLE SETTERS' HELPERS; Terrazzo workers' helpers; & Tile setters' helpers:					
Allen, Defiance, Hancock, Henry, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, & Wood Cos.	10.10	.65	.40	.50	
Auglaize, Hardin, Logan, & Mercer Cos.	8.34				
Erie, Huron, & Richland Cos.:					
Marble setters' helpers	11.41		1.00		
Terrazzo workers' helpers	12.12		.85		
Tile setters' helpers	11.94		1.00		
MILLWRIGHTS:					
Allen, Auglaize, Hardin, Knox, Logan, Marion, Mercer, Morrow, Putnam, Van Wert, & Wyandot Cos.	10.92	.40	.70		.02
Crawford, Huron, & Richland Cos.	10.66	.70	1.00	a	.04
Defiance, Erie (W. of B & O RR Tracks), Hancock, Henry, Ottawa, Paulding, Sandusky, Seneca, Williams, & Wood Cos.	11.97	.73	.50		.05
Erie (E. of B & O RR Tracks)	11.95	.77	1.40		.03
PAINTERS:					
Allen, Auglaize, Defiance, Hardin, Mercer, Paulding, Putnam, Van Wert, & Williams Cos.:					
Brush; Drywall taping; & Roller Wall covering; Swing stage; Safety belts; Spiders & cherry pickers - brush or rollers	8.15	.73	.50		.03
	8.40	.73	.50		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sandblasting; Spray; Steam-cleaning; Mitts; High pressure water cleaning; Blow down	$8.65	.73	.50		.03
Stilts & automatic drywall tools	8.90	.73	.50		.03
Petroleum storage tanks (over 30 ft. high) brush, rollers	8.55	.73	.50		.03
Structural steel (open skeleton) - brush or roller	8.45	.73	.50		.03
Elevated water tanks & stacks - brush, roller or spray	9.65	.73	.50		.03
Crawford, Marion, Morrow, & Richland Cos.:					
Brush; Roller; Washer & cleaner	8.80		.50		
Drywall; Paperhangers; Wall coverer; Pot tender	9.55		.50		
Structural steel tanks & towers; Hazardous materials incl. epoxy or any 2 component materials	9.30		.50		
Spray; Riggers & helpers on scaffold over 30 ft. above base level	9.55		.50		
Sign & pictorial	9.65		.50		
Sandblaster cleaner	9.95		.50		
Erie, Hancock, Huron, Sandusky, Seneca, & Wyandot Cos.:					
Old Commercial					
Brush; Roller; Wash; Clean	8.60	.50	.60		$50.00p/yr
Drywall; Paperhanging; 30' to 60'	9.05	.50	.60		50.00p/yr
60' or over	9.90	.50	.60		50.00p/yr
Sandblasting; Spray; Swing stage; Boatswain chair; Needle beam	9.30	.50	.60		50.00p/yr
Hazardous work & material; Stacks, Tanks, Towers over 40' in ht.	9.80	.50	.60		50.00p/yr
New Commercial					
Brush; Roller; Wash; Clean	9.40	.50	.60		50.00p/yr
Drywall; Paperhanging	9.65	.50	.60		50.00p/yr
Structural steel; 30' to 60'	9.85	.50	.60		50.00p/yr
60' & over	10.25	.50	.60		50.00p/yr
Sandblast; Spray; Swing stage; Needlebeam; Boatswain chair	9.90	.50	.60		50.00p/yr
Hazardous work & material; Stacks, tanks, & towers over 40' in ht.	10.40	.50	.60		50.00p/yr

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Henry, Ottawa, & Wood Cos.:					
Brush; Paperhangers; Drywall tapers & finishers	$10.49	.65	.70		
Sandblasting; Spray; Pressure cleaning	11.04	.65	.70		
Open structural steel: Brush	10.04	.65	.70		
Knox Co.:					
Brush; Paperhangers	7.50				
Spray	7.95				
Logan Co.:					
Brush; Paperhangers (tools furnished)	7.80	.10	.25		
Swing stege	8.15	.10	.25		
Spray	8.50	.10	.25		
Structural steel	8.35	.10	.25		
PILEDRIVERMEN:					
Allen, Auglaize, Hardin, Knox, Logan, Marion, Mercer, Morrow, Putnam, Van Wert, & Wyandot Cos	10.47	.40	.70		.02
Crawford, Huron, & Richland Cos.	10.66	.70	1.00	a	.04
Defiance, Erie (W. of B & O RR Tracks), Hancock, Henry, Ottawa Paulding, Sandusky, Seneca, Williams, & Wood Cos.	11.97	.73	.50		.05
Erie (E. of B & O RR Tracks)	12.10	.77	1.25		.03
PLASTERERS:					
Allen, Auglaize, Hardin, Knox, Logan, Mercer, & Van Wert Cos.	9.58	.50	.30		.02
Crawford, Marion, Morrow, Richland, & Wyandot (excluding Tymochtee, Crawford, Ridge, & Richland Twps.) Cos.	10.45				
Defiance, Hancock, Henry, Paulding, Williams, & Wood (excluding Perry & Bloom Twps.) Cos.	12.20	.65			.01
Erie, Huron, Ottawa, Sandusky, Seneca, Wood (Perry & Bloom Twps.), Wyandot (Tymochtee, Crawford, Ridge, & Richland Twps.), & Island of Lake Erie N. of Sandusky	11.14	.60	.50		.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters:					
Allen, Auglaize, Hardin, Mercer, & Van Wert Cos.	$12.00	.50	.75		.05
Crawford, Erie, Huron, Knox, Morrow, Richland, & Wyandot Cos.	12.25	.60	.88		.05
Defiance, Hancock, Henry, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, & Wood Cos.	12.83	.80	.85		.09
Logan Co.	11.41	.58	.80		.04
Marion Co.	12.32	.55	.80		.05
ROOFERS:					
Allen, Auglaize, Hardin, Knox, Logan, Marion, Mercer, Morrow, Putnam, Van Wert, & Wyandot Cos.	11.195	.60	.65		.01
Crawford, & Richland Cos.	10.74	.57	.40		.02
Defiance, Hancock, Henry, Paulding, Williams, & Wood Cos.	11.51	.73	.85		.02
Erie, Huron, Ottawa, Sandusky, & Seneca Cos.	13.18	.25	.50		
SHEET METAL WORKERS:					
Allen, Auglaize, Hardin, Logan, Mercer, Van Wert, & Wyandot Cos.	10.95	.55+e	.84		.15
Crawford, & Richland Cos.	10.46	.45	.60		.02
Defiance, Hancock, Henry, Ottawa, Paulding, Putnam, Seneca, Williams, & Wood Cos.	11.825	.65+e	1.00		.045
Erie, Huron, & Sandusky Cos.	12.68	.60	.60		.04
Knox, Marion, & Morrow Cos.	10.82	.45+e	1.05		.10
SOFT FLOOR LAYERS:					
Allen, Auglaize, Hardin, Knox, Logan, Marion, Mercer, Morrow, Putnam, Van Wert, & Wyandot Cos.	9.87	.40	.70		.02
Crawford, Erie, Hancock (Fostoria), Huron, Ottawa, Richland, Sandusky, Seneca, & Wood (Fostoria) Cos.	10.66	.70	1.00	a	.04
Defiance, Hancock (excluding Fostoria), Henry, Paulding, Williams, & Wood (excluding Fostoria) Cos.	10.30	.73	.50		.04

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	$12.30	.65	.95		.08

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 2 paid holidays: B & D
b. 6 paid holidays: A through F
c. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
d. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve provided employee has worked 45 full days during the 120 calendar days prior to the Holiday and the regular scheduled work days immediately preceding and following the holiday.
e. 3% of gross earnings to SASMI

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Allen, Auglaize, Mercer, Paulding, Putnam, & Van Wert Cos.:					
Building laborers; Laser beam; Power wheelbarrow or power buggy	$7.85	.55	.40		.05
Vibrators; Spikers by hand (Railroad); Cement finishers' helpers; All machine driven tools (gas, electric, air); Asphalt rakers; Caisson; Cofferdam; Demolition; Packers; Pot tenders; Pump man under 4" discharge; Tamper; Torch man; & tunnel	8.00	.55	.40		.05
Blaster helper; Cylinder, shaft; Jackhammer; Man-hole builders; Mason tenders; Mortar mixers; Plasterers' tenders; Sewer bottom man; Sewer pipelayer; Sewer, water conduit, gas, oil pipeline, except mainlines; & wagon drill helper	8.15	.55	.40		.05
Blaster-powder man; Gunite ops.; Muckers & miners (tunnel & caisson) free air; Sandblasters; & wagon drill/operator	8.35	.55	.40		.05
Crawford, Knox, Morrow, & Richland Cos.:					
General laborer; Carpenter tender; Concrete handler	8.46	.65	.40		.05
Mason & Plasterers' tenders; Air & power driven tools; Pipelayer; Dynamite blaster; Mortar mixer; & formsetter	8.66	.65	.40		.05
Gunnite operator	9.06	.65	.40		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Defiance, Henry, & Williams Cos.					
Unskilled laborers; Cement finishers' helpers; Carpenters' helpers; Carpenters' tenders	$8.52	.55	.40		
Mason tenders; Gunite pot man	8.64	.55	.40		
All power driven tools & buggies, burners, torchmen & nozzle man for concrete pump	8.665	.55	.40		
Plasterers' tenders	8.695	.55	.40		
Nozzle operator for gunite work	9.17	.55	.40		
Bellman; Bottom man; & Brick expeditor	8.755	.55	.40		
Erie, Huron, Ottawa, & Sandusky Cos.:					
Building & construction laborers; Signalman; Flagman; Tool cribman; Carpenter tenders; Finisher tenders; Concrete handler; Utility construction laborer; Guardrail erectors	9.11	.55	.40		.05
Bottom men; Scaffold; Tunnel laborers; Pipelayers; Air & power driven tools burner on demolition work; Swinging scaffold; Mucker; Caisson workers; Cofferdam worker; Power men & dynamite blasters; Creosote workers; Mortar mixers; Form setter; Mason tenders; Plasterers' tenders; Hod carrier; Laser beam set up man	9.31	.55	.40		.05
Gunnite operator	9.71	.55	.40		.05
Hancock, Hardin, Marion, Seneca, & Wyandot Cos.:					
Building & construction laborers; Signalman; Flagman; Tool cribman; Carpenter tenders; Finisher tenders; Concrete handler; Utility construction laborer; Guardrail erectors	7.96	.55	.40		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bottom men; Scaffold builders; Tunnel laborers; Pipelayers; Air & power driven tools; Burner on demolition work; Swinging scaffold; Mucker; Caisson work; Cofferdam worker; Powder men & dynamite blasters; Creosote workers; Mortar mixers tenders; Plasterers' tenders; Hod carriers; Laser beam set up men	$8.16	.55	.40		.05
Gunnite operators	8.56	.55	.40		.05
Logan Co.:					
Laborers, general; Carpenters' helpers	7.60	.55	.40		.05
Plasterers' tenders; Mason tenders; Mortar mixers; Air & machine driven tools ops.; Jackhammer; Barko & chain saw; Wagon drill; Hand spikers; Power concrete & buggies; Gunnite machine ops. & nozzle man; Sewer pipe layer; Bottom man; Asphalt raker & tamper	7.85	.55	.40		.05
Powderman & blaster	8.10	.55	.40		.05
Wood Co.:					
Unskilled laborers	10.61	.55	.40		.01
Mason tenders	10.74	.55	.40		.01
Mortar mixers; Gunnite pot men	10.81	.55	.40		.01
All power driven tools & buggies	10.765	.55	.40		.01
Pipelayers	10.865	.55	.40		.01

NOTICES

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POWER EQUIPMENT OPERATORS

	ZONE I	ZONE II	ZONE III	Fringe Benefits Payments			
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$11.39	$11.11	$11.67	.46	1.00		.11
GROUP B	11.23	10.95	11.52	.46	1.00		.11
GROUP C	10.88	10.59	11.17	.46	1.00		.11
GROUP D	10.07	9.81	10.39	.46	1.00		.11
GROUP E	9.74	9.48	10.07	.46	1.00		.11
GROUP F	8.28	8.03	8.64	.46	1.00		.11

ZONE I: Allen, Defiance, Hancock, Hardin, Henry, Ottawa, Paulding, Putnam, Richland, Sandusky, Seneca, Van Wert, Williams, & Wood Counties
ZONE II: Auglaize, Crawford, Knox, Logan, Marion, Mercer, Morrow, & Wyandot Counties
ZONE III: Erie & Huron Counties

GROUP A - A-frames, air compressor on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip forms pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24"wide), tug boat

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POWER EQUIPMENT OPERATORS (CONT'D):

GROUP B - Asphalt paver, bulldozer, C.M.I. type equipment , endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines, power grader, power scoops, power scrapers, push cat.
GROUP C - Air compressor (pressureizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), Submersible pumps (4" and over discharge), trenchers 24" and under
GROUP D - Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers, (capacity more than one bag), mixers (one bag capacity, side loader), post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher rollers, welder operator
GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, clefplanes, concrete spreading mach., crushers, deck hands, drum fireman (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over 4" discharge, hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power)
GROUP F - Oiler, helpers, signalman, inboard & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. presssure, pumps under 4" discharge, submersible pumps under 4" discharge

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Allen, Auglaize, Hardin, Logan, Mercer, Van Wert, & Wyandot (Twps. of Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge, & Salem) Cos.:					
Linemen	$11.68	.45	3%		½%
Groundman; Truck drivers	7.57	.45	3%		½%
Equipment operators	10.51	.45	3%		½%
Crawford, Huron (Twps. of Richmond, New Haven, Ripley, & Greenwich), Knox (Twps. of Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown, & Jefferson), Marion, Morrow, Richland, & Wyandot (Twps. of Sycamore, Crane, Eden, Pitt, & Antrim) Cos.:					
Linemen; Equipment operators	11.35	.45	3%+.30		½%
Line truck drivers	7.38	.45	3%+.30		½%
Groundman	6.81	.45	3%+.30		½%
Defiance, Hancock, Henry, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, & Wood Cos.:					
Linemen	12.76	.45	3%	a	.25%
Technicians	12.33	.45	3%	a	.25%
Cable splicers	13.01	.45	3%	a	.25%
Operator Class 1	10.20	.45	3%	a	.25%
Operator Class 2	9.00	.45	3%	a	.25%
Groundman:					
Driver 1st 6 mos.	6.47	.45	3%	a	.25%
Driver 2nd 6 mos.	7.10	.45	3%	a	.25%
Driver 3rd 6 mos.	7.73	.45	3%	a	.25%
Erie, Huron (Twps. of Lyme, Ridgefield, Norwalk, Townsend, Wakeman, Sherman, Peru, Bronson, Hartland, Clarksfield, Norwick, Greenfield, Fairfield, Fitchville, & New London) Cos.:					
Linemen; Equipment operators; Cable splicers	11.85	.53	3%		½%
Beginning truck driver groundman; Beginning groundman	6.52	.53	3%		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Advanced truck driver (winch) groundman; Advanced groundman (over 2 years' experience)	$7.70	.53	3%		½%
Knox Co. (Rem. of Co.):					
Linemen; Equipment operators	11.73	.50	3%		½%
Cable splicers	12.46	.50	3%		½%
Groundmen - truck driver over 1 year	9.31	.50	3%		½%
Groundmen - truck driver 0 - 1 year	8.32	.50	3%		½%

FOOTNOTE:
a. 9 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Day after Thanksgiving Day; Christmas Eve; & New Year's Eve

SUPERSEDEAS DECISION

STATE: OHIO
COUNTIES: *SEE BELOW
DECISION NO.: OH77-2133
DATE: Date of Publication
Supersedes Decision Nos. OH77-2074, dated May 1, 1977 in 42 FR 24640 and OH77-2075, dated May 13, 1977 in 42 FR 24638
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories).

*ASHLAND, CARROLL, COLUMBIANA, COSHOCTON, HOLMES, MEDINA, TUSCARAWAS, & WAYNE

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Ashland, Coshocton, Holmes, Medina, Tuscarawas & Wayne Cos.	$12.185	.50	.80		.02
Carroll & Columbiana Cos.	10.74	.45	.70		.02
BOILERMAKERS:					
Ashland Co.	13.10	.70	1.00		.03
Carroll, Coshocton, Holmes, Medina, Tuscarawas, & Wayne Cos.	12.23	.60	1.10		.03
Columbiana Co.	9.815	7.5%	7%		.01
BRICKLAYERS; Marble setters; Stonemasons; Terrazzo workers; & Tile setters:					
Ashland, Holmes & Wayne (except Milton & Chippewa Twps.) Cos.	10.63	.60	1.00		.02
Carroll, Columbiana (Twps. of Knox, Butler, West & Hanover), & Tuscarawas Cos.:					
Bricklayers; Stonemasons	10.79	.85	.60		.01
Marble setters	9.10	.70	.45		
Terrazzo workers	9.05	.70	.45		
Tile setters	8.94	.70	.45		
Columbiana (Twps. of Center, Elk Run, Fairfield, Middletown, New Waterford, Perry, Salem, & Unity) Co.:					
Bricklayers; Stonemasons	11.54	.60	.60		.02
Marble setters; Terrazzo workers; & Tile setters	12.305				
Columbiana (Rem. of Co.) Co.	10.30	.60	.50		
Coshocton Co.	10.33	.60	.50		.02
Medina (Twps. of Hinckley, Grander, Brunswick, Medina, Liverpool, Montville, & York) Co.:					
Bricklayers; Marble setters; Stonemasons; & Terrazzo workers	12.05	1.00	1.00		.01
Tile setters	13.555		1.36		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Medina (Twps. of Wadsworth, Guilford, Westfield, Lafayette, & Sharon) & Wayne (Chippewa & Milton Twps.) Cos.:					
Bricklayers; Stonemasons Marble setters; Terrazzo workers; & Tile setters	$10.97	.57	.50		.02
Medina (Twps. of Litchfield, Chatham, Harrisville, Homer, & Spencer) Co.	10.11	.52	.25		
CARPENTERS; Millwrights; Piledrivermen; & Soft floor layers:	12.10		.40		.01
Ashland Co.:					
Carpenters; Soft floor layers	10.66	.70	1.00	a	.04
Millwrights	11.95	.77	1.40		.03
Piledrivermen	12.10	.77	1.25		.03
Carroll, Tuscarawas, & Wayne Cos.:					
Carpenters	10.28	.50	.50		.02
Millwrights; Piledrivermen	10.76	.50	.50		.02
Soft floor layers	10.11	.50	.50		.02
Columbiana Co.:					
Carpenters; Soft floor layers	9.85	.87	.65		.02
Millwrights	10.93	.50	6%		.02
Piledrivermen	11.15	.55	10%		.5%
Coshocton & Holmes Cos.:					
Carpenters; Soft floor layers	9.87	.40	.70		.02
Millwrights	10.92	.40	.70		.02
Piledrivermen	10.47	.40	.70		.02
Medina Co.:					
Carpenters	11.55	.50	.70		
Millwrights	11.95	.77	1.40		.03
Piledrivermen	12.10	.77	1.25		.03
Soft flour layers	10.40	.40	.70		
CEMENT MASONS; Plasterers:					
Ashland Co.:					
Cement masons	10.55				
Plasterers	10.45				
Carroll & Tuscarawas Cos.	10.79	.85	.60		.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Columbiana Co.:					
Cement masons	$10.57	.50	.50		.05
Plasterers:					
Twps. of Knox, Butler, West, & Hanover	10.79	.85	.60		.01
Remainder of Co.	10.88	.50	.50		.03
Coshocton Co.:					
Cement masons	10.33	.60	.50		.02
Holmes & Wayne (except Chippewa & Milton Twps.) Cos.	11.18		1.00		.02
Medina Co.:					
Cement masons	10.94	.50	.60		
Plasterers	10.56	.60	.75		.01
ELECTRICIANS:					
Ashland Co.	11.35	.45	3%+.30		.1%
Carroll (N ½ incl. Fox, Harrison, Rose & Washington Twps.), Columbiana (Knox Twp.), Holmes, Tuscarawas (N. of Auburn, Clay, Rush, & York Twps.), & Wayne (S. of Baughman, Chester, Green, & Wayne Twps.) Cos.	11.75	.40	3%+.40		.3%
Carroll (Rem. of Co.) Co.	12.00	6%	9%	8%	½%
Columbiana (Twps. of Center, Elk Run, Franklin, Hanover, Liverpool, Madison, Middleton, St. Clair, Washington, Wayne, West, & Yellow Creek) Co.	10.26	8%	6.5%	8%+b	1%
Columbiana (Twps. of Butler, Fairfield, Perry, Salem, & Unity) Co.	12.55	.56	7%		.3%
Coshocton & Tuscarawas (Auburn, York, Jefferson, Clay, Rush, Oxford, Washington, Salem, Perry, & Bucks Twps.) Cos.	10.90	.28	3%+.60		.03
Medina (Twp. of Litchfield, & Liverpool) Co.	12.50	.60	3%+.80		.1%
Medina (Rem. of Co.), & Wayne (N½ of Co.)	12.33	.47	3%+.50		.2%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Ashland, Coshocton, Holmes, & Tuscarawas Cos.:					
Elevator constructors	$11.16	.545	.35	4%+c+d	.02
Helpers	70%JR	.545	.35	4%+c+d	.02
Helpers (Prob.)	50%JR				
Carroll Co.:					
Elevator constructors	9.20	.495	.32	4%+c+d	.02
Helpers	70%JR	.495	.32	4%+c+d	.02
Helpers (Prob.)	50%JR				
Columbiana Co.:					
Elevator constructors	10.99	.545	.35	4%+c+d	.02
Helpers	70%JR	.545	.35	4%+c+d	.02
Helpers (Prob.)	50%JR				
Medina & Wayne Cos.:					
Elevator constructors	11.305	.545	.35	4%+c+d	.02
Helpers	70%JR	.545	.35	4%+c+d	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Carroll, Coshocton, Holmes, Medina (S ½), Tuscarawas, & Wayne Cos.	9.49	.70	.77		.03
Medina (N ½) Co.	11.98	.55	.65		.01
IRONWORKERS:					
Ashland, Carroll, Coshocton, Holmes, Tuscarawas, & Wayne Cos.:					
Ornamental; Reinforcing; & Structural	11.08	.70	.75		.03
Sheeter-roof	11.58	.70	.75		.03
Sheeter-side	11.33	.70	.75		.03
Bucker-up	11.205	.70	.75		.03
Columbiana Co.:					
Ornamental; Reinforcing; & Structural	11.76	.40	1.15		.07
Sheeters	12.26	.40	1.15		.07
Bucker-up	11.885	.40	1.15		.07
Medina Co.	12.22	.80	1.10		.03
LATHERS:					
Wayne Co.	11.01	.57	.15		.01
LEADBURNERS	10.75	.40		e	.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' HELPERS; Terrazzo workers' helpers; & Tile setters' helpers:					
Ashland, & Medina Cos.:					
Marble setters' helpers	11.41		1.00		
Terrazzo workers' helpers	12.12		.85		
Tile setters' helpers	11.94		1.00		
Carroll & Tuscarawas Cos.:					
Terrazzo workers' helpers; Tile setters' helpers	8.09	.70	.45		
Columbiana Co.	11.455				
PAINTERS:					
Ashland Co.:					
Brush; Roller; Washer; Cleaner	8.80		.50		
Drywall; Paperhanger; Wall coverer; Pot tender	9.55		.50		
Structural steel tanks & towers; Hazardous materials incl. epoxy or any 2 component materials	9.30		.50		
Spray; Riggers & helpers on scaffolding over 30' above base level	9.55		.50		
Sign & pictorial	9.65		.50		
Sandblaster cleaner	9.95		.50		
Carroll, Holmes, Tuscarawas, & Wayne Cos.:					
Brush; Roller	9.61	.78	.60		.02
Paperhanger	9.71	.78	.60		.02
Spray	10.11	.78	.60		.02
Drywall	10.01	.78	.60		.02
Drywall with machines	10.36	.78	.60		.02
Columbiana Co.:					
Brush; Rollers; Waterproofing; Paperhanging; Wallwashing; Hydro-jet cleaning; Steam cleaning;	11.10	.60	.80		
Spray; Epoxy-mastic (brush or roller)	11.60	.60	.80		
Swing; Interior scaffold (over 30 ft.); Window jacks & safety belts	11.27	.60	.80		
Drywall taping	11.25	.60	.80		

DECISION NO. 0H77-2133

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Open structural steel	$11.31	.60	.80		
Dipping (when permitted)	11.45	.60	.80		
Epoxy-mastic (spray)	12.10	.60	.80		
Paperhangers (furnishing own tools)	12.35	.60	.80		
Coshocton Co.:					
Brush; Paperhangers; Wall washers; Wallpaper cleaners; & Drywall tapers	5.25				
Spray	5.75				
Swing stage; Scaffold & removal of wallpaper	5.50				
Medina Co.:					
Brush; Rollers; & Paperhangers	9.40	.62	.60		
Spray; Drywall finisher & taper	9.90	.62	.60		
Structural steel	9.65	.62	.60		
PLUMBERS; Steamfitters:					
Ashland Co.	12.25	.60	.88		.05
Carroll (Twps. of Ross, Monroe, Union, Lee, Orange, Perry, & Loudon), Coshocton, Holmes, & Tuscarawas Cos.	10.93	.35	.50		.08
Carroll (Rem. of Co.), & Wayne Cos.	11.42	.45	.70		.05
Columbiana Co.	12.31	.75	.50		.03
Medina (N. of St. Rte 18 & Smith Rd. incl. city of Medina) Co.:					
Plumbers	12.28	.75	1.00		.02
Medina (Rem. of Co.) Co.:					
Plumbers	11.46	.79	.90		.05
ROOFERS	10.74	.57	.40		.02
SHEET METAL WORKERS:					
Ashland, Carroll, Coshocton, Holmes, Medina, Tuscarawas, & Wayne Cos.	10.91	.61	.84		.05
Columbiana Co.	11.84	.75	.79		.04
SPRINKLER FITTERS	12.30	.65	.95		.08

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

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DECISION NO. 0H77-2133

FOOTNOTES:
a. 2 paid holidays: B & D
b. 9 paid holidays: A through F, Good Friday, Day after Thanksgiving, & Day before Christmas
c. 6 paid holidays: A through F
d. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
e. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
f. 1 paid holiday: D providing the employee has worked 5 consecutive days before and after the holiday.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Ashland Co.:					
General laborer; Carpenter tender; Concrete handler	$8.46	.65	.40		.05
Mason & Plasterers' tenders; Air & power driven tools; Pipelayers; Dynamite blaster; Mortar mixer; & formsetter	8.66	.65	.40		.05
Gunnite operator	9.06	.65	.40		.05
Carroll Co.:					
Building & construction; Signalmen; Flagmen; Tool cribman; Carpenters' tenders; Finisher tenders; Concrete handler; Utility construction laborer; Guard rail erector	7.96	.55	.40		.05
Bottom men; Scaffold builder; Tunnel laborers; Pipelayers; Air & power driven tools; Burner on demolition; Swinging scaffold; Mucker; Caisson worker; Cofferdam worker; Powder men & dynamite blaster; Creosote workers; Mortar mixers; Form setter; Mason tender; Plasterers' tenders; Hod carrier; Laser beam set-up men	8.16	.55	.40		.05
Gunnite operator	8.56	.55	.40		.05

DECISION NO. 0H77-2133

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Columbiana Co.:					
General laborers; Carpenters' tenders	8.40	.55	.40		.05
Brick & cement mason tenders; Plasterers' tenders; Mortarmen	8.565	.55	.40		.05
Pipelayers; Air tool & power tool operators; Jackhammer ops.	8.60	.55	.40		.05
Coshocton, Holmes, & Tuscarawas Cos.:					
Laborers; Carpenters' tenders; Concrete handlers; Finisher tenders; Guard rail erector	8.17	.65	.40		.05
Bottom men scaffold builders; Air & power driven tools; Burners; Pipelayers; Mason & plasterers' tenders; Hod carriers; Laser beam set up men; Blasters & Dynamite man	8.37	.65	.40		.05
Gunnite operators	8.77	.65	.40		.05
Medina Co.:					
Common laborers; Welders helpers; Carpenters' tenders; Landscape laborers; Mason tender; Concrete bucket tender	9.25	.50	.30		.02
Air driven boring machine; Tamper ops.; Asphalt raker; Paving bed maker; Material mixer; Wire mesh handler; Hook-up man on demolition work; Scaffold erector; Structural precast erector; Power tools-air, gas, or electric	9.40	.50	.30		.02
Pipe layers; Rock drillers; Muckers--Tunnel; Burners; Form setters; Power saws; Jackhammer; Barco type tampers; Bottom man; Hod carrier; Power buggy or Power wheelbarrow	9.45	.50	.30		.02
Gunite nozzlemen; Tunnel miners; Water line caulkers; Dynamite men; Pump hose nozzlemen	9.75	.50	.30		.02

DECISION NO. 0H77-2133

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Wayne Co.:					
Building & Construction; Signalmen; Flagmen; Tool cribman; Carpenters' tenders; Finisher tenders; Concrete handler; Utility construction laborers; Guard rail erector	8.46	.65	.40		.05
Bottom men; Scaffold builder; Tunnel laborers; Pipe layers; Air & power driven tools; Burner on demolition; Swinging scaffold; Mucker; Caisson worker; Cofferdam worker; Powder men & dynamite blaster; Creosote workers; Mortar mixers; Form setter; Mason tender; Plasterers' tenders; Hod carrier; Laser beam set-up men	8.66	.65	.40		.05
Gunnite operator	9.06	.65	.40		.05
POWER EQUIPMENT OPERATORS:					
Ashland, Carroll, Coshocton, Holmes, Tuscarawas, & Wayne Cos.:					
Group A	11.39	.46	1.00		.11
Group B	11.23	.46	1.00		.11
Group C	10.88	.46	1.00		.11
Group D	10.07	.46	1.00		.11
Group E	9.74	.46	1.00		.11
Group F	8.28	.46	1.00		.11
Medina Co.:					
Group A	11.67	.46	1.00		.11
Group B	11.52	.46	1.00		.11
Group C	11.17	.46	1.00		.11
Group D	10.39	.46	1.00		.11
Group E	10.07	.46	1.00		.11
Group F	8.64	.46	1.00		.11

DECISION NO. 0H77-2133

GROUP A - A-frames, air compressor on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, drodge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip forms pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24"wide), tug boat
GROUP B - Asphalt paver, bulldozer, C.M.I. type equipment , endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines, power grader, power scoops, power scrapers, push cat.
GROUP C - Air compressor (pressureizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), Submersible pumps (4" and over discharge), trenchers 24" and under
GROUP D - Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers, (capacity more than one bag), mixers (one bag capacity; side loader), post driver, post hole digger, pavement breaker (hydraulic or cable),road widening trencher rollers,welder operator
GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, clefplanes, concrete spreading mach., crushers, deck hands, drum fireman (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over 4" discharge, hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power)
GROUP F - Oiler, helpers, signalman, inboard & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. pressure, pumps under 4" discharge, submerisble pumps under 4" discharge

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DECISION NO. OH77-2133

POWER EQUIPMENT OPERATORS
Columbiana Co.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$12.01	.65	.80		.14
CLASS II	11.32	.65	.80		.14
CLASS III	10.68	.65	.80		.14
CLASS IV	10.27	.65	.80		.14
CLASS V	10.17	.65	.80		.14
CLASS VI	12.28	.65	.80		.14

CLASS I - Asphalt planer heater; Austin western & similar type; Backhoe; Batch plant-central mix; Batch plant-portable concrete; Berm builder-automatic; Backfiller w/drag attachment; Boat derrick; Boat-tug; Boring mach. attached to tractor; Bullclam; Bulldozer; C.M.I. road builder & similar types; Cable placer & layer; Carrier-straddle; Carryall - scraper or scoop; Chicago boom; Compactor w/blade attached; Concrete spreader finisher comb., Crane; Crane-stationary or climbing; Crane-electric overhead; Crane-side boom; Crane truck; Crane-tower; Derrick-boom; Derrick-car; Diggers-wheel (not trencher or road widener); Double nine; Drag line; Dredge; drill-Kenny or similar type; Electromatic; Fork lift; Frankie pile; Gradall; Grader-power; Gurry; Gurry-self-propelled; High lift; Hoist-monorail; Hoist-stationary & mobile tractor; Hoist-2 or 3; Jackall; Jumbo mach.; Kocal or Kuhlman; land-seagoing vehicle; Loader - Elevating; Loader-front end; Locomotive; Mechanic as welder; Metro clip harvester w/boom; Mucking mach.; Paver-asphalt finishing mach.; Paver-road concrete; Paver-slip form; Place crete mach; Post driver; Power driven hydraulic pumps & jacks; pump crete machine; Regulator-ballast; Reigs-drilling; Shovels; Spikemaster; Stonecrusher; Tie puller & loader; tie tamper; Tractor-double boom; tractor w/attachments; Trucks-boom; Truck-tire-assigned to job; Trench mach.; Tunnel machine (Mark 21 Java or similar); Whiley

CLASS II - Asphalt plant; bending machine; Boring mach.; Chip harvester w/o boom; cleaning mach.- pipeline type; Coating Mach-pipeline type; Concrete belt placer; concrete finisher; Concrete planer or asphalt; Concrete spreader; Elevator; Fork lift walk behind; form line mach.; Grease truck op.; Grout pump; Gunnite mach.; Huck bolting Mach.; Hydraulic scaffold; Paving breaker; Pipe dream; Pot firemen; Power broom; Refrigeration plant; Sargen derrick; Seeding Mach.; Self-propelled mobile vibrator compactor or roller; Hoist-single drum; Soil stabilizer (pump type); Spray cure Mach.-Self propelled; Straw blower mach.; Sub-grader; Tube Finisher or broom C.M.I. or similar type; Tugger Hoist

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CLASS III - Patch plant-job related; Boiler op.; Compressor (125 CFM or over); Curb builder (self-propelled); Generator-steam; Jack-hydraulic driven; Mixer-concrete; Mulching Mach.; Pin puller; Pulverizer; Pump; Road finishing mach. (pull type); roller; Saw-concrete-self propelled; signal man; spray cure mach.-motor powered; Spreader (side driver shoulder attachment); Tractor; Trencher-form; Water Blaster

CLASS IV - Brake man; Compressor under 125 CFM; Conveyor; Conveyor 12 feet or under other than servicing bricklayers; Deck hand; Drill vagon; fireman; Generator sets; Heaters-portable power (2 to 5); Helper-mechanic, Jacks Hydraulic (railroad); Ladavator; Roller (walk behind 1 ton or over); Steam jenny; Syphons; Vibrator-gasoline; Welding machines (2) (fuel burning)

CLASS V - Oiler

CLASS VI - Rigs-pile driving or caisson type

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Ashland Co.:					
Equipment operators; Linemen	$11.35	.45	3%+.30		½%
Line truck drivers	7.38	.45	3%+.30		½%
Groundman	6.81	.45	3%+.30		½%
Carroll (S. of Fox, Harrison, Rose, & Washington Twps.) Co.:					
Linemen; Line equipment ops.; & truck drivers	12.00	6%	9%	8%	½%
Groundman	7.80	6%	9%	8%	½%
Cable splicer	12.40	6%	9%	8%	½%
Carroll (Rem. of Co.), Columbiana (Knox Twp.), Holmes, Tuscarawas (N. of Auburn, Clay, Rush, & York Twps.), & Wayne (S. of Baughman, Chester, Green, & Wayne Twps.) Cos.:					
Cable splicers; Linemen	11.75	.40	3%+.35		½%
Line equipment operators	10.60	.40	3%+.35		½%
Groundmen:					
Under 1 yr's experience	7.05	.40	3%+.35		½%
Over 1 yr's experience	7.50	.40	3%+.35		½%
Truck drivers	7.95	.40	3%+.35		½%

DECISION NO. OH77-2133

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Columbiana (excl. Knox Twp.) Co.:					
Linemen; Cable splicers;					
Operator - pole digging equipment	$13.23	.45	3%		½%
Groundman 1st 6 mos.	6.62	.45	3%		½%
Groundman 2nd 6 mos.	7.94	.45	3%		½%
Groundman 2nd yr.	9.26	.45	3%		½%
Groundman 3rd yr.	9.92	.45	3%		½%
Groundman over 3 yrs.	10.58	.45	3%		½%
Coshocton & Tuscarawas (Rem. of Co.) Cos.:					
Cable splicers; Linemen; Equipment ops.	11.43	.35	3%		½%
Groundmen:					
0 - 6 mos.	5.92	.35	3%		½%
After 6 mos.	6.30	.35	3%		½%
After 12 mos.	6.72	.35	3%		½%
After 18 mos.	7.11	.35	3%		½%
Medina (Nw part) Co.:					
Linemen; Cable splicers; Equipment ops.	12.50	.60	3%+.80		½%
Beginning truck driver groundman; Beginning groundman	5.96	.60	3%+.80		½%
Advanced truck driver (winch) groundman; Groundman (over 2 years' experience)	7.04	.60	3%+.80		½%
Medina (Rem. of Co.), & Wayne (N ½ of Co.):					
Linemen	12.08	.57	3%+.65		½%
Cable splicer	12.88	.57	3%+.65		½%
Truck drivers; Groundmen	6.04	.57	3%+.65		½%
Equipment operators	9.06	.57	3%+.65		½%

SUPERSEDEAS DECISION

STATE: Oklahoma

COUNTY: Statewide (except heavy construction within the city of Muskogee)

DECISION NO. OK77-4216

DATE: Date of Publication

SUPERSEDEAS DECISION NO. OK77-4073 dated April 1, 1977 in 42 FR 16422

DESCRIPTION OF WORK: Construction, alteration, and/or repair of streets, highways, runways, erosion control structures, well drilling, and water and sewer utilities (but does not include building structures on highway rest areas).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air tool man	$4.00				
Asphalt heaterman	4.50				
Asphalt raker	4.60				
Asphalt shoveler	3.85				
Carpenter	5.25				
Carpenter helper	4.50				
Concrete finisher	5.40				
Concrete finisher helper	4.45				
Concrete rubber	4.60				
Electricians	9.00				
Electricians helper	6.30				
Fireman	4.50				
Form builder	5.00				
Form builder helper	4.30				
Form setter	5.00				
Form setter helper	4.30				
Laborer, common	3.50				
Manhole builder	4.85				
Mechanic	5.50				
Mechanic helper	4.50				
Oiler	4.75				
Painter	4.75				
Painter helper	4.00				
Piledriverman	4.50				
Powderman	4.70				
Powderman helper	4.10				
Reinforcing steel setter(paving)	4.50				
Reinforcing steel setter(structure)	4.50				
Reinforcing steel setter helper	3.75				
Structural steel worker	5.10				
Structural steel worker helper	4.35				
Spreader box man	4.00				
Vibrator (hand type)	3.75				
Weighman (truckscales)	3.60				
Welder	5.10				
Welder helper	4.30				
Pipelayers	4.50				

DECISION NO. OK77-4216 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Over 2 tons	$4.25				
2 tons and under	3.85				
Tandem axle & semitrailer	4.50				
Lowboy	4.60				
Transit mix	4.50				
Winch	4.50				
POWER EQUIPMENT OPERATORS:					
Asphalt distributor	4.75				
Asphalt paving machine	3.50				
Bulldozer	5.50				
Cement unloading & machine op.	4.00				
Concrete paving machine	5.25				
Concrete finishing machine	5.00				
Concrete saw operator	4.75				
Concrete batching plant	5.25				
Crane, clamshell, backhoe, derrick, dragline & shovel	5.50				
Crusher & screening plant op.	5.00				
Front end loader (1 cy and less)	4.75				
Front end loader (over 1 cy)	5.25				
Hoist	4.75				
Mixer (over 16 C.F.)	4.85				
Mixer (16 C.F. and less)	4.55				
Mixer (concrete Paving)	5.00				
Motor grader operator	5.50				
Pug mill operator	4.95				
Pump crete	4.50				
Roller (steel wheel)	5.00				
Roller (pneumatic)	4.65				
Scrapers	5.25				
TRACTORS:					
Crawler, 80 HP & less	4.70				
Crawler, over 80 HP	5.00				
Pneumatic, 80 HP & less	4.00				
Pneumatic, over 80 HP	4.25				
Traveling plant(stabilization)	4.80				
Trenching machine	4.90				
Wagon drill	4.65				

DECISION NO. OK77-4216 Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
WELL DRILLING					
ZONE A					
Well Drillers	$4.00				
Well driller helpers	3.00				
ZONE B					
Well Drillers	3.00				
Well drillers helper	2.50				

AREA COVERED BY VARIOUS ZONES

WELL DRILLING:

ZONE A - Adair, Atoka, Beckham, Blaine, Caddo, Canadian, Cherokee, Choctaw, Craig, Custer, Delaware, Dewey, Haskell, Kingfisher, Latimer, Leflore, McCurtain, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Ottawa, Pushmataha, Roger Mills, Rogers, Sequoyah, Tulsa, Wagoner, Washington and Washita Counties.

ZONE B - Alfalfa, Beaver, Bryan, Carter, Cimarron, Cleveland, Coal, Comanche, Cotton, Creek, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Hughes, Jackson, Jefferson, Johnston, Kay, Kiowa, Lincoln, Logan, Love, McClain, Major, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pittsburg, Pontotoc, Pottawatomie, Seminole, Stephens, Texas, Tillman, Woods and Woodward Counties.

[FR Doc.77-26531 Filed 9-1-77;8:45 am]

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NOTICES

INDEX TO GENERAL WAGE DETERMINATION DECISIONS AND MODIFICATIONS AS OF AUGUST 5, 1977

There is set forth below an index to general wage determination decisions and modifications as published in the FEDERAL REGISTER pursuant to the Davis-Bacon and related Acts. The index lists general wage determination decisions and modifications by State and County. An updated index is published on the first Friday of each month.

The index is published for the convenience of the public and the Department of Labor will endeavor to keep it accurate and up to date. In the event the data in the index and published general decisions do not coincide, the published general decisions shall control.

Abbreviations

(B)—Building Construction.
(D)—Dredging.
(F)—Flood Control Construction.
(H)—Heavy Construction.
(Hw)—Highway Construction.
(R)—Residential Construction.
Mod.—Modification.
(HE)—Heavy Engineering.
(LE)—Light Engineering.
(U)—Utility.
(W&S)—Water and Sewer.

Signed at Washington, D.C., this 26th day of August 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

ALABAMA

STATEWIDE
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Decision #AL77-1042 (HW)
41 FR 17753 - 4/1/77
AUTAUGA COUNTY
Decision #AL77-1063 (W&S)
41 FR 17753 - 4/1/77
Decision #AL77-1063 (W&S)
42 FR 24552 - 5/13/77
Decision #AL77-1064 (H)
42 FR 24553 - 5/13/77
BALDWIN COUNTY
Decision #AL77-1072 (H)
42 FR 28729 - 6/3/77
Decision #AL77-1089 (R)
42 FR 35537 - 7/8/77
BARBOUR COUNTY
(D,HW) - See Statewide
Decision #AL77-1097 (R)
42 FR 38035 - 7/29/77
(H,W&S) - See Autauga County
(D,HW) - See Statewide
BIBB COUNTY
(H, W&S) - See Autauga County
(D,HW) - See Statewide
BLOUNT COUNTY
Decision #AL77-1075 (R)
42 FR 28756 - 6/3/77
Mod. #1 - 42 FR 38836 - 7/29/77
Decision #AL77-1066 (W&S)
42 FR 24554 - 5/13/77
Decision #AL77-1067 (H)
42 FR 24554 - 5/13/77
BULLOCK COUNTY
(D,HW) - See Statewide
BUTLER COUNTY
(R) - See Barbour County
(H, W&S) - See Autauga County
(D,HW) - See Statewide
CALHOUN COUNTY
(D,HW) - See Statewide
Decision #AL77-1071 (W&S)
42 FR 28728 - 6/3/77
Decision #AL77-1083 (H)
42 FR 32458 - 6/24/77
Decision #AL76-1125 (B)
41 FR 47713 - 10/29/76
Mod. #1 - 42 FR 8925 - 2/11/77
(D,HW) - See Statewide
CHAMBERS COUNTY
(H, W&S) - See Autauga County
(D,HW) - See Statewide
CHEROKEE COUNTY
(H, W&S) - See Blount County
(D,HW) - See Statewide
CHILTON COUNTY
(H, W&S) - See Autauga County
(D,HW) - See Statewide
CHOCTAW COUNTY
(D,HW) - See Statewide
(D,LW) - See Statewide
(H) - See Baldwin County

ALABAMA (Cont'd.)

CLARKE COUNTY
(D, HW) - See Statewide
(H,R) - See Baldwin County
CLAY COUNTY
(H, W&S) - See Blount County
(D,HW) - See Statewide
CLEBURNE COUNTY
(H, W&S) - See Blount County
(D,HW) - See Statewide
COFFEE COUNTY
(R) - See Barbour County
(H, W&S) - See Autauga County
(D,HW) - See Statewide
COLBERT COUNTY
Decision #AL75-1046 (R)
40 FR 17451 - 4/18/75
Decision #AL77-1079 (B)
42 FR 39860 - 8/5/77
(H, W&S) - See Blount County
(D,HW) - See Statewide
CONECUH COUNTY
(D,HW) - See Statewide
(H,R) - See Baldwin County
COOSA COUNTY
(H, W&S) - See Autauga County
(D,HW) - See Statewide
COVINGTON COUNTY
(H, W&S) - See Autauga County
(D,LW) - See Statewide
CRENSHAW COUNTY
(H, W&S) - See Autauga County
(D,HW) - See Statewide
CULLMAN COUNTY
Decision #AL77-1048 (R)
42 FR 22067 - 4/29/77
(D,HW) - See Statewide
DALE COUNTY
(H, W&S) - See Blount County
(R) - See Barbour County
(H,W&S) - See Autauga County
(D,HW) - See Statewide
DALLAS COUNTY
(H, W&S) - See Autauga County
(D,HW)- See Statewide
DE KALB COUNTY
(H, W&S) - See Blount County
(D,HW) - See Statewide
ELMORE COUNTY
(H, W&S) - See Autauga County
(D,HW)- See Statewide
ESCAMBIA COUNTY
(D,HW) - See Statewide
ETOWAH COUNTY
(H,R) - See Baldwin County
(D,HW)-See Statewide
(H) - See Calhoun County

ALABAMA (Cont'd.

FAYETTE COUNTY
(D,HW) - See Statewide
(H, W&S) - See Blount County
FRANKLIN COUNTY
(D,HW) - See Statewide
(H, W&S) - See Blount County
(R) - See Colbert County
GENEVA COUNTY
(D,HW) - See Statewide
(H, W&S) - See Autauga County
(H) - See Calhoun County
(D,HW) - See Statewide
(W&S) - See Calhoun County
GREENE COUNTY
(D,HW) - See Statewide
(H, W&S) - See Autauga County
(R) - See Barbour County
HALE COUNTY
(D,HW) - See Statewide
(H, W&S) - See Autauga County
(R) - See Barbour County
HENRY COUNTY
(D,HW) - See Statewide
(H, W&S) - See Autauga County
HOUSTON COUNTY
(R) - See Barbour County
(D,HW) - See Statewide
(H, W&S) - See Autauga County
JACKSON COUNTY
(D,HW) - See Statewide
(H, W&S) - See Blount County
(R) - See Cullman County
JEFFERSON COUNTY
Decision #AL77-1086 (B)
42 FR 34153 - 7/1/77
(D) - See Statewide
(R) - See Blount County
(HW) - See Statewide
LAMAR COUNTY
(H, W&S) - See Calhoun County
(D,HW) - See Statewide
LAUDERDALE COUNTY
(B,R) - See Colbert County
(D,HW) - See Statewide
(H, W&S) - See Blount County
LAWRENCE COUNTY
Decision #AL77-1025 (B)
42 FR 12577 - 3/4/77
Mod. #1 - 42 FR 20048 - 4/15/77
Mod. #2 - 42 FR 24566 - 5/13/77
(D,HW) - See Statewide
(R) - See Colbert County
(H, W&S) - See Blount County
LEE COUNTY
(H, W&S) - See Autauga County
(D,HW) - See Statewide
LIMESTONE COUNTY
(B) - See Lawrence County
(D,HW) - See Statewide

ALABAMA (Cont'd)

LIMESTONE COUNTY (Cont'd.)
(R) - See Cullman County
(H, W&S) - See Blount County
LOWNDES COUNTY
(D,HW) - See Statewide
(H, W&S) - See Autauga County
MACON COUNTY
(D,HW) - See Statewide
(H, W&S) - See Autauga County
MADISON COUNTY
(H, W&S) - See Autauga County
(D,HW) - See Statewide
Decision #AL77-1090 (R)
42 FR 35509 - 7/8/77
Decision #AL77-1040 (B)
42 FR 17752 - 4/1/77
Mod. #1 - 42 FR 28731 - 6/3/77
Mod. #2 - 42 FR 37700 - 7/22/77
Mod. #3 - 42 FR 38836 - 7/29/77
(D,HW) - See Statewide
(H, W&S) - See Blount County
MARENGO COUNTY
(H) - See Baldwin County
(D,HW) - See Statewide.
MARION COUNTY
(R) - See Colbert County
(D,HW) - See Statewide
(H, W&S) - See Blount County
MARSHALL COUNTY
(H, W&S) - See Blount County
(R) - See Madison County
(D,HW) - See Statewide.
MOBILE COUNTY
Decision #AL77-1085 (B)
42 FR 37715 - 7/22/77
(D,HW) - See Statewide
(H,R) - See Baldwin County
MONROE COUNTY
(D,R) - See Baldwin County
(D,HW) - See Statewide
(H, W&S) - See Autauga County
MONTGOMERY COUNTY
Decision #AL76-1002 (R)
41 FR 1693 - 1/9/76
Mod. #1 - 41 FR 36365 - 8/27/76
Decision #AL76-1138 (B)
41 FR 53241 - 12/3/76
MORGAN COUNTY
(B) - See Lawrence County
(D,HW) - See Statewide
(R) - See Cullman County
(H, W&S) - See Blount County
PERRY COUNTY
(D,HW) - See Statewide
PICKENS COUNTY
(H, W&S) - See Autauga County
(D,HW) - See Statewide
(H, W&S) - See Calhoun County

ALABAMA (Cont'd)

PIKE COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Autauga County
RANDOLPH COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Blount County
RUSSELL COUNTY
(R) - See Barbour County
(D,Hw) - See Statewide
(H, W&S) - See Autauga County
SAINT CLAIR COUNTY
(D,Hw) - See Statewide
(R) - See Blount County
(H, W&S) - See Calhoun County
SHELBY COUNTY
(B) - See Jefferson County
(D,Hw) - See Statewide
(R) - See Blount County
(H, W&S) - See Calhoun County
SUMTER COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Calhoun County
TALLADEGA COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Calhoun County
(R) - See Blount County
TALLAPOOSA COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Autauga County
TUSCALOOSA COUNTY
Decision #AL77-1053 (B)
42 FR 23294 - 5/6/77
(D,Hw) - See Statewide
(H, W&S) - See Calhoun County
WALKER COUNTY
(D,Hw) - See Statewide
(R) - See Blount County
(H, W&S) - See Calhoun County
WASHINGTON COUNTY
(D,Hw) - See Statewide
(H,R) - See Baldwin County
WILCOX COUNTY
(D,Hw) - See Statewide
(H) - See Baldwin County
WINSTON COUNTY
(D,Hw) - See Statewide
(R) - See Colbert County
(H, W&S) - See Blount County

ALASKA

STATEWIDE
Decision #AK77-5052 (B,H,Hw,D,R)
42 FR 26115 - 5/20/77
Mod. #1 - 42 FR 34138 - 7/1/77
Mod. #2 - 42 FR 36735 - 7/15/77
Mod. #3 - 42 FR 38836 - 7/29/77

ARIZONA

STATEWIDE
Decision #AZ77-505B (B,H,Hw)
42 FR 31056 - 6/17/77
Mod. #1 - 42 FR 35511 - 7/8/77
Mod. #2 - 42 FR 37700 - 7/22/77
APACHE COUNTY
(Navajo and Hopi Indian
Reservations in Apache, Coconino, Navajo Cos.)
(B,H,Hw) - See Statewide
COCHISE COUNTY
(B,H,Hw) - See Statewide
COCONINO COUNTY
(B,H,Hw) - See Statewide
GILA COUNTY
(B,H,Hw) - See Statewide
GRAHAM COUNTY
(B,H,Hw) - See Statewide
GREENLEE COUNTY
(B,H,Hw) - See Statewide
MARICOPA COUNTY
(B,H,Hw) - See Statewide
Decision #AZ77-5059 (R)
42 FR 31065 - 6/17/77
Mod. #1 - 42 FR 35511 - 7/8/77
MOHAVE COUNTY
(B,H,Hw) - See Statewide
NAVAJO COUNTY
(B,H,Hw) - See Statewide
PIMA COUNTY
(B,H,Hw) - See Statewide
Decision #AZ77-5060 (R)
42 FR 31070 - 6/17/77
Mod. #1 - 42 FR 35511 - 7/8/77
Mod. #2 - 42 FR 37701 - 7/22/77
PINAL COUNTY
(B,H,Hw) - See Statewide
SANTA CRUZ COUNTY
(B,H,Hw) - See Statewide
YAVAPAI COUNTY
(B,H,Hw) - See Statewide
YUMA COUNTY
(B,H,Hw) - See Statewide

ARKANSAS

STATEWIDE
Decision #AR77-4072 (Construction
Alteration, and/or repair of
streets, highways, runways,
and water & sewer utilities)
42 FR 17754 - 4/1/77
Mod. #1 - 42 FR 23267 - 5/6/77
Decision #AR76-5090 (D)
41 FR 44609 - 10/8/76
Mod. #1 - 42 FR 18788 - 4/8/77
ARKANSAS COUNTY
Decision #AR76-5041 (F)
41 FR 19017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
(D) - See Statewide
ASHLEY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BAXTER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BENTON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BOONE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BRADLEY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CALHOUN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CARROLL COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CHICOT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CLARK COUNTY
(B) - See Garland County
(B,H,Hw) - See Statewide
(F) - See Arkansas County
(D) - See Statewide

ARKANSAS (Cont'd.

CLAY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CLEBURNE COUNTY
(B))- See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CLEVELAND COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
COLUMBIA COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CONWAY COUNTY
Decision #AR77-4106 (B)
42 FR 27563 - 5/27/77
Mod. #1 - 42 FR 28732 - 6/3/77
Mod. #2 - 42 FR 31045 - 6/17/77
Mod. #3 - 42 FR 34138 - 7/1/77
Mod. #4 - 42 FR 37701 - 7/22/77
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CRAIGHEAD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CRAWFORD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
Decision #AR77-4114 (B)
42 FR 30106 - 6/10/77
Mod. #1 - 42 FR 34139 - 7/1/77
Mod. #2 - 42 FR 36735 - 7/15/77
Mod. #3 - 42 FR 37702 - 7/22/77
CRITTENDEN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CROSS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
DALLAS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
DESHA COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd)

DREW COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
FAULKNER COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
FRANKLIN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
FULTON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
GARLAND COUNTY
Decision #AR77-4112 (B)
42 FR 30104 - 6/10/77
Mod. #1 - 42 FR 34138 - 7/1/77
Mod. #2 - 42 FR 37702 - 7/22/77
(D,H,Hw) - See Statewide
(F) - See Arkansas County
GRANT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
GREENE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
HEMPSTEAD COUNTY
(D,H,Hw) - See Statewide
(F(- See Arkansas County
HOT SPRING COUNTY
(B) - See Garland County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
HOWARD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
INDEPENDENCE COUNTY
(H,Hw) (D) - See Statewide
(F) - See Arkansas County
IZARD COUNTY
(H,Hw) (D) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd.)

JACKSON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
JEFFERSON COUNTY
(D,H,Hw) - See Statewide
(F)- See Arkansas County
JOHNSON COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
LAFAYETTE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LAWRENCE COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
LEE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LINCOLN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LITTLE RIVER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LOGAN COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
LONOKE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MADISON COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
MARION COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

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ARKANSAS (Cont'd)

MILLER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MISSISSIPPI COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MONROE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MONTGOMERY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
NEVADA COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
NEWTON COUNTY
(D,H,Hw) - See Statewide
(F) - Arkansas County
OUACHITA COUNTY
(B) - See Union County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PERRY COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PHILLIPS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PIKE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
POINSETT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
POLK COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
POPE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (CONT'D)

PRAIRIE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PULASKI COUNTY
(D,H,Hw)- See Statewide
(F) - See Arkansas County
Decision #AR77-4107 (B)
42 FR 28757 - 6/3/77
Mod. #1 - 42 FR 31045 - 6/17/77
Mod. #2 - 42 FR 34138 - 7/1/77
Mod. #3 - 42 FR 37701 - 7/22/77
Decision #AR77-4034 (R)
42 FR 10223 - 2/18/77
(D,H,Hw) - See Statewide
(F) - See Arkansas County
RANDOLPH COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
ST. FRANCIS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SALINE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SCOTT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SEARCY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SEBASTIAN COUNTY
(F) - See Arkansas County
(D,H,Hw) - See Statewide
(B) - See Crawford County
SEVIER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SHARP COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (CONT'D)

STONE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
UNION COUNTY
(F) - See Arkansas County
(D,H,Hw) - See Statewide
Decision #AR77-4147 (B)
42 FR 34155 - 7/1/77
Mod. #1 - 42 FR 37702 - 7/22/77
Mod. #2 - 42 FR 39843 - 8/5/77
VAN BUREN COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
WASHINGTON COUNTY
(B) - See Crawford County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
WHITE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
WOODRUFF COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
YELL COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

CALIFORNIA

ALAMEDA COUNTY
Decision #CA77-5039 (B,H,Hw,D)
42 FR 20991 - 4/22/77
Mod. #1 - 42 FR 30081 - 6/10/77
Mod. #2 - 42 FR 35512 - 7/8/77
Mod. #3 - 42 FR 37703 - 7/22/77
Mod. #4 - 42 FR 38836 - 7/29/77
Decision #CA77-5040 (R)
42 FR 21012 - 4/22/77
Mod. #1 - 42 FR 30082 - 6/10/77
Mod. #2 - 42 FR 35515 - 7/8/77
Mod. #3 - 42 FR 37704 - 7/22/77
ALPINE COUNTY
(B,D,H,Hw,R) - See Alameda County
AMADOR COUNTY
(B,D,H,Hw,R) - See Alameda County
BUTTE COUNTY
(B,H,Hw,D) - See Alameda County
CALAVERAS COUNTY
(B,H,Hw,D,R) - See Alameda County
COLUSA COUNTY
(B,H,Hw,D) - See Alameda County
CONTRA COSTA COUNTY
(B,D,H,Hw,R) - See Alameda County
DELNORTE COUNTY
(B,D,H,Hw,R) - See Alameda County
ELDORADO COUNTY
(B,D,H,Hw,R) - See Alameda County
FRESNO COUNTY
(B,D,H,Hw,R) - See Alameda County
GLENN COUNTY
(B,H,Hw,D) - See Alameda County
HUMBOLDT COUNTY
(B,D,H,Hw,R) - See Alameda County
IMPERIAL COUNTY
Decision #CA77-5041 (B,D,H,Hw)
42 FR 23295 - 5/6/77
Mod. #1 - 42 FR 28732 - 6/3/77
Mod. #2 - 42 FR 36735 - 7/15/77
Decision #CA77-5042 (R)
42 FR 23306 - 5/6/77
Mod. #1 - 42 FR 28733 - 6/3/77
Mod. #2 - 42 FR 36736 - 7/15/77
INYO COUNTY
(B,H,Hw,D) - See Imperial County
KERN COUNTY
(B,D,H,Hw,R) - See Imperial County

CALIFORNIA (Cont'd)

KINGS COUNTY
(B,H,Hw,D) - See Alameda County
LAKE COUNTY
(B,H,Hw,D) - See Alameda County
LASSEN COUNTY
(B,H,Hw,D) - See Alameda County
LOS ANGELES COUNTY
(B,D,H,Hw,R) - See Imperial County
MADERA COUNTY
(B,H,Hw,D) - See Alameda County
MARIN COUNTY
(B,H,Hw,D,R) - See Alameda County
MARIPOSA COUNTY
(B,D,H,Hw,R) - See Alameda County
MENDOCINO COUNTY
(B,H,Hw, D) - See Alameda County
MERCED COUNTY
(B,D,H,Hw,R) - See Alameda County
MODOC COUNTY
(B,H,Hw,D) - See Alameda County
MONO COUNTY
(B,H,Hw,D) - See Imperial County
MONTEREY COUNTY
(B,D,H,Hw,R) - See Alameda County
NAPA COUNTY
(B,D,H,Hw,R) - See Alameda County
NEVADA COUNTY
(B,D,H,Hw,R) - See Alameda County
ORANGE COUNTY
(B,D,H,Hw,R) - See Imperial County
PLACER COUNTY
(B,D,H,Hw,R)- See Alameda County
PLUMAS COUNTY
(B,H,Hw,D) - See Alameda County
RIVERSIDE COUNTY
(B,D,H,Hw,R) - See Imperial County
SACRAMENTO COUNTY
(B,D,H,Hw,R) - See Alameda County
SAN BENITO COUNTY
(B,H,Hw,D,R) - See Alameda County
SAN BERNARDINO COUNTY
(B,D,H,Hw,R) - See Imperial County
SAN DIEGO COUNTY
Decision #CA77-5043 (B,H,Hw,D)
42 FR 26122 - 6/20/77
Mod. #1 - 42 FR 28733 - 6/3/77
Mod. #2 - 42 FR 34139 - 7/1/77
Mod. #3 - 42 FR 36737 - 7/15/77

CALIFORNIA (Cont'd.)

SAN DIEGO COUNTY (Cont'd.)
Decision #CA77-5044 (R)
42 FR 26130 - 5/20/77
Mod. #1 - 42 FR 28735 - 6/3/77
Mod. #2 - 42 FR 34139 - 7/1/77
Mod. #3 - 42 FR 36737 - 7/15/77
SAN FRANCISCO COUNTY
(B,D,Hw,H,R) - See Alameda County
SAN JOAQUIN COUNTY
(B,D,H,Hw,R) - See Alameda County
SAN LUIS OBISPO COUNTY
(B,H,Hw,D,R) - See Imperial County
SAN MATEO COUNTY
(B,D,H,Hw,R) - See Alameda County
SANTA BARBARA COUNTY
(B,D,H,Hw,R) - See Imperial County
SANTA CLARA COUNTY
(B,D,Hw,H,R) - See Alameda County
SANTA CRUZ COUNTY
(B,D,H,Hw,R) - See Alameda County
SHASTA COUNTY
(B,D,H,Hw) - See Alameda County
SIERRA COUNTY
(B,D,H,Hw) - See Alameda County
SISKIYOU COUNTY
(B,H,Hw,D) - See Alameda County
SOLANO COUNTY
(B,D,H,Hw,R) - See Alameda County
SONOMA COUNTY
(B,D,Hw,H,R) - See Alameda County
STANISLAUS COUNTY
(B,H,Hw,D) - See Alameda County
SUTTER COUNTY
(B,D,H,Hw,R) - See Alameda County
TEHAMA COUNTY
(B,D,H,Hw,R) - See Alameda County
TRINITY COUNTY
(B,H,Hw,D) - See Alameda County
TULARE COUNTY
(B,H,Hw,D) - See Alameda County
TUOLUMNE COUNTY
(B,D,H,Hw,R) - See Alameda County
VENTURA COUNTY
(B,D,H,Hw,R) - See Imperial County
YOLO COUNTY
(B,H,Hw,D,R) - See Alameda County
YUBA COUNTY
(B,H,Hw,D,R) - See Alameda County

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COLORADO

STATEWIDE
Decision #CO77-5066 (H,Hw)
42 FR 34157 - 7/1/77
Mod. #1 - 42 FR 38837 - 7/29/77
ADAMS COUNTY
Decision #CO77-5067 (B)
42 FR 34165 - 7/1/77
Mod. #1 - 42 FR 38838 - 7/29/77
Decision #CO75-5061 (R)
40 FR 22744 - 5/23/75
Mod. #1 - 41 FR 10818 - 3/12/76
(H,Hw) - See Statewide
ALAMOSA COUNTY
(H,Hw) - See Statewide
ARAPAHOE COUNTY
(H,Hw) - See Statewide
(B,R) - See Adams County
ARCHULETA COUNTY
(H,Hw) - See Statewide
BACA COUNTY
(H,Hw) - See Statewide
BENT COUNTY
(H,Hw) - See Statewide
BOULDER COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
CHAFFEE COUNTY
(H,Hw) - See Statewide
CHEYENNE COUNTY
(H,Hw) - See Statewide
CLEAR CREEK COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
CONEJOS COUNTY
(H,Hw) - See Statewide
COSTILLA COUNTY
(H,Hw) - See Statewide
CROWLEY COUNTY
(H,Hw) - See Statewide
CUSTER COUNTY
(H,Hw) - See Statewide
DELTA COUNTY
Decision #CO77-5070 (B)
42 FR 34102 - 7/1/77
Mod. #1 - 42 FR 38839 - 7/29/77
(H,Hw) - See Statewide
DENVER COUNTY
(H,Hw) - See Statewide
(B,R) - See Adams County
DOLORES COUNTY
(H,Hw) - See Statewide
DOUGLAS COUNTY
(H,Hw) - See Statewide
(B) - See Adams County
EAGLE COUNTY
(B) - See Adams County
(H,Hw) - See Statewide

COLORADO (Cont'd.

ELBERT COUNTY
(H,Hw) - See Statewide
(B) - See Adams County
EL PASO COUNTY
Decision #CO77-5068 (B)
42 FR 34172 - 7/1/77
Mod. #1 - 42 FR 38838 - 7/29/77
(H,Hw) - See Statewide
FREMONT COUNTY
(H,Hw) - See Statewide
GARFIELD COUNTY
(B) - See Delta County
(H,Hw) - See Statewide
GILPIN COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
GRAND COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
GUNNISON COUNTY
(B) - See Delta County
(H,Hw) - See Statewide
HINDSDALE COUNTY
(H,Hw) - See Statewide
HUERFANO COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
(H,Hw) - See Statewide
(B,R) - See Adams County
KIOWA COUNTY
(H,Hw) - See Statewide
KIT CARSON COUNTY
(H,Hw) - See Statewide
LAKE COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
LA PLATA COUNTY
(H,Hw) - See Statewide
LARIMER COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
LAS ANIMAS COUNTY
Decision #CO77-5069 (B)
42 FR 34177 - 7/1/77
Mod. #1 - 42 FR 38838 - 7/29/77
(H,Hw) - See Statewide
LINCOLN COUNTY
(H,Hw) - See Statewide
LOGAN COUNTY
(H,Hw) - See Statewide
MESA COUNTY
(B) - See Delta County
(H,Hw) - See Statewide
MINERAL COUNTY
(H,Hw) - See Statewide

COLORADO (Cont'd.)

MOFFAT COUNTY
(H,Hw) - See Statewide
MONTEZUMA COUNTY
(H,Hw) - See Statewide
MONTROSE COUNTY
(B) - See Delta County
(H,Hw) - See Statewide
MORGAN COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
OTERO COUNTY
(B) - See Las Animas County
(H,Hw) - See Statewide
OURAY COUNTY
(H,Hw) - See Statewide
PARK COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
PHILLIPS COUNTY
(H,Hw) - See Statewide
PITKIN COUNTY
(B) - See Delta County
(H,Hw) - See Statewide
PROWERS COUNTY
(H,Hw) - See Statewide
PUEBLO COUNTY
(B) - See Las Animas County
(H,Hw) - See Statewide
RIO BLANCO COUNTY
(H,Hw) - See Statewide
RIO GRANDE COUNTY
(H,Hw) - See Statewide
ROUTT COUNTY
(H,Hw) - See Statewide
SAGUACHE COUNTY
(H,Hw) - See Statewide
SAN JUAN COUNTY
(H,Hw) - See Statewide
SAN MIGUEL COUNTY
(H,Hw) - See Statewide
SEDGWICK COUNTY
(H,Hw) - See Statewide
SUMMIT COUNTY
(B) - Adams County
(H,Hw) - See Statewide
TELLER COUNTY
(H,Hw) - See Statewide
WASHINGTON COUNTY
(H,Hw) - See Statewide
WELD COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
YUMA COUNTY
(H,Hw) - See Statewide

CONNECTICUT

FAIRFIELD COUNTY
Decision #CT76-2172 (B,H,Hw,R)
41 FR 56574 - 12/28/76
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
HARTFORD COUNTY
Decision #CT75-2067 (R)
40 FR 18304 - 4/25/75
Decision #CT76-2173 (B,H,Hw,R)
41 FR 56581 - 12/28/76
Mod. #1 - 42 FR 30083 - 6/10/77
Mod. #2 - 42 FR 37704 - 7/22/77
LITCHFIELD COUNTY
(B,H,Hw,R) - See Fairfield County
MIDDLESEX COUNTY
(B,H,Hw) - See Hartford County
(D) - See Fairfield County
NEW HAVEN COUNTY
Decision #CT77-3045 (R)
42 FR 20055 - 4/15/77
Mod. #1 - 42 FR 36737 - 7/15/77
(B,H,Hw) - See Hartford County
(D) - See Fairfield County
NEW LONDON COUNTY
(B,H,Hw,D,R) - See Fairfield County
TOLLAND COUNTY
(B,H,Hw) - See Hartford County
WINDHAM COUNTY
(B,H,Hw,D,R) - See Fairfield County

DELAWARE

STATEWIDE
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
Decision #DE77-3042 (B,H,Hw)
42 FR 17756 - 4/1/77
Mod. #1 - 42 FR 30084 - 6/10/77
Mod. #2 - 42 FR 36738 - 7/15/77
Mod. #3 - 42 FR 39843 - 8/5/77
KENT COUNTY
(B,H,Hw,D) - See Statewide
NEW CASTLE COUNTY
(B,H,Hw,D) - See Statewide
SUSSEX COUNTY
(B,H,Hw,D) - See Statewide

FLORIDA

ALACHUA COUNTY
Decision #FL75-1080 (Hw)
40 FR 41358 - 9/5/75
Mod. #1 - 41 FR 23885 - 6/11/76
Decision #FL77-1028 (B)
42 FR 15262 - 3/18/77
Mod. #1 - 42 FR 18788 - 4/8/77
Mod. #2 - 42 FR 22069 - 4/29/77
Mod. #3 - 42 FR 28738 - 6/3/77
Mod. #4 - 42 FR 39843 - 8/5/77
BAKER COUNTY
Decision #FL75-1081 (Hw)
40 FR 41359 - 9/5/75
BAY COUNTY
Decision #FL76-1059 (B)
41 FR 20130 - 5/14/76
Mod. #1 - 41 FR 23885 - 6/11/76
Mod. #2 - 42 FR 10206 - 2/18/77
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Mod. #1 - 42 FR 18788 - 4/8/77
Decision #FL76-1021 (Hw)
41 FR 4749 - 1/30/76
Mod. #1 - 41 FR 23884 - 6/11/76

FLORIDA (Cont'd.)

BRADFORD COUNTY
(Hw) - See Alachua County
BREVARD COUNTY (Entire County)
Decision #GA77-5035 (D)
42 FR 13756 - 3/11/77
Decision #FL76-1105 (R)
41 FR 40365 - 9/17/76
(Cape Kennedy, Kennedy Space Flight Center and Patrick AFB only)
Decision #FL77-1065 (B,H,Hw)
42 FR 24575 - 5/13/77
Mod. #1 - 42 FR 27556 - 5/27/77
Mod. #2 - 42 FR 28739 - 6/3/77
Mod. #3 - 42 FR 31045 - 6/17/77
Mod. #4 - 42 FR 39845 - 8/5/77
(Remainder of County)
Decision #FL76-1108 (B)
41 FR 43555 - 10/1/76
Decision #FL76-1082 (Hw)
41 FR 41360 - 9/5/76
BROWARD COUNTY
Decision #FL75-1084 (Hw)
40 FR 41362 - 9/5/75
Mod. #1 - 40 FR 53168 - 11/14/75
Decision #FL77-1091 (B,H)
42 FR 35538 - 7/8/77
Mod. #1-42 FR 39845 - 8/5/77
(D) - See Brevard County
CALHOUN COUNTY
(D) - See Brevard County
(Hw) - See Alachua County
CHARLOTTE COUNTY
Decision #FL75-1083 (Hw)
40 FR 41361 - 9/5/75
Mod. #1 - 40 FR 53168 - 11/14/75
Mod. #2 - 41 FR 53229 - 12/3/76
Mod. #3 - 42 FR 12564 - 3/4/77
(D) - See Brevard County
CITRUS COUNTY
Decision #FL75-1104 (R)
40 FR 49949 - 10/24/75
(Hw) - See Alachua County
(D) - See Brevard County
CLAY COUNTY
(Hw) - See Baker County
COLLIER COUNTY
(D) - See Brevard County
(Hw) - See Charlotte County
COLUMBIA COUNTY
(Hw) - See Alachua County
(B) - See Alachua County
DADE COUNTY
Decision #FL76-1102 (H)
41 FR 40365 - 9/17/76
Decision #FL77-1029 (B)
42 FR 15264 - 3/18/77
Mod. #1 - 42 FR 17737 - 4/1/77
Mod. #2 - 42 FR 28738 - 6/3/77
Decision #FL77-1003 (R)
42 FR 4081 - 1/21/77
Mod. #1 - 42 FR 38839 - 7/29/77
Decision #FL76-1141 (Hw)
41 FR 56589 - 12/28/76
(D) - See Brevard County

FLORIDA (cont'd)

DESOTO COUNTY
Decision #AR-4065 (R)
39 FR 43468 - 12/13/74
(Hw) - See Charlotte County
DIXIE COUNTY
(Hw) - See Alachua County
(D) - See Brevard County
DUVAL COUNTY
Decision #FL76-1098 (R)
41 FR 37469 - 9/3/76
Decision #FL77-1021 (B)
42 FR 10226 - 2/18/77
Mod. #1 - 42 FR 13715 - 3/11/77
Mod. #2 - 42 FR 17736 - 4/1/77
Mod. #3 - 42 FR 22068 - 4/29/77
Mod. #4 - 42 FR 28738 - 6/3/77
(D) - See Brevard County
(Hw) - See Baker County
ESCAMBIA COUNTY
Decision #FL76-1133 (B)
41 FR 52233 - 11/26/76
Mod. #1 - 41 FR 54101 - 12/10/76
Mod. #2 - 42 FR 3133 - 1/14/77
Decision #FL76-1017 (R)
41 FR 3589 - 1/23/76
(D,Hw) - See Bay County
FLAGLER COUNTY
(D) - See Brevard County
(Hw) - See Baker County
FRANKLIN COUNTY
(D) - See Bay County
(Hw) - See Alachua County
GADSDEN COUNTY
Decision #FL77-1004 (R)
42 FR 3141 - 1/14/77
(Hw) - See Alachua County
GILCHRIST COUNTY
(Hw) - See Alachua County
GLADES COUNTY
(Hw) - See Charlotte County
GULF COUNTY
(D) - See Bay County
(Hw) - See Bay County
HAMILTON COUNTY
(Hw) - See Alachua County
HARDEE COUNTY
(R) - See DeSoto County
(Hw) - See Charlotte County
HENDRY COUNTY
(Hw) - See Charlotte County
HERNANDO COUNTY
(D) - See Brevard County
(R) - See Citrus County
(Hw) - See Alachua County
HIGHLANDS COUNTY
(R) - See DeSoto County
(Hw) - See Charlotte County
HILLSBOROUGH COUNTY
Decision #FL76-1014 (B)
41 FR 3587 - 1/23/76
Mod. #1 - 41 FR 22718 - 6/4/76
Mod. #2 - 41 FR 37473 - 9/3/76

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GEORGIA (Cont'd.)

CHATTAHOOCHEE COUNTY
Decision #GA75-1039 (B)
40 FR 16471 - 4/11/75
Mod. #1 - 40 FR 24455 - 6/6/75
Mod. #2 - 40 FR 49942 - 10/24/75
Mod. #3 - 41 FR 10318 - 3/12/76
Mod. #4 - 41 FR 15232 - 4/9/76
Mod. #5 - 41 FR 24033 - 6/18/76
Decision #GA76-1035 (R)
41 FR 9758 - 3/5/76
Mod. #1 - 42 FR 15249 - 3/18/77
CHATTOOGA COUNTY
(HW) - See Statewide
CHEROKEE COUNTY
(HW) - See Statewide
CLARKE COUNTY
(HW) - See Statewide
CLAY COUNTY
(R) - See Barrow County
(HW) - See Statewide
CLAYTON COUNTY
Decision #GA77-1005 (B)
42 FR 5621 - 1/28/77
Mod. #1 - 42 FR 10206 - 2/18/77
Mod. #2 - 42 FR 16344 - 3/25/77
Mod. #3 - 42 FR 17737 - 4/1/77
Mod. #4 - 42 FR 23268 - 5/6/77
Mod. #5 - 42 FR 34140 - 7/1/77
Decision #GA76-1033 (R)
41 FR 8642 - 2/27/76
Mod. #1 - 41 FR 15232 - 4/9/76
(HW) - See Statewide
CLINCH COUNTY
(HW) - See Statewide
COBB COUNTY
(R) - See Clayton County
(HW) - See Statewide
COFFEE COUNTY
(HW) - See Statewide
COLQUITT COUNTY
(HW) - See Statewide
COLUMBIA COUNTY
(R) - See Burke County
(HW) - See Statewide
COOK COUNTY
(HW) - See Statewide
COWETA COUNTY
(HW) - See Statewide
CRAWFORD COUNTY
(HW) - See Statewide
CRISP COUNTY
(HW) - See Statewide
DECATUR COUNTY
(HW) - See Statewide
(R) - See Baker County
(HW) - See Statewide

GEORGIA (Cont'd.)

DEKALB COUNTY
(B,R) - See Clayton County
(HW) - See Statewide
DODGE COUNTY
(HW) - See Statewide
DOOLY COUNTY
(HW) - See Statewide
DOUGHERTY COUNTY
(HW) - See Statewide
DOUGLAS COUNTY
(R) - See Baker County
(HW) - See Statewide
EARLY COUNTY
(HW) - See Statewide
ECHOLS COUNTY
(HW) - See Statewide
EFFINGHAM COUNTY
(R) - See Bryan County
(HW) - See Statewide
ELBERT COUNTY
(HW) - See Statewide
EMANUEL COUNTY
(R) - See Barrow County
(HW) - See Statewide
EVANS COUNTY
(R) - See Bryan County
(HW) - See Statewide
FANNIN COUNTY
(HW) - See Statewide
FAYETTE COUNTY
(HW) - See Statewide
FLOYD COUNTY
(HW) - See Statewide
FORSYTH COUNTY
(HW) - See Statewide
FRANKLIN COUNTY
(HW) - See Statewide
FULTON COUNTY
(B,R) - See Clayton County
(HW) - See Statewide
GILMER COUNTY
(HW) - See Statewide
GLASCOCK COUNTY
(HW) - See Statewide
GLYNN COUNTY
(R) - See Burke County
(HW) - See Statewide
GORDON COUNTY
(HW) - See Statewide
GRADY COUNTY
(HW) - See Statewide
GREENE COUNTY
(R) - See Baker County
(HW) - See Statewide
GWINNETT COUNTY
(R) - See Clayton County
(HW) - See Statewide
HABERSHAM COUNTY
(HW) - See Statewide

GEORGIA (Cont'd.)

HALL COUNTY
Decision #GA77-1068 (B)
42 FR 26136 - 5/20/77
(HW) - See Statewide
HANCOCK COUNTY
(R) - See Statewide
(HW) - See Burke County
HARALSON COUNTY
(HW) - See Statewide
HARRIS COUNTY
(HW) - See Statewide
Decision #AR-4038 (HW)
39 FR 34984 - 9/27/74
Mod. #1 - 39 FR 36711 - 10/11/74
Mod. #2 - 40 FR 23629 - 5/30/76
Mod. #3 - 41 FR 7883 - 2/20/76
Mod. #4 - 42 FR 7025 - 2/4/77
Mod. #5 - 42 FR 17737 - 4/1/77
Mod. #6 - 42 FR 35516 - 7/8/77
APPLING COUNTY
(HW) - See Statewide
ATKINSON COUNTY
(HW) - See Statewide
BACON COUNTY
(HW) - See Statewide

GEORGIA

STATEWIDE
Decision #AR-4038 (HW)
39 FR 34984 - 9/27/74
Mod. #1 - 39 FR 36711 - 10/11/74
Mod. #2 - 40 FR 23629 - 5/30/76
Mod. #3 - 41 FR 7883 - 2/20/76
Mod. #4 - 42 FR 7025 - 2/4/77
Mod. #5 - 42 FR 17737 - 4/1/77
Mod. #6 - 42 FR 35516 - 7/8/77
Mod. #7 - 41 FR 11722 - 3/19/76
39 FR 20912 - 6/14/74
Decision #AQ-4124 (B)
(HW) - See Statewide
LAURENS COUNTY
(HW) - See Statewide
LANIER COUNTY
(HW) - See Statewide
LAMAR COUNTY
(HW) - See Statewide
JONES COUNTY
(HW) - See Statewide
JOHNSON COUNTY
(R) - See Burke County
(HW) - See Statewide
JENKINS COUNTY
(R) - See Burke County
(HW) - See Statewide
JEFFERSON COUNTY
(HW) - See Statewide
JEFF DAVIS COUNTY
(HW) - See Statewide
JASPER COUNTY
(R) - See Barrow County
(HW) - See Statewide
JACKSON COUNTY
(HW) - See Statewide
IRWIN COUNTY
(HW) - See Statewide
HOUSTON COUNTY
(HW) - See Statewide
HENRY COUNTY
(HW) - See Statewide
HEARD COUNTY
(R) - See Barrow County
(HW) - See Statewide
HART COUNTY
(R) - See Chattahoochee County
(HW) - See Statewide

GEORGIA (Cont'd.)

HARRIS COUNTY
(HW) - See Statewide
(R) - See Chattahoochee County
HART COUNTY
(HW) - See Statewide
(R) - See Barrow County
HEARD COUNTY
(HW) - See Statewide
HENRY COUNTY
(HW) - See Statewide
HOUSTON COUNTY
(HW) - See Statewide
Decision #GA76-1123 (B)
41 FR 46804 - 10/22/76
(HW) - See Statewide
IRWIN COUNTY
(HW) - See Statewide
JACKSON COUNTY
(HW) - See Statewide
(R) - See Barrow County
JASPER COUNTY
(HW) - See Statewide
JEFF DAVIS COUNTY
(HW) - See Statewide
JEFFERSON COUNTY
(HW) - See Statewide
JENKINS COUNTY
(R) - See Burke County
(HW) - See Statewide
JOHNSON COUNTY
(R) - See Burke County
(HW) - See Statewide
JONES COUNTY
(HW) - See Statewide
LAMAR COUNTY
(HW) - See Statewide
LANIER COUNTY
(HW) - See Statewide
LAURENS COUNTY
(HW) - See Statewide
Decision #AQ-4124 (B)
39 FR 20912 - 6/14/74
Mod. #1 - 41 FR 11722 - 3/19/76

GEORGIA (Cont'd.)

LIBERTY COUNTY
(D,R) - See Bryan County
(HW) - See Statewide
LINCOLN COUNTY
(HW) - See Statewide
LONG COUNTY
(R) - See Burke County
(HW) - See Statewide
LOWNDES COUNTY
(R) - See Bryan County
(HW) - See Statewide
LUMPKIN COUNTY
(HW) - See Statewide
MACON COUNTY
(R) - See Chattahoochee County
(HW) - See Statewide
MADISON COUNTY
(R) - See Barrow County
(HW) - See Statewide
MARION COUNTY
(R) - See Chattahoochee County
(HW) - See Statewide
MCDUFFIE COUNTY
(HW) - See Statewide
MCINTOSH COUNTY
(D) - See Bryan County
(HW) - See Statewide
MACON COUNTY
(HW) - See Statewide
MADISON COUNTY
(R) - See Chattahoochee County
(HW) - See Statewide
MERIWETHER COUNTY
(R) - See Chattahoochee County
(HW) - See Statewide
MILLER COUNTY
(HW) - See Statewide
MITCHELL COUNTY
(R) - See Baker County
(HW) - See Statewide
MONROE COUNTY
(R) - See Baker County
(HW) - See Statewide
MONTGOMERY COUNTY
(HW) - See Statewide
MORGAN COUNTY
(HW) - See Statewide
(R) - See Barrow County
MURRAY COUNTY
(HW) - See Statewide
MUSCOGEE COUNTY
(B,R) - See Chattahoochee County
(HW) - See Statewide
NEWTON COUNTY
(R) - See Barrow County
(HW) - See Statewide
OCONEE COUNTY
(HW) - See Statewide
(R) - See Barrow County
OGLETHORPE COUNTY
(HW) - See Statewide
(R) - See Barrow County
PAULDING COUNTY
(HW) - See Statewide

FLORIDA (cont'd)

HIGHLANDS COUNTY
(R) - See DeSoto County
(HW) - See Charlotte County
HILLSBOROUGH COUNTY
Decision #FL76-1014 (B)
41 FR 3507 - 1/23/76
Mod. #1 - 41 FR 22718 - 6/4/76
Mod. #2 - 41 FR 37473 - 9/3/76
(HW) - See Brevard Co. (Remainder of Co.)
(D) - See Brevard County
(R) - See Citrus County
HOLMES COUNTY
(HW) - See Alachua County
INDIAN RIVER COUNTY
(D) - See Brevard County
(HW) - See Brevard Co. (Remainder of Co.)
JACKSON COUNTY
(HW) - See Alachua County
JEFFERSON COUNTY
(D) - See Bay County
(R) - See Gadsden County
(HW) - See Alachua County
LAFAYETTE COUNTY
(H,Hw) - See Alachua County
LAKE COUNTY
Decision #FL75-1066 (R)
40 FR 23332 - 7/3/75
(HW) - See Alachua County
LEE COUNTY
(D) - See Brevard County
(HW) - See Charlotte County
LEON COUNTY
Decision #FL77-1049 (B)
42 FR 22080 - 4/29/77
Mod. #1 - 42 FR 28739 - 6/3/77
Mod. #2 - 42 FR 39845 - 8/5/77
LEVY COUNTY
(D) - See Brevard County
(R) - See Gadsden County
(HW) - See Alachua County
LIBERTY COUNTY
(HW) - See Alachua County
MADISON COUNTY
(R) - See Gadsden County
(HW) - See Alachua County
MANATEE COUNTY
(D) - See Brevard County
(HW) - See Brevard Co. (Remainder of Co.)
MARION COUNTY
(HW) - See Alachua County
MARTIN COUNTY
Decision #FL77-1034 (B)
42 FR 17761 - 4/1/77
Mod. #1 - 42 FR 22069 - 4/29/77
Mod. #2 - 42 FR 28738 - 6/3/77
Mod. #3 - 42 FR - 8/5/77
(D) - See Brevard County
(HW) - See Brevard Co. (Remainder of Co.)

FLORIDA (cont'd)

MONROE COUNTY
(D) - See Brevard County
(HW) - See Charlotte County
NASSAU COUNTY
(D) - See Brevard County
(HW) - See Baker County
OKALOOSA COUNTY
(B) - See Escambia County
(D,HW) - See Bay County
Decision #FL76-1016 (R)
41 FR 3589 - 1/23/76
(HW) - See Santa Rosa County
OKEECHOBEE COUNTY
(HW) - See Charlotte County
ORANGE COUNTY
Decision #FL77-1098 (B)
42 FR 39845 - 8/5/77
(HW) - See Brevard Co. (Remainder of Co.)
OSCEOLA COUNTY
(R) - See Lake County
(HW) - See Brevard Co. (Remainder of Co.
PALM BEACH COUNTY
(R) - See Lake County
(D) - See Martin County
(B) - See Martin County
(D) - See Brevard County
(HW) - See Hillsborough County

FLORIDA (cont'd.)

SEMINOLE COUNTY
(HW) - See Brevard Co. (Remainder of Co.)
(R) - See Lake County
SUMTER COUNTY
(R) - See Citrus County
(HW) - See Alachua County
SUWANNEE COUNTY
Decision #FL77-1061 (B)
42 FR 20053 - 5/20/77
(HW) - See Alachua County
TAYLOR COUNTY
(HW) - See Alachua County
(D) - See Brevard County
(R) - See Gadsden County
UNION COUNTY
(HW) - See Alachua County
VOLUSIA COUNTY
(D) - See Brevard County (Entire County)
(Cape Kennedy, Kennedy Space Flight Center
and Cape Canaveral Air Force Only)
(B,H,Hw) - See Brevard County (Cape Kennedy
etc.)
(Remainder of County)
Decision #FL77-1044 (B)
42 FR 17764 - 4/1/77
Mod. #1 - 42 FR 22070 - 4/29/77
Mod. #2 - 42 FR 28739 - 6/3/77
Mod. #3 - 42 FR 39845 - 8/5/77
(Remainder of County)
(HW) - See Brevard County
WAKULLA COUNTY
(D) - See Bay County
(HW) - See Alachua County
WALTON COUNTY
(B) - See Escambia County
(D,HW) - See Bay County
(R) - See Okaloosa County
WASHINGTON COUNTY
(HW) - See Alachua County

GEORGIA (Cont'd.)

BAKER COUNTY
Decision #GA77-1031 (R)
42 FR 16355 - 3/25/77
(HW) - See Statewide
BALDWIN COUNTY
(HW) - See Statewide
BANKS COUNTY
(HW) - See Statewide
BARROW COUNTY
Decision #AQ-410B (R)
39 FR 14041 - 4/26/74
(HW) - See Statewide
BARTOW COUNTY
(HW) - See Statewide
BEN HILL COUNTY
(HW) - See Statewide
BERRIEN COUNTY
(HW) - See Statewide
BIBB COUNTY
Decision #GA76-1122 (B)
41 FR 46803 - 10/22/76
(HW) - See Statewide
BLECKLEY COUNTY
(HW) - See Statewide
BRANTLEY COUNTY
(HW) - See Statewide
BROOKS COUNTY
(HW) - See Statewide
BRYAN COUNTY
(HW) - See Statewide
Decision #GA76-1050 (R)
41 FR 16362 - 4/16/76
Decision #GA77-5035 (D)
42 FR 13756 - 3/11/77
BULLOCH COUNTY
(R) - See Bryan County
(HW) - See Statewide
BURKE COUNTY
Decision #GA76-1015 (R)
41 FR 3590 - 1/23/76
(HW) - See Statewide
BUTTS COUNTY
(HW) - See Statewide
CALHOUN COUNTY
(HW) - See Statewide
(R) - See Baker County
CAMDEN COUNTY
(D) - See Bryan County
(HW) - See Statewide
CANDLER COUNTY
(HW) - See Statewide
CARROLL COUNTY
(HW) - See Statewide
CATOOSA COUNTY
(HW) - See Statewide
CHARLTON COUNTY
Decision #AR-4037 (R)
39 FR 33919 - 9/20/74
Mod. #1 - 40 FR 3083 - 1/17/75
Mod. #2 - 41 FR 28461 - 7/9/76
(HW) - See Statewide

GEORGIA (Cont'd.

PEACH COUNTY
(Hw) - See Statewide
PICKENS COUNTY
(Hw) - See Statewide
PIERCE COUNTY
(Hw) - See Statewide
(R) - See Charlton County
PIKE COUNTY
(Hw) - See Statewide
POLK COUNTY
(Hw) - See Statewide
PULASKI COUNTY
(Hw) - See Statewide
PUTNAM COUNTY
(Hw) - See Statewide
QUITMAN COUNTY
(Hw) - See Statewide
(R) - See Baker County
RABUN COUNTY
(Hw) - See Statewide
RANDOLPH COUNTY
(Hw) - See Statewide
(R) - See Baker County
RICHMOND COUNTY
Decision #GA76-1119 (B)
41 FR 45800 - 10/15/76
Mod. #1 - 42 FR 5613 - 1/28/77
Mod. #2 - 42 FR 20043 - 4/15/77
Mod. #3 - 42 FR 23268 - 5/6/77
Mod. #4 - 42 FR 34140 - 7/1/77
(Hw) - See Statewide
(R) - See Burke County
ROCKDALE COUNTY
(Hw) - See Statewide
SCHLEY COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
SCREVEN COUNTY
(R) - See Bryan County
(Hw) - See Statewide
SEMINOLE COUNTY
(Hw) - See Statewide
(R) - See Baker County
SPALDING COUNTY
(Hw) - See Statewide
STEPHENS COUNTY
(Hw) - See Statewide
STEWART COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
SUMTER COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TALBOT COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TALIAFERRO COUNTY
(Hw) - See Statewide
(R) - See Burke County
TATTNALL COUNTY
(Hw) - See Statewide
TAYLOR COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County

GEORGIA (Cont'd.)

TELFAIR COUNTY
(Hw) - See Statewide
TERRELL COUNTY
(Hw) - See Statewide
(R) - See Baker County
THOMAS COUNTY
(Hw) - See Statewide
TIFT COUNTY
(Hw) - See Statewide
TOOMBS COUNTY
(Hw) - See Statewide
TOWNS COUNTY
(Hw) - See Statewide
TREUTLEN COUNTY
(Hw) - See Statewide
TROUP COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TURNER COUNTY
(Hw) - See Statewide
TWIGGS COUNTY
(Hw) - See Statewide
UNION COUNTY
(Hw) - See Statewide
UPSON COUNTY
(Hw) - See Statewide
WALKER COUNTY
(Hw) - See Statewide
WALTON COUNTY
(Hw) - See Statewide
(R) - See Barron County
WARE COUNTY
Decision #GA75-1113 (B)
40 FR 58034 - 12/12/75
(R) - See Charlton County
(Hw) - See Statewide
WARREN COUNTY
(Hw) - See Statewide
(R) - See Burke County
WASHINGTON COUNTY
(Hw) - See Statewide
(R) - See Burke County
WAYNE COUNTY
(Hw) - See Statewide
WEBSTER COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
WHEELER COUNTY
(Hw) - See Statewide
WHITE COUNTY
(Hw) - See Statewide
WHITEFIELD COUNTY
(Hw) - See Statewide
WILCOX COUNTY
(Hw) - See Statewide
WILKES COUNTY
(R) - See Burke County
(Hw) - See Statewide
WILKINSON COUNTY
(Hw) - See Statewide
WORTH COUNTY
(Hw) - See Statewide

GUAM

GUAM
Decision #GU77-5026 (B,H,Hw,R)
42 FR 13757 - 3/11/77

HAWAII

STATEWIDE
Decision #HI77-5030 (B,H,Hw,D,R)
42 FR 12579 - 3/4/77
Mod. #1 - 42 FR 16345 - 3/25/77
Mod. #2 - 42 FR 20040 - 4/15/77
Mod. #3 - 42 FR 22071 - 4/29/77
Mod. #4 - 42 FR 24567 - 5/13/77

IDAHO

STATEWIDE
Decision #ID77-5045 (B,H,Hw)
42 FR 24577 - 5/13/77
Mod. #1 - 42 FR 27556 - 5/27/77
Mod. #2 - 42 FR 28740 - 6/3/77
Mod. #3 - 42 FR 34141 - 7/1/77
Mod. #4 - 42 FR 35516 - 7/8/77
ADA COUNTY
(B,H,Hw) - See Statewide
ADAMS COUNTY
(B,H,Hw) - See Statewide

IDAHO (Cont'd.)

BANNOCK COUNTY
(B,H,Hw) - See Statewide
BEAR LAKE COUNTY
(B,H,Hw) - See Statewide
BENEWAH COUNTY
(B,H,Hw) - See Statewide
BINGHAM COUNTY
(B,H,Hw) - See Statewide
BLAINE COUNTY
(B,H,Hw) - See Statewide
BOISE COUNTY
(B,H,Hw) - See Statewide
BONNER COUNTY
(B,H,Hw) - See Statewide
BONNEVILLE COUNTY
(B,H,Hw) - See Statewide
BOUNDARY COUNTY
(B,H,Hw) - See Statewide
BUTTE COUNTY
(B,H,Hw) - See Statewide
CAMAS COUNTY
(B,H,Hw) - See Statewide
CANYON COUNTY
(B,H,Hw) - See Statewide
CARIBOU COUNTY
(B,H,Hw) - See Statewide
CASSIA COUNTY
(B,H,Hw) - See Statewide
CLARK COUNTY
(B,H,Hw) - See Statewide
CLEARWATER COUNTY
(B,H,Hw) - See Statewide
CUSTER COUNTY
(B,H,Hw) - See Statewide
ELMORE COUNTY
(B,H,Hw) - See Statewide
FRANKLIN COUNTY
(B,H,Hw) - See Statewide
FREMONT COUNTY
(B,H,Hw) - See Statewide
GEM COUNTY
(B,H,Hw) - See Statewide
GOODING COUNTY
(B,H,Hw) - See Statewide
IDAHO COUNTY
(B,H,Hw) - See Statewide
JEFFERSON COUNTY
(B,H,Hw) - See Statewide
JEROME COUNTY
(B,H,Hw) - See Statewide

IDAHO (Cont'd)

KOOTENAI COUNTY
(B,H,Hw) - See Statewide
LATAH COUNTY
(B,H,Hw) - See Statewide
LEMHI COUNTY
(B,H,Hw) - See Statewide
LEWIS COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
MADISON COUNTY
(B,H,Hw) - See Statewide
MINIDOKA COUNTY
(B,H,Hw) - See Statewide
NEZ PERCE COUNTY
(B,H,Hw) - See Statewide
ONEIDA COUNTY
(B,H,Hw) - See Statewide
OWYHEE COUNTY
(B,H,Hw) - See Statewide
PAYETTE COUNTY
(B,H,Hw) - See Statewide
POWER COUNTY
(B,H,Hw) - See Statewide
SHOSHONE COUNTY
(B,H,Hw) - See Statewide
TETON COUNTY
(B,H,Hw) - See Statewide
TWIN FALLS COUNTY
(B,H,Hw) - See Statewide
VALLEY COUNTY
(B,H,Hw) - See Statewide
WASHINGTON COUNTY
(B,H,Hw) - See Statewide

ILLINOIS

ADAMS COUNTY
Decision #IL76-2120 (B)
41 FR 43570 - 10/1/76
Mod. #1 - 42 FR 12565 - 3/4/77
Mod. #2 - 42 FR 17738 - 4/1/77
Mod. #3 - 42 FR 28741 - 6/3/77
Mod. #4 - 42 FR 35517 - 7/8/77
Decision #IL76-2149 (H,Hw)
41 FR 54128 - 12/10/76
Mod. #1 - 42 FR 3135 - 1/14/76
Mod. #2 - 42 FR 7025 - 2/4/77
Mod. #3 - 42 FR 10210 - 2/18/77
Mod. #4 - 42 FR 28744 - 6/3/77
Mod. #5 - 42 FR 35521 - 7/8/77
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77

ILLINOIS

ALEXANDER COUNTY
(D) - See Adams County
Decision #IL76-2132 (D)
41 FR 47729 - 10/29/76
Mod. #1 - 41 FR 55262 - 12/17/76
Mod. #2 - 42 FR 10207 - 2/18/77
Mod. #3 - 42 FR 12566 - 3/4/77
Mod. #4 - 42 FR 17739 - 4/1/77
Mod. #5 - 42 FR 23270 - 5/6/77
Mod. #6 - 42 FR 28743 - 6/3/77
Mod. #7 - 42 FR 35519 - 7/8/77
Decision #IL76-2154 (H,Hw)
41 FR 53256 - 12/3/76
Mod. #1 - 41 FR 55263 - 12/17/76
Mod. #2 - 42 FR 10210 - 2/18/77
Mod. #3 - 42 FR 28744 - 6/3/77
BOND COUNTY
Decision #IL77-2018 (H,Hw)
42 FR 10228 - 2/18/77
Decision #IL76-2080 (B)
41 FR 34475 - 8/13/76
Mod. #1 - 42 FR 4062 - 1/21/77
BOONE COUNTY
Decision #IL76-2133 (B)
41 FR 46831 - 10/22/76
Mod. #1 - 42 FR 17739 - 4/1/77
Mod. #2 - 42 FR 12567 - 3/4/77
Mod. #3 - 42 FR 17739 - 4/1/77
Mod. #4 - 42 FR 23270 - 5/6/77
Mod. #5 - 42 FR 28743 - 6/3/77
Mod. #6 - 42 FR 35519 - 7/8/77
Decision #IL76-2141 (H,Hw)
41 FR 47733 - 10/29/76
Mod. #1 - 42 FR 7027 - 2/4/77
Mod. #2 - 42 FR 10208 - 2/18/77
Mod. #3 - 42 FR 39847 - 8/5/77
BROWN COUNTY
(B,H,Hw) - See Adams County
(D) - See Adams County
BUREAU COUNTY
Decision #IL76-2125 (B)
41 FR 44620 - 10/8/76
Mod. #1 - 42 FR 5614 - 1/28/77
Mod. #2 - 42 FR 12565 - 3/4/77
Mod. #3 - 42 FR 23269 - 5/6/77
Mod. #4 - 42 FR 28741 - 6/3/77
Mod. #5 - 42 FR 39846 - 8/5/77
Decision #IL76-2142 (H,Hw)
41 FR 50126 - 11/12/76
Mod. #1 - 42 FR 10208 - 2/18/77
Mod. #2 - 42 FR 23270 - 5/6/77
Mod. #3 - 42 FR 35520 - 7/8/77
CALHOUN COUNTY
(B,H,Hw) - See Bond County
(D) - See Adams County
CARROLL COUNTY
(D) - See Adams County
(H,Hw) - See Statewide

ILLINOIS (Cont'd.)

CASS COUNTY
Decision #IL76-2129 (B)
41 FR 44625 - 10/8/76
Mod. #1 - 42 FR 3135 - 1/14/77
Mod. #2 - 42 FR 39846 - 8/5/77
(H,Hw) - See Adams County
(D) - See Adams County
CHAMPAIGN COUNTY
Decision #IL77-2113 (B)
42 FR 39877 - 8/5/77
Decision #IL76-2145 (H,Hw)
41 FR 53251 - 12/3/76
Mod. #1 - 42 FR 1679 - 1/7/77
Mod. #2 - 42 FR 4062 - 1/21/77
Mod. #3 - 42 FR 10210 - 2/18/77
Mod. #4 - 42 FR 28744 - 6/3/77
Mod. #5 - 42 FR 35520 - 7/8/77
CHRISTIAN COUNTY
(H,Hw) - See Adams County
Decision #IL76-2128 (B)
41 FR 46823 - 10/22/76
Mod. #1 - 42 FR 4063 - 1/21/77
Mod. #2 - 42 FR 10207 - 2/18/77
Mod. #3 - 42 FR 17738 - 4/1/77
Mod. #4 - 42 FR 23269 - 5/6/77
Mod. #5 - 42 FR 28742 - 6/3/77
Mod. #6 - 42 FR 35518 - 7/8/77
CLARKE COUNTY
Decision #IL77-2030 (B)
42 FR 12584 - 3/4/77
Mod. #1 - 42 FR 17739 - 4/1/77
Mod. #2 - 42 FR 28742 - 6/3/77
Mod. #3 - 42 FR 39848 - 8/5/77
(H,Hw) - See Champaign County
CLAY COUNTY
Decision #IL76-2153 (H,Hw)
41 FR 52253 - 11/26/76
Mod. #1 - 41 FR 55263 - 12/17/76
Mod. #2 - 42 FR 4063 - 1/21/77
Mod. #3 - 42 FR 10210 - 2/18/77
Mod. #4 - 42 FR 12567 - 3/4/77
Mod. #5 - 42 FR 39848 - 8/5/77
(B) - See Clarke County
CLINTON COUNTY
(B,H,Hw) - See Bond County
COLES COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
COOK COUNTY
Decision #IL77-2100 (B,H,Hw,R)
42 FR 35540 - 7/8/77
Decision #IL77-5038 (D)
42 FR 18802 - 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
CRAWFORD COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
CUMBERLAND COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County

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ILLINOIS (Cont'd.)

DEKALB COUNTY
(H,Hw) - See Boone County
DEWITT COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
DOUGLAS COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
DU PAGE COUNTY
Decision #IL77-2068 (B,R)
42 FR 30103 - 6/10/77
Mod. #1 - 42 FR 35522 - 7/8/77
Mod. #2 - 42 FR 39848 - 8/5/77
EDGAR COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
EDWARDS COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
EFFINGHAM COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
FAYETTE COUNTY
(H,Hw) - See Clay County
FORD COUNTY
Decision #IL76-2124 (B)
41 FR 44616 - 10/8/76
Mod. #1 - 42 FR 5614 - 1/28/77
Mod. #2 - 42 FR 28741 - 6/3/77
Mod. #3 - 42 FR 39846 - 8/5/77
Decision #IL76-2143 (H,Hw)
41 FR 50133 - 11/12/76
Mod. #1 - 42 FR 10209 - 2/18/77
Mod. #2 - 42 FR 23271 - 5/6/77
Mod. #3 - 42 FR 28743 - 6/3/77
Mod. #4 - 42 FR 39847 - 8/5/77
FRANKLIN COUNTY
(B,H,Hw) - See Alexander County
FULTON COUNTY
Decision #IL77-2029 (B)
42 FR 11206 - 2/25/77
Mod. #1 - 42 FR 35522 - 7/8/77
Decision #IL76-2144 (H,Hw)
41 FR 52247 - 11/26/76
Mod. #1 - 42 FR 10209 - 2/18/77
Mod. #2 - 42 FR 23271 - 5/6/77
Mod. #3 - 42 FR 35520 - 7/8/77
GALLATIN COUNTY
(B,H,Hw) - See Alexander County
(D) - See Adams County
GREENE COUNTY
(B,H,Hw) - See Bond County
(D) - See Adams County
GRUNDY COUNTY
(H,Hw) - See Ford County
HAMILTON COUNTY
(B) - See Alexander County
(H,Hw) - See Clay County
HANCOCK COUNTY
(D) - See Adams County
(H,Hw) - See Fulton County
HARDIN COUNTY
(D) - See Adams County
(B,H,Hw) - See Alexander County
HENDERSON COUNTY
(B) - See Rock Island County
(D) - See Adams County
(H,Hw) - See Fulton County

ILLINOIS (Cont'd)

HENRY COUNTY
(B) - See Rock Island County
(H,Hw) - See Bureau County
IROQUOIS COUNTY
(B,H,Hw) - See Ford County
JACKSON COUNTY
(B,H,Hw) - See Alexander County
(D) - See Adams County
JASPER COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
JEFFERSON COUNTY
(B) - See Alexander County
(H,Hw) - See Clay County
JERSEY COUNTY
(B,H,Hw) - See Bond County
(D) - See Adams County
JO DAVIESS COUNTY
(D) - See Adams County
(H,Hw) - See Bureau County
JOHNSON COUNTY
(B,H,Hw) - See Alexander County
KANE COUNTY
(B,R) - See Du Page County
(H,Hw) - See Boone County
KANKAKEE COUNTY
(B,H,Hw) - See Ford County
KENDALL COUNTY
(H,Hw) - See Boone County
KNOX COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
LAKE COUNTY
(B,R) - See Du Page County
(D) - See Cook County
(H,Hw) - See Boone County
LA SALLE COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
LAWRENCE COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
LEE COUNTY
(H,Hw) - See Bureau County
LIVINGSTON COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
LOGAN COUNTY
Decision #IL76-2126 (B)
41 FR 44630 - 10/8/76
Mod. #1 - 42 FR 3135 - 1/14/77
Mod. #2 - 42 FR 28741 - 6/3/77
Mod. #3 - 42 FR 35517 - 7/8/77
(H,Hw) - See Adams County
MCDONOUGH COUNTY
(H,Hw) - See Fulton County
MCHENRY COUNTY
(H,Hw) - See Fulton County
Mc LEAN COUNTY
Decision #IL76-2127 (B)
41 FR 44627 - 10/8/76
Mod. #1 - 41 FR 52178 - 11/26/76
Mod. #2 - 42 FR 28742 - 6/3/77
Mod. #3 - 42 FR 35518 - 7/8/77
Mod. #4 - 42 FR 39846 - 8/5/77
(H,Hw) - See Ford County

ILLINOIS (Cont'd)

MACON COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
MACOUPIN COUNTY
(H,Hw) - See Bond County
MADISON COUNTY
Decision #IL76-2078 (B,R)
41 FR 34492 - 8/13/76
Mod. #1 - 42 FR 4062 -1/21/77
Mod. #2 - 42 FR 17738 - 4/1/77
Mod. #3 - 42 FR 23268 - 5/6/77
Mod. #4 - 42 FR 28740 - 6/3/77
(D) - See Adams County
(H,Hw) - See Bond County
MARION COUNTY
(B) - See Alexander County
(H,Hw) - See Clay County
MARSHALL COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
MASON COUNTY
(B) - See Logan County
(H,Hw) - See Adams County
MASSAC COUNTY
(D) - See Adams County
(B,H,Hw) - See Alexander County
MENARD COUNTY
(B) - See Logan County
(H,Hw) - See Adams County
MERCER COUNTY
(B) - See Rock Island County
(D) - See Adams County
(H,Hw) - See Fulton County
MONROE COUNTY
(B,H,Hw) - See Bond County
(D) - See Adams County
MONTGOMERY COUNTY
(B,H,Hw) - See Bond County
MORGAN COUNTY
(B) - See Cass County
(H,Hw) - See Adams County
(D) - See Adams County
MOULTRIE COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
OGLE COUNTY
(H,Hw) - See Bureau County
PEORIA COUNTY
Decision #IL77-2112 (B,D,R)
42 FR 39873 - 8/5/77
(H,Hw) - See Fulton County
PERRY COUNTY
(B,H,Hw) - See Alexander County
PIATT COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
PIKE COUNTY
(B,H,Hw) - See Adams County
(D) - See Adams County
POPE COUNTY
(B,H,Hw) - See Alexander County
(D) - See Adams County
PULASKI COUNTY
(B,H,Hw) - See Alexander County
(D) - See Adams County
PUTNAM COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County

ILLINOIS (Cont'd)

RANDOLPH COUNTY
(B) - See Bond County
(D) - See Adams County
(H,Hw) - See Alexander County
RICHLAND COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
ROCK ISLAND COUNTY
Decision #IL76-2130 (B)
41 FR 47724 - 10/29/76
Mod. #1 - 42 FR 7026 - 2/4/77
Mod. #2 - 42 FR 12566 - 3/4/77
Mod. #3 - 42 FR 23269 - 5/6/77
Mod. #4 - 42 FR 28742 - 6/3/77
Mod. #5 - 42 FR 35518 - 7/8/77
(D) - See Adams County
(H,Hw) - See Bureau County
SAINT CLAIR COUNTY
(B,R) - See Madison County
(H,Hw) - See Bond County
(D) - See Adams County
SALINE COUNTY
(B,H,Hw) - See Alexander County
SANGAMON COUNTY
Decision #IL76-2131 (B,R)
41 FR 46829 - 10/22/76
Mod. #1 - 42 FR 3135 - 1/14/77
Mod. #2 - 42 FR 23269 - 5/6/77
Mod. #3 - 42 FR 28742 - 6/3/77
Mod. #4 - 42 FR 35518 - 7/8/77
(H,Hw) - See Adams County
SCHUYLER COUNTY
(H,Hw) - See Adams County
SCOTT COUNTY
(B) - See Scott County
(D,H,Hw) - See Adams County
SHELBY COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
STARK COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
STEPHENSON COUNTY
(H,Hw) - See Bureau County
TAZEWELL COUNTY
(B,R,D) - See Peoria County
(H,Hw) - See Fulton County
UNION COUNTY
(B,H,Hw) - See Alexander County
(D) - See Adams County
VERMILLION COUNTY
(H,Hw) - See Champaign County
(B) - See Champaign County
WABASH COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
WARREN COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
WASHINGTON COUNTY
(B,H,Hw) - See Bond County
WAYNE COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
WHITE COUNTY
(D) - See Adams County
(B) - See Alexander County
(H,Hw) - See Clay County

ILLINOIS (Cont'd.)

WHITESIDE COUNTY
(H,Hw) - See Bureau County
(D) - See Adams County
WILL COUNTY
(B,R) - See Du Page County
(H,Hw) - See Boone County
WILLIAMSON COUNTY
Decision #IL76-2048 (B)
41 FR 16369 - 4/16/76
Mod. #1 - 41 FR 20124 - 5/14/76
WINNEBAGO COUNTY
(B) - See Boone County
(H,Hw) - See Bureau County
WOODFORD COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County

INDIANA

STATEWIDE
Decision #IN77-2083 (H,Hw)
42 FR 24506 - 5/13/77
Mod. #1 - 42 FR 27557 - 5/27/77
Mod. #2 - 42 FR 32449 - 6/24/77
Mod. #3 - 42 FR 38840 - 7/29/77
ADAMS COUNTY
Decision #IN77-2017 (D)
42 FR 8920 - 2/11/77
Mod. #1 - 42 FR 12568 - 3/4/77
Mod. #2 - 42 FR 24570 - 5/13/77
Mod. #3 - 42 FR 32448 - 6/24/77
Mod. #4 - 42 FR 39850 - 8/5/77
(H,Hw) - See Statewide
ALLEN COUNTY
Decision #IN77-2101 (B)
42 FR 32460 - 6/24/77
Mod. #1 - 42 FR 39850 - 8/5/77
Decision #IN77-2007 (R)
42 FR 8940 - 2/11/77
(H,Hw) - See Statewide
BARTHOLOMEW COUNTY
Decision #IN77-2093 (R)
42 FR 27551 - 5/27/77
(B) - See Allen County
(H,Hw) - See Statewide
BENTON COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
BLACKFORD COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
BOONE COUNTY
Decision #IN77-2016 (B)
42 FR 8915 - 2/11/77
Mod. #1 - 42 FR 24570 - 5/13/77
Mod. #2 - 42 FR 32447 - 6/24/77
Mod. #3 - 42 FR 39849 - 8/5/77
(H,Hw) - See Statewide
BROWN COUNTY
Decision #IN77-2084 (B)
42 FR 24555 - 5/13/77
Mod. #1 - 42 FR 27557 - 5/27/77
Mod. #2 - 42 FR 32451 - 6/24/77
Mod. #3 - 42 FR 39851 - 8/5/77
(H,Hw) - See Statewide
CARROLL COUNTY
(H,Hw) - See Statewide
CASS COUNTY
(H,Hw) - See Statewide
CLARK COUNTY
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77
Decision #IN77-2009 (B)
42 FR 8910 - 2/11/77
Mod. #1 - 42 FR 24569 - 5/13/77
Mod. #2 - 42 FR 32447 - 6/24/77
Mod. #3 - 42 FR 39849 - 8/5/77
(H,Hw) - See Statewide
CLAY COUNTY
Decision #IN77-2020 (R)
42 FR 10196 - 2/18/77
(H,Hw) - See Statewide
CLINTON COUNTY
(H,Hw) - See Statewide
CRAWFORD COUNTY
(B) - See Brown County

INDIANA (Cont'd.

CRAWFORD COUNTY (CONT'D)
(D) - See Clark County
(H,Hw) - See Statewide
DAVIESS COUNTY
Decision #IN77-2021 (R)
42 FR 10196 - 2/18/77
(H,Hw) - See Statewide
DEARBORN COUNTY
(B) - See Allen County
(D) - See Clark County
(H,Hw) - See Statewide
DECATUR COUNTY
Decision #IN77-2008 (B)
42 FR 8908 - 2/11/77
Mod. #1 - 42 FR 12568 - 3/4/77
Mod. #2 - 42 FR 24569 - 5/13/77
Mod. #3 - 42 FR 32447 - 6/24/77
Mod. #4 - 42 FR 39849 - 8/5/77
(H,Hw) - See Statewide
DEKALB COUNTY
Decision #IN77-2010 (R)
42 FR 8912 - 2/11/77
(H,Hw) - See Statewide
DELAWARE COUNTY
Decision #IN77-2094 (R)
42 FR 27551 - 5/27/77
(B) - See Allen County
(H,Hw) - See Statewide
DUBOIS COUNTY
Decision #IN77-2022 (R)
42 FR 10197 - 2/18/77
(H,Hw) - See Statewide
ELKHART COUNTY
(H,Hw) - See Statewide
FAYETTE COUNTY
Decision #IN77-2085 (B)
42 FR 24562 - 5/13/77
Mod. #1 - 42 FR 27557 - 5/27/77
Mod. #2 - 42 FR 32451 - 6/24/77
Mod. #3 - 42 FR 39852 - 8/5/77
(H,Hw) - See Statewide
FLOYD COUNTY
(B,D) - See Clark County
(H,Hw) - See Statewide
FOUNTAIN COUNTY
(H,Hw) - See Statewide
FRANKLIN COUNTY
(B) - See Fayette County
(H,Hw) - See Statewide
FULTON COUNTY
(H,Hw) - See Statewide
GIBSON COUNTY
Decision #IN77-2023 (R)
42 FR 10197 - 2/18/77
(H,Hw) - See Statewide
GRANT COUNTY
Decision #IN77-2070 (R)
42 FR 24555 - 5/13/77
(B) - See Allen County
(H,Hw) - See Statewide
GREENE COUNTY
Decision #IN77-2024 (R)
42 FR 10198 - 2/18/77
(H,Hw) - See Statewide

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INDIANA (Cont'd.

HAMILTON COUNTY
Decision #IN77-2011 (R)
42 FR 8912 - 2/11/77
(B) - See Boone County
(H,Hw) - See Statewide
HANCOCK COUNTY
(B) - See Boone County
(H,Hw) - See Statewide
HARRISON COUNTY
(B,D) - See Clark County
(H,Hw) - See Statewide
HENDRICKS COUNTY
Decision #IN77-2095 (R)
42 FR 27552 - 5/27/77
(H,Hw) - See Statewide
(B) - See Boone County
HENRY COUNTY
(B) - See Fayette County
(H,Hw) - See Statewide
HOWARD COUNTY
(H,Hw) - See Statewide
HUNTINGTON COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
JACKSON COUNTY
Decision #IN77-2012 (R)
42 FR 8913 - 2/11/77
Mod. #1 - 42 FR 24569 - 5/13/77
(B) - See Brown County
(H,Hw) - See Statewide
JASPER COUNTY
(H,Hw) - See Statewide
JAY COUNTY
(H,Hw) - See Statewide
(B) - See Adams County
JEFFERSON COUNTY
Decision #IN77-2013 (R)
42 FR 8913 - 2/11/77
(D) - See Clark County
(B) - See Brown County
(H,Hw) - See Statewide
JENNINGS COUNTY
(B) - See Brown County
(H,Hw) - See Statewide
JOHNSON COUNTY
Decision #IN77-2014 (R)
42 FR 8914 - 2/11/77
(H,Hw) - See Statewide
(B) - See Boone County
KNOX COUNTY
(H,Hw) - See Statewide
KOSCIUSKO COUNTY
(H,Hw) - See Statewide
LAGRANGE COUNTY
(H,Hw) - See Statewide
LAKE COUNTY
Decision #IN77-2082 (B,H,Hw)
42 FR 24588 - 5/13/77
Mod. #1 - 42 FR 27557 - 5/27/77
Mod. #2 - 42 FR 32449 - 6/24/77
Mod. #3 - 42 FR 39850 - 8/5/77
Decision #IN77-5038 (D)
42 FR 18802 - 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
LAPORTE COUNTY
(B,H,Hw) - See Lake County
(D) - See Lake County

INDIANA (Cont'd.

LAWRENCE COUNTY
Decision #IN77-2096 (R)
42 FR 27552 - 5/27/77
(B) - See Brown County
(H,Hw) - See Statewide
MADISON COUNTY
Decision #IN77-2097 (R)
42 FR 27553 - 5/27/77
(B) - See Boone County
(H,Hw) - See Statewide
MARION COUNTY
Decision #IN76-2005 (R)
41 FR 3602 - 1/23/76
Mod. #1 - 41 FR 9720 - 3/5/76
Mod. #2 - 41 FR 21984 - 5/28/76
Mod. #3 - 42 FR 12568 - 3/4/77
Mod. #4 - 42 FR 39848 - 8/5/77
(B) - See Allen County
(H,Hw) - See Statewide
MARSHALL COUNTY
(H,Hw) - See Statewide
MARTIN COUNTY
(H,Hw) - See Statewide
MIAMI COUNTY
Decision #IN77-2025 (R)
42 FR 10198 - 2/18/77
(H,Hw) - See Statewide
MONROE COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(H,Hw) - See Statewide
MORGAN COUNTY
(B) - See Boone County
(H,Hw) - See Statewide
NEWTON COUNTY
(H,Hw) - See Statewide
NOBLE COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
OHIO COUNTY
(B) - See Fayette County
(D) - See Clark County
(H,Hw) - See Statewide
ORANGE COUNTY
Decision #IN77-2026 (R)
42 FR 10199 - 2/18/77
(B) - See Brown County
(H,Hw) - See Statewide
OWEN COUNTY
(H,Hw) - See Statewide
PARKE COUNTY
Decision #IN77-2027 (R)
42 FR 10199 - 2/18/77
(H,Hw) - See Statewide
PERRY COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
PIKE COUNTY
(H,Hw) - See Statewide
PORTER COUNTY
(B,H,Hw) - See Lake County
(D) - See Lake County

INDIANA (Cont'd.)

POSEY COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
PULASKI COUNTY
(H,Hw) - See Statewide
PUTNAM COUNTY
(H,Hw) - See Statewide
RANDOLPH COUNTY
(B) - See Fayette County
(H,Hw) - See Statewide
RIPLEY COUNTY
(B) - See Fayette County
(H,Hw) - See Statewide
RUSH COUNTY
(B) - See Fayette County
(H,Hw) - See Statewide
SAINT JOSEPH COUNTY
(B,H,Hw) - See Lake County
SCOTT COUNTY
(B) - See Brown County
(H,Hw) - See Statewide
SHELBY COUNTY
(B) - See Boone County
(H,Hw) - See Statewide
SPENCER COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
STARKE COUNTY
(H,Hw) - See Statewide
STEUBEN COUNTY
Decision #IN77-2098 (R)
42 FR 27553 - 5/27/77
(B) - See Adams County
(H,Hw) - See Statewide
SULLIVAN COUNTY
(H,Hw) - See Statewide
SWITZERLAND COUNTY
(B) - See Brown County
(D) - See Clark County
(H,Hw) - See Statewide

INDIANA (Cont'd)

TIPPECANOE COUNTY
Decision #IN77-2099 (R)
42 FR 27554 - 5/27/77
(B) - See Allen County
(H,Hw) - See Statewide
TIPTON COUNTY
(H,Hw) - See Statewide
UNION COUNTY
(B) - See Fayette County
(H,Hw) - See Statewide
VANDERBURGH COUNTY
Decision #IN76-2046 (R)
41 FR 16302 - 4/16/76
(B) - See Allen County
(D) - See Clark County
(H,Hw) - See Statewide
VERMILLION COUNTY
Decision #IN77-2028 (R)
42 FR 10200 - 2/18/77
(H,Hw) - See Statewide
VIGO COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
WABASH COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
WARREN COUNTY
(H,Hw) - See Statewide
WARRICK COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
WASHINGTON COUNTY
Decision #IN77-2015 (R)
42 FR 8914 - 2/11/77
(B) - See Brown County
(H,Hw) - See Statewide
WAYNE COUNTY
(B) - See Fayette County
(H,Hw) - See Statewide
WELLS COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
WHITE COUNTY
(H,Hw) - See Statewide
WHITLEY COUNTY
(B) - See Adams County
(H,Hw) - See Statewide

IOWA

ADAIR COUNTY
Decision #IA76-4120 (H,Hw)
41 FR 30481 - 7/23/76
ADAMS COUNTY
(H,Hw) - See Adair County
ALLAMAKEE COUNTY
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77
APPANOOSE COUNTY
Decision #IA77-4042 (H,Hw)
42 FR 11211 - 2/25/77
AUDUBON COUNTY
Decision #IA77-4110 (H,Hw)
42 FR 30079 - 6/10/77
BENTON COUNTY
Decision #IA77-4041 (Hw)
42 FR 11210 - 2/25/77
BLACK HAWK COUNTY
Decision #IA77-4089 (B,H,Hw)(City of Waterloo & abutting Municipalities
42 FR 23345 - 5/6/77
Mod. #1 - 42 FR 26100 - 5/20/77
BOONE COUNTY
None
BREMER COUNTY
None
BUCHANAN COUNTY
Decision #IA76-4121 (H,Hw)
41 FR 30482 - 7/23/76
BUENA VISTA COUNTY
None
BUTLER COUNTY
Decision #IA76-4122 (H,Hw)
41 FR 30483 - 7/23/76
CALHOUN COUNTY
(H,Hw) - See Audubon County
CARROLL COUNTY
(H,Hw)o- See Audubon County
CASS COUNTY
(H,Hw) - See Adair County
CEDAR COUNTY
(H,Hw) - See Buchanan County
CERRO GORDO COUNTY (MASON CITY)
Decision #IA77-4090 (B,H,Hw
42 FR 23348 - 5/6/77
(H,Hw) - See Butler Co. (Excl Mason City)
CHEROKEE COUNTY
None
CHICKASAW COUNTY
None
CLARKE COUNTY
(H,Hw) - See Adair County

IOWA (Cont'd)

CLAY COUNTY
None
CLAYTON COUNTY
(D) - See Allamakee County
CLINTON COUNTY (City of Clinton and abbutting municipalities)
Decision #IA77-4099 (B,H,Hw)
42 FR 24607 - 5/13/77
(D) - See Allamakee County
CRAWFORD COUNTY
(H,Hw) - See Audubon County
DALLAS COUNTY
None
DAVIS COUNTY
(H,Hw) - See Appanoose County
DECATUR COUNTY
(H,Hw) - See Adair County
DELAWARE COUNTY
(H,Hw) - See Buchanan County
DES MOINES COUNTY (City of Burlington and Abutting Municipalities; and Burlington Ordance Plant
Decision #IA77-4100 (B,H,Hw)
42 FR 24609 - 5/13/77
Mod. #1 - 42 FR 27558 - 5/27/77
(D) - See Allamakee County
DICKSON COUNTY
None
DUBUQUE COUNTY (City of Dubuque and abutting municipalities)
Decision #IA77-4091 (B,H,Hw)
42 FR 23351 - 5/6/77
(D) - See Allamakee County
EMMET COUNTY
None
FAYETTE COUNTY
None
FLOYD COUNTY
(H,Hw) - See Butler County
FRANKLIN COUNTY
Decision #IA76-4123 (H,Hw)
41 FR 30484 - 7/23/76
FREMONT COUNTY
Decision #NE76-4184 (Channel Stabilization)
41 FR 53259 - 12/3/76
(H,Hw) - See Adair County
GREENE COUNTY
(H,Hw) - See Audubon County
GRUNDY COUNTY
(H,Hw) - See Butler County

IOWA (Cont'd)

GUTHRIE COUNTY
(H,Hw) - See Audubon County
HAMILTON COUNTY
(H,Hw) - See Butler County
HANCOCK COUNTY
(H,Hw) - See Butler County
HARDIN COUNTY
(H,Hw) - See Franklin County
HARRISON COUNTY
Decision #IA76-4124 (H,Hw)
41 FR 30485 - 7/23/76
Mod. #1 - 41 FR 51239 - 11/19/76
(Chann. Stab.) - See Fremont Co.
HENRY COUNTY
None
HOWARD COUNTY
None
HUMBOLDT COUNTY
None
IDA COUNTY
(H,Hw) - See Audubon County
IOWA COUNTY
(Hw) - See Benton County
JACKSON COUNTY
(D) - See Allamakee County
(H,Hw) - See Buchanan County
JASPER COUNTY
None
JEFFERSON COUNTY
(H,Hw) - See Appanoose County
JOHNSON COUNTY (City of Iowa City and abutting municipalities)
Decision #IA77-4092 (B,H,Hw)
42 FR 23354 - 5/6/77
(Hw) - See Benton County
JONES COUNTY
(H,Hw) - See Buchanan County
KEOKUK COUNTY
(Hw) - See Benton County
KOSSUTH COUNTY
None
LEE COUNTY
(D) - See Allamakee County
LINN COUNTY
Decision #IA77-4093 (B,H,Hw)
42 FR 23357 - 5/6/77

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IOWA (Cont'd.)

LOUISA COUNTY
(D) - See Allamakee County
LUCAS COUNTY
(H,Hw) - See Adair County
LYON COUNTY
None
MADISON COUNTY
None
MAHASKA COUNTY
(Hw) - See Benton County
MARION COUNTY
None
MARSHALL COUNTY
None
MILLS COUNTY
(H,Hw) - See Adair County
(Channel Stab.) - See Freemont Co.
MITCHELL COUNTY
(H,Hw) - See Butler County
MONONA COUNTY
(H,Hw) - See Harrison County
(Channel Stab.) - See Freemont Co.
MONROE COUNTY
None
MONTGOMERY COUNTY
(H,Hw) - See Adair County
MUSCATINE COUNTY
(D) - See Allamakee County
O'BRIEN COUNTY
None
OSCEOLA COUNTY
PAGE COUNTY
(H,Hw) - See Adair County
PALO ALTO COUNTY
None
PLYMOUTH COUNTY
None
POCAHONTAS COUNTY
None
POLK COUNTY
Decision #IA77-4094 (B,H,Hw)
42 FR 23360 - 5/6/77
POTTAWATTAMIE COUNTY (City of Council Bluffs and the area within 3 miles from the City Limits)
Decision #IA77-4117 (B,H,Hw)
42 FR 32470 - 6/24/77
(Chann. Stab.) - See Freemont County

IOWA (Cont'd)

POWESHIEK COUNTY
(Hw) - See Benton County
RINGGOLD COUNTY
(H,Hw) - See Adair County
SAC COUNTY
(H,Hw) - See Audubon County
SCOTT COUNTY
Decision #IA76-4172 (B,H,Hw)
41 FR 45802 - 10/15/76
Mod. #1 - 41 FR 48985 - 11/5/76
Mod. #2 - 41 FR 51239 - 11/19/76
Mod. #3 - 42 FR 13716 - 3/11/77
(D) - See Allamakee County
SHELBY COUNTY
(H,Hw) - See Audubon County
SIOUX COUNTY
None
STORY COUNTY (City of Ames and abutting municipalities)
Decision #IA77-4095 (B,H,Hw)
42 FR 23363 - 5/6/77
TAMA COUNTY
(Hw) - See Benton County
TAYLOR COUNTY
(H,Hw) - See Adair County
UNION COUNTY
(H,Hw) - See Adair County
VAN BUREN COUNTY
(H,Hw) - See Appanoose County
WAPELLO COUNTY
(H,Hw) - See Appannose County
WARREN COUNTY
None
WASHINGTON COUNTY
(Hw) - See Benton County
WAYNE COUNTY
(H,Hw) - See Adair County
WEBSTER COUNTY (City of Fort Dodge)
Decision #IA77-4096 (B,H,Hw)
42 FR 23366 - 5/6/77
Mod. #1 - 42 FR 26100 - 5/20/77
WINNEBAGO COUNTY
(H,Hw) - See Butler County
WINNESHIEK COUNTY
None

IOWA (Cont'd.)

WOODBURY COUNTY (City of Sioux City and abutting municipalities)
Decision #IA76-4175 (B)
41 FR 45811 - 10/15/76
Mod. #1 - 41 FR 56550 - 12/20/76
Mod. #2 - 42 FR 16346 - 3/25/77
Mod. #3 - 42 FR 18791 - 4/8/77
(Chann. Stab.) - See Freemont Co.
(H,Hw) - See Harrison County
WORTH COUNTY
(H,Hw) - See Butler County
WRIGHT COUNTY
(H,Hw) - See Butler County

KANSAS

ALLEN COUNTY
Decision #KS77-4025 (Hw, W&S)
42 FR 10235 - 2/18/77
Mod. #1 - 42 FR 15251 - 3/18/77
Mod. #2 - 42 FR 20048 - 4/15/77
ANDERSON COUNTY
(Hw, W&S) - See Allen County
ATCHISON COUNTY
Decision #MO75-4070 (D)
40 FR 14225 - 3/28/75
(Hw, W&S) - See Allen County
BARBER COUNTY
Decision #KS77-4024 (Hw, W&S)
42 FR 10234 - 2/18/77
Mod. #1 - 42 FR 17741 - 4/1/77
BARTON COUNTY
(Hw, W&S) - See Barber County
BOURBON COUNTY
(Hw, W&S) - see Allen County
BROWN COUNTY
(Hw, W&S) - See Allen County
BUTLER COUNTY
(Hw, W&S) - See Allen County
CASS COUNTY
(Hw, W&S) - See Allen County
CHASE COUNTY
(Hw, W&S) - See Allen County
CHAUTAUQUA COUNTY
(Hw, W&S) - See Allen County
CHEROKEE COUNTY
(Hw, W&S) - See Allen County
CHEYENNE COUNTY
(Hw, W&S) - See Barber County
CLARK COUNTY
(Hw, W&S) - See Barber County

KANSAS (Cont'd.)

CLAY COUNTY
(Hw, W&S) - See Allen County
CLOUD COUNTY
(Hw, W&S) - See Allen County
COFFEY COUNTY
(Hw, W&S) - See Allen County
COMANCHE COUNTY
(Hw, W&S) - See Barber County
COWLEY COUNTY
(Hw, W&S) - See Allen County
CRAWFORD COUNTY
(Hw, W&S) - See Allen County
DECATUR COUNTY
(Hw, W&S) - See Barber County
DICKINSON COUNTY
(Hw, W&S) - See Allen County
DONIPHAN COUNTY
(D) - See Atchison County
(Hw, W&S) - See Allen County
DOUGLAS COUNTY
Decision #KS77-4161 (Hw)
42 FR 35543 - 7/8/77
EDWARDS COUNTY
(Hw, W&S) - See Barber County
ELK COUNTY
(Hw, W&S) - See Allen County
ELLIS COUNTY
(Hw, W&S) - See Barber County
ELLSWORTH COUNTY
(Hw, W&S) - See Barber County
FINNEY COUNTY
(Hw, W&S) - See Barber County
FORD COUNTY
(Hw, W&S) - See Barber County
FRANKLIN COUNTY
(Hw, W&S) - See Allen County
GEARY COUNTY
Decision #KS77-4019 (R)
42 FR 7056 - 2/4/77
Mod. #1 - 42 FR 26100 - 5/20/77
Mod. #2 - 42 FR 36738 - 7/15/77
(Hw, W&S) - See Allen County
GOVE COUNTY
(Hw, W&S) - See Barber County
GRAHAM COUNTY
(Hw, W&S) - See Barber County
GRANT COUNTY
(Hw, W&S) - See Barber County
GRAY COUNTY
(Hw, W&S) - See Barber County
GREELEY COUNTY
(Hw, W&S) - See Barber County
GREENWOOD COUNTY
(Hw, W&S) - See Allen County

KANSAS (Cont'd.)

HAMILTON COUNTY
(Hw, W&S) - See Barber County
HARPER COUNTY
(Hw, W&S) - See Allen County
HARVEY COUNTY
(Hw, W&S) - See Allen County
HASKELL COUNTY
(Hw, W&S) - See Barber County
HODGEMAN COUNTY
(Hw, W&S) - See Barber County
JACKSON COUNTY
(Hw, W&S) - See Allen County
JEFFERSON COUNTY
(Hw) - See Douglas County
JEWELL COUNTY
(Hw, W&S) - See Barber County
JOHNSON COUNTY
Decision #MO77-4075 (B,H,Hw)
42 FR 18815 - 4/8/77
Mod. #1 - 42 FR 26100 - 5/20/77
Mod. #2 - 42 FR 27558 - 5/27/77
Mod. #3 - 42 FR 28745 - 6/3/77
Mod. #4 - 42 FR 35523 - 7/8/77
Mod. #5 - 42 FR 36738 - 7/15/77
Decision #MO77-4160 (R)
42 FR 35547 - 7/8/77
Mod. #1 - 42 FR 36740 - 7/15/77
KEARNY COUNTY
(Hw, W&S) - See Barber County
KINGMAN COUNTY
(Hw, W&S) - See Allen County
KIOWA COUNTY
(Hw, W&S) - See Barber County
LABETTE COUNTY
(Hw, W&S) - See Allen County
LANE COUNTY
(Hw, W&S) - See Barber County
LEAVENWORTH COUNTY
Decision #KS77-4149 (B)
42 FR 34188 - 7/1/77

(D) - See Atchison County
(Hw) - See Douglas County
LINCOLN COUNTY
(Hw, W&S) - See Barber County
LINN COUNTY
(Hw, W&S) - See Allen County
LOGAN COUNTY
(Hw, W&S) - See Barber County

KANSAS (Cont'd.)

LYON COUNTY
(Hw, W&S) - See Allen County
McPHERSON COUNTY
(Hw, W&S) - See Allen County
MARION COUNTY
(Hw, W&S) - See Allen County
MARSHALL COUNTY
(Hw, W&S) - See Allen County
MEADE COUNTY
(Hw, W&S) - See Barber County
MIAMI COUNTY
(Hw) - See Douglas County
MITCHELL COUNTY
(Hw, W&S) - See Barber County
MONTGOMERY COUNTY
(Hw, W&S) - See Allen County
MORRIS COUNTY
(Hw, W&S) - See Allen County
MORTON COUNTY
(Hw, W&S) - See Barber County
NEMAHA COUNTY
(Hw, W&S) - See Allen County
NEOSHO COUNTY
(Hw, W&S) - See Allen County
NESS COUNTY
(Hw, W&S) - See Barber County
NORTON COUNTY
(Hw, W&S) - See Barber County
OSAGE COUNTY
(Hw, W&S) - See Allen County
OSBORNE COUNTY
(Hw, W&S) - See Barber County
OTTAWA COUNTY
(Hw, W&S) - See Allen County
PAWNEE COUNTY
(Hw, W&S) - See Barber County
PHILLIPS COUNTY
(Hw, W&S) - See Barber County
POTTAWATOMIE COUNTY
(Hw, W&S) - See Allen County
PRATT COUNTY
(Hw, W&S) - See Barber County
RAWLINS COUNTY
(Hw, W&S) - See Barber County
RAY COUNTY
(Hw, W&S) - See Allen County

KANSAS (Cont'd.)

RENO COUNTY
(Hw, W&S) - See Allen County
REPUBLIC COUNTY
(Hw, W&S) - See Allen County
RICE COUNTY
(Hw, W&S) - See Barber County
RILEY COUNTY
(Hw, W&S) - See Allen County
(R) - See Geary County
ROOKS COUNTY
(Hw, W&S) - See Barber County
RUSH COUNTY
(Hw, W&S) - See Barber County
RUSSELL COUNTY
(Hw, W&S) - See Barber County
SALINE COUNTY
(Hw, W&S) - See Allen County
SCOTT COUNTY
(Hw, W&S) - See Barber County
SEDGWICK COUNTY
Decision #KS77-4047 (R(
42 FR 11212 - 2/25/77
Decision #KS77-4081 (B)
42 FR 18809 - 4/8/77
Mod. #1 - 42 FR 23273 - 5/6/77
Mod. #2 - 42 FR 27559 - 5/27/77
Mod. #3 - 42 FR 36739 - 7/15/77
Decision #KS77-4023 (Hw, W&S)
42 FR 10233 - 2/18/77
Mod. #1 - 42 FR 17740 - 4/1/77
SEWARD COUNTY
(Hw, W&S) - See Barber County
SHAWNEE COUNTY
Decision #KS77-4080 (B)
42 FR 18806 - 4/8/77
Mod. #1 - 42 FR 22072 - 4/29/77
Mod. #2 - 42 FR 27559 - 5/27/77
Mod. #3 - 42 FR 36739 - 7/15/77
Decision #KS77-4079 (R)
42 FR 18803 - 4/8/77
Mod. #1 - 42 FR 22071 - 4/29/77
Mod. #2 - 42 FR 27559 - 5/27/77
Mod. #3 - 42 FR 36738 - 7/15/77
(Hw) - See Douglas County

KANSAS (Cont'd.)

SHERIDAN COUNTY
(Hw, W&S) - See Barber County
SHERMAN COUNTY
(Hw, W&S) - See Barber County
SMITH COUNTY
(Hw, W&S) - See Barber County
STAFFARD COUNTY
(Hw, W&S) - See Barber County
STANTON COUNTY
(Hw, W&S) - See Barber County
STEVENS COUNTY
(Hw, W&S) - See Barber County
SUMNER COUNTY
(Hw, W&S) - See Allen County
THOMAS COUNTY
(Hw, W&S) - See Barber County
TREGO COUNTY
(Hw, W&S) - See Barber County
WABAUNSEE COUNTY
(Hw, W&S) - See Allen County
WALLACE COUNTY
(Hw, W&S) - See Barber County
WASHINGTON COUNTY
(Hw, W&S) - See Allen County
WICHITA COUNTY
(Hw, W&S) - See Barber County
WILSON COUNTY
(Hw, W&S) - See Allen County
WOODSON COUNTY
(Hw, W&S) - See Allen County
WYANDOTTE COUNTY
(B,H,Hw,R) - See Johnson County
(D) - See Atchison County

KENTUCKY (Cont'd.

DAVIESS COUNTY
Decision #AQ-4122 (B)
39 FR 20281 - 6/7/74
Mod. #1 - 41 FR 19008 - 5/7/76
Mod. #2 - 41 FR 22987 - 5/28/76
Mod. #3 - 41 FR 43560 - 10/1/76
Mod. #4 - 42 FR 17441 - 4/1/77
Decision #KY76-1136 (R)
41 FR 53260 - 12/3/76!
(D) - See Ballard County
(H,Hw) - See Allen County
EDMONSON COUNTY
(H,Hw) - See Allen County
ELLIOTT COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
ESTILL COUNTY
(H,Hw) - See Adair County
(R) - See Clay County
FAYETTE COUNTY
Decision #KY77-1010 (B)
42 FR 8941 - 2/11/77
Mod. #1 - 42 FR 11184 - 2/25/77
Mod. #2 - 42 FR 17742 - 4/1/77
Mod. #3 - 42 FR 24572 - 5/13/77
(H,Hw) - See Anderson County
(R) - See Bath County
FLEMING COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
FLOYD COUNTY
Decision #AR-4002 (B)
39 FR 24777 - 7/5/74
(H,Hw) - See Adair County
FRANKLIN COUNTY
Decision #KY76-1132 (B)
41 FR 52260 - 11/26/76
Mod. #1 - 42 FR 988 - 1/4/77
Mod. #2 - 42 FR 7030 - 2/4/77
Mod. #3 - 42 FR 11186 - 2/25/77
Mod. #4 - 42 FR 17742 - 4/1/77
Mod. #5 - 42 FR 24571 - 5/13/77
(H,Hw) - See Anderson County
FULTON COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
GALLATIN COUNTY
(D) - See Ballard County
(H,Hw) - See Anderson County
(B,R) - See Boone County
GARRARD COUNTY
(H,Hw) - See Adair County
(R) - See Boyle County
GRANT COUNTY
(H,Hw) - See Anderson County
(R) - See Boone County

KENTUCKY (Cont'd.

GRAVES COUNTY
(H,Hw) - See Allen County
GRAYSON COUNTY
(H,Hw) - See Anderson County
GREENE COUNTY
(H,Hw,R) - See Adair County
GREENUP COUNTY
(D) - See Ballard County
(H,Hw) - See Anderson County
HANCOCK COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
HARDIN COUNTY
(B) - See Jefferson County
(H,Hw) - See Anderson County
(D) - See Ballard County
(R) - See Breckinridge County
HARLAN COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
HARRISON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
HART COUNTY
(H,Hw,R) - See Adair County
HENDERSON COUNTY
Decision #KY76-1070 (B)
41 FR 30527 - 7/23/76
Mod. #1 - 41 FR 43560 - 10/1/76
Mod. #2 - 41 FR 45787 - 10/15/76
Mod. #3 - 41 FR 53230 - 12/3/76
Mod. #4 - 42 FR 11185 - 2/25/77
Mod. #5 - 42 FR 17741 - 4/1/77
(D) - See Ballard County
(H,Hw) - See Allen County
HENRY COUNTY
(H,Hw) - See Anderson County
HICKMAN COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
HOPKINS COUNTY
(H,Hw) - See Allen County
JACKSON COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
JEFFERSON COUNTY
Decision #KY77-1058 (B)
42 FR 24612 - 5/13/77
Mod. #1 - 42 FR 34142 - 7/1/77
(D) - See Ballard County
(R) - See Breckinridge County
(H,Hw) - See Anderson County
JESSAMINE COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County

KENTUCKY (Cont'd.

JOHNSON COUNTY
(H,Hw) - See Anderson County
KENTON COUNTY
(D) - See Ballard County
(B,H,Hw,R) - See Boone County
KNOTT COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
KNOX COUNTY
(R) - See Laurel County
(H,Hw) - See Adair County
LARUE COUNTY
(R) - See Adair County
(H,Hw) - See Anderson County
LAUREL COUNTY
Decision #KY77-1002 (R)
42 FR 1684 - 1/7/77
(H,Hw) - See Adair County
LAWRENCE COUNTY
(H,Hw) - See Anderson County
LEE COUNTY
(H,Hw) - See Adair County
(R) - See Breathitt County
LAWRENCE COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
LETCHER COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
LEWIS COUNTY
(D) - See Ballard County
(R) - See Carter County
LINCOLN COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
LIVINGSTON COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
LOGAN COUNTY
(H,Hw) - See Allen County
LYON COUNTY
(H,Hw) - See Allen County
McCRACKEN COUNTY
Decision #KY77-1011 (B)
42 FR 8944 - 2/11/77
Mod. #1 - 42 FR 11184 - 2/25/77
Mod. #2 - 42 FR 23273 - 5/6/77
(D) - See Ballard County
(H,Hw) - See Allen County

KENTUCKY (Cont'd.)

McCREARY COUNTY
(H,Hw) - See Adair County
(R) - See Laurel County
MCLEAN COUNTY
(H,Hw) - See Allen County
MADISON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
MAGOFFIN COUNTY
(H,Hw) - See Adair County
MARION COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
MARSHALL COUNTY
(H,Hw) - See Allen County
MARTIN COUNTY
(H,Hw) - See Adair County
MASON COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
(D) - See Ballard County
MEADE COUNTY
(B) - See Jefferson County
(H,Hw) - See Anderson County
(R) - See Breckinridge County
(D) - See Ballard County
MENIFEE COUNTY
(H,Hw) - See Adair County
MERCER COUNTY
(H,Hw) - See Anderson County
METCALFE COUNTY
(H,Hw,R) - See Adair County
MONROE COUNTY
(H,Hw,R) - See Adair County
MONTGOMERY COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
MORGAN COUNTY
(H,Hw) - See Anderson County
MUHLENBERG COUNTY
(H,Hw) - See Allen County

NOTICES

KENTUCKY (Cont'd.

NELSON COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
NICHOLAS COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
OHIO COUNTY
(H,Hw) - See Allen County
OLDHAM COUNTY
(D) - See Ballard County
(R) - See Breckinridge County
(H,Hw) - See Anderson County
OWEN COUNTY
(H,Hw) - See Anderson County
OWSLEY COUNTY
(R) - See Clay County
(H,Hw) - See Adair County
PENDLETON COUNTY
(B,H,Hw,R) - See Boone County
(D) - See Ballard County
PERRY COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
PIKE COUNTY
(B) - See Floyd County
(H,Hw) - See Adair County
POWELL COUNTY
(H,Hw) - See Adair County
PULASKI COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
ROBERTSON COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
ROCKCASTLE COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
ROWAN COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
RUSSELL COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
SCOTT COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
SHELBY COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County

KENTUCKY (Cont'd.

SIMPSON COUNTY
(H,Hw) - See Allen County
SPENCER COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
TAYLOR COUNTY
(H,Hw) - See Adair County
(R) - See Adair County
TODD COUNTY
(H,Hw) - See Allen County
TRIGG COUNTY
(H,Hw) - See Allen County
TRIMBLE COUNTY
(H,Hw) - See Anderson County
(D) - See Ballard County
UNION COUNTY
(D) - See Ballard County
WARREN COUNTY
Decision #KY77-1035 (B)
42 FR 18812 - 4/8/77
Mod. #1 - 42 FR 24572 - 5/13/77
(H,Hw) - See Allen County
WASHINGTON COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
WAYNE COUNTY
(H,Hw) - See Adair County
(R) - See Boyle County
WEBSTER COUNTY
(H,Hw) - See Allen County
WHITLEY COUNTY
(R) - See Laurel County
(H,Hw) - See Adair County
WOLFE COUNTY
(H,Hw) - See Adair County
(R) - See Clay County
WOODFORD COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County

LOUISIANA

STATEWIDE
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Mod. #1 - 42 FR 18788 - 4/8/77
Decision #LA77-4169 (B,Hw)
42 FR 38850 - 7/29/77
ACADIA PARISH
Decision #AR76-5041 (F)
41 FR 19017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
(B,D,Hw) - See Statewide
ALLEN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ASCENSION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ASSUMPTION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
AVOYELLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
BEAUREGARD PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
BIENVILLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
BOSSIER PARISH
Decision #LA77-4170 (R)
42 FR 38870 - 7/29/77
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
CADDO PARISH
(F) - See Acadia Parish
(R) - See Bossier County
(B,D,Hw) - See Statewide
CALCASIEU PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
(R) - See Bossier County

LOUISIANA (Cont'd.)

CALDWELL PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
CAMERON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
CATAHOULA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
CLAIBORNE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
CONCORDIA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
DE SOTO PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EAST BATON ROUGE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EAST CARROLL PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EAST FELICIANA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EVANGELINE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
FRANKLIN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
GRANT PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
IBERIA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide

NOTICES

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LOUISIANA (Cont'd.

IBERVILLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
JACKSON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
JEFFERSON PARISH
Decision #LA77-4030 (R)
42 FR 10237 - 2/18/77
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
JEFFERSON DAVIS PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LAFAYETTE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LAFOURCHE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LA SALLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LINCOLN COUNTY
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LIVINGSTON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
MADISON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
MOREHOUSE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
NATCHITOCHES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ORLEANS PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
(R) - See Jefferson Parish
OUACHITA PARISH
Decision #LA77-4031 (R)
42 FR 10237 - 2/18/77
(B,D,Hw) - See Statewide
(F) - See Acadia Parish

LOUISIANA (Cont'd.

PLAQUEMINES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
(R) - See Jefferson Parish
POINTE COUPEE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
RAPIDES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
RED RIVER PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
RICHLAND COUNTY
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
SABINE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. BERNARD PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
(R) - See Jefferson Parish
ST. CHARLES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. HELENA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. JAMES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. JOHN THE BAPTIST PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. LANDRY PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. MARTIN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. MARY PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide

LOUISIANA (Cont'd.

ST. TAMMANY PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
TANGIPAHOA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
TENSAS PARISH
(F) - See Acadia Parish
(B,D,Hw)- See Statewide
TERREBONNE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
UNION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
VERMILION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
VERNON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WASHINGTON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WEBSTER PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WEST BATON ROUGE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WEST CARROLL PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WEST FELICIANA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WINN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide

MAINE

ANDROSCOGGIN COUNTY
Decision #ME76-2159 (Hw)
41 FR 52173 - 11/26/76
AROOSTOOK COUNTY
Decision #ME76-2156 (Hw)
41 FR 52171 - 11/26/76
CUMBERLAND COUNTY
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
(Hw) - See Aroostook County
FRANKLIN COUNTY
(Hw) - See Androscoggin County
HANCOCK COUNTY
Decision #ME76-2166 (Hw)
41 FR 53227 - 12/3/76
(D) - See Cumberland County
KENNEBEC COUNTY
(Hw) - See Androscoggin County
KNOX COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
LINCOLN COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
OXFORD COUNTY
(Hw) - See Androscoggin County
PENOBSCOT COUNTY
(Hw) - See Aroostook County
PISCATAQUIS COUNTY
(Hw) - See Androscoggin County
SAGADAHOC COUNTY
(D) - See Cumberland County
(Hw) - See Aroostook County
SOMERSET COUNTY
(Hw) - See Androscoggin County
WALDO COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
WASHINGTON COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
YORK COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County

MARYLAND

ALLEGANY COUNTY
Decision #MD77-3086 (B)
42 FR 39880 - 8/5/77
Decision #MD77-3021 (H,Hw)
42 FR 3153 - 1/14/77
Mod. #1 - 42 FR 20984 - 4/22/77
Mod. #2 - 42 FR 31046 - 6/17/77
Mod. #3 - 42 FR 39855 - 8/5/77
ANNE ARUNDEL COUNTY
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
Decision #MD76-3151 (Hw)
41 FR 11742 - 3/19/76
(B,H) - See Baltimore City
BALTIMORE CITY
Decision #MD77-3080 (Hw)
42 FR 32476 - 6/24/77
Mod. #1 - 42 FR 38041 - 7/29/77
Decision #MD77-3077 (B,H)
42 FR 28760 - 6/3/77
Mod. #1 - 42 FR 34144 - 7/1/77
Mod. #2 - 42 FR 35524 - 7/8/77
Mod. #3 - 42 FR 39855 - 8/5/77
(D) - See Anne Arundel County
BALTIMORE COUNTY
Decision #MD76-3153 (Hw)
41 FR 11744 - 3/19/76
Mod. #1 - 41 FR 14273 - 4/2/76
Mod. #2 - 42 FR 15253 - 3/18/77
(D) - See Anne Arundel County
(B,H) - See Baltimore City
CALVERT COUNTY
(D,Hw) - See Anne Arundel County
CAROLINE COUNTY
Decision #MD76-3152 (Hw)
41 FR 11743 - 3/19/76
Mod. #1 - 41 FR 14273 - 4/2/76
(Hw) - See Anne Arundel County
CARROLL COUNTY
(Hw) - See Anne Arundel County
CECIL COUNTY
(Hw) - See Caroline County
CHARLES COUNTY
(D,Hw) - See Anne Arundel County
DORCHESTER COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
FREDERICK COUNTY
Decision #MD77-3085 (R)
42 FR 34195 - 7/1/77
(Hw) - See Anne Arundel County
GARRETT COUNTY
(B,H,Hw) - See Allegany County

MARYLAND (Cont'd.)

HARFORD COUNTY
(B,H) - See Baltimore City
(Hw) - See Anne Arundel County
HOWARD COUNTY
(B,H) - See Baltimore City
(Hw) - See Anne Arundel County
KENT COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
MONTGOMERY COUNTY
Decision #MD77-3041 (B)
42 FR 15268 - 3/18/77
Mod. #1 - 42 FR 18794 - 4/8/77
Mod. #2 - 42 FR 20982 - 4/22/77
Mod. #3 - 42 FR 23290 - 5/6/77
Mod. #4 - 42 FR 27563 - 5/27/77
Mod. #5 - 42 FR 32456 - 6/24/77
(Hw) - See Anne Arundel County
PRINCE GEORGES COUNTY
(B) - See Montgomery County
(D,Hw) - See Anne Arundel County
QUEEN ANNES COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
ST. MARYS COUNTY
(D,Hw) - See Anne Arundel County
SOMERSET COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
TALBOT COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
WASHINGTON COUNTY
(Hw) - See Anne Arundel County
(R) - See Frederick County
WICOMICO COUNTY
Decision #MD77-3036 (R)
42 FR 12613 - 3/4/77
(D) - See Anne Arundel County
(Hw) - See Caroline County
WORCESTER COUNTY
(D) - See Anne Arundel County
(Hw) - See Caroline County
Decision #MD77-3035 (B)
42 FR 12613 - 3/4/77

MASSACHUSETTS

BARNSTABLE COUNTY
Decision #MA77-3062 (B,H,Hw, & Marine)
42 FR 37718 - 7/22/77
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
BERKSHIRE COUNTY
Decision #MA76-2096 (B,H,Hw)
41 FR 34505 - 8/13/76
Mod. #1 - 41 FR 45788 - 10/15/76
Mod. #2 - 41 FR 54106 - 12/10/76
Mod. #3 - 42 FR 7030 - 2/4/77
Mod. #4 - 42 FR 16347 - 3/25/77
BRISTOL COUNTY
Decision #MA76-2097 (B,H,Hw,R & Marine)
41 FR 34509 - 8/13/76
Mod. #1 - 41 FR 45789 - 10/15/76
Mod. #2 - 42 FR 54106 - 12/10/76
Mod. #3 - 42 FR 7030 - 2/4/77
Mod. #4 - 42 FR 16347 - 3/25/77
(D) - See Barnstable County
DUKES COUNTY
(D) - See Barnstable County
ESSEX COUNTY
Decision #MA76-2098 (B,H,Hw, & Marine)
41 FR 34514 - 8/13/76
Mod. #1 - 41 FR 46811 - 10/22/76
Mod. #2 - 41 FR 51241 - 11/19/76
Mod. #3 - 41 FR 55266 - 12/17/76
Mod. #4 - 42 FR 7031 - 2/4/77
Mod. #5 - 42 FR 13717 - 3/11/77
Mod. #6 - 42 FR 23274 - 5/6/77
(D) - See Barnstable County
FRANKLIN COUNTY
Decision #MA76-2099 (B,H,Hw)
41 FR 34519 - 8/13/76
Mod. #1 - 41 FR 46812 - 10/22/76
Mod. #2 - 41 FR 55266 - 12/17/76
Mod. #3 - 42 FR 7031 - 2/4/77
Mod. #4 - 42 FR 16347 - 3 /25/77
HAMPDEN COUNTY
Decision #MA77-3067 (B,H,Hw)
42 FR 37723 - 7/22/77
Decision #MA75-2134 (R)
40 FR 59166 - 12/19/75
HAMPSHIRE COUNTY
Decision #MA76-2101 (B,H,Hw)
41 FR 35369 - 8/20/76
Mod. #1 - 41 FR 46813 - 10/22/76
Mod. #2 - 41 FR 55266 - 12/17/76

MASSACHUSETTS (Cont'd.)

MIDDLESEX COUNTY
Decision #MA76-2102 (B,H,Hw,R, & Marine)
41 FR 37479 - 9/3/76
Mod. #1 - 41 FR 46813 - 10/22/76
Mod. #2 - 41 FR 55267 - 12/17/76
Mod. #3 - 42 FR 7031 - 2/4/77
Mod. #4 - 42 FR 13718 - 3/11/77
Mod. #5 - 42 FR 16438 - 3/25/77
Mod. #6 - 42 FR 23274 - 5/6/77
(D) - See Barnstable County
NANTUCKET COUNTY
(D) - See Barnstable County
NORFOLK COUNTY
Decision #MA77-3070 (B,H,Hw,R)
42 FR 37728 - 7/22/77
(D) - See Barnstable County
PLYMOUTH COUNTY
Decision #MA77-3071 (B,H,Hw,R)
42 FR 37733 - 7/22/77
(D) - See Barnstable County
SUFFOLK COUNTY
Decision #MA76-2105 (B,H,Hw,D,R, & Marine)
41 FR 35377 - 8/20/76
Mod. #1 - 41 FR 46815 - 10/22/76
Mod. #2 - 41 FR 56551 - 12/28/76
Mod. #3 - 42 FR 7032 - 2/4/77
Mod. #4 - 42 FR 16349 - 3/25/77
(D) - See Barnstable County
WORCESTER COUNTY
Decision #MA76-2106 (B,H,Hw,R)
41 FR 37490 - 9/3/76
Mod. #1 - 41 FR 46816 - 10/22/76
Mod. #2 - 41 FR 56551 - 12/28/76
Mod. #3 - 42 FR 3136 - 1/14/77
Mod. #4 - 42 FR 7032 - 2/4/77
Mod. #5 - 42 FR 16349 - 3/25/77

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MICHIGAN

STATEWIDE
Decision #MI76-2140 (Hw, W&S)
41 FR 51310 - 11/19/76
Mod. #1 - 41 FR 54107 - 12/10/76
Mod. #2 - 42 FR 1681 - 1/7/77
Mod. #3 - 42 FR 35524 - 7/8/77
Mod. #4 - 42 FR 37705 - 7/22/77
ALCONA COUNTY
Decision #MI77-2050 (B,H)
42 FR 23369 - 5/6/77
Mod. #1 - 42 FR 27560 - 5/27/77
Mod. #2 - 42 FR 28746 - 6/3/77
Mod. #3 - 42 FR 35524 - 7/8/77
Decision #IL77-5038 (D)
42 FR 18802 - 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
(Hw, W&S) - See Statewide
ALGER COUNTY
Decision #MI77-2051 (B,H)
42 FR 23374 - 5/6/77
Mod. #1 - 42 FR 28746 - 6/3/77
Mod. #2 - 42 FR 38841 - 7/29/77
(D) - See Alcona County
(Hw, W&S) - See Statewide
ALLEGAN COUNTY
Decision #MI77-2053 (B,H)
42 FR 23377 - 5/6/77
Mod. #1 - 42 FR 28747 - 6/3/77
Mod. #2 - 42 FR 35525 - 7/8/77
Mod. #3 - 42 FR 39855 - 8/5/77
Decision #AM-398 (R)
36 FR 15891 - 8/18/71
(Hw, W&S) - See Statewide
(D) - See Alcona County
ALPENA COUNTY
(D) - See Alcona County
(B,H) - See Alcona County
(Hw, W&S) - See Statewide
ANTRIM COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
ARENAC COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
BARAGA COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
BARRY COUNTY
(Hw, W&S) - See Statewide
BAY COUNTY
Decision #MI77-2054 (B,H)
42 FR 23384 - 5/6/77
Mod. #1 - 42 FR 28748 - 6/3/77
Mod. #2 - 42 FR 35525 - 7/8/77
Mod. #3 - 42 FR 39856 - 8/5/77
(D) - See Alcona County
BENZIE COUNTY
(Hw, W&S) - See Statewide
(D) - See Alcona County

MICHIGAN (Cont'd.)

BERRIEN COUNTY
(B,H) - See Allegan County
Decision #AM-399 (R)
36 FR 15892 - 8/18/71
(D) - See Alcona County
(Hw, W&S) - See Statewide
BRANCH COUNTY
Decision #MI77-2041 (R)
42 FR 16355 - 3/25/77
(Hw, W&S) - See Statewide
CALHOUN COUNTY
(B,H) - See Allegan County
Decision #MI76-2107 (R)
41 FR 35381 - 8/20/76
(Hw, W&S) - See Statewide
CASS COUNTY
(Hw, W&S) - See Statewide
(R) - See Branch County
CHARLEVOIX COUNTY
(B,H) - See Allegan County
(D) - See Alcona County
(Hw, W&S) - See Statewide
CHEBOYGAN COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
CHIPPEWA COUNTY
Decision #MI77-2104 (R)
42 FR 37699 - 7/22/77
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
CLARE COUNTY
(Hw, W&S) - See Statewide
CLINTON COUNTY
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
CRAWFORD COUNTY
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

DELTA COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
DICKINSON COUNTY
(Hw, W&S) - See Statewide
(D) - See Alcona County
(B,H) - See Alger County
EATON COUNTY
Decision #MI77-2035 (R)
42 FR 12614 - 3/4/77
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
EMMET COUNTY
(B,H) - See Charlevoix County
(D) - See Alcona County
(Hw, W&S) - See Statewide
GENESEE COUNTY
(B,H) - See Bay County
Decision #MI77-2055 (R)
42 FR 24619 - 5/13/77
Mod. #1 - 42 FR 28743 - 6/3/77
Mod. #2 - 42 FR 35525 - 7/8/77
Mod. #3 - 42 FR 39856 - 8/5/77
(Hw, W&S) - See Statewide
GLADWIN COUNTY
(Hw) - See Statewide
GOGEBIC COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
GRAND TRAVERSE COUNTY
(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
GRATIOT COUNTY
(Hw, W&S) - See Statewide
HILLSDALE COUNTY
(Hw, W&S) - See Statewide
HOUGHTON COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
HURON COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(Hw, W&S) - See Allegan County
INGHAM COUNTY
(B,H) - See Allegan County
(R) - See Eaton County
(Hw, W&S) - See Statewide
IONIA COUNTY
Decision #MI77-2106 (R)
42 FR 35510 - 7/8/77
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.

IOSCO COUNTY
(B,H) - See Bay County
(Hw, W&S) - See Statewide
(D) - See Alcona County
IRON COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide

ISABELLA COUNTY
(Hw, W&S) - See Statewide
JACKSON COUNTY
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
KALAMAZOO COUNTY
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
(R) - See Branch County
KALKASKA COUNTY
(Hw, W&S) - See Statewide
KENT COUNTY
Decision #MI76-2171 (B,H)
41 FR 56590 - 12/28/76
Decision #AM-402 (R)
36 FR 15895 - 8/18/71
(Hw, W&S) - See Statewide
KEWEENAW COUNTY
(D) - See Alcona County
(B,H) - See Alger County
(Hw, W&S) - See Statewide
LAKE COUNTY
(Hw, W&S) - See Statewide
LAPEER COUNTY
(R) - See Genesee County
(B,H) - See Bay County
(Hw, W&S) - See Statewide
LEELANAU COUNTY
(D) - See Alcona County
(B,H) - See Grant Traverse County
(Hw, W&S) - See Statewide
LENAWEE COUNTY
(Hw, W&S) - See Statewide
LIVINGSTON COUNTY
(Hw, W&S) - See Statewide
LUCE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MACKINAC COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
MACOMB COUNTY
Decision #MI77-2071 (B,H,R)
42 FR 28763 - 6/3/77
Mod. #1 - 42 FR 35526 - 7/8/77
Mod. #2 - 42 FR 36740 - 7/15/77
Mod. #3 - 42 FR 39856 - 8/5/77
(D) - See Alcona County
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

MANISTEE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MARQUETTE COUNTY
Decision #MI77-2052 (R)
42 FR 24618 - 5/13/77
Mod. #1 - 42 FR 28746 - 6/3/77
Mod. #2 - 42 FR 38841 - 7/29/77
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
MASON COUNTY
(B,H) - See Charlevoix County
(D) - See Alcona County
MECOSTA COUNTY
(Hw, W&S) - See Statewide
MENOMINEE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MIDLAND COUNTY
(Hw, W&S) - See Statewide
MISSAUKEE COUNTY
(Hw, W&S) - See Statewide
MONROE COUNTY
(B,H,R) - See Macomb County
(D) - See Alcona County
(Hw, W&S) - See Statewide
MONTCALM COUNTY
(Hw, W&S) - See Statewide
(R) - See Kent County
MONTMORENCY COUNTY
(B,H) - See Alcona County
(Hw, W&S) - See Statewide
MUSKEGON COUNTY
Decision #MI75-2120 (R)
40 FR 49955 - 10/24/75
(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
NEWAYGO COUNTY
(Hw, W&S) - See Statewide
OAKLAND COUNTY
(B,H,R) - See Macomb County
(D) - See Alcona County
(Hw, W&S) - See Statewide
OCEANA COUNTY
(B,H,R) - See Alcorn County
(D) - See Alcona County
(Hw, W&S) - See Statewide
OGEMAW COUNTY
(Hw, W&S) - See Statewide
ONTONAGON COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
OSCEOLA COUNTY
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

OSCODA COUNTY
(Hw, W&S) - See Statewide
(B,H) - See Alcona County
OTSEGO COUNTY
(Hw, W&S) - See Statewide
OTTAWA COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
(R) - See Allegan County
PRESQUE ISLE COUNTY
(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
ROSCOMMON COUNTY
(Hw, W&S) - See Statewide
SAGINAW COUNTY
(B,H) - See Bay County
(R) - See Genesee County
(Hw, W&S) - See Statewide
SAINT CLAIR COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(R) - See Genesee County
(Hw, W&S) - See Statewide
SAINT JOSEPH COUNTY
(Hw, W&S) - See Statewide
(R) - See Branch County
SANILAC COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(Hw, W&S) - See Statewide
SCHOOLCRAFT COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
SHIAWASSEE COUNTY
(B,H) - See Bay County
(R) - See Genesee County
(Hw, W&S) - See Statewide
TUSCOLA COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(Hw, W&S) - See Statewide
VAN BUREN COUNTY
(Hw, W&S) - See Statewide
(D) - See Alcona County
WASHTENAW COUNTY
(B,H,R) - See Macomb County
(Hw, W&S) - See Statewide
(D) - See Alcona County
WAYNE COUNTY
(B,H,R) - See Macomb County
(D) - See Alcona County
(Hw, W&S) - See Statewide
WEXFORD COUNTY
(Hw, W&S) - See Statewide

MINNESOTA

AITKIN COUNTY
Decision #MN77-2040 (H,Hw)
42 FR 26157 - 5/20/77
Mod. #1 - 42 FR 35526 - 7/8/77
Mod. #2 - 42 FR 38842 - 7/29/77
ANOKA COUNTY
Decision #MN77-2043 (B,R)
42 FR 23390 - 5/6/77
Mod. #1 - 42 FR 28749 - 6/3/77
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77
Mod. #2 - 42 FR 37707 - 7/22/77
(H,Hw) - See Aitkin County
BECKER COUNTY
Decision #MN77-2031 (H,Hw)
42 FR 12616 - 3/4/77
BELTRAMI COUNTY
Decision #MN77-2034 (H,Hw)
42 FR 12617 - 3/4/77
BENTON COUNTY
(D) - See Anoka County
(H,Hw) - See Aitkin County
BIG STONE COUNTY
Decision #MN77-2032 (H,Hw)
42 FR 12616 - 3/4/77
BLUE EARTH COUNTY
Decision #MN77-2044 (B)
42 FR 23395 - 5/6/77
Mod. #2 - 42 FR 28749 - 6/3/77
(H,Hw) - See Aitkin County
BROWN COUNTY
Decision #MN77-2066 (H,Hw)
42 FR 20127 - 4/22/77
CARLTON COUNTY
(B,R) - See Saint Louis County
(H,Hw) - See Aitkin County
CARVER COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County
CASS COUNTY
(Hw) - See Becker County
CHIPPEWA COUNTY
(Hw) - See Big Stone County
CHISAGO COUNTY
(H,Hw) - See Aitkin County
CLAY COUNTY
(Hw) - See Becker County
CLEAR WATER COUNTY
(H,Hw) - See Beltrami County
COOK COUNTY
Decision #IL77-5038 (D)
42 FR 18802 - 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
(H,Hw) - See Aitkin County
COTTONWOOD COUNTY
Decision #MN77-2033 (H,Hw)
42 FR 12617 - 3/4/77
CROW WING COUNTY
Decision #MN77-2064 (H,Hw)
42 FR 20126 - 4/22/77
(H,Hw) - See Aitkin County

MINNESOTA (Cont'd.)

DAKOTA COUNTY
(B,D,R) - See Anoka County
(H,Hw) - See Aitkin County
DODGE COUNTY
(H,Hw) - See Aitkin County
DOUGLAS COUNTY
(H,Hw) - See Big Stone County
FAIRBAULT COUNTY
(B) - See Blue Earth County
(H,Hw) - See Aitkin County
FILLMORE COUNTY
(H,Hw) - See Aitkin County
FREEBORN COUNTY
(B) - See Blue Earth County
(H,Hw) - See Aitkin County
GOODHUE COUNTY
(D) - See Anoka County
(H,Hw) - See Aitkin County
GRANT COUNTY
(H,Hw) - See Big Stone County
HENNEPIN COUNTY
(B,D,R) - See Anoka County
(H,Hw) - See Aitkin County
HOUSTON COUNTY
(D) - See Anoka County
(H,Hw) - See Aitkin County
HUBBARD COUNTY
(H,Hw) - See Becker County
ISANTI COUNTY
(H,Hw) - See Aitkin County
ITASKA COUNTY
(B,R) - See St. Louis County
(H,Hw) - See Aitkin County
JACKSON COUNTY
(H,Hw) - See Aitkin County
KANABEC COUNTY
(H,Hw) - See Aitkin County
KANDIYOHI COUNTY
(H,Hw) - See Big Stone County
KITTSON COUNTY
(H,Hw) - See Beltrami County
KOOCHICHING COUNTY
(B,R) - See St. Louis County
(H,Hw) - See Aitkin County
LAC QUI PARLE COUNTY
(H,Hw) - See Big Stone County
LAKE COUNTY
(H,Hw) - See Aitkin County
(D) - See Cook County
LAKE OF THE WOODS COUNTY
(H,Hw) - See Beltrami County
LE SUEUR COUNTY
(H,Hw) - See Aitkin County
LINCOLN COUNTY
(H,Hw) - See Cottonwood County

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MINNESOTA (Cont'd.

LYON COUNTY
(H,Hw) - See Cottonwood County
MCLEOD COUNTY
(H,Hw) - See Aitkin County
MAHNOMEN COUNTY
(H,Hw) - See Beltrami County
MARSHALL COUNTY
(H,Hw) - See Beltrami County
MARTIN COUNTY
(H,Hw) - See Aitkin County
MEEKER COUNTY
(H,Hw) - See Aitkin County
MILLE LACS COUNTY
(H,Hw) - See Aitkin County
MORRISON COUNTY
(H,Hw) - See Aitkin County
MOWER COUNTY
(B) - See Blue Earth County
(H,Hw) - See Aitkin County
MURRAY COUNTY
(H,Hw) - See Cottonwood County
NICOLLET COUNTY
(H,Hw) - See Aitkin County
NOBLES COUNTY
(H,Hw) - See Aitkin County
NORMAN COUNTY
(H,Hw) - See Beltrami County
OLMSTEAD COUNTY
Decision #MN77-2045 (B,R)
42 FR 23400 - 5/6/77
Mod. #1 - 42 FR 28750 - 5/6/77
(H,Hw) - See Aitkin County
OTTER TAIL COUNTY
(H,Hw) - See Becker County
PENNINGTON COUNTY
(H,Hw) - See Beltrami County
PINE COUNTY
(H,Hw) - See Aitkin County
PIPESTONE COUNTY
(H,Hw) - See Cottonwood County
POLK COUNTY
(H,Hw) - See Beltrami County
POPE COUNTY
(H,Hw) - See Big Stone County
RAMSEY COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County
RED LAKE COUNTY
(H,Hw) - See Beltrami County
REDWOOD COUNTY
(H,Hw) - See Cottonwood County
RENVILLE COUNTY
Decision #MN77-2039 (H,Hw)
42 FR 16341 - 3/25/77
RICE COUNTY
(H,Hw) - See Aitkin County
ROCK COUNTY
(H,Hw) - See Aitkin County

MINNESOTA (Cont'd.

ROSEAU COUNTY
(H,Hw) - See Beltrami County
SAINT LOUIS COUNTY
(D) - See Cook County
(H,Hw) - See Aitkin County
Decision #MN77-2047 (B,R)
42 FR 23412 - 5/6/77
Mod. #1 - 42 FR 28750 - 6/3/77
Mod. #2 - 42 FR 35526 - 7/8/77
SCOTT COUNTY
(H,Hw) - See Aitkin County
(B,R) - See Anoka County
SHERBURNE COUNTY
(D) - See Anoka County
(H,Hw) - See Aitkin County
SIBLEY COUNTY
(H,Hw) - See Aitkin County
STEARNS COUNTY
Decision #MN77-2046 (B,R)
42 FR 23405 - 5/6/77
Mod. #1 - 42 FR 28750 - 6/3/77
(D) - See Anoka County
(H,Hw) - See Aitkin County
STEELE COUNTY
(H,Hw) - See Aitkin County
STEVENS COUNTY
(H,Hw) - See Big Stone County
SWIFT COUNTY
(H,Hw) - See Big Stone County
TODD COUNTY
(Hw) - See Becker County
TRAVERSE COUNTY
(H,Hw) - See Big Stone County
WABASHA COUNTY
(D) - See Anoka County
(H,Hw) - See Aitkin County
WADENA COUNTY
(H,Hw) - See Becker County
WASECA COUNTY
(H,Hw) - See Aitkin County
WASHINGTON COUNTY
(B,D,R) - See Anoka County
(H,Hw) - See Aitkin County
WATONWAN COUNTY
None
WILKIN COUNTY
(H,Hw) - See Becker County
WINONA COUNTY
(D) - See Anoka County
(H,Hw) - See Aitkin County
WRIGHT COUNTY
(D) - See Anoka County
(H,Hw) - See Aitkin County
YELLOW MEDICINE COUNTY
(H,Hw) - See Cottonwood County

MISSISSIPPI

STATEWIDE
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Mod. #1 - 42 FR 18788 - 4/8/77
Decision #MS76-1137 (Hw)
41 FR 55271 - 12/17/76
Mod. #1 - 42 FR 3136 - 1/14/77
Decision #MS76-1139(W&S)
41 FR 55259 - 12/17/76
ADAMS COUNTY
Decision #AR-5041 (F)
41 FR 19017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
(D,Hw, W&S) - See Statewide
ALCORN COUNTY
(D,Hw,W&S) - See Statewide
(F) - See Adams County
AMITE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
ATTALA COUNTY
(D,Hw, W&S) - See Statewide
BENTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
BOLIVAR COUNTY
Decision #MS77-1069 (B)
42 FR 26094 - 5/20/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
CALHOUN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
CARROLL COUNTY
(D,Hw, W&S) - See Statewide
CARROLL COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
CHICKASAW COUNTY
(Hw, W&S) - See Statewide
(F) - See Adams County
CHOCTAW COUNTY
(Hw, W&S) - See Statewide
CLAIBORNE COUNTY
Decision #MS76-1099 (R)
41 FR 40368 - 9/17/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
CLARK COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Statewide
CLAY COUNTY
(Hw, W&S) - See Statewide
COAHOMA COUNTY
Decision #MS76-1004 (R)
41 FR 1695 - 1/9/76
Mod. #1 - 41 FR 40371 - 9/17/76

MISSISSIPPI (Cont'd.)

COAHOMA COUNTY (CONT'D)
(D,Hw, W&S) - See Statewide
(F) - See Adams County
COPIAH COUNTY
Decision #MS76-1074 (R)
41 FR 29650 - 7/16/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
COVINGTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
DE SOTO COUNTY
Decision #MS77-1054 (B)
42 FR 23265 - 5/6/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
FORREST COUNTY
Decision #MS75-1076 (R)
40 FR 36935 - 8/22/75
Mod. #1 - 40 FR 55609 - 11/28/75
Decision #MS76-1142 (B)
41 FR 56593 - 12/28/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
FRANKLIN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
GEORGE COUNTY
Decision #MS75-1077 (R)
40 FR 36935 - 8/22/75
(D,Hw, W&S) - See Statewide
(F) - See Adams County
GREENE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
GRENADA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
HANCOCK COUNTY
Decision #MS77-1030 (B,H)
42 FR 16356 - 3/25/77
Mod. #1 - 42 FR 18791 - 4/8/77
Mod. #2 - 42 FR 22072 - 4/29/77
Mod. #3 - 42 FR 37706 - 7/22/77
(D) - See Statewide
(F) - See Adams County
(R) - See George County
HARRISON COUNTY
(B,H) - See Hancock County
(R) - See George County
(D,Hw, W&S) - See Statewide
(F) - See Adams County
HINDS COUNTY
Decision #MS77-1032 (B)
42 FR 16359 - 3/25/77
Mod. #1 - 42 FR 22072 - 4/29/77
Mod. #2 - 42 FR 37706 - 7/22/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County

MISSISSIPPI (Cont'd.)

HOLMES COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
HUMPHREYS COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
ISSAQUENA COUNTY
Decision #MS76-1076 (B)
41 FR 29651 - 7/16/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Claiborne County
ITAWAMBA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
JACKSON COUNTY
(D,Hw, W&S) - See Statewide
(B,H) - See Hancock County
(R) - See George County
JASPER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
JEFFERSON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
JEFFERSON DAVIS COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
JONES COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(B,R) - See Forrest County
KEMPER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LAFAYETTE COUNTY
Decision #MS77-1062 (B)
42 FR 26094 - 5/20/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LAMAR COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LAUDERDALE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LAWRENCE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LEAKE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
LEE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LEFLORE COUNTY
Decision #MS77-1055 (B)
42 FR 23265 - 5/6/77
(F) - See Adams County
((D,Hw, W&S) - See Statewide

MISSISSIPPI (Cont'd.

LINCOLN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LOWNDES COUNTY
Decision #MS77-1078 (B)
42 FR 31044 - 6/17/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
MADISON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
MARION COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
MARSHALL COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
MONROE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
MONTGOMERY COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
NESHOBA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
NEWTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
NOXUBEE COUNTY
Decision #MS77-1057 (H)
42 FR 23266 - 5/6/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
OKTIBBEHA COUNTY
(D,Hw, W&S) - See Statewide
PANOLA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
PEARL RIVER COUNTY
(D,Hw, W&S) - See Statewide
(B,H) - See Hancock County
(F) - See Adams County
(R) - See George County
PERRY COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
PIKE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
PONTOTOC COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
PRENTISS COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
QUITMAN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

MISSISSIPPI (Cont'd.)

RANKIN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
SCOTT COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
SHARKEY COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Claiborne County
(B) - See Issaquena County
SIMPSON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
SMITH COUNTY
(D,Hw, W&S) - See Statewide
(R) - See Copiah County
(F) - See Adams County
STONE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See George County
SUNFLOWER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(B) - See Issaquena County
(R) - See Coahoma County
TALLAHATCHIE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
TATE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
TIPPAH COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
TISHOMINGO COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
TUNICA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
UNION COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
WALTHALL COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

MISSISSIPPI (Cont'd.)

WARREN COUNTY
Decision #MS77-1033 (B)
42 FR 16361 - 3/25/77
Mod. #1 - 42 FR 22072 - 4/29/77
Mod. #1 - 42 FR 35527 - 7/8/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Claiborne County
WASHINGTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(B) - See Issaquena County
(R) - See Coahoma County
WAYNE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
WEBSTER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
WILKINSON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
WINSTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
YALOBUSHA COUNTY
Decision #MS77-1056 (B)
42 FR 23266 - 5/6/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
YAZOO COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County

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MISSOURI

STATEWIDE
Decision #M077-4162 (H,Hw)
42 FR 36747 - 7/15/77
Mod. 1 - 42 FR 37707 - 7/22/77
ADAIR COUNTY
(H,Hw) - See Statewide
ANDREW COUNTY
Decision #M075-4070 (D)
40 FR 14425 - 3/28/75
(H,Hw) - See Statewide
ATCHISON COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
AUDRAIN COUNTY
(H,Hw) - See Statewide
BARRY COUNTY
(Hw) - See Statewide
BARTON COUNTY
(H,Hw) - See Statewide
BATES COUNTY
(H,Hw) - See Statewide
BENTON COUNTY
(H,Hw) - See Statewide
BOLLINGER COUNTY
(H,Hw) - See Statewide
BOONE COUNTY
(H,Hw) - See Statewide
(D) - See Andrew County
BUCHANAN COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
BUTLER COUNTY
(Hw) - See Statewide
CALDWELL COUNTY
(H,Hw) - See Statewide
CALLAWAY COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CAMDEN COUNTY
(H,Hw) - See Statewide
CAPE GIRARDEAU COUNTY
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77
(H,Hw) - See Statewide
CARROLL COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CARTER COUNTY
(Hw) - See Statewide
CASS COUNTY
Decision #M077-4075 (B)
42 FR 19315 - 4/8/77
Mod. #1 - 42 FR 26100 - 5/20/77
Mod. #2 - 42 FR 27558 - 5/27/77
Mod. #3 - 42 FR 28745 - 6/3/77
Mod. #4 - 42 FR 35523 - 7/8/77
Mod. #5 - 42 FR 36738 - 7/15/77
Decision #M077-4160 (R)
42 FR 35547 - 7/8/77
(H,Hw) - See Statewide
CEDAR COUNTY
(H,Hw) - See Statewide

MISSOURI (Cont'd.)

CHARITON COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CHRISTIAN COUNTY
(Hw) - See Statewide
CLARK COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
CLAY COUNTY
(B,R) - See Cass County
(D) - See Andrew County
(H,Hw) - See Statewide
CLINTON COUNTY
(H,Hw) - See Statewide
COLE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
COOPER COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CRAWFORD COUNTY
(H,Hw) - See Statewide
DADE COUNTY
(H,Hw) - See Statewide
DALLAS COUNTY
(H,Hw) - See Statewide
DAVIESS COUNTY
(H,Hw) - See Statewide
DE KALB COUNTY
(H,Hw) - See Statewide
DENT COUNTY
(Hw) - See Statewide
DOUGLAS COUNTY
(Hw) - See Statewide
DUNKLIN COUNTY
(Hw) - See Statewide
FRANKLIN COUNTY
Decision #M077-4134 (B)
42 FR 34195 - 7/1/77
Decision #M077-4148 (R)
42 FR 34198 - 7/1/77
(D) - See Andrew County
(H,Hw) - See Statewide
GASCONADE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
GENTRY COUNTY
(H,Hw) - See Statewide
GREENE COUNTY
(H,Hw) - See Statewide

MISSOURI (Cont'd.

GRUNDY COUNTY
(H,Hw) - See Statewide
HARRISON COUNTY
(H,Hw) - See Statewide
HENRY COUNTY
(H,Hw) - See Statewide
(B,H,Hw) - See Cass County
HICKORY COUNTY
(H,Hw) - See Statewide
HOLT COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
HOWARD COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
HOWELL COUNTY
(Hw) - See Statewide
IRON COUNTY
(Hw) - See Statewide
JACKSON COUNTY
(B,R) - See Cass County
(D) - See Andrew County
(H,Hw) - See Statewide
JASPER COUNTY
Decision #M077-4033 (B)
42 FR 10240 - 2/18/77
Mod. #1 - 42 FR 13718 - 3/11/77
Mod. #2 - 42 FR 26101 - 5/20/77
Mod. #3 - 42 FR 30086 - 6/10/77
Mod. #4 - 42 FR 36740 - 7/15/77
JEFFERSON COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
JOHNSON COUNTY
(B,H,Hw) - See Cass County
(H,Hw) - See Statewide
KNOX COUNTY
(H,Hw) - See Statewide
LACLEDE COUNTY
(H,Hw) - See Statewide
LAFAYETTE COUNTY
(B,H,Hw) - See Cass County
(H,Hw) - See Statewide
(D) - See Andrew County
LAWRENCE COUNTY
(H,Hw) - See Statewide
LEWIS COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
LINCOLN COUNTY
(D) - See Cape Girardeau County
(B,R) - See Franklin County
(H,Hw) - See Statewide
LINN COUNTY
(H,Hw) - See Statewide
LIVINGSTON COUNTY
(H,Hw) - See Statewide
MC DONALD COUNTY
(B) - See Jasper County
(H,Hw) - See Statewide

MISSOURI (Cont'd.)

MACON COUNTY
(H,Hw) - See Statewide
MADISON COUNTY
(H,Hw) - See Statewide
MARIES COUNTY
(H,Hw) - See Statewide
MARION COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
MERCER COUNTY
(H,Hw) - See Statewide
MILLER COUNTY
(H,Hw) - See Statewide
MISSISSIPPI COUNTY
(D) - See Cape Girardeau County
(Hw) - See Statewide
MONITEAU COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
MONROE COUNTY
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See STatewide
NEW MADRID COUNTY
(D) - See Cape Girardeau County
(Hw) - See Statewide
NEWTON COUNTY
(B) - See Jasper County
(H,Hw) - See Statewide
NODAWAY COUNTY
(H,Hw) - See STatewide
OREGON COUNTY
(Hw) - See Statewide
OSAGE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
OZARK COUNTY
(Hw) - See Statewide
PEMISCOT COUNTY
(D) - See Cape Girardeau County
(Hw) - See Statewide
PERRY COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
PETTIS COUNTY
(H,Hw) - See Statewide
PHELPS COUNTY
(H,Hw) - See Statewide
PIKE COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
PLATTE COUNTY
(B,R,H,Hw) - See Cass County
(D) - See Andrew County
POLK COUNTY
(H,Hw) - See Statewide

NOTICES

MISSOURI (Cont'd.

PULASKI COUNTY
(H,Hw) - See Statewide
PUTNAM COUNTY
(H,Hw) - See Statewide
RALLS COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
RANDOLPH COUNTY
(H,Hw) - See Statewide
RAY COUNTY
(B,R) - See Cass County
(H,Hw) - See Statewide
(D) - See Andrew County
REYNOLDS COUNTY
(Hw) - See Statewide
RIPLEY COUNTY
(Hw) - See Statewide
ST. CHARLES COUNTY
(D) - See Cape Girardeau County
(B,R) - See Franklin County
(D) - See Andrew County
(H,Hw) - See Statewide
ST. CLAIR COUNTY
(H,Hw) - See Statewide
ST. FRANCOIS COUNTY
(H,Hw) - See Statewide
ST. LOUIS COUNTY
(B,R) - See Franklin County
(D) - See Cape Girardeau County
(D) - See Andrew County
(H,Hw) - See Statewide
ST. GENEVIEVE COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
SALINE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
SCHUYLER COUNTY
(H,Hw) - See Statewide
SCOTLAND COUNTY
(H,Hw) - See Statewide
SCOTT COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
SHANNON COUNTY
(Hw) - See Statewide
SHELBY COUNTY
(H,Hw) - See Statewide
STODDARD COUNTY
(Hw) - See Statewide

MISSOURI (Cont'd.)

STONE COUNTY
(Hw) - See Statewide
SULLIVAN COUNTY
(H,Hw) - See Statewide
TANEY COUNTY
(Hw) - See Statewide
TEXAS COUNTY
(Hw) - See Statewide
VERNON COUNTY
(H,Hw) - See Statewide
WARREN COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
WASHINGTON COUNTY
(H,Hw) - See Statewide
WAYNE COUNTY
(Hw) - See Statewide
WEBSTER COUNTY
(Hw) - See Statewide
WORTH COUNTY
(H,Hw) - See Statewide
WRIGHT COUNTY
(Hw) - See Statewide

MONTANA

STATEWIDE
Decision #MT77-5073 (B)
42 FR 37738 - 7/22/77
Decision #MT77-5074 (H,Hw)
42 FR 36552 - 7/8/77
BEAVERHEAD COUNTY
(B,H,Hw) - See Statewide
BIG HORN COUNTY
(B,H,Hw) - See Statewide
BLAINE COUNTY
(B,H,Hw) - See Statewide
BROADWATER COUNTY
(B,H,Hw) - See Statewide
CARBON COUNTY
(B,H,Hw) - See Statewide
CARTER COUNTY
(B,H,Hw) - See Statewide
CASCADE COUNTY
Decision #MT77-5057 (R)
42 FR 28769 - 6/3/77
Mod. #1 - 42 FR 34145 - 7/1/77
Mod. #2 - 42 FR 35527 - 7/8/77
Mod. #3 - 42 FR 36741 - 7/15/77
Mod. #4 - 42 FR 38842 - 7/29/77
(B,H,Hw) - See Statewide
CHOUTEAU COUNTY
(B,H,Hw) - See Statewide
CUSTER COUNTY
(B,H,Hw) - See Statewide
DANIELS COUNTY
(B,H,Hw) - See Statewide
DAWSON COUNTY
(B,H,Hw) - See Statewide
DEER LODGE COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
FALLON COUNTY
(B,H,Hw) - See Statewide
FERGUS COUNTY
(B,H,Hw) - See Statewide
FLATHEAD COUNTY
(B,H,Hw) - See Statewide
GALLATIN COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
GARFIELD COUNTY
(B,H,Hw) - See Statewide
GLACIER COUNTY
(R) - See Cascade County
(B,H,Hw) - See Statewide

MONTANA (Cont'd.

GOLDEN VALLEY COUNTY
(B,H,Hw) - See Statewide
GRANITE COUNTY
(B,H,Hw) - See Statewide
HILL COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
JEFFERSON COUNTY
(B,H,Hw) - See Statewide
JUDITH COUNTY
(B,H,Hw) - See Statewide
LAKE COUNTY
(B,H,Hw) - See Statewide
LEWIS & CLARK COUNTY
(B,H,Hw) - See Statewide
LIBERTY COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
MC CONE COUNTY
(B,H,Hw) - See Statewide
MADISON COUNTY
(B,H,Hw) - See Statewide
MEAGHER COUNTY
(B,H,Hw) - See Statewide
MINERAL COUNTY
(B,H,Hw) - See Statewide
MISSOULA COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
MUSSELSHELL COUNTY
(B,H,Hw) - See Statewide
PARK COUNTY
(B,H,Hw) - See Statewide
PETROLEUM COUNTY
(B,H,Hw) - See Statewide
PHILLIPS COUNTY
(B,H,Hw) - See Statewide
PONDERA COUNTY
(B,H,Hw) - See Statewide
POWDER RIVER COUNTY
(B,H,Hw) - See Statewide
POWELL COUNTY
(B,H,Hw) - See Statewide
PRAIRIE COUNTY
(B,H,Hw) - See Statewide
RAVALLI COUNTY
(B,H,Hw) - See Statewide
RICHLAND COUNTY
(B,H,Hw) - See Statewide
ROOSEVELT COUNTY
(B,H,Hw) - See Statewide

NOTICES

NOTICES

MONTANA (Cont'd.

ROSEBUD COUNTY
(B,H,Hw) - See Statewide
SANDERS COUNTY
(B,H,Hw) - See Statewide
SHERIDAN COUNTY
(B,H,Hw) - See Statewide
SILVER BOW COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
STILLWATER COUNTY
(B,H,Hw) - See Statewide
SWEET GRASS COUNTY
(B,H,Hw) - See Statewide
TETON COUNTY
(B,H,Hw) - See Statewide
TOOLE COUNTY
(B,H,Hw) - See Statewide
TREASURE COUNTY
(B,H,Hw) - See Statewide
VALLEY COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
WHEATLAND COUNTY
(B,H,Hw) - See Statewide
WIBAUX COUNTY
(B,H,Hw) - See Statewide
YELLOWSTONE COUNTY
(B,H,Hw) - See Statewide

NEBRASKA

ADAMS COUNTY
Decision #NE77-4001 (H,Hw)
42 FR 1685 - 1/7/77
ANTELOPE COUNTY
(H,Hw) - See Adams County
ARTHUR COUNTY
(H,Hw) - See Adams County
BANNER COUNTY
Decision #NE77-4040 (B)
42 FR 11223 - 2/25/77
(H,Hw) - See Adams County
BLAINE COUNTY
(H,Hw) - See Adams County
BOONE COUNTY
(H,Hw) - See Adams County
BOX BUTTE COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
BOYD COUNTY
(H,Hw) - See Adams County
Decision #NE76-4184 (Channel Stabilizatio
41 FR 53259 - 12/3/76
BROWN COUNTY
(H,Hw) - See Adams County
BUFFALO COUNTY
(H,Hw) - See Adams County
BURT COUNTY
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
BUTLER COUNTY
(H,Hw) - See Adams County
CASS COUNTY
(Chann. Stab.) - See Boyd County
Decision #NE77-4021 (H,Hw)
42 FR 8946 - 2/11/77
CEDAR COUNTY
Decision #NE77-4067 (B)
42 FR 15272 - 3/18/77
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
CHASE COUNTY
(H,Hw) - See Adams County
CHERRY COUNTY
(H,Hw) - See Adams County
CHEYENNE COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
CLAY COUNTY
(H,Hw) - See Adams County
COLFAX COUNTY
(H,Hw) - See Adams County

NEBRASKA (Cont'd.

CUMING COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
CUSTER COUNTY
(H,Hw) - See Adams County
DAKOTA COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
DAWES COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
DAWSON COUNTY
(H,Hw) - See Adams County
DEUEL COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
DIXON COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
DODGE COUNTY
(H,Hw) - See Adams County
DOUGLAS COUNTY
Decision #NE77-4115 (B,R)
42 FR 30131 - 6/10/77
Mod. #1 - 42 FR 34145 - 7/1/77
(H,Hw) - See Cass County
(Chann. Stab.) - See Boyd County
DUNDY COUNTY
(H,Hw) - See Adams County
FILLMORE COUNTY
(H,Hw) - See Adams County
FRANKLIN COUNTY
(H,Hw) - See Adams County
FRONTIER COUNTY
(H,Hw) - See Adams County
FURNAS COUNTY
(H,Hw) - See Adams County
GAGE COUNTY
(H,Hw) - See Adams County
GARDEN COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
GARFIELD COUNTY
(H,Hw) - See Adams County
GOSPER COUNTY
(H,Hw) - See Adams County
GRANT COUNTY
(H,Hw) - See Adams County
GREELEY COUNTY
(H,Hw) - See Adams County

NEBRASKA (Cont'd.

HALL COUNTY
Decision #NE76-4107 (B)
41 FR 33150 - 8/6/76
(H,Hw) - See Adams County
HAMILTON COUNTY
(B) - See Hall County
(H,Hw) - See Adams County
HARLAN COUNTY
(H,Hw) - See Adams County
HAYES COUNTY
(H,Hw) - See Adams County
HITCHCOCK COUNTY
(H,Hw) - See Adams County
HOLT COUNTY
(H,Hw) - See Adams County
HOOKER COUNTY
(H,Hw) - See Adams County
HOWARD COUNTY
(B) - See Hall County
(H,Hw) - See Adams County
JEFFERSON COUNTY
(H,Hw) - See Adams County
JOHNSON COUNTY
(H,Hw) - See Adams County
KEARNEY COUNTY
(H,Hw) - See Adams County
KEITH COUNTY
(H,Hw) - See Adams County
KEYAPAHA COUNTY
(H,Hw) - See Adams County
KIMBALL COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
KNOX COUNTY
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
LANCASTER COUNTY
Decision #NE77-4135 (B)
42 FR 34201 - 7/1/77
Decision #NE76-4178 (R)
41 FR 45813 - 10/15/76
(H,Hw) - See Adams County
LINCOLN COUNTY
(H,Hw) - See Adams County
LOGAN COUNTY
(H,Hw) - See Adams County
LOUP COUNTY
(H,Hw) - See Adams County
MC PHERSON COUNTY
(H,Hw) - See Adams County
MADISON COUNTY
(H,Hw) - See Adams County
MERRICK COUNTY
(B) - See Hall County
(H,Hw) - See Adams County

NEBRASKA (Cont'd.

MORRILL COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
NANCE COUNTY
(H,Hw) - See Adams County
NEMAHA COUNTY
Decision #NE75-4070 (D)
40 FR 14225 - 3/28/75
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
NUCKOLLS COUNTY
(H,Hw) - See Adams County
OTOE COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
PAWNEE COUNTY
(H,Hw) - See Adams County
PERKINS COUNTY
(H,Hw) - See Adams County
PHELPS COUNTY
(H,Hw) - See Adams County
PIERCE COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
PLATTE COUNTY
(H,Hw) - See Adams County
POLK COUNTY
(H,Hw) - See Adams County
RED WILLOW COUNTY
(H,Hw) - See Adams County
RICHARDSON COUNTY
(Chann. Stab.) - See Boyd County
(D) - See Nemaha County
(H,Hw) - See Adams County
ROCK COUNTY
(H,Hw) - See Adams County
SALINE COUNTY
(H,Hw) - See Adams County
SARPY COUNTY
(Chann. Stab.) - See Boyd County
(B,R) - See Douglas County
(H,Hw) - See Cass County
SAUNDERS COUNTY
(H,Hw) - See Adams County
SCOTTS BLUFF COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
SEWARD COUNTY
(H,Hw) - See Adams County
SHERIDAN COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
SHERMAN COUNTY
(H,Hw) - See Adams County
SIOUX COUNTY
(B) - See Banner County
(H,Hw) - See Adams County

NEBRASKA (Cont'd.

STANTON COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
THAYER COUNTY
(H,Hw) - See Adams County
THOMAS COUNTY
(H,Hw) - See Adams County
THURSTON COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
VALLEY COUNTY
(H,Hw) - See Adams County
WASHINGTON COUNTY
(H,Hw) - See Cass County
(Chann. Stab.) - See Boyd County
WAYNE COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
WEBSTER COUNTY
(H,Hw) - See Adams County
WHEELER COUNTY
(H,Hw) - See Adams County
YORK COUNTY
(H,Hw) - See Adams County

NEVADA

STATEWIDE (Excluding the Nevada Test Site & Tonopah Test Range)
Decision #NV77-5146 (B,H,Hw)
42 FR 22082 - 4/29/77
Mod. #1 - 42 FR 24572 - 5/13/77
Mod. #2 - 42 FR 28751 - 6/3/77
Mod. #3 - 42 FR 31048 - 6/17/77
Mod. #4 - 42 FR 37707 - 7/22/77
CARSON COUNTY
(B,H,Hw) - See Statewide
CHURCHILL COUNTY
(B,H,Hw) - See Statewide
CLARK COUNTY
Decision #NV77-5061 (R)(Excluding Nevada Test Site)
42 FR 31074 - 6/17/77
Mod. #1 - 42 FR 35528 - 7/8/77
Mod. #2 - 42 FR 37707 - 7/22/77
Mod. #3 - 42 FR 39857 - 8/5/77
(B,H,Hw) - See Statewide
Decision #NV77-5072 (B,H,Hw)(Nevada Test Site including the Tonopah Test Range)
42 FR 35562 - 7/8/77
Mod. #1 - 42 FR 39857 - 8/5/77
DOUGLAS COUNTY
(B,H,Hw) - See Statewide
ELKO COUNTY
(B,H,Hw) - See Statewide
ESMERALDA COUNTY
(B,H,Hw) - See Statewide
EUREKA COUNTY
(B,H,Hw) - See Statewide
HUMBOLDT COUNTY
(B,H,Hw) - See Statewide
LANDER COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
LYON COUNTY
(B,H,Hw) - See Statewide
MINERAL COUNTY
(B,H,Hw) - See Statewide
NYE COUNTY
(B,H,Hw) - See Clark Co. (Nevada Test Site)
(B,H,Hw) - See Statewide
PERSHING COUNTY
(B,H,Hw) - See Statewide
STOREY COUNTY
(B,H,Hw) - See Statewide
WASHOE COUNTY
Decision #NV77-5031 (R)
42 FR 15278 - 3/18/77
Mod. #1 - 42 FR 18792 - 4/8/77

NEVADA (Cont'd.)

WASHOE COUNTY (CONT'D)
Mod. #2 - 42 FR 22073 - 4/29/77
Mod. #3 - 42 FR 31047 - 6/17/77
WHITE PINE COUNTY
(B,H,Hw) - See Statewide

NOTICES

NEW HAMPSHIRE

BELKNAP COUNTY
None
CARROLL COUNTY
None
CHESHIRE COUNTY
None
COOS COUNTY
None
GRAFTON COUNTY
None
HILLSBORO COUNTY
Decision #NH77-2001 (B,H,Hw,R)
42 FR 4087 - 1/21/77
Mod. #1 - 42 FR 23275 - 5/6/77
Mod. #2 - 42 FR 38844 - 7/29/77
MERRIMACK COUNTY
Decision #NH77-2002 (B,H,Hw, & Marine)
42 FR 4090 - 1/21/77
Mod. #1 - 42 FR 23275 - 5/6/77
Mod. #2 - 42 FR 38842- 7/29/77
ROCKINGHAM COUNTY
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
Decision #NH77-2003 (B,H,Hw,R, & Marine)
42 FR 5625 - 1/28/77
Mod. #1 - 42 FR 23275 - 5/6/77
Mod. #2 - 42 FR 24573 - 5/13/77
Mod. #3 - 42 FR 38843 - 7/29/77
STRAFFORD COUNTY
Decision #NH77-2004 (B,H,Hw, & Marine)
42 FR 5629 - 1/28/77
Mod. #1 - 42 FR 23275 - 5/6/77
Mod. #2 - 42 FR 38843 - 7/29/77
SULLIVAN COUNTY
None

NEW JERSEY

ATLANTIC COUNTY
Decision #NJ77-3079 (B,H,Hw)
42 FR 31080 - 6/17/77
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
BERGEN COUNTY
Decision #NJ76-3252 (R)
41 FR 47027 - 10/29/76
Mod. #1 - 41 FR 52182 - 11/26/76
Mod. #2 - 42 FR 7034 - 2/4/77
Mod. #3 - 42 FR 12570 - 3/4/77
Mod. #4 - 42 FR 20985 - 4/22/77
Decision #NJ77-3093 (B,H,Hw)
42 FR 35567 - 7/8/77
Mod. #1 - 42 FR 39858 - 8/5/77
(D) - See Atlantic County
BURLINGTON COUNTY
Decision #NJ75-3096 (R)
40 FR 43413 - 9/19/75
Mod. #1 - 42 FR 30086 - 6/10/77
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
CAMDEN COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
CAPE MAY COUNTY
Decision #NJ75-3068 (R)
40 FR 29437 - 7/11/75
(B,H,Hw,D) - See Atlantic County
CUMBERLAND COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
ESSEX COUNTY
(B,H,Hw,R) - See Bergen County
(D) - See Atlantic County
GLOUCESTER COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
HUDSON COUNTY
(B,H,Hw,R) - See Bergen County
(D) - See Atlantic County
HUNTERDON COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
MERCER COUNTY
(B,D,H,Hw) - See Atlantic County
MIDDLESEX COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
MONMOUTH COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County

NEW JERSEY (Cont'd.)

MORRIS COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
OCEAN COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
PASSAIC COUNTY
(B,H,Hw,R) - See Bergen County
(D) - See Atlantic County
SALEM COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
SOMERSET COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
SUSSEX COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
UNION COUNTY
Decision #NJ75-3097 (R)
40 FR 43414 - 9/19/75
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
WARREN COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County

NEW MEXICO

STATEWIDE
Decision #NM77-4103 (Streets, Highways, Utilities and Light Engineering Construction)
42 FR 26169 - 5/20/77
Decision #NM77-4116 (Building including residential in Mckinley, Santa Fe, San Juan, Bernalillo, Rio Arriba, Taos, Sandoval, & Valencia Cos., but not on the Navajo Indian Reservation, and Heavy construction)
42 FR 31094 - 6/17/77
Mod. #1 - 42 FR 34146 - 7/1/77
Mod. #2 - 42 FR 35529 - 7/8/77
Mod. #3 - 42 FR 37710 - 7/22/77
Mod. #4 - 42 FR 39857 - 8/5/77
BERNALILLO COUNTY
(B,H,Hw,R) - See Statewide
CATRON COUNTY
(B,H,Hw) - See Statewide
CHAVES COUNTY
(B,H,Hw) - See Statewide
COLFAX COUNTY
(B,H,Hw) - See Statewide
CURRY COUNTY
(B,H,Hw) - See Statewide
DE BACA COUNTY
(B,H,Hw) - See Statewide
DONA ANA COUNTY
(B,H,Hw) - See Statewide
Decision #NM77-4039 (R)
42 FR 10254 - 2/18/77
EDDY COUNTY
(B,H,Hw) - See Statewide
GRANT COUNTY
(B,H,Hw) - See Statewide
GUADALUPE COUNTY
(B,H,Hw) - See Statewide
HARDING COUNTY
(B,H,Hw) - See Statewide
HIDALGO COUNTY
(B,H,Hw) - See Statewide
LEA COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
LOS ALAMOS COUNTY
(B,H,Hw) - See Statewide
LUNA COUNTY
(B,H,Hw) - See Statewide
McKINLEY COUNTY
(B,H,Hw,R) - See Statewide

NEW MEXICO (Cont'd.)

MORA COUNTY
(B,H,Hw) - See Statewide
OTERO COUNTY
(R) - See Dona Ana County
(B,H,Hw) - See Statewide
QUAY COUNTY
(B,H,Hw) - See Statewide
RIO ARRIBA COUNTY
(B,H,Hw,R) - See Statewide
ROOSEVELT COUNTY
(B,H,Hw) - See Statewide
SANDOVAL COUNTY
(B,H,Hw,R) - See Statewide
SAN JUAN COUNTY
42 FR 13774 - 3/11/77
(B,H,Hw,R) - See Statewide
SAN MIGUEL COUNTY
(B,H,Hw) - See Statewide
SANTE FE COUNTY
(B,H,Hw,R) - See Statewide
SIERRA COUNTY
(B,H,Hw) - See Statewide
SOCORRO COUNTY
(B,H,Hw) - See Statewide
TAOS COUNTY
(B,H,Hw,R) - See Statewide
TORRANCE COUNTY
(B,H,hw) - See Statewide
UNION COUNTY
(B,H,Hw) - See Statewide
VALENCIA COUNTY
(B,H,Hw,R) - See Statewide

NEW YORK

ALBANY COUNTY
Decision #NY77-3000 (B,H,Hw)
42 FR 22093 - 4/29/77
ALLEGANY COUNTY
None
BRONX COUNTY
Decision #NY77-3025 (B,H,Hw)
42 FR 31105 - 6/17/77
Decision #NY77-3044 (R)
42 FR 31110 - 6/17/77
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
BROOME COUNTY
Decision #NY77-3011 (B,H,Hw)
42 FR 24621 - 5/13/77
CATTARAUGUS COUNTY
None
CAYUGA COUNTY
Decision #IL77-5038 (D)
42 FR 18802 - 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
CHAUTAUQUA COUNTY
Decision #NY77-3008 (B,H,Hw)
42 FR 26171 - 5/20/77
(D) - See Cayuga County
CHEMUNG COUNTY
Decision #NY77-3001 (B)
42 FR 17766 - 4/1/77
CHENANGO COUNTY
None
CLINTON COUNTY
None
COLUMBIA COUNTY
None
CORTLAND COUNTY
None
DELAWARE COUNTY
None

NEW YORK (Cont'd)

DUTCHESS COUNTY
Decision #NY77-3110 (B,H,Hw)
42 FR 38873 - 7/29/77
(D) - See Bronx County
ERIE COUNTY
Decision #NY77-3087 (B,H,Hw)
42 FR 35583 - 7/8/77
(D) - See Cayuga County
ESSEX COUNTY
None
FRANKLIN COUNTY
(D) - See Cayuga County
FULTON COUNTY
None
GENESEE COUNTY
None
GREENE COUNTY
None
HAMILTON COUNTY
None
HERKIMER COUNTY
None
JEFFERSON COUNTY
Decision #NY77-3099 (B,H,Hw)
42 FR 36760 - 7/15/77
(D) - See Cayuga County
KINGS COUNTY
(B,H,Hw,R,D) - See Bronx County
LEWIS COUNTY
None
LIVINGSTON COUNTY
None
MADISON COUNTY
None

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NEW YORK (Cont'd)

MONROE COUNTY
Decision #NY77-3004 (B,H,Hw)
42 FR 34208 - 7/1/77
(D) - See Cayuga County
MONTGOMERY COUNTY
None
NASSAU COUNTY
Decision #NY77-3013 (B,H,Hw)
42 FR 24631 - 5/13/77
Mod. #1 - 42 FR 31049 - 6/17/77
(D) - See Bronx County
NEW YORK COUNTY
(B,H,Hw,R,U) - See Bronx County
NIAGARA COUNTY
Decision #NY77-3003 (B,H,Hw)
42 FR 34204 - 7/1/77
(D) - See Cayuga County
ONEIDA COUNTY
Decision #NY77-3081 (B,H,Hw)
42 FR 34215 - 7/1/77
ONONDAGA COUNTY
Decision #NY77-3006 (B,H,Hw)
42 FR 8951 - 2/11/77
ONTARIO COUNTY
None
ORANGE COUNTY
Decision #NY77-3084 (B,H,Hw)
42 FR 34220 - 7/1/77
(D) - See Bronx County
OSWEGO COUNTY
(D) - See Cayuga County
OTSEGO COUNTY
(D) - See Cayuga County
None
PUTNAM COUNTY
(D) - See Bronx County
QUEENS COUNTY
(B,D,H,Hw,R) - See Bronx County

NEW YORK (Cont'd)

RENSSELAER COUNTY
(B,H,Hw) - See Albany County
RICHMOND COUNTY
(B,H,Hw;R,D) - See Bronx County
ROCKLAND COUNTY
(D) - See Bronx County
ST LAWRENCE COUNTY
(D) - See Cayuga County
SARATOGA COUNTY
(B,H,Hw) - See Albany County
SCHENECTADY COUNTY
(B,H,Hw) - See Albany County
SCHOHARIE COUNTY
None
SCHUYLER COUNTY
None
SENECA COUNTY
None
STEUBEN COUNTY
Decision #NY77-3007 (B,H,Hw)
42 FR 17771 - 4/1/77
SUFFOLK COUNTY
(B,H,Hw) - See Nassau County
(D) - See Bronx County
SULLIVAN COUNTY
None
TIOGA COUNTY
None

NEW YORK (Cont'd.)

TOMPKINS COUNTY
None
ULSTER COUNTY
None
WARREN COUNTY
None
WASHINGTON COUNTY
None
WAYNE COUNTY
Decision #NY77-3005 (B,H,Hw)
42 FR 28795 - 6/3/77
(D) - See Cayuga County
WESTCHESTER COUNTY
Decision #NY77-3076 (B,H,Hw)
42 FR 28801 - 6/3/77
(D) - See Bronx County
WYOMING COUNTY
None
YATES COUNTY
None

NORTH CAROLINA

STATEWIDE
Decision #NC75-1015 (Hw)
40 FR 4857 - 1/31/75
Mod. #1 - 40 FR 41351 - 9/5/75
Decision #NC76-1078 (Sewer & Water, H)
40 FR 41367 - 9/5/75
ALAMANCE COUNTY
Decision #NC76-1095 (R)
41 FR 37507 - 9/3/76
(Sewer & Water, H,Hw) - See Statewide
ALEXANDER COUNTY
Decision #NC77-1076 (R)
42 FR 30079 - 6/10/77
(Sewer & Water, H,Hw) - See Statewide
ALLEGHANY COUNTY
(R) - See Alexandria County
(Sewer & Water, H,Hw) - See Statewide
ANSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
ASHE COUNTY
(Sewer & Water, H,Hw) - See Statewide
A(R) - See Alexandria County
AVERY COUNTY
Decision #NC77-1012 (B)
42 FR 12662 - 3/4/77
Mod. #1 - 42 FR 15257 - 3/18/77
(Sewer & Water, H,Hw) - See Statewide
BEAUFORT COUNTY
Decision #NC76-1109 (R)
41 FR 42128 - 9/24/76
Decision #GA77-5035 (D)
42 FR 13756 - 3/11/77
BERTIE COUNTY
(D,R) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
BLADEN COUNTY
(Sewer & Water, H,Hw) - See Statewide
BRUNSWICK COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
Decision #NC77-1096 (R)
42 FR 38383 - 7/29/77
BUNCOMBE COUNTY
Decision #NC76-1062 (B)
41 FR 21119 - 5/21/76
Mod. #1 - 41 FR 29614 - 7/16/76
Mod. #2 - 41 FR 34486 - 8/13/76
Decision #NC77-1081 (R)
42 FR 38881 - 7/29/77
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd.)

BURKE COUNTY
Decision #NC77-1014 (B)
42 FR 7065 - 2/4/77
Decision #NC77-1018 (R)
42 FR 8979 - 2/11/77
(Sewer & Water, H,Hw) - See Statewide
CABARRUS COUNTY
(Sewer & Water, H,HW) - See Statewide
CALDWELL COUNTY
(R) - See Alexandria County
(Sewer & Water, H,Hw) - See Statewide
CAMDEN COUNTY
Decision #NC76-1042 (B)
41 FR 11721 - 3/19/76
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CARTERET COUNTY
Decision #NC76-1019 (B)
41 FR 4796 - 1/30/76
Mod. #1 - 41 FR 21995 - 5/28/76
Decision #NC76-1073 (R)
41 FR 28469 - 7/9/76
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CASWELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
CATAWBA COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide
CHATHAM COUNTY
Decision #NC75-1049 (B)
40 FR 18273 - 4/25/75
Mod. #1 - 41 FR 20128 - 5/14/76
Decision #NC76-1094 (R)
41 FR 37506 - 9/3/76
(Sewer & Water, H,Hw) - See Statewide
CHEROKEE COUNTY
Decision #NC77-1095 (R)
42 FR 38835 - 7/29/77
(Sewer & Water, H,Hw) - See Statewide
CHOWAN COUNTY
(D,R) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CLAY COUNTY
(R) - See Cherokee County
(Sewer & Water, H,Hw) - See Statewide
CLEVELAND COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide
COLUMBUS COUNTY
(Sewer & Water, H,Hw) - See Statewide
CRAVEN COUNTY
(B,R) - See Carteret County
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County

NORTH CAROLINA (Cont'd.)

CUMBERLAND COUNTY
Decision #NC76-1024 (B)
41 FR 6945 - 2/13/76
(R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
CURRITUCK COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
(D) - See Camden County
DARE COUNTY
(B) - See Camden County
(Sewer & Water, H,Hw) - See Statewide
(D,R) - See Beaufort County
DAVIDSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
DAVIE COUNTY
(Sewer & Water, H,Hw) - See Statewide
DUPLIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
DURHAM COUNTY
Decision #NC77-1046 (B)
42 FR 18778 - 4/8/77
Decision #NC76-1085 (R)
41 FR 35317 - 8/20/76
(Sewer & Water, H,Hw) - See Statewide
EDGECOMBE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
Decision #NC76-1046 (B)
41 FR 15231 - 4/9/76
FORSYTH COUNTY
Decision #NC77-1017 (R)
42 FR 8979 - 2/11/77
(Sewer & Water, H,Hw) - See Statewide
FRANKLIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
GASTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
GATES COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
GRAHAM COUNTY
(R) - See Cherokee County
(Sewer & Water, H,Hw) - See Statewide
GRANVILLE COUNTY
Decision #NC76-1121 (B)
41 FR 46805 - 10/22/76
(Sewer & Water, H,Hw) - See Statewide
GREENE COUNTY
(B) - See Edgecombe County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
GUILDFORD COUNTY
(Sewer & Water,H,Hw) - See Statewide
(R) - See Alamance County
HALIFAX COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County

NORTH CAROLINA (Con't.d

HARNETT COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
HAYWOOD COUNTY
(Sewer & Water, H,Hw) - See Statewide
HENDERSON COUNTY
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
HERTFORD COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D,R) - See Beaufort County
HOKE COUNTY
(R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
HYDE COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
IREDELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
JACKSON COUNTY
(R) - See Cherokee County
(Sewer & Water, H,Hw) - See Statewide
JOHNSTON COUNTY
(B) - See Edgecombe County
(Sewer & Water, H,Hw) - See STatewide
(R) - See Carteret County
JONES COUNTY
(B,R) - See Carteret County
(Sewer & Water, H,Hw) - See Statewide
LEE COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
LENOIR COUNTY
(Sewer & Water, H,Hw) - See Statewide
(B,R) - See Carteret County
LINCOLN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Burke County
MCDOWELL COUNTY
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
MACON COUNTY
(R) - See Cherokee County
(Sewer & Water, H,Hw) - See Statewide
MADISON COUNTY
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
MARTIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
MECKLENBURG COUNTY
Decision #NC75-1115 - (B)
40 FR 59177 - 12/19/75
Mod. #1 - 41 FR 9721 - 3/5/76
(Sewer & Water, H,Hw) - See Statewide
MITCHELL COUNTY
(B) - See Avery County
(Sewer & Water, H,Hw) - See Statewide
MONTGOMERY COUNTY
(Sewer & Water, H,Hw) - See Statewide

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NORTH CAROLINA (Cont'd.

MOORE COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
NASH COUNTY
(B) - See Edgecombe County
(R) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
NEW HANOVER COUNTY
Decision #NC75-1054 (B)
40 FR 22723 - 5/23/75
Mod. #1 - 41 FR 43420 - 9/19/75
Mod. #2 - 41 FR 20128 - 5/14/76
(R) - See Brunswick County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
NORTHAMPTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
ONSLOW COUNTY
(D) - See Beaufort County
(B,R) - See Carteret County
(Sewer & Water, H,Hw) - See Statewide
ORANGE COUNTY
Decision #NC77-1032 (B)
42 FR 35510 - 7/8/77
(Sewer & Water, H,Hw) - See Statewide
(R) - See Durham County
PAMLICO COUNTY
(B,R) - See Carteret County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PASQUOTANK COUNTY
(B) - See Camden County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PENDER COUNTY
(R) - See Brunswick County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PERQUIMANS COUNTY
(B) - See Camden County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PERSONS COUNTY
(Sewer & Water, H,Hw) - See Statewide
PITT COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
POLK COUNTY
(R) - See Burke County
(Sewer & Water,H,Hw) - See Statewide
RANDOLPH COUNTY
(R) - See Alamance County
(Sewer & Water, H,Hw) - See Statewide
RICHMOND COUNTY
(Sewer & Water, H,Hw) - See Statewide
ROBESON COUNTY
(Sewer & Water, H,Hw) - See Statewide
ROCKINGHAM COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alamance County

NORTH CAROLINA (Cont'd)

ROWAN COUNTY
(Sewer & Water, H,Hw) - See Statewide
RUTHERFORD COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See STatewide
SAMPSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Chatham County
SCOTLAND COUNTY
(Sewer & Water, H,Hw) - See Statewide
STANLY COUNTY
(Sewer & Water, H,Hw) - See Statewide
STOKES COUNTY
(Sewer & Water, H,Hw) - See Statewide
SURRY COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Forsyth County
SWAIN COUNTY
(R) - See Cherokee County
(Sewer & Water, H,Hw) - See Statewide
TRANSYLVANIA COUNTY
Decision #NC76-1087 (B)
41 FR 36399 - 8/27/76
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
TYRRELL County
(B) - See Camden County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
UNION COUNTY
(Sewer & Water, H,Hw) - See Statewide
VANCE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
WAKE COUNTY
Decision #NC77-1094 (B)
42 FR 38882 - 7/29/77
(R) - See Durham County
(Sewer & Water, H,Hw) - See Statewide
WARREN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
WASHINGTON COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
WATAUGA COUNTY
(B) - See Avery County
(R) - See Alexandria County
(Sewer & Water, H,Hw) - See Statewide
WAYNE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
WILKES COUNTY
Decision #NC76-1068 (B)
41 FR 22011 - 5/28/76
(R) - See Alexandria County
(Sewer & Water, H,Hw) - See Statewide
WILSON COUNTY
(B) - See Edgecombe County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
YADKIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
YANCEY COUNTY
(Sewer & Water, H,Hw) - See Statewide

NORTH DAKOTA

STATEWIDE
Decision #ND75-5109 (Hw)
40 FR 40022 - 8/29/75
Mod. #1 - 42 FR 13719 - 3/11/77
ADAMS COUNTY
(Hw) - See Statewide
BARNES COUNTY
(Hw) - See Statewide
BENSON COUNTY
(Hw) - See Statewide
BILLINGS COUNTY
(Hw) - See Statewide
BOTTINEAU COUNTY
(Hw) - See Statewide
BOWMAN COUNTY
(Hw) - See Statewide
BURKE COUNTY
(Hw) - See Statewide
BURLEIGH COUNTY
Decision #ND77-5062 (B)
42 FR 30125 - 6/10/77
Mod. #1 - 42 FR 34147 - 7/8/77
Mod. #2 - 42 FR 39859 - 8/5/77
(Hw) - See Statewide
CASS COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
CAVALIER COUNTY
(Hw) - See Statewide
DICKEY COUNTY
(Hw) - See Statewide
DIVIDE COUNTY
(Hw) - See Statewide
DUNN COUNTY
(Hw) - See Statewide
EDDY COUNTY
(Hw) - See Statewide
EMMONS COUNTY
(Hw) - See Statewide
FOSTER COUNTY
(Hw) - See Statewide
GOLDEN VALLEY COUNTY
(Hw) - See Statewide

NORTH DAKOTA (Cont'd)

GRAND FORKS COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
GRANT COUNTY
(Hw) - See Statewide
GRIGGS COUNTY
(Hw) - See Statewide
HETTINGER COUNTY
(Hw) - See Statewide
KIDDER COUNTY
(Hw) - See Statewide
LA MOURE COUNTY
(Hw) - See Statewide
LOGAN COUNTY
(Hw) - See Statewide
McHENRY COUNTY
(Hw) - See Statewide
McINTOSH COUNTY
(Hw) - See Statewide
McKENZIE COUNTY
(Hw) - See Statewide
McLEAN COUNTY
(Hw) - See Statewide
MERCER COUNTY
(Hw) - See Statewide
MORTON COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
MOUNTRAIL COUNTY
(Hw) - See Statewide
NELSON COUNTY
(Hw) - See Statewide
OLIVER COUNTY
(Hw) - See Statewide
PEMBINA COUNTY
(Hw) - See Statewide
PIERCE COUNTY
(Hw) - See Statewide
RAMSEY COUNTY
(Hw) - See Statewide
RANSOM COUNTY
(Hw) - See Statewide
RENVILLE COUNTY
(Hw) - See Statewide
RICHLAND COUNTY
(Hw) - See Statewide
(B) - See Burleigh County

NORTH DAKOTA (Cont'd)

ROLETTE COUNTY
(Hw) - See Statewide
SARGENT COUNTY
(Hw) - See Statewide
SHERIDAN COUNTY
(Hw) - See Statewide
SIOUX COUNTY
(Hw) - See Statewide
SLOPE COUNTY
(Hw) - See Statewide
STARK COUNTY
(Hw) - See Statewide
STEELE COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
STUTSMAN COUNTY
(Hw) - See Statewide
TOWNER COUNTY
(Hw) - See Statewide
TRAILL COUNTY
(Hw) - See Statewide
WALSH COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
WARD COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
WELLS COUNTY
(Hw) - See Statewide
WILLIAMS COUNTY
(Hw) - See Statewide

OHIO

STATEWIDE
Decision #OH77-2108 (H,Hw)
42 FR 35589 - 7/8/77
ADAMS COUNTY
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77
(H,Hw) - See Statewide
ALLEN COUNTY
Decision #OH77-2069 (B)
42 FR 24636 - 5/13/77
Mod. #1 - 42 FR 30089 - 6/10/77
(H,Hw) - See Statewide
ASHLAND COUNTY
Decision #OH77-2088 (R)
42 FR 26096 - 5/20/77
(H,Hw) - See Statewide
ASHTABULA COUNTY
Decision #OH77-2080 (B,R)
42 FR 24655 - 5/13/77
Mod. #1 - 42 FR 30091 - 6/10/77
Mod. #2 - 42 FR 31050 - 6/17/77
(H,Hw) - See Statewide
Decision #IL77-5038 (D)
42 FR 18802 - 4/8/77
ATHENS COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
AUGLAIZE COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
BELMONT COUNTY
Decision #OH77-2086 (R)
42 FR 26095 - 5/20/77
(H,Hw) - See Statewide
BROWN COUNTY
(D) - See Adams County
(H,Hw) - See Statewide

OHIO (Cont'd.)

BUTLER COUNTY
Decision #OH77-2079 (B)
42 FR 24652 - 5/13/77
Mod. #1 - 42 FR 30091 - 6/10/77
Decision #OH76-2030 (R)
41 FR 9800 - 3/5/76
(H,Hw) - See Statewide
CARROLL COUNTY
Decision #OH77-2090 (R)
42 FR 26097 - 5/20/77
(H,Hw) - See Statewide
CHAMPAIGN COUNTY
Decision #OH77-2057 (R)
42 FR 20045 - 4/15/77
(H,Hw) - See Statewide
CLARK COUNTY
Decision #OH77-2081 (B)
42 FR 24661 - 5/13/77
Mod. #1 - 42 FR 30092 - 6/10/77
Mod. #2 - 42 FR 32452 - 6/24/77
Decision #AP-684 (R)
38 FR 14049 - 5/25/73
(H,Hw) - See Statewide
CLERMONT COUNTY
Decision #OH76-2029 (R)
41 FR 8739 - 2/27/76
Mod. #1 - 42 FR 17744 - 4/1/77
(B) - See Butler County
(D) - See Adams County
(H,Hw) - See Statewide
CLINTON COUNTY
Decision #OH77-2058 (R)
42 FR 20045 - 4/15/77
(H,Hw) - See Statewide
COLUMBIANA COUNTY
Decision #OH77-2075 (B)
42 FR 24638 - 5/13/77
Mod. #1 - 42 FR 30089 - 6/10/77
(H,Hw) - See Statewide
COSHOCTON COUNTY
Decision #OH77-2059 (R)
42 FR 20046 - 4/15/77
(H,Hw) - See Statewide
CRAWFORD COUNTY
Decision #OH77-2060 (R)
42 FR 20046 - 4/15/77
(H,Hw) - See Statewide

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OHIO (Cont'd.)

DARKE COUNTY
Decision #OH77-2072 (R)
42 FR 24566 -5/13/77
(H,Hw) - See Statewide
DEFIANCE COUNTY
(H,Hw) - See Statewide
DELAWARE COUNTY
Decision #OH77-2067 (R)
42 FR 23421 - 5/6/77
(H,Hw) - See Statewide
ERIE COUNTY
Decision #OH77-2078 (B)
42 FR 24649 - 5/13/77
Mod. #1 - 42 FR 30090 - 6/10/77
(D) - See Ashtabula County
(H,Hw) - See Statewide
FAIRFIELD COUNTY
(R) - See Delaware County
(H,Hw) - See Statewide
FAYETTE COUNTY
Decision #OH77-2089 (R)
42 FR 26096 - 5/20/77
(H,Hw) - See Statewide
FRANKLIN COUNTY
(B) - See Clark County
(R) - See Delaware County
(H,Hw) - See Statewide
FULTON COUNTY
Decision #OH77-2073 (B,R)
42 FR 24642 - 5/13/77
Mod. #1 - 42 FR 30089 - 6/10/77
(B) - See Lucas County
(H,Hw) - See Statewide
GALLIA COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
GEAUGA COUNTY
(H,Hw) - See Statewide
GREENE COUNTY
(B) - See Clark County
Decision #OH75-2109 (R)
40 FR 42498 - 9/12/75
(H,Hw) - See Statewide
GUERNSEY COUNTY
(R) - See Coshocton County
(H,Hw) - See Statewide
HAMILTON COUNTY
(B) - See Butler County
(D) - See Adams County
(R) - See Clermont County
(H,Hw) - See Statewide
HANCOCK COUNTY
Decision #OH77-2077 (B)
42 FR 24647 - 5/13/77
Mod. #1 - 42 FR 30090 - 6/10/77
(H,Hw) - See Statewide
(R) - See Crawford County
HARDIN COUNTY
(H,Hw) - See Statewide

OHIO (Cont'd)

HARRISON COUNTY
(H,Hw) - See Statewide
(R) - See Carroll County
HENRY COUNTY
(H,Hw) - See Statewide
HIGHLAND COUNTY
(H,Hw) - See Statewide
HOCKING COUNTY
(H,Hw) - See Statewide
HOLMES COUNTY
(H,Hw) - See Statewide
HURON COUNTY
(B) - See Erie County
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
(H,Hw) - See Statewide
KNOX COUNTY
Decision #OH77-2087 (R)
42 FR 26095 - 5/20/77
Mod. #1 - 42 FR 31050 - 6/17/77
(H,Hw) - See Statewide
LAKE COUNTY
(B,D,R) - See Ashtabula County
(H,Hw) - See Statewide
LAWRENCE COUNTY
(B) - See Clark County
(D) - See Adams County
(H,Hw) - See Statewide
LICKING COUNTY
(B)- See Clark County
(H,Hw) - See Statewide
(R) - See Delaware County
LOGAN COUNTY
(R) - See Champaign County
(H,Hw) - See Statewide
LORAIN COUNTY
(B,D,R) - See Ashtabula County
(H,Hw) - See Statewide
LUCAS COUNTY
(D) - See Ashtabula County
(H,Hw) - See Statewide
MADISON COUNTY
(B) - See Franklin County
(R) - See Delaware County
(H,Hw) - See Statewide
MAHONING COUNTY
Decision #OH77-2076 (B,R)
42 FR 24644 - 5/13/77
Mod. #1 - 42 FR 30090 - 6/10/77
Mod. #2 - 42 FR 34147 - 7/1/77
(H,Hw) - See Statewide

OHIO (Cont'd)

MARION COUNTY
(H,Hw) - See Statewide
MEDINA COUNTY
Decision #OH77-2061 (R)
42 FR 20047 - 4/15/77
(H,Hw) - See Statewide
MEIGS COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
MERCER COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
MIAMI COUNTY
(R) - See Greene County
(H,Hw) - See Statewide
MONROE COUNTY
(R) - See Belmont County
(D) - See Adams County
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(B) - See Clark County
(R) - See Greene County
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See Statewide
MORROW COUNTY
(R) - See Knox County
(H,Hw) - See Statewide
MUSKINGUM COUNTY
Decision #OH77-2062 (R)
42 FR 20047 - 4/15/77
(B) - See Clark County
(H,Hw) - See Statewide
NOBLE COUNTY
(R) - See Belmont County
(H,Hw) - See Statewide
OTTAWA COUNTY
(B) - See Erie County
(D) - See Ashtabula County
(H,Hw) - See Statewide
PAULDING COUNTY
(H,Hw) - See Statewide
PERRY COUNTY
(H,Hw) - See Statewide
PICKAWAY COUNTY
(B) - See Clark County
(R) - See Delaware County
(H,Hw) - See Statewide
PIKE COUNTY
(B) - See Clark County
(H,Hw) - See Statewide
PORTAGE COUNTY
(B,R) - See Ashtabula County
(H,Hw) - See Statewide

OHIO (Cont'd.)

PREBLE COUNTY
(R) - See Greene County
(H,Hw) - See Statewide
PUTNAM COUNTY
(H,Hw) - See Statewide
RICHLAND COUNTY
(B) - See Erie County
(R) - See AShland County
(H,Hw) - See Statewide
ROSS COUNTY
(R) - See Fayette County
(B) - See Clark County
(H,Hw) - See Statewide
SANDUSKY COUNTY
(B) - See Erie County
(D) - See Ashtabula County
(H,Hw) - See Statewide
SCIOTO COUNTY
(B) - See Clark County
(D) - See Adams County
(H,Hw) - See Statewide
SENECA COUNTY
(R) - See Crawford County
(H,Hw) - See Statewide
SHELBY COUNTY
(H,Hw) - See Statewide
(R) - See Darke County
STARK COUNTY
(B,R) - See Ashtabula County
(H,Hw) - See Statewide
SUMMIT COUNTY
(B,R) - See Cuyahoga County
(H,Hw) - See Statewide
TRUMBULL COUNTY
(B,R) - See Mahoning County
(H,Hw) - See Statewide
TUSCARAWAS COUNTY
Decision #OH77-2074 (B)
42 FR 24640 - 5/13/77
Mod. #1 - 42 FR 30089 - 6/10/77
(H,Hw) - See Statewide
UNION COUNTY
(R) - See Champaign County
(H,Hw) - See Statewide
VAN WERT COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
VINTON COUNTY
(H,Hw) - See Statewide

OHIO (Cont'd.)

WARREN COUNTY
(R) - See Butler County
(H,Hw) - See Statewide
WASHINGTON COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
WAYNE COUNTY
Decision #OH77-2091 (R)
42 FR 26097 - 5/20/77
(H,Hw) - See Statewide
WILLIAMS COUNTY
(H,Hw) - See Statewide
WOOD COUNTY
(B)- See Hancock County
(H,Hw) - See Statewide
WYANDOT COUNTY
(R) - See Crawford County
(H,Hw) - See Statewide

OKLAHOMA

STATEWIDE (Except the City of Muskogee)
Decision #OK77-4073 (Constr., Alteration, and/or repair of streets, highways, runways, erosion control structures, well drilling, and water, and sewer utilities)
42 FR 17777 - 4/1/77
Mod. #1 - 42 FR 23279 - 5/6/77
ADAIR COUNTY
(B) - See Muskogee County
(H,Hw) - See Statewide
ALFALFA COUNTY
(H,Hw) - See Statewide
ATOKA COUNTY
(H,Hw) - See Statewide
BEAVER COUNTY
(H,Hw) - See Statewide
BECKHAM COUNTY
(H,Hw) - See Statewide
BLAINE COUNTY
(H,Hw) - See Statewide
BRYAN COUNTY
(H,Hw) - See Statewide
Decision #OK77-4036 (R)
42 FR 10261 - 2/18/77
CADDO COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
CANADIAN COUNTY
Decision #OK77-4033 (R)
42 FR 10262 - 2/18/77
Decision #OK77-4171 (B)
42 FR 38887 - 7/29/77
Mod. #1 - 42 FR 39867 - 8/5/77
CARTER COUNTY
(H,Hw) - See Statewide
CHEROKEE COUNTY
(B) - See Muskogee County
(H,Hw) - See Statewide
CHOCTAW COUNTY
(H,Hw) - See Statewide
CIMARRON COUNTY
(H,Hw) - See Statewide
CLEVELAND COUNTY
(H,Hw) - See Statewide
(B,R) - See Canadian County
COAL COUNTY
(H,Hw) - See Statewide
COMANCHE COUNTY
(H,Hw) - See Statewide
Decision #OK77-4060 (R)
42 FR 11766 - 3/11/77
Decision #OK77-4150 (B)
42 FR 34228 - 7/1/77
Mod. #1 - 42 FR 36744 - 7/15/77
Mod. #2 - 42 FR 39860 - 8/5/77

OKLAHOMA (cont'd)

COTTON COUNTY
(H,Hw) - See Statewide
CRAIG COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
CREEK COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
CUSTER COUNTY
(H,Hw) - See Statewide
DELAWARE COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
DEWEY COUNTY
(H,Hw) - See Statewide
ELLIS COUNTY
(H,Hw) - See Statewide
GARFIELD COUNTY
Decision #OK77-4163 (B)
42 FR 36764 - 7/15/77
Mod. #1 - 42 FR 39861 - 8/5/77
(H,Hw) - See Statewide
GARVIN COUNTY
(H,Hw) - See Statewide
GRADY COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
GRANT COUNTY
(H,Hw) - See Statewide
GREER COUNTY
(H,Hw) - See Statewide
HARMON COUNTY
(H,Hw) - See Statewide
HARPER COUNTY
(H,Hw) - See Statewide
HASKELL COUNTY
(H,Hw) - See Statewide
HUGHES COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
(H,Hw) - See Statewide
JOHNSTON COUNTY
(H,Hw) - See Statewide
KAY COUNTY
(H,Hw) - See Statewide
KINGFISHER COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide

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OKLAHOMA (cont'd)

KIOWA COUNTY
(H,Hw) - See Statewide
LATIMER COUNTY
(H,Hw) - See Statewide
LEFLORE COUNTY
(H,Hw) - See Statewide
LINCOLN COUNTY
(H,Hw) - See Statewide
(B,R) - See Canadian County
LOGAN COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
LOVE COUNTY
(H,Hw) - See Statewide
McCLAIN COUNTY
H,Hw) - See Statewide
(B) - See Canadian County
McCURTAIN COUNTY
(H,Hw) - See Statewide
MCINTOSH COUNTY
Decision #OK77-4166 (B)
42 FR 36771 - 7/15/77
Mod. #1 - 42 FR 39864 - 8/5/77
(H,Hw) - See Statewide
MAJOR COUNTY
(H,Hw) - See Statewide
MARSHALL COUNTY
(H,Hw) - See Statewide
MAYES COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
MURRAY COUNTY
(H,Hw) - See Statewide
MUSKOGEE COUNTY
Decision #OK77-4164 (B,H,Hw)
42 FR 36766 - 7/15/77
Mod. #1 - 42 FR 39862 - 8/5/77
(H,Hw) - See Statewide
NOBLE COUNTY
(H,Hw) - See Statewide
NOWATA COUNTY
(H,Hw) - See Statewide
OKFUSKEE COUNTY
(H,Hw) - See Statewide
OKLAHOMA COUNTY
(B,R) - See Canadian County
(H,Hw) - See Statewide
OKMULGEE COUNTY
(H,Hw) - See Statewide
OSAGE COUNTY
(H,Hw) - See Statewide
(R) - See Tulsa County
OTTAWA COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
PAWNEE COUNTY
(H,Hw) - See Statewide

OKLAHOMA (Cont'd.

PAYNE COUNTY
(H,Hw) - See Statewide
PITTSBURG COUNTY
Decision #OK77-4167 (B)
42 FR 36773 - 7/15/77
Mod. #1 - 42 FR 39865 - 8/5/77
(H,Hw) - See Statewide
PONTOTOC COUNTY
(H,Hw) - See Statewide
POTTAWATOMIE COUNTY
(H,Hw) - See Statewide
(B,R) - See Canadian County
PUSHMATAHA COUNTY
(H,Hw) - See Statewide
ROGERS COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
ROGERS MILLS COUNTY
(H,Hw) - See Statewide
SEMINOLE COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
SEQUOYAH COUNTY
(H,Hw) - See Statewide
STEPHENS COUNTY
(H,Hw) - See Statewide
TEXAS COUNTY
(H,Hw) - See Statewide
TILLMAN COUNTY
(H,Hw) - See Statewide
TULSA COUNTY
Decision #OK77-4037 (R)
42 FR 10262 - 2/18/77
Decision #OK77-4168 (B)
42 FR 38884 - 7/29/77
Mod. #1 - 42 FR 39866 - 8/5/77
WAGONER COUNTY
Decision #OK77-4165 (B)
42 FR 36769 - 7/15/77
Mod. #1 - 42 FR 39863 - 8/5/77
(H,Hw) - See Statewide
WASHINGTON COUNTY
(H,Hw) - See Statewide
WASHITA COUNTY
(H,Hw) - See Statewide
WOODS COUNTY
(H,Hw) - See Statewide
WOODWARD COUNTY
(H,Hw) - See Statewide

OREGON

STATEWIDE
Decision #OR77-5063 (B,H,Hw,D)
42 FR 34230 - 7/1/77
BAKER COUNTY
(B,H,Hw,D) - See Statewide
BENTON COUNTY
(B,H,Hw,D) - See Statewide
CLACKAMAS COUNTY
Decision #OR75-5042 (R)
40 FR 15312 - 4/4/75
Mod. #1 - 40 FR 48001 - 10/10/75
Mod. #2 - 40 FR 52244 - 11/7/75
(B,H,Hw,D) - See Statewide
CLATSOP COUNTY
(B,H,Hw,D) - See Statewide
COLUMBIA COUNTY
(B,H,Hw,D) - See Statewide
COOS COUNTY
(B,H,Hw,D) - See Statewide
CROOK COUNTY
(B,H,Hw,D) - See Statewide
CURRY COUNTY
(B,H,Hw,D) - See Statewide
DESCHUTES COUNTY
(B,H,Hw,D) - See Statewide
DOUGLAS COUNTY
(B,H,Hw,D) - See Statewide
GILLIAM COUNTY
(B,H,Hw,D) - See Statewide
GRANT COUNTY
(B,H,Hw,D) - See Statewide
HARNEY COUNTY
(B,H,Hw,D) - See Statewide
HOOD RIVER COUNTY
(B,H,Hw,D) - See Statewide
JACKSON COUNTY
(B,H,Hw,D) - See Statewide
JEFFERSON COUNTY
(B,H,Hw,D) - See Statewide
JOSEPHINE COUNTY
(B,H,Hw,D) - See Statewide
KLAMATH COUNTY
(B,H,Hw,D) - See Statewide
LAKE COUNTY
(B,H,Hw,D) - See Statewide
LANE COUNTY
(B,H,Hw,D) - See Statewide
Decision #OR75-5122 (R)
40 FR 45989 - 10/3/75
Mod. #1 - 40 FR 52244 - 11/7/75

OREGON (Cont'd.)

LINCOLN COUNTY
(B,H,Hw,D) - See Statewide
LINN COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Lane County
MALHEUR COUNTY
(B,H,Hw,D) - See Statewide
MARION COUNTY
(R) - See Lane County
(B,H,Hw,D) - See Statewide
MORROW COUNTY
(B,H,Hw,D) - See Statewide
MULTNOMAH COUNTY
(R) - See Clackamas County
(B,H,Hw,D) - See Statewide
POLK COUNTY
(B,H,Hw,D) - See Statewide
SHERMAN COUNTY
(B,H,Hw,D) - See Statewide
TILLAMOOK COUNTY
(B,H,Hw,D) - See Statewide
UMATILLA COUNTY
(B,H,Hw,D) - See Statewide
UNION COUNTY
(B,H,Hw,D) - See Statewide
WALLOWA COUNTY
(B,H,Hw,D) - See Statewide
WASCO COUNTY
(B,H,Hw,D) - See Statewide
WASHINGTON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clackamas County
WHEELER COUNTY
(B,H,Hw,D) - See Statewide
YAMHILL COUNTY
(B,H,Hw,D) - See Statewide

PENNSYLVANIA

ADAMS COUNTY
Decision #PA77-3060 (H,Hw)
42 FR 26179 - 5/20/77
Mod. #1 - 42 FR 32455 - 6/24/77
Mod. #2 - 42 FR 34150 - 7/1/77
Decision #PA77-3028 (B)
42 FR 20098 - 4/15/77
Mod. #1 - 42 FR 23284 - 5/6/77
Mod. #2 - 42 FR 31051 - 6/17/77
Mod. #3 - 42 FR 36745 - 7/15/77
Mod. #4 - 42 FR 38844 - 7/29/77.
ALLEGHENY COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
Decision #PA75-3070 (R)
40 FR 30433 - 8/18/75
Mod. #1 - 40 FR 34555 - 8/15/75
Mod. #2 - 41 FR 4730 - 1/30/76
Mod. #3 - 41 FR 26428 - 6/25/76
Mod. #4 - 42 FR 8937 - 2/11/77
ARMSTRONG COUNTY
(H,Hw) - See Butler County
Decision #PA77-3061 (B)
42 FR 30133 - 6/10/77
Mod. #1 - 42 FR 35534 - 7/8/77
Mod. #2 - 42 FR 38847 - 7/29/77
BEAVER COUNTY
(H,Hw) - See Armstrong County
(B) - See Butler County
BEDFORD COUNTY
Decision #PA77-3054 (B)
42 FR 24677 - 5/13/77
Mod. #1 - 42 FR 30096 - 6/10/77
Mod. #2 - 42 FR 35533 - 7/8/77
Mod. #3 - 42 FR 38846 - 7/29/77
(H,Hw) - See Butler County
BERKS COUNTY
Decision #PA77-3029 (B)
42 FR 10263 - 2/18/77
Mod. #1 - 42 FR 16351 - 3/25/77
Mod. #2 - 42 FR 20986 - 4/22/77
Mod. #3 - 42 FR 23284 - 5/6/77
Mod. #4 - 42 FR 35529 - 7/8/77
Mod. #5 - 42 FR 38844 - 7/29/77
(H,Hw) - See Adams County
BLAIR COUNTY
Decision #PA76-3165 (B)
41 FR 18274 - 4/30/76
Mod. #1 - 42 FR 12574 - 3/4/77
(Hw) - See Butler County

PENNSYLVANIA (Cont'd.

BRADFORD COUNTY
Decision #PA77-3103 (B)
42 FR 37759 - 7/22/77
(H,Hw) - See Adams County
BUCKS COUNTY
Decision #PA77-3016 (B,R)
42 FR 5632 - 1/28/77
Mod. #1 - 42 FR 10218 - 2/18/77
Mod. #2 - 42 FR 20986 - 4//22/77
Mod. #3 - 42 FR 22078 - 4/29/77
Mod. #4 - 42 FR 23280 - 5/6/77
Mod. #5 - 42 FR 32454 - 6/24/77
Decision #PA76-3169 (H,Hw)
41 FR 21133 - 5/21/76
Mod. #1 - 41 FR 45797 - 6/25/76
Mod. #2 - 41 FR 45797 - 10/15/76
Mod. #3 - 41 FR 53235 - 12/3/76
Mod. #4 - 42 FR 24574 - 5/13/77
Mod. #5 - 42 FR 32453 - 6/24/77
BUTLER COUNTY
(B) - See Armstrong County
Decision #PA77-3023 (H,Hw)
42 FR 5640 - 1/28/77
Mod. #1 - 42 FR 10218 - 2/18/77
Mod. #2 - 42 FR 22076 - 4/29/77
Mod. #3 - 42 FR 32454 - 6/24/77
Mod. #4 - 42 FR 34149 - 7/1/77
(H,Hw) - See Butler County
(B) - See Bedford County
CAMERON COUNTY
(B) - See Bedford County
CARBON COUNTY
Decision #PA77-3043 (B)
42 FR 18783 - 4/8/77
Mod. #1 - 42 FR 26112 - 5/20/77
Mod. #2 - 42 FR 37711 - 7/22/77
Mod. #3 - 42 FR 38845 - 7/29/77
(H,Hw) - See Adams County
CENTRE COUNTY
(B) - See Clinton County
(H,Hw) - See Butler County
CHESTER COUNTY
(B,H,Hw,R) - See Bucks County
CLARION COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
CLEARFIELD COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County

PENNSYLVANIA (Cont'd.

CLINTON COUNTY
Decision #PA77-3102 (B)
42 FR 37754 - 7/22/77
COLUMBIA COUNTY
Decision #PA77-3100 (B)
42 FR 36775 -7/15/77
Mod. #1 - 42 FR 38847 - 7/29/77
(H,Hw) - See Adams County
CRAWFORD COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
CUMBERLAND COUNTY
Decision #PA77-3030 (B)
42 FR 10266 - 2/18/77
Mod. #1 - 42 FR 22078 - 4/29/77
Mod. #2 - 42 FR 23284 - 5/6/77
Mod. #3 - 42 FR 31051 - 6/17/77
Mod. #4 - 42 FR 35530 - 7/8/77
(H,Hw) - See Adams County
DAUPHIN COUNTY
(B) - See Cumberland County
(H,Hw) - See Adams County
DELAWARE COUNTY
(B,H,Hw,R) - See Bucks County
ELK COUNTY
Decision #PA77-3053 (B)
42 FR 24672 - 5/13/77
Mod. #1 - 42 FR 31055 - 6/17/77
Mod. #2 - 42 FR 35532 - 7/8/77
Mod. #3 - 42 FR 38846 - 7/29/77
(H,Hw) - See Butler County
ERIE COUNTY
Decision #PA77-3058 (B)
42 FR 24702 - 5/13/77
Mod. #1 - 42 FR 30099 - 6/10/77
Mod. #2 - 42 FR 36745 - 7/15/77
Decision #IL77-5038 (D)
42 FR 18802 - 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
(H,Hw) - See Butler County

PENNSYLVANIA (cont'd.

FAYETTE COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
FOREST COUNTY
(B) - See Elk County
(H,Hw) - See Butler County
FRANKLIN COUNTY
(H,Hw) - See Butler County
FULTON COUNTY
(B) - See Clinton County
(H,Hw) - See Butler County
GREENE COUNTY
Decision #PA77-3055 (B)
42 FR 24688 - 5/13/77
Mod. #1 - 42 FR 30097 - 6/10/77
Mod. #2 - 42 FR 35533 - 7/8/77
Mod. #3 - 42 FR 38846 - 7/29/77
(H,Hw) - See Butler County
HUNTINGDON COUNTY
(B) - See Clinton County
(H,Hw) - See Butler County
INDIANA COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
JEFFERSON COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
JUNIATA COUNTY
(B) - See Cumberland County
(H,Hw) - See Adams County
LACKAWANNA COUNTY
Decision #PA77-3050 (B)
42 FR 24669 - 5/13/77
Mod. #1 - 42 FR 32455 - 6/24/77
Mod. #2 - 42 FR 35532 - 7/8/77
Mod. #3 - 42 FR 38845 - 7/29/77
(H,Hw) - See Adams County
LANCASTER COUNTY
Decision #PA77-3104 (B)
42 FR 37762 - 7/22/77
(H,Hw) - See Adams County
LAWRENCE COUNTY
42 FR 32478 - 6/24/77
Mod. #1 - 42 FR 38847 - 7/29/77
(H,Hw) - See Butler County

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PENNSYLVANIA (Cont'd.

LEBANON COUNTY
Decision #PA77-3031 (B)
42 FR 18839 - 4/8/77
Mod. #1 - 42 FR 20986 - 4/22/77
Mod. #2 - 42 FR 23284 - 5/6/77
Mod. #3 - 42 FR 31052 - 6/17/77
Mod. #4 - 42 FR 35530 - 7/8/77
Mod. #5 - 42 FR 38844 - 7/29/77
(H,Hw) - See Adams County
LEHIGH COUNTY
Decision #PA77-3056 (B)
42 FR 24698 - 5/13/77
Mod. #1 - 42 FR 34149 - 7/1/77
Mod. #2 - 42 FR 37712 - 7/22/77
(H,Hw) - See Adams County
LUZERNE COUNTY
Decision #PA77-3059 (B)
42 FR 26176 - 5/20/77
Mod. #1 - 42 FR 36745 - 7/15/77
Mod. #2 - 42 FR 38846 - 7/29/77
(H,Hw) - See Adams County
LYCOMING COUNTY
(H,Hw) - See Adams County
Decision #PA77-3032 (B)
42 FR 16373 - 3/25/77
Mod. #1 - 42 FR 23284 - 5/6/77
Mod. #2 - 42 FR 31053 - 6/17/77
Mod. #3 - 42 FR 37711 - 7/22/77
Mod. #4 - 42 FR 38844 - 7/29/77
MC KEAN COUNTY
(B) - See Forest County
(H,Hw) - See Butler County
MERCER COUNTY
(B) - See Lawrence County
(H,Hw) - See Butler County
MIFFLIN COUNTY
(B) - See Clinton County
(H,Hw) - See Butler County
MONROE COUNTY
(B) - See Carbon County
(H,Hw) - See Adams County
MONTGOMERY COUNTY
(B,H,Hw,R) - See Bucks County
MONTOUR COUNTY
(B) - See Columbia County
(H,Hw) - See Adams County

PENNSYLVANIA (Cont'd.

NORTHAMPTON COUNTY
(H,Hw) - See Adams County
Decision PA77-3033 (B)
42 FR 10268 - 2/18/77
Mod. #1 - 42 FR 22076 - 4/29/77
Mod. #2 - 42 FR 23285 - 5/6/77
Mod. #3 - 4 2 FR 34149 - 7/1/77
Mod. #4 - 42 FR 37711 - 7/22/77
NORTHUMBERLAND COUNTY
Decision #PA77-3049 (B)
42 FR 21043 - 4/22/77
Mod. #1 - 42 FR 23285 - 5/6/77
Mod. #2 - 42 FR 31054 - 6/17/77
Mod. #3 - 42 FR 35532 - 7/8/77
Mod. #4 - 42 FR 38845 - 7/29/77
(H,Hw) - See Adams County
PERRY COUNTY
(B) - See Cumberland County
(H,Hw) - See Adams County
PHILADELPHIA COUNTY
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
(B,H,Hw,R) - See Bucks County
PIKE COUNTY
(B) - See Carbon County
(H,Hw) - See Adams County
POTTER COUNTY
(B) - See Greene County
(H,Hw) - See Butler County
SCHYUKILL COUNTY
Decision #PA77-3034 (B)
42 FR 20100 - 4/15/77
Mod. #1 - 42 FR 22078 - 4/29/77
Mod. #2 - 42 FR 23285 - 5/6/77
Mod. #3 - 42 FR 31053 - 6/17/77
Mod. #4 - 42 FR 36745 - 7/15/77
Mod. #5 - 42 FR 38845 - 7/29/77
(H,Hw) - See Adams County
SNYDER COUNTY
(B) - See Columbia County
(H,Hw) - See Adams County
SOMERSET COUNTY
(B) - See Greene County
(H,Hw) - See Butler County
SULLIVAN COUNTY
Decision #PA77-3057 - (B)
42 FR 24700 - 5/13/77
Mod. #1 - 42 FR 35533 - 7/8/77
Mod. #2 - 42 FR 38846 - 7/29/77
(H,Hw) - See Adams County

PENNSYLVANIA (Cont'd.

SUSQUEHANNA COUNTY
(B) - See Lackawanna County
(H,Hw) - See Adams County
TIOGA COUNTY
(B) - See Bradford County
(H,Hw) - See Adams County
UNION COUNTY
(B) - See Bradford County
(H,Hw) - See Adams County
VENANGO COUNTY
(H,Hw) - See Butler County
(B) - See Bedford County
WARREN COUNTY
(B) - See Elk County
(H,Hw) - See Butler County
WASHINGTON COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
WAYNE COUNTY
(B) - See Lackawanna County
(H,Hw) - See Adams County
WESTMORELAND COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
WYOMING COUNTY
(B) - See Lackawanna County
(H,Hw) - See Adams County
YORK COUNTY
(B,H,Hw) - See Adams Co. (Excluding New Cumberland Depot)
(B) - See Cumberland County (New Cumberland Depot)
(H,Hw) - See Adams County (New Cumberland Depot)

PUERTO RICO

PUERTO RICO
Decision #PR77-3096 (R)
42 FR 35601 - 7/8/77
Decision #PR77-3097 (B)
42 FR 35601 - 7/8/77
Decision #PR77-3098 (H,Hw)
42 FR 35602 - 7/8/77

RHODE ISLAND

STATEWIDE
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
BRISTOL COUNTY
Decision #RI76-2150 (B,H,Hw,R, & Marine)
41 FR 48996 - 11/5/76
Mod. #1 - 42 FR 20052 - 4/15/77
(D) - See Statewide
KENT COUNTY
(B,H,Hw, R, & Marine) - See Bristol Co.
(D) - See Statewide
NEWPORT COUNTY
Decision #RI76-2151 (B,H,Hw,R, & Marine)
41 FR 50186 - 11/12/76
Mod. #1 - 42 FR 20053 - 4/15/77
(D) - See Statewide
PROVIDENCE COUNTY
(D) - See Statewide
(B,H,Hw, R, & Marine) - See Bristol County
WASHINGTON COUNTY
Decision #RI76-2152 (B,H,Hw,R, & Marine)
41 FR 51362 - 11/19/76
Mod. #1 - 42 FR 20053 - 4/15/77
(D) - See Statewide

SOUTH CAROLINA

STATEWIDE
Decision #SC75-1031 (Hw)
40 FR 12058 - 3/14/75
Mod. #1 - 40 FR 41355 - 9/5/75
Mod. #2 - 41 FR 10825 - 3/12/76
Mod. #3 - 41 FR 51251 - 11/19/76
Decision #SC75-1079 (H, W&S)
40 FR 41380 - 9/5/75
ABBEVILLE COUNTY
Decision #SC76-1053 (B)
41 FR 20146 - 5/14/76
(Sewer & Water, H,Hw) - See Statewide
AIKEN COUNTY
Decision #SC75-1029 (R)
40 FR 10900 - 3/7/75
Mod. #1 - 41 FR 1692 - 1/9/76
(Sewer & Water, H,Hw) - See Statewide

SOUTH CAROLINA (Cont'd.)

LANCASTER COUNTY
(B,R) - See Chester County
(Sewer & Water, H,Hw) - See Statewide
LAURENS COUNTY
(B) - See Abbeville County
(Sewer & Water, H,Hw) - See Statewide
LEE COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
LEXINGTON COUNTY
Decision #SC77-1000 (B)
42 FR 4101 - 1/21/77
Decision #SC76-1126 (R)
41 FR 47907 - 10/29/76
(Sewer & Water, H,Hw) - See Statewide
McCORMIC COUNTY
(Sewer & Water, H,Hw) - See Statewide
MARION COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
MARLBORO COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
NEWBERRY COUNTY
(B) - See Abbeville County
(Sewer & Water, H,Hw) - See Statewide
OCONEE COUNTY
(R) - See Anderson County
(Sewer & Water, H,Hw) - See Statewide
ORANGEBURG COUNTY
(R) - See Allendale County
(Sewer & Water, H,Hw) - See Statewide
PICKENS COUNTY
(R) - See Anderson County
(Sewer & Water, H,Hw) - See Statewide
RICHLAND COUNTY
(B,R) - See Lexington County
(Sewer & Water, H,Hw) - See Statewide
SALUDA COUNTY
(Sewer & Water, H,Hw) - See Statewide
SPARTANBURG COUNTY
(R) - See Cherokee County
(Sewer & Water, H,Hw) - See Statewide
SUMTER COUNTY
Decision #SC76-1008 (B)
41 FR 1699 - 1/9/76
Mod. #1 - 41 FR 19013 - 5/6/76
(Sewer & Water, H,Hw) - See Statewide
(R) - See Clarendon County

SOUTH CAROLINA (Cont'd.)

UNION COUNTY
(R) - See Cherokee County
(Sewer & Water, H,Hw) - See Statewide
(B) - See Abbeville County
WILLIAMSBURG COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
YORK COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Chester County

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STATEWIDE
Decision #STW-1001 (HW)
42 FR 17300 - 4/23/76
AURORA COUNTY
(H,HW) - See Statewide
BEADLE COUNTY
(H,HW) - See Statewide
BENNET COUNTY
(H,HW) - See Statewide
BON HOMME COUNTY
(H,HW) - See Statewide
BROOKINGS COUNTY
(H,HW) - See Statewide
BROWN COUNTY
(H,HW) - See Statewide
BRULE COUNTY
(H,HW) - See Statewide
BUFFALO COUNTY
(H,HW) - See Statewide
BUTTE COUNTY
(H,HW) - See Statewide
CAMPBELL COUNTY
(H,HW) - See Statewide
CHARLES MIX COUNTY
(H,HW) - See Statewide
CLARK COUNTY
(H,HW) - See Statewide
CLAY COUNTY
(H,HW) - See Statewide
CODINGTON COUNTY
(H,HW) - See Statewide
CORSON COUNTY
(H,HW) - See Statewide
CUSTER COUNTY
(H,HW) - See Statewide
DAVISON COUNTY
(H,HW) - See Statewide
DAY COUNTY
(H,HW) - See Statewide
DEUEL COUNTY
(H,HW) - See Statewide
DEWEY COUNTY
(H,HW) - See Statewide
DOUGLAS COUNTY
(H,HW) - See Statewide
EDMUNDS COUNTY
(H,HW) - See Statewide
FALL RIVER COUNTY
(H,HW) - See Statewide
FAULK COUNTY
(H,HW) - See Statewide
GRANT COUNTY
(H,HW) - See Statewide
GREGORY COUNTY
(H,HW) - See Statewide
HAAKON COUNTY
(H,HW) - See Statewide
HAMLIN COUNTY
(H,HW) - See Statewide
HAND COUNTY
(H,HW) - See Statewide
HANSON COUNTY
(H,HW) - See Statewide
HARDING COUNTY
(H,HW) - See Statewide
HUGHES COUNTY
(H,HW) - See Statewide
HUTCHINSON COUNTY
(H,HW) - See Statewide
HYDE COUNTY
(H,HW) - See Statewide
JACKSON COUNTY
(H,HW) - See Statewide
JERAULD COUNTY
(H,HW) - See Statewide
JONES COUNTY
(H,HW) - See Statewide
KINGSBURY COUNTY
(H,HW) - See Statewide
LAKE COUNTY
(H,HW) - See Statewide
LAWRENCE COUNTY
(H,HW) - See Statewide
LINCOLN COUNTY
(H,HW) - See Statewide
LYMAN COUNTY
(H,HW) - See Statewide
MARSHALL COUNTY
(H,HW) - See Statewide
MC COOK COUNTY
(H,HW) - See Statewide
MC PHERSON COUNTY
(H,HW) - See Statewide
MEADE COUNTY
Decision #SD77-5065 (D)
42 FR 31114 - 6/17/77
Mod. #1 - 42 FR 35534 - 7/8/77
Mod. #2 - 42 FR 38047 - 7/29/77
(H,HW) - See Statewide
MELLETTE COUNTY
(H,HW) - See Statewide
MINER COUNTY
(H,HW) - See Statewide
MINNEHAHA COUNTY
Decision #SD77-5064 (B)
42 FR 31113 - 6/17/77
(H,HW) - See Statewide
Decision #SD77-5019 (R)
42 FR 8990 - 2/11/77
MOODY COUNTY
(H,HW) - See Statewide
PENNINGTON COUNTY
(B) - See Meade County
PERKINS COUNTY
(H,HW) - See Statewide
POTTER COUNTY
(H,HW) - See Statewide
ROBERTS COUNTY
(H,HW) - See Statewide
SANBORN COUNTY
(H,HW) - See Statewide
SHANNON COUNTY
(H,HW) - See Statewide
SPINK COUNTY
(H,HW) - See Statewide
STANLEY COUNTY
(H,HW) - See Statewide
SULLY COUNTY
(H,HW) - See Statewide
TODD COUNTY
(H,HW) - See Statewide
TRIPP COUNTY
(H,HW) - See Statewide
TURNER COUNTY
(H,HW) - See Statewide
UNION COUNTY
(H,HW) - See Statewide
WALWORTH COUNTY
(H,HW) - See Statewide
WASHABAUGH COUNTY
(H,HW) - See Statewide
YANKTON COUNTY
(H,HW) - See Statewide
ZIEBACH COUNTY
(H,HW) - See Statewide

STATEWIDE
Decision #TN77-1082 (D)(Oak Ridge, Energy Research Development Administration Only)
42 FR 35603 - 7/8/77
Mod. #1 - 42 FR 37712 - 7/22/77
ANDERSON COUNTY
Decision #TN77-1041 (HW)
42 FR 17244 - 4/1/77
BEDFORD COUNTY
(F) - See Anderson County
(HW) - See Statewide
BENTON COUNTY
(F) - See Anderson County
(HW) - See Statewide
BLEDSOE COUNTY
(F) - See Anderson County
(HW) - See Statewide
BLOUNT COUNTY
(F) - See Anderson County
(HW) - See Statewide
BRADLEY COUNTY
(F) - See Anderson County
(HW) - See Statewide
CAMPBELL COUNTY
(F) - See Anderson County
(HW) - See Statewide
CANNON COUNTY
(F) - See Anderson County
(HW) - See Statewide
CARROLL COUNTY
(F) - See Anderson County
(HW) - See Statewide
CARTER COUNTY
Decision #TN76-1052 (B)
41 FR 17301 -4/23/76
Decision #TN75-1098 (R)
40 FR 44476 - 9/26/75
(F) - See Anderson County
(HW) - See Statewide
CHEATHAM COUNTY
(F) - See Anderson County
(HW) - See Statewide
CHESTER COUNTY
(F) - See Anderson County
(HW) - See Statewide
CLAIBORNE COUNTY
(F) - See Anderson County
(HW) - See Statewide
CLAY COUNTY
(F) - See Anderson County
(HW) - See Statewide
COCKE COUNTY
(F) - See Anderson County
(HW) - See Statewide
COFFEE COUNTY
(F) - See Anderson County
(HW) - See Statewide
CUMBERLAND COUNTY
(HW) - See Statewide
DAVIDSON COUNTY
Decision #TN77-1036 (B)
42 FR 16375 - 3/25/77
Mod. #1 - 42 FR 39867 - 8/5/77
(F) - See Anderson County
(HW) - See Statewide
DECATUR COUNTY
(F) - See Anderson County
(HW) - See Statewide
DEKALB COUNTY
(F) - See Anderson County
(HW) - See Statewide
DICKSON COUNTY
(F) - See Anderson County
(HW) - See Statewide
DYER COUNTY
Decision #TN76-1140 (R)
42 FR 56593 - 12/28/76
Decision #TN76-1054 (B)
41 FR 21140 - 5/21/76
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Mod. #1 - 42 FR 18788 - 4/8/77
(F) - See Anderson County
(HW) - See Statewide
FAYETTE COUNTY
(F) - See Anderson County
(HW) - See Statewide
FENTRESS COUNTY
(F)- See Anderson County
(HW) - See Statewide
FRANKLIN COUNTY
(F) - See Anderson County
(HW) - See Statewide
GIBSON COUNTY
(F) - See Anderson County
(HW) - See Statewide
(B,R) - See Dyer County
(HW) - See Statewide
GILES COUNTY
(F) - See Anderson County
(HW) - See Statewide
GRAINGER COUNTY
(F) - See Anderson County
(HW) - See Statewide
GREENE COUNTY
(F) - See Anderson County
(HW) - See Statewide
GRUNDY COUNTY
(F) - See Anderson County
(HW) - See Statewide
HAMBLEN COUNTY
(F) - See Anderson County
(HW) - See Statewide
HAMILTON COUNTY
Decision #TN77-1080 (B,H)
42 FR 37764 - 7/22/77
(F) - See Anderson County
(HW) - See Statewide
HANCOCK COUNTY
(F) - See Anderson County
(HW) - See Statewide
HARDEMAN COUNTY
(F) - See Anderson County
(HW) - See Statewide
HARDIN COUNTY
(F) - See Anderson County
(HW) - See Statewide
HAWKINS COUNTY
(F) - See Anderson County
(HW) - See Statewide
HAYWOOD COUNTY
(F) - See Anderson County
(HW) - See Statewide
HENDERSON COUNTY
(F) - See Anderson County
(HW) - See Statewide
HENRY COUNTY
(F) - See Anderson County
(HW) - See Statewide
HICKMAN COUNTY
(F) - See Anderson County
(HW) - See Statewide
HOUSTON COUNTY
(F) - See Anderson County
(HW) - See Statewide
HUMPHREYS COUNTY
(F) - See Anderson County
(HW) - See Statewide
JACKSON COUNTY
(F) - See Anderson County
(HW) - See Statewide
JEFFERSON COUNTY
(F) - See Anderson County
(HW) - See Statewide
JOHNSON COUNTY
(F) - See Anderson County
(HW) - See Statewide
KNOX COUNTY
Decision #TN76-1055 (R)
41 FR 27648 - 7/2/76
(B,F) - See Anderson County
(HW) - See Statewide
LAKE COUNTY
(F) - See Anderson County
(HW) - See Statewide
(R) - See Dyer County
LAUDERDALE COUNTY
(D,R) - See Dyer County
(F) - See Anderson County
(HW) - See Statewide
LAWRENCE COUNTY
(F) - See Anderson County
(HW) - See Statewide
LEWIS COUNTY
(F) - See Anderson County
(HW) - See Statewide
LINCOLN COUNTY
(F) - See Anderson County
(HW) - See Statewide
LOUDON COUNTY
(F) - See Anderson County
(HW) - See Statewide
MC MINN COUNTY
(F) - See Anderson County
(HW) - See Statewide
MC NAIRY COUNTY
(F) - See Anderson County
(HW) - See Statewide
MACON COUNTY
(F) - See Anderson County
(HW) - See Statewide
MADISON COUNTY
Decision #TN77-1051 (B)
42 FR 23426 - 5/6/77
Mod. #1 - 42 FR 36746 - 7/15/77
(F) - See Anderson County
(HW) - See Statewide
MARION COUNTY
(F) - See Anderson County
(HW) - See Statewide .

TENNESSEE (Cont'd)

MARSHALL COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MAURY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MEIGS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MONROE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MONTGOMERY COUNTY
Decision #KY77-1084 (B)
42 FR 32473 - 6/24/77
(F) - See Anderson County
(Hw) - See Statewide
MOORE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MORGAN COUNTY
(F) -See Anderson County
(Hw) - See Statewide
OBION COUNTY
(R) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
OVERTON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
PERRY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
PICKETT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
POLK COUNTY
(F) - See Anderson County
(Hw) - See Statewide
PUTNAM COUNTY
(F) - See Anderson County
(Hw) - See Statewide
RHEA COUNTY
(Hw) - See Statewide
(F) - See Anderson County
ROANE COUNTY
(B) - See Anderson Co. (Oak Ridge Energy Research Development Administration Only)
(F) - See Anderson County
(Hw) - See Statewide
ROBERTSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide

TENNESSEE (Cont'd)

RUTHERFORD COUNTY
Decision #TN77-1022 (B)
42 FR 12667 - 3/4/77
(F) - See Anderson County
(Hw) - See Statewide
SCOTT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SEQUATCHIE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(F) - See Anderson County
(Hw) - See Statewide
SHELBY COUNTY
Decision #TN77-1047 (B,H,W&S, & Utility)
42 FR 23422 - 5/6/77
Decision #TN76-1057 (R)
41 FR 20148 - 5/14/76
(D) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
SMITH COUNTY
(F) - See Anderson County
(Hw) - See Statewide
STEWART COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SULLIVAN COUNTY
Decision #TN76-1061 (B)
41 FR 20148 - 5/14/76
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Carter County
SUMNER COUNTY
(F) - See Anderson County
(Hw) - See Statewide
TIPTON COUNTY
(D) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
TROUSDALE COUNTY
(F) - See Anderson County
(Hw) - See Statewide

TEXAS

ANDERSON COUNTY
Decision #TX77-4136 (R)
42 FR 34241 - 7/1/77
Decision #TX77-4120 (H (Excluding tunnels and dams), Hw, Incidental shore work, and paving and utilities incidental to general building construction)
42 FR 32505 - 6/24/77
ANDREWS COUNTY
Decision #TX77-4120 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32485 - 6/24/77
ANGELINA COUNTY
(H,Hw) - See Anderson County
ARANSAS COUNTY
Decision #TX77-4124 (H (Excluding tunnels and dams,) (Hw) Incidental shore work, and paving and utilities incidental to general building construction)
42 FR 32493 - 6/24/77
Decision #AL77-5090 (D)
41 FR 44609 - 10/8/76
Mod.#1 - 42 FR 18788 - 4/8/77
ARCHER COUNTY
Decision #TX77-4118 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32482 - 6/24/77
ARMSTRONG COUNTY
Decision #TX77-4152 (B)
42 FR 35609 - 7/8/77
Mod. #1 - 42 FR 37713 - 7/22/77
Mod. #2 - 42 FR 38849 - 7/29/77
Decision #TX77-4137 (R)
42 FR 34243 - 7/1/77
Mod. #1 - 42 FR 36747 - 7/15/77
Mod. #2 - 42 FR 38848 - 7/29/77
(H,Hw) - See Archer County

TEXAS

ATASCOSA COUNTY
Decision #TX77-4122 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32489 - 6/24/77
AUSTIN COUNTY
Decision #TX77-4125 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32495 - 6/24/77
BAILEY COUNTY
Decision #TX77-4119 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32484 - 6/24/77
Decision #TX77-4138 (R)
42 FR 34245 - 7/1/77
BANDERA COUNTY
(H,Hw) - See Atascosa County
BASTROP COUNTY
Decision #TX77-4026 (R)
42 FR 10270 - 2/18/77
(H,Hw) - See Austin County
BAYLOR COUNTY
(H,Hw) - See Archer County
BEE COUNTY
Decision #TX77-4111 (B)
42 FR 30141 - 6/10/77
Mod. #1 - 42 FR 34151 - 7/1/77
Mod. #2 - 42 FR 38848 - 7/29/77
Mod. #3 - 42 FR 39867 - 8/5/77
Decision #TX77-4139 (R)
42 FR 34247 - 7/1/77
(H,Hw) - See Aransas County
BELL COUNTY
Decision #TX77-4126 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32497 - 6/24/77
Decision #TX77-4151 (B)
42 FR 35605 - 7/8/77
Mod. #1 - 42 FR 37713 - 7/22/77
Mod. #2 - 42 FR 38848 - 7/29/77
BEXAR COUNTY
Decision #TX77-4172 (R)
42 FR 39883 - 8/5/77
Decision #TX77-4101 (B)
42 FR 24705 - 5/13/77
Mod. #1 - 42 FR 27562 - 5/27/77
Mod. #2 - 42 FR 30100 - 6/10/77
Mod. #3 - 42 FR 35535 - 7/8/77
Mod. #4 - 42 FR 36746 - 7/15/77
Mod. #5 - 42 FR 38848 - 7/29/77
Mod. #6 - 42 FR 39867 - 8/5/77
(H,Hw) - See Atascosa County

TEXAS (Cont'd)

BLANCO COUNTY
(H,Hw) - See Austin County
(R) - See Bastrop County
BORDEN COUNTY
(H,Hw) - See Bailey County
BOSQUE COUNTY
Decision #TX77-4140 (R)
42 FR 34247 - 7/1/77
(B,H,Hw) - See Bell County
BOWIE COUNTY
Decision #TX77-4070 (B)
42 FR 17785 - 4/1/77
Mod. #1 - 42 FR 23290 - 5/6/77
Mod. #2 - 42 FR 34151 - 7/1/77
Mod. #3 - 42 FR 38848 - 7/29/77
Mod. #4 - 42 FR 39867 - 8/5/77
Decision #TX77-4129 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32503 - 6/24/77
BRAZORIA COUNTY
Decision #TX77-4132 (H(Excluding tunnel and dams), Hw, Incidental shore work, and paving and utilities incidental to general building construction)
42 FR 32507 - 6/24/77
Decision #TX77-4027 (R)
42 FR 10270 - 2/18/77
(D) - See Aransas County
BRAZOS COUNTY
Decision #TX77-4153 (B)
42 FR 35613 - 7/8/77
Mod. #1 - 42 FR 37713 - 7/22/77
Mod. #2 - 42 FR 38849 - 7/29/77
Decision #TX77-4131 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32506 - 6/24/77
BREWSTER COUNTY
Decision #TX77-4121 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32487 - 6/24/77
BRISCOE COUNTY
(H,Hw) - See Archer County
BROOKS COUNTY
Decision #TX77-4123 (H (Excluding tunnels and dams), Hw, Incidental shore work, and paving and utilities incidental to general building construction)
42 FR 32491 - 6/24/77

TEXAS (Cont'd)

BROWN COUNTY
(H,Hw) - See Andrews County
BURNET COUNTY
(H,Hw) - See Austin County
CALDWELL COUNTY
(H,Hw) - See Austin County
(R) - See Bastrop County
CALHOUN COUNTY
(H,Hw) - See Aransas County
(D) - See Aransas County
CALLAHAN COUNTY
(H,Hw) - See Andrews County
CAMERON COUNTY
Decision #TX77-4105 (B)
42 FR 26182 - 5/20/77
(H,Hw) - See Brooks County
CAMP COUNTY
Decision #TX77-4141 (R)
42 FR 34249 - 7/1/77
(H,Hw) - See Bowie County
CARSON COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
CASS COUNTY
(H,Hw) - See Bowie County
CASTRO COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
CHAMBERS COUNTY
Decision #TX77-4133 (H (Excluding Tunnels and dams), Hw, Incidental shore work, and paving and utilities incidental to general building construction)
42 FR 32509 - 6/24/77
(D) - See Aransas County
CHEROKEE COUNTY
(H,Hw,R) - See Anderson County
CHILDRESS COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
CLAY COUNTY
(H,Hw) - See Archer County
COCHRAN COUNTY
(H,Hw,R) - See Bailey County
COKE COUNTY
(H,Hw) - See Andrews County
COLEMAN COUNTY
(H,Hw) - See Andrews County
COLLIN COUNTY
Decision #TX77-4028 (R)
42 FR 10271 - 2/18/77
Decision #TX77-4097 (B-excluding Fort Worth Regional Airport)
42 FR 23429 - 5/6/77
Mod. #1 - 42 FR 35535 - 7/8/77
Mod. #2 - 42 FR 37712 - 7/22/77
Mod. #3 - 42 FR 38848 - 8/5/77

TEXAS (Cont'd.

COLLIN COUNTY (Cont'd,)
Decision #TX77-4128 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32501 - 6/24/77
COLLINGSWORTH COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
COLORADO COUNTY
(H,Hw) - See Austin County
COMAL COUNTY
(H,Hw) - See Atascosa County
COMANCHE COUNTY
(H,Hw) - See Andrews County
CONCHO COUNTY
(H,Hw) - See Andrews County
COOKE COUNTY
Decision #TX77-4127 (H (Excluding tunnels and dams,) (Hw (Paving and utilities incidental to general building construction)
42 FR 32499 - 6/24/77
CORYELL COUNTY
(B,H,Hw) - See Bell County
COTTLE COUNTY
(H,Hw) - See Bailey County
CRANE COUNTY
(H,Hw) - See Andrews County
Decision #TX76-4038 (R)
41 FR 7009 - 2/13/76
CROCKETT COUNTY
(H,Hw) - See Andrews County
CROSBY COUNTY
(H,Hw,R) - See Bailey County
CULBERSON COUNTY
(H,Hw) - See Brewster County
DALLAM COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
DALLAS COUNTY
(B,H,Hw,R) - See Collin County
DAWSON COUNTY
(H,Hw) - See Bailey County
DEAF SMITH COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
DELTA COUNTY
(R) - See Camp County
(H,Hw) - See Bowie County
DENTON COUNTY
(B,R) - See Collin County
(H,Hw) - See Cooke County
DE WITT COUNTY
(H,Hw) - See Aransas County
DICKENS COUNTY
(H,Hw) - See Bailey County

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TEXAS (Cont'd.

DIMMIT COUNTY
Decision #TX76-4039 (B,R)
41 FR 7014 - 2/13/76
(H,Hw) - See Atascosa County
DONLEY COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
DUVAL COUNTY
(H,Hw) - See Brooks County
EASTLAND COUNTY
(H,Hw) - See Andrews County
ECTOR COUNTY
Decision #TX76-4118 (B)
41 FR 29605 - 7/16/76
Mod. #1 - 41 FR 33129 - 8/16/76
Mod. #2 - 41 FR 42058 - 9/24/76
Mod. #3 - 41 FR 56554 - 12/28/76
Mod. #4 - 42 FR 4070 - 1/21/77
Mod. #5 - 42 FR 12575 - 3/4/77
(H,Hw) - See Andrews County
(R) - See Crane County
EDWARDS COUNTY
(H,Hw) - See Atascosa County
ELLIS COUNTY
(B,H,Hw,R) - See Collin Countgy
EL PASO COUNTY
Decision #TX77-4071 (B)
42 FR 17787 - 4/1/77
Mod. #1 - 42 FR 20054 - 4/15/77
Mod. #2 - 42 FR 20986 - 4/22/77
Mod. #3 - 42 FR 23290 - 5/6/77
Mod. #4 - 42 FR 34151 - 7/1/77
Mod. #5 - 42 FR 36746 - 7/15/77
(H,Hw) - See Brewster County
ERATH COUNTY
(H,Hw) - See Andrews County
FALLS COUNTY
(B,H,Hw) - See Bell County
FANNIN COUNTY
(R) - See Camp County
(H,Hw) - See Bowie County
FAYETTE COUNTY
(H,Hw) - See Austin County
(R) - See Bastrop County
FISHER COUNTY
(H,Hw) - See Bailey County
FLOYD COUNTY
(H,Hw,R) - See Bailey County
FOARD COUNTY
(H,Hw) - See Bailey County
FORT BEND COUNTY
(H,Hw,R) - See Brazoria County
FRANKLIN COUNTY
(R) - See Camp County
(H,Hw) - See Bowie County
FREESTONE COUNTY
(R) - See Bosque County
(H,Hw) - See Bell County

TEXAS (Cont'd.

FRIO COUNTY
(H,Hw) - See Atascosa County
GAINES COUNTY
(H,Hw) - See Bailey County
GALVESTON COUNTY
(D) - See Aransas County
(H,Hw,R) - See Brazoria County
Decision #TX77-4102 (B)
42 FR 24707 - 5/13/77
Mod. #1-42 FR 27562 - 5/27/77
Mod. #2-42 FR 28754 - 6/3/77
Mod. #3-42 FR 31056 - 6/17/77
Mod. #4-42 FR 34151 - 7/1/77
Mod. #5-42 FR 36746 - 7/15/77
Mod. #6-42 FR 37712 - 7/22/77
GARZA COUNTY
(H,Hw,R) - See Bailey County
GILLESPIE COUNTY
(H,Hw) - See Austin County
GLASSCOCK COUNTY
(H,Hw) - See Andrews County
GOLIAD COUNTY
(H,Hw) - See Aransas County
GONZALES COUNTY
(H,Hw) - See Austin County
GRAY COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
GRAYSON COUNTY
(B,H,Hw) - See Collin County
GREGG COUNTY
Decision #TX77-4154 (B)
42 FR 35614 - 7/8/77
Mod. #1- 42 FR 38849 - 7/29/77
Decision #TX77-4142 (R)
42 FR 34251 - 7/1/77
(H,Hw) - See Bowie County
GRIMES COUNTY
(H,Hw) - See Brazos County
GUADALUPE COUNTY
(H,Hw) - See Atascosa County
HALE COUNTY
(H,Hw,R) - See Bailey County
HALL COUNTY
(H,Hw) - See Archer County
HAMILTON COUNTY
(H,Hw) - See Bell County
HANSFORD COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
HARDEMAN COUNTY
(H,Hw) - See Archer County
HARDIN COUNTY
(H,Hw) - See Chambers County
HARRIS COUNTY
(B) - See Galveston County
(H,Hw,R) - See Brazoria County
(D) - See Aransas County

TEXAS (Cont'd.

HARRISON COUNTY
Decision #TX76-4196 (B)
41 FR 56601 - 12/28/76
Mod. #1 - 42 FR 12575 - 3/4/77
(H,Hw) - See Bowie County
(R) - See Gregg County
HARTLEY COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
HASKELL COUNTY
(H,Hw) - See Bailey County
HAYES COUNTY
(H,Hw) - See Austin County
(R) - See Bastrop County
HEMPHILL COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
HENDERSON COUNTY
(H,Hw,R) - See Anderson County
HIDALGO COUNTY
(B) - See Cameron County
(H,Hw) - See Brooks County
HILL COUNTY
(B,H,Hw) - See Bell County
(R) - See Dosque County
HOCKLEY COUNTY
(H,Hw,R) - See Bailey County
HOOD COUNTY
(B) - See Collin County
(H,Hw) - See Cooke County
Decision #TX77-4143 (R)
42 FR 34253 - 7/1/77
HOPKINS COUNTY
(R) - See Camp County
(H,Hw) - See Bowie County
HOUSTON COUNTY
(H,Hw) - See Anderson County
HOWARD COUNTY
Decision #TX77-4144 (B,R)
42 FR 34255 - 7/1/77
(H,Hw) - See Andrews County
HUDSPETH COUNTY
(H,Hw) - See Brewster County
HUNT COUNTY
(B,R) - See Collin County
(H,Hw) - See Bowie County
HUTCHINSON COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
IRION COUNTY
(H,Hw) - See Andrews County
JACK COUNTY
(H,Hw) - See Cooke County
JACKSON COUNTY
(D,H,Hw) - See Aransas County
JASPER COUNTY
(H,Hw) - See Anderson County

TEXAS (Cont'd.)

JEFF DAVIS COUNTY
(H,Hw) - See Brewster County
JEFFERSON COUNTY
Decision #TX77-4098 (B,R)
42 FR 23433 - 5/6/77
Mod. #1 - 42 FR 34151 - 7/1/77
Mod. #2 - 42 FR 35535 - 7/8/77
Mod. #3- 42 FR 38848 - 7/29/77
(D) - See Aransas County
(Hw) - See Chambers County
JIM HOGG COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Brooks County
JIM WELLS COUNTY
(H,Hw) - See Aransas County
JOHNSON COUNTY
(B) - See Collin County
(H,Hw) - See Cooke County
(R) - See Hood County
JONES COUNTY
(H,Hw) - See Bailey County
KARNES COUNTY
(H,Hw) - See Aransas County
KAUFMAN COUNTY
(B,R) - See Collin County
(H,Hw) - See Bowie County
KENDALL COUNTY
(H,Hw) - See Atascosa County
KENEDY COUNTY
(D) - See Aransas County
(H,Hw) - See Brooks County
KENT COUNTY
(H,Hw) - See BAiley County
KERR COUNTY
(H,Hw) - See Atascosa County
KIMBLE COUNTY
(H,Hw) - See Andrews County
KING COUNTY
(H,Hw) - See Bailey County
KINNEY COUNTY
(H,Hw) - See Atascosa County
KLEBERG COUNTY
(B) - See Bee County
(D,H,Hw) - See Aransas County
(R) - See Bee County
KNOX COUNTY
(H,Hw) - See Bailey County
LAMAR COUNTY
(R) - See Camp County
(H,Hw) - See Bowie County
LAMB COUNTY
(H,Hw,R) - See Bailey County
LAMPASAS COUNTY
(H,Hw) - See Bell County
LA SALLE COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Atascosa County
LAVACA COUNTY
(H,Hw) - See Aransas County

NOTICES

TEXAS (Cont'd)

LEE COUNTY
(H,Hw) - See Austin County
(R) - See Bastrop County
LEON COUNTY
(H,Hw) - See Statewide
LIBERTY COUNTY
(H,Hw) - See Chambers County
LIMESTONE COUNTY
(R) - See Bosque County
(H,Hw) - See Bell County
LIPSCOMB COUNTY
(H,Hw) - See Archer County
(B)(R) - See Armstrong County
LIVE OAK COUNTY
(H,Hw) - See Aransas County
LLANO COUNTY
(H,Hw) - See Austin County
LOVING COUNTY
(H,Hw) - See Andrews County
(R) - See Crane County
LUBBOCK COUNTY
(H,Hw,R) - See Bailey County
Decision #TX77-4155 (B)
42 FR 35615 - 7/8/77
Mod. #1 - 42 FR 37713 - 7/22/77
Mod. #2 - 42 FR 38849 - 7/29/77
LYNN COUNTY
(H,Hw,R) - See Bailey County
McCULLOCH COUNTY
(H,Hw) - See Andrews County
McLENNAN COUNTY
(R) - See Bosque County
(B,H,Hw) - See Bell County
(H,Hw) - See Statewide
McMULLEN COUNTY
(H,Hw) - See Atascosa County
MADISON COUNTY
(H,Hw) - See Brazos County
MARION COUNTY
(H,Hw) - See Bowie County
MARTIN COUNTY
(H,Hw) - See Andrews County

TEXAS (Cont'd)

MASON COUNTY
(H,Hw) - See Austin County
MATAGORDA COUNTY
(H,Hw,R) - See Brazoria County
(D) - See Aransas County
MAVERICK COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Atascosa County
MEDINA COUNTY
(H,Hw) - See Atascosa County
MENARD COUNTY
(H,Hw) - See Andrews County
MIDLAND COUNTY
(B) - See Ector County
(H,Hw) - See Andrews County
(R) - See Crane County
MILAM COUNTY
(H,Hw) - See Brazos County
MILLS COUNTY
(H,Hw) - See Andrews County
MITCHELL COUNTY
(H,Hw) - See Andrews County
MONTAGUE COUNTY
(H,Hw) - See Archer County
MONTGOMERY COUNTY
(H,Hw,R) - See Brazoria County
MOORE COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Archer County
MORRIS COUNTY
(H,Hw) - See Bowie County
MOTLEY COUNTY
(H,Hw) - See Bailey County
NACOGDOCHES COUNTY
(H,Hw) - See Anderson County
NAVARRO COUNTY
(R) - See Bosque County
(H,Hw) - See Bell County

TEXAS (Cont'd)

NEWTON COUNTY
(H,Hw) - See Anderson County
NOLAN COUNTY
(H,Hw) - See Andrews County
NUECES COUNTY
(B) - See Bee County
(D,H,Hw) - See Aransas County
(R) - See Bee County
OCHILTREE COUNTY
(R) (B) - See Armstrong County
(H,Hw) - See Archer County
OLDHAM COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Archer County
ORANGE COUNTY
(R)(B) - See Jefferson County
(Hw) - See Chambers County
(D) - See Aransas County
PALO PINTO COUNTY
(B) - See Collin County
(H,Hw) - See Cooke County
(R) - See Hood County
PANOLA COUNTY
(H,Hw) - See Anderson County
PARKER COUNTY
(H,Hw) - See Cooke County
(R) - See Hood County
PARMER COUNTY
(H,Hw) - See Archer County
PECOS COUNTY
(H,Hw) - See Brewster County
(R) - See Crane County
POLK COUNTY
(H,Hw) - See Anderson County
POTTER COUNTY
(H,Hw) - See Archer County
(B) (R) - See Armstrong County
PRESIDIO COUNTY
(H,Hw) - See Brewster County
RAINS COUNTY
(H,Hw) - See Bowie County
RANDALL COUNTY
(H,Hw) - See Archer County
(B)(R) - See Armstrong County
REAGAN COUNTY
(H,Hw) - See Andrews County
REAL COUNTY
(H,Hw) - See Atascosa County
RED RIVER COUNTY
(H,Hw) - See Bowie County

TEXAS (Cont'd)

REEVES COUNTY
(H,Hw) - See Brewster County
(R) - See Crane County
REFUGIO COUNTY
(D,H,Hw) - See Aransas County
ROBERTS COUNTY
(H,Hw)- See Archer County
(B) (R) - See Armstrong County
ROBERTSON COUNTY
(H,Hw) - See Brazos County
ROCKWALL COUNTY
(B,H,Hw,R) - See Collin County
RUNNELS COUNTY
(H,Hw) - See Andrews County
RUSK COUNTY
(R) - See Gregg County
(H,Hw) - See Bowie County
SABINE COUNTY
(H,Hw) - See Anderson County
SAN AUGUSTINE COUNTY
(H,Hw) - See Anderson County
SAN JACINTO COUNTY
(H,Hw) - See Anderson County
SAN PATRICIO COUNTY
(R) - See Bee County
(D,H,Hw) - See Aransas County
SAN SABA COUNTY
(H,Hw) - See Andrews County
SCHLEICHER COUNTY
(H,Hw) - See Andrews County
SCURRY COUNTY
(H,Hw) - See Bailey County
SHACKELFORD COUNTY
(H,Hw) - See Bailey County
SHELBY COUNTY
(H,Hw) - See Anderson County
SHERMAN COUNTY
(H,Hw) - See Archer County
(B)(R) - See Armstrong County
SMITH COUNTY
Decision #TX77-4145 (R)
42 FR 34257 - 7/1/77
Decision #TX77-4156 (B)
42 FR 35617 - 7/8/77
(H,Hw) - See Bowie County
SOMERVELL COUNTY
(H,Hw) - See Cooke County
STARR COUNTY
(H,Hw) - See Brooks County
(B) - See Cameron County
STEPHENS COUNTY
(H,Hw) - See Bailey County
STERLING COUNTY
(H,Hw) - See Andrews County

NOTICES

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TEXAS (Cont'd)

STONEWALL COUNTY
(H,Hw) - See Bailey County
SUTTON COUNTY
(H,Hw) - See Andrews County
SWISHER COUNTY
(H,Hw) - See Archer County
(B)(R) - See Armstrong County
TARRANT COUNTY
(B) - See Collin County
(H,Hw) - See Cooke County
Decision #TX77-4029 (R)
42 FR 10271 - 2/18/77
TAYLOR COUNTY
Decision #TX77-4157 (B)
42 FR 35617 - 7/5/77
(H,Hw) - See Andrews County
TERRELL COUNTY
(H,Hw) - See Brewster County
TERRY COUNTY
(H,Hw,R) - See Bailey County
THROCKMORTON COUNTY
(H,Hw) - See Bailey County
TITUS COUNTY
(R) - See Camp County
(H,Hw) - See Bowie County
TOM GREEN COUNTY
Decision #TX77-4108 (B)
42 FR 28810 - 6/3/77
Mod. #1 - 42 FR 32456 - 6/24/77
Mod. #2 - 42 FR 35535 - 7/8/77
(H,Hw) - See Andrews County
TRAVIS COUNTY
Decision #TX77-4158 (B)
42 FR 35618 - 7/8/77
Mod. #1 - 42 FR 37713 - 7/22/77
Mod. #2 - 42 FR 38849 - 7/29/77
(R) - See Bastrop County
(H,Hw) - See Austin County
TRINITY COUNTY
(H,Hw) - See Anderson County
TYLER COUNTY
(H,Hw) - See AndersonCounty
UPSHUR COUNTY
(R) - See GRegg County
(H,Hw) - See Bowie County
UPTON COUNTY
(H,Hw) - See Andrews County
(R) - See Crane County
UVALE COUNTY
(H,Hw) - See Atascosa County
VAL VERDE COUNTY
(H,Hw) - See Atascosa County

TEXAS (Cont'd.)

VAN ZANDT COUNTY
(R) - See Smith County
(H,Hw) - See Bowie County
VICTORIA COUNTY
(D,H,Hw) - See Aransas County
WALKER COUNTY
(H,Hw) - See Brazos County
(R) - See Brazoria County
WALLER COUNTY
(H,Hw) - See Brazoria County
WARD COUNTY
(H,Hw) - See Andrews County
(R) - See Crane County
WASHINGTON COUNTY
(H,Hw) - See Brazos County
WEBB COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Brooks County
WHARTON COUNTY
(H,Hw) - See Brazoria County
WHEELER COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
WICHITA COUNTY
Decision #TX77-4146 (R)
42 FR 34259 - 7/1/77
Decision #TX77-4159 (B)
42 FR 35620 - 7/8/77
Mod. #1 - 42 FR 37714 - 7/22/77
(H,Hw) - See Archer County
WILBARGER COUNTY
(H,Hw) - See Archer County
WILLACY COUNTY
(B) - See Cameron County
(H,Hw) - See Brooks County
(D) - See Aransas County
WILLIAMSON COUNTY
(H,Hw) - See Austin County
(R) - See Bastrop County
WILSON COUNTY
(H,Hw) - See Atascosa County
WINKLER COUNTY
(H,Hw) - See Andrews County
(R) - See Crane County
WISE COUNTY
(B) - See Collin County
(H,Hw) - See Cooke County
(R) - See Hood County

WOOD COUNTY
(R) - See Smith County
(H,Hw) - See Bowie County

TEXAS (Cont'd.)

YOAKUM COUNTY
(H,Hw,R) - See Bailey County
YOUNG COUNTY
(H,Hw) - See Bailey County
ZAPATA COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Brooks County
ZAVALA COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Atascosa County

UTAH

STATEWIDE
Decision #UT77-5075 (B,H,Hw)
42 FR 39888 - 8/5/77
BEAVER COUNTY
(B,H,Hw) - See Statewide
BOX ELDER COUNTY
(B,H,Hw) - See Statewide
CACHE COUNTY
(B,H,Hw) - See Statewide
CARBON COUNTY
(B,H,Hw) - See Statewide
DAGGETT COUNTY
(B,H,Hw) - See Statewide
DAVIS COUNTY
(B,H,Hw) - See Statewide
DUCHESNE COUNTY
(B,H,Hw) - See Statewide
EMERY COUNTY
(B,H,Hw) - See Statewide
GARFIELD COUNTY
(B,H,Hw) - See Statewide
GRAND COUNTY
(B,H,Hw) - See Statewide
IRON COUNTY
(B,H,Hw) - See Statewide
JUAB COUNTY
(B,H,Hw) - See Statewide
KANE COUNTY
(B,H,Hw) - See Statewide
MILLARD COUNTY
(B,H,Hw) - See Statewide
MORGAN COUNTY
(B,H,Hw) - See Statewide
PIUTE COUNTY
(B,H,Hw) - See Statewide
RICH COUNTY
(B,H,Hw) - See Statewide
SALT LAKE COUNTY
(B,H,Hw) - See Statewide
SAN JUAN COUNTY
(B,H,Hw) - See Statewide
SANPETE COUNTY
(B,H,Hw) - See Statewide
SEVIER COUNTY
(B,H,Hw) - See Statewide
SUMMIT COUNTY
(B,H,Hw) - See Statewide
TOOELE COUNTY
(B,H,Hw) - See Statewide
UINTAH COUNTY
(B,H,Hw) - See Statewide
UTAH COUNTY
(B,H,Hw) - See Statewide
WASATCH COUNTY
(B,H,Hw) - See Statewide
WASHINGTON COUNTY
(B,H,Hw) - See Statewide

UTAH (Cont'd)

WAYNE COUNTY
(B,H,Hw) - See Statewide
WEBER COUNTY
(B,H,Hw) - See Statewide

VERMONT

Statewide (Except Rutland County)
Decision #VT76-2170 (Hw)
41 FR 54146 - 12/10/76
Mod. #1 - 42 FR 3140 - 1/14/77
ADDISON COUNTY
(Hw) - See Statewide
BENNINGTON COUNTY
(Hw) - See Statewide
CALEDONIA COUNTY
(Hw) - See Statewide
CHITTENDEN COUNTY
(Hw) - See Statewide
ESSEX COUNTY
(Hw) - See Statewide
FRANKLIN COUNTY
(Hw) - See Statewide
GRAND ISLE COUNTY
(Hw) - See Statewide
LAMOILLE COUNTY
(Hw) - See Statewide
ORANGE COUNTY
(Hw) - See Statewide
ORLEANS COUNTY
(Hw) - See Statewide
RUTLAND COUNTY
None
WASHINGTON COUNTY
(Hw) - See Statewide
WINDHAM COUNTY
(Hw) - See Statewide
WINDSOR COUNTY
(Hw) - See Statewide

VIRGIN ISLANDS

ISLAND WIDE
Decision #VI76-3166 (B)
41 FR 19003 - 5/7/76
Decision #VI76-3167 (H,Hw)
41 FR 19003 - 5/7/76

VIRGINIA

ACCOMACK COUNTY
Decision #AP-805 (Hw)
38 FR 11279 - 5/4/73
Mod. #1 - 38 FR 13127 - 5/18/73
Mod. #2 - 40 FR 15284 - 4/4/75
Mod. #3 - 40 FR 23631 - 5/30/75
Mod. #4 - 41 FR 50122 - 11/12/76
Mod. #5 - 42 FR 4073 - 1/21/77
Decision #GA77-5035 (D)
42 FR 13756 - 3/11/77
ALBEMARLE COUNTY
Decision #VA76-3244 (Hw)
41 FR 38704 - 9/10/76
Decision #VA75-3094 ((B)
40 FR 43415 - 9/19/75
Mod. #1 - 40 FR 48847 - 10/17/75
Mod. #2 - 41 FR 11735 - 3/19/76
ALEXANDRIA CITY
Decision #MD77-3041 (B)
42 FR 15268 - 3/10/77
Mod. #1 - 42 FR 18794 - 4/8/77
Mod. #2 - 42 FR 20987 - 4/22/77
Mod. #3 - 42 FR 23290 - 5/6/77
Mod. #4 - 42 FR 27563 - 5/27/77
Mod. #5 - 42 FR 32456 - 6/24/77
ALLEGHANY COUNTY
Decision #VA76-3245 (Hw)
41 FR 38748 - 9/10/76
Mod. #1 - 41 FR 40374 - 9/17/76
Mod. #2 - 41 FR 43569 - 10/1/76
AMELIA COUNTY
Decision #AR-2032 (Hw)
39 FR 31871 - 8/30/74
AMHERST COUNTY
Decision #AQ-2032 (Hw)
38 FR 33259 - 11/30/73
APPOMATTOX COUNTY
(Hw) - See Amherst County
ARLINGTON COUNTY
(B) - See Alexandria City
(D) - See Accomack County
AUGUSTA COUNTY
(Hw) - See Alleghany County
BATH COUNTY
(Hw) - See Alleghany County
BEDFORD CITY
(Hw) - See Bedford County
BEDFORD COUNTY
Decision #AQ-2021 (Hw)
38 FR 27744 - 10/5/73
Mod. #1 - 41 FR 50122 - 11/12/76
BLAND COUNTY
Decision #VA76-3253 (Hw)
42 FR 42154 - 9/24/76

VIRGINIA (Cont'd)

BOTETOURT COUNTY
(Hw) - See Bedford County
BRISTOL CITY
(Hw) - See Bland County
BRUNSWICK COUNTY
(Hw) - See Amelia County
BUCHANAN COUNTY
(Hw) - See Bland County
BUCKINGHAM COUNTY
(Hw) - See Amherst County
BUENA VISTA CITY
(Hw) - See Allegheny County
CAMPBELL COUNTY
Decision #VA75-3095 (B)
40 FR 43416 - 9/19/75
Mod. #1 - 41 FR 11735 - 3/19/76
Mod. #2 - 41 FR 50123 - 11/12/76
(Hw) - See Amherst County
CAROLINE COUNTY
Decision #AQ-2031 (Hw)
38 FR 33258 - 11/30/73
CARROLL COUNTY
(Hw) - See Bedford County
CHARLES CITY COUNTY
(Hw) - See Amelia County
CHARLOTTE COUNTY
(Hw) - See Amherst County
CHARLOTTSVILLE CITY
(B,Hw) - See Albermarle County
CHESAPEAKE CITY
Decision #VA77-3090 (B)
42 FR 34264 - 7/1/77
Mod. #1 - 42 FR 39868 - 8/5/77
Decision #VA77-3082 (Hw)
42 FR 32510 - 6/24/77
Mod. #1 - 42 FR 38849 - 7/29/77
(D) - See Accomack County
CHESTERFIELD COUNTY
(Hw) - See Amelia County
CLARKE COUNTY
(Hw) - See Alleghany County
CLIFTON FORGE CITY
(Hw) - See Alleghany County
COLONIAL HEIGHTS CITY
(Hw) - See Amelia County
COVINGTON CITY
(Hw) - See Alleghany County
CRAIG COUNTY
(Hw) - See Bedford County

UMI

VIRGINIA (Cont'd)

PAGE COUNTY
(Hw) - See Alleghany County
PATRICK COUNTY
(Hw) - See Bedford County
PETERSBURG CITY
(Hw) - See Amelia County
PITTSYLVANIA COUNTY
(Hw) - See Bland County
POQUOSON CITY
(D) - See Accomack County
PORTSMOUTH CITY
(D,Hw) - See Chesapeake City
POWHATAN COUNTY
(Hw) - See Amelia County
PRINCE EDWARD COUNTY
(Hw) - See Amelia County
PRINCE GEORGE COUNTY
(Hw) - See Albermarle County
PRINCE WILLIAM COUNTY
(D) - See Accomack County
PULASKI COUNTY
(Hw) - See Albermarle County
RADFORD CITY (Radford Army Ammunition Plant)(Hw) - See Alleghany County
Decision #VA77-3083 (B)
42 FR 34261 - 7/1/77
Mod. #1 - 42 FR 39868 - 8/5/77
RAPPAHANNOCK COUNTY
(Hw) - See Bedford County
RICHMOND CITY
(B) - See Henrico County
(Hw) - See Amelia County
RICHMOND COUNTY
(Hw) - See Caroline County
ROANOKE CITY
(Hw) - See Bedford County
ROANOKE COUNTY
(Hw) - See Bedford County
ROCKBRIDGE COUNTY
(Hw) - See Alleghany County
ROCKINGHAM COUNTY
(Hw) - See Alleghany County
RUSSELL COUNTY
(Hw) - See Bland County
SALEM CITY
(Hw) - See Bedford County
SCOTT COUNTY
(Hw) - See Bland County
SHENANDOAH COUNTY
(Hw) - See Alleghany County
(R) - See Clarke County
SMYTH COUNTY
(Hw) - See Bland County
SOUTHAMPTON COUNTY
(Hw) - See Accomack County

VIRGINIA (Cont'd)

SOUTH BOSTON CITY
(Hw) - See Amherst County
SPOTSYLVANIA COUNTY
(Hw) - See Caroline County
STAUNTON CITY
(Hw) - See Alleghany County
STAFFORD COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
SUFFOLK CITY
(Hw) - See Accomack County
SURRY COUNTY
(Hw) - See Accomack County
(D) - See Accomack County
SUSSEX COUNTY
(Hw) - See Accomack County
TAZEWELL COUNTY
(Hw) - See Bland County
VIRGINIA BEACH CITY
(Hw,B) - See Chesapeake City
(D) - See Accomack County
WARREN COUNTY
WASHINGTON COUNTY
(Hw) - See Bland County
WAYNESBORO CITY
(Hw) - See Alleghany County
WESTMORELAND COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
WILLIAMSBURG CITY
WINCHESTER CITY
(Hw) - See Alleghany County
WISE COUNTY
(Hw) - See Bland County
WYTHE COUNTY
(Hw) - See Bland County
YORK COUNTY
Decision #VA77-3091 (B, W&S)
42 FR 34266 - 7/1/77
Mod. #1 - 42 FR 39868 - 8/5/77
(D,Hw) - See Accomack County
(R) - See Hampton County

WASHINGTON

STATEWIDE
Decision #WA77-5055 (D,H,Hw,D)
42 FR 31115 - 6/17/77
ADAMS COUNTY
(D,H,Hw,D) - See Statewide
ASOTIN COUNTY
(D,H,Hw,D) - See Statewide
BENTON COUNTY
(D,H,Hw,D) - See Statewide
CHELAN COUNTY
(B,H,Hw,D) - See Statewide
CLALLAM COUNTY
Decision #WA76-5119 (R)
41 FR 54140 - 12/10/76
Mod. #1 - 42 FR 13221 - 3/11/77
(B,H,Hw,D) - See Statewide
CLARK COUNTY
(B,H,Hw,D) - See Statewide
COLUMBIA COUNTY
(B,H,Hw,D) - See Statewide
COWLITZ COUNTY
(B,H,Hw,D) - See Statewide
DOUGLAS COUNTY
(B,H,Hw,D) - See Statewide
FERRY COUNTY
(B,H,Hw, D) - See Statewide
FRANKLIN COUNTY
(B,H,Hw,D) - See Statewide
GARFIELD COUNTY
(B,H,Hw,D) - See Statewide
GRANT COUNTY
(B,H,Hw,D) - See Statewide
GRAYS HARBOR COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
ISLAND COUNTY
(B,H,Hw,D) - See Statewide
(R) & See Clallam County
JEFFERSON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
KING COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
KITSAP COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
KITTITAS COUNTY
(B,H,Hw,D) - See Statewide
KLICKITAT COUNTY
(B,H,Hw,D) - See Statewide

VIRGINIA (Cont'd)

CULPEPER COUNTY
(Hw) - See Albermarle County
CUMBERLAND COUNTY
(Hw) - See Amherst County
DANVILLE CITY
(Hw) - See Amherst County
DICKENSON COUNTY
(Hw) - See Bland County
DINWIDDIE COUNTY
(Hw) - See Amelia County
EMPORIA CITY
(Hw) - See Accomack County
ESSEX COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
FAIRFAX COUNTY
(B) - See Alexandria City
(D) - See Accomack County
FAIRFAX CITY
(D) - See Accomack County
(Hw) - See Alleghany County
FALLS CHURCH CITY
(B) - See Alexandria City
FAUQUIER COUNTY
(Hw) - See Albermarle County
FLOYD COUNTY
(Hw) - See Bedford County
FLUVANNA COUNTY
(Hw) - See Albermarle County
FORT MONROE CITY
(Hw) - See Chesapeake City
(B, W&S) - See York County
FRANKLIN CITY
(Hw) - See Accomack County
FRANKLIN COUNTY
(Hw) - See Bedford County
FREDERICK COUNTY
(Hw) - See Alleghany County
(R) - See Clarke County

VIRGINIA (Cont'd)

FREDERICKSBURG CITY
(Hw) - See Caroline County
GALAX CITY
(Hw) - See Bedford County
GILES COUNTY
(Hw) - See Bedford County
GLOUCESTER COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
GOOCHLAND COUNTY
(Hw) - See Amelia County
GRAYSON COUNTY
(Hw) - See Bland County
GREENE COUNTY
(Hw) - See Albermarle County
GREENSVILLE COUNTY
(Hw) - See Accomack County
HALIFAX COUNTY
(Hw) - See Amherst County
HAMPTON CITY
Decision #VA76-3254 (R)
41 FR 44660 - 10/8/76
Mod. #1 - 42 FR 20054 - 4/15/77
(B, W&S) - See York County
(Hw) - See Chesapeake City
(D) - See Accomack County
HANOVER COUNTY
(Hw) - See Amelia County
HARRISONBURG CITY
(Hw) - See Alleghany County
HENRICO COUNTY
Decision #VA77-3089 (B)
42 FR 34261 - 7/1/77
Mod. #1 - 42 FR 39868 - 8/5/77
(Hw) - See Amelia County

VIRGINIA (Cont'd)

HENRY COUNTY
(Hw) - See Bedford County
HIGHLAND COUNTY
(Hw) - See Alleghany County
HOPEWELL CITY
(Hw) - See Amelia County
ISLE OF WIGHT COUNTY
(D,Hw) - See Accomack County
JAMES CITY COUNTY
(D,Hw) - See Accomack County
KING AND QUEEN COUNTY
(Hw) - See Caroline County
KING GEORGE COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
KING WILLIAM COUNTY
(Hw) - See Caroline County
LANCASTER COUNTY
(Hw) - See Caroline County
(D,Hw) - See Accomack County
LEE COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
LOUISA COUNTY
(Hw) - See Albermarle County
LOUDOUN COUNTY
(Hw) - (See Albermarle County
LUNENBURG COUNTY
(Hw) - See Albermarle County
LUNENBURG COUNTY
(Hw) - See Amelia County
LYNCHBURG CITY
(B) - See Campbell County
(Hw) - See Amherst County
MADISON COUNTY
(Hw) - See Albermarle County
MARTINSVILLE CITY
(Hw) - See Bedford County

VIRGINIA (Cont'd)

MATHEWS COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
MECKLENBURG COUNTY
(Hw) - See Amelia County
MIDDLESEX COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
MONTGOMERY COUNTY
(Hw) - See Bedford County
NANSEMOND COUNTY
(D,Hw) - See Accomack County
NELSON COUNTY
(Hw) - See Amherst County
NEW KENT COUNTY
(B, W&S) - See York County
NEWPORT NEWS CITY
(D,H,W&S) - See York County
(Hw) - See Chesapeake City
(D) - See Accomack County
(R) - See Hampton City
NORFOLK CITY
(Hw,B) - See Chesapeake City
(D) - See Accomack County
NORTHAMPTON COUNTY
(D,Hw) - See Accomack County
NORTON CITY
(Hw) - See Bland County
NORTHUMBERLAND COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
NOTTOWAY COUNTY
(Hw) - See Amelia County
ORANGE COUNTY
(Hw) - See Albermarle County

FEDERAL REGISTER, VOL. 42, NO. 171—FRIDAY, SEPTEMBER 2, 1977

WASHINGTON (Cont'd.)

LEWIS COUNTY
(B,H,Hw,D) - See Statewide
LINCOLN COUNTY
(B,H,Hw,D) - See Statewide
MASON COUNTY
(B,H,Hw,D) - See Statewide
(R)- See Clallam County
OKANOGAN COUNTY
(B,H,Hw,D) - See Statewide
PACIFIC COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
PEND ORCILLE COUNTY
(B,H,Hw,D) - See Statewide
PIERCE COUNTY
(R) - See Clallam County
(B,H,Hw,D) - See Statewide
SAN JUAN COUNTY
(B,H,Hw,D) - See Statewide
SKAGIT COUNTY
(B,H,Hw,D) - See Statewide
SKAMANIA COUNTY
(B,H,Hw,D) - See Statewide
SNOHOMISH COUNTY
(R) - See Clallam County
(B,H,Hw,D) - See Statewide
SPOKANE COUNTY
(B,H,Hw,D) - See Statewide
STEVENS COUNTY
(B,H,Hw,D) - See Statewide
THURSTON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
WAHKIAKUM COUNTY
(B,H,Hw,D) - See Statewide
WALLA WALLA COUNTY
(B,H,Hw,D) - See Statewide
WHATCOM COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
WHITMAN COUNTY
(B,H,Hw,D) - See Statewide
YAKIMA COUNTY
Decision #WA77-5008 (R)
42 FR 4109 - 1/21/77
(B,H,Hw,D) - See Statewide

WEST VIRGINIA (Cont'd.)

MONROE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See Statewide
OHIO COUNTY
(H,Hw) - See Statewide
NICHOLAS COUNTY
(H,Hw) - See Statewide
MORGAN COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
PENDLETON COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
PLEASANT COUNTY
(O) - See Cabell County
(H,Hw) - See Statewide
POCAHONTAS COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
PRESTON COUNTY
(H,Hw) - See Statewide
PUTNAM COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
RALEIGH COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
RANDOLPH COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
RITCHIE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
ROANE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
SUMMERS COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
TAYLOR COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
TUCKER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
TYLER COUNTY
(O) - See Cabell County
(B) - See Barbour County
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd.)

UPSHUR COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WAYNE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WEBSTER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WETZELL COUNTY
(O) - See Cabell County
(H,Hw) - See Statewide
WIRT COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WOOD COUNTY
(B) - See Barbour County
(O) - See Cabell County
(H,Hw) - See Statewide
WYOMING COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide

WISCONSIN

STATEWIDE
Decision #WI77-2102 (Hw)
42 FR 36781 - 7/15/77
Decision #WI77-2042 (H, Sewer, Tunnel, & Water)
42 FR 11041 - 4/8/77
Mod. #1 - 42 FR 23293 - 5/6/77
ADAMS COUNTY
(H,Hw, W&S) - See Statewide
ASHLAND COUNTY
Decision #IL77-5038 (O)
42 FR 18402 -4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
(H,Hw) - See Statewide
Decision #WI77-2105 (B,R)
42 FR 37766 - 7/22/77
BARRON COUNTY
(B) - See Polk County
(H,Hw, W&S) - See Statewide
BAYFIELD COUNTY
(B,D,R) - See Ashland County
(H,Hw, W&S) - See Statewide
BROWN COUNTY
Decision #WI77-2109 (B)
42 FR 37771 - 7/22/77
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
BUFFALO COUNTY
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77
(H,Hw) - See Statewide
BURNETT COUNTY
(H,Hw, W&S) - See Statewide
CALUMET COUNTY
(H,Hw, W&S) - See Statewide
CHIPPEWA COUNTY
(H,Hw, W&S) - See Statewide
(B,R) - See Eau Clair County
CLARK COUNTY
(H,Hw) - See Statewide
COLUMBIA COUNTY
(H,Hw, W&S) - See Statewide
CRAWFORD COUNTY
(D) - See Buffalo County
(H,Hw, W&S) - See Statewide
DANE COUNTY
Decision #WI77-2100 (B,R)
42 FR 37773 - 7/22/77
DODGE COUNTY
(H,Hw, W&S) - See Statewide
DOOR COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide

WISCONSIN (Cont'd.

DOUGLAS COUNTY
(D) - See Ashland County
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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

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Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Confidential Assistant to the Special Assistant to the Secretary for Civil Rights is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3316(q)(8) is added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(q) *Office of the Special Assistant to the Secretary for Civil Rights.* * * *

(8) One Confidential Assistant to the Special Assistant.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25899 Filed 9-2-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following positions are excepted under Schedule C: (1) the position of Special Assistant to the Under Secretary because it is confidential in nature; and (2) the position of Deputy Director, Office of Special Projects, Economic Development Administration because it is confidential in nature and because the incumbent will participate in policy development and execution.

EFFECTIVE DATE: September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3314(a)(3) is amended and (q)(14) is added as set out below:

§ 213.3314 Department of Commerce.

(a) *Office of the Secretary.* * * *

(3) One Confidential Assistant, one Special Assistant, and two Private Secretaries to the Under Secretary.

* * * * *

(q) *Office of the Assistant Secretary for Economic Development.* * * *

(14) Deputy Director, Office of Special Projects.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25900 Filed 9-2-77;8:45 am]

PART 213—EXCEPTED SERVICE

Federal Energy Administration

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment changes the title of an existing Schedule C position from Staff Assistant, Congressional Affairs, to Staff Assistant to the Special Assistant, Congressional Affairs, to reflect the position's current supervisor.

EFFECTIVE DATE: September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3388(q) (2) and (3) are amended to read as follows:

§ 213.3388 Federal Energy Administration.

* * * * *

(q) *Office of the Associate Administrator for Congressional and Intergovernmental Affairs.* * * *

(2) Two Staff Assistants, Congressional Affairs.

(3) Five Staff Assistants to the Special Assistant, Congressional Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25901 Filed 9-2-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: The position of Staff Assistant to the Secretary is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3313(a)(40) is added as set out below:

§ 213.3313 Department of Agriculture.

(a) *Office of the Secretary.* * * *

(40) One Staff Assistant to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25902 Filed 9-2-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Treasury

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Assistant to the Treasurer of the United States is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3305(a)(75) is added as set out below:

§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* * * *

(75) One Assistant to the Treasurer of the United States.

(5 U.S. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25903 Filed 9-2-77;8:45 am]

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PART 213—EXCEPTED SERVICE

Federal Energy Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The purposes of this amendment are as follows: To change the name of an existing organization from Office of the Deputy Administrator to Office of the Deputy Administrator (Policy) so that its function is more accurately described; to change the title of two existing Schedule C positions to reflect this latter organizational redesignation, specifically, from Staff Assistant to the Deputy Administrator to Staff Assistant to the Deputy Administrator (Policy) and from Special Assistant to the Deputy Administrator to Special Assistant to the Deputy Administrator (Policy), and; to except the position of Staff Assistant to the Deputy Administrator (Policy) from the competitive service under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 8, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3388 (b), (b) (1) and (b) (3) are amended to read as follows:

§ 213.3388 Federal Energy Administration.

* * * * * *

(b) *Office of the Deputy Administrator (Policy).*

(1) Two Staff Assistants to the Deputy Administrator (Policy).

* * * * * *

(3) One Special Assistant to the Deputy Administrator (Policy).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25904 Filed 9-2-77;8:45 am]

Title 7—Agriculture

CHAPTER XI—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS: MISCELLANEOUS COMMODITIES), DEPARTMENT OF AGRICULTURE

[Docket No. BRIA–1]

PART 1260—BEEF RESEARCH AND INFORMATION

Subpart—Beef Research and Information Order

Correction

In FR Doc. 77–24852, appearing at page 43053 in the issue for Tuesday, August 26, 1977 the following correction should be made:

On page 43054, under the heading of "Supplementary Information", the last sentence should read, "Therefore, the order published on April 15, adding Subpart—Beef Research and Information Order to 7 CFR Part 1260 shall not become effective and this proceeding is terminated."

CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE, DEPARTMENT OF AGRICULTURE

PART 2852—PROCESSED FRUITS, VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

U.S. Standards for Grades of Canned Ripe Olives; Correction

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Correction.

SUMMARY: This document corrects numerical errors in a final rule that appeared at page 38585 in the FEDERAL REGISTER of Friday, July 29, 1977 (FR Doc. 77–21339).

FOR FURTHER INFORMATION CONTACT:

Dale C. Dunham, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–4693).

SUPPLEMENTARY INFORMATION: 1. In Table I of § 2852.3754, printed at page 38587 of the FEDERAL REGISTER of July 29, 1977, the count per pound range of medium size olives was printed in error. Change the count range to read: "80–105."

2. In Table III, Acceptance Values of Drained Weights (Ounces), of § 2852.-3755, printed at page 38590, change the "X_d" value for a number 300 size Broken Pitted to read 5.6 and the "LL" value for a number 10 size Broken Pitted to read 48.8.

3. In Table III, Acceptance Values for Drained Weights (Grams), printed at page 38591, change the "X_d" value for number 300 size Broken Pitted to read 158.8 and the "LL" value for a number 10 size Broken Pitted to read 1383.4.

Dated: August 31, 1977.

ROBERT ANGELOTTI,
Administrator.

[FR Doc.77-25927 Filed 9-2-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 77–WE–22]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone, Needles, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the effective hours of operation of the Needles, Calif. control zone to coincide with the hours of operation of the Needles Flight Service Station (FSS) which were reduced from continuous to 0800 to 1600 local time, daily. This reduces the availability of special weather observations accordingly and necessitates the change in the control zone hours hours of operation to conform to the Needles FSS hours of operation and will make additional airspace available without due restrictions.

EFFECTIVE DATE: October 6, 1977.

ADDRESS: Copies of this final rule may be obtained from: Federal Aviation Administration, Air Traffic Division, Chief, Airspace and Procedures Branch, AWE–530, 15000 Aviation Boulevard, Lawndale, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261, Telephone: 213–536–6182.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the designation of the Needles, Calif. Control Zone from a continuous to a parttime control zone. The Needles, Calif. Flight Service Station will reduce its hours of operation effective October 8, 1977. This action removes the availability of weather and communications which are mandatory requirements for the operation of a control zone. Therefore, this action is necessary in order to have the control zone effective during the hours of operation of the Needles Flight Service Station. The control zone will be effective during the specific dates and times established in advance by a Notice to Airman. The effective dates and times will thereafter be continuously published in the Airman's Information Manual.

The aforementioned action will reduce the constraints and, in effect, the impact on the user imposed by control zone operation. Consequently, we have elected to omit circularization of the change for comment.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Lawson, Jr., Esquire, Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, October 6, 1977, as hereinafter set forth.

In Subpart F, § 71.171 (42 FR 355) the Needles, Calif. control zone is amended by adding the following:

This control zone is effective during specific dates and times established in advance by a Notice to Airman. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

This amendment is issued under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Los Angeles, Calif. on August 25, 1977.

HERMAN C. BLISS,
Acting Deputy Director, Western Region.

[FR Doc.77-25783 Filed 9-2-77;8:45 am]

[Airspace Docket No. 77–WE–16]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area; Klamath, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a transition area at Klamath, Calif., to provide controlled airspace for aircraft desiring radar services transiting the area. Radar service will be available utilizing the Klamath, Calif. radar.

EFFECTIVE DATE: December 1, 1977.

ADDRESS: Copies of this final rule may be obtained from: Federal Aviation Administration, Air Traffic Division, Chief, Airspace and Procedures Branch, 15000 Aviation Boulevard, Lawndale, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261, Telephone: 213–536–6182.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate a transition area at Klamath, Calif.

On July 18, 1977, a Notice of Proposed Rulemaking (NPRM) was published in the FEDERAL REGISTER (42 FR 36844) stating that the Federal Aviation Administration proposed to designate a transition area at Klamath, Calif., to provide controlled airspace for aircraft operating within the area and for aircraft desiring radar service transiting the airspace.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Lawson, Jr., Esquire, Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., December 1, 1977.

§ 71.181 [Amended]

1. By amending § 71.181 (42 FR 440) of Part 71 of the Federal Aviation Regulations by designating a new transition area as follows:

KLAMATH, CALIF.

That airspace extending upward from 2,000 feet above the surface bounded on the north by V–122, on the east by V–23W and V–23, the south by V–195 and on the west by V–27, excluding the airspace within federal airways and Red Bluff, Arcata and Crescent City, Calif. Transition Areas.

This amendment is issued under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Los Angeles, Calif., on August 25, 1977.

HERMAN C. BLISS,
Acting Deputy Director, Western Region.

[FR Doc.77-25782 Filed 9-2-77;8:45 am]

[Airspace Docket No. 76–SO–64]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will realign the present high altitude jet routes overlying Memphis, Tenn., commensurate with the relocation of the Memphis, Tenn., VOR/DME at Lat. 35°03'45" N., Long. 89°58'53" W. This facility relocation is part of an overall plan to improve and upgrade the air traffic capabilities in and around the Memphis, Tenn., International Airport area.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. David F. Solomon, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: 202–426–8530.

SUPPLEMENTARY INFORMATION:

HISTORY

On August 12, 1976, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign the high altitude jet routes presently overlying Memphis, Tenn., commensurate with the relocation of the Memphis VOR/DME (41 FR 34077). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. One comment was received with no objections. Section 75.100 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 707).

THE RULE

This amendment to Part 75 of the Federal Aviation Regulations (FARs) realigns the high altitude jet route structure overlying Memphis, Tenn., commensurate with the relocation of the Memphis VOR/DME. This action will improve the air traffic capabilities in the Memphis area.

DRAFTING INFORMATION

The principal authors of this document are Mr. David F. Solomon, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished and amended (42 FR 707 and 55863) is amended, effective 0901 G.m.t., December 1, 1977, as follows:

1. In Jet Route No. 41 "INT Birmingham 300° and Memphis, Tenn., 113° radials; Memphis;" is deleted and "Memphis, Tenn.;" is substituted therefor.

2. In Jet Route No. 66 "INT Memphis 096° and Rome, Ga., 286° radials; to Rome." is deleted and "to Rome, Ga." is substituted therefor.

3. Realign Jet Route J–29, J–35, J–42, J–71 and J–118 via the (relocated) Memphis, Tenn., VOR/DME.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., on August 26, 1977.

EDWARD J. MALO,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-25654 Filed 9-2-77;8:45 am]

V 42 172 SEP 6 77 UMI

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1021, Amdt. 2]

PART 223—FREE AND REDUCED-RATE TRANSPORTATION

Approval by Comptroller General

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice of approval by the Comptroller General of the reporting requirements contained in a regulation concerning free and reduced-rate transportation. This approval is required by the Federal Reports Act, and was transmitted to the Civil Aeronautics Board by letter dated August 25, 1977.

DATES: Effective: August 29, 1977. Adopted: August 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5270).

Accordingly, the Civil Aeronautics Board amends Part 223 of its Economic Regulations (14 CFR Part 223) by adding the following note at the end of Part 223:

NOTE.—The reporting requirements contained in §§ 223.2(c), 223.2(f) (7) & (8), 223.6, 223.7 and 223.8 have been approved by the U.S. General Accounting Office under Number B-180226 (R0069).

This amendment is issued by the undersigned pusuant to the delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; U.S.C. 1324.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-25788 Filed 9-2-77;8:45 am]

Title 20—Employees' Benefits

CHAPTER VI—EMPLOYMENT STANDARDS ADMINISTRATION, DEPARTMENT OF LABOR

SUBCHAPTER A—LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AND RELATED STATUTES

PART 702—ADMINISTRATION AND PROCEDURES

Referral of Claims Under Longshoremen's Act for Formal Hearings and Approval of Fees for Legal Services Rendered Claimants

Correction

In FR Doc. 77-24404 appearing as Part VII at page 42547 in the issue for Tuesday, August 23, 1977, the following corrections should be made.

1. On line 9 of the summary paragraph in the first column of page 42548, the word, "claimants", should read, "claims".

2. On lines 7 and 8 of the supplementary information paragraph in the same column, the citation, "(66 D.C. Code 501-502)", should read, "(36 D.C. Code 501-502)".

3. The section No. in the second column of page 42548, now reading, "§ 702.-32", should read, "§ 702.132".

4. In the same column, in line 27 of § 702.132, the word "necessary" should read "unnecessary".

5. The second to the last line of the footnote at the bottom of the same column, now reading, "this rule and Department acquiesces in all", should read, "this rule the Department acquiesces in all".

6. Footnote 5 at the bottom of the third column on page 42550, now reading, "Ch. 255, § 5, 17 Stat. 196, 197 (1972)." should read, "Ch. 255, § 5, 17 Stat. 196, 197 (1872).".

7. Footnote 6 on the same page, now reading, "See generally Wayma v. Southard, 23 U.S. 1 (1825).", should read, "*See generally Wayman v. Southard*, 23 U.S. 1 (1825).".

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Subpart C—Organization

HEADQUARTERS

Correction

In FR Doc. 77-19102 appearing at page 35151 in the issue for Friday, July 8, 1977 in the list for § 5.100, the third line under "Bureau of Drugs" now reading "Associate Director for Monographs Drug" should read "Associate Director for Drug Monographs".

[Docket Nos. 75F-0041; 76F-0457]

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

Guar Gum Modified

Correction

In FR Doc. 77-21244 appearing at page 37973 in the issue for Tuesday, July 26, 1977, make the following corrections:

(1) At the bottom of the third column on page 37973, the section heading now numbered "§ 172.170" should have read "§ 176.170".

(2) On page 37974, in the table at the top of the page, first column, in the 7th line, "1 pct by weight" should have been written out as follows: "1-percent-by-weight"; in the 8th line, "cp" should have been written "centipoises", and in the last line, "20 r/min." should have read "20 r.p.m.".

[Docket No. 76F-0342]

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

Subpart B—Substances Utilized To Control the Growth of Microorganisms

SANITIZING SOLUTIONS

Correction

In FR Doc. 77-21241 appearing at page 37974 in the issue for Tuesday, July 26, 1977, in § 178.1010(b)(16), in the last line of the second column of the page, "• • • droxypoly • • •" should have read "• • • hydroxypoly • • •".

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 77N-0062; DESI 10106]

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

Certain Antibiotic—Containing Opthalmic Combination Drugs; Effective Date of Order Revoking Provisions for Certification

Correction

In FR Doc. 77-21245 appearing at page 37974 in the issue for Tuesday, July 26, 1977, in the first column of page 37975 under "Supplementary Information" in the 5th line, "1481.15" (referred to twice) should have read "1481.15".

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 784-7]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority; New Source Review; State of Montana

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule will change the address to which reports and applications must be sent by operators of new sources in the State of Montana. The address change is the result of delegation of authority to the State of Montana for New Source Performance Standards (40 CFR Part 60) and National Emissions Standards for Hazardous Air Pollutants (40 CFR Part 61).

ADDRESS: Any questions or comments should be sent to Director, Enforcement Division, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colo. 80295.

FOR FURTHER INFORMATION CONTACT:

Mr. Irwin L. Dickstein, 303-837-3868.

SUPPLEMENTARY INFORMATION: The amendments below institute certain address changes for reports and applications required from operators of new sources. EPA has delegated to the State of Montana authority to review new and modified sources. The delegated authority includes the review under 40 CFR Part 60 for the standards of performance for new stationary sources and review under 40 CFR Part 61 for national emission standards for hazardous air pollutants.

A Notice announcing the delegation of authority is published today in the FEDERAL REGISTER (42 FR. 44573). The amendments provide that all reports, requests, applications, submittals, and communications previously required for the delegated reviews will now be sent to the Montana Department of Health and Environmental Sciences instead of EPA's Region VIII.

The Regional Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on May 18, 1977, and it serves no purpose to delay the technical change of this addition of the State address to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended, 42 U.S.C. 1857, 1857c-5, 6, 7 and 1857g.

Dated: August 17, 1977.

JOHN A. GREEN,
Regional Administrator.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 60.4 paragraph (b) is amended by revising subparagraph (BB) to read as follows:

§ 60.4 Address.

• • • • • •

(b) • • •

(BB) State of Montana, Department of Health and Environmental Services, Cogswell Building, Helena, Mont. 59601.

• • • • • •

Part 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

2. In § 61.04 paragraph (b) is amended by revising subparagraph (BB) to read as follows:

§ 61.04 Address.

• • • • • •

(b) • • •

(BB) State of Montana, Department of Health and Environmental Sciences, Cogswell Building, Helena, Mont. 59601.

[FR Doc.77-25827 Filed 9-2-77;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

SUBCHAPTER C—MINERALS MANAGEMENT (3000)

[Circular No. 2425]

PART 3520—PREFERENCE RIGHT AND COMPETITIVE LEASES

Coal Leases; Diligent Development and Continued Operation: Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: This notice corrects an error in a section of an earlier rule change. The rulemaking is not changed except as to form.

DATE: Effective September 6, 1977.

ADDRESS: Director (210), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Billy R. Templeton, 202-343-8735.

SUPPLEMENTARY INFORMATION: Final rulemaking regarding diligent development and continued operation on coal leases was published on December 29, 1976, on pages 56643 through 56646. The format of Item 7, used to set out amendments to 43 CFR 3523.2-1, was incorrect. The rules are unchanged. The amendatory language in Item 7 of F.R. Doc. 76-38174, beginning at the bottom of the left hand column of page 56646 of the FEDERAL REGISTER of December 29, 1976, is corrected as set forth below.

"7. 43 CFR 3523.2-1(b)(1) (ii) and (iii) are revised to read as follows."

GARY J. WICKS,
Deputy Assistant Secretary of the Interior.

AUGUST 25, 1977.

[FR Doc.77-25760 Filed 9-2-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20065, RM-2224]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Hay Springs-Scottsbluff, Nebr.

Changes Made in Table of Assignments

Correction

In FR Doc. 77-23456 appearing at page 41123 in the issue for Monday, August 15, 1977, the following corrections should be made.

1. The Docket No. should read as set forth above.

2. On page 41127, first column, in the second line of the table for § 73.606, the Channel No. for Santa Anna, Calif. should be added as follows: "40, ° 50-".

[Docket No. 20765]

PART 76—CABLE TELEVISION SERVICE

Modification of Certain Technical Standards for Cable Television Systems; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Correcting Report and Order published in the FEDERAL REGISTER at 42 FR 21779, April 29, 1977.

EFFECTIVE DATE: June 6, 1877.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT:

Robert S. Powers, Research Division, Cable Television Bureau, 202-632-9797.

SUPPLEMENTARY INFORMATION:

Released: August 19, 1977.

In the matter of amendment of Part 76 of the Commission's Rules to Modify Certain Technical Standards for Cable Television Systems, Docket 20765.

In the "Report and Order" in the above entitled matter, FCC 77-276, adopted April 20, 1977, released April 28, 1977, and published in the FEDERAL REGISTER at 42 FR 21779, Instruction 1 on page 21782, through the words "is revised as follows", is corrected to read as follows:

1. In § 76.601, paragraph (b) is amended by replacing the words "community unit" by the words "cable television system"; paragraph (d) is amended by replacing the words "community unit" by the word "system"; paragraph (e) is deleted and marked (Reserved); the Note following paragraph (e) is moved to the end of § 76.-601 and is amended by replacing the words "community units" by the words "cable television systems"; paragraph (f) is revised by replacing the words "paragraphs (b), (c), and (e) of this section" by the words "paragraphs (b) and (c) of this section"; and paragraph (c) is revised as follows:

• • • • • •

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-25886 Filed 9-2-77;8:45 am]

[FCC 77-522]

TRANSMITTER IDENTIFICATION CARD AND NOTIFICATION OF COMPLETION OF RADIO STATION CONSTRUCTION

Elimination

AGENCY: Federal Communications Commission.

ACTION: Order amending rules.

SUMMARY: This document eliminates the use of FCC Form 456 (Notification of Completion of Radio Station Construction) and Form 452-C (Transmitter Identification Card). This amendment is procedural in nature and will remove unnecessary requirements.

EFFECTIVE DATE: September 9, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. Eugene C. Bowler or Mr. James E. McNally, Jr., at 202-632-6497, Safety and Special Radio Services Bureau.

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SUPPLEMENTARY INFORMATION:

Adopted: July 21, 1977.

Released: August 30, 1977.

Order. In the matter of amendment of Parts 89, 91, 93, and 94 to eliminate the use of FCC Form 452–C (transmitter identification card) and FCC Form 456 (Notice of Radio Station Construction).

1. In accordance with our on-going program of simplifying our rules and to remove unnecessary requirements, we have adopted the following two rule changes in the Public Safety, Industrial Land Transportation and Private Operational Fixed Microwave Service.

2. The Commission's action amending its Safety and Special Radio Services Bureau's rules several years ago eliminated the two step procedure of application for a construction permit and an application for authorization. We are consequently deleting all references to this requirement and to the use of FCC Form 456 from Parts 89, 91, 93, and 94 of the rules.

3. Second, after weighing the benefits derived against the difficulties of compliance, the Commission has concluded that retention of the FCC Form 452–C requirement is no longer necessary to our enforcement activities and we are deleting it.

4. Since the adopted changes are procedural in nature, and relax existing rule requirements, compliance with the prior notice and procedure prescribed by section 4(a) of the Administrative Procedure Act, 5 U.S.C. section 553, is not required.

5. For the foregoing reasons, the Commission has concluded that the public interest will be served by adopting these rule amendments: *Accordingly, it is ordered*, Pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, that Parts 89, 91, 93, and 94 of the Commission's rules are amended, effective September 9, 1977, as set forth below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Parts 89, 91, 93, and 94 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 89—PUBLIC SAFETY RADIO SERVICES

§ 89.53 [Deleted]

1. Section 89.53 is deleted.

§ 89.59 [Amended]

2. In § 89.59, paragraph (f) is deleted and reserved.

3. In § 89.167, the headnote and text are amended to read as follows:

§ 89.167 Posting station licenses.

(a) The current authorization, or a clearly legible photocopy thereof, for each base or fixed station at a fixed location, shall be posted at the principal control point of the station, and a photocopy of such authorization shall also be posted at all other control points. If a photocopy of the authorization is posted at the principal control point, the location of the original shall be stated on that photocopy.

(b) The current authorization for each mobile station and each base or fixed station authorized to be operated at temporary locations shall be retained as a permanent part of the station records, but need not be posted.

PART 93—LAND TRANSPORTATION RADIO SERVICES

§ 93.52 [Deleted]

7. Section 93.52 is deleted.

§ 93.56 [Amended]

8. In § 93.56, paragraph (e) is deleted and reserved.

* * * * *

9. Section 93.156, headnote and text are amended to read as follows:

§ 93.156 Posting station licenses.

(a) The current authorization, or a clearly legible photocopy thereof, for each base or fixed station at a fixed location, shall be posted at the principal control point of the station, and a photocopy of such authorization shall also be posted at all other control points. If a photocopy of the authorization is posted at the principal control point, the location of the original shall be stated on that photocopy.

(b) The current authorization for each mobile station and each base or fixed station authorized to be operated at temporary locations shall be retained as a permanent part of the station records, but need not be posted.

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

§ 94.27 [Amended]

10. In § 94.27, paragraph (e) is deleted and reserved.

[FR Doc.77-25865 Filed 9-2-77;8:45 am]

PART 91—INDUSTRIAL RADIO SERVICES

Modifying Type Acceptance Requirements for Transmitters in Industrial Radiolocation Service

Correction

In the paragraph numbered 2. above 42343 in the issue for Tuesday, August 23, 1977, the following correction should be made:

In the paragraph numbered 2. above § 91.604 (a) and (b), in the second column on page 42343, line 5 now reading, "and 23,000–24,500 MHz and to show the", should read, "and 23,000–24,250 MHz and to show the".

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. No. 1240, Amdt. 3]

PART 1033—CAR SERVICE

Chicago and North Western Transportation Co. Authorized To Operate Over Tracks of Kansas City Southern Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 3 to Service Order No. 1240).

SUMMARY: Because of increased traffic, the Chicago and North Western Transportation Company's yard at Kansas City, Missouri, is no longer adequate to its needs. The adjacent Henning Street yard is no longer used by its owner, the Kansas City Southern Railway Co., and has been leased to the Chicago and North Western. Service Order No. 1240 authorizes the Chicago and North Western to use the Henning Street yard to relieve congestion in its own facility. Amendment No. 3 to Service Order No. 1240 extends the order until February 28, 1977.

DATES: Effective 11:59 p.m., August 31, 1977. Expires 11:59 p.m., February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202–275–7840, Telex 89–2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below:

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 31st day of August 1977.

Upon further consideration of Service Order No. 1240 (41 FR 15698, 48343; and 42 FR 22367), and good cause appearing therefor:

It is ordered, That: § 1033.1240 *Service Order No. 1240* (Chicago and North Western Transportation Co. authorized to operate over tracks of the Kansas City Southern Railway Co.) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., February 28, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1977.

(49 U.S.C. 1, 12, 15 and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member John R. Michael not participating.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-25859 Filed 9-2-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Fish Springs National Wildlife Refuge, Utah, to Public Hunting of Duck, Coots, and Mergansers

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to hunting of ducks, coots, and mergansers at Fish Springs National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977 through January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Rolf H. Kraft, Refuge Manager, Fish Springs National Wildlife Refuge, Dugway, Utah 84022; or Mitchell G. Sheldon, Assistant Area Manager, Refuges and Wildlife, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138, (801–524–5633).

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Hunting for ducks, coots, and mergansers is permitted on Fish Springs National Wildlife Refuge, Utah, only on the areas designated by signs as being open to hunting. This area, comprising 6,773 acres, is delineated on maps available at the refuge headquarters, 66 miles southwest of Dugway, Utah, and from the office of the Area Manager, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. Hunting shall be in accordance with all State and Federal regulations applicable to the hunting of ducks, coots, and mergansers, subject to the following conditions:

1. All hunters must register at the Visitor Information Station prior to hunting each day and must check out at the end of each day.

2. Shooting from, upon, or across dikes or roads, open to vehicular traffic, is prohibited.

3. The use of small boats, canoes, etc. is permitted, but outboard motors or air thrust boats are prohibited.

4. Dogs may be used for hunting, but must be kept under control at all times.

The provisions of these special regulations supplement the regulations that govern hunting on wildlife refuge areas generally that are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 1, 1978. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparations of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

ROLF H. KRAFT,
Refuge Manager.

AUGUST 19, 1977.

[FR Doc.77-25885 Filed 9-2-77;8:45 am]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING

Hake Trawl Fishery in Washington, Oregon and California

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final regulations.

SUMMARY: This document amends the final regulations which relate to foreign fishing vessels participating in the hake trawl fishery in the area seaward of the States of Washington, Oregon, and California over which the United States exercises exclusive fishery management authority. These amendments will: (a) Reduce the legal minimum mesh size for foreign fishing vessels in order to reduce the wastage of hake which are otherwise killed and lost, (b) revise the limitation on vessel days on the primary fishing grounds for Polish and Soviet vessels participating in the hake fishery.

EFFECTIVE DATE: August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald R. Johnson, Northwest Regional Director, National Marine Fisheries Service, Seattle, Wash. 98109, (206–442–7575).

SUPPLEMENTARY INFORMATION: On February 11, 1977, the National Marine Fisheries Service published in the FEDERAL REGISTER (42 FR 8812) final regulations implementing conditions and restrictions contained in a Preliminary Management Plan (PMP) for the Trawl Fisheries of Washington, Oregon, and California (42 FR 8577). The PMP was authorized by Section 201(g) of the Fishery Conservation and Management Act of 1976, Pub. L. 94–265.

When the PMP was drafted it was believed that a minimum mesh size of 4.33 inches (110 mm) for pelagic trawl gear would be most effective to prevent the catch of Pacific herring, juvenile Pacific hake and rockfish. Accordingly, the final regulations, in § 611.70(e) of Subpart E, restricted foreign vessels fishing for Pacific hake or jack mackerel to the use of a pelagic trawl with a minimum mesh size of 4.33 inches (110 mm).

Subsequent studies of the effectiveness of that minimum size have been carried out by scientists of the National Marine Fisheries Service and have revealed that the selected minimum size is too large. Observations by these scientists indicate that substantial numbers of adult hake which are caught in the net are either partly forced through the meshes or are completely forced out of the net. Large numbers of dead hake have been observed floating on the surface behind trawl vessels using the 4.33 (110 mm) net. Such losses constitute waste of the hake resource which benefits neither the foreign nation nor the United States.

A series of tests using trawls with the legal minimum size of 4.33 inches (110 mm) and a smaller mesh trawl of 3.94 inches (100 mm) was made, and it was determined that the loss of hake was substantially reduced with the smaller mesh. Because of the losses being experienced with the presently established legal minimum mesh size, it has been determined that this mesh size should be reduced as soon as possible in order to prevent excessive waste of the hake resource during the current fishing season. This new minimum mesh size is not required. Vessels may continue to use larger meshes if they wish to do so.

Also included in the PMP for Trawl Fisheries of Washington, Oregon, and California (42 FR 8577) were proposed restrictions which limited foreign fishing effort in terms of vessel-days on the primary hake grounds. The vessel-day limitation was designed to serve as an added safeguard to insure that the foreign catch quota was not exceeded by

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foreign vessels due to excessive fishing effort. The vessel-day limitation was not intended to be more limiting than the catch quota.

Accordingly, foreign fishing allocations (expressed in terms of tonnage and vessel-days) were published on March 3, 1977 (42 FR 12176). Vessel-day limitations were calculated on the basis of 1976 catch rates of 46 metric tons (m.t.) per vessel-day for the Polish fleet and 14 m.t. per vessel-day for the Soviet fleet. Careful monitoring of each country's hake catch has revealed that the 1976 catch rates do not accurately depict the actual catch rates being maintained by the Polish and the Soviet Fleet. To date the hake catch per vessel day for both the Polish and Soviet fleets has been about 3 m.t. per vessel day. As a result of the discrepancy between 1976 and 1977 catch rates, the vessel days calculated for the Polish fleet will be fewer than necessary to meet the Polish catch quota, while the vessel days calculated for the Soviet fleet are far in excess of the number required for the U.S.S.R. to meet its quota.

In order to immediately bring the vessel-day limitation for each country into proportion with the catch quota a technical adjustment using 1977 rather than 1976 catch rates as a basis of calculation is necessary.

The Agency for good cause finds that in the interests of accuracy and in order to encourage full utilization and reduce waste of hake resource, it is considered impracticable and unnecessary to provide advance notice of these amendments as provided in the Administrative Procedure Act.

Therefore, these amendments will become effective on September 6, 1977, and will remain in effect until sooner amended or terminated by appropriate public notice.

Dated: August 31, 1977, at Washington, D.C.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

Part 611 of Title 50 CFR is amended as follows:

§ 611.70 [Amended]

1. Section 611.70(b)(2)(i) is amended to read:

• • • • • •

(b) • • •

(2) • • •

(i) Landward of 125°40'W. Long., and North of 39°00'N.—All Countries: Hake quota ÷ 33 m.t./day = vessel days

• • • • • •

2. Section 611.70(e)(1) is amended by striking "4.33 inches (110 mm)" and substituting "3.94 inches (100 mm)."

§ 611.20 [Amended]

3. Footnote 4 of Table 2, § 611.20(c) is amended by striking "7,514" and substituting "3,188".

4. Footnote 6 of Table 2, § .20(c) is amended by striking "391" and substituting "545".

[FR Doc.77-25798 Filed 8-31-77;2:26 pm]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-77-462]

PART 890—ANNUAL CONTRIBUTIONS FOR OPERATING SUBSIDY

Performance Funding System; Interim Rule

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Interim rule.

SUMMARY: The Interim Rule adjusts the basis for determining the operating subsidy under the Performance Funding System (PFS). Due to the shift in the Federal fiscal year from a period beginning on June 1 and ending July 31 to a period beginning on October 1 and ending on September 30, it is necessary to use a special application of the PFS Formula for Public Housing Agency (PHA) fiscal years beginning on October 1, 1977. This approach will assure that in subsequent Federal fiscal years, all PHAs may use the same Formula, weights and related data. Additionally, for the PHA fiscal years beginning July 1, 1977, and thereafter, the severely cold winter of 1976–1977 will be excluded from the period used for estimating utilities consumption to allow for a more normal projection.

DATES: Effective Date: September 6, 1977. Comments must be received on or before October 11, 1977.

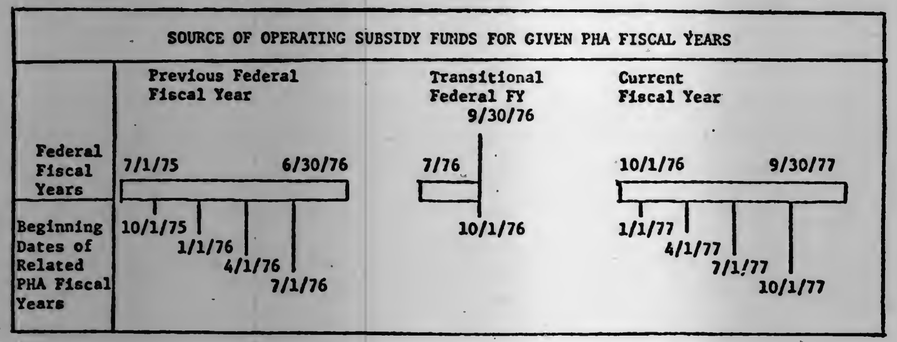
FOR FURTHER INFORMATION CONTACT:

Janice D. Rattley, Chief, Financial Management Procedures Branch, Office of Assisted Housing Management, HUD, Washington, D.C. 20410. (202-755-5846.)

SUPPLEMENTARY INFORMATION: Following is a discussion of the background involving the revisions made by the Interim Rule:

1. *Background of First Revision.* Section 890.105, paragraphs (b) and (d), have been revised because of a shift in the Federal fiscal year. This has changed the relationship between PHA fiscal years and the Federal fiscal year. See graph below:

SOURCE OF OPERATING SUBSIDY FUNDS FOR GIVEN PHA FISCAL YEARS



The PFS Formula which was published at 41 FR 55676–55684 on December 21, 1976, was first applicable to the PHA fiscal years which began on October 1, 1976. As shown in the above graph, such PHA fiscal years received funding from the transitional Federal fiscal year. Consistent with the annual updating of PFS, this group of PHAs would normally utilize a revised Formula for the fiscal year beginning October 1, 1977. Thus, as exemplified in the foregoing graph, this group of PHAs would be in a posture of utilizing a different Formula from the other groups of PHAs (i.e. January, April and July) in any Federal fiscal year. To avoid this occurrence, it is necessary to utilize the same Formula which is currently in use for fiscal year 1977 (updated by an additional year of inflation) so that beginning in Federal fiscal year 1978, all PHAs will be able to utilize the same Formula, weights, and related data. Accordingly, for PHA fiscal years beginning October 1, 1977, the Formula, weights, constant, and Local Government Wages Inflation Factor which were published in the Performance Funding System Handbook 7475.13 (2/77) will be used. In addition, special provision is made herein to reflect an additional year of inflation.

2. *Background of second revision.* Section 890.107, paragraphs (c) and (e) have been revised to change the Utilities Base Consumption Period (Base Period) for PHA fiscal years beginning July 1, 1977 and thereafter. The Regulations have previously provided that the Utilities Expense Level would be based upon average consumption over a 36-month period ending six months prior to the Requested Budget Year. However, due to the severely cold winter of 1976–1977, HUD has determined that it would be improper to include the impact of that winter in the Base Period. Accordingly, the Utilities Base Consumption Period for PHA fiscal years beginning July 1, 1977, and thereafter will exclude this winter. These PHAs will utilize the Utilities Base Consumption Period ending prior to this period. In those cases where a Base Period cannot be derived for the PHA's projects, comparable consumption for the year(s) as outlined in § 890.107(c) as revised, will be used from a comparable PHA. As a last alternative, the actual utilities expense will be used for a year which is consistent with § 890.107(c) as revised.

HUD anticipates the introduction of an additional adjustment, dependent upon fund availability, which will be applied to the revised Utilities Base Consumption Period as defined within these Regulations. This additional adjustment factor will be designed to assure that PHAs are funded at a normal level.

3. *Notice and public procedures.* The Secretary has concluded that notice and public procedures are contrary to the public interest for the following reasons:

First, the operating subsidy for PHA fiscal years beginning July 1, 1977 and October 1, 1977, as determined in accordance with the revised Performance Funding System, must be obligated by September 30, 1977.

Second, with regard to the revised procedure for estimating utility expenses, the Secretary has determined that the Department will have insufficient funds during the current Federal fiscal year to incorporate the winter of 1976–1977 within the Utilities Base Consumption Period. Under § 890.113, operating subsidy provisions are subject to the availability of funds.

Written comments and suggestions will be accepted until October 11, 1977. HUD will make such modifications as it deems appropriate in the Final Rule. Comments should refer to the docket number and be submitted to the Rules Docket Clerk, Office of the Secretary, Room 5216, 451 7th Street SW., Washington, D.C. 20410.

3. *Environmental and inflationary impacts.* A finding of inapplicability under Section 102(2)(c) of the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. A finding of inapplicability of an inflationary impact statement has also been made pursuant to Executive Order 11821. These findings are available for public inspection during business hours in the Office of the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

For the reasons mentioned above, HUD is issuing this amendment as an Interim Rule. Accordingly, 24 CFR Part 890, is revised to read as follows:

Sections 890.105 (b) and (d)(3) are revised to read as follows:

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§ 890.105 Computation of allowable expense level.

(b) *Computation of formula expense level.* The PHA shall compute its Formula Expense Level in accordance with this subsection. The weights of the Formula and the Formula published in the Interim Rule on April 16, 1975, at 40 FR 17008 apply to PHA fiscal years beginning April 1, 1975, and July 1, 1975. The weights of the Formula published in the Final Rule on January 15, 1976, at 41 FR 2344 superseded the weights published in the Interim Rule and were applicable to PHA fiscal years beginning October 1, 1975, January 1, 1976, April 1, 1976 and July 1, 1976. The weights of the Formula and the Formula itself are subject to updating by HUD annually or at any other time. This updating will be accomplished by publication in the FEDERAL REGISTER, or by notification given directly to PHAs, whichever is considered appropriate. The Formula applicable to PHA budget years commencing October 1, 1976, and subsequent budget years; and PHA budget years which commenced April 1, 1976, and July 1, 1976, if these PHAs are eligible for Transition Funding for these two PHA fiscal years, subject to updating at any time, is as follows: (1) The population (in thousands) of the Standard Metropolitan Statistical Area (SMSA) of the PHA, multiplied by the weight .00228 (if the PHA exists outside of an SMSA, the population of the area served shall be used); (2) the logarithm to the base 10 of the average number of bedrooms per Project Unit, multiplied by the weight 54.93844; (3) the logarithm to the base 10 of the weighted average age of the ages of all the Projects (weighted by relative proportion of Project Units), multiplied by the weight 11.97794; (4) the logarithm to the base 10 of the HUD-supplied Fair Market Rent (March 29, 1976) for existing nonelevator two-bedroom units computed for the county in which the PHA is located, multiplied by the weight 32.47978; (5) the logarithm to the base 10 of the average height of the tallest building of each Project (weighted by relative proportion of Project Units in each Project) in stories, including only stories containing dwelling units or any space utilized by the PHA for project use which are not in a basement, multiplied by the weight 16.73764; (6) the HUD-supplied index figure for the relative operation costs of a sample of PHAs in the HUD Region, multiplied by the weight .46105. The Formula constant of $102.93610 is subtracted from the sum of subparagraphs (1) through (6) of this paragraph. The resulting amount is increased by the Local Government Wages Inflation Factor supplied by HUD. (Such increase is required under the current Formula to adjust for inflation between the Base Year and the previous year.) The preceding Formula, weights, constant, and Local Government Wages Inflation Factor are applicable to the PHA fiscal years beginning October 1, 1977. However, the special provision for updating as outlined in these Regulations provides that for PHA fiscal years beginning October 1, 1977, the PHA characteristics and the population mentioned above will be updated to the levels for the Current Budget Year and the Requested Budget Year. In addition to one year of the Local Government Wages Inflation Factor reflected in the Formula Expense Levels, the difference between the Formula Expense Level of the Current Budget Year and the Requested Budget Year will also be multiplied by the same Inflation Factor. (These additional steps result in the correct application of the PHA characteristics and population for its fiscal years beginning October 1, 1976, and October 1, 1977, to the Formula, and effectively take into consideration the effects of an additional year of inflation upon the Formula.)

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(d) • • •

(3) *Allowable expense level.* Computation for budget years subsequent to first budget year under PFS. For each budget year subsequent to the first budget year under PFS, the Allowable Expense Level for the previous budget year, which includes the amount of the HUD-approved Increase of Base Year Expense Level, (reference: § 890.110),

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increased (or decreased) by the following:

(i) The increase (decrease) between the Fomrula Expense Level for the previous budget year and the Formula Expense Level for the Requested Budget Year: *Provided, however*, That for PHA fiscal years beginning October 1, 1977, the increase (decrease) will be multiplied by the Local Government Wages Inflation Factor prior to adding it to the Allowable Expense Level for the previous budget year.

(ii) The sum of the Allowable Expense Level for the previous budget year plus subdivision (i) of this subparagraph, multiplied by the Local Government Wages Inflation Factor supplied by HUD.

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Example 1 is revised by adding the following at the end:

PHA FISCAL YEARS BEGINNING OCTOBER 1, 1977

CALCULATION OF ALLOWABLE EXPENSE LEVEL FOR PHA FISCAL YEAR BEGINNING OCTOBER 1, 1977

1. Allowable Expense Level for PHA fiscal year beginning October 1, 1976	$43.20
2. Increase (Decrease) in Formula Expense Levels as have been Calculated for PHA fiscal years beginning Oct. 1, 1976 and Oct. 1, 1977	$1.50
3. Local Government Wages Inflation Factor	1.09
4. Product (Line 3 times Line 2)	1.64
5. Combine Line 1 and Line 4	$44.84
6. Local Government Wages Inflation Factor	1.09
7. Allowable Expense Level for PHA Fiscal Year beginning Oct. 1, 1977 (Line 6 times Line 5)	48.87

It should be noted that the increases in population and updated PHA characteristics have been reflected in the respective Formula Expense Levels involving Line 2, above. The same Formula, weights, constant, and Local Government Wages Inflation Factor which were applied to determine operating subsidy eligibility for the PHA's fiscal year beginning October 1, 1976, are applied to determine operating subsidy eligibility for its fiscal year beginning October 1, 1977. It is stressed that such elements are now applied to the characteristics of the PHA in its fiscal years beginning October 1, 1976, and October 1, 1977. Also, the same inflation factor is applied, once again, to the difference between the Formula Expense Levels, as is done in Line 3 of the example.

Section 890.107(c) (1) and (2) and (e), are revised to read as follows:

§ 890.107 Compulation of utilities expense level.

• • • • • •

(c) • • •

(1) *Utilities Base Consumption Period (Base Period) Method.* The PHA shall determine the average amount of each of the Utilities consumed per unit per month during the Utilities Base Consumption Period (Base Period) which is the 36-month period ending six months prior to the first day of the Requested Budget Year. *Provided, however*, That for PHAs with fiscal years beginning July 1, 1977, and for all future fiscal years thereafter, the 36-month Utilities Base Consumption Period to be utilized shall end on December 31, 1975. For PHAs with fiscal years beginning October 1, 1977, and for all future fiscal years thereafter, the 36-month Utilities Base Consumption period shall end on March 31, 1976. For PHAs with fiscal years beginning January 1, 1978, and for all future fiscal years thereafter, the 36-month Utilities Base Consumption Period to be utilized shall end on June 30, 1976. For PHAs with fiscal years beginning April 1, 1978, and for all future fiscal years thereafter, the 36-month Utilities Base Consumption Period to be utilized shall end on September 30, 1976.

(2) *Temporary alternative method where data is not available for Utilities Base Consumption Period.* If the PHA has not maintained or cannot recapture consumption data regarding a particular Utility or Utilities from its records for the 36-month Base Period, it shall submit to the HUD Field Office for approval consumption data for the 24-month period ending six months prior to the beginning of the Requested Budget Year, or, if this is not possible, the 12-month period ending six months prior to the beginning of the Requested Budget Year. *Provided, however*, That for PHAs with fiscal years beginning July 1, 1977, and for all future fiscal years thereafter, the 24-month or 12-month Utilities Base Consumption Period to be utilized shall end of December 31, 1975. For PHAs with fiscal years beginning October 1, 1977, and for all future fiscal years thereafter, the 24-month or 12-month Utilities Base Consumption Period shall end on March 31, 1976. For PHAs with fiscal years beginning January 1, 1978, and for all future fiscal years thereafter, the 24-month or 12-month Utilities Base Consumption Period shall end on June 30, 1976. For PHAs with fiscal years beginning April 1, 1978, and for all future fiscal years thereafter, the 24-month or 12-month Utilities Base Consumption Period shall end on September 30, 1976. The PHA also shall submit a written explanation of the reasons data for the Base Period is unavailable. If a PHA has not maintained or cannot recapture consumption data for the specified Base Period of 36, 24, or 12 months; comparable consumption for the greatest of either 36, 24, or 12 months as available, shall be used for the Utility or Utilities for which the data is lacking. The comparable consumption shall be estimated, based upon the consumption experienced during the allowable Base Utilities Consumption Period, of comparable project(s) with comparable utility delivery systems and occupancy. If a PHA cannot or will not obtain the consumption data for the Base Period, either for its own project(s) or by using comparable consumption data, the dollar amount stated in paragraph (e) of this section, shall be used.

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(e) *Utilities Expense Level where consumption data is unavailable.* If a PHA has not maintained or cannot recapture data for at least the 12-month period provided in paragraph (c) (2) of this section or will not retroactively establish consumption records or comparable consumption data, as required in paragraph (c) (2) of this section, it shall request HUD Field Office approval to use actual per unit per month, (PUM) utility expenses. These expenses shall exclude Utilities Labor and Other Utilities Expenses. The actual PUM utility expenses shall be taken from the latest year-end Statement of Operating Receipts and Expenditures, Form HUD-52599, for the PHA fiscal year ending on December 31, 1975, March 31, 1976, June 30, 1976 or September 30, 1976. No subsequent adjustments regarding such Utility or Utilities will be approved for a budget year for which consumption is established based upon the said form.

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(Sec. 7(d), Department of Housing and Urban Development Act. (42 U.S.C. 3535(d).)

Issued at Washington, D.C., August 31, 1977.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc.77-25894 Filed 9-2-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 211]

AMENDMENTS TO SYNTHETIC NATURAL GAS FEEDSTOCK ALLOCATION REGULATIONS

AGENCY: Federal Energy Administration.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Administration (FEA) hereby gives notice of a proposed rulemaking and public hearing, for the purpose of revising the Mandatory Petroleum Allocation Regulations with respect to allocated products used for the manufacture of synthetic natural gas (SNG).

DATES: Comments by September 26, 1977; requests to speak by September 19, 1977; statements by September 23, 1977; hearing to be held on September 26, 1977 at 9:30 a.m., and will be continued if necessary at 9:30 a.m. on September 27, 1977.

ADDRESSES: Comments and requests to speak at the hearing to: Executive Communications, Room 3317, Federal Energy Administration, Box OZ; Washington, D.C. 20461. Statements to Executive Communications, Room 3317, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

HEARING HELD AT:

Room 3000A, 12th and Pennsylvania Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461 (202-566-9833).

Gerald P. Emmer (Regulatory Programs), 2000 M Street NW., Room 2304, Washington, D.C. 20461 (202-254-7200).

Kenneth Kincel (Resource Development Policy), 12th and Pennsylvania Avenue NW., Room 4112, Washington, D.C. 20461 (202-566-9052).

Finn Neilsen (Regulatory Programs), 2000 M Street NW., Room 6318, Washington, D.C. 20461 (202-254-9730).

Joel M. Yudson (Office of the General Counsel), 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461 (202-566-9565).

SUPPLEMENTAL INFORMATION:

I. BACKGROUND

Since 1974, the Federal Energy Administration (FEA) has regulated the allocation of petroleum feedstocks for production of synthetic natural gas (SNG) under 10 CFR § 211.29 (39 FR 15960, May 6, 1974) and its appendices, Special Rule No. 1 and the accompanying Statement of Policy (39 FR 27910, August 2, 1974). These regulations provide for a case by case review of feedstock applications for new and expanded SNG plants. The criteria to be used for such determinations include availability of feedstocks, degree of curtailment of interruptible customers and customers with alternate fuel capability, character of natural gas curtailment plan, availability of alternative supply sources, thermal efficiency, cost impact on gas consumers, feedstock capacity, impact on competing users of feedstocks, employment, and environment.

Special Rule No. 1 also provides that allocations of feedstocks be granted to those SNG plants existing prior to May 1, 1974, which use naphtha as an exclusive feedstock, and then only to the extent that supply contracts calling for delivery of specific volumes of naphtha were in effect. However, the Statement of Policy concluded that the manufacture of SNG is, in most instances, an inefficient use of resources.

There are presently 17 SNG plants in operation or under or about to start construction. All current plants use either liquefied petroleum gases (LPG's)—propane and butane—naphtha, or a mixture of natural gas liquids (NGL's). Most of the existing plants are located in New England, the Middle Atlantic States, and the Upper Midwest—the areas hardest hit by curtailments of natural gas in the past few years. East Coast plants use a variety of feedstocks, most of which are imported from the Caribbean and elsewhere. Two SNG plants in the Midwest have historically been heavily reliant on imports of NGL's from the Canadian gas fields in Alberta and Saskatchewan for their feedstock use. Several of the plants using naphtha as a feedstock also require LPG for Btu enrichment to bring the output gas up to pipeline Btu specifications as mandated by various State public utility commissions.

On April 5, 1977, FEA Administrator John O'Leary, in testimony before the House Subcommittee on Energy and Power, stated that FEA would take a "fresh look" at the FEA-SNG petroleum feedstocks allocation policy. He indicated that the new policy would provide for a case by case review of new SNG plants. In addition, he stated that special conditions may exist in some places, such as air quality considerations in the Los Angeles area, which could require use of a gaseous fuel, and that in such places, the use of SNG may be found, after further study, to be appropriate.

On April 29, 1977, the President's *National Energy Plan* (NEP) was issued, which included the following policy statement on SNG:

> The nation's current policy toward synthetic natural gas (SNG) made from petroleum feedstocks is not satisfactory. Existing regulations favor the allocation of naphtha and other potential SNG feedstocks to the petrochemical industry, and effectively preclude their use by gas utilities. This policy has discouraged the construction of new SNG plants. Yet, the 13 SNG plants that were operating this winter provided the additional margin of natural gas suply that kept several areas of the county from shutting off residential users during the coldest months.
>
> Therefore, a Federal task force will be created to work with the gas utilities to identify those areas of the country where a limited number of additional SNG plants should be built to help meet the critical peakload needs for gas over the next five to seven years. Federal Energy Administration regulations will be revised to provide a priority for SNG feedstocks to those plants approved by the task force. This regulatory change will give pipeline companies and utilities the reasonable certainty they need to make investments for this short-term source of gas supply. SNG plants could contribute almost 1 trillion cubic feet of gas annually in the 1980's *National Energy Plan*, pp. 57-58.

In response to those concerns, an FEA SNG task force was established to evaluate the existing FEA policy and regulations on SNG feedstocks and to implement the policy suggested in the NEP. The task force has since studied all aspects of the SNG issue, including specific tasks focusing on (1) efficiency, (2) cost and capital factors, (3) emissions of SNG plants as compared with alternate sources of energy, (4) the projected supply, demand, and price of SNG feedstocks and impacts of alternative allocation policies, and (5) alternative criteria that might be used in a case by case review of applications for SNG feedstock allocations. On June 24, 1977 (42 FR 32838, June 28, 1977), FEA issued a General Inquiry regarding the allocation of synthetic natural gas feedstocks, which solicited responses to fifteen questions concerning possible new criteria to be used in evaluating SNG feedstock allocations. A hearing was held to receive public comment on July 18, 1977. The results

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of the task force will be publicly available in the near future.[1]

The creation of the task force did not signal the beginning of FEA's SNG review. The FEA has been in the process of reviewing and reevaluating its SNG feedstock allocation policy for more than a year. In June 1976, a programmatic environmental impact statement (EIS) on the SNG program was begun. A draft of this EIS has been completed and a hearing was held on July 11, 1977, to receive public comment on the EIS. FEA is currently evaluating the comments received and is preparing the final programmatic EIS. The amendments proposed herein most closely resemble Option No. 1 of the draft programmatic EIS and FEA believes that the environmental consequences of the proposal are contained in the discussion of that option, which is described as a continued case by case review of SNG applications.

In July 1976, the FEA amended its regulations (41 FR 30096, July 22, 1976) to exempt naphtha from the Mandatory Petroleum Allocation and Pricing Regulations. The exemption became effective on September 1, 1976, following the expiration of the congressional review period. FEA found at that time that while supplies of naphtha were generally adequate to meet all domestic demands through 1978, there was some uncertainty over the longer term impacts of removing allocation controls on naphtha utilized as SNG feedstock. It was concluded that, because of this uncertainty the programmatic EIS would have to be completed before naphtha utilized as SNG feedstock could be proposed for exemption from allocation regulations. At this time FEA has decided to defer proposing the deregulation of naphtha used as SNG feedstock, but the possibility of proposing such an exemption remains under active consideration.

Based on the analysis of the draft programmatic EIS and the SNG task force, the FEA has concluded that continued case by case allocation of SNG feedstocks is necessary to attain the objectives of the Emergency Petroleum Allocation Act of 1973, as amended (EPAA). Analysis of naphtha supply and demand by the task force indicates the possibility of regional supply and price impacts if no restrictions were placed on the amount of SNG that might be produced from naphtha. As to the other principal type of SNG feedstock, analysis of LPG (primarily propane) supply, demand, and transportation in the light of declining domestic production indicates, first, potential price impacts on traditional users if imports were to increase to meet new SNG demand, unless SNG plants were to bear the full incremental cost of these imports, and, secondly, that regional supply impacts could occur as a result of pipeline distribution system limitations affecting regions where new SNG plants might be constructed. FEA has concluded that the national interest is best served by assuring that feedstock allocations are granted only to new SNG plants for which there is a demonstrated need to meet the gas requirements of residential and other high priority users or where needed due to severe environmental conditions.

II. Proposed Amendments

A. General

FEA is proposing to amend § 211.29 to include applications for SNG feedstock, Btu enrichment and SNG plant fuel use for any allocated product. Products currently exempted from the allocation regulation would not be placed under controls, but in the event controls were reimposed on such products, their use for SNG production would be subject to the proposed regulation. The use limitation on naphtha for SNG feedstock, currently contained in § 211.29(b), would be moved to proposed § 211.29(d), and would also include any allocated natural gas liquid product which would be used in SNG production. Applications for allocations for new and existing SNG facilities would be handled on a case by case basis and, as contemplated by the NEP, would be issued for a term of years to give firms reasonable certainty to make needed investments. New criteria to evaluate such applications are described in this proposal and would also accord with the NEP and the results of the task force. It should be noted that all plants, regardless of the basis of their allocation, would be subject to FEA audit to insure their operation would conform to their allocation orders and the applicable regulations.

B. Existing plants and pending applicants

FEA believes that firms which operate existing SNG plants and have received allocations based on Special Rule No. 1 and the 1974 Statement of Policy should not receive any less favorable treatment under the proposal. Therefore, upon promulgation of new regulations, Special Rule No. 1 would be retained to allow such firms to elect to be treated under either currently existing or the new criteria. The Statement of Policy which accompanies Special Rule No. 1 would be deleted, however, because it no longer reflects accurately FEA's policy with respect to the allocation of feedstock for SNG plants.

The choice of standards could only apply to existing SNG production capacity and would have to be made within thirty days of the effective date of new SNG regulations. It would also be irrevocable. If any firm required SNG feedstock of Btu enrichment material for a new facility or an expansion of existing facilities, it would have to apply under the new regulations.

Currently, there are a number of applications pending before FEA for SNG plants which have not received allocations for commercial operation or have not been fully analyzed by FEA under existing regulations, which has included the opportunity for participation by all interested parties at public hearings. At this time, no decision has been made whether to grant permanent allocations for these applicants because site specific environmental impact statements have not been completed. FEA believes it equitable to treat these applicants for new plants which have relied upon current regulations the same as those firms which have already received allocations for SNG feedstock. FEA has tentatively concluded that firms whose applications were pending before FEA on January 1, 1976, should be permitted to elect to be considered under either existing or new SNG regulations with respect to production capacity contemplated in their applications. The January 1, 1976, date was selected as a cutoff point because all applications pending as of that date have been fully evaluated, while those filed after that time have not.

C. Proposed definitions and priority gas uses.

A definition of synthetic natural gas itself is included in the proposal. SNG would be defined to mean gas manufactured from any hydrocarbon source material and having the same characteristics as natural gas, and which is, or may easily be made, fungible with natural gas. This proposed definition recognizes that certain SNG when first produced may not be immediately fungible with natural gas and could have to be enriched before becoming freely miscible with natural gas.

The NEP speaks to a limited number of additional SNG plants to be built to help meet critical peakload needs. In this proposal, FEA is attempting to implement that policy by specifying those gas uses believed to be priority needs which would justify the allocation of SNG feedstock or Btu enrichment material. "Priority gas uses" would mean the usage of natural gas for residential use, commercial use, storage injection requirements and firm industrial requirements for plant protection, feedstocks, process fuel uses or other nonboiler fuel uses. These uses derive substantially from Federal Power Commission (FPC) priority of service classification Nos. 1, 2, and 3, excluding industrial boiler fuel customers.

As distinct from current regulations which include as a criterion the degree of curtailment of service to customers with alternate fuel capability (AFC) on a continuing basis, this proposal is intended to discourage SNG feedstock from being used to serve industrial boiler fuel customers, regardless of whether such users have AFC. In this regard, FEA believes that industrial boiler fuel users should be encouraged to switch to appropriate alternate sources of energy.

For new SNG plants and expansions of existing facilities, when the requirements described herein would be satisfied, feedstock and Btu enrichment allocations could be granted for the fourth and first calendar quarters (encompassing the winter heating season) in the amount necessary to produce a sufficient amount of SNG which, when added to the applicant's other available gas supplies with the exception of propane-air mixtures when used for needle-peaking only, would enable the applicant to provide gas service to priority gas users under "design" winter conditions.

If a particular heating season would be warmer than a design winter, the SNG plant would be able to use the feedstock to run the SNG plant during that time effectively to function as a supply buffer to meet peak demand. Although a certain amount of SNG would thereby be used to serve lower priority users, FEA would place no end use restriction on the allocated amount of SNG feedstock used during the winter season. FEA would define "design conditions" to mean a specified level of demand required for a sustained period of time experienced during a heating season upon which the system capacity, reliability, and other engineering specifications are based and which has previously been recorded with either a state public utility commission, the Federal Power Commission, or in the case of an unregulated utility can be demonstrated through previous documentation. FEA requests comments as to whether a definition of a "design" winter should be adopted on a uniform basis rather than separately for each applicant.

Having seen the devastating economic impacts of a natural gas shortage caused in part by the severe cold of the 1976–77 winter, FEA believes that the cost in SNG feedstock to provide gas service to low priority users during warmer winter months is a worthwhile investment to assure gas service to priority gas users under design conditions. The allocation would remain subject to FEA audit so as to permit necessary adjustment following a heating season if the allocation does not accurately reflect the design winter requirements of priority users only.

On the other hand, during the second and third calendar quarters, it is not as crucial to keep SNG plants operating as a backup source of supply for priority gas users. Although in warmer than design winter months SNG could be produced to serve any class of customer, in the second and third quarters, all customers in FPC categories 4 through 9 (as set forth in FPC Order 467B, as amended) would have to be curtailed before the SNG feedstock could be used. Under the proposal, during that time firms would be able to use SNG feedstock to provide service to priority gas users and industrial boiler fuel customers which use up to 1,500 MCF per peak day.

FEA specifically requests comments with respect to the alternative of prohibiting SNG feedstock from being used in the second and third quarter when any industrial boiler fuel user receives service. FEA further requests whether this alternative would discourage most firms from operating their SNG plants in the summer months for storage injection.

FEA is concerned with the relationship between the standards governing SNG plants and those pertaining to facilities which inject propane-air mixtures directly into natural gas pipelines. SNG plants do not function optimally as "needle" peaking facilities which could have to be shut down continually as the temperature fluctuates. Operational and other constraints, such as feedstock delivery schedules, prevent these plants from being turned on and off at a moment's notice. In this respect SNG plants are different from propane-air facilities which are less complex, less capital intensive and more efficient. Although FEA recently issued guidelines to evaluate applications for propane-air facilities (42 FR 38553, July 29, 1977), in view of this proposal regarding SNG production, FEA inquires as to whether the propane-air guidelines should be modified and the same standards adopted for propane-air facilities when used for seasonal base loading as for SNG production.

D. Informational requirements

Under proposed § 211.29(c)(2), firms applying for SNG feedstock, Btu enrichment or plant fuel to be used in SNG production at new or expanded SNG plants would be required to submit detailed information regarding gas supply and demand, curtailments, SNG plant operational characteristics, feedstock requirements, and other relevant information. In reference to natural gas supply and demand, the applicant would be required to provide projections of pipeline supplies of gas, other sources of gas (such as LNG, propane-air, or SNG from coal), demand for gas by consuming sector under design winter conditions (by FPC priority or other readily identifiable categories with separate identification of industrial boiler fuel requirements), growth rate in consumption by consuming sector, and curtailment schedules, and would be required to provide descriptions of curtailment plans, rate structures for SNG and other supplemental supplies of gas and its efforts to obtain other sources of supplemental gas supplies.

The applicant would also be required to provide a complete description of the SNG plant and its requirements for feedstock, Btu enrichment, and plant fuel, including the proposed sources, volumes, price and any other information required by FEA in connection with a particular application.

E. Required certifications, showings, and other criteria

Unless waived for good cause shown, applicants would be required under proposed § 211.29(c)(3) to satisfy other requirements. As already indicated, the applicant would have to demonstrate that the SNG feedstock or Btu enrichment material will be required under design conditions to meet priority gas uses. To implement FEA's new policy for use of an SNG plant during the second and third calendar quarter, the applicant would have to certify that naphtha or any allocated natural gas liquid product will be used for SNG production in the second or third calendar quarter only while gas service is continued to priority gas users or for industrial boiler fuel users of less than 1,500 MCF per peak day.

Inasmuch as the SNG, if produced, could have significant economic impacts in the state or states served by the SNG plant, FEA believes it appropriate that such states have a major role in the allocation process. Therefore, FEA is proposing that the applicant certify that approval for the proposed new or expanded SNG facility has been obtained from the state public service commission having the appropriate authority in at least one state to be served by the facility. This requirement would not be applicable where no state agency has such jurisdiction.

It is recognized that imported feedstock is more vulnerable to interruption than domestic supplies. However, it is also apparent that in the absence of supply interruptions, allocations based on imported supplies should have fewer adverse impacts on historical users. Weighing these factors, FEA has concluded that if an applicant desires to use propane, butane or natural gasoline for SNG feedstock, Btu enrichment or SNG plant fuel, it would have to certify that only imports of such products (other than from Canada) would be used. This proposed requirement should offer some protection to historic users of products such as propane which are in declining domestic supply. Applications for naphtha would continue to be examined on a case by case basis with respect to the source of supply.

One means, already discussed, of assuring service to priority gas users during periods of critical peakload demand is to allow SNG plants to operate during warmer than design winter months to serve any class of customer. Another important consideration in this regard is to insure that sufficient feedstock will be available to operate the plants. If there were a feedstock supply interdiction caused by cold weather or other problem, FEA believes SNG plants should be kept operable to satisfy the needs of priority gas users. Accordingly, FEA is proposing that applicants certify that a 90 day peak-load supply of feedstock will be maintained in readily accessible storage which can be used without adversely affecting the distribution of such product to other users of such product. FEA recognizes that this requirement could entail large capital expenditures by applicants, but nonetheless has determined it to be of significant importance. The storage need not necessarily be on-site if some method of assured transporta-

[1] Two separate volumes have been prepared, one describing the analyses of tasks 1, 2, 3, and 5, and one describing the results of task 4. These are entitled *Developing an SNG Feedstock Allocation Scheme That Reflects a Sound National Policy on SNG*, Resource Planning Associates, June 1977, and *SNG Feedstock Outlook: Supply, Demand, and Price, and Policy Impacts*, FEA, August 1977. The analysis of tasks 1, 2, 3 and 5 is currently available for inspection at the FEA Freedom of Information Office, Room 2107, 12th and Pennsylvania Avenue, NW., Washington, D.C.

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tion could be provided which would not be disruptive to other users. Although FEA does not require storage as a condition for other end uses, such as for petrochemical feedstock, FEA believes that a forced closing of an SNG plant could have more severe economic consequences than for other uses and therefore warrants this additional requirement. Commenters are requested to indicate whether storage for greater or less than ninety days of operation should be required, and whether such a provision should apply differently for various kinds of feedstock.

As it has operated, Special Rule No. 1 has served to discourage growth by utilities using SNG plants, regardless of the nature of new end users. The proposal would not discourage new growth for priority gas and would allow SNG to be used to serve such uses. Firms applying for SNG feedstock or Btu enrichment would have to certify that all new growth by the applicant or the applicant's gas utility customers which would be served by its SNG plant will be for priority gas uses.

FEA is not requiring that applicants attempt to have SNG priced incrementally. It is anticipated that the enactment of Section 414 the proposed National Energy Act will provide an overall pricing policy for higher priced supplemental supplies of gas. However, to the extent appropriate, FEA will continue to examine the rate structure for SNG.

The proposal also contains a number of other factors which FEA would consider in evaluating an application for SNG feedstock, Btu enrichment or SNG plant fuel. These include the effects on the distribution and storage systems serving the market area, the security of feedstock supply from the proposed source of supply, the ability of a new plant to use a variety of feedstocks, the environmental impact of granting an allocation within a market area and for feedstocks other than allocated natural gas liquid products, for which imports will be required in every case, the effect of allocation of the requested product for SNG production on the supply of and demand for such product in a particular market area, with due regard to the impacts on competing uses and the effect of allocating domestic rather than imported feedstocks.

The effects on other users of the feedstock will be a key criterion in evaluating any application, regardless of whether such effects derive from impacts on supply and demand or on distribution and storage systems. This is particularly true for applications for use of allocated natural gas liquid products, especially propane, in view of the declining domestic production of these products and the inability of the pipeline distribution system for these products to meet peak seasonal demands in recent winters in certain regions of the country. Unlike other products which can be used for SNG feedstock, there is a large historical residential and agricultural demand for propane, which should be protected. In addition, propane will be needed for Btu enrichment of SNG and for direct injection by gas utilities as needle peaking material.

To the extent that non-Canadian imports of propane or other allocated natural gas liquid products will be permitted for SNG feedstock or enrichment use, FEA intends to include in its final revision of Subjart D or Part 211 a requirement that separate inventory records be maintained for such products and as an amendment to 10 CFR Part 212 a requirement that separate cost computations be made for such products. The proposed revision to Subart D (42 FR 41242, August 15, 1977) required imports of allocated natural gas liquid products for gas utility or industrial use to have such separate cost computations. To mitigate the price impact of SNG feedstock or enrichment use on historical users of propane or other allocated natural gas liquid products, FEA intends to enact a similar provision for SNG uses.

As to the required environmental consideration, if an applicant contends that the production of SNG is required to overcome or mitigate a significant environmental problem, the applicant would be required to provide a clear and convincing demonstration of the need for SNG to overcome such problem. Notwithstanding the other requirements of the proposed regulation, if such a showing could be made, the applicant could be entitled to an allocation to serve other than priority gas users in the second and third calendar quarters or under design winter conditions. However, in this connection, the task force found that it is quite unlikely that the construction and operation of an SNG plant would adequately resolve significant environmental problems in most instances.

One of the consideration contained in Special Rule No. 1 which is not addressed in the proposal is the thermal efficiency of SNG plants as compared to other energy production alternatives in the same market area. The overall efficiency trajectories of SNG plants, including thermal efficiency, have been analyzed in the draft programmatic environmental impact statement and by the task force. The range of efficiencies of SNG for certain end uses has been found to be comparable to that of other fuels for the same uses. Despite the limitation of these determinations, in a reversal from the 1974 Statement of Policy, FEA does not find at this time that SNG produced from light petroleum products is significantly more inefficient for such end uses than alternatives compared. Individual applicants will still be required to submit information as to thermal efficiency of their proposed facilities, but this information will be used primarily for operational purposes.

F. REPORTING REQUIREMENTS AND REVIEW.

The proposal also contains a provision whereby each SNG manufacturer would report to FEA in a manner prescribed by FEA on the usage of crude oil or allocated products for SNG production. A form is currently being developed to facilitate such reporting. Each firm operating an SNG plant would also be subject to audit at the discretion of FEA to assure that the plant is continuing to operate in accordance with its allocation order and the applicable regulations. On the basis of such audit, the FEA could decide to rescind the allocation or adjust it upward or downward.

G. COMMENT PROCEDURE.

1. *Written comments.* Interested persons are invited to submit written comments with respect to the proposed regulations to Executive Communications, FEA, Room 3317, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, Box Number OZ. Comments should be identified on the outside of the envelope and on the documents submitted to FEA with the designation "Comments on Proposed Synthetic Natural Gas Feedstock Regulations." Fifteen (15) copies should be submitted. All comments and related information should be received by FEA by September 26, 1977, in order to ensure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only, in accordance with the procedures set forth in 10 CFR 205.9 (f). Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. FEA reserves the right to determine the confidential. FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

2. *Public Hearing.* a. *Request procedures.* A public hearing on the proposed regulations will be held at 9:30 a.m., e.d.t., on September 26, 1977, in Room 3000A, 12th and Pennsylvania Avenue NW., Washington, D.C., to receive oral presentations from interested persons, and if necessary will be continued at the same time at the same location on September 27, 1977.

Any person who has an interest in the proposed regulations or who is a representative of a group or class of persons which has an interest in them may make a written request for an opportunity to make oral presentation. Such a request should be directed to Executive Communications, FEA, Box OZ, Room 3317, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, and must be received before 4:30 p.m., e.d.t., September 19, 1977. Such a request may be hand-delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give concise summary of the proposed oral presentation and a phone number where he or she may be reached through September 21, 1977. Each person selected to be heard will be notified by FEA before 4:30 p.m., e.d.t., September 21, 1977, and must submit 400 copies of his or her proposed statement to Executive Communications, FEA, Room 3317, 12th and Pennsylvania NW., Washington, D.C. 20461, before 4:30 p.m., e.d.t., on September 23, 1977.

b. *Conduct of Hearings.* FEA reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing to Executive Communications, FEA, Room 3317, 12th and Pennsylvania Avenue NW., before 4:30 p.m., e.d.t., September 23, 1977. FEA will determine whether the question is relevant, and whether the time limitations permit it, to be presented for answer.

Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

In accordance with Executive Order 11821 and OMB Circular A-107, FEA is considering the inflationary impact of this proposal.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332 and Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; E.O. 11933, 41 FR 36641).

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C., August 30, 1977.

ERIC J. FYGI,
Acting General Counsel.

1. Section 211.29 is amended to read as follows:

§ 211.29 Synthetic natural gas production.

(a) *General.* Notwithstanding any inconsistent provision of §§ 211.12 and 211.13, a firm which purchases or acquires crude oil and allocated products for use in the production of synthetic natural gas (SNG), including feedstock use, SNG enrichment use, and plant fuel use, shall comply with the provisions of this section. Any firm which has requirements for an SNG plant that exceed its base period volume or which has no base period volume may seek an adjustment of its base period volume or establishment of a base period volume only upon application to the FEA National Office in accordance with Subparts B or C, respectively, of Part 205 of this chapter.

(b) *Existing plants and pending applicants.* Firms which had received allocations for SNG feedstock, SNG enrichment or plant fuel for SNG production prior to July 1, 1977, or which had applied prior to January 1, 1976 for an SNG feedstock allocation, may elect to have existing or future applications, with respect to SNG production capacity which FEA has considered for such uses, evaluated (1) under the criteria in effect on July 1, 1977 as set forth in Special Rule No. 1 of this subpart, or (2) under the criteria set forth in paragraph (c) below. Applications for SNG feedstock, Btu enrichment, or SNG plant fuel for new SNG facilities or expansions of existing facilities shall not be eligible under this paragraph (b) to be considered under criteria existing on July 1, 1977. The election made pursuant to this paragraph shall be irrevocable, and must be made within thirty (30) days after the effective date of this regulation.

(c) *New applications.* (1) The procedures and requirements of this paragraph shall be applicable to all firms for SNG plants, facilities, or expansions which had not operated prior to July 1, 1977 or for which an application for SNG feedstock, Btu enrichment or SNG plant fuel had not been made prior to January 1, 1976, and to those firms electing to have their SNG applications reviewed under these provisions pursuant to paragraph (b) of this section.

(2) *Contents.* The application for adjustment or assignment shall contain, in addition to the information specified in §§ 205.24 or 205.34 of Part 205 of this chapter, respectively, the following information:

(i) The applicant's projected pipeline supply of natural gas for the period for which the application is being made;

(ii) All other current and projected sources of gas supplies, including, but not limited to, underground storage, liquefied natural gas (LNG), propane-air, SNG from coal, and the efforts the applicant has made to obtain such supplies.

(iii) The projected demand for gas (design winter and other estimates—by volume and number of customers) in the applicant's market area, by consuming sector (set forth by FPC priority or other readily identifiable categories with separate identification of industrial boiler fuel requirements), including estimates of that portion of the demand for which the SNG will be required;

(iv) The projected rate of growth of gas consumption in the applicant's market area for each consuming sector;

(v) The projected schedule of curtailments of pipeline supplies of gas for the allocation period, and a description of any curtailment plan in effect for the market area to be served by the SNG plant and an estimate of the effect of such plan.

(vi) A description of the rate structures of the SNG manufacturer and its gas utility customers (if any), including pricing policies for SNG and other supplemental sources of gas;

(vii) A complete description of the proposed feedstock, including the supplier(s), volumes, price, and technical specifications of the feedstock;

(viii) The design and practical feedstock capacity of the SNG plant;

(ix) The proposed product needed for Btu-enrichment requirements of the SNG plant, including source, volumes and price;

(x) The proposed SNG plant fuel, including source and volumes; and

(xi) Other information which may be identified by FEA as necessary for a comprehensive evaluation of the application.

(3) *Required certifications and showings.* Unless otherwise waived by the FEA for good cause shown, the applicant shall:

(i) Certify that approval for the proposed new or expanded SNG facility has been obtained from the state public service commission having the appropriate authority in at least one state to be served by the facility (no such approval is required where no state agency has such jurisdiction);

(ii) Demonstrate that the SNG feedstock or Btu enrichment material will be required in the volumes specified under design conditions in order to meet priority gas uses during the fourth and first calendar quarters;

(iii) Certify that naphtha or any allocated natural gas liquid product will

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be used for SNG production in the second or third calendar quarter only while gas service is continued to priority gas users or for industrial boiler fuel users which use up to 1500 MCF per peak day.

(iv) Certify that any allocated natural gas liquid product to be used for SNG feedstock, SNG Btu enrichment or SNG plant fuel will be imported (other than from Canada) for such use;

(v) Certify that a 90 day peak-load supply of feedstock will be maintained in readily accessible storage which can be used without adversely affecting the distribution of such product to other users of such product; and

(iv) Certify that all new growth by the applicant or the applicant's gas utility customers which would be served by the SNG plant will be for priority gas uses.

(4) *FEA evaluation.* In evaluating an application for assignment or adjustment of base period volumes for SNG feedstock, Btu enrichment or SNG plant fuel, FEA shall consider the following factors, in addition to the criteria set forth in Subparts B or C of Part 205 and the requirements of subparagraph (c)(2) above:

(i) The effects on the distribution and storage systems serving the market area;

(ii) For feedstocks other than allocated natural gas liquid products, for which imports are required, (A) the effect of allocating domestic rather than imported feedstocks and (B) the effect of allocation of the requested product for SNG production on the supply of and demand for such product in a particular market area, with due regard to the impacts on competing uses;

(iii) The security of feedstock supply from the proposed source of supply;

(iv) The ability of a new plant to use a variety of feedstocks;

(v) The environmental impact of allocation options within a market area. If the applicant contends that the production of SNG is required to overcome a significant environmental problem, the applicant shall provide a clear and convincing demonstration of the need for SNG to overcome or mitigate such problem. Notwithstanding the other requirements contained in this paragraph (c), if such a showing is made, an allocation may be granted to the applicant to serve other than priority gas users in the second and third calendar quarters or under design winter conditions.

(d) *Special limitations.* Unless directed by FEA upon application pursuant to Subpart G of Part 205 of this chapter, no supplier shall supply and no wholesale purchaser or end-user shall accept or use naphtha or any allocated natural gas liquid product in excess of one hundred percent of base period use for synthetic natural gas plant feedstock use.

(e) *Reporting requirements.* Each SNG manufacturer shall report to FEA in a manner prescribed by FEA on the usage of crude oil or allocated products for SNG production.

(f) *Review.* Each firm operating an SNG plant shall be subject to audit at the discretion of FEA to assure that the plant is continuing to operate in accordance with the allocation order and the applicable regulations. On the basis of such audit, the FEA may decide to review the allocation and rescind or adjust it upward or downward.

APPENDIX [AMENDED]

2. The Statement of Policy following Special Rule No. 1 to Subpart A of Part 211 is deleted.

3. Section 211.51 is amended by deleting the definition of "synthetic natural gas plant" and by inserting the following definitions of "design conditions," "priority gas uses" and "synthetic natural gas" in the appropriate alphabetical order:

§ 211.51 General definitions.

* * * * *

"Design conditions" means a specified level of demand required for a sustained period of time experienced during a heating season upon which the system capacity, reliability, and other engineering specifications are based and which has previously been recorded with either a state public service commission, the Federal Power Commission, or, in the case of an unregulated utility, can be demonstrated through previous documentation.

* * * * *

"Priority gas uses" means usage of natural gas for residential use, commercial use, storage injection requirements and firm industrial requirements for plant protection, feedstocks, process uses or other non-boiler fuel uses.

* * * * *

"Synthetic natural gas" or "SNG" means gas manufactured from any hydrocarbon source material and having the same characteristics as natural gas, and which is, or may easily be made, fungible with natural gas.

[FR Doc.77-25789 Filed 9-2-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 77-WE-17]

FEDERAL AIRWAY

Proposed Extension

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to extend VOR Federal Airway V-111 from Patty Intersection, Calif., to Modesto, Calif. This action is proposed to reduce ATC communications and increase ATC efficiency by permitting the use of the extended airway as a transition route from the south for aircraft conducting instrument approaches to Modesto City-County, Harry Sham Field and Stockton Metropolitan Airport.

DATES: Comments must be received on or before October 5, 1977.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 77-WE-17, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. John Watterson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-8525.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before October 5, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend VOR Federal Airway V-111 from Patty Intersection, Calif., to Modesto, Calif. This action is necessary to conform to revised instrument approach procedures being established for Modesto City-County, Harry Sham Field, Modesto, Calif., and Stockton Metropolitan Airport, Stockton, Calif. The revised instrument approach proceduers will designate the extended airway to Modesto as a transition route from the south for aircraft conducting instrument approaches to those airports. Such action will improve ATC efficiency by reducing the need for additional routing clearances and would eliminate some instrument approach chart clutter.

DRAFTING INFORMATION

The principal authors of this document are Mr. John Watterson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.-123 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) as follows:

In V-111 "To INT Salinas 028° and Stockton, Calif., 164° radials." is deleted and "INT Salinas 028° and Stockton, Calif., 164° radials; to Modesto, Calif." is substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958, (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)); and 14 CFR 11.85)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 29, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-25779 Filed 9-2-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-NW-2]

VOR AIRWAY

Proposed Alteration and Extension

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign VOR low altitude alternate airway (V-4N) in part between Ellensburg and Pasco, Wash., and also extend VOR low altitude alternate airway (V-2S) from Ellensburg, Wash., to Moses Lake, Wash. These actions would improve air traffic efficiency by reducing excessive communications to aircraft for route extensions and off airway radar vectors clear of Restricted Area R-6714.

DATES: Comments must be received on or before October 5, 1977.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Northwest Region, Attention: Chief, Air Traffic Division, Docket No. 77-NW-2, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel Rules Docket, (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. David F. Solomon, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-8530.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Northwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, FAA Building, Boeing Field, Seattle Wash. 98108. All communications received on or before October 5, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of the NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign VOR altitude alternate airway (V-4N) in part between Ellensburg and Pasco, Wash., and also extend low altitude alternate airway (V-2S) from Ellensburg, Wash., to Moses Lake, Wash. The FAA believes that these actions will improve air traffic efficiency by reducing excessive communications to aircraft for route extensions and off airway radar vectors clear of Restricted Area R-6714.

DRAFTING INFORMATION

The principal authors of this document are Mr. David F. Solomon, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.-123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) and amended (42 FR 15309) as follows:

1. In V-2 "Moses Lake, Wash.;" would be deleted and "Moses Lake, Wash., including a south alternate via INT Ellensburg 107° and Moses Lake 231° radials;" would be substituted therefor.

2. In V-4 "Pasco, Wash.," would be deleted and "INT of Ellensburg 107° and Pasco 321° radials.; Pasco, Wash.," would be substituted therefor.

(Secs. 307(a) 313(a), Federal Aviation Act of 1958, (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)); 14 CFR 11.65)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 30, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-25780 Filed 9-2-77;8:45 am]

[14 CFR Parts 71, 75]

[Airspace Docket No. 77-CE-16]

VOR AIRWAY AND JET ROUTE

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a new low altitude VOR Airway (V-125) from Cape Girardeau, Mo., to St. Louis, Mo., and also designate a new high altitude Jet Route (J-137) from Capitol, Ill., to Little Rock, Ark. These actions are designed to improve air traffic service to the systems users, through more direct routings and increased fuel/time savings.

DATES: Comments must be received on or before October 5, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Central Region, Attention: Chief, Air Traffic Division, Docket No. 77-CE-16, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106.

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The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. David F. Solomon, Airspace Regulations Branch (ATT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; Telephone 202-426-8530.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. All communications received on or before October 5, 1977, will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering amendments to Subpart C of Part 71 and Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to designate a low altitude VOR Airway (V-125) from Cape Girardeau, Mo., to St. Louis, Mo., and also designate a high altitude jet route from Capitol, Ill., to Little Rock, Ark. These actions are designed to improve air traffic service to the systems users, through more direct routings and increased fuel/time savings.

DRAFTING INFORMATION

The principal authors of this document are Mr. David F. Solomon, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 and § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (42 FR 307 and 707) respectively, as follows:

In § 71.123 "V-125 From Cape Girardeau, Mo., INT Cape Girardeau 347° and St. Louis, Mo., 148° radials; St. Louis." would be added.

In § 75.100 "Jet Route No. 137 From Capitol, Ill., via Farmington, Mo.; Walnut Ridge, Ark.; to Little Rock, Ark." would be added.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958, (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 30, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-25781 Filed 9-2-77;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 2]

[Docket No. RM75-25]

TRANSPORTATION BY JURISDICTIONAL PIPELINES OF CERTAIN NATURAL GAS

Review Policy Statement of Order Nos. 533 and 533-A

AGENCY: Federal Power Commission.

ACTION: Extension of Time.

SUMMARY: The Commission is granting an extension of time to and including September 9, 1977, within which to file reply comments in the proposed rulemaking proceeding docketed as RM75-25.

DATE: Reply comments must be received on or before September 9, 1977.

ADDRESS: Send reply comments to: Secretary, Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Kenneth F. Plumb (Secretary, 202-275-4166.

SUPPLEMENTARY INFORMATION: On August 8, 1977, Northern Illinois Gas Co. filed a motion to extend the time for filing comments in response to initial comments on the Notice of Proposed Rulemaking, issued June 24, 1977, and published July 6, 1977 (42 FR 34521). Due to administrative error, the Notice granting an extension of time to and including August 19, 1977, was not issued until August 23, 1977. Therefore, the Commission is granting a further extension of time to September 9, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25862 Filed 9-2-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[20 CFR Part 405]

[Regulations No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Collection and Compromise of Claims Resulting From Overpayments Incurred by Providers, Physicians, and Suppliers of Services

AGENCY: Health Care Financing Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed amendments further extend the provisions of the Federal Claims Collection Act of 1966 (31 U.S.C. 951-953) by authorizing the Secretary or his designee to compromise claims or to suspend or terminate collection action on claims arising from title XVIII overpayments incurred by providers, physicians, or other suppliers or services. This action is being taken to expedite the resolution of those overpayment cases where such action is in the best interest of the Government. Carriers and intermediaries are required to attempt recovery of Medicare overpayments by requesting refunds of effecting offset against payments due or against future payments.

COMMENT PERIOD: Comments must be received by October 21, 1977.

ADDRESS: Comments must be in writing and should be addressed to the Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013. Please refer to BHI-5-P.

Copies of all comments received in response to this notice will be available for public inspection Monday through Friday of each week from 8:30 a.m. to 5 p.m. in Room 5225 of the Department offices at 330 C Street SW., Washington, D.C. 20201, telephone 202-245-0951.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond Sillup, Staff Director, Medicare Bureau, Health Care Financing Administration, Baltimore, Md. 21235 (301-594-3340). Mr. Sillup will respond to questions but will be unable to accept oral comments on these proposals. Such comments should be in writing as indicated above.

AUTHORITY FOR PROPOSED ACTION

SUPPLEMENTARY INFORMATION: The Federal Claims Collection Act of 1966 (31 U.S.C. 951-953) vests in the Secretary, under regulations prescribed by him, the authority to compromise claims, or to suspend or terminate collection action on claims of the United States, provided they do not exceed $20,000.00, exclusive of interest, and there are no indications of fraud in connection with the claim.

Section 404.515(a) of Regulations No. 4 of the Social Security Administration (20 CFR 404.515(a)) indicates that determinations under the Federal Claims Collection Act to compromise a claim, or to suspend or terminate collection of a claim, which arise under titles II or XVIII of the Social Security Act, are made by the Social Security Administration and apply only to the recovery of title II or title XVIII overpayments from beneficiaries, and not to the recovery of title XVIII overpayments for which refund is requested from providers, physicians, or other suppliers of services. Situations arise, however, where carrier/intermediary recovery action against providers, physicians, or other suppliers is unsuccessful and the result is often a time consuming and costly series of referrals to other Government agencies for assistance in collection efforts. Where efforts by the Health Care Financing Administration to obtain full recovery fail, quick action to refer the matter for further collection effort or to negotiate, when appropriate, a compromise settlement should provide a measure of success. These compromise and related procedures may alleviate for both the debtor and the Government the expense of court proceedings.

In addition to reducing administrative handling and by providing flexibility to recovery efforts, the proposed amendments will expedite the resolution of outstanding overpayment situations. With respect to the recovery of erroneous title XVIII payments for which providers, physicians, or other suppliers of services have been found liable, the proposed amendments are in conformity with the basic standards and procedures to be used by Federal agencies under the provisions of the Federal Claims Collection Act, as promulgated jointly by the Attorney General and Comptroller General in 4 CFR Parts 101-105. A determination made under these amendments not to compromise a claim or not to suspend or terminate collection of such a claim, or a determination to compromise a claim, including the amount, time, and manner of payment shall not be considered a carrier's "initial determination," or an "intermediary determination," for purposes of the appeals procedures in Subparts H and R, respectively, but may receive an administrative review by the Health Care Financing Administration.

CONFORMING REVISIONS

Conforming changes are also made to Subpart H—Review and Hearing under the Supplementary Medical Insurance Program, and to Subpart R—Provider Reimbursement Determinations and Appeals.

A final revision of Subparts C, F, and O of Regulations No. 5, relating to the conditions for exclusion from coverage of items and services and for termination of provider agreements where there is provider abuse, was published in the FEDERAL REGISTER (40 FR 36311) on August 20, 1975. The revision contained a cross reference error in § 405.315b(a)(3). The cross reference should be § 405.614(a)(5)(iii) rather than § 405.614(a)(5). We are revising this section of the regulation to correctly reflect the cross reference.

The proposed amendments are to be issued under the authority contained in sections 1102, 1815, 1870, and 1871 of the Social Security Act; 49 Stat. 647, as amended, 79 Stat. 297, 79 Stat. 331; 42 U.S.C. 1302, 1395g, 1395gg, and 1395hh; Pub. L. 89-508, the Federal Claims Collection Act, 80 Stat. 308; 31 U.S.C. 951-953.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Health Insurance: No. 13.801, Health Insurance for the Aged—Supplementary Medical Insurance.)

NOTE.—The Health Care Financing Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 (November 27, 1974) as amended by Executive Order 11949 (December 31, 1976) and OMB Circular A-107.

Dated: July 22, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: August 30, 1977.

HALE CHAMPION,
Secretary of Health, Education, and Welfare.

Part 405 of title 20 of the Code of Federal Regulations is amended as set forth below:

§ 405.315b [Amended]

1. Paragraph (a)(3) of § 405.315b is amended by correcting the second cross reference therein to read "§ 405.614(a)(5)(iii)".

2. Section 405.374 is added to read as follows:

§ 405.374 Collection and compromise of claims for overpayments.

(a) *General effect of the Federal Claims Collection Act of 1966.* Claims by the Health Care Financing Administration against any provider, physician, or other supplier of services, whether an individual, partnership, corporation, or other legal entity (hereinafter referred to as debtor), for recovery of overpayments under title XVIII of the Social Security Act (including claims arising out of the End Stage Renal Disease program), not exceeding the sum of $20,000.00, exclusive of interest, may be compromised or collection suspended or terminated. Except as provided under paragraph (b) of this section, such claim may be compromised or collection suspended or terminated where the debtor or his estate (if the debtor is a deceased individual), does not have the present or prospective ability to pay the full amount of the claim within a reasonable time (see paragraph (c) of this section), or the cost of collection is likely to exceed the amount of recovery (see paragraph (d) of this section). (Where there is a valid assignment to a physician or supplier of an individual's claim, the provisions of this section apply with respect to such physician or supplier.)

(b) *When there will be no compromise, suspension, or termination of collection of a claim for overpayment.*—(1) *Natural person.* Where the debtor is a natural person, a claim for overpayment will not be compromised, nor will the Health Care Financing Administration suspend or terminate collection of the claim if there is an indication of fraud, similar fault, the filing of a false claim, or misrepresentation on the part of the debtor or on the part of any other party having an interest in the claim.

(2) *All other debtors.* A claim for overpayment against all other debtors (e.g., corporations, partnerships, estates, or trusts), will not be compromised, nor will the Health Care Financing Administration suspend or terminate collection of the claim if there is an indication of fraud, similar fault, the filing of a false claim, or misrepresentation on the part of the debtor, or on the part of the owners, directors, partners, managers, or any other party having an interest in the claim.

(c) *Inability to pay claim for recovery of overpayment.*—(1) *Compromise of claim generally.* A claim may be compromised if the Government cannot collect the full amount because of the debtor's inability to pay the full amount within a reasonable time, or because of the refusal of the debtor to pay the claim in full and the Government's inability to enforce collection in full within a reasonable time by enforced collection proceedings. The Health Care Financing Administration will also consider exemptions available to the debtor under the pertinent State or Federal law in the proceedings.

(2) *Natural person.* In determining whether a debtor who is a natural person is unable to pay the full claim for recovery of an overpayment under title XVIII of the Act, the Health Care Financing Administration will consider the debtor's age, health, assets (e.g., real property, savings accounts), and present and potential income (including inheritance prospects). If a debtor is deceased, the Health Care Financing Administration will consider the available assets of the estate, taking into account any liens or superior claims against the estate.

(3) *All other debtors.* In the case of all other debtors, the Health Care Financing Administration will consider the available assets (e.g., real property, savings accounts), possible concealment or improper transfer of assets, and assets or income of the debtor which may be available in enforced collection proceedings.

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If the debtor is a corporation, partnership, or other business concern, the Health Care Financing Administration will consider the solvency of the organization. Neither a percentage of a debtor's profits nor stock in a debtor corporation will be accepted in a compromise of a claim. In negotiating a compromise with a business concern, consideration shall be given to requiring a waiver of the tax loss carry forward and tax loss carry back rights of the debtor.

(4) *Termination of action.* Collection action may be terminated on a claim when it becomes clear that the Government cannot collect or enforce collection of any significant sum from the debtor, having due regard for the above repayment prospects.

(d) *Cost of collection or litigative probabilities.*—(1) *Compromise of claim.* Where the probable costs of recovering an overpayment under title XVIII of the Social Security Act would not justify enforced collection proceedings for the full amount of the claim, or there is doubt concerning the Health Care Financing Administration's ability to establish its claim as well as the time which it will take to effect the collection, a compromise or settlement for less than the full amount may be considered. A claim may be compromised if there is real doubt concerning the Government's ability to prove its case in court for the full amount claimed either because of the legal issues involved or a bona fide dispute as to the facts.

(2) *Termination of action.* Collection action may be terminated on a claim whenever it is determined that the claim is legally without merit, or when it is determined that the evidence necessary to prove the claim cannot be produced, or the necessary witnesses are unavailable.

(e) *Inability to locate debtor.*—(1) *Suspension of action.* Collection action may be suspended temporarily on a claim when the debtor cannot be located after diligent effort and there is reason to believe that future collection action may be sufficiently productive to justify periodic review and action on the claim having consideration for its size and the amount which may be realized thereon.

(2) *Termination of action.* Collection action may be terminated on a claim when the debtor cannot be located, there is no security remaining to be liquidated, the applicable statute of limitations has run, and the prospects of collecting by offset, notwithstanding the bar of the statute of limitations, are too remote to justify retention of the claim.

(f) *Amount of compromise.* The amount to be accepted in compromise of a claim for overpayment under title XVIII of the Act shall bear a reasonable relationship to the amount which can be recovered by enforced collection proceedings, giving due consideration to the exemptions available to the debtor under State or Federal law, the time which the collection will take, and the probability of prevailing on the legal question involved.

(g) *Payment.* Payment of the amount which the Health Care Financing Administration has agreed to accept as a compromise in full settlement of a claim for recovery of an overpayment under title XVIII of the Social Security Act must be made within the time and in the manner prescribed by the Health Care Financing Administration. A claim for the recovery of the overpayment shall not be considered compromised or settled until the full payment of the compromised amount has been made within the time and in the manner prescribed by the Health Care Financing Administration. Failure of the debtor, or his estate where the debtor is a deceased individual, to make the payment as provided shall result in reinstatement of the full amount of the overpayment less any amounts paid prior to such default.

(h) *Administrative actions.* The determination by the Health Care Financing Administration under the authority of the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953) not to compromise a claim for overpayment incurred by providers, physicians, or other suppliers of services, under title XVIII of the Social Security Act, or not to suspend or terminate collection of such a claim, or the determination to compromise such a claim, including the compromised amount, time, and manner of payment shall not be considered an initial determination for purposes of the appeals procedures in Subparts H and R of this part, but may receive administrative review by the Health Care Financing Administration.

3. In § 405.803, a new paragraph (d) is added to read as follows:

§ 405.803 Initial determination.

* * * * * *

(d) The determination by the Health Care Financing Administration, pursuant to the authority of the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953), not to compromise a claim for overpayment due from a physician or supplier of services under title XVIII of the Act, or not to suspend or terminate collection of such a claim, or the determination to compromise such a claim, including the compromised amount, time, and manner of payment shall not be considered a carrier's initial determination for purposes of these appeals procedures, but may receive an administrative review by the Health Care Fnancing Administration.

4. Section 405.1801 is amended by adding the following sentence to the end of paragraph (a) (1) to read as follows:

§ 405.1801 Introduction.

(a) *Definitions.* * * *

(1) * * * The determination by the Health Care Financing Administration, pursuant to the authority of the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953), not to compromise a claim for overpayment due from providers, or from other entities who are obliged to file periodic cost reports and are reimbursed on the basis of information furnished in such reports under title XVIII of the Social Security Act, or not to suspend or terminate collection of such a claim, or the determination to compromise such a claim, including the compromised amount, time, and manner of payment shall not be considered an intermediary determination for purposes of this subpart, but may receive an administrative review by the Health Care Financing Administration.

* * * * * *

[FR Doc.77-25797 Filed 9-2-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 77-150]

DRAWBRIDGE OPERATIONS

Umpqua River, Oregon

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Oregon State Highway Division, the Coast Guard is considering revising the regulations for the highway drawbridge across the Umpqua River at Reedsville, Oreg. to require at least four hours notice at all times. The two principal commercial users of this bridge have agreed to this change on a trial basis. This amendment would relieve the state of the obligation of maintaining a full-time drawtender.

DATE: Comments must be received on or before October 3, 1977.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Wash. 98174.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73) Room 7300, Nassif Building, 400 7th Street SW., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Each person submitting comments should include his name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal

The Commander, Thirteenth Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

The number of openings for this bridge has decreased. There were 234 openings in 1974, 157 in 1975, and 175 in 1976. This small amount of river traffic, the Oregon State Highway Division contends, does not justify manning the structure on a 24-hour basis and they proposed to open the draw if at least four hours notice is given. The two principal commercial users of this bridge accounting for 95 percent of the openings have agreed to this proposal on a trial basis.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by adding a new subparagraph (16) to § 117.759b(f) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.759b Drawbridges across navigable waters in Oregon where constant attendance is not required.

* * * * *

(f) * * *

(16) Umpqua River highway drawbridge at Reedsville, Oreg. The draws shall open on signal if at least four hours notice is given.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended and OMB Circular A-107.

Dated August 22, 1977.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc.77-25607 Filed 9-2-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 784-8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Air Pollution Control; State of Arizona Rules and Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: It is the purpose of this notice to acknowledge receipt of and invite public comment on approval or disapproval of the February 11, 1977 revision to the State of Arizona Air Pollution Control Implementation Plan (SIP). This revision concerns amendments to the State rules and regulations regarding vehicle inspection/maintenance.

DATES: Comments may be submitted up to October 6, 1977.

ADDRESS: Send comments to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, Arizona-Nevada-Pacific Islands Section, EPA Region IX, 100 California St., San Francisco CA 94111.

FOR FURTHER INFORMATION CONTACT:

Erik Hauge 415-556-7595.

SUPPLEMENTARY INFORMATION: The February 11, 1977 submittal contained the following new, amended or repealed rules:

R9-3-1002	Definitions (amended).
R9-3-1003	Vehicles to be inspected by the mandatory vehicular emissions inspection program (amended)
R9-3-1004	State inspection requirements (amended).
R9-3-1005	Time of inspections (amended).
R9-3-1006	Mandatory vehicular emissions inspection (amended).
R9-3-1007	Evidence of meeting State inspection requirements (new).
R9-3-1008	Procedure for issuing certificates of waiver (new).
R9-3-1009	Pass/fail authentication (repealed).
R9-3-1010	Low emissions tune up (new).
R9-3-1011	Inspection report (new).
R9-3-1012	Inspection procedure and fee (new).
R9-3-1013	Reinspections (new).
R9-3-1014	Paid reinspections (repealed).
R9-3-1015	Fees (repealed).
R9-3-1016	Licensing of inspectors (amended).
R9-3-1017	Inspection of government entity (amended).
R9-3-1018	Certificate of inspection (amended).
R9-3-1019	Fleet operator qualifications and permits (amended).
R9-3-22	Procedures for waiving inspections due to technical difficulties (amended).
R9-3-1023	Certificate of exemption (amended).
R9-3-1024	Visible emissions; diesel-powered (repealed).
R9-3-1025	Inspection at State stations (new).
R9-3-1026	Inspection of fleet stations (new).
R9-3-1027	Registration of repair industry analyzers (new).
R9-3-1029	Vehicle emission control devices (new).
R9-3-1030	Visible emissions; diesel-powered locomotives (new).

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations which were submitted as an SIP revision. The Regional Administrator hereby issues this notice setting forth this revision as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX office. Relevant comments received on or before 30 days from publication of this notice will be considered. Comments received will be available for public inspection at the Region IX office and the EPA Public Information Reference Unit.

Copies of the revision are available for public inspection during normal business hours at the following locations:

Arizona Department of Health Services, 1740 West Adams St., Phoenix AZ 85007.
Arizona Department of Health Services, Southern Regional Office, 5055 East Broadway, Suite C-209, Tucson AZ 85711.
EPA Region IX, 100 California St., San Francisco CA 94111.
Public Information Reference Unit, (EPA Library) PM-213, 401 M Street SW., Washington, D.C. 20460.

(Secs. 110, 301(a), Clean Air Act, as amended (42 U.S.C. 1857c-5 1857g(a), respectively).)

Dated: August 23, 1977.

PAUL DE FALCO, Jr.,
Regional Administrator.

[FR Doc.77-25861 Filed 9-2-77;8:45 am]

[40 CFR Parts 130, 131]

STATE AND AREAWIDE WASTE TREATMENT MANAGEMENT PLANS

Acceptance and Approval of Plans and Designated Management Agencies

CROSS REFERENCE: For a notice of a program Guidance Memorandum on State and Areawide Water Quality Management Agencies, see FR Doc. 77-25740 published as a Part VI in this issue of the FEDERAL REGISTER. The second paragraph of that notice states: "Because of the importance of this memorandum, the policy that it establishes will be incorporated in amendments to 40 CFR Parts 130 and 131. Comments on this memorandum are encouraged in the light of the upcoming amendments."

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 89, 91, 93]

[Docket No. 21350; FCC77-523]

PUBLIC SAFETY, INDUSTRIAL, AND LAND AND TRANSPORTATION SERVICES

Simplifying Certain Procedures for Filing Applications

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Communications Commission, on its own initiative, proposes to simplify certain procedures for filing of applications. The Commission proposes to modify eligibility statement requirements and substitute notification procedures in lieu of the formal license modification procedures presently required for certain terms of the station authorization. The proposed changes are procedural in nature.

DATES: The date for filing comments is October 7, 1977, and for filing reply comments is October 17, 1977.

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ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. Eugene C. Bowler or Mr. James E. McNally, Jr., at 202-632-6497. Safety and Special Radio Services Bureau.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Parts 89, 91, and 93 to simplify certain procedures for filing applications, Docket No. 21350.

ADOPTED: July 21, 1977.

RELEASED: August 30, 1977.

1. In accordance with our on-going program of reviewing our rules to facilitate administration, the Commission is proposing the following rule changes in the Public Safety, Industrial, and Land Transportation Radio Services to simplify application filing procedures for land mobile radio users.

I. REPORTING OF IN-USE MOBILE TRANSMITTERS

2. The Commission's document "Instructions for Completion of FCC Form 400" (FCC Form 400-10), currently provides that in making an initial application request, an applicant may include a five year estimate as to his mobile requirements. Thus, the document now reads:

> The number of mobile units (transmitters) shown in the "Mobile" column is a combination of the number actually to be acquired within 8 months, and a number of additional mobile units up to the maximum shown in the table below, to cover expected expansion during the license term . . .

Similiar instructions apply to the completion of the Form 425.

3. While this processing technique has eliminated the need for a licensee to file a license modification to increase the authorized number of mobile units in his system, too often it has been the Commission's experience that the licensee's guess as to the anticipated number of mobile units has been overly optimistic. The result has been that while licensees may expand their initial systems without applying for authorization modifications, the Commission has operated under the handicap of inaccurate and misleading records regarding the actual number of mobile transmitters in use. This in turn, has impaired the Commission's ability to conduct meaningful spectrum analyses necessary for the proper administration and allocation of the available spectrum. Accordingly, the Commission is proposing to amend these instructions and its rules to require applicants to specify only the number of mobile units which will be placed into operation with eight months of the grant date. This figure may include:

1. The number of transmitters which will be installed and operated immediately after the authorization is issued; and

2. The number of transmitters for which purchase orders have been signed, and which will be in use within eight months of the date of authorization.

4. In order to negate the impact of this requirement, the Commission proposes allowing licensees to request an increase in the number of authorized mobile units through a simple notification procedure, even though this item is a term of the station authorization. This new procedure would not, however, be adopted for stations operating on frequencies above 470 MHz due to the Commission's need to approve, in advance, any increase in the number of mobile units in order to guarantee that applicable loading standards are not exceeded.

5. In the Public Safety Radio Services, we are aware of the delays inherent in the processes for approving and funding a communication proposal, particularly extensive ones, and additional periods of time beyond the eight month period have been granted from time to time. We want to take this opportunity to recognize the problems and to adopt rule provisions to deal with it. Accordingly, in the Public Safety Radio Service, where the applicant is a governmental entity, the applicant may request that we authorize not only the number of transmitters to be placed in operation immediately and those for which purchase orders have been signed but also:

> The number of transmitters for which bids have been, are being, or will be sought, and which will be put into use within eight months of the date of authorization; and the number of transmitters to be placed in operation later than eight months of the authorization date under a specific implementation schedule which has been adopted by the appropriate final authorities of the applicant.

II. THE ELIMINATION OF NARRATIVE-STYLE-ELIGIBILITY STATEMENTS

6. Commission rules currently require that applications in the Industrial (Part 91) and Land Transportation (Part 93) Radio Services be accompanied by detailed statements establishing the applicant's eligibility in the radio service requested. Review of these statements, which are often so vague and incomplete as to be of no practical use to the Commission staff, now accounts for a substantial amount of the total application processing time. The Commission has consequently concluded that speed of service can be increased with little loss of necessary information by having applicant specify the rule section which describes his particular area of eligibility. This change would relieve applicants of the burden of preparing a detailed statement of eligibility, in the great majority of cases, while at the same time expediting application processing. Applicants, however, will be expected to familiarize themselves with the Commission's rules and will be held strictly responsibe for ensuring conformance between the specific category of eligibility and their own business activities. This proposed change would in no way alter or amend the actual eligibility requirements for licensing in any of these radio services, nor would it affect the Commission's right, under section 308(b) of the Communications Act of 1934, as amended, to ask licensees and applicants at any time for such information as may be deemed necessary for action on their applications and for administration of the Commission's rules.

III. SPECIFICATION OF CONTROL POINTS

7. The final procedural change which the Commission is proposing concerns the enumeration of control points on the face of a license. Presently, the Commission's rules require that each station not authorized for unattended operation be equipped with a control point whose location is specified on the face of the authorization. This same requirement applies to unattended stations at which control point use is optional. Any change in a system's control point(s) is a license modification requiring the submission to the Commission of an application to modify. We are proposing to amend our rules to eliminate the need for submission of applications for modification and instead are substituting a simple notification procedure, even though this item is a term of the station's authorization. Letters of notification, however, must be received by the Commission 30 days prior to alteration or change in location of a system's control point(s).

8. Authority for the proposed amendments is contained in section 4(i) and 303 of the Communications Act of 1934, as amended. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before October 7, 1977, and reply comments on or before October 17, 1977. Relevant and timely comments will be considered by the Commission before final action in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

9. In accordance with the provisions of § 1.419 of the Commission's rules an original and five copies of all statements, briefs or comments filed shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,

VINCENT J. MULLINS,
Secretary.

Parts 89, 91, and 93 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 89—PUBLIC SAFETY RADIO SERVICES

1. Section 89.55 is amended by the addition of new paragraph (c) and by the re-designation of existing paragraphs (c), (d), and (e) as (d), (e), and (f), respectively.

§ 89.55 Filing of applications.

• • • • •

(c) Each application shall limit its request for authorized mobile transmitters to:

(1) Transmitters which will be installed and operated immediately after authorization issuance;

(2) Transmitters for which purchase orders have already been signed and which will be in use within eight months of the authorization date;

(3) Transmitters on which bid orders have been or will be sought and which will be in use within eight months of the authorized date; and

(4) Transmitters to be placed in operation later than eight months of the authorization date pursuant to a specific implementation schedule which has been adopted by the appropriate final authorities of the applicant.

(d) Unless otherwise specified, an application shall be filed at least 60 days prior to the date on which it is desired that Commission action thereon be completed. In particular, applications involving the installation of new equipment shall be filed at least 60 days prior to the contemplated installation.

(e) Failure on the part of the applicant to provide all the information required by the application form or to supply the necessary exhibits or supplementary statements may constitute a defect in the application.

(f) Applications involving operation at temporary locations:

(1) When one or more individual transmitters are intended to be operated as a base station or as a fixed station at unspecified or temporary locations for indeterminate periods, such transmitters may be considered to comprise a single station intended to be operated at temporary locations. An application for authority to operate a base station or a fixed station at temporary locations shall specify the general geographic area within which the operation will be confined. The area specified may be a city, a county, or counties, or a state or states.

(2) When a base station or fixed station authorized to operate at temporary locations remains at a single location for more than one year, an application for modification of the station authorization to specify the permanent location shall be filed within 30 days after expiration of the 1 year period.

2. Section 89.71, headnote and text are revised to read as follows:

§ 89.71 Time in which station must be placed in operation.

(a) Each radio station authorized under this part must be placed in operation within eight months from the date of authorization.

(b) A period longer than eight months for placing a station in operation may be authorized by the Commission, on a case-by-case basis, where the applicant submits a specific schedule for the completion of each portion of the entire system, along with a showing that the system has been approved and funded for implementation in accordance with that schedule.

3. In § 89.75 paragraph (a) is amended, paragraph (c) is re-designated as paragraph (b), and a new paragraph (c) is added to read:

§ 89.75 Changes in authorized stations.

• • • • •

(a) Except as provided in paragraphs (c) and (d) of this section, proposed changes which will result in operation inconsistent with any of the terms of the current authorization require than an application for modification of license be submitted to the Commission. This shall be submited on FCC Form 400, and shall be acompanied by exhibits and supplementary statements as required by § 89.63. A change in a system's control points or number of mobile units will not require an application for modification: *Provided*, The Commission is notified, in writing, 30 days before the proposed change.

(b) Proposed changes which will not depart from any of the terms of the outstanding authorization for the station involved may be made without prior Commission approval. Included in such changes are the substitution of various makes of transmitting equipment at any station: *Provided*, The particular equipment to be installed is included in the Commission's "List of Equipment Acceptable for Licensing" and designated for use in the Public Safety, Industrial, and Land Transportation Radio Services, and, provided the substitute equipment employs the same type of emission and does not exceed the power limitations as set forth in the station authorization.

(c) When a licensee plans to change the number or location of wireline control points of his station, or, in the case of stations operating on frequencies below 470 MHz, when he plans to add or delete mobile units, a formal application for modification of the authorization for the station need not be filed. However, the Commission must be notified 30 days prior to the change. The notice, which may be in letter form, shall state the licensee's name, the station call sign, and the number and location of control points to be added or deleted, or the number of mobile units to be added or deleted. The notice shall be sent to the Secretary, Federal Communications Commission, Washington, D.C. 20554. A copy of the notice shall be retained by the licensee and included with the station records. Control point changes are subject to Commission review for consonance with the rules and regulations and established Commission policy.

• • • • • •

PART 91—INDUSTRIAL RADIO SERVICES

4. Section 91.54 is amended by the adoption of new paragraph (c) and by the re-designation of existing paragraphs (c), (d), (e), as (d) (e) and (f) respectively.

§ 91.54 Filing of applications.

• • • • •

(c) Each application shall limit its request for authorized mobile transmitters to:

(1) Transmitters which will be installed and operated immediately after authorization issuance; or

(2) Transmitters for which purchase orders have already been signed and which will be in use within eight months of the authorization date.

(d) Unless otherwise specified, an application shall be filed at least sixty days prior to the date on which it is desired that Commission action thereon be completed.

(e) Failure on the part of the applicant to provide all the information required by the application form or to supply the necessary exhibits or supplementary statements may constitute a defect in the application.

(f) Applications involving operation at temporary locations:

(1) When one or more individual transmitters are intended to be operated as a base station or as a fixed station at unspecified or temporary locations for indeterminate periods, such transmitters may be considered to comprise a single station intended to be operated at temporary locations. An application for authority to operate a base station or a fixed station at temporary locations shall specify the general geographic area within which the operation will be confined. The area specified may be a city, a county, or counties, or a state or states. Sufficient data must be submitted to show the need for the proposed area of operation.

(2) When any unit or units of a base station or fixed station authorized to be operated at temporary locations actually remains or is intended to remain at the same location for a period of over a year, application for a separate authorization specifying the fixed location, shall be made as soon as possible but not later than 30 days after the expiration of the one year period.

5. Section 91.62, headnote and text are revised to read as follows:

§ 91.62 Time in which station must be placed in operation.

Each radio station authorized under this part must be placed in operation within eight months from the date of authorization.

6. In § 91.64, paragraph (a) is amended, paragraph (c) is redesignated as (b) and a new paragraph (c) is added to read:

§ 91.64 Changes in authorized stations.

• • • • • •

(a) Except as provided in paragraphs (c) and (d) of this section, proposed changes which will result in operation inconsistent with any of the terms of the current authorization require that an application for modification of license be submitted to the Commission. This shall be submitted on FCC Form 400,

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and shall be accompanied by exhibits and supplementary statements as required by § 91.58. A change in a system's control points or number of mobile units will not require an application for modification so long as the Commission is notified, in writing, 30 days before the proposed change.

(b) Proposed changes which will not depart from any of the terms of the outstanding authorization for the station involved may be made without prior Commission aproval. Included in such changes is the substitution of various makes of transmitting equipment at any station: *Provided*, The particular equipment to be installed is included in the Commission's "List of Equipment Acceptable for Licensing" and designated for use in the Public Safety, Industrial, and Land Transportation Radio Services: *and, provided*, The substitute equipment employs the same type of emission and does not exceed the power limitations as set forth in the station authorization.

(c) When a licensee plans to change the number or location of wireline control points, or, in the case of stations operating on frequencies below 470 MHz, when he plants to add or delete mobile units, a formal application for modification of the station authorization need not be filed. However, the Commission must be notified 30 days prior to the change. The notice, which will be in letter form, shall state the licensee's name, the station call sign and the number and location of the control points to be added or deleted from the Commission's records. The notice shall be sent to the Secretary, Federal Communications Commission, Washington, D.C. 20554. A copy of the notice shall be retained by the licensee and included with the station records. Control point changes are subject to Commission review for consonance with the rules and regulations and established Commission policy.

* * * * *

7. In § 91.252, paragraph (a) is amended to as follows:

§ 91.252 Availability and use of service.

(a) The initial application from a person seeking authorization in the Power Radio Service shall contain a specification of the particular rule section and subparagraph under which the applicant is claiming eligibility. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

* * * * *

8. In § 91.302, paragraph (a) is amended to read:

§ 91.302 Availability and use of Service.

(a) The initial application from a perleum Radio Service shall contain a specison seeking authorization in the Petroleum Radio Service shall contain a specification of the particular rule section and subparagraph under which the applicant is claiming eligibility. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

* * * * *

9. In § 91.352, paragraph (a) is amended to read:

§ 91.352 Availability and use of Service.

(a) The initial application from a person seeking authorization in the Forest Products Radio Service shall contain a specification of the particular rule section and subparagraph under which the applicant is claiming eligibility. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

* * * * *

10. In § 91.402, paragraph (a) is amended to read:

§ 91.402 Availability and use of Service.

(a) The initial application from a person seeking authorization in the Motion Picture Radio Service shall contain a specification of the particular rule section and subparagraph under which the applicant is claiming eligibility. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

* * * * *

11. In § 91.452, paragraph (a) is amended to read:

§ 91.452 Availability and use of Service.

(a) The initial application from a person seeking authorization in the Relay Press Radio Service shall contain a specification of the particular rule section and subparagraph under which the applicant is claiming eligibility. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

* * * * *

12. In § 91.502, paragraph (a) is amended to read:

§ 91.502 Availability and use of Service.

(a) The initial application from a person seeking authorization in the Special Industrial Radio Service shall contain a specification of the particular rule section and subparagraph under which the applicant is claiming eligibility. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

* * * * *

13. In § 91.552, subparagraph (a) is amended to read:

§ 91.552 Availability and use of Service.

(a) The initial application from a person seeking authorization in the Business Radio Service shall contain a specification of the particular rule section and subparagraph under which the applicant is claiming eligibility. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

* * * * *

14. In § 91.602, paragraph (a) is amended to read:

§ 91.602 Availability and use of Service.

(a) The initial application from a person seeking authorization in the Industrial Radiolocation Service shall contain a specification of the particular rule section and subparagraph under which the applicant is claiming eligibility. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

* * * * *

15. In § 91.728, paragraph (a) is amended to read:

§ 91.728 Availability and use of Service.

(a) The initial application from a person seeking authorization in the Manufacturers' Radio Service shall contain a specification of the particular rule section and subparagraph under which the applicant is claiming eligibility. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

* * * * *

16. In § 91.752, paragraph (a) is amended to read:

§ 91.752 Availability and use of Service.

(a) The initial application from a person seeking authorization in the Telephone Maintenance Radio Service shall contain a specification of the particular rule section and subparagraph under which the applicant is claiming eligibility. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

* * * * *

PART 93—LAND TRANSPORTATION RADIO SERVICES

17. Section 93.54 is amended by the addition of new paragraph (c) and by the re-designation of existing paragraphs (c), (d), (e) as (d), (e) and (f), respectively.

§ 93.54 Filing of applications.

* * * * *

(c) Each application shall limit its request for authorized mobile transmitters to:

(1) Transmitters which will be installed and operated immediately after authorization issuance; or to

(2) Transmitters for which purchase orders have already been signed and which will be in use within eight months of the authorization date.

(d) Unless otherwise specified, an application shall be filed at least sixty days prior to the date on which it is desired that Commission action thereon be completed.

(e) Failure on the part of the applicant to provide all the information required by the application form or to supply the necessary exhibits or supplementary statements may constitute a defect in the applications.

(f) Applications involving operation at temporary locations:

(1) When one or more individual transmitters are intended to be operated as a base station or as a fixed station at unspecified or temporary locations for indeterminate periods, such transmitters may be considered to comprise a single station intended to be operated at temporary locations. An application for authority to operate a base station or a fixed station at temporary locations shall specify the general geographic area within which the operation will be confined. The area specified may be a city, a county or counties, or a state or states. Sufficient data must be submitted to show the need for the proposed area of operation.

(2) When any unit or units of a base station or fixed station authorized to operate at temporary locations actually remains or is intended to remain at the same location for a period of over a year, application for a separate authorization specifying the fixed locations, shall be made as soon as possible but not later than 30 days after the expiration of the one year period.

18. Section 93.62, headnote and text are revised to read as follows:

§ 93.62 Time in which station must be placed in operation.

Each radio station authorized under this part must be placed in operation within eight months from the date of authorization.

19. In § 93.64 paragraph (a) is amended, paragraph (c) is redesignated as (b) and a new paragraph (c) is to read as follows:

§ 93.64 Changes in authorized stations.

* * * * *

(a) Except as provided in paragraphs (c) and (d) of this section, proposed changes which will result in operation inconsistent with any of the terms of the current authorization require that an application for modification of license be submitted to the Commission. This shall be submitted on FCC Form 400, and shall be accompanied by exhibits and supplementary statements as required by § 93.58. A change in a system's control points or number of mobile units will not require an application for modification so long as the Commission is notified, in writing, 30 days before the proposed change.

(b) Proposed changes which will not depart from any of the terms of the outstanding authorization for the station involved may be made without prior Commission approval. Included in such changes is the substitution of various makes of transmitting equipment at any station, provided the particular equipment to be installed is included in the Commission's "List of Equipment Acceptable for Licensing" and designated for use in the Public Safety, Industrial, and Land Transportation Radio Services; *And, provided*, The substitute equipment employs the same type of emission and does not exceed the power limitations as set forth in the station authorization.

(c) When a licensee plans to change the number or location of wireline control points, or, in the case of stations operating on frequencies below 470 MHz, when he plans to add or delete mobile units, a formal application for modification of the station authorization need not be filed. However, the Commission must be notified 30 days prior to the change. The notice, which will be in letter form, shall state the licensee's name, the station call sign and the number and location of the control points to be added or deleted from the Commission's records. The notice shall be sent to the Secretary, Federal Communications Commission, Washington, D.C. 20554. A copy of the notice shall be retained by the licensee and included with the station records. Control point changes are subject to Commission review for consonance with the rules and regulations and established Commission policy.

* * * * *

20. In § 93.251, headnote and paragraph (b) are amended to read as follows:

§ 93.251 Eligibility.

* * * * *

(b) The initial application for an authorization in the Motor Carrier Radio Service shall contain a specification of the particular rule section and subparagraph under which eligibility is claimed. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

21. In § 93.351, paragraph (b) is amended to read as follows:

§ 93.351 Eligibility.

* * * * *

(b) The initial application for an authorization in the Railroad Radio Service shall contain a specification of the particular rule section and subparagraph under which eligibility is claimed. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for insuring conformance between the specified category of eligibility and their own business activities.

22. In § 93.401, paragraph (b) is amended to read as follows:

§ 93.401 Eligibility.

* * * * *

(b) The initial application for an authorization in the Taxicab Radio Service shall contain a specification of the particular rule section and subparagraph under which eligibility is claimed. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

23. In § 93.501, paragraph (b) is amended to read as follows:

§ 93.501 Eligibility.

(b) The initial application for an authorization in the Automobile Emergency Radio Service shall contain a specification of the particular rule section and subparagraph under which eligibility is claimed. Applicants are expected to familiarize themselves with the Commission's rules and will be held strictly responsible for ensuring conformance between the specified category of eligibility and their own business activities.

ELIGIBILITY AND SIGNING REQUIREMENTS

The Commission Document "Instructions for Completion of FCC Form 400" is changed to read as follows:

Item 1(b) paragraph 3 is deleted and a new paragraph 3 is substituted to read:

The number of mobile units (transmitters) shown in the "Mobile" column is a combination of the number of transmitters:

1. Which will be installed immediately after authorization issuance; or for which,

2. For which purchase orders have been signed and which will be in use within 8 months of the authorization date; or on which,

3. In the Public Safety Radio Services only, bid orders which have been sought and which will be in use within 8 months of the authorization date.

[FR Doc.77-25666 Filed 9-2-77;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

SEMINOLE ELECTRIC COOPERATIVE, INC.

DRAFT ENVIRONMENTAL IMPACT STATEMENT

Notice is hereby given that the Rural Electrification Administration anticipates that it will prepare an Environmental Impact Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with a possible loan guarantee for Seminole Electric Cooperative, Inc., 2410 East Busch Boulevard, Suite 108, Tampa, Fla. 33612 (hereinafter referred to as "Seminole"), which would provide financing for construction of or otherwise acquiring generation facilities and associated transmission lines in the State of Florida.

Seminole is currently exploring all viable alternatives and their environmental impacts in order to determine the most effective and economical arrangement for meeting the increasing power requirements of its member electric distribution cooperatives. Recent studies conducted by Seminole indicate the need for approximately 1,200 MW of additional generating resources by 1985. The Rural Electrification Administration will consider the need for additional generating capacity and the environmental effects of all structural and non-structural alternatives. REA's Environmental Impact Statement will consider the construction of a 600 MW coal-fired unit to be completed in 1983 and a second 600 MW coal-fired unit to be completed in 1985, and other reasonable alternatives.

Comments, questions, and/or recommendations concerning the environmental impact of the alternatives should be submitted to Mr. Richard P. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Any loan or loan guarantee which may be made pursuant to this possible application will be subject to, and release of funds thereunder will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects. Final action will be taken only after compliance with Environmental Statement procedures required by the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 29th day of August 1977.

DAVID A. HAMIL,
Administrator, Rural Electrification Adminis ration.

[FR Doc.77-25778 Filed 9-2-77;8:45 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

GOLDSTEIN FOOTWEAR, INC.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Goldstein Footwear, Inc., 470 Vanderbilt Avenue, Brooklyn, N.Y. 11238, a producer of footwear for women, was accepted for filing on August 29, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-25758 Filed 9-2-77;8:45 am]

MARKAY BAGS, INC.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Markay Bags, Inc., 15 East 32d Street, New York, N.Y. 10016, a producer of handbags and purses, was accepted for filing on August 24, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-25759 Filed 9-2-77;8:45 am]

Maritime Administration

[DOCKET NO. S-572]

LYKES BROS. STEAMSHIP CO., INC.

Application

Notice is hereby given that Lykes Bros. Steamship Co., Inc., has filed an application dated August 16, 1977, to amend its present Operating-Differential Subsidy Agreement, Contract No. FMB-59, so as to increase its maximum sailing requirement from 10 to 11 sailings for calendar year 1977 on its subsidized service on its Line G—Trade Area No. 4 (U.S. Great Lakes Mediterranean, Red Sea, Persian Gulf, India, Pakistan).

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Any person, firm, or corporation having any interest in such application who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20230, by the close of business on September 16, 1977.

The Maritime Subsidy Board will consider these views and comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS)).

By Order of the Maritime Subsidy Board/Maritime Administration.

Dated: August 30, 1977.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.77-25756 Filed 9-2-77;8:45 am]

[Docket No S 573]

LYKES BROS. STEAMSHIP CO., INC.

Application

Notice is hereby given that Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, La. 70130, has filed an application, dated August 11, 1977, for a one-year operating-differential subsidy agreement (ODSA) pursuant to Title VI (46 U.S.C. 1171-1183) of the Merchant Marine Act, 1936, as amended (the Act), to provide the same services on Trade Routes 13, 15-B, 21, 22, 31 and Trade Area 4, as Lykes currently provides on those services under its existing ODSA. If this application is granted, the short-term contract would begin upon the termination of Lykes' present ODSA, Contract No. FMB-59, presently due to expire on December 31, 1977, and would run until the earlier of (1) December 31, 1978, including voyages in progress on that date, or (2) completion of the administrative processing of Lykes' application for a twenty-year contract (under Dockets S-451 and 479), to replace Contract No. FMB-59.

The number of vessels, service description, and sailing maxima under the proposed one-year contract will be the same as in Lykes' present contract. Service will be provided with forty-one C3, C4, C5, and C8 vessels as follows:

Service	Sailing Maximum
TR 13 (U.S. Gulf, South Atlantic/Mediterranean and Black Sea).	48.
TR 15-B (U.S. Gulf/South and East Africa).	24.
TR 21 (U.S. Gulf/U.K. and Continent).	42 (seabee) or 84 (Conventional).
TR 22 (U.S. Gulf/Far East)	84.
TR 31 (U.S. Gulf/West Coast South America).	36.
Trade Area 4 (Great Lakes/Mediterranean, India, Persian Gulf and Red Sea).	10.

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Any person having an interest in such application who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20230, by the close of business on September 16, 1977.

The Maritime Subsidy Board will consider these views and comments, and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidies (ODS)).

By Order of the Maritime Subsidy Board/Maritime Administration.

Dated: August 30, 1977.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.77-25756 Filed 9-2-77;8:45 am]

National Oceanic and Atmospheric Administration

ATLANTIC TUNA FISHERIES

Large Bluefin Tuna Season Closed

On August 24, 1977, the Director, National Marine Fisheries Services, determined that the 1977 annual quota of 1,850 individual Atlantic bluefin tuna weighing in excess of 300 pounds each and taken by other than purse seining, north and east of a line drawn from a point on the southern coast of Massachusetts extending south through Gay Head Light, Mass., into the Atlantic Ocean as established in 50 CFR 285.13(b)(1), with 100 such tuna reserved for scientific research 50 CFR 285.13(b)(1)(ii), will be reached on September 6, 1977 and further, that the 1977 annual quota of 150 individual Atlantic bluefin tuna weighing in excess of 300 pounds each and taken by other than purse seining west of the Gay Head Light line will be taken on September 9, 1977. The quotas include individual tuna taken in a directed fishery, and those taken incidentally as prescribed in 50 CFR 285.14(c).

As authorized by 50 CFR 285.12, notice is hereby given that the 1977 fishing season for Atlantic bluefin tuna taken by gear other than purse seining, which weigh in excess of 300 pounds each, will terminate in the regulatory area north and east of a line drawn from a point on the southern coast of Massachusetts extending south through Gay Head Light, Mass., into the Atlantic Ocean, at 2400 hours, local time, September 5, 1977, and in the regulatory area west of this line at 2400 hours, local time, September 9, 1977. This closure does not affect the incidental take by traps, as authorized by 50 CFR 285.14(c).

The 1977 season for taking Atlantic bluefin tuna between 14 pounds and 115 pounds by purse seining was closed on June 23, 1977. The closure was effected by publication in 42 FR 31824.

Issued at Washington, D.C., and dated August 30, 1977.

WINFRED H. MEIBOHM,
Acting Associate Director, National Marine Fisheries Service.

[FR Doc.77-25793 Filed 9-2-77;8:45 am]

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE

Meeting Date and Location Change

Notice is hereby given of a change in dates and location of the September 15-16, 1977, meeting of the North Pacific Fishery Management Council's Scientific and Statistical Committee at Juneau, Alaska, as published at 42 FR 43113, on Friday, August 26, 1977.

The meeting of the Committee is now scheduled to be held on September 20-21, 1977, at Council Headquarters Office, 333 West Fourth Street, Suite 32, Anchorage, Alaska. The meeting will convene at 8:30 a.m. and adjourn at approximately 4:30 p.m.

Dated: August 31, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-25792 Filed 9-2-77;8:45 am]

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a meeting of the South Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The South Atlantic Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the east coast of Florida, Georgia, North Carolina, and South Carolina. The Council will, among other things, prepare and submit to the Secretary of Commerce, fishery management plans with respect to the fisheries within its area of authority, prepare comments on foreign fishing applications, and conduct public hearings.

The Council will meet Tuesday through Thursday, September 20, 21, and 22, 1977, at the Holiday Inn Downtown, 125 Calhoun Street, Charleston, S.C. The meeting will convene at 1:30 p.m. on September 20 and adjourn at about noon on September 22. The daily sessions will start at 9 a.m. and adjourn at 5 p.m., except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

1. Review of progress on management plan development for billfish, snapper-grouper, and king and Spanish mackerel.
2. Consideration of administrative and technical matters as deemed necessary.
3. Other management business.

This meeting is open to the public and there will be seating for a limited number of public members available on a first-come, first-served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meetings. To receive information on changes, if any, made to the agenda, interested members of the public should contact, on or about September 13, 1977:

Mr. Ernest D. Premetz, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, No. 1 Southpark Circle, Charleston, S.C. 29407 (803-571-4366).

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of official business. Interested members of the public who wish to submit written comments should do so by addressing the Executive Director at the aforementioned address. To receive due consideration and to facilitate inclusion of these comments in the record of the meetings, typewritten statements should be received within 10 days after the close of the meetings.

Dated: August 31, 1977.

WINFRED H. MEIBOHM,
Association Director, National Marine Fisheries Service.

[FR Doc.77-25791 Filed 9-2-77;8:45 am]

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TRAWL FISHERIES OF WASHINGTON, OREGON, AND CALIFORNIA

Revision to Preliminary Fishery Management Plan

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Revision to Preliminary Fishery Management Plan.

SUMMARY: This notice revises "Trawl Fisheries of Washington, Oregon, and California," a preliminary fishery management plan, published on February 10, 1977. The plan proposed conservation and management measures for foreign participation in the trawl fisheries of the Washington, Oregon, and California area. The action changes the minimum mesh size of travel gear and the effort limitation vessel-days on the grounds for certain foreign fishermen

EFFECTIVE DATE: August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald R. Johnson, Regional Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue, North, Seattle, Wash. 98109, telephone: 206–442–7575.

SUPPLEMENTARY INFORMATION:

Background

On February 10, 1977, a preliminary fishery management plan (PMP) entitled, "Trawl Fisheries of Washington, Oregon, and California" (42 FR 8577) was published by the Secretary of Commerce to provide proposed conservation and management measures for foreign trawl fisheries in the Washington, Oregon, and California area pursuant to Section 201(g) of the Fishery Conservation and Management Act (Pub. L. 94–265). The plan provided, among other things, for proposed regulations pertaining to foreign fishing for hake. One of the proposed restrictions for foreign fishing was a minimum mesh size of 4.33 inches (110 mm) for pelagic trawl gear. The PMP also proposed foreign fishing restrictions expressed in terms of a limitation in vessel-days on the primary hake fishing grounds in order to assure compliance with catch quotas. Foreign fishery allocations were published on March 3, 1977 (42 FR 12176), which allocated 18,000 metric tons (mt) of hake to Poland and 105,200 mt of hake to the U.S.S.R. in the Northeast Pacific area. Final regulations relating to foreign vessels participating in the Washington, Oregon, and California trawl fisheries were published on February 11, 1977 (42 FR 8836). The regulations incorporated pelagic trawl mesh size restrictions and foreign fishing vessel-day limitations in accordance with the PMP.

The Secretary of Commerce, through an appropriate delegation of authority to the Associate Administrator for Marine Resources of the National Oceanic and Atmospheric Administration and the Director of the National Marine Fisheries Service, has determined that amendments to the PMP for trawl fisheries of Washington, Oregon, and California relating specifically to pelagic trawl mesh sizes and foreign fishing vessel-day limitations are necessary and appropriate in the interests of conserving and managing the resource.

Purpose

A. Revision of Pelagic Trawl Gear Mesh Size Restrictions

The specified minimum mesh size for trawl gear was designed to control the harvest of juvenile hake, Pacific herring, and associated bottomfish. However, in July, 1977, the National Marine Fisheries Service was informed that the 4.33 inch minimum size mesh was causing substantial wastage of adult hake. A representative of the National Marine Fisheries Service was placed on board a foreign trawler and observed that large quantities of hake were protruding through the meshes as the trawl was brought aboard the vessel. Adult hake were seen escaping or being forced through the meshes and killed. Large numbers of dead hake were seen floating upon the surface behind the vessel.

A series of comparative tows were conducted on the trawling grounds using trawls with 4.33 inch and 3.94 inch mesh size. Significantly fewer hake were observed protruding through the trawl with a mesh size of 3.94 inches and the number of dead hake floating behind, the trawl vessel was substantially reduced.

It was concluded as a result of these observations and tests of alternate gear on the trawling grounds that the use of trawls with a minimum mesh size of 3.94 inches could help alleviate the problem of hake wastage caused by use of the specified minimum mesh size of 4.33 inches. It was further concluded that the mesh minimum size should be revised as soon as possible to reduce wastage of hake during the current fishing season.

B. Revision of Foreign Vessel-Day Limitations for Pacific Hake

Vessel-day limitations for Polish and Soviet vessels participating in the Pacific hake fishery were originally calculated on the basis of 1976 catch rates of 46 mt per vessel-day for the Polish fleet and 14 mt per vessel-day for the Soviet fleet. Since the 1977 hake fishing season landward of 125°40′ W. opened on June 1, 1977, the Polish catch rate has been consistently below the 1976 catch rate of the Polish fleet and the Soviet catch rate has been consistently higher than the 1976 figures for that country's fleet. Computations made using 1977 catch figures reveal the average hake catch per vessel-day for the Polish and Soviet fleets has been about 33 mt per vessel-day.

As a result of this discrepancy between 1976 and actual 1977 catch rate figures, the number of vessel-days allowed the Polish fleet is fewer than the number required for that country to reach its hake quota for 1977. Vessel-days calculated for the Soviet fleet are far in excess of the number needed for the U.S.S.R. to meet its quota.

To ensure the vessel-day limitation accurately reflects foreign effort, in the interests of full resource utilization and in keeping with specific biological standards set forth in the PMP it has been determined appropriate to provide additional fishing days for the Polish fleet to catch their hake allocation of 18,000 mt and, accordingly, to reduce the number of fishing days allowed the Soviet fleet to catch their hake allocation of 105,200 mt. The formula used to determine maximum number of days on the grounds for the Polish and Soviet fleets will be revised using a catch rate of 33 mt for all countries rather than 46 mt for the Polish fleet and 14 mt for the Soviet fleet. The 33 mt catch rate, when applied to the formula, provides for a maximum of 545 vessel-days for the Polish fleet and 3,188 vessel-days for the Soviet fleet in the authorized area landward of 125°40′W. for the entire 1977 hake fishing season (June–October 31).

Impact

A. Revision of Pelagic Trawl Gear Mesh Size Restrictions

This action involves no change in either the preliminary optimum yield of hake in the northeastern Pacific or the allocation of total allowable level of foreign fishing upon hake in the Washington, Oregon, and California area. The use of trawls by foreign fishermen participating in the hake fishery which have a minimum size of 3.94 inches should reduce the wastage of adult hake which are lost from trawls. The proposed reduction in mesh size will have no significant effect upon juvenile hake or incidental catches of Pacific ocean perch or other species. Implementation of this revised management measure is expected to reduce the fishing mortality of hake with a commensurate benefit to the conservation and restoration of the hake resource in the Washington, Oregon, and California area. Since this proposal concerns a minimum mesh size requirement and larger mesh may be used as appropriate it is not possible to quantify the potential benefit to the hake resource.

B. Revision of Foreign Vessel-Day Limitations for Pacific Hake

Monitoring of the hake resource reveals no evidence of reduced hake abundance in 1977. However, U.S. fishermen have reported unusually large numbers of hake on some Pacific trawl grounds and the observed Soviet catch rate of hake is more than double that of 1976. The distribution of hake larvae (newly hatched fish) observed during the March 1977 survey[1] was similar to the period 1963–66 (prior to the development of the hake fishery). The extremely below normal extent of the hake spawning area and possible hake spawning biomass implied by the 1976 hake larvae survey did not persist into 1977. Therefore, the outlook for the hake resource is very encouraging. No adverse impact is expected upon the domestic fishery as the expected U.S. catch was taken into account before determining the total allowable level of foreign fishing for hake in the Washington, Oregon, and California area.

Revision of the vessel-day limitation is not expected to seriously affect the Soviet fleet's ability to catch its full allocation of hake in 1977. This revision will enable the Polish fleet ample opportunity to catch its full allocation where otherwise it would have had to cease fishing due to an inaccurate earlier projection of catch rate.

Need For Effective Date

It is in the public interest to reduce wastage of the hake resource during the current fishing season. It is considered impractical and contrary to the public interest to provide advance notice of the revision in the minimum mesh size for trawls used by foreign fishermen. A technical adjustment in the vessel-day formula using 1977, rather than 1976, catch rates is necessary and in the public interest so that the vessel-day limitation for foreign vessels participating in the Pacific hake fishery can be brought into more direct proportion with the foreign allocations. As the U.S.S.R. and Poland near their allocations for the 1977 hake fishing season it is essential that these amendments be made operative at the earliest practicable time in order to facilitate effective resource management by the United States in accordance with the Fishery Conservation and Management Act of 1976. This revision to the PMP is made effective August 31, 1977.

The Associate Administrator for Marine Resources of the National Oceanic and Atmospheric Administration has approved this document pursuant to delegations of authority in Department of Commerce Organization Order 25–5A, Section 3–Oldd, Amendment 4 (dated September 30, 1976) and NOAA Directives Manual 05–57 (dated December 1, 1976).

Dated: August 31, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

Amendments to the preliminary fishery management plan are as follows:

1. Section 5.A.4 is amended by deleting "4.33 inches (110 mm)" and inserting "3.94 inches (100 mm)."

2. Section 5.C.1 is revised by deleting subsections 5.C.1.a. and 5.C.1.b in their entirety and substituting:

"C.1. Landward of 125°40′W.—All countries: hake quota÷33 mt/vessel-day on the grounds (based on 1977 catch rates for countries participating in the fishery)."

3. Section 9, Appendix B, Subpart E (b)(1) is amended to read:

"(b)(1) Landward of 125°40′W.—All countries: hake quota÷33."

4. Section 9, Appendix B, Gear restrictions (a) is amended by deleting "4.33 inches (110 mm)" and inserting "3.94 inches (100 mm)."

[FR Doc.77-25794 Filed 9-2-77;8:45 am]

[1] "Report on the 1977 U.S.–U.S.S.R. Egg and Larvae Survey for Pacific Hake," Southwest Fisheries Center Administrative Report No. LJ 77–14, National Marine Fisheries Service, 10 p.

PRELIMINARY FISHERY MANAGEMENT PLANS

Availability of Supplements to Final Environmental Impact Statements for Preliminary Fishery Management Plans

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Availability of draft supplements to final environmental impact statements for preliminary fishery management plans.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190) the National Oceanic and Atmospheric Administration has prepared draft supplements or negative declarations for certain final environmental impact statements issued in January and February 1977, for the proposed implementation of preliminary fishery management plans under the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265). The draft supplements address the environmental impacts of proposed amendments to the preliminary fishery management plans which will be implemented for 1978. This notice identifies the preliminary management plans so effected, summarizes the proposed amendments for 1978 and notifies the public of the availability of the draft supplements to the final environmental impact statements.

DATE: Public comment will be received until: October 6, 1977.

ADDRESS: Comments should be addressed to the three Regional Directors of the National Marine Fisheries noted in the background section of this notice.

FOR FURTHER INFORMATION CONTACT:

Richard H. Schaefer, Chief, Fisheries Management Operations Division, 202–634–7454; or Paul J. Leach, Fishery Management Officer, Fisheries Management Operations Division, 202–634–7432, National Marine Fisheries Service, Washington, D.C. 20235.

SUPPLEMENTARY INFORMATION:

Background

During January and February 1977, final environmental impact statements (FEIS) were issued, pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, for preliminary fishery management plans (PMP's) prepared by the Secretary of Commerce in accordance with the Fishery Conservation and Management Act of 1976 (FCMA). The PMP's contain, among other things, preliminary determination of optimum yield from a fishery, the total allowable level of foreign fishing for that fishery, and conservation and management measures applicable to foreign fishing. The PMP's were implemented by issuance of the Foreign Fishing Regulations on February 11, 1977, which govern foreign fishing during 1977 for fish over which the United States exercises exclusive fishery management authority. A PMP will remain in effect until such time as a fishery management plan has been prepared and implemented, pursuant to Title III of the FCMA, for such fishery.

The Secretary of Commerce has determined that it is unlikely that the fishery management plans for certain fisheries will be prepared and implemented by January 1, 1978, and in order to allow foreign nations to continue fishing operations in 1978, the PMP's will be amended. Upon approval, the PMP's and amendments thereto will provide an updated preliminary determination of optimum yield, U.S. capacity, and surplus available for foreign harvest as well as conservation and management measures required by the Secretary of Commerce to prevent overfishing and to maintain an orderly fishery. A notice of intent to amend the PMP's, and to supplement the final environmental impact statements or make a negative declaration was published on August 2, 1977 (42 FR 39131).

Draft supplements to the final environmental impact statements are available for the following fisheries and from the following individuals: (The fisheries are listed by title of the PMP—the dates of issuance of the notice of availability of the final environmental impact statement and the PMP are also shown.)

Plan Title, FEIS Notice of Availability Issued, and PMP Issued

Trawl Fishery Gulf of Alaska, Feb. 4; 1977, Feb. 11, 1977.
Sablefish Fishery of the Eastern Bering Sea and Northeastern Pacific, Feb. 4, 1977, Feb. 10, 1977.
Trawl Fisheries and Herring Gillnet Fishery of Eastern Bering Sea and Northeast Pacific, Feb. 4, 1977, Feb. 15, 1977.
Eastern Bering Sea (King and Tanner Crab), Feb. 4, 1977, Feb. 16, 1977.
Contact: Harry L. Rietze, Regional Director, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Plan Title, FEIS Notice of Availability Issued, and PMP Issued

Trawl Fisheries of Washington, Oregon, and California, Jan. 28, 1977, Feb. 10, 1977.
Contact: Donald R. Johnson, Regional Director, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Wash. 98109.

Plan Title, FEIS Notice of Availability Issued, and PMP Issued

Mackerel Fishery of Northwestern Atlantic, Feb. 4, 1977, Feb. 16, 1977.
Squid Fisheries of the Northwestern Atlantic, Feb. 4, 1977, Feb. 16, 1977.
Foreign Trawl Fisheries of Northwestern Atlantic, Feb. 4, 1977, Feb. 17, 1977.
Hake Fisheries of the Northwestern Atlantic, Feb. 4, 1977, Feb. 18, 1977.
Atlantic Herring Fishery of the Northwestern Atlantic, Feb. 4, 1977, Feb. 22, 1977.
Contact: William G. Gordon, Regional Director, National Marine Fisheries Service, Federal Building, 14 Elm St., Gloucester, Mass. 01930.

Negative declarations on supplements to final environmental impact statements are available for the following fisheries and from the following individuals:

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Plan Title, FEIS Notice of Availability Issued, and PMP Issued

Shrimp of the Eastern Bering Sea and Gulf of Alaska, Jan. 21, 1977, March 3, 1977.
Snail Fishery of the Eastern Bering Sea, (negative declaration), Feb. 15, 1977.
Contact: Harry L. Rietze, Regional Director, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Plan Title, FEIS Notice of Availability Issued, and PMP Issued

Seamount Groundfish Fishery Resources, Jan. 21, 1977, Feb. 10, 1977.
Contact: Gerald V. Howard, Regional Director, National Marine Fisheries Service, Terminal Island, Calif. 90731.

Copies of the final environmental impact statements and preliminary management plans also may be obtained through the aforementioned persons. Because of the need for issuance of foreign fishing permits in time to allow authorized foreign fishing in 1978 to begin on January 1, 1978, interested parties are requested to complete their reviews, and submit written comments on the draft supplements to the aforementioned persons, within 30 days of the publication date of this notice of availability.

Summary of Proposed Amendments to Preliminary Fishery Management Plans

Amendments to 10 Preliminary Fishery Management Plans are proposed for 1978. These plans were adopted by the Secretary of Commerce in February 1977 and govern foreign fishing activities within the U.S. Fishery Conservation Zone during 1977. These proposed amendments reflect an updated analysis of the biological, ecological, sociological, and economic data which have become available since these plans were first prepared. These amendments meet the requirements of the Act that a preliminary determination be made annually of Optimum Yield (OY) and Total Allowable Level of Foreign Fishing (TALFF) with respect to each applicable fishery (FCMA Section 201(g)). Further, the interests of the domestic fishing industry has been reconsidered in revising estimates of U.S. harvesting capacity for 1978. These amendments reflect the spirit and intent of the Fishery Conservation and Management Act of 1976 and contain the same conservation and management objectives which governed the implementation of the PMP's during 1977.

A brief summary of proposed amendments for each PMP follows:

Trawl Fishery Gulf of Alaska

The following is a list of proposed changes in OY, U.S. Capacity, and TALFF for species in the "Trawl Fishery of the Gulf of Alaska" plan:

Pollock

OY from 150,000 metric tons (mt) to 168,800 mt.
U.S. Capacity from 1,000 mt to 17,700 mt.
TALFF from 149,000 mt to 151,100 mt.

Flounder

OY from 23,500 mt to 33,500 mt.
U.S. Capacity from 3,000 mt to 9,200 mt.
TALFF from 20,500 mt to 24,300 mt.

Pacific Cod

OY from 6,300 mt to 40,600 mt.
U.S. Capacity from 4,000 mt to 15,500 mt.
TALFF from 2,300 mt to 25,100 mt.

Pacific Ocean Perch

OY from 30,000 mt to 25,000 mt.
U.S. Capacity from 1,000 mt to 1,100 mt.
TALFF from 29,000 mt to 23,900 mt.

Other Rockfishes

OY from 5,000 mt to 7,600 mt.
U.S. Capacity from 1,000 mt to 2,000 mt.
TALFF from 4,000 mt to 5,600 mt.

Atka Mackerel

OY from 22,000 mt to 24,800 mt.
U.S. Capacity—no change.
TALFF from 22,000 mt to 24,800 mt.

Sablefish (Same Species and Area Also Treated in the "Sablefish Fishery of the Eastern Bering Sea and Northeastern Pacific" Plan):

OY—no change.
U.S. Capacity from 2,500 mt to 3,600 mt.
TALFF from 19,500 mt to 18,400 mt.

Other Species

OY from 16,200 mt to 14,500 mt.
U.S. Capacity from 0 mt to 500 mt.
TALFF from 16,200 mt to 14,000 mt.

Sablefish Fishery of the Eastern Bering Sea and Northeastern Pacific

The following is a list of proposed changes in OY, U.S. Capacity, and TALFF for Sablefish in the "Sablefish Fishery of the Eastern Bering Sea and Northeastern Pacific" plan.

Central and Western Gulf of Alaska

OY—no change.
U.S. Capacity from 250 mt to 400 mt.
TALFF from 15,750 mt to 15,600 mt.

Southeast Alaska

OY—no change.
U.S. Capacity from 2,250 mt to 3,200 mt.
TALFF from 3,750 mt to 2,800 mt.

Aleutian Region

OY from 2,400 mt to 1,500 mt.
U.S. Capacity—no change.
TALFF from 2,400 mt to 1,500 mt.

Bering Sea

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

Washington, Oregon, California

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

Trawl Fisheries and Herring Gillnet Fishery of Eastern Bering Sea and Northeast Pacific

The following is a list of proposed changes in OY, U.S. Capacity, and TALFF for species in the "Trawl Fisheries and Herring Gillnet Fishery of Eastern Bering Sea and Northeast Pacific" plan.

Pollock

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

Yellowfin Sole

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

Other Flounders

OY from 105,000 mt to 139,000 mt.
U.S. Capacity—no change.
TALFF from 105,000 mt to 139,000 mt.

Pacific Ocean Perch

Cod

OY—no change.
U.S. Capacity—no change.
TALFF—no change.
OY—no change.
U.S. Capacity—no change.
TALFF—no change.

Herring

OY from 21,000 mt to 18,670 mt.
U.S. Capacity from 1,000 mt to 10,000 mt.
TALFF from 20,000 mt to 8,670 mt.

Squid

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

Atka Mackeral (Aleutians)—Not Included in 1977 PMP

OY—24,600.
U.S. Capacity—0.
TALFF—24,600.

Sablefish (Same Species and Areas also Treated in the "Sablefish Fishery of the Eastern Bering Sea and Northeastern Pacific" Plan)

Bering Sea sub-area

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

Aleutian Islands sub-area

OY from 2,400 mt to 1,500 mt.
U.S. Capacity—no change.
TALFF from 2,400 mt to 1,500 mt.

Other Species

OY from 93,600 mt to 82,800 mt.
U.S. Capacity—no change.
TALFF from 93,600 mt to 82,800 mt.

Eastern Bering Sea (King and Tanner Crab)

The following is a list of proposed changes in OY, U.S. Capacity, and fishing areas for species in the "Eastern Bering Sea (King and Tanner Crab)" plan.

Tanner (Snow) Crab

OY from 37,400 (30,000 mt *C. bairdi* and 7,400 mt *C. opilio*) to 42,000 mt.
U.S. Capacity from 24,900 mt to 29,500 mt.
TALFF—no change in total TALFF; however, 1978 Tanner Crab TALFF is limited almost exclusively to *C. opilio* since foreign fishing is proposed to be limited to that Bering Sea Area north of 58° N. latitude, and west of 164° W. longitude.

Changes in Fishing Area

The areas in the Bering Sea where foreign nationals may or may not fish will be modified in 1978 to result in a change of foreign catch species composition from *C. bairdi* and *C. opilio* to almost entirely *C. opilio*. The areas closed to foreign fishing in 1977 consist of that area east of 164°00′ W. longitude and south of 56°00′ N. latitude in the Bering Sea, the area throughout the Northeastern Pacific Ocean, and the area within 12 miles of the baseline used to measure the U.S. Territorial Sea. The proposed areas closed to foreign fishing in 1978 consist of that area generally east of 164°00′ W. longitude and south of 58°00′ N. latitude in the Bering Sea, the area throughout the Northeastern Pacific Ocean, and the area within 12 miles of the baseline used to measure the U.S. Territorial Sea.

Trawl Fisheries of Washington, Oregon, and California

The following is a list of proposed changes in Optimum Yield (OY), U.S. Capacity, and TALFF for species in the "Trawl Fisheries of Washington, Oregon, and California" plan.

Pacific Hake

OY—from 150,000 mt to 130,000 mt.
U.S. Capacity from 6,800 mt to 41,000 mt.
TALFF from 143,200 mt to 89,000 mt.

Pacific Ocean Perch

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

Other Rockfishes

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

Flounders

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

Sablefish Same Species and Area Also Treated in the "Sablefish Fishery of the Eastern Bering Sea and Northeastern Pacific" Plan):

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

Jack Mackerel

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

Other Species

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

Incidental Catch

Pacific ocean perch and other rockfishes—incidental catch rate from 1.3 percent to 0.8 percent of hake catch.
Sablefish—incidental catch rate changed from 0.2 percent to 0.1 percent of hake catch.

Intent to Reassess U.S. Capacity to Harvest Pacific Hake

The Department of Commerce will review the assessments of U.S. Capacity and TALFF by July 31, 1978 or as soon thereafter as feasible. As a result of this review, modifications in U.S. Capacity and TALFF may be made during 1978.

Mackerel Fishery of Northwestern Atlantic

The following is a list of proposed changes in Optimum Yield (OY), U.S. Capacity, and TALFF for species in the "Mackerel Fishery of Northwestern Atlantic" plan.

Atlantic Mackerel

OY from 88,000 mt to 53,000 mt.
U.S. Capacity—no change.
TALFF from 69,000 mt to 34,000 mt.

Squid Fisheries Of The Northwestern Atlantic

The following is a list of proposed changes for species in the "Squid Fisheries of the Northwestern Atlantic" plan.

Changes in Areas and Seasons

The areas and seasons (i.e., "Foreign Fishery Windows") where foreign nationals may conduct directed squid fishery operations are modified.

Intent to Reassess U.S. Capacity to Harvest Squid

The Department of Commerce will review assessments of U.S. harvesting capacity and TALFF contained in the PMP by June 15, 1978 or as soon thereafter as feasible. As a result of this review, modifications in U.S. Capacity and TALFF may be made during 1978.

Foreign Trawl Fisheries of Northwestern Atlantic—Incidental Catching of Finfish

The following is a list of proposed changes in Optimum Yield (OY), U.S. Capacity, and TALFF for species in the "Foreign Trawl Fisheries of the Northwestern Atlantic—Incidental Catching of Finfish" plan.

Butterfish

OY—no change.
U.S. Capacity from 12,500 mt to 17,000 mt.
TALFF from 5,500 mt to 1,000 mt.

River Herring

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

All Other Finfish

OY—no change.
U.S. Capacity from 187,000 mt to 200,200 mt.
TALFF from 60,00 mt to 46,800 mt.

Incidental Catch Restrictions

Additional foreign incidental catch restrictions are proposed to prevent continued fishing mortality of regulated species (caught incidentally or in a directed fishery) once imposed allocations have been reached.

Hake Fisheries of the Northwestern Atlantic

The following is a list of proposed changes in Optimum Yield (OY), U.S. Capacity, and TALFF from species in the "Hake Fisheries of the Northwestern Atlantic" plan.

Silver Hake

Georges Bank stock

OY from 70,000 mt to 58,800 mt.
U.S. Capacity from 15,000 mt to 26,000 mt.
TALFF from 55,000 mt to 32,800 mt.

Southern New England stock

OY from 45,000 mt to 33,200 mt.
U.S. Capacity from 14,500 mt to 20,800 mt.
TALFF from 30,500 mt to 12,600 mt.

Red Hake

Georges Bank stock

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

Southern New England stock

OY from 28,000 mt to 20,500 mt.
U.S. Capacity—no change.
TALFF from 20,400 mt to 12,900 mt.

Area and Season Changes

Hake "Window A" becomes "Window 1," and is open January through March.
Hake "Window B" becomes "Window 2," and is open April through June.

Intent to Reassess U.S. Capacity to Harvest Hake

The Department of Commerce will review assessments of U.S. harvesting capacity and TALFF contained in the PMP by June 15, 1978 or as soon thereafter as feasible. As a result of this review, modifications in U.S. Capacity and TALFF may be made during 1978.

Atlantic Herring Fishery of the Northwestern Atlantic

The following is a list of proposed changes in Optimum Yield (OY), U.S. Capacity, and TALFF for species in the "Atlantic Herring Fishery of the Northwestern Atlantic" plan.

Former ICNAF Area 5z and SA6

OY from 33,000 mt to 22,000.
U.S. Capacity from 12,000 mt to 19,000 mt.
TALFF from 21,000 mt to 2,200 mt.

Former ICNAF Area 5Y

OY—no change.
U.S. Capacity—no change.
TALFF—no change.

Intent to Reassess U.S. Capacity to Harvest Herring

The Department of Commerce will review assessments of U.S. harvesting capacity and TALFF contained in the PMP by June 15, 1978 or as soon thereafter as feasible. As a result of this review, modifications in U.S. Capacity and TALFF may be made during 1978.

Dated this 31st day of August, 1977 at Washington, D.C.

Winfred H. Meibohm,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-25956 Filed 9-2-77;8:45 am]

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL AND SCIENTIFIC AND STATISTICAL COMMITTEE AND ADVISORY PANEL

Notice of Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., Appendix I, notice is hefeby given of a joint meeting of the North Pacific Fishery Management Council, its Scientific and Statistical Committee (SSC), and its Advisory Panel (AP) and a separate meeting of the SSC and AP.

The North Pacific Fishery Management Council established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) has authority, effective March 1, 1977, over fisheries within the fishery con-

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servation zone adjacent to the State of Alaska. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

The Council has established a Scientific and Statistical Committee, as well as an Advisory Panel, under Section 302(g) of the Act, to assist the Council in the development and amendment of fishery management plans.

The meetings will be Thursday, Friday and Saturday, September 22, 23, and 24, 1977, in the Jury Assembly Room No. 401, State Court Bldg., 303 K Street, Anchorage, Alaska. The meetings will convene at 8:30 a.m., and adjourn at approximately 4:30 p.m. each night. The meetings may be extended or shortened depending upon progress on the agenda. The SSC and AP will meet separately on September 21, 1977, in the Council offices, Suite 32, 333 West 4th Avenue, Post Office Mall Building, Anchorage, Alaska, beginning at 1:30 p.m.

PROPOSED AGENDA

SEPTEMBER 22

1. Executive Director's Report and other Council administrative business.
2. Council review of the DEIS/DFMP for the Tanner Crab Fishery off Alaska.
3. Council review of the Gulf of Alaska Groundfish Fishery during 1978.
4. Period for public comment.
5. Closed Session to discuss classified material on preparations for and actual negotiations in connection with the International North Pacific Fisheries Commission (INPFC), the International Pacific Halibut Commission (IPHC) and continuing negotiations with the Canadians. (Council only).

SEPTEMBER 23

1. Scientific and Statistical Committee Report.
2. Advisory Panel Report.
3. Foreign permit review (if any).
4. United States Coast Guard and National Marine Fisheries Service Report.

SEPTEMBER 24

1. Other Council business.

A closed session of the Council is planned for the early afternoon of the first day, September 22, from 1:30 p.m. through 3:30 p.m. to hear Department of State reports and other related Council business on preparations for and actual negotiations in connection with the International North Pacific Fisheries Commission, the International Pacific Halibut Commission and continuing negotiations with the Canadians, properly classified under Executive Order 11652. Only those members having security clearances will be allowed to attend the closed session. The Scientific and Statistical Committee and Advisory Panel will not attend this session.

After the closed meeting adjourns, a public hearing will be held on the afternoon of the first day, September 22, at approximately 3:30 p.m., at the same location. Interested members of the public are invited to testify at this hearing on matters relating to fishery management plans under development by the Council and other related Council functions.

The Assistant Secretary for Administration with the concurrence of the General Counsel, formally determined, on August 31, 1977 pursuant to Section 10 (d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because these items will be concerned with matters listed in 5 U.S.C. 552b(c)(1), i.e., it is specifically required by E.O. 11652 that they be kept secret in the interest of national security. (A copy of the determination is available for public inspection and copying.)

The meeting will be open to the public (except the closed session of the Council) and there will be seating for approximately 65-75 public members available on a first-come, first-serve basis.

Members of the public having an interest in specific items for discussion are also advised that agenda changes are, at times, made prior to the meetings. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about September 12, 1977:

Mr. Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to submit written comments should do so by addressing Mr. Jim Branson at the above address.

The public is permitted to file written statements at any time before or after the meeting. However, to receive due consideration and to facilitate inclusion in the record of the meeting, typewritten statements which relate to the agenda items should be received no later than ten (10) days after the close of the joint meeting.

Dated: August 31, 1977.

WINFRED H. MEIBOHM,
Acting Deputy Director,
National Marine Fisheries Service.

[FR Doc.77-25957 Filed 9-2-77;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

INCREASING IMPORT RESTRAINT LEVELS FOR CERTAIN COTTON, WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS FROM THE REPUBLIC OF KOREA

SEPTEMBER 2, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Granting increases for flexibility in Categories 9/10 (sheeting), 18/19 and part of 26 (printcloth), 45/46/47 (men's and boys' shirts), 50/51 (trousers, slacks and outer shorts), 52 (blouses), 116/117 (knit outerwear), 120 (men's and boys' suits), 121 (men's and boys' outercoats), 124 (slacks and trousers), 234 (dress shirts, not knit), and 235 (other shirts, not knit) during the agreement year which began on October 1, 1976.

(A detailed description of the categories in terms of T.S.U.S.A. Numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), as amended on December 31, 1975 (40 FR 60220), December 30, 1976 (41 FR 56861), January 21, 1977 (42 FR 3888), and March 7, 1977 (42 FR 12898).

SUMMARY: Paragraph 5(b) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26 1975, as amended, between the Governments of the United States and the Republic of Korea provides for percentage increases in certain specific category ceilings for flexibility during an agreement year. Pursuant to the foregoing paragraph of the bilateral agreement, the import restraint levels for Categories 9/10, 18/19/26 (printcloth), 45/46/47, 50/51, 52, 116/117, 120, 121, 124 234 and 235 are being adjusted for the agreement year which began on October 1, 1976 and extends through September 30, 1977.

EFFECTIVE DATE: September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert C. Woods, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5423).

SUPPLEMENTARY INFORMATION: On October 1, 1976, a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the FEDERAL REGISTER (41 FR 43440), which established import restraint levels for certain specified categories of cotton, wool and man-made fiber textile products, producer or manufactured in the Republic of Korea and exported to the United States during the twelve-month period which began on October 1, 1976. A correction in certain of the levels of restroint was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48765).

In the letter published below the Commissioner of Customs is directed, in accordance with the provisions of the bilateral agreement, to increase the twelve-month levels of restraint previously established for Categories 9/10, 18/19/26 (printcloth), 45/46/47, 50/51, 52, 116/117, 120, 121, 124, 234 and 235 to the designated amounts.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

September 2, 1977.

DEAR MR. COMMISSIONER: On September 29, 1976, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption or withdrawal from warehouse for consumption during the twelve-month period beginning on October 1, 1976 and extending through September 30, 1977 of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in Korea, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangment Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to paragraphs 5(b) and 7(a)(i) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea, and in accordance with the provisions of Executive Order 11651, you are directed to amend, effective on September 6, 1977, the twelve-month levels of restraint previously established for Categories 9/10, 18/19/26 (printcloth), 45/46/47, 50/51, 52, 116/117, 120, 121, 124, 234 and 235 to the following amounts:

Category	*Amended 12-mo. levels of restraint* [1]
9/10 ---- square yards	7,241,326
18/19/26 (printcloth) [2] do	8,759,189
45/46/47 square yards equivalent	3,409,873

	Amended 12-month levels of restraint [3]
50/51 ---- dozen [3]	206,314
52 ---- do	75,678
116/117 ---- pounds	484,796
120 ---- numbers	317,243
121 ---- do	200,950
124 ---- do	1,060,500
234 ---- dozen	4,114,585
235 ---- do	1,506,952

[1] The levels of restraint have not been adjusted to reflect any imports after Sept. 30, 1976.

[2] In category 26 the T.S.U.S.A. numbers for printcloth are: 320.—34, 321.—34, 322.—34, 326.—34, 327.—34, 328.—34.

[3] Of which not more than 109,337 dozen shall be in category 50 and not more than 147,991 dozen shall be in category 51.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool and man-made fiber textile products from Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customes, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553.

This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce.

[FR Doc.77-26024 Filed 9-6-77;9:41 am]

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

DEPARTMENT OF DEFENSE

Office of the Secretary

PRESIDENT'S COMMISSION ON MILITARY COMPENSATION

Notification of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a public hearing to be held by the President's Commission on Military Compensation from 8:30 a.m. to 12:30 p.m. on September 21, 1977, in the Corbin Griffin Hall of the Thomas Nelson Community College, Hampton, Va.

The following rules govern participation by the public:

(1) Open to the public.

(2) Oral presentations of no more than 15 minutes may be made to the Commission provided application is made in writing to the Commission by September 15, 1977. A copy of the presentation must be received by the Commission not later than September 19, 1977.

(3) Applications to make oral presentations to the Commission are accepted on a first received, first granted basis.

(4) Questions and statements from the gallery will not be accepted.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of Assistant Secretary of Defense (Comptroller).

SEPTEMBER 2, 1977.

[FR Doc.77-26061 Filed 9-2-77;11:29 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Division of Oil, Gas, and Shale Technology

LARAMIE ENERGY RESEARCH CENTER

Symposium

NAME: Oil Shale Conversion Symposium.

DATE: September 21-23, 1977.

PLACE: Education Building, University of Wyoming, Laramie, Wyo. (Education Auditorium).

TIME: 8 a.m.

A public Symposium will be held to discuss research in the field of fossil energy.

The purpose of the Symposium is to provide a forum for the discussion of research and development presently being supported by the Division of Oil, Gas, and Shale Technology of ERDA.

The principal objectives of the meeting are:

1. To disseminate information among present and prospective contractors of OGST in the area of oil shale technology; and

2. To inform industry, government, academia, and the public of advances being made and plans for continued work in this area of OGST.

The Symposium will be conducted according to a predetermined agenda and will be open for public observation and comment.

The public is requested to submit any written statements, inquiries, or requests for an agenda at least one week before the Symposium to H. B. Jensen, Laramie Energy Research Center, U.S. Energy Research and Development Administration, P.O. Box 3395, University Station, Laramie, Wyo. 82071, telephone 307-721-2209.

Dated: August 22, 1977.

PHILIP C. WHITE,
Assistant Administrator for Fossil Energy.

[FR Doc.77-26065 Filed 9-2-77;11:06 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 784-6]

STATE OF MONTANA

Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants; Delegation of Authority

On December 23, 1971 (36 FR 24876), and March 8, 1974 (39 FR 9808), and August 6, 1975 (40 FR 33152), and September 23, 1975 (40 FR 43850), and October 6, 1975 (40 FR 46250), and December 16, 1975 (40 FR 58416), and December 22, 1975 (40 FR 59204), and January 15, 1976 (41 FR 2232 and 2332), and January 26, 1976 (41 FR 3828), pursuant to Section 111 of the Clean Air Act, as amended, the Administrator promulgated regulations establishing standards of performance for 23 categories of new stationary sources (NSPS). On April 6, 1973 (38 FR 8820), and May 3, 1974 (39 FR 15396), and October 14, 1975 (40 FR 48291), pursuant to Section 112 of the Clean Air Act, as amended, the Administrator promulgated national emission standards for three hazardous air pollutants (NESHAPS). Sections 111(c) and 112(d) direct the Administrator to delegate his authority to implement and enforce NSPS and NESHAPS to any State which has submitted adequate procedures. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to the State.

On April 18, 1977, the Governor of the State of Montana submitted to the Environmental Protection Agency Regional Office a request for delegation of authority. Included in that request were procedures for NSPS and NESHAPS and information on available resources to implement such reviews. Included in that request were copies of the State of Montana regulations which incorporate by reference the Federal emission standards and testing procedures set forth in 40 CFR Parts 60 and 61, with certain ex-

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ceptions. Also included were copies of State statutes which provide the State with the requisite authority to enforce the Federally promulgated NSPS and NESHAPS. After a thorough review of that request, the Regional Administrator has determined that for the source categories set forth in paragraphs A and B of the following official letter to the Governor of the State of Montana, delegation is appropriate subject to the conditions set forth in paragraph 1 through 13 of that letter:

Hon. THOMAS L. JUDGE,
Governor of Montana,
State Capitol.
Helena, Mont.

DEAR GOVERNOR JUDGE: This is in response to your letter of April 18, 1977, requesting delegation of authority for implementation and enforcement of New Source Performance Standards (NSPS), and National Emission Standards for Hazardous Air Pollutants (NESHAPS), to the Montana Department of Health and Environmental Sciences.

We have reviewed the pertinent laws of the State of Montana and the rules and regulations of the Department of Health and Environmental Sciences and have determined that they provide an adequate and effective procedure for implementation and enforcement of the NSPS and NESHAPS by the State of Montana. We have reviewed the resources and capabilities of the State of Montana. Therefore, we hereby grant delegation of NSPS and NESHAPS to the State as follows:

A. New Source Performance Standards (NSPS): Authority for all sources located in the State of Montana subject to the standards of performance for new stationary sources promulgated in 40 CFR Part 60 as of January 26, 1976. The categories of new sources covered by the delegation are fossil fuel-fired steam generators; incinerators; portland cement plants; nitric acid plants; sulfuric acid plants; asphalt concrete plants; petroleum refineries; storage vessels for petroleum liquids; secondary lead smelters; secondary brass and bronze ingot production plants; iron and steel plants; sewage treatment plants; primary copper smelters; primary lead smelters; primary zinc smelters; primary aluminum reduction plants; coal preparation plants; steel plant electric arc furnaces; and in the phosphate fertilizer industry—wet process phosphoric acid plants, superphosphoric acid plants, drammonium phosphate plants, triple superphosphate plants, and granular triple superphosphate storage facilities.

B. National Emission Standards for Hazardous Air Pollutants (NESHAPS): Authority for all sources located in the State of Montana subject to the national emission standards for hazardous air pollutants promulgated in 40 CFR Part 61 as of October 14, 1975. The three hazardous air pollutants covered by the delegation are asbestos, beryllium, and mercury.

This delegation is based upon the following conditions:

1. Semi-annual reports will be submitted to EPA by the Department of Health and Environmental Sciences which include information for sources which receive approval to construct or begin operations.

2. The Department of Health and Environmental Sciences and EPA will develop a system of communication sufficient to guarantee that each office is always fully informed and current regarding compliance status of the subject sources and interpretation of the regulations.

3. Enforcement of the NSPS and NESHAPS in the State will be the primary responsibility of the Department of Health and Environmental Sciences. If the Department of Health and Environmental Sciences determines that such enforcement is not feasible and so notifies EPA, or where the Department of Health and Environmental Sciences acts in a manner inconsistent with the terms of this delegation, EPA may exercise its concurrent gation, EPA may exercise its concurrent enforcement authority pursuant to section 113 of the Clean Air Act, as amended, with respect to sources within the State of Montana subject to the NSPS and NESHAPS.

4. Acceptance of this delegation of presently promulgated NSPS and NESHAPS does not commit the State of Montant to accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the State's Request of April 18, 1977.

5. Upon approval of the Regional Administrator of Region VIII, the Director of the Department of Health and Environmental Sciences may subdelegate his authority to implement and enforce the NSPS and NESHAPS to local air pollution control authorities in the State when such authorities have demonstrated that they have equivalent or more stringent programs in force.

6. The delegation to the State of Montana does not include the authority to implement and enforce NSPS and NESHAPS for sources owned or operated by the United States which are located in the State. The condition in no way relieves any Federal facility from meeting the requirements of 40 CFR Parts 52, 60, and 61 or any State or local regulation.

7. The State of Montana will at no time grant a variance or waiver from compliance with NSPS and NESHAPS regulations. Should the Department of Health and Environmental Sciences grant such a variance or waiver, EPA will consider the source receiving such relief to be in violation of the applicable federal regulation and initiate enforcement action against the source pursuant to section 113 of the Clean Air Act. The granting of such relief by the Department of Health and Environmental Sciences shall also constitute grounds for revocation of delegation by EPA.

8. Actions in process at the time of delegation of authority shall be processed through to completion by the Regional Office. Subsequent enforcement requirements shall be performed by the delegatee.

9. If at any time there is a conflict between a State regulation and a Federal regulation, the Federal regulation must be applied if it is more stringent than that of the State. If the State does not have the authority to enforce the more stringent Federal regulation, this portion of the delegation may be revoked.

10. For NSPS and NESHAPS the Department of Health and Environmental Sciences will utilize the methods specified in 40 CFR Parts 60 and 61 in performing source tests pursuant to the regulations.

11. If the Regional Administrator determines that a State procedure for enforcing or implementing the NSPS or NESHAPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Department of Health and Environmental Sciences.

12. Determinations of applicability such as those specified in 40 CFR 60.5 and 60.6 and 40 CFR 61.06 and 61.07 shall be consistent with those which already have been made by the EPA.

13. Waivers of performance and emission tests and the basis therefore shall be included in the semi-annual post delegation reports to EPA.

A Notice announcing this delegation will be published in the FEDERAL REGISTER in the near future. The Notice will state, among other things, that effective immediately, all reports required pursuant to the federal NSPS and NESHAPS by sources located in the State of Montana should be submitted to the Department of Health and Environmental Sciences Office at Helena, Mont. Any such reports which have been or may be received by EPA, Region VIII, will be promptly transmitted to the State.

Since this delegation is effective upon the date of this letter, there is no requirement that the State notify EPA of its acceptance. Unless EPA receives from the State written notice of objections within ten (10) days of the date of receipt of this letter, the State will be deemed to have accepted all of the terms of the delegation.

Best personal regards.

Sincerely yours,

JOHN A. GREEN,
Regional Administrator.

Therefore, pursuant to the authority delegated to him by the Administrator, the Regional Administrator notified the Governor of the State of Montana on May 18, 1977, that authority to implement and enforce New Source Performance Standards (NSPS), and National Emission Standards for Hazardous Air Pollutants (NESHAPS) was delegated to the State of Montana.

Copies of the request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region VIII Office, 1860 Lincoln Street, Denver, Colo. 80295.

Effective immediately, all reports required pursuant to the delegated New Source Performance Standards (NSPS), and National Emission Standards for Hazardous Air Pollutants (NESHAPS), should not be submitted to the EPA Region VIII Office but instead should be submitted to the State Agency at the following address: Department of Health and Environmental Sciences, Cogswell Building, Helena, Mont. 59601.

Applications for new source review in process at the time of this delegation shall be processed through to completion by the EPA Region VIII Office.

This Notice is issued under the authority of section 111 and 112 of the Clean Air Act, as amended, 42 U.S.C. 1857, 1857c-5, 6, 7 and 1857g.

Dated: August 17, 1977.

JOHN A. GREEN,
Regional Administrator.

[FR Doc.77-25826 Filed 9-2-77;8:45 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	Owner/operator and vessels
01610---	C. F. Industries, Inc.: *Jamie A. Baxter.*
01758---	Chotin Transportation, Inc.: *ETT-110, ETT-118.*
01800---	Albasarda Societa per Azioni di Navigazione: *Marina.*
01891---	Canal Barge Co., Inc.: *CBC-143, CBC-144, CBC-145.*
01910---	Deutsche Dampfschiffahrts-Gesellschaft "Hansa": *Rabenfels.*
01935---	Partnership Between Steamship Company Svendborg Ltd. and Steamship Company of 1912, Ltd.: *Karen Maersk, Sofie Maersk.*
02041---	Dalmor Przedsiebiorstwo Polowow Dalekomorskich I Uslug Rybackich: *Antares.*
02145---	Memphis Boat Refueling Service, Inc.: *Bunker, AOC No. 2.*
02163---	J. Lauritzen A/S: *Norma Dan.*
02194---	Compagnie Generale Maritime: *Cezanne, Degas, Eifel.*
02242---	Dall Deutsche Afrika-Linien GMBH & Co.: *Gulf Lancer.*
02716---	Aktieselskabet Det Dansk-Franske Dampskibsselskab: *Shetland.*
03047---	E. I. Du Pont de Nemours & Co.: *NMS-1200, NMS-1303.*
03137---	Cunard Steamship Company, Ltd.: *Alaunia, Alsatia.*
03295---	Cement Division, National Gypsum Co. *E.M. Ford, J. B. Ford, P. H. Townsend, Lewis G. Harriman, J.A.W. Iglehart, S.T. Crapo.*
03422---	*Daiwa Kaiun Kabushiki Kaisha: Fiji Maru.*
03614---	*A/S Kristian Jebsens Rederi: Fosnes.*
03692---	*Marmac Corp. BC-227.*
03727---	*Continental Oil Co. LCT 66.*
03878---	*Ingram Barge Co. STC-2014, STC-2521B, STC-2518B, STC-2507, STC-2005, STC-2506, STC-2002.*
04050---	*A/S Uglands Rederi: Favorita, Beatrice.*
04122---	*Kristian Gerhard Jebsen Skipsrederi A/S: Swan Arrow.*
04126---	*Jugolinija: Trepca.*
04136---	*Thomas Marine Co. Apex-3511.*
04289---	*Dixie Carriers, Inc.: DXE 101.*
04398---	*Hapag-Lloyd Aktiengesellschaft: Cordillera Express.*
04447---	*Williamette-Western Corp.: DB Atlas, DB Vulcan, DB Paul Bunyon, Dredge Riedel Sr., Dredge Poltermus, Dredge John Franks, Skookum, Sandhog III, Super Booster, Dredge Herb Anderson.*
04623---	Seaspan International, Limited: *Seaspan 640, Conuma River, Gold River, Seaspan Commodore.*
04674---	Pescanova S.A.: *Costa de Noruega.*
04834---	Tidewater Barge Lines, Inc.: *63.*
04844---	Sloman Neptun Schiffahrts Aktiengesellschaft: *Explora, Starman Africa.*
05092---	S.A. Esso N.V.: *Esso Antwerp, Esso Ghent.*
05097---	Esso Transport Co., Inc.: *Esso Augusta, Esso Milano, Esso Torino.*
05437---	The Dow Chemical Co.: *UMC-941, UMC-942, UMC-943, UMC-918.*
05470---	Charter Transport Line, Inc.: *Witcrane.*
05581---	Latvian Shipping Co.: *Jurmala.*
06029---	Associated Container Transportation (Australia), Ltd.: *Act 7.*
06063---	Belcher Towing Co.: *Belcher No. 10, Belcher No. 11, Belcher No. 18, Belcher No. 19, Belcher No. 20, Belcher No. 21, Belcher No. 22, Belcher No. 1, Belcher No. 4, Belcher No. 16, Belcher No. 24, Belcher No. 25, Belcher No. 26, Belcher No. 27, Belcher No. 33.*
06130---	Northern Shipping Co.: *Fedor Vaksin.*
06248---	Commercial Corporation "Sovrybflot": *Sebezh, Nereida, Zvezda Rybaka, Rechistsa.*
06251---	Denizcilik Anonim Sirketi: *Ata.*
06729---	Overseas Containers, Limited: *Remuera Bay.*
06760---	Athelstane Tankers Co., Limited: *Athelqueen.*
06903---	Sun Shipbuilding & Dry Dock Co.: *Tonsina.*
07206---	Autralian Shipping Commission: *Australian Exporter, Australian Endeavour, Mount Newman, Alnwick Castle, Australian Pioneer, Australian Venture.*
07389---	Esso S.A.P.A.: *Esso Nurnberg.*
07550---	Erato Shipping, Inc.: *Belits.*
07942---	Solstad Rederi A/S: *Sol Neptun.*
08196---	Nordtramp I/S: *Nordkyn.*
08295---	Franicons Compania Naviera S.A.: *Good Luck*
08332---	Trident Seafoods Corp.: *Mr. J.*
08386---	Mercator Mariners Corp.: *Ocean Fellows.*
08617---	Fairmont Enterprises, Limited: *Sunny State.*
08884---	Arctic Shipping Singapore (Pte.), Ltd.: *Trianon.*
09423---	Teh-Hu Cargocean Management Co., Ltd.: *Harmonius, Duteous.*
09545---	Maytide Line Co., Ltd.: *Tropical Moon.*
10094---	Echo Marine, Inc.: *Hollywood 2200.*
10433---	Estonian Shipping Co.: *Pavel Dauge.*
01616---	Arab Maritime Petroleum Transport Co.: *Ajdabya.*
11111---	Trade Wind Marine, Ltd. of Cayman Island: *Nina.*
11258---	J. Jost Ohg, Hamburg: *Fjellnes.*
11272---	Corriente Navegacion Panama S.A.: *Global Oath.*
11289---	Sajo Industrial Co., Ltd.: *Oryong No. 101, Oryong No. 102, Oryong No. 103, Oryong No. 105.*
11388---	Federal Transport Co., Inc.: *Lady Josephine, Lord Trinte.*
11451---	Mo. Ark Barge Line, Inc.: *Elits 2003, Elits 2004.*
11475---	King Fisher Marine Service, Inc.: *LCT 31.*
11515---	Palmer Barge Line, Inc.: *Capt. John H. Palmer.*
11641---	Dee Navigation, Ltd.: *Ravenswood.*
11938---	Varnima Corporation International S.A.: *Al Khafji.*
12217---	Canadian National Railway Co.: *Incan St. Laurent.*
12221---	Kirkconnell Marine Shipping, Inc.: *Otto, Hawthorne Enterprise, Sirapti.*
12247---	Seabulk Chemical Carriers, Inc.: *Seabulk Magnachem.*
12272---	Nordic Aurora Shipping, Limited: *Nordic Aurora.*
12378---	Sea Horse Navigation S.A.: *Sea Zephyr.*
12434---	United Arab Shipping Co. (S.A.G.): *Ibn Jubayr.*
12457---	Arta Corp.: *Astakos.*
12523---	Toxotis Shipping Co., Limited: *Toxotis.*
12554---	Simelia Shipping Co., Limited: *Rodon.*
12560---	Lin Co.: *Gaines Mill.*
12630---	Risco Bianco Compania S.A.: *Shunoh.*
12669---	*Global Shipping and Trading Corp.: Alvorada.*
12718---	Exer Valiant Line S.A.: *Exer Valiant.*
12800---	Cia. Promex S.A.: *Tiburon No. 1.*
12803---	Baypark Transport, Lt.: *Victoria Faith.*
12804---	Soc. Coop. Prod. Pesquera Ricardo Flores Magon S.C.L.: *El Indomable.*
12849---	Sociedad Co-op de Production Pesquera Juan Abelardo Rodriquez Sullivan S.C.L.: *Conquistador.*
12852---	Sun Eagle Marine Maritime S.A.: *Gerogia Merry.*
12853---	Manthos Primera Shipping Co. S.A.: *Manthos.*
12854---	Transocean No. 4 Petroleum Carriers, Inc.: *Cys Integrity.*
12855---	Societa di Navigazione Italo-Equadoriana S.P.A.: *Punta Bianca.*
12884---	Sirope Trading & Transportation Co., Inc.: *Sirope.*
12888---	Chronos Steamship Corp.: *Noujaro.*
12891---	Kennedy Maritime Co., Ltd. of Monrovia: *Aphrodite Transoceanic.*
12896---	Athal Shipping Corp.: *Sea Eagle.*
12920---	China Ocean Shipping Co.: *Chunlin, Dade, Guangming, Liming, Tangsham, Kaiping, Longlin, Taolin, Hulin, Dunhuang, Jinsha, Qimen, Tianmen, Yongmen, Xiamen, Jiufang, Zhengjiang, Longmen, Hongmen, Wumen, Vtongchuan, Yinchuan, Hanchuan, Jiangchuan, Shanyin, Pingyin, Tangyin, Huayin, Hanyin.*
12922---	Welland Shipping Co., Inc.: *Maritime Eagle.*
12923---	Stork Navigation Corp.: *Sanko Hope.*
12924---	Schiffahrts-KG Beteiligungsgesellschaft Alster M.B.H. & Co.: *Sanderskoppel.*
12925---	Eastern Tanker Corp.: *Sanko Gerd.*
12927---	Kommanditteselskapet Nortank A/S: *Norborn, Norbright, Norbega, Norbird, Norbay.*
12928---	Rena Shipping Co., Ltd.: *Eurco Perry.*
12929---	Strider 2, Ltd.: *Aqaba Crown.*
12930---	Bacamar S.A.: *Rio Verdugo.*
12932---	Diotima Shipping Corp. of Monrovia: *Giannis.*
12933---	Great Ambition, Inc.: *Pacific Star.*
12934---	Star Shipping, Limited: *Hybur Star.*
12935---	Schulte & Bruns Baltic Schiffahrts KG Bremen: *Carola Schulte.*
12938---	Tas World Shipping Co., Ltd.: *Spruce.*
12941---	United Sea Transport S.A.: *United Sea Angel.*
12942---	First Shipmor Associates: *Overseas Chicago.*
12946---	Tokuei Kaiun Yugen Kaisha: *Tokuei Maru No. 28.*
12947---	Meton Tankers, Inc.: *Meton.*
12951---	Amber Bay Shipping Co., Ltd.: *Al Rashed.*
12952---	International Enterprises, Ltd.: *Trenwood, Gene Trefethen, Chu Fujino, Chalmette, Roberts Bank.*

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Certificate No.	Owner/operator and vessels
12953---	Progress Marine, Inc.: *Eastwind I.*
12956---	Union Fair Shipping Co., Inc.: *Grand Apollo.*
12957---	Asia Shipping Co., Ltd.: *Crown, Wakafuji.*

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-25285 Filed 9-2-77;8:45 am]

NORTH ATLANTIC OUTBOUND/ EUROPEAN TRADE JOINT AGREEMENT

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, P.R., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 26, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Howard A. Levy, Esquire, 17 Battery Place, Suite 727, New York, N.Y. 10004.

Agreement No. 9483-1 has been filed to cancel the above-named agreement among five North Atlantic Freight Conferences.

Dated: August 30, 1977.

By order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-25824 Filed 9-2-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP77-117]

CARNEGIE NATURAL GAS CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Initiating Hearing, and Establishing Procedures

AUGUST 29, 1977.

On July 29, 1977, Carnegie Natural Gas Co. (Carnegie) tendered for filing proposed changes to its FPC Gas Tariff [1] which would increase the rate charged for natural gas sold by Carnegie in Mingo and Logan Counties, W.Va. under Rate Schedule S-6 from 37.5 cents to 85.236 cents per Mcf. The proposed 85.236 cents rate consists of a 53.983 cent per Mcf charge gas and a separately stated 31.-253 cents per Mcf charge for compression and gathering services. Carnegie states that rate change would increase its revenues for jurisdictional sales and service by $157,084.17, based on the twelve months ended December 31, 1975, as adjusted. Carnegie requests that the proposed rate increase be permitted to become effective on September 1, 1977. For the reasons stated below, the Commission shall accept the proposed rate increase for filing, suspend it for one day, and set the matter for hearing.

Carnegie's current tariff, as approved by order issued on November 2, 1973 in Carnegie Natural Gas Co. Docket No. RP73-96, permits Carnegie to charge 33.5 cents for gas sold under Rate Schedule S-6, 26.0 cents being the charge for gas and 7.5 cents being the charge for gathering and compression. Carnegie states that beginning on January 16, 1974, Consolidated Gas Supply Corp. (Consolidated), the only customer purchasing gas from Carnegie under Rate Schedule S-6, unilaterally increased its payment for that gas to 37.5 cents. On July 29, 1977, concurrently with the filing in this docket, Carnegie tendered for filing in Docket No. RP76-116 a proposed tariff sheet [2] which would increase the Schedule S-6 rate from 33.5 cents per Mcf to the 37.5 cents per Mcf level which has been paid by Consolidated. Carnegie has requested that the tariff sheet filed in Docket No. RP76-116 be permitted to become effective on January 16, 1974, the date on which Carnegie began receiving increased payments from Consolidated. The Commission will issue a separate order regarding Carnegie's filing in Docket No. RP77-116.

Carnegie states that the principal reason for the rate increase proposed in the instant docket is to secure an increased return upon its investment in facilities to produce, gather, and compress the gas sold to Consolidated in Mingo and Logan Counties, W. Va. Carnegie requests that it be permitted a 15% return on its rate base.

Public notice of Carnegie's filing was issued on August 10, 1977, with comments and petitions to intervene due on or before August 26, 1977.

Based upon a review of Carnegie's filing, the Commission finds that the increased rate which Carnegie proposes to become effective September 1, 1977, has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept that rate for filing but shall suspend its use for one day or until September 2, 1977, when it shall be permitted to become effective, subject to refund, and shall set the matter for hearing.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rate proposed by Carnegie to become effective on September 1, 1977, and that the same be accepted for filing and suspended as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the rate which Carnegie proposes to become effective on September 1, 1977.

(B) Pending hearing and decision, the rate which Carnegie proposes to become effective on September 1, 1977, is accepted for filing and suspended for one day or until September 2, 1977, when it shall be permitted to become effective, subject to refund, upon motion filed by Carnegie in accordance with the provisions of the Natural Gas Act.

(C) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before October 14, 1977. (See Administrative Order No. 157.)

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR 3.5 (d)), shall convene a settlement conference in this proceeding on a date certain within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

[1] Third Revised Sheet No. 15 to First Revised Volume No. 1.

[2] Second Revised Sheet No. 15 to Carnegie's FPC Gas Tariff, First Revised Volume No. 1.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25816 Filed 9-2-77;8:45 am]

[Docket No. ER76-709]

CINCINNATI GAS & ELECTRIC CO.

Filing of Revised Tariff Sheet

AUGUST 31, 1977.

Take notice that on August 3, 1977, The Cincinnati Gas & Electric Co. (CG&E) filed Rate WS-PL, Original Sheet No. 5A, as the revised tariff sheet pertaining to rates applicable to The Union Light, Heat & Power Co. (Union Light) for Commission approval, pursuant to an order of the Commission issued July 25, 1977, approving the Settlement Agreement filed April 19, 1977.

CG&E states that Rate WS-PL is the settlement rate for Union Light agreed to by the parties to the Settlement Agreement which will provide an annual increase of $4,435,172 based on estimated data for the twelve months ending December 31, 1976.

CG&E indicates that a copy of the filing was served on all parties and the Public Service Commission of Kentucky.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25840 Filed 9-2-77;8:45 am]

[Docket No. CP77-572]

CITIES SERVICE GAS CO.

Application

AUGUST 29, 1977.

Take notice that on August 17, 1977, Cities Service Gas Co. (Applicant), P.O. Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP77-572 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline taps, measuring, regulating, and appurtenant facilities to enable Applicant to render direct natural gas service to two new customers for rural domestic and irrigation purpose, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the proposed customers have requested gas service pursuant to the terms of certain right-of-way easements and agreements. Applicant further states that the proposed customers have relied upon the provisions for natural gas service as contained in their respective right-of-way easements and agreements, as such provisions constituted a major portion of the consideration given to these individuals by Applicant in exchange for the voluntary grant of such easements.

Specifically, Applicant proposes to:

1. Tap Applicant's Kansas-Hugoton 26-inch Loop transmission pipeline in Edwards County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Steve W. Church.

2. Tap Applicant's Kansas-Hugoton 26-inch Loop transmission pipeline in Ford County, Kans., and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Jerry Hager.

Applicant estimates that the total cost of the facilities proposed to serve the right-of-way grantors would be approximately $2,500, which costs Applicant would finance from treasury funds on hand. Applicant also estimates that the gas required annually by each customer would be approximately 3,000 to 5,000 Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 19, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25817 Filed 9-2-77;8:45 am]

[Docket No. CP77-573]

CITIES SERVICE GAS CO.

Application

AUGUST 29, 1977.

Take notice that on August 17, 1977, Cities Service Gas Co. (Applicant), P.O. Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP77-573 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline, tap, measuring, regulating, and appurtenant facilities to enable Applicant to render natural gas service directly or to authorized local natural gas distribution companies for resale to 20 rural domestic customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to provide gas service by sale of gas to authorized local gas distribution companies for resale to these domestic customers directly if no local authorized natural gas distribution company is willing or able to make such service available pursuant to right-of-way easements and agreements and gas storage leases between Applicant and said customers. Applicant states that all of the proposed customers have requested gas service pursuant to the terms of the right-of-way easements and agreements and gas storage leases and that all of the proposed customers have relied upon the provisions for said natural gas service as contained in their respective right-of-way easements and agreements and gas storage leases. Said provisions are said to constitute a major portion of the consideration given to said individuals by Applicant in exchange for the voluntary grant of said easements.

Applicant seeks authorization in this instant docket to:

1. Tap Applicant's 16-inch Kansas River Header transmission pipeline in Douglas County, Kans., and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Russ Bartley.

2. Tap Applicant's Ottawa-Topeka 20-inch transmission pipeline in Douglas County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Kenneth P. Callicott.

3. Tap Applicant's Springfield 16-inch transmission pipeline in Greene County, Mo., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to J. H. Cochran.

4. Tap Applicant's Superior 8-inch transmission pipeline in Rice County,

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Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Jack T. Colberg.

5. Tap Applicant's Cambridge-Petrolia 16-inch transmission pipeline in Wilson County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to W. V. Cooper.

6. Tap Applicant's North Topeka 16-inch transmission pipeline in Shawnee County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Robert E. Dick.

7. Tap Applicant's Canadian-Blackwell 26-inch transmission pipeline in Grant County, Okla., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Ronnie Green.

8. Tap Applicant's Food Machinery and Chemical Corp. 4-inch transmission pipeline in Johnson County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to J. L. Harris.

9. Tap Applicant's Gordon Evans 16-inch transmission pipeline in Sedgwick County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Robert E. Helm.

10. Tap Applicant's Kansas City No. 3 16-inch transmission pipeline in Johnson County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Edith C. Hyer.

11. Tap Applicant's McLouth Storage 20-inch storage pipeline in Leavenworth County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to W. C. Jones.

12. Tap Applicant's Grabham-Welda 30-inch transmission pipeline in Allen County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Steven R. Kinzle.

13. Tap Applicant's Ponca City 6-inch transmission pipeline in Kay County, Okla., and construct measuring regulating and appurtenant facilities for delivery of natural gas to Richard H. Koenig.

14. Tap Applicant's Hogshooter-Grabham 16-inch transmission pipeline in Washington County, Okla., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Danny Lemmons.

15. Tap Applicant's Quapaw 16-inch transmission pipeline in Craig County, Okla., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Ralph R. Long.

16. Tap Applicant's McLouth Storage 20-inch storage pipeline in Leavenworth County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Robert L. McBroom.

17. Tap Applicant's Ottawa-Hund Junction 26-inch transmission pipeline in Leavenworth County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to George A. Mansfield.

18. Tap Applicant's Grabham-Welda 30-inch transmission pipeline in Montgomery County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Charles W. Powell.

19. Tap Applicant's McLouth Storage 4-inch storage pipeline in Leavenworth County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas George L. Tyner.

20. Tap Applicant's McLouth Storage 20-inch storage pipeline in Leavenworth County, Kans., and construct measuring, regulating, and appurtenant facilities for delivery of natural gas to Thomas R. Zimmer.

Applicant anticipates that the sale to the customers in 3 would be made to the City Utilities of Springfield, Mo., for resale; sales to the customers in 17 and 19 would be made by Applicant on a direct sales basis; and the sales to the other seventeen customers would be made to The Gas Service Co. for resale to these customers.

It is stated that all of the proposed facilities would be installed by Applicant within one year of the Commission approval in this proceeding. Applicant estimates that the total cost of the facilities proposed to serve the right-of-way grantors and lessors would be approximately $13,018, which costs Applicant would finance from treasury funds on hand. Applicant also estimates that the gas required annually be each consumer would be approximately 250 Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 19, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25812 Filed 9-2-77;8:45 a.m.]

[Docket No. CP77-575]

CITIES SERVICE GAS CO.

Application

AUGUST 29, 1977.

Take notice that on August 19, 1977, Cities Service Gas Co. (Applicant), P.O. Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP77-575 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of tap measuring, regulating and appurtenant facilities to enable Applicant to render natural gas service to The Gas Service Company (Gas Service) for resale to a rural domestic customer, Everett N. Smith, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant requests authority to tap its Hund 2-inch transmission pipeline in Leavenworth County, Kans., and to construct measuring, regulating, and appurtenant facilities for sale and delivery of natural gas to Gas Service for resale to Everett N. Smith. Applicant states that it has a right-of-way agreement across Smith's property and has previously agreed in writing to provide natural gas service to Mr. Smith in settlement of a claim concerning said right-of-way. It is stated that Mr. Smith has agreed to accept and pay for natural gas delivered to him and has paid a sum of $77.25, which Applicant still retains, as a connection charge. Applicant states that the total volumes to be sold to Mr. Smith would be approximately 221 Mcf annually.

Applicant indicates that Mr. Smith was erroneously included as a proposed customer in its certificate application filed November 22, 1976, in Docket No. CP77-68 and was deleted from that application prior to issuance of a certificate on March 7, 1977, because, on its face, the right-of-way agreement with him did not contain a clause obligating Applicant to provide natural gas service to him, as did the other right-of-way agreements involved. Applicant states that it believes that it is obligated to provide natural gas service to Mr. Smith in settlement of a fairly-disputed right-of-way claim, even though the settlement agreement was not embodied in a clause in the written right-of-way instrument.

Applicant estimates the total cost of the proposed facilities to be $614, which cost would be financed with funds on hand, and estimates that approximately one day of on-site construction time will be required to complete the facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 19, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25819 Filed 9-2-77;8:45 am]

[Docket No. CP73-44]

COLORADO INTERSTATE GAS CO.

Petition to Amend

AUGUST 31, 1977.

Take notice that on August 22, 1977, Colorado Interstate Gas Co. (Petitioner), P.O. Box 1087, Colorado Springs, Colo. 80944, filed in Docket No. CP73-44 a petition to amend the order issuing a certificate of public convenience and necessity in said docket pursuant to Section 7(c) of the Natural Gas Act on March 30, 1973, so as to authorize the exchange of natural gas with Panhandle Eastern Pipe Line Co. (Panhandle) at an additional delivery point located at the tailgate of Phillips Petroleum Co.'s (Phillips) Sherman processing plant in Hansford County, Tex., for the delivery of up to 15,000 Mcf of natural gas per day, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by the order of March 30, 1973, as amended, it was authorized to construct and operate facilities and to exchange natural gas with Panhandle pursuant to the terms of a gas sales and exchange agreement dated July 13, 1972. It is stated that under the terms of the exchange agreement Panhandle delivers gas obtained in 17 northeast Colorado counties and Laramie County, Wyo., to Petitioner at Petitioner's Watkins regulating station. Petitioner asserts that it purchases up to 25 percent of the gas from Panhandle at its option and redelivers the remainder on a thermally equivalent basis to Panhandle at Petitioner's Lakin compressor station.

Petitioner indicates that it has entered into a gas purchase agreement with Amoco Production Co. (Amoco) for natural gas from the Coldwater Creek Field of Sherman County, Tex., and that two wells covered by the agreement are available for immediate connection. Petitioner states that the source of supply is 16 miles from its pipeline system, but is proximate to a gathering system owned and operated by Phillips, and that Phillips has agreed to gather, process, and redeliver to Panhandle for the account of Petitioner at the tailgate of Phillips' Sherman processing plant an equivalent volume of gas less applicable fuel use and shrinkage volumes. Accordingly, Petitioner requests that the Commission amend its order of March 30, 1973, to include the tailgate of Phillips' Sherman processing plant in Hausford County, Tex., as an additional exchange point between Petitioner and Panhandle.

It is stated that Phillips would not charge Petitioner for gathering or processing, but would retain all natural gas liquids recovered pursuant to the agreement with Petitioner.

Petitioner states that deliveries to Panhandle from the Sherman delivery point would be limited to 15,000 Mcf per day and that Panhandle would retain 1.25 percent of the Sherman delivery volumes to offset increased compressor fuel requirements. Petitioner states further that it would pay Panhandle a transportation charge of 1.64 cents per Mcf of gas delivered by Phillips to Panhandle for the account of Petitioner.

It is stated that no new or expanded facilities would be required by Petitioner to effectuate the instant proposal.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25841 Filed 9-2-77;8:45 am]

[Docket No. ER77-565]

COLUMBUS & SOUTHERN OHIO ELECTRIC CO.

Filing of Initial Rate Schedule

AUGUST 30, 1977.

Take notice that on August 25, 1977, Columbus & Southern Ohio Electric Co. (Columbus) tendered for filing a rate schedule setting forth all rates and charges that Columbus and The Dayton Power & Light Co. ("Dayton") have agreed to under an Interconnection Agreement between Columbus and Cincinnati providing for interconnection of electric facilities, emergency service, short term power energy transfer, and limited term power. Columbus indicates that this rate schedule supersedes that contained in the Agreement between Columbus and Dayton dated January 11, 1963, and all modifications thereto and schedules thereunder.

Columbus indicates that copies of the filing and Columbus' letter of transmittal were served upon Dayton.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8,1.10). All such petitions or protests should be filed on or before September 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25832 Filed 9-2-77;8:45 am]

[Docket No. RP77-125]

COMMERCIAL PIPELINE CO., INC.

Proposed Changes in FPC Gas Tariff

AUGUST 30, 1977.

Take notice that Commercial Pipeline Co., Inc. ("Commercial"), on August 22, 1977, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1 to be effective September 23, 1977. The proposed changes would increase revenues from jurisdictional sales and services by $19,426 based on the 12-month period ending December 31, 1976, as adjusted. Commercial also tendered for filing a change to reduce the notice period in its Purchased Gas Adjustment provision from 45 days to 30 days.

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Commercial states that the principal reasons for its proposed rate increase are: (1) An increase in its cost of purchased gas; (2) increases in its cost of materials and supplies; (3) increased operation and maintenance costs upon its transmission system; and (4) the need to increase revenues to provide for an adequate rate of return.

Copies of the filing were served upon Commercial's jurisdictional customers as well as the Kansas Corporation Commission and the Missouri Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed before September 16, 1977. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25838 Filed 9-2-77;8:45 am]

[Docket No. ER77-563]

CONNECTICUT LIGHT & POWER CO.

Amendment to Transmission Agreement

AUGUST 26, 1977.

Take notice that on August 22, 1977, Connecticut Light & Power Co. (CP&L) tendered for filing a proposed Amendment to the Transmission Agreement (Amendment) dated June 29, 1977, between: (1) CL&P, The Hartford Electric Light Co. (HELCO) and Western Massachusetts Electric Co. (WMECO), and (2) Mansfield Municipal Electric Department (MMED).

CL&P states that MMED has executed contracts with the Holyoke Gas and Electric Department (HG&E) of Holyoke, Mass., for the purchase of additional power from HG&E's entitlements in HG&E's gas turbine units (the Additional MMED purchase) and also states that the Amendment provides for an increase in the amount to be transmitted for the period from July 1, 1977, to October 31, 1977, from 1,767 kilowatts to 2,067 kilowatts.

CL&P states that MMED did not notify CL&P of its need for additional transmission service over the Northeast Utilities (NU) system until a date which prevented the filing of this Amendment with the Commission more than thirty days prior to the proposed effective date.

CL&P therefore requests that, in order to permit MMED to receive transmission service to wheel the Additional MMED purchase, and to allow CL&P, HELCO, and WMECO to receive payment for such transmission service, the Commission, pursuant to Section 35.11 of its regulations, waive the thirty-day notice period and permit the Amendment filed to become effective on July 1, 1977.

CL&P states that the monthly transmission charge is equal to one-twelfth of the estimated annual average unit cost of transmission service on the NU system determined in accordance with Section 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee multiplied by the number of kilowatts of winter capability which MMED is entitled to recive, reduced to give due recognition of the payments made by MMED for transmission service on New England Power Co.'s system.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to HELCO, Hartford, Conn., WMECO, West Springfield, Mass., and MMED, Mansfield, Mass.

Any person desiring to be heard or to protest said application should file a peition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 14, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25811 Filed 9-2-77;8:45 am]

[Docket No. ER77-567]

DUKE POWER CO.

Supplement to Electric Power Contract

AUGUST 31, 1977.

Take notice that Duke Power Co. (Duke) tendered for filing on August 26, 1977, a supplement to Duke's Electric Power Contract with Yadkin, Inc., which is to become effective on August 1, 1977. Duke indicates that this contract is on file with the Commission and has been designated Duke Power Co. Rate Schedule FPC No. 11.

Duke indicates that its contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for an increase in contract demand from 30,000 KW to 40,000 KW. Duke further indicates that the supplement also includes an estimate of sales and revenue for the twelve months immediately preceding and for the twelve months immediately succeeding the effective date.

Duke states that a copy of this filing was mailed to Yadkin, Inc., and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NW., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25842 Filed 9-2-77;8:45 am]

[Docket No. CP77-581]

EL PASO NATURAL GAS CO.

Application

AUGUST 31, 1977.

Take notice that on August 23, 1977, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP77-581 an application pursuant to Section 7 of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, during the calendar year 1978, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment would not exceed $3,000,000, and that the cost of any single project would not exceed $500,000. These costs would be financed with internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natral Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on the application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission for and approval of the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25843 Filed 9-2-77;8:45 am]

[Docket No. CP77-582]

EL PASO NATURAL GAS CO.

Application

AUGUST 31, 1977.

Take notice that on August 23, 1977, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex 79978, filed in Docket No. CP77 582 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(c) of the Regulations thereunder (18 CFR 157.7(c)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1978, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any change in gas sales or transportation services presently rendered by Applicant. Applicant states that the proposed facilities would not exceed a total cost of $300,000, which cost would be financed with internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25844 Filed 9-2-77;8:45 am]

[Docket Nos. CP74-289; CP73-334; CP75-360]

EL PASO NATURAL GAS CO.

Tariff Filing

AUGUST 30, 1977.

Take notice that on August 19, 1977, El Paso Natural Gas Co. (El Paso) tendered for filing, pursuant to Part 154 of the Commission's Regulations Under the Natural Gas Act, certain original tariff sheets to its FPC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A. Such tariff sheets are identified in the attached appendix.

El Paso states that by Opinion Nos. 800 and 800-A, issued May 23, 1977, and July 20, 1977, respectively, the Commission issued El Paso a certificate of public convenience and necessity in the captioned proceedings conditioned upon, inter alia, the prospective reallocation by El Paso of pipeline deliveries among Priority 5 customers in order to restore volumes allegedly misappropriated from El Paso's east-of-California (EOC) customers in effectuating the storage programs involved in the referenced proceedings. Under ordering paragraphs (D) and (E) of Opinion No. 800, El Paso was directed to file with the Commission, within ninety (90) days of the issuance of the Opinion, a proposal for prospective reallocation of deliveries among its Priority 5 customers, or in lieu of the filing of such a proposal, to submit settlement terms and conditions subject to the approval of the Commission.

El Paso states that it is filing, concurrent with the instant document, a Proposal in Settlement and Termination of the Subject Proceeding dated August 19, 1977 (Settlement Proposal), in compliance with the Commission's aforementioned directive in this proceeding and a related motion. El Paso further states that the purpose of the instant tariff filing is to include in El Paso's tariff additional provisions required to implement the Settlement Proposal upon approval by the Commission.

The tendered tariff sheets provide the tariff provisions designed to, inter alia, include a new surcharge rate of 0.7905¢ per Mcf to become effective for the twelve (12) month period November 1, 1977, through October 31, 1978, to collect from certain of El Paso's EOC customers the costs associated with the plan of disposition presented in the Settlement Proposal.

El Paso has requested, pursuant to section 154.51 of the Commission's Regulations, that the Commission grant waiver of the notice requirements of § 154.22 of said Regulations in order that the tendered tariff sheets may be accepted for filing and permitted to become effective on November 1, 1977. Such requested effective date is subject to and conditioned upon the timely approval by the Commission of El Paso's proposed Settlement Proposal filed concurrently herewith in the instant proceeding.

El Paso further states the instant tender has been served upon all parties of record in Docket Nos. CP73-334, CP74-289 and CP75-360 and otherwise, upon all affected customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff tender should, on or before September 20, 1977, file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25833 Filed 9-2-77;8:45 am]

[Docket No. CP77-583]

EL PASO NATURAL GAS CO.

Application

AUGUST 31, 1977

Take notice that on August 23, 1977, El Paso Natural Gas Co. (Applicant),

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P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP77-583 an application pursuant to section 7(c) of the Natural Gas Act and section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1978, and operation of facilities to enable Applicant to take into its certificated interstate pipeline system natural gas which would be purchased from independent producers and other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $5,000,000, and that the cost of any single project would not exceed $1,250,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-25845 Filed 9-2-77;8:45 am]

[Docket No. ER76-587]

GEORGIA POWER CO.

Filing of Settlement Agreement

AUGUST 30, 1977.

Take notice that on August 17, 1977, the Georgia Power Co. submitted a Settlement Agreement in the above designated docket.

On August 17, 1977, the Presiding Administrative Law Judge certified the offer of settlement in this contested proceeding to the Commission for its consideration and decision. Docket No. ER76-587 is sometimes referred to as the "PR-2" rate.

The proposed Settlement was entered into by Georgia Power, Oglethorpe Electric Membership Corp. (Oglethorpe), the Municipal Electric Authority of Georgia (MEAG), and the Board of Water, Light and Sinking Fund Commissioners of the City of Dalton, Ga. (Dalton).

The Settlement provides that Georgia Power Co. will file with the Federal Power Commission a revised tariff sheet revising the "Schedule of Monthly Charges for Capacity" delivered pursuant to FPC Rate Schedule PR-2 as follows:

Type of service:	*Monthly charge per kilowatts*
Unreserved base capacity	$3.90
Unreserved intermediate capacity	3.01
Unreserved peaking capacity	2.52
Reserve capacity	2.26

It was acknowledged and agreed by the parties that the revised PR-2 rate capacity charges would have produced on an annualized basis an increase in revenues from Oglethorpe of approximately $7,900,000 for the twelve month period ending December 31, 1976, based on certain sales estimates.

The Settlement provides for the revision of the final paragraph of the Section of the filed PR-2 rate entitled "Determination of Customer Capacity Requirements".

The Settlement further provides that Georgia Power will refund to Oglethorpe a portion of the revenues collected under the PR-2 rate for the period August 1, 1976 through May 31, 1977, as follows:

Month:	*Refund*
August 1976	$265,710
September 1976	318,851
October 1976	318,851
November 1976	318,851
December 1976	318,851
January 1977	329,557
February 1977	329,892
March 1977	329,892
April 1977	329,892
May 1977	329,892

Simple interest at 7.773% per annum is proposed to be paid on the refund described above from the date of receipt of each payment from Oglethorpe under the PR-2 rate, to the date of refund.

Georgia Power proposes to refund to Oglethorpe, MEAG and Dalton a portion of the revenues collected under the PR-2 rate for the period each customer took service under PR-2 until the date of refund as follows: Georgia Power proposes to refund to each Customer the difference between the capacity payment which would have been revised from each Customer under the rates as filed and the capacity payments which would have been received from such Customer if the revised monthly capacity charges described in Section 2.1 of the Settlement Agreement had been in effect. Simple interest at 9% per annum shall be paid in respect to the refund described herein.

Any person wishing to do so may submit comments in writing concerning the proposed Settlement Agreement to the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 on or before October 7, 1977. The Settlement Agreement is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary

[FR Doc.77-25834 Filed 9-2-77;8:45 am]

[Docket No. ES77-55]

IOWA POWER & LIGHT CO.

Application

AUGUST 26, 1977.

Take notice that on August 17, 1977, Iowa Power & Light Co. (Applicant) of Des Moines, Iowa, filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing issuance of $30,000,000 principal amount of First Mortgage Bonds due 2007, and 850,000 shares of Additional Common Stock, par value $10 per share.

Applicant proposes to issue the aforesaid First Mortgage Bonds under the Indenture of Mortgage and Deed of Trust dated August 1, 1943, to Harris Trust and Savings Bank and R.S. Stam, Trustees, such Indenture to be dated as of September 15, 1977. The interest rate of the Bonds will be determined by competitive bidding pursuant to the Commission's regulations under the Federal Power Act. The Bonds will not be redeemable prior to September 15, 1982, at the option of the Company through a refunding which has an interest cost to the Company less than the interest cost of the Bonds.

Applicant proposes to issue the aforesaid 850,000 shares of Common Stock, par value $10 per share, under the competitive bidding pursuant to the Commission's regulations under the Federal Power Act.

Applicant states that the purpose for which the New Bonds and Additional Common Stock are to be issued are to obtain permanent financing of the Company's construction program and to refund certain short-term borrowing obligations.

Applicant is incorporated under the laws of the State of Iowa with its principal business office at Des Moines, Iowa, and is engaged in the electric and gas utility business within the State of Iowa.

Any person desiring to be heard or to make any protest with reference to the application should on or before September 12, 1977, file with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C., 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25812 Filed 9-2-77;8:45 am]

[Docket No. ES77-56]

IOWA SOUTHERN UTILITIES CO.

Application

AUGUST 26, 1977.

Take notice that on August 18, 1977, the Iowa Southern Utilities Co. (Applicant), filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of $30,000,000 aggregate principal amount of unsecured promissory notes.

Applicant is incorporated under the laws of the State of Delaware with its principal business office at Centerville, Iowa, and is engaged in the electric utility business in 24 counties in Iowa.

Applicant proposes to issue notes to commercial banks. The notes will not exceed $30,000,000 and will be issued pursuant to a Revolving Credit and Term Loan Agreement.

The Applicant states that the interest rate on the Notes will not exceed 118 percent of a fluctuating base Alternate Base Rate as described in Credit Agreement. The Notes will mature no later than April 30, 1982.

The Applicant states that the proceeds from the issuance of the securities will be added to the general funds of the Company, which general funds will be used, among other things, to provide in part, interim funds for construction expenditures to be made through 1980.

Any person desiring to be heard or to make any protest with reference to said Application should on or before September 16, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25813 Filed 9-2-77;8:45 am]

[Docket No. ER77-533]

LOUISIANA POWER & LIGHT CO.

Order Provisionally Accepting for Filing Proposed Rate Schedules, Suspending Proposed Rate Changes, Establishing Procedures, Granting Intervention

AUGUST 26, 1977.

On July 29, 1977, Louisiana Power & Light Co. (LP&L) tendered for filing proposed increased rates and charges for jurisdictional sales to nine rural electric cooperatives and four municipal electric customers.[1] The filing would increase the Company's revenues by $4,372,951 (23.4 percent) for the 12-month period ending August 31, 1978. This application was predicated on including pollution control equipment and fuel conversion facilities in the rate base account, Construction Work In Progress (CWIP). The Company requested a September 1, 1977 effective date.

Notice of the tendered filing was issued August 9, 1977, with all protests or petitions to intervene due on or before August 19, 1977. On August 16, 1977, the Cities of Winnfield, Vidalia, and Jonesville, La. (hereinafter referred to as Cities) jointly filed a Protest, Petition to Intervene, a Motion to Reject Rate Filing Pursuant to section 205 of the Federal Power Act and alternatively, a Motion to Suspend the filing for the maximum statutory period.

Cities argue that LP&L's section 205 filing is inconsistent with the existing contracts between the Company and the Cities of Winnfield, Vidalia, and Jonesville.

The Cities cite a number of cases as authority for their request that the Commission reject LP&L's filing with respect to the Cities. *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956); *United Gas Pipe Line Co.* v. *Mobile Gas Service, Corp.*, 350 U.S. 332, 343 (1956); *Sam Rayburn Dam Electric Cooperative* v. *FPC*, 515 F.2d 988, 1003 (CADC, 1975); and *Anderson Power & Light of the City of Anderson, Ind.*, v. *FPC*, 482 F.2d 490, 499, 501 (CADC, 1973).

The Cities allegation that the contracts are fixed rate contracts within the meaning of the Sierra-Mobile Doctrine was underpinned by their interpretation of the following provision which was part of the printed form contract drafted by LP&L: "The terms and conditions of this Agreement and the Rate Schedule are subject to amendment or alteration as a result of and in accordance with a valid applicable order of any government regulatory authority having jurisdiction hereof."

However, an examination of the fuel adjustment rider executed and filed with the Commission could very well support a different interpretation of the contractual relationship between the Company and the Cities as to whether the contract is a fixed rate contract. Supplement No. 1 to the contract reads: "Electric power and energy will be supplied under this schedule only in connection with a written Agreement for such service, which shall contain all of the Company's usual provisions for service and such additional provisions as may, in the judgment of the Company, be necessary to cover the particular arrangements and to carry out the purpose of this rate schedule." *Service hereunder is subject to the orders of regulatory bodies having jurisdiction and either the Company or Customer may request lawful change in rate or contract in accordance with such jurisdiction.* (Emphasis supplied)

The Commission at this time will not rule on the fixed contract issue but will further analyze the contracts and will rule no later than September 15, 1977. The Company may respond to Cities allegation that the contracts are fixed rate contracts. However, at this time, LP&L's filing will be provisionally accepted subject to our determination of the fixed rate contract issue.

Our review indicates that the proposed rates filed by LP&L have not been shown to be just and reasonable and therefore, may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Accordingly, we shall suspend the proposed rates for two months to become effective November 2, 1977, subject to refund.

LP&L also tendered for filing a proposed increase in rates predicated on the inclusion of the company's total CWIP in its rate base. LP&L seeks authorization to include all of CWIP in its rate base under the severe financial difficulty exception of Order No. 555.[2] The proposed inclusion of CWIP would increase LP&L's revenues by $7,422,000 (45%) for period II and increase its rate base by about $287.5 million (33.6 percent). The Company further requested that the Commission promptly issue an order approving the collection of these rates.

The Company in its transmittal letter alleged that the inclusion of all of the Company's CWIP in rate base is essential if the company is to be able to issue new securities necessary to finance its construction program at reasonable cost.

The Company further stated that based on the year ending December 31, 1977, the inclusion of all of the Company's CWIP in its rate base would provide it with an additional $3,778,000 of annual cash revenue from its wholesale customers. The Company claimed that

[1] The Rural electric Cooperatives are: Bossier Rural Electric Membership Corp., Claiborne Electric Cooperative, Inc., Concordia Electric Cooperative, Inc., Dixie Electric Membership Corp., Northeast Louisiana Power Cooperative, Inc., Pointe Coupee Electric Membership Corp., South Louisiana Electric Cooperative Association, Valley Electric Membership Corp., and Washington-St. Tammany Electric Cooperative, Inc.—all of whose contracts have been assigned to Cajun Electric Power Coop., Inc., who administers their requirements. The Municipal Electric systems are: The Town of Jonesville, the Town of Winnfield, the Town of Vidalia, and the Town of Minden. (See Appendix A for Designation.)

[2] Order No. 555, Docket No. RM75-13, issued November 8, 1976, at p. 16.

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this additional cash flow is necessary to help alleviate its financial plight.

Order No. 555 provides that all CWIP except that portion which relates to pollution control and fuel conversion facilities must be excluded from rate base[2] unless there is a showing by the company of "severe financial difficulty which cannot be otherwise alleviated without materially increasing the cost of electricity to consumers."[4]

The Commission recently reaffirmed that any inclusion of CWIP based on the severe financial difficulty exception can be prospective only from the date of issuance of a final order or rehearing approving inclusion of such amounts in the rate base.[5]

Although the Company filed prepared testimony dealing with its difficulty in acquiring new capital for its construction program, the company failed to show how the additional $3.7 million would alleviate the difficulties associated with the capital expansion requirements.

Under Order No. 555, the company must make a showing of financial difficulty which cannot be otherwise alleviated without materially increasing the cost of electricity to its consumers. CWIP in the rate base must be detailed and comprehensive as to present financial conditons; the reasons for the Company's financial lordship; the futility of alternatives, and as to how the additional revenues generated from inclusion of CWIP in rate base will alleviate the severe financial difficulty.

The Commission believes LP&L should be afforded the opportunity to offer additional testimony and exhibits illuminating inter alia the following relevant considerations:

(1) To what extent does LP&L's major construction program reflect Middle South Utilities system-wide planning? In particular, were the loads of LP&L's affiliated MSU companies considered in planning for the 1165 MW. Waterford Nuclear Unit No. 3? In this connection, it is noted that LP&L peak 1977 demand is estimated to be about 3400 MW.

(2) To what extent have affiliated companies of MSU participated in financing construction designed to meet system-wide needs? What actions has LP&L taken to alleviate its difficulties by seeking such participation?

(3) Under what specific planning requirements was the need for Waterford No. 3 established? What are the relevant reserve and reliability criteria employed by LP&L and MSU? In what specifically quantified manner would the quality of service to LP&L's customers be affected by deferral of Waterford No. 3 or joint participation by other members of MSU in that unit? In what specifically quantified manner would the cost of service to LP&L's customers be affected by deferral of Waterford No. 3 or joint participation by other members of MSU in that unit, recognizing the extent to which capital costs may be avoided during the interval of deferral?

(4) What is LP&L's specific capital expansion program now planned to implement its construction program?

(5) What specific amount of total additional annual revenues is required by LP&L to implement its capital expansion program? On what basis was this amount determined? What specific segment of these additional annual revenues is proposed to be obtained from customers other than resale customers? What action has been taken to seek authorization for such additonal revenues, and to what specific extent has the request for such authorization been supported by claiming CWIP in rate base.

(6) Of the total additional annual revenues required by LP&L for its capital expansion program, what specific segment is required from the wholesale services in this proceeding, recognizing that wholesale revenues are in the order of 5 percent of LP&L total electric revenue? Of this specific segment, how much is proposed to be obtained through rates supported by LP&L's cost of service with CWIP limited to pollution control and fuel conversion facilities? Would the required wholesale segment be supportable by the inclusion of less than the full amount of CWIP in rate base? If so, how much less?

(7) Does LP&L seek authorization to include all CWIP in its rate base for the indefinite future? If not, for how long?

(8) What are the specific accounting procedures proposed by LP&L to ensure that wholesale customers will not subsequently be charged for any corresponding AFUDC capitalized as a result of different accounting and ratemaking treatment accorded CWIP by a state commission? LP&L testimony speaks of memorandum records, but does not describe the specific manner in which it proposes on an ongoing basis to identfy CWIP for which it identifies wholesale customer related CWIP for which no AFUDC will be capitalized. Nor does LP&L indicate whether its state Commission does in fact require a ratemaking treatment differing from that here requested of this Commission.

The Cities raise a "price squeeze" allegation in the filing. To conform with our Order No. 563, additional procedures must be set so as to effectuate these policies. We will direct the Administrative Law Judge to convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the petitioner's request for data necessary to present its prima facie showing on the price-squeeze issue.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the proposed increased rates and charges, tendered by LP&L on July 29, 1977, the application for inclusion of its total CWIP in the rate base, establishing procedures for that hearing, and that the proposed increased rates and charges be provisionally accepted for filing, suspended, and the use thereof deferred, all as hereinafter ordered.

(2) Participation by the Cities in this proceeding may be in the public interest.

(3) Good cause exists to establish "price squeeze" procedures to effectuate the Commission's policy announced in Order No. 563

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly Sections 205, 206, 301, 308, and 309 thereof, and pursuant to the Commission's rules of practice and procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by LP&L in this proceeding and LP&L's application for inclusion of its total CWIP in the rate base.

(B) Pending such hearing and decision thereon, the proposed increased rates and charges filed by LP&L on July 29, 1977 and identified above are hereby provisionally accepted for filing, suspended and the use thereof deferred until November 2, 1977, when they shall become effective, subject to refund.

(C) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before December 15, 1977.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall preside at a conference in this proceeding to be held on January 4, 1978, at 10:00 A.M. (ET) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(E) Cities is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however*, that participation of such intervenor shall be limited to the matters affecting asserted rights and interests specifically set forth in the petition to intervene; and *Provided, further*, that the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any orders entered in this proceeding.

(F) The Administrative Law Judge shall convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the Cities' request for data required to present its case, including a prima facie showing, on the price-squeeze issue. LP&L shall also be required to respond to the discovery requests authorized by the Administrative Law Judge within 30 days and the Cities shall file its case-in-chief on the price-squeeze issue within 30 days after LP&L's response.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[2] See Commission Order in Utah Power & Light Co., Docket No. ER77-311, issued June 23, 1977.

[4] Order No. 555, Docket No. RM75-13, issued November 8, 1976, at p. 16.

[5] Commission order in Utah Power & Light Co., Docket No. ER77-311, issued June 23, 1977, mimeo at p. 2.

APPENDIX A

LOUISIANA POWER & LIGHT CO.
DOCKET NO. ER77-533

	Designation
(1) Dixie Electric Membership Corp.	Supp. No. 4 to Rate Schedule FPC No. 34 (supersedes supp. No. 2 to Rate Schedule FPC No. 34).
(2) Pointe Coupee Electric Membership Corp.	Supp. No. 5 to Rate Schedule FPC No. 35 (supersedes supp. No. 3).
(3) Washington-St. Tammany Electric Cooperative, Inc.	Supp. No. 4 to Rate Schedule FPC No. 37 (supersedes supp. No. 2).
(4) Cajun Electric Power Coop., Inc.	Supp. No. 12 to Rate Schedule FPC No. 42 (supersedes supp. No. 10).
(5) Town of Jonesville, La.	Supp. No. 3 to Rate Schedule FPC No. 22 (supersedes supp. No. 1).
(6) City of Winnfield, La.	Supp. No. 3 to Rate Schedule FPC No. 26 (supersedes supp. No. 1).
(7) Town of Vidalia, La.	Supp. No. 2 to Rate Schedule FPC No. 53.
(8) City of Minden, La.	Supp. No. 2 to Rate Schedule FPC No. 52.

[FR Doc.77-25814 Filed 9-2-77;8:45 am]

[Docket No. RP77-121]

McCULLOCH INTERSTATE GAS CORP.

Application for Extension of Time for Repayment of Advanced Payments and Request for Rate Base Treatment Thereof

AUGUST 30, 1977.

Take notice that on August 16, 1977, McCulloch Interstate Gas Corp. ("McCulloch Interstate") filed with the Commission an Application for Extension of Time for Repayment of Advanced Payments and Request for Rate Base Treatment Thereof. The proposed request seeks permission to extend the period of time for repayment of advanced payments by Galaxy Oil Co. ("Galaxy") from May 9, 1978, pursuant to the terms of a Contribution Agreement dated March 2, 1972 between Galaxy and McCulloch Interstate; and further, request that the granting of said proposed extension of time for repayment provide for and allow McCulloch Interstate to obtain rate base treatment for the contribution relating to the subject well under the Contribution Agreement beyond the five year period set forth in FPC Order No. 411, as amended (Docket No. R-411). McCulloch Interstate states that the amount due under said Contribution Agreement as of May 31, 1977 is $180,000.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25839 Filed 9-2-77;8:45 am]

[Docket Nos. ER77-427 and ER77-473]

MINNESOTA POWER & LIGHT CO., SUPERIOR WATER, LIGHT & POWER CO.

Order Permitting Intervention

AUGUST 30, 1977.

By our order dated July 21, 1977, this Commission accepted the proposed rates tendered in Docket No. ER77-473 for filing, suspended their effectiveness subject to refund until December 8, 1977, directed that a hearing be held to determine their justness and reasonableness and consolidated the proceeding with the proceeding in ER77-427 for purposes of hearing and decision. Comments, protests, and petitions to intervene were due in the proceedings in Docket No. ER77-473 on or before July 20, 1977.

On July 22, 1977, the Public Service Commission of Wisconsin, an agency of the State of Wisconsin having, among other things, the authority to regulate the rates charged for the sale of electric energy by companies engaged in the sale of electric energy to the public in the State of Wisconsin, filed a Notice of Intervention in Docket No. ER77-473 in order to participate in the event that a formal hearing is held.

The Commission finds: Since participation by the Public Service Commission of Wisconsin will not delay the instant proceedings, good cause exists for accepting its late request to intervene as hereinafter ordered and conditioned.

The Commission orders: (A) The Public Service Commission of Wisconsin is hereby permitted to intervene in these proceedings subject to the rules and regulations to the Commission; *Provided, however*, that participation of such intervenor shall be limited to the matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further*, that the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The late intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of these proceedings.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25835 Filed 9-2-77;8:45 am]

[Docket No. ER77-480]

MONTAUP ELECTRIC CO.

Order Granting Interventions

AUGUST 29, 1977.

On July 20, 1977, the Commission issued an order in this proceeding entitled Order Accepting for Filing and Suspending Tendered Rate Schedule Revisions. A timely petition to intervene was filed in this docket but was not considered in the above Commission order.

On July 13, 1977, a Petition of Rhode Island Consumers' Council and Division of Public Utilities and Carriers of the State of Rhode Island (Petitioners) For Leave to Intervene and For Suspension of Tariff Schedules was filed in this proceeding. The petition asserts that the Carriers' Council is authorized pursuant to Rhode Island statute to appear before Federal, State, and local Commissions on matters affecting consumers. The Division of Public Utilities is granted exclusive State statutory authority to supervise and regulate companies offering energy to the public in intrastate commerce.

Petitioners assert that an increase in Montaup's wholesale rates to jurisdictional customers will result in price increases to many Rhode Island consumers, and such consumers constitute a class of people who would not be adequately represented without intervention by Petitioner.

Petitioners also seek imposition of the full five-month suspension period, a provision which was included in the Commission's order of July 20, 1977 and which will remain in effect.

On July 15, 1977, a Protest, Petition to Intervene, and Request for Suspension was filed on behalf of the Municipal Gas & Electric Department of the Town of Middleborough, Mass. (Middleboro). Middleboro is a partial requirements customer of Montaup and asks for intervention status and a suspension period of five months.

On July 20, 1977, a Protest and Petition to Intervene was filed on behalf of Francis X. Bellotti, Attorney General of the Commonwealth of Massachusetts and the Massachusetts Consumers Council (The Council). Each assert that they are empowered by Massachusetts statute to intervene on behalf of Massachusetts consumers on matters affecting electric rates. Two of Montaup's wholesale customers (Brockton Edison Co. and Fall River Electric Light Co.) serve several

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hundred thousand Massachusetts consumers. The Attorney General and The Council oppose Montaup's proposed rate of return and its proposed adjustments to test year expenses and reserve the right to raise other objections.

Also on July 20, 1977, a Petition to Intervene was filed on behalf of the Naragansett Electric Co. Naragansett is a wholesale customer of Montaup under the current filing.

On July 25, 1977, an untimely Petition to Intervene was filed on behalf of Newport Electric Corp. of Newport, R.I., another jurisdictional customer of Montaup.

The Commission finds: (1) The participation in this proceeding of Rhode Island Consumers' Council, Division of Public Utilities and Carriers of the State of Rhode Island, the Municipal Gas and Electric Department of the Town of Middleborough, the Attorney General of the Commonwealth of Massachusetts, the Massachusetts Consumers Council, the Narragansett Electric Co., and the Newport Electric Cooperative of Newport, R.I., may be in the public interest.

The Commission orders: (A) Rhode Island Consumers' Council Division of Public Utilities and Carriers of the State of Rhode Island, the Municipal Gas and Electric Department of the Town of Middleborough of the State of Rhode Island, the Attorney General of the Commonwealth of Massachusetts, the Massachusetts Consumers' Council and the Narragansett Electric Co., and the Newport Electric Corp. of Newport, R.I. are permitted to intervene, subject to the Commission's Rules and Regulations; *Provided, however*, that such intervention is limited to the issues set forth in the petition to intervene; and *Provided, further*, that the admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any Commission order entered in this proceeding.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission:

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25820 Filed 9-2-77;8:45 am]

[Docket No. CP77-574]

MOUNTAIN FUEL SUPPLY CO.

Application

AUGUST 31, 1977.

Take notice that on August 18, 1977, Mountain Fuel Supply Co. (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP77-574 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate a 3-inch gas supply tap and appurtenant facilities on its main transmission pipeline near Granger, Wyo. According to Applicant, the tap will be used to receive gas owned by Applicant from Well No. 5 in the Bruff Field. The appurtenant facilities will include 700 feet of 2-inch pipeline, which Applicant says is needed to connect the gas supply to the transmission system.

Applicant says that Well No. 5 is more than a mile from existing or previously proposed taps for obtaining gas from this field. Applicant's main transmission pipeline passes through this field and within 700 feet of Well No. 5, says Applicant, and construction of the proposed tap would therefore minimize the gathering facilities in the area.

Applicant estimates that deliverability from the Bruff No. 5 Well will be approximately 1,860 Mcf per day. The current estimated proven gas reverse attributed to this well is said to be 4,500,000 Mcf. Applicant says that development in this area is continuing and that any successful wells in the vicinity may be connected to the proposed tap if it is the most economical point of connection.

The cost of the tap and appurtenant facilities is estimated by Applicant to be about $4,500, to be financed with funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25846 Filed 9-2-77;8:45 am]

[Docket No. CP76-492]

NATIONAL FUEL GAS SUPPLY CORP., NATIONAL GAS STORAGE CORP.

Amendment to Application

AUGUST 31, 1977.

Take notice that on August 18, 1977, National Fuel Gas Supply Corp. (Supply Corporation) and National Gas Storage Corp. (Storage Corporation) (sometimes jointly referred to herein as Applicants), 308 Seneca Street, Oil City, Pa. 16301, filed in Docket No. CP76-492 Amendment No. 2 to their pending joint application filed on August 20, 1976, pursuant to Sections 7(c) and (b) of the Natural Gas Act for authorization to develop and operate underground gas storage and related facilities in Allegany County, N.Y., and Potter County, Pa. Amendment No. 2 requests authorization for Supply Corporation to render underground storage service to Storage Corporation during the periods 1978-79 and 1979-80, while Storage Corporation's facilities are under construction, and is said to provide further support for the proposed development of the Beech Hill Field, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

In their joint application filed August 20, 1976, as amended, Applicants request authority to develop two separate storage pools and to acquire an already developed pool for the purpose of rendering underground gas storage service to non-affiliated customer utilities in an aggregate amount expected to reach 23,500,00 Mcf top storage capacity upon completion of construction in June 1979. It is stated that authorization for the development and operation by Storage Corporation of the East and West Independence pools, which have an estimated 11,500,000 Mcf top storage capacity, is the subject of Applicant's initial filing and that Amendment No. 1 to that filing provides detailed support for Applicants' proposed development of the Beech Hill Field, which is estimated to reach 12,000,000 Mcf top storage capacity.

It is stated that the instant amendment provides further support for Applicants' proposed development of the Beech Hill Field in the form of copies of precedent agreements between Storage Corporation and four customers (Connecticut Natural Gas Corporation, Haverhill Gas Company, Penn Fuel Gas, Inc., and Pennsylvania and Southern Gas Company), together with detailed market data for three of these utilities, and a statement by each one indicating its need for storage service.

In addition, Applicants request authorization for Supply Corporation to render up to 3,200,000 Mcf of underground storage service to Storage Corporation annually during the periods 1978-79 and 1979-80. It is stated that Storage Corporation would utilize this 3,200,000 Mcf capacity to serve a portion of its non-affiliated customers' needs for storage during this interim two-year period when facilities of Storage Corporation will be under construction, subject to the approval of this Commission.

It is asserted that the construction schedule filed by Applicants on August 20, 1976, contemplated commencement of work by the fall of 1976, that this schedule cannot be met, and that limited-term storage service from Supply Corporation is required in order to meet the needs of Storage Corporation's customers until such time as Storage Corporation's facilities can be completed. Applicants state further that the proposed storage service by Supply Corporation would be effectuated through existing delivery points.

Applicants state that Storage Corporation would pay Supply Corporation $0.4077 per Mcf to top storage capacity for this service and that the proposed rate has been adopted by the Commission in previous dockets for similar limited-term storage service rendered by Supply Corporation. Applicants assert further that Storage Corporation would charge its customers, on a rolled-in basis, a rate which reflects the $0.4077 per Mcf paid to Supply Corporation for 3,200,000 Mcf of storage capacity.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commissions' Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who have heretofore filed in this docket need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25847 Filed 9-2-77;8:45 am]

[Docket No. CP77-576]

NATURAL GAS PIPELINE CO. OF AMERICA

Application

AUGUST 31, 1977.

Take notice that on August 22, 1977, Natural Gas Pipeline Co. of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP77-576 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain measuring facilities owned by Applicant at the Calumet sales meter station in Chicago, Ill., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that the measuring facilities which Applicant proposes to abandon were constructed and placed in operation pursuant to authorization issued by the Commission on February 3, 1943, in Docket No. G-289 and on June 22, 1943, in Docket No. G-1057, and that the facilities are being used at present to measure gas sold by Applicant to The Peoples Gas Light & Coke Co. (Peoples), a customer and affiliate of Applicant. Applicant states that as part of Peoples' program to upgrade and modernize facilities leased to Applicant under an agreement dated February 20, 1950, the abandoned facilities will be replaced by new measuring facilities to be installed by Peoples at the Calumet Measuring Station and leased to Applicant for operation. Applicant states further that 2.6 miles of the Peoples' Calumet No. 1 24-inch pipeline, which is currently leased and operated by Applicant, will be taken out of service and that any loss in capacity will be offset by an increase in capacity in the No. 2 24-inch line through upgrading to a higher pressure. The orginal cost of the facilities to be abandoned is stated to be $32,414.

Applicant states that there will be no change in service or deliveries as a result of the proposed abandonment or in the design capacity of the facilities leased by Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission ment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25848 Filed 9-2-77;8:45 am]

[Docket No. ER77-564]

NORTHERN INDIANA PUBLIC SERVICE CO.

Filing of Letter Agreement

AUGUST 30, 1977.

Take notice that Northern Indiana Public Service Co. (NIPSCO) on August 22, 1977, tendered for filing a letter agreement dated August 19, 1977 between NIPSCO, Commonwealth Edison Co. and Commonwealth Edison Co. of Indiana, Inc. NIPSCO indicates that the agreement proposes to enable NIPSCO to purchase from Commonwealth Edison Co. of Indiana, Inc., electric energy, originating from Minnesota Power & Light Co., on a weekly basis as deemed necessary and economic.

NIPSCO states that the agreement will be effective immediately upon approval of the Federal Power Commission and shall terminate on October 31, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before September 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25836 Filed 9-2-77;8:45 am]

[Docket Nos. RP-76-115, RP73-109, and RP74-95]

NORTHWEST PIPELINE CORP.

Order Denying Motion for Reconsideration

AUGUST 29, 1977.

Northwest Pipeline Corp. (Northwest) filed on August 4, 1977, an application for rehearing of the Commission's order of July 5, 1977, approving Northwest's rate settlement in the captioned dockets. For the reasons stated below, the Commission shall deny Northwest's application.[1]

[1] Northwest's application was not filed within the time specified by Section 1.34 of the Commission's rules of practice. Therefore, it shall be accepted for filing and consideration on its merits as a motion for reconsideration.

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Northwest's application relates to ordering paragraph (B) of the July 5 order. This paragraph states:

(B) Nothing contained herein shall be deemed to relieve Northwest of the Commission's filing requirements in Part 154.63 of its regulations should the Commission determine such data is necessary in judging the proprietary of a tariff filing relating to special overriding royalty costs. Further, nothing contained herein shall be construed as limiting the Commission's rights under the Natural Gas Act to reject or otherwise dispose of any tariff filing made by Northwest to collect the potential overriding royalty costs.

Northwest requests rehearing:

to the extent—and only to the extent—Ordering Paragraph (B) is intended to require Northwest to file what is, in effect, a new general rate case and to submit to a review of its existing or previously effective base rates as part of the determination of the justness and reasonableness of its rate adjustments to recover its increased special overriding royalty payments.

Northwest claims that the special overriding royalties question should be regarded as a reserved issue apart from the remaining portion of the settlement in these proceedings. Northwest contends further that review of the base rate does not follow the intent of the settlement, and that review of its previously approved rates would be unlawful.

The Commission cannot agree. The Commission is charged with the responsibility under the Natural Gas Act to establish rates which are just and reasonable. *FPC* v. *Hope Natural Gas Co.*, 320 U.S. 591 (1944). This duty can be accomplished only by finding that a pipeline's rates fairly represent its cost of providing service. The cost involved in Northwest's special overriding royalties is substantial in relation to Northwest's total revenues. Auotmatic approval of such amounts in the absence of a review of Northwest's underlying base tariff rates could result in total rates which are excessive. In reviewing any future request by Northwest for approval of overriding royalty costs, the Commission is obligated to insure that the resulting rates, representing the combined base tariff rates plus claimed royalty costs, will be just and reasonable. Nothing in the settlement agreement can be construed as a limitation on the Commission's obligation to insure that Northwest's rates are just and reasonable. Ordering paragraph (B) provides the means by which the Commission may obtain information which may be necessary in making a final determination and is thus consistent with the Commission's responsibility under the mandate expressed in Section 4(a) of the Natural Gas Act.

It should be noted that ordering paragraph (B) does not require Northwest to file a complete rate application under section 154.63 of the Commission's regulations at the time it files to recover costs asscciated with special overriding royalty payments. It provides only that Northwest shall be required to submit additional, relevant information as may be found necessary by the Commission in determining whether Northwest's resulting total rates will be just and reasonable.

Based on the foregoing considerations, the Commission finds that Northwest's motion for reconsideration is without merit and must be denied.

The Commission orders: (A) Northwest's application for rehearing is being considered as a motion for reconsideration and is hereby denied.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25821 Filed 9-2-77;8:45 am]

[Project No. 2652]

PACIFIC POWER & LIGHT CO.

Application for Approval of Exhibit S

AUGUST 29, 1977.

Public notice is hereby given that an application for approval of Exhibit S was filed on May 5, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a–825r, by Pacific Power & Light Co. (Licensee) (Correspondence to: Mr. G. Eldon Drennan, Executive Vice President, Pacific Power & Light Co., 920 SW. Sixth Avenue, Portland, Oreg. 97204) for its constructed Project No. 2652 known as the Big Fork Project. Project No. 2652 is located on the Swan River near the City of Kalispell in Flathead County, Mont.

The Licensee was required to file the Exhibit S pursuant to Article 26 of its license. The Exhibit S describes the impact of the project operation on fish and wildlife in the area and protective measures at the project such as the fish structures. Licensee stated that it has consulted periodically with the Montana Department of Fish and Game respecting flow regulations, fish ladder operation and maintenance and matters concerning the fishery. Licensee also states that the project has no adverse impact on wildlife in the area.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 11, 1977, file with the Federal Power Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR §1.8 or § 1.10 (1977). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25822 Filed 9-2-77;8:45 am]

[Docket No. E-9572]

PAPAGO TRIBAL UTILITY AUTHORITY AND ARIZONA ELECTRIC POWER COOPERATIVE, INC. v. ARIZONA PUBLIC SERVICE CO.

Order Granting Late Intervention

AUGUST 29, 1977.

On December 27, 1976, Citizens Utilities Co. (Citizens), tendered for filing a petition to intervene out of time in the above-captioned proceeding. For the reasons hereinafter stated, the Commission shall grant Citizens petition to intervene.

On October 28, 1976, the Papago Tribal Utility Authority and Arizona Electric Power Cooperative, Inc., jointly tendered for filing a complaint against Arizona Public Service Co. (APS) alleging that APS has failed to comply with certain provisions of the Order Approving Stipulation and Offer of Settlement Subject to Conditions issued by the Commission on September 16, 1975, as clarified by an order issued on November 4, 1975, in Docket Nos. E-8621, et al.—E-9280, et al., and E-9081, and with the express terms of the June 27, 1975 settlement agreement thereby approved.

On July 5, 1977, the Commission issued an order instituting an investigation with respect to the allegations of the complaint and granted the petitions to intervene by the Welton-Mohawk Irrigation and Drainage District and the Arizona Power Authority.

Citizens states that it had been granted intervention in Docket Nos. E-9281 and E-9282 (consolidated with Docket No. E-9280) and that it had agreed to the settlement approved by the Commission in its order of September 16, 1975. Citizens further states that it believes that APS contravened the above mentioned settlement agreement with respect to the refunds transmitted to Citizens.

We determine that Citizens has standing to intervene in this docket and that granting late intervention will not prejudice or inconvenience any party to this proceeding.

The Commission finds: Intervention in these proceedings by Citizens may be in the public interest.

The Commission orders: (A) Citizens is hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission; *Provided, however*, that participation of Citizens shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further* that the admission of Citizens as intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25823 Filed 9-2-77;8:45 am]

[Project No. 2685]

POWER AUTHORITY OF THE STATE OF NEW YORK

Application for Approval of Revised Exhibit S

AUGUST 30, 1977.

Take notice that an application was filed on August 6, 1971, and supplemented on December 8, 1971, by the Power Authority of the State of New York (Correspondence to: Lewis R. Bennett, Assistant General Manager-General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, N.Y. 10019) for Commission approval of a revised Exhibit S for the Blenheim-Gilboa Pumped Storage Project, FPC No. 2685, located on Schoharie Creek in the towns of Blenheim and Gilboa, Schoharie County, N.Y.

The revised Exhibit S, filed pursuant to Article 36 of the license, presents Licensee's fish and wildlife development plan for the Blenheim-Gilboa Project area. Licensee's plan was prepared in consultation and cooperation with the Fish and Wildlife Service of the U.S. Department of the Interior, the Division of Fish and Wildlife of the New York State Department of Environmental Conservation (DEC), and the Capitol District State Park Commission.

Licensee plans to improve existing wildlife habitat through implementation of a 10-year food and cover planting program conducted in cooperation with DEC, the initial phase of which has already been established. To mitigate the loss of fishery and fishing opportunity due to construction operation and maintenance of the Project, Licensee proposes to establish and enhance a fishery in the lower reservoir and through construction of a boat launch area to provide fishing access at all reservoir elevations. A 16.6-acre fishing pond at another location is expected to mitigate fish losses due to project operations. Design provisions have been incorporated in the lower reservoir dam to permit minimum flow releases to sustain downstream fishlife.

Any person desiring to be heard or to make any protest with reference to this matter should on or before October 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. This application is on file with the Commission and available for public inspection at the Commission's offices in Washington, D.C.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25837 Filed 9-2-77;8:45 am]

[Docket No. ER77-464]

PUBLIC SERVICE COMPANY OF NEW MEXICO

Order Granting Petitions to Intervene

AUGUST 29, 1977.

On July 19, 1977, the Commission issued an order in this proceeding entitled Order Accepting for Filing and Suspending Proposed Increased Rates. Two timely petitions to intervene were filed in this docket but were not considered in the above Commission Order.

On July 11, 1977, an Intervening Petition, Protest and Motion to Suspend was filed on behalf of Plains Electric Generation & Transmission Cooperative (Plains). Plains is a wholesale electric customer of Public Service Company of New Mexico (PNM) and Plains and its Cooperative members serve approximately 20 percent of New Mexico's public. Plains asserts that its preliminary analysis reveals disagreement with both (PNM) test year costs and its proposed rate of return. Plains seeks both intervention status and imposition of the full five-month suspension period.

On July 13, 1977, a Petition to Intervene was filed on behalf of Community Public Service Co. (CPS). CPS states that it is a wholesale customer of (PNM) under a time-of-day rate structure. CPS asserts that the proposed filing in this docket significantly alters the present time-of-day rate structure to a degree that would necessitate changes in CPS's retail structure as well. CPS asks that, pending final determination in this proceeding the identification of off-peak and on-peak hours in (PNM's) currently-effective rate schedules be continued, and that any changes be ordered prospectively from a Commission final order in this docket.

The petitions to intervene of Plains and CPS will be granted, but no change will be made in the suspension period, and the proposed rates will become effective on October 1, 1977, subject to refund as ordered.

The Commission finds: (1) The participation in this proceeding of Plains and CPS may be in the public interest.

The Commission orders: (A) Plains Electric Generation & Transmission Cooperative and Community Public Service Co. are permitted to intervene, subject to the Commission's Rules and Regulations; *Provided, however*, that such intervention is limited to the issues set forth in the petition to intervene; and *Provided, further*, that the admission of intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any Commission order entered in this proceeding.

(B) Commission Staff shall prepare and serve Top Sheets on all parties on or before October 27, 1977 (See Administrative Order No. 157).

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)), shall convene a settlement conference in this proceeding within 10 days after service of Top Sheets by Staff, in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(D) The Secretary shall cause the prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25828 Filed 9-2-77;8:45 am]

[Docket No. ER76-87]

SIERRA PACIFIC POWER CO.

Compliance Filing

AUGUST 26, 1977.

Take notice that Sierra Pacific Power Co. (Sierra) on July 25, 1977, tendered for filing the following FPC Electric Tariff Sheets:

FPC sheet No.	Title of sheet	Canceling FPC sheet No.
8th revision 4	Schedule R, resale service	7th revision 4.
4th revision 5	Schedule R, resale service (continued)	3d revision 5.
1st revision 5A	Schedule R, resale service (continued)	Original 5A
5th revision 8	Fuel adjustment	4th revision 8.
3d revision 8A	Fuel adjustment (continued)	2d revision 8A and original 8B.
1st revision 9H	Terms and conditions (continued)	Original 9H.

Sierra indicates that these revised tariff sheets are in compliance with the Commission's Order approving settlement issued June 30, 1977.

Any person desiring to protest said filing should file a petition to protest with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before September 8, 1977. Protests will be considered by the Commission in determining the appropriate action. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25815 Filed 9-2-77;8:45 am]

[Docket No. RP77-31]

SOUTHERN NATURAL GAS CO.

Settlement Conference

AUGUST 24, 1977.

Take notice that a settlement conference in the captioned proceeding will be

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held on October 6, 1977, beginning at 11:00 a.m. in Room 5200, Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceedings.

All parties will be expected to come fully prepared to discuss the merits of all issues concerning the lawfulness of the proposed rate increase and any procedural matters preparatory to a full evidentiary hearing or to make commitments with respect to such issues and any offers of settlement or stipulations discussed at the conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25810 Filed 9-2-77;8:45 am]

[Docket No. CP77-571]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Application

AUGUST 29, 1977.

Take notice that on August 17, 1977, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Tex. 77001, filed in Docket No. CP77-571 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for 15 years for Orange & Rockland Utilities, Inc. (Orange & Rockland), one of Applicant's existing resale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to render a transportation service for Lowell for a primary term of 15 years ending March 31, 1993, pursuant to a precedent agreement dated August 10, 1977, among Applicant, Orange & Rockland and National Gas Storage Corp. (Storage Corp.). It is stated that the proposed transportation service which Applicant would perform would enable Orange & Rockland to store a portion of the natural gas it purchases from Applicant with Storage Corp. under the storage service proposed by Storage Corp. in Docket No. CP76-492.

Applicant indicates that Orange & Rockland has entered into a preliminary agreement with Storage Corp. under which Storage Corp. would, upon certification and development of the storage facilities proposed in Docket No. CP76-492, perform a storage service for Orange & Rockland extending through March 31, 1993, with the following storage volumes:

[In thousand cubic feet]

Annual storage quantity	Daily injection quantity	Daily withdrawal quantity
1,000,000	5,000	6,667

Applicant states that in order to enable Orange & Rockland to utilize the storage service, Applicant proposes to receive from Orange & Rockland and/or from Columbia Gas Transmission Corp. (Columbia Gas), for Orange & Rockland's account, daily volumes of natural gas (injection input volumes) nominated by Orange & Rockland from its contracted demand purchases from Applicant under Applicant's Rate Schedule CD-5 and/or from its purchases from Columbia Gas under Columbia Gas' Rate Schedule CDS and to transport and deliver such volumes to Storage Corp. for storage for Applicant from Columbia Gas would be volumes which Orange & Rockland would cause Columbia Gas to nominate out of Columbia Gas' contracted demand purchased from Applicant at the applicable receipt point; it is said.

When requested by Orange & Rockland, Applicant proposes to receive daily volumes from Storage Corp., for Orange & Rockland's account (withdrawal input volumes), and to transport and deliver the equivalent volumes (withdrawal transportation volumes) to Orange & Rockland and/or, after deduction of a small portion of such volume for Applicant's system fuel and use requirements, to Applicant for Orange & Rockland's account. It is indicated that the maximum daily injection input volume which Orange & Rockland may request Applicant to receive for transportation and deliver to Storage Corp. is 6,933 Mcf for volumes received from Orange & Rockland and 7,111 Mcf for volumes received from Columbia Gas for Orange & Rocklands account. On any day when an injection input volume is made available to Applicant by Columbia Gas, the injection transportation volume would equal 0.9750 times the injection input volume and the remaining 0.025 times the injection input volume would be retained by Applicant as a supplement to its system gas supply for its system fuel and use requirements. Applicant states that the total of the injection transportation volumes during the April 1 through October 31 period of each year would not exceed 1,040,000 Mcf.

It is stated that the maximum daily withdrawal input volume which Orange & Rockland may request Applicant to receive from Storage Corp. for transportation and delivery to Orange & Rockland, or to Columbia Gas for Orange & Rocklands account, is 9,091 Mcf. On any day when a withdrawal input volume is made available to Applicant for a transportation and delivery to Orange & Rockland, the withdrawal transportation volume would equal 0.9864 times the withdrawal input volume for volumes delivered to Orange & Rockland and 0.9892 times the withdrawal input volumes for volumes delivered to Columbia Gas for Orange & Rocklands account. Applicant states that the remaining 0.0136 and 0.0108, respectively, times the respective withdrawal input volume would be retained by Applicant as a supplement to its system gas supply for its system fuel and use requirements and that the total of the withdrawal transportation volumes during the November 1 through March 31 period of each year would not exceed 1,000,000 Mcf.

Applicant indicates that the receipt and delivery point for all volumes to be received from and delivered to Orange & Rockland by Applicant would be at Applicant's existing Pearl River sales meter station delivery point to Orange & Rockland in Rockland County, N.Y., or when required by operating conditions, at any other mutually agreed to existing point of interconnection between the two companies. Applicant further indicates that the receipt point for all volumes to be received from Columbia Gas by Applicant, for Orange & Rockland's account, for transportation and delivery to Storage Corp. would be at Applicant's existing South Ceredo sales meter station delivery point to Columbia Gas in Wayne County, W. Va., or when required by operating conditions, at any other mutually agreed to existing point of interconnection between the two companies.

It is stated that the delivery point for all volumes to be delivered to Columbia Gas by Applicant, for Orange & Rockland's account, would be at Applicant's existing Milford sales meter station delivery point to Columbia Gas in Pike County, Pa., or when required by operating conditions, at any other mutually agreed to existing point of interconnection between the two companies.

Applicant states that the receipt and delivery point for all volumes to be delivered to and received from Storage Corp. by Applicant for Orange & Rockland's account would be at a point of interconnection between the facilities of Applicant and Storage Corp. to be established at or near Applicant's Main Line Valve 313G-102 in Potter County, Pa., for which authorization is being sought in Applicant's application filed in Docket No. CP77-569 in which Applicant proposes to render a similar transportation service for Central Hudson Gas & Electric Corp.

It is indicated that the compensation to be paid each month by Orange & Rockland to Applicant for the transportation service by Applicant would consist of the following charges:

(A) *Charges for transportation of base gas for injection.*—For each Mcf of natural gas made available to Applicant by Orange & Rockland at the point of receipt—Orange & Rockland, which gas Applicant delivers during the month to Storage Corp. for the account of Orange & Rockland to enable Orange & Rockland to make base gas available to Storage Corp., Orange & Rockland shall pay to Applicant 9.34 cents per Mcf and for each Mcf so made available to Applicant at the Point of Receipt—Columbia, which Applicant delivers during the month to Storage Corp. for the account of Orange & Rockland, Orange & Rockland shall pay Applicant 17.19 cents per Mcf.

(B) *Charge for transportation of top gas withdrawals.*—For each Mcf of withdrawal transportation volume which Applicant delivers during the month, Orange & Rockland shall pay to Applicant 12.63 cents per Mcf. The rates specified in this section are intended to reflect transportation of the withdrawal transportation volume by Applicant to Columbia for the account of Orange & Rockland at the Point of Delivery—Columbia. Upon notice by Orange & Rockland, the rate to be charged under this section shall be adjusted to reflect deliveries by Tennessee to Orange & Rockland at the Point of Delivery—Orange & Rockland.

(C) *Added volume charge.*—(a) For the purpose of calculating the added volume charge, the following terms applicable to each period from November 1 through the following March 31 are defined:

(i) The CD-5 underage volume shall be the positive remainder, if any, of the total of Orange & Rockland's curtailment period quantity entitlements (CPQEs) during such period under Applicant's contracted demand gas sales contract with Orange & Rockland minus the volume for which Orange & Rockland pays Applicant at Applicant's CD-5 commodity rate under said gas sales contract during such period.

(ii) The displaced volume shall be the lesser of the CD-5 underage volume, or, the volume, within the total of the withdrawal transportation volumes during such period, which Orange & Rockland obtained from sources other than Applicant.

(iii) The terms curtailment period, CD-5 commodity rate, and curtailment period quantity entitlement are defined in Volume 1 of Applicant's FPC Gas Tariff.

(b) The added volume charge for each period from November 1 through the following March 31 shall consist of a sum equal to the product of 14.78 cents per Mcf times the displaced volume.

(c) The added volume charge applicable to each period from November 1 through the following March 31 shall appear on Applicant's invoice issued during the month of April at the end of each such period.

(D) *Minimum Annual Bill.*—Beginning with the month of April 1981 Orange & Rockland shall pay Applicant during April of each year, 12.63 cents multiplied by the difference in volume between (a) 0.9892 times (1,000,000 Mcf minus any Storage Corp. withdrawal fuel related to 1,000,000 Mcf for the period from November 1 through the following March 31) reduced by whatever portion of such volume which Applicant did not transport and deliver for the account of Orange & Rockland during such period because of Applicant's inability to transport and deliver volumes related to injection and withdrawal input volumes requested by Orange & Rockland, and (b) the total of the daily withdrawal transportation volumes such period from November 1 through the following March 31.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 19, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25831 Filed 9-2-77;8:45 am]

[Docket No. CP77-569]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO, INC.

Application

AUGUST 29, 1977.

Take notice that on August 17, 1977, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc. (Applicant), P.O. Box 2511, Houston, Tex. 77001, filed in Docket No. CP77-569 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for 15 years for Central Hudson Gas & Electric Corp. (Central Hudson), one of Applicant's existing resale customers, and to construct and operate interconnecting facilities on Applicant's pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to render a transportation service for Central Hudson for a primary term of 15 years ending March 31, 1993, pursuant to a precedent agreement dated August 10, 1977, among Applicant, Central Hudson and National Gas Storage Corp. (Storage Corp.). It is stated that the proposed transportation service would enable Central Hudson to store a portion of the natural gas it purchases from Applicant with Storage Corp. under the storage service proposed by Storage Corp. in Docket No. CP76-492. Applicant indicates that Central Hudson has entered into a preliminary agreement with Storage Corporation under which Storage Corp. would, upon certification and development of the storage facilities proposed in Docket No. CP76-492, perform a storage service for Central Hudson commencing April 1978 and extending through March 31, 1993, with the following storage volumes:

[In thousand cubic feet]

	Annual storage quantity	Daily injection quantity	Daily withdrawal quantity
Period 1: Apr. 1, 1978 through Mar. 31, 1983	200,000	1,000	1,333
Period 2: Apr. 1, 1983 through Mar. 31, 1993	500,000	2,500	3,333

Applicant states that in order to enable Central Hudson to utilize the storage service, Applicant proposes to receive from Central Hudson daily volumes of natural gas (injection transportation volumes) nominated by Central Hudson from its contracted demand purchases from Applicant under Applicant's Rate Schedule CD-5 and to transport and deliver such volumes to Storage Corp. for storage for Central Hudson's account. When requested by Central Hudson, Applicant proposes to receive daily volumes from Storage Corp., for Central Hudson's account (withdrawal input volumes), and after deduction of a small portion of such volume for Applicant's system fuel and use requirements, to transport and deliver the equivalent remaining volumes (withdrawal transportation volumes) to Central Hudson.

It is stated that the maximum daily injection transportation volumes which Central Hudson may request Applicant to receive for transportation and delivery to Storage Corp. are 1,387 Mcf during Period 1 and 3,467 Mcf during Period 2. It is further stated that the total of the injection transportation volumes during the April 1 through October 31 period of each year would not exceed 208,000 Mcf during Period 1 and 520,000 Mcf during Period 2.

It is indicated that the maximum daily withdrawal input volume which Central Hudson may request Applicant to receive from Storage Corp. for transportation and delivery to Central Hudson is 1,818 Mcf during Period 1 and 4,545 Mcf during Period 2. On any day when a withdrawal input volume is made available to Applicant, the withdrawal transportation volume would equal 0.9843 times the withdrawal input volume. The remaining 0.0157 times the withdrawal input volume would be retained by Applicant as a supplement to Applicant's system gas supply for Applicant's fuel and use requirements. The total of the withdrawal transportation volumes which Central Hudson may request Applicant to transport during the November 1 through March 31 period of each year shall not exceed 200,000 Mcf during Period 1 and 500,000 Mcf during Period 2.

Applicant states that the delivery point for all volumes to be received from and delivered to Central Hudson by Applicant would be at Applicant's existing Cedar Hill Sales Meter Station Delivery Point to Central Hudson located in Albany County, N.Y., or when required by operating conditions, at any other mutually agreed to existing point of interconnection between the two companies. Applicant further states that the deliv-

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ery point for all volumes to be delivered to and received from Storage Corp. by Applicant for Central Hudson's account would be at a point of interconnection between the facilities of Applicant and Storage Corp. to be established at or near Applicant's Main Line Valve 313G–102 in Potter County, Pa. Applicant requests authorization to construct and operate a side valve at the aforementioned point of interconnection. The cost of such side valve would be borne by Storage Corp., it is said.

It is indicated that the compensation to be paid each month by Central Hudson to Applicant for the transportation service by Applicant would consist of the following charges:

A. *Charge for transportation of base gas for injection.* For each Mcf of natural gas made available to Applicant by Central Hudson at the point of receipt, which gas Applicant delivers during the month of Storage Corp. for the account of Central Hudson to enable Central Hudson to make base gas available to Storage Corp., Central Hudson shall pay to Applicant 10.79 cents per Mcf.

B. *Charge for transportation of top gas withdrawals.*—For each Mcf of withdrawal transportation volume which Applicant delivers during the month to Central Hudson, Central Hudson, Central Hudson shall pay to Applicant 15.91 cents per Mcf.

C. *Added volume charge.* (a) For the purpose of calculating the added volume charge, the following terms applicable to each period from November 1 through the following March 31 are defined:

(i) The CD–5 underage volume shall be the positive remainder, if any, of the total of Central Hudson's curtailment period quantity entitlements (CPQE's) during such period under Applicant's contracted demand gas sales contract with Central Hudson minus the volume for which Central Hudson pays Applicant at Applicant's CD–5 commodity rate under said gas sales contract during such period.

(ii) The displaced volume shall be the lesser of the CD–5 underage volume, or, the volume, within the total of the withdrawal transportation volumes during such period, which Central Hudson obtained from sources other than Applicant.

(iii) The terms curtailment period, CD–5 commodity rate, and curtailment period quantity entitlement are defined in Volume 1 of Applicant's FPC Gas Tariff.

(b) The added volume charge for each period from November 1 through the following March 31 shall consist of a sum equal to the product of 14.70 cents per Mcf times the displaced volume.

(c) The added volume charge applicable to each period from November 1 through the following March 31 shall appear on Applicant's invoice issued during the month of April at the end of each such period.

D. *Minimum annual bill.* Beginning with the month of April 1981 Central Hudson shall pay Applicant during April of each year, 15.91 cents multiplied by the difference in volume between (a) during Period 1, a volume equal to 0.9843 times (200,000 Mcf minus any Storage Corp. withdrawal fuel related to 200,000 Mcf for the period from November 1 through the following March 31) reduced by whatever portion of such volume which Applicant did not transport and deliver to Central Hudson during such period because of Applicant's inability to transport and deliver volumes related to injection and withdrawal input volumes requested by Central Hudson, and, during Period 2, a volume equal to 0.9843 times (500,000 Mcf minus any Storage Corp. withdrawal fuel related to 500,000 Mcf for the period from November 1 through the following March 31) reduced by whatever portion of such volume which Applicant did not transport and deliver to Central Hudson during such period because of Applicant's inability to transport and deliver volumes related to injection and withdrawal input volumes requested by Central Hudson, and, (b) the total of the daily withdrawal transportation volumes during such periods from November 1 through the following March 31.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 19, 1977, file with the Federal Power Commission, Wahington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearng will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25829 Filed 9-2-77;8:45 am]

[Docket No. CP77-570]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO, INC.

Application

AUGUST 29, 1977.

Take notice that on August 17, 1977, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc. (Applicant), P.O. Box 2511, Houston, Tex. 77001, filed in Docket No. CP77–570 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for 15 years for Lowell Gas Co. (Lowell), one of Applicant's existing resale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to render transportation service for Lowell for a primary term of 15 years ending March 31, 1993, pursuant to a precedent agreement dated August 10, 1977, among Applicant, Lowell and National Gas Storage Corp. (Storage Corp.). It is stated that the proposed transportation service which Applicant would perform would enable Lowell to store a portion of the natural gas it purchases from Applicant with Storage Corp. under the storage service proposed by Storage Corp. in Docket No. CP76–492.

Applicant indicates that Lowell has entered into a preliminary agreement with Storage Corp. under which Storage Corp. would, upon certification and development of the storage facilities proposed in Docket No. CP76–492, perform a storage service for Lowell extending through March 31, 1993, with the following storage volumes:

[In thousand cubic feet]

Annual storage quantity	Daily injection quantity	Daily withdrawal quantity
2,000,000	10,000	13,333

Applicant states that in order to enable Lowell to utilize the storage service, Applicant proposes to receive from Lowell daily volumes of natural gas (injection transportation volumes) nominated by Lowell from its contracted demand purchases from Applicant under Applicant's Rate Schedule CD–6 and to transport and deliver such volumes to Storage Corp. for storage for Lowell's account. When requested by Lowell, Applicant proposes to receive daily volumes from Storage Corp., for Lowell's account (withdrawal input volumes), and after deduction of a small portion of such volume for Applicant's system fuel and use requirements, to transport and deliver the remaining volumes (withdrawal transportation volumes) to Lowell.

The maximum daily injection transportation volume which Lowell may request Applicant to receive for transportation and delivery to Storage Corp. would be 13,867 Mcf, and the total of the injection transportation volumes during the April 1 through October 31 period of each year would not exceed 2,080,000 Mcf.

The maximum daily withdrawal input volume which Lowell may request Applicant to receive from Storage Corp. for transportation and delivery to Lowell would be 18,182 Mcf. On any day when a withdrawal input volume would be made available to Applicant, the withdrawal transportation volume would equal 0.9843 times the withdrawal input volume; and the remaining 0.0157 time the withdrawal input volume would be retained by Applicant as a supplement to Applicant's system gas supply for Applicant's system fuel and use requirements. The total of the withdrawal transportation volumes which Lowell may request Applicant during the November 1 through March 31 period of each year would not exceed 2,000,000 Mcf, it is said.

Applicant states that the delivery point for all volumes to be received from and delivered to Lowell by Applicant would be at Applicant's existing Tewksbury sales meter station delivery point to Lowell in Middlesex County, Mass., or when required by operating conditions, at any other mutually agreed to existing point of interconnection between the two companies. Applicant further states that the delivery point for all volumes to be delivered to and received from Storage Corp. by Applicant for Lowell's account would be at a point of interconnection between the facilities of Applicant and Storage Corp. to be established at or near Applicant's Main Line Valve 313G–102 in Potter County, Pa., for which authorization is being sought in Applicant's application filed in Docket No. CP77–569 in which Applicant's proposes to render a similar transportation service for Central Hudson Gas & Electric Corp.

It is indicated that the compensation to be paid each month by Lowell to Applicant for the transportation service by Applicant would consist of the following charges:

A. *Charge for transportation of base gas for injection.* For each Mcf of natural gas made available to Applicant by Lowell at the point of receipt, which gas Applicant delivers during the month to Storage Corp. for the account of Lowell to enable Lowell to make base gas available to Storage Corp., Lowell shall pay to Applicant 17.61 cents per Mcf.

B. *Charge for transportation of top gas withdrawals.* For each Mcf of withdrawal transportation volume which Applicant delivers during the month to Lowell, Lowell shall pay to Applicant 25.98 cents per Mcf.

C. *Added volume charge.* (a) For the purpose of calculating the added volume charge, the following terms applicable to each period from November 1 through the following March 31 are defined:

(i) The CD–6 underage volume shall be the positive remainder, if any, of the total of Lowell's curtailment period quantity entitlements (CPQE's) during such period under Applicant's contracted demand gas sales contract with Lowell minus the volume for which Lowell pays Applicant at Applicant's CD–6 commodity rate under said gas sales contract during such period.

(ii) The displaced volume shall be the lesser of the CD–6 underage volume, or, the volume within the total of the withdrawal transportation volumes during such period, which Lowell obtained from sources other than Applicant.

(iii) The terms curtailment period, CD–6 commodity rate and curtailment period quantity entitlement are defined in Volume 1 of Applicant's FPC Gas Tariff.

(b) The added volume charge for each period from November 1 through the following March 31 shall consist of a sum equal to the product of 25.31 cents per Mcf times the displaced volume.

(c) The added volume charge applicable to each period from November 1 through the following March 31 shall appear on Applicant's invoice issued during the month of April at the end of each such period.

D. *Minimum annual bill.* Beginning with the month of April 1981 Lowell shall pay Applicant during April of each year, 25.98 cents multiplied by the difference in volume between (a) 0.9745 times (2,000,000 Mcf minus any Storage Corp. withdrawal fuel related to 2,000,000 Mcf for the period from November 1 through the following March 31) reduced by whatever portion of such volume which Applicant did not transport and deliver for the account of Lowell during such period because of Applicant's inability to transport and deliver volumes related to injection and withdrawal input volumes requested by Lowell, and (b) the total of the daily withdrawal transportation volumes during such period from November 1 through the following March 31.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 19,1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25830 Filed 9-2-77;8:45 am]

[Docket No. CP77-584]

TEXAS EASTERN TRANSMISSION CORP.

Application

AUGUST 31, 1977

Take notice that on August 23, 1977, Texas Eastern Transmission Corp. (Applicant), P.O. Box 2521, Houston, Tex. 77001, filed in Docket No. CP77–584 an aplication pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities and the transportation of natural gas for Florida Gas Transmission Corp. (Florida Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct facilities to transport for Florida Gas up to 5,000 dekatherms equivalent of natural gas per day, pursuant to Applicant's proposed Rate Schedule TS–2. Applicant says that the transportation would be in accordance with the terms of a service agreement dated August 2, 1977, between Applicant and Florida Gas.

According to Applicant, Florida Gas Exploration Co., an affiliate of Florida Gas, received authorization to sell up to 5,000 dekatherms equivalent per day of natural gas to Florida Gas by a temporary certificate issued August 11, 1977, in Docket No. CI77–663. Applicant proposes to receive this gas at a point to be constructed on its 30-inch pipeline near Chalkey Field in Cameron Parish, Louisiana, and to deliver the gas to Florida Gas at an existing point of interconnection between the two systems in the Krotz Springs Area of St. Landry Parish, Louisiana.

Applicant says that Florida Gas would reimburse Applicant for all costs of this service. The cost of constructing the proposed facilities is estimated by Applicant to be approximately $12,400.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

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unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25849 Filed 9-2-77;8:45 am]

[Docket No. CP77-578]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

AUGUST 31, 1977.

Take notice that on August 22, 1977, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-578 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of certain gathering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to acquire and operate certain gathering and appurtenant facilities from C&K Petroleum, Inc. (C&K), individually, and as representative for C&K—AA '76 Ltd., C&K—H 1976 Ltd., C&K—AC Venture, C&K—CKC 1976 Ltd., and Harding A. Orren, Solly Robins, Julius E. Davis, KHS Associates, John Lawrence, Arthur L. Owen, Vanguard Petroleum Corporation and Jack Webre (hereinafter C&K, et al.) pursuant to a gas purchase contract, dated July 30, 1977, between C&K, et al., and Applicant. Applicant says that this contract has been filed as an exhibit appended to C&K, et al.'s application in Docket No. CI77-724 for a certificate to sell gas to Applicant.

Under the terms of the contract, says Applicant, C&K et al., have agreed to sell and Applicant has agreed to buy all of C&K, et al.'s, interest in the surface gathering and purification equipment which has been previously installed in the Jefferson Island Field, Iberia Parish, Louisiana, including, but not limited to, a six-inch diameter pipeline of approximately 3,851 feet, which runs from the field to the nearby twelve-inch pipeline of Tennessee Gas Pipeline Co., a Division of Tenneco, Inc. (Tennessee); a meter station; a high pressure separator; line heaters; a dehydration unit and related facilities.

Applicant says that the field facilities which it proposes to acquire were constructed for the joint account of the working interest owners of certain natural gas production in the Jefferson Island Field, with the total cost of $205,259.47 apportioned in relation to their interests as follows: C&K, *et al.*, 84.375 percent ($173,187.67); Burlington Industries, Inc. (Burlington), 3.125 percent; and Tesoro Petroleum Corp. (Tesoro), 12.5 percent.

In Docket No. CP77-554, Applicant says, it has on file an application for a certificate authorizing it to transport gas from Burlington's interest in the Jefferson Island Field, for Burlington. Burlington, it is said, will convey to Applicant its interest in the facilities as no cost for as long as transportation service is being rendered.

Applicant says that Tesoro has not yet decided if it will sell its share of the gas to Applicant or to an intrastate purchaser. If Tesoro agrees to sell the gas to Applicant, Applicant indicates that it intends to purchase Tesoro's interest in the facilities also.

Applicant says that the facilities will be used (1) to receive the gas from the Jefferson Island Field which Applicant will purchase from C&K, et al., pursuant to the gas purchase contract and (2) to transport gas for Burlington. All of the gas will be delivered to Tennessee's twelve-inch line for transportation to Applicant's nearby fourteen-inch line in Vermilion Parish, La.

The gathering line and other facilities to be acquired by Applicant are said to have been installed during the second quarter of 1977 and have not been depreciated on C&K, et al.'s, books. The purchase price will be the original cost of the facilities to C&K, et al., $173,187.67. Applicant intends to finance the purchase initially with short term loans and available cash. Later, says Applicant, the facilities will be permanently financed as part of a major financing program.

Applicant estimates that daily deliveries to it from the Jefferson Island Field will be about 15,000 Mcf, but expects this volume to increase since the field is under active development.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25850 Filed 9-2-77;8:45 am]

FEDERAL RESERVE SYSTEM

METROPOLITAN BANK AND TRUST CO., ET AL.

Amendment of Order Approving Formation of Bank Holding Companies

By Order of August 10, 1977, the Board approved under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) the applications of Metropolitan Bank and Trust Company, Philippine Securities Corporation, and Tytana Corporation all of Makati, Rizal, Philippines, to become bank holding companies through the direct and indirect acquisition of up to 35 percent of the voting shares of International Bank of California, Los Angeles, Calif. ("Bank"). Applicants indicated in materials submitted with the above applications that as a result of a voting trust agreement with shareholders of Bank, Applicants would control directly or indirectly up to 51 percent of the voting shares of Bank (including the 35 percent for which prior approval was requested). Applicants have amended their applications to reflect the fact that they will control directly or indirectly up to 51 percent of the voting shares of Bank and have requested that the Board amend its Order of August 10 accordingly. The factors that are considered in acting on the amended applications are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The amended applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the amended applications should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than September 14, 1977.

Board of Governors of the Federal Reserve System, September 1, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-26034 Filed 9-2-77;10:29 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on August 30, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before September 26, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL COMMUNICATIONS COMMISSION

FCC requests an extension no change clearance of the reporting requirement contained in 47 CFR 1.311—National Environmental Policy Act Reporting Requirement. The reporting requirement calls for information to be submitted with applications for authority to construct major communications facilities. This information helps FCC to determine whether the facilities will have a significant effect on the environment. Section 102(2)(c) of the National Environmental Policy Act (NEPA) requires all Federal agencies to prepare an environmental impact statement before taking any major action significantly affecting the quality of human environment. FCC estimates approximately 740 statements are received annually and that respondent burden averages 10 hours per statement.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-25796 Filed 9-2-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Reg.; Temporary Reg. F-440]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government in an interstate telephone rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* (a) Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Tennessee Public Service Commission involving the application of the South Central Bell Telephone Company for increased rates and charges for intrastate telephone service.

(b) The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

(c) This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

JAY SOLOMON,
Administrator of General Services.

AUGUST 25, 1977.

[FR Doc.77-25887 Filed 9-2-77;8:45 am]

[Federal Property Management Regs.; Temporary Reg. F-441]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent, in conjunction with the Administrator of Genral Services, the consumer interests of the executive agencies of the Federal Government in an interstate telecommunications rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* (a) Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Federal Communications Commission involving the application of the American Telephone and Telegraph Company for increases in interstate tariff FCC 260, Series 8000 (Transmittal No. 12796). The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

(b.) The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c.) This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

AUGUST 25, 1977.

JAY SOLOMON,
Administrator of General Services.

[FR Doc.77-25888 Filed 9-2-77;8:45 am]

[Federal Property Management Regs.; Temporary Reg. F-442]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in an interstate telecommunications rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* (a) Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Federal Communications Commission involving new tariffs filed by the American Telephone and Telegraph Company for Digital Data Service (Tariff FCC 267, Transmittal 12790). The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

(b) The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

(c) This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

JAY SOLOMON,
Administrator of General Services.

AUGUST 25, 1977.

[FR Doc.77-25889 Filed 9-2-77;8:45 am]

[Federal Property Management Regs.; Temporary Reg. F-443]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in an interstate telecommunications rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* (a) Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer

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interests of the executive agencies of the Federal Government before the Federal Communications Commission involving new tariffs filed by the American Telephone and Telegraph Company for private line telegraph service (Tariff FCC 260, Series 1000, Transmittal No. 12791). The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

(b) The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

(c) This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

JAY SOLOMAN,
Administrator of General Services.

AUGUST 26, 1977.

[FR Doc.77-25890 Filed 9-2-77;8:45 am]

[Intervention Notice No. 38; Case No. U-5502]

MICHIGAN PUBLIC SERVICE COMMISSION, DETROIT EDISON CO.

Proposed Intervention in Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Michigan Public Service Commission concerning an application by the Detroit Edison Co. for an increase in its tariffed rates for intrastate electric service. The GSA represents the interests of the executive agencies of the United States Government, as users of utility services.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-0750, on or before October 6, 1977, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act (40 U.S.C. 481(a)(4)).)

Dated: August 25, 1977.

JAY SOLOMON,
Administrator of General Services.

[FR Doc.77-25892 Filed 9-2-77;8:45 am]

[Intervention Notice No. 37; Docket No. RID 438]

PENNSYLVANIA PUBLIC UTILITY COMMISSION, PHILADELPHIA ELECTRIC CO.

Proposed Intervention in Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Pennsylvania Public Utility Commission concerning an application by the Philadelphia Electric Co. for an increase in its tariffed rates for intrastate electric service. The GSA represents the interests of the executive agencies of the United States Government, as users of utility services.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-0750, on or before October 6, 1977, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act (40 U.S.C. 481(a)(4)).)

Dated: August 25, 1977.

JAY SOLOMON,
Administrator of General Services.

[FR Doc.77-25891 Filed 9-2-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

ADVISORY COUNCIL ON ENVIRONMENTAL EDUCATION

Meeting

AGENCY: Advisory Council on Environmental Education, HEW/OE.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meeting of the Advisory Council on Environmental Education. It also describes the functions of the Council. Notice of the meeting is required by the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: September 26, 1977, 10:30 a.m. to 5:30 p.m., September 27, 1977, 9:00 a.m. to 4:30 p.m.

ADDRESS: Demonstration Center, Federal Office Building No. 6, Room 1134, 400 Maryland Avenue SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Mr. Walter Bogan, Office of Environmental Education, Room 2025, FOB No. 6, 400 Maryland Avenue SW., Washington, D.C. 20202 (202-245-9231).

(A) Advise the Commissioner and the Office concerning the administration of, preparation of general regulations for, and operation of programs assisted under the Environmental Education Act;

(B) Make recommendations to the Office with respect to the allocation of funds appropriated pursuant to section 7 among the purposes set forth in paragraph (2) of subsection (b) of the Environmental Education Act and the criteria to be used in approving applications, which criteria shall insure an appropriate geographical distribution of approved programs and projects throughout the Nation;

(C) Develop criteria for the review of applications and their disposition; and

(D) Evaluate programs and projects assisted under the Environmental Education Act and disseminate the results thereof.

The meeting of the Council shall be open to the public. The meeting on September 26 will begin at 10:30 a.m. and end at 5:30 p.m. The meeting on September 27 will begin at 9:00 a.m. and end at 4:30 p.m. The meeting will be held at the Office of Education Building, 400 Maryland Avenue SW., Room 1134, Washington, D.C. 20202.

The proposed agenda includes:

1. End of year program briefing and report by the Office of Environmental Education on the status of implementation of Council recommendations.

2. Review of interim reports of Council Sub-Committees.

3. General Council business for 1977.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the Advisory Council on Environmental Education located in Room 2025, Federal Office Building No. 6, 400 Maryland Avenue SW., Washington, D.C. 20202.

Signed at Washington, D.C., on August 31, 1977.

WALTER J. BOGAN, JR.,
Director of Office of Environmental Education.

[FR Doc.77-25800 Filed 9-2-77;8:45 am]

COMMENTS ON COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Pursuant to Section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Center for Education Statistics and the U.S. Office of Education have proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before October 6, 1977, and should be addressed to Administrator, National Center for Education Statistics, Attn: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: August 30, 1977.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity. 1980 Census Data by School District.

2. Agency/Bureau/Office. National Center for Education Statistics.

3. Agency Form Number. NCES 2407.

4. Legislative Authority for This Activity. "Sec. 406(b) The purpose of the Center [National Center for Education Statistics] shall be to collect and disseminate statistics and other data related to education in the United States • • •" (Pub. L. 93-380; 20 USC 1221e-1).

5. Voluntary/Obligatory Nature of Response. Voluntary.

6. How Information To Be Collected Will Be Used. School district maps will be collected in order to make 1980 Census data available to the education community by school district. Census Boundary and Annexation Survey (BAS) maps with the school district boundaries superimposed can be used by State Departments of Education when school districts are in the process of redistricting and by local or County governments when reorganizing election areas for school districts in response to statutory requirements.

7. Data Acquisition Plan. a. Method of Collection: Mail. b. Time of Collection: Spring 1978—Winter 1979. c. Frequency: One time (with a procedure developed for at least annually updating the geographic reference file (GRF).

8. Respondents. (a) Type: SEA. (b) Number: 51. (c) Estimated average man-hours per respondent: 1. (a) Type: LEA. (b) Number: 16,000. (c) Estimated Average Man-Hours per Respondent: 2.5.

(NOTE.—The man-hours per SEA/LEA for this project is dependent upon the physical size of the LEAs and the complexity of their boundaries.)

9. Information To Be Collected. Maps showing school district boundaries or other reliable school district boundary information plus subsequent verification of the school district boundaries drawn on Census BAS maps.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity. Teacher Corps Inservice Teacher Education Survey.

2. Agency/Bureau/Office. U.S. Office of Education, Immediate Office of the Commissioner, Teacher Corps.

3. Agency Form Number, OE 582.

4. Legislative Authority for this Activity. "For the purpose of carrying out this subpart, the Commissioner is authorized to • • • make available technical assistance to local educational agencies and institutions of higher education for carrying out arrangements • • •" (Pub. L. 89-329, Sec. 513(a)) (20 U.S.C. 1103). "The Commissioner shall (1) Prepare and disseminate to State and local educational agencies and institutions information concerning applicable programs and cooperate with other Federal officials who administer programs affecting education in disseminating information concerning such programs; (2) inform the public on federally supported education programs; (3) collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving their purposes; • • •" (Pub. L. 91-230, Sec. 422(a)) (20 U.S.C. 1231a).

5. Voluntary/Obligatory Nature of Response. Voluntary.

6. How Information To Be Collected Will Be Used: The data gained from this survey will allow Teacher Corps and its projects to (1) Assess the current status of inservice education for members of Teacher Corps; (2) identify alternative approaches through inservice education; (3) assist local projects and staff development programs; and (4) provide information necessary for future planning and policymaking at the national level.

7. Data Acquisition Plan: (a) Method of collection: Mail. (b) Time of collection: Winter, 1978. (c) Frequency: Single-time.

8. Respondents: (a) Type: Local Education Agency. (b) Number: 134. (c) Estimated average man-hours per respondent: ½ hour. (a) Type: College and University Personnel. (b) Number 117. (c) Estimated average man-hours per respondent: ½ hour. (a) Type: State Education Agency. (b) Number: 50. (c) Estimated average man-hours per respondent: ½ hour. (a) Type: Parent. (b) Number: 300. (c) Estimated average man-hours per respondent: ½ hour.

9. Information To Be Collected: Information will be collected to establish a data base about present practices in inservice education in the 11th and 12th cycle Teacher Corps projects. It will identify the opinions of various categories of educational personnel, community members and interested others in Teacher Corps projects as indicated below:

(a) *Local Education Agency* (LEA). 1. Demographic characteristics, educational level and positions of school personnel.

2. Facts and attitudes concerning quantity and quality of staff development already received.

3. Identification of special needs in inservice training in the areas of today's special focuses. (Exceptional child, preschool education, multicultural education, Bilingual education, etc.)

(b) *College and University Personnel.* 1. Amounts and types of faculty involvement in inservice teacher training programs.

2. Opinions as to the degree of success or failure of present inservice training programs.

3. Identification of college faculty development needs as they pertain to delivering inservice training programs for teachers.

(c) *State Education Agency (SEA).* 1. Attitudes towards various legislation or executive decisions taken by many States with respect to inservice teacher training projects.

2. Opinions as to who should bear the costs of such programs.

3. Views concerning who should conduct and evaluate inservice teachers training programs.

(d) *Parents.* 1. Demographic characteristics of community members served by the school.

2. Opinions as to who should bear the concerning any staff development taking place in the schools.

3. Community experience with and preferences for various forms of governance in an inservice training program.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity. Institutional Request for Additional Funds under the College Work-Study Program.

2. Agency/Bureau/Office. U.S. Office of Education/Bureau of Student Financial Assistance/Division of Student Financial Aid.

3. Agency Form Number. OE 1286.

4. Legislative authority for this activity. "Sec. 442(d) The amount of any State's allotment which has not been granted to an eligible institution under section 443 at the end of the fiscal year for which appropriated shall be allotted by the Commissioner in such manner as he determines will best assist in achieving the purposes of the Act. Amounts reallotted under this subsection shall be available for making grants under section 443 until the close of the fiscal year next succeeding the fiscal year for which appropriated." (Pub. L. 92-318.)

"Funds allocated to an institution which the institution anticipates will not be used by the end of the period for which such funds were made available may be reallocated on an equitable basis to other institutions in that State." (45 CFR 175.4(b); 42 USC 2752.)

5. Voluntary/Obligatory Nature of Response. Voluntary.

6. How Information To Be Collected Will Be Used. Data will be used by the Office of Education to reallocate unused College Work-Study Program funds to participating institutions.

7. Data Acquisition Plan. a. Method of collection: Mail. b. Time of collection: Fall. c. Frequency: Annually.

8. Respondents. a. Type: Colleges, Universities, Vocational/Technical Postsecondary Institutions. b. Number: 1,800. c. Estimated average-man-hours per respondent: 5 minutes.

9. Information To Be Collected. The additional amount of College Work-Study Program funds needed to operate the program during the 1977-78 Award period.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity. State Student Financial Assistance Training Program/Financial Status and Performance Report.

2. Agency/Bureau/Office. U.S. Office of Education/Bureau of Student Financial Assistance/State Student Incentive Grant Program.

3. Agency Form Number. OE 1329-1.

4. Legislative Authority for this Activity. "Sec. 493C.(e) A State which desires to obtain a grant under this section for any fiscal year shall submit an application therefor through or by the State agency administering its program of student grants, • • • and containing such information as may be required by such regulations as the Commissioner may prescribe for the purpose of enabling the Commissioner to disburse the funds." (Pub. L. 94-482.)

"At the end of each award period for which a State receives a grant under this part, the State shall provide a report containing such information as the Commissioner determines necessary to ensure that the State is adequately performing its responsibilities." (45 CFR 178a.10.)

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5. Voluntary/Obligatory Nature of Response. Required to maintain benefits.

6. How Information To Be Collected Will Be Used. Reports will be used to measure State's progress in attaining objectives approved in their applications and to monitor their compliance with program regulations.

7. Data Acquisition Plan. (a) Method of collection: Mail. (b) Time of collection: Fall. (c) Frequency: Annually.

8. Respondents. (a) Type: State Scholarship Grant Agencies. (b) Number: 56. (c) Estimated average man-hours per respondent: 8.

9. Information To Be Collected. (a) Standard Form HEW 601-T, Financial Status Report (supplemented). (b) Performance Report, in check sheet and brief-answer format, will show accomplishments and program emphasis in the following areas as specified by regulation:

(1) Number of State and institutional financial aid administrator benefitted and kinds of institutions represented.

(2) Forms of consultation with Statewide financial aid administrator organizations, and other groups consulted.

(3) Numbers of financial aid administrators estimated to be needed in the State and, of those currently in place, number of aid administrators who actually participated in SSFATP training activities.

(4) Professional needs of those administrators.

(5) Strengths and weaknesses of other currently available financial aid training programs.

(6) Design and development of methods and materials under this program to meet the needs of financial aid administrators that are not currently well met.

(7) Conduct of training programs, including areas of program emphasis.

(8) Methods and results of the States' evaluations of the programs.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity. Application for Grant for Equipment and Materials to Improve Undergraduate Instruction and Current Priority Listing.

2. Agency/Bureau/Office. U.S. Office of Education, Bureau of Elementary and Secondary Education, Office of Libraries and Learning Resources.

3. Agency Form Number. OE-3600 and OE-1052.

4. Legislative Authority for this Activity. "Sec. 605(a) Institutions of higher education and combinations of institutions of higher education which desire to obtain grants under this part shall submit applications therefor at such time or times and in such manner as may be prescribed by the Commissioner, and such applications shall contain such information as may be required by or pursuant to regulation for the purpose of enabling the Commissioner to make the determinations required to be made by him under this part". (Pub. L. 89-329; 20 U.S.C. 1125.)

5. Voluntary/Obligatory Nature of Response. Required to obtain or maintain benefits.

6. How Information To Be Collected Will Be Used. Information will be used to determine institution eligibility for participation in the Title VI-A program.

7. Data Acquisition Plan. a. Method of collection: Mail. b. Time of Collection: Fall. c. Frequency: Annually.

8. Respondents. a. Type: Colleges, Universities, and Institutes of higher education. b. Number: 1,700. c. Estimated Average Manhours Per Respondent: 7.

9. Information To Be Collected. The standard face page for Federal applications SF-424, is used as Part I. Part II is divided into four sections.

(a) Section 1.0, Institutional Eligibility. In this part institutions assure the Commissioner that they have met all eligibility requirements of the Act with regards to accreditation by a Nationally-recognized accrediting agency or association or an acceptable alternative to accreditation as evidenced by certification from the U.S. Office of Education.

(b) Section 2.0, Maintenance of Effort Analysis of Applicable Current Fund Expenditures. Institutions of higher education provides requested data showing that such institution has expended from current funds available for that year for instructional and departmental research and library purposes, other than personnel costs, an amount not less than the amount expended per equivalent full-time student or in the aggregate, whichever is less, by such institution from current funds for such purposes during the second preceding fiscal year.

(c) Section 3.0, Program Project Budget. Separate budget data must be submitted for each subject area for which funds are requested.

(d) Section 4.0, Institution Assurances. In this part an institution assures the U.S. Commissioner of Education that it is eligible to receive a grant by verifying and checking off the listed requirements. Each State is responsible for submitting to the U.S. Office of Education a current priority listing of all applications received, their priority rankings, applications returned to applicants and the reason for such action, the Federal share determination according to the State Plan for each project considered.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity. Report of Handicapped Children Receiving Special Education and Related Services.

2. Agency/Bureau/Office. U.S. Office of Education/Bureau of Education for the Handicapped/Aid to States Division/State Policy and Administrative Review Branch.

3. Agency Form Number. OE Form 9058.

4. Legislative Authority for this Activity. Section 611(a)(1)—

" * * * Except as provided in paragraph (3) and in section 619, the maximum amount of the grant to which a State is entitled under this part for any fiscal year shall be equal to—

(A) The number of handicapped children aged three to twenty-one, inclusive, in such State who are receiving special education and related services; multiplied by * * *

(3) The number of handicapped children receiving special education and related services in any fiscal year shall be equal to the average of the number of such children receiving special education and related services on October 1 and February 1 of the fiscal year preceding the fiscal year for which the determination is made * * *." (20 U.S.C. 1411(a)(3).)

Section 611(a)(5)—

" * * * In determining the allotment of each State under paragraph (1), the Commissioner may not count—

(i) handicapped children in such State under paragraph (1)(A) to the extent the number of such children is greater than 12 per centum of the number of all children aged five to seventeen, inclusive, in such State;

(ii) as part of such percentage, children with specific learning disabilities to the extent the number of such children is greater than one-sixth of such percentage * * *." (20 U.S.C. 1411(a)(5).)

"As used in this part the term 'handicapped children' means those children evaluated in accordance with §§ 121a.530-121a.-534 as being mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multi-handicapped, or as having specific learning disabilities, who because of those impairments need special education and related services." (Pub. L. 91-230 as amended by Pub. L. 94-142; 45 C.F.R. 121a.5.)

5. Voluntary/Obligatory Nature of Response. Required to obtain benefits.

6. How Information Collected Will Be Used. Part B of the Education of the Handicapped Act as amended by Pub. L. 94-142 provides flow-through funds to State educational agencies based on a funding formula. The data reported on this form will be the basis for allocating funds based on the formula specified in section 611 of Pub. L. 94-142. The report will also be used to verify the count mandated under law.

7. Data Acquisition Plan. a. Method of collection: Mail. b. Time of collection: After February 1 and prior to April 1. c. Frequency: Annually.

8. Respondents: a. Type: State educational agencies. b. Number: 57. c. Estimated average man-hours: 57.

9. Information to be collected. The Report of Handicapped Children Receiving Special Education and Related Services provides the statistical data required under section 611 of Pub. L. 94-142 as part of a funding formula. The State educational agency is responsible for collecting the counts from local educational agencies and aggregating the counts to the State level. The results of the October and February counts are reported under three age categories (three through five, six through seventeen, and eighteen through twenty-one) by the eleven disability categories defined in the final regulations for Part B of the Education of the Handicapped Act as amended by Pub. L. 94-142.

[FR Doc.77-25750 Filed 9-2-77;8:45 am]

Food and Drug Administration

AVAILABILITY OF ANIMAL DRUGS

Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces the first Ad Hoc Veterinary Professional Meeting regarding the availability of animal drugs. The meeting will be Chaired by the Director, Bureau of Veterinary Medicine. The Commissioner of Food and Drugs will address the group.

DATE: Wednesday, October 5, 1977, 8:30 a.m. to 4:30 p.m.

ADDRESS: Holiday Inn-Georgetown, 2505 Wisconsin Ave. NW., Washington, D.C. 20007 (202-337-7400).

FOR FURTHER INFORMATION CONTACT:

Leo J. McNamara, Bureau of Veterinary Medicine (HFV-226), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4557).

SUPPLEMENTARY INFORMATION: The meeting will interest people connected with all aspects of veterinary medicine, for both food and nonfood animals. The purpose of the meeting is to exchange information between participants and Food and Drug Administration (FDA) officials on topics such as: use of human and controlled drugs in veterinary practice; use of antibiotics in feed; food safety; zero tolerance for residues; drug availability—bulk drugs (new vs. non-new); drug clearance process; and ways practitioners can impact on FDA's policymaking process.

The meeting will be open to all interested persons.

Dated August 29, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25755 Filed 9-2-77;8:45 am]

ANESTHESIOLOGY DEVICE CLASSIFICATION PANEL

Meeting Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Anesthesiology Device Classification Panel meeting scheduled for September 27 and 28, 1977, will be held in Room 1446D on September 27, and in Room 425 on September 28, 8757 Georgia Ave., Silver Spring, Md. 20910.

FOR FURTHER INFORMATION CONTACT:

Dennis J. Cotter, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, Md. 20910 (301-427-7226).

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announced in a notice published in the FEDERAL REGISTER of August 12, 1977 (42 FR 40954), meetings of FDA public advisory committees and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the location for the meeting of the Anesthesiology Device Classification Panel scheduled for September 27 and 28, 1977, has been changed from Room 5051 HEW-N, 330 Independence Ave. SW., Washington, D.C. to Room 1446D on September 27, and Room 425 on September 28, 8757 Georgia Ave., Silver Spring, Md. 20910. The open public hearing will begin at 8:30 a.m. on September 27.

Dated: August 29, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25754 Filed 9-2-77;8:45 am]

PANEL ON REVIEW OF TOPICAL ANALGESICS

Meeting Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The meeting of the Panel on Review of Topical Analgesics scheduled for September 26, 27, and 28, 1977, has been changed to October 25, 26, and 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Lee Geismar, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301-443-4960).

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration (FDA) announced in a notice published in the FEDERAL REGISTER of August 12, 1977 (42 FR 40954), meetings of FDA public advisory committees and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the meeting of the Panel on Review of Topical Analgesics scheduled for September 26, 27, and 28, 1977, has been changed to October 25, 26, and 27, 1977. The open public hearing will begin at 9 a.m. on October 25, in Conference Rm. K of the Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

August 29, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25753 Filed 9-2-77;8:45 am]

ADVISORY COMMITTEES

Filing of Annual Reports

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Pursuant to section 13 of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I))., the annual reports required by the act for Food and Drug Administration advisory committees have been filed with the Library of Congress.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Office (HFS-20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301-443-2765).

SUPPLEMENTARY INFORMATION: Copies of the annual reports are available for public inspection at: (1) The Library of Congress, Special Forms Reading Room, Main Building, First St. and Independence Ave. SE., Washington, D.C. 20540; (2) the Department of Health, Education, and Welfare Library, Rm. 1436, 330 Independence Ave. SW., Washington, D.C. 20201, on weekdays between 9 a.m. and 4:30 p.m.; and (3) the Food and Drug Administration Public Records and Documents Center, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 29, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25752 Filed 9-2-77;8:45 am]

Health Care Financing Administration

PHARMACEUTICAL REIMBURSEMENT ADVISORY COMMITTEE

Rescheduling of Meeting

Notice is hereby given that the Pharmaceutical Reimbursement Advisory Committee Meeting originally scheduled for September 6, 7, and 8, 1977 (42 FR 21571) and canceled August 19, 1977 (42 FR 41923) is now rescheduled.

Date and Time: September 28, 1977 (1 p.m. to 5 p.m.—Orientation for new members). September 29, 1977 (9 a.m. to 5 p.m.). September 30, 1977 (9 a.m. to 5 p.m.).

Place: Auditorium, HEW South Portal Building, 200 Independence Avenue SW., Washington, D.C. 20201.

Dated: August 30, 1977.

PETER RODLER,
Acting Executive Secretary.

[FR Doc.77-25808 Filed 9-2-77;8:45 am]

"OWN MOTION" REVIEW OF PROVIDER REIMBURSEMENT REVIEW BOARD DECISIONS

Interim Procedures

The Health Care Financing Administration announces, in accordance with the Administrative Procedure Act (5 U.S.C. 552), the interim procedures being used in conducting "own motion" review of decisions made by the Provider Reimbursement Review Board.

Section 1878(f)(1) of the Social Security Act (42 U.S.C. 1395oo(f)(1)) provides that a decision of the Provider Reimbursement Review Board (the Board) shall be final unless, on his own motion, the Secretary reverses, affirms, or modifies teh Board's decision. Section 1878(f)(1) requires that the Secretary take such action within 60 days after the provider is notified of the Board's decision. The Secretary has delegated to the Administrator, Health Care Financing Administration, authority to administer the Medicare program, including authority to perform this "own motion" review (42 FR 13262, March 9, 1977).

Pursuant to 5 U.S.C. 552, the interim procedures governing this review are set forth below. This Notice serves to inform the public of the procedures being

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followed in carrying out the Secretary's "own motion" review responsibilities while appropriate regulations are developed. These regulations, when developed, will be published in the FEDERAL REGISTER with a Notice of Proposed Rulemaking. If there are any questions regarding the interim procedures, please contact Mrs. Erica L. Gosnell, Attorney-Advisor 301–594–5132.

Interested parties are encouraged to submit written comments, views, or data concerning these procedures to the Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203. All such submissions received on or before October 6, 1977 will be considered in developing appropriate regulations regarding "own motion" review of Provider Reimbursement Review Board decisions.

(Catalog of Federal Domestic Assistance Program Numbers 13.800, Health Insurance for the Aged-Hospital Insurance, and 13.801, Suplementary Medical Insurance.)

Dated: August 30, 1977.

WILLIAM D. FULLERTON,
Acting Administrator, Health Care Financing Administration.

Interim Procedures Governing "Own Motion" Review of Provider Reimbursement Review Board Decisions.

Secretary's Review, Section 1878(f)(1) of the Act and Regulations No. 5 Section 405.1875.

1. *Nature of Secretary's Review.*—(a) Section 1878(f)(1) of the Social Security Act, as amended, provides that a decision of the Provider Reimbursement Review Board (the Board) shall be final unless, on his own motion, the Secretary reverses, affirms, or modifies the Board's decision. Under section 1878, this "own motion" review must occur within 60 days after the provider is notified of the Board's decision. The Secretary has delegated his authority to perform this review to the Administrator, Health Care Financing Administration (HCFA).

(b) The right to this "own motion" review does not vest in the parties to the Board's hearing. Under limited circumstances, however, either party to the hearing may request that a decision be considered for evaluation under these "own motion" review procedures. Further, only providers are entitled to seek judicial review under section 1878(f)(1), 42 U.S.C. 1395oo(f)(1), of any Board decision with which they disagree.

(c) Under section 1878(f), a provider has only 60 days from the date of receipt of the Board's decision within which to seek judicial review of any decision by the Board unless the Board's decision is reversed, affirmed, or modified in the final agency review.

To avoid confusion as to what action to take, any time a Provider is notified that a decision will be reviewed by the Administrator, the review will result in a decision to reverse, affirm, or modify (20 CFR 405.1875 (b)). The Provider will then have 60 days from the date the Administrator's decision is received to seek judicial review of that decision.

2. *Ex Parte Communications Prohibited.*—(a) During the review period for a Board decision, there may not be received any evidence, explanation, analysis, or advice regarding such a case—from the Board; the Medicare Bureau or its representatives; fiscal intermediaries; carriers; providers or their representatives; or any other source—by the Secretary of HEW, the Administrator, HCFA, their respective staffs, or any personnel associated with the function of review; except in the form of written communications which must also be served on the parties to the hearing. Any such communications are to be kept to an absolute minimum.

(b) All submitted proposed findings of fact and conclusions of law, or exceptions to the Board's decision, and supporting reasons for the proposed findings and conclusions or exceptions, should contain a certification indicating that a copy has been furnished to the representatives of the opposing parties and to those who submitted initial comments or objections or were accorded the opportunity to do so. Furnishing copies to the parties is required to prevent communications from being disregarded because they are ex parte.

(c) Any ex parte communications, regarding any case pending review, to the Office of the Secretary of HEW; to the Office of the Administrator, HCFA; or to any personnel associated with the function of review may not be considered.

3. *Procedure When the Administrator Declines to Reverse, Affirm, or Modify.*—Where the Administrator declines to reverse, affirm, or modify a decision of the Board, the parties or their representatives will be promptly notified of the action taken, and the provider will be advised of the right to judicial review. It should be noted that the 60-day time limit within which a provider may initiate civil action is not extended by a declination to reverse, affirm, or modify.

4. *Criteria for Reversing, Affirming, or Modifying a Decision of the Board.*—(a) A case may be reversed, affirmed, or modified by the Administrator when it is believed that: (1) The decision of the Board is contrary to provisions of title XVIII of the Social Security Act, applicable Medicare Regulations, or Rulings issued under the authority of the Commissioner of Social Security, or the Administrator, HCFA; or

(2) The Board has incorrectly assumed jurisdiction on a case not provided for by statute, regulations, or rulings; or

(3) The decision of the Board exceeds the scope of authority provided for by statute and regulations; or

(4) The decision of the Board requires clarification or amplification, or an alternative legal basis for the decision.

(b) In addition, a decision will be issued by the Administrator where exceptions to the Board's decision, or proposed findings of fact and conclusions of law, with supporting reasons for the proposed findings and conclusions or exceptions, have been timely received.

5. *Procedure of the Administrator When a Board Decision Will Be Reversed, Affirmed, or Modified.*—(a) *Procedure when it appears that criteria may be met.* (1) When a criterion may be met for the Administrator to reverse, affirm, or modify a Board decision, the parties to the Board's hearing will promptly be notified.

(2) The parties to the Board's hearing will be accorded 15 days from the date of this notice within which to submit any exceptions to the Board's decision and supporting reasons which they would like to have considered in the course of final agency review. Proposed findings of fact and conclusions of law, with supporting reasons, may also be submitted for consideration in the course of the review. Where it is believed that an administrative policy interpretative of the Medicare program may be involved, the Medicare Bureau may also be accorded 15 days within which to submit exceptions to the Board's decision or proposed findings of fact or conclusions of law, and supporting reasons for the exceptions or proposed findings and conclusions.

(3) In cases where a notice is sent and timely comments are received, as described in Section 5(a)(2), no opportunity will be accorded for the rebuttal of responses received, in view of the 60-day limit for completing review.

(4) There should be included in any response to the notice of review a certification, as described in section 2(b), showing that a copy has been furnished to the parties.

(b) *Submittals where there has been no notification.*

(1) *Submittals.* A party or a party's representative (or the Medicare Bureau, if an administrative policy interpretive of the Medicare program is involved) may submit, for consideration in the course of "own motion" review, any exceptions to the Board's decision, and supporting reasons. Proposed findings of fact and conclusions of law, with supporting reasons, may also be submitted for consideration in the course of the review. These communications are to be submitted within 15 days from the date the Provider received notice of the Board's decision (with the certification statement described in section 2(b) showing that a copy of these communications was sent to the representative of the opposing party to the Board's decision).

(2) *Other Submittals.* In cases where the notice of review described in section 5(a)(2) has not been issued, but submittals have been received from a party or the Medicare Bureau, the opposing party will have 30 days from the date the Provider received notice of the Board's decision within which to submit any exceptions to the Board's decision or proposed findings and conclusions, and supporting reasons for the exceptions or proposed findings and conclusions, for consideration in the course of final agency review. Such submittals should contain the certification described in section 2(b), showing that copies have been sent to the representative of the opposing party to the Board's decision, and to the Medicare Bureau where the Medicare Bureau submitted comments.

(c) All proposed findings and conclusions, or exceptions to the Board's decision, and supporting reasons for the proposed findings and conclusions or exceptions, shall be directed to the Administrator, c/o the Attorney-Advisor, G–44 Altmeyer Building, Health Care Financing Administration, Baltimore, Md. 21235.

(d) *Subsequent Action.* The Administrator's evaluation and analysis of the Board decision, complete with records, include the evaluation of timely filed exceptions to the Board's decision or proposed findings of fact and conclusions of law, and supporting reasons for the exceptions or proposed findings and conclusions. The Office of the Attorney-Advisor assists the Administrator in the evaluation of cases. Decision making authority in "own motion" review cases is reserved exclusively to the Administrator. A decision by the Administrator will be issued in every case in which timely submittals are received or where the Administrator believes a criterion for decision is met.

7. *Administrator's Decision.* The Administrator's decision on the case will occur following the expiration of the time for receipt of such exceptions, comments, or objections, but in any event within the 60-day period.

8. *Notification to Parties.* (a) The parties' representatives will be notified of the action taken by the Administrator and will be advised concerning the provider's right to judicial review.

(b) All evaluations and decisions on review must occur within 60 days after the provider

of services was notified of the Board's decision.

(c) Notification to the parties of the Administrator's action will occur promptly after completion of the Administrator's action but need not necessarily be within the same 60-day period. Since the provider will have 60 days from receipt of the Administrator's decision within which to seek judicial review, any delay in notifying the parties to the Administrator's decision should not cause hardship.

[FR Doc.77-25805 Filed 9-2-77;8:45 am]

Office of the Secretary

ADVISORY COMMITTEE ON NATIONAL HEALTH INSURANCE ISSUES

Meetings

Notice of the establishment of the Advisory Committee on National Health Insurance Issues was published in the April 21, 1977 Federal Register (Vol. 42, No. 77, pages 20675 and 20676).

Pursuant to the Pub. L. 92–463, notice is hereby given of one meeting of the Advisory Committee to be held on Friday, September 23, 1977, and another on Saturday, September 24, 1977.

The September 23 meeting will be held from 10:45 a.m. to 12;15 p.m. and from 1:30 p.m. to 3:00 p.m. at the Aetna Life and Casualty, 151 Farmington Avenue, Hartford, Conn. 06156.

The September 24 meeting will be held from 10:45 a.m. to 12:15 p.m. and from 1:30 p.m. to 3:00 p.m. at the Yale-New Haven Hospital, 780 Howard Avenue, New Haven, Conn. 06504.

The agenda will include the role of private insurance companies under NHI, nonphysician reimbursement, hospital reimbursement, and mental health benefits under NHI.

These meetings will be open to the public.

Further information on these meetings may be obtained from SueZanne B. Hagans in Washington, D.C., 202–472–3026.

Dated: August 30, 1977.

SUSANNE STOIBER,
Project Coordinator.

[FR Doc.77-25807 Filed 9-2-77;8:45 am]

Public Health Service

FOOD AND DRUG ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration), of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare (35 FR 3685–92, February 25, 1970, as amended by 39 FR 18696–18703, May 29, 1974) is amended to reflect the transfer of the Administrative Law Judge and emergency preparedness functions from the Office of Compliance to the Office of the Commissioner and the Executive Director of Regional Operations respectively, and the addition to the Office of Compliance of a quality assurance function for medical products purchased by the Government and a bio-research monitoring function for clinical investigations of new drugs.

Section HF–B, Organization, is amended as follows: Under the heading Office of Compliance (HFA4), delete the current functional statement and substitute the following:

(b) *Office of Compliance (HFA4).* Functions as principal advisor to the Commissioner on regulations and compliance-oriented matters which impact on policy development and execution and long-range program goals.

Evaluates and coordinates the Agency's overall compliance efforts to assure optimum use of FDA and other Federal, State, and local government resources, an effective balance between voluntary and regulatory compliance, and FDA responsiveness to consumer needs.

Stimulates an awareness within FDA of the need for prompt and positive action to secure compliance by regulated industries.

Directs and coordinates the regulation-making activities of the Food and Drug Administration, including preparation of FEDERAL REGISTER material and processing of public response to proposed rulemaking.

Serves as the FDA focal point for activities relating to the Federal medical products quality assurance program and maintains liaison with other Government agencies procuring medical supplies; issues final administrative approval for quality assurance of specific products/firms.

Coordinates development of compliance programs for bio-research monitoring activities; monitors compliance activities to assure uniform application of compliance policy; serves as liaison with other Federal agencies and outside organizations relating to bio-research monitoring activities.

Receives and processes requests for information under the Freedom of Information Act.

Coordinates international aspects of FDA compliance programs and acts as liaison with foreign firms, international groups, and other nations.

Coordinates the preparation of international travel plans, including the Annual International Travel Plan, for the Commissioner's approval.

Dated: August 26, 1977.

JOHN D. YOUNG,
Assistant Secretary for Management and Budget.

[FR Doc.77-25766 Filed 9-2-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OUTER CONTINENTAL SHELF OFFICIAL PROTRACTION DIAGRAM

Availability

AGENCY: Department of the Interior, Bureau of Land Management, Pacific Outer Continental Shelf.

ACTION: Availability of Official Protraction Diagram.

ADDRESS: 300 No. Los Angeles St., Los Angeles, Calif. 90012.

FOR FURTHER INFORMATION CONTACT:

William E. Grant (213–688–7234).

Notice is hereby given that, effective September 6, 1977, the following OCS Official Protraction Diagram approved on the date indicated, is available, for information only, in the Pacific Outer Continental Shelf Office, Bureau of Land Management, Los Angeles, Calif. In accordance with Title 43, Code of Federal Regulations, this protraction diagram is the basic record for the description of mineral and oil and gas lease offers in the geographic area it represents.

OUTER CONTINENTAL SHELF OFFICIAL PROTRACTION DIAGRAM

Description	*Approval date*
NJ 10–7, Bodega Canyon, revised	June 14, 1977.

Copies of this diagram are for sale at two dollars ($2) per copy by the Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management, 300 N. Los Angeles St., Rm. 7127, Los Angeles, Calif. 90012. Checks or money orders should be made payable to the Bureau of Land Management.

WILLIAM E. GRANT,
Manager, Pacific Outer Continental Shelf Office.

[FR Doc.77-25799 Filed 9-2-77;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice of the FEDERAL REGISTER of February 1, 1977, Part IX, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation, 3 CFR Part 800.

WILLIAM J. MURTAGH,
Keeper of The National Register.

The following properties have been added to the National Register since August 2, 1977. National Historic Landmarks are designated by NHL; properties recorded by the Historic American Buildings Survey are designated by HABS; and properties recorded by the Historic American Engineering Record are designated by HAER.

V 42 172 SEP 6 77 UMI

ALABAMA

Franklin County

Russellville vicinity, *Alabama Iron Works*, S of Russellville off U.S. 43 (8–3–77).

Jefferson County

Birmingham, *Oak Hill Cemetery*, 1120 N. 19th St. (7–13–77).

Madison County

Huntsville, *Humphreys, David C., House*, 510 Clinton Ave., West (8–3–77).

ALASKA

Cordova-McCarthy Division

Cordova, *Cordova Post Office and Courthouse*, 2nd St. (8–2–77).
Katalla, *Bering Expedition Landing Site*, S of Katalla on Kayak Island (7–20–77).

Fairbanks Division

Fairbanks, *Hinckley-Creamer Dairy*, between Farmer's Loop and College Rd. (7–13–77).

Juneau Division

Juneau, *Bergmann Hotel*, 434 3rd St. (7–28–77).

Nome Division

Nome, *Berger, Jacob, House (Sally Carrighar House)*, 1st Ave. (8–3–77).

Valdez-Chitina-Whittier Division

Gakona, *Gakona Roadhouse*, Mile 205 Glenn Highway (8–3–77).

Yukon-Koyukuk Division

Nenana, *Nenana Depot*, A St. (8–10–77).
Tanana, *Tanana Mission*, E of Tanana (8–3–77).

ARIZONA

Coconino County

Winslow vicinity, *Chavez Pass Pueblo Site* (8–2–77).

Greenlee County

Clifton vicinity, *Potter, Dell, Ranch House*, N of Clifton (8–3–77).

ARKANSAS

Benton County

Rogers, *St. Louis-San Francisco Passenger Depot*, 1st and Cherry Sts. (8–15–77).

Bradley County

Warren, *Warren and Ouachita Valley Railway Station*, 325 W. Cedar St. (8–3–77).

Cleveland County

New Edinburg vicinity, *Barnett-Attwood House*, NE of New Edinburg (7–29–77).

Crittenden County

Marion, *Crittenden County Courthouse*, 85 Jackson St. (8–3–77).

Independence County

Batesville, *Cook-Morrow House*, 875 Main St. (7–29–77).

Jefferson County

Pine Bluff, *Dilley House*, 656 Laurel St. (8–3–77).

Phillips County

Helena, *Phillips County Courthouse*, 622 Cherry St. (7–15–77).

Pulaski County

Little Rock, *MacArthur Park Historic District*, Roughly bounded by Ferry, McGowan, McAlmont, 16th, Bragg, 15th, Scott (includes both sides), 9th, Cumberland, and 5th Sts. (7–25–77).
Little Rock, *Thompson, Ada, Memorial Home*, 2021 S. Main (8–3–77).
Scott, *All Souls Church*, Off AR 130 (8–12–77).

St. Francis County

Forrest City, *Stuart Springs*, Stuart St. (8–3–77).

White County

Searcy, *White County Courthouse*, Court Sq. (8–3–77).

CALIFORNIA

Alameda County

Oakland, *Treadwell Mansion and Carriage House*, 5212 Broadway (7–16–77).

Los Angeles County

Pasadena, *Nicholson, Grace, Building*, 46 N. Los Robles Ave. (7–21–77).

Monterey County

Pacific Grove, *Point Pinos Lighthouse*, Asilomar Blvd. and Lighthouse Ave. (7–14–77).

Napa County

Napa, *Winship-Smernes Building*, 948 Main St. (7–29–77).

Orange County

Irvine vicinity, *Frances Packing House*, NE of Irvine (8–2–77).

San Joaquin County

Stockton, *El Dorado Elementary School*, Harding Way and Pacific Ave. (8–15–77).

CONNECTICUT

Fairfield County

Norwalk vicinity, *Rock Ledge*, S of Norwalk at 33, 40–42 Highland Ave. (8–2–77).

Hartford County

Windsor, *Moore, Deacon John, House*, 37 Elm St. (7–29–77).
Windsor Locks, *Pinney, David, House and Barn*, 58 West St. (7–25–77).

Litchfield County

Winsted, *Rockwell, Solomon, House*, 226 Prospect St. (7–15–77) HABS.
Winsted, *Winsted Green Historic District*, U.S. 44 and Ct. 8 (8–16–77).

Middlesex County

Middletown, *Williams, Capt. Benjamin, House*, 27 Washington St. (7–14–77).

New Haven County

Bethany vicinity, *Wheeler-Beecher House*, 562 Amity Rd. (7–15–77) HABS.
Milford, *Buckingham House*, 61 North St. (7–25–77).

DELAWARE

New Castle County

Stanton vicinity, *Clyde Farm Site*, S of Stanton (7–29–77).

DISTRICT OF COLUMBIA

Washington, *American Institute of Pharmacy Building*, 2215 Constitution Ave., NW (8–18–77).
Washington, *Rock Creek Church Yard and Cemetery*, Webster St. and Rock Creek Church Rd., NW (8–12–77).
Washington, *2000 Block of Eye Street, NW.*, South side of 2000 block of Eye St., NW. (8–9–77).

FLORIDA

Osecola County

Kissimmee, *Osceola County Courthouse*, Bounded by Emmett, Bryan, Rose, & Vernon Sts. (8–16–77).

GEORGIA

Butts County

Jackson, *Carmichael, J. R., House*, 149 McConough Rd. (7–13–77).

Fulton County

Atlanta, *Citizen's and Southern Bank Building*, 35 Broad St. (8–18–77).
Atlanta, *Dixie Coca-Cola Bottling Company Plant*, 125 Edgewood Ave. (7–20–77).
Atlanta, *Healey Building*, 57 Forsyth St. (8–12–77).
Atlanta, *Hillyer Trust Building*, 140 Peachtree St. (7–25–77).

Muscogee County

Columbus, *Bullard-Hart House*, 1408 3rd Ave. (7–28–77).

ILLINOIS

Cook County

Chicago, *St. Patrick's Roman Catholic Church*, 718 W. Adams St. (7–16–77).

McLean County

Hudson, *Gildersleeve House*, 108 Broadway (7–28–77).

IOWA

Audubon County

Exira, *Audubon County Courthouse*, Washington and Kilworth Sts. (7–26–77).

Clarke County

Osceola, *Webster, Dickinson, House*, 609 W. Jefferson St. (7–20–77).

Clayton County

Elkader vicinity, *Motor Townsite*, E of Elkader (8–2–77).

Dickinson County

Orleans vicinity, *Templar Park*, NE of Orleans on IA 276 (8–3–77).

Dubuque County

Dubuque, *Washington Park*, bounded by 6th, 7th, Bluff, and Locust Sts. (7–14–77).

Fayette County

Wadena, *Hardware Building*, 223 Mill St., (7–15–77).

Jackson County

Bellevue vicinity, *Paradise Farm*, W of Bellevue (7–13–77).

Johnson County

Iowa City, *Linsay House*, 935 E. College, (8–2–77).

Mitchell County

Carpenter vicinity, *Severson, Nels, Barn*, N of Carpenter (7–15–77).

Palo Alto County

Emmetsburg, *Ormsby-Kelly House*, 2403 W. 7th St. (7–29–77).

Polk County

Des Moines, *Herndon Hall*, 2000 Grand Ave. (7–27–77).
Des Moines, *Public Library of Des Moines*, Locust St. (7–25–77).
Des Moines, *Salisbury House*, 4025 Tonawanda Dr. (7–20–77).

Scott County

Davenport, *Beiderbecke, Leon Bismark (Bix), House*, 1934 Grande Ave. (7–13–77).
Davenport, *Outing Club*, 2109 Brady St. (7–15–77).

Washington County

Washington vicinity, *Gracehill Moravian Church and Cemetery*, SW of Washington on WA 314 (8–12–77).

KANSAS

Wyandotte County

Kansas City, *Rosedale World War I* Memorial *Arch*, Mt. Marty Park, near Booth and Drexel Sts. (8–2–77).
Kansas City, *Sauer Castle*, 945 Shawnee Dr. (8–2–77).

KENTUCKY

Boyle County

Danville and vicinity, *Three Gothic Villas*, NW of Danville off U.S. 127, 525 Maple Ave., and S of Danville off KY 35 (7–20–77).

Clark County

Winchester, *Brown-Proctoria Hotel*, Main St. and Lexington Ave. (7–29–77).
Winchester vicinity, *Vinewood*, 4 mi. NE of Winchester on U.S. 60 (8–12–77).

Fayette County

Lexington, *Higgins Block*, 145–151 W. Main St. (8–12–77).

Fleming County

Flemingsburg, *First Presbyterian Church*, W. Main and W. Water Sts. (8–12–77).

Jefferson County

Louisville, *Tyler-Muldoon House*, 132 E. Gray St. (7–20–77).

Scott County

Georgetown vicinity, *Flournoy-Nutter House*, E of Georgetown off KY 922 (7–28–77).
Georgetown vicinity, *Leatherer-Lemon House*, Lemon's Mill Pike, 0.5 mi. W of Newtown Pike (7–20–77).

Shelby County

Finchville vicinity, *Grasslands (Hornsby House)*, 4 mi. W of Finchville (8–12–77).
Shelbyville vicinity, *Washburn, Benjamin, House*, Bellevue Pike, 8 mi. N of Shelbyville (8–12–77).

Simpson County

Franklin, *Goodnight House*, 201 S. Main St. (8–12–77).

Warren County

Bowling Green, *Warren County Courthouse*, 429 E. 10th St. (8–2–77).

Washington County

Springfield, *Washington County Courthouse*, Public Sq., Main at Lincoln Park Rd. (7–25–77).

LOUISIANA

Caddo Parish

Shreveport, *Oakland Cemetery*, bounded by Milam, Christian, Sprague, and Baker Sts. (7–13–77).

East Baton Rouge Parish

Baton Rouge, *Magnolia Mound Plantation Dependency*, 2530 Vermont St.; to be moved to 2161 Nicholson Dr. (8–9–77).

MAINE

Penobscot County

Bangor, *Bangor Theological Seminary Historic District*, Union St. (8–2–77).

Sagadahoc County

Georgetown vicinity, *Stone Schoolhouse*, S of Georgetown on Bay Point Rd. (8–12–77).

MARYLAND

Allegany County

Cumberland vicinity, *Phoenix Mill Farm*, NE of Cumberland off MD 220 (8–12–77).

Howard County

Ellicott City vicinity, *White Hall*, W of Ellicott City at 4130 Chatham Rd. (8–12–77).

MASSACHUSETTS

Hampshire County

Amherst, *Dickinson Historic District*, Kellogg Ave., Main, Gray, and Lessey Sts. (8–16–77).

Plymouth County

Brockton, *Central Fire Station*, 40 Pleasant St. (7–25–77).
Brockton, *Kingman, Gardner J., House*, 309 Main St. (7–25–77).
Brockton, *Snow Fountain and Clock*, N. Main and E. Main Sts. (7–25–77).

MICHIGAN

Delta County

Escanaba, *Carnegie Public Library*, 201 S. 7th St. (7–25–77).

Wayne County

Detroit, *Wilson Theatre*, 350 Madison Ave. (8–9–77).

MINNESOTA

Itasca County

Grand Rapids, *Central School*, N. Pokegama and 4th St. (8–16–77).

Ramsey County

St. Paul, *Old Main, Macalester College*, 1600 Grand Ave. (8–16–77).

St. Louis County

Mesaba vicinity, *Longyear, E. J., First Diamond Drill Site*, E of Mesaba (7–20–77).

Washington County

Stillwater, *Chicago, Milwaukee and St. Paul Freight House and Depot*, 233–335 Water St. (7–13–77).

Winona County

Winona, *Winona Free Public Library*, 151 W. 5th St. (7–29–77).

MISSISSIPPI

Adams County

Natchez, *Rosalie*, 100 Orleans St. (8–16–77) HABS.

Hinds County

Jackson, *Ayer Hall*, 1400 Lynch St. on Jackson State University campus (7–14–77).

MISSOURI

Boone County

Columbia, *Senior Hall*, Stephens College campus (8–2–77).

Cooper County

Boonville, *Boller House*, 223 E. Spring St. (8–2–77).
Pilot Grove vicinity, *Pleasant Green*, 8 mi. SW of Pilot Grove on U.S. 135 (7–29–77).

Greene County

Springfield, *Landers Theater*, 311 E. Walnut (8–12–77).

Ralls County

Hannival vicinity, *Garth, John, House*, S of Hannibal off U.S. 61 (7–11–77).

Vernon County

Nevada, *Vernon County Jail, Sheriff's House and Office*, 229 N. Main St. (8–16–77).

MONTANA

Flathead County

West Glacier vicinity, *Sperry Chalets*, E of West Glacier (8–2–77).

Missoula County

Lolo vicinity, *Fort Fizzle Site*, 5 mi. W of Lolo (7–21–77).

NEBRASKA

Saline County

Crete, *Doane College Historic District*, Doane College campus (8–16–77).

NEW HAMPSHIRE

Merrimack County

Hopkinton, *Long, William H., Memorial*, Main St. (7–15–77).

NEW JERSEY

Atlantic County

Atlantic City, *Morton Hotel*, 150 S. Virginia Ave. (7–15–77).

Bergen County

Ramsey, *Westervelt-Ackerson House*, 538 Island Rd. (7–20–77).

Burlington County

Bordentown, *Point Breeze*, U.S. 206 and Park St. (8–10–77).
Moorestown, *Town Hall*, 40 E. Main St. (8–10–77).

Camden County

Glendora, *Hillman Hospital House*, 500 3rd Ave. (7–14–77) HABS.

Essex County

Fairfield vicinity, *Van Ness House*, 236 Little Falls Rd. (7–29–77) HABS.
Newark, *First National State Bank Building* 810 Broad St. (8–10–77).

Gloucester County

Clarksboro, *St. Peter's Episcopal Church*, King's Hwy. (8–10–77).

Hudson County

West End York, *Kestrel* (steam yacht), S end of River Rd. (8–12–77).

Hunterdon County

Clinton vicinity, *Perryville Tavern*, W of Clinton at I–78 and NJ 42 (7–15–77).
Clinton vicinity, *Turner-Chew-Carhart Farm*, NW of Clinton on Sykles Corner Rd. (8–11–77).
Hampton vicinity, *New Hampton Pony Pratt Truss Bridge*, N of Hampton over Musconetcong River (7–26–77) (also in Warren County).
Pittstown vicinity, *St. Thomas Episcopal Church*, SW of Pittstown on Sky Manor Rd. (7–21–77).

Middlesex County

New Brunswick, *Demarest House*, 542 George St. (8–10–77) HABS.

Morris County

Boonton, *Delaware, Lackawanna and Western Railroad Station*, Myrtle Ave. Main, and Division Sts. (7–13–77).
Chester, *First Congregational Church*, Hillside Rd. (8–10–77).
Flanders vicinity, *Carey, Lewis, Farmhouse*, 208 Emmans Rd. (7–20–77).
Lincoln Park, *Dod, John, House and Tavern*, 11 Highland St. and 8 Chapel Hill Rd. (8–12–77) HABS.
Madison, *Gibbons Mansion*, 36 Madison Ave. (8–10–77).

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UMI

Ocean County

Laurelton, *Orient Baptist Church (Burrsville Church)*, NJ 88 (8-10-77).

Salem County

Woodstown vicinity, *Dunn, Zaccheus, House*, S of Woodstown on East Lake Rd. (8-10-77) HABS.

Somerset County

Millstone vicinity, *Millstone Valley Agriculture District*, S of Millstone on River Rd. (8-10-77).

Sussex County

Monroe, *Old Monroe School House*, NJ 94. (8-12-77).

Stanhope, *Plaster Mill*, Off Main St. and Kelly Pl. (8-3-77).

Warren County

Columbia vicinity, *Fairview Schoolhouse*, E of Columbia on Dean Rd. (8-12-77) HABS.

Hampden vicinity, *New Hampden Pony Pratt Truss Bridge*. *Reference*—see Hunterdon County.

NEW YORK

Albany County

Albany, *St. Mary's Church*, 10 Lodge St. (7-14-77).

Hamilton County

Blue Mountain Lake vicinity, *Church of the Transfiguration*, N of Blue Mountain Lake on NY 30 (7-26-77).

Nassau County

Greenvale, *Toll Gate House*, Northern Blvd. (8-16-77).

New York County

New York, *House at 51 Market St.*, 51 Market St. (7-29-77).

New York, *Morris, Lewis G., House*, 100 E. 85th St. (2-12-77).

New York, *Old New York Evening Post Building*, 20 Vesey St. (8-16-77).

Onondaga County

Syracuse, *Gridley, John, House*, 205 E. Seneca Tnpk. (6-16-77) HABS.

Queens County

College Point, *Poppenhusen Institute*, 114-04 14th Rd. (8-16-77) HABS.

Rensselaer County

Troy vicinity, *DeFreest Homestead*, S of Troy at U.S. 4 and Jordan Rd. (8-2-77).

Richmond County

Staten Island, *Neville House*, 806 Richmond Terrace (7-28-77).

St. Lawrence County

Ogdensburg, *U.S. Post Office*, 431 State St. (8-16-77).

Saratoga County

Waterford, *Waterford Village Historic District*, Roughly bounded by the Hudson River, Erie Canal, and State St. (7-14-77).

NORTH CAROLINA

Buncombe County

Asheville, *Battery Park Hotel*, Battle Sq. (7-14-77).

Asheville, *Richmond Hill House*, 45 Richmond Hill Rd. (8-16-77).

Asheville, *Young Men's Institute Building*, Market and Eagle Sts. (7-14-77).

Forsyth County

Winston-Salem, *Arista Cotton Mill Complex*, 200 Brookstown Ave. (8-18-77) HAER.

Perquimans County

Belvidere, *Belvidere*, NC 37, W of Perquimans River (8-2-77) HABS.

Vance County

Kittrell vicinity, *Ashburn Hall*, W of Kittrell on SR 1101 (8-16-77).

NORTH DAKOTA

Griggs County

Cooperstown, *Griggs County Courthouse*, Rollin Ave. (7-21-77).

Mercer County

Hazen, *Hazen High School*, 400 Central Ave. (8-12-77).

Stutsman County

Jamestown, *Voorhees Chapel*, Jamestown College campus (7-22-77).

Traill County

Hatton, *Ness, Andres O., House*, Oak Ave. and 6th St. (7-15-77).

OHIO

Columbiana County

Hanoverton, *Hanoverton Canal Town District*, U.S. 30 (8-3-77).

Harrison County

Freeport, *Reaves, John, House*, Public Sq. (7-15-77).

Summit County

Barberton, *Anna-Dean Farm*, OH 619 (7-14-77).

OKLAHOMA

Comanche County

Fort Sill, *Indian Cemeteries*, Fort Sill Military Reservation (8-10-77).

OREGON

Lane County

Eugene vicinity, *Flanagan Site*, W of Eugene (7-20-77).

PENNSYLVANIA

Bucks County

Newtown, *Newtown Friends Meetinghouse and Cemetery*, Court St. (7-21-77).

Rushland vicinity, *Vansant Farmhouse*, N of Rushland on Ceder Lane (8-2-77).

Carbon County

Jim Thorpe, *St. Mark's Episcopal Church*, Race and Susquehanna Sts. (7-26-77).

Centre County

Bellefonte, *Bellefonte Historic District*, Roughly bounded by Stony Batter, Ardell Alley, Thomas, Armor Penn, Ridge, and Logan Sts. (8-12-77).

Centre Hall vicinity, *Gregg, Andrew, Homestead*, 2 mi. E of Centre Hall off PA 192 (7-28-77).

Milesburg, *Iddings-Baldridge House*, Railroad St. (7-29-77).

Chester County

Marshallton, *Marshallton Inn*, W. Strasburg Rd. (7-29-77).

Cumberland County

New Cumberland, *Black, William, Homestead*, Drexel Hill Park Rd. (7-20-77).

Williams Grove vicinity, *Williams, John, House*, 0.5 mi. S of Williams Grove (7-28-77).

Fulton County

McConnellsburg, *Fulton House*, 112-116 Lincoln Way East (7-20-77).

Lancaster County

Bainbridge vicinity, *Locust Grove*, S of Bainbridge off PA 441 (8-3-77).

Tioga County

Wellsboro, *Robinson House*, 120 Main St. (8-3-77).

Washington County

Canonsburg, *Administration Building, Washington and Jefferson College*, Washington and Jefferson College campus (8-16-77).

York County

Wrightsville vicinity, *Dritt Mansion*, 3.5 mi. S of Wrightsville on PA 624 (8-16-77).

RHODE ISLAND

Providence County

Manville vicinity, *Cole, John, Farm*, E of Manville on Reservoir Rd. (8-116-7).

Providence, *First Universalist Church*, 250 Washington St. (8-16-77).

Providence, *Mason, Israel B., House*, 571 Broad St. (8-16-77).

Providence vicinity, *Mt. Hygeia (Solomon Drown House)*, W of Providence on RI 94 8-12-77) HABS.

Washington County

Exeter vicinity, *Austin Farm Road Agricultural Area*, 6 mi. W of Exeter off I-95 (8-16-77).

Hopkinton vicinity, *Tomaquag, Rock Shelters*, S of Hopkinton (8-12-77).

SOUTH CAROLINA

Charleston County

Charleston, *Central Baptist Church*, 26 Radcliffe St. (8-16-77).

Mount Pleasant vicinity, *Oakland Plantation House*, 7 mi. N of Charleston Harbor on U.S. 17 (7-13-77).

Dillon County

Little Rock, *St. Paul's Methodist Church*, Off SC 9 (7-26-77).

Greenville County

Fountain Inn vicinity, *Fairview Presbyterian Church*, W of Fountain Inn off SC 418 (8-16-77).

Greenville, *Greenville Baptist Church*, 101 W. McBee Ave. (8-16-77).

Lexington County

Lexington, *Boozer, Lemuel, House*, 320 W. Main St. (8-16-77).

York County

McConnells vicinity, *Bethesda Presbyterian Church*, 3.5 mi NE of McConnellson SC 322 (8-16-77).

Rock Hill, *Ebenezer Academy*, 2132 Ebenezer Rd. (8-16-77).

SOUTH DAKOTA

Pennington County

Hill City, *Harney Peak Tin Mining Company Buildings*, U.S. 16/85 (7-21-77).

TENNESSEE

Blount County

Townsend, *Cades Cove Historic District*, 10 mi. SW of Townsend in Great Smoky Mountains National Park (7-13-77).

Davidson County

Roughly bounded by Woodland, S. 10th and S. 5th Sts., and Shelby Ave. (7-13-77).

Nashville, *Riverwood*, 1833 Welcome Lane (7-20-77).

Franklin County

Winchester vicinity, *Simmons, Peter House*, 11 mi. SW of Winchester on U.S. 64 (8-16-77).

Hardin County

Savannah, *Cherry Mansion*, 101 Main St. (8-16-77). HABS.

Knox County

Knoxville, *Commerce Avenue Fire Hall*, 201-205 Commerce Ave. (8-16-77). HABS.

Loudon County

Loudon, *Blair's Ferry Storehouse*, 800 Main St. (7-14-77). HABS.

Marshall County

Chapel Hill vicinity, *Forrest, Nathan Bedford, Boyhood Home*, W of Chapel Hill (7-13-77).

Maury County

Columbia vicinity, *Pleasant Mount Presbyterian Church*, SE of Columbia off TN 50 (8-16-77).

Obion County

Union City, *Confederate Monument*, Summer and Edwards Sts. (7-26-77).

Shelby County

Memphis, *Orpheum Theatre*, 197 S. Main St. (8-15-77).

Sumner County

Goodlettsville vicinity, *Bowen-Campbell House*, E of Goodlettsville on Jackson Rd. (7-25-77).

Tipton County

Covington, *St. Mathew's Episcopal Church*, Munford St. (8-16-77).

Washington County

Johnson City vicinity, *DeVault, Valentine House*, 5 mi. N of Johnson City off U.S. 11E on DeVault Lane (7-29-77).

TEXAS

Aransas County

Port Aransas vicinity, *Aransas Pass Light Station*, N of Port Aransas on Harbor Island (8-3-77).

Bexar County

San Antonio, *Alamo Plaza Historic District*, roughly bounded by S. Broadway, Commerce, Bonham and Travis Sts. (7-13-77).

Bosque County

Mosheim vicinity, *Hog Creek Archeological District*, 4 km NW of Mosheim and 13.5 km SW of Clifton, off FM 182 (7-20-77) (also in Coryell County).

Coryell County

Gatesville, *Coryell County Courthouse*, Pub. Sq. (8-18-77).

Erath County

Stephenville, *Erath County Courthouse*, Public Sq. (8-18-77).

Galveston County

Galveston, *Galveston Seawall*, Seawall Blvd. (8-18-77).

Galveston, *Garten Verein Pavilion*, 27th St. and Avenue O (Kempner Park).

Port Bolivar, *Point Bolivar Lighthouse*, TX 87 (8-18-77).

Harrison County

Marshall, *Harrison County Courthouse*, Public Square (8-16-77).

Sabine County

Milam vicinity, *Oliphant House*, 7 mi. E of Milam off TX 21 (8-18-77).

Sutton County

Sonora, *Sutton County Courthouse*, Public Square (7-15-77).

Val Verde County

Del Rio, *Val Verde County Courthouse and Jail*, 400 Pecan St. (8-18-77).

Victoria County

Victoria, *Old Victoria County Courthouse*, 101 N. Bridge St. (8-18-77).

Williamson County

Georgetown, *Williamson County Courthouse Historical District*, Rock and 9th Sts., Main and 7th Sts. (includes both sides) (7-26-77).

Zapata County

San Ygnacia vicinity, *Coralitos Ranch*, 2 mi. N of San Ygnacio off U.S. 83 (8-2-77).

UTAH

Iron County

Modena vicinity, *Gold Spring*, 9.25 mi. NW of Modena (7-21-77).

Salt Lake County

Salt Lake City, *Kahn, Samuel, House*, 678 E. South Temple (7-21-77).

Salt Lake City, *Keith-O'Brien Building*, 242-256 S. Main St. (8-16-77).

Salt Lake City, *McIntyre Building*, 68-72 S. Main St. (7-15-77).

Sanpete County

Manti, *Tuttle-Folsom House*, 195 West 300 North (7-21-77).

Utah County

Salem, *Garner, Ira W., House*, 10 N. Main St. (7-28-77).

Weber County

Ogden, *Becker, Gustav, House*, 2406 Van Buren Ave. (7-21-77).

VERMONT

Addison County

Shoreham vicinity, *District Six Schoolhouse*, N of Shoreham on Worcester Rd. (8-18-77).

VIRGINIA

Alleghany County

Clifton Forge vicinity, *Clifton Furnace*, SE of Clifton Forge off U.S. 220 (8-16-77).

Fairfax County

Fairfax vicinity, *Hope Park Mill and Miller's House*, 12124 Pope's Head Rd. (8-16-77).

Great Falls vicinity, *Colvin Run Mill*, S of Great Falls at 10017 Colvin Run Rd. (8-16-77).

Mathews County

Mathews, *Mathews County Courthouse Square*, VA 611 (8-18-77).

Rockbridge County

Lexington vicinity, *Liberty Hall Site*, N of Lexington (8-16-77).

Winchester (Ind. City)

Winchester, *Old Stone Church*, 304 E. Piccadilly St. (8-18-77) HABS.

WASHINGTON

King County

Fort Lawton vicinity, *West Point Light Station*, W of Fort Lawton (8-16-77).

Klickitat County

Goldendale, *Newell, Charles, House*, 114 Sentinel St. (8-16-77).

Pacific County

South Bend, *Pacific County Courthouse*, Cowlitz and Vine Sts. (7-20-77).

Pierce County

Tacoma, *Drum, Henry, House*, 9 St. Helens St. (7-20-77).

Skagit County

Mount Vernon vicinity, *Skagit City School*, 3.5 mi. S of Mount Vernon on Moore Rd. (7-15-77).

Spokane County

Spokane, *Empire State Building*, W. 901 Riverside St. (8-16-77).

WEST VIRGINIA

Berkeley County

Martinsburg vicinity, *Swan Pond*, E of Martinsburg on WV 5/3 (7-29-77).

WISCONSIN

Ashland County

LaPointe, *LaPointe Indian Cemetery*, S. Old Main St. (8-3-77).

Iron County

Hurley, *Iron County Courthouse*, 303 Iron St. (7-26-77).

Kenosha County

Kenosha vicinity, *Barnes Creek Site*, S of Kenosha (7-20-77).

Langlade County

Antigo, *Langlade County Courthouse*, 800 Clermont St. (7-25-77).

Racine County

Racine, *McClurg Building*, 245 Main St. (7-13-77).

Rock County

Clinton, *Richardson-Brinkman Cobblestone House*, 607 W. Milwaukee Rd. (7-28-77) HABS.

Evansville, *Eager Free Public Library*, 39 W. Main St. (8-16-77).

WYOMING

Albany County

Woods Landing vicinity, *Boswell, N. K., Ranch*, S of Woods Landing off Wy 230. (7-21-77).

Johnson County

Sussex vicinity, *Cantonment Reno*, 5 mi. N of Sussex at Powder River (7-29-77).

Uinta County

Evanston, *Uinta County Courthouse*, Courthouse Sq. (7-14-77).

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The following is a list of corrections to properties previously listed in the FEDERAL REGISTER.

NEVADA

White Pine County

Ely vicinity, *Fort Schellbourne*, 43 mi. N of Ely off U.S. 93 on NV 2, boundary change from 320 to 520 acres (2-23-72).

OHIO

Greene County

Jamestown vicinity, *Dean Family Farm*, 5 mi. W of Jamestown on Ballard Rd., boundary change from 5 to 3 acres (5-29-75).

V 42 172 SEP 6 77 UMI

Hamilton County

Newtown, *Odd Fellows' Cemetery Mounds 1 and 2*, Round Robin Rd. boundary change to include two mounds, adding 4.75 acres (6-19-73).

Mahoning County

Youngstown vicinity, *Austintown Log House*, W of Youngstown on Raccoon Rd., boundary increase to one acre (7-30-74).

Washington County

Marietta, *Mound Cemetery Mound*, 5th and Scammel Sts., boundary increase from 1 to 6 acres to include surrounding iron fence (2-23-73).

TENNESSEE

Knox County

Knoxville vicinity, *Buffat, Alfred, Homestead*, 1 mi. N of Knoxville on Love Creek Rd., boundary change from 9.5 to 7.97 acres (4-1-75).

WASHINGTON

Wahkiakum County

Skamokawa, *Skamokawa Historic District*, Boundary change to include archeological site 45-WK-5 (3-17-76).

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The following property was omitted from the February 1, 1977, listing of properties in the FEDERAL REGISTER.

HAWAII

Maui County

Kahului vicinity, *Crater Historic District*, Haleakala National Park (11-1-74).

• • • • •

The following properties have been demolished and therefore removed from the National Register of Historic Places.

NEW MEXICO

Quay County

Tucumcari, *Baca-Goodman House*, Aber and 3rd Sts.

WISCONSIN

Rock County

Janesville, *Myers Opera House*, 116 E. Milwaukee St.

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The following properties have been determined to be eligible for inclusion in the National Register. All determinations of eligibility are made at the request of the concerned Federal Agency under the authorities in section 2(b) and 1(3) of Executive Order 11593 as implemented by the Advisory Council on Historic Preservation, 36 CFR Part 800. This listing is not complete. Pursuant to the authorities discussed herein, an Agency Official shall refer any questionable actions to the Director, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, for an opinion respecting a property's eligibility for inclusion in the National Register.

Historical properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before an agency of the Federal Government may undertake any project which may have an effect on such a property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

ALABAMA

Green County

Gainesville vicinity, *Archeological Sites in Gainesville Project*, Tombigbee Waterway (also in Pickens and Sumter counties).

Jefferson County

Site 1Je36, Project I-459-4(4).

Lowndes County

Jones Bluff Park Site (1 Au 139), Jones Bluff Lake Project.

Madison County

Huntsville, *Lee House*, Red Stone Arsenal.

Montgomery County

Gunter Hill Park Site (1 MT 134), Jones Bluff Lake Project.

Washington County

Sundower vicinity, *Dr. Williams Home*, AL project RF-98(7).

ALASKA

Fairbanks Division

Davidson Ditch, Steese Hwy.

Nome Division

Little Diomede Island, *Iyapana, John House*.

Sitka Division

Crab Bay, *Crab Bay Petroglyph*.

ARIZONA

Apache County

Grand Canyon National Park, *Old Post Office*.

Apache County

Painted Cliffs Archeological District (Arizona K:12:3, K:12:87, K:12:238, K:12:239), Lupton Interchange of I-40.

Concouino County

Gray Mountain Site, (AR-02-020-946).
House Rock Springs, Upper Houserock Valley.
Paria Platcau Archeological District.

Graham County

Foote Wash—No name Wash Archeological District.

Maricopa County

Beth Israel Synagogue, 120 E. Culver.
Cave Creek Archeological District.
Glendale vicinity, *Cave Creek Dam*.
New River Dams Archeological District.
Phoenix, *Brooks, M. B., House*, 334B 75th Ave.
Phoenix, *Ellis-Shackleford House*, 1242 N. Central.
Phoenix, *Evans Barn*, 67th Ave., between Van Buren and McDowell.
Phoenix, *Fennemore House*, 501 E. Moreland.
Phoenix, *Hidden-Porcher House*, 763 E. Moreland.
Phoenix, *Ivy House*, 111 W. Monroe St.
Phoenix, *Kenilworth Elementary School*, 1210 N. 5th Ave.
Phoenix, *La Ciudad Archeological Site*.
Phoenix, *Las Colinas (Arizona T:12810)*, 1200 block of N. 27th Ave.
Phoenix, *Pieri-Elliott House*, 767 E. Moreland.
Phoenix, *Stewart House*, 1115 N. Central.
Phoenix *Wilcox Property*, 222 W. Washington St.
Site T:4:6.
Site U:1:30 (A.S.U.).
Site U:1:31 (A.S.U.).
Skunk Creek Archeological District.

Mohave County

Colorado City vicinity, *Short Creek Reservoir States NA 13,257 and NA 13,258*.

Navajo County

Holbrook vicinity, *Cholla-Saguaro Transmission Line-Archeological Sites*.
Polacca vicinity, *Walpi Hopi Village*, adjacent to Polacca.

Pima County

Tucson, *Convento Site*.

Yavapai County

Copper Basin Archeological District, Prescott National Forest.

Yuma County

Eagle Tail Mountains Archeological Site.

ARKANSAS

Archeological Sites, Black River Watershed

Clay County

Site 3CY34, Little Black River Watershed

Craighead County

Mangrum Site (State Site Number 3CG63).

Faulkner County

Site 3WH145, E fork of Cadron Creek Watershed (also in White county).
Sites 3VB49-3VB51, N fork Cadron Creek Watershed.

Hempstead County

Archeological Sites in Ozan Creeks Watershed.

Lonoke County

Scott vicinity, *William S. Pemberton House*.

Ouachita County

Camden, Old Post Office, Washington St.

Poinsett County

Riverside Site (State Site Number 3P0395).

CALIFORNIA

Archeological Sites, Buchanan Dam at Chowchilla River.

Alpine County

Woodsford vicinity, *Archeological Site 4-Alp-105*.

Amador County

Amador City, 35 mi. SE of Sacramento.

Benito County

Chalone Creek Archeological Sites, Pinnacles National Monument.

Calavras County

New Melones Historical District, New Melones Lake Project area, Stanislaus River (also in Tuolumne County).

Colusa County

Stoneyford vicinity, *Upper and Lower Letts Valley Historical District*, 12 mi. SW of Stoneyford.

Del Norte County

Chimney Rock, Six Rivers National Forest.
Doctor Rock, Six Rivers National Forest.
Peak No. 8, Six Rivers National Forest.

El Dorado County

Site Eld-58.
Giebenhahn House and Mountain Brewery Complex.

Fresno County

Helms Pumped Storage Archeological Sites, Sierra National Forest.
Home Camp T.S. (6 archeological sites) in Sierra National Forest.

Glenn County

Stick Lake Prehistoric Site, Case No. 05-08-67, Mendocino National Forest.
Upper Leach Lake Prehistoric Site, Case No. 05-08-67, Mendocino National Forest.
Willows vicinity, *White Hawk Top Site*, Twin Rocks Ridge Road Reconstruction Project.

Humbolt County

Eureka, Eureka Historic District.

Imperial County

Glamis vicinity, *Chocolate Mountain Archeological District*.
Lake Cahuilla, *Lot 1*.
Lake Cahuilla, *Lot 5*.

Inyo County

Scotty's Castle, Death Valley National Monument.
Scotty's Ranch, Death Valley National Monument.
The Twenty Mule Team Borax Wagon Road (also in Kern and San Bernardino counties).

Kern County

Site Ca-Ker-322.

Lassen County

Archeological Site HJ-1 and HJ-5.

Los Angeles County

Big Tujunga Prehistoric Archeological Site, I 210 Project.
Los Angeles, *Fire Station No. 26*, 2475 W. Washington Blvd.
Van Norman Reservoir, Site CA-LAN 646, CA-LAN 643, Site CA-LAN 490, and a cluster made up of Sites CA-LAN, 475, 491, 492, and 493.

Madera County

Bass Lake Archeological Sites CA-MAD 176-185.
Lower China Crossing.
New Site.

Marin County

Point Reyes, P. E. Booth Company Pier, Point Reyes National Seashore.
Point Reyes, *Point Reyes Light Station*.

Modoc County

Alturas vicinity, *Rail Spring*, about 30 mi. N of Alturas in Modoc National Forest.
Johnson Slough Site (Site 1).
Tulelake vicinity, *Lava Bed National Monument Archeological District*, S of Tulelake (also in Siskiyou County).

Mono County

Archeological Site CA-MNO-684.

Monterey County

Big Sur, *Point Sur Light Station*.

Napa County

Archeological Sites 4-Nap-14, 4-Nap-261.
Napa River Flood Control Project.

Plumas County

Mineral, *Hay Barn and Cook's Cabin, Drakesbad (Siford Family) Guest House*, Lassen Volcanic National Park.
Mineral, *Summit Lake Ranger Station*, Lassen Volcanic National Park.

Riverside County

Twentynine Palms, *Cottonwood Oasis (Cottonwood Springs)*, Joshua Tree National Monument.
Twentynine Palms, *Lost Horse Mine*, Joshua Tree National Monument.

Sacramento County

Sacramento River Bank Protection Project, Site 1, Sacramento River.
Sacramento Weir
Sacramento, *Tower Bridge*, M St. over Sacramento River (also in Yolo County).

San Bernardino County

Squaw Spring Well Archeological District.
Steam Well Petroglyph Archeological District.
Trona Pinnacles Railroad Camp.
Twentynine Palms, *Keys, Bill, Ranch*, Joshua Tree National Monument.
Twentynine Palms, *Twentynine Palms Oasis*, Joshua Tree National Monument.

San Diego County

North Inland, *Camp Howard, U.S. Marine Corps*, Naval Air Station.
North Island, *Rockwell Field*, Naval Air Station.
San Diego, *Marine Corps Recruit Depot*, Barnett Ave.

San Francisco County

Forest Hill Station.
North Point Park/Marina (Eagle Cafe and Pier Facades), San Francisco northern waterfront.
San Francisco, *Twin Peaks Tunnel*.

San Luis Obispo County

New Cuyana vicinity, *Caliente Mountain Aircraft Lookout Tower*, 13 mi. NW of New Cuyana off Rte. 166.
San Luis Obispo, *San Luis Obispo Light Station*.

San Mateo County

Hillsborough, *Point Montara Light Station*.

Santa Barbara County

Santa Barbara, *Site SBa-1330*, Santa Monica Creek.
Site CA-Sba-1325.

Santa Clara County

Sunnyvale, *Theuerkauf House*, Naval Air Station, Moffett Field.

Shasta County

Mineral, *Comfort Station*, Lassen Volcanic National Park.
Mineral, *Park Entrance Station and Residence*, Lassen Volcanic National Park.
Mineral, *Park Naturalist's Residence*, Lassen Volcanic National Park.
Mineral, *Warner Valley Ranger Station*, Lassen Volcanic National Park.
Redding vicinity, *Squaw Creek Archeological Site*, NE of Redding.
Whiskeytown, *Irrigation System (165 and 166)*, Whiskeytown National Recreation Area.

Sierra County

Archeological Site HJ-5 (Border Site 26WA-1676).
Properties in Bass Lake Sewer Project.

Siskiyou County

Thomas-Wright Battle Site, Lava Beds National Monument.

Sonoma County

Dry Creek-Warm Springs Valley Archeological District.
Petaluma, *Ferrell Home*, 500 E. Washington St.
Santa Rosa, *Santa Rosa Post Office*.

Tehama County

Los Molinos vicinity, *Ishi Site (Yahi Camp)*, E of Los Molinos in Deer Creek Canyon.

Tulare County

Atwell's Mill, Sequoia National Park.
Cattle Cabins, Sequoia National Park.
Quinn Ranger Station.

Ventura County

Simi Valley, *Archeological Site Ven-341*.

Yuba County

Site 4-Yub-S27 (Marysville Riverfront Park Project), along the Feather River, City of Marysville.

COLORADO

Denver County

Douglas County

Keystone Railroad Bridge, Pike National Forest.

El Paso County

Colorado Springs, *Alamo Hotel*, corner of Tejon and Cucharras Sts.
Colorado Springs, *Old El Paso County Jail*, corner of Vermijo and Cascade Ave.

Larimer County

Estes Park, *Beaver Meadows Maintenance Area*, Rocky Mountain National Park utility area.
Sites 5-LR-257 and 5-LR-263, Boxelder Watershed Project.

Pueblo County

Pueblo, *Pueblo Federal Building (U.S. Post Office)*, 5th and Main Sts.

CONNECTICUT

Fairfield County

Bridgeport Harbor, *Bridgeport Canal Barges*.
Norwalk, *Washington Street—S. Main Street Area*.

Hartford County

Farmington, *Gridley-Parsons-Staples Homestead*, Rte. 4, Farmington Ave.
Granby, *Granby Center*.
Hartford, *Christ Church Cathedral and Cathedral House*, 955 Main St. and 45 Church St.
Hartford, *Houses on Charter Oak Place*.
Hartford, *Houses on Wethersfield Avenue*, between Morris and Wyllys Sts., particularly Nos. 97-81, 65.
Manchester, *Portions of Cheney Silk Mills Industrial Complex* (Cheney Homes Area).
Southington, *Lewis, Sally, House*, 500 N. Main St.

Middlesex County

Middletown, *Cookson, John, House*, S. Main St.
Middletown, *Fuller, Caleb, House*, Upper Williams St.
Middletown, *Main Street Firehouse*, 533 Main St.
Middletown, *Southmayd, William, House*, Lower Williams St.

New London County

New London, *Bank Street Historic District*.
New London, *Buckingham Memorial Building*, 307 Main St.
New London, *Williams Memorial Institute Building*, 110 Broad St.
Norwich, *Washington Street Historic District*, Project 103-159.

New Haven County

Ansonia Opera House, 100 Main St.
New Haven, *Grand Avenue Drawbridge*, over Quinnipiac River.

V 42 N 172 SEP 6 77 UMI

Windham County

Brooklyn, *Quebec Historic District (Quebec Village)*.

DISTRICT OF COLUMBIA

Auditors' Building, 201 14th St. SW.
Brick Sentry Tower and Wall, along M St.
Central Heating Plant, 13th and C Sts. SW. SE between 4th and 6th Sts SE
1700 Block Q Street NW, 1700–1744, 1746, 1748 Que St. NW.; 1536, 1538, 1540, 1602, 1604, 1606, 1608, 17th St. NW.

FLORIDA

Broward County

Hillsboro Inlet, *Coast Guard Light Station*.

Collier County

Marco Island, *Archeological Sites on Marco Island*.

Monroe County

Knights Key Moser Channel—Packet Channel Bridge (Seven Mile Bridge)
Long Key Bridge
Old Bahia Honda Bridge

Pinellas County

Bay Pines, *VA Center*, Sections 2, 3, and 11 TWP 31–S, R–15E.

St. Johns County

St. Augustine, *St. Augustine National Cemetery*.

GEORGIA

Bibb County

Macon, *Vineville Avenue Area*, both sides of Vineville Ave. from Forsyth and Hardman Sts. to Pio Nono Ave.

Carroll County

Jordan-Hampton House, Route 1.

Chatham County

Archeological Site, end of Skidway Island.
Savannah, *516 Ott Street*.
Savannah, *908 Wheaton Street*.
Savannah, *914 Wheaton Street*.
Savannah, *920 Wheaton Street*.
Savannah, *828 Wheaton Street*.
Savannah, *930 Wheaton Street*.
Skidaway Island, *Priest's Landing Mounds*.

Clay County

Archeological Site WGC–73, downstream from Walter F. George Dam.

Cobb County

Bostwick, Charles C., House, 325 Atlanta St.
Brumby, Arnoldus, House, 472 Powder Springs St.
Clay, Alexander Stephens, House, 353 Atlanta St.
Marietta, *Marietta National Cemetery*, 500 Washington Ave.
McCullock–Wellons House, 348 Powder Springs Rd.
Slaughter, M. G., Cottage, 216 Fraser St.

De Kalb County

Atlanta, *Atkins Park Subdivision*, St. Augustine, St. Charles, and St. Louis places.
Decatur, *Sycamore Street Area*.

Fulton County

Atlanta, *Downtown Atlanta Historic District*, beginning at jct. Atlanta St. and Central Ave.

Gordon County

Haynes, Cleo, House and Frame Structure, University of Georgia.
Moss—Kelly House, Sallacoa Creek area.

Greene County

Wallace Reservoir Archeological District, (also in Hancock, Morgan, and Putnam counties).

Gwinnett County

Duluth, *Hudgins, Scott, Home (Charles W. Summerour House)*, McClure Rd.

Heard County

Philpott Homesite and Cemetery, on bluff above Chattahoochee River where Grayson Trail leads into river.

Richmond County

Archeological Sites Project F–117–1 (7).
Augusta, *Blanche Mill*.
Augusta, *Enterprise Mill*.
Augusta, *Green Street*.

Stewart County

Rood Mounds, Walter F. George Dam and Reservoir.

Sumter County

Americus, *Aboriginal Chet Quarry*, Souther Field.

HAWAII

Hawaii County

Hawaii Volcanoes National Park, *Mauna Loa Trail*.
Kwalakakwa Bay, *Kona Field System*

Maui County

Hana vicinity, *Kipahulu Historic District*, SW of Hana on Rts. 31.

Oahu County

Barber's Point Harbor.
Moanalua Valley.

IDAHO

Ada County

Boise, *Alexanders*, 826 Main St.
Boise, *Falks Department Store*, 100 N. 8th St.
Boise, *Idaho Building*, 216 N. 8th St.
Boise, *Simplot Building (Boise City National Bank)*, 805 Idaho St.
Boise, *Union Building*, 712½ Idaho St.

Clearwater County

Orofino vicinity, *Canoe Camp—Suite 18*, W of Orofino on U.S. 12 in Nez Perce National Historical Park.

Gem County

Marsh and Ireton Ranch, Montour Flood project.
Town of Montour, Montour Flood project.

Idaho County

Kamiah vicinity, *East Kamiah*—Suite 15, SE of Kamiah on U.S. 12 in Nez Perce National Historical Park.

Lemhi County

Tendoy, *Lewis and Clark Trail, Pattee Creek Camp*.

Nez Perce County

Lapwai, *Fort Lapwai Officer's Quarters*, Phinney Dr. and C St. in Nez Perce National Park.
Lapwai, *Spalding*.
Lewiston, *Fiz Building*, 211–213 Main St.
Lewiston, *Lower Snake River Archeological District*
Lewiston, *Morley Building*, 215 Main St.
Lewiston, *Scully Building*, 209 Main St.

ILLINOIS

Bureau County

I & M Canal (also in Henry, Rock Island, and Whiteside counties).

Carroll County

Savanna vicinity, *Spring Lake Cross Dike Island Archeological Site*, 2 mi. SE of Savanna.

Cook County

Chicago, *Ogden Building*, 180 W. Lake St.
Chicago, *Oliver Building*, 159 N. Dearborn St.
Chicago, *Springer Block (Bay, State, and Kranz Buildings)*, 126–146 N. State St.
Chicago, *Unity Building*, 127 N. Dearborn St.

De Kalb County

De Kalb, *Haish Barbed Wire Factory*, corner of 6th and Lincoln Sts.

Henry County

Genesco, *Ristau Brewery*.

Lake County

Fort Sheridan, *Museum Bldg. 33*, Lyster Rd.

Madison County

American Botroms, 69 archeological sites in Madison, Monroe, and St. Clair counties.

Rock Island County

Archeological Site 11–R1–337, East Moline Mississippi and Rock Rivers.

Scott County

Naples vicinity, *Naples-Castle Site*, SW of Naples.

Williamson County

Wolf Creek Aboriginal Mound, Crab Orchard National Wildlife Refuge.

INDIANA

Lawrence County

Bedford, *Main Post Office*, 1324 K St.
Mitchell, *Riley School*.

Marion County

Indianapolis, *Lockfield Gardens Public Housing Project*, 900 Indiana Ave.
Indianapolis vicinity, *Garfield Park Pagoda*, 2 mi S of Indianapolis in Garfield Park.

Monroe County

Bloomington, *Carnegie Library*.

Orange County

Cox Site, Lost River Watershed.
Half Moon Spring, Lost River Watershed.
Jackson, *Ten Prehistoric Sites in the Patoka Lake*.

St. Joseph County

Mishawaka, *100 NW Block*, properties fronting N. Main St. and W. Lincoln Way.

Spencer County

Evansville, *Pollard, Maier, House*.

Vanderburgh County

Evansville, *Alhambra Theater*, 50 Adams St.
Evansville, *Riverside Neighborhood*.

Vermillion County

Houses in SR 63/32 Project, jct. of SR 32 and SR 63 and 1st rd. S. of Jct.

IOWA

Allamakee County

Marquette vicinity, *Fire Point Site (Nine Foot Channel Navigation Project)*.

Boone County

Saylorville Archeological District (also in Polk and Dallas counties).

Ida County

Muri Brown Site (13–IA–4), County Courthouse.

Johnson County

Indian Lookout.

KANSAS

Douglas County

Lawrence, *Curtis Hall (Kiva Hall)*, Haskell Institute.

KENTUCKY

Boone County

Rabbit Hash, *Sites 15Be75 and 15Be76*.

Jefferson County

Archeological Sites: Section 2, SW Jefferson County Local Protection Project.
Louisville, *Levin Bates House*, Bardstown Rd.

Johnson County

Fishtrap United Methodist Church.
Volga, *McKenzie Log Cabin*, McKenzie Branch.

Lawrence County

Fort Ancient Archeological Site.

Trigg County

Golden Pond, *Center Furnace*, N of Golden Pond on Bugg Spring Rd.

LOUISIANA

East Baton Rouge Parish

Baton Rouge, *Spanish Town*, Baton Rouge.

Orleans Parish

New Orleans, *Algiers Point Historic District*, bounded by Mississippi River, Atlantic St., and Opelousas St.
New Orleans, *Casey, Kate, House*, 932–934 Howard.
New Orleans, *Central City District*.
New Orleans, *Cordes, John, House*, 3027–3029 Royal St., Square 170.
New Orleans, *Deyron, Dr. J. A., House*, 3037 Royal St., Square 170.
New Orleans, *Dunn, Andrew Jackson, House*, 926–930 Calliope St., Square 119.
New Orleans, *Duyer, James, House*, 933–935 Galenne St., Square 119.
New Orleans, *Gasquet, William, Houses*, 1128–1130 Constance St., Square 119.
New Orleans, *Hart, James S., House*, 615 Erato St., Square 71.
New Orleans, *I-Sea Storage and Transfer Company Building*, 2201 Clio St., Square 348.
New Orleans, *Jahucke Building*, 814 Howard Ave., Square 237.
New Orleans, *Lee Circle and Lee Monument*, St. Charles Ave. at Howard Ave.
New Orleans, *Maginnis Cotton Mills*, 1054 Constance St., Square 120.
New Orleans, *McDowall, Robert, House*, 1119–1121 Constance St., Square 130.
New Orleans, *McLaughlin, M. A., House*, 1122–1126 Constance St., Square 119.
New Orleans, *McLeod, Euphenia Napir House*, 1523–1525 Calliope St., Square 183.
New Orleans, *Murray, Thomas, House*, 1131 S. Rampart St., Square 290.
New Orleans, *Old Firehouse*, 1045 Magazne St., Square 158.
New Orleans, *Peyton, William H., House*, 1135 S. Rampart St., Square 290.
New Orleans, *Roper, George W., House*, 1032 St. Charles Ave., Square 183.
New Orleans, *St. John the Baptist Church*, 1139 Dryades St., Square 277.
New Orleans, *Saulet, Marie Theresa, House*, 1218–1222 Annunciation St., Square 100.
New Orleans, *Schwegmann, G. A., House* 3044 Royal St., Square 142.
New Orleans, *Sincer, Louis, House*, 1061 Camp St., Square 183.
New Orleans, *Sport, C. J., House*, 3015 Royal St., Square 142.
New Orleans, *Talen, Aeldemer Appollonius, Studio-House*, 1029 Calliope St., Square 137.
New Orleans, *Temple Sinai*, 1062 Ceroudelet St., Square 215.
New Orleans, *Verret, Theodore, House*, 1216 Annunciation St., Square 109.
New Orleans, *Tourae, Nicholas, House*, 1169 Tchoupitoulas St., Square 71.
New Orleans, *Zangel, Frederick, House*, 1118 Constance St., Square 119.

Red River County

Hanna Site (16RR4).

St. Martins Parish

Site 16, Sm—45, Atchafalaya Basin Floodway.

Vernon Parish

Ft. Polk, *Site 16 VN 18*.

MARYLAND

Allegany County

Flintstone vicinity, *Martin Gordon Farm*, Breakneck Rd. (Rte. 1).
Flintstone vicinity, *Martins Mountain Farm*, Breakneck Rd. (Rte. 1).

Anne Arundel County

Claiborne, *Bloody Point Bar Light*, on Chesapeake Bay.
Skidmore, *Sandy Point Shoal Light*, on Chesapeake Bay.

Baltimore (independent city)

Baltimore Belt (Baltimore and Ohio) Railroad (Howard Street Tunnel and Power House).
Barre Circle Historic District, Lombard St., Fremont Ave., Scott St.
Eastern Avenue Sewage Pumping Station, SW corner of Eastern Ave. and President St.
Fayette Street Methodist Episcopal Church, 745 West Fayette St.
Mount Calvary Church Historic District, Biddle St., Madison Ave., N. Eutaw St.

Baltimore County

Federal Hill-Riverside Park Historic District, Federal Hill and Riverside Park areas.
Fort Howard, *Craighill Channel Upper Range Front Light*, on Chesapeake Bay.
Hollins-Lombard Historic District, 800 blocks of Hollins and Lombard Sts., bet. Fremont and Callender; unit block of Parkin St.
New Owings Mills Railroad Station, W of Reisterstown Rd.
Old Owings Mills Railroad Station, Reisterstown Rd.
Old Western Police Station (Old Pine Street Station).
Reistertown Historic District, Butler and Walston Rds.
Ridgely's Delight Historic District.
Sparrows Point, *Craighill Channel Range Front Light*, on Chesapeake Bay.
St. Paul's Cemetery, Union Block, Fremont Ave.

Carroll County

Bridge No. 1–141 on Hughes Road.

Cecil County

Sassafras Elk Neck, *Turkey Point Light*, at Elk River and Chesapeake Bay.

Dorchester County

Hoppersville, *Hooper Island Light*, Chesapeake Bay-Middle Hooper Island.

Frederick County

Fort Detrick, *Horton Test Sphere (One-Million-Liter Test Sphere)*.

Montgomery County

Rockville, *Third Addition to Rockville and Old St. Mary's Church and Cemetery*.

St. Marys County

St. Inigoes, *St. Inigoes Manor House*, Naval Electronic System Test and Evaluation Detachment.
St. Marys City, *Point No Point Light*, on Chesapeake Bay.

Talbot County

Tilghman Island, *Sharps Island Light*, on Chesapeake Bay.

MASSACHUSETTS

Barnstable County

Rider, Samuel, House, Gull Pond Rd. off Mid-Cape Hwy. 6.
Truro, *Highland Gold Course*, Cape Cod Light, area.

Hampden County

Holyoke, *Caledonia Building (Crafts Building)*, 185–193 High St.
Holyoke, *Cleary Building (Stiles Building)*, 190–196 High St.
Holyoke, *Steamer Company No. 3*.

Middlesex County

Wayland, *Old Town Bridge (Four Arch Bridge)*, Rte. 217, 1.6 m. NW of Rte. 126 Jct.

Suffolk County

Northern Avenue Bridge, Fort Point Channel.

Worcester County

Leicester, *Shaw Site (Sites 4, 5, and 6)*, Upper Quaboag River Watershed project.
North Brookfield, *Meadow Site No. 11*, Upper Quaboag River Watershed.

MICHIGAN

Kalamazoo County

Masonic Temple, corner Rose and Eleanor Sts.
Little Forks Archeological District.

Wayne County

Mackenzie, David, House, 4735 Cass Ave.

MINNESOTA

St. Louis County

Duluth, *Morgan Park Historic District*.

Winona County

Winona, *Second Street Commercial Block*.

MISSISSIPPI

Lowndes County

Tibbee Creek Archeological Site, Columbus lock and dam project.

Monroe County

Aberdeen vicinity, *East Aberdeen Site (22Mo819)*

Tishomingo County

Tennessee—Tombigbee Waterway.

MISSOURI

Buchanan County

St. Joseph, *Hall Street Historic District*, bounded by 4th St. on W., Robidoux on S., 10th on E., and Michel, Corby, and Ridenbaugh on N.

Dent County

Lake Spring, *Hyer, John, House*.

Franklin County

Leslie, *Noser's Mill and adjacent Miller's House*, Rural Rte. 1.

V 42 I 172 SEP 6 77 UMI

Henry County

La Due, *Batschelett House*, near Harry S Truman Dam and Reservoir.
Little Black River Watershed (also in Ripley County).

Monroe County

Violette, Alexander House.

MONTANA

Cascade County

Great Falls, *Building at 108 Central Avenue*, 108 Central Ave.

Custer County

"Old Fort" at Fort Keogh.

Fergus County

Lewis & Clark, Campsite, May 23, 1805.
Lewis & Clark, Campsite, May 24, 1805.

Lewis and Clark County

Marysville, *Marysville Historic District.*

NEBRASKA

Cherry County

Valentine vicinity, *Fort Niobrara National Wildlife Refuge.*
Valentine vicinity, *Newman Brothers House.*

Knox County

Niobrara Historic Properties.

NEVADA

Clark County

Las Vegas vicinity, *Blacksmith Shop*, Desert National Wildlife Range.
Las Vegas Vinicity, *Las Vegas Wash Archeological District.*
Las Vegas vicinity, *Mesquite House*, Desert National Wildlife Range.

Elko County

Carlin vicinity, *Archeological Sites 26EK1669, 26EK1672.*

Nye County

Las Vegas vicinity, *Emigrant's Trail*, about 75 mi. NW of Las Vegas on U.S. 95.

Pershing County

Lovelock vicinity, *Adobe in Ruddell Ranch Complex.*
Lovelock vicinity, *Lovelock Chinese Settlement Site.*

Storey County

Sparks vicinity, *Derby Diversion Dam*, on the Truckee River 19 mi. E of Sparks, along I 80 (also in Washoe County).

Washoe County

Site 26Wa2065.

NEW HAMPSHIRE

Cheshire County

Arch Bridge, between N. Walpole and Bellows Falls (also in Windham Co., VT).

Hillsborough County

Amoskaag Millyard Complex.
Smyth Tower.

Rockingham County

Portsmouth, *Pulpit Rock Observation Station*, Portsmouth Harbor.

Strafford County

Odd Fellow's Hall (Morning Star Block).
O'Neill House (Cocheco Co. Housing).
Public Market (Morrill Block).
Trella House (Dover Manufacturing Co. Housing).
Veteran's Building (Central Fire House).
Western Auto Block (Merchants Row).

NEW JERSEY

Hudson County

S.S. Newton, midway between Ellis and Liberty islands.

Mercer County

Hamilton and West Windsor Townships, *Assunpink Historic District.*
Trenton, *Lamberton Interceptor.*
West Windsor Township Wastewater Facilities (Archeological Site 3313.14)—Extended.

Middlesex County

Cranbury Historic District.

Monmouth County

Long Branch, *The Reservation*, 1-9 New Ocean Ave.

Morris County

Morristown, *Abbett Avenue Bridge.*

Ocean County

Joseph Holmes Mill (The Mill Site), SW corner of intersection of Mill and Parker Sts.

Passaic County

Forsberg House, 3 Edgemont Crescent.

Warren County

Oxford, *Oxford Industrial District.*

NEW MEXICO

Chaves County

Cites LA11809—LA11822, Cottonwood-Walnut Creek Watershed (also in Eddy County).

Dona Ana County

Placitas Arroyo, *Sites SCSPA 1—8.*

Guadalupe County

Los Esteros Lake Archeological Site.

Lee County

Laguna Plata Archeological District.

McKinley County

Zuni Pueblo Watershed, *Oak Wash Sites N.M.G.:13:19—N.M.G.:13:37.*

Otero County

Three Rivers Petroglyphs.

Rio Arriba County

Cerrito Recreation Site Archeological District.

NEW YORK

Albany County

Guilderland, *Nott Prehistoric Site.*
Tetilla Peak Site.

Bronx County

New York, *Bronx Post Office.*
New York, *North Brothers Island Light Station*, in center of East River.

Broome County

Mill Site at Site 7-A, Manticoke Creek project (also in Tioga County).
Vestal, *Vestal Nursery Site*, Vestal Project (also in Union County).

Cattaraugus County

Olean, Forness *Park Development-Archeological Sites.*

Chautauqua County

Dunkirk, *Properties in the city of Dunkirk.*
Loomis Archeological Site, South and Central Chautauqua Lake

Erie County

Erie Canal.

Greene County

New York, *Hudson City Light Station*, in center of Hudson River.

Herkimer County

Little Falls, *Dunn Property Buildings*, West Mill St.

Kings County

Steeplechase Parachute Jump.

Nassau County

Long Island, *Seafood Park Archeological Site.*

New York County

New York, *Colonial Park Pool Complex*, Bradhurst Ave.
New York, *Harlem Courthouse*, 170 E. 121st St.

Onondaga County

Syracuse, *Amos Block*, 208-220 W. Water St.

Orange County

Port Jervis, *Church Street School*, 55 Church St.
Port Jervis, *Farnum, Samuel, House*, 21 Ulster Pl.

Oswego County

Gustin-Earle Factory Site, village of Mexico
Musico Motors Building, W. First and W Seneca Sts.

Otsego County

Swart-Wilcox House

Putnam County

Archeological and Historic Site.

Queens County

Fort Totten Officers' Club.

Rensselaer County

Sand Lake, *Troy and New England Railway* (Trolley Embankment), Sand Lake Sewer Project/Wynantskill Trunk Sewer.

Richmond County

New York, *Romer Shoal Light Station*, located in lower bay area of New York Harbor.
Staten Island, *U.S. Coast Guard Base, St. George.*

Saratoga County

Saratoga Springs, *Yaddo House and Gardens, District.*
Satatoga Springs, *Yaddo House and Gardens*, Saratoga Springs Historic District.
Schuylerville, *Archeological Site*, Schuylerville Water Pollution Control Facility.
Waterford, *Waterford Industrial Complex.*

Staten Island

Tottenville, *Ward's Point*, Oakwood Beach Project.

Suffolk County

Janesport vicinity, *East End Site.*
Janesport vicinity, *Hallock's Pond Site*
New York, *Fire Island Light Station*, U.S. Coast Guard Station.
New York, *Little Gull Island Light Station*, off North Point of Orient Point, Long Island.
New York, *Plum Island Light Station*, off Orient Point, Long Island.
New York, *Race Rock Light Station*, S. of Fishers Island, 10 mi. N. of Orient Point.
Northville Historic District, houses along Sound Ave.

Ulster County

Kingston vicinity, *Esopus Meadows Light Station*, middle of Hudson River.
New York, *Rondout North Dike Light*, center of Hudson River at Jct. of Rondout Creek and Hudson River.

New York, *Saugerties Light Station*, Hudson River.
Wildmere and Cliffhouse Resort Hotels (Minnewaska Acquisition Project), towns of Gardiner and Rochester.

Warren County

Lake George, *Bogeu*, portion of Montcalm St.

Washington County

Greenwich, *Palmer Mill (Old Mill)*, Mill St.

Westchester County

Port Washington vicinity, *Execution Rocks Light Station*, lower SW portion of Long Island Sound.
Yonkers, *Women's Institute Building.*
Yorktown, *Yorktown Railroad Station.*

NORTH CAROLINA

Alamance County

Burlington, *Clapp's Mill and Dam Site* (also in Guilford County).
Burlington, *Faust Mill* (also in Guilford County).
Burlington, *Low House* (also in Guilford County).
Burlington, *Southern Railway Passenger Depot*, NE corner Main and Webb Sts.

Camden County

South Mills vicinity, *Burnham House*, U.S. 17.

Caswell County

Archeological Sites CS-12, County Line Creek Watershed Project (also in Rockingham County).
Womack's Mill, in County Creek Watershed Project (also in Rockingham County).

Cleveland County

Archeological Resources in Second Brood River Watershed Project (also in Rutherford County).

Cumberland County

Fayetteville, *Veterans Administration Hospital Confederate Breastworks*, 23 Ramsey St.

Dare County

Buxton, *Cape Hatteras Light*, Cape Hatteras National Seashore.
Wanchese, *Wanchese Harbor Development*, Site 31 DR 35.

Forsyth County

Winston-Salem, *Atkins, Dr. Simon Green, House*, 346 Atkins St.
Winston-Salem, *Hill, James S., House*, 914 Stadium Dr.
Winston-Salem, *Paisley, J. W., House*, 934 Stadium Dr.
Winston-Salem, *Patterson, Ackerman, and Sussdorf Houses*, 434, 440, 448 S. Trade St.

Hyde County

Ocracoke, *Ocracoke Lighthouse.*

NORTH DAKOTA

Burleigh County

Bismarck, *Fort Lincoln Site.*

OHIO

Adams County

Wrightsville vicinity, *Grimes Site (33 AD 39)*, Killen Electric Generating Station.
Wrightsville vicinity, *Killen Bridge Site, (33 AD 36)*, *Killen Electric Generating Station.*

Astabula County

Astabula, *West Fifth Street Bridge*, over Astabula River.

Clermont County

Neville vicinity, *Maynard House*, 2 mi. E of Neville off U.S. 52.

Clinton County

Chester, *Bunnell (Kemo) Esker (33-Cn-7).*

Crawford County

Calvary Reformed Church, First United Methodist Church, Crestline Shunk Museum.

Darke County

DAR-S.R.-571-0.00.

Licking County

Heath, *DiGiodomenico Site (LIC-343-0.00).*

Montgomery County

Columbia Bridge Works.
Lower Cratis Road Bridge.

Richland County

Mansfield, *Ritter, William, House*, 181 S. Main.

Seneca County

Tiffin, *Old U.S. Post Office*, 215 S. Washington St.

Summit County

United Way Building, Perkins St.

Tuscarawas County

Conotton Creek Bridge, CR 90 in Warren Township, over Conotton Creek.

Warren County

Corwin, *Shafer Mound*, S of New Burlington Rd.
Harveysburg, *E. L. Anderlee Mound*, S of New Burlington Rd. in Caesar Creek Lake Project.
Massie, *Carr Mill Site (33-WA-75).*
Massie, *Jonah's Run Site #1 (33-Wa-82).*
Massie, *King Road Site (33-Wa-112).*
Massie, *Oglesby-Harris Site (33-Wa-83).*
Massie, *Pipeline Site (33-Wa-78).*
Massie, *Wood 73 Site (33-Wa-92).*

Wayne County

Wooster, *Thorne House*, 1576 Beall Ave.

OKLAHOMA

Atoka County

Estep Shelter, Lower Clear Boggy Watershed.
Graham Site, Lower Clear Boggy Watershed.

Comanche County

Fort Sill, *Blockhouse on Signal Mountain* off Mackenzie Hill Rd.
Fort Sill, *Chiefs Knoll, Post Cemetery*, N of

Kay County

Newkirk vicinity, *Bryson Archeological Site*, NE of Newkirk.

Kingfisher County

Kingfisher Post Office, Main and Roberts Sts.

OREGON

Baker County

Baker vicinity, *Virtue Flat Mining District*, 10 mi. E of Baker off Hwy. 86.

Columbia County

Scappose vicinity, *Portland and Southwestern Railroad Tunnel*, 13 mi. NW of Scappose.

Coos County

Charleston, *Cape Arago Light Station.*

Curry County

Port Orford, *Cape Blanco Light Station.*

Douglas County

Winchester Bay, *Umpqua River Lighthouse.*

Gilliam County

Archeological Sites (Ghost Camp Reservoir).

Arlington vicinity, *Four Mile Canyon Area (Oregon Trail)*, 10 mi. SE of Arlington.
Orum Gristmill, Ghost Camp Reservoir area.
Old Wagon Road, Ghost Camp Reservoir area.
Olex School, Ghost Camp Reservoir area.
Steel Truss Bridge, Ghost Camp Reservoir area.

Klamath County

Crater Lake National Park, *Crater Lake Lodge.*

Lane County

Coburg vicinity, *McKenzie River Railroad Bridge.*
Roosevelt Beach, *Heceta Head Lighthouse.*
Roosevelt Beach, *Heceta Head Light Station.*

Lincoln County

Agate Beach, *Yakuina Head Lighthouse.*

Tillamook County

Tillamook, *Cape Meares Lighthouse.*

Wasco County

Memaloose Island; River Mile 177.5 in Columbia River.

Wheeler County

Antone, *Antone Mining Town*, Barite 1901-1906.

PENNSYLVANIA

Adams County

Gettysburg, *Barlow's Knoll*, adjacent to Gettysburg National Military Park.
Kuhn's Fording Bridge, spans Conewago Creek.

Allegheny County

Bruceton, *Experimental Mine*, U.S. Bureau of Mines, off Cochran Mill Rd.
McJunkin Site, New Texas Rd.
Pittsburgh, *St. Boniface Church*, 2208 East St.

Berks County

Brownsville vicinity, *Lauer/Gerhart Farm.*
Mt. Pleasant, *Berger-Stout Log House*, near jct. of Church Rd. and Tulephocken Creek.
Mt. Pleasant, *Conrad's Warehouse*, near jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, *Heck-Stamm-Unger Farmstead*, Gruber Rd.
Mt. Pleasant, *Miller's House*, jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, *O'Bolds-Billman Hotel and Store*, Gruber Rd. and Rte. 183.
Mt. Pleasant, *Pleasant Valley Roller Mill*, Gruber Rd.
Mt. Pleasant, *Reber's Residence and Barn*, on Tulephocken Creek.
Mt. Pleasant, *Union Canal*, Blue Marsh Lake Project area.
Reading vicinity, *Blue Marsh Archeological District.*

Butler County

Butler, *Bonnie Brook Archeological Site.*

Chester County

Charlestown, *Nesspor House (Thomas Davis House)*, State Rd.
Charlestown, *Pickering Creek Ice Dam*, State Rd.
Lock Aerie.
Nature Center of Charleston, State Rd. Charleston township.

Clinton County

Lockhaven, *Apsley House*, 302 E. Church St.
Lockhaven, *Harvey Judge, House*, 29 N. Jay St.
Lockhaven, *McCormick, Robert, House*, 234 E. Church St.
Lockhaven, *Mussina, Lyons, House*, 23 N. Jay St.

Delaware County

I 476 Historic Sites (20 Historic Sites), Mid-County Expwy. (also in Montgomery County).

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UMI

Minshall House, Media Borough.

Huntingdon County

Brumbaugh Homestead, Raystown Lake Project.

Lackawanna County

Carbondale, *Miners and Mechanics Bank Bldg.*, 13 N. Main St.

Lancaster County

Bainbridge Township, *Haldeman Mansion.*

Lehigh County

Colesville vicinity, *Site 1: Farmhouse, barn, and outbuildings*, I–78.
Dorneyville, *King George Inn and two other stone houses*, Hamilton and Cedar Crest Blvds.

Lycoming County

Williamsport, *Faxon Co., Inc.*, Williamsport Beltway.

Northampton County

Lehigh Canal.
Site 3: Farmhouse, barn, and outbuildings, I–78.
Site 4: Farmhouse, barn, and outbuildings, I–78.

Philadelphia County

Philadelphia, *Bridge on "I" Street*, over Tacony Creek.
Philadelphia, *Courthouse and Post Office*, 9th St., between Chestnut and Market Sts.
Philadelphia, *New Forest Theatre*, 1108–1114 Walnut St.
Philadelphia, *Poth, Frederick, House*, 218 N. 33rd St.
Philadelphia, *Tremont Mills*, Wigonoking St. and Adams Ave.
U.S. Naval Base, *Quarters "A" Commandant's Quarters.*

Washington County

Charleroi, *Ninth Street School.*
Somerset Township, *Wright No. 22 Covered Bridge.*

York County

Wellsville Historic District.

RHODE ISLAND

Providence County

Pawtucket, *Lorenzo Crandall House*, 221 High St.
Providence, *Woonesquatucket Bridge.*
Woonsocket, *Club Marquette Building (St. Anne's Gymnasium)*, Cumberland St.

Washington County

Narragansett, *Sprague, Gov., Bridge*, Boston Neck Rd.

SOUTH CAROLINA

Beaufort County

Parris Island, *Marine Corps Recruit Depot.*

Charleston County

Charleston, *139 Ashley St.*
Charleston, *69 Barre St.*
Charleston, *69r Barre St.*
Charleston, *316 Calhoun St.*
Charleston, *316r Calhoun St.*
Charleston, *268 Calhoun St.*
Charleston, *274 Calhoun St.*
Charleston, *Old Rice Mill*, off Lockwood Dr.

Florence County

Florence, *United States Post Office-Florence*, South Carolina, corner of Irby St. and Evan St.

SOUTH DAKOTA

Minnehaha County

Orpheum Theater, 315 N. Phillips Ave.

Pennington County

Rapid City, *612–632 Main St.*

TENNESSEE

Davidson County

Nashville, *Ancient Indian Village and Burial Ground*, section 203(b).

TEXAS

Bexar County

Fort Sam Houston, *Eisenhower House*, Artillery Post Rd.

Concho County

Middle Colorado River Watershed, *Prehistoric Archeology in the Southwest Laterals Subwatershed* (also in McCulloch County).

Denton County

Hammons, George House, between Sangers and Pilot Point.

Galveston County

Galveston, *U.S. Customhouse*, bounded by Avenue B, 17th, Water, and 18th Sts.

Hardeman County

Quanah, *Quanah Railroad Station*, Lots 2, 3, and 4 in Block 2.

Uvalde County

Leona River Watershed, Archeological Sites.

Webb County

Laredo, *Bertani, Paul Prevost House*, 604 Iturbide St.
Laredo, *De Leal, Viscaya, House*, 620 Zaragoza St.
Laredo, *Garza, Zoila De La, House*, 500 Iturbide St.
Laredo, *Leyendecker/Salinas House*, 702 Iturbide St.
Laredo, *Montemayor, Jose A., House (Carols Vela House)*, 601 Zaragoza St.

Williamson County

Archeological Districts of North Fork and Granger Lake.

TRUST TERRITORY OF THE PACIFIC ISLANDS

Truk District

Sapore Village, *Aikel/Winas*, Fefen Island.

UTAH

Emery County

Site ML–2145, Manti-LaSal National Forest.

Salt Lake County

Salt Lake City, *Lollin Block*, 238 240 S. Main St.

VERMONT

Chittenden County

Clark Memorial Building.

Windham County

Rockingham, *Bellow Falls Armory*, 72 Westminster St., Bellows Falls.

Windsor County

Windsor, *Post Office Building.*

VIRGINIA

Charlottesville (Independent city)

U.S. Post Office and Courthouse (Old Post Office).

Accomack County

Captain's Cove Dev., Archeological Sites (Chincoteague Bay).

Allegheny County

Gathright Lake Project (Archeological sites), (also in Bath County).

Wythe County

Fort Criswell.

WASHINGTON

Benton County

Richland vicinity, *Paris Archeological Site*, Hanford Works Reservation.
Richland vicinity, *Wooded Island Archeological District*, N of Richland.

Callam County

Cape Alava vicinity, *White Rock Village Archeological Site, S'b, Cape Alava.*
Olympic National Park Archeological District, Olympic National Park (also in Jefferson County).
Seglum, *New Dungeness Light Station.*

Grays Harbor County

West Port, *Grays Harbor Light Station.*

King County

Burton, *Point Robinson Light Station.*
Seattle, *Alki Point Light Station.*
Seattle, *Home of the Good Shepherd.*
Seattle, *West Point Light Station.*

Kitsap County

Hansville, *Point No Point Light Station.*

Pacific County

Ilwaco, *North Head Light Station.*

Pierce County

Fort Lewis Military Reservation, *Captain Wilkes, July 4, 1841, Celebration Site.*
Longmire, *Longmire Cabin*, Mount Rainier National Park.

San Juan County

San Juan Islands, *Patos Island Light Station.*

Skamania County

North Bonneville, *Site 44SA11*, Bonneville Dam Second Powerhouse Project.

Snohomish County

Mukilteo, *Mukilteo Light Station.*

Wahkiakum County

Skamokawa village, *Archeological site 45–WK–5.*

WEST VIRGINIA

Barbour County

Covered Bridge across Rooting Creek, Elk Creek Watershed (also in Harrison County).

Cabell County

Huntington, Old Bank Building, 1208 3rd Ave.

Kanawha County

Charleston, *Kanawha County Courthouse.*
St. Albans, *Chilton House*, 439 B St.

Pendleton County

Wayside Inn (Site's Inn), Monongahela National Forest.

Wood County

Parkersburg, *Wood County Courthouse.*
Parkersburg, *Wood County Jail.*

WISCONSIN

Ashland County

Ashland vicinity, *Madeline Island Site 7302.*

LaCrosse County

LaCrosse, *LaCrosse Post Office.*

Rock County

Portion of Evansville Historic District.

WYOMING

Fremont County

Pilot Butte Powerplant, Wind River Basin.

Johnson County

Casper, *Castle Rock Archeological Site.*
Casper, *Dull Knife Battlefield.*
Casper, *Middle Fork Pictograph-Petroglyph Panels.*
Casper, *Portuguese Houses.*

Park County

Mammouth, *Chapel at Fort Yellowstone*, Yellowstone National Park.

PUERTO RICO

Mona Island, *Sardinero Site and Ball Courts.*

[FR Doc.77–25658 Filed 9–2–77;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 26, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by September 16, 1977.

WILLIAM J. MURTAGH,
Keeper of the National Register.

ALASKA

Sitka Division

Sitka, *Mills, May, House (AHRS Site # SIT–189)*, 315 Seward St.
Sitka, *See House (AHRS Site # SIT–195)*, 611 Lincoln St.

CALIFORNIA

Sonoma County

Healdsburg vicinity, *Dry Creek—Warm Springs Valleys Archeological District*, irregular pattern along Dry Creek and Warm Springs Creek valleys.

COLORADO

Boulder County

Boulder, *Colorado Chautauqua, The (Chautauqua Park)*, Chautauqua Park.

FLORIDA

Dade County

Goulds vicinity, *Anderson, William, General Merchandise (Anderson's Corner)*, 15700 SW. 232nd St.

KENTUCKY

Madison County

Bybee, *Cornelison Pottery (Bybee Pottery)* Hwy 52E.

MARYLAND

Cecil County

Port Deposit, *Port Deposit*, E bank of Susquehanna River, about 10 mi. S of the Mason-Dixon Line.

MISSISSIPPI

Harrison County

Biloxi, *U.S. Post Office, Courthouse, and Customhouse (Biloxi City Hall)*, 216 Lameuse St.

MISSOURI

Perry County

Altenburg, *Concordia Log Cabin College*, Main St.

NEW JERSEY

Burlington County

Wrightstown vicinity, *Oakwood (Michael Earl Newbold House)*, N of Wrightstown on Springfield Meeting Rd.

OREGON

Benton County

Corvallis, *Benton County Courthouse*, NW. 4th St. between Jackson and Monroe Sts.

Multnomah County

Portland, *Forbes and Breeden Building (Sherlock Building)*, 309 SW. 3rd Ave.

SOUTH DAKOTA

Corson County

McIntosh, *Fort Manuel (39–CO–5)*, SD 12.

Lake County

Madison, Herman Luce Cabin, Lake Herman State Park.

TEXAS

Lamar County

Pin Hook vicinity, *Ellis II Site (41 LR 57 and 41 LR 63)*, N. of Pin Hook.
Pin Hook vicinity, *Emerson Site (41 LR 43 and 41 LR 60)*, NE. of Pin Hook.
Pin Hook vicinity, *Loma Alto Site (41 LR 59)*, NW. of Pin Hook.
Pin Hook vicinity, *Swindle Site (41 LR 55)*, SW. of Pin Hook.

Red River County

Pin Hook vicinity, *McCarty Site (41 RR 47 and 41 RR 57)*, NE. of Pin Hook.
Kanawha vicinity, *Neely Site (41 RR 48)*, SE. of Kanawha.

Sutton County

Sonora, *Old Mercantile Building*, 222 Main, Courthouse Sq.

VIRGINIA

Albemarle County

Esmont vicinity, *Esmont*, 1 mi. N of Esmont, SW of VA 715 and VA 719. HABS.
Powell Corner vicinity, *Estouteville*, 1.5 mi. SE of Powell Corner; near jct. of VA 712 and VA 627. HABS.

Loudoun County

Ashburn, *Belmont*, 1.8 mi. N of Ashburn, W of jct. of VA 7 and VA 641. HABS.
Taylorstown, *Taylorstown Historic District*, at Catoctin Creek, 2.9 mi. SW of Potomac River. HABS.

Montgomery County

Christiansburg, *Christiansburg Presbyterian Church*, 107 W. Main St.

Pittsylvania County

Berry Hill vicinity, *Berry Hill*, 3 mi. N of VA/NC boundry on VA 863.

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Rockingham County

Singers Glen, *Singers Glen Historic District*, jct. of VA 613 and 712, 1 mi. SW of Frog Hollow Creek.

VERMONT

Bennington County

Manchester, *Hildene (Robert Todd Lincoln Estate)*. Off U.S. 7.

Orleans County

Albany, *Hayden, William, House*, VT 14.

WASHINGTON

Clallam County

Port Angeles vicinity, *Ediz Hook Light Station (Port Angeles Coast Guard Air Station)*. Tip of Ediz Hook.

Jefferson County

Kalaloch vicinity, *Destruction Island Light Station*. 3 mi. off state coast.

[FR Doc 77-25651 Filed 9-2-77;8:45 am]

Office of the Secretary

KLAMATH PROJECT, OREGON, AND CALIFORNIA TULE LAKE DIVISION, PART 1

Revision of Irrigable Acreage

This notice is published under authority of section 43 of the Omnibus Adjustment Act of May 25, 1926 (44 Stat. 636). The revised irrigable acreage shown in Public Notice No. 55, dated March 14, 1955, is hereby amended as follows:

PART 1.—*Tule Lake Division*

T 48N R 5E section	Farm unit	Irrigable acreage before P.N. 55 (1)	P.N. 55 revised irrigable acreage (2)	Revised irrigable acreage (including Class 5 lands) (3)
17	N	133.6	120.2	126.9
20	Q	108.0	85.3	108.0
20	R	106.3	79.1	106.3
20	S	127.4	111.7	127.4
20	P	132.6	132.6	132.6
21	T	125.3	125.3	125.3
21	U	122.3	122.3	122.3
21	K	126.3	115.6	115.6
21	L	115.6	126.3	126.3
21	J	122.2	97.1	122.2
22	M	127.1	127.1	127.1
22	L	113.9	113.9	113.9
22	N	112.5	14.4	112.5
26	K	91.2	30.9	91.2
26	N	118.8	64.0	118.8
27	M	109.2	82.1	82.1
27	P	111.6	111.6	111.6
27	Q	105.6	105.6	105.6
27	R	106.7	106.7	106.7
28	M	105.6	102.9	105.6
28	N	103.6	103.6	103.6
28	P	112.3	112.3	112.3
29	L	88.0	88.0	88.0

Dated: August 29, 1977.

GARY J. WICKS,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-25685 Filed 9-2-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

CERTAIN STEEL TOY VEHICLES

Prehearing Conference and Hearing

Notice is hereby given that a Prehearing Conference will be held in connection with the above styled investigation at 10 a.m. on September 29, 1977, in the Hearing Room of the Administrative Law Judge, Room 610 Bicentennial Building, 600 E Street NW., Washington, D.C. On or before September 20, 1977, the parties will have completed service of Prehearing Conference Statements by order of the Presiding Officer. The purpose of this Prehearing Conference is to review such statements, complete the exchange of exhibits, and resolve any other necessary matters in preparation for the hearing.

Notice is also given that the hearing in this proceeding will commence at 10 a.m. on October 3, 1977, in the Hearing Room of the Administrative Law Judge, Room 610 Bicentennial Building, 600 E Street NW., Washington, D.C., and will continue until completed.

The Secretary shall serve a copy of this Notice upon all parties of record, and shall publish this Notice in the FEDERAL REGISTER.

Issued: August 30, 1977.

JUDGE MYRON R. RENICK,
Presiding Officer.

[FR Doc.77-25860 Filed 9-2-77;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

FEDERAL COMMITTEE ON APPRENTICESHIP; SUBCOMMITTEE ON EQUAL APPRENTICESHIP OPPORTUNITY

Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) of October 6, 1972, notice is hereby given of a meeting of the Subcommittee on Equal Apprenticeship Opportunity to be held on September 21, 1977, at the Department of Labor Building, Room N-3437, 200 Constitution Ave. NW., Washington, D.C. The meeting will be in session from 9 a.m. until 4:30 p.m. approximately.

The agenda for the meeting includes: (1) Briefing the members on the new language that has been proposed by the Secretary in the OFCCP proposal so that they can convey a Status Report on the Women's Issues to the FCA members.

(2) Consolidation of the clarification on the Secretary's proposed regulation, Part IV of the FEDERAL REGISTER, August 16, 1977.

(3) Proposed amendments to 29 CFR 30 Equal Employment Opportunity in Apprenticeship and Training to include:

(a) New language for affirmative action for women in apprenticeship;

(b) Changes in compliance and affirmative action procedures.

Members of the public are invited to attend the proceedings. Any member of the public who wishes to file written data, views or arguments pertaining to the agenda may do so by furnishing it to the Executive Secretary at any time prior to the meeting. Thirty duplicate copies are needed for the members and for inclusion in the minutes of the meeting.

If time permits, members may be permitted to address the Subcommittee on the above issues.

Any member of the public who wishes to speak at this meeting should so indicate in a written statement, also the nature of intended presentation and amount of time needed. The Chairman will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Communications to the Executive Secretary should be addressed as follows:

Mrs. M. M. Winters, Bureau of Apprenticeship and Training, ETA, U.S. Dept. of Labor, 601 D Street NW., (Room 5434), Washington, D.C. 20213.

Signed at Washington, D.C. this 2nd day of September, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training Administration.

[FR Doc.77-26026 Filed 9-2-77;10:10 am]

Occupational Safety and Health Administration

FEDERAL ADVISORY COUNCIL ON OCCUPATIONAL SAFETY AND HEALTH

Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, continued under Executive Order 11807 of September 28, 1974 (39 FR 35559), Occupational Safety and Health Programs for Federal Employees, will meet on September 23, starting at 9:30 a.m., in Room S5215 ABC, New Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. The meeting will be open to the public.

The agenda provides for:

I. Announcements and New Appointments.

II. Election of Vice Chairman.

III. A Proposed Program to reduce Occupational Noise Exposure in the Federal Workplace.

IV. Reports on:

A. Implementation of the Ad Hoc Committee recommendation on House Report 1/26/78—Safety in the Federal Workplace.

B. Establishment of interagency task force outlined in the President's Memorandum of August 5 "• • • combatting safety and health hazards in the workplace • • •"

C. Status of the new Executive Order to strengthen the Federal Occupational Safety and Health Program.

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions received by close of business September 21 will be provided to the members of the Council and included in the record of the meeting.

The Council will consider oral presentation relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close of business September 20. The request must include the name and address of the person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All communications regarding this Advisory Council should be addressed to Mr. Walter J. Mason, Executive Director, FACOSH, Department of Labor, OSHA, First Floor South, 2100 M Street NW., Washington, D.C. 20210, telephone 202-653-5500.

Signed at Washington, D.C., this 31st day of August, 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-25932 Filed 9-2-77;8:45 am]

Office of the Secretary

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than Sept. 16, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 16, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 25th day of August 1977.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/workers of former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
American Color Chemical Corp. (workers).	Paterson, N.J.	Aug. 18, 1977	Aug. 15, 1977	TA-W-2,279	Dyes.
Andal Contract Stitching (company).	Lawrence, Mass.	do.	Aug. 16, 1977	TA-W-2,280	Stitching of women's shoes.
Brown Shoe Co. (workers).	Cabool, Mo.	Aug. 19, 1977	Aug. 15, 1977	TA-W-2,281	Women's and girls' shoes.
Brown Shoe Co. (Boot and Shoe Workers' Union).	Humboldt, Tenn.	Aug. 18, 1977	do.	TA-W-2,282	Children's shoes.
Great Western Sugar Co. (Teamsters, Warehousemen and Sugar Workers).	Johnstown, Colo.	Aug. 17, 1977	Aug. 10, 1977	TA-W-2,283	Monosodium glutimate (seasonings).
Gold Seal Rubber Co. (Retail, Wholesale and Department Store Union).	Readville, Mass.	Aug. 24, 1977	Aug. 22, 1977	TA-W-2,284	Warehousing and distributing of sneakers and boots.
Model Sportswear, Inc. (workers).	Paterson, N.J.	Aug. 19, 1977	Aug. 16, 1977	TA-W-2,285	Ski jackets and snorkels.
Bert Paley Ltd, Inc. (workers).	Dorchester, Mass.	Aug. 22, 1977	Aug. 18, 1977	TA-W-2,286	Men's sportswear and women's jackets.
Western Electric Co. (workers).	Clark, N.J.	Aug. 18, 1977	Aug. 12, 1977	TA-W-2,287	Transformers and transistors.

[FR Doc.77-25728 Filed 9-2-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-400—50-403]

CAROLINA POWER & LIGHT CO., (SHEARON HARRIS NUCLEAR POWER PLANT, UNITS 1, 2, 3, AND 4)

Continuation of Evidentiary Hearing

Notice is hereby given that the evidentiary hearings on the applications by the Carolina Power & Light Co. for construction permits to construct four nuclear power reactors at the Shearon Harris Nuclear Power Plant, proposed to be located about 20 miles southwest of Raleigh, N.C., will be resumed beginning at 9 a.m., September 27, 1977, at the U.S. District Court, Courtroom No. 2, 7th Floor, 310 New Bern Avenue, Raleigh, N.C. 27611.

These hearings have been in recess since October 1974 because of delays in the Applicant's construction schedules.

The public is invited to attend. Any person may make a written or oral limited appearance statement beginning at 9 a.m. on September 27.

It is so ordered.

For the Atomic Safety and Licensing Board.

Dated at Bethesda, Md., this 30th day of August 1977.

IVAN W. SMITH,
Chairman.

[FR Doc.77-25775 Filed 9-2-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 8.14, Revision 1, "Personnel Neutron Dosimeters," pro-

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vides guidance acceptable to the NRC staff on the use of personnel neutron dosimeters where exposure to neutrons occurs. The guide was revised to reflect public comment and additional staff review. This guide endorses ANSI Standard N319–1976, "Personnel Neutron Dosimeters (Neutron Energies Less than 20 MeV)."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 29th day of August 1977.

For the Nuclear Regulatory Commission.

RAY G. SMITH,
Acting Director,
Office of Standards Development.

[FR Doc.77-25776 Filed 9-2-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.97, Revision 1, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant Conditions During and Following an Accident," describes a method acceptable to the NRC staff for complying with the Commission's requirements to provide instrumentation to monitor plant variables and systems during and following an accident in a light-water-cooled nuclear power plant. This guide was revised as the result of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 25th day of August 1977.

For the Nuclear Regulatory Commission.

RAY G. SMITH,
Acting Director,
Office of Standards Development.

[FR Doc.77-25777 Filed 9-2-77;8:45 am]

[Docket Nos. 50-325 and 50-324]

CAROLINA POWER & LIGHT CO.

Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 8 and 30 to Facility Operating License Nos. DPR–71 and DPR–62, respectively, issued to Carolina Power & Light Co., which revised the licenses and their appended Technical Specifications for operation of the Brunswick Steam Electric Plant, Unit Nos. 1 and 2 (the facilities) located in Brunswick County, N.C. The amendments are effective as of the date of their issuance.

The amendments authorize modification of both spent fuel storage pools at the Brunswick site to increase the storage capacity for spent fuel discharged from the Brunswick reactors (boiling water reactors) and to accommodate the storage of spent fuel discharged from Carolina Power & Light Co.'s H. B. Robinson Plant Unit No. 2, a pressurized water reactor located near Hartsville, S.C.

The amendments do not authorize the storage of H. B. Robinson spent fuel at the Brunswick facility, but only the installation of modular racks which are designed for such storage. Authorization of the storage will be the subject of a future Commission action.

In addition, these amendments authorize the storage of Brunswick spent fuel discharged from either facility to be stored in either spent fuel storage pool at Brunswick.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Notice of Proposed Issuance of Amendments to Facility Operating Licenses in connection with this action was published in the FEDERAL REGISTER on November 26, 1976 (41 FR 52113). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action. A negative declaration to this effect is appropriate.

For further details with respect to this action, see (1) the application for amendments dated September 23, 1976 as supplemented January 7, March 3, April 7, April 26, 1977, (2) Amendment No. 8 to License No. DPR–71; (3) Amendment No. 30 to License No. DPR–62, (4) the Commission's related Safety Evaluation and (5) the Commission's related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room 1717 H St. NW., Washington, D.C. and at the Southport-Brunswick County Library, 109 W. Moore St., Southport, N.C. 28461. A copy of items (2), (3), (4) and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 26th day of August 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-25804 Filed 9-2-77;8:45 am]

[Docket No. 50-277]

PHILADELPHIA ELECTRIC CO.

Granting of Relief From ASME Section XI Inservice Inspection (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Philadelphia Electric Co. The relief relates to the inservice inspection (testing) program for the Peach Bottom Atomic Power Station Unit No. 2 (the facility) located in York County, Pa. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief consists of those ASME Code requirements for inservice inspection that have been determined to be inpractical for Peach Bottom Unit No. 2.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief. Prior public notice of this action was not required since the granting of this relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5 (d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the request for relief dated August 4, 1977, (2) the Commission's letter to the licensee dated August 30, 1977.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Martin Memorial Library, 159 E Market Street, York, Pa. 17401. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Committee, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 30th day of August 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-25803 Filed 9-2-77;8:45 am]

[Docket Nos. 50-553, 50-554]

TENNESSEE VALLEY AUTHORITY (PHIPPS BEND NUCLEAR PLANT, UNITS 1 AND 2)

Order

AUGUST 30, 1977.

The oral argument in this proceeding scheduled by our Order of June 30, 1977 for Wednesday, September 7, 1977, is hereby postponed until further notice.

It is so ordered.

For the Atomic Safety and Licensing Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.77-25801 Filed 9-2-77;8:45 am]

[Docket Nos. 50-261, 50-324, and 50-325]

CAROLINA POWER & LIGHT CO. (H. B. ROBINSON STEAM ELECTRIC PLANT UNIT NO. 2; BRUNSWICK STEAM ELECTRIC PLANT UNITS NO. 1 AND NO. 2)

Intent to Modify Indemnity Agreement No. B–71

As required in 10 CFR 140.9, the U.S. Nuclear Regulatory Commission is hereby publishing a notice of intent to amend Indemnity Agreement No. B–71 covering the operations at the Brunswick Steam Electric Plant Units No. 1 and No. 2 to allow indemnity coverage for the on-site storage at that facility of spent fuel from Carolina Power & Light Co.'s H. B. Robinson Steam Electric Plant Unit No. 2. This proposed action only affects the Brunswick Indemnity Agreement, and the Commission does not consider it to be precedential. Requests, if any, by other licensees for similar amendments will be handled by the Commission on a case-by-case basis.

The proposed amendment would redefine the term "the radioactive material" in Carolina Power & Light Co.'s indemnity agreement for its Brunswick facility to provide indemnity coverage for storage at Brunswick of spent fuel generated by the Robinson facility. The text of the proposed amendment to Article I, paragraph 9 of the Indemnity Agreement No. B–71 would read as follows:

"The radioactive material' means source, special nuclear, and byproduct material which: (1) is used, was used, or will be used in, or is irradiated, was irradiated or will be irradiated by, the nuclear reactors licensed under DPR–62 and DPR–71, or (2) was used in, or was irradiated in the nuclear reactor licensed under DPR–23 and subsequently is transported to the site of the nuclear reactors licensed under DPR–62 and DPR–71 for the purposes of storage, or (3) which is produced as the result of operation of the nuclear reactors licensed under DPR–62 and DPR–71.

Any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of this amendment to the subject facility indemnity agreement. Petitions for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by September 21, 1977. Such petitions must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A copy of the petition and/or request for a hearing should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to Richard E. Jones, Esquire, Carolina Power & Light Co., 336 Fayetteville Street, Raleigh, N.C. 27602, counsel for the licensee.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, contact Mr. Ira Dinitz, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301–492–8336.

Dated at Bethesda, Md., this 31st day of August 1977.

For the Nuclear Regulatory Commission.

EDSON G. CASE,
Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc.77-25881 Filed 9-2-77;8:45 am]

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 41 to Facility Operating License No. DPR–3, issued to Yankee Atomic Electric Co. (the licensee), which revised Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located in Rowe, Franklin County, Mass. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to reflect a changeover from hydraulic shock suppressors to mechanical shock suppressors.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated July 5, 1977, (2) Amendment No. 41 to License No. DPR–3, and (3) the Commission's related Safety Evaluation. All of these items are

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available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Greenfield Public Library, 422 Main Street, Greenfield, Mass. 01581. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 18th day of August 1977.

For the Nuclear Regulatory Commission.

THOMAS V. WAMBACH,
Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-25883 Filed 9-2-77;8:45 am]

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 42 to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Co. (the licensee), which revised Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located in Rowe, Franklin County, Mass. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specifications relating to inservice inspection requirements for piping examination procedures. The revised procedures use the calibration block requirements of Appendix III, ASME Section XI 1974 Edition, Summer 1976 Addenda and 100% DAC (reference level) evaluation requirements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated August 2, 1977, as supplemented August 9, 1977, (2) Amendment No. 42 to License No. DPR-3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Greenfield Public Library, 422 Main Street, Greenfield, Mass. 01581. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 19th day of August 1977.

For the Nuclear Regulatory Commission.

THOMAS V. WAMBACH,
Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-25884 Filed 9-2-77;8:45 am]

RENEGOTIATION BOARD

STANDARD FORM OF CONTRACTOR'S REPORT AND APPLICATIONS FOR COMMERCIAL EXEMPTION

Extension of Time for Filing

Effective this date, notice is hereby given that all contractors and subcontractors with fiscal years ending after September 30, 1976, and before October 1, 1977, are granted an extension of the time for filing Standard Forms of Contractor's Report (RB Form 1) and Applications for Commercial Exemption until January 15, 1978.

Dated: August 31, 1977.

GOODWIN CHASE,
Chairman.

[FR Doc.77-25795 Filed 9-2-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 07/07-5078]

COMMUNITY EQUITY CORPORATION OF NEBRASKA

Issuance of License to Operate as a Small Business Investment Company

On May 12, 1977, a notice was published in the FEDERAL REGISTER (42 FR 24133), stating that Community Equity Corporation of Nebraska, located at 5620 Ames Avenue, Room 103, Omaha, Nebr. 68104, had filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1977), for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business May 27, 1977, to submit their comments to SBA. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA issued License No. 07/07-5078 to Community Equity Corporation of Nebraska, on August 16, 1977, to operate as a small business investment company, pursuant to section 301(d) of the Act.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 26, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-25787 Filed 9-2-77;8:45 am]

NATIONAL SBIC ADVISORY COUNCIL

Meeting

The Small Business Administration National SBIC Advisory Council will hold a public meeting Tuesday, September 20, 1977, 9:30 a.m. until 5:00 p.m., at 20 North Wacker Drive, Suite 4100, Chicago, Ill., to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information write or call Peter F. McNeish, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416 (202-653-6584).

Dated: August 23, 1977.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc.77-25786 Filed 9-2-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

RAILROAD OPERATING RULES

Granting of Waivers

As required by 45 U.S.C. 431(c), notice is hereby given that the following railroads have been granted temporary waivers of compliance with certain requirements imposed by the Federal Railroad Administration (FRA). These requirements are contained in the FRA regulations which establish Railroad Operating Rules (49 CFR Part 218).

FRA recently issued new provisions to the Railroad Operating Rules which became effective on August 1, 1977. Each of the railroads identified below sought a waiver of compliance with certain provisions of these standards which prescribe the methods whereby a railroad train crew can be relieved of the requirement to take action to alert the crew of a following train that the track ahead of the following train is occupied.

Prior to taking action to grant temporary waivers in these proceedings, the FRA provided a public notice concerning each proceeding. The notice was published in the FEDERAL REGISTER (42 FR 33393) and contained a description of the facts involved in each request.

In reaching a decision to grant each of these temporary waivers of compliance with the regulation, FRA found that good cause to grant immediate temporary relief had been established and that such a waiver was in the public interest. Furthermore, FRA determined that granting such waivers, subject to specific conditions, was consistent with its goal of improving railroad safety.

The temporary waivers were granted to the following railroads:

1. Chicago, Milwaukee, St. Paul, and Pacific Railroad, in the proceeding identified as FRA Waiver Petition Docket RSOR-77-4.
2. Missouri Pacific Railroad, in the proceeding identified as FRA Waiver Petition Docket RSOR-77-5.
3. Burlington Northern Railroad in the proceeding identified as FRA Waiver Petition Docket RSOR-77-6.
4. Soo Line Railroad, in the proceeding identified as FRA Waiver Petition Docket RSOR-77-12.
5. Chicago, Rock Island, and Pacific Railroad, in the proceeding identified as FRA Waiver Petition Docket RSOR-77-13.
6. Louisville and Nashville Railroad, in the proceeding identified as FRA Waiver Petition Docket RSOR-77-14.
7. Seaboard Coast Line Railroad, in the proceeding identified as FRA Waiver Petition Docket RSOR-77-17.

Persons interested in obtaining detailed or technical information concerning these decisions should write to the Federal Railroad Administration. All communications concerning these petitions should identify the appropriate docket number and should be submitted to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

Issued in Washington, D.C., on August 26, 1977.

ROBERT H. WRIGHT,
Acting Chairman, Railroad Safety Board.

[FR Doc.77-25805 Filed 9-2-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 104 (Rev. 4)]

DELEGATION OF AUTHORITY

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The authorization for the Commissioner of Internal Revenue to approve Absences, Leave and Carry-Over of Annual Leave is redelegated to subordinate officials. The text of the delegation order appears below.

EFFECTIVE DATE: October 19, 1977.

FOR FURTHER INFRMATION CONTACT:

Mrs. Lanelle Selby, A:P:EE, 1111 Constitution Ave. NW., Room 734-WB, Washington, D.C. 20224 (202-376-0524, not toll free).

J. S. HENDERSON II,
Chief, Employment Branch Personnel Division.

Date: September 2, 1977.

Effective Date: October 19, 1977.

Subject: Absence, Leave and Carry-Over of Annual Leave.

1. Pursuant to the authority granted the Commissioner of Internal Revenue by Chapter 250, Treasury Personnel Manual, to administer and conduct personnel management activities: (a) The Deputy Commissioner; Assistant Commissioners; Assistant to the Commissioner (Public Affairs); Regional Commissioners; Regional Inspectors; District Directors; Service Center Directors; the Director, National Computer Center; and the Director, Data Center are hereby authorized to (1) approve leave (including approval of the correction of administrative errors and the determination that a period of sickness or injury interfered with the use of scheduled annual leave, but excluding determinations covered by 2., below); (2) charge Absence Without Leave for unauthorized absences; and (3) authorize brief absences from duty without charge to leave or loss of pay, for individual employees under their supervision and control, in accordance with applicable statutes, Executive Orders, regulations and policies, except as shown in 2., below. This authority may be redelegated, but no lower than to IRS employees in supervisory positions.

(b) The Deputy Commissioner; Assistant Commissioners; Regional Commissioners; Regional Inspectors; District Directors; Service Center Directors; the Director, National Computer Center; and the Director, Data Center, are hereby authorized to close their offices and dismiss employees under their supervision and control from duty without charge to leave or loss of pay, in accordance with the provisions of the Federal Personnel Manual, (1) because of interruption to normal operations by events beyond the control of management or employees; (2) for managerial reasons; and (3) because of local holidays when Federal work may not properly be performed. Only the authority to close Regional Training Centers and Branch, Area, Zone and Local offices, foreign posts, and offices in Puerto Rico may be redelegated, but not lower than to the official having administrative supervision at such subordinate office. Where there are two or more Internal Revenue offices in one locality under the jurisdiction of different District Directors or Assistant Regional Commissioners, such closing and dismissals are to be coordinated as prescribed by the Regional Commissioner. The Assistant Commissioner (Administration) will coordinate the closing of National Office offices located in Washington, D.C.

2. The authority granted to the Commissioner of Internal Revenue by Treasury Department Order No. 231, dated February 13, 1974, to make determinations pursuant to Pub. L. 93-181, 80 Stat. 488, that the exigency of the public business is of such importance that scheduled annual leave may not be used by an employee and therefore may be carried over in accordance with the Public Law, is hereby redelegated to the Deputy Commissioner, Assistant Commissioners, Assistant to the Commissioner (Public Affairs), and Regional Commissioners, except that exigency determinations must not be made by any official whose leave would be affected by the decision. In the event of such conflict, the determination shall be made at the next higher managerial level. This authority may not be redelegated.

3. Delegation Order No. 104 (Rev. 3), issued April 22, 1974, is hereby superseded.

AUGUST 25, 1977.

JEROME KURTZ,
Commissioner.

[FR Doc.77-25809 Filed 9-2-77;8:45 am]

Office of the Secretary

SUPPLEMENT TO DEPARTMENT CIRCULAR PUBLIC DEBT SERIES—NO. 21-77

The Secretary of the Treasury announced on August 30, 1977, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 21-77, dated August 22, 1977, will be 6¾ percent per annum. Accordingly, the notes are hereby redesignated 6¾ percent Treasury Notes of Series K-1981. Interest on the notes will be payable at the rate of 6¾ percent per annum.

DAVID MOSS,
Fiscal Assistant Secretary.

[FR Doc.77-25806 Filed 9-2-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 471]

ASSIGNMENT OF HEARINGS

AUGUST 31, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC F 12598, Cooper-Jarrett, Inc.—Purchase—Tri-City Express, Inc., MC 35335 (Sub-Nos. 78 and 79), Cooper-Jarrett, Inc.—Extension, now being assigned October 6, 1977, for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 4405 (Sub-No. 550), Dealers Transit, Inc., now assigned November 15, 1977, at Chicago, Ill. is advanced to November 7, 1977 (1 day), at Chicago, Ill., in a room to be later designated.

MC 4963 (Sub-No. 52), Alleghany Corp., d.b.a. Jones Motor, now being assigned November 7, 1977 (2 weeks), at Uniontown, Pa., in a hearing room to be later designated.

MC 117574 (Sub-No. 284), Daily Express, Inc., now assigned November 2, 1977, at Washington, D.C. is canceled and application dismissed.

V 42 172 SEP 6 77 UMI

MC 123407 (Sub-No. 349), Sawyer Transport, Inc., now assigned September 13, 1977 at Chicago, Ill., will be held in Room 2502, Everett McKinley Dirksen Bldg., 219 South Dearborn St.

MC 140620 (Sub-No. 2), A & R Transport, Inc., now assigned September 14, 1977 at Chicago, Ill., will be held in Room 2602, Everett McKinley Dirksen Bldg., 219 South Dearborn St.

MC 142464 (Sub-No. 1), John M. Christopher, now assigned September 15, 1977 at Chicago, Ill., will be held in Room 2502, Everett McKinley Dirksen Bldg., 219 South Dearborn St.

MC 142686 Mid Western Transport, Inc., now assigned September 16, 1977 at Chicago, Ill., will be held in Room 2502, Everett McKinley Dirksen Bldg., 219 South Dearborn St.

MC 113855 (Sub-No. 359), International Transport, Inc., now assigned September 19, 1977 at Chicago, Ill., will be held in Room 2502, Everett McKinley Dirksen Bldg., 219 South Dearborn St.

MC 119632 (Sub-No. 71), Reed Lines, Inc., now assigned September 20, 1977 at Chicago, Ill., will be held in Room 2502, Everett McKinley Dirksen Bldg., 219 South Dearborn St.

MC 115730 (Sub-No. 21), The Mickow Corp., now assigned September 21, 1977 at Chicago, Ill., will be held in Room 2502, Everett McKinley Dirksen Bldg., 219 South Dearborn St.

MC 142620 Bay View Orchards Cooperative, Inc., now assigned September 22, 1977 at Chicago, Ill., will be held in Room 2502, Everett McKinley Dirksen Bldg., 219 South Dearborn St.

MC 143214, Matuszko Farms Trucking, Inc., now being assigned December 6, 1977, (1 day), at Boston, Mass., in a hearing room to be later designated.

MC 119619 (Sub-No. 107), Distributors Service, Co., now being assigned December 7, 1977 (3 days), at Boston, Mass., in a hearing room to be later designated.

MC-F-13084, Yellow Freight System, Inc.—Purchase—Harmon O. E. Lagerberg, D.B.A. Bartlett's Express, now being assigned December 12, 1977, (1 week), at Boston, Mass., in a hearing room to be later designated.

MC 82492 (Sub-No. 145), Michigan & Nebraska Transit Co., Inc. now being assigned October 27, 1977 for hearing at Interstate Commerce Commission in Washington, D.C.

MC 5470 (Sub-No. 132), Tajon, Inc., now being assigned November 9, 1977 for hearing at Interstate Commerce Commission in Washington, D.C.

MC 113855 (Sub-No. 272), International Transport, Inc., now being assigned November 29, 1977 (1 day), at Portland, Oreg., in a hearing room to be later designated.

MC 142998, Laughlin Lines, Inc., now being assigned November 30, 1977 (1 day), at Portland, Oreg., in a hearing room to be later designated.

MC 128527 (Sub-No. 70), May Trucking Co., now being assigned December 1, 1977 (2 days), at Portland, Oreg., in a hearing room to be later designated.

MC 113678 (Sub-No. 651), Curtis, Inc., now being assigned December 5, 1977 (2 days), at Portland, Oreg., in a hearing room to be later designated.

MC 124679 (Sub-No. 75), C. R. England & Sons, Inc., now being assigned December 7, 1977 (3 days), at Portland, Oreg., in a hearing room to be later designated.

MC 112989 (Sub-No. 46), West Coast Truck Lines, Inc., now being assigned December 12, 1977 (1 week), at Portland, Oreg., in a hearing room to be later designated.

MC-F-13067, Roadway Express, Inc.—Control and Merger—Western Gillette, Inc., MC-F-13156, Arkansas-Best Freight System, Inc.—Purchase (Portion)—Western Gillette, Inc., MC-F-13157, Campbell Sixty-Six Express, Inc.—Purchase (Portion)—Western Gillette, Inc.,

MC-F-13158, The Chief Freight Lines Co.—Purchase (Portion)—Western Gillette, Inc., MC-F-13159, Churchill Truck Lines, Inc.—Purchase (Portion)—Western Gillette, Inc., MC-F 13160, Gordons Transports, Inc.—Purchase (Portion)—Western Gillette, Inc., and

MC-F-13161, Graves Truck Line, Inc.—Purchase (Portion)—Western Gillette, Inc. now being assigned October 27, 1977 for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-25852 Filed 9-2-77;8:45 am]

[Notice No. 472]

ASSIGNMENT OF HEARINGS

AUGUST 31, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION [1]

MC 65697 (Sub-No. 52), Theaters Service Co., Inc. now being assigned October 3, 1977 (2 weeks) at Atlanta, Ga. and November 28, 1977 (2 weeks) for continued hearing at Atlanta, Ga. in hearing rooms to be later designated.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-25853 Filed 9-2-77;8:45 am]

[Rule 19, Ex Parte No. 241, Rev. Exemption No. 108, Amdt. 1]

CONSOLIDATED RAIL CORP. ET AL.

Exemption Under Provision of Mandatory Car Service Rules

To: Consolidated Rail Corp., Missouri-Illinois Railroad Co., Missouri Pacific Railroad Co.

Upon further consideration of Revised Exemption No. 108 issued February 18, 1977.

It is ordered, That, under authority vested in me by Car Service Rule 19, Revised Exemption No. 108 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire November 30, 1977.

This amendment shall become effective August 31, 1977.

Issued at Washington, D.C., August 25, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-25854 Filed 9-2-77;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

AUGUST 31, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before September 21, 1977.

FSA No. 43421—*Alcohols, Plasticizers, or Solvents from and to Points in Texas.* Filed by Southwestern Freight Bureau, Agent, (No. B-706), for interested rail carriers.

Rates on alcohols and plasticizers or solvents, in tank-car loads, as described in the application, from Bishop and South Bay City, Tex., to East St. Louis, Ill., and St. Louis, Mo.; also from St. Louis, Mo. to Baytown, Houston, and Texas City, Tex.; also between East St. Louis, Ill., on the one hand, and Baytown, Houston, and Texas City, Tex., on the other.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 12 to Southwestern Freight Bureau, Agent, tariff 12-K, I.C.C. No. 5272.

Rates are published to become effective on October 1, 1977.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-25856 Filed 9-2-77;8:45 am]

[Rule 19, Ex Parte No. 241, Exemption 93, Amdt. 12]

GRAND TRUNK WESTERN RAILROAD CO. AND CONSOLIDATED RAIL CORP.

Exemption Under Provision of Mandatory Car Service Rules

To: Grand Trunk Western Railroad Co., Consolidated Rail Corp.

Upon further consideration of Exemption No. 93 issued January 15, 1975.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 93 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire November 30, 1977.

This amendment shall become effective August 31, 1977.

[1] This notice corrects the proceeding from pre-hearing conferences to hearings.

Issued at Washington, D.C., August 23, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-25855 Filed 9-2-77;8:45 am]

[Notice No. 217]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before October 6, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77273, filed August 19, 1977. Transferee: FRITZ TRUCK LINE, INC., Enderlin, N. Dak. 58027. Transferor: R. H. Fritz, doing business as Fritz Truck Line, Enderlin, N. Dak. 58027. Applicants' representative: Alan Foss, Attorney at Law, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 28540 (Sub-No. 2), issued April 25, 1950, as follows: General commodities, with specified exceptions, between Enderlin, N. Dak., and Moorhead, Minn., over specified routes, serving the intermediate points of Fargo, Leonard, and Kindred, N. Dak., and household goods, between points in Minnesota and North Dakota. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b) of the Act.

No. MC-FC-77276, filed August 23, 1977. Transferee: HOWARD W. CLARK, INC., 8201 Stayton Dr., Jessup, Md. 20794. Transferor: Howard W. Clark, Glenelg, Md. 21737. Applicants' representative: Francis J. Ortman, Attorney at Law, 7101 Wisconsin Ave., Washington, D.C. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permits Nos. MC 94851 and MC 94851 (Sub-No. 1), issued May 9, 1941, and August 18, 1958, as follows: *Electrical appliances*, over irregular routes, between Washington, D.C., and Laurel, Md., on the one hand, and, on the other, points and places in Maryland and Virginia within 40 miles of the District of Columbia. Service is not authorized to or from Baltimore, Md. *Electrical appliances, equipment and parts*, with restrictions, between Washington, D.C. and Baltimore, Md. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77277, filed August 29, 1977. Transferee: SCOBEY MOVING & STORAGE CO.—Dallas, doing business as BINYON-O'KEEFE-SCOBEY MOVING & STORAGE CO., 2155 Oak Lawn, Dallas, Tex. Transferor: Binyon O'Keefe Warehouse Company, a Corporation, 2155 Oak Lawn, Dallas, Tex. 75219. Applicant's representative: Phillip Robinson, Attorney at Law, 1806 Rio Grande, P.O. Box 2207, Austin, Tex. 78768. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC-140694 (Sub-No. 3), issued March 28, 1977, as follows: Used household goods, between points in Anderson, Cherokee, Collins, Dallas, Denton, Ellis, Freestone, Henderson, Johnson, Kaufman, Navarro, Raines, Rockwell, Smith, Tarrant, Van Zandt, and Wood Counties, Tex., subject to certain restrictions. Transferee presently holds no authority from this Commission, but is affiliated with Scobey Moving & Storage Company, a carrier holding authority under Certificate MC-8468 and subs thereafter. Application has not been filed for temporary authority under Section 210a(b) of the Act.

No. MC-FC-77278, filed August 23, 1977. Transferee: GARY L. SHOWALTER, doing business as SHOWALTER TRUCKING, 805 Walnut Street, Roaring Spring, Pa. 16673. Transferor: J. J. Yoder, doing business as J. J. Yoder Trucking, 206 Wineland Street, Martinsburg, Pa. 16662. Applicant's representative: Arthur J. Diskin, Attorney at Law, 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC-138240 and MC-138240 (Sub-No. 1), issued August 24, 1973, and July 21, 1976, respectively, as follows: Feed and feed ingredients, in bags, from Chillicothe, Dundee, and Carpentersville, Ill., and Syracuse, Ind., to the plant site of Young's Inc., in Taylor Township (Blair County), Pa., and from that plant site to points in New York, New Jersey, Maryland, Virginia, and Pennsylvania, and from Dundee, Ill., to points in Pennsylvania, New Jersey, and New York. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-25857 Filed 9-2-77;8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., September 6, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Foreign trader policy.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey (254-6314).

[S-1231-77 Filed 8-31-77;4:36 pm]

2

FEDERAL MARITIME COMMISSION:

TIME AND DATE: September 8, 1977, 10 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington D.C. 20573.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Monthly of actions taken by Managing Director pursuant to delegated authority.

2. Agreements Nos. T-3481 between Massachusetts Port Authority (MPA) and Zim Container Service, and T-3842 between MPA and Mitsui O.S.K. Line, Ltd., Japan Line, Ltd., Kawasaki Kisen Kaishi, Ltd.; Nippon Yusen Kaisha and Wamashita-Shinnihon Steamship Co., Ltd., providing for stevedoring services at the Moran container facility.

Portions closed to the public:

1. Agreement Nos. 9847-3 and 10028-5, pooling agreements in U.S. Atlantic/Brazilian trades—Modifications regarding parties, transshipment of cargo, accounting, minimum sailings, and duration of the agreements.

2. Docket No. 75-3, *Chevron Chemical Co. v. Mitsui O.S.K. Lines, Ltd.* (overcharge claim), petition for reconsideration of order of adoption of initial decision.

3. Docket No. 77-22, actions to adjust or meet conditions unfavorable to shipping in the foreign trade of the United States (Guatemalan Decree No. 41-71); consideration of comments on proposed rule.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary (202-523-5727).

[S-1232-77 Filed 8-31-77;4:39 pm]

3

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of September 5, 1977.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

WEDNESDAY, SEPTEMBER 7

2:30 p.m.—1. Policy statement on alternative site evaluations, under NEPA for nuclear generating stations (approx. 1 hr.) (public meeting). 2. SECY-77-413—Mandatory licensee participation in the nuclear plan reliability data system (approx. 1½ hrs.) (public meeting). 3. Affirmation item (5 min.) (public meeting)—ALAB-425—Exxon (tentative). The affirmation will consist of votes on matters previously reviewed individually by the Commissioners and are expected to take no more than 5 minutes.

THURSDAY, SEPTEMBER 8

9:00 a.m.—1. Discussion of proposed testimony on export legislation (closed—exemption 9) (tentative). 2. New Mexico uranium mill lawsuit (closed—exemption 10). 3. Commission review of Director's denial of petition for revocation of bailly construction permit (closed—exemption 10).

1:30 p.m—Draft order in Seabrook (continued from August 26, 1977) (closed—exemption 10).

FRIDAY, SEPTEMBER 9

9:30 a.m.—Joint NRC/ACRS meeting (approx. 1 hr.) (public meeting).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee (202-634-1410).

Dated: August 31, 1977.

WALTER MAGEE,
Office of the Secretary.

[S-1233-77 Filed 9-1-77;10:17 am]

4

RENOGIATION BOARD.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 41522 August 17, 1977.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Monday, September 19, 1977, 9:30 a.m.

CHANGE IN MEETING: Date of previously announced meeting changed to Friday, September 16, 1977, 9:30 a.m.

MATTER TO BE CONSIDERED: Division meeting concerning ABC Management Services, Inc., fiscal year ended June 30, 1974; ABC Management Services, Inc., fiscal year ended June 30, 1975; ABC Food Service, Inc., fiscal year ended June 30, 1975.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446 (202-254-8277).

Dated: August 31, 1977.

GOODWIN CHASE,
Chairman.

[S-1230-77 Filed 8-31-77;2:30 pm]

5

SECURITIES AND EXCHANGE COMMISSION.

TIME AND DATE: September 1, 1977, 10 a.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

STATUS: Open meeting. Closed meeting.

SUBJECT-MATTER: The subject matter of the open meeting scheduled for September 1, 1977, at 10 a.m. will be:

1. Consideration of proposed amendments to article XXIV, rule 8 and article XXI, rule 15, of the Midwest Stock Exchange rules, which relate to summary suspension of certain registrants.

2. Request for a waiver of disqualification for the law firm of Skadden, Arps, Slate, Meagher & Flom to allow the firm to continue to represent certain persons associated with Gulf and Western Industries while Neal McCoy, who is disqualified from participating in the matter because of prior involvement when on the staff, joins the Washington office of the firm.

3. Proposed letter of comment regarding H.R. 6952 and H.R. 6954, Ethics in Government Act of 1977, to be transmit-

ted to the House Committee on the Judiciary, the House Committee on Post Office and Civil Service, and the Office of Management and Budget.

The subject matter of the closed meeting scheduled for September 1, 1977, immediately following the open meeting will be:

Litigation matter.

Institution of injunctive action.

Formal order of investigation.

Referral of files to Federal, State, or self-regulatory authorities.

Authorization of staff member to testify.

Chairman Williams, Commissioners Loomis, Evans, and Pollack voted to close the aforesaid portions of the agenda and determined that no earlier notice thereof was possible.

SEPTEMBER 1, 1977.

[S-1235-77 Filed 9-1-77;11:38 am]

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TUESDAY, SEPTEMBER 6, 1977

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

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NATIONAL FLOOD INSURANCE PROGRAM

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Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2606]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Tonasket, Okanogan County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of Tonasket, Okanogan County, Wash. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of Tonasket, Okanogan County, Wash.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the Town of Tonasket, Okanogan County, Wash.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Tonasket, Okanogan County, Wash., are available for review at the City Hall on the Bulletin Board, Tonasket, Wash.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Okanogan River	Downstream corporate limits (extended).	898.2
	Fourth Street Bridge	898.6
	Confluence with Siwash Creek.	902.5
Bonaparte Creek	Downstream corporate limits.	898.1
	Burlington Northern RR bridge.	904.5
	Whitcomb Ave. bridge.	916.0
	Upstream corporate limits.	926.5
Siwash Creek	Downstream corporate limits.	902.4
	Burlington Northern RR bridge.	902.8
	Upstream corporate limits.	925.6

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24741 Filed 9-2-77;8:45 am]

[Docket No. FI-2819]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the County of Pacific, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in Pacific County, Wash. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for Pacific County, Wash.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for Pacific County, Wash.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII or the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Pacific County, Wash., are available for review at the County Courthouse, 300 Memorial Avenue, South Bend, Wash.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Willapa Bay at Tokeland Peninsula.	NE side of peninsula	10.0
	SW side of peninsula	11.0
Willapa Bay at North Beach Peninsula.	From Oysterville approach road to approximately 2,800 ft south of Klipsan Rd.	11.0
	From 2,800 ft south of Klipsan Rd. to 200 ft north of Olson Rd.	10.0
Willapa River	South Bend to Raymond.	11.0
	Raymond to Willapa	11.0
Pacific Ocean North Beach Peninsula.	From Oysterville approach road to Oceanside.	21.0
	From Oceanside to approximately 1,000 ft south of Knowles Slough.	19.0
Columbia River at Chinook.	1,200 ft north of Prest Rd. to about 700 ft northwest of Houchen St.	8.0
	Houchen St. to the limit of study.	10.0
Naselle River	Confluence with Dell Creek.	13.0
	At Highway 401 crossing.	15.0
	Confluence of Salmon Creek.	21.0
	At State Highway 4	22.0
	Limit of detailed study.	31.0
South Fork Naselle River.	County road	15.0
	Private road	26.0
	Davis Creek confluence.	35.0
	Burnham Creek confluence.	45.0
Salmon Creek	Upper Naselle Rd.	21.0
	State Highway 4	46.0
Willapa River at Lebam.	Lebam Rd.	173.0
	State Highway 6	173.0
	Confluence of Half Moon Creek.	176.0
	200 ft downstream of Penny Creek confluence.	184.0

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4011–4128; and Secretary's delegation

of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24742 Filed 9-2-77;8:45 am]

[Docket No. FI-2820]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Leavenworth, Chelan County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Leavenworth, Chelan County, Wash. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Leavenworth, Chelan County, Wash.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the City of Leavenworth, Chelan County, Wash.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Leavenworth, Chelan County, Wash., are available for review at the Council Chambers, 815 Front Street, Leavenworth, Wash.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Wenatchee River	Confluence with Chumstick Creek.	1,078
	U.S. Highway 2	1,097
	Downstream corporate limits (extended).	1,106
Chumstick Creek	Mouth	1,078
	Limit of flooding affecting the community.	1,090

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24743 Filed 9-2-77;8:45 am]

[Docket No. FI-2836]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Chelan, Chelan County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Chelan, Chelan County, Wash. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Chelan, Chelan County, Wash.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the City of Chelan, Chelan County, Wash.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Chelan, Chelan County, Wash., are available for review at City Hall, Chelan.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Lake Chelan	Emerson Street (extended).	1,100
	Woodin St.	1,100
	Corporate limits	1,100

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24744 Filed 9-2-77;8:45 am]

[Docket No. FI-2853]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Clarksburg, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Clarksburg, W. Va. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Clarksburg, W. Va.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Clarksburg are available for review at City Hall, Clarksburg, W. Va.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

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SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Clarksburg.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Fork River	Route 50	943
	Route 19	943
	Abandoned B&O tracks	948
	B&O tracks	949
Elk Creek	Routes 19 and 20	944
	Sycamore St	947
	4th St	950
	Pike St	953
	Haymond St	958
	East Main St	961
	Approach to Route 50	962

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24745 Filed 9-2-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR PART 1917]

[Docket No. FI-3255]

Proposed Flood Elevation Determinations for the Town of Buffalo, Wyo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year-flood) listed below for selected locations in the Town of Buffalo, Wyo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 46 North Main Street, Buffalo, Wyo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Sam Rosenthal, Town Hall, P.O. Box 430, 46 North Main Street, Buffalo, Wyo. 82834.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Buffalo, Wyo., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clear Creek	Burritt Avenue Bridge	4,636
	Main Street Bridge	4,629
	Footbridge	4,627
	Loban Avenue Bridge	4,623
	County road No. 252 bridge	4,581

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24739 Filed 9-2-77;8:45 am]

[24 CFR PART 1917]

[Docket No. FI-3256]

Proposed Flood Elevation Determinations for the Town of Kemmerer, Wyo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed based flood elevations (100-year flood). listed below for selected locations in the Town of Kemmerer, Wyo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 700 Cedar Street, Kemmerer, Wyo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Warren H. Capellen, Town Hall, 700 Cedar Street, Kemmerer, Wyo. 83101.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Kemmerer, Wyo., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hams Fork	U.S. Highway No. 189 Bridge	6,597
	Aspen Avenue Bridge	6,846

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24740 Filed 9-2-77;8:45 am]

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TUESDAY, SEPTEMBER 6, 1977
PART III

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

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LOAN PROGRAMS

Redesignation, Consolidation, and Revision

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Title 7—Agriculture

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

[FmHA Instructions 441.1, 441.2, 441.3, 443.1, 443.2, 443.3, 452.1, and 1904–C]

REDESIGNATION, REVISION, CONSOLIDATION

AGENCY: Farmers Home Administration, USDA.

ACTION: Final Rule with comments requested.

SUMMARY: The Farmers Home Administration (FmHA) establishes new regulations for Farmer Program insured loans as a part of a general administrative restructuring of all insured loan regulations. This rule redesignates, clarifies, consolidates and revises the regulations concerning insured Farmer Program loans.

DATES: Effective September 6, 1977. Comments must be received on or before October 6, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Denton E. Sprague, 202–447–4597.

SUPPLEMENTARY INFORMATION: The FmHA amends its regulations by adding a new Subpart C to Part 1904, Chapter XVIII, Title 7, Code of Federal Regulations by deleting those regulations incorporated into Part 1904, Subpart C and by making all appropriate cross-reference changes. Subpart C, "Farmer Program Loans," (§§ 1904.101–1904.200) of this Part 1904 redesignates, clarifies, consolidates and revises the regulations concerning insured Farmer Program loans. Most of the new Subpart C was taken from Subchapter B—Loans and Grants Primarily for Real Estate Purposes, Part 1821, Subparts A and B, Subchapter C—Loans Primarily for Production Purposes, Part 1831, Subparts A and B, Part 1832, Subpart A, and Subchapter E—Account Servicing, Part 1867.

This new Subpart C of Part 1904 sets forth regulations for recreation loans and for making loans to entrymen on unpatented public lands which have previously been in effect but not published in the FEDERAL REGISTER. Section 1904.180 of Subpart C contains the regulations for recreation loans which allows FmHA to make loans to assist eligible farmers in increasing their incomes by converting all or portions of their farms and ranches to income-producing outdoor recreation enterprises. Exhibit A to Subpart C, "Farmers Home Administration Loans to Entrymen on Unpatented Public Lands," provides additional policies and procedures applicable to FmHA loans to homestead and desertland entrymen which are to be secured by real estate, and the taking of real estate mortgages on entries to secure such loans. Since these regulations have been in existence for several years the FmHA requests that comments be submitted for consideration and substantive comments will be considered for incorporation in future revisions.

It is the policy of this Agency that rules relating to loans shall be published for prior comment. This regulation, however, is not published for proposed rulemaking although comments are requested, since the purpose of the change is to restructure the insured loan regulations to be consistent with the guaranteed loan regulations for Farmer Program loans. This is being accomplished through the reorganization, transferring and redesignation of the existing insured loan regulations. Any substantive changes or revisions found in Subpart C of Part 1904 are nearly identical to the approved amendments to Subpart B, "Farmer Program Loans," of Part 1980, Subchapter N, Chapter XVIII, Title 7, Code of Federal Regulations, published on March 28, 1977, in the FEDERAL REGISTER (42 FR 16424–16444) as a notice of proposed rulemaking and being published simultaneously with this notice as a final rule. Comments to Subpart B of Part 1980 were received and considered. Because of the above reasons, publication of Subpart C of Part 1904 in proposed rulemaking form is unnecessary.

The regulations are written in a form which should improve the overall administration of the insured loan program as a result of the consolidation and clarification of loan regulations.

The Agency is interested in receiving public comments which should be submitted to the address given above.

The major revisions of the new Subpart C of Part 1904 are described in four categories as follows:

A. General Provisions (§§ 1904.101–1904.169):

1. Provides a new definition of a family farm which removes the requirement that the operator and his family provide a major portion of the labor.

2. Removes the requirement that an operating and emergency loan either must be delinquent or have had an extra payment applied in order to be renewed or reamortized.

3. Provides that the principal and interest balance on a loan note may be renewed or reamortized.

B. Emergency Loans (§ 1904.170):

1. Provides that a member of a partnership may either be a citizen(s) of the United States or reside in the United States after being legally admitted for permanent residence or on indefinite parole as long as the partner who manages the farming, ranching, or acquaculture operation is a citizen of the United States or any State thereof, and the stockholder who manages the farming, ranching or aquaculture operation must be a citizen of the United States, and more than 50 percent of the outstanding stock in the corporation must be owned by citizens of the United States.

2. Provides that crops not planted may be considered as a physical loss when the applicant was unable to plant crops due to the disaster.

3. Provides for the refinancing of a modest amount of debt(s) with annual operating funds when the debt must be paid in order for the applicant to continue farming.

4. Increases the allowable loan for depreciation from 15 to 20 percent of appraised market value or amount owed.

5. Inserts "managerial competence" as an eligibility requirement.

6. Provides for the calculation of losses when applicants are precluded from producing or harvesting crops (including perennial crops such as fruits and nuts) by determining the gross farm income and then adding together any income that may be derived from the disaster affected enterprise(s) and the variable and fixed costs which will not be incurred because of the disaster and subtracting this combined figure from the normal gross income.

7. Provides for exceeding the annual loan limit of $50,000 or one-half the estimated gross farm income when a subsequent EM production loan is needed to complete the year's farming operations and protect the Government's financial interest secured only by crops.

8. Provides when a loan for major adjustments to the operation is made the resulting operation must be one which only realizes a net farm income equivalent to that of the operation conducted before the disaster.

9. Provides for the augmentation and improvement of an existing water system which has been affected by the natural disaster.

10. Provides for extending the termination dates for physical losses from 60 days to 180 days and production losses from 9 months to 12 months.

11. Provides that no appraisal report will be required where real estate is taken for additional security.

C. Operating Loans (§ 1904.175):

1. Inserts "managerial competence" as an eligibility requirement.

2. Deletes the eligibility requirement that the applicant *cannot* be earning sufficient income to have a reasonable standard of living.

3. Clarifies loan purpose language.

4. Eliminates reference to prohibited loan purposes.

5. Increases allowable amount of loan for depreciation from 15 to 20 percent of appraised market value or amount owed.

6. Clarifies the action on loans to individuals involved in joint farming operations.

7. Increases amount of loan for real estate improvements from $2,500 to $3,500.

8. Permits loans for annual production expenses to be scheduled for repayment beyond 1 year, if justified.

9. Institutes limitation that the total outstanding principal may not exceed $50,000 at loan closing, rather than at loan approval.

10. Deletes the requirement for a cosigner for youth loans greater than $2,500.

D. Individual Farm Ownership (FO), and Soil and Water (SW) (§ 1904.180):

1. Eliminates reference to prohibited loan purposes.

2. Increases the amount that may be loaned for improvements on land with defective title from $2,500 to $5,000.

3. In the case of a life estate, provides for loans to remainderman and life estate holder or to the remainderman only if the remainderman is otherwise eligible.

4. Provides for loans for pollution control.

5. Revises and simplifies the objectives of FO, SW and RL loans.

6. Eliminates reference to minimum terms of a prior lien in cases of participating, particularly where balloon payments are involved. This leaves the decision as to what are "reasonable terms" up to the approval official.

For FO loans only:

7. Adds "managerial competence" as an eligibility requirement.

8. Eliminates section on special requirements.

9. Deletes the restriction on other employment as an eligibility requirement.

10. Allows additional space for food preparation and storage, vehicle storage, laundry, and office space for newly constructed or improved dwellings.

For SW loans only:

11. Clarifies language dealing with eligibility of corporations and partnerships.

12. Broadens refinancing purposes to include any debt incurred for authorized SW purposes.

Accordingly, 7 CFR Chapter XVIII is amended to add Part 1904, Subpart C, delete those portions of the regulations incorporated into the new Subpart C, and make all cross-reference changes as follows:

SUBCHAPTER A—GENERAL REGULATIONS

PART 1804—PLANNING AND PERFORMING DEVELOPMENT WORK

§ 1804.3 [Amended]

1. In § 1804.3, paragraph (f)(1)(ii)(c), change the reference from "Subparts A and B of Part 1821" to "Subpart C of Part 1904".

§ 1804.4 [Amended]

2. In § 1804.4(b) change the reference from "1821.9(b)(4)" to "Subpart C of Part 1904".

PART 1809—APPRAISALS

§ 1809.1 [Amended]

3. In § 1809.1(b) change the reference from "Subpart A of Part 1821" to "Subpart C of Part 1904".

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

PART 1821—FARM PURCHASE AND DEVELOPMENT LOANS TO INDIVIDUALS

4. In 7 CFR, Chapter XVIII, Part 1821, Subparts A and B are deleted and reserved.

§ 1821.82 [Amended]

5. In § 1821.82 change the reference from "Subpart B of this Part" to "Subpart C of Part 1904".

§ 1821.85 [Amended]

6. In § 1821.85 change the reference from "§ 1821.56 of this Part" to "Subpart C of Part 1904".

§ 1821.86 [Amended]

7. In § 1821.86 change the reference from "Subpart B of this part" to "Subpart C of Part 1904".

PART 1822—RURAL HOUSING LOANS AND GRANTS

§ 1822.63 [Amended]

8. In § 1822.63(a) change the reference from "§ 1832.3(d)" to "Subpart C of Part 1904".

§ 1822.90 [Amended]

9. In § 1822.90(l) change the reference from "§ 1821.15" to "Subpart C of Part 1904".

§ 1822.203 [Amended]

10. In § 1822.203(a) change the reference from "§ 1832.3(d)" to "Subpart C of Part 1904".

§ 1822.213 [Amended]

11. In § 1822.213 change the reference from "§ 1821.15" to "Subpart C of Part 1904".

§ 1822.267 [Amended]

12. In § 1822.267(h) change the reference from "§ 1821.15" to "Subpart C of Part 1904".

SUBCHAPTER C—LOANS PRIMARILY FOR PRODUCTION PURPOSES

PART 1831—OPERATING LOANS

13. In 7 CFR, Chapter XVIII, Part 1831, Subparts A and B are deleted and reserved.

PART 1832—EMERGENCY LOANS

14. In 7 CFR, Chapter XVIII, Part 1832, Subpart A is deleted and reserved.

SUBCHAPTER E—ACCOUNT SERVICING

PART 1861—ROUTINE

§ 1861.2 [Amended]

15. In § 1861.2(b), change the reference from "§ 1821.53(e), § 1831.21(a)(8), and § 1821.7(c) of this Chapter" to "Subpart C of Part 1904 of this Chapter".

§ 1861.9 [Amended]

16. In § 1861.9, paragraph (e)(1)(i), change the reference from "Subpart A or B of Part 1821" to "Subpart C of Part 1904".

PART 1867—REAMORTIZING AND RENEWING OPERATING LOANS

17. In 7 CFR, Chapter XVIII, Part 1867 is deleted and reserved.

SUBCHAPTER F—SECURITY SERVICING AND LIQUIDATIONS

PART 1872—REAL ESTATE SECURITY

§ 1872.4 [Amended]

18. In § 1872.4(f), change the reference from "Subpart A of Part 1821" to "Subpart C of Part 1904".

§ 1872.18 [Amended]

19. In § 1872.18(b)(14) change the reference from "§ 1821.7(a)(2)" to "Subpart C of Part 1904".

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

PART 1888—SPECIAL ASSISTANCE TO DROUGHT STRICKEN AREAS

§ 1888.4 [Amended]

20. In § 1888.4(b) change the reference from "§ 1832.10" to "Subpart C of Part 1904".

§ 1888.12 [Amended]

21. In § 1888.12 paragraphs (a)(2), (3), (4), (5), (b), and (c), change the reference from "Subpart A of Part 1832" to "Subpart C of Part 1904".

SUBCHAPTER I—LOANS AND GRANT PROGRAMS (INDIVIDUAL)

PART 1904—LOAN AND GRANT PROGRAMS (INDIVIDUAL)

22. 7 CFR, Part 1904, Subpart C reads as follows:

* * * * * *

SUBPART C—FARMER PROGRAM LOANS

Sec.

1904.101 Introduction.
1904.102–1904.106 [Reserved]
1904.107 Definitions and abbreviations.
1904.108 General provisions.
1904.109–1904.112 [Reserved]
1904.113 Reviewing and processing applications.
1904.114–1904.122 [Reserved]
1904.123 Transfers and assumptions.
1904.124 Renewal and reamortization.
1904.125 Cancellation of loan checks and advances.
1904.126 Increase or decrease in amount of loan.
1904.127 Closing loans with real estate security.
1904.128 Options, planning and appraisals.
1904.129 Planning and performing development.
1904.130 Loan servicing.
1904.131 Revision of the use of loan funds.
1904.132–1904.145 [Reserved]
1904.146 Liquidation.
1904.147 Graduation.
1904.148–1904.153 [Reserved]
1904.154 Memoranda of Understanding.
1904.155–1904.169 [Reserved]
1904.170 Emergency loans.
1904.171–1904.174 [Reserved]
1904.175 Operating loans.
1904.176–1904.179 [Reserved]
1904.180 Individual Farm Ownership (FO), Soil and Water (SW), and Recreation (RL) loans.
1904.181–1904.200 [Reserved]

EXHIBITS

A—Farmers Home Administration Loans to Entrymen on Unpatented Public Lands.
B—Operating Agreement (SW).
C—Processing Guide—IFP loans.

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D—Emergency Loans—Support Teams, Reporting Natural Disasters, and Making Loans Available.
E—Memorandum of Understanding—FmHA—FCA.
F—Bureau of Reclamation Loans to Irrigators and Administered by Farmers Home Administration.

Subpart C—Farmer Program Loans

§ 1904.101 Introduction.

(a) This Subpart contains regulations for making Insured Farmer Program (IFP) loans. Operating (OL) loans, Youth (OL–Y) loans, Farm Ownership (FO) loans, Soil and Water (SW) loans (individual), Recreation (RL) loans, and Emergency (EM) loans may be made to farmers, ranchers, and rural youths (Operating loans only) unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms.

(b) The IFP loan program, like other Farmers Home Administration (FmHA) programs, is administered by the Administrator through a State Director serving each State through a District Director to the County Supervisor. The County Supervisor is the focal point for the program and the local contact person for processing and servicing activities.

§§ 1904.102–1904.106 [Reserved]

§ 1904.107 Definitions and abbreviations.

(a) *Definitions.*—(1) *Approval officials.* These are field officials who have been delegated loan and grant approval authorities within applicable loan programs, subject to the dollar limitations contained in Tables available in any FmHA State or County Office, or from the National Office, 14th Street and Independence Avenue SW., Washington, D.C. 20250. Field officials having loan and grant approval authorities are State Directors, District Directors, County Supervisors and Assistant County Supervisors. Refer to Subpart A of Part 1901 of this Chapter for authorities and responsibilities delegated to field officials for all programs of FmHA.

(2) *Aquaculture.* (For EM loans only.) The husbandry of aquatic organisms by an applicant or borrower under a controlled or selected environment. Aquaculture operations are considered to be farming operations. Aquatic organisms may consist of any species of finfish, mollusk, or crustacean (or other invertebrate) amphibian, reptile, or aquatic plant.

(3) *Borrower.* All parties liable for the loan or any part thereof.

(4) *Family farm.* A farm which:

(i) Produces agricultural commodities for sale in sufficient quantities so that it is recognized as a farm rather than a rural residence;

(ii) Provides substantial income by itself which, together with any other dependable income, enables the family to pay family living and operating expenses, including maintenance of chattel and real property and payment of debts; and

(iii) Is managed and operated by the family with a reasonable amount of hired labor.

(5) *Farm.* The term "farm" includes a tract or tracts of land, improvements, and other appurtenances considered to be farm property which is or will be owned or operated by the applicant, and used or to be used in the production of crops or livestock, including the production of fish under controlled conditions. For EM loans this includes the production of aquatic organisms under a controlled or selected environment owned or operated by the applicant or borrower. The term "farm" also includes any such land and improvements and facilities used in a nonfarm enterprise. It will also include a residence which, although physically separate from the farm acreage, is ordinarily treated as part of the farm in the local community.

(6) *Farming or farm enterprises.* (Applies to EM loans only.) These terms are defined as the business of producing crops, livestock products, and aquatic organisms through the management of land, water, labor, capital, and basic raw materials, including seed, feed, fertilizer, and fuel. Farming and farm enterprises consist of a total farming or aquaculture operation, or a portion thereof, which produces different types of products, including crops, livestock, livestock products, and aquatic organisms.

(i) *Single enterprise.* An enterprise which constitutes part of the applicant's farming, ranching, or aquaculture operation. The following are examples of "single enterprises."

(A) All cash field crops; (B) all cash vegetable crops; (C) all cash fruit crops; (D) all crops to be fed to livestock; (E) all pasture to be grazed by livestock; (F) beef operations; (G) dairy operations; (H) poultry operations; and (I) aquaculture operations.

(ii) *Basic enterprise.* This term means any single enterprise which constitutes not less than 25 percent of the applicant's normal year's total farming operations gross income. To qualify crops to be fed to or pasture to be grazed by livestock as a basic enterprise the value of the crops or pasture for livestock use must be at least equal to 25 percent of the value of the total feed fed to the livestock annually. However, for crops to be fed to or pasture to be grazed by livestock to be considered a basic enterprise one or more (individually or collectively) of the livestock enterprises must qualify as a basic enterprise.

(7) *Farming corporation.* It is a legal entity incorporated under the laws of the United States or of a State and authorized to carry on farming, ranching, or acquaculture operations in the State where the corporation has applied for a loan.

(8) *FmHA.* The United States of America, acting through the Farmers Home Administration, an Agency of the United States Department of Agriculture. References to the National Office, Finance Office, State Office, County Office, State Director, District Director, County Supervisor, or other FmHA office or official should be read as prefaced by "FmHA."

(9) *Hazard insurance.* Includes fire, windstorm, lightning, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, builder's risk, public liability, property damage, flood or mudslide, workmen's compensation, or any similar insurance that is available and needed to protect the security, or that is required by law.

(10) *Market value.* The amount for which property would sell for its highest and best use at voluntary sale.

(11) *Mortgage.* The term "mortgage" includes any form of security interest or lien upon any rights or interest in real property of any kind. In Louisiana and Puerto Rico the term "mortgage" also refers to any security interest in chattel property.

(12) *Nonfarm enterprise.* This is any business enterprise whose income supplements farm income. It must provide goods or services for which there is a need and a reasonably reliable market.

(13) *Reamortize.* To extend an FO, SW, RL, OL and EM loan payment to its maximum repayment period or to rearrange the payments within the remaining years of the original repayment period.

(14) *Reasonable standard of living.* The level of income obtained by reasonably successful family farmers and rural residents in the community taking into consideration the size of the family.

(15) *Recreation enterprise.* An outdoor, income producing enterprise which will supplement or supplant farm or ranch income.

(16) *Renew.* To reschedule the payment of an OL and EM loan (made for operating purposes) after the end of the maximum repayment period.

(17) *Rural youth.* A person who has reached the age of 10 but has not reached the age of 21 and does not reside in any area in any city or town that has a population of more than 10,000 inhabitants.

(18) *Rural youth projects.* Projects initiated, developed, and carried out by rural youths participating in organizations such as 4–H or Future Farmers of America. Projects must produce enough income to meet expenses and debt repayment.

(19) *Security.* The term "security" (sometimes referred to as "collateral" or "security property") includes any rights or interests in property of any kind subject to a real or personal property lien.

(i) *Basic security.* All real estate and fixtures and personal property such as foundation herds, flocks, aquatic animal and plant organisms, machinery, and equipment serving as security and crops when crops are the only security.

(ii) *Normal income security.* All security property planned to be marketed in the regular course of business unless liquidation is approved. If liquidation is approved, such security becomes basic security.

(20) *State.* Any of the fifty states, Puerto Rico, or the Virgin Islands (and Guam for EM loans under a Presidential Declaration).

(21) *Termination dates.* (Applies to EM loans.) (i) Termination dates are those dates specified in disaster declarations, designations, or State Director authorizations which establish the final dates after which EM loan applications may no longer be received. However, applications will be accepted for EM loans after the termination date(s) have passed if the applicant filed an application for disaster assistance with the SBA during the period SBA would accept applications and not more than 6 months has elapsed since the FmHA's termination date(s).

(ii) For physical losses, termination dates are 180 days from the date the State Director is notified of the declaration, designation, or State Director authorization, and for production losses, 12 months from such date. The 180-day and 12-month periods will commence on the first workday following the designation or declaration. The final day for accepting applications will always be on a workday. Therefore, if the last day falls on a Saturday, Sunday, or Federal holiday, the next workday will be the final day.

(22) *United States.* The term "United States" means the United States itself, any of the 50 States, Puerto Rico, the Virgin Islands (and Guam for EM loans under a Presidential declaration).

(b) *Abbreviations.* The following abbreviations are applicable:

(1) *EM*—Emergency Loans.
(2) *FmHA*—Farmers Home Administration.
(3) *FMI*—Forms Manual Insert.
(4) *FO*—Farm Ownership Loans.
(5) *OGC*—Office of the General Counsel.
(6) *OL*—Operating Loans.
(7) *OL–Y*—Operating Loans—Youth.
(8) *RH*—Rural Housing Loans.
(9) *RL*—Recreation Loans.
(10) *SW*—Soil and Water Loans.
(11) *USDA*—United States Department of Agriculture.

§ 1904.108 General provisions.

(a) *Credit elsewhere.* The applicant shall certify in writing, and the County Supervisor shall determine, that he is unable to obtain sufficient credit elsewhere to finance his actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

(1) If the County Supervisor's review of the applicant's application indicates that there is no possibility for the applicant to obtain the credit he needs from other lender(s) he will record this conclusion and the basis for it in the running record and it will not be necessary for him to check further.

(2) If the County Supervisor questions whether the applicant may be able to obtain the credit he needs from another lender in the area he will contact that lender and record his findings in the running case record.

(3) Any letters from a lender(s) or other evidence which may have been obtained indicating that the applicant is unable to obtain satisfactory terms with present creditors or from other creditors will be included in the loan docket.

(b) *Committee certification.* Before a loan is approved, the County Committee serving the county in which the borrower will reside following loan closing will certify on Form FmHA 440–2, "County Committee Certification or Recommendation," that the applicant is eligible for a loan in accordance with this Subpart. The County Committee will establish the maximum amount of credit that may be extended under the certification to meet the applicant's actual needs during the crop or operating year. The applicant will not be notified of the maximum credit as certified by the County Committee for the crop year, but will be notified of the committee's determination as to eligibility in accordance with Part 1901 of this Chapter (FmHA Instruction 410.1). The County Committee may recertify the applicant on the basis of changed circumstances by preparing and executing a new Form FmHA 440–2. If the County Committee rejects the application, reasons for unfavorable action will be given in the space provided on Form FmHA 440–2 above their signature.

(c) *Program requirements.* In addition to paragraph (b) the following specific program requirements must be met:

(1) *For Operating loans.* The County Committee may, when an application is being acted upon during the latter part of a crop or operating year, establish the maximum amount of credit for both the current crop or operating year and the next crop or operating year.

(2) *For FO, RL and SW loans.* Ordinarily, the amount of the loan plus any other debts against the security will not be in excess of the recommended market value of the security as shown on the appraisal report(s). A loan docket will not be developed when a loan plus any other debts against the security will be significantly in excess of the recommended market value of the security. In an unusual case when the amount of a loan needed for success plus any other debts that will be against the security is slightly above the recommended market value of the security and the County Committee and the County Supervisor believe that the loan should be made, Form FmHA 440–2 may be completed. In such a case, the completed loan docket will be submitted to the State Office for a determination as to whether it is feasible to establish the market value of the security above the appraiser's recommended market value. If the loan approval official determines that the market value is in excess of the appraiser's recommended market value, he will record his determination of the market value of the security in the comments section of Form FmHA 422–1, "Appraisal Report (Farm Tract)." Federal Land Bank (FLB) Association stock is required to be purchased by FLB Association borrowers and has security value provided it is assigned to FmHA as security. Therefore, when FmHA and FLB simultaneous loans are being made, the loan approval official may consider the market value of the real estate plus the value of FLB Association stock in determining the market value of the security. He will record his determination of the market value of the security in such a case in the comments section of Form FmHA 422–1.

(d) *State supplements.* State supplements will be issued as necessary to implement this Subpart.

(e) *Compliance requirements.* Refer to the instructions opposite the following items for the appropriate actions to be taken in each case:

(1) *Environmental impact assessments and statements.* Refer to § 1980.40 of this Chapter, except that in the third sentence of that section disregard the words "and lenders".

(2) *Equal opportunity and nondiscrimination requirements.* Refer to § 1980.41 (b) of this Chapter, except that for the purposes of this section:

(i) In §§ 1980.41(b)(1) and 1980.41 (b)(4)(ii), disregard the word "guaranteed".

(ii) In § 1980.41(b)(6), disregard the words "or lender."

(3) *Flood and mudslide hazard area cautions.* Refer to § 1980.42 of this Chapter.

(4) *Clean Air Act and Water Pollution Control Act requirements.* Refer to § 1980.43 of this Chapter, except that:

(i) In § 1980.43(a), disregard the words "or guaranteeing".

(ii) In § 1980.43(b), the word "lender" will be read to mean "FmHA."

(5) *National Historic Preservation Act of 1966.* Refer to § 1980.44 of this Chapter, except that in the first sentence of that section, disregard the words "or guaranteeing".

§§ 1904.109–1904.112 [Reserved]

§ 1904.113 Receiving and processing applications.

Applications will be received and processed in accordance with Part 1801 of this Chapter (FmHA Instruction 410.1).

§§ 1904.114–1904.122 [Reserved]

§ 1904.123 Transfers and assumptions.

Refer to § 1872.18 of this Chapter (FmHA Instruction 465.1 paragraph XVIII) for transfers and assumptions involving real estate security and to § 1930.34 of this Chapter for transfers and assumptions involving chattel security.

§ 1904.124 Renewal and reamortization.

All borrowers are expected to repay their Farmer Program loans according to the planned repayment scheduled. However, circumstances may occur which will not permit them to pay as scheduled or to refinance their loans. This section prescribes the policies and procedures for reamortizing and/or renewing such loans.

(a) *Eligibility requirements.* (1) For OL and EM (made for operating purposes) loans the principal and interest balance on a loan note may be reamortized or renewed, as appropriate, when it is determined it will be in the best interest of the borrower and the Govern-

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ment to do so. The justification for the action being taken will be recorded in the running record of the borrower's case file and will include documentation that the borrower is unable to refinance the loan through another creditor, is making satisfactory progress under prevailing conditions, the need for the action is due to conditions beyond the borrower's control and the farm operating plan shows the borrower can reasonably expect to meet the revised repayment schedule.

(2) For FO, SW, and RL loans, a loan to be reamortized will be processed in accordance with Part 1861 of this Chapter (FmHA Instruction 451.1).

(3) Farmer Program loan notes will not be reamortized or renewed when the account is being serviced or may be serviced in the near future by the State Office, has been referred to the Office of the General Counsel or to the U.S. Attorney.

(b) *Rates and terms.* (1) The interest rate will be the current rate in effect for the type of loan involved at the time the renewal or reamortization promissory note is signed by the borrower.

(2) *Reamortization.* The County Supervisor may agree to reamortize the balance of a Farm Program loan provided:

(i) For OL and EM loans (made for operating purposes), the reamortized repayment period for an operating type loan does not exceed 7 years from the date of the initial note.

(ii) For FO, SW, RL and EM loans (made for real estate purposes) secured by real estate, the repayment period for the real estate loan, initially scheduled for repayment in not more than 40 years, may be reamortized for a repayment period that will not extend the repayment period beyond 40 years from the date of the original note.

(iii) The security instrument and note will secure the reamortized loan.

(3) *Renewal.* An OL and EM loan (made for operating purposes), initially scheduled or reamortized for repayment in not more than 7 years, may be renewed for up to 5 additional years at the end of the 7-year period. The renewal and any combination of initial and subsequent renewals will not extend the repayment period beyond 12 years from the date of the original note.

(4) For OL and EM loans (made for operating purposes), the repayment terms may include installments which are either equal or unequal and may also include a balloon installment.

(5) The repayment period on a renewed or reamortized note will not exceed the useful life of the security.

(c) *Security instruments.* Will be required as necessary when a loan is renewed or reamortized.

(d) *Processing the renewal and/or reamortization promissory note.*—(1) *Operating loans.* A separate Form FmHA 452–1, "Renewal Promissory Note," will be prepared for each OL and EM (made for operating purposes) loan note being renewed or reamortized. All parties who executed the note being renewed or reamortized will be required to execute Form FmHA 452–1, unless otherwise authorized by the State Director.

(i) If the County Office is in possession of the original note being reamortized or renewed, Form FmHA 452–1 will be processed in accordance with the provisions of the Forms Manual Insert (FMI) and this Subpart.

(ii) If the County Office is not in possession of the original note being reamortized or renewed, the County Supervisor will request the Finance Office to have the note assigned to the insurance fund and returned to the County Office before processing Form FmHA 452–1.

(2) *Real estate loans.* When an FO, SW, RL, or EM (made for real estate purposes) loan note is to be reamortized, it will be processed in accordance with Part 1861 of this Chapter (FmHA Instruction 451.1).

(e) *Approval authority.* Loan approval officials are hereby authorized to approve the renewal or reamortization subject to their approval authority in Subpart A of Part 1901 of this Chapter.

(f) *Disposition of promissory notes.* The original and County Office copy of all notes that are renewed or reamortized will be stamped "RENEWED, NOT PAID" or "REAMORTIZED, NOT PAID," as appropriate, by the County Office. The original note will be filed with the renewal or reamortized note and the copy filed in the borrower's case file. When a renewed or reamortized note has been paid in full or otherwise satisfied, it will be handled in accordance with the provisions of Part 1861 and Part 1864 of this Chapter (FmHA Instructions 451.1 and 456.1 respectively).

§ 1904.125 Cancellation of loan checks and advances.

(a) If a loan check is to be canceled follow FMHA Instruction 102.1, paragraph IV C.

(b) When an advance is to be canceled, the following actions must be taken:

(1) Complete Form FmHA 440–10, "Cancellation of Loan or Grant Check and/or Obligation" in accordance with the FMI.

(2) When necessary prepare and execute a substitute promissory note reflecting the revised total of the loan and the revised schedule. When it is not possible to obtain a substitute promissory note, the County Supervisor will show on Form FmHA 440–10 the revised amount of the loan and the revised repayment schedule.

(3) Transmit to the Finance Office Form FmHA 440–10 and Form FmHA 440–57, "Acknowledgement of Obligated Funds/Check Request," reflecting the revised repayment schedule.

§ 1904.126 Increase or decrease in amount of loan.

If it becomes necessary that the amount of the loan be increased or decreased prior to loan closing, the County Supervisor will request that all distributed docket forms be returned to the County Office for reprocessing unless the change is minor and replacement forms can readily be completed and submitted. In the latter case, a memorandum to that effect will be attached to the revised forms for referral to the Finance Office. A new Committee certification will not be necessary unless the revised loan amount is higher than the original certification.

§ 1904.127 Closing loans with real estate security.

(a) *General.* Loans secured by real estate are considered closed on the date the mortgage is filed for record. Such loans will be closed in accordance with the applicable provisions of Part 1807 of this chapter (FmHa Instruction 427.1).

(b) *Security instruments.* Security instruments referred to in this section are real estate mortgages or deeds of trust.

(1) *Joint security instruments.* Joint security instruments will be taken to secure a joint loan to individuals jointly engaged in an enterprise. Each individual will execute the real estate mortgage or deed of trust, assignment of income, promissory note, and any other security instruments required to secure the loan. When the individuals are members of a partnership, the security instruments will be executed by the partnership and all partners in accordance with the advice of the Regional Attorney or Attorney-in-Charge, as necessary, to close the loan and obtain the desired liens and liability.

(2) *Separate security instruments.* (i) Separate security instruments will be taken to secure a separate loan to an individual who is individually or jointly engaged in an operation.

(ii) Each applicant obtaining a separate loan for financing an undivided interest in security property or for refinancing debts on an undivided interest in such property will secure the loan by a lien on his undivided interest in the property. Each individual having an undivided interest in the security property will execute Form FmHA 441–12, "Agreement for Disposition of Jointly-Owned Property." Form FmHA 441–12 will not be required when a tenant and landlord own property jointly and the lease provides for satisfactory division of such property and the proceeds from its sale or a joint security instrument is taken to secure a loan in accordance with paragraph (b) (1) of this section.

(c) *Security instrument forms.* (1) FmHA real estate mortgage or deed of trust Form FmHA 427–1 _____ (State) will be used in all cases.

(2) For assignment of income, Form FmHA 443–16, "Assignment of Income from Real Estate Security," will be used, except that if the form is legally inadequate in a particular State it may be adapted with the approval of the OGC.

(3) When water stock certificates or similar collateral are a part of the security, they will be retained in the County Office. A notation will be made on Form FmHA 405–1, "Management System Card-Individual," showing that such security has been retained.

(4) Form FmHA 440–16, "Promissory Note," will be prepared and completed at the time of loan closing in accordance with the Forms Manual Insert. If insured RH funds are advanced simultaneously, the RH loan will be evidenced by a separate note on the proper form as provided in Subpart A of Part 1822 of this Chapter (FmHA Instruction 444.1). However, both notes will be described in the same security instruments.

(i) When a loan is closed between December 1 and January 1, the first installment will be collected at the time of loan closing unless deferment is approved. Also, funds included in the loan for payment of interest will be collected on the date of loan closing. The receipt should indicate "For deferred installment interest."

(ii) The promissory note will be signed by the borrower and his or her spouse, unless under the provisions of Part 1807 of this Chapter (FmHA Instruction 427.1) the spouse's signature is unnecessary.

(5) When subsequent loans are made a new security instrument will be required only when such existing instruments do not cover all required security property or will not secure the subsequent loan.

(6) A subsequent loan for any authorized purpose may be made without taking new security instruments in any case in which the existing security instruments cover all of the property required to serve as security for the subsequent loan, the State law and the language of the existing security instruments will permit the future loan advance to be secured by the existing security instruments, and the existing security instruments will provide the same lien priority for the subsequent loan as for the initial loan. If the existing recorded security instrument does not cover all the property required to serve as security for the subsequent loan or if it does not contain a future advance clause which is sufficient to include the subsequent loan, a new security instrument will be taken.

(d) *Leaseholds.* Security instruments for loans secured by mortgage on leaseholds will describe security property in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1), and the following provisions will also apply:

(1) The following language, or similar language which in the opinion of the OGC is legally adequate, will be inserted just before the legal description of the real estate:

> All Borrower's right, title, and interest in and to the leasehold estate for a term of __ years beginning on _____, 19__, created and established by a certain Lease dated _____, 19__, executed by _____ as lessor(s), recorded on _____, 19__, in Book _____, page ____ of the _____ Records of said County and State, and any renewals and extensions thereof, and all Borrower's right, title, and interest in and to said Lease, covering the following real estate:

(2) An additional covenant will be inserted in the mortgage to read as follows:

> Borrower will pay when due all rents and any and all other charges required by said Lease, will comply with all other requirements of said Lease, and will not surrender or relinquish, without the Government's written consent, any of the Borrower's right, title, or interest in or to said leasehold estate or under said Lease while this instrument remains in effect.

(3) A copy of the lease will be obtained for the case file.

(e) *Filing or recording security instruments.* The following appropriate actions will be taken after loan closing:

(1) If the original security instrument is returned by the recording official, it will be retained in the borrower's case folder. If the original is retained by the recording official, a conformed copy, including the recording date showing the date and place of recordation and the book and page number, will be prepared and filed in the borrower's case folder. A conformed copy of the security instrument will be sent to a prior lienholder if a substantial interest is held by that lienholder or if it is required by a working agreement provision with that lender.

(2) The original deed of conveyance, if any, and a copy of the security instrument will be delivered to the borrower.

(3) A borrower's owner's title insurance policy mistakenly sent to the County Office will be immediately delivered to the borrower.

(f) *Abstracts of Title.* Any abstract of title will be delivered to the borrower for safekeeping, and Form FmHA 140–4, "Transmittal of Documents," will be prepared and a receipt obtained in accordance with the Forms Manual Insert. However, when an abstract is obtained from a third party with the understanding it will be returned, such abstract will be sent directly to the third party and a memorandum receipt will be obtained.

(g) *Requesting title service and accepting option.* When the loan is approved, the County Supervisor will (1) see that title service is requested in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1), if this has not already been done, and (2) when land is being acquired also see that Form FmHA 440–35, "Acceptance of Option," is completed, signed, and mailed to the seller. However, in connection with the acceptance of an option on a subdivision, Form FmHA 443–10, "Acceptance of Option by Assignee (Land to be Subdivided)," and Form FmHA 443–11, "Acceptance of Option by Buyer (Land to be Subdivided)," will be used, as appropriate. When the acceptance of option letter has been mailed to the seller, the borrower will arrange with the seller, in consultation with the County Supervisor, to occupy and operate the farm as soon as practicable. Agreements will be in writing and cover such subjects as disposition of growing crops, rentals, payment of maintenance cost, and other pertinent points.

(h) *Fees.* The borrower will pay all filing, recording, notary and lien search fees incident to loan transactions from personal or loan funds. When FmHA employees accept cash for these purposes Form FmHA 440–12, "Acknowledgment of Payment for Recording, Lien Search, and Releasing Fees," will be executed. FmHA employees will make it clear to the borrower that any fee so accepted is only for paying fees on behalf of the borrower.

(i) *Supervised bank accounts.* If a supervised bank account is required, loan funds usually will be deposited following loan closing. Supervised bank accounts will be established in accordance with Part 1803 of this Chapter (FmHA Instruction 402.1). If a depository bank does not require the borrower's endorsement for deposit, the loan check may be deposited in the supervised bank account and the borrower given a copy of the deposit slip.

(j) *Loan closing with participating lenders.* (1) The FmHA and participating lenders will agree on the method and the period to be covered by the title search. If there are any deviations in connection with title search from either lender's regulations, such deviations must be approved by the appropriate supervisory officials.

(2) The FmHA and participating lender representatives will mutually approve any land and building development plans when the improvements are to be projected in loan values. Each will supervise the disbursement of its share of funds for these items.

(3) The selection of representative(s) to be present for loan closing will be by mutual agreement.

(4) The standard loan mortgage forms used by the FmHA and the participating lender will be exchanged by the local representatives. Any additional covenants or deviations from the standard forms in individual cases will be called to the attention of the local representatives before the loan is closed.

§ 1904.128 Options, planning and appraisals.

Refer to Parts 1804 and 1809 of this Chapter (FmHA Instructions 424.1 and 422.1, respectively) for the appropriate procedures dealing with options, planning, and appraisals.

§ 1904.129 Planning and performing development.

All development including construction and land treatment will be planned and completed in accordance with Part 1804 of this Chapter (FmHA Instruction 424.1). The provisions of Subpart E of Part 1901 of this Chapter apply in connection with loans involving recreational enterprises and the construction of buildings. Adequate development to place the farm and any nonfarm enterprise in condition for a successful operation will be provided at the outset.

§ 1904.130 Loan servicing.

Loans will be serviced in accordance with Parts 1806, 1863 and 1872 of this Chapter (FmHA Instructions 426.1, and 485.1 respectively) and Subpart A of Part 1930 of this Chapter.

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§ 1904.131 Revision of the use of loan funds.

(a) *Requirements.* Loan approval officials or delegates are authorized to approve changes in the purposes for which loan funds are to be used provided:

(1) The loan was within the respective loan approval official's authority.

(2) Such a change is for an authorized purpose and within applicable limitations.

(3) Such a change will not adversely affect the feasibility of the operation for the Government's interest.

(4) Such a change is consistent with authorities, policies, and limitations for the type of Farmer Program loan involved.

(b) *Additional authority.* The State Director may delegate additional authority to approval officials to approve certain kinds of changes in the use of loan funds by issuing a State supplement describing such changes, provided prior approval is obtained from the National Office.

(c) *Revisions.* When changes are made in the use of loan funds, no revision will be made in the repayment schedule on the promissory note. Appropriate changes with respect to the repayment will be made in Table K of Form FmHA 431-2 and they will be initialed by the borrower. The County Supervisor will also make appropriate notations in the "Supervisory and Servicing Actions" section of the Management System Card-Individual for followup.

§§ 1904.132–1904.145 [Reserved]

§ 1904.146 Liquidation.

Refer to § 1872.17 (FmHA Instruction 465.1, paragraph XVII) and Subpart A of Part 1955 of this Chapter for the appropriate instructions concerning the liquidation of real estate, and to § 1930.40 of this Chapter for liquidation procedures covering chattel property.

§ 1904.147 Graduation.

Borrowers will be expected to graduate to other credit in accordance with the requirements of Part 1865 of this Chapter (FmHA Instruction 451.6).

§§ 1904.148–1904.153 [Reserved]

§ 1904.154 Memoranda of Understanding.

Refer to § 1980.154 of this Chapter for a listing of memoranda pertaining to Farmer Programs. The following items also apply to this Subpart.

(a) Memorandum of Understanding Between Commodity Credit Corp. and FmHA (Exhibit A to Subpart A of Part 1930 of this Chapter).

(b) Memorandum of Understanding and Blanket Commodity Lien Waiver (Exhibit B to Subpart A of Part 1930 of this Chapter).

(c) Memorandum of Understanding Between the Department of Agriculture and the Department of the Interior (Attachment to Exhibit A to this Subpart).

(d) Memorandum of Understanding Between FmHA and the Farm Credit Administration (Exhibit E of this Subpart).

§§ 1904.155–1904.169 [Reserved]

§ 1904.170 Emergency loans.

(a) *Program objectives.* The basic objectives of EM loans are to provide financial assistance to eligible farmers, ranchers, and aquaculture operators to cover losses, make major adjustments, pay operating expenses, and provide for other essential needs so that they may maintain sound farming, livestock, or aquaculture operations.

(b) *Eligibility.* (1) Refer to § 1980.170 (b) of this Chapter for applicable EM eligibility requirements, except that for purposes of this section:

(i) In § 1980.170(b), disregard the word "guaranteed," and

(ii) In § 1980.170(b)(1), disregard the words "without a guarantee."

(2) No ceiling has been established on the size of operations that may be financed with EM loans nor on the size of loans that may be made. Therefore, subject to the eligibility requirements and other provisions of this regulation, EM loans may be made to finance larger than family farm operations.

(3) Refer to Exhibit D of this Subpart for the procedures governing designations and reporting of disasters.

(c) *Determining losses and maximum amount of loan for actual losses.* Losses and maximum amount of the EM loan for actual losses will be determined as set forth in § 1980.170(c) of this Chapter except that:

(1) In § 1980.170(c)(1) and (c)(1)(ii), the word "lender" should be read to mean "County Supervisor" and,

(2) In § 1980.170(c)(1)(ii), disregard the words, "The County Supervisor will provide lenders with these prices".

(d) *Loans purposes.* Refer to § 1980.-170(d) of this Chapter for authorized EM loan purposes except that the word "guaranteed" in § 1980.170(d) shall be read as "made" for purposes of this section. In addition, the following limitations will apply:

(1) An insured loan will not be used to supplement a guaranteed loan.

(2) An insured loan will not be made to refinance a guaranteed loan, except when the following conditions are met:

(i) The circumstances causing the need to refinance were beyond the borrower's control.

(ii) Refinancing is to the best interest of the Government and borrower.

(iii) The State Director and his staff determine that the objectives of the loan can be accomplished with an insured loan.

(iv) Eligibility requirements are otherwise met.

(e) *Rates and terms.* (1) *Interest rates.* Interest on the initial advance will accrue from the date of the promissory note. Interest on other advances will accrue from the date of the loan check for each such advance. Interest rates are as follows:

(i) Except for disasters occurring on or after July 1, 1976, and prior to October 1, 1978, EM loans for actual losses will be 5 percent.

(ii) For disasters occurring on or after July 1, 1976, and prior to October 1, 1978, EM loans for actual losses will be as follows:

(A) For repair or replacement of the primary residence and personal property, 1 percent on the first $10,000, 3 percent on the balance not to exceed $40,000, and 5 percent above $40,000.

(B) For other actual loss loans, 3 percent up to $250,000 and 5 percent above $250,000.

(iii) The interest rate for loans for other than actual losses will be the interest rate prevailing in the private market for similar loans, as determined by the Secretary of Agriculture. These interest rates, for other than actual losses, will be reviewed periodically by the Secretary and new rates may be established. The prevailing market rates are specified in Part 1810, Subpart A of this Chapter (FmHA Instruction 440.1, Exhibit B). The interest rates in effect can be obtained from any FmHA State or County Office or from the National Office, 14th and Independence Avenue, SW., Washington, D.C. 20250.

(2) *Establishing repayment terms and delay of principal payments.* EM loans for actual losses where different interest rates are authorized as set forth in paragraph (e)(1)(ii) will be scheduled for repayment of the principal and interest on that portion of the loan bearing the lowest interest rate before principal payments are scheduled for portions of the loan bearing higher interest rates. However, interest must be collected on the portion of the principal deferred during the period principal payments are not scheduled. The portion of the loan bearing the lower interest rate should be repaid as soon as possible, consistent with the applicant's repayment ability. This deferral of principal does not apply to EM annual production or major adjustment loans.

(3) *Terms of loans.* EM loans will be scheduled for repayment in annual installments as set forth below, consistent with the applicant's reasonable ability to pay. This will be determined by his operation as reflected in the completed Form FmHA 431-2, "Farm and Home Plan," or other acceptable format for presenting the proposed plan of operation.

(i) Loan terms for actual losses to crops, livestock, supplies, harvested or stored crops, livestock products on hand, and equipment will be in accordance with the useful life of the security and the repayment ability of the applicant but not to exceed 7 years. When conditions warrant, installments may vary in amount. However, the final installment will not be larger than the amount which could usually be refinanced with private lenders or be repaid within a renewal period of not to exceed 5 years. The applicant must be advised before the loan is closed that FmHA will review each case at the end of the initial loan term to determine if a renewal is warranted. For any disaster occurring after January

1, 1975, loans made as a result of these disasters may be scheduled for repayment in more than 7 years, but not more than 20 years if the State Director determines in writing, after a recommendation by the County Committee that the needs of the applicant justifies such a longer repayment period. Generally, real estate will be needed as security when more than 7 years is authorized. Experience indicates that the need of most applicants can be met with a repayment period of 7 years and if necessary up to a 5-year renewal. Therefore, State Directors will grant the longer repayment periods only in unusual cases. When the longer period is used, renewal is not authorized.

(ii) The terms for actual losses to real estate will be in accordance with the useful life of the security and the repayment ability of the applicant not to exceed 40 years.

(iii) The term for loans for annual operating expenses will be as follows:

(A) Advances for annual recurring operating expenses or for paying bills incurred for such purposes for the operating or crop year being financed will be scheduled for payment when the principal income from the year's operations normally would be received.

(B) Advances to purchase or produce feed for productive livestock or livestock to be fed for the market, or to pay bills incurred for such purposes for the crop year being financed will be scheduled for payment when the principal income from the sale of such livestock or livestock products can be expected.

(iv) Loans for the same purposes as are provided under § 1980.170(d)(3)(ii) of this Chapter, will be in accordance with the useful life of the security and the repayment ability of the applicant but not to exceed 7 years. When conditions warrant installments may vary in amount. However, the final installment will not be larger than the amount which could usually be refinanced with private lenders or be repaid within a renewal period of not to exceed 5 years. The applicant must be advised before the loan is closed that FmHA will review each case at the end of the initial loan term to determine if a renewal is warranted.

(v) Loans for the same purposes as are provided under § 1980.170(d)(3)(i) of this Chapter will be in accordance with the useful life of the security but not to exceed 40 years.

(4) *Deferment of principal installments.* Interest will not be deferred. However, initial principal installments (for EM loans other than for annual operating expenses) may be deferred in whole or in part to the second or third installment due date, as appropriate, following the date of note:

(i) When the year's income will be sufficient to meet the payment but will not be received in full that year because of the type of farming or the method of marketing, or

(ii) When the total planned income is less than planned annual recurring expenses because the productive capacity of the farm has been adversely affected by a qualifying disaster.

During the deferment period, each installment will include the total amount of interest accruing to the date of the installment plus the estimated principal amount the applicant will be able to pay. Principal deferments will not be granted for the purpose of enabling applicants to use income to make payments on old bills before paying annual recurring expenses. When the payment of principal is deferred to the second installment due date following the date of the note, the first scheduled installment will be the amount of accrued interest from the date of the note to installment due date. When the payment of principal is deferred to the third installment due date following the date of the note, the second scheduled installment will be the amount of accrued interest for a full year.

(f) *Security.* EM loans will be adequately secured to protect the interests of the Government.

(1) *Security Requirements.* (i) Annual Operating loans will be secured by a first lien on the crop or livestock, or both, being financed with EM loan funds plus enough other security, including personal property, real estate, and crop insurance, to assure that the Government's financial interest will be protected. When the applicant can provide no collateral other than a first lien on crop and/or livestock production, or both, the amount of the loan will be limited to the greater of $50,000 or one-half the estimated gross farm income planned as shown on Form FmHA 431-2, or other acceptable plan of operation which will be based on normal production and prices authorized by the State Director for developing annual farm plans within the State. When an EM borrower who is indebted for an annual operating loan must have a subsequent EM loan for annual operating purposes during the current crop year to complete that year's farming operation and protect the Government's financial interest which is secured only by the crop, the $50,000 or 50 percent gross income requirement will not apply provided the loan is otherwise sound and proper.

(ii) Loans for the same purposes as authorized for loans made under § 1980.-170(d)(3)(ii) of this Chapter will be secured by a lien on sufficient equity in livestock, equipment and machinery, and other personal property if necessary to protect the Government's interest, plus when necessary, a lien on equity in part or all of the real estate owned by the applicant. When the applicant can provide no collateral other than a first lien on crops and/or livestock production, or both, then the policy outlined in § 1980.-170(f)(2)(i) of this Chapter will apply. If the applicant has enough equity in real estate, no additional security need be taken. A second crop lien may be taken when deemed necessary to assure repayment of the loan.

(iii) Loans for the same purposes as authorized for loans made under § 1980.-170(d)(3)(i) of this Chapter will be secured by equity in real estate. However, if there is not sufficient equity in the real estate, a lien also will be taken on personal property, plus, if necessary, a second lien on the crops. An EM loan made to a tenant with a long-term lease will be secured by a lien on a transferable leasehold.

(iv) The loan approval official may make an exception to the security requirements if all of the following conditions are met:

(A) Adequate security property is not available because of the disaster.

(B) The applicant offers all available security property, some or all of which may have depreciated in value due to the disaster.

(C) The security property and the applicant's repayment ability as assessed by the loan approval official are adequate security for the loan.

(v) EM loans may be approved with abbreviated appraisals of the property being taken as security for the loan provided:

(A) The loan approval official determines that equity in the security property will fully secure the EM loan(s).

(B) When abbreviated appraisals are prepared:

(*1*) For real estate, the following portions of Form FmHA 422-1, "Appraisal Report—Farm Tract," will be completed: The heading of the report; Item A of Part 1; Part 2; Part 3; Part 7; and Part 8. The report will be signed and dated by an FmHA authorized appraiser.

(*2*) For chattel property, Form FmHA 440-221, "Appraisal of Chattel Property," will list and identify each chattel item, and items A through E will be completed.

(vi) When an EM loan, for whatever purpose, is to be secured by a lien on real estate or a combination of real estate and chattels, the security will be considered "basic security." For all loans over $10,000 title clearance is required except that when a reputable long-term lender has a first mortgage on the property the search need only be made after the recordation date for such mortgage. For loans of $10,000 or less, only certification of ownership and verification of equity in real estate is required. Certification of ownership may be accepted in the form of a notarized affidavit from the applicant stating who is the owner of record of the real estate in question and acknowledging all known debts, with balances owed, against the real estate. Whenever the County Supervisor is uncertain of the ownership of or debts against the real estate security, he will require title search.

(vii) If the real estate offered as security is held under a purchase contract, the following conditions will prevail:

(A) The applicant must be able to provide mortgageable interest in the real estate concerned.

(B) The applicant and the purchase contract holder will agree in writing that all insurance claim settlements received for real estate losses will be used in their entirety to replace or repair the damaged real estate. The applicant will renego-

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tiate with the purchase contract holder to arrive at a new contract without any provisions objectionable to FmHA.

(C) If a satisfactory contract of sale cannot be renegotiated or the purchase contract holder refuses to apply the insurance proceeds toward the repair or replacement of the real estate losses, but chooses to retain some of the proceeds as an extra payment on the balance owed, the applicant will make every effort to refinance the existing purchase contract. If the applicant cannot obtain refinancing from another source, an EM loan will be considered to include funds to pay off the contract and improve the property. If the applicant can get the contract refinanced, an EM loan will be considered to restore the property to its predisaster condition.

(D) If the conditions provided for in paragraph (f)(1)(vii) (A), (B), and (C) of this section can be met and an EM loan is approved, it can be closed provided the FmHA escrow agent or designated attorney determines that:

(*1*) The applicant has mortgageable interest in the property under a long-term purchase contract.

(*2*) The purchase contract is not subject to summary cancellation on default and does not contain other provisions which might jeopardize the Government's security position or the borrower's ability to repay the loan.

(*3*) The contract holder will agree in writing to give the FmHA notice of any breach by the purchasers, and further agrees to give FmHA 30 days from notice of such breach to rectify said conditions.

(viii) If any of the prior liens against real estate offered as security contain future advance provisions, or other provisions which might jeopardize the security position of the Government or the applicant's ability to meet his obligations under these prior liens and to pay the EM loan, the prior lienholders involved must agree in writing, before the loan is closed, to modify, waive, or subordinate such objectionable provisions.

(ix) When a junior lien on real estate is to be taken as security for the loan in States where a prior lienholder may foreclose his security instrument under power of sale or otherwise and extinguish junior liens of private parties without giving junior lienholders actual notice, the prior lienholder must agree in writing to give FmHA advance notice of foreclosure or assignment of the mortgage.

(x) If essential insurable buildings are located on the property, or if new buildings are to be erected or major improvements are to be made to existing buildings, the applicant will provide adequate property insurance coverage at the time of the loan closing or as of the date materials are delivered to the property, whichever is appropriate. However, when the real estate appraisal report shows that the present market value of the land after deducting the value of buildings shown on the report exceeds the amount of the debt including the EM loan and the owner has equity equal to or exceeding the amount of the debt including the EM loan, real property insurance will not be required. However, the applicant will be encouraged to obtain such insurance if he does not already have it to protect his interest. If insurance claims for loss or damage to buildings to be replaced or repaired with loan funds are outstanding at the time the loan is approved, the applicant will be required to agree in writing that when settlement is made the proceeds of such claims will be used for replacement or repair of buildings, application on debts secured by prior liens, or application on the EM loan.

(xi) Loan amounts borrowed for repair or replacement of personal possessions and home equipment or furnishings will be secured by a lien(s) on crops, aquatic organisms, livestock, farm machinery, essential trucks or automobiles, and/or farm real estate.

(xii) Loan approval officials may require *Federal or other types of Crop Insurance* with an assignment to FmHA during the repayment period of the EM loan if such insurance is available in the county. This determination is a judgment factor and the decision should be based on the amount and type of security, other than crops, that the applicant can provide. *However, when only a crop lien is taken as security for EM loans, the borrower will be required to carry Federal or other type of Crop Insurance during the repayment period of such loans if such insurance is available.*

(xiii) EM loans to Indians which are secured by trust or restricted land will be handled as follows: The United States Department of Agriculture (USDA) and the Department of the Interior have mutually agreed that FmHA loans which are to be secured by real estate liens may be made to Indians holding land in severalty under trust patents or deeds containing restriction against alienation subject to statutes under which they may, with the approval of the Secretary of the Interior, give mortgages on their land which are valid and enforceable. These statutes include, but may not be limited to, the Act of March 29, 1956 (70 Stat. 62).

(A) When a lien is to be taken on trust or restricted property in connection with a loan to be made or insured by FmHA, the local representatives of the Bureau of Indian Affairs (BIA) will furnish requested advice and information with respect to the property and each applicant.

(B) The FmHA State Director should arrange with the Area Director or other appropriate local official of the BIA as to the manner in which the information will be requested and furnished. A State supplement will be issued to prescribe the actions to be taken by FmHA personnel to implement the making of loans under such conditions.

(xiv) EM loans secured by real estate on homestead and desertland entries will be made, serviced, and liquidated in accordance with Exhibit A of this Subpart.

(2) *Taking security instruments.* The taking and filing of security instruments will be in accordance with Subpart C of Part 1921 of this Chapter (chattels and crops) and with § 1904.127(d) (real estate).

(g) *Receiving applications:* (1) Applications for EM loans will be received as outlined in Subpart A of Part 1801 of this Chapter (FmHA Instruction 410.1) only in designated counties, except as provided in Exhibit D of this Subpart, paragraph IV B 6 a 3. Form FmHA 410–1, "Application for FmHA Services," will be used for this purpose.

(2) If the applicant is a partnership, personal financial statements will be obtained from each of the partners and included in the loan docket, in addition to the partnership's financial statement.

(3) If the applicant is a corporation, the following additional information will be obtained and included in the loan docket:

(i) A complete list of stockholders, showing the address, citizenship, principal occupation, and the number of shares of stock held in the corporation by each.

(ii) A current personal financial statement from each of the principal stockholders. For this purpose a principal stockholder is one owning or controlling as much as 20 percent of the outstanding stock of the corporation, or if no stockholder owns or controls as much as 20 percent, all stockholders will be considered principal stockholders. Any other stockholder whose financial statement, in the judgment of the loan approval official, would be pertinent to a consideration of the financial strength of the corporation and its stockholders will also provide personal financial statements.

(iii) A copy of the corporation's charter, articles of incorporation and bylaws, and a resolution(s) adopted by the Board of Directors or stockholders authorizing specified officers of the corporation to apply for and obtain the desired EM loan and execute required debt, security, and other instruments and agreements.

(iv) A copy of any lease, contract, or agreement entered into by the corporation which may be pertinent to a consideration of its application.

(4) The applicant's statement of loss or damage will be obtained in support of his application on Form FmHA 441–22, "Certification of Disaster Losses."

(i) Production losses will be shown on Form FmHA 441–22, by listing the estimated or actual crop yields or livestock production for the disaster year; the 5-year history of crop yields and animal units produced for all farm enterprises and information stating when and how the designated disaster caused the production losses.

(ii) Physical losses will also be shown on Form FmHA 441–22.

(h) *Additional EM loans.* Additional EM loans may be made for the same purposes and under the same conditions as an initial EM loan under the following conditions.

(1) When the applicant did not obtain a loan for the full amount of the actual loss authorized as reflected by the loss statement he filed, the applicant may, within one year after the statement is filed be considered for an additional loan, based on his initial application, for all or a portion of the loss balance not requested initially.

(2) Additional loans for reorganization of the farming operation made under § 1980.170(d)(3) of this Chapter must be made within one full crop year after the designation date.

(3) Borrowers who obtained loans for actual production losses, as reflected by the loss statement filed concerning their 1976 farming operations will upon request have their actual losses recalculated using the method provided for in § 1980.170(c)(1) of this Chapter and may receive an additional loan for any additional amount at a 5 percent interest rate.

(4) New appraisal reports of real estate will not be required if the appraisal report in the file is not over 2 years old unless the approval official requests a new appraisal report. Any changes in the value of real or chattel security will be recorded, dated and initialed by the authorized appraiser on the appropriate appraisal reports in the file.

(i) *Docket preparation.* Refer to Exhibit C of this Subpart for Insured Farmer Program (IFP) Processing Guide.

(1) A separate Form FmHA 440–1, "Request for Obligation of Funds," will be prepared for each amount of the total loan which is at a different interest rate or repayment period as established in accordance with paragraph (e) (1) and (3). The full amount of the loan as obligated on the Form FmHA 440–1 will be rounded to the nearest $10. Also, on Form FmHA 440–1 for EM loans approved for borrowers presently indebted for an EM loan, but having NEW qualifying losses from a subsequent major or natural disaster for which a Major Disaster Declaration Number (MDDN), Presidential Emergency Declaration Number (PEDN), SDDN, or SDAN has been assigned, the new appropriate disaster designation number will be shown. This number will be used for all subsequent EM loans approved unless the borrower has new qualifying losses from a different disaster for which another disaster designation number has been assigned.

(2) A separate promissory note will be prepared for each Form FmHA 440–1 used in obligating the total amount of the EM loan. Each scheduled installment will include interest in addition to principal unless deferment of principal is authorized in accordance with paragraph (e)(4). The first installment may not be less than the amount equal to interest on the loan from the estimated date or actual date of closing to installment due date.

(i) Form FmHA 441–1, "Promissory Note," will be used when a loan is scheduled for payment in unequal annual installments, or within one full crop year after loan closing.

(ii) Form FmHA 440–16, "Promissory Note," will be used when a loan is scheduled for payment in equal annual installments of three years or more. Also, this note may be used when the first two installments are unequal and the balance consists of equal installments.

(j) *Approval and closing.* Loans will be approved in accordance with the authorities and provisions contained in this Subpart and the loan approval conditions and authorities contained in Subpart A of Part 1901 of this Chapter. Refer to Subpart C of Part 1921 of this Chapter and § 1904.127 for the appropriate instructions on closing loans. Also applications for EM loans may be approved after expiration of the period for receiving such applications under a designation provided they were filed in the County Office before the termination date for receiving applications had expired.

(k) *Options, planning and appraisals.* Refer to Parts 1804 and 1809 of this Chapter (FmHA Instructions 424.1 and 422.1, respectively) for the appropriate instructions dealing with options, planning and appraisals.

(l) Form FmHA 431–2 and Form FmHA 431–4, "Business Analysis—Nonagriculture Enterprise," if applicable, will be prepared in accordance with Subpart B of Part 1924 of this Chapter. This planning process with the applicant is essential to making sound loans and, therefore, must receive careful attention in development of the loan docket.

(2) In instances where real estate is taken for additional security (for loans in which the primary security is subject to rapid depreciation or is of a high risk nature, such as crops) no appraisal report will be required for the additional security. For loans of not more than $10,000, an appraisal report will not be completed. In both instances the County Supervisor will determine that security is adequate and record his estimate of value in the running case record.

§§ 1904.171–1904.174 [Reserved]

§ 1904.175 Operating loans.

(a) *Program objectives.* The basic objective of an operating loan is to provide the credit necessary for eligible family farmers, ranchers, and rural youths to conduct successful operations.

(b) *Eligibility.* Insured OL eligibility requirements will be the same as are provided in § 1980.175 (b) and (c) of this Chapter except that § 1980.175(c)(3)(iii) will be disregarded.

(c) *Loan purposes and limitations.* Insured OL loan purposes and limitations will be the same as are provided in § 1980.175(d) of this Chapter, except that in § 1980.175(d)(1)(ix)(D) the cross-reference to § 1980.129 should be disregarded and the references found in § 1904.129 substituted instead. In addition, the following limitations will apply:

(1) An insured loan will not be used to supplement a guaranteed loan.

(2) An insured loan will not be made to refinance a guaranteed loan, except when the following conditions are met:

(i) The circumstances resulting in the need to refinance were beyond the borrower's control.

(ii) Refinancing is to the best interest of the Government and borrower.

(iii) The State Director and his staff determine that the objectives of the loan can be accomplished with an insured loan.

(3) FmHA may refinance a debt incurred under the terms of a formal subordination agreement even though the amount advanced may exceed the borrower's equity in chattels provided:

(i) The borrower will not receive sufficient income to repay the creditor, and the creditor has demanded payment.

(ii) The borrower's inability to pay the full amount is due to circumstances beyond his control such as depressed prices, accident, illness, pestilence, or catastrophe.

(iii) The creditor is contacted and the need for refinancing is documented in the County Office case folder.

(iv) The borrower is making satisfactory progress under prevailing conditions in becoming established in farming.

(v) An appraisal is completed on Form FmHA 440–21 to assist in evaluating the borrower's present financial status.

(d) *Rates and terms.* Refer to Part 1801 of this Chapter (FmHA Instruction 440.1) for the applicable interest rate. Refer to § 1980.175(e)(2)(i), (ii), (iii) and (v) of this Chapter for applicable terms. The following also apply:

(1) Repayment of principal may be deferred to the second or third January 1, following the date of the note.

(2) Advances for annual recurring production expenses or for paying bills incurred for such purposes for the crop year being financed ordinarily will be scheduled for payment on the first January 1 following the date the income from the year's operations would be received.

(3) The County Supervisor may use Form FmHA 440–9, "Supplementary Payment Agreement" for borrowers who receive substantial income from which payment is to be made before their installment due date.

(e) *Security.* The loan must be secured by a first lien on all property or products acquired, produced, or refinanced with loan funds and by any additional security needed to adequately secure the loan. Such additional security may consist of the best lien obtainable on real estate or other property. In justifiable cases the loan approval official may require a cosigner for youth loans.

(1) *Exceptions.* A lien will not be taken on:

(i) Property that cannot be made subject to a valid lien.

(ii) Subsistence livestock, household goods, small tools and equipment.

(2) *Relationship with other lenders.* The Government's lien may be subject only to the lien of another creditor for amounts advanced or to be advanced for annual operating and family living expenses for the operating or crop year. The County Supervisor will determine if the creditor will be required to execute Form FmHA 441–13, "Division of Income and Nondisturbance Agreement," or a similar form approved by OGC.

(3) *Title held by a contractor.* When title to a livestock or crop enterprise is held by a contractor under a written contract or the enterprise is to be managed

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by the applicant under a share lease, or share agreement, an assignment of all or part of the applicant's share of the income will be taken. The form used to obtain the assignment will be approved by OGC.

(4) *Assignment on income in UCC States*, an assignment on livestock or crop income constitutes a security agreement on income. The share lease, share agreement or contract will be described specifically as "Contract Rights" or "Contract Rights in Livestock or Crops," (or as "Accounts" or "Accounts in Livestock or Crops," if required by a State supplement), and so forth, in paragraph 1(b) of the financing statement.

(5) *Feed crop lien.* A lien on feed crops does not have to be taken when the crops are produced by the borrower and are used to feed livestock other than livestock being fed for market purposes when the loan is otherwise reasonably well secured.

(6) *Assignment of crop insurance.* Assignment of all or a part of Crop insurance proceeds may be taken to protect FmHA's interests.

(i) To obtain a claim on Federal crop insurance proceeds, an assignment will be prepared on Form FCI–20, "Collateral Assignment," furnished by the local representative of the Federal Crop Insurance Program. The assignment must be approved by the Federal Crop Insurance Corporation.

(ii) An assignment of other crop insurance proceeds is not required when the crop insurance policy contains a standard mortgage clause naming FmHA as mortgagee or secured party.

(7) *Income from products and program payments.* Assignments and Consents relating to income from products and program payments will be used when necessary to protect FmHA's interest as follows:

(i) Form FmHA 441–18, "Consent to Payment of Proceeds from Sale of Farm Products." For products or income except dairy products in which FmHA has a security interest under UCC.

(ii) Form FmHA 441–8, "Assignment of Proceeds from the Sale of Agricultural Products." For products or income in which FmHA does not have a security interest under UCC. Other forms approved by OGC may be used when this form is not adequate.

(iii) Form FmHA 441–25, "Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest." For dairy products in which FmHA has a security interest under UCC.

(iv) Assignment of incentive and agricultural program payments. Forms provided by Agricultural Stabilization and Conservation Service.

(8) *Real estate.* In individual cases, the loan approval official may recommend to the State Director that a lien on real estate be taken for additional security. Such a lien will be taken only when the chattel security is not adequate to protect FmHA interests, and the borrower has substantial equity in the real estate to be mortgaged, and taking such mortgage will not prevent making an FmHA real estate loan, if needed, later. The following items will be put in the case record before taking real estate for security:

(i) The facts justifying the real estate lien;

(ii) An estimate of the present market value of the real estate to be mortgaged;

(iii) A list of any existing liens on such property and unpaid balance on the debts secured by such existing liens;

(iv) The amount of the applicant's equity in the real estate to be mortgaged;

(v) The name of the title holder and the manner in which title of the property is held. (Title evidence is not required);

(vi) Each real estate lien taken as additional security for FmHA loans will be taken on Form FmHA 427–1 (State), "Real Estate Mortgage for ----------," unless a State supplement requires the use of a form of mortgage comparable to that which secures the existing loan(s) to be additionally secured. The notes evidencing the FmHA loans for which the additional security will be taken will be described in the same mortgage.

(9) *Fixtures.* An item is generally considered a fixture if it is attached to a building or other structure or to land in such a way that it cannot be removed without defacing or dismantling the structure, or substantially damaging the item itself. When determined necessary by OGC, a State supplement will be issued to further explain the taking of a security interest in fixtures.

(i) A security interest taken in goods *before* they become fixtures has priority over real estate interest holders.

(ii) A security interest taken in goods *after* they become fixtures is valid against all persons subsequently acquiring an interest in the real estate. However, it is not valid against persons who had an interest in the real estate when the goods become fixtures, unless they execute Form FmHA 440–26, "Consent and Subordination Agreement," or Form FmHA 440–6, "Severance Agreement."

(10) *Milkbase and grazing permits.* The advice of OGC will be obtained as to how to perfect a security interest when these items are financed or otherwise taken as security.

(11) *Stock in cooperative associations.* Loans only for the acquisition of memberships or the purchase of stock in cooperative associations may be made on the basis of the borrower's promissory note without taking security except as follows:

(i) An assignment, pledge, or other security interest in stock or other evidence of membership will be obtained provided it has security value. Such security interest also may be taken on significant amounts of dividends to be received from stock, memberships, or patronage, or on undivided profits and other retainages. The security interest will be in the form of an assignment, pledge, or other instrument and will be taken on forms and in the manner approved by the OGC. County Offices will retain water stock certificates and similar collateral. A notation will be made on Form FmHA 405–1 showing that such security has been retained.

(ii) In individual cases, loan approval officials may require a lien on crops or chattels as security for a loan made for the acquisition of a membership or stock if they determine that such action is necessary to protect the interest of FmHA due to such reasons as the amount of the advance or the borrower's financial situation.

(f) *Other Considerations.* (1) Applicants will be advised that they are expected to comply with any applicable special laws and regulations.

(2) Applicants receiving loans for a nonfarm enterprise will be advised of the possibilities of incurring liability and encouraged to obtain public liability and property damage insurance.

(3) FmHA employees will not guarantee repayment of advances from other credit sources personally or on behalf of applicants, borrowers, or FmHA.

(4) Applicants and borrowers will be encouraged to supplement operating loans with credit from other credit sources to the extent economically feasible and in accordance with sound management practices. The County Supervisor will document in the case file the reasons why the applicant is not obtaining such credit.

(5) Applicants will make acceptable tenure arrangements. Ordinarily, the applicant will obtain a satisfactory written lease and a copy will be filed in the County Office case file.

(6) Borrowers will receive assistance to achieve the objectives of the loan and to protect FmHA's interests. Such assistance consists of planning, recordkeeping, and analysis and will be provided in accordance with Subpart B of Part 1924 of this Chapter.

(7) Veterans, as defined in Subpart A of Part 1801 of this Chapter (FmHA Instruction 410.1) will be given preference over nonveterans. When available funds are inadequate to meet the needs of all applicants, applications from veterans will be processed first.

(g) *Docket preparation.* Refer to Exhibit C of this Subpart for IFP Processing Guide.

(h) *Approval and closing.* (1) The loan approval official's approval authority stated in Subpart A of Part 1901 of this Chapter is subject to the total principal balance of the proposed operating loan and any outstanding operating loans.

(2) Refer to subpart C of Part 1921 for loan closing instructions.

(i) *Subsequent loans.* Subsequent loans will be processed and closed in the same manner as initial operating loans.

(j) *Appraisals.* An appraisal on Form FmHA 440–21 will be required to determine the market value of security property and the borrower's equity position in the following instances:

(1) When an OL loan is made for refinancing purposes.

(2) When an OL loan is made for real estate purposes.

(3) When the County Supervisor determines it is necessary to assist in evaluating the borrower's financial status.

§§ 1904.176–1904.179 [Reserved]

§ 1904.180 Individual Farm Ownership (FO), Soil and Water (SW) and Recreation (RL) loans.

(a) *Program objectives.* The basic objectives of the FmHA in making FO, SW, and RL loans are:

(1) *For FO loans.* To assist eligible farmers and ranchers to become owner-operators of not larger than family farms.

(2) *For SW loans.* To encourage better conservation and use of soil and water resources on farms and ranches.

(3) *For R loans.* To assist eligible owners or tenants to convert all or a portion of their farms or ranches to outdoor income-producing recreation enterprises.

(b) *Eligibility.* The eligibility requirements for insured FO, SW, and RL loans will be the same as provided in § 1980.180 (b) of this Chapter.

(c) *Loan purposes and limitations.* (1) The loan purposes for insured FO, SW, and RL loans will be the same as set forth in § 1980.180(c) of this Chapter except that:

(i) In § 1980.180(c) the cross-reference to § 1980.129 should be disregarded and the references found in § 1904.129 substituted instead.

(ii) In § 1980.180(c) (4)(iv) and (5), the word "lender" should be read to mean "FmHA".

(iii) In § 1980.180(c)(6), disregard the phrase "and loan fees as authorized in § 1980.22 of this Chapter."

(iv) § 1980.80(c)(7) should be disregarded.

(2) In addition, the following limitations will apply:

(i) An insured loan will not be used to supplement a guaranteed loan.

(ii) An insured loan will not be made to refinance a guaranteed loan, except when the following conditions are met:

(A) The circumstances resulting in the need to refinance were beyond the borrower's control.

(B) Refinancing is to the best interest of the Government and borrower.

(C) The State Director and his staff determine that the objectives of the loan can be accomplished with an insured loan.

(3) *For FO, SW, and RL loans.* The combined total of individual farm real estate loans to a borrower cannot exceed $100,000, the market value of the farm and any other security, or the amount certified by the County Committee, whichever is less. The maximum debt (unpaid principal and past due interest) against the security will not exceed $225,000 or the market value of the security, whichever is less. Debts against other real estate an applicant owns or against real estate in which he has an undivided interest are not included in the $225,000 debt limitation unless the property will be security for the loan.

(4) *For SW loans only.* Exhibit F of this Subpart prescribes the procedure and authority for making Bureau of Reclamation loans to irrigators.

(d) *Rates and terms.* (1) *For FO, SW, and RL loans.* The interest rate is 5 percent.

(2) *For FO, SW, and RL loans.* Each loan will be scheduled for repayment over a period not to exceed 40 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security. The following exceptions will also be followed:

(i) An FO loan of $5,000 or less that is not secured by real estate will be scheduled for payment in 10 years or less from the date of the note.

(ii) An SW loan not secured by real estate or leasehold will be scheduled for payment in 20 years or less from the date of the note.

(iii) The initial principal payment may be deferred until the end of the second full crop year from the date of the loan. Such payments may be deferred only when the Form FmHA 431–2, covering the first full crop year indicates that there is not sufficient income to meet a regular annual installment on the loan after operating, family living, and other essential expenses are paid during the first or first and second full crop years. Further, in the judgment of the loan approval official, there must be adequate evidence that income in subsequent years will be sufficient to meet the requirements of the loan. Deferred payments should not be used to permit the accelerated repayment of other debts or to purchase an usually large amount of capital goods. Deferment will be justified only when adequate returns will be delayed on two full crop years and:

(A) A substantial reorganization of the farming system and any nonfarm enterprise is being made; or

(B) A new system of farming or nonfarm enterprise is being established that will require substantial improvements, such as land clearing, draining, leveling, irrigating, basic fertilizing, seeding, other land development, soil improvement, and development of extensive nonfarm facilities.

(iv) When an RH loan is made with an FO loan, interest credit may be applicable to the RH loan. Refer to Subpart A of Part 1822 of this Chapter (FmHA Instruction 444.1).

(e) *Security.* (1) *For FO, SW, and RL loans.* FO loans will generally be secured by real estate only, except in Texas nonreal estate security may be used due to unusual homestead laws. RL and SW loans will generally be secured by real estate except as provided in paragraph (e)(2) of this section. When real estate is taken as security for a loan the following requirements will be met:

(i) A mortgage on the entire farm owned by the applicant will be obtained except if the applicant's title to any part of the farm is defective and cannot be cured at a reasonable cost, or if State law will not recognize a mortgage upon it. The part of the farm to which the title is defective will be omitted from the appraisal. The maximum amount of loan funds which can be used to improve property which has a defective title or property not owned by the applicant is $5,000.

(ii) Except as stated in § 1980.180(c)(2) of this Chapter, if the applicant owns other real estate which is not a part of the farm, he will normally be required to dispose of the property before or simultaneously with the closing of the loan. If this is not feasible the loan can still be closed if the applicant agrees to dispose of the property as quickly as possible but not later than 2 years after loan closing. Form FmHA 443–17, "Agreement to Sell Nonessential Real Estate," will be executed at loan closing when this is the case. The security instrument will not include real estate that is to be sold. The FmHA State Director may permit an applicant to retain real estate that is not a part of the farm when any of the following conditions exist:

(A) The real estate provides employment or income which together with farm income is essential to the applicant's success.

(B) The real estate is the applicant's residence.

(C) A sale of the property would not materially reduce the applicant's need for a real estate loan or for operating credit; and provided further, in the case of an FO loan, retention of the real estate will not allow the borrower to operate larger than a family farm or own a farm for rental purposes.

(2) *For SW and RL loans.* Any loan of more than $60,000 and any loan to be paid in more than 20 years from the date of the note will be secured by a mortgage on the applicant's entire farm or leasehold unless an exception is made in accordance with paragraph (e)(1)(i) and (ii), of this section. A loan of less than $60,000, to be paid in 20 years or less may be secured by any combination of real estate, chattels or other miscellaneous security that cannot be converted to cash without jeopardizing the borrower's farming operations or means of livelihood. A chattel lien need not be taken when real estate is taken as security and such security is adequate. When other than real estate is taken as security the following conditions and requirements will be met:

(i) Whenever both real estate and chattel security are taken and the payment period of the loan will exceed the maximum life of the chattel security, the loan approval official will determine whether the real estate security will be adequate to secure the scheduled unpaid balance of the loan when the chattel security fully depreciates.

(ii) When the loan includes funds for items of equipment upon which a chattel lien is necessary to adequately secure the loan, a severance or subordination agreement will be obtained when appropriate.

(iii) In a State in which a chattel lien is not valid for as long as needed by applicants for the repayment of the loan, instructions for making loans se-

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cured by chattel liens will be included in a State supplement.

(iv) When a lien on equipment, other personal property, or a fixture is necessary to adequately secure the loan, it will be taken and kept effective as outlined in Subpart A of Part 1930 of this Chapter.

(v) When a loan is made only for the purchase of shares of water stock, such stock will be pledged or assigned as security for the loans and will be retained in the County Office. A notation will be made on Form FmHA 405–1 showing that such security has been retained. No other security is required if the stock represents the right to receive water for irrigation purposes and if the water right is transferable separately from the land and the stock can be resold readily by the pledgee or assignee, or if the purchase price is not greater than the price at which the stock in the particular company is normally sold.

(vi) A lien will be taken on the rights-of-way and easements owned or acquired by the borrower for use in connection with the proposed improvements or facility if it is necessary to do so in order to protect adequately the Government's financial or security interests.

(vii) A loan may be secured by a mortgage on a leasehold if it has negotiable value that is mortgageable. The mortgage on the leasehold may be supplemented by additional security. The unexpired term of the lease should extend beyond the repayment period of the loan to provide reasonable prospects that the objectives of the loan will be achieved. If the loan repayment period is equal to the period covered by the lease, the borrower must give other security of sufficient value to adequately secure the loan or the lessor must agree in writing to compensate the borrower at the expiration of the lease, or if the lease is terminated, for any unexhausted value of the improvements made with the loan. Loans secured by leaseholds will be subject to the following provisions:

(A) The lessor must own good and marketable title in the real estate. There may be a lien on it or the lessor may be acquiring it under contract providing the lien instruments or contract do not contain covenants that may jeopardize the Government's security, or providing any adverse covenants are waived.

(B) The lessor's consent to the mortgage will be acquired.

(C) The lessor must be required to give advance notice to the FmHA of his intention to cancel, terminate or foreclose upon the lease. Such advance notice will be long enough to permit the FmHA to ascertain the amount of delinquencies, the total amount of the lessor's interest and any other prior interest, the market value of the leasehold interest and, if litigation is involved, time enough to refer the case to OGC and to permit FmHA to take appropriate action.

(D) In any State in which real estate or chattel liens may be taken on leasehold interest in farmland and recorded so as to protect the mortgagee, a State supplement will be issued in regard to making loans to holders of such interests.

(3) *For SW loans only.* When a loan is made to a corporation, the note and mortgage will be executed by the appropriate officials on behalf of the corporation. The loan approval official may require principal stockholders to be personally liable for the debt when needed to protect the Government's interest. Each principal stockholder will sign the note as an individual in such cases.

(4) *For FO loans only.* (i) A loan of more than $5,000 and any loan to be paid in more than 10 years from the date of the note will be secured by a mortgage on the applicant's entire farm, except as provided in paragraph (e) (1) of this section.

(ii) A loan of not more than $5,000 to be paid in less than 10 years from the date of the note may be secured by real estate, equipment, livestock or other security that cannot be converted to cash without jeopardizing the borrower's farming operation or means of livelihood.

(iii) A loan of not more than $5,000 to be secured by real estate will be secured by the best real estate lien obtainable without the title clearance or legal services required in Part 1807 of this Chapter (FmHA Instrurtion 427.1), provided the County Supervisor believes from a search of the county records that the applicant can give a mortgage on his farm. However, the requirements of Part 1807 of this Chapter will be adhered to when the loan is being made simultaneously with that of another lender and when land is to be purchased.

(iv) *Personal property security—FO.* In addition to the requirement set forth in subparagraph (e) (4) (ii) of this section, selected items of personal property may be taken as security if such a lien will not interfere with the applicant's obtaining needed operating credit. Whenever a lien is taken on personal property as security for a loan, it ordinarily will be a first lien. Any equipment, personal property, or fixtures purchased with loan funds will be included in security instruments for the loan.

(5) *Junior liens.* A junior mortgage may be taken as security for a loan under the following circumstances:

(i) A junior mortgage may be taken as security if the prior lien(s) do not contain provisions for future advances, summary forfeiture, cancellation, or other provisions that may jeopardize the Government's security position or the borrower's ability to repay the loan such as payment schedules involving installments that the borrower cannot pay in an orderly manner. However, if such provisions of the prior mortgage(s) or lien(s) are satisfactorily limited, modified, waived, or subordinated, then the taking of a junior mortgage as security is permissible, provided:

(A) Agreements with prior lienholders regarding enforcement of objectionable provisions of their liens, or giving notice of foreclosure or assignment of their liens or both, will be obtained in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1), except as modified by the "Memorandum of Understanding—FmHA–FCA," Exhibit E of this Subpart.

(B) The applicant will be required to furnish the County Supervisor a copy of each mortgage held by the prior lienholder(s) and, if available, a copy of the note or other obligation before the docket is assembled, so a proper determination can be made as to whether it should be refinanced. In addition, the County Supervisor will be furnished a current statement from the mortgagee showing:

(*1*) The amount of unpaid principal secured by the mortgage(s),

(2) The amount of any accrued interest,

(3) Whether the account(s) is current or the amount of any delinquency with principal and interest shown separately, and

(*4*) If a copy of the note(s) is not provided, its maturity date repayment schedule, interest rate, and a summary of any other provisions of the note. This information will be included in the docket for the information of the loan approval official. Any cost incidental to obtaining the information will be paid by the applicant.

(ii) When junior liens are taken as a result of a loan made simultaneously with other lenders the following conditions will apply:

(A) The "Memorandum of Understanding—FmHA—FCA," Exhibit E of this Subpart, will serve as a guide in processing loans to be made simultaneously with loans by Federal Land Banks (FLB) to common applicants. The State Director may work out agreements for simultaneous loans by long-term lenders other than Federal Land Banks for eligible loan purposes. Such an agreement should prohibit future advances by the first mortgage holder except for taxes, property insurance, reasonable maintenance expenditures, and reasonable foreclosure costs, but should not prohibit subsequent FmHA loans. It should also cover items such as appraisal methods, title clearance, loan closing, the disbursement of funds, and, when appropriate, advance notices of foreclosure. It may also cover other items considered necessary or advisable for a sound FmHA second mortgage loan.

(B) The County Supervisor and the local representative of another lender should maintain a close relationship in processing loans to mutual applicants or borrowers. A realistic determination must be made of the extent to which FmHA and the other lender can assist the applicant or borrower before either lender makes a firm commitment on the assistance that can be given. The following determinations must be made before the County Supervisor and representative of the other lender are able to determine the amount of each loan: eligibility, applicant's total real estate needs, market value of the property, and the applicant's ability to pay his total obligations.

(C) When an initial loan is made at the same time as a loan from another lender, that lender's lien will have priority over the FmHA lien unless otherwise agreed upon. The lender's priority of lien can cover the following in addition to principal and interest: advances for payment of taxes, property insurance, reasonable maintenance to protect his interest, and reasonable foreclosure costs including attorney's fees.

(6) *Mineral rights.* Borrowers should obtain, to the extent practicable, all the mineral rights in any land being acquired. If it is questionable whether a sound loan can be made on property when all or part of the mineral rights are held by a third party, the County Supervisor will obtain the advice of the State Director before proceeding with development of the loan.

(7) *Miscellaneous security items.* Ordinarily, the applicant's farm is considered to include the land, buildings, fences, water, water stock, water facilities, and any other improvements and easements, rights-of-way, or other appurtenances which by custom pass with farms in the change of ownership. However, in some instances certain improvement items or facilities which usually pass with the farm in a change of ownership are considered personal property and would not be conveyed to the purchaser. In other instances items not generally considered to be a part of the real estate pass with the farm in a change of ownership. When the loan approval official determines the items involved are a part of the farm and necessary for its efficient operation, funds may be included in the FO loan to purchase such items. The County Supervisor, with the advice of the designated attorney, title insurance company, or the OGC, will ascertain that such items are free from any liens or encumbrances and are specifically included in the proper security instrument. Memberships in cooperative organizations purchased with loan funds will be assigned to the FmHA in a form acceptable to OGC.

(8) *FO loans to Indians secured by trust or restricted land.* The Department of Agriculture and the Department of the Interior have mutually agreed that FmHA loans which are to be secured by real estate liens may be made to Indians holding land in severalty under trust patents or deeds containing restrictions against alienation subject to statutes under which they may, with the approval of the Secretary of the Interior, give mortgages on their land which are valid and enforceable. Land in trust or restricted status purchased with FmHA loan funds may be acquired and held by the Indian in trust or restricted status.

(i) When a lien is to be taken on trust or restricted property in connection with a loan, the BIA will furnish requested information about the property and each applicant.

(ii) The FmHA State Director should arrange with the appropriate BIA official as to the manner in which the information will be requested and furnished. A State supplement will be issued to prescribe the actions to be taken by FmHA personnel to implement the making of loans under such conditions.

(f) *Other considerations.*—(1) *For FO, RL, and SW loans.* (i) It will be the responsibility of the State Director to determine if there are any areas in the State where the development of ground water for irrigation or recreational purposes, or the drainage of farmland is not recommended. A State supplement will be issued specifying the area in which available information indicates that the further development of ground water or drainage is not advisable without a further analysis of pertinent economic and physical data. If such areas exist, the State supplement will limit the making of loans within the areas to the repair or rehabilitation of existing irrigation facilities which will not result in the development of additional ground water in excess of the amount previously used, or contain such other restrictions as the State Director determines to be necessary.

(ii) When the soundness of the loan depends on income from the farm and other sources, the County Supervisor must determine that all of the sources of the applicant's income will likely be available to him on a continuing basis.

(iii) Income from nonfarm enterprises is considered to be "other income" rather than farm income. Form FmHA 431–2 will have sufficient information attached to determine the feasibility and soundness of the applicant's request for FmHA assistance in conducting nonfarm enterprises in conjunction with his farm operation. Such information will indicate whether the enterprise provides sufficient income to meet its operating expenses, depreciation, proportionate share of the debt, and makes a reasonable contribution to the family's income.

(iv) Form FmHA 440–9 should be used for each applicant who regularly (such as weekly, monthly, or quarterly) receives substantial income from off-farm source or from a nonfarm enterprise.

(v) Applicants receiving loans for nonfarm enterprises will be advised of the possibilities of incurring liability and encouraged to obtain public liability and property damage insurance.

(2) *For FO loans.* (i) When construction of a dwelling is planned and an applicant is eligible for an RH loan, an RH loan will be processed simultaneously with the FO docket. Dwellings will meet the requirements for RH loans required in Subpart A of Part 1822 of this Chapter (FmHA Instruction 444.1), except that consideration may be given to additional space requirements for facilities used for food preparation and storage, vehicle storage, laundry and office space, the size and cost of which will not exceed that owned by typical family farmers in the area.

(ii) If a farm is situated in more than one State, county, parish, or locality, the loan will be processed and serviced in the State, county, parish, or locality in which the borrower's residence on the farm is located. However, if the borrower's residence is not part of his farm, the FO loan will be serviced by the County Office serving the county in which the farm or a major portion of the farm is located unless otherwise approved by the State Office because of transportation difficulties for FmHA employees.

(3) *For SW loans.* (i) When the construction, repair, or use of a facility best can be accomplished through joint ownership by several individuals, a loan may be made to an individual applicant to participate in the joint ownership of the facility. Such a jointly-owned facility will be referred to as "group service," and will be limited to *not more* than 20 individuals, unless a larger group is authorized by the Administrator.

(ii) An operating agreement will be prepared which will outline the decisions of the group regarding the conditions of the ownership and use of the facility, the rights and responsibilities of the users. A simple written agreement usually will be sufficient; however, if the group service involves a complex operation an agreement similar to the "Operating Agreement" attached as Exhibit B may be used. Group service loans will be subject to the same general policies as other loans to individuals, except that:

(A) If a lien is taken on any group service borrower's real estate, and the jointly-owned facility is an essential part of his farm whether or not physically located on the farm, the lien taken will also cover such borrower's undivided interest in the facility.

(B) Borrowers who obtain loans to participate in a group service which involves acquisition of chattel property will secure their respective loans in accordance with the policies applicable to securing SW loans to individuals. If an individual loan cannot be adequately secured without taking a mortgage on the property to be purchased, a first mortgage executed by all participants in the group service may be taken on the purchased property as additional security.

(g) *Docket preparation.* Refer to Exhibit C of this Subpart for IFP Processing Guide.

(1) *Loans for irrigation purposes.* It is useful to have evidence or documentation of the following when loan funds are used for irrigation purposes:

(i) The land to be irrigated is suitable for irrigation.

(ii) The applicant has a right to use water for irrigation.

(iii) The water is suited for irrigation and of sufficient quantity for the amount of land to be irrigated.

(iv) Feasibility studies prepared by irrigation specialists should be included.

(2) *Other loan docket items.* The loan docket will also include title evidence or report of lien search, if available, foreclosure notice agreement, original or certified copy of deed, purchase contract or other instrument of ownership, the running case record, and the items required in § 1904.180(e) (5) (i). When the County Supervisor is the loan approval official, he may, in lieu of including the document evidencing ownership, include a statement in the docket indicating that he has seen and reviewed the document. If applicable, an explanation of the need for refinancing should also be included.

(h) *Approval and closing.* Refer to Part 1807 of this Chapter (FmHA In-

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struction 427.1), Subpart A of Part 1901 of this Chapter, Subpart C of 1921 of this Chapter, and § 1904.127 for the appropriate instructions for loan approval and closing, in addition to the following:

(1) *Applicant's financial condition.* The County Supervisor will review with the applicant the financial statement which was prepared at the time the docket was developed. If there have been significant changes in the applicant's financial condition, the financial statement will be revised and initialed by the applicant and the County Supervisor. When an applicant's financial condition has changed to the extent that it appears that the loan would be unsound or improper, the loan will not be closed.

(2) *Change in use of funds planned for refinancing.* (i) When funds are included in the loan to refinance debts, the County Supervisor is authorized to transfer funds planned for refinancing between debts, provided all debts for which loan funds were planned are paid and the amount of loan funds to be used for refinancing does not exceed the amount planned for such purpose. Nevertheless, the County Supervisor is authorized to use funds planned for other purposes to pay small deficiencies in estimates of the amount needed for refinancing, if he determines that sufficient funds will remain available to complete the planned farm development or land purchase.

(ii) When the total amount of debts planned to be paid have increased so that they cannot be met within the authorities in the above paragraph (h) (2) (i) of this section or the applicant desires to transfer funds to pay debts for which loan funds were not planned, a revised loan docket will be developed. If the County Supervisor is not authorized to approve the loan, it will be submitted to the loan approval official for reconsideration. If Form FmHA 443–12, "Farm Ownership and Individual Soil and Water Fund Analysis," has been revised and the loan is approved, the loan approval official will send a copy of the revised form to the Finance Office.

(3) *Assignment of income from real estate to be mortgaged.* Unless otherwise authorized by the State Director in an individual case, income to be received by the borrower from royalties, leases, or other existing agreements under which the value of the real estate security will be depreciated will be assigned and disposed of in accordance with Part 1871 of this Chapter (FmHA Instruction 465.1) including provisions for written consent of any prior lienholder. Authorization may be given by the State Director to refrain from taking an assignment of such income when the security is otherwise adequate, payment of the loan is reasonably assured from other sources, and the income has already been committed for other purposes or must be relied on by the applicant for essential living or operating expenses. When the County Supervisor deems it advisable, assignments also may be taken on all or a portion of income to be derived from nondepleting transactions such as income from bonus payments or annual delay rentals which will be assigned and disposed of in accordance with Part 1871 of this Chapter (FmHA Instruction 465.1).

(i) For assignment of income, Form FmHA 443–16 will be used, except that if the form is legally inadequate in a particular State it may be adapted with the approval of the OGC.

(ii) The County Supervisor, upon the advice of the designated attorney, title insurance company, or OGC, as appropriate, may require acknowledgment and recordation of the assignment. Any cost incident thereto will be paid by the borrower.

(iii) At the time Form FmHA 443–16 is executed, appropriate notations will be made on Form FmHA 405–1 to insure that the proceeds, or the specified portion of the proceeds, assigned to FmHA from the transactions are remitted at the proper time.

(4) *Obtaining insurance.* Buildings on the property which are to be taken as security for the loan will be insured in accordance with Subparts A and B of Part 1806 of this Chapter (FmHA Instructions 426.1 and 426.2, respectively).

(i) *Subsequent loans.* Subsequent FO, RL, and SW loans are made and closed in the same manner as initial FO, RL, and SW loans, except as follows:

(1) *For FO and SW loans.* A new appraisal of real estate will be required only when real estate is taken as security and one or more of the following exists:

(i) Subsequent loan funds will be used to purchase land or the mortgage will include additional land that is not presently covered by the FmHA real estate mortgage.

(ii) The County Supervisor or loan approval official requests a new appraisal report.

(iii) The latest appraisal report on the farm is over 2 years old.

(iv) The physical characteristics of the farm have changed significantly.

(v) The subsequent loan will be over $5,000.

(vi) In the case of an SW loan the SW debt after the subsequent loan is closed will exceed $60,000 and the previous balance was secured by chattels.

(2) *For recreation loans.* The borrower need not be engaged in farming, and new security instruments will not be required when the subsequent loan advance will be secured by the existing security instruments. If the borrower is no longer engaged in farming when the subsequent loan is made, the term "farm" will be construed to mean the tract or tracts of land, improvements, and facilities used in whole or in part for outdoor recreational enterprises.

(j) A subsequent loan for any RL purpose may be made without taking new security instruments when: (A) the existing security instruments cover all of the property required to serve as security for the subsequent loan; and (B) State law and the language of the existing security instrument will permit the future loan advance to be secured by the existing security instruments; and (C) the existing security instruments will provide the same lien priority for the subsequent loan as for the initial loan; and (D) the amount of the subsequent loan will be evidenced by a note; and (E) the amount of the subsequent loan will not cause the secured indebtedness to exceed the market value of the security or the total debt limitation provided in § 1904.180(c) or any amount stated as a limit in any future advance provision in the recorded mortgage.

(ii) If the existing recorded real estate mortgage does not cover all the property required to serve as security for the subsequent loan or if it does not contain a future advance clause which is sufficient to include the subsequent loan, a new real estate mortgage will be taken.

(iii) If the existing financing statement and security agreement, including the future advance and after acquired property provisions, do not provide the required coverage in all respects, a new financing statement and security agreement will be taken.

(iv) The market value used as a basis will be determined in the same manner as prescribed in § 1904.180(j).

(v) A new appraisal of real estate will be required only when one or more of the following conditions exist:

(A) Subsequent loan funds will be used to purchase land or when a mortgage on additional land is to be taken to adequately secure the loan.

(B) The loan approval official requests a new appraisal report.

(C) The latest appraisal report on the land is over 2 years old.

(D) The physical characteristics or values of the land have changed sufficiently to warrant a new appraisal.

(E) The real property was not appraised in connection with the initial loan.

(j) *Appraisals.* When real estate will be taken as security for the loan, the real estate will be appraised by an FmHA employee authorized to appraise farms in accordance with Subpart A of Part 1809 of this Chapter (FmHA Instruction 422.1).

(1) For a loan not exceeding $5,000 an appraisal of the farm to be given as security will not be made unless the County Supervisor or loan approval official is uncertain as to the adequacy of the security. If an appraisal is not made, the County Supervisor will indicate on a separate sheet his estimate of the market value of the real estate to be given as security. This sheet should be attached to the appraisal report.

(2) When nonreal estate items will be taken as security for a loan, a list of such items will be made on Form FmHA 440–21 or State form (if such a form has been developed) with an estimate of the market value of the security. In determining the market value of the chattel security, the County Supervisor will take into consideration the length of time the property will serve as security and its useful life. In the case of other security, the County Supervisor will include a supporting statement with his estimated value of such security. Such a statement will include a narrative description of the security, its current cash value, the relative stability of its value, and the manner in which the property is to be given as security.

§§ 1904.181–1904.200. [Reserved]

EXHIBIT A

(Supplements Subpart C of Part 1904, Part 1807 (FmHA Instruction 427.1), Subpart A of Part 1822 (FmHA Instruction 444.1), Subpart C of Part 1822 (FmHA Instruction 444.4), Subpart A of Part 1872 (FmHA Instruction 465.1), and Subparts A, B, C and D of Part 1955 of this Chapter.)

FARMERS HOME ADMINISTRATION LOANS TO ENTRYMEN ON UNPATENTED PUBLIC LANDS

I. *General.* This Exhibit provides additional policies and procedures applicable to (1) insured Farmers Home Administration (FmHA) loans to homestead and desertland entrymen which are to be secured by real estate, and (2) taking of real estate mortgages on entries to secure Farm Ownership, Soil and Water, Individual Recreation, Operating, Emergency, Single Family Housing, and Farm Labor Housing loans in connection with loan making and servicing.

A. *Authority.* The authorizations contained in this Exhibit clarify security and servicing for loans to entrymen and are based on Public Law 361. Attachment 1 is a Memorandum of Understanding between the Department of the Interior and the Department of Agriculture and outlines the general procedures to be followed when loans are made to entrymen. Reference to Guaranteed Loans in the Memorandum of Understanding is not applicable.

B. *Cooperation Between the Department of Agriculture and the Department of the Interior.* The extension of financial assistance and taking of real estate mortgages authorized in paragraph I A will be facilitated through the cooperation of the FmHA, the Bureau of Land Management (BLM), and the Bureau of Reclamation (BR), as provided in the Memorandum of Understanding.

C. *Special Policies Applicable to Dwellings, Land Improvement and Ownership.* An FmHA loan will not be made to an applicant who lacks the capital or who cannot obtain credit to provide (1) any required habitable dwellings within the statutory period specified in paragraph I D for the establishment of residence, and (2) land development sufficient for success but in no case less than that necessary to meet the entry requirements. The Notice of Allowance of Entry is adequate to meet the ownership requirement until the patent is issued.

D. *Patent Requirements.* All entrymen will be expected to keep in contact with appropriate officials of the BLM, and BR and comply with pertinent laws and regulations of these Agencies relating to the issuance of patents for homestead or desertland entries. When applicable, reclamation proof must be filed by the borrower at the earliest possible date. Likewise, FmHA personnel concerned with making and securing FmHA loans to entrymen should acquaint themselves with BLM and BR representatives and keep informed of their regulations relating to the issuance of patents for homestead or desertland entries, including but not limited to the following:

1. Residence and Development Requirements. A homestead entryman must establish residence upon the tract entered within 6 months after date of the entry unless an extension of time is allowed and must maintain a residence there for 3 years. He should notify the authorized officer of the BLM upon establishing residence. When an FmHA loan is made for any purpose, the requirements of the applicable FmHA regulations must be met. Likewise any residence or development requirements of BLM or BR will be met.

2. Final Proof. Specific requirements for final proof for homestead entrymen is found in 43 CFR § 2515.7 and final proof for desertland entrymen is found in 43 CFR § 2521.6.

a. Homestead Entryman. Final proof must be filed within 5 years from the date of allowance of entry. A patent will not be issued until the entryman has submitted final proof. Final proof must show that (1) a habitable dwelling is on the land at the time proof is submitted, (2) residence requirements have been met, (3) the improvements are of such character as to show good faith, and (4) the entryman is a citizen of the United States. When the entryman is ready to submit final proof he should notify the BR and request instructions regarding the procedure to be followed.

b. Desertland Entryman. Final proof must be made within 4 years from the date of entry. General requirements of the BLM that must be met include: (1) Filing a map at the initiation of the entry showing the method of irrigation and the proposed source of water supply, (2) an annual expenditure for 3 years of not less than $1 for each acre in the necessary development of the land, (3) filing a map at the end of the third year showing the character and extent of improvements, and (4) yearly proof of expenditures containing statements of two or more credible witnesses who have knowledge that the expenditures were made. The County Supervisor should consult the BLM official for any additional requirements of the entryman such as preparing a notice of intention to make final proof, publication of final proof and submission of final proof.

3. Reclamation Proof. Reclamation proof for homestead entryman may be submitted with, or at any time after, the submission of homestead proof. In addition to the final homestead proof mentioned in paragraph I D 2, the filing of reclamation proof is required as a condition for obtaining a patent to any entry within a reclamation project. Reclamation proof must show reclamation and cultivation of at least one-half of the irrigable area in the entry for 2 years immediately preceding the date of submission of proof and the payment of all reclamation charges due at that time. Reclamation proof, in proper form, must be submitted to the official in charge of the project accompanied by the payment of final homestead commissions.

II. *Loan Processing.* When making an FmHA loan to be secured by the entryman's land, existing FmHA policies, procedures, and loan authorities applicable to the particular type of loan will be met, except as follows:

A. *Applications.* 1. Applications From Entrymen Not in a Federal Reclamation Project. An application for an FmHA loan from an entryman with respect to public land not within a Federal reclamation project will be considered only after the entryman has selected a farm and received his Notice of Allowance of Entry from BLM. The original or a copy of the document showing allowance of entry must be attached to Form FmHA 410–1, "Application for FmHA Services."

2. Applications From Entrymen in a Federal Reclamation Project. An application for an FmHA loan from an entryman with respect to public land within a Federal reclamation project will not be considered until after the entryman has received a Certificate of Eligibility from BR and has selected a farm. If at the time of making application the entryman has received his Notice of Allowance of Entry from BLM, he will attach the original or a copy of such document to Form FmHA 410–1. If the entryman has not received his Notice of Allowance of Entry, a copy of his Certificate of Eligibility must be attached to the FmHA application. However, the docket will not be approved until the original or a copy of the document showing Notice of Allowance of Entry has been received from the applicant and placed in the loan docket.

3. Supplemental Information on Applicant. At the time of making application for an FmHA loan to be secured by real estate, the entryman may be requested to authorize the FmHA to obtain from BLM or BR any available information concerning his application for homestead, desertland, or reclamation entry for use by the FmHA in determining his eligibility for the loan as provided in the Memorandum of Understanding.

B. *Special Items in Development of Loan Dockets for Loans to be Secured by the Entryman's Land.* Loan dockets for loans to entrymen will be prepared and distributed in accordance with the applicable FmHA regulations, except as modified by this paragraph.

1. Development Plan. An extra copy of Form FmHA 424–1, "Farm Development Plan" will be prepared and sent to BLM in each case. When the entryman's farm is located in a Federal reclamation project, any development items listed on Form FmHA 424–1 must be consistent with the overall plans for development of the reclamation project. Consequently, when Form FmHA 424–1 provides for the leveling of land or the installation of farm distribution and surface drainage systems, another extra copy will be prepared and sent to the Reclamation Project Officer as soon as the County Supervisor determines that there is a reasonable likelihood that the loan will be made. If Form FmHA 424–1 conflicts with the overall BR plans for the development of the Federal reclamation project, officials of the BR will so advise the County Supervisor. The processing of the loan will not be delayed while awaiting such advice from BR but the FmHA loan will not be closed until Form FmHA 424–1 is revised to make it consistent with the BR plans. The County Supervisor will advise the Project Officer or Authorized Officer in writing whenever changes are made in the plans approved by the FmHA.

C. *Title Clearance.* 1. The entryman applicant will be required to furnish and pay for a certified statement prepared by a qualified title examiner or abstractor or as otherwise required by a State supplement which will include findings with respect to any outstanding land leveling contracts and any other claims of any kind on record against the entry. This certified statement will be included in the loan docket. Where there is an outstanding land leveling contract, the applicant's copy of such contract also will be included in the loan docket and returned to the borrower when the loan is closed.

2. The State Director, upon advice from the Office of the General Counsel, will inform the County Supervisor regarding the acceptable form of certified statement required in paragraph II C 1.

D. *Loan Closing.* Except as provided by this Exhibit, FmHA loans will closed in accordance with the applicable FmHA regulation.

1. Real Estate Mortgage Forms. Whenever the entry is located within a Federal reclamation project two extra copies of Form FmHA 427–1, "Real Estate Mortgage," will be prepared. If the entry is not within a Federal reclamation project, one extra copy of the real estate mortgage will be prepared. After the loan has been closed, a conformed copy of the real estate mortgage will be sent to BLM and, if the entry is located in a Federal reclamation project, a conformed copy of the mortgage also will be sent to the BR. The entryman's serial number which appears on the original document showing Notice of

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Allowance of Entry will be typed on the original, and the conformed copies of the mortgage for BLM and BR will indicate the date and place of recordation and the book and page numbers.

2. **County Office Record of Allowance of Entry.** When the loan is closed a copy will be made of the original document showing Notice of Allowance of Entry for the borrower's county office case folder, unless a copy was furnished. The County Supervisor will sign the following certification which will be typed on this copy:

"I hereby certify that this is an exact copy of the Notice of Allowance of Entry issued by the BLM to _____ residing

(Entryman's Name)

at _____

(Entryman's Address)

_____

(County Supervisor)

When the original document showing allowance of entry is furnished, it will be returned to the borrower.

3. Entries Required on Management System Cards. Upon closing the loan, the County Supervisor will enter a notation on the borrower's Management System Card (Form FmHA 405–1) as to the date when the borrower must submit final proof to the BLM in fulfillment of the requirements to obtain a patent. If residence has not been established, a notation also will be made on the Management System Card of the date such residence must be commenced. It will be the responsibility of the County Supervisor to follow through to see that the borrower completes these actions.

III. *Mortgage on Real Estate for Additional Security.* When it is deemed advisable to take a mortgage on the homestead or desertland entry as additional security or to otherwise protect the interests of the FmHA, a real estate mortgage will be taken on such entry. The mortgage will be taken as authorized in Subpart A of Part 1872 of this Chapter (FmHA Instruction 465.1). In such a case, a copy of the real estate mortgage will be sent to BLM and, if the farm is located in a Federal reclamation project, a copy of the mortgage also will be sent to the BR.

IV. *Default and Disposal of Units.* The County Supervisor will coordinate with the local BLM and BR representatives and keep the State Director currently advised on any cases in default or where default is anticipated. The State Director will be guided by Attachment I and advice of the Office of the General Counsel in fulfilling FmHA's responsibilities for disposal of any units on which a patent has not been issued. Units on which a patent has been issued will be serviced by applicable FmHA procedures.

Memorandum of understanding between the Department of Agriculture and the Department of the Interior relating to financial assistance by the Farmers Home Administration to entrymen on public lands.

PART I

PURPOSE AND DEFINITIONS

A. *Purpose.* The purpose of this memorandum is to outline the general procedure to be followed by the Farmers Home Administration (FHA), the Bureau of Land Management (BLM), and the Bureau of Reclamation (BR), when FHA extends financial assistance to entrymen on unpatented public lands, including public land in reclamation projects.

B. *Definitions.* Unless otherwise indicated in this memorandum:

(1) The term "unit" will be used to describe an adequate family farm, less than adequate family farm, a portion of a farm or any other tract of land.

(2) The term "FHA" also includes its insured lenders and guaranteed lenders.

(3) The term "outstanding balance" includes (a) the unpaid indebtedness under the FHA mortgage, (b) any unpaid costs owed to BR for construction by it of a special distribution system to serve a unit where such costs have been allocated to the unit as a separate item, and (c) any portion of an SW association loan made by FHA for construction of a domestic water system to serve the unit and secured by a lien on the unit. It does not include any portion of an SW association loan made by the FHA for construction of a domestic water system to serve the unit and not secured by a lien on the unit, nor project construction costs charged to the unit.

(4) Public Law 361, 81st Congress (7 U.S.C. 906a and 1006b), is referred to as "P.L. 361." It applies to Farm Ownership (FO), Operating (OL), Soil and Water Conservation (SW) loans made to individuals and Recreation (RL) loans to individuals under the Consolidated Farm and Rural Development Act of 1972 (7 U.S.C. 1921) and prior laws. It does not apply to Emergency (EM) loans made under that act or prior laws, nor to Housing (RH) loans made under Title V of the Housing Act of 1949 (42 U.S.C. 1471), or to any other loans made or administered by FHA.

(5) Public Law 419 (86 Stat. 675) amended P.L. 361 to add desertland entrymen as eligible for the same loans as indicated in (4) above.

(6) The term "Project Officer" refers to the BR Officer who may properly hold the requisite responsibility for the project or area in question.

(7) The term "authorized officer" refers to the BLM Officer to whom has been delegated the required responsibility for the area in question.

(8) The term "County Supervisor" means County Supervisor for FHA.

(9) The term "State Director" means State Director for FHA.

PART II

GENERAL PROVISIONS

A. FHA regulations will govern making and servicing FHA loans, including the taking of mortgages as additional security for existing FHA loans.

B. In connection with applications for FHA loans or credit sales to eligible applicants, the Project Officer of BR or the authorized officer of BLM, upon written request of the County Supervisor, will furnish the following:

1. Written consent to make the applicant an FHA loan or to secure an existing FHA loan.

2. Any information which BR or BLM has concerning the applicant, provided, in the case of BR information, the request has the following authorizations attached to it.

"Date _____, 19--

I hereby authorize the Bureau of Reclamation to make available to the Farmers Home Administration any information the Bureau may have concerning my transactions with it. This information may be used by the Farmers Home Administration in determining my eligibility and qualifications for a loan, and is to be treated as confidential.

(Type name of applicant below signature.)

(signed _____
(applicant)

(signed _____
(spouse)

3. A statement of account, showing the applicant's outstanding balance if there is a debt owed to BR (principal balance, accrued unpaid interest, and daily interest accrual rate, any other charges and any unpaid special distribution system costs, and the amount delinquency).

4. A report on any development and residence requirements which have not been completed and on eligibility of the unit for water, including full information on the status of any excess land.

5. Advice as to whether the applicant is in default because of failure to pay water charges, or because of breach of any other agreements with the Bureau of Reclamation.

C. A homestead entryman or desert land entryman on public land not in a reclamation project may apply to the County Supervisor for an FHA loan when his entry has been allowed. The original or a copy of the Notice of Allowance of Entry from BLM must be attached to the application for a loan from FHA. Upon request of the County Supervisor, the authorized officer of the BLM, to the extent applicable will furnish any information that office has with respect to the applicant entryman.

An applicant for a homestead on a reclamation project likewise may apply to the County Supervisor for an FHA loan when he has received from the BR a Certificate of Eligibility and has selected a unit. A copy of the Certificate of Eligibility must be attached to the application for a loan from the FHA unless the unit has been entered, in which case the Notice of Allowance of Entry will be attached to the application for a loan. Each application for such a loan filed by an entryman will be processed in substantially the same manner as other application of a similar character, including the preparation of the loan docket, certifications by the FHA County Committee, and approval by the duly authorized loan approving official. If any conflict exists between the development plans of FHA and BR or BLM, the difference must be reconciled prior to loan closing. A copy of the Notice of Allowance of the Entry will be required in the loan docket before a loan is closed.

D. Upon closing of a loan to an entryman, when real estate security is taken, the County Supervisor will send copies of the real estate mortgage to the authorized officer of BLM, and to BR if appropriate. The County Supervisor will indicate on the mortgage the date such instrument was filed for record and the entryman's homestead or desert land entry serial number. Copies of these instruments will serve as notification to BLM or BR that a loan has been made by FHA and may be used in connection with the servicing of such loans as indicated herein.

PART III

LOAN SERVICING

A. If the entryman-borrower repays his indebtedness in full to FHA before a patent is issued to him by BLM, the County Supervisor will promptly notify the BLM authorized officer of the release of the mortgage lien.

B. When final homestead or desert land entry proof or homestead proof and reclamation proof submitted by an entryman-borrower is accepted by the BLM and a patent is issued before BLM is notified of the full repayment of the indebtedness to FHA, the patent issued will make reference to the FHA mortgage as follows:

"This patent is issued subject to the rights of the United States under a certain mortgage or deed of trust executed by _____ and _____ under date of _____, 19--, recorded in Book _____, Page ____ of the records of the Recorder of Deeds for _____."

In such cases, if the patent is issued to a person other than the mortgagor or the purchaser at foreclosure of the mortgage, there shall also be inserted after the recital of recordation of the mortgage the following words: "which the patentee assumes and agrees to pay."

C. Upon issuance of the patent to the entryman-borrower, the authorized officer of BLM will notify the State Director that the patent has been issued and mailed to the entryman-borrower. Upon such notification, the County Supervisor will advise the entryman-borrower to record the patent promptly in the real estate records in the county in which his unit is located, and will check the records to determine that the recordation has been accomplished. The issuance of the patent will terminate any further relationship between BLM and FHA insofar as the entryman-borrower is concerned.

D. In the event that an entryman-borrower has not submitted Final Proof within the statutory period from the date of allowance of his entry, BLM will send to the County Supervisor a copy of the Notice of Expiration of the statutory period of entry when it is mailed to the entryman-borrower. The copy of the notice will be used by the County Supervisor in urging the entryman-borrower to submit Final Proof with appropriate explanation of his failure to do so before the expiration of the statutory period.

PART IV

DEFAULTS

When an entryman-borrower is in default in the terms of his mortgage to FHA, in complying with requirements to obtain a patent, or in meeting the requirements to make reclamation proof, the following procedures will apply:

A. *Default on Mortgage.* BLM will issue a decision cancelling any entry upon which there is an FHA mortgage when so requested in writing by the State Director. FHA may request a cancellation whenever any default occurs in the terms, conditions, covenants, and obligations contained in the mortgage. Included among the terms, conditions, covenants, and obligations in the mortgage taken by FHA will be the provision that the entryman-borrower must comply with the legal and administrative regulations for the issuance of a patent and, if the entry is located in a reclamation project, with the legal and administrative regulations for making reclamation proof.

1. The State Director will furnish the authorized officer of BLM with an explanation of the need for cancellation. When the entry is located in a reclamation project, the State Director also will notify the BR Regional Director and furnish him with an explanation of the need for cancellation.

2. The BR Regional Director may request the State Director to reconsider the necessity for cancellation of the entry when (a) an outstanding contract between BR and the entryman-borrower for the repayment of charges for land leveling, or (c) the entryman-borrower has not made reclamation proof. If such a request is made, a copy will be furnished to the BLM which shall suspend action on the FHA request until further notified by the FHA. Ordinarily, BR will not request a reconsideration of the necessity for cancellation unless there appears to be a reasonable basis upon which a solution can be worked out so that the entryman-borrower may retain possession of his unit.

3. If BR does not ask the State Director to reconsider his request to cancel within thirty days, BLM will issue a decision cancelling the entry.

4. If BR asks for a reconsideration of the request to cancel, it will furnish the State Director immediately new information which it believes should be considered by FHA in reaching a decision. When FHA has reached a final decision, it will notify the BLM and the BR of the decision reached. Within thirty days after receiving notice of the final decision of the State Director that the entry should be cancelled, BLM will notify the entryman-borrower of the cancellation of his entry in accordance with the usual procedure. A copy of the notice of the cancellation will be mailed to the State Director at the same time.

B. *Default in Meeting Entry Requirements.* If BLM proposes to take any action toward cancellation of an entryman-borrower's entry, it will notify the State Director and the BR Regional Director if the unit is located in a reclamation project, in writing at least thirty days before any action is commenced. The notification will be accompanied by an explanation as to why cancellation will be made. Within the thirty-day period either or both FHA and BR may present any new information for the consideration of the BLM in reaching a decision to, or not to, cancel the entry. When BLM has reached a final decision, it will inform the State Director and the BR Regional Director.

C. *Default in Meeting Reclamation Requirements.* In the event BR intends to recommend cancellation of an entryman-borrower's entry, the Superintendent of the Reclamation Project will notify the State Director in writing at least thirty days before such recommendation is to be submitted to BLM for cancellation. The notification will be accompanied by an explanation as to why cancellation of entry is to be requested. FHA may request a reconsideration of BR's intended recommendation to cancel within the thirty-day period and will furnish any new information which it believes should be considered by BR when reaching a final decision. When BR has reached a final decision, it will notify the State Director.

PART V

DISPOSAL OF UNITS AFTER CANCELLATION OR RELINQUISHMENT

After cancellation or relinquishment of an entry upon land on which FHA holds a mortgage, such land shall be opened to reentry only to persons eligible for an original entry, and eligible for an FHA loan unless the FHA loan is paid in full. Any unit disposed of hereunder shall be subject to the outstanding balance owed to FHA and BR, or to that portion of the outstanding balance as agreed upon by the FHA and BR or BLM, as appropriate, if the entryman is eligible for an FHA loan.

A. *One Year Limit.* Under Pub. L. 361, BLM or BR can permit a new entry only during one year after cancellation or relinquishment of the old entry where the FHA mortgage is subject to Pub. L. 361 (FO, OL & SW). In other cases such as RH and EM, the one-year limitation does not apply, but BLM or BR will nevertheless arrange for a new entry within the one-year period if it is practicable to do so.

B. *Custody and Expenses.* While BLM or BR has disposal authority it will assume custodial responsibility for the unit, but the County Supervisor and the Project Officer will determine the actions necessary to protect the interests of both FHA and BLM or BR. Any expenses incurred for protection of FHA's interest will be paid by FHA and added to the mortgage debt.

C. *Disposal of Units.* 1. *Within a Reclamation Project.* As soon as possible, after cancellation or relinquishment, FHA will make an appraisal to determine the value of the property and will report its findings to BR on appropriate FHA appraisal forms. The State Director and the BR Regional Director after receipt of the report by BR will jointly participate in determining the amount of indebtedness owed to the United States which shall be required in accordance with existing law to be paid and the terms under which repayment will be made.

a. BR will, thereafter, for that particular unit, proceed to inform the public of the availability of the unit in accordance with its established procedures. However, before BR issues a Certificate of Eligibility to any applicant for re-entry it will submit to the County Supervisor (a) a list of the names of the applicants who can qualify for a Certificate of Eligibility and the order in which such applicants shall be considered, and (b) the information submitted by each of the qualified applicants in support of his application for the entry.

b. The County Supervisor and the County Committee will examine the list and the information to determine which of the applicants are eligible for an FHA loan. The list of any documentary information furnished will be returned to BR with a written statement setting forth the names in the list which are eligible for FHA assistance. Upon receiving such information from FHA, BR will proceed to select, in accordance with established procedures, from among the applicants determined to be eligible for a Certificate of Eligibility and an FHA loan, one applicant and not to exceed two alternate applicants, to whom the unit may be awarded upon qualifying to assume the indebtedness.

c. BR will issue a Certificate of Eligibility to the selected applicant. The Certificate of Eligibility will be sent to the FHA County Supervisor who will instruct the applicant to file his Certificate of Eligibility and application for entry with BLM which will issue a Notice of Allowance of Entry if the applicant is qualified to make entry. The applicant will be allowed to occupy the unit when he has received the Notice of Allowance of Entry and has completed arrangements to assume the required amount of indebtedness owed to FHA or to refinance such indebtedness. FHA will send a copy of the assumption agreement or note and mortgage, if any, executed by the new occupant to BR and BLM.

d. FHA may permit an eligible person to whom the unit is awarded to assume that part of the indebtedness determined to be within the value of the property.

2. *Units Not Within a Reclamation Project.* As soon as possible, after cancellation or relinquishment, FHA will make an appraisal to determine the value of the property and to determine the amount of indebtedness owed on FHA loans that is to be paid by the new entryman. The FHA will report the amount of the FHA debt to be assumed to the BLM.

a. The BLM will, thereafter, for that particular entry, proceed to inform the public of the availability of the land in accordance with its established procedures. BLM will, following the opening of the land to application, submit to the County Supervisor (a) a list of the names of the applicants who can qualify for the allowance and the order in which such applicants shall be considered, and (b) the information submitted by each of the applicants in support of his application.

b. Thereafter the FHA will select from the list the first applicant for the entry who can qualify for an FHA loan.

c. FHA will then notify BLM of the applicant selected. The authorized Officer will, as soon as possible after notification, issue the Notice of Allowance. The Allowance of Entry or an attachment thereto will show that entry is conditioned upon payment or assumption of the FHA debt. A copy of appropriate notice will be mailed to the State Director.

d. Upon receipt of the Notice of Allowance of Entry by the applicant, FHA will instruct him to occupy the unit and will complete arrangements for him to assume or refinance

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the indebtedness or the part thereof determined to be within the value of the property. FHA will send a copy of the assumption agreement or note and the mortgage, if any, executed by the new occupant to BLM.

e. FHA may permit an eligible person to whom the entry is allowed to assume that part of the indebtedness determined to be within the value of the property.

D. *Disposal of Units by Farmers Home Administration.* 1. If no entry is allowed within one year after cancellation or relinquishment of a prior entry on which FHA holds a mortgage and the property was security for an FHA loan subject to P.L. 361 even though it also was security for a loan not subject to that law, FHA will dispose of the unit in accordance with FHA regulations. If the unit is located on a reclamation project, such disposition shall be subject, however, to outstanding reclamation charges on the land due the United States.

2. If the property cannot be sold immediately, the FHA will arrange for a lease or caretaker agreement as necessary to protect the Government's interests.

3. When FHA prepares to sell a unit, it will also advise BLM or BR, as appropriate, of the name of the purchaser and will request issuance of a patent to the purchaser. If the unit is in a reclamation project, BR will furnish, as soon as possible to FHA, information concerning any outstanding reclamation charges on the land due the United States.

4. The sale may be for cash or on credit. In the event the sale is on credit, FHA will furnish a copy of the mortgage to BLM or BR, as appropriate, which shall make reference, in any patent issued thereafter, to the outstanding mortage of FHA.

This memorandum of understanding supersedes the earlier memorandum of understanding signed on February 17, 1950, and March 25, 1950, respectively, by the Secretaries of Agriculture and Interior.

Approved:
Dated: October 22, 1974.

JACK O. HORTON,
Assistant Secretary of the Interior.

Approved:
Dated: December 16, 1974.

WILLIAM ERWIN,
Assistant Secretary of Agriculture.

EXHIBIT B

OPERATING AGREEMENT

This Agreement, made this ____ day of _____, 19____, by and between _____, _____, _____, _____, _____, _____, and _____, (hereinafter referred to as "users"), constituting all the users of that certain water facility situated in the County of _____, State of _____, and more particularly described in item 2 of this agreement.

Witnesseth: In order to define more specifically the rights and duties of the users, it is mutually agreed as follows:

1. This agreement shall not become effective until signed and acknowledged by all the users; but when so signed and acknowledged it shall become effective as of the date hereinabove specified.

2. The facility consists of the following: [1]

a. The main conduits, such as canals, ditches, pipelines, flumes, and siphons and the rights-of-way and easements described as follows:

_____
_____
_____

b. The sites for pumping plant, diversion works, or storage works, being a certain parcel(s) of land situated in the County of _____, State of _____, containing _____ acres, more or less, and more particularly described as follows:

c. Pumping plant, diversion works, or storage works (specify and describe):

_____
_____
_____

d. Source of water supply: _____

e. Water right (description and references to filing, permit, decree, or other means of identification and quantity of water:):

_____
_____
_____

3. Said facility is owned by the users in the proportionate interest specified on their respective signature pages hereto attached, and the users are entitled to have services from said facility to the lands described on the respective signature pages in the proportion that the interest of each user bears to the total of the interests of all the users.[2]

4. Except as hereinafter provided in item 6, said facility shall be operated only for services on the lands of the users. When only a part of the tract of land described on any signature page hereto is transferred, the interests of the users shall be redetermined by written agreement if the party to whom such tract portion is transferred wishes to become a user of said facility.

5. Each user agrees to pay his proportionate part of the cost of constructing, altering, improving, repairing, maintaining, operating, and supervising said facility in the ratio that his interest in the facility bears to the total interest of all users.[2] Payments for initial construction, alteration, improvements, or repair of said facility shall be due and payable when this agreement becomes effective. Payments for the annual costs of maintaining, operating, and supervising said facility shall be due on or before the ____ day of _____ of each year unless a different date of payment is agreed upon by the users owning the majority of the interests and annual payments shall become delinquent 15 days thereafter. If the holder of any lien on the land of any user shall have filed with the manager appointed under this agreement a written request for notice of unpaid delinquent charges apportioned to such user, no action shall be commenced by the group for the unpaid amount due from such user until 15 days after written notice of the amount of such unpaid charges is mailed to such lienholder. No user shall be entitled to services when delinquent in such payments. The costs of installing, operating, and maintaining branch conduits and rights-of-way from the main conduits of the facility described in paragraph 2 as to the lands of one or more users shall be borne by the respective user or users.

6. Services may be provided to persons who are not parties to this agreement only upon the following conditions:

a. When the facility has a capacity in excess of the reasonable needs of the users, when needed by such persons not users during an emergency shortage, or when such persons are neighboring landowners to whom no other source of like service is equally available; and

b. When such service is made pursuant to a written contract consented to in writing by all the users and such service is paid for at rates specified in said contract.

7. Each user hereby grants and confirms to every other user named herein such rights-of-way across any of the lands hereinafter described as may be necessary to enable every user to convey to his respective lands his proportionate share of service from said facility, or from any facility that may be constructed to replace the present facility, together with a right of ingress and egress for the purpose of operating and maintaining the facility now or hereafter installed.[3]

8. A manager of the facility shall be elected by a majority of the users at the regular annual meeting and shall serve in such capacity for a period of one year, or until his successor is elected. A meeting for the election of the first manager shall be held within 30 days after the effective date of this agreement. The manager shall receive $_____ per _____ as compensation. It shall be the duty of the manager to keep all minutes, books, accounts, papers, and records in connection with the facility; to supervise the operation, maintenance, repair, and improvement of the facility, and to apportion the costs thereof and notify the users in writing of the charges payable by them respectively; to collect such charges; and to regulate the distribution of services among the users. A manager may be removed from office before the expiration of his term and a successor elected for the unexpired portion of his term by vote of a majority of the users.

9. The regular annual meeting of the users shall be held on the ____ day of _____. The manager shall notify all users of the time and place thereof, by written notice to each, mailed or delivered personally at least 48 hours before the annual meeting. Special meetings may be called at any time by written notices thereof signed by the manager or by at least two users and delivered personally or by mail to all users at least 48 hours before the time of the meeting. At each meeting, a majority of the users shall constitute a quorum, and at each meeting the manager shall preside.

10. This agreement may be amended by a majority of the users at a regular annual meeting or at any special meeting called for such purpose.

In witness whereof, the owners of interest in said facility have signed their names hereto and have specified their interests in the facility as shown on the signature pages attached hereto, numbered as pages ____, ____, ____, ____, and ____.

SIGNATURE PAGE

Party No.

(a) Proportionate interest: _____ percent

(b) Land which is to be benefited by the facility is that certain parcel or parcels of land situated in the County of _____, State of _____, consisting of _____ acres, more or less, and more particularly described as follows:

_____, 19____.
(Dated)

_____
(User)

_____
(His Wife)

ACKNOWLEDGMENT

PROCESSING GUIDE

INSURED FARMER PROGRAM (IFP) LOANS

This Exhibit outlines the basic steps involved in processing a loan application and

[1] Include only applicable descriptive material and, when necessary, substitute statements that more adequately describe the facility.

[2] If this language does not express the decisions of the parties, substitute more appropriate language regarding their pro-rata interests and their responsibilities.

[3] This term will be deleted when easements cannot or will not be granted by execution of the Operating Agreement.

identifies the FmHA forms which should be considered for use at each step as appropriate for the different Farmer Program loans.

Consult the appropriate Forms Manual Insert (FMI) for instructions for completion, distribution, and procedural reference for each form.

Application Processing

A. Application interview

Review applicant's proposed plan of operation in relation to FmHA farmer program loan purposes and limitations.

Begin running case record.

Provide applicant with FmHA forms to be completed and returned which are needed to determine eligibility.

Advise applicant of other information he must obtain and provide to FmHA.

Have applicant contact other creditors as possible credit sources for financing, or participating in the financing, of the proposed operation.

The following FmHA forms will be made available to the applicant, or used by the County Supervisor. Forms designated with an "x" are required and those designated with an "•" are used when applicable.

Form No.	Name	EM	OL	FO	SW	RL
410-1	Application for FmHA Services	x	x	x	x	x
410-5	Request for Verification of Employment	•	•	•	•	•
410-8	Applicant Reference Letter	•	•	•	•	•
410-10	Privacy Act Statement to References	•	•	•	•	•
431-1	Long-Time Farm and Home Plan	•	•	•	•	•
431-2	Farm and Home Plan	x	x	x	x	x
431-4	Business Analysis, Nonagricultural Enterprise	•	•	•	-----	•
440-32	Request for Statement of Debts and Collaterals	•	•	•	•	•
440-34	Option to Purchase Real Property	•	-----	•	•	•
440-50	Crop-Share-Cash Farm Lease	•	•	-----		
440-51	Crop-Share-Cash Farm Lease (With Subordination Agreement)	•	•	-----		
440-52	Cash Farm Lease	•	•	-----		
440-53	Cash Farm Lease (With Subordination Agreement)	•	•	-----		
440-54	Livestock-Share Farm Lease	•	•	-----		
440-55	Livestock-Share-Farm Lease (With Subordination Agreement)	•	•	-----		
440-56	Annual Supplement to Farm Lease	•	•	-----		
440-58	Estimate of Settlement Costs—"Settlement Costs" Booklet	-----	-----	•	-----	
441-22	Certification of Disaster Losses	x	-----	-----	-----	
441-29	ASCS Verification of Farm Production History and Payments	x	-----	-----	-----	
443-2	Option for Purchase of Farm, Land To Be Subdivided	•	-----	•	-----	
443-3	Assignment of Interest in Option (Land To Be Subdivided)	•	-----	•	-----	
443-4	Designation of Assignee of Interest in Option (Land To Be Subdivided)	•	-----	•	-----	

B. Field visit

Notify applicant of planned visit and its purpose.

Evaluate the resources available to the applicant and their adequacy in fulfilling the requirements of the proposed plan of operation, taking into consideration development work planned.

Obtain information needed to complete required appraisals (chattel and real estate).

If development is planned, discuss plans, specifications, and estimates.

Hold landlord-tenant meeting, if necessary, to reach an agreement on the terms of the lease, resolve any problems, etc.; record in running case record.

Determine security requirements and record in running case record.

The following FmHA forms will be used as appropriate.

Form No.	Name	EM	OL	FO	SW	RL
406-2	Notice of Visit	x	•	•	•	•
422-1	Appraisal Report (Farm Tract)	•	-----	x	•	•
422-2	Supplemental Report	•	-----	•	•	•
422-3	Map of Property	x	-----	x	•	•
422-10	Appraiser's Worksheet-Farm Tracts	•	-----	•	•	•
424-1	Development Plan	•	-----	•	•	•
424-2	Description of Materials	•	-----	•	-----	-----
440-13	Reprot of Lien Search	•	•	-----	•	•
440-21	Appraisal of Chattel Property	•	•	-----	•	•
441-26	County Supervisor's Calculations and Verification of Qualifying Production Losses.	x	-----	-----	-----	-----

C. Eligibility determination

Obtain all needed application forms, and other information from the applicant; assist the applicant in completing these forms and/or in obtaining needed information, as necessary.

Request deed or other evidence of title.

Schedule meeting for county committee, review application and determine eligibility.

Inform applicant of the results of committee action.

The following FmHA forms will be used as appropriate in accomplishing the above actions:

Form No.	Name	EM	OL	FO	SW	RL
403-1	Debt Adjustment Agreement	•	•	•	-----	
440-2	County Committee Certification or Recommendation	x	x	x	x	x

Docket Preparation

Obtain all information from the applicant, prior lienholder(s), landlord(s), etc., needed for the loan docket to be prepared.

Check to assure all security requirements have been or will be met by loan closing.

Prepare a loan narrative, and enter it into the running case record.

The following FmHA forms will be completed and utilized as necessary in preparing the loan docket for approval:

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Form No.	Name	EM	OL	FO	SW	RL
400-4	Nondiscrimination Agreement		•	•		X
427-8	Agreement With Prior Lienholder	X	•	•	•	•
440-1	Request for Obligation of Funds	X	X	X	X	X
440-4	Security Agreement (Chattels and Crops)	X	X	•	•	•
440-4A	Security Agreement (Crops)	X	X	•	•	•
440-8	Severance Agreement	•	•	•	•	•
440-9	Supplementary Payment Agreement			•	•	•
440-15	Security Agreement (Insured Loans to Individuals)			•	•	•
440-25	Financing Statement	X	X			
440A25						
440-26	Consent and Subordination Agreement	•	•	•	•	•
440-41	Disclosure Statement for Loans Secured by Real Estate			•	•	•
440-41A	Disclosure Statement for Loans Not Secured by Real Estate	X	X	•	•	•
440-43	Notice of Right To Rescind	X	X	•	•	•
440-46	Environment Impact Assessment	•	•	•	•	•
441-5	Subordination Agreement					
441-7	OL-EM and Other Credit Analysis		X	•	•	
441-8	Assignment of Proceeds From the Sale of Agricultural Products	•	•	•	•	•
441-10	Nondisturbance Agreement	•	•			
441-12	Agreement for Disposition of Jointly Owned Property	•	•			
441-13	Division of Income and Nondisturbance Agreement	•	•			
441-17	Certification of Obligation to Landlord	•	•			
441-18	Consent to Payment of Proceeds From Sale of Farm Products	•	•	•	•	
441-25	Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest.	•	•	•	•	•
443-12	Farm Ownership and Individual Soil and Water Fund Analysis			X	X	
443-17	Agreement To Sell Nonessential Real Estate	•		•	•	•
443-18	Recreation Loan Fund Analysis			•	•	X
462-19	Characteristics of Approved Applicants			•	•	•

Loan Approval and Closing

A. Loan approval

For chattel loan—file financing statement or chattel mortgage, and obtain a lien search.

For real estate loan—request preliminary title opinion.

Establish loan closing conditions and enter them in the running case record.

Execute and distribute all forms necessary for loan approval.

B. Loan closing

Request needed legal services.

Arrange for loan closing by escrow agent, designated attorney, or other authorized loan closing agent; furnish loan closing agent with appropriate instructions, forms, and other needed information for loan closing.

The following FmHA forms will be provided to and used by the appropriate loan closing agent, in addition to those forms listed under docket preparation which must be executed by the borrower or other party:

Form No.	Name	EM	OL	FO	SW	RL
110-4	Transmittal of Documents			•	•	•
400-1	Equal Opportunity Agreement			•	•	•
400-3	Notice to Contractors and Applicants	•		•	•	•
400-6	Compliance Statement	•	•	•	•	•
402-1	Deposit Agreement	•	•	•	•	•
402-2	Statement of Deposits and Withdrawals	•	•	•	•	•
402-5	Deposit Agreement (Non-FmHA Funds)	•	•	•	•	•
426-2	Property Insurance Mortgage Clause	•	•	•	•	•
427-1	Real Estate Mortgage or Deed of Trust			X	•	•
427-4	Transmittal of Title Information			X	•	•
427-5	Affidavit of Borrowers (or Transferees)			X	•	•
427-6	Affidavit of Sellers (or Transferors)			•	•	•
427-9	Preliminary Title Opinion			X	•	•
427-11	Warranty Deed			•	•	•
440-16	Promissory Note	•	•	•	•	•
440-45	Nondiscrimination Certificate (Individual Housing)			•		
440-59	Settlement Statement			•		
441-1	Promissory Note	•	X	•	•	•
443-9	Acceptance of Option			•	•	•

EXHIBIT D

EMERGENCY LOANS SUPPORT TEAMS, REPORTING NATURAL DISASTERS, AND MAKING LOANS AVAILABLE

I. *Purpose.* This Exhibit prescribes the policies, procedures, and guidelines of the Farmers Home Administration (FmHA) for Emergency Loan Support Teams (ELST), reporting natural disasters, and making Emergency (EM) loans available.

II. *Definitions.* The following definitions are applicable to the terms used in this Exhibit.

A. *Designated counties or similar areas.* (Applies to EM loans only). This term means a county or similar political subdivision in which EM loans are authorized to be made under designation by the Federal Disaster Assistance Administration (FDAA) pursuant to a Presidential declaration of a major disaster or emergency; under designation by the Secretary of Agriculture based on damage caused by a natural disaster which substantially affect farming, ranching, or aquaculture operations; and when authorized by the State Director without a formal designation when 25 or less farming, ranching, or aquaculture operations are substantially affected by a natural disaster.

B. *Disasters.* 1. *Major disaster.* Any disaster in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance above and beyond normal emergency services by the Federal Government, to supplement the efforts and available resources of States, local government, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

2. *Natural disaster.* A natural disaster as determined by the Secretary of Agriculture when designating EM loan areas, or by an FmHA State Director when he authorizes the making of EM loans. Natural disasters can be caused by such natural phenomena as hurricanes, tornadoes, cyclones, excessive rainfall, floods, earthquakes, blizzards, freezes, electrical storms, snowstorms, drought, excessively high temperatures, and hail; insects where abnormal weather contributed substantially to the spreading and flourishing of such insects; fires resulting from lightning, and fires of other origins which could not be controlled because of abnormal weather; and plant and animal diseases where abnormal weather contributed substantially to such diseases spreading into epidemic stages.

3. *Presidential Emergency.* Any disaster in any part of the United States which is of such magnitude that the President makes a declaration which requires Federal emergency assistance to supplement State and local efforts to save lives and protect property, public health and safety, or to avert or lessen the threat of a disaster.

4. *Qualifying disaster.* A major disaster, Presidential Emergency, or natural disaster declared by the Secretary of Agriculture, or the State Director, including designations made for an emergency drought impact area for which EM loans are made available.

C. *Incidence period.* This term means the specific time frame established for the occurrence of the qualifying disaster.

D. ***USDA Emergency Board.*** **This term means** State (SEB) and County (CEB) Emergency Board. There is a United States Department of Agriculture (USDA) Emergency Board to serve every State and County (or comparable subdivision) in the United States, Puerto Rico, and the Virgin Islands. The boards coordinate USDA State or County activities relating to defense preparedness and natural disaster programs. Members of the SEBs represent those USDA agencies which have major emergency responsibilities in the field; Agricultural Stabilization and Conservation Service (ASCS); Cooperative Extension Service, FmHA, Soil Conservation Service, Animal and Plant Health Inspection Service, Forest Service, and Statistical Reporting Service. The CEBs are composed of representatives of the first four of these Agencies, with additional representation as available or warranted. The ASCS member usually chairs the board. The SEB's and the CEB's natural disaster responsibilities are contained in "USDA EMERGENCY OPERATIONS HANDBOOK (EOH)." A copy of the EOH is available for inspection at any State and County Office of the FmHA or ASCS and in the National Office of FmHA at 14th and Independence Avenue, SW., Washington, DC 20250.

E. *Substantially affected.* This term means a natural disaster that has had an impact on farming, ranching, or aquaculture operations to the extent that Federal assistance is necessary to supplement normal assistance available in the area to permit such operators to continue their operations on a sound basis. This judgment determination will be made after studying the number of farmers affected and the dollar amount of physical and/or production losses reflected on the Damage Assessment Report (DAR).

III. *FmHA Emergency Loan Support Teams (ELST).* A. Purpose and use. Each State Director shall form an ELST to be deployed, when needed, in areas affected by a major disaster, Presidential emergency, or a natural disaster. Such ELST shall assist the State Director in expediting the administration of his responsibilities in making EM loans available to victims of disasters.

1. An ELST is to be used when a disaster is of such a nature as to warrant immediate attention by FmHA in implementing the EM loan program or when such unusually large numbers of EM loan applications are received that personnel from other areas are required to be temporarily assigned to assist in rendering prompt service to the affected area.

2. State Directors shall use the ELST formed in their State(s) and all other State personnel to meet the conditions described in paragraph IIIA1 of this Exhibit. If help is needed in addition to that available in

the State, including temporary personnel, the State Director shall advise the National Office of his needs.

3. Upon request of a State Director, the Administrator will consider detailing an ELST from other States to assist in the making of EM loans.

B. *Composition.* An ELST will consist of a team leader and team members.

1. The team leader and individual members shall be FmHA employees selected by the State Director.

2. In order that no one person or County Office unit bears an unfair burden, team members will be rotated from time to time. This will also provide training in EM loan making to all County Supervisors. The District Director is responsible for notifying the State Director of any need to change a team member within his district for any reason.

C. *Training.* ELST will be trained as follows:

1. The National Office will hold a training meeting or workshop for ELST leaders as needed.

2. State ELST leaders are responsible for training and keeping the State team and all other personnel in the State current and informed on all phases of EM loan making.

D. *State supplements.* Each State Director will issue a State supplement establishing an ELST for his State(s). This supplement will name the team leader and all members. A copy of this supplement will be sent to the National Office, Attention: Director, Emergency Loan Division.

IV. *Reporting natural disasters.* A. *Purpose.* The purpose of reporting natural disasters is to provide a systematic procedure for rapid reporting of natural disasters which may result in a need for EM loans in an area.

B. *Action.* Immediately after the occurrence of a natural disaster the following action will be taken:

1. The County Supervisor will report immediately to the CEB, the occurrence of any natural disaster causing property loss, damage, or injury, including production losses, in his County Office area, regardless of whether EM loans will be needed. He will assist the CEB in preparing the report required in paragraph IVB2 of this Exhibit. If the CEB has not completed a 24-hour report within two workdays after a disaster, the County Supervisor will report to the State Director on Form FmHA 441-27, "Report of Natural Disaster." In urgent situations the report may be made by telephone followed by the CEB report or Form FmHA 441-27. The CEB report or Form FmHA 441-27 will be based on information obtained from personal knowledge and from farmers, agricultural and community leaders, representatives of other agricultural agencies, agricultural lenders, and from any other reliable source. The County Supervisor will advise the Chairman of the CEB of any information he has on the disaster, and also provide him with a copy of Form FmHA 441-27, if prepared.

2. The CEB will report the natural disaster in accordance with paragraphs 68 and 70 of the EOH to:

a. The SEB, and

b. Appropriate County government representative.

3. The SEB provides copies of the report to:

a. USDA Washington—(ASCS, FmHA, and Office of Intergovernmental Affairs).

b. Governor's Emergency Coordinator and State Department of Agriculture.

c. SEB members.

4. The State Director will inform the National Office of each natural disaster as soon as possible. He will forward copies of the CEB report on Form FmHA 441-27, with any attachments to the National Office. The CEB report or Form FmHA 441-27 will be supplemented by his comments, including any additional information he may have, and his recommendation as to the number of farmers, ranchers, or aquaculture operators affected by the disaster. In urgent situations he should report to the National Office by telephone and immediately thereafter send a written report. The State Director will advise the SEB Chairman of any additional information he receives on the natural disaster.

5. When the National Office is advised by a State Director of the occurrence of a natural disaster, the FmHA Administrator will advise the Office of the Secretary of Agriculture of the natural disaster and of any action taken or planned by the FmHA. The National Office will also provide the same information to members of Congress and the FDAA, if so requested.

6. When inquiries are received from victims of natural disasters before the area is designated by the Secretary of Agriculture or before EM loans are authorized by a State Director, the following actions will be taken:

a. Victims of natural disasters whose inquiries are received by the county offices will be advised:

(1) That EM loans are not available at this time.

(2) As to what assistance would be available if EM loans are authorized for the area.

(3) That they may file an application for an EM loan or wait to file if EM loans are authorized at a later date. However, they must understand that the application cannot be processed until EM loans are authorized. Frequently, the credit needs of an individual can be met under regular FmHA programs if EM loans are not authorized.

b. If the inquiry is received in either a State or the National Office, the individual will be advised in accordance with paragraph IV B 6 a of this Exhibit and referred to the appropriate county office.

7. The action stated in paragraph IV B of this Exhibit will be taken even if the Governor of the State has requested the President to declare the county a major disaster or emergency area.

8. When county governing bodies or Indian Tribal Councils inquire concerning the designation of an area, they will be advised of the procedure for making EM loans available as contained in paragraph V of this Exhibit. Individuals will be advised of the procedure for designation and asked to discuss the need for emergency designation of the area with his representative of the local governing body which includes Indian Tribal Councils.

V. ***Making EM loans available.*** **EM loans** will be made available in counties named by FDAA as eligible for Federal assistance under a major disaster or emergency declaration by the President, in counties designated by the Secretary of Agriculture including designations made for an emergency drought impact area, and in counties authorized by the State Director.

A. *Declaration by the President.* Designation by the Secretary of Agriculture is not necessary for making EM loans available in counties determined by FDAA to be eligible for Federal assistance under a major disaster or emergency declaration by the President. Therefore, when there is a Presidential major disaster or emergency declaration, the National Office will notify the State Director and the Director of the Finance Office. The notification will specify the type of disaster; the names of the county or counties determined by the FDAA to be eligible for Federal assistance; the termination dates for receiving EM applications; the incidence period for the disaster or emergency; the major disaster (MDDN—Example: M501) or Presidential emergency (PEDN—Example: P102) declaration number; and the date loan activity reporting will commence. Each Senator and Congressman representing the area involved will be notified simultaneously of the action taken.

1. *State Director.* The State Director will notify the appropriate County Supervisor immediately and instruct him to make EM loans available. Notification will be confirmed by a State supplement or a revision thereof. The State Director will also notify the SEB Chairman in writing and will make such public announcements as appear to be appropriate, including notification of Indian Tribal Council's news media.

2. *County Supervisor.* Immediately upon receiving notice about counties under his jurisdiction, the County Supervisor will notify the appropriate CEB Chairman and make such public announcements as appear to be appropriate, including notification of the Indian Tribal Council's news media. Also, the County Supervisor will explain the assistance available under the EM loan program to agricultural lenders and leaders in the area, including Indian agricultural lenders and leaders.

3. *408 Grant.* This is an agreement between the State and Federal Government to provide grants for those suffering damages and losses to housing and personal property who are ineligible for disaster loan assistance through the FmHA and/or SBA.

a. The State Director will provide the County Supervisor with the address and phone number of the nearest FDAA office in the supervisor's area.

b. At the close of business each week the County Supervisor will forward a list of applicants with physical losses that do not qualify for EM loans to the FDAA office in his area.

B. *Designation by the Secretary of Agriculture.* 1. The Secretary of Agriculture may designate a county as an EM loan area when:

a. Unusual and adverse weather conditions have resulted in severe production losses and/or damage or losses to livestock, farm machinery, farmland, buildings, or aquaculture operations;

b. A natural disaster has substantially affected farming, ranching, or aquaculture operations and more than 25 farmers have been affected;

c. He receives a formal request for designation from the Governor of the State or without such request when he has sufficient information to warrant a designation; and

d. The request for designation has been made within 6 months from the last day of the occurrence of the natural disaster.

2. A Governor's request for EM loan area designation will be sent to the Secretary of Agriculture with a copy of the request to the FmHA State Director. Upon receiving the Governor's request, the Administrator, FmHA, will immediately take the following actions:

a. Acknowledge the Governor's letter on behalf of the Secretary.

b. Advise the FmHA State Director of the request by phone. The State Director shall thereafter send the Administrator, Attention: Director, Emergency Loan Division, a monthly report of the action taken on the request, an estimate of the situation, and the estimated time in which complete information will be available. The Governor will be advised by the National Office if there will be any delay in processing his request, the reason for the delay, and when action will be taken.

3. Upon reviewing his copy of the Governor's request or notification from the National Office, the State Director will immediately take the following actions:

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a. Advise the SEB Chairman that a DAR is needed in accordance with the EOH, for the requested county or counties. The State Director will request the SEB Chairman to ask the CEB Chairman to invite the county governing body members of Indian Tribal Councils, or the Tribal Councils' designated representative to participate in the CEB meeting. The SEB Chairman will ask the CEB Chairman to have his DAR in by a specific date.

b. Advise the County Supervisor(s) of the request and remind him of his responsibility to assist the CEB in preparing the DAR.

4. The CEB meets and prepares the DAR in accordance with the EOH. The county governing body, and members of Indian Tribal Councils or their designated representative will be encouraged to attend the CEB meeting. The completed DAR will be sent to the SEB Chairman.

5. When a DAR has been prepared by a CEB and sent to the SEB, the County Supervisor will also provide the following additional information to the State Director, as agreed upon by the CEB.

Attachment to DAR dated: _____ 19 ____
State: _____ County: _____

Number of Farms with Production Loss:
100% loss—_____
90 to 99 % loss—_____
80 to 89 % loss—_____
70 to 79 % loss—_____
60 to 69 % loss—_____
50 to 59 % loss—_____
40 to 49 % loss—_____
30 to 39 % loss—_____
20 to 29 % loss—_____
less than 20 % loss_____

Number of Farms with Physical Loss:
Major Loss—_____
Minor Loss—_____

_____
(County Supervisor)

6. The SEB Chairman shall edit each county DAR as necessary in cooperation with FmHA and other board members as appropriate and sign the form. The SEB Chairman will provide the State Director a copy of the completed DAR.

7. When the State Director receives a copy of the completed DAR from the SEB Chairman, he will attach the additional information received from the County Supervisor in accordance with paragraph V B 5 of this Exhibit, review each DAR with attachment, and take one of the following actions:

a. Refer the DAR to the National Office, Attention: Director, Emergency Loan Division, by letter, recommending the county for designation and providing his comments. These comments should indicate his views on the entire situation as it relates to the need for EM loans as a direct result of the natural disaster.

b. Refer the DAR to the National Office, Attention: Director, Emergency Loan Division, by letter, recommending that a designation not be made and the reasons for the recommendation. The National Office will advise the Secretary of Agriculture of the reasons for not recommending the area. The Secretary will advise the Governor of the rejection.

c. When loans are needed and not more than 25 farmers in a county have been affected, the State Director may authorize EM loans in accordance with paragraph V C of this Exhibit.

8. The National Office will review the information furnished by the State Director and send it to the Secretary with the recommendation for designation or rejection.

9. When a county is designated by the Secretary of Agriculture, the National Office will notify the State Director and the Director of the Finance Office. The notification will specify the type of disaster; the county or counties designated; the termination dates for receiving EM loan applications; the incidence period for the disaster; the Secretarial Disaster Designation Number (SDDN) (Example: A905); and the date loan activity reporting will commence. The Governor of of the State and each Senator and Congressman representing the area involved will be notified simultaneously of the action taken.

a. The State Director will immediately notify the appropriate County Supervisors. This notification will be confirmed by a State supplement or a revision thereof. The State Director will also notify the SEB Chairman, in writing, and make such public announcements as appear to be appropriate.

b. Immediately upon receiving notice of the designation of the county or counties under his jurisdiction, the County Supervisor will notify the appropriate CEB Chairman and make appropriate public announcements including notification of the Indian Tribal Council's news media. Also, the County Supervisor will explain the assistance available under the EM loan program to agricultural lenders and leaders in the area including Indian agricultural lenders and leaders.

C. *State Director authorizations.* If the State Director finds in any county that the requirements of paragraphs V B 1 a, b, and d of this Exhibit are met, except that 25 or less farmers have been substantially affected by the natural disaster, EM loans may be authorized by the State Director. The authority to make EM loans available by the State Diredtor will only be exercised after the Governor, or the county governing body or its authorized representative, or an Indian Tribal Council or its authorized representative has made a formal written request for such action to the State Director and he has given prior notice to the National Office by telephone. This authorization may not be used to make EM loans available immediately in anticipation of a later designation by the Secretary of Agriculture based on the same natural disaster.

1. The State Director Authorization Number (SDAN) (Example: N186, termination dates for receiving EM loan applications, the date loan reporting will commence, and the incidence period for the disaster will be established by the National Office when the prior telephone notice is given.

2. Applications for EM loans will be received by County Supervisors only after authorization by the State Director except as provided in paragraph IV B 6 a (3) of this Exhibit.

3. The State Director will send to the National Office a copy of this authorization letter written to the County Supervisor; the DAR and attachment; and the formal written request from the Governor, or the county governing body or its authorized representative, or an Indian Tribal Council.

4. The National Office will notify the Secretary of Agriculture and the Director, Finance Office, of the action taken by the State Director.

5. The State Director will direct appropriate County Supervisors to take EM loan applications in the county or counties he has authorized. Simultaneously, he will notify the SEB Chairman. The State Director will also make appropriate public announcements.

6. Immediately upon receiving notice of the State Director's authorization of loans for a county or counties under his jurisdiction, the County Supervisor will notify the appropriate CEB Chairman and make appropriate public announcements. He will also explain the assistance available under the EM loan program to agricultural lenders and leaders in the area.

D. *Continuing disaster conditions.* When a need occurs for EM loans resulting from a subsequent natural disaster, or the continuation of a natural disaster in any area presently designated for EM loans under paragraphs V A, B, or C of this Exhibit, such need may be met by completing one of the following actions:

1. *Declaration by the President.* EM loans are made available in counties determined by FDAA to be eligible for Federal assistance under a major disaster or emergency declaration by the President, without establishing that a substantial number of farmers, ranchers, or aquaculture operations have been affected. The conditions which led to the major disaster or emergency declaration may extend beyond the incidence period established by FDAA or have been prolonged in the same area by a new natural disaster which affects the same crops, livestock, or aquaculture operations during the same crop year. Under such circumstances, the Secretary of Agriculture may designate the area as a natural disaster area under paragraph VB of this Exhibit and establish an incidence period commencing on, or subsequent to, the date of the commencement of the incidence period for the major disaster or emergency declaration, provided the requirements of paragraph VB of this Exhibit are met. In those cases, the Secretary will establish a new termination date for the incidence period for the natural disaster extending beyond the termination date originally established for the major disaster or emergency declaration. He may also establish new termination dates for accepting applications in connection with a designation under paragraph VD of this Exhibit.

2. *Designation by the Secretary of Agriculture and State Director authorization.* Certain types of natural disasters which affect farming such as drought, floods, and insect infestation, may extend beyond the incidence period established in connection with a Secretarial designation pursuant to paragraph VB of this Exhibit or a State Director's authorization pursuant to paragraph VC of this Exhibit. Furthermore, the disaster conditions which led to the original designation may be prolonged inthe same area by a new natural disaster *which affects the same farming operation during the same crop year.* Under these circumstances, additional authorization by the Secretary is not necessary to extend the incidence period and/or termination dates to cover the continuing or subsequent natural disaster. To extend the designation and/or termination dates the following actions must be taken:

a. The County Supervisor will advise the State Director of any continuing or subsequent natural disaster and provide him with the CEB report or Form FmHA 441–27.

b. The State Director will request the National Office by letter for an extension of the designation and/or termination dates.

c. If the request is justified, the National Office can, by letter or telegram, authorize the extension of the incidence period for the designation and establish a new termination date(s) for receiving applications or authorize establishment of new termination date(s). However, in areas authorized by State Directors, extensions may not be authorized if such extensions will result in more than 25 farmers in any one county having had losses from the same disasters.

E. *Designation of an Emergency Drought Impact Area (EDIA).* 1. The Interagency Drought Emergency Coordinating Committee, pursuant to a Memorandum of Agreement, may designate an EDIA as eligible for EM loan assistance.

2. FmHA is authorized to make EM loans under such an EDIA designation. EM loans may be made under this Subpart (except for the provisions of § 904.107 (a) (21) and Part 1888 of this Chapter (FmHA Instruction 440.3). A drought designation number will be assigned for each separate designation.

3. When an EDIA is designated, the methods for designation under paragraphs V A, B, C and D of this Exhibit will not apply.

EXHIBIT E

MEMORANDUM OF UNDERSTANDING—FHA–FCA

I. *Introduction.* The capital requirements in agriculture in the future necessitate finding every means possible to provide adequate credit for farmers—particularly young farmers—many of whom are now unable to obtain long-term real estate loans. The Farmers Home Administration over the years has broadened its farm ownership loan policies so that private or cooperative lenders and the Farmers Home Administration can make loans to the same borrower on the same security. The experience of the Farmers Home Administration (FHA) and the Federal Land Bank (FLB) has been favorable when FHA farm ownership loans have been made to farmers and ranchers on liens junior to long-term real estate loans held by the FLBs. A thorough understanding by all of the principals involved of the lending policies and objectives of the FHA, FLB and Federal Land Bank Association (FLBA) is essential to better serve farmers and ranchers who seek agricultural credit. Many farm families are unable to obtain adequate credit because of the general tightening of availability of long-term real estate loans. The demand for long-term, low equity loans far exceeds the supply of funds available.

The Farmers Home Administration and the Farm Credit Administration hereby agree that FLBs and FHA State Directors may enter into memorandums of understanding concerning the simultaneous processing of initial farm ownership loans by the FHA and long-term real estate loans by the FLB to a mutual borrower. It is further agreed that the FLB will make first lien loans on farm real estate which it considers sound to farmers who are or will be FHA borrowers. The FHA will subordinate its mortgage to the FLB lien when the FLB loan is made for purposes which are authorized for FHA real estate loans. It is agreed that in such cases of loans by each lender, neither lender will make future advances to the borrower without the consent of the other-lender, except that advances may be made by the FLB as are necessary for the payment of taxes, insurance, necessary repairs to the secured property, and reasonable foreclosure costs including attorney's fees. If such advances are made, the FHA will not assert the priority of its lien over such advances on the ground that the FHA mortgage was definite and fixed before the additional advance or advances were made by the land bank. Each lender, of course, will make only those loans which are within its existing laws and regulations.

II. *Policies.* The basic policies of each lender will continue to apply when processing each individual loan except as modified in paragraph I. When these policies preclude making individual loans simultaneously to a mutual borrower, the appropriate lender will provide the financing needed when practical.

A. *Eligibility determination must be made by each lender.* 1. Applications filed with FHA will be analyzed to determine whether there is a possibility of participating with the FLB and other lenders. The County Supervisor will review with the local FLBA manager or other private lender any application that might appear to be suitable for participation.

2. Applications filed with the FLBA will be analyzed by the manager for possible FHA assistance when it is agreeable with the applicant.

B. *Loan Processing.* 1. An FHA representative will make the appraisals for FHA farm ownership loans.

2. An appraiser designated by the FLB will make the appraisals for land bank loans.

3. Each lender will determine the applicant's ability to repay his total indebtedness as part of its loan approval.

4. The borrower will be required to meet the minimum legal and regulatory requirements of each lender. This includes stock ownership and membership in the FLBA, property insurance, etc.

C. *Loan Closing.* 1. The FHA and the FLB will agree on the method and the period to be covered by the title search. If there are any deviations from either lender's regulations, such deviations must be approved by the appropriate supervisory officials.

2. The FHA and FLB representatives will mutually approve any land and building development plans when the improvements are to be projected in loan values. Each will supervise the disbursement of its share of funds for these items.

3. The representative(s) to be present for loan closing will be by mutual agreement.

4. The standard loan mortgage forms used by the FHA and the FLB will be exchanged by the local representatives. Any additional covenants or deviations in individual cases will be called to the attention of the local representatives before the loan is closed.

D. *Supervision.* FHA's policy of supervision and counseling will be carried out in accordance with current policy.

1. The loan(s) made by each lender will be serviced in the usual manner by its respective representative unless special problems develop that require consideration by both representatives.

2. A spirit of mutual cooperation will be followed in servicing each loan in the interests of the borrower, the FLB and the Government.

E. *Graduation.* It will be the policy to continue to emphasize the graduation policy of the FHA to encourage borrowers to use non-FHA credit as soon as possible.

III. *Administration.* A. Special initial sessions will be held by State FHA and FLB regional representatives with FHA field staffs and FLBA personnel concerning this program to clearly outline the objectives of joint participation in making loans.

B. Subsequently, periodic meetings will be held to assure uniformity of policy and practices.

C. Other considerations. 1. Informal visits between field personnel to discuss problems, applications, servicing of loans and graduation should be made periodically.

2. Occasional joint field visits to borrower's farms would establish a basis for observing the practical application of policies and practices of each lender.

3. Each lender should advise the other of basic policy changes to guide FHA County Supervisors and FLBA managers in reviewing applications.

4. County Supervisors and FLBA managers should exchange the names of FHA County Committeemen and FLBA Directors for their respective areas as sources for reference for applications being considered.

5. Whenever there is a substantial adverse change in the credit position of the mutual borrower, the FHA County Supervisor and FLBA manager will need to discuss the new developments to determine the effect on both loans.

6. The acceptability of property insurance policies will be in accordance with each lender's requirements and mutually agreed upon by representatives of both lenders. The use of any loss proceeds will be in accordance with lien priorities and requirements of each agency for essential buildings. If any buildings are not to be replaced or repaired and the proceeds are not required to be applied on the FLB lien, FHA will have the responsibility for determining the use of the loss proceeds from essential or nonessential buildings.

7. Each lender will notify the other in ample time if it becomes necessary to foreclose its mortgage. This notification will replace the individual requirement of signing the notice of foreclosure agreement when the loans are closed.

8. Each applicant is privileged to select the long-term private lender he prefers to have join with FHA in making his real estate loan when his need exceeds the amount a private lender (FLB or other) will make.

FRANK B. ELLIOTT,
Acting Administrator,
Farmers Home Administration.

E. A. JAENKE,
Governor,
Farm Credit Administration.

MAY 15, 1973.

EXHIBIT F

BUREAU OF RECLAMATION LOANS TO IRRIGATORS AND ADMINISTERED BY FARMERS HOME ADMINISTRATION

I. *General.* This Exhibit provides additional procedures for making and servicing Soil and Water (SW) type loans to individuals located within Reclamation Projects. Attachment 1 is a Memorandum of Understanding Between the Bureau of Reclamation (BR) and the Farmers Home Administration (FmHA) outlining the working relationship between the agencies for these loans. The Memorandum of Understanding establishes eligibility requirements, sets loan terms, and indicates the purposes for which these loans may be made. The FmHA County Supervisors can resolve any question about project boundaries, acreage limitations, loan purposes, or eligibility requirements by contacting the BR office having jurisdiction over the project area. County Supervisors are authorized to accept applications and consider loans for applicants whose development work was started or completed prior to issuance of Exhibit F but after enactment of the Emergency Drought Act of 1977 on April 7, 1977, under the following conditions:

1. The development work is for an authorized purpose under that Exhibit, and

2. The work is or has been completed in accordance with the requirements of Subpart C of Part 1904 of this Chapter.

3. All other requirements of this Exhibit apply.

II. *Objectives.* Provide BR financial assistance to irrigators as defined in Attachment 1 and for the purposes outlined therein.

III. *Procedures.* This Instruction and other related FmHA Instructions will be used in processing and securing the BR loans. Applicable FmHA forms will be used. The following modifications will be required:

Form FmHA 410–1, "Application for FmHA Services"—In section 24 and after "Type of Loan Applied for" complete "other" by inserting "SW–BR".

Form FmHA 427–1, "Real Estate Mortgage"—Wherever reference is made to "the Consolidated Farm and Rural Development Act" insert "and Public Law 95–18".

Form FmHA 440–1, "Request for Obligation of Funds"—Loans will be identified by typing "43" in block 7 of Part I.

Form FmHA 440–2, "County Committee Certification or Recommendation"—In the block entitled "type of assistance" check the block "other" and specify "SW–BR".

Form FmHA 440–15, (State), "Security Agreement (Insured Loans for Individuals)"—Where reference is made to rates of interest, insert "zero". In the center of page 1,

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strike "the Consolidated Farmers Home Administration Act, 1961, or Title V of the Housing Act of 1949; and" and insert "Pub. L. 95–18 and".

Form FmHA 440–16, "Promissory Note"—In the block "Kind of Loan" and after "type" insert "SW–BR"; after "Pursuant to" insert "Pub. L. 95–18". Where referrence is made to the percent of interest, insert "zero". In the last paragraph on page 2, delete "the Consolidated Farm and Rural Development Act or Title V of the Housing Act of 1949" and insert "Pub. L. 95–18".

Form FmHA 441–1 "Promissory Note"—In the block "Kind of Loan" insert "SW–BR". Where reference is made to the rate of interest, insert "zero". In the next to the last paragraph on page 2, delete "substitle B or C of the Consolidated Farm and Rural Development Act" and insert "Pub. L. 95–18".

IV. *Servicing.* These loans will be serviced by FmHA in accordance with servicing instructions applicable to Individual SW loans.

V. *Reimbursements.* BR shall pay to FmHA a charge of 5 percent of principal of each loan. The 5 percent charge shall be disbursed to FmHA by the Finance Office at the time of each loan advance.

Memorandum of understanding between the Bureau of Reclamation, Department, of the Interior and the Farmers Home Administration, Department of Agriculture.

Whereas, under section 8 of the 1977 Drought Emergency Act (Pub. L. 95–18), hereafter referred to as "the Act," the Bureau of Reclamation (BR) is authorized to make loans to irrigators for the purpose of undertaking construction, management, conservation activities, or the acquisition and transportation of water, which can be expected to have an effect in mitigating losses and damages resulting from the 1976–1977 drought period;

Whereas, the Farmers Home Administration (FmHA) has an existing soil and water program (SW) authorized by section 304 of the Consolidated Farm and Rural Development Act for loans to individuals that accomplish purposes similar to those in the Act:

Whereas, it is more efficient and in the best interests of the United States, and in accordance with section 6 of the Act, for BR to procure the services of FmHA pursuant to the terms of the Economy Act of 1932 (31 U.S.C. 686) to make and service loans to individual irrigators as authorized by the Act.

Now Therefore the parties agree:

1. For purposes of this Memorandum the term "irrigators" shall mean any person or legal entity who holds a valid existing water right for irrigation purposes within Federal reclamation projects. Federal reclamation projects means any project constructed or funded under Federal reclamation law and specifically including projects having approved loans under the Small Reclamation Projects Act of 1956, as amended.

2. FmHA shall make and service loans to individual irrigators as authorized by the Act pursuant to its SW program and applicable FmHA regulations except as modified hereby.

3. The loans shall be only for the purposes relating specifically to irrigation and set forth in FmHA Instruction 443.2, IV A1, A8, B1, B2, and C. The loans shall be interest free. Loans for water acquisition and transportation shall be repaid over a period not to exceed 5 years. Other loans shall be repaid over a period not to exceed 5 years except such loans which generate benefits which are usable beyond 1977 shall be repaid within a period which shall be the shorter of the estimated useful life of the facilities or the reasonable payment capacity of the irrigator but in no event to exceed 40 years. All loans shall be obligated not later than September 30, 1977, and any construction related to any loan must be completed by November 30, 1977.

4. Services rendered by FmHA pursuant to this Memorandum of Understanding shall be on a nonreimbursable basis to the irrigator. For services rendered, BR shall pay to FmHA a charge of 5 percent of principal of each loan. BR directs that FmHA disburse such service charge to itself directly upon the closing of each loan.

5. Three million dollars shall be transferred to FmHA by Standard Form 1151, which amount shall be available for construction, management, and conservation activities. An additional sum of $5 million may be made available upon request of FmHA for the acquisition and transportation of water.

6. *Monthly Report.* FmHA shall submit a Standard Form 133, "Report on Budget Execution", in accordance with OMB Circular A–34, to the Bureau of Reclamation, Washington, D.C. 20240, attention code 370.

7. *Accomplishment.* FmHA shall submit to the Bureau of Reclamation, Washington, D.C. 20240, attention code 400, a complete report on expenditures and accomplishments under this Memorandum on January 16, 1978.

Dated: June 29, 1977.

Bureau of Reclamation, Department of the Interior.

R. KEITH HIGGINSON,
Commissioner.

Farmers Home Administration, Department of Agriculture.

Dated: July 15, 1977.

MARTY HOLLERAN,
Acting Administrator.

(7 U.S.C. 1989; 5 U.S.C. 301; Sec. 10 P.L. 93–357, 88 Stat 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: August 11, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77–25312 Filed 9–2–77;8:45 am]

REDESIGNATION—CONSOLIDATION—REVISION

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations to redesignate, consolidate and revise regulations concerning closing chattel loans. The circumstances requiring this action are an effort on the part of FmHA to consolidate and revise its regulations. The consolidation and revision will result in simplified procedures.

EFFECTIVE DATE: September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Darrow Strain, 202–447–2331.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration (FmHA) amends its regulations to establish under Subchapter I, Chapter XVIII, Title 7, of the Code of Federal Regulations, a new Part 1921 "Approval and Closing (Individual)." Subpart C, "Closing Chattel Loans," (§§ 1921.101–1921.150) of this new Part 1921 is redesignated, consolidated, and revised from Subpart B and certain sections of Subpart A of Part 1831 of Subchapter C of this Chapter. In transferring and redesignating the new sections, editorial changes have been made for clarity, and revisions have been made in order to consolidate these regulations into a more suitable order. However, no substantive changes have been made to these regulations. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the purpose of this change is to clarify and consolidate these regulations and, therefore, publication for proposed rulemaking is unnecessary.

PART 1831—OPERATING LOANS

1. As amended, Subpart B and certain sections of Subpart A of Part 1831 of Title 7 CFR Chapter XVIII are redesignated as Subpart C of Part 1921. Subpart B of Part 1831 is hereby reserved. The remaining Sections of Subpart A are being incorporated in new Part 1904 being published concurrently with this document.

PART 1861—ROUTINE

§ 1861.4 [Amended]

2. In Part 1861 of this Chapter, § 1861.4, paragraph (a)(1) change the reference to "§ 1831.37" to read "Part 1921 Subpart C."

PART 1921—APPROVAL AND CLOSING (INDIVIDUAL)

3. As amended, Subpart C of Part 1921 as revised, transferred, consolidated and redesignated, reads as follows:

• • • • •

SUBPART C—CLOSING CHATTEL LOANS

Sec.

1921.101 Purpose.
1921.102–1921.103 [Reserved]
1921.104 Promissory note.
1921.105 Security instruments.
1921.106 Purchase money security interest.
1921.107 Lien search.
1921.108 Additional requirements for perfecting security interests.
1921.109 Fees.
1921.110 Retention and use of security agreements.
1921.111 Future advance and after-acquired property clauses and State supplements.
1921.112 Insurance.
1921.113 Check delivery.
1921.114 Supervised bank accounts.
1921.115 Collection of interest-only installments.
1921.116 Revision in use of OL or EM loan funds.
1921.117–1921.150 [Reserved]

Subpart C—Closing Chattel Loans

§ 1921.101 Purpose.

This Subpart prescribes the policies, procedures, and authorizations of the Farmers Home Administration (FmHA) for closing insured Operating (OL) loans and Emergency (EM) loans secured by chattels and crops to farmers, ranchers, and rural youths. These loans are considered closed on the date the promissory note is executed.

§§ 1921.102–1921.103 [Reserved]

§ 1921.104 Promissory Note.

(a) The "Promissory Note" Form FmHA 441–1, will be executed and dated following receipt of the loan check in the county office and prior to the first withdrawal of loan funds from the supervised bank account or delivery of the loan check to the borrower.

(b) One note will be prepared showing the full amount of the loan regardless of the number of advances involved. The first installment may not be less than the amount equal to interest on the advances planned from the estimated date of closing to January 1 of the next calendar year. No installment will be made payable later than seven years from the date of the note.

(c) The applicant's spouse will be required to execute Form FmHA 441–1 when:

(1) Legally required by State law.

(2) The loan approval official determines that the signature is needed because of the spouse's interest in the farm being operated or in property offered as security.

(d) In all cases in which the wife joins with her husband in executing a promissory note or other evidence of indebtedness, the purpose and effect of the wife's signature will be, in addition to any other purpose and effect for which her signature is obtained, to engage her separate and individual personal liability regardless of any State law to the contrary.

A youth executing the promissory note shall incur full personal liability for the indebtedness evidenced by such note.

§ 1921.105 Security instruments.

Security instruments referred to in this Subpart are financing statements, security agreements, chattel mortgages, and similar lien instruments. To obtain a security interest in chattels and crops in Uniform Commercial Code (UCC) States both a financing statement and a security agreement are required, although only the financing statement must be filed or recorded in public records. Refer to § 1921.105(g) for filing or recording instructions. In Louisiana a Chattel Mortgage and Crop Pledge or Crop Pledge, as appropriate, is required to obtain a security interest in chattels and crops.

(a) *Joint security instruments.* Joint security instruments will be taken to secure a joint loan to individuals jointly engaged in an enterprise. Each individual will execute the financing statement, security agreement, promissory note, and any other security instrument required to secure the loan. When the individuals are members of a partnership, the security instruments will be executed by the partnership and all partners in accordance with the advice of the Regional Attorney or Attorney in Charge, as necessary, to close the loan and obtain the desired liens and liability.

(b) *Separate security instruments.* (1) Separate security instruments will be taken to secure a separate loan to an individual who is individually or jointly engaged in an operation.

(2) Each applicant obtaining a separate loan for financing an undivided interest in security property or for refinancing debts on an undivided interest in such property will secure the loan by a lien on his or her undivided interest in the property. Each individual having an undivided interest in the security property will execute Form FmHA 441–12, "Agreement for Disposition of Jointly-Owned Property". Form FmHA 441–12 will not be required when a tenant and landlord own property jointly and the lease provides for satisfactory division of such property and the proceeds from its sale or a joint security instrument is taken to secure a loan in accordance with paragraph (a) of this section.

(c) *Security instrument forms.* (1) Form FmHA 440–25, "Financing Statement," or Form FmHA 440A–25, "Financing Statement (Carbon-Interleaved)," and Form FmHA 440–4, "Security Agreement (Chattels and Crops)," or Form FmHA 440–4A, "Security Agreement (Crops)," as appropriate, will be used to obtain security interests in chattel property in Uniform Commercial Code (UCC) States unless a State supplement requires the use of other forms.

(2) Form FmHA 440–4 LA, "Chattel Mortgage and Crop Pledge (Louisiana)," or Form FmHA 440–4A LA, "Crop Pledge (Louisiana)," as appropriate, will be used in the State of Louisiana.

(d) *Taking security instruments.* (1) *Financing statement.* A financing statement is effective for 5 years from the date of filing and as long thereafter as it is continued.

(i) *Initial loan.* A financing statement will be taken for every initial loan except when a filed financing statement obtained for a paid-in-full borrower is still effective, covers all types of chattel property that will serve as security for the initial loan, and describes the land on which crops and fixtures are or will be located.

(ii) *Subsequent loan.* A financing statement will not be taken unless the filed financing statement is not effective, does not cover all types of chattel property that will serve as security for the subsequent loan, or does not describe the land on which crops or fixtures are or will be located. If the loan debt is being secured for the first time, however, the procedure for securing initial loans stated in paragraph (d)(1)(i) of this section will be followed.

(2) *Security Agreements.* (i) *Initial loan.* When an initial loan is made to an applicant, including a paid-in-full borrower, a new security agreement will be taken in all cases. The security agreement will be executed not later than the first withdrawal of loan funds from the supervised bank account or delivery of the loan check to the borrower.

(ii) *Subsequent loan.* An additional security agreement will be taken if property not covered by specific description or language of the previous security agreement is to serve as security for the debt, or if it is necessary to obtain or maintain a security interest in crops.

(A) An additional security agreement also will be taken to assist in accounting for security property, but normally only when there are significant changes in security.

(B) An additional security agreement is not necessary if the existing security agreement covers all types of chattel property that will serve as security for the subsequent loan, describes the land on which the crops or fixtures are or will be located, and was taken within 1 year before the crops became growing crops. When determined necessary by OGC, a State supplement will be issued to further explain how often a security agreement covering crops will be taken.

(e) *Describing security property on security instruments.* (1) Financing statements describe certain types of collateral. If items of collateral not covered in the printed form of the financing statement are to serve as security, they should be described by types or individual items in the space provided.

(2) Generally, animals, birds, fish, etc., should be described by groups on the security agreement. The serial or motor number should be shown for major items of equipment. If a security interest is to be taken in property such as inventory, supplies, recreation, or other nonfarm equipment or fixtures that cannot be readily described under the column headings of items 2 or 3 of Form FmHA 440–4, an appropriate description of such property will be inserted in item 2 or 3, below the other property without regard to the column headings.

(3) The advice of the Office of the General Counsel (OGC) will be obtained as to how to describe in the financing statement and security agreement items such as grazing permits, milk bases, membership or stock in cooperative associations. The property to be described on security instruments should be reconciled with any existing security instruments and Form FmHA 462–1, "Record of the Disposition of Security Property."

(4) When the initial security agreement does not describe individually or by groups all the collateral that is to serve as security, an all inclusive security agreement will be taken as soon as all the security property has been acquired.

(f) *Executing security instruments.* The County Supervisor and any County Office employee determined by the County Supervisor to be qualified is authorized to execute on behalf of the Government any legal instruments necessary to obtain or preserve security for loans. This includes financing statements, security agreements, chattel

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mortgages, and similar lien instruments as well as severance agreements, consent and subordination agreements, affidavits, and acknowledgments.

(g) *Filing or recording security instruments.* (1) Ordinarily, in UCC States, financing statements may be delivered by hand or mailed to the filing officers for filing or recording when the loan is approved. However, when this is not practical, the financing statement may be filed at a later date, but not later than the first withdrawal of loan funds from the supervised bank account or delivery of the loan check to the borrower. If crops or other property of the borrower are or are to be located in a State other than that of a borrower's residence, the County Office servicing the loan will contact the County Office in the other State for information as to the security instruments to be used and the places of filing or recording in the other State. The financing statement will be filed or recorded as required by State supplements.

(2) Security agreements will not be filed or recorded unless authorized by State supplements. Form FmHA 440–4 LA or Form FmHA 440–4A LA will be filed or recorded in Louisiana as provided by State supplements.

§ 1921.106 Purchase money security interest.

A purchase money security interest in security property will take priority over an earlier perfected security interest if a security agreement is taken and a financing statement is filed before the purchaser receives possession of the property or within 10 days thereafter, subject to the following limitations:

(a) *Motor vehicles.* For motor vehicles required to be licensed, any action necessary to obtain perfection in the particular State, such as having the security interest noted on the certificate of title, must be taken before the purchaser receives possession or within 10 days. In some States, it is not necessary to file a financing statement to perfect a security interest in such motor vehicles; however, FmHA will always take a security agreement and a financing statement. State supplements will be issued as necessary for taking a lien on a motor vehicle, motorboat, and any special type of security.

(b) *Farm equipment.* A purchase money security interest in farm equipment costing $2,500 or less, (other than fixtures or motor vehicles required to be licensed), will take priority over an earlier perfected security interest if a security agreement is obtained, even though a financing statement is not taken or filed. FmHA, however, will always file a financing statement. State supplements will be issued, as necessary.

(c) *Inventory.* A purchase money security interest in inventory will take priority over an earlier perfected security interest provided a security agreement is taken and a financing statement is filed not later than the time the purchaser receives possession of the property. Also before the purchaser receives possession of the property, the purchase money creditor must notify the party with an earlier perfected security interest, in writing, that he or she has acquired or expects to acquire a purchase money security interest in the inventory described by item or type. When determined necessary by OGC, a State supplement will be issued to further explain the requirements for perfecting a purchase money security interest in inventory.

(d) *Fixtures.* A security interest taken in goods before they become fixtures has priority over holders of a real estate interest. A security interest taken in goods after they become fixtures is valid against all persons later acquiring an interest in the real estate. It is not valid against persons who had an interest in the real estate when the goods became fixtures, unless they execute a consent disclaimer or Form FmHA 440–26, "Consent and Subordination Agreement," or Form FmHA 440–6, "Severence Agreement."

(e) *Crops.* A security interest taken in and to finance crops not more than 3 months before they are planted or otherwise become growing crops has priority over an earlier perfected security interest for obligations that were due more than 6 months before the crops became growing crops.

§ 1921.107 Lien search.

(a) *Required lien searches.* (1) A lien search will be obtained at a time that will assure that the security instruments give the Government the required security, usually at the time the financing statement (mortgage or crop pledge in Louisiana) is filed or recorded. Lien searches may be obtained after the financing statement is filed but in no case later than delivery of the loan check or the first withdrawal of loan funds from the supervised bank account. Form FmHA 440–13, "Report of Lien Search," or other lien search forms will be used.

(2) Under the UCC, lien searches are necessary in making subsequent loans if an additional financing statement is required; i.e., when crops or fixtures to be taken as security are or will be located on land not described on the existing financing statement or property not otherwise covered by the financing statement is to be taken as security for the loan.

(3) Lien searches also may be obtained in connection with processing applications when such searches are determined necessary on an individual case basis.

(4) Although a lien search is not required for youths who have not reached their majority as defined in State supplements, the loan approval official may determine that a search is necessary to assure that the Government obtains the required security interest.

(b) *Responsibility for obtaining lien searches.* (1) Applicants must obtain and pay for lien searches except as follows:

(i) In exceptional cases, State Directors may authorize County Office employees to make lien searches for loan closing without cost to applicants if the cost of the search is not reasonable, such service is not available, or experience has shown that the service available will cause undue delay in the closing of loans or make it difficult to comply with the provisions of loan closing.

(ii) County Office employees are authorized to make lien searches for information purposes.

(2) State Directors will issue State supplements setting forth the minimum requirements for lien searches, including the records to be searched and the periods to be covered.

(3) Applicants should be informed of available sources such as County Clerks or local attorneys from whom satisfactory lien searches can be obtained at reasonable cost. Applicants, however, should select the source. They may pay the cost of lien searches from the proceeds of loan checks.

§ 1921.108 Additional requirements for perfecting security interests.

If necessary because of provisions in State statutes, leases, land purchase contracts, and real estate mortgages commonly in use, State Directors will issue State supplements for obtaining a subordination agreement, certification of obligation to landlord, severance agreement, disclaimer, and consent and subordination agreement to perfect security interest.

(a) *Form FmHA 441–5, "Subordination Agreement."* This form will be used if a subordination agreement is required by FmHA on crops, livestock, farm equipment, and other chattel property, including items that have become chattel property through execution of a "Consent and Subordination Agreement" or a "Severance Agreement." If Form FmHA 441–5 is not legally sufficient, a form recommended by OGC will be used. The years to be covered by the subordination generally will be for the period of the loan or the unexpired period of the lease if the borrower is a tenant, but as a minimum will be for the year for which the loan is made.

(b) *Form FmHA 441–17, "Certification of Obligation To Landlord."* This form may be used instead of obtaining a subordination agreement if: (1) It appears that the applicant is not financially obligated to the landlord except for rent for the lease year and will not incur other obligations to the landlord during such year, and

(2) A State supplement authorizing the use of Form FmHA 441–17 in such cases has been issued.

(c) *Form FmHA 440–6, "Severance Agreement."* In Louisiana, and in those UCC States in which State supplements so provide, Form FmHA 440–6, will be obtained when loan funds are used to purchase or refinance debts on property that is or may become a fixture, and it is necessary to sever such property from real estate.

(1) State Directors will issue State supplements to specify the situation in which severance agreements are required under State laws, whether the severance agreement should be filed or recorded, and whether the spouse of the borrower and the spouse(s) of the other party(ies)

of interest also will be required to execute the severance agreement. In specifying these situations, actions necessary to prevent the property from becoming part of the real estate will be considered. Actions to sever the property after it has become attached to the real estate will also be considered.

(2) Severance agreements will be executed no later than the date on which the property purchased with loan funds is delivered to the farm, or before the release of loan funds to the creditor if debts on such property are refinanced.

(d) *Form FmHA 440–26, "Consent and Subordination Agreement."* Unless otherwise provided by a State supplement, this form rather than a severance agreement will be used in UCC States when a security interest is taken in property after it has become a fixture.

(1) Consent and subordination agreements will be obtained before releasing loan funds to the creditor, if a debt is being refinanced on an item that already has become a fixture or no later than the time of loan closing in all other cases in which a security interest is being taken on an item that already has become a fixture.

(2) Consent and subordination agreements will be taken only in those cases in which the fixture is placed on the real estate before the financing statement and security agreement covering the fixture have been executed, or before the financing statement is filed, or before the request for obligation of funds is signed by the loan approving official.

§ 1921.109 Fees.

The borrower will pay statutory fees for filing or recording financing statements, mortgages, or other legal instruments and notary and lien search fees incident to loan transactions from personal funds or from the proceeds of the loan. Whenever FmHA employees accept cash to pay the filing or recording fees for security instruments or the cost of making lien searches, Form FmHA 440–12, "Acknowledgment of Payment for Recording, Lien Search, and Releasing Fees," will be executed. FmHA employees will make it clear to the borrower that any fee so accepted is not received by the Government as credit on the borrower's debt but is accepted only for paying the recording, filing, or lien search fees on behalf of the borrower.

§ 1921.110 Retention and use of security agreements.

Original executed security agreements will not be altered or destroyed when new security agreements are taken and will remain in the case file. Changes in security property will be noted only on the work copy. When an additional security agreement covering all collateral for the debt is taken, the work copy of the previous security agreement may be destroyed.

§ 1921.111 Future advance and after-acquired property clauses and State supplements.

The future advance and after-acquired clauses of security agreements in UCC States will be considered valid in all respects unless otherwise provided in a State supplement.

(a) *Future advance clause.* A properly prepared, executed, and filed or recorded FmHA financing statement and a properly prepared and executed FmHA security agreement give FmHA a security interest in the property described in them. This security interest covers future loans, advances, expenditures, and any other FmHA debts evidenced by notes, and any advances or expenditures for debts evidenced by such notes. However, when a borrower's indebtedness is paid in full, a new security agreement must be taken in all cases to secure an initial loan made following the payment in full.

(b) *After-acquired property clause.* Any property acquired after obtaining a security interest, except fixtures, of the same types as described (individually or by groups or specifically or generally), on the financing statement and security agreement will serve as security for the debt covered by them. The after-acquired property clause in the security agreement will encumber crops grown on the land described in the security agreement and financing statement, provided they are planted or otherwise become growing crops within 1 year of the execution date of the security agreement, or such other period as provided by State supplements. FmHA after-acquired security interests take priority over other security interests perfected after the FmHA financing statement was filed, except as stated in § 1921.106.

(c) *State supplements.* A State supplement will supplement paragraphs (a) and (b) with respect to future advance and after-acquired property clauses. It will set forth filing or recording requirements of security instruments if the borrower is not a resident of the State but is conducting some operation in the State. This will assist County Supervisors in other States who request such information in accordance with § 1921.105 (g). A State supplement will also be issued when considered necessary by OGC to reflect any State statutory changes in its version of the UCC.

§ 1921.112 Insurance.

Insurance for property, public liability, and crops should be obtained on or before loan closing.

(a) Applicants should be encouraged to carry insurance on the property including growing crops, serving as security for the loan and on other chattel or real property to protect themselves against substantial losses resulting from hazards existing in an area. It is especially desirable that insurance be obtained by applicants who receive large loans and have considerable chattel property including feed, supplies, and inventory centrally stored over an extended period. Such insurance may be required by the loan approval official in individual cases or by State supplement.

(b) Applicants, including youths, receiving loans for farm, recreational, or nonfarm enterprises should be advised of the possibilities of incurring liability and encouraged to obtain public liability and property damage insurance, including insurance on customer's property in custody of the borrower.

(c) When insurance is required on property serving as security Form FmHA 426–2, "Property Insurance Mortgage Clause (Without Contribution)," or a standard mortgage clause in general use in the area will be attached to or printed in the policy and will show the United States of America (Farmers Home Administration) as mortgagee or secured party.

§ 1921.113 Check delivery.

The County Supervisor will receive and deliver loan checks. On receipt of a loan check, and after arrangements have been completed for loan closing, the applicant will be promptly notified on Form FmHA 440–8, "Notice of Check Delivery." Loan funds will be disbursed in accordance with Part 1803 of this Chapter, (FmHA Instruction 402.1.)

§ 1921.114 Supervised bank accounts.

If a supervised bank account is required, loan funds will be deposited following loan closing. Supervised bank accounts will be established in accordance with Part 1803 of this Chapter, (FmHA Instruction 402.1). If a depository bank does not require the borrower's endorsement for deposit, the loan check may be deposited in the supervised bank account and the borrower given a copy of the deposit slip.

§ 1921.115 Collection of interest-only installments.

Loan funds for the payment of interest-only installments will be collected when the borrower receives the loan funds. The schedule of remittances will indicate "For deferred installment interest."

§ 1921.116 Revision in use of loan funds.

(a) *Approval of changes.* The State Director and other loan approval officials are authorized to approve changes in the purposes for which loan funds are to be used provided:

(1) The loan is within the respective loan approval official's authority,

(2) The change is consistent with authorities, policies, and limitations for making loans, and

(3) The change will not adversely affect the feasibility of the operation or the Government's interest.

(b) *Recording changes.* When changes are made in the use of loan funds, the repayment schedule on Form FmHA 441–1, "Promissory Note," will not be revised nor will a corrected Form FmHA 441–7, "OL–EM and other Credit Analysis," be prepared. When funds loaned for the purchase of capital goods are to be used for annual recurring production expenses, the funds will ordinarily be repaid in one year. Appropriate changes with respect to the repayments will be made in Table K of Form FmHA 431–2, "Farm and Home Plan," and initialed by the borrower. Appropriate notations will be made in the "Supervisory and Servic-

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ing Actions" section of the Management System Card.

§ 1921.117–1921.150 [Reserved]

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93–357, 88 Stat. 392; delegation of authority by the Sec. of Agriculture, 7 CFR 2.23; delegation of authority by Dir., OEO 29 FR 14764, 33 FR 9850.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: August 2, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 77–25313 Filed 9–2–77;8:45 am]

CONSOLIDATION, REVISION, REDESIGNATION

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations to redesignate, consolidate, and revise the regulations pertaining to chattel security servicing and liquidation, to delete instructions for converting to forms and procedures used under the Uniform Commercial Code and to add the requirements for providing a loan disclosure statement for assumption. This redesignation—consolidation—revision is intended to unify and [thus] improve the clarity of all chattel loan servicing activities since these regulations are presently contained in various units and sections of the Code of Federal Regulations and is brought about by an administrative decision.

EFFECTIVE DATE: September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Darrow Strain, 202–447–2331.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration (FmHA) amends its regulations to establish under Chapter XVIII, Subchapter I—"Loan and Grant Programs (Individual)," Title 7, a new Part 1930, "Borrower Property Security Servicing (Individual)," Subparts A through D (§§ 1930.1 through 1930.200) in the Code of Federal Regulations. Subpart A, "Chattel Security," (§§ 1930.1–1933.50) of this New Part 1930 will redesignate, consolidate, and revise the regulations concerning servicing chattel security and liquidation. Most of Subpart A was taken from various units and sections of Subchapter F, Security Servicing and Liquidations, Part 1871, "Chattel Security" (36 FR 1110, and as amended) and Part 1871 is hereby deleted and reserved. This new Subpart A revises the current regulations by making more explicit and detailed the policies and procedures to be followed by FmHA in connection with the Uniform Commercial Code. In this regard a requirement to provide for a loan disclosure statement for assumptions is added by Subpart A. However, no substantial changes have been made to these regulations. It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. The amendments, however, are not published for proposed rulemaking since the purpose of this change is to clarify and consolidate these regulations and publication is unnecessary.

Various Parts are amended. Part 1871 is deleted and reserved, and Part 1930, Subpart A is added as follows:

SUBCHAPTER E—ACCOUNT SERVICING

PART 1861—ROUTINE

§ 1861.1 [Amended]

(1) In § 1861.1, paragraph (b)(2), change the reference from "§ 1871.41(c) of this Chapter" to "Part 1930, Subpart A of this Chapter."

§ 1861.8 [Amended]

(2) In § 1861.8, paragraph (a), change the reference from "§ 1871.13 of this Chapter" to "Part 1930, Subpart A of this Chapter."

PART 1864—DEBT SETTLEMENT

§ 1864.2 [Amended]

(3) In § 1864.2, paragraph (d), change the reference from "Subpart B of Part 1871" to "Part 1930, Subpart A of this Chapter", and in paragraph (k), change the reference from "§ 1871.-19" to "Part 1930, Subpart A of this Chapter."

§ 1864.17 [Amended]

(4) In § 1864.17, paragraph (a)(1), change the reference from "Subpart A of Part 1871 of this Chapter", to "Part 1930, Subpart A of this Chapter."

PART 1866—FINAL PAYMENT ON LOANS SECURED BY REAL ESTATE

§ 1866.1 [Amended]

(5) In § 1866.1(b), change the reference from "Subpart A of Part 1871 of this Chapter" to "Subpart A of Part 1930 of this Chapter."

SUBCHAPTER F—SECURITY SERVICING AND LIQUIDATIONS

PART 1871—CHATTEL SECURITY

(6) Part 1871 is "deleted" and "reserved."

PART 1872—REAL ESTATE SECURITY

§ 1872.11 [Amended]

(7) In § 1872.11(b), change the reference from "Subpart A, Part 1871, Subchapter F of this Chapter" to "Subpart A of Part 1930 of this Chapter."

§ 1872.14 [Amended]

(8) In § 1872.14, change the reference from "§ 1871.38 of Subpart B, Part 1871, Subchapter F of this Chapter" to "Subpart A of Part 1930 of this Chapter."

§ 1872.15 [Amended]

(9) In § 1872.15(c), change the reference from "Subpart B, Part 1871, Subchapter F of this Chapter" to "Subpart A of Part 1930 of this Chapter."

§ 1872.17 [Amended]

(10) In § 1872.17(e), change the reference from "Subpart B, Part 1871 of Subchapter F" to "Subpart A of Part 1930 of this Chapter."

§ 1872.22 [Amended]

(11) In § 1872.22 change the reference from "Subpart A, Part 1871, Subchapter F of this Chapter" to "Subpart A of Part 1930 of this Chapter."

SUBCHAPTER I—LOAN AND GRANT PROGRAMS (INDIVIDUAL)

(12) In Subchapter I, Part 1930, Subpart A is added:

PART 1930—BORROWER PROPERTY SECURITY SERVICING (INDIVIDUAL)

Subpart A—Chattel Security °C°

Sec.

1930.1 Purpose.
1930.2 Policy.
1930.3 Authorities and responsibilities.
1930.4 Definitions.
1930.5 Security instruments.
1930.6 Liens and assignments on chattel property.
1930.7 Securing unpaid balances on unsecured loans.
1930.8 Liens on real estate for additional security.
1930.9 Liens on chattel property as security for a real estate loan.
1930.10–1930.11 [Reserved]
1930.12 Marking ASCS peanut and tobacco marketing cards.
1930.13 Lists of borrowers given to business firms.
1930.14 Account and security information in UCC cases.
1930.15–1930.16 [Reserved]
1930.17 Releasing chattel security.
1930.18 Accounting for security property.
1930.19 Claims against Commodity Credit Corporation.
1930.20–1930.21 [Reserved]
1930.22 Amendments of consents and releases or suspensions of assignments.
1930.23 Releases of liens on wool and mohair marketed by consignment.
1930.24 Notice of termination of security interest to purchasers of farm products under consents or assignments upon payment in full.
1930.25 Release of FmHA's interest in insurance policies.
1930.26 Errors in security instruments and exacting special releases.
1930.27 Termination or satisfaction of chattel security instruments.
1930.28 Assignment of notes and security instruments.
1930.29 Payment of fees and insurance premiums.
1930.30 Subordination and waivers of FmHA liens on chattel security.
1930.31 Reporting use of other credit.
1930.32–1930.33 [Reserved]
1930.34 Transfer of chattel security and EO property and assumption of debts.
1930.35–1930.39 [Reserved]

Sec.
1930.40 Liquidation.
1930.41 Sale of chattel security or EO property by borrowers.
1930.42 Repossession, care, and sale of chattel security of EO property by the County Supervisor.
1930.43 Liquidation of chattel security or EO property by other parties.
1930.44 Distribution of liquidation sale proceeds.
1930.45 Reporting sales.
1930.46 Deceased borrowers.
1930.47 Bankruptcy and insolvency.
1930.48 Set offs.
1930.49 Civil and criminal cases.
1930.50 [Reserved]

Exhibit A—Memorandum of Understanding Between Commodity Credit Corporation and Farmers Home Administration.
Exhibit B—Memorandum of Understanding and Blanket Commodity Lien Waiver.

Subpart A—Chattel Security °C°

§ 1930.1 Purpose.

This Subpart delegates authorities and gives procedures for servicing, care, and liquidation of Farmers Home Administration (FmHA) chattel security, Economic Opportunity loan (EO) property, and note only loans.

§ 1930.2 Policy.

(a) Chattel security and EO property, and note only loans will be serviced to accomplish the loan objectives and protect FmHA's financial interest. To accomplish these objectives, security will be serviced in accordance with the security instruments and related agreements, including any authorized modifications, provided the borrower has reasonable propects of accomplishing the loan objectives, properly maintains and accounts for the security, and otherwise satisfactorily meets the loan obligation, including repayment.

(b) If these conditions are not met, or the chattel security must be liquidated for other reasons, the security will be liquidated promptly to protect FmHA's financial interest. Normally, the borrower will dispose of chattel security and EO property at a public or private sale. However, when this cannot be done, the County Supervisor will take possession and sell chattel security in accordance with this Subpart.

§ 1930.3 Authorities and responsibilities.

(a) *Redelegation of authority.* Authority will be redelegated to the maximum extent possible consistent with program requirements and available resources. The State Director, District Director, and County Supervisor are authorized to redelegate, in writing, any authority delegated to them in this Subpart to any employee determined by them to be qualified.

(b) *Responsibilities.* (1) *FmHA personnel.* The State Director, District Director and County Supervisor are responsible for carrying out the policy and procedures in this Subpart.

(2) *Borrower.* The borrower is responsible for repaying his or her loans, maintaining, protecting, and accounting to FmHA for all chattel security, and complying with all other requirements specified in promissory notes, security instruments, and related documents.

§ 1930.4 Definitions.

(a) *FmHA* means the United States of America, acting through the Farmers Home Administration and its predecessor administrative agencies.

(b) *Chattel property.* Crops; livestock; fish; farm, business, and recreational equipment; supplies; farm products; other personal property; and fixtures.

(c) *Chattel security and security property.* Chattel property covered by FmHA financing statements and security agreements, chattel mortgages, and other security instruments.

(d) *EO property.* Nonsecurity chattel property purchased, refinanced, or improved with EO loan funds.

(e) *EO property essential for minimum family living needs.* Nonsecurity chattel or real property required to provide food, shelter, or other necessities for the family or to produce income without which the family would not have such necessities. This includes livestock, poultry, or other animals used as food or to produce food for the family or produce income for minimum essential family living needs; modest amounts of real property needed for family shelter or to produce food or income for minimum essential family living needs, and items such as equipment, tools, and motor vehicles, which are of minimum value and are essential for family living needs or to produce income for that purpose. Any such item of a value in excess of the minimum need may be sold and a portion of the sale proceeds used to purchase a similar item of less value to meet such need. The remainder of the proceeds will be paid on the EO loan.

(f) *Default.* Failure of the borrower to observe his or her agreements with FmHA as contained in notes, security instruments, and similar or related instruments. Some examples of default or factors to consider in determining whether a borrower is in default are when a borrower:

(1) Is delinquent, and the borrower's refusal or inability to pay on schedule, or as agreed upon, is due to lack of diligence, lack of sound farming or other operation, or other circumstances within the borrower's control.

(2) Ceases to conduct farming or other operations for which the loan was made or to carry out approved changed operations.

(3) Has disposed of security or EO property without FmHA approval, has not cared properly for such property, has not accounted properly for such property or the proceeds from its sale, or taken some action which resulted in bad faith or other violations in connection with the loan.

(4) Has progressed to the point to be able to obtain credit from other sources, and has agreed in the note or other instrument to do so but refuses to comply with that agreement.

(g) *Liquidation.* The act of selling security or EO property to close the loan in those cases in which no further assistance will be given; or instituting civil suit against a borrower to recover security or EO property or against third parties to recover security property or its value or to recover amounts owed to FmHA; or filing claims in bankruptcy or similar proceedings or in probate or administration proceedings to close the loan.

(h) *Civil action.* Court proceedings to protect FmHA's financial interests such as obtaining possession of property from borrowers or third parties, judgments on indebtedness evidenced by notes or other contracts or judgments for the value of converted property, or judicial foreclosure of security instruments. Bankruptcy and similar proceedings to impound and distribute the bankrupt's assets to creditors and probate and similar proceedings to settle and distribute estates of incompetents or of decedents under a will, or otherwise, and pay claims of creditors are not included.

(i) *Criminal action.* Court prosecution by the United States to exact punishment in the form of fines or imprisonment for alleged violations of criminal statutes. These include but are not limited to violations such as:

(1) Unauthorized sale of security property with intent to defraud.

(2) Purchase of security property with intent to defraud and without payment of the purchase price to FmHA;

(3) Falsification of assets or liabilities in loan applications;

(4) Application for a loan for an authorized purpose with intent to use and use of loan funds for an unauthorized purpose;

(5) Decision after obtaining a loan to use and using the funds for an unauthorized purpose and then making false statements regarding their use; or

(6) By scheme, trick, or other device, covering up or concealing misuse of funds or unauthorized dispositions of security or EO property or other illegal actions; or

(7) Any other false statements or representation relating to FmHA matters. In order to establish that a criminal act was committed by selling EO property, it is necessary to show that the borrower, at the time he signed the loan agreement or the check on the supervised bank account, intended to sell the property in violation of his loan agreement. The Federal criminal statute of limitations bars institution of criminal action five years after the date the act was committed. When actions by borrowers represent minor deviations from the policies expressed in FmHA regulations, such actions are not considered as criminal violations for the purposes of this Subpart. Examples of such minor deviations are failure of the borrower to account properly for nominal amounts derived from the sale of security property or for minor items of security. However, repeated unauthorized disposition of even minor items by the borrower will be considered criminal violations.

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(j) *Abandonment.* Voluntary relinquishment by the borrower of control of security or EO property without providing for its care.

(k) *Repossessed property.* Security or EO property in FmHA's custody, but still owned by the borrower.

(l) *Purchase money security interest.* Special type of security interest which, if properly perfected, takes priority over an earlier-perfected security interest. A security interest is a purchase money security interest to the extent that it is taken by the seller of the collateral to secure all or part of its purchase price or by a lender who makes loans or is obligated to make loans or otherwise gives value to enable the debtor to acquire the particular collateral or obtain rights in it and if such value is given not later than the time the debtor acquires the collateral or obtains rights in it.

(m) *Foreclosure sale.* Act of selling security property either under the "Power of Sale" in the security instrument or through court proceedings.

(n) *Acquired chattel property.* Former security or EO property of which FmHA has become the owner (Refer to § 1955.20 of this Chapter).

(o) *Office of the General Counsel (OGC).* The Regional Attorneys and Attorneys in charge of the Office of the General Counsel of the United States Department of Agriculture.

§ 1930.5 Security instruments.

County Supervisors are responsible for maintaining security instruments that will cover all security property, including replacements, increases, and other after-acquired property, and for obtaining additional security as needed. They will execute continuation, extension, or renewal of security instruments as needed to protect FmHA's security interests.

(a) *Financing statement.* An FmHA Financing Statement is effective as notice for 5 years from the date of filing. A new statement needs to be taken and filed only if the debt is to be secured by property not described specifically or by type, or by crops growing or to be grown, or fixtures located or to be located on land not described on the filed statement.

(1) However, the filed statement must be continued to notify third parties after the original 5-year period. Either Form FmHA 462–7, "Continuation Statement," or Form FmHA 462–12, "Continuation or Termination Statement" must be filed within 6 months before the end of the original 5-year period. On filing Form FmHA 462–7 or Form FmHA 462–12, the filed Financing Statement is effective for 5 more years after the date to which the original filing was effective. Successive Continuation Statements may be filed to continue the notice to third parties. A lien search is unnecessary provided the Continuation Statement is properly filed.

(2) Form FmHA 462–11, "Request for Continuation Statement Filing Fee," may be used to notify the borrower to continue the Financing Statement and to submit the amount of the filing fee.

(b) *Security agreement.* When an initial Operating Loan (OL) or Emergency Loan (EM) is made to an applicant, including a paid-in-full OL or EM borrower, a new security agreement will be taken when:

(1) Property not covered by specific description or the printed language of the previous security agreement is to serve as security for the debt;

(2) It is necessary to obtain or maintain a security interest in crops; or

(3) It is necessary to supplement the security agreement to obtain an asset for security property. A State supplement will be issued when considered necessary by the State Director and OGC to further explain the situations requiring the taking of an additional security agreement. Such additional security agreement usually will be taken at about the time of the annual inspection of security property required by § 1930.18.

(c) *Chattel mortgage.* A chattel mortgage may be extended or renewed by obtaining a new chattel mortgage or by using a form approved for this purpose by OGC. However, it is preferable to renew or extend chattel mortgages by obtaining new ones unless there are intervening liens or other legal reasons. A State supplement will be issued stating the actions to follow to assure that:

(1) FmHA liens and their priority are maintained by renewing or extending security instruments or by obtaining new instruments.

(2) Lien searches are made as necessary to determine that FmHA will obtain the required priority of liens.

§ 1930.6 Liens and assignments on chattel property.

(a) *Chattel property not covered by FmHA lien.* (1) When additional chattel property not presently covered by an FmHA lien is available and needed to protect FmHA's interest, the County Supervisor will obtain one or more of the following:

(i) A lien on such property; or

(ii) An assignment of the proceeds from the sale of agricultural products when such proceeds are not covered by the lien instruments, or

(iii) An assignment of other income, including Agricultural Conservation Program payments.

(2) When a current loan is not being made to a borrower, a crop lien will be taken as additional security when the County Supervisor determines in individual cases that it is needed to protect FmHA interests. However, a crop lien will not be taken as additional security for Farm Ownership (FO), Rural Housing (RH), Labor Housing (LH), and Soil and Water (SW) loans. When a new security agreement or chattel mortgage is taken, all existing security items will be described on it.

(b) *Lien search.* When a lien is taken on chattel property not covered by an FmHA lien, a lien search will be made. It will not be needed, however, if crops or other chattel property are covered by a filed FmHA Financing Statement but not by an FmHA security agreement or assignment of income. The search will be made at a time which will assure that FmHA obtains the desired lien on chattel property as set forth by a State supplement.

(c) *Assignment of wheat certificates payments and feed grain payments.* Borrowers may assign Agricultural Stabilization and Conservation Service (ASCS) price support and certificate payments under ASCS wheat and feed grain programs.

(1) *Obtaining assignments.* Assignments will be obtained as follows:

(i) In selected cases in counties agreed to by FmHA State Directors and ASCS State Committees,

(ii) Only when it appears necessary to collect the FmHA operating-type loans,

(iii) Only for the crop year for which FmHA operating-type loans are made, and

(iv) For the full amount of the wheat certificate payment and an advance and/or final feed grain payment.

(2) *Selecting counties.* State Directors will inform ASCS State Committees of the counties in which FmHA desires to obtain assignments from borrowers. When counties have been agreed to by FmHA State Directors and ASCS State Committees, the State Directors will notify the appropriate County Supervisors about obtaining the assignments. The County Supervisors then will:

(i) Determine, at the time of loan processing for indebted borrowers and new applicants, who must give assignments and obtain them not later than loan closing. Special efforts will be made to obtain the bulk of assignments before the sign-up period for enrolling in the annual Feed Grain and Wheat set aside programs.

(ii) Obtain assignments from selected borrowers on Form FmHA 462–8, "Wheat and Feed Grain Programs—Assignments."

(3) *Determining payments.* Under the Agricultural Act of 1970, the per bushel rates of payments to participating producers are determined in part by the average market prices for corn, grain sorghums, barley, and wheat during the first 5 months of the respective marketing years. Preliminary payments, at specified rates for corn, grain sorghums, and barley and at 75 percent of the estimated final rate for wheat, will be made promptly after July 1. Final payments, if any, will be made after determining the rates of payment.

(4) *Releasing assignments and handling checks.* (i) The County Supervisor will inform the ASCS County Office that it is releasing its assignment whenever a borrower pays FmHA the amount due for the year on the operating-type loan debt or pays the debt in full.

(ii) Checks obtained as a result of an assignment will be made jointly to the producer and FmHA. Such checks may be endorsed by both parties and scheduled as a payment or payments to FmHA, or endorsed and released, including partial release, to the borrower if the borrower has paid FmHA the amount due for the year on the operating-type loan or has paid the debt in full.

§ 1930.7 Securing unpaid balances on unsecured loans.

The County Supervisor will take a lien on a borrower's chattel property in accordance with § 1930.6 if it is necessary to rely on such property for the collection of the borrower's unsecured indebtedness, or it will assist in accomplishing loan objectives.

§ 1930.8 Liens on real estate for additional security.

The best lien obtainable may be taken on any real estate owned by the borrower, including any real estate which already serves as security for another loan. Such liens will be taken only when the existing security is not adequate to protect FmHA interests, and the borrower has substantial equity in the real estate to be mortgaged, and taking such mortgage will not prevent making an FmHA real estate loan, if needed, later.

(a) *Documentation.* Before taking real estate as additional security for an FmHA loan, the following information will be put in the running record:

(1) Facts justifying the real estate lien;

(2) An estimate of the present market value of the real estate to be mortgaged (no appraisal of the property to be mortgaged is needed);

(3) A brief description of any existing liens on the property and the unpaid balance on the debts secured by such existing liens; and

(4) Name of the titleholder and how title of the property is held. (Title evidence is not required.)

(b) *Forms.* Form FmHA 427–1 (State), "Real Estate Mortgage for _____" will be used for each real estate lien taken as additional security unless a State supplement requires a form of mortgage comparable to that which secures the existing loans to be additionally secured. The notes evidencing the FmHA loans for which the additional security will be taken will be described in the same mortgage.

§ 1930.9 Lien on chattel property as security for a real estate loan.

Form FmHA 440–15, "Security Agreement (Insured Loans to Individuals)" and Form FmHA 440A25, "Financing Statement," or Form FmHA 440–25, "Financing Statement," as appropriate, will be used in Uniform Commercial Code (UCC) States, and Form FmHA 440–15, "Chattel Mortgage (Insured Loans to Individuals)" will be used in non-UCC States unless State supplements provide for using other forms.

§§ 1930.10–1930.11 [Reserved]

§ 1930.12 Marking ASCS peanut and tobacco marketing cards.

The County Supervisor will mark ASCS marketing cards for all borrowers who have peanut or tobacco crops under lien to FmHA.

(a) *Marketing cards.* Just before ASCS prepares the cards, the FmHA County Office will give the appropriate ASCS County Office lists of the names and addresses of FmHA borrowers whose cards are to be marked and inform the office that FmHA will mark the cards of each borrower whose name is on the list before delivery. After FmHA determines that the cards are ready for delivery, the County Supervisor or his designate will go to the ASCS County Office and;

(1) Stamp or insert "FmHA lien" in script in indelible ink on the cards for peanuts and tobacco, except flue-cured and burley tobacco, wherever decided by the FmHA County Supervisor and the ASCS County Office Manager.

(2) Stamp or insert "FmHA lien" in script in indelible ink on borrower's Form MQ 76, "Tobacco Marketing Card," for flue-cured and burley tobacco. The stamp will be placed on the left at the bottom of the signature strip under "Tobacco Marketing Card."

(3) If the borrower satisfies the lien or repays the amount due the current year, stamp "canceled" across "FmHA lien" followed on the same line by the name of the official making the cancellation and the date.

(b) *Notice to borrowers.* The County Supervisor will inform borrowers of marketing arrangements, including the requirements for canceling the lien notice on the card.

(c) *Notice to buyers.* Whenever possible, the County Supervisor will explain these arrangements personally to buyers (warehousemen and dealers in the case of tobacco) in the area. He will also explain that the lien notice on the cards is not in place of the notice given by filed or recorded lien instruments but is a courtesy and is to provide them with readily available current information. However, this information may not always be accurate and commodities covered by a card not stamped "FmHA lien" may still be subject to an FmHA lien. If too many buyers are in the area, the County Supervisor may write them a letter explaining the arrangements to them.

§ 1930.13 Lists of borrowers given to business firms.

The County Supervisor may give lists of borrowers whose chattels or crops are subject to an FmHA lien to business firms in a trade area, such as salesbarns and warehouses, that buy chattels or crops or sell them for a commission. However, the County Supervisor will give these lists to any such firm on its request. These lists will exclude those borrowers whose only crops for sale require ASCS marketing cards.

(a) The list will contain the statement: "The crop and chattel liens of financing statements of the Farmers Home Administration are recorded or filed as required by law. This list of borrowers is furnished only as a convenience. It may be incomplete or inaccurate as of any particular date. The fact that a person's name is not on this list does not necessarily mean that the Farmers Home Administration does not have security interest in or lien on his/her crops, livestock, and other chattels."

(b) Lists will be sent by Form FmHA 462–3, "List of Farmers Home Administration Borrowers," or the County Supervisor may consider it advisable to personally deliver and explain the form and list to the buyers. The County Supervisor will update all lists that have been distributed by notifying buyers in writing, on Form FmHA 462–14, "Change in List of Farmers Home Administration Borrowers," at least every 3 months, of the names of borrowers to add and of paid-up or transferred borrowers to delete.

§ 1930.14 Account and security information in UCC cases.

Within 2 weeks after receipt of a written request from the borrower, FmHA must inform the borrower as to the security and the total unpaid balance of the FmHA indebtedness covered by the Financing Statement.

(a) If FmHA fails to provide the information, it is liable for any loss caused the borrower and, in some States, other parties, and also may lose some of its security rights. The UCC provides that the borrower is entitled to such information once every 6 months without charge, and that FmHA may ask up to $10 for each additional statement. However, FmHA provides them without charge. The requested information goes on Form FmHA 462–10, "Farmers Home Administration's Answer to Request for Information."

(b) Although the UCC only requires FmHA to give information pursuant to the borrower's written request, FmHA will also answer oral requests. Furthermore, the UCC does not prohibit giving this information to others who have a proper need for it, such as a bank or another creditor contemplating advancing additional credit to the borrower.

§§ 1930.15–1930.16 [Reserved]

§ 1930.17 Releasing chattel security.

Chattel security may be released only when release will not be to the financial detriment of FmHA. Borrowers will be strictly accountable to FmHA for the proper use of proceeds from the sale of security property. Insurance proceeds derived from the loss of security property will be treated the same as sale proceeds. The authority to release security for FmHA loans is different for basic security and normal income security as follows:

(a) *Basic security.* Basic security is all equipment (including fixtures in UCC States) and foundation herds and flocks securing FmHA loans which serve as a basis for the farming or other operation outlined in Form FmHA 431–2, "Farm and Home Plan," Form FmHA 431–3, "Family Budget," or Form FmHA 431–4, "Business Analysis Nonagricultural Enterprise," and replacement of such property. It also includes animals sold as a result of the normal culling process, unless the borrower has replacements that will keep numbers and production up to planned levels and animals or birds sold when a borrower plans to significantly reduce the basic livestock herd or flocks. County Supervisors may release basic security when the property has been sold

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or exchanged for its present market value, and the proceeds are used for one or more of the following purposes:

(1) To apply to the debts owed to FmHA which are secured by liens on the property sold.

(2) To purchase from the proceeds of the sale, or to acquire through exchange, property more suitable to the borrower's needs. The new property, together with any proceeds applied to the indebtedness, will have security value to FmHA at least equal to that of the lien formerly held by FmHA on the old property and subject to the following:

(i) *UCC cases.* Under the after-acquired property provisions of the security agreement, the new property, except fixtures, will be subject to the security interest of FmHA provided the financing statement on file and the security agreement cover the class of property. Therefore, new security instruments will not be needed.

(A) However, if either the financing statement or security agreement does not cover such property, a new instrument will be taken.

(B) Since the after-acquired property clause in the security agreement does not cover fixtures, a new security agreement would have to be taken for them. A new financing statement also will have to be taken and filed unless the existing filed financing statement covers fixtures by class and describes the land on which the new fixtures are or are to be located.

(ii) *Chattel mortgage cases.* The new property is made subject to a lien in favor of FmHA by the execution of a new security instrument (or by operation of the "replacement" or "after-acquired property" clauses in lien instruments in accordance with State supplements).

(iii) *Time of taking new security instruments.* New security instruments are taken at the time of the acquisition of the new property referred to in paragraph (a) (2) (i) and (ii) of this section. In individual cases, however, County Supervisors may delay as long as 1 year or until new instruments are necessary for other reasons, whichever is earlier, when adequate security will continue to exist. Security is considered adequate if its value, as determined by a chattel appraisal of the borrower's chattel property remaining under lien to FmHA, is substantially greater than the amount of the debt.

(3) To make payments to other creditors having liens on the property sold which are superior to the liens of FmHA. However, any amount remaining after payments to the other creditors will be used in accordance with paragraphs (a) (1) and (2) of this section.

(4) To pay costs to preserve security property because of an emergency or catastrophe, when the need for funds cannot be met through an FmHA loan, or an FmHA loan cannot be made in time to prevent the borrower or FmHA from suffering a substantial loss.

(b) *Normal income security.* This is all security property not considered as basic security including crops, livestock, poultry, products, and other property covered by FmHA liens which are sold in operating the farm or other business. County Supervisors may release normal income security when the property has been sold for its present market value and the proceeds are used in accordance with the following requirements or the property is disposed of without sale under one or more of the following conditions in this paragraph:

(1) To pay debts owed to FmHA.

(2) To pay farm and home or other operating expenses provided for in tables of Form FmHA 431–2, Form FmHA 431–3, or Form FmHA 431–4.

(3) To pay necessary farm and home or other operating expenses shown as debts in the financial statement on Form FmHA 431–2 or Form FmHA 431–3 and to be paid during the year as shown by the debt payment table, provided these debts were incurred in the production, harvesting, or marketing of crops, livestock, poultry or products sold during the year, or were for family subsistence for that year.

(4) To pay an amount not more than the equivalent of 1 year's income taxes and social security taxes.

(5) To make payments to other creditors having liens on the property sold which are superior to FmHA liens.

(6) To pay annual installments on debts owed on essential real estate to creditors other than FmHA. These amounts must be reasonable when related to the normal rental charge for similar real estate in the area, and there should be assurance that the borrower will keep the real estate at least for the next year.

(7) To make reasonable payments on debts owed to other creditors for essential home equipment and passenger automobiles provided for in the debt payment tables of Form FmHA 431–2 or Form FmHA 431–3 or approved revisions. Such debts ordinarily will be considered for payment only after the full amount agreed on for the year has been paid to FmHA. However, reasonable amounts may be paid to other creditors first if failure to make payments to other creditors when due would result in the borrower's losing possession of essential home equipment or passenger automobile, and the loss would require the borrower to replace the property or to go to substantial additional expense in order to continue his operation.

(8) To make payments on debts on harvesting equipment such as cotton pickers, corn pickers, combines, forage paying essential harvesting expenses provided an OL loan or EM loan for the crop year did not include funds for the payment of depreciation on such equipment, and the total amount released for such payments and harvesting costs, plus any loan funds advanced for harvesting costs, is not more than the amount that would be required during the crop year on a custom basis to harvest the crops using the harvesting equipment.

(9) To make payments on debts owed to other creditors and to make purchases or to meet expenses not otherwise covered in this section provided:

(i) Debt payments, purchases, or expenses are included in Form FmHA 431–2, Form FmHA 431–3, or Form FmHA 431–4;

(ii) Sufficient income will be available to pay an amount equivalent to that scheduled on the notes to fall due during the year, plus the amount agreed on for any delinquencies, on FmHA debts secured by liens on chattel property; and

(iii) Debt payments, purchases, or expenses are essential for the borrower to obtain or keep necessary equipment or to continue a sound operation.

(10) To pay costs required to preserve security property because of an emergency or catastrophe, when the need for funds cannot be met through an FmHA loan or an FmHA loan cannot be made in time to prevent the borrower or FmHA from suffering a substantial loss.

(11) To permit crops serving as security for FmHA loans to be fed to livestock when the County Supervisor determines that this disposal is preferable to direct marketing of the crops, provided a lien or assignment is obtained on the livestock or livestock products.

(12) When livestock is consumed by the borrower family for subsistence.

(c) *Distribution of income from normal income security.* On finding that the amount of income originally planned for the year will not be received, the County Supervisor will determine, in consultation with the borrower, how to use income that is available or will become available during the remainder of the planned year as shown on Forms FmHA 431–2 or FmHA 431–4. If other creditors have liens on the property from which the normal income is received, they also must be consulted. Priorities in distributing the income that will be available are as follows:

(1) Pay necessary farm, home, and other expenses planned for payment by cash as incurred.

(2) Prorate repayments on credit advanced for necessary farm, home, and other operating expenses to FmHA and other creditors.

(3) Make planned payments on other debts as shown in Table K of Form FmHA 431–2 or Table H of Form FmHA 431–3. However, minimum payments may be made on such debts along with the payment of cash farm, home, and other operating expenses on credit advanced for such purposes when necessary to enable the borrower to keep essential property.

(d) *Plans as basis for releasing chattel security.* Release of both basic and normal income security will be based on information about the borrower's operations as shown on Form FmHA 431–2, Form FmHA 431–3, or Form FmHA 431–4, as appropriate.

(1) If plans have been developed for the borrower's current crop or business year, the release will be based on them.

(2) If no recent plans have been made with the borrower, the release will be based on the County Supervisor's knowledge of the borrower's current operations, plus inquiry and documentation of the facts about the borrower's present operation in the running case record.

(e) *Release forms.* The County Supervisor may execute releases covering specific items of property. If security interest under the UCC is involved, Form FmHA 460–6, "Release (UCC States)," will be used in accordance with the Forms Manual Insert (FMI) to release such property from financing statements and security agreements. If chattel mortgages are involved, Form FmHA 460–1, "Partial Release," or other approved form will be used. Releases need not be executed unless requested by a borrower or by an interested third party.

(f) *Release of valueless junior lien.* State Directors may release chattels and crops serving as security for FmHA loans when such property has no present or prospective security value or enforcement of the FmHA lien would be ineffectual or uneconomical. Forms FmHA 460–6 and FmHA 460–1 will be used as appropriate. The following information will be documented in the running case record:

(1) The present market value of the chattels or crops, as determined by the County Supervisor, on which FmHA has a valueless junior lien.

(2) The names of the prior lienholders, amount secured by each prior lien, and the present market value of any property which serves as security for the amount. The value of all property serving as security for amounts owed to prior lienholders must be considered to determine whether the junior FmHA lien has any present or prospective value.

§ 1930.18 Accounting for security property.

(a) *Accounting by County Supervisor.* The County Supervisor is responsible for maintaining a current record of each borrower's security property. When the borrower acquires additional items of chattel property which will be described on subsequent security instruments, descriptions of these items will be recorded on the work copy of the security agreement or the file copy of the chattel mortgage, as appropriate. The original of the security agreement should not be altered. Chattel security should be inspected annually for borrowers who are delinquent or who have been indebted for less than 1 full crop year. The County Supervisor will make other inspections as needed to:

(1) Verify the borrower possesses all the security,

(2) Determine security is properly maintained, and

(3) Supplement security instruments.

(b) *Accounting by borrower.* The borrower must account for all security property and will be instructed regarding its care, maintenance, and disposition when a loan is made and as often afterwards as necessary. When borrowers sell security property, the sale will be made subject to the FmHA lien. The property and proceeds will remain subject to the lien until the lien is released or the sale approved by the County Supervisor and the proceeds are used for one or more of the purposes stated in § 1930.17. Purchasers of security property who inquire should be informed that the property is subject to FmHA's lien and will remain subject to it until they deliver any proceeds in cash to the County Supervisor or make checks payable jointly to the borrower and FmHA and the check has cleared. Form FmHA 462–2, "Written Consent to Sell and Statement of Conditions on Which Lien Will be Released," may be used by the County Supervisor to give written consent to sell when borrowers or purchasers request such a statement before the date of sale.

(c) *Recording dispositions of security property.* Dispositions of basic and normal income security will be recorded on Form FmHA 462–1, "Record of the Disposition of Security Property," as soon as information is available. Security will include items sold, exchanged or lost through death, theft, destruction, or deterioration, and livestock consumed by the family.

(1) For normal income security, the uses made of the sale proceeds will be recorded in sufficient detail to relate them readily to the appropriate tables in Form FmHA 431–2, Form FmHA 431–3, or Form FmHA 431–4. However, these entries are not required on Form FmHA 462–1 when:

(i) The borrower is not delinquent on any FmHA debts and has paid the amount agreed on for the year; or

(ii) Farm products such as milk, eggs, or wool are sold and are accounted for on Form FmHA 441–18, "Consent to Payment of Proceeds from Sale of Farm Products," Form FmHA 441–25, "Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest," Form FmHA 441–8, "Assignment of Proceeds from the Sale of Products," or the farm and home plan shows that no payments are to be made on FmHA debts from the farm product(s) listed on the named forms.

(2) Employees having release authority will approve or disapprove the release on Form FmHA 462–1.

(3) Recording or not recording disposition of security property does not release the FmHA lien on the security property.

(d) *Reporting improper dispositions of security property.* When the borrower fails to account properly for security property, the County Supervisor will report the facts in writing promptly to the State Office.

§ 1930.19 Claims against Commodity Credit Corporation.

This section is based on a Memorandum of Understanding between the Commodity Credit Corporation (CCC) and FmHA (see Exhibit A). The memorandum sets forth the procedure to follow when producers sell or pledge to CCC as loan collateral under the Price Support Program, commodities on which FmHA holds a prior lien, and when the proceeds, or an agreed amount from them, are not remitted to FmHA to apply against the producer's indebtedness to FmHA. In addition to the procedures outlined in Exhibit A, the following will apply:

(a) *County office action.* (1) Claims will not be filed with CCC until it is determined that the amount involved cannot be collected from the borrower. Therefore, after preliminary notice is given of this fact to CCC by the State Director the County Supervisor will make immediate demand on the borrower for the amount of the CCC loan or the portion of it which should have been applied to the borrower's account. If payment is made, the State Director will be notified.

(i) If payment is not made, the County Supervisor will determine whether or not the case should be liquidated in accordance with § 1930.40. Any liquidation action will be taken immediately. If the borrower has no property from which recovery can be made through liquidation or, if after liquidation, an unpaid balance remains on the indebtedness secured by the commodity pledged or sold to CCC, the County Supervisor will make a full report to the State Director on Form FmHA 455–1, "Request for Legal Action," with a recommendation that a claim be filed against CCC. However, if the indebtedness is paid through liquidation action, the State Director will be notified by memorandum.

(ii) If the facts do not warrant liquidation action, the State Director will be notified, and a recommendation will be made that no claim be filed against CCC.

(2) On receiving information from the State Director that CCC has called the borrower's loan, the County Supervisor will act to protect FmHA's interest with respect to the commodity if CCC is repaid.

(b) *State office action.* (1) The State Director, on receipt of reports and recommendations from the County Supervisor, will:

(i) Forward notice to CCC if he concurs in the County Supervisor's recommendation not to file a claim against CCC or if notice is received that the indebtedness has been paid.

(ii) Refer the case to OGC with a statement of facts if he concurs in the County Supervisor's recommendation to file a claim against CCC.

(iii) Send CCC, if OGC determines that FmHA holds a prior lien on the commodity and the amount due on its loan is not collectible from the borrower, a copy of the OGC memorandum with a complete statement of facts supporting the claim through the applicable ASCS office or notify CCC if the OGC memorandum does not support FmHA's claim.

(2) The State Director will notify the County Supervisor promptly on receiving information from CCC that the borrower's loan is being called.

(3) If collection cannot be made from the borrower or other party (see paragraph 5 of Exhibit A) the State Director will give CCC the reasons. FmHA will then be paid by CCC through the applicable ASCS office.

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§ 1930.22 Amendments of consents and releases or suspensions of assignments.

(a) *Amendment of Form FmHA 441–18.* The County Supervisor may temporarily amend this form to permit borrowers to use all or a part of proceeds from the sale of products in emergencies and in other justifiable circumstances. Such action, however, must not be to the financial detriment of FmHA and the funds must be used for the purposes stated in § 1930.17 (a) and (b). Form FmHA 462–9, "Temporary Amendment of Consent to Payment of Proceeds From Sale of Farm Products," will be used for this purpose. The borrower's file will show the purpose and justification for the amendment. The County Supervisor will see that payments are made in accordance with the original consent when the temporary amendment period expires.

(1) When a Form FmHA 441–18 has been executed and the amount of the payment to FmHA needs to be decreased for other than a temporary period, or increased for any period, a new Form FmHA 441–18 will be executed.

(2) If Form FmHA 441–18 has been executed for a particular product and FmHA is no longer looking to the proceeds from that product for payment on the FmHA indebtedness, the purchaser should be advised by letter as follows: "The Farmers Home Administration (FmHA) is not presently looking to the proceeds from the sale of (name of product) covered by the 'Consent to Payment of Proceeds from the Sale of Farm Products' executed by (name and address of borrower) and accepted by you on (date). Therefore, until further notice, you may discontinue making payments to FmHA for such product."

(3) If Form FmHA 441–18 has not been executed for a particular product because FmHA is not expecting payment from the proceeds of such product, but the purchaser of the product inquires about payment, a letter should be written to the purchaser as follows: "The Farmers Home Administration (FmHA) has a security interest in the (name of product) being sold to you by (name and address of borrower), but at the present time is not looking to the proceeds from the sale of that product for payment on the debt owed to this agency. Therefore, until further notice, it will not be necessary for you to make payment to FmHA for such product."

(b) *Assignments.* (1) The County Supervisor may release, reduce, or temporarily suspend assignments including crop insurance assignments and permit borrowers to use such proceeds including those received as checks made payable jointly to the borrower and FmHA. This authority is the same as that provided in paragraph (a) of this section. The County Supervisor will see that suspended, reduced, or released assignments are reinstated, or new assignments are obtained when needed.

(2) All suspensions, reductions, or releases of assignments will be made on forms approved by OGC. The original will be forwarded directly to the person or firm making the payment against which the assignment is effective, and a copy will be kept in the borrower's case file. In each case, the borrower's file will show the purposes and justification for the suspension, reduction, or release.

(3) The State Director may in justifiable cases approve requests for suspension, release, or reduction of assignments other than those specified in paragraph (b) (1) of this section, provided such action will not be detrimental to FmHA's interest.

§ 1930.23 Releases of liens on wool and mohair marketed by consignment.

(a) *Conditions.* Liens on wool and mohair may be released when the security property is marketed by consignment, provided all the following conditions are met:

(1) The producer assigns to FmHA the proceeds of any advances made, or to be made, on the wool or mohair by the broker, less shipping, handling, processing, and marketing costs.

(2) The producer assigns to FmHA the proceeds of the sale of the wool or mohair, less any remaining costs in shipping, handling, processing, and marketing, and less the amount of any advance (including any interest which may have accrued on the advance) made by the broker against the wool or mohair.

(3) The producer and broker agree that the net proceeds of any advances on, or sale of, the wool or mohair will be paid by checks made payable jointly to the producer and FmHA.

(b) *Authority.* The County Supervisor may execute releases of the Government's lien on wool and mohair on Form FmHA 462–4, "Assignment, Acceptance, and Release." Since Form FmHA 462–4 is not a binding agreement until executed by all parties in interest, including the producer and the broker as well as the Government, the County Supervisor may execute it before other parties sign it.

§ 1930.24 Notice of termination of security interest to purchasers of farm products under consents or assignments upon payment in full.

County Supervisors will notify purchasers of farm products as soon as the FmHA has received payment in full of indebtedness for collection of which it has accepted assignments or consents to payment of proceeds from the sale of the farm products. In cases in which Form FmHA 441–18, is in effect under the UCC, the notice to purchaser will be made on Form FmHA 460–8, "Notice of Termination of Security Interest in Farm Products." In cases where assignments have been used, the notice to the purchaser will be by letter or by forms prescribed by State supplements.

§ 1930.25 Release of FmHA's interest in insurance policies.

When liens on property covered by insurance have been released, the County Supervisor is authorized hereby to notify the insurance company that FmHA has released its lien on the property covered by the insurance.

§ 1930.26 Errors in security instruments and executing special releases.

(a) When security instruments have been taken covering chattel security property that the borrower did not own or could not give a lien for, the County Supervisor may release such property from the instrument, except when there was bad faith by the borrower in including the property in the security instrument. Likewise, when items not intended to serve as security for the loan are covered by the broad language in the financing statement, or in the financing statement and security agreement, the County Supervisor may release such property. In addition, the State Director may release chattel security property taken as additional security for types of real estate loans under § 1930.9.

(b) Form FmHA 460–1 for chattel mortgages or other similar instruments or Form FmHA 460–6 for financing statements, or if these forms are not legally sufficient, other forms approved by OGC will be used.

§ 1930.27 Termination or satisfaction of chattel security instruments.

(a) *Conditions.* The County Supervisor may terminate financing statements and satisfy chattel mortgages, chattel deeds of trust, assignments, severance agreements, and other security instruments when:

(1) Payment in full of all debts secured by collateral covered by the security instruments has been received; and

(2) All security property has been liquidated or released and the proceeds properly accounted for, including collection or settlement of all claims against third party converters of security property, even though the secured debts are not paid in full. This includes collection-only and debt settlement cases; or

(3) The U.S. Attorney has accepted a compromise offer in full settlement of the indebtedness and has asked that action be taken to satisfy or terminate such instruments, or

(4) When FmHA has a financing statement or other lien instrument which describes the real estate upon which crops are located but neither the borrower nor FmHA has an interest in the crops because the borrower no longer occupies or farms the premises described in the lien instrument.

(b) *Form of payment.* (1) Security instruments may be satisfied or the financing statements may be terminated on receipt of final payment in currency, coin, U.S. Treasury check, cashier's or certified check, bank draft, postal or bank money order, or a check issued by a party known to be financially responsible.

(2) When the final payment is tendered in a form other than those mentioned above, the security instruments will not be satisfied until 15 days after the date of the final payment. However, in UCC States the termination statement will be signed and sent to the borrower within 10 days after receipt of the borrower's written request but not until the 10th day unless it previously has been

ascertained that the payment check or other instrument has been paid by the bank on which it was drawn. (See paragraph (c) of this section for the reason for the 10-day requirement.)

(c) *Filing or recording termination statements.* Financing statements will be terminated by use of Form FmHA 460–7, "Termination Statement," or Form FmHA 462–12 if provided by a State supplement.

(1) Under UCC provisions if FmHA fails to give a termination statement to the borrower within 10 days after written demand, it will be liable to the borrower for $100 and, in addition, for any loss caused to the borrower by such failure unless otherwise provided by a State supplement. In the absence of demand for a termination statement by the borrower, a termination statement will be delivered to him/her when the notes have been paid in full.

(2) However, if FmHA has been meeting the borrower's annual operating credit needs in the past and expects to do so the next year, the Financing Statements need not be terminated in the absence of such demand unless a loan for the succeeding year will not be made or earlier termination is required by a State Supplement.

(d) *Filing or recording.* Satisfactions of chattel mortgages and similar instruments will be made on Form FmHA 460–4, "Satisfaction," or other form approved by the State Director. The original of the satisfaction form will be delivered to the borrower for recording or filing and the copy will be retained in the borrower's case file. However, if the State supplement based on State law requires recording or filing by the mortgagee, a second copy will be prepared for the borrower and the original will be recorded or filed by the County Supervisor. When State statutes provide that satisfactions may be accomplished by marginal entry on the records of the recording office, or when Form FmHA 460–4 is not legally sufficient because special circumstances require some other form of satisfaction, County Supervisors, are authorized to make such satisfactions according to State supplements. In such cases, Form FmHA 460–4 will not be prepared but a notation of the satisfaction will be made on the copy of Form FmHA 451–1, "Acknowledgment of Cash Payment," or Form FmHA 456–3, "Journal Voucher for Write-Off or Judgment," which will be retained in the borrower's case folder.

(e) *Satisfaction or termination of lien when old loans cannot be identified.* When a request is received for the satisfaction of a crop or chattel lien or for the termination of a financing statement and the status of the account secured by the lien cannot be ascertained from County Office records, the County Supervisor will prepare a letter to the Finance Office reflecting all the pertinent information available in his office regarding the account. The letter will request the Finance Office to inform him as to whether the borrower is still indebted to FmHA and, if so, the status of the account. If the Finance Office reports to the County Supervisor that the account has been paid in full or otherwise satisfied or that there is no record of an indebtedness in the name of the borrower, the County Supervisor is authorized to issue a satisfaction of the security instruments on Form FmHA 460–4 or other approved form or to effect the satisfaction by marginal release, or a termination statement on Form FmHA 460–7 as appropriate.

§ 1930.28 Assignment of notes and security instruments.

(a) The State Director may accept from third parties payment in full of a borrower's notes held by FmHA and to assign the notes to third parties without recourse against FmHA and to assign related security instruments including finance statements without warranty by FmHA in the following situations:

(1) The borrower requests or gives written consent to such an assignment.

(2) The borrower has not requested or given written consent to such an assignment but has demonstrated an unwillingness to cooperate voluntarily with FmHA in the servicing and orderly retirement of his/her accounts which otherwise would be liquidated.

(3) An insurer has made full payment of the borrower's indebtedness as stated in Form FmHA 426–2, "Property Insurance Mortgage Clause (Without Contribution)," or other such clause outlined in § 1808.2(g) of this chapter (FmHA Instruction 426.1, paragraph II G).

(b) The State Director will request OGC's review of the legal matters in each proposed assignment and will request approval of the form of assignment. (Refer to § 1872.22 of this Chapter, FmHA Instruction 465.1, paragraph XXII for additional provisions of assigning real estate security instruments and to § 1955.6 of this Chapter for special provisions on assigning insured notes.)

§ 1930.29 Payment of fees and insurance premiums.

(a) *Fees.* (1) *Security instruments.* Borrowers must pay statutory fees for filing or recording financing statements or other security instruments (including Form FmHA 462–7, or other renewal statements) and any notary fees for executing these instruments. They also must pay costs of obtaining lien search reports needed in properly servicing security as outlined in this Subpart. Whenever possible, borrowers should pay these fees directly to the officials giving the service. When cash is accepted by FmHA employees to pay these fees, Form FmHA 440–12, "Acknowledgment of Payment for Recording, Lien Seach and Releasing Fees," will be executed. If the borrower cannot pay the fees, or if there are fees referred to in paragraphs (a) (2) and (3) of this section that must be paid by FmHA, the County Supervisor may pay them as a petty purchase or as the bill of a creditor of FmHA in accordance with Subpart E of Part 2024 and Subpart A of Part 2075 of this Chapter, available in any FmHA office.

(2) *Satisfactions.* The borrower must pay fees for filing or recording satisfactions or termination statements unless a State supplement based on State law requires FmHA to pay them.

(3) *Notary fees.* FmHA will pay fees for notary service for executing releases, subordinations, and related documents for and on behalf of FmHA if the service cannot be obtained without cost.

(b) *Insurance premiums.* County Supervisors are authorized to approve bills or invoices for payment of insurance premiums on chattel security for FmHA loans when:

(1) A borrower cannot pay the premiums from his or her own resources at the time due;

(2) It is not practical to process a loan for that purpose;

(3) It is necessary to protect FmHA's interests; and

(4) The amount advanced can be charged to the borrower under the provisions of the security instrument.

§ 1930.30 Subordination and waiver of FmHA liens on chattel security.

(a) *Annual operating expenses.* FmHA liens on chattels and crops may be subordinated to permit applicants and borrowers to obtain all or part of the credit they need for annual operating expenses from other sources, provided any junior lienholders consent in writing to the subordination and to their liens remaining subordinated to FmHA liens.

(b) *Other expenses.* FmHA chattel liens may be subordinated to obtain credit from other sources for expenses that are not ordinarily considered annual operating expenses such as major repairs and parts for essential equipment for which FmHA chattel loans would otherwise be required.

(c) *Authorized operating and EM loan purposes.* (1) FmHA may subordinate chattel liens securing an operating loan to a creditor to permit that creditor to lend for any authorized operating loan purpose including capital purchases under the following conditions:

(i) The borrower has had substantial financial losses as a result of contamination of food crops, animal feed, livestock or livestock products by toxic chemicals and has not been fully compensated for them.

(ii) The borrower has a reasonable chance to accomplish the loan objective.

(iii) The Administrator approves the subordination.

(2) The FmHA may subordinate chattel liens securing EM loans to another creditor to permit that creditor to lend for any authorized EM loan purpose including capital purchases provided:

(i) The borrower needs the loan to continue farming operations.

(ii) The loan will help the borrower to accomplish the objectives of his/her FmHA loans.

(iii) FmHA's financial interest will not be adversely affected.

(d) *Limitations.* (1) When credit is obtained by subordination for expenses directly related to particular crops or livestock enterprises, the subordination should cover only crops, livestock increase, or feeder livestock, or other nor-

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mal farm income security. However, the minimum amount of basic chattel security necessary may be subordinated to enable borrowers to obtain credit from other sources for the expenses listed in the first sentence.

(2) When an obligation secured by a lien prior to that of FmHA is about to mature or has matured and the prior lienholder desires to extend or renew the obligation, or the obligation can be refinanced, the FmHA lien may be subordinated. However, the relative lien position of FmHA must be maintained.

(3) The subordination will be limited to a specific amount.

(4) A subordination in favor of only one creditor will be outstanding at any one time in connection with the same security. A subordination also may be executed to enable a borrower to obtain necessary crop insurance if the creditor to whom a subordination has been given on that crop consents in writing to payment of the insurance premiums from the crop or insurance proceeds.

(5) When a subordination is executed to enable the borrower to obtain insurance on crops under lien to FmHA, the borrower will assign the insurance proceeds to FmHA or name FmHA in the loss-payable clause of the policy.

(6) FmHA chattel liens will not be subordinated to enable a borrower to obtain credit for making payment on FmHA accounts, paying taxes on real estate securing FmHA loans other than OL and EM loans, making principal payments on real estate debts, or purchasing capital goods, except feeder livestock and as provided in paragraph (c) of this section. The Administrator in an exceptional case, however, may authorize such subordinations.

(7) Waivers of FmHA lien priority, instead of subordinations, may be executed in favor of a creditor who has made or will make advances to produce, harvest, process, or market crops under written contract to that creditor. Such waivers are limited to the purposes for which a subordination may be made under this subpart. When the waiver includes other purposes such as principal repayments for the purchase of equipment, the State Director must concur before the waiver is executed.

(e) *Approval.* Loan approval officials may approve subordinations and waivers of FmHA lien priority if the amount of the proposed subordination or waiver, plus the principal balance of existing subordinations or waivers, are not more than their loan approval authority for the type of loan being subordinated stated in tables which are available from any County or State Office of FmHA or from its National Office at 14th Street and Independence Avenue SW., Washington, D.C. 20250. When the lien priority for more than one type of loan is subordinated or waived, the total amount of the approval official's authority will be limited to the loan with the lowest approval authority for that official. However, the State Director may approve subordinations or waivers regardless of the amount, except as stated in paragraph (c)(1) of this section. State Directors may redelegate their authority for approving subordinations to qualified State Office employees and District Directors.

(f) *Forms.* (1) Subordinations or lien waivers authorized in this Subpart will be made on Form FmHA 460–2, "Subordination by the Government," or on other forms approved by the State Director with OGC's advice. If Form FmHA 460–2 does not conform to a State's recording requirements, a State supplement may be used on approval by OGC, to modify the form.

(2) Form FmHA 431–2 will show the subordination or lien waiver and repayment.

(g) *Loans under CCC program.* Refer to Exhibit B of this subpart, "Memorandum of Understanding and Blanket Commodity Lien Waiver."

(1) When the ASCS County Office makes CCC loans to the borrower, FmHA will not execute a form of subordination or lien waiver.

(2) When the full value of a CCC loan on cotton is to be advanced to the borrower by a bank or a ginner or warehouseman whom the County Supervisor considers financially responsible, and when a check or draft issued by the bank, ginner, or warehouseman is made payable to FmHA, or jointly to FmHA and the borrower and is delivered to the County Supervisor, the County Supervisor may then execute the lienholder's waiver on Form CCC Cotton A even though item 2 of that form shows that the CCC loan will be distributed to such a bank, ginner, or warehouseman.

(3) Loan approval officials may approve subordinations and waivers of crop liens in accordance with paragraph (e) of this section.

(4) If the commodity covered by the CCC loan, is released by CCC or redeemed by the borrower, the FmHA lien will be restored to the priority it held before the CCC loan was made.

§ 1930.31 Reporting use of other credit.

The use of other credit will be documented on Form FmHA 441–7, "OL–EM and Other Credit Analysis." This form will be prepared and forwarded to the Finance Office for each active operating loan borrower who does not receive an operating loan during the crop year but will receive operating credit from other sources.

§§ 1930.32–1930.33 [Reserved]

§ 1930.34 Transfer of chattel security and EO property and assumption of debts.

Transfer of chattel security and EO property and assumption of chattel debts may be done when one or more of the joint borrowers or the former spouse and co-obligor of a divorced borrower withdraws from the operation or dies. The transfer of accounts secured by real estate will be processed in accordance with Subpart A of Part 1872 of this Chapter (FmHA Instruction 465.1).

(a) *Transfer to eligibles.* Transfers of the chattel security and EO property to a transferee who is eligible for the kind of loan being assumed or who will become eligible after the transfer may be approved provided:

(1) The transferee assumes the total outstanding balance of the FmHA debts or that portion of the outstanding balance equal to the present market value of the chattel security or EO property, less any prior liens, if the property is worth less than the entire debt.

(2) Generally the debts assumed will be paid in accordance with the rates and terms of the existing notes or assumption agreements. Any delinquency will be scheduled for payment on or before the date the transfer is closed. Form FmHA 460–9, "Assumption Agreement (Same Terms—Eligible Transferee)," will be used. However, if the existing loan repayment period is extended, the debt being assumed may be rescheduled using Form FmHA 460–5, "Assumption Agreement (New Terms)." The new repayment period may not exceed that for a new loan of the same type. In such cases, the current interest rate for such loans will be used if it is higher than the rate specified in the notes being assumed.

(3) The transfer of Emergency actual loss loans, or EM loans made before September 12, 1975, will be made as provided under paragraph (b) of this section. However, when one or more of the joint borrowers or jointly obligated partners withdraw from the operation and those remaining desire to assume the total indebtedness and continue the operation, a transfer to the remaining borrowers or partners may be made as an eligible transferee.

(b) *Transfer to ineligibles.* Transfer of the chattel security and EO property to a transferee who is not eligible for the kind of loan being assumed may be approved, provided:

(1) It is to FmHA's financial interest to approve the transfer of security or EO property and assumption of the debts rather than to liquidate the security or EO property immediately.

(2) The transferee assumes the total outstanding balance of the FmHA debt, or an amount substantially more than the present market value of the security or EO property as determined by the County Supervisor, less any prior liens, if the value is less than the entire debts.

(3) FmHA debts assumed will be repaid in amortized installments not to exceed 5 years using Form FmHA 460–5. The transferred property, including EO property, will be subject to any existing FmHA lien. In the absence of an existing FmHA lien, new lien instruments will be executed. Interest rates to the transferee will be as follows:

(i) For operating loans, the current interest rate in effect at the time of approval of the transfer or the rate specified in the note for the loan being assumed, whichever is greater.

(ii) For EO loans, 6 percent.

(iii) For EM loans, the current prevailing market rate as established by the Secretary in effect at the time of the transfer or the rate specified in the note for the loan being assumed, whichever is greater.

(4) The transferee can repay the FmHA debt in accordance with the assumption agreement and can legally enter into the contract.

(c) *Effect of wife's signature.* If a wife executes an assumption agreement or other evidence of indebtedness with her husband, her signature will, in addition to any other purpose and effect for which it is obtained, make her individually liable regardless of any State law to the contrary.

(d) *Release of transferor from liability.* The borrower and any cosigner may be released from personal liability to FmHA when all the chattel security is transferred to an eligible or ineligible applicant and the total outstanding debt or that portion of the debt equal to the present market value of the security is assumed.

(e) *County Committee actions.* (1) *Transfer to eligible applicant.* The County Committee will certify the types and amounts of loans to be assumed on Form FmHA 440–2, "County Committee Certification or Recommendation."

(2) *Transfer to ineligible applicant.* The County Committee will execute a memorandum statement as follows: "In our opinion, the transferee (name of transferee), will honestly endeavor to make payments in accordance with the assumption agreement, maintain the security, and carry out the other obligations in connection with the loan."

(3) *Release from liability.* If the total outstanding debt is not assumed the County Committee will execute a memorandum statement when they recommend the transferor be released from personal liability, as follows: "(Name of transferor and any cosigner) in our opinion do not have reasonable ability to pay all or a substantial part of the balance of the debt not assumed after considering their assets and income at the time of transfer. Transferors have cooperated in good faith, used due diligence to maintain the security against loss, and otherwise fulfilled the covenants incident to the loan to the best of their ability. Therefore, we recommend that the transferor and any cosigner be released of personal liability on the transferees' assumption of a portion of the indebtedness at least equal to the present market value of the security." If the total outstanding debt is assumed, the statement is not required.

(f) *Transfer and assumption docket.* The County Supervisor will assemble the following statements and forms for transfer and assumption:

(1) A statement of the current amount of the indebtedness.

(2) A description of the security or EO property to be transferred and a statement about its value.

(3) Form FmHA 410–1, "Application for FmHA Services."

(4) Form FmHA 440–2 for an eligible transferee, with the memorandum statement of the County Committee if the transferor is to be released from liability.

(5) County Committee memorandum statement for ineligible transferee with the additional memorandum statement if the transferor is to be released from liability.

(6) Statement of justification for the transfer, including a plan of repayment, if not otherwise shown in the docket.

(7) Transferee's plan of operation shown on Form FmHA 431–2, or Form FmHA 431–3, or Form FmHA 431–4.

(8) Form FmHA 460–5 or Form FmHA 460–9, as appropriate.

(9) Form FmHA 465–8, "Release from Personal Liability," when appropriate.

(10) Form FmHA 440–41A, "Disclosure Statement for Loans Not Secured by Real Estate."

(11) Form FmHA 440–41, "Disclosure Statement for Loans Secured by Real Estate."

(12) Form FmHA 440–1, "Request for Obligation of Funds."

(13) Form FmHA 465–5, "Transfer of Real Estate Security," will be used to transfer real estate security.

(g) *Processing assumption agreements.* Additional security instruments will be obtained in accordance with advice from OGC.

(1) On receipt of Form FmHA 460–5 or Form FmHA 460–9, the Finance Office will establish an account in the name of the assuming transferee and will notify the County Supervisor.

(2) Form FmHA 405–1, "Management System Card—Individual," will be prepared for the transferee, and the loan record cards of the transferor will be attached.

(3) If a collection is received from the transferee after the assumption agreement is approved but before Finance Office notification to the County Office, Form FmHA 451–2, "Schedule of Remittances," will be prepared as follows:

(i) During the period that a transfer is pending in the County Office, payments received by the Finance Office will continue to be applied to the transferor's account, and Form FmHA 451–26, "Transaction Record," or Form FmHA 451–31, "Borrower Transaction Record," will be forwarded to the County Office. This includes any downpayments made in connection with the transfer for reducing the amount of the debt to be assumed. On receiving a payment on the account not included in the latest transaction record or monthly payment account status report, the County Supervisor should deduct such amounts from the total amount of principal and interest calculated from the latest information available before completing the assumption agreement and having it signed.

(ii) When the borrower has made a direct payment to the Finance Office and there is no record of it in the County Office, the account will be assumed based on the latest record in the County Office. The application of the direct payment will be reversed from the account, and the assumption agreement will be processed in the Finance Office. The Director, Finance Office, will contact the County Supervisor to determine how to dispose of the proceeds from the direct payment.

(iii) For payments received on the date of transfer, Form FmHA 451–2 will be prepared to show "Transfer in process for account owed by (borrower's name and case number) to be transferred to (name of transferee and case number, if known)." If the borrower number portion of the case number has not yet been assigned for a transferee, only the State and County portion of the case number will be shown. A statement for the information of the Finance Office will be attached to the assumption agreement showing the date of Form FmHA 451–2 and the amount paid.

(iv) When a payment is due on the assumption agreement shortly after the transfer is completed, it should be collected if possible, at the time of transfer and remitted in the transferee's name.

(h) *Approval.* Loan approval officials are authorized to approve transfer and assumption of FmHA accounts to eligible or ineligible transferees and releases from liability when the debts are within their respective loan approval authorities stated in tables which are available from any FmHA County or State Office or from its National Office at 14th Street and Independence Avenue SW., Washington, D.C. 20250.

(1) Loan approval officials may also approve transfers and assumptions of EO loans and releases from liability. State Directors may also approve transfers to and assumptions by ineligible transferees and releases from liability regardless of the amount of the outstanding FmHA debts.

(2) The Administrator will review for approval proposed transfers to and assumptions by eligible transferees that exceed the approval authorities of State Directors.

§§ 190.35—1930.39 [Reserved]

§ 1930.40 Liquidation.

FmHA will continue with borrowers if they make payments in accordance with their ability; account properly for security or EO property; and otherwise meet their loan obligations. When liquidation is begun, it is FmHA policy to liquidate all security property and EO property except that determined essential for minimum family living needs. However, only so much of the security and EO property will be liquidated as is necessary to pay the indebtedness. Ordinarily, before beginning liquidation, the facts will be presented to the District Director and the County Committee for recommendations. Liquidation will be undertaken when no further assistance will be given to a borrower and the borrower is in default.

(a) *Approval of liquidation.* The County Supervisor may approve liquidation of chattel security and nonsecurity property. Cases involving legal problems not covered by this Subpart or related State supplements and cases in which real estate services as security for any FmHA loan will be referred to the State Director for advice before approval. When liquidation is approved without referral to the State Director, a statement of facts with reasons for the action will be recorded in the running case file. Liquidation will be considered approved on the date the County Supervisor executes one of the following forms:

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(1) Form FmHA 455–4, "Agreement for Voluntary Liquidation of Chattel Security."

(2) Form FmHA 455–3, "Agreement for Public Sale by Borrower."

(3) Form FmHA 462–2, "Statement of Conditions on Which Lien will be Released."

(4) Form FmHA 455–6, "Agreement for Temporary Custody of Property."

(5) Form FmHA 455–21, "Notice of Acceleration and Demand for Payment," when security property is to be liquidated under the "Power of Sale" except in the State of Louisiana.

(i) Possession of property is taken under a security instrument or EO Loan Agreement to exercise the power of sale contained in it.

(ii) The borrower or another party is requested to sell EO property under the loan agreement, or

(iii) The State Director notifies the County Supervisor that liquidation is approved in cases submitted to the State Office.

(b) *Lien searches.* Before liquidation is approved, the County Supervisor will obtain a current lien search report to determine the effect that liens of other parties will have on liquidation, the record lienholders to whom notices of sale will be given, and the distribution that will be made of the sale's proceeds. Normally, lien searches should be obtained from the same source as for loan making purposes. If obtaining the searches from third party sources would cause undue delay which would interfere with orderly liquidation, searches may be made by the County Supervisor. If the lien search is made by third parties, the borrower will pay the cost from personal funds or if the borrower refuses, FmHA will pay the cost and charge it to the borrower's account in accordance with the security instrument or EO Loan Agreement. The records to be searched and the period covered by the search will be in accordance with a State supplement.

(c) *Acceleration of unmatured installments.* (1) When liquidation has been approved, the County Supervisor will accelerate all unmatured installments by using Form FmHA 455–21, except as follows:

(i) In cases referred to OGC for civil action, a notice of acceleration is not necessary if the notice has previously been given. However, when security property is to be liquidated under the "Power of Sale" in the lien instrument without referral to OGC, the County Supervisor will use Form FmHA 455–21.

(ii) In cases in which Form FmHA 455–13, "Report of Sale of Chattel Security," is used, the statement in it declaring unmatured installments immediately due and payable will suffice for loan servicing purposes. However, the County Supervisor may use Form FmHA 455–21 when it will assist in collecting any remaining indebtedness.

(2) Form FmHA 455–21 will be sent to the last known address of each obligor, with a copy to the Finance Office in those cases referred to OGC for civil action. County Office and Finance Office loan records will be adjusted to mature the entire indebtedness only in such cases.

(d) *Assignment of insured loans.* When liquidation of an insured loan is approved, the State Director will immediately obtain an assignment of the loan to FmHA. If the County Supervisor approves the liquidation, the County Supervisor will immediately refer the case to the State Office with a request to obtain assignment of the loan. Pending the assignment, preliminary steps to effect liquidation should be taken, but civil or other court action will not be started and claims will not be filed in bankruptcy or similar proceedings or in probate or administration proceedings with respect to the insured loan claim, unless essential to protect FmHA's interests and OGC recommends such action. However, other steps need not be held up pending assignment.

(e) *Protective advances.* (1) When liquidation has been approved and security property is in danger of loss or deterioration, the State Director will protect FmHA's interest and approve advances in payment of:

(i) Delinquent taxes or assessments that constitute prior liens and would be paid ahead of FmHA under $1930.44(a) and;

(ii) Premiums on insurance essential to protect FmHA's interest, and

(iii) Other costs including transportation necessary to protect or preserve security property.

(2) However, such advances may not be made unless the amount advanced becomes a part of the debt secured by FmHA's lien, or is for expenses of administration of estates or for litigation. If a case is in the hands of the U.S. Attorney, such advances may not be made without his concurrence. Moreover, such advances may not be made in any case to pay expenses incurred by a U.S. Marshal or other similar official such as a local sheriff. However, if the official seizes the property and delivers it to FmHA for sale by FmHA, costs incurred by FmHA after delivery to FmHA will be paid. Costs provided for in Form FmHA 441–19, "Loan Agreement," also may be paid to protect FmHA's interests in EO property.

(3) The County Supervisor will submit a report on the need for such advances to the State Director, including:

(i) Borrower's County Office case file;

(ii) Current lien search report;

(iii) Statement of the type and value of the property and of the circumstances which may result in the loss or deterioration of such property, and

(iv) Recommendations.

(4) Costs incurred by FmHA in protecting its interest in security or EO property may be paid by means of Standard Form 1034, "Public Voucher for Purchases and Services Other Than Personal," and may be charged to the borrower's loan account, or paid from proceeds of the sale of security or EO property.

§ 1930.41 Sale of chattel security or EO property by borrowers.

(a) *Public sale.* Because it is to the best interest of the borrower and FmHA, when liquidation has been approved, FmHA usually will encourage the borrower to sell security or EO property at public auction in his or her own name. Form FmHA 455–3 will be executed by the borrower, all lienholders, and the clerk of the sale or other person who will receive the sale proceeds before execution by the County Supervisor. When EO property is involved, delete from the Form the reference to the FmHA lien in the first "Whereas" clause, the second sentence in item 5, and all of item 8. No FmHA official is authorized to bid at such sales. The County Supervisor will arrange to promptly receive the proceeds of the sale due FmHA for application on the borrower's indebtedness.

(b) *Private sale.* (1) The borrower may sell chattel security or EO property at a private sale if:

(i) The borrower has ready purchasers and can sell all the property for its present market value; or

(ii) The property is perishable; or

(iii) The property is of a type customarily sold on a recognized market; or

(iv) The property consists of items of small value or a limited number of items which do not justify public sale.

(2) Form FmHA 462–2 may be used to approve liquidation of such security property. The Country Supervisor will document in the running case record the reasons that a public sale was not justified. If security property is not sold within 30 days after executing Form FmHA 462–2, it will be liquidated in accordance with paragraph (a) of this section or § 1930.42.

§ 1930.42 Repossession, care, and sale of chattel security or EO property by the County Supervisor.

(a) *Repossession.* The County Supervisor will take possession of security or EO property for FmHA when the value of the propetry, based on appraisal, is substantially more than the estimated sale expenses and the amount of any prior liens and when the prior lienholder does not intend to enforce their liens. The property will not be repossessed if FmHA's estimated recovery will be small in relation to the amount of its claim, or to the amount it must pay on prior liens and sale expenses if it bids on the property in accordance with § 1955.20 of this Chapter.

(1) *Conditions.* The County Supervisor will take possession under any of the following conditions:

(i) When Form FmHA 455–4 has been executed. For EO property this Form will be revised by placing a period after "interest" in the first "Whereas" paragraph and deleting the remainder of that clause; delete the words "collateral covered by the aforesaid security instruments" in the second "Whereas" paragraph and insert in lieu thereof "property covered by the debtor's loan agreement which is hereinafter referred to as the collateral."

(ii) When the borrower has abandoned the property.

(iii) When peaceable possession can be obtained, but the borrower has not executed Form FmHA 455–4.

(iv) When the property is delivered to FmHA as a result of court action.

(v) When Form FmHA 455–5, "Agreement of Secured Parties to Sale of Security Property" is executed by all prior lienholders. If prior lienholders will not agree to liquidate the property, their liens may be paid if their notes and liens are assigned to FmHA on forms prepared or approved by OGC. When prior liens are paid, the payment will be made on Standard Form 1034 and charged to the borrower's account.

(vi) When arrangements cannot be made with the borrower or a member of the family to sell EO property in accordance with the loan agreement.

(2) *Recording.* A list, dated and signed by the County Supervisor, of all security or EO property repossessed except for those items on Form FmHA 455–4, Form FmHA 455–6, or Form FmHA 455–7, "Agreement for Cultivating, Harvesting, and Delivering Crops," will be maintained in the borrower's case file. Whenever the County Supervisor is transferred to another position or leaves FmHA or there is a change in jurisdiction, the District Director will give the succeeding County Supervisor in writing, the names of such borrowers and a list of the property repossessed in the custody of the County Supervisor and caretakers, its location, and the names and addresses of the caretakers.

(b) *Care.* The County Supervisor will arrange for the custody and care of repossessed property as follows:

(1) *Livestock.* Livestock will be delivered to a person who can care for and feed it for compensation agreed on in advance. Whenever practicable, animal products will be computed as a part or all of the caretaker's compensation. Delivery, however, will be made only after Form FmHA 455–6 is executed. Space also may be leased using Form FmHA 455–6. When more time is needed due to circumstances in paragraph (c)(4)(i) of this section, the State Director may authorize Form FmHA 455–6 to be amended as appropriate and initiated by the parties or a new agreement executed covering the extension. If a more favorable arrangement cannot be obtained, custody agreements may provide that FmHA will supply feed necessary to maintain livestock.

(2) *Machinery, equipment, tools, harvested crops, and other chattels.* Property will be stored and cared for pending sale. Space may be leased for this purpose, if necessary, or property may be stored and cared for by agreement on Form FmHA 455–6. This type of property will not be used by the caretaker but will be held in storage only.

(3) *Crops.* Form FmHA 455–7 will be used for the custody, care, and disposition of growing crops and for unharvested matured crops unless the crops are to be sold in place. The form will be executed by the caretaker and the landlord unless the landlord gives consent otherwise in writing. If the written consent of the landlord cannot be obtained or if the procedures in this subpart do not cover a situation, the circumstances should be reported to the State Director for advice.

(c) *Sale.* Repossessed property may be sold by FmHA at public or private sale for cash under Form FmHA 455–4, Form FmHA 441–19, the power of sale in security agreements under the UCC, or in crop and chattel mortgages and similar instruments if authorized by a State supplement. Also, repossessed property may be sold at private sale when the borrower executes Form FmHA 455–11, "Bill of Sale 'B' (Sale by Private Party)."

(1) *Tests and inspections of livestock.* If required by State law as a condition of sale, livestock will be tested or inspected before sale. A State supplement will be issued for those States.

(2) *Public sales.* Such sales will be made to the highest bidder. They may be held on the borrower's farm or other premises, at public sale barns, pavilions, or at other advantageous sales locations. No FmHA employee will bid on or acquire property at public sales except on behalf of FmHA in accordance with § 1955.20 of this Chapter. The County Supervisor will attend all public sales of repossessed property.

(3) *Private sales.* FmHA will sell perishable property such as fresh fruits and vegetables for the best price obtainable. FmHA will sell staple crops such as wheat, rye, oats, corn, cotton, and tobacco for a price in line with current market quotations for products of similar grade, type, or other recognized classification. Chattel property sold under Form FmHA 455–4, other than perishable property and staple crops, will not be sold for less than the minimum price in the agreement. FmHA will sell other property, including that sold when the borrower executes Form FmHA 455–11, for its present market value.

(4) *Selling period.* Repossessed property will be sold as soon as possible. However, when notice is required by paragraph (c)(5) of this section, the sale will not be held until the notice period has expired.

(i) The sale will be made within 60 days unless a shorter period is indicated by a State supplement because of State law. Crops will be sold when the maximum return can be realized but not later than 60 days after harvesting, or the normal marketing time for such crops. The State Director may extend the sale time within State law limits.

(ii) These requirements do not apply to irrigation or other equipment and fixtures which, together with real estate, serve as security for FmHA real estate loans and will be sold or transferred with the real estate. However, a State supplement will be issued for any State having a time limit within which such items must be sold along with or as a part of the real estate.

(5) *Notice.* (i) *Notice of sale to borrowers and lienholders.* Notice of public or private sale of repossessed property when required will be given to the borrower and to any party who has filed a financing statement or who is known by the County Supervisor to have a security interest in the property, except as set forth below. The notice will be delivered or mailed so that it will reach the borrower and any lienholder at least 5 days (or longer time if specified by a State supplement) before the time of any public sale or the time after which any private sale will be held. Form FmHA 455–8, "Notice of Sale," may be used for public or private sales.

(A) Notice to the borrower or lienholder is not required when the property is sold under Form FmHA 455–4 because the parties are placed on notice when they execute the form. When the sale involves only collateral which is perishable or will decline quickly in value or is a type customarily sold on a recognized market, notice is not required but may be given if time permits to maintain good public relations.

(B) Notice only to lienholder is required when repossessed property is sold at private sale and the borrower executes Form FmHA 455–11.

(C) If the property is to be sold under a chattel mortgage, the manner of notice will be set forth in a State supplement or on an individual case basis.

(ii) *Notice to Internal Revenue Service (IRS).* If a Federal tax lien notice has been filed in the local records more than 30 days before the sale of the repossessed security property, notice to the District Director of IRS must be given at least 25 days before the sale. It should be given by sending a copy of Form FmHA 455–8 and a copy of the filed Notice of Federal Tax Lien (Form IRS 668). If the security property is perishable, the full 25 days' notice to the District Director is not required, but notice must be given to the District Director by registered or certified mail or by personal service before the sale. Also, the sale proceeds must be held for 30 days after the sale so that they may be claimed by IRS on the basis of its tax lien priority. In such perishable property cases, the proceeds or an amount large enough to pay the IRS tax lien will be forwarded to the Finance Office with a notation "Hold in suspense 30 days because of Federal Tax Lien." OGC will advise the Finance Office about disposing of the funds.

(6) *Advertising.* (i) *Private sales and sales at established public auctions.* These sales will be advertised by FmHA only if required by a State supplement based on State law.

(ii) *Other public sales.* These sales, whether under power of sale in the lien instrument or under Form FmHA 455–4 will be widely publicized to assure large attendance and a fair sale by one or more of the following methods customarily used in the area.

(A) *Handbills or notices.* The sale may be advertised by posting or distributing handbills, posting Form FmHA 455–8, or a revision of it approved by OGC to meet State law requirements, or by a combination of these methods. The length of

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time and place of giving notice will be covered by a State supplement.

(B) *Newspapers, radio, and TV advertising.* Advertising in newspapers or spot advertising on local radio or TV stations may be used depending on the amount of property to be sold and the cost in relation to the value sold and the cost in relation to the value of the property, the customs in the area, and State law requirements. When newspaper advertising is required, a State supplement will indicate the types of newspapers to be used, the number and times of insertions of the advertisement, and the form of notice of sale.

(7) *Payment of costs and prior lienholders.* If expenses must be paid before the sale or if cash proceeds are not available from the sale of the property to pay costs referred to in § 1930.44 (b) or to pay prior lienholders, such costs or prior liens will be paid by voucher on Standard Form 1934 or by invoice Standard Form 1143, "Advertising Order," for newspaper or publisher's invoice for newspaper advertising under Subpart F of Part 2024 of this Chapter available in any FmHA Office.

(i) The amount of the voucher will be charge to the borrower's account, except as limited by State law in a State supplement. No costs in the repossession and sale of security property should be incurred unless they can be charged to the borrower's account, and in no event will the Government pay them. However, if costs are not legally chargeable to the borrower, they may be paid as provided in this subpart, and charged to an account set up for the officials or other persons found responsible for them.

(ii) Each invoice or voucher will be approved by the County Supervisor, signed by the payee or supported by signed invoices, and submitted to the Finance Office for payment. An original and one copy of Form FmHA 455–6 or Form FmHA 455–7 will be attached to invoices or vouchers in payment of such costs as custody, care, storage, harvesting, and marketing.

(8) *Bill of sale or transfer of title.* If a purchaser requests a written conveyance of repossessed property sold by FmHA at public or private sale, the County Supervisor will execute and deliver to the purchaser Form FmHA 455–12, "Bill of Sale 'C' (Sale Through Government as Liquidating Agent)," or other necessary instruments to convey all the rights, title, and interests of the borrower and FmHA. A State supplement will be issued as necessary for conveying title to motor vehicles and boats.

§ 1930.43 Liquidation of chattel security or EO property by other parties.

(a) *Sale by prior lienholders and other parties.* Refer to § 1955.20 of this chapter for the County Supervisor's authority to bid at such sales.

(b) *Sale by junior lienholders.* On learning through formal notice or otherwise that a junior lienholder has begun foreclosure, the County Supervisor will consider whether FmHA should start liquidation. If the County Supervisor decides on liquidation, the County Supervisor will inform the junior lienholder and arrange for voluntary liquidation.

(1) If the junior lienholder has already begun foreclosure action and if voluntary liquidation cannot be effected, FmHA will foreclose its lien so that a single foreclosure sale may be held under both liens. If insufficient time or other reasons prevent holding a joint foreclosure sale, the County Supervisor will inform the foreclosing junior lienholder in writing as to the property on which FmHA holds a prior lien; and that

(i) If the junior lineholder's foreclosure sale is held, the County Supervisor will announce at the sale that FmHA holds a prior lien on each item of such property as security for an indebtedness of $—— (total principal and interest), and that any such property sold will continue to be subject to FmHA's prior lien; and that

(ii) The County Supervisor will immediately start foreclosure or other legal action to obtain the full value of each item of this property to apply on its prior lien until its lien is satisfied.

(c) *Retention by other lienholders without sale.* If another lienholder notifies FmHA that it has taken possession of security property after default and proposes to keep it in satisfaction of its secured claim, the County Supervisor will promptly reply in writing that FmHA objects and insists that the property be sold in accordance with law. This will be done only when FmHA's estimated recovery will be small in relation to the amount of the claim or the amount it must pay on prior liens or for sale expenses. After such notice, the case will be referred to the State Director for advice.

§ 1930.44 Distribution of liquidation sale proceeds.

This section applies to proceeds of nonjudicial liquidation sales conducted under the power of sale in lien instruments or under Form FmHA 455–4, Form FmHA 455–3, or Form FmHA 462–2.

(a) *Lien priorities.* (1) *Federal liens.* For Federal income, social security, or other Federal tax liens, or liens of other Federal agencies, OGC's advise will be obtained as to lien priorities.

(2) *State and local tax liens.* A State supplement, if considered necessary by the State Director and OGC, will list priorities of these liens or may provide for referral of these cases to the State Office.

(3) *Chattel mortgages and other liens of private parties.* A State supplement, if considered necessary by the State Director and OGC, will list priorities of chattel mortgages, landlord's liens, mechanics and materialmen liens, and other liens of private parties.

(4) *Security interests under UCC.* Liens on the same collateral that are perfected by filing a financing statement under the UCC and that are still effective as constructive notice, unless otherwise provided by a State Supplement, will be paid in the order of their perfection. Exceptions to this rule are listed below. A State supplement will be issued whenever necessary to explain any State deviations from these listed exceptions.

(i) A purchase money security interest in personal property will take priority over an earlier perfected security interest if a security agreement is taken and a financing statement is filed before the purchaser receives possession of the collateral or within 10 days thereafter. However:

(A) *Motor vehicles.* For motor vehicles required to be licensed, any action necessary to obtain perfection, in the particular State, such as having the security interest noted on the certificate of title, must be taken before the purchaser receives possession of the collateral or within 10 days thereafter. In some States, filing a financing statement to perfect a security interest is not required. A State Supplement will be issued as necessary.

(B) *Farm equipment.* A purchase money security interest in farm equipment, other than fixtures or motor vehicles required to be licensed, costing $2,500 or less, will take priority over an earlier perfected security interest if a security agreement is obtained, even though a financing statement is not taken or filed.

(C) *Inventory.* A purchase money security interest in inventory will take priority over an earlier perfected security interest provided a security agreement is taken and a financing statement is filed not later than the time the purchaser receives possession of the property. Also, before the purchaser receives possession, the purchase money creditor will notify the earlier perfected secured party, in writing, that he or she has, or expects to acquire, a purchase money security interest in inventory described by item or type.

(ii) A security interest taken in goods before they become fixtures has priority over real estate interest holders. A security interest taken in goods after they become fixtures is valid against all persons subsequently acquiring an interest in the real estate. It is not valid, however, against persons who had an interest in the real estate when the goods became fixtures, unless they execute a consent disclaimer or subordination agreement.

(iii) A security interest taken in and to finance crops not more than 3 months before they are planted or otherwise become growing crops, has priority over an earlier perfected security interest for obligations that were due more than 6 months before the crops became growing crops.

(b) *Order of payment.* Sales proceeds will be distributed in the following order of priority.

(1) To pay expenses of sale including advertising, lien searches, tests and inspection of livestock, and transportation, custody, care, storage, harvesting, marketing, and other expenses chargeable to the borrower, including reimbursement of amounts already paid by FmHA and charged to the borrower's account. Bills can be paid, after liquidation has been approved, for essential repairs and parts of machinery and equipment to place it in reasonable condition for sale, provided written agreements from any holders of liens which

are prior to those of FmHA state that such bills may be paid from the sales proceeds ahead of their liens.

(i) However, any such expenses incurred by the U.S. Marshal or other similar official such as a local sheriff, may not be paid from sale proceeds turned over to FmHA.

(ii) On the other hand, if the U.S. Marshal or other similar official such as a local sheriff has taken possession of the property and delivered it to FmHA for sale, such costs incurred by FmHA after delivery of the property to it may be paid from the proceeds of the sale.

(2) To pay liens which are prior to FmHA liens provided that:

(i) State and local tax liens on security or EO property which are prior to the liens of FmHA will be paid only when demand is made by tax collecting officials before distributing the sale proceeds. The sale proceeds will not be used to pay real estate, income, or other taxes which are not a lien against the security property, or to pay substantial amounts of personal property taxes against nonsecurity personal property.

(ii) If action is threatened or taken by the sheriff or other official to collect taxes not authorized in paragraph (b) (2) (i) of this section to be paid out of the security property or the sale proceeds, the sale will be postponed unless an arrangement can be made to deposit in escrow with a responsible disinterested party an amount equal to the tax claim, pending determination of priority rights. When the sale is postponed, or an escrow arrangement is made, the matter will be reported promptly to the State Director for referral to OGC.

(iii) If FmHA subordinations have been approved, their intent will be recognized in the use of sale proceeds even though the creditor in whose favor the FmHA lien was subordinated did not obtain a lien. If there are other third party liens on the property, however, the lienholders must agree to the use of the sale proceeds to pay such creditor first.

(3) To pay rent for the current crop year from the sale proceeds of other than basic security or EO property. However, there must be no liens junior to FmHA's other than the landlord's lien, if any, and the borrower must consent in writing to the payment.

(4) To pay debts owed FmHA which are secured by liens on the property sold.

(5) To pay liens junior to those of FmHA in accordance with their priorities on the property sold, including any landlord's liens for rent unless such liens already have been paid. Junior liens will not be paid unless, on request, the lienholder gives proof of the existence and the amount of his or her lien.

(6) To pay on any EO unsecured debt.

(7) To pay rent for the current crop year if the borrower consents in writing to payment and if such rent has not already been paid as provided in paragraphs (b) (2), (3), or (5) of this section.

(8) To pay on any other debts owed to FmHA unsecured or secured by liens on property which is not being sold. However, in justifiable circumstances, the State Director may approve the use of a part of or all the remainder of such sale proceeds by the borrower for other purposes, provided the other FmHA debts are adequately secured, or the borrower arranges to pay the other debts from income or other sources and these payments can likely be depended upon.

(9) To pay the remainder to the borrower.

(c) *Receipts.* Receipts are required for all amounts paid from the sale proceeds and are kept in the borrower's case file. Form FmHA 451–2 will be prepared only for the total amount remitted to FmHA for credit to the borrower's indebtedness.

§ 1930.45 Reporting sales.

(a) Form FmHA 455–13 will be prepared in all cases in which:

(1) Property is repossessed by FmHA; or

(2) The borrower sells the property under Form FmHA 455–3 or Form FmHA 462–2 and the FmHA debt is not paid in full; or

(3) The property is sold by prior or junior lienholders or other parties. It will not be prepared when the borrower holds the sale using Form FmHA 455–3 or Form FmHA 462–2 and the borrower's FmHA indebtedness is paid in full.

(b) Form FmHA 455–13 will be completed as soon as all the property is sold. In completing Part I of this form, the names of the purchasers need not be shown if there are numerous purchasers and the clerk's report of sale is filed in the borrower's case file, or liquidation is effected by using Form FmHA 462–2.

§ 1930.46 Deceased borrowers.

Immediately on learning of the death of any person liable to FmHA, the County Supervisor will prepare Form FmHA 455–17, "Report on Deceased Borrower," to determine whether any special servicing action is necessary unless the County Supervisor recommends settlement of the indebtedness under Part 1864 of this Chapter (FmHA Instruction 456.1). If a survivor will not continue with the loan, it may be necessary to make immediate arrangements with a survivor, executor, or administrator, or other interested parties to complete the year's operations or to otherwise protect or preserve the security.

(a) *Reporting.* The borrower's case files including Form FmHA 455–17 will be forwarded promptly to the State Director for use in deciding the action to take if any of the following conditions exist: (When it is necessary to send an incomplete Form FmHA 455–17, any additional information which may affect the State Director's decision will be sent as soon as available on a supplemental Form FmHA 455–17 or in a memorandum.)

(1) Probate or other administration proceedings have been started or are contemplated.

(2) The debts owed to FmHA are inadequately secured and the estate has other assets from which collection could be made.

(3) FmHA's security has a value in excess of the indebtedness it secures, and the deceased obligor owes other debts to FmHA which are unsecured or inadequately secured.

(4) The County Supervisor recommends continuation with a survivor who is not liable for the indebtedness or recommends transfer to, and assumption by, another party.

(5) The County Supervisor recommends, but does not have authority to approve, liquidation.

(6) The County Supervisor wants advice on servicing the case.

(b) *Probate or administration proceedings.* Generally, probate or administration proceedings are started by relatives or heirs of the deceased or by other creditors. Ordinarily, FmHA will not start these proceedings because of the problems of designating an administrator or other similar official, posting bond, and paying costs. However, when it appears that:

(1) Such proceedings will not be started by other parties;

(2) FmHA's interests could best be protected by filing a proof of claim in such proceedings, and

(3) Public administrators or other similar officials or private parties, including banks and trust companies, are eligible to, and will serve as administrator or other similar official and will provide the required bond, the State Director may request OGC to recommend beginning probate or administration proceedings by the U.S. Attorney. If probate or administration proceedings are started by other parties or at FmHA's request, and any security is to be liquidated by FmHA instead of by the administrator or executor or other similar official, it will be liquidated in accordance with the advice of OGC.

(c) *Filing proof of claim.* When a proof of claim is to be filed, it will be prepared on a form approved by OGC, executed by the State Director, and transmitted to OGC. It will be filed by OGC or by an FmHA official as directed by OGC or it will be referred by OGC to the U.S. Attorney for filing if representation of FmHA by counsel may be required. If a judgment claim is involved, the notification to the U.S. Attorney will be the same as for judgment claims in bankruptcy. If an insured loan is involved, the proof of claim will not be prepared until the note has been assigned to the Government. A proof of claim will be filed in any case in which probate or administration proceedings are started, unless:

(1) After considering liens and priority rights of FmHA and other parties, costs of administration, and charges against the estate, FmHA cannot reach the assets in the estate except for FmHA's own

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security and FmHA will liquidate the security by foreclosure or otherwise if necessary to collect its claim, or

(2) Continuation with an individual or transfer to and assumption by another party is approved, and either the debt owed to FmHA is fully secured, or the amount of the debt in excess of the value of the security which could be collected by filing a claim is obtained in cash or additional security, or

(3) The debt owed to FmHA by the estate is settled under Part 1864 of this chapter (FmHA Instruction 456.1) well ahead of the deadline for filing proof of claim.

(d) *Priority of claims.*—(1) *Secured claims.* Each secured claim will take its relative lien priority to the extent of the value of the property serving as security for it. These claims include those secured by mortgages, deeds of trust, landroad's contractual liens, and other contractual liens or security instruments executed by the borrower on real or personal property. However, tax, judgment, attachment, garnishment, laborer's, mechanic's, materialsmen's, landlord's statutory liens, and other noncontractual lien claims may or may not be secured claims. Therefore, if any noncontractual claims are allowed as secured claims and the FmHA claim is not paid in full, the advice of OGC will be obtained as to whether they constitute secured claims and as to their relative priorities.

(2) *Unsecured claims.* (i) The remaining assets of the estate, including any value of security property for more than the amount of the secured claims against it, are to be applied first to payment of administration costs and charges against the estate, and second to unsecured debts of the deceased.

(ii) If the total of the remaining assets in the estate being administered is not enough to pay all administration costs, charges against the estate, and unsecured debts of the deceased, the Government's unsecured claims against the remaining assets will have priority over all other unsecured claims, except the costs of administration and charges against the estate. Under such circumstances unsecured claims are payable in the following order of priority:

(A) Costs of administration and charges against the estate unless under State law they are payable after the Government's unsecured claims, and such costs and charges include costs of administration of the estate, allowable funeral expenses, allowances of minor children and surviving spouse, and dower and curtesy rights.

(B) The Government's unsecured claims.

(3) *State supplement.* A State supplement will be issued as needed taking into consideration the Federal priority statute, lien waivers and subordinations, and notice and other statutory provisions which affect lien priorities.

(e) *Withdrawal of claim.* It may not be necessary to withdraw a claim when it is paid in full by someone other than the estate or when compromised. However, when it is necessary to permit closing of an estate, compromise of a claim, or for other justifiable reasons, the State Director will recommend to OGC that the claim be withdrawn on receipt of cash or security, or both, of a value at least equal to the amount that could be recovered under the claim against the estate. When FmHA keeps existing security, arrangements must be made to assure that withdrawal of the claim will not affect FmHA's rights under the existing notes or security instruments with respect to the retained security. In some cases, with OGC's advice, the claim may be properly handled without filing a formal petition for withdrawal of the claim. However, if the claim has been referred to the U.S. Attorney, or if a formal withdrawal of the claim is necessary, the matter will be referred by OGC to the U.S. Attorney.

(f) *Liquidation of security property.* When probate or administration proceedings have not been started and continuation with a survivor or transfer and assumption by another party will not be approved, chattel security and real estate security will be liquidated promptly in accordance with this Subpart and Subpart B of this Part (FmHA Instruction 465.1), respectively. If the proceeds from the sale of security are insufficient to pay in full the indebtedness owed to FmHA, and other assets are available in the estate or in the hands of heirs from which to collect, the State Director will request OGC to effect collection.

(g) *Continuation of secured debt and transfer of security property.* When a surviving member of a deceased borrower's family, or other person is interested in continuing the loan and taking over the security property for the benefit of all or a part of the deceased borrower's family who were directly dependent on the borrower for their support at the time of his or her death, continuation may be approved subject to the following:

(1) *Individuals who are joint debtors.* Any individual who is liable for the indebtedness of the deceased borrower may continue with the loan provided that individual can comply with the obligations of the notes or other evidence of debt and chattel or real estate security instruments, and so long as liquidation is not necessary to protect the interest of FmHA. When an individual who is liable for the indebtedness is to continue with the account, Form FmHA 450–10, "Advice of Borrower's Change of Address or Name," will be sent to the Finance Office to change the account to that individual's name. A new case number will be assigned or, if the continuing individual already has a case number, that number will be used regardless of whether of the amount of the debt owed by the estate of the deceased.

(2) *Individuals who are not joint debtors.* When a surviving member of a deceased borrower's family, a joint operator with the deceased borrower, a relative or other individual who is not liable for the indebtedness desires to continue with the farming or other operations and the loan, the State Director may approve the transfer of chattel or real estate security or both to the individual and the assumption of the debt secured by such property without regard to whether the transferee is eligible for the type of loan being assumed, subject to the following conditions:

(i) The transferee will continue the farming or other operations for the benefit of all or a part of the deceased borrower's family who were directly dependent on the borrower for their support at the time of death.

(ii) The amount to be assumed and the repayment rates and terms will be the same as provided in § 1930.34(a).

(iii) The State Director determines that the continuation will not adversely affect repayment of the loan.

(3) *Considerations in continuing with joint debtors and transferees.* In determining whether to continue with individuals, whether they are already liable or assume the indebtedness, all pertinent factors will be considered including whether:

(i) Probate or administration proceedings have been or will be started and, with OGC's advice, whether the filing of a claim on the debt owed to FmHA in such proceedings is necessary to protect FmHA's interests.

(ii) Arrangements can be made with the heirs, creditors, executors, administrators, and other interested parties to transfer title to the security property to the continuing individual and to avoid liquidating the assets so that the individual can continue with the loan on a feasible basis.

(4) *Vesting title in joint debtors or transferees.* If continuation is approved, all reasonable and practical steps, short of foreclosure or other litigation, will be taken to vest title to the security property in the joint debtor or transferee.

(5) *Release from liability.* The deceased borrower's estate may be released from liability for the FmHA indebtedness if title to the security property is vested in the joint debtor or transferee, and:

(i) The full amount of the debt is assumed, or

(ii) If only a portion of the debt is assumed, the amount assumed equals the amount as determined by OGC which could be collected from the assets of the estate of the deceased borrower, including the value of any security or EO property, and the County Committee recommends release of liability.

(h) *Special servicing of deceased EO borrower cases.* If the EO loan is secured all paragraphs in this section will be followed. If the EO loan is unsecured, paragraphs (a), (b), (c), (d), and (e) of this section will be followed along with the following requirements:

(1) An individual who is liable for the indebtedness of the deceased borrower and wishes to continue with the EO debt and the EO property, may do so in accordance with paragraph (g)(1) of this section.

(2) A surviving member of the deceased borrower's family, a joint operator with the deceased borrower, or a relative or other individual who is not liable for the EO debt who desires to continue with the farming or other operation, may do so in accordance with paragraph (g)(2) of this section. This individual must execute a loan agreement in addition to the assumption agreement, and secure the EO debt with a lien on the remaining EO property when title to the property is vested in the individual and the County Supervisor determines that security is necessary to protect the interests of the deceased borrower's family or FmHA.

(3) If no individual listed in paragraphs (h)(1) and (2) of this section wishes to continue, but a member of the borrower's family turns over to FmHA the EO property in which the estate has an equity and which is not essential for minimum family living needs, the County Supervisor will take possession of EO property and sell it in accordance with § 1930.42. If this cannot be done, or if real property is involved, the case will be referred to OGC. If the property is sold, notice will be delivered to any of the borrower's heirs who are in possession of the property and to any administrator or executor of the borrower's estate.

§ 1930.47 Bankruptcy and insolvency.

If a borrower becomes a debtor in proceedings under any State or Federal bankruptcy or State insolvency law, the County Supervisor will promptly report the facts and forward the borrower's case file and other pertinent information and documents to the State Director for appropriate handling. The County Supervisor will keep the State Director informed of further developments, but will take no other action unless directed by the State Director or OGC. Under the Federal Bankruptcy law, after payment of fees and costs, unsecured FmHA claims and the amount of any claim in excess of any security with interest to the date of filing the petition in bankruptcy, are entitled to priority of payment over unsecured claims of other creditors. On receipt of the file and related material, the State Director will determine whether the case is a "no asset" or "asset" case or, if uncertain, obtain OGC's adice. A "no asset" case is one in which FmHA has no security for the debt and the debtor has no other assets from which FmHA could make a substantial collection, considering its priority rights. An "asset" case is one in which FmHA has security or the debtor has other assets, or both, from which FmHA could make a substantial collection, considering its priority rights.

(a) *No asset cases.* The State Director will return the file and related material to the County Office with a memorandum indicating his determination and advising that a proof of claim will not be filed unless the County Supervisor learns that the debtor has assets not previously known to exist. If assets are found before the time for filing claims has expired (within 6 months from the first date set for the first meeting of creditors), the County Supervisor will resubmit the case to the State Director.

(b) *Asset cases.*—(1) *Liquidation without filing proof of claim.* (i) If the value of FmHA's security is not more than the amount of its secured debt and the borrower has no other assets from which FmHA can substantially collect considering its priority right, the security property may be liquidated by foreclosure sale in the usual manner without preparing proof of claim if the referee in bankruptcy has no objection to foreclosure by FmHA.

(ii) If FmHA has no security or has security from which full collection cannot be expected, but the borrower has other assets from which FmHA can make a substantial collection considering its priority rights, any security property may be liquidated by foreclosure sale under the same conditions as set forth in subparagraph (b)(1)(i) of this section if the sale is held in time to file a proof of claim for the deficiency.

(2) *Filing proof of claim.* A proof of claim on an insured loan will not be executed or filed and foreclosure proceedings will not be started unless the note is held by FmHA or has been assigned to it.

(i) The State Director will execute Form FmHA 455–18, "Proof of Claim of the United States of America Entitled to Priority of Payment," or other form approved by OGC covering all indebtedness to FmHA, except any judgments obtained by a United States Attorney and send it to OGC with attachments that are required by a State supplement. OGC will refer the claim and any necessary petition for abandonment of security property to the United States Attorney or to the Department of Justice, as appropriate, for handling.

(ii) If the County Supervisor or the State Director know that a judgment has been obtained by a United States Attorney, even though charged off, the State Director will notify OGC. OGC will inform the United States Attorney so that he may prepare and file a proof of claim on the other action on the judgment.

(iii) The State Director, on OGC's advice, will instruct the County Supervisor about actions to take with respect to meetings of creditors.

(3) *Security released to FmHA.* Ordinarily, when the value of security is not more than the amount of FmHA liens and any prior liens against it plus any homestead or other exemptions that apply to it as specified in a State supplement or as determined by OGC, an effort will be made to get the security released to FmHA. A petition for abandonment may be referred by OGC to the United States Attorney or to the Department of Justice, as appropriate, for filing in any such case, with or without filing a proof of claim, as determined by OGC. When the referee orders security released to FmHA, it will be liquidated unless the State Director approves continuation with the borrower.

(i) *Liquidation.* When security property is liquidated, the proceeds, after payment of costs, will be applied first to the interest accrued to the date of filing the petition in bankruptcy and then to the principal of the debt. Additional proceeds will be applied to the interest accrued from the date of filing the petition in bankruptcy to the date of payment. When the payments are sent to the Finance Office, the County Supervisor will give the date of filing the petition in bankruptcy.

(ii) *Continuation with borrower.* If the State Director approves continuing the loan and the borrower is keeping the security, the borrower must execute:

(A) Form FmHA 460–10, "New Promise to Pay," promising to pay all indebtedness to FmHA which is secured by the property released to FmHA in accordance with the existing instrument(s) evidencing such indebtedness; and

(B) Any security or other instruments required by OGC. The new promise and other required instruments will be executed promptly after release of the security to FmHA and the borrower's adjudication in bankruptcy unless, under State law, the new promise to be effective must be made after discharge in bankruptcy.

(c) *Other parties liable.* When a joint obligor has been discharged in bankruptcy and continuation has been disapproved, but other parties remain liable, the County Supervisor will notify the Finance Office which parties remain liable and the address to mail the statement of account by using Form FmHA 450–10.

§ 1930.48 Setoffs.

Generally, FmHA will request setoffs only when all security has been liquidated, when ordinary collection efforts, including assignments, have not been effective and, if the borrower has cooperated with FmHA in the servicing of the loan, the setoff would not cause undue hardship on the borrower and the borrower's family. The filing of a setoff request will not decrease other collection efforts. Debts of nominal amounts and debts discharged in bankruptcy, will not be collected by setoff under this Subpart. Cases will not be referred for civil action until after any possible setoff actions are taken. However, there may be situations in which funds become available against which setoffs might be possible after referring the case for court action. Setoffs will not be requested in cases referred to the United States Attorney for collection or on which he has obtained a judgment without prior approval of the United States Attorney.

(a) *ASCS setoff.* The Secretary's Order on setoffs authorizes the collection of debts owed to FmHA by setoff against amounts approved for payment to the debtor by ASCS committees.

(1) *County Office actions.* (i) FmHA's County Office staff may ask the ASCS County Office staff whether the debtor has shown an intention, with respect to a particular crop year, to participate in one or more of the programs administered by ASCS under which funds might be available for setoff.

(ii) The County Supervisor will forward recommendations for such setoffs to the State Director, including information about efforts to collect by other means and any other pertinent information.

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(iii) If, after a recommendation for a setoff has been made the borrower pays the indebtedness to FmHA, moves to a new location or the borrower's circumstances change so as to affect the setoff, such information will be sent to the State Director.

(2) *State Office actions.* The State Director will consider recommendations for setoffs to determine if the setoff is justified and if it accords with this Subpart.

(i) The State Director will prepare requests for setoffs in memorandum form. The original and a signed copy of the request will be submitted to the ASCS State Office and a copy forwarded to the County Supervisor for the borrower's case file. The request will contain the following information.

(A) Full name, address, and FmHA case number of the debtor.

(B) County and State under which the amount of the indebtedness should be set up on the debt register.

(C) Principal amount of the indebtedness, the accrued interest, the date through which interest was computed, and the daily interest factor to be applied afterwards.

(D) Address of the FmHA County Office for delivery of check.

(E) Identification of any court judgment.

(F) The following certification:

The undersigned hereby certifies that the above-described indebtedness of _____ to the United States (Farmers Home Administration) is subject to setoff under the Secretary's Order.

_____
(Date)

_____
(Signature of Authorized Representative)

_____
(Title)

(ii) The State Director may withdraw a request for setoff by notifying the ASCS State Office at any time before processing a setoff voucher and sending a copy of the request for withdrawal to the County Supervisor. However, setoffs may be withdrawn only if the borrower pays the indebtedness fully or substantially, or the debt is settled, or future collections can be made by other methods.

(iii) If the account of the borrower for whom a request for setoff has been submitted is transferred to another FmHA County Office jurisdiction, either within or outside the State, the State Director will notify the ASCS State Office of the address of that FmHA County Office in order that any payments may be sent there.

(3) *Check delivery.* Setoffs will be made by checks or sight drafts payable to FmHA and delivered to the County Supervisor. If the claim has been forwarded to OGC, the remittance will be sent to OGC. OGC instructions as to application will be followed.

(4) *Deletion from debt registers.* (i) The names of FmHA borrowers for whom requests for setoffs have been submitted and who have quit farming, or cannot be located in the counties for which the debts were reported, will be deleted by the ASCS County Office from their debt registers without a request from FmHA. Notices of such deletions will be furnished to the FmHA State Office originating the setoff request.

(ii) On receipt of notice, the State Director will inform the appropriate FmHA County Office of the deletions.

(iii) If the borrowers whose names have been deleted resume farming operations or can be located, the County Supervisor may submit to the State Director a recommendation for a new request for setoff.

(b) *Federal employee setoff.* Salary and lump sum payments due borrowers on separation or retirement from Federal Government employment may be set off against debts owed to FmHA. Any sum a borrower has in the Civil Service Commission retirement fund also may be set off.

(1) *County Office actions.* If efforts to collect the debt from current income from Federal employment fail, the County Supervisor will submit the case to the State Director with information necessary to report the case to the National Office.

(2) *State Office actions.* If the facts justify a setoff against the borrower's salary and lump sum payments or Civil Service retirement the State Director will submit the case to the National Office, including:

(i) Full name, address, and FmHA case number of the borrower and if the borrower is a member of the military establishment or Coast Guard, title and serial number.

(ii) Date of birth of borrower.

(iii) Name and address of the employing agency, military establishment, or Coast Guard.

(iv) Approximate income of borrower and spouse.

(v) Financial circumstances of the borrower documented on Form FmHA 456–1, "Application for Settlement of Indebtedness."

(vi) Number of dependents.

(vii) Information about FmHA efforts to collect.

(viii) Statement of account.

(ix) Identification of any court judgment.

(x) A recommendation if the borrower is retired, based on financial circumstances, as to whether all or part of the monthly annuity check should be set off.

§ 1930.49 Civil and criminal cases.

All cases in which court actions to effect collection or to enforce FmHA rights are recommended, as well as actions relating to apparent violations of Federal criminal statutes, will be handled in accordance with this section.

(a) *Civil action.* Court action or other judicial process will be recommended to OGC when all other reasonable and proper efforts and methods to obtain payment, to remove other defaults, and to protect FmHA's interests have been exhausted. However, if an emergency situation exists or criminal action is to be recommended, the case will be submitted to OGC without taking the actions necessary to report the information required by Part II of Form FmHA 455–22, "Information for Litigation." This is because delay in submitting cases in emergency situations may affect the financial interests of FmHA and making collection efforts may affect the recommended criminal action.

(1) Civil action will be recommended when one or more of the following conditions exist:

(i) There is a need to repossess security or EO property, or to foreclose a lien, and such action cannot be accomplished by other means authorized in this Subpart.

(ii) There is a need for filing claims against third parties arising out of conversion of other action.

(iii) The borrower fails to make payments due on his debts in accordance with his reasonable ability to pay and has assets or income from which collection can be made.

(iv) The borrower has progressed to the point that he is able to obtain credit from other sources, has agreed in his note or other instrument to do so, but refuses to comply with that agreement.

(v) FmHA or its security property becomes involved in court action through foreclosure by a third-party lienholder or through some other action.

(vi) Other conditions exist which indicate that court action may be necessary to protect FmHA's interests.

(2) Debts of less than $400 principal will not be referred to OGC for court action unless:

(i) A statement of facts is submitted as to the exact manner in which the interest of FmHA, other than recovery of the amount involved, would be adversely affected if suit were not filed; and

(ii) Collection of a substantial part of the claim can be made from assets and income that are not exempt under State or Federal law. A State supplement will be issued to set forth such exemptions or a summary of those exemptions with respect to property to which FmHA normally would look for payment such as real estate, livestock, equipment and income.

(3) If criminal action will not be recommended before civil action is recommended, the following actions will be taken or determinations made:

(i) It must be determined on the basis of reasonably current credit data that there is a reasonable prospect of collection now or in the near future of all the debt or a substantial amount on the debt from assets and income that are not exempt under State or Federal law.

(ii) The debtor must be contacted personally and requested to pay the debt in full, unless one or more such contacts have been made recently without success, or such contact is not feasible considering the distance of the debtor from the County Office or other relevant factors.

(iii) Form FmHA 455–21, "Notice of Acceleration and Demand for Payment,"

will be used to accelerate the borrower's indebtedness, give him at least 15 days but not more than 30 days within which to make payment, and inform him of the consequences of his failure to make payment as demanded. However, this form will not be sent to the borrower unless the facts are first reviewed thoroughly with the District Director and he is of the opinion that it would be appropriate to refer the case to the United States Attorney if the borrower does not comply with the demand.

(iv) It must be determined that collection cannot be made by ASCS setoff in accordance with the provisions of § 1930.48(a), or by setoff or other agreement if the debtor is employed by another Federal agency or has a judgment against the United States.

(v) The current address of the debtor will be determined or efforts will be made to locate him in accordance with § 1864.5(b) of this Chapter (FmHA) Instruction 456.1 paragraph VB).

(vi) If the debtor advises that he is unable to pay the claim in full and if the County Supervisor believes that this may be the situation and that there has been no fraud or misrepresentation in the case, he will suggest that the debtor submit promptly an application for compromise or adjustment on Form FmHA 456–1, in order that it may be considered and the debt disposed of by such debt settlement, if possible.

(4) When a borrower has not properly accounted for the proceeds of the sale of security property, it is the general policy to look first to him for restitution rather than to third-party purchasers. In line with this policy the remaining chattel security property on which FmHA holds a first lien usually will be liquidated before demand is made or civil action taken to recover from third-party purchasers.

(i) In those cases in which the District Director determines that full collection cannot be made from the borrower and that it will be necessary to collect the full value of the security property purchased by a converter, a demand (refer to Guide Letter 1930–A–1 available in all FmHA County Offices) will be sent to the converter at the same time that Form FmHA 455–21 is sent to the borrower.

(ii) In all other cases in which the District Director determines that action likely will have to be taken to collect from third-party purchasers, the County Supervisor will notify such purchasers by letter (refer to Guide Letter 1930–A2 available in all FmHA County Offices) that FmHA security property has been purchased by them and that they may be called upon to return the property or pay the value thereof in the event restitution is not made by the borrower. If it later becomes necessary to make demand on such third-party purchasers, FmHA will do so unless the case already has been referred to OGC or the United States Attorney, in which event the demand will be made by one of those offices.

(iii) When restitution is made by the borrower, or a determination is made, with the advice of OGC, that the facts in the case do not support the claim against the third-party purchaser, he will be informed by the County Supervisor that FmHA will take no action against him (refer to Guide Letter 1930–A3 available in all FmHA County Offices). However, if OGC determines that the facts support the claim against the third-party purchaser but it is determined that no substantial part of the claim can be collected from him, he will not be notified of that decision unless he makes inquiry. If he makes such an inquiry, he will be advised that no further action is to be taken on the claim "at this time."

(iv) If court action is recommended against a converter, the applicable provisions of paragraphs (a)(2) and (a)(3) of this section will be followed with respect to such converter the same as with respect to the borrower. In addition, unless personal contacts with the converter or other efforts to collect demonstrate that further demand would be futile, and a satisfactory compromise offer has not been received, a followup letter (refer to Guide letter 1930–A–4 available in all FmHA County Offices) will be sent to him by the State Director as soon as possible after the 15-day period set forth in the demand letter has expired. Unless response to the State Director's followup letter or personal contacts or other efforts indicate that further demand would be futile, an additional followup letter will be sent to the converter by OGC after the case has been referred to that office.

(v) The loan programs administered by FmHA are authorized by law of Congress to carry out national purposes and policies throughout the entire United States and its territories and possessions. Therefore, the liability of an auctioneer for conversion of personal property mortgaged to FmHA shall be determined and enforced in accordance with the applicable Federal law. "Auctioneer" for the purposes of this Subpart includes a commission merchant, market agency, factor, or agent. In all cases in which there has been a disposition without authorization by FmHA of personal property mortgaged to that agency, any auctioneer involved in said disposition shall be liable to the Government for conversion—notwithstanding any State statute or decisional rule to the contrary

(b) *Criminal action.* When factual information has been obtained indicating that criminal violations may have been committed and the violations are of such a nature that criminal action will be recommended, the facts will be immediately reported to OGC without taking collection actions necessary to report the information required by Part II of Form FmHA 455–22. In all other cases in which it appears that criminal violations may have been committed, but in which criminal action will not be recommended, the factual situation will be reported to OGC as soon as collection action has been completed in accordance with paragraphs (a)(3) and (a)(4) of this section. Cases in which there are minor deviations as referred to in § 1930.4(1)(7) need not be reported.

(c) *Handling civil and criminal cases.* All cases in which court actions to effect collection or to enforce the rights of FmHA are recommended, as well as actions relating to apparent violations of Federal criminals statutes, will be forwarded to OGC for submission to the appropriate United States Attorney.

(1) *County Office actions.* Forms FmHA 455–1, "Request for Legal Action," and FmHA 455–22 will be prepared. Form FmHA 455–2, "Evidence of Conversion," will be prepared for each conversion. The original and two copies of Forms FmHA 455–1, FmHA 455–22 and, where applicable, Form FmHA 455–2, together with the borrower's case file, will be submitted to the State Office. Signed statements should be obtained, if possible, from the borrower, any third party purchasers or others to support the information contained on Forms FmHA 455–1. Appropriate recommendations will be made on Forms FmHA 455–1 and FmHA 455–22 against the borrower or others. When a case is referred to the State Office, the County Supervisor will keep that office informed of any future developments in the case.

(2) *State Office actions.* (i) Upon receipt of Form FmHA 455–1 and, when applicable, Form FmHA 455–2, the State Director will analyze each case to determine whether all necessary facts have been established and, if not, whether appropriate efforts have been made to establish them. If the analysis discloses that such efforts have not been made, the State Director will return the case to the County Supervisor with appropriate instructions. When the County Supervisor, after diligent effort is unable to obtain the facts, the State Director will refer the case to the Regional Director, Office of Investigation (ROI) when required under the provisions of FmHA Instruction 2012–B.

(ii) After all of the pertinent information available has been obtained, the State Director will refer the case to OGC if referral is required under the policy expressed in this section. If such referral is not required, the State Director will set forth in Item 19 of Form FmHA 455–1 the basis for his determination not to refer the case as well as his instructions for followup servicing action. Cases which have been investigated by the Office of Investigation (OI) will be referred to OGC in accordance with the provisions of FmHA Instruction 2012–B. Demands on third-party purchasers will be made in accordance with paragraph (a)(4) of this section. In cases referred to OGC, the State Director will make his comments and recommendations regarding the civil and criminal aspects of the case on Form FmHA 445–1. With respect to the criminal aspects of the case, the State Director, in making his recommendations, will take into consideration

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the nature and gravity of the offense, the restitution made or undertaken, and all other extenuating circumstances.

(A) In all cases which are referred to OGC the County Office case file, Form FmHA 455–1, and when appropriate, Form FmHA 455–2 will be transmitted. In addition, those cases in which the institution of court proceedings by FmHA is recommended, the notes, financing statements, security agreements, other security instruments, loan agreements, and other legal instruments and copies thereof as required by OGC, and Form FmHA 451–11, "Statement of Account," or Form FmHA 451–25, "Status of Account," and Form FmHA 455–22 will be submitted to OGC. The State Director, with the advice of OGC, will determine the number of copies of such instruments needed and the information required on the certified statement of account. Each request for a certified statement of account will specify the type of information needed.

(B) Notes, statements of account, files, or other documents and copies thereof needed in referring cases to OGC for court or other action will be obtained from the Finance Office or County Office by the State Director. When the time required for obtaining the above material or documents may jeopardize FmHA's interest permitting the diversion or dissipation of assets which otherwise could be expected as a source of payment, the Finance Office, upon the request of the State Director, will forward such material or documents directly to OGC or at his direction to the United States Attorney.

(d) *Action on cases referred to OGC.* When a case is refered to OGC, the State Director will notify the County Supervisor and the Finance Office of the referral and will return the County Office case file when it is no longer needed. After notice of the referral is received by the County Supervisor no collection or servicing action will be taken except upon specific instrutions from the State Director or OGC. However, when the borrower voluntarily proposes to make a payment on his account, the County Supervisor will receive the collection in accordance with established procedure unless he has received notice that the case has been referred to the United States Attorney. The County Supervisor immediately will notify OGC direct by memorandum, with a copy sent to the State Director, of any such collections received. The County Supervisor also will notify the State Director and OGC of any developments which may affect any case which has been referred to OGC.

(e) *Actions on cases referred to the United States Attorney and on judgment cases (including third-party judgments).* OGC will notify the State Director, the Finance Office, and the County Supervisor when a case is referred to the United States Attorney, or a case is otherwise disposed of. When a case is referred to the United States Attorney the Finance Office will discontinue mailing Forms FmHA 450–1, "Statement of Account," to such borrowers. The OGC will also notify the State Director when a judgment (including third-party) is obtained.

(1) When the County Supervisor receives notice from OGC that a judgment (including third-party) has been obtained, he will notify the Finance Office to establish a judgment account by submitting Form FmHA 455–20, "Notice of Judgment."

(2) After notice has been received that a case has been referred to the United States Attorney or a judgment has been obtained and has not been returned to FmHA by the United States Attorney, no action will be taken by the County Supervisor except upon specific instructions from the State Director, OGC, or the United States Attorney. However, the County Supervisor will keep the State Director informed of any developments which may affect the FmHA security interest or any pending court action to enforce collection. If information is obtained indicating that such debtors have assets or income not previously reported by the County Supervisor to the State Director from which collection of such judgment accounts can be obtained, the facts will be reported to the State Director. The State Director immediately will notify OGC of any developments which might have a bearing on cases referred to the United States Attorney, including such judgment cases.

(i) If the debtor proposes to make a payment, FmHA employees will not accept such payment, but will offer to assist in preparing a letter for the debtor's signature to be used in transmitting the payment to the United States Attorney. In such case, the debtor will be advised to make payment by check or money order payable to the Treasurer of the United States.

(ii) Collection items received through the mail from the debtor or from other sources by the County Office to be applied to such accounts will be forwarded by the County Supervisor through OGC to the appropriate United States Attorney. Likewise, collections received by the District Director or the State Office will be forwarded through OGC to the appropriate United States Attorney. Such items will be forwarded in the form received except that cash will be converted into money orders made payable to the Treasurer of the United States. The money order receipts will remain attached to the money orders. Form FmHA 451–1 will not be issued in any such case. The debtor will be informed in writing by the County Supervisor of the disposition of the amount received.

(3) When the United States Attorney has returned a judgment case to FmHA, it will be the responsibility of the County Supervisor to service it as follows:

(i) In cases in which the judgment debtor has the ability to make periodic payments, action will be taken by the County Supervisor to make arrangements for the judgment debtor to do so.

(ii) Any payments received from such debtor by FmHA will be handled by issuing Form FmHA 451–1 and converting and transmitting such payments as provided in Part 1862 of this Chapter (FmHA Instruction 451.2). The United States Attorney will be informed through OGC of payments received only when the debtor pays a judgment in full.

(iii) At the time of the annual review of collection-only or delinquent and problem cases, the County Supervisor will determine whether such judgment debtors, whose judgments have not been charged off and who are not making regular and satisfactory payments, have assets or income from which the judgment can be collected. If such debtors have either assets or income from which collection can be made and they decline to make satisfactory arrangements for payment, the facts will be reported by the County Supervisor to the State Director. The State Director will notify the OGC in such cases of developments when it appears that collections can be enforced out of income or assets.

(iv) Such judgments will either be renewed or revived unless there is a reason to believe that substantial assets have or may become subject thereto.

(v) Such judgments may be released only by the United States Attorney when they are paid in full or compromised.

(4) If the debtor proposes a compromise or adjustment offer to FmHA when the case is in the hands of the OGC before referral to the United States Attorney, such proposal will be handled in accordance with § 1864.11 of this Chapter (FmHA Instruction 456.1, paragraph XI.) In all judgment cases, any proposed compromise or adjustment will be handled in accordance with § 1864.12 of this Chapter (FmHA Instruction 456.1, paragraph XII.)

(5) If the debtor requests information as to the amount of his indebtedness, such information, including court costs, should be obtained from the Finance Office if the County Supervisor does not have that information. If questions arise as to the payment of court costs, information as to such costs will be obtained through the State Office from the OGC.

§ 1930.50 [Reserved]

EXHIBIT A

MEMORANDUM OF UNDERSTANDING BETWEEN COMMODITY CREDIT CORPORATION AND FARMERS HOME ADMINISTRATION

It is hereby agreed by and between the Farmers Home Administration (hereinafter referred to as "FHA) and the Commodity Credit Corporation (hereinafter referred to as "CCC") that the following procedure will be observed in those cases where producers sell to CCC or pledge to CCC as loan collateral under the Price Support Program, agricultural commodities such as, but not limited to, cotton, tobacco, peanuts, rice, soybeans, grains, on which FHA holds a prior lien and the proceeds from such sales or loans are not remitted to FHA for application against the loan(s) secured by such lien:

1. When an FHA County Supervisor learns that an FHA borrower has obtained a loan from CCC on a commodity or sold a commodity to CCC under such circumstances, he shall immediately notify his State Director. The State Director, immediately upon receipt of the notice, shall furnish CCC (see Appendix 1) with the name and address of such borrower, the county of his location at the time the commodity was placed under loan or sold, and the amount of the FHA loan secured by the lien.

2. When CCC receives such a notice from FHA, CCC shall take steps to prevent the making of any further loans on or purchases of the commodity of the borrower. If the CCC loan is still outstanding and CCC calls the loan, CCC shall notify the FHA State Director of the demand.

3. If the CCC loan is repaid, whether prior to or after the receipt by CCC of the notice from FHA, the FHA State Director shall be notified immediately, at which time CCC will have discharged its responsibility under this agreement.

4. FHA shall, in each case in which the CCC loan is not repaid or the commodity has been sold to CCC, endeavor to collect from the borrower the amount due on the FHA loan. Such collection efforts shal linclude the making of demand on the borrower and the following of FHA's normal administrative policies with respect to the collection of debts, but shall not include the making of demand for payment upon the area peanut producer cooperative marketing associations through which CCC makes price support available to producers. If collection efforts are not successful, the FHA County Supervisor shall make a complete report on the matter to his State Director. If the State Director determines that the amount due on the FHA lien is not collectable by administrative action, he shall refer the matter to the appropriate local office of the General Counsel, with a full statement of the facts, for a determination of the validity of the FHA lien. If it is determined by the General Counsel's Office that FHA holds a valid prior lien on the commodity, the State Director shall furnish CCC with a copy of such determination, together with all other pertinent information, and shall request payment to FHA of the lesser of (1) the amount due on its loan, or (2) the value of the commodity at the time CCC loan or purchase was made (based on the market value of the commodity on the local market nearest to the place where the comomdity was stored). The information to be furnished CCC shall include (a) the principal balance plus interest due FHA on the date of the request, (b) the amount due on the FHA loan at the time the CCC loan or purchase was made, and (c) the amount of the CCC loan or purchase proceeds, if any, applied by the producer against the FHA loan. FHA shall continue to make collection efforts and shall notify CCC of any amount collected from the producer or any other party.

5. Upon receipt of evidence, including a copy of the determination of the Office of the General Counsel, from the State Director of FHA that the proceeds from the CCC loan or purchase have not been received by FHA from the borrower, and that collection cannot be made by FHA, CCC will if the CCC loan has not been repaid or if CCC has purchased the commodity, pay FHA the amount specified in paragraph 4 above or deliver the commodity (or warehouses receipts representing the commodity) to FHA: *Provided*, That if CCC has any information indicating that collection may be made by FHA from the borrower or any other party, it may notify FHA and delay payment pending additional collection efforts by FHA.

6. It is the desire of both FHA and CCC that claims to be processed under this agreement receive prompt attention by both parties and be disposed of as soon as possible. Instructions for the implementation of these procedures at the field office level will be developed and issued by the Washington offices of FHA and CCC.

7. Any question with regard to the handling of any claim hereunder shall be reported by the applicable ASCS office to ASCS in Washington and by the FHA State Director to the National Office of FHA.

This Memorandum of Understanding supersedes the agreement entered into between FmHA and CCC on November 5, 1951.

Entered into as of this 29th day of May, 1973.

COMMODITY CREDIT CORPORATION,
KENNETH E. FRICK,
Executive-Vice President.
FARMERS HOME' ADMINISTRATION,
FRANK B. ELLIOTT,
Acting Administrator.

EXHIBIT B

MEMORANDUM OF UNDERSTANDING AND BLANKET COMMODITY LIEN WAIVER

The Farmers Home Administration (FHA) sometimes makes loans to farmers on the security of agricultural commodities that are eligible for price support under loan and purchase programs conducted by the Commodity Credit Corporation (CCC). FHA and CCC desire that price support be made available to farmers without unnecessarily impairing or undermining the respective security interests of FHA and CCC in and without undue inconvenience to producers and FHA and CCC in securing lien waivers on such commodities.

Now, therefore, it is agreed as follows: (1) Upon request of an official of an ASCS State Office, the FHA State Director in such State shall furnish designated ASCS County Offices with the names of producers in the trade area from whom FHA holds currently effective liens on commodities with respect to which CCC conducts price support programs. FHA will try to furnish a complete and current list of the names of such producers; however, FHA's liens with respect to any commodity will not be affected by an error in or omission from such lists.

(2) For a loan disbursed by an ASCS County Office, CCC will issue a draft in the amount (less fees and charges due under CCC program regulations) of the loan on, or purchase price of, the commodity payable jointly to FHA and the producer if (a) his name is on the list furnished by FHA, or (b) he names FHA as lienholder. The draft will indicate the commodity covered by the loan or purchase.

(3) On issuance of the draft, the security interest of FHA shall be subordinated to the rights of CCC in the commodity with respect to which the loan or purchase is made. The word "subordinated" means that, in the case of a loan, CCC's security interest in the commodity shall be superior and prior in right to that of FHA and that, on purchase of a commodity by CCC or its acquisition by CCC in satisfaction of a loan, the security interest of FHA in such commodity shall terminate.

(4) Nothing contained in this Memorandum of Understanding shall be construed to affect the rights and obligations of the parties except as specifically provided herein.

(5) This agreement may be terminated by either party on 30 days' written notice to the other party.

Dated: July 20, 1967.

H. D. GODFREY,
Executive Vice President, CCC.

Dated: July 14, 1967.

HOWARD BERTSCH,
Administrator, FmHA.

APPENDIX 1

FURNISHING NOTICE OR INFORMATION TO COMMODITY CREDIT CORPORATION

Commodity	*Direct to*
Cotton	Prairie Village, Kansas, ASCS Commodity Office.
Tobacco	Applicable tobacco association.
Peanuts	Applicable peanut association.
All other commodities.	Applicable State ASCS office.

SUBCHAPTER K—PROPERTY MANAGEMENT

PART 1955—REAL ESTATE AND CHATTEL PROPERTIES

§ 1955.15 [Amended]

13. In Subpart A, § 1955.15, paragraph (d)(15)(i), change the reference from "§ 1871.35(d) of this Chapter (FmHA Instruction 455.1, paragraph XV D" to "Subpart A of Part 1930 of this Chapter."

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 P.L. 93–357, 88 Stat 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: August 2, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77-25314 Filed 9-2-77;8:45 am]

SUBCHAPTER D—GUARANTEED LOANS
SUBCHAPTER N—OTHER LOAN PROGRAMS

[FmHA Instruction 449.1 and 1980–B]

FARMER PROGRAM GUARANTEED LOANS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration adds regulations as part of a general administrative restructuring of all guaranteed loan regulations. This addition is intended to allow greater secondary market participation and to redesignate, clarify, consolidate and revise the regulations concerning Farmer Program guaranteed loans.

EFFECTIVE DATE: September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Denton E. Sprague, 202–447–4597.

SUPPLEMENTARY INFORMATION: On March 28, 1977, there was published in the FEDERAL REGISTER (42 FR 16424–16444) a notice of proposed rulemaking involving the addition of Subpart B, "Farmer Program Loans" of Part 1980, Subchapter N, Chapter XVIII, Title 7,

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Code of Federal Regulations. This Subpart B (§§ 1980.101–1980.200) redesignates, consolidates, and revises various sections of the regulations now contained in Subchapter D, Parts 1841 and 1843. The following sections are hereby deleted and reserved from Part 1841, Title 7, Code of Federal Regulations: §§ 1841.1–1841.45; 1841.47–1841.59; and 1841.76. The following sections are hereby deleted and reserved from Part 1843, Title 7, Code of Federal Regulations: §§ 1843.1–1843.9; and 1843.31–1843.92. The loan servicing and liquidation provisions contained in Part 1841 and Part 1843 are retained and will remain in effect in their respective Parts. Interested parties were given the opportunity to submit on or before April 27, 1977, all comments, suggestions, or objections regarding the proposed addition.

Comments have been received and considered and appropriate changes have been incorporated. The incorporated changes, plus the major changes originally proposed are described in four categories as follows:

A. General Provisions (§§ 1980.101–1980.169):

1. All definitions not contained in Subpart A of Part 1980–A are contained in § 1980.107. Note new definition of a family farm which removes the requirement that the operator and his family provide a major portion of the labor.

2. Eliminates authority to transfer guaranteed loans to ineligible applicants.

3. Establishes a one-time 1 percent guarantee fee.

4. Provides for the Finance Office to calculate loan subsidy payments.

5. Provides for the use of Form FmHA 449–23, "Guaranteed Loan Evaluation (Farmer Programs);" Form FmHA 449–12, "Request for Loan Note Guarantee;" and Form FmHA 449–30 "Report of Loss."

6. Provides for secondary marketing of Loan Note Guarantees.

7. Provides for substituting Loan Note Guarantees for existing Contracts of Guarantee.

B. Emergency Loans (§ 1980.170):

1. Provides that a member of a partnership may either be a citizen(s) of the United States or reside in the United States after being legally admitted for permanent residence or on indefinite parole as long as the partner who manages the farming, ranching, or aquaculture operation is a citizen of the United States. A corporation must be incorporated under the laws of the United States or any State thereof, and the stockholder who manages the farming, ranching or aquaculture operation must be a citizen of the United States, and more than 50 percent of the outstanding stock in the corporation must be owned by citizens of the United States.

2. Provides that crops not planted may be considered as a physical loss when the applicant was unable to plant crops due to the disaster.

3. Provides for the refinancing of a modest amount of debt for annual operating purposes where the debt must be paid in order for the applicant to continue farming.

4. Provides for the initial advances for annual operating expenses to be scheduled for repayment up to 7 years and up to 20 years if justified.

5. Increases the allowable loan for depreciation from 15 to 20 percent of appraisal market value or amount owed.

6. Allows deferment of interest as well as principal.

7. Inserts "managerial competence" as an eligibility requirement.

8. Provides as a physical loss, supplies on hand, harvested or stored crops, and livestock products lost or destroyed by or as a result of the disaster.

9. Provides for the calculation of losses when applicants are precluded from producing or harvesting crops (including perennial crops such as fruits and nuts) by determining the gross farm income and then adding together any income that may be derived from the disaster affected enterprise(s) and the variable and fixed costs which will not be incurred because of the disaster and subtracting this combined figure from the normal gross income.

10. Provides for deducting the amount of any crop, livestock or livestock product physical loss loan from any production loss loan based on losses to the same enterprise(s) for which an applicant later qualifies.

11. Provides for scheduling the repayment period of actual losses to crops and other chattel property resulting from any disaster occurring after January 1, 1975, for a period not exceeding 20 years if the FmHA approval official determines that the needs of the applicant justify a longer repayment period than 7 years initially with a possible 5-year renewal.

12. Provides for exceeding the annual loan limit of $50,000 or one-half the estimated gross farm income when a subsequent EM production loan is needed to complete the year's farming operation and protect the Government's financial interest which is secured only by the crop.

13. Provides for taking into consideration the applicant's repayment ability if adequate security is not available because of the disaster.

14. Provides for calculating "normal year's production" by using county averages of production as provided by the State Crop and Livestock Reporting Service, State Statistical Office of the Statistical Reporting Service (SRS) or similar State or Federal body. If neither State or County averages are available, county average will be established by the State Director.

15. Provides when a loan for major adjustments to the operation is made the resulting operation must be one which only realizes a net farm income equivalent to that of the operation conducted before the disaster.

16. Provides for the augmentation and improvement of existing water systems that have gone dry as a result of any natural disaster.

17. Provides for extending the termination dates for physical losses from 60 days to 180 days and production losses from 9 months to 12 months.

C. Operating Loans (§ 1980.175):

1. Inserts "managerial competence" as an eligibility requirement.

2. Provides for modest rural youth loans to persons between 10 and 21 years of age and requires a cosigner on loans in justifiable cases.

3. Clarifies loan purpose language.

4. Eliminates reference to prohibited loan purposes.

5. Increases allowable amount of loan for depreciation from 15 to 20 percent of appraised market value of amount owed.

6. Clarifies the action on loans to partnerships and individuals involved in joint farming operations.

7. Increases amount of loan for real estate improvements from $2,500 to $3,500.

8. Allows deferment of interest as well as principal.

9. Permits loans for annual production expenses to be scheduled for repayment beyond 1 year if justified.

10. Institutes limitation that the total outstanding principal balance may not exceed $50,000 at loan closing, rather than loan approval.

D. Individual Farm Ownership (FO), Soil and Water (SW), and Recreation (RL) Loans (§ 1980.180):

1. Eliminates reference to prohibited loan purposes.

2. Increases the amount that may be loaned for improvements on land with defective title from $2,500 to $5,000.

3. In the case of a life estate, provides for loans to remainderman and life estate holder or to the remainderman only if the remainderman is eligible.

4. Provides for loans for pollution control.

For SW and RL:

5. Increases the amount that may be loaned when other than real estate is taken as security from $25,000 to $60,000.

For FO loans only:

6. Adds "managerial competence" as an eligibility requirement.

7. Provides loans for houses physically separate from the farm.

8. Allows additional space for food preparation and storage, vehicle storage, laundry and office space for newly constructed or improved dwellings.

9. Provides for loans where the applicant already owns a mobile home.

10. Deletes the provision for loans of less than $2,500 that will be paid in less than 10 years to be secured by nonreal estate items. All guaranteed FO loans must be secured by real estate, except in Texas where nonreal estate items may be used as security because of unusual homestead laws.

For SW loans only:

11. Clarifies language dealing with eligibility of corporations and partnerships.

12. Broadens refinancing purposes to include any debt incurred for authorized SW purposes.

For RL loans only:

13. Removes the restriction that a borrower indebted for an FO loan must convert his entire farm to recreation to be eligible.

§§ 1841.60 and 1843.10 are amended and Part 1980 Subpart B is added and reads as follows:

PART 1841—GENERAL PROVISIONS

§ 1841.60 [Amended]

1. Section 1841.60 of Part 1841 of this Chapter is amended as follows: In the sixth sentence change "1841.3" to "1980.6."

PART 1843—FARMER LOANS

§ 1843.10 [Amended]

2. Section 1843.10 of Part 1843 of this Chapter is amended to read as follows: In the third line change "1843.10" to "1980.113".

PART 1980—GUARANTEED LOAN PROGRAMS

3. Subpart B of Part 1980 as added is set forth below:

* * * * *

Subpart B—Farmer Program Loans

Sec.
1980.101 Introduction.
1980.102–1980.105 [Reserved].
1980.106 Definitions.
1980.107 Full faith and credit.
1980.108 General provisions.
1980.109 Promissory notes, security instruments, and financing statements.
1980.110 Loan subsidy rates, claims, and payments.
1980.111–1980.112 [Reserved]
1980.113 Receiving and processing applications.
1980.114 FmHA evaluation of applications.
1980.115 County Committee review.
1980.116 Review of requirements.
1980.117 Conditions precedent to issuance of the Loan Note Guarantee.
1980.118 Issuance of Lender's Agreement, Loan Note Guarantee and Assignment Guarantee Agreement.
1980.119 Substitution of Loan Note Guarantee for Contract of Guarantee issued.
1980.120–1980.122 [Reserved]
1980.123 Transfer and assumption of Farmer Program loans.
1980.124 Renewal and reamortization.
1980.125–1980.128 [Reserved]
1980.129 Planning and performing development.
1980.130 Loan servicing.
1980.131–1980.135 [Reserved]
1980.136 Protective advances.
1980.137–1980.138 [Reserved]
1980.139 Termination of Loan Note Guarantee.
1980.140–1980.144 [Reserved]
1980.145 Defaults by borrower.
1980.146 Liquidation.
1980.147 Graduation.
1980.148–1980.152 [Reserved]
1980.153 FmHA forms.
1980.154 Memorandas of Understanding or other items.
1980.155–1980.169 [Reserved]
1980.170 Emergency loans.
1980.171–1980.174 [Reserved]
1980.175 Operating loans.
1980.176–1980.179 [Reserved]
1980.180 Individual Farm Ownership (FO), Soil and Water (SW), and Recreation (RL) loans.
1980.181–1980.200 [Reserved]
Exhibit A—Request for Loan Note Guarantee (Farmer Program Loans.)

Subpart B—Farmer Program Loans

§ 1980.101 Introduction.

(a) *Policy.* This Subpart supplemented by Subpart A of this Part, contains regulations for making the following Farmer Program loans: Operating (OL), Farm Ownership (FO), Soil and Water (Individual) (SW), Recreation (Individual) (RL), and Emergency (EM) loans guaranteed by the Farmers Home Administration (FmHA), and applies to lenders, holders, borrowers, FmHA personnel, and other parties involved in making, guaranteeing, holding, servicing, or liquidating such loans.

(b) *Program administration.* The Farmer Program, like other FmHA programs, is administered by the Administrator through a State Director, serving each State through a District Director to the County Supervisor. The County Supervisor is the focal point for the program and the local contact person for processing and servicing activities even though this subpart refers in various places to the duties and responsibilities of other FmHA employees.

(c) *Administrative provisions.* Throughout this Subpart there appears administrative provisions for the State Director, District Director, and County Supervisor. These provisions establish the internal duties, responsibilities, and procedures to carry out the requirements of the program and are identified as "ADMINISTRATIVE" and follow the appropriate sections of this Subpart.

(d) *References.* §§ 1980.101–1980.169 pertain to FO, EM, OL, RL and SW loan programs. Refer to § 1980.170 for EM loans, § 1980.175 for OL loans, and § 1980.180 for FO, RL and SW loans.

§ 1980.102–1980.105 [Reserved]

§ 1980.106 Definitions.

(a) Refer to § 1980.6 of this Chapter for abbreviations.

(b) The following definitions are applicable to the terms used in this Subpart. Additional definitions may be found in § 1980.6 of this Chapter.

(1) *Applicant.* The party applying for a guaranteed loan.

(2) *Approval officials.* These are field officials who have been delegated loan and grant approval authorities within applicable loan programs, subject to the dollar limitations contained in Tables available in any FmHA State or County Office, or from the National Office, 14th Street and Independence Avenue SW., Washington, D.C. 20250. Field officials having loan and grant approval authorities are State Directors, District Directors, County Supervisors, and Assistant County Supervisors. Refer to Subpart A of Part 1901 of this Chapter for authorities and responsibilities delegated to field officials for all programs of FmHA. These approved authorities also apply to § 1980.123 of this Chapter.

(3) *Aquaculture.* (For EM loans only.) The husbandry of aquatic organisms by an applicant or borrower under a controlled or selected environment. Aquaculture operations are considered to be farming operations. Aquatic organisms may consist of any species of finfish, mollusk, or crustacean (or other invertebrate) amphibian, reptile, or aquatic plant.

(4) *Borrower.* All parties liable for the loan or any part thereof.

(5) *Designated counties or similar areas.* (Applies to EM loans only.) This term means a county or similar political subdivision in which EM loans are authorized to be made under designation by the Federal Disaster Assistance Administration (FDAA) pursuant to a Presidential declaration of a major disaster or emergency; under designation by the Secretary of Agriculture based on damage caused by a natural disaster which substantially affects farming, ranching, or aquaculture opertions; and when authorized by the State Director without a formal designation when 25 or less farming, ranching, or aquaculture operations are substantially affected by a natural disaster.

(6) *Disasters.* (Applies to EM loans only.) (i) *Major disaster.* Any disaster in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance above and beyond normal emergency services by the Federal Government to supplement the efforts and available resources of States, local government and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(ii) *Natural disaster.* A natural disaster as determined by the Secretary of Agriculture when designating EM loan areas, or by an FmHA State Director when he authorizes the making of EM loans. Natural disaster can be cause by such natural phenomena as hurricanes, tornadoes, cyclones, excessive rainfall, floods, earthquakes, blizzards, freezes, electrical storms, snowstorms, drought, excessively high temperatures, and hail; insects where abnormal weather contributed substantially to the spreading and flourishing of such insects; fires resulting from lightning, and fires of other origins which could not be controlled because of abnormal weather; and plant and animal diseases where abnormal weather contributed substantially to such diseases spreading into epidemic stages.

(iii) *Presidential Emergency.* Any disaster in any part of the United States which is of such magnitude that the President makes a declaration which requires Federal emergency assistance to supplement State and local efforts to save lives and protect property, public health and safety, or to avert or lessen the threat of a disaster.

(iv) *Qualifying disaster.* A major disaster, Presidential Emergency, or natural disaster declared by the Secretary of Agriculture or State Director for which EM loans are made available.

(7) *Family farm.* A farm which:

(i) Produces agricultural commodities for sale in sufficient quantities so that it is recognized as a farm rather than a rural residence;

(ii) Provides substantial income by itself which, together with any other de-

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pendable income, enables the family to pay family living and operating expenses, including maintenance of chattel and real property and payment of debts; and

(iii) Is managed and operated by the family with a reasonable amount of hired labor.

(8) *Farm.* The term "farm" includes a tract or tracts of land, improvements, and other appurtenances considered to be farm property which is or will be owned or operated by the applicant, and used or to be used in the production of crops or livestock, including the production of fish under controlled conditions. For EM loans this includes the production of aquatic organisms under a controlled or selected environment owned or operated by the applicant or borrower. The term "farm" also includes any such land and improvement and facilities used in a nonfarm enterprise. It will also include a residence which, although physically separate from the farm acreage, is ordinarily treated as part of the farm in the local community.

(9) *Farming or farm enterprises.* (Applies to EM loans only) These terms are defined as the business of producing crops, livestock products, and aquatic organisms through the management of land water, labor, capital, and basic raw materials, including seed, feed, fertilizer, and fuel. Farming and farm enterprises consist of a total farming or aquaculture operation, or a portion thereof, which produces different types of products, including crops, livestock, livestock products, and aquatic organisms.

(i) *Basic enterprise.* This term means any single enterprise which constitutes not less than 25 percent of the applicant's normal year's total farming operations gross income. To qualify crops to be fed to or pasture to be grazed by livestock as a basic enterprise the value of the crops or pasture for livestock use must be at least equal to 25 percent of the value of the total feed fed to the livestock annually. However, for crops to be fed to or pasture to be grazed by livestock to be considered a basic enterprise one or more (individually or collectively) of the livestock enterprises must qualify as a basic enterprise.

(ii) *Single enterprise.* An enterprise which constitutes part of the applicant's farming, ranching, or aquaculture operation. The following are examples of "single enterprises":

(A) All cash field crops;
(B) All cash vegetable crops;
(C) All cash fruit crops;
(D) All crops to be fed to livestock;
(E) All pasture to be grazed by livestock;
(F) Beef operations;
(G) Dairy operations;
(H) Poultry operations; and
(I) Aquaculture operations.

(10) *Farming corporation.* It is a legal entity incorporated under the laws of the United States or of a State and authorized to carry on farming, ranching, or aquaculture operations in the State where the corporation has applied for a loan.

(11) *Incidence period.* (Applies to EM loans only). This term means the specific time frame established for the occurrence of the qualifying disaster.

(12) *Mortgage.* The term "mortgage" includes any form of security interest or lien upon any rights or interest in real property of any kind. In Louisiana and Puerto Rico the term "mortgage" also refers to any security interest in chattel property.

(13) *Nonfarm enterprise.* This is any business enterprise whose income supplements farm income. It must provide goods or services for which there is a need and a reasonably reliable market.

(14) *Reamortize.* To extend an FO, SW, RL, OL and EM loan payment to its maximum repayment period or to rearrange the payments within the remaining years of the original repayment period.

(15) *Reasonable standard of living.* The level of income obtained by reasonably successful family farmers and rural residents in the community taking into consideration the size of the family.

(16) *Recreation enterprise.* An outdoor, income producing enterprise which will supplement or supplant farm or ranch income.

(17) *Renew.* To reschedule the payment of an OL and EM loan for operating purposes after the end of the original repayment period.

(18) *Rural youth.* A person who has reached the age of 10 but has not reached the age of 21 and does not reside in any area in any city or town that has a population of more than 10,000 inhabitants.

(19) *Rural youth projects.* Projects initiated, developed, and carried out by rural youth participating in organizations such as 4–H or Future Farmers of America. Projects must produce enough income to meet expenses and debt repayment.

(20) *Security.* The term "security" (sometimes referred to as "collateral" or "security property") includes any rights or interests in property of any kind subject to a real or personal property lien.

(i) *Basic security.* All real estate and fixtures and personal property such as foundation herds, flocks, aquatic animal and plant organisms, machinery, and equipment serving as security and crops when crops are the only security.

(ii) *Normal income security.* All normal income security property planned to be marketed in the regular course of business unless liquidation is approved. If liquidation is approved, such security becomes basic security.

(21) *State.* Any of the fifty states, Puerto Rico, or the Virgin Islands (and Guam for EM loans under a Presidential Declaration).

(22) *Termination dates.* (Applies to EM loans) (i) Termination dates are those dates specified in disaster declarations, designations, or State Director authorizations which establish the final dates after which EM loan applications may no longer be received. However, applications will be accepted for EM loans after the termination date(s) have passed if the applicant filed an application for disaster assistance with the SBA during the period SBA would accept applications and not more than 6 months has elapsed since the FmHA's termination date(s).

(ii) For physical losses, termination dates are 180 days from the date the State Director is notified of the declaration, designation, or State Director authorization, and for production losses, 12 months from such date. The 180-day and 12-month periods will commence on the first workday following the designation or declaration. The final day for accepting applications will always be on a workday. Therefore, if the last day falls on a Saturday, Sunday, or Federal holiday, the next workday will be the final day.

(23) *United States.* The term "United States" means the United States itself, any of the 50 States, Puerto Rico, the Virgin Islands (and Guam for EM loans under a Presidential declaration).

§ 1980.107 Full faith and credit.

Refer to § 1980.11 of this Chapter.

§ 1980.108 General provisions.

(a) *Security, personal and corporate guarantees, and other requirements.* See §§ 1980.170(f), 1980.175(f), and 1980.180 (e) for security requirements for the type of loan being considered.

(1) *Security.* (i) The lender is responsible for seeing that proper and adequate security is obtained and maintained in existence and of record to protect the interest of the lender, the holder, and FmHA.

(ii) All security must secure the entire loan. The lender may not take separate security to secure only that portion of the loan or loss not covered by the guarantee. The lender may not require compensating balances or certificates of deposit as a means of eliminating the lender's exposure on the unguaranteed portion of the loan. However, compensating balances or certificates of deposit as used in the ordinary course of business may be used.

(2) *Personal and corporate guarantees.* (i) Personal guarantees from principal stockholders in a corporation and all partners of partnerships usually will be required. Guarantees of parent, subsidiaries, or affiliated companies may also be required. Guarantees will be required in sufficient amounts depending on the credit factors in each loan to reasonably assure repayment of the loan and provide adequate security.

(ii) The requirement for personal guarantees or corporate guarantees may be waived by FmHA if the proposed guarantors cannot provide such guarantee due to other existing contractual obligations or legal restrictions. For those applicants providing documented evidence of successful operations for the past three years, guarantees will be obtained as determined by FmHA.

(iii) If a review of all credit factors indicates the need for additional security, FmHA may require additional personal and corporate guarantees. FmHA also may require that such guarantees be secured.

(iv) *Guarantors of applicants will:* (A) In the case of personal guarantees, provide current financial statements (not over 60 days old at time of filing) signed by the guarantors, and disclosing community or homestead property.

(B) In the case of corporate guarantees, provide current financial statements (not over 90 days old at time of filing) certified by an officer of the corporation.

(C) Provide written evidence through the lender to FmHA of their inability to provide a guarantee because of existing contractual arrangements or legal restrictions.

(3) *Other requirements.* (i) The lender must ascertain that there are no claims or liens of laborers, materialmen, contractors, subcontractors, suppliers of machinery and equipment or other parties against the security of the borrower, and that no suits are pending or threatened that would adversely affect the collateral of the borrower when the security instruments are filed.

(ii) Hazard insurance with a standard mortgage clause naming the lender as beneficiary will be required on every loan in an amount that is at least the lesser of the depreciated replacement value of the property being insured or the amount of the loan. Hazard insurance includes fire, windstorm, lightning, hail, business interruption, explosion, riot, civil commotion, aircraft, vehicle, marine, smoke, builder's risk, public liability, property damage, flood or mudslide, or any other hazard insurance that may be required to protect the collateral.

(iii) Life insurance, which may be decreasing term insurance, may be required for principals of corporate borrowers. When required it will be assigned or pledged to the lender and a schedule of life insurance available for the benefit of the loan will be included as part of the application.

(iv) Workmen's compensation insurance is required in accordance with State law.

Administrative: The County Supervisor will review and determine whether the lender has required the necessary security to be taken. If necessary, he will seek the advice and assistance of the District Director.

(b) *Relationship with other FmHA insured or guaranteed loans.* If an applicant for FmHA assistance will qualify for an OL or real estate insured or guaranteed loan and an EM guarantee for the same purpose, it is FmHA policy to process an EM guarantee for that purpose, so long as the repayment and security requirements for the EM guarantee will not preclude furnishing the credit necessary to enable the applicant to carry out sound farming, ranching, or aquaculture operations.

(c) *Person entitled to veteran's preference.* Applications on hand from veterans will be given preference by the lender over applications of nonveterans on file at the same time for any person applying for an FO, SW, RL, or OL loan who has been discharged or released from the active forces of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard under conditions other than dishonorable, who served on active duty in such forces: (1) During the period of April 6, 1917, through March 31, 1921; (2) during the period of December 7, 1941, through December 31, 1946; (3) during the period of June 27, 1950, through January 31, 1955; or (4) for a period of more than 180 days, any part of which occurred after January 31, 1955, but on or before May 7, 1975. Discharges under conditions other than dishonorable include "elementary discharges."

(d) *Determining whether credit elsewhere is available.* (1) If the County Supervisor's review of the applicant's application indicates that there is no possibility for the applicant to obtain the credit he needs without a guarantee, he will record the reasons in the running record.

(2) If the County Supervisor questions whether the applicant may be able to obtain the credit he needs from another lender in the area without a guarantee, he will contact that lender and record his findings in the Running Case Record.

(3) Any letters from a lender(s) or other evidence which may have been obtained indicating that the applicant is unable to obtain satisfactory terms with present creditors or from other creditors will be included in the loan docket.

§ 1980.109 Promissory notes, security instruments, and financing statements.

(a) *Promissory notes, mortgages, and security agreements.* The lender may use its forms or promissory notes, real estate mortgages (including deeds of trust and similar instruments), and security agreements (including chattel mortgages in Louisiana and Puerto Rico), provided such forms do not contain any provisions that are in conflict or are inconsistent with the provisions of this regulation. The lender will advise the borrower at loan closing that he will be expected to graduate to other credit as required in § 1980.147 of this Subpart and see that the following provisions are inserted in the above mentioned forms as applicable:

(1) *In real estate and chattel mortgages.* "*Guarantee by Government.* Mortgagor understands that the loan evidenced by the Note secured hereby is being made or allowed to remain extant by Lender only on the condition that repayment thereof or any loss theron will be guaranteed in whole or in part to Lender by the United States of America or an agency thereof (herein called the 'Government'). Therefore, in consideration of such guarantee, mortgagor agrees that if at any time it shall appear to the Government that Mortgagor may be able to obtain a loan without a guarantee from a bank, a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time without such guarantee, Mortgagor will, upon the Government's request, apply for and accept such loan in sufficient amount to pay the indebtedness secured hereby and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan."

(2) *In security agreements.* "*Guarantee by Government.* Debtor understands that the loan secured hereby is being made or allowed to remain extant only on the condition that repayment thereof or any loss thereon will be guaranteed in whole or in part to Secured Party by the United States of America or any agency thereof (herein called the "Government"). Therefore, in consideration of such guarantee, Debtor agrees that if at any time it shall appear to the Government that Debtor may be able to obtain a loan without a guarantee from a bank, a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time without such guarantee, Debtor will, upon the Government's request, apply for an accept such loan in sufficient amount to pay the indebtedness secured hereby and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan."

(b) *Financing statements.* Commercial financing statement forms that comply with State laws and regulations may be used. They must be adapted to meet FmHA requirements by inserting provisions:

(1) Covering the "proceeds and products" of the collateral described, and

(2) Stating that "disposition of the collateral is not authorized hereby."

§ 1980.110 Loan subsidy rates, claims and payments.

Loan subsidies are payments made by FmHA to lenders to induce them to make, service, and collect guaranteed Farmer Program loans.

(a) *Subsidy rates.* FmHA will establish subsidy rates periodically. Thus the subsidy rate for the same type loan may vary from time to time. However, the subsidy rate set forth in the Loan Note Guarantee will remain constant during the life of the loan guarantee. The subsidy rate for each type of loan will be a rate equal to the difference, if any, between the interest rate charged to the borrower and any higher per annum rate prevailing in the private market for similar loans as determined by the Secretary of Agriculture. The lender may contact the local County Supervisor servicing his area to obtain the current subsidy rate.

(b) *Subsidy payments.* Loan subsidy payments will be calculated by FmHA using a 360 or 365 day year method on a declining balance. The lender will indicate on FmHA Form 449–19, "Guarantee Fee Report," the method he prefers which, once established, cannot be changed.

(c) *Annual subsidy claims and payments.* The initial subsidy claim will be prepared by the lender using Form FmHA 449–24, "Loan Subsidy Claim," on or about a date 12 months from the date of the note and the original mailed by the lender to the Finance Office with a copy to the appropriate County Supervisor. The subsequent subsidy claims will be filed by the lender on or about a date 12

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months thereafter but no later than the anniversary date of the filing of the initial subsidy claim. The Finance Office will mail the loan subsidy payment to the lender within 10 days after receipt of the claim. Upon full payment of a note the lender will immediately prepare Form FmHA 449-24 and mail a copy to the County Supervisor and the original to the Finance Office.

(d) *When subsidy payments cease.* When the FmHA purchases a guaranteed portion of a loan, subsidy payments on that portion will cease. Loan subsidy payments will also cease when the Loan Note Guarantee terminates.

§§ 1980.11–1980.12 [Reserved]

§ 1980.113 Receiving and processing applications.

Applicants and/or lenders may file either a preliminary application or complete application. A preliminary application may be used when applicant or lender wants a determination from FmHA on eligibility, feasibility, or availability of guaranteed authority before proceeding with completed application. The County Supervisor will cooperate with lender and applicant and provide appropriate assistance in connection with loan application processes. The degree of this assistance will be guided by the lender's experience with FmHA Guaranteed Loan processing, the lender's farm lending experience, and the complexity of the proposal.

(a) *Preliminary application.* This will consist of:

(1) Form FmHA 449–6, "Application for Guaranteed Loan (Farmer Programs)."

(2) Verification of off-farm employment, if any.

(3) Credit report.

(4) Form FmHA 440–32, "Request for Statement of Debts and Collaterals."

(5) For an EM loan, Form FmHA 441–22, "Certification of Disaster Losses."

(b) *Preliminary determination by FmHA.* If the preliminary application indicates the proposal will not meet FmHA's minimum credit standards for a sound loan, or the applicant appears to be ineligible, or funds or guarantee authority are not available the County Supervisor will so inform the lender using Form FmHA 449–13, "Denial Letter." The lender will notify the applicant in writing of all the reasons for the decision indicated. If it appears that the proposal is economically feasible, the applicant is eligible, and loan guarantee authority is available, the County Supervisor will inform the lender in writing within 15 days unless unusual circumstances exist and request the formal application be prepared.

(c) *Completed application.* This will consist of:

(1) Those items listed in § 1980.113 (a).

(2) Applicable items required by §§ 1980.40, 1980.41, 1980.42, 1980.43, 1980.44, and 1980.45 of this Chapter.

(3) Form FmHA 449–12, "Request for Loan Note Guarantee." (Exhibit A)

(4) A copy of the lease agreement between tenant applicants and their landlords. When a written lease is not obtainable a statement setting forth the terms and conditions of the agreement will be included in the loan docket.

(5) (For EM loans only) Form FmHA 441–29, "ASCS Verification of Farm Production History and Payments," if needed, and Form FmHA 441–26, "County Supervisor Calculations and Verification of Qualifying Production Losses."

(6) Proposed loan agreements between the borrower and lender. (Refer to paragraph VIII of Form FmHA 449–35 "Lender's Agreement.") Ordinarily agreements will include information such as the following:

(i) Improved management practices to be implemented, if any.

(ii) Requirements for accounting and recordkeeping and periodic financial reporting.

(iii) A list of security property for the loan and periodic accounting of security property (at least annually).

(iv) Prohibitions against assuming liabilities or obligations of others.

(v) Restrictions on dividend payments if a corporate entity.

(vi) Limitations on purchase or sale of equipment and/or fixed assets.

(vii) Limitations on compensation of officers and/or owners if not a sole proprietorship.

(viii) Minimum working capital requirements.

(ix) Minimum debt to net worth ratio.

(x) Restrictions concerning consolidation, mergers, or other circumstances if a corporate entity.

(xi) Repayment and reamortization of the loan.

(7) Production history and operation forecast provided by lender and/or applicant. This will indicate a production history (up to 5 years for EM loans), current financial condition, projected production, income and expenses, and loan repayment plan. Forms ordinarily used by the lender or Form FmHA 431–2, "Farm and Home Plan," Form FmHA 431–1, "Long-Time Farm and Home Plan," or Form FmHA 424–1, "Development Plan," may be used to project proposed development and construction.

(8) *Appraisal report.* (i) A real estate appraisal will be required when real estate is purchased, or taken as security, or both, for loans for FO, SW, RL or EM loan purposes, (except that for EM loans, where a long-term reputable lender is involved and the loan will be $10,000 or less, no appraisal is required but a verification of ownership and determination of equity in real estate by the County Supervisor is required). For EM loans only in instances where real estate is taken for additional security (for loans in which the primary security is subject to rapid depreciation or is of a high risk nature such as crops) no appraisal report will be required for the additional security.

(ii) A chattel appraisal will be required when chattel is taken as security for FO, SW, RL, OL and EM loans.

(iii) For real estate security, an acceptable appraisal not over 3 years old and for chattel security not over 6 months old, may be used in lieu of a new appraisal providing the appraisal was completed by FmHA or similarly qualified appraiser.

(iv) Appraisals will be made by a qualified appraiser selected by the lender. A real estate appraisal report will be based on at least two comparable sales. Appraisal reports may be on forms approved by the lender of Forms FmHA 442–1, "Appraisal Report (Farm Tract)" and FmHA 440–21, "Appraisal of Chattel Property."

(v) The lender will be responsible for determining that appraisers have the necessary qualifications and experience to make appraisals. If the lender has any questions in this regard, it should consult with FmHA before having an appraisal made.

(9) The lender's plan for servicing the loan and providing management assistance to the borrower should include the steps necessary to see that the requirements of the loan agreement are met.

(10) Notices of compliance with the privacy Act of 1974.

(i) If the applicant is acting in a personal capacity and not as a representative of a partnership or a corporation, and FmHA solicits personal information from him, the individual will be provided Form FmHA 410–9, "Statement Required by the Privacy Act."

(ii) If FmHA desires to obtain information concerning an individual from any source, FmHA will provide such source with Form FmHA 410–10, "Privacy Act Statement to References."

§ 1980.114 FmHA evaluation of applications.

When the County Supervisor receives a completed application, he will make the proper independent investigations, inspections, and appraisal reviews necessary to determine whether the applicant is eligible, the proposed loan is for an eligible purpose, and there is reasonable assurance of repayment ability and sufficient collateral and equity. The determinations will be recorded on Form FmHA 449–23, "Guaranteed Loan Evaluation." This evaluation is for the benefit of FmHA and not the lender.

(a) *Indication of unacceptability.* If the evaluation indicates that the guarantee cannot be approved (for reasons that would not be affected by the County Committee certification), the County Supervisor will inform the lender on Form FmHA 449–13 of the reasons and will discuss with the lender the items necessary to overcome any objections and will record such discussion in the County Office file.

(b) *Indication of acceptability.* If the evaluation indicates that the guarantee may be approved, the County Supervisor will present the application to the County Committee for certification or rejection.

Administrative: The County Supervisor will:

1. Determine if the material and information submitted is complete. If he determines that the lenders appraisal(s) of security property appears inadequate he will make a formal appraisal of the required security property.

2. Determine that §§ 1980.40 through 1980.45 of this Chapter are complied with.

3. Review Form FmHA 449–10, "Applicant's Environmental Impact Evaluation," submitted by the applicant and follow the requirements of Subpart 1901–G of this Chapter.

§ 1980.115 County Committee review.

The County Committee will review the application and determine whether the applicant meets the FmHA eligibility requirements.

(a) *Rejection.* If the County Committee rejects the application, the County Supervisor will inform the lender of the reasons for the rejection using Form FmHA 449–13. Such notification will include the reasons for denial of the guarantee.

b. *Certification.* If the County Committee finds the applicant eligible, it will sign Form FmHA 440–2, "County Committee Certification or Recommendation." This form will be retained in the County Office file.

Administrative: A. *After County Committee certification is obtained, the County Supervisor will:*

1. Prepare Form FmHA 449–14, "Conditional Commitment for Guarantee." If the loan is within his approval authority, he will list any special conditions of approval in the space provided on the form, including requirements for security, improved management practices, type and frequency of financial reports required but not proposed by the lender, and the loan subsidy rate. An attachment to the form may be used if necessary. The County Supervisor is authorized to execute Form FmHA 449–14.

2. Prepare and distribute Form FmHA 440–1, "Request for Obligation of Funds," in accordance with the Forms Manual Insert (FMI). The Finance Office will obligate funds and so notify the County Supervisor by forwarding the original and one copy of Form FmHA 440–57, "Acknowledgment of Obligated Funds/Check Request." When the County Supervisor receives notice that funds have been obligated, he will notify the lender by providing him a copy of Form FmHA 449–14. The County Supervisor will record the actual date of lender notification on the remaining copy of Form FmHA 440–1 and make such copy a permanent part of the County Office loan file.

3. Determine if a project is located in a special flood or mudslide hazard area. (Refer to Subpart B of Part 1806 of this Chapter, FmHA Instruction 426.2.)

4. Assure that equal opportunity and nondiscrimination requirements are met. (Refer to § 1980.41 of this Chapter.)

5. Contact the District Director if he needs any assistance.

6. Forward the loan docket to the appropriate approval official if above his approval authority.

B. *The appropriate approval official within his authority whether Assistant County Supervisor, County Supervisor, District Director, or State Director will:*

1. Set forth any special conditions of approval, including requirements for security, improved management practices, type and frequency of financial reports required but not proposed by the lender in the space provided in Form FmHA 449–14 and return to the County Supervisor for execution and proper distribution.

2. Sign original and one copy of Form FmHA 440–1 distributing copies in accordance with the FMI being sure the lender receives a signed copy.

3. Forward the loan docket to the National Office for approval when the loan exceeds the State Director's authority or when he needs assistance in handling any complaints of noncompliance.

§ 1980.116 Review of requirements.

The lender and applicant, after reviewing approval conditions and security requirements as set forth in Form FmHA 449–14, should complete and execute the "Acceptance or Rejection of Conditions" and return a copy to the County Supervisor. If the conditions cannot be met, the lender and applicant may propose alternate conditions to the County Supervisor. These alternatives will be considered by the County Supervisor and the lender will be advised of his decision. If altered conditions are acceptable, Form FmHA 449–14 will be revised.

§ 1980.117 Conditions precedent to issuance of the Loan Note Guarantee.

(a) Refer to § 1980.60 of this Chapter.

(b) The provisions under § 1980.60(a)(2) are not applicable to Farmer Program loans.

Administrative: A. For purposes of this Subpart, Form FmHA 449–14 should be modified to provide that any change in the interest rate must be approved by the FmHA County Supervisor.

B. The County Supervisor will:

1. Consult with the lender and applicant concerning any changes made to the initially issued or proposed Form FmHA 449–14. A copy of Form FmHA 449–14 and any amendments thereto will be included in the loan file.

2. Review the loan agreement between the borrower and lender which provides for the frequency of submission of financial statements to the County Supervisor. Quarterly financial statements should be required on new loans needing close monitoring. However, an annual analysis report will always be required.

3. Review plans for inspection on construction projects.

4. Review cost overruns, if any, and how they will be met.

5. Review basic credit requirements of all loans.

§ 1980.118 Issuance of Lender's Agreement, Loan Note Guarantee, and Assignment Guarantee Agreement.

(a) Refer to § 1980.60 of this Chapter.

(b) Disposition of a guaranteed portion of the loan may be made only after a like amount of guaranteed loan funds have been disbursed to the borrower.

(c) The amount to be entered in the blank on Form FmHA 449–35, paragraph X(c)(5) for a loan secured by chattels will be the lessor of $10,000 or 20 percent of the loan for OL loan purposes and the lessor of $25,000 or 20 percent of the loan for EM loan purposes.

(d) Paragraph X(c)(10) of Form FmHA 449–35 will be changed by striking the word "semiannually," inserting the word "annually" in its place and eliminating the words "and December 31."

Administrative: A. *par. (a) of § 1980.61* The original Form FmHA 449–35 will be kept in the County Office.

B. *par. (b) 1 of § 1980.61* Copy(ies) of the Loan Note Guarantee(s) will be kept in the County Office. Additional copy(ies) may be retained by the State Office. Copies of all issued Loan Note Guarantees will be kept in the loan file.

C. *par. (b)(3) of § 1980.61* For reporting purposes where multi-notes are issued, the loan to the borrower will be counted as one loan regardless of the number of notes issued.

§ 1980.119 Substitution of Loan Note Guarantee for Contract of Guarantee issued.

Refer to § 1980.61 of this Chapter. As used in § 1980.61(b)(2), the term "State Director" will be construed to mean "County Supervisor."

Administrative: County Supervisor will:

1. Verify that the approval requirements have been met.

2. Review the submitted request and, if in order, send the guarantee fee and guarantee fee report to the Finance Office with a notation of the date the new Loan Note Guarantee will be issued. (Note: The substitution of a Loan Note Guarantee for the Contract of Guarantee is not to be considered as a new loan for recordkeeping purposes.)

3. Execute Form FmHA 449–35.

4. Complete Form FmHA 449–34, "Loan Note Guarantee," (appropriate number for attachment to each note), date and sign the instrument. The following statement will be entered at the top of the form: "This Loan Note Guarantee is issued in substitution of Contract of Guarantee dated _____." The County Supervisor will transfer from the Contract of Guarantee all information pertaining to the Loan Note Guarantee.

5. Cancel the original Contract of Guarantee.

6. Transmit to the lender the original Loan Note Guarantee and a copy of executed Lender's Agreement. Retain in the loan file copies of the Loan Note Guarantee with attached original cancelled Contract of Guarantee, copy of a Guarantee Fee Report, and the original Lender's Agreement.

7. Forward the guarantee fee and the original of Form FmHA 449–19 "Guarantee Fee Report," to the Finance Office. A copy of Form FmHA 449–19 will be retained in the FmHA loan file.

§§ 1980.120–1980.122 [Reserved]

§ 1980.123 Transfer and assumption of Farmer Program loans.

(a) All transfers and assumptions must be approved in writing by FmHA (refer to § 1980.106(b)(2) of this Chapter for approved authorities). Such transfers and assumptions must be to an eligible applicant. For EM loans, only the surviving spouse, who is a co-obligor, or the former spouse, who is a co-obligor, of a divorced spouse, or the remaining partner(s) in a partnership from which one or more of the jointly obligated partners have withdrawn may be considered for a transfer.

(b) The applicant will submit Form FmHA 449–4, "Statement of Personal History," to FmHA for the required character evaluation prior to the execution of the Assumption Agreement.

(c) Available transfer and assumption options to eligible applicants include the following:

(1) The total indebtedness may be transferred to another borrower on the same terms.

(2) The total indebtedness may be transferred to another borrower on different terms not to exceed those terms for which an initial loan can be made.

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(3) A part of the total indebtedness may be transferred to another borrower on the same terms.

(4) A part of the total indebtedness may be transferred to another borrower on different terms.

(d) In any transfer and assumption case, the transferor, including any guarantor(s) may be released from liability by the lender with FmHA written concurrence only when the value of the collateral being transferred is at least equal to the amount of the loan or part of the loan being assumed. If the transfer is for less than the entire debt:

(1) FmHA must determine that the transferor has no reasonable debt-paying ability considering his assets and income at the time of the transfer.

(2) The FmHA County Committee must certify that the transferor has cooperated in good faith, used due diligence to maintain the collateral against loss, and has otherwise fulfilled all of the regulations of this Subpart to the best of his ability.

(e) Any proceeds received from the sale of secured property before a transfer and assumption will be credited on the transferor's guaranteed loan debt in inverse order of maturity before the transfer and assumption transaction is closed.

(f) When the transferee makes any cash downpayment in connection with the transfer and assumption.

(1) The lender will employ an independent appraiser, subject to concurrence of both the transferor and transferee, to make an appraisal to determine the fair market value of all the collateral securing the loan. Such appraisal report fee and any other costs related thereto will be paid by the transferor and the transferee as they mutually agree.

(2) The market value of the secured property being acquired by the transferee, plus any additional security the transferee proposes to give to secure the debt must be adequate to secure the balance of the total guaranteed loan owed, plus any prior liens. If any cash downpayment is made, it may be paid directly to the transferor as payment for his equity in the project provided:

(i) The lender recommends and FmHA approves the cash downpayment be released to the transferor. The lender and FmHA may require that an amount be retained for an established period of time in escrow as a reserve account as security for use against any future default on the loan. Any interest accruing on such an escrow amount may be paid periodically to the transferor.

(ii) Any payments that are to be made by the transferee to the transferor in respect to the downpayment do not suspend the transferee's obligation to continue to meet the guaranteed loan payments as they come due under the terms of the assumption.

(iii) The transferor must agree not to take any actions against the transferee in connection with such transfer in the future without first obtaining the approval of FmHA and the lender.

(iv) The lender determines that there is repayment ability for the guaranteed debt assumed and any other indebtedness of the transferee.

(g) The lender will issue a statement to FmHA that the transaction can be properly transferred and the conveyance instruments will be filed, registered, or recorded, as appropriate, and legally permissible.

(h) FmHA will not guarantee any additional loans to provide equity funds for a transfer and assumption.

(i) The assumption will be made on the lender's form of assumption agreement.

(j) The assumption agreement must contain the FmHA case number of the transferor and transferee.

(k) The assumption agreement may change loan terms only if the changes:

(1) Have been previously approved in writing by FmHA.

(2) Have been consented to by any holder(s).

(3) Have been consented to by the transferor(s) (or guarantor(s)) who have not been released from personal liability.

(l) The interest rate to be paid by the assuming parties shall be the same as the interest rate paid by the transferor. Any new repayment schedule needed to meet the repayment ability of the transferee may cover a period not to exceed that authorized in this subpart for the type of loan being transferred. The lender's request for approval to FmHA will be accompanied by:

(1) An explanation of the reasons for the proposed change in the loan terms.

(2) Certification that the lien position securing the guaranteed loan be maintained or improved, proper hazard insurance will be continued in effect, and all applicable Truth in Lending requirements will be met.

(m) In the case of a transfer and assumption, it is the lender's responsibility to see that all such transfer and assumptions will be noted on all originals of the Loan Note Guarantee(s). The lender will provide FmHA a copy of the transfer and assumption agreement.

(n) The holder(s), if any, need not be consulted on a transfer and assumption case unless there is a change in loan terms.

Administrative: A. *Loan approval officials, consistent with their authority to approve guarantees, may consent:*

(1) To all transfer and assumption cases.

(2) To the releases of the transferor and guarantor(s) from liability on the loan and will notify the lender and the appropriate parties of the decision in writing.

(3) To any changes in the loan terms provided the holder(s), if any, and lender agree.

B. The Loan Note Guarantee will be endorsed in the space provided on the form.

C. A copy of the Assumption Agreement will be retained in the County Office file. The County Supervisor will notify the Finance Office of all approved transfer and assumption cases so that Finance Office records may be adjusted accordingly.

§ 1980.124 Renewal and reamortization.

All borrowers are expected to repay their guaranteed Farmer Program loans according to the planned repayment schedules. However, circumstances may occur which will not permit them to pay as scheduled or to refinance their loans without a guarantee. This section prescribes the policies and procedures for reamortizing and/or renewing such loans.

(a) *Reamortization.* The lender with the concurrence of FmHA and any holder may agree to reamortize the balance of a Farmer Program loan provided:

(1) For OL and EM loans (made for operating purposes), the reamortized repayment period for an operating type loan does not exceed seven years from the date of the initial note.

(2) The security instrument and note will secure the reamortized loan.

(3) For FO, SW, RL, and EM loans (made for Real Estate purposes) secured by real estate, the repayment period for the real estate loan, initially scheduled for repayment in not more than 40 years, may be reamortized for a repayment period that will not extend the repayment period beyond 40 years from the date of the original note.

(b) *Renewal.* An OL and EM operating type loan, initially scheduled or reamortized for repayment in not more than 7 years, may be renewed with the concurrence of FmHA and any holders for up to 5 additional years at the end of the 7-year period. The renewal and any combination of initial and subsequent renewals will not extend the repayment period beyond 12 years from the date of the original note.

(c) *The renewed or reamortized promissory note will:* (1) Not increase the amount of principal which the borrower would have been required to pay if the reamortization or renewal had not been made.

(2) Require the borrower to pay the interest rate to the lender in effect at the time of renewal or reamortization, except for EM loans at 5-percent interest rate.

(3) Describe the note being reamortized or renewed and state that the indebtedness evidenced by said note is reamortized or renewed but not satisfied. The original note must be retained for identification purposes.

(d) *Security instruments will* be required as necessary when a loan is renewed or reamortized.

§§ 1980.125–1980.128 [Reserved]

§ 1980.129 Planning and performing development.

The lender is responsible for seeing that any buildings or other improvements or major land development to be provided with loan funds are properly completed within a reasonable period of time, and that they are free of any mechanics, materialmen's or other liens that would affect the lien priority which the lender advised FmHA that the

lender's security instruments would have. All major construction, major repairs, and major land development must be performed under contract. As soon as such construction, repair, or land development involving use of loan funds has been completed in accordance with the plans and specifications submitted to FmHA in connection with the Request for Loan Note Guarantee, Form FmHA 449–11, "Certificate of Acquisition or Construction," will be provided by the County Supervisor. This form will be used by a lender, borrower, and/or contractor to certify that security property has been acquired or construction performed as previously agreed by the lender and concurred in by FmHA. The lender's responsibility in connection with construction includes but is not limited to:

(a) Compliance with applicable laws, ordinances, codes, and regulations.

(b) Adequacy of plans, specifications, and estimates.

(c) Sufficiency, quality, and rights to adequate water supply.

(d) Method of construction or development.

(e) Awarding, execution, and provisions of construction or development contracts, and bonding of contractors when necessary.

(f) Seeing that all equal opportunity and nondiscrimination requirements are met. (Refer to § 1980.41 of this Chapter.)

(g) Seeing that construction or development is performed expeditiously and properly, including inspection of sites and construction or development in various stages of completion to determine that the work and material conform with the plans and specifications and any other requirements.

(h) Limiting periodic or partial payments for construction or development to a reasonable percentage of the actual value of work and material in place.

(i) Making final payment only after final inspection has been made and the construction or development has been found proper in all respects.

(j) Ascertaining that after planned development is completed, the development is free of any claims or liens from laborers, materialmen, contractors, subcontractors, or other parties.

Administrative: A. The County Supervisor will:

(1) Determine that the construction, repair or land development has been satisfactorily completed.

(2) Forward to the lender for completion and execution by the lender, borrower and contractor, Form FmHA 449–11.

§ 1980.130 Loan servicing.

The lender is responsible for loan servicing. Refer to paragraph X of Form FmHA 449–35, Appendix B of Subpart A of this Part.

Administrative: A. While the lender has the responsibility for loan servicing and protecting the collateral, the County Supervisor is responsible for seeing that required servicing is properly accomplished. Loan servicing is a preventive rather than a curative action. Prompt followup on delinquent payments and early recognition and solution of problems are keys to resolving many delinquent loan cases.

B. *The County Supervisor will:* (1) Make timely investigations during acquisition or development and at least annually thereafter to determine whether any security property that was to be acquired or constructed after issuance of the Loan Note Guarantee has been acquired or constructed, and whether the guaranteed loan is being properly serviced. If a problem develops the County Supervisor will promptly contact the lender to resolve it.

(2) Review all borrowers financial statements furnished by the Lender and will take the appropriate servicing action reminding the lender of his servicing responsibilities. Refer to paragraph X of Form FmHA 449–35.

(3) Immediately contact the District Director when notified by the lender of borrower's failure to fulfill any conditions of the loan approval conditions to determine the action to be taken.

(4) Notify the District Director in writing upon receipt of notice from the lender when any guaranteed loan is delinquent more than 30 days or when the loan otherwise appears to be developing into a problem case. Refer to paragraph XI of Form FmHA 449–35.

(5) Establish an office management system for guaranteed loans in accordance with guidelines available in all FmHA offices (FmHA Instruction 405.1) to insure timely followup on all required financial statements, and any special requirements for loan servicing conditions.

(6) Notify the Finance Office when the lender makes any protective advances.

(7) Submit to the Finance Office annually, immediately after June 30 of each year, the lender's statement required in paragraph X C 10 of Form FmHA 449–35, reflecting the unpaid principal balances on the loan.

C. *District Director will:* (1) Assure that the County Supervisor carries out his duties properly.

(2) Accompany the County Supervisor on initial field visits to the borrower's place of business and at least annually thereafter. Such visits should be coordinated with the lender.

(3) Provide guidance and assistance to the County Supervisor if a loan develops into a problem case.

(4) Review all Field Visit Reports and make recommendations or comments and transmit them to the State Director, if necessary.

D. *FmHA servicing authorizations.* For loans in amounts not in excess of their loan approval authority, FmHA officials are authorized to approve or concur in:

(1) Alterations in the loan approval conditions which will not prejudice the Governments' interest.

(2) Any replacement or collateral for the loan.

(3) All lien coverage and lien priorities on the collateral established by the lender before issuance of the Loan Note Guarantee.

(4) Any deferment and reamortization of the loan in concurrence with the lender.

(5) Use of proceeds from disposition of collateral meeting the provisions of paragraph X of Form FmHA 449–35.

E. *National Office assistance.* State Directors may consult with the National Office on any servicing problem, and if it cannot be handled at the State level, the file will be forwarded to the National Office with proposed recommendations.

§§ 1980.131–1980.135 [Reserved]

§ 1980.136 Protective advances.

Refer to paragraph XIII of Form FmHA 449–35.

Administrative: A. It is not intended that protective advances be made in lieu of additional loans.

B. The County Supervisor is authorized to approve all protective advances and will consider the following when approving such advances:

(1) The total amount of outstanding advances, the amount of those for which approval is requested, the outstanding loan balance, whether the account is current, and, if not, the extent of the delinquencies.

(2) The borrower's ability to pay the remaining loan balance and any future advances in accordance with the existing repayment schedule.

§§ 1980.137–1980.138 [Reserved]

§ 1980.139 Termination of Loan Note Guarantee.

Refer to paragraph 12 of Form FmHA 449–34.

Administrative: The County Supervisor will advise the Finance Office when a Loan Note Guarantee is terminated.

§§ 1980.140–1980.144 [Reserved]

§ 1980.145 Defaults by borrower.

(a) Refer to paragraph XI of Form FmHA 449–35, Appendix B of Subpart A of this Part.

(b) The lender will arrange with the County Supervisor a meeting with the borrower to resolve the problems.

(c) A memorandum of the meeting, a list of the individuals who attend, a summary of the problem and proposed solutions will be retained in the lender's loan file and a copy will be submitted to the County Supervisor.

Administrative: A. The County Supervisor monitoring the loan will coordinate and process any request for FmHA to purchase when the holder(s) are located in close proximity to the local lender. If several holders are located outside the area, the State Director will handle the transaction and notify the County Supervisor.

B. The County Supervisor will review the material submitted, verify the amounts due the holder(s), and transmit the request by memorandum to the State Director. Copies of evidence of ownership will be included. Any original evidence of ownership will be retained in the County Office. A proposed payment date will be established in order to calculate the interest due the holder(s).

C. The County Supervisor will verify the amounts payable to the holder and assure that all necessary material has been obtained. The County Supervisor will request a check to pay the holder(s) on the appropriate date entry form. The Finance Office will forward the check within 10 days after receipt of the request.

D. Any evidence of ownership retained in the County Office will be considered in any future report of loss calculations. A record of any purchase will be maintained in the loan file.

§ 1980.146 Liquidation.

Refer to paragraph XII of Form FmHA 449–35.

Administrative: A. District Director determines which FmHA personnel will attend meetings with the lender.

B. *Form FmHA 449–35, paragraph XII B.* FmHA will exercise the option to liquidate only when there is no reason to believe the lender's liquidation plan will likely not result in maximum recovery. District Directors are authorized to approve lender liquidation

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plans or exercise the FmHA option to liquidate.

C. Form FmHA 449–35, paragraph XII D. County Supervisors are responsible for seeing that the lender complies with the requirements of paragraph X–II D. The concurrence of the District Director will be necessary before the County Supervisor may accept the accounting reports as submitted by the lender before submission of such reports to the lender when FmHA is conducting liquidation.

D. Form FmHA 449–35, paragraph XII E 2. County Supervisors are authorized to accept Report of Loss determinations on Form FmHA 449–30 "Loan Note Guarantee Report of Loss," in those cases where loss will not exceed $35,000; District Directors for loss not to exceed $100,000; and State Directors for all others. The State Director will submit Form FmHA 449–30 to the Finance Office for payment of any losses. The Finance Office will forward loss payment checks within 10 days of the receipt of the request to the County Supervisor for delivery to lender.

E. Form FmHA 449–35, paragraph XII E 3. Final loss payments will be made within the 60 days required but only after a review has been made to assure all collateral for the loan has been properly accounted for. State Directors are responsible for seeing that such reviews are accomplished in time to be evaluated and accepted or otherwise resolved within the 60-day period. County Supervisors may conduct such reviews when the loss does not exceed $35,000; District Directors $100,000; and State Directors for amounts not to exceed their loan approval authority. All reviews involving losses in excess of the amounts equal to the State Director's loan approval authority will be submitted to the National Office for review. If the State Director wishes National Office assistance in the conduct of any review, he may so request.

§ 1980.147 Graduation.

(a) All borrowers will be advised that their loans will be reviewed for "graduation" by the lender and FmHA, 5 years (for OL and EM loans for operating purposes or 10 years for FO, RL, SW, and EM loans for real estate purposes) after they are received and every other year thereafter. They will also be advised that they are required to refinance if other credit is available even though their loans have not fully matured.

(b) When the lender and/or FmHA determine that the borrower is clearly eligible to graduate to conventional credit without a guarantee and the borrower is so informed and given adequate time to graduate, but refuses to do so, the lender will accelerate the loan and carry out liquidation proceedings against the borrower.

Administrative: A. The County Supervisor:

1. Is responsible for seeing that the graduation policies are carried out.

2. Should contact the District Director if further assistance is needed.

§§ 1980.148–1980.152 [Reserved]

§ 1980.153 FmHA forms.

Refer to § 1980.83 of this Chapter.

§ 1980.154 Memorandas of Understanding or other items.

The following items also apply to this Subpart.

(a) FmHA and Extension Service (Subpart B of Part 2000).

(b) FmHA and SCS (Subpart D of Part 2000).

(c) FmHA and SCS, ASCS, and FCIC (Subpart M of Part 2000).

(d) FmHA and FCIC (Subpart N of Part 2000).

(e) FmHA and Farm Credit Administration (Appendix I to Subpart A of Part 1821 of this Chapter; FmHA Instruction 443.1, Exhibit A).

(f) FmHA and SBA (Appendix II to Subpart A of Part 1832 of this Chapter and Subpart O of Part 2000 of this Chapter; FmHA Instruction 441.2).

(g) FmHA and FDAA (Appendix I to Subpart A of Part 1832 of this Chapter; FmHA Instruction 441.2).

(h) FmHA and ASCS (Appendix III to Subpart A of Part 1832 of this Chapter; FmHA Instruction 441.2).

General Administrative: A. *Office of the General Counsel (OGS):* In performing the FmHA functions with respect to Farmer Program loans, the advice and assistance of OGC may be sought and followed on any legal matter. However, in loan making, it is the responsibility of the lender to ascertain that all requirements for making, securing, and servicing the loan are duly met. If FmHA has any questions concerning the lender's resolution of these matters, it should consult with OGC.

B. *Delegation of authority:* The State Director may delegate to his staff those administrative duties and responsibilities stipulated in the Administrative sections of this Subpart.

§§ 1980.155–1980.169 [Reserved]

§ 1980.170 Emergency loans.

This section contains procedures for all Emergency (EM) loans guaranteed by the FmHA.

(a) *Objectives.* The basic objectives of EM loan guarantees are to provide financial assistance to eligible farmers, ranchers, and aquaculture operators to cover losses, make major adjustments, pay operating expenses, and provide for other essential needs so that they may maintain sound farming, livestock, or aquaculture operations. No ceiling has been established on the size of operations that may be financed with EM loans or on the size of loans that may be made.

(b) *Eligibility.* To be eligible for a guaranteed EM loan, an applicant must:

(1) Be unable to obtain sufficient credit elsewhere to finance his actual needs at reasonable rates and terms taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. The applicant's equity in real estate, chattels, and other assets will be considered in determining his ability to obtain such credit from other sources without a guarantee. For partnerships or corporations, the principal partners or principal stockholders, either individually or collectively, must be unable to obtain the required funds with their own resources or with credit obtained by them from other sources. Any partner or stockholder owning or controlling a 20 percent interest in a partnership or a corporation's stock is considered a principal partner or stockholder. If no partner or stockholder owns or controls at least a 20 percent interest, all partners or stockholders will be considered as principal partners or stockholders. The facts concerning the findings in either case must be documented.

(2) Be a citizen of the United States, if an individual. If a partnership, the partner who manages the farming, ranching, or aquaculture operation must be a citizen of the United States and the other partner(s) must be either a citizen(s) of the United States or reside in the United States after being legally admitted for permanent residence or on indefinite parole. If a corporation, the corporation must be incorporated under the laws of the United States or any State thereof, and the stockholder who manages the farming, ranching, or aquaculture operation must be a citizen of the United States, and more than 50 percent of the outstanding stock in the corporation must be owned by citizens of the United States. If any of the corporation's stock is owned by non-citizens they must reside in the United States after being legally admitted for permanent residence or on indefinite parole. Also, the corporation must be authorized to conduct farming operations in the State in which the farming operation is conducted.

(i) One or more of the following sources of information should be used in determining whether applicants qualify for EM loans as a partnership.

(A) Written partnership agreements that set forth the farming arrangements and ownership of property before the start of operation.

(B) Agricultural Stabilization and Conservation Service (ASCS) County Office Records.

(C) Local bank and Production Credit Association records.

(D) Invoices and receipts showing purchase of farm supplies, livestock, and machinery.

(E) Records or receipts from sale of farm production products or commodities.

(F) Written farm rental agreements.

(G) Income tax returns and personal property tax records.

(H) Financial statements.

(ii) When an EM loan is made to a corporation or partnership, only one EM loan can be made to the entity constituting the farming operation. However, an individual stockholder or partner may obtain a separate EM loan to cover losses in a *separate farming operation* which he is conducting as an individual on a different farm tract.

(iii) Individual members of a partnership will not receive individual loans to finance their interest in the joint or partnership farming operation. The partnership will be considered for one loan to cover the loss in its farming operation. If the members of a partnership change after the disaster, the new partnership may be considered for a loan

provided no substitutes other than heirs or remaining partners are involved.

(3) Be an established farmer doing business as an individual, partnership, or corporation, either as an owner-operator or tenant, who manages the farming operations. If the applicant is a partnership or corporation, it must be engaged primarily in farming operations and the operation(s) must be managed by one of the partners or stockholders. An applicant who does not devote full time to his farming operation may be considered as the manager provided he (or the managing partner or stockholder) visits the farm at sufficiently frequent intervals to exercise control and see that the operations are being carried on properly pursuant to his direction. Any operation that involves a full-time hired manager or management service does not qualify regardless of the number of visits made.

(4) Operate in a county or counties in which EM loans are authorized to be made under:

(i) A designation by the Federal Disaster Assistance Administration (FDAA) pursuant to a Presidential declaration of a major disaster or emergency.

(ii) A natural disaster designated by the Secretary of Agriculture.

(iii) A State Director's authorization when 25 or less farmers, ranchers or aquaculture operators are substantially affected by the natural disaster.

(5) Have suffered qualifying production losses or property damage in a declared or designated county or counties. Such losses or damages must be a direct result of the qualifying disaster and the losses or damages must have occurred during the incidence period. A statement of loss or damage will be obtained from the applicant on Form FmHA 441–22, "Certification of Disaster Losses."

(i) For production losses the applicant must have actually suffered at least a 20 percent loss of a normal per acre production or animal production in one or more basic single farming enterprises as a direct result of the designated disaster. Compensation for losses to an enterprise from a disaster through Insurance or Government program(s) benefits which the applicant is not obligated to repay reduces the applicant's actual loss by the amount of such compensation for purposes of this 20 percent loss test. Losses to farming enterprises located in a county or counties which have not been designated cannot be used in determining the amount of the loss. However, production in a non-designated county(ies) must be included in the computation of normal year's production as part of the total farming operation. Production loans will be shown on Form FmHA 441–22 in accordance with the FMI.

(ii) Physical damages or losses, not compensated by insurance or otherwise, to farm dwellings including home equipment, furnishings, personal possessions, farm service buildings, and facilities, land and water resources, farm supplies including harvested or stored crops, and livestock essential to normal farm operations qualify an applicant for a loan to repair, replace, or restore such property or to reimburse the applicant for costs incurred for such purposes. Physical losses in a non-designated county(ies) are not eligible for a EM loan. Sheet erosion does not qualify as a physical loss. The physical losses will be shown on Form FmHA 441–22.

(6) Show an intent to continue operations after the disaster. Those applicants who may have stopped temporarily because of the disaster loss or damage to their operation but intend to continue with EM loan assistance will be considered to meet this requirement.

(7) Possess the legal capacity to contract for the loan.

(8) Have the character, managerial competence, ability, industry, and experience necessary to carry out the proposed farming operations to assure a reasonable prospect for success with the assistance of the loan, and will honestly endeavor to carry out the undertakings and obligations required in connection with the loan.

(c) *Determining losses and maximum amount of loan for actual losses.* (1) *Production loss.* To determine eligibility for a loan based on production losses, the lender must determine first which single enterprises are basic enterprises (Refer to § 1980.106(b)(9)(i)). Production loss is defined as a reduction in the normal level of production of crops, livestock, or acquatic organisms. Livestock increases (i.e., calves, pigs, etc.) are considered in determining production. Reductions in the production of livestock products due to losses resulting to crops to be fed to or pastures to be grazed by livestock will not be considered as production losses when feed is available for purchase, regardless of the cost of the feed. When the disaster has severely disrupted the usual feeding pattern of a livestock enterprise because of an extended utility failure or inaccessability to the livestock, a loss in production (i.e. milk, eggs, weight loss, etc.) may be calculated based on the reduction from normal production for the disruption period and the period needed to bring production to the normal level. When the gross farm income has been determined and one or more basic enterprises (as defined in § 1980.106(b)(9)(i)) has suffered at least a 20 percent loss of normal production for the disaster year, the amount of the production loss can be determined by subtracting the disaster year's gross income from the normal gross income and/or adding to that result the amount of any losses resulting to crops to be fed to or pastures to be grazed by livestock determined as provided in § 1980.170(c)(1)(iv) to establish the amount of actual loss which will establish the maximum production loss loan. All calculations will be recorded by the lender on Form FmHA 441–26. Any claims for production losses that seem to be unreasonable will be checked carefully.

(i) Normal year's production will be determined on the basis of the per acre or animal production for the highest 4 out of 5 years immediately preceding the year in which the disaster occurred. The applicant may select and eliminate one year out of the 5 years immediately preceding the disaster and the average of those remaining 4 years will be his normal year's production.

(A) Such production will be that as provided by the State Crop and Livestock Report Service, State Statistical Office of the Statistical Reporting Service (SRS) or similar State or Federal body. When such information is published by county, county averages will be used. If published only in a State, the State average shall be used.

(B) In those States where neither a county or State average is published, the State Director, with the advice of representatives of other Federal and State agricultural agencies, will establish and advise county offices by state instruction of the county averages.

(C) If an applicant presents factual records for at least 4 of the 5 years immediately preceding the disaster which results in a higher normal production than that in paragraphs (c)(1)(i) and (c)(1)(i)(A) of this section, the higher production may be used in calculating the loss.

(ii) The normal gross farm income will be calculated by multiplying the acreage of crops or number of livestock, or both, which constituted the farming operation during the disaster year by the average yield per acre or units of production for each farming enterprise as determined in paragraph (c)(1)(i) of this section and by the average market price for the commodity as established by the State Director. The State Director will prepare and distribute to all County Offices, a list of the average market price for commodities during the past calendar year, if available, or otherwise use the crop year or harvest season average market price. These prices will be based on the State Crop and Livestock Report Service, State Statistical Office of the Statistical Reporting Service or similar State or Federal body. The County Supervisor will provide lenders with these prices. The lender will total each single enterprise separately and then add together to determine the applicant's normal gross farm income.

(iii) Gross income for the disaster year will be calculated by multiplying: the same acreages and/or number of livestock used in the calculation in paragraph (c)(1)(ii) of this section by the actual or estimated yields (this estimate cannot be greater than his established normal) per acre or units of production for each crop and farming enterprise conducted in the disaster year by the average market price as established in paragraph (c)(1)(ii) of this section.

(iv) Losses to crops to be fed to and pastures to be grazed by livestock will be determined as follows:

(A) Production history for crops to be fed to livestock will be established by using the county average for the previous 5 years provided by the State Crop and Livestock Report Service, State Statistical Office of the Statistical Reporting Service (SRS) or similar State or Federal body unless the applicant has records which prove higher production than such

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average. To establish normal production, the applicant will select the county averages (or his actual production if he supplies records) for the highest 4 out of 5 years immediately preceding the disaster. He will then multiply the number of acres grown for crops to be fed to livestock during the disaster year by the average yield for the 4 years by the unit price as established by the State Director to establish the normal year's gross dollar value of feed produced for livestock. He will then subtract the disaster year's gross dollar value of feed produced for livestock from the normal year's gross dollar value of feed produced for livestock to obtain the disaster year's gross dollar loss. Disaster year's gross dollar value of feed produced for livestock is determined by multiplying the acres of feed produced for livestock in the disaster year by the disaster year yield per acre by the unit price. The difference between normal year's production and disaster year's production represents the total dollar loss to crops to be fed to livestock for which the applicant is entitled.

(B) In calculating losses to pasture to be grazed by livestock either the established seasonal or yearly price per acre for rent for normal pasture or the usual seasonal or yearly charge per head or animal unit may be used. The method used should be established by the State Director to assure uniformity throughout the State. In either case, the gross dollar value for a disaster year is subtracted from the gross dollar value of a normal year to determine the gross dollar loss for the disaster year. The gross dollar value of pasture for a normal year is determined by multiplying the number of acres grazed in the disaster year by the average rental charge per acre for the highest 4 out of 5 years immediately preceding the disaster or by multiplying the number of animal units grazed in the disaster year by the average charge per head or animal unit for the highest 4 out of 5 years immediately preceding the disaster. If the rental rate per acre is used for the disaster year, multiply the number of acres by the established normal rental charge by the percentage pasture loss to arrive at disaster year gross dollar value. If animal units are used, multiply the animal units grazed by the rental charge per animal unit by the percentage of pasture loss to arrive at disaster year gross dollar value. The percentage pasture loss will be determined by dividing the number of months in which livestock could not be grazed because of damage to pasture resulting from the disaster by the number of months in the normal grazing season.

(v) When an applicant was able to plant all or a portion of his normal crops during the disaster year, the production for that portion of the planted crops will be shown as zero on Form FmHA 441–22 if no part of the crop can be harvested, and provided that a substitute or different crop could not be planted.

(vi) When an applicant is unable to plant all or a portion of his normal crops, including feed crops, or is unable to produce all or a portion of the normal perennial crops already growing such as fruits and nuts (due to the disaster) such applicant will have the choice of having the loss treated as a physical loss (see § 1980.170(c)(2)(vii), or as a production loss. If the applicant desires to consider it a production loss, the production loss will be calculated as follows: The amount of disaster production loss will be calculated by determining the normal gross farm income in accordance with § 1980.170(c)(1)(ii) and then adding together any income that may be derived from the disaster affected enterprise(s) and the variable and fixed costs which will not be incurred because of the disaster and subtracting this combined figure from the normal gross income. Such costs will be derived from current crop enterprise budgets prepared by State Agricultural Extension Service economists which are based on normal farming conditions in the designated disaster area.

(vii) When acreage for crops that were destroyed by a qualifying disaster are replanted with a substitute crop during the same crop year, the substitute crop's income will be subtracted from the normal year's income in arriving at the disaster year's income loss.

(viii) When an applicant elects to sell livestock at an earlier date or lighter weight than usual rather than purchase feed to replace that lost as a result of the disaster, the difference between the sale price and an estimate of what the sale price would have been if the livestock had been fed for the normal period may not be claimed as a loss.

(ix) When the loss from the disaster is due to a reduction in quality that can be substantiated, rather than production, the applicant will be given credit for his loss by adjusting actual production downward to compensate for any loss in value resulting from poor quality.

(x) Claims of production losses from the applicant will be verified by the lender and FmHA when the applicant's claims appear to be unreasonable.

(2) *Physical loss.* This is damage to or destruction of physical property including farmland (except sheet erosion); structures on the land such as buildings, fences, dams, etc.; machinery, equipment, and tools; basic livestock; crops; and supplies; (and actual expenses incurred for crops not planted or to be replanted). As a general rule, losses of a physical nature will be shown by the applicant on Form FmHA 441–22 by indicating the actual loss as the market value of the property at the time it was lost or damaged by the disaster; except that in case of repair or restoration, the actual cost of such repair or restoration may be used provided it does not exceed the market value of the property at the time of the disaster. The amount of loan made for this purpose will be determined as follows:

(i) For basic livestock, the market value of the livestock lost at the time of the disaster will be considered the actual loss.

(ii) For farm dwellings for the operator and existing labor, the amount of actual loss will be the lesser of the amount required to permit the repair or replacement of the dwelling with one of like quality and size, as necessary to meet local codes and to provide permanent, adequate but modest, decent, safe, and sanitary living conditions for the family or the market value of the property at the time it was damaged or destroyed. If the financing required exceeds the actual loss, a loan for any amount above the actual loss will bear interest at the market rate.

(iii) For farm service buildings and farm real estate other than buildings, the amount of the actual loss will be an amount sufficient to permit the repair or replacement of the damaged property with a building or property of like quality and capacity that will meet local codes and be adequate to meet the needs of the farming operation provided the cost does not exceed the market value of the property at the time of the disaster. If the financing required exceeds the actual loss, the amount in excess of the actual loss may be loaned at the market rate.

(iv) For supplies on hand, harvested or stored crops, and livestock products lost or destroyed by or as a result of the disaster the market value at the time of the disaster will be considered the actual loss.

(v) The actual physical loss to income producing trees will be the cost of removing the damaged or destroyed trees, clearing debris, preparing the land for replanting, the cost of suitable replacement trees, and other necessary expenses to re-establish the income producing trees.

(vi) The actual physical loss to crops or pasture will be the cost of cleaning debris, preparing the land for replanting, seed, fertilizer, and other expense necessary to re-establish the crops or pasture whether or not such costs exceed the market value of the crop or pasture at the time of the disaster.

(vii) When an applicant that is unable to plant a crop during the disaster year (due to the disaster), desires to have the loss treated as physical loss, the loan will be limited to the cost of land preparation and other expenses incurred to the date of the disaster for the crop(s) that could not be planted except that a pro rata share of fixed costs such as rent, taxes, and insurance charged to the total operation will be included. Since an EM loan will be used to cover the applicant's actual losses sustained, the County Supervisor will request an itemized list from the applicant verifying the claimed expenditures incurred in the disaster year for those enterprises for which disaster losses are claimed. This portion of the EM loan will be limited to the amount of expenditures that are shown on the list and will be a physical loss. In all cases, the applicant must furnish a signed statement itemizing all expenditures he claims were incurred in the disaster year. The County Supervisor will document his verification in the applicant's case file.

(3) *Compensation to FmHA for losses.* Compensation for losses from a disaster

through insurance or government program(s) benefits reduces the applicant's actual loss by the amount of such compensation and this reduces the amount of the EM actual loss loan. The amount of any benefits from ASCS programs including the Emergency Livestock Feed Program (LFP), Emergency Conservation Measures (ECM) payments, Sugar Abandonment or Deficiency payments, and Disaster payments will be considered as compensation for losses. Also, the amount of any crop, livestock or livestock product physical loss loan must be deducted from any production loss loan based on losses to the same enterprise(s) for which an applicant later qualifies.

(d) *Loan purposes.* EM loans may be guaranteed for the following purposes:

(1) *Actual loss loans.* (i) Loans may be made to applicants for the amount of actual losses and expenses for disaster damaged or destroyed farm property, or production enterprises or both resulting from the disaster. Actual loss loan funds may be used for any authorized EM loan purpose. Applications for actual losses must be processed within 1 calendar year after they are filed.

(ii) EM loans will not be made to flood and mudslide victims to repair or replace damaged or destroyed farm dwellings or farm service buildings and their contents in areas where "National Flood Insurance" is available, except as authorized in Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2).

NOTE.—Refer to § 1980.42 (a) and (b) of this Chapter for flood or mudslide hazard area precautions.

(2) *Annual operating purposes.* After the initial EM loan for any purpose, five *annual* subsequent EM loans may be made for annual operating purposes, provided they are made within 5 full calendar years after the disaster, to permit the borrower to return to his normal credit sources without a guarantee. If additional disaster(s) occur(s), 5 annual subsequent loans for annual operating purposes may be made after the initial EM loan has been made for each disaster. The initial loan for annual operating purposes may be scheduled for repayment for a period up to 7 years, and if it meets the conditions of paragraph (e)(2)(i)(A)(2) it may be scheduled for repayment up to 20 years. In the event a borrower who has paid his EM loan in full is unable to obtain sufficient credit elsewhere he may obtain an EM loan for annual operating purposes to satisfy his operating needs, provided the loan is made within the first five full calendar years after the disaster. Annual loans for operating purposes may be made for:

(i) Annual production expenses and the purchase of feeder livestock, farm and other supplies including inventory, the repair or rental of equipment; and the payment of essential expenses for the operation or paying bills incurred for any items in this subparagraph for the crop or operating year being financed.

(ii) Payment of customary cash rent or cash charges for the use of essential buildings, pasture, crops, hay, land, and grazing permits or bills for such purposes for the operating or crop year being financed, subject to the following:

(A) The applicant is obligated under a written lease or other agreement to pay such rent or charges in advance of the time income will be available from the operations to make such payment. For grazing fees an invoice showing the number of livestock to be grazed, the grazing period, the cost per head and the total cost may be used in lieu of a written lease. However, when relatively small amounts of funds are involved, an invoice will not be required if the applicant's explanation of a satisfactory grazing agreement is recorded in the loan docket.

(B) Arrangements cannot be made for the rent or charges to become due when income will be available from the operations to make such payment.

(C) Not more than one year's cash rent or cash charges will be paid with loan funds in any one lease year, except that if a loan is approved near the end of the current lease year, funds for payment of such rent or charges for the succeeding lease year may be included in the loan.

(D) The terms of the rental agreement provide the applicant with reasonably satisfactory tenure.

(iii) Payment of: (A) Personal (chattel and equipment) and real property taxes due or about to become due and water or drainage charges or assessments.

(B) Applicant's share of Social Security taxes for hired labor for the operation.

(C) Premiums for insurance on real estate and personal (chattel and equipment) property including premiums for public liability and property damage insurance on farm and other essential equipment, including farm trucks. When a loan is secured by chattels and the loss of such chattels would jeopardize the interest of the Government, the lender may require the borrower to insure the chattels against hazards customarily covered by insurance in the area.

(iv) Payment of not more than a year's interest that is due or about to become due on debts secured by liens of other creditors on property essential for the farm or other income producing nonfarm enterprises located on the farm.

(v) Payment to a creditor in any one year not to exceed 20 percent of the market value of the essential farm equipment under prior lien to that creditor or 20 percent of the principal amount owed to such creditor, whichever is less.

(vi) Meeting modest family subsistence needs, including premiums on reasonable amounts of health and life insurance, and expenses for medical care or for paying bills incurred for any of these purposes during the crop year being financed.

(vii) Refinancing a modest debt that must be paid for an applicant to continue farming.

(3) *Major adjustments to the operation.* An EM loan may be made to an applicant for the following purposes to enable him to change his operation because of economic conditions and to overcome the financial difficulties caused by the disaster. The resulting operation must be one which only realizes a net farm income equivalent to that of the operation conducted before the disaster. Applications for loans may not be received for such purposes later than one full calendar year after the designation date.

(i) *Real estate purposes (Subtitle A).* The following are authorized real estate purposes:

(A) The purchase of *additional* essential real estate necessary for an effective operation provided the resulting operation will not provide more net income annually than the normal operation before the disaster. Depreciation will be disregarded in computing net income in both cases.

(B) The construction, improvement, alteration, repair, relocation, purchase or moving of essential but modest dwellings and service buildings, facilities and structures on the applicant's real estate, including the purchase and/or installation or augmentation and improvement of essential farmstead water and sewage systems, and other equipment or facilities necessary to the operation.

(C) Providing land and water development, acquiring water supplies, rights, use, and providing conservation essential to the operation. This includes but is not limited to fencing, land clearing, forestry practices, establishment and improvement of permanent hay or pasture, drainage and irrigation facilities, basic application of lime and fertilizer, and development of fish ponds, trails, and lakes.

(D) Refinancing secured and unsecured debts.

(E) Payment of reasonable expenses customary to obtaining, planning, and making the loan such as the guarantee fee, loan fee and fees for legal, architectural, and other services which are required to be paid by the borrower and which he cannot pay from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making the planned building or land improvements.

(F) Payment of the first-year premium for required insurance on buildings on the property which are to serve as security for the loan. Buildings will be insured in accordance with Subpart A of Part 1806 of this Chapter (FmHA Instruction 426.1), except when the appraisal report shows that the land alone will adequately secure the loan. However, the applicant will be encouraged to take property insurance on essential buildings to protect his own interest. Borrowers eligible for insurance under the National Flood Insurance Act of 1968 will be advised of its availability in accordance with Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2).

(G) EM loans may be made to tenants to finance real estate improvements or repairs provided:

(*1*) The lender determines that the applicant has reasonably secure tenure for a long enough period to enable him

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to realize adequate benefits to justify the expenditures.

(2) A written lease is obtained providing for compensating the tenant for any unexhausted value of the improvement upon termination of the lease.

(3) Not more than $50,000 may be loaned to a tenant for real estate improvement, repairs, or for refinancing unsecured debts clearly incurred for such purposes.

(4) Before a loan is made for real estate improvements to a tenant, the following determinations must be made:

(i) EM loans will not be needed or made year after year to make substantial real estate improvements.

(ii) The applicant will likely continue to operate the farm for a sufficient period of time and under such terms that will enable him to obtain a reasonable return on his investment.

(ii) *Operating purposes (Subtitle B).* The following are authorized operating purposes.

(A) Purchase of livestock, poultry, fur bearing and other farm animals, aquatic organisms, bees, farm equipment, and paying costs incident to reorganizing the farming system for a sound operation.

(B) Purchase and repair of essential home equipment and furnishings, and the payment for home equipment repairs required by the applicant family to sustain itself in a reasonably satisfactory manner.

(C) Refinancing secured and unsecured debts.

(D) Purchase of milk base either with or without cows when such action is necessary to assure the borrower a satisfactory market for his dairy production.

(E) Purchase of grazing license or permit rights of private parties which can be validly sold and transferred.

(F) Augment and improve existing water supplies in order to alleviate the adverse effects of drought and other natural disasters.

(4) *General purposes.* In addition to the purposes authorized in paragraphs (d) (1), (2), and (3) of this section, loans may also include funds for:

(i) Expenses incident to loan closing.

(ii) Payment of interest-only installment(s) scheduled for the first installment due date and the second installment due date when a borrower will not otherwise be able to meet the initial interest payment(s) on his loan because income from crops, livestock, or other sources is not available.

(iii) Payment of fees, including the guarantee fee.

(e) *Interest rates and terms.* (1) The interest rate which the lender may charge borrowers obtaining EM loans for actual losses is 5 percent. The interest rate for other than actual losses will be the interest rate prevailing in the private market for similar loans as determined by the Secretary of Agriculture. The Secretary will review the interest rates periodically and may establish new rates. Lenders may ascertain the current established market rates for EM loans by telephoning any FmHA office. Interest will be charged only on the actual amount of loan funds borrowed and for the actual time the loan is outstanding. The interest rate initially established for each loan will remain constant during the existence of the FmHA Guarantee thereon. Interest on protective advances made by the lender to protect the security may be charged at the rate specified in the security instruments.

(2) *Terms of loan repayment.* (i) EM loans will be scheduled for repayment at such time and periods as the lender may determine, consistent with the purpose of the loan as set forth below, and in accordance with the useful life of the security and the reasonable repayment ability of the applicant as determined by his plan of operation. However, there must be at least an annual installment unless a deferment of principal and/or interest is authorized in accordance with paragraph (e) (3) of this section.

(A) Loan terms for actual losses to crops, livestock, supplies, harvested or stored crops, livestock products on hand, and equipment; and items financed under § 1980.170(d) (3) (ii) will be for a period not to exceed 7 years.

(*1*) When conditions warrant, installments may vary in amounts. However, the final installment will not be larger than the amount which can then be financed by the lender without a guarantee or be repaid within a renewal period of not to exceed 5 years. The applicant must be advised before the loan is closed that the lender will review each case at the end of the initial loan term and, together with FmHA will determine if a renewal is warranted. (Refer to § 1980.-124.)

(2) Loans made for actual losses to crops and other property listed in § 1980.170(e) (2) (i) (A) resulting from any disaster occurring after January 1, 1975, may be scheduled for a longer repayment period if the FmHA approval official determines the the needs of the applicant justify a longer repayment period than that scheduled for repayment within 7 years initially with a possible 5-year renewal. Such period may be approved as warranted but for not more than 20 years. Generally real estate will be needed as security when the longer repayment period is authorized. When the longer period is used, renewal is not authorized.

(ii) The terms for actual losses to real estate and items financed under paragraph (d) (3) (i) will be for a period not to exceed 40 years.

(iii) The term for loans for annual operating expenses financed under paragraph (d) (2) will be as follows:

(A) Advances for annual recurring operating expenses or for paying bills incurred for such purposes for the operating or crop year being financed will be scheduled for payment when the principal income from the year's operations normally would be received.

(B) Advances to purchase or produce feed for productive livestock or livestock to be fed for the market, or to pay bills incurred for such purposes for the crop year being financed, will be scheduled for repayment when the principal income from the sale of such livestock or livestock products can be expected.

(3) *Deferment of Installment.* When income sufficient to meet the scheduled installment will not be received by the borrower until the second or third year following the due date, the payment may be deferred to the second or third year as appropriate providing any holders agree. The lender and FmHA must agree that the borrower can reasonably be expected to pay the total debt with a deferment.

(f) *Security requirements.* The lender is responsible for seeing that proper and adequate security is obtained and maintained in existence and of record to protect the interests of the lender and FmHA.

(1) *Lien priority.* When the same lender is involved in a guaranteed loan and an unguaranteed loan, the guaranteed loan must be adequately secured by a lien on separate security property that is clearly identifiable or by a lien of a higher priority if the same property is used to secure both loans. The lender must agree in writing that the guarantee loan will be paid first.

(2) *Security for EM loans.* (i) Annual operating loans will be secured by a first lien on the crop or livestock or both, being financed with EM loan funds plus enough other security, including personal property, real estate, and crop insurance; to assure that the lender's and FmHA's financial interest will be protected. When the applicant can provide no collateral other than a first lien on crop and/or livestock production, or both, the amount of the loan will be limited to the greater of $50,000 or one-half the estimated gross farm income planned as shown on the plan of operation which will be based on normal production and prices authorized by the State Director for developing annual farm plans within the State. When an EM borrower who is indebted for an annual operating loan must have a subsequent EM operating loan during the current crop year to complete that year's farming operation and protect the Government's financial interest which is secured only by the crop, the $50,000 or 50 percent gross income requirement will not apply provided the loan is otherwise sound and proper.

(ii) Actual loss loans for the same same purposes as authorized for loans under § 1980.170(d) (3) (ii) and loans made under § 1980.170(d) (3) (ii) will be secured by a lien on sufficient equity in livestock, equipment and machinery, and other personal property if necessary to protect the lender's and FmHA's interest, plus when necessary, a lien on equity in part or all of the real estate owned by the applicant. When the applicant can provide no collateral other than a first lien on crops and/or livestock production or both, then the policy outlined in § 1980.170(f) (2) (i) will apply. If the applicant has enough equity in real estate, no additional security need be taken. A second crop lien may be taken when deemed necessary to assure repayment of the loan.

(iii) Actual loss loans for the same purposes as authorized for loans under § 1980.170(d) (3) (i) and loans made under § 1980.170(d) (3) (i) will be secured by equity in real estate. However, if there is not sufficient equity in the real estate, a lien also will be taken on personal property, plus if necessary, a second lien on the crops. An EM loan made to a tenant with a long-term lease will be secured by a lien on a transferable leasehold.

(iv) The FmHA loan approval official may make an exception to the security requirements if all of the following conditions are met:

(A) Adequate security property is not available because of the disaster.

(B) The applicant offers all available security property, some or all of which may have depreciated in value due to the disaster.

(C) The security property, and the applicant's repayment ability as assessed by the FmHA loan approval official and lender are adequate security for the loan.

(v) When an EM loan, for whatever purpose, is to be secured by a lien on real estate or a combination of real estate and chattels, the security will be considered "basic security." For all loans over $10,000 title clearance is required except that, when a reputable long-term lender has a first mortgage on the property, the search need only be made after the recordation date for such mortgage. For loans of $10,000 or less, only certification of ownership and verification of equity in real estate is required. Certification of ownership may be accepted in the form of a notarized affidavit from the applicant stating who is the owner of record of the real estate in question and acknowledging all known debts, with balances owed, against the real estate. Whenever the lender is uncertain of the ownership or debts against the real estate security, he will require title clearance.

(vi) If the real estate offered as security is held under a purchase contract, the following conditions will prevail:

(A) The applicant must be able to provide mortgageable interest in the real estate concerned.

(B) The applicant and the purchase contract holder will agree in writing that all insurance claim settlements received for real estate losses will be used in their entirety to replace or repair the damaged real estate. The applicant will renegotiate with the purchase contract holder to arrive at a new contract without any provisions objectionable to FmHA and the lender.

(C) If a satisfactory contract of sale cannot be renegotiated or the purchase contract holder refuses to apply the insurance proceeds toward the repair or replacement of the real estate losses, but chooses to retain some of the proceeds as an extra payment on the balance owed, the applicant will make every effort to refinance the existing purchase contract. If the applicant cannot obtain refinancing from another source, an EM loan will be considered to include funds to pay off the contract and improve the property. If the applicant can get the contract refinanced, an EM loan will be considered to restore the property to its predisaster condition.

(D) If the conditions provided for in paragraph (f) (2) (vi) (A), (B), and (C) of this section can be met and an EM loan is approved, it can be closed provided the lender's attorney determines that:

(*1*) The applicant has mortgageable interest in the property under a long term purchase contract.

(2) The purchase contract is not subject to summary cancellation on default and does not contain other provisions which might jeopardize the lender's security position or the borrower's ability to repay the loan.

(3) The contract holder will agree in writing to give the lender notice of any breach by the purchasers, and further agrees to give the lender 30 days from notice of such breach to rectify said conditions.

(vii) If any of the prior liens against real estate offered as security contain future advance provisions, or other provisions which might jeopardize the security position of the lender or the applicant's ability to meet his obligations under these prior liens and to pay the EM loan, the prior lienholders involved must agree in writing, before the loan is closed, to modify, waive, or subordinate such objectionable provisions.

(viii) In States where a prior lienholder may foreclose his security instrument under power of sale or otherwise and extinguish junior liens of private parties without giving junior lienholders actual notice, when a junior lien on real estate is to be taken as security for the loan, the prior lienholder must agree in writing to give the lender advance notice of foreclosure or assignment of the mortgage.

(ix) If essential insurable buildings are located on the property, or if new buildings are to be erected or major improvements are to be made to existing buildings, the applicant will provide adequate property insurance coverage at the time of the loan closing or as of the date materials are delivered to the property, whichever is appropriate. However, when the real estate appraisal report shows that the present market value of the land after deducting the value of buildings shown on the report exceeds the amount of the debt on the land including the loan and the owner has equity equal to or exceeding the amount of the debt including the loan, real property insurance will not be required. However, the applicant will be encouraged to obtain such insurance if he does not already have it to protect his interest. If insurance claims for loss or damage to buildings to be replaced or repaired with loan funds are outstanding at the time the loan is approved, the applicant will be required to agree in writing that when settlement is made the proceeds of such claims will be used for replacement or repair of buildings; application on debts secured by prior liens or application on the EM loan.

(x) Loan amounts borrowed for repair or replacement of personal possessions and home equipment or furnishings will be secured by a lien(s) on crops, aquatic organisms, livestock, farm machinery, essential trucks or automobiles, and/or farm real estate.

(xi) Lenders may require Federal or other types of Crop Insurance, with an assignment to the lender during the repayment period of the EM loan if such insurance is available in the county. This determination is a judgment factor and the decision should be based on the amount and type of security, other than crops, that the applicant can provide. However, when only a crop lien is taken as security for EM loans, the borrower will be required to carry Federal or other type of Crop Insurance during the repayment period of such loan(s) if such insurance is available.

(g) *Receiving applications.* (1) Applications for EM loans will be received only in designated counties.

(2) *Information needed from partnership applicant.* If the applicant is a partnership, personal financial statements will be obtained from each of the partners and included in the loan docket in addition to the partnership's financial statement.

(3) *Information needed from corporation applicant.* If the applicant is a corporation, the following additional information will be obtained and included in the loan docket.

(i) A complete list of stockholders, showing the address, citizenship, principal occupation, and the number of shares of stock held in the corporation by each.

(ii) A current personal financial statement from each of the principal stockholders. Any other stockholder whose financial statement, in the judgment of the County Supervisor or the loan approval official, would be pertinent to consideration of the financial strength of the corporation and its stockholders will also provide a personal financial statement. (Refer to § 1980.170 (b)(1) for a definition of principal stockholder.)

(iii) A copy of the corporation's charter, articles of incorporation and bylaws, and a resolution(s) adopted by the Board of Directors or stockholders authorizing specified officers of the corporation to apply for and obtain the desired EM loan and execute required debt, security, and other instruments and agreements.

(iv) A copy of any lease, contract, or agreement entered into by the corporation which may be pertinent to consideration of its application.

(h) *Additional EM loan guarantees.* Guarantee of additional EM loans at the prevailing rate may be made for the same purposes and under the same conditions as an initial EM loan under the following conditions.

(1) When the applicant did not obtain a loan for the full amount of the actual loss authorized as shown by the loss statement filed, the applicant may, within 1 year after the date of the request for

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Loan Note Guarantee, be considered for an additional loan, based on the initial application, for all or a portion of the loss balance not requested initially.

(2) Additional loans for major adjustments of the farming operation made under § 1980.170(d)(3) of this Subpart must be made within 1 full calendar year after the designation date.

(3) New appraisal reports for real estate will not be required if the appraisal report in the file is not over 3 years old unless the approval official requests a new appraisal report. Any changes in the value of real or chattel security will be recorded, dated, and initialed by the authorized appraiser on the appropriate appraisal reports in the file.

Administrative: The County Office will make reports in accordance with guidelines for reporting EM loan disaster activity in all FmHA offices (FmHA Instruction 492.7) except as follows:

A. Receipt of Form FmHA 449-12, "Request for Loan Note Guarantee," from the lender will be shown in Item 1 of Form FmHA 492-7, "Report of EM Loan Applications," as a loan approved.

B. Signing of the Loan Note Guarantee will be shown in Item 2 of Form FmHA 492-7 as a loan approved.

C. If the guarantee cannot be approved, Item 3 on Form FmHA 492-7 will show this as a rejected application.

D. Receipt of Form FmHA 449-12 before the signing of the Loan Note Guarantee will be shown in Item 4 of Form FmHA 492-7 as an unprocessed EM application.

E. Where security property will be taken under the conditions of § 1980.170(f)(2)(iv), the FmHA official will determine whether an insured loan will be made to the applicant instead of a guaranteed loan.

F. The County Supervisor will give written notice to eligible lenders in his service area when FmHA will guarantee loans. This notification will specify the type of disaster, the designated county or counties, the termination date for receiving EM loan applications, the incidence period for the disaster, and the Disaster Designation Number.

§§ 1980.171–1980.174 [Reserved]

§ 1980.175 Operating loans.

(a) *Objectives.* The basic objective of an Operating loan is to provide the credit necessary for eligible family farmers, ranchers and rural youths to conduct successful operations.

(b) *Eligibility.* To be eligible for an Operating loan each applicant must:

(1) Be a citizen of the United States.

(2) Possess the legal capacity to incur the obligations of the loan.

(3) Have a farm background and sufficient experience or training to assure reasonable prospects of success. (Except for youth loans)

(4) Have the character, managerial competence, ability, and industry to carry out the proposed enterprise and obligation.

(5) Be unable to obtain sufficient credit elsewhere to finance his actual needs at rates and terms he could reasonably expect to meet, taking into consideration prevailing private and cooperative rates and terms in the community in or near which he resides for loans for similar purposes and periods of time.

(6) Be an individual owner operator or tenant operator of not larger than a family farm after the loan is closed. (Except for youth loans)

(7) Rely on farm income for a reasonable standard of living after the loan is closed. (Except for youth loans)

(c) *Special cases.* (1) If they are otherwise eligible, individuals jointly engaged in farming, recreation and nonfarm enterprises may obtain an Operating loan under the following conditions:

(i) A joint loan not to exceed $50,000 may be made to two eligible applicants to operate not larger than the equivalent of one family farming operation. For a joint loan, both individuals wil lexecute all documents required to be signed for the loan.

(ii) Separate loans may be made to eligible applicants engaged in an operation, provided not more than three individuals have an interest in the operation; the operation provides the equivalent of not larger than one family farming operation for each individual; and the amount of the loan to each individual does not exceed $50,000. Each individual will execute separate documents.

(2) Although a partnership is ineligible for a loan, individual applicants are not ineligible because they are partners, even though title to property may be vested in the partnership and the farming operations are conducted by the partnership. Separate loans will not be made to individual members of a partnership. A joint loan not to exceed $50,000 may be made to not more than three partners as individuals provided:

(i) The applicants are the only partners and each member of the partnership is an eligible applicant.

(ii) The partnership is not engaged in any other business or enterprise other than operation of the farm.

(iii) Personal participation in the management of the farming operations by the applicants meets the conditions that would be required for a loan to them if the partnership did not exist.

(iv) The financial resources and borrowing capacity of the partnership are treated as the financial resources and borrowing capacity of the individual partners in determining whether they can obtain the necessary credit elsewhere.

(v) The note, mortgages, and any other required instruments are executed by the partnership as well as by all the partners as individuals as necessary to close the loan and obtain the desired liens and liability.

(3) If otherwise eligible, rural youths may obtain an Operating loan under the following conditions:

(i) Rural youth applicants include persons who have reached the age of 10 but have not reached the age of 21 and do not reside in any area, city or town than has a population of more than 10,000 inhabitants.

(ii) Loans made to rural youths must be recommended by their project advisors who are 4-H club advisors, vocational agricultural teachers, home economics teachers, county extension agents, or similar sponsors or advisors. In addition, youths who have not reached their majority under State law must obtain the written recommendations of their parent or guardian. All recommendations will be filed with the application in the County Office case file.

(iii) Youth loan funds will not be dispersed until the Loan Note Guarantee is executed by FmHA.

(d) *Loan purposes and limitations.* (1) Loan purposes. Loans may be made for farm, recreation, forestry and nonfarm enterprises or modest rural youth projects for the following purposes, when such purposes are essential to the operation:

(i) Purchase of livestock, poultry, fur bearing and other farm animals, fish, birds, bees, tools, inventories and equipment.

(ii) Purchase of an undivided interest in the items included and paragraph (d)(1)(i) of this section which would be operated under a joint arrangement or as a group service.

(iii) Payment of annual production expenses.

(iv) Payment of family living expenses.

(v) Refinancing debts. The amount advanced for refinancing will not exceed the value of the property which will serve as security for the loan, less any prior liens not to be refinanced.

(vi) Purchase of membership and stock in cooperatives.

(A) Purchase of membership or stock in farm purchasing, marketing, and service-type cooperative association, including a grazing association, to help provide capital for improvement of services to farmer members.

(B) Purchase of membership or stock in recreation or other nonfarm purchasing, marketing, service or promotional type cooperative association organized to produce additional income for its members.

(C) Loans will not be made for membership in production cooperative associations or in associations that will acquire, lease, or improve land not otherwise under the control of the members.

(vii) Purchase and repair of essential home equipment.

(viii) Purchase of milk base or milk quota with or without cows.

(ix) Up to $3,500 in a fiscal year for real estate improvement, repairs or for refinancing unsecured debts clearly incurred for such purposes. In unusual cases, loans above $3,500 may be forwarded to the National Office for consideration. The following determinations must be made before an Operating loan is made for real estate improvements:

(A) An Operating loan will not be needed or made year after year for this purpose.

(B) A real estate loan would not be better suited for needed improvements.

(C) The applicant will likely continue to operate the farm for a sufficient period of time and under such terms to obtain reasonable returns on the investment.

A tenant must have reasonably secure tenure for a sufficient period to realize adequate benefits to justify the expenditures.

(D) Funds used for real estate purposes will be planned and developed in accordance with §1980.129.

(x) Payment of an amount to a creditor in any one year not to exceed 20 percent of the appraised market value of the essential farm and nonfarm equipment under prior lien to that creditor, or 20 percent of the amount owed to such creditors, whichever is less.

(xi) Purchase of franchise, contract, or privilege when necessary to the operation of the planned enterprise.

(xii) Partial payment on grain or other storage and drying facilities when the Commodity Credit Corporation, through the Agricultural Stabilization and Conservation Service (ASCS), is providing the rest of the credit under the Commodity Credit Corporation Farm Storage and Drying Equipment Loan Program.

(2) Loan limitations. The total outstanding Operating loan principal balance may not exceed $50,000 at loan closing. The amount of each loan will be limited to the applicant's needs and ability to pay. Loans may not be made for the purchase of real estate, making principal payment on, or refinancing any debts incurred for the purchase of real estate. In addition, loans may not be made to pay land lease costs under any program other than cash rent.

(e) *Rates and terms.* (1) The interest rate to borrowers is fixed pursuant to statutory formula. FmHA will determine the rate periodically. However, the rate initially established for each loan will remain constant during the existence of the FmHA guarantee. The lender may ascertain the rate by telephoning any FmHA office. Interest will be charged only on the actual amount of funds loaned and for the actual time the loan is outstanding. Interest on protective advances made by the lender to protect the security may be charged at the rate specified in the security instruments.

(2) Loan installments will be determined as follows:

(i) Advances for annual recurring production expenses or for paying bills incurred for such purposes for the production or crop year being financed ordinarily will be scheduled for payment no later than one year following the date of the promissory note.

(ii) Advances for purposes other than those for annual production expenses will be scheduled for payment over the minimum period necessary considering the applicant's ability to pay and the useful life of the security for the loan.

(iii) When conditions warrant, installments scheduled in accordance with paragraph (e)(2)(ii) of this section may include equal, unequal, or balloon installments, as appropriate to the borrower's financial situation.

(iv) When income sufficient to meet the scheduled installment will not be received by the borrower until the second or third year following the due date, the payment may be deferred to the second or third year as appropriate providing any holder(s) agree. The lender and FmHA must agree that the borrower can reasonably be expected to pay the total debt with a deferment.

(v) The final maturity of the loan cannot exceed 7 years from the date of the promissory note.

(f) *Security.* The entire loan must be secured by a first lien on all property or products acquired, produced, or refinanced and by any additional security needed to adequately secure the loan. Such additional security may consist of the best lien obtainable on real estate or other property. In justifiable cases the loan approval officials may require a cosigner for youth loans.

(g) *Other considerations.* (1) Applicants will be advised by the lender that they are expected to comply with any applicable special laws and regulations.

(2) Applicants receiving loans for a nonfarm enterprise will be advised of the possibilities of incurring liability and encouraged to obtain public liability and property damage insurance.

§§ 1980.176–1980.179 [Reserved]

§ 1980.180 Individual Farm Ownership (FO), Soil and Water (SW), and Recreation (RL) loans.

(a) *Objectives.* The basic objectives of the FmHA in guaranteeing FO, SW and RL loans are:

(1) For FO loans—To assist eligible farmers and ranchers to become successful owner-operators of not larger than family farms.

(2) For SW loans—To encourage better conservation and use of soil and water resources on farms and ranches.

(3) For RL loans—To assist eligible owners or tenants to convert all or a portion of their farms or ranches to outdoor income-producing recreation enterprises.

(b) *Eligibility requirements.* To be eligible for an FO, RL, SW, or any combination thereof of an applicant must:

(1) For FO and RL loans—Be a citizen of the United States.

(2) For FO, SW, and RL loans—Possess the legal capacity to incur the obligations of the loan.

(3) For FO and RL loans—Have a farm background (except for veterans) and sufficient experience or training to assure reasonable prospects of success.

(4) For FO, SW, and RL loans—Have the character, managerial competence, ability, and industry to carry out the proposed enterprise and obligation.

(5) For FO, SW, and RL loans—Be unable to obtain sufficient credit to finance his actual needs at rates and terms he could reasonably expect to meet, taking into consideration prevailing private and cooperative rates and terms in the community in or near which he residees for loans for similar purposes and periods of time.

(6) For FO, SW (Individuals), and RL loans—For FO loans be an individual owner-operator of a family farm after the loan is closed. For SW be a farm owner or operator. For an RL be an individual owner or operator regularly engaged in farming at the time of application, and be the manage and operator of the recreation enterprise after the loan is made. Loans may be made to other than individual owners or operators under the following circumstances:

(i) Whenever it is not feasible to divide the land into family farms with individual ownership, a loan may be made to two applicants constituting a family group such as father-son, mother-son or grandfather-grandson who own or will own a farm jointly and conduct a joint operation if each of the applicants is individually eligible and the family group likewise meets all eligibility requirements, provided that for FO loans the total operation will not be larger than a family farming operation. The participation of a member of such family in the operation without an ownership interest in the farm is not prohibited, but the responsibility of management must be in the owner or owners. In any case, it must be determined that because of previous experience in working together, such a family group likely will succeed in the proposed joint farming operation. All joint owners of the land will execute all loan forms.

(ii) A loan may be made to an eligible applicant who will own a farm and will conduct a joint operation with another individual or individuals provided that:

(A) Not more than three individuals have an interest in the operation.

(B) Because of previous experience in working together as farmers, they will likely succeed in the proposed joint operation; and

(C) For FO loans the joint operation will not be larger than the equivalent of a family farm operation for each full-time operator involved. However, such operation will not exceed a single family operation whenever the individual who has an interest in the applicant's operation does not personally perform labor in an amount at least equal to his respective interest in the operation.

(iii) When a life estate is involved, a loan may be made to the life estate holder and the remainderman jointly. A loan may be made to the remainderman only, when he holds title to the property except for a small tract set aside for the life estate holder, and the remainderman can legally execute a lien on the property and can provide the necessary security.

(7) For SW loans only—If a corporation or partnership:

(i) Be a farm owner or operator.

(ii) Be organized under the laws of the United States or of a State.

(iii) Be authorized to own or operate a farm in the State where the loan is made.

(iv) The corporation or partnership and the principal stockholder or partners as individuals are unable to provide the necessary improvements with its and their own resources, or obtain sufficient credit at rates and terms they could reasonably expect to fulfill. A principal stockholder is one who owns 20 percent or more of the corporation's stock. If no person owns as much as 20 percent, then

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all stockholders are considered principal.

(8) For SW and RL loans—If a tenant, have a satisfactory written lease for a sufficient period of time and under terms that will enable the obtaining of reasonable returns on the improvements made with the loan. In addition, the lease or a separate agreement must provide for compensating the tenant for any unexhausted value of the improvements upon termination of the lease, unless the loan is secured by a leasehold.

(c) *Loan purposes.* When an RL is made, the purposes listed in this paragraph must be in connection with an outdoor recreation enterprise. Land which has been designated for retirement from agriculture by Federal, State or local Agencies will not be acquired or developed with loan funds unless the applicant will retain the farm for a period long enough to recover the amount invested. When loan funds are used for development, the work must be planned and performed in accordance with § 1980.129.

(1) For FO and RL loans—Purchase land, easements and rights-of-way for a farm, nonfarm or recreation enterprise. This purpose is subject to the following special requirements:

(i) Preference will be given to persons who are married or have dependent families and, wherever practicable to persons who are able to make initial downpayments, or who are owners of livestock and farm implements necessary to successfully carry on farming operations.

(ii) Adequate development to place the farm and any nonfarm enterprise in condition for a successful operation will be provided at the outset in connection with each loan.

(iv) If the farm contains two or more noncontiguous tracts, they must be so located that the farming operation and any nonfarm enterprise can be efficiently conducted, considering the distance and adequacy of rights-of-way or public roads between the tracts.

(2) For FO and RL loans—To construct, improve, repair or relocate an essential but modest dwelling (FO only), service buildings and facilities which become a permanent part of the farm. This includes items for use in nonfarm enterprises. For dwelling improvement or construction, consideration may be given to additional space requirements for facilities used for food preparation and storage, vehicle storage, laundry and office space, the size and cost of which will not exceed that owned by typical family farmers in the area.

(i) Special Requirement. Buildings adequate for the planned operation of the farm, including any nonfarm enterprise, must be available for the applicant's use after the loan is made. The necessary buildings ordinarily will be located on the applicant's farm. However, if an applicant already owns an adequate, decent, safe, and sanitary dwelling suitable for the family's needs, which is located close enough to the farm so the farm may be operated successfully, it will not be necessary to provide a dwelling on the farm. A real estate lien will be taken on such dwelling.

(ii) Exception. An exception to the requirement that the farm include a suitable dwelling may be made when the applicant has a long-term lease on acceptable rented buildings that are adjacent to or near the farm, or when the applicant occupies suitable buildings of relatives that he will eventually inherit or be permitted to purchase. The applicant will not be required to build a dwelling if the farm being purchased has an existing mobile home which is suitable, or the applicant may retain for his residence a suitable mobile home which he already possesses provided the farm he owns or plans to purchase does not have an adequate dwelling.

(3) For SW loans only—To construct, improve, or relocate essential buildings and structures that will be used primarily for pollution abatement or control.

(4) For FO, SW, and RL loans—Land and Water Development:

(i) Pay cash costs for materials, supplies and services related to: land and water development, use and conservation; the purchase and/or installation of water and sewage disposal systems necessary to the operation of the farm or nonfarm enterprise; and for pollution abatement and control that is related to soil and water conservation. This includes the planting of fruit trees when they relate to conservation of soil or water.

(ii) To acquire a source of water to be used on land the applicant owns or is acquiring, including:

(A) The purchase of water stock or membership in an incorporated water users' association.

(B) The acquisition of a water right through appropriation, agreement, permit, or decree.

(C) The acquisition of a water supply or water right, and the land on which it is presently being used, when the water supply or water right cannot be purchased without the land, provided:

(*1*) The value of the land without the water supply or water right is only an incidental part of the total price, and

(*2*) The water supply and water right will be transferred to, and used more effectively on other land owned by the applicant.

(iii) Purchase or repair special-purpose equipment necessary to perform land and water development subject to the following requirements:

(A) Such equipment is needed for, and will facilitate the completion or maintenance of the planned improvement, and

(B) The cost of the equipment plus other costs related to the improvement will not be more than if performed by contract or other methods.

(iv) To pay that part of the cost of facilities, improvements, and practices to be earned by participation in programs administered by Agencies such as the Agricultural Stabilization and Conservation Service or the Soil Conservation Service only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of payment for which the funds were advanced likely will exceed $1,000, the applicant will assign the payment to the lender.

(5) For FO, SW, and RL loans—To refinance secured and unsecured debts when the lender determines that the applicant's present creditors will not give him rates and terms on his existing debts which he can reasonably be expected to meet, *except* that SW loan funds may only be used to refinance debts that were incurred for authorized SW loan purposes.

(6) For FO, SW, and RL loans—Pay expenses incident to obtaining plans and making the loan, such as fees for legal, architectural, appraisal, and other technical services, hazard insurance premiums, closing costs, social security taxes for labor hired by the borrower in connection with making the planned improvement, and loan fees as authorized in §1980.22 of this Chapter which the borrower cannot pay from other funds.

(7) For FO, SW and RL loans—Purchase any stock in a cooperative lending agency that is necessary to obtain the loan.

(8) For SW loans only—Purchase stock or membership in, or pay assessments to, a corporation, association or organized group service which will help such association or group service to finance facilities and improvements for which loan funds may be used.

(9) For RL loans only—(i) Purchase and install materials, supplies, equipment, fixtures, animals, fish and birds necessary for the efficient operation of a recreation enterprise.

(ii) Pay operating expenses necessary to the efficient operation of the recreation enterprise. When the loan includes funds for operating expenses the borrower will agree to repay that amount as expeditiously as feasible, usually within the first year or two but in no case longer than 5 years.

(d) *Rates and terms.* (1) For FO, SW, and RL loans—The interest rate which the lender may charge is 5 percent.

(2) For FO, SW and RL loans—Each loan will be scheduled for repayment over a period not to exceed 40 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security.

(3) For FO, SW and RL loans—The combined total of individual farm real estate loans to a borrower cannot exceed $100,000, the market value of the farm and any other security, or the amount certified by the County Committee, whichever is less.

(e) *Security.* (1) For FO, SW, and RL loans—FO loans will be secured by real estate only, except in Texas nonreal estate security may be used due to unusual homestead laws. RL and SW loans will generally be secured by real estate except as provided in paragraph (e)(2) of this section. When real estate is taken as security for a loan the following requirements will be met:

(i) A first mortgage on the entire farm owned by the applicant will be obtained except if the applicant's title to any part of the farm is defective and cannot be cured at a reasonable cost, or if State law will not recognize a mortgage upon it. The part of the farm to which the title is defective will be omitted from the appraisal. The maximum amount of loan funds which can be used to improve property which has a defective title or property not owned by the applicant is $5,000. The first lien requirement can be met in subsequent loan cases by obtaining:

(A) A first lien on new property acquired or refinanced with the subsequent loan or other property not servicing as security for the existing loan or

(B) A lien on the same property to secure both the existing loan and the subsequent loan if there are no liens intervening between the first lien securing the existing loan and the new lien taken to secure both the existing loan and the subsequent loan, or

(C) Liens meeting the requirements of both subparagraphs (A) and (B) of this paragraph.

(ii) Except as stated in § 1980.180(c)(2), if the applicant owns other real estate which is not a part of the farm, he will normally be required to dispose of the property before or simultaneously with the closing of the loan. If this is not feasible the loan can still be closed if the applicant agrees to dispose of the property as quickly as possible but not later than two years after loan closing. Form FmHA 443–17, "Agreement to Sell Nonessential Real Estate," will be executed at loan closing when this is the case. The security instrument will not include real estate that is to be sold. The FmHA State Director may permit an applicant to retain real estate that is not a part of the farm when any of the following conditions exist:

(A) The real estate provides employment or income which together with farm income is essential to the applicant's success.

(B) The real estate is the applicant's residence.

(C) A sale of the property would not materially reduce the applicant's need for a real estate loan or for operating credit; and provided further, in the case of an FO loan, retention of the real estate will not allow the borrower to operate larger than a family farm or own a farm for rental purposes.

(iii) Loans of $5,000 or less may be secured by the best lien obtainable without title clearance or legal services normally required, provide the lender believes from a search of the county records that the applicant can give a mortgage on his farm.

(2) For SW and RL loans—Any loan of more than $60,000 and any loan to be paid in more than 20 years from the date of the note will be secured by a first mortgage on the applicant's entire farm or leasehold unless an exception is made in accordance with paragraph (e)(1)(i) and (ii), of this section. A loan of less than $60,000, to be paid in 20 years or less may be secured by any combination of real estate, chattels or other miscellaneous security that cannot be converted to cash without jeopardizing the borrower's farming operations or means of livelihood. When other than real estate is taken as security the following conditions and requirements will be met:

(i) Whenever both real estate and chattel security are taken and the payment period of the loan will exceed the maximum period for which the chattel lien may be valid under State law, the loan guarantee approval official will determine whether the real estate security will be adequate to secure the scheduled unpaid balance of the loan when the chattel lien expires.

(ii) A chattel lien need not be taken when real estate is taken as security and such security is adequate.

(iii) When the loan includes funds for items of equipment upon which a chattel lien is necessary to adequately secure the loan, a severance or subordination agreement will be obtained when appropriate.

(iv) In a State in which a chattel lien is not valid for as long as needed by applicants for the repayment of the loan, instructions for making loans secured by chattel liens will be included in a State supplement.

(v) When a lien on equipment, other personal property, or a fixture is necessary to adequately secure the loan, a security agreement and financing statement will be taken and kept effective.

(vi) When a loan is made only for the purchase of shares of water stock, such stock will be pledged or assigned as security for the loans. No other security is required if the stock represents the right to receive water for irrigation purposes and if the water right is transferable separately from the land and the stock can be resold readily by the pledgee or assignee, or if the purchase price is not greater than the price at which the stock in the particular company is normally sold.

(vii) A lien will be taken on the rights-of-way and easements owned or acquired by the borrower for use in connection with the proposed improvements or facility if it is necessary to do so in order to protect adequately the lender's financial or security interests.

(viii) A loan may be secured by a mortgage on a leasehold if it has negotiable value that is mortgageable. The mortgage on the leasehold may be supplemented by additional security. The unexpired term of the lease should extend beyond the repayment period of the loan to provide reasonable prospects that the objectives of the loan will be achieved. If the loan repayment period is equal to the period covered by the lease, the borrower must give other security of sufficient value to adequately secure the loan or the lessor must agree in writing to compensate the borrower at the expiration of the lease for any unexhausted value of the improvements made with the loan. Loans secured by leaseholds will be subject to the following provisions:

(A) The lessor must own good and marketable title in the real estate. There may be a lien on it or the lessor may be acquiring it under contract providing the lien instruments or contract do not contain covenants that may jeopardize the lender's security, or providing any adverse covenants are waived.

(B) The lessor's consent to the mortgage will be acquired.

(C) The lessor must be required to give advance notice to the lender of his intention to cancel, terminate or foreclose upon the lease. Such advance notice will be long enough to permit the lender to ascertain the amount of delinquencies, the total amount of the lessor's interest and any other prior interest, the market value of the leasehold interest and, if litigation is involved, time enough to refer the case to their attorney and permit him to take appropriate action.

(D) In any State in which real estate or chattel liens may be taken on leasehold interest in farmland and recorded so as to protect the mortgagee, a State Instruction will be issued in regard to making loans to holders of such interests.

(3) For SW loans only—When a loan is made to a corporation, the note and mortgage will be executed by the appropriate officials in behalf of the corporation. The loan guarantee approval official may require principal stockholders to be personally liable for the debt when needed to protect the lender's interest. Each principal stockholder will sign the note as an individual in such cases.

§§ 1980.181–1980.200 [Reserved]

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Position 3

1980-B
Exhibit A

USDA-FmHA
Form FmHA 449-12
(3-16-77)

REQUEST FOR LOAN NOTE GUARANTEE
(Farmer Programs Loans)

TO: Farmers Home Administration (FmHA)	Case No. (Borrower's Soc. Sec. or IRS Tax No.)	Principal Amount of Loan $
Type of Loan	State	County
Applicant's Name	Applicant's Address	

The undersigned Lender hereby request issuance of a Loan Note Guarantee in subject case.

THE FOLLOWING INFORMATION AND DOCUMENTS ARE SUBMITTED FOR YOUR CONSIDERATION:

1. Copy of Application for Loan with enclosures.
2. Cash flow sheet.
3. Any drawings and specifications for: ☐construction ☐major repairs ☐major land development
4. Appraisal report on any real estate security.
5. For Emergency Loans only, Form FmHA 441-22, "Certification of Disaster Losses" and Form FmHA 441-26, "County Supervisor's Calculations and Verification of Qualifying Production Losses."
6. Purposes for which guarantee loan funds will be used and the amounts to be used for such purposes, are:

Purposes	Amounts
	$

7. Interest rate to borrower is _____% per annum.
8. Loan fee payable by loan applicant is _____ % of principal amount of loan or $ _____. a/
9. Repayment period for the loan is _____ year(s).
10. Proposed loan guarantee is _____% of the principal and interest.
11. Escrow account is required for: ☐Taxes ☐Insurance premiums ☐Other (Specify) _____
12. The undersigned Lender is subject to examination and supervision by

_____
(Insert name of agency of United States or State, or "None")

a/ Insert "None;" or if Lender charges a loan fee, insert percentage or dollars.

13. Loan(s) will be ☐made, and/or ☐serviced, by the undersigned's:

☐Main office address: _____

☐Branch office: _____ (Name of office)

Branch office address: _____

☐Agent: _____ (Name of Agent)

Agent's address: _____

14. Loan is scheduled for repayment: _____ (Dates of monthly, annual, or other installments)
15. Late payment charges, if any, are made on the following basis pursuant to a written agreement between the applicant and the undersigned lender _____
16. Types and amounts of insurance required are:

Types	Amounts
	$
	$
	$
	$

17. List of Required Security Property
(Including That on Hand and to be Acquired)

DESCRIPTION OF PROPERTY A. ON HAND *	APPRAISED VALUE	AMT. ANY PRIOR LIENS	EQUITY
	$	$	$
TOTAL	$	$	$

Appraiser's Certificate on Personal Property

Personal property listed above, if any, was appraised by me at the values set forth opposite the description thereof.

_____ (Date) _____ (Appraiser)

*Quantity and brief description. For example: "Smith farm 160 acres," (based on separate appraisale report) "1 - 1972 John Deere 2520 Tractor," "25 Hereford range cows, 3-6 years."

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B. TO BE ACQUIRED -- FIRST LIEN IS REQUIRED*	VALUE**
	$
TOTAL	$

18. The loan will be properly closed and the required security obtained. The construction, relocation, repairs, or other development will be completed in accordance with approved drawings and specifications.

19. The borrower has title marketable in fact to security property now owned (and will obtain such title to any additional property to be acquired with loan funds), subject only to the instruments securing the loan to be guaranteed and any other exceptions set forth below:

20. Security property now owned (and any to be acquired) is considered adequate security for the loan to be guaranteed. If inadequate, state in item 29 of this form why you believe the borrower's farm or ranch operating plans will permit him to pay all guaranteed loan advances in full within the period stated in Item 9 of this form. The security instruments will be properly filed or recorded prior to or simultaneously with issuance of the Loan Note Guarantee; except that if security property is yet to be acquired in a jurisdiction in which an after acquired property clause is not valid, a security instrument covering such property will be obtained as soon as possible and filed or recorded, as appropriate and legally permissible. Loan funds will be used only for FmHA-approved purposes.

21. Truth in Lending requirements will be met.

22. All Equal Opportunity and Nondiscrimination requirements will be met (or any that cannot yet be met will be met at the appropriate time).

23. If loan funds are to be used at or after the time of loan closing for acquisition of substantial amounts of property, or for construction or substantial repairs or major land development, certification(s) on Form FmHA 449-11, "Certificate of Acquisition or Construction," will be furnished on that part acquired at loan closing, and will be furnished to FmHA as soon as possible on such subsequent acquisitions, construction, repair or land development.

24. Proper hazard and any other required insurance will be obtained or is now in effect.

**Value of Real Estate based on separate appraisal report.

25. Plan of Operation agreed upon by Lender and loan applicant for first full operating year

a. PLANNED CROPS, PASTURE, ETC. - PRODUCTION AND SALES

CROPS, PASTURE, ETC.	ACRES	YIELD PER ACRE	OPERATOR'S SHARE	OPERATOR'S SHARE FOR SALE AMOUNT	OPERATOR'S SHARE FOR SALE VALUE
1.					$
2.					
3.					
4.					
5.					
				TOTAL	$

b. PLANNED LIVESTOCK AND PRODUCTS PRODUCTION AND SALES

KIND	PRODUCTION PER ANIMAL	NUMBER	OPERATOR'S SHARE	OPERATOR'S SHARE FOR SALE AMOUNT	OPERATOR'S SHARE FOR SALE VALUE
1.					$
2.					
3.					
4.					
5.					
				TOTAL	$

26.

CASH OPERATING EXPENSES	TOTAL CREDIT NEEDED	TOTAL PLANNED EXPENSES
Hired Labor	$	$
Machinery Repair	$	$
Interest	$	$
Cash Rent	$	$
Feed	$	$
Seed	$	$
Fertilizer	$	$
Pesticides & Spray Materials	$	$
Livestock Expense	$	$
Machinery Hire	$	$
Fuel and Oil	$	$
Personal Prop. Tax	$	$
Real Estate Taxes	$	$
Water Charges	$	$
Property Insurance	$	$
Auto & Truck Expense (Farm)	$	$
Utilities	$	$
Feeder Livestock (Bought & sold during year)	$	$
Family Living Expenses	$	$
Other	$	$
TOTAL	$	$

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27. Financial Summary of First Full Years Operation

A.	Livestock Income	$
B.	Crop Income	$
C.	Other Farm Income	$
D.	Off-Farm Income (net)	$
E.	Total Gross Income (A+B+C+D)	$
F.	Total Cash Expenses (Table 19)	$
G.	Net Cash Income (E minus F)	$
H.	Loans and Other Credit	$
I.	Interest	$
J.	Balance Available for Debt Payment (G+H+I)	$

28. DEBT REPAYMENT

TO WHOM OWNED	AMOUNT DUE FIRST YEAR (PRIN. & INT.)	PLAN: PRIN. & INT. TO BE PAID	PLAN: DATE	PLAN: SOURCE OF FUNDS
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
Income and Social Security Taxes	$	$		
TOTAL	$	$		

29. Other Relevant Information:

30. Lenders Planned Loan Servicing:

31. A Guarantee Fee Report on Form FmHA 449-19 and a check for the amount of the guarantee fee will be provided at the time the Loan Note Guarantee is issued.

32. The undersigned (a) considers the proposed loan to be sound and within the borrower's repayment ability, (b) believes that all applicable requirements in 7 CFR Part 1980 Subpart B have been or will be met, (c) will not make the loan without an FmHA guarantee, and (d) does not believe the needed financing can be provided by the applicant from his or its own resources or obtained by him from other sources at rates and terms he or it could reasonably be expected to meet without an FmHA guarantee. If the applicant is a partnership or corporation, the undersigned does not believe that the principal partners or principal stockholders, either individually or collectively, will be able to provide the needed funds, either with their own resources or with credit obtained by them from other sources without an FmHA guarantee. A principal partner or principal stockholder is one who owns 20% or more of the interest in the partnership or corporation. If no person owns or controls as much as 20%, all partners and stockholders will be considered principal partners or stockholders.

_____ (Name of Lender)

_____ (Date)

BY: _____

TITLE: _____

_____ (Lender's IRS ID Tax No.)

33. From an examination of information supplied by the Lender on the above proposed loan, the county committee certification or recommendation and other relevant information deemed necessary, it appears that the transaction can properly be completed.

Therefore, the United States of America acting through the FmHA hereby agrees that, in accordance with applicable provisions of the FmHA regulations published in the Federal Register and related forms, it will execute Form FmHA 449-34, "Loan Note Guarantee," on the above loan at the time, subject to the conditions and requirements specified in said regulations and Form FmHA 449-14, "Conditional Commitment for Guarantee," attached.

If the Loan Note Guarantee is executed and the guarantee fee is paid by the Lender to FmHA, the loan subsidy rate, if any, payable by FmHA to the Lender, and the interest rate payable by the borrower in cases which that rate is limited by statute or is fixed from time to time pursuant to statute, will be those rates in effect on the date of this approval.

Rate payable by borrower _____% per annum. Subsidy rate _____% per annum.*

This approval will expire _____ days from the date hereof unless the time is extended in writing by FmHA, or upon the Lender's earlier notification in writing to FmHA that it does not desire to obtain an FmHA guarantee.

UNITED STATES OF AMERICA

FARMERS HOME ADMINISTRATION

_____ (Date)

BY: _____

TITLE: _____

*If none, insert "none" in blank.

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(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: July 14, 1977.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc.77-25315 Filed 9-2-77;8:45 am]

federal register

TUESDAY, SEPTEMBER 6, 1977
PART IV



COMMODITY FUTURES TRADING COMMISSION

■

COMMODITY FUTURES TRADING PROFESSIONALS

Customer Protection Rules

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COMMODITY FUTURES TRADING COMMISSION

[17 CFR Parts 1, 166]

PROTECTION OF COMMODITY CUSTOMERS

Standards of Conduct for Commodity Trading Professionals

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes customer protection rules which are designed to provide increased protections to members of the public who deal with commodity futures trading professionals. The proposed rules implement many of the recommendations of the Commission's advisory committee on commodity futures trading professionals.

DATES: Comments must be received on or before January 3, 1978.

ADDRESSES: Comments should be sent to: Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, attention of the Secretariat.

FOR FURTHER INFORMATION CONTACT:

Frederick L. White, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone 202–254–6220.

SUPPLEMENTARY INFORMATION: These proposed customer protection rules consist of a new Part 166 and amendments to existing rules under the Commodity Exchange Act. They are designed to provide increased protections to members of the public who deal with commodity futures trading professionals. Under the proposed rules, commodity professionals would be required to supervise their employees; "know their customers" and have reason to believe that commodity recommendations made to customers are "suitable"; commodity brokerage firms would be required to confirm all customer trades and provide customers with a risk disclosure statement; commodity professionals would be prohibited from advertising the results of simulated or hypothetical trades (and other restrictions on the advertising of trading performance might be expressly imposed); commodity professionals would be subject to certain requirements in the handling of discretionary accounts; and the "churning" of commodity accounts would be expressly outlawed. Finally, certain record-keeping requirements would be imposed.

The proposed rules apply to commodity option and "leverage" (see infra) transactions as well as commodity futures trades, and to employees of Commission registrants as well as the registrants themselves. The rules implement many of the recommendations of the Commission's advisory committee on Commodity Futures Trading Professionals.

The Commission is requesting comments on whether industry self-regulatory organizations (the exchanges and any futures association that registers with the Commission under section 17 of the Commodity Exchange Act) should be required to adopt customer protection rules that are the same as or stricter than those of the Commission.

A list of specific questions is set forth in Part 10 of this release as a guide to commentators.

1. Introduction and Summary of the Proposed Rules

The Commodity Futures Trading Commission ("Commission") is proposing to adopt a series of rules (new part 166) and rule changes under the Commodity Exchange Act[1] ("Act") that are designed to protect, in various respects, members of the public who deal with commodity trading professionals. Those proposed customer protection rules will implement numerous specific recommendations of the Commission's Advisory Committee on Commodity Futures Trading Professionals ("Advisory Committee"), and will effectuate the Committee's general view—with which the Commission concurs—that the "raising standards for professionals in the commodities industry" is "essential."[2] The strict standards that would be established by the proposed rules also reflect the Congressional recognition of the fiduciary nature of the commodity professional's relationship with his customer.[3] As was recently stated in *Commodity Futures Trading Commission* v. *J.S. Love & Associates Option, Ltd.*, 442 F. Supp. 652, 659 (S.D.N.Y 1976) "'it is essential • • • that the highest ethical standards prevail'" highest ethical standards prevail'" in "every facet of the • • • commodity options industry • • •'"[4] This statement is applicable to the commodity futures industry as well.

The scope of the proposed rules is purposely broad—both as to the types of persons and the types of transactions that would be covered. Most of the rules apply to (1) all "Commission registrants"—a term defined in the rules as any person who is or "is required to be" registered with the Commission[5]—and (2) the "representatives" thereof—defined to include any officer, partner, employee or agent of a registrant.[6] (The term "commodity professionals" will be used herein to refer to Commission registrants and their representatives.) In addition, most of the rules apply to all transactions subject to the Commission's regulatory authority. This is accomplished by the use of the term, "commodity interest," which is defined to cover not only commodity futures contracts but also commodity options and "leverage contracts" (i.e., contracts subject to regulation by the Commission under section 217 of the Commodity Futures Trading Commission Act of 1974).[7]

The Commission's customer protection proposals can be summarized briefly as follows:

1. *Definitions.* Proposed § 166.1 defines the terms, "Commission registrant," "representative" (of a Commission registrant), "commodity interest," "customer," "commodity account," and "discretionary authority." These definitions apply only to new Part 166.

2. *Suitability.* Commodity professionals must "know their customers" (proposed § 166.2(a)(1)) and have reason to believe that each commodity interest they recommend to a customer—and commodity trade they effect for a customer pursuant to discretionary authority—is suitable for the customer in view of the risk of loss involved in the trade and the customer's financial condition and trading objectives (proposed § 166.2(a)(2)).

3. *Churning.* The rule makes explicit that it is unlawful for a commodity professional to cause excessive transactions in any commodity account over which he has discretionary authority or which he controls in fact (proposed § 166.3).

4. *Supervision.* Commodity firms must supervise the handling of all commodity accounts maintained with the firm. FCMs must meet specific supervision standards, such as the establishment of written supervisory procedures, the appointment of a supervisor for certain associated persons and the same-day review by a supervisor of all trades effected for customers pursuant to discretionary authority (proposed § 166.5). Comments are requested on the adoption of a rule expressly requiring FCMs to investigate the background of the individuals they hire to serve in associated person capacities.

5. *Trading.*—a. *Confirmation of trades.* FCMs must promptly confirm in writing all customer trades of futures contracts (proposed § 1.33b).

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[1] 7 U.S.C. § 2–22, as amended.

[2] Report of the Commodity Futures Trading Commission Advisory Committee on Commodity Futures Trading Professionals ("Advisory Committee Report"), August 5, 1976, p. 1 (CCH Commodity Futures L. Rep., Report No. 29, Part II, August 20, 1976).

[3] See, e.g., sections 4b, 4i and 4o of the Act, 7 U.S.C. 6b, 6i and 6o; S. Rep. No. 93–1131, 93d Cong., 2d Sess. 14–15, 21 (1974); H. Rep. No. 93–975, 93d Cong., 2d Sess. 35 (1974).

[4] The court was quoting in part from *SEC* v. *Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 186–7 (1963).

[5] The "is required to be" language makes clear that the requirements of the rules may not be evaded by failure to register.

[6] Currently, registration is generally required of futures commission merchants ("FCMs")—a category that now includes persons who accept commodity option premiums from customers (see § 32.3 of the Commission's regulations)—associated persons, floor brokers, commodity trading advisors and commodity pool operators.

Since associated persons are employees of FCMs, they are excluded from the definition of "representative" in order to avoid a possibly confusing overlap.

[7] Pub. L. 93–463, 88 Stat. 1405.

"No person shall offer to enter into, or confirm the execution of any transaction for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins pursuant to standardized contract commonly known to the trade as a margin account, margin contract, leverage contract contrary to any rule, regulation, or order of the Commodity Futures Trading Commission designed to insure the financial solvency of the transaction or prevent manipulation or fraud • • •"

The "commodity interest" definition is identical to the definition of that term in the Commission's recently-proposed rules for commodity pool operators and commodity trading advisors. 41 Fed. Reg. 9276 (Feb. 15, 1977). Comments are requested on whether the definition should be expanded to cover futures contracts traded on foreign exchanges.

b. *Discretionary trades.* Commodity professionals may not exercise discretionary power over customer accounts without prior written authorization from the customer. The authorization must be limited to a one-year period (proposed § 166.4).

6. *Disclosure by FCMs regarding risk of loss.* FCMs must furnish each customer with a written statement that explains the risk of loss inherent in trading commodity futures contracts (proposed § 1.55). Comments are requested on whether the risk disclosure statement should also disclose whether the firm engages in "dual trading" (trading futures for its own account in addition to effecting trades for customers), whether the firm permits its employees to trade futures for their own accounts, and whether the floor brokers to whom the FCM transmits orders for execution dual trade.

7. *Advertising of commodity trading results.*—a. *Simulated results.* Commodity professionals may not advertise the results of simulated commodity portfolios or hypothetical or theoretical commodity trades (proposed § 166.6).

b. *Short-term performance.* The Commission requests comments on the Advisory Committee's recommendation that commodity professionals be prohibited from "advertising performance that covers less than one year's trading".[8]

c. *Selective disclosure of performance.* Comments are requested on the need for and appropriateness of a rule establishing specific minimum requirements regarding performance advertising by professionals who manage multiple accounts or pools.

8. *Diligent handling of orders.* FCMs and their associated persons must use due diligence in the handling of customers' orders so as to obtain the best possible price for the customer (proposed § 1.56).

9. *Recordkeeping.* FCMs must make and keep a record of the financial condition and trading objectives of each customer to whom they recommend commodity interests or for whom they effect discretionary trades (proposed amendment of § 1.37).[9] FCMs must also keep a record of all grants of discretionary authority and approvals by supervisors of discretionary trades (proposed amendment of § 1.35(a)).

The Commission emphasizes that a number of provisions in the proposed rules merely make explicit what is impliedly required of commodity trading professionals and others under the various antifraud provisions of the Act and the Commission's rules. Accordingly, it should be clearly understood that the inclusion of a standard in the proposed rules does not mean that a commodity professional's failure to adhere to that standard would not presently be actionable in an enforcement proceeding. For example, the churning of a customer's commodity futures account by an FCM or associated person thereof is clearly a violation of section 4b of the Act.[10]

In addition to the customer protection rules themselves, the Commission also requests comments on whether it should require all commodity self-regulatory organizations[11] to adopt customer protection rules that provide the safeguards contained in the Commission's equivalent rules.[12] This requirement seems necessary in view of the desirability of increased industry self-regulation and the limited nature of the Commission's compliance and enforcement resources. This proposal is similar to proposed § 1.52(a), which would require the self-regulatory organizations to adopt certain financial and reporting requirements that are the same as or stricter than the Commission's.[13] As with § 1.52, the Commission requests comments on permitting the self-regulatory organizations to apportion among themselves the responsibility for regulating commodity firms that are members of more than one self-regulatory organization.

Comments are also requested on how, until a futures association becomes registered with the Commission as such, the many commodity firms that are not members of any self-regulatory organization could be made subject to industry self-regulation in the customer protection area. Specifically, the Commission seeks comments on whether it should require each commodity exchange to prohibit its members from transacting commodity business with nonmembers that do not (a) comply with the exchange's customer protections standards and (b) permit the exchange to inspect the nonmember to determine whether it is complying. Under this approach, the Commission would oversee each exchange to determine that it was taking affirmative action to secure compliance with its customer protection standards by the exchange members and the nonmembers with whom the exchange members deal.

2. Suitability.

(a) *Introduction; Nature of the Rule.* Proposed § 166.2 prohibits commodity professionals from issuing any commodity interest "recommendation" to their customers, or effecting any commodity interest trade for their customers pursuant to discretionary authority, unless:

(1) (*The suitability inquiry*) the professional obtained from the customer, before the recommendation or trade, the essential facts about the customer's financial condition and trading objectives (FCMs would be required to make and keep a record of this information under the proposed amendment of § 1.37); and

(2) (*The suitability determination*) the professional had reason to believe, at the time of the recommendation or trade, that the position would be "suitable" for the customer based on the information known to the professional. The suitability of a position would depend on whether the risk of loss involved was (a) one that the customer could safely assume in light of his financial condition and (b) consistent with the customer's trading objectives.

If the customer declined to furnish the professional with sufficient information upon which to base the suitability determination, the professional could not issue recommendations to, or effect discretionary trades for, the customer.[14] However, the professional could effect non-discretionary trades for a customer provided no recommendation was issued by him in connection with the trade.[15]

"*Recommendation.*" This term includes not only express buy-sell recommendations but also any advice, suggestion or other statement (written or oral) that is intended, or can reasonably be expected, to influence a customer to trade a commodity interest.

The term does not include statements that merely describe in an objective fashion the general nature of commodity interests, the manner in which they are traded, or the operations of the commodity professional, nor would it include the dissemination of price quotations. Thus, professionals could make initial contact with potential customers to determine whether they might be interested in trading commodity interests.

Recommendations contained in publications of wide-spread distribution (such as market letters, research reports and brochures) are excluded from the definition, as are recommendations issued by means of television, radio or commodity seminars. Without this exclusion, it would be impossible in many cases for commodity professionals to dispense advice through wide-spread communications; recipients of the communications would be "customers" of the professional within the meaning of the rule but the professional often would not be able to "know" them—or even their identity.

Comments are requested, however, on requiring wide-spread communications that contain commodity recommendations to include a conspicuous warning that commodities trading is not suitable for many individuals.

(b) *The need for and appropriateness of a suitability Rule for Commodity Professionals.* Commodity customers are often unaware of, or inattentive to, the substantial risk of loss in commodity trading. Since futures contracts can be purchased on relatively small margins (thus giving customers a high degree of

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[8] Advisory Committee Report, p. 6.

[9] Comments are requested as to whether commodity trading advisors and commodity pool operators should be subject to a similar requirement.

[10] 7 U.S.C. 6b. That section, *inter alia*, makes it unlawful for any person to "cheat or defraud" or "willfully to deceive" any other person in connection with any commodity futures transaction effected for that other person on a contract market.

[11] All contract markets and any registered futures association.

[12] The contract markets would be required by section 5a(8) of the Act and § 1.51 to maintain an affirmative action program to secure compliance with these rules.

[13] 42 FR 39036 (August 1, 1977).

[14] In this respect, the rule would differ from the SEC's suitability rule (17 CFR 240.15b10–4) which evidently permits the securities professional to issue recommendations to a customer who declines to furnish suitability-type information if the professional made a good faith effort to know his customer. See Securities Exchange Act Release No. 8135 (July 27, 1967). Comments are specifically invited on this issue.

The sentence in the text is subject to the qualification discussed in footnote 15.

[15] While the FCM should of course "know his customer" in this situation because of the firm's potential liability for trading losses in customer accounts, the application of the rule in this area might unduly restrict the activities of financially responsible customers who do not receive trading advice from the FCM and who decline to furnish suitability information. Comments are sought on this issue.

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leverage) and the market prices of futures contracts are subject to large and rapid fluctuations, futures traders can lose substantially more than the amount of funds deposited as original margin. This is particularly true in situations where, because of daily price limits, customers become "locked in" to losing positions. There is need for a rule that will prohibit commodity professionals from encouraging or causing their customers to take risks in the commodities market that are beyond their capacity to bear. Futures trading may be unsuitable for customers who do not possess risk capital or who are seeking production of income or preservation of capital.

(c) *Nature of the suitability inquiry.* A commodity professional cannot determine whether commodity trading in general, or a particular commodity trade, is suitable for a customer unless the professional has a basic understanding of the customer's risk capacity and trading objectives. Since risk capacity depends upon the customer's financial condition, the professional must know the essential facts about his customer in that regard—e.g., the customer's net worth and income (or at least whether those figures are above an appropriate minimum amount), the number of dependents he has and his financial obligations.

The Professional should also ascertain whether the customer is already speculating heavily in commodities, or in some other area such as securities or real estate.[16] For while the customer may have risk capital, that capital may be committed to other forms of speculation, thus making him a poor candidate for further risk-taking.

After the professional has obtained the above-discussed information from the customer, he would then be able to determine whether commodity trading is suitable for the customer and, if so, the amount of risk-taking that will be appropriate.[17] Since the suitability of a given recommendation or trade will depend upon a wide mix of factors it does not appear feasible to formulate specific standards as to when a risk would be suitable. Comments are nevertheless requested as to whether some type of guideline could and should be devised.

The proposed rule states that the professional must have reason to believe that his recommendations are suitable in light of the information "obtained from the customer" and otherwise known by the professional. The professional would not be required to obtain information from persons other than the customer in conducting the suitability inquiry, nor would he be required to verify the accuracy of the information furnished by the customer. The professional would be entitled to rely on the information furnished by the customer unless he had good cause to believe that the information was materially inaccurate. In that case, the professional would either have to conduct a further inquiry or else refrain from issuing recommendations or effecting discretionary trades.

Under no circumstances would the professional be permitted to evade his obligations under the rule by attempting to learn as little as possible about the customer's financial condition and objectives. The rule would affirmatively require the professional to "know his customer" before issuing any recommendation or effecting any discretionary trade. Merely asking the customer whether he can risk a particular amount of money would not constitute an adequate suitability inquiry.

(d) *The Suitability determination.* The suitability determination consists of two different judgments: (1) Whether commodity trading in general is suitable for the customer in view of his trading objectives and financial condition and, (2) if so, whether the particular position that is the subject of the recommendation or discretionary trade is suitable. The latter requirement reflects the fact that the risk of loss can vary widely depending on the size of the trade, the volatility and market liquidity of the commodity involved, and the amount of margin required. Thus, in recommending to a customer the purchase of 10 futures contracts of a particular commodity the professional would be required to have a reasonable basis for believing that the risk of loss from an adverse price movement could be absorbed by the customer without undue hardship. If the professional thought the risk of buying 10 contracts was too great, the proper recommendation might be to purchase fewer contracts.

(e) *Relationship between suitability and disclosure.* Suitability and disclosure are separate concepts. The professional's disclosure to his customer of the risk of loss involved in a particular trade would not satisfy the professional's obligations under the suitability rules to ascertain the customer's risk-bearing capacity and have reason to believe that the risk was suitable. The Commission is considering the adoption of a suitability rule precisely because disclosure alone does not sufficiently protect some customers from high-pressure sales tactics. For example, commodity option salesmen have been able to induce customers on small fixed incomes to make clearly unsuitable purchases of speculative options notwithstanding the salesman's disclosure in some instances of all material facts.

In addition, the proposed rule is predicated in substantial measure on the principle that, as a market professional, the associated person, trading advisor, etc. has the special skill and background to assess the degree of risk involved in a trade. The professional is presumed to understand such risk-related matters as the price volatility of futures contracts, liquidity of trading, limit trading and margin requirements. It would be inconsistent with the purpose of the rule to permit the professional to shift completely to the customer the responsibility for assessing the risks of a trade.

(f) *Relationship between suitability and churning.* While the proposed churning rule (§ 166.3) is designed to protect those commodity customers who rely substantially upon the professional with whom they deal, the proposed suitability rule applies to all customer accounts (except those in which the professional neither issues recommendations nor effects discretionary trades). Under the suitability rule, the professional would be required to have a reasonable basis for his recommendations and discretionary trades, regardless of the degree to which the customer relied on the professional.

(g) *Request for comment upon specific suitability standards.* The Commission requests comments upon the appropriateness of specific suitability standards, such as a requirement that commodity customers have a minimum net worth (e.g., $50,000), annual gross income (e.g., $25,000), account equity (e.g., $10,000) or some combination of those factors. While specific standards would no doubt be easier to administer and enforce than the general standard embodied in the proposed rule, they do not seem to take into account the varying circumstances of individual customers and the many other factors that affect suitability. An individual with a relatively large net worth might have little capacity for risk-taking if he has many dependents and large financial commitments. Conversely, an individual with a relatively small net worth may be in a position to take comparatively large risks—for example, a person with no dependents and a steadily rising income.

(h) *Professional's knowledge of customer's financial condition must be reasonably current.* Since a customer's financial situation can materially change in a relatively brief period of time, it is insufficient for a commodity professional to base his recommendations solely upon the information he obtained from the customer when the account was opened. While the rule would not require the professional to conduct the required suitability inquiry immediately before each recommendation or discretionary trade, the professional would be required to have a reasonably current knowledge of the customer's financial condition. Thus, the rule states that "within a reasonable period of time before the recommendation" the professional must have either conducted a suitability inquiry of the customer or verified the accuracy of the information obtained in his most recent suitability inquiry. What constitutes a reasonable period of time depends on the circumstances of each customer. If the customer's financial situation is subject to fluctuations, the inquiry or verification should be made frequently, perhaps once each month. For customers with ample risk capital the inquiry or verification could perhaps be conducted every six months. The verification could often consist simply of asking the customer whether any material change has occurred since the professional's most recent inquiry regarding the customer's financial condition.

(i) *Trades effected pursuant to discretionary authority.* The rule applies not only to commodity "recommendations" but also to "any transaction in a commodity interest for a customer pursuant to discretionary power or authority • • • •." A commodity professional who effects a discretionary trade is recommending the commodity interest to his customer—albeit impliedly—and should be no less subject to suitability standards than the professional who makes express recommendations. Indeed, the need for suitability standards is even greater in the case of discretionary trades since the customer does not have an opportunity before the trade to assess the degree of risk involved. By conferring discretionary authority upon the professional, the customer is often depending completely upon that person to determine whether the risk involved in the trade is suitable for him.

(j) *Relationship of suitability to trading performance.* The Commission emphasizes that the suitability of a commodity trade will be determined without regard to the subsequent performance of the trade. The customer's incurring of a large loss would have no bearing on the suitability of the recommendation that led to the trade. Suitability would depend on the customer's financial condition at the time of the recommendation. In applying the rule, the Commission will not "second guess" the market judgment of the commodity professional.

3. EXCESSIVE TRADING ("CHURNING")

(a) *Introduction.* Proposed § 166.3 states that a commodity professional who has discretionary authority over or otherwise controls a customer's account in which commodity interests are traded may not effect trades in the account that are excessive in size or frequency in light of the nature of the account and the commodity interest involved. The proposed rule merely codifies the established principle that the "churning" of commodity accounts is outlawed by the anti-fraud provisions of the Commodity Exchange Act.[18] The proposed rule is in no way intended to narrow the scope of the Act or the rules thereunder.

While no precise guidelines can be established as to what constitutes churning[19] and each situation must be judged on its own facts, the principal elements of the offense are (1) control of the account by the professional and (2) excessive trading.

(b) *Control.* Control exists where (i) the customer has expressly authorized the professional, through a power of attorney, trading authorization or otherwise, to effect trades for his account or (ii) the professional in fact exercises control over the account even though no grant of discretion had been made.[20] Factual control exists where the professional—by reason of the trust and confidence placed in him by the customer, the customer's lack of sophistication in commodity trading, or some combination of these factors—significantly influences the trading in the account.[21] The mere fact that the customer occasionally initiates his own trades or rejects the professional's advice would not preclude the existence of factual control, nor would the customer's sophistication in commodity trading.

(c) *Excessive trading.* No precise mathematical test can be formulated for determining whether a commodity account has been excessively traded. Listed below are some of the factors that the Commission would consider in determining if an account has been so traded. The Commission emphasizes that this is not an exhaustive list; other factors could be relevant in particular situations. And, the absence of a particular factor or factors would not preclude a finding of churning.

(i) *The turn-over rate.* This is the ratio of the total cost of purchases made for the account during a given period of time to the average month-end net equity in the account during the period. The amount of permissible turn-over will depend upon such factors as market conditions, the commodity interest involved and the trading objectives of the customer.

(ii) *The nature of the account.* As indicated in (i) above, the stated objective of the customer is an important factor. A turn-over rate that is acceptable in the account of an individual who wishes to trade especially actively may be unacceptable in the account of an average trader.

(iii) *"In-and-out" trading.* Since the establishment of market positions for periods of less than a day (such trades are commonly known as "day trades" or "in-and-out trades") can generate substantial commission revenues, this type of trading—although clearly not inherently improper—could be a factor in determining whether an account has been churned.

(iv) *Ration of commissions to net equity.* The ratio of the commissions generated by the account during a particular period to the average, month-end net equity in the account during the period is also a significant factor, particularly when it can be compared to the commission-equity ratio in other similar accounts maintained with the commodity professional.

(d) *Relationship between Suitability and Churning.* While churning is of course unsuitable for any customers, an important distinction between these two concepts is that suitability can apply to individual transactions while churning usually involves a series of transactions.[22] The fact that each transaction in a series of transactions might—when viewed alone—be suitable for the customer would not prevent the series of transactions from constituting churning. In short, a series of suitable transactions could constitute churning.

(e) *Application of the rule to pool operators and trading advisors.* The churning rule would apply not only to FCMs and their associated persons but also to pool operators and trading advisors (and their employees). The possibility of churning by a pool operator exists where, for example, the operator benefits financially from the brokerage commissions generated by the pool. Similarly, the potential for churning by trading advisors exists where the advisor (1) exercises influence over the client's trades and (2) benefits from the commissions generated by the customer's trades—for example, if the trading advisor has a reciprocal fee arrangement with the FCM through which the client trades.

(f) *The relationship between the churning of commodity accounts and churning of securities accounts.* Proposed §166.3 is quite similar to rule 15cl–7(a) of the Securities and Exchange Commission, which basically prohibits (in the over-the-counter market) the churning of a customer's securities account by a broker-dealer.[23] The similar-

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[16] The Commission recognizes that a customer may be reluctant to discuss with the professional his commodity trading activities with other firms. Accordingly, the Commission would not interpret the suitability rule to prohibit the issuance of recommendations to (or effecting of discretionary trades for) a customer who declined to furnish this information so long as the professional made a good faith attempt to learn from the customer the extent of his trading activities.

[17] To reiterate, if the professional was unable to obtain this information, the rule would prohibit him from making a commodity recommendation to, or effecting a discretionary commodity trade for, the customer. The rule would not, however, prohibit the professional from merely executing orders for the customer.

[18] Booth v. Peavey Company Commodity Services, 430 F. 2d 132 (8th Cir. 1970); Johnson v. Espey, 341 F. Supp. 764, 766 (S.D.N.Y., 1972). Hecht v. Harris, Upham & Co., 283 F. Supp. 417, 437 (N.D. Cal. 1968), modified as to damages, 430 F 2d 1202 (9th Cir. 1970) [hereinafter referred to as "Hecht"].

Since these cases involved commodity futures accounts, it should be noted that the churning of a commodity option account would violate the Commission's antifraud rule (§ 32.9) relating to those commodity interests.

[19] Advisory Committee Report, p. 13.

[20] "• • • [C]ontrol need not amount to a formal vesting of discretion in the representative • • •." Hecht at 433.

[21] A number of commodity firms currently operate trading programs in which customers who maintain accounts with the firm regularly receive recommendations or "signals" generated by a technical trading system. Although the accounts of the participating customers may not, by their terms, be discretionary, these programs are designed to provide best results when the signals are regularly followed, and the Commission understands that participants do in fact follow a high proportion of the signals. For this reason, and because the possibility of churning exists in the operation of these programs, the Commission will tend to regard accounts maintained by program participants as controlled by the program operator for purposes of the rule. Indeed, the Chicago Board of Trade has recommended that its members treat trading program accounts as discretionary accounts unless the member can be certain that the customer has given specific price instructions.

[22] "• • • [C]hurning • • • has to do • • • not with single transactions, but with the volume and frequency of a series of transactions • • •." Hecht at 437.

[23] "The term manipulative, deceptive, or other fraudulent device or contrivance, as used in section 15(c) of the Act (the Securities Exchange Act of 1934), is hereby defined to include any act of any broker or dealer designed to effect with or for any customer's account in respect to which such broker or dealer or his agent or employee is vested with any discretionary power any transactions of purchase or sale which are excessive in view of the financial resources and character of such account." 17 CFR 240.15cl–7(a).

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ity of the rules is understandable since in both industries (i) customers trade through professionals whose remuneration usually depends on the volume of transactions in the customer's account, (ii) there is a temptation for the professional to cause an excessive number of transactions in order "to derive profit for himself while disregarding the interests of the customer," [24] and (iii) the professional often occupies the dual role of advisor to the customer and agent for effecting trades. Thus, because the motive and opportunity for churning are basically the same in securities and commodities trading, the various factors that have been considered by the SEC and the courts in determining whether a securities account has been churned are generally relevant to commodity churning situations. The Commission emphasizes, however, that there are certain fundamental differences between securities and commodities trading, which it will consider in applying its churning rule. For example, commodity futures and options are inherently "short-term" whereas most securities can be held for indefinite periods. In addition, since futures contracts can usually be purchased on much smaller margins than securities, the ratio of total purchases to account equity may be greater in a commodity account than in a similar securities account. Also, brokerage commissions are computed differently in the two industries.

4. UNAUTHORIZED TRADING

Unauthorized trading by FCMs is a frequent customer complaint. These complaints usually relate to (1) disputes as to whether a trade was in accordance with the customers' instructions as to price, quantity, etc.; (2) disputes as to whether a trade was authorized at all; and (3) disputes as to whether the customer had granted the FCM or other person discretionary authority to effect trades for his account.

The Commission is proposing two measures to facilitate the resolution of these disputes and reduce unauthorized trading. As discussed more fully below, FCMs would be required to confirm all customer trades and FCMs and associated persons would be prohibited from exercising discretionary authority over any customer account unless they had prior written authorization from the customer.

(a) *Confirmation requirement.* The Commission proposes to require FCMs promptly to send a written confirmation statement to the customer upon the execution of each order for a commodity futures contract. Currently, the Commission's regulations require confirmation statements to be sent only upon the execution of futures orders for controlled accounts that are submitted by the controller of the account (§ 1.33a(a)).[25] Under the Commission's regulations, the only notice that customers are required to receive of other trades is the monthly statement, and the only trades required to be shown on that statement are those which represent positions that were open as of the month end.[26] Since a customer is more likely to detect an unauthorized trade if he receives prompt confirmation statements than if he receives only a monthly statement, the proposed confirmation requirement should help to discourage unauthorized trading. The Commission does not believe the confirmation requirement would impose a significant burden since most FCMs already send confirmation statements to their customers.

(b) *Discretionary accounts.* Proposed § 166.4 prohibits FCMs and their associated persons from effecting commodity trades for customers unless the customer or person controlling the account had either (1) "specifically authorized" the FCM or associated person to purchase or sell a specified amount of the commodity interest, or (ii) authorized the FCM or associated person, by means of a written power of attorney or similar trading authorization, to effect trades for the account without the customer's prior approval. A trade would be deemed "specifically authorized" notwithstanding the fact that the customer or account controller gave the FCM or associated person discretion as to price; so long as the customer's instructions related to a specified amount of a specified commodity interest, a power of attorney or similar authorization would not be required.

The rule also provides that the power of attorney or trading authorization would be invalid if it permitted the FCM or associated person to exercise discretionary authority over the account for more than one year, although written renewals of the authorization would be permitted.

In addition to the requirements of proposed § 166.4, proposed § 166.5 (supervision) requires each delegation of discretionary authority to be approved by a supervisor of the firm and each trade in a discretionary account to be reviewed by a supervisor on the day of execution.

The Commission requests comments on the Advisory Committee's recommendation that FCMs be prohibited from maintaining discretionary accounts for customers whose account equity is below a certain size (for example, $5,000). Since several exchanges already have such requirements, the Commission's adoption of such a rule would promote uniformity. On the other hand the rule might force small traders to place their own orders or join pools—a result that they may not desire and that may not always be desirable.

5. SUPERVISION

Proposed § 166.5 would supplement section 5a(8) of the Act and § 1.51 of the Commission's rules—which basically require contract markets to oversee the activities of their members [27]—by extending directly to all commodity firms the principle of supervised self-regulation that is embodied in those provisions. Under the rule, all Commission registrants other than associated persons must "diligently supervise" the handling of all commodity accounts maintained with the registrant and all other activities of the registrant's employees relating to the firm's commodity-interest activities. In addition, the rule establishes specific supervision requirements for FCMs, as they handle the bulk of the commodity customer business.

The need for a supervision rule is evident from, among other things, the high rate of employee turnover in the commodities industry. Historically, approximately 20% of the associated persons do not apply for re-registration and the Commission receives hundreds of associated person applications each month from individuals not previously registered with the Commission. This high proportion of inexperienced employees makes close supervision particularly important.

[24] Hecht at 435.

[25] Section 1.33a(a), which would be replaced by § 1.33b, provides in pertinent part: "With respect to any account controlled by any person other than the customer for whom such account is carried, each futures commission merchant shall * * * promptly confirm in writing directly to the customer for whom such account is carried the execution of any trade originated by the controller of the account * * *."

Only two of the exchanges require confirmation of all trades and there are more than 100 FCMs that are not members of one or both of those exchanges.

All commodity option transactions effected by FCMs for their customers must be confirmed in writing. § 32.5(d).

[26] Section 1.33 reads: "Each futures commission merchant shall promptly furnish in writing directly to each customer, as of the close of the last business day of each calendar month or as of any regular monthly date selected: (a) A statement which clearly shows the *open* contracts with prices at which acquired, and the ledger balance carried for the customer's account; (b) a statement which clearly shows the net unrealized profit or loss in all *open* contracts figured to the market * * *" (Emphasis added.)

[27] Section 5a(8) of the Act, 7 U.S.C. 7a(8), basically requires each contract market to enforce all bylaws, rules, regulations and resolutions which relate to terms and conditions in contracts of sale, or to other trading requirements, and which have been approved by the Commission.

Section 1.51 of the Commission's rules, 17 CFR 1.51, requires each contract market to use "due diligence" in maintaining a rule enforcement program. The program must include: investigation of customer complaints and of all other alleged or apparent violations of the contract market's bylaws, rules, etc.; surveillance of members to detect and prevent such violations; and the taking of prompt disciplinary action for any violation. Thus, just as contract markets are required by § 1.51 to "use due diligence" in supervising members to ensure their compliance with certain provisions of the Act and with the contract market's bylaws, rules, regulations and resolutions, all commodity firms would be required under § 166.5 to supervise their employees diligently.

(a) *FCM Duties.* Under § 166.5, FCM's must designate a supervisor for each associated person whose duties are not wholly supervisory. The supervisor must be a partner, officer, branch manager or other qualified supervisory associated person of the FCM. If the FCM has designated more than one supervisor (which would be the case with firms having multiple offices) the firm must designate a partner or officer to supervise those middle-level supervisors. Also, FCMs must establish, maintain and enforce written procedures that provide for compliance with various duties specified in the rule. A copy of the procedures must be kept in each business office of the firm and is subject to Commission inspection. The required procedures are as follows:

(i) *Opening of accounts.* The FCM must provide for the approval by a supervisor of the opening of each commodity customer account. The approval must be in writing and must be obtained before the opening of the account. In approving a new account, the supervisor should determine whether any restrictions should be imposed upon the account (such as limiting the number of contracts that may be purchased for the customer or requiring a certain level of margin).

(ii) *Grant of discretionary authority.* The FCM must provide for the supervisor's prior written approval of any grant of discretionary authority to an associated person. The supervisor should determine whether the associated person has had sufficient experience to handle this type of account.

(iii) *Discretionary trades.* Each commodity transaction effected pursuant to discretionary authority must be approved in writing by a supervisor on the day of the transaction. The approval is not required to be obtained before the trade, as this might make it difficult for the associated person to execute an advantageous trade in a volatile market. Approval could be shown by the supervisor's initialing of the order ticket or by any other method that would demonstrate a proper review of the trade by the supervisor.

(iv) *Frequent review of all commodity accounts.* The supervisor must frequently examine the trading in each account under his supervision to detect and prevent any violation of the Act or the Commission's rules (particularly churning of the account and unsuitable trades) and any violation of the rules of any contract market to which the firm belongs.

(v) *Customer complaints.* The supervisor must promptly review—and act upon, where appropriate—all customer complaints, whether written or oral, concerning the associated persons under his supervision.

(vi) *Correspondence.* The supervisor must also review all correspondence sent or received by associated persons pertaining to the solicitation or acceptance of commodity orders. Correspondence should be inspected for unsuitable recommendations and other misconduct.

In establishing supervisory procedures to comply with the Commission's proposal, FCMs would be permitted to use such automated systems as may be appropriate to carry out required supervisory procedures.

The Commission recognizes that the performnace of a wrongful act by an employee of a commodity firm in the course of his employment does not necessarily mean that the employee was improperly supervised, although it is often a strong indication of a lack of proper supervision.

(b) *Relationship of § 166.5 to the supervision requirements applicable to securities broker-dealers.* The Commission's proposed supervision rule is similar in many respects to the supervision requirements applicable to securities broker-dealers. These requirements are contained in the rules of various self-regulatory organizations [28] and the Securities and Exchange Commission.[29] This similarity should facilitate compliance with § 166.5 by the approximately 55 FCMs that are also securities broker-dealers.

(c) *Relationship of § 166.5 to the supervision rules of contract markets and registered futures associations.* Several contract markets have adopted rules requiring their members to meet supervision requirements similar in some respects to those set forth in § 166.5 for FCMs.[30] But not all FCMs are members of contract markets with such rules and a significant number of FCMs are not members of any contract market. The Commission emphasizes that § 166.5 is not intended to supplant contract market supervision rules or to discourage contract markets from proposing new supervision rules that are consistent with § 166.5.

(d) *Impact upon small firms.* The Commission recognizes that smaller commodity firms cannot economically maintain the type of extensive supervision programs and systems that larger firms can support. Thus, the specific supervision requirements applicable to FCMs are designed so that they can feasibly be implemented by the smaller firms. At the same time, however, the Commission believes these requirements are sufficiently strict to provide meaningful and effective protections to the customers of all FCMs.

(e) *Pool operators and trading advisors.* An account carried by a commodity pool with an FCM would be considered as "maintained with" the pool operator (as well as with the FCM) for purposes of the rule.[31] Thus, if a pool operator has delegated to its employees or an outside trading advisor the handling of the pool, the operator, would be required to supervise them in that regard. For example, the pool operator would be required to conduct a frequent review of the pool's trades to detect any evidence of churning or mishandling of pool funds, and to take appropriate action if he suspected misconduct.

Similarly, an account maintained with an FCM over which a trading advisor has a power of attorney would be viewed as "maintained with" the advisor as well as the FCM. The advisor would be required to supervise the handling of the account by its employees.

(f) *Request for comments upon pre-employment inquiry requirement.* In conducting fitness checks of applicants for registration as associated person, the Commission has on a number of occasions discovered information about the applicant's background that clearly demonstrated a lack of fitness to be registered. In these cases, it is highly doubtful that the FCM would have employed the individual if it had known the information. This suggests the need for a rule expressly requiring FCMs to ascertain by investigation the fitness of any person they propose to employ as an associated person. Comments are requested on the need for an appropriateness of such a rule.

6. FCM DISCLOSURE STATEMENT

Proposed § 1.55 would require FCM's to furnish each commodity customer with a disclosure document containing an explanation of the risk of loss inherent in trading commodity futures contracts.[32] In addition, comments are requested on whether the statement should also disclose (i) whether the FCM dual trades (i.e., maintains a house account), (ii) whether the associated persons of the FCM and its other employees are permitted to trade futures for their own accounts, and (iii) whether the floor brokers to whom the FCM transmits its customers' orders trade for their own accounts.

(a) *Risk disclosure.* It is essential that commodity customers be aware of the substantial risk of loss inherent in futures trading. As the Advisory Committee stated in its report (p. 2):

> Attracted to futures trading by low margins, high leverage and volatile prices, the new and inexperienced commodity trader often fails to realize that these same factors can lead to sharp losses as well as large and rapid gains. Accordingly, it is absolutely essential that commodity futures professionals who deal with the public be required to disclose to each new customer the substantial risk of loss that generally exists in futures trading. This disclosure must be in writing; it must be concise and understandable to the inexperienced trader; and the disclosure document must be conspicuously brought to the customer's full attention when it is transmitted to him.

Proposed § 1.55 would implement this recommendation. The risk disclosure statement should explain, among other things, that the high degree of leverage available in futures trading creates the potential for large and rapid losses as well as gains, and that successive days of

[28] E.g., art. III section 27 of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. (OCH NASD Manual Par. 2177); Rule 405 of the New York Stock Exchange.

[29] 17 CFR 240.15b10-4.

[30] E.g., rule 942 of the Chicago Mercantile Exchange; rule 151 of the Chicago Board of Trade.

[31] The rule states that "each Commission registrant other than an associated person must diligently supervise the handling of all commodity accounts 'maintained with' the registrant * * *."

[32] The rule does not require disclosure of the risks of trading commodity interests other than futures contracts, as such disclosure is presently required in the case of options (§ 32.5). Similarly, the rule does not apply to trading advisors and pool operators because the Commission expects to adopt a series of rules for those registrants that will include risk disclosure requirements.

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limit trading can render stop-loss orders ineffective.

(b) *Dual trading.* While the Commission's dual trading regulations (Part 155) will substantially minimize dual trading abuses, some customers may prefer to maintain accounts with FCMs that (i) do not dual trade, (ii) do not permit their employees to trade for their own accounts and—in particular—(iii) do not deal with floor brokers who dual trade. A requirement that FCMs disclose these matters to each customer might simplify the process of ascertaining the FCM's policies on dual trading.

The Commission recognizes that the risk disclosure document will be of limited effectiveness if it is lengthy and complex. As the Advisory Committee needed, "(a) lengthy document simply will not be carefully read by many customers" (Report, p. 2). If the disclosure documents become overly lengthy or overly complex, the Commission would consider drafting a uniform disclosure document, as the Committee suggested.

7. Advertising of Commodity Trading Performance

Proposed § 166.6 prohibits Commission registrants and their representatives from advertising the performance of simulated or hypothetical commodity interest trades or accounts. The rule is identical to recently-proposed §§ 4.6 and 5.5 (which would bar commodity pool operators and commodity trading advisors from advertising simulated or hypothetical results) except that it would apply to all commodity professionals; the reason for extending the prohibition is that the serious problems that are posed by a pool operator's or trading advisor's use of a simulated program [24] are equally present where an FCM or other professional uses such a device. If adopted, § 166.6 would replace §§ 4.6 and 5.5.

The Commission also requests comments on the Advisory Committee's recommendation that commodity professionals be prohibited from advertising the performance of any commodity account that had not been actively traded for at least one year. The Committee recognized that this prohibition—like the ban on advertising simulated results—might create difficulties for new entrants into the commodity industry, but nevertheless felt that the measure was justified by the "highly misleading" nature of short-term results. (Report, p. 34.)

A possible alternative to a prohibition would be a rule requiring advertisements of short-term performance to be accompanied by a conspicuous statement that short-term results can be misleading. Comments are requested on this approach.

The rationale for § 5.5 was the same. *See* 42 FR 9270 (February 15, 1977).

In proposing the pool operator and trading advisor rules, the Commission requested comment on restricting the ability of those professionals to "advertise selectively the performance of only certain commodity accounts or of only certain periods of trading or trading sequences in such accounts." 42 FR 9281 (February 15, 1977). The Commission hereby requests comments on the same or similar restrictions for the other commodity professionals.

8. Due Diligence

Proposed § 1.56 requires FCMs and their associated persons to use due diligence in the handling of customers' orders so as to obtain the best price for the customer. The rule imposes no new obligations upon FCMs or their associated persons, since as agents for their customers they are impliedly obligated to handle orders in this manner. The codification of this implicit obligation will promote greater awareness on the part of FCMs and their associated persons of their obligation and will provide customers with an express right to diligent handling of their orders.

As part of their due diligence responsibility, FCMs and associated persons must strictly adhere to the principle of "customer first" in any situation where their own trades might adversely affect the execution of the customer's order.[25] For example, if an FCM is intending to purchase a large number of contracts of a particular commodity for its house account, it must execute its customers' purchase orders for those contracts first. The "customer first" responsibility applies to both discretionary and nondiscretionary customer accounts.

Due diligence also means the careful and efficient handling of customers' orders. For example, orders should be transmitted in a timely fashion to the trading floor. FCMs should exercise care in the choice of floor brokers and associated persons who handle orders should be properly trained.

Rule 1.56 does not apply to floor brokers since they do not ordinarily deal directly with commodity customers. In any event, floor brokers have an implied obligation—just as do FCMs and their associated persons—to use due diligence in handling customers' order as agents for others.

9. Recording

(a) *Supervision.* As described above, proposed § 166.5 (supervision) requires FCMs to provide for the written approval by a designated supervisor of: (1) The opening of each commodity account; (2) the delegation by any customer of discretionary authority to an associated person of the firm; and (3) each transaction in a discretionary account. In order to monitor compliance with these requirements, the Commission proposes to amend § 1.35—the central FCM recordkeeping provision—expressly to require FCMs to retain these approvals. The section currently requires FCMs to retain all orders, trading cards, signature cards, etc., and "all other records, data, and memoranda which have been prepared in the course of his (the FCM's) business of dealing in commodity futures and cash commodities • • •." While the three types of approvals required under § 166.5 would come within this residual category of "all other records • • •," in the interest of clarity the Commission proposes to include these approvals among the documents specifically listed in the rule.

(b) *Suitability.* The proposed suitability rule (§ 166.2) requires FCMs and their associated persons (among others) to obtain basic financial information about each customer to whom they issue commodity recommendations or for whom they effect discretionary trades. In order to monitor compliance with this requirement, the Commission proposes to amend § 1.37—which provides among other things for the keeping of a record of each customer's name and address—to require FCMs to maintain a record of the information they obtain as a result of their suitability inquiries. Specifically, the amendment would require each FCM who recommends any commodity interest to a customer, or effects a discretionary commodity trade for a customer, to keep a record showing the financial information regarding the customer that the FCM considered in making the recommendation or effecting the trade. A separate record would not be required for each recommendation or discretionary trade.

As a further means of monitoring compliance with the suitability rule, the Commission may require FCMs to maintain a record for each customer order of whether the order was solicited by the firm. Comments are requested on such a requirement.

10. Questions for Comment

In order to assist interested persons in commenting on the proposals, a list of specific questions on most of the proposals is set forth below. These questions are merely a guide for commentators; they do not address every issue raised by each proposal. Comments are welcome on any relevant matter not addressed by the questions. Of course, a general issue raised by each rule is whether the protections afforded to customers by the rule outweigh the burdens imposed on commodity professionals.

SUITABILITY

1. Should the Commission establish specific suitability standards, such as a net worth standard?
2. Should the rule be changed to permit recommendations to be made to, and discretionary trades executed for, customers who refuse to furnish information about their financial condition after a good faith attempt by the professional to obtain the information?
3. Should professionals be required to verify the accuracy of the suitability information obtained from customers?
4. Should the rule specify how frequently the professional should update the suitability information obtained from the customer when the account was opened? [26] If so, how frequently?
5. Should the suitability rule apply to seminar presentations?
6. Should market letters and other uniform communications be required to contain a notice that commodity trading may not be suitable for the reader of the material?
7. Should FCMs be required to maintain a record of whether the customer's order was solicated by the firm?

CHURNING

1. Is it possible to develop objective standards or guidelines as to what constitutes churning? If so, how should they be formulated?
2. Are the factors used in determining whether a securities account has been churned inappropriate in the commodity area? If so, which factors?

UNAUTHORIZED TRADING—DISCRETIONARY ACCOUNTS

1. Should the rule be changed to prohibit FCMs from exercising discretion as to price unless they have written authorization to execute discretionary trade for the customer?
2. Should the Commission delete the provision of the proposal that requires discretionary authorizations to be renewed yearly?
3. Should the Commission, as do some exchanges, prohibit FCMs from maintaining discretionary accounts that are below a certain equity size? If so, what should be the minimum account equity.

SUPERVISION

1. Should specific supervision standards be established for registrants other than FCMs? If so, which registrants and what types of standards?
2. Are the supervision standards that would be established by the rule too high for the smaller firms? Too low for the larger firms?
3. Should the rule require prior instead of same-day approval by the supervisor of discretionary trades effected for customers by the FCM's account executives?
4. Should the Commission require FCMs to investigate the background of individuals they intend to employ as associated persons?

FCM DISCLOSURE STATEMENT

1. Would the furnishing of a risk-disclosure document be unduly costly?
2. Should the Commission prepare a uniform risk-disclosure document, as in the commodity options area (*see* § 32.5(a)(5))?
3. Will the risk-disclosure documents prepared by FCMs be brief and understandable?
4. Should the risk-disclosure document include disclosure about dual trading (e.g., whether the FCM trades for its own account)?
5. Should the rule require FCMs to obtain a signed acknowledgement from each customer that the risk disclosure document was received?

ADVERTISING OF COMMODITY TRADING PERFORMANCE

1. Should commodity professionals that currently advertise the performance of simulated accounts be exempted from the prohibition by way of a "grandfather" provision?
2. Should the advertising of short-term results be prohibited? If so, how short a term? Should such advertising be required to contain a warning that short-term results can be misleading?
3. Should the Commission ban the selective disclosure of trading performance? If so, how should such a rule be formulated?

Invitation to Participate

Interested persons may participate in this proposed rulemaking proceeding by submitting comments in written form to the Commodity Futures Trading Commission, 2033 K St. NW., Washington, D.C. 20581: Attention Secretariat. All comments received on or before January 3, 1978, will be considered before the Commission takes final action on the proposal. Copies of all comments received respecting the proposal will be available for inspection at the Commission's Washington, D.C. office.

The Commission is mindful of the cost to registrants and others of its proposals and recognizes its responsibilities to weigh with care the costs and benefits which result from its rules. Accordingly, the Commission specifically invites comments on the cost to registrants and others of the adoption of the proposals published in this release.

Authority for the Proposed Rules

Sections 2a, 4b–d, 4f–4k, 4m–p, 5a, 8a and 17(e) of the Commodity Exchange Act, as amended, 7 U.S.C. 2, 6b–d, 6f–k, 6m–p, 7a, 12a, and 21(e), and section 217 of the Commodity Futures Trading Commission Act of 1974, 88 Stat. 1405, 7 U.S.C. 15a.

In consideration of the foregoing, the Commission proposes to amend Chapter I of Title 17 of the Code of Federal Regulations by amending §§ 1.35(a) and 1.37, adopting new §§ 1.33b, 1.55 and 1.56 and adopting new Part 166.

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.35(a) would be amended as follows:

§ 1.35 Records of cash commodity and futures transactions.

(a) "Futures commission merchants and members of contract markets": Each futures commission merchant and each member of a contract market shall keep full, complete, and systematic records, together with all pertinent data and memoranda, of all transactions relating to his business of dealing in commodity futures and cash commodities. He shall retain the required records, data and memoranda in accordance with the requirements of § 1.31, and sall produce them for inspection and shall furnish true and correct information and reports as to the contents or the meaning thereof, when and as requested by any authorized representative of the Commission or the United States Department of Justice. Included among such records shall be all orders (filled, unfilled, or cancelled), trading cards, signature cards, street books, journals, ledgers, cancelled checks, powers of attorney and other authorizations to exercise discretionary authority over a customer account, the written approvals of supervisors pursuant to § 166.5, copies of confirmations, copies of statements of purchase and sale, copies of the written supervisory procedures required under § 166.5, copies of all written complaints by or on behalf of customers and memoranda of all oral complaints together with the record of such action taken with respect thereto, and all other records, data and memoranda which have been prepared in the course of his business of dealing in commodity futures and cash commodities.

2. Section 1.37 would be amended as follows:

§ 1.37 Customer's name, address, and occupation recorded; record of guarantor or controller of account: customer's suitability.

Each futures commission merchant and each member of a contract market shall show for each commodity futures account carried by him the true name and address of the person for whom such account is carried and the principal occupation or business of such person as well as the name of any other person guaranteeing such account or exercising any trading control with respect to such account. Each futures commission merchant shall keep a record in permanent form which shall show for each person for whom a commodity futures or commodity option account is carried all information concerning the person's financial condition and trading objectives that the futures commission merchant or associated person thereof considered in recommending any transaction for the account or in effecting any transaction for the account pursuant to discretionary power or authority. Such records shall be open for inspection by any authorized representative of the Commission.

3. New § 1.33b would read as follows:

§ 1.33b Confirmation of transactions.

Each futures commission merchant must confirm every transaction in a commodity future contract effected by it, directly or indirectly, for a customer by promptly giving or sending written notification of the transaction directly to the customer.

4. New § 1.55 would read as follows:

§ 1.55 Disclosure by futures commission merchants regarding risk of loss.

No futures commission merchant may effect a commodity futures transaction for a customer unless and until the futures commission merchant furnishes

[24] For example, in proposing § 4.6 the Commission stated (42 FR 9281, February 15, 1977): It may be relatively easy, through hindsight, to design a successful simulated account. However, since a commodity pool operator cannot be required to maintain a record of the "trades" in a simulated account, because such "trades" never actually took place, it would be difficult, time-consuming and frequently impossible for a prospective pool participant, or the Commission, to obtain sufficiently detailed records to verify the accuracy and legitimacy of statements regarding such accounts. The validity of simulated accounts is also questionable because of the uncertainties of order execution. There may be instances in which the hypothetical trade that was "executed" for the simulated account could not have taken place in actual trading. For example, if the market in a particular contract were relatively inactive, only a portion of the "order" may have been executable at the assumed price.

[25] Rule 1.56 will thus supplement the specific requirements of § 155.3(a), under which FCMs must establish, maintain and enforce *procedures* to insure that orders for customers' accounts are transmitted for execution before any order in the same commodity for a proprietary account or certain other accounts. *See* 42 FR 56138 (Dec. 23, 1976).

[26] As written, the proposed rule requires the suitability information to be reasonably current.

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the customer with a written statement containing an explanation of the risk of loss that exists in trading commodity futures contracts, including disclosure about initial and maintenance margin, leverage, daily price limits, and the volatility of futures market prices.

5. New § 1.56 would read as follows:

§ 1.56 Diligent handling of customer orders.

Each futures commission merchant and associated person thereof must use due diligence in the handling of customers' orders for commodity interests so as to obtain the best possible price or prices for the customer.

PART 166—CUSTOMERS PROTECTION RULES

6. Part 166 would read as follows:

Sec.
166.1 Definitions.
166.2 Suitability of recommendations and discretionary trades.
166.3 Churning.
166.4 Authorization to trade.
166.5 Supervision.
166.6 Simulated or hypothetical accounts or transactions.

AUTHORITY: Secs. 2a, 4b–d, 4f–4k, 4m–p 5a, 8a, 17(e), Commodity Exchange Act, as amended (7 U.S.C. 2, 6b–d, 6f–k, 6m–p, 7a, 12a, 21(e)) sec. 217, Commodity Futures Trading Commission Act of 1974, 88 Stat. 1405 (7 U.S.C. 15a).

§ 166.1 Definitions.

(a) The term "Commission registrant" as used in this part means any person who is or is required to be registered with the Commission pursuant to the Act or any rule thereunder.

(b) The term "representative" as used in this part means any partner, officer, employee or agent (or any person occupying a similar status or performing similar functions) of a Commission registrant acting in a capacity as such partner, officer, employee or agent, but does not include an associated person.

(c) The term "commodity interest" as used in this part means

(1) Any contract for the purchase or sale of any commodity for future delivery, traded on or subject to the rules of a contract market;

(2) Any agreement or transaction in interstate commerce which is or is held out to be of the character of, or is commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty" involving any commodity regulated under the Act other than wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, onions, Solanum tuberosum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peaunt oil, soybean oil and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products and frozen concentrated orange juice;

(3) Any standardized contract for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coin, commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract.

(d) The term "customer" as used in this part means any person trading or intending to trade any commodity interest, including any existing or prospective client or subscriber of a commodity trading advisor or existing or prospective participant in a commodity pool, but the term does not include a person who is acting in the capacity of a Commission registrant or representative with respect to the trade.

(e) The term "commodity account" as used in this part means the account of a customer in which any commodity interest is, or is intended to be, traded.

(f) the term "discretionary power or authority" as used in this part refers to the power or authority of a Commission registrant or representative thereof pursuant to § 166.4(b) to effect transactions for a customer without the customer's prior specific authorization as described in § 166.4(a).

§ 166.2 Suitability of recommendations and discretionary trades.

(a) No Commission registrant or representative thereof may, directly or indirectly, make any recommendation to any customer concerning the purchase, sale or continued holding of any commodity interest, or may effect, directly or indirectly, any transaction in a commodity interest for a customer pursuant to discretionary power or authority as provided in § 166.4(b), unless the Commission registrant or representative thereof—

(1) Within a reasonable period of time before the recommendation or transaction,

(i) Obtained from the customer the essential facts about the customer's financial condition and trading obpectives, and

(ii) Verified with the customer the accuracy of that information if previously obtained and

(2) At the time of the recommendation or transaction, had reason to believe that the recommendation or transaction was suitable for the customer in light of

(i) The information obtained from the customer and otherwise known about the customer by the Commission registrant or representative thereof, and

(ii) The risk of loss involved therein.

(b) For purposes of this section, the term "recommendation" means any advice, suggestion or other statement that is intended, or can reasonably be expected, to influence a customer to purchase, sell or hold a commodity interest, but does not include any statement that merely describes in an objective fashion the commodity interest, the manner in which it is traded or the services of the Commission registrant or representative thereof.

(c) This section does not apply to recommendations furnished solely through—

(1) Uniform publications distributed to subscribers thereto,

(2) Books,

(3) Television or radio communications, or

(4) Seminar or lecture presentations.

§ 166.3 Churning.

No Commission registrant, or representative thereof, who is vested with discretionary power or authority over a customer's account, or otherwise controls the account, may, directly or indirectly, effect for that account transactions in any commodity interest that are excessive in size or frequency in light of the nature of (a) the account and (b) the commodity interest involved.

§ 166.4 Authorization of trade.

No futures commission merchant or associated person thereof may, directly or indirectly, effect a transaction in a commodity interest for the account or any customer unless the customer, or person designated by the customer as the controller of the account, before the transaction—

(a) Specifically authorized the registrant or representative thereof, to purchase or sell a specified amount of that commodity interest; or

(b) Authorized the registrant or representative thereof, by means of a power of attorney or other written trading authorization, to effect transactions in commodity interests for the account without the customer's specific authorization; and

(1) The transaction is effected in accordance with the terms and conditions of the authorization and with §166.5(b)(2)(ii) and all provisions of the Act and the other rules thereunder;

(2) The authorization is set forth in a prominent fashion in a document that is conspicuous to the customer;

(3) The authorization defines precisely the terms of the discretionary power or authority;

(4) The authorization, by its terms, terminates no later than one year after the first day of the authorization period and is not renewable except in writing.

§ 166.5 Supervision.

(a) Each Commission registrant other than an associated person must diligently supervise

(1) The handling of all commodity accounts maintained with the registrant and

(2) All other activities of its representatives and associated persons relating to the registrant's business as such.

(b) As part of its duties under paragraph (a) of this section, each futures commission merchant must

(1) Provide for the supervision of each of its associated persons whose duties are not wholly supervisory. The supervisor designated pursuant to this section must be a partner, officer, branch manager or other qualified-supervisory associated person of the futures commission merchant; and

(2) Establish, maintain and enforce written procedures, a copy of which must be kept in each business office of the futures commission merchant, that provide for

(i) The prior written approval by the designated supervisor of

(A) The opening of each commodity account;

(B) The delegation by any customer of discretionary power or authority to an associated person under his supervision to effect transactions in commodity

(C) All correspondence sent by any associated person under his supervision to a customer concerning the solicitation, acceptance or execution of orders for commodity interests;

(ii) The written approval by the designated supervisor of each transaction in a commodity interest effected pursuant to discretionary power or authority in an account under his supervision. The approval must be obtained on the day the transaction is effected;

(iii) The frequent examination by the designated supervisor of the commodity accounts under his supervision to detect and prevent any violation of the Act or rules thereunder or of any bylaw, rule, regulation or resolution of each contract market and registered futures association of which the futures commission merchant is a member;

(iv) The prompt review of all customer complaints, whether written or oral, concerning the handling of commodity accounts.

(c) Each futures commission merchant that has designated more than one supervisor under paragraph (b) of this section must designate one or more partners or officers of the futures commission merchant to supervise those supervisors.

§ 166.6 Simulated or hypothetical accounts or transactions.

No Commission registrant or representative thereof may publish, distribute or broadcast any report, letter, circular, memorandum, publication, writing, advertisement or other literature or advice (including any television or radio announcement, seminar presentation or telephonic, telegraphic or face-to-face communication) that refers, directly or indirectly, to the performance of any simulated or hypothetical commodity interest account, transaction in a commodity interest or series of transactions in a commodity interest.

Issued in Washington, D.C., August 25, 1977.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

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federal register

TUESDAY, SEPTEMBER 6, 1977
PART V



DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

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RECORDS AND REPORTS FOR DISTILLED SPIRITS PLANT BOTTLING PREMISES, TRANSFER OF RESPONSIBILITY FOR SEALING CONVEYANCES, AND CHANGES IN THE PREPARATION AND DISPOSITION OF DISTILLED SPIRITS PLANT TRANSACTION FORMS

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Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

[T.D. ATF-46; Re: Notice No. 303]

RECORDS AND REPORTS FOR DISTILLED SPIRITS PLANT BOTTLING PREMISES, TRANSFER OF RESPONSIBILITY FOR SEALING CONVEYANCES, AND CHANGES IN THE PREPARATION AND DISPOSITION OF DISTILLED SPIRITS PLANT TRANSACTION FORMS

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Final rule.

SUMMARY: The rule resulted from an extensive study concerning (1) revision of the records and reports systems for distilled spirits plant bottling premises, (2) amendment of provisions concerning the sealing of conveyances of distilled spirits, and (3) the preparation and disposition of certain distilled spirits plant transaction forms. The regulatory changes made in this Treasury decision will create a more modern system of records and reports for distilled spirits plants that is compatible with sound business practice and efficient government administration, and at the same time provide adequate protection to the revenue and to the interests of the consumer.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Background

The Bureau of Alcohol, Tobacco and Firearms (ATF) published a notice of proposed rulemaking in the FEDERAL REGISTER of September 17, 1976 (41 FR 40118). The notice proposed revision of the records and reports system for distilled spirits bottling premises, and amendment of provisions concerning the sealing of conveyances of distilled spirits and the preparation and disposition of certain distilled spirits plant transaction forms. Comments or suggestions on the proposed regulations were invited.

In response to the notice of proposed rulemaking, written comments were submitted by 14 distilled spirits industry members, three industry trade associations, one agency of the Federal Government, one agency associated with a state government, and a Federal Government employees union. Additional input was also received from ATF regional offices. The following summaries of the proposed regulations and comments are organized as to subject area:

Summary of Proposed Regulations, Comments, and Changes Pursuant to Comments

1. *Part 170—Miscellaneous Regulations Relating to Liquors.*—The proposals provided for more flexibility in scheduling physical inventories of controlled stock by amending regulations to (1) provide for waiver of one of the two required physical inventories upon application to the regional regulatory administrator and pursuant to a finding that two such inventories are not necessary to law enforcement or protection of the revenue; and (2) permit the required inventories to be taken on dates other than June 30 and December 31, on approval of an application filed with the regional regulatory administrator.

Controlled Stock Inventories. Two industry members commented on the proposed amendment of regulations concerning controlled stock physical inventories. The proposed regulations provide for waiver of one of the required controlled stock physical inventories on application to the regional regulatory administrator, and also, on application to the regional regulatory administrator, the required inventories may be taken on dates other than June 30 and December 31. One commenter indicated that the proposed requirement that inventories be six months apart is too restrictive. The commenter added that it may be to the proprietor's and ATF's advantage to take an inventory at a time other than exactly at a six month interval, due to availability of personnel, low inventories, or holidays. The Bureau did not intend that physical inventories be taken at exact six-month intervals. Therefore, the regulations are amended to clarify that the inventories should be taken at intervals approximately six months apart. This will provide regional regulatory administrators greater discretion when approving alternate dates for inventories.

The second comment we received on this subject suggested that it should not be mandatory to adjust controlled stock gallonage when other inventories (whether complete or partial) are taken, to check counts and to help maintain reliability status of inventories. Although the comment is beyond the scope of the proposed regulations, we point out the provisions of Revenue Ruling 68-219, which provides that whenever any gains or losses of controlled stock are discovered by any inventory, whether it be a complete inventory or only a partial inventory, such gains or losses should be entered into the daily summary of removals from controlled stock. The Bureau maintains that recording of gains or losses disclosed by any inventory is necessary to maintain the accuracy of controlled stock records.

(§ 170.59 further amended.)

2. *Part 173—Returns of Substances, Articles, or Containers, Part 250—Liquors and Articles from Puerto Rico and the Virgin Islands.* and *Part 251—Importation of Distilled Spirits, Wines, and Beer.*—Revised procedures for the approval and use of distinctive liquor bottles were proposed. The proposed changes would eliminate the requirement for submission of ATF Form 4329, "Application and Authorization to Use Distinctive Liquor Bottles," but would incorporate pertinent information appearing on that form into the letterhead application currently submitted to the Director.

Distinctive liquor bottles. Several comments were received concerning the proposal to eliminate ATF Form 4329, "Application and Authorization to Use Distinctive Liquor Bottles," and incorporate pertinent information that appears on that form into a letterhead application submitted to the Director. The United States Customs Service found that elimination of Form 4329 would not cause them any difficulties, since the proposed regulations would require Customs officials at each affected port of entry to be furnished with a copy of the approved letterhead application to authorize the release of the imported bottles, whether empty or filled, from Customs custody. The Customs service indicated, however, that the approved application, without a photograph, would not sufficiently identify to Customs the approved exceptions to the marking requirements for distinctive bottles. They proposed that an approved copy of both the letterhead application and a photograph of the bottle be submitted to Customs at each port where the merchandise will be examined. Finally, the Customs service commented that merchandise may be entered, for example, for immediate transportation under bond which normally does not involve examination. Therefore, they recommended the regulations provide that Customs officials be furnished a copy of the approved application and photograph at each affected port of entry "where the merchandise is examined." The Bureau agrees with these suggestions; and the final regulations contained in this document incorporate the recommendations. DSP proprietors and importers should note that the new regulations will require applications for distinctive liquor bottles to be accompanied by ten photographs rather than nine photographs. This will permit the Bureau to return an approved photograph to the proprietor or importer for subsequent forwarding to Customs.

Several comments were received concerning the requirement that the letterhead application for approval contain the location of the ports of entry for distinctive bottles imported or brought into the United States. All of the commenters on this subject suggested that the letterhead application not be required to show the location of the ports of entry. Instances were cited where, due to unforeseen circumstances, the importer would have to use ports of entry not listed in his original application, thereby necessitating submission of a new or amended application. The Bureau agrees that this information will not need to be shown on the application, since other regulatory requirements will provide that the importer or bottler is responsible for furnishing Customs officials a copy of the application at all ports of entry where the merchandise will be examined. The applicable regulations note this change.

(§§ 173.34, 201.540d, 250.314, and 251.204 further amended.)

3. *Part 186—Gauging Manual.*—Procedures for the proper testing of bottle fill were proposed to be added to the "Gauging Manual". The proposed regulations prescribed methods to be used in determining bottle fill (e.g., volumetrically, by weight), equipment to be used in measuring bottle fill, and precautions to be observed in testing bottle fill.

Proof and Fill Tests of Bottled Spirits. The Bureau's proposals (1) requiring maintenance of daily records of proof and fill tests of bottled spirits, (2) requiring proprietors to submit a description of their proof and fill test procedures to their regional regulatory administrator for his evaluation and approval, and (3) establishing procedures in the "Gauging Manual" (27 CFR Part 186) which describe proper methods for testing bottle quantity (fill), elicited numerous comments. The majority of the commenters addressing this proposal indicated that existing regulations are adequate to both safeguard the revenue and protect the consumer; and the proposals are so detailed, rigid and specific that an additional and unnecessary workload would be placed on the proprietor. Several commenters indicated that commercial records of proof and fill tests are maintained; however, the format of the records may vary even among plants operated by the same proprietor. In addition, several commenters stated that the procedures for conducting proof and fill tests may vary from plant to plant due to mechanical variations, types and sizes of products bottled, and different plant personnel who record the tests. Several industry members who utilize graduated glass flasks for conducting fill tests indicated that the proposals in Part 186 concerning the permissible proof tolerance for flasks were too rigid and would require the acquisition of additional expensive equipment.

The Bureau carefully evaluated all comments on the proof and fill test proposals and determined that certain changes in our proposals are feasible and justifiable. We found that the detailed testing guidelines proposed in Part 186 would not be feasible due to the wide variation of procedures currently utilized by the industry. The Bureau is also aware that these variations could create difficulty in the administration of detailed testing procedures. For these reasons the Bureau is withdrawing the proposals requiring submission of a description of proof and fill test procedures to regional regulatory administrators for evaluation and approval, and the proposals establishing guidelines in Part 186 which describe proper methods for testing bottle fill. The regulations being adopted instead will provide simply that the regional regulatory administrator may require corrective measures if he finds that a proprietor's testing procedures do not protect the revenue and ensure the label accuracy of the bottled product. In consideration of the proposed requirement for maintenance of proof and fill test records, the Bureau recognizes that many industry members currently maintain records that adequately reflect test information. However, there are some that do not. The Bureau feels that such records are necessary to reflect compliance with existing regulations and indicate that bottle filling operations are being monitored by the proprietors through the performance of proof and fill tests. For these reasons, the regulation being adopted will retain the requirement for daily maintenance of proof and fill test records however, the format of the records will not be prescribed by regulations. Where the format or arrangement of the daily records do not indicate whether the proprietor is conducting tests in an acceptable manner, the regional regulatory administrator may require a format or arrangement which will clearly and accurately reflect proof and fill test information.

(Proposed §§ 186.52-.58 deleted; §§ 201.333, 201.459, 201.470k further amended.)

4. *Part 194—Liquor Dealers.*—A. The proposed regulations deleted the regulations that require wholesale liquor dealers to record the serial numbers of distilled spirits cases received.

Serial Numbering Cases of Distilled Spirits. Another commenter suggested that sections 27 CFR 194.225 and 194.226 be clarified concerning the proposed requirement that both records of receipt and disposition show package identification numbers. The recording requirement for package identification numbers applies only to wholesale liquor dealers who package and sell alcohol for industrial purposes, as provided in Part 194, Subpart R. The commenter indicated that the introduction of a new term, "package identification number," is confusing since the majority of wholesale liquor dealers receive distilled spirits in cases and not in packages (e.g., barrels, drums).

The Bureau realizes that this term could be confusing for wholesalers who do not conduct activities in this area, and could, therefore, create problems in recordkeeping. Therefore, the regulations in Part 194 are amended to clarify this possible problem.

(§§ 194.225, 194.226, and 194.237 further amended.)

B. The proposed changes also provided that wholesalers could be relieved of the requirement of preparing and submitting Form 338, "Wholesale Liquor Dealer's Semiannual Report." No comments were received concerning this proposal.

5. *Part 201—Distilled Spirits Plants.*—A. The proposed regulatory revisions included:

(1) Addition of the provision for relief from recording case serial numbers of dispositions by distilled spirits plant proprietors who conduct wholesale liquor dealer operations, upon approval of a written application submitted to their regional regulatory administrator.

Serial numbering cases of distilled spirits. The regulations in the notice proposed elimination of the requirement for wholesale liquor dealers (other than those connected with the operation of a distilled spirits plant) to record the serial numbers of cases of bottled distilled spirits in their daily records of receipt and disposition. The proposals also provided for elimination of the requirement for distilled spirits plant proprietors (who conduct wholesale liquor dealer operations in connection with their plant) to record case serial numbers of receipts. The requirement for recording case serial numbers of cases of bottle distilled spirits plant wholesalers was, however, proposed to be retained, with the proviso that proprietors may be relieved from this requirement pursuant to approval of a written application submitted to their regional regulatory administrator.

Several industry members commented that no distinction should be made between wholesalers and distilled spirits plant wholesalers with respect to the recording requirement. The commenters recommended that the recording requirement be eliminated for all wholesalers without any requirement for approval by the regional regulatory administrator.

The Bureau believes that a distinction is necessary between wholesalers and distilled spirits plant proprietors who conduct wholesale liquor dealer operations for this reason: distilled spirits plant wholesalers, unlike other wholesalers, maintain inventories of cased distilled spirits (controlled stock) on which the internal revenue tax has been determined, but not paid. The availability of case serial numbers assists ATF inspectors in making a spot check or a complete audit to determine the validity of a proprietor's controlled stock inventory. For this reason, the regulations are adopted as proposed.

(2) Elimination of the requirement for submission of Form 338, "Wholesale Liquor Dealer's Semiannual Report", by distilled spirits plant proprietors who conduct wholesale liquor dealer operations, operate taxpaid storerooms, or operate other storage premises from which distilled spirits are not sold at wholesale.

Form 338. The Bureau received a comment from an industry trade association concerning our proposal for waiver of the requirement for submission of ATF Form 338, "Wholesale Liquor Dealer's Semiannual Report." The commenter suggested that the proposed requirement in § 194.231, which requires wholesalers to apply for waiver of the submission of Form 338, should parallel the proposed required in § 201.634 for distilled spirits plant proprietors who conduct wholesale liquor dealer operations, thereby providing for automatic waiver of the submission requirement The Bureau agrees that providing for automatic waiver of the submission requirement would avoid a measure of unnecessary paperwork for both the industry and the Bureau. The

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regulations in Part 194 are amended to make this change.

(§§ 194.231, 194.233, and 194.238 further amended.)

(3) Transfer, from ATF officers to plant proprietors, the responsibility for sealing conveyances used to transport spirits, and

(4) Changes involving distilled spirits plant transaction forms that would convert certain application-type forms to notice-type forms, require submission of advance copies of transaction forms to an ATF officer to inform him of an operation or transaction before it commences, and require the proprietor to distribute completed copies of transaction forms or reports in accordance with instructions on the form.

Sealing of conveyances by proprietors/preparation and distribution of transaction forms. The Bureau received numerous comments concerning proposals to transfer from ATF officers to distilled spirits plant proprietors the responsibility for sealing conveyances of spirits and to amend requirements for the preparation and distribution of transaction forms. The majority of the comments objected to the proposed amendments and suggested their implementation be postponed pending resolution of "joint custody" statutory provisions by the Advisory Committee on Distilled Spirits Plant Supervision. The Advisory Committee was chartered in 1975 for the purpose of formulating recommendations to the Director concerning possible statutory changes governing ATF supervision at distilled spirits plants.

Both proposed changes involve, in essence, transferring from the Bureau to DSP proprietors responsibility for ensuring that various plant operations and related records meet regulatory requirements. This is part of a process of eliminating direct Government supervision of proprietors' operations, and substituting instead post-audits of proprietors' records, that has been under way for many years. The changes proposed may be made, however, without statutory changes. The Advisory Committee was, of course, considering whether or not the Bureau should seek legislation allowing it to eliminate certain types of direct supervision currently required by law (an affirmative recommendation was recently forwarded to the Director by the Advisory Committee). For these reasons the regulatory changes are adopted as proposed in the notice.

(5) Providing for use of commercial dump and batch records in lieu of Form 122, "Bottlers Dump and Batch Record".

Dump and Batch Records. One industry member commented that the additional requirement for the listing of quantities of non-alcoholic ingredients in commercial dump and batch records (which will replace ATF Form 122, "Bottler's Dump and Batch Record") is an extra and unnecessary paperwork burden. The commenter stated that products which are rectified are covered by approved formulas which specify the amount of each ingredient, usually in terms of percentage, which is to be added to the product; therefore, they could see no reason to duplicate this information on the batch record. The Bureau believes that the listing of non-alcoholic ingredients in batch records is a necessary and justifiable requirement. Although non-alcoholic ingredients are not required to be recorded on Form 122, this information is necessary to determine compliance with approved formulas. Non-alcoholic ingredients such as harmless colorings, flavorings and blending materials are limited to not more than 2½% by volume of the finished product; otherwise the class and type of the distilled spirits product would be altered. In addition, the presence of coloring, flavoring, and blending materials must be stated on the brand label or on a back label of distilled spirits products. These factors clearly indicate the importance of entering non-alcoholic ingredients on batch records, since they may be used by ATF officers when performing product integrity inspections. The proposal for requiring batch records to identify quantities of non-alcoholic ingredients is, therefore, adopted.

(6) Transfer of custody of distilled spirits stamps from ATF officers to proprietors.

Distilled Spirits Stamps. One comment was received concerning the proposal to transfer custody of distilled spirits stamps from ATF officers to proprietors. The commenter indicated that the requirement for proprietors to maintain inventories and control of distilled spirits stamps is reasonable. Another portion of this comment was, however, beyond the scope of the proposed regulations. The commenter proposed that the use of distilled spirits stamps be restricted to containers removed from the distilled spirits plant. This proposal will be considered in future Bureau studies.

(7) Changes that would require proprietors of bottling premises to maintain daily records of proof and fill tests for bottled distilled spirits and to submit descriptions of their proof and fill test procedures to their regional regulatory administrator for evaluation and approval. Comments and changes made pursuant to this proposal are summarized under item 3 (Proof and Fill Tests of Bottled Spirits).

(8) Revised procedures for approval and use of distinctive liquor bottles. Comments and changes made pursuant to this proposal are summarized under item 2 (Distinctive Liquor Bottles).

(9) Elimination of the requirement for attaching copies of labels or code symbols to bottling forms.

Recording of case serial numbers by trade name. In conjunction with the proposal to eliminate the need for attaching labels to bottling tank transaction forms, the requirement for listing case serial numbers by trade name on the bottling tank transaction form was retained with the proviso that such information could be listed instead on commercial records. An industry member objected to retention of the requirement to record trade names by serial number. The industry member indicated that supporting records are normally maintained by daily production, by brand name, or by customer order, but not by trade name. The commenter added that the listing of case serials by trade name is an exceedingly burdensome and time consuming requirement which serves no useful purpose.

The Bureau has reevaluated the proposal that would continue to require recording of case serial numbers by trade name, and determined that the requirement can be eliminated. The final regulations simply provide that bottling tank forms bear the serial numbers of cases bottled from a specific lot of spirits.

(§§ 201.342, 201.470, and 201.470p further amended.)

B. *Form 244, Tank Certificate.* One comment was received regarding the proposal to eliminate Form 244, "Tank Certificate," and require instead a statement of certification of accurate calibration describing the tanks to appear in the proprietor's notice of registration. The commenter interpreted the proposed amendment to require a change in the plant registration within 60 days of a change in calibration, instead of the current letterhead application regarding certification of accuracy of tanks. The commenter added that changes in tank calibration or installation of new tanks should be covered by letterhead notices where this is the only change taking place. The Bureau did not anticipate the necessity for proprietors to immediately file an amendment to their notice of registration. Pursuant to § 201.174, changes with respect to plant equipment may be reflected in the next amendment of the notice of registration, unless immediate amendment is required by the regional regulatory administrator. This procedure should provide minimum inconvenience for proprietors.

6. *Part 252—Exportation of Liquors.* A. Proposals included revision of the procedures for preparation and submission of Form 206, "Withdrawal of Spirits for Exportation," similar to changes in other distilled spirits plant transaction forms (as discussed in the paragraph concerning amendments to Part 201).

B. Form 1583, "Certificate of Director of Customs of Collection of Internal Revenue Tax on Distilled Spirits or Wines," was also proposed to be eliminated. No comments were received concerning this proposal.

TECHNICAL, CLARIFYING AND CONFORMING CHANGES

Regional regulatory administrator. Treasury decision ATF-32 (41 FR 44038), announced a basic reorganization of the Bureau of Alcohol, Tobacco and Firearms effective December 1, 1976. One of the major features of the reorganization was elimination of the position of regional director, with assumption of his duties by other regional and field officials. The regional official who assumed the regulatory enforcement duties of the regional director was designated as the "regional regulatory administrator" (formerly the assistant regional director—regulatory enforcement). Therefore, the term "regional regulatory administrator" is inserted in the sections referring to the "regional director".

(§§ 170.59, 186.11, 194.225, 194.226, 194.231, 194.233, 194.237, 201.100, 201.120, 201.312, 201.368, 201.368a, 201.432, 201.466, 201.467, 201.532, 201.540d, 201.543, 201.550, 201.551, 201.551a, 201.625, 201.631, 201.634, 250.314, 251.204, 252.11, 252.118, 252.163, and 252.195a, further amended.)

Definitions of Customs officials. The Bureau is adopting updated definitions for officials and officers of the U.S. Customs Service, pursuant to recommendations made by the Customs Service.

(§ 252.11 further amended.)

Determining date of original entry for mingled spirits. Section 201.303 provides criteria for determining the date of original entry for spirits mingled on bonded premises. That section establishes (1) the date of original entry (date of production gauge of spirits) for spirits consolidated for further storage in bond to be the date of original entry for the youngest spirits mingled in that lot; (2) the date of original entry for the mingling of homogeneous spirits to be the date of original entry of the oldest spirits mingled in that lot; (3) that appropriate transaction forms shall show the dates of original entry of both the oldest and youngest spirits in the lot; and (4) that transaction records for the mingled spirits in a tank be examined at least once a calendar year to update the date of the oldest spirits.

The Bureau is clarifying the provisions of § 201.303 due to apparent confusion on the part of many industry members as to the applicability of this section. The use of the words "oldest" and "youngest", which carry connotations of age, has caused several proprietors to anticipate more than § 201.303 actually intends. The primary purpose for determining the date of original entry and necessary updating of warehouse records for mingled spirits is for ensuring compliance with the 20-year bonding period ("force-out") requirements of 26 U.S.C. 5006; therefore, the Bureau believes that using the terms "earliest produced" and "latest produced", rather than "oldest" and "youngest" would avoid this age connotation and fulfill the intent of the "force-out" provision of the law and regulations.

(§ 201.303 amended.)

Marks on tanks. The Bureau is liberalizing the provisions in 27 CFR 201.522, with respect to marks required to appear on tanks containing spirits and wines. We have received several comments stating that the requirement for tanks to be marked to show the kind of product contained therein is too restrictive. The Bureau agrees that permanent marking of tanks is unnecessarily restrictive, particularly as to the kind of spirits (*e.g.*, bourbon whisky, rye whisky, scotch whisky) since many tanks are used for multiple purposes and it would pose a burden for proprietors to change the permanent marks each time the tank was used for different kinds of spirits. Therefore, the revised regulations require that the tanks be marked, but provide that such marks may consist of attachment of or reference to a transaction form or memorandum describing the contents of the tank.

(§ 201.522 amended.)

Filing of Forms 2610 and 1577. Proprietors of distilled spirits plants are required to provide notice on Form 2610 of suspension, commencement, or resumption of production operations. The form is filed with the assigned officer, if any; otherwise the form is filed with the regional regulatory administrator. The purpose of the notice is to provide the Bureau with an opportunity to arrange for supervision of operations. In addition, application to destroy spirits which have been withdrawn from bond is required to be filed with the assigned officer, if one is regularly assigned; otherwise the application is filed with the regional regulatory administrator. The Bureau believes that it would be more beneficial for both DSP proprietors and ATF to provide for submission of these forms to their area supervisors rather than regional regulatory administrators when an officer is not regularly assigned to a DSP. This will provide for more expeditious handling of the forms and the resultant approval of specific operations.

(§§ 201.261, 201.561 further amended.)

Miscellaneous changes. Several changes to correct typographical errors are made in this document.

(§§ 173.34, 201.243, 201.342, 201.369 amended.)

(Sec. 26 U.S.C. 7805 (68A Stat. 917).)

The Bureau is establishing a 116-day period prior to implementation of these regulations to permit proprietors to make necessary changes in their recordkeeping systems to prepare for the revised regulatory requirements, to provide ample time for approval of seals to be used on bulk conveyances of distilled spirits, and to provide ample time for approval of application for variations from certain regulatory requirements (e.g., alternate date for controlled stock inventories). The Bureau will publish an Industry Circular providing additional information regarding implementation of the revised regulations, forms, and procedures.

Drafting information: The principal author of this document is Norris Alford of the Rulings Branch, Bureau of Alcohol, Tobacco and Firearms. However, personnel from other offices of the Bureau participated in developing the regulation in matters of substance.

Authority and issuance: Except as otherwise noted, these regulations are issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

Signed: August 2, 1977.

REX D. DAVIS,
Director.

Approved: August 24, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

PART 170—MISCELLANEOUS REGULATIONS RELATIVE TO LIQUOR

PARAGRAPH 1. Section 170.59 is revised to provide for flexible scheduling of physical inventories of controlled stock. As amended, § 170.59 reads as follows:

§ 170.59 Inventories of controlled stock.

(a) *Inventories.* (1) Each proprietor of bottling premises shall establish an inventory, in proof gallons, of his controlled stock on hand as of the close of each return period.

(2) The inventory shall differentiate between stocks of mixtures and products which derive less than half of their proof gallon content from tax-determined spirits and other controlled stocks.

(b) *Physical inventories.* (1) Physical inventories shall be taken for the return periods ending June 30, and December 31, each year, and for other return periods as may be required by the regional regulatory administrator.

(2) On approval of an application filed in duplicate with the regional director, required physical inventories may be taken on dates other than June 30, and December 31, if the dates established for taking such inventories:

(i) Coincide with the end of a return period, and

(ii) Are approximately six months apart.

(3) On approval of the application, the designated inventory dates shall take effect with the first inventory scheduled to be taken within six months of the previous June 30, or December 31, inventory.

(4) Physical inventories may be taken within a period of a few days before or after June 30, or December 31 (or other dates approved by the regional regulatory administrator), if:

(i) Such period does not include more than one complete weekend; and

(ii) Necessary adjustments are made to reflect pertinent transactions, so that the recorded inventories will agree with the actual quantities of controlled stock on hand at the prescribed times.

(c) *Waiver of physical inventory.* (1) The regional regulatory administrator, on receipt of an application filed in duplicate, may relieve a proprietor of the requirement of taking the June 30, or December 31 (or other date as approved under the provisions of paragraph (b) of this section) physical inventory, if he finds that only one such inventory during any 24 consecutive return periods is necessary to law enforcement or protection of the revenue.

(2) The regional regulatory administrator may reimpose the requirement for the waived inventory if he finds that it is necessary to law enforcement or protection of the revenue.

(d) *Notification of physical inventory.* Whenever a physical inventory of controlled stock is to be taken, the proprietor shall, at least 5 business days in advance, notify the assigned alcohol, tobacco and firearms officer, if any, otherwise the area supervisor, of the date and time he will take such inventory.

(e) *Supervision of physical inventories.* Physical inventories required

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under the provisions of this section shall be taken under such supervision, or verified in such manner, as the regional regulatory administrator may require.

PART 173—RETURNS OF SUBSTANCES, ARTICLES, OR CONTAINERS

PAR. 2. Section 173.33 is revised to (1) eliminate reference to Form 4329, and (2) provide for the application to be made in letter form. As revised, § 173.33 reads as follows:

§ 173.33 Indicia for domestic liquor bottles.

There shall be legibly blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director, on each liquor bottle (a) the words "Liquor Bottle" and (b) the bottle manufacturer's number assigned under § 173.-32: *Provided*, That distinctive liquor bottles not bearing the indicia required by this section may be manufactured on receipt from a bottler or importer of a copy of an application, in letter form, approved by the Director. Additional information, such as the bottler's or importer's permit number, may also be permanently placed on the liquor bottles by the manufacturer thereof provided such information does not conflict with information required to be placed on labels and is so located as not to obscure indicia required by this section or interfere with the labeling or stamping of the bottle, when filled, as provided in Parts 201, 250, and 251 of this chapter.

PAR. 3. Paragraphs (a) and (b) of § 173.34 are revised to (1) eliminate reference to Form 4329, and (2) provide for the application to be made in letter form. As revised paragraphs (a) and (b) read as follows:

§ 173.34 Indicia for imported liquor bottles.

(a) *Empty liquor bottles.* There shall be legibly blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any other method approved by the Director, on each imported empty liquor bottle (1) the words "Liquor Bottle" and (2) the city or country of address of the bottle manufacturer (either in the language of such country or in English): *Provided*, That empty distinctive liquor bottles not bearing such indicia may be released from customs custody, as excepted from the marking requirements of this paragraph, on receipt by the customs officer at the port of entry where the merchandise is examined of a copy of the application, in letter form (accompanied by an approved photograph of the distinctive bottle), approved by the Director, covering the use of such bottles.

(b) *Filled liquor bottles.* There shall be legibly blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director, on each imported filled liquor bottle (1) the words "Liquor Bottle" and (2) the city or country of address of the manufacturer of the spirits, or of the exporter abroad, or the city of address of the importer in the United States; or, in the case of domestic bottles exported and filled abroad, the indicia required under § 173.33: *Provided*, That filled distinctive liquor bottles not bearing such indicia may be imported pursuant to an application (in letter form and approved by the Director) filed by the importer, as excepted from the marking requirements of this paragraph. The city or country of address of the manufacturer of the spirits or of the exporter abroad may be in the language of such country or in English.

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PART 186—GAUGING MANUAL

PAR. 4. Section 186.11 is amended, in alphabetical order, by revising the definition of "Director", and by adding the definition of "Regional regulatory administrator". As amended, § 186.11 reads as follows:

§ 186.11 Meaning of terms.

* * * * *

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

* * * * *

Regional regulatory administrator. The principal regional official responsible for administering regulations in this part.

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PAR. 5. Section 186.41 is revised to provide for the multiple gauging of spirits. As revised, § 186.41 reads as follows:

§ 186.41 Bulk spirits.

When spirits (including denatured spirits) are to be gauged by weight in bulk quantities, the weight shall be determined by means of weighing tanks, mounted on accurate scales. Before each use, the scales shall be balanced at zero load; thereupon the spirits shall be run into the weighing tank and proofed as prescribed in § 186.31: *Provided*, That with regard to proofing, bulk spirits being withdrawn on multiple gauges in accordance with the provisions of § 201.-374a of this chapter, from tanks approved for such withdrawals, may be withdrawn on the basis of the proof determined for the first such gauge that day: *Provided*, That where the spirits are to be reduced in proof as authorized by this chapter, the spirits shall be so reduced before final determination of the proof. The scales shall then be brought to a balanced condition and the weight of the spirits determined by reading the beam to the nearest graduation mark. From the weight and the proof thus ascertained, the quantity of the spirits in proof gallons shall be determined by reference to table No. 4: *Provided*, That in the case of spirits which contain solids in excess of 600 milligrams per 100 milliliters, the quantity in proof gallons shall be determined by first ascertaining the wine gallons per pound of the spirits and multiplying the wine gallons per pound by the weight, in pounds, of the spirits being gauged and by the true proof (determined as prescribed in § 186.31) and dividing the result by 100. The wine gallons per pound of spirits containing solids in excess of 600 milligrams per 100 milliliters shall be ascertained by:

(a) Use of a precision hydrometer and thermometer, in accordance with the provisions of § 186.23, to determine the apparent proof of the spirits (if the specific gravity at the temperature of the spirits is not more than 1.0) and reference to table No. 4 for the wine gallons per pound; or

(b) Use of a specific gravity hydrometer, in accordance with the provisions of § 186.24b, to determine the specific gravity of the spirits (if the specific gravity at the temperature of the spirits is more than 1.0) and dividing that specific gravity (corrected to 60° F.) into the factor 0.120074 (the wine gallons per pound for water at 60° F.).

When it is desired to withdraw a portion of the contents of a weighing tank, the difference between the quantity (ascertained by proofing and weighing) in the tank immediately before the removal of the spirits and the quantity (ascertained by proofing and weighing) in the tank immediately after the removal of the spirits shall be the quantity considered to be withdrawn.

(72 Stat. 1357, 1358 (26 U.S.C. 5202, 5204).)

PART 194—LIQUOR DEALERS

PAR. 6. Section 194.225 is revised to eliminate the requirement in paragraph (a) for recording the serial numbers of cases, and to make an editorial change in paragraph (b). As revised, § 194.225 reads as follows:

§ 194.225 Records of receipt.

(a) *Information required.* Every wholesale dealer in liquors shall maintain a daily record of the physical receipt of each individual lot or shipment of distilled spirits, which record shall show (1) name and address of consignor, (2) date of receipt, (3) brand name, (4) name of producer or bottler, except that this may be omitted if the dealer keeps available for inspection a separate list or record identifying the producer or bottler with the brand name, (5) kind of spirits, except that this may be omitted if the dealer keeps available for inspection a separate list or record identifying "kind" with the brand name, (6) quantity actually received (showing number of packages, if any, and number of cases by size of bottle, and explaining any difference from the quantity shown on the commercial papers covering the shipment), and (7) package identification numbers of containers of alcohol received for repackaging for industrial use pursuant to Subpart R of this part. Additional information may also be shown.

(b) *Form of record.* The record prescribed by paragraph (a) of this section shall consist of consignors' invoices (or, where such invoices are not available on the day the shipment is received, memorandum receiving records prepared on the day of receipt of the distilled spirits), and credit memorandums covering distilled spirits returned to the dealer, which contain all required information. Each such invoice (or memorandum receiving record) and credit memorandum shall be numbered by the consignee dealer in the sequence of the physical receipt of the spirits covered thereby. The consignee dealer may start a new series of such numbers annually, or on approval of the regional regulatory administrator, more frequently.

(72 Stat. 1342, 1395 (26 U.S.C. 5114, 5555).)

PAR. 7. Section 194.226 is revised to eliminate the requirement in paragraph (a) (*deleted*) for recording the serial numbers of cases, and to make an editorial change in paragraph (b). As revised, § 194.226 reads as follows:

§ 194.226 Records of disposition.

(a) *Information required.* Every wholesale dealer in liquors shall prepare a daily record of the physical disposition of each individual lot of distilled spirits, which record shall show (1) name and address of consignee, (2) date of disposition, (3) brand name, (4) kind of spirits, except that this may be omitted if the dealer keeps available for inspection a separate list or record identifying "kind" with the brand name, (5) number of packages, if any, and number of cases by size of bottle, and (6) package identification numbers of containers of alcohol repackaged for industrial use pursuant to Subpart R of this part. Additional information may also be shown.

(b) *Form of record.* The record prescribed by paragraph (a) of this section shall consist of the wholesale dealer's invoices (or, where such invoices are not available at the time the spirits are removed, memorandum shipping records prepared at the time of removal of the distilled spirits) which contain all required information. Each such invoice (or memorandum shipping record) shall be preprinted with the name and address of the wholesale dealer in liquors and shall be serially numbered in consecutive order. The wholesaler may start a new series of such numbers annually, or on approval of the regional regulatory administrator, more frequently.

(72 Stat. 1342, 1395 (26 U.S.C. 5114, 5555).)

PAR. 8. Section 194.231 is amended to revise the requirements for preparation of Form 338, and to make an editorial change. As revised, § 194.231 reads as follows:

§ 194.231 Wholesale liquor dealer's semiannual report, Form 338.

As of the close of business on June 30 and December 31 of each year, every wholesale dealer in liquors shall, when required in writing by the regional regulatory administrator, prepare, on Form 338, in duplicate, a report showing the total quantities of distilled spirits received and disposed of during the 6-month period ending on such day. If there were no receipts or disposals of distilled spirits during the period, Form 338 shall be prepared showing the quantity on hand the first day of the period and the quantity on hand the last day of the period and marked "No transactions during period". The original of Form 338 shall be filed with the regional regulatory administrator not later than the 15th day of the month succeeding the period for which rendered, and the copy shall be retained by the dealer.

(72 Stat. 1342 (26 U.S.C. 5114).)

PAR. 9. Section 194.233 is amended to revise the requirements for preparation of Form 338 and to make an editorial change. As revised, § 194.233 reads as follows:

§ 194.233 Discontinuance of business.

When a wholesale dealer in liquors discontinues business as such, he shall render Form 338, covering transactions from the first day of the 6-month period (referred to in § 194.231) in which business is discontinued, thrpugh the date of such discontinuance, mark such report "Final", and file the form with the regional regulatory administrator within 15 days of the date of such discontinuance if submission is required by the regional regulatory administrator pursuant to § 194.231.

(72 Stat. 1342 (26 U.S.C. 5114).)

PAR. 10. Section 194.237 is amended by deleting the requirement for serial numbers of cases received and disposed of, and by making an editorial change. As revised § 194.237 reads as follows:

§ 194.237 Package identification numbers.

The package identification numbers of distilled spirits received, or disposed of (for the repackaging of alcohol for industrial use), shall be reported on Form 52A or Form 52B unless the emission of such numbers is specifically authorized by the regional regulatory administrator.

PAR. 11. Paragraph (b) of § 194.238 is amended to revise the requirements for the filing of Form 338. As amended, paragraph (b) reads as follows:

§ 194.238 Requirements when wholesale dealer in liquors maintains a retail department.

* * * * *

(b) Where retail sales of distilled spirits normally represent 90 percent or more of the volume of distilled spirits sold, the dealer may, in lieu of the records required by § 194.225, keep records as prescribed in § 194.239 for all retail dealers in liquors, and all distilled spirits at the premises may be considered as having been received in the dealer's retail department. In addition, as prescribed by § 194.226, he shall prepare records of disposition on all distilled spirits sold at wholesale, and shall prepare recapitulation records of such spirits, as prescribed in § 194.230. Distilled spirits which have been considered as having been received in the retail department, and which are involved in a wholesale transaction, shall be considered as having been transferred to the wholesale department at the time of sale. The semiannual report on Form 338 shall be submitted in accordance with the provisions of § 194.231 (when submission is required by the regional regulatory administrator) even if there have been no wholesale transactions in distilled spirits. Unless relieved of the requirement, pursuant to application under § 194.234, the dealer shall submit daily or periodic reports on Forms 52A and 52B of all his wholesale liquor dealer transactions in distilled spirits. The dealer's wholesale department need not be maintained in a separate room or be partitioned off from the retail department.

(72 Stat. 1342, 1345, 1395 (26 U.S.C. 5114, 5124, 5555).)

PART 201—DISTILLED SPIRITS PLANTS

PAR. 12. Section 201.11 is amended, in alphabetical order by adding a definition of "Area supervisor" and "Kind," and deleting the definition of "Sealed conveyance". As amended, § 201.11 reads as follows:

§ 201.11 Meaning of terms.

* * * * *

Area supervisor. The supervisory officer of a Bureau of Alcohol, Tobacco and Firearms area office.

* * * * *

Kind. Except as otherwise provided in this part, "kind" in the phrase "kind of spirits" shall mean the class and type of the spirits, as provided in Part 5 of this chapter.

* * * * *

PAR. 13. The center heading, heading and text of § 201.100 are revised to read as follows:

SEALING OF CONVEYANCES USED FOR TRANSPORTING SPIRITS

§ 201.100 Sealing of conveyances.

(a) *Construction for sealing.* If a conveyance is required by this part to be sealed, the conveyance shall be constructed in such manner that all openings, including valves (if any) on bulk conveyances, may be closed and secured.

(b) *Approval of certain sealing devices.* (1) All seals, locks, or other devices that are to be used on conveyances in which spirits are: (i) Transferred in bond, (ii) withdrawn free of tax, or (iii) withdrawn without payment of tax, shall be approved by the Director prior to use.

(2) Seals, locks or other devices that are used on conveyances to transport: (i) Taxpaid spirits, or (ii) denatured spirits transferred in bond or withdrawn free of tax, need not be approved.

(c) *Furnishing and affixing seals.* (1) Seals, locks, or other devices for use on conveyances shall be furnished and affixed by the proprietor.

(2) The regional regulatory administrator may, if he deems necessary, require conveyances in which spirits are: (i) Transferred in bond, (ii) withdrawn free of tax, or (iii) withdrawn without payment of tax, to be secured by seals, locks, or other devices approved and

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furnished by the Bureau and affixed by an alcohol, tobacco and firearms officer.

(3) Seals, locks, or other devices shall be affixed: (i) As soon as the conveyance is loaded for shipment, and (ii) in such a manner that access to the contents of the conveyance cannot be gained without showing evidence of tampering.

(d) *Numbers and marks on proprietor's seals.* Seals, locks, or other devices that are furnished by the proprietor for use on conveyances shall be serially numbered and dissimilar in markings from those furnished by the Bureau.

(72 Stat 1360 (26 U.S.C. 5206).)

PAR. 14. Section 201.120 is amended to revise the requirements for establishing and operating denaturing facilities. As revised, § 201.120 reads as follows:

§ 201.120 Denaturing facilities.

Facilities for denaturing spirits may be established only on the bonded premises of a plant operated by a proprietor who is authorized to produce spirits, by a controlled or wholly-owned subsidiary (as defined in § 201.206) of such a proprietor, or by a proprietor whose controlled or wholly-owned subsidiary is authorized to produce spirits. If a proprietor (or his parent or subsidiary corporation) discontinues production operations and surrenders his authority to produce spirits, the proprietor (or his parent or subsidiary corporation, as applicable) authorized to denature spirits may be permitted to continue denaturing operations at those denaturing facilities he then has in existence, pursuant to approval of a written application, filed in duplicate with the regional regulatory administrator.

(72 Stat. 1369 (26 U.S.C. 5241).)

PAR. 15. Section 201.147 is revised to provide a statement of certification of accurate calibration for certain tanks on distilled spirits plant premises. As revised, § 201.147 reads as follows:

§ 201.147 Major equipment.

The following items of major equipment, if on the plant premises, shall be described in the application for registration:

(a) Mash tubs and cookers (serial number and capacity).

(b) Fermenters (serial number and capacity.

(c) Tanks used in the production, storage, denaturation, rectification, bottling, and measurement of spirits and tanks used in the storage and the measurement of denatured spirits (designated use (or uses), serial number, capacity, and method of gauging or measurement).

(d) Permanently installed scales and other measuring equipment (including meters).

(e) Bottling lines (list separately as to use and serial number.)

(f) Stills (serial number, kind, capacity, and intended use). (The capacity shall be stated as the estimated maximum proof gallons of spirits capable of being produced every 24 hours, or (for column stills) may be represented by a statement of the diameter of the base and number of plates.)

(g) Other items of fixed equipment used in the production, storage, rectification and/or bottling of spirits, if valued at $5,000 or more (description and use). The description shall show, as to each item of equipment, the location thereof in the plant, and the premises (bonded or bottling) and the facility (production, storage, denaturation, or bottling on bonded premises, and rectification or bottling on bottling premises) in which it is to be used. A statement of certification of accurate calibration shall be included in the description of receiving tanks that are part of production facilities, tanks in storage facilities from which packages are filled, and bottling tanks. Such certification may be executed for all tanks in a specific category (e.g., a blanket certification for all bottling tanks) or for individual tanks. Where any equipment is to be used in two or more facilities, it shall be identified as for multiple use, and its use in each facility shall be shown.

(72 Stat. 1349 (26 U.S.C. 5172).)

PAR. 16. Paragraph (a) of § 201.243 is amended to delete the requirement for Form 244 and to make conforming changes. As revised, paragraph (a) reads as follows:

§ 201.243 Tanks.

(a) *General.* All tanks used as receptacles for spirits (including denatured spirits) or wines shall be located, constructed, and equipped so as to be suitable for the intended purpose and to permit ready examination. An accurate means of measuring the contents of each such tank shall be provided by the proprietor; in any case where such means of measuring is not a permanent fixture of the tank, the tank shall be equipped with a fixed device which will enable the approximate contents to be determined readily. Tanks used for determining the tax imposed by 26 U.S.C. 5001 shall be mounted on scales; and in addition thereto shall be provided with another suitable device for quickly and accurately determining the contents. Storage tanks used for multiple withdrawals for tax determination purposes as provided in § 201.374a, must be equipped with a suitable agitation device. The proprietor shall install walkways, landings, and stairways to afford safe access to all parts of tanks where the presence of an alcohol, tobacco and firearms officer is required. Tanks may be equipped with vents, flame arresters, foam devices, or other safety devices, if the construction is such to prevent extraction of the spirits. The proprietor shall be responsible for establishing and maintaining accurate calibration of all tanks. Receiving tanks which are part of the production facilities, tanks in the storage facilities from which packages are to be filled in the manner provided in paragraph (c) (2) or (3) of § 201.269 as authorized by § 201.294, and bottling tanks shall not be used until they have been accurately calibrated and a statement of certification of accurate calibration included in the notice of registration, as provided in § 201.147. If such tanks or their fixed gauging devices are to be moved in location or position subsequent to original calibration, the alcohol, tobacco and firearms officer shall be notified in writing of such change. After the change has been made, the tank shall not be used until it is recalibrated. Pursuant to tax determination, spirits in a tank may be removed from bonded premises, and received on bottling premises, in the tank in which they are contained, if (1) the bonded premises are alternated to bottling premises in the manner provided in § 201.175, (2) the tank and/or all necessary connections thereto are locked or sealed in such manner as to prevent the mingling of spirits in bond with tax determined spirits, (3) the tank is properly redesignated, and (4) the structural separation of bonded and bottling premises required by § 201.231 is maintained.

* * * * *

PAR. 17a. Section 201.261 is amended to make editorial and conforming changes for the preparation of Form 2610. As revised, § 201.261 reads as follows:

§ 201.261 Notice by proprietor.

(a) *Commencement of operations.* The proprietor shall, before commencing production operations or resuming production operations after having given notice of suspension, file notice on Form 2610 with the assigned officer, if any, otherwise with the area supervisor, specifying the date on which he desires to commence or resume operations for the production of spirits. The notice shall be filed in accordance with the instructions on the form, and sufficiently in advance to afford the area supervisor an opportunity to make arrangements for supervision of the operations. The proprietor may not commence or resume operations until the time specified in the notice.

(b) *Suspension of operations.* Any proprietor desiring to suspend production operations for a period of 30 days or more shall file notice on Form 2610 with the assigned officer, if any, otherwise with the regional director, specifying the date on which he will suspend operations. The notice shall be filed in accordance with instructions on the form and (where no officer is available) shall be filed sufficiently in advance to afford the area supervisor an opportunity to detail an officer to the plant. In case of an accident which makes it apparent that operations cannot be conducted for 30 days or more, the proprietor shall give immediate notice of suspension on Form 2610.

(72 Stat. 1364 (26 U.S.C. 5221).)

Par. 17b. Section 201.303 is revised by making clarifying changes to read as follows:

§ 201.303 Determining date of original entry.

(a) *Date of original entry.* (1) When spirits are mingled in accordance with the provisions of § 201.301, the date of original entry for the entire lot shall be that of the latest produced spirits that were mingled.

(2) When spirits are mingled as provided in § 201.297 or are blended as provided in § 201.307, the date of original entry for the entire lot shall be that of the earliest produced spirits that were mingled or blended.

(3) The appropriate transaction forms shall show the original entry dates of both the earliest and latest produced spirits contained in the lot.

(b) *Age of spirits.* The appropriate transaction forms shall show the actual ages (in years, months, and days) of both the oldest and youngest spirits in the lot.

(c) *Updating.* (1) When mingled or blended spirits are held in a tank, the proprietor shall, at least once each calendar year, reexamine the records of deposits and withdrawals for the tank for the purpose of updating the date of original entry (but not the age) of the earliest produced spirits in the mixture.

(2) Updating of the date of original entry shall be made on the basis that the lot with the earliest date of original entry will be the first lot shown in the warehouse records as having been withdrawn.

PAR. 18. Section 201.312 is amended by adding in item (3) of the first proviso, the words "either tax-exempt or" before the words "taxable rectification", and by making editorial and conforming changes. As revised § 201.312 reads as follows:

§ 201.312 Importation of spirits.

The proprietor may withdraw from customs custody, without payment of the internal revenue tax imposed on imported spirits by 26 U.S.C. 5001, imported spirits in bulk containers and transfer such spirits to his bonded premises in such bulk containers or by pipeline. A proprietor intending to receive imported spirits from customs custody shall obtain an approved application, Form 2609, in the manner provided in § 251.172 of this chapter. Imported spirits transferred to bonded premises, as provided in this section, (a) may not be bottled in bond under 26 U.S.C. 5233, (b) may be redistilled or denatured only if of 185 degrees or more of proof, and (c) may be withdrawn for any purpose authorized by chapter 51, 26 U.S.C., in the same manner as domestic spirits. Imported spirits shall be kept separate at the bonded premises and shall not be mixed with domestic spirits or with other imported spirits, except as follows: Imported spirits (1) may, if of 185 degrees or more of proof, be mingled with domestic spirits or with other such imported spirits if the mingled spirits are to be immediately denatured, (2) may, if eligible under § 201.296, be mingled with other imported spirits similarly eligible which have been duty paid at the same rate, (3) may, if imported as beverage spirits, be mingled with heteorogeneous spirits if the mingled spirits are for immediate removal to bottling premises exclusively for use in either tax-exempt or taxable rectification, or blended pursuant to § 201.307, and (4) may, if eligible under § 201.297, be mingled with other distilled spirits similarly eligible: *Provided*, That if the spirits to be so mingled have been treated, compounded, or blended prior to importation, the proprietor must establish to the satisfaction of the regional regulatory administrator that the spirits to be mingled were treated, compounded, or blended at the same foreign plant by the same person, are of the same formulation, and are in fact homogenous: *Provided further*, That the preceding proviso shall not be applicable to the mingling of spirits of the same kind, imported under the same customs entry, and treated, compounded, blended, or produced at the same foreign plant by the same person. Imported spirits shall not be filled into packages, or subjected to treatment, which would modify the taste, aroma, or other characteristics generally attributed to that class and type of spirits. The provisions of this section with respect to the separation from other spirits and of §§ 201.312a and 201.312b are applicable to imported spirits received on bonded premises under this section, whether or not redistilled. Imported spirits to be redistilled shall be appropriately identified on Form 2629.

(72 Stat. 1367, 82 Stat. 1328 (26 U.S.C. 5234, 5232).)

PAR. 19. Section 201.327 is amended to delete the requirement for the assigned officer's verification and release of spirits. As revised § 201.327 reads as follows:

§ 201.327 Bottling.

Spirits may be bottled in bond only from approved bottling tanks. The proprietor shall determine the quantity and proof of the spirits deposited in each bottling tank and make entry thereof on Form 1515, and shall then attach a copy of Form 1515 to the bottling tank. Where two or more bottling tanks are used for one lot of spirits, Form 1515 shall be attached to one tank and the other tanks shall be marked to bear a reference to the tank to which the Form 1515 is attached. Where two or more lots of spirits are to be bottled at the same time, the bottling shall be conducted in such manner as to prevent any mingling of the different lots. Where part of a lot of spirits is to be bottled for export and the proof of such spirits is further reduced, the proprietor shall determine the quantity and proof of the spirits after such further reduction and make entry therof on Form 1515. Bottling tanks and pipelines shall be so equipped that the flow of spirits through the tanks may be controlled by Government locks. Tanks containing spirits deposited for bottling-in-bond, or the rooms or building in which such tanks are located shall be locked at all times except when bottling-in-bond operations, or activities related thereto, are being conducted as provided in this part and the assigned officer is on the premises. Where bottling facilities are alternated as provided in § 201.175, operations shall be conducted in such manner as to prevent the mingling of tax determined spirits and spirits in bond.

(72 Stat. 1366 (26 U.S.C. 5233).)

PAR. 20. Section 201.330 is revised in its entirety to read as follows:

§ 201.330 Labels to agree with contents of tanks and bottles.

Labels affixed to bottles shall agree in every respect with the spirits in the tanks from which the bottles are filled. The proprietor's records shall be such that they will enable alcohol, tobacco and firearms officers to readily determine, by case serial number, which label was used on any given filled bottle. If an alcohol, tobacco and firearms officer finds that the label and spirits do not agree in every respect, he shall not permit the spirits to be bottled, or if the bottles are labeled with labels which do not agree with the spirits in every respect, he shall require the proprietor to relabel the bottles with proper labels.

(72 Stat. 1366, 1374 (26 U. S. C. 5233, 5301).)

PAR. 21. Section 201.333 is revised in its entirety to read as follows:

§ 201.333 Filling of bottles.

(a) *Proof and fill tests.* (1) Proprietors shall test and examine bottles of bottled-in-bond spirits at frequent intervals during bottling operations to determine whether the spirits contained in such bottles agree in proof and quantity (fill) with that stated on the label or bottle. (2) If the regional regulatory administrator finds that a proprietor's test procedures do not protect the revenue and insure the label accuracy of the bottled product, he may require corrective measures.

(b) *Variations in proof and fill.* If the contents do not agree with the respective data on the label or bottle as to—

(1) Quantity (fill), except for such variations in measuring as may occur in filling conducted in compliance with good commercial practice and there is substantially as much overfill as underfill for each lot of spirits bottled on Form 1515, and/or

(2) Proof, subject to a normal drop in proof occurring during bottling operations not to exceed three-tenths of a degree—

the proprietor shall rebottle, recondition, or relabel the spirits in such manner that the label will correctly describe the contents.

(c) *Proof and fill test records.* (1) Proprietors shall record the results of all proof and fill tests made.

(2) The daily record shall be maintained in a manner and provide information that will enable alcohol, tobacco and firearms officers to determine whether the proprietor—

(i) Monitors filling operations by conducting proof and fill tests, and

(ii) Employs procedures to correct variations in proof and fill described in paragraph (b).

(3) Proof and fill test records shall contain, at a minimum, the following information—

(i) Date and time of test,
(ii) Form 1515 number,
(iii) Size of bottle,
(iv) Label proof,

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(v) Test proof,
(vi) Percentage of overfill underfill, and
(vii) Corrective action taken (if any).

(4) Where the content, format or arrangement of the daily records does not comply with the provisions of paragraph (c)(2) and (c)(3), the regional regulatory administrator may require a format or arrangement which will clearly and accurately reflect proof and fill test information.

(72 Stat. 1361, 1395 (26 U.S.C. 5207, 5555).)

PAR. 22 § 201.342 is amended to provided for the separate listing of case serial numbers by trade name on commercial records. As revised, § 201.342 reads as follows:

§ 201.342 Trade names.

Before a proprietor may bottle or label bottled-in-bond spirits under a trade name, he shall secure approval of such name in the maner prescribed by Subpart F of this part.

(72 Stat. 1366 (26 U.S.C. 5233).)

PAR. 23. Section 201.368 is amended to change the function of Form 236 from an application to a notice for transfers in bond and to transfer responsibilities for sealing conveyances from alcohol, tobacco and firearms officers to proprietors. As revised, § 201.368 reads as follows:

§ 201.368 Consignor premises.

(a) *General.* (1) Notice on Form 236 shall be prepared by the consignor proprietor to cover the transfer of spirits or denatured spirits in bond, pursuant to an approved application on Form 2609. Except as otherwise provided herein, a Form 236 shall be prepared for each conveyance. Each Form 236 shall show the real name (or the basic operating name as provided in § 201.235) of the producer (or the name of the importer in the case of imported spirits or the name of the packaging or bottling proprietor in the case of spirits of 190° of proof or more) and, if the spirits were produced under a trade name, shall also show the trade name under which produced. Prior to lading of spirits aboard any conveyance (or commencement of pumping operations in the case of pipeline transfers) for transfer from bonded premises, the proprietor shall submit a notice copy of Form 236 to the alcohol, tobacco and firearms officer. In the case of transfers made in accordance with the provisions of paragraph (a)(2) of this section, the proprietor shall submit the authorized shipment and delivery orders to the alcohol, tobacco and firearms officer prior to commencing transfer operations. The serial numbers of any seals or other devices affixed to a conveyance used for shipment of spirits or denatured spirits in bond shall be entered on Form 236 by the proprietor. On completion of lading (or completion of transfer by pipeline), the proprietor shall dispose of the remaining copies of Form 236 as provided in the instructions on the form.

(2) The proprietor may, on approval of the regional regulatory administrator, cover on one Form 236 all packages of spirits shipped by truck on the same day from his production facilities or storage facilities for deposit for storage in bond in another distilled spirits plant located in the same region. In such case, the proprietor shall deliver, to the alcohol, tobacco and firearms officer at the shipping and delivery premises, a shipment and delivery order for each shipment, showing the number of barrels, their package identification numbers, the name of the producer, and the serial numbers of the seals or other devices (if any) applied to the truck. Such shipping and delivery shall be properly authenticated, and shall constitute a complete record of the spirits so transferred in each truck each day. On completion of lading of the last truck for the day, the Form 236 shall be disposed of as provided in the instructions on the form.

(b) *Packages.* When spirits are to be transferred in bond in packages, the consignor proprietor shall weigh each package, except (1) when the transfer is to be made in a sealed conveyance, (2) when the individual packages have been securely sealed by the proprietor in a manner satisfactory to the alcohol, tobacco and firearms officer, or (3) when this requirement has been waived by the regional regulatory administrator on a finding that, because of the locotion of the premises and the proposed method of operation, the transfer can be made under the control of the alcohol, tobacco and firearms officer, and there will be no jeopardy to the revenue. The proprietor shall load and seal the conveyance, if it is to be sealed, except, that the regional regulatory administrator may require sealing by an alcohol, tobacco and firearms officer (see § 201.100.) When packages are weighed at the time of shipment, the proprietor shall list the package identification number of each package and its gross shipping weight on Form 2630. A copy of Form 2630 shall accompany each copy of Form 236.

(c) *Bulk conveyances and pipelines.* When spirits are to be transferred in bond in bulk conveyances or by pipelines, the consignor shall gauge the spirits under the direct supervision of the alcohol, tobacco and firearms officers and record the quantity so determined on Form 236. Bulk conveyances of spirits shall be sealed by the proprietor except that the regional regulatory administrator may require sealing by an alcohol, tobacco and firearms officer. (See § 201.100.)

(72 Stat. 1367 (26 U.S.C. 5222).)

PAR. 24. A new section, § 201.368a., concerning reconsignments of spirits in transit, is inserted, immediately following § 201.368, to read as follows:

§ 201.368a Reconsignment in transit.

Where, prior to or on arrival at the premises of a consignee, spirits transferred in bond (including denatured spirits) are found to be unsuitable for the purpose for which intended, were shipped in error, or, for any other bona fide reason, are not accepted by such consignee, or are not accepted by a carrier, they may be reconsigned, by the consignor, to himself, or to another consignee on notification to the regional regulatory administrator of the consignor's region of such reconsignment. In such case, application to receive spirits by transfer in bond (on Form 2600) shall have been previously approved for the consignee and the bond of the proprietor to whom the spirits are reconsigned shall cover such spirits while in transit after reconsignment. Notice of cancellation of the Form 236 covering the shipment to the original consignee shall be made by the consignor to each person receiving a copy of such Form 236. Where the reconsignment is to another proprietor, a new Form 236 shall be prepared and prominently marked with the word "Reconsignment".

PAR. 25. Paragraphs (a) and (b) of § 201.369 are amended to require the proprietor to determine and report losses in transit and to make procedural changes concerning disposition of Form 236. As revised, paragraphs (a) and (b) read as follows:

§ 201.369 Consignee premises.

(a) *General.* When spirits are received by transfer in bond, the consignee proprietor shall notify the alcohol, tobacco and firearms officer of their delivery. The proprietor shall examine each sealed conveyance to determine whether the seals are intact upon arrival at his premises. If the seals are not intact, he shall immediately, before removal of any spirits from the conveyance, notify the alcohol, tobacco and firearms officer. The proprietor shall examine all containers, and any container bearing evidence of loss in transit or of loss due to theft shall be held until released by the alcohol, tobacco and firearms officer. Spirits after examination (and, if held, after release by the alcohol, tobacco and firearms officer) shall be deposited in the warehouse immediately, or, if the spirits are to be redistilled, they shall be deposited in the production facilities immediately. Losses shall be determined and reported on Form 236 by the proprietor, with a written notation (by package identification number for packages or serial numbers for cases) as to the cause of the loss. Losses in excess of normal transit losses or as a result of theft or unauthorized destruction shall be reported in accordance with § 201.311. After execution on the transfer forms of his receipt of the shipment of spirits (including denatured spirits), the consignee shall dispose of Form 236 as provided in the instructions on the form.

(b) *Packages.* When spirits are received in packages, the consignee proprietor shall weigh each package, except (1) when the transfer is made in a sealed conveyance and the seals or other devices are intact on arrival, (2) when the individual packages have been sealed by the consignor proprietor and are intact on arrival, or (3) when the requirement for weighing the packages at the consignor premises has been waived under the provisions of § 201.368(b)(3). If Form 2630 accompanies the shipment, the consignee proprietor shall record the receiving weight of each package on the

Form 2630. If no Form 2630 accompanies the shipment, the consignee proprietor shall prepare a list showing the package identification number of each package and its receiving weight and attach one copy to each copy of Form 236 in his possession. All packages in a sealed conveyance on which the seals or other devices are not intact on arrival, and all packages not intact on receipt, shall be segregated, after weighing, and held until released by the alcohol, tobacco and firearms officer. When denatured spirits are received in packages, the consignee proprietor shall prepare Form 1467, appropriately modified, to record their deposit on bonded premises; a separate sheet shall be used for each formula.

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(72 Stat. 1356, 1362 (26 U.S.C. 5204, 5213).)

PAR. 26. Section 201.370 is revised to (1) provide for submission of a notice copy of Form 2629, (2) provide for reporting of losses, and (3) delete the assigned officer's approval of Form 2629. As revised, § 201.370 reads as follows:

§ 201.370 Removal of spirits from storage for redistillation.

A proprietor intending to remove spirits (including denatured spirits) from storage to production facilities on the same bonded premises for redistillation, in accordance with the provisions of §§ 201.272 and 201.273, shall prepare Form 2629 to cover such removal and shall submit a copy of the form to the alcohol, tobacco and firearms officer before commencing the dumping and gauging operations. Each lot of spirits (except bottled spirits) shall be gauged by the proprietor under the direct supervision of the alcohol, tobacco and firearms officer. Such gauge may be made either in the storage or the production facilities and shall be reported on Form 2629. The packages or cases shall be examined by the proprietor, and if any package or case bears evidence of loss due to theft or unauthorized destruction, or loss in excess of normal storage losses, such loss shall be reported to the alcohol, tobacco and firearms officer and the package or case shall not be dumped until released by him; Form 2629 shall be amended when necessary.

PAR. 27. A new section, § 201.374a, authorizing multiple gauges of spirits withdrawn for tax determination, is added immediately following § 201.374, to read as follows:

§ 201.374a Multiple bulk gauge for tax determination.

(a) *Procedure.* (1) Spirits may be withdrawn for tax determination on a multiple gauge basis only if the spirits are withdrawn from a storage tank equipped with a suitable agitation device.

(2) The multiple gauge concept shall be optional at each plant.

(b) *Withdrawal and gauging of spirits.* (1) Prior to the initial withdrawal from the storage tank the spirits shall be thoroughly agitated.

(2) The alcohol, tobacco and firearms officer shall determine the proof of the first withdrawal of spirits from the storage tank and shall calculate the tax due based on the established proof and weight of the spirits in the gauge tank for that withdrawal.

(3) Subsequent withdrawals from the storage tank need only be weighed in the gauge tank by the alcohol, tobacco and firearms officer, using the proof established at the first withdrawal to calculate the tax due.

(4) One Form 179 shall cover all tax determinations for one day for each storage tank.

(c) *Restrictions.* The addition of spirits to a storage tank from which a multiple gauge withdrawal has been made will require, prior to the next withdrawal of spirits from such tank:

(1) Thorough agitation of spirits in the storage tank.

(2) Determination of a new proof of the spirits in the gauge tank by the alcohol, tobacco and firearms officer, and

(3) Preparation of a new Form 179 to cover any multiple gauge withdrawal made subsequent to the addition of spirits to the storage tank.

(72 Stat. 1320, 1358 (26 U.S.C. 5006, 5204).)

PAR. 28. Section 201.378 is amended by designating the existing language as paragraph (a) and revising it, and by establishing a new paragraph (b) for multiple gauging. As revised, § 201.378 reads as follows:

§ 201.378 Withdrawal procedures; bonded premises.

(a) *General.* Except as provided in paragraph (b) of this section, the spirits to be taxpaid shall be inspected or gauged and the amount of tax found due shall be entered on Form 179 by the assigned officer. If the tax is to be prepaid, as indicated by the withdrawing proprietor on Form 179, the assigned officer will inform the proprietor from whose premises the spirits are being withdrawn of the amount of tax determined. The proprietor will deliver to the assigned officer the prepayment return, Form 2521, with remittance, or when prepayment is made in cash to the district director, the proprietor will deliver a receipted Form 2521 to the assigned officer. Once the tax is prepaid, or, if the tax is not to be prepaid, and the bond of the withdrawing proprietor is adequate, the assigned officer will execute his statement of tax determination, release the spirits in accordance with § 201.385, retain one copy of Form 179, and return the original and remaining copies and any accompanying reports to the proprietor as authority to remove the spirits from bonded premises. At the time of removal the proprietor will assign to and enter on each Form 179 a release number, assigned in serial order, starting with "1" for the first such form each calendar year. Distribution of Form 179 will be made according to instructions on the form.

(b) *Multiple Gauge.* When spirits are withdrawn in a series of multiple bulk gauges, they shall be inspected or gauged in accordance with § 201.374a. In addition to entering the tax gallons and amount of tax due for each withdrawal on Form 179 at the time of gauging, the alcohol, tobacco and firearms officer shall enter the total for all withdrawals on the form when he executes his statement of tax determination. The release number for Form 179 shall be assigned to and entered on the form at the time of the first removal of spirits.

PAR. 29. Section 201.385 is revised to (1) add a reference to multiple bulk gauging, (2) delete the reference to the assigned officer's issuance of distilled spirit stamps, and (3) make editorial changes. As revised, § 201.385 reads as follows:

§ 201.385 Removal of spirits on tax determination.

No spirits shall be removed from bonded premises, except as otherwise provided by law, unless the tax theron has been determined. If the Form 179, and Form 2521 (if required) with remittance, are in order and cover the full amount of the tax on the spirits to be withdrawn, the assigned officer shall execute his statement of tax determination authorizing the removal of the spirits. The assigned officer shall not execute his statement or certification of tax determination where a proprietor of bottling premises, whose bond on Form 2614 or 2615 is not in the maximum penal sum, has assumed liability for the tax on the spirits, and the tax is greater than the amount shown as chargeable against his bond on Form 179. If Form 2521 has been filed with the district director, as required by § 201.383(b), the statement regarding tax determination shall not be executed before the assiged officer has received a receipted copy of the return from the district director. When a proprietor of bottling premises has made application for withdrawal of spirits for bottling in bond after tax determination, the assigned officer shall not execute his statement or certification of tax determination unless the spirits to be withdrawn meet the aging and packaging requirements prescribed for spirits to be bottled in bond and are otherwise eligible. On execution of the statement or certification of tax determination authorizing removal of the spirits, the proprietor shall apply distilled spirits stamps to the packages or bulk conveyances of spirits to be removed from bonded premises. Distilled spirits stamps shall be affixed, canceled, and protected in the manner provided in Subpart Q of this part. When the distilled spirits stamps have been affixed by the proprietor to the containers and the containers have been properly marked, they shall be immediately removed from the bonded premises. When spirits are to be removed by pipeline, the appropriate Form 179, after execution of the statement or certification of tax determination shall be attached to the gauge tank, and shall remain thereon until the spirits have been removed from the tank. Spirits bottled in bond before determination of tax which are to be withdrawn from bonded premises on determination of tax may be so withdrawn subsequent to bottling, without

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being returned to the storage portion of the bonded warehouse, if the proprietor executes Form 179 in advance of withdrawal to cover a specific quantity of such spirits that shall be equal to or more than the quantity of spirits that he expected to withdraw. In such case the assigned officer shall execute the statement of tax determination only if he is satisfied that adequate means and methods are provided for accurately ascertaining the quantities of spirits to be so withdrawn at the time of bottling and that Form 179 is otherwise in order. On completion of the withdrawal covered by Form 179, the proprietor shall complete the forms, identifying the cases and showing the actual quantity of spirits so withdrawn (and any adjustments); such information shall be verified by the assigned officer. When any spirits have been removed from the bonded premises as provided in this section, the proprietor shall execute, under the penalties of perjury, the statement of removal on all copies of Form 179 and distribute them in accordance with the instructions on the form. However, when spirits are withdrawn in a series of multiple bulk gauges as provided in § 2041.374a, the proprietor shall execute the statement of removal when all spirits covered by the appropriate Form 179 have been removed from bonded premises. Bulk conveyances used to transport tax-paid spirits withdrawn from bonded premises shall be sealed. (See § 201.100.)

PAR. 30. Section 201.387 is revised to (1) provide for an advance copy of Form 2629 for the alcohol, tobacco and firearms officer, (2) provide for sealing of conveyances by the proprietor, and (3) delete the requirement for written release of spirits by the officer. As revised, § 201.387 reads as follows:

§ 201.387 Withdrawals of spirits for use in wine production.

Wine spirits withdrawn without payment of tax for use in wine production may be removed in approved containers for shipment to a bonded wine cellar on receipt of an approved application, Form 257, submitted by the proprietor of the bonded wine cellar in accordance with the provisions of Part 240 of this chapter. Each package of wine spirits (unless withdrawn on the original gauge) and each lot of wine spirits transferred by pipeline or by bulk conveyance shall be gauged by the proprietor under the direct supervision of the assigned officer: *Provided*, That spirits transferred by pipeline may be so gauged on the bonded wine cellar premises. Form 2629 shall be prepared by the consignor to cover each removal of wine spirits pursuant to an approved Form 257. Prior to the lading of spirits aboard any conveyance (or commencement of pumping operations in the case of pipeline transfers) for removal from the bonded premises, the proprietor shall submit a copy of Form 2629 to the alcohol, tobacco and firearms officer as notice of the operation. When wine spirits in packages are to be removed (unless to be withdrawn on the original gauge), the consignor shall also gauge the packages and prepare Form 2630. Bulk conveyance shall be sealed (see § 201.100) and the conveyance shall bear a label, dated and signed by the proprietor, showing the intended use of the wine spirits and the name and plant number of the consignor and the name and registry number of the consignee.

(72 Stat. 1362, 1382 (26 U.S.C. 5214, 5373).)

PAR. 31. Section 201.390 is revised to (1) designate Form 2633 as a notice, and (2) delete from its provisions the requirement for written release of spirits by the assigned officer. As revised, § 201.390 reads as follows:

§ 201.390 Withdrawal of spirits free of tax.

Spirits withdrawn free of tax under § 201.389 (a), (b), and (c) shall be withdrawn in approved containers and shipped to the consignee designated in the permit. The proprietor shall submit a copy of the notice of withdrawal, Form 2633, to the assigned officer prior to the lading of the spirits aboard the transfer conveyance. Unless the spirits are in cases or are to be withdrawn on the original gauge, the proprietor shall gauge each container under the direct supervision of the assigned officer. For each shipment, the proprietor shall prepare Form 1473 and distribute the form in accordance with the instructions thereon. Bulk conveyances used to transport spirits withdrawn free of tax under this section shall be sealed. (See § 201.100.)

(72 Stat. 1362 (26 U.S.C. 5214).)

PAR. 32. Paragraph (a) of § 201.393 is amended by adding the requirement for the sealing of bulk conveyances. As revised, paragraph (a) reads as follows:

§ 201.393 Removal of denatured spirits.

(a) *Specially denatured spirits.* Specially denatured spirits withdrawn free of tax under § 201.389(d) shall be shipped in approved containers to the consignee designated in the permit. If such spirits are for export or for transfer to a foreign-trade zone, they shall be withdrawn under the applicable provisions of Part 252 of this chapter. If such spirits are for shipment to a qualified user or a bonded dealer, the proprietor shall prepare notice of shipment on Form 1473 and distribute the copies of the form in accordance with the instructions thereon. Bulk conveyances used to transport specially denatured spirits shall be sealed in accordance with the provisions of § 201.100.

* * * * *

PAR. 33. Section 201.407 is revised to delete the provisions for the assigned officer's written verification of denaturation. As revised, § 201.407 reads as follows:

§ 201.407 Notice and gauge for denaturation.

The proprietor, when he wishes to denature, shall execute his notice of intent on Form 2634, in triplicate, in accordance with the instructions thereon and deliver one copy, as a notice, to the alcohol, tobacco and firearms officer before any spirits are released for denaturation. The guage of the spirits, when required, and the denaturation thereof, shall be under the direct supervision of the alcohol, tobacco and firearms officer. On completion of denaturation, the proprietor shall execute his report of denaturation on Form 2634 and dispose of the forms in accordance with the instructions on the form. All spirits shall be gauged by the proprietor: *Provided*, That spirits dumped from previously gauged containers or spirits transferred directly to mixing tanks from gauge tanks where they were gauged, need not be again gauged. Measurements of spirits and denaturants shall be made by volume or by weight or, when approved by the Director, by meter or other device.

(72 Stat. 1358, 1369 (26 U.S.C. 5204, 5241).)

PAR. 34. Par. (a) of § 201.411 is amended by providing for specific denaturants for conversion of specially denatured alcohol. As revised, paragraph (a) reads as follows:

§ 201.411 Conversion of specially denatured alcohol.

(a) *Conversion to Formula No. 1.* Any specially denatured alcohol, except Formulas No. 3–A and No. 30, may be converted into specially denatured alcohol, Formula No. 1, by the addition of methyl alcohol and denatonium benzoate, N.F. (Bitrex) or methyl isobutyl ketone in accordance with the formulations prescribed in § 212.16 of this chapter. For specially denatured alcohol Formulas No. 3–A and No. 30, the methyl alcohol content shall be reduced to the level prescribed for specially denatured alcohol Formula No. 1 by the addition of ethyl alcohol before adding the other ingredient prescribed in § 212.16 of this chapter.

* * * * *

(72 Stat. 1369 (26 U.S.C. 5242).)

§ 201.412 [Revoked]

PAR. 35. Section 201.412 is revoked.

PAR. 36. Section 201.432 is revised in its entirety to eliminate the requirement for preparation of Forms 122 by proprietors, and to provide for the preparation of dump and batch records. As revised, § 201.432 reads as follows:

§ 201.432 Record of use.

(a) *Dump record.* Whenever any spirits or wines are to be dumped for use in rectification, or are to be dumped for bottling or packaging without rectification (or are to be reduced in proof, filtered, or otherwise manipulated for such bottling or packaging), or are to be removed from the bottling premises by pipeline or bulk conveyance, the proprietor shall prepare a dump record. Spirits or wines received by pipeline or bulk conveyance and deposited in a tank for storage shall be considered as "dumped" when they are removed from such tank for rectification or bottling; spirits or wines so received but not so deposited shall be considered "dumped" immediately on receipt. Each dump record shall be serially numbered and shall identify the spirits or wines dumped for use. The proprietor shall, at the time of dumping, gauge spirits (1) where required in § 201.494, and (2) whenever it is necessary to insure that the quantity used is within the limitation of the approved formula. The proof gallon content of wines and alcoholic flavoring materials (contained ineligible spirits) shall be determined, at the time of dumping, by the proprietor.

(b) *Batch record.* A rectifier shall prepare a batch record (1) to report the dumping of spirits which are to be used immediately and in their entirety in preparing a batch of a rectified product (in this instance one record may serve both as a dump and batch record), (2) to report the use of spirits or wines previously dumped (and reported on dump records) and retained in processing tanks or receptacles, and (3) to report any combination of paragraph (b) (1) and (2) of this section used in preparing a batch of a rectified product. The proprietor shall also record on batch records the use of alcoholic flavoring materials manufactured on premises other than a bottling premises. Materials covered by a manufacturer's affidavit (see § 201.424) that drawback has not been, and will not be claimed thereon, must be reported and separately identified from materials not so covered. Each batch record shall be serially numbered and shall identify the spirits, wines, alcoholic flavoring materials, and non-alcoholic flavoring materials and ingredients used in the batch.

(c) *Format of dump and batch records.* Proprietor's dump and batch records shall contain, as applicable, the following:

(1) General information:

(i) Serial number;

(ii) Name and address of bottler; and

(iii) Distilled spirits plant number.

(2) Information relating to preparation of dumps:

(i) Kind of spirits (indicate if treated with oak chips and specially identify imported spirits and spirits from Puerto Rico and the Virgin Islands);

(ii) Serial or identification number of tank or container from which spirits were removed;

(iii) Proof gallons dumped, distinguishing between ingredients eligible and ineligible for operating losses, as provided in § 201.482(b);

(iv) Serial number of source transaction record (e.g., tax determination record or commercial record);

(v) Date spirits were dumped;

(vi) Quantity, by ingredient, of other ingredients dumped (both alcoholic and non-alcoholic); and

(vii) Total proof gallon dumped (listing separately ineligible, eligible, and grand totals).

(3) Information relating to preparation of a batch:

(i) Formula number;

(ii) Trade name(s), if any, under which the product is rectified;

(iii) Kind of spirits (indicate if treated with oak chips and identify imported spirits and spirits from Puerto Rico and the Virgin Islands);

(iv) Serial or identification number of tank or container from which spirits were removed;

(v) Serial number of the dump record from which the spirits were received for preparation of a batch;

(vi) Proof gallons entered into the batch, distinguishing between ingredients eligible and ineligible for operating losses, as provided in § 201.482(b);

(vii) Proof gallons used in the batch that have been previously dumped (and reported on dump records) and retained in processing tanks or receptacles;

(viii) Quantity, by ingredient, of other ingredients entered into the batch (both alcoholic and non-alcoholic); and

(ix) Total proof gallons entered into the batch (listing separately ineligible, eligible, and grand totals).

(4) Disposition information:

(i) Serial number of form (e.g., bottling tank report or another dump/batch record) to which the spirits were transferred; (ii) Proof gallons transferred; (iii) Total proof gallons disposed of; (iv) Gain or loss in proof gallons; and (v) Date of each disposition of spirits.

(d) *Time and manner for making entries.* The proprietor shall keep the required entries on dump and batch records current with the operations covered by such records, and shall maintain such records in a manner that will enable alcohol, tobacco and firearms officers (1) to verify and trace the quantity and movement of spirits, flavoring materials and ingredients (both alcoholic and non-alcoholic), or wines used in each operation or transaction, (2) to verify claims and statements of losses affecting claims, and (3) to verify compliance with law and regulations. Where the format or contents of the proprietor's dump and batch records is such that the required information is not clearly or accurately reflected, the regional regulatory administrator shall require the proprietor to modify such records so that the format and contents clearly and accurately reflect the required information.

(72 Stat. 1370 (26 U.S.C. 5251).)

PAR. 37. Section 201.433 is revised to delete the reference to Form 122 and insert a reference to dump and batch records. As revised, § 201.433 reads as follows:

§ 201.433 Identifying spirits and wines in process.

The proprietor shall mark or otherwise indicate (for example, by attachment of a dump or batch record) on each tank or receptacle on bottling premises containing spirits or wines in process the kind and quantity of the contents and the serial number of the dump or batch record under which the spirits or wines are held.

(72 Stat. 1358, 1358, 1360 (26 U.S.C. 5201, 5204, 5206).)

PAR. 38. Section 201.444 is revised to delete the reference to Form 122 and insert a reference to dump and batch records. As revised, § 201.444 reads as follows:

§ 201.444 Blending of straight whiskies, rums, and pure fruit brandies differing as to type.

The rectification tax (as provided in § 201.29(l) and (m)) does not attach to blends made exclusively of two or more pure straight whiskies, differing as to type, aged in wood for a period of not less than four years and without the addition of coloring or flavoring matter or any other substance than pure water and if not reduced below 80 proof; nor to blends made exclusively of two or more pure fruit brandies, differing as to type, distilled from the same kind of fruit, or blends made exclusively of two or more rums, differing as to type, where the brandies or rums have been aged in wood for a period of not less than two years and without the addition of coloring or flavoring matter (other than caramel added in bond, under Subpart I or J of this Part) or any other substance than pure water and if not reduced below 80 proof. In addition to the information required to be recorded on dump and batch records as provided by § 201.432, the proprietor shall show the age of each package of whisky, brandy, or rum to be blended, the proof to which the blended whisky, brandy, or rum is to be reduced, and the tank in which the spirits will be blended; he shall also include a statement that no coloring, flavoring, or other substance will be added except pure water necessary to reduce the spirits to the desired proof. Blending operations shall be under the general supervision of the assigned officer. The addition of any coloring, flavoring, or other substance, or the reduction of the spirits below 80 proof, will subject the blended whisky, brandy, or rum to the rectification tax.

(72 Stat. 1328, as amended (26 U.S.C. 5025).)

PAR. 39. Section 201.448 is amended by eliminating the requirement for submission of a copy of Form 2367 to the regional regulatory administrator and by making conforming changes. As revised, § 201.443 reads as follows:

§ 201.448 Gauge of rectified products.

On completion of the process of rectification, the rectifier shall gauge the spirits or wines in accordance with the provisions of Subpart D of this part, determine the applicable taxes under 26 U.S.C. 5021, 5022, and/or 5041, and report such gauge and determination of tax on Form 2637. Each Form 2637 shall be serially numbered.

(72 Stat. 1330, 1335, 1358 (26 U.S.C 5026 5061, 5204).)

PAR. 40. Section 201.456 is revised in its entirety to read as follows:

§ 201.456 Labels to agree with contents of tanks and containers.

Labels affixed to bottles (and packages in the case of wine) shall agree in every respect with the spirits or wines in the tanks from which the containers were filled. The proprietor's records shall be such that they will enable alcohol, tobacco and firearms officers to readily determine, by case serial number, which

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label was used on any given filled container. If an alcohol, tobacco and firearms officer finds that the label and the spirits do not agree in every respect, he shall not permit the spirits or wines to be bottled, or if the spirits or wines are labeled with labels which do not agree in every respect, he shall require the proprietor to relabel the spirits or wines with a proper label.

(72 Stat. 1356 (26 U.S.C. 5201).)

PAR. 41. Section 201.459 is revised in its entirety to read as follows:

§ 201.459 Filling of bottles.

(a) *Proof and fill tests.* (1) Proprietors shall test and examine bottles of spirits bottled on bottling premises at frequent intervals during bottling operations to determine whether the spirits contained in such bottles agree in proof and quantity (fill) with that stated on the label or bottle. (2) If the regional regulatory administrator finds that a proprietor's test procedures do not protect the revenue and insure the label accuracy of the bottled product, he may require corrective measures.

(b) *Variations in proof and fill.* If the contents do not agree with the respective data on the label or bottle as to—

(1) Quantity (fill), except for such variations in measuring as may occur in filling conducted in compliance with good commercial practice and there is substantially as much overfill as underfill for each lot of spirits bottled on Form 2637, and/or

(2) Proof, subject to a normal drop in proof occurring during bottling operations not to exceed three-tenths of a degree—

the proprietor shall rebottle, recondition, or relabel the spirits in such manner that the label will correctly describe the contents.

(c) *Proof and fill test records.* (1) Proprietors shall record the results of all proof and fill tests made.

(2) The daily record shall be maintained in a manner and provide information that will enable alcohol, tobacco and firearms officers to determine whether the proprietor—

(i) Monitors filling operations by conducting proof and fill tests, and

(ii) Employs procedures to correct variations in proof and fill described in paragraph (b).

(3) Proof and fill test records shall contain, at a minimum, the following information—

(i) Date and time of test,
(ii) Form 2637 number,
(iii) Size of bottle,
(iv) Label proof,
(v) Test proof,
(vi) Percentage of overfill/underfill, and
(vii) Corrective action taken (if any).

(4) Where the content, format and arrangement of the daily records does not comply with the provisions of paragraph (c)(2)(c)(3), the regional regulatory administrator may require a format or arrangement which will clearly and accurately reflect proof and fill test information.

(72 Stat. 1356, 1361, 1374, 1395 (26 U.S.C. 5201, 5207, 5301, 5555).)

PAR. 42. Section 201.460 is revised to extend the deadline for making entries on Form 2637. As revised § 201.460 reads as follows:

§ 201.460 Completion of bottling.

When the contents of a bottling tank are not completely bottled at the close of the day, the bottler shall make entries on Form 2637 covering the total quantity bottled that day from the tank. Entries shall be made not later than the morning of the following business day unless the bottler maintains auxiliary or supplemental records as provided in § 201.617, in which case entries may be made not later than the close of the following business day. He may elect to make such daily entries only on the original of the form but shall complete the bottling tank copy when the tank has been emptied. When the tank has been emptied, he shall complete the Form 2637, deliver the original to the assigned officer, and file the copy.

(72 Stat. 1356 (26 U.S.C. 5201).)

PAR. 43. Section 201.464 is amended by deleting the reference to the assigned officer's issuance of distilled spirits stamps, and by making conforming changes. As revised § 201.464 reads as follows:

§ 201.464 Filling packages.

Rectified or unrectified products may be drawn into packages from a tank (conforming to the requirements of § 201.243) on bottling premises. Such packages shall be gauged by the proprietor, and he shall report the details of such gauge on Form 2630 and attach a copy of Form 2630 to each copy of Form 2637 covering the product. Such packages shall be marked as prescribed by Subpart P of this part. On completion of Form 2637 and Form 2630, the proprietor shall affix a distilled spirits stamp to each package of spirits in the manner required by § 201.550a. The stamps shall bear the information required by § 201.549.

(72 Stat. 1356, 1358 (26 U.S.C. 5201, 5205).)

PAR. 44. Section 201.465 is amended by adding the requirement for sealing bulk conveyances. As revised § 201.465 reads as follows:

§ 201.465 Removals in bulk.

Where spirits or wines on bottling premises are to be removed in bulk to other bottling premises, the proprietor shall execute one additional copy of Form 2637 and shall forward it to the proprietor at the receiving premises. In the case of pipeline transfers, the additional copy shall be delivered before the transfer is commenced. Bulk conveyances shall be marked as provided in Subpart P of this part, and distilled spirits stamps shall be issued and affixed to the conveyances as provided in Subpart Q of this part. Bulk conveyances used to transport taxpaid spirits withdrawn from bottling premises shall be sealed. (See § 201.100.)

(72 Stat. 1356 (26 U.S.S. 5201).)

PAR. 45. Section 201.466 is amended by deleting the words "Forms 122 and 2637" and inserting the words "Forms 2637 and dump and batch records". As revised, § 201.466 reads as follows:

§ 201.466 Rebottling, relabeling, and restamping of bottled spirits.

Bottlers desiring to rebottle, restamp, or relabel distilled spirits shall make application, in duplicate, to the assigned officer, if any, at the plant, otherwise, in triplicate, to the regional regulatory administrator. The application shall state specifically (a) the reason for the rebottling, relabeling, or restamping, (b) the serial numbers of the cases, and (c) the name of the original bottler. If the spirits were originally bottled by a bottler other than the applicant, the application shall be accompanied by a statement from the original bottler consenting to the rebottling or relabeling thereof by the applicant. When spirits are rebottled, the strip stamps on the original bottles shall be destroyed and new strip stamps used. Liquor bottles used for rebottling shall comply with the provisions of § 201.457. When spirits are relabeled, the new label shall be covered by an appropriate certificate of label approval or certificate of exemption from label approved issued under the Federal Alcohol Administration Act Form 2637, appropriately modified shall be prepared by the proprietor to cover the relabeling or restamping of spirits, Forms 2637 and dump and batch records shall be prepared in accordance with this part to cover the rebottling of spirits.

(72 Stat. 1356 (26 U.S.C. 5201).)

PAR. 46. Paragraph (c) of § 201.470 is revised to provide for the separate listing of serial numbers by trade name on commercial records. As revised, paragraph (c) reads as follows:

§ 201.470 Changes in name or proprietorship.

* * * * *

(c) *Trade names.* Before a proprietor may rectify, bottle and label, or package spirits or wines under a trade name, he shall secure approval of such name in the manner prescribed by Subpart F of this part.

PAR. 47. Section 201.470c is amended by deleting the words "Form 122" and inserting the words "dump and batch records". As revised, § 201.470c reads as follows:

§ 201.470c Handling of spirits.

The proprietor shall inspect containers of spirits at the time of their receipt in accordance with § 201.430. Unless spirits are held under the provisions of § 201.430, spirits to be bottled in bond which are received on bottling premises shall be promptly dumped for bottling. No more spirits shall be received and

dumped at any one time than can be bottled expeditiously. If the proprietor intends to bottle as other than bottled in bond, or to package or otherwise remove, any portion of a lot of spirits which are entered on Form 179 for bottling in bond, he shall indicate in his schedule of operations required by § 201.89 that portion of the lot which is to be otherwise bottled, packaged, or removed and shall make appropriate notations on the Form 179, dump and batch records, and Form 2637, as applicable, which are involved.

PAR. 48. Section 201.470f is amended to delete the references to Form 122 and insert, instead, references to dump and batch records. As revised, § 201.470f reads as follows:

§ 201.470f Record of use.

Whenever any spirits intended for bottling-in-bond are to be dumped or received by pipeline on bottling premises for bottling (or are to be reduced in proof, filtered, or stabilized for such bottling), the proprietor shall prepare a dump record. Each dump record shall (a) identify the spirits to be dumped, (b) show the trade name under which the distiller produced and warehoused the spirits, if any, in addition to the real name of the distiller, (c) be prominently marked in the top margin with the words "Spirits to be bottled in bond", and (d) be serially numbered within the same series as dump and batch records covering spirits dumped for other purposes.

(72 Stat. 1356 (26 U.S.C. 5201).)

PAR. 49. Section 201.470h is revised to delete the requirement for the assigned officer's verification and release of spirits. As revised § 201.470h reads as follows:

§ 201.470h Bottling.

Spirits may be bottled in bond only from approved bottling tanks. On completion of any filtration, stabilization, and reduction of spirits to be bottled in bond, the proprietor shall determine the quantity and proof of the spirits deposited in each bottling tank and shall prepare Part I of Form 2637. Form 2637 shall be attached to the bottling tank. Where two or more lots of spirits are to be bottled in bond at the same time, or where a lot of spirits to be bottled in bond is to be bottled simultaneously with a lot of spirits to be otherwise bottled, the bottling shall be conducted in such manner as to prevent any mingling of the different lots. Where part of a lot of spirits is to be bottled in bond for export and the proof is further reduced, the proprietor shall determine the quantity and proof of the spirits after further reduction and enter the results of the gauge in the first unused line of Part II of Form 2637. Bottling tanks and pipelines shall be so equipped that the flow of spirits through the tanks may be controlled by Government locks. So long as any spirits which are to be bottled in bond remain in a bottling tank, the tank shall be locked with Government locks at all times that the assigned officer is not on the plant premises.

(72 Stat. 1356, 1367 (26 U.S.C. 5201, 5203).)

PAR. 50. Section 201.470j is revised in its entirety to read as follows:

§ 201.470j Labels to agree with contents of tanks and bottles.

Labels affixed to bottles shall agree in every respect with the spirits in the tanks from which the bottles are filled. The proprietor's records shall be such that they will enable alcohol, tobacco and firearms officers to readily determine, by case serial number, which label was used on any given filled bottle. If an alcohol, tobacco and firearms officer finds that the label and spirits do not agree in every respect, he shall not permit the spirits to be bottled, or if the bottles are labeled with labels which do not agree with the spirits in every respect, he shall require the proprietor to relabel the bottles with proper labels.

(72 Stat. 1353, as amended, 1374 (26 U.S.C. 5178, 5301).)

PAR. 51. Section 201.470k is revised in its entirety to read as follows:

§ 201.470k Filling of bottles.

(a) *Proof and fill tests.* (1) Proprietors shall test and examine bottles of bottled-in-bond spirits at frequent intervals during bottling operations to determine whether the spirits contained in such bottles agree in proof and quantity (fill) with that stated on the label or bottle. (2) If the regional regulatory administrator finds that a proprietor's test procedures do not protect the revenue and insure the label accuracy of the bottled product, he may require corrective measures.

(b) *Variations in proof and fill.* If the contents do not agree with the respective data on the label or bottle as to—

(1) Quantity (fill), except for such variations in measuring as may occur in filling conducted in compliance with good commercial practice and there is substantially as much overfill as underfill for each lot of spirits bottled on form 2637, and/or

(2) Proof, subject to a normal drop in proof occuring during bottling operations not to exceed three-tenths of degree—

the proprietor shall rebottle, recondition, or relabel the spirits in such manner that the label will correctly describe the contents.

(c) *Proof and fill test records.* (1) Proprietors shall record the results of all proof and fill tests made.

(2) The daily record shall be maintained in a manner and provide information that will enable alcohol, tobacco and firearms officers to determine whether the proprietor—

(i) Monitors filling operations by conducting proof and fill tests, and

(ii) Employs procedures to correct variations in proof and fill described in paragraph (b).

(3) Proof and fill test records shall contain, at a minimum, the following information—

(i) Date and time of test,
(ii) Form 2637 number,
(iii) Size of bottle,
(iv) Label proof,
(v) Test proof,
(vi) Percentage of overfill/underfill and
(vii) Corrective action taken (if any).

(4) Where the content, format and arrangement of the daily records do not comply with the provisions of paragraphs (c)(2) and (c)(3), the regional regulatory administrator may require a format or arrangement which will clearly and accurately reflect proof and fill test information.

(72 Stat. 1353, as amended, 1361, 1374, 1395, (26 U.S.C. 5178, 5207, 5301, 5555).)

PAR. 52. Section 201.470n is amended by deleting, in the last sentence, the words "Form 122" and inserting the words "dump or batch record". As revised, § 201.407n reads as follows:

§ 201.470n Salvaged spirits.

Spirits to be bottled in bond which are salvaged from the filtering or bottling operation may be added, under the direct supervision of the assigned officer, to a tank on bottling premises containing the same spirits or another lot of spirits of the same kind, produced by the same distiller, at the same distillery during the same distilling season which are also to be bottled in bond. Such spirits may also be mingled with homogeneous spirits or added to heterogeneous spirits in accordance with the provisions of Subpart N of this part. Salvaged spirits shall be reported on the dump or batch record covering the lot to which they were added, unless they are returned to the lot from which they were salvaged.

(72 Stat. 1356, 1366 (26 U.S.C. 5201, 5233).)

PAR. 53. Section 201.470p is amended by providing for the separate listing of case serial numbers by trade name on commercial records. As revised, § 201.-470p reads as follows:

§ 201.470p Trade name.

Before a proprietor may bottle or label bottled-in-bond spirits under a trade name, he shall secure approval of such name in the manner prescribed by Subpart F of this part.

(72 Stat. 1366 (26 U.S.C. 5233).)

PAR. 54. Paragraph (d) of § 201.470q is amended by deleting the words "Forms 122 and 2637" and by inserting instead the words "Form 2637 and dump and batch records". As revised, paragraph (d) reads as follows:

§ 201.470q Rebottling, relabeling, or restamping.

* * * * *

(d) *Form 2637 and dump and batch records.* Form 2637 and dump and batch

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records shall be prepared in accordance with the provisions of this subpart to cover the rebottling of spirits under this section by the proprietor of bottling premises. Form 2637, appropriately modified, shall be prepared to cover the relabeling or restamping of such spirits by the proprietor of the bottling premises.

PAR. 55. Section 201.487 is revised to require accounting for closed system operations on dump and batch records. As revised, § 201.487 reads as follows:

§ 201.487 Losses in manufacture of gin and vodka.

(a) *General.* Where gin or vodka is manufactured on bottling premises by the proprietor who withdrew the spirits from bond on payment or determination of tax, in a closed system (approved as such by the regional regulatory administrator, in a manner similar to that authorized for bonded premises, the proprietor may be allowed actual determined losses of spirits incurred in such manufacture in addition to being allowed the losses otherwise allowable under this subpart.

(b) *Closed system accounting.* The proprietor shall record on dump or batch records, the quantity of spirits entered into the closed system and the quantity of product removed therefrom. The dump or batch records of closed systems operations shall be prepared and maintained in accordance with the provisions of § 201.432. Dump and batch records shall show the quantities, by actual gauge, entered into and removed from, the closed system, and shall show the losses occurring therein.

(72 Stat. 1323 (26 U.S.C. 5008).)

PAR. 56. Section 201.507 is amended by adding, at the end of the last sentence, a reference to paragraph (f) of § 201.386, to correct an editorial error. As revised, § 201.507 reads as follows:

§ 201.507 Bulk conveyances.

Bulk conveyances which conform to the requirements of § 201.510 may be used (a) on bonded premises for original entry of spirits, and for filling from storage tanks, storing, transferring in bond, and withdrawing from bond of taxpaid spirits and of denatured spirits, and (b) on bottling premises for receiving, storing, and removing taxpaid spirits and wines. Spirits may be withdrawn free of tax, pursuant to the provisions of this part, in a bulk conveyance only for the use of the United States, or if the Director has authorized the proprietor, as provided in § 201.501, to so withdraw such spirits to a specified consignee. Spirits may be withdrawn without payment of tax, pursuant to the provisions of this part, in bulk conveyances for the purposes provided in § 201.386 (a), (b), (c), (e), and (f).

(72 Stat. 1360 (26 U.S.C. 5206).)

PAR. 57. Section 201.510 is amended by deleting paragraph (a) (1), renumbering paragraphs (a) (2) through (a) (8) and deleting the words "internal revenue" in paragraph (b) and inserting the words "alcohol, tobacco and firearms". As revised, § 201.510 reads as follows:

§ 201.510 Construction of bulk conveyances.

(a) *Construction.* All bulk conveyances authorized by this part shall conform to the following:

(1) If the conveyance consists of two of more compartments, each shall be so constructed or arranged that emptying of any compartment will not afford access to the contents of any other compartment.

(2) The conveyance (or in the case of compartmented conveyances, each compartment) shall be so arranged that it can be completely drained.

(3) Each tank car or tank truck shall have permanently and legibly marked thereon its number, capacity in wine gallons, and the name or symbol of its owner.

(4) If the conveyance consists of two or more compartments, each compartment shall be identified and the capacity of each shall be marked thereon.

(5) Permanent facilities shall be provided on tank trucks and tank cars to permit ready examination of manholes or other openings.

(6) A route board, or other suitable device, for carrying required marks, brands, and stamps shall be provided on each bulk conveyance.

(7) Calibrated charts, prepared or certified by competent and recognized authorities or engineers, showing the capacity of each compartment in wine gallons for each inch of depth, shall be carried with each tank truck, tank ship, or barge.

(b) *Proprietor's responsibility.* Before filling any bulk conveyance, the proprietor shall examine it to ascertain that it meets the requirements of this section and is otherwise suitable for receiving the spirits or denatured spirits, and he shall refrain from, or discontinue, using any such conveyance found by him or by an alcohol, tobacco and firearms officer to be unsuitable.

(72 Stat. 1357, 1360, 1362 (26 U.S.C. 5202, 5206, 5212, 5213, 5214).)

§ 201.511 [Revoked]

PAR. 58a. Section 201.511 is revoked.

PAR. 58b. Section 201.522 is amended to provide for alternate means of indicating the contents of tanks, as follows:

§ 201.522 Marks on tanks.

All tanks containing spirits or wines shall be marked to show or shall otherwise indicate (for example, by attachment of, or reference to, the transaction form or memorandum record) the kind of product contained in the tank. When denatured spirits are held in a storage tank or are retained in a mixing tank, the formula of the denatured spirits shall be marked or otherwise indicated on the tank.

PAR. 59. Section 201.532 is amended by deleting reference to submission of the daily stamp report, and by making a conforming change. As revised, § 201.532 reads as follows:

§ 201.532 Relabeling and restamping of bonded or bottling premises.

The proprietor of a distilled spirits plant may relabel, affix brand labels, or restamp bottled taxpaid spirits (including taxpaid bottled-in-bond spirits) on wholesale liquor dealer premises or at a taxpaid storeroom on, contiguous to, adjacent to, or in the immediate vicinity of the plant, if such wholesale liquor dealer premises or taxpaid storeroom is operated in connection with the plant. A proprietor who so desires to relabel, restamp, or affix brand labels shall make application, in duplicate, to the assigned officer, if any, at the plant, otherwise such application shall be submitted in triplicate to the regional regulatory administrator: *Provided*, That individual bottles constituting less than a full case may be relabeled and restamped with labels and stamps without the necessity of prior application. The approving officer may give continuing authority to conduct the operations described in applications submitted under this section.

(72 Stat. 1356, 1866 (26 U.S.C. 5201, 5233).)

PAR. 60. Section 201.540d is revised in its entirety to read as follows:

§ 201.540d Distinctive liquor bottles.

A proprietor desiring approval of a domestic liquor bottle of distinctive shape or design, including bottles of less than one-half pint capacity, whether or not such bottles bear the indicia required under Part 173 of this chapter, or, to use such distinctive liquor bottle, shall submit a letter application to the Director for approval. Each application shall be accompanied by ten 5" x 7" photographs and, if the bottle has not previously been declared distinctive, a specimen bottle or an authentic model or other representation accepable to the Director. Each application shall contain the following information as applicable:

(a) Date of application,

(b) Name, address and permit number of applicant,

(c) Description of the bottle,

(d) Size of the bottle,

(e) Kind of spirits to be contained in the bottle,

(f) A request to have the bottle declared distinctive (if the bottle has not previously been so declared by the Director),

(g) Distinctive container number (if the bottle has been previously declared distinctive by the Director),

(h) A request to use the bottle, and names, addresses and distilled spirits plant numbers of the plants where the bottle will be used,

(i) A request for waiver of headspace requirements, as provided in § 5.48 of this chapter, and

(j) Signature and title of applicant.

Properly submitted applications for approval of a distinctive liquor bottle, or for use of a distinctive liquor bottle, will be approved provided such bottles are found by the Director to meet the requirements of Part 5 of this chapter, to be distinctive, not to jeopardize the revenue, to be suitable for their intended purpose, and not to be deceptive to consumers. If the application is approved, the Director will send one photocopy of the approved application and one approved photograph of the distinctive bottle to the applicant and to each regional regulatory administrator.

§ 201.540e [Revoked]

PAR. 61. Section 201.540e is revoked.

PAR. 62. Paragraph (a) of § 201.543 is revised to delete the requirement for the assigned officer's approval of Form 428. As revised, paragraph (a) reads as follows:

§ 201.513 Procurement of strip stamps.

(a) *General.* Strip stamps may be obtained, without charge, by the proprietor, in reasonable anticipation of current needs, from the regional regulatory administrator of the region in which the plant is located, by requisition on Form 428. Such stamps may not be procured by one proprietor from another proprietor or transferred between plants operated by the same proprietor, except on authorization by the regional regulatory administrator. Requisitions shall be for full sheets of such stamps. On receipt of the stamps the proprietor shall verify the quantity received and acknowledge receipt thereof, noting any discrepancies, on both copies of Form 428 returned by the regional regulatory administrator, forward one copy of the Form 428 to the regional regulatory administrator and retain one copy in his files.

* * * * *

(72 Stat. 1358 (26 U.S.C. 5205).)

PAR. 63. The heading and text of § 201.550 are revised in their entirety to read as follows:

§ 201.550 Procurement of distilled spirits stamps.

(a) *General.* Distilled spirits stamps may be obtained by the proprietor, without charge, in reasonable anticipation of current needs, from the regional regulatory administrator of the region in which the plant is located, by requisition on Form 428. Such stamps may not be procured by one proprietor from another proprietor or transferred between plants operated by the same proprietor, except on authorization by the regional regulatory administrator. On receipt of the stamps from the regional regulatory administrator the proprietor shall (1) verify the quantity received, (2) acknowledge receipt thereof, noting any discrepancies on both copies of Form 428 returned by the regional regulatory administrator, (3) forward one copy of the receipted Form 428 to the regional regulatory administrator, and (4) retain a copy for his files.

(b) *Alternate method.* When the regional regulatory administrator determines that the interests of the government will be served best thereby, the distilled spirits stamps may be supplied to the proprietor from a location other than the office of the regional regulatory administrator. In such case, the regional regulatory administrator shall notify the proprietor that the stamps will be supplied from an alternate location and inform him of the minimum or maximum quantity, if any, which may be requisitioned on any particular Form 428. Upon approval of Form 428, two copies of the form will be returned to the proprietor. Upon receipt of the stamps the proprietor shall (1) verify the quantity received, (2) acknowledge receipt thereof, noting any discrepancies on both copies of Form 428 returned, (3) forward one copy of Form 428 to the regional regulatory administer, and (4) retain a copy for his files.

(72 Stat. 1358 (26 U.S.C. 5205).)

PAR. 64. A new section, § 201.550a, is added immediately following § 201.550 to read as follows:

§ 201.550a Affixing of distilled spirits stamps.

Distilled spirits stamps shall be affixed and canceled by the proprietor before packages or conveyances are removed from the bonded premises or bottling premises, as the case may be. The stamps shall be securely affixed to the government head of the package, or the route board, or other suitable device of the bulk conveyance, or to an appropriate part of any other approved container, and thereupon canceled by drawing or otherwise imprinting a line (not less than one-eighth inch wide) in durable red ink diagonally across the stamp. Such stamps (except in the case of packages to be transferred to contiguous premises) shall be covered with a transparent coating of shellac, lacquer, varnish, or equally suitable material to protect the markings on the stamp. Where the bulk conveyance consists of separate compartments, a separate stamp shall be canceled and affixed to the appropriate route board for each compartment. Distilled spirits stamps shall remain on the containers or conveyances until the spirits therein are emptied. Such stamps shall be destroyed, as provided in § 201.531, when the containers are emptied.

(72 Stat. 1358 (26 U.S.C. 5205).)

PAR. 65. Section 201.551 is amended to require a notice, rather than an application, for the restamping of packages, conveyances, or other containers to which distilled spirits stamps are affixed. As revised § 201.551 reads as follows:

§ 201.551 Restamping packages, conveyances, or other containers.

Any package, conveyance, or other container of spirits which has been duly stamped with a distilled spirits stamp, but from which the stamp has been lost or destroyed by accident, shall, except as otherwise provided in this chapter, be restamped with another distilled spirits stamp. Notice of restamping shall be made in writing, in triplicate, to the assigned officer, if any, otherwise to the regional regulatory administrator for the region in which the package, convevance or other container to be restamped is located. The notice, which shall be executed under the penalties of perjury, shall set forth the following:

(a) The package identification number or serial number, as applicable, of each package, conveyance or other container (and proprietor's name thereon);

(b) The location of the package, conveyance, or other container;

(c) A description of the contents;

(d) The applicant's interest in the property;

(e) The tax status of the spirits (supported, by certified copies of the withdrawal forms);

(f) Statement by the applicant (or person having knowledge of the facts) that the package, conveyance, or other container was once duly stamped (and evidence thereof); and

(g) The circumstances connected with the destruction or loss of the stamps.

(72 Stat. 1358 (26 U.S.C. 5205).)

PAR. 66. A new section, § 201.551a, is added immediately following § 201.551, to read as follows:

§ 201.551a Distilled spirits stamp accounting.

Proprietors are responsible for proper control of and accounting for all distilled spirits stamps received. Stamps that have been mutilated shall be destroyed under the supervision of an alcohol, tobacco and firearms officer, and unused stamps for which the proprietor has no use shall be disposed of in accordance with the instructions of the regional regulatory administrator. Proprietors shall not transfer or dispose of distilled spirits stamps charged to their account except as provided in this part. Proprietors shall keep records and submit reports relating to such stamps in accordance with the provisions of Subpart U of this part.

(72 Stat. 1358 (26 U.S.C. 5205).)

PAR. 67. Section 201.562 is revised in its entirety to read as follows:

§ 201.562 Application or notice, Form 1577.

(a) *Destruction of spirits withdrawn from bond.* Spirits that have been withdrawn from bond on payment or determination of tax for rectification or bottling may be destroyed pursuant to application on Form 1577, filed in triplicate with the alcohol, tobacco and firearms officer, or if none is regularly assigned, with the area supervisor. The spirits may be destroyed before removal from the bottling premises of the distilled spirits plant to which removed from bond or after return to such bottling premises.

(b) *Destruction of spirits in bond.* Spirits in bond (including denatured spirits) may be destroyed pursuant to notice on Form 1577, prepared in quadruplicate. A copy of the notice shall be delivered to the assigned alcohol, tobacco and firearms officer before dumping spirits for destruction.

(c) *Conditions.* (1) The proprietor shall furnish such supporting documents as the approving officer may request.

(2) If the proprietor desires to destroy spirits at some place other than on bonded or bottling premises, as the case may be, the approving officer may re-

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quire that the spirits be moved to a more convenient location.

(3) The quantity of spirits to be destroyed shall be gauged by the proprietor and the result shall be entered on Form 1577 by the proprietor.

(4) The extent of supervision to be provided for the destruction of spirits shall be determined by the approving officer.

(5) The original and copies of the form shall be distributed in accordance with instructions on the form.

(72 Stat. 1323, as amended (26 U.S.C. 5008).)

PAR. 68. Section 201.583 is amended to make changes in the preparation and distribution of Form 2612. As revised, § 201.583 reads as follows:

§ 201.583 Receipt of returned taxpaid spirits.

On receipt of tax paid spirits eligible for return to bonded premises, the proprietor shall gauge the spirits in the presence of the assigned officer. The proprietor shall execute his receipt for the spirits and report of gauge on all copies of the approved Form 2612 and dispose of all copies of the form in accordance with the instructions thereon. When containers of such spirits are emptied, the proprietor shall comply with the applicable provisions of § 201.531.

(72 Stat. 1364, as amended (26 U.S.C. 5215).)

PAR. 69. Section 201.613 is amended to delete the reference to Form 122. As revised, § 201.613 reads as follows:

§ 201.613 Forms to be provided by user at own expense.

Forms 338 and 2637 shall be provided by the users at their own expense and shall be in the form prescribed by the Director.

(72 Stat. 1361 (26 U.S.C. 5207).)

PAR. 70. Section 201.622 is amended by inserting a new paragraph (b)(2)(iii), and by redesignating the present text of paragraphs (b)(3)(iii), (iv), (v), and (vi), as paragraphs (b)(3)(iv), (v), (vi), and (vii), respectively. As amended, paragraph (b) reads as follows:

§ 201.622 Daily bonded storage records.

* * * * *

(b) *Other transactions.* Each proprietor shall also maintain records reflecting:

(1) The mingling of spirits under §§ 201.297 and 201.301;

(2) The blending of beverage rums and brandies under §§ 201.307 and 201.308;

(3) The bottling of spirits under Subpart K of this part, including—

(i) Spirits entered for bottling in bond,

(ii) Spirits bottled and cased for domestic use or for export,

(iii) The results of bottling proof and fill tests (as provided in § 201.333),

(iv) Bottled spirits returned to storage,

(v) The rebottling, relabeling, or restamping of bottled spirits (domestic spirits rebottled, relabeled, or restamped for export shall be appropriately identified on the Form 1515),

(vi) Alcohol bottled, and

(vii) The gains and losses determined during bottling;

(4) The change of packages under § 201.295; and

(5) The quick-aging of spirits, or the addition of oak chips to spirits or burnt sugar or caramel to brandy and rum under § 201.292.

Records for storage tanks on bonded premises which contain spirits of less than 190° of proof shall show the gauge, in tax gallons, of spirits removed from each tank, the purpose for which removed, and the transaction form and its serial number covering the removal from the tank. If the spirits in such tanks are filled into packages, the record for each tank shall also indicate the gauge of the spirits in the tank both before and after the filing operations; the number, average tax gallons per package, and the package identification numbers, of the packages filled; and the serial numbers of the related Form 2323 (Form 1685 in the case of blended rums or brandies) covering spirits deposited in the tank. The disposition of packages so filled shall be recorded by identifying the related transaction form (such as Form 179, 236, or 2629) and its serial number, and the number of packages involved in each transaction. The records shall meet the requirements of § 201.630b.

(72 Stat. 1361 (26 U.S.C. 5207).)

PAR. 71. Section 201.623 is amended by (1) making conforming changes for the elimination of Form 122 in paragraphs (b) and (c), (2) requiring proprietors to maintain proof and fill test records in a new paragraph (g), and (3) redesignating the present texts of paragraphs (g), (h), (i), (j), (k), and (l) as paragraphs (h), (i), (j), (k), (l), and (m) respectively. As amended, § 201.623 reads as follows:

§ 201.623 Daily bottling premises records.

* * * * *

(b) The spirits and wines dumped for rectification, or bottling or packaging without rectification, showing the serial number of the dump or batch record covering such dump.

(c) The spirits, wines, and alcoholic flavoring materials and non-alcoholic flavoring materials and other ingredients used for rectification, showing the serial number of the batch record covering such use.

* * * * *

(g) The results of bottling proof and fill tests (required by §§ 201.459 and 201.470k).

(h) The rebottling, relabeling and restamping of bottled products.

(i) The spirits, wines, an alcoholic flavoring materials removed from the premises. The total removals for each day shall be summarized showing (1) The spirits and wines removed after rectification but without bottling or packaging, (2) Rectified products removed after bottling or packaging, (3) The spirits and wines removed after bottling or packaging without rectification, and (4) The spirits, wines, and alcoholic flavoring materials removed without rectification, bottling, or packaging.

(j) The samples of spirits and rectified products removed from the bottling premises and the name and address of the consignee of such samples.

(k) The accumulation and taxpayment of rinsings on bottling premises.

(l) The voluntary destruction of spirits, showing separately (1) Spirits destroyed before completion (including spirits returned to the bottling premises and dumped for reprocessing or rebottling), and (2) spirits destroyed after completion (including spirits returned to the bottling premises and not dumped for reprocessing or rebottling).

(m) The losses which occur (1) by reason of accident while being removed from bond to bottling premises (where such losses occur, the actual quantity of spirits received shall be reported in the record required by paragraph (a) of this section), (2) by reason of accident while on the bottling premises and that amount to 10 proof gallons or more in respect of any one accident, (3) by theft, or (4) by reason of flood, fire, or other disaster.

* * * * *

(72 Stat. 1361 (26 U.S.C. 5207).)

PAR. 72. A new section, § 201.624a, is added immediately following § 201.624 to read as follows:

§ 201.624a Daily record of distilled spirits stamps.

Each proprietor of bottling premises or bonded premises shall maintain, for each day a transaction in distilled spirits stamps occurs, a daily record of distilled spirits stamps, showing the number received, used, or otherwise disposed of, and on hand at the beginning of the day and at the end of the day. The record shall also show the transaction form and its serial number covering the use of the distilled spirits stamps.

(72 Stat. 1361 (26 U.S.C. 5207).)

PAR. 73. Section 201.625 is amended by revising the requirement for the filing of Form 338, (2) revising the requirement for mandatory information shown on records of receipt and disposition, and (3) making conforming changing. As revised, § 201.625 reads as follows:

§ 201.625 Daily record of wholesale liquor dealer and taxpaid storeroom operations.

Where the proprietor, in connection with his plant, conducts wholesale liquor dealer operations, or operates a taxpaid storeroom, on, contiguous to, adjacent to, or in the immediate vicinity of plant premises, or operates storage premises at another location from which distilled spirits are not sold at wholesale, he shall maintain daily records of the receipt and disposition of all distilled spirits and wines at such premises, and of all restamping operations conducted under the provisions of § 201.532. A separate record

shall be kept for each such premises. The records in respect of the receipt and disposition of distilled spirits and wines shall contain all data necessary to enable alcohol, tobacco and firearms officers to identify and trace such receipts and dispositions, and to ascertain whether there has been compliance with all internal revenue laws and regulations relating thereto, and to provide the proprietor with records from which to compile data for his semiannual report on Form 338 when so required by the regional regulatory administrator. In addition to any other information shown therein, such records shall include:

(a) *As to receipts and dispositions.* (1) The date of the transaction (or date of discovery in the case of casualty or theft),

(2) The name and address of each consignor or consignee, as the case may be,

(3) The brand name,

(4) The kind of spirits,

(5) The actual quantity of distilled spirits involved (proof gallons if in packages, wine gallons or liters if in bottles),

(6) The package identification numbers or serial numbers of packages involved,

(7) The name of the producer, and

(8) The country of origin, if imported spirits.

(b) *As to case dispositions.* In addition to the requirements listed in paragraph (a) of this section, the serial numbers of cases involved; however, the regional regulatory administrator may, upon receipt of an application, in duplicate, and a finding that such recording is not necessary to law enforcement or protection of the revenue, relieve a dealer from the requirement of recording such case serial numbers.

(c) *As to restamping operations.* (1) The date of the transaction,

(2) The serial numbers of the cases involved,

(3) The total number of bottles,

(4) The name of the bottler, and

(5) The number and kind of strip stamps used.

PAR. 74. Paragraphs (b), (d), and (e) of § 201.629 are amended to make conforming changes. As revised, paragraphs (b), (d) and (e) read as follows:

§ 201.629 Warehouse summary accounts.

* * * * *

(b) *Basic accounts of spirits in packages and cases.* Separate basic accounts for spirits in packages and for spirits in cases shall be maintained on Form 1621 for each producer (bonded warehouse proprietor in the case of blended rums or brandies and spirits of 190° or more of proof), by kind of spirits (class), and by season of production, showing the number of packages or cases, and the total tax gallons therein, deposited in, withdrawn from, and remaining in the warehouse. Basic accounts for spirits in packages which have been mingled under the provisions of § 201.301 shall be separately maintained from basic accounts for spirits which have not been so mingled. The basic accounts shall be arranged as follows: (1) For domestic spirits, other than blended rums or brandies and spirits of 190° or more of proof, alphabetically by States and numerically by the plant number of the producer (spirits produced under trade names, for the purpose of this record, shall be treated as being produced under the real name of the producer);

(2) For domestic blended rums or brandies and spirits of 190° or more of proof, alphabetically by States and numerically by the plant number of the bonded warehouse proprietor who blended the rums or brandies or who filled the packages of spirits of 190° or more of proof, as the case may be;

(3) For imported spirits, alphabetically by States and numerically by the plant number of the bonded warehouse proprietor who received the spirits from customs custody; and

(4) For Virgin Islands or Puerto Rican spirits, alphabetically by the name of the producer in the Virgin Islands or in Puerto Rico.

* * * * *

(d) *Basic accounts of spirits of 190° or more of proof in tanks.* A basic account shall be maintained on Form 1621 for each kind (class) of spirits of 190° or more of proof stored in tanks (including tank cars, tank trucks, or similar vessels). The account shall show the total tax gallons deposited in, withdrawn from, and remaining in all tanks covered by such account.

(e) *Summary of containers and kinds.* The basic accounts maintained in accordance with paragraphs (b), (c), and (d) of this section shall, at the end of each month (or such lesser period as required by the regional director) be summarized to show, for each type of container, the total tax gallons deposited in, withdrawn from, and remaining in the warehouse by each kind (class) of spirits, and the total tax gallons deposited in, withdrawn from, and remaining in the warehouse for all kinds (classes) of spirits. Such summaries shall be maintained on Form 1621, and shall include all losses (or gains) such as those disclosed by inventory or on emptying a tank (see § 201.311).

(72 Stat. 1361 (26 U.S.C. 5207).)

§ 201.630 [Revoked]

PAR. 75. Section 201.630 is revoked.

PAR. 76. Section 201.631 is amended to make conforming changes regarding the disposition of copies of transaction forms and reports. As revised, § 201.631 reads as follows:

§ 201.631 Submission of transaction forms and reports.

(a) *Transaction forms.* Completed copies of transaction forms required by this part shall be submitted by the proprietor to the alcohol, tobacco and firearms officer and/or the regional regulatory administrator no later than the close of the business day next succeeding the date of the transaction, as provided by this part and by instructions on the individual forms.

(b) *Timely submission of operational notices.* Where this part requires an advance copy of a notice to be submitted to an alcohol, tobacco and firearms officer before commencing an operation, such notice shall be submitted at such time to provide the officer sufficient opportunity to determine whether such operation should be conducted in his immediate presence.

(c) *Reports.* (1) Semimonthly reports (taxable samples) required by this part shall be submitted to the alcohol, tobacco and firearms officer and/or the regional regulatory administrator on or before the third business day preceding the due date for filing a return covering the period during which the samples were taken, and in accordance with the instructions on the form.

(2) Monthly, quarterly, and semiannual reports required by this part shall be submitted by the proprietor to the alcohol, tobacco and firearms officer and/or the regional regulatory administrator in accordance with the instructions on the form.

(72 Stat. 1361 (26 U.S.C. 5207).)

PAR. 77. The heading and text of § 201.633a are revised as follows:

§ 201.633a Quarterly report of bottle strip stamps and distilled spirits stamps, Form 2260.

As of the close of business March 31, June 30, September 30, and December 31, of each year, each proprietor using strip stamps or distilled spirits stamps shall prepare Form 2260, in accordance with the instructions on the form. A separate report shall be prepared for each kind of stamp used. Copies of the completed report shall be filed as provided in the instructions on the form.

(72 Stat. 1361, 1398 (26 U.S.C. 5207, 5555).)

PAR. 78. Paragraph (d) of § 201.634 is amended to provide for the submission of Form 338 only when required by the regional regulatory administrator. As revised, § 201.634 reads as follows:

§ 201.634 Semiannual reports.

(a) *General.* Semiannual reports required by this section shall be prepared in triplicate; the original and one copy shall be filed as provided in § 201.631, and the remaining copy retained by the proprietor.

(b) *Form 332.* As of the close of business June 30, and December 31, of each year, each proprietor of a bonded warehouse shall prepare, on Form 332, a statement by kind, season, and year of production, of spirits in his bonded warehouse. A separate Form 332 shall be prepared for spirits which have been mingled under § 201.301 and for spirits which have not been so mingled. Spirits of 190° or more of proof (on which a record of age is not kept) shall be reported as a single item on Form 332; however, the quantity of such domestic spirits and of such imported spirits shall be reported separately. Imported spirits of less than 190° of proof shall be reported on a separate line, appropriately identified as "imported," giving the total

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quantity of each kind of such imported spirits in the appropriate column on Form 332.

(c) *Form 2546.* As of the close of business June 30, and December 31, of each year, each proprietor of a bonded warehouse shall prepare, on Form 2546, a report of spirits mingled under § 201.301 during the preceding 6-month period. A separate report shall be prepared for each kind of spirits.

(d) *Form 338.* When required in writing by the regional regulatory administrator, each proprietor who, in connection with his plant, conducts wholesale liquor dealer operations, or operates a taxpaid storeroom, on, contiguous to, adjacent to, or in the immediate vicinity of plant premises, or operates storage premises at another location from which distilled spirits are not sold at wholesale, shall prepare, on Form 338, as of the close of business June 30 and December 31, of each year, a report showing the total quantity of distilled spirits received and disposed of during the preceding 6-month period.

(72 Stat. 1361, 1395 (26 U.S.C. 5207, 5555).)

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

PAR. 79. Section 250.314 is revised in its entirety to read as follows:

§ 250.314 Distinctive liquor bottles.

Liquor bottles of distinctive shape or design, including bottles of less than one-half pint capacity (whether or not such bottles bear the indicia required under Part 173 of this chapter), may be brought into the United States from Puerto Rico or the Virgin Islands by an importer (filled bottles) or a bottler (empty bottles). The importer or bottler, as applicable, shall submit a letter application to the Director for approval prior to bringing such bottles into the United States. Each application shall be accompanied by ten 5" x 7" photographs, and, if the bottle has not previously been declared distinctive, a specimen bottle or an authenic model or representation acceptable to the Director. Each application shall contain the following information as applicable:

(a) Date of application,

(b) Name, address and permit number of applicant,

(c) Description of the bottle,

(d) Size of the bottle,

(e) Kind of spirits to be contained in the bottle,

(f) A request to have the bottle declared distinctive (if the bottle has not previously been so declared by the Director),

(g) Distinctive container number (if the bottle has been previously declared distinctive by the Director),

(h) A request to bring the distilled spirits into the United States in the distinctive liquor bottle,

(i) A request for waiver of headspace requirements, as provided in § 5.48 of this chapter, and

(j) Signature and title of applicant. Properly submitted applications to bring distinctive liquor bottles, either filled or empty, into the United States from Puerto Rico or the Virgin Islands will be approved, provided such bottles are found by the Director to meet the requirements of Part 5 of this chapter, to be distinctive, not to jeopardize the revenue, to be suitable for their intended purpose, and not to be deceptive to consumers. If the application is approved, the Director will send one photocopy of the approved application and one approved photograph of the distinctive bottle, to the applicant and to each regional regulatory administrator. The applicant is responsible for furnishing a copy of both the approved application and photograph of the distinctive bottle to Customs officials at each affected port of entry where the merchandise is examined.

§ 250.315 [Revoked]

PAR. 80. Section 250.315 is revoked.

PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

PAR. 81a. Paragraph (a) of § 251.172 is amended by deleting the parenthetical phrase concerning consent of surety. As amended, paragraph (a) reads as follows:

§ 251.172 Application, Form 2609.

(a) *Application for continuing Form 2609.* The proprietor of a distilled spirits plant desiring to withdraw distilled spirits as authorized in § 251.171, shall submit an application on Form 2609, in triplicate, to the alcohol, tobacco and firearms officer. The application shall be modified by the applicant to cover the transfer of distilled spirits from customs custody, by naming the port of entry through which the spirits are to be withdrawn. If spirits are to be withdrawn through more than one port of entry, a separate continuing Form 2609 shall be filed for each port. The application will not be approved unless the applicant's bond on Form 2601 is in the maximum penal sum; or, if in less than the maximum penal sum, is sufficient to cover the tax on the spirits to be transferred in addition to all other liabilities chargeable against such bond, nor shall any application for withdrawal of spirits in bulk containers be approved unless the applicant has provided suitable facilities as provided in § 201.239. When the alcohol, tobacco and firearms officer approves Form 2609, he shall retain one copy for his files and return the original and one copy to the applicant. The applicant shall retain one copy and forward the original of Form 2609 to the importer or other person responsible for the release of the spirits from customs custody, who shall submit the form to the customs officer at the port of entry from which the distilled spirits will be withdrawn. The customs officer shall retain the form in his records.

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PAR. 81b. Section 251.204 is revised in its entirety as follows:

§ 251.204 Distinctive liquor bottles.

Liquor bottles of distinctive shape or design, including bottles of less than one-half pint capacity (whether or not such bottles bear the indicia required under Part 173 of this chapter), may be imported by an importer (filled bottles) or a bottler (empty bottles). The importer or bottler, as applicable, shall submit a letter of application to the Director for approval, prior to importation of the bottles. Each application shall be accompanied by ten 5" x 7" photographs and, if the bottle has not previously been declared distinctive, a specimen bottle or an authentic model or other representation acceptable to the Director. Each application shall contain the following information as applicable:

(a) Date of application,

(b) Name, address and permit number of applicant,

(c) Description of the bottle,

(d) Size of the bottle,

(e) Kind of spirits to be contained in the bottle,

(f) A request to have the bottle declared distinctive (if the bottle has not been so declared by the Director),

(g) Distinctive container number (if the bottle has been previously declared distinctive by the Director),

(h) A request to import the distilled spirits in the distinctive liquor bottles,

(i) A request for waiver of headspace requirements, as provided in § 5.48 of this chapter, and

(j) Signature and title of applicant. Properly submitted applications to import distinctive liquor bottles will be approved, provided such bottles are found by the Director to meet the requirements of Part 5 of this chapter, to be distinctive, not to jeopardize the revenue, to be suitable for their intended purpose, and not to be deceptive to consumers. If the application is approved, the Director will send one photocopy of the approved application and one approved photograph of the distinctive bottle to the applicant and to each regional regulatory administrator. The applicant is responsible for furnishing a copy of both the approved application and photograph of the distinctive bottle to Customs officials at each affected port of entry where the merchandise is examined.

§ 251.205 [Revoked]

PAR. 82. Section 251.205 is revoked.

PART 252—EXPORTATION OF LIQUORS

PAR. 83. Section 252.11 is amended, in alphabetical order, by (1) adding a definition for "Alcohol, tobacco and firearms officer", (2) making conforming changes for the definitions of "Assistant regional commissioner", "Director, Alcohol, Tobacco and Firearms Division", and "Internal revenue officer", and (3) adding a definition for "Regional regulatory administrator". As amended, § 252.11 reads as follows:

§ 252.11 Meaning of terms.

• • • • • •

Alcohol, tobacco and firearms officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms duly authorized to perform any function relating to the administration or enforcement of this part.

Assistant regional commissioner. Whenever used in this part shall mean a regional regulatory administrator as defined in this section.

• • • • • •

Collector of customs. Wherever used in this part shall mean a District director of customs as defined in this section.

• • • • • •

Customs officer. Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

(19 U.S.C. 1401(i))

• • • • • •

Director, Bureau of Alcohol, Tobacco and Firearms. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

• • • • • •

Director of customs. Wherever used in this part shall mean a District director of customs as defined in this section.

• • • • • •

District director of customs. The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

• • • • • •

Internal revenue officer. Whenever used in this part and in Chapter 51 of 26 U.S.C. shall mean the alcohol, tobacco and firearms officer as defined in this section.

• • • • • •

Regional regulatory administrator. The principal regional official responsible for administering regulations in this part.

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PAR. 84. Section 252.92 is amended to (1) designate Form 206 as an application or notice, and (2) make conforming changes. As amended, § 252.92 reads as follows:

§ 252.92 Application or notice, Form 206.

(a) *Export, use on vessels and aircraft, and transfer to a foreign-trade zone or a customs bonded warehouse.* Application for or notice of the withdrawal of distilled spirits without payment of tax for exportation from the United States, or for use on vessels and aircraft, or for transfer to a customs bonded warehouse or a foreign-trade zone, shall be made by the exporter on Form 206, in quadruplicate, except that where the shipment is for use on aircraft, an extra copy, marked "Consignee's Copy", shall be prepared. Where the exporter is not the proprietor of the bonded premises of the distilled spirits plant from which the spirits are to be withdrawn, the exporter shall prepare Form 206 as an application in accordance with the instructions on the form and shall forward all copies of the form to such proprietor, except that where the withdrawals are being made under the limitations set forth in § 252.62 (b), all copies of Form 206 shall be submitted to the alcohol, tobacco and firearms officer at the designated distilled spirits plant as provided in that section. Where the exporter is the proprietor of the bonded premises of the distilled spirits plant from which the spirits are withdrawn, the exporter shall prepare Form 206 as a notice in accordance with the instructions on the form.

(b) *Manufacturing bonded warehouse.* Application for the withdrawal of distilled spirits without payment of tax for transportation to and deposit in a manufacturing bonded warehouse shall be made by the proprietor of such warehouse on Form 206, in quadruplicate. The proprietor shall forward all copies of the application to the proprietor of the bonded premises of the distilled spirits plant from which the spirits are to be withdrawn, except that where the withdrawals are being made under the limitations set forth in § 252.64(b), all copies of Form 206 shall be submitted to the alcohol, tobacco and firearms officer at the designated distilled spirits plant as provided in that section and in applicable provisions of § 252.62(b).

(72 Stat. 1362, 1393, 84 Stat. 1965 (26 U.S.C. 5214, 5522, 5066).)

PAR. 85. Section 252.96 is amended to make conforming and editorial changes. As amended, § 252.96 reads as follows:

§ 252.96 Notice of intention to withdraw; approval of application.

(a) *Bond coverage previously approved.* Where Form 206 has been approved as to bond coverage by an alcohol, tobacco and firearms officer at another distilled spirits plant, as provided for in §§ 252.62(b) and 252.64(b), the proprietor shall present all copies of the Form 206 to the alcohol, tobacco and firearms officer at his plant for his information, and notify him of his intention to withdraw distilled spirits without payment of tax pursuant to such Form 206. If the alcohol, tobacco and firearms officer is satisfied that the spirits described on the form are eligible for withdrawal, he shall return all copies of the form to the proprietor.

(b) *Bond coverage not approved.* Where prior approval of bond coverage has not been obtained, the proprietor shall submit all copies of Form 206 to the alcohol, tobacco and firearms officer at his plant for approval of the application. If the alcohol, tobacco and firearms officer is satisfied that the Form 206 has been properly executed, that the required bond has been filed in a sufficient amount, and that described spirits are eligible for withdrawal, he shall indicate his approval of the application on all copies of the form and return them to the proprietor.

(72 Stat. 1362 (26 U.S.C. 5214).)

PAR. 86. Section 252.101 is amended by deleting the reference to the issuance of distilled spirits stamps by the assigned officer. As amended, § 252.101 reads as follows:

§ 252.101 Packages to be stamped.

Every package and authorized bulk conveyance of spirits (including tank cars and tank trucks but not pipelines) withdrawn without payment of tax under the provisions of this subpart shall have a distilled spirits stamp, overprinted with the word "Export", affixed thereto at the time of its removal from the bonded premises. Such stamps shall be overprinted, affixed, and canceled, in accordance with the provisions of Part 201 of this chapter.

(72 Stat. 1358 (26 U.S.C. 5205).)

PAR. 87. The heading and text of § 252.105 are amended to reflect changes in the processing and distribution of Form 206. As amended, § 252.105 reads as follows:

§ 252.105 Report of inspection and tax liability.

When the spirits are ready for shipment, the proprietor shall execute his report of inspection and tax liability on all copies of Form 206.

(72 Stat. 1362 (26 U.S.C. 5214).)

PAR. 88. Section 252.107 is revised in its entirety to read as follows:

§ 252.107 Disposition of forms.

Form 206 (and accompanying Form(s) 2630, if any) shall be distributed by the proprietor in accordance with the instructions on the form.

(72 Stat. 1362 (26 U.S.C. 5214).)

PAR. 89. Section 252.118 is amended to reflect changes in forms disposition. As amended, § 252.118 reads as follows:

§ 252.118 Disposition of forms.

The receipt, gauge, and disposition of the distilled spirits at the distilled spirits plant shall be in accordance with the applicable provisions of Part 201 of this chapter. On receipt of the report of gauge, Form 2630, from the proprietor, the alcohol, tobacco and firearms officer shall endorse, on each copy of the approved application to return the spirits, the date received and the total amount in proof gallons, and affix his signature and title. He shall retain a copy of the endorsed application and Form 2630 for his files and return the remaining copies to the proprietor of the distilled spirits plant receiving the returned spirits. That proprietor shall forward the original Form 206, with attachments, to the regional director designated on the form, the original of the endorsed application (with Form 2630) to the regional regulatory administrator of his region, a copy of the endorsed application to the distilled spirits plant proprietor from which the spirits were withdrawn, and retain a

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copy of Form 206 (with attachments) and a copy of Form 2630 for his files.

(72 Stat. 1362, 1365 (26 U.S.C. 5214, 5223).)

PAR. 90. The heading and text of § 252.152 are amended to (1) provide for changes in the disposition of Form 206, and (2) make conforming changes. As amended, § 252.152 reads as follows:

§ 252.152 Notice, Form 206.

Notice of withdrawal of specially denatured spirits, as authorized in § 252.151, shall be made on Form 206, in quadruplicate, by the proprietor of the distilled spirits plant from which the denatured spirits are to be withdrawn. Prior to the lading of spirits aboard any conveyance for removal from the bonded premises, a copy of the form shall be submitted to the alcohol, tobacco and firearms officer.

(48 Stat. 998, as amended, 72 Stat. 1362 (19 U.S.C. 81c, 26 U.S.C. 5214).)

PAR. 91. Section 252.153 is amended to make a conforming change. As amended, § 252.153 reads as follows:

§ 252.153 Withdrawal procedure.

The provisions of §§ 252.93, 252.94, 252.98, 252.105, and 252.117 in respect of method of conveyance, authorized containers, gauging, inspection, approval and shipment, report of removal, and disposition of forms shall be applicable to specially denatured spirits to be withdrawn under the provisions of this subpart.

(48 Stat. 999, as amended, 72 Stat. 1362 (19 U.S.C. 81c, 26 U.S.C. 5214).)

PAR. 92. Section 252.163 is amended to reflect changes in form disposition. As amended, § 252.163 reads as follows:

§ 252.163 Disposition of forms.

The receipt, gauge, and disposition of the specially denatured spirits at the distilled spirits plant shall be in accordance with the applicable provisions of Part 201 of this chapter. On receipt of the report of gauge from the proprietor, the alcohol, tobacco and firearms officer shall endorse, on each copy of the approved application to return the specially denatured spirits, the date received and the total amount in wine gallons, and affix his signature and title. He shall retain a copy of the endorsed application and a report of gauge for his files and return the remaining copies to the proprietor of the distilled spirits plant receiving the returned specially denatured spirits. That proprietor shall forward the original Form 206, with attachments, to the regional regulatory administrator designated on the form, the original of the endorsed application, with Form 2630, to the regional regulatory administrator of his region, a copy of the endorsed application to the distilled spirits plant proprietor from which the specially denatured spirits were withdrawn, and retain a copy of Form 206 (with attachments) for his files.

(72 Stat. 1362, 1365 (26 U.S.C. 5214, 5223).)

§ 252.175 [Revoked]

Par. 93. Section 252.175 is revoked.

§ 252.176 [Revoked]

Par. 94. Section 252.176 is revoked.

§ 252.177 [Revoked]

Par. 95. Section 252.177 is revoked.

Par. 96. Section 252.195a is amended by (1) deleting reference to Form 122 and inserting reference to dump and batch records, (2) providing for submission of evidence of tax payment, when requested by the regional regulatory administrator, for imported distilled spirits or wines that are rectified, and (3) making confirming changes. As amended, § 252.195a reads as follows:

§ 252.195a Claim.

The bottler or packager of the spirits shall compute the drawback rate, unless the regional regulatory administrator has, under the provisions of § 253.178, established a standard drawback rate, and shall complete Parts II and III on both copies of Form 1582. If a standard drawback rate has been established for a rectified product other than gin and vodka produced exempt from rectification tax, the date of approval of the formula and the number shall be shown in any available space in Part II of Form 1582. The bottler or packager shall file one copy as the claim for drawback of tax with the regional director for the region in which the claimant's premises are located, and retain one copy for his files. Each claim on Form 1582 shall be supported, as applicable, by a copy of each related dump and batch record, Form 2630, and Form 2637 covering the dumping and bottling or packaging of the spirits; and in the case of spirits bottled in bond on bonded premises, a copy of each Form 179 covering the taxpayment. Upon application, and a finding by the region regulatory administrator that dumping, bottling, or packaging records are not essential, he may waive the requirement for the filing of supporting forms with each claim for drawback except the requirement for filing Form 179 covering taxpayment of spirits bottled in bond on bonded premises. *Provided*, That in the case of any such waiver, the claimant shall insert in Part II the formula number, if any, or a statement that the alcoholic content of the product is derived solely from fully taxpaid spirits. In lieu of a waiver of the filing of supporting forms, the regional regulatory administrator may approve an alternate method of furnishing information. The authorization shall provide that the authority may be withdrawn if, in the opinion of the regional regulatory administrator, there is a need for the supporting forms. Where distilled spirits stamped and marked, or restamped and marked (if in cases), or marked (if in packages), especially for export with benefit of drawback are manufactured (rectified) in the United States with the use of imported spirits (other than such spirits withdrawn from internal revenue bond) or imported wines, the proprietor shall furnish evidence of tax payment for the distilled spirits or wines such as Customs Forms 7505 or 7501 receipted to indicate payment of taxes) as may be requested by the regional regulatory administrator.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336, as amended (19 U.S.C. 1309, 81c, 26 U.S.C. 5062).)

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TUESDAY, SEPTEMBER 6, 1977

PART VI

ENVIRONMENTAL PROTECTION AGENCY

State and Areawide Waste Treatment Management Plants

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ACCEPTANCE AND APPROVAL OF PLANS AND DESIGNATED MANAGEMENT AGENCIES

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-785-6]

STATE AND AREAWIDE WASTE TREATMENT MANAGEMENT PLANS

Acceptance and Approval of Plans and Designated Management Agencies

This notice is published to advise that the following Program Guidance Memorandum, copy follows, has been distributed to Environmental Protection Agency Regional Offices and became effective upon issuance. This memorandum refines existing Agency policy guidance for EPA plan approval and acceptance of management agency designations under State and areawide waste treatment management plans prepared pursuant to the Federal Water Pollution Control Act as amended. The memorandum sets forth guidance to ensure (1) that management agencies designated to implement the plans possess adequate authority and capability to carry out applicable portions of the plans, (2) that plans identify certain responsibilities assigned to designated management agencies, and (3) that plans include indications of the management agencies' willingness to carry out such responsibilities. Because of the importance of this memorandum, the policy that it establishes will be incorporated in amendments to 40 CFR Parts 130 and 131. Comments on this memorandum are encouraged in light of the upcoming amendments.

For additional information contact: Mr. Walter Groszyk, Deputy Director, Water Planning Division (WH-554), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Dated: August 23, 1977.

JOHN T. RHETT,
Acting Assistant Administrator for Water and Hazardous Materials.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Subject: State and Areawide WQM Agencies—Designation and Acceptance.

From: Albert J. Erickson, Acting Deputy Assistant Administrator for Water Planning and Standards.

To: Regional Administrators.

Attention: Water Division Directors.

Program Guidance Memorandum: GAM-30.

References: Section 208(b)(2)(D), (b)(2)(E), and 208(c), P.L. 92-500; 40 CFR 130.15; 40 CFR 131.1(d)(5), 131.10(c), 131.11(o), 131.20(b), 131.20(f)(1)(iv).

STATEMENT OF POLICY

Designated water quality management ("WQM") management agencies must have the authority and capability to carry out applicable portions of the WQM plans. These authorities and capabilities must be established at the time the plan is submitted to the Regional Administrator ("RA") and prior to the RA's acceptance of the designation.

The WQM plan must specifically list any new, incremental, or critical ongoing responsibilities assigned to each management agency under the plan.

Each plan must indicate each management agency's willingness to proceed to carry out its responsibilities as identified in the plan, prior to the RA's acceptance of designation.

PURPOSE

This Program Guidance Memorandum provides policies in connection with WQM management agency designations and responsibilities. All management agency designations are subject to the policies set forth in section 1, "Selection of Management Agencies," below. Sections 2 and 3, "Management Agency Implementation Statements" and "Management Agency Willingness to Proceed", should be followed wherever possible. Normally all management planning activities which have not been substantially completed as of the date of this memorandum should adhere to all policies set forth herein.

Pursuant to section 208(c) of the Act, all agencies which are responsible for carrying out any portion of a WQM plan must be designated as management agencies. These include agencies responsible for plan implementation by their own direct activities, agencies responsible for overseeing the performance of any person or entity through regulatory or other means, and agencies that review or coordinate overall WQM management agency actions. This memorandum should be applied to individual management agencies in a reasonable fashion that takes into account the nature of their responsibilities under the plan.

The memorandum is being distributed to all Regional Offices. Each regional office should provide a copy to each State and designated planning agency within the region. To assure the widest possible awareness of these policies, the memorandum is simultaneously being published in the FEDERAL REGISTER.

BACKGROUND

An effective management structure is essential to implementation of water quality management plans. Because of the great diversity of plan contents and management options, EPA provides maximum flexibility to States and areawide agencies designing WQM institutional arrangements. Certain general requirements of the law, regulations, and sound program management nonetheless underlie all acceptable arrangements. This memorandum summarizes management agency designation requirements, including the planning agency's responsibility to assure notice to the management agencies and their indications of willingness to undertake any new or incremental responsibilities.

Selection of management agencies to carry out plan elements is a critical aspect of WQM program development. Planning agencies must work closely with the potential managers throughout program development, to establish the best possible structure and climate for program implementation.

POLICY GUIDANCE

1. *Selection of Management Agencies.*—Each designated management agency must have adequate authority and capability to carry out its assigned portions of an approved WQM program. (40 CFR § 131.11(o)(2).) Wastewater treatment management agencies responsible for receiving a construction grant pursuant to sections 201 and 204 of the Act must have all of the authorities and capabilities required in connection with those grants.

Authority. EPA will fully accept management agency designations only when the proposed management agency has existing statutory and regulatory authority to carry out the portions of the plan assigned to it. An individual management agency is not required to have all of the authorities listed in the FWPC Act and regulations, as long as it has authority to carry out its responsibilities under the plan and the plan's proposed management agencies in the aggregate have all of those authorities.

Each agency's authority should be evaluated in relation to its assigned responsibilities. For example, an agency charged with oversight of a program without regulatory controls does not need authorities of a regulatory nature for purposes of WQM designation approval.

If a Governor designates a management agency which has the general statutory and regulatory authority to carry out its assigned responsibilities and is in the process of obtaining the specific necessary authority, the Regional Administrator may conditionally accept the designation. This may occur, for example, if the agency has authority to enact and implement a certain type of ordinance, has drafted the ordinance, and has a schedule for its promulgation. Where such additional steps are required to enable implementation to proceed, the Governor's designation should state the schedule for the additional steps.

Capability. Management agency designations may be fully accepted by EPA only when the proposed management agency has in existence the legal, financial, managerial, and institutional capability to carry out its assigned responsibilities. Where any of these capabilities is in doubt, the Regional Administrator may either accept conditionally or refuse to accept a designation.

2. *Management Agency Implementation Statement.*—Whenever a plan element prescribes new, modified, or critical on-going tasks, the Regional Administrator will not approve that plan element unless such tasks are clearly identified in the plan.[1] (See § 131.11(d)(5).) Ongoing tasks other than those which are critical to the plan or the continuing planning process, and tasks which are adequately covered by another EPA program, may be listed at the option of the planning agency, State, or EPA regional office. However, listing those tasks in the plan is not a national EPA requirement.

The plan's listing of responsibilities may be presented by means of an implemetation statement for each management agency whose activities need to be identified. The statement is the responsibility of the planning agency, but it should be prepared jointly by the planning agency and the proposed management agency, to ensure mutual understanding and agreement.

The statement or listing must identify each management agency's proposed responsibilities, schedules for action, existing and any needed additional authorities, and financing. (See sections 208(b)(2)(D) and (E) and 208(c)(2).) The information must be sufficient to give clear notice to the proposed management agency and others as to the specific aspects of the plan that the management agency should implement.

[1] For example, where the plan calls for an identified management agency to operate a new regulatory program for nonpoint sources or to modify or expand another type of program leading to nonpoint source abatement, the agency's major responsibilities and schedule should be stated in the plan. Also, where major reviews of an area's population projections are conducted periodically, this critical undertaking should be set forth. On the other hand, if a plan calls for each of a large number of local jurisdictions to revise its zoning ordinance for a certain purpose, the plan does not need to enumerate each agency's authority, financing, and individual schedule. Further where construction of a municipal waste treatment facility in conformity with the plan is undertaken with Federal assistance under sections 201 and 204 of the Act, the responsibilities may be adequately defined and reviewed in connection with that grant.

The exact nature of the implementation statement will depend on the agency, responsibilities, and schedule. EPA regional offices may participate in defining the contents. The following minimum contents are urged:

Specific identification, by name, of the proposed management agency.

A summary sheet outlining in reasonable detail (1) each proposed major responsibility of the agency, (2) the schedule for major agency actions in the near term (e.g., an appropriate period probably not exceeding five years), (3) detailed reference to the existing and any needed additional authority to the agency to carry out each responsibility, and (4) a description of the financing program for carrying out each responsibility.

Where possible, identification of the specific individual and organizational responsibilities within the management agency, a statement of manpower and budgeting requirements, and provision for reporting and data management may also be provided.

As noted above, effective coordination between the planning agency and proposed management agencies should be maintained to minimize delays or other problems in formalizing the proposed management agencies' assignments and acceptance of responsibilities.

3. *Management Agency Willingness to Proceed.*—Whenever a WQM plan prescribes new or incremental responsibilities for a proposed management agency, the plan should include an indication that the agency is willing to proceed to carry out the responsibilities for which it is being designated. The management agency can most easily indicate its intention to undertake the responsibilities by concurring in the applicable implementation statement, and a sign off sheet may be added to the implementation statement for that purpose.

In the case of significant management agencies whose performance is critical to overall plan implementation, an express acceptance of responsibilities is needed. In other cases (for example, large numbers of smaller municipalities which cause realtively minor water quality impacts in a major metropolitan area), it is less desirable but nonetheless adequate for the planning agency to provide the necessary assurance of their willingness to proceed. In these cases, the plan should include the planning agency's certification that representatives of the planning agency have met with appropriate officials of the affected agencies, have explained the implications to the agencies of plan adoption, and that the agencies' officials have provided the planning agency with assurance of their willingness to proceed with implementation of their responsibilities. The plan must identify each proposed management agency covered by the certification.

Each statement of management agency willingess to proceed, as provided either by the designated management agency or by the WQM planning agency, must be included in the submittal of management agency designation pursuant to § 130.15(a). The Regional Administration will not fully or conditionally accept any designation where no such statement is available. Any proposed management agency that prefers to postpone its commitment on grounds that the WQM plan may be modified prior to the Governor's certification may condition its willingness to proceed on the plan's being certified without change.

[FR Doc.77-25740 Filed 9-2-77;8:45 am]

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federal register

TUESDAY, SEPTEMBER 6, 1977
PART VII



DEPARTMENT OF LABOR

Employment and Training Administration

■

YOUTH PROGRAM FUNDING ESTIMATES

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DEPARTMENT OF LABOR

Employment and Training Administration

YOUTH PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

List of Funding Estimates

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice lists the program funding estimates for certain of the Department's youth programs under the Youth Employment and Demonstration Projects Act (YEDPA) of 1977. The information is provided so that eligible applicants may begin planning for the Youth Community Conservation and Improvement Projects (YCCIP) and the Youth Employment and Training Programs (YETP). In addition, an initial allocation equal to five percent of the YETP amount is being authorized so that early preparation for the program may take place.

FOR FURTHER INFORMATION CONTACT:

Esther Friedman, Director, Youth Programs Task Force, Room 3218, 601 D Street NW., Washington, D.C. 20213; telephone 202-376-6820.

SUPPLEMENTARY INFORMATION:

YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROJECTS (YCCIP)

As required by section 333(a) of the Comprehensive Employment and Training Act (CETA), 75 percent of the funds under YCCIP will be distributed among the States based on the number of unemployed residing within each State compared to the number of unemployed nationwide, except that each State and, in the aggregate, Guam, the Virgin Islands, American Samoa, the Northern Marianas, and the Trust Territory of the Pacific Islands will receive a distribution equal to one-half of one percent. Distribution among title I prime sponsors under the Comprehensive Employment and Training Act will be made within each State based on the number of unemployed residing within each prime sponsor's area as compared to the number of unemployed statewide.

YOUTH EMPLOYMENT AND TRAINING PROGRAMS (YETP)

As required by section 343(a), the Department will distribute 75 percent of the funds available under YETP among prime sponsors by the formula contained in section 343(b)(1) of the act. Specifically, the formula calls for distribution to be made according to the following:

(1) Thirty-seven and one-half percent of the funds shall be allocated on the basis of the relative number of unemployed persons within each State as compared to such numbers in all States.

(2) Thirty-seven and one-half percent of the funds shall be allocated on the basis of the relative number of unemployed persons residing in areas of substantial unemployment within each State as compared to the total number of unemployed persons in all such areas in all States, and,

(3) Twenty-five percent of the funds shall be allocated on the basis of the relative number of persons in families with an annual income below the low-income level within each State as compared to such numbers in all States. Similarly distribution among prime sponsors under CETA was made within each State.

STATEWIDE YOUTH SERVICES

Five percent of the funds available for YEDPA youth programs will be made available to Governors for special statewide youth services.

PLANNING GRANTS (ALLOCATIONS)

Initial planning allocations are being provided to prime sponsors consisting of five percent (5%) of the program estimate for the Youth Employment and Training Programs. These funds are to be used for administrative planning purposes as specified below:

1. The construction of a comprehensive inventory of all career development, employment, training and related services to youths age 14–21.

2. The establishment of a youth council which will represent groups and organizations responsive to youth as required by the legislation under section 346(b).

3. The development of appropriate linkages with local education agencies, community based organizations, union organizations, local Federal programs, criminal justice systems, apprenticeship programs, and other organizations serving youth.

4. The identification of model programs for career development, employment and training.

5. Other such administrative planning activities supportive to the intent of the youth legislation.

The program funding estimates and planning grant allocations are as follows: The planning estimates set forth in this notice do not include those for special programs directed to the needs of Native American youth and youth from farmworker families. Planning estimates for these two program categories will be published at a later date.

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	PLANNING ESTIMATE
REGION II	14,630,404
NEW JERSEY	3,832,565
ATLANTIC COUNTY	109,200
BERGEN COUNTY	351,901
BURLINGTON COUNTY	141,782
CAMDEN CITY	144,651
CUMBERLAND COUNTY	80,361
ELIZABETH CITY	79,917
ESSEX COUNTY	69,064
GLOUCESTER COUNTY	261,302
HUDSON CO CNST	86,842
JERSEY CITY	393,531
RAL OF BERGEN COUNTY	66,655
MIDDLESEX COUNTY	251,933
MONMOUTH COUNTY	222,633
MORRIS COUNTY	142,536
NEWARK CITY	322,734
OCEAN COUNTY	137,028
RAL OF PASSAIC COUNTY	182,900
PATERSON CITY	119,067
SOMERSET COUNTY	62,155
TRENTON CITY	123,211
RAL OF UNION COUNTY	60,871
RALANCE OF NEW JERSEY	202,870
NEW YORK	8,630,449
ALBANY CITY	92,995
ALBANY COUNTY	55,249
BROOME COUNTY	83,605
BUFFALO CITY CONSORTIUM	294,185
CHEMUNG COUNTY	134,375
DUTCHESS COUNTY	72,552
ERIE CONSORTIUM	259,703
ROCHESTER CITY	157,857
MONROE COUNTY	116,206
NASSAU CONSORTIUM	695,545
NIAGARA COUNTY	139,662
ONEIDA CONSORTIUM	132,892
RAL OF ONONDAGA COUNTY	118,665
ORANGE COUNTY	118,665
OSWEGO COUNTY	71,630
RENSSELAER COUNTY	63,309
ROCKLAND COUNTY	80,149
ST. LAWRENCE COUNTY	66,056
SARATOGA COUNTY	52,212

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	PLANNING ESTIMATE
REGION I	6,226,091
CONNECTICUT	1,544,141
BRIDGEPORT CONSORTIUM	196,299
HARTFORD CONSORTIUM	238,373
NEW HAVEN CONSORTIUM	233,312
STAMFORD CONSORTIUM	79,402
WATERBURY CITY	70,952
RALANCE OF CONNECTICUT	602,148
MAINE	466,572
PENOBSCOT/HANCOCK CSRT	69,197
CUMBERLAND COUNTY	83,994
RALANCE OF MAINE	253,256
KENNEBEC CO	40,225
MASSACHUSETTS	2,921,628
BOSTON CITY	375,179
EMHRIA CONSORTIUM	163,901
NEW REDFORD CONSORTIUM	110,601
HAMPDEN COUNTY CONSORTIUM	229,876
WORCESTER CONSORTIUM	149,692
LOWELL CONSORTIUM	119,275
ROCKTON CONSORTIUM	112,922
FALL RIVER	53,774
RALANCE OF MASSACHUSETTS	1,609,204
NEW HAMPSHIRE	431,256
ROCKINGHAM/STRAFFORD CSRT	116,269
HILLSBOROUGH COUNTY	135,985
RALANCE OF NEW HAMPSHIRE	179,020
RHODE ISLAND	431,250
PROVIDENCE CITY	96,304
RALANCE OF RHODE ISLAND	334,946
VERMONT	431,256
VERMONT STATEWIDE CSRT	431,256

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	PLANNING ESTIMATE
SCHENECTADY COUNTY	63,732
STEUBEN COUNTY	43,036
SUFFOLK CONSORTIUM	568,929
SYRACUSE CITY	100,202
ULSTER COUNTY	69,104
WESTCHESTER CONSORTIUM	329,832
YONKERS CITY	114,266
BALANCE OF NEW YORK	885,809
NEW YORK CITY	3,865,880
PUERTO RICO	1,986,475
BAYAMON MUNICIPIO	79,862
CAGUAS MUNICIPIO	61,550
CAROLINA MUNICIPIO	41,358
MAYAGUEZ MUNICIPIO	49,834
PONCE MUNICIPIO	104,457
SAN JUAN CONSORTIUM	305,560
BALANCE OF PUERTO RICO	1,323,854

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	PLANNING ESTIMATE
REGION III	8,872,010
DELAWARE	431,250
DELAWARE MANPOWER CSRT	335,550
WILMINGTON CITY	95,700
DIST OF COLUMBIA	431,250
DISTRICT OF COLUMBIA	431,250
MARYLAND	1,421,934
BALANCE OF MARYLAND	165,911
BALTIMORE CONSORTIUM	844,273
MONTGOMERY COUNTY	115,277
PRINCE GEORGES COUNTY	166,121
WESTERN MARYLAND CSRT	128,352
PENNSYLVANIA	4,510,230
LEHIGH VALLEY CONSORTIUM	175,698
LANCASTER CONSORTIUM	134,695
BUCKS COUNTY	160,834
CHESTER COUNTY	80,139
DELAWARE COUNTY	213,634
MONTGOMERY COUNTY	210,902
PHILADELPHIA CITY/COUNTY	855,382
BERKS COUNTY	93,948
BAL OF LACKAWANNA COUNTY	59,866
SCRANTON CITY	46,735
LUZERNE COUNTY	160,345
SCHUYLKILL CONSORTIUM	86,671
ERIE CITY	62,198
BAL OF ERIE COUNTY	62,854
BAL OF ALLEGHENY COUNTY	332,521
PITTSBURGH CITY	246,172
BEAVER COUNTY	70,184
WASHINGTON COUNTY	77,673
WESTMORELAND COUNTY	162,167
TRI-COUNTY CONSORTIUM	100,757
FAYETTE COUNTY	52,945
LAWRENCE COUNTY	91,214
MERCER COUNTY CONSORTIUM	144,182
SOUTHERN ALLEGANY CSRT	174,276
SUSQUEHANNA CONSORTIUM	122,564
YORK COUNTY	88,971
LYCOMING CONSORTIUM	73,152
FRANKLIN COUNTY	33,460
BALANCE OF PENNSYLVANIA	311,726
CENTRE COUNTY	26,406

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	PLANNING ESTIMATE
NORTHUMBERLAND COUNTY	47,979
VIRGINIA	1,510,794
PENINSULA CONSORTIUM	136,299
STAMA CONSORTIUM	242,084
RAMPS CONSORTIUM	97,780
HENRICO COUNTY CONSORTIUM	55,511
ROANOKE CONSORTIUM	86,538
ARLINGTON COUNTY	48,779
FAIRFAX COUNTY	100,024
PRINCE WILLIAM COUNTY	20,585
ALEXANDRIA CITY	24,384
BALANCE OF VIRGINIA	716,810
WEST VIRGINIA	566,552
WEST VIRGINIA STATEWIDE	566,552

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	PLANNING ESTIMATE
REGION IV	12,130,872
ALABAMA	1,110,886
BALANCE OF ALABAMA	604,966
BIRMINGHAM CONSORTIUM	222,944
HUNTSVILLE CONSORTIUM	65,087
MOBILE CONSORTIUM	125,530
MONTGOMERY CONSORTIUM	60,809
TUSCALOOSA COUNTY	31,960
FLORIDA	3,888,181
BALANCE OF FLORIDA	629,291
ALACHUA COUNTY	39,114
BREVARD COUNTY	115,493
BROWARD CONSORTIUM	928,857
MIAMI/DADE CONSORTIUM	719,621
ESCAMBIA COUNTY	57,094
HEARTLAND MANPOWERCSRT	148,370
LEE COUNTY	61,921
LEON/GADSEN CONSORTIUM	44,780
NF FLORIDA MANPOWER CSRT	182,352
OSKALOOSA COUNTY	33,826
ORANGE COUNTY/ORLANDO CSR	191,028
MANATEE COUNTY	47,168
PALM BEACH COUNTY	221,733
PASCO COUNTY	57,877
SEMINOLE COUNTY	68,842
ST. PETERSBURG CONSORTIUM	210,335
SARASOTA COUNTY	54,000
TAMPA CONSORTIUM	295,062
VOLUSIA COUNTY	81,717
GEORGIA	1,988,486
BALANCE OF GEORGIA	928,734
CSRA CONSORTIUM	118,032
ATLANTA CITY	325,001
CLAYTON COUNTY	40,587
COBB COUNTY	99,813
COLUMBUS AREA CONSORTIUM	61,432
BAL OF DEKALB COUNTY	134,217
FULTON COUNTY	67,375
MID GEORGIA CONSORTIUM	121,820
SAVANNAH/CHATHAM CSRT	69,075
GWINNETT COUNTY	22,840
KENTUCKY	890,818
BLUE GRASS MANPOWER CSRT	68,031

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	PLANNING ESTIMATE
LOUISVILLE/JEFFERSON CSRT	203,270
KENTON COUNTY	48,768
BALANCE OF KENTUCKY	447,365
EASTRN KENTUCKY RURAL CEP	132,384
MISSISSIPPI	686,749
BALANCE OF MISSISSIPPI	572,684
JACKSON CONSORTIUM	79,817
HARRISON COUNTY	36,248
NORTH CAROLINA	1,766,307
BALANCE OF NORTH CAROLINA	1,089,956
ALAMANCE COUNTY	47,779
BUNCOMBE COUNTY	46,646
CUMBERLAND COUNTY	80,967
CHARLOTTE CITY	92,337
DURHAM CONSORTIUM	58,133
GASTON COUNTY	57,277
GREENSBORO CONSORTIUM	99,892
ONSLOW COUNTY	17,563
RALEIGH CONSORTIUM	75,196
BAL OF WAKE COUNTY	39,127
WINSTON SALEM CONSORTIUM	72,363
DAVIDSON COUNTY	34,071
SOUTH CAROLINA	966,470
SOUTH CAROLINA STATEWIDE	966,470
TENNESSEE	1,221,975
BALANCE OF TENNESSEE	705,923
CHATTANOOGA CITY	35,382
MEMPHIS CONSORTIUM	215,367
BAL OF HAMILTON COUNTY	30,872
KNOXVILLE CONSORTIUM	66,998
NASHVILLE/DAVIDSONCNTY	136,717
SULLIVAN COUNTY	31,716

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	PLANNING ESTIMATE
REGION V	16,163,196
ILLINOIS	3,688,150
CHICAGO CITY	1,266,409
BAL OF COOK COUNTY	643,625
DUPAGE COUNTY	120,542
KANE CO CSRT	106,967
LAKE COUNTY	120,942
MACON COUNTY	49,812
MCHENRY COUNTY	37,937
ROCK ISLAND COUNTY	88,801
TAZEWELL COUNTY	28,850
LA SALLE COUNTY	30,938
ROCKFORD CONSORTIUM	112,855
CHAMPAIGN CONSORTIUM	47,268
WILL/GRUNDY CONSORTIUM	97,103
SANGAMON COUNTY CSRT	54,544
MADISON COUNTY CONSORTIUM	105,623
ST. CLAIR CONSORTIUM	80,561
PEORIA CONSORTIUM	53,200
EAST ST. LOUIS CITY	39,714
SHAWNEE CONSORTIUM	28,383
BALANCE OF ILLINOIS	588,214
MCLEAN COUNTY	25,262
INDIANA	1,693,956
GARY CITY	78,551
HAMMOND CITY	33,860
BAL OF LAKE COUNTY	65,265
ELKHART COUNTY	33,982
SOUTH BEND CITY	37,815
BAL OF ST. JOSEPH COUNTY	31,149
TIPPECANOE COUNTY	27,739
MADISON COUNTY	36,648
VIGO COUNT	27,939
INDIANAPOLIS CITY	320,368
LA PORTE COUNTY	32,527
FT. WAYNE CONSORTIUM	129,775
DELAWARE CONSORTIUM	40,947
SOUTHWESTERN CONSORTIUM	85,338
BALANCE OF INDIANA	670,453
MICHIGAN	4,154,714
BALANCE OF MICHIGAN	769,066
FLINT/GENESSEE CONSORTIUM	246,661
LANSING CONSORTIUM	174,154
JACKSON CONSORTIUM	138,883

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	PLANNING ESTIMATE
KENT CONSORTIUM	269,879
MUSKEGON CONSORTIUM	82,683
DEARBORN CITY	36,137
DETROIT CITY	677,640
LIVONIA CITY	28,072
WARREN CITY	67,375
BAY COUNTY	84,122
BERRIEN COUNTY	95,126
CALHOUN COUNTY	71,397
KALAMAZOO COUNTY	80,350
BAL OF MACOMB COUNTY	188,562
MONROE COUNTY	39,859
OAKLAND COUNTY	429,314
OTTAWA COUNTY	49,868
SAGINAW COUNTY	98,881
ST. CLAIR COUNTY	71,763
BAL OF WAYNE COUNTY	384,000
ANN ARBOR CITY	32,538
BAL OF WASHTENAW COUNTY	80,884
MINNESOTA	1,221,973
DAKOTA COUNTY	42,425
BAL OF RAMSEY COUNTY	91,878
ST. PAUL CITY	131,062
QUAD COUNTIES CSRT	111,848
REGION III CONSORTIUM	62,221
DULUTH CITY	29,027
BALANCE OF MINNESOTA	318,196
MINNESOTA RURAL CEP	109,923
BAL OF HENNEPIN COUNTY	160,395
MINNEAPOLIS CITY	210,102
OHIO	4,099,168
CINCINNATI CITY	231,231
BUTLER COUNTY	100,964
CLARK COUNTY	59,783
BAL OF HAMILTON COUNTY	138,261
LORAIN COUNTY	92,898
AKRON CONSORTIUM	233,019
CANTON CONSORTIUM	149,928
CLEVELAND CONSORTIUM	890,158
COLUMBUS CONSORTIUM	316,169
MIAMI VALLEY CONSORTIUM	208,280
CENTRAL OHIO RURALCSRT	72,452

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	PLANNING ESTIMATE
TOLEDO CONSORTIUM	238,674
NORTH EAST OHIO MANPOWER	305,116
BALANCE OF OHIO	934,832
ALLEN COUNTY	48,157
GREENE COUNTY	33,116
CLERMONT COUNTY CSRT	69,297
LAKE/ASHTABULA CSRT	102,513
PORTAGE COUNTY	69,153
RICHLAND/MORROW CSRT	65,753
WISCONSIN	1,355,235
OUTAGAMIE COUNTY	29,516
ROCK COUNTY	38,803
MILWAUKEE COUNTY	383,955
MADISON/DANE CONSORTIUM	71,108
WOW CONSORTIUM	93,725
WINNEF/FOND CONSORTIUM	65,987
TRICO CETAC	127,730
BALANCE OF WISCONSIN	459,840
WISCONSIN NORTHWEST CEP	59,221
MARATHON COUNTY	25,650

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	PLANNING ESTIMATE
REGION VI	6,543,118
ARKANSAS	688,740
CENTRAL ARKANSAS CSRT	118,132
TEXARKANA	18,163
BALANCE OF ARKANSAS	552,454
LOUISIANA	1,121,983
RAPIDES PARISH	39,870
BATON ROUGE CITY	85,283
LAFAYETTE PARISH	24,917
CALCASIEU/JEFF CONSORTIUM	60,554
OUACHITA PARISH	40,981
NEW ORLEANS CITY	235,074
JEFFERSON PARISH	86,760
SHREVEPORT CITY	62,254
BALANCE OF LOUISIANA	486,290
NEW MEXICO	477,681
ALBUQUERQUE CONSORTIUM	176,609
BALANCE OF NEW MEXICO	301,072
OKLAHOMA	722,075
COMANCHE COUNTY	22,073
OKLAHOMA COUNTY	46,535
OKLAHOMA CITY CONSORTIUM	132,395
BAL OF CLEVELAND COUNTY	22,773
TULSA CONSORTIUM	138,572
BALANCE OF OKLAHOMA	359,727
TEXAS	3,532,630
TEXARKANA CONSORTIUM	34,782
TEX. PANHANDLE MANP. CSRT	52,412
CAP. AREA MANPOWERCSRT	123,941
S.E. TEXAS COMP. CSRT	132,429
PASADENA CITY	30,983
CAMERON COUNTY	89,360
COASTAL BEND MANP.CSRT	126,174
DALLAS CITY	233,286
BAL OF DALLAS COUNTY	110,300
SOUTH PLAINS CSRT	38,759
WEST CENTRAL TEXASCSRT	55,922
EL PASO CONSORTIUM	191,850
FT. WORTH CONSORTIUM	184,774
BAL OF TARRANT COUNTY	34,026
GALVESTON COUNTY	66,044
HOUSTON CITY	455,483

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	PLANNING ESTIMATE
BAL OF HARRIS COUNTY	130,796
CFN. TEXAS MANPOWER CSRT	48,157
HIDALGO COUNTY CONSORTIUM	109,567
ALAMO CONSORTIUM	362,660
REGION XI CONSORTIUM	61,910
NORTH TEXAS STATE CSRT	43,969
WERR COUNTY	49,168
GULF COAST CONSORTIUM	106,245
EAST TEXAS CSRT	132,762
BALANCE OF TEXAS	526,871

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	PLANNING ESTIMATE
REGION VII	3,008,515
IOWA	588,769
BALANCE OF IOWA	353,539
BLACKHAWK COUNTY	38,059
CFN. IOWA REGIONALCSRT	110,589
LINN COUNTY MANPOWER CSRT	32,471
SCOTT COUNTY	30,816
WOODBURY COUNTY	23,295
KANSAS	511,007
BALANCE OF KANSAS	255,992
KANSAS CITY CONSORTIUM	66,398
JOHNSON/LEAVENWORTH CSRT	62,656
WICHITA CITY	85,616
TOPEKA CONSORTIUM	40,347
MISSOURI	1,477,489
BALANCE OF MISSOURI	510,230
SPRINGFIELD CITY	40,814
BAL OF JACKSON COUNTY	30,727
KANSAS CITY CONSORTIUM	242,762
JEFFERSON/FRANKLINCSRT	58,533
ST. LOUIS COUNTY	242,006
ST. LOUIS CITY	288,830
INDEPENDENCE CITY	29,827
ST. CHARLES COUNTY	33,760
NEBRASKA	431,250
BALANCE OF NEBRASKA	193,667
LINCOLN CITY	45,012
OMAHA CONSORTIUM	192,571

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	PLANNING ESTIMATE
REGION VIII	2,944,991
COLORADO	788,741
ADAMS COUNTY	77,051
ARAPAHOE COUNTY	59,521
BOULDER COUNTY	53,478
COLORADO SPRINGS CRST	79,451
DENVER CITY/COUNTY	198,860
JEFFERSON COUNTY	84,161
LARIMER COUNTY	28,383
PUEBLO COUNTY	38,548
WELD COUNTY	24,662
BALANCE OF COLORADO	144,626
MONTANA	431,250
BUTTE RURAL CEP	70,898
BALANCE OF MONTANA	360,352
NORTH DAKOTA	431,250
N. DAKOTA STATEWIDE CSRT	431,250
SOUTH DAKOTA	431,250
S. DAKOTA STATEWIDE CSRT	431,250
UTAH	431,250
UTAH STATEWIDE CONSORTIUM	431,250
WYOMING	431,250
WYOMING STATEWIDE CSRT	431,250

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	PLANNING ESTIMATE
REGION IX	11,772,990
ARIZONA	1,033,136
RALANCE OF ARIZONA	259,792
PHOENIX CITY	383,089
MARICOPA COUNTY	228,298
TUCSON/PIMA CONSORTIUM	161,956
CALIFORNIA	9,875,360
RAL OF ALAMEDA COUNTY	287,042
BERKELEY CITY	103,112
RAL OF CONTRA COSTA CNTY	225,288
MARIN COUNTY	88,571
OAKLAND CITY	266,701
RICHMOND CITY	53,189
SAN FRANCISCO CITY/COUNTY	449,678
SAN MATEO COUNTY	230,509
SONOMA COUNTY	117,754
SANTA RARRARA COUNTY	99,980
GLENDALE CITY	48,646
LONG BEACH CITY	160,756
RAL OF LOS ANGELESCNTY	1,428,120
LOS ANGELES CITY	1,490,940
ORANGE CNTY MANPOWER CSRT	544,334
PASADENA CITY	42,525
TORRANCE CITY	50,579
VENTURA COUNTY	165,522
RALANCE OF CALIFORNIA	485,568
HUMROLDT COUNTY	62,487
SANTA CLARA VALLEY	485,632
SOLANO COUNTY	61,721
SUNNYVALE CITY	43,158
RUTTE COUNTY	64,709
SACRAMENTO/YOLO CSRT	327,356
STOCKTON/SAN JOAQUIN CSRT	158,301
STANISLAUS COUNTY	173,298
MONTEREY COUNTY	97,758
SANTA CRUZ COUNTY	80,817
FRESNO CITY/COUNTY	211,068
IMPERIAL COUNTY	62,254
KERN COUNTY	139,972
MERCED COUNTY	62,487
INLAND MANPOWER ASSN	533,225
SAN LUIS ORISPO COUNTY	33,882
TULARE COUNTY	71,930
SAN DIEGO RETC	866,491
HAWAII	433,245
HAWAII RAL OF STATE	97,358

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	PLANNING ESTIMATE
HONOLULU CITY/COUNTY	335,847
NEVADA	431,250
RALANCE OF NEVADA	86,761
LAS VEGAS CONSORTIUM	255,859
WASHOE COUNTY	88,630

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	PLANNING ESTIMATE
REGION X	3,517,483
ALASKA	431,250
MUNICIPALITY OF ANCHORAGE	154,719
RALANCE OF ALASKA	276,531
IDAHO	431,250
IDAHO STATEWIDE CSRT	431,250
OREGON	1,133,114
PORTLAND CITY	217,222
RAL OF CLACKAMAS COUNTY	79,695
LANE COUNTY	134,662
MULTNOMAH/WASHINGTON CSRT	153,624
MID WILLAMETTE VALLEY CSR	117,776
JACKSON COUNTY CONSORTIUM	88,260
RALANCE OF OREGON	341,875
WASHINGTON	1,521,869
SPOKANE CONSORTIUM	103,623
CLARK COUNTY	49,612
KING/SNOHOMISH CONSORTIUM	699,858
KITSAP COUNTY	38,837
TACOMA CITY	78,262
RAL OF PIERCE COUNTY	88,493
YAKIMA COUNTY	67,686
RALANCE OF WASHINGTON	395,498

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	PLANNING ESTIMATE
STATE AND LOCAL TOTAL	85,818,750
VIRGIN ISLANDS	164,250
AMERICAN SAMOA	40,132
GUAM	122,333
TRUST TERR AND N. MARIANA	104,535
NATIONAL TOTAL	86,250,000

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	PLANNING GRANT	PLANNING ESTIMATE
REGION I	1,335,823	26,716,451
CONNECTICUT	335,709	6,715,787
BRIDGEPORT CONSORTIUM	42,721	854,424
HARTFORD CONSORTIUM	63,259	1,265,185
NEW HAVEN CONSORTIUM	46,113	922,256
STAMFORD CONSORTIUM	17,053	341,047
WATERBURY CITY	15,708	314,162
BALANCE OF CONNECTICUT	150,935	3,018,693
MAINE	119,682	2,393,627
PENOBSCOT/HANCOCK CSRT	18,184	363,673
CUMBERLAND COUNTY	20,070	401,397
BALANCE OF MAINE	71,202	1,424,036
KENNEBECK CO	10,226	204,521
MASSACHUSETTS	665,069	13,301,384
BOSTON CITY	86,173	1,723,452
FHWRDA CONSORTIUM	36,984	739,683
NEW BEDFORD CONSORTIUM	26,921	538,428
HAMPDEN COUNTY CONSORTIUM	53,919	1,078,370
WORCESTER CONSORTIUM	34,149	682,986
LOWELL CONSORTIUM	27,179	543,580
BROCKTON CONSORTIUM	23,666	473,327
FALL RIVER CITY	13,521	270,410
BALANCE OF MASSACHUSETTS	362,557	7,251,148
NEW HAMPSHIRE	69,574	1,391,472
ROCKINGHAM/STRAFFORD CSRT	18,573	371,453
HILLSBOROUGH COUNTY	20,842	416,838
BALANCE OF NEW HAMPSHIRE	30,159	603,181
RHODE ISLAND	93,275	1,865,501
PROVIDENCE CITY	21,358	427,168
BALANCE OF RHODE ISLAND	71,917	1,438,333
VERMONT	52,434	1,048,680
VERMONT STATEWIDE CSRT	52,434	1,048,680

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	PLANNING GRANT	PLANNING ESTIMATE
REGION II	3,336,876	66,737,457
NEW JERSEY	832,889	16,657,782
ATLANTIC COUNTY	26,592	530,831
BERGEN COUNTY	89,802	1,796,049
BURLINGTON COUNTY	30,201	604,019
BAL OF CAMDEN COUNTY	33,593	671,857
CAMDEN CITY	17,648	352,966
CUMBERLAND COUNTY	17,948	358,950
ELIZABETH CITY	15,352	307,048
BAL OF ESSEX COUNTY	56,512	1,130,232
GLOUCESTER COUNTY	18,609	372,184
HUDSON CO CRST	88,189	1,763,771
BAL OF MERCER COUNTY	13,180	263,601
MIDDLESEX COUNTY	67,417	1,348,335
MONMOUTH COUNTY	48,834	976,689
MORRIS COUNTY	29,988	599,757
NEWARK CITY	71,524	1,430,483
OCEAN COUNTY	32,708	654,160
BAL OF PASSAIC COUNTY	35,080	701,599
PATERSON CITY	26,177	523,535
SOMERSET COUNTY	13,567	271,347
TRENTON CITY	14,232	284,649
BAL OF UNION COUNTY	39,883	796,058
BALANCE OF NEW JERSEY	45,983	919,662
NEW YORK	1,976,353	39,527,012
ALBANY CITY	11,810	236,203
ALBANY COUNTY	12,317	246,348
BROOME COUNTY	19,582	390,839
BUFFALO CITY	67,818	1,356,365
CHAUTAUQUA CONSORTIUM	32,330	646,596
CHEMUNG COUNTY	10,107	202,137
DUTCHESS COUNTY	16,246	324,911
ERIE CONSORTIUM	57,783	1,155,651
ROCHESTER CITY	34,881	697,623
MONROE COUNTY	22,761	455,222
NASSAU CONSORTIUM	132,432	2,648,635
NIAGARA COUNTY	29,937	598,732
ONEIDA COUNTY	29,816	596,326
BAL OF ONONDAGA COUNTY	21,992	439,845
ORANGE COUNTY	25,573	511,453
OSWEGO COUNTY	15,249	305,378
RENSSELAER COUNTY	14,320	286,402
ROCKLAND COUNTY	18,310	366,200
ST. LAWRENCE COUNTY	15,517	310,335
SARATOGA COUNTY	11,510	230,202

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	PLANNING GRANT	PLANNING ESTIMATE
SCHENECTADY COUNTY	14,427	288,548
STEUBEN COUNTY	10,661	213,218
SUFFOLK CONSORTIUM	117,275	2,345,501
SYRACUSE CITY	22,605	452,091
ULSTER COUNTY	19,378	387,550
WESTCHESTER CONSORTIUM	68,512	1,370,233
YONKERS CITY	23,817	476,349
BALANCE OF NEW YORK	201,867	4,037,333
NEW YORK CITY	897,540	17,950,794
PUERTO RICO	527,634	10,552,663
BAYAMON MUNICIPIO	22,663	453,260
CAGUAS MUNICIPIO	20,498	409,951
CAROLINA MUNICIPIO	12,888	257,752
MAYAGUEZ MUNICIPIO	13,868	277,357
PONCE MUNICIPIO	27,751	555,022
SAN JUAN CONSORTIUM	83,637	1,672,747
BALANCE OF PUERTO RICO	346,329	6,926,574

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	PLANNING GRANT	PLANNING ESTIMATE
REGION III	2,049,266	40,985,276
DELAWARE	57,687	1,153,725
DELAWARE MANPOWER CSRT	44,987	899,734
WILMINGTON CITY	12,700	253,991
DIST OF COLUMBIA	75,983	1,519,654
DISTRICT OF COLUMBIA	75,983	1,519,654
MARYLAND	310,727	6,214,564
BALANCE OF MARYLAND	42,891	857,829
BALTIMORE CONSORTIUM	191,840	3,837,204
MONTGOMERY COUNTY	14,241	284,828
PRINCE GEORGES COUNTY	26,488	529,757
WESTERN MARYLAND CSRT	35,247	704,946
PENNSYLVANIA	1,073,938	21,478,728
LEHIGH VALLEY CONSORTIUM	41,653	833,069
LANCASTER CONSORTIUM	34,397	687,937
BUCKS COUNTY	33,638	672,765
CHESTER COUNTY	15,893	317,868
DELAWARE COUNTY	45,404	908,085
MONTGOMERY COUNTY	44,218	884,355
PHILADELPHIA CITY/COUNTY	194,390	3,887,798
BERKS COUNTY	23,462	469,244
BAL OF LACKAWANNA COUNTY	14,764	295,324
SCRANTON CITY	11,603	232,068
LUZERNE COUNTY	39,835	796,691
SCHUYLKILL CONSORTIUM	23,269	465,379
ERIE CITY	14,662	293,243
BAL OF ERIE COUNTY	14,313	286,259
BAL OF ALLEGHENY COUNTY	79,107	1,582,130
PITTSBURGH CITY	57,507	1,150,140
BEAVER COUNTY	16,848	336,952
WASHINGTON COUNTY	19,979	399,579
WESTMORELAND COUNTY	38,252	765,044
TRI-COUNTY CONSORTIUM	27,343	546,852
FAYETTE COUNTY	16,304	326,074
LAWRENCE COUNTY	10,778	215,566
MERCER COUNTY CONSORTIUM	36,123	722,451
SOUTHERN ALLEGANY CSRT	47,814	956,280
SUSQUEHANNA CONSORTIUM	22,656	453,125
YORK COUNTY	22,064	441,272
LYCOMING CONSORTIUM	18,148	362,952
FRANKLIN COUNTY	9,198	183,960
BALANCE OF PENNSYLVANIA	83,709	1,674,178
CENTRE COUNTY	5,093	101,858

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NORTHUMBERLAND COUNTY	12,512	250,230
VIRGINIA	369,760	7,395,190
PENINSULA CONSORTIUM	27,319	546,374
STAMA CONSORTIUM	60,984	1,219,675
RAMPS CONSORTIUM	21,113	422,257
HENRICO COUNTY CONSORTIUM	9,613	192,266
ROANOKE CONSORTIUM	22,417	448,333
ARLINGTON COUNTY	7,257	145,145
FAIRFAX COUNTY	12,496	249,915
PRINCE WILLIAM COUNTY	3,703	74,058
ALEXANDRIA CITY	3,997	79,942
BALANCE OF VIRGINIA	200,861	4,017,225
WEST VIRGINIA	161,171	3,223,418
WEST VIRGINIA STATEWIDE	161,171	3,223,418

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	PLANNING GRANT	PLANNING ESTIMATE
REGION IV	3,337,055	66,741,056
ALABAMA	310,685	6,213,706
BALANCE OF ALABAMA	161,713	3,234,250
BIRMINGHAM CONSORTIUM	57,357	1,147,146
HUNTSVILLE CONSORTIUM	15,634	312,685
MOBILE CONSORTIUM	35,028	700,566
MONTGOMERY CONSORTIUM	14,808	296,155
TUSCALOOSA COUNTY	6,145	122,904
FLORIDA	915,125	18,302,507
BALANCE OF FLORIDA	122,086	2,441,729
ALACHUA COUNTY	10,248	204,956
BREVARD COUNTY	27,242	544,833
BROWARD CONSORTIUM	105,057	2,101,130
MIAMI/DADE CONSORTIUM	180,089	3,601,785
ESCAMBIA COUNTY	15,345	306,907
HEARTLAND MANPOWERCSRT	31,594	631,887
LEE COUNTY	17,728	354,557
LEON/GADSDEN CONSORTIUM	10,060	201,203
NE FLORIDA MANPOWER CSRT	49,796	995,920
OKALOOSA COUNTY	9,467	189,339
ORANGE COUNTY/ORLANDO CSR	47,804	956,084
MANATEE COUNTY	14,655	293,096
PALM BEACH COUNTY	53,931	1,078,624
PASCO COUNTY	16,733	334,656
SEMINOLE COUNTY	15,738	314,765
ST. PETERSBURG CONSORTIUM	65,085	1,301,696
SARASOTA COUNTY	16,549	330,973
TAMPA CONSORTIUM	71,735	1,434,706
VOLUSIA COUNTY	24,183	483,661
GEORGIA	516,279	10,325,540
BALANCE OF GEORGIA	263,797	5,275,933
CSRA CONSORTIUM	33,401	668,013
ATLANTA CITY	75,891	1,517,822
CLAYTON COUNTY	9,132	182,637
COBB COUNTY	22,108	442,159
COLUMBUS AREA CONSORTIUM	17,462	349,243
BAL OF DEKALB COUNTY	25,417	508,335
FULTON COUNTY	15,611	312,213
MID.GEORGIA CONSORTIUM	30,829	616,574
SAVANNAH/CHATHAM CSRT	18,783	375,657
GWINNETT COUNTY	3,848	76,954
KENTUCKY	286,086	5,721,723
BLUE GRASS MANPOWER CSRT	17,375	347,502

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LOUISVILLE/JEFFERSON CSRT	54,071	1,081,417
KENTON COUNTY	11,964	239,273
BALANCE OF KENTUCKY	154,396	3,087,923
EASTRN KENTUCKY RURAL CEP	48,280	965,608
MISSISSIPPI	218,807	4,376,145
BALANCE OF MISSISSIPPI	186,671	3,733,424
JACKSON CONSORTIUM	21,123	422,457
HARRISON COUNTY	11,013	220,264
NORTH CAROLINA	475,451	9,509,017
BALANCE OF NORTH CAROLINA	316,562	6,331,233
ALAMANCE COUNTY	11,489	229,771
BUNCOMBE COUNTY	14,365	287,306
CUMBERLAND COUNTY	15,550	311,007
CHARLOTTE CITY	23,080	461,192
DURHAM CONSORTIUM	12,154	243,086
GASTON COUNTY	9,057	181,137
GREENSBORO CONSORTIUM	19,360	386,794
ONSLOW COUNTY	6,519	130,389
RALEIGH CONSORTIUM	19,249	384,987
BAL OF WAKE COUNTY	5,546	110,925
WINSTON SALEM CONSORTIUM	16,826	336,513
DAVIDSON COUNTY	5,734	114,677
SOUTH CAROLINA	266,405	5,328,092
SOUTH CAROLINA STATEWIDE	266,405	5,328,092
TENNESSEE	348,217	6,964,326
BALANCE OF TENNESSEE	228,718	4,574,355
CHATTANOOGA CITY	9,964	199,282
MEMPHIS CONSORTIUM	50,149	1,003,780
BAL OF HAMILTON COUNTY	5,728	114,553
KNOXVILLE CONSORTIUM	18,045	360,900
NASHVILLE/DAVIDSONCNTY	26,320	526,393
SULLIVAN COUNTY	9,253	185,063

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	PLANNING GRANT	PLANNING ESTIMATE
REGION V	3,852,449	77,048,935
ILLINOIS	849,979	16,999,592
CHICAGO CITY	309,005	6,180,108
BAL OF COOK COUNTY	109,012	2,180,231
DUPAGE COUNTY	15,184	303,680
KANE CO CSRT	21,668	433,360
LAKE COUNTY	25,900	518,180
MACON COUNTY	12,023	240,469
MCHENRY COUNTY	8,460	169,205
ROCK ISLAND COUNTY	11,423	228,451
TAZEWELL COUNTY	4,901	98,022
LA SALLE COUNTY	8,398	167,959
ROCKFORD CONSORTIUM	27,250	544,998
CHAMPAIGN CONSORTIUM	11,777	235,536
WILL COUNTY CONSORTIUM	21,768	435,357
SANGAMON COUNTY CSRT	13,776	275,512
MADISON COUNTY CONSORTIUM	25,203	504,069
ST. CLAIR CONSORTIUM	20,619	412,376
PEORIA CONSORTIUM	11,436	228,718
EAST ST. LOUIS CITY	9,862	197,247
SHAWNEE CONSORTIUM	7,800	156,000
BALANCE OF ILLINOIS	170,195	3,403,909
MCLEAN COUNTY	4,310	86,200
INDIANA	417,446	8,348,899
GARY CITY	17,957	359,144
HAMMOND CITY	8,064	161,284
BAL OF LAKE COUNTY	12,549	250,989
ELKHART COUNTY	5,656	113,116
SOUTH BEND CITY	9,618	192,361
BAL OF ST. JOSEPH COUNTY	5,936	118,720
TIPPECANOE COUNTY	6,310	126,191
MADISON COUNTY	9,869	197,776
VIGO COUNTY	6,205	124,092
INDYANAPOLIS CITY	74,157	1,483,136
LA PORTE COUNTY	8,484	169,684
FT. WAYNE CONSORTIUM	33,371	667,420
DELAWARE CONSORTIUM	11,681	233,612
SOUTHWESTERN CONSORTIUM	24,515	490,297
BALANCE OF INDIANA	183,054	3,661,077
MICHIGAN	955,057	19,101,121
BALANCE OF MICHIGAN	188,610	3,772,196
FLINT/GENESSEE CONSORTIUM	56,150	1,122,996
LANSING CONSORTIUM	39,580	791,598
JACKSON CONSORTIUM	31,803	636,058

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	PLANNING GRANT	PLANNING ESTIMATE
KENT CONSORTIUM	62,695	1,252,103
MUSKEGON CONSORTIUM	20,017	400,334
DEARBORN CITY	8,380	167,604
DETROIT CITY	163,682	3,273,641
LIVONIA CITY	4,233	84,665
WARREN CITY	14,184	283,675
RAY COUNTY	12,476	249,528
BERRIEN COUNTY	21,160	423,192
CALHOUN COUNTY	16,492	329,846
KALAMAZOO COUNTY	18,337	366,742
BAL OF MACOMB COUNTY	40,628	812,564
MONROE COUNTY	9,458	189,156
OAKLAND COUNTY	90,960	1,809,200
OTTAWA COUNTY	11,610	232,206
SAGINAW COUNTY	21,394	427,885
ST. CLAIR COUNTY	16,288	325,763
BAL OF WAYNE COUNTY	83,928	1,678,550
ANN ARBOR CITY	6,416	128,319
BAL OF WASHTENAW COUNTY	17,166	343,310
MINNESOTA	300,667	6,013,347
DAKOTA COUNTY	9,159	183,182
BAL OF RAMSEY COUNTY	10,277	205,535
ST. PAUL CITY	29,335	586,708
QUAD COUNTIES CSRT	23,900	478,006
REGION III CONSORTIUM	17,907	358,147
DULUTH CITY	8,279	165,574
BALANCE OF MINNESOTA	89,946	1,798,911
MINNESOTA RURAL CEP	33,680	673,595
BAL OF HENNEPIN COUNTY	31,070	621,409
MINNEAPOLIS CITY	47,114	942,280
OHIO	1,000,405	20,008,057
CINCINNATI CITY	55,287	1,105,741
BUTLER COUNTY	23,738	474,767
CLARK COUNTY	14,727	294,545
BAL OF HAMILTON COUNTY	32,117	642,338
LORAIN COUNTY	20,737	414,730
AKRON CONSORTIUM	55,385	1,107,690
CANTON CONSORTIUM	45,017	900,340
CLEVELAND CONSORTIUM	142,758	2,855,152
COLUMBUS CONSORTIUM	75,008	1,500,153
MIAMI VALLEY CONSORTIUM	51,030	1,020,599
CENTRAL OHIO RURALCSRT	18,781	375,624

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	PLANNING GRANT	PLANNING ESTIMATE
TOLEDO CONSORTIUM	55,299	1,105,981
NORTH EAST OHIO MANPOWER	70,087	1,401,737
BALANCE OF OHIO	248,977	4,979,540
ALLEN COUNTY	11,592	231,838
GREENE COUNTY	8,194	163,877
CLERMONT COUNTY CSRT	16,242	324,833
LAKE/ASHTABULA CSRT	24,123	482,452
PORTAGE COUNTY	15,094	301,883
RICHLAND/MORROW CSRT	16,212	324,237
WISCONSIN	328,495	6,569,919
OUTAGAMIE COUNTY	6,570	131,395
ROCK COUNTY	7,732	154,638
MILWAUKEE COUNTY	87,754	1,755,087
MADISON/DANE CONSORTIUM	10,375	207,507
WOW CONSORTIUM	11,578	231,561
WINNE/FOND CONSORTIUM	16,670	333,404
TRICO CETAC	28,628	572,562
BALANCE OF WISCONSIN	139,751	2,795,014
WISCONSIN NORTHWEST CEP	17,377	347,549
MARATHON COUNTY	7,060	141,202

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YOUTH EMPLOYMENT DEMONSTRATION PROJECTS
CETA TITLE III, PART C - SUBPART3

	PLANNING GRANT	PLANNING ESTIMATE
REGION VI	1,668,957	33,779,177
ARKANSAS	206,890	4,137,794
CENTRAL ARKANSAS CSRT	28,283	565,659
TEXARKANA	5,236	104,711
BALANCE OF ARKANSAS	173,371	3,467,424
LOUISIANA	312,835	6,256,710
RAPIDES PARISH	11,482	229,644
BATON ROUGE CITY	20,667	413,339
LAFAYETTE PARISH	5,423	108,466
CALCASIEU/JEFF CONSORTIUM	16,469	329,785
OUACHITA PARISH	11,292	225,831
NEW ORLEANS CITY	61,445	1,228,904
JEFFERSON PARISH	17,622	352,446
SHREVEPORT CITY	16,417	328,343
BALANCE OF LOUISIANA	151,998	3,039,952
NEW MEXICO	124,005	2,480,094
ALBUQUERQUE CONSORTIUM	40,974	819,476
BALANCE OF NEW MEXICO	83,031	1,660,618
OKLAHOMA	187,293	3,749,870
COMANCHE COUNTY	7,101	142,029
OKLAHOMA COUNTY	8,615	172,299
OKLAHOMA CITY CONSORTIUM	34,791	695,814
BAL OF CLEVELAND COUNTY	4,938	98,769
TULSA CONSORTIUM	26,424	528,470
BALANCE OF OKLAHOMA	105,374	2,107,489
TEXAS	857,984	17,159,709
TEXARKANA CONSORTIUM	8,804	176,075
TEX. PANHANDLE MANP. CSRT	12,817	256,347
CAP, AREA MANPOWERCSRT	31,368	627,366
S.E. TEXAS COMP. CSRT	33,518	670,365
PASADENA CITY	4,668	93,360
CAMERON COUNTY	22,961	459,219
COASTAL BEND MANP.CSRT	38,886	777,719
DALLAS CITY	51,800	1,035,997
BAL OF DALLAS COUNTY	16,510	330,200
SOUTH PLAINS CONSORTIUM	9,467	189,345
WEST CENTRAL TEXASCSRT	17,301	346,017
EL PASO CONSORTIUM	48,253	965,065
FT. WORTH CONSORTIUM	33,488	669,754
BAL OF TARRANT COUNTY	5,427	108,543
GALVESTON COUNTY	16,471	329,421
HOUSTON CITY	89,217	1,784,341

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
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	PLANNING GRANT	PLANNING ESTIMATE
BAL OF HARRIS COUNTY	18,612	372,239
CEN. TEXAS MANPOWER CSRT	15,803	316,051
HIDALGO COUNTY CONSORTIUM	30,148	602,959
ALAMO CONSORTIUM	101,294	2,025,849
REGION XI CONSORTIUM	19,666	313,327
NORTH TEXAS STATE CSRT	12,844	256,878
WEBB COUNTY	12,788	255,756
GULF COAST CONSORTIUM	24,738	494,759
EAST TEXAS CONSORTIUM	31,136	622,729
BALANCE OF TEXAS	153,999	3,079,986

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	PLANNING GRANT	PLANNING ESTIMATE
REGION VII	652,004	13,040,083
IOWA	119,739	2,394,767
BALANCE OF IOWA	75,936	1,518,720
BLACKHAWK COUNTY	9,044	180,875
CPN, IOWA REGIONALCSRT	19,113	382,258
LINN COUNTY MANPOWER CSRT	6,101	122,014
SCOTT COUNTY	5,521	110,516
WOODBURY COUNTY	4,024	80,484
KANSAS	108,443	2,168,871
BALANCE OF KANSAS	61,328	1,226,566
KANSAS CITY CONSORTIUM	15,939	318,780
JOHNSON/LEAVENWORTH CSRT	8,076	161,519
WICHITA CITY	14,885	297,705
TOPEKA CONSORTIUM	8,215	164,306
MISSOURI	356,836	7,136,724
BALANCE OF MISSOURI	150,549	3,010,971
SPRINGFIELD CITY	8,754	175,074
BAL OF JACKSON COUNTY	4,130	82,606
KANSAS CITY CONSORTIUM	58,301	1,166,019
JEFFERSON/FRANKLINCSRT	14,122	282,447
ST, LOUIS COUNTY	37,900	757,994
ST. LOUIS CITY	69,772	1,395,445
INDEPENDENCE CITY	5,857	117,197
ST. CHARLES COUNTY	7,451	149,026
NEBRASKA	66,986	1,339,721
BALANCE OF NEBRASKA	34,433	688,654
LINCOLN CITY	4,574	91,581
OMAHA CONSORTIUM	27,979	559,586

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	PLANNING GRANT	PLANNING ESTIMATE
REGION VIII	406,983	8,139,644
COLORADO	183,917	3,678,341
ADAMS COUNTY	16,779	335,584
ARAPAHOE COUNTY	10,386	207,713
BOULDER COUNTY	11,666	233,329
COLORADO SPRINGS CRST	19,769	395,379
DENVER CITY/COUNTY	46,672	933,430
JEFFERSON COUNTY	14,324	286,476
LARIMER COUNTY	6,442	128,843
PUEBLO COUNTY	10,453	209,062
WELD COUNTY	5,389	107,786
BALANCE OF COLORADO	42,037	840,733
MONTANA	60,871	1,217,413
BUTTE RURAL CEP	8,979	179,577
BALANCE OF MONTANA	51,892	1,037,836
NORTH DAKOTA	27,562	551,238
N. DAKOTA STATEWIDE CSRT	27,562	551,238
SOUTH DAKOTA	31,469	629,385
S, DAKOTA STATEWIDE CSRT	31,469	629,385
UTAH	86,336	1,726,719
UTAH STATEWIDE CONSORTIUM	86,336	1,726,719
WYOMING	16,828	336,863
WYOMING STATEWIDE CSRT	16,828	336,863

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	PLANNING GRANT	PLANNING ESTIMATE
REGION IX	2,705,704	54,114,038
ARIZONA	254,711	5,094,222
BALANCE OF ARIZONA	66,205	1,324,107
PHOENIX CITY	89,931	1,798,628
MARICOPA COUNTY	56,250	1,124,990
TUCSON/PIMA CONSORTIUM	42,325	846,497
CALIFORNIA	2,289,317	45,786,298
BAL OF ALAMEDA COUNTY	61,021	1,220,426
BERKELEY CITY	21,334	426,676
BAL OF CONTRA COSTA CNTY	47,867	957,342
MARIN COUNTY	18,741	374,829
OAKLAND CITY	57,925	1,158,493
RICHMOND CITY	11,508	230,156
SAN FRANCISCO CITY/COUNTY	105,235	2,104,693
SAN MATEO COUNTY	49,024	980,480
SONOMA COUNTY	28,556	571,110
SANTA BARBARA COUNTY	25,977	519,532
GLENDALE CITY	11,709	234,189
LONG BEACH CITY	38,628	772,501
BAL OF LOS ANGELESCNTY	331,339	6,626,774
LOS ANGELES CITY	332,689	6,653,778
ORANGE CNTY MANPOWER CSRT	123,589	2,471,772
PASADENA CITY	10,488	209,750
TORRANCE CITY	10,841	216,813
VENTURA COUNTY	38,663	773,253
BALANCE OF CALIFORNIA	122,923	2,458,462
HUMBOLDT COUNTY	15,985	319,704
SANTA CLARA VALLEY	99,542	1,990,833
SOLANO COUNTY	15,552	311,038
SUNNYVALE CITY	9,429	188,584
BUTTE COUNTY	16,519	330,269
SACRAMENTO/YOLO CSRT	77,135	1,542,691
STOCKTON/SAN JOAQUIN CSRT	38,923	778,466
STANISLAUS COUNTY	30,747	614,948
MONTEREY COUNTY	25,489	509,787
SANTA CRUZ COUNTY	20,357	407,149
FRESNO CITY/COUNTY	54,475	1,089,503
IMPERIAL COUNTY	14,344	286,875
KERN COUNTY	36,387	727,732
MERCED COUNTY	15,939	318,784
INLAND MANPOWER ASSN	131,950	2,638,992
SAN LUIS OBISPO COUNTY	9,683	193,658
TULARE COUNTY	20,921	418,412
SAN DIEGO RETC	189,391	3,787,820
HAWAII	92,805	1,856,105
HAWAII BAL OF STATE	21,716	434,327

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	PLANNING GRANT	PLANNING ESTIMATE
HONOLULU CITY/COUNTY	71,089	1,421,778
NEVADA	68,971	1,377,413
BALANCE OF NEVADA	14,160	283,194
LAS VEGAS CONSORTIUM	39,607	792,130
WASHOE COUNTY	15,104	302,089

	PLANNING GRANT	PLANNING ESTIMATE
REGION X	715,343	14,306,833
ALASKA	31,015	620,284
MUNICIPALITY OF ANCHORAGE	10,971	217,410
BALANCE OF ALASKA	20,144	402,874
IDAHO	65,010	1,300,209
IDAHO STATEWIDE CSRT	65,010	1,300,209
OREGON	267,695	5,353,911
PORTLAND CITY	48,924	978,486
BAL OF CLACKAMAS COUNTY	17,879	357,587
LANE COUNTY	30,999	619,989
MULTNOMAH/WASHINGTON CSRT	34,126	682,516
MID WILLAMETTE VALLEY CSR	28,927	578,531
JACKSON COUNTY CONSORTIUM	21,325	426,503
BALANCE OF OREGON	85,515	1,710,299
WASHINGTON	351,623	7,032,429
SPOKANE CONSORTIUM	26,323	526,462
CLARK COUNTY	11,787	235,730
KING/SNOHOMISH CONSORTIUM	147,182	2,943,643
KITSAP COUNTY	8,994	179,871
TACOMA CITY	18,039	360,772
BAL OF PIERCE COUNTY	21,183	423,656
YAKIMA COUNTY	17,843	350,854
BALANCE OF WASHINGTON	100,572	2,011,441
STATE AND LOCAL TOTAL	20,080,060	401,600,950
VIRGIN ISLANDS	19,783	395,660
AMERICAN SAMOA	3,886	77,720
GUAM	19,179	383,580
TRUST TERR AND N. MARIANA	5,117	102,340
NATIONAL TOTAL	20,125,025	402,500,250

	PLANNING ESTIMATE
REGION I	2,544,424
CONNECTICUT	639,599
MAINE	227,964
MASSACHUSETTS	1,266,794
NEW HAMPSHIRE	132,522
RHODE ISLAND	177,667
VERMONT	99,874
REGION II	9,355,947
NEW JERSEY	1,589,455
NEW YORK	3,769,477
PUERTO RICO	1,005,015
REGION III	3,903,359
DELAWARE	109,678
DIST OF COLUMBIA	144,729
MARYLAND	591,864
PENNSYLVANIA	2,045,593
VIRGINIA	704,303
WEST VIRGINIA	306,992
REGION IV	6,358,287
ALABAMA	991,780
FLORIDA	1,743,096
GEORGIA	983,384
KENTUCKY	544,925
MISSISSIPPI	416,775
NORTH CAROLINA	905,621
SOUTH CAROLINA	507,937
TENNESSEE	663,269
REGION V	7,337,230
ILLINOIS	1,619,009
INDIANA	795,133
MICHIGAN	1,619,154
MINNESOTA	572,700
OHIO	1,905,528
WISCONSIN	625,706
REGION VI	3,217,063
ARKANSAS	394,075
LOUISIANA	595,878
NEW MEXICO	236,199
OKLAHOMA	356,654
TEXAS	1,634,257

	PLANNING ESTIMATE
REGION VII	1,291,914
IOWA	228,073
KANSAS	206,560
MISSOURI	679,689
NEBRASKA	127,592
REGION VIII	775,205
COLORADO	350,518
MONTANA	115,945
NORTH DAKOTA	52,499
SOUTH DAKOTA	59,941
UTAH	164,449
WYOMING	32,853
REGION IX	5,153,717
ARIZONA	485,164
CALIFORNIA	4,360,599
HAWAII	176,772
NEVADA	131,182
REGION X	1,362,556
ALASKA	59,075
IDAHO	123,829
OREGON	509,896
WASHINGTON	669,754
SUBTOTAL	38,247,700
VIRGIN ISLANDS	37,680
AMERICAN SAMOA	7,400
GUAM	30,620
PACIFIC TRUSTS	9,750
NATIONAL TOTAL	38,333,350

Signed at Washington, D.C., this 15th day of August, 1977.

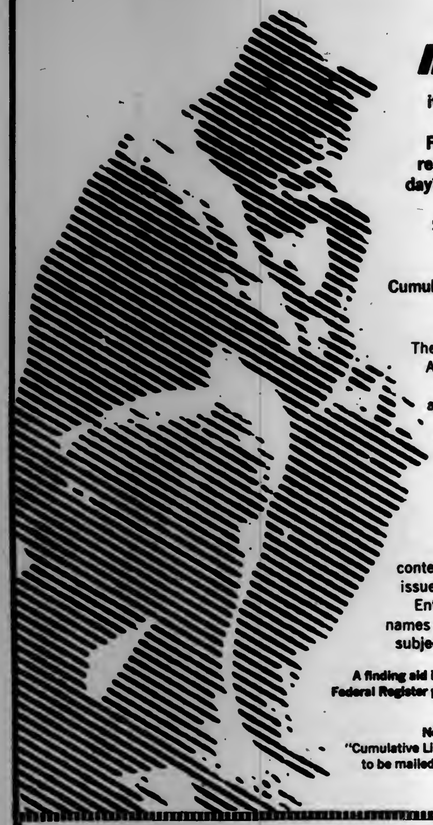
ESTHER I. FRIEDMAN,
Director, Youth Task Force.

[FR Doc.77-26726 Filed 9-2-77;8:45 am]

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WEDNESDAY, SEPTEMBER 7, 1977

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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

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DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS: FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Miscellaneous Amendments

Correction

In FR Doc. 31419, appearing at page 47021 in the issue for Wednesday, October 27, 1976, on page 47022, in § 907.113 (a), in the second column, the twenty-seventh line, "allocation of general maturity allotments", should be deleted.

PART 932—OLIVES GROWN IN CALIFORNIA

Grade and Size Requirements for Certain Olives

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule approves grade and size requirements for processed olives which are used in the production of limited use style olives (i.e. halved, quartered, segmented, sliced, chopped, or minced canned ripe olives). This action permits use of those olives of sizes too small to be desirable for use as whole or pitted ripe olives to be utilized in producing other styles of olives, thereby benefiting olive users and producers.

EFFECTIVE DATE: September 1, 1977, through August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: This regulation is issued under the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932), hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act". The regulation was recommended by the Olive Administrative Committee, which is established under the order as the agency to administer its terms.

Section 932.52 (a)(2) and (a)(3) of the order specify the minimum sizes of processed olives (by variety) that may be used in the production of whole and pitted styles of canned ripe olives. The minimum sizes are expressed in terms of minimum weights for individual olives. Section 932.52(a)(3) also provides that use of processed olives smaller than the sizes prescribed for whole and pitted style may be established annually for limited use and the subparagraph further provides that each such minimum size may also include a size tolerance as recommended by the committee and approved by the Secretary. Any such tolerances may also be recommended and approved annually. Therefore, this action approves establishment, for olives from the 1977-78 crop, of minimum sizes contained in § 932.52(a)(3) and includes a size tolerance of 25 percent for undersize Variety Group 1 olives and 20 percent for undersize Variety 2 olives. These requirements are the same as have been established each fiscal year since 1971.

This regulation reflects the committee's appraisal of the 1977-78 olive crop and marketing conditions and is its recommendation for the minimum grade and sizes of olives that will provide good quality fruit, of the styles specified, in the interest of consumers and producers.

It is found that amendment of Subpart—Rules and Regulations (7 CFR 932.108-932-161) by amending § 932.153 which contains grade and size requirements and tolerances for processed olives for limited use, is in accordance with the order and will tend to effectuate the declared policy of the act. Therefore, such amendment, as hereinafter set forth, is approved.

It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), and good cause exists for making the provisions hereof effective at the time hereinafter set forth, in that (1) the time intervening between the date when the information upon which this amendment is based became available and the time such amendment must become effective in order to effectuate the declared policy of the act is insufficient; (2) the handling of the 1977 crop of olives is expected to begin on or about the effective time hereof; (3) compliance with the amended rules and regulations will require handlers no special preparation which cannot be completed by the effective time hereof; and (4) this amendment relaxes restrictions on the handling of olives.

Therefore, § 932.153 of Subpart—Rules and Regulations (7 CFR 932.108-932.161) is amended to read as follows:

§ 932.153 Establishment of grade and size requirements for processed olives for limited use.

(a) *Grade.* On and after September 1, 1977, any handler may use processed olives of the respective variety groups in the production of limited use styles of canned ripe olives if such olives were processed after August 31, 1977, and meet the grade requirements specified in § 932.52(a)(1) as modified by § 932.149.

(b) *Sizes.* On and after September 1, 1977, any handler may use processed olives in the production of limited use styles of canned ripe olives if such olives were processed during the period September 1, 1977, through August 31, 1978, and meet the following requirements:

(1) The processed olives shall be identified and kept separate and apart from any olives processed before September 1, 1977, or after August 31, 1978;

(2) Variety Group 1 olives, except the Ascolano, Barouni, or St. Agostino varieties, shall be of a size which individually weigh 1/90 pound: *Provided*, That not to exceed 25 percent of the olives in any lot or sublot may be smaller than 1/90 pound;

(3) Variety Group 1 olives of the Ascolano, Barouni, or St. Agostina varieties shall be of a size which individually weight 1/140 pound: *Provided*, That not to exceed 25 percent of the olives in any lot or sublot may be smaller than 1/140 pound;

(4) Variety Group 2 olives, except the Obliza variety, shall be of a size which individually weight 1/180 pound: *Provided*, That not to exceed 20 percent of the olives in any lot or sublot may be smaller than 1/180 pound;

(5) Variety Group 2 olives of the Obliza variety shall be of a size which individually weigh 1/140 pound: *Provided*, That not to exceed 20 percent of the olives in any lot or sublot may be smaller than 1/140 pound.

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674))

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107.

Dated: August 31, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-25931 Filed 9-6-77;8:45 am]

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PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

Expenses of Prune Administrative Committee, and Rate of Assessment for the 1977–78 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $218,880 and a rate of assessment of $1.50 per ton of salable prunes handled for the maintenance and functioning of the Prune Administrative Committee during the 1977–78 crop year. This regulation enables the Committee to collect assessments from handlers on all prunes handled and use the resulting funds for its expenses.

EFFECTIVE DATE: For the 1977–78 crop year beginning August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: 202–447–3545.

SUPPLEMENTARY INFORMATION: The marketing agreement, and Order No. 993, both as amended, regulate the handling of dried prunes produced in California. They are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Committee, established under the order, is responsible for its local administration.

Notice was published in the August 5, 1977, FEDERAL REGISTER (42 FR 39672) inviting written comments by August 19, 1977. A comment was filed by the Prune Administrative Committee on its proposed budget, but the comment had no effect on the total expenses or the assessment rate.

Findings. After consideration of all relevant matters, including the proposals in the notice, it is found that the following expenses and rate of assessment should be approved.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of the amended marketing agreement and order require that the rate of assessment fixed for a particular crop year shall be applicable to all salable prunes handled by handlers as the first handlers thereof; and (2) the current crop year began on August 1, 1977, and the rate of assessment hereinafter fixed will automatically apply to all such prunes beginning with that date.

The regulation is as follows:

§ 993.328 Expenses of the Prune Administrative Committee and rate of assessment for the 1977–78 crop year.

(a) *Expenses.* Expenses in the amount of $218,880 are reasonable and likely to be incurred by the Prune Administrative Committee during the crop year beginning August 1, 1977, for its maintenance and functioning and for such other purposes as the Secretary may, pursuant to the applicable provisions of the marketing agreement, as amended, and this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for such crop year which each handler is required, pursuant to § 993.81, to pay to the Prune Administrative Committee as his pro rata share of said expenses is fixed at $1.50 per ton of salable prunes handled by him as the first handler thereof.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated: August 31, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-25930 Filed 9-6-77;8:45 am]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER E—POISON PREVENTION PACKAGING ACT OF 1970 REGULATIONS

PART 1702—PETITIONS FOR EXEMPTIONS FROM POISON PREVENTION PACKAGING ACT REQUIREMENTS; PETITION PROCEDURES AND REQUIREMENTS

Interim Rule

AGENCY: Consumer Product Safety Commission.

ACTION: Interim rule on which comment is solicited.

SUMMARY: In this document, the Commission issues as interim rules, and solicits comments on, procedures for petitioning the Commission to grant exemptions from child-protection packaging standards under the Poison Prevention Packaging Act of 1970. This document also establishes, and solicits comments on, requirements for the types of information to be supplied with the petitions to enable the Commission to properly evaluate and decide on exemption requests. At the present time, the Commission has no general rules for submitting petitions for exemption and therefore it must request specific information from petitioners, as needed, on a case-by-case basis. This interim regulation will provide guidance to petitioners as to procedures for petitioning and requirements for what information petitions must contain.

DATES: The interim rule is effective on an interim basis for petitions for exemption received after August 7, 1977. Comments concerning this interim rule should be received by October 7, 1977.

ADDRESS: Comments should be sent to: Office of the Secretary, Consumer Product Safety Commission, 1111 18th St. NW., Third floor, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Irvin Weiss, Office of Program Management (301–492–6453), or for technical questions contact Dr. Fred Marozzi, Division of Safety Packaging and Scientific Coordination (301–492–6477), Consumer Product Safety Commission, Washington, D.C. 20207.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to issue an interim regulation for comment under the Poison Prevention Packaging Act of 1970 (PPPA) (15 U.S.C. 1471–6). The interim regulation, a new Part 1702, will establish procedures and requirements for persons requesting the Consumer Product Safety Commission to grant exemptions from child-protection packaging (special packaging) standards.

BACKGROUND

Section 3(a) of the PPPA authorizes the Consumer Product Safety Commission to establish standards for the special packaging of household substances. Special packaging standards that have been issued appear at 16 CFR 1700.15. The Commission regulations at 16 CFR 1700.14 name particular substances or categories of substances that must comply with these standards by being packaged in special packaging. The procedures and requirements for petitioning contained in this document apply to requests for exemptions from the application of special packaging standards to the named substances or categories of substances.

Under the PPPA, the Commission has authority to grant exemptions from special packaging standards. Congress anticipated that in appropriate circumstances the regulations establishing special packaging requirements could be amended to exclude a single substance or category of substances. The granting of exemptions from special packaging was contemplated in the Conference Report of the legislative history of the Poison Prevention Packaging Act of 1970 (H.R. Rep. No. 1755, 91st Cong., 2d Sess. 8 (1970)).

At the present time, the Commission accepts petitions to exempt products subject to PPPA standards. After evaluating the information submitted by the petitioner and other available information, the Commission either grants or denies the petition. If the petition is granted, the Commission publishes a notice of proposed rulemaking inviting public comment on whether the exemption should be issued in final form.

Although the Commission has no rules for petitioning for exemption from PPPA standards, it has been using, as general guidelines, the basic factors for evaluating petitions stated in the preamble of the regulation establishing special packaging standards for oral prescription drugs (38 FR 9431 at 9432 (April 16, 1973)). In that preamble it was stated that petition requests "must furnish reasonable grounds therefor, including information such as available human experience data, relevant experimental data, toxicity information,

product and packaging specifications, labeling, marketing history, and the justification for the exemption." The interim regulation issued below expands on this basic statement and specifies, with as much detail as possible, the types of information the Commission considers necessary to evaluate petitions for exemption.

These grounds, and the requirements set forth below, generally are based upon the statutory findings the Commission must make in the first instance in establishing a standard for a particular substance or category of substances. Section 3 of the PPPA provides for the establishment of standards requiring special packaging for a household substance if the Commission finds that:

(1) The degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance; and

(2) The special packaging to be required by such standard is technically feasible, practicable, and appropriate for such substance. Before establishing a standard, the Commission must consider:

(1) The reasonableness of such standard;

(2) Available scientific, medical, and engineering data concerning special packaging and concerning childhood accidental ingestions, illness, and injury caused by household substances;

(3) The manufacturing practices of industries affected by the Act, and

(4) The nature and use of the household substance.

The type of information specified in this regulation is similar to the relevant information the Commission is required to consider in establishing special packaging standards for a particular household substance or category of substances. The information specified in this regulation is also generally necessary in order for the Commission to determine that the degree or nature of the hazard to children is such that special packaging is not required to protect children from serious personal injury or serious illness, or that special packaging required for a household substance is not technically feasible, praticable, or appropriate.

SUMMARY OF INTERIM REGULATIONS

The interim regulations issued in this document, at § 1702.2, set forth procedural requirements that must be met before the Commission will accept a petition for filing. These procedural requirements and recommendations are similar to those contained in the Commission's Interim Procedures for Petitioning for Rulemaking under section 10 of the Consumer Product Safety Act, 16 CFR 1110.7 (41 FR 43128, September 29, 1976).

At § 1702.3, the regulations set out substantive requirements that must be met before the Commission will consider the merits of a petition. If a petition does not contain the required information, the petition will be closed unless the petitioner, upon notification by the Commission, is able to furnish the information or provide a satisfactory explanation for the absence of the information, as provided by § 1702.4.

Section 1702.5 provides that the failure to supply information that is adverse to the petition will result in the denial of the petition.

The interim regulation, at § 1702.6, provides for treatment of petitions containing trade secrets and other confidential information in accordance with the Commission's regulations under the Freedom of Information Act.

In order to be considered complete, the petition must contain a statement of justification for the exemption in accordance with § 1702.7; and must include all available information concerning human experience data; relevant experimental data (both human and animal); product and packaging specifications; labeling; and marketing history; in accordance with §§ 1702.8 through 1702.14.

Section 1702.8 requires petitions to include all available human experience data involving all adverse reports of personal injury, illness, and significant allergenicity. Human experience data may be obtained from reports from Poison Control Centers; reports of adverse reactions concerning the product submitted to the company by physicians, hospitals, consumers, and other sources; extensive searches of the medical, pharmacological, and toxicological literature; and, for drugs, a summary of relevant human experience data required to be compiled for an Investigational Exemption for a New Drug (IND) or a New Drug Application (NDA).

Section 1702.9 specifies the relevant experimental data that must be submitted with an application. Subsection 1702.9(a) lists minimum acute animal toxicity data that must be submitted for all petitions; § 1702.9(b) lists additional data that must be submitted for drug products and all other household substances which are normally intended to be used in or on the human body. In addition, § 1702.9(c) lists the additional data that should be submitted, if available, by petitioners requesting an exemption for substances not intended for use in or on the human or animal body. Section 1702.10 provides that any human experimental data submitted with a petition must indicate that adequate measures have been taken to safeguard the subjects of the studies from psychological or physical injury.

Section 1702.11 of the interim regulation outlines product specifications that must be included in each petition for an exemption. Section 1702.12 provides packaging specifications that must be included in each petition for an exemption. Section 1702.13 requires petitions to include sample labeling and any package inserts, as well as complete promotional information or advertising, in the case of drugs. Section 1702.14 provides that petitions must include a statement of the marketing history of the substance.

The interim regulation, at § 1702.15, requires petitions alleging the incompatibility of child resistant packaging with the substance petitioned for exemption to contain adequate evidence supporting the allegation. Section 1702.16 of the proposed regulation specifies requirements for petitions requesting an exemption for drug or a new drug.

Section 1702.17 provides that where the Commission determines that reasonable grounds for an exemption are presented by a petition, the Commission shall publish a proposed exemption in the FEDERAL REGISTER. "Reasonable grounds" for publishing a proposed exemption may be based on information and data sufficient to support the conclusion that the degree or nature of the hazard to children in the availability of the substance, by reason of its packaging, is such that child-resistant packaging is not required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting the substance. Reasonable grounds may also be present where information and data support the conclusion that special packaging is not technically feasible, practicable, or appropriate for the substance; or that special packaging is incompatible with the particular substance. Section 1702.18 provides that where the Commission determines that reasonable grounds for an exemption are not presented by the petition, the petition will be denied.

As provided by § 1702.19, the filing of a petition does not have the effect of staying the regulation from which the exemption is sought. Even though a petition for an exemption has been filed, substances subject to child-resistant packaging standards are considered in violation of the law unless packaged in child-resistant packaging.

PUBLIC PROCEDURE

Because this document contains rules of agency procedure or practice, the relevant provisions of the Administrative Procedure Act (APA) (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are not applicable. In addition, even if it were to be found that these provisions of the APA apply, the agency for good cause finds that notice and public procedure and delayed effective date are unnecessary because the procedures merely add specificity to the factors for evaluating petitions stated in the preamble of the regulation establishing special packaging for oral prescription drugs, 38 FR 9431 at 9432 (April 16, 1973), that are currently being followed on an individual basis.

In accordance with Commission policy to solicit public participation and comment whenever practicable, interested persons are invited to submit written comments on these procedures (preferably in five copies) to the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207 until October 7, 1977. Late-received comments will be considered to the extent practicable. The

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Commission may make changes in the procedures as a result of comments received or experience with the interim procedures. After reviewing all timely comments, the Commission will publish in the FEDERAL REGISTER a notice describing what final action it will take regarding the procedures.

CONCLUSION

Accordingly, under provisions of the Poison Prevention Packaging Act of 1970 (secs. 2(4), 3, 5; Pub. L. 91-601; 84 Stat. 1670-1672; 15 U.S.C. 1471-1474, 1472, 1474), the Federal Hazardous Substances Act (sec. 10(a); 74 Stat. 378; 15 U.S.C. 1269(a)), the Federal Food, Drug, and Cosmetic Act (sec. 701(a); 21 U.S.C. 371(a)), and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92-573; sec. 30(a); 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission adds the following new Part 1702 to Subchapter E, Chapter II:

Sec.

1702.1 Purpose and policy
1702.2 Procedural requirements.
1702.3 Substantive requirements.
1702.4 Petitions with insufficient or incomplete information.
1702.5 Failure to supply adverse information.
1702.6 Trade secrets and other confidential information.
1702.7 Justification for the exemption.
1702.8 Human experience data.
1702.9 Relevant experimental data.
1702.10 Human experimental data involving the testing of human subjects.
1702.11 Product specifications.
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of child resistant packaging with the particular substance petitioned for exemption.
1702.15 Petitions alleging incompatibility.
1702.16 Petitions requesting an exemption for a drug or a new drug.
1702.17 Granting petitions.
1702.18 Denying petitions.
1702.19 Effect of filing petition.

AUTHORITY: Secs. 2(4), 3, 5; Pub. L. 91-601; 84 Stat. 1670-72; (15 U.S.C. 1471(4), 1472, 1474); sec. 10(a), 74 Stat. 378; (15 U.S.C. 1269(a); 21 U.S.C. 371(a)); sec. 30(a); Pub. L. 92-573, 86 Stat. 1231; (15 U.S.C. 2079(a)).

§ 1702.1 Purpose and policy.

(a) Section 1700.14(a) of Part 1700 lists household substances the Consumer Product Safety Commission requires under section 3(a)(1) of the Poison Prevention Packaging Act of 1970, 15 U.S.C. 1472, to be contained in special packaging to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances. There may be occasions, however, when the Commision determines that a particular substance should be exempt from special packaging requirements.

(b) The Commission may, either on its own initiative or upon the petition of any interested person, amend the regulation at § 1700.14(a) by exempting a substance or category of substances from special packaging requirements. The purpose of these rules is to provide procedures and requirements for submitting petitions for exemption from special packaging requirements.

§ 1702.2 Procedural requirements and recommendations.

(a) *Requirements.* To be considered a petition for exemption from special packaging requirements under this part a document filed under this part must:

(1) Be mailed or delivered to the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Third floor, Washington, D.C. 20207,

(2) Be written in the English language,

(3) Contain the name and address of the petitioner,

(4) Contain an explicit request for exemption from special packaging requirements,

(5) Identify the category of substances under § 1700.14(a) from which the exemption is sought,

(6) Identify the particular substance for which the exemption is sought, and

(7) Describe the package size of the substance for which the exemption is sought.

(b) *Failure to meet requirements.* Where a submission fails to meet all of the requirements of paragraph (a) of this section, the Office of the Secretary shall notify the person submitting it, describe the deficiency, and explain that the petition may be resubmitted when the deficiency is corrected.

(c) *Procedural recommendations.* The following are procedural recommendations to help the Commission in its consideration of petitions. The Commission requests, but does not require, that petitions filed under this part:

(1) Be typewritten,

(2) Include the word "petition" in a heading preceding the text,

(3) Include the telephone number of the petitioner, and

(4) Be accompanied by at least five (5) copies of the petition.

§ 1702.3 Substantive requirements.

(a) A petition filed under this Part shall include the information required by this Part. As provided by § 1702.4, a petition which is not complete may be closed. To be considered complete, a petition shall include the following:

(1) A statement of the justification for the exemption in accordance with § 1702.7,

(2) All available information concerning human experience data, relevant experimental data (both human and animal), product and packaging specifications, labeling, and marketing history, in accordance with §§ 1702.8 through 1702.14,

§ 1702.4 Petitions with insufficient or incomplete information.

If a petition is submitted that is not complete and does not explain the reason for the absence of the information, the Commission shall afford the petitioner a reasonable opportunity to provide additional information. If the required information is not submitted to the Commission, or if the petitioner does not satisfactorily explain the absence of the information within a reasonable time, the petition shall be closed if insufficient or incomplete information has been submitted to enable the Commission to evaluate the merits of the exemption request.

§ 1702.5 Failure to supply adverse information.

Failure to obtain and provide the Commission with all information that the petitioner knows is unfavorable or could reasonably expect to be unfavorable to the petition shall result in the denial of the petition.

§ 1702.6 Trade secrets and other confidential information.

Where a petition contains material that the petitioner believes should be exempt from public disclosure under the Freedom of Information Act, 5 U.S.C. 552, the petitioner shall comply with the requirements of 16 CFR 1015.17, 42 FR 10490, February 22, 1977, the Commission's regulation under the Freedom of Information Act concerning requests for treatment as exempt material. The Commission shall act upon any request for treatment as exempt material in accordance with the provisions of 16 CFR 1015.17.

§ 1702.7 Justification for the exemption.

The justification for the exemption, required under § 1702.3, shall explain the reason for the exemption based on one or more of the following grounds:

(a) If the justification is based on a lack of need for special packaging to protect young children from serious injury or illness from the substance, the justification shall state how the lack of toxicity and lack of adverse human experience for the substance clearly supports granting the exemption.

(b) If the exemption is requested because special packaging is not technologically feasible, practicable, or appropriate for the substance, the justification shall explain why.

(c) If the exemption is requested because special packaging is incompatible with the particular substance, the justification shall explain why.

§ 1702.8 Human experience data.

Human experience data constitutes the primary criterion used by the Commission in evaluating petitions for exemptions. Petitions shall therefore include a compilation of all available reports pertaining to human use of the particular substance and involving adverse reports of personal injury, illness, and significant allergenicity. Human experience data may be obtained from such sources as:

(a) Reports from Poison Control Centers,

(b) Reports of adverse reactions relative to the product that have been submitted to the company by physicians, hospitals, consumers, and other sources,

(c) Extensive searches of the medical, pharmacological, and toxicological literature, and

(d) For drugs, where the human experience data submitted is based on data required by FDA to be compiled for an Investigational Exemption for a New Drug (IND), 21 CFR Part 312, or a New Drug Application (NDA), 21 CFR Part 314, a summary of the relevant data should be provided. The entire NDA and IND material need not be submitted.

§ 1702.9 Relevant experimental data.

Experimental data are generated in both animals and humans in controlled situations in order to evaluate the biological effects of a substance. Certain toxicological effects cannot generally be evaluated in human beings. This is especially true of those substances which are not normally intended to be used in or on the human body or animal body. Therefore, the Commission considers experimental data obtained in animal studies to be an important supplement to such data as may exist from any experimental studies conducted in humans. The minimum toxicological evaluation necessary for a particular household substance is proportional to the expected exposure of man to that substance. Household substances which are not expected, in normal use, to contact man are subject to less extensive studies than those substances, such as drugs, which are designed to be used in or on man. The Commission has, therefore separated the requirements of this section into three subsections. Section 1702.9(a) lists minimum acute animal toxicity data which must be submitted for all petitions; § 1702.9(b) lists those additional data which must be submitted for drug products and all other household substances which are normally intended to be used in or on the human body; and, § 1702.9 (c) lists those additional data which should be submitted, if available, by petitioners requesting exemption for substances not intended for use in or on the human or animal body. The Commission emphasizes that, while not mandatory, the types of data outlined in § 1702.9(c) may greatly expedite the Commission's evaluation of a particular exemption request.

(a) *General requirements for all petitions.* (1) Each petition for an exemption under this part shall include all relevant experimental data relating to the petition regardless of whether such data are unfavorable to the petitioner's request. As used in this part, the term "relevant experimental data" includes, but is not limited to, all data, including animal and human studies revealing the nature and degree of the hazard associated with the particular substance. Generally, the hazard associated with the particular substance involves the risk of injury arising from the acute accidental ingestion of a product. Where a hazard different from the risk of injury arising from accidental ingestion is known to exist (e.g. potential for significant allergenicity, dermal or opthalmic injury from handling or using the product), the petitioner shall also submit all relevant experimental data evaluating the nature and degree of any additional hazard(s).

(2) All animal studies submitted in support of exemption requests shall be performed in conformity with good pharmacological and toxicological practice which includes, as a minimum, complete descriptions of protocols used in experimental animal studies, and signed laboratory reports which include the following basic information:

(i) An exact description of materials tested;

(ii) A description of test animals employed in studies, including number, age, weight, sex, and nutritional state of animals;

(iii) Dosage level(s) and number of animals tested per dosage level;

(iv) Basis upon which dosage was administered (e.g. as salt or base);

(v) Route of administration and dosage volume; and

(vi) Appendices containing all raw data and any additional data generated subsequent to the completion of the original study (e.g. results of histopathological examinations, if performed).

(3) Reports of Median Lethal Dosage (LD50) studies shall be submitted with each petition and shall include all raw data obtained in such studies. These studies shall be conducted in both adult and weanling animals of the same species. The oral route of administration must be followed for studies involving substances subject to regulations promulgated under the Poison Prevention Packaging Act of 1970. Where a percutaneous toxicity hazard exists, such studies shall also be performed using this route of administration. Sufficient dosage levels as well as adequate numbers of test animals per dosage level must be used to give statistical reliability to determined LD50 values.

(4) In view of the fact that LD50 values in themselves do not necessarily reflect a true estimate of the overall toxic potential of a substance, LD50 determinations must include:

(i) An LD50 value with 95 percent confidence limits;

(ii) A slope determination for the dose response curve, including 95 percent confidence limits; and

(iii) A description of the statistical method employed in the analysis of such data (with proper citation) as well as the statistical analysis itself.

(5) The Commission shall disregard any data which do not fulfill the strict requirements of the statistical method used in their analyses. Modifications of accepted statistical methods which have been published in the literature are acceptable to the Commission provided that a copy of the published work is submitted.

(6) The Commission requires at least a seven day observation period of test animals in acute toxicity studies. Good pharmacological practice requires that test animals be observed closely for several hours following test substance administration and less frequently on subsequent test days. Succumbing animals are necropsied as soon as practicable following death, while surviving animals are necropsied at the end of the observation period and gross pathological alterations noted. Documentation of nonlethal effects occurring during these observation periods shall be submitted in conjunction with acute toxicity laboratory reports. Documentation of any lethal effects occurring at high dosage levels, including mode of death (e.g. cardiac arrest/respiratory arrest), and time of death shall be submitted in conjunction with acute toxicity laboratory reports. Reports of gross necropsies performed upon surviving animals shall be submitted as well as results of necropsies performed upon animals succumbing to the test substance: *Provided*, That such animals are examined prior to the onset of autolysis. Results of microscopic examinations, when indicated by the nature or results of an acute toxicity study, shall also be submitted.

(b) *Additional data requirements for petitions involving substances normally used in or on the human or animal body.* (1) Petitioners submitting exemption requests for substances normally designed to be used on or taken into the human body or animal body shall, in addition to the requirements of paragraph (a) of this section, submit the following types of data:

(i) Summary laboratory reports of data obtained in subacute and chronic animal studies where the data pertain to the absorption, distribution, metabolism, and excretion of substances in question;

(ii) A median lethal dosage (LD50) determination conducted in one additional species. Of the two LD50 determinations required by persons submitting exemption requests under this part, one must be conducted in a nonrodent species;

(iii) Summary reports of data obtained in human studies designed to measure the absorption, distribution, metabolism, and excretion of substances in question; and

(iv) Data indicating, insofar as is known, the mechanism of action of the substance in question and the mechanism by which expected toxicological effects occur. If unknown, petitioner must so state.

(2) The Commission recognizes that the pharmacology and toxicology of many substances for which exemptions may be sought under this section may be well documented in the medical and scientific literature. Petitioners requesting an exemption subject to the requirements of this section may, therefore, under certain circumstances, submit comprehensive reviews of the referenced literature. Such material will be acceptable to the Commission: *Provided*, That the petitioner certifies that these data have not previously been generated by the petitioner, and provided that the petitioner demonstrates that generation of such data by the petitioner is unnecessary. For the purposes of this demonstration, the petitioner must submit a comprehensive evaluation of the pharmacology and toxicology of the substance in question with proper literature citations. The mere submission of literature material without competent pharmacological and toxicological evaluation will not be considered as having met the

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requirements of this paragraph. The Commission notes that the requirements of this section do not alter the requirements listed in § 1702.9(a).

(c) *Optional data requirements for petitions involving substances not intended for use in or on the human or animal body.* The following types of data, although often not generated for household substances not normally intended for use in or on the human or animal body, may be available to a petitioner and should, where available, be submitted.

(1) Summary laboratory reports of data obtained in subacute and chronic animal studies where such data pertain to the absorption, distribution, metabolism, and excretion of the substance in question;

(2) Results of median lethal dosage (LD50) studies conducted in additional species of animals; and

(3) Any additional experimental studies relevant to the exemption request which would provide the Commission with additional means of assessing the hazards to children of the product for which exemption is sought.

§ 1702.10 Human experimental data involving the testing of human subjects.

Any human experimental data submitted with a petition requesting an exemption under this part shall include a statement establishing that adequate measures have been taken to ensure against psychological or physical injury to the subjects of the human studies. The Commission considers its regulations concerning the protection of human subjects (16 CFR Part 1028, 42 FR 36818, July 18, 1977) to be an example of measures that are adequate to ensure against psychological or physical injury to human subjects.

§ 1702.11 Product specifications.

Each petition for an exemption shall include:

(a) A complete quantitative formula for the product, including inert ingredients, diluents, and solvents. (Petitioners should refer to § 1702.6 for information regarding trade secrets.)

(b) A listing of all physical forms or dosage forms (whichever is appropriate) in which the product is available.

§ 1702.12 Packaging specifications.

Each petition for an exemption shall include the following:

(a) A description of the packaging currently in use for each form of the product, including the name of the manufacturer of the package and all specifications for the package.

(b) A complete packaging description including any carton or wrapping in which the product is offered to the consumer.

(c) A description of each size in which each form of the product is offered, including physical form, color and flavoring, and

(d) An empty sample of each type and size of package used, and, in the case of drugs, a designation of those packages intended to be used in dispensing the product to the consumer for household use.

§ 1702.13 Labeling.

Each petition for an exemption under this part shall include a sample of the label and complete packaging for each size in which each form of the product is packaged. This shall include the immediate container labeling, any package inserts, and other carton or wrapping labeling in which the product is offered to the consumer. In the case of drugs, each petition shall be accompanied by labeling on the outer carton or wrapping in which the product is offered to the retailer, as well as complete promotional information or advertising for the product.

§ 1702.14 Marketing history.

Each petition for an exemption under this part shall include a statement of the marketing history of the substance for which an exemption is requested. The marketing history dates from the year in which each form of the product was introduced onto the market. The marketing history shall include the total number of units of each form or strength and package size of the product distributed since the product was introduced onto the market. In the case of prescription drugs, the average prescription size for the product shall also be indicated.

§ 1702.15 Petitions alleging the incompatibility of child resistant packaging with the particular substance petitioned for exemption.

(a) Where the petition for an exemption is based upon an allegation that the applicable special packaging standard is incompatible with the particular substance or would seriously and adversely compromise the utility or stability of a substance, the petitioner shall submit adequate evidence to support the allegation.

(b) If the allegation of incompatibility is based upon the fact that package choice is limited by a new drug application filed with the FDA, the petition shall state the limitation of package choice and a description of a time schedule to revise the NDA in order to allow additional package choice.

(c) If the allegation of incompatibility is based upon the fact that the shelf life of the product limits package choice, the petition shall outline the particular limitation and shall include a description of a time schedule to re-establish shelf-life data.

§ 1702.16 Petitions requesting an exemption for a drug or a new drug.

(a) Where the petition requests an exemption for a drug, as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)), the petitioner shall include those reports required to be filed under the Food and Drug Administration's Adverse Reaction Reporting Program.

(b) Where the petition requests an exemption for a new drug, as defined in section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)) the Commission shall deny the petition if the Food and Drug Administration has not approved a new drug application.

§ 1702.17 Granting petitions.

Where the Commission determines that reasonable grounds for an exemption are presented by the petition, the Commission shall publish, in the FEDERAL REGISTER, a proposed amendment to the listing of substances requiring special packaging under § 1700.14(a). "Reasonable grounds" for publishing a proposed exemption are information and data sufficient to support the conclusion that:

(a) The degree or nature of the hazard to children in the availability of the substance, by reason of its packaging, is such that special packaging is not required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting the substance, or

(b) Special packaging is not technically feasible, practicable, or appropriate for the subject substance, or

(c) Special packaging is incompatible with the particular substance.

§ 1702.18 Denying petitions.

Where the Commission determines that reasonable grounds for an exemption are not presented by the petition, the petition shall be denied, and the petitioner notified in writing of the denial, including a brief statement of the reasons therefor.

§ 1702.19 Effect of filing petition.

The filing of a petition for exemption under this Part 1702 shall not have the effect of staying the regulation from which the exemption is sought. Therefore, substances subject to special packaging standards shall be considered in violation of the law unless packaged in special packaging during the Commission's consideration of a petition.

Interested persons are invited to submit written comments on this proposed rule until October 7, 1977. Comments received after that date will be considered if practicable. Comments and any accompanying memoranda or data should be submitted, preferably in 5 copies to the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207. Received comments may be seen in the Office of the Secretary, 3rd floor, 1111 18th Street NW., Washington, D.C., during working hours Monday thru Friday.

Until final action is taken on comments received, these procedures will serve on an interim basis, effective for petitions for exemption received after publication of this document in the FEDERAL REGISTER.

Dated: September 1, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-25982 Filed 9-6-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5847; 34-23819; 35-20122; 39-477; IC-9877; IA-603; PA-5]

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Chicago Regional Office; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Correction.

SUMMARY: This document corrects an error in the address of the Chicago Regional Office.

EFFECTIVE DATE: August 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles A. Moore, Records and Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549 (202-523-5550).

SUPPLEMENTARY INFORMATION: In FR Doc. 77-22871 appearing at page 40189, in the FEDERAL REGISTER of August 9, 1977, in the third column the address for the Chicago Regional Office should be corrected to 219 South Dearborn St.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 26, 1977.

[FR Doc.77-26016 Filed 9-6-77;8:45 am]

[Release Nos. 33-5860, 34-13902, 35-20155, AS-225]

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, AND INVESTMENT COMPANY ACT OF 1940

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS

Lease Accounting and Disclosure Rules

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission has taken action to (1) conform its lease accounting and disclosure requirements to those standards recently adopted by the Financial Accounting Standards Board (FASB) in its Statement No. 13, "Accounting for Leases"; (2) require early application for public companies of the FASB lease accounting and disclosure standards; and (3) require certain lease disclosures of rate-regulated enterprises. The Commission's action will improve the financial statements filed with the Commission.

EFFECTIVE DATE: Earliest application is for financial statements for fiscal years ending after December 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Gary A. Zell, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol St., Washington, D.C. 20549, 202-376-8019.

SUPPLEMENTARY INFORMATION: These rules and amendments were proposed for comment in Securities Act Release No. 5812 on March 2, 1977 (42 FR 13838). Many letters of comment have been received and considered. In proposing these rules the Commission noted that it believes that Statement of Financial Accounting Standards (SFAS) No. 13, "Accounting for Leases," issued in November 1976 by the FASB, provides improved standards of accounting and disclosure for leases, and that conforming the Commission's rules to those of the FASB would improve financial reporting to investors.

SFAS No. 13 supersedes four APB Opinions and provides for the capitalization by lessees of leases when substantially all the benefits and risks of ownership of the leased property have been transferred to the lessee. It provides additional criteria for the recognition by lessors of a sale and/or financing arrangement.

The Commission has concluded that it will require financial statements filed with the Commission for fiscal years ending after December 24, 1978, to reflect early application of the accounting requirements of SFAS No. 13 unless a violation or probable future violation of a restrictive clause in an existing loan indenture or other agreement would result. In that event a description of the potential violation should be made in the footnotes to the financial statements.

Although the Commission has adopted this rule, it is concerned that some commentators have asserted that its application would be unfair to companies which might be in violation of loan covenants if they adopted SFAS No. 13 early or if they were required to disclose they were not adopting it because of that problem. Because of this concern the Commission will reconsider this action before December 31, 1977.

The Commission would like to receive additional input by October 31 concerning those assertions. We are particularly interested in a more detailed description of the hardships expected to be caused by the disclosure of the existence of a "problem" as the reason for not restating.

The Commission also believes that for rate-regulated enterprises, the assets and liabilities that would have been included in the balance sheet and the effect on expenses in the income statement should be disclosed in financial statements for fiscal years ending after December 24, 1977 as if such leases had been accounted for as capital leases along with any other information management believes is necessary as to the ratemaking process.

The disclosures of Rule 3-16(q)(2) (previously Rule 3-16(q) of Regulation S-X (17 CFR 210.3-16(q)(2)) will not be required for financial statements that have been restated to reflect early application of SFAS No. 13 or for which the disclosures required by paragraph 50 of SFAS No. 13 are provided.

INTERPRETATIONS AND COMMENTS

Commentators supported the Commission's proposal to conform the Commission's lease accounting and disclosures rules to those of the FASB. However, a number of questions were raised regarding the proposed disclosure requirements for rate-regulated enterprises and the proposed early application of the lease accounting and disclosure requirements of the FASB. These comments are discussed below.

1. *Proposed disclosures for rate-regulated enterprises.* The Commission proposed to require disclosure of the following information from rate-regulated enterprises for leases which meet SFAS No. 13's definition of a capital lease but which are accounted for as operating leases:

(a) The amounts of the assets and liabilities which would have been included in the balance sheet had such leases been accounted for as capital leases; and

(b) The effect on net income (loss) and net income (loss) per share which would have resulted had such leases been accounted for as capital leases.

The comments received confirm the Commission's view that there is no general agreement on the applicability of the Addendum[1] with respect to SFAS No. 13. The Commission has previously requested the FASB to review the Addendum. Differing views were presented on whether the proposed disclosures for rate-regulated enterprises were desirable. Several commentators support the Commission's proposal to require disclosure of the amounts of the assets and liabilities which would have been included in the balance sheet had such leases been accounted for as capital leases. They felt these disclosures were necessary until the application of the Addendum is clarified. Some commentators view the Addendum as applying primarily to the determination of income and expense and believe that capital leases should be recorded in the balance sheet.

A number of commentators felt that the proposed disclosure for rate-regulated companies was not meaningful and was misleading since only assets used as a basis for rate making are relevant to rate-regulated enterprises. They pointed out that such disclosures do not relate to past or future cash flows and were not considered by rate regulators in determining the rate base and cost of capital.

After considering the comments the Commission has decided to require such disclosures in financial statements for fiscal years ending after December 24, 1977 to provide the effects of the Addendum to investors.

The Commission's proposal to require rate-regulated enterprises to disclose

[1] The Addendum to APB Opinion No. 2, "Accounting for the 'Investment Credit,'" states "• • • differences may arise in the application of generally accepted accounting principles as between regulated and nonregulated businesses because of the effect in regulated businesses of the rate-making process • • •" The effect of the Addendum with respect to the standards adopted by SFAS No. 13 is not clear.

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the effect on net income (loss) and net income (loss) per share which would have resulted had assets acquired under such leases been accounted for as capital leases was not generally supported. Commentators indicated that such disclosures would be misleading because, in their view, any change in expenses would generally be considered by the rate regulators in determining rates and would result in a similar change in revenues, thus resulting in an immaterial effect on net income. It was further stated that such disclosures are not generally accepted accounting principles for such enterprises and do not reflect the economics of the rate-making process which generally allows for the recovery of costs.

The Commission has decided to revise the proposed rule and to require only the disclosure of the additional expense that would be recognized had such leases been accounted for as capital leases.

2. *Early application of the lease accounting and disclosure requirements of the FASB.* Unless a registrant has been unable to resolve problems in connection with restrictive clauses in loan indentures or other agreements, the Commission proposed that financial statements filed with the Commission for fiscal years ending after December 24, 1977, be restated in accordance with the provisions of SFAS No. 13.

The effective dates of SFAS No. 13 are summarized as follows:

Leases entered into on or after January 1, 1977, must follow the new accounting rules.

Balance sheets as of December 31, 1976, and subsequent balance sheets and income statements are required to be restated to apply the new accounting rules to all leases for purposes of financial statements for fiscal years beginning after December 31, 1980. Prior financial statements are required to be restated for as many prior periods as is practicable.

Certain disclosures are required of the effect on the balance sheets as of December 31, 1976 and thersafter and income statements for periods beginning after December 31, 1976 on the effects of the new accounting rules.

The Commission believes that data accumulation will not represent a burdensome task to most of the companies filing financial statements with the Commission and that early application was encouraged by the FASB and is desirable for investors. The Commission has concluded to require early application but has decided to extend the effective date to fiscal years ending after December 24, 1978 to provide additional time for lessors to accumulate the required data, and for lessees to determine the appropriateness of their data and to resolve problems.

Several commentators indicated that the data accumulation necessary for registrants to apply these lease accounting requirements would be a significant task. They indicated that the definition of a "capital lease" in SFAS No. 13 differs from the definition of a "financing lease" contained in Rule 3-16(q) (now 3-16(q)(2)) (announced in Accounting Series Release No. 147 (38 FR 29215) in 1973) and many new computations are required to conform to the lease accounting requirements of SFAS No. 13. The Commission notes that the computations are required by SFAS No. 13 for calendar year 1977 and subsequent years and are required to be disclosed. The Commission believes that such computations and the lease accounting rules of SFAS No. 13 should be reflected in the financial statements filed with the Commission as soon as practicable.

Commentators also indicated that data for periods prior to 1977 may be difficult to accumulate, especially for registrants which were under the materiality limits of Rule 3-16(q) (now 3-16(q)(2)) or have had leases that have expired. Those companies which find such restatements are not practicable are not required by SFAS No. 13 to restate those periods and are required to include the cumulative effect in determining net income in the earliest year restated. They are also required to disclose the amount of the cumulative effect and the reason for not restating the prior years. The Commission agrees with several of the commentators that such accounting is desirable for comparability purposes and, with the revised effective date, will not result in an undue hardship on companies filing financial statements with the Commission.

3. *Registrants unable to resolve problems.* Several commentators indicated that time was needed in order for them to resolve problems in connection with restrictive clauses in loan indentures or other agreements. The Commission had proposed that registrants who were not able to resolve such problems would not be required to apply early the lease accounting requirements of SFAS No. 13 and further that such problems should be disclosed. Commentators noted that "problems" was not well defined in the Commission's release. Accordingly, the Commission has defined a "problem" as a situation where early application of the lease accounting requirements of SFAS No. 13 would result in the violation or probable future violation by 1980 of a restrictive clause in an existing loan indenture or other agreement. The Commission further requires that the "problem" and its impact be disclosed in the footnotes to the financial statements.

4. *Application to lessors.* Commentators indicated that the Commission's proposal was unclear as to its application to lessors. Lessors have not been subject to the disclosures of Rule 3-16(q) now 3-16(q)(2)); therefore data accumulation will represent a more burdensome task on companies involved in a substantial amount of leases as lessors. The Commission's rule applies to lessors. To provide lessors additional time to accumulate data and for the reasons given in Item No. 1, the Commission has revised the proposed requirement to give registrants an additional year before being required to apply the lease accounting requirements of the FASB. However, the Commission continues to encourage early application of the lease accounting standards of SFAS No. 13 for fiscal years ending before December 25, 1978.

5. *Reporting during transition.* Several commentators discussed the desire to have consistent reporting for the periods during transition. While the Commission agrees that comparability between companies is desirable, it has provided the exception to its rule for companies with problems, in order to prevent undue hardship to companies where early application would result in the violation or probable future violation of a restrictive clause in an existing loan indenture or other agreement. However, in order to provide information for meaningful comparisons the Commission has decided to retain the previously required lease disclosures of Rule 3-16(q) (now 3-16(q)(2)) of Regulation S-X for fiscal years that have not been restated or for which the disclosures required by paragraph 50 of SFAS No. 13 are not provided since such disclosures are not required by the FASB for years ending before December 31, 1977.

6. *Replacement cost information.* It has been pointed out that the early application of SFAS No. 13 may result in registrants meeting the tests of Rule 3-17 of Regulation S-X which requires the disclosure of replacement cost information. Replacement cost disclosures are required for companies meeting the requirements of Rule 3-17 because of adding capitalized leases to their recorded assets. However, if voluntary early application of SFAS No. 13 results in an undue hardship in providing replacement costs data, registrants should discuss their circumstances with the staff.

7. *Support for the Financial Accounting Standards Board.* Several commentators indicated that the adoption of the Commission's proposed rule would lessen the credence of, undermine, or preempt the FASB. The Commission does not agree. The Commission believes that its action is appropriate in its role expressed in ASR No. 150 of looking to the private sector for leadership in establishing and improving accounting principles and standards. The Commission requirements do not affect the determination of accounting principles but only the timing of their application for public companies that file their financial statements with the Commission. In determining the effective dates of their accounting rules, the FASB also has to consider the problems of companies who do not file their financial statements with the Commission. The Commission's responsibility is for public companies that file their financial statements with the Commission. The lease information accumulated by companies who file their financial statements with the Commission is significantly greater than that of other companies and includes that information accumulated under the requirements of Rule 3-16(q) (now 3-16(q)(2)) for the last several years. Accordingly, the Commission has concluded that it is appropriate to consider the timing and effective date of the improved lease accounting requirements for registrants filing their financial statements with the Commission.

COMMISSION ACTION: The Commission hereby specifies under this Accounting Series Release (No. 225) (17 CFR Part 211):

1. That the financial statement restatement requirements in SFAS No. 13 shall be applied in financial statements filed for fiscal years ending after December 24, 1978 with regard to all leases except for companies where a problem, as defined below, exists. The problem and its potential impact should be disclosed in the footnotes to the financial statements. For purposes of this paragraph "problem" is defined as: that situation where capitalization of capital leases as defined in SFAS No. 13 would result in the violation or probable future violation expected to occur prior to fiscal years beginning after December 31, 1980 of a restrictive clause in an existing loan indenture or other agreement.

2. The disclosures specified under § 210.3-16(q)(2) (formerly § 210.3-16(q)) of Regulation S-X are not required for financial statements that have been restated as specified in (1) above or for which the disclosures required by paragraph 50 of SFAS No. 13 are provided.

The Commission hereby adopts amendments of § 210.3-16 of 17 CFR Part 210 by redesignated paragraph (q) and subparagraphs (1), (2), (3), and (4) thereunder as subparagraphs (2) and (i), (ii), (iii), and (iv) respectively, and by adding new subparagraphs (1) and (i) and (ii) to paragraph (q), which as so amended reads as given below:

§ 210.3-16 General notes to financial statements. (See Release No. AS-4.)

* * * * * *

(q) *Leased assets and lease commitments.*—(1) *Leased assets and lease commitments of regulated enterprises subject to the rate-making process.* (i) Subparagraph (1) of this paragraph is applicable to all regulated enterprises subject to the rate-making process that do not record capital leases as assets with associated liabilities. For purposes of subparagraph (1) of this paragraph a lease is defined as an agreement conveying the right to use property, plant, or equipment (land and/or depreciable assets) usually for a stated period of time. It includes agreements that, although not normally identified as leases, meet the above definition, such as a "heat supply contract" for nuclear fuel. This definition does not include agreements that are contracts for services that do not transfer the right to use property, plant, or equipment from one contracting party to the other. On the other hand, agreements that do transfer the right to use property, plant, or equipment meet the definition of a lease for purposes of subparagraph (1) of this paragraph even though substantial services by the contractor (lessor) may be called for in connection with the operation or maintenance of such assets. Subparagraph (1) of this paragraph does not apply to lease agreements concerning the rights to explore for or to exploit natural resources such as oil, gas, minerals, and timber. Nor does it apply to licensing agreements for items such as motion picture films, plays, manuscripts, patents, and copyrights. A lease is a capital lease if at its inception it meets one or more of the following four criteria:

(A) The lease transfers ownership of the property to the lessee by the end of the lease term.

(B) The lease contains a bargain purchase option.

(C) The lease term is equal to 75 percent or more of the estimated economic life of the leased property. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the leased property, including earlier years of use, this criterion shall not be used for purposes of classifying the lease.

(D) The present value at the beginning of the lease term of the minimum lease payments excluding that portion of the payments representing executory costs such as insurance, maintenance, and taxes to be paid by the lessor, including any profit thereon, equals or exceeds 90 percent of the excess of the fair value of the leased property to the lessor at the inception of the lease over any related investment tax credit retained by the lessor and expected to be realized by him. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the leased property, including earlier years of use, this criterion shall not be used for purposes of classifying the lease. A lessee shall compute the present value of the minimum lease payments using his incremental borrowing rate, unless (1) it is practicable for him to learn the implicit rate computed by the lessor and (2) the implicit rate computed by the lessor is less than the lessee's incremental borrowing rate. If both of those conditions are met, the lessee shall use the implicit rate.

(ii) The following information shall be provided for capital leases covered by this rule:

(A) As of the date for each required balance sheet, the aggregate amounts of the assets and liabilities that would have been recorded in the accounts had all leases meeting the definition of a capital lease been recorded.

(B) For each period for which an income statement is required, the aggregate effect on expenses had all assets obtained through leases meeting the definition of a capital lease been recorded as assets with associated liabilities and any additional information management believes is necessary as to the rate making process.

(2) *Leased assets and lease commitments of enterprises which are not covered by paragraph (1)* (See Release No. AS-225 for applicability of this subparagraph (2).) Any contractual arrangement which has the economic characteristics of a lease, such as a "heat supply contract" for nuclear fuel, shall be considered a lease for purposes of this rule. Leases covering oil and gas production rights and mineral and timber rights are not to be considered leases for purposes of this rule. For purposes of this rule, a financing lease is defined as a lease which, during the noncancelable lease period, either covers 75 percent or more of the economic life of the property or has terms which assure the lessor a full recovery of the fair market value (which would normally be represented by his investment) of the property at the inception of the lease plus a reasonable return on the use of the assets invested subject only to limited risk in the realization of the residual interest in the property and the credit risks generally associated with secured loans. The disclosures set forth under subdivisions (i) and (ii) of this subparagraph are only required if gross rental expense in the most recent fiscal year exceeds one percent of consolidated revenues.

(i) Total rental expense (reduced by rentals from subleases, with disclosure of such amounts) entering into the determination of results of operations for each period for which an income statement is required shall be disclosed. Rental payments under short-term leases for a month or less which are not expected to be renewed need not be included. Contingent rentals, such as those based upon usage or sales, shall be reported separately from the basic or minimum rentals. Rentals on noncapitalized financing leases shall be shown separately for both categories of rentals reported.

(ii) The minimum rental commitments under all noncancelable leases shall be disclosed, as of the date of the latest balance sheet required, in the aggregate (with disclosure of the amounts applicable to noncapitalized financing leases) for (A) Each of the five succeeding fiscal years; (B) each of the next three five-year periods; and (C) the remainder as a single amount. The amounts so determined should be reduced by rentals to be received from existing noncancelable subleases (with disclosure of the amount of such rentals). For purposes of this rule, a noncancelable lease is defined as one that has an initial or remaining term of more than one year and is noncancelable, or is cancelable only upon the occurrence of some remote contigency or upon the payment of a substantial penalty.

(iii) Additional disclosures shall be made to report in general terms: (A) The basis for calculating rental payments if dependent upon factors other than the lapse of time; (B) existence and terms of renewal or purchase options, escalation clauses, etc.; (C) the nature and amount of related guarantees made or obligations assumed; (D) restrictions on paying dividends, incurring additional debt, further leasing, etc.; and (E) any other information necessary to assess the effect of lease commitments upon the financial position, results of operations, and changes in financial position of the lessee.

(iv) For all noncapitalized financing leases there shall be disclosed:

(A) The present values of the minimum lease commitments in the aggregate and my major categories of properties, such as real estate, aircraft, truck fleets and other equipment. Present

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values shall be computed by discounting net lease payments (after subtracting, if practicable, estimated, or actual amounts, if any, applicable to taxes, insurance, maintenance and other operating expenses) at the interest rate implicit in the terms of each lease at the time of entering into the lease. Such disclosure shall be made as of the date of any balance sheet required. If the present value of the minimum lease commitments is less than five percent of the sum of long-term debt, stockholders' equity and the present value of the minimum lease commitments, and if the impact on net income required to be disclosed under (D) of this subdivision is less than three percent of the average net income for the most recent three years, this disclosure is not required;

(B) Either the weighted average interest rate (based on present value) and range of rates or specific interest rates for all lease commitments included in the amount disclosed under paragraph (q)(2)(iv)(A) of this section;

(C) The present value of rentals to be received from existing noncancelable subleases of property included under paragraph (q)(2)(iv)(A) of this section based on the interest rates implicit in the terms of the subleases at the times of entering into the subleases;

(D) The impact upon net income for each period for which an income statement is required if all noncapitalized financing leases were capitalized, related assets were amortized on a straight-line basis and interest cost was accrued on the basis of the outstanding lease liability. The amount of amortization and interest cost included in the computation shall be separately identified. If the impact on net income is less than three percent of the average net income for the most recent three years, that fact may be stated in lieu of this disclosure. In calculating average net income, loss years should be excluded. If losses were incurred in each of the most recent three years, the average loss shall be used for purposes of this test.

* * * * *

Paragraph (q)(1) of § 210.3-16 is effective for fiscal years ending after December 24, 1977.

These amendments are adopted pursuant to authority in sections 6, 7, 8, 10, and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s) of the Securities Act of 1933; sections 12, 13, 15(d), and 23(a) (15 U.S.C. 78l, 78m, 78o(d), 78w) of the Securities Exchange Act of 1934; and sections 5(b), 14, and 20(a) (15 U.S.C. 79e, 79n, 79t) of the Public Utility Holding Company Act of 1935. Pursuant to section 23(a)(2) of the Exchange Act the Commission has considered the impact of these proposals on competition and is not aware, at this time, of any burden that such rule amendments would impose on competition.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 31, 1977.

[FR Doc.77-26012 Filed 9-6-77;8:45 am]

[Release No. IC-9915]

PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER

Bearing of Distribution Expenses by Mutual Funds

AGENCY: Securities and Exchange Commission.

ACTION: Statutory interpretation.

SUMMARY: The Securities and Exchange Commission announces that it has not changed its previous position that it is generally improper for registered open-end management investment companies ("mutual funds" or "funds") to use their assets to finance the distribution of their shares. This action is being taken to eliminate any doubt concerning the present position of the Commission with regard to the propriety of mutual fund assets being used to finance the distribution of shares.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

Dianne E. O'Donnell, Esq., Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549 (202-755-0225).

SUPPLEMENTARY INFORMATION: In the past the Commission has generally taken the position that use of mutual fund assets for the purpose of financing the distribution of fund shares would be improper. For example, in its Statement on the Future Structure of the Securities Markets the Commission stated that:

[T]he cost of selling and purchasing mutual fund shares should be borne by the investors who purchase them and thus presumably receive the benefits of the investment, and not, even in part, by the existing shareholders of the fund who often derive little or no benefit from the sale of new shares. To impose a portion of the selling cost upon the existing shareholders of the fund may violate principles of fairness which are at least implicit in the Investment Company Act.[1]

In the past year the Commission has been engaged in a review of this area. In this connection, the Commission held public hearings on November 17, 18, 22 and 23, 1976, and received written statements concerning the public policy and legal implications of arrangements whereby mutual funds would, directly or indirectly, bear expenses related to the distribution of their shares.[2]

At those hearings, it was argued on the one hand that increased sales of fund shares could benefit shareholders, and therefore that the use of fund assets to pay distribution expenses should be permitted at least under some circumstances. On the other hand, it was argued by others that any increased sales of shares resulting from the use of mutual fund assets to finance distribution activities would benefit mainly the management of a mutual fund rather than its shareholders, and therefore that such use of fund assets should not be permitted.

The Commission has not yet completed its consideration of the relevant issues and is not yet prepared to suggest whether, and if so under what circumstances, mutual funds should be permitted to bear distribution expenses. Accordingly, the Commission has no reason at this time to change its previous position that it is generally improper under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq. ("Act") for mutual funds to use their assets, directly or indirectly, to finance the distribution of their shares. Therefore, directors, officers and investment advisers which authorize mutual funds to bear the expenses of distribution will be doing so at their risk.

In most cases, arrangements whereby mutual funds would use their assets to finance the distribution of shares cannot be implemented without a Commission order permitting the arrangement under one or more sections of the Act. At least until the Commission completes its review in this area, however, it does not believe that it can sanction any new arrangements without giving them the most careful scrutiny, which, in almost all circumstances, would mean that applications under the Act seeking permission to implement such arrangements would be set down for hearing so that a full record can be developed. The Commission has also instructed the staff to refrain from taking no-action positions with regard to any such arrangements.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 31, 1977.

[FR Doc.77-26011 Filed 9-6-77;8:45 am]

[1] SEC, "Statement on the Future Structure of the Securities Markets" (February 1972), in BNA Sec. Reg. and L. Rep. No. 137 pt. II at 7.

[2] The hearings were announced in Investment Company Act Release No. 9470, October 4, 1976 (41 FR 44770, October 12, 1976).

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 77-221]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Republic of Zaire; Coastwise Transportation

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to include the Republic of Zaire in the lists of nations which permit vessels of the United States to transport certain articles between their ports. This amendment will provide reciprocal privileges for vessels of Republic of Zaire registry.

EFFECTIVE DATE: May 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Patrick J. Casey, Attorney, Carriers, Drawback and Bonds Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5706.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 27 of the Merchant Marine Act of 1920, as amended (46 U.S.C. 883), provides generally that no merchandise shall be transported by water, or by land and water, between points in the United States except in vessels built in and documented under the laws of the United States and owned by United States citizens. However, the Act also provides that if the Secretary of State advises the Secretary of the Treasury that a foreign nation does not restrict the transportation of certain articles between its ports by vessels of the United States, reciprocal privileges will be accorded to vessels of that nation and the prohibition against the transportation of those articles between points in the United States will not apply to its vessels.

In accordance with the Act, the Customs Service has listed in § 4.93(b)(1) of the Customs Regulations (19 CFR 4.93(b)(1)) those nations which have been found to extend reciprocal privileges to vessels of the United States for the transportation of empty cargo vans, empty lift vans, and empty shipping tanks. Those nations which have been found to grant reciprocal privileges to vessels of the United States in respect to the transportation of equipment for use with cargo vans, lift vans, and shipping tanks; empty barges specifically designed for carriage aboard a vessel, empty instruments of international traffic, and certain stevedoring equipment and material are listed in § 4.93(b)(2) of the Customs Regulations (19 CFR 4.93(b)(2)).

On May 5, 1977, the Secretary of State advised the Secretary of the Treasury that the Republic of Zaire places no restriction on the transportation of the articles listed in the Act by vessels of the United States between ports in the Republic of Zaire. Therefore, reciprocal privileges are accorded to vessels of Republic of Zaire registry as of that date.

DRAFTING INFORMATION

The principal author of this document was Marvin M. Amernick, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the United States Customs Service participated in developing this document, both on matters of substance and style.

Inasmuch as there is a statutory basis for the described extension of reciprocal privileges, and the amendments recognize an exemption from the transportation coastwise prohibition of section 27, 41 Stat. 999, as amended (46 U.S.C. 883), notice and public procedure thereon are unnecessary and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

AMENDMENTS TO THE CUSTOMS REGULATIONS

§ 4.93 [Amended]

To reflect the reciprocal privileges granted to the Republic of Zaire, paragraphs (b)(1) and (b)(2) of § 4.93 of the Customs Regulations (19 CFR 4.93(b)(1), (b)(2), are amended by the insertion of "Republic of Zaire" in appropriate alphabetical order in the lists of countries under those paragraphs.

(Sec. 27, 41 Stat. 999, as amended, sec. 14, 67 Stat. 516 (5 U.S.C. 301, 19 U.S.C. 1322(a), 46 U.S.C. 883))

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: August 24, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc.77-26020 Filed 9-6-77;8:45 am]

[T.D. 77-222]

PART 153—ANTIDUMPING

Parts for Self-Propelled Bituminous Paving Equipment from Canada

AGENCY: U.S. Treasury Department.

ACTION: Finding of dumping.

SUMMARY: This notice is to advise the public that separate investigations conducted under the Antidumping Act, 1921, as amended, by the U.S. Treasury Department and the International Trade Commission, respectively, have resulted in determinations that parts for self-propelled bituminous paving equipment from Canada are being, or are likely to be, sold at less than fair value and that these sales are injuring, or are likely to injure, an industry in the United States. On this basis, a finding of dumping is being issued and, generally, all unappraised entries of these parts will be liable for the possible assessment of special dumping duties.

EFFECTIVE DATE: September 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to this authority the Secretary of the Treasury has determined that parts for self-propelled bituminous paving equipment from Canada are being, or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of April 12, 1977 (42 FR 19242)).

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the United States International Trade Commission responsibility for determination of injury or likelihood of injury. The United States International Trade Commission has determined, and on July 7, 1977, it notified the Secretary of the Treasury that an industry in the United States is being, or is likely to be, injured by reason of the importation of parts for self-propelled bituminous paving equipment from Canada that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. (Published in the FEDERAL REGISTER of July 14, 1977 (42 FR 36321)).

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to parts for self-propelled bituminous paving equipment from Canada.

Section 153.46 of the Customs Regulations (19 CFR 153.46) is amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	T.D.
Parts for self-propelled bituminous paving equipment.	Canada.	77-222

(Secs. 201, 407, 42 Stat. 11, as amended, 18 (19 U.S.C. 160, 173).)

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

AUGUST 31, 1977.

[FR Doc.77-25953 Filed 9-6-77;8:45 am]

[T.D. 77-223]

PART 153—ANTIDUMPING

Metal-Walled Above-Ground Swimming Pools From Japan

AGENCY: U.S. Treasury Department.

ACTION: Finding of dumping.

SUMMARY: This notice is to inform the public that separate investigations conducted under the Antidumping Act, 1921, as amended by the U.S. Treasury Department and the International Trade Commission, respectively, have resulted in determinations that metal-walled above-ground swimming pools from Japan are being, or are likely to be, sold at less than fair value and that those sales are likely to injure an industry in the United States. On this basis, a finding of dumping is being issued and, generally, all unappraised entries of this merchandise will be liable for the possible assessment of special dumping duties.

EFFECTIVE DATE: September 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Edward F. Haley, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5492).

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SUPPLEMENTARY INFORMATION: Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to this authority the Secretary of the Treasury has determined that metal-walled aboveground swimming pools from Japan are being, or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of April 1, 1977 (42 FR 17558)).

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the United States International Trade Commission responsibility for determination of injury or likelihood of injury. The United States International Trade Commission has determined, and on June 29, 1977, it notified the Secretary of the Treasury that less than fair value imports of metal-walled above-ground swimming pools from Japan are likely to injure an industry in the United States. (Published in the FEDERAL REGISTER of July 8, 1977 (42 FR 35231)).

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to metal-walled above-ground swimming pools from Japan.

Section 153.46 of the Customs Regulations (19 CFR 153.46) is amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	T.D.
Metal-walled aboveground swimming pools.	Japan	77-223

(Secs. 201, 407, 42 Stat. 11, as amended, 18 (19 U.S.C. 160, 173))

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

AUGUST 31, 1977.

[FR Doc.77-25954 Filed 9-6-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Applicability Dates; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction.

SUMMARY: This document corrects the final rule that appeared at page 37935 in the FEDERAL REGISTER of Monday, July 25, 1977 (FR Doc. 77-21230).

EFFECTIVE DATE: September 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone No. 919-541-5271.

Dated: August 31, 1977.

EDWARD F. TUERK,
Acting Assistant Administrator for Air and Waste Management.

In FR Doc. 77-21230 appearing at page 37935 in the FEDERAL REGISTER of Monday, July 25, 1977, the following corrections are made to §§ 60.250(b) and 60.270 (b) on page 37938:

1. The applicability date in § 60.250(b) is corrected to October 24, 1974.

2. The applicability date in § 60.270(b) is corrected to October 21, 1974.

(Sec. 111, 301(a) of the Clean Air Act as amended (42 U.S.C. 1857c-6, 1857g(a)).)

[FR Doc.77-26023 Filed 9-6-77;8:45 am]

[FRL 787-1]

SUBCHAPTER E—PESTICIDE PROGRAMS

[PP 4F1518/R118]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Thiabendazole

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the fungicide thiabendazole. The amendment was requested by Merck, Sharp & Dohme. This amendment to the regulations will establish maximum permissible levels for residues of thiabendazole on wheat grain and straw.

EFFECTIVE DATE: September 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. Eugene Wilson, Product Manager (PM) 21, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 202-426-2456.

SUPPLEMENTARY INFORMATION: On September 28, 1976, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (41 FR 42678) in response to a pesticide petition (PP 4F1518) submitted to the Agency by Merck, Sharp & Dohme, Div. of Merck & Co., Rahway, N.J. 07065. This petition proposed that 40 CFR 180.242 be amended by the establishment of tolerances for residues of the fungicide thiabendazole (2-(4-thiazolyl) benzimidazole) in or on the raw agricultural commodities wheat grain (grown from treated seed) at 0.1 part per million (ppm) and wheat straw at 0.2 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking. The proposed notice on September 28, 1976, reduced the comment period from 30 days to 10 days to permit the use of thiabendazole in time for the fall wheat crop in the Pacific Northwest. Subsequent to the issuance of the proposal, however, most of the crop had already been planted, thereby eliminating the urgency of this regulation.

The toxicological data considered in support of the proposed tolerances were two-year rat and dog-feeding studies, multigeneration rat and mouse reproduction studies, livestock feeding studies, and six months' daily administration to humans. The acceptable daily intake (ADI) is 6 milligrams (mg)/day for a 60-kilogram (kg) man or 0.1 mg/kg of body weight/day (4 ppm in the diet) for a 60 kg man consuming 1,500 grams of food/day. The proposed tolerance would add a maximum of 0.008 ppm of thiabendazole to the average diet; this is very much less than 1/20 of the ADI. The long-term mouse study is not required because there is no reasonable expectation of human oral exposure from the proposed tolerances. Permanent tolerances have previously been established for residues of thiabendazole on a variety of raw agricultural commodities from 10 ppm to 0.02 ppm. An adequate analytical method (liquid chromatography) is available to enforce the proposed tolerances.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.242 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before October 7, 1977, file written objections with the Hearing Clerk, EPA, Room 1019, East Tower, 401 M St. SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective September 7, 1977, Part 180, Subpart C, section 180.242 is amended by adding tolerances for wheat grain at 0.1 ppm and wheat straw at 0.2 ppm as set forth below.

Part 180, Subpart C, § 180.242 is amended in paragraph (a) by adding tolerances on wheat grain at 0.1 ppm and wheat straw at 0.2 ppm to read as follows:

§ 180.242 Thiabendazole; tolerances for residues.

(a) • • •

Commodity:	Parts per million
• • •	• • •
Wheat, grain	0.1
Wheat, straw	0.2

(Section 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)).)

Date: August 30, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-25877 Filed 9-6-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 105—GENERAL SERVICES ADMINISTRATION

PART 105-53—STATEMENT OF ORGANIZATION AND FUNCTIONS

General Description of the General Services Administration

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is publishing a description of its organization and functions. This action is in response to a 1976 Administrative Conference recommendation that descriptions of agencies be published for preservation in the Code of Federal Regulations and is intended to make that information more accessible to the general public. The GSA statement of organization includes information on the general organization of the agency's staff officers, operating services, and regional offices and includes addresses and telephone numbers for key offices. The statement also contains information on the availability of agency regulations and other agency material that may be inspected by the public.

EFFECTIVE DATE: September 7, 1977.

FOR FURTHER INFORMATION CONTACT:

E. E. Hord, Director, Management Systems Division, Office of Management Services, OAD, General Services Administration, Washington, D.C. 20405, 202-566-1777.

A new Part 105-53 is added to Chapter 105 of Title 41 to read as follows:

Sec.
105-53.100 Purpose.

Subpart A—General
105-53.110 Creation and authority.
105-53.112 General statement of functions.
105-53.114 General statement of organization.
105-53.116 General regulations.
105-53.118 Location of material available for public inspection.
105-53.120 Addresses and telephone numbers.

Subpart B—Staff Offices
105-53.130 Office of the Administrator.
105-53.132 Office of Administration.
105-53.134 Office of General Counsel.

Subpart C—Operating Services
105-53.144 Automated Data and Telecommunications Service.
105-53.146 Federal Preparedness Agency.
105-53.148 Federal Supply Service.
105-53.150 National Archives and Records Service.
105-53.152 Public Buildings Service.

Subpart D—Regional Offices
105-53.162 Organization and functions.
105-53.164 Geographic composition; addresses and telephone numbers.

AUTHORITY: 5 U.S.C. 552(a)(1), Pub. L. 90-23, 81 Stat. 54 sec. (a)(1); 40 U.S.C. 486 (c), Pub. L. 81-152, 63 Stat. 390, sec. 205(c).

Subpart A—General

§ 105-53.100 Purpose.

This part is published in accordance with 5 U.S.C. 552 and is a general description of the General Services Administration.

§ 105-53.110 Creation and authority.

The General Services Administration was established by section 101 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), effective July 1, 1949. The act consolidated and transferred to the agency a variety of real and personal property and related functions formerly assigned to various agencies. Subsequent laws and Executive orders assigned other related functions and programs.

§ 105-53.112 General statement of functions.

The General Services Administration is responsible for providing for the Government an economical and efficient system for the management of its property and records, including construction and operation of buildings; procurement and distribution of supplies; disposal of surplus property; management of transportation, traffic, and telecommunications; stockpiling of strategic materials; direction and coordination of the Government-wide civil emergency preparedness program; management of the Government-wide ADP resources program; and creation, preservation, and disposal of records.

§ 105-53.114 General statement of organization.

The General Services Administration is an independent agency in the executive branch of the Government. The work of the agency as a whole is directed by the Administrator of General Services, who is assisted by the Deputy Administrator. The staff offices and the operating services are described in §§ 105-53.130 to 105-53.150 of this part.

§ 105-53.116 General regulations.

Regulations of the General Services Administration and its components are codified in the Code of Federal Regulations in Title 1, Chapters I and II; Title 32A, Chapter I; Title 34, Chapter II; and Title 41, Chapters 1, 5A, 5B, 101, and 105. Titles 1, 32A, 34, and 41 of the Code of Federal Regulations are available at most legal and depository libraries and at the General Services Administration Central Office and regional offices. Copies may also be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

§ 105-53.118 Locations of material available for public inspection.

GSA maintains reading rooms containing materials available for public inspection and copying at the following locations:

(a) General Services Administration, 18th and F Streets NW., Library (Room 1033), Washington, D.C. 20405. Telephone: 202-566-0212.

(b) Business Service Center, General Services Administration, John W. McCormack Building, Post Office and Courthouse, Boston, Mass. 02109. Telephone: 617-223-2868.

(c) Business Service Center, General Services Administration, 26 Federal Plaza, New York, N.Y. 10007. Telephone: 212-264-1234.

(d) Business Service Center, General Services Administration, Seventh and D Streets, SW., Washington, D.C. 20407. Telephone: 202-472-1804.

(e) Business Service Center, General Services Administration, 1776 Peachtree Street NW., Atlanta, Ga. 30309. Telephone: 404-881-3934.

(f) Business Service Center, General Services Administration, 230 South Dearborn Street, Chicago, Ill. 60604. Telephone: 312-353-5383.

(g) Business Service Center, General Services Administration, 1500 East Bannister Road, Kansas City, Mo. 64131. Telephone: 816-926-7203.

(h) Business Service Center, General Services Administration, 819 Taylor Street, Fort Worth, Tex. 76102. Telephone: 817-334-3284.

(i) Business Service Center, General Services Administration, Building 41, Denver Federal Center, Denver, Colo. 80225. Telephone: 303-234-2216.

(j) Business Service Center, General Services Administration, 525 Market Street, San Francisco, Calif. 94105. Telephone: 415-556-2122.

(k) Business Service Center, General Services Administration, 440 Federal Building, 915 Second Avenue, Seattle, Wash. 98174. Telephone: 206-442-5556.

§ 105-53.120 Addresses and telephone numbers.

The Office of the Administrator, Office of Administration, Office of General Counsel, Automated Data and Telecommunications Service, Federal Preparedness Agency, and Public Buildings Service are located in the General Services Building, 18th and F Streets NW., Washington, D.C. 20405. The Federal Supply Service is located in Crystal Mall Building 4, 1941 Jefferson Davis Highway, Arlington, Va. 20406. The National Archives and Records Service is located in the National Archives Building, Eighth Street and Pennsylvania Avenue NW., Washington, D.C. 20408. The telephone number for the above addresses is 202-655-4000. The addresses of the ten regional offices are provided in §105-53.164.

Subpart B—Staff Offices

§ 105-53.130 Office of the Administrator.

(a) *Functions.* The Administrator of General Services, appointed by the President with the advice and consent of the Senate, directs the programs of the General Services Administration. The Deputy Administrator, who is appointed by the Administrator, assists in directing agency programs and coordinates activities related to audits; agencywide investigations and physical security programs; congressional liaison; legislation; public information; consumer product information; GSA's Federal Information Center and Business Service Center programs; major systems acquisition; the formulation of agency policy and the determination of the aims, objectives, and goals of GSA; and the de-

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velopment and maintenance of a short- and long-range agency planning system.

(b) *Regulations.* Regulations pertaining to Office of the Administrator programs are published in the Code of Federal Regulations in Title 41, Chapter 105, Part 105–62. Information on availability of the regulations is provided in § 105–53.116.

§ 105–53.132 Office of Administration.

(a) *Functions.* The Office of Administration (OAD), headed by the Director of Administration, plans for and administers GSA-wide programs for financial management, personnel management, equal employment opportunity, internal automatic data processing, and administrative management.

(b) *Regulations.* Regulations pertaining to OAD programs are published in the Code of Federal Regulations in Title 41, Chapter 101, Subchapter A, and Chapter 105, Parts 105–1, 50, 54, and 735. Information on availability of the regulations is provided in § 105–53.116.

§ 105–53.134 Office of General Counsel.

(a) *Functions.* The Office of General Counsel (OGC), headed by the General Counsel, provides legal counsel to the Administrator and other agency officials; performs all legal services in connection with the agency's activities; drafts all legislation proposed by GSA; provides legal services pertaining to Presidential and other special commissions and committees; and plans, develops and administers GSA's contract compliance activities.

(b) *Regulations.* Regulations pertaining to OGC programs are published in the Code of Federal Regulations in Title 41, Chapter 101, Subchapter A, and Chapter 105, Parts 105–60 and 64. Information on availability of the regulations is provided in § 105–53.116.

Subpart C—Operating Services

§ 105–53.144 Automated Data and Telecommunications Service.

(a) *Creation and authority.* The Automated Data and Telecommunications Service (ADTS), headed by the Commissioner, Automated Data and Telecommunications Service, was established on July 15, 1972, by the Administrator of General Services. The Service was assigned responsibility for administering the Government-wide automatic data processing (ADP) resources management program and the Government-wide telecommunications management program. These responsibilities were previously assigned to the Federal Supply Service and the former Transportation and Communications Service, respectively.

(b) *Functions.* The Automated Data and Telecommunications Service is responsible for the administration of two interrelated Government-wide programs—ADP and communications. ADTS provides for the economical and efficient purchase, lease, maintenance, operation, and utilization of ADP equipment by Federal departments and agencies; and it guides, coordinates, and assists the civilian agencies in the procurement and utilization of telecommunications services.

(c) *Regulations.* Regulations pertaining to ADTS programs are published in the Code of Federal Regulations in Title 34, Chapter II, and in Title 41, Chapters 1 and 101, Subchapters E and F. Information on availability of the regulations is provided in § 105–53.116.

§ 105–53.146 Federal Preparedness Agency.

(a) *Creation and authority.* The Federal Preparedness Agency (FPA), headed by the Director, Federal Preparedness Agency, was established on June 26, 1975, by the Administrator of General Services to supersede the Office of Preparedness, the functions of which were transferred to GSA from the Office of Emergency Preparedness, Executive Office of the President, by Executive Order 11725, effective July 1, 1973. Responsibility for GSA's stockpile disposal program was assigned to FPA on January 3, 1976.

(b) *Functions.* FPA is responsible for developing national policy and program guidance in the field of civilian preparedness; for conducting studies and analyses in support of preparedness activities; for assuming leadership roles in coordinating the Federal response in special crises; and for providing guidance to the States relative to emergency preparedness. FPA is responsible for maintaining suitable emergency operating facilities and arrangements for continuing operations to ensure continuity of the Government in emergencies and for providing guidance in establishing lines of succession; maintaining alternate sites for relocation of essential personnel, and the safekeeping of essential records. FPA is also responsible for preparing plans which enable the country to respond to national emergencies; for continually informing the President and affected agency heads of developments in these emergencies; for establishing levels for strategic and critical stockpile materials; and for establishing policy for the acquisitions and disposals needed to maintain these levels.

(c) *Regulations.* Regulations pertaining to FPA programs are published in the Code of Federal Regulations in Title 32A, Chapter I. Information on availability of the regulations is provided in § 105–53.116.

§ 105–53.148 Federal Supply Service.

(a) *Creation and authority.* The Federal Supply Service (FSS), headed by the Commissioner, Federal Supply Service, was established on December 11, 1949, by the Administrator of General Services to supersede the Bureau of Federal Supply of the Department of the Treasury, which was abolished by the Federal Property and Administrative Services Act of 1949.

(b) *Functions.* The Federal Supply Service procures personal property and nonpersonal services for Federal agencies, stores and distributes supplies, and regulates the supply functions performed by other agencies. It promulgates Federal Specifications and Standards; maintains the Federal Catalog System; plans, develops, and administers the Federal Procurement Regulations; issues General Services Administration Procurement Regulations pertaining to personal property and related services; acquires, stores, and otherwise manages inventories of materials essential for military and industrial use in times of national emergency; promotes the utilization of personal property and the transfer of excess property among Federal agencies; provides for the maintenance, repair, rehabilitation, and reclamation of personal property; disposes of personal property surplus to the needs of the Federal Government by donation, sale, or other means; procures and promotes the economical use of transportation, motor equipment, and public utility services by executive agencies; and audits all transportation bills paid by the U.S. Government.

(c) *Regulations.* Regulations pertaining to FSS programs are published in the Code of Federal Regulations in Title 34, Chapter II, and in Title 41, Chapters 1, 5A, and 101, Subchapters A, C, E, F, G, and H. Information on availability of the regulations is provided in § 105–53.116.

§ 105–53.150 National Archives and Records Service.

(a) *Creation and authority.* The National Archives and Records Service (NARS), under the direction of the Archivist of the United States, was established on December 11, 1949, by the Administrator of General Services to succeed the National Archives Establishment originally established by the Act of June 19, 1934 (48 Stat. 1122).

(b) *Functions.* The National Archives and Records Service (NARS) performs a variety of functions relating to the preservation, use, and disposition of the records of the Federal Government. NARS selects, preserves, and makes available for further Government use and for private research the Nation's records of enduring value, both textual and audiovisual. Among its other activities are the administration of a regional network of storage-type facilities for nonarchival records; operation of the Presidential library system and a Government records management program; custody and control of the Nixon Presidential historical materials; and publication of legislative, regulatory, and other widely used documents. NARS acts as a central clearinghouse for the general public for information about all federally produced audiovisual materials and as a central sales and distribution point for these materials.

(c) *Regulations.* Regulations pertaining to NARS programs are published in the Code of Federal Regulations in Title 1, Chapters I and II; Title 41, Chapter 101, Subchapter B; and Title 41, Chapter 105, Parts 105–61 and 63. Information on availability of the regulations is provided in § 105–53.116.

§ 105–53.152 Public Buildings Service.

(a) *Creation and authority.* The Public Buildings Service (PBS), headed by the Commissioner, Public Buildings Service, was established on December 11, 1949, by the Administrator of General Services, to supersede the Public Buildings Administration, which was abolished by the Federal Property and Administrative Services Act of 1949.

(b) *Functions.* The Public Buildings Service is responsible for the design, construction, management, maintenance, operation, alteration, extension, remodeling, preservation, repair, improvement, protection, and control of buildings, both federally owned and leased, in which are provided housing accommodations for Government activities, where authorized. It also has the responsibility for the acquisition, utilization, custody, and accountability for GSA real property and related personal property, and for the GSA safety program. It is responsible for the development of Government-wide policies and regulations to promote the maximum and optimum utilization of excess real and related personal property by executive agencies; for surveying Federal real property to identify properties not properly utilized; for transferring excess property among Federal agencies and authorized organizations; for disposing of surplus real property; and for granting or approving leases or permits for use of real property.

(c) *Regulations.* Regulations pertaining to PBS programs are published in the Code of Federal Regulations in Title 34, Chapter II, and in Title 41, Chapters 1, 5B, and 101, Subchapters D and H. Information on availability of the regulations is provided in § 105–53.116.

Subpart D—Regional Offices

§ 105–53.162 Organization and functions.

Regional offices have been established in 10 cities throughout the United States. Each regional office is headed by a Regional Administrator who is responsible to the Administrator for the overall direction and administration of the regional office and for the total performance of GSA programs and activities within the region. The organization of each regional office generally parallels that of the Central Office. In some instances, however, regional offices are assigned nationwide or interregional jurisdiction for a specific program. The geographic composition of each region is shown in § 105–53.162.

§ 105–53.164 Geographic composition; addresses and telephone numbers.

REGIONAL OFFICES—GENERAL SERVICES ADMINISTRATION

Region and Address

No. 1. (Comprising the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont); John W. McCormack Building, Post Office and Courthouse, Boston, Mass. 02109. Telephone: 617–223–2100.

No. 2. (Comprising the States of New Jersey and New York, the Commonwealth of Puerto Rico, and the Virgin Islands); 26 Federal Plaza, New York, N.Y. 10007. Telephone: 212–264–3311.

No. 3. (Comprising the District of Columbia and the States of Maryland, Virginia, West Virginia, Pennsylvania, and Delaware); GSA Regional Office Building, Seventh and D Streets SW., Washington, D.C. 20407. Telephone: 202–655–4000.

No. 4. (Comprising the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee); 1778 Peachtree Street NW., Atlanta, Ga. 30309. Telephone: 404–285–0111.

No. 5. (Comprising the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin); 230 South Dearborn Street, Chicago, Ill. 60604. Telephone: 312–353–4401.

No. 6. (Comprising the States of Iowa, Kansas, Missouri, and Nebraska); 1500 East Bannister Road, Kansas City, Mo. 64131. Telephone: 816–758–7212.

No. 7. (Comprising the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas); 819 Taylor Street, Fort Worth, Tex 76102 Telephone: 817 334–3011.

No. 8. (Comprising the States of Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming); Building 41, Denver Federal Center, Denver, Colo. 80225 Telephone: 303–234–3131.

No. 9 (Comprising Guam and the States of Arizona, California, Hawaii, and Nevada); 525 Market Street, San Francisco, Calif. 94105. Telephone: 415–556–9000.

No. 10. (Comprising the States of Alaska, Idaho, Oregon, and Washington); GSA Center, Auburn, Wash. 98002. Telephone: 206–396–5000.

Dated: August 30, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77–25965 Filed 9–6–77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1272]

PART 1033—CAR SERVICE

Goodwin Railroad, Inc. Authorized To Operate Over Certain Tracks Owned by State of New Hampshire

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1272).

SUMMARY: Service Order No. 1272 authorizes the Goodwin Railroad to operate a line of railroads formerly operated by the Boston and Maine Railroad and now owned by the State of New Hampshire extending between Concord, N.H., and Lincoln, N.H. An application for permanent authority is pending.

DATES: Effective 12:01 a.m., September 1, 1977. Expires 11:59 p.m., February 15, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423. Telephone 202–275–7840. Telex 89–2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 1st day of September, 1977.

It appearing, That the Boston and Maine Corp., Robert W. Meserve and Benjamin H. Lacy, Trustees (B&M), in Finance Docket No. 26604 has requested authority to abandon its line between Concord, N.H., and Lincoln, N.H.; that the State of New Hampshire in a Declaration of Taking, filed in the Superior Court of Merrimack County on October 30, 1975, has taken title to this line; that the State of New Hampshire has designated the Goodwin Railroad, Inc. (Goodwin) as the operator of these lines; that the Goodwin has consented to operate these lines pending action of the Commission on the application of the Goodwin for approval of the extended contract; that many shippers are solely dependent upon continued operation of the aforementioned lines for essential railroad service; that the operation by the Goodwin over the aforementioned tracks owned by the State of New Hampshire is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1272 Service Order No. 1272.

(a) *Goodwin Railroad, Inc. authorized to operate over certain tracks owned by the State of New Hamsphire.* The Goodwin Railroad, Inc. (Goodwin) be, and it is hereby authorized to operate over tracks owned by the State of New Hampshire and acquired from the Boston and Maine Corp., Robert W. Meserve and Benjamin H. Lacy, Trustees (B&M) extending from Concord, N.H., to Lincoln, N.H., a distance of approximately 71.8 miles, and to operate over certain B&M tracks in Concord necessary to the assembling or break-up of trains operated by the Goodwin, pending disposition of application of the Goodwin for permanent authority.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the Goodwin over tracks previously operated by the B&M and over tracks of the B&M is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via the B&M, until tariffs naming rates and routes specifically applicable via the Goodwin become effective.

(d) In transporting traffic over these lines the Goodwin and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with

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reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(e) *Effective date.* This order shall become effective at 12:01 a.m., September 1, 1977.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., February 15, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1, 12, 15 and 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-25987 Filed 9-6-77;8:45 am]

[Ex Parte No. MC-37 (Sub-No. 26)]

PART 1048—COMMERCIAL ZONES

Commercial Zones and Terminal Areas

AGENCY: Interstate Commerce Commission.

ACTION: Correction.

SUMMARY: The notice of amendment of final rule concerning the definition of the Syracuse, N.Y., commercial zone, which was published in the FEDERAL REGISTER on June 23, 1977 (42 FR 31795), inadvertently omitted the amended rule. This correction restores the omitted language.

EFFECTIVE DATE: September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423. (202-275-7292).

SUPPLEMENTARY INFORMATION: The following should be added to the notice of amendment of final rule concerning the Syracuse, N.Y., commercial zone, which was published in the FEDERAL REGISTER on June 23, 1977 (42 FR 31795):

Accordingly, Section 1048.16 of Part 1048 of Chapter X of Title 49 of the Code of Federal Regulations, as published in the FEDERAL REGISTER on May 16, 1977, is deleted and the following is substituted in lieu thereof:

§ 1048.16 Syracuse, N.Y.

The zone adjacent to, and commercially a part of Syracuse, N.Y., within which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for shipment to or from points beyond such zone, is partially exempt from regulation under Section 203 (b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and is comprised of all points as follows:

(a) The municipality of Syracuse, N.Y., itself;

(b) All points within a line drawn 10 miles beyond the municipal limits of Syracuse;

(c) Those points in the towns of Van Buren and Lysander, Onondaga County, N.Y., which are not within the area described in paragraph (b) of this section, but which are within an area bounded by a line beginning at the intersection of new New York Highway 48 with the line described in (b) above, thence northerly along new New York Highway 48 to junction New York Highway 370, thence westerly along New York Highway 370 to junction Emerick Road, thence northerly along Emerick Road to junction Dunham Road, thence northerly along Dunham Road to junction New York Highway 192, thence easterly along New York Highway 192 to junction new New York Highway 48, thence northerly along new New York Highway 48 to junction New York Highway 213, thence easterly along New York Highway 213 to junction New York Highway 213A, thence easterly along New York Highway 213A to junction New York Highway 37, thence southerly along New York Highway 37 to its intersection with the line in (b) above;

(d) All of any municipality any part of which is within the limits of the combined areas defined in (b) and (c) above, and

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the municipality of Syracuse or any other municipality included under the terms of (d) above.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-25988 Filed 9-6-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of National Elk Refuge, Wyo. to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to elk hunting at the National Elk Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 29, 1977, through December 29, 1977.

FOR FURTHER INFORMATION CONTACT:

John E. Wilbrecht, National Elk Refuge, P.O. Box C, Jackson, Wyo. 83001.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of elk on the National Elk Refuge, Wyoming is permitted from October 29 through December 29, 1977, only on the area designated by signs as open to hunting. This open area, comprising 16,327 acres, is delineated on maps available at refuge headquarters, Jackson, Wyo., and from the Area Manager, U.S. Fish and Wildlife Service, Federal Building, Room 3035, 316 N. 26th, Billings, Mont. 59101. Hunting shall be in accordance with all applicable State regulations covering the hunting of elk subject to the following special conditions:

(1) A special permit is required in addition to a valid 1977 State Elk Hunting license. Ninety special permits (for three hunt periods) shall be issued to applicants by drawing at refuge headquarters at 3:00 p.m. on Fridays, October 28, November 4, and November 11. Thirty permits will be valid for the Saturday through Sunday period; thirty permits valid Wednesday through Thursday; no hunting will be permitted on Fridays. Additional Friday drawings from the period November 18 through December 23, 1977 may be authorized if it is determined that additional harvest is necessary to achieve management objectives.

(2) Applicants for a special permit must have a hunter safety certification or a current hunter safety instructor card.

(3) Persons successful in drawing a permit may not draw again in succeeding drawings.

(4) Persons without permits may accompany special permit holders, but only permit holders are allowed to possess a firearm. Anyone entering hunt area must have fluorescent orange exterior garments.

(5) Permits will be revoked in the event of a violation of refuge regulations and violations can result in denial of future privileges on the refuge.

(6) Access to the refuge shall be only through the main gate east of refuge headquarters in Jackson.

(7) Vehicles are to be parked only in designated parking areas.

(8) Motorized vehicle travel in the hunt area is prohibited. Entry into the hunt area will be restricted to foot or horseback travel. Hunters may use horses for riding and packing. Retrieval of kills will be either by dragging, backpacking, wheeled carts (nonmotorized), or by horse packing.

(9) Citizens Band (C.B.) radios are not allowed in hunt area.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 26, 1977.

JOHN E. WILBRECHT,
Refuge Manager.

[FR Doc.77-25963 Filed 9-6-77;8:45 am]

PART 32—HUNTING

Opening of Bombay Hook National Wildlife Refuge, Del. to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Bombay Hook National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 1, 1977 through January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Don Perkuchin, Bombay Hook National Wildlife Refuge, R.D. No. 1, Box 147, Smyrna, Del. 19977, Telephone No. 302-653-9345.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks, geese, and coots is permitted on areas designated by signs as open to hunting including the South Waterfowl Hunting Area, the West Waterfowl Hunting area, the Young Waterfowlers Area, and the South Upland Hunting Area. These open areas are delineated on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass 02158.

Hunting shall be in accordance with all State and Federal regulations covering the hunting of ducks, geese, and coots subject to the following special conditions:

1. Hunting is permitted on the West Waterfowl Hunting Area from one-half hour before sunrise to 12 noon local standard time, Tuesdays, Thursdays, and Saturdays (except November 12) during the goose season.

2. Hunting in the South and West Waterfowl Areas and Young Waterfowlers Area shall be from existing numbered blinds. The possession of a loaded gun or shooting while outside of a blind is prohibited on these areas.

3. Hunting is permitted in the South Waterfowl Hunting Area only on Monday, Wednesday, Friday, and Saturday, during the State duck season.

4. The necessary permit to enter the South Waterfowl Hunting Area will be issued each hunting day by a ticket-lottery system at one and one-half hours before legal shooting time at the checking station at Port Mahon. Hunters arriving after the lottery will be issued permits on a first-come, first-served basis. Permits will be surrendered at the checking station within one-half hour after sunset. The necessary permit to enter the West Waterfowl Hunting Area may be obtained by applying to the refuge manager for advance reservation. The permits for advance reservations will be cancelled if the holder is not present one hour prior to the start of legal shooting time on the date of his reservation. These forfeited permits and permits not reserved by advance reservation will be awarded to other hunters by lottery on the morning of the hunt. All hunters will check out through the headquarters checking station prior to leaving the refuge.

5. Each hunting permittee using the West Waterfowl Hunting Area will pay a recreation fee of $10.00 on the day of the hunt. A Recreation fee of $2.00 per hunter will be charged on the South Waterfowl Hunting Area.

6. Not more than four persons may occupy a blind at any one time on the West Waterfowl Hunting Area nor more than three on the South Waterfowl Hunting Area.

7. The Young Waterfowlers Area will be open from one-half hour before sunrise to 12 noon local standard time on Saturdays and holidays to young hunters who present evidence of having completed the prescribed training program. Two youths, accompanied by an instructor who may not possess ammunition or possess or discharge a firearm, may use one blind

8. Hunters on all four areas are required to use steel shot shells in 12 gauge shotguns. Hunters using 12 gauge shotguns may not have in their possession lead shotshells. Lead shotshells may be used in shotguns other than 12 gauge. No hunter may have in their possession or use in one day more than 10 shells on the West Waterfowl Hunting Area or 15 shells on the Young Waterfowlers Hunting Area.

9. Hunters, when requested by Federal or State enforcement officers, must display for inspection all game, hunting equipment, and ammunition.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107

HOWARD N. LARSEN,
Regional Director, United States Fish and Wildlife Service.

AUGUST 26, 1977.

[FR Doc.77-25967 Filed 9-6-77;8:45 am]

PART 32—HUNTING

Opening of Monte Vista National Wildlife Refuge, Colo. to Public Hunting of Upland Game

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of cottontail rabbits and white and black-tailed jackrabbits on the Monte Vista National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977 through January 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Melvin T. Nail, Refuge Manager, Monte Vista National Wildlife Refuge, P.O. Box 511, Monte Vista, Colo. 81144, telephone number 303-852-2435; or Mitchell G. Sheldon, Assistant Area Manager, Refuges and Wildlife, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. telephone number 801-524-5630

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Hunting of cottontail rabbits and white and black-tailed jack rabbits is permitted on the Monte Vista National Wildlife Refuge, Colorado, but only on the areas designated by signs as being open to hunting. These areas comprising 5,314 acres are delineated on maps available at refuge headquarters, Monte Vista, Colo., and from the Area Manager, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State St., Salt Lake City, Utah 84138. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of cottontail rabbits and white and black-tailed jack rabbits, subject to the following special conditions:

(1) Cottontail rabbits and white and black-tailed jack rabbits—October 1, 1977 through October 14, 1977, inclusive, and November 12, 1977 through January 19, 1978, inclusive.

(2) Shooting hours for cottontail rabbits will be from sunrise to sunset.

(3) Shooting hours for white and black-tailed jack rabbits shall coincide with those set by Federal and State proclamation for the hunting of migratory waterfowl.

(4) Admittance—Entrance to the area open to hunting and parking of vehicles will be restricted to designated parking areas.

(5) Dogs—Not to exceed two dogs per hunter may be used in the hunting of the above species.

(6) Hunting with rifles and hand guns is prohibited.

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The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107

NELS WINTERS,
Acting Refuge Manager.

AUGUST 29, 1977.

[FR Doc 77-25971 Filed 9-6-77;8:45 am]

PART 32—HUNTING

Opening of Bombay Hook National Wildlife Refuge, Del. to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Bombay Hook National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 11, 1977 through November 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Don Perkuchin, Bombay Hook National Wildlife Refuge, R.D. No. 1, Box 147, Smyrna, Del. 19977, Telephone No. 302-653-9345.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer with shotguns is permitted only on the Deer Hunting Area and South Upland Hunting Area designated by signs as open to hunting. These open deer hunting areas are shown on maps available at refuge headquarters and from the Regional Director U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

Hunting shall be in accordance with all State and Federal regulations covering the hunting of deer with firearms subject to the following special conditions:

1. Hunting with shotguns on the Deer Hunting Area is permitted only on November 11, 12, 14 and 16, 1977.

2. A Federal permit is required to hunt on the Deer Hunting Area and may be obtained by applying to the refuge manager in writing for an advance reservation. An individual with an advance reservation will forfeit his permit if he is not present one hour prior to the start of legal shooting time on the date of the reservation. These forfeited permits and permits not reserved by advance reservations will be awarded to standby hunters by lottery one hour before the start of legal shooting time. Permits must be surrendered prior to departure from the refuge.

3. The number of hunters admitted to the open area at one time will be restricted to 50.

4. Hunters using the Deer Hunting Area and the South Upland Hunting Area must possess a valid firearm qualification card. The qualification test for shotgun slugs consists of placing three consecutive slugs in a 12-inch bullseye at 30 yards from the standing position. The qualification test for shotgun buckshot hunters will consist of placing five or more pellets in a 20-inch target from a distance of 30 yards from the standing position.

5. Target practice or test firing is not permitted.

6. Only blinds, platforms or scaffolds that are erected and removed each day of the hunt may be used. Written permission from the refuge manager is required for the construction or use of any such artificial structure.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

HOWARD N. LARSEN,
Regional Director, United States Fish and Wildlife Service.

AUGUST 26, 1977.

[FR Doc. 77-25968 Filed 9-6-77;8:45 am]

PART 32—HUNTING

Opening of Bombay Hook National Wildlife Refuge, Del. to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Bombay Hook National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 14, 1977 through October 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Don Perkuchin, Bombay Hook National Wildlife Refuge, R.D. No. 1, Box 147, Smyrna, Del. 19977, Telephone No. 302-653-9345.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer with primitive firearms is permitted only on the Deer Hunting Area and South Upland Hunting Area. **These open deer hunting areas are shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.**

Hunting shall be in accordance with all State and Federal regulations covering the hunting of deer with firearms subject to the following special conditions:

1. Hunting with primitive firearms on the Deer Hunting Area is permitted only on October 14 through October 15.

2. The number of hunters admitted to the Deer Hunting Area at any one time will be restricted to 50.

3. Permits are required for the Deer Hunting Area and will be issued on a first-come, first-served basis one-half hour before shooting time.

4. Hunters using the Deer Hunting Area and the South Upland Hunting Area must possess a valid firearms qualification card. The qualification test will consist of placing three consecutive rounds in a 12-inch circle at 50 yards, firing from the offhand position. The muzzleloader used for the qualification test must be the same one that is used for the hunt.

5. Target practice or test firing is not permitted.

6. Only blinds, platforms or scaffolds that are erected and removed each day of the hunt may be used. Written permission from the refuge manager is required for the construction or use of any such artificial structure.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

HOWARD N. LARSEN,
Regional Director, United States Fish and Wildlife Service.

AUGUST 26, 1977.

[FR Doc.77-25969 Filed 9-6-77;8:45 am]

PART 32—HUNTING

Opening of Prime Hook National Wildlife Refuge, Del., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Prime Hook National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 1, 1977, through January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

William McCoy, Prime Hook National Wildlife Refuge, R.D. No. 1, Box 195, Milton, Del. 19968, telephone No. 302-684-8419.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks, geese, and coots is permitted on the Waterfowl Hunting Area. This 1,180-acre open area is shown on maps available at refuge headquarters or from the Regional Director, Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

Hunting shall be in accordance with all Federal and State regulations covering the hunting of ducks, geese, and coots, subject to the following special conditions:

(1) Permits will be issued by a ticket-lottery system at two hours before legal shooting time. Hunters arriving after the lottery will be issued permits on a first-come, first-served basis until 3 p.m. Permits will be surrendered at the checking station within one hour after sunset. When leaving a blind unoccupied for any reason the permit must be turned in and a new permit must be completed at the check station before hunting again.

(2) Hunting shall be only from blinds at locations designated by refuge personnel. The possession of a loaded gun or shooting outside of a blind while hunting waterfowl and coots is prohibited. Three hunters per blind permitted.

(3) The area is open each Monday, Wednesday, Friday, and Saturday, throughout the duck hunting season.

(4) Access to the waterfowl hunting area will be at designated boat access points.

(5) Steel shotshells are required for all shotguns 12 gauge or larger. Persons using 12 gauge shotguns may not have in their possession lead shotshells. Lead shotshells may be used in shotguns other than 12 gauge.

(6) Hunters, when requested by Federal or State enforcement officers, must display for inspection all game, hunting equipment, and ammunition.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

HOWSARD N. LARSEN,
Regional Director, United States Fish and Wildlife Service.

AUGUST 26, 1977.

[FR Doc.77-25973 Filed 9-6-77;8:45 am]

PART 32—HUNTING

Opening of Monte Vista National Wildlife Refuge, Colo., to Public Hunting of Migratory Game Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of geese, ducks, coots, mergansers, mourning doves, and Wilson's snipe on the Monte Vista National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977, through January 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Melvin T. Nall, Refuge Manager, Monte Vista National Wildlife Refuge, P.O. Box 511, Monte Vista, Colo. 81144, telephone number 303-852-2435; or Mitchell G. Sheldon, Assistant Area Manager, Refuges and Wildlife, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138, telephone number 801-524-5630.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game bird hunting; for individual wildlife refuge areas.

Hunting of geese, ducks, coots, mergansers, mourning doves, and Wilson's snipe is permitted on the Monte Vista National Wildlife Refuge, Colo., but only on the areas designated by signs as being open to hunting. These areas comprising 5,314 acres are delineated on maps available at refuge headquarters, Monte Vista, Colo., and from the Area Manager, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of geese, ducks, coots, mergansers, mourning doves, and Wilson's snipe, subject to the following special conditions:

(1) The refuge will be open to hunting of mourning doves and Wilson's snipe only during the established waterfowl seasons—October 1, 1977, through October 14, 1977, inclusive, and November 12, 1977, through January 19, 1978, inclusive.

(2) Shooting hours will be from sunrise to sunset on mourning doves and Wilson's snipe.

(3) Admittance—Entrance to the area open to hunting, and parking of vehicles will be restricted to designated parking areas.

(4) Dogs—Not to exceed two dogs per hunter may be used in the hunting of the above species.

(5) Boats—The use of boats is prohibited. One or two-man life rafts that can be carried by an individual from the parking areas to the hunting area may be used to retrieve dead or wounded birds.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE: The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

NELS WINTERS,
Acting Refuge Manager, Monte Vista National Wildlife Refuge, Monte Vista, Col.

AUGUST 29, 1977.

[FR Doc 77-25970 Filed 9-6-77;8:45 am]

PART 32—HUNTING

Opening of Prime Hook National Wildlife Refuge, Del., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Prime Hook National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 14, 1977 through January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

William McCoy, Prime Hook National Wildlife Refuge, R.D. No. 1, Box 195, Milton, Del. 19968, Telephone No. 302-684-8419.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer by means of primitive firearms and shotgun is permitted only on the North Hunting Area. This open deer hunting area, comprising approximately 2,320 acres, is shown on a map available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

Hunting shall be in accordance with all State regulations covering the hunting of deer subject to the following conditions:

1. Primitive firearm and shotgun hunters must possess a valid firearms qualification card. The test for muzzleloaders will consist of placing three consecutive rounds in a 12-inch bullseye at 50 yards, firing from the standing position. The test for shotgun slug hunters will consist of placing three consecutive slugs in a 12-inch target at a distance of 30 yards, firing from the standing position. The test for shotgun buckshot hunters will consist of placing five or more pellets in a 20-inch target from a distance of 30 yards from the standing position.

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2. Permits are required for all deer hunting. These permits are available free of charge and will be issued by mail to successful applicants selected by a preseason drawing.

3. The number of shotgun hunters admitted to the open area will be restricted to 25 preselected hunters per day.

4. Permits must be returned to the refuge office by the end of the deer hunting seasons.

5. Only blinds, platforms or scaffolds that are erected and removed each day of the hunt may be used. Written permission from the refuge manager is required for the construction or use of any such artificial structure.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

HOWARD N. LARSEN,
Regional Director, United States Fish and Wildlife Service.

AUGUST 26, 1977.

[FR Doc.77-25972 Filed 9-6-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1702]

EXEMPTIONS FROM POISON PREVENTION PACKAGING ACT REQUIREMENTS; PETITION PROCEDURES AND REQUIREMENTS

Proposed and Interim Rule

CROSS REFERENCE: For an interim rule, on which comments are solicited, regarding procedures and requirements for submitting petitions for exemptions from Poison Prevention Packaging Act requirements of child resistant packaging, see FR Doc. 77-25982 appearing in the Rules and Regulations section of this issue.

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 231]

[Release No. 33-5858; File No. 4-201]

OFFER AND SALE OF CERTAIN CONTRACTURAL ARRANGEMENTS ISSUED BY LIFE INSURANCE COMPANIES

Extension of Comment Period

AGENCY: Securities and Exchange Commission.

ACTION: Extension of comment period.

SUMMARY: This notice extends the period for comments set in the notice published June 22, 1977, requesting public comment regarding the offer and sale of certain contractual arrangements issued by insurance companies and generally known as guaranteed investment, interest, or income contracts. The staff of the Commission is studying these contracts in order to determine the extent to which they are eligible for the exemption from registration contained in section 3(a)(8) of the Securities Act of 1933.

DATES: Comments must be received on or before October 6, 1977.

ADDRESSES: Comments should be sent in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should refer to File No. 4-201.

FOR FURTHER INFORMATION CONTACT:

Laura A. Boughan, Esq., Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549 (202-755-0218).

SUPPLEMENTARY INFORMATION: Notice was published on June 22, 1977, Release No. 33-5838 (42 FR 32861, June 28, 1977)[1] requesting the submission of views with respect to the offer and sale of certain contractual arrangements issued by life insurance companies. The American Council of Life Insurance ("ACLI"), which represents 470 life insurance companies, has requested an extension of time for submission of its comments. In view of this request, the Commission has authorized an extension to October 6, 1977, of the due date for submitting comments. The Commission believes that this extension is appropriate and will not result in undue delay.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 26, 1977.

[FR Doc.77-26017 Filed 9-6-77;8:45 am]

[1] This document was inadvertently published in the Notices section of the FEDERAL REGISTER.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-193-74]

INCOME TAX

Definition of the Term "Church Plan"; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to church plans.

DATES: The public hearing will be held on October 6, 1977 beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by September 26, 1977.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

George Bradley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (202-566-3935), not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 414(e) of the Internal Revenue Code of 1954. These proposed regulations appeared in the FEDERAL REGISTER for April 8, 1977 (42 FR 18621).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by September 26, 1977. The outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T (LR-193-74), Washington, D.C. 20224. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

ROBERT A. BLEY,
Director,
Legislation and Regulations Division.

[FR Doc.77-25989 Filed 9-6-77;8:45 am]

POSTAL SERVICE

[39 CFR Parts 241, 245, 246, 247, 248, 265]

DISCONTINUANCE OF POST OFFICE

Procedural Regulations

Correction

In FR Doc. 77-24469 appearing at page 42695 in the issue for Wednesday, August 24, 1977, the following correction should be made.

In the middle column of page 42698, on line eight of § 247.13, the comment date now reading, "06 days", should read, "60 days".

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 786-6]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to the Great Basin Unified Air Pollution Control District's Rules and Regulations in California

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Great Basin Unified Air Pollution Control District (APCD)

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has adopted changes to their rule concerning upset breakdown (malfunction). This revision has been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board as a revision to the California State Implementation Plan (SIP). The intended effect of the revision is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on this rule, especially as to its consistency with the Clear Air Act.

DATE: Comments by October 7, 1977.

ADDRESS: Send comments to: Regional Administrator, Attention: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco, Calif. 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 100 California Street, San Francisco, Calif. 94111. Attention: David R. Souten, 415–556–7288.

SUPPLEMENTARY INFORMATION: The June 6, 1977 submittal contained the following revised rule:

Rule 403—Upset Breakdown.

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulation as an SIP revision.

The Regional Administrator hereby issues this notice setting forth this revision as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Relevant comments received on or before October 7, 1977, will be considered. Comments received will be available for public inspection at the Region IX Office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

Great Basin Unified Air Pollution Control District, 873 North Main Street, Suite 213, Bishop, Calif. 93514

California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814.

Environmental Protection Agency, Region IX, 100 California Street, San Francisco, Calif. 94111.

Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

(Secs. 110, 301, Clean Air Act, as amended (42 U.S.C. 1857c-5, 1857g).)

Dated: July 26, 1977.

PAUL DE FALCO, JR.,
Regional Administrator.

[FR Doc.77-25874 Filed 9-6-77;8:45 am]

[40 CFR Part 52]

[FRL 786-7]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Bay Area Air Pollution Control District's Rules and Regulations in California

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bay Area Air Pollution Control District (APCD) has adopted changes to their rules and regulations. The revisions have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board as revisions to the California State Implementation Plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATES: Comments by October 7, 1977.

ADDRESS: Send comments to: Regional Administrator, Attention: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco, Calif 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 100 California Street, San Francisco, Calif. 94111. Attention: David R. Souten, 415–556–7288.

SUPPLEMENTARY INFORMATION: The following rules and regulations were submitted on the indicated dates:

JULY 25, 1973

REGULATION 2, SECTION 1214, EXPERIMENTAL OPERATIONS

REGULATION 3, SECTION 1205, EXPERIMENTAL OPERATIONS

APRIL 21, 1976

REGULATION 2, SECTION 3212, UPSET CONDITIONS, BREAKDOWN OR SCHEDULED MAINTENANCE

REGULATION 3, SECTION 3203, UPSET CONDITIONS, BREAKDOWN OR SCHEDULED MAINTENANCE

JUNE 6, 1977

REGULATION 7—NEW SOURCE PERFORMANCE STANDARDS

Definitions

Rule:

1. General Provisions.
2. Fossil Fuel Steam Generators.
3. Incinerators.
4. Portland Cement Plants.
5. Nitric Acid Plants.
6. Sulfuric Acid Plants.
7. Asphalt Concrete Plants.
8. Refineries.
9. Storage of Petroleum Liquids.
10. Secondary Lead Smelters.
11. Secondary Brass and Bronze Ingot Plants.
12. Iron and Steel Plants.
13. Sewage Plants.
14. Phosphate Fertilizer Plants.
15. Steel Plants—Electric Arc Furnaces.
16. Primary Aluminum Reduction Plants.
17. Primary Copper Smelters.
18. Primary Zinc Smelters.
19. Primary Lead Smelters.
20. Coal Preparation Plants.
21. Ferroalloy Production Facilities.

REGULATION 8—EMISSION STANDARDS FOR HAZARDOUS POLLUTANTS

Definitions

Rule:

1. General Provisions.
2. Asbestos.
3. Beryllium.
4. Beryllium Rocket Firing.
5. Mercury.

A Revision to Regulation 2, Division 13 concerning new source review was also submitted on June 6, 1977; however, it is not being considered in this notice but will be acted upon in a separate FEDERAL REGISTER notice.

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve and disapprove the regulations as an SIP revision.

The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Relevant comments received on or before October 7, 1977, will be considered. Comments received will be available for public inspection at the Region IX Office and the EPA Public Information Reference Unit.

Copies of the proposed revisions are available for public inspection during normal business hours at the following locations:

Bay Area Air Pollution Control District, 939 Ellis Street, San Francisco, Calif. 94109.

California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814.

Environmental Protection Agency, Region IX, 100 California Street, San Francisco, Calif. 94111.

Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

(Secs. 110, 301, Clean Air Act, as amended (42 U.S.C. 1857c-5, 1857g).)

Dated: July 25, 1977.

PAUL DE FALCO, JR.,
Regional Administrator.

[FR Doc.77-25875 Filed 9-6-77;8:45 am]

[40 CFR Part 61]

[FRL 786-8]

VINYL CHLORIDE

National Emission Standards for Hazardous Air Pollutants; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule, extension of comment period.

SUMMARY: The deadline for submittal of comments on the amendments to the vinyl chloride standard which were proposed on June 2, 1977 (42 FR 28154), is being delayed from August 19, 1977, to September 23, 1977. Due to the complexity of the issues which have been raised with regard to the proposed amendments, EPA believes that additional time is needed for submission of factual information to the Agency which can be used in evaluating the proposal.

DATE: Comments must be postmarked on or before September 23, 1977.

ADDRESS: Comments should be submitted (preferably in triplicate) to the Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, attention: Mr. Don R. Goodwin.

All public comments received may be inspected and copied at the Public Information Reference Unit (EPA Library), Room 2922, 401 M Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone 919–541–5271.

SUPPLEMENTARY INFORMATION: On June 2, 1977 (42 FR 28154), the Environmental Protection Agency proposed amendments to the vinyl chloride standard which was promulgated under the authority of section 112 of the Clean Air Act on October 21, 1976 (42 FR 46561). The notice of proposal requested public comments on the amendments by August 1, 1977. On August 10, 1977 (42 FR 40452), in response to a request by the Society of Plastics Industry, Inc., EPA delayed the deadline for submittal of comments on the proposed amendments until August 19, 1977. The purpose of the delay was to allow ample opportunity for interested parties to review and comment on the transcript of the proceedings from the public hearing held on July 19, 1977.

A number of technological and legal issues have been raised on the proposed amendments both in statements made at the public hearing and in written comments received by the Agency. Because of the complexity of these issues, EPA has decided to extend the comment period to allow additional time for submitting factual data to the Agency which can be used in evaluating the proposal. EPA believes that an extension of the comment period through September 23, 1977, is needed for this purpose.

Dated: August 26, 1977.

EDWARD F. TUERK,
Assistant Administrator for Air and Waste Management.

[FR Doc.77-25876 Filed 9-6-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

Federal Supply Service

[41 CFR Part 101–25]

ELECTRIC TYPEWRITERS

Use Standards

AGENCY: General Services Administration.

ACTION: Proposed rule.

SUMMARY: Notice is hereby given that the General Services Administration (GSA) proposes to amend the Federal Property Management Regulations to require agencies to establish criteria for the use of electric typewriters and to specify that acquisition of electric typewriters is restricted to the least expensive units that will meet agency needs. The Congress and other interested parties have indicated that a high percentage of the electric typewriters procured by Federal agencies are not the lowest priced units available. These procurement practices may be resulting in unnecessary costs to the Government. This regulation has been developed to ensure that agencies acquire and use only the lowest priced electric typewriters necessary to accomplish the anticipated workload.

DATES: Comments are due on or before September 30, 1977.

ADDRESSES: Written comments should be sent to: General Services Administration (FFY), Washington, D.C. 20406.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Procedures Management Division, Office of Customer Service and Support, Federal Supply Service, General Services Administration, Washington, D.C. 20406 (703–557–1914).

It is proposed to amend Part 101–25 as follows:

PART 101–25—GENERAL

Subpart 101–25.3—Use Standards

1. Section 101–25.301(a) is revised as follows:

§ 101–25.301 General.

(a) This subpart prescribes basic use standards for certain Government-owned personal property which shall be applied by all executive agencies. Additional criteria above these basic standards shall be established by each executive agency, limiting its property to the minimum requirements necessary for the efficient functioning of the particular office concerned.

. . . . . .

2. Section 101–25.302–3 is amended as follows:

§ 101–25.302–3 Electric typewriters.

. . . . . .

(c) Agency heads shall ensure that acquisition of electric typewriters is in accordance with the provisions of §§ 101–26.408–2 through 101–26.408–4 concerning procurement of the lowest delivered priced item available through multiple-award Federal supply schedule contracts.

(d) Agency heads shall establish criteria for the use of electric typewriters. These criteria shall be based on requirements to meet the normal needs of the typing station including the volume and nature of the work to be performed. The criteria shall also provide for use of electric typewriters that are compatible with word processors when essential to meet the requirements of the typing station. Further, agencies shall select the type of equipment available through Federal supply schedules which incorporates the minimum features and characteristics considered essential to accomplish the anticipated workload.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: August 22, 1977.

ROBERT P. GRAHAM,
Commissioner, Federal Supply Service.

[FR Doc.77-25966 Filed 9-6-77;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

NOTICE TO FEDERAL AGENCIES

Beginning October 1, 1977, Federal agencies must reimburse the Government Printing Office (GPO) for the cost of printing documents in the FEDERAL REGISTER and Code of Federal Regulations.

The Legislative Branch Appropriation Act, 1978 (Pub. L. 95-94, August 5, 1977) amended the Federal Register Act to require Federal agencies to reimburse the Government Printing Office for the cost of printing, binding, and distributing the FEDERAL REGISTER and Code of Federal Regulations. The pertinent provisions of Pub. L. 95-94 amending 44 U.S.C. 1509 are contained in Appendix A to this document.

FEDERAL REGISTER

In order to make certain that statutory requirements for publication in the FEDERAL REGISTER can be met on and after October 1, 1977 agencies must submit a Printing and Binding Requisition (Standard Form 1) before September 15 to the following address:

Superintendent of Planning Service, Room C830, Government Printing Office, Washington, D.C. 20401.

CODE OF FEDERAL REGULATIONS

Every agency that has rules in the Code of Federal Regulations must submit a second Printing and Binding Requisition (Standard Form 1) to the Superintendent of Planning Service at the above address.

COMPUTATION OF COSTS-BILLING: FISCAL YEARS 1978, 1979

For fiscal year 1978 agencies will be charged $285 for each page of printed matter they publish in the FEDERAL REGISTER and $50 for each page in the Code of Federal Regulations. Fractions of pages published in the FEDERAL REGISTER will be counted on a column basis with a minimum charge of one column ($95). GPO will bill each agency monthly for the material the agency has printed in the previous month. Billing for the Code of Federal Regulations will be on an as printed basis.

For budget planning purposes, agencies are advised that current estimates for printing services in Fiscal Year 1979 are as follows: FEDERAL REGISTER $300 per page; Code of Federal Regulations $55 per page.

These prices cover the costs of composition, printing, binding and distribution.

INFORMATION AND ASSISTANCE

For information and assistance in filling out the Printing and Binding Requisition (Standard Form 1) and in computing your projected printing costs, call: Mr. William Rose, 202-275-2867.

APPENDIX A

[Pub. L. 95-94 Approved Aug. 5, 1977]

* * * * *

"§ 1509. Costs of publication, etc.

"(a) The cost of printing, reprinting, wrapping, binding, and distributing the FEDERAL REGISTER and the Code of Federal Regulations, and, except as provided in subsection (b), other expenses incurred by the Government Printing Office in carrying out the duties placed upon it by this chapter shall be charged to the revolving fund provided in section 309. Reimbursements for such costs and expenses shall be made by the Federal agencies and credited, together with all receipts, as provided in section 309(b)."

* * * * *

(b) The amendments made by subsection (a) shall take effect on October 1, 1977.

* * * * *

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

1977 WHITE OR IRISH POTATO PRODUCTION

Estimate

Headnote 2 of Subpart A of Part 8 of Schedule 1 of the Tariff Schedules of the United States (TSUS) provides that, if for any calendar year the production in the United States of white or Irish potatoes, including seed potatoes, according to the estimate of the Department of Agriculture made as of September 1, is less than 21 billion pounds, an additional quantity of potatoes equal to the amount by which such estimated production is less than 21 billion pounds shall be added to the 45 million pounds for which duty at 37.5 cents per 100 pounds is provided by TSUS item 137.25 for the 12-month period beginning September 15.

The estimate of the Department of Agriculture, made as of September 1, 1977, is that for the calendar year 1977 the production in the United States of white or Irish potatoes, including seed potatoes, will exceed 21 billion pounds.

Issued at Washington, D.C., this 1st day of September 1977.

THOMAS R. HUGHES,
Administrator.

[FR Doc.77-25923 Filed 9-6-77;8:45 am]

Packers and Stockyards Administration

SALEM HORSE AUCTION; SALEM, ARK., ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard	*Date of posting*
AR-152, Salem Horse Auction, Salem, Ark.	Mar. 9, 1974.
CO-120, Valley Livestock Auction Co., Grand Junction, Colo.	Mar. 9, 1957.
IA-246, Perkins Auction, Carson, Iowa.	Sept. 16, 1973.
IA-178, Manchester Sales Barn, Manchester, Iowa.	May 20, 1959.
IA-191, Sweetland Livestock Auction, Inc., Muscatine, Iowa.	June 26, 1958.

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule relieving a restriction and may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective September 7, 1977.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C., this 31st day of August 1977.

EDWARD L. THOMPSON,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.77-25996 Filed 9-6-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 77-8-141; Docket No. 27573; Agreement C.A.B.26845, R-1 through R-4, and Agreement C.A.B. 26846]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Specific Commodity Rates; Order

Issued under delegated authority August 26, 1977.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conference of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreements would add four specific commodity rates uder existing commodity descriptions and adds one new rate with a new specific commodity description as set forth below, reflecting reductions from general cargo rates; and were adopted pursuant to unprotested notice to the carriers and promulgated in IATA letters dated August 10, 1977.

Agreement CAB	Specific commodity item No.	Description and rate [1]
26845:		
R-1	1062	Hatching eggs, 265 cents per kilogram,[2] minimum weight 500 kgs. From New York to Monrovia.
R-2	0006	Foodstuffs, spices and beverages, 91 cents per kilogram, minimum weight 500 kgs. From Honolulu to Tokyo. 96 cents per kilogram, minimum weight 500 kgs. From Honolulu to Osaka.
R-3	3161	Pewter products,[3] 276 cents per kilogram,[4] minimum weight 500 kgs. From Kuala Lumpur to Los Angeles.
R-4	4206	Surface vehicle parts, excluding steamship and/or motorship machine parts, 125 cents per kilogram[4], minimum weight 2,500 kgs. From Sydney to Los Angeles.
26846	9558	Suitcases, overnight bags, briefcases, attache cases, handbags, purses, and wallets, 325 cents[5] per kilogram[4], minimum weight 100 kgs. 303 cents[5] per kilogram[4], minimum weight 250 kgs. From Sydney to Guam.

[1] Subject to applicable currency conversion factors as shown in tariffs.
[2] Expires June 30, 1978.
[3] New description.
[4] Expires Dec. 31, 1978.
[5] Based on 02 lb rate 1 U.K. pence equals U.S. $0.02605.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the agreements are adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions ordered.

Accordingly, *it is ordered* That:

Agreements C.A.B. 26845, R-1 through R-4, and C.A.B. 26846 are approved, provided that (a) approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to beocme effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board unless within such period a petition for review is filed or the Board gives notices that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By James L. Deegan, Chief, Passenger and Cargo Rates Division, Bureau of Fares and Rates.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-25995 Filed 9-6-77;8:45 am]

[Order 77-8-142; Docket No. 29123, Agreement C.A.B. 26857, R-1 through R-3]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Passenger Fares; Order

Issued under delegated authority August 26, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of Traffic Conference 2 of the International Air Transport Association (IATA). The agreement, adopted by mail vote, has been assigned the above C.A.B. agreement number.

The agreement would increase first-class and economy-class fare levels and cancel the weekend excursion fare between Maputo, Mozambique, and Manzini, Swaziland. We will approve those portions of the agreement involving fares which are combinable with fares to/from United States points and thus have indirect application in air transportation as defined by the Act. Jurisdiction will be disclaimed with respect to that portion of the agreement which governs a noncombinable fare between foreign points and therefore has no application in air transportation under the Act.

Pursuant to authority duly delegated by the Board's Regulations, 14 CFR 385.14:

(1) It is not found that the following resolutions, incorporated in the agreement as indicated and which have indirect application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

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Agreement CAB	IATA No.	Title	Application
26857:			
R-1	052	TC2 1st-Class Fares (Amending)	2 (within Africa).
R-2	062	TC2 Economy-Class Fares (Amending)	Do.

(2) It is not found that the following resolution, incorporated in the agreement as indicated, affects air transportation within the meaning of the Act:

Agreement CAB	IATA No.	Title	Application
26857: R-3	072b	TC2 Creative Fares Except Europe (Amending)	2 (within Africa).

Accordingly, *It is ordered* That:

(1) Those portions of Agreement C.A.B. 26857 described in finding paragraph 1 above are approved; and

(2) Jurisdiction is disclaimed with respect to that portion of Agreement C.A.B. 26857 described in finding paragraph 2 above.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulation, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By James L. Deegan, Chief, Passenger and Cargo Rates Division, Bureau of Fare and Rates.

PHYLLIS T. KAYLER,
Secretary.

[FR Doc.77-25994 Filed 9-6-77;8:45 am]

[Dockets 31232, 31234, 31235, 31246, 31247, 31285, 31305, and 29123]

NATIONAL AIR CARRIER ASSOC. ET AL. v. PAN AMERICAN WORLD AIRWAYS ET AL.

Oral Argument

In the matter of Complaints of National Air Carrier Association, Brendan Tours, Inc., Charter Travel Corporation, The Educational Cooperative And Laker Airways Limited Against Tariffs of Pan American World Airways, Inc., Trans World Airlines, Inc., British Airways, And Air India Proposing Stand-by Budget, and Super-Apex Fares Over The North Atlantic; and the Agreement Adopted by the Traffic Conferences of the International Air Transport Association Relating to North Atlantic Passenger Fares Agreement C.A.B. 26858, R-1 through R-5.

The Board has decided that it will hear oral argument on the questions whether to suspend and or investigate the fare proposals against which the above-described complaints have been filed and whether to approve the above-described IATA Agreement.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral arguments in this proceeding is assigned to be held before the Board on September 7, 1977, at 10 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise the Acting Chief Administrative Law Judge, by telex, to be received in his office on or before September 1, 1977, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., August 30, 1977.

HENRY M. SWITKAY,
Acting Chief Administrative Law Judge.

[FR Doc.77-25878 Filed 9-6-77;8:45 am]

[Docket 29439]

EASTERN AIR LINES, INC.

Application for Authority for Intercarrier Discussions Concerning Agreements About Research, Design, and Procurement of Future Aircraft Types; Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on October 5, 1977, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Persons served with Order 77-7-162 are reminded that those electing to participate in the oral argument shall file with the Board briefs and or statements of position on or before September 21, 1977, and serve copies of this submission upon all other persons on the service list. Each of the persons on the service list desiring to participate in the oral argument shall also so advise the Acting Chief Administrative Law Judge, in writing, on or before the above date, together with the name of the individual who will represent it at the argument.

Dated at Washington, D.C., August 29, 1977.

HENRY M. SWITKAY,
Acting Chief Administrative Law Judge.

[FR Doc.77-25879 Filed 9-6-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

GEOLOGICAL SURVEY, ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Section 301.8 of the Regulations provides in pertinent part:

The applicant shall on or before the 20th day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90-day period.

* * * If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial with out prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of § 301 11.

The meaning of the subsection is that should an applicant neither fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20-day period, or fails to resubmit a new application within the 90-day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Section 301.8 further provides:

* * * the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission, to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

Docket Number: 76-00501. Applicant: U.S. Geological Survey, 345 Middlefield Road, Menlo Park, Calif. 94025. Article: Isotope Micromass Model 602C, VG Digital Printer, Inlet Option C6. Date of denial without prejudice to resubmission: April 26, 1977.

Docket Number: 77-00020. Applicant: Research Foundation for Mental Hygiene, 722 W. 168th Street, New York, N.Y. 10032. Article: Forceps, Ultrafine. Date of denial without prejudice to resubmission: April 11, 1977.

Docket Number: 77-0030. Applicant: Battelle Memorial Institute, 505 King Avenue, Columbus, Ohio 43201. Article: Mass Spectrometer, Model MS702R (Used). Date of denial without prejudice to resubmission: April 14, 1977.

Docket Number: 77-00105. Applicant: Sandia Laboratories, Kirtland Air Force Base East Albuquerque, N. Mex. 87115. Article: Two (2) Heerum Property Protection Doors with Oxide Ceramic Safety Elements and Two (2) P2040 Kroker Safety Locks with Two (2) keys. Date of denial without prejudice to resubmission: April 14, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-25910 Filed 9-6-77;8:45 am]

MARITIME ADMINISTRATION

[Docket No. S-574]

COVE TANKERS CORP.

Application

Notice is hereby given that by letter of August 30, 1977, Coles & Goertner filed an application dated August 15, 1977, on behalf of its client, Cove Tankers Corp., which requests written permission under section 805(a) of the Merchant Marine Act, 1936, as amended, for Cove Tankers Corps. to permit its affiliate, Cove Shipping, Inc., to operate the *SS Stuyvesant* in the carriage of Alaskan oil in the domestic trade, as well as the right to move the *SS Stuyvesant* from one domestic trade to another, and/or from a foreign trade to a domestic trade. The *SS Stuyvesant* is a 226,200 DWT tanker built in 1977. Cove Tankers Corp. holds Operating-Differential Subsidy Agreement, Contract No. MA/MSB-357, covering the participation of the *SS Mount Explorer, SS Mount Navigator,* and *SS Cove Communicator* in cargo carrying service in U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, which will expire on December 31, 1977, or upon completion of a voyage(s) in progress on that date.

The United States Trust Co. of New York, as owner trustee, has agreed to acquire the *SS Stuyvesant* from Polk Tanker Corp., prior to its delivery from the shipbuilders, and to bareboat charter the vessel to Queensway Tankers, Inc., who will time charter the vessel to Sohio Petroleum Co., a Delaware corporation and wholly owned subsidiary of the Standard Oil Co. (Ohio) for the purpose of engaging in the carriage of Alaskan oil in the domestic trade. Queensway Tankers, Inc. proposes to enter into an agreement with Cove Shipping, Inc. pursuant to which Cove Shipping will act as operating agent for the *SS Stuyvesant.* Cove Shipping, Inc. is wholly owned by Lawrence Shipping Corp., which also owns 100 percent of the outstanding stock of Cove Tankers Corp.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on September 14, 1977, file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time, or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistant Program No. 11 504 Operating-Differential Subsidies (ODS).)

By order of the Assistant Secretary for Maritime Affairs.

Dated: September 1, 1977.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-26035 Filed 9-6-77;8:45 am]

[Docket No. S-575]

COVE TANKERS CORP.

Application

Notice is hereby given that by letter of August 18, 1977, Coles & Goertner filed an application dated August 15, 1977, on behalf of its client, Cove Tankers Corp., which requests written permission under section 805(a) of the Merchant Marine Act, 1936, as amended, for Cove Tankers Corp. to permit its affiliate, Cove Trading Inc., to own the *Cove Trader* (ex-*Transeastern*) for worldwide operations (including domestic operation), and its affiliate, Cove Shipping Inc., to operate the *Cove Trader* in the carriage of Alaskan oil in the domestic trade, as well as the right to move the vessel from one domestic trade to another, and/or from a foreign trade to a domestic trade. The *Cove Trader* is a 49,339 DWT tanker built in 1959. Cove Tankers Corp. holds Operating-Differential Subsidy Agreement, Contract No. MA/MSB-357, covering the participation of the SS *Mount Explorer,* SS *Mount Navigator,* and SS *Cove Communicator* in cargo carrying service in U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, which will expire on December 31, 1977, or upon completion of a voyage(s) in progress on that date.

Cove Trading Inc. has acquired the *Cove Trader* and agreed to enter into an agreement with Cove Shipping Inc. (whose former name was Mount Shipping Inc.) to act as operating agent for the *Cove Trader.* Cove Trading Inc. is a subsidiary of Cove Steamship Inc., which is owned 100 percent by Cove Maritime Companies, Inc. Lawrence Shipping Corp. is also owned 100 percent by Cove Maritime Companies, Inc. Cove Shipping Inc. is wholly owned by Lawrence Shipping Corp., which also owns 100 percent of the outstanding stock of Cove Tankers Corp.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on September 14, 1977 file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time, or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties withstanding to be heard, a hearing will be held, the purpose of which will be to receive evidence

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under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistant Program No. 11.504 Operating-Differential Subsidies (ODS).)

By order of the Assistant Secretary for Maritime Affairs.

Dated: September 1, 1977.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-26036 Filed 9-6-77;8:45 am]

National Oceanic and Atmospheric Administration

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL AND SCIENTIFIC AND STATISTICAL COMMITTEE AND ADVISORY PANEL

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act. 5 U.S.C., Appendix I, notice is hereby given of a joint meeting of the North Pacific Fishery Management Council, its Scientific and Statistical Committee (SSC), and its Advisory Panel (AP) and a separate meeting of the SSC and AP.

The North Pacific Fishery Management Council established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265) has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the State of Alaska. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

The Council has established a Scientific and Statistical Committee, as well as an Advisory Panel, under Section 302(g) of the Act, to assist the Council in the development and amendment of fishery management plans.

The meetings will be Friday and Saturday, October 27–28, 1977, in the Jury Assembly Room No. 401, State Court Bldg., 303 K Street, Anchorage, Alaska. The meetings will convene at 8:30 a.m., and adjourn at approximate 4:30 p.m. each night. The meetings may be extended or shortened depending upon progress on the agenda. The SSC and AP will meet separately on October 26, in the Council offices, Suite 32, 333 West 4th Avenue, Post Office Mall Building, Anchorage, Alaska, beginning at 1:30 p.m.

PROPOSED AGENDA

OCTOBER 27

PROPOSED AGENDA

OCTOBER 27

1. Executive Director's Report and other Council administrative business.
2. Reports from Scientific and Statistical Committee and Advisory Panel.
3. Progress report and update from Council's Drafting Management Planning Teams.
4. Closed Session to discuss classified material on preparations for and actual negotiations in connection with the International North Pacific Fisheries Commission (INPFC), and the International Pacific Halibut Commission (IPHC) and continuing negotiations with the Canadians. (Council only)
5. Period for public comment.
6. Review of foreign fishing activities.

OCTOBER 28

1. Other Council business.

A closed session of the Council is planned for the early afternoon of the first day, October 27, from 1:30 p.m. through 3:30 p.m. to hear Department of State reports and other related Council business on preparations for an actual negotiations in connection with the International North Pacific Fisheries Commission, the International Pacific Halibut Commission and continuing negotiations with the Canadians, properly classified under Executive Order 11652. Only those members having security clearances will be allowed to attend this executive session. The Scientific and Statistical Committee and Advisory Panel will not attend this session.

After the closed meeting adjourns, a public hearing will be held on the afternoon of the first day, October 27, at approximately 3:30 p.m., at the same location. Interested members of the public are invited to testify at this hearing on matters relating to fishery management plans under development by the Council and other related Council functions.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined, on August 31, 1977 pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the executive session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because these items will be concerned with matters listed in 5 U.S.C. 552b(c)(1), i.e., it is specifically required by E.O. 11652 that they be kept secret in the interest of national security. (A copy of the determination is available for public inspection and copying.)

The meeting will be open to the public (except the closed session of the Council) and there will be seating for approximately 65–75 public members available on a first-come, first-served basis.

Members of the public having an interest in specific items for discussion are also advised that agenda changes, are, at times, made prior to the meetings. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about October 17, 1977:

Mr. Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska. 99510, Telephone 907–274–4563.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to submit written comments should do so by addressing Mr. Jim H. Branson at the above address. The public is permitted to file written statements at any time before or after the meeting. However, to receive due consideration and to facilitate inclusion in the record of the meeting, typewritten statements which related to the agenda items should be received no later than ten (10) days after the close of the joint meeting.

Dated: August 31, 1977.

WINFRED H. MEIBOHM,
Acting Deputy Director, National Marine Fisheries Service.

[FR Doc.77-25958 Filed 9-6-77;8:45 am]

WESTERN PACIFIC FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a meeting of the Western Pacific Fishery Management Act of 1976 (Pub. L. 94–265).

The Western Pacific Fishery Management Council has authority over fisheries within the Fishery Conservation Zone seaward of Hawaii, American Samoa and Guam. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on foreign fishing applications, and conduct public hearings.

The Seventh Meeting of the Council will be held from September 29–30, 1977, at the Royal Lahaina Hotel, Kaanapali, Maui, Hawaii. The meeting will convene at 9 a.m. and will adjourn at approximately 5:30 p.m. The meeting may be extended or shortened depending upon progress on the agenda.

PROPOSED AGENDA

1. Administrative and financial reports.
2. Reports on foreign fishing and enforcement activity.
3. Report on the Fourth Meeting of the Scientific and Statistical Committee.
4. Report on progress and status of management planning activities.
5. Consideration of a draft plan for management of the spiny lobster fishery of the Leeward Hawaiian Islands.
6. Other Council business.

This meeting is open to the public, and there will be seating for approximately 50 members of the public on a first-come, first-served basis.

Members of the public who have an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, interested members of the public should contact on or about September 19, 1977:

Mr. Wilvan G. Van Campen, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1506, Honolulu, Hawaii 96813, 808–523–1368.

Interested members of the public may, at the discretion of the Council, be permitted to speak at times which will allow the orderly of Council business. Interested members of the public who wish to submit written comments should do so by addressing the Executive Director at the above address. To receive due consideration and to facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

Date: August 31, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-25959 Filed 9-6-77;8:45 am]

Office of the Secretary

[Dept. Organization Order 10-5 Amdt. 3]

ASSISTANT SECRETARY FOR ADMINISTRATION

Organization and Functions

This order effective August 16, 1977 further amends the material appearing at 38 FR 34133 of December 11, 1973, 41 FR 19996 of May 14, 1976, and 41 FR 36058 of August 26, 1976.

Department Organization Order 10–5, dated November 23, 1973 is hereby further amended as shown below. The purpose of this amendment is to update the list of offices and units reporting to the Assistant Secretary as shown in the attached Appendix. This revised Appendix reflects: (1) the transfer, to the Office of Audits, of the Interagency Auditor Training Center; (2) the consolidation of the Office of Budget and Program Analysis and the Office of Program Evaluation into the Office of Budget and Program Evaluation; (3) the establishment of the Office of ADP Management; and (4) the establishment of the Office of the Secretary Budget Staff; and the removal of the position of Deputy to the Assistant Secretary for Administration (Section 4).

Section 4. Office of the Assistant Secretary for Administration. Delete subparagraph .01b., and reletter the successive subparagraphs c. and d. as b. and c., respectively.

The Appendix attached to this amendment supersedes the Appendix dated April 23, 1976.

Effective: August 16, 1977.

ELSA A. PORTER,
Assistant Secretary for Administration.

APPENDIX

DEPARTMENTAL OFFICES AND UNITS WHICH REPORT TO ASSISTANT SECRETARY FOR ADMINISTRATION

Office of Administrative Services and Procurement.
Office of ADP Management.
Office of Audits.
Office of Budget and Program Evaluation.
Office of Emergency Readiness.
Office of Financial Management Services.
Office of Investigations and Security.
Office of Organization and Management Systems.
Office of Personnel.
Office of Publications.
Appeals Board (for administrative purposes only).
Special Assistant for Civil Rights.
Office of the Secretary Budget Staff.

[FR Doc.77-25947 Filed 9-6-77;8:45 am]

[Dept. Organization Order 10-3 Amdt. 3]

ASSISTANT SECRETARY FOR DOMESTIC AND INTERNATIONAL BUSINESS

Organization and Functions

This order effective August 15, 1977 further amends the materials appearing at 41 FR 24202 of June 15, 1976, 41 FR 28334 of July 9, 1976, and 41 FR 55220 of December 17, 1976.

Department Organization Order 10–3, dated May 19, 1976 is hereby further amended as shown below. This amendment reflects the transfer of the Bureau of International Economic Policy and Research from the Assistant Secretary for Policy to the Assistant Secretary for Domestic and International Business.

1. *Section 3. Scope of Authority.* A new subparagraph 3.03g. is added to read as follows: "g. The *Deputy Assistant Secretary for International Economic Policy and Research.*"

2. *Section 4. Redesignation and Transfer.* Revise subparagraph 4.a. to read as follows: "a. The functions, personnel, funds, property, and records of the Bureau of International Economic Policy and Research (BIEPR) are hereby transferred to the Assistant Secretary for Domestic and International Business, with the exclusion of ten positions and associated funds (as prescribed in DOO 10–2)."

3. *Section 5. Delegation of Authority.* Add new subparagraphs 5.02 z., aa., bb., cc., and dd. to read as follows: "z. Section 4221 of the Internal Revenue Code of 1954 (26 U.S.C. 4221) and Section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309), insofar as they relate to findings with respect to exemptions from taxes and import duties on supplies and equipment for aircraft;

"aa. Section 135 and 104 of the Trade Act of 1974 (88 Stat. 1978, 19 U.S.C. 2155 and 2114) and Section 4(d) of Executive Order 11846 of March 27, 1975, relating to direct negotiation support and the policy matters associated with industry policy and sector advisory committees;

"bb. Sections 5(b) and 5(c) of Executive Order 11846 of March 27, 1975, relating to quantitative import restrictions and monitoring of imports under orderly market agreements;

"cc. Executive Order 11961 of January 19, 1977 which delegates to the Secretary of Commerce the authority of the President under Sections 4(a)(1), (2), and (4), and 4(b) of the International Investment Survey Act of 1976 (Pub. L. 94–472, 90 Stat. 2059, 22 U.S.C. 3101–3108).

The functions thereunder shall be carried out in coordination with the Bureau of Economic Analysis, Office of the Chief Economist (Department Organization Order 35–1A), including to the extent feasible, the division or assignment of responsibilities. All regulations established to carry out functions under the Act, and reports to be submitted to the Congress, shall be issued by the Secretary; and

"dd. Executive Order 11858, of May 7, 1975, relating to foreign investment in the United States."

4. *Section 6. Functions.* Subparagraph 6.g. is revised to read as follows: "g. Conduct research, analysis and formulation of international economic and commercial programs and policies relating to trade, finance and investment; manage and provide staff support for the consultations with U.S. industry in support of multilateral trade negotiations; represent the Department in International Trade and other negotiations and carry out the Department's interagency role with such international economic policy organizations as the National Security Council, the National Advisory Council on International Monetary and Financial Policy and others."

Effective August 15, 1977.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc.77-25946 Filed 9-6-77;8:45 am]

[Dept. organization order 10-2]

ASSISTANT SECRETARY FOR POLICY

Organization and Functions

This order effective August 15, 1977 supersedes the material appearing at 41 FR 24204 of June 15, 1976.

Section 1. Purpose. .01 This order prescribes the authority and functions of the Assistant Secretary for Policy.

.02 This revision reflects the transfer of the Bureau of International Economic Policy and Research to the Assistant Secretary for Domestic and International Business.

Section 2. Administrative Designation. The position of Assistant Secretary of Commerce, established by the Act of February 14, 1903 (15 U.S.C. 1504), is hereby designated as the Assistant Secretary for Policy (the "Assistant Secretary"). The Assistant Secretary is appointed by the President, by and with the advice and consent of the Senate.

Section 3. Transfer. The Bureau of International Economic Policy and Research is hereby transferred from the Assistant Secretary for Policy and is assigned to the Assistant Secretary for Domestic and International Business. The Assistant Secretary for Policy shall retain ten positions and associated dollars in order to provide the Secretary: (1) policy analyses on issues requiring immediate Secretarial attention; (2) assessment of the views and recommendations of Departmental organizations on major policy matters; (3) coordination and integration of Departmental views on policy matters affecting more than one Commerce element; and (4) ad hoc, longer-term policy studies.

Section 4. Delegation of Authority. Pursuant to the authority vested in the Secretary of Commerce, and subject to such policies and directives as the Secretary may prescribe, the Assistant Secre-

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tary for Policy is hereby delegated the authority of the Secretary of Commerce under the Act of February 14, 1903, (15 U.S.C. 1512 *et seq.*, 15 U.S.C. 171 *et seq.*) as amended, as necessary to carry out the functions of the offices under the Assistant Secretary.

Section 5. Functions. The Assistant Secretary shall:

a. Serve as a principal adviser to the Secretary on all policy matters including those relating to the assessment of regulatory impacts on business and industry, those associated with energy and strategic resource development, economic and business matters—domestic and international—particularly as they involve more than one policy making function within the Department, and matters of direct concern to the Secretary;

b. Provide for the Secretary long-term policy studies and coordinate services on broad policy matters concerning more than one operating unit of the Department; and

c. Serve as Executive Director of the Department Policy Council.

Section 6. Office of the Assistant Secretary for Policy. The Office of the Assistant Secretary shall consist of:

a. A Special Assistant; and

b. Such Departmental offices as the Assistant Secretary, in conjunction with the Assistant Secretary for Administration, may establish for the purpose of carrying out assigned functions and responsibilities. A list of these offices is appended hereto, and shall be kept current by the Assistant Secretary. These offices currently include the Office of Energy and Strategic Resource Policy, the Office of Policy Development and Coordination, and the Office of Regulatory Economics and Policy.

The Assistant Secretary for Administration, in cooperation with the Assistant Secretary for Domestic and International Business and the Assistant Secretary, shall determine the amount of funds, positions and personnel to be transferred in accordance with Section 3. of this order.

Effective August 15, 1977.

ELSA A. PORTER,
Assistant Secretary for Administration.

APPENDIX

DEPARTMENTAL OFFICES COMPRISING THE OFFICE OF ASSISTANT SECRETARY FOR POLICY

Office of Energy and Strategic Resource Policy.

Office of Policy Development and Coordination.

Office of Regulatory Economics and Policy.

[FR Doc.77-25945 Filed 9-6-77;8:45 am]

BUREAU OF INTERNATIONAL ECONOMIC POLICY AND RESEARCH

Organization and Functions; Revocation

This order effective August 15, 1977 supersedes the material appearing at 41 FR 50313 of November 15, 1977.

Revocation. Department Organization Order 21-4, dated October 13, 1976 is hereby revoked.

Explanation. The functions, personnel, funds, property, and records of the Bureau of International Economic Policy and Research have been transferred from the Assistant Secretary for Policy to the Assistant Secretary for Domestic and International Business.

Effective August 15, 1977.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc.77-25949 Filed 9-6-77;8:45 am]

[Dept. Organization Order 40-1 Amdt. 1]

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Organization and Functions

This order effective August 15, 1977 amends the material appearing at 41 FR 50314 of November 15, 1976.

Department Organization Order 40-1, dated October 13, 1976, is hereby amended as shown below. The purpose of this amendment is to reflect the changes in DIBA's organization and functions resulting from the transfer of the Bureau of International Economic Policy and Research from the Assistant Secretary for Policy to the Assistant Secretary for Domestic and International Business (Section 9.).

1. A new Section 9. is added to read as follows:

"*Section 9. Bureau of International Economic Policy and Research.* The *Deputy Assistant Secretary for International Economic Policy and Research* shall determine the objectives of the Bureau—a mainline component of DIBA—assist and advise the Assistant Secretary in the research, analysis and formulation of international economic and commercial programs and policies relating to trade, finance and investment, and competitive assessment; shall initiate and review research studies on developments affecting U.S. trade and commercial interests abroad and provide statistical information and analysis on the foreign trade of the U.S. and of foreign countries; shall be responsible for development and coordination of policy formulation; represent the Department in international trade and related negotiations; and carry out the Department's interagency policy role in such organizations as the National Security Council, the Council on International Economic Policy, the Office of the Special Trade Representative, and the National Advisory Council on International Monetary and Financial Policies. The Deputy Assistant Secretary shall be assisted by a Deputy Director who shall perform the functions of the Deputy Assistant Secretary in the latter's absence. The functions of the Bureau shall be carried out through its principal organizational elements as prescribed below:

".01 The *Office of Economic Research* shall develop, implement, and coordinate the Department's program of quantitative research and analysis of international economic policy issues, conduct research studies on developments affecting U.S. international trade and commercial interest, on the economic factors affecting the competitive position of the United States, and on the domestic economic impact of international developments; develop and utilize econometric models for forecasting trade and international economic conditions and for simulating the effects of policy alternatives; maintain a research program for improving the Department's and the Government's capability for empirical and quantitative analysis of international economics; represent the Department in interagency committees concerned with international economic research matters; serve as liaison with U.S. Government research and intelligence agencies as well as with private research groups, and prepare and publish economic analyses and interpretative statistical information on the foreign trade of the United States and of foreign countries.

".02 The *Office of International Trade Policy* shall be responsible for the development and implementation of the Department's position on U.S. international trade policy, including trade legislation and International Trade Commission findings, trade negotiations, consultations with industry, and trade and commercial policy relations with individual countries, regional economic groupings, and international organizations. For such trade policy matters, the Office shall represent the Department on interagency committees, and in international meetings on trade policy matters; analyze and comment on relevant legislative proposals; prepare the Department's position on International Trade Commission findings, bilateral trade policy issues and bilateral trade negotiations; manage the consultations with U.S. industry in support of multilateral trade negotiations; maintain relationships and representation with business and trade groups; and, through appropriate channels, make representations to foreign governments on behalf of U.S. business on the maintenance of their full rights under the terms of treaties and international agreements of the United States.

".03 *Office of International Finance and Investment* shall be responsible for the development and implementation of the Department's policies relating to international investment, finance and monetary affairs, U.S. and foreign taxation of international business operations, economic impact of international technology transfer, international business practices, international trade aspects of antitrust, standardization, patent and copyright protection, and related matters arising from the international commercial and investment operations of U.S. firms; and shall analyze and act on international transportation and insurance problems affecting U.S. business. The Office shall provide staff support for the Department's representative on the National Advisory Council on International Monetary and Financial policies, and represent the Department on interagency work groups and at international meetings concerning multinational corporations, investment disputes and other related matters.

".04 The *Office of Foreign Investment in the United States* shall develop, obtain, consolidate and analyze information on foreign investment in the United States; improve procedures for the collection and dissemination of information on such foreign investment, based on close observation of foreign investment in the U.S., prepare reports and analyses of trends and significant developments in appropriate categories of such investment, compile data and prepare evaluations of significant inward investment transactions and assess the impact of such investment on U.S. economic security; submit to the interagency Committee on Foreign Investment in the United States, the Congress and the public, appropriate reports, analyses, data and recommendations on foreign investment in the U.S.; and obtain information and assistance from other Federal departments and agencies in order to carry out the Secretary's functions and activities under Executive Order 11858."

2. In pen and ink, renumber the existing sections 9. and 10. as sections *10.* and *11.*, respectively.

3. Exhibit 1, dated June 5, 1977 supersedes Exhibit 1 of October 13, 1976. A copy of Exhibit 1 is on file with the original of this document with the Office of the Federal Register.

Effective August 15, 1977.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc.77-25952 Filed 9-6-77;8:45 am]

[Dept. Organization Order 30-7B]

NATIONAL TECHNICAL INFORMATION OFFICE

Organization and Functions

This order effective August 1, 1977, supersedes the materials appearing at 40 FR 3627 of January 23, 1973, and 41 FR 31415 of July 28, 1976.

Section 1. Purpose:

.01 This order prescribes the organization and assignment of functions within the National Technical Information Service (NTIS).

.02 This revision: changes the name of the Office of Market Development to the Office of Marketing and increases the scope of its functions (Section 5.); establishes the Office of Product, Program and Administrative Management (sec. 7.), and the Office of the Controller (sec. 8.); and generally updates the lanaguage of the order.

Section 2. Organization Structure. The principal organization structure and line of authority shall be as depicted in the attached organization chart. A copy of the organization chart is on file with the original of this document with the Office of the Federal Register.

Section 3. Office of the Director:

.01 The *Director*, as the head of NTIS, directs and is responsible for all activities of the organization.

.02 The *Deputy Director* assists the Director in managing NTIS and performs the functions of the Director during the latter's absence.

Section 4 Staff Offices Reporting to the Director. The *Office of Government Inventions and Patents* shall develop and operate programs to promote wider private sector use of government inventions. It shall administer a program for the foreign filing and licensing of government inventions under Executive Order 9865, as amended. It shall also provide Executive Secretariat functions for the Committee on Government Patent Policy of the Federal Council for Science and Technology and assist in the development formulation, to the extent appropriate, of a uniform government-wide patent policy.

Section 5. Office of Marketing. The Office shall be headed by an *Assistant Director, Marketing* who shall be responsible for the conduct of all functions relating to marketing, market development and services promotion, speakers, exhibits, seminars, conferences, and educational programs. It shall advise the Office of Product, Program and Administrative Management with respect to the design, format, and presentation of all NTIS products and services, and in the planning of new products. It shall recommend, develop, and implement methods and procedures for identifying, locating and refining potential markets for NTIS products and services; design and use professional promotional vehicles for stimulating NTIS sales in such markets; and conceive, initiate, and design graphic and illustrative material for all publications and services, sales promotion and seminars, presentations, plant tours, and employee information. It shall also maintain a central photographic and illustrations file and serve as a liaison with the Department's graphic arts group.

Section 6. Office of Production. The Office shall be headed by an *Assistant Director, Production*, who shall provide operating policy direction to and overall administration of the acquisition, cataloging, indexing, filming, copying, order processing, warehousing, distribution, and automatic data processing operations. The functions of the Office shall be carried out through its principal organizational elements as prescribed below.

.01 The *Input Processing Division* shall be responsible for acquisitioning, accessioning, evaluating, scheduling, routing, descriptive cataloging, indexing, and subject analysis of all material entering the NTIS collection. The Division will produce abstract journals, indexes, and other printed material in accordance with objectives set by the Office of Product, Program, and Administrative Management.

.02 The *Distribution and Reproduction Division* shall store and ship documents and other NTIS products being offered for sale; directly or indirectly print or film copies of NTIS products; handle customer requests and inquiries for NTIS products and services, and will satisfy NTIS customers by alleviating complaints.

.03 The *Automated Data Processing Division* shall plan and operate the agency's automatic data processing systems used to process the bibliographic data file, publications and edit programs, inventory management programs, and sales order processing files; develop procedural adaptations of automatic data programs, participate in studies and analyses, and recommend the applicability of automated processing.

Section 7. Office of Product, Program, and Administrative Management. The Office shall be headed by an *Assistant Director* who shall be responsible for developing policy recommendations in all areas relative to the design, development, and business management of NTIS products, programs, and services. The Assistant Director shall also lead in coordinating on-going NTIS operations, ensuring a satisfactory resolution among finance, production, and marketing interests in the delivery of NTIS products, programs, and services.

The functions of the Office shall be carried out through its principal organizational elements as prescribed below:

.01 The *Office of Product and Program Management* shall be directly responsible for coordinating the successful production and marketing of on-going products and services, and for developing and bringing to the market new and improved information products and services. The Office shall be responsible for ensuring the regular acquisition of scientific and technical, economic, and engineering information from foreign or domestic sources, for availability to business, industry, Government, and other interested individuals. The Office shall be responsive, on a continuing basis, to the needs of NTIS source clients, managing dealers, and major customers, and will monitor their acceptance of, and sensitivity to, NTIS policies on products, programs, and pricing.

.02 The *Office of Administration* shall provide, for all components of NTIS, the following administrative services: procurement and contract management; property and supply management; directives and paper work management; records and files management; space and facilities management; travel and traffic management; telecommunications, mail, messenger, and related office services; occupational health and safety; security; and certain aspects of personnel management including labor relations, training, and liaison with the Departmental Office of Personnel.

Section 8 Office of the Controller. The Office shall be headed by a *Controller* who shall be responsible for providing technical direction, coordination, evaluation, and execution of financial management policies: performing cost studies as a basis for product pricing; formulating and executing an integrated budget, which includes revenue forecasts, expense and production budgets, cost standards, and programs for capital investment and financing; measuring performance against approved operating plans

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and standards planning, developing, and implementing accounting procedures and systems; and measuring and reporting on the validity of the objectives of NTIS and on the effectiveness of its policies, organization structure and procedures in attaining these objectives.

Effective: August 1, 1977

ELSA A PORTER,
Assistant Secretary for Administration

[FR Doc 77-25951 Filed 9 6 77 8 45 am]

[Dept. Organization Order 20 9 Amdt 2

OFFICE OF PUBLICATIONS

Organization and Functions

This order effective August 8, 1977, further amends the materials appearing at 41 FR 31415 of July 28, 1977, and 42 FR 11863 of March 1, 1977.

Department Organization Order 20-9, dated June 29, 1976 is hereby further amended as shown below. The purpose of this amendment is to assign responsibility for Departmental seals and emblems and stationery specifications.

Section 3. Functions. Subparagraph .01f. is added to read as follows: "f Carry out principal Departmental responsibility for coordinating and processing all requirements for seals and emblems (as prescribed in DAO 201-1), and for stationery specifications (as prescribed in DAO 214-2)."

Effective: August 8, 1977.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc 77-25948 Filed 9 6 77 8 45 am]

[Dept. Organization Order 30 3B Amdt. 1]

PATENT AND TRADEMARK OFFICE

Organization and Functions

This order effective August 11, 1977, amends the material appearing at 41 FR 37831 of September 8, 1976.

Department Organization Order 30-3B dated August 19, 1976 is hereby amended as shown below. This amendment establishes: the Office of Planning, Budget and Evaluation by consolidating the former Office of Budget and the Office of Planning and Evaluation (paragraph 8.07); the Scientific Library, formerly part of the Office of Patent and Trademark Services, as one of the Patent Documentation Organizations (subparagraph 5.02f.); and revises the functional statement of the Office of Patent and Trademark Services accordingly (paragraph 8.05).

1 *Section 4. Organizations Reporting to the Commissioner.* In pen and ink delete paragraph 4 05.

2. *Section 5. Organizations reporting to the Assistant Commissioner for patents.* Reletter the current subparagraph 5.02f as g. A new subparagraph f. is added to read as follows: "f. The *Scientific Library* maintains collections of technical and scientific information such as foreign patents, periodicals, books and other publications, in printed or microfilm form, and provides related services and facilities, for use by the public and by examiners and other personnel in the internal operations of the Patent and Trademark Office."

3 *Section 8 Offices Reporting to the Assistant Commissioner for administration* a In pen and ink delete the current paragraph 8.02, and renumber .03, .04, and 05 as .02, .03 and .04 The current 06 is renumbered 05 and revised to read as follows

".05 The *Office of Patent and Trademark Services* shall provide materials and services to the public, many on a fee basis, as well as to examiners and other personnel for internal operations of the Patent and Trademark Office. It shall maintain a Public Search Room with a collection of U.S. patents, record assignments and other instruments for the transfer of property rights to patents and trademarks, furnish copies of patents, trademark registrations and office records, and provide drafting services. It shall also conduct an initial examination of patent applications for compliance with law and regulations as to form and certain matters of factual content, grant or deny a filing date based on such examination, and forward to the Examining Groups those granted a filing date; acknowledge the acceptance or rejection of applications for examination; and maintain records on the status and location of all applications."

b. The current 8.07 is renumbered .08, and a new .07 is added to read as follows:

".07 The *Office of Planning, Budget and Evaluation*, under the policy guidance of the Commissioner, shall develop objectives and subobjectives for the Patent and Trademark Office and prepare program plans based thereon which reflect decisions of the Commissioner on program alternatives and allocation of resources; formulate, interpret and execute budgetary and fiscal policies; in collaboration with cost center officials, develop, establish and maintain comprehensive budget and fiscal plans; develop and present budget requests; allocate and maintain budgetary accountability of available funds; maintain external liaison in budgetary matters; review and evaluate the fulfillment of budget-based program commitments; and establish program evaluation plans, identifying problem areas, monitoring studies of program effectiveness, establishing criteria of study quality, and reviewing studies monitored."

4. The organization chart dated August 19, 1976 is superseded by the chart attached to this amendment. A copy of the organization chart is on file with the original of this document with the Office of the Federal Register.

Effective August 11, 1977.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc 77 25950 Filed 9-6-77;8:45 am]

Office of the Secretary

PRIVACY ACT OF 1974

Proposed New System of Records

The purpose of this notice is to propose a new Privacy Act System of Records for the White House Conference or Balanced National Growth and Economic Development, entitled Mailing List and Correspondence File, COMMERCE WHC-1

The purpose of this new system is to develop a mailing list and correspondence file which will help obtain the broadest possible interest and participation in the Conference.

This Conference, authorized by Pub L 94 487 Title II, October 12, 1976, 90 Stat 2339 is to develop recommendations for further action toward balanced national growth and economic development and to take account of present economic conditions and trends. The Department of Commerce has been designated by the President as the lead agency in planning and conducting the Conference.

The records to be maintained by the White House Conference in this system of records are names, addresses, and other pertinent data, as described in the system description below, for individuals with whom the Conference communicates. These individuals may include, but are not limited to, private citizens who receive conference literature, those who correspond with the Conference on subject areas of interest, and those who are associated with the Conference as consultants, participants, or in other ways. These records are maintained to assure that the Conference communicates appropriately with all interested individuals. The proposed system is printed below.

The Commerce Department submitted a New System Report dated August 30, 1977, to the Congress, the Office of Management and Budget, as required by the Privacy Act.

Although the Act requires the opportunity for public comment only as to the proposed "routine uses," comments regarding any portion of this notice will be given due consideration before final publication. Any interested person may submit written data, views, or arguments, to the Assistant Secretary for Administration (Attn: Information Management Division, Room 5319), U.S. Department of Commerce, 14th and E Streets NW., Washington, D.C. 20230, any time on or before October 7, 1977. The comments received will be available, as received, for public inspection at the above address between the hours of 9:00 a.m. and 4:00 p.m. Monday through Friday (except holidays).

This system of records will become effective October 7, 1977, provided the Department's request for a waiver of the 60-day advance notice requirement is granted by the Office of Management and Budget, or unless the Department notices to the contrary.

(5 U.S.C. 552a(e) (4) and (11), sec. 3 of the Privacy Act of 1974 (Pub. L. 93 579, 88 Stat. 1896).)

ELSA A. PORTER,
Assistant Secretary for Administration.

AUGUST 30, 1977.

COMMERCE/WHC-1

System name:

Mailing List and Correspondence File—Commerce White House Conference-1.

System location:

White House Conference on Balanced National Growth and Economic Development, U.S. Department of Commerce, 2001 S Street NW., Washington, D.C. 20009.

Categories of individuals covered by the system:

Individuals with whom the Conference communicates, including individuals who receive Conference literature.

Categories of records in the system:

Name; home and or business address; home and or business telephone number; place of employment or interest group; type of organization; nature of relationship to the Conference (participant, consultant, guest, observes, etc.); source of name; and subject area(s) of interest.

Authority for Maintenance of the system:

Public Works and Economic Development Act of 1976, Pub. L. 94-487, Title II, 90 Stat. 2339, 42 U.S.C. 3121 note.

Routine uses:

Information may be provided Federal, State, local or international agencies in response to a written request indicating a likelihood that individuals on the mailing list would benefit by or be interested in material to be sent by the requesting agency. General routine uses of the Prefatory Statement also apply.

Storage:

Paper copy in file folders, index cards in file drawers, computer tape, mailing labels.

Retrievability:

By name alphabetically, by geographical area (State, city), by type of organization with which affiliated, if any, by nature of relationship to the Conference, by source of name and by subject area(s) of interest.

Safeguards:

Records are located in locked cabinets or in secured rooms or premises with access limited to those whose official duties require access.

Retention and Disposal:

Permanent. Retired in accordance with applicable records control schedule.

System manager and address:

Director, White House Conference on Balanced National Growth and Economic Development, U.S. Department of Commerce, 2001 S Street NW., Washington, D.C. 20009.

Notification procedure:

Information may be obtained from: Deputy Director for Policy of the White House Conference on Balanced National Growth and Economic Development, 2001 S Street NW., Washington, D.C. 20009.

Record access procedures:

Requests from individuals should be addressed to Same address as stated in the notification section above.

Contesting record procedures:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR, Part 4b. Use above address.

Record source categories:

Subject individual, those authorized by the individual to furnish information: public reference sources (press articles, Who's Who, etc.); government, private, and public interest organizations.

[FR Doc 77 25872 Filed 9 6 77;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

REPUBLIC OF KOREA

Adjusting Charges Against the Import Restraint Levels for Certain Man-Made Fiber Textile Products

SEPTEMBER 2, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Reducing the import charges against the restraint level for Category 229 (Coats, Not Knit) and charging them to Category 240 (other wearing apparel, not knit) during the agreement year which began on October 1, 1976. (A detailed description of the Categories in terms of T.S.U.S A. numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), as amended on December 31, 1975 (40 FR 60220), December 30, 1976 (41 FR 56881), January 21, 1977 (42 FR 3888), and March 7, 1977 (42 FR 12898).)

SUMMARY: On January 1, 1977, a list of changes in the Tariff Schedules of the United States Annotated Numbers in the arrangement of the cotton, wool and man-made fiber textile product categories used by the United States in administering the textile trade agreements program became effective. Among the changes, T.S U.S A. number 376.5610, formerly located in Category 240, was placed in Category 229.

Pursuant to the Cotton, Wool and Man-Made Fiber Textile Bilateral Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea, imports in T.S.U.S A. number 376.5610 continue to be charged to Category 240 for the agreement year beginning October 1, 1976.

EFFECTIVE DATE: September 8, 1977.

FOR FURTHER INFORMATION CONTACT

Robert C Woods, International Trade Specialist, Office of Textiles, U.S Department of Commerce, Washington, D C 20230 (202-377-5423).

SUPPLEMENTARY INFORMATION: On December 30 1976 (41 FR 56881) and January 21 1977 (42 FR 3888), there was published in the FEDERAL REGISTER notices announcing changes in the list of Tariff Schedules of the United States Annotated Numbers contained in textile categories used by the United States in administering the textile trade agreements program These changes were effective on January 1, 1977, and included replacing T S U.S A Number 376.5600 (contained in Category 240) with T.S U.S A Numbers 376 5610 (moved to Category 229) and 376.5620 (left in Category 240)

In the letter published below, the Commissioner of Customs is directed, in accordance with the provisions of the Bilateral Agreement, to adjust the charges against the restraint level for Category 229 in the current agreement period.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

SEPTEMBER 2, 1977.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS
Department of the Treasury,
Washington, D C 20229

DEAR MR COMMISSIONER To facilitate implementation of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 25, 1975, between the Governments of the United States and the Republic of Korea, it would beappreciated if you would deduct 64,764 dozen from the charges to the level of restraint for Category 229 for the agreement period which began on October 1, 1976. This deduction is for the period January 1, 1977 through July 31, 1977 Deductions for the remainder of the agreement will be sent when data are available This will become effective on September 8, 1977.

Sincerely

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements

[FR Doc 77 26202 Filed 9-6 77 9 53 am]

COMMISSION ON FEDERAL PAPERWORK

PUBLIC MEETING

Change of Location for Washington, D.C., Meeting

Notice is hereby given of a change in the location of public meeting by the Commission on Federal Paperwork to be held in Washington, D. C. Notice of this meeting appears at page 43424 of the FEDERAL REGISTER on August 29, 1977. The Commission has moved the meeting to the Caucus Room Room 345 of the Cannon Office Building.

FRANK HORTON,
Chairman.

[FR Doc 77 25981 Filed 9-6 77;8:45 am]

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ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

GENERAL ADVISORY COMMITTEE

Meeting

SEPTEMBER 1, 1977.

Pursuant to provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) in accordance with the purpose of section 26 of the Atomic Energy Act of 1954, as amended (42 U.S.C 2036) and section 104(d) of the Energy Reorganization Act of 1974 (42 U.S.C. 2814), notice is hereby given that the General Advisory Committee will hold a meeting on September 21 and 22 in Golden, Colo. The open sessions will be held in the Library, second floor, Solar Energy Research Institute, 1536 Cole Blvd., Golden, Colo. 80401. The agenda is as follows:

SEPTEMBER 21

9 a.m.-11a.m.—Solar Study (discussion with Stanford Research Institute).
11 a.m.-12:30 p.m.. Briefing on Decentralized Energy Technologies.
2 p.m.-3 p.m.—Briefing on Solar Energy Research Institute Programs.
3 p.m.—5:30 p.m.—Solar Study (discussion with SRI).

SEPTEMBER 22

8:30 a.m.-12 noon—Solar Study (discussion with SRI).
1:30 p.m.-3 p.m.—Solar Study (discussion with SRI).

In addition to the above agenda items, the Committee will meet in closed session under the authority of Section 10(d) of Pub. L. 92-463 as follows:

SEPTEMBER 21

7:30 p.m.-9:30 p.m. Review of Nominations for the 1977 E. O Lawrence Awards (Exemption 6 of 5 U.S.C. 552b(c).

This session will involve information exempt from disclosure under 5 U.S.C. 552b(c), exemption (6).

I have determined that it is necessary to close this portion of the meeting to receive and discuss information which falls within exemption (6) of 5 U.S.C. 552b(c). Any non-exempt material that may be discussed at this session will be inextricably intertwined with the discussion of exempt material and no further separation is practical. It is essential to close such portion of the meeting to protect such privileged information.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements on agenda items may do so by mailing 13 copies thereof, postmarked no later than September 13, 1977, to the Secretary, General Advisory Committee, U.S. Energy Research and Development Administration, Washington, D.C. 20545. Comments shall be based on the above agenda items. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call to the Office of the Secretary of the Committee on 202 376 4678 between 8 30 a m and 5 p m., eastern time Members of the public who are interested in attending are urged to call since the location or schedule may change.

(c) Questions at the meeting may be propounded only by members of the General Advisory Committee

(d) Seating to the public will be made available on a first-come, first-served basis.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting will be permitted both before and after the meeting and during any recess. The use of equipment will not, however, be allowed while the meeting is in session

(f) Copies of the minutes will be available for copying, following their certification by the Chairman in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue NW., Washington, D.C 20545, upon payment of all charges required by law.

HARRY PEEBLES,
Deputy Advisory Committee Management Officer.

[FR Doc.77-25997 Filed 9-6-77;8:45 am]

INDUSTRY BRIEFING ON ADVANCED CONVERSION TECHNOLOGY STUDIES FOR COGENERATION

Meeting

AUGUST 29, 1977.

The ERDA Division of Conservation Research and Technology will conduct a briefing for industry on a forthcoming Cogeneration Technology Alternatives Study (CTAS) which is to define ERDA sponsored advanced energy conversion technology needs for industrial congeneration applications.

The briefing will take place on Friday September 16, 1977 in Washington, D C from 9 30 a.m. to 12 30 p m.

As part of the briefing, NASA Lewis Research Center, in support of the ERDA sponsored study will present considerations in evaluating advanced energy conversion systems for cogeneration.

Comments and or questions from the floor will be permitted from 11:30 a.m. to 12 30 p.m.

Questions requesting clarification of the announcement regarding the Cogeneration Technology Alternatives Study which appeared in the Commerce Business Daily on August 8, 1977, will also be answered during this time. If you wish to attend the briefing please call Dianne Sherwood at Courtesy Associates, 1629 K Street NW., Washington, D.C., 202-296-0935 for meeting arrangements and hotel reservations.

JOHN A. BELDING,
Director, Division of Conservation Research and Technology.

[FR Doc.77-25998 Filed 9-6-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 787-2]

MAINE DRINKING WATER

Approval of State Application for Primary Enforcement Responsibility

In accordance with the provisions of section 1413 of the Safe Drinking Water Act (SDWA), (88 Stat. 1661; 42 U.S.C. 300f et seq.) and 40 CFR 142 (41 FR 2918, January 20, 1976), Mr. David E. Smith, Commissioner of the Maine Department of Human Services, has submitted an application to assume primary enforcement responsibility under the SDWA to the Environmental Protection Agency (EPA) for approval.

Notice is hereby given that the Regional Administrator EPA, Region I, has approved this aplication for primary enforcement authority, to become effective October 1, 1977. This action is based on a thorough evaluation of the State's water supply supervision program in relation to the requirements of 40 CFR 142 10, including the adoption and implementation of:

(1) State primary drinking water regulations; (2) an inventory of public water systems; (3) a systematic program of sanitary surveys; (4) a State program for certification of laboratories: (5) State laboratory facilities certified by EPA; (6) a plan review program; (7) adequate statutory or regulator enforcement authority; (8) record-keeping and reporting procedures; (9) a program for issuing variances and exemptions; (10) a plan for providing safe drinking water under emergency circumstances.

This evaluation has shown that the program which will be carried out by the Department of Human Services' Division of Health Engineering fulfills all requirements for obtaining primary enforcement authority.

Any interested person may request a public hearing to consider the Regional Administrator's determination within 30 days of the publication of this notice. If a public hearing is requested and granted, this determination shall not become effective until such time, following the hearing, as the Regional Administrator issues an order affirming or rescinding the determination. Requests for hearing shall be addressed to:

William R. Adams, Regional Administrator, U.S. Environmental Protection Agency, Room 2203, John F. Kennedy Building, Boston, Mass. 02203.

and shall include the following information:

(1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing.

(2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing.

(3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

A complete copy of the Department of Human Services' application for primary enforcement responsibility is available for public inspection during normal business hours at the Office of the Regional Administrator and at the following location in Maine:

State of Maine, Department of Human Services, Division of Health Engineering, Room 259, Health and Welfare Building, 221 State St., Augusta, Maine 04333.

Dated: August 30, 1977.

WILLIAM R. ADAMS,
Regional Administrator, Region I.

[FR Doc.77-26022 Filed 9-6-77;8:45 am]

MICHIGAN DRINKING WATER

[FRL 787-3]

Determination of Primary Enforcement Responsibility

This public notice is issued under section 1413 of the Safe Drinking Water Act, Pub. L. 93-523, December 16, 1974, and section 142.10 of the National Interim Primary Drinking Water Regulations, published in the FEDERAL REGISTER on January 20, 1976.

A submission, dated July 7, 1977, has been received from the Director, requesting a determination that the Michigan Department of Public Health has met requirements for primary enforcement responsibility for public water systems in the State of Michigan, in accordance with the provisions of this Act.

In response, I have determined that the Michigan Department of Public Health has the statutory authority and, with the adoption of the rules in a form similar to those submitted to the U.S. Environmental Protection Agency, will meet all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the State of Michigan. The State—

(1) Will adopt drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;

(2) Will adopt and implement adequate procedures for the enforcement of such State regulations, including adequate monitoring and inspections;

(3) Will keep such records and make such reports as required;

(4) Will issue variances and exemptions in accordance with the provisions of the National Interim Primary Drinking Water Regulations;

(5) Will adopt and implement an adequate plan for the provision of safe drinking water under emergency circumstances.

All documents relating to this determination are available for public inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Bureau of Environmental and Occupational Health, Michigan Department of Public Health, 3500 North Logan St., Lansing, Mich. 48914
Michigan Department of Public Health, 305 Ludington St., Escanaba, Mich. 49829.
Water Supply Branch, Environmental Protection Agency, Region V, 230 South Dearborn St., Chicago, Ill. 60604.

Any interested person may comment upon the State submission by writing to the U.S. EPA, Region V office. Written comments must be submitted on or before October 5, 1977.

I have scheduled a public hearing to consider this application and to enable all interested parties to present their views on the State's submission. The hearing will begin at 11 a.m. on October 7, 1977, in the Manty Conference Room, Michigan Department of Public Health in Lansing, Mich.

Oral statements will be heard and considered, but, for accuracy of the record, all testimony should be submitted in writing. Statements should summarize extensive written material, so there will be time for all interested parties to be heard. Persons are encouraged to bring extra copies of their written statements for the use of the hearing officer and other interested persons.

The hearing officer may, at his discretion, exclude oral testimony if it is overly repetitious of previous testimony heard or if it is not relevant to the decision to approve or require revision to the State program as submitted.

Further information about the public hearing may be obtained by writing the Water Supply Branch of the U.S. EPA, Region V, or by calling Joseph Harrison at 312-353-2151 or by writing the Bureau of Environmental and Occupational Health, Michigan Department of Public Health or by calling William Kelley at 517-373-1376.

No final decision will be made until the rules are final. If the final rules are in a form similar to the proposed rules, I will review the record and issue an order affirming or rescinding the determination. If the determination is affirmed, it shall become effective as of the date of this notice. If the final rules are in a form different from those proposed, I will announce a public comment period of thirty days. It should also be noted that the Office of General Counsel has not yet approved my initial determination and will review the submittal after the rules are fully promulgated.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Dated August 31, 1977.

GEORGE R. ALEXANDER, JR.,
Regional Administrator, Region V, Environmental Protection Agency.

[FR Doc 77-26061 Filed 9-6-77;8:45 am]

[FRL 786-5]

OCEAN DUMPING

Availability of Implementation Manual, "Ecological Evaluation of Proposed Discharge of Dredged Material Into Ocean Waters"

In accordance with §§ 227.6(e) and 227.27(b) of the Environmental Protection Agency's (EPA) Criteria for the Evaluation of Permit Applications for Ocean Dumping of Materials (40 CFR Chapter I, Subchapter H, Part 227, 42 FR 2462, 2466-2468, 2476-2482, January 11, 1977), notice is hereby given of the availability of a manual setting forth the procedures for conducting bioassays on the liquid, suspended particulate, and solid phases of dredged material to determine whether such material is acceptable for ocean disposal under §§ 227.6(c) and 227.13(c) of the Criteria. An additional manual revising standard methods for bioassay procedures for non-dredged materials is under development and will be published in the near future; notice of availability of this manual will be published in the FEDERAL REGISTER.

As research leading to the development of this revised manual progresses, certain procedures in the dredged material manual may be found applicable to nondredged wastes. In such cases, appropriate procedures in the dredged material manual may be used, in the discretion of EPA Regional Administrators, as the basis for providing interim guidance on acceptable bioassay procedures for suspended particulate and solid phases of other materials to determine whether such materials are acceptable for ocean dumping under § 227.6(c) of the Criteria.

The dredged material bioassay manual is the product of a multi-disciplinary effort by both EPA and the Corps of Engineers to develop sound, routinely implementable procedures for determining whether dredged material complies with the technical requirements of the Criteria. Among other things, the manual discusses the requirements of the Criteria and provides detailed guidance on sediment and water sample collection, preparation and preservation; chemical analysis of the liquid phase; bioassays of liquid, suspended particulate and solid phases; estimation of bioaccumulation potential; and estimation of initial mixing. Both EPA and the Corps anticipate that the manual will be periodically revised to reflect technical and scientific advances in the state of the art.

The interim criteria of § 227.6(e) shall become inapplicable and the biological criteria of § 227.6(c) shall become mandatory for the evaluation of all permit applications for the ocean disposal of dredged material received after the date of publication of this notice.

Copies of the implementation manual are available from Chief, Marine Protection Branch (WH-548), Environmental Protection Agency, Washington, D.C. 20460; or from the U.S. Army Engineer Waterways Experiment Station, Post Office Box 631, Vicksburg, MS 39180, Attention: D. P. Booth.

Both EPA and the Corps invite continuing public comment on the manual including, but not limited to, the scope of the manual and proposed revisions. Comments should be sent to the Chief, Marine Protection Branch, and/or the U.S. Army Engineer Waterways Experi-

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ment Station at the addresses indicated above.

Dated: August 31, 1977.

THOMAS C. JORLING,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.77-25873 Filed 9-6-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21373]

PAUL GEORGE KASANOFF

Suspension of Radiotelephone Third Class Operator Permit; Order

Adopted: August 26, 1977

Released: August 30, 1977

In the Matter of Paul George Kasanoff, 93 Harbor Key, Secaucus, N.J. 07094.

1. The Chief, Field Operations Bureau has under consideration the suspension for a period of one year of the Radiotelephone Third Class Operator Permit, P3-2-53596, issued to Paul George Kasanoff of the above captioned address for the violation of Section 13.70 of the Commission's Rules.[1] Paul George Kasanoff presently possesses a Radiotelephone Third Class Operator Permit with a broadcast endorsement which expires May 16, 1980.

2. On May 12, 1976, Kasanoff appeared at the Commission's Boston Field Office located at 165 State Street, Boston, Mass., and filed an application for a Radiotelephone Third Class Operator Permit under the name of "Jay Michael Davis". Based on information available to the Commission, it appears that Kasanoff filed the application for the purpose of assisting another Commission licensee, Fred A. Hunter, in attempting to frauduently obtain a broadcast endorsement[2] to be affixed to Hunter's Radiotelephone Third Class Operator Permit.

3. It appears further on the basis of information available to the Commission, that Kasanoff did enter the examination room under the assumed name of "Davis", took the Element Nine portion of the examination for Hunter through the exchange of examination papers with Hunter at the time, and submitted the examination paper bearing Hunter's, name as his own

4. On May 9 1977. the Chief Field Operations Bureau under delegated authority released on Order proposing the suspension of the above captioned permit for one year In a letter dated May 16, 1977. Kasanoff requested a hearing. The timely request places in abeyance until the conclusion of this proceeding the proposed suspension.

5. Accordingly. it is ordered, pursuant to Section 303 m ' 2 ' of the Communications Act of 1934, as amended and §§ 0.311 and 1 85 of the Commission's Rules, that the matter of a suspension of the Radiotelcphone Third Class Operator . Permit—P3-2 -53596—issued to Paul George Kasanoff is hereby designated for a hearing at a time and place to be specified by a further Order of the Commission, upon the following issues:

(a) To determine whether Paul George Kasanoff did on May 12, 1976, wilfully and knowingly file an application for a Radiotelephone Third Class Operator Permit in the name of "Jay Michael Davis" in violation of § 13 70 of the Commission's Rules.

(b) To determine whether Paul George Kasanoff did on May 12, 1976, attempt to assist Fred A Hunter to fraudulently obtain a broadcast endorsement to be affixed to Hunter's Radiotelephone Third Class Operator Permit in violation of § 13 70 of the Commission's Rules.

(c) To determine, in light of the evidence adduced on the preceeding issues, whether the Radiotelephone Third Class Operator Permit issued to Kasanoff should be suspended for a period of one year.

6. It is further ordered, that, to avail himself of the opportunity to be heard, the applicant, pursuant to § 1.221 ' c ' of the Commission's Rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission in triplicate a written appearance stating an intent to appear on a date fixed for hearing to present evidence on the issues specified in this order.

8. It is further ordered, that the Secretary shall send a copy of this Order by Certified Mail, Return Receipt Requested to Paul George Kasanoff at the address given above.

FEDERAL COMMUNICATIONS COMMISSION,
JAMES C. MCKINNEY,
Acting Chief, Field Operations Bureau.

[FR Doc.77-25880 Filed 9-6-77;8:45 am]

[1] Section 13.70 *Fraudulent licenses.* No licensed radio operator or other person shall alter, duplicate, or fraudulently obtain or attempt to obtain, or assist another to alter, duplicate, or fraudulently obtain or attempt to obtain an operator license. Nor shall any person use a license issued to another or a license that he knows to be altered, duplicated, or fraudulently obtained.

[2] Section 13.72 provides in pertinent part the requirement that elements 1 and 2 of the commercial operator examination be satisfactorily completed before issuance of a Radiotelephone Third Class Operator Permit. The examination element 9 as delineated in Section 13.21 must be satisfactorily completed before the Broadcast Endorsement confers the special operating privilege described in Section 13.62.

FEDERAL ENERGY ADMINISTRATION

ACCOUNTING PRACTICES—OIL AND GAS PRODUCERS FINANCIAL ACCOUNTING STANDARDS

AGENCY: Federal Energy Administration (FEA).

ACTION: Cross Reference.

SUMMARY: Title V, section 503 of the EPCA requires that the SEC, in consultation with the FEA, the General Accounting Office and the Federal Power Commission, assure the development and observance of accounting practices to be followed by persons engaged in the production of crude oil or natural gas in the United States.

The SEC, in Securities Act Release 5861, (42 FR 44972, September 7 1977) is proposing a rulemaking which would amend the Commission's regulations to incorporate as rules of the Commission certain financial and accounting standards required by section 503 of the EPCA to be developed by December 22, 1977 The Commission is proposing such rules pursuant to authority granted it by the EPCA The accounting practices required to be developed will be applicable to persons engaged in the production of oil and gas who file reports with the Federal Energy Administration (and who will be required under the EPCA to filie reports with the Department of Energy), including those who are not subject to the filing requirements of the federal securities laws. The admendments are proposed to place the Commission in a position to adopt by December 22, 1977. financial accounting and reporting standards for oil and gas producing activities. The proposed amendments are the same as the standards contained in the proposed statement of financial accounting standards, "Financial Accounting and Reporting by Oil and Gas Producing Companies," issued on July 15, 1977, by the Financial Accounting Standards Board.

The reason for this notice by the FEA is that Title V, section 505 of the EPCA amends section 11(c) of the Energy Supply and Environmental Coordination Act of 1974, Pub. L. 93-319, as amended by Pub. L. 94-163 (ESECA) in the following respect: in order to carry out the responsibility under section 11(a) of ESECA to require the reporting of energy information (as defined in section 11(d) of ESECA) to the FEA, the FEA Administrator shall require that persons engaged in whole or in part in the production of crude oil or natural gas (1) keep energy information in accordance with the accounting practices developed by the SEC pursuant to section 503 of the EPCA and (2) submit reports with respect to energy information kept in accordance with such practices.

Accordingly, the FEA encourages all interested parties to submit comments to the Securities and Exchange Commission in response to its release, as referenced above.

DATES: Comments are due by October 15, 1977.

ADDRESSES: Comments should be made in triplicate and sent to George A. Fitzsimmons, Secretary, SEC, Washington, D.C. 20549. All such communications should refer to File No. S7-715 and will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Richard C. Adkerson, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-755-1671).

Fred Santogrossi, Office of Energy Information and Analysis, Federal Energy Administration, 2000 M Street NW., Washington, D.C. 2046. (202-254-8725).

Issued in Washington, D.C., on August 30, 1977.

ERIC J. FYGI,
Acting General Counsel, Federal Energy Administration.

[FR Doc.77-26019 Filed 9-6-77;8:45 am]

VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT INTERNATIONAL ENERGY PROGRAM

Meeting

In accordance with Section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94-163) notice is hereby provided of a meeting of Subcommittee A of the Industry Advisory Board to the International Energy Agency (IEA) to be held on September 9, 1977, at the offices of the IEA, 2 Rue Andre Pascal, Paris 16, France, beginning, at 9:30 a.m. The purpose of this meeting is to permit attendance by representatives of members of Subcommittee A at a meeting of representatives of governments of countries participating in the International Energy Program to discuss the Fall 1977 Emergency Data System Test.

The Agenda for the meeting is under the control of the government group. It is expected that the following Agenda will be followed:

AGENDA

1. Correct implementation of Questionnaire B reporting instructions, notably in respect of cutoff dates.
2. Consistency of data on operations of Reporting Companies in Questionnaire B with those contained in Questionnaire A.
3. Phasing of cutoff dates in European countries.
4. Procedures of the Emergency Data Test; related questions.
5. Feedback results of Reporting Companies meeting.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public. Unanticipated circumstances have required the notice period as contained in § 209.32(b) of FEA regulations to be shortened.

Issued in Washington, D.C., August 31, 1977.

ERIC J. FYGI,
Acting General Counsel, Federal Energy Administration.

[FR Doc.77-25922 Filed 9-6-77;8:45 am]

FEDERAL MARITIME COMMISSION

[Fact Finding Investigation No. 10]

CARRIERS AND CONFERENCES OF CARRIERS IN THE TREATMENT OF OVERLAND/OVERLAND COMMON POINT (OCP) CARGO

Possible Unlawful Action; Order

The Federal Maritime Commission has reason to believe that the recent actions of certain carriers and conferences of carriers concerning the treatment of Overland OCP cargo in the trade between the Far East and Pacific Coast ports of the United States may be in violation of sections 15, 16 First, and or 17 of the Shipping Act, 1916.

It is the opinion of the Commission that it is essential to conduct an investigation to determine whether there are or have been any such violations of the Shipping Act, 1916, in order that the Commission may properly exercise its regulatory duties to insure the protection of the public interest in the proper and effective administration of the law.

Therefore, it is ordered, That pursuant to section 22 and 27 of the Shipping Act, 1916, and section 214 a) of the Merchant Marine Act of 1936, a nonadjudicatory investigation is hereby instituted into the practices of carriers and conferences of carriers concerning the treatment of Overland OCP cargo, said investigation to be conducted pursuant to the Commission's rules of practice and procedure, 46 CFR §502 281-291;

It is further ordered, That the Investigative Officer shall be Wm. Jarrel Smith, Jr., of the Commission, assisted by the Bureau of Hearing Counsel and by such members of the staff as he may designate, with full authority under Commission rule 18 (supra), to hold public or nonpublic sessions, to resort to all compulsory processes authorized by law, including the issuance of subpoenas, to administer oaths and to perform such other duties as may be necessary in accordance with the laws of the United States and the regulations of the Commission.

It is further ordered, That any person other than carriers or conferences having an interest and desiring to participate in this proceeding, shall file a statement with the Investigative Officer, describing their interest on or before September 16, 1977;

It is further ordered, That said Investigative Officer shall issue to the Managing Director interim progress reports every three months and a final report of findings and recommendations no later than one year after publication of this order in the FEDERAL REGISTER, all such reports to remain confidential unless and until the Commission rules otherwise;

It is further ordered, That notice of this order be published in the FEDERAL REGISTER.

By the Commission August 23, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-25990 Filed 9-6-77;8:45 am]

PORT OF PALM BEACH DISTRICT AND WEST INDIA SHIPPING CO.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916 as amended 39 Stat. 733, 75 Stat. 763 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126 or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary Federal Maritime Commission, Washington, D.C. 20573, on or before September 27 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Dwight Green, Traffic Consultant, Port of Palm Beach, P.O. Box 9935, Riviera Beach, Fla. 33404.

Agreement No. T-3508, between Port of Palm Beach District (Port) and West India Shipping Co., Inc. (Company), provides for the five-year renewable, exclusive lease of certain facilities at the Port of Palm Beach, Fla., for the purpose of office and warehouse space and open storage of commodities and equipment. As compensation, the Company will pay an initial total sum of $98,312 00 per year payable on a monthly basis In addition, Company shall pay all applicable charges as specified in the then current tariff published by Port. As a further inducement to the Port, Company guarantees a minimum of 50,000 tons of cargo will be shipped through the Port's facilities for each year of the agreement.

Although this agreement may not be subject to section 15 of the Shipping Act, 1916, interested parties are given an opportunity to comment thereon if they so desire.

Dated: September 1, 1977.

By Order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-25992 Filed 9-6-77;8:45 am]

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[Independent Ocean Freight Forwarder License No. 1552]

J. D. EXPRESS CO., INC.

Reinstatement of License

By Federal Maritime Commission Order served and published in the FEDERAL REGISTER, J. D. Express Co., Inc.'s Independent Ocean Freight Forwarder License No. 1552 was revoked, effective July 7, 1977 for failure to maintain a valid surety bond on file with the Commission. The Order of Revocation was published on July 26, 1977 in 42 FR 38000

An appropriate surety bond has been received in favor of J. D. Express Co., Inc., and compliance pursuant to section 44, Shipping Act, 1916, and section 510.9 of the General Order 4 has been achieved

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised) section 7.04 a), dated September 15, 1973, Independent Ocean Freight Forwarder License No. 1552 shall be reissued to J. D. Express Co., Inc. effective August 23, 1977. A copy of this Notice of Reinstatement shall be published in the FEDERAL REGISTER and served upon J. D. Express Co., Inc.

LEROY F. FULLER,
Director, Bureau of Certification and Licensing.

[FR Doc.77-25991 Filed 9-6-77;8:45 am]

STABEN BRAND FORWARDING CO., ET AL.

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44 a) of the Shipping Act, 1916 (Stat. 522 and 46 U.S.C. 841 b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Staben Brand Forwarding Co. (John D. Staben, d b a.), 2117 McCarty Drive, Houston, Tex. 77029.

Cargo Worldwide (Robert R. Solomon, d b a.), P.O. Box 75202, Tampa, Fla. 33675.

Robert Warren, 610 Northeast 12th Avenue, Hallandale, Fla. 33009.

Copeland Services (Barbara L. Copeland, d b a.), P.O. Box 8632, Baltimore, Md. 21240.

Cadenas Intl. Freight Forwarding, 3401 Northwest 36th Street, Rm. 1B, Miami, Fla. 33142. Officers: Manuel Cadenas, President; Carlos Cardet, Secretary.

Fast International Forwarding Corp., Bldg. 2141, MIAD, P.O. Box 480035, Miami, Fla. 33148. Officers: Elia A. Lopez, President; Secretary; Julio Rodriguez, Treasurer; Esteban A. Ferrer, Asst. Secretary.

John W. Kenehan, 5306 Brinkman Drive, Amarillo, Tex. 79106.

ACM International (Amanda De Pippo, d b a.), 12522 Greenspoint Drive, Houston, Tex. 77060.

John Cassidy and Sons, Inc., 7100 Northwest 36th Avenue, Miami, Fla. 33147. Officers: John H. Cassidy, President; Kathleen A. Cassidy, Treasurer.

Alpha International Shipping (Jan-Peter Juterbock, d b a.), 366 W. 131st Street, Los Angeles, Calif. 90061.

James O. Lindsey, 175-11 148th Road, Jamaica, N.Y. 11434.

Gulf States Forwarding, Inc., 118 North Royal Street, P.O. Box 2365, Mobile, Ala. 36601. Officers: L. Douglas Harwell, Sr., President; Angus R. Cooper, Vice President; David J. Cooper, Secretary-Treasurer.

Shipping Corporation of America, 177 State Street, Rm. 300, Boston, Mass. 02109. Officers: Jordan H. Steinberg, Pres.-Treas.; Director, Francis E. Gillis, Clerk; Vice President, John C. Wherty; Vice President, Gail Carrey; Director, Mary Rudder, Director.

Dated: September 1, 1977.

By the Federal Maritime Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-25993 Filed 9-6-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. CP74-289, CP73-334, and CP75-360]

EL PASO NATURAL GAS CO.

Filing of Proposal in Settlement and Termination of the Subject Proceedings

AUGUST 30, 1977.

Take notice that on August 19, 1977, El Paso Natural Gas Co. (El Paso), a Delaware corporation, whose mailing address is Post Office Box 1492, El Paso, Tex. 79978, filed its Proposal in Settlement and Termination of the above docketed proceedings pursuant to § 1.18 (e) of the Rules of Practice and Procedure so as to accomplish the following:

(i) Correct the past misdistribution of gas supplies, noted by Opinion Nos. 800 and 800-A, through the prospective curtailment of deliveries to Southern California Gas Co. (SoCal) and Pacific Gas and Electric Co. (PG&E) and the allocation, sale and delivery of such volumes of natural gas to certain of El Paso's east-of-California (EOC) distributors and direct sale customers;

(ii) Secure arrangements for the protection of EOC Priority 1 and 2 service from the El Paso system during the 1977-78 winter heating season, and

(iii) Establish a Priority 2 classification for the storage injection and other load-equation requirements of El Paso and of its customers possessing their own storage facilities to the extent that such injection and load-equation gas is to be used by El Paso and by such customers upon withdrawal from storage for the ultimate protection of Priority 1 and 2 service,

all as more fully set forth in the settlement proposal on file with the Commission and open to public inspection. El Paso, concurrently with the settlement proposal, also filed with the Commission, a motion for approval of the instant settlement proposal.

The settlement proposal states that in order to correct the "past misdistribution of gas supplies," El Paso proposes to allocate additional natural gas quantities to certain of its EOC distributor and direct sale customers indicated on Appendix A attached to the settlement. These additional quantities of gas shall be obtained by the curtailment of deliveries to El Paso's California customers. El Paso will deliver to the indicated EOC customers 35,343,963 Mcf of additional gas, less the EOC share of such quantities of gas, if any as are actually utilized for the protection of EOC Priority 1 and 2 service from El Paso's system during the 1977-78 winter heating season as more fully set forth in the settlement proposal. The EOC customers set forth in Appendix A are those whose Priority 5 service was curtailed by El Paso in 1974 and 1975 to provide the gas supplies necessary to support advance sales made to PG&E and to support injections made by El Paso into the Rhodes Reservoir Storage Project under temporary authorization granted by the Commission. The sale and delivery of the additional quantities of natural gas to each of the indicated EOC customers would be made on the basis indicated at Appendix A.

The additional quantities shall be sold and delivered to the EOC customers at the applicable Rate Schedule B, A-1-X, X-1 or X-7 rate in effect when deliveries are made. The allocation, sale, and delivery to each of the EOC customers of their respective quantities of natural gas indicated on Appendix A and obtained by El Paso's additional curtailment of its California customers shall fully discharge any and all claims, which may now or hereafter be asserted by or on behalf of any person or persons against El Paso, PG&E and SoCal or any of them, which are alleged to arise from or out of: (i) Opinion Nos. 800 and 800-A, their findings and accompanying order or in the implementation of the El Paso load-equation projects addressed in those opinions, or (iii) the instant settlement proposal, including the implementation hereof pursuant to Commission order or (iv) the Commission order approving the implementation of the settlement proposal.

The settlement proposal further states that in order to protect Priority 1 and 2 service to its EOC customers during the forthcoming 1977-78 winter heating season, El Paso proposes to schedule its additional curtailment of deliveries to PG&E so as to retain with PG&E, for drawdown by El Paso in the same manner provided by the special operating arrangements in effect during the past winter seasons, a quantity of advance sale gas sufficient to enable El Paso to avoid the curtailment of its Priority 1 and 2 service to EOC customers during the forthcoming 1977-78 winter heating season. EOC Priority 1 and 2 service deficiencies during the forthcoming winter are now projected for the El Paso system, despite supplies from the Rhodes

[1] Opinion No. 800, "Opinion and Order Issuing Conditional Certificate of Public Convenience and Necessity", issued May 23, 1977, and Opinion No. 800-A, "Opinion and Order on Rehearing," issued July 20, 1977, at El Paso Natural Gas Co., Docket Nos. CP74-289, et al.

Reservoir Storage Project and Clay Basin Interim Storage Arrangements.

To the extent that all or any part of such retained advance sale gas quantity is not required to be drawn-down for use in protecting EOC Priority 1 and 2 requirements during the 1977-78 winter heating season, such remaining portion of the retained quantity shall be obtained by additional curtailment of PG&E after April 30, 1978, for allocation, sale, and delivery to the EOC customers. In order to recover those costs which it has incurred on and after May, 1977, under the advance sale arrangements with PG&E, and which it projects that it will incur under those arrangements until the last of the total advance sale gas quantity of 28,837,199 Mcf has been drawn-down from PG&E, El Paso shall apply a surcharge to its monthly billings to each of its EOC customers having Priority 1 and 2 requirements commencing November 1977, through October 1978. Such surcharge to be applied to each such customer's monthly billings shall be calculated by multiplying that customer's aggregate winter season Priority 1 and 2 base volumes as reflected in the Index of Base volumes on file as part of El Paso's FPC Gas Tariff, by the amount of 0.7905 cents per Mcf. Such surcharge shall not be adjusted during the twelve-month period of its effectiveness, but El Paso shall adjust for over- or under-collections through such surcharge in its billings to such customers for months subsequent to October 1978.

Additionally, the settlement proposal states that a system-wide Priority 2 classification shall apply to all injections or deliveries made by El Paso, or on its behalf for the ultimate benefit of EOC Priority 1 and 2 requirements, with respect to the following storage and load-equation projects: (i) Rhodes Reservoir Storage Project; (ii) Clay Basin Interim Storage Arrangements; (iii) Barker Creek Dome Reservoir; and (iv) such other storage or load-equation arrangements as El Paso may hereafter propose for the future protection of EOC Priority 1 and 2 service.

In order to effectuate the instant settlement proposal, El Paso requests the issuance of an order by the Commission approving the instant settlement proposal in its entirety and without provisions, conditions or limitations other than those set forth therein, including the following: (i) unconditionally accepting the tariff filing, and making effective as of November 1, 1977, the related tendered tariff sheets, included in Appendix B to the settlement proposal relative to the establishment of an EOC Priority 1 and 2 surcharge; (ii) terminating the subject proceedings, specifically Docket Nos. CP73-334, CP74-289 and CP75-360; (iii) recognizing that the additional curtailment of El Paso's California customers and the allocation, sale and delivery to the EOC customers of the additional quantities indicated at Appendix A shall fully discharge any and all claims which may now or hereafter be asserted by or on behalf of any person or persons against El Paso, PG&E and SoCal or any of them, and which are alleged to arise from or out of: Opinion Nos. 800 and 800-A, their findings and accompanying orders; or the implementation of the El Paso load-equation projects addressed in those opinions; or the instant proposal, including the implementation hereof pursuant to Commission order; or the Commission order approving the implementation of the instant proposal; and (iv) granting waiver of all applicable provisions of the Commission's Rules and Regulations necessary to effectuate the instant proposal as submitted.

In addition, the settlement proposal states that the following reservations shall apply to, and constitute a part of, the instant settlement proposal: (i) the instant settlement proposal is submitted pursuant to § 1.18(e) of the Commission's Rules of Practice and Procedure and it is agreed by all parties to the subject proceedings, including the Commission Staff, that unless such proposal is accepted as submitted, it shall be privileged and El Paso shall have the right to withdraw the same; (ii) the provisions of the instant settlement proposal are intended to relate only to the specific matters referred to herein and, by agreeing hereto, no party waives any claim or right which it may otherwise have with respect to any matters not expressly provided for herein; and (iii) El Paso shall have the right to withdraw the instant settlement proposal should any party seek rehearing or judicial review of an order of the Commission approving, without modification or condition, this settlement proposal in its entirety and the assent of any party to the instant settlement proposal shall constitute its representation, upon which other parties may rely, that rehearing of judicial review will not be sought by such party.

In a concurrent motion El Paso requests that the Commission establish the following schedule for the submission of comments by interested parties on the accompanying Proposal:

Comments on the Proposal to be filed on or before August 29, 1977.
Answering Comments to be filed on or before September 7, 1977.

El Paso is also currently filing, pursuant to Part 154 of the Commission's Regulations, its tariff filing designed to implement El Paso's settlement proposal effective November 1, 1977.

Any person desiring to be heard, to make any protest, or file initial comments with reference to said settlement should, on or before September 9, 1977, file with the Federal Power Commission, Washington, D.C. 20426, with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Reply comments should be filed on or before September 20, 1977. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in the subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the authorization is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for El Paso to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

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EL PASO NATURAL GAS COMPANY

Appendix A

Return of Advance Sale Gas and Reallocation of Rhodes Injections Pursuant to Opinion 800 and 800-A 1/
(Mcf at 14.73 psia)

EDC Recipients of Return of Advance Sales and Rhodes Reallocation	1975 Return of Advance Sales	1975 Rhodes Reallocation	1975 Total	Total Return of Advance Sales	Total Rhodes Reallocation	Grand Total
Arizona Public Service Company	3,372,832	-	3,372,832	5,692,258	1,022,503	6,714,761
Arizona Public Service Company - Salt River Project	1,279,636	-	1,279,636	2,295,909	460,024	2,755,933
Compania Minera de Cananea, S. A.	194,240	-	194,240	366,863	77,918	444,781
El Paso Electric Company	2,035,046	-	2,035,046	3,700,629	785,724	4,486,353
Kennecott Copper Corporation - Hayden	42,404	-	42,404	144,317	42,742	187,059
- Hurley	344,389	-	344,389	670,108	141,292	811,400
Lordsburg, New Mexico, City of	-	-	-	-	-	-
Phelps Dodge Corporation	61,817	-	61,817	61,817	-	61,817
Southern Union Gas Company	1,150,359	-	1,150,359	1,338,932	63,694	1,402,626
Southwest Gas Corporation	328,512	-	328,512	648,293	168,419	816,712
Southwestern Public Service Company	3,291,880	-	3,291,880	5,442,784	971,374	6,414,158
Tucson Gas & Electric Company	-	-	-	2,139,953	1,185,453	3,325,406
Willcox, Arizona, City	2,295,657	-	2,295,657	4,968,763	1,308,679	6,277,442
Total	748,659	-	748,659	1,366,573	278,942	1,645,515
	15,145,431	-	15,145,431	28,837,199	6,506,764	35,343,963
Pacific Gas and Electric Company						2,882,740
Southern California Gas Company						3,624,024
Total						6,506,764

EDC Recipients of Return of Advance Sales and Rhodes Reallocation	1974 Return of Advance Sales	1974 Rhodes Reallocation	1974 Total	Total Return of Advance Sales	Total Rhodes Reallocation	Grand Total
Arizona Public Service Company	2,319,426	1,022,503	3,341,929	5,692,258	1,022,503	6,714,761
Arizona Public Service Company - Salt River Project	1,016,273	460,024	1,476,297	2,295,909	460,024	2,755,933
Compania Minera de Cananea, S. A.	172,623	77,918	250,541	366,863	77,918	444,781
El Paso Electric Company	1,665,583	785,724	2,451,307	3,700,629	785,724	4,486,353
Kennecott Copper Corporation - Hayden	101,913	42,742	144,655	144,317	42,742	187,059
- Hurley	325,719	141,292	467,011	670,108	141,292	811,400
Lordsburg, New Mexico, City of	-	-	-	-	-	-
Phelps Dodge Corporation	188,573	63,694	252,267	61,817	-	61,817
Southern Union Gas Company	319,781	168,419	488,200	648,293	168,419	816,712
Southwest Gas Corporation	2,150,904	971,374	3,122,278	5,442,784	971,374	6,414,158
Southwestern Public Service Company	2,139,953	1,185,453	3,325,406	2,139,953	1,185,453	3,325,406
Tucson Gas & Electric Company	2,673,106	1,308,679	3,981,785	4,968,763	1,308,679	6,277,442
Willcox, Arizona, City	617,914	278,942	896,856	1,366,573	278,942	1,645,515
Total	13,691,768	6,506,764	20,198,532	28,837,199	6,506,764	35,343,963
Pacific Gas and Electric Company						2,882,740
Southern California Gas Company						3,624,024
Total						6,506,764

1/ Indicated quantities shall be reduced pro rata to reflect the EDC customers proportional share of such quantities of advance sale gas, if any, which are utilized for the protection of EDC Priority 1 and 2 requirements for the 1977-78 heating seasons.

[FR Doc.77-25851 Filed 9-6-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

REHABILITATION RESEARCH AND TRAINING CENTER

Announcement of Grant for FY '77; Extension of Time for Applications

The Rehabilitation Services Administration, Office of Human Development Services, announces that it is extending the due date for receipt of applications under its Rehabilitation Research and Training Center Program. Applications will now be accepted until September 19, 1977.

The program was originally announced in the FEDERAL REGISTER (42 FR 40778, No. 155, Thursday, August 11, 1977) as Program Announcement No. 13627-774.

Under this extension, the September 19 deadline can be met only if applications are received by 5 p.m. on that date at: Division of Grants and Contract Management, Office of Human Development Services, Room 1427, Mary E. Switzer Building, 330 "C" Street SW., Washington, D.C. 20201, Attention: (13627-774). This requirement supersedes that published in the original announcement.

(Catalog of Federal Domestic Assistance Program No. 13.627 Rehabilitation Research and Demonstration.)

Dated: August 23, 1977.

JOSEPH A. MOTTOLA,
Acting Commissioner of Rehabilitation Services.

Approved: August 31, 1977.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc.77-25912 Filed 9-6-77;8:45 am]

Office of the Secretary

ADVISORY COUNCIL ON EDUCATION STATISTICS

Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that a meeting of the Advisory Council on Education Statistics will be held on October 4, 1977, from 9 a.m. to 4:30 p.m., in Room 3000, FOB No. 6, 400 Maryland Avenue SW., Washington, D.C. 20202. The meeting will be continued on October 5, 1977, from 9 a.m. to 12 noon, at the same location.

The Advisory Council on Education Statistics is mandated by section 406(c) of the General Education Provisions Act as added by section 501(a) of the Education Amendments of 1974, Pub. L. 93-380 (20 USC 1121e-1(c)), to advise the Secretary of the Department of Health, Education, and Welfare, and the Assistant Secretary for Education, and the National Center for Education Statistics (NCES); and "shall review general policies for the operation of the Center and shall be responsible for establishing standards to ensure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence."

The meeting agenda will include the swearing in of three new members; reports on NCES' budget planning for fiscal year 1978; the status of the NCES survey program; the Education Data Acquisition Council; and, NCES policies on external demands for data acquisition activities.

The meeting is open to the public; however, because of limited accomodations, those members of the public wishing to attend should make reservations by writing, no later than September 23, 1977; to:

Acting Executive Director, Advisory Council on Education Statistics, Room 3003, FOB-6, 400 Maryland Avenue SW., Washington, D.C. 20202.

Records shall be kept of all Council proceedings and shall be available for public inspection in the Office of the Administrator, National Center for Education Statistics, located at 400 Maryland Avenue SW., Washington, D.C. 20202.

Signed at Washington, D.C. on September 1, 1977.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

[FR Doc.77-25911 Filed 9-6-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A-9682]

ARIZONA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal; Correction

AUGUST 29, 1977.

In Federal Register Document No. 77-22413 appearing on pages 39486-39487 of the FEDERAL REGISTER of August 4, 1977, the following changes are made:

1. In the second paragraph, the fourth and fifth lines, delete the following:

"* * * from all forms of appropriation under the public land laws and * * *"

2. On Page 39486, the land description for Section 27 is corrected to read:

T. 5 N., R. 1 E.,
Section 27, * * * E½ W½ NW¼ * * *

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-25960 Filed 9-6-77;8:45 am]

OREGON

Closure to Motorized Vehicles

On June 28, 1977, there was printed in the FEDERAL REGISTER a notice closing certain public lands in Baker County, Oreg., to motorized vehicles from August 27, 1977, to December 1, 1977. On July 28, 1977 there was printed in the FEDERAL REGISTER an amendment to the June 28, 1977 notice.

Parties to the subject cooperative motorized vehicle closure dissolved their agreement by mutual consent on August 24, 1977. The public is no longer held to the conditions of the closure on the public lands involved. The public lands have reverted back to the same use status as existed prior to the notice of closure.

GORDON R. STAKER,
District Manager.

AUGUST 29, 1977.

[FR Doc.77-25961 Filed 9-6-77;8:45 am]

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Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant. C. J. Chamberlain, 4850 Alcorn Road, Fallon, Nev. 89406.

OMB NO. 42-R1690

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Endorse only one): XXX EXPORT XXX PERMIT — One-time only.

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: Exportation of one (1) male & one (1) female Sacon Eared Manchurian pheasant (Crossoptilon-mantchuricus) 1977 hatch. Desired for the introduction of new blood into an existing flock for the enhancement of propagation and survival of the species. Exportation from Fallon, Nv. U.S.A. to South River, Ontario, Canada. Deliver to: Mr. Harvey Bennison.

3. APPLICANT (Name, complete address and phone number of individual, business, agency, or organization for whom permit is requested):
C. J. Chamberlain
4850 Alcorn Road
Fallon, Nevada 89406
Ph. (702) 867-2237

4. IF APPLICANT IS AN INDIVIDUAL, COMPLETE THE FOLLOWING: X male ☐ female ☐ miss ☐ mrs. — HEIGHT 5'-7" — WEIGHT 140 — DATE OF BIRTH 18 Feb. 1911 — COLOR HAIR Gen. — COLOR EYES Blue — PHONE NUMBER WHERE EMPLOYED (702) 867-2237 (home) — SOCIAL SECURITY NUMBER 530-10-0581 — OCCUPATION Retired - Civil Service - Navy Dept. — ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: None

5. IF APPLICANT IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING: EXPLAIN TYPE OF BUSINESS, AGENCY, OR INSTITUTION: N.A. — NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: N.A. — IF APPLICANT IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED: N.A.

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED: Exportation from Fallon, Nevada, U.S.A. to South River, Ontario, Canada Via United Air Lines - (Air Freight). Recipient: Mr. Harvey Bennison, South River, Ontario P0A 1N0 Canada.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? XX YES ☐ NO (If yes, list license or permit number(s)): PRO 2-353 (CSSP) Permit

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? XX YES ☐ NO (If yes, list jurisdictions and type of document): Nevada State Comercial License #1.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. F. & W. SERVICE ENCLOSED IN AMOUNT OF: N.A.

10. DESIRED EFFECTIVE DATE: A.S.A.P.

11. DURATION NEEDED: Four (4) months

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (see 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED: 50 CFR 17.22 Attached.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13 OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE: C. J. Chamberlain — DATE: 20 July 1977

3-200 16-76

(5) The birds covered by this application will be housed at South River, Ontario, Canada. South River is 125 miles north of Toronto, Canada. The place of confinement is located on a 30-acre parcel of land in a rural area. The birds will be housed in a brand new pen 15 feet by 30 feet with 8 foot x 15 foot house in the rear—see sketch and photo attached.

(6) (i) See (5) above.

(6) (ii) Mr. Bennison has been raising game birds for the past twenty years and is considered one of the finer breeders in northern Canada. He has been very successful in raising the Manchurian pheasants for the past eleven years. In addition to the Brown Eared and the endangered White Eared. Many of the other exotic species are raised on Mr. Bennison's game bird farm.

(6) (iii) Mr. Bennison has indicated a willingness to participate in any cooperative breeding program as requested by the Wildlife Service and will maintain or contribute data to a stud book as might be requested.

(6) (iv) Both birds will be shipped in unused wire bound wooden crates, suitably padded to prevent any scalping or injury. Food and water containers will be wired securely in corners of the containers. Only one bird will be transported in each container which will be of sufficient size for the birds to stand and turn around in.

(6) (v) Due to the good management and well constructed pens Mr. Bennison has had no fatalities during the past five (5) years.

(7) There are no contracts or agreements other than the purchase price of the birds.

(8) It is believed that the statements in (6) (ii) and (6) (v) above would fully justify the issuance of the requested permit.

(8) (i) It is truly believed that the requested permit will enable Mr. Bennison to establish a stronger blood line in the Brown Eared which will certainly enhance the propagation and survival of these beautiful birds.

(8) (ii) Mr. Bennison plans to mate his very fine stock with the outstanding stock which I have. The crossing of these blood lines is sure to enhance the propagation which we both are quite proud of.

(8) (iii) Mr. Bennison feels as I do—no endangered or threatened species of any animal or bird should be quartered in one central location. The species should be spread out to many and varied locations. In the event of a serious disease in one location birds or animals in another would tend to survive and therefore enhance the survival of that particular species.

(8) (iv) Mr. Bennison states that if, and when, he decides to terminate his activities in propagating game birds he will dispose of them thru sales or gifts to qualified aviculturists as may be directed by the wildlife service of his Country.

NOTE.—Mr. Bennison is aware of, and will provide the Canadian Import Permit to accompany shipment of birds to Canada.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File No. PRT 2-1180-07; please refer to this number when submitting comments. All relevant comments received on or before October 7, 1977, will be considered.

Dated: August 31, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, United States Fish and Wildlife Service.

[FR Doc.77-25767 Filed 9-6-77;8:45 am]

ATTACHMENT

50 CFR 17.22

Export Permit Application

(1) One (1) pair, male and female, Brown Eared Manchurian pheasant, Crossoptilon-mantchuric both birds are of 1977 hatch. Selling and exporting to Canada.

(2) Both birds and several generations back were hatched and raised in captivity in Fallon, Nev. by the applicant.

(3) No attempt has ever been made by either the applicant or the proposed recipient of the above birds to obtain this specie from the wild or in any other manner that would cause injury or death to this specie.

(4) As stated in (2) above the birds covered by this application were raised in captivity by the applicant in Fallon, Nev., U.S.A.

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant: Vern Denton, 1566 Wetmore Road, Livermore, Calif. 94550.

Denton Bird Farm
Exotic Birds • Game Birds • Aviary Equipment
1566 WETMORE ROAD
LIVERMORE, CALIFORNIA 94550
PHONE 447-3997 AREA CODE 415

JULY 13, 1977

ATTACHMENT TO APPLICATION TO IMPORT FIVE PALAWAN PEACOCK PHEASANTS BY VERN DENTON, 1566 WETMORE ROAD, LIVERMORE, CALIFORNIA 94550.

MR. JACK SCHUITEMAN OF DEVLIN, ONTARIO, CANADA HAD A SMALL FLOCK OF PALAWAN PEACOCK PHEASANTS (POLYPLECTRON EMPHANUM) WHICH HE WAS TRYING TO BREED. THE WEATHER IN CANADA AND AN ONSLAUGHT OF PREDATORS MADE CONTINUATION OF THE EFFORT UNFRUITFUL AND HE HAS OFFERED ME THE BALANCE OF HIS BIRDS. THESE FIVE BIRDS WERE ALL HATCHED IN CAPTIVITY. ONE AT THE ASSINIBONE ZOO IN WINNEPEG, TWO IN WISCONSIN U.S.A. AND TWO AT MR. DEVLIN'S AVIARY IN DEVLIN CANADA. ONE BIRD IS SIX YEARS OLD, ONE FOUR YEARS, TWO TWO YEARS, AND ONE ONE YEAR. TWO OF THESE BIRDS, BOTH MALES, HAVE SUFFERED EXTENSIVE FROST DAMAGE. ONE RESULTING IN THE COMPLETE LOSS OF ONE FOOT AND THE OTHER ALL TOES OF ONE FOOT. THE REMAINING THREE ARE IN GOOD SHAPE.

DENTON BIRD FARM IS A RETIREMENT BUSINESS OWNED AND OPERATED BY MYSELF. WE BREED, RAISE, AND SELL EXOTIC PHEASANTS AND SOME AUSTRALIAN HOOKBILLS. WE HAVE CUSTOMERS IN MANY STATES AND IN CANADA AND MEXICO. THE COLLECTION IS HOUSED ON TWO ACRES LOCATED SOME TWO MILES SOUTH OF THE CITY OF LIVERMORE AND ABOUT FORTY MILES SOUTH EAST OF SAN FRANCISCO. WE HAVE OVER ONE HUNDRED BREEDING AND MAINTENANCE PENS AN AVERAGE OF 220 TWO HUNDRED AND TWENTY SQUARE FEET IN AREA WITH A MINIMUM OF FIVE FEET ENCLOSED WITH ONE INCH HEAVY DUTY POULTRY NETTING. EACH PEN HAS A SHELTER FROM THE WEATHER IS PROVIDED BY A FULL RAIN TIGHT ROOF OVER TWENTY FIVE PERCENT OF THE PEN WITH PERCH SHELTER ON THE WEST AND SOUTH FROM WIND AND STORM. ADDITIONAL SHADE IS PROVIDED EACH PEN LEAVING AT LEAST FIFTY PERCENT OPEN TO SUNSHINE. THE PENS ARE CONSTRUCTED ON A ROCKY WELL-DRAINED SOIL AND THE PENS ARE FLOORED WITH THREE TO FOUR INCHES OF WASHED SAND OVER THE ENTIRE PEN. AT THE SHELTERED END AN ADDITIONAL THREE INCHES OF SHREDDED LITTER IS PROVIDED. WE HAVE AN AUTOMATIC WATER SYSTEM IN EACH PEN WHICH IS INSPECTED EVERY OTHER DAY AND RECEIVES A FULL CLEANING AT LEAST ONCE A WEEK. FEED IS PROVIDED IN SEMI-MOUSE RESISTANT FEEDERS AND GRIT AND OYSTER SHELL IS CONSTANTLY AVAILABLE. WE USE A PETERSIME AUTOMATIC INCUBATOR PLUS FOUR LYON ELECTRIC INCUBATORS MODIFIED BY UNIVERSITY OF CALIFORNIA DAVIS FOR ALL INCUBATION AND HATCHING. THE SERVICES OF A LOCAL VETERINARY, PROFESSOR OF CALIFORNIA POULTRY LABORATORIES AT PETALUMA AND AT SACRAMENTO AND THE AVIAN SCIENCES DEPARTMENT OF THE UNIVERSITY OF CALIFORNIA AT DAVIS ARE ALL AVAILABLE TO ASSIST WITH HEALTH MAINTENANCE IN THE FLOCK.

THE WILDLIFE HERE ARE CARED FOR PRINCIPALLY BY MYSELF WITH ASSISTANCE FROM A HIGH SCHOOL STUDENT FROM THE LOCAL SCHOOL WHO TAKES A "WORK EXPERIENCE" COURSE HERE IN LIEU OF ASSIGNMENT.

1. APPLICATION FOR (Endorse only one): ☐ IMPORT OR EXPORT LICENSE ☐ 0 PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: IMPORT FIVE PALAWAN PEACOCK PH., FROM A BREEDER IN CANADA FOR BREEDING PURPOSES. SELL OR OTHERWISE DISPOSE OF THE YOUNG FROM THIS BREEDING FOR A PERIOD OF TWO YEARS.

3. APPLICANT (If a business, corporation, public agency, or institution, complete the following: EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION): BREED AND SELL OFFSPRING OF EXOTIC BIRDS.

4. IF APPLICANT IS AN INDIVIDUAL, COMPLETE THE FOLLOWING: ☐ male ☐ female ☐ miss ☐ mrs. — HEIGHT 6'4" — WEIGHT 215 — DATE OF BIRTH 9/16/13 — COLOR HAIR BRN/GRET — COLOR EYES BLUE 1 — PHONE NUMBER WHERE EMPLOYED RETIRED — SOCIAL SECURITY NUMBER 549-14-7149 — OCCUPATION RETIRED — ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: DENTON BIRD FARM - PERSONAL BUSINESS FOR BREEDING AND SALES OF EXOTIC BIRDS.

5. IF APPLICANT IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING: NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: VERN DENTON 415-447-3997 — IF APPLICANT IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED: IMPORT FROM CANADA TO SAN FRANCISCO DIRECT.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES XX NO

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? XX YES ☐ NO (If yes, list jurisdictions and type of document): CANADIAN PERMITS BEING OBTAINED BY THE CANADIAN BREEDER.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. F. & W. SERVICE ENCLOSED IN AMOUNT OF: N.A.

10. DESIRED EFFECTIVE DATE: OCTOBER 1, 77

11. DURATION NEEDED: TWO YEARS

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (see 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED:

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13 OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE: Vern Denton — DATE: JULY 13, 1977

3-200 4/76 GPO 898-042

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I HAVE BEEN CARING FOR AND REARING PHEASANTS AND SIMILAR BIRDS FOR OVER FIFTEEN YEARS AND HAVE HAD PALAWAN PEACOCK PHEASANTS FOR OVER TEN YEARS. WE HAVE RAISED SOME TWENTY BIRDS IN THAT PERIOD. THE STOCK IS AGING AND NEW BLOOD IS NEEDED TO MAINTAIN THE FLOCK. WE KEEP SIX SPECIES OF PEACOCK PHEASANT AND HAVE BEEN GRANTED FIRST BREEDING CERTIFICATES BY THE AMERICAN GAME BIRD BREEDERS FEDERATION. FOR FOUR SPECIES OF PHEASANTS; KOCKLASS, ROTHSCHILD PEACOCK PHEASANT, BORNEAN PEACOCK PHEASANT, AND MALAYAN PEACOCK PHEASANT. IN ADDITION TO THE PEACOCK PHEASANTS WE KEEP AND BREED THE MALAY GREAT ARGUS, THE BORNEAN GREAT ARGUS, TEMMINK AND SATYR TRAGOPANS, THREE SPECIES OF JUNGLE FOWL, OCCELATED TURKEYS, BORNEAN CRESTED FIREBACKS AND BULWERS WATTLED PHEASANT. I AM A MEMBER OF THE AMERICAN PHEASANT AND WATERFOWL SOCIETY, THE AMERICAN GAME BIRD BREEDERS FEDERATION, WAS SECRETARY-TREASURER OF THE WESTERN GAME BREEDERS SOCIETY FOR A GOOD PORTION OF ITS EXISTANCE. I HAVE BEEN ADMITTED TO THE AVICULTURAL HALL OF FAME OF THE AMERICAN GAME BIRD BREEDERS FEDERATION.

WE MAINTAIN RATHER COMPLETE BREEDING RECORDS AND WOULD BE WILLING TO PARTICIPATE IN CO-OPERATIVE BREEDING AND "STUD BOOK" ACTIVITIES.

SINCE 1972 WE HAVE LOST TWO PALAWANS. ONE HEN FROM A LOST ARGUMENT WITH HER MATE AND ONE MALE THAT EVIDENTLY DIED FROM OLD AGE. POST-MORTEM OF BOTH REVEALED NO DISEASE OR OTHER EVIDENT CAUSE OF DEATH. THESE LOSSES WERE REPLACED BY BIRDS WE BRED HERE AND WE CURRENTLY MAINTAIN THREE PAIR. ONE PAIR WAS OBTAINED FROM A WILD-CAUGHT SHIPMENT IN 1967, THE SECOND PAIR WAS HATCHED IN CAPTIVITY IN HONG KONG IN 1968 AND THE THIRD PAIR CONSISTS OF A 1967 FEMALE AND A 1971 MALE HATCHED HERE. THE CANADIAN BIRDS MATCHED UP WITH SOME OF OUR YOUNG STOCK WILL GIVE US A GOOD INFUSION OF NEW BLOOD AND YOUNGER STOCK. THE TWO FROST DAMAGED MALES WILL ONLY BE USEFUL FOR ARTIFICIAL INSEMINATION TRIALS WITH THIS SPECIES.

THE BIRDS WILL BE SHIPPED ON A DIRECT FLIGHT FROM INTERNATIONAL FALLS MINNESOTTA TO SAN FRANCISCO IN CRATES MEETING ALL ICC AND AIRLINE REGULATIONS. ADEQUATE WATER WILL BE PROVIDED AND THEY SHOULD NOT BE EN-ROUTE MORE THAN SIX HOURS. NO CONTRACTS EXIST COVERING THIS TRANSACTION. I AM TRADING TRAGOPANS TO MR. SCHUITEMAN FOR THE PALAWANS. I INTEND TO HOLD THESE BIRDS AS BREEDERS TO AUGMENT OUR STOCK, TO WORK WITH THE UNIVERSITY OF CALIFORNIA ON ARTIFICIAL INSEMINATION WITH THE TWO DAMAGED BIRDS, AND TO SELL THE OFFSPRING OF THESE BIRDS AND MY PRESENT HOLDING TO OTHERS WHO HOLD PERMITS UNDER YOUR REGULATIONS.

VERN DENTON

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File No. PRT 2-1202-C07; please refer to this number when submitting comments. All relevant comments received on or before October 7, 1977, will be considered.

Dated: August 31, 1977.

DONALD G. DONALOO,
Chief, Permit Branch, Federal Wildlife Permit Office, United States Fish and Wildlife Service.

[FR Doc.77-25768 Filed 9-6-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant. Ecological Analysts, Inc., c/o Ohio Power Co., P.O. Box 158, Beverly, Ohio 45715, Thomas W. Philbin, VP.

OMB NO. 42-R1470

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Environmental field studies on the Muskingum River, Ohio in which molluscs are collected for identifying population compositions in conjuction with an overall ecological survey for a 316(a) demonstration.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Ecological Analysts, Inc.
Attention: Robert Rothwell
c/o Ohio Power Co.
P.O. Box 158
Beverly, Ohio 45715 (614) 984-2892

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING.
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING.
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Environmental consulting firm

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Thomas W. Philbin, VP (516) 752-1122
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
Maryland

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Muskingum River-approximately from Stockport to Devola (approximate river miles 5.8 to 40.2)

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL, STATE AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit number(s))

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of document(s))

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF

10. DESIRED EFFECTIVE DATE: immediate
11. DURATION NEEDED: through 31 Dec 77

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b), 17.5 or 18, ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.22 (a) (1) to (a) (8) also Ecological Analysts' Attachments A and B

CERTIFICATION
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN ARE SUBJECT AS TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink)
Robert J. Rothwell
DATE: 7 Jul 77

3-200
(5-74)

17.22 Permits for Scientific Purposes or for the Enhancement of Propagation or Survival.

(a) Application Requirements.

(1) Name: pink mucket pearly mussel (*Lampsilis orbiculata orbiculata*). The potential incidental taking of a unknown number, age, and sex of individuals during a scientific investigation of the shellfish inhabiting the Muskingum River, Ohio.

(2) At this time, the wildlife to be covered by the permit is still in the wild.

(3) Present investigations utilize a crow foot brail in taking shellfish from the Muskingum River. Inadvertant taking of the pink mucket pearly mussel is possible.

(4) Species identification is possible only by external and internal examination of the specimens therefore causing death.

(5) All shellfish species are field-identified and sent to Dr. David Stanbery of the Ohio State University Museum of Zoology, Columbus, Ohio, for identification, verification, and storage at the Museum.

(6) All shellfish sent to the Ohio State University Museum are preserved in 70 percent ethanol for use as a scientific specimen.

(7) Copies of the complete contract between Ecological Analysts, Inc. and the Ohio Power Company are on file at Melville, N.Y. The technical portions and subsequent correspondence pertaining to the aquatic studies involving the collection of molluscs are attached (Attachment A). Mr. Robert Rothwell (Resume—Attachment B) will be conducting the mollusc collections with the assistance of an aide.

(8) Ecological Analysts, Inc., is justified in receiving a permit because:

(i) The pink mucket pearly mussel is not being collected specifically but may be collected incidentally as part of an overall biological survey.

(ii) The specifics of the benthic survey are given in the attachments.

(iii) The benthic survey is required as part of a 316(a) demonstration as specified by the "Interagency 316(a) Technical Guidance Manual and Guide for Thermal Effects Sections of Nuclear Facilities Environmental Impact Statements." U.S. Environmental Protection Agency, May 1, 1977.

(iv) All pink mucket pearly mussels will be sent to the Ohio State University Museum of Zoology in Columbus, Ohio, as part of a scientific voucher specimen collection.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File No. PRT 2-1233-C07; please refer to this number when submitting comments. All relevant comments received on or before October 7, 1977, will be considered.

Dated: August 31, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, United States Fish and Wildlife Service.

[FR Doc.77-25769 Filed 9-6-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant. Oklahoma City Zoo, T. I, Box 1, Oklahoma City, Okla. 73111, Lawrence Curtis, Director.

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DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

OMB NO. 42-R1670

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT To export an endangered species.

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
Export one (1) male Snow leopard (Panthera uncia) from the Oklahoma City Zoo to the Assiniboine Park Zoo for enhancement of propogation.

3. APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Oklahoma City Zoo
Rt. 1, Box 1
Oklahoma City, Oklahoma 73111
(405) 424-3344

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Zoological, educational, or scientific or propogation

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
N/A

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. 405/424-3344
Lawrence Curtis, Director

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Export from the Oklahoma City Zoo, Oklahoma City, Oklahoma, to the Assiniboine Park Zoo, Winnipeg, Manitoba, CANADA

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number(s))
73EZ2

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of document(s))
Valid permit from Canada will be in hand prior to shipment.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ not required

10. DESIRED EFFECTIVE DATE: 1 August 1977

11. DURATION NEEDED: 6 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
(6)(i, ii, v); (7)

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) [signature] DATE 18 July 1977

3-200 (6/76)

OKLAHOMA CITY ZOO,
JULY 15, 1977.

DIRECTOR,
U.S. Fish & Wildlife Service,
Washington, D.C. 20249

DEAR SIR: Please consider this our application to export an endangered species of animal within the context of Endangered and Threatened Wildlife and Plants, Part 17, Subpart C, Article 17.22 for the enhancement of propagation.

(a) (1) Exportation of one (1) male Snow leopard (*Panthera uncia*) born Oklahoma City Zoo, September 9, 1976.

(2) (iv) N/A, (ii) N/A, (iii) Born in captivity—see (a) (1).

(3) N/A—See (2) (iii).

(4) Born and raised in captivity at the Oklahoma City Zoo, U.S.A.

(5) Assiniboine Park Zoo, 2355 Corydon Avenue, Winnipeg, Manitoba, Canada.

(6) (i) See Attachment Number 1, Part A.

(ii) See Attachment Number 1, Part B.

(iii) The Oklahoma City Zoo is willing to participate in a cooperative breeding program and to maintain or contribute to a studbook for the wildlife covered by this permit application.

(iv) This animal will be packed in a crate meeting or exceeding current I.A.T.A. regulations and shipped by the most appropriate airline from the Oklahoma City Zoo to the Assiniboine Park Zoo.

(v) See Attachment Number 2.

(7) See Attachments Numbers 3, 4, 5 and 6.

(8) (i) See U.S.D.I. Form 3-200 (item 2)—attached.

(ii) See (6) (iv).

(iii) Acquisition by Assiniboine Park Zoo of this animal will enhance their breeding program by adding a non-related sire.

(iv) The animal concerned in this permit will reside at the Assiniboine Park Zoo as a member of their breeding stock. Further disposition of the animal will be regulated by Canadian laws and regulations protecting the species.

Sincerely,

LAWRENCE CURTIS,
Zoo Director.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File No. PRT 2-1201-C07; please refer to this number when submitting comments. All relevant comments received on or before October 7, 1977, will be considered.

Dated: August 31, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, United States Fish and Wildlife Service.

[FR Doc.77-25770 Filed 9-6-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant. Gladys Porter Zoo, 500 Ringgold Street, Brownsville, Tex. 78520.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

OMB NO. 42-R1670

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
Permit to move one pair of Orangutan born at the Gladys Porter Zoo to the Ruhr-Zoo Gelsenkirchen (GERMANY)

3. APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Gladys Porter Zoo
500 Ringgold Street
Brownsville, Texas 78520
(512) 546-7187

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
The Gladys Porter Zoo is a public facility owned by the city of Brownsville, Texas and operated by the Valley Zoological Society. The Gelsenkirchen Zoo is a private zoo subsidized by the city of Gelsenkirchen, West Germany.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Don D. Farst, D.V.M., Zoo Director

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
Texas

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Brownsville, Texas USA, to Gelsenkirchen West Germany

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number)
PRT 2-192 AQ

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of document)
N/A

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N/A

10. DESIRED EFFECTIVE DATE: Immediately

11. DURATION NEEDED: Until completed

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) [signature] Don D. Farst, D.V.M. DATE 8/2/77

3-200 (6/76) GPO 895-042

SUPPLEMENTAL ATTACHMENT FOR ENDANGERED SPECIES PERMIT, GLADYS PORTER ZOO, BROWNSVILLE, TEX.

50 CFR 17.22

1. This permit is requested for the purpose of transferring one male and one female Orangutan (Pongo pygmeus) from the Gladys Porter Zoo, Brownsville, Tex., USA, to the Gelsenkirchtn Zoo in West Germany. The male Orangutan was born on November 29, 1975, and the female was born on December 12, 1975.

2. These animals were both born at the Gladys Porter Zoo, Brownsville, Tex., USA.

3. We wish to move these animals to Gelsenkirchen, West Germany, for purposes of breeding and public exhibition.

4. The animals were both born in Brownsville, Tex., USA.

5. The Gelsenkirchen West Germany Zoo is an internationally-known zoological park. Their address is: Ruhr-Zoo, Gelsenkirchen. Bleckstr. 64, West Germany.

6. (i) The animals will be housed in the Ape House at the Gelsenkirchen Zoo which consists of four indoor cages, measuring 14 x 4 x 3 meters, with outdoor exhibit cages of 10 x 10 meters and another large, open-air arena of 400 square meters.

(ii) The staff of the Gelsenkirchen Zoo is very experienced and has raised many great apes in their collection. The director, Hermann Ruhe, Jr., has been in the zoo profession for over 40 years and is ably assisted by Dr. Rudiger Wandrey, Assistant Director, and Dr. Ernst Ruhmekorf, Scientific Director. The zoo veterinarian surgeon, Dr. H. Gass, has over 12 years of experience in dealing with zoo animals and, in particular, great apes.

(iii) The Gelsenkirchen Zoo will participate in an active breeding program and will contribute data to a studbook on Orangutans. Their long-range breeding goals are similar to U.S. Zoos.

(iv) The animals will be transported together in a container measuring 18 inches wide, 30 inches long, and 24 inches in height. There will be adequate ventilation to prevent overheating, and bedding material will be utilized for the animals' comfort. In our opinion, it is best to transport these animals together since they have lived together since infancy and do not like to be separated. The animals would be air-shipped directly from Brownsville, Tex., to New York and then forwarded to Germany.

(v) The Ruhr-Zoo Gelsenkirchen has a very good reputation for maintaining great apes and I do not know of any mortalities that they have had in recent years.

7. A copy of the acceptance letter from the Gelsenkirchen Zoo is attached. The only people involved with this transaction will be Gladys Porter Zoo officials, Fred J. Zeehandelaar, New Rochelle, N. Y., who will act as the intermediate forwarding agent in New York, and officials of the Gelsenkirchen Zoo.

8. (i) The Gladys Porter Zoo is requesting permission to send one young pair of zoo-born Orangutans to the Gelsenkirchen Zoo in West Germany for the purposes of public display and breeding.

(ii) The animals will be shipped by air from Brownsville, Tex., to New York City, to Gelsenkirchen, West Germany.

(iii) The Gladys Porter Zoo presently has four male and eight female Organgutans and we consider this to be in excess of the optimum number for our facilities. We would like to maintain a static collection of three males and seven females so that the one pair of animals we are offering to the Gelsenkirchen Zoo are considered surplus for our

UMI V 42 173 SEP 7 7 7 UMI

breeding program. Orangutans have been successfully reproduced in captivity in the United States and the removal of these two animals from the United States breeding population would not be to the detriment of the future United States breeding program.

(iv) The Gelsenkirchen Zoo plans to keep this young pair of Orangutans in their collection for breeding purposes. The animals would be moved to another recognized zoological institution if the Gelsenkirchen Zoo would discontinue their Organgutan breeding project.

Respectfully submitted,

DON D. FARST, DV.M.
Director,
Gladys Porter Zoo.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File No. PRT 2-1267-07; please refer to this number when submitting comments. All relevant comments received on or before October 7, 1977, will be considered.

Dated: August 31, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, United States Fish and Wildlife Service.

[FR Doc.77-25771 Filed 9-6-77;8:45 am]

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Applicant only use)
[ ] IMPORT OR EXPORT LICENSE [x] PERMIT

2. APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Gladys Porter Zoo
500 Ringgold Street
Brownsville, Texas 78520
(512) 546-7187

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED
This permit is to move three (3) male and three (3) female Coahuilan Aquatic Box Turtles from the Republic of Mexico to the Gladys Porter Zoo as part of a cooperative breeding effort between the Department of Fauna Silvestre and the Gladys Porter Zoo.

4. IF "APPLICANT" IS AN INDIVIDUAL COMPLETE THE FOLLOWING
[ ] MR. [ ] MRS. [ ] MISS [ ] MS.
DATE OF BIRTH | HEIGHT | WEIGHT | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE PERMIT

5. IF "APPLICANT" IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION COMPLETE THE FOLLOWING
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY OR INSTITUTION
The Gladys Porter Zoo is a public facility owned by the City of Brownsville, Texas, and operated by the Valley Zoological Society. The Department of Fauna Silvestre is the governing agency for all fish and wildlife activities of the Republic of Mexico.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Don D. Farst, D.V.M., Zoo Director
IF APPLICANT IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
Texas

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
From Coahuila, Mexico to the Gladys Porter Zoo, Brownsville, Texas , USA.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [x] YES [ ] NO
(If yes, list license or permit number(s))
PRT 2-192 AQ

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [x] YES [ ] NO
(If yes, list jurisdictions and type of documents)
Dept.of Fauna Silvestre
Dr. Antonio Landazuri Ortiz
(Documents to follow)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N/A

10. DESIRED EFFECTIVE DATE
Immediately

11. DURATION NEEDED
Until completed.

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE: Don D Farst — Don D. Farst, D.V.M. — DATE: 8/1/77

FWS 3-700 (10-76) GPO 838-662

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Fub. L. 93-205).

Applicant. Gladys Porter Zoo, 500 Ringgold Street, Brownsville, Tex. 78520.

SUPPLEMENTAL ATTACHMENT FOR ENDANGERED SPECIES PERMIT, GLADYS PORTER ZOO, BROWNSVILLE, TEX.

50 CFR 17.22

1. This permit is requested for the purpose of moving 3.3 Coahuilan Aquatic Box Turtles (Terrepene coahuila) from the wild, to be placed in a captive breeding situation at the Gladys Porter Zoo in Brownsville, Tex.

2. These animals are all to be removed from the wild population by the Department of Fauna Silvestre of the Republic of Mexico.

3. We wish to bring these animals to the Gladys Porter Zoo for the purpose of breeding and public exhibition because this turtle is endangered due to the destruction of its limited wild habitat, and the Mexican Government and the Gladys Porter Zoo concur that it would be in the best interests of the species to try to establish this turtle as well as others in captive breeding groups.

4. The animals in question are all of wild origin.

5. Don D. Farst, D.V.M., Director of the Gladys Porter Zoo, became interested in zoo animals while attending the College of Veterinary Medicine at Ohio State University, during which time he worked at Columbus Zoo as a parttime keeper. He graduated from Ohio State with a degree in Veterinary Medicine and entered private general practice in northwestern Pennsylvania for four years. In May of 1969, Dr. Farst accepted the position of veterinarian at the Columbus Municipal Zoo where he was also the Curator of Mammals and taught a course in Exotic Animal Medicine to the senior veterinary students at Ohio State University's College of Veterinary Medicine. In August of 1970, Dr. Farst became the Associate Director and Veterinarian at the new Gladys Porter Zoo in Brownsville, Texas, and was named the Director there in April, 1974. He has been a member of the American Association of Zoological Parks and Aquariums since 1969, serving as Chairman of various committees of that organization, was elected to its Board of Directors in 1976, and presently serves as Chairman of the Animal Health Committee. Dr. Farst is also a member of the Board of Directors of the American Association of Zoo Veterinarians and is the Editor of that organization's scientific publication, "Journal of Zoo Animal Medicine."

David P. Thompson, Deputy Director—Zoologist, has been associated with the Gladys Porter Zoo since June 5, 1971. He attended Southern Illinois University where he received a degree in Biological Science. He was a keeper at the St. Louis Zoo from 1964 to 1966, working with waterfowl, small mammals, reptiles, and primates. During a tour of duty with the Armed Forces, he was connected with the Medical Research Laboratory of the Serpentarium. He then became the Associate Curator of Mammals at the St. Louis Zoo and later, the Supervisor of the Children's Zoo and Nursery there. As Deputy Director of the Gladys Porter Zoo, Mr. Thompson functions in the capacity of director in Dr. Farst's absence. Mr. Thompson is a member of the American Association of Zoological Parks and Aquariums, and the American Federation of Aviculturists. He also maintains the Zoo's voluminous animal records in cooperation with the International Species Inventory System.

Stuart L. Porter, V.M.D., is the Resident Veterinarian for the Gladys Porter Zoo. He received a Biology degree from Washington and Lee University in 1970, and a degree in veterinary medicine from the University of Pennsylvania Veterinary School in 1974. Dr. Porter was the resident veterinarian at the Overton Park Zoo and Aquarium in Memphis, Tennessee for one year. He has been affiliated with the Gladys Porter Zoo since July, 1975, and is experienced in all phases of veterinary medicine. He is a member of the American Association of Zoological Parks and Aquariums, Wildlife Disease Association and the American Association of Zoo Veterinarians.

Patrick M. Burchfield, General Curator and Herpetologist of the Gladys Porter Zoo, has been affiliated with the Brownsville Zoo since 1970. He attended Ohio State University in Columbus, Ohio, and Texas Southmost College in Brownsville, Tex. He is presently attending the Pan American University in Edinburg, Tex., where he will graduate with a degree in Zoology in December of this year. He has worked as a keeper at the Columbus Municipal Zoo from 1960 to 1963, followed by a tour of duty in the Armed Forces where he was the Curator of Venom Laboratory. He returned to the Columbus Zoo as Head Keeper until his move to Brownsville as Associate Curator. He became the General Curator in 1971 at which time he was entrusted with the entire reptile collection, supervision of the construction of a reptile building and then the establishment of breeding groups which have resulted in a number of successes. Mr. Burchfield is a member of the American Association of Zoological Parks and Aquariums and American Society of Ichthyologists and Herpetologists.

6. (i) The animals will be housed in a grotto enclosure comprising 160 square feet, with a small running stream and pool measuring approximately 4' x 4' x 10", closely resembling the normal habitation of the turtles in the wild.

(ii) The Director of the Gladys Porter Zoo is Dr. Don D. Farst, who is a qualified administrator, having served as Associate Director and Veterinarian before becoming the Zoo's Director in 1974. Under his direction, the Gladys Porter Zoo has successfully reproduced many rare and endangered animals as well as animals that have not easily been propagated in captive situations. Breeding and management expertise have been recognized and acknowledged throughout the zoological community in the United tSates and abroad.

(iii) The Gladys Porter Zoo, in cooperation with the Mexican Department of Fauna Silvestre, hope to reproduce these turtles in captivity on a long-range basis to provide potential stock for ultimate reintroduction to native habitats in Mexico when suitable protection measures have been taken to secure those areas.

(iv) The animals will be transported in individual containers measuring 12" x 12" x 8", with mesh tops and ½-inch meshed holes in the side panels to assure proper ventilation. A representative from the Mexican Department of Fauna Silvestre will transport the animals from the wild to the Gladys Porter Zoo by land in a truck. The turtles will not require feeding during the two to three days necessary to transport them from the wild at Cuatro Cienegas, Coahuila, Mexico, to the Gladys Porter Zoo in Brownsville, Tex., U.S.A. The animals will, however, be placed on moistened paper as bedding to insure that they will not desiccate. To insure safe transport, they will be under the responsibility of a biologist from the Department of Fauna Silvestre who will accompany the shipment.

(v) We have not maintained this species of turtle at the Gladys Porter Zoo, however, turtles of the genus *Terrapene* tend to be hearty captives and it is not anticipated that any major problems would occur, and captive adjustment should proceed smoothly.

7. A letter from the Gladys Porter Zoo Director to the Director General of the Department of Conservation contains the request to participate in the joint project and a copy is attached hereto. All subsequent communication has been by telephone between Dr. Antonio Landazuri Ortiz and Dr. Don D. Farst, who was advised that all necessary permits for Mexico were issued and are being forwarded to the Gladys Porter Zoo.

8. (i) Permission is requested to move 3.3 Coahuilan Aquatic Box Turtles from the wild at Cuatro Cienegas, Coahuila, Mexico to the Gladys Porter Zoo, Brownsville, Tex., U.S.A.

(ii) These animals will be moved by surface carrier.

(iii) The 3.3 Coahuilan Aquatic Box Turtles will be received under the auspices of the Mexican Department of Fauna Silvestre. The Gladys Porter Zoo presently does not show this species, however, they have undertaken extensive study of the requirements of this turtle in captivity and are desirous of starting a breeding program at the Gladys Porter Zoo in cooperation with the Department of Fauna Silvestre of Mexico.

(iv) These animals will remain at the Gladys Porter Zoo for the foreseeable future and they would only be moved to another recognized zoological park or returned to the wild under the recommendation and authority of the Department of Fauna Silvestre of Mexico or, if deemed advisable, returned to the wild if the breeding program at the Gladys Porter Zoo were to be terminated. The distribution of progeny would, likewise, be determined by the Department of Fauna Silvestre of Mexico and the Gladys Porter Zoo in the best interests of the species concerned, and in compliance with existing Endangered Species regulations.

The Coahuilan Aquatic Box Turtle's only known habitat is rapidly shrinking as a result of drainage projects for agricultural use in the area. The streams which form small pools called "pozos" which provide the habitat for the turtles are rapidly drying up also as a result of agricultural development of those streams. At present, the future of this species looks bleak unless some affirmative action is undertaken to insure sufficient captive breeding colonies for possible later reintroduction to the wild if and when portions of the native habitat are secured to insure the survival of the species. The Mexican Department of Fauna Silvestre is continuing their studies of this species in the wild as well as the other species of reptiles and other animals that live in the Cuatro Cienegas Basin region.

DON D. FARST, D.V.M.,
Director, Gladys Porter Zoo.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File No. PRT 2-1266-C07; please refer to this number when submitting comments. All relevant comments received on or before October 7, 1977, will be considered.

Dated: August 31, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, United States Fish and Wildlife Service.

[FR Doc.-25772 Filed 9-6-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant. Deborah Ann Wien, SR Box 60464, 11½ mi. Richardson Highway, Fairbanks, Alaska 99701.

UMI V 42 173 SEP 7 77 UMI

June 29, 1977

Refer to 50 CFR 17.22 as is applicable.

1. This is a list of the common and scientific names of birds wanted, as well as numbers of individuals to be acquired. The scientific names are as listed in the WATERFOWL OF THE WORLD by Jean Delacour Vol. 4 pp. 237-239 red ENCYCLOPEDIA OF AVICULTURE vol. 7, by A. Hulgers and R.A. Norris pg 207 and 253 respectively.

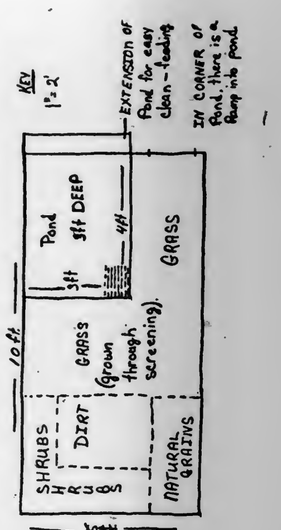
Laysen Teal	Anas Platyrhychos Layasanensis	6	4 yr., 2, Gen.
Satyr Tragopan	Tragopan Satyra	4	Age undetermined
Palawen Peacock Pheasant	Polyplectron Emphanum	4	" "

At this time I would like to import, hold in possession, and breed these species.

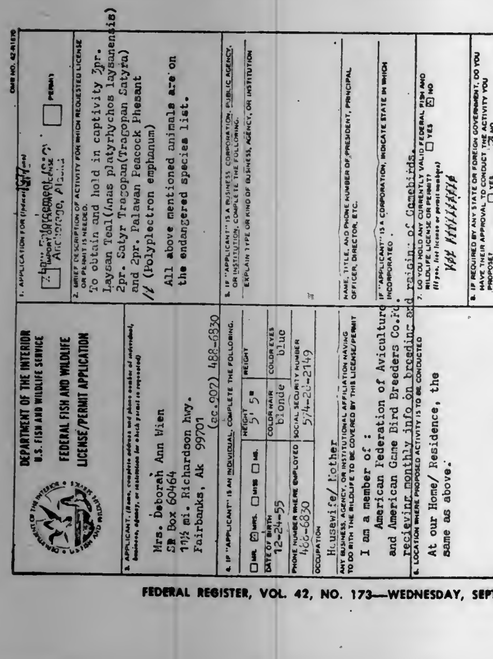
2. The birds would be purchased from licenced vendors who have bred these species in captivity. The ones I would aquire would be a product of such a breeding. No wild caught birds would be aquired unless absolutly necessary. I would not be doing this but going through another vendor who has had the birds properly quarantined.

3. Two pair of the Laysen Teal would come from Cracker's Waterfowl Farm in N.Y. The other 2pr. of Laysen Teal would come from farms located in either Ohio or N.Y. At present I have in mind two places for the Satyr Tragopan one in N.Y. and the other in Ohio, the Palawen Peacock is less available but I have in mind a Mr. Charlie Sivelle who has farms in N.Y.

4. Two pair of the Laysen Teal would be kept and maintained at our home and residence, which is located on about 4 acres or land on which we have plans of constructing a building 20 ft. x 18 ft. In this there would be one pen for each pair of Laysen Teal (2) about 5 ft. x 10 ft. with a small space or pond in each pen of 4ft. x 3ft. and 3 ft. deep. The pens would be done in such a manner as to allow for growing around the pond and shrubery to the back with a small space or hill and a small pond from natural water to the side. The Satyr Tragopan would be pened together in the other side. The Palawen Peacock would all be pened together in the other side. The pens would have grass with part of the area in tall grass for natural cover. Also would be a fake tree for the Tragopans but otherwise there would be no shrubery. Note the diagram below of the Teals' pen. NOTE: has the dimensions of the overall building and the pens for the Satyr and Palawen.



5. The wild life would be kept and maintained at our home and residence, which is located on about 4 acres or land on which we have plans of constructing a building 20 ft. x 18 ft. In this there would be one pen for each pair of Laysen Teal (2) about 5 ft. x 10 ft. with a small space or pond in each pen of 4ft. x 3ft. and 3 ft. deep. The pens would be done in such a manner as to allow for growing around the pond and shrubery to the back with a small space or hill and a small pond from natural water to the side. The Satyr Tragopan would be pened together in the other side. The Palawen Peacock would all be pened together in the other side. The pens would have grass with part of the area in tall grass for natural cover. Also would be a fake tree for the Tragopans but otherwise there would be no shrubery. Note the diagram below of the Teals' pen. NOTE: has the dimensions of the overall building and the pens for the Satyr and Palawen.


DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION
1. APPLICATION FOR (Check one)
Import-Export
Interstate-Foreign Commerce
Alexandria, Alaska
PERMIT
2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED
To obtain and hold in captivity 2pr. Laysen Teal(Anas platyrhychos layasanensis) 2pr. Satyr Tragopan(Tragopan Satyra) and 2pr. Palawan Peacock Phesant (Polyplectron emphanum)
All above mentioned animals are on the endangered species list.
3a. APPLICANT (Name, complete address and phone number of individual, business, agency, or association for which permit is requested)
Mrs. Deborah Ann Wien
PO Box 60464
2715 mt. Richardson hwy.
Fairbanks, AK 99701 (907) 488-6830
3b. IF APPLICANT IS AN INDIVIDUAL, COMPLETE THE FOLLOWING.
SEX: ☐ MALE ☐ FEMALE
HEIGHT: 5'5"
WEIGHT: 128
DATE OF BIRTH: 12-24-55
COLOR EYES: Blue
COLOR HAIR: Blonde
PHONE NUMBER WHERE EMPLOYED: 488-6830
SOCIAL SECURITY NUMBER: 574-28-2149
OCCUPATION: Housewife/Mother
3c. IF APPLICANT IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING.
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
4. BRIEF DESCRIPTION OF PURPOSE OF ACTIVITY
I am a member of the American Federation of Aviculture and American Gene Bird Breeders Co-op recieving monthly info on breeding
5. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
At our Home/ Residence, the same as above.
6. NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
7. IF APPLICANT IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? (If yes, list number and type of license(s) held) ☐ YES ☐ NO
8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO (If yes, list jurisdictions and type of document(s))
Need Federal approvale before I can get State approval.
9. CERTIFIED CHECK OR MONEY ORDER (If remittance) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
10. DESIRED EFFECTIVE DATE: as soon as possible
11. DONATION REFUSED: INDEFINITE
12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 C.F.R.) (IRU) MUST BE ATTACHED TO AND MADE A PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17.22 (1, 2, 4, 5, 6, iii, iv, v, 7, 8)
CERTIFICATION
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 11 OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTERS OF TITLE 50, AND FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A FEDERAL FISH AND WILDLIFE LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.
SIGNATURE (In ink): Deborah Wien
DATE: July 17, 1977
OMB NO. 42-R1180
3-200 6/76

2.

ii. I have not bred ducks before. However we own 1pr. Greenwing Teal and 1pr. Mandarin Ducks for one year now in good condition and I do hope to propagate them next year. We also own several Quail (of which would not count, but an information) they consist of Couturnix, Blue Scale, California Valley Quail. Of these I have raised several young. I am sure with proper care and food I could breed the three species I am applying for.

iii. I would be willing to participate with a cooperative breeding program. Naturally I would have to feel sure about such a program and its purpose. But I would be willing to loan out some of my birds for a said period of time or even give the young to worthwhile programs. I would also be willing to contribute any data useful or beneficial to others.

iv. I have not done any shipping of birds at present and would have to do some study before I did.

By some of the crates I have come in contact with, they were made out of heavy cardboard with a screen for air and some light in the side but not enough to cause draft. The bottom is covered with scratch and sufficient Game bird feed to last several days in case of lay-over and a water container wired to the side for easy use and also refilling as may be needed. The size would be of concern as to much room could prove fatal.

v. I recieved my two pair of ducks one year ago. There have been no deaths or injuries. The quail were recieved at the same time. Of these we recieved 14 birds and at present have 10 birds, not counting young and those to hatch in a few days. The quail were killed in flying against the sides of the pen when scared. The pen was to large in this case.. The problem has not been corrected as yet, however in the new building soon to be constructed there is space set aside for a new pen for the quail. We also lost two quail for unknown reasons, but since the cause has not occured again in 5 mo. now I have not become to concerned. There was also one case of rumatism and one case of lameness. Both were cured by quiet, rest and literally no room for activity. It took two to three weeks for the birds to be fit again and be placed back in there original pens.

7. I am not real sure what this part is getting at but in August if all goes well I would like to display one of each of these species on this application at our local Tanana Valley Fair. The display would be done by me in conjunction with Nothern Lights Nurcery here in Fairbanks.

8. I personally feel that the ravaging of the native land of some of these species can only be off set by breeders who stake up a few of these species they are interested in so as to care for them, breed them and keep them from becoming extinct. By extinct I mean not seen either in the wild or in the pen. A species can be extinct in the wild but still existing in confinement.

I am positive there are others more qualified but I would very much like to do my best to propagate these birds for sale or donation to other breeders to ensure a stabilization of these species I am most interested in. I do have lots of information on their feeding requirements, temperment and their needs as well as the known data on their breeding. Thus where I lack I can find help.

Any which should die would be promptly frozen and reported. The birds would remain so until I knew there was no museum or institution who wished ther. On termination all species would be sold to others who are interested and fully licenced and/or donated to cooperative breeding programs.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File No. PRT 2-1193-07; please refer to this number when submitting comments. All relevant comments received on or before October 7, 1977 will be considered.

Dated: August 31, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, United States Fish and Wildlife Service.

[FR Doc.77-25773 Filed 9-6-77;8:45 am]

National Park Service

[Order 5, Admt. 7]

FIELD LAND ACQUISITION OFFICERS

Delegation of Authority

Southwest Region Order No. 5, Amdt. 1, approved April 25, 1972 and published in the FEDERAL REGISTER of June 13, 1972, (37 FR 11736), set forth in section 2, Delegation of Authority.

Section 2 is hereby amended by revising paragraph (e) to read as follows:

SEC. 2. *Delegation* * * *

(e) Field Land Acquisition Officers. The Field Land Acquisition Officers are authorized to execute the land acquisition program in their assigned area, including contracting for acquisition of lands and related property, and options and offers to sell related thereto, not in excess of $250,000.

Dated: August 11, 1977.

JOHN E. COOK,
Director, Southwest Region.

[FR Doc.77-25925 Filed 9-6-77;8:45 am]

NORTH ATLANTIC REGIONAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the North Atlantic Regional Advisory Committee will be held on September 22 and 23 at the Park Headquarters, Cape Cod National Seashore in South Wellfleet, MA.

The purpose of the Committee is to provide for the free exchange of ideas between the National Park Service and the public, and to facilitate the solicitation of advice or other counsel from members of the public on problems and programs pertinent to the North Atlantic Region of the National Park Service.

Matters to be discussed at this meeting include:

1. Current activities of the North Atlantic Region.
2. Report of Subcommittees: St. Gaudens, Ellis Island.
3. Policy Discussions: Advisory Commissions, Personnel Rotation.

The meeting will begin approximately at 9 a.m. on September 22, 1977, at the Marconi Station/Park Headquarters, South Wellfleet, MA. The meeting will be open to the public, and any member of the public may file with the committee a written statement concerning matters to be discussed. The meeting will conclude at approximately 12 noon, September 23.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact John Raftery, Assistant to the Regional Director, North Atlantic Region at Area Code 617-223-3762. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the North Atlantic Region, 15 State Street, Boston, MA.

Dated: August 30, 1977.

ROBERT M. LANDAU,
Assistant for Advisory Boards and Commissions, National Park Service.

[FR Doc.77-25926 Filed 9-6-77;8:45 am]

Office of the Secretary

[INT DES 77-28]

PROPOSED GENERAL MANAGEMENT PLAN/WILDERNESS STUDY/ROAD STUDY GLEN CANYON NATIONAL RECREATION AREA ARIZONA-UTAH

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmetal statement for the proposed General Management Plan/Wilderness Proposal/Road Study Al-

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ternatives, Glen Canyon National Recreation Area, Arizona-Utah.

The statement considers, within the General Management Plan, a proposal dividing the recreation area into four management zones. The Wilderness Proposal calls for adding 519,000 acres (42 percent of the recreation area) to the National Wilderness System; an additional 68,030 acres (5 percent of the recreation area) are proposed for Potential Wilderness Addition. In response to enabling legislation for the recreation area, an engineering report identifying four feasible routes from Glen Canyon City to Bullfrog Basin was issued in October 1974. A survey of the environmental impacts of constructing and using the four routes appears in the draft environmental statement.

Written comments on the environmental statement are invited and will be accepted for a period of forty-five (45) days from the date of this notice. Comments should be addressed to the Superintendent, Glen Canyon National Recreation Area, at the address given below.

Copies of the draft environmental statement are available from, or for inspection at, the following locations:

Superintendent, Glen Canyon National Recreation Area, Post Office Box 1507, Page, Ariz. 86040.
Utah State Office, National Park Service, 125 South State St., Room 2209, Salt Lake City, Utah 84138.
Rocky Mountain Regional Office, National Park Service, 655 Parfet St., Post Office Box 25287, Denver, Colo. 80225.

Dated: August 26, 1977.

LARRY E. MEIEROTTE,
Deputy Assistant,
Secretary of the Interior.

[FR Doc.77-25924 Filed 9-6-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[332-73]

HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM

Hearing on Draft Chapters

The United States International Trade Commission hereby gives notice that a public hearing will be held at 10 a.m., e.d.t., beginning on September 23, 1977, in the Hearing Room of the United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436 on a draft of, and draft U.S. comments on, the following chapters of the Harmonized Commodity Description and Coding System:

Chapter 1: Live animals.
Chapter 2: Meat and edible meat offals.
Chapter 4: Dairy products; bird's eggs; natural honey; edible products of animal origin, not elsewhere specified or included.
Chapter 5: Products of animal origin, not elsewhere specified or included.
Chapter 6: Live trees and other plants; bulbs, roots, and the like; cut flowers and ornamental foliage.
Chapter 8: Edible fruit and nuts; peel of citrus fruit or melons.
Chapter 12: Oil seeds and oleaginous fruit; miscellaneous grain seeds and fruit; industrial and medical plants; straw and fodder.
Chapter 13: Gums, resins, and other vegetable saps and extracts.
Chapter 14: Vegetable materials.
Chapter 15: Animal and vegetable fats and oils and their cleavage products, prepared edible fats; animal and vegetable waxes.
Chapter 16: Preparations of meat, of fish, of crustaceans or molluscs.
Chapter 17: Sugar and sugar confectionary.
Chapter 18: Cocoa and cocoa preparations.
Chapter 19: Preparations of [milk] cereals, flour or starch; pastry cooks' products.
Chapter 20: Preparations of vegetables, fruit or other parts of plants.
Chapter 21: Miscellaneous edible preparations.
Chapter 22: Beverages, spirits, and vinegar.
Chapter 23: Residues and waste from the food industries; prepared animal fodder.
Chapter 24: Tobacco.
Chapter 30: Pharmaceutical products.
Chapter 33: Essential oils and resinoids; perfumery, cosmetics and toilet preparations.
Chapter 34: Soap, organic surface active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing and scouring preparations, candles and similar articles, modelling pastes and "dental waxes".

The purpose of this hearing is to obtain the comments and views of interested parties with respect to these draft chapters of the Harmonized Commodity Description and Coding System, and of the draft U.S. comments thereon.

The Commission also invites the comments and views of interested parties on chapters 3, 7, 9, 10, and 11, which have been provisionally adopted by the Harmonized System Committee.

This notice is being issued pursuant to Commission investigation No. 332-73, instituted on January 31, 1975 (40 FR 6239), under section 332(g) of the Tariff Act of 1930. The investigation was initiated in accordance with section 608(c) of the Trade Act of 1974 which provides, in part, that the Commission shall institute an investigation which would provide the basis for—

(2) Full and immediate participation by the United States International Trade Commission in the United States contribution to technical work of the Harmonized Systems Committee under the Customs Cooperation Council to assure the recognition of the needs of the United States business community in the development of a Harmonized Code reflecting sound principles of commodity identification and specification and modern producing methods and trading practices * * *.

The Harmonized Commodity Description and Coding System (Harmonized Code) is being developed by the Customs Cooperation Council (CCC), a 79-member intergovernmental organization with headquarters in Brussels, as an international commodity classification system which will be adaptable for modernized customs tariff, nomenclature purposes and for recording, handling, and reporting of transactions in international trade. The Harmonized Code will be based on, and in many respects will be an extension of, the Customs Cooperation Council Nomenclature; formerly known as the Brussels Tariff Nomenclature or BTN.

Currently, a technical team working under the auspices of the CCC prepares drafts of the various chapters of the Harmonized Code for consideration by the Harmonized System Committee which was established in order to develop the code. These drafts are forwarded to the members and observers of the Committee for their review and submission of written comments. The Committee meets three times a year to consider these drafts and the written comments and presentations of the various delegations. The review of a particular chapter or group of chapters may extend to more than one meeting.

In 1971, the Department of the Treasury established an Interagency Advisory Committee on Customs Cooperation Council Matters in order to provide a basis for interested Federal agencies to participate with respect to CCC matters. In order to establish and develop U.S. programs and policies with respect to the Harmonized Code, the interagency committee has instituted procedures which take into account the provisions of section 608(c) of the Trade Act of 1974, which call for the Commission to contribute to the U.S. technical input to the Harmonized System Committee. Under these procedures the Commission is preparing technical comments and proposals on the various chapters of the Harmonized Code for consideration by the interagency committee in the determination of U.S. positions with respect to the Harmonized Code. In making proposals, the Commission is seeking and taking into consideration the views of trade and industry and other interested parties and of interested Government agencies.

The draft U.S. comments on the chapters of the Harmonized Code released for public comment today relate specifically to the technical team drafts of these chapters and should be read in conjunction therewith.

In its public notice issued May 10, 1976, regarding hearings on the chapters of the Harmonized Commodity Description and Coding System (41 FR 19781 of May 13, 1976) interested parties were notified regarding the rules governing the conduct of the hearings, and the submission of written statements. The Commission's notice of May 10, 1976, applies to the hearing on the chapters being released today to the extent that it is applicable.

In its public notices of May 4, 1976 (41 FR 18716 of May 6, 1976), August 9, 1976 (41 FR 34370 of August 13, 1976), and December 20, 1976 (41 FR 55948 of December 23, 1976), the Commission identified those chapters which have been considered thus far by the Harmonized System Committee, and the chapters for which a technical team draft has been released. Since those notices were issued the Commission has received the following draft chapters prepared by the technical team:

Chapter 31: Fertilisers.
Chapter 35: Albuminoidal substances; glues.

Chapter 36: Explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations.
Chapter 41: Raw hides and skins and leather.
Chapter 42: Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silk-worm gut).
Chapter 43: Furskins and artificial fur; manufactures thereof.
Chapter 92: Musical instruments, sound recorders or reproducers; television image and sound recorders or reproducers; parts and accessories of such articles.
Chapter 93: Arms and ammunition; parts thereof.
Chapter 94: Furniture and parts thereof; bedding mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings not elsewhere specified or included.
Chapter 97: Toys, games and sports requisites; parts thereof.

Requests to appear at the hearing must be filed in writing with the Secretary of the Commission not later than September 16, 1977. Parties who have properly entered an appearance by this date will be individually notified of the date on which they are scheduled to appear. Such notice will be sent as soon as possible after September 16, 1977. Any person who fails to receive such notification by September 21, 1977, should immediately communicate with the Office of the Secretary of the Commission. Parties wishing to submit written comments in lieu of attendance at the hearing should do so by September 30, 1977.

Copies of the foregoing chapters and of the chapters and draft U.S. comments thereon which are the subject of the hearings are available for public inspection at the offices of the Commission at 701 E Street NW., Washington, D.C. 20436 or at 6 World Trade Center, New York, N.Y., 10048. The Commission will also send copies to interested parties who notify the Commission of their interest with respect to any particular chapter or group of chapters.

Issued: September 1, 1977.

By order of the Commission:

KENNETH R. MASON,
Secretary.

[FR Doc.77-26015 Filed 9-6-77;8:45 am]

[AA1921-167]

PRESSURE SENSITIVE PLASTIC TAPE FROM ITALY

Determination of Injury or Likelihood Thereof

On May 31, 1977, the United States International Trade Commission received advice from the Department of the Treasury that pressure sensitive plastic tape of more than 1⅜ inches in width and not exceeding 4 mils in thickness from Italy is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on June 3, 1977, the Commission instituted investigation No. AA1921-167 under section 201 (a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing held in connection therewith were published in the FEDERAL REGISTER on June 9, 1977, and July 20, 1977 (42 FR 29568 and 42 FR 37258). On July 26, 1977, a hearing was held in Washington, D.C., at which all persons who requested the opportunity were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearings as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of its investigation, the Commission has determined (Chairman Daniel Minchew and Commissioner Catherine Bedell dissenting) that an industry in the United States is being or is likely to be injured [1] by reason of the importation of pressure sensitive plastic tape of more than 1⅜ inches in width and not exceeding 4 mils in thickness from Italy that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS FOR THE AFFIRMATIVE DETERMINATION OF VICE CHAIRMAN JOSEPH O. PARKER AND COMMISSIONERS GEORGE M. MOORE AND ITALO H. ABLONDI

On May 31, 1977, the United States International Trade Commission received advice from the Department of the Treasury that pressure sensitive plastic tape more than 1⅜ inches in width and not exceeding 4 mils in thickness from Italy is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on June 3, 1977, the Commission instituted investigation No. AA1921-167 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

In order to find in the affirmative in this investigation, the Commission must find that two conditions are satisfied. First, it must find that an industry in the United States is being or is likely to be injured or is prevented from being established.[2] Second, any injury or likelihood of injury must be by reason of the importation into the United States of the class or kind of foreign merchandise which Treasury has determined is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

Determination. On the basis of the information obtained in the investigation, we determine that an industry in the United States is being or is likely to be injured [3] by reason of the importation of certain pressure sensitive tape from Italy which is being, or is likely to be sold at LTFV.

The imported article and the domestic industry. Pressure sensitive plastic tape more than 1⅜ inches in width and not exceeding 4 mils in thickness (PSP tape), the imported article which Treasury found to be sold at LTFV, is a plastic film-backed tape with an adhesive on one side that remains permanently tacky at room temperature. The tape firmly adheres to a variety of surfaces upon mere contact, without the need of more than finger or hand pressure. No activation by water, solvent, or heat is required in order to obtain a strong adhesive holding force. PSP tape of the size and specifications which the Department of the Treasury determined is being or is likely to be sold at LTFV is used primarily in the sealing of corrugated boxes.

In making this determination we have considered the U.S. industry to consist of the facilities in the United States devoted to the production of PSP tape. There are nine known producers of such tape.

LTFV sales. The Department of the Treasury examined sales of PSP tape from Italy during the period December 1975 through June 1976. LTFV margins were found on a substantial quantity of the merchandise on which comparisons were made. Three Italian firms were found to have made sales at LTFV margins ranging from 1 to 26 percent. The weighted average margin for the three firms' LTFV sales was about 10 percent.

Views of Vice Chairman Parker and Commissioner Moore with respect to injury by reason of LTFV sales. The increased penetration of LTFV imports of PSP tape from Italy adversely affected the prices of the domestic industry, resulted in lost sales by U.S. producers, and adversely affected U.S. producers' profits. This clearly demonstrates that the U.S. industry producing PSP tape is being injured by reason of the LTFV imports from Italy. This injury will continue and intensify unless the remedy provided by the Antidumping Act, 1921, as amended, is invoked.

U.S. imports of PSP tape from Italian suppliers found by the Department of the Treasury to be selling at LTFV amounted to less than 8 million square yards in each of the years 1973-75, but then increased to more than 26 million square yards in 1976. The more than trebling of Italian imports from LTFV suppliers in 1976 resulted in those suppliers doubling their share of the U.S. market in that year as compared

[1] Vice Chairman Joseph O. Parker and Commissioner George M. Moore determined in the affirmative with respect to present injury; Commissioner Italo H. Ablondi determined in the affirmative with respect to likelihood of injury.

[2] Prevention of establishment of an industry is not an issue in this investigation and will not be discussed further.

[3] Vice Chairman Parker and Commissioner Moore find that an industry is being injured, and Commissioner Ablondi finds that an industry is likely to be injured.

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to their share in 1976. In 1976, the suppliers of LTFV imports from Italy obtained about one quarter of the total U.S. market for PSP tape. The increase in their share of the U.S. market continued in January–May 1977 as imports from these producers increased by approximately two-thirds over the quantity entered in the corresponding period in 1976.

U.S. producers' prices for PSP tape, led by continuing reductions in the price of tape imported from Italy, declined sharply during the last three quarters of 1975 and the first half of 1976. The underselling of U.S. producers resulting from LTFV imports from Italy caused price depression in the U.S. market and consequently to the U.S. industry. Since mid-1976, prices of the domestic PSP tape have remained at depressed levels in comparison with the prices that prevailed prior to late 1975. Moreover, the price reductions that have taken place since early 1975 occurred despite substantial increases in unit production costs incurred by domestic producers.

Evidence showing significant sales lost by domestic producers has been verified by the Commission as having resulted from lower priced LTFV imports from Italy.

The effect of LTFV imports in causing depressed prices and lost sales is also reflected in the financial experience of domestic producers of PSP tape. Since 1974, net operating profit of the firms reporting financial data to the Commission has fallen continuously—plummeting from a substantial profit in that year to a substantial loss in 1976. Likewise, the ratio of net operating profit (or loss) before taxes to net sales fell from a profit of more than 15 percent in 1974 to a loss of more than 10 percent in 1976. Moreover, the losses worsened during the first quarter of 1977, compared with the first quarter of 1976.

On the basis of the considerations discussed above, we conclude that an industry in the United States is being injured by reason of the importation of PSP tape from Italy sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

Views of Commissioner Ablondi with respect to likelihood of injury by reason of LTFV imports. The factors expressed by my colleagues were also factors which I considered in arriving at my determination in this investigation.

In addition, it should be noted that it was not until the early 1970's, when several large U.S. producers became actively engaged in the sale of PSP tape, that domestic production began to increase significantly. Prior to that time, European producers, which first developed and marketed the product, enjoyed a substantial share of the U.S. market, with Italian producers accounting for a significant share of sales. However, as domestic production increased, the share of the market supplied by Italian producers dropped sharply. Between 1973 and 1974, for instance, the share of domestic consumption held by Italian producers found to be selling at LTFV decreased by more than 40 percent.

Faced with continued erosion of their market position, Italian producers sought to recapture their market share by resorting to sales at LTFV. Since 1975, instead of continuing to decline in the face of increased domestic competition, the market share of the Italian producers has dramatically increased. Between 1975 and 1976 alone, shipments rose by 240 percent. During the first 5 months of 1977 shipments again increased, rising 66 percent above the level during the corresponding period in 1976. Though domestic consumption has also grown during this period, Italian LTFV producers have increased their market share to a level exceeding that in 1973.

It is significant that it was during this period of rapidly increasing imports that Italian producers emerged as the downside price leaders, as evidenced by the fact that after January 1975 the price of the imported product remained consistently below that of its U.S. counterpart. That these Italian producers were able to register their largest gains during a period which concided with the time that prices for the imported product were declining must be attributed in large part to sales at LTFV.

Such pricing measures by Italian LTFV producers seriously depressed prices received by U.S. producers. This fact, coupled with rapidly rising costs, resulted in even the largest U.S. PSP tape producers' experiencing losses on their PSP tape operations in 1976 and the first quarter of 1977. The continued availability of large quantities of low priced PSP tape at LTFV prices poses a serious threat to the economic viability of the PSP tape industry and is likely to lead to continued losses for the small U.S. producers which only began producing this product line within the last 2 or 3 years. In addition, three U.S. producers of tape other than PSP tape advised the Commission that they had studied the feasibility of producing PSP tape but had concluded that the pricing of LTFV imports would make the domestic manufacture of such tape unprofitable, and would not justify any investment in such operations.

On the basis of the considerations discussed above, I have concluded that an industry in the United States is likely to be injured by reason of the importation of PSP tape from Italy, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS FOR NEGATIVE DETERMINATION OF CHAIRMAN DANIEL MINCHEW AND COMMISSIONER CATHERINE BEDELL

On May 31, 1977, the United States International Trade Commission received advice from the Department of the Treasury that pressure sensitive plastic tape more than 1⅜ inches in width and not exceeding 4 mils in thickness from Italy is being sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on June 3, 1977, the Commission instituted investigation No. AA1921–167 under Section 201(a) of the act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Before the Commission may find in the affirmative in this investigation, it is necessary that the following two conditions be met:

(1) An industry in the United States is being or is likely to be injured, or is prevented from being established,[4] and

(2) The requisite injury must be by reason of the importation into the United States of the merchandise which Treasury has determined is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

Determination. On the basis of information obtained in the investigation, we determine that there is no injury or likelihood of injury to an industry in the United States by reason of the importation of pressure sensitive plastic tape more than 1⅜ inches in width and not exceeding 4 mils in thickness from Italy which is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

The imported article and the domestic industry. Pressure sensitive plastic tape more than 1⅜ inches in width and not exceeding 4 mils in thickness, the imported article which is the subject of this investigation, is a plastic-film-backed tape that firmly adheres to a variety of surfaces upon mere contact. The product's major use is as corrugated-box-sealing tape. Other uses are for the manufacture of printed labels, for tabbing, for color coding and for label protection.

In making this determination we have considered the domestic industry to consist of the facilities in the United States used in the production of pressure sensitive plastic tape more than 1⅜ inches in width and not exceeding 4 mils in thickness. There are nine known producers of the tape in question.

No injury by reason of LTFV imports. In our opinion the information gathered during the investigation indicates that an industry in the United States is not being injured. Furthermore, if the requisite injury had been established, there would be no persuasive indication that such injury was caused by LTFV imports.

The available information shows that the domestic industry producing pressure sensitive plastic tape is a healthy, growing industry which has experienced a substantial increase in production, shipments, sales, and employment in each of the last 4 years (1973–76). Furthermore, six new domestic producers have commenced production of this tape during the 4-year period. Other U.S. firms are reported to be seriously considering production of pressure sensitive plastic tape. In response to the increasing demand for this tape, U.S. production was approximately three times greater in 1976 than it was in 1973. U.S. producers' shipments followed the same trend. Both production and shipments continued to increase sharply during January–May 1977, compared with the corresponding period in 1976. U.S. employment in the production of this tape tripled between 1973 and 1976 and then increased again by more than 70 percent during January–May 1977, compared with the corresponding period in 1976.

Certain U.S. producers contend that the profitability of their pressure sensitive plastic tape operations has suffered because of availability of low-priced LTFV imports of the tape in question. However, we are unable to find a causal relationship between the LTFV imports and U.S. producers' loss of profits. It is to be expected that when an industry expands from three to nine producers within a short period of time, severe price competition will be experienced as the new producers strive to obtain a share of the existing market. In this case it is evident that the new producers, which were primarily producing and marketing a new, lower priced type of tape (polypropylene), which was first sold in the United States in significant quantities in 1975, would adversely affect the profitability of the established U.S. producers of the considerably higher priced polyester tape. The lowest prices of at least one of the U.S. producers of polypropylene tape were as low as the prices of imported UPVC tape from Italy in certain months during the period in which Treasury found that imports were being sold at LTFV. In addition, the lowest prices quoted for the LTFV imports generally applied only to large shipments of as many as 1,000 cases, whereas the lowest prices offered by U.S. producers applied to quantities ranging from 20 to 200 cases. Thus, price comparisons between domestic producers and importers tend to overstate the price advantage of importers.

No likelihood of injury by reason of LTFV imports. The strong growth trends evidenced by the domestic industry lead us to believe that LTFV imports as described by Treasury are not likely to injure the domestic industry. Annual U.S. consumption of pressure sensitive plastic tape approximately tripled between 1973 and 1976 and increased again by about 30 percent in January–May 1977, compared with January–May 1976. It appears that U.S. consumption will continue to increase, particularly in light of estimations that the U.S. market for pressure sensitive plastic tape is substantially underdeveloped in comparison with the development of the European market for such tape. As the European market begins to recover from the recent recession, Italian exports are expected to focus once again on European demand for pressure sensitive plastic tape. This should result in reduced diversion of Italian exports to the U.S. market.

Finally, we note that counsel for the chief supplier of imports of pressure sensitive plastic tape from Italy has notified the Commission of an increase in his client's list prices effective September 1, 1977.

Conclusion. We, therefore, conclude that an industry in the United States is not being and is not likely to be injured by reason of the importation of pressure sensitive plastic tape more than 1⅜ inches in width and not exceeding 4 mils in thickness from Italy which is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

Issued: September 1, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.77-26614 Filed 9-6-77;8:45 am]

[4] Prevention of the establishment of an industry is not an issue in the instant investigation and will not be discussed further.

DEPARTMENT OF JUSTICE

Bureau of Prisons

NATIONAL INSTITUTE OF CORRECTIONS ADVISORY BOARD

Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) will meet on Sunday, October 2, 1977, starting at 5 p.m. and on Monday, October 3, 1977, starting at 8 a.m., in the Conference Room of the Federal Bureau of Prisons (Room 500), 320 First Street NW., Washington, D.C.

This meeting is one of the regularly scheduled triannual meetings of the Advisory Board and will include a review of internal policies.

Signed at Washington, D.C., this 31st day of August 1977.

SHERMAN R. DAY,
Director.

[FR Doc.77-25962 Filed 9-6-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13912, File No. SR-Amex-77-3]

AMERICAN STOCK EXCHANGE, INC.

Order Disapproving Proposed Rule Change

AUGUST 31, 1977.

On March 14, 1977, the American Stock Exchange, Inc., 86 Trinity Pl., New York, N.Y. 10006, ("Amex") submitted a proposed rule change, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder, 17 CFR 240.19b-4, which would add Section 117 to Part 1 and section 1003A to Part 10 of the Amex *Company Guide*. Section 117 sets forth alternate criteria for the original listing of common stock and section 1003A provides for the prospective application of certain delisting criteria with respect to issues which might be listed pursuant to the altrnate criteria.[1]

On May 13, 1977, we instituted a proceeding, pursuant to section 19(b)(2) of the Act, to determine whether the proposed additions to Parts 1 and 10 of the *Company Guide* should be disapproved.[2] In our order instituting disapproval proceedings, we cited sections 6(b)(5) and 6(b)(8) of the Act as providing the grounds under consideration for disapproval. More specifically, we noted that implementation of the alternate listing criteria would expand the universe of securities eligible for listing on the Amex. To the extent that over-the-counter ("OTC") issues become eligible and indeed are listed under the alternate standards, we observed that trading in such issues would be governed by the Exchange's off-board principal restrictions, which are set forth in Amex Rule 5. Therefore, approval of SR-Amex-77-3 would serve to broaden the anticompetitive impact of those restrictions through diminution of potential intermarket competition in OTC issues which become listed on Amex. We questioned whether this result would be consistent with the legislative intention to foster the removal of impediments to the development of free and open markets and a national market system and whether the proposal would constitute the imposition of an undue burden on competition.

During our deliberation on SR-Amex-77-3, we expressed our willingness to approve this proposed rule change if the Amex would exempt from its off-board restrictions any security which became listed pursuant to the alternate standards. Amex has not adopted such an exemption but rather has urged that we review and approve the instant proposal without reference to any question arising from the maintenance of off-board principal restrictions generally.

ANALYSIS OF COMMENTS RECEIVED

The Amex submitted the only comments which we received in connection with the above-mentioned disapproval proceeding. Essentially, Amex contends that its alternate listing standards should be approved, without provision of an exemptive amendment to Amex Rule 5, on the following grounds: (1) Modification of any off-board trading restrictions should not occur until the Commission has concluded appropriate rule-making proceedings and adopted an industry-wide approach respecting the elimination of such restrictions; (2) disapproval would be discriminatory to the Amex in light of Commission approval of two earlier amendments to the New York Stock Exchange's ("NYSE's") listing standards; and (3) approval concurrent with a narrow amendment of Amex

[1] The proposal was published in the *Federal Register* on March 24, 1977 (42 F.R. 15994), and interested persons were invited to submit written data, views and arguments.

[2] See Securities Exchange Act Release No. 13542 (May 13, 1977).

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Rule 5 may impose administrative burdens on the Amex staff.

On June 23, 1977, we proposed amendments to Rule 19c–1 under the Act [17 CFR 240.19c–1] and Rule 19c–2 thereunder, to amend certain exchange rules which restrict the ability of members to effect transactions in certain listed issues, including those listed on the Amex, over-the-counter as principal or agent and we are currently conducting hearings on the potential impact of those proposals.[3] In the interim, we believe that the existing competitive balance between the exchanges and the OTC markets should not be upset through exchange rulemaking, which would subject additional securities and market makers therein to rules which have been identified as anti-competitive, while the Commission is actively considering whether the competitive burdens represented by those rules can be justified by reference to the purposes of the Act. Absent an amendment of Amex Rule 5, the Amex proposal would, as described above, expand the sweep of its existing Rule 5 to the securities of those issuers who became eligible and chose to list under the proposed new standards.

In its second argument, Amex represents that disapproval of SR–Amex–77–3 would be discriminatory to the Exchange in view of the Commission's prior approval of NYSE proposals designated SR–NYSE–75–23 and SR–NYSE–76–22:[4] the former provided limited downward flexibility in the NYSE listing and delisting criteria of aggregate market value of publicly-held shares, while the latter established alternate criteria for the original listing of common stock by foreign issuers. Both NYSE amendments expanded the universe of securities which might be listed on the NYSE and we were mindful that some OTC issues could be affected by those amendments. Nevertheless, remaining questions relating to the maintenance of exchange restrictions on off-board trading were not then ripe for resolution.[5] In our consideration of SR–Amex–77–3, however, we must give recognition to the fact that those questions now are in the process of being resolved. Indeed, on May 12, 1977, the day prior to actual initiation of these proceedings, we determined to commence formal proceedings with respect to remaining exchange rules concerning off-board trading. Thus, in the interval (approximately one year) since our approval of SR–NYSE–75–23 and SR–NYSE–76–22, our posture with respect to retention of remaining exchange off-board trading restrictions has evolved significantly.

Amex's final contention is that additional ministerial burdens might be created if approval of SR–Amex–77–3 is accompanied by a narrow amendment of the Exchange's off-board trading restrictions.[6] We do not find this argument persuasive. The necessary evaluations of whether an issuer meets the standards of financial soundness and suitability for trading of its shares in the Amex market must be made regardless of whether Rule 5 is amended and are not substantively related thereto. Even if we were to find that, as contended, additional burdens would be imposed upon the Amex staff, we do not believe that any advantages to be gained by avoiding those burdens would justify at this time our approval of a change in listing standards which would expand the sweep of an existing anticompetitive Amex rule.

Until we determine whether the maintenance of exchange off-board restrictions is necessary or appropriate in furtherance of the purposes of the Act, we are unable to find that SR–Amex–77–3 is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, particularly with respect to the requirements of paragraphs (b)(5) and (b)(8) of section 6 of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, That the proposed rule change referred to above be, and it hereby is, disapproved.

By the Commission (Chairman Williams, Commissioners Evans and Pollack). Commissioner Loomis dissenting.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–26000 Filed 9–6–77;8:45 am]

[3] *See* Securities Exchange Act Release No. 13662 (June 23, 1977) (42 FR 33510 (June 30, 1977)).

[4] The Commission approved SR–NYSE–75–23 on May 13, 1976 (Securities Exchange Act Release No. 12450) (41 FR 21852 (May 28, 1976)) and SR–NYSE–76–22 on May 20, 1976 (Securities Exchange Act Release No. 12741) (41 FR 21854 (May 28, 1976)). In neither instance did the Commission require or the NYSE propose an amendment of the NYSE's off-board trading restrictions.

[5] In the Commission's December 19, 1975 order (Securities Exchange Act Release No. 11942) (41 FR 4507 (January 30, 1976)) announcing the adoption of Rule 19c–1 (17 CFR 240.19c–1) (which prescribed the elimination of certain exchange rules that impeded the ability of members to effect off-board agency transactions), we indicated that we were not taking any action with respect to off-board restrictions on principal transactions. Nevertheless, we stated that we would reconsider that decision early in 1977.

[6] For example, Amex asserts that determining whether an issuer qualifies to list common stock under proposed standards or those which presently apply would be complicated by the presence of a limited amendment to Rule 5 and, further, that such an amendment would create an additional class of listed securities.

APPALACHIAN POWER CO.

[Rel. No. 20151, (70–6039)]

Proposed Issue and Sale of Notes to Banks and to a Dealer in Commercial Paper and Request for Exception From Competitive Bidding

AUGUST 29, 1977.

Notice is hereby given that Appalachian Power Co. ("Appalachian"), 40 Franklin Road, Roanoke, Va. 24009, an electric utility subsidiary company of American Electric Power Co., Inc., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the Act and rules 50(a)(2) and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Appalachian requests that, from the date of the granting of this application to December 31, 1978, the exemption from the provisions of section 6(a) of the Act afforded to it by the first sentence of section 6(b) of the Act, relating to the issue of short-term notes, be increased to the extent necessary to cover the issuance and sale of notes to banks and to dealers in commercial paper in an aggregate amount not to exceed $175,000,000 outstanding at any one time. In no event will the amount outstanding be in excess of the maximum amount allowable both under its Articles of Incorporation and the consent granted by its Cumulative Preferred stockholders permitting an increase in the amount of unsecured short-term debt that Appalachian may incur. The notes are to be issued from time to time prior to January 1, 1979, as funds are required, provided that none of the notes or commercial paper will mature later than June 30, 1979. As of August 17, 1977, Appalachian had short-term notes, including commercial paper, outstanding in an aggregate amount of $13,300,000.

Each note payable to a bank to be issued by Appalachian will mature not more than 270 days after the date of issuance or renewal thereof, will bear interest at an annual rate of interest not greater than the prime rate of commercial banks in effect at the time of issuance or in effect from time to time and will be prepayable at any time without premium or penalty. In the case of most of the banks from which Appalachian proposes to borrow, sufficient bank balances to meet operating and financial needs are kept at such banks to satisfy any compensating balance requirements of such banks in connection with the borrowings. If the average of such bank balances were maintained solely in order to fulfill the prevailing compensating balance requirements of such banks, generally up to about 20 percent, the effective interest cost to Appalachian of issuance and sale of such notes to such banks would be approximately 1.68 percent above a prime commercial rate of 6¾ percent, or about 8.43 percent. In the case of those banks in which Appalachian not maintain bank balances for operating and financial needs, Appalachian will be required to maintain compensating balances, generally 10 percent of the amount of the bank lines made available by such banks and additional compensating balances, generally 10 percent of the amount of any borrowings. If the full amount were borrowed from these banks, the effective interest cost to Appalachian would be approximately 1.68 percent above a prime commercial rate of 6¾ percent or about 8.43 percent. Appalachian will file with the Commission, by amendment, a list showing the names and addresses of the banks from which it proposes to borrow and the lines of credit it has established with such banks.

Appalachian also proposes to issue commercial paper in the form of promissory notes in denominations of not less than $50,000 nor more than $5,000,000, which will be of varying maturities, with no maturity more than 270 days after the date of issue and none will be prepayable prior to maturity. The commercial paper notes will be sold directly by Appalachian to Lehman Commercial Paper Incorporated (the "dealer") at a discount rate not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper notes will be issued having a maturity of more than 90 days if such commercial paper notes would have an effective interest cost which exceeds the effective interest cost at which Appalachian could borrow from banks. The dealer will reoffer the commercial paper notes to not more than 200 of the dealer's customers identified and designated in a nonpublic list prepared by the dealer in advance, at a discount rate of ⅛ of 1 percent per annum less than the discount rate to Appalachian. It is expected that such customers of the dealer will hold the commercial paper prior to maturity, but, if any such customer wishes to resell such commercial paper prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase such commercial paper sold by it and reoffer it to other customers on its nonpublic list.

The proceeds from the issue and sale of the notes will be used by Appalachian to reimburse its treasury for past expenditures made in connection with its construction program and to pay part of the cost of its future construction program. Such construction expenditures for the years 1977 and 1978 are estimated at approximately $280,000,000 and $400,000,000, respectively.

Appalachian claims exception from the competitive bidding requirements of rule 50 for the proposed issuance of notes to banks pursuant to paragraph (a)(2) thereof. Additionally, Appalachian requests exception from the competitive bidding requirements of rule 50 for the proposed issue and sale of its commercial paper pursuant to paragraph (a)(5) thereof on the ground that it is not practicable to invite competitive bids for commercial paper.

The application states that expenses of approximately $12,000 are to be incurred in connection with the proposed transactions. It is stated that the State Corporation Commission of Virginia has jurisdiction over the proposed transactions and that no other state or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than September 20, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–26001 Filed 9–6–77;8:45 am]

[File No. 1–6209]

LOVE OIL CO. INC.

Application To Withdraw From Listing and Registration

AUGUST 23, 1977.

In the matter of Love Oil Co., Inc. common stock, $.10 par value.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Intermountain Stock Exchange ("ISE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

A large majority of the transactions in the Company's shares have been conducted in the over-the-counter market rather than through the Exchange. Further, the Company will continue to be subject to section 12(g) reporting requirements.

The ISE, by letters dated September 12, 1975, and October 17, 1975, initially objected to the issuer's application to withdraw from listing and registration on that exchange. ISE asserted that the issuer had not satisfied all requirements of the ISE rules governing delisting; in particular, the issuer had failed to provide timely notice of the stockholders' meeting at which the delisting resolution was voted upon. By letter dated August 4, 1977, ISE withdrew its objection to the issuer's application.

Any interested person may, on or before September 20, 1977, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished by the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–26002 Filed 9–6–77;8:45 am]

[File No. 500–1]

MAGIC MARKER CORP.

Suspension of Trading

AUGUST 29, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Magic Marker Corp. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 11:10 a.m. (EDT) on August 29, 1977 through September 7, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–26003 Filed 9–6–77;8:45 am]

[Release No. 20153, (70–6047)]

MIDDLE SOUTH UTILITIES, INC.

Proposal To Issue Common Stock for Contribution to Employee Stock Ownership Plan

AUGUST 29, 1977.

Notice is hereby given that Middle South Utilities, Inc., 225 Baronne Street, New Orelans, Louisiana 70112, ("Middle South"), a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below for a complete statement of the proposed transaction.

Pursuant to the terms of the Employee Stock Ownership Plan of Middle South Utilities, Inc. and Subsidiaries ("Plan"), adopted effective January 1, 1975, Middle

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South and its subsidiaries contribute to a non-affiliated and independent trustee for participants in the Plan, First National Bank of Commerce, New Orleans, La. ("Trustee"), an amount equal to an additional investment tax credit ("Additional Credit") allowed to Middle South on its consolidated tax return for such purpose under the Internal Revenue Code of 1954, as amended. The Trustee is required to utilize any contributions under the Plan to acquire shares of Middle South's Common Stock, $5 par value ("Common Stock"). During 1976 contributions amounting to $1,629,163 were made and the Trustee acquired 100,820 shares of Common Stock through open market purchases. Middle South now proposes to make available, for acquisition by the Trustee directly from Middle South, through January 31, 1979, up to 300,000 authorized but unissued shares of Common Stock ("Additional Stock"). The Plan was enacted to provide participating employees of Middle South and certain of its subsidiaries with an opportunity to acquire ownership of Common Stock, thereby promoting in the employees an interest in Middle South and its subsidiaries.

Each employee of Middle South and companies in which it has an 80% interest, as defined in the Plan (collectively, including Middle South, "Employers"), becomes a participant in the Plan on the first day of the calendar year ("Plan Year") in which he completes one year of service, as defined in the Plan, or upon attainment of age 25, whichever is later. Participation ceases upon the first day of the Plan Year following the Plan Year in which employment terminates. There are currently 8,459 participants in the Plan.

No contributions to the Plan may be made by participants. The Employers make contributions to the Trustee for a Plan Year in an amount equal to the Additional Credit claimed under the Internal Revenue Code on their consolidated federal income tax return, filed during the Plan Year. Contributions may be reduced, subject to a maximum limitation, in order to defray expenses of administering the Plan. Additional expenses of the Plan are payable by Middle South. Contributions are permitted to be made in cash or Common Stock; however, the Employers presently make contributions exclusively in cash. The Trustee must invest and reinvest the cash contributions and any income thereon exclusively in Common Stock, which it acquires, at its discretion, through open market or private purchases or from Middle South. If Middle South offers Additional Stock to the Trustee and the Trustee chooses to accept such offer rather than to acquire Common Stock in the open market or elsewhere, the Additional Stock will be acquired for an amount equal to the value of such Stock based upon the average of the closing prices of the Common Stock for the twenty consecutive trading days immediately preceding the acquisition. If dividends are reinvested in Additional Stock, such Stock shall be acquired for an amount equal to the market value of such stock.

Contributions made with respect to a Plan Year are allocated to a participant's account as of the close of such Plan Year. Common Stock is allocated to each participant's account, subject to certain maximum limitations, in the same proportion to the total amount of Common Stock allocated with respect to such Plan Year as the participant's compensation during the Plan Year bears to the total compensation paid to all participants during such Plan Year, excluding for this purpose for any participant, all compensation in excess of $100,000. Dividends on Common Stock allocated to a participant's account are reinvested and the Common Stock purchased thereby allocated to the participant's account. A participant has a nonforfeitable right to all shares of Common Stock allocated to his account. Common Stock held in a participant's account shall become distributable to him (or to a beneficiary in the event of his death) upon the termination of his employment by the Employers; provided that in special circumstances of need and after obtaining approval, a participant may withdraw full shares of Common Stock which have been allocated to his account for at least 84 months. All distributions will be made in Common Stock, *provided* That, any fraction of a share shall be distributed in cash.

The Trustee was appointed and may be replaced by the Board of Directors of Middle South. The Trustee is responsible for the administration of the assets of the Plan held in trust under the Trust Agreement. The Board of Directors of Middle South has appointed a three-member committee to operate and administer the Plan. The committee's responsibilities include, but are not limited to, interpreting the Plan, resolving questions of eligibility, computing benefits and advising the Trustee concerning payments under the Plan. Each participant has the right to direct the Trustee as to the voting of the shares of Common Stock allocated to his account as of the end of the Plan Year preceding the record date. If a participant does not provide the Trustee with timely voting instructions, the participant's shares may not be voted by the Trustee.

The Plan may be amended from time to time and may be terminated at any time by resolution of the Board of Directors of Middle South. Upon termination of the Plan, the Trustee shall liquidate the assets of the Plan held in trust, *Provided*, That, as long as a participant is an employee of the Employers, his Common Stock must be held for at least 84 months. No amendment may cause the assets of the Plan to be used for or diverted to any purpose other than the exclusive benefit of the participants or their beneficiaries or may retroactively reduce a participant's account.

The decision as to whether to acquire the Common Stock in the open market, by private purchase or from Middle South is at the discretion of the Trustee. Middle South estimates, however, that the Additional Stock will be insufficient, based upon the recent market value of Common Stock, to cover (i) all investments of contributions by the Trustee for the tax years 1976 and 1977 and (ii) all reinvestments of dividends through January 31, 1979. Middle South currently estimates that contributions for the tax years 1976 and 1977 will amount to approximately $3,360,000 and $700,000, respectively. Proceeds derived by Middle South through investments and reinvestments will be utilized for the repayment of then outstanding bank loans made to Middle South.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $7,000, including legal fees of $5,000. It is stated that no state commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 19, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26004 Filed 9-6-77;8:45 am]

[Release 34-13895; File No. SR-NASD-77-12]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Proposed Rule Change by Self-Regulatory Organizations

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission on August 5, 1977, and amended on August 24, 1977, a proposed rule change as follows:

NASD's STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The following is the full text of proposed paragraph G of Part IV of Schedule D under Article XVI of the By-Laws:

G. Refund of Charges to Subscribers.

The Board of Governors may, at any time, refund to subscribers any charges or portion of charges that it deems appropriate. Such action shall be subject to approval by the Securities and Exchange Commission.

NASD's STATEMENT OF PURPOSE OF PROPOSED RULE CHANGE

The proposed rule change would codify the Board of Governors' existing authority to refund NASDAQ charges to subscribers.

NASD's STATEMENTS AS TO BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE, COMMENTS RECEIVED, AND BURDEN ON COMPETITION

Section 15A(b)(5) provides that an association of brokers and dealers shall not be registered as a national securities association unless the Commission determines that the rules of the association provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the association operates or controls.

Article XVI of the NASD By-Laws provides that the Board of Governors may amend Schedule D without recourse to the membership.

Comments of the membership were not solicited nor received.

It is felt that no burden on competition is imposed by the proposed rule change.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to ninety (90) days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 22, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

AUGUST 26, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26008 Filed 9-6-77;8:45 am]

[Release 34-13896; File No. SR-NASD-77-14]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Proposed Rule Change by Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1) as amended by Pub. L. 94-29, 15 (June 4, 1975), notice is hereby given that the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission on August 23, 1977, and amended on August 24, 1977, a proposed rule change as follows:

NASD'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The following is the text of action taken by the NASDAQ, Inc. Board of Directors and the NASD Board of Governors:

(A) A refund of $1,000,000 be dispersed to NASDAQ Level 1, 2, and 3 subscribers subsequent to September 30, 1977.

(B) The amount of an individual subscriber refund be determined on a pro rata basis of NASDAQ billings for Level 1, 2, and 3 services for fiscal year 1977.

NASD'S STATEMENT OF PURPOSE OF PROPOSED RULE CHANGE

The Board of Governors determined at its meetings in July 1977 to refund $1,000,000 to NASDAQ subscribers. The refund will be applicable to Level 1, 2, and 3 subscribers on a pro rata basis to be calculated on billings for the period October 1, 1976, through September 30, 1977.

Subscribers to the NASDAQ Consolidated Quotations Service and the NASDAQ Transaction Reporting System will not participate in the refund. Both the NASDAQ, Inc. Board of Directors and the NASD Board of Governors determined to apply the refund only to those subscriber services in which the revenues of the particular service were at a level that exceeded current operating expenses and amortized development costs. The Consolidated Quotations Service and Transacation Reporting System financial data indicated that current revenues for each of these services were below such levels.

In addition, NASDAQ issuers will not participate in the refund in light of the fact that the basis for the NASDAQ entry and annual fees is to provide for the limited sharing by NASDAQ companies of the costs related to the regulation of the NASDAQ system.

NASD'S STATEMENTS AS TO BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE, COMMENTS RECEIVED, AND BURDEN ON COMPETITION

Section 15A(b)(5) provides that an association of brokers and dealers shall not be registered as a national securities association unless the Commission determines that the rules of the association provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the association operates or controls.

Comments of the membership were not solicited nor received.

BURDEN ON COMPETITION

It is felt that no burden on competition is imposed by the proposed rule change.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to ninety (90) days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submited on or before September 27, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 26, 1977.

[FR Doc.77-26009 Filed 9-6-77;8:45 am]

PACIFIC STOCK EXCHANGE INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 29, 1977.

In the Matter of An Application of the Pacific Stock Exchange Inc., For Unlisted Trading Privileges in a Certain Security.

The above named national securities exchange has filed an application with the Securities and Exchange Commis-

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sion pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Lehman Corp., File No. 7-4977, Common Stock—$1 Par Value.

Upon receipt of a request, on or before September 13, 1977, from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26005 Filed 9-6-77;8:45 am]

PHILADELPHIA STOCK EXCHANGE INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 29, 1977.

In the Matter of An Application of the Philadelphia Stock Exchange, Inc., For Unlisted Trading Privileges in a Certain Security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)-(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Bell & Howell Co. (Delaware), File No. 7-4979, Common Stock—No Par Value.

Upon receipt of a request, on or before September 13, 1977, from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26006 Filed 9-6-77;8:45 am]

PHILADELPHIA STOCK EXCHANGE INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 29, 1977.

In the Matter of An Application of the Philadelphia Stock Exchange, Inc., For Unlisted Trading Privileges in a Certain Security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)-(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Lehman Corp. (Maaryland), File No. 7-4978, Common Stock—$1 Par Value.

Upon receipt of a request, on or before September 13, 1977, from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26007 Filed 9-6-77;8:45 am]

[Release No. 34-13901, 35-20154, IC-9914]

RE-EXAMINATION OF RULES RELATING TO SHAREHOLDER COMMUNICATIONS, SHAREHOLDER PARTICIPATION IN CORPORATE ELECTORAL PROCESS AND CORPORATE GOVERNANCE GENERALLY

AGENCY: Securities and Exchange Commission.

ACTION: Publication of issues to be considered at hearings and order of hearings.

SUMMARY: In Securities Exchange Act Release No. 13482 (April 28, 1977), 42 FR 23901 (May 11, 1977), the Commission announced that it would hold public hearings concerning shareholder communications, shareholder participation in the corporate electoral process and corporate governance. Subsequently, in Securities Exchange Act Release No. 13686 (June 27, 1977), 42 FR 33834 (July 1, 1977), the Commission indicated that in formulating the specific issues to be covered by the hearings it would consider the views of any person who submitted comments on or before August 1, 1977. Based upon its review of the written comments received, the Commission has published a series of questions which will be considered at the hearings. The Commission has also published an order which specifies procedures for the hearings.

DATES: Hearings will commence on September 29, 1977 in Washington, D.C.; on October 11, 1977 in Los Angeles, Calif.; on October 18, 1977 in New York, N.Y.; and on November 1, 1977 in Chicago, Ill.

ADDRESSES: All communications should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549 and should refer to File No. S7-693. All comments received in connection with these proceedings will be available for public inspection at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. 20549; and at the following Regional Offices of the Commission: 10960 Wilshire Boulevard, Los Angeles, Calif. 90024; 26 Federal Plaza, New York, N.Y. 10007; and Everett McKinley Dirksen Bldg., 219 South Dearborn Street, Chicago, Ill. 60604. A staff summary of comments received by August 1, 1977, is also available for inspection. A copy of this summary and representative comment letters may be obtained by writing to Barbara L. Leventhal, Special Counsel, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Barbara L. Leventhal or Richard B. Nesson, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549 (202-755-1750 or 202-755-1742).

SUPPLEMENTARY INFORMATION: The public hearings which are scheduled to commence on September 29, 1977, are for the purpose of giving the Commission the benefit of the views of interested members of the public with respect to the subjects of shareholder communications, shareholder participation in the corporate electoral process and, more generally, corporate governance, in order to assist the Commission in a broad re-examination of Regulation 14A (17 CFR 240.14a-1 et seq.) promulgated under section 14(a) of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) relating to the solicitation of proxies and other applicable statutory provisions, rules and regulations. At the conclusion of these hearings, the Commission will determine whether it is necessary or appropriate in the public interest or for the protection of investors to propose amendments to Regulation 14A, to propose amendments to other applicable rules or to recommend legislation to Congress.

I. INTRODUCTION

In Securities Exchange Act Release No. 13482, the Commission stated that fundamental and far-reaching issues have been raised concerning the adequacy and effectiveness of shareholder participation in corporate governance. The release noted that numerous recent examples of an apparent breakdown in corporate accountability have led informed commentators to question the efficacy of existing methods of corporate governance.

The traditional concept that boards of directors serve as a check on corporate management and that the board is answerable to shareholders by virtue of their elective power has been questioned in light of the fact that board elections are frequently a ratification of management nominees and that shareholders who wish to participate more fully in the affairs of their corporations are often frustrated and discouraged by the difficulties such participation entails under the present regulatory system. The release indicated that the Commission would study these issues on a broad basis in connection with a re-examination of its proxy rules.

In response to the inquiries set forth in the release cited above, the Commission has received numerous thoughtful and useful letters of comment from interested persons. Many of these comments, however, express the view that it would not be practical or desirable to increase the role of shareholders in corporate governance through changes in the proxy rules. While the proxy solicitation process is indeed a central focus of the present inquiry, it is clear that the issues being studied transcend the proxy rules in significance, and include the broader and more fundamental quesion of how corporations can best be made more responsive to their shareholders and the public at large.

Accordingly, the Commission encourages comment on other means—unrelated to the proxy solicitation mechanism—to stimulate increased shareholder interest and participation in corporate governance and to improve corporate accountability. The Commission recognizes that some methods of achieving this goal may be beyond the scope of its existing authority. The Commission specifically requests public comments on the desirability of federal legislation such as a bill establishing minimum federal standards of corporate conduct and shareholders' rights. Based upon the results of this proceeding, the Commission will give careful consideration to the advisability of recommending such legislation to Congress.

II. ISSUES TO BE CONSIDERED AT THE HEARINGS

Securities Exchange Act Release No. 13482 (April 28, 1977), contained a number of inquiries on which public comments were requested. By August 1, 1977, the Commission had received approximately 140 letters of comment from interested members of the public, including corporations, business associations, bar associations, attorneys, public interest groups, individual investors, religious and educational organizations, academics and others.

The Commission has now completed its review of these comments and, based on this review, has determined that the questions set forth below be considered at the hearings. These questions are, in certain cases, the same as those previously published and in other cases reflect a modification of the earlier inquiries, either for the purpose of clarification or in response to specific suggestions offered by various commentators. These questions are as follows:

A. OBTAINING SHAREHOLDERS' VIEWS ON SIGNIFICANT MATTERS

(1) What types of socially significant matters, if any, are material (within the meaning of rule 14a-9) to shareholders in making informed voting decisions? In this regard, is there a difference between information necessary to an informed voting decision and information necessary to an informed investment decision?

(2) Whether or not information relating to socially significant matters, including matters relating to the environment and employment practices,[1] is material within the meaning of rule 14a-9, would it be appropriate for the Commission to exercise its rule-making authority under section 14(a) to require disclosure of such information in proxy statements and/or annual reports to shareholders?

(a) If so, should the Commission specify matters which are proper subjects for disclosure? Alternatively, should corporate boards of directors be permitted to specify matters which are proper subjects for disclosure?

(b) What standards should be applied to identify which matters are proper subjects for disclosure?

(3) Should the Commission amend rule 14a-8 to modify the requirements for inclusion of shareholder proposals in management's proxy materials?

(a) Should the Commission require the inclusion in management's proxy materials of shareholder proposals which are not proper subjects for action by shareholders under the laws of the issuer's domicile? Is this result consistent with congressional intent in enacting section 14(a)?

(b) Should the Commission modify its existing requirements that the subject matter of proposals be significantly related to the business of the issuer and not related to the conduct of ordinary business operations of the issuer? If so, what standards should be applied?

(c) Should the Commission amend the existing requirement that shareholders or their representatives appear personally to present proposals at annual meetings?

(d) Should the right to have proposals included in management's proxy materials be subject to certain criteria, such as ownership of a minimum percentage or dollar value of a class of securities?

(4) Should the Commission amend its proxy rules to provide a means for shareholders to present their views on management proposals in management's proxy materials? If so, what means would be appropriate? Conversely, should the Commission place any limitations on the extent to which management may comment upon or make recommendations with respect to shareholder proposals?

(5) Should the Commission amend its proxy rules to require issuers to provide shareholders with shareholder lists upon request? If so, under what circumstances and subject to what conditions should shareholder lists be provided?

(6) Should the Commission amend its rules to require brokers who hold securities as nominees for their customers to forward to the beneficial owners nonmanagement proxy soliciting materials?

(7) What would be the costs and benefits of 1-6 above? Can these costs and benefits be quantified? If not, why?

B. SHAREHOLDER PARTICIPATION IN CORPORATE GOVERNANCE

(1) Should shareholders have access to management's proxy soliciting materials for the purpose of nominating persons of their choice to serve on the board of directors?

(a) Would a Commission rule granting shareholders such access be in conflict with state law? Is this result consistent with Congressional intent in enacting section 14(a)?

(b) If the Commission determines to adopt such a rule, what type of rule would be most appropriate? What criteria, if any, should be be applied to shareholders who wish to have access to management's proxy soliciting materials for the purpose of making nominations?

(i) For example, should the right to make nominations in management's proxy materials be conditioned on the ownership of a minimum percentage or dollar value of a class of securities?

(ii) Should there be a limitation on the number of nominees which must be included? If so, what limitations would be appropriate?

(iii) Should all nominations be screened by a nominating committee composed of outside directors or other disinterested persons?

(iv) What disclosures should be required of shareholders who utilize management's proxy soliciting materials for the purpose of making nominations?

(c) Are there soliciting activities preliminary to (1) making a shareholder nomination in management's proxy materials or (2) an election contest to which the proxy rules should not apply? For example, should the Commission amend rule 14a-2 to provide that formation of a group of more than 10 persons is exempt from the application of the proxy rules?

(d) Should shareholders utilizing management's proxy materials for the purpose of making nominations be subject to the requirements of rule 14a-11 (Special Provisions Applicable to Election Contests)?

(2) Should the Commission amend rule 14a-11 to reduce the costs and burdens currently incurred by shareholders and issuers

[1] In *Natural Resources Defenses Council* v. *Securities and Exchange Commission*, F. Supp. ------, CCH Fed. Sec. L. Rep. 196,507 (D.D.C., May 19, 1977), appeal pending C.A.D.C. No. 77-1761, the court, among other things, discussed the appropriateness of the Commission requiring disclosure of such information in proxy statements and information statements even if the information were not required in annual and periodic reports. *See* generally Securities Act Releases No. 5569 (Feb. 11, 1975), 40 FR 7012; No. 5627 (Oct. 14, 1975), 40 FR 51656; and No. 5704 (May 6, 1976), 41 FR 21632.

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in election contests? If so, what amendments would be appropriate?

(3) To what extent should corporate funds be utilized by management and/or shareholders to solicit proxies for the election of directors?

(4) What additional disclosures, if any, should be required with respect to the financing of proxy solicitations or contests, including settlements thereof?

(5) Should the Commission further consider voting of securities held in "street" or nominee name, including procedures which result in "street" name stock generally being voted for management?

(6) Should institutions, such as bank trust departments, insurance companies, investment companies and pension funds, prior to exercising their voting power, be required to obtain the views of persons having an economic interest in the securities being voted? What types of proxy review policies and procedures are presently employed by institutions? To what extent do institutions exercise their voting power in favor of management?

(7) Are there situations involving conflicts of interest where affiliates or other persons should be required to vote their securities with the majority, or in proportion to the votes of shareholders who do not have such conflicts of interest, in some or all matters affecting the substantive rights of shareholders?

(a) Should other means of "neutralizing" such votes be considered?

(b) Does the Commission have authority to require such neutralization under the federal securities laws?

(8) To what extent might the self-regulatory organizations promulgate rules requiring companies to adopt procedures which improve corporate governance and shareholder democracy as a condition to listing or continued trading of a company's securities?

(9) Are there other steps the Commission could take to improve corporate governance, such as changes in the format of proxies?

(10) Should the Commission consider submitting or supporting legislation to improve corporate governance, such as a federal bill setting minimum standards of conduct for directors or federal chartering? If so, would an express federal private right of action be necessary?

(11) What would be the costs and benefits of 1–10 above? Can these costs and benefits be quantified? If not, why?

C. CHANGES RELATING TO MATTERS TO BE DISCLOSED IN PROXY STATEMENTS OR OTHERWISE IN CONNECTION WITH THE SOLICITATION OF PROXIES

1. Should the Commission amend its proxy rules, specifically Rule 14a–3(b) or Schedule 14A, to require disclosure in proxy statements and/or annual reports to shareholders of:

(a) Whether or not the issuer has a nominating committee, and if so, the identity of the members of this committee;

(b) The existence of any business or personal relationship (e.g., debtor-creditor, supplier-customer, investment banking, legal counseling), between any nominee or his affiliates and the issuer or its officers and directors;

(c) How much time incumbents have devoted to affairs of the corporation during the previous fiscal year and what aspects of the issuer's activities they have dealt with during that year; and

(d) Whether any directors have resigned from the board or have failed to stand for re-election in the last fiscal year and, if so, the reasons therefor?

2. To what extent would the disclosure of certain other board memberships and outside activities reflect potential conflicts of interest or give any indication of the time available for services to the issuer? Should such disclosure be required?

3. Should the Commission amend Rule 14a–3(b) to require issuers to make the annual report to shareholders available to outside or independent directors who wish to communicate their views on the performance of management or on other matters to shareholders?

4. Should the Commission amend its proxy rules, specifically Item 7 of Schedule 14A, to provide for more detailed or comprehensive disclosure of management remuneration and transactions? If so, what changes would be appropriate?

(a) Should Item 7(a) be amended to require a breakdown of aggregate direct remuneration into its various components, such as salary, bonuses, and personal benefits, including certain benefits sometimes referred to as "perquisites"?[2] In addition, should all personal benefits which exceed a specified dollar value be described separately?

(b) Should the total costs to the issuer of all personal benefits recevied by officers, directors and employees be disclosed in the aggregate and broken down by category?

(c) Should the disclosure requirements of Item 7 be made applicable to all officers and employees whose aggregate remuneration exceeds a specified dollar amount? Is so, what dollar amount would be appropriate?

(d) Should Item 7 be amended to require disclosure of remuneration for fiscal years in addition to the most recent year?

5. Should the Commission amend Rule 14a-3(b) and/or Schedule 14A, to require disclosure of whether or not post meeting reports or transcripts of annual meetings will be sent or made available to shareholders on request?

6. What would be the cost and benefits of 1-5, above? Can the costs and benefits of such disclosures be quantified? If not, why?

III. ORDER OF HEARINGS

Any interested person desiring to make an oral presentation of his/her views at the hearings is requested to write or call Barbara L. Leventhal or Richard B. Nesson, Division of Corporation Finance 202–755–1750 or 202–755–1742. It has been tentatively determined to limit oral statements to 20 minutes each plus such further time as may be necessary to answer questions. Depending upon the number of persons requesting to be heard, appearances may be more limited. Additional time may be granted at the discretion of the hearing officer upon written request timely submitted with copies of the witness' prepared statement. All witnesses shall be required to submit 25 copies of their prepared statements three business days in advance of their scheduled date of appearance.

Persons making oral statements should be prepared to respond to specific inquiries from the Commission staff. Any person may submit in writing to the hearing officer questions that he wishes to have directed to a particular witness or group of witnesses, but the hearing officer will determine in his sole discretion whether or to what extent to direct those questions to any witness.

[2] See Securities Act Release No. 5856 (August 18, 1977) in which the Commission emphasized its view that the existing reporting provisions under the Federal securities laws require registrants to include within the remuneration reported all forms of remuneration which are received by management from the corporation, including personal benefits sometimes referred to as "perquisites."

The Commission has designated Richard H. Rowe, Stanley Sporkin, Mary E. T. Beach, and Barbara L. Leventhal as hearing officers of the Commission. The Commission will issue orders designating additional hearing officers as necessary.

The hearings will be conducted for the Commission by the Division of Corporation Finance. Barbara L. Leventhal will act as chief hearing counsel for the Division of Corporation Finance in connection with these hearings.

Interested persons are invited to submit their views on the foregoing questions in writing at any time. Written submissions should be made in triplicate to George Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549. Such communications should refer to File No. S7–693.

This public rulemaking proceeding has been ordered by the Commission pursuant to Sections 14(a), 21(a), 22 and 23(a) of the Securities Exchange Act of 1934 and Rule 4(b) of the Commission's Rules of Practice.

(Secs. 14(a), 21(a), 22, 23(a), 48 Stat. 895, 899, 901; sec. 203(a), 49 Stat. 704; sec. 8, 49 Stat. 1379; sec. 5, 78 Stat. 569, 570; sec. 18, 89 Stat. 155; 15 U.S.C. 78n(a), 78n(a), 78v, 78w (a).)

By the Commission.

AUGUST 29, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26018 Filed 9-6-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #1361]

IDAHO

Declaration of Disaster Loan Area

Adams County and adjacent counties within the State of Idaho, constitute a disaster area as a result of drought. The survey reflected damage to wells and severe crop losses during the 1976 crop year and continuing into the 1977 crop year. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 24, 1977, and for economic injury until the close of business on May 22, 1978, at:

Small Business Administration, District Office, 1005 Main St., Boise, Idaho 83702.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 23, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-25914 Filed 9-6-77;8:45 am]

[Declaration of Disaster Loan Area #1365]

IOWA

Declaration of Disaster Loan Area

The following 51 counties and adjacent Counties within the State of Iowa, constitute a disaster area as a result of drought which caused severe crop losses during the 1976 crop year, and continuing into the 1977 crop year:

Adair	Lucas
Adams	Madison
Appanoose	Mahaska
Audubon	Marion
Benton	Marshall
Boone	Mills
Calhoun	Monroe
Carroll	Montgomery
Cass	Page
Clarke	Polk
Crawford	Pottawattamie
Dallas	Poweshiek
Davis	Ringgold
Decatur	Shelby
Fremont	Story
Greene	Tama
Guthrie	Taylor
Hamilton	Union
Hardin	Van Buren
Henry	Wapello
Iowa	Warren
Jasper	Washington
Jefferson	Wayne
Keokuk	Webster
Lee	Wright
Linn	

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 24, 1977, and for economic injury until the close of business on May 22, 1978, at:

Small Business Administration, District Office, 210 Walnut St., Des Moines, Iowa 50309.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 23, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-25919 Filed 9-6-77;8:45 am]

[Declaration of Disaster Loan Area # 1355 Amdt 1]

NORTH CAROLINA

Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 41687) is amended by adding Cumberland, Columbus and Wilkes Counties and adjacent counties within the State of North Carolina. All other information remains the same.

Dated: August 25, 1977.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc.77-25916 Filed 9-6-77;8:45 am]

[Declaration of Disaster Loan Area No. 1288; Amdt. 2]

VIRGINIA

Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 8253), and Amendment No. 1 (See 42 FR 18680) are further amended to reinstitute Disaster No. 1288 by extending the filing date for physical damage until the close of business on September 30, 1977, and for economic injury until the close of business on March 30, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 23, 1977.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc.77-25917 Filed 9-6-77;8:45 am]

[Declaration of Disaster Loan Area No. 1312; Amdt. 5]

VIRGINIA

Declaration of Disaster Loan Area

The above numbered Declaration and Amendments thereto (see 42 FR 20695, 21887, 23220, 30459, and 32604) are further amended by extending the filing dates for applications for loans for physical damage until the close of business on September 30, 1977, and for economic injury until the close of business on May 1, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 18, 1977.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc.77-25918 Filed 9-6-77;8:45 am]

[Declaration of Disaster Loan Area No. 1364]

VIRGINIA

Declaration of Disaster Loan Area

The following 50 counties and adjacent counties within the State of Virginia constitute a disaster area as a result of drought, which caused severe crop losses during the 1976 crop year and continuing into the 1977 crop year:

Accomack	James City
Albemarle	King and Queen
Amelia	King George
Appomattox	King William
Augusta	Lancaster
Bath	Louisa
Brunswick	Madison
Buckingham	Mathews
Caroline	Middlesex
Charles City	Nelson
Chesterfield	New Kent
Clarke	Northampton
Culpeper	Orange
Cumberland	Page
Dinwiddie	Powhatan
Fauquier	Prince George
Essex	Prince William
Fluvanna	Rappahannock
Frederick	Richmond
Gloucester	Rockbridge
Goochland	Rockingham
Greene	Shenandoah
Hanover	Spotsylvania
Henrico	Stafford
Highland	Warren

Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on October 28, 1977 and for economic injury until the close of business on May 29, 1978, at:

Small Business Administration, District Office, Federal Building, Room 3015, 400 North Eighth St., Richmond, Va. 23240.

or other locally announced locations.

(Catalog of Federal Domestic Assistant Program Nos. 59002 and 59008.)

A. VERNON WEAVER,
Administrator.

[FR Doc.77-25919 Filed 9-6-77;8:45 am]

[Declaration of Disaster Loan Area No. 1313; Amdt. 4]

WEST VIRGINIA

Declaration of Disaster Loan Area

The above numbered Declaration and Amendments thereto (see 42 FR 20695, 21887, 30460 and 31858) are amended by extending the filing date for applications for loans for physical damage until the close of business on September 30, 1977, and for economic injury until the close of business on May 1, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 18, 1977.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc.77-25920 Filed 9-6-77;8:45 am]

[Declaration of Disaster Loan Area No. 1363]

WISCONSIN

Declaration of Disaster Loan Area

The Counties of Barron, Chippewa and Rusk and adjacent counties within the State of Wisconsin, constitute a disaster area because of physical damage resulting from tornadoes which occurred on July 30, 1977. Eligible persons, firms and organization may file applications for loans for physical damage until the close of businesses on October 24, 1977, and for economic injury until May 22, 1978, at:

Small Business Administration, District Office, 122 West Washington Ave., Room 700, Madison, Wis. 53703.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 23, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-25921 Filed 9-6-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[No. 473]

ASSIGNMENT OF HEARINGS

SEPTEMBER 1, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but increased parties should take appropriate steps to insure that they are notified

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of cancellation or postponements of hearings in which they are interested.

MC 142978 W. L. Davis, Inc., now being assigned November 8, 1977 (1 day) for hearing at Omaha, Nebr., in a hearing room to be later designated.

MC 124211 Sub No. 284 Hilt Truck Line, Inc., now being assigned November 9, 1977 (3 days) for hearing at Omaha, Nebr., in a hearing room to be later designated.

MC 107012 Sub No. 232 North American Van Lines, Inc., now being assigned November 14, 1977 (1 week) for hearing in Omaha, Nebr., in a hearing room to be later designated.

MC 102567 Sub 194, McNair Transport, Inc., MC116077 Sub No. 382, Robertson Tank Lines, Inc. and MC 121496 Sub No. 3, Caugo Corp. now being assigned November 28, 1977 (9 days) at Houston, Tex., in a hearing room to be later designated.

MC 125808 (Sub-No. 1), AAACON, Auto Transport, Inc.—Petition Seeking Modification of Permit (Certification), now assigned September 26, 1977, at New York, N.Y., will be held in the Tax Court, Room A-238, 26 Federal Plaza.

No. 36583, Oklahoma Intrastate Freight Rates and Charges—1977, now assigned October 12, 1977, at Oklahoma City, Okla., will be held at the Bankruptcy Court, Room 4214, Federal Building, 215 NW. 4th St.

MC 134035 (Sub-No. 18), Douglas Trucking Co., now assigned October 17, 1977, at Dallas, Tex., will be held in Room 5A15–17, Federal Building, 1100 Commerce St.

MC 119988 (Sub-No. 106), Great Western Trucking Co., Inc., now assigned October 18, 1977, at Dallas, Tex., will be held in Room 5A15–17, Federal Building, 1100 Commerce St.

MC 126421 (Sub-No. 7), Gypsum Transport, Inc., now assigned October 19, 1977, at Dallas, Tex., will be held in Room 5A15–17, Federal Building, 1100 Commerce St.

MC 83835 (Sub-No. 140), Wales Transportation, Inc., now assigned October 20, 1977, at Dallas, Tex., will be held in Room 5A15–17, Federal Building, 1100 Commerce St.

MC 128273 (Sub-No. 263), Midwestern Distribution, Inc., now assigned October 21, 1977, at Dallas, Tex., will be held in Room 5A15–17, Federal Building, 1100 Commerce St.

MC–F–13116 Gra-Bell Truck Line, Inc.—Purchase (Portion)—Great Lakes Express Co., MC–F–13096 Herriott Trucking Co., Inc.—Purchase—(Portion)—Great Lakes Express Co., MC–F–13100 The Cleveland, Columbus & Cincinnati Highway, Inc.—Purchase (Portion)—Great Lakes Express Co., MC–F–13101 Red Star Express Lines of Auburn, Inc., d.b.a. Red Star Express Lines—Purchase (Portion)—Great Lakes Express Co., MC–F–13102 Maiers Motor Freight Co.—Purchase (Portion)—Great Lakes Express Co., MC–F–13103 United Trucking Service, Inc.—Purchase—(Portion)—Great Lakes Express Co., MC–F–13106 Branch Motor Express Co.—Control—Great Lakes Express Co., MC–F–13233 Arkansas Best Freight—Purchase (Portion)—Great Lakes Express Co., now being assigned October 11, 1977 for prehearing conference at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 98052 (Sub-No. 39), General Transfer Co., now assigned September 20, 1977, at Springfield, Ill., will be held at the Leland Building, 527 East Capitol.

MC–F–12718 Flamingo Transportation, Inc.—Control—Tarpon Transportation, Inc. is postponed indefinitely.

MC 142532 Sub 1, Sunshine Cartage Corp., now being assigned November 28, 1977 (1 week) at Miami, Fla., in a hearing room to be later designated.

MC 127810 (Sub-No. 3), Sherman & Boddie, Inc., now assigned September 15, 1977, at Washington, D.C., is canceled and application dismissed.

MC 100666 (Sub-No. 341), Melton Truck Lines, Inc., now assigned September 12, 1977, at Memphis, Tenn., is canceled and application dismissed.

MC 58923 Sub No. 45 Georgia Highway Express, Inc., now being assigned November 29, 1977 (9 days) for hearing in Atlanta, Ga., in a hearing room to be later designated

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc 77-25978 Filed 9-6-77;8:45 am]

[No. 474]

ASSIGNMENT OF HEARINGS

September 1, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

Correction [1]

MC 82492 (Sub-No. 145), Michigan & Nebraska Transit Co., Inc., now being assigned October 27, 1977, for prehearing conference at Interstate Commerce Commission, Washington, D.C.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc 77-25979 Filed 9-6-77;8:45 am]

EASTERN RAILROAD "YO-YO" FILINGS

September 1, 1977.

On August 31, 1977, the Eastern Railroads filed with the Interstate Commerce Commission tariffs proposing to increase by 7 percent the rates on various commodities. The railroads have notified the Commission of their desire that the increases be considered pursuant to sections 15(8) (b) and 15(8) (c) of the Interstate Commerce Act. Sections 15(8) (b) and 15(8) (c), commonly referred to as the "Yo-Yo" provisions, allow the railroads, under certain conditions, to increase by 7 percent or decrease by 7 percent their rates on selective commodities. The text of these sections is set forth as an appendix. The docket numbers assigned to the proposals and the commodities involved in the proposed adjustment are as follows:

No. 36670—Glass Containers—Eastern, Territory—7 Percent Yo-Yo, Increase, 1977.
No. 36671—Metal Closures—Eastern Territory—7 Percent Yo-Yo Increase, 1977.
No. 36672—Fresh Meat, Packing House Products—Eastern Territory—7 Percent Yo-Yo Increase, 1977.
No. 36673—Sewer Pipe Joint Compounds—Eastern Territory—7 Percent Yo-Yo Increase, 1977.
No. 36674—Moisture or Condensation Pipe Line Coating—Eastern Territory—7 Percent, Yo-Yo Increase, 1977.
No. 36675—Floor Sweeping Compounds-Eastern Territory-7 Percent Yo-Yo Increase, 1977.
No. 36676—Coal or Coal Briquettes-Eastern Territory-7 Percent Yo-Yo Increase, 1977.
No. 36677—Wood Chips-Eastern Territory-7 Percent Yo-Yo Increase, 1977.
No. 36678—Asphalt Additive, Paving and Paving Joint Compounds-Eastern Territory-7 Percent Yo-Yo Increase, 1977.
No. 36679—Pulpwood-Eastern Territory-7 Percent Yo-Yo Increase, 1977.
No. 36680—Butter Fat, Butter Grease-Eastern Territory-7 Percent Yo-Yo Increase, 1977.
No. 36681—Carpets-Eastern Territory-7 Percent Yo-Yo Increase, 1977.

Copies of the railroads' justification statements in support of each of the proposed increases may be obtained from the carriers by writing directly to:

Mr. Charles L. Smith, Chairman, TEA-Eastern Railroads, Two Pennsylvania Plaza, New York, N.Y. 10001.

For convenience of the public, copies of the justification statements may be examined at the following locations in the Interstate Commerce Commission Building at 12th and Constitution Avenue, NW., Washington, D.C. 20423:

Public Docket Room, Room 1221.
Section of Tariffs, Room 4331.
Public Information Office, Room 1211.

Appendix

SECTION 15(8) (b)
SECTION 15(8) (c)

"(b) Pending a hearing pursuant to subdivision (a), the schedule may be suspended, pursuant to subdivision (d), for 7 months beyond the time when it would otherwise go into effect, or for 10 months if the Commission makes a report to Congress pursuant to subdivision (a), except under the following conditions:

"(i) In the case of a rate increase a rate may not be suspended on the ground that it exceeds a just and reasonable level if the rate is within a limit specified in subdivision (c), except that such a rate change may be suspended under any provision of section 2, 3, or 4 of this part or, following promulgation of standards and procedures under section 1 (5) (d) of this part, if the carrier is found to have market dominance, within the meaning of section 1(5) (c) (1) of this part, over the service to which such rate increase applies; or

"(ii) In the case of a rate decrease, a rate may not be suspended on the ground that it is below a just and reasonable level if the rate is within a limit specified in subdivision (c), except that such a rate change may be suspended under any provision of section 2, 3, or 4 of this part, or for the purposes of investigating such rate change upon a complaint that such rate change constitutes a competitive practice which is unfair, destructive, predatory or otherwise undermines competition which is necessary in the public interest.

"(c) The limitations upon the Commission's power to suspend rate changes set forth in subdivisions (b) (i) and (ii) apply only to rate changes which are not of general applicability to all or substantially all classes of traffic and only if—

"(i) the rate increase or decrease is filed within 2 years after the date of enactment of this subdivision;

"(ii) the common carrier by railroad notifies the Commission that it wishes to have the rate considered pursuant to this subdivision;

"(iii) the aggregate of increases or decreases in any rate filed pursuant to clauses (i) and (ii) of this subdivision within the first 365 days following such date of enactment is not more than 7 per centum of the rate in effect on January 1, 1976; and

"(iv) the aggregate of the increases or decreases for any rate filed pursuant to clauses (i) and (ii) of this subdivision within the second 365-day period following such date of enactment is not more than 7 per centum of the rate in effect on January 1, 1977.

Verified complaints by concerned persons, to be considered by the Commission in evaluating the "Yo-Yo" filings, must be filed on or before September 19, 1977. The verified complaint should make reference to the "Yo-Yo" Filing and be addressed to:

Suspension and Fourth Section Board, Room 4336, Interstate Commerce Commission, 12th & Constitution Avenue NW., Washington, D.C. 20423

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-25980 Filed 9-6-77;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

September 1, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before September 22, 1977.

FSA No. 43422—*Anhydrous Ammonia from Rose Bluff, La.* Filed by Southwestern Freight Bureau, Agent (No. B–702), for interested rail carriers. Rates on anhydrous ammonia, in tank car loads, as described in the application, from Rose Bluff, La., to Sheffield, Ala., Rexburg, Miss., Memphis, Tenn., and points in Florida.

Grounds for relief—Market competition.

Tariff—Supplement 93 to Southwestern Freight Bureau, Agent, tariff 273–G, I.C.C. No. 5188. Rates are published to become effective on October 1, 1977.

Aggregate-of-Intermediates

FSA No. 43423—*Anhydrous Ammonia from Rose Bluff, La.* Filed by Southwestern Freight Bureau, Agent (No. B–703), for interested rail carriers. Rates on anhydrous ammonia, in tank car loads, as described in the application, from Rose Bluff, La., to Rexburg, Miss., and Memphis, Tenn.

Grounds for relief—Maintenance of depressed rates published to meet market competition without use of such rates as factors in constructing combination rates.

Tariff—Supplement 93 to Southwestern Freight Bureau, Agent, tariff 273–D, I.C.C. No. 5188. Rates are published to become effective on October 1, 1977.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-25975 Filed 9-6-77;8:45 am]

September 6, 1977.

[Notice No. 217]

MOTOR CARRIER TRANSFER PROCEEDINGS

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC–FC 77279. By application filed August 23, 1977, DICK IRVIN, INC., 218 12th Ave. N., Shelby, Mont. 59474, seeks temporary authority to transfer the operating rights of Robert Schmidt Trucking, Ltd., Box 356, Manning Alberta, Canada, under section 210a(b). The transfer to Dick Irvin, Inc., of the operating rights of Robert Schmidt Trucking, Ltd., is presently pending.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-25976 Filed 9-6-77;8:45 am]

[Notice No. 218]

MOTOR CARRIER TRANSFER PROCEEDINGS

September 6, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC–FC 77280. By application filed August 23, 1977, WABASH VALLEY VAN & STORAGE CO., INC., d.b.a. ACME VAN & STORAGE, 115 Shelby Street, Vincennes, Ind. 47591, seeks temporary authority to transfer the operating rights of Robert O. Michels and Jerry D. Flynn, a partnership, d.b.a. Acme Van & Storage Co., 2237 Locust Street, Terre Haute, Ind., 47807, under section 210a (b). The transfer to Wabash Valley Van & Storage Co., Inc., d.b.a. Acme Van & Storage of the operating rights of Robert O. Michels and Perry D. Flynn, a partnership, d.b.a. Acme Van & Storage Co., is presently pending.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-25977 Filed 9-6-77;8:45 am]

REVISION OF RAILROAD COST METHODOLOGY

Public Meetings

August 30, 1977.

Section 307 of the Regulatory Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94–210; 90 Stat. 55) amends section 20(3) of the Interstate Commerce Act (49 U.S.C. 20(3)) to require the prescription of a new uniform cost and revenue accounting and reporting system for railroads. The required regulations and procedures were issued by the Commission on June 24, 1977, in No. 36367, Revision to the Uniform System of Accounts for Railroads. Published at 42 FR, July 7, 1977, page 35016.

In addition, amended section 20(3) (b) indicates that the prescribed cost accounts are to be used in determining fixed and variable costs and in assigning such costs to various functions, services or activities. To aid in such use, the Bureau of Accounts is revising its methodology for finding the costs of railroad services.

Professional consultants (Haskins & Sells, and Peat, Marwick, Mitchell & Co.) have been hired to provide recommendations to the Bureau on this subject. They published an interim draft report of their conclusions on August 29, 1977. The Bureau will hold informal meetings concerning this report on September 15 and 16, 1977. Copies of the report may be obtained from the Bureau's Section of Cost and Valuation by persons who will attend the meetings.

The meeting on September 15 will be held in Room 6381 of the Interstate Commerce Commission Building, Washington, D.C., beginning at 9 a.m. This meeting will be an all-day work session dealing with technical questions concerning the use of statistical analysis in the proposed rail cost methodology. The emphasis will be on determining variable and constant costs and on the feasibility of assigning expenses to services by the use of regression analysis.

The meeting on September 16 will be held in Room 6373 beginning at 9 a.m. and is also expected to continue all day. It will include an explanation of the cost methodology concept, a status report on work accomplished, and a report on work in progress.

Both sessions are open to all interested persons. In order that adequate seating accommodations can be assured, those expecting to attend are requested to notify, Walter D. Vliet, 202–275–6175 on or before September 12, 1977.

Notice of these informal meetings shall be given to the general public by the deposit of a copy of this Notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by the delivery of a copy of the Notice to the Director, Office of the Federal Register, for publication in the Federal Register.

Bryan Brown, Jr.,
Acting Director.

[FR Doc.77-25974 Filed 9-6-77;8:45 am]

[1] This notice corrects the proceeding from hearing to prehearing conference.

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD.

[M-50]

AUGUST 31, 1977.

TIME AND DATE: 10 a.m.; September 8, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Request by Braniff Airways, Inc. for a waiver from the requirements of section 221.771 (Memo No. 7372, BE, BAS).

2. Docket 29123, IATA agreements affecting North/Central and South Pacific air fares (Memo No. 7386 BFR, BIA)

3. Dockets 31271 and 31283, Mainland-Hawaii general fare increase proposed by United and Continental (BFR).

4. General Fare increase proposed by Eastern (BFR).

5. Dockets 31253 and 31264, Mainland-Hawaii discount fare revisions by United (BFR).

6. Request of Alaska Airlines, Inc. on Behalf of Three Officers, for Waiver of Rules on Security Transactions (Memo No. 5755-F, BFR).

7. Docket 30859, Petition of Evergreen International Airlines, Inc. for Modification of Existing Part 288 Regulations pertaining to DC-9 Logair Rates (Memo No. 7383, BFR).

8. Dockets 30487; and 30673, Additional Nonstop Service between St. Louis and San Francisco/Oakland/San Jose; and new or improved air service in the Louisville-St. Louis/San Francisco markets. (Memo No. 7370, BOR, OGC, BLJ).

9. Docket 30387, TWA's application for San Diego-Kansas City/St. Louis nonstop authority (Memo No. 7374, BOR, OGC).

10. Docket 30132, Northwests' Motion for Issuance of an Order To Show Cause why the existing single-plane restriction in its Milwaukee-California markets should not be removed (Memo No. 7388, BOR).

11. United Air Lines' Transaction Agreement UA-106 (No. 24, filed August 18, 1977) Memo No. 6862-B, BOR, BAS, OGC).

12. Docket 30698, Mairsk Air I/S, Application for Renewal of Foreign Air Carrier Permit (Memo No. 5184-D, BOR, BIA).

13. Dockets 30821, 30893 and 30894, Petitions for Stay of Order 77-7-64 Pending Appeal (Memo No. 7251-A, BOR, OGC).

14. Dockets 30510, 30511, 30512, 30693, 30694, 30711, 30741, 30725, and 30726, Petition for reconsideration of Order 77-7-147 (Memo No. 7298-A, BOR, OGC).

15. Docket 19176, Petition of Transamerica Corp. and Trans International Airlines for prior approval of dividend payment (Memo No. 5787-B, BOR, BAS).

16. Report of the Ad Hoc Committee on Financial Security Aspects of the Board's Charter Regulations and Comments of Chairman Kahn requesting staff views. (For Information Memo dated 8-17-77, BOR).

17. Final rule on new Part 313 Implementation of the Energy Policy and Conservation Act (Memo No. 6647-A OGC).

18. Final rule to amend Part 241 of the Economic Regulations with affiliates and nontransport divisions (Memo No. 7082-A, OGC, BAS, BOR, BOE).

19. Docket 25476, Agreement to Reorganize Airline Tariff Publishers, Inc., revised draft order granting petitions for review of supplemental initial decision. (Memo No. 3736-F, OGC).

20. Civil Penalty Legislation; Comments of the Administrative Conference (Memo No. 7376, BOE).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-1243-77 Filed 9-2-77;9:15 am]

2

CIVIL AERONAUTICS BOARD

[M-49]

AUGUST 31, 1977.

TIME AND DATE: 10 a.m., September 7, 1977.

PLACE: Room 1027, 1825 Connecticut Ave. NW., Washington, D.C. 20428.

SUBJECT: Oral Argument, Dockets 31232, 31234, 31235, 31246, 31247, 31285 and 31305, Complaints of National Air Carrier Association, Brendan Tours, Inc., Charter Travel Corp., The Educational Cooperative, and Laker Airways Limited against Tariffs of Pan American World Airways, Inc., Trans World Airlines, Inc., British Airways, and Air India Proposing Stand-by, Budget, and Super-Apex Fares Over the North Atlantic; and Docket 29123, Agreement Adopted by the Traffic Conferences of the International Air Transport Association Relating to North Atlantic Passenger Fares Agreement C.A.B. 26858, R-1 through R-5.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

[S-1244-77 Filed 9-2-77;9:15 am]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., September 9, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1236-77 Filed 9-1-77;2:35 pm]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., September 7, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Judicial Matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1237 Filed 9-1-77;2:29 pm]

5

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 44622, September 6, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: September 6, 1977, 10 a.m.

CHANGES IN THE MEETING: Meeting is canceled.

[S-1241-77 Filed 9-1-77;3:50 pm]

6

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 44328 (S-1217-77).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (Eastern Time), Tuesday, September 6, 1977.

CHANGE IN THE MEETING: The meeting is postponed until further notice. A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission requires this change and that no earlier announcement was possible.

The vote was as follows:

In favor of change: Eleanor Holmes Norton, Chair; Ethel Bent Walsh, Commissioner; Daniel E. Leach, Commissioner.
Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

This Notice Issued September 1, 1977.

[S-1246-77 Filed 9-2-77;9:45 am]

7

FEDERAL ELECTION COMMISSION.

TIME AND DATE: 10 a.m., Thursday, September 8, 1977.

PLACE: 1325 K St. NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed to the public.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC

I. Future meetings—dates will be set.
II. Correction and approval of minutes—August 18, August 25.
III. Appropriations and budget—Report of the Budget Task Force concerning proposed fiscal year 1979 Budget for consideration and action by the Commission.
IV. Report from the Task Force on Independent Expenditures.
V. Proposed allocation formula for party committees to allocate between Federal and non-Federal accounts.
VI. Code of ethics.
VII. Office accounts.
VIII. Pending legislation.
IX. Presidential reorganization project.
X. Liaison with other Federal agencies.
XI. Pending litigation.
XII. Routine administrative matters—distribution of agenda items.

PORTIONS CLOSED TO THE PUBLIC (EXECUTIVE SESSION)

Audit matters. Compliance. Personnel.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, press officer, telephone: 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-1238-77 Filed 9-1-77;2:35 pm]

8

FEDERAL POWER COMMISSION.

SEPTEMBER 1, 1977.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 8552B:

AGENCY HOLDING MEETING: Federal Power Commission.

TIME AND DATE: 10 a.m. (continued) September 8, 1977. 10 a.m., September 9, 1977.

PLACE: 825 North Capitol St.

STATUS: Open.

MATTERS TO BE CONSIDERED (Agenda). Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information room 1000.

GAS AGENDA
7672ND MEETING—SEPTEMBER 8, 1977
REGULAR MEETING—PART I
(10 A.M.)

G-I—Docket No. RP77-103, Algonquin Gas Transmission Co.
G-2—Docket No. RP73-43 (PGA77-3), Mid Louisiana Gas Co.
G-3—Docket No. RP77-109, Northwest Pipeline Corp.
G-4—Docket No. RP75-102, Panhandle Eastern Pipeline Co.
G-5—Docket No. RP74-100 (PGA76-2), National Fuel Gas Supply Corp. Docket No. RP76-101, National Gas Supply Corp.
G-6—Docket No. RP72-6, El Paso Natural Gas Co.
G-7—Docket No. RI76-22, Damson Oil Corp. (Operator), et al.
G-8—Docket No. RI73-60 (Phase III), Mitchell Energy Corp.
G-9—Docket No. RI77-48, Elms Brothers and Co.
G-10—Docket No. RI77-87, North American Royalties Inc.
G-11—Docket No. RI77-35, Dixie Well Service, Inc.
G-12—Docket No. RI77-37, Great Southern Oil & Gas Co.
Russell.
G-14—Docket No. RI77-19, Texas Energies, Inc.
G-15—Docket No. RI77-71, N. C. Ginther, et al.
G-16—Docket No. RI77-98, Infill Wells drilled pursuant to New Mexico Oil Conservation Commission Order No. R-1670-T.
G-17—Docket Nos. AR61-2 and AR 69-1, et al., area rate proceeding, et al. (Southern Louisiana area).
G-18—Docket No. CI77-306, Transco Exploration Co.
G-19—Docket Nos. CI75-191 and CI75-489, Cities Service Oil Co. Docket Nos. CI75-205 and CI75-479, Continental Oil Co.
G-20—Docket No. CI76-743, Ladd Petroleum Corp.
G-21—Docket Nos. G-8820, et al., Texaco Inc., et al. Docket No. CI77-222, Exxon Corp.
G-22—Docket No. CI77-119, Cities Service Oil Co.
G-23—Docket No. CI77-500, Hunt Oil Co.
G-24—Docket No. CI76-597, Producer's Gas Co.
G-25—Docket No. CS71-576, Alfred D. McKelvy.
G-26—Docket No. CP76-424, Kentucky West Virginia Gas Co.
G-27—Docket No. CP74-192, Florida Gas Transmission Co.
G-28—Docket No. CP76-517, Natural Gas Pipeline Co. of America.
G-29—Docket No. CP76-511, Natural Gas Pipeline Co. of America.
G-30—Docket No. CP76-85, et al., Algonquin Gas Transmission Co., et al.
G-31—Docket No. CP77-216, Distrigas of Massachusetts Corp. Docket Nos. CP77-217 and CP7-218, Distrigas Corp.
G-32—Docket No. CP71-68, et al., Columbia LNG Corp., et al. Docket No. CP77-416. Texas Eastern Transmission Corp. Docket No. CP71-290, Consolidated System LNG Co.
G-33—Docket Nos. CP77-448 and CP77-449, Natural Gas Pipeline Company of America and NGP-LNG, Inc.
G-34—Docket Nos. CP77-56, CP77-117 and RP76-163, Baca Gas Gathering System, Inc. Docket No. CP77-91, Panhandle Eastern Pipe Line Co.
G-35—Docket No. CP77-267, Mid Louisiana Gas Co., and Transcontinental Gas Pipe Line Corp.
G-36—Docket No. CP77-13, Transwestern Pipeline Co.
G-37—Section 157.7: Budget Facilities.
G-38—Docket No. CP77-398, Columbia Gas Transmission Corp.
G-39—Docket No. CP77-454, Florida Gas Transmission Co.
G-40—Docket No. CP77-452, Transcontinental Gas Pipe Line Corp. Docket Nos. CP77-466, CP77-467 and CP77-468, United Gas Pipe Line Co.
G-41—Docket No. CP76-537, Michigan Wisconsin Pipe Line Co.
G-42—Docket No. CP73-30, Lone Star Gas Co., a division of Enserch Corp.
G-43—(A) Docket No. CP77-397, Northern Natural Gas Co. (B) Docket No. CP77-39, Iowa Power and Light Co.
G-44—Docket No. CP77-264, Transcontinental Gas Pipe Line Corp. and United Gas Pipe Line Co.
G-45—Docket Nos. CP77-369 and CP77-370, Transcontinental Gas Pipe Line Corp.
G-46—Docket No. CP77-425, Algonquin Gas Transmission Co.
G-47—Docket No. CP77-440, Sea Robin Pipeline Co.
G-48—Docket No. CP77-376, Cities Service Gas Co.
G-49—Docket No. CP74-213, Michigan Wisconsin Pipe Line Co.
G-50—Docket No. G-3072, Exxon Corp.
G-51—Docket No. CP72-136, City of St. Joseph, Tenn., applicant, Texas Eastern Transmission Corp., respondent.
G-52—Docket No. CP68-296, United Cities Gas Co., applicant, East Tennessee Natural Gas Co., respondent.
G-53—Docket No. CP77-413, Algonquin LNG Inc., and Algonquin Gas Transmission Co.
G-54—Docket No. CP77-193, Northern Natural Gas Co.
G-55—Docket No. CP77-445, Colorado Interstate Gas Co., Docket No. CP77-455, El

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Paso Natural Gas Co., Docket No. CP77-457, Northwest Pipeline Corp., Docket No. CP77-462, Transwestern Pipeline Co.

G-56—Docket No. CP76-346, Northern Natural Gas Co.

G-57—Docket No. CP76-464, Equitable Gas Co.

G-58—Docket No. CP77-474, Columbia Gulf Transmission Co., Tennessee Gas Pipeline Co., a division of Tenneco Inc.

G-59—Docket No. CP77-463, Trunkline Gas Co.

G-60—Docket No. CP77-438 (R-386), Columbia Gulf Transmission Co., Northern Natural Gas Co., Tennessee Gas Pipeline Co. and Trunkline Gas Co.

G-61—Docket No. CP76-107, Transwestern Pipeline Co.

G-62—Docket No. CP75-147, Natural Gas Pipeline Co. of America.

G-63—Docket No. CP76-52, Northern Natural Gas Co. Docket No. CP76-166, Northern Natural Gas Co., operating as Peoples Natural Gas Division—Operator.

G-64—Docket No. CP76-492, National Fuel Gas Supply Corp.

GAS AGENDA

7672ND MEETING—SEPTEMBER 8, 1977

REGULAR MEETING—PART II

CG-1—Docket No. RP73-65 (PGA No. 77-4), Columbia Gas Transmission Corp.

CG-2—Docket No. CP73-329 (PGA77-5), Chattanooga Gas Co.

CG-3—Docket No. RP73-113, Tennessee Gas Pipeline Co.

CG-4—South Texas Natural Gas Gathering Co.

CG-5—Docket No. RP72-133, United Gas Pipe Line Co.

CG-6—Docket No. CP77-420, Colorado Interstate Gas Co.

CG-7—Docket No. CP75-71, Natural Gas Pipeline Co. of America and Transwestern Pipeline Co.

CG-8—Docket No. CP68-75, Northern Natural Gas Co.

CG-9—Docket No. CP77-501, Arkansas Louisiana Gas Co.

CG-10—Docket No. CP77-505, Texas Gas Transmission Corp.

CG-11—(A) Docket No. CP77-483, Mississippi River Transmission Corp. (B) Docket No. CP77-484, Mississippi River Transmission Corp.

CG-12—(A) Docket No. CP77-490, Western Gas Interstate Co. (B) Docket No. CP77-491, Western Gas Interstate Co.

CG-13—Docket No. CP77-500, Michigan Gas Storage Co.

CG-14—Docket No. CP77-471, El Paso Natural Gas Co.

CG-15—Docket No. CP77-493, Mississippi River Transmission Corp.

CG-16—Docket Nos. G-12972, et al., Sun Oil Co., et al.

CG-17—Docket No. RP77-62, Tennessee Gas Pipeline Co., a division of Tenneco Inc.

CG-18—Docket No. CP76-462, *Southern Union Gas Co.*, applicant v. *Cities Gas Co.*, respondent. Docket No. CP77-77, *Southern Union Gas Co.*, applicant v. *Northern Natural Gas Co.*, respondent. Docket No. CP77-220, Western Gas Interstate Co.

CG-19—Docket No. CP77-330, et al., El Paso Eastern Co., et al.

CG-20—Docket No. RP75-79, *Lehigh Portland Cement Co.* v. *Florida Gas Transmission Co.*

MISCELLANEOUS AGENDA

7672ND MEETING—SEPTEMBER 8, 1977

REGULAR MEETING—PART I

M-1—Docket No. RM-76-13, the need for site selection and facility operation criteria for liquefied natural gas importation and storage terminals.

M-2—Docket No. RM74-16, Natural Gas Companies' annual report of proved domestic gas reserves: FPC Form No. 40.

M-3—Docket No. R-406, purchased gas adjustment provision in Natural Gas Pipeline Companies' FPC gas tariff.

M-4—Docket No. CP-75-96, et al., El Paso Alaska Co., et al. Docket No. RM77-6, order providing for suspension of proceedings and prescribing procedures pursuant to the provisions of the Alaska Natural Gas Transportation Act of 1976.

M-5—Seventh annual report on liquefied natural gas applications.

M-6—H.R. 5878, "A bill, to provide for a feasibility study on establishing price, allocation, and export controls on coal, natural gas, and certain other energy sources."

M-7—H.R. 2507—95th Congress, "To regulate commerce by assuring adequate supplies of energy resource products will be available at the lowest possible cost to the consumer, and for other purposes."

M-8—H.R. 8427—95th Congress, "to amend the Natural Gas Act to provide certain limitations on gas curtailment plans."

M-9—Justice Department Position re competitive practices of pipelines under "Outer Continental Shelf Lands Act Amendments of 1977." (H.R. 1614)—95th Congress.

M-10—Docket No. , implementation of the Metric Conversion Act of 1975, PL 94-168: Use of the international system of units in reporting data to the Federal Power Commission.

M-11—Proposed executive order "Logging of outside contracts."

M-12—H.R. 1907 and S. 1671, wilderness designation in the Custer and Gallatin National Forests, Wyoming and Montana.

M-13—H.R. 8793—95th Congress, a bill "To improve the Nation's energy resources by the establishment of a national power grid system."

MISCELLANEOUS AGENDA

7672ND MEETING—SEPTEMBER 8, 1977

REGULAR MEETING—PART II

CM-1—The Iditarod Trail and other Alaskan gold rush trails.

CM-2—Dickey-Lincoln School Lakes Project, Saint John River, Maine.

CM-3—Illinois River, Oregon.

CM-4—Scioto subregion portion of the Ohio River Basin commission's comprehensive coordinated joint plan.

CM-5—Green Mountain Power Corp.

POWER AGENDA 7672ND MEETING—SEPTEMBER 8, 1977 REGULAR MEETING—PART I

P-1—Docket No. E-8176, Southern California Edison Co.

P-2—Docket No. ER77-549, Florida Power Corp. Docket No. ER77-550, Florida Power & Light Co. Docket No. ER77-516, Tampa Electric Co.

P-3—Docket No. ER76-40, Nevada Power Co.

P-4—Docket No. ER77-325, Appalachian Power Co.

P-5—Docket No. ER77-426, Appalachian Power Co.

P-6—Docket No. ER77-127, Oklahoma Gas & Electric Co.

P-7—Docket Nos. ER77-411, ER77-412, ER77-413, ER77-414, ER77-415 and ER77-416, Illinois Power Co.

P-8—Docket No. ER77-514, Central Power & Light Co.

P-9—Docket No. ER77-521, Arizona Public Service Co.

P-10—Docket No. ER76-285, Public Service Co. of New Hampshire.

P-11—Docket No. ER77-402, Philadelphia Electric Co.

P-12—Docket No. ER77-485, Carolina Power & Light Co.

P-13—Docket No. ER76-320, Connecticut Light & Power Co.

P-14—Docket No. ER77-522, Kansas City Power & Light Co.

P-15—Docket No. ER77-347, Wisconsin Power & Light Co.

P-16—Docket No. ER76-533, Central Vermont Public Service Corp.

P-17—Docket No. ER77-313, Union Light, Heat and Power Co.

P-18—Docket Nos. ER76-229, ER76-633, ER76-661, Central Louisiana Electric Co.

P-19—Docket No. E-7172, U.S. Department of the Interior, Southwestern Power Administration.

P-20—Docket Nos. E-7775, E-9101, E-9518, ER76-24, ER76-126, ER76-137, ER76-321 and E-9448, Appalachian Power Co.

P-21—Project No. 553, City of Seattle, Department of Lighting.

P-22—Project No. 5, Montana Power Co.

P-23—Project No. 2180, Owens-Illinois, Inc.

P-24—Project No. 2615, Central Maine Power Co., Scott Paper Co., Milstar Manufacturing Corp., and Kennebec River Pulp & Paper Co., Inc.

P-25—Project No. 1273, city of Parowan, Utah.

P-26—Project No. 2569, Niagara Mohawk Power Corp.

P-27—Project No. 2004, Holyoke Water Power Co.

P-28—Project No. 2735, Pacific Gas and Electric Co.

P-29—Project No. 2100, State of California, Department of Water Resources.

P-30—Project No. 2716—Virginia, Virginia Electric and Power Co.

P-31—Project No. 2570—Ohio & West Virginia, Ohio Power Co.

P-32—Project No. 362—Minnesota, Ford Motor Co.

P-33—Potential for hydroelectric development.

P-34—Project No. 2590, Consolidated Water Power Co.

POWER AGENDA, 7672ND MEETING—SEPTEMBER 8, 1977—REGULAR MEETING—PART II

CP-1—Docket No. ER77-459, Public Service Co. of New Mexico.

CP-2—Docket No. ER77-498, Iowa-Illinois Gas & Electric Co.

CP-3—Docket No. ER77-385, Pacific Power & Light Co.

CP-4—Docket No. ES77-50, Iowa Southern Utilities Co.

CP-5—Project No. 77, Pacific Gas & Electric Co.

CP-6—Project No. 2680, Consumers Power Co.

CP-7—Project No. 1961, Georgia Power Co.

CP-8—State Director, Bureau of Land Management, Denver, Colo. (C-24845).

CP-9—State Director, Bureau of Land Management, Denver, Colo. (C25602).

[S-1247-77 Filed 9-2-77;10:41 am]

9

FEDERAL RESERVE SYSTEM.

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10 a.m., Tuesday, September 13, 1977.

PLACE: 20th Street and Constitution Ave., NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed salary structure adjustments at the Federal Reserve Banks of Boston, Atlanta, and Kansas City.

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board: (202) 452-3204.

Dated: September 2, 1977.

[S-1248-77 Filed 9-2-77;11:18 am]

10

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 44110, September 1, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: September 8, 1977, 9:30 a.m. (NM-77-27).

CHANGE IN THE MEETING: The following agenda item, to be considered in closed session, has been added:

Discussion.—Proposed organization redesignation in the Bureau of Accident Investigation.

[S-1242-77 Filed 9-2-77;9:15 am]

11

POSTAL SERVICE.

The Committee on Postal Rates of the Board of Governors of the United States Postal Service, pursuant to the Bylaws of the Board (39 CFR 5.2, 7.5 (as amended, 42 FR 12862, 12863)) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 8:30 a.m. on Friday, September 9, 1977, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza SW., Washington, D.C. 20260. The meeting is open to the public. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at 202-245-4632.

The Committee will discuss the Recommended Decision of the Postal Rate Commission, No. MC77-2, concerning Postponement of the Effectiveness of Section 002.1 of the Domestic Mail Classification Schedule. This Committee meeting is to be held in anticipation of a meeting of the Board of Governors which is scheduled to commence at 9 a.m. on the same day. The Commission's Recommended Decision is on the agenda for the Board meeting.

ROGER P. CRAIG,
Assistant Secretary.

[S-1240-77 Filed 9-1-77;2:35 pm]

12

POSTAL SERVICE

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5 (as amended, 42 F.R. 12863)) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 9 a.m. on Friday, September 9, 1977, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza SW., Washington, D.C. 20260. The meeting is open to the public. The Board expects to discuss the matters stated in the Agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at 202-245-4632.

AGENDA

1. Minutes of the Previous Meeting.
2. Remarks of the Postmaster General.

(In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the occurence of a recent Congressional hearing, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)

3. Status Report on Rate and Classification Matters. (Mr. McCaffrey, Assistant Postmaster Postmaster General for Rates and Classification Department, will present a review of the current status of the postal rate and mail classification proceedings that are pending before the Postal Rate Commission.)

4. Status Report on Five-year Plan. (Mr. Biglin, Senior Assistant Postmaster General, Finance Group, will present this report.)

5. Postal Rate Commission Budget for Fiscal Year 1978. (Under the Postal Reorganization Act, the Postal Rate Commission periodically prepares and submits to the Postal Service a budget of the Commission's expenses. The budget is to be considered approved as submitted if the Governors of the Postal Service do not act to adjust it by unanimous written decision. This matter is included on the agenda to give the Governors an opportunity to act on the Commission's budget.)

6. Recommended Decision of the Postal Rate Commission on Postponement of the Effectiveness of Section 002.1 of the Domestic Mail Classification Schedule. (Mr. Cox, General Counsel, will present the Recommended Decision on Postponement of the Effectiveness of Section 002.1 of the Domestic Mail Classification Schedule.)

ROGER P. CRAIG,
Assistant Secretary.

[S-1239-77 Filed 9-1-77;2:35 pm]

13

SECURITIES AND EXCHANGE COMMISSION.

TIME AND DATE: September 6, 1977, 10 a.m.

PLACE: Room 825, 500 North Capitol St., Washington, D.C.

STATUS: Closed meeting.

SUBJECT MATTER: Freedom of Information Act matters.

Chairman Williams, Commissioners Loomis, Evans, and Pollack voted to close the meeting and determined that no earlier notice thereof was possible.

SEPTEMBER 2, 1977.

[S-1229-77 Filed 9-2-77;11:09 am]

14

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:30 a.m., Thursday, September 8, 1977.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

MATTERS TO BE CONSIDERED:

A—PERSONNEL ACTIONS

1. Change of Status—James P. Darling from Assistant Director to Director of Power Resource Planning, Chattanooga, Tenn.

B—CONSULTING AND PERSONAL SERVICE CONTRACTS

1. Renewal of consulting contract with Mine Reclamation Consultants, Inc., Laramie, Wyoming—Division of Forestry, Fisheries, and Wildlife Development.

2. Renewal of personal service contract with Teledyne Engineering Services (formerly Teledyne Materials Research), Waltham, Mass.—Office of Engineering Design and Construction.

3. Renewal of consulting contract with National Economic Research Associates, New York, N.Y.—Office of Power.

C—PURCHASE AWARDS

1. Req. No. 143789—Reheater and superheater outlet pendant assemblies for Gallatin Steam Plant.

2. Amendment to Contracts 66P-76-T1 and 67P-76-T2 with General Electric for nuclear fuel for Browns Ferry Nuclear Plant.

3. Req. No. 144096—Steam chests and accessories for Widows Creek Steam Plant.

4. Amendment to Contract 76K38-86163-1 and -3 with Atwood and Morrill Company, Incorporated, and BIF, A Unit of General Signal Corp., for motor-operated and manual valves for Bellefonte Nuclear Plant.

5. Amendment to Contracts 73P65-12293 and 75P65-6087-1 with General Electric Company, for nuclear fuel for Hartsville and proposed Phipps Bend Nuclear Plants.

6. Req. No. 821085—Partial reissue for condenser cooling water conduits for proposed Phipps Bend Nuclear Plant.

7. Req. No. 821984—Butterfly valves and operators for Hartsville and proposed Phipps Bend Nuclear Plants.

8. Req. No. 547378—Revised partial reissue—Indefinite quantity term contract for diesel fuel oil for various TVA projects and warehouses.

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9. Req. No. 821105 Reissue—125-ton polar cranes for Hartsville and proposed Phipps Bend Nuclear Plants.

10. Req. No. 820721—Partial reissue—Gate valves for Hartsville and proposed Phipps Bend Nuclear Plants.

11. Req. No. 822170—Water chilling equipment for Hartsville and proposed Phipps Bend Nuclear Plants.

D—Project Authorizations

1. No. 3270—Replacement of boiler roof tubes at Gallatin Steam Plant Units 1 and 2.

E—Fertilizer Items

None.

F—Power Items

1. New power contract with Union Carbide Corp., Sheffield, Ala.

2. New power contract with American Enka Co.

3. Lease and amendatory agreement with Warren Rural Electric Cooperative Corporation—Caneyville and Rosine substations.

4. Lease and amendatory agreement with Electric Plant Board of the city of Princeton, Ky.—Princeton substation.

5. Agreement with Southwest Tennessee Electric Membership Corporation—establishment of 13-kV delivery point at TVA's proposed Mason substation.

6. Agreement with Upper Cumberland Electric Membership Corp.—establishment of 13-kV delivery point at TVA's proposed Algood substation.

7. Agreement with Cherokee Electric Cooperative—transfer of delivery point.

G—Real Property Transactions

1. Resolution relating to grant of permanent road easement to Robert L. Livingston, et al., affecting a portion of Union Mississippi substation land in Union County, Miss.—tract XUNMSS–1E.

2. Resolution relating to grant of permanent easement to the city of Sheffield, Ala., affecting approximately 44 acres of Muscle Shoals reservation land—tract XT2NPT–8E.

3. Resolution relating to abandonment of easement rights affecting 0.7 acre of Norris Reservoir land in Campbell County, Tenn.—tract XNR–62.

4. Contract with Hawkins County, Tenn., for highway adjustments in the proposed Phipps Bend Nuclear Plant area.

5. Contract with Trousdale County, Tenn., for highway adjustments in the Hartsville Nuclear Plant area.

6. Supplemental agreement between TVA and Tennessee Pulp and Paper Company—diversion of water impounded by Pickwick Dam.

7. Grant of permit and right of way to Amoco Pipeline Co. affecting approximately 23.3 acres of Wheeler Reservoir land in Limestone and Morgan Counties, Ala.—tracts XCSPD–1P, XWR–610P, and XWR–612P.

8. Filing of condemnation suits.

H—Unclassified

1. Agreement with Electric Power Research Institute for concurrent scrubber project.

2. Resolution relating to payments in lieu of taxes to states and counties, as provided under section 13 of the TVA Act, as amended.

3. Supplement to contract among Tennessee Valley Authority, South Cumberland Area Recreation Commission, and State of Tennessee, covering arrangements for land purchases in the Savage Gulf Wilderness Natural Area.

CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–3257, Knoxville, Tenn. Information is also available at TVA's Washington Office 202–343–4537.

[S–1245–77 Filed 9–2–77;9:15 am]

15

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 44622.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Week of September 5.

CHANGES IN THE MEETING:

Wednesday, September 7

10 a.m. New Mexico Uranium Mill Lawsuit (approx. 1 hr) (Rescheduled from September 8) (Closed—Exemption 10)

11 a.m. Affirmation of ALAB–425—Exxon (Public Meeting) (Rescheduled from 2:30 p.m., Sept. 7) (approx. 5 min.)

2:30 p.m. (approx.) Discussion of Draft Administration Bill for Nuclear Plant Licensing Reform (Closed—Exemption 9) (Continuation of September 1 meeting) (Additional meeting). (Meetings on: Policy Statement on Alternative Site Evaluations under NEPA for Nuclear Generating Stations; and Mandatory Licensee Participation in the Nuclear Plant Reliability Data System are postponed to a date to be announced.)

Thursday, September 8

9 a.m. 1. Discussion of Proposed Testimony on Export Legislation (as announced) (Closed—Exemption 9). 2. Discussion of Draft Administration Bill for Nuclear Plant Licensing Reform (Continuation of September 7 meeting) (Closed—Exemption 9).

1:30 p.m. Draft Order in Seabrook (as announced) (Closed—Exemption 10). (The meeting on: Commission Review of Director's Denial of Petition for Revocation of Bailly Construction Permit is postponed to a date to be announced.)

Friday, September 9

9:30 a.m. Joint NRC/ACRS Meeting (approx. 1 hr) (as announced) (public meeting).

10:30 a.m. Discussion of Draft Administration Bill for Nuclear Plant Licensing Reform (Closed—Exemption 9) (Continuation of September 8, meeting).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee 202–634–1410.

Dated: September 2, 1977.

Walter Magee,
Chief, Operations Branch,
Office of the Secretary.

[S–1255–77 Filed 9–6–77;10:10 am]

federal register

WEDNESDAY, SEPTEMBER 7, 1977

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Base Flood Elevation Determinations for Various Communities

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-3257]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Town of Gordo, Ala.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Gordo, Ala. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Gordo, Ala.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Dave Housel, Town Hall, P.O. Drawer P. Gordo, Ala. 35466.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Gordo, Ala., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Bear Creek	U.S. Highway 82	247
	Old U.S. Highway 82	249
	Illinois Central Gulf RR.	249
	1st Ave.	251
Long Branch	Illinois Central Gulf RR.	218
	1st Ave.	255

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25208 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3261]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Village of Hacienda, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Hacienda, Fl. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Village Office, 3841 State Road 84, Fort Lauderdale, Fla. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Sherman F. Crise, Village Office, 3841 State Road 84, Fort Lauderdale, Fla. 33312.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Hacienda, Fla., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North New River Canal.	Entire city	7

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25209 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3262]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of College Park, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of College Park, Ga. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 3667 Main Street, College Park, Ga. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Ralph Presley, City Hall, 3667 Main Street, College Park, Ga. 30337.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the city of College Park, Ga., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Public L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Camp Creek	Downstream corporate limits (East Point-College Park).	847
	Camp Creek Parkway.	858
	Fairway Dr.	876
	Rubby Lane (upstream side).	902
	Lyle Rd.	918
	Riverdale Rd.	918
Sullivan Creek	West Fayetteville Rd.	927
	Sullivan Rd.	943
	Interstate 85 (downstream north bound).	946
	Interstate 85 (upstream side, south bound).	949
	Fulton-Clayton County line (eastern side).	974
	Fulton-Clayton County line (western side).	981

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-25210 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3263]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Henderson, Ky.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Henderson, Ky.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Henderson, Ky.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Dick Brown, City Manager, City of Henderson, City Hall, P.O. Box 716, Henderson, Ky. 42420.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Henderson, Ky., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Audubon Park Creek.	Watson Lane	401
	Green St.	390
Highway 812 tributary.	Adams Lane	391
	Kentucky Highway 812.	387
	Pennyville-Audubon Parkway Interchange.	386
	U.S. Highway 41	386
North Fork Canoe Creek.	Louisville & Nashville R.R.	391
	Kimsey Lane	391
	U.S. Highway 41	391
	5th St.	390
	Louisville & Nashville R.R.	391
	Kentucky Highway 54.	389
	Washington St.	387
	Kentucky Highway 812.	386
	Louisville & Nashville R.R.	386
	Kentucky Highway 136.	386
Sellers Ditch	Highway 285	383
	Illinois Central Gulf RR.	378
Canoe Creek	Old Madisonville Rd.	385
	Illinois Central Gulf RR.	384
	U.S. Highway Alternate 41.	377
	County Rd.	375
	U.S. Highway 60	375

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(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25211 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3264]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Alexandria, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Alexandria, La.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Alexandria, La.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Carroll Lanier, City Hall, Alexandria, La. 71301.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Alexandria, La., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Red River	Kansas City Southern R.R.	93
	Alexandria Pineville Expressway (U.S. Highways 71 and 165).	93
	Murray Ave. (U.S. Highway 165).	93
	U.S. Highways 71, 165, and 167.	93
Chatlin Lake Canal.	Midway Ave. (Hudson Blvd.).	72
	Kansas City Southern RR.	74
	Willow Glen River Rd.	75
	Kansas City Southern RR.	76
	Maple St.	76
	Casson St.	76
Chatlin Lake Canal West.	Missouri Pacific RR.	77
	Kansas City Southern RR.	77
	Fulton St.	78
Mill Bayou	Jones Ave.	76
	Broadway Ave.	76
	Applewhite St.	76
Sandy Bayou	Dauplt St.	75
	Renee St.	76
	3d St.	76
Hynson Bayou	Midway Ave. (Hudson Blvd.).	72
	Tulane Ave.	72
	Willow Glen River Rd.	74
	Hammond Alley	75
	New York Ave.	76
	Broadway Ave.	76
	Cypress St.	77
	Hoop St.	77
	Houston St.	78
	Masonic Dr.	79
	Bryn Mawr Dr.	81
	Georges Lane	82
	Monroe St.	82
Horseshoe Drainage Canal.	Willow Glen River Rd.	73
	Lee St. (extension)	73
	Sterks Rd.	74
	MacArthur Dr. (U.S. Highway 71).	74
	Masonic Dr. (U.S. Highway 165).	76
	Alden Court	77
	Jackson St. (extension).	78
	Warren St.	79
	Twin Bridges Rd. (State Highway 488).	80
Phillip Bayou	3d St.	75
	Missouri Pacific RR.	75
	Graham Rd.	76
	Texas and Pacific RR.	78
	State Highway 1	78
Bayou Rapides	4th St.	79
	MacArthur Dr. (U.S. Highways 71, 165, and 167).	79
Bayou Rapides Diversion Channel.	State Highway 28	73
	Bayou Rapides Rd.	73
East Prong Bayou	Road to watertank (unnamed).	72
	Joyce St.	74
	Unnamed bridge.	74
Bayou Robert	Gene Ball Dr.	80
	Caroline St.	80
	Masonic Dr.	80
	Twin Bridges Rd.	80
	Heyman Lane	81

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25212 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3265]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Town of Auburn, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Auburn, Mass.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 104 Central St., Auburn, Mass.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. John Wheeler, Executive Secretary, Town of Auburn, Board of Selectmen, Town Hall, 104 Central Street, Auburn, Mass. 01507.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh St., SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Auburn, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kettle Brook	Rockland St.	467
	Sword St.[1]	488
Dark Brook (from Kettle Brook to Auburn Pond).	Southbridge Street Bridge[1].	498
	Auburn Street Bridge[1]	493
Dark Brook (Auburn Pond to Central St.).	Church Street Bridge	516
	Auburn Mall	504
Stone Brook (Swanson Rd. to Washington St.).	Mill Terrace Bridge	510
	Central Street-Massachusetts Turnpike I-90.	503
Stone Brook (Pondville Pond to South St.).	South Street Bridge[2]	545
	Elm Street Bridge[1]	519
Unnamed tributary from Rockland St. to Leesville Pond.	Sword St	496
Dark Brook (Stoneville Pond to Leicester Street Bridge).	Leicester Street Bridge	607
	Inwood Street Bridge[1].	560
	Rochdale Street Bridge[1]	521

[1] Upstream.
[2] Downstream.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25213 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3266]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Township of Chesterfield, Macomb County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Chesterfield, Macomb County, Mich.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the Display Table, in the Lobby of the Township Hall, 501 77 North Grothiot, Mount Clemens, Mich.

Any person having knowledge, information, or wishing to make comment on these proposed elevations should immediately notify Mr. Otis Dean Smith, Township Supervisor, Township Hall, 501 77 North Grothiot, Mount Clemens, Mich. 48043.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh St., SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Chesterfield, Macomb County, Mich. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by §1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Salt River	Jefferson Ave.	578.5
	Callens Rd.	578.5
	23 Mile Rd.	580.0
	24 Mile Rd.	590.0
	Washington Ave.	591.0
	Interstate 94	595.0
	Upstream corporate limits.	602.0
Fish Creek	Callens Rd.	578.5
	23 Mile Rd.	583.0
	Sass Rd.	589.0
	24 Mile Rd.	592.0
Anvase Creek, Sutherland-Oemig drain.	Jefferson Ave.	578.5
	Sugarloaf Rd.	579.0
	Graham Rd.	581.0
	Cotton Rd.	584.0
	Douglass Rd.	587.0
Deer Creek	Downstream corporate limits.	613.0
	Hagen Rd. (downstream).	614.0
	Hagen Rd. (upstream).	615.0
	Upstream corporate limits.	624.0

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25214 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3267]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Maple Grove, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Maple Grove, Minn.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 14310 93rd Avenue North, Maple Grove, Minn. 55369.

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Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Richard Reimer, City Hall, 14310 93rd Avenue North, Maple Grove, Minnesota 55369.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh St. SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Maple Grove, Minn., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Elm Creek	Elm Rd.	920
	Boss Lake Rd.	911
	Interstate 94	894
	Territorial Rd.	875
Rush Creek	97th Ave.	928
	Interstate 94	913
	106th Ave. North	912
	Territorial Rd.	906

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25215 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2828]

NATIONAL FLOOD INSURANCE PROGRAM

Revision of Proposed Flood Elevation Determinations for Town of Ellisburg, Jefferson County, N.Y.

AGENCY: Federal Insurance Administration.

ACTION: Proposed rule.

SUMMARY: The Federal Insurance Administrator hereby gives notice of his proposed determinations of flood elevations for the town of Ellisburg, Jefferson County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (sec. 1917.4(a)).

Due to recent engineering analysis, this notice revises the proposed determinations of base flood elevations published in 42 FR 18235 on April 5, 1977, and in the Jefferson County Journal published on March 23, 1977, and March 30, 1977, and hence supersedes those notices.

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Town Hall, Ellisburg, N.Y.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. William Fulkerson, Town Supervisor, Town Hall, Ellisburg, N.Y. 13636.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: These base flood elevations are the basis for the flood plain managementmeasures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sandy Creek	State Route 193	301
	State Route 289	442
	Mathers Mills Rd.	485
Bear Creek	Milk Plant Rd.	564
	Church Rd.	616
	Wardwell Settlement Rd.	617
	Route 11 (upstream side).	621
	Queens Farm Reservoir Dam.	665
	Upstream corporate limits.	700
Skinner Creek	South corporate limits.	249
Lake Ontario	Northwest corporate limits.	251
	Jefferson Park Rd.	251
	Montario Rd.	251
	Renshaw Bay Rd.	249

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25216 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3268]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Town of Mentz, Cayuga County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the town of Mentz, Cayuga County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Clerk's Office, 11 Pine Street, Port Byron, N.Y.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Herbert Marshall, Supervisor of Mentz, Baptist Hill Road, R.D. No. 1, Port Byron, N.Y. 13140.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the town of Mentz, Cayuga County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Seneca River	O'Neill Rd.	394
	State Route 38	384
	Upstream town limits.	384
New York State Barge Canal.	Confluence with Owasco Outlet.	384
	Upstream town limits.	384
Owasco Outlet	Sperry Rd.	381
	State Route 38 (Canal St.).	385
	New York Central Rd. (Wilt St.).	390
	Village of Port Byron, north corporate limit.	391
	Village of Port Byron, south corporate limit.	408
	Hayden Rd. (downstream).	416
	Hayden Rd. (upstream).	419

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25217 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3269]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Village of Randolph, Cattaraugus County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Randolph, Cattaraugus County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Bulletin Board in the Village Hall, 1 Bank Street, Randolph, N.Y.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Hon. Sam P. Abbott, Mayor of Randolph, N.Y. 14722.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administration, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Randolph, Cattaraugus County, N.Y. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Conewango Creek.	Main Street Bridge	1,274
	Downstream corporate limits.	1,274
	Elm Creek Confluence.	1,276
	Upstream corporate limits.	1,278
	College St. (extended).	1,274
Elm Creek	Upstream corporate limits.	1,280
	Weeden Rd. crossing	1,285
	Conewango Rd. (extended).	1,279
Battle Creek	Upstream corporate limits.	1,375
	State Route 17 crossing:	
	Upstream side	1,343
	Downstream side	1,339
	Main St. crossing	1,314
	Con Rail crossing	1,307
	Center St. crossing:	
	Upstream side	1,302
	Downstream side	1,300
	Jamestown St. crossing.	1,295
	Downstream corporate limits.	1,271

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25218 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3270]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Charlotte, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Charlotte, N.C. These base flood elevations are the basis for the flood plain management measures that the

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community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the proposed base flood elevations are available for review at City Hall, 600 East Trade Street, Charlotte, N.C.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor John M. Belk, City Hall, 600 East Trade Street, Charlotte, N.C. 28202.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Charlotte, N.C., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sugar Irwin Creek	Nevin Rd.	723
	Dalecrest Dr.	707
	Starita Rd.	705
	I-85	697
	Statesville Ave.	670
	La Salle St.	668
	I-77	668
	I-77	650
	West 5th St.	648
	West 4th St.	646
	Southern RR.	645
	West Morehead St.	641
	Walnut Ave.	637
	Independence Blvd.	634
	Southern RR.	633
	West Blvd.	630
	Remount Rd.	629
	Barringer Dr.	620
	Clanton Rd.	615
	Southern Ry.	606
	Yorkmount Rd.	602
	York Rd.	585
	Arrowood Rd.	578
	I-77	568
	Nations Fork Rd.	562
	Pineville-Rock Hill Rd.	539
	West Trade St.	647
Kennedy Branch	Slater Rd.	733
	Cindy Lane	733
Stewart Creek	Capps-Hill Mine Rd.	728
	Hoskins Rd.	693
	I-85	664
	Southwest Blvd.	675
	La Salle St.	672
	Northwest Expressway.	669
	Seaboard Coastline R.R.	667
	West Trade St.	660
	Rozzelles Ferry Rd.	656
	Piedmont Northern R.R.	650
	State St.	646
	Tuckaseegee Rd.	644
	Freedom Dr.	638
	Morehead St.	637
Stewart Creek tributary, No. 1.	Berryhill Rd.	655
	Piedmont Northern R.R.	639
Stewart Creek tributary, No. 2.	Lander St	690
	Gallagher St.	683
	Lakewood Dr.	678
	Parkway Ave.	663
	Coronet Way	657
	Hoskins Rd.	720
Stewart Creek tributary, No. 3.	Piedmont Northern R.R.	708
	I-85	690
Irwin Creek tributary.	Fieldcrest Rd.	624
Taggart Creek	Denver Ave.	687
	Mulberry Church Rd.	667
	Wilkinson Blvd.	664
	Southern RR.	671
	Morris Field Dr.	636
	West Blvd.	622
	Wilmount Rd.	607
Kings Branch	I-77	635
	Archdale Dr.	619
	Arrowood Rd.	598
Little Sugar Creek	Kentbrook Dr.	719
	Wellingford St.	716
	North Tryon St.	712
	Sugar Creek Rd.	704
	Craighead Rd.	695
	East 36th St.	693
	Southern RR.	691
	do	685
	Brevard St.	680
	North Davison St.	676
	Parkwood Ave.	672
	East 18th St.	668
	Seaboard Coast Line R.R.	663
	Northwest Freeway	649
	Elizabeth Ave.	648
	4th St.	646
	East 3d St.	644
	Independence Blvd.	641
	East Morehead St.	633
	Brunswick Ave.	630
	East Blvd.	624
	Princeton Ave.	616
	Hillside Ave.	611
	Brandywine Ave.	606
	Woodlawn Rd.	603
	Park Rd.	593
	Tyrola Rd.	588
	Archdale Rd.	580
	Sharon Rd. west	563
	N.C. 51	554
	U.S. 521	552
Derita Branch	Craighead Rd.	714
	North Tryon St.	663
Dairy Branch	Cumberland Ave.	636
Briar Creek	Plaza Rd.	710
	Shamrock Dr.	681
	Eastway Dr.	666
	Country Club Dr.	674
	Central Ave.	657
	Commonwealth Ave.	653
	Independence Blvd.	652
	Seaboard Coast Line Rd.	645
	East 7th St.	640
	Randolph Rd.	632
	Providence Rd.	625
	Sharon Rd.	623
	Colony Rd.	615
	Barclay Downs Dr.	600
	Park Rd.	591
Briar Creek tributary, No. 2.	Galway Dr.	767
	Gratton Dr.	695
Briar Creek tributary, No. 1.	Colony Rd.	618
	Barclay Downs Dr.	560
Little Hope Creek	Woodlawn Rd.	626
	Montford Dr.	619
	Mockingbird Lane	615
	Seneca Pl.	615
Little Hope Creek tributary.	Bradbury Dr.	622
McMullen Creek	Addison Dr.	667
	Lynecrest Pl.	667
	Randolph Rd.	659
	Providence Rd.	644
	Arborway	631
	Fairview Rd.	623
	Colony Rd.	610
	Sharon View Rd.	605
	Mountain Brook Rd.	597
	Quail Hollow Rd.	568
	Johnson Rd.	543
	North Carolina Highway 51.	539
McMullen Creek tributary.	Sharon Amity Rd.	685
	Addison Dr.	670
Cambell Creek	Albermarle Rd.	700
	Executive Center Dr.	695
	Idlewild Rd.	676
	Margaret Wallace Rd.	595
Edward's Branch	Sheffield Dr.	697
	Woodland Dr.	692
	Eastway Dr. and Independence Blvd.	677
	Independence Blvd.	658
	Briar Creek Rd.	652

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25219 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3271]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Town of Wendell, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Wendell, N.C.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Corner 4th and Pine Streets, Wendell, N.C.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor June Perry, Town Hall, Corner 4th and Pine Streets, Wendell, N.C. 27591.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Wendell, N.C., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be use to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hominy Branch	North Carolina State Rd. 2329.	273
Little River	Southern Ry.	226
	U.S. 64	227
Lizard Lick Creek	U.S. 64	231
	North Carolina State Rd. 2353.	257
Buffalo Branch	do	272
Buffalo Creek	North Carolina State Rd. 2358.	262
	North Carolina State Rd. 1007.	267
	Southern Ry.	270

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25220 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3272]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Unincorporated Areas of Trumbull County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the unincorporated areas of Trumbull County, Ohio.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Trumbull County Office, Warren, Ohio.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Chairman Anthony Bernard, 160 High Street, N.W., Warren, Ohio 44481.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the unincorporated areas of Trumbull County Ohio, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The Community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mahoning River	Downstream at McDonald Highway	859
	Downstream of West Park Ave.	865
	Downstream of State Route 422	888
	Downstream of the Ohio Turnpike.	896
West branch of the Mahoning River.	Downstream of Newton Falls corporate limits.	901
Mosquito Creek	Downstream of State Route 82.	869
	Downstream of North River Rd.	872
	Downstream of New State Route 5.	877
Meander Creek	Downstream of Salt Spring Rd.	861
	Downstream of Johnson Planck Rd.	912
Chocolate Run	Downstream of State Route 422.	899
	Downstream of Kincaid Rd.	903
Duck Creek	Downstream of Hewitt Gifford Rd.	896
	Downstream of Selkirk Bush Rd.	908
	Downstream of Hallock Young Rd.	934
Mud Creek	Eastern Lordstown corporate limits.	873
Crab Creek	Southern county line	899
	Downstream of Interstate 80.	908
Little Yankee Run	Chestnut Ridge Rd. (downstream of Hubbard).	861
	Interstate 80 (downstream of Hubbard).	886
	U.S. Route 62	939
	Chestnut Ridge Rd. (upstream of Hubbard).	955
Shenango River	Confluence of Big Yankee Creek.	847

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(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25221 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3273]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Borough of Chambersburg, Franklin County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Borough of Chambersburg, Franklin County, Pa.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the first floor of the Borough Office, 100 South 2nd Street, Chambersburg, Pa.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable William Stover, Mayor of Chambersburg, 70 West King Street, Chambersburg, Pa. 17201.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Borough of Chambersburg, Franklin County, Pa. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-40128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Conococheague Creek.	Honeywell Ave.	564
	Dam, 1st one upstream of corporate limits.	577
	Near Irva Dr.	586
	Unnamed bridge near Linden Ave.	593
	Loudon St.	597
	Western Maryland R.R. (1st crossing).	599
	West King St.	602
	Commerce St.	606
	Con Rail (1st crossing).	607
	Con Rail (2d crossing).	608
	Upstream corporate limits.	609
	At Conococheague Creek.	603
Falling Spring Creek.	West King St.	612
	North Main St.	615
	North 2d St.	617
	North 3d St.	619
	Kennedy St.	621
	North 4th St.	621
	Con Rail.	621
	5th Ave.	621
	North 7th St.	622
	Plasterer Ave.	628
	Walker Rd.	634
	Lincoln Highway East.	639
	Upstream corporate limits.	640

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680), February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25222 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3274]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Township of Sewickley, Westmoreland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Sewickley, Westmoreland County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Lobby Bulletin Board, Sewickley Township Municipal Building, Mars Hill Road, Hermanie, Pa.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Frank Malpezzi, Township Supervisor of Sewickley, P.O. Box 28, Hermanie, Pa. 15637.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Sewickley, Westmoreland County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Youghiogheny River.	Giffy Hollow Rd. tributary.	759
	Across from Buena Vista.	761
	At Scott Haven.	764
	Across from Blythedale upstream corporate limits.	765
	Along L.R. 64258.	769
Sewickley Creek.	From Youghiogheny River to 2,000 ft. above Speer St.	769
	State Route 153 (downstream crossing).	907
	Con Rail Bridge (downstream crossing).	912
	State Route 153 (upstream crossing).	914
	Con Rail Bridge (upstream crossing).	916
	I-70.	918
	State Route 100.	922
Little Sewickley Creek.	State Route 113.	865
	Greenhills Rd.	878
	Irwin-Herminie Rd.	883
	Township Route 386.	901
	Con Rail (1st crossing).	911
	Con Rail (2d crossing).	918
	Con Rail (3d crossing).	930
	Upstream corporate limits.	935
Tributary No. 1 to Little Sewickley Creek in Northern Sewickley Township.	1,200 ft. downstream of Township Route 345.	951
	700 ft downstream of Township Route 345.	956
	Just downstream of Township Route 345.	962
	Just upstream of Township Route 345.	964
	1,000 ft upstream of Township Route 345.	970
	At private drive crossing stream 1,600 ft upstream of Township Route 345.	976
	Just downstream	975
	Just upstream	977
	300 ft above private drive.	978

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968, as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25223 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3261]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Borough of Walnutport, Northampton County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Borough of Walnutport, Northampton County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Walnutport Borough Hall, Lincoln Avenue, Walnutport, Pa.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Henry Kline, President of Walnutport Borough Supervisors. Walnutport Borough Hall, Lincoln Avenue, Walnutport, Pa. 18088.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Borough of Walnutport, Northampton County, Pennsylvania in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Lehigh River.	Downstream corporate limits.	357
	Foot of Gap St.	358
	South end of Lehigh St.	360
	300 ft downstream of Main St.	362
	100 ft upstream of Main St.	363
	At U.S.G.S. gaging station.	365
	At upstream corporate limits.	366

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25224 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3260]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Pflugerville, Travis County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Pflugerville, Travis County, Tex.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh St., SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Pflugerville, Travis County, Tex., in accordance with section

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110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Pflugerville, Tex.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Clarence W. Bohls, P.O. Drawer 860, Pflugerville, Tex.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Gilleland Creek	Upstream of Pflugerville Rd. (FM 1825).	673
	Upstream of East Pflugerville Loop.	693
	Western corporate limits.	709

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25225 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3259]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Town of Barre, Washington County, Vt.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Barre, Washington County, Vt.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Barre, Vt.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Chairman of the Board of Selectmen of the Town of Barre, Wendell Pelkey, Websterville, Vt. 05678.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Barre, Washington County, Vt., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Stevens Branch	South of city of Barre	665
	Upstream of Snowbridge Rd.	728
	Southern corporate limits.	741
Jail Branch	East of city of Barre	717
	Upstream of Waterman St. (Vermont Route 110).	1,077

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25226 Filed 9-6-77; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3312]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Pomeroy, Garfield County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Pomeroy, Garfield County, Wash.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the bulletin board in the City Hall, Pomeroy, Wash.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Hal Partlow, Mayor of Pomeroy, P.O. Box 370, Pomeroy, Wash. 99347.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh St. SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Pomeroy, Garfield County, Wash., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pataha Creek	Upstream corporate limits.	1,932
	Columbia St.	1,896
	18th St.	1,886
	15th St.	1,878
	12th St.	1,864
	9th St.	1,853
	7th St.	1,846
	4th St.	1,830
	1st St. (extended)	1,819
	Downstream corporate limits.	1,763

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25227 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3313]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Point Pleasant, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Point Pleasant, W. Va. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Municipal Building, 400 Viand Street, Point Pleasant, W.Va.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor John Musgrave, Municipal Building, 400 Viand Street, Point Pleasant, W.Va. 25550.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Point Pleasant, W.Va., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	New York Central RR.	570
Kanawha River	do.	570
	West Virginia State Route 2.	570

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25228 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3314]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Burlington, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Burlington, Wis. These base flood elevations are the basis for the flood plan management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 300 North Pine Street, Burlington, Wis.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor John H. Thate, City Hall, 300 North Pine Street, Burlington, Wis. 53105.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Burlington, Wis., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management re-

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quirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fox River	Chicago, Milwaukee & St. Paul RR.	757
	Jefferson St.	758
White River	Bridge St. (downstream side).	759
	Bridge St. (upstream side).	761
	Milwaukee Ave.	763
	Milwaukee Ave. above Echo Lake Dam.	766

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25229 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3315]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Village of Butler, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Butler, Wis.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Village Hall, 12621 W. Hampton Avenue, Butler, Wis. 53007.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Clarence Everard, Village President, Village of Butler, Village Hall, 12621 W. Hampton Avenue, Butler, Wis. 53007.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Butler, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Menominee River	North 12th St.	710
	West Silver Spring Rd.	723
	Silver Spring Rd.	724

(National Flood Insurance Act of 1968 (Title XIII of Houning and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25230 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3316]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Village of Campbellsport, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Campbellsport, Wis.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Village Hall, 177 Main Street, Campbellsport, Wis.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Phillip Ketter, Village President, Village of Campbellsport, Village Hall, 177 Main Street, Campbellsport, Wis. 53010.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Campbellsport, Wis., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Upper Milwaukee River.	Dam	998
	Main St.	990
	New Cassel St.	986

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25231 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3317]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Greenfield, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Greenfield, Wis.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 7325 West Forest Home Avenue, Greenfield, Wis.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Howard J. Wahlen, City Hall, 7325 West Forest Home Avenue, Greenfield, Wis. 53220.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Greenfield, Wis., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Root River	Morgan Ave.	790
	Beloit Rd.	727
	108th St. (State Trunk Highway 100).	726
	Cold Spring Rd.	724
	State Trunk Highway 15 South (U.S. Highway 45).	723
	State Trunk Highway 15 North (U.S. Highway 45).	723
	Layton Ave (County Trunk Highway "OO").	722
	Abandoned railroad bridge.	722
	Forest Home Ave. (State Trunk Highway 31).	721

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25232 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3318]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Village of Waunakee, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base elevations (100-year flood) listed below for selected locations in the Village of Waunakee, Wis. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Village Hall, 204 West Third Street, Waunakee, Wis.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Ms. Ann Helt, Village President, Village of Waunakee, Village Hall, 204 West Third Street, Waunakee, Wis. 53597.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Waunakee, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 .

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also

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be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Six Mile Creek	State Trunk Highway 113.	915
	Madison St	911
	State Trunk Highway 19 and State Trunk Highway 113.	907
	Division Creek	897

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25233 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3319]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Gillette, Wyo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of Gillette, Wyo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 400 South Gillette Avenue, Gillette, Wyo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Michael B. Enzi, City Hall, P.O. Box 540, 400 S. Gillette Avenue, Gillette, Wyo. 82716.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the city of Gillette, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980 which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Stone Isle Creek	Highway bridge	4,576
	Railroad bridge	4,563
	do	4,537
	Interstate 90	4,505
East branch	Upstream limit	4,533
	Downstream limit	4,528
West branch	Upstream limit	4,574
	Downstream limit	4,559
Donkey Creek tributary	36-in concrete pipe	4,540
	Twin 48-in concrete pipe	4,525
	do	4,524
	do	4,523
	do	4,522
	do	4,521

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 82, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25234 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3320]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Natrona County, Wyo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Natrona County, Wyo. These base flood elevation are the basis for the flood plain management measures that the community is required to their adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City-County Building, Casper, Wyo. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. John P. Burke, Chairman, Board of Commissioners of Natrona County, City-County Building, Casper, Wyo. 82601.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations 100-year flood) for Natrona County, Wyo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities.

These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Platte River	Burlington Northern RR.	5,070
	New Mystery Rd	5,074
	Pipeline Bridge	5,080
Casper Creek	New Yellowstone Rd	5,126
	Old Yellowstone Rd	5,129
	Highway 20	5,152
Squaw Creek	State Highway 220	5,198
Wolf Creek	do	5,177
Garden Creek	Outer Dr	5,422
	Garden Creek Rd	5,618
Sage Creek	15th St	5,224

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 26, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25235 Filed 9-6-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3258]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Uinta County, Wyo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selection locations in Uinta County, Wyo.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Uinta County Courthouse, Evanston, Wyo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Judge C. Stuart Brown, Box 1, Kemmerer, Wyo. 83101.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Uinta County, Wyo., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year-flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Blacks Fork	Highway bridge	6,645
	Bridge	6,627
Groshon Creek	Highway Box Culvert.	6,665
Little Black Fork	Highway bridge	6,659

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25236 Filed 9-6-77;8:45 am]

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WEDNESDAY, SEPTEMBER 7, 1977

PART III



DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

■

SURFACE MINING RECLAMATION AND ENFORCEMENT

Proposed Implementation Provisions

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[30 CFR Parts 700, 710, 715, 716, 717, 720, 721, 722, 723, 725, 740, 795, 830]

SURFACE MINING RECLAMATION AND ENFORCEMENT PROVISIONS

Proposed Rules

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Proposed rules.

SUMMARY: The regulations in this chapter set out the Department of the Interior's Surface Mining Reclamation and Enforcement program as required by the Surface Mining Control and Reclamation Act of 1977 (Act). These regulations require the Secretary of the Interior to publish initial environmental protection regulations that are applicable to all coal mining operations regulated by the States until a State has an approved regulatory program or a Federal regulatory program is implemented in that State.

DATES: Comments must be received by October 7, 1977. Public hearings will be held starting at 1 p.m. on September 20, 1977, and continuing if necessary at 9 a.m. on September 21, and 22, 1977.

ADDRESSES: Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240. Public hearings will be held at the Department of the Interior Auditorium, 18th and C Streets NW., Washington, D.C.; Kiel Auditorium, 1416 Market Street, St. Louis, Mo.; Public Library Auditorium, 1347 Broadway, Denver, Colo.; and Morris Harvey College, Riggleman Hall, 2300 McCorkle Avenue, Charleston, W. Va.

FOR FURTHER INFORMATION CONTACT:

Paul Reeves, Office of Surface Mining Reclamation and Enforcement, 202–343–4237.

SUPPLEMENTARY INFORMATION: The Surface Mining Control and Reclamation Act of 1977 (the Act), Pub. L. 95–87, requires the Secretary of the Interior to publish initial environmental protection regulations that are applicable to all coal mining operations regulated by the States until a State has an approved regulatory program or a Federal regulatory program is implemented in that State. These regulations, especially dealing with water quality, were developed in consultation with the Environmental Protection Agency. The Act also requires the Secretary to implement a Federal enforcement program by February 3, 1978, which lasts for the duration of the initial program in each State. Regulations for Federal financial assistance to States for reimbursement of incremental enforcement costs during the initial regulatory program and for development, administration and enforcement of permanent State regulatory programs for the control of surface coal mining and reclamation operations are also required by the Act.

The public is urged to comment on these proposed regulations. The Department of the Interior believes that full public participation in the rulemaking process will improve the quality of its regulatory program and to this end has already held informal public information meetings in Washington, D.C. (42 FR 39491, August 4, 1977) and has already established a continuing liaison with State regulatory authorities.

In light of the volume of comments expected on the regulations proposed and the short time available to meet the statutory deadline for final regulations, we request that, wherever possible, comments be identified by the pertinent section number of the regulations in the left hand margin, and presented section-by-section on separate pages. We also request that wherever possible, people making written and oral presentations at the public hearings preface their comments on individual sections by identifying that section by number. Individuals making oral statements at the public hearing are requested to limit their statements to 15 minutes. A brief discussion of the major parts in the proposed regulations follows.

Part 700 is a general statement of the scope, objectives and applicability of these regulations. It also states the responsibilities of the Secretary, the Director and the States and defines terms used throughout the chapter. The authority of the Secretary, the Director of the Office of Surface Mining Reclamation and Enforcement and other governmental bodies is described, their responsibilities distinguished and the Federal-State delegation of duties described.

Part 710 introduces the initial regulatory program. Initial performance standards which will apply to private and public lands before a permanent State program is approved by the Secretary are included.

Part 715 contains the general initial performance standards and includes regulations governing the operator's general obligation to comply with the initial standards requiring restoration of disturbed areas to suitable post mining use, backfilling and grading, disposal of spoil and waste materials in other areas, topsoil handling, protection of the hydrologic system, construction, inspection and maintenance of dams, use of explosives, and revegetation.

Part 716 contains the special initial performance standards and includes regulations governing steep slope mining, prime farmlands, mountaintop removal, special bituminous coal mines, anthracite coal mines, Alaska coal mining operations and underground mines.

Part 717 contains procedures for adoption of State laws and regulations when they prescribe more stringent standards of performance than the general or special performance standards of this chapter provide.

Part 720 sets forth the regulations governing enforcement activities to be carried out by the States during the initial regulatory program.

Part 721 provides for Federal inspections on the basis of (1) at least two consecutive State inspection reports indicating a violation; (2) information provided by a State or person indicating a violation; (3) random inspections of each operation at least once each six months; and (4) the Secretary's own initiative.

Part 722 sets out the general procedures governing issuance by Federal inspectors of orders of cessation, notices of violation and orders to show cause.

Part 723 contains the regulations governing the assessment of civil penalties and prescribes the use of a mandatory point system in determining the amount of the penalty.

Part 725 sets forth the policies and procedures for reimbursements to States for the incremental costs of enforcing performance standards during the initial regulatory program.

Part 740 sets forth the policies and procedures for grants to States to develop, administer and enforce approved State programs for the control of surface coal mining and reclamation.

Part 795 provides for financial and other assistance to eligible small coal mine operators in determining the hydrologic consequences of mining and reclamation. The analyses are to be performed by qualified public and private laboratories and paid for by the regulatory authority.

Part 830 provides a procedure for dealing with acts of job discrimination due to exercise of rights under the Act.

General

Part 700 is intended to reiterate the purposes and objectives of the Act and familiarize the public with the various programs and procedures the new Office of Surface Mining will be implementing.

The authority and responsibility sections describe the chain of authority in general terms from the Secretary to the Director of the Office to the various Federal and State authorities. The Assistant Secretary, Energy and Minerals, although not mentioned in the Act, will perform key Secretarial duties under the Act and has general Secretarial responsibility for the program.

Definitions are either taken directly from the Act or derived from generally accepted sources. These definitions are applicable to all parts of the regulations, except where stated otherwise in a particular part or section.

For the purpose of these regulations, the term "permit" includes a mining plan approved under 30 CFR Part 211 held by a lessee of Federal or Indian lands; "State regulatory authority" includes the State agency during the initial program as well as the permanent regulatory program; and "surface coal mining and reclamation operations" includes all surface and underground coal mining operations. These broader definitions are required to fully implement the Congressional intent expressed in the Act and legislative history.

The regulations in § 700.12 describe how interested persons can obtain consideration of rulemaking proposals regarding matters within the authority of the Office. The regulations contain public notice requirements and provide for an opportunity to request hearings. They have been designed to encourage public participation in the policymaking process of the Office.

Part 710, Initial Regulatory Program, includes the rules and procedures applicable during the initial period between promulgation of these rules and the implementation of a permanent Federal or State program. Dates and deadlines are set out in this part which affect Federal, State, and private lands. Proposed rules for Indian lands are being published separately as 25 CFR 177, Subpart B.

Section 710.11 states who is covered by the provisions of the Act and regulations. Surface and underground coal mining operations in States regulating coal mining are covered by these regulations during the initial regulatory program.

SMALL OPERATOR EXEMPTION

Under section 502 of the Act, the initial performance standards will apply to virtually all operators on private lands where coal mining operations are regulated by a State, nine months from the date of enactment. However, certain small operators with permits may be exempted for a period of up to seven months to January 1, 1979, from complying with the performance standards, except the standard governing the handling of spoil in § 716.2 of the proposed regulations.

The proposed regulations in § 710.12 establish procedures for obtaining this exemption. They require submission of information and documents essential to determine an applicant's right to the exemption. Although consideration was given to a simple affidavit under oath as a means of establishing eligibility, the virtue of simplicity is more than outweighed by the need to strictly enforce the tonnage restrictions on eligibility. In determining total annual production, the Secretary will attribute to each person production from operations in which that person has a substantial interest.

The procedure for processing each application calls for a recommendation to the Director by the State regulatory authority and an opportunity for public comment. In accordance within the legislative history, the proposed regulations provide the States the opportunity to play a significant role while saving for the Secretary the authority to make the final decision and residual authority to process an appliaction completely in the event that a State fails to make a timely recommendation.

DRAFTING INFORMATION

The principal authors of the proposed regulations in Parts 700 and 710 are: Michael Bradley, Office of Surface Mining Task Force, Edward Clair, Office of the Solicitor, and Neil Strauss, Office of Hearing and Appeals, Department of the Interior.

General Performance Standards

Parts 715, General Performance Standards, and 716, Special Performance Standards, propose standards of performance for coal mining operations. The Congress has defined "surface coal mining operations" in the Act to include "surface impacts incident to an underground coal mine". The Department is preparing these initial regulations to control the more serious adverse environmental impacts of mining, both deep and surface. The regulations recognize the distinct difference between surface coal mining and underground coal mining by referencing those standards for underground mining which differ from surface mining in a separate section of the regulations.

The Department's intention is to promulgate enforceable standards that are understood by the operator and the regulatory authority. This intention is reflected by relatively detailed development of most standards. However, the Department solicits technical information that will improve the clarity of the regulations while meeting the intent of the Act to protect society and the environment from the adverse effects of coal mining.

Section 715.12, *Signs and markers*, deals with signs throughout the permit area. The marking of permit areas, blasting areas and other special activity areas where caution must be exercised by the operator and other personnel is common practice in many States. While minimum spacing requirements are proposed, the specific dimensions and lettering requirements are expected to be regulated by the State regulatory authority during the initial regulatory program.

Section 715.13, *Postmining use of land*, proposes criteria and procedures to determine the postmining use of the land which serves as a reference point for other performance standards of the Act. It has been suggested that the Act is not a land use Act and the Department agrees that land planning activities are limited to those relating to coal mining operations. The Department considers the identification of an achievable postmining land use within a permit area to be essential to achieving the purposes of the Act. It is necessary to provide criteria for the regulatory authority to judge proposals as reasonably achievable and compatible with land use in the surrounding area. The regulations are not intended to create, but rather to support existing land planning capabilities.

Section 715.14, *Backfilling and grading*, implements the requirement to establish a postmining land surface configuration which closely resembles the general configuration of the land surrounding the mine. The section contains backfilling, compaction and grading requirements to ensure that highwalls, regular ridges, inappropriate piles of spoil, and unapproved depressions are eliminated to meet the appropriate original contour. The section provides a means for quantifying pre- and postmining slopes in a manner intended to preclude creation of unstable slopes.

Section 715.15, *Disposal of spoil and waste materials in areas other than the mine working or excavations*, requires two general methods of excess spoil placement, one on moderate sloping areas where no stream channels are to be blocked and the other, the more complex situation involving head-of-hollow fills. The Department has evaluated a number of alternatives regarding the amount of detail contained in the head-of-hollow fill section of the regulations. It believes that the regulations proposed are necessary and appropriate to ensure that spoils placed in unmined areas are constructed to remain as stable as the surrounding natural slopes. The regulations contain standards that are currently complied with by many operators and which do not prohibit the construction of head-of-hollow fills where safe and necessary. The Department feels it important to have regulatory authorities direct operators in the specifics of construction of fills. To leave all design and construction procedures to the operator without detailed analysis of such designs and specific approval of actual construction methods is not considered adequate protection of the environment or of society.

Section 715.16, *Topsoil handling*, spells out requirements for removal, replacement and stockpiling of topsoil. The section recognizes the extreme importance of the A-horizon of certain soils as a seed source and growth medium. Operators are encouraged to remove and replace the A-horizon separately where it is thick enough to be mechanically separated from the underlying horizons. This procedure is practiced with success at a number of mines. The section is also designed to allow the use of other materials as topsoil when the existing topsoil is of insufficient quantity or of poorer quality than the other strata. In order to show that the alternative strata are acceptable, soil analyses, field trials or greenhouse data are required. The Department believes that situations involving areas previously mined and not reclaimed where the original topsoil was buried would be adequately handled under the alternate strata section where material suitable for plant growth would be evaluated.

Section 715.17, *Protection of the hydrologic system*, incorporates the effluent limitations promulgated by the Environmental Protection Agency and, following the directives of the Act, also covers the quality of waters flowing from the permit area after active mining and regrading (during revegetation). The Department has proposed two modifications to existing effluent limitations and especially solicits public comment regarding the proposals. The first modification is related to coal mines in the interior western United States and specifies more stringent effluent limitations for total suspended solids which are generally equal to those permit conditions recommended by EPA regional offices in that geographic area. This modification "re-

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gionalizes" the regulations in order to control, to the maximum practical extent, soil erosion in an area where soil is critical to revegetation success and water is essential.

The second modification requires that discharges from the permit area caused by precipitation events equal to or less than the 25-year, 24-hour event meet the effluent limitations. Since emphasis of the Act is on the protection of the water resource, the Department determined that its was necessary to specify a precipitation event likely to occur during mining operations. Other measures of precipitation events considered were (1) a 10-year, 24-hour event and (2) a 24-hour event occuring during the life of the mine. Public comment regarding design criteria is invited. Such comments should, wherever possible, be supported by data showing size of precipitation events, impoundments, and water quality.

The regulations stress protection and reestablishment of the essential elements of the hydrologic balance in alluvial valley floors. The Department believes that Congress was resolved to protect alluvial valley floors at an early date and, while coal exchange provisions are still under development, new operations are required to perform detailed surveys and provide representative baseline data (such data are presently characterized in the paper titled "Subirrigated Alluvial Valley Floors", prepared by the Environmental Protection Agency, Region VIII —Table 4, 1860 Lincoln Street, Denver, Colo. 80295) prior to consideration for approval of mining plans and permits.

Section 715.18, *Dams constructed of refuse materials*, provides for control of impoundments constructed of refuse materials. This compliments the authority of the Mining Enforcement and Safety Administration (MESA), which has jurisdiction over such structures from the standpoint of employee health and safety. The Office jurisdiction will extend to the areas of public safety and protection of the environment. The Congress specified that regulations covering design, construction, operation, maintenance, modification, abandonment, and removel of structures be promulgated by the Secretary in cooperation with the Chief of Engineers, U.S. Army. The proposed regulations reflect initial coordination between the three agencies and provide minimum design criteria consistent with criteria governing similar structures built by the Corps of Engineers.

Section 715.19, *Use of explosives*, requires that explosives be used only in accordance with State and Federal law and regulations promulgated by the regulatory authority. Technical studies of damage to structures indicate that amplitude and frequency of the vibration level govern the given damage evaluation of structures.

The blasting standards are based on the premise that the maximum peak particle velocity of ground motion should not exceed 2 inches per second at any public building, dwelling, or commercial structure. Although this criterion is widely used by regulatory agencies, the Department recognizes that many people advocate a lower particle velocity. Technical data on a standard of 0.5 inches per second is being assembled and the Department will specifically consider the more stringent standard before final rules are promulgated. Public comment is specifically invited on this important question.

The proposed standards also provide a delay time of 8 milliseconds between subcharges and a 5 second interval between charges. Standard tables are presented relating weight of explosive and distance to maximum particle velocity. If blasting is done in accordance with the standard tables, it will be presumed that the particle velocity criteria are met. When blasting is not done in accordance with the standard tables, seismograph records will be required on every shot.

Section 715.20, *Revegetation*, provides two measures of reclamation success, both of which are "regionalized" for various climates characterized by annual precipitation amounts. The Department has chosen to be relatively specific by establishing quantitative measures of productivity and stabilizing ability of vegetation. One measure is an absolute measure of vegetative growth on reclaimed lands. The other is a measure of growth on lands reclaimed to hayland, pasture, wildlife, habitat, or rangeland relative to ungrazed or otherwise protected areas ("exclosures") in the surrounding lands. A number of experts assisted with the development of the two tables and the Department believes the requirements are reasonable. Any additional measurements or observations supporting or affecting these standards are solicited.

Special Performance Standards

Part 716 provides environmental protection performance standards applying to special coal mining situations including mining on steep slopes, mountaintop removal, special bituminous coal mines, anthracite coal mines, coal mines located in Alaska, prime farmland, and underground mining for coal. It should be made clear that no coal operation, other than those anthracite operations to which § 716.5 applies, may rely entirely on the guidance given in the Special Performance Standards to regulate the entire coal mining and reclamation operations. Rather, operations will be guided by a combination of these special and the general performance standards.

Section 716.2, *Steep-slope mining*, closely resembles the Act (Section 515 (d)).

Section 716.3, *Mountaintop removal*, treats the backfilling and grading requirements of mountaintop removal activities. The Department is proposing to specify maximum slopes of regraded land on the mined mountaintop in a manner that allows retention of the maximum amount of spoil on that area compatible with longterm stability, water quality and use of the land.

Section 716.4, *Special bituminous coal mines*, implements the special exemption provided by Congress in section 527 of the Act. The Department is not aware of any special bituminous coal mines that meet the criteria of the Act other than those located in Wyoming. It has, in consultation with that State, adopted the portions of Wyoming's regulations pertaining to the backfilling and grading of such mine pits.

Section 716.5, *Anthracite coal mines*, implements the special provisions for anthracite coal mines authorized by Congress in section 529 of the Act.

Section 716.6, *Coal mines in Alaska*, implements the authority of the Secretary to suspend performance standards of Part 715 for Alaska mining in section 708 of the Act.

Section 716.7, *Prime farmland*, proposes standards of performance for coal mining operations conducted on land that is considered prime farmland. Such farmlands must meet criteria prescribed by the Secretary of Agriculture.

On the basis of the legislative history and the intent of the Act, the Department proposes to issue prime farmland performance standards as a part of the initial program to apply to any permit issued on or after August 3, 1977. The basis for this decision is section 510(d)(1) of the Act which states that prime farmland provisions shall "apply to all permits issued after the date of enactment of this Act." In addition, the conferees agreed that the protection for prime farmland should apply to all permits issued after enactment and expected the Secretary to issue regulations to implement the prime farmland provisions as soon as possible (July 12, 1977, Congressional Record, H6968).

The prime farmland provisions do not apply to land that has been used for the production of cultivated crops for less than 5 years out of the 20 years preceding the date of the permit application. The 20 year requirement is based upon farm real estate financing. Such financing is predicated on the ability of the farmer receiving a loan to repay the loan over a period of time.

Section 716.8, *Surface effects of underground mines*, contains performance standards for the surface effects of underground mining. It references the performance standards in Part 715 that apply to underground coal mining operations. The Department intends to have the standards of Part 715 apply to surface impacts of underground mining such as access and haul roads, repair areas, storage areas, processing areas, shipping areas, and areas on which structures, facilities, or materials are sited. Activities associated with underground coal mining are to be governed by those particular performance standards of Part 715 reference in § 716.8 in a manner which recognizes the distinct differences between surface and underground mining.

The Department tried the alternative of repeating those sections of Part 715 now referenced in § 716.8 but found the resulting material to add unnecessarily to the length of the regulations. The

Department will consider all recommendations regarding mechanisms to insure that underground coal mining operations meet the appropriate standards while keeping the regulations concise and understandable.

Adoption of State Standards

Part 717 carries out the intention of sections 201 and 501, of the Act to allow for the future adoption of State performance standards that are more stringent than the Federal standards. Each State may request the Secretary to review its standards in relation to the Federal standards to determine which is more stringent and whether the State's standards may be adopted by the Secretary.

Drafting Information

The principal authors of the proposed regulations in Parts 715 and 716 and 717 are George Davis and John Hardaway, Environmental Protection Agency, under the general supervision of Paul Reeves, Office of Surface Mining Task Force, and Jack Martin, Office of the Solicitor, Department of the Interior.

State Enforcement Activities

The proposed regulations in Part 720 reflect the expectation of Congress that the States will enforce the federal performance standards during the initial period and will issue permits based on these standards. The regulations contain mandatory reporting requirements as required by the Act. Each State must supply the Office with copies of State permits issued on or after February 4, 1978, and with copies of their inspection reports relating to the federal initial performance standards. Where States have divided regulation of blasting from water quality inspections and other surface mining inspections, reports relating to each area of the initial performance standards will be required.

Federal Inspection

The proposed regulations provide in Part 721 for Federal inspections on the basis of at least two consecutive state inspection reports indicating a violation, or from information provided by any person which gives rise to a reasonable belief that a violation had or was occurring, or on a random basis. Since the Act contemplates active citizen involvement in the reporting of violations to the regulatory authorities, the Office is required to inspect if it receives information and has a reasonable belief that a violation is or may have occurred.

The proposed regulations further specify that Federal enforcement actions may not be nullified simply because it was later determined that there was insufficient information to create a reasonable belief. Such a provision is deemed necessary to avoid the incongruous result of invalidating enforcement actions because of subtle, delicate judgments concerning the quality and quantity of information received. The proposed regulations are believed to be in accord with the Congressional mandate to have Federal inspections in response to any reasonable evidence of a violation to help achieve maximum compliance with the initial standards.

The concept of "significant, imminent environmental harm to land, air or water resources" is approached in the proposed regulations by first defining environmental harm, then defining an imminent environmental harm and finally dealing with the concept of "significant" as it relates to environmental harm. An environmental harm is defined in the proposed regulations as any adverse impact on land, air or water resources, including plant and animal life. An environmental harm is considered "imminent" if the harm can reasonably be expected to cause such harm if the condition or practice is not abated within a reasonable time. Such definition of imminent is consonant with the concept of imminent danger which is defined in the Act. As in the case of imminent danger, a finding of imminent environmental harm must take into account the time it will reasonably take to abate the condition or practice and whether the significant environmental harm may reasonably be expected to occur during that time. If so, then a cessation order under section 521(a)(2) of the Act would be appropriate.

An environmental harm may be "significant" even if not irreparable so long as it is appreciable and not readily reparable. Such a concept takes into account situations where measurable damage to the environment can reasonably be expected to occur but which cannot be repaired without difficulty.

The proposed regulations also deal with procedures for revoking or suspending a permit when it is determined that a pattern of violations exists or existed if those violations were either caused by the unwarranted failure of the permittee to comply with the Act, regulations or permit, or were willfully caused.

In seeking a regulatory scheme for determining when an operator has a pattern of violations, the option was considered of having an automatic finding of a pattern after a certain number of the same or related types of violations had occurred regardless of the circumstances. This would clearly define for all parties the exact conduct which would occasion the suspension or revocation of a permit. Such a scheme, however, was considered inappropriate because of the lack of flexibility and latitude in its application. It was considered more desirable to base the issuance of show cause orders upon a consideration of the circumstances surrounding the alleged pattern.

The regulations provide that a pattern exists if the operator violates unrelated provisions of the Act more than 50% above the national norm. The national norm will be determined by the Office as the enforcement data is obtained during the initial regulatory program.

Civil Penalties

Four statutory criteria are considered: History of previous violations at the particular mine; seriousness; negligence; and demonstrated good faith in achieving rapid abatement after notification of the violation. The Office must notify the person to be assessed of the amount of the proposed assessment within 30 days of the issuance of the notice of violation or cessation order. The person to be assessed has a right to administrative review and appeal to the courts.

The Office considered various methods for governing the determination of whether to assess a penalty. First, the Office considered adopting no regulations governing civil penalty assessments and considering each order and notice on a case-by-case basis using only the language of section 518 of the Act to guide the determination of an assessment. The Department believes such an approach would be inefficient in dealing with a substantial volume of notices and orders, would provide minimum guidance to the mining industry, the States and the public about the calculations of civil penalties and might reduce uniformity.

Second, the Office considered using a test of seriousness for the determination of whether to assess a penalty and using a schedule of proposed assessments with six levels. Such an approach may limit flexibility in determining which violations are assessed and may be less sensitive than the proposed point system in weighing and balancing the four statutory criteria.

Third, the Office considered the present proposal in various forms in which a point system is used both to make the determination of whether to assess and how much to assess.

This proposed system contains a threshold number above which penalties will be set. The Department believes that the proposed system provides reasonable specificity without eliminating flexibility to adjust the number and characteristics of violations for which civil penalties are assessed. The Department is still considering each of the above alternatives and solicits comments regarding the system which should be adopted.

The proposed regulations provide for mandatory assessment for each day a cessation order is unabated if the cessation order was issued for failure to timely abate a prior notice of violation. Other multiple day assessments are discretionary except all continuing violations that are assigned more than 70 points must be assessed separtely for at least two days.

The present proposal affords the person against whom an assessment is proposed the opportunity for a conference with a representative of the Office to discuss the facts and circumstances surrounding the violation and the proposed penalty assessment. The proposed penalty may be adjusted for errors of fact and law but issues of collectibility and conflicting evidence cannot be resolved by the conference officer. Any adjustments proposed by the conference officer must be documented in the record and are subject to management review. All conferences are open to the public.

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In arriving at the proposed regulations, the Office considered not providing for a conference but merely allowing for the submission of written information. This proposal would be less effective in achieving early and efficient adjustments of mistaken assessment.

DRAFTING INFORMATION

The principal authors of the proposed regulations in Parts 720, 721, 722 and 723 are: Richard Hall, Office of Surface Mining Task Force, Marcus McGraw, Office of the Solicitor, and Neil Strauss, Office of Hearings and Appeals, Department of the Interior.

REIMBURSEMENT TO STATES

The Act places primary responsibility for enforcement of the initial regulations on the States. Initial performance standards must be applied to new operations for which a permit is issued on or after six months from enactment and to existing operations nine months after enactment. As a consequence, States will need to incorporate the performance standards into all new permits issued on and after February 4, 1978. Existing permits will need to be revised or modified effective May 4, 1978. Enforcement of the initial standards will then be included as part of the States' ongoing inspection and enforcement program. A Federal enforcement program will provide oversight and backup to the State programs. This State-Federal enforcement program will continue until a permanent State regulatory program is approved by the Secretary and implemented by the State, or until June 4, 1980, whichever occurs first.

PROGRAM DEVELOPMENT GRANTS

The Act authorizes the Secretary to make annual grants for the development, administration, and enforcement of State regulatory programs. Program development grants are awarded independently of the administration and enforcement grants. However, the development of an approved State regulatory program, with or without Federal assistance, is a necessary prerequisite for administration and enforcement grants. Development grants may be made to assist each State in the development of those components of a State regulatory program acceptable to the Secretary. Administration and enforcement grants will be available to assist the States in carrying out the functions necessary to maintain an approved State program.

DRAFTING INFORMATION

The principal author of the proposed regulations in Parts 725 and 740 is: Carl Close, Office of Surface Mining Task Force, Department of the Interior.

SMALL OPERATOR ASSISTANCE PROGRAM

Part 795 of the proposed regulations establishes procedures for providing assistance to eligible small operators to obtain data which will be required for permit applications under permanent program regulations. The proposed procedures are published at this time since it is assumed that assistance must start, in some cases, a full year before the permit application is filed. Under the proposed regulations, assistance may be started up to 6 months before the State submits a proposed regulatory program for the Secretary to approve.

The procedures are designed to require the operator to establish eligibility for assistance, including a showing that his production and production which can be attributed to him will be less than 100,000 tons per year. The assistance available includes laboratory services to determine the probable hydrologic consequencies and to prepare a statement of the results of test borings or core sample analysis. Assistance does not include the cost for actual core or test borings.

The proposed regulations provide for development of a national list of qualified laboratories to provide authorized assistance. State regulatory authorities could designate, under approved State programs, additional laboratories. Comments on this process and the option of designating laboratories on a case-by-case basis are solicited.

DRAFTING INFORMATION

The principal author of the proposed regulations in Part 795 is: Donald Willen, Office of Surface Mining Task Force, Department of the Interior.

The regulations in Part 830 make it possible for employees to freely cooperate in the administration and enforcement of the Act, and discourage persons from discriminating against them for doing so. Section 703 of the Act prohibits persons from discriminating against or discharging employees or representatives of employees because the employee or representative exercised their statutory rights under the Act. Statutory rights of employees under the Act include but are not limited to the right to file a proceeding under the Act, the right to institute or cause to be instituted a proceeding under the Act and the right to testify in any proceeding resulting from the administration or enforcement of the provisions of the Act.

Regulations provide for an informal conference with the person making the complaint, the alleged discriminating official and the Regional Director, upon conclusion of an investigation by the Office. The intent of the conference is to attempt to resolve problems informally without going to formal administrative proceedings.

There are two important reasons why the Informal Conference was provided. First, it will save all parties time and money. Second, it permits conciliation efforts to take place in a less formal atmosphere with all parties participating voluntarily in a good faith effort to resolve the complaint. The resolution arrived at would be a concensus rather than an imposed resolution.

The regulations also commit the Office to file a proceeding on behalf of an employee when an investigation indicates the complaint has reasonable cause. This provision was placed in the regulations to assure that non-union as well as union employees would receive the maximum protection under the Act, even when the employee might not be able to obtain the legal counsel necessary to institute a proceeding.

Regulations that would require the employee to file his own proceedings or that would require the Office to participate only as a friend of the court were rejected as not fulfilling the intent of the Act.

DRAFTING REGULATION

The principal author of the proposed regulations in Part 830 is: Jesse Jackson, Office of Surface Mining Task Force, Department of the Interior.

Interested persons may submit written comments on the proposed regulations to the Director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240, no later than October 7, 1977.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: September 2, 1977, 9:00 a.m.

LEO M. KRULITZ,
Acting Secretary of the Interior.

It is proposed to add Parts 700, 710, 715, 716, 717, 720, 721, 722, 723, 740, 795, and 830 to Title 30, Chapter VII to read as follows:

PART 700—GENERAL

Sec.

700.1 Scope.
700.2 Objectives.
700.3 Authority.
700.4 Responsibilities under the Act.
700.5 Definitions.
700.11 Applicability.
700.12 Petitions to initiate rulemaking.
700.13 Prior notice of citizen suits.
700.14 Requests for records.

AUTHORITY: Secs. 201 and 501, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201).

§ 700.1 Scope.

(a) This chapter sets forth the rules and procedures through which the Secretary of the Interior will implement the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87). The Act requires the Secretary to establish procedures for development and approval of programs for the regulation of surface coal mining and surface effects of underground coal mining in each State. The Act also requires the Secretary to establish an initial regulatory program which applies limited environmental performance standards to State, Federal, Indian, and private lands until the implementation of a permanent regulatory program.

(b) Regulations authorized under the Act and contained in this chapter include but are not limited to—

(1) Environmental performance standards for surface coal mining and reclamation operations during the initial and permanent regulatory programs;

(2) Inspection and enforcement procedures during the initial and permanent regulatory programs, including the assessment of civil penalties;

(3) Assistance to small operators in meeting permit application requirements of the permanent regulatory programs;

(4) Requirements and approval procedures for State programs;

(5) Requirements for surface coal mining and reclamation operations on Federal lands;

(6) Procedures for State and Federal designation of areas unsuitable for surface coal mining operations and lands unsuitable for non-coal mining;

(7) Conflict of interest standards for State and Federal employees;

(8) Requirements and procedures for approval of State mining permits during the permanent regulatory program;

(9) Requirements for posting, release, and forfeiture of performance bonds;

(10) Standards prohibiting discrimination against employees for reporting violations of the Act and regulations;

(11) Procedures for administering the Abandoned Mine Reclamation Fund, including approval of State plans and programs, procedures for implementing Federal programs; and

(12) Procedure for grants for State mining and mineral research institutes.

§ 700.2 Objectives.

The objectives of the regulations are to—

(a) Establish a nationwide regulatory program to protect society and the environment from adverse effects of surface coal mining and surface impacts of underground coal mining.

(b) Establish environmental, enforcement and administrative standards for regulatory programs;

(c) Create a program for the reclamation of previously mined and inadequately reclaimed lands; and

(d) Establish procedures for public review of the administrative and enforcement programs through access to data, hearings, inspections, and standing to sue for damages for non-compliance with the Act.

§ 700.3 Authority.

(a) The Secretary is authorized to administer the programs required by the Act, except—

(1) Provisions of the Act authorizing the Secretary of Agriculture to establish programs for the reclamation of rural lands, identification of prime agricultural lands and other responsibilities described in the Act. Regulations promulgated by the Secretary of Agriculture are in Title 7 of the Code of Federal Regulations.

(2) Other provisions of the Act for which responsibility is specifically assigned to other Federal agencies including the Environmental Protection Agency, Corps of Engineers, Council on Environmental Quality, and the Energy Research and Development Administration.

(3) Authority retained by the States to enforce State laws or regulations which are not inconsistent with the Act or these regulations.

§ 700.4 Responsibilities under the Act.

(a) The Director of the Office of Surface Mining Reclamation and Enforcement, under the general direction of the Assistant Secretary, Energy and Minerals, is responsible for exercising the authority of the Secretary except for—

(1) Initial approval or disapproval of State regulatory programs under section 503 of the Act; and

(2) Designation of Federal lands as unsuitable for mining under sections 522 and 601 of the Act.

(b) The States are responsible for the regulation of surface coal mining and reclamation operations and the reclamation of abandoned mine lands in accordance with procedures in this chapter.

(c) The Secretary may delegate to a State certain authority for regulating coal mining on Federal lands through a cooperative agreement.

§ 700.5 Definitions.

As used throughout the regulations of this chapter, except where otherwise indicated—

Act means the Surface Mining Control and Reclamation Act of 1977, (Pub. L. 95-87).

Auger mining means a method of mining coal at a cliff or highwall by drilling holes laterally into an exposed coal seam from the highwall and transporting the coal along an auger bit to the surface.

Coal means combustible carbonaceous rock, classified as anthracite, bituminous, subbituminous, or lignite by A.S.T.M. designation 0-388-66.

Director means the Director, Office of Surface Mining Reclamation and Enforcement or his representative.

Federal lands means any land, including mineral interests, owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except Indian lands: *Provided*, That for the purposes of this Act lands or mineral interests east of the one hundredth meridian west longitude owned by the United States and entrusted to or managed by the Tennessee Valley Authority shall not be subject to sections 714 (Surface Owner Protection) and 715 (Federal Lessee Protection) of the Act.

Federal lands program means a program established by the Secretary pursuant to section 523 of the Act to regulate surface coal mining and reclamation operations on Federal lands.

Federal program means a program established by the Secretary pursuant to section 504 of the Act to regulate surface coal mining and reclamation operations on lands within a State in accordance with the requirements of the Act.

Fund means the Abandoned Mine Reclamation Fund established pursuant to section 401 of the Act.

Imminent danger to the health and safety of the public means the existence of any conditions or practice, or any violation of a permit or other requirement of the Act in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such conditions, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose himself to the danger during the time necessary for abatement.

Indian lands means all lands, including mineral interests, within the exterior boundaries of any Federal Indian reservation, notwithstanding the issuance of any patent, and including rights-of-way, and all lands including mineral interests held in trust for or supervised by an Indian tribe.

Indian tribe means any Indian tribe, band, group, or community having a governing body recognized by the Secretary.

Office means the Office of Surface Mining Reclamation and Enforcement established under Title II of the Act.

Operator means any person, partnership or corporation engaged in coal mining who removes or intends to remove more than 250 tons of coal from the earth by coal mining within 12 consecutive calendar months in any one location.

Permit, except as used in references to permits during the initial regulatory program, means a permit to conduct surface coal mining and reclamation operations issued by the State regulatory authority pursuant to a State program or by the Secretary pursuant to a Federal program. During the initial regulatory program, permit means a permit to conduct surface coal mining and reclamation operations issued by a State under State law. During the initial regulatory program, permit also means a mining plan approved pursuant to Part 211 of this Title held by a lessee of Federal lands during the initial program.

Person, means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other business organization.

Regulatory authority means the State regulatory authority where the State is administering the Act under an approved State program or the Secretary where the Secretary is administering the Act.

Secretary means the Secretary of the Interior or his representative.

Significant, imminent environmental harm to land, air, or water resources is determined as follows:

(a) An environmental harm is any adverse impact on land, air, or water resources, including plant and animal life.

(b) An environmental harm is imminent if a condition or practice exists which is causing or may reasonably be expected to cause such environmental harm if the condition or practice is not abated within a reasonable time.

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(c) An environmental harm may be significant even if it is reparable. An environmental harm is significant if that harm is appreciable and not readily reparable.

State lands means all lands including private lands within a State except Federal or Indian lands.

State program means a program established by a State pursuant to section 503 to regulate surface coal mining and reclamation operations on lands within such State in accord with the requirements of the Act and regulations issued by the Secretary under the Act.

State regulatory authority means the department or agency in each State which has primary responsibility at the State level for administering the Act under both the initial and permanent regulatory programs.

Surface Coal Mining Operations means: (a) Activities conducted on the surface of lands in connection with a surface coal mine or subject to the requirements of section 516 surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal for interstate commerce at or near the mine site: *Provided, however,* that such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ percentum of the tonnage of minerals removed for purposes of commercial use or sale or coal exploration subject to section 512 of the Act; and (b) the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land, the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities.

Surface coal mining and reclamation operations and all activities necessary and incident to the reclamation of such operations. This term includes the term "surface coal mining operations."

§ 700.11 Applicability.

The regulations in this chapter apply to all surface coal mining and reclamation operations except—

(a) The extraction of coal by a landowner for his own noncommercial use from land owned or leased by him;

(b) The extraction of coal for commercial purposes by surface mining which affects two acres or less;

(c) The extraction of coal as an incidential and non-commercial part of Federal, State, or local government-financed highway or other construction;

(d) The extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ percent of the mineral tonnage removed for commercial use or sale; and

(e) The extraction of coal on Indian lands which are covered by 25 CFR 177, Subpart B.

§ 700.12 Petitions to initiate rulemaking.

(a) Any person or State may petition the Director to initiate a proceeding for the issuance, amendment, or repeal of any regulation issued under the Act. The petition shall be filed in the Office of the Director, Office of Surface Mining Reclamation and Enforcement, United States Department of the Interior, Washington, D.C. 20240.

(b) The petition shall set forth a concise statement of the facts and law which require issuance, amendment, or repeal of a regulation under the Act and shall indicate whether the petitioner desires a public hearing.

(c) Upon receipt of a petition, the Director shall publish a notice in the FEDERAL REGISTER seeking comments from the public on the proposed change, and may hold a public hearing, may conduct an investigation or take other actions to determine whether or not the petition should be granted.

(d) Within 90 days from the date of receipt, the Director shall issue a written decision either granting or denying the petition. If the petition is granted the Director shall commence a rulemaking proceeding. If the petition is denied, the Director shall notify the petitioner in writing setting forth the reasons for denial.

§ 700.13 Prior notice of citizen suits.

A person who intends to commence a civil action on his own behalf under section 520 of the Act shall give notice of intent to do so in accordance with the regulations of this section.

(a) Notification shall be given by certified mail to the Secretary and the Director in all cases and to the head of the State regulatory authority if the complaint involves or relates to a specific State. A copy of the notification shall be provided by first class mail to the Regional Director of the Office if the complaint involves or relates to a specific region.

(b) Notification shall be given by certified mail to the alleged violator if the complaint alleges a violation of the Act, or of any regulation, order, or permit issued under the Act.

(c) Service of a notice under this section is complete upon mailing to the last known address of the person being notified.

(d) A person giving notice regarding an alleged violation of the Act or any regulation, order, or permit issued under the Act shall state, to the extent known—

(1) Sufficient information to enable the recipient to identify the provision of the Act, rule, regulation, order, or permit allegedly violated;

(2) The action or omission alleged to constitute a violation;

(3) The person or persons responsible for the alleged violation;

(4) The dates or dates of the alleged violation;

(5) The name, address, and telephone number of the person giving notice; and

(6) The name, address, and telephone number of legal counsel, if any.

(e) A person giving notice regarding an alleged failure by the Secretary of a State regulatory authority to perform a mandatory act or duty under the Act shall state, to the extent known—

(1) The provision or provisions of the Act containing the mandatory act or duty allegedly not performed;

(2) Sufficient information to enable the recipient to identify the omission alleged to constitute the failure to perform a mandatory act or duty under the Act;

(3) The name, address, and telephone number of the person giving notice; and

(4) The name, address, and telephone number of legal counsel, if any.

§ 700.14 Request for records.

(a) Records required to be made available locally to the public under the Act shall be located at the office having jurisdiction over the area involved.

(b) Other records or documents may be requested under 43 CFR Part 2, which implements the Freedom of Information Act and the Privacy Act.

PART 710—INITIAL REGULATORY PROGRAM

Sec.

710.1 Scope.
710.2 Objectives.
710.3 Authority.
710.4 Responsibility.
710.5 Definitions.
710.11 Applicability.
710.12 Special exemption for small operators on State lands.

AUTHORITY: Secs. 201, 501 and 502, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201)

§ 710.1 Scope.

(a) This part provides general introductory and applicability material for the initial regulatory program required by section 502 or other sections of the Act which require early implementation of the Act for surface coal mining and reclamation operations. The initial regulatory program is effective until permanent regulatory programs are approved in accordance with sections 503, 504 or 523 of the Act.

(b) The initial regulatory program which this part introduces includes:

(1) General performance standards of Part 715 of this chapter;

(2) Special performance standards of Part 716 of this chapter;

(3) Adoption of State standards of Part 717 of this chapter;

(4) Inspection and enforcement procedures of Parts 720–723 of this chapter; and

(5) Reimbursements to States of Part 725 of this chapter.

§ 710.2 Objectives.

(a) The objectives of the initial regulatory program are to—

(1) Protect the health and safety of the public and minimize the damage to the environment resulting from surface coal mining and the surface effects of underground coal mining during the interval between enactment of the Act and adoption of a permanent State or Federal regulatory program; and

(2) Coordinate the State and Federal regulatory programs to accomplish the purposes of the Act.

§ 710.3 Authority.

(a) The Secretary is directed to implement an initial regulatory program within six months after the date of enactment of the Act in each State which regulates surface coal mining until a State program has been approved or until a Federal program has been implemented.

(b) The Secretary is also authorized to regulate surface coal mining operations on Federal lands by the Mineral Leasing Act of February 25, 1920, as amended, (30 U.S.C. 181–287) and the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359) and on Indian lands by various Indian Lands Act. Additional regulations under these Acts are in 30 CFR Part 211, 43 CFR Part 3040 and 25 CFR Part 177.

§ 710.4 Responsibility.

(a) Under the general direction of the Assistant Secretary, Energy and Minerals the Director is responsible for administering the initial regulatory program established by the Secretary.

(b) The States are responsible for issuing permits and inspection and enforcement on State lands to insure compliance with the initial performance standards in Parts 715–716 of this chapter. States are required to file copies of inspection reports with the Office. States are also responsible for assuring that permits are not issued which would be in conflict with the prohibitions against mining found in section 510 of the Act, particularly in regard to alluvial valley floors and prime farm lands.

§ 710.5 Definitions.

As used throughout the initial regulatory program the following terms have the specified meanings unless otherwise indicated:

Acid drainage means water with a pH of less than 6.0 discharged from active or abandoned mines and from areas affected by coal mining operations.

Acid-forming materials means earth materials that contain sulfide mineral or other materials which, if exposed to air, water, or weathering processes, will cause acids that may create acid drainage.

Alluvial valley floors means unconsolidated stream-laid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities but does not include upland areas which are generally overlain by a thin veneer of colluvial deposits composed chiefly of debris from sheet erosion, deposits by unconcentrated runoff or slope wash, together with talus, other mass movement accumulation and windblown deposits.

Approximate original contour means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the regulatory authority determines that they are in compliance with § 715.7 of this chapter.

Aquifer. A zone, stratum, or group of strata that can store and transmit water in sufficient quantities for a specific use.

Combustible material means organic material that is capable of burning either by fire or through a chemical process (oxidation) accompanied by the evolution of heat.

Compaction means the reduction of pore spaces among the particles of soil or rock, generally done by running heavy equipment over the earth materials.

Disturbed area means those lands that have been affected by surface coal mining and reclamation operations.

Diversion means a channel constructed for the purpose of transporting water from areas where it is in excess to areas where it can be used or disposed of safely.

Downslope means the land surface between a valley floor and the outcrop of the lowest coalbed being mined along each highwall.

Embankment means an artificial deposit of materials that is raised above the natural surface of the land and used to contain, divert, or store water, support roads or railways, or for other similar purposes.

Ground water means subsurface water that fills available openings in rock or soil materials such that they may be considered water-saturated.

Highwall means the face of an exposed overburden and coal in an open cut of a surface or underground coal mine.

Hydrologic balance means an accounting of the quality and quantity of inflow to, outflow from, and storage in a hydrologic unit such as a drainage basin, aquifer, soil zone, lake, or reservoir. It encompasses the relationship between precipitation, runoff, evaporation, and the change in ground- and surface-water storage and is usually expressed by a hydrologic equation.

Hydrologic regime means the entire state of water movement in a given area. It is a function of the climate, and includes the phenomena by which water first occurs as atmospheric water vapor, passes into a liquid or solid form and falls as precipitation, moves thence along or into the ground surface, and returns to the atmosphere as vapor by means of evaporation and transpiration.

Impoundment means a closed basin formed naturally or artificially built, which is dammed or excavated for the retention of water, sediment or waste.

Intermittent or perennial stream means a stream or part of a stream that flows continuously during all (perennial) or for at least one month (intermittent) of the calendar year as a result of ground-water discharge or surface runoff. The term does not include an ephemeral stream which is one that flows for less than one month of a calendar year and only in direct response to precipitation in the immediate watershed and whose channel bottom is always above the local water table.

Leachate means a liquid that has percolated through soil, rock or waste and has extracted dissolved or suspended materials.

Noxious plants means species that have been included on official State lists of noxious plants for the State in which the operation occurs.

Overburden means material of any nature, consolidated or unconsolidated, that overlies a coal deposit, excluding topsoil which overlies the coal to be mined.

Outslope means the exposed area sloping away from a bench or terrace being constructed as a part of a surface coal mining and reclamation operation.

Premining land use means the highest and best use of the land which could have been achieved, taking into account the locally accepted best land management practices, prior to any mining.

Productivity means the vegetative yield produced by a unit area for a unit of time.

Recharge capacity means the ability of the soils and underlying materials to allow precipitation and runoff to infiltrate and reach the zone of saturation.

Roads means access and haul roads constructed, used, reconstructed, improved or maintained for use in surface coal mining and reclamation operations, including use by coal-hauling vehicles leading to transfer, processing or storage areas. The term includes any such road used and not graded to approximate original contour within 45 days of construction other than temporary roads used for topsoil removal and coal haulage roads within the pit area. Roads maintained with public funds such as all Federal, State and county roads are excluded.

Recurrence interval means the precipitation event expected to occur, on the average, once in a specified interval. For example, the 25-year 24-hour precipita-

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tion event would be that 24-hour precipitation event expected to be exceeded on the average once in 25 years. Magnitude of such events are as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, and subsequent amendments or equivalent regional or rainfall probability information developed therefrom.

Runnoff water means precipitation that flows along the land surface before it enters a defined stream channel and becomes concentrated streamflow.

Sediment means undissolved organic and inorganic material transported or deposited by water.

Settling pond means any natural or artificial structure or depression used to remove sediment from water and store sediment or other debris.

Slope means average inclination of a surface, measured from the horizontal. Normally expressed as a unit of vertical distance to a given number of units of horizontal distance (e.g., 1*v* to 5*h*=20 percent=11.6 degrees).

Soil horizons means a soil profile that consists of two or more layers lying one below the other and parallel to the land surface. The layers are known as horizons and are differentiated on the basis of field characteristics and laboratory data. The three major soil horizons are—

(a) *A horizon.* The uppermost layer in the soil profile often called the surface soil. It is the part of the soil in which organic matter is most abundant, and where leaching of soluble or suspended particles is the greatest.

(b) *B horizon.* The layer immediately beneath the A horizon and often called the subsoil. This middle layer commonly contains more clay, iron or aluminum than the A or C horizons.

(c) *C horizon.* The deepest layer of the soil profile. It consists of loose material or weathered rock that is relatively unaffected by biologic activity.

Spoil means overburden that has been removed during surface mining.

Stabilize means any method used to prevent movement of soil, spoil piles or areas of disturbed earth and includes increasing bearing capacity, increasing shear strength, draining, compacting or revegetating.

Surface water means water, either flowing or standing, on the surface of the earth.

Suspended solids means organic or inorganic materials carried or held in suspension in water that will remain on a 0.45 micron filter as differentiated from dissolved solids. Dissolved solids are solids that pass into solution.

Topsoil means the A soil horizon and underlying unconsolidated materials including those portions of the B and C soil horizons that have properties capable of producing desirable vegetation.

Toxic-forming materials means earth materials or wastes which, if acted upon by air, water or weathering processes, may produce chemical or physical conditions in soils or water that are detrimental to biota or uses of water.

Toxic-mine drainage means water that is discharged from active or abandoned mines and from other areas affected by coal mining operations and which contain a substance which through chemical action or physical effects is likely to kill, injure or impair an organism.

Watercourse means a natural stream course that heads in a given drainage basin and has a channel with a well-defined bed between visible banks or through a definite depression in the land and has a permanent or periodic supply of water.

Water table means upper surface of a zone of saturation, where the body of ground water is not confined by an overlying impermeable zone.

§ 710.11 Applicability.

(a) *Operations on State lands.* (1) The requirements of the initial regulatory program do not apply to surface coal mining and reclamation operations which occur on lands within a State which does not regulate such operations.

(2) General obligations. (i) A person conducting coal mining operations shall have a permit if required by the State in which he is mining and shall comply with State laws and regulations that are not inconsistent with this chapter.

(ii) A person conducting coal mining operations shall not engage in any operations which result in a condition or constitute a practice that creates an imminent danger to the health or safety of the public.

(iii) A person conducting coal mining operations shall not engage in any operations which result in a condition or constitute a practice that causes or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources.

(3) Performance Standards Obligations. (i) A person who conducts any coal mining operations under an initial permit issued by a State on or after February 3, 1978, shall comply with the requirements of the initial regulatory program. Such permits shall contain terms that comply with the relevant performance standards of the initial regulatory program.

(ii) On and after May 3, 1978, any person conducting coal mining operations shall comply with the initial regulatory program, except as provided in § 710.12.

(iii) A person shall comply with the obligations of this section until he has received a permit to operate under a permanent State or Federal regulatory program.

(b) *Operations on Indian Lands.* On or after December 16, 1977, a person conducting coal mining operations on Indian lands shall comply with the General Performance Standards of Parts 715 and 716 of this chapter insofar as they are incorporated in Part 177, Subpart B, of Title 25 of the Code of Federal Regulations.

(c) *Operations on Federal Lands.* (1) A person conducting coal mining operations on Federal lands that commence operations on or after February 3, 1978, shall comply with the General Performance Standards of Part 715 of this chapter and the Special Performance Standards of Part 716 of this chapter.

(2) Any person conducting coal mining operations on Federal lands on and after May 3, 1978 shall comply with the General Performance Standards of Part 715 of this chapter and the Special Performance Standards of Part 716 of this chapter.

(d) *Operations on all lands.* (1) The requirements of this chapter apply to operations conducted after the effective date of these regulations on lands from which the coal has not yet been removed and to any other lands used, disturbed or redisturbed in connection with or to facilitate mining or to comply with the requirements of the Act or these regulations.

(2) Any pre-existing, nonconforming structure or facility which is used in connection with or to facilitate mining after the effective date of these regulations shall comply with the requirements of the regulations, unless—

(i) It is physically impossible to bring the structure or facility into compliance by the effective date.

(ii) The permittee or operator submits to the regulatory authority by February 3, 1978, a plan designed by a professional engineer for the reconstruction of the structure or facility.

(iii) The regulatory authority approves the plan and

(iv) Reconstruction is started and completed as soon as possible. No plan shall be approved unless construction is to begin by May 4, 1978, and is to be completed by November 4, 1978, at the latest.

§ 710.12 Special exemption for small operators on State lands.

(a) As used in this section—

(1) *Permittee* means a person holding a permit under State law and to whom the permit was originally issued.

(2) *Renewed permit* means any extension of the original area or duration of a permit.

(b) If a person is an eligible permittee under paragraph (c) of this section and intends to conduct surface coal mining operations on or after May 3, 1978, that permittee may receive from the Director a limited exemption from the General Performance Standards of Part 715 of this chapter and the Special Performance Standards of Part 716 of this chapter. The exemption shall not—

(1) Include the Special Performance Standard of § 716.2(a)(1) of this chapter regarding the handling of spoil;

(2) Apply to surface coal mining operations to be conducted under a permit or renewed permit issued on or after August 3, 1977;

(3) Include any general or special performance standard to which a permittee is required to comply by a State;

(4) Relieve the permittee of the general obligations imposed by § 710.11(a) of this part regarding conditions or practices creating imminent danger or causing significant, imminent environmental harm; and

(5) Relieve the permittee of any obligations under State law, regulation or permit.

(c) A permittee is eligible for an exemption under this section—

(1) If the actual and attributed production of that permittee is estimated by the Director not to exceed 1,000,000 tons of coal during the year ending on December 31, 1978; and

(2) If that permittee—

(i) Was in existence on July 31, 1976, and during the year ending on July 31, 1977, the actual and attributed production of that permittee was 100,000 tons of coal or less from all surface and underground coal mining operations; or

(ii) Came into existence after July 31, 1976, and prior to May 2, 1977, and the actual and attributed production from all surface and underground coal mining operations of that permittee in the average calendar month was an amount of coal which when multiplied by 12 yields a product of 100,000 tons or less.

(d) Applications for an exemption under this section shall be submitted to the Regional Director of the Office with a copy to the State regulatory authority.

(e) The request for exemption shall include—

(1) The name and address of the permittee and of persons who control the permittee by reason of stock ownership or otherwise.

(2) The name, location, Mining and Enforcement and Safety Administration identification numbers and permit numbers of the surface coal mining operations for which exemption is sought, including a statement of the dates each permit was issued or renewed and will expire.

(3) The date and method by which the permittee was created if the permittee is not an individual.

(4) A listing of all surface and underground coal mining operations showing—

(i) Actual production for the year ending July 31, 1977, attributed to the permittee and the inclusive dates of operation.

(ii) Estimated production for the year ending December 31, 1978, attributed to the permittee and the anticipated dates of operation.

(5) A copy of coal severence tax returns for coal produced during the year ending on July 31, 1977.

(6) A copy of a notice the permittee has published in a local newspaper of general circulation once a week for two weeks stating—

(i) That an application for a small operator exemption will be filed;

(ii) The name and address of the permittee;

(iii) The location of the surface coal mining operations to which the exemption will apply; and

(iv) That public comments may be submitted to the Director, Office of Surface Mining Reclamation and Enforcement at the appropriate regional office address.

(f) Production from the following operations shall be attributed to the permittee—

(1) All coal produced by operations benefically owned entirely by the permittee.

(2) The pro rata share, based upon percentage of beneficial ownership, of coal produced by operations in which the permittee owns more than a 5-percent interest.

(3) All coal produced by persons who directly or indirectly control the permittee by reason of stock ownership direction of the management or in any other manner whatsoever.

(4) The pro rata share of coal produced by operations so controlled by the person who controls the permittee.

(g) The Director shall grant the request for an exemption if, upon the basis of the request and any State regulatory authority of public comments, he finds that—

(1) The permittee has satisfied his burden of proof by demonstrating eligibility for the exemption; and

(2) The exemption will not be inconsistent with State law, regulation or permit terms.

(h) Any person aggrieved by the decision of the Director under this section may appeal within 20 days from receipt of that decision to the Office of Hearings and Appeals under 43 CFR Part 4; The Office of Hearing and Appeals and the Secretary shall have the authority to stay the exemption during the pending of the appeal.

(i) The exemption shall be effective on the date approved. It shall remain in effect until expiration or renewal of the State permit to which it applies, December 31, 1978, or until reversed, whichever is earlier.

PART 715—GENERAL PERFORMANCE STANDARDS

Sec.

715.11 General obligations.
715.12 Signs and markers.
715.13 Postmining use of land.
715.14 Backfilling and grading.
715.15 Disposal of spoil and waste materials in areas other than the mine workings or excavations.
715.16 Topsoil handling.
715.17 Protection of the hydrologic system.
715.18 Dams constructed of refuse materials, general.
715.19 Use of explosives.
715.20 Revegetation.

AUTHORITY: Secs. 201 and 501, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201).

§ 715.11 General obligations.

(a) *Compliance.* All surface coal mining and reclamation operations conducted on lands where any element of the operations is regulated by a State shall comply with the initial performance standards of this part according to the time schedule specified in § 710.11 of this chapter. Special Initial Performance Standards are established by Part 716 of this chapter for—

(1) Surface coal mining operations on steep slopes.

(2) Surface coal mining operations involving mountain-top removal.

(3) Special bituminous coal mines.

(4) Anthracite surface coal mining operations.

(5) Surface coal mining operations in Alaska.

(6) Surface coal mining operations on prime farmlands.

(7) Surface effects of underground coal mines.

Where State environmental protection standards are adopted for a specific State because they are more stringent than the standards of this part, they will be published in Part 717 of this chapter.

(b) *Authorizations to operate.* A copy of all current permits, licenses, approved plans or other authorizations to operate the mine shall be available for inspection at or near the mine site.

(c) *Mine Maps.* Any person conducting surface coal mining and reclamation operations on and after May 3, 1978, shall submit two copies of accurate maps of the mine and permit area at a scale not to exceed 1:1000, certified by a surveyor or engineer. The maps shall show as of May 3, 1978 the lands from which coal has not yet been removed, lands and structures which have been used or disturbed to facilitate mining. One copy of the mine map shall be submitted to the State regulatory authority and one copy shall be submitted to the Regional Director, OSM, before June 3, 1978.

§ 715.12 Signs and markers.

(a) *Specifications.* All signs required to be posted shall be of a standard design that can be seen and read easily from a distance of 100 feet and they shall be made of durable material. The signs and other markers required by paragraphs (b), (c), and (d) of this section shall be maintained during all operations and until release of all bonds for the permit area. All signs and markers shall be displayed conspicuously within the permit area and conform to local ordinances and codes.

(b) *Mine and permit identification signs.* Signs identifying the mine area shall be displayed at all points of access to the mine property from public highways. Signs shall show the name, business address, and telephone number of the permittee or operator and identification numbers of mining and reclamation permits or other authorizations to operate.

(c) *Perimeter markers.* The perimeter of the mine property shall be clearly marked by durable markers that extend at least 3 feet above the ground. Permit numbers must be permanently affixed to the markers. On mine areas of 10 acres or more, the markers shall be spaced a maximum of 400 feet apart; on mine areas of less than 10 acres, the markers shall be spaced a maximum of 200 feet apart. Within the perimeter of the mine property, identification markers shall be established showing the boundary of coal which has not been removed prior to May 3, 1978. Temporary markers may be used during coal removal operations

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but the boundary shall be re-established by permanent markers after final surface configuration in an area is established.

(d) *Buffer zone markers.* Buffer zones as defined in § 715.17 shall be marked at not more than 200-foot intervals along the interior boundary of the buffer zone. The signs shall read "Buffer Zone—Limited Access" and be placed so as to be seen by all persons employed on the mine property.

(e) *Blasting signs.* If blasting is necessary to conduct surface coal mining operations, signs reading "Blasting Area" shall be displayed conspicuously at the edge of blasting areas along access and haul roads within the mine property. Signs reading "Blasting Area" and explaining the blasting warning and all-clear signals shall be posted at all entrances to the mine property.

(f) *Topsoil markers.* Where topsoil or other vegetation supporting material is segregated and stockpiled according to § 715.16(c), the stockpiled material shall be marked with signs that read "Topsoil." These signs shall remain in place until the material is removed.

§ 715.13 Postmining use of land.

(a) *General.* All disturbed areas shall promptly be restored (1) to conditions that are capable of supporting the uses which they were capable of supporting before any mining, or (2) to higher or better uses approved under criteria and procedures of paragraph (d) of this section.

(b) *Criteria for establishing premining use of land.* Criteria for establishing the premining use of the land shall be those uses which the lands have previously or were capable of supporting within the mine property, areas surrounding the mine property, or areas located in similar terrain and climate within the region that have been managed using methods considered practicable for the region. The appropriateness of postmining land use plans shall not be judged on the basis of lands that (1) were previously mined and not reclaimed to meet the standards of this part, (2) were badly eroded or overgrazed so as to change the vegetation community to one unsuitable for grazing, or (3) are otherwise determined by the regulatory authority to have been poorly managed. However, if the lands within the mine property were previously mined and not reclaimed to the standards of this part, the postmining use of the land shall be evaluated against the highest possible use compatible with surrounding unmined lands. If the premining use of the land was changed within five years of the beginning of mining, the comparison of post mining use to premining use shall include a comparison to the historic use of the land as well as its use immediately preceding mining.

(c) *Land-use categories.* Proposed land uses will be considered subject to this section when they change from one to another of the land-use categories identified in this paragraph. The regulatory authority shall consider the following categories, at a minimum, to represent differing land uses. When an alternative postmining use is proposed the permittee or operator shall meet the requirements of paragraph (d) of this section and all other applicable environmental protection performance standards of this part and Parts 716 and 717 of this chapter.

(1) *Heavy industry.* Manufacturing facilities, powerplants, airports or similar facilities.

(2) *Light industry and commercial services.* Office buildings, stores, parking facilities, apartment houses, motels, hotels or similar facilities.

(3) *Public services.* Schools, hospitals, churches, libraries, water-treatment facilities, solid-waste disposal facilities, public parks and recreation facilities, major transmission lines, major pipelines, highways, roads, underground and surface utilities and other servicing structures and appurtenances.

(4) *Residential.* Single- and multiple-family housing (other than apartment houses over three stories) with necessary support facilities. Support facilities may include commercial services incorporated in and comprising less than 5 percent of the total area of housing capacity, associated open space, and minor parking and recreation facilities supporting the housing.

(5) *Agricultural.* (i) Cropland. Land used primarily for the production of cultivated crops for harvest. Land used for facilities in support of farming operations are included.

(ii) Rangeland. Land used for grazing by livestock and big game animals on which the climax (natural potential) plant community is dominated by grasses, grasslike plants, forbs and shrubs.

(iii) Hayland or pasture. Land used for meadow grasses which are cut and cured for livestock feed.

(iv) Forest. Land used primarily for the production of adapted wood crops.

(6) *Fish and wildlife habitat.* Wetlands, fish and wildlife habitat, and areas managed primarily for fish and wildlife; may include impoundments that have a capacity of less than 20 acre-feet and a surface area at the high-water mark of less than 2 acres.

(7) *Combined uses.* Any appropriate combination of land uses where one land use is designated as the primary land use and one or more other land uses are designated as secondary land uses.

(d) *Criteria for approving alternative postmining use of land.* An alternative postmining land use may be approved by the regulatory authority, after consultation with the land owner or the surface management agency on Federal lands, if the following criteria are met. Proposals to remove an entire coal seam running through the upper part of a mountain, ridge, or hill must also meet these criteria in addition to the requirements of § 716.3 of this chapter.

(1) The proposed land use is compatible with adjacent land use and, where applicable, with land-use policies and plans. A written statement of the views of the authorities with statutory responsibilities for land-use policies and plans shall accompany the request for approval.

(2) Available data on the long-term expected need and market show that the proposed land use can be achieved and maintained.

(3) Specific and feasible plans have been prepared which included a time schedule showing how the proposed land use will be achieved within a reasonable time after mining and how the achieved land use will be sustained. The regulatory authority may require appropriate demonstrations to show that the planned procedures are feasible, reasonable, and integrated with mining and reclamation, and that the plans will result in successful reclamation.

(4) Completion of the necessary public facilities is assured as evidenced by appropriate letters of commitment to provide them in a manner compatible with the operator's plans.

(5) Specific and feasible plans for financing attainment and maintenance of the postmining land use including letters of commitment if the financing is to be provided by someone other than the permittee or operator.

(6) The plans are designed by a registered professional engineer, or other professional, who is knowledgeable about the proposed land-use category and will ensure that the plans conform to nationally accepted standards to assure adequate land stability, drainage, and vegetation cover, and will provide an appropriate aesthetic design for the postmining use of the site.

(7) The proposed use or uses will not present actual or probable hazard to public health or safety nor will they pose any actual or probable threat of water flow diminution or pollution.

(8) The use or uses will not involve unreasonable delays in reclamation.

(9) Necessary approval of measures to prevent or mitigate adverse effects on fish and wildlife has been obtained from the regulatory authority and appropriate State and Federal fish and wildlife management agencies.

(10) Proposals to change from premining land uses of rangeland, fish and wildlife habitat, hayland, or pasture to a postmining cropland use, where the cropland would require continuous maintenance such as seeding, plowing, cultivation, fertilization, or other similar practices to be practicable or to comply with applicable Federal, State, and local laws, shall be reviewed by the regulatory authority to assure that—

(i) There is a firm written commitment by the permittee or by the land owner or land manager to provide sufficient crop management after release of applicable performance bonds to assure that the proposed postmining cropland use remains practical and reasonable, and will not pose an actual or probable threat of water diminution or pollution; and

(ii) There is sufficient water available and committed to maintain crop production.

(iii) The quality and quantity of topsoil has been shown to be sufficient to support the proposed use over a period of years.

(iv) The proposed cropland use will be maintained after release of applicable bonds and is not proposed only as a temporary alternative to re-establishing the premining use of the land.

(11) The regulatory authority has provided by public notice not less than 45 days nor more than 60 days for interested citizens and local, State and Federal agencies to review and comment on the proposed land use.

§ 715.14 Backfilling and grading.

In order to achieve the approximate original contour, the permittee or operator shall, except as provided in paragraphs (d), (e), and (g) of this section, transport, backfill, compact unless otherwise approved by the regulatory authority, and grade all spoil material to eliminate all highwalls, spoil piles, and depressions. Cut-and-fill terraces may be used only in those situations expressly identified in this section. Land above the highway may be disturbed only in the amount necessary to comply with this section and § 715.17. The postmining graded slope must be determined by the premining average of natural slopes in the area as defined in paragraph (a) of this section.

(a) *Slope measurements.* (1) To determine the average natural slope of the area before mining, 10 slopes, or more as specified by the regulatory authority in accordance with site conditions, must be surveyed, measured, and recorded. Each measurement shall consist of an angle of inclination along the prevailing slope extending 100 linear feet above and below the coal outcrop; or, where this is impractical, at locations specified by the regulatory authority. Where the area has been previously mined, the measurements shall extend at least 100 feet beyond the limits of mining disturbances as determined by the regulatory authority to be representative of the premining configuration of the land.

(2) After the disturbed area has been graded and the topsoil replaced, the final graded slopes shall be measured at the beginning and end of lines established on the prevailing slope at locations representative of premining slope conditions and approved by the regulatory authority. These measurements must not be made so as to allow unacceptably steep slopes to be constructed.

(b) *Moderate slopes.* Where natural slopes are determined according to paragraph (a) of this section to average less than 20 degrees, or such lesser slope as the regulatory authority requires, the final graded slopes shall not exceed either the average maximum natural slope or any lesser slope as specified by the regulatory authority based on consideration of soil, climate, or other characteristics of the surrounding area.

(c) *Steep slopes.* (1) Where natural slopes are determined according to paragraph (a) of this section to average 20 degrees of more, or such lesser slope as the regulatory authority defines as "steep slope," the final graded slopes shall not exceed either the average maximum natural slope or any lesser slope as specified by the regulatory authority based on consideration of soil, climate, or other characteristics of the surrounding area.

(2) In order to conserve soil moisture and to control erosion on final graded slopes, cut-and-fill terraces along mine benches may be allowed if the terraces are compatible with the postmining land use approved under § 715.13, will prevent erosion, and are appropriate substitutes for construction of lower grades on the reclaimed lands. The terraces shall meet the following requirements:

(i) The width of the individual terrace bench shall not exceed 20 feet.

(ii) The vertical distance between terraces shall be as specified by the regulatory authority to prevent excessive erosion and to provide long-term stability.

(iii) The slope of the terrace face shall not exceed $1v:2h$ (50 percent).

(iv) The terrace shall have adequate slopes to divert drainage away from the face of the terrace and into drainage systems that are stabilized by vegetation or other stabilization methods that will require minimal maintenance after mining.

(v) Culverts and underground rock drains shall not be used on the terrace unless approved by the regulatory authority.

(3) All operations on natural slopes of 20 degrees or more as stated as paragraph (c)(1) of this section shall meet the provisions of § 716.2 of this chapter.

(d) *Mountaintop removal.* Where surface mining operations will remove entire coal seams in the upper part of a mountain, ridge, or hill by removing all of the overburden, final graded top plateau slopes on the mined area shall be less than $1v:5h$ so as to create a level plateau or gently rolling configuration and the outslopes of the plateau shall not exceed $1v:2h$, except where engineering data substantiates and the regulatory authority finds that a minimum static safety factor 1.5 will be attained. Although the area need not be restored to approximate original contour, all highwalls, spoil piles, and depressions except as provided in paragraph (e) of this section shall be eliminated. All mountaintop removal operations shall meet the provisions of § 716.3 of this chapter.

(e) *Depressions.* The requirement of this section to achieve approximate original contour does not prohibit construction of small depressions if they are approved by the regulatory authority to minimize erosion, conserve soil moisture or promote revegetation. However, the depressions shall be compatible with the approved postmining land use and shall not be inappropriate substitutes for construction of power grades on the reclaimed lands. Depressions approved under this section shall have a holding capacity of less than 1 cubic yard of water or, if it is necessary that they be larger, shall not restrict normal access to the area.

(f) *Definition of thin and thick restored overburden.* The thin overburden provisions of paragraph (g) of this section apply where the final thickness is less than 0.8 of the initial thickness. The thick overburden provisions of paragraph (h) of this section apply where the final thickness is greater than 1.2 of the initial thickness. Initial thickness is the sum of the overburden thickness and coal thickness. Final thickness is the product of the overburden thickness times the bulking factor to be determined for each mine area.

(g) *Thin overburden.* In surface coal mining operations carried out continuously in the same limited pit area for more than 1 year from the day coal-removal operations begin and where the volume of all available spoil and suitable waste materials is demonstrated to be insufficient to achieve approximate original contour, surface coal mining operations shall be conducted to meet the following standards if the operations do not meet the criteria specified in § 716.4 of this chapter:

(1) Transport, backfill, and grade, using all available spoil and suitable waste materials from the entire mine area, to attain the lowest practicable grade, which may not exceed the angle of repose, and to provide adequate drainage and long-term stability of the regraded areas.

(2) Eliminate highwalls by reshaping to stable slopes not exceeding $1v:2h$ (50 percent), or such lesser slopes as the regulatory authority may specify to reduce erosion, maintain the hydrologic balance, or allow the approved postmining land use.

(3) Transport, backfill, grade, and revegetate to achieve an ecologically sound land use compatible with the prevailing land use in unmined areas surrounding the permit area.

(4) Transport, backfill and grade to ensure that impoundments are constructed only where it has been demonstrated to the regulatory authority's satisfaction that all requirements of § 715.17 have been met and that the impoundments have been approved by the regulatory authority as meeting the requirements of this part and all other applicable Federal and State regulations.

(h) *Thick overburden.* In surface coal mining operations where the volume of spoil is demonstrated to be more than sufficient to achieve the approximate original contour surface coal mining operations shall be conducted to meet the following standards:

(1) Transport, backfill, and grade all spoil and wastes not required in the surface mining area to achieve approximate original contour to the lowest practicable grade.

(2) Deposit, backfill, and grade excess spoil and wastes only within the permit area and dispose of such materials in conformance with § 715.15.

(3) Transport, backfill, and grade excess spoil and wastes to maintain the hydrologic balance in accordance with

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§ 715.17 and to provide long-term stability.

(4) Transport, backfill, grade, and revegetate wastes and excess spoil to achieve an ecologically sound land use compatible with the prevailing land uses in unmined areas surrounding the permit area.

(5) Eliminate all highwalls and depressions except as stated in paragraph (e) of this section by filling with spoil and suitable waste materials.

(i) *Regrading to remove rills and gullies.* When rills or gullies deeper than 6 inches form in areas that have been regraded and the top soil replaced but vegetation has not yet been established, the permittee shall fill, compact, or otherwise stabilize the rills and gullies and reseed or replant the areas according to § 715.20.

(j) *Covering coal and acid-forming, toxic-forming, combustible, and other waste materials; stabilizing backfilled materials; and using waste material for fill.* (1) *Cover.* All undisturbed coal seams and any acid-forming, toxic-forming, combustible materials or any other waste materials as identified by the regulatory authority that are exposed, used, or produced during mining shall be treated to neutralize potential toxicity and permanently covered with a minimum of 5 feet of nontoxic and noncombustible material, in order to prevent water pollution, adverse effects on plant growth and land uses, and sustained combustion.

(2) *Stabilization.* Backfilled materials shall be compacted wherever necessary to prevent leaching of toxic materials into surface or subsurface waters in accordance with § 2020.17(g) and wherever necessary to ensure the stability of the backfilled materials. The equipment to be used, the method of compacting material and the design specifications shall be approved by the regulatory authority before the toxic materials are covered.

(3) *Use of waste materials as fill.* Before waste materials from a coal preparation or conversion facility or from other activities conducted outside the permit area such as municipal wastes are used for fill material, it must be demonstrated to the regulatory authority by means of chemical and physical analyses that use of these materials will not adversely affect water quality, water flow, and vegetation; will not present hazards to public health and safety; and will not cause instability in the backfilled area.

(k) *Grading along the contour.* All final grading, preparation of overburden before replacement of topsoil, and placement of topsoil in accordance with § 715.16, shall be done along the contour to minimize subsequent erosion and instability. If grading along the contour would be hazardous to equipment operators, grading in a direction other than generally parallel to the contour may be approved by the regulatory authority.

§ 715.15 Disposal of spoil and waste material in areas other than the mine workings or excavations.

(a) *Disposal of spoil and wastes in other than valley or head-of-hollow fills.* Spoil and waste material not required to achieve the approximate original contour may be transported to and placed in a controlled (engineered) manner in disposal areas other than the mine workings or excavations only if all the following conditions, in addition to the other requirements of this part, are met:

(1) The disposal areas shall be within the permit area, and they must be approved by the regulatory authority.

(2) The disposal areas shall be located on the most moderate sloping and naturally stable areas available as approved by the regulatory authority.

(3) Where the slope in the disposal area exceeds 1v:5.5*h* (18 percent), or where otherwise required by the regulatory authority, structures such as keyway cuts (excavations to stable bedrock) or rock toe buttresses shall be used to stabilize the fill.

(4) The disposal area does not contain springs, natural water courses or wet weather seeps unless lateral drains are constructed from the wet areas to the main underdrains in such a manner that filtration of the water into the spoil pile will be prevented.

(5) The spoil and wastes shall be placed, compacted, covered, and graded to allow surface and subsurface drainage to be compatible with the natural surroundings, and to ensure long-term stability. The final configuration of the land must be suitable for land uses approved in accordance with § 715.13.

(6) The fill shall be designed using recognized professional standards and approved by a registered professional engineer.

(7) All organic material shall be removed from the disposal area and the topsoil must be removed and segregated before the surplus material is placed in the disposal area. However, if approved by the regulatory authority, organic material may be used as mulch or may be included in the topsoil.

(8) The fill shall not interrupt or encroach upon active drainage channels in a way that will impound water or cause an increase in suspended solids in the surface drainage outside the permit area over that existing before surface coal mining and reclamation operations.

(9) The fill shall be inspected for stability by a registered engineer or qualified professional specialist at least quarterly and during critical construction periods to assure removal of all organic material and topsoil, placement of underdrainage systems, and proper construction of terraces according to the approved plan. The registered engineer shall provide a certified report, after each inspection that the fill has been constructed as specified by the design approved by the regulatory authority.

(b) *Disposal of spoil in valley or head-of-hollow fills.* Waste material must not be disposed of in valley or head-of-hollow fills. Spoil to be disposed of in natural valleys must be placed in accordance with the following requirements.

(1) The disposal areas shall be within the permit area, and they must be approved by the regulatory authority and be appropriately bonded.

(2) The disposal site shall be near the ridge top of a valley selected to increase the stability of the fill and to reduce the drainage area above the fill.

(3) A system of underdrains constructed of durable rock shall be installed along the natural drainageways of the disposal area. The drainage system shall extend from the toe to the head of the fill and contain lateral drains to each area of potential drainage or seepage. In constructing the underdrains, a maximum of 10 percent of the rock must be less than 12 inches in size; however, no rock can be larger than 25 percent of the width of the drain. The minimum size of the main underdrain shall be:

Total amount of fill material	Predominant type of fill material	Minimum size of drain in feet	
		Width	Height
Less than 1,000,000 yd ³	Sandstone	10	4
Do.	Shale	16	8
More than 1,000,000 yd ³	Sandstone	16	8
Do.	Shale	16	16

(3) Spoil shall be placed and compacted to designed densities in lifts that are less than 4 feet thick.

(4) Terraces shall be constructed to stabilize the face of the fill. The height of each terrace shall not exceed 50 feet and the width shall not be less than 20 feet.

(5) The tops of the fill and each terrace shall be graded no steeper than 1v:20*h* (5 percent) to drain surface water to the sides of the fill where stabilized surface channels shall be established off the fill to carry drainage away from the fill. Drainage shall not be directed over the face of the fill unless approved by the regulatory authority.

(6) All surface drainage from the undisturbed area above the fill shall be diverted away from the fill area into protected channels.

(7) The outslope of the fill shall not exceed 1v:2*h* (50 percent). The regulatory authority may require a flatter slope because of the physical, climatological, and other characteristics of the site.

(8) The fill shall be inspected for stability by a registered engineer or qualified professional specialist at least quarterly and during critical construction periods to assure removal of all organic material and topsoil, placement of underdrainage systems, and proper construction of terraces according to the approved plan. The registered engineer

shall provide a certified report, after each inspection, that the fill has been constructed and maintained as specified by the design approved by the regulatory authority.

§ 715.16 Topsoil handling.

To prevent topsoil from being contaminated by spoil and waste materials, the permittee or operator shall remove the topsoil as a separate operation from areas to be mined. Topsoil shall be immediately redistributed according to the requirements of paragraph (b) of this section on areas graded to the approved postmining configuration. If sufficient graded areas are not immediately available because of climatic conditions or size of the area on which topsoil can be distributed, the topsoil shall be segregated, stockpiled, and protected from wind and water erosion or contaminants which lessen its capability to support vegetation.

(a) *Topsoil removal.* (1) All topsoil to be salvaged shall be removed before drilling for blasting, blasting, or mining to prevent loss and contamination of the topsoil with undesirable materials. All topsoil shall be removed unless otherwise approved by the regulatory authority to provide for use of alternative soil horizon or to avoid retention of excessive B horizon material. Where the removal of topsoil results in erosion that may cause air or water pollution, the regulatory authority shall limit the size of the area from which topsoil may be removed at any one time and specify methods of treatment to control erosion of exposed overburden.

(2) Where the A horizon of the topsoil is identified by surveys and soil core (or equivalent) analyses to be of sufficient depth to permit separate removal and to be of high quality in terms of plant-growth medium or native-seed source, the regulatory authority shall require that the entire A-horizon be removed separately and segregated from the other soil horizons and replaced as the surface soil layer.

(3) Overburden may be used instead of, or as a supplement to, topsoil only where the available topsoil is of inadequate quantity or quality to sustain vegetation, and if all the following requirements are met:

(i) The permittee demonstrates that the overburden is more suitable for vegetation by the results of chemical and physical analyses, which shall include determinations of pH, percent organic matter, nitrogen, phosphorous, potassium, texture class, water holding capacity, potential acidity or other analyses as required by the regulatory authority, and by the results of any field-site trials or greenhouse results required by the regulatory authority.

(ii) The chemical and physical analyses and the field-site trials are accompanied by a certification from a qualified soils scientist.

(iii) The alternative overburden is removed, segregated, stockpiled, and replaced in conformance with this section.

(b) *Topsoil redistribution.* (1) After final grading and before the topsoil is replaced, regarded land shall be scarified or otherwise treated to eliminate slippage surfaces.

(2) Topsoil shall be redistributed in a manner that—

(i) Achieves a uniform thickness throughout the regraded area.

(ii) Prevents excess compaction of the spoil and topsoil; and

(iii) Protects the topsoil from wind and water erosion before it is seeded or planted.

(3) Water erosion shall be minimized by spreading soil or finishing grading of soil along the contour, unless this action would be hazardous to equipment operators. Grading in a direction other than generally parallel to the contour shall be approved by the regulatory authority before final grading.

(c) *Topsoil storage.* If the permit allows storage of topsoil, the stockpiled topsoil shall be placed within the permit area where it will not be disturbed or be exposed to excessive water, wind erosion or contaminants which lessen its capability to support vegetation before it can be redistributed on terrain graded to final contour. If stockpiles are to be in place for more than 30 days, they shall be selectively placed and protected from wind and water erosion, unnecessary compaction, and contamination by undesirable materials either by a vegetation cover as defined in § 715.20(g) or by other methods that have been demonstrated to provide equal protection such as snow fences, chemical binders, and mulching. The regulatory authority may require more stringent standards if a high potential exists for loss of topsoil through erosion, and shall prohibit moving the topsoil once it is placed in a storage area until it is moved to a regraded area for redistribution.

(d) *Nutrients and soil amendments.* Nutrients and soil amendments in the amounts and analyses as determined by soil tests shall be applied to the topsoil to produce soil that will support the reclamation requirements of § 715.20.

§ 715.17 Protection of the hydrologic system.

The permittee shall plan and conduct coal mining and reclamation operations to minimize disturbance of and to prevent long-term changes in the prevailing hydrologic balance, on or off site. Changes in water quality and quantity, in the depth to ground water, or in the location of surface-water drainage channels will be limited to changes that do not violate applicable Federal and State regulations and do not adversely affect the post-mining use of the disturbed lands. The permittee shall conduct all operations in such a way as to minimize water pollution and, where necessary, use treatment methods to control water pollution. Practices that will minimize pollution include but are limited to stabilizing disturbed areas through shaping and grading, diverting runoff, achieving quick growing stands of temporary vegetation, lining drainage channels with rock or vegetation, mulching topsoil, sealing off acid-forming and toxic-forming materials, and selectively placing waste materials in backfill areas. If pollution can be controlled only by treatment, the permittee shall operate and maintain the necessary water-treatment facilities. However, the permittee shall emphasize mining and reclamation practices that will prevent or minimize water pollution in preference to water-treatment facilities.

(a) *Water-quality standards and effluent limitations.* All drainage from the disturbed area, including areas revegetated and not released from bond, shall be discharged through a settling pond, or a series of settling ponds. The regulatory authority may grant exemptions from this requirement only when the disturbed drainage area within the disturbed area is small and settling ponds are not necessary to meet water-quality standards and effluent limitations. Discharges from the entire permit area must meet all applicable Federal and State water-quality standards and the following numerical effluent limitations:

Effluent limitations, in milligrams per liter except for hydrogen-ion concentration

Effluent characteristic	Maximum allowable [1]	Average of daily values for 30 consecutive discharge days [1]
Iron, total	7.0	3.5
Manganese, total	4.0	2.0
Total suspended solids [2]	70.0	35.0
Hydrogen-ion concentration.	Within the range 6.0 to 9.0.	

[1] Based on a representative sampling schedule.

[2] In Arizone, Colorado, Montana, New Mexico, North Dakota, South Dakota, Utah, and Wyoming, total suspended solids limitations will be determined on a case-by-case basis, but they must not be greater than 45 mg/l (maximum allowable) and 30 mg/l (average of daily values for 30 consecutive discharge days) based on a representative sampling schedule.

(1) Any overflow or other discharge of surface water from the permit area that would result from an event larger than a 25-year 24-hour frequency event will not be subject to these effluent standards.

(2) The permittee shall install, operate, and maintain adequate facilities to treat any water discharge that violates the standards and limitations of this paragraph or other applicable standards. If the pH of discharged waters normally is less than 6.0, and the mine normally produces more than 500 tons of coal per operating day, an automatic lime feeder or other neutralization device approved by the regulatory authority shall be installed, operated, and maintained.

(b) *Surface-water monitoring.* (1) Equipment necessary to measure the quality and quantity of surface-water discharges from the permit area and to identify the effects of surface mining and reclamation operations on the surface water shall be installed, maintained, and operated, and shall be removed when no longer required. Total iron, total manganese, total suspended solids, pH, and flow must be measured on a daily basis whenever a discharge

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occurs unless it can be demonstrated to the satisfaction of the regulatory authority that different analyses are required. The regulatory authority may require additional analyses.

(2) Daily samples shall, for all discharges that occur more than 1 hour (continuous or intermittent flow), be comprised of at least four samples representative of actual conditions, composited for a daily analysis. Chemical analysis must be performed as specified in 40 CFR 136. The results of these measurements shall be submitted to the regulatory authority on a monthly basis, but within 60 days of collection. However, if the discharge is subject to regulation by a Federal or State permit issued in compliance with section 301 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1311), a copy of the completed reporting form supplied to meet the permit requirements may be submitted to the regulatory authority to satisfy the monitoring and reporting requirements of this paragraph, if the reported data meets the requirements of this paragraph. Violations of permit conditions must be reported to the regulatory authority immediately after receipt of analytical results by the permittee.

(c) *Diversion and conveyance of overland flow from disturbed areas.* In order to prevent acid and other toxic mine drainage from polluting surface and ground water and to minimize erosion, overland flow shall be diverted away from disturbed areas by means of temporary or permanent diversion structures, and the following requirements shall be met:

(1) Temporary diversion structures are those used during mining and reclamation. When no longer needed to protect disturbed areas, the structures shall be removed and the area reclaimed. They shall be constructed to safely pass the peak runoff from a precipitation event with a 10-year recurrence interval, or a larger event as specified by the regulatory authority.

(2) Permanent diversion structures are those remaining after mining and reclamation and approved for retention by the regulatory authority and other appropriate State and Federal agencies. To protect fills and property and avoid danger to public health and safety, permanent diversion structures shall be constructed to safely pass the peak runoff from a precipitation event with a 100-year recurrence interval or a larger event as specified by the regulatory authority. Permanent diversions shall be constructed with gently sloping banks that are stabilized by vegetation. Asphalt, concrete, or other similar linings shall not be used unless specifically required to prevent seepage or to provide stability and are approved by the regulatory authority.

(3) Diversions shall be designed, constructed, and maintained in a manner that does not increase the total suspended solids leaving the permit area on a seasonal basis above those levels that existed before mining and in excess of requirements set by applicable Federal and State law.

(4) Discharges from diversions that pass entirely through undisturbed areas shall meet applicable water-quality standards for the receiving streams. Discharges from diversions that pass through disturbed areas must comply with paragraph (a) of this section.

(5) Surface water shall not be diverted into underground mine workings unless it is demonstrated to the satisfaction of the regulatory authority that such diversion will abate water pollution or otherwise eliminate public hazards resulting from underground mining.

(d) *Stream channel diversions.* (1) Flow from perennial, intermittent, and ephemeral streams within the permit area may be diverted only when the diversions are approved by the regulatory authority and they are in compliance with local, State, and Federal law and approved regulations. When streamflow is allowed to be diverted, the new stream channel shall be designed and constructed to meet the following requirements:

(i) The average stream gradient shall be maintained and the channel designed to remain stable after mining and reclamation operations are completed.

(ii) Channel, bank, and flood-plain configurations shall be adequate to safely pass the peak runoff of a precipitation event with a 10-year recurrence interval for temporary diversions and a 100-year recurrence interval for permanent diversions; or larger events as specified by the regulatory authority.

(iii) Channel banks shall be protected from erosion by measures such as seeding, planting and applying riprap.

(iv) Fish and wildlife habitat and water and vegetation of significant value for wildlife food or shelter shall be protected in consultation with appropriate fish and wildlife management agencies.

(v) Diversions shall be designed, constructed, and maintained in a manner that does not increase the total suspended solids leaving the permit area on a seasonal basis above those levels that existed before mining. Applicable State and Federal water-quality standards shall be met.

(2) All temporary diversion structures shall be removed before release of applicable bonds unless the regulatory authority approves the retention of those structures.

(3) Buffer zone. No land shall be disturbed within 100 feet of an intermittent or perennial stream not approved for mining unless authorized by the regulatory authority. The area not to be disturbed shall be designated a buffer zone and marked with signs as specified in § 715.12.

(e) *Settling ponds.* Settling ponds shall be constructed in appropriate locations in each drainage area prior to any mining in that drainage area in order to control sedimentation or otherwise treat water in accordance with paragraph (a) of this section. These ponds may be used individually or in a series, and they shall meet the following criteria:

(1) The minimum storage volume shall equal the sum of—(i) The volume of runoff to be controlled from the drainage area above the settling pond that results from a 10-year 24-hour precipitation event;

(ii) 0.2 acre-feet of storage for each of disturbed area within the upstream drainage area; and

(iii) additional storage as necessary to meet the effluent standards of paragraph (a) of this section.

(2) An appropriate combination of principal and emergency spillways shall be provided to safely discharge the peak runoff from a precipitation event with a 25-year recurrence interval, or larger event as specified by the regulatory authority.

(3) All settling ponds shall be examined for structural weakness, erosion and other hazardous conditions in accordance with inspection requirements contained in § 77.216–3 of this Title.

(4) All settling ponds shall be removed and the disturbed areas regraded, revegetated, and stabilized before release of applicable bonds unless the regulatory authority approves retention of the ponds.

(5) Sediment shall be removed from settling ponds when the volume of sediment accumulates to 50 percent of the sediment storage volume required in paragraph (e)(1) of this section. The sediment shall be disposed of in a way that prevents it from entering surface water, contaminating subsurface water, and causing adverse effects due to its chemical and physical characteristics on infiltration, vegetation, or water quality. Sediment that has been removed from settling ponds and that meets the requirements for topsoil may be redistributed over graded areas in accordance with § 715.16.

(6) Discharges from settling ponds shall meet the water-quality and effluent requirements of paragraph (a) of this section.

(7) If a settling pond includes an embankment that is more than 20 feet in height, as measured from the upstream toe of the embankment to the crest of the emergency spillway, or has a storage volume of 20 acre-feet or more, the following additional requirements shall be met:

(i) An appropriate combination of principal and emergency spillways shall be provided to safely discharge the runoff from the design storm as specified by the regulatory authority. This design storm shall not have a recurrence frequency of less than 50 years.

(ii) Ponds shall be designed and constructed with a safety factor of at least 1.5 for embankment slope stability.

(iii) The minimum top width of the embankment shall not be less than the quotient of $\frac{H+35}{5}$ where H is the height of the embankment as measured from the upstream toe to the top of the embankment.

(iv) Ponds shall have appropriate barriers to control seepage along conduits that extend through the embankment.

(8) All ponds shall be designed and constructed under the supervision of, and inspected and certified after construction

for compliance with design requirements, by a registered professional engineer.

(f) *Discharged structures.* Discharges from settling ponds and diversions shall be controlled using available technology, such as energy dissipators, surge ponds, and other devices to reduce erosion and prevent deepening and enlargement of stream channels.

(g) *Acid and toxic materials.* Drainage from acid forming and toxic forming mine materials into ground and surface water must be prevented by—

(1) Identifying and burying in the permit area spoil and waste materials that can be toxic or otherwise harmful to vegetation and can adversely affect water quality. The material shall be buried with a minimum of 5 feet of nontoxic material or using other procedures in accordance with § 715.14. Material shall not be buried or stored within 100 feet of any perennial or intermittent stream, or used in construction of dams, embankments or roads or where they will pollute surface and ground water.

(2) Burying all material within 30 days, or less if specified by the regulatory authority. If necessary to store the material, piles shall be stored on impermeable material and protected from erosion and contact with surface water.

(3) Casing, sealing, or otherwise managing boreholes, shafts, wells, and auger or other horizontal holes to prevent pollution of surface or ground water, and to prevent mixing of ground waters of significantly different quality (unless mixing is approved by the regulatory authority). All boreholes that are within the permit area but are outside the surface coal mining area or which extend beneath the coal to be mined and into aquifers, shall be plugged permanently in a manner approved by the regulatory authority.

(4) Taking such other actions as required by the regulatory authority.

(h) *Recharge capacity of reclaimed lands.* The disturbed area shall be reclaimed to restore approximate premining infiltration rates and to restore the ability of the reclaimed area to transmit water to the ground-water system. All available measures shall be used to ensure that the recharge capacity of the reclaimed land will support the approved postmining use of the land.

(i) *Restoration of ground-water systems.* Backfilled materials shall be selectively placed to reestablish ground-water systems to approximate premining conditions.

(j) *Alluvial valley floors west of the 100th meridian west longitude.* (1) Essential elements of the hydrologic functions of alluvial valley floors shall be preserved throughout the mining and reclamation process by maintaining or establishing:

(i) The gradient of streams;

(ii) Aquifers, aquicludes, capillary zones, and perched water zones;

(iii) Quantity and quality of surface and ground water;

(iv) Depth to, and seasonal fluctuations of, ground water where ground water supports a subirrigated vegetation system;

(v) Configuration and stability of the land surface in the flood plain as they allow or facilitate irrigation with flood waters and maintain erosional equilibrium; and

(vi) Soil profiles, including physical and chemical characteristics of the substrate (or plant-growth medium) which provide moisture holding capacity and thereby provide for sustained vegetation growth through the dry months.

(2) Surface mining and reclamation operations conducted in or adjacent to alluvial valley floors located west of the 100th meridian west longitude shall not interrupt, discontinue, or preclude farming on these alluvial valley floors unless the premining land use of such alluvial valley floors has been undeveloped rangeland with no regular cropping of hay or unless the area of the affected alluvial valley floor is of small acreage and provides negligible support for one or more farmer's production. This paragraph (j)(2) does not apply to those surface coal mining operations that—

(i) Were in production in the year preceding August 3, 1977, were located in or adjacent to an alluvial valley floor, and produced coal in commercial quantities in the period identified in this paragraph; or

(ii) Had specific permit approval by the State regulatory authority before August 3, 1977, to conduct surface coal mining operations for an area within the affected alluvial valley floor.

(3) Before new surface mining and reclamation operations which may be authorized under paragraph (j)(2) of this section are commenced, the permittee shall submit and the regulatory authority shall approve detailed surveys and baseline data to establish standards against which the requirements of paragraph (l) of this section can be measured. The surveys and data shall include—

(i) A map at a scale determined by the regulatory authority showing the location of the alluvial valley floor.

(ii) Baseline data covering a full water year for each of the hydrologic elements identified in paragraph (l) of this section.

(iii) Such other data as the regulatory authority may require.

(k) *Ground-water monitoring.* Ground-water levels and quality of the ground water shall be monitored as approved by the regulatory authority, to determine the effects of surface coal mining operations on ground water. When mining is done below the water table, the water levels shall be monitored in representative ground-water wells within the area which may be influenced by the mining or in such other wells that can adequately reflect hanges in water levels. Where existing wells are inadequate to measure long-term changes, the permittee may be required by the regulatory authority to drill and complete wells to measure water quantity and quality in the permit area. When determined necessary by the regulatory authority, the permittee also may be required to drill and complete wells to measure water levels on and off site subject to surface owner consent. These wells must monitor all aquifers that may be affected by mining.

(l) *Hydrologic impact of roads.* (1) *General.* Access and haul roads and associated bridges, culverts, ditches, and road rights-of-way shall be constructed, maintained and reclaimed so as to control diminution or degradation of water quantity or quality. The land over which roads are constructed for surface coal mining and reclamation operations shall be reclaimed in accordance with this part, unless retention of a road is approved under § 715.13, as being an integral and contributing part of the postmining use of the land.

(2) *Construction.* (i) All roads, insofar as possible, shall be located on benches, ridges, or flatter and more stable slopes to minimize erosion. Stream fords are prohibited unless they are specifically approved by the regulatory authority as temporary routes across dry streams unrelated to coal haulage. Roads shall not be located in stream beds; nor shall they be located within the 100-year flood plain of any stream unless it can be demonstrated that the roads will not restrict the flow of the base flood (a flood that has a 1 percent or greater chance of occurring in any year), nor increase erosion or cause significant sedimentation or flooding. However, nothing in this paragraph will be construed as prohibiting relocation of stream channels in accordance with paragraph (d) of this section.

(ii) In order to minimize erosion and subsequent hydrologic disturbances, roads shall be constructed in compliance with the following grade restrictions, or other grade determined by the regulatory authority to be necessary to control erosion:

(A) The overall sustained grade shall not exceed 1v:10h (10 percent).

(B) The maximum grade greater than 10 percent shall not exceed 1v:6.5h (15 percent) for more than 300 feet.

(C) There shall not be more than 300 feet of maximum grade within each 1,000 feet.

(iii) All access and haul roads shall be adequately drained using structures such as, but not limited to, ditches, water carriers, cross drains, and ditch-relief drains. For access and haul roads that are to be maintained for more than 1 year, water-control structures shall be designed with a discharge capacity capable of passing the peak flow from a 25-year 24-hour precipitation event. Drainage pipes and culverts shall be constructed to avoid plugging or collapse and erosion at inlets and outlets. Drainage ditches shall be provided at the toe of all cut slopes formed by the construction of roads. Trash racks and debris basins shall be installed in the drainage ditches wherever debris from the drainage area could impair the functions of the structures. Ditch relief and cross

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drains shall be spaced according to grade. Drainage from access and haul roads shall meet the water-quality requirements of § 715.17.

(iv) Access and haul roads shall be surfaced with durable material. Toxic- or acid-forming substances shall not be used in the surface material. Vegetation may be cleared only for the essential width necessary for road and associated ditch construction and to serve traffic needs.

(3) *Maintenance.* (i) Access and haul roads shall be routinely maintained by measures such as, but not limited to, wetting, scraping, or surfacing.

(ii) Ditches, culverts, drains, trash racks, debris basins and other structures serving to drain access and haul roads shall not be restricted or blocked in any manner that impedes drainage or adversely affects the intended purpose of the structure.

(m) *Hydrologic impacts of other transport facilities.* Railroad loops, spurs, siding or other transport facilities shall be constructed, maintained and reclaimed so as to control diminution or degradation of water quantity or quality.

§ 715.18 Dams constructed of refuse materials, general.

(a) No mine or processing refuse materials shall be used in existing or new dams without the approval of the regulatory authority. The permittee or operator shall design, locate, construct, operate, maintain, modify, abandon, and remove all dams (used either temporarily or permanently) when constructed of mine refuse materials, tailings, coal processing wastes, or other liquid or solid wastes in accordance with the requirements of this section.

(b) *Definitions.—Refuse materials.* Coal mine waste materials excavated or removed during surface coal mining and reclamation operations or separated from mined coal. The material may be a mixture of coal, slack coal, or waste coal; organic material; shale, claystone, sandstone, siltstone, or limestone, or related materials.

Safety factor. The ratio of the available shear strength to the developed shear stress on a potential surface of sliding determined by accepted engineering practice.

(c) *Dams constructed of refuse materials.* (1) Refuse shall not be used in the construction of dams unless demonstrated to have no adverse effect on stability.

(2) Plans for dams or impoundments shall be approved by the regulatory authority before construction and shall contain the minimum plan requirements established by the Mining Enforcement and Safety Administration pursuant to § 77.216–2 of this title.

(3) Dams and impoundments subject to this paragraph shall meet the following requirements:

(i) Design of impoundments shall be based on the flood from the probable maximum precipitation event unless the permittee shows that the failure of the impounding structure would not cause loss of life or severe property or environmental damage, in which case a design based on a minimum flood event of 100-year frequency may be approved by the regulatory authority. An intermediate-sized design flood may be required depending on site conditions.

(ii) The design freeboard distance between the lowest point on an impounding structure and the maximum water elevation shall be at least 3 feet to avoid overtopping by wind and wave action.

(iii) Impounding structures shall have minimum stability factors as follows:

Case	Loading condition	Minimum safety factor
I	End of construction	1.3
II	Partial pool with steady seepage saturation	1.5
III	Steady seepage from spillway or decant crest	1.5
IV	Earthquake (cases II and III with seismic loading)	1.0

(iv) The dam, foundation, and abutments shall be stable under all conditions of construction and operation of the impoundment. Sufficient foundation investigations and laboratory testing shall be performed to determine the factors of safety of the dam for all loading conditions in paragraph (c)(3)(iii) of this section and for all increments of construction.

(v) Seepage through the dam, foundation, and abutments shall be controlled to prevent excessive uplift pressures, internal erosion, sloughing, removal of material by solution, or erosion of material by loss into cracks, joints, and cavities. This may require the use of impervious blankets, previous drainage zones or blankets, toe drains, or relief wells.

(vi) Allowances shall be made for settlement of the dams and the foundation so that the required freeboard will not be diminished.

(vii) Impoundments created by dams of refuse materials shall be subject to a minimum drawdown criteria that allows the facility to be evacuated by spillways or decants of 90 percent of the volume of water stored during the design precipitation event within 10 days.

(viii) Closed-circuit coal waste shall not be used in dams constructed of refuse materials unless demonstrated to maintain or enhance dam stability.

(ix) During construction of dams subject to this paragraph, the structures shall be periodically inspected by a registered professional engineer to ensure construction according to appropriate designs and upon completion of construction, the structure shall be certified as having been designed in accordance with accepted professional policies by a registered professional engineer.

(x) A permanent identification marker, at least 6 feet high and showing the dam number assigned pursuant to § 77.215–1 of this title, and the name of the person operating or controlling the dam shall be located on or immediately adjacent to each dam within 30 days of certification of design pursuant to this section.

(4) All dams shall be routinely inspected by a registered professional engineer in accordance with MESA regulations pursuant to § 77–216–3 of this title.

(5) All dams shall be routinely maintained. Vegetative growth shall be cut where necessary to facilitate inspection and repairs, ditches and spillways cleaned, any combustible materials present on the surface removed, and any other appropriate maintenance procedures followed.

(6) All dams subject to this section shall be recertified annually as having been constructed and modified in accordance with current prevalent engineering practices to minimize the possibility of failures. Any changes in the geometry of the impounding structure shall be included in the annual recertification report. The certification will include a report on existing and required monitoring procedures and instrumentation, the average and maximum depths and elevations of any impounded waters over the past year, existing storage capacity of impounding structures, any fires occurring in the material over the past year, and any other aspects of the structures affecting their stability.

(7) Any enlargements, reductions in size, reconstruction or other modification of dams shall be approved by the regulatory authority.

(8) All refuse dams shall be removed and the disturbed areas regraded, revegetated, and stabilized prior to the release of bond unless the regulatory authority approves retention of such dams as being compatible with an approved postmining land use (§ 715.13).

§ 715.19 Use of explosives.

(a) *General.* (1) The permittee or operator shall comply with all applicable local, State and Federal law and regulations and the requirements of this section in the storage, handling, preparation, and use of explosives.

(2) Blasting operations that use more than the equivalent of 5 pounds of TNT shall be conducted according to a time schedule approved by the regulatory authority.

(3) All blasting operations shall be conducted by experienced, trained, and competent persons who understand the hazards involved. Persons working with explosive materials shall—

(i) Have demonstrated a knowledge of, and a willingness to comply with, safety and security requirements;

(ii) Be capable of using mature judgment in all situations;

(iii) Be in good physical condition and not addicted to intoxicants, narcotics, or other similar types of drugs;

(iv) Possess current knowledge of the local, State and Federal laws and regulations applicable to his work; and

(v) Have obtained a certificate of completion of training and qualification as required by State law or the regulatory authority.

(b) *Preblasting survey.* (1) Upon the request of a resident or owner of a man-made dwelling or structure, including pipes, cables, transmission lines, wells or water systems, within one-half mile of any portion of the permitted area, the permittee or operator shall conduct a preblasting survey of such structures and submit the survey to the regulatory authority. The area and scope of the survey shall be decided by the regulatory authority.

(2) Personnel approved by the regulatory authority shall conduct the survey to determine the condition of the structures in terms of resistance to vibrations of structural and nonstructural elements, and to document any preblasting damage, weakness, and other physical factors that could reasonably be expected to be effected by the blasting. Special attention shall be given to the preblasting condition of wells and other water systems used for human, animal, or agricultural purposes and the quantity and quality of such water.

(3) A written report of the survey shall be prepared and signed by the person or persons who conducted the survey and prepared the written report. The report shall specify the recommended weights of individual charges that would prevent damage to the structures examined in the area and State, if applicable, the effects repeated blasting will have on structural fatigue. Copies of the report shall be provided to the person requesting the survey, and to the regulatory authority on request. Based upon this survey report, the regulatory authority shall require the permittee or operator to prevent damage to structures and water systems by measures such as reinforcing the structures (provided consent of the owner is received), redesign of the blasting plan, or prohibition of blasting in the vicinity of the structure.

(c) *Public notice of blasting schedule.* At least 10 days, but not more than 20 days before beginning a blasting program in which explosives that use more than the equivalent of 5 pounds of TNT are detonated, the permittee or operator shall publish a blasting schedule in a newspaper of general circulation in the locality of the proposed site. Copies of the schedule shall be distributed by certified mail to local governments and public utilities and to each residence within one-half mile of the blasting sites described in the schedule. The permittee or operator shall republish and redistribute the schedule by certified mail at least every 3 months. Blasting schedules shall not be so general as to cover all working hours but shall identify as accurately as possible the time periods and locations when blasting will occur. The blasting schedule shall contain at a minimum—

(1) Identification of the specific areas in which blasting will take place. The individual blasting areas shall not be larger than 300 acres with a generally contiguous border.

(2) Dates and times when explosives are to be detonated in not more than 4-hour increments.

(3) Proposed weight and type of the explosives to be detonated at one time;

(4) Anticipated effects of blasting on people, private and public property, land, and water within and adjacent to the permit area;

(5) Methods to be used to control access to the blasting area;

(6) Types of audible warning and all clear signals to be used before and after blasting; and

(7) A description of possible emergency situations (defined in paragraph (e)(1)(ii) of this section) which have been approved by the regulatory authority as reasonable, when it may be necessary to blast at times that are significantly different from those described in the schedule. This description shall identify the circumstances under which emergency situations may occur and the reasons that blasting cannot be conducted at the scheduled time.

(d) *Public notice of changes on blasting schedules.* A revised blasting schedule shall be prepared by the permittee or operator before blasting in areas not covered by a previous schedule or whenever the proposed frequency, size, and weight of individual detonations are scheduled to be materially changed. If the change involves blasting in areas not covered by a previous schedule the procedures outlined in paragraph (c) of this section shall be followed. If the change involves only the size, weight, or frequency of blasts the permittee or operator shall notify, by the most appropriate means, the governmental bodies and individuals to whom the original schedule was sent.

(e) *Blasting procedures.* (1) *General.* (i) All blasting shall be conducted only during the daytime hours, defined as 1 hour after sunrise until 1 hour before sunset. Based on public requests or other considerations, including the proximity to residential areas, the regulatory authority may specify more restrictive time periods.

(ii) Blasting may not be conducted at times more than 1 hour different from those announced in the blasting schedule except in emergency situations where rain, lightning, other atmospheric conditions, or operator safety requires unscheduled detonation and the emergency conditions have been announced in accordance with paragraph (c)(7) of this section.

(iii) Audible warning and all-clear signals shall be given and shall be of different character and audible within a range of one-half mile from the point of the blast. All persons within the permit area shall be notified of the meaning of the signals through appropriate instructions and signs posted as required by § 715.12.

(iv) Access to the blasting area shall be regulated to protect the public, livestock, and, where required by the regulatory authority, wildlife, from the effects of blasting. Access to the blasting area shall be controlled to prevent unauthorized entry at least 10 minutes before each blast and until the permittee's or operator's authorized representative has determined that no unusual circumstances such as imminent slides or undetonated charges exists and access to and travel in or through the area can safely resume.

(v) All primed blast holes shall be detonated within 24 hours.

(vi) To prevent damage from air blast 2.6 feet of stemming for every inch of borehole diameter shall be used.

(vii) Except where lesser distances are approved by the regulatory authority (based upon a preblasting survey and premining seismic studies, and with written consent of the owner) blasting shall not be conducted within—

(A) 1,000 feet of any building used as a residence, school, church, hospital, nursing facility, or power generating station;

(B) 500 feet of facilities including, but not limited to, disposal wells, petroleum or gas storage facilities, municipal water storage facilities, fluid transmission pipelines, or gas or oil collection lines, water and sewage lines; and

(C) 500 feet of an underground mine except with the concurrence of the Mining Enforcement and Safety Administration.

(2) *Blasting standards.* (i) In all blasting operations, except as otherwise stated, the maximum peak particle velocity of the ground motion in any direction shall not exceed 2 inches per second at the immediate location of any dwelling house, public building, school, church, or commercial or institutional building.

(ii) The maximum peak particle velocity of ground motion does not apply to property owned or leased by the permittee which is inside the permit area.

(iii) No two consecutive subcharges within any charge shall be separated by a delay time of less than 8 milliseconds. *Charge* means a quantity of explosive or equivalent that is to be detonated within a period of 5 seconds. *Subcharge* means a quantity of explosive or equivalent that is to be detonated within a period of less than 8 milliseconds.

(iv) Tables for determining the maximum weight of explosives to be used per delay are given in paragraphs (e)(2)(vi) and (vii) of this section. If the blasting is done in accordance with these tables, the regulatory authority will consider the vibrations to be within the 2 inches per second limit.

(v) The weight of explosives to be used per delay period shall be determined by the formula.

$$W = \left(\frac{D}{50}\right)^3$$

where W = the weight of explosives, in pounds, and D = the distance, in feet, to the nearest dwelling, school, church, or commercial or institutional building.

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(vi) For distances greater than 300 feet, the following table will be used:

Distance in feet:	Weight, in pounds
350	49
400	64
500	100
600	144
700	196
800	256
900	324
1,000	400
1,100	484
1,200	576
1,300	676
1,400	784
1,500	900
1,600	1,024
1,700	1,156
1,800	1,296
1,900	1,444
2,000	1,600
2,500	2,500
3,000	3,600
3,500	4,900
4,000	6,400
4,500	8,100
5,000	10,000

For distances not in the table, the formula in paragraph (e)(2)(v) of this section shall be used.

(vii) If on a particular site the peak particle velocity continuously exceeds one-half inch per second after a period of 1 second following the maximum ground particle velocity, the regulatory authority shall require the total time delay of blasting operations to be less than 200 milliseconds or the charge per delay be reduced to comply with this limit.

(viii) For distances less than 300 feet the following table will be used:

Actual distance, in feet:	Pounds per delay interval of 8 milliseconds or greater
5–10	⅛
11–15	¼
16–20	½
21–25	¾
26–30	1.0
31–300	(1)

[1] 1 lb.+½ lb. for each foot of distance above 30 feet.

(3) *Seismograph measurements.* (i) Where a seismograph is used to monitor the velocity of ground motion and the velocity of limit of 2 inches per second is not exceeded, the tables in paragraphs (e)(2)(vi) and (viii) of this section need not be used. However, if the tables are not being complied with, a seismograph shall be used for every shot.

(ii) The use of a modified table for blasting operations at a particular site may be approved by the regulatory authority on receipt of a petition accompanied by seismograph reports. However, in no case shall the regulatory authority approve the use of a modified table where the velocity limit of 2 inches per second would be exceeded.

(iii) The regulatory authority may require a seismograph recording of any or all blasts.

(4) *Records of blasting operations.* A record of each blast, including seismograph reports, shall be retained for at least 3 years and shall be available for inspection by the regulatory authority, and the public upon request. The record shall contain the following data:

(i) Name of permittee, operator, or other person conducting the blast;

(ii) Location, date, and time of blast;

(iii) Name, signature, and license number of blaster in charge;

(iv) Direction and distance, in feet, to nearest dwelling, school, church, or commercial or institutional building;

(v) Weather conditions;

(vi) Type of material blasted;

(vii) Number of holes, burden, and spacing;

(viii) Diameter and depth of holes;

(ix) Types of explosives used;

(x) Total weight of explosives used;

(xi) Maximum weight of explosives per delay period of 8 milliseconds or less;

(xii) Maximum number of holes per delay period of 8 milliseconds or less;

(xiii) Method of firing and type of circuit;

(xiv) Type and height of length of stemming;

(xv) If mats or other protections were used;

(xvi) Type of delay electric blasting caps used, and delay periods used;

(xvii) Seismograph records, where required, including—

(A) Seismograph reading, including exact location of seismograph and its distance from the blast;

(B) Name of person taking the seismograph reading; and

(C) Name of person and firm analyzing the seismograph record.

§ 715.20 Revegetation.

(a) *General.* (1) The permittee shall establish on all land that has been disturbed, a diverse, effective, and permanent vegetative cover of species native to the area of disturbed land or species that will support the planned postmining uses of the land approved according to § 715.13.

(2) Revegetation shall be carried out in a manner that encourages a prompt vegetation cover and recovery of productivity levels compatible with approved land uses. The vegetation cover shall be capable of stabilizing the soil surface with respect to erosion. All disturbed lands shall, regardless of the approved postmining land use, be seeded or planted to achieve a vegetation cover of the same seasonal variety native to the area of disturbed land. If both the pre- and postmining land use is intensive agriculture, planting of the crops normally grown will meet the requirement. Vegetation cover will be considered of the same seasonal variety when it consists of a mixture of species of equal or superior utility for the intended land use when compared with the utility of naturally occurring vegetation during each season of the year.

(3) On Federal lands, the surface management agency shall be consulted regarding when revegetation is satisfactorily accomplished, what species are selected, and when the area is ready for utilization and management.

(b) *Use of introduced species.* Introduced species may be substituted for native species only if appropriate field trials have demonstrated that the introduced species will be of equal or superior utility for the approved postmining land use, or is necessary to achieve a quick, temporary and stabilizing cover. Introduced species shall meet applicable State and Federal seed or introduced species statutes, and may not include poisonous or potentially toxic species incompatible with the approved postmining land use.

(c) *Timing of revegetation.* Seeding and planting of land that has been regraded and the topsoil replaced shall be conducted during the first normal period for favorable planting conditions after final grading. The normal period for favorable planting shall be that planting time generally accepted locally to meet specific site conditions and climate. Any disturbed areas, except water areas and surface areas of haul roads, which have been graded shall be planted with a temporary cover of small grains, grasses, or legumes at a commensurate level with that needed to establish adequate cover to control erosion. When rills or gullies, that would preclude the successful establishment of vegetation or the achievement of the postmining land use form in regraded topsoil and overburden materials as specified in § 715.14, additional regrading or other stabilization practices will be required before seeding and planting.

(d) *Mulching.* Mulch means vegetation residues or other suitable materials that aid in soil stabilization and soil moisture conservation, thus providing climate conditions suitable for germination and growth, and do not interfere with the postmining use of the land. Mulches shall be anchored to the soil surface where appropriate to ensure effective protection of the soil and vegetation. The minimum amounts of mulch to be applied per acre are: for straw or hay, 2,000 pounds; for wood fiber, 1,000 pounds; for bark materials, 30 cubic yards. If the permittee can demonstrate that other wood products, composted waste, or other materials are more suitable for achieving successful revegetation and erosion control, the regulatory authority may authorize substitution of such other materials. Mulch shall be used on all regraded and topsoiled areas to control erosion, to promote germination of seeds, and to increase the moisture retention of the soil. Annual grains such as oats, rye, and wheat may be used instead of mulch when it is shown to the satisfaction of the regulatory authority that the substituted grains will provide adequate stability and that they will later be replaced by species approved for the postmining land use.

(e) *Methods of revegetation.* (1) The permitee shall use technical publications or the results of laboratory and field tests approved by the regulatory authority to determine the varieties, species,

seeding rates, and soil amendment practices essential for establishment and self-regeneration of vegetation. The revegetation procedures shall be designed to require only that degree of fertilization and maintenance procedures required to meet the standards of this section for the approved postmining use of the land.

(2) Where hayland, pasture, or rangeland is to be the postmining land use, the land shall be revegetated to the satisfaction of the regulatory authority. The species of grasses, legumes, or forbs for seeding or planting shall be selected by the permittee to provide a diverse, effective, and permanent vegetation cover with the seasonal variety, succession, and regeneration capabilities native to the area. Livestock grazing will not be allowed on reclaimed land until the seedlings are established and can sustain managed grazing. The regulatory authority, in consultation with the surface owner and permittee, shall determine when the revegetated area is ready for livestock grazing. When hoofed wildlife populations are large enough to cause damage, grazing by such wildlife must be controlled by appropriate methods until the seedlings are well established and can sustain normal grazing. The regulatory authority shall determine when the revegetated area is ready for wildlife grazing.

(3) Where an agricultural use that will require using tillage equipment such as plows, cultivators, and tractors is to be the postmining land use, the permittee shall use adequate erosion and sediment control practices approved by the regulatory authority.

(4) Where forest is to be the postmining land use, the permittee shall plant trees adapted for local site conditions and climate in combination with an herbaceous cover of grains, grasses, legumes, or forbs that provides a diverse, effective, and permanent vegetation cover with the seasonal variety, succession, and regeneration capabilities native to the area.

(5) Where wildlife habitat is to be included in the postmining land use, the permittee shall consult with appropriate State and Federal wildlife management agencies and, upon the approval of the regulatory authority, shall select species to be seeded or planted. The permittee shall select those species that will fulfill the needs of wildlife, including food, water, cover, and space, and shall space and distribute plant groupings and water resources to fulfill the requirements of wildlife.

(6) Where development of residential, recreational, industrial, or public service uses is to be the postmining land use, the lands must be revegetated initially according to paragraph (a) of this section. Final revegetation requirements must be approved by the regulatory authority.

(f) *Standards for measuring success of revegetation.* (1) The revegetation standards in the following table are minimum requirements for revegetation of disturbed areas.

Standards for revegetation

[Herbaceous species=grass, legumes, and nonleguminous forbs; woody plants=woody shrubs, trees, and vines; ground cover=area covered by the combined aerial parts of plants and litter that are produced naturally on site, expressed as a percentage of the total area of measurement]

Average annual precipitation, in inches	1 yr	5 yr	10 yr
A. Areas planted only in herbaceous species (percent ground cover of herbaceous species at the end of the growing season):			
Up to 10	6	8	10
10.1 to 16	10	20	30
16.1 to 26	20	30	40
More than 26	50	70	NA

Average annual precipitation, in inches	1 yr		5 yr		10 yr	
	Percent ground cover	Number of woody plants per acre	Percent ground cover	Number of woody plants per acre	Percent ground cover	Number of woody plants per acre
B. Areas planted to mixtures of herbaceous and woody species (percent ground cover of herbaceous species and number of plants per acre of woody species at the end of the growing season):						
Up to 10	6	2,500	5	2,000	4	1,500
10.1 to 16	7	800	10	900	15	1,000
16.1 to 26	20	400	25	400	30	400
More than 26	40	600	50	1400	NA	NA

[1] On steep slopes, the minimum number of woody plants must be increased to 600 per acre.

(2) (i) When revegetation requirements are based on returning the permit lands to premining land uses of hayland, pasture, wildlife habitat, or rangeland, the regulatory authority may also require the permittee to set aside and fence exclosures of land not to be disturbed by mining activity or domestic livestock. These exclosures, which must be representative of geology, soils, slope, aspect and vegetation in the permit area, will be used to estimate normal vegetation productivity, plant cover, species, plant succession, and plant self-regeneration. The regulatory agency shall approve the estimating techniques used to judge the degree of success achieved in the revegetated areas. These exclosures and estimations may be required before revegetation procedures are approved.

(ii) When exclosures are required, the degree of progress and success in revegetating shall, at a minimum, meet the standards in the following table. More stringent standards may be established by the regulatory authority based on natural conditions in the area. The permittee and the regulatory authority shall use those standards as guides to indicate potentials for ultimate revegetation success and to determine whether remedial measures are necessary to improve chances for success.

Standards for revegetation when exclosures are required

[Ground cover=area covered by the combined aerial parts of plants and litter that are produced naturally on site, expressed as a percentage of the total area of measurement; biomass yield=the total yield of living plants above ground in an area at the end of the growing season]

Average annual precipitation, in inches	End of growing season		
	1 yr	5 yr	10 yr
A. Number of adapted species in revegetated areas:			
Up to 10	3	12	15
10.1 to 16	6	14	20
16.1 to 26	6	20	25
More than 26	8	25	30
B. Ground cover of perennial plants expressed as a percent of the ground cover in the exclosures:			
Up to 10	90	80	85
10.1 to 16	70	80	85
16.1 to 26	70	80	90
More than 26	80	90	NA
C. Biomass yield of perennial plants expressed as a percent of the biomass yield in the exclosures:			
Up to 10	90	80	80
10.1 to 16	70	80	85
16.1 to 26	70	80	90
More than 26	80	90	NA

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(g) *Seeding of stockpiled topsoil.* Topsoil stockpiled in compliance with § 715.16 must (if not to be redistributed within 30 days) be seeded or planted with an effective cover of nonnoxious, quick growing annual and/or perennial plants or protected by other approved measures as specified in § 715.16.

PART 716—SPECIAL PERFORMANCE STANDARD

716.1 General obligations.
716.2 Steep-slope mining.
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AUTHORITY: Secs. 201 and 501, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201).

§ 716.1 General obligations.

(a) This part establishes special initial performance standards that apply in the following special circumstances:

(1) § 716.2 applies to surface coal mining operations on steep slopes.

(2) § 716.3 applies to surface coal mining operations involving mountaintop removal.

(3) § 716.4 applies to special bituminous coal mines.

(4) § 716.5 applies to anthracite surface coal mining operations.

(5) § 716.6 applies to surface coal mining operations in Alaska.

(6) § 716.7 applies to surface coal mining operations on prime farmlands.

(7) § 716.8 applies to underground coal mining operations.

(b) All surface coal mining and reclamation operations subject to this Part shall comply with the applicable special performance standards in this part. Such operations shall also comply with all general performance standards in Part 715 of this chapter unless specifically exempted *in this part* from the requirement of Part 715.

§ 716.2 Steep-slope mining.

(a) The permittee conducting surface coal mining and reclamation operations on natural slopes that exceed 20 degrees, or on lesser slopes that require measures to protect the area from disturbance, as determined by the regulatory authority after consideration of soils, climate, the method of operation, and other regional characteristics, shall meet the following performance standards. The standards of this section do not apply where mining is done on a flat or gently rolling terrain with an occasional steep slope through which the mining proceeds and leaves a plain or predominantly flat area; or where the mining is governed by § 716.3.

(1) Overburden or waste materials or debris, including that from clearing and grubbing, and abandoned or disabled equipment, shall not be placed or permitted to remain on the downslope. Material in excess if that required to meet the provisions of § 715.14 of this chapter must be disposed of in accordance with the requirements of § 715.15 of this chapter.

(2) First-cut overburden shall be stored within the permit area. The storage piles must be designed and constructed to minimize erosion and to maximize stability. Any material temporarily stored for more than 30 days must be protected by an effective cover of nonnoxious, quick-growing annual and/or perennial plants or other approved means as specified in § 715.20 of this chapter.

(3) Where the backfilled slope is 50 feet or more in length, terraces when approved by the regulatory authority, shall be sloped to safely and quickly discharge runoff water to stable drainage channels located off the fill area and must be constructed to meet the requirements of §§ 715.14(c) and 715.17 of this chapter.

(4) Woody materials that can cause instability must not be mixed into the backfill.

§ 716.3 Mountaintop removal.

(a) Coal surface mining and reclamation operations that remove entire coal seams runnig through the upper fraction of a mountain, ridge, or hill by removing all of the overburden and creating a level plateau or gently rolling contour with no highwalls remaining are exempt from the requirements of § 715.14 of this chapter for achieving approximate original contour, if the following requirements are met:

(1) An industrial, commercial, agricultural, residential, or public facility (including recreational facilities) use is proposed for the affected land.

(2) The alternative land-use criteria in § 715.13(d) of this chapter is met and the proposal is approved by the regulatory authority.

(3) All other applicable requirements of Part 715 of this chapter are met.

(b) Surface coal mining and reclamation operations conducted under this section shall comply with the following standards:

(1) An outcrop barrier at least 15 feet wide measured on the top of the coalbed perpendicular to the highwall be retained to prevent slides and erosion.

(2) The final graded top plateau slopes on the mined area shall be less than lv:5*h* so as to create a level plateau or gently rolling configuration and the outslopes of the plateau shall not exceed lv:2h, except where engineering data substantiates and the regulatory authority finds that a minimum static safety factor of 1.5 will be attained.

(3) The resulting level or gently rolling contour shall be graded to drain inward from the outslope except at specific points where it drains over the outslope in protected, stable channels.

(4) Damage to natural watercourses below the area to be mined shall be prevented.

(5) Spoil will be placed on the mountaintop bench as is necessary to achieve the postmining land use approved under § 715.13 of this chapter. All excess spoil material not retained on the mountaintop shall be placed in accordance with the standards of § 715.15 of this chapter.

(c) (1) The permit giving approval for mountaintop removal shall be reviewed not more than 3 years after the date of issuance and shall be renewable only upon demonstration by the permittee that all operations are proceeding in accordance with the terms of the applicable permit, time, schedule, and reclamation plan.

(2) The terms of a permit for mountain top removal may be modified by the regulatory authority if it is determined that more stringent measures are necessary to prevent or control slides and erosion, prevent damage to natural water courses, avoid water pollution, or to assure successful revegetation.

§ 716.4 Special bituminous coal mines.

(a) *Definition.* Special bituminous coal surface mines as used in this section means those bituminous coal surface mines that are located in the State of Wyoming and that are being mined or will be mined according to the following criteria:

(1) Excavation of the mine pit takes place on a relatively limited site for an extended period of time. For the purposes of this section, mine pit means an open-pit mine in which the surface opening is at least the full size of the excavation and has a contiguous border. The pit generally is quite deep and is formed by the removal of relatively large amounts of overburden to obtain lesser amounts of coal. The term as used in this section applies only to mining operations that extract coal from seams dipping 15 degrees or steeper from the horizontal.

(2) Excavation of the mine pit follows a coal seam that inclines 15 degrees or more from the horizontal, and as the excavation proceeds downward it expands laterally to maintain stability of the pitwall or as necessary to accommodate the orderly expansion of the total mining operations.

(3) (i) Surface and mining operations in the mine pit have taken place since January 1, 1972, and

(A) operations in the mine pit are removing more than one coal seam, and

(B) mining has begun on the deepest coal seam scheduled to be mined; or

(ii) Surface coal mining operations are begun after August 3, 1977, and the operations are conducted on lands immediately adjacent to operations meeting the criteria of paragraph (a) (3) (i) of this section.

(4) The amount of material removed from the pit is large in proportion to the surface area disturbed.

(5) There is no practicable alternative to the deep open-pit method of mining the coal.

(6) There is no practicable way to entirely reclaim the land as required by Part 715 of this chapter.

(b) *Requirements for special bituminous coal mines operating prior to July 1, 1973.* Those portions of a special bituminous coal mine approved for operation prior to July 1, 1973, including the

orderly expansion of such a mine pit to the extent authorized by State law, shall at a minimum meet the general performance standards of Part 715 of this chapter for all operations conducted on the permit area outside the mine pit and for those operations associated with spoil storage areas. The standards of Part 715 also apply to the mine pit with the exception of § 715.14, which relates to backfilling and grading. Special requirements for backfilling and grading the mine pit area are as follows:

(1) In the final mine area, highwalls may be allowed to remain, benches may be allowed and details of the benches shall be included in the mine plans submitted to the regulatory authority for approval.

(2) The exposed pit floors will be sloped and graded to provide access to the area, and topsoil shall be applied and the floor area seeded according to the requirements of §§ 715.16 and 715.20. Where water impoundments are included as part of the mine plan, riprap may be used if necessary to prevent erosion.

(3) Spoil piles will be graded and contoured with no more than an overall slope of 17 degrees allowed, and terraces may be used to break the slope when it can be shown that terraces will accomplish the required reclamation. For the postmining land use, steeper slopes may be permitted upon approval of the regulatory authority, provided it can be demonstrated that such method will provide the required results.

(c) *Requirements for other special bituminous coal mines.* Those portions of a special bituminous coal mine which do not meet the criteria of paragraph (b) of this section shall, at minimum, meet the general performance standards of Part 715 of this chapter for all operations conducted on the permit area outside the mine pit and for these operations associated with spoil storage areas. The standards of Part 715 also apply to the mine pit with the exception of § 715.14, which relates to backfilling and grading. Special requirements for backfilling and grading the mine pit area are as follows:

(1) *Slope specifications.* Slope specifications for the postmining land use shall be based on an average of the natural slopes measured in the immediate area of the mine site, and the maximum inclination of thee slope in the reclaimed area shall not be greater than this average slope. However, slopes steeper than the average of the natural slopes may be approved by the regulatory authority if it can be demonstrated that returning the mined area to a slope equal to or less than the average natural slope would greatly increase the amount of disturbed land. Measurements of individual slopes, locations at which measurements are made, and the average natural slope as determined from the individual slope measurements shall be submitted for approval for the regulatory authority. The regulatory authority may make an independent slope survey to verify the average natural slope.

(2) *Postmining land uses that do not include water impoundment.*

(i) The final mine area shall be backfilled, graded, and contoured to the extent necessary to return the land to the use approved by the regulatory authority.

(ii) All backfilling, grading, and contouring shall be done in a manner to preserve the original drainage system or to provide substitute drainage systems approved by the regulatory authority.

(iii) Terraces or benches may be used only if it can be demonstrated that contouring methods will not provide the required results. Detailed plans of dimensions and design of the terraces or benches, check dams, erosion prevention techniques, and slopes of the terraces or benches and their intervals shall be submitted to the regulatory authority for approval before construction.

(iv) Depressions that will accumulate water shall not be allowed unless they are approved under paragraph (c) (3) of this section.

(3) *Postmining land uses that include permanent water impoundment.* (i) The exposed mine pit area shall be sloped, graded, and contoured to blend with the topography of the surrounding terrain and to provide for access to the area. Where necessary to prevent erosion, riprap shall be used.

(ii) Under certain conditions where it can be demonstrated by the permittee that the pitwall can be stabilized by terracing or other techniques, it may be permissible to leave one-half the proposed shoreline, as measured along the circumference, composed of the stabilized pitwall. The remaining part of the shoreline shall be graded and contoured to blend with the topography of the surrounding terrain and to provide access to the area. Detailed explanations of the techniques to be used to stabilize the pitwalls shall be submitted for approval by the regulatory authority. The regulatory authority may verify the effectiveness of the proposed stabilization techniques from a study made by an independent engineering company and based on this information and an onsite inspection, the regulatory authority will then determine the acceptability of the proposed stabilization techniques.

(d) In the event of an amendment or revision to the State of Wyoming's regulatory program, regulations, or decisions made thereunder governing such mines, the Secretary shall issue such additional regulations as necessary to meet the purpose of these regulations.

§ 716.5 Anthracite coal mines.

(a) Permittees of anthracite coal surface mines in those States where the mines are regulated by State environmental protection standards shall be subject to the environmental protection standards of the State regulatory program in existence on August 3, 1977, instead of the Part 715 of this chapter.

(b) The environmental protection provisions of Title 25, Rules and Regulations, Part 1, Department of Environmental Resources, Commonwealth of Pennsylvania, shall apply to reclamation of anthracite surface mines operated in the Commonwealth of Pennsylvania instead of Part 715 of this chapter. In addition, the regulations of the Commonwealth of Pennsylvania pertaining to standards for air and water quality shall apply instead of the regulations of Part 715 of this chapter.

(c) If a State's regulatory program or regulations for anthraciate coal mining and reclamation operations in force on August 3, 1977 are amended, the Secretary, upon receipt of a notice of amendment shall issue additional regulations as necessary to meet the purposes of this Act.

§ 716.6 Coal mines in Alaska.

(a) Permittees of surface coal mining operations in Alaska from which coal has been mined on or after August 3, 1976, shall conduct operations in a manner that, at a minimum, meets all the general performance standards of Part 715 of this chapter.

(b) The Secretary, after consultation with the Governor of Alaska, may modify the applicability of any environmental protection standard to any surface coal mining operation if he determines that it is necessary to ensure the continued operation of the mine.

(c) Any person may petition the Secretary to modify the applicability of a performance standard to a coal mine in Alaska. No particular form of petition is required. However, the petition shall be in writing and shall identify clearly—

(1) The performance standard involved;

(2) The alternative methods to be used to protect the environment and public health and safety;

(3) The reasons why a modification is requested with full descriptions of the impacts continued requirements for compliance with the performance standard to be modified would have on mining and reclamation and of the impacts the proposed method would have on the environment and public health and safety; and

(4) The location of the mine.

(d) If the Secretary determines that the petition presents reasonable justification for modifying the performance standard, he may grant a temporary suspension of enforcement of the performance standard, and he shall publish a notice of intention to modify the applicability of the performance standard in the FEDERAL REGISTER and in a newspaper of general circulation in the area of Alaska where the affected coal mine is located. A public hearing shall be held in Alaska and any person may testify for or against the proposed modification. The Secretary, after considering the public comment, and consulting with the Governor of Alaska, shall publish his decision in the FEDERAL REGISTER and in the same newspaper in which the original notice was published.

§ 716.7 Prime farmland.

(a) (1) *Applicability.* Permittees of surface coal mining and reclamation operations conducted on prime farmland as defined in paragraph (b) of this section and identified in paragraph (c) of this section and that has been used for

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the production of cultivated crops, including nurseries, orchards, and other specialty crops, and small grains for a period of at least 5 years out of the 20 years preceding the date of the permit application, shall comply with the general performance standards of Part 715 of this chapter in addition to the special requirements of this section.

(2) The requirements of this section are applicable to any permit issued on or after August 3, 1977. Permits issued before that date and revisions or renewals of those permits need not conform to the provisions of this section regarding actions to be taken before a permit is issued. However, operations conducted under existing permits must be in accordance with the special requirements of paragraph (g) of this section. Permit renewals or revisions shall not include contiguous or noncontiguous expansions that were not in the original permit area or in a mining plan previously approved.

(b) *Definition.* Prime farmland means those lands that meet the criteria prescribed by the Secretary of Agriculture as published in the FEDERAL REGISTER on August 23, 1977. These criteria are included here for convenience. Terms used in this section are defined in U.S. Department of Agriculture publications: Soil Taxonomy, Agriculture Handbook 436; Soil Survey Manual, Agriculture Handbook 18; Rainfall-Erosion Losses from Cropland, Agriculture Handbook 282; and Saline and Alkali Soils, Agriculture Handbook 60. To be considered prime farmland the soils must meet all of the following criteria—

(1) The soils have—

(i) Aquic, udic, ustic, or xeric moisture regimes and sufficient available water capacity within a depth of 40 inches or in the root zone, if the root zone is less than 40 inches deep, to produce the commonly grown crops in 7 or more years out of 10; or

(ii) Xeric or ustic moisture regimes in which the available water capacity is limited but the area has a developed irrigation water supply that is dependable and of adequate quality (A dependable water supply is one in which enough water is available for irrigation in 8 out of 10 years for the crops commonly grown); or

(iii) Aridic or torric moisture regimes and the area has a developed irrigation water supply that is dependable and of adequate quality.

(2) The soils have a soil temperature regime that is frigid, mesic, thermic, or hyperthermic (pergelic and cryic regimes are excluded). These are soils that at a depth of 20 inches have a mean annual temperature higher than 32 degrees F. In addition, the mean summer temperature at this depth in soils with an 0 horizon is higher than 47 degrees F.; in soils that have no 0 horizon the mean summer temperature is higher than 59 degrees F.

(3) The soils have a pH between 4.5 and 8.4 in all horizons within a depth of 40 inches or in the root zone if the root zone is less than 40 inches deep.

(4) The soils either have no water table or have a water table that is maintained at a sufficient depth during the cropping season to allow food, feed, fiber, forage, and oilseed crops common to the area to be grown.

(5) The soils can be managed so that, in all horizons within a depth of 40 inches or in the root zone if the root zone is less than 40 inches deep, during part of each year the conductivity of saturation extract is less than 4 mmhos/cm and the exchangeable sodium percentage (ESP) is less than 15.

(6) The soils are not flooded frequently during the growing season (less often than once in 2 years).

(7) The soils have a product of K (erodibility factor) x percent slope of less than 2.0 and a product of I (soil erodibility) x C (climatic factor) not exceeding 60.

(8) The soils have a permeability rate of at least 0.06 inch per hour in the upper 20 inches and the mean annual soil temperature at a depth of 20 inches is less than 59 degrees F.; the permeability rate is not a limiting factor if the mean annual soil temperature is 59 degrees F. or higher.

(9) Less than 10 percent of the surface layer (upper 6 inches) in these soils consists of rock fragments coarser than 3 inches.

(c) *Identification of prime farmland.* Prime farmland shall be identified on the basis of soil surveys and, if required by the regulatory authority, data on irrigation drainage flood control, and subsurface water management submitted by the applicant. The requirement for submission of soil surveys may be waived by the regulatory authority if the applicant demonstrates that no prime farmlands are involved according to procedures in paragraph (d) of this section. Soil surveys shall be conducted according to standards of the National Cooperative Soil Survey which includes the procedures set forth in Soil Taxonomy, Agriculture Handbook 436; and Soil Survey Manual, Agriculture Handbook 18. The surveys shall include—

(1) Data on moisture availability, temperature regime, flooding, water table, erosion characteristics, permeability, or other information that is needed to determine prime farmland in accordance with paragraph (b) of this section;

(2) A map designating the exact location and extent of the prime farmland; and

(3) A description of each soil mapping unit.

(d) *Negative determination of prime farmland.* Where the permittee can demonstrate one or more of the following situations, the land shall not be considered as prime farmland, and a soil survey and other information required by paragraph (c) of this section shall not be required for identification:

(1) No lands within the proposed permit boundaries have been used for the production of cultivated crops for a period of at least 5 years out of 20 years preceding the date of the permit application.

(2) The slope of all land within the permit area is 10 percent or greater.

(3) Land within the permit area is not irrigated or naturally subirrigated and, has no developed water supply that is dependable and of adequate quality, and the average annual precipitation is 14 inches or less.

(4) Other factors exist, such as a very rocky surface, or the land is frequently flooded, which clearly place all land within the area outside the purview of prime farmland.

(5) A written notification based on scientific findings and soil surveys that land within the proposed mining area does not meet the applicability requirements in paragraph (a) of this section is submitted to the regulatory authority by a qualified person other than the permittee, and is approved by the regulatory authority.

(e) *Plan for restoration of prime farmland.* The applicant shall submit to the regulatory authority a plan for the mining and restoration of any prime farmland within the proposed permit boundaries. This plan shall be used by the regulatory authority in judging the technological capability of the applicant to restore prime farmlands. The plan shall include—

(1) A description of the original undisturbed soil profile showing the thickness of each soil horizon that is to be removed, stored, and replaced.

(2) The proposed method and type of equipment to be used for removal, storage, and replacement of the soil horizons in their natural occurring sequence;

(3) The location of areas to be used for stockpiling the soil horizons and plans for its stabilization before redistribution.

(4) If applicable documentation such as agricultural school studies or other data from comparable areas that supports the use of other suitable material instead of the B or C soil horizon to obtain on the restored area equivalent or higher levels of yield as non-mined prime farmlands in the surrounding area under equivalent levels of management; and

(5) Plans for seeding or cropping the restored mine land and conservation practices to control erosion and sedimentation during the first 12 months after regrading is completed. Proper adjustments for seasons must be made so that regraded land is not exposed to erosion during seasons when vegetation or conservation practices cannot be established due to weather conditions.

(6) Agricultural school studies, company data, or other scientific data that prove that the permittee using his proposed method of reclamation will achieve the equivalent or higher levels of yield after mining as existed before mining.

(f) *Consultation with Secretary of Agriculture and issuance of permit.* (1) The regulatory authority may grant a permit which shall incorporate the plan submitted under paragraph (e) of this section if it finds in writing that the proposed plan—

(i) Demonstrates the technological capability to restore the prime farmland within the proposed permit area, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management; and

(ii) Is feasible and will achieve compliance with the standards of paragraph (g) of this section.

(2) Prior to the granting of any permit that includes prime farmlands, the regulatory authority shall consult with the Secretary of Agriculture. The Secretary of Agriculture will provide a review of the proposed method of soil reconstruction and comment on possible revisions that will result in a more complete and adequate restoration. The Secretary of Agriculture has assigned his responsibilities under this paragraph to the Administrator of the U.S. Soil Conservation Service and the U.S. Soil Conservation Service will carry out the consultation and review through their State Conservationist, located in each State.

(g) *Special requirements.* For all prime farmlands to be mined and reclaimed, the permittee shall meet the following special requirements:

(1) Determine from a soil survey the depth and thickness of the A and B horizons and any underlying C horizon that collectively constitute the root zone of the locally adapted crops. If other underlying material, below the root zone of the natural soil, is to be used in soil reconstruction instead of the B horizon, these strata must be shown to be texturally and chemically equal or better suited to plant growth and of equal or greater thickness than the B horizon.

(2) Remove all soil horizons to be used in the reconstruction of the soil before drilling, blasting, or mining to prevent contaminating the soil horizons with undesirable materials. Where removal of soil horizons result in erosion that may cause air and water pollution, the regulatory authority shall specify methods of treatment to control erosion of exposed overburden.

(i) Remove separately the entire A horizon in a manner that prevents mixing or contamination with other material before replacement.

(ii) Remove separately the B horizon of the natural soil or, if determined by the regulatory authority to be of insufficient thickness for soil reconstruction, a combination of B horizon and underlying C horizon that will constitute the reconstructed root zone, in a manner that prevents mixing or contamination with other material.

(iii) Remove separately the underlying C horizons or other strata, or a combination of such horizons or other strata, to be used instead of the B horizon that are of equal or greater thickness and that can be shown to be equal or more favorable for plant growth than the B horizon, and that when replaced will create in the reconstructed soil a final root zone of comparable depth and quality to that which existed in the natural soil. To use such material, the requirements of § 715.16 of this chapter shall be met.

(3) If stockpiling of soil horizons is allowed by the regulatory authority, the A horizon and B horizon must be stored separately, the stockpiles must be placed within the permit area and where they will not be disturbed or exposed to excessive erosion by water or wind before the stockpiled horizons can be redistributed on terrain graded to final contour. Stockpiles in place for more than 30 days must meet the requirements of § 715.16(c).

(4) Scarify the final graded land before the soil horizons are replaced to eliminate slippage surfaces.

(5) Replace the material from the B horizon, or other suitable material specified in paragraph (g)(2) of this section in such a manner as to avoid excessive compaction of overburden and to a thickness comparable to the root zone that existed in the soil before mining.

(6) Replace the A horizon as the final surface soil layer to the thickness of the original soil as determined in paragraph (g)(1) of this section in a manner that—

(i) Prevents excess compaction of both the A horizon and underlying material and reduction of permeability to less than 0.06 inch per hour in the upper 20 inches of the reconstructed soil profile; and

(ii) Protects the A horizon from wind and water erosion before it is seeded or planted, and

(iii) Apply nutrients and soil amendments as needed to establish quick vegetative growth.

§ 716.8 Surface effects of underground mines.

All underground coal mining operations shall comply with the following standards and shall not be required to comply with those sections of Part 715 of this chapter that are not specifically listed in this section.

(a) The requirements of § 715.11(b) of this chapter, authorization to operate.

(b) The requirement of § 715.12(a) of this chapter, sign and marker specifications; § 715.12(b), mine identification signs; § 715.12(e) as regards blasting of surface areas.

(c) The requirements of § 715.14 of this chapter, backfilling and grading, except the standards regarding mountaintop removal and thin and thick restored overburden. These requirements apply only to the surface areas disturbed to provide access to the mine and such other surface areas disturbed during the mining operation as are identified by the regulatory authority. The requirements apply at the conclusion of mining operations.

(d) The requirements of § 715.15 of this chapter, disposal of spoil and waste materials.

(e) The requirements of § 715.17 of this chapter, protection of the hydrologic system; in regard to surface discharges and surface areas that are disturbed, except that the requirements of §§ 715.17 (h) and (j) shall not apply.

(f) The requirements of § 715.18 of this chapter, dams constructed of refuse materials.

(g) The requirements of § 715.19 of this chapter in regard to explosives used during surface operations.

(h) The requirements of § 715.20 of this chapter in regard to revegetation of surface areas disturbed. The requirements apply at the conclusion of mining operations.

PART 717—ADOPTION OF STATE STANDARDS

§ 717.1 Procedures for adoption.

(a) Any State law or regulation which is determined by the Secretary under the procedures in this section to be a more stringent performance standard for regulation of surface coal mining and reclamation operations than that provided under a performance standard in Part 715 or Part 716 of this chapter shall be adopted by the Secretary and applied in that State in lieu of the requirements of the standards in Part 715 or 716.

(b) A State may request the Secretary to review the provisions of any State law or regulation to determine whether such law or regulation provides a more stringent performance standard than comparable provisions in Part 715 or 716 of this chapter. No particular form of request is required. However, the request shall be in writing and shall include the text of the State law or regulation, identification of the comparable performance standard in Part 715 or Part 716 of this chapter, and an analysis of the reasons why the State law or regulation is a more stringent standard.

(c) If the Secretary determines that the requirements of State law or regulation may be more stringent than the comparable performance standard in Part 715 or Part 716 of the chapter, he shall initiate rulemaking under the procedures of section 501 of the Act for adoption of the standard.

(Secs. 201 and 501, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201))

PART 720—STATE ENFORCEMENT ACTIVITIES

Sec.
720.11 Enforcement authority.
720.12 Enforcement responsibilities.
720.13 Permits.
720.14 Reporting obligations.

AUTHORITY: Secs. 201, 501 and 502, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201).

§ 720.11 Enforcement authority.

Nothing in these regulations shall be interpreted to preclude a State from exercising its authority to enforce State law, regulations, and permit conditions unless—

(a) Compliance with the State law, regulation or permit condition will preclude compliance with these regulations.

(b) The Secretary has published in the FEDERAL REGISTER a list of state laws and regulations which have been preempted.

§ 720.12 Enforcement responsibilities.

If a State regulates the conduct of surface coal mining operations, the Act contemplates that the State will enforce the performance standards of Parts 715 and 716 of this Chapter that are more stringent than the requirements of State law

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and the obligations of operators under Part 710 of this Chapter.

§ 720.13 Permits.

On or after February 4, 1978, if a State is enforcing the performance standards of Parts 715 and 716 of this Chapter that are more stringent than State law, that State shall develop and incorporate terms in initial, revised, or renewed permits that comply with those standards.

§ 720.14 Reporting obligations.

(a) During the initial regulatory program, each State regulatory authority shall submit to the district manager of the Office with jurisdiction over the inspected surface coal mining operation, or other office designed by the Director, within 5 days after its completion a copy of each State report which contains observations of the condition of the mine site and relates to the obligations imposed by these regulations.

(b) Any State issuing an initial, revised, or renewed permit on or after February 4, 1978, to conduct surface coal mining operations shall submit a copy of the application and the permit to the district manager of the Office with jurisdiction over the surface coal mining operation, or to such other office as the Director designates.

PART 721—FEDERAL INSPECTIONS

Sec.
721.11 Extent.
721.12 Right of entry.
721.13 Inspections based on citizen requests.
721.14 Failure to give notice and lack of reasonable belief.

AUTHORITY: Secs. 201, 501 and 502, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201)

§ 721.11 Extent.

The authorized representatives of the Secretary shall conduct inspections of surface coal mining operations subject to regulations under the Act—

(a) On the basis of not less than two consecutive State inspection reports indicating a violation of the Act, regulations or permit conditions required by the Act;

(b) On the basis of information provided by a State or any person which gives rise to a reasonable belief that the provisions of the Act, regulations or permit conditions required by the Act are being violated, or that a condition or practice exists which creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources; and

(c) On a random basis of at least one complete inspection each 6 months. A complete inspection is an onsite review of the entire area disturbed or affected by mining.

§ 721.12 Right of entry.

(a) Authorized representatives of the Secretary, without advance notice and upon presentation of appropriate credentials and without a search warrant, shall have the right of entry to, upon, or through any surface coal mining and reclamation operations or any premises in which any records to be maintained are located.

(b) The authorized representatives may at reasonable times, and without delay, have access to and copy any records, inspect any monitoring equipment or method of operation required under this Act, the regulations or the permit.

§ 721.13 Inspections based on citizen requests.

(a) *Citizen reports* (1) Any person who suspects or knows of a violation of the Act, regulations or permit conditions required by the Act or of any imminent hazard may report this information in writing to the Office of Surface Mining Reclamation and Enforcement office nearest to the surface coal mining operation to which the information relates or to any other Office of Surface Mining Reclamation and Enforcement office. Written complaints must be signed and include a phone number where the complaining party can be contacted. The complaint or other information shall be considered as having a reasonable basis if it alleges facts which, if proven to be true, would be sufficient to show a violation of the Act, regulations or permit. Unless the Office has reason to believe that the information is incorrect, or determines that even if true it would not constitute a violation, the Office shall conduct an inspection.

(2) The identity of any person supplying information to the Office relating to possible violations or imminent hazards shall remain confidential within the Office unless the person supplying the information consents in writing to disclosure.

(b) *Right to accompany the authorized representative of the Secretary.* (1) If a Federal inspection is conducted as a result of information provided to the Office, the person who provided the information shall be notified when the inspection is to occur and the person will be allowed to accompany the authorized representative during the inspection.

(2) Any person accompanying an authorized representative of the Secretary has a right of entry to, upon and through the mining and reclamation operations about which he supplied information only if he is in the presence of and is under the control, direction and supervision of the authorized representative while on the mine property.

(c) *Notification of results of investigation.* Within 10 days of the inspection or, if no inspection, within 10 days of the complaint, the Office shall notify the person in writing of the following—

(1) The results of the investigation, including a description of any inspection which occurred and any enforcement action taken; copies of Federal inspection reports, notices of violation, and cessation orders may be forwarded to the person in satisfaction of this requirement.

(2) If no inspection was conducted, an explanation of the reason for not inspecting;

(3) A statement as to the person's right to informal review of the actions or inactions of the Office.

(d) *Review of action of local offices.* A person who does not agree with the action taken by the Office on his report may request the Regional Director to review the complaint and actions taken. The Regional Director shall advise the person in writing of the results of the review.

§ 721.14 Failure to give notice and lack of reasonable belief.

No notice of violation or cessation order may be vacated by reason of failure to give notice required by the Act prior to the inspection or by reason of a subsequent determination that prior to the inspection the Office did not have information sufficient to create a reasonable belief that a violation had occurred.

PART 722—ENFORCEMENT PROCEDURES

Sec.
722.1 Scope.
722.11 Imminent hazards.
722.12 Non-imminent hazard violations.
722.13 Failure to abate.
722.14 Service of notice.
722.15 Review at minesite of cessation orders.
722.16 Inability to comply.
722.17 Pattern of violation.

AUTHORITY: Secs. 201, 501 and 502, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201).

§ 722.1 Scope.

The regulations of this part set forth general procedures governing issuance of orders of cessation, notices of violation, and orders to show cause under section 521 of the Act.

§ 722.11 Imminent hazards.

(a) If an authorized representative of the Secretary finds conditions, or practices, or violations of applicable performance standards, which create an imminent danger to the health or safety of the public the authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation.

(b) If an authorized representative of the Secretary finds conditions or practices, or violations of applicable performance standards, which can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation.

(c) An authorized representative of the Secretary shall impose affirmative obligations on an operator which the authorized representative deems necessary to abate the condition, practice or violation if—

(1) A cessation order is issued under paragraph (a) or (b) of this section; and

(2) The cessation of mining or reclamation activities will not completely abate the imminent danger to public

health or safety or the significant, imminent environmental harm or eliminate the practices or conditions that contributed to the imminent danger or significant, imminent environmental harm.

(d) When imposing affirmative obligations under this section, the authorized representative shall require abatement of the danger or harm in the most expeditious manner physically possible. The affirmative obligation shall include a time by which abatement shall be accomplished and may include, among other things, the use of existing or additional personnel and equipment.

(e) An authorized representative of the Secretary may terminate a cessation order issued under paragraph (a) or (b) of this section by written order when the authorized representative of the Secretary determines that the conditions or practices or violations which caused the danger to life or the environment have been eliminated.

§ 722.12 Non-imminent hazard violations.

(a) If an authorized representative of the Secretary finds a violation which is not an imminent hazard, the authorized representative shall issue a notice of violation fixing a reasonable time for abatement.

(b) An authorized representative may extend the time to abate a violation by written notice if the failure to abate within the time set was not caused by the permittee's or operator's lack of diligence.

(c) The total time for abatement as originally fixed and subsequently extended shall not exceed 90 days.

§ 722.13 Failure to abate.

An authorized representative of the Secretary shall order cessation of surface coal mining and reclamation operations, or the portion relevant to the violation, when the authorized representative has issued a notice of violation under § 722.12 and determines that the permittee or operator has failed to abate the violation within the time originally fixed or subsequently extended. In a cessation order issued under this section, the authorized representative shall impose affirmative obligations to abate the violation in the manner provided in § 722.11.

§ 722.14 Service of notice.

Notices and orders issued under this part shall be given to the permittee or operator or his designated agent. If no designated agent is at the mine site, service will be made upon any person who appears to be in charge of the mining or reclamation operation. The person receiving service shall be responsible for any immediate compliance actions required by the notice or order. Service is complete on delivery at the mine. However, a copy of each notice or order shall be mailed to the permittee or operator within 5 days.

§ 722.15 Review at minesite of cessation orders.

(a) Within 30 days after the permittee or operator has received any cessation order issued under this part, the District Manager or his delegate shall conduct an informal hearing at the minesite or within such reasonable proximity to the mine that it may be visited during the conduct of the hearing. No hearing will be required where the condition, practise or violation in question has been abated or the operator waives the hearing.

(b) Any request made to the Office of Surface Mining Reclamation and Enforcement for a substantial modification or vacation of a cessation order shall be deemed a request for an informal hearing under this section.

(c) Notice of the time, place and subject matter of the hearing shall be given to the operator or permittee, any citizen who filed a report which led to the cessation order to be reviewed and the state regulatory authority. Notice of the hearing also shall be posted at the appropriate district or field office and at the mine site and, to the extent possible, shall be given by newspaper in the area of the mine.

(d) The requirements of section 554 of Title 5 of the United States Code shall not govern the conduct of the hearings required by this section. The District Manager of his delegate may accept oral or written arguments, presentations of evidence, or any other relevant information from any person attending.

(e) The District Manager or his delegate shall within 15 days of the close of the informal hearing affirm, modify, or vacate the order. The decision shall be in writing and shall be sent to the permittee or operator, any citizen who filed a reprot which led to the cessation order reviewed and the State regulatory authority.

(f) Informal review under this subsection shall not affect the rights of any person to request formal review under section 525(a)(1) of the Act. A request for informal review under this section of the Act shall not affect the 30 day time period for filing a request for formal review under section 525(a)(1) of the Act.

§ 722.16 Inability to comply.

(a) Neither a notice of violation nor a cessation order issued under this part may be vacated because of inability to comply.

(b) A permittee or operator may not be deemed to have shown good cause for not suspending or revoking a permit by showing inability to comply.

(c) Unless caused by lack of diligence, inability to comply may be considered in mitigation of the amount of a Civil penalty under part 2033 of this Chapter and of the duration of the suspension or revocation of the permit under § 722.17.

§ 722.17 Pattern of violations.

(a) The regulations of this section set forth the procedures governing the suspension or revocation of State permits based on a pattern of violations arising during Federal inspections during the initial regulatory program.

(b) *Definitions* As used in this Section—

(1) *"Violations of the same or related requirements of the Act, regulations or permit conditions"* means noncompliance with any single section Parts 715, 716 or 717 of this chapter.

(2) *"Violations of different requirements of the Act, regulations or permit conditions"* means noncompliance with different sections of Part 715, 716 or 717 of this chapter.

(3) *"Unwarranted failure to comply"* means the failure of a permittee to prevent the occurrence of any violation of his permit or any requirement of the Act or these regulations due to indifference, lack of diligence, lack of reasonable care, or the failure to abate any violation of such permit, the Act or regulations due to indifference, lack of diligence or lack of reasonable care.

(4) *"Willful violation"* means an intentional action or omission which violates the Act, regulations or permit conditions required under the Act.

(c) *Order to show cause.* (1) If a Regional Director of the Office determines that a pattern of violations exists or has existed and that such violations are caused by the unwarranted failure of the permittee or were willfully caused, the Regional Director shall issue an order to the permittee to show cause why the permit should not be suspended or revoked.

(2) The Regional Director may determine that a pattern of violations exists or has existed, after considering the circumstances, including—

(i) The number of willful violations or violations caused by unwarranted failure to comply with the same or related requirements of the Act, regulations or permit conditions during 2 or more Federal inspections.

(ii) The number of willful violations or violations caused by unwarranted failure to comply with different requirements of the Act, regulations or permit conditions.

(iii) The extent to which the violations were isolated departures from lawful conduct.

(3) The Regional Director shall deem a pattern to exist if the number of willful violations or violations caused by unwarranted failure to comply with the Act, regulations or permit conditions is at a rate 50 percent above the national norm during two months of any four month period. The national norm will be determined by comparing the number of willful and unwarranted violations issued per inspection day to permittees in the initial regulatory period. The norm will be determined semi-annually and the norm for the proceeding half year will be utilized in determining whether a pattern exists. The national norm may be computed by a sampling or other statistically-valid method when the data exists for the computation.

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(d) *Suspension or revocation of permit.* (1) The order to show cause shall be issued and a public hearing, if requested, shall be conducted under the procedures of 43 CFR Part 4.

(2) If the Secretary finds that a pattern of violations exists or has existed, the permit shall be either suspended or revoked and the permittee directed to complete necessary reclamation operations.

PART 723—CIVIL PENALTIES

Sec.
723.1 Scope.
723.2 Objective.
723.11 When assessment made.
723.12 When to assess after a notice of violation.
723.13 Determination of amount of penalty.
723.14 Assessment of separate violation for each day.
723.15 Procedures for assessment of civil penalties.
723.16 Procedure for conference.
723.17 Request for hearing.
723.18 Availability of records.

AUTHORITY: Sec. 201, 501 and 502, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201)

§ 723.1 Scope.

This part covers the assessment of civil penalties under section 518 of the Act for violations of a permit condition, any provision of Title V of the Act, or any implementing regulations. This part governs when a civil penalty is assessed and how the amount is determined and sets forth applicable procedures. This part applies to cessation orders and notices of violation issued to permittees or operators under Part 722 of this chapter during a Federal inspection.

§ 723.2 Objective.

Civil penalties are assessed under section 518 of the Act to deter violations of the Act and to insure the maximum compliance with the Act on the part of the coal mining industry.

§ 723.12 When to assess after a notice of

(a) The Office will review each notice of violation and cessation order issued in accordance with the assessment procedures described in this section to determine whether a civil penalty will be assessed, the amount of the penalty and whether each day of a continuing violation will be deemed a separate violation for purposes of the total penalty assessed.

(b) The Office shall assess a civil penalty for each violation contained in a cessation order. If a cessation order is issued for a condition or practice which is not a violation, no civil penalty shall be assessed.

(c) In determining whether to assess a civil penalty the Office shall consider—

(1) The permittee or operator's history of previous violations at the particular coal mining operation;

(2) The seriousness of the violation;

(3) Whether the permittee or operator is negligent; and

(4) The demonstrated good faith of the permittee or operator is attempting to achieve rapid compliance after notification of the violation. The Office shall make this determination by use of a point system described in § 723.12.

§ 723.12 When to assess after a notice of violation.

(a) *General.* The Office determines whether to assess a penalty following the issuance of a notice of violation by a point system that takes into account the four criteria in § 723.4(c). Points are assigned based on each of the four criteria. If the total is more than 30 points, a penalty is assessed.

(b) *History of previous violations.* The Office shall assign one point for each past violation and five points for each past cessation order issued as a result of a violation up to a maximum of 30 points. Each violation which underlies a cessation order shall be counted separately from the cessation order itself. Violations and cessation orders which shall be counted are those, resulting from a Federal inspection, that have not been vacated or dismissed at the time of the assessment being computed and that occurred or were issued within the year preceding the violation under consideration. The Office shall count each violation without regard to whether it led to a civil penalty assessment.

(c) *Seriousness.* The Office shall assign up to 30 points based on the seriousness of the violation according to the following schedules.

(1) *Probability of occurrence.* The probability of the occurrence of the event against which a standard is directed may account for a maximum of 15 penalty points. The Office shall use the following definitions and schedules—

(i) Probability of occurrence:	*Points*
None or insignificant	0- 5
Unlikely	5-10
Likely	10-15
Occurred	15

(2) *Extent of potential or actual damage.* The extent of the potential or actual damage in terms of area and impact on the public or environment may account for a maximum of 15 penalty points based on the following—

(i) If the damage or impact against which the standard violated is designed to protect would remain within the permit area (or in the case of a deep mine, the area of surface structures), the Office shall assign zero to seven points depending on the duration and extent of the damage or impact.

(ii) If the damage or impact, against which the standard violated is designed to protect, would extend outside the permit area (or in the case of a deep mine, the area of surface structures), the Office shall assign eight to fifteen points depending on the duration and extent of the damage or impact.

(3) The Office shall assign up to 15 points for seriousness for any failure to keep records, to give notice or to conduct any measuring or monitoring required by the regulations or a permit based upon the extent to which enforcement is obstructed. If the method of assigning points for seriousness under paragraph (c) (1) and (2) of this section produces more points, the higher points shall be assigned.

(d) *Negligence.* (1) The Office shall assign up to 25 points based on the negligence of the permittee or operator, either through act or omission, in causing or failing to correct the condition or practice which is a violation. A violation which occurs through no negligence shall not be assigned penalty points for negligence. A violation which is caused by negligence shall be assigned 12 points or less depending on the degree of negligence. A violation which occurs through a greater degree of fault than negligence shall be assigned 13 through 25 penalty points depending on the degree of fault.

(2) In determining the degree of negligence involved in a violation and the number of penalty points to be assigned, the following definitions apply—

(i) *No negligence* means an inadvertent violation of the Act, regulations or permit conditions which was unavoidable by the exercise or reasonable care.

(ii) *Negligence* means the failure of a permittee or operator to prevent the occurrence of any violation of his permit or any requirement of the Act or the regulations due to indifference, lack of diligence, or lack of reasonable care, or the failure to correct any violation of such permit or the Act or the regulations due to indifference, lack of diligence or lack of reasonable care.

(iii) Examples of greater degree of fault than negligence are reckless, knowing or intentional conduct.

(3) In calculating points to be assigned for negligence, the actions of all persons working on the mine site shall be attributed to the permittee or operator.

(e) *Good faith in attempting to achieve compliance.* (1) The Office shall subtract or add points based on the degree of good faith of the permittee or operator in attempting to achieve rapid compliance after notification of the violation. The points shall be assigned according to the following schedule—

Degree Of Good Faith:	*Points*
Rapid	−10
Normal	0
Lack of good faith	10

(2) In determining the permittee's or operator's degree of good faith in attempting to achieve rapid compliance, the following definitions apply—

(i) *Rapid Compliance* means that the permittee or operator took extraordinary measures to abate the violation in the shortest possible time and that abatement was achieved more rapidly than reasonably required.

(ii) *Normal Compliance* means the permittee or operator abated the violation within the time given for abatement.

(iii) *Lack of Good Faith* means the permittee or operator did not show diligence in attempting to abate the violation and the violation was not timely abated.

(3) If the consideration of this criteria is impractical because the length of the abatement period, the assessment may be made without considering this criteria. Any such assessment may be reconsidered upon the permittee or operator's request after abatement is completed.

§ 723.13 Determination of amount of penalty.

The Office shall determine the amount of any civil penalty by converting the total number of points assigned under § 723.12 to a dollar amount according to the following schedule:

25 and below-500	48-2,800
26-600	49-2,900
27-700	50-3,000
28-800	51-3,100
29-900	52-3,200
30-1,000	53-3,300
31-1,100	54-3,400
32-1,200	55-3,500
33-1,300	56-3,600
34-1,400	57-3,700
35-1,500	58-3,800
36-1,600	59-3,900
37-1,700	60-4,000
38-1,800	61-4,100
39-1,900	62-4,200
40-2,000	63-4,300
41-2,100	64-4,400
42-2,200	65-4,500
43-2,300	66-4,600
44-2,400	67-4,700
45-2,500	68-4,800
46-2,600	69-4,900
47-2,700	70 and above 5,000.

§ 723.14 Assessment of separate violations for each day.

(a) If a cessation order is issued for failure to abate a violation within the time set in a prior notice of violation or cessation order, the Office shall assess separately each day the violation underlying the cessation order remains unabated. The daily penalty shall be the amount assessed for the violation or $750.00, whichever isg reater. The daily assessment of a penalty shall not be made for any period that the obligation to abate is suspended.

(b) The Office may assess separately each day of any continuing violation. In making this determination, the Office shall consider the factors listed in $750.00, whichever is greater. The daily permittee or operator which resulted from a failure to comply.

(c) The Office shall separately assess a minimum of two days for any continuing violation which is assigned more than 70 points under § 723.12.

§ 723.15 Procedures for assessment of civil penalties.

(a) With 10 days of service of a notice or order, the permittee or operator may submit information in writing pertaining to the violation involved to the District Office with jurisdiction over the mine and to the inspector who issued the notice or order. The Office shall consider any information so submitted in determining the facts surrounding the violation and the amount of the penalty.

(b) The Office shall serve the permittee or operator, by certified mail return receipt requested, with 30 days of the issuance of the notice or order, with a copy of the proposed assessment and of the worksheets showing the computation.

§ 723.16 Procedure for conference.

(a) If a written request from the permittee or operator is received within 15 days from receipt of a proposed assessment, the Office shall arrange for a conference to review the assessment. The permittee or operator may submit additional material for consideration during the conference. The Office may contact the permittee or operator to discuss the assessment prior to the conference if necessary to expedite the review.

(b) The Office shall consider all relevant information on the violation in question presented by the permittee or operator and may recalculate either up or down or vacate the proposed penalty. No information as to which the permittee or operator claims confidentiality shall be considered as a basis for reduction of a proposed assessment. When new facts warrant the imposition of a higher penalty, it shall be proposed in the manner provided in § 723.15. Every change in a proposed assessment shall be fully documented in the file including a written explanation of the reason the penalty has changed.

(c) Notice of the time and place of the conference shall be posted at the Office Surfacing Mining Reclamationt and Enforcement field office with jurisdiction over the mine at least five days prior to the conference. Any person shall have a right to attend the conference.

(d) If the issues are resolved, the agreement shall be in writing and signed by both parties. If payment is not received within 10 days, the Office may—

(1) Enter the agreed upon amount as a final order of the Secretary; or

(2) Rescind the agreement and reinstate the original proposed assessment.

(e) A reduction of a proposed civil penalty assessment of more than 25 percent and more than $500 agreed to during a conference shall be approved by the Regional Director or his designee before it is final and binding on the Secretary.

§ 723.17 Request for hearing.

(a) Within 30 days from receipt of the proposed assessment, the permittee or operator may request a hearing before the Office of Hearings and Appeals by filing a petition and tendering full payment of the proposed assessment to be held in escrow.

(b) The timely filing of a request for a conference under § 723.16 suspends the running of the 30-day period for requesting a hearing. The suspension shall continue until the completion of the conference, which shall be held within 60 days from the date of the request for the conference. The permittee or operator shall have 15 days after completion of the conference to request a public hearing.

(c) The Office of Hearings and Appeals conducts the hearings and issues orders or otherwise terminates the petition pursuant to its procedures in 43 CFR Part 4. The Office of Hearings and Appeals may determine whether a violation occurred. When determining the amount of the penalty the Office of Hearings and Appeals shall use the point system and conversion table contained in this part.

§ 723.18 Availability of records.

All records and files created or used in the assessment process under this part shall be available for public inspection.

PART 725—REIMBURSEMENTS TO STATES

Sec.
725.1 Scope.
725.2 Objectives.
725.3 Authority.
725.4 Responsibility.
725.5 Definitions.
725.11 Eligibility.
725.12 Coverage of grants.
725.13 Amount of grants.
725.14 Grant periods.
725.15 Grant application procedures.
725.16 Grant agreement.
725.17 Grant amendments.
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725.19 Audit.
725.20 Administrative procedures.
725.21 Allowable costs.
725.22 Financial management.
725.23 Reports.
725.24 Records.
725.25 Disclosure of information.

AUTHORITY: Secs. 201, 501 and 502, Pub. L. 95-87; 91 Stat. 445 (30 U.S.C. § 1201)

§ 725.1 Scope.

This part sets forth policies and procedures for reimbursements to States for costs of enforcing performance standards set forth in Parts 715 and 716 of this chapter during the initial regulatory program.

§ 725.2 Objectives.

The objectives of assistance under this part are:

(a) To assist the States in meeting the increased costs of administering the initial performance standards.

(b) To encourage the States to build strong reclamation and enforcement programs.

§ 725.3 Authority.

Section 502(e)(4) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201) authorizes the Secretary to reimburse States for costs of enforcing the performance standards of the initial regulatory program.

§ 725.4 Responsibility.

(a) The Director shall administer the grant program for reimbursements to States for costs of enforcing performance standards during the initial regulatory program

(b) The Regional Director of each of the Office regions shall receive, review, and approve grants applications under this part.

§ 725.5 Definitions.

As used in this part, the following terms have the specified meanings:

Agency means the State agency designated by the Governor to receive and administer grants under this part.

Base program means the State program to regulate surface coal mining prior to August 3, 1977.

§ 725.11 Eligibility.

(a) *Assumption of responsibility.* To be eligible for a grant for reimbursements for the cost of enforcing performance standards during the initial regulatory program, the State shall assume responsibility for enforcement of the initial regulatory program including the specific

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responsibilities identified under part 2030 of this chapter.

(b) *Designation of State agency.* In order to receive a grant for reimbursements for costs of enforcing performance standards during the initial regulatory program, the Governor of a State shall designate in writing one agency to submit grant applications, receive and administer grants under this part.

(c) *Periods covered by reimbursement grants.* An agency may apply for a reimbursement grant for any period during the initial regulatory program and for a reasonable start-up period beginning no earlier than August 3, 1977.

§§ 725.12 Coverage of grants.

An agency may use grant money under this part to cover costs in excess of the base program for administering and enforcing the initial regulatory program. The Regional Director shall determine the base program from the State fiscal year budget in effect on August 3, 1977. Costs of the following activities are eligible for reimbursement—

(a) Incorporation of the initial performance standards of Parts 715 and 716 of this chapter in new permits issued by the State.

(b) Modification of existing permits to include the initial performance standards of Parts 715 and 716 of this chapter.

(c) Additional inspections required to enforce the initial performance standards of Parts 715 and 716 of this chapter.

(d) Inspections which are more detailed than inspections before the initial regulatory program.

(e) Responses to complaints related to the initial performance standards of Parts 715 and 716 of this chapter.

(f) Enforcement actions required to secure compliance with the initial performance standards of Parts 715 and 716 of this chapter.

(g) Additional administrative activities related to hiring additional inspectors, revising permits, conducting inspections, preparing, copying and submitting reports required by Part 720, and submitting applications for reimbursement grants under this part.

§ 725.13 Amount of grants.

The Office shall pay 100 percent of the incremental costs to the agency of enforcing the performance standards during the initial regulatory program.

§ 725.14 Grant periods.

The Regional Director shall approve a grant for a period of 1 year or less. The Regional Director shall fund a program that extends over more than 1 year by consecutive annual grants.

§ 725.15 Grant application procedures.

(a) The agency may submit its application for a grant to the Regional Director no later than December 15, 1977, for the first year and no later than October 31 of each year thereafter.

(b) The agency shall use the short form application for nonconstruction programs and other procedures specified by Federal Management Circular 74-7, "Uniform administrative requirements for grants-in-aid to State and local governments" (34 CFR 256). No preapplication is required.

(c) Agencies shall include in Part III of the standard application sufficient information to enable the Regional Director to determine the Agencies' base programs and increases over the base programs eligible for reimbursement grants. Agencies shall include the following information, plus any other relevant data:

(1) A summary of the State permit, inspection and enforcement program, prior to the addition of the requirements of the Act of 1977, including—

(i) Permit requirements and the system for issuing permits;

(ii) Mining and reclamation plan requirements;

(iii) Coverage and frequency of inspections;

(iv) Actions required to enforce mining and reclamation requirements;

(v) The number and nature of responses to complaints; and

(vi) Other regulatory activities and related administrative functions affected by the performance standards of the initial regulatory program specified in Parts 715 and 716 of this chapter.

(2) A statement of the number of employees and annual budget required to carry out functions described in paragraph (c) (1) of this section.

(3) A copy of all State constitutional, statutory and regulatory provisions applicable to the enforcement and administration of the initial regulatory program.

(4) An opinion of the State's chief legal officer as to whether and to what extent the State is authorized to enforce and administer the initial regulatory program.

(5) A statement of the additional work required to enforce the initial regulatory program for each of the agency activities described in paragraph (c) (1) of this section.

(6) The additional staff and funds required for the increased workload described in paragraph (c) (5) of this section.

(d) The Regional Director may waive the resubmission of information required by paragraphs (c) (1), (c) (2), (c) (3) and (c) (4) of this section in applications for a second or third reimbursement grant.

§ 725.16 Grant agreement.

(a) If a Regional Director approves of an agency's grant application, the Regional Director shall prepare a grant agreement which includes—

(1) The approved scope of the program to be covered by the grant.

(2) The base program budget and estimated costs in excess of the base program.

(3) The amount of the grant.

(4) Commencement and completion dates for the segment of the program covered by this grant and for major phases of the program to be completed during the grant period.

(5) Permissible transfers of funds to other State agencies.

(b) The Regional Director shall limit grants under this part to the additional costs to an agency for enforcing the initial regulatory program.

(c) The Regional Director may not permit an agency to delegate or transfer its responsibility for the use of grant funds.

(d) Except as may be provided by the grant agreement, costs may not be incurred prior to the executive of the agreement.

(e) The Regional Director shall transmit four copies of the grant agreement, by certified mail, return receipt requested, to the agency for signature. The agency shall execute the grant agreement and return all copies within 3 calendar weeks after receipt, or within an extension of such time that may be granted by the Regional Director.

(f) The Regional Director shall sign the grant agreement upon its return from the agency and return one copy to the agency. The grant is effective and constitutes an obligation of Federal funds in the amount and for the purposes stated in the grant agreement at the time the Regional Director signs the agreement.

(g) Neither the approval of a program nor the award of any grant will commit or obligate the United States to award any continuation grant or to enter into any grant amendment, including grant increases to cover cost overruns.

§ 725.17 Grant amendments.

(a) A grant amendment is a written alteration in the grant amount, grant terms or conditions, budget or period, or other administrative, technical, or financial agreement whether accomplished on the initiative of the agency or the Regional Director or by mutual action of the agency and the Regional Director.

(b) The agency shall promptly notify the Regional Director in writing by certified mail, return receipt requested, of events or proposed changes which may require a grant amendment, such as—

(1) Rebudgeting;

(2) Changes which may affect the approved scope or objective of a program; or

(3) Changes which may increase or substantially decrease the total cost of a program.

(c) The Regional Director shall promptly approve or disapprove each proposed amendment, and shall notify the agency in writing of the approval or disapproval of the amendment.

(d) The grant amendment establishes the effective date of the action. If no date is specified in the grant amendment then the date the Regional Director signs the amendment will be the effective date of the action.

§ 725.18 Grant reduction and termination.

(a) *Conditions for reduction or termination.* (1) If an agency fails to carry out its responsibilities pursuant to Part 720 of this chapter the Regional Director shall reduce or terminate the grant.

(2) If any agency violates the terms of a grant agreement, the Regional Director may reduce or terminate the grant.

(3) If an agency fails to enforce the initial performance standards of Parts 715 and 716 of this chapter the Regional Director may reduce or terminate the grant.

(4) If an agency fails to enforce the conflict of interest provisions of Part 705 of this chapter the Director shall terminate the grant.

(5) If an agency fails to submit reports required by this part or Parts 720 and 705 of this chapter the Director may reduce or terminate the grant.

(b) *Grant reduction and termination procedures.* (1) The Regional Director shall give at least ten days' written notice to the agency by certified mail, return receipt requested, of intent to reduce or terminate a grant. The Regional Director shall include in the notice the reasons for the proposed action and the proposed effective date of the action.

(2) The Regional Director shall afford the agency opportunity for consultation prior to reducing or terminating a grant.

(3) The Regional Director shall notify the agency of the termination or reduction of the grant in writing by certified mail, return receipt requested.

(4) Upon termination the agency shall refund or credit to the United States that portion of the grant money paid or owed to the agency and allocated to the terminated portion of the grant. However, any portion of the grant that is required to meet commitments made prior to the effective date of termination shall be retained by the agency.

(5) The agency shall reduce the amount of outstanding commitments insofar as possible and report to the Regional Director the uncommitted balance of funds awarded under the grant.

(6) Upon notification of intent to terminate, the agency shall not make any new commitments without the approval of the Regional Director.

(7) The Regional Director may allow termination costs as determined by applicable Federal cost principles listed in Federal Management Circular 74-7.

(c) *Appeals.* (1) Agencies may appeal the Regional Director's decision to reduce or terminate a grant to the Director within 30 days of the Regional Director's decision.

(2) Agencies shall include in an appeal—

(i) The decision being appealed, and

(ii) The facts which the Agencies believe justify a reversal or modification of the decision.

(3) The Director shall act on appeals within 30 days of their receipt.

§ 725.19 Audit.

The agency shall conduct a final audit following the end of each grant pursuant to the procedures in Federal Management. Circular 74-7.

§ 725.20 Administrative procedures.

Administrative procedures governing accounting, payment, property, and related requirements are contained in Federal Management Circular 74-7.

§ 725.21 Allowable costs.

(a) The Regional Director shall determine costs which may be reimbursed according to Federal Management Circular 74-4, "Cost principles applicable to grants and contracts with State and local governments" (34 CFR 255).

(b) Costs must be in conformity with any limitations, conditions, or exclusions set forth in the grant agreement or this part.

(c) Costs must be allocated to the grant to the extent of benefit properly attributable to the period covered by the grant.

(d) Costs must not be allocated to or included as a cost of any other Federally assisted program.

§ 725.22 Financial management.

(a) Agency accounting for grant funds shall be in accordance with the requirements of Federal Management Circular 74-7. Agencies shall use generally accepted accounting principles and practices, consistently applied. Accounting for grant funds must be accurate and current.

(b) The agency shall adequately safeguard all funds, property, and other assets and shall assure that they are used solely for authorized purposes.

(c) The agency shall provide a comparison of actual amounts spent with budgeted amounts for each grant.

(d) When advances are made by a letter-of-credit method, the agency shall make drawdowns from the U.S. Treasury through its commercial bank as closely as possible to the time of making the disbursements.

(e) The agency accounting records shall be supported by source documentation.

(f) The agency shall schedule audits to determine the fiscal integrity of financial transactions and reports, and compliance with the terms of the grant agreement.

(g) The agency shall design a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

§ 725.23 Reports.

(a) The agency shall, for each grant made under this part submit annually to the Regional Director a Financial Status Report in accordance with Federal Management Circular (FMC) 74-7, Attachment H. This report shall be accompanied by a performance report prepared according to Attachment I of FMC 74-7.

(b) The Regional Director shall require through the grant agreement that annual reports also provide the relation of financial information to performance and productivity data, including unit cost information.

§ 725.24 Records.

(a) The agency shall maintain complete records in accordance with Federal Management Circular 74-7. This includes books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly—

(1) The amount, receipt, and disposition by the agency of all assistance received for the program.

(2) The total costs of the program, including all direct and indirect costs of whatever nature incurred for the performance of the program for which the grant has been awarded.

(b) Contractors, including contractors for professional services, shall maintain books, documents, papers, and records which are pertinent to a specific grant award.

(c) The agency's records and the records of its contractors, including professional services contracts, shall be subject at all reasonable times to inspection, reproduction, copying, and audit by the Office, the Department of the Interior, the Comptroller General of the United States, the Department of Labor, or any authorized representative.

(d) For completed or terminated grants, the agency and contractors shall preserve and make their records available to the Office, the Department of the Interior, the Comptroller General of the United States, Department of Labor, or any authorized representative pursuant to FMC 74-7.

§ 725.25 Disclosure of information.

All grant applications received by the Regional Director constitute agency records. As such, their release may be requested by any member of the public under the Freedom of Information Act, 5 U.S.C. 552, and shall be disclosed unless exempt from disclosure under 5 U.S.C. 522(b).

PART 740—GRANTS FOR PROGRAM DEVELOPMENT AND ADMINISTRATION AND ENFORCEMENT

Sec.

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AUTHORITY: Secs. 201, 501, and 502, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201).

§ 740.1 Scope.

This part sets forth policies and procedures for grants to States to—

(a) Develop state programs for the regulation and control of surface coal mining and reclamation operations;

(b) Administer and enforce state programs for the regulation and control of surface coal mining and reclamation operations; and

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(c) Administer cooperative agreements for State regulation of surface coal mining and reclamation operations on Federal lands.

§ 740.2 Objectives.

The objectives of assistance under this part are—

(a) To assist the States in meeting the costs of administering reclamation and enforcement programs consistent with the Act;

(b) To encourage the States to build strong reclamation and enforcement programs; and

(c) To encourage the States to assume jurisdiction over surface coal mining regulation and reclamation operations.

§ 740.3 Authority.

Section 705 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201) authorizes the Secretary to make grants to States for developing, administering and enforcing State regulatory programs.

§ 740.4 Responsibility.

(a) The Director shall administer the State grant program for the development, administration, and enforcement of State programs under this part.

(b) The Regional Director of each of the Office regions shall receive, review, and approve grant applications under this part.

§ 740.5 Definitions.

As used in this part, agency means the State agency designated by the Governor to receive and administer grants under this part.

§ 740.11 Eligibility for program development grants.

(a) *Designation of State agency.* In order to receive a program development grant the Governor of a State shall designate in writing to the Director one agency to submit the grant applications, and to receive and administer the grants.

(b) *Periods covered by program development grants.* (1) An agency may apply for a program development grant for any period for which it does not have an approved State program. This is limited to periods during—

(i) The initial development of a State program;

(ii) The revision of a State program which has been disapproved by the Secretary; and

(iii) The revision of a State program from which the Secretary has withdrawn his approval.

(2) The Director shall limit grants for (b)(1) (ii) and (iii) of this paragraph to the costs of making revisions necessary to secure approval of the State programs.

(3) The Director shall not approve grants for costs incurred prior to August 3, 1977.

(c) *Limits on duration of grants.* (1) The Regional Director shall limit a State's program development grants to a maximum period of 18 months unless at least one of the following conditions exists—

(i) The 18-month period is insufficient because new legislation is required.

(ii) The State requests extension of the grant period for a reason found appropriate by the Regional Director.

(2) If one of the two conditions in this paragraph exists, the Director may extend the grant period to a maximum of 24 months.

§ 740.12 Eligibility for administration and enforcement grants.

(a) *Approved program required.* In order to receive a grant to administer and enforce a State program, the State must have an approved State regulatory program.

(b) *Designation of a State agency.* In order to receive a grant to administer and enforce a State program, the Governor must designate a single agency to receive and administer administration and enforcement grants, including cooperative agreement grants described in § 740.16.

(c) *Nondiscrimination.* The agency shall monitor the compliance activity of its subrecipients with respect to the nondiscrimination provisions in § 740.19.

(d) *When an agency may apply.* An agency may apply for an administration and enforcement grant so long as the State program is approved by the Secretary.

§ 740.13 Submission of estimated annual budgets and allocation of funds.

(a) *Program Development Grants.* As early as possible prior to the Federal fiscal year in which the program development grant will be requested an agency shall submit to the Regional Director a summary of its program development budget. The Director will use these budget summaries in preparing the Federal budget estimates which he is required to submit.

(b) *Administration and Enforcement Grants.* (1) For the fiscal years beginning on and after October 1, 1979, the agency shall submit to the Regional Director an initial estimate of its coal regulatory program budget, including the costs of administering State-Federal cooperative agreements pursuant to § 211.75 of this title, 18 months prior to the Federal fiscal year in which the grant will be requested. Agencies may include those activities required to administer and enforce the regulatory program in their regulatory program budget. The Director will use these budget summaries in preparing the Federal budget estimates which he is required to submit.

(2) For the fiscal year beginning October 1, 1979, and each year thereafter, the agency shall submit to the Regional Director a current regulatory program budget 3 months prior to the beginning of the Federal fiscal year for which a grant will be requested.

(c) *Allocation of funds.* (1) The Director shall allocate to the agencies the full amount requested and approved in the revised or actual budgets provided that the amount available in the Federal budget is sufficient.

(2) If the funds available to the Director for grants are insufficient to cover the total grant needs, including cooperative agreement grants, the Director shall allocate the funds available according to the proportion of each agency's budget to the total of all agencies' budgets.

(3) Allocation of a specific amount of funds to an agency does not assure that grants for that amount will be approved. Each agency must apply for and secure approval of grants in accordance with the requirements of this part.

(4) On July 1 of each year the Director shall reallocate any funds which are not requested by agencies as of June 1 of that year. Such funds shall be allocated only to those agencies which have received less than the allowable percentage of their eligible costs. Allocation shall be based on the proportion of each agency's mutually agreed upon costs to total mutually agreed upon costs in all agencies' regulatory program budgets for the current Federal fiscal year.

(5) Agencies which are allocated additional funds on July 1 may have until August 15 to submit new or revised grant applications for the additional amounts.

§ 740.14 Coverage of grants.

(a) *Program development grants.* An agency may use grant money under this part to develop—

(1) New or revised State laws, regulations, and procedures;

(2) Revised or expanded inspection systems;

(3) Training programs for inspectors and other personnel;

(4) New or revised organizational structures;

(5) Information and communications systems, including data processing systems;

(6) A planning process including a data base and information system to receive and act upon petitions to designate lands unsuitable for mining;

(7) An application for the initial administration and enforcement grant to the extent not covered by indirect costs or other cost items;

(8) Other components necessary to obtain an approved State program, as mutually agreed upon by the Regional Director and the agency receiving a grant.

(b) *Administration and enforcement grants.* An agency may use grant money under this part to administer an approved State regulatory program.

§ 740.15 Amount of grants.

(a) *Amount of program development grants.* (1) For the first year of a program development grant the Regional Director shall approve grants for not more than 80 percent of the total of agreed upon costs pursuant to § 740.14 (a).

(2) For the second year of a program development grant the Regional Director shall approve grants for not more than 60 percent of the total agreed upon costs pursuant to § 740.14(a).

(b) *Amount of administration and enforcement grants.* (1) If no program development grant has been awarded, the Regional Director may approve the first administration and enforcement grant for 80 percent of the agreed upon costs for administration and enforcement of the program.

(2) If a program development grant has been awarded for only 1 year, the Regional Director may approve an administration and enforcement grant for 60 percent of the agreed upon costs for administration and enforcement of the program.

(3) If a program development grant has been awarded for more than 1 year but less than 2 years, the Regional Director may approve the first administration and enforcement grant for 60 percent for that proportion remaining in the second year and for 50 percent for the proportion allocated to the third year.

(4) For the third and following years, the Regional Director may approve administration and enforcement grants for 50 percent of the agreed upon costs for administration and enforcement of the program.

§ 740.16 Special provisions for States with cooperative agreements.

(a) *Eligibility.* The Director may approve additional grants to States which have cooperative agreements pursuant to § 211.75 of this Title, for State regulation of surface coal mining and reclamation operations on Federal lands. This includes—

(1) States which had cooperative agreements on August 3, 1977, which have been modified to comply with the initial regulatory program.

(2) States which enter into cooperative agreements following approval of the State's regulatory program.

(b) *Coverage of grants.* An agency may use cooperative agreement grants to carry out the functions assigned to the State under the agreement.

(c) *Amount of grants.* The Regional Director may approve grants for the approximate amount which he determines the Federal Government would have expended for regulation of coal mining on the Federal lands being regulated by the State, except that no grant may exceed the actual costs to the State.

(d) *Grant periods.* The Regional Director shall approve a grant for a period of 1 year or less. The Regional Director shall fund a program that extends over more than 1 year by consecutive annual grants.

(e) *Application procedures.* (1) States with cooperative agreements in effect on August 3, 1977, may apply for cooperative agreement grants using the procedures set forth in § 740.18 (a), (b), (d), and (e).

(2) States with cooperative agreements established in conjunction with approved State regulatory programs may apply for cooperative agreements grants by including a supplement to an annual administration and enforcement grant application submitted according to § 740.18. The State shall include in the supplemental section:

(i) A separate Part II for the costs of the cooperative agreement; and

(ii) A separate Part III describing the specific activities required by the cooperative agreement for the period for which the grant is requested.

(f) *Other requirements.* The procedures and requirements set forth in §§ 740.17 through 740.26 are applicable to cooperative agreement grants.

§ 740.17 Grant periods.

The Regional Director shall approve a grant for a period of 1 year or less. The Regional Director shall fund a program that extends over more than 1 year by consecutive annual grants.

§ 740.18 Grant application procedures.

(a) The agency may submit its application to the Regional Director for a grant as soon as it is notified by the Regional Director that funds are available, but not later than May 31 of each calendar year.

(b) The agency shall use the short form application for nonconstruction programs and other procedures specified by Federal Management Circular 74-7, "Uniform administrative requirements for grants-in-aid to State and local governments," (34 CFR 256). No preapplication is required.

(c) For program development grant applications, agencies shall include in Part III of the standard application—

(1) An analysis and evaluation of the current State laws and changes required therein to conform to the requirements of the Surface Mining Control and Reclamation Act of 1977; unless previously submitted under Part 725 of this chapter;

(2) A description of the changes expected to be required in State regulations, organization, staffing, training and other policies and operations in order to develop a State program which can be approved; and

(3) A program to develop the legislation, regulations, procedures, organization, staffing, training materials and procedures, etc., necessary to obtain program approval.

(d) For administration and enforcement grants and cooperative agreement grants, agencies shall include in Part III of the standard application a description of the specific operations in the approved program which will be implemented during the period for which the grant is requested.

§ 740.19 Grant agreement.

(a) If the Regional Director approves an agency's grant application, the Regional Director shall prepare a grant agreement which includes—

(1) The approved scope of the program to be covered by the grant;

(2) The approved budget, including the Federal share;

(3) Commencement and completion dates for the segment of the program covered by the grant and for major phases of the program to be completed during the grant period.

(4) Permissible transfers of funds to other State agencies.

(b) The Regional Director may not permit an agency to delegate or transfer its responsibility for the use of grant funds.

(c) Pre-agreement costs for program development grants shall be allowed only as specified in the grant agreement.

(d) The Regional Director shall transmit four copies of the grant agreement by certified mail, return receipt requested, to the agency for signature. The agency shall execute the grant agreement and return all copies of it within 3 calendar weeks after receipt, or within an extension of such time that may be granted by the Regional Director.

(e) The Regional Director shall sign the grant agreement upon its return from the agency and return one copy to the agency. The grant is effective and constitutes an obligation of Federal funds in the amount and for the purposes stated in the grant agreement at the time the Regional Director signs the agreement.

(f) Neither the approval of a program nor the award of any grant will commit or obligate the United States to award any continuation grant or enter into any grant amendment, including grant increases to cover cost overruns.

§ 740.20 Grant amendments.

(a) A grant amendment is a written alteration in the grant amount, grant terms or conditions, budget or period, or other administrative, technical, or financial agreement whether accomplished on the initiative of the agency or the Regional Director, or by mutual action of the agency and the Regional Director.

(b) The agency shall promptly notify the Regional Director in writing by certified mail, return receipt requested, of events or proposed changes which may require a grant amendment, such as—

(1) Rebudgeting;

(2) Changes which may affect the approved scope or objective of a program; or

(3) Changes which may increase or substantially decrease the total cost of a program.

(c) The Regional Director shall promptly approve or disapprove each proposed amendment, and shall notify the agency in writing of the approval or disapproval of the amendment.

(d) The grant amendment establishes the effective date of the action. If no date is specified in the grant amendment then the date the Regional Director signs the amendment will be the effective date of the action.

§ 740.21 Grant reduction and termination.

(a) *Conditions for reduction or termination.* (1) If an agency violates the terms of a grant agreement, the Regional Director may reduce or terminate the grant.

(2) If an agency fails to implement, enforce or maintain an approved program, the Regional Director shall terminate the administration and enforcement grant.

(3) If an agency fails to implement, enforce or maintain only a part of the

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program, the Regional Director shall reduce the grant to the amount of the program being operated by the agency.

(4) If an agency is not in compliance with the following nondiscrimination provisions, the Regional Director may reduce or terminate the grant—

(i) Title VI of the Civil Rights Act of 1964 (78 Stat. 252), Nondiscrimination in Federally Assisted Programs, which provides that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits or, or be subjected to discrimination under any program or activity receiving Federal financial assistance, and the implementing regulations at 43 CFR 17.

(ii) Executive Order 11246, as amended by Executive Order 11375, Equal Employment Opportunity, requiring that employees or applicants for employment not be discriminated against because of race, creed, color, sex, or national origin, and the implementing regulations at 41 CFR 60.

(iii) Section 504 of the Rehabilitation Act of 1973, as amended by Executive Order 11914, Nondiscrimination With Respect to the Handicapped in Federally Assisted Programs.

(b) *Grant reduction and termination procedures.* (1) The Regional Director shall give at least 10 days written notice to the agency by certified mail, return receipt requested, of intent to reduce or terminate a grant. The Regional Director shall include in the notice the reasons for the proposed action and the proposed effective date of the action.

(2) The Regional Director shall afford the agency opportunity for consultation prior to reducing or terminating a grant.

(3) The Regional Director shall notify the agency of the termination or reduction of the grant in writing by certified mail, return receipt requested.

(4) Upon termination the agency shall refund or credit to the United States that portion of the grant money paid or owed to the agency and allocated to the terminated portion of the grant. However any portion of the grant that is required to meet commitments made prior to the effective date of termination shall be retained by the agency.

(5) The agency shall reduce the amount of outstanding commitments insofar as possible and report to the Regional Director the uncommitted balance of funds awarded under the grant.

(6) Upon notification of intent to terminate the agency shall not make any new commitments without the approval of the Regional Director.

(7) The Regional Director may allow termination costs as determined by applicable Federal cost principles listed in Federal Management Circular 74–4.

(c) *Appeals.* (1) Agencies may appeal the Regional Director's decision to reduce or terminate a grant to the Director within 30 days of the Regional Director's decision.

(2) Agencies shall include in an appeal—

(i) the decision being appealed, and

(ii) the facts which the agency believes justify a reversal or modification of the decision.

(3) The Director shall act upon appeals within 30 days of their receipt.

§ 740.22 Audit.

The agency shall conduct a final audit following the end of each grant pursuant to the procedures in Federal Management Circular 74–7.

§ 740.23 Administrative procedures.

Administrative procedures governing accounting, payment, property and related requirements are contained in Federal Management Circular 74–7.

§ 740.24 Allowable costs.

(a) The Regional Director shall determine costs which may be reimbursed according to Federal Management Circular 74–4, "Cost principles applicable to grants and contracts with State and local governments" (34 CFR 255).

(b) Costs must be in conformity with any limitations, conditions, or exclusions set forth in the grant agreement or this part.

(c) Costs must be allocated to the grant to the extent of benefit properly attributable to the period covered by the grant.

(d) Costs must not be allocated to or included as a cost of any other federally assisted program.

§ 740.25 Financial management.

(a) Agency accounting for grant funds shall be in accordance with the requirements of Federal Management Circular 74–7. Agencies shall use generally accepted accounting principles and practices, consistently applied. Accounting for grant funds must be accurate and current.

(b) The agency shall adequately safeguard all funds, property, and other assets and shall assure that they are used solely for authorized purposes.

(c) The agency shall provide a comparison of actual amounts spent with budgeted amounts for each grant.

(d) When advances are made of a letter-of-credit method, the agency shall make drawdowns from the U.S. Treasury through its commercial bank as closely as possible to the time of making the disbursements.

(e) The agency accounting records shall be supported by source documentation.

(f) The agency shall schedule audits to determine the fiscal integrity of financial transactions and reports, and compliance with the terms of the grant agreement.

(g) The agency shall design a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

§ 740.26 Reports.

(a) The agency shall, for each grant made under this part, submit annually to the Regional Director a Financial Status Report in accordance with Federal Management Circular (FMC) 74–7, Attachment H. This report shall be accompanied by a performance report prepared according to Attachment I of FMC 74–7.

(b) The Regional Director shall require through the grant agreement that annual reports provide the relation of financial information to performance and productivity data, including unit cost information.

§ 740.27 Records.

(a) The agency shall maintain complete records in accordance with Federal Management Circular 74–7. This includes books, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly—

(1) The amount, receipt, and disposition by the agency of all assistance received for the program.

(2) The total costs of the program, including all direct and indirect costs of whatever nature incurred for the performance of the program for which the grant has been awarded.

(b) Contractors, including contractors for professional services, shall maintain books, documents, papers, and records which are pertinent to a specific grant award.

(c) The agency's records and the records of its contractors, including professional services contracts, shall be subject at all reasonable times to inspection, reproduction, copying, and audit by the Office, the Department of the Interior, the Comptroller General of the United States, the Department of Labor or any authorized representative.

(d) For completed or terminated grants the agency and contractors shall preserve and make their records available to the Office, the Department of the Interior, the Comptroller General of the United States, Department of Labor, or any authorized representative pursuant to FMC 74–7.

§ 740.28 Disclosure of information.

All grant applications received by the Regional Director constitute agency records. As such, their release may be requested by any member of the public under the Freedom of Information Act, 5 U.S.C. 552, and shall be disclosed unless exempt from disclosure under 5 U.S.C. 552(b).

PART 795—SMALL OPERATOR ASSISTANCE

Sec.

795.1 Scope.
795.2 Objective.
795.3 Authority.
795.4 Responsibilities.
795.5 Definitions.
795.11 Program initiation procedures.
795.12 Program services.
795.13 Eligibility for assistance.
795.14 Filing for assistance.
795.15 Application approval, notice and reimbursement.
795.16 Data requirements.
795.17 Qualified laboratories.
795.18 Assistance funding.
795.19 Applicant liability.

AUTHORITY: Secs. 201, 501 and 502, Pub L. 95-87, 91 Stat. 445 (30 U.S.C. 1201).

§ 795.1 Scope.

This part comprises the small operator assistance program. (Program) and governs the procedures for providing assistance to qualified small mine operators who request assistance under section 507 (c) of the Act, for—

(a) The determination of the probable hydrologic consequences of mining and reclamation, under section 507(b)(11) of the Act; and

(b) The statement of physical and chemical analysis of core samples, under section 507(b)(15) of the Act.

§ 795.2 Objective.

The objective of this section is to meet the intent of section 507(c) of the Act by—

(a) Providing financial and other necessary assistance to the qualified small operator; and

(b) Assuring that the regulatory authority shall have sufficient information to make a reasonable assessment of the probable cumulative impacts of all anticipated mining upon the hydrology of the area and particularly upon water availability.

§ 795.3 Authority.

The Secretary shall provide financial and other assistance under section 507 (c) of the Act to the extent funds are appropriated by Congress specifically for this Program.

§ 795.4 Responsibilities.

(a) *General.* Once the regulatory authority initiates the Program, it shall—

(1) Review requests for assistance and determine qualified operators;

(2) Develop and maintain a list of qualified laboratories and authorize reimbursement for appropriate laboratory contracts;

(3) Conduct periodic on-site evaluations of the Program activities with the appropriate small operator; and

(4) Participate with the Office in data coordination activities with the U.S. Geological Survey, U.S. Environmental Protection Agency and other appropriate agencies or institutions.

(b) *State.* A State shall include a Program within its proposed State regulatory program for approval by the Secretary.

(c) *Office.* The Office shall develop oversight policies and procedures to implement the Program. These shall include policies and procedures for—

(1) Data acquisition, analysis and interpretation;

(2) Interstate coordination and exchange of data;

(3) Model contract stipulations; and

(4) National certification of labs.

(d) The Office and the regulatory authority shall insure that equal opportunity in employment provisions are included within any contract or other procurement documents applicable under 41 CFR 1–12.8.

§ 795.5 Definitions.

As used in this part—

Monitoring means the collection of environmental data by either continuous or periodic sampling methods.

Probable cumulative impacts means the expected total qualitative and quantitive, direct and indirect effects of mining and reclamation activities on the hydrologic regime.

Probable hydrologic consequence means the projected result of proposed surface coal mining and reclamation operations which may reasonably be expected to change the quantity or quality of the surface and ground water; the surface or ground water flow, timing and pattern; the stream channel conditions; and the aquatic habitat on the permit area and other affected areas.

§ 795.11 Program initiation procedures.

(a) The State shall notify the Office six (6) months prior to submission of its State program for approval under section 503 of the Act. The notification shall include—

(1) A statement of the intent to submit a proposed State regulatory program;

(2) A description of actions taken to develop a State regulatory program for approval and a summary schedule of actions to be taken; and

(3) A declaration of whether—

(i) The State elects to receive funding and commence the administration of the Program, or

(ii) The State elects to have the Office administer the Program on behalf of the State through a cooperative arrangement until such time as the proposed State regulatory program is approved.

(b) If the State elects to administer the Program, it may submit a grant application for funding of the program under the procedures of Part 740 of this chapter. The Office shall review the State's grant application and information provided under paragraph (a) of this section and approve or disapprove the State's request.

(c) If the State elects to have the Office administer the Program, the Office shall implement the Program within the State.

§ 795.12 Program services.

To the extent possible with appropriate funds, the regulatory authority shall for qualified small operators who request assistance—

(a) Select and pay a qualified laboratory to—

(1) Determine for the operator, the probable hydrologic consequences of the mining and reclamation operations both on and off the proposed permit area in accordance with § 795.16.

(2) Prepare a statement of the results of test borings or core samplings in accordance with § 795.16.

(b) Collect and provide general hydrologic information on the basin or subbasin areas within which the anticipated mining will occur. The information provided shall be limited to that required to relate the basin or subbasin hydrology to the hydrology of the proposed permit area.

§ 795.13 Eligibility for assistance.

An applicant is eligible for assistance if he—

(a) Intends to apply for a permit pursuant to the Act; and

(b) Establishes that the probable total actual and attributed production of the applicant for each year of the permit will not exceed 100,000 tons. Production from the following operations shall be attributed to the permittee—

(1) All coal produced by operations beneficially owned entirely by the permittee;

(2) The pro rata share, based upon percentage of beneficial ownership, of coal produced by operations in which the permittee owns more than a 5 percent interest.

(3) All coal produced by persons who directly or indirectly control the permittee by reason of stock ownership, direction of the management or in any other manner whatsoever.

(4) The pro rata share of coal produced by operations so controlled by the person who controls the permittee.

§ 795.14 Filing for assistance.

Each applicant shall submit the following information:

(a) A statement of intent to file a permit application;

(b) The names and addresses of—

(1) The potential permit applicant;

(2) The potential operator if different from the applicant.

(c) A schedule of the estimated total production of coal from the proposed permit area and all other locations from which production is attributed to the applicant under § 795.13. The schedule shall include for each location—

(1) The name under which coal is or will be mined;

(2) The permit number and Mining Enforcement and Safety Administration identification number;

(3) The actual coal production for the year preceeding the application for assistance and that portion of the production attributed to the applicant; and

(4) The estimated coal production for each year of the proposed permit and that portion attributed to the applicant.

(d) A description of—

(1) The method of surface coal mining operation proposed;

(2) The anticipated starting and termination dates of each mining and reclamation phase;

(3) The number of acres of land to be affected by the proposed mining; and

(4) A general statement on the probable depth and thickness of the coal resource.

(e) A U.S. Geological Survey topographic map of 1:24,000 scale or larger

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or other topographic map of equivilent detail which clearly shows—

(1) The area of land to be affected and the natural drainage above and below the affected area;

(2) The names of property owners within the area to be affected and of adjacent lands;

(3) The location of existing structures and developed water sources within the area to be affected and on adjacent lands;

(4) The location of existing and proposed test borings or core samplings; and

(5) The location and extent of known working of any underground mines.

(f) Copies of documents which show that—

(1) The applicant has a legal right to enter and commence mining within the permit area; and

(2) A legal right of entry has been obtained for the Office, regulatory authority and laboratory personnel to inspect the lands to be mined and adjacent lands which may be affected to collect environmental data or install necessary instruments.

§ 795.15 Application approval, notice and reimbursement.

(a) If the regulatory authority finds the applicant eligible, it shall:

(1) Determine the minimum data requirements necessary to meet the provisions of § 795.16.

(2) Procure the services of one or more qualified laboratories. A copy of the contract and the final approved report shall be provided to the applicant.

(b) The regulatory authority shall inform the applicant in writing if the application is denied and of the reasons for denial.

§ 795.16 Data requirements.

(a) *General.* This section describes the minimum requirements for the collection of data to meet the objective of the Program. The regulatory authority shall determine the data collection requirements for each applicant or group of applicants. The data requirements will be based on—

(1) The extent of currently available hydrologic and core analysis data for the applicable basin or subbasin area provided by the regulatory authority; and

(2) The data collection and analysis guidelines developed and provided by the Office.

(b) *Specific provisions.* (1) A determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off-site shall be made by a qualified laboratory. The data for this determination shall include—

(i) The existing and projected surface and ground water seasonal flow regime, including water level and water table evaluations. The regulatory authority shall specify duration and return frequencies to be used in the determination.

(ii) The existing and projected seasonal quality of the surface and ground water regime. This shall include measurements and estimates of dissolved and suspended solids, pH, iron, manganese, surface and channel erosion and other water quality parameters specified by the regulatory authority.

(2) A statement of the result of test borings or core samplings from the proposed permit area, and including—

(i) Logs from any drill holes, including identification of each stratum and water level penetrated;

(ii) The coal seam thickness and its chemical analysis including sulfur content;

(iii) The chemical analysis of potentially acid or toxic forming sections of the overburden, and the chemical analysis of the stratum lying immediately underneath the coal to be mined.

(c) *Exemptions.* The statement by a qualified laboratory under paragraph (b)(2) of this section may be waived by the regulatory authority by a written determination that data available for the permit area is adequate to make the required determinations of the consequences of mining.

(d) *Data availability.* Data collected under this Program shall be made available to all interested persons, except information related to the chemical and physical properties of coal. Information regarding the mineral or elemental content of the coal which is potentially toxic in the environment shall be made available.

§ 795.17 Qualified laboratories.

(a) *General.* (1) As used in this section, *qualified laboratory* means a designated qualified public agency, private consulting firm, institution, or analytical laboratory which can provide the required determination or statement under this Program.

(2) The Office shall establish and periodically publish in the FEDERAL REGISTER a list of qualified laboratories which may be used by regulatory authorities under the procedures of this section. A State regulatory authority may designate qualified laboratories under procedures included in an approved State regulatory program.

(3) Persons who desire to be included in the list of qualified laboratories established by the Office shall apply to the Office and provide such information as is necessary to establish the qualifications required by paragraph (b) of this section.

(b) *Basic qualifications.* (1) To qualify for designation, the laboratory shall demonstrate that it—

(i) Is staffed in the fields of hydrology, mining engineering, aquatic biology, geology or chemistry with experienced professional personnel.

(ii) Is capable of collecting necessary field data and samples.

(iii) Has adequate space for material preparation, cleaning and sterilizing necessary equipment, stationary equipment, storage, and space to accommodate periods of peak work loads.

(iv) Meets the Occupational Safety and Health Act or the equivalent State safety and health program.

(v) Has the financial capability and business organization necessary to perform the work.

(vi) Has analytical, monitoring and measuring equipment capable of meeting the standards and methods contained in—

(A) *Standard Methods for the Examination of Water and Waste Water, 14th Edition*, 1976. This publication is available from the American Public Health Association, 1015 18th Street, N.W., Washington, D.C. 20036.

(B) *Methods for Chemical Analysis of Water and Waste*, 1974. This publication is available from the Office of Technology Transfer. U.S. Environmental Protection Agency, Industrial Environmental Research Laboratory, Cincinnati, Ohio 45268.

(vii) Has the capability of making hydrologic field measurements and analytical laboratory determinations by acceptable hydrologic engineering or analytical methods, or by those appropriate recommended methods or guidelines for data acquisition of the Office or other Federal or State agencies.

(2) The qualified laboratory shall be capable of performing either the determination or statement under paragraphs § 795.16 (b) (1) or (b) (2). Subcontractors may be used to provide the services required provided their use is defined in the application for designation and approved by the Office.

§ 795.18 Assistance funding.

(a) *Use of Funds.* Funds authorized for this Program shall not be used to cover State administrative costs or the costs of test boring or core sampling.

(b) *Allocation of funds.* The regulatory authority shall to the extent practicable establish a formula for allocating funds among qualified small operators if available funds are less than those required to provide the services pursuant to this Part. This formula shall include such factors as the applicant's—

(1) Anticipated date of filing a permit application;

(2) Anticipated date for commencing mining; and

(3) Performance history.

§ 795.19 Applicant liability.

(a) The applicant shall reimburse the regulatory authority for the cost of the laboratory services performed pursuant to this Part if the applicant—

(1) Submits false information;

(2) Fails to submit a permit application within 1 year from the date of receipt of the approved laboratory report; or

(3) If the regulatory authority finds that the applicant's actual and attributed annual production of coal exceeds 100,000 tons for the first year of mining under the permit for which the assistance is provided.

(b) The regulatory authority may waive the reimbursement obligation if it finds that the applicant at all times acted in good faith.

PART 830—PROTECTION OF EMPLOYEES

SEC.
830.1 Scope.
830.11 Protected activity.
830.12 Procedures for filing an application for review of discrimination.
830.13 Investigation and conference.
830.14 Filing of complaints.
830.15 Formal adjudicatory proceedings.

AUTHORITY: Secs. 201, 501, and 502, Pub. L. 95-87, 91 Stat 445 (30 U.S.C. 1201)

§ 830.1 Scope.

This part establishes procedures regarding—

(a) The reporting of acts of discriminatory discharge or other acts of discrimination under the Act caused by any person.

(b) The investigation of applications for review and holding of informal conferences about the alleged discrimination; and

(c) The filing of formal complaints of discrimination with the Office of Hearings and Appeals.

§ 830.11 Protected activity.

No person may discharge or in any other way discriminate or cause to be discharged or discriminated against any employee or any representative of employees because that employee or representative has—

(a) Filed, instituted or caused to be filed or instituted any proceedings under the Act by—

(1) Reporting violations to the State regulatory authority, the Secretary, or any employer's representative;

(2) Requesting an inspection; or

(3) Any other action

(b) Made statements or has testified—

(1) In any informal or formal adjudicatory proceeding;

(2) In any informal conference proceeding;

(3) In any rulemaking proceeding;

(4) In any investigation or other proceeding under the Act.

(c) Has exercised on his own behalf or on behalf of others any right granted by the Act.

§ 830.12 Procedures for filing an application for review of discrimination.

(a) *Who may file.* Any employee, or his authorized representative, who believes that he has been discriminated against by any person in violation of § 830.11 may file an application for review. For the purpose of these regulations, an application for review means the presentation of a written report of discrimination.

(b) *Where to file.* The employee or representative may file the application for review at any location of the Office and each office shall maintain a log of all filings.

(c) *Time for filing.* The employee or representative may file an application for review within 30 days after the alleged discrimination occurs. An application is considered filed—

(1) On the date delivered if delivered in person to the Office, or

(2) On the date mailed to the Office.

(d) *Running of the time for filing.* The time for filing begins when the employee knows or has reason to know of the alleged discriminatory activity.

§ 830.13 Investigation and conference procedures.

(a) Within 15 days after receipt of any application for review, the Office shall mail a copy of the application for review to the person alleged to have caused the discrimination and shall notify the employee and the alleged discriminating person that the Office will investigate the complaint. The employer may file a response to the application for review within 10 days after he receives the copy of the application for review. The response shall specifically admit, deny or explain each of the facts alleged in the application unless the employer is without knowledge in which case he shall so state.

(b) The Office shall initiate an investigation of the alleged discrimination within 30 days after receipt of the application for review. The Office shall complete the investigation with 60 days from the date it was initiated. If circumstances surrounding the investigation prevent completion within the 60-day period, the Office shall notify the person who filed the application for review and the alleged discriminating person of the delay, the reason for the delay, and the expected completion date for the investigation.

(c) Within 10 days after completion of the investigation the Office shall hold an informal conference with the parties to discuss the findings and preliminary conclusions of the investigation. The purpose of this informal conference is to attempt to conciliate the matter. If a complaint is resolved at an informal conference, the terms of the agreement will be recorded in a written document that will be signed by the employer, the employee and the representative of the Office. If the Office concludes on the basis of a subsequent investigation that the employer has failed in any material respect to comply with the terms of any agreement reached during an informal conference, the Office shall take appropriate action to obtain compliance with the agreement.

(d) Following the investigation and informal conference, the Office shall complete a report of investigation which shall include a summary of the conference. Copies of this report shall be available to the parties in the case.

§ 830.14 Filing of complaints.

(a) If the Office concludes that a violation has probably occurred which was not resolved at the informal conference, the Director shall file a complaint with the Office of Hearing and Appeals within 20 days from the completion of the informal conference.

(b) The employee may file a complaint of discrimination with the Office of Hearings and Appeals—

(1) After 90 days has elapsed from the filing of his application; or

(2) Within 20 days following notification by the Director that no formal proceedings will be initiated.

§ 830.15 Formal adjudicatory proceedings.

(a) Formal adjudication of a complaint filed under this part shall be conducted in the Office of Hearings and Appeals under 43 CFR Part 4.

(b) After filing an application for review under this part, an employee may seek temporary relief in the Office of Hearings and Appeals under 43 CFR Part 4.

NOTE.—The proposed regulations submitted by the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, for publication in the FEDERAL REGISTER have been redesignated to conform to CFR codification practices. For the convenience of the user, the following table shows the relationship between the part numbers on the original document and the corrected part numbers as published in the FEDERAL REGISTER.

Old Part No.	New Part No.
1000	700
2000	710
2020	715
2021	716
2022	717
2030	720
2031	721
2032	722
2033	723
2040	725
2160	740
2480	795
2900	830
4100	837

[FR Doc.77-25928 Filed 9-6-77;8:45 am]

[30 CFR Part 837]

ABANDONED MINE RECLAMATION FUND FEE COLLECTION AND PRODUCTION RECORDS

Proposed Rules

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Proposed Rules.

SUMMARY: These regulations provide each coal mine operator with methods to determine his reclamation fee obligation to the Abandoned Mine Reclamation Fund (fund) and provide instructions for the payment of the fee with a production statement of the proper location. This document implements the provisions of the Surface Mining Reclamation and Control Act of 1977 which promote the reclamation of coal and non-coal mined areas that have not been adequately reclaimed.

DATES: Comments must be received before October 7, 1977. Public hearings will be held September 20, 1977.

ADDRESSES: Comments should be addressed to: Director, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, Washington, D.C. 20240. Public hearings will be

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held at the Department of the Interior Auditorium, 18th and C Streets NW., Washington, D.C.; Kiel Auditorium, 1416 Market Street, St. Louis, Mo.; Public Library Auditorium, 1347 Broadway, Denver, Colo.; and Morris Harvey College, Riggleman Hall, 2300 McCorkle Avenue, Charleston, W. Va.

FOR FURTHER INFORMATION CONTACT:

Paul Reeves, Office of Surface Mining Reclamation and Enforcement, 202-343-4237.

SUPPLEMENTARY INFORMATION: Coal mining activities have imposed large social and environmental costs on the public in many areas of the country in the form of unreclaimed lands, water pollution, and a decline in natural beauty. Uncontrolled coal mining practices, in many areas of the country, have resulted in degradation of the quality of life in local communities.

A major goal of the "Surface Mining Control and Reclamation Act of 1977" (Act) is to promote the reclamation of coal and noncoal mined areas that have not been adquately reclaimed. Part 837 addresses the financial aspect of reclaiming mined areas that were not adequately reclaimed before the enactment of this Act. The Act establishes an Abandoned Mine Reclamation Fund (fund) to be administered by the Secretary of the Interior, and supported by a reclamation fee imposed on coal production. The revenues derived from the reclamation fee are to be deposited in the fund for use by the Secretary, the Secretary of Agriculture and the States under approved programs for the purpose of reclaiming abandoned mined lands.

Two initial questions were at what point to determine the "value of a ton of coal at the mine", as used in section 402 of the Act, and how should the fee be levied on in situ coal consumed. Two approaches were considered. The first approach was to require the coal operator to weigh his coal as soon as it is extracted from the earth, or removed from deposits that are not in their original geological locations (reclaimed coal). This approach would require an operator to weigh the coal before any coal preparation process. The second approach was to base the reclamation fee on the weight and value of the coal at the time of its bona fide sale, transfer or use. The second approach is proposed since it represents the first common point where weights are usually determined within the industry.

The statuory definition of "surface coal mining operations" includes "in situ distillation or retorting" and therefore such operations are subject to the provisions of the Act including the reclamation fee payment provisions. It was determined that the amount of coal consumed or used by in situ distillation or retorting could be calculated by measuring the gas produced at the wellhead if the Btu value of the coal were known.

The regulations state that the reclamation fee shall be paid by the operator on each ton of coal produced for sale, transfer, or use, including the products of in situ mining, and the fee shall be determined by the weight, value, and Btu content at the time of initial bona fide sale, transfer, or use. Coal that was mined before October 1, 1977, but has not yet been sold, transferred or used will not be subject to the fee. The fee for coal produced during the fourth quarter, 1977, will be due no later than January 30, 1978.

DRAFTING INFORMATION

The principal authors of these proposed regulations are: Daniel Jones and George Williams, Abandoned Lands Work Group and Edward Clair, Office of the Solicitor, Department of the Interior.

Interested persons may submit written comments on the proposed regulation to the Director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240 no later than October 7, 1977.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: September 2, 1977, 8:50 a.m.

LEO M. KRYLITZ,
Acting Secretary of the Interior.

It is proposed to add Part 837 to Title 30, Chapter VII, to read as follows:

PART 837—ABANDONED MINE RECLAMATION FUND—FEE COLLECTION AND COAL PRODUCTION REPORTING

Sec.

837.1 Scope.
837.2 Objectives.
837.3 Responsibility.
837.5 Definitions.
837.11 Applicability.
837.12 Reclamation fee.
837.13 Fee computations.
837.14 Determination of percentage based fees.
837.15 Reclamation fee payment.
837.16 Production records.

AUTHORITY: Sec. 201, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201).

§ 837.1 Scope.

This part sets out the procedures for the collection of fees for the Abandoned Mine Reclamation Fund (fund).

§ 837.2 Objectives.

The objectives of this part are to establish—

(a) Methods for determining the reclamation fee payable on coal production.

(b) Procedures for paying the reclamation fee to the Director.

(c) Requirements for production recordkeeping and reporting.

§ 837.3 Responsibility.

(a) The Secretary of the Interior administers the fund.

(b) The Director, under the general direction of the Assistant Secretary, Energy and Minerals, is responsible for administering the provisions of this part.

§ 837.5 Definitions.

As used in this part—

Anthracite, bituminous and subbituminous coal means all coals other than lignite coal.

Calendar quarter means a 3-month period within a calendar year. The first calendar quarter begins on January 1 of a calendar year and ends on the last day of March. The second calendar quarter begins on the first day of April and ends on the last day of June. The third calendar quarter begins on the first day of July and ends on the last day of September. The fourth calendar quarter begins on the first day of October and ends on the last day of December.

Coal preparation means the treatment of coal to improve its quality, and usually refers to the removal of impurities and the sizing of the coal to meet market specifications.

Fee compliance officer means any person authorized by the Secretary to exercise his authorty in matters relating to this part.

In situ coal mining means the process of recovering energy from coal in its natural geological location by igniting the coal seam and recovering the gas at the wellhead.

Lignite coal means consolidated lignitic coal having less than 8,300 British thermal units per pound, moist, and mineral-matter-free. British thermal units per pound are determined by Parr's formula, page 213, equation 3, D-388 (reapproved 1972), Part 26, 1976 Annual Book of ASTM Standards.

Reclaimed coal means coal recovered from a deposit that is not in its original geological location. Examples of these deposits are refuse piles or culm banks; refuse, culm or retaining dams and ponds that are or have been used during the mining or preparation process; and stream coal deposits.

Surface coal mining means the extraction of coal from the earth by removing the materials over the coal seam before recovering the coal and includes auger coal mining.

Ton means 2,000 pounds avoirdupois (.90718 metric ton).

Underground coal mining means the extraction of coal from the earth by developing entries from the surface to the coal seam before recovering the coal by underground extraction methods and includes in situ mining.

Value means gross value.

§ 837.11 Applicability.

The regulations in this chapter apply to all surface coal mining and reclamation operations except—

(a) The extraction of coal by a landowner for his own noncommercial use from land owned or leased by him;

(b) The extraction of coal for commercial purposes by surface mining which affects two acres or less;

(c) The extraction of coal as an incidental part of Federal, State or local government-financed highway or other construction; and

(d) The extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ percent of the mineral tonnage removed for commercial use or sale.

§ 837.12 Reclamation fee.

(a) The operator shall pay a reclamation fee on each ton of coal produced for sale, transfer, or use, including the products of in situ mining.

(b) The fee shall be determined by the weight and value at the time of initial bona fide sale, transfer of ownership, or use by the operator.

(c) If the operator combines surface mined coal, including reclaimed coal, with underground mined coal before the coal is weighed for fee purposes, the higher reclamation fee shall apply, unless he can substantiate the amount of coal produced by each mining method by acceptable engineering calculations or other reports which the Director may require.

(d) In computing the tons of coal produced for reclamation fee purposes in the fourth calendar quarter of 1977, the operator may deduct the tons of coal immediately available for sale, transfer, or use on September 30, 1977, from coal produced for sale, transfer, or use during the fourth calendar quarter of 1977. If the operator makes this deduction, he shall attach to his fourth quarter, 1977, OSM form 4100-1, a sworn and notarized statement of the amount of coal immediately available for sale, transfer, or use on September 30, 1977, and the quantity of such coal produced by surface and underground mining respectively.

§ 837.13 Fee computations.

(a) *Surface mining fees.* The fee for anthracite, bituminous, and subbituminous coal, including reclaimed coal, is 35 cents per ton unless the value of such coal is less than $3.50 per ton, in which case the fee is 10 percent of the value.

(1) If the value of a ton of coal is equal to or greater than $3.50 per ton, multiply the number of tons produced in the calendar quarter by $0.35. Example: If the tonnage is 1,000, then 1,000 tons×$0.35=$350, which is the fee.

(2) If the value of a ton of coal is less than $3.50 per ton, multiply the value of a ton of coal by the total number of tons produced in the calendar quarter by 0.1. Example: If the value of a ton of coal is $2 and the tonnage is 1,000, then $2×1,000 tons×0.1=$200.

(b) *Underground mining fees.* The fee for anthracite, bituminous, and subbituminous coal is 15 cents per ton unless the value of such coal is less than $1.50 per ton, in which case the fee is 10 percent of the value.

(1) If the value of a ton of coal is equal to or greater than $1.50 per ton, multiply the number of tons produced in the calendar quarter by $0.15. Example: If the tonnage is 1,000, then 1,000 tons×$0.15=$150, which is the fee.

(2) If the value of a ton of coal is less than $1.50 per ton, multiply the value of a ton of coal by the total number of tons produced in the calendar quarter by 0.1. Example: If the value of a ton of coal is $1 and the tonnage is 1,000, then $1×1,000 tons×0.1=$100, which is the fee.

(c) *Surface and underground mining fees for lignite coal.* The fee for lignite coal is 10 cents per ton unless the value of such coal is less than $5 per ton, in which case the fee charged is 2 percent of the value.

(1) If the value of a ton of lignite is equal to or greater than $5 per ton, mulcalendar quarter by $0.10. Example: If the tonnage is 1,000, then 1,000 tons×$0.10=$100, which is the feet.

(2) If the value of a ton of lignite is less than $5 per ton, multiply the value of a ton of lignite by the total number of tons produced in the calendar quarter by 0.02. Example: If the value is $4 and the tonnage is 1,000, then $4×1,000 tons×0.02=$80, which is the fee.

(d) *In situ coal mining fees.* The fee for in situ mined coal, except lignite coal, is 15 cents per ton based on BTUs per ton in place equated to the gas produced at the site. The fee for in situ mined lignite is 10 cents per ton based on the BTUs per ton of coal in place equated to the gas produced at the site. For example, if the BTU value of in situ coal is determined to be 23 million BTUs per ton, then for every 23 million BTUs of gas produced at the wellhead, one ton of coal will be deemed produced for the purposes of this part.

(1) The BTU value of a ton of in place coal shall be determined by analyses, certified by an independent laboratory, of the coal seam that is effected for potential BTU value of a ton of in place coal.

(2) For anthracite, bituminous, and subbituminous coal the fee shall be computed as follows: $F=(G/C)\times V_1$.

(3) For lignite coal the fee shall be computed as follows: $F=(G/L)\times V_2$.

(4) For the purposes of this paragraph:

F=Reclamation fee.
C=million BTUs per ton of coal in place.
L=million BTUs per ton of lignite in place.
G=gas produced at the wellhead in million BTUs.
V_1=$0.15/ton equivalent; or if the value of a ton of coal equivalent is less than $1.50, multiply the value by 0.1 and substitute the result for V_1 in the appropriate formula.
V_2=$0.10/ton equivalent, or if the value of a ton of lignite equivalent is less than $5 multiply the value by 0.02 and substitute the result for V_2 in the appropriate formula.

§ 837.14 Determination of percentage based fees.

(a) If the operator submits a fee based on a percentage of the value of coal, he shall include with his fee and production report documentation supporting the alleged coal value. Based on this information and any additional documentation, including examination of the operator's books and records, that the Director may require, the Director may accept the valuation submitted by the operator, or may determine the value of the coal.

(b) If the Director determines that a higher fee shall be paid, the operator shall submit the additional fee plus statutory interest within thirty days of notification by the Director that an additional fee payment is due.

§ 837.15 Reclamation fee payment.

(a) Each operator shall pay the reclamation fee on a calendar quarter basis.

(b) The fee for the fourth calendar quarter of 1977 shall be paid no later than January 30, 1978.

(c) Each operator shall use OSM Form 4100-1, Coal Production and Reclamation Fee Report form, for each quarterly payment period for each mine.

(d) The reclamation fee payment for each calendar quarter shall be paid no later than 30 calendar days after the end of the calendar quarter. Delinquent payments are subject to an interest charge at the statutory rate.

(e) The OSM Form 4100-1 and check or money order for each coal mine shall be made payable to Director, Office of Surface Mining Reclamation and Enforcement and shall be sent in the same envelope to:

Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, P.O. Box 25065-DFC, Denver, Colo. 80225.

§ 837.16 Production records.

(a) Each operator shall maintain, on a current basis, books and records that contain at least the following information and data—

(1) Tons of coal sold or transferred, amount received per ton, name of party to whom sold or transferred, and the date of each sale or transfer.

(2) Tons of coal used by the operator during production or coal preparation, and date of consumption.

(3) For in situ coal mining operations, total BTU value of gas produced, the BTU value of a ton of coal in place certified by an independent laboratory, and the amount received for gas sold or used.

(b) The fee compliance officer shall have access to the mine for the purpose of determining compliance with the regulations in this part.

(c) Each operator shall make any book or record available at reasonable times for inspection and copying by the fee compliance officer.

(d) The operator shall maintain books and records for a period of 7 years from the end of the calendar quarter in which the fee was due.

[FR Doc.77-25929 Filed 9-6-77;8:45 am]

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federal register

WEDNESDAY, SEPTEMBER 7, 1977
PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

LIBRARIES AND LEARNING RESOURCES; EDUCATION, INNOVATION AND SUPPORT

Technical Amendments

V 42 173 SEP 7 77 UMI

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 134—LIBRARIES AND LEARNING RESOURCES; EDUCATION INNOVATION AND SUPPORT

PART 134b—EDUCATIONAL INNOVATION AND SUPPORT

Technical Amendments

AGENCY: Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: The Office of Education is amending its regulations because of technical amendments to the governing statute. These amendments are necessary to conform to the existing regulations to the statute, as amended.

EFFECTIVE DATES: Pursuant to Section 431(d) of the General Education Provisions Act, as amended, these regulations will be transmitted to Congress concurrently with their publication in the FEDERAL REGISTER. That section provides that regulations shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions concerning Congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Dr. Milbrey L. Jones, Telephone: 202–245–2488.

SUPPLEMENTARY INFORMATION: These amendments specifically authorize the Commissioner to waive the requirements of section 406 of the Act directing State and local educational agencies to serve private school children when a local educational agency or the State educational agency has "substantially failed" to provide for services to those children. In this situation, the Commissioner would arrange to provide the Title IV benefits to these children. Secondly, the amendments remove the authority to fund private educational organizations for demonstration nutrition and health projects under section 431(a)(2) of Part C of the Act.

Those affected by these amendments to the regulations are State and local educational agencies, and private educational organizations in the case of nutrition and health projects. State educational agencies continue to have the opportunity to remedy "substantial failure"" by a local educaional agency. If the Commissioner waives the requirement of section 406 of the Act in a case of "substantial failure", the affected State or local educational agency will lose only the funds necessary to implement an arrangement by the Commissioner to provide services to private school children. Private educational organizations are eliminated as a potential type of grantee of nutrition and health projects under Part C of Title IV.

The statute does not indicate circumstances in which a waiver for "substantial failure" would not be granted. Consideration was given to developing criteria for the granting of such waiver; however, it is felt that due to the multiplicity of factual situations that might arise, it is best to make such determinations on a case-by-case basis. This is consistent with § 134.104 of the existing regulations for granting a waiver of the requirements of section 406 of the Act in the case of legal prohibition.

One comment was received on the Notice of Proposed Rulemaking published in the FEDERAL REGISTER (42 FR 16159) on March 25, 1977. The comment and the Commissioner's response to it follow:

Comment. A commenter objected to the elimination of private educational organizations as a potential type of grantee under Part C of Title IV on the grounds that this limitation would restrict the ability of the private sector to create model projects designed to improve nutrition and health services for areas with high concentrations of children from low-income families.

Response. No change has been made to the provision in the proposed rule. The purpose of this amendment to the regulation is to conform the regulation to the statutory amendments made by sections 324 and 501(r) of Pub. L. 94–482. Those amendments have revoked the Commissioner's authority to fund private educational organizations for demonstration nutrition and health projects.

After considering the comment the Commissioner hereby adopts the proposed regulations which were published in the FEDERAL REGISTER on March 25, 1977, with no changes.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

(Catalog of Federal Domestic Assistance No. 13.570–571; Libraries and Learning Resources, Education Innovation and Support)

Dated: July 22, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: August 30, 1977.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

Parts 134 and 134b of Title 45 of the Code of Federal Regulations are amended as follows:

1. By revising the first two lines of the Comment following paragraph (b) of § 134.105 to read as follows:

§ 134.105 Provision of services by the State educational agency.

• • • • •

Comment. These two paragraphs provide State educational agencies with an opportunity to • • •

2. By adding a new § 134.105(c) to read as follows:

• • • • • •

(c) If a State educational agency does not make satisfactory arrangements under § 134.105(a) within a reasonable period of time, the Commissioner may waive the requirements for the participation on an equitable basis of children enrolled in private elementary and secondary schools.

(20 U.S.C. 1806(e))

3. By revising § 134.108(b) to read as follows:

§ 134.108 Suspension and termination.

• • • • • •

(b) If no waiver is granted under § 134.104 or § 134.105(c) and the State educational agency fails to take action under § 134.105(a), section 434(c) of the General Education Provisions Act requires that payments shall be withheld from such State or local educational agency until there is no longer any such failure to comply.

(20 U.S.C. 1232c(c); 1806)

4. By revising § 134.108(d) to read as follows:

• • • • • •

(d) This section shall not apply where the Commissioner has granted a waiver under §§ 134.104(a) or 134.105(c).

(20 U.S.C. 1232c(c); 1806 (d), (e))

§ 134.108 [Amended]

5. By deleting the comment following § 134.108(d).

Subpart C [Removed]

6. In Part 134b, by deleting Subpart C—Health and Nutrition, § 134b.20.

Subpart D [Redesignated]

7. By retitling Subpart D as Subpart C.

8. By revising the table of contents listing for Subpart D—*Strengthening State and Local Educational Agencies* in Part 134b to retitle it as Subpart C.

9. By revising the first four lines of paragraph (b) of § 134b.2 to read as follows:

§ 134b.2 Authorized activities.

• • • • • •

(b) For the support of demonstration projects by local educational agencies designed to improve nutrition and health • • •

• • • • • •

[FR Doc.77–25964 Filed 9–6–77;8:45 am]

V 42 I 173 SEP 7 77 UMI

federal register

WEDNESDAY, SEPTEMBER 7, 1977
PART V



SECURITIES AND EXCHANGE COMMISSION

■

BENEFICIAL OWNERSHIP DISCLOSURE REQUIREMENTS

V 42 173
SEP 7 77
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SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 239, 240, 249]

[Release Nos. 33-5859 34-13900; File No. S7-714]

Beneficial Ownership Disclosure Requirements

Solicitation of Comments

AGENCY: Securities and Exchange Commission.

ACTION: Solicitation of comments.

SUMMARY: Certain institutions have raised substantial practical and interpretative questions in complying with the rules, now scheduled to take effect on April 30, 1978, governing the disclosure of the beneficial ownership and related information of certain equity securities. Institutions have also objected to the exclusion of certain persons from those permitted to use the abbreviated acquisition notice and the duplication of disclosure which they believe would result if rules are adopted requiring institutional investment managers to report information with respect to accounts over which investment discretion is exercised. Although the Commission is not proposing to amend the new rules at this time, it is requesting public comment with respect to the objections raised by institutional investors in order to assure that its regulatory actions are fully responsive to the public interest.

DATE: Comments must be received on or before September 30, 1977.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Comment letters should refer to Commission File Number S7-714. All comments received will be available for public inspection in the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

John Granda, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202—755-1750) or Edward A. Scallet, Office of the General Counsel, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202—755-1234).

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

A. SUMMARY OF PERTINENT RULES

In order to assist all interested persons in understanding the issues upon which the Commission is soliciting comments, a brief summary of the new rules which are pertinent to those issues follows. The summary is brief and the attention of all interested persons is directed to the actual text of the rules and forms for a more complete understanding.[1]

Generally, Section 13(d) of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) and Rule 13d-1 (17 CFR 240.13d-1) thereunder, require that a Schedule 13D (17 CFR 240.13d-101) be filed by any person (or group of persons) within 10 days of any acquisition, if after such acquisition such person or group is the beneficial owner of more than five percent of certain classes of equity securities specified in Section 13(d)(1).

The Commission in its new rules[2] defined the term "beneficial owner" for certain purposes to include any person who directly or indirectly has or shares voting and/or investment power in such security (Rule 13d-3) (17 CFR 240.13d-3). The holder of a right to acquire beneficial ownership of a security and a pledge under a defaulted pledge agreement are also deemed to be beneficial owners under certain circumstances (Rule 13d-3). Under the new rules, the acquisition by a group of the beneficial ownership of the securities owned by its members is deemed to occur upon the date of the agreement to act together for a prescribed purpose (Rule 13d-6) (17 CFR 240.13d-6). The new rules also require aggregation of securities of the same issuer held by a beneficial owner in several different accounts or trusts (Rule 13d-3).

A new short form (Form 13D-5) (17 CFR 240. 13d-102) was adopted to be used by certain institutional investors in reporting their beneficial ownership so long as such ownership was neither acquired nor is maintained for the purpose (or with the effect) of changing or influencing the control of the issuer. The short form may be filed within 10 days after the end of the calendar quarter in which the triggering acquisition was made, and thereafter the form is to be amended on a quarterly basis to reflect all material changes as well as increases and decreases of beneficial ownership during the quarter until ownership has dropped to five percent or less of the subject securities.

B. INSTITUTIONAL INVESTOR CONCERNS

The Commission has received three rulemaking petitions pursuant to the Commission's rules of practice (17 CFR 201.4) seeking to have the Commission amend Rule 13d-5 (17 CFR 240. 13d-5) to permit insurance companies to use the short form acquisition notice.[3] Two of those petitions also seek amendment of Rule 13d-6 to limit paragraph (b) thereof to agreements relating to equity securities of an issuer.[4] Because the petitions largely reflect similar concerns representative excerpts are set forth below.[5]

The member banks of the New York Clearing House Association have articulated their concerns regarding the new rules in a submission by that organization which is also set forth below.

Additional concerns raised by institutional investors are contained in the letters of comment on proposed Rule 13f-1 (17 CFR 240. 13f-1) published in Securities Exchange Act Release No. 13396, March 22, 1977, 42 FR 16831. Those letters have been made part of Commission File Number S7-714 and are available for public inspection and copying.

II. ISSUES UPON WHICH THE COMMISSION SOLICITS COMMENTS

The Commission, at this time, is not proposing to amend or modify the new rules announced in February, 1977. While these rules may impose some burdens on institutional investors and others, that concern must be balanced against the need for full and accurate disclosure of the beneficial ownership of equity securities. This is the balance the Commission's rules attempted to achieve. Similarly, the decision to exclude insurance companies from the list of persons eligible to use the short form was based on several factors.[6]

[1] The text of the rules and a more complete description of the rules and illustrations thereof are set forth in Securities Exchange Act Release No. 13291, February 24, 1977, 42 FR 12342.

[2] Certain of these rules codify existing case law. See, e.g., "GAF Corp. v. Milstein," 453 F.2d 709 (C.A. 2, 1971) certiorari denied, 406 U.S. 910 (1972).

[3] Petitions have been received from the American Insurance Association, the American Council of Life Insurance, and The Prudential Insurance Company of America.

[4] American Council of Life Insurance and The Prudential Insurance Company of America.

[5] The full petitions are contained in Commission File Number S7-714 and are available for public inspection and copying.

[6] In its release announcing the adoption of its beneficial ownership disclosure rules (Securities Exchange Act Release No. 13291, 42 FR 12342), the Commission articulated the bases for its determination with respect to insurance companies, as follows:

As originally proposed, the short form would have been available to insurance companies, as defined in Section 3(a)(19) of the Exchange Act. However, the Commission has determined that the considerations which would make use of a short form appropriate for broker-dealers, banks, investment companies, investment advisers and employee benefit plans do not apply equally to insurance companies. The rationale for precluding insurance companies from using the short form is based, in part, upon the lack of any uniform legal requirement restricting such companies in the amount of securities they may acquire in a given issuer and on the fact that the transactions by which an insurance company or its affiliates may become the beneficial owners of securities, even taking into account the aggregation and attribution aspects of the new rules, generally involve volitional investment decisions of a character different from those generally made by the other entities entitled to use Form 13D-5. Moreover, even though certain aspects of the operations of insurance companies are subject to regulation under state law, the Commission does not believe such regulation to be an adequate substitute for the protection to investors provided by disclosure under Section 13(d).

In reaching its decision regarding insurance companies, the Commission was aware

Nevertheless, the Commission believes that it should solicit comments on, and give due consideration to, the issues which have been highlighted by the institutional investors, and for that reason has previously announced the deferral of the effective date of the rules from August 31, 1977 to April 30, 1978 (Securities Exchange Act Release No. 13844, August 10, 1977, 42 FR 41405). The Commission requests that persons commenting on these issues furnish detailed empirical and other evidentiary support buttressing their objections to and suggestions for any proposed modification in the new rules.

While the Commission will consider comments on any aspect of the new rules, including any of the matters raised in the petitions and submissions referred to above, the issues upon which the Commission specifically desires comment are set forth below. In considering the issues which have been raised, consideration should be given to the question of whether it will also be necessary to revise the definition of beneficial ownership, presently set forth in Rule 13d-3. Accordingly, the Commission specifically invites comments on the question whether, and, how, the definition of beneficial ownership should be revised to alleviate the institutions' problems in a manner consistent with the purposes of Section 13(d) of the Exchange Act.

In responding to the following questions, please furnish specific cost date with respect to: (1) Compliance with the new rules as they now stand; and (2) compliance with the rules as amended in any manner recommended by the commentator.

1. *Availability of the short form.* (a) Should insurance companies generally, or life insurance companies or property and casualty companies specifically, qualify for inclusion in Rule 13d-5 as a class of beneficial owners entitled to use Form 13D-5 in lieu of Schedule 13D?

(b) Should a group whose members are individually eligible to use Form 13D-5 be permitted to use that form regardless of whether the securities are acquired in a private placement?

(c) Should two or more persons who are beneficial owners of the same securities and who are otherwise eligible to use Form 13D-5 be permitted to file a single Form 13D-5?

(d) Should the attribution of beneficial ownership from a subsidiary, which is not qualified to use the short form, to its parent, which is so qualified, preclude the parent from utilizing the short form?

2. *Overlap under proposed Rule 13f-1.* (a) Should the disclosures required by rules under Section 13(f) provide the exclusive reporting obligation for the securities beneficially owned by institutional investors who disclaim any intention of investing for purposes of influencing control or management?

(b) Can the purposes of Sections 13(d) and (f) be effected without duplicative reporting?

3. *Practical problems.* (a) Should the reporting and/or disclosure requirements of Form 13D-5 be based on beneficial ownership as of the end of the calendar quarter rather than at any time during the quarter?

(b) Should Form 13D-5 be required to be filed within some period of time in excess of the present 10 days after the end of the calendar quarter; and, if so, what is an appropriate period of time?

4. *Definitional and interpretative problems.* (a) When should a pledgee under an agreement as to which there has been a default be deemed the beneficial owner of the pledged securities?

(b) Should persons qualified to file the short form be exempted from the requirement that they be deemed the beneficial owner of securities which they have the right to acquire within 60 days either through the conversion of convertible securities or through the exercise of options, warrants or rights?

(d) Would an exemption for persons qualified to file Form 13D-5 from the requirement to aggregate securities held by foreign branches and subsidiaries in unrelated investment accounts be inconsistent with the purposes of Section 13d?

(e) If two or more persons agree to act together solely for the purpose of acquiring, holding, or disposing of a non-equity security of an issuer, should Rule 13d-6 (b) be amended so that the group formed thereby will not be deemed to be the beneficial owner of the equity securities beneficially owned by such persons?

In addressing the issues raised in this release commentators should feel free to consider the materials accumulated in Commission File No. S7-580[7] in connection with the beneficial ownership rules proposed by the Commission in Exchange Act Release No. 11616 (40 FR 42212).

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 29, 1977.

ATTACHMENTS TO RELEASE NOS. 33-5859 34-13900

EXCERPT FROM THE PETITION OF THE AMERICAN INSURANCE ASSOCIATION RELATING TO RULE 13D-5

III. THE COMMISSION'S ACTION IN AMENDING PROPOSED RULE 13D-5 TO EXCLUDE INSURANCE COMPANIES WAS CONTRARY TO ITS REGULATORY PURPOSES UNDER THE EXCHANGE ACT AND THE WILLIAMS ACT

The Williams Act amendments to the Exchange Act were designed to fill the gap in the disclosure provisions of existing securities legislation which occurred:

(1) When a person or group of persons seeks to acquire a substantial block of equity securities of a corporation by a cash tender offer or through open market or privately negotiated purchases and (2) when a corporation repurchases its own equity securities.[13]

Congress recognized the need for protection of investors "caught in the midst of a battle for corporate control" set off by an outside tender offer. It therefore provided that any person or group which acquired 10 percent or more of any class of registered equity security (as well as certain investment company securities) or which made a tender offer for such securities must disclose information as to the size of its holding, the source of its funds, any contracts or arrangements relating to the shares, and any plans to change the business or corporate structure of the acquired firm.[14]

Congress did not intend to require extensive disclosure on the part of purchasers whose acquisition of securities was not intended to or did not have the effect of changing or influencing control of the issuer or otherwise did not fall within the purposes of the Act. This purpose was reflected in amended sections 13(d)(5)(D) and 14(d)(8)(D) of the Exchange Act.[15]

Subsequently, the Williams Act was amended to reduce the triggering level of securities acquisitions for reporting requirements to 5 percent, to include certain insurance company securities, and to allow the Commission to adopt a short form notice of acquisitions under section 13(d):

> The Commission, by rule or regulation or by order, may permit any person to file in lieu of the statement required by paragraph (1) of this subsection or the rules or regulations thereunder, a notice stating the name of such person, the number of shares of any equity securities subject to paragraph (1) which are owned by him, the date of their acquisition and such other information as the Commission may specify, if it appears to the Commission that such securities were acquired by such person in the ordinary course of business and were not acquired for the purpose of and do not have the effect of changing or influencing the control of the issuer nor in connection with or as a participant in any transaction having such purpose or effect.[16]

In its 1975 Release, the Commission proposed a definition of "beneficial ownership" which would include persons acquiring securities in the ordinary course of business and not with a view toward affecting corporate control. The Commission proposed the adoption of a short form acquisition notice.[17] In so doing it noted that the proposed standard for use of the short form by institutional investors was the standard established in 13(d)(5): Such an investor must have acquired its securities "in the ordinary course of business and not with the purpose or effect of changing or influencing the control of the issuer nor in connection with, or as a participant in, any transaction having such purpose or effect."[18]

Benefit of the short form was to be limited to the list of institutional investors specified in the proposed rule on the grounds that "they are the ones most likely to have acquired more than a five percent interest in

of a number of private enforcement investigations pending at that time which tended to reveal a pattern by certain insurance companies of utilizing their assets to engage in or assist activities in violation of the Williams Act. Its release referred to the factors that the Commission believes facilitated the conduct under scrutiny.

[7] The materials contained in that file are available for public inspection and copying.

[13] S. Rep. No. 550, 90th Cong., 1st Sess. 1 (1967); H.R. Rep. No. 1711, 90th Cong., 2d Sess 2 (1968).

[14] S. Rep. 550, supra, at 4; H.R. Rep. 1711, supra, at 4.

[15] S. Rep. 550, supra, at 8, 10; H.R. Rep. 1711, supra, at 9, 11.

[16] Pub. L. 91-567 (1970), 15 U.S.C. 78m(d)(5). The provision for short-form reporting did not apply to tender offers under section 14.

[17] 40 FR 42213 (September 11, 1975).

[18] Id.

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an issuer in the ordinary course of their business." [19]

Insurance companies clearly meet these standards in their investment activities. State laws regulating insurance companies restrict the percentage of outstanding equity securities of any issuer which an insurance company may acquire. These restrictions also set a ceiling on the percentage of any insurer's assets which may be invested in one issuer's securities. The effect of state regulation is to limit the possibility of insurance companies engaging in takeover bids through ordinary investment operations, whether through tender offers or otherwise.

As the Commission itself concluded in its 1971 study of institutional investors, insurance companies do not purchase securities with the intent of gaining control of the investment vehicle.[20] Rather, the insurance company seeks a combination of return and safety in its investments. Thus, companies which are typically subject to takeover bids—because of declining stock prices, inert management, or temporary large cash balances—would probably be unattractive investments. The insurance company seeks to invest in a management, not to enter into a contest with it.

The principles of diversification and limitation of downside risks guide insurance portfolio managers in their activities. Statutory limitations on investments rarely impinge on a portfolio decision because insurance companies are even more committed to diversification and risk avoidance than regulators require.

Insurance company investments are also subject to full public scrutiny. Uniform reporting forms are prescribed by the National Association of Insurance Commissioners which require disclosure of all investment holdings as well as sales and purchases during each calendar year. The information filed by each company is available to the public through state commissioners' offices as well as through privately-owned reporting services.

Congress has recognized that state regulation combined with uniform disclosure requirements effectuates registration under the Exchange Act with respect to the insurance industry. In amending the Exchange Act in 1964, Congress exempted insurance companies from the registration requirements established by section 12(g): *Provided*, That certain conditions were met, including state regulation of the company's proxies and filing by the company of an annual statement substantially conforming that prescribed by the National Association of Insurance Commissioners.[21]

The Commission's action appears to contradict the intent of Congress as expressed in the 1964 amendments. The statutory language reflects a Congressional determination that the basic pattern of State regulation of insurance companies should not be disturbed unnecessarily by the Federal securities laws. Furthermore, Congress expressed its belief that State regulation, when combined with uniform disclosure requirements, was sufficient to achieve the purposes of the Exchange Act.

No evidence to contradict these facts appear in the record of the Rule 13d-5 rulemaking. The Commission's negation of its own past pronouncements, of Congressional intent as expressed in the Exchange Act and the Williams Act amendments, and of its own proposed rules is without factual support. For this reason, the Commission should now amend Rule 13d-5 to include insurers.

IV. THE COMMISSION'S STATED RATIONALE FOR THE EXCLUSION OF INSURANCE COMPANIES FROM THE COVERAGE OF RULE 13d-5 LACKS A BASIS IN FACT OR REASON

A. THE INSURANCE INDUSTRY IS SUBJECT TO EFFECTIVE STATE REGULATION WITH RESPECT TO SECUAITIES ACQUISITIONS

In its brief rationale for excluding insurance companies from the benefits of Rule 13d-5, the Commission stated:

> The rationale for precluding insurance companies from using the short form is based, in part, upon the lack of any uniform legal requirement restricting such companies in the amount of securities they may acquire in a single issuer • • • Moreover, even though certain aspects of the operations of insurance companies are subject to regulation under state law, the Commission does not believe such regulation to be an adequate substitute for the protection to investors provided by disclosure under Section 13(d)."[22]

This statement recognizes that insurance company investments are a matter of State regulation. It ignores, however, the pervasive character of such regulation, as well as the applicability of New York law to the majority of insurance companies and their assets. By comparison to the insurance industry, other institutional investors which have been granted the benefits of Rule 13d-5, are relatively unregulated.[23]

In view of the disparity between the goal of the Williams Act—disclosure of acquisitions—and the imposition of State legal requirements limiting portfolio acquisitions, it appears that this portion of the Commission's rationale is inapplicable to the stated purposes of the Rule. This is particularly true in light of the near-total, lack of similar limitations on other institutional investors. However, it is worth reviewing what the Commission would have found had it addressed the question of State regulation of insurance companies.

As the Commission stated in its 1971 study of institutional investors, "Insurance company equity investments are severely restricted by state insurance laws."[24] These restrictions are applied in two ways. First, insurance companies are restricted as to the percentage of their assets which may be placed in equity investments, and further restricted as to the percentage of assets which may be committed to any one equity vehicle. Second, and more directly relevant to the Williams Act, insurance companies are limited in the percentage of the outstanding shares of any one issuer which they may acquire.

As the Commission found in its Institutional Investor Study, while statutory limits vary from State to State, of New York's Insurance Law provides a nationwide standard.[25] New York requires that non-domiciliary insurance companies must substantially comply with the investment limitations placed on New York companies.[26] It is estimated that 70 percent of the insurance companies in the United States and 80 percent of total insurance company assets are subject to New York regulation.[27] In addition, most other insurance companies which are not subject to New York regulatory requirements confine themselves to the amounts and types of investments authorized by New York.[28]

Under New York law insurance companies' investments in common stocks or shares are limited to those institutions which meet the following requirements:

> (i) 'All the obligations and preferred stock, if any, of such institutions are eligible as investments' under applicable provisions of the New York Insurance Law;
>
> (ii) 'Such institution shall have earned, during (the past seven fiscal years), an aggregate sum which would have been sufficient to pay dividends of four per centum per annum upon the par value (or in the case of commonstocks or shares without par value, then upon the stated capital in respect thereof) of all its common stocks or shares outstanding during such period;' and
>
> (iii) With some exceptions, the common stocks or shares of any such institution other than a bank, trust company or insurance company are registered on a national exchange pursuant to the Securities Exchange Act of 1934.[29]

Because few States are more restrictive than New York, and because most large companies and groups do business there, the New York standards amounts to a national standard for most purposes.

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[19] Id. at 42214.

[20] See pp. 39–40, infra.

[21] Section 12(g)(2)(G) of the Exchange Act, 15 U.S.C. section 781(g)(2)(G). Similarly, insurance policies were declared exempt from regulation as securities in section 3(a)(8) of the Securities Act of 1933, and insurance companies were specifically exempted from the coverage of the Investment Company Act of 1940 by section 3(c)(3) of that statute. In both instances, the exemptions were based on Congressional recognition of the preeminent role of state regulation of the insurance business. See H.R. Rep. No. 85, 73d Cong., 1st Sess. 15 (1933); 77 Cong. Rec. 2936–38, 2946 (1933) (Securities Act of 1933); "Hearings before House Comm. on Interstate and Foreign Commerce on H.R." 10065, 76th Cong., 3rd Sess. 61–62 (1940); 86 Cong. Rec. 10070–71 (1940) (Investment Company Act of 1940). See also *SEC* v. *Variable Annuity Co.*, 359 U.S. 65 (1959).

[22] SEC Docket at 1785.

[23] *See* Securities and Exchange Commission, "Institutional Investor Study Report," H.R. Doc. No. 92–64 (hereinafter cited as "Institutional Investor Study"), pt. 2, at 144–46 (investment advisers), 439–50 (bank trust departments); pt. 3, at 901–04 (offshore funds), 980–1004 (pension-benefit plans) (1971).

[24] Id., pt. 2, at 687 (emphasis added).

[25] See note 26, infra.

[26] N.Y. Ins. L. § 90 (McKinney 1966). See "Institutional Investor Study," pt. 2 at 687.

[27] A. M. Best Co., "Aggregates and Averages" (1974); N.Y. State Ins. Dept., "Statistical Tables from Annual Statements" (1974). Such limitations are generally in accord with policies adopted by insurance company portfolio managers, and therefore represent no great administrative burden to the company. See "Institutional Investor Study", pt. 2 at 823.

[28] The "Institutional Investor Study" stated: Most companies responding to the Study's questionnaires have found the New York statute to be the primary restraint upon their common stock investment decisions, regardless of where the companies are domiciled. While a few smaller companies domiciled in relatively liberal States and not doing business in New York have been able to substantially exceed New York's bounds, even most medium-sized insurers confine themselves to amounts and types of issues authorized by New York law.

Except in the case of acquisition of shares in qualified insurance subsidiaries of life insurance companies and qualified mortgage companies, insurance companies may not invest in more than 5 percent of total issued and outstanding shares in any one institution, nor may such investment in the common shares of an institution exceed 1 percent of the insurance company's admitted assets.[29] In addition, no more than 10 percent of an insurance company's admitted assets may be committed to all securities, debt and equity, of any one issuer.[31] Finally, no more than 10 percent of the admitted assets of an insurance company or 100 percent of its surplus, whichever is less may be committed to investments in common stocks and shares.[32]

B. INSURANCE COMPANY INVESTMENTS ARE WIDELY DISCLOSED

A second issue, that of the role of State regulators in enforcing disclosure of insurance company investments is more relevant to the Williams Act. Again, had the Commission studied this issue it would have found such disclosure more complete than any contemplated by its Williams Act rules. The contrast which can be drawn to banks and other financial institutions is favorable to the insurance industry.[33]

Insurance companies are required to report all investments to State regulatory offices in the States in which they transact business. The National Association of Insurance Commissioners ("NAIC") has promulgated a statement blank to be filed by fire and casualty companies on an annual or quarterly basis. Schedule D of that blank is attached hereto as Appendix II.* By reference to Schedule D, it can be seen that insurance companies must report equity holdings by type and country of origin, at book value, market value, and actual cost. Separate schedules within the form show all stock holdings, acquisitions, and dispositions for the past reporting period.

The information filed with State insurance commissioners on the NAIC form is both comprehensive and open to public inspection. Comparative data for insurance companies nationwide is gathered and made available through surveys of the insurance industry published annually by the A. M. Best Company ("Best's Market Guide") and United Statistical Associates ("Corporate Holdings of Insurance Companies".)[34]

Thus, from the perspective of disclosure, investments by insurance companies are at least as accessible to the public as are those of other institutional investors, and are more accessible than those of banks. There exists no reason for treating insurers differently than other institutions under the Williams Act. In fact, the Commission could have achieved its overall purpose simply by requiring insurance companies to file a copy of Schedule D of the NAIC blank. Precedent for using NAIC standards as a benchmark in securities law disclosure requirements for insurance companies can be seen in section 12(g)(2)(G) of the Exchange Act, which exempts insurance company securities from registration under section 12(g) where the company files annual reports prescribed by NAIC with state authorities.

The conclusion to be drawn from this discussion of State regulation of insurance companies and the availability of public information on the investment holdings of insurance companies is that the Commission did not consider the relevant factual background when it excluded insurance companies from the coverage of Rule 13d-5.

C. TRANSACTION ENGAGED IN BY INSURANCE COMPANIES IN THE ACQUISITION OF SECURITIES INVOLVE INVESTMENT DECISIONS SIMILAR TO THOSE MADE BY OTHER INSTITUTIONAL INVESTORS

The Commission's final rationale for excluding insurance companies from the coverage of Rule 13d-5 is based on the following assertion: |T|he transactions by which an insurance company or its affiliates may become the beneficial owners of securities, even taking into account the aggregation and attribution aspects of the new rules, generally involve volitional investment decisions of a character different from those made by other entities entitled to use Form 13D–5.[35]

This aspect of the Commission's rationale introduces a puzzling element into the discussion of the behavior of institutional investors. In the many studies, hearings, and reports issued by the Commission and Congress during the period prior to the enactment of the Williams Act amendments and thereafter, the AIA has been unable to locate any discussion of whether institutional investments were "volitional." An "involuntary" investment is difficult to imagine in the present economic structure of the United States, except if that term were to apply in instances where the institutional investor as agent acts at the express direction of some principal. Obviously, such situations are relatively rare in the overall scale of investments by mutual funds, bank trust departments, and insurance companies.

Investment decisions might be said to be influenced negatively by regulations which restrict certain types of investment. To the extent of those restrictions, such decisions might conceivably be said to lack volition to some degree. However, as previously established, insurance companies are subject to State regulatory restrictions which are at least as stringent than those affecting other institutional investors. Therefore, from this perspective there is no basis for a statement that insurance companies possess greater volition in their decisions than do other investors.

To the contrary, the Commission itself has concluded that the behavior of insurance companies as investors is similar to that of other institutions.[36] The principal emphasis of insurance investment activities is security of the investment.[37] This policy (enforced by State regulatory limitations) means that insurance companies commit a small proportion of their assets to equity securities and spread their equity investments among many companies.[38] Insurance companies purchase equities of companies which are perceived to be well-managed.

In adopting rule 13d–5 in its present form, the Commission has created a distinction between insurance companies and other institutional investors which may seriously affect the ability of insurers to compete in public and private capital markets. Banks, broker-dealers, mutual funds, pension funds, and other institutions will have access to reports on significant transactions by insurance companies within ten days after they occur. No comparable information will be available to insurance companies on their competitors' investment operations.

The Commission's exclusion of insurance companies from use of the quarterly short form report would encourage insurers to invest only in the largest blue chip securities. Obviously five percent of the outstanding shares in IBM or Exxon represents a far larger investment than five percent of most companies listed over-the-counter, on the American Stock Exchange or on regional exchanges. An insurance company would become subject to Schedule 13D reporting requirements if it invested a reasonable amount of funds in a small over-the-counter stock. No such reporting requirements would arise from investing the same amount of funds in IBM. Similar investment patterns by bank trust departments concerned the Congress in 1973, as evidenced by hearings on the IImpact of Institutional Investors in the Stock Market.[39] The Commission should weigh with serious concern the consequences of encouraging a revival of the "two-tier" market through onerous reporting requirements for insurance companies.

Further, insurance companies are among the largest participants in the private placement market. The distinction in reporting under Section 13(d) between insurance companies and other large participants in the market for private placements could put insurers at another competitive disadvantage. In its 1977 Release, the Commission stated that "a group of institutional investors, each of whom alone meets one of the standards of rule 13d–5(a)(2), upon agreeing to act together for the purpose of acquiring securities in a private placement, may utilize the short form." If an insurance company is a member of such a group, the insurance company alone would have to report its acquisition on Schedule 13D within ten days, even though all members of the group acquired fungible securities for the same purposes. This and similar inconsistencies resulting from comprehensive reporting requirements placed solely upon insurers may well have a chilling effect upon private placements.

Vigorous competition exists today among all types of institutional money managers. Balancing equities between money managers which are exchange members and money managers which are not exchange members was one of the fundamental objectives in the Securities Acts Amendments of 1975, as evidenced by SEC Release No. 34–13388. Requiring insurance companies to report securities

[29] Id., section 81(13)(b).

[31] Id., section 87.

[32] Id., section 81(13)(c). This limitation is subject to a "leeway" amount of 4 percent of admitted assets which the company may invest as it chooses. Id. section 81(17). However, the limitation on investment in a single company provided for in section 81(13)(b) must be observed even under the leeway provision.

[33] See, e.g., Committee on Government Operations, "Disclosure of Corporate Ownership, S. Doc. No. 93–62, 93d Cong., 2d Sess. at 5–7, 146 (1974) [hereinafter cited as "Disclosure of Corporate Ownership"]; Committee on Government Operations, "Corporate Ownership and Control," Committee Print, 94th Cong., 1st Sess. at 3, 9 (1975) ((hereinafter cited as "Corporate Ownership and Control")).

* Appendix is contained in Commission File No. 87–714.

[34] "Disclosure of Corporate Ownership" at 146; "Corporate Ownership and Control" at 9.

[35] 11 SEC Docket at 1785 (emphasis added).

[36] "Institutional Investment Study," pt. 5 at 2849. Banks are far more likely to be closely related to the management of their investment vehicles. Id. at 2848.

[37] Id., pt. 2 at 827.

[38] See, e.g., "Corporate Ownership and Control" at 13–16. This comparison of mutual fund and insurance company holdings in twelve corporations shows in each case that the average percentage of insurance company ownership is far lower than the average percentage of mutual fund ownership.

[39] Senate Comm. on Finance, Subcomm. on Financial Markets. "The Impact of Institutional Investors in the Stock Market", Pts. 1 and 2 (Committee Print, 1973).

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transactions much sooner than other institutional investors could put insurers at a competitive disadvantage. In communicating with potential clients, other money managers would be able to discuss the pros and cons of investment strategies pursued by insurance companies, while the insurers, competing for the same clients, could only guess at the investment posture of other institutional managers. Certainly the Commission should have considered fully the possible anticompetitive effects of singling out insurers for disparate treatment before adopting present rule 13d–5.

The Federal Communications Commission ("FCC") recently investigated the specific question of whether insurers should be treated differently than banks and other institutional investors with respect to equity ownership of broadcast licensees. Its conclusion was that the investment activities of insurance companies should be subject to exactly the same regulatory requirements as those of other institutions.

The FCC has long maintained rules limiting the multiple ownership of broadcast stations and cable television systems. These rules prohibit the ownership of two or more stations in any of the three broadcast services (AM radio, FM radio, or television) in the same area of service. Further, no entity or person may own or have a controlling interest in more than 7 AM, 7 FM, and 7 television stations.[40] For purposes of these rules, the FCC had considered a 1 percent equity interest in a broadcast licensee as a "cognizable interest" which through which a person might exercise some element of control in the corporation.[41]

Over the course of several years the FCC raised this limitation for various institutional investors.[42] In 1975, the FCC proposed further raising its benchmark to a uniform 5 percent for insurance companies, investment companies, and banks. The arguments in favor of such a change were outlined in the FCC's decision:

> The reason most frequently suggested for adoption of the increased benchmark is that banks, insurance companies, and investment companies are "passive" investors who cannot exercise managerial influence over their portfolio companies. Most commentators point out that the charters and prospectuses of these institutional investors as well as state and federal regulation limit the amount of stock they can purchase in any one company. Consequently, these parties believe that banks, insurance companies and investment companies, who all play the same passive investment role, should be subject to the same benchmark. Also, those commentators reason that 5 percent is a reasonable and realistic benchmark because it will have a beneficial effect on the degree of investment in the broadcast and cable businesses and at the same time will guard against any undue concentration of control.[43]

Despite the arguments of those opposed to raising the benchmark percentage for fear of concentrating ownership in the broadcast media, the FCC decided to adopt the proposed rule change on the grounds that it would increase institutional investment in broadcast and cable companies, thereby strengthening the "economic foundation" of these industries. The FCC further concluded that increasing the benchmark would not cause "undue concentration of control." It noted that opponents of the proposal had cited no instance, nor had the FCC staff found any, in which institutional investors had used their minority interest to influence the management of a widely-held broadcast or cable company.[44]

The FCC specifically recognized that insurance companies are entitled to equal treatment with other institutional investors under its multiple ownership rules. Unlike this Commission's recent proceeding, the FCC's investigation focused on the insurance industry and considered a full record.[45] The FCC's conclusion is parallel to those reached by Congress and the Commission in previous studies of institutional investors.

EXCERPT FROM PETITION OF THE PRUDENTIAL INSURANCE COMPANY OF AMERICA RELATING TO RULE 13d-6

V. RULE 13d–6(b) WILL HAVE CAPRICIOUS AND MISCHIEVOUS RESULTS IF APPLIED TO THE ORDINARY COURSE OF BUSINESS LENDING ACTIVITIES OF LIFE INSURANCE COMPANIES

1. *The acquisition of equity securities in private placements by life insurance companies.* As we have on other occasions explained to the Commission, an integral part of the business of a life insurance company is the investment of the excess of the net premiums, investment income and principal repayments that remains after payment of benefits under its policies and contracts. A substantial part of this money is loaned to corporate borrowers for a variety of purposes, most often for construction or improvement of plant and for working capital. The loans are individually negotiated, are made pursuant to lengthy and carefully drawn loan agreements and result in the acquisitions of debt securities by the insurance company, most often in the form of a promissory note or notes. The loans are ordinarily for medium and long term—from 5 to 20 years.

Some indication of the volume of these transactions may be found in reports of the Commission's Office of Economic Research and in the Statistical Bulletins from 1956 through 1974. Over $106 billion of debt securities were privately placed with institutional investors with almost $8 billion sold in 1973 and more than $6 billion sold in 1974.[9]

For the most part this lending activity does not involve the acquisition of equity securities. Sometimes, however, it does give rise to the acquisition of equity securities by life insurance companies. In recent years a sizeable amount of corporate financing, particularly by utilities, has been carried out through the issuance and sale of preferred stock. Many of these issues are redeemable and include provisions for sinking funds. Some of these issues are registered, and insurance companies, either individually or through the supposed creation of a "group" (discussed below), sometimes acquire or are deemed to acquire more than 5 percent of such an issue (which is often, it should be noted, very much less than 5 percent of the voting power of the outstanding securities).

On other occasions the lending transaction will involve the issuance of convertible debt, once again giving rise to the acquisition of equity securities. Finally, certain borrowers, which though perfectly creditworthy, are thought for reason of size or other factors to present greater risk, will compensate for that risk by issuing to the lenders warrants to acquire common stock of the company.

2. *Concurrent loans by several insurance companies.* On numerous occasions several life insurance companies will concurrently make loans to a single issuer, where the amount of the borrowing is larger than any single company cares to make on its own. When this occurs it is both convenient and sensible for the lenders to retain the same outside counsel, to work cooperatively with each other and to end up with essentially the same form of loan agreement. There is in no sense whatever a joint venture among the participating companies, and throughout the transaction each retains the unqualified right to act independently. At the conclusion of the transaction, that is, shortly after the closing, the cooperative effort ceases and the parties go their own ways. They have no continuing joint or common interest. They are in fact competitors of each other. In that capacity they do not exchange information about their portfolio holdings or investment decisions. One company may well want to dispose of the equity securities acquired in such a transaction, but it would not inform the others of such intention. The companies wish to and will act independently of each other.[7] The Commission staff has nevertheless taken the position that in these circumstances the several participating life insurance companies constitute a "group" for purposes of Section 13(d) and hence, even though none of the participating companies may acquire more than 5 percent of an issue, a Schedule 13D filing has been required where the companies have acquired in the aggregate more than the required percentage. This serves to increase substantially the number of occasions when a Section 13(d) report must be filed.

Rule 13d–6(b), as recently adopted, appears to incorporate this interpretation of the staff and provides that when two or more persons agree to act together to acquire securities of an issuer—not necessarily equity securities—the group formed thereby is deemed to have acquired beneficial ownership of all securities of the issuer owned by each member of the group. This attribution rule may well be desirable when applied to acquisitions of the kind comprehended by Section 13(d) (1) and as to which a Schedule 13D must be filed; when several persons act together to affect control of an issuer, information about the securities of that issuer previously owned by each of them is obviously of interest to other affected persons. It makes no sense at all, however, as applied to life insurance company lending activities, whether or not a short form is permitted. Indeed, we have serious doubts about the validity of this interpretation, as applied to non-control acquisitions. The release cites *GAF Corp. v. Milstein*, 453 F. 2d 709 (2nd Cir. 1971), cert. denied, 406 U.S. 910 (1972), in support of this position. *Milstein*, however, dealt only with the question of whether a filing under Section 13(d) was required when the group was formed or whether a further acquisition was necessary. No issue was raised as to whether securities other than those of the class the group was formed to acquire should be presumed also to have been acquired. Moreover, the Court said explicitly that groups "would not be required to file unless the members conspired to pool their securities interests *for one of the stated purposes.*" (453 F. 2d at 719, emphasis supplied.) Nonetheless, we do not ask that this interpretation be withdrawn but, as the discussion below indicates, only that the extent of the presumed beneficial ownership be suitably determined.

As explained above, there are thousands of loans made annually by life insurance companies where no equity securities are involved. Many of these loans are made by "groups" of life insurance companies. As the rules are now framed, such a group, from the date the group is formed until the loan is actually made on the closing date when the group disbands, will be deemed to own all of the common stock, all of the preferred stock and all of the warrants and convertible debentures owned by each of the participants. In many cases more than 5 percent of a registered class will be deemed to have been acquired. We doubt that the Commission has the power to declare that when two life insurance companies agree simply to lend money to an issuer, acquiring notes or debentures in the process, they must be deemed, contrary to fact, to have acquired the equity securities, if any, previously owned by each of them. But in any event we cannot understand why anyone should care about this hypothetical and transient ownership or why two reports should be filed pursuant to Section 13(d), one to announce the decision by the group of companies to make the loan and the other to announce that the loan has been made and that, coincidentally, the unnecessary attribution of ownership has disappeared.

To require a poll to be taken of every life insurance company that participates in a simple lending transaction to determine whether all of them own in the aggregate more than 5 percent of a class of equity security, and to require two or more reports to be filed in those circumstances, is to go far beyond the intendment of the statute for no apparently sensible reason. Yet many such reports will have to be filed if the rule is allowed to stand as it now reads.

Even where a "group" of life insurance companies is formed to acquire equity securities, as, for example, where preferred stock is to be acquired instead of debt securities, there is no reason whatever to attribute ownership of all other classes of equity securities, as there might possibly be where an acquisition is for the purpose of affecting control. When persons agree to work together for the purpose of obtaining or affecting the control of an issuer, it may be important to know what other securities of that issuer are owned by each of them, even where their agreement does not in terms extend to such other securities. But where a routine, ordinary course of business acquisition is made by a group, there is no occasion to inquire what other securities of the issuer are owned by each of them since this is not relevant to any concern of the public, particularly a concern of the kind that gave rise to the Williams Act. At most, the attribution should be limited to the class or classes of securities that the group has been formed to acquire.[8]

This point was made by Prudential in comments made when these rules were proposed, but the current release offers no explanation of why so broad an attribution rule was adopted for non-control acquisitions. This is not in keeping with the Commission's obligations under the applicable law. As the Court of Appeals for the District of Columbia recently observed:

> "An agency need not respond to frivolous or repetitive comment it receives. However, where apparently significant information has been brought to its attention, or substantial issues of policy or gaps in its reasoning raised, the statement of basis and purpose must indicate why the agency decided the criticisms were invalid. Boilerplate generalities brushing aside detailed criticism on the basis of agency 'judgment' or 'expertise' avail nothing; what is required is a reasoned response, in which the agency points to particulars in the record which, when coupled with its reservoir of expertise, support its resolution of the controversy. An agency may abuse its discretion by proceeding to a decision which the record before it will not sustain, in the sense that it raises fundamental questions for which the agency has adduced no reasoned answers." *NRDC v. United States Nuclear Regulatory Commission* (C.A.D.C., July 21, 1976), cert. granted, 45 U.S. Law Week 3570 (1977).

While we believe that, even in the case of acquisitions that are intended to affect control, it would be preferable if Rule 13d–6 (b) were limited to transactions where two or more persons act together to acquire equity securities of an issuer, our concern is with ordinary course of business non-control acquisitions, and so the amendment recommended below applies solely to such transactions. We suggest, therefore, that Rule 13d–6(b) should be amended to add the following:

> ". . . *Provided, however*, That if the group is of the type specified in Rule 13d–5 (a)(2)(vii), then it shall be deemed to have acquired beneficial ownership of securities of the persons comprising the group only if it has been formed for the purpose of acquiring, holding, or disposing of one or more classes of equity securities of an issuer, and in such case the group shall be deemed to have acquired beneficial ownership of the securities of such class or classes beneficially owned by such persons, for purposes of Section 13(d)(1)."

This would preserve the present attribution rule for acquisitions intended to be covered by Section 13(d) and provide a more limited and more sensible attribution rule for group non-control acquisitions.

VI. CONCLUSION

The Commission should amend Rule 13d–5 (a)(2) to add life insurance companies to the categories of persons entitled to use Form 13D–5 and should amend Rule 13d–6 in the manner suggested above.

Respectfully submitted,

The Prudential Insurance Co. of America.
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MARCH 21, 1977.

SUBMISSION OF THE NEW YORK CLEARING HOUSE ASSOCIATION

[File No. S7–687]

OUTLINE OF COMMENTS REGARDING RECENTLY ADOPTED AMENDMENTS TO REGULATION 13D

I. BASIC POSITION

The Securities and Exchange Commission's resulted in a regulation which is unworkable as applied to commercial banks.* The cost to commercial banks of even attempting to comply with the revised Regulation would run into millions of dollars. These enormous costs are unjustified in view of proposed Rule 13f–1 which was issued under the statute Congress intended to provide for institutional investor disclosure. Rule 13f–1 will provide such necessary disclosure, although a number of amendments are required to avoid problems similar to those created by Regulation 13D.

A duplication of such disclosure by means of a separate reporting system under Regulation 13D would, because of various technical differences between the two regulations, create enormous additional expense without any resulting benefit to the investing public. Such duplication is contrary to the express intention of Congress in enacting Section 13(f) of the 1934 Act and the basic concern expressed by a number of government officials regarding the burden of duplicative and non-productive paperwork.

II. SPECIFIC PROBLEMS UNDER REGULATION 13D

(a) Initial Creation of a Computerized Reporting System or Other Mechanism to Comply with Regulations 13D Could Cost Certain Individual Banks Millions of Dollars and the Aggregate Cost for Banks Generally Might Exceed Fifty Million Dollars. In order to comply with the Regulation 13D reporting requirements, major banks throughout the country will be required to develop sophisticated computer systems to track and report the relevant data These systems must provide information regarding thousands of securities held in thousands of different accounts, and must indicate whether a bank's "beneficial ownership" of each security has exceeded the 5 percent threshold test.

The cost of establishing a computer system for the domestic trust department operations of a major bank with a very limited branch system is in the area of $250,000. This is a "bare-bones" cost estimate which would be far exceeded at many major banks. Even this estimate assumes the availability, from a commercial reporting service, of a list of all "Section 13(d) securities" and the amount of shares equivalent to 5 percent of the total outstanding, as well as acknowledgment by the Commission that banks may rely upon such a list. If this assumption is inaccurate, the costs are incalculable. At the present time, commercial reporting services include only securities that are listed on a national securities exchange or are quoted on the automated quotation system of a registered securities association (e.g., the NASDAQ system).**

A major part of the expense in establishing the computer system is attributable to the need to include convertible securities and options in calculating the percentage holdings of the underlying equity security. This expense would not arise under proposed Rule 13f–1, which does not include a percentage test. The expense is not justified because it is inappropriate to assume that banks would exercise conversion rights for the purpose of acquiring a controlling position. At the very

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[40] Cross ownership of cable television systems with networks, television broadcast stations, or television translator stations is also forbidden, as is ownership of a daily newspaper and a broadcast station in the same community.

[41] *See* Multiple Ownership and Cross Ownership, 59 F.C.C. 2d 970 (1976).

[42] 13 F.C.C. 2d 257 (1968) (limit for investment companies raised to 3 percent); 34 F.C.C. 2d 889 (1972) (limit for bank trust departments raised to 5 percent, except in the case of cable television systems).

[43] 59 F.C.C.2d at 973–74.

[44] Id. at 975.

[45] Petitions from the insurance industry were the main impetus for the FCC proceeding. See Notice of Proposed Rulemaking, 40 FR 26551 (1975).

[9] Tables entitled "New Corporate Securities Offered for Cash in the United States" and "Securities Offerings," Office of Economic Research; Statistical Bulletin, Vol. 34, No. 5 (May 1975), p. 422.

[7] The loan agreements may provide that certain action may be taken with the consent of the holders of a stated percentage of the issue, but this does not call for a continuation of the original cooperative activity, and in any event these actions are associated with the debt rather than the equity aspects of the transaction.

[8] As Rule 13d–5(a)(2)(vii) now reads, a "group" qualifies for use of Form 13D–5 only if the securities were acquired in a Section 4(2) transaction. We assume this refers only to the securities that the group was formed to acquire and not to the securities previously owned by the individual members of one recent amendments to Regulation 13D have group that are presumed to be owned by Rule 13d–6(b). It would be helpful if the Commission could confirm that this reading is correct.

* This outline does not consider the question of the legality of these amendments, which was discussed in The New York Clearing House Association's Memorandum of Comments dated December 15, 1975 in response to Release No. 34–11,616.

** Proposed Rule 13f–1 provides that an institutional investment manager may rely on the most recent list of "Section 13(f) securities" published by the Commission. Congress added the statutory requirement that the Commission furnish such a list after institutional investors explained that compliance would be seriously complicated in its absence.

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least, a person qualified to file a short form notice under Rule 13f–5, i.e., a person assumed not to have the purpose of acquiring control, should be exempt from the requirement under Rule 13d–3(d) (1) to deem securities to be outstanding which are subject to conversion or option rights.

The start-up costs required to establish a computerized reporting system would be substantially increased if the system is required to cover (i) a decentralized trust operation involving a bank with a large branch system, (ii) pledged securities or (iii) securities held by foreign branches and affiliates. The costs associated with the last two items are discussed below.

In addition to these start-up costs, there will be significant ongoing operations costs required to comply with the Regulation 13D reporting requirements. A bank's holdings in each of thousands of securities must be continuously reviewed and each report filed with the Commission must be updated on a quarterly basis.

(b) Pledged Securities Should Not Be Classified as "Beneficially Owned" until Such Time as the Pledgee Exercises Its Right to Vote Such Securities. It would be inordinately expensive, as well as misleading, for banks and their non-banking subsidiaries to create a reporting system that automatically includes all securities pledged to secure loans as to which there exists an uncured default of more than thirty days. Banks generally do not have any centralized information system with respect to aggregate holdings of pledged securities, and it would be a major undertaking to create either a computer or manual listing of all such securities. Even if a bank developed a computer program for aggregate holdings, it could not determine the existence of defaults under loan agreements or whether such defaults are uncured for more than thirty days. A manual input system as to such facts, extending throughout the entire commercial department of each bank, will also have to be created, which will require very substantial time of bank officers and counsel to implement and maintain. The expense of creating a manual mechanism for reporting all pledged securities has been estimated by one bank to cost $500,000. The operations of a number of major banks are so extensive that estimates of the cost of reporting pledged securities are not feasible. For example, one major bank makes secured loans through 267 domestic branches, 209 foreign branches (in over 100 counties) and 374 offices of foreign banking subsidiaries, and, in addition, a domestic finance company affiliate makes secured loans through approximately 200 offices.

Banks and their non-banking subsidiaries frequently take no action to accelerate loans or foreclose on pledged securities in cases in which defaults exist for periods in excess of 30 days. Inasmuch as the pledgee may never vote the pledged securities, there is no justification for the substantial expense required to report such securities as beneficially owned prior to the exercise of voting authority.

(c) Application of Regulation 13D to Securities Held in Investment Accounts at Foreign Branches and Subsidiaries of Commercial Banks Would Not Provide Meaningful Additional Disclosure but Would Substantially Increase the Cost of Creating a Compliance System. Securities held in investment accounts at foreign branches and subsidiaries of commercial banks are insignificant in comparison to the banks' domestic investment account holdings. The reporting of such foreign holdings, however, would substantially increase the expense of creating a computerized compliance system. Estimates by one major bank, with only a small number of foreign offices, of the expenditures to create the necessary computerized reporting system would exceed $1,000,000.

The potential costs involved are extremely high because (i) the securities held in investment accounts at foreign branches and affiliates are only infrequently included in any computer system and (ii) even where a system has been established, it is frequently not compatible with the bank's main computer operations. The cost of creating the integrated computer system will greatly increase for commercial banks having investment accounts at a much larger number of branches and affiliates.

Banks with branches or affiliates in certain countries could not comply with Regulation 13D without violating the laws of their host countries. The laws of a number of countries would prohibit the disclosure of any individual's holding, whether or not it exceeded 5 percent of the outstanding shares, and Swiss law may prohibit the disclosure of the aggregate holdings of a Swiss affiliate of a United States bank.

(d) Regulation 13D Will Require Computer Runs on Every Business Day to Determine if at Any Point a Bank's Aggregate Holdings Exceed 5 percent. Although the revised Regulation permits banks and certain other institutional investors to file the short form notice (Form 13D–5) on a quarterly basis, a bank will be required to determine whether its aggregate holdings of each security exceed 5 percent as of each business day during the quarter. A daily computer run will be required to make this determination. It has been estimated that such daily computer runs would involve several hours of operation on a major computer, which on an annual basis would cost in the area of $100,000 for many banks.

(e) Retroactive Application of Regulation 13D Amendments Would Greatly Increase Costs of Compliance and Disregards Clear Legislative Intent and Judicial Decisions. The amendemnts to Regulation 13D require the aggregation of the holdings of unrelated trust accounts (although they frequently have conflicting investment strategies) and expand the definition of beneficial ownership. As a result, retroactive application of these amendments would require major banks to make reports on numerous securities in which their "beneficial ownership", as that phrase is now defined, exceeded 5 percent prior to the effectiveness of the amendments. The Commission may not have intended, however, to apply the amendments on a retroactive basis because such an application would be contrary to Congress' intention in enacting the Williams Act and to judicial precedent.

Reporting on these pre-existing holdings alone would involve aggregate filing fees for some banks in excess of $15,000. More significantly, it would require substantial time of bank personnel and legal counsel to prepare the short form notices. In preparing reports on pre-existing holdings, it would also be necessary to examine each account in which the revelant securities are held to determine if the bank "acquired such securities in the ordinary course of business and not with the purpose nor with the effect of changing or influencing the control of the issuer, nor in connection with or as a participant in any transaction having such purpose or effect * * *." This substantial effort must be made merely to determine qualification for use of the short form.

A bank could acquire securities "in connection with" a transaction having the effect of changing control, even though the bank's role in such charge is non-existent or totally passive. For example, a bank could be appointed the trustee of a trust containing only a few shares of a company in connection with the disposition of control by the founder, or a bank could receive shares of a company in fiduciary accounts in connection with the spin-off of that company's shares by its former parent.

(f) A Long Form Schedule 13D Is Not Feasible for Reporting by Banks, but the Regulation as Adopted Would Make the Short Form 13D–5 Unavailable in Numerous Situations. It is virtually impossible for a commercial bank to file a full Schedule 13D in connection with securities held in numerous trust accounts. A full Schedule 13D requires substantial information concerning every person "on whose behalf the acquisition has been effected" and other persons who are known to have an "economic interest" in the securities. When a bank holds securities in numerous separate trust accounts, there will frequently be thousands of persons with respect to whom information would be required. The cost and effort involved in any meaningful attempt by a bank to supply this information would be enormous, and, irrespective of the effort and cost, the information could frequently not be obtained.

Notwithstanding the practical impossibility of a full Schedule 13D filing by banks and their parent holding companies, certain provisions of the Regulation make the alternative short form 13D–5 unavailable in a number of situations. A parent bank holding company would be required to use a full Schedule 13D if one share of a security for which a report was required were beneficially owned by a foreign bank subsidiary (which is not a bank under Section 3(a)(6) of the 1934 Act) or many non-banking subsidiaries, domestic or foreign. The full Schedule 13D would also be required if one share had been pledged to secure a 30-day defaulted loan made by a foreign bank subsidiary or a domestic non-banking subsidiary, such as a finance company. Finally, the full Schedule would be required unless each share could meet the highly subjective test of being acquired without "the purpose nor with the effect of changing or influencing the control of the issuer, nor in connection (there) with * * *."

Impossibility of Meeting August 31, 1977 Effective Date Even if Necessary Changes Are Made. Even if the Commission were to agree to make the changes discussed above, it is impossible for the commercial banking industry, despite its best efforts, to meet the August 31, 1977 effective date for the amendments to Regulation 13D. Furthermore, in view of the great expense that will result from efforts to comply with such amendments even at a much later date, it is requested that the effective date be suspended for banks and other institutional investors until a study by the Commission can be completed as to what, if any, significant information would not be reported under Rule 13f–1. In order to complete such study effectively, the Commission should have the benefit of a full cycle of reporting under Rule 13f–1.

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federal register

WEDNESDAY, SEPTEMBER 7, 1977

PART VI



SECURITIES AND EXCHANGE COMMISSION

ENERGY POLICY AND CONSERVATION

Oil and Gas Producers—Financial Accounting Standards

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SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 210]

[Release Nos. 33-5861, 34-13910, 35-20158]

ACCOUNTING PRACTICES—OIL AND GAS PRODUCERS—FINANCIAL ACCOUNTING STANDARDS

Proposed Amendments

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: This release is a rulemaking proposal which would amend the Commission's regulations to incorporate certain financial accounting and reporting standards required by the Energy Policy and Conservation Act, Pub. L. 94-163 (the "EPCA"), to be developed by December 22, 1977. The Commission is proposing these rules pursuant to authority granted it by the EPCA and the accounting practices required to be developed will be applicable to persons engaged in the production of oil and gas who will be required under the EPCA to file reports with the Department of Energy, including those who are not subject to the filing requirements of the Federal securities laws. The amendments are proposed to place the Commission in a position to adopt by December 22, 1977, financial accounting and reporting standards for oil and gas producing activities. The proposed amendments are the same as the standards contained in the proposed Statement of Financial Accounting Standards, "Financial Accounting and Reporting by Oil and Gas Producing Companies," issued on July 15, 1977, by the Financial Accounting Standards Board.

DATE: Comments should be submitted on or before October 14, 1977.[1]

ADDRESS: Comments should refer to File S7-715 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol St., Washington, D.C. 20549. All comments will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Richard C. Adkerson, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-755-1671).

SUPPLEMENTARY INFORMATION: For purposes of developing a reliable energy data base related to the production of crude oil and natural gas, the EPCA requires the Commission to assure the development by December 22, 1977, and observance of accounting practices to be followed by persons engaged in the production of crude oil or natural gas in the United States. The Act authorizes the Commission to prescribe rules with respect to the accounting practices to be developed pursuant to the Act or to make effective by recognition, or by other appropriate means indicating a determination to rely on, accounting practices developed by the Financial Accounting Standards Board if the Commission is assured that such practices will be observed to the same extent as would result if the Commission had prescribed such practices by rule. The FASB, the private sector body responsible for establishing financial accounting and reporting standards, has recently published an exposure draft of a proposed Statement of Financial Accounting Standards (the "FASB Exposure Draft") entitled "Financial Accounting and Reporting by Oil and Gas Producing Companies." The FASB Exposure Draft would require oil and gas producing companies to follow a form of the successful efforts method of accounting. This release proposes amendments to Regulation S-X (17 CFR Part 210) to incorporate the FASB's proposed standards as rules of the Commission.

The Commission's proposal of these amendments is not indicative of any change in its policy regarding its relationship with the FASB. The timing of this action is necessitated solely because of the need for the Commission to ensure that it can comply with the deadline imposed by the EPCA in the unlikely event the FASB does not adopt final standards by December 22, 1977.

BACKGROUND

In Accounting Series Release No. 150 (39 FR 1260), the Commission issued a statement of its policy on the establishment and improvement of accounting principles and practices. The policy provides that the Commission will continue to look "* * * to the private sector for leadership in establishing and improving accounting principles and standards through the FASB with the expectation that the body's conclusions will promote the interest of investors * * *"

The EPCA requires the Commission to assure the development of accounting practices to be followed in the preparation of accounts by persons engaged in the production of crude oil or natural gas in the United States. A deadline of December 22, 1977, was established for the development of these accounting practices.

The EPCA explicitly recognizes the Commission's policy with respect to the FASB. The Act provides that the Commission is authorized "* * * to prescribe rules applicable to persons engaged in the production of crude oil or natural gas, or make effective by recognition, or by other appropriate means indicating a determination to rely on, accounting practices developed by the Financial Accounting Standards Board, if the Securities and Exchange Commission is assured that such practice will be observed by persons engaged in the production of crude oil or natural gas to the same extent as would result if the Securities and Exchange Commission had prescribed such practices by rule * * *." The EPCA further provides that the Commission shall afford interested persons an opportunity to submit written comment with respect to whether the Commission should exercise its discretion to recognize or otherwise rely on such accounting practices developed by the FASB.

In anticipation of the enactment of the EPCA, the FASB added to its technical agenda in October, 1975, a project entitled "Financial Accounting and Reporting in the Extractive Industries." In connection with that project the FASB appointed a task force of 18 persons to advise it in preparing a Discussion Memorandum analyzing issues related to this project. The staff of the Commission prepared part of one of the chapters in the Discussion Memorandum to discuss certain issues relating to the SEC's repsonsibilities under the EPCA. The Discussion Memorandum was issued on December 23, 1976.

The Commission in Securities Act Release No. 5801 (42 FR 8237) called attention to the publication of the FASB Discussion Memorandum and encouraged interested parties to comment on the issues presented therein and to participate in the FASB's public hearing on this project. In that release the Commission indicated that "* * * consistent with its policy most recently expressed in Accounting Series Release No. 150, (the Commission) contemplates that the Financial Accounting Standards Board will be providing the leadership in establishing financial accounting principles and standards for producers of oil and gas." The FASB received 140 position papers, letters of comments, and outlines in response to this Discussion Memorandum and held a public hearing on this project on March 30 and 31 and April 1 and 4, 1977. Thirty-nine presentations were made at the hearing.[2]

The Commission has followed closely the deliberations of the FASB in connection with this project. A member of the Commission's staff served as an observer of the FASB's task force. The Commission's staff received and reviewed all written responses to the FASB Discussion Memorandum, and a member of the staff of the Commission attended the FASB public hearing. Since the public hearing, an active liaison between the FASB and the Commission has been maintained to exchange views on different issues involved in the project.

PURPOSE OF THE RELEASE

This release is issued for two purposes: (1) To propose amendments pursuant to the EPCA which would be applicable to persons filing reports with the Federal Energy Administration[3] and (2) to propose concurrently amendments pursuant to the Federal securities laws. These proposed rules would incorporate the provisions of the FASB Exposure Draft.

The Commission does not generally adopt statements of the FASB as its rules. It is proposing rules in this case to ensure that it can comply with its responsibilities under the EPCA. The EPCA provides that the Commission can extend the December 22, 1977, deadline for the development of the accounting practices to allow for a meaningful comment period with respect to whether it should determine to rely on the accounting practices promulgated by the FASB. The FASB has informed the Commission that it expects to issue a final standard prior to December 22, 1977. However, in the event that the FASB does not adopt a final standard prior to December 22, 1977, the Commission will be in a position to adopt the proposed standards, revised as it considers appropriate on the basis of comments submitted in response to this release and to the FASB Exposure Draft.

In this release, it is the intention of the Commission to propose rules which are the same as the provisions of the FASB Exposure Draft. The provisions of the Exposure Draft have been rearranged to facilitate adoption as rules of the Commission. Comments are specifically requested on any matters where these rearrangements resulted in possible deviations from the provisions of the FASB Exposure Draft.

DISCLOSURE MATTERS

The proposed rules do not include the provisions of the FASB Exposure Draft (paragraphs 42-55) pertaining to disclosure of financial and operating data. The EPCA requires that oil and gas producers report to the Federal Energy Administrator (the reporting responsibilities under the EPCA have been since assigned to the Department of Energy) certain financial and operating data, some of which are similar in many respects to those proposed for disclosure in financial statements by the FASB. The Commission in Securities Act Release No. 5837 (42 FR 33135) requested comments from interested parties relating to the reporting of these financial and operating data. In that release, the Commission also indicated that it is considering revising its disclosure requirements related to these types of data in filings under the Federal securities laws. Comments on that release were due August 12 1977.

The Commission intends to propose rules relating to reporting these supplemental financial and operating data after reviewing the responses to its request for comments in Securities Act Release No. 5837. In connection with the development of these reporting requirements, the Commission will consider and coordinate its proposed requirements with those set forth in the FASB Exposure Draft.

COMMENTS TO FASB

The Commission encourages all interested parties to submit comments directly to the FASB in response to the Exposure Draft. Copies of the Exposure Draft may be obtained from the FASB's Publications Division at the address below. Comments should be submitted in writing, received by September 22, 1977, and addressed to:

Financial Accounting Standards Board, File Reference 1015, High Ridge Park, Stamford, Conn. 06905.

In accordance with its usual procedures, the Commission will receive and review copies of all such submissions to the FASB, and it will not be necessary for those responding to the FASB to provide copies of their responses to the Commission. Interested parties may, of course, submit comments or additional comments directly to the Commission. Copies of the comment letters in response to the FASB Exposure Draft provided to the Commission will become part of the Commission's public record for this rulemaking proposal.

IMPACT ON COMPETITION

Section 23(a)(2) of the Securities Exchange Act, amended, requires that "[t]he Commission, in making rules and regulations pursuant to any provisions of this title, shall consider among other matters the impact any such rule or regulation would have on competition. The Commission shall not adopt any such rule or regulation which would impose a burden on competition not necessary or appropriate in furtherance of the purposes of this title."

Many of those who provided written submissions in response to the FASB Discussion Memorandum and who made oral presentations at the FASB public hearing stated that adoption of the successful-efforts method of accounting could have an impact on competition in the oil and gas producing industry. Many proponents of the full-cost method of accounting indicated one effect of mandating the successful-efforts method would be that the less established oil and gas producing companies would have difficulties in obtaining capital to finance their operations, because these companies would generally report lower earnings (and perhaps losses) and lower stockholders' equity (and perhaps deficits) than if the full-cost method were followed. The full-cost proponents generally believe that the exploration activities of the smaller companies would be limited and that the lower level of exploration by these companies, which may be offset somewhat by exploration activities of the larger companies, would not be in accord with the current national energy policy of encouraging domestic production of oil and gas.

Others in their submissions to the FASB stated that the adoption of any method of accounting would have little, if any, effect on the ability of oil and gas producing companies to raise capital to finance their exploration activities. The FASB has indicated that it has considered both of these positions. The following was included in the "Bases for Conclusions" section of the FASB Exposure Draft:

> In the Board's judgment, the evidence in support of either position is inconclusive. Some empirical studies of capital market behavior seem to show that securities prices are affected little, if at all, by changes in accounting methods. Those studies conclude that the market takes into account the differences in accounting methods used by different companies. Those studies seem to suggest that companies' ability to raise capital would not be affected by a proscription of the full cost method (or, for that matter, of the successful efforts method). Other studies, however, reach exactly the opposite conclusion. They seem to show that securities prices are affected by the method of accounting used.
>
> The contradictory conclusions of those studies and their possible implications are discussed in considerable depth in "Tentative Conclusions on Objectives of Financial Statements of Business Enterprises," which was issued by the Board in December 1976. A number of specific studies are cited in Chapter 2, "Investors and Creditors," of "Tentative Conclusions"; additional studies are identified in the bibliography of the extractive industries Discussion Memorandum. Chapter 2 of "Tentative Conclusions" discusses both the traditional view of investors' and creditors' information needs (which concentrates on analysis of individual securities and enterprises that issue them) and the more recent capital market theory (which concentrates on portfolios and the extent to which individual securities increase or decrease the level of risk of a portfolio). An appendix to "Tentative Conclusions" provides an even more technical discussion of recent capital market theory.
>
> In regard to the question of companies' ability to raise capital, the Board has considered the studies discussed in "Tentative Conclusions" and in the Discussion Memorandum, the evidence put forth by advocates of both full costing and successful efforts costing, the written submissions and oral testimony in response to the Discussion Memorandum, and the interviews referred to in paragraph 85(a) (of the FASB Exposure Draft). In the Board's judgment, the claims that full costing enhances a company's ability to obtain capital and that successful efforts costing inhibits that ability have been neither demonstrated nor refuted conclusively.
>
> Moreover, in the Board's view an accounting method should not be mandated by the Board with the intention of influencing investors' decisions, regardless of how socially acceptable or economically desirable the expected results might be perceived by some. Financial accounting should be evenhanded and attempt to report the results of business decisions as nearly as those results can be determined. The Board does not believe that it is feasible to design (and continuously redesign) accounting standards in an attempt to foster changing perceptions of national economic goals. To do so would, all too often, lessen the effectiveness of financial statements in reporting on the financial affairs of an enterprise and would, in the Board's opinion, not be in the public interest.

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[1] However, comments on the FASB Exposure Draft are due September 22, 1977. See the discussion below at "Comments to FASB."

[2] Transcripts of the public hearing and copies of the response to the FASB Discussion Memorandum are available for inspection or purchase from the Financial Accounting Standards Board, High Ridge Park, Stamford, Conn. 06905.

[3] Section 505(a) of EPCA amends the Energy Supply and Environmental Coordination Act of 1974 by adding a provision that the Federal Energy Administrator (in the future the Department of Energy) require by rule" * * * that persons engaged, in whole or in part, in the production of crude oil or natural gas—(A) Keep energy information in accordance with the accounting practices developed pursuant to Section 503 of the Energy Policy and Conservation Act, and (B) Submit reports with respect to energy information kept in accordance with such practices."

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The Commission has reviewed the submissions to the FASB concerning the potential impact on competition resulting from the proposed selection of a method of accounting. Those wishing to provide additional comments on the impact that the proposed rules would have on competition are requested to submit such comments to the Commission.

COMMISSION ACTION

The Commission hereby proposes to amend 17 CFR Part 210 by the addition of new § 210.3–18 as presented below:

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, AND INVESTMENT COMPANY ACT OF 1940

§ 210.3–18 Financial accounting and reporting for oil and gas producing activities.

This section prescribes financial accounting and reporting standards for registrants of the Commission, which are engaged in oil and gas producing activities, in filing registration statements and reports under the Federal securities laws and for all persons engaged, in whole or in part, in the production of crude oil or natural gas in the United States in filing reports with the Department of Energy pursuant to section 11(c) of The Energy Supply and Environment Coordination Act of 1974, as amended by section 505 of The Energy Policy and Conservation Act of 1975, except for such activities of a regulated oil and gas producing company that are subject to individual-company-cost-of-service ratemaking.

(a) *Definitions.* The following definitions apply to the terms listed below as they are used in this rule:

(1) *Oil and gas producing activities.* Such activities include:

(i) The search for oil and gas in their natural states and original locations.

(ii) The acquisition of property rights or properties for the purpose of further exploration and/or for the purpose of removing the oil and gas from existing reservoirs on those properties.

(iii) The construction, drilling and production activities necessary to retrieve oil and gas from its natural reservoirs.

(iv) The acquisition, construction, installation, and maintenance of field gathering and storage systems.

These standards are not being applied to:

(i) The transporting, refining, and marketing of oil and gas, except for the transportation within the original production field for gathering or storage purposes.

(ii) The extraction of hydrocarbons from shale, tar sands or coal.

(2) *Proved reserves.* Those quantities of crude oil, natural gas, and natural gas liquids which, upon analysis of geologic and engineering data, appear with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions. Proved reserves are limited to those quantities of oil and gas which can be expected, with little doubt, to be recoverable commercially at current prices and costs, under existing regulatory practices and with existing conventional equipment and operating methods. Current prices include consideration of changes in existing prices provided by contractual arrangements, by law, or by regulatory agencies, where applicable; and for changes in prices for gas to be produced subsequent to termination or expiration of existing contracts, which latter prices should be based on current prices plus escalation for similar production subject to the entities' recent contracts. Depending upon their status of development, such proved reserves are subdivided into "proved developed reserves" and "proved undeveloped reserves."

(3) *Proved developed reserves.* Reserves which can be expected to be recovered through existing wells with existing equipment and operating methods. Additional oil and gas expected to be obtained through the application of fluid injection or other improved recovery techniques for supplementing the natural forces and mechanisms for primary recovery should be included as "proved developed reserves" only after testing by a pilot project or after the operation of an installed program has confirmed through production response that increased recovery will be achieved.

(4) *Proved undeveloped reserves.* Reserves which are expected to be recovered from new wells on undrilled acreage, or from existing wells where a relatively major expenditure is required for recompletion. Reserves on undrilled acreage shall be limited to those drilling units offsetting productive units, which are virtually certain of production when drilled. Proved reserves for other undrilled units can be claimed only where it can be demonstrated with certainty that there is continuity of production from the existing productive formation. Under no circumstances should estimates for proved undeveloped reserves be attributable to any acreage for which an application of fluid injection or other improved recovery technique is contemplated, unless such techniques have been proved effective by actual tests in the area and in the same reservoir.

(5) *Proved properties.* Properties with proved reserves.

(6) *Unproved properties.* Properties with no proved reserves.

(7) *Field.* An area consisting of a single reservoir or multiple reservoirs all grouped on or related to the same individual geological structural feature and/or stratigraphic conditions. There may be two or more reservoirs in a field which are separated vertically by intervening impervious strata, or laterally by local geologic barriers, or by both. Reservoirs that are associated by being in overlapping or adjacent fields may be treated as a single or common operational field. The geological terms "structural feature" and "stratigraphic condition" are intended to identify localized geological features as opposed to the broader terms of basins, trends, provinces, plays, areas-of-interest, etc.

(8) *Reservoir.* A porous and permeable underground formation containing a natural accumulation of producible oil or gas that is confined by impermeable rock or water barriers and is individual and separate from other reservoirs.

(9) *Exploratory well.* A well drilled outside a proved area, or within a proved area but to a previously untested horizon, so that its purpose is to determine whether oil or gas reserves exist rather than to develop proved oil or gas reserves discovered by previous drilling. Exploratory wells include (i) A well located on a structural feature or other type of trap that previously has not produced oil or gas (a "new field wildcat"); (ii) a well located to explore for a new pool on a structural feature or other type of trap already producing oil or gas but outside the known limits of the producing area (a "new pool wildcat"); (iii) a well located within the productive area of a pool or pools already partly or wholly developed but drilled below the deepest productive pool to explore for deeper unknown prospects (a "deeper pool test") or drilled above a productive pool to explore for shallower unknown prospects (a "shallower pool test"); and (iv) a well located and drilled with the expectation of extending for a considerable distance the productive area of a partly developed pool (an "outpost or extension test").

(10) *Development well.* A well drilled within the proved area of an oil or gas reservoir to the depth of a stratigraphic horizon known to be productive for the purpose of extracting proved oil or gas reserves.

(b) *Costs to be capitalized.* Assets involved in oil and gas producing activities, the costs of which are to be capitalized when incurred, are broadly defined as follows:

(1) *Mineral interests in properties.* Including (i) fee ownership or a lease, concession or other contractual interest representing the right to extract oil or gas subject to such terms as may be imposed by the conveyance of that interest; (ii) royalty interests, production payments payable in oil or gas, and other nonoperating interests in properties operated by others; and (iii) agreements with foreign governments or authorities under which an enterprise participates in the operation of the related properties or otherwise serves as "producer" of the underlying reserves (as opposed to being an independent purchaser, broker, dealer, or importer). Properties do not include supply agreements or contracts that represent the right to purchase, rather than extract, oil and gas.

(2) *Wells and related equipment and facilities.* The costs of which include those incurred to (i) Drill and equip those exploratory wells that have found proved reserves (other than costs of stratigraphic or test wells, which are charged to expense when incurred) and (ii) obtain access to proved reserves and

provide facilities for extracting, treating, gathering, and storing the oil and gas, including the drilling of development wells, whether successful or unsuccessful.

(3) *Support equipment and facilities used in oil and gas producing.* Items such as seismic equipment, drilling equipment, construction and grading equipment, vehicles, repair shops, warehouses, supply points, camps, and division, district, or field offices.

(4) *Uncompleted wells, equipment, and facilities.* The costs of which include those incurred to (i) drill and equip wells that are not yet completed (other than the costs of stratigraphic or test wells, which are charged to expense when incurred) and (ii) acquire or construct equipment and facilities that are not yet completed and installed.

(c) *Assessment of unproved properties.* Unproved properties shall be assessed periodically (but at least once a year) to determine whether they have been impaired. If the results of the assessment indicate an impairment, a loss shall be recognized by providing a valuation allowance. Impairment of individual unproved properties whose acquisition costs are relatively significant shall be assessed on a property-by-property basis, and an indicated loss shall be recognized by providing a valuation allowance. When an enterprise has a relatively large number of unproved properties whose acquisition costs are individually insignificant, the amount of loss to be recognized and the amount of the valuation allowance needed to provide for impairment of those properties may be determined either in the aggregate or for groups of properties on the basis of the experience of the enterprise and other information.

(d) *Surrender or abandonment of properties.* When an unproved property is surrendered, abandoned, or otherwise deemed worthless, capitalized acquisition costs relating thereto shall be charged against the related allowance for impairment to the extent an allowance has been provided; if the allowance previously provided is inadequate, a loss shall be recognized. Normally, no gain or loss shall be recognized if only an individual well or individual item of equipment is abandoned or retired or if only a single lease or other part of a group of proved properties constituting the amortization base is abandoned or retired as long as the remainder of the property or group of properties continues to produce oil or gas. Instead, the asset being abandoned or retired shall be deemed to be fully amortized, and its costs shall be charged to accumulated depreciation, depletion, or amortization. When the last well on an individual property (if that is the amortization base) or group of properties (if amortization is determined on the basis of an aggregation of properties with a common geological structure) ceases to produce and the entire property or property group is abandoned, gain or loss shall be recognized. Occasionally, the partial abandonment or retirement of a proved property or group of proved properties or the abandonment or retirement of wells or related equipment or facilities may result from a catastrophic event or other major abnormality. In those cases, a loss shall be recognized at the time of abandonment or retirement.

(e) *Amortization of capitalized costs.* (1) Capitalized acquisition costs of proved properties shall be amortized using the unit-of-production method on the basis of total estimated units of proved oil and gas reserves. (2) Capitalized costs of exploratory wells that have found proved reserves and capitalized development costs shall be amortized using the unit-of-production method on the basis of total estimated units of proved developed reserves. However, costs of equipment or facilities whose useful life is shorter than the productive life of the related oil and gas reserves shall be depreciated by an appropriate method over the estimated useful life of the equipment or facility. Amortization, using the unit-of-production method as required by subparagraphs (1) and (2) of this paragraph, may be computed either on property-by-property basis or on the basis of some reasonable aggregation of properties with a common geological structural feature or stratigraphic condition, such as a reservoir or field. For those properties or groups of properties containing both oil reserves and gas reserves, the units of oil and gas used to compute amortization shall be converted to a common unit of measure on the basis of their approximate relative energy content. Unit-of-production amortization rates shall be revised periodically (but at least once a year) to reflect changes in estimates of reserves and changes in capitalized costs; those revisions shall be accounted prospectively as changes in accounting estimates. Estimated dismantlement and abandonment costs and estimated residual salvage values shall be taken into account in determining amortization and depreciation rates.

(f) *Costs to be charged to expense as incurred.* Some costs incurred in oil and gas producing activities do not result in acquisition or betterment of an asset and, therefore, shall be charged to expense. Examples include geological and geophysical costs, the costs of carrying and retaining undeveloped properties, and the costs of drilling nonproducing exploratory wells. The costs of drilling an exploratory well that is drilled solely to obtain geological information and that is not intended to be completed as a producing well (sometimes called a stratigraphic or test well) shall be charged to expense when incurred. The costs of drilling all other exploratory wells shall be capitalized pending determination of whether proved reserves are found. If proved reserves are found, the capitalized drilling costs relating thereto become part of the cost of the enterprise's wells and related equipment and facilities. If proved reserves are not found, the capitalized drilling costs relating thereto, net of any salvage value, shall be charged to expense. The determination of whether proved reserves are found in usually made on or shortly after completion of drilling the well, and the capitalized costs shall either be charged to expense or reclassified as part of the cost of the enterprise's wells and related equipment and facilities at that time. Occasionally, however, determination of whether the well has found proved reserves cannot be made at the time drilling is completed. Costs associated with such an exploratory well on which drilling has been completed shall not normally be carried as an asset for more than one year following completion of drilling; after that year has passed, the costs of that well and the related property shall be presumed to be impaired and, therefore, a loss shall be recognized. In unusual circumstances, however, even though determination of whether proved reserves have been found cannot be made after one year has passed, evidence of the existence of commercially recoverable quantities of oil and gas may be so persuasive that the presumption of impairment is overcome. In those circumstances, the exploratory drilling costs and related property acquisition costs shall continue to be carried as assets. Thereafter, the need to recognize a loss shall be assessed periodically (but at least once a year), and the costs shall continue to be carried as assets. Thereafter, the need to recognize a loss shall be assessed periodically (but at least once a year), and the costs shall continue to be carried as assets, only if the presumption of impairment is refuted.

(g) *Mineral property conveyances and related transactions.* (1) Certain transactions, sometimes referred to as conveyances, are in substance borrowings repayable in cash or its equivalent and shall be accounted for as borrowings. The following are examples of such transactions:

(i) Enterprises seeking supplies of oil or gas sometimes make cash advances to operators to finance exploration in return for the right to purchase oil or gas discovered. Funds advanced for exploration that are repayable by offset against purchases of oil or gas discovered, or in cash if insufficient oil or gas is produced by a specified date, shall be accounted for as a receivable by the lender and as a payable by the operator.

(ii) Funds advanced to an operator that are repayable in cash out of the proceeds from a specified share of future production of a producing property, until repaid in full, free and clear of all expenses associated with operation of the property, plus interest at a specified or determinable rate, shall be accounted for as a borrowing. The advance is a payable for the recipient of the cash and a receivable for the party making the advance. Such transactions, as well as those described in subparagraph (3) (i) of this paragraph, are commonly referred to as production payments. The two types differ in substance, however, as explained in subparagraph (3) (i) of this paragraph. (2) In the following types of conveyances, gain or loss shall not be recognized at the time of the conveyance:

(i) A transfer of productive assets in exchange for similar productive assets.

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(ii) A pooling of assets in a joint undertaking intended to find, develop, or produce oil or gas from a particular property or group of properties.

(iii) A sale of part of an interest owned, and there is a substantial uncertainty about the recovery of costs applicable to the retained interest.

(iv) A sale of part of an interest owned, and the seller has a substantial obligation for future performance.

(3) If a conveyance is not one of the types described in subparagraph (2) of this paragraph, gain or loss shall be recognized unless there are other aspects of the transaction that would prohibit such recognition under accounting principles applicable to enterprises in general. In accordance with subparagraphs (1) and (2) of this paragraph, the following types of transactions shall be accounted for as indicated in each example. No attempt has been made to include the many variations of those arrangements that occur, but subparagraphs (1) and (2) of this paragraph shall, where applicable, determine the accounting for those other arrangements as well.

(i) Some production payments differ from those described in Subparagraphs (1)(ii) of this paragraph in that the seller's obligation is not expressed in monetary terms but as an obligation to deliver, free and clear of all expenses associated with operation of the property, a specified quantity of oil or gas to the purchaser out of a specified share of future production. Such a transaction is a sale of a mineral interest for which gain or loss shall not be recognized because the seller has a substantial obligation for future performance. The seller shall account for the funds received as unearned revenue to be recognized as the oil or gas is delivered. The purchaser of such a production payment has acquired an interest in a mineral property that shall be recorded at cost and amortized by the unit-of-production method as delivery takes place. The oil or gas reserve estimates and production data shall be reported as those of the purchaser of the production payment and not of the seller.

(ii) An assignment of the operating interest in an unproved property with retention of a nonoperating interest in return for drilling, development and operation by the assignee is a pooling of assets in a joint undertaking for which the assignor shall not recognize gain or loss. The assignor's cost of the original interest shall become the cost of the interest retained. The assignee shall account for all costs incurred as specified by paragraphs (b) through (f) of this section and shall allocate none of those costs to the mineral interest acquired. If oil or gas is discovered, each party shall report its share of reserves and production.

(iii) An assignment of a fractional operating interest in an unproved property in exchange for a "free well" with provision for joint ownership and operation is a pooling of assets in a joint undertaking by the parties. The assignor shall record no cost for the obligatory well; the assignee shall record no cost for the mineral interest acquired. All drilling, development, and operating costs incurred by either party shall be accounted for as provided in paragraphs (b) through (f) of this section. If the conveyance agreement requires the assignee to incur geological or geophysical expenditures instead of, or in addition to, a drilling obligation, those costs shall likewise be accounted for by the assignee as provided in paragraphs (b) through (f) of this section. If reserves are discovered, each party shall report its share of reserves and production.

(iv) A fractional part of an operating interest may be assigned to effect an arrangement called a "carried interest" whereby the assignee (the carrying party) agrees to defray all costs of drilling, developing, and operating the property and is entitled to all of the revenue from production from the property, excluding any third party interest, until all of the assignee's costs have been recovered, after which the assignor will share in both costs and production. Such an arrangement represents a pooling of assets in a joint undertaking by the assignor and assignee. The carried party shall make no accounting for any costs and revenue until after recoupment (payout) of the carried costs by the carrying party. Subsequent to payment the carried party shall account for its share of revenue, operating expenses, and (if the agreement provides for subsequent sharing of costs rather than a carried interest) subsequent development costs. During the payout period the carrying party shall record all costs, including those carried, as provided in paragraphs (b) through (f) of this section, and shall record all revenue from the property including that applicable to the recovery of costs carried. The carried party shall report as oil or gas reserves only its share of proved reserves estimated to remain after payout, and unit-of-production amortization of the carried party's property cost shall not commence prior to payout. Prior to payout the carrying party's reserve estimates and production data shall include the quantities applicable to recoupment of the carried costs.

(v) A fractional interest in a property may be exchanged for a fractional interest in a property of another party. The purpose of such an arrangement, commonly called a joint venture in the oil and gas industry, often is to avoid duplication of facilities, diversify risks, and achieve operating efficiencies. Such reciprocal conveyances represents exchanges of similar productive assets, and no gain or loss shall be recognized by either party at the time of the transaction.

(vi) In a unitization all the operating and nonoperating participants pool their assets in a producing area (normally a field) to form a single unit and in return receive an undivided interest (of the same type as previously held) in that unit. Unitizations generally are undertaken to obtain operating efficiencies and to enhance recovery of reserves, often through secondary recovery operations. Participation in the unit is generally proportionate to the oil and gas reserves contributed by each. Because the properties may be in different stages of development at the time of unitization, some participants may pay cash and others may receive cash to equalize contributions of wells and related equipment and facilities with the ownership interests in reserves. In those circumstances, cash paid by a participant shall be recorded as an additional investment in wells and related equipment and facilites, and cash received by a participant shall be recorded as a recovery of cost. The cost of the assets contributed plus or minus cash paid or received is the cost of the participant's undivided interest in the assets of the unit. Each participant shall include its interest in reporting estimated reserves and production data.

(vii) When a fractional interest in an unproved property is sold, even though for cash or cash equivalent, substantial uncertainty usually exists as to recovery of cost applicable to the interest retained. Consequently, the amount received shall be treated as a recovery of cost. However, if the sales price exceeds the capitalized cost of the property, gain shall be recognized to the extent of the excess.

(viii) The sale of an entire interest in a proved property that constitutes a separate amortization base is not one of the types of conveyances described in paragraph (g)(2) of this section. The difference between the amount of sales proceeds and the unamortized cost shall be recognized as a gain or loss.

(ix) The sale of a part of a proved property, or of an entire proved property constituting a part of an amortization base, shall be accounted for as the sale of an asset, and a gain or loss shall be recognized, since it is not one of the conveyances described in paragraph (g)(2) of this section. The unamortized cost of the property a part of which was sold shall be apportioned to the interest sold and the interest retained. However, the sale may be accounted for as a normal retirement under the provisions of paragraph (d) of this section with no gain or loss recognized if doing so does not significantly affect the unit-of-production amortization rate.

(x) The sale of the operating interest in a proved property for cash with retention of a nonoperating interest is not one of the types of conveyances described in paragraph (g)(2) of this section. Accordingly, it shall be accounted for as the sale of an asset, and any gain or loss shall be recognized. The seller shall allocate the cost of the proved property to the operating interest sold and the nonoperating interest retained on the basis of the fair values of those interests.

(h) *Income taxes.* Comprehensive interperiod income tax allocation by the deferred method shall be followed for intangible drilling and development costs and other costs incurred that enter

into the determination of taxable income and pretax accounting income in different periods. The excess of statutory depletion over cost depletion for tax purposes shall be accounted for as a permanent difference in the period in which the excess is deducted for income tax purposes.

These amendments shall be effective for financial statements for fiscal years beginning after June 15, 1978, and for interim periods within those fiscal years, although earlier application is encouraged. Accounting changes adopted to conform to the provisions of these amendments shall be made retroactively by restating the financial statements of prior periods. Financial statements for the fiscal year in which these amendments are first applied, and for interim periods of that year, shall disclose the nature of those accounting changes and their effect on income before extraordinary items, net income, and related per share amounts for each period restated.

These amendments are proposed to be adopted pursuant to authority in sections 6, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s) of the Securities Act of 1933; sections 12, 13, 15(d), and 23(a) (15 U.S.C. 78l, 78m, 78o(d), 78w) of the Securities Exchange Act of 1934; sections 5(b), 14, and 20(a) (15 U.S.C. 79e, 79n, 79t) of the Public Utility Holding Company Act of 1935 and section 503 (b)(2) (Pub. L. 94-163) of the Energy Policy and Conservation Act of 1975.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 31, 1977.

[FR Doc.77-26013 Filed 9-6-77;8:45 am]

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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
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	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Regulation 572]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period Sept. 9–15, 1977. This regulation is needed to provide for orderly marketing of fresh Valencia oranges for the regulation period because of the production and marketing situation confronting the orange industry.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: Findings. (1) pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of Valencia oranges, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantities of Valencia oranges that may be marketed from District 1, District 2, or District 3 during the specified week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation for the quantities of Valencia oranges that should be marketed during the specified week. The recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors covered in the order. The committee further reports the fresh market demand for Valencia oranges is good.

Average f.o.b. price was $4.47 per carton on 531 cars for the week ended September 1, as compared with $4.58 per carton on 515 cars the previous week.

Track and rolling supplies at 264 cars were up 18 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantities of Valencia oranges which may be handled should be established as provided in this regulation.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information became available upon which this regulation is based and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted for preparation for such effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for Valencia oranges and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning such provisions and effective time has been provided to handlers of Valencia oranges. It is necessary, to effectuate the declared policy of the act, to make this regulation effective during the period specified. The committee meeting was held on September 6, 1977.

§ 908.872 Valencia Orange Regulation 572.

(a) Order. (1) The quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period September 9, 1977, through Sept. 15, 1977, are hereby fixed as follows:

(i) District 1: 260,000 cartons;

(ii) District 2: 390,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: September 7, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-26411 Filed 9-7-77;11:30 am]

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Suspension of Marketable Quantity and Allotment Percentage for Cranberries

AGENCY: Agricultural Marketing Service.

ACTION: Final Rule.

SUMMARY: This document suspends the marketable quantity and the allotment percentage for cranberries for the 1977–78 crop year. Based on a reappraisal of the crop and the demand situation for cranberries it is not necessary to limit the quantity of cranberries to be marketed from the 1977–78 crop to effectuate the declared policy of the act.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the marketing agreement and Order No. 929 (7 CFR Part 929), regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), a handling regulation (§ 929.304; 42 FR 21786) was issued prescribing a marketable quantity of 248,604,800 pounds (2,486,048 barrels) of cranberries and an allotment percentage of 95 percent for marketing from the 1977–78 crop. Information now indicates that the 1977–78 crop of cranberries will total about 217,400,000 pounds (2,174,000 barrels). Hence, it

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is found that there is no need to limit, pursuant to § 929.49, the quantity of cranberries that may be purchased from or handled on behalf of growers during the crop year September 1, 1977, through August 31, 1978, and that continuance of the regulation limiting the quantity as prescribed by such regulation would not be consistent with the declared policy of the act.

(2) It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure and postpone the effective date of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that this action relieves restrictions on the handling of cranberries.

It is, therefore, ordered that the provisions of § 929.304 (42 FR 21786) are hereby suspended.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated: September 2, 1977.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-26118 Filed 9-7-77;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Docket No. R–0111]

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Overseas Branch Applications

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: In order to expedite and facilitate the performance of certain of its functions, the Board of Governors has amended its Rules Regarding Delegation of Authority. This amendment expands the authority of the Secretary or Acting Secretary of the Board to approve on the Board's behalf certain applications to establish branch offices overseas.

EFFECTIVE DATE: August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Allen F. Goodfellow, Senior Foreign Banking Analyst, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–2523).

SUPPLEMENTARY INFORMATION: Under the existing rule, which this action changes, the Board's Secretary can approve applications by member banks of the Federal Reserve System and corporations operating under sections 25 and 25a of the Federal Reserve Act (Agreement and Edge Act corporations) to establish overseas branches and agencies, but only after the applying organization has first received approval from the Board to establish branches in two or more foreign countries. After several years' experience with the existing rule, the Board has concluded that overseas branch applications may appropriately be approved under delegated authority in the normal case, except where an application represents an organization's initial expansion overseas through a full-service branch. In this regard, a "shell" branch to be established in The Bahamas, Cayman Islands, or other offshore currency center would not be considered a full-service branch and could be approved under delegated authority even if it represented a member bank's first overseas branch. The new rule therefore provides that the Secretary may approve any application to establish an overseas branch or agency, including a "shell" branch, except an organization's application to establish its first overseas full-service branch. This new rule does not change any Board policy regarding approval of applications and, as in the past, the Secretary may approve an application under this rule only if it raises no significant policy issue the Board has not already resolved and if the appropriate Federal Reserve Bank and divisions of the Board's staff recommend approval.

This amendment has been adopted without following the provisions of 5 U.S.C. 553 relating to notice, public participation, and deferred effective date because the change involved is procedural in nature and does not constitute a substantive rule subject to the requirements of that section. The amendment is effective immediately.

Therefore, under the authority of 12 U.S.C. 248(k), 12 C.F.R. Part 265 is amended, effective immediately, by revising paragraph (a)(8) of § 265.2 to read as follows:

§ 265.2 Specific Functions Delegated to Board Employees and Federal Reserve Banks.

* * * * *

(a) The Secretary of the Board (or, in the Secretary's absence, the Acting Secretary) is authorized:

* * * * *

(8) Under the provisions of sections 25 and 25(a) of the Federal Reserve Act and Parts 211 and 213 of this chapter (Regulations K and M), to approve the establishment, directly or indirectly, of a foreign branch or agency by a member bank or corporation organized under section 25(a) (an "Edge" corporation) or operating under an agreement with the Board pursuant to section 25 (an "Agreement" corporation) if all the following conditions are met:

(i) The appropriate Reserve Bank recommends approval.

(ii) The relevant divisions of the Board's staff recommend approval.

(iii) No significant policy issue is raised by the proposal as to which the Board has not expressed its view.

(iv) The application is not one for the applicant's first full-service branch in a foreign country.

* * * * *

Board of Governors of the Federal Reserve System, August 31, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-26049 Filed 9-7-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77–CE–17–AD; Amdt. 39–3028]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models C90, E90, A100, B100, 200 and 200T Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to certain Beech Models C90, E90, A100, B100, 200 and 200T airplanes which requires a one-time inspection of the cabin door latching mechanism for proper adjustment and readjustment if required. This action will assure proper locking of the cabin door and prevent possible incidents involving loss of cabin pressurization.

DATES: This amendment becomes effective September 12, 1977. Compliance: Required within the next 25 hours time-in-service after the effective date of this AD.

ADDRESSES: Beechcraft Service Instructions No. 0914, applicable to this AD, may be obtained from Beech Aircraft Corp., Commercial Service Department, 9709 East Central, Wichita, Kans. 67201. A copy of the Service Instructions cited above are contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th St., Kansas City, Mo. 64106 and Room 916, 800 Independence Ave. SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th St., Kansas City, Mo. 64106; telephone 816–374–3446.

SUPPLEMENTARY INFORMATION: A recent incident involving loss of cabin pressurization on a Beech Model 200 airplane was caused by the cabin entrance door becoming unsealed and allowing cabin pressurization air to leak out around the door. Inspection of the door showed that the latch hooks at the top of the door were incorrectly adjusted allowing them to become disengaged, thereby causing this condition. Loss of cabin pressurization can result in unsafe conditions for occupants and may cause the pilot to have to initiate emergency procedures. Subsequent to its investigation, the manufacturer has determined that the latching mechanism in the cabin door on certain Models C90, E90, A100, B100, 200 and 200T airplanes may have been improperly adjusted during manufacture. As a result, the manufacturer has issued Beechcraft Service Instructions No. 0914, recommending a one-time inspection of the door latch hooks, pins, and latching mechanism for proper adjustment and readjustment if necessary. The FAA has concluded that improperly adjusted door latch hooks, pins and door latching mechanisms are unsafe conditions that may exist in other airplanes of the same type design. Accordingly, an AD is being issued applicable to certain serial numbers of the above mentioned Beech Model airplanes, making compliance with the Service Instructions mandatory. This AD was coordinated with the manufacturer prior to issuance. The FAA has determined that there is an immediate need for a regulation to assure safe operation of the affected airplanes. Therefore, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest, and good cause exists for making the amendment effective in less than thirty (30) days after the date of publication in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal authors of this document are: William L. Schroeder, Flight Standards Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

BEECH. Applies to Models C90 (serial numbers LJ–689 through LJ–713), E90 (serial numbers LW–167 through LW–216), A100 (serial numbers B–213 through B–232), B100 (serial numbers BE–10 through BE–22), Model 200 (serial numbers BB–175 through BB–185, BB–187 through BB–193, BB–195 through BB–198, BB–200 through BB–202, and BB–204 through BB–223), and Model 200T (serial numbers BT–1 and BT–2) airplanes certificated in all categories.

Compliance: Required as indicated unless already accomplished.

To assure proper locking of the cabin door and to prevent possible incidents involving loss of cabin pressurization, within the next 25 hours time-in-service after the effective date of this AD, accomplish the following in accordance with Beechcraft Service Instructions No. 0914 or later approved revisions and instructions contained in the applicable airplane mantenance manual:

A. Visually inspect the cabin door latch hooks and pins for proper engagement and adjustment, check the door latch mechanism for over center position when locked, and adjust latch hooks, pins and/or door latch mechanism if necessary.

B. Any equivalent means of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective on September 12, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); § 11.89, Federal Aviation Regulations (14 CFR 11.89).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Kansas City, Mo., on August 26, 1977.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc.77-26067 Filed 9-7-77;8:45 a.m.]

[Docket No. 77–WE–11–AD; Amdt. 39–3029]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC–8–62, –62F, –63, and –63F Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment is being issued to amend airworthiness directive (AD) 77–15–11 to incorporate structural modifications as an alternative closing action for the repetitive inspection requirements in the AD.

DATES: Effective date—September 12, 1977. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: Persons affected by this AD may obtain copies of Douglas DC–8 Service Bulletin 54–58, 57–83, and 57–84 by writing to: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, Calif. 90846. Attention: L.A. Eisenberg, CI–750, 54–60.

Copies of the service bulletins are contained in the: Rules Docket in Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

SUPPLEMENTARY INFORMATION: AD 77–15–11, Amendment 39–2979 (42 FR 37807), appeared in the FEDERAL REGISTER on July 25, 1977. The AD was issued to require repetitive inspections of the McDonnell Douglas Model DC–8 wing lower forward spar cap, tee doubler, and wing skin, and repair of any cracks found. Since the issuance of the original AD, the manufacturer has designed a new tee doubler and other structural modifications which are designed to prevent the fatigue cracking problems which necessitated this AD. These structural modifications are contained in McDonnell Douglas DC–8 Service Bulletin 57–84. AD 77–15–11 is being amended to include the modifications as an option to the repetitive inspection requirements of the original AD.

Since this amendment provides an alternative method of compliance which relieves the repetitive inspection requirements, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Everett W. Pittman, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Regulations (14 CFR 39.13), Amendment 39–2979 (42 FR 37807), Airworthiness Directive 77–15–11 is amended as follows:

(1) By amending the first sentence of Paragraph (f) to read as follows:

(f) If cracks are found in the wing spar cap and/or wing skin as a result of the inspections of Paragraph (e), repair before further flight in accordance with the provisions of either McDonnell Douglas DC–8 Service Bulletin 57–83, dated April 15, 1977, or Option I of Service Bulletin 57–84, dated August 12, 1977, or later FAA approved revision. * * *

(2) by adding new Paragraphs (g) and (h) as follows:

(g) Airplanes modified in accordance with Option I of McDonnell Douglas DC–8 Service Bulletin 57–84 dated August 12, 1977, or later FAA approved revision are no longer subject to the repetitive inspection requirements of this AD.

(h) If no cracks are found as a result of the inspections of Paragraph (e), operators may rework the airplane in accordance with Option II of McDonnell Douglas Service Bulletin 57–84 dated August 12, 1977, or later FAA approved revision, and may then discontinue the repetitive inspection requirements of this AD for a period not to exceed 15,000 hours time in service after rework. Before accumulating 15,000 hours time in service after the rework, and thereafter at intervals not to exceed 4000 hours time in service, accomplish the inspection requirements of Paragraph (e).

(3) Reidentify the last two paragraphs as (i) and (j).

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354 (a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Amendment 29–2979 became effective July 28, 1977. This amendment 39–3029 becomes effective Sept. 12, 1977.

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Issued in Los Angeles, Calif. on August 29, 1977.

HERMAN C. BLISS,
Acting Director,
FAA Western Region.

[FR Doc.77-25896 Filed 9-7-77;8:45 am]

[Airworthiness Docket No. 77-SW-36; Amdt. 39-3030]

PART 39—AIRWORTHINESS DIRECTIVES

Swearingen Aircraft Corporation Model SA226T, –AT, and –TC Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) to assure that the variable authority nose wheel steering system utilizing a Talley P/N 1399T100–5 or –7 actuator installed on some SA226 series airplanes, will be disconnected in a manner to preclude failures from jeopardizing the operation of the airplane.

DATES: Effective date September 12, 1977. Compliance requires the disconnection of the nose gear steering system within the next 25 hours' in service after the effective date of this AD.

ADDRESSES: Swearingen Service Bulletin SB 32–012 may be acquired from the manufacturer whose address is listed in the AD.

FOR FURTHER INFORMATION CONTACT:

John Swihart, Systems and Equipment Section, ASW–213, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex. 76101, Telephone No. 817–624–4911, Ext. 518; or Ramon Gibson, Flight Test Section, ASW–216, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex. 76101, Telephone No. 817–624–4911, Ext. 523.

SUPPLEMENTARY INFORMATION: Production SA226 series airplanes delivered after September 1974 and some retrofitted airplanes incorporate a variable authority nose wheel steering system which utilizes a Talley P/N 1399T100–5 or –7 actuator. There have been several incidents of unwanted nose gear steering actuator output, several incidents of locked-up clutches, and a number of incidents involving high actuator back drive torque. Since most of the malfunctions do not provide any early warning, Swearingen believes, and FAA concurs, the variable authority nose gear steering system must be disconnected in a manner which will preclude such failures from jeopardizing the safe operation of the airplane. A modification is being developed by the manufacturer and will be offered to all operators in the near future.

Since this situation affects air safety, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are John D. Swihart, Jr., Aerospace Engineer, Systems and Equipment Section, Flight Standards Division, and James O. Price, General Attorney, Office of the Regional Counsel, Southwest Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

SWEARINGEN: Applies to all Model SA226T, -AT, and -TC airplanes incorporating a variable authority nose wheel steering system which utilizes a Talley P/N 1399T100–5 or –7 actuator.

Compliance required within the next 25 hours' time in service after the effective date of this AD, unless already accomplished.

To assure the variable authority nose gear steering system will not jeopardize the safe operation of a Model SA226T, -AT, or -TC airplane, it should be disabled in accordance with Swearingen Aviation Corp. Service Bulletin SB 32–012, dated June 20, 1977, or later FAA approved revision, or an equivalent procedure approved by the Chief, Engineering and Manufacturing Branch, Southwest Region, Federal Aviation Administration, Fort Worth, Tex.

The manufacturer's instructions identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received the referenced document from the manufacturer may obtain copies upon request to Swearingen Aviation Corp., P.O. Box 32486, San Antonio, Tex. 78284. The document may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Tex., and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this AD, which includes the incorporated material in full, is maintained by the FAA at its headquarters in Washington, D.C., and at the Southwest Regional Office in Fort Worth, Tex.

This amendment becomes effective September 12, 1977.

(Sections 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354 (a), 1421, 1423), Section 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Fort Worth, Tex., on August 15, 1977.

PAUL J. BAKER,
Acting Director, Southwest Region.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.77-25897 Filed 9-7-77;8:45 am]

SUBCHAPTER K—ADMINISTRATIVE REGULATIONS

[Docket No. 15290; Special Federal Aviation Reg. No. 31]

PART 183—REPRESENTATIVES OF THE ADMINISTRATOR

Release of Security Information

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action terminates a special Federal Aviation regulation relating to the prohibition of disclosure of security information, because a subsequent Federal Aviation regulation provides for the prohibition of disclosure of the same type of information covered by the special regulation.

EFFECTIVE DATE: August 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert P. Jones, Regulations Branch, Air Operations, Security Division, Civil Aviation Security Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202–426–8798.

SUPPLEMENTARY INFORMATION:

HISTORY

Special Federal Aviation Regulation No. 31 was adopted effective January 15, 1976 (41 FR 2248). Its purpose was to prohibit the unauthorized disclosure of information in, or obtained in connection with, the reports or records of the Advisory Committee on Airport Security or a report of the Administrator made in his capacity as chairman of that advisory committee. Special Federal Aviation Regulation No. 31 was issued pursuant to section 316(d) of the Federal Aviation Act of 1958 which was added by the Air Transportation Security Act of 1974.

On December 9, 1976, the FAA adopted Part 191—Withholding Security Information From Disclosure Under the Air Transportation Security Act of 1974 (14 CFR Part 191). Under Part 191, which implements section 316(d)(2) of the Federal Aviation Act of 1958, the Director, FAA Civil Aviation Security Service, or his designee, prohibits disclosure of certain security information if, among other things, in his opinion it would "be detrimental to the safety of persons traveling in air transportation or intrastate air transportation." Since, notwithstanding the Freedom of Information Act (5 U.S.C. 552), disclosure of the information described in Special Federal Aviation Regulation No. 31 may be prohibited pursuant to Part 191 by the Director, FAA Civil Aviation Security Service, or his designee, that special regulation is no longer necessary and action is hereby taken to revoke it.

Since this action revokes a regulation which is no longer deemed necessary, I find that notice and public procedure hereon are unnecessary, and good cause exists for making this action effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Robert P. Jones, Regulations Branch, Civil Aviation Security Service, and Richard C. Beitel, Office of the Chief Counsel.

Accordingly, Special Federal Aviation Regulations No. 31 (41 FR 2248) is hereby revoked, effective August 30, 1977.

(Sec 316(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1357(d)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., on August 30, 1977.

QUENTIN S. TAYLOR,
Acting Administrator.

[FR Doc.77-26119 Filed 9-7-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release SAB–16]

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS

Subpart B—Staff Accounting Bulletins

STAFF ACCOUNTING BULLETIN No. 16

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: This interpretation describes the position of the Commission's staff concerning disclosure to be made by registrants when their financial statements filed with the Commission are potentially affected by the FASB's Exposure Draft, "Financial Accounting and Reporting by Oil and Gas Producing Companies." It is the staff's position that disclosure should include an indication of the estimated general magnitude of the potential impact on earnings and shareholders' equity by registrants whose financial statements would be substantially changed if the proposals presented in the FASB Exposure Draft are adopted.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

Richard C. Adkerson, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol St., Washington, D.C. 20549 (202–755–1671).

SUPPLEMENTARY INFORMATION: The statements in the Bulletin are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval; they represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 1, 1977.

STAFF ACCOUNTING BULLETIN No. 16

The staff hereby adds Topic 10–I regarding disclosure of the potential impact of the FASB's proposed Statement of Financial Accounting Standards, "Financial Accounting and Reporting by Oil and Gas Producing Companies."

TOPIC 10: MISCELLANEOUS DISCLOSURE

* * * * * *

I. Disclosure Regarding the FASB Exposure Draft, "Financial Accounting and Reporting by Oil and Gas Producing Companies."

Facts. On July 15, 1977, the Financial Accounting Standards Board issued an exposure draft of a proposed Statement of Financial Accounting Standards, entitled "Financial Accounting and Reporting by Oil and Gas Producing Companies" (the "FASB Exposure Draft"). The potential impact of the proposed standards on the financial statements of some registrants is significant. For some registrants, application of the proposed standards may result in net income for current and prior periods being substantially reduced or changed to net losses and shareholders' equity likewise being substantially reduced or changed to a deficit.

The FASB Exposure Draft proposes, among other matters, the following:

1. All companies engaged in oil and gas production would be required to adopt a prescribed form of the successful efforts method of accounting for exploration and development costs.

2. FASB Statement No. 9, "Accounting for Income Taxes—Oil and Gas Producing Companies," would be superseded; and comprehensive interperiod income tax allocation by the deferred method would be required for all exploration and development costs.

3. Accounting treatment is proposed for specific types of mineral property conveyances and various types of related transactions.

4. Accounting changes to conform to the new standards would be made retroactively by restating the financial statements of prior periods.

5. The proposed standards would become effective for financial statements for fiscal years beginning after June 15, 1978.

Question. What disclosure concerning the FASB Exposure Draft should be made in filings with the Commission?

Interpretive Response. The staff believes the following data relating to the FASB Exposure Draft should be disclosed in the footnotes of the financial statements of registrants which would be materially affected if the standards are adopted:

1. A general statement of the existence of the FASB Exposure Draft and its relationship to the registrant's current accounting policies.

2. A statement that the registrant would or may, as appropriate, be required to restate its current and previously issued financial statements, if the provisions of the FASB Exposure Draft are adopted as proposed.

3. A quantification of the general magnitude of the estimated potential effects on reported shareholders' equity and on earnings from applying the proposed provisions of the FASB Exposure Draft.

4. A discussion of significant implications, if any, that adoption of the standards proposed by the FASB would have on the registrant's dividend policy and on its ability to comply with covenants in its debt or other agreements, such as those involving debt/equity ratios and restrictions on additional financing and asset acquisitions.

The staff recognizes the significant data accumulation problems faced by some registrants in estimating the effects of applying the standards proposed by the FASB. In addition, the staff is aware that differences of opinion may exist in interpreting certain provisions of the FASB Exposure Draft and that changes may be adopted by the FASB in its final statement. Nevertheless, the significance of the FASB Exposure Draft to certain registrants' financial statements is such that a general indication of the magnitude of the effects of applying the proposed standards may be required to preclude the possibility of the financial statements being considered misleading.

The staff does not expect the estimates disclosed to be stated as precise amounts. It would consider acceptable descriptions in terms of broad ranges or percentages. Moreover, the staff recognizes that registrants' estimates may be subject to revision based on information obtained in subsequently compiling the data for restating their financial statements, subsequent changes in interpreting the provisions of the FASB Exposure Draft, and changes by the FASB to the proposed standards in its final statement. Disclosure of the estimated impact should include qualifications for these or other matters, as appropriate.

The disclosure discussed at Item 3 above may be made outside the financial statements, such as in Management's Discussion and Analysis of the Summary of Operations. In these cases, the financial statement disclosures (Items 1, 2, and 4) should include a reference to the location in the filing where the Item 3 disclosure is made.

The staff believes that, when practicable, these disclosures should be included in all filings with the Commission which contain financial statements of a registrant, including summarized financial statements in Forms 10–Q. The staff recognizes that, in many cases, compiling the data for the disclosure relating to the magnitude of the estimated impact on net income and shareholders' equity may not be practicable for quarterly filings in 1977. In such cases, registrants should disclose the information described at Items 1, 2, and 4 above and indicate the reasons for not providing the Item 3 information.

The staff believes that registrants should include all the information discussed above in registration statements and annual reports filed with the Commission. Furthermore, the staff believes that registrants will have had sufficient time to compile the data necessary to make all of the disclosures discussed above in quarterly reports filed after December 31, 1977. If developing the information for periodic reports filed with the Commission causes an undue hardship on a registrant, the registrant should discuss its circumstances with the staff.

[FR Doc.77-26162 Filed 9-7-77;8:45 am]

[Release No. 34–13914]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

PART 249b—FURTHER FORMS, SECURITIES EXCHANGE ACT OF 1934

Transfer Agents

AGENCY: Securities and Exchange Commission.

V 42 174 SEP 8 77 UMI

ACTION: Final rule.

SUMMARY: This rule and related form prescribe the procedure to be followed by those transfer agents registered with the Commission in withdrawing from registration. The form is intended to simplify the withdrawal process and the information required by the form will enable the Commission to determine whether it is necessary or appropriate in the public interest, for the protection of investors, or in furtherance of the Securities Exchange Act that the withdrawal be denied, postponed or subject to specific terms and conditions.

EFFECTIVE DATE: October 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Lisa G. Gessow,

Attorney, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol St., Washington, D.C. 20549, (202-755-8916).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Securities and Exchange Commission (the "Commission"), pursuant to Sections 2, 17, 17A and 23(a) of the Act (15 U.S.C. 78b, 78q, 78q-1 and 78w(a)), has amended Title 17, Chapter II, Parts 240 and 249b of the Code of Federal Regulations to add §§ 240.17Ac3-1 and 249b.101.

RULE 17Ac3-1

Rule 17Ac3-1 provides that a transfer agent registered with the Commission may withdraw from registration by filing a notice of withdrawal of its transfer agent registration on, and in accordance with the instructions contained in, Form TA-W.[1] Withdrawal from registration will become effective on the sixtieth day after filing of a properly completed Form TA-W unless the Commission takes affirmative action to accelerate, deny or postpone such withdrawal.

The rule further provides that every withdrawal filed pursuant to Rule 17Ac3-1 constitutes a "report" within the meaning of Sections 17 and 32(a) of the Act.

FORM TA-W

Form TA-W has been adopted to simplify the registration withdrawal process. The information required on the Form is intended to enable the Commission to determine whether it is necessary or appropriate in the public interest, for the protection of investors, or in furtherance of the purposes of section 17A that the withdrawal be denied, postponed or subject to specific terms and conditions. The information requested includes the name of the registrant, the address of its principal place of business, the date registrant ceased performing any transfer agent function as defined in the Act, whether the registrant is involved in any legal actions or proceedings or is aware of any potential claims against it,[2] whether there are any unsatisfied judgment or liens against registrant arising out of its performance of transfer agent functions, the names and addresses of any successor transfer agents and whether such successors transfer agents are registered pursuant to the Act, the names and addresses of the persons who will maintain custody or possession of registrant's transfer agent books and records, the address at which such books and records will be located and the reasons for ceasing the performance of transfer agent functions or for otherwise requesting withdrawal of its registration as transfer agent.

STATUTORY BASIS AND COMPETITIVE CONSIDERATIONS

Rule 17Ac3-1 and Form TA-W are adopted pursuant to the Securities Exchange Act of 1934, in particular sections 2, 17, 17A and 23(a) thereof, 15 U.S.C. 78b, 78q, 78q-1 and 78w(a).

The Commission finds that any burden on competition imposed by this rule is necessary and appropriate in the public interest, for the protection of investors and to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities.

EFFECTIVE DATE

Rule 17Ac3-1 and Form TA-W are effective as of October 10, 1977. Accordingly, 17 CFR Parts 240 and 249b are amended by adding §§ 240.17Ac3-1 and 249b.101 as follows:

§ 240.17Ac3-1 Withdrawal from registration with the Commission.

(a) Notice of withdrawal from registration as a transfer agent with the Commission pursuant to section 17A(c)(3)(C) of the Act shall be filed on Form TA-W in accordance with the instructions contained thereon.

(b) Except as hereinafter provided, a notice to withdraw from registration filed by a transfer agent pursuant to section 17A(c)(3)(C) of the Act shall become effective on the sixtieth day after the filing thereof with the Commission or within such shorter period of time as the Commission may determine. If a notice to withdraw from registration is filed with the Commission at any time subsequent to the date of issuance of a Commission order instituting proceedings pursuant to Section 17A(c)(3)(A) of the Act, or if prior to the effective date of the notice of withdrawal the Commission institutes such a proceeding or a proceeding to impose terms and conditions upon such withdrawal, the notice of withdrawal shall not become effective except at such time and upon such terms and conditions as the Commission deems necessary or appropriate in the public interest, for the protection of investors, or in furtherance of the purposes of section 17A.

(c) Every notice of withdrawal filed pursuant to this rule shall constitute a "report" within the meaning of sections 17 and 32(a) of the Act.

§ 249b.101 Form TA-W, notice of withdrawal from registration as transfer agent.

This form shall be used for withdrawing, pursuant to section 17A of the Securities Exchange Act of 1934, the registration of transfer agents registered with the Commission.

NOTE.—Copies of Form TA-W have been filed with the Office of Federal Register as part of this document. Copies may be obtained from the Publications Section, Securities and Exchange Commission, 500 North Capitol St., Washington, D.C. 20549 and at each of the Commission's regional offices. Copies of Form TA-W will be available on or about the week of September 26, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 1, 1977.

[FR Doc.77-26188 Filed 9-7-77;8:45 am]

[1] Transfer agents registered with the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation or the Board of Governors of the Federal Reserve System are not subject to the rule and form adopted herein today. Each of the three Federal bank regulatory agencies has developed its own procedures for withdrawing the registrations of bank transfer agents registered with it.

[2] Any out-of-proof conditions are considered, for these purposes, as potential claims.

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-197]

PART 110—ANCHORAGE REGULATIONS

Special Anchorage Areas, Dana Point, Calif.

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: This amendment establishes a special anchorage area in Dana Point Harbor, Calif. This amendment is needed to meet the heavy demand for anchorage space for transient pleasure vessels. In special anchorage areas, vessels under 65 feet in length are not required to carry or exhibit anchor lights.

EFFECTIVE DATE: This amendment is effective October 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1477).

SUPPLEMENTARY INFORMATION: On March 7, 1977, the Coast Guard published a proposed rule (42 FR 12890) concerning this amendment. Interested parties were given until April 20, 1977, to submit comments. No comments were received.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Lieutenant Commander H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Mr. S. D. Jackson, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, Part 110 of Title 33 Code of Federal Regulations is amended by adding § 110.93 to read as follows:

§ 110.93 Dana Point Harbor, Calif.

The area in Dana Point Harbor, Calif. commencing at a point at latitude 33°-27'36.2" N. longitude 117°42'20.4" W.; thence 016°20' True for 612 feet to a point at latitude 33°27'42.1" N., longitude 117°42'18.4" W.; thence 106°20' True for 85 feet to a point at latitude 33°27'41.8" N., longitude 117°42'17.7" W.; thence 196°20' True for 222 feet to a point at latitude 33°27'39.7" N., longitude 117°42'18.2"' W.; thence 152°20' True 234 feet to a point at latitude 33°27'37.4" N., longitude 117°42'18.2" W.; thence 166°-20' True for 499 feet to a point at latitude 33°27'32.6" N., longitude 117°42'16.8" W.; thence 320° True for 470 feet to the point of origin.

(Sec. 1, 30 Stat. 98, as amended (33 U.S.C. 180); sec. 6(g)(1)(B), 80 Stat. 937 (49 U.S.C. 1655(g)(1)(B)); 49 CFR 1.46(c)(2).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated August 29, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc.77-25984 Filed 9-7-77;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—LAND RESOURCE MANAGEMENT (2000)

PART 2850—POWER TRANSMISSION LINES

Subpart 2851—Principles and Procedures Power Transmission Lines

ELECTRIC TRANSMISSION FACILITIES CROSSING FEDERAL LANDS

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: Power transmission rights-of-way for facilities of less than 66kV capacity are not required to include a stipulation that transmission capability in excess of the needs of the grantee be made available for transmission of Federal power. The upper limit is changed from 33kV. There is seldom any excess transmission capability on such low capacity lines. Processing of right-of-way applications will be simplified by eliminating the required stipulation.

DATE: Effective September 9, 1977.

ADDRESS: Director (210), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Billy R. Templeton, 202-343-8735.

SUPPLEMENTAL INFORMATION: The principal author of this document is Billy R. Templeton of the Bureau of Land Management, Division of Legislation and Regulatory Management.

On page 20315 of the FEDERAL REGISTER of April 19, 1977, proposed rulemaking was published to raise the minimum voltage at which a wheeling stipulation is required in a power transmission facility from 33 kV to 66 kV. Comments and suggestions were invited from the public for a 30-day period, ending May 31, 1977. Comments were received from six sources. Five favored the proposal, but recommended that the level be increased above 66 kV or waived completely. One was opposed to the proposal completely.

A suggestion was made to set the minimum above 66 kV or waive the requirement for a wheeling stipulation entirely. It has been determined that this is not necessary since under the provisions in § 2851.1-1(a) the Secretary may waive the wheeling stipulation requirement if appropriate.

The one unfavorable comment was that the proposed amendment could have an adverse impact on potential preference customers not presently being served by Federal power because of inability to secure wheeling arrangements. It was suggested that the proposed rule could deny access to new lines below 66 kV to serve these potential customers. This would discriminate between them and other preference customers currently receiving power wheeled over lines below 66 kV.

In adopting the proposed amendment to increase the wheeling stipulation voltage level from the present 33 kV to proposed 66 kV, the Department considered the potential impact such change would have on those potential preference customers below 66 kV. It was concluded that the possibility that service to a new customer would turn on the existence or nonexistence of the wheeling stipulation on a line below 66 kV is so remote as to be virtually nonexistent.

Accordingly, amendments proposed under the authority of section 501(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761), to Title 43, Chapter II, Subchapter B, Part 2850, Subpart 2851 of the Code of Federal Regulations are adopted as set forth below.

DANIEL P. BEARD,
Deputy Assistant
Secretary of the Interior.

AUGUST 30, 1977.

1. Section 2851.1-1(a)(5) is amended to read as follows:

§ 2851.1-1 Terms and conditions.

(a) • • •

(5) An applicant for a right-of-way for a transmission facility having a voltage of 66 kilovolts or more must, in addition to the requirements of Subpart 2802 of this part execute and file with its application a stipulation agreeing to accept the right-of-way grant subject to the following conditions:

• • • • • •

2. Section 2851.2-1(c)(4) is amended to read as follows:

V 42 174 SEP 8 77 UMI

§ 2851.2–1 Applications.

• • • • • •

(c) • • •

(4) If the line is to have a nominal voltage of 66 kilovolts or more, the application should include a one-line diagram of the proposed line and the immediate interconnecting facilities including power plants and substations, a power flow diagram or proposed line and connecting major lines showing conditions under normal use, and typical structure drawings of proposed lines showing construction dimensions and a list of materials.

[FR Doc.77–26050 Filed 9–7–77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20775; FCC 77–583]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Providing Clarification and Modification of Rules for Emergency Position Indicating Radiobeacons on Frequencies 121.5 and 243 MHz

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: A Report and Order is adopted setting out rules pertaining to emergency position indicating radiobeacons (EPIRB's). This action clarifies and modifies our rules concerning technical standards, processing of equipment authorizations, license applications and vessel inspections. The clarification and modifications will permit more expeditions processing of authorizations thereby benefiting the Commission and the public.

EFFECTIVE DATE: October 11, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert C. McIntyre, Safety & Special Radio Services Bureau, 202–632–7197.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—PROCEEDING TERMINATED

Adopted: August 24, 1977.

Released: September 6, 1977.

In the matter of Amendment of Parts 2 and 83 of the Commission's rules to provide clarification and modification of the rules for emergency position indicating radiobeacons on the frequencies 121.5 and 243 MHz, Docket No. 20775.

1. On April 23, 1976, we released a Notice of Proposed Rule Making (NPRM) in this Docket (FCC 76–328, 41 FR 17572, April 27, 1976), to amend Parts 81 and 83 of the rules to provide clarification and modification of the rules for emergency position indicating radiobeacons (EPIRB's).

2. Comments concerning the proposed rules appended to the Notice of Proposed Rule Making in this docket were received from Aeronautical Radio, Incorporated (ARINC), Air Transport Association of America (ATA), Aircraft Owners and Pilots Association (AOPA) and late comments were received from Narco Marine (Narco). Comments were filed jointly by ARINC and ATA. The late comments filed by Narco concerning the proposed rules do not raise any new basic matters not already covered by other commenters.

3. EPIRB's are radio frequency devices which transmit signals simultaneously on 121.5 and 243 MHz to facilitate search and rescue operations by indicating the position of a distress situation. EPIRB signals are modulated by a well defined, distinctive, sweeping tone chosen to be easily recognizable and compatible with radiolocation equipment. Aircraft equipment with radio direction finding equipment are extensively used in search and rescue operations and can rapidly determine the location of an EPIRB emitting a signal.

4. The Commission called attention in the Notice to the fact that since adopting rules[1] providing for the operation of EPIRB's the Laboratory Division of the Office of Chief Engineer (OCE) has evaluated a number of these devices which were submitted for purposes of type acceptance and has, through the equipment authorization program, assessed the effectiveness of our rules. As an outgrowth of this evaluation, we are of the opinion that it is in the public interest to make certain changes to our rules; these changes affect rules concerning technical standards, equipment authorizations and administrative procedures pertaining to the maritime radio service. Objections were raised to the following rule changes proposed by the Commission:

Measurement procedures.
Table of Frequency Allocations.
EPIRB Testing.

The following paragraphs of this Report and Order discuss the views of the respondents with regard to these controversial areas and are silent on the other proposed changes to which no objections were raised.

MEASUREMENT PROCEDURES

5. The Notice includes provisions for the use by the public of measurement procedures prepared by the Office of Chief Engineer for obtaining the necessary data to demonstrate compliance with the Commission's rules for purposes of equipment authorizations. Section 83.134(i) now requires that measurement procedures delineated in Radio Technical Commission for Aeronautics (RTCA) Documents DO–145 and DO–146 be used for peak effective radiated power measurements. ARINC, ATA and AOPA state that the Commission did not explain in detail the problem with the RTCA documents and that the issuance of superseding test procedures by the Chief Engineer would only serve to increase the ambiguity which the Commission has suggested exists in RTCA documents DO–145 and DO–146. For this reason the commentors request that the Commission retain reference to the RTCA documents in its rules pertaining to effective radiated power measurements.

6. The Commission has previously made public[2] its concerns regarding the procedures set out in RTCA documents DO–145 and DO–146 and indicated that, since these procedures are subject to various interpretations, significant differences in radiated output power may result from their use. Variations in radiated output power in excess of 9 dB have been observed when similar transmitters are tested using methods employed by different manufacturers. This magnitude of difference (approximately 10 times in power) can result in a variation of 3 to 1 in the range of EPIRB's which are rated as equivalent and may adversely affect the safety of life. We have further informed RTCA Special Committee No. 127[3], which is charged with developing a new minimum performance standard to replace DO–145 and 146, of the ambiguity which exists in the present measurement procedures so that RTCA may give this matter appropriate consideration in their new standard. Accordingly, we see no reason to retain reference to RTCA documents concerning power measurements in our rules since the procedure described in these documents is not acceptable to the Commission.

7. The respondents further raise objections to our proposal to require a new, but as yet, unspecified test procedure for EPIRB's. The proposed rules pertaining to Part 83 would require the use of an OCE Bulletin describing a measurement procedure for peak effective radiated power of EPIRB's to be used by applicants for equipment authorizations. We note that no equipment manufacturers voiced opposition to the adoption of

[1] Report and Order, Docket No. 19693, adopted March 7, 1974 (39 FR 10140; 45 FCC 2d 885).

[2] Public Notice, "Information Concerning the Measurement of Peak Effective Radiated Power for Emergency Position Indicating Radiobeacons (EPIRB's) Transmitters", Reference No. 26615, dated July 26, 1974.

Public Notice, "Clarification of Measurement Procedure for Field Strength of Marine Emergency Position Indicating Radiobeacons (EPIRB) Transmitters"; Reference No. 31697, dated October 10, 1974.

[3] Commission letter to the Chairman, Task Force No. 3 of SC 127, Reference File No. AVI 6–1, dated April 11, 1975.

these rules. Nevertheless a specific OCE Bulletin to be used, which was not available when the Notice was adopted, we will also permit the use of any other measurement procedure submitted to and accepted by the Commission for purposes of application for equipment authorizations.

TABLE OF FREQUENCY ALLOCATIONS

8. The Notice proposed modification of the Table Frequency Allocations in Part 2 of the rules to set out EPIRB's under the Radiodetermination Service rather than the Maritime Mobile Service since the emissions of an EPIRB are used to indicate position thereby facilitating search and rescue operations (see International Radio Regulations No. 68A). Radiodetermination is defined internationally and in our rules as "the determination of position, or the obtaining of information relating to position, by means of the propagation properties of radio waves". Therefore it is the Commission's view that EPIRB stations should be considered more appropriately in this service than the maritime mobile service.

9. ARINC, ATA and AOPA object to this change on the basis that it is "superficially correct" and that the Commission's rules and the International Telecommunication Union's Radio Regulations (RR) provide for EPIRB's in the Maritime Mobile Service. Additionally, the respondents object to the specific inclusion of "maritime mobile service", "maritime radiodetermination service" and "ship stations" in column 11 of the Table of Frequency Allocations in Part 2 of the rules on the basis that it will lead to the expanded use of these frequencies for purposes other than search and rescue.

10. RR No. 68A provides for the operation of EPIRB's in a "mobile station" but not specifically in a "maritime mobile station" as in the case of other shipboard equipment. Additionally, all other types of radiobeacons are provided for in the radiodetermination radio service and the EPIRB definition is grouped with these definitions (see RR Nos. 45–68A). For these reasons, and because particularly with regard to an emergency frequency, it is necessary that the service and stations provided for on these frequencies be specifically identified to avoid any possibility of misuse, the Commission does not share the opinion of ARINC, ATA and AOPA that the proposed rules will result in the derogation of the usefullness of these frequencies. Accordingly, the rules pertaining to the Table of Frequency Allocations appended to the Notice are adopted as proposed.

EPIRB TESTING

11. We proposed in the Notice that testing of EPIRB's be conducted using a dummy load to insure that no transmissions or radiated energy occur that could be received by a radio station and result in a false alarm. This proposal is more stringent than our existing regulation which permits over-the-air tests during the first five minutes of every hour. All comments received were unanimous in their opposition to this change. ARINC, ATA and AOPA interpreted the proposed rules as an action which would increase the possibility of false distress signals since Coast Guard coordination was no longer required. Narco points out that a large number of EPIRB's are equipped with antennas which are permanently wired to the transmitter. If testing with a dummy load is the only type of test permitted, it will be necessary to disassemble the unit to permit testing. Since in many cases this would not be practical and could possibly damage the waterproof integrity of the EPIRB, we will continue to permit testing of EPIRB's with Coast Guard coordination or using over-the-air tests during the first five minutes of any hour if testing with a dummy load is not used.

EPIRB AUTHORIZATION

12. Separately, but related to the foregoing matters, we are amending § 83.68 (b) to provide that EPIRB's required by Coast Guard regulations be operated under specified conditions pursuant to the rules, rather than as a result of a provision on a station authorization. This will eliminate a requirement that EPIRB operational authority must be individually obtained by filing an application for modification of a ship station license; at renewal the authorization should be appropriately modified to reflect the addition of an EPIRB. This will relieve a restriction on the public. We will continue, however, to require an application for authority to operate an EPIRB installed voluntarily, or authority to operate an EPIRB only on board a vessel.

13. *Accordingly, it is ordered,* That pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, set forth below effective October 11, 1977.

14. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303.))

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Parts 2 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

A. In Part 2—Frequency Allocations and Radio Treaty Matters; General Rules and Regulations.

1. In § 2.106, column 11 is amended to read as follows:

§ 2.106 Table of frequency allocations.

Frequency MHz 10	*Nature of services of 11 stations*
• • • • •	
121.5	Aeronautical Mobile. Maritime Mobile. Maritime Radiodetermination. Ship. Survival craft and equipment. Emergency position indicating radiobeacon. Emergency locator transmitter.
• • • • •	

123.100	Aeronautical search and rescue. Ship. Survival craft and equipment.
• • • • •	
243	Survival craft and equipment. Emergency position indicating radiobeacon. Emergency locator transmitter.
• • • • •	

2. A new § 2.947 is added to read as follows:

§ 2.947 Measurement procedure.

(a) The Commission will accept data which have been measured in accordance with the following standards or measurement procedures:

(1) Those set forth in OCE Bulletins or reports prepared by the Office of the Chief Engineer of the Commission. These will be issued as required, and specified in the particular part of the rules where applicable.

(2) Those acceptable to the Commission and published by national engineering societies such as the Electronic Industries Association, the Institute of Electrical and Electronic Engineers, Inc., and the American National Standards Institute.

(3) Any measurement procedure acceptable to the Commission may be used to prepare data demonstrating compliance with the requirements of this chapter.

(b) Information submitted pursuant to paragraph (a) of this section shall completely identify the specific standard or measurement procedure used.

(c) In the case of equipment requiring measurement procedures not specified in the references set forth in paragraph (a) (1) and (2) of this section, the applicant shall submit a detailed description of the measurement procedures actually used.

(d) A listing of the test equipment used shall be submitted.

(e) If deemed necessary, the Commission may require additional information concerning the measurement procedures employed in obtaining the data submitted for equipment authorization purposes.

3. Section 2.999 is amended to read as follows:

§ 2.999 Measurement procedure.

The measurement procedures employed shall be in accordance with the requirements set forth in § 2.947. In addition, any specific test requirements set forth in the particular rules governing the equipment for which type acceptance is requested shall apply.

B. In Part 83—Stations on Shipboard in the Maritime Services.

1. Section 83.2(i) is amended to read as follows:

§ 83.2 General.

• • • • • •

(i) *Ship station license.* A license authorizing the operation of one or more of the following: A ship station, a survival craft station associated with a ship, an emergency position indicating radiobeacon (EPIRB) station, a ship radionavigation station, an associated portable

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ship unit or units for use in the vicinity of the ship with which it is associated.

• • • • •

§ 83.3 [Amended]

2. Section 83.3 is amended by deleting paragraph (q).

3. Section 83.4 is amended by adding a new paragraph (w) to read as follows:

§ 83.4 Maritime radiodetermination service.

• • • • •

(w) *Emergency position indicating radiobeacon (EPIRB) station.* A station in the maritime radiolocation service consisting of a transmitter only, the distinctive emissions of which are intended to facilitate search and rescue operations.

4. Section 83.35(a) is amended to read as follows:

§ 83.4 Maritime radiodetermination service.

(a) A formal application for a new ship station license or for a modification of an existing license if required by § 83.33 when accompanied by a request for an interim ship station license, shall be filed in accordance with § 83.36 and presented in person by the applicant or his agent at the nearest field office of the Commission or at the Commission's main office in Washington, D.C.: *Provided*, That, as an alternative procedure, an applicant in Alaska for such a ship station license may submit an application by mail to the Commission's Field Office at Anchorage, Alaska, when accompanied by a written request for an interim ship station license.

• • • • •

5. Section 83.46 is amended by adding a new paragraph (f) to read as follows:

§ 83.46 Application for inspection and certification.

• • • • •

(f) The FCC Forms specified in paragraphs (b) and (d) of this section shall be used to apply for inspection of EPIRB stations on board vessels which are required to be mandatorily fitted by U.S. Coast Guard regulations (Chapter I of Title 46 of the Code of Federal Regulations) when they are additionally subject to (1) either or both the Safety Convention and Part II of Title III of the Communications Act, or (2) to Part III of Title III of the Communications Act.

6. Section 83.68 is amended by modifying the title and paragraph (b) to read as follows:

§ 83.68 Authority for survival craft stations and EPIRB stations.

• • • • •

(b) An EPIRB station may be operated on board a vessel under the following circumstances:

(1) When the vessel is authorized to operate a survival craft station;

(2) When the vessel is required by the U.S. Coast Guard to be equipped with an EPIRB station; or

(3) When the vessel is operated beyond the range of maritime VHF distress coverage of coast stations. Authority to operate an EPIRB station must be applied for as provided in § 83.36(a) herein. Except that, an EPIRB station may be operated, for the remaining period of the license term during which EPIRB installation occurs, on vessels set forth in subsection (b)(2) of this section even if there is no specific authority for EPIRB operation on the specific license.

7. In § 83.132, paragraph (a)(1)(iii) is amended, paragraph (a)(iv) is deleted, and paragraph (a)(5) is added as follows:

§ 83.132 Authorized classes of emission.

(a) • • •

(1) Stations using radiotelegraphy:

• • • • •

(iii) For the frequency 121.5 MHz, A2,

(iv) [Deleted.]

• • • • •

(5) Stations not covered by the above:

(i) For the frequency 121.5 MHz, A9.

(ii) For the frequency 243.0 MHz, A9.

• • • • •

8. Section 83.134(i) is revised to read as follows:

§ 83.134 Transmitter power.

• • • • •

(i) For EPIRB stations operating on the frequencies 121.5 and 243MHz the peak effective radiated power on each frequency, measured during and at the end of 48 hours of continuous operation, and without replacement or recharge of batteries, shall not be less than 75 milliwatts. This specification shall apply to all units whether dry, or immersed for any or all of the forty-eight hour period in fresh or salt-water, as long as the entire antenna extends above the water surface. The peak effective radiated power shall be determined pursuant to the measurement procedure set out in Commission publication Bulletin OEC 45. The required power shall be obtained over a temperature range of −20 to +50 degrees Celsius.

9. Section 83.139(b) is amended and a new paragraph (h) is added to read as follows:

§ 83.139 Acceptability of transmitters for licensing.

• • • • •

(b) Each survival craft station transmitter which has not been type approved pursuant to § 83.469 or § 83.472 shall be type accepted by the Commission.

• • • • •

(h) Each emergency position indicating radiobeacon transmitter authorized for use in an EPIRB station, ship station, or a survival craft station shall be type accepted by the Commission for operation under this part to be acceptable for licensing.

10. Section 83.144 heading and paragraphs (c), (d)(1), (d)(1)(iii), and (h) are amended to read as follows:

§ 83.144 Special requirements for emergency indicating radiobeacon stations, Class B.

• • • • •

(c) The EPIRB shall be provided with a visible and/or aurible indicator which clearly shows that the device is operating. The indicator shall be activated by the transmitter RF output power.

(d) • • •

(1) May be fitted with a manually-activated test switch, (or comparable device) associated test circuit, and output indicator activated by the RF output power which shall, in the test position:

• • • • •

(iii) Reduce radiation to a level not to exceed 25 microvolts per meter at a distance of one hundred fifty (150) feet irrespective of direction.

• • • • •

(h) The EPIRB shall be powered by a battery, whether an original or replacement component, contained within the transmission case or in a battery holder that is securely and rigidly attached to the transmitter case. The useful life of the battery (established by the EPIRB manufacturer) is the length of time, after its date of manufacture, that the battery may be stored under marine environmental conditions without losing its ability to permit the transmitter power requirement prescribed in § 83.134(i) to be met. The date (month and year) of the battery's manufacture shall be indelibly and legibly marked on the battery and the expiration date (month and year) upon which 50 percent of its useful life will have expired shall be indelibly and legibly marked on both the battery and the outside of the transmitter. The electromechanical connectors on and to the battery must be corrosion resistant and positive in action, and may not rely for contact upon spring force alone.

• • • • •

11. Section 83.145 is amended by modifying paragraph (b) and adding a new subparagraph (b)(8) as follows:

§ 83.145 Special requirements for emergency position indicating radiobeacon stations, Class A.

• • • • •

(b) In addition to the requirements applicable to Class B devices a Class A EPIRB must:

• • • • •

(b)(8) Have the batteries replaced after the date specified in § 83.144(h) upon which 50 percent of its useful life has expired or after the transmitter has been used in an emergency situation.

• • • • •

12. Section 83.322(c) is amended as follows:

§ 83.322 Frequencies for use in distress.

• • • • •

(c) The frequency 121.5 MHz (using class A2 emission) is available for assignment to survival craft stations for radiobeacon purposes. The frequency 121.5 MHz (using class A9 emission) is available for assignment to stations for facilitating search and rescue operations. The frequencies 121.5 MHz and 123.1 MHz (class A3 emission) are available for assignment to ship stations for scene of action search and rescue operations between ship and aircraft. The frequency 121.5 MHz will be assigned to ship stations for search and rescue operations only if the frequency 123.1 MHz is also authorized. Communication in support of search and rescue operations is permitted on the frequency 121.5 MHz only when communications on the frequency 123.1 MHz or other VHF frequencies is not practicable. Ships and aircraft engaged in such communications on 121.5 MHz should shift to 123.1 MHz as soon as possible.

• • • • •

13. Section 83.352(b) is amended as follows:

§ 83.352 Frequencies for use in distress.

• • • • •

(b) The frequency 121.5 MHz (using class A2 emission) is available for assignment to survival craft stations for radiobeacon purposes. The frequency 121.5 MHz (using class A9 emission) is available for assignment to stations for facilitating search and rescue operations. The frequencies 121.5 MHz and 123.1 MHz (class A3 emission) are available for assignment to ship stations for scene of action search and rescue operations between ships and aircraft. The frequency 121.5 MHz will be assigned to ship stations for search and rescue operations only if the frequency 123.1 MHz is also authorized. Communication in support of search and rescue operations is permitted on the frequency 121.5 MHz only when communications on the frequency 123.1 MHz or other VHF frequencies is not practicable. Ships and aircraft engaged in such communications on 121.5 MHz should shift to 123.1 MHz as soon as possible.

• • • • •

14. Section 83.401(c) is amended to read as follows:

§ 83.401 Assignable frequencies for direction finding.

• • • • •

(c) In the event of distress, the following frequencies may be used for radio direction-finding for purposes of search and rescue by any authorized ship, survival craft or emergency position indicating radiobeacon stations.

410 kHz	8364 kHz
500 kHz	121.5 MHz
2182 kHz	243.0 MHz

15. A new § 83.406 is added to read as follows:

§ 83.406 Special provisions applicable to emergency position indicating radiobeacons.

(a) The station licensee of each EPIRB station shall provide and keep at the station an installation and maintenance record. Alternatively, such record may be made part of the ships radio-telephone or radiotelegraph station log. Entries in this record shall be made by the licensee or the responsible installation, service or maintenance person concerned in each particular instance, but the station licensee shall have the responsibility for the faithful and accurate making of such entries as are required by this section.

(b) Each entry in this record shall be signed by the responsible person concerned.

(c) The following entries shall be made in this record:

(1) The date and place of initial installation;

(2) The results of equipment tests including those conducted by the U.S. Coast Guard; and

(3) All transmissions shall be recorded when practicable including the date, time, vessel position, and a description of the circumstances requiring such transmission.

[FR Doc.77-26044 Filed 9-7-77;8:45 am]

[Docket No. 20620; RM-2426]

PART 15—RADIO FREQUENCY DEVICES

Operation of Wide-Band Swept RF Equipment Used as Anti-Pilferage Devices; Correction

AGENCY: Federal Communications Commission.

ACTION: Erratum.

SUMMARY: Erratum to § 15.323 of Report and Order in Docket No. 20620, which adopted new provisions under Subpart F of Part 15 of the rules for operation of wide-band Swept RF equipment.

EFFECTIVE DATE: September 12, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Don Olmstead, RF Devices and Experimental Branch, Office of Chief Engineer (202-632-7095).

SUPPLEMENTARY INFORMATION:

Released: September 1, 1977.

In the matter of: the amendment of Part 15 to provide for the operation of wide-band swept RF equipment used as anti-pilferage devices, Docket No. 20620, RM-2426.

The Report and Order in the above entitled matter, released August 5, 1977 and published in the FEDERAL REGISTER on August 8, 1977 (42 FR 39979), on page 39981, is corrected so that the second sentence of § 15.323 reads as follows:

§ 15.323 Measurement requirements for operation under § 15.305(c).

• • • Measurements on frequencies below 25 MHz shall be made using a shielded loop as the pickup device, and measurements on frequencies above 25 MHz shall be made using a tuned dipole or a linearly-polarized broadband dipole as the pickup device. • • •

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-26045 Filed 9-7-77;8:45 am]

[Docket No. 21197]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Presque Isle, Maine; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action assigns Channel 269A as a fourth FM assignment to Presque Isle, Maine, after interest was expressed by Jack Sieber and Notice was given. It also, effective at the end of the current license term, modifies the license of the University of Maine on Station WUPI, from Channel 216 to Channel 212, to avoid Intermediate Frequency interference with the new assignment. Reimbursement was not ordered for the license modification because the University had previously requested modification and because the channel should have been assigned in a prior proceeding, but was not because of a mistake of fact.

EFFECTIVE DATE: April 1, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James J. Gross, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—PROCEEDING TERMINATED

Adopted: August 29, 1977.
Released: September 1, 1977.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Presque Isle, Maine), Docket No. 21197.

1. The Commission has before it responses to its Notice of Proposed Rule Making and Order to Show Cause (hereinafter "Notice")[1], concerning FM assignments at Presque Isle, Maine. The Notice proposed the assignment of Channel 269A as a fourth FM assignment to that community, and ordered the University of Maine to show cause why the license for its Class D educational station at Presque Isle should not be modified from Channel 216 to Channel 212 to avoid Intermediate Frequency (IF) interference with the new assignment.[2]

[1] 42 FR 20152 (pub. April 18, 1977).

[2] Section 73.207 sets forth the mileage separation requirements between various classes of FM stations, including those 53 or 54 channels apart which could cause IF interference problems.

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2. Responses to the Notice were filed by the University and Jack F. Sieber, proponent of the new assignment. The University does not object to license modification, but seeks reimbursement from the new permittee of Channel 269A for the expenses incurred in changing frequencies. This request is in accord with the Notice which stated that the permittee of Channel 269A would be required to provide reimbursement to the University of the costs in connection with the channel change. Sieber opposes the University on its reimbursement request and states that based upon the history of this proceeding the University should bear the costs of modification.

3. The history of this proceeding began on October 3, 1974, when the University filed a petition for rule making with the Commission seeking Channel 291 as a reserved educational noncommercial assignment to Presque Isle, Maine. To comply with the Commission's rules regarding IF interference, this required deletion of unoccupied Channel 237A. The University proposed the assignment of Channel 269A as a substitute for Channel 237A. However, since Channel 269A also posed an IF interference problem to Channel 216, on which the University operates a Class D station, the University filed an application (BPED–1742) to change frequency from Channel 216 to Channel 212. Then, on May 28, 1975, the Commission adopted a Notice of Proposed Rule Making [3] which proposed the assignment of Channel *291 and the deletion of Channel 237A. Noting that the deletion offered the advantage of ending the intermixture of classes of channels, the Commission did not propose a substitute Class A channel. Further, it did indicate that if there were interest in such an assignment, Channel 269A could be substituted.

4. Shortly thereafter, Sieber tendered an application for a construction permit on Channel 237A, but he did not comment directly in the rule making proceeding looking toward the proposed deletion of Channel 237A. His application was found to be defective because the proposed site was short spaced by four miles to co-channel Station CVB at Quebec City, Canada, and it was returned to Sieber by letter of January 14, 1976.

5. Then, on March 5, 1976, the Commission adopted its Report and Order [4] deleting Channel 237A and assigning Channel *291 to Presque Isle. Based on what now appears to be an erroneous assumption that no interest in a Class A channel at Presque Isle had been expressed, the Report and Order found no reason to substitute Channel 269A for Channel 237A. (The Commission's computer data base did not reveal the existence of the Sieber application because it had already been returned.)

6. Since Channel 237A was no longer available, Sieber resubmitted his application on June 23, 1976, this time seeking to use noncommercial educational Channel 201 for commercial purposes. Although such use would be contrary to the Commission's policy and regulations, this expression of interest in an assignment at Presque Isle caused the Commission to issue its latest Notice in this case on April 7, 1977, to consider assigning Channel 269A to that community and to modify the University from Channel 216 to 212. The prior application of the University for that very change in channels had been dismissed at the University's request on March 19, 1976.

7. It is now Sieber's contention that the Commission made a mistake of fact in deleting the Class A assignment at Presque Isle, without substitution, in the face of his expressed interest there. Furthermore, he notes that the University previously applied for modification from Channel 216 to Channel 212 without reimbursement, when circumstances were such that it would have benefitted from the addition of Channel 269A at Presque Isle. Therefore, Sieber argues, the new permittee of Channel 269A should not be expected to pay the cost of reimbursement to the University for making such a change, where the University would have benefited from the change absent a mistake of fact.

8. The Commission's usual policy is to require the party benefitting from a frequency modification to bear the cost of reimbursement of such modification, and such policy was applied to Presque Isle in footnote 3 of the Notice. Nevertheless, Sieber has brought to our attention the unusual nature of this case and the Commission's error in overlooking his expression of interest in the Class A assignment during the proceeding which deleted it. Upon review of the history of the Presque Isle assignment, it is our finding that the University of Maine should not be reimbursed. Significant in this finding is the fact that the University originally proposed substitution of Channel 269A for 237A in order to further its own proposal to obtain Channel *291, and had originally applied to the Commission for the very modification from Channel 216 to Channel 212 for which it now seeks reimbursement. Had all the facts been known, Channel 269A would have been assigned to Presque Isle, Maine, in the first proceeding without reimbursement to the University of Maine. Clearly, it would neither be fair nor equitable to now shift that cost to Sieber given these circumstances.

9. The University of Maine also seeks reimbursement for correction of TV interference problems that might occur with respect to the nearby Canadian satellite Station CHSJ–TV–1 at Bon Accord, New Brunswick. The Commission's engineering study indicates any interference to the TV service would be limited to a small area near the transmitter site and would cause no interference to TV service in Canada. On this basis the Canadian Government has approved of the proposed assignments. Therefore we shall not condition the University's modification on reimbursement for costs that might be associated with any possible interference problems.[5]

10. Sieber has expressed interest in promptly constructing a station on Channel 269A if authorized, and we find that it would be in the public interest to restore a Class A channel to Presque Isle to provide for another commercial FM voice. Sieber states that he is willing to compete with the other Class C stations in that community, and on this basis a waiver of our policy against intermixture is warranted. Presque Isle is large enough to warrant what in effect is only its third assignment.

11. The University has conditioned its consent to license modification upon the Commission's imposing reimbursement conditions. This we shall not do as explained above. Therefore we do not have its acquiescence in the modification. In accordance with *Transcontinent TV Corp. F.C.C.*, 308 F. 2d 339 (D.C. Cir. 1962), we shall make the channel changes at Presque Isle effective on the license expiration date of WUPI, April 1, 1978, or at such earlier date as the University may request, upon ceasing operation on Channel 21.

12. *Accordingly, it is ordered,* That effective April 1, 1978, the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations) is amend to read as follows for Presque Isle, Maine:

City	*Channel No.*
Presque Isle, Maine——	241, 245, 269A, *291

13. *It is further ordered,* That pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by the University of Maine, licensee of Station WUPI, Presque Isle, Maine, is modified effective 3 AM local time April 1, 1978 (concurrently with the expiration of that license, or such earlier date as FM Station WUPI may, upon its request, cease operation on Channel 216) to specify operation on Channel 212 in lieu of Channel 216. The licensee shall inform the Commission in writing by no later than October 15, 1977, of its acceptance of this modification. Station WUPI may continue to operate on Channel 216 subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 212, the licensee of Station WUPI shall submit to the Commission the technical information normally required of an applicant for a construction permit on Channel 212;

(b) At least 10 days prior to commencing operation on Channel 212, the licensee of Station WUPI shall submit the measurement data required of an applicant for an FM broadcast station; and

(c) The licensee of Station WUPI shall not commence operation on Channel 212 without prior Commission authorization.

14. Authority for the actions taken herein is found in sections 4(i), 303 (g) and (r), 307(b), and 316 of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules and regulations.

15. It is directed, That the Secretary of the Commission send a copy of this Report and Order by certified mail, return receipt requested to the University of Maine, Station WUPI, Presque Isle, Maine.

16. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-26048 Filed 9-7-77;8:45 am]

[3] Docket 20498, 40 FR 24753 (pub. June 10, 1975).

[4] Docket 20498, 41 FR 11516 (pub. March 19, 1976).

[5] In any event, acceptance of this problem was inherent in the filing of the University's application to change frequency.

[FCC 77-589]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICE AND ALASKA—PUBLIC FIXED STATIONS

Clarifying the Limitation on Authorization of Frequencies Below 4000 kHz to Public Coast Stations Serving Lakes or Rivers

AGENCY: Federal Communications Commission.

ACTION: Rule amendment.

SUMMARY: This amendment of the rules clarifies the limitation on authorization of frequencies below 4000 kHz to public coast stations which serve only lakes or rivers.

EFFECTIVE DATE: September 12, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert P. De Young, Safety and Special Radio Services Bureau (202–632–7197).

SUPPLEMENTARY INFORMATION:

ORDER

Adopted: August 24, 1977.
Released: September 1, 1977.

Amendment of § 81.304(f)(2) of the rules to clarify the limitation on the authorization of frequencies below 4000 kHz to public coast stations serving lakes or rivers.

1. Mobile Marine Radio, Inc. (hereafter sometimes referred to as "MMR"), the licensee of Public Coast I–ABL Station WLO in Mobile, Ala., has requested the Commission to interpret or otherwise clarify the meaning of § 81.304(f)(2) of its rules.[1]

2. MMR is licensed to and does provide, inter alia, radiotelephony service in the 2, 4, 8, 13, 16, and 22 MHz bands and VHF–FM telephony service. MMR serves vessels in the Gulf of Mexico, the Caribbean, the Atlantic Ocean, and on the Alabama inland river system. Because of the service it provides to the Alabama inland river system, MMR points out that a strict interpretation of the rule would require it to delete its 2 MHz frequency, 2572 kHz, as of January 1, 1977. Such a result was not foreseen nor intended by the Commission in any of the Dockets which resulted in the adoption of § 81.304(f).[2]

3. The intent of the Commission in adopting the restriction on public coast stations serving lakes and rivers was to ensure that frequencies with longer range potential would not be inefficiently used. The intent of the Commission can be clarified by adding the word "only" to the phrases "lakes and rivers" as it appears in the subparagraph.

4. In view of the above: *It is ordered,* That § 81.304(f)(2) of the rules is amended in accordance below, effective September 12, 1977.

5. Because this amendment is consistent with the Commission's reasons for adopting the rule, because it is intended merely to clarify the rule, and because the procedural and substantive rights of no Commission licensee will be affected by this order, the notice and public procedures of 5 U.S.C. 553 are impracticable and unnecessary. Authority for this action is contained in § 1.412(c) of the Commission's rules.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In Part 81—Stations on Land in the Maritime Services and Alaska—Public Fixed Stations.

In § 81.304, paragraph (f)(2) is amended to read as follows:

§ 81.304 Frequencies available.

* * * * * * *

(f) * * *

(2) Except in the Mississippi River System and Great Lakes, public coast stations serving only lakes or rivers will not be authorized to employ frequencies below 4000 kHz.

* * * * * * *

[FR Doc.77-26046 Filed 9-7-77;8:45 am]

[1] Section 81.304(f) provides:

(f) Except for safety communications, after January 1, 1977:

(1) Radiotelephony frequencies below 4000 kHz shall not be used by a public coast station for communication with a vessel which is within the VHF service range of that public coast station; and

(2) Except in the Mississippi River System and Great Lakes, public coast stations serving lakes or rivers will not be authorized to employ frequencies below 4000 kHz.

[2] See Docket No. 18307, 35 FR 10, 212 (1970), which pertained to the 48 contiguous states plus Hawaii, Puerto Rico, and the Island Territories; Docket No. 18633, 36 FR 12, 502 (1971), which pertained to the Great Lakes; and Docket No. 18632, FR 20, 949 (1971), which pertained to Alaska.

[FCC 77-591]

PART 97—AMATEUR RADIO SERVICE

Deletion of "Grandfather" Privilege to Upgrade to Amateur Extra Class

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: This will delete § 97.25(c) of the Commission's rules. § 97.25(c) gave all amateurs who are in the General or Advanced Class and who were amateurs prior to April, 1917 the privilege to apply for the Amateur Extra Class without taking any additional tests. This is a little used section and in an effort to deregulate the amateur rules, it is being eliminated, subject to a substantial "last call" period.

EFFECTIVE DATE: March 1, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert Cassler, Personal Radio Division, Safety and Special Radio Services Bureau, 202–634–6620.

ORDER

ADOPTED: August 24, 1977.

RELEASED: September 1, 1977.

In the matter of Deletion of § 97.25(c) of the Amateur rules—"grandfather" privilege to upgrade to Amateur Extra Class.

1. In an effort to eliminate those rules and regulations which are not essential to the proper administration of the Amateur Radio Services, the Commission has under consideration § 97.25(c) of its rules. Section 97.25(c) is a "grandfather" clause which allows any amateur who was licensed prior to April, 1917, and is currently an amateur operator holding a General or Advanced Class license, the right to apply for the Amateur Extra Class license without further examination.

2. This section of the amateur rules has not been invoked by any amateur for a considerable time. Simple arithmetic shows that individuals who might qualify under this provision would typically be at least 75–80 years of age. We believe it reasonable to assume that virtually everyone wishing to resume amateur activity has already done so in the intervening 60 years from 1917 to the present. By this Order, the Commission deletes § 97.25(c). The effective date of this deletion will be March 1, 1978, to give a last call to all amateurs who might wish to avail themselves of § 97.25(c).

3. Inasmuch as this deletion is basically a minor amendment to Part 97 of the Commission's rules, the Commission, for good cause, as stated herein, finds that the notice and public procedures provisions of the Administrative Procedures Act, 5 U.S.C. 553, are unnecessary. Authority for the amendment of this rule appears in sections 4(i) and 303 of the Communications Act of 1934, as amended.

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4. *Accordingly, it is ordered*, That Part 97 of the Commission's rules is amended, effective March 1, 1978, as set forth below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

§ 97.25 [Amended]

1. In § 97.25, paragraph (c) is deleted and paragraphs (d) and (e) are redesignated (c) and (d), respectively.

[FR Doc.77-26047 Filed 9-7-77;8:45 am]

[FCC 77-590]

TRANSMITTER IDENTIFICATION CARD

Deregulation of Rules Concerning Deletion of Form 452–C

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: The Commission is simplifying the station license posting requirements by the elimination of the Transmitter Identification Card (FCC Form 452–C). This action is being taken under the Commission's policy of simplification and deregulation of its rules.

EFFECTIVE DATE: September 12, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Bruce A. Franca, Safety and Special Radio Services Bureau, 202–632–7197.

SUPPLEMENTARY INFORMATION:

ORDER

Adopted: August 24, 1977.
Released: September 1, 1977.

In the matter of deregulation of Parts 81, 83 and 87 of the Commission's rules; deletion of Form 452–C.

1. It has been the Commission's experience that requiring the posting of a Transmitter Identification Card (FCC Form 452–C) has been of little enforcement value and any marginal value the requirement might have is outweighed by the burden of the procedure to the public. Therefore, we are discontinuing the use of Form 452–C in the Aviation and Maritime Services. Licensees are reminded, however, that the rules governing the posting of station licenses and photocopies remain in effect.

2. This action is similar to one taken by the Personal Radio Services in an Order released on February 18, 1977 (FCC 77–108).

3. Inasmuch as these amendments involve the discontinuance of a Commission form, and are basically minor amendments, the Commission, for good cause, as stated herein, finds that the notice and public procedures provisions of the Administrative Procedure Act, 5 U.S.C. 553, are unnecessary. Further, inasmuch as the amendments relieve a restriction, the effective date provisions of the Administrative Procedure Act are not applicable. Authority for the amendment of these rules appears in section 4(i) and 303 of the Communications Act of 1934, as amended.

4. *Accordingly, it is ordered*, That Parts 81, 83 and 87 of the Commission's rules are amended, effective September 12, 1977, as set forth below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Parts 81, 83 and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

In § 81.102, the headnote and text are amended as follows:

§ 81.102 Posting station license.

(a) The current authorization or a clearly legible photocopy thereof, for each station (other than a marine-utility station) at a permanent location, or at a single temporary location, shall be posted in a conspicuous place at the principal control point of the station, and a photocopy of such authorization shall be posted at all other control points listed on the authorization. If a photocopy of the authorization is posted at the principal control point, the location of the original shall be stated on that photocopy.

(b) The current station authorization or a clearly legible photocopy thereof, for a single marine-utility station and for each single station of any other class subject to this part, which is of portable nature and is authorized for use and operation at two or more temporary locations, shall be posted, either at the control point of the station, in a conspicuous place or shall be affixed, readily visible for inspection, to the transmitting apparatus or, if the transmitting apparatus is contained in a cabinet or other structure, affixed, readily visible for inspection, to such cabinet or structure. If a photocopy of the authorization is posted, the location of the original shall be stated on the photocopy.

(c) A current license authorizing a plurality of marine-utility stations, pursuant to § 81.68 shall be retained by the licensee at any location where it is readily accessible for inspection.

(d) A current land station license authorizing one or more shipyard mobile stations, pursuant to § 81.22(e), or a clearly legible photocopy thereof, shall be posted in a conspicuous place at the principal control point of the land station; and a photocopy of such license shall be posted at all other control points listed on the license. If a photocopy of the license is posted at the principal control point, the location of the original shall be stated on that photocopy.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

In § 83.102, the headnote, paragraphs (a) and (b) are amended, and paragraph (d) as amended is redesignated (c) to read as follows:

§ 83.102 Posting station license.

(a) Except for certain stations to which paragraph (b) of this section is applicable, the original license for each station on board ship subject to this part shall be conspicuously posted at the principal location on board at which each such station is operated: *Provided*, That when a ship is fitted with two or more stations authorized by a single license document:

(1) The original license shall be conspicuously posted at the principal operating location of the compulsorily-provided station.

(2) If no station is compulsorily-provided, the original license shall be conspicuously posted at the principal operating location of any station authorized for telephony.

(b) A current license authorizing a plurality of stations, or a station of a portable nature, where posting of a station license is impracticable, shall be retained by the licensee at any location where it is readily accessible for inspection.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, notification by telegram or by letter, in each case by this Secretary of the Commission, stating that the Commission has granted an appropriate station authorization, may be posted in lieu of such authorization if the latter has not yet been received by the station licensee or permittee: *Provided*, That as the result of an official inspection of the station by an authorized representative of the Commission the posting of such notification may not be accepted in lieu of the formal station authorization until additional information pertaining thereto, as may be deemed necessary by that representative for purposes of official inspection, has been obtained from the Commission at Washington, D.C.

PART 87—AVIATION SERVICES

In § 87.95, the headnote and paragraph (c) is amended to read as follows:

§ 87.95 Posting station license.

(a) The current authorization, or a clearly legible photocopy thereof, for each station at a fixed location shall be prominently displayed at the principal control point of the transmitter or transmitters: *Provided, however*, That with respect to radio-navigation land test stations, the procedures set forth in paragraph (c) of this section may be followed. If a photocopy of the authorization is posted, the location of the original shall be stated on that photocopy.

(b) The current authorization for an aircraft radio station license shall be posted prominently in the aircraft or shall be kept with the aircraft registration certificate. In the case of aircraft radio stations licensed by means of a single authorization for the operation of all fleet aircraft, the original authorization, or a photocopy thereof, shall be posted prominently in the aircraft or shall be kept with the aircraft registration certificate.

(c) The current authorization for each land mobile station shall be retained as a permanent part of the station records, but need not be posted.

(d) In case of Civil Air Patrol mobile stations licensed by means of a single authorization for all the fleet, the original authorization or photocopy thereof, shall be posted prominently in the aircraft or shall be kept with the aircraft registration certificate, or in the case of ground mobile stations posted in accordance with paragraph (c) of this section.

[FR Doc.77-26126 Filed 9-7-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. 284]

PART 1038—PERFORMANCE STANDARDS FOR THE TRANSPORTATION OF PERISHABLE COMMODITIES

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: This document prescribes new rules, and adopts new procedures, governing the transportation of perishable commodities by railroad. The new procedures will require the railroads to publish in their tariffs schedules governing the transportation of perishables between key producing and consuming points. The performance standards require the carrier to complete certain designated functions within a maximum of 24 hours. The purpose of the new rules and procedures is to facilitate the prompt and reliable transportation of perishable commodities by railroad.

EFFECTIVE DATE: November 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director, Section of Rates, Interstate Commerce Commission, Washington, D.C. 20423 (202–275–7693).

SUPPLEMENTARY INFORMATION: The proceeding emanated from Ex Parte No. 263, *Loss and Damage Claims*, in which shipper dissatisfaction with the transportation of perishables became evident. The purpose of this proceeding is to determine the cause of delays and the impact of such delays on the Nation's commerce and the consumer, and to take action necessary to insure greater certainty and service adequacy in the movement of perishables.

The regulations originally proposed would require perishable commodities to be transported with "reasonable dispatch." "Reasonable dispatch" was defined as the performance of transportation within the time published by a carrier in its schedules, or during the time agreed upon by the carrier and shipper as shown on the bill of lading.

After receiving numerous comments concerning the proposed regulations, the Commission decided not to impose specific time limits on the overall performance of transportation, but rather to adopt "reasonable standards of operating efficiency." These performance standards established guidelines for the performance of certain functions within specified times. The adoption of the performance standards was based on three studies which indicated that most railroad delays were encountered not in line-haul service, but in yards, terminals, and interchange points. As these delays are not experienced in motor carrier service, and as motor carrier service was generally felt to be less troublesome than rail, the regulations were applied only to railroads.

After several petitions for consideration were filed, by both shipper and carrier interests, the Commission convened an informal conference on December 1, 1976. The purpose of the conference was to identify problems and possible solutions in the transportation of perishables.

During the course of the conference, it became apparent that shippers were concerned more with overall transit time than with the time consumed by certain specific functions. It also became apparent that they were concerned primarily with movements between key producing and consuming points. And the railroads expressed concern about being held to their published schedules for every conceivable movement, no matter how small.

Therefore, the Commission has determined that the most practical solution, which will take into account the concerns of both shippers and carriers, is to require transportation between key points to be performed within scheduled times, and to subject all other movements of perishables to a modified version of the performance standards. The proceeding has been left open so that shippers and carriers may determine key points and reasonable schedules.

H. G. HOMME, JR.,
Acting Secretary.

Chapter X of Title 49 of the Code of Federal Regulations is modified and supplemented by adding part 1038, Performance Standards for the Transportation of Perishable Commodities, as set forth below.

§ 1038.1 Definitions.

As used herein, the term perishable commodity means any edible commodity the transportation of which is subject to rules, regulations, or charges for perishable protective service and which requires the transporting carrier expeditiously to transport the same and to produce and maintain as needed throughout transportation a controlled atmosphere for protection against heat or cold as one of the essential parts of the service in order to retard deterioration thereof prior to arrival at destination.

§ 1038.2 Performance Standards for Perishable Service.

(a) Performance of transportation within the standard for perishable service consists of the completion by the carrier within the usual and customary period but not in excess of twenty-four (24) hours of each of the following functions, unless subject to exceptions authorized in paragraph (b) below

(1) Removal of a car from the track serving the shipper and forwarding from origin in linehaul service or delivery to a connection at origin after loading is completed and instructions sufficient to forwarding are furnished the carrier.

(2) Forwarding of a car from any yard or interchange connection between origin and destination.

(3) Delivery of a car to a connecting line after arrival at an interchange point.

(4) Actual or constructive placement of a car after arrival at destination when on the line of the carrier directly serving the consignee.

(5) Issuance of a notice of arrival or constructive placement as required by the applicable tariffs on a car held for orders, a car placed on a public delivery track, or a car held subject to constructive placement.

(6) Completion of light repairs to a car shall be accomplished within twenty-four (24) hours of receipt. Light repairs are those which can be accomplished in twenty (20) man-hours or less.

(b) *Exceptions.*—(1) At points at which less than daily train, switching, or repair service is provided, including points at which such service is provided, on Saturdays, Sundays, or holidays named in the applicable tariffs, compliance with the standards required by these regulations shall be deemed to have been accomplished by removal of cars, forwarding, interchange, placement, completion of light repairs, or giving of arrival, placement, or constructive placement notice, on the next day on which such services are performed.

(2) Exceptions may be authorized by the Railroad Service Board and become effective on the date such exceptions are published in the Federal Register. Notice of such exceptions must be posted in the offices of the carrier from which arrival notices are sent or given.

§ 1038.3 Duties Imposed by Car Service Rules Not Affected.

The provisions of this shall not be construed to relieve any railroad of the duties imposed by the Commission's car service rules, 49 CFR part 1033 (specifically, the provisions of §§ 1033.7, 1033.17, and 1033.18), nor to relieve any railroad of the duty to observe all requirements of law and the regulations prescribed by the Commission.

§ 1038.4 Defenses.

Nothing in these regulations should be construed as limiting or denying a railroad the defense of *force majeure* as construed by the courts.

(49 U.S.C. Sec. 1(4), 1(6), 1(11), 1(13), 1(14)(a), and 1(15) in part I of the ICC Act, and cognate Sections in parts II, III, and IV of that Statute, and the National Transportation Policy)

[FR Doc.77-26153 Filed 9-7-77;8:45 am]

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SUBTITLE B—OTHER REGULATIONS RELATING TO TRANSPORTATION

CHAPTER X—INTERSTATE COMMERCE COMMISSION

PART 1047—EXEMPTIONS

AGENCY: Interstate Commerce Commission.

ACTION: Administrative rule change.

SUMMARY: This administrative rule change will: (1) revise § 1047.25 to reflect Administrative Ruling 119, which lists the status of various commodities under the exemption provided by Section 203(b)(6) of the Interstate Commerce Act; and (2) insert clarifying subheadings between certain sections within Part 1047. These changes are intended to reflect changes in the exemption which have rendered present Part 1047.25 outdated, and to improve the sub-classification system in Part 1047.

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert S. Turkington, Assistant Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423 (202–275–7849).

Accordingly, 49 CFR Part 1047 is amended to read as follows:

1. By revising § 1047.25 to read as follows:

PARTIAL EXEMPTION FOR AGRICULTURAL COMMODITIES, LIVESTOCK AND FISH

§ 1047.25 Status of selected agricultural commodities, livestock and fish under 49 U.S.C. 303(b)(6) and Administrative Ruling No. 119.

Section 203(b)(6) of the Interstate Commerce Act (49 U.S.C. 303(b)(6)), as amended by the Transportation Act of 1958, provides an exemption for motor vehicles used in carrying ordinary livestock, fish, and unmanufactured agricultural commodities. Over the years, there have been numerous Bureau opinions, Commission decisions, and judicial holdings, as well as specific statutory language, defining certain commodities as falling either within or without the exemption. Administrative Ruling 119, which is reproduced below, is the most current compilation:

ADMINISTRATIVE RULING NO. 119, REVISED OCTOBER 1, 1974, SUPPLEMENTS RULINGS NOS. 107 AND 110, SECTION 203(b)(6)

INTERSTATE COMMERCE COMMISSION, BUREAU OF OPERATIONS

The purpose of this ruling is to provide a list showing the status of various commodities under the exemption in Section 203(b)(6) of the Interstate Commerce Act, as amended by the Transportation Act of 1958. The Bureau opinions in this ruling are tentative and informal and made in the absence of pertinent formal decisions by the Commission or the courts.

This composite commodity list is made up from the following sources:

1. Administrative Ruling No. 107 (49 CFR 1047.25) which the Transportation Act of 1958 incorporated into Section 203(b)(6) of the Act, but with certain changes. Listings based on Ruling No. 107 carry the identification: "Law".

2. Administrative Ruling No. 110 which explained the changes in Ruling No. 107 made by the Transportation Act of 1958. Listings taken from Ruling No. 110 carry the identification: "Law-Ruling 110".

3. Commission and court decisions since 1958. These are identified by the designation: "Case No. ———". The title and citation of the decision is shown in the Case List which follows the Commodity List.

4. Informal opinions given by the Bureau of Operations and its predecessor Bureaus in response to inquiries received since 1958. These are identified by the word: "Bureau".

A commodity listed as "Exempt" loses its exempt status whenever it is transported in a vehicle which at the same time is transporting for compensation commodities not within the exemption.

The fact that a particular commodity does not appear in the list does not mean that it is either within or not within the exemption. By analogy it may be possible to form a conclusion as to the status of commodities similar to those listed.

The safety and hours of service regulations of the Federal Highway Administration of the Department of Transportation apply generally to operations conducted under this exemption.

R. D. PFAHLER,
Director.

SECTION 205(b)(6) OF THE INTERSTATE COMMERCE ACT AS AMENDED BY THE TRANSPORTATION ACT OF 1958

Nothing in this part, except the provisions of Section 204 relative to qualifications and maximum hours of service of employees and safety of operations or standards of equipment shall be construed to include * * * (6) motor vehicles used in carrying property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof), if such motor vehicles are not used in carrying any other property, or passengers, for compensation: *Provided*, That the words "property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural commodities (not including manufactured products thereof)" as used herein shall include property shown as "Exempt" in the "Commodity List" incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as "Not Exempt": *Provided further, however*, that notwithstanding the preceding proviso the words "property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" shall not be deemed to include frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, and wool imported from any foreign country, wool tops and noils, or wool waste (carded, spun, woven, or knitted), and shall be deemed to include cooked or uncooked (including breaded) fish or shell fish when frozen or fresh (but not including fish and shell fish which have been treated for preserving, such as canned, smoked, pickled, spiced, corned, or kippered products);

COMPOSITE COMMODITY LIST OF ADMINISTRATIVE RULING NO. 119

Additives. Ruling No. 107 reflects the policy of allowing minor amounts of additives, since such things as vitamins in milk, seasoning or sweetening in foods, coated Christmas trees, etc. are shown as exempt. Informal rule of thumb is that no more than 5 percent non-exempt additives are allowable—Bureau

Advertising matter, in reasonable amounts, transported along with exempt commodities to which it relates, not considered as affecting the exempt nature of shipment—Bureau

Advertising matter, comprising 20–30 cases transported with 500 cases of tulip bulbs—Exempt—Bureau

Alfalfa, see Feeds

Animal fats—Not exempt—Law

Animals, see Livestock

Bagged commodities—Placing exempt commodities in bags does not affect their exempt status—Law

Bagging, scrap (worn jute bagging)—Not exempt—Bureau

Bananas—Not exempt—Law-Ruling 110

Bark, see Forest Products

Barley, see Grains

Bees—Exempt—Law

Beeswax, crude, in cakes and slabs—Exempt—Law

Beet pulp, see Feeds

Beets, sugar—Exempt—Law

Berries, See Fruits

Birds:
- Canaries and parakeets—Not exempt—Bureau
- Edible, see separate heading: Poultry
- Feathers, see separate heading: Feathers
- Pigeons, racing—Not exempt—Law
- Birdseed, see separate heading: Feeds

Bones, animal—Not exempt—Bureau

Bran, see Feeds

Broom corn, threshed and baled—Exempt—Law

Bulbs, see Horticultural Commodities

Butter—Not exempt—Law

Buttermilk—Exempt—Law

Candied apples (fresh apples on a stick dipped in taffy)—Not exempt—Bureau

Casein, derived from milk—Not exempt—Case No. 1

Canned fruits and vegetables—Not exempt—Law

Carnauba wax as imported in slabs or chunks—Not exempt—Law

Castor Beans—Exempt—Law

Castor pomace (cake remaining after extraction of oil from castor beans)—Not exempt—Bureau

Cattle, live, see Livestock

Cattle, slaughtered—Not exempt—Law

Charcoal—Not exempt—Law

Cheese—Not exempt—Law

Cheese, cottage—Not exempt—Law

Cheese, cottage, curd, in bulk—Not exempt—Bureau

Cheese, cream—Not exempt—Law

Chicle (a gum obtained from latex of trees) in form normally shipped, i.e. purified and neutralized—Not exempt—Bureau

Christmas trees, plain, sprayed, or coated—Exempt—Law

Cider, apple, and cider vinegar—Not exempt—Bureau

Citrus fruits, see Fruits

Clay—Not exempt—Bureau

Coal—Not exempt—Law

Cocoa bean shells, in any form—Not exempt—Bureau

Cocoa beans—Not exempt—Law-Ruling 110

Coconut, see Nuts

Coffee beans—Not exempt—Law-Ruling 110

Coffee, roasted—Not exempt—Law

Coffee, instant—Not exempt—Law

Compost, composed of manure and straw sweepings, dried, disintegrated, and decomposed—Exempt—Bureau

Compost, mixture of manure, straw or rice hulls, but not sawdust—Exempt—Bureau

Compost, product, a mixture of processed garbage and sewage sludge—Not Exempt—Bureau

Compost, mixture of manure and sweepings with water and bacterial agents to hasten fermentation, used as a growth medium for mushrooms—Not exempt—Bureau

Containers, crates, and boxes which have been used in the movement of exempt commodities, which have been reconditioned and sold from stock to new purchasers—Not exempt—Bureau

Containers, crates, and boxes which have been used in the movement of exempt commodities and are being returned for reuse—Exempt—Law

Containers, new, for use in shipping exempt commodities—Not exempt—Law

Copra meal—Not exempt—Law

Corn, See Grain

Corn cobs—Exempt—Law

Corn cobs, ground—Exempt—Law

Corn fodder—Exempt—Law

Cottage cheese, see Cheese

Cotton, carded but not spun, woven or knitted—Exempt—Law

Cotton felt, used in mattresses, etc. consisting of scraps of raw cotton, blended and carded, but not otherwise processed—Exempt—Bureau

Cotton, ginned or unginned—Exempt—Law

Cotton lap (baled cotton, blended, cleaned and formed into rolls preparatory to milling)—Exempt—Bureau

Cotton linters—Exempt—Law

Cotton motes (fibers removed from cotton seed after ginning and removal of linters)—Exempt—Bureau

Cotton waste consisting of bits of string, thread, and yarn—Not exempt—Bureau

Cotton waste consisting of scraps of cotton fibre not spun, woven, or knitted—Exempt—Law

Cotton yarn—Not exempt—Law

Cottonseed, whole—Exempt—Law

Cottonseed cake—Not exempt—Law

Cottonseed, dehulled—Exempt—Law

Cottonseed hulls—Exempt—Law

Cottonseed meal—Not exempt—Law

Crates, see Containers

Cream, see Milk

Cream cheese, see Cheese

Dehydrated, see commodity name: Fruits, Vegetables, Eggs, etc.

Diatomaceous earth—Not exempt—Law

Dinners, frozen—Not exempt—Law (But see next two entries)

Dinners, chicken, cooked and frozen—Exempt—Bureau (Based on Case No. 26)

Dinners, seafood, frozen—Exempt—Law—Ruling 110

Dried, see commodity name: Fruits, Vegetables, Eggs, etc.

Eggs:
- Albumen, fresh, liquid—Exempt—Law
- Albumen, fresh, liquid, pasteurized—Exempt—Bureau
- Dried—Exempt—Law
- Frozen—Exempt—Law
- Hard boiled, pickled, packed in vinegar and water with spices—Not exempt—Bureau
- In shell—Exempt—Law
- Liquid, whole or separated—Exempt—Law
- Mixture of 90% powdered and 10% syrup and salt, dried—Not exempt—Bureau
- Oiled—Exempt—Law
- Omelet mix consisting of fresh broken eggs and milk with minute amounts of salt and pepper and seasoning, packaged and frozen—Exempt—Bureau
- Powder, dried—Exempt—Law
- Shelled—Exempt—Law
- Shells, pulverized, for medical use (designated "pure calcium carbonate")—Not exempt—Bureau
- Whites, frozen—Exempt—Bureau
- Whole, with added yolks, dried—Exempt—Bureau
- Whole, frozen with added yolks—Exempt—
- Whole, frozen, standardized by subtraction of whites—Exempt—Bureau
- Yolks, dried—Exempt—Law
- Yolks, fresh, liquid—Exempt—Law
- Yolks, frozen—Exempt—Bureau
- Yolks, with 10% salt or sugar added—Not exempt—Bureau

Fats, animal—Not exempt—Law

Feathers—Exempt—Law

Feathers, cleaned and ground, not further processed, nothing added (sometimes referred to as "feather meal")—Exempt—Bureau

Feathers, ground, combined with dehydrated poultry offal—Exempt—Bureau

Feeds:
- Alfalfa, dried, chopped, and pressed into cubes and wafers by machine, after dampening with water—Exempt—Bureau
- Alfalfa, dried, etc., as above, but by a steam process—Not exempt—Bureau
- Alfalfa pellets—Not exempt—Law
- Beet pellets—Not exempt—Bureau
- Beet pulp—Not exempt—Law
- Bird gravel—Not exempt—Bureau
- Bird seed, containing milo, millet, wheat chaff, and peanut heart—Exempt—Bureau
- Bird seed bell, seed (millet, wheat, milo, and sunflower seed) mixed with an adhesive, such as corn syrup or wood glue, fitted with a wire hanger, and molded into a bell shape, for feeding wild birds—Exempt—Case No. 19
- Bran ahorts—Not exempt—Law
- Corn gluten—Not exempt—Law
- Cottonseed products, see separate heading: Cottonseed
- Distilled corn grain residues, with or without solubles added—Not exempt—Law
- Formulas composed of hominy feed, beet pulp, corn gluten, wheat middlings, cane molasses, and minerals—Not exempt—Bureau
- Hamster and gerbil food with 9 percent soy bean and alfalfa meal added—Not exempt—Bureau
- Hominy feed—Not exempt—Law
- Meal, see separate heading: Meal
- Middlings—Not exempt—Law
- Oat hulls, ground—Exempt—Law
- Parrot food, mixture of exempt commodities—Exempt—Bureau
- Pelletized ground refuse screenings—Not exempt—Law
- Rice bran—Exempt—Law
- Rice hulls, anhydrous ammonia added providing a 10 percent protein source as feed—Not exempt—Bureau
- Rice hulls, ground or unground, nothing added—Exempt—Bureau
- Rice mill feed pellets—Status pending—Case No. 32
- Screenings, feed—Exempt—Law
- Soya bean husks—Exempt—Case No. 16
- Wheat bran—Not exempt—Law
- Wheat mixed feed (mixture of coarse outer covering of wheat kernel, wheat germ, wheat flour, and offal of the tail of the mill)—Not exempt—Case No. 2

Fertilizer, commercial—Not exempt—Law

Fibers:
- Abaca (manila hemp), piassava, ixtle, rattan, and palm and grass fibers—Exempt—Case No. 3
- Clippings resulting from rope making—Not exempt—Bureau
- Coir yarn, made from coconut fibre, is manufactured by spinning—Not exempt—Case No. 3

Flax—Exempt—Law

Hemp—Not exempt—Law-Ruling 110

"Hemp" specifically made not exempt by amendment of Section 203(b)(6), means true hemp (cannabis sativa) or its fiber, and does not embrace similar plants or plant fibers commonly referred to by name—Case No. 3

Jute in bales—Exempt—Law

Jute fabric, product of a textile operation—Not exempt—Bureau

Kapok, in loose bales, not processed beyond separation of fibers from seeds—Exempt—Bureau

Palmleaf, not processed beyond separation from leaf, cleaning, combing, drying and baling—Exempt—Bureau

Ramie—Exempt—Law

Ramie Tops, consisting of long fibers of the ramie plant—Exempt—Bureau

Rayon or synthetic fibers, or mixtures thereof (waste materials or otherwise)—Not exempt—Bureau

Sisal, not being a true hemp—Exempt—See explanation under "Hemp" above

Fish (including shell fish):
- *General.* Frozen, quick frozen, and unfrozen fish and shell fish in the various forms in which it is shipped, such as live fish, fish in the round, beheaded, and gutted fish, filetted fish, beheaded shrimp, and oysters, clams, crabs, and lobsters, with or without shells, including crab meat and lobster meat—Exempt—Law
- Breaded, cooked, or uncooked, frozen or fresh—Exempt—Law-Ruling 110; Case No. 24
- Cakes, codfish, cooked or uncooked, frozen or fresh—Exempt—Law-Ruling 110; Case No. 24
- Canned, as a treatment for preserving—Not exempt—Ruling 110; Case No. 24
- Clam juice or broth, cooked or uncooked, frozen or fresh—Exempt—Ruling 110; Case No. 24
- Condensed fish solubles (obtained by condensing the aqueous portion of the residue of pressing oil from fish)—Not exempt—Bureau
- Cooked or partially cooked fish or shellfish, frozen or fresh—Exempt—Law-Ruling 110; Case No. 24
- Crab offal (residue after extraction of meat from crabs including shells, dried and ground)—Exempt—Bureau
- Crabmeat, pasteurized, placed in hermetically sealed containers for purpose of preservation—Not exempt—Bureau
- Crabmeat, pasteurized, sealed for purposes of cleanliness only, preservation accomplished by refrigeration—Exempt—Bureau
- Croquettes, salmon, cooked or uncooked, frozen or fresh—Exempt—Law-Ruling 110; Case No. 24
- Deviled crabs, clams, or lobsters, cooked or uncooked, frozen or fresh—Exempt—Law-Ruling 110; Case No. 24
- Dinners, cooked or uncooked, frozen or fresh—Exempt—Law-Ruling 110; Case No. 24
- Fish, processed by cleaning, scaling, and adding a small amount of salt—Exempt—Case No. 4
- Fish, ground, frozen into blocks—Exempt—Bureau
- Fish luncheon meat of smoked ground fish formed into loaves—Not exempt—Bureau
- Fish, lightly salted or spiced, requiring refrigeration to retard deterioration—Exempt—Bureau
- Fried fish fillets, oysters, or scallops, frozen or fresh—Exempt—Law-Ruling 110; Case No. 24
- Frogs, live or dressed—Exempt—Law
- Frogs and turtles, placed in formaldehyde to prevent or retard deterioration during transportation (but not as a preservative as that term is normally used) and used in substantially the same manner as live specimens—Exempt—Bureau
- Frozen, see General above, and individual listings

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Hermetically sealed in containers as a treatment for preserving—Not exempt—Law
Hermetically sealed in containers for cleanliness only, preservation attained by refrigeration—Exempt—Law
Meal—Not exempt—Law
Offal (inedible portions of fish not further processed)—Exempt—Law
Oil from fishes—Not exempt—Law
Preserved, or treated for preserving, such as smoked, salted, pickled, spiced, corned, or kippered—Not exempt—Law
Residue remaining after extraction of oil from fish—Not exempt—Bureau
Salmon eggs, brined and packed in salt and formaldehyde solution in vacuum sealed jars—Not exempt—Bureau
Salmon eggs, frozen, not pickled or brined or otherwise treated for preservation—Exempt—Bureau
Salted, as a treatment for preserving—Not Exempt—Law
Scraps, frozen, granulated, and pressed into blocks, for cat food—Exempt—Bureau
Sea lions and walrus—Not exempt—Bureau
Seafood casseroles and dinners of which fish or shellfish is the principal ingredient—Exempt—Bureau
Seal blubber—Not exempt—Bureau
Seal skins—Not exempt—Bureau
Shells of sea creatures, other than those mixed with other refuse or "offal"—Not exempt—Bureau
Shells, oyster, moving to market for use in button making—Not exempt—Law
Shells, oyster, ground—Not exempt—Case No. 28
Shrimp cocktail (shrimp cooked and placed in glass jars with special sauce and seasoning and kept under refrigeration)—Exempt—Bureau
Soup or chowder containing a relatively small proportion of fish or shellfish in proportion to other ingredients which are not within the exemption—Not exempt—Bureau
Stew, consisting of raw oysters or clams, milk and seasoning, frozen but uncooked—Exempt—Law
Sticks, cooked or uncooked, frozen or fresh—Exempt—Law-Ruling 110
Sticks, frozen, cooked, breaded—Exempt—Case No. 5
Tuna Pies, frozen—Exempt—Bureau
Turtles, sea or fresh water—Exempt—Law
Whale meat, fresh—Exempt—Law
Flagstone—Not exempt—Law
Flax fiber, see Fibers
Flaxseed, whole—Exempt—Law
Flaxseed meal—Not exempt—Law
Flies, live sterile screwworm, used in screwworm eradication program—Exempt—Bureau
Flour—Not exempt—Law:
  Corn flour, extruded and hammered to a flour consistency—Not exempt—Bureau
  Corn meal flour—Not exempt—Bureau
  Mustard flour, consisting of seeds ground or milled and bolted—Not exempt—Bureau
  Tapioca flour, produced in same manner as wheat flour—Not exempt—Bureau
Flowers and flower plants, see Horticultural commodities
Fodder, corn and sorghum—Exempt—Law
Forage, see Hay and Feeds
Forest products:
  Bark—Exempt—Law
  Bark—Boiled to clean and soften—Exempt—Law
  Bark, raw, broken up by means of hammermill, or shredded, ground, or crushed, graded, and bagged—Exempt—Bureau
  Bark, shredded in its natural state, sprayed with copper based fungicide—Exempt—Bureau
Blankets of pine and spruce boughs—Exempt—Law
Bolts for making shingles—Exempt—Law
Divi and divi pods, natural products of certain trees, not processed—Exempt—Bureau
Excelsior wood: shredded birch bark, not a by-product of sawing, planing or finishing of wood—Exempt—Bureau
Fence pickets, split by hand from bolts, edged and pointed—Not Exempt—Bureau
Fence posts and rails, consisting of logs peeled and cut to length, the posts having holes drilled in them for insertion of rails, and the rails being split and sharpened at both ends—Not exempt—Case No. 6
"Firelog": wood shavings, sawdust, low grade petroleum, used in place of firewood—Not exempt—Bureau
Greenery—Exempt—Law
Growing, see separate heading; Horticultural Commodities
Hickory "wheels": short lengths cut from trees or logs—Exempt—Bureau
Hickory meal: sawdust or powdered hickory wood—Not exempt—Bureau
Holly sprigs and cuttings—Exempt—Law
Leaves—Exempt—Law
Leaves, sisal, husks and moisture removed—Exempt—Law
Lignin sulphonate obtained by cooking wood chips in a chemical solution and used as a road binder—Not exempt—Bureau
Logs and pilings impregnated with a preservative, usually creosote—Not exempt—Case No. 7
Mesquite brush, ground, dehydrated and packaged in plastic bags—Exempt—Bureau
Mesquite brush, twigs and debris burned off—Exempt—Law
Mine timbers or cants, comprised of 8 foot lengths of fir, rough-sawn, square cornered—Not exempt—Bureau
Mistletoe—Exempt—Law
Myrobalons, as imported in natural state—Exempt—Law
Palmyra stalk fibers (fronds from palm leaves)—Exempt—Law
Peat moss, dried, shredded, baled—Exempt—Law
Peat or peat moss, in bags or boxes—Exempt—Bureau (See also Case No. 31)
Peat moss flower pots impregnated with wetting agent—Not exempt—Bureau
Peat, for use as an organic fertilizer, wet with water and other solutions, decomposed in a pressure vessel and dried—Not exempt—Case No. 31
Peeler cores, composed of the center portions of logs remaining after plywood is cut therefrom—Exempt—Case No. 30
Pilings, wooden, untreated—Exempt—Case No. 9
Pilings, wooden, impregnated with a preservative, usually creosote—Not exempt—Case No. 7
Pine Cones, leaves, and miniature trees preserved by use of a solution containing calcium chloride—Exempt—Case No. 8
Poles, wooden, untreated—Exempt—Case No. 9
Poles, preassorted, preventative-treated (used by utilities companies, contractors, municipalities, etc.)—Not exempt—Case No. 10
Poles, telephone, not creosoted—Exempt—Law
Railroad ties composed of bolts from felled trees sawed crosswise and peeled or split but not otherwise processed—Exempt—Bureau
Railroad ties, lengths of wood cut to length and sawed lengthwise to size—Not exempt—Bureau
Resin, crude—Exempt—Law
Resin products, such as turpentine—Not exempt—Law
Roots, natural or dried—Exempt—Law
Sap, maple—Exempt—Law
Sawdust and shavings, regardless of their place of production, the process by which they are created, or their ultimate use—Not exempt—Case No. 11
Sawdust from lumber mills—Not exempt—Law
Shakes and shingles, whether split by hand or by machine—Not exempt—Case No. 12
Shingle bolts—Exempt—Law
Slabwood produced from sawmill operations—Not exempt—Case No. 13
Spanish moss—Exempt—Law
Sphagnum moss—Exempt—Law
Spices, see separate listing: Spices
Tanbark or tanwood, residue after tanning dye is extracted from bark, roots, or wood by means of extreme pressure and hot water, used as a mulch—Not exempt—Bureau
Tanning extracts (wattle, chestnut, quebracho) produced by leaching bark, clarifying the extract and concentrating it in vacuum evaporators—Not exempt—Bureau
Timber (rough logs or bolts) cut in random lengths, with bark removed—Exempt—Bureau
Trees:
  Christmas, plain, sprayed, or coated—Exempt—Law
  Cut to length, peeled, or split—Exempt—Law
  Growing, see Horticultural commodities
Sawed into lumber—Not exempt—Law
Trimmings from logs and bolts, except bark—Not exempt—Case No. 11
Valonia, as imported in natural state—Exempt—Law
Wood chips for making wood pulp—Not exempt—Law
Wood cut into short crosswise lengths for firewood (not sawed lengthwise)—Exempt—Bureau
Wreaths of holly or other natural material with small amount of foundation or decorative material—Exempt—Law
Frogs, see Fish
Frozen, see commodity name: Fruits, Vegetables, Fish, Poultry, etc.
Fruits and Berries:
  Apple peels and cores ground, but not otherwise processed—Exempt—Bureau
  Apple pomace (substance remaining after extraction of juice)—Not exempt—Bureau
  Apples, fresh, unfrozen, peeled, cored, sliced and dipped in brine solution to retain freshness—Exempt—Bureau
  Bagged—Exempt—Law
  Bananas, fresh, dried, dehydrated, or frozen—Not exempt—Law-Ruling 110
  Blueberries, incidentally frozen while being maintained in low temperature storage, allowed to thaw during transportation—Exempt—Bureau
  Canned—Not exempt—Law
  Cherries in sulphur dioxide "brine" for purpose of holding them in fresh state until they can be processed for marketing, which processing includes "debrining"—Exempt—Case No. 14
  Cherries, maraschino type, resulting from further processing of cherries mentioned just above—Not exempt—Case No. 14
  Chopped glazed fruit (similar to that used in fruit cakes)—Not exempt—Bureau
  Citrus fruit salad, fresh, chilled—Exempt—Bureau
  Citrus fruit sections, fresh, cold-packed or semi-frozen—Exempt—Law

Citrus fruit sections, frozen—Not exempt—Law-Ruling 110
Citrus fruit sections, not frozen, packed with sugar, water, citric acid, and benzoate of soda, additives being 6% to 10% of total—Not exempt—Bureau
Citrus pulp (substance remaining after juice extraction)—Not exempt—Bureau
Color added—Exempt—Law
Cranberries, partially frozen as result of being placed in open boxes in storage under controlled temperatures to insure freshness pending transportation to canneries—Exempt—Bureau
Cranberries, purposely quick-frozen, maintained in a frozen state during transportation—Not exempt—Bureau
Dates, pitted, dried—Exempt—Law
Dehydrated—Exempt—Law
Dried, naturally or artificially—Exempt—Law
Dried, not further processed, placed in sealed packages or receptacles—Exempt—Bureau
Figs, dried, halved or quartered—Exempt—Law
Figs or dates, ground, in paste form, cooked, or with substantial amounts of other substances added—Not exempt—Bureau
Fig paste, consisting of ground figs, either in their natural state or dried—Exempt—Bureau
Frozen—Not exempt—Law-Ruling 110
Frozen (quick-frozen) for the purpose of preservation during transportation—whether shipped under temperature control or not—Not exempt—Bureau
Fruit baskets or gift packages consisting of fresh fruit with 5% or less of jelly in jars and candy—Exempt—Bureau
Fumigated—Exempt—Law
Graded—Exempt—Law
Grape slurry comprised of grapes removed from stems and crushed—Exempt—Bureau
Hulls of oranges after juice extractions—Not exempt—Law
In brine, to retain freshness—Exempt—Law
Juice, orange or other citrus—Not exempt—Law
Juice, fruit, plain or concentrated—Not exempt—Law
Kernels—Exempt—Law
Myrobalan (prune-like tropical fruit), dried, crushed and bagged—Exempt—Bureau
Oiled apples—Exempt—Law
Olives, processed for table use, in brine or not in brine, stuffed or not stuffed, in any type container—Not exempt—Bureau
Orange and lemon peel, dried, prepared from hulls of fruit following juice extraction—Not exempt—Bureau
Peaches, peeled, pitted, and put in cold storage in unsealed containers—Exempt—Law
Pies, frozen—Not exempt—Law
Plantains (considered to be bananas)—Not exempt—Case No. 15
Preserved, such as jam—Not exempt—Law
Purees, strawberry and other, frozen—Exempt—Law
Quick frozen—Not exempt—Law-Ruling 110
Raisins, seeded or unseeded—Exempt—Law
Raisins, very lightly coated with honey, cinnamon, or sugar—Exempt—Bureau
Raisins, chocolate coated or glaced, thereby preserving and candying them—Not exempt—Bureau
Sliced, frozen—Not exempt—Law-Ruling 110
Strawberries, in syrup and unsealed containers in cold storage—Exempt—Law
Strawberries, in unsealed containers with temperature controlled at 10° or lower—Not exempt—Bureau
Grain:
  Artificially dried—Exempt—Law
  Barley, brewers' (residuary by-products of the malting process in which barley, steeped and germinated, is mixed with hops and other ingredients and allowed to ferment)—Not exempt—Bureau
  Barley, malted (processed only to the extent of soaking in warm water to hasten or induce germination, then drying, and removal of sprouts in some instances)—Exempt—Bureau
  Barley, pearled (husked and polished grains)—Exempt—Bureau
  Barley, rolled—Exempt—Law
  Barley, whole—Exempt—Law
  Brewers grains, wet, by-product of brewing process—Not exempt—Bureau
  Corn cob pellets consisting of finely ground cobs with graphite added—Not exempt—Bureau
  Corn, cracked—Exempt—Law
  Corn, from which oil is extracted, ground and dried to comprise a product known as "brewers corn grits"—Not exempt—Bureau
  Corn screenings—Exempt—Bureau
  Corn shucks, used as "hot tamale shucks"—Exempt—Bureau
  Corn, shelled—Exempt—Law
  Corn, whole—Exempt—Law
  Cracked wheat (bulgur or bulgar) processed by cooking the grains for purification and preservation, then drying, dehulling and grinding—Not exempt—Bureau
  Feeds, see separate heading: Feeds
  Hulls and husks, see separate heading: Feeds
  Milo maize—Exempt—Law
  Oats, crimped or rolled in the same manner as rolled barley—Exempt—Bureau
  Oats, whole—Exempt—Law
  Oats, whole, crushed and ground, in bags—Exempt—Bureau
  Oil, extracted from grain—Not exempt—Law
  Popcorn, popped—Not exempt—Law
  Popcorn, shelled (unpopped) packaged with cooking fat or oil (one part oil to 2½ parts popcorn)—Not exempt—Bureau
  Popcorn, shelled (unpopped), weighing ten or more ounces, accompanied by a separate package of seasoning consisting of salt, monosodium glutamate, butter flavor, cottonseed oil, and artificial color and flavor weighing approximately ¾ ounce—Exempt—Bureau
  Popcorn, unpopped, shelled, in sealed or unsealed containers—Exempt—Law
  Puffed grains—wheat, rice, millet or corn—produced by application of steam inside air tight tubes, and heat from outside burners, although not fully cooked—Not exempt—Bureau
  Rice bran—Exempt—Law
  Rice, brewers—Exempt—Law
  Rice, clean—Exempt—Law
  Rice, ground, not sifted, bolted or graded—Exempt—Bureau
  Rice, hull ash (burned hulls of threshed rice)—Not exempt—Bureau
  Rice, hulled ("brown rice")—Exempt—Bureau
  Rice, long grain, enriched, parboiled, subjected to enough steam pressure to harden kernel and reduce stickiness, but not boiled or precooked—Exempt—Bureau
  Rice, milled, fortified with vitamins—Exempt—Bureau
  Rice polish—Exempt—Law
  Rice, precooked—Not exempt—Law
  Rice, whole—Exempt—Law
  Rye, whole—Exempt—Law
  Sorghum grains, whole—Exempt—Law
  Wheat, bulgar, cleaned, cooked under steam pressure, dried, dehulled, ground, graded and bagged—Not exempt—Bureau
  Wheat germ—Not exempt—Law
  Wheat, new, crushed, uncooked—Exempt—Bureau
  Wheat, whole—Exempt—Law
Grass sod—Exempt—Law
Gravel—Not exempt—Law
Greenery, see Forest products
Grinding, without prior or subsequent manufacturing processes does not affect the exempt status of the commodity—Law
Guano, bat (excrement of bats, dried, but not further processed)—Exempt—Bureau
Gums, the exudation of trees and shrubs, such as arabic, ghatti and tragacanth, in natural state or dried, sifted, and ground, but not purified, neutralized or refined—Exempt—Bureau
Hair, alpaca, camel, or goat, clipped from animal—Exempt—Law
Hair, hog or other animal, product of slaughter of animal—Not exempt—Law
Hair, rabbit or vicuna (plucked or clipped from live animal)—Exempt—Bureau
Hay and forage, dried naturally or artificially—Exempt—Law
Hay, chopped—Exempt—Law
Hay, dehydrated—Exempt—Law
Hay, salt (from salt marshes)—Exempt—Law
Hay, see also Feeds
Hay, sweetened with 3% molasses by weight Not exempt—Law
Hemp, see Fibers
Herbs, see Spices
Hides, green and salted—not exempt—Law
Honey, in the comb or strained—Exempt—Law
Honey, heat treated to retard granulation—Exempt—Law
Hops—Exempt—Law
Horticultural commodities:
  Bulbs—Exempt—Law
  Flowers, growing or cut—Exempt—Law
  Leaves, natural or dried—Exempt—Law
  Nursery stock—Exempt—Law
  Plants, vegetables and flower—Exempt—Law
  Roots; rhubarb, asparagus, mint, etc.—Exempt—Law
  Star flowers—dried, spray painted—Exempt—Bureau
  Trees, growing, balled in earth—Exempt—Law
  Wreaths, holly or other natural material, with small amount of foundation or decorative material—Exempt—Law
Hulls and husks, see Feeds, Nuts
Humus, of a nature similar to peat moss—Exempt—Law
Ice for cooling subsequent shipments of exempt commodities—Exempt—Law
Ice Cream and ice cream mix, see Milk and cream
Imported commodities—Fact of importation does not affect status of otherwise exempt commodities, except that wool imported from any foreign country is not exempt—Law-Ruling 110
Insecticides—Not exempt—Law
Juices, see Fruits
Jute fiber, see Fibers
Kapok, see Fibers
Kelp, dried, ground—Exempt—Law
Latex, see Rubber
Leaves, see Forest products, Horticultural commodities, and Spices
Legume inoculant—Not exempt—Bureau
Licorice paste and powder (prepared from ground licorice root, and used in tobacco and confectionary trades and for medicinal purposes)—Not exempt—Bureau
Licorice roots, spent (by-product or residue remaining after open-vat leaching process used by extract licorice)—Not exempt—Bureau

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Livestock:
- Exhibit animals such as those of 4-H club members, which though shown for a few days, are chiefly valuable for slaughter—Exempt—Law
- Laboratory animals, not domesticated, such as rats, mice, guinea pige—Not exempt—Bureau
- Medical use animals, such as ordinary healthy swine for serum manufacture—Exempt—Law
- Monkeys—Not exempt—Law
- Ordinary, i.e. all cattle, swine, sheep, goats, horses, and mules, except such as are chiefly valuable for breeding, racing, show purposes, and other special uses—Exempt—Law
- Race horses—Not exempt—Law
- Registered or purebred cattle for ordinary farm or ranch uses, not chiefly valuable for breeding, race, show, or other special purposes—Exempt—Law
- Riding horses, used for personal pleasure riding—Exempt—Bureau
- Rodeo animals (bucking horses, cow ponies, parade horses, pick-up horses, Brahma bulls, steers, calves, buffalo)—Not Exempt—Bureau
- Show horses—Not exempt—Law
- Zoo animals—Not exempt—Law

Limestone, agricultural—Not exempt—Law
Linseed meal, see Meal
Lumber, rough sawed or planed—Not exempt—Law
Manure, in natural state—Exempt—Law
Manure, dried or dehydrated, bagged—Exempt—Law
Manure to which sand is added as conditioning ingredient, equivalent to 3% of the total mixture—Exempt—Bureau
Manure to which is added substantial amounts of biological soil organisms and pulverized granite, fermented and dehydrated—Not exempt—Bureau
Manure, fermented, with additives such as yeast and molds, producing a rich liquor which in water solution is used for soil enrichment—Not exempt—Bureau
Manure, paunch (cud of animal's rumen) product of slaughter—Not exempt—Bureau
Maple sap—Exempt—Law
Maple syrup—Not exempt—Law
Meal, alfalfa—Not exempt—Law
Meal, copra—Not exempt—Law
Meal, cottonseed—Not exempt—Law
Meal, fish—Not exempt—Law
Meal, alfalfa—Not exempt—Law
Meal, linseed—Not exempt—Law
Meal, peanut—Not exempt—Law
Meal, soybean—Not exempt—Law
Meat and meat products:
- Beef dinners, frozen—Not exempt—Bureau
- Fresh, frozen or canned—Not exempt—Law
- Meat pies, frozen—Not exempt—Bureau
- Meat of Seals, sea lions and walrus—Not exempt—Bureau
- Scrap bones and meat, refuse from packing houses—Not exempt—Bureau

Milk and Cream:
- Anhydrous milk fat made by a continuous separation process directly from mik or cream in the same manner as nonfat dried milk solids—Exempt—Bureau
- Butterfat, isex, Gold Label (trade name) consisting of over 50% sugar and 2% water and 44% butterfat—Not exempt—Bureau
- Buttermilk—Exempt—Law
- Buttermix/condensed cream consisting of 45% butter fat 30% sugar and 25% akimmed milk solids—Not exempt—Bureau
- Casein, produced commercially through specialized processes—Not exempt—Case No. 1
- Cheese, see that main heading
- Concentrate, pasteurized and homogenized, with ⅔ of the water removed—Exempt—Bureau
- Concentrate (mixture of fresh cream with skim milk from which a portion of water is removed)—Exempt—Bureau
- Concentrate, consisting of fresh whole milk from which a portion of the water is removed to which no subetantial amount of non-exempt subetance is added—Exempt—Bureau
- Condensed—Not exempt—Law
- "Culturemate": non-fat dry milk powder, 10% dry phosphate salts, dry process extract, small amounts of dextrose and whey—Not exempt—Case No. 29
- Dry milk solids (essentially the same as powdered milk)—Exempt—Case No. 1
- Evaporated milk, in sealed cans—Not exempt—Bureau
- Frozen—Exempt—Law
- Homogenized—Exempt—Law
- Ice cream mix (blend of milk, dried skim milk and sugar)—not exempt—Bureau
- Milk "replacer" (blend of 93% ingredients
- Lactose: milk sugar, traces of protein and ash, made by condensing sweet cheese whey, crystalizing by cooking, then spinning, drying and bagging—Exempt—Case No. 29
- Milk "replacer" containing 10% animal fat—Not exempt—Bureau
- Milk "replacer" (blend of 98% ingredients themselves "exempt" commodities and 2% dietary supplements and flavoring ingredients, not otherwise processed)—Exempt—Bureau
- Milk "replacer" (Calf Pab), containing at least 20 nonexempt ingredients (no percentages shown)—Not exempt—Bureau
- Milk shake mix, composed of powdered milk with substantial amounts of sweetening and flavoring added—Not exempt—Bureau
- Pasteurized—Exempt—Law
- Powdered—Exempt—Law
- Raw—Exempt—Law
- Raw milk with coloring added to indicate it has been found unfit for human consumption—Exempt—Bureau
- Skim—Exempt—Law
- Skim, dried—Exempt—Bureau
- Skim, with two-thirds of water removed, in bulk or unsealed containers—Exempt—Law
- Standardized—Exempt—Law
- Sterilized in hermetically sealed cans—Not exempt—Law
- Vitamin "A"—Exempt—Law
- Whey, see that main heading
- Whipped cream, frozen, containing only exempt dairy products, which is mechanically processed into that form—Exempt—Bureau
- Whole milk with moisture content removed and nothing added—Exempt—Bureau
- Yoghurt, plain or flavored—Not exempt—Bureau

Milo, see Grains
Mohair, raw, cleaned, or scoured—Exempt—Law
Molasses—Not exempt—Law
Moss, see Forest products
Mushrooms, fresh—Exempt—Law
Nursery stock, see Horticultural commodities
Nutria carcasses, ground, for use as mink feed—Not exempt—Bureau
Nutria (or coypu), skinned, whole or chopped—Not exempt—Bureau
Nutria and rat carcasses, whole, frozen or unfrozen—Not exempt—Bureau
Nuts:
- Blanched (placed in water hot enough to soften the skins and facilitate removal of kernel, but not sufficient to kill the enzymes)—Exempt—Bureau
- Cashews, roasted or cooked—Not exempt—Bureau
- Cashews, scorched (not roasted or cooked, but darkened in color unintentionally by overheating during shelling process)—Exempt—Bureau
- Coconut, dried, shredded, flaked, or prepared by thread mill or devil mill to produce thread-like particles or granules, not further processed—Exempt—Bureau
- Coconut meal, see separate heading: Copra meal
- Macadamia nuts—Exempt—Bureau
- Peanut meal—Not exempt—Law
- Peanut shells, ground—Exempt—Law
- Peanuts, roasted and salted in the shell—Not exempt—Bureau
- Pistachio, shells colored with food coloring but not otherwise processed—Exempt—Bureau
- Raw, shelled or unshelled—Exempt—Law
- Roasted or boiled—Not exempt—Law
- Shelled, raw—Exempt—Law
- Shelled, salted (not roasted or otherwise similarly processed)—Exempt—Bureau
- Shelled, sprayed or washed with preservative but not candied or flavored—Exempt—Bureau
- Shells—Exempt—Law
- Shells, ground peanut—Exempt—Law
- Shells, peanut, pelletized, comprised of hulls or shells ground and formed into pellets by application of pressure with steam as binder (similar to production of alfalfa pellets)—Not exempt—Bureau
- Shells, pecan, ground—Exempt—Case No. 17
- Shells, pecan, mixed with chemicals equivalent to 10% of the total mixture—Not Exempt—Bureau
- Unshelled, raw—Exempt—Law

Oats, see Grains
Offal, consisting of blood, intestines, viscera, etc., by-product of the slaughtering of animals—Not exempt—Bureau
Oil, mint—Not exempt—Law
Oil, extracted from vegetables, grain, seed, fish, or other commodity—Not exempt—Law
Olives, see Fruits and Berries
Packaged commodities—Packaging exempt commodities does not affect their exempt status—Law
Peanuts, see Nuts
Peat Moss, see Forest products
Pelletized feeds, see Feeds
Pelts—Not exempt—Law
Pies, frozen—Not exempt—Law
Pigeons, racing, see Birds
Plants, vegetable or flower, see Horticultural commodities
Poles, see Forest products
Popcorn, see Grains
Potash—Not exempt—Bureau
Poultry and Poultry Products:
- Additives, such as injected butter, gravy, seasoning, etc., sold in or along with uncooked poultry, do not void the exempt if not in excess of 5% by weight—Bureau
- Blood of poultry and rabbits from which corpuscles have been removed by centrifugal force (processing by a machine similar to a cream separator)—Exempt—Bureau
- Broth, dehydrated by spray-drying into a powder—Not exempt—Case No. 25
- Carcasses, raw, in marble-size chunks—Exempt—Bureau
- Cut up, raw—Exempt—Bureau
- Cut-up, precooked or cooked; same, breaded and/or battered; same, marinated, breaded and/or battered; all frozen or refrigerated—Exempt—Case No. 26
- Deboned, cooked or uncooked, fresh or frozen, in rolls or diced—Exempt—Bureau
- Dehydrated, chunked, process includes boiling, grinding, and drying—Not exempt—Case No. 25
- Dinners, cooked and frozen—Exempt—Bureau; see also separate heading: Dinners
- Dressed, fresh or frozen—Exempt—Law
- Fat, as removed from poultry, not cooked—Exempt—Bureau
- Fat, skimmed from broth, plain or reduced to powder by spray-drying—not exempt—Case No. 25
- Feathers—Exempt—Law
- Frozen—Exempt—Law
- Live—Exempt—Law
- Offal, including blood (natural by-products of the killing and processing of poultry for market)—Exempt—Case No. 27
- Picked—Exempt—Law
- Pies, cooked, frozen or unfrozen—not exempt—Bureau
- Powdered, process includes boiling, fine grinding, and spray-drying—Not exempt—Case No. 25
- Rolled in batter but uncooked—Exempt—Bureau
- Rolls, containing sectioned and deboned poultry, cooked—Exempt—Bureau
- Sticks, cooked—Exempt—Bureau
- Stuffed and frozen—Exempt—Law
- Stuffing, in plastic bags, packed with but not in bird—Exempt—Bureau

Pulp, beet—Not exempt—Law
Pulp, sugarcane—Not exempt—Law
Purees, see Fruits
Rabbits, dressed—Exempt—Law
Rabbits, wild, skinned—Not exempt—Bureau
Raisins, see Fruits
Ramie Fiber, see Fibers
Residue, (foots or sediments) remaining after removal of oil from various commodities—Not exempt—Bureau
Resin, see Forest products
Rice, see Grains
Rock—Not exempt—Law
Roots, see Forest products, Horticultural commodities, Spices and herbs
Rubber, crude, in bales—not exempt—Law
Rubber, latex, natural, liquid, from which water has been extracted and to which ammonia has been added—Not exempt—Law
Rye, see Grains
Sand—Not exempt—Law
Sap, see Forest products
Sawdust, see Forest Products
Sea Creatures, see Fish
Seasoning or salt, added to a commodity within the exemption in insignificant amounts, not considered to affect exempt status of commodity—Bureau
Seaweed, dried, ground—Exempt—Law
Seeds:
- Anise, not subject to a manufacturing process—Exempt—Bureau
- Bird seed, see separate heading: Feeds
- Cotton, see separate heading: Cottonseed
- Deawned—Exempt—Law
- Flax, see separate heading: Flaxseed
- Grass seed—Exempt—Bureau
- Grass seed, packaged in individual boxes and bags—Exempt—Bureau
- Hybrid seed corn—Exempt—Bureau
- Inoculated—Exempt—Law
- Meal made from seeds, see Meal
- Natural—Exempt—Law
- Oil extracted from seeds—Not exempt—Law
- Packets or boxes of seeds in display racks—Exempt—Law
- Scarified—Exempt—Law
- Screened or sized—Exempt—Law
- Seed kits, flower or vegetable, consisting of seeds, soil substitutes, and plant food, in growing tray (punch and grow kits)—Not exempt—Bureau
- Sesame seeds in hulls, bagged—Exempt—Bureau
- Sesame seeds, cleaned and dehulled by mechanical process—Exempt—Bureau
- Siftings and screenings consisting of residue from sieving of seeds (not further processed)—Exempt—Bureau
- Soybean seeds, in bags to which are attached a small container of inoculant—Exempt—Bureau
- Spice, see Spices
- Sprayed for disease control—Exempt—Law
- Sunflower seed hulls, lubricated by spraying with hot water to increase density, formed into loose, crumbling pellets—Exempt—Bureau
- Tamarind, ground, comprised of seeds removed from pods without boiling, cooking, or the like, and processed only by cleaning and grinding—Exempt—Bureau
- Used as seasonings, not subjected to a manufacturing process—Exempt—Bureau

Shells, see Cocoa bean, Eggs, Fish, Nuts
Shingle bolts, see Forest Products
Skins, animal—Not exempt—Law
Skins, seal (sea mammal hides)—Not exempt—Bureau
Sliced, see commodity name: Fruits, Vegetables, etc.
Sludge, dried sewage—Not exempt—Bureau
Soil, potting—Not exempt—Law
Soil, potting or African Violet Mix consisting of 90 percent peat, 8 percent sand and 2 percent vermiculite—Not exempt—Bureau
Soil, top—Not exempt—Law
Sorghum fodder—Exempt—Law
Sorghum grains—Exempt—Law
Soup, frozen—Not exempt—Law
Spanish moss, as gathered from trees—Exempt—Bureau
Spices and Herbs:
- Angelica root—Exempt—Bureau
- Chicory root, natural or dried—Exempt—Bureau
- Chili powder, consisting of dried, ground chili pepper pods—Exempt—Bureau
- Chili powder (mixture of ground peppers, spices and herbs, and a small amount of salt)—Exempt—Bureau
- Cumin seed—Exempt—Bureau
- Deer, (or deer's) tongue leaves, natural, dried, or processed in a manner similar to that undergone by redried, tobacco leaf—Exempt—Bureau
- Ground, but not further processed—Exempt—Law
- Paprika, ground—Exempt—Case No. 20
- Pepper, ground, not further processed—Exempt—Bureau
- Raw, unground spices—Exempt—Case No. 20
- Reconditioned spices, ground (screened for removal of impurities but not further processed)—Exempt—Bureau
- Seeds, see also that main heading
- Sweet basil leaves, dried and separated from stems—Exempt—Bureau
- Unground, whether seeds, berries, leaves, bark or roots—Exempt—Law

Stone, natural, marble or granite—Not exempt—Bureau
Stover—Exempt—Law
Straw—Exempt—Law
Sugar—Not exempt—Law
Sugar beets—Exempt—Law
Sugar cane—Exempt—Law
Sugar cane pulp—Not exempt—Law
Sugar, raw—Not exempt—Law
Syrup, cane—Not exempt—Law
Syrup, maple—Not exempt—Law
Tankage, consisting of offal from slaughtered animals—Not exempt—Bureau
Tea—Not exempt—Law-Ruling 110
Telephone poles, see Forest products
Textile waste, see Cotton waste
Tobacco:
- Binder tobacco, composed of adhesive materials added to pulverized tobacco, the resultant mixture formed into flat sheets (similar to homogenized tobacco)—Not exempt—Bureau
- Chopped leaf—Exempt—Law
- Cigars and cigarettes—Not exempt—Law
- Fragments, siftings and dust resulting from processes which produce tobacco items within the exemption (i.e. chopped tobacco leaf, redried leaf, etc.); also that which becomes unusable during preliminary handling prior to the manufacture of non-exempt tobacco items—Exempt—Bureau
- Homogenized—Not exempt—Law
- Leaf—Exempt—Law
- Redried leaf—Exempt—Law
- Smoking—Not exempt—Law
- Stem meal—Not exempt—Bureau
- Stemmed leaf—Exempt—Law
- Stems—Exempt—Law
- Tobacco made of ground-up scraps, considered a form of homogenized tobacco—Not exempt—Bureau

Topsoil—Not exempt—Law
Trees, see Forest products
Turtles, see Fish
Vegetables:
- Bagged—Exempt—Law
- Beans, dried artificially and packed in small container—Exempt—Law
- Cabbage rolls (heads of cabbage pickled in water and salt after which the leaves are cut off and stuffed with a tomato and whole pepper, in jars with juice of pickled cabbage)—Not exempt—Case No. 18
- Candied sweet potatoes, frozen—Not exempt—Law
- Canned—Not exempt—Law
- Cauliflower, cured in salt brine, shipped in open unsealed containers—Exempt—Case No 21
- Cooked—Not exempt—Law
- Cooked in water or steam for a period longer than that necessary for the inactivation of the enzymes, or by immersion in oil or fat—Not exempt—Case No. 22
- Cucumbers and other vegetables processed into pickles by the ordinary means—Not exempt—Bureau
- Cucumbers and tomatoes, barrel-cured into kosher pickles (fresh cucumbers or tomatoes kept in barrel overnight with water, garlic, salt, spices and seasonings, then placed in jars and kept under refrigeration)—Not exempt—Case No. 18
- Cucumber delight (sliced cucumbers with onions, peppers, sugar and salt, in jars or barrels with juices)—Not exempt—Case No. 18
- Cucumbers, salt cured—Exempt—Law
- Cured—Exempt—Law
- Cut up, fresh, in cellophane bags—Exempt—Law
- Dried, naturally or artificially—Exempt—Law
- Dehydrated—Exempt—Law
- French fried onion rings—Not exempt—Case No. 22
- French fried potatoes—Not exempt—Law
- Frozen—Not exempt—Law-Ruling 110
- Garlic paste, made from fresh crushed garlic cloves heated only enough to deactivate the enzymes, small percentage of preservative added—Exempt—Bureau
- Garlic powder—Exempt—Law
- Graded—Exempt—Law
- Mushrooms (considered vegetables for purposes of Section 203(b)(6), frozen—Not exempt—Bureau; Freeze dried (frozen, then thawed, then dehydrated)—Exempt—Bureau
- Oil, extracted from vegetable—Not exempt—Law

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Onion chips and flakes, dried—Exempt—Law
Onion powder—Exempt—Law
Onion powder, made from onions sauted in oil and then powdered or dehydrated—Not exempt—Bureau
Onion rings, frozen, shipped with frozen fish dinners of which they are intended to be a part—Exempt—Bureau
Onion, cured in salt brine, shipped in open unsealed containers—Exempt—Case No. 21
Peas, split—Exempt—Law
Peeled, uncooked—Exempt—Law
Pepper delight (peppers with vinegar, salt and sugar)—Not exempt—Case No. 18
Pepper hulls, cured in salt brine, shipped in open unsealed containers—Exempt—Case No. 21
Peppers and kraut, stuffed (whole peppers filled with sauerkraut in jars with natural sauerkraut juice)—Not exempt—Case No. 18
Pickled—Not exempt—Case No. 21
Potato by-product made from raw rejects, peeled and washed in caustic solution and hot water, dewatered, dried and ground—Exempt—Bureau
Potato by-product, consisting of mashed potatoes recovered from drying machines or gathered as spillage from floor during latter stages of processing of instant mashed potatoes—Not exempt—Bureau
Potato flakes (cooked and dehydrated flakes of potato)—Not exempt—Bureau
Potatoes, candied (sweet), whipped, rissole, or puff—Not exempt—Case No. 22
Potatoes, peeled, sliced, blanched or dipped in preservative solution, but not cooked or otherwise processed—Exempt—Bureau
Potatoes, peeled and scalded or blanched (not subjected to a greater degree of heat than that necessary to inactivate enzymes)—Exempt—Bureau
Potatoes, powdered, prepared from potatoes, washed, cooked, peeled, with moisture removed—Not exempt—Bureau
Powder, onion and garlic—Exempt—Law
Precooked, pouch-packed, with or without sauce—Not exempt—Case No. 22
Products, the ingredients of which include vegetable matter combined with other commodities—Not exempt—Case No. 22
Quick frozen—Not exempt—Law-Ruling 110
Romanian kraut (shredded cabbage with juice consisting of water, sugar, celery seed and fresh peppers)—Not exempt—Case No. 18
Sauerkraut, pickled by keeping shredded cabbage in a barrel for 36-40 hours, thence in cold storage for about 36 hours, then packed in jars with water, sugar, and benzoate of soda (requires refrigeration)—Not exempt—Case No. 18
Sauerkraut, uncooked, pickled, in sealed plastic containers or sealed wooden barrels—Not exempt—Bureau
Shelled—Exempt—Law
Soup, frozen—Not exempt—Law
Soybean meal—Not exempt—Law
Tomato juice—Not exempt—Bureau
Tomato paste, consisting of tomatoes heated to 190°—Not exempt—Bureau
Tomato pomace (residue remaining after juice extraction)—Not exempt—Bureau
Tomato powder, dehydrated without cooking, (not the residue left after juice extraction)—Exempt—Bureau
Tomatoes, in salt brine, to preserve freshness while in transit—Exempt—Case No. 21
Washed, fresh, in cellophane bags—Exempt—Law
Water, and distilled water—Not exempt—Bureau
Wax, beeswax, crude, in cakes and slabs—Exempt—Law
Wax, carnauba, as imported in slabs and chunks—Not exempt—Law
Wax, crude candelilla, boiled in water to which some acid is added, purpose of which is not to change the wax in any way but to remove the wax scales from the leaves of the plant on which it forms, and the resulting residue boiled again to remove excess moisture and debris—Exempt—Bureau
Whale meat, see Fish
Wheat, see Grains
Wheat products, see Feeds, Flour
Whey, powdered or dried—Exempt—Case No. 23
Whey lactose—Exempt—Case No. 29
Whey powder—produced by separating liquid whey, removing butter fat, drying, steam rolling, cutting, bagging for further drying, grinding and packaging—Exempt—Bureau
Wood, see Forest products
Wool:
Cleaned and scoured after being imported—Not exempt—Bureau
Grease, as obtained from cleaning or scouring process—Exempt—Law
Imported from any foreign country—Not exempt—Law-Ruling 110
Mixture of blend of imported and domestic wool—Not exempt—Bureau
Pulled wool (wool removed from hides after slaughter)—Not exempt—Bureau
Raw, cleaned or scoured, but not including wool imported from any foreign country—Exempt—Law-Ruling 110
Scoured, origin unknown—Not exempt—Bureau
Tags of domestic wool and mohair (matted and ragged locks as shorn)—Exempt—Bureau
Waste (carded, spun, woven, or knitted)—Not exempt—Law-Ruling 110
Yarn—Not exempt—Law
Wreaths, see Forest products
Worms, blood (cultivated in a "farming" type operation in marshy soil)—Exempt—Bureau
Worms, sea, live (gathered from mud flats, for use as bait)—Exempt—Bureau
Yeast, brewers' residual, or "bottom yeast" (substance which settles to bottom of vat during fermentation of beer or liquors)—Not Exempt—Bureau
Zoo animals—Not exempt—Law

CASE LIST
of Administrative Ruling No. 119

Case No.
1—Cossitt Motor Express Inc.—Powdered Milk and Casein, 96 M.C.C. 557
2—Sturgeon and Meeker, Extension—Wheat Bran, 84 M.C.C. 655
3—Atcheson, T. & S.F. Ry Co., Petition—103 M.C.C. 364
4—Refrigerated Dispatch Ltd., Inc.—Common Carrier Application, 81 M.C.C. 429
5—Phillips—Common Carrier Application, 82 M.C.C. 526
6—Fred C. Burns, Extension—Alexandria, Va., MC-111675 Sub 8, decided Oct. 27, 1960 (not printed)
7—Holt, Extension—Pilings, 77 M.C.C. 141
8—Poole, Extension—Calcium Chloride, 83 M.C.C. 522.
9—Edgar H. Allen & Son, Inc., Extension—Old Bridge, N.J., 96 M.C.C. 131
10—Chancey Bros. Truck Line, Extension—Lumber, 73 M.C.C. 85
11—Determination of Commodity Status—Petition, 113 M.C.C. 6
12—Everett—Investigation of Operation, 88 M.C.C. 784
13—Miller's Motor Freight, Inc., MC-41915 Sub 26, decided June 20, 1962 (not printed)
14—Maxwell Co., Extension—Cherries in Brine, 100 M.C.C. 10
15—Holland Highway Express, Inc., Extension—Plantains, 86 M.C.C. 93
16—Producers Transport, Inc., Extension—Soya Bean Husks, 103 M.C.C. 691
17—Kinner—Common Carrier Application, 99 M.C.C. 748
18—Seashore Food Products, Inc.—Declaratory Order, 95 M.C.C. 545
19—Petition for Declaratory Order—Wild Birdseed, 110 M.C.C. 406
20—Acme Carriers, Inc., Common Carrier Application, 74 M.C.C. 797
21—Hadder Trucking Co., Inc., Extension—Commodities in Brine, 79 M.C.C. 449
22—Frozen Cooked Vegetables—Status, 81 M.C.C. 649
23—Petition of Ida-Cal Freight Lines, Inc., MC-C-3557, Order of August 29, 1962 (not printed)
24—Hughes—"Grandfather" Application, 89 M.C.C. 471, 484-486
25—Henningsen Foods, Inc., Petition, 106 M.C.C. 286
26—Pillsbury Co. et al., v. U.S. et al., 409 US 808 reversing 113 M.C.C. 225
27—Labertew Trucking, Inc., Extension—Poultry Offal, 96 M.C.C. 370
28—Grant's Trucking Co., Petitioner—Oyster Shells, 118 M.C.C. 892
29—I.C.C. v. Schaetzel, 339 F. Supp. 1345 (1972)
30—Forest Transport Corp., MC 138702 sub 2 decided April 8, 1974
31—Anderson Peat Co., Petition, 119 M.C.C. 494
32—Arkansas Rice Growers Coop. Assn., Petition, MC-C-7949—Initial decision served January 11, 1974; final report pending

2. By adding a subject heading immediately above § 1047.40 to read as follows:

PARTIAL EXEMPTION FOR MOTOR TRANSPORTATION OF PROPERTY AND PASSENGERS INCIDENTAL TO TRANSPORTATION BY AIRCRAFT

§ 1047.40 Motor Transportation of property incidental to transportation by aircraft.

• • • • •

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-26192 Filed 9-7-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1004]

[Docket No. AO-160-A54]

MILK IN MIDDLE ATLANTIC MARKETING AREA

Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider changes in the order that have been proposed by cooperative associations, independent dairy farmers, and handlers. The principal issues to be considered are the appropriate method of pricing Class I milk and proposed changes in the pooling and diverted milk provisions of the order. Proponents maintain the requested order changes are needed to reflect current marketing conditions and to assure orderly milk marketing in the area.

DATE: October 4, 1977.

ADDRESS: Franklin Motor Inn, The Parkway at 22d Street, Philadelphia, Pa. 19130.

FOR FURTHER INFORMATION CONTACT:

Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250 (202-447-7311).

SUPPLEMENTAL INFORMATION: Notice is hereby given of a public hearing to be held at the Franklin Motor Inn, The Parkway at 22d Street, Philadelphia, Pa. 19130 beginning at 9:30 a.m., on October 4, 1977, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Middle Atlantic marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The United States District Court for the Eastern District of Pennsylvania has ordered the Secretary of Agriculture to convene a hearing to consider the milk pricing method that should be applicable to the Middle Atlantic marketing area. Specifically at issue in the court order is the method for computing the Class I price. Responding to the order, the Department invited proposals for this and any other provisions of the order.

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY PENNMARVA DAIRYMEN'S FEDERATION, INC., AND BY EASTERN MILK PRODUCERS COOPERATIVE ASSOCIATION, INC.:

PROPOSAL NO. 1

The Class I price under Order 4 should continue to be determined by the provisions of §§ 1004.50(a) and 1004.51,

PROPOSED BY ABBOTTS DAIRIES DIVISION OF FAIRMONT FOODS COMPANY, INC.

PROPOSAL NO. 2

It is proposed that Federal Milk Marketing Order No. 4 (7 CFR Part 1004) as presently written be rewritten and amended to include bracketed pricing indexed so that producer prices for fluid milk move in 20-cent integers or in such other integers as the evidence may demonstrate to be appropriate.

PROPOSED BY SCP DAIRY INDUSTRY ASSOCIATION

PROPOSAL NO. 3

The Association proposes that the constant figure of $2.78, which is the add-on to the Minnesota-Wisconsin series, be corrected and be reduced by at least $1.00 per hundredweight.

PROPOSED BY MICHAELS DAIRIES, INC.

PROPOSAL NO. 4

Amend § 1004.7(a) (7 CFR, Chapter X) to add, after "50 percent" the following, "of its base milk receipts only" and delete "of its receipts", or

Amend § 1004.7(a) to add, after "50 percent" the following, "in the months of September through February, and 40 percent in the months of March through August".

PROPOSAL NO. 5

Amend § 1004.12(d) by deleting the phrase "in accordance with the conditions of subparagraphs (1) and (2) of this paragraph." and delete in their entirety subparagraphs (1) and (2) of § 1004.12(d), or

Amend § 1004.12(d) (2) by substituting "15 days" in place of "10 days".

PROPOSED BY DELMARVA INDEPENDENT PRODUCERS ORGANIZATION

PROPOSAL NO. 6

Amend § 1004.12(d) by deleting the phase "in accordance with the conditions of subparagraphs (1) and (2) of this paragraph." and delete in their entirety subparagraphs (1) and (2) of § 1004.12 (d).

PROPOSAL NO. 7

Amend § 1004.7(a) to insert after "month" "or in either of the two preceding months."

PROPOSED BY RICHFOOD, INC.

PROPOSAL NO. 8

Revise § 1004.7(a) as follows:

§ 1004.7 Pool plant.

• • • • • •

(a) A plant from which during the month a volume not less than 50 percent of its receipts described in subparagraph (1) or (2) of this paragraph is disposed of as Class I milk (except filled milk) and a volume not less than 15 percent of such receipts is disposed of as route disposition (other than as filled milk) in the marketing area;

• • • • • •

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 9

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, P.O. Box 710, Alexandria, Va. 22313, or from the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C. on September 1, 1977.

WILLIAM T. MANLEY,
Deputy Administrator
Program Operations.

[FR Doc.77-26117 Filed 9-7-77;8:45 am]

V 42 174 SEP 8 77 UMI

COMMUNITY SERVICES ADMINISTRATION

[45 CFR Part 1067]

[CSA Instruction 7000–1]

FUNDING OF CSA GRANTEES

Federal Register; Access to Daily Publications

AGENCY: Community Services Administration.

ACTION: Proposed rule.

SUMMARY: The Community Services Administration is proposing a policy which will make the FEDERAL REGISTER the exclusive formal system used to communicate proposed rules and regulations to grantees and will require grantees to have access to the daily publication of the FEDERAL REGISTER either through direct subscription or a circulating copy. The current system of mailing drafts to grantees is cumbersome and time-consuming in addition to being duplicative since CSA is required by statute to file all rules and regulations in the FEDERAL REGISTER 30 days prior to becoming effective. For grantees, access to the daily issues of the FEDERAL REGISTER will mean that they will receive timely notification of proposed rules and regulations published by CSA and other relevant Federal grant-making agencies thus giving them sufficient time to analyze and respond to the proposals. For CSA it will mean replacing a cumbersome system with a faster more efficient one thereby enabling the agency to produce timely and responsive policy statements which reflect responses received from grantees and the public.

DATES: CSA welcomes comments on the proposed regulations.

Comments received on or before November 7, 1977, will be considered prior to publishing this policy as a final rule.

ADDRESS: Send all comments to Jacqueline G. Lemire, Community Services Administration, Office of Operations, Policy Development and Review Division, 1200 19th Street NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Jacqueline G. Lemire
202–254–5670.

SUPPLEMENTARY INFORMATION: The Community Services Administration formally communicates with its grantees through a structured system known as the CSA Issuance System which consists of CSA Instructions (policy statements), CSA Notices (announcements of temporary concern including interim policies), and CSA Guidances (material designed to help people do their job better).

In the past the system we used to get input on draft policy statements was to print copies of the draft and mail copies to each grantee. However, because there is no in-house capability to print this material it had to be sent to the Government Printing Office or to a private contractor and then returned to CSA's Warehouse for packaging and mailing. This proved to be a time-consuming process frequently taking up to three weeks before the draft was in the mail. Added to this was the time needed by grantees to review the draft and develop comments, plus mailing time and subsequent time required by CSA staff to analyze comments received and to revise the draft when warranted.

Obviously this system could not produce timely and responsive policy statements. Recently we have been using the FEDERAL REGISTER to request comments on proposed regulations and have found that it is much faster and more efficient and, since we already are required by legislation to file all rules, regulations, instructions, guidelines and application forms in the FEDERAL REGISTER 30 days prior to their effective date, we have decided to use this system exclusively. However, we know that not all grantees currently have access to this publication. Therefore, we are proposing a policy which would require that each grantee subscribe to the FEDERAL REGISTER for the period covered by its grant(s) from CSA if the grantee does not have daily access to the FEDERAL REGISTER.

Of course, final rules and regulations will continue to be published in the form of CSA Instructions and distributed directly to grantees.

GRACIELA (GRACE) OLIVAREZ,
Director.

45 CFR 1067 is proposed to be amended as follows:

Subpart—Federal Register; Access To Daily Publication

Sec.
1067.1 Applicability.
1067.6–2 Policy.
1067.6–3 Procedures.
1067.6–4 Allowable Cost.

§ 1067.6–1 Applicability.

This subpart applies to all grants funded under Titles II, III–B, and VII of the Economic Opportunity Act of 1964, as amended, when the assistance is administered by the Community Services Administration.

§ 1067.6–2 Policy.

Since CSA publishes all proposed rules in the FEDERAL REGISTER exclusively, the Agency is requiring that grantees have access to daily publications of this document for the duration of their grants which are funded by CSA. Therefore, if grantees do not have access to the FEDERAL REGISTER either through a direct subscription or a circulating copy, they must take immediate steps to purchase a subscription.

§ 1067.6–3 Procedures.

The FEDERAL REGISTER is furnished by mail to subscribers free of postage, for $5.00 per month or $50 per year, payable in advance. Remit check or money order, made payable to:

Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

§ 1067.6–4 Allowable Cost.

This is an allowable charge to grant funds. It should be included under "Other Costs" on the budget form.

(Sec. 602, 78 Stat. 530; 42 U.S.C. 2942.)

[FR Doc.77-26072 Filed 9-7-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21383; RM–2814]

FM BROADCAST STATIONS IN CAMP LEJEUNE AND CHERRY POINT, N.C.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to add FM Channel 253 to Camp Lejeune, N.C., or if interest in such a proposal is expressed, in the alternative, to add FM Channel 252A at Cherry Point, N.C. The document invites comments on these proposals and on a series of questions regarding the Camp Lejeune proposal, including the appropriateness of the assignment of a Class C channel when the Commission had refused earlier to assign another channel to nearby Jacksonville, N.C.

DATES: Comments must be received on or before October 17, 1977, and reply comments on or before November 7, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Carol Fox Foelak, Broadcast Bureau, 202–632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 30, 1977.

Released: September 7, 1977.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Camp Lejeune, N.C.), Docket No. 21383, RM–2814.

1. *Petitioner, Proposal, and Comments.* (a) Francon, Inc. ("petitioner") filed a petition proposing the assignment of Channel 253 to Camp Lejeune, N.C. Public Notice was given January 18, 1977 (Report No. 1026). Comments opposing the petition were timely filed by Seaboard Broadcasting Corp. ("Seaboard"), licensee of WLAS, Jacksonville, N.C.; Marine Broadcasting Corp. ("Marine"), licensee of WXOR–FM, Jacksonville, N.C.; and Beasley Broadcast Group of Jacksonville, Inc. ("Beasley"), licensee of WJNC and WRCM(FM), Jacksonville, N.C. Petitioner timely filed reply comments.[1]

(b) Petitioner states that the channel could be assigned in conformity with the mileage separation requirements of the FM rules. The opponents question the proposal in several respects: whether Camp Lejeune is a community; whether intermixture would result; and whether a proper Roanoke Rapids showing has been made. Also they cite a decision of several years ago in which the Commission declined to add Channel 253 to nearby Jacksonville, under allegedly similar circumstances, FM Table of Assignments (Jacksonville, N.C.), 37 F.C.C. 2d 50 (1972).

(c) Petitioner states that if the channel is assigned, it will promptly file an application to construct a station.

2. *Community Data*—(a) *Location.* Camp Lejeune is a Marine Corps reservation located in Onslow County on the coast of North Carolina, 176 kilometers (110 miles) southeast of Raleigh and 320 kilometers (200 miles) east of Charlotte. Camp Lejeune is located southeast of Jacksonville, N.C., and has a common boundary with it.

(b) *Population.* Camp Lejeune, 34,549; Onslow County, 103,126; both figures from U.S. Census, 1970.

(c) *Present Aural Services.* Camp Lejeune—none. Nearby Jacksonville, N.C.—fulltime AM Stations WJNC, 1240 kHz, and WLAS, 910 kHz; daytime-only AM Station WBBS, 1290 kHz; FM Stations WRCM, Channel 221A and WXQR–FM, Channel 228A.

3. *Preclusion Considerations.* Preclusion will be caused as follows to various communities with over 1,000 population in the State of North Carolina: Jacksonville (pop. 16,289) (contained in U.S. Census Reports 135–6); Swansboro (pop. 1,207); Morehead City (pop. 5,233); Beaufort (pop. 3,368); Hankers Island (pop. 1,633); Bellhaven (pop. 2,259); Newport (pop. 1,735); Havelock (pop. 5,283); James City (pop. 2,577); and Cherry Point (pop. 12,029). Except for Cherry Point and James City, each community with over 2,000 population has at least one FM channel allocation (Beaufort has no exclusive FM allocation but shares unused, but applied for, Channel 277 with Morehead City). The precluded communities with less than 2,000 population, Swansboro, Harkers Island and Newport, have neither FM or AM assignments. In view of the preclusion at Cherry Point, a fairly sizable community, and of the problems discussed below in paragraphs 13–16, we request comments on the appropriateness of the proposed assignment as well as the alternative of adding Channel 252A at Cherry Point, instead of Channel 253 at Camp Lejeune.

4. *Is Camp Lejeune a Community?* Petitioner states that Camp Lejeune has a substantial population, 35,549, according to the 1970 U.S. Census, and that the population has remained the same or increased since then. Petitioner's data,[2] were not challenged as to numbers by the opponents. According to petitioner there are five elementary schools and a junior and a senior high school, a hospital and a substantial payroll in the community. Camp Lejeune has well defined boundaries and a common interest in its military mission.

5. The opponents state that there are no commercial enterprises at Camp Lejeune which might advertise on a station, citying Outer Banks Radio Co., 15 F.C.C. 2d 994 (1964), for the proposition that a lack of potential advertising revenues from a locality is fatal to a finding of community.

6. In our view, Outer Banks is inapposite. In that case, the Commission added a "suburban community" issue[3] in a proceeding involving an applicant for a new AM station at Midway Park, a housing area near Camp Lejeune and Jacksonville. The opponents note that the Commission found that there was only one small business in Midway Park and stated that there was a serious question as to whether there would be sufficient advertising revenues from Midway Park, without reliance on Jacksonville, which had a several times larger population. In addition, the Commission referred to allegations that Midway Park's population was smaller than the applicant had represented and that it was dependent on Jacksonville for civic, social and business activities and lacked schools, banks, newspapers, and police and fire departments, thus raising a question of its existence as an independent entity.

7. The reasoning behind the "suburban community" Policy Statement, which applied to applications for new and changed AM facilities, has been applied to FM applications, Berwick Broadcasting Corporation, 20 F.C.C. 2d 393 (1969). Thus, under Berwick, an applicant could not specify a small town to meet the priority of bringing a first service to it while really intending to serve a nearby larger town. However, the Policy Statement and Berwick apply to applications for facilities which would serve a community *larger* than the specified community. Here, Camp Lejeune, the specified community, is larger than Jacksonville. Further, an adverse finding on a suburban community (or Berwick) issue would not constitute a finding that the smaller locality is not a community but only that the applicant's proposal was designed to serve the nearby larger community.

8. As to the suggestion in Outer Banks that Midway Park was not a community, Camp Lejeune is clearly distinguishable. It has schools, employment and other functions whereas Midway Park was apparently only a housing area. Therefore, based on these factors and the others stated above in paragraph 4, we conclude that Camp Lejeune is a separate community, and the lack of potential advertising revenues does not disturb our conclusion about its status. A lack of advertisers in a particular community is a matter which would have significance in connection with a possible Berwick issue if it were to be of concern at all in these circumstances.

9. The opponents cite Jacksonville, supra, in which the Commission declined to add Channel 253 as a third FM authorization to Jacksonville on the grounds of intermixture, preclusion, and lack of need for the service in view of the size of Jacksonville's population. They argue that this petitioner's proposal is essentially the same as that rejected in Jacksonville and that it has shown no basis for disturbing the Commission's earlier ruling.

10. The opponents' reliance on Jacksonville is misplaced. In fact, the Commission specifically found in that case that Camp Lejeune was a separate community, noting that its population is much larger than that of Jacksonville, 37 F.C.C. 2d at 51, and we have again found that Camp Lejeune is a separate community. Therefore, petitioner's proposal is not the same as that rejected in Jacksonville.

11. The opponents also complain that the petition contains more information on Onslow County than Camp Lejeune and suggests that petitioner really intends to serve the former. However, the question of whether petitioner would actually provide sufficient service to Camp Lejeune does not have to be resolved at this stage. Petitioner has shown that Camp Lejeune is a community, and the information before us does not raise a question of whether it actually intends to serve Camp Lejeune.

12. Seaboard and Beasley state that since Camp Lejeune is a military base, its population could fluctuate drastically, and it could even be closed entirely. While this might be a pertinent matter, we have no information to indicate that Camp Lejeune is likely to be closed but

[1] In addition, Capital Radio, Inc., licensee of WRNB and WRBK–FM, New Bern, N.C., filed an untimely opposition almost three months late. It did not seek an extension of time within which to file or give any reason for the late filing. This pleading which was opposed by petitioner will be stricken because of its untimeliness ad failure to state any cause for the untimeliness. We also note that this dismissal will have no practical effect since the pleading offers no argument not otherwise before us.

[2] Petitioner's population data for Camp Lejeune are muddled by including residents, employees and even some retired military, who would not be expected to live on the post. We expect petitioner to provide the information necessary to clarify this matter.

[3] Under the Policy Statement on Section 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities, 2 F.C.C. 2d 190 (1965), if an applicant's proposed 5 mV/m daytime contour would penetrate a community with a population over 50,000, and at least twice the size of the specified community, a presumption would arise that the applicant really intended to serve the larger community. To overcome the presumption the applicant would have to sow the suburban community's separate program needs and the extent to which its program proposal would meet unmet needs, and would also be expected to adduce evidence that advertising revenues from the specified community would be adequate to support its proposal, although this aspect would not necessarily be determinative. The presumption was subsequently limited to apply only in comparative hearings, but the Commission's concern that applicants intend to serve the communities they specify remains. AM Assignment Standards, 54 F.C.C. 2d 1, 21–22 (1975).

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would welcome comments on this point.

13. Finally, Seaboard asserts that a station could not be physically located in Camp Lejeune, a military reservation. This is not a bar to assigning an authorization there, although an applicant would have to make a showing of good cause for locating its main studio outside the principal community to be served, pursuant to § 73.210(a)(3) of the Commission's rules, 47 C.F.R. 73.210(a)(3). There is precedent for licensing a station to a military reservation in the case of WSAC–FM, Ft. Knox, Ky. (waiver of § 73.210(a)(3), to permit locating the main studio outside the principal community to be served, granted July 22, 1964).[4] Similarly, WSAC–AM was granted a waiver of § 73.20(a), the AM main studio rule, when it was permitted to change its AM station location to Ft. Knox in December 1959.

14. In view of the size of Camp Lejeune's population and our finding it to be a community, we would have no hesitation in proposing a Class A assignment there. However, petitioner proposes a Class C channel,[5] and although it would provide a first local service for a community which is, after all, larger than Jacksonville, there are questions which would need to be resolved before the assignment could be made. Because of the apparent interrelationship between Camp Lejeune and Jacksonville, there is some question about whether to treat this case as the equivalent of one involving intermixture of classes of channels in a particular community. We need further support for the Class C assignment especially in view of the fact that it would provide only a small amount of first or second FM service. We seek comment on these problems, which are discussed in the following paragraphs:

15. *Intermixture.* The two Jacksonville stations are Class A stations, and the opponents state that petitioner's proposed Class C assignment would violate the Commission's policy against intermixture of wide coverage and limited coverage stations. They note that one of the reasons for denying assignment of Channel 253 in Jacksonville, supra, was intermixture.

16. We have found that Camp Lejeune is a separate community, and the policy against intermixture generally applies to assignments within the same community. FM Table of Assignments (Paso Robles, Calif.), 35 R.R. 2d 639 (1975). However, Camp Lejeune, which is adjacent to Jacksonville, would provide no advertising revenues on its own and therefore is more closely tied to Jacksonville economically than would ordinarily be the case with two adjacent communities. One of the purposes of the policy against intermixture is to foster competition among stations in a particular locality with equivalent facilities. Here, one station would be at a decided competitive advantage since it would have an opportunity for superior facilities not available to the others so there might be reason to apply the policy in this unusual situation. We seek comment on this point.

17. *Roanoke Rapids/Anamosa Comments.* While the petitioner estimated the first and second FM service that its proposed facilities would provide, the opponents state that it did not make a Roanoke Rapids[6] showing. Seaboard states that a proper Roanoke Rapids showing, assuming "reasonable" facilities for all FM channels assigned in the area would show first and second FM services to 217 persons in an area of eight square miles and 455 persons in an area of 41 square miles, respectively. In reply, petitioner states that it is not required to make a Roanoke Rapids showing at this stage and will do so in the event a Notice of Proposed Rule Making is issued. We expect petitioner to do so and to take into account nighttime AM service—see Anamosa, Iowa, 40 F.C.C. 2d 520 (1974).

18. *Conclusion.* Accordingly, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of its rules, 47 CFR 73.202(b) as follows:

City	Channel No.	
	Present	Proposed
Camp Lejeune, N.C.		253
or, in the alternative		
Cherry Point, N.C.		252A

19. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures; and filing requirements are contained below and are incorporated herein.

NOTE:—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

20. Interested parties may file comments on or before October 17, 1977, and reply comments on or before November 7, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in this Notice of Proposed Rule Making.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this Notice of Proposed Rule Making. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420 (d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date of filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply coments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this Notice of Proposed Rule Making. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompaniedb y a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission's rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's rules and regulations, an original and four copies of all comments shall be accompanied by a certifi- or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77-26190 Filed 9-7-77;8:45 am]

[47 CFR Part 73]

[Docket No. 20954; RM–2684; RM–2772]

FM BROADCAST STATIONS IN AMHERST AND CROZET, VIRGINIA

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION. Memorandum opinion and order and further notice of proposed rulemaking.

[4] The Commission also required that its station identification make clear that the station is not connected with the U.S. Government.

[5] Petitioner maintains that there is no Class A assignment which is available here, and this was confirmed by our staff after a search. If petitioner subsequently discovers a way to make a Class A assignment here, it can, of course, institute proceedings to that end.

[6] FM Table of Assignments, 9 F.C.C. 2d 672 (1967), setting forth assumptions to be used in calculating the extent of such service which an FM proposal would provide.

SUMMARY: This action reconsiders the denial of the assignment of Class B FM Channel 300 to Amherst, Va., and joins this proposal with one to assign a channel to Crozet, Va. The action consolidates the two because both involve the claim that assignment of a Class B channel at either community would provide a first aural service to the same area. A Further Notice was issued to provide the parties an opportunity to provide comparative data for both Class B proposals and alternatively to consider a Class A rather than Class B channel for Crozet.

DATES: Comments are due on or before October 14, 1977, and reply comments on or before November 3, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James J. Gross, Broadcast Bureau 202–632–7792.

SUPPLEMENTARY INFORMATION:

MEMORANDUM OPINION AND ORDER AND FURTHER NOTICE OF PROPOSED RULE MAKING

Adopted: August 29, 1977.

Released: September 1, 1977.

In the matter of Amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Amherst and Crozet, Va.), Docket No. 20954, RM–2684, RM–2772.

1. The Commission has before it the Notice of Proposed Rulemaking, 41 FR 46350 (published October 20, 1976), proposing the assignment of Class B FM Channel 259 to Crozet, Va., and the filings in response to this Notice, as well as a petition for reconsideration of the Commission's Memorandum Opinion and Order[1] denying the assignment of Class B FM Channel 300 to Amherst, Virginia. The Amherst petition was filed well before issuance of the Crozet Notice.

2. The Crozet Notice was issued at the petitioning of Lee Garlock. In the Notice, we pointed out that a town the size of Crozet would ordinarily be assigned a Class A station but that we were willing to consider a Class B assignment because of the possibility it might provide service to unserved and underserved areas. Oppositions to the Crozet proposed assignment were filed by Clay Realty Company ("Clay"), licensee of Stations WCHV(AM) and WCCB–FM, Charlottesville, Va., and WANV, Inc. ("WANV"), licensee of WANV, Waynesboro, Virginia. Other comments to the Notice were filed by Amherst Broadcasting Associates, Inc., licensee of Station WKYY(AM) ("WKYY"), Amherst, Va. (the party seeking reconsideration of the denial of its petition to assign Channel 300 to Amherst, Va.), and by Radio Harrisonburg, Inc. ("Harrisonburg"), licensee of Station WHBG, Harrisonburg, Va.

3. As with the Crozet proposal, the Amherst request for a Class B assignment to a small town rested on the assertion that service would be provided to unserved and underserved areas. Although data in support of this assertion was provided, petitioner had failed to provide all of the requested engineering showing relating to the extent to which existing AM stations already provided aural service to the areas it proposed to serve. In its petition for reconsideration, WKYY has rectified this omission and provided a showing which indicates that existing AM stations do not provide service at night to the area in which WKYY said it would provide a first FM service. Thus, the area appears to be one where it would offer a first aural service, a matter which is given high priority. In our view, this is sufficient to demonstrate that it would be in the public interest to reopen the Amherst proceeding. Ordinarily, that judgment would have no bearing on the Crozet proposal, but the facts here indicate that the proposals should be given joint consideration. This is the case because the first and second aural service areas of each proposal overlaps that of the other. When such is the case, the action in one has an important bearing on the other, and we do not believe it appropriate to act on the proposals separately without taking this fact into account. This is particularly true here since in each case, a Class A assignment would ordinarily be assigned to such small communities. Thus, the first (or second) service arguments are crucial to the possible assignment of wide-coverage Class B channels.

4. Crozet (1970 pop. 1,433) is located approximately 177 kilometers (110 miles) southwest of Washington, D.C., and 16 kilometers (10 miles) west of Charlottesville, Virginia. Crozet is an unincorporated community which has one daytime-only AM station, WPED (Class II–D). Information regarding Crozet's ability to support an FM assignment is contained in the original Notice and need not be repeated here. Although Crozet is located within a "radio quiet zone" in which radio astronomy is conducted by the National Radio Astronomy Observatory at Greenback, W. Va., and by the Naval Radio Research Observatory at Sugar Grove, W. Va., both observatories have approved the proposed assignment but, as provided by § 73.215(a) of our rules, have reserved the right to later object to any application filed.

5. Amherst (1970 pop. 1,108), seat of Amherst County (1970 pop. 26,072), is located approximately 88 kilometers (55 miles) west of Richmond, 56 kilometers (35 miles) northeast of Roanoke, and 25 kilometers (15 miles) north of Lynchburg, Va. Although there are currently no aural services operating in Amherst, a new AM station (BP–20013) is now under construction. Additionally, Amherst is located within the 1 mV/m contours of two Class A FM stations at Lynchburg, Va. Petitioner has furnished extensive data which would indicate that Amherst could support an FM assignment. There are currently approximately 400 businesses in the county with an annual payroll of $50,000,000, and petitioner claims that there has been a steady increase in both the number of workers and jobs in the area. A new shopping center has been built near the town to encourage new industry to locate in the community.

6. Although Amherst is also located within the Radio Quiet Zone, petitioner has indicated its proposed transmitter site lies outside the Zone, approximately 20 kilometers (12 miles) southeast of Amherst. Further, there appears to be a substantial area 52 square kilometers (20 square miles) outside the Zone within which the transmitter site could be located. Petitioner has indicated that it has informed the National Radio Astronomy Observatory about the proposed transmitter site, but in its Supplemental Engineering Report, petitioner indicated that "No claim is made that it will actually be possible to locate a transmitter at the coordinates shown as a reference point," and petitioner indicated that it would negotiate with the National Radio Astronomy Observatory if it became necessary to locate the transmitter site within the Quiet Zone. Before making this assignment we would expect petitioner to offer more definitive information regarding its intended transmitter location.

7. The Crozet Notice indicated that a Channel 259 assignment there would preclude future assignments to Channels 257A and 259 to five communities in Virginia, but that each of these communities presently had local radio service, as well as alternative FM channels available for assignment. Clay argues that Crozet is too small to merit a Class B assignment, and that fairer use of the channel could be made by assigning it to one of the precluded Virginia communities of Waynesboro (pop. 15,708), Bridgewater (pop. 2,828) or Staunton (pop. 25,504).[2] The Crozet petitioner attempts to demonstrate that these cities are already precluded from assignments by the Radio Quiet Zone. However, even if these places are within the Quiet Zone, the possibility remains that a particular site outside the Zone might be found which would permit the assignment. However, in the absence of a counterproposal, this is not a matter we need to resolve here, as Waynesboro has two local fulltime AM stations and other Class A FM channels available for assignment. Bridgewater has an alternative Class B channel and two Class A channels available for assignment. Staunton has two AM stations, one FM station, an alternative Class B channel and two Class A channels available for assignment. The only interest that has been expressed in this proceeding for assignments at any of these communities is that of WANV, the AM licensee at Waynesboro, which states that it is interested in an FM assignment to

[1] 42 FR 24312 (pub. May 13, 1977).

[2] Harrisonburg, Va. (pop. 14,605), also mentioned by Clay, is just east of the area precluded by the Crozet proposal. Harrisonburg presently has two applications pending for use of Channel 282 assigned to that community. WHBG at Harrisonburg states that it would oppose the assignment of Channel 259 to Harrisonburg, as suggested by Clay. No definitive interest in the use of the channel at any of these communities has yet been expressed.

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Waynesboro or Staunton if approval is obtained from the Naval Radio Research Observatory (Sugar Grove) of a proposed transmitter site. This falls short of the required statement of intent required by the Commission in making FM assignments to particular communities.

8. WKKY's preclusion study for Amherst indicates that preclusion would occur only on the co-channel (Channel 300) in a limited area. Three cities with populations greater than 1,000 persons would be precluded if Channel 300 were assigned to Amherst. These cities are Lexington (pop. 7,597), Buena Vista (pop. 6,425), and Glasgow, Virginia (pop. 1,304). Buena Vista and Glasgow presently have no local aural service and Lexington is served by fulltime AM Station WREL. Channel 244A would be available for assignment to one of these communities.

9. In the Crozet Notice, the Commission asked Garlock to demonstrate that his proposal was designed to serve Crozet rather than the nearby and far larger community of Charlottesville. In its opposition, WANV argues that sufficient advertising revenue for an FM station could not be generated within Crozet, and states that the Crozet AM station depends on other communities for its revenues. Clay asserts that the petitioner, Garlock, has not addressed the issue adequately in its comments. Garlock's response is that he became aware of the need for the proposed FM service in Crozet through his residence and employment in the area. He states that he intends to join in an application for the channel with the licensee of Crozet's AM Station WPED to bring service to Crozet and western Albermarle County. Additionally, petitioner argues that this is not a Charlottesville proposal, since Charlottesville is adequately served presently. Petitioner incorporates the information filed earlier in support of the theory that Crozet has community needs distinct from those of Charlottesville. That information indicates that the Census Bureau has delineated arbitrary boundaries for the community, that two industrial plants have home offices and corporate headquarters in Crozet and employ over 3,000 persons there, that increased population growth is projected for Crozet by the Albermarle County Planning Commission, that a new high school is being built in Crozet for western Albermarle County, and that additional development is expected in the future. Petitioner states that Crozet has a business district of various retail stores, a bank, a farm supply cooperative, and a shopping center. Although this information establishes Crozet's status as a community and the appropriations of assigning a channel to it, it does not entirely resolve the Berwick issue raised by the proposal to assign a Class B channel. A Class A assignment would not raise such a problem. Such a channel is available and for the reasons to be discussed we wish to consider its assignment.

10. As mentioned, the Commission's usual policy is to assign Class A channels to small communities like Crozet and Amherst rather than wide coverage Class B channels, unless a showing is made of special circumstances such as first aural service to a significant population. Garlock was therefore given an opportunity by the Notice to justify his proposal for a Class B assignment as an exception to our general policy. He submitted a showing of first nighttime aural service to 10,400 people and a second nighttime aural service to 9,500 persons. A Class A assignment at Crozet would not provide any first service.

11. The Amherst proposed Class B station, operating with maximum facilities, would be able to provide a first aural service to 11,660 persons in an area of 1,264 square kilometers (488 square miles) and a second aural service to 22,930 persons in an area of 1,585 square kilometers (612 square miles). A Class A station with maximum facilities would provide a first service to 3,515 persons in a 339 square kilometer (131 square mile) area and a second service to 3,791 persons in an area of 390 square kilometers (112 square miles).

12. A comparison of the respective showings indicates that the Amherst station could provide service to virtually the entire first service area of Crozet but that the Crozet proposal would not be able to serve the Amherst first service area. With this in mind it appears that the first service argument does not support making two Class B assignments, and the data now on hand argue in favor of a Class B assignment to Amherst. As to Crozet where there does appear to be a need for a local FM outlet, we believe consideration of a Class A assignment is warranted and have determined that Class A Channels 232A and 272A are available for this purpose. In order to make a final determination, we shall allow the parties to submit any additional first aural service showings, if they so desire. Any comparisons of first aural service that could be offered by each of the two proposals should be in accordance with Roanoke Rapids, 9 F.C.C. 2d 672 (1967) and Aanmosa-Iowa City, 40 F.C.C. 2d 520 (1974). The coverage of existing FM stations should be based on actual or reasonable facilities, whichever is greater, and all vacant assignments should be considered to be operating with reasonable facilities. AM coverage should be that obtaining at night and employ the prediction method unless measurement data is available. One final point needs to be mentioned. The Crozet proponent should state its willingness to construct a Class A FM station in the event its request for a Class B channel is denied.

13. Accordingly, comments are invited on proposals to amend the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations) for the following communities (to be considered in conjunction with and as an alternative to the original proposal to assign Channel 259 to Crozet, Va.):

City:	Channel No. Present	Proposed
Amherst, Va		300
Crozet, Va		232A or 272A

14. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained and are incorporated herein.

15. Interested parties may file comments on or before October 14, 1977, and reply comments on or before November 3, 1977.

16. *It is ordered*, That the petition for reconsideration filed by Amherst Broadcasting Associates, Inc., is granted to the extent indicated and in other respects is denied.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in this notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 77-26043 Filed 9-7-77;8:45 am]

[47 CFR Part 87]

[Docket No. 19699; FCC 77-584]

AVIATION SERVICES

Providing for Procedures to Notify Commission of Aircraft Operating Under a Fleet License

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This proceeding is being terminated without adopting the proposed rule amendment providing for notification procedures concerning aircraft operating under a fleet license. It was determined from the negative comments received and further investigation that such rulemaking is unnecessary and would be a burden on both the public and the Commission.

EFFECTIVE DATE: Non-applicable.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert H. McNamara, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION: James C. McKinney, Field Operations Bureau, 202-632-7200.

REPORT AND ORDER—Proceeding Terminated

Adopted: August 24, 1977.

Released: September 1, 1977.

In the matter of amendment to Part 87 of the rules to provide for procedures to notify the Commission of the aircraft operating under a fleet license, Docket No. 19699.

1. A notice of proposed rulemaking (FCC 73-253) in the above-captioned matter was released on March 12, 1973, and published in the FEDERAL REGISTER on March 21, 1973 (38 FR 7402). The specified time for filing comments and reply comments has expired.

2. The proposed amendment was designed to provide the Commission a means of readily determining what aircraft are under a fleet licensee's control by requiring fleet licensees to notify the Commission within ten days of a change in the composition of their aircraft fleet. Comments were received from the Aerospace and Flight Test Radio Coordinating Council (AFTRCC), the Aircraft Owners and Pilots Association (AOPA), the Central Committee on Communications Facilities of the American Petroleum Institute (API), the General Aviation Manufacturers Association (GAMA), the National Air Transportation Conferences, Inc. (NATC), the National Business Aircraft Association (NBAA), New Haven Airways, Inc., and Progressive Aviation, Ltd.

3. All of the above-mentioned commenters generally opposed the proffered rule amendment. In essence the commenters indicated that the proposed notification requirements would be burdensome and costly, and would eliminate the administrative advantage of fleet licensing for both the licensee and Commission.

4. In view of the comments received and upon further examination, the Commission is persuaded that the proposed rule amendment would impose an undue inconvenience and hardship on the public. In addition, the administrative burden on the Commission's licensing procedures would be increased, thus producing an unfavorable backlog impact. Therefore, while we have not resolved the identification problems inherent in fleet licensing, we conclude it is not in the public interest to amend the rules as proposed in the notice of proposed rulemaking in this docket.

5. In view of the foregoing: *It is ordered*, That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,[1]
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-26041 Filed 9-7-77;8:45 am]

[47 CFR Parts 89, 90, 91, 93]

[Docket No. 21349]

LAND MOBILE RADIO SERVICES

Consolidation of Regulations; Correction

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Correcting Notice of proposed rulemaking, FCC 77-521, Published in the FEDERAL REGISTER at 42 FR 39562.

DATES: Comments due by January 4, 1978, and reply comments by February 2, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Taube, Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau, 202-632-6497.

[1] Commissioner Fogarty concurring in the result.

Released: September 2, 1977

In the matter of amendment of the Commission's rules governing the Private Land Mobile Radio Services to provide a New Part 90 that re-regulates and consolidates Parts 89, 91, and 93, Docket No. 21348.

The notice of proposed rulemaking in the above-entitled matter, FCC 77-521 released July 27, 1977, and published in the FEDERAL REGISTER August 4, 1977 at 42 FR 39559, in paragraph 23, is in error, and the dates for comments and reply comments should read January 4, 1978 and February 2, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-26042 Filed 9-7-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77-CE-18-AD]

BEECH 55, 56, 58, AND 95 SERIES AIRPLANES

Propcsed Airworthiness Directive

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to add an Airworthiness Directive (AD) that would require repetitive inspection of aileron, rudder, and elevator trim tab control systems for excessive free play and repair as necessary to preclude inflight vibration that could affect aircraft control.

DATES: Comments must be received on or before November 11, 1977.

ADDRESS: Send comments on the proposal to: FAA Central Region, Office of the Regional Counsel, ACE-7, Attention: Rules Docket Clerk, Docket No. 77-CE-18-AD, 601 East 12th Street, Kansas City, Mo. 64106.

Beechcraft Service Instructions No. 0846-152, Revision I, applicable to this proposal may be obtained from Beech Aircraft Corp., Commercial Service Department, 9709 East Central, Wichita, Kans. 67201. A copy of the service instructions cited above is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C., and Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Mo. 64106.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106; telephone 816-374-3446.

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SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons are invited to participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the AD Docket Number, and be submitted in duplicate to the address specified above. All comments received on or before the closing date for comments will be considered by the Administrator before action is taken on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available before and after the closing date for comments in Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA has received one report on a Model 56 TC and two reports on Model 58 Airplanes showing the occurrence of incidents involving inflight vibration of elevator controls. Investigation following the incidents revealed that the vibration was caused by excessive free play of elevator trim tabs. The excessive free play is caused by wear of various components in trim tab control systems. If the wear is not detected and corrected, it could lead to a tab developing excessive free play or becoming completely disconnected from its control system thereby endangering the airplane and its occupants. The manufacturer has determined acceptable free play limits for aileron, rudder, and elevator trim tabs and these limits, along with procedures for measuring free play and elimination of excessive free play, are included in Beechcraft Service Instructions No. 0846-152, Revision I which will be issued on or about August 1, 1977. Results of FAA inspection of approximately 61 Beech 55, 56, 58, and 95 series airplanes show that aileron, elevator, and rudder trim tabs on in service airplanes have excessive free play that must be corrected. The FAA has concluded that trim tab excessive free play on in service airplanes is an unsafe condition that is likely to exist or develop in other airplanes of the same type design. Accordingly, an AD is being proposed that would require repetitive inspection of aileron, rudder, and elevator trim tabs for excessive free play, and if necessary correction of any excessive free play detected, on certain Beech 55, 56, 58, and 95 series airplanes in accordance with Beechcraft Service Instructions No. 0846-152, Revision I. In addition, the proposed AD would allow continued operation of airplanes having a limited amount of excessive free play in one or more trim tab systems at reduced never exceed speed (Vne) for 25 hours time in service to allow owners/operators time to obtain new parts that may be required to eliminate excessive free play in these systems. Accomplishment of the inspections and repair or replacement proposed herein will correct existing and prevent development of unsafe conditions, caused by excessive free play in aileron, rudder, and elevator trim tab systems.

DRAFTING INFORMATION

The principal authors of this document are: William L. Schroeder, Flight Standards Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

THE PROPOSED AMENDMENT

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

BEECH.—Applies to the following models and serial number airplanes certified in all categories:

Model	Serial Numbers
95-55, 95-A55, 95-B55, and 95-B55A	TC-1 through TC-349 and TC-351 and on.
95-C55, 95-C55A, D55, D55A, E55, and E55A	TC-350 and TE-1 and on.
56TC and A56TC	TG-2 through TG-94.
58 and 58A	TH-1 and on.
58P and 58PA	TJ-2 and on.
58TC and 58TCA	TK-1 and on.
95, B95, B95A, D95A, and E95	TD-2 through TD-721.

COMPLIANCE: Required as indicated unless already accomplished.

To detect and if necessary correct excessive free play that may exist or develop in aileron, rudder, and elevator trim tab control systems, within 100 hours time in service after the effective date of this AD for those aircraft with 300 or more hours total time in service or upon accumulation of 400 hours time in service for those aircraft with less than 300 hours time in service and thereafter each 300 hours time in service or once each 12 months, whichever occurs first, accomplish the following in accordance with Beechcraft Service Instructions No. 0846-152, Revision I or later approved revisions:

(A) Using a dial indicator measure the free play, at locations designated in the above noted service instructions, of aileron (if installed), rudder, and elevator trim tabs. If measured free play does not exceed maximum limits of 0.165 inches for aileron tabs, 0.105 inches for rudder tabs (except 0.044 inches for rudder tabs on Models 95, B95, B95A, D95A and E95), and 0.084 inches for elevator tabs no further action is required until the next repetitive inspection in accordance with this AD.

(B) Visually inspect linkage systems of trim tabs that exceed free play limits shown in Paragraph (A) of this AD, determine the cause of the excessive free play and accomplish Paragraph (C) of this AD prior to the next flight, except as provided in Paragraph (D).

(C) Repair or replace worn components in the trim tab linkage systems as necessary to reduce tab free play measurements down to or below maximum limits shown in Paragraph (A) of this AD.

(D) Airplanes having one or more trim tabs with excessive free play that does not exceed 0.248 inches for aileron tabs, 0.158 inches for rudder tabs (except 0.066 inches for rudder tabs on Models 95, B95, B95A, D95A, and E95), and 0.126 inches for elevator tabs may be operated for 25 hours time-in-service after the determination in accordance with Paragraph (A) of this AD that excessive free play exists provided the following conditions are complied with:

(1) Fabricate, for each airspeed indicator installed on the instrument panel, a temporary placard having 3/16 inch or larger letters restricting never exceed speed (Vne) to 20 knots, or if applicable 23 MPH, less than the Vne published for the airplane in question. The placards will read as follows:

(a) For airplanes having airspeed indicators marked in knots—

"Vne RESTRICTED TO * KNOTS".

*Enter published Vne—20 knots.

(b) For airplanes having airspeed indicators marked in miles per hour—

"Vne RESTRICTED TO ** MPH".

**Enter published Vne—23 MPH.

(2) Install a placard fabricated in accordance with Paragraph (D)(1) (a) or (b) of this AD adjacent to each airspeed indicator on the instrument panel and operate the airplane in accordance with said placard. Upon compliance with Paragraph (C) of this AD (not to exceed 25 hours time-in-service) the restriction on Vne no longer applies and the placards are to be removed.

(E) Compliance time intervals for the 300 hour or annual repetitive inspections required by this AD may be extended up to 330 hours or 400 days to allow compliance at previously scheduled maintenance periods.

(F) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on August 26, 1977.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc.77-26066 Filed 9-7-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-WE-23]

TRANSITION AREA

Proposed Designation; Ukiah, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a 700 foot transition area at Ukiah, Calif., to provide protection for aircraft executing a new instrument approach procedure (RNAV-B) to the Ukiah Municipal Airport.

DATES: Comments must be received on or before October 12, 1977.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261. Telephone: 213-536-6182.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the Airspace Docket Number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 1500 Aviation Boulevard, Lawndale, Calif. 90261. All communications received on or before October 12, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Chief, Airspace and Procedures Branch, 1500 Aviation Boulevard, Lawndale, Calif. 90261, or by calling 213-536-6180. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Ukiah, Calif., 700 foot transition area. This action will provide additional controlled airspace to accommodate aircraft executing the RNAV-B approach procedure to the Ukiah Municipal Airport.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division, and De Wittee T. Lawson, Jr., Esquire, Regional Counsel.

Accordingly, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following:

UKIAH, CALIF.

That airspace extending upward from 700 feet above the surface within a five mile radius of the Ukiah Municipal Airport (latitude 39°07'36" N., longitude 123°12'00" W.).

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)). Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE: The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on August 29, 1977.

HERMAN C. BLISS,
Acting Deputy Director, Western Region.

[FR Doc.77-25905 Filed 9-7-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-SW-35]

TRANSITION AREA

Proposed Designation; Tallulah, La.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a transition area at Tallulah, La., to provide controlled airspace for aircraft executing a proposed instrument approach procedure to the Scott Airport, using the newly established NDB located on the airport.[1]

DATES: Comments must be received on or before October 11, 1977.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Rd. Fort Worth, Tex. 76106.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone: 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G 17.181 (42 FR 440) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Designation of the transition area at Tallulah, La., will necessitate an amendment to this subpart.

[1] Map filed as part of the original document.

COMMENTS INVITED

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before October 11, 1977, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Tallulah, La. The FAA believes this action will enhance IFR operations at Scott Airport by providing controlled airspace for aircraft executing a proposed instrument approach procedure using the newly established NDB on the airport. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 440).

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) by adding the Tallulah, La., transition area as follows:

TALLULAH, LA.

That airspace extending upward from 700 feet above the surface within a 5.5-mile

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radius of the Scott Airport (Latitude 32°25'00" N., Longitude 91°00'00" W.), and within 3 miles either side of the Tallulah NDB 005° bearing from the Tallulah NDB (Latitude 32°24'44" N., Longitude 91°09'00" W.) extending from the 5.5-mile radius area to 8.5 miles northeast of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (40 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on August 26, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc.77-25906 Filed 9-7-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-SW-37]

TRANSITION AREA

Proposed Alteration; Buffalo, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Buffalo, Okla., transition area to provide controlled airspace for aircraft executing the new NDB-A instrument approach procedure to the Buffalo Municipal Airport.[1]

DATES: Comments must be received on or before October 11, 1977.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone: 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: In Subpart G 71.181 (42 FR 440) of FAR Part 71, the description of the Buffalo, Okla., transition area reflects the controlled airspace provided for the present instrument approach procedure to the Buffalo Municipal Airport. The new NDB-A instrument approach procedure will require alteration of the transition area to provide the necessary controlled airspace for this procedure.

[1] Map filed as part of the original document.

COMMENTS INVITED

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before October 11, 1977, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Buffalo, Okla., transition area. The FAA believes this action will enhance IFR operations at the Buffalo Municipal Airport by providing controlled airspace for aircraft executing the new NDB-A instrument approach procedure established for the airport. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 440).

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) by altering the Buffalo, Okla., transition area as follows:

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Buffalo Municipal Airport, Buffalo, Okla., (latitude 36°51'45" N, longitude 99°37'00" W) within 3.5 miles each side of the 290° bearing from the Buffalo NDB (latitude 36°51'48" N, longitude 99°37'05" W.) extending from the six-mile radius to 11.5 miles east of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on August 26, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc.77-25907 Filed 9-7-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-SW-39]

TRANSITION AREA

Proposed Alteration; New Mexico

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice to alter the New Mexico transition area to provide additional controlled airspace for the radar vectoring of aircraft north of Holloman AFB in the interest of aviation safety and to allow greater flexibility in the control of aircraft within the Holloman Radar Approach Control (RAPCON) area of responsibility.[1]

DATES: Comments must be received on or before October 11, 1977.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone: 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: In Subpart G 71.181 (42 FR 440) of FAR Part 71, the description of the New Mexico transition area reflects the controlled airspace now provided in the State of New Mexico upward from 1,200 feet above the surface, excluding certain areas and some airspace below 11,500 feet MSL. It is that excluded airspace below 11,500 feet MSL that needs to be changed to provide the necessary additional controlled airspace for radar vectoring purposes.

[1] Map filed as part of the original document.

COMMENTS INVITED

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before October 11, 1977, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the New Mexico transition area. The FAA believes this action will enhance safety and allow greater flexibility in the control of aircraft within the Holloman RAPCON area of responsibility by providing additional controlled airspace for radar vectoring purposes. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 440).

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) by altering the New Mexico transition area as follows:

Delete the last portion, that reads: "and excluding that airspace below 11,500 feet MSL bounded by a line beginning at latitude 33°57'00" N., longitude 105°27'00" W., thence to latitude 33°12'50" N., longitude 105°27'00" W., to latitude 33°10'20" N., longitude 105°38'00" W., thence counterclockwise along the arc of a 35-mile radius circle centered at latitude 32°51'04" N., longitude 106°06'05" W. to and along longitude 106°04'00" W. to and along the south boundary of V-264 to longitude 106°50'30" W., thence to point of beginning."

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on August 9, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc.77-25908 Filed 9-7-77;8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 77-EA-47]

PROPOSED ALTERATION OF VOR AIRWAYS

Corrections

In FR Doc. 77-25444 appearing at page 43991 in the issue for Thursday, September 1, 1977, the following corrections should be made.

1. Page 43991, third column, the zip-code in the further information paragraph should be changed to 20591.

2. Page 43992, first column, the third line from the bottom, now reading "In V-723, "From INT Sparta, N.J., 133°", should read, "In V-273, "From INT Sparta, N.J., 133°".

[14 CFR Parts 71 and 73]

[Airspace Docket No. 77-EA-60]

PROPOSED TEMPORARY RESTRICTED AREAS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to designate temporary restricted areas identified as R-5201A, R-5201B, R-5201C, and R-5201D in the vicinity of Fort Drum, N.Y., to contain military joint readiness exercise called "EMPIRE GLACIER 78." These proposed actions will provide for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations of nonparticipating aircraft within the area during the proposed designation period.[1]

DATES: Comments must be received on or before September 29, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 77-EA-60, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before September 29, 1977, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering amendments to Subpart D of Part 71 and Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to designate temporary restricted areas identified as R-5201A, R-5201B, R-5201C, and R-5201D in the vicinity of Fort Drum, N.Y., to contain military joint readiness exercise called "Empire Glacier 78." These restricted areas would also be included in the contiental control area for the duration of its time of designation. This training exercise, "Empire Glacier

[1] Map filed as part of the original document.

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78" will involve close air support, interdiction, reconnaissance, electronic warfare, air combat tactics, tactical airlift, airborne drops, air-to-air refueling, search and rescue, and airborne command center operations. Total air traffic associated with this exercise is expected to exceed 100 sorties per day. Restricted Area is specified airspace within which the flight of aircraft, while not wholly prohibited, is subject to restriction. Most restricted areas are designated joint use and IFR/VFR operations in the areas may be authorized by the controlling ATC facility when it is not being utilized by the using agency. The controlling agency for R-5201A/B/C and D would be the FAA Boston ARTCC and the using agency would be 9th Air Force/DOX, Shaw AFB, Sumter, S.C.

DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (42 FR 345 and 689) and amended (42 FR 29475) as follows:

In § 71.151 the following temporary restricted areas would be added for the duration of their times of designation from 0001 January 24, 1978, through 2400 hours, local time, February 1, 1978: R-5201A Fort Drum, N.Y.; R-5201B Fort Drum, N.Y.; R-5201C Fort Drum, N.Y.; R-5201D Fort Drum, N.Y.

In § 73.52 the following temporary restricted areas would be added:

R-5201A Fort Drum, N.Y.

Boundaries. Beginning at Lat. 44°10'00" N., Long. 75°39'00" W.; to Lat. 44°28'00" N., Long. 75°21'00" W.; to Lat. 44°28'00" N., Long. 75°13'00" W.; to Lat. 44°26'00" N., Long. 75°09'00" W.; to Lat. 44°20'00" N., Long. 75°15'00" W.; to Lat. 44°11'00" N., Long. 75°17'00" W.; to Lat. 44°03'00" N., Long. 75°33'30" W.; to Lat. 44°11'15" N., Long. 75°25'00" W.; to Lat. 44°15'15" N., Long. 75°31'00" W.; to point of beginning.

Designated altitudes. Surface up to but not including Flight Level 180.

Time of designation. Continuous 0001 January 24, 1978, through 2400 hours, local time, February 1, 1978.

Controlling agency. Federal Aviation Administration, Boston ARTCC.

Using agency. 9th Air Force/DOX, Shaw AFB, Sumter, S.C.

R-5201B Fort Drum, N.Y.

Boundaries. Beginning at Lat. 44°03'00" N., Long. 75°33'30" W.; to Lat. 43°51'15" N., Long. 75°33'30" W.; to Lat. 43°51'15" N., Long. 75°47'07" W.; to Lat. 44°05'47" N., Long. 75°44'30" W.; to Lat. 44°03'25" N., Long. 75°39'30" W.; to Lat. 44°00'45" N., Long. 75°37'25" W.; to point of beginning.

Designated altitudes. 6,000 feet MSL up to but not including Flight Level 180.

Time of designation. Continuous 0001 January 24, 1978, through 2400 hours, local time, February 1, 1978.

Controlling agency. Federal Aviation Administration, Boston ARTCC.

Using Agency. 9th Air Force/DOX, Shaw AFB, Sumter, S.C.

R-5201C Fort Drum, N.Y.

Boundaries. Beginning at Lat. 44°33'00" N., Long. 75°21'00" W.; to Lat. 44°36'00" N., Long. 74°40'00" W.; to Lat. 43°53'30" N., Long. 74°41'00" W.; to Lat. 43°45'00" N., Long. 74°46'50" W.; to Lat. 43°45'00" N., Long. 75°48'00" W.; to Lat. 43°51'15" N., Long. 75°47'07" W.; to Lat. 43°51'15" N., Long. 75°33'30" W.; to Lat. 44°03'00" N., Long. 75°33'30" W.; to Lat. 44°11'00" N., Long. 75°17'00" W.; to Lat. 44°20'00" N., Long. 75°15'00" W.; to Lat. 44°26'00" N., Long. 75°09'00" W.; to Lat. 44°28'00" N., Long. 75°13'00" W.; to Lat. 44°28'00" N., Long. 75°21'00" W.; to Lat. 44°10'00" N., Long. 75°39'30" W.; to Lat. 44°05'47" N., Long. 75°44'30" W.; to point of beginning.

Designated altitudes. 3,000 feet MSL up to but not including Flight Level 180.

Time of designation. Continuous 0001 January 24, 1978, through 2400 hours, local time, February 1, 1978.

Controlling agency. Federal Aviation Administration, Boston ARTCC.

Using agency. 9th Air Force/DOX, Shaw AFB, Sumter, S.C.

R-5201D Fort Drum, N.Y.

Boundaries. Beginning at Lat. 44°36'00" N., Long. 74°40'00" W.; to Lat. 44°36'00" N., Long. 74°34'00" W.; to Lat. 44°21'30" N., Long. 74°30'00" W.; to Lat. 44°08'00" N., Long. 74°30'00" W.; to Lat. 43°53'30" N., Long. 74°41'00" W.; to point of beginning.

Designated altitudes. 6,000 feet MSL up to but not including Flight Level 180.

Time of designation. Continuous, 0001 January 24, 1978, through 2400 hours, local time, February 1, 1978.

Controlling agency. Federal Aviation Administration, Boston ARTCC.

Using agency. 9th Air Force/DOX, Shaw AFB, Sumter, S.C.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 2, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-26064 Filed 9-7-77;8:45 am]

[14 CFR Part 75]

[Airspace Docket No. 77-WE-2]

PROPOSED ESTABLISHMENT OF A WAYPOINT AND ALTERATION OF RNAV ROUTES

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish waypoint AROSE at Lat. 30°00'00" N., Long. 125°00'00" W.; realign J938R in part from waypoint PALIS to waypoint AROSE, and also realign J964R in part from waypoint MERLE to waypoint AROSE. These proposed RNAV route realignments will more accurately define these routes and waypoints for trans-Pacific flights to use in conjunction with the existing Pacific composite routes.[1]

DATES: Comments must be received on or before October 12, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 77-WE-2, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Ave., SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.
[77-WE-2]

FOR FURTHER INFORMATION CONTACT:

Mr. David F. Solomon, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Ave. SW., Washington, D.C. 20591; telephone: 202-426-8530.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before October 12, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Ave. SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

[1] Map filed as part of the original document.

THE PROPOSAL

The FAA is considering an amendment to Subpart D of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to establish waypoint AROSE at Lat. 37°00'00" N., Long. 125°00'00" W.; realign J938R in part from waypoint PALIS to waypoint AROSE and also realign J964R in part from waypoint MERLE to waypoint AROSE. These actions will establish area navigation waypoint and route definition for trans-Pacific flights to use in conjunction with Pacific Composite Route R-64. A pending amendment to Part 75 of the Federal Aviation Regulations (42 FR 39379) effective October 6, 1977, will change the names of waypoints "LEAFS" to "ALCOA" and "FRUIT" to "CLUKK". Accordingly, the actions proposed herein are predicated on these waypoint name changes.

ICOA CONSIDERATIONS

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting State, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting State accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, State aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting State, the United States agreed by Article 3(d) that its State aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

DRAFTING INFORMATION

The principal authors of this document are Mr. David F. Solomon, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.400 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (42 FR 722) and amended (42 FR 39379 and 55864) as follows:

J938R Title "ALCOA" would be deleted and "AROSE" substituted therefor. Text "ALCOA 37°50'00" N. 125°50'00" W. Ukiah, Calif." would be deleted and "AROSE 37°00'00" N. 125°00'00" W. Oakland Calif." substituted therefor.

J964R Title "CLUKK" would be deleted and "AROSE" substituted therefor. Text "CLUKK 36°05'00" N. 124°50'00" W. Oakland, Calif." would be deleted and "AROSE 37°00'00" N. 125°00'00" W. Oakland, Calif." substituted therefor.

(Secs. 307(a), 313(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 2, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-26063 Filed 9-7-77;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

DESCHUTES NATIONAL FOREST ADVISORY COMMITTEE

Meeting

The Deschutes National Forest Advisory Committee will meet at the Cinders, 197 NE 3d, Bend, Oreg. 97701, at 8 p.m. on Thursday, September 29, 1977.

The subject of the meeting will be a discussion of the key issues on the Draft Environmental Statement relating to the proposed Forest Land Management Plan.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor or Kay Coyner at 211 NE Revere, Bend, Oreg. 97701, telephone 503-382-6922. Written statements may be filed with the Committee before or after the meeting.

Dated: August 30, 1977.

EARL E. NICHOLS,
Forest Supervisor.

[FR Doc.77-26132 Filed 9-7-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Order No. 77-9-5; Docket No. 31331]

ASSOCIATED AIR FREIGHT, INC.

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of September 1977.

By tariff revisions[1] issued August 3 and marked to become effective September 5, 1977, Associated Air Freight, Inc. (Associated), an air freight forwarder, proposes to refuse acceptance for transportation of certain types of shipments.[2] Associated justifies its proposal on the grounds that the classes of shipments it proposes not to accept are the same as those not accepted in effective tariffs of other carriers; that the direct carriers to whom it must tender consolidated shipments publish similar restrictions; and that, in order to facilitate the transportation transaction between the forwarder, the shipper, and the airline, it is necessary to provide for the acceptability of shipments.

The Board finds that Associated's proposal may be unlawful, and should be investigated. The Board further concludes that it should be suspended pending investigation.

Nonacceptance of the listed shipments would constitute a significant reduction in the forwarder's common-carrier responsibility to provide transportation service, without adequate justification. Contrary to Associated's justification, each of the types of shipments is acceptable for transportation by direct carriers.

Our action in suspending these proposals of both direct and indirect carriers which refuse to accept certain shipments for transportation absent justifiable reasons for such action.[3]

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the provisions in Rule No. 25 A, B, C, D, and F, on 3d Revised Page 5 of CAB No. 16 issued by Associated Air Freight, Inc., and rules, regulations, or practices affecting such provisions, are, or will be, unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful provisions and rules, regulations, or practices affecting such provisions;

2. Pending hearing and decision by the Board, Rule No. 25 A, B, C, D, and F, on 3d Revised Page 5 of CAB No. 16 issued by Associated Air Freight, Inc., is suspended and its use deferred to and including December 3, 1977, unless otherwise ordered by the Board, and that no changes be made during the period of suspension, except by order or special permission of the Board;

3. The proceeding here designated Docket 31331, be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariff and served upon Associated Air Freight, Inc., which is hereby made a party to Docket 31331.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-26183 Filed 9-7-77;8:45 am]

[1] Revisions to Rule No. 25, Tariff CAB No. 16, issued by Associated Air Freight, Inc.

[2] Corpses, Cremated or Disinterred Remains, Live Animals except: (a) Mice, Rats, Hamsters, Guinea Pigs, and Rabbits, and (b) Cats, Dogs, and Monkeys destined to or originating at medical laboratories within the U.S.; Birds, Fish, Reptiles, or Insects; Gold or other Precious Articles; Furniture or Household Goods, used, not for resale, uncrated, or unwrapped; Shipments requiring special care or attention between origin and destination.

[3] See, inter alia, Board Orders 76-3-88, 76-2-112, 76-2-72, 75-11-118, 74-12-86, 74-4-156, 72-11-112, 72-11-10, 72-8-55, and 70-1-34.

[Order No. 77-9-4; Docket Nos. 30182 and 30788]

IOWA/ILLINOIS-ATLANTA ROUTE PROCEEDING; APPLICATION OF NORTHWEST AIRLINES, INC.

Order on Petition for Reconsideration and Motion to Consolidate

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of September 1977.

By Order 77-4-6, adopted April 1, 1977, served April 5, 1977, the Board instituted the Iowa/Illinois-Atlanta Route Proceeding to consider whether the public convenience and necessity require the certification of an air carrier or air carriers to engage in air transportation between Atlanta, Ga., on the one hand, and Des Moines, Iowa, Quad Cities (Iowa-Illinois,[1] and/or Peoria, Ill., on the other hand, and if so, to determine which air carrier(s) should be authorized to provide such service and under what conditions.

The only relevant application then pending before the Board was that of Ozark Air Lines. Ozark seeks nonstop authority for a new segment consisting of the terminal point Des Moines, Iowa, intermediate points Quad Cities (Iowa-Illinois), and Peoria, Ill., and the terminal point Atlanta, Ga. Ozark contemplates one daily nonstop DC-9 round trip between Atlanta and each of the other above-named locations. Order 77-4-6 provided that petitions for reconsideration and motions to consolidate had to be filed within 20 days from the April 5 service date, and that answers had to be filed within 10 days after that.

On April 25, Northwest Airlines petitioned for reconsideration of the instituting order and on the same day filed an application for a certificate (Docket 30788) to engage in air transportation between the terminal point Atlanta, Ga., and the co-terminal points Des Moines, Iowa, Quad Cities (Iowa-Illinois), Peoria, Ill., Minneapolis/St. Paul, Minn., Rochester, Minn., and Madison, Wisc.; all flights on the proposed segment would be subject to a restriction that they serve the Atlanta terminal point and one or the other of Des Moines, Quad Cities, and Peoria. Northwest's route and application in Docket 30788 goes far beyond the route application in issue in Docket 30182. Northwest filed a concurrent motion to consolidate its application (Docket 30788) with Docket 30182, alleging that the law compels consolidation under the principles set forth in *Ashbacker Radio Corporation* v. *FCC*, 326 U.S. 327 (1945).

[1] Moline, East Moline, and Rock Island, Ill., and Davenport, Iowa.

Northwest's petition for reconsideration and motion for consolidation is supported by timely answer of the Peoria Parties.[4] Timely answers in opposition were filed by the Bureau of Operating Rights, and by the Cedar Rapids Parties.[5]

By its May 10 motion to file an answer as a late-filed document, Ozark opposed Northwest's effort at expanding the proceeding. The Iowa Department of Transportation (Iowa) filed a similar motion and answer in opposition, received May 27.[6] Subsequently, the Peoria Parties, on June 13, and the Illinois Department of Transportation (Illinois), on June 15, filed motions for leave to file replies to the late-filed answer of the Iowa Department of Transportation.[7]

The Board has decided not to expand the scope of the case. Northwest's petition for reconsideration will, therefore, be denied.[8]

First, expansion of the case to include Minneapolis/St. Paul, Madison, and Rochester is not required as a matter of law. In its motion to consolidate Northwest asserts that the *Ashbacker* doctrine[9] requires simultaneous consideration of its expanded application and Ozark's Atlanta-Des Moines/Quad Cities/Peoria application. Northwest is wrong. It has long been the Board's position, sustained by the courts, that *Ashbacker* does not require the structuring of proceedings in such a way as to make beyond-segment opportunities equal for all applicants.[10] In accordance with our usual practice, however, Northwest will be permitted to introduce evidence on the issue of mutual exclusivity. In addition, parties are free to present evidence showing the need for the imposition of service restrictions on any authority that may be awarded in this case.

Second, the Board has determined as a matter of discretion not to include the additional points sought by Northwest. As currently framed, the proceeding contemplates consideration of first single-plane, single-carrier service in three Atlanta markets. Expansion of the case to include consideration of Minneapolis/St. Paul, Minn., Rochester, Minn., and Madison, Wis., would inject more controversial questions of competitive service in relatively small, well-served markets.[11] These additional markets would likely draw additional applicants, substantially delay the proceeding, and divert the focus of the case from its original purpose: to examine the needs of Des Moines, Peoria, and the Quad Cities for direct air service to Atlanta.[12]

Finally, the Chambers of Commerce of Champaign and Urbana, Ill., filed a petition for leave to intervene which also seeks to expand the case to include direct service between Champaign/Urbana, on the one hand, and Dallas/Fort Worth or Houston, Tex., the Twin Cities, Detroit, and Atlanta, on the other hand. Petitions for intervention are not the proper vehicle for filing requests for modification of the scope of proceedings. Such requests should have been set forth in a timely filed petition for reconsideration. Since the request to enlarge the case is both improperly filed and over two months late, we will deny it.[13]

Accordingly, *it is ordered*, That:

1. The petition of Northwest Airlines for reconsideration of Order 77-4-6 be denied.

2. The application of Northwest Airlines in Docket 30788, to the extent that it requests amendment of its certificate so as to authorize it to engage in single-plane service between Atlanta, Ga., on the one hand, and Des Moines, Iowa, Quad Cities (Iowa-Illinois), and/or Peoria, Ill., on the other hand, is consolidated for hearing and decision with the *Iowa/Illinois-Atlanta Route Proceeding*, Docket 30182.

3. The motion of Northwest Airlines to consolidate with Docket 30182 its application in Docket 30788 be denied except to the extent stated in ordering paragraph 2 above.

4. The application of Northwest Airlines in Docket 30788, except to the extent that it is consolidated above into Docket 30182, be dismissed without prejudice.

5. Ozark's Motion To File Answer As Late Filed Document and the Iowa Department of Transportation Motion To File Answer As Late Filed Document are granted; the Motion For Leave To File Reply of the Peoria Parties and the Motion For Leave To File Reply of the Illinois Department of Transportation are denied, and the Champaign/Urbana Chambers of Commerce prayers to enlarge the scope of the proceeding and to petition for a general investigation are denied.

6. Except to the extent granted, all requests in the petitions, motions, and answers discussed in this order are denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-26185 Filed 9-7-77;8:45 am]

[4] The Greater Peoria Airport Authority, the Peoria Area Chamber of Commerce, and the City of Peoria, Ill.

[5] Cedar Rapids Airport Commission and Cedar Rapids-Marion Area Chamber of Commerce.

[6] We will grant Ozark's and the Iowa Transportation Department's motions for leave to answer out of time. Each motion contains good cause shown, and each is unopposed, although Iowa's answer opposing Northwest's pleadings is, in turn, opposed on the merits by the Peoria Parties and by Illinois.

[7] The motions for leave to file replies will be treated as motions for leave to file otherwise unauthorized documents which we do not find contain sufficient good cause to warrant consideration. In view of the disposition in this order of Northwest's pleading, the position of Iowa complained of in these reply documents is in any case mooted.

[8] Northwest's motion to consolidate will be dismissed to the extent that it does not conform to the scope of the case as framed by Order 77-4-6.

[9] *Ashbacker Radio Corp.* v. *FCC*, 326 U.S. 372 (1945).

[10] Remanded Additional Service to San Diego Case, Order 71-7-34 (July 7, 1971), at page 2: "* * * nothing in the *Ashbacker* doctrine requires that the scope of the issues in a case be expanded through consolidation of applications so as to place all applicant-carriers on an equal footing with respect to beyond-segment service possibilities." See also, *Delta Airlines et al.* v. *Civil Aeronautics Board*, 497 F. 2d 608, 613-614 (D.C. Cir. 1973), cert denied 417 U.S. 930 (1974); *National Airlines* v. *Civil Aeronautics Board*, 392 F. 2d 504, 508 (D.C. Cir., 1968).

[11] Granting Northwest's motion would place in issue first competitive nonstop service in the Minneapolis/St. Paul- Peoria/Moline markets and third competitive nonstop service in the Minneapolis/St. Paul-Des Moines market. Minneapolis/St. Paul-Peoria generated 13,800 O&D plus connecting passengers (year ended June 1976) and receives daily nonstop, two-stop and three-stop service by Ozark. Minneapolis/St. Paul-Moline generated 33,330 O&D plus connecting passengers and receives nonstop, one-stop and two-stop service by Ozark. Minneapolis/St. Paul-Des Mones generated 80,180 O&D plus connecting passengers and receives multiple daily nonstop service by Ozark and Braniff. In addition, Rochester-Des Moines generated 3,060 O&D plus connecting passengers and receives one daily one-stop round trip by Ozark. Rochester-Moline generated 1,900 O&D plus connecting passengers and receives daily one-stop service by Ozark. Madison-Moline/Peoria/Des Moines generated, in the aggregate, only 4,620 O&D plus connecting passengers.

[12] The Board notes that Northwest already has one stop authority in the Rochester-Atlanta market via Chicago or Milwaukee and provides nonstop service in the Minneapolis/St. Paul-Atlanta market (Eastern also provides nonstop service) and one stop service in the Madison-Atlanta market. Official Airline Guide, August 1, 1977.

[13] Even if the request were properly filed, including all of the markets and issues which Champaign/Urbana wishes to hear would expand this case beyond manageable proportions.

[Docket No. 29058]

NORFOLK-ATLANTA SUBPART M PROCEEDING

Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in this proceeding, now scheduled to be held on September 13, 1977 (42 FR 38928, August 1, 1977), is hereby postponed to October 4, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Ronnie A. Yoder.

Dated at Washington, D.C., August 30, 1977.

RONNIE A. YODER,
Administrative Law Judge.

[FR Doc.77-26187 Filed 9-7-77;8:45 am]

[Order No. 77-9-1; Docket No. 30885]

NORTHWEST AIRLINES, INC.

Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of September, 1977.

V 42 174 SEP 8 77 UMI

By Order 77–4–153, April 29, 1977, the Board proposed to grant authority to three carriers to transport persons, property, and mail in interstate air transportation between certain domestic points which are served on flights operated in foreign or overseas air transportation. While that order did not propose such "fill-up" authority for Northwest Airlines between Washington and Chicago, we indicated that we would be receptive to a request for a further show-cause order to consider such authority upon a reasonable prima facie showing of a specific need for the strengthening of international services, without serious injury to other carriers.

In response to this order, Northwest has filed an application and petition for show-cause order for Washington-Chicago fill-up authority. The carrier asserts that this market compares favorably with the other markets in which fill-up authority was proposed in Order 77–4–153. Specifically, three other carriers provide 25 daily nonstop round trips between Washington and Chicago, and the market had 651,390 true O&D plus interline connecting passengers in 1975.[1] The international passengers on Northwest's daily westbound Washington-Chicago flight gave the carrier a load factor of only 20.26% in 1975, and Northwest argues that, because its Washington service departs from Dulles Airport, fill-up authority for that flight will not seriously affect any other carrier. In addition, Northwest points out that it has carried local traffic on its daily westbound Washington-Chicago-Orient flight since May 1974, pursuant to exemptions granted by the Board.[2]

The Commonwealth of Virginia supports Northwest's petition for show-cause order, arguing that Washington-Chicago fill-up authority will result in substantial improvements in service to Chicago for Dulles passengers. United Air Lines and American Airlines answered in opposition. United's analysis of the facts is limited to Dulles-Chicago where, the carrier points out, United provides the only service (other than that provided by Northwest pursuant to its exemption), which amounts to only one daily round trip. United argues, therefore, that fill-up rights for Northwest would severely harm United and that it should not be penalized for its dedication to the Dulles-Chicago market by the addition of a competitor which is not concerned with the economics of that local operation.

American argues that, since Northwest has Washington-Chicago fill-up authority pursuant to an exemption, there is no need for expeditious processing of this application through show-cause procedures. The carrier also contends that Northwest's Washington-Chicago flight may not be operated primarily to serve the needs of international traffic since it offers many on-line connections at Chicago and since Northwest has never operated its Washington-Chicago-Orient flight without local traffic rights over the domestic segment. Finally, American argues that since Washington-Chicago is a medium-haul market of almost 600 miles, the revenues involved in a haul of this length only increase Northwest's incentives to operate service for the purpose of carrying local traffic. Both American and United object to the grant of fill-up authority by show-cause procedures.

Northwest filed a motion for leave to file an unauthorized document, accompanied by a reply to the answers of American and United. We have decided to deny Northwest's motion. We are becoming increasingly concerned about the number of unauthorized replies being filed by applicants merely because they want to have the last word. In this period of intensive route activity, these replies only increase the Board's workload; and where, as here, adequate justification for receiving the reply has not been shown (for example, Northwest has not demonstrated that the answers contained new material which it could not have anticipated), we will not accept it.

In our view, the information submitted by Northwest demonstrates that the fill-up authority it requests would be in the public interest. As detailed in Northwest's petition, international traffic fills a small percentage of the seats on its daily westbound frequency between Washington and Chicago, and we tentatively conclude that the grant of fill-up authority will benefit Northwest and the public without substantially harming any other carriers in the market. The Washington-Chicago market is quite large (over 1700 daily true O&D plus interline connecting passengers in 1975) and is served with a substantial number of frequencies. We cannot limit our analysis of this market to Dulles-Chicago service. Both National and Dulles airports serve Washington passengers, and it is very unlikely that a significant number use Dulles airport exclusively. This is particularly apparent with respect to the Washington-Chicago market, since the Dulles service is so limited. Undoubtedly, the travel needs of those passengers for whom Dulles would be more convenient do not necessarily coincide with the schedules offered. Thus, any fluctuations in the traffic carried by United in the past between Dulles and Chicago could easily be attributed to a shift of passengers to and from National Airport, rather than to Northwest's fill-up service provided pursuant to the exemptions granted by the Board. It is also significant that the fill-up service provided by Northwest has never been operated within less than two hours of a United Dulles-Chicago flight, further minimizing the likelihood that any appreciable amount of traffic has been diverted.

Any suggestion that Northwest's service between Washington and Chicago would be geared to the needs of the local rather than international traffic is unrealistic. The minimum distance Northwest must operate west of Chicago on its international route is 6300 miles (nonstop Chicago-Tokyo distance) or more than ten times the haul between Washington and Chicago.

Finally, we do not believe that an award of this limited authority to Northwest can give rise to legitimate claims for consideration of Chicago-Washington authority for other carriers on *Ashbacker* grounds.[3] The premise on which the *Ashbacker* doctrine is based is that mutually exclusive cases must be decided together. The extreme long-haul requirement beyond any Northwest Washington-Chicago flights coupled with the limited amount of international traffic available to Northwest economically dictates the provision of very limited service between Chicago and Washington. Thus, just as this award to Northwest will not hurt carriers already serving the market, it will not lessen the chances for success of other carriers who may seek authority in the market.

Interested persons will be given 30 days following adoption of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained. In this connection, we note that it is not enough merely to state that one objects to the grant of a certain type of authority by show-cause procedures. The necessity of an evidentiary hearing must be demonstrated.[4]

Accordingly, *it is ordered*, That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and authorizing Northwest Airlines, Inc. to transport persons, property, and mail in interstate air transportation in the Washington-Chicago market on flights operated in foreign and/or overseas air transportation pursuant to its certificate for Route 129;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendment set forth here shall, within 30 days after the date of adoption of this order, file with the Board and serve on all persons listed in paragraph 6 below, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied on to support the stated objections; answers may be filed 15 days thereafter;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;[5]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the case will be submitted to the Board for final action;

5. The motion of Northwest Airlines, Inc., for leave to file an unauthorized document be denied; and

6. A copy of this order be served upon American Airlines, Inc., Northwest Airlines, Inc., United Air Lines, Inc., and the Commonwealth of Virginia.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–26166 Filed 9–7–77;8:45 am]

[1] These figures exclude Baltimore flights and traffic.

[2] Orders 74–5–150, 74–11–157, 75–4–106, and 76–3–140.

[3] *Ashbacker Radio Corporation* v. *F.C.C.*, 326 U.S. 327 (1945).

[4] We have considered Northwest's representations as to the environmental effect and gross transport revenue increase resulting from an award of Chicago-Washington "fill-up" rights. On the basis of these representations, we find that such an award will not be a major Federal action significantly affecting the quality of the environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, and that, for purposes of a license fee, the resulting increase in gross transport revenues will be between $1 million and $5 million.

[Order No. 77–9–6; Docket No. 31166]

TRANS WORLD AIRLINES, INC.

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of September, 1977.

By Order 77–6–68, served June 14, 1977, the Board issued a foreign air carrier permit to Laker Airways Limited (Laker), authorizing the carrier to operate its low-fare, no-frills Skytrain service between New York and London for a period of one year. Laker plans to begin its Skytrain service on September 26, 1977, with eleven round-trip flights per week in the New York-London market (seven flights per week, October through March) at a round-trip fare of $236.48. Laker filed its initial Skytrain tariff on July 8, 1977.[1]

In a complaint filed July 19, 1977, Trans World Airlines, Inc. (TWA), alleges that the initial Skytrain tariff issued by Laker Airways is inconsistent with the terms of Laker's operating authority, and should, therefore, be suspended or rejected.[2] Specifically, TWA takes exception to the definition of "immediate family" provided in Rule 5 of Laker's tariff, and the statement, in Rule 50, that all Laker seats will be available for sale. Both of TWA's objections pertain to alleged violations of Laker's United Kingdom license; TWA does not contend that Laker's Skytrain tariff contravenes any provision of the Federal Aviation Act of 1958, the Board's regulations, or Laker's foreign air carrier permit.

The British-imposed ticketing restrictions which are incorporated in Rule 25 of Laker's tariff stipulate, in part, that tickets must be purchased by the passenger himself or by a member of his immediate family, subject to passport identification; while a passenger may also purchase a ticket for only one other, unrelated person traveling on the same flight, no limit is placed on the number of tickets a passenger may purchase for his immediate family.

Rule 50 of Laker's taiff defines "immediate family" as "the spouse, children, parents, parents of the spouse, children of the parents and children of the parents of the spouse." According to TWA, Laker's definition could eliminate the standby characteristics of Skytrain service by allowing passengers to circumvent one of the ticketing restrictions imposed by Laker's U.K. license. TWA argues that family membership cannot generally be confirmed by passport identification, since the last names and addresses of immediate family members will not necessarily match the last name and address of the ticket purchaser. Unless Laker's definition is revised to include only those family members whose last name and address correspond to those of the ticket purchaser, TWA contends, "* * * there will be no control and the standby feature of Skytrain could be eliminated by persons who for a fee would stand in line to purchase large numbers of tickets for persons who would be claimed as immediate family members."

TWA also objects to the statement, in Rule 50 of Laker's tariff, that no seats will be withheld from sale. Rule 50 indicates that Laker will operate 345-seat DC–10 equipment with no seat restrictions. TWA notes that Laker's U.K. license stipulates that no more than 189 passengers may be carried on any one flight during the months of October through March, and argues that the Board should require Laker to state this restriction in Rule 50.

Answering TWA's complaint on July 27, 1977, Laker asserts that there is no legal basis for the Board to suspend or reject Laker's initial tariff, and that the tariff itself is fully consistent with the requirements of the Act and the Board's regulations. In response to TWA's first objection, Laker maintains that control of its ticket sales is not a proper tariff matter; that it is Laker's obligation to comply with the conditions of its U.K. license, and no further restrictions need be devised by the Board to ensure such compliance; that TWA's proposed definition of "immediate family" is unduly restrictive; that Laker's definition is identical to that provided in section 372.2 of the Board's Economic Regulations, and is clear, conventional, and enforceable; that Laker will be able to control its ticket sales, since a person buying tickets for members of his immediate family must present the passports of the persons for whom the tickets are purchased, and passports are valuable documents, not likely to be entrusted to an entrepreneur who would stand in line for a fee; and that, in any event, the standby feature of Skytrain is not eliminated, since no tickets will be sold more than six hours before scheduled departure of the flight. With regard to TWA's second objection, Laker notes that the capacity restriction limiting Skytrain to a maximum of 189 passengers per flight does not take effect until October 1, 1977. Consequently, Laker contends, Rule 50 is correct in its present form: As of September 7, 1977, the effective date of the tariff, all 345 seats on each Skytrain flight will be available for sale.

The Board finds no basis in TWA's complaint for suspension or rejection of Laker's Skytrain tariff. Laker's tariff definition of "immediate family" conforms exactly to the definition given in section 372.2 of the Board's Economic Regulations, and is comparable to the standard definitions published in several widely used tariffs.[3] TWA's own definition of "immediate family," in C.A.B. No. 37, includes spouse, children, parents, brothers, and sisters, with no requirement that family members share the same last name and address. TWA has not demonstrated that a more stringent definition is required in Laker's case. As TWA suggests, family relationships may be difficult to verify by means of passport identification; it is possible, therefore, that an entrepreneur might take advantage of the terms of Laker's tariff to purchase a block of tickets by claiming a number of unrelated passengers as immediate family members. This would in no way eliminate the standby feature of Skytrain; however, it would simply allow passengers who are willing to entrust their passports to an entrepreneur to avoid the inconvenience of standing in line themselves. Neither legitimate family members nor entrepreneurs will be able to obtain tickets more than six hours before scheduled departure. While we expect Laker Airways to be vigilant and to comply fully with all of its tariff conditions, it is the provision prohibiting ticket sales more than six hours before departure, not Laker's ability to distinguish legitimate family members from unrelated passengers, that determines the standby character of Skytrain service.

TWA's second objection is equally unfounded. As Laker states in its Answer, the tariff provision in question is correct as it stands. Until October 1, 1977, the

[5] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[1] Laker Airways Limited, Local Passenger Tariff No. 1, C.A.B. No. 2, issued July 8, 1977, to be effective September 7, 1977.

[2] The complaint against Laker's tariff filed by the Port Authority of New York and New Jersey in Docket 31262 was dismissed by Order 77–9–94, August 19, 1977. The low-fare transatlantic fare filings by other carriers will be considered by the Board in a subsequent order.

[3] ATC and Sampson tariffs, for example, define "immediate family" to include not only the persons specified by Laker's definition, but grandparents, sons-in-law, and daughters-in-law as well.

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date the capacity restriction takes effect, Laker is authorized to operate 345-seat DC-10 aircraft with no seats withheld from sale, as Rule 50 indicates. If Laker operates 345-seat DC-10's on and after October 1, 1977, an amended tariff filing which reflects the capacity restriction will be in order at that time.

Accordingly, *It is ordered*, That:

1. The complaint filed by Trans World Airlines, Inc., in Docket 31166 be hereby dismissed; and

2. Copies of this order be served upon Laker Airways Limited and Trans World Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] PHYLLIS T. KAYLOR, *Secretary.*

All Members concurred.

[FR Doc.77-26184 Filed 9-7-77;8:45 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

SONGO SHOE MANUFACTURING CORP.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Songo Shoe Manufacturing Corp., 34 Diamond Street, Portland, Maine 04101, a producer of footwear for men and women, was accepted for filing on August 31, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-26164 Filed 9-7-77;8:45 am]

Maritime Administration

[Docket S-576]

GULF OIL CORP.

Application for Participation by Vessels Built With CDS in the Carriage of Alaskan Oil in the Domestic Trade

Notice is hereby given that Gulf Oil Corporation has applied for written permission under section 506 of the Merchant Marine Act, 1936, as amended, for the temporary employment of its U.S. flag tanker, the SS *American Independence*, in the carriage of Alaskan oil in the domestic trade. The vessel is to commence making voyages from Alaska to Panama on or about November 1, 1977. The SS *American Independence*, of 265,000 DWT, was built with construction-differential subsidy and will be under time charter to the Sohio Petroleum Company of Cleveland, Ohio, for a period of about 26 months. Sohio Petroleum Company intends to use the *American Independence* for approximately 12 voyages during two six-month periods commencing on or about November 1977. During the intervening periods, the vessel would be otherwise employed in accordance with the charter agreement. In acordance with the provisions set forth in Part 250 of Chapter II, Title 46, of the Code of Federal Regulations as published in the FEDERAL REGISTER issue of June 29, 1977 (42 FR 33035), the SS *American Independence* will be permitted to engage in the carriage of Alaskan oil in the Alaska-Panama trade for a period not exceeding six months in any consecutive 12-month period, commencing with the entry date of the vessel in the Alaska-Panama trade.

Interested parties may inspect the application in the Office of the Secretary, Maritime Administration, Room 3099-B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Any person, firm, or corporation who is a "competitor," as defined in section 250.2 of the regulations and desires to protest such application should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20230. Protests must be received within five working days after the date of publication of this Notice in the FEDERAL REGISTER. If a protest is received, the applicant will be advised of such protest by telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Assistant Secretary for Maritime Affairs. Within five working days after the due date for the applicant's response, the Assistant Secretary will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of such action. If no protest is received concerning the application, the Assistant Secretary will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.500 Construction-Differential Subsidies (CDS).)

By Order of the Assistant Secretary for Maritime Affairs.

Dated: September 1, 1977.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-26037; Filed 9-7-77;8:45 am]

National Oceanic and Atmospheric Administration

ISSUANCE OF PERMIT FOR MARINE MAMMALS

On June 3, 1977, notice was published in the FEDERAL REGISTER (42 FR 28566), as amended on July 7, 1977 (42 FR 34905), that an application had been filed with the National Marine Fisheries Service by Dr. Donald B. Siniff, Associate Professor, Department of Ecology and Behavioral Biology, 223 Snyder Hall, University of Minnesota, St. Paul, Minn. 55101, for a Scientific Research Permit to take by tagging up to 500 crabeater seals (*Lobodon carcinophagus*), 50 leopard seals (*Hydrurga leptonyx*), 825 Weddell seals (*Leptonychotes weddelli*), 10 Ross seals (*Ommatophoca rossii*), 10 southern elephant seals (*Mirounga leonina*), and 20 southern fur seals (*Arctocephalus* sp.), and to take by killing 110 crabeater seals (*Lobodon carcinophagus*), 10 leopard seals (*Hydrurga leptonyx*), 5 Weddell seals (*Leptonychotes weddelli*), 2 Ross seals (*Ommatophoca rossii*), 2 southern elephant seals (*Mirounga leonina*), and 2 southern fur seals (*Arctocephalus* sp.) in the Antarctic region for scientific research.

Notice is hereby given that, on August 29, 1977, and as authorized by the provisions of the Marine Mammal Protection of 1972 (16 U.S.C. 1361-1407) the National Marine Fisheries Service issued a permit for the above taking to Dr. Donald B. Siniff, subject to certain conditions set forth therein.

The permit is available for review by interested persons at the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.

Dated: August 29, 1977.

JOSEPH W. SLAVIN,
Acting Associate Director, National Marine Fisheries Service.

[FR Doc.77-26073 Filed 9-7-77;8:45 am]

ISSUANCE OF PERMIT TO TAKE MARINE MAMMALS

On July 14, 1977, notice was published in the FEDERAL REGISTER (42 FR 36280), that an application had been filed with the National Marine Fisheries Service, by Mr. John Slater, 3054 Gordon Drive, Naples, Fla. 33940, for a permit to take two (2) California sea lions (*Zalophus californianus*); two (2) Atlantic bottlenosed dolphins (*Tursiops truncatus*), and two (2) beached/stranded harbor seals (*Phocavitulina*), for the purpose of public display.

The National Marine Fisheries Service has determined that it would be in the best interest of the two (2) rehabilitated harbor seals to remain in captivity and, therefore, authorized the Permit Holder to maintain the animals.

Notice is hereby given that on August 30, 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit for the requested taking to Mr. John Slater, subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731;
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Fla. 33702; and
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.

Dated: August 30, 1977.

JOSEPH W. SLAVIN,
Acting Associate Director, National Marine Fisheries Service.

[FR Doc.77-26074 Filed 9-7-77;8:45 am]

National Oceanic and Atmospheric Administration

CERTIFICATE OF EXEMPTION

Receipt of Applications

Notice is hereby given that the following applicants have applied in due form for a Certificate of Exemption under Pub. L. 94-359, and the regulations issued thereunder (50 CFR Part 222, Subpart B), to engage in certain commercial activities with respect to pre-Act endangered species parts or products.

APPLICANTS

1. Leonard F. Porter, Inc., 600 Prefontaine Bldg., Third and Yesler Sts., Seattle, Wash. 98104.

Period of exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products to be made from approximately 3,250 pounds of sperm whale teeth, 575 pounds of sperm whale tooth pieces and scrap, 842 pounds of whale bone and 220 pounds of baleen.

3. Scott Krieger, 29 Fairway E., Sayville, N.Y. 11782.

Period of exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(ii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products to be made from approximately 2,000 pounds of sperm whale teeth and 2,800 pounds of sperm whale tooth pieces and scrap.

2. Heinz Lange, d.b.a. Northwest Arts and Crafts, 2408 Seventh Ave. W., Seattle, Wash. 98119.

Period of exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products to be made from approximately 310 sperm whale teeth, 120 pounds of sperm whale pan bone and 5 pieces of baleen.

4. Leo E. Begin, d.b.a. Olde Windjammer, Little Clear Pond, Plymouth, Mass. 02360.

Period of exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products consisting of approximately seven whale bone carvings and finished scrimshaw products to be made from approximately 30 large whale teeth, an additional 20 pounds of whale teeth and 30 pounds of whale teeth pieces and scrap.

5. Martin David Dubin, 239 Park Ave., Highland Park, Ill. 60035.

Period of exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(iii) The prohibition, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products consisting approximately 106 etched whale teeth and 13 items carved from whale teeth, and finished scrimshaw products to be made from approximately 80 whale teeth, 654 individual pieces of whale teeth, one half of the jaw bone of a sperm whale and 20 pieces of whale bone.

6. Werner G. Smith, Inc., 1730 Train Ave., Cleveland, Ohio 44113.

Period of exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Approximately 8,282 pounds of methylated sperm whale oil and 20,460 pounds of hydrogenated sperm whale oil

Written comments on these applications may be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before October 11, 1977.

Dated: September 2, 1977.

MORRIS M. PALLOZZI,
Acting Assistant Director, for Fisheries Management.

[FR Doc.77-26151 Filed 9-7-77;8:45 am]

V 42 174 SEP 8 77 UMI

FEDERAL COMMUNICATIONS COMMISSION

CANADA—U.S.A. TELEVISION

AUGUST 3, 1977.

In the matter of Amendment of Table A of the Canada-U.S.A. Television Agreement of 1952 (TIAS–2594), *supplement No. 6* to the table of Canadian television channel assignments and allocations within 250 miles of the Canada-U.S.A. border, dated August 1, 1977, as revised to April 12, 1977.

Pursuant to exchange of correspondence between the Department of Communications of Canada and the Federal Communications Commission, Table A of the Canada-U.S.A. Television Agreement has been amended as set forth in the attached list. It is to be noted that those representing assignments will indicate call signs plus parameters.

Further additions, changes, and deletions will be issued as reported to the Commission by the Canadian Department of Communications.

Copies of the basic Table of Allocations may be obtained from Downtown Copy Center, 1730 K Street NW., Washington, D.C. 20036, telephone (202) 452–1422.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

TV ENGINEERING DATA BASE LISTING - INDEX KEY STATE,CITY,CHAN AUG 01, 1977 PAGE
FEDERAL COMMUNICATIONS COMMISSION - BROADCAST BUREAU
•••NOTICE••• UNOFFICIAL SECONDARY SOURCE. USE PRIMARY SOURCES FOR OFFICIAL INFORMATION ••NOTICE•••

NEW	CO LIC	CRANBROOK	BC	49-27-30.0	13 Z .087(KW) 335(FT)		770706
		ZONE 2	••USA BORDER••	115-37-45.0	HOR LIMITED TO PROTECT KGVO-TV, MISSOULA, MT.		
CBWGT01	CO LIC	JACK HEAD	MB	51-52-55.0	05 Z 6.4(KW) 600(FT)		770729
		ZONE 2	••USA BORDER••	97-18-50.0	DA- HOR		

[FR Doc.77-26031 Filed 9-7-77;8:45 am]

[Rept. No. 873]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

AUGUST 29, 1977.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See § 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. [See §§ 1.227(b)(3) and 21.30(b) of the Commission's Rules.]

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21976–CD–TC–77 Ram Broadcasting of Oregon, Inc., Consent to Transfer of Control from Ram Broadcasting of Oregon, Inc., Transferor to Paul A. Matschiner, Transferee. Station: KUC874, Portland, Oreg.

21977–CD–AL–77 Martha M. Hahn d/b as St. Cloud and Loop Answering Service, Consent to Assignment of License from Martha M. Hahn d/b as St. Cloud and Loop Answering Service, Assignor to Answer Iowa, Inc., Assignee. Station: KLF580, St. Cloud, Minn.

21978–CD–P–(2)–77 Airphone Company, Inc. (KCC206), C.P. for additional facilities to operate on 35.58 MHz at a new site described at Loc. No. 3 to be located at Shelburne Mountain, Shelburne; 75.96 MHz Control to be located at Loc. No. 2: Near WHYN–TV Tower, Mt. Tom, Mass.

21979–CD–P–77 M M Answering Service, Inc. (new), C.P. for a new 1-Way station to operate on 152.24 MHz to be located Approximately 1.5 miles West of Bradford, Pa.

21980–CD–P–77 Dr. Robert Casey & Dr. Robert Wynia (new), C.P. for a 2-Way station to operate on 454.050 MHz to be located 0.5 mile North of Great Falls, Mont.

21981–CD–MP–77 Westchester Mobilfone System, Inc. (KAA281), C.P. for additional facilities to operate on 152.24 MHz to be located at a new site described as Loc. No. 2: Westchester Community College, Rte. 100, Valhalla, N.Y.

21983–CD–P–77 Radio Paging, Inc. (KKI445), C.P. to relocate facilities operating on 35.58 MHz to be located 1.3 Miles SE of intersection of Hwy. No. 523 and County Road 792, Oyster Creek, Tex. (loc. No. 8).

21984–CD–P–77 Harold's Radio Service, Inc. (new), C.P. for a new 2-Way station to operate on 152.06 MHz to be located on Hwy. No. 136, 12 Miles S. of Henderson, Ky.

21985–CD–P–77 Jackson Mobilphone Company, Inc. (KWT944), C.P. to relocate facilities operating on 152.03 MHz to be located: Hwy. 51–S, 2 miles East of Dyersburg, Tenn.

21986–CD–P–(8)–77 David R. Williams d/b as Industrial Communications (new), C.P. for a new 2-Way station to operate on 152.03 152.06 152.15 MHz (Base) to be located at Medicine Butte, 7 Miles NNE of Evanston: 2178.0 MHz (Control) and 2185.2 MHz (Repeater) to be located at Marsh Peak, 23 Miles Northwest of Vernal; 2128.0 MHz (Repeater) to be located at Medicine Butte, 7 Miles of Evanston, Wyo.

21987–CD–P–(3)–77 Beep Communication Systems, Inc. (KAA283), C.P. for additional facilities to operate on 152.24 MHz at a new site described as Loc. No. 4 to be located at North Tower, World Trade Center, New York; 152.24 MHz at a new site described as Loc. No. 5 to be located 901 Ocean Avenue, Asbury Park; 152.24 MHz at a new site described as Loc. No. 6 to be located at West Gate Drive, Huntington, N.Y.

21988–CD–P–77 Grand Forks Telephone Answering Service (KDN400), C.P. to change antenna system and relocate facilities operating on 152.03 MHz to be located 101 N. 3rd Street, Grand Forks, N. Dak.

21989–CD–P–77 Airsignal of California, Inc. (KMA219), C.P. for additional facilities to operate on 152.06 MHz to be located at 2904 Fine Avenue, Modesto, Calif.

21990–CD–P–77 Waco Communications, Inc. (KLB498), C.P. to change antenna system and relocated facilities operating on 152.03 MHz Loc. No. 1 to be located at 1200 Block of North 46th Street, Waco, Tex.

21991–CD–P–(2)–77 Dakota Radio Paging, Inc. (KQK777), C.P. for additional facilities to operate on 454.050 MHz at Loc. No. 1: 18th and Bahanson Avenue; 454.025 MHz at Loc. No. 2: Water Tower, 2 Miles SSW of Sioux Fall, S. Dak.

21992–CD–P–(2)–77 Prospect Communications (new), C.P. for a new 2-Way station to operate on 454.125 MHz Loc. No. 1 to be located West of Yell Rd., 4.3 Miles S. of Lewisburg, 454.300 MHz Loc. No. 2 to be located on Route 6, 2 miles S. of Fayetteville, Tenn.

21994–CD–P–77 Wilson J. Trahan and Ralph E. Antles d/b as Western Electronic and Communications (new), C.P. for a new 1-Way station to operate on 158.70 MHz to be located at 0.5 mile North of Kingman, Ariz.

21995–CD–P–77 Southwestern Bell Telephone Co. (KKB860), C.P. to relocate facilities operating on 152.57 MHz to be located 4 miles SW of Beeville, Tex.

22000–CD–P–(4)–77 Grants Radiotelephone Service, Inc. (KKT397), C.P for additional facilities to operate on 454.100, 454.200, 454.300, 454.350 MHz at Loc. No. 1: La Mosca Peak, 16 miles N.E. of Grants, Milan. N. Mex.

CORRECTION

21905–CD–P–77 Grants Radiotelephone Service. Inc. (KKT397), Correct to Add 2123.6 Repeater at Loc. No. 4. All other particulars remain as reported on PN No. 871. dated 8/15/77.

INFORMATIVE

The following applications is a Major Action as defined by Section 1.1305 of the Commission's Rules concerning the implementation.

22001–CD–P–77 Prospect Communications (KWU365), Loc. No. 2: Rt. 31, 2.5 Miles N.E., Pulaski, Tenn., Loc. No. 1: 1000 Ft. W. of Fall River and Marable Roads Inter., Lawrenceburg, Tenn.

INFORMATIVE

A petition for Reconsideration has been filed regard to the Commission's Action Granted in Part the Application of Tel Star Communication's, Inc. (21291–CD–P–77). Action on PN No. 867–A dated July 18, 1977. The Application has been returned to Pending Status.

MAJOR AMENDMENT

21721–CD–P–(2)–77 Adirondack Mobile Telephone Co., Inc. Lake Placid, N.Y. (new), amend base frequency 152.06 and 152.18 MHz to read 454.125 and 454.350 MHz. All other particulars are to remain the same as reported on PN No. 867 dated, July 18, 1977.

POINT TO POINT MICROWAVE RADIO SERVICE

3460–CF–P–77 The Mountain States Telephone and Telegraph Co. (KY085), Misonry Rdg. 8 miles NE of Durango, Colorado (lat. 37°21'53'' N., long. 107°46'56'' W.), C.P. to add a new point of communication on frequencies 11245H, 11485H MHz toward Coal Bank, Colo. on azimuth 6 degrees.

3461–CF–P–77 Same (new), Coal Bank 9.5 miles SE of Silverton, Colo. (lat. 37°41'46'' N., long. 107°46'41'' W.), C.P. for a new station on ferquencies 10875V, 11115V MHz toward Silverton PR on azimuth 47.9 degrees, from the passive reflector to Silverton JC on azimuth 311.7 degrees and 10795V, 11035V MHz toward Misonry Rdg. on azimuth 180.6 degrees.

3462–CF–P–77 Same (new), Silverton J. C. Highway U.S. 550 and Colorado 110, Silverton, Colo. (lat. 37°48'23'' N., long. 107°40'24'' W.), C.P. for a new station on frequencies 11325H, 11565H MHz toward Silverton PR on azimuth 131.7 degrees and from passive reflector to Coal Bank on azimuth 228.0 degrees.

3467–CF–P–77 The Pacific Northwest Bell Telephone Co. (KOC65), Portland 819 SW. Oat St. Portland, Oreg. (lat. 45°31'22'' N., long. 122°40'42'' W.), C.P. to change polarization from horizontal to vertical on frequencies 3750, 3830, 3910, 3990, 4070 MHz toward Livingston.

3468–CF–P–77 Same (KOU55), Livington 6.3 miles NE of Camas, Wash. (lat. 45°40' 45'' N., long. 122°21'58'' W.), C.P. to change polarization from horizontal to vertical on frequencies 3710, 3790, 3870, 3950, 4030 MHz toward Portland.

3493–CF–P–77 Navajo Communications Co., Inc. (WPY28), Dilkon. Ariz. (lat. 35°22' 15'' N., long. 110°19'37'' W.), C.P. to increase structure height and add a new point communication on frequency 2164H MHz toward Newberry, Ariz. on azimuth 273.1 degrees.

3494–CF–P–77 Same (new), Newberry Mesa 9.75 miles NE. of Leupp, Ariz. (lat. 35°23' 40'' N., long. 110°52'56'' W.), C.P. for a new station on frequencies 2114.0V MHz toward Dilkon, Ariz. on azimuth 92.6 degrees and 2122.0H MHz toward Leupp, Ariz. on azimuth 226.4 degrees.

3495–CF–P–77 Same (new), Leupp School Leupp, Ariz. (lat. 35°17'40'' N., long. 111° 00'26'' W.), for a new station on frequency 2172. 0V MHz toward Newberry Mesa, Ariz. on azimuth 46.4 degrees.

3510–CF–P–77 American Telephone and Telegraph Co. (KPY99), 4.8 miles SW. of Athanum, Wash. (lat. 46°30'15'' N., long. 120°41'06'' W.), C.P. to change polarization from vertical to horizontal on frequency 10795 MHz toward Yakima.

3448–CF–P–77 Pacific Northwest Bell Telephone Co. (KOQ80), 8.0 miles West of Condon, Oreg. (lat. 45°14'06'' N., long. 120° 18'18'' W.), C.P. to change coordinates and add a new point of communication on frequency 2172.4V MHz toward Bald Mtn. % on azimuth 31.9 degrees and from passive reflector to fossil.

CORRECTION

3243–CF–P–77 South Central Bell Telephone Co. (KYS48), corrected states name to read Wellington, Ky. and frequency 3730H. All other particular remain as reported on PN No. 870 dated 8–8–77.

3245–CF–P–77 Same (KIV66), corrected to add replace transmitters on frequencies 11525V and 11605V MHz toward Paintsville. All other particular remain as reported on PN No. 870 dated 8–8–77.

3246–CF–P–77 Same (KJW75), corrected to read move and replace antenna on frequencies 10915V MHz toward Hagerhill and replace transmitters on 11075V and 11155V MHz toward Hagerhill.

3262–CF–P–77 General Telephone Co. of Wisconsin (WBF52), corrected latitude to read 44°57'40'' N. All other particulars remain as reported on PN No. 870 dated 8–8–77.

3385–CF–MP–77 Eastern Microwave, Inc. (KFN 21), NYC–GWB, 15 Columbus Circle, New York, N.Y. (lat. 40°46'09'' N, long. 73°58''55'' W.), modification of construction permit to change frequencies to 6271.4H MHz toward Bergenfield, N.J. and Yonkers. N.Y., via power split.

3433–CF–P–77 Mountain Microwave Corp. (KZI51), Medicine Butte, 6.0 miles North of Reliance, S. Dak. (lat. 43°57'55'' N., long. 99°36'11'' W.), construction permit to add 5945.2V MHz toward Chamberlin, S. Dak., via power split.

3434–CF–MP–77 Eastern Microwave, Inc. (KFN 21), NYC–GWB, 15 Columbus Circle, New York, N.Y. (lat. 40°46'09'' N., long. 73°58'55'' W.), modification of construction permit to change frequencey to 6330.7V MHz and 6271.4V MHz toward Monsey, N.Y. and to add 6330.7V toward Mt. Kisco, N.Y., via power split, on azimuth 28.8 degrees.

3447–CF–P–77 Indiana Bell Telephone Co. (KYS50), temporary fixed-developmental in any temporary fixed location within the territory of the grantee. Received renewal of the above radio station license.

3451–CF–P–77 Mountain Microwave Corp. (KOB37), Colorow Hill, 2 miles SW. of Golden, Colo. (lat. 39°43'54'' N., long. 105° 14'58'' W.), construction permit to add 11545 MHz toward Lakewood, CATV, Colo.

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3459-CF-P-77 Eastern Microwave, Inc. (WBB350), South Mtn., 2.5 miles SSW. of Womelsdorf, Pa. (lat. 40°19'25" No., long. 76°11'48" W.), construction permit to add 6271.4V MHz toward Ephrata, Pa. on azimuth 180.5 degrees, via power split.

3478-CF-P-77 American Television and Communications Corp. (WBA760), 1609 Old Louisburg Road, Raleigh, N.C. (lat. 35°48'12" N., long. 78°37'27" W.), construction permit to add 6271.4V MHz toward Coates, N.C., on azimuth 191.7 degrees, via power split.

3479-CF-P-77 American Television and Communications Corp. (new), 4.5 miles NW. of Coats, N.C. (lat. 35°28'01" N., long. 78°42'33" W.), construction permit for new station—5945.2H MHz toward Sanford and 5945.2V MHz toward Fayetteville, both in North Carolina, via power split, on azimuth 274.5 and 207.8 degrees, respectively.

3480-CF-P-77 James R. Hendershot, dba MDS Systems (new), 4672 Business Park Blvd., Anchorage, Alaska (lat. 61°10'49" N., long. 149°53'06" W.), construction permit for new station—11485H MHz toward Glen Alps, Alaska, on azimuth 310.4 degrees.

[FR Doc.77-26029 Filed 9-7-77;8:45 am]

KSBR MISSION VIEJO, CALIF.

Noncommercial Educational FM Broadcast Application Ready and Available for Processing

Adopted: August 30, 1977.

Released: September 1, 1977.

Notice is hereby given, pursuant to Section 1.573(d) of the Commission's Rules, that on October 17, 1977, the noncommercial educational FM broadcast application listed below, which is being processed expeditiously since it is potentially eligible for funding in this fiscal year from the Department of Health, Education, and Welfare, will be considered as ready and available for processing. Pursuant to Section 1.227(b)(1) and Section 1.591(b) of the Commission's Rules, an application, in order to be considered with the application below or with any other application on file by the close of business on October 14, 1977, which involves a conflict necessitating a hearing with the application below must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on October 14, 1977. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with the application below by reason of conflicts between the application below and applications appearing in previous notices published pursuant to Section 1.573(d) of the Commission's Rules.

BPED-2545 (KSBR), Mission Viejo, Calif. Saddleback Community College District Has: 88.5 MHz; Channel No. 203D; TPO: .01 kW (Llc), Req: 88.5 MHz; Channel No. 203A, ERP: .6 kW; HAAT: 600 FT.

The attention of any party in interest desiring to file pleadings concerning any pending noncommercial educational FM broadcast application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to Section 1.580(i) of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-26028 Filed 9-7-77;8:45 am]

RADIOTELEGRAPH OPERATOR LICENSE CERTIFICATES TO BEAR PHOTOGRAPHS

AUGUST 31, 1977.

The Federal Communications Commission announced today that all commercial Radiotelegraph Operator Certificates issued after January 1, 1978 must bear the photograph of the holder, in accordance with the requirements of a Rule adopted in 1974 by the International Telecommunications Union of which the United States is a member.

Applicants for new or renewed Radiotelegraph First, Second, and Third Class Operator Licenses will be required to furnish two passport size photographs with their applications. Approximately 2000 of these certificates are issued annually.

Action by the Commission August 31, 1977. Commissioners Lee, Quello, Washburn and White with Commissioners Wiley (Chairman), and Fogarty dissenting.

FEDERAL COMMUNICATIONS COMMISSION.
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-26030 Filed 9-7-77;8:45 am]

DEPARTMENT OF DEFENSE

Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

AUGUST 29, 1977.

The USAF Scientific Advisory Board ad hoc Committee on Simulation Technology will hold meetings at the Pentagon on October 6 and 7, 1977, from 9 a.m. to 5 p.m. each day.

The Committee will receive briefings and hold discussions on the Air Force Research Program.

The meetings will be open to the public. For further information contact the Scientific Advisory Board Secretariate at 202-697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-26051 Filed 9-7-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

STRATEGIC PETROLEUM RESERVE

Availability of the Draft Environmental Impact Statement for the Sulphur Mines Storage Site

Pursuant to Section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C), the Federal Energy Administration (FEA) has prepared a draft environmental impact statement (EIS) on the proposed storage of crude oil at the Sulphur Mines site.

The Sulphur Mines storage site has been proposed as an element of the Strategic Petroleum Reserve. The Reserve (mandated by Part B of Title I, Energy Policy and Conservation Act, 42 U.S.C. 6231-6246) has been created for the storage of crude oil and/or petroleum products for use in the event of a Presidential determination of a severe energy supply interruption and to meet the obligations of the United States under the International Energy Program.

Single copies of the draft Sulphur Mines EIS (DES 77-6) may be obtained from the National Energy Information Center, Room 1404, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of this draft EIS will also be available for public review in the FEA Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Interested persons are invited to submit data, views and arguments with respect to this EIS to Executive Communications, Box PE, Room 3317, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on the documents submitted to FEA Executive Communications with the designation "Sulphur Mines Draft EIS (DES 77-6)." Fifteen copies should be submitted.

All comments should be received by FEA by October 21, 1977, in order to receive full consideration.

Any information or data, submitted in response to the draft Sulphur Mines EIS, considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washingon, D.C., September 1, 1977.

ERIC J. FYGI,
Acting General Counsel, Federal Energy Administration.

[FR Doc.77-26027 Filed 9-7-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER77-521]

ARIZONA PUBLIC SERVICE CO.

Extension of Time

AUGUST 31, 1977.

On August 25, 1977, Arizona Public Service Co. filed a motion to extend the time for filing responses to the motion for reconsideration filed in the above-designated docket on August 17, 1977, by Maricopa County Municipal Water Conservation District No. 1 (Maricopa). The motion states that Staff Counsel and

counsel for Maricopa do not object to the requested extension.

Upon consideration, notice is hereby given that the date for filing responses to the August 17, 1977, motion for reconsideration is extended to and including September 8, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-26168 Filed 9-7-77;8:45 am]

[Docket No. ER77-535]

ARKANSAS POWER AND LIGHT CO.

Order Accepting for Filing and Suspending Proposed Rates and Establishing Procedures

On July 29, 1977, Arkansas Power and Light Co. (AP&L) submitted a proposed superseding interconnection agreement with Arkansas Electric Cooperative Corp. (AECC).[1] AP&L currently provides wheeling service to AECC under a transmission agreement (Rate Schedule FPC No. 52) and wheeling and other services under a power coordination, interchange and transmission agreement (Rate Schedule FPC No. 67). The power that is wheeled is supplied by Southwestern Power Administration. These agreements are being superseded by a single agreement in recognition of the changing nature of AECC's bulk power resources. AP&L requests an effective date of September 1, 1977.

Public notice of the filing was issued on August 9, 1977, with comments, protests or petitions to intervene due on or before August 19, 1977. No such filings have been received.

A review of AP&L's filing indicates that the proposed increase in rates and charges have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Based on this review of the filing we will accept for filing the proposed increased rates and will suspend their effectiveness for one day, i.e., to September 2, 1977, at which time they will become effective subject to refund, and will require that AP&L prior to implementation of proposed annual adjustments submit complete support of its proposed rates in accordance with section 35.13 of the Commission's Regulations (18 CFR).

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the proposed increased rates and charges tendered by AP&L on July 29, 1977, establishing procedures for that hearing, and that the proposed increased rates and charges be accepted for filing, suspended, and the use thereof deferred, all as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly sections 205, 206, 301, 308, and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by AP&L in this proceeding.

(B) Pending such hearing and decision thereon, the proposed increased rates and charges filed by AP&L on July 29, 1977 are hereby accepted for filing, suspended and the use thereof deferred until September 2, 1977, when they shall become effective, subject to refund.

(C) AP&L shall prior to implementation of proposed annual adjustments submit complete support of its proposed rates in accordance with section 35.13 of the Commission's regulations (18 CFR, Chapter I).

(D) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before January 16, 1978.

(E) A Presiding Administrative Law Judge to be determined by the Chief Administrative Law Judge for that purpose shall preside at a prehearing conference in this proceeding to be held on January 31, 1978, at 10:00 A.M. (ET) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26177 Filed 9-7-77;8:45 am]

[Docket No. CI77-724]

C AND K PETROLEUM INC., ET AL.

Limited-Term Application

SEPTEMBER 1, 1977.

Take notice that on August 10, 1977, C&K Petroleum, Inc. et al.[1], 2500 First City National Bank Bldg., Houston, Tex. 77002, filed in Docket No. CI77-724 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity, with pregranted abandonment, authorizing the sale for resale of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corp. (Transco) for a limited term of three (3) years. The initial price Applicant is seeking is $2.03 per Mcf, plus adjustments. The gas to be covered by the certificate is Applicant's interest in natural gas to be produced from the Jefferson Island Field, Iberia Parish, La., and will be sold under the terms of a gas purchase contract dated July 30, 1977.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protests with reference to said application should on or before September 9, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene n accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26179 Filed 9-7-77;8:45 am]

[Docket No. ER77-561]

CONNECTICUT LIGHT AND POWER CO.

Transmission Agreement

AUGUST 26, 1977.

Take notice that on August 22, 1977, Connecticut Light and Power Co. (CL&P) tendered for filing a proposed rate schedule with respect to the Transmission Agreement dated June 29, 1977 between (1) CL&P, the Hartford Electric Light Co. (HELCO) and Western Massachusetts Electric Light (WMECO) and (2) Littleton Electric Light and Water Department (LELWD).

CL&P states that the Transmission Agreement provides for a transmission service to LELWD during the period from July 1, 1977, to October 31, 1977.

CL&P indicates that the transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utility system determined in accordance with sections 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee, multiplied by the number of kilowatts which LELWD is entitled to receive.

CL&P requests an effective date of July 1, 1977, for the Transmission Agree-

[1] Designated as: *Arkansas Power & Light Company*, Rate Schedule FPC No. 72 (Supersedes Rate Schedule FPC Nos. 52 and 67 as supplemented).

[1] The et al. parties referred to are C&K-AA, 76 Ltd.; C&K 1976 Ltd.; C&K-AC Venture; C&K-CKC 1976 Ltd.; Mr. Harding A. Orren; Mr. Solly Robins; Mr. Julius E. Davis; KHS Associates; Mr. John Lawrence; Mr. Arthur L. Owen; Vanguard Petroleum Corporation; and Mr. Jack Webre. KHS Associates has not yet signed the contract; however, they have indicated that they will sign in the near future. A fully executed copy of the contract will be filed at that time.

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ment, and therefore, requests waiver of the Commission's notice requirements.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to HELCO, Hartford, Conn., WMECO, West Springfield, Mass. and LELWD, Littleton Mass.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 14, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26167 Filed 9-7-77;8:45 am]

[Docket No. RP77-18]

EL PASO NATURAL GAS CO.

Correction

AUGUST 24, 1977.

ORDER APPROVING PIPELINE RATE SETTLEMENT. (Issued August 1, 1977). On page 40025, change 9.17 percent to 9.71 percent.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26176 Filed 9-7-77;8:45 am]

[Docket No. ID-1815]

FRED L. CLAYTON

Application

SEPTEMBER 1, 1977.

Take notice that on August 23, 1977, Fred L. Clayton, Jr., Senior Vice President, Alabama Power Co., filed an application pursuant to section 305(b) of the Federal Power Act for authorization to hold the following positions:

Senior Vice President, Alabama Power Co., public utility.
Senior Vice President and Director, Southern Electric Generating Co., public utility.

Any person desiring to be heard or to make any protest with reference to said Application should on or before September 27, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26174 Filed 9-7-77;8:45 am]

[Docket Nos. ER77-411, ER77-412, ER77-413, ER77-414, ER77-415, and ER77-416]

ILLINOIS POWER CO.

Order Granting Intervention and Reconsideration

AUGUST 31, 1977.

On June 30, 1977, Illinois Power Co. (the Company) tendered for filing proposed increases in its demand charges short-term firm capacity and for Maintenance Power Capacity for service to the Illinois Municipalities of Highland, Mascoutah, Freaburg, Princeton, Peru, Breese, and Carlyle (Cities). The filing was initially submitted on May 31, 1977, but was found to be deficient in its omission to notify its State commission. This deficiency was corrected on June 30, 1977. This filing would increase the Company's revenues for this service by $151,148 or 16.67 percent based on the 12-month period ending April 30, 1977.

Public notice of the Company's filings was given with all protest and petitions to intervene due on or before August 1, 1977. By order issued July 26, 1977, we accepted the filing, waived the notice requirements, and suspended it for one day. The increase became effective July 2, 1977, subject to refund.

On August 1, 1977, the Cities tendered for filing a Petition for Reconsideration or Rehearing, Motion to Reject, Motion to Intervene, Complaint, and Motion to Consolidate. The Cities state that they are customers of the company and are served under the Interconnection Agreements that are the subject of these proceedings. They allege that they have a direct interest in these proceedings which cannot adequately be protected by any other party.

On August 18, 1977, the Company filed an answer to the Cities' filing. The Company states that it does not oppose consolidation, but the filing argues against Cities' Motion to Reject and answers Cities' Complaint.

In light of the complex arguments of fact and law raised by the pleadings, the Commission shall grant the Cities' petition for reconsideration. This action does not constitute a grant or denial of the issues raised in the Cities' filings on the merits in whole or in part.

The Commission finds: (1) In order to afford the Commission additional time for the consideration of the issues discussed in Illinois Power and the Cities' pleadings, it is appropriate and proper in the administration of the Federal Power Act and in the public interest to grant reconsideration of the July 26 order as provided below.

(2) Participation by the Cities in these proceedings may be in the public interest.

The Commission orders: (A) Reconsideration of the Commission's order of July 26, 1977, is hereby granted for the limited purpose of further consideration.

(B) The Cities are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their respective petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26178 Filed 9-7-77;8:45 am]

[Docket No. RP77-122]

LOCUST RIDGE GAS PROCESSING CO.

Proposed Change in Rates

SEPTEMBER 1, 1977.

That notice that on August 12, 1977, Locus Ridge Gas Processing Co. ("Locust Ridge") tendered for filing a notice of change in rates for sales to Michigan Wisconsin Pipe Line Co. ("Michigan Wisconsin"), pursuant to Locust Ridge's gas sales contract with Michigan Wisconsin, filed at Locust Ridge FPC Gas Tariff Original Volume 3. Inasmuch as the change in rate proposed by Locust Ridge is provided for by the terms of its FPC Gas Tariff Original Volume 3, no revised tariff sheets were tendered with the notice of change in rates. The proposed change would increase revenues from jurisdictional sales and services by approximately $18,000.

Locust Ridge states that the proposed change in rate is for the purpose of implementing the periodic increase in rate provided for by Locus Ridge's gas sales contract with Michigan Wisconsin. Pursuant to the terms of this contract, Locust Ridge is entitled to receive an increase of $0.025 per Mcf commencing on September 11, 1977. No other change in rates has been proposed. Locust Ridge proposes an effective date for the rate change of September 11, 1977.

Locust Ridge requests waiver of certain of the filing requirements of Section 154.63 of the Commission's regulations. Locust Ridge states that the rate increase proposed by it is akin to a rate increase by an independent producer, and, therefore, the detailed filing requirements of the Commission's regulations should not be applied to it.

Copies of the filing were served upon Michigan, Wisconsin and interested state regulatory commissions.

Any person desiring to be heard or to protest said notice should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 9, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding. Any person wishing to become a party must file a petition to intervene. Locust Ridge's rate filing is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26180 Filed 9-7-77;8:45 am]

[Docket No. RP77-124]

McCULLOCH INTERSTATE GAS CORP.

Proposed Rate Increase

AUGUST 31, 1977.

Take notice that on August 10, 1977, McCulloch Interstate Gas Corp. (McCulloch) tendered for filing a proposed increase in rates for natural gas service rendered under its rate schedules PL-1 and X-1. McCulloch requests that the increased rates be permitted to become effective on June 1, 1977. In its letter of transmittal, McCulloch states as follows:

"McCulloch proposes to increase its presently effective PL-1 rate[1] to 127.68 cents per MMBtu (14.65 psia). This proposed change in rate is made to recover increases in the cost of service on sales of gas in the Powder River Basin, Wyo., to Colorado Interstate Gas Co. ("CIG"), due to diminishing gas reserves, and to insure a reasonable rate of return.

McCulloch proposes to increase its presently effective X-1 rate[2] to 7.67 cents per Mcf (14.65 psia). This rate represents an annual increase in revenue of approximately $43,800.00 over that amount agreed approved by the Commission's order dated April 25, 1977, in Docket No. RP 76-66. This proposed change in rate is made to recover the same increase in cost referred to hereinabove for PL-1 rates for the transporting of gas through McCulloch facilities to CIG in the Powder River Basin, and to insure a reasonable rate of return.

McCulloch previously tendered this revised filing * * * [in Docket No. RP77-61] * * * on April 29, 1977, proposing a change in rates under the said PL-1 and X-1 rate schedules and requesting that said rates be made effective June 1, 1977 (hereinafter the "original filing"). The original filing sought to increase the effective PL-1 rate charged to CIG from 128.24 cents per MMBtu to 132.66 cents per MMBtu (14.65 psia) and to increase the effective X-1 rate to 7.67 cents per Mcf (14.65 psia) from 7.0 cents per Mcf. The two proposed rate changes in the original filing would have resulted in an annual increase in revenue to McCulloch of approximately $68,600.

On May 27, 1977, the Commission issued its order in this [Docket No. RP77-61] proceeding rejecting McCulloch's original filing herein without prejudice to its right to file proposed increased rates with supporting data conforming to the Commission's regulations (Paragraph A). The Commission found that McCulloch had not fully supported the proposed sales rate of 132.66 cents per MMBtu in the original filing. It further found that * * *. "Data accompanying the filing together with the claimed surcharge in McCulloch's PGA filing dated February 14, 1977, indicate the following unit costs:

	Cents per million Btu
Transmission	30.13
Gas cost	74.92
PGA surcharge	21.63
Total supported cost	[1]126.68

[1] The 1 cent per MMBtu difference between this 126.68 cents per MMBtu rate and the 127.68 cents per MMBtu revised proposed rate filed herein, results from McCulloch's recovery of a carrying surcharge of nine percent (9%) permitted under Ordering Paragraph (D) of Opinion 770.

Compared with the proposed rate of 132.66 cents, the cost data filed and claimed falls short of justifying the proposed rate by 5.98 cents per MMBtu." The Commission further found that "* * * McCulloch shows the present cost of gas in its proposed rate [of 132.66 cents] at 102.53 cents per MMBtu, but the data submitted * * * will support an overall gas cost of only 96.55 cents per MMBtu, including the surcharge of 21.63 cents per MMBtu included in its February 14 PGA filing." Again, a difference of 5.98 cents between the cost of gas in the proposed rate and the data filed in support thereof.

While McCulloch does not agree with, ratify, or acquiesce in the validity or propriety of the principles, procedures or methodology utilized by the Commission as a basis for its order rejecting McCulloch's original filing herein, without prejudice; nevertheless, McCulloch, solely for the purposes of the revised filing herein, has complied with the direction of the Commission's May 27, 1977, order and adjusted its proposed rate increase to reflect submitted support data as discussed in said order.

Pursuant to Section 154.63 of the Commission's Regulations, McCulloch tenders herewith for filing with the Commission ten (10) copies of the following:

1. Revised tariff sheets (Eleventh Revised Sheet No. 32 and Second Revised Sheet No. 38, FPC Gas Tariff, Original Volume No. 1).

2. A Statement of Nature, Reason and Basis for the proposed change in rates.

3. Statements "A" through "M" and Statements "O" and "Q".

4. A representation by McCulloch's chief accounting officer and an opinion of an independent public accountant, as required by Section 154.63 (e)(5) and (e)(6) of the Commission's Regulations.

The schedules set forth on the foregoing statements are for the actual results of McCulloch's operations for the calendar year, 1976, and are adjusted for known and measurable changes for the following nine months, through September 30, 1977, for the test year.

Statement "P" (the prepared testimony of McCulloch's witnesses) which supported the proposed changes in rates in the original filing were forwarded for filing with the Commission herein on May 12, 1977. Said prepared testimony remains unchanged and properly supports the adjusted proposed rates in the revised filing herein.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 9, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26169 Filed 9-7-77;8:45 am]

[Docket No. ER77-568]

PENNSYLVANIA POWER AND LIGHT CO.

Filing of New Contract Between Pennsylvania Power & Light Co., and the Borough of Mifflinburg Relating to a Proposed Change in Resale Service

AUGUST 31, 1977.

Take notice that on August 26, 1977, Pennsylvania Power & Light Co. ("PP&L") filed, pursuant to section 35 of the Commission's Rules and Regulations, a new contract, lower rate schedule, fuel adjustment clause material information and supporting data relating to a proposed change in the resale service to the Borough of Mifflinburg, Union County, Pa.

PP&L indicates that the purpose of this filing is to reflect a change in rate and service conditions to Mifflinburg. PP&L further indicates that currently, Mifflinburg receives resale service under PP&L's system rate for service at a supply voltage of less than 55 KV but not less than 12 KV at FPC Rate Schedule No. 55. PP&L states that Mifflinburg has determined to take service at 66 KV/138 KV. PP&L had indicated its willingness to

[1] The presently effective PL-1 rate is subject to final Commission action in Docket No. RP 75-98 and McCulloch's pending PGA filing in Docket No. RP 73-91.

[2] The presently effective X-1 rate was approved by the Commission in Docket No. RP 76-66.

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provide service at that voltage and the new contract has been executed.

Any person desiring to be heard or to protest this filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26170 Filed 9-7-77;8:45 am]

[Docket No. CP77-579]

SOUTHERN NATURAL GAS CO.

Application

AUGUST 31, 1977.

Take notice that on August 22, 1977, Southern Natural Gas Co. (Applicant), P.O. Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP77-579 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce for Austell Natural Gas System (Austell) of Austell, Ga., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport natural gas on a best efforts basis for Austell to Chattanooga Gas Co. (Chattanooga) in Tennessee to implement an arrangement between Austell and Chattanooga whereby Chattanooga will liquefy natural gas for Austell. The LNG whould then be transported by an appropriate carrier back to Austell for storage. Applicant says that Austell and Chattanooga have executed an agreement with Applicant dated August 9, 1977, which provides that during the summer season Applicant will transport, using existing facilities, up to 750 Mcf of gas per day for liquefaction by Chattanooga for the account of Austell.

Applicant says that the gas to be transported pursuant to the authority requested in the instant application is part of the gas allocated to Austell pursuant to Applicant's approved curtailment plan. Applicant also says that approval of its application will not result in any new or additional sales of natural gas in interstate commerce.

Applicant notes that the agreement of August 9, 1977, will end on October 31, 1979. This can be extended by consent of the parties, however, and Applicant therefore requests a certificate that is unlimited in time so that the agreement can be expeditiously extended.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-26171. Filed 9-7-77; 8:45 a.m.]

[Docket No. CP77-585]

TEXAS EASTERN TRANSMISSION CORP.; CONSOLIDATED GAS SUPPLY CORP.

Application

SEPTEMBER 1, 1977.

Take notice that on August 24, 1977, Texas Eastern Transmission Corp. (Texas Eastern), Post Office Box 2521, Houston, Tex. 77001, and Consolidated Gas Supply Corp. (Consolidated), 445 West Main St., Clarksburg, W. Va. 26301 (hereinafter referred to jointly as Applicants), filed in Docket No. CP77-585 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and delivery of up to 15,000 dekatherms (dths) equivalent of natural gas per day for the account of UGI Corp. (UGI) all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that UGI and Amoco Production Co. have developed certain gas supplies of approximately 15,000 dths per day in Somerset County, Pa., and that in order to receive this gas supply into its system, UGI proposes to construct a pipeline to transport and deliver the gas to Peoples Natural Gas Co. (Peoples), an intrastate company, which in turn would reduce its receipts from its supplier, Consolidated, by an equivalent amount. Applicants assert that the gas delivered by UGI to Peoples would be utilized by Peoples wholly within the Commonwealth of Pennsylvania. Applicants state further that Consolidated would then reduce its receipts from Texas Eastern at Rockwood, Somerset County, Pa., for the account of UGI, and that Texas Eastern would in turn transport and deliver the stated quantities to Columbia Gas Transmission Corp. at an existing point of interconnection in Dauphin County, Pa., for redelivery to UGI.

Applicants state that in accordance with an agreement between Consolidated and UGI dated July 18, 1977, Consolidated would not charge UGI for the proposed service and that Texas Eastern would provide the transportation service to UGI pursuant to the terms of its Rate Schedule TS-2. Applicants indicate that under the terms of Rate Schedule TS-2, Texas Eastern would transport and deliver the stated quantities on an interruptible, best efforts basis, and would charge an amount equal to Texas Eastern's rate for deliveries in the particular zone at which the proposed delivery would be made, based on the 100 percent daily contract quantity load factor level rate, less Texas Eastern's purchased gas and fuel costs.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required,

further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26175 Filed 9-7-77;8:45 am]

[Docket No. CP76-185]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Petition to Amend

AUGUST 31, 1977.

Take notice that on August 19, 1977, Transcontinental Gas Pipe Line Corp. (Petitioner), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP76-185 a petition to amend the Commission's order issued February 6, 1976, in this docket pursuant to section 7(c) of the Natural Gas Act so as to authorize the transportation and delivery of natural gas from a new source for Lithium Corp. of America (LCA), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued February 6, 1976, in this proceeding, Petitioner is authorized to transport on an interruptible basis up to 1,500 Mcf of natural gas per day for LCA for use in LCA's plant at Bessemer City, N.C. It is stated that the gas transported pursuant to this authority is purchased by LCA from Glenda Petroleum Corp. (Glenda) in the Monroe Field, Ouachita, Union, and Morehouse Parishes, La., and delivered to United Gas Pipe Line Co. (United) in Union Parish for transportation and delivery to Petitioner, for LCA's account, at existing authorized exchange points.

It is stated that declining deliverability of the Glenda production has forced LCA to acquire a supplemental gas supply of up to 500 Mcf per day from certain wells owned by Weiser-Brown Oil Company, et al. (Weiser-Brown), in Winn Parish, La. Petitioner requests authority to transport and deliver the Weiser-Brown gas for LCA and states that it would receive the gas from United, for LCA's account, at existing authorized exchange points for transportation and delivery to Public Service Co. of North Carolina, Inc., for redelivery to LCA at the Bessemer City plant.

Petitioner states that no increase in the maximum authorized transportation volume of 1,500 Mcf per day is proposed, and that no additional facilities would be required to transport the Weiser-Brown gas. It is asserted that the proposed transportation would continue for the balance of the two-year term authorized by the February 6, 1976, order.

Petitioner states that it is currently charging LCA 29.8 cents per dekatherm of gas transported and delivered and is retaining 3.8 percent of the quantities received for compressor fuel and line loss.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26172 Filed 9-7-77;8:45 am]

[Docket No. CP76-496]

WESTERN TRANSMISSION CORP.

Application

AUGUST 31, 1977.

Take notice that on August 22, 1977, Western Transmission Corp. (Applicant), 2700 Fidelity Union Tower, Dallas, Tex. 75201, filed in Docket No. CP76-496 an application pursuant to section 7(c) of the Natural Gas Act and section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the twelve-month period commencing with the issue date of the requested budget-type certificate, and operation of facilities to enable Applicant to take into its certificated interstate pipeline system natural gas which would be purchased from producers and oher similar sellers hereof, or, in the alternative, to amend its present budget-type authority issued in said Docket on December 15, 1976, all as more fully set forth in the application on file with the Commission and open to public inspection.

By order issued December 15, 1976, in this docket, Applicant was granted budget-type authority to construct and operate gas-purchase facilities of $150,000 total cost and $37,500 cost per project. Applicant states that the total amount presently authorized is insufficient to enable it to connect to its pipeline system supplies of natural gas which are or may become available from various producers in the general area of its pipeline system and requests that the certificate issued by order of December 15, 1976, be amended to authorize total budget expenditures of $500,000, or in the alternative, that it be issued a new budget-type certificate authorizing total expenditures of up to $500,000.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which are or may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that it anticipates higher than average construction costs due to the remoteness of the area served by its pipeline and the adverse weather conditions in the area. Due to the high costs anticipated in the construction of its gas-purchase facilities, Applicant asserts that its present budget authority, which is limited to a total of $150,000 and $37,500 for a single project, would be inadequate to construct the facilities necessary to connect its system to the facilities of others, but that a total authorization of $500,000 and $125,000 for a single project would be adequate. Applicant states further that $500,000 is in excess of two percent of its plant account, and accordingly requests that the Commission waive the cost limitations of section 157.7(b) (1) of the Regulations under the Natural Gas Act to permit total expenditures of up to $500,000 and expenditures of up to $125,000 for any single project.

Applicant states that the total cost of the proposed facilities would not exceed $500,000, and that the cost of any single project would not exceed $125,000. The application indicates that the proposed capital expenditures would be made from cash on hand, from cash generated from normal internal sources, and from short-term bank loans.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if not petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to interevene is timely filed, or if the Commission on its own motion believes that a formal hearing is

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required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26173 Filed 9-7-77;8:45 am]

FEDERAL RESERVE SYSTEM

[H.2, 1977 No. 33]

ACTIONS OF THE BOARD

Applications and Reports Received During the Week Ending August 13, 1977

ACTIONS OF THE BOARD

Proposed revision of Article 9 of the SEC S-X, providing for "specific requirements as to form and content for consolidated and unconsolidated financial statements of bank holding companies and banks", response to request for Board's views sent to Mr. Harold M. Williams, Chairman, Securities and Exchange Commission.

Philadelphia International Investment Corp., Philadelphia, Pa., extension of time to October 10, 1977, within which to dispose of the stock of Arbuthnot Latham Holdings Ltd., London, England.

Negotiable orders of withdrawal, letter to Chairman Thomas J. McIntyre, Senate subcommittee on Financial Institutions, in support of the NOW accounts legislation.

Issuance of a subordinated capital note by The Trust Co. of New Jersey, Jersey City, N.J.

Issuance of subordinated capital notes by Central Bank, Monroe, La.

Westland Banks, Inc., Lakewood, Colo., extension of time to December 8, 1977, within which to consummate the acquisition and opening of Westland National Bank South, Longmont, Colo.[1]

Westland Banks, Inc., Lakewood, Colo., extension of time to December 31, 1977, within which to consummate the acquisition and opening of Westland Bank of Lakewood, Lakewood, Colo.[1]

First Missouri Banks, Inc., Creve Coeur, Mo., extension of time to October 31, 1977, within which to open its de novo bank, First Missouri Bank of West County, St. Louis County, Mo.[1]

Alabama Bancorporation, Birmingham, Ala., extension of time to November 11, 1977, within which to acquire Farmers and Merchants Bank, Ashford, Ala.[1]

Citizens Bank of New Haven, New Haven, Mo., to make an additional investment in bank premises.[1]

Warren Bank, Warren, Mich., to make an investment in bank premises.[1]

Termination of Registration for U. of C. Federal Credit Union (University of Colorado, Boulder, Colo.[1]

Detroit Bank—Troy, Troy, Mich., extension of time to October 15, 1977, within which to establish a branch at the northeast corner of the intersection of John R and Wattles Road, Troy; and an extension of time to March 15, 1978, within which to establish a branch at the intersection of Square Lake and Rochester Roads, Troy.[1]

Farmers and Merchants Bank of Central California, Lodi, Calif., extension of time to August 22, 1978, within which to establish a branch on McHenry Avenue between Woodrow and Floyd Avenue, Modesto, Calif.[1]

Walker Bank and Trust Co., Salt Lake City, Utah, extension of time to February 17, 1978, within which to establish a branch in downtown Tooele, Utah.[1]

Capital Bank of Miami, N.A., Miami, Fla., and Capital Bank of Kendale, Miami, Fla., proposed merger with Capital Bank of North Bay Village, North Bay Village, Fla., report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Landmark Bank of North Tampa, Hillsborough County, Fla., proposed merger with Landmark Bank of Tampa, Tampa, Fla., report to the Federal Deposit Insurance Corporation on competitive factors.[1]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

NB Bank of Richmond, Va. Branch to be established at 1900 Lauderdale Drive, Henrico County.[2]

The Bank of El Paso, El Paso, Tex. Branch to be established as a Drive-in Facility nad Data Processing Center at 5101 Montana Street.[2]

Valley Bank and Trust Co., Salt Lake City, Utah. Branch to be established in the vicinity of 8600 South and 1300 East in Sandy, Salt Lake County.[2]

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International Investments and Other Actions Pursuant to Sections 25 and 25 (a) of the Federal Reserve Act and Sections 4(c) (9) and 4(c) (13) of the Bank Holding Company Act of 1956, as amended.

APPROVED

Citibank Overseas Investment Corp.: An extension of the 8-11-77 divestiture deadline re: indirect equity interests at IAC (Holdings) Ltd., Australia.

United States Trust Co. International Corp.: Investment—to acquire 100 percent of the shares of U.S. Trust Co. of New York (Grand Cayman) Ltd.

Philadelphia International Investment Corp.: Investment—to acquire 24 percent of the shares of Australian Finance and Securities Ltd., Sydney, Australia.

Philadelphia International Investment Corp.: To retain its 4.5-percent interest in Arbuthnot Latham Holdings, Ltd., London, England.

Continental International Finance Corp.: Investment—to acquire all the shares of Continental Illinois Investment Corp., Geneva, Switzerland.

To Form a Bank Holding Company Pursuant to Section 3(a) (1) of the Bank Holding Company Act of 1956.

APPROVED

Ark Valley Bankshares, Inc., La Junta, Colo., for approval to acquire 83 percent of the voting shares of The La Junta State Bank, La Junta, Colo. and 56 percent of the voting shares of The Empire State Bank, Rocky Ford, Colo.

Columbus Bancshares, Inc., Columbus, Kans., for approval to acquire 90.92 percent of the voting shares of The Columbus State Bank, Columbus, Kans.[2]

Metropolitan Bank and Trust Co., Philippine Securities Corp. and Tytana Corp., all of Makati, Rizal, Philippines, for approval to acquire 35 percent of the voting shares of International Bank of California, Los Angeles, Calif.

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To Expand a Bank Holding Company Pursuant to Section 3(a) (3) of the Bank Holding Company Act of 1956.

APPROVED

The Central Bancorporation, Inc., Cincinnati, Ohio, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to First National Bank of Mercer County, Celina, Ohio.

First Bankers Corp. of Florida, Pompano Beach, Fla., for approval to acquire 80 percent or more of the voting shares of First National Bank of Cape Canaveral, Cape Canaveral, Fla.[2]

Central Bancompany, Jefferson City, Mo., for approval to acquire 100 percent of the voting shares of The First National Bank of Mexico, Mexico, Mo.

Caprice Corp., Red Lake Falls, Minn., for approval to acquire 93.33 percent or more of the voting shares of Plummer State Bank, Plummer, Minn.

To expand a Bank Holding Company Pursuant to Section 4(c) (8) of the Bank Holding Company Act of 1956.

WITHDRAWN

United Virginia Bankshares Incorporated, Richmond, Va., notification of intent to relocate de novo activities (originating loans as principal; originating loans as agent; servicing loans for nonaffiliates, individuals, partnerships and corporations; servicing loans for affiliates of United Virginia Bankshares Inc.; the sale as agent, of credit disability mortgage redemption and mortgage cancellation insurance in connection with such loans and such other activities as may be incidental to the business of a mortgage corporation) from 2200 Century Parkway NE., Suite 798, Atlanta, Ga., to 2295 Parklake Drive NE., Suite 470, Atlanta, Ga., through its subsidiary, United Virginia Mortgage Corp. (8/10/77)[2]

DELAYED

Midland Mortgage Corp., Detroit, Mich., notification of intent to engage in de novo activities (servicing loans and other extensions of credit for any person or entity) at 350 First National Building, Detroit, Mich., through its subsidiary, Midland Mortgage Service Corp. (8/11/77)[2]

PERMITTED

Shawmut Corp., Boston, Mass., and Texas American Bancshares, Inc., Fort Worth, Tex., notification of intent to continue to engage in de novo activities (agricultural commodity financing, servicing such financing and related and incidental activities, and in general, making, servicing or acquiring, for its own account or for the account of others, loans and other extensions of credit to agricultural enterprises or secured by agricultural commodities) in Arizona, California, Idaho, Iowa, Nevada, Utah, and Wyoming, through a joint venture, American AgCredit Corp., Guymon, Okla., at offices in Guymon, Okla.; Amarillo, Tex.; and Denver, Colo. (8/12/77)[2]

[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

Chemical New York Corp., New York, N.Y., notification of intent to relocate de novo activities (making of direct loans and purchasing sales finance contracts representing extensions of credit such as would be made or acquired by a finance company; acting as agent for the sale of credit life insurance and credit accident and health insurance issued in connection with extensions of credit and making available to its borrowers, credit related property and casualty insurance) from 221 West Main Street, P.O. Box 373, Lakeland, Fla. to 4404 South Florida Avenue, Lakeland, Fla., through tis subsidiary, Sentry Acceptance Co., 802, Inc. (8/8/77)[2]

Chemical New York Corp., New York, N.Y., notification of intent to engage in de novo activities (making "large" loans, in excess of $1,500 and not exceeding $7,500 under the N.C. Gen. Stat. Sec. 24-1.2(a) and Secs. 2412 through 17) at 4010 Oleander Drive, Wilmington; Suite 213, Executive Park Building, Asheville; 104 W. Trade St., Forest City; 533 Marion Plaza, Marion; 2224 North Church Street, Burlington; 332 Highway 84-60, S.W., Hickory; 320 West Dixon Boulevard, Shelby; 255 Charlois Boulevard, Winston-Salem; 897 Peters Creek Parkway, Winston-Salem; 175 Northpoint Avenue, High Point; 143 West Franklin, Chapel Hill; 225 Green Street, Fayetteville; No. 5 Woodlawn Green, Suite 154, Charlotte; 4801 E. Independence Blvd., Charlotte; 600-B South Main Street, Laurinburg; 415 West Meadowview Rd., Greensboro; all located in North Carolina, through its subsidiary, Sun Mortgage Acceptance Corporation (8/7/77)[2]

Fidelcor, Inc., Rosemont, Pennsylvania, notification of intent to relocate de novo activities (making and acquiring, consumer and mortgage loans to individuals including second mortgages on properties in New Jersey where the loans are owned by direct or indirect subsidiaries of Fidelcor; engaging in a general consumer finance business; purchasing installment contracts arising from the sale of personal property and services; and with the respect to all of the above, selling credit life and credit accident and health insurance, mortgage life or disability insurance, accidental death insurance and casualty insurance on the collateral and through Master Life Insurance Company, an indirect subsidiary of Fidelcor, reinsuring consumer-type credit life insurance sold) from 92 Roosevelt Avenue, Carteret, N.J. to 1368 Roosevelt Avenue, Carteret, N.J., through its subsidiary, Fidelcor Financial Centers, Inc. (8/8/77)[2]

Union Trust Bancorp, Baltimore, Md., notification of intent to engage in de novo activities (making installment loans to individuals for personal, family or household purposes; purchasing sales finance contracts executed in connection with the sale of personal, family or household goods or services; and acting as agent in the sale of credit life and credit accident and health insurance directly related to its extensions of credit) at 852-854 Terry Road, Jackson, Miss., 122 East Pine Street, Hattiesburg, Miss., and 283 West Evans Street, Florence, S.C., through its subsidiaries, Landmark Finance Corp. of Mississippi and Landmark Finance Corp. of South Carolina (wholly-owned subsidiaries of Landmark Financial Services, Inc.) (8/7/77)[2]

Landmark Banking Corp., Fort Lauderdale, Florida, notification of intent to engage in de novo activities (providing data processing services and storing and processing banking, financial, or related economic data for Landmark Banking Corp., and its subsidiaries and affiliates, their correspondent banks, and other banking institutions and their respective customers) at Central and Ninth, St. Petersburg, Fla.; 4640 South Orange Blossom Trail, Orlando, Fla.; and 225 East Las Olas Boulevard, Fort Lauderdale, Fla. through a subsidiary, Landmark Data Services Corp. (8/7/77)[2]

BankAmerica Corp., San Francisco, Calif., notification of intent to engage in de novo activities (making and acquiring, for its own account loans and other extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit; such activities will include, but not be limited to, making loans and other extensions of credit to small businesses and making loans secured by real property; acting as agent or broker for the sale of credit life insurance in connection with extensions of credit made or acquired by FinanceAmerica Mortgage Services, Inc.) at 762 Wolcott Road, Waterbury, Conn., through its indirect subsidiary, FinanceAmerica Mortgage Services, Inc. (8/8/77)[2]

Security Pacific Corp., Los Angeles, Calif., notification of intent to relocate de novo activities (making and acquiring, for its own account or for the account of others, loans and other extensions of credit including secured and unsecured consumer, commercial, and agricultural loans, sale contracts and other forms of receivables and such other types of loans and credit extensions as are customarily made or acquired by a finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and casualty insurance) from 1214 Main to 5193 Overland, Boise, Idaho, through its subsidiary, The Bankers Investment Co. (8/11/77)[2]

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To Expand a Bank Holding Company Pursuant to Section 4(c) (12) of the Bank Holding Company Act of 1956.

PERMITTED

American Financial Corp., Cincinnati, Ohio, and its subsidiaries, notification of intent to acquire from 5 percent to 35 percent of the outstanding voting shares of the following companies: Alpha Portland Industries, Inc., Easton, Pa.; Florida Gas Co., Winter Park, Fla.; Integrated Resources, Inc., New York, N.Y.; and Pacific Holding Corp., Los Angeles, Calif. (8/9/77)[2]

Berkshire Hathway Inc., New Bedford, Mass., notification of intent to indirectly acquire more than 5 percent of the outstanding voting stock of United Merchants & Manufacturers, Inc., New York, N.Y., a textile manufacturing and retail clothing chain, through its subsidiary, Blue Chip Stamps 8/13/77).[2]

APPLICATIONS RECEIVED

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

First Bank of Colonia, Colonia, N.J. Branch to be established at 1001 Inman Avenue, Edison, Middlesex County.

The Commercial and Savings Bank of Millersburg, Ohio. Branch to be established at Route 62, Winesburg, Holmes County.

Metropolitan Bank & Trust Company, Tampa, Fla. Branch to be established at State Road 674 and Pebble Beach Boulevard, Sun City Center, Hillsborough County.

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To Form a Bank Holding Company Pursuant to Section 3(a) (1) of the Bank Holding Company Act of 1956.

Harrison Bancorporation, Cynthiana, Ky., for approval to acquire 3,000 shares of the voting shares of The Harrison Deposit Bank and Trust Company, Cynthiana, Ky.

Janesville Holding Co., Janesville, Minn., for approval to acquire 80.1 percent of the voting shares of Janesville State Bank, Janesville, Minn.

Country Bancshares, Inc., Jamesport, Mo., for approval to acquire 89 percent of the voting shares of Home Exchange Bank of Jamesport, Jamesport, Mo.

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To Expand a Bank Holding Company Pursuant to Section 3(a) (3) of the Bank Holding Company Act of 1956.

First National Boston Corp., Boston, Mass., for approval to acquire 100 percent of the voting shares of the successor by merger to Blackstone Valley National Bank, Whitinsville, Mass.

First Bank System, Inc., Minneapolis, Minn., for approval to acquire 100 percent (less directors' qualifying shares) of the voting shares of Granite City National Bank of St. Cloud, St. Cloud, Minn., a proposed new bank.

Allied Bancshares, Inc., Houston, Tex., for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of Addicks Bank, Addicks, Tex.

Applied Bancshares, Inc., Houston, Tex., for approval to acquire 100 percent of the voting shares (less director's qualifying shares) of American National Bank, Humble, Tex.

Allied Bancshares, Inc., Houston, Tex., for approval to acquire 100 percent of the voting shares (less director's qualifying shares) of Hillcroft Bank, Houston, Tex.

Allied Bancshares, Inc., Houston, Tex., for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of The First National Bank of Newton, Newton, Tex.

Allied Bancshares, Inc., Houston, Tex., for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of Gulf Coast State Bank, Winnie, Tex.

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To Expand a Bank Holding Company Pursuant to Section 4(c) (8) of the Bank Holding Company Act of 1956.

Chemical New York Corp., New York, N.Y., notification of intent to engage in de novo activities (extending direct loan credit and purchasing sales finance contracts and such other extensions of credit as would be made or acquired by a consumer finance company operating under Arizona Revised Statutes Section 6-601 to 6-640 inclusive; and providing group credit life and group accident and health insurance directly related to such extensions of credit) at Basha's Shopping Center, Southern and Mesa Drive, Mesa, Ariz., through its subsidiary, Sunamerica Corp. (8/9/77).[2]

Citicorp, New York, N.Y., notification of intent to relocate de novo activities (acquiring and servicing, sale finance and retail installment sales contracts and agreements, and acquiring and servicing indebtedness under such contracts and agreements; such servicing may include issuance of credit and identification cards, billing and related services) from 200 West Baltimore Street, Baltimore, Md., to 7720 York Avenue, Towson, Md., through its subsidiary, Citicorp Financial, Inc. (8/8/77).[2]

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Citicorp, New York, N.Y., notification of intent to engage in de novo activities (making consumer installment personal loans, purchasing and servicing for its own account consumer installment sales finance contracts, making loans for the account of others such as one-to-four family unit mortgage loans, making loans to individuals and businesses secured by real and personal property; and sale of credit related life and accident and health insurance) at Chula Vista Square, 542 Broadway, Suite M, San Diego; University Towne Centre Regional Shopping Center, San Diego; College Grove Center, Store No. F-8-E, San Diego; and 1279 Camino Del Rio South, San Diego, all located in California, through its subsidiary, Citicorp Person-to-Person Financial Center, Inc. (8/9/77).[3]

Bank of Virginia Company, Richmond, Va., notification of intent to engage in de novo activities (interim development and construction lending, residential permanent mortgage lending, commercial permanent mortgage lending, commercial permanent mortgage lending and servicing of permanent mortgages) at 3206 Cutshaw Avenue, Richmond, Va., through an indirect subsidiary, Bank of Virginia Second Mortgage Corporation (a wholly-owned subsidiary of BVA Credit Corp.) (8/11/77).[3]

Maryland National Corp., Baltimore, Md., notification of intent to engage in de novo activities (engage generally in the business of a mortgage banker, mortgage broker, and mortgage servicing firm including, but not limited to, second mortgage financing; originating, buying, selling, and otherwise dealing in mortgage loans as principal or agent; servicing mortgage loans for affiliated or nonaffiliated individuals, partnerships, corporations, or other entities; acting as advisor in mortgage loan and second mortgage loan transactions; and engaging in the sale, as agent of credit life, credit disability, credit accident and health, loan redemption, and loan cancellation insurance in connection with extensions of credit by bank and nonbank subsidiaries of the holding company) at 10 Light Street, Baltimore, Md.; 225 North Calvert Street, Baltimore, Md.; Tysons Corners Center, McLean, Va.; and 1114 MacArthur Drive, Greater Wilmington Airport, New Castle, Del., through its subsidiary, Homeowners Loan Corp. (8/11/77).[3]

Maryland National Corp., Baltimore, Md., notification of intent to engage in de novo activities (engaging generally in the business of a mortgage banker and mortgage broker; and engaging in the business of arranging financing, financial structuring, and analysis of real estate problems) at 450 Park Avenue, New York, N.Y., and 10 Light Street, Baltimore, Md., through a wholly-owned subsidiary known as Old Line Realty Corp. to form a joint venture to be known as Old Line Realty Co. (8/10/77).[3]

Avon Securities, Inc., Avon Park, Fla., notification of intent to engage in de novo activities (data processing services for financial institutions) at 560 E. McNab Road, Pompano Beach, Fla., through a subsidiary, Central Independent Financial Centers, Inc. (8/11/77).[3]

United Missouri Bancshares, Inc., Kansas City, Mo., for approval of the acquisition of United Missouri Insurance Co., Phoenix, Ariz., and to engage in the following activities (underwriting, as reinsurer, credit life and credit disability coverages directly related to extensions of credit by the bank holding company's subsidiaries).

BankAmerica Corp., San Francisco, Calif., notification of intent to engage in de novo activities (making or acquiring, for their own account loans and other extensions of credit such as would be made or acquired by a finance company; FinanceAmerica Corp. will engage in making consumer installment loans, making loans and other extensions of credit to small businesses, purchasing installment sales finance contracts, and servicing loans and other extensions of credit; FinanceAmerica Loan and Investment Co. will engage in making consumer installment loans, making loans and other extensions of credit to small businesses, making loans secured by real or personal property, and servicing loans and other extensions of credit; both corporations will act as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit made or acquired by FinanceAmerica Corp. or FinanceAmerica Loan and Investment Co.) at 7919 Preston Highway, Okolona, Ky., through its indirect subsidiaries, FinanceAmerica Corp. (a Kentucky corporation) and FinanceAmerica Loan and Investment Co. (8/3/77).[3]

Security Pacific Corp., Los Angeles, Calif., notification of intent to engage in de novo activities (acting as investment or financial adviser to the extent of serving as investment adviser as defined in Section 2(a)(20) of the Investment Company Act of 1940, to an investment company registered under that Act; providing portfolio investment advice to any other person and furnishing general economic information and advice, general economic statistical forecasting services and industry studies) at 333 South Hope Street, Los Angeles, Calif., through its subsidiary, Security Pacific Investment Managers, Inc. (8/4/77).[3]

Sellon, Inc., Toledo, Ohio, notification of intent to continue to engage in de novo activities (leasing motor vehicles to the public or acting as agent, broker, or adviser in leasing such property where at the inception of the initial lease the effect of the transaction (and, with respect to governmental entities only, reasonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessors full investment in the property plus the estimated total cost of financing the property over the term of the lease, from rentals; estimated tax benefits (investment tax credit, net economic gain from tax deferral from accelerated depreciation and other tax benefits with a substantially similar effect); the estimated residual value of the property at the expiration of the initial term of the lease which in no case shall exceed 20 percent of the acquisition cost of the property to the lessor and in the case of a lease of not more than seven years in duration, such additional amount, which shall not exceed 60 percent of the acquisition cost of the property as may be provided by an unconditional guarantee by a lessee, independent third party or manufacturer which has been determined by the lessor to have the financial resources to meet such obligation that will assure the lessor of recovery of its investment and cost of financing) at 33 Mitchel Boulevard, San Rafael, Calif., and 1965 South Main Street, Salt Lake City, Utah, through its subsidiary, Bancorporation Leasing (8/8/77).[3]

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REPORTS RECEIVED

None.

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PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, August 26, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26089 Filed 9-7-77;8:45 am]

AMERIBANC, INC., ST. JOSEPH, MO.

Order Approving Acquisition of Bank

Ameribanc, Inc., St. Joseph, Mo. ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Morgan County Bank, Versailles, Mo. ("Bank").

The application has been processed by the Federal Reserve Bank of Kansas City, pursuant to authority delegated by the Board of Governors of the Federal Reserve System under the provisions of section 265.2(f)(24) of the Rules Regarding Delegation of Authority.

Notice of the application affording an opportunity for interested persons to submit comments and views has been given in accordance with section 3(b) of the Act (42 FEDERAL REGISTER 35699 (1977)). The time for filing comments and views has expired, and the Reserve Bank has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act.

Applicant, the ninth largest banking institution in Missouri, controls 14 banks with aggregate deposits of $313.4 million,[1] representing 1.65 percent of the total deposits in commercial banks in the State. Acquisition of Bank, ranked 348th in the State, would increase Applicant's share of deposits to 1.71 percent, and would result in no significant increase in concentration of banking resources in Missouri.

Consummation of the proposed acquisition would neither eliminate any significant existing competition nor foreclose the development of future competition between any of Applicant's subsidiary banks and Bank. Bank ($11.41 million in deposits) is the second largest of three banks in the relevant banking market, defined as Morgan County, and controls 32.78 percent of deposits herein. None of Applicant's subsidiary banks are located in the relevant market. Applicant's nearest subsidiary bank is First State Bank in Rolla, Mo., which is approximately 85 road miles from Versailles. It has been determined that no significant competition would be eliminated as a result of the proposed acquisition. Current population per banking office ratios suggest that *de novo* entry is unlikely. Overall, competitive considerations are consistent with approval.

The financial and managerial resources and future prospects of Applicant, its subsidiaries and Bank are regarded as satisfactory and consistent with approval.

Affiliation with Applicant should enable Bank to offer expanded services, especially in the areas of lending. These factors, as they relate to the convenience and needs of the community to be served, are consistent with approval of this application. It is the Reserve Bank's judgement that consummation of the proposed acquisition is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City, pursuant to delegated authority.

WILBUR T. BILLINGTON,
Senior Vice President.

AUGUST 26, 1977.

[FR Doc.77-26090 Filed 9-7-77;8:45 am]

[1] Unless otherwise indicated, all banking data are as of December 31, 1976, and have been adjusted to reflect all acquisitions to date.

AMERICAN STATE BANCSHARES, INC.

Order Approving Formation of Bank Holding Company

American State Bancshares, Inc., Osawatomie, Kans., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) of formation of a bank holding company by acquiring 80 percent or more of the voting shares of The American State Bank, Osawatomie, Kans. ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant, a nonoperating corporation with no subsidiaries, was organized for the purpose of becoming a bank holding company by acquiring Bank (deposits of $4.6 million).[1] Upon acquisition of Bank, Applicant will control the 447th largest bank in Kansas, with approximately 0.05 percent of total deposits of commercial banks in the State.

Bank is the smallest of six banks competing in Miami County, Kans., the relevant banking market, holding approximately 5.3 percent of the total deposits in commercial banks therein. Since the instant proposal is essentially a corporate reorganization, and since Applicant and Applicant's principals do not control any other banks, consummation of the proposal would neither eliminate existing or potential competition nor increase the concentration of banking resources in any relevant area. Thus, the Board concludes that the competitive effects of the proposal are consistent with approval of the application.

Although Applicant will incur debt in connection with the proposal, the projected income from Bank should provide sufficient revenue to service the debt without impairing the financial condition of Bank. Therefore, the financial resources of Applicant and Bank are satisfactory and consistent with approval. Both the managerial resources and the future prospects of Applicant and Bank are considered satisfactory and consistent with approval.

Although consummation of the proposal would have no immediate effect on services offered by Bank, considerations relating to the convenience and needs of the community to be served are also consistent with approval.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[2] effective August 31, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26091 Filed 9-7-77;8:45 am]

CHARTER TECHNY BANCORPORATION, INC.

Formation of Bank Holding Company

Charter Techny Bancorporation, Inc., Northfield, Ill., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Charter Bank of Techny, Northbrook, Ill., a proposed new bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 26, 1977.

Board of Governors of the Federal Reserve System, August 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26092 Filed 9-7-77;8:45 am]

[1] All banking data are as of December 31, 1976.

[2] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns.

CONSUMER ADVISORY COUNCIL

Notice of Meeting

Notice is hereby given that the Consumer Advisory Council will meet on Thursday, September 15, 1977. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building beginning at 9:30 a.m. and concluding at approximately 4 p.m. The Martin Building is located on C Street NW., between 20th and 21st Streets in Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities with regard to consumer credit legislation and regulation. It is anticipated that the September 15 meeting of the Council will include consideration of the following topics:

1. *Regulatory and legislative actions since June 2 meeting.* Brief summaries by staff, followed by opportunity for comment by members of Council, of policy decisions made by the Board of Governors since the last meeting of the Council on changes in Regulation Z and B and significant official interpretations, on Board recommendations to Congress for changes in legislation, and any relevant actions taken by congressional committees or subcommittees since June 2.

2. *Open discussion.* Any topics initiated by Council members.

3. *Compliance guidelines for banking institutions.* Report from staff, followed by Council discussion, of proposals jointly prepared by staffs of the Federal Reserve Board, Comptroller of the Currency, Federal Home Loan Bank Board, and Federal Deposit Insurance Corporation to unify compliance policies for violations of consumer credit laws by banking institutions, including provisions for restitution to consumers of overcharges resulting from violation of disclosure requirements.

4. *Residential area discrimination.* Discussion of pending legislation on which the Board's views have been requested prohibiting the use of residential location ("redlining by zip code") or of occupation or title in credit scoring systems or as criteria for refusal of credit.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at 202-452-3204.

Board of Governors of the Federal Reserve System, September 1, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-26088 Filed 9-7-77;8:45 am]

COMMERCIAL NATIONAL CORP.

Formation of Bank Holding Company

Commercial National Corp., Brady, Tex., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 81 percent or more of the voting shares of Commercial National Bank of Brady, Brady, Tex. The

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factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 27, 1977.

Board of Governors of the Federal Reserve System, August 31, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26093 Filed 9-7-77;8:45 am]

DAVENPORT BANK AND TRUST CO.

Order Approving Acquisition of Assets

Davenport Bank and Trust Co., Davenport, Iowa, a State member bank of the Federal Reserve System, has applied, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), for the Board's prior approval to acquire certain assets and assume certain liabilities of Donahue Savings Bank, Donahue, Iowa ($5 million in deposits[1]), and, as an incident thereto, to operate the present office of Donahue Savings Bank as a branch office.

Published notice of the proposed acquisition of assets and assumption of liabilities and requests for reports on the competitive factors involved therein have been dispensed with as authorized by the Bank Merger Act.

The Board has considered all relevant material contained in the record in the light of the factors set forth in the Act, including the effect of the proposal on competition, the financial and managerial resources and prospects of the banks involved, and the convenience and needs of the communities to be served and finds that:

On the basis of the information before the Board, it is apparent that an emergency situation exists so as to require that the Board act immediately pursuant to the provisions of the Bank Merger Act in order to safeguard depositors of Donahue Savings Bank.

Such anticompetitive effects as may be attributable to consummation of the transaction are clearly outweighed in the public interest by considerations relating to and involved in the emergency situation found to exist. From the record in the case, it is the Board's judgment that any disposition of the application other than approval would be inconsistent with the best interests of the depositors of Donahue Savings Bank, and the Board concludes that the proposed transaction should be approved on a basis that would not delay consummation of the proposal.

It is hereby ordered, on the basis of the record, that the application be and hereby is approved and that the acquisition of assets and assumption of liabilities and the establishment of a branch office may be consummated immediately but in no event later than three months after the date of this Order unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[2] effective August 29, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 77-26094 Filed 9-7-77; 8:45 am]

[1] Deposit data are as of December 31, 1976.

FIRST CITY BANCORPORATION OF TEXAS, INC.

Order Approving Acquisition of Bank

First City Bancorporation of Texas, Inc., Houston, Tex. ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under § 3(a)(3) of the Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to The City National Bank of Bryan, Bryan, Tex. ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant, the largest banking organization in Texas, controls 28 banks with aggregate deposits of $4.14 billion, representing 7.81 percent of total deposits in commercial banks in the State.[1] Acquisition of Bank, which holds deposits of $54.8 million, would increase Applicant's share of total deposits in commercial banks in the State by 0.1 percent.

Bank is the second largest of six banks in the relevant geographic market.[2] Its $54.8 million in deposits represent 25.1 percent of market deposits. The largest bank in the market holds 27 percent of the market deposits. The third, fourth, and fifth largest banks in the market hold, respectively, 19.6 percent, 14.1 percent, and 13.2 percent of market deposits. The smallest bank in the market, organized in 1976, controls just under 1 percent of market deposits. It appears that none of the banks in the market is currently held by a bank holding company.

Applicant's nearest subsidiary is located 80 miles south of Bank in Wallis, Tex. Several subsidiaries of Applicant derive only marginal amounts of business from the relevant market and none derives any substantial amounts. Thus, and in view of the local nature of banking markets, consummation of Applicant's proposal would not have any significant adverse effects on existing competition within the relevant market.

Although the market's ratio of population to banking offices is 1.4 times the State average, per capita deposits in the market are only 67 percent of the State average. The market has experienced considerable population growth since 1970. The market, on balance, appears slightly attractive for de novo entry. Although Applicant may be considered a potential entrant into this market, it should be noted that no other bank holding companies are represented in the Bryan market. Thus, the loss of Applicant as a potential entrant is not considered significant in view of the relatively large number of remaining bank holding companies that are potential entrants into the market. Bank holds approximately $12 million more in market deposits (5.5 percent of market deposits) than the third largest bank and approximately $4 million less (about 2 percent) than the largest bank in the market. The similarity in size of the five largest of the six banks in the market suggests the absence of alternative foothold means of entry into the market since it does not appear that the smallest bank in the market is available for acquisition. For the foregoing reasons, approval of this application will have only a slightly adverse effect, if any, on potential competition.

The financial and managerial resources of Applicant and its subsidiaries and of Bank are considered generally satisfactory and the future prospects of all appear favorable. Thus, the Board believes that the banking factors involved in the proposal are consistent with approval.

Information contained in the record indicates that most of the banking needs of the area are currently being met. However, the growth in the area has created demands for new services not currently available within the market. Applicant through Bank has the capability of providing these services. Bank has maintained a quite conservative loan to deposit ratio; Applicant intends to infuse capital into Bank to increase commercial and consumer lending. It plans within two years of acquisition to provide credit related insurance through Applicant's subsidiary, First City Life Insurance Co., at rates less than those currently charged by an affiliate of Bank. Applicant also intends to expand mortgage lending services. In light of these factors the Board regards considerations

[1] Deposit data are as of December 31, 1976.

[2] Voting for this action: Vice Chairman Gardner and Governors Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governors Wallich and Coldwell.

[1] All banking data are as of December 31, 1976 and reflect bank holding company formations and acquisitions approved through June 30, 1977.

[2] The relevant geographic market is approximated by the Bryan-College Station Standard Metropolitan Statistical Area which encompassea all of Brazos County. The January 1, 1977 population estimated for the market was 76,700 persons, an increase of 32.2 percent over 1970. The recent expansion of Texas A&M University, located at College Station, contributed significantly to this increase. Texas population growth Statewide was estimated at 12 percent for the same period.

of the convenience and needs of the community to be served as lending weight in favor of approval of the application.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[1] effective September 1, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26095 Filed 9-7-77;8:45 am]

HUNTINGTON BANCSHARES INC.

Order Approving Acquisition of Bank

Huntington Bancshares Inc., Columbus, Ohio ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Bellefontaine National Bank, Bellefontaine, Ohio ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those of the Department of Justice, in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant, the seventh largest banking organization in Ohio, controls twelve banking subsidiaries with aggregate deposits of approximately $1.4 billion, representing 4.1 percent of total commercial bank deposits in Ohio.[1] Acquisition of Bank ($29.9 million in deposits) would increase Applicant's share of Statewide commercial bank deposits by only 0.2 percent and would have no appreciable effect upon the concentration of banking resources in Ohio.

Bank is the largest of seven banking organizations located in the Logan County banking market,[2] and controls approximately 35.6 percent of the total deposits in commercial banks in the market. Applicant's closest subsidiary bank, Huntington First National Bank of Kenton, ("Kenton Bank"), is located in the separate Hardin County banking market, which adjoins Logan County to the north. Bank operates four offices, the closest of which is located in Belle Center and is 13.3 miles from the nearest Kenton Bank office and in a different banking market. In light of all the evidence of record, including the fact that Bank and Kenton Bank are located in separate banking markets, it appears that no meaningful amount of existing competition would be eliminated. Furthermore, acquisition of Bank would not have any significant adverse effects upon potential competition, since it is unlikely Applicant would enter the Logan County banking market de novo, and after consummation of this proposal four independent banks would remain as entry vehicles for outside bank holding companies. Accordingly, on the basis of the above and other facts of record, it is concluded that consummation of the proposed transaction would not have any significant adverse competitive effects.

In arriving at this conclusion, the Board has also considered the comments by the Department of Justice that consummation would have adverse competitive effects. While consummation of the proposal may have some slight adverse effects on potential competition, in light of the Board's findings described above, it does not appear that such effects would be significant, and, balanced against the convenience and needs considerations discussed below, the Board is of the view that denial of the subject application is not warranted.

Considerations relating to the financial and managerial resources and future prospects of Bank and Applicant and its subsidiaries are regarded as satisfactory. Managerial succession at Bank will be furnished by Applicant, therefore, banking factors are consistent with approval.

Applicant has indicated that affiliation will enable Bank to increase services currently offered to its customers, including business checking accounts, expanded checking services to include Applicant's "All-in-One Account", bank credit card services, data processing services, and specialized commercial loan services and overdraft protection. Considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application and outweigh any slightly adverse competitive effects that approval may have. Accordingly, it has been determined that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, and for the reasons summarized above, the application is approved. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,[1] effective August 31, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26096 Filed 9-7-77;8:45 a.m.]

MARYVILLE BANCSHARES, INC.

Order Approving Formation of Bank Holding Company

Maryville Bancshares, Inc., Kansas City, Mo., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) of formation of a bank holding company through acquisition of 94 percent or more of the voting shares of Citizens State Bank of Maryville, Maryville, Mo. ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those of the Office of the Missouri Commissioner of Finance, in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant, a nonoperating corporation with no subsidiaries, was organized for the purpose of becoming a bank holding company through the acquisition of Bank. Bank, with deposits of $37.5 million,[1] is the second largest of six banks and controls approximately 32.5 percent of the total deposits in commercial banks in the relevant banking market.[2] Upon acquisition of Bank, Applicant would control the 92nd largest of 702 banking organizations in Missouri, holding 0.2 percent of the total deposits in commercial banks in the State. One of Applicant's principals is associated with four other Missouri banks, none of which is in the relevant banking market. Consummation of the proposal would not eliminate existing or potential competition nor would it increase the concentration of banking resources in the relevant market. Therefore, competitive considerations are consistent with approval of the application.

The financial resoures of Applicant, which are dependent upon those of Bank, and the managerial resources of Ap-

[1] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns.

[1] All banking data are as of December 31, 1976, and reflect bank holding company formations and acquisitions approved as of June 30, 1977.

[2] The relevant geographic market for purposes of analyzing the competitive effects of the proposed transaction is approximated by Logan County, Ohio.

[1] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns.

[1] Unless otherwise indicated, all banking data are as of December 31, 1976.

[2] The relevant banking market is approximated by Nodaway County.

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plicant are considered to be satisfactory, and their future prospects appear favorable. Although Applicant will incur some debt as a result of this proposal, it appears that income and dividends from Bank, as well as savings resulting from the filing of consolidated tax returns, should provide Applicant with sufficient revenues to meet its debt service requirements without adversely affecting the financial condition of Bank. The financial and managerial resources of the banks with which one of Applicant's principals is associated are regarded as consistent with approval of this application. Accordingly, considerations relating to banking factors are consistent with approval of the application. While no major changes are contemplated in Bank's services, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. Accordingly, it is the Board's judgment that consummation of the proposed transaction would be consistent with the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[3] effective August 30, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26097 Filed 9-7-77;8:45 am]

NATIONAL CITY CORP.

Acquisition of Bank

National City Corp., Cleveland, Ohio, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to The First National Bank, Dayton, Ohio. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 29, 1977.

[3] Voting for this action: Vice Chairman Gardner and Governors Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governors Wallich and Coldwell.

Board of Governors of the Federal Reserve System, September 1, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26098 Filed 9-7-77;8:45 am]

NORTHWEST BANCORPORATION

Order Granting Reconsideration

Northwest Bancorporation, Minneapolis, Minn. ("Northwest"), has requested reconsideration of the Order of May 2, 1977 (63 Fed. Res. Bull. 585 (1977)), whereby the Board of Governors denied the application of Northwest for prior approval of the acquisition of First National Bank, Fort Dodge, Iowa, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. § 1842(a)(3)).

The request for reconsideration is filed pursuant to section 262.3(g)(5) of the Board's Rules of Procedure (12 CFR § 262.3(g)(5)), which provides that the Board will not grant any request for reconsideration "unless the request presents relevant facts that, for good cause shown, were not previously presented to the Board, or unless it otherwise appears to the Board that reconsideration would be appropriate." The Board finds that the request for reconsideration presents relevant facts and issues which appear appropriate in the public interest for the Board to consider. Accordingly, the request for reconsideration is hereby approved.

In order to facilitate such consideration, comments regarding the proposed acquisition may be filed with the Board not later than September 23, 1977. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application, as supplemented by Northwest's request for reconsideration, may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

By order of the Board of Governors,[1] effective August 29, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary to the Board.

[FR Doc.77-26099 Filed 9-7-77;8:45 am]

OTTAWA BANCSHARES, INC.

Order Approving Formation of Bank Holding Company and Performance of Insurance Agency Activities

Ottawa Bancshares, Inc., Ottawa, Kans., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) of formation of a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of The Kansas State Bank, Ottawa, Kans. ("Bank"). The factors that are considered in acting on this application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)). Applicant has also applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire the assets of Credit Life Insurance Agency, Ottawa, Kans. ("Agency") and thereby to engage in the sale of insurance directly related to extensions of credit by Bank. Such activities have been determined by the Board to be closely related to banking (12 CFR § 225.4(a)(9)(ii)(a)).

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with §§ 3 and 4 of the Act (42 FR 31839 (1977)). The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)), and the considerations specified in § 4(c)(8) of the Act (12 U.S.C. § 1843(c)(8)).

Bank, with deposits of $6.1 million,[1] is the fourth largest of six banks in the relevant market[2] and controls approximately 10.3 percent of total deposits in commercial banks in the market. Upon acquisition of Bank, Applicant would control the 388th largest banking organization in Kansas, holding approximately 0.1 percent of the total deposits in commercial banks in the State.

Principals of Applicant, through various trusts, control The First National Bank of Louisburg, Louisburg, Kans., and Parsons Commercial Bank, Parsons, Kans. Applicant's president is president and director of Louisburg Bank and vice chairman of the board of directors of Parsons Bank. These banks are located considerable distances from Bank and operate in different banking markets. Accordingly, consummation of the proposal would neither eliminate existing or potential competition nor increase the concentration of banking resources in the relevant market. Accordingly, on the basis of the facts of record, the Board concludes that competitive considerations are consistent with approval of the bank holding company formation application.

The financial resources of Applicant, which are dependent upon Bank, are considered to be satisfactory and future prospects appear favorable. Although Applicant will incur debt in connection with the subject proposal, it appears that Applicant will be able to meet its debt service requirements without adversely affecting the financial position of Bank. Furthermore, managerial resources of

[1] Voting for this action: Vice Chairman Gardner and Governors Wallich, Jackson and Partee. Present and Abstaining: Governor Lilly. Absent and not voting: Chairman Burns and Governor Coldwell.

[1] All banking data are as of December 31, 1976.

[2] The relevant market is approximated by Franklin County.

Applicant and Bank are considered to be satisfactory. Thus, considerations relating to banking factors are consistent with approval. In addition to maintaining Bank's current services, Applicant intends to increase Bank's lending activity resulting in an increase in the availability of credit in the community. Applicant also plans to have Bank construct a detached facility which would provide greater convenience to customers of Bank. Thus, considerations relating to convenience and needs lend weight toward approval of the bank holding company formation application. Accordingly, it is the Board's judgment that Applicant's proposal to form a bank holding company would be consistent with the public interest and that the application should be approved.

In connection with the application to become a bank holding company, Applicant has also applied, pursuant to § 225.4(a)(9) of Regulation Y, to acquire the assets of Credit Life Insurance Agency, Ottawa, Kans., and thereby to engage in the sale of the following types of insurance: decreasing term single life insurance; decreasing term joint life insurance and disability insurance on installment loans; level term single life insurance on single payment loans; and insurance to protect collateral securing extensions of credit by Bank. Applicant's acquisition of Agency would maintain an existing relationship between Agency and Bank and, accordingly, it does not appear that approval of Applicant's proposal would have any significant effect on existing or potential competition. Approval of the application would, however, assure customers of Bank of a convenient source of such insurance services. Furthermore, there is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices, or other adverse effects on the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined, in accordance with the provisions of section 4(c)(8) of the Act, that consummation of this proposal can reasonably be expected to produce benefits to the public that outweigh possible adverse effects and that the application to engage in credit-related insurance agency activities should be approved.

Accordingly, the applications are approved for the reasons summarized above. The acquisition of Bank shall not made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to delegated authority. The approval of Applicant's insurance activities is subject to the conditions set forth in section 225.4(c) of Regulation Y and to the Board's authority to require reports by, and make examinations of, holding companies and their subsidiaries and to require such modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[3] effective August 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26100 Filed 9-7-77;8:45 am]

SOUTHERN BANK HOLDING CO.

Order Approving Formation of Bank Holding Company

Southern Bank Holding Co., Savannah, Ga. ("Applicant"), has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) ("Act") of the formation of a bank holding company through acquisition of 54.7 percent or more of the voting shares of Southern Bank and Trust Co., Savannah, Ga. ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant is a nonoperating corporation organized for the purpose of becoming a bank holding company by acquiring Bank, which holds deposits of $3.9 million.[1] Upon acquisition of Bank, Applicant would control one of the smaller commercial banking organizations in the State of Georgia, holding approximately 0.03 percent of total deposits in commercial banks in that State.

Bank is the 10th largest commercial banking organization in the relevant banking market and holds approximately 0.78 percent of the total commercial bank deposits in the market.[2] Since Applicant has no subsidiaries and Applicant's principals do not control any other banks, it appears unlikely that consummation of the proposal would have any adverse effect upon existing or potential competition or increase the concentration of banking resources in any relevant area.[3]

[3] Voting for this action: Vice Chairman Gardner and Governors Wallich, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Coldwell.

[1] All banking data are as of December 31, 1976.

[2] The relevant banking market is approximated by all of Chatham and Effingham Counties, Ga., and those portions of Liberty and Bryan Counties, Ga., east of Fort Stewart.

[3] Applicant's principals do control several nonbanking corporations. However, none of these corporations is engaged to any significant extent in the provision of any of the services provided by Bank. Thus, the Board concludes that the competitive effects of the proposal are consistent with approval of the application.

The financial resources and future prospects of Applicant and Bank are generally satisfactory. Since the proposed transaction will be accomplished through an exchange of stock, there is no acquisition debt associated with the proposal.

Bank was originally chartered as a building and loan association by the State of Georgia with the name Southern Savings and Loan Co. ("Southern Savings"). Approximately 40 percent of that institution's outstanding voting shares were owned directly and indirectly by Atlantic Insurance and Investment Co., Savannah, Ga. ("Atlantic"). Atlantic's principal officers are also principal officers of Applicant and Atlantic's five largest stockholders will become Applicant's principal owners as a result of the proposed transaction.[4]

In May of 1975 Southern Savings was granted a commercial banking charter by the State and its name was changed to that of Bank. The conversion of South Southern Savings' charter may have caused Atlantic to become a bank holding company without the Board's prior approval in contravention of section 3(a)(1) of the Act. However, in a recently filed request for a "prior certification" under the Bank Holding Company Tax Act of 1976 (26 U.S.C. § 1101 et seq.), Atlantic contends that Southern Savings was a "bank" within the meaning of section 2(c) of the Act since at least as early as July 7, 1970. The Board does not decide this issue at this time, but rather reserves it for consideration in the context of Atlantic's tax certification request. In considering Applicant's managerial resources, the Board does note, however, that even Atlantic's view of the law and the facts would compel the conclusion that Atlantic has violated the Act in that it would have become a bank holding company upon the enactment of the 1970 amendments to the Act and thereafter have failed to register as a bank holding company as required by section 5(a) of the Act. Accordingly, the Board concludes that Atlantic has violated the Act without reaching the issue of whether section 3(a)(1) or section 5(a) of the Act has been violated.

It is the Board's view, however, on the basis of the facts and circumstances of the subject application, that Atlantic's violation of the Act was inadvertent. Additionally, the Board notes that Atlantic, upon becoming aware of the existence of the violation, took steps to conform its operations to the Act by agreeing to terminate its direct and indirect ownership of Bank's shares. The

[4] Atlantic's direct and indirect interest in Bank will be transferred to Atlantic's shareholders as part of the proposed transaction. Atlantic's shareholders will then exchange those and other shares of Bank for Applicant's shares. The Board's approval of the instant application does not represent a determination that the proposed transaction will terminate Atlantic's control of Bank.

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officers of Atlantic and Applicant have taken steps to prevent further violations from occurring by establishing procedures for centralized internal review of all of Applicant's and Atlantic's activities for compliance with the substantive and procedural requirements of the Act and the Board's Regulation Y. The Board expects that these actions will assist Applicant and Atlantic in avoiding a recurrence of similar violations. In consideration of the above and other information in the record of this application, the Board has determined that the circumstances of the above violations do not warrant denial of the application.

Considerations relating to the convenience and needs of the community to be served are consistent with approval. It is the Board's judgment that consummation of the proposed transaction would be consistent with the public interest and the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] effective August 31, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26101 Filed 9-7-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on August 31, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FEA request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before September 26, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL ENERGY ADMINISTRATION

The FEA requests clearance of the new form FEA-P135-M-O, Monthly Statement of Accounts. The Office of Oil Imports, FEA, which administers the Mandatory Oil Import Program pursuant to Presidential Proclamation 3279, as amended, has developed a fully computerized accounting system which will track accounts receivable and payments as received as a result of the importation of petroleum products. This computerized system will utilize the form FEA-P135-M-O, Monthly Statement of Accounts. This form will replace two currently active forms FEA-P114-M-O, Monthly Remittance Advice, and the FEA-P116-S-O, Request for Refund of Oil Import Fees. The FEA-P116-S-O will become an optional form to be filed at the discretion of the respondents.

The mandatory monthly form FEA-P135-M-O has been designed to be filed by any importers of crude oil, unfinished oils and finished petroleum products. Two copies of this form will be mailed monthly to importing firms for which FEA records show fees to be due. One copy will be for the firm's records and the second copy will be a "turnaround" document to be used by the importer to indicate to FEA how cash payments and credits shall be applied against the importer's fees due account.

The form FEA-P135-M-O will be mailed to all firms which actually imported crude oil, unfinished oils and finished petroleum products during the current monthly reporting period. The firms which actually import oil are required to submit a form FEA-P135-M-O for those imports made during the reporting period, and which have not been billed by FEA. The FEA estimates that approximately 600 firms come within the reporting universe and that approximately 150 firms actually import oil in any given month. FEA estimates reporting burden to average 8 hours monthly per report.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-26124 Filed 9-7-77;8:45 am]

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on August 31, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER. is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before September 26, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW, Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

INTERSTATE COMMERCE COMMISSION

ICC Orders No. 36445 and No. 36511, which were decided on November 9, 1976, and June 8, 1977, respectively, promulgated revised accounting regulations which govern all carriers subject to ICC accounting rules. Order No. 36445 concerns "Reclassification of Long-Term Debt Discount and Premium" and Order No. 36511 concerns "Accounting for Marketable Equity Securities". These changes were adopted to be effective January 1, 1977. For purposes of this notice, these changes apply to the Annual Report—Class I Railroads (Form R-1) and to the Annual Report—Class II Railroads (Form R-2).

Although the reporting deadline for the forms is March 31, 1978, the ICC expects the reporting companies to apply the changes to their accounting records and procedures as of January 1, 1977. However, this reporting deadline and the effective date for the changes is contingent upon ICC's compliance with 44 U.S.C. 3512 which precludes the collection of information from 10 or more persons until the Comptroller General has had the opportunity to advise that the information is not presently available from other Federal sources and that the proposed plans or report forms are consistent with the provisions of section 3512. This notice represents the beginning of the GAO review.

ICC requests clearance of revisions to Annual Report Form R-1 required to be filed by some 87 Class I line-haul railroads, switching and terminal companies, and railroad holding companies, pursuant to Section 20 of the Interstate Commerce Act. Data collected by Form R-1 are used for economic regulatory purposes. Revisions made in this annual report form resulted from changes in the Uniform System of Accounts (49 CFR Part 1201), adopted through orders issued by the Commission. Reports are mandatory and available for use of the public. ICC estimates reporting burden for the approximately 87 Class I carriers to average 1,277 hours per annual report.

ICC requests clearance of revisions to Annual Report Form R-2 required to be filed by some 409 Class II line-haul railroads, switching and terminal companies, and stockyard companies, pursuant to Section 20 of the Interstate Commerce Act. Data collected by Form R-2 are used for economic regulatory purposes. Revisions made in this annual report form resulted from changes in the Uniform System of Accounts (49 CFR Part 1201), adopted through orders issued by the Commission. Reports are mandatory and available for use of the public. ICC estimates reporting burden for the approximately 409 Class II carriers to average 175 hours per annual report.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-26125 Filed 9-7-77;8:45 am]

[1] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

SECTION 212 OF THE IMMIGRATION AND NATIONALITY ACT

Section 601 of the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484) amended section 212 of the Immigration and Nationality Act to, among other things, provide that certain aliens who are graduates of a medical school and are coming to the United States principally to perform services as members of the medical profession or who are coming to participate in a program under which they will receive graduate medical education shall be excluded from entering the United States unless, in addition to other requirements, they have passed Parts I and II of the National Board of Medical Examiners' examination or an equivalent examination as determined by the Secretary of Health, Education, and Welfare.

Notice is hereby given that the Visa Qualifying Examination described in the summary below prepared by the National Board of Medical Examiners (NBME) has been determined by the Secretary of Health, Education, and Welfare to be an equivalent examination (for purposes of this Act) to Parts I and II of the National Board of Medical Examiners' examination. This examination covers topics identical to those encompassed in Parts I and II of the National Board of Medical Examiners' examination with all questions chosen from questions written by test committees of the NBME for the purpose of measuring the achievement of medical students in United States schools. It is a two day written examination made up of approximately 950 multiple choice questions: approximately 500 from the basic science disciplines of anatomy, behavioral science, biochemistry, microbiology, pathology, pharmacology, and physiology; and approximately 450 questions from the clinical science disciplines including internal medicine, obstetrics and gynecology, pediatrics, preventive medicine and public health, psychiatry, and surgery. The scoring standards used are the same as those used for Parts I and II: the basic science component and clinical science component have to be passed separately.

Persons interested in obtaining information concerning the scheduling of this Visa Qualifying Examination as well as any other questions concerning this Notice should contact: Darl W. Stephens, Acting Director, Office of International Affairs, Health Resources Administration, Room 9-03, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-1834).

Dated: June 29, 1977.

JAMES F. DICKSON,
Acting Assistant Secretary for Health.

Approved: September 6, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc.77-26300 Filed 9-7-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-77-492]

COMMUNITY DEVELOPMENT BLOCK GRANTS; INNOVATIVE PROJECTS

Delegation of Authority

AGENCY: Department of Housing and Urban Development.

ACTION: Delegation of Authority.

SUMMARY: This delegation of authority transfers the administrative functions and exclusive responsibility for administering the "Innovative Projects" from the Assistant Secretary for Policy Development and Research to the Assistant Secretary for Community Planning and Development. This action will make it possible for the Community Block Grant and the Innovative Projects Program to operate in a more coordinated fashion.

EFFECTIVE DATE: June 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Betsy Tibbs, or William Tantum, Deputy Director, Management Support Division, 202-755-6186, U.S. Department of Housing and Urban Development, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Title I of the Housing and Community Development Act of 1974, establishes the Community Development Block Grant Programs. Section 107(a) of the Act provides that funds shall be reserved and set aside in a special discretionary fund for use by the Secretary in making grants for the purposes set forth in the subsections. In order to achieve a more appropriate management of a portion of those funds, the power and authority of the Secretary with respect to discretionary grants under section 107(a)(4) for Innovative Community Development Projects originally delegated concurrently to the Assistant Secretary for Policy Development and Research and the Assistant Secretary for Community Planning and Development is now being delegated exclusively to the Assistant Secretary for Community Planning and Development. This delegation thus rescinds the delegation of authority published at (40 FR 30306), of July 18, 1975, and as amended and published at (41 FR 15360), of April 12, 1976, and amends the delegation of authority published at (40 FR 5385), of February 5, 1975, and as amended and published at (40 FR 37074), of August 25, 1975 (40 FR 54606) November 25, 1975, and (41 FR 15359), April 12, 1976, by rewriting Section B3.

Accordingly, the Delegation of Authority to the Assistant Secretary for Community Planning and Development published February 5, 1975, 40 FR 5385, is amended by changing paragraph b3 to read as follows:

3. The power and authority of the Secretary with respect to discretionary grants from the Secretary's Fund under section 107 (a)(1) of Title I of the Housing and Community Development Act of 1974 in behalf of new communities, except that initial proposed and final regulations with respect to such grants shall be issued by the Assistant Secretary for Community Planning and Development (42 U.S.C. 5307).

(Sec. 7(d) Department of HUD Act, 42 U.S.C. 3535(d)).

Issued at Washington, D.C., August 2[illegible] 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc.77-26102 Filed 9-7-77;8:45 am]

Federal Disaster Assistance Administration

[Docket No. NFD-549; (FDAA-3045-FM)]

ALABAMA

Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Alabama (FDAA-3045-EM), dated July 20, 1977.

DATED: August 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of Alabama dated July 20, 1977, and amended on August 8, 1977, and August 16, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 20, 1977:

The counties of:

Colbert. Limestone.
Lauderdale. Madison.
Lawrence.

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The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended notice.

(Catalog of Federal Domestic Assistance No 14.701, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc 77-26115 Filed 9-7-77;8:45 am]

[Docket No. NFD-548; (FDAA-3045-EM)]

ALABAMA

Emergency Delaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This notice amends the Notice of emergency declaration for the State of Alabama (FDAA-3045-EM), dated July 20, 1977.

DATED: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: This notice of emergency for the State of Alabama dated July 20, 1977, and amended on August 8, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 20, 1977:

The counties of:

Bullock	Jackson.
Calhoun	Jefferson.
Choctaw	Marion.
Cleburne	Marshall.
Covington	Mobile.
Cullman	Morgan.
De Kalb	Pike.
Etowah	Sumter.
Franklin	Walker.
Geneva	Wilcox.
Hale	Winston
Houston	

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended notice.

(Catalog of Federal Domestic Assistance No 14.701, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc 77-26114 Filed 9-7-77;8:45 am]

[Docket No. NFD-539; (FDAA-3045-EM)]

ALABAMA

Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This notice amends the Notice of emergency declaration for the State of Alabama (FDAA-3045-EM), dated July 20, 1977.

DATED: August 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The notice of emergency for the State of Alabama dated July 20, 1977, is hereby amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 20, 1977:

The counties of

Autauga.	Dallas.
Baldwin	Macon.
Cherokee	Marengo
Clarke.	St. Clair.
Conecuh.	Talladega.
Crenshaw	Washington.
Dale.	

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc 77-26108 Filed 9-7-77;8:45 am]

[Docket No. NFD-544; (FDAA-3023-EM)]

CALIFORNIA

Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of California (FDAA-3023-EM), dated January 20, 1977.

DATED: August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington. D.C. 20410, (202-634-7825).

NOTICE: The Notice of emergency for the State of California dated January 20, 1977, and amended on February 2, 1977, February 15, 1977, March 10, 1977, April 20, 1977, June 6, 1977, and June 29, 1977, is hereby further amended to include the following county among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of January 20, 1977:

The county of Alpine.

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned affected area effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNN,
Administer, Federal Disaster Assistance Administration.

[FR Doc -77-26110 Filed 9-7-77;8:45 am]

[Docket No. NFD-545; (FDAA-3044-EM)]

GEORGIA

Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Georgia (FDAA-3044-EM) dated July 20, 1977.

DATED: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of Georgia dated July 20, 1977, and amended on July 25, 1977, and August 8, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 20, 1977.

The Counties of:

Ben Hill	Jeff Davis
Brooks	Liberty
Catoosa	Long
Columbia	Lowndes
Crisp	McIntosh
Douglas	Miller
Echols	Mitchell
Franklin	Murray
Glascock	Pike
Gordon	Richmond
Gwinnett	Talbot
Hancock	Thomas
Harris	Toombs
Hart	Whitfield

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26111 Filed 9-7-77;8:45 am]

[Docket No. NFD-538; FDAA-3044-EM]

GEORGIA

Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Georgia (FDAA-3044-EM), dated July 20, 1977.

DATED: August 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of Georgia dated July 20, 1977, and amended on July 25, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 20, 1977:

The Counties of:

Atkinson	Monroe
Bacon	Newton
Baldwin	Oconee
Bartow	Paulding
Camden	Pickens
Cherokee	Polk
Colquitt	Putnam
Dade	Schley
Dawson	Screven
Elbert	Stephens
Floyd	Stewart
Forsyth	Tift
Glynn	Taylor
Habersham	Treutlen
Hall	Twiggs
Haralson	Walton
Jenkins	Webster
Lumpkin	White
Macon	Wilkes
Madison	

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administrator.

[FR Doc.77-26107 Filed 9-7-77;8:45 am]

[Docket No. NFD-546; FDAA-3049-EM]

NORTH CAROLINA

Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of North Carolina (FDAA-3049-EM), dated August 11, 1977.

DATED: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of North Carolina dated August 11, 1977, is hereby amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of August 11, 1977:

The Counties of:

Columbus Wilkes

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26112 Filed 9-7-77;8:45 am]

[Docket No. NFD-542; (FDAA-3049-EM)]

NORTH CAROLINA

Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of North Carolina (FDAA-3049-EM), dated August 11, 1977, and related determinations.

DATED: August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on August 11, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of North Carolina is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of North Carolina.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Thomas P. Credle, FDAA Region IV, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency:

The Counties of:

Cabarrus	Moore
Chatham	Orange
Cleveland	Person
Davidson	Randolph
Davie	Richmond
Durham	Rockingham
Forsyth	Rowan
Franklin	Stanly
Gaston	Surry
Granville	Vance
Guilford	Warren
Iredell	Wayne
Mecklenburg	Yadkin
Montgomery	

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this Notice.

(Catalog of Federal Domestic Assistance No: 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc 77-26105 Filed 9-7-77;8:45 am]

[Docket No. NFD-537]

PENNSYLVANIA

Determinations Concerning the Administering of the Temporary Housing Programs in Major Disaster Areas

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a notice of certain determinations to the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development, relating to the administering of temporary housing programs under the provisions of Section 404(a), Pub. L. 93-288, in the major disaster in Pennsylvania (FDAA-537-DR).

DATED: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Hugh F. Richardson, Individual Assistance Office, Federal Disaster Assistance Administration, Washington, D.C. 20410 (202-634-7860).

NOTICE: Pursuant to the authority vested in me to exercise certain of the powers and authorities of the President with respect to Federal disaster assistance pursuant to Section 1 of the

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Executive Order entitled, "Delegating Disaster Relief Functions Pursuant to the Disaster Relief Act of 1974" (EO 11795, 39 FR 25939, dated July 11, 1974), and the delegation from the Secretary of Housing and Urban Development (39 FR 28227, dated August 5, 1974), I made the following determinations to the Assistant Secretary for Housing—Federal Housing Commissioner in administering the temporary housing programs under the provisions of Section 404(a), Pub. L. 93-288, in the major disaster in Pennsylvania, FDAA-537-DR:

On July 29, a determination that "the following actions are in the public interest:

"(1) Waiver of the cost limitation formula contained in 24 CFR 2205.45(h)(4). The Minimal Repair Program (MRP) cost limitation is $4,000 per dwelling repaired using the scope of work authorized in 24 CFR 2205.45(h)(3), with the exceptions contained in (2)

"(2) Suspension of the 'repair only' provision relating to wells contained in the MRP scope of work (24 CFR 2205.45(h)(3)(i)). You may authorize the digging of new wells and install new septic systems, where required, to make an MRP dwelling sanitary and provide water. You may authorize the repair or replacement of the heating system. The cost of each of these items shall not exceed $1,500, and is in addition to the $4,000 limitation established above."

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc 77-26106 Filed 9-7-77;8:45 am]

[Docket No. NFD-547; (FDAA-3047-EM)]

SOUTH CAROLINA

Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This notice amends the Notice of emergency declaration for the State of South Carolina (FDAA-3047-EM), dated August 4, 1977.

DATED: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The notice of emergency for the State of South Carolina dated August 4, 1977, is hereby amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of August 4, 1977:

The counties of:

Allendale.	Hampton.
Barnwell.	Jasper.
Beaufort.	Kershaw.
Charleston.	Sumter.

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc 77-26113 Filed 9-7-77;8:45 am]

[Docket No. NFD-548; (FDAA-3047-EM)]

SOUTH CAROLINA

Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of South Carolina (FDAA-3047-EM), dated August 4, 1977, and related determinations.

DATED: August 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on August 4, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of South Carolina is of sufficient severity and magnitude to warrant a declaration of an emergency under Pub. L. 93-288. I therefore declare that such an emergency exists in the State of South Carolina.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Thomas P. Credle, FDAA Region IV, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency:

The counties of:

Abbeville.	Lexington.
Aiken.	McCormick.
Anderson.	Newberry.
Bamberg.	Oconee.
Calhoun.	Orangeburg.
Edgefield.	Richland.
Greenwood.	Saluda.
Lancaster.	Spartanburg.
Laurens.	

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26108 Filed 9-7-77;8:45 am]

[Docket No. NFD-550; (FDAA-3046-EM)]

VIRGINIA

Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This notice amends the notice of emergency declaration for the State of Virginia (FDAA-3046-EM), dated July 25, 1977.

DATED: August 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The notice of emergency for the State of Virginia dated July 25, 1977, and amended on August 1, 1977, and August 16, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 23, 1977:

The counties of:

Amherst.	Nottoway.
Botetourt.	Pittsylvania.
Franklin.	Prince Edward.
Greensville.	Sussex.

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26116 Filed 9-7-77;8:45 am]

[Docket No. NFD-543; (FDAA-3046-EM)]

VIRGINIA

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This notice amends the notice of emergency declaration for the State of Virginia (FDAA-3046-EM), dated July 25, 1977.

DATED: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of Virginia dated July 25, 1977, and amended on August 1, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 23, 1977:

The counties of:

Amelia.	Chesterfield.
Appomattox.	Nelson.

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26109 Filed 9-7-77;8:45 am]

[Docket No. NFD-541; FDAA-3048-EM]

WISCONSIN

Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Wisconsin (FDAA-3048-EM), dated August 5, 1977, and related determinations.

DATED: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on August 5, 1977, the President declared an emergency as follows:

2.

I have determined that the impact of high winds, hail, and rain on the State of Wisconsin is of sufficient severity and magnitude to warrant a declaration of an emergency under Pub. L. 93-288. I therefore declare that such an emergency exists in the State of Wisconsin.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as are necessary to provide Federal disaster assistance to remove downed timber from public land and property.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Robert E. Connor, FDAA Region V, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency:

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

The counties of:

Barron.	Polk.
Burnett.	Price.
Forest.	Rusk.
Lincoln.	Sawyer.
Oneida.	Washburn.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26104 Filed 9-7-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 31474]

NEW MEXICO

Application

AUGUST 30, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gulf Oil Corp. has applied for natural gas processing plant across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.

T. 18 S., R. 31 E.,
Sec. 20, SW¼NE¼ and NW¼SE¼.

This facility will convey natural gas across 8.322 acres of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-26133 Filed 9-7-77;8:45 am]

[NM 31443]

NEW MEXICO

Application

AUGUST 30, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.

T. 31 N., R. 9 W.,
Sec. 32 lots 1 and 4.

This pipeline will convey natural gas across 0.030 miles of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations

[FR Doc.77-26134 Filed 9-7-77;8:45 am]

[NM 31449]

NEW MEXICO

Application

AUGUST 30, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Co. has applied for two 4-inch natural gas pipeline rights-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 11 W.,
Sec. 18, SE¼NW¼ and E½SW¼;
Sec. 20, W½NW¼, SE¼NW¼ and NE¼SW¼.

These pipelines will convey natural gas across 1.039 miles of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Man-

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ager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc 77-26135 Filed 9-7-77;8:45 am]

[NM 31441]

NEW MEXICO

Application

AUGUST 29, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for a cathodic protection station right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 28 N., R. 6 W.,
Sec. 33, lot 1, NE¼SE¼;
Sec. 34, NW¼SW¼.

This cathodic protection station will be used for natural gas operations across 0.280 of a mile of public land in Rio Arriba County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-26136 Filed 9-7-77;8:45 am]

[NM 31478]

NEW MEXICO

Application

AUGUST 29, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 27 N., R. 9 W.,
Sec. 14, S½NW¼.

This pipeline will convey natural gas across 0.045 of a mile of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-26137 Filed 9-7-77;8:45 am]

[NM 31477]

NEW MEXICO

Application

AUGUST 29, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Llano, Inc., has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 27 E.,
Sec. 15, SW¼NW¼, W½SW¼ and SE¼SW¼;
Sec. 16, E½NE¼;
Sec. 22, NE¼NW¼.

This pipeline will convey natural gas across 1.06 miles of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA, *Chief,*
Branch of Lands and Minerals Operations.

[FR Doc.77-26138 Filed 9-7-77;8:45 am]

[U-37933]

UTAH

Application

AUGUST 30, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. has applied for a natural gas pipeline right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 20 S., R. 22 E.,
Sec. 14, NW¼NW¼;
Sec. 15, NE¼NE¼.

The needed right-of-way is for a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

PAUL L. HOWARD,
State Director.

[FR Doc.77-26139 Filed 9-7-77;8:45 am]

[U-37932]

UTAH

Application

AUGUST 30, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. has applied for a natural gas pipeline right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 20 S., R. 22 E.,
Sec. 19, lot 4;
Sec. 30, lot 1.

The needed right-of-way is for a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

PAUL L. HOWARD,
State Director.

[FR Doc.77-26140 Filed 9-7-77;8:45 am]

[U-37931]

UTAH

Application

AUGUST 30, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. has applied for a natural gas pipeline right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 20 S., R. 23 E.,
Sec. 23, SW¼NE¼.

The needed right-of-way is for a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

PAUL L. HOWARD,
State Director.

[FR Doc.77-26141 Filed 9-7-77;8:45 am]

Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

PAUL L. HOWARD,
State Director.

[FR Doc.77-26141 Filed 9-7-77;8:45 am]

Bureau of Land Management

[Colorado 16210]

COLORADO

Partial Termination of Proposed Withdrawal and Reservation of Lands

AUGUST 30, 1977.

Notice of a Forest Service, U.S. Department of Agriculture application, Colorado 16210, for withdrawal and reservation of lands for public purposes, was published as FR Doc. 72-9347, on page 12245 of the issue of June 21, 1972. The applicant agency has cancelled its application insofar as it affects the following described lands:

SAN JUAN NATIONAL FOREST
NEW MEXICO PRINCIPAL MERIDIAN
Deer Campground Site Addition

T. 40 N., R. 13 W.,
Sec. 24, W½SW¼SW¼.

The above described area contains 20 acres. Therefore, pursuant to the regulations contained in 43 CFR, Part 2310, such lands, at 10 a.m., on otober 3, 1977, will be relieved of the segregative effect of the above-mentioned applications.

THOMAS N. HARDIN,
Chief, Branch of Adjudication.

[FR. Doc.77-26053 Filed 9-7-77;8:45 am]

[Colorado 25122-F]

NORTHWEST PIPELINE CORP.

Notice of Pipeline Application

AUGUST 22, 1977.

Pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, Utah 84110, has applied for right-of-way for natural gas pipeline for the Lawrence Barker Gathering System in Rio Blanco, Blanco County, Colo.

The above-named system is comprised of over 16 miles of natural gas pipelines 4½" o.d. and 8⅝" o.d., across the following public lands:

RIO BLANCO COUNTY

T. 3 S., R. 102 W., 6th P.M.
Sec. 34: SE¼NW¼, W½SE¼, S½SE¼.
Sec. 36: S½SW¼.
T. 3 S., R. 101 W., 6th P.M.
Sec. 32: S½SW¼, SW¼SE¼.
T. 4 S., R. 101 W., 6th P.M.
Sec. 3: NW¼NE¼, E½NW¼, SW¼NW¼.
Sec. 4: S½N½, N½SE¼.
Sec. 5: Lots 5, 9, SW¼NE¼, SE¼NW¼, E½SW, SW¼SW¼.
Sec. 6: SW¼NW¼, N½SW¼, SW¼SE¼, SE¼SE¼.
Sec. 7: S½SW¼, SW¼SE¼.
Sec. 17: S½NW¼.
Sec. 18: N½NE¼, SW¼NE¼, N½SE¼, SE¼SE¼.
Sec. 19: NE¼NE¼.
Sec. 20: W½NW¼.
T. 4 S., R. 102 W., 6th P.M.
Sec. 1: Lots 7, 8, S½N½, NE¼SE¼, S½SE¼, NE¼SE¼.
Sec. 2: S½NE¼, SE¼NW¼, N½S½, SE¼SE¼.
Sec. 3: Lots 5-8, SW¼NE¼, SE¼NW¼, NW¼SE¼.
Sec. 11: NE¼.
Sec. 12: NW¼NE¼, SE¼NE¼, NW¼NW¼.
Sec. 24: NE¼SE¼, W½SE¼.
Sec. 25: NW¼NE¼, N½NW¼.

The above-named system will enable the applicant to expand its natural gas gathering and transportation systems and thereby meet the demands of its customers.

The purpose of this notice are: To inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should or should not be approved and, if so, under what terms and conditions; to allow all parties asserting claims to the lands of having bona fide objections to the proposed natural gas pipeline right-of-way to file their claims and/or objections in this office. All comments, claims and objections must be identified with the specific lands involved by Township and Range and portions thereof along with the name and number of this right-of-way.

Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

THOMAS N. HARDIN,
Chief, Branch of Adjudication.

[FR Doc.77-26052 Filed 9-7-77;8:45 am]

Office of Hearings and Appeals

[Docket No. M 77-251]

THE IMPERIAL COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), The Imperial Coal Co., 1010 Western Federal Savings Bldg., Denver, Colo. 80202, has filed a petition to modify the application of 30 CFR 75.326, Aircourses and belt haulage entries, to its Lincoln Mine, located in Weld County, Colo.

The substance of Petitioner's statement is as follows:

1. The present ventilation system (see map No. 1 attached [1]) consists of an exhaust return by coursing exhaust air through a separate entry and crosscut system. The belt line is currently ventilated as required by law with a separate ventilation split.

2. The proposed system would eliminate the separate return and utilize the belt haulage entry for the return airway. (See map No. 2 attached.[1]) The area of the mine currently utilized for the exhaust return would be sealed by approved seals and then abandoned.

3. The reasons for the proposed modification of the existing ventilation system are as follows:

a. The present return system has deteriorated and is a safety hazard to personnel.

b. Maintenance of the present return would expose personnel to undue and unnecessary hazards during inspection and maintenance periods.

c. Necessity mandates the requested modification since it would be impossible to drive a new exhaust return entry because the mine areas adjacent to the entry system under consideration have been worked out. Any new mining would only create additional hazards and diminish the integrity of the mine.

4. The details of the existing belt system and entry are as follows: The belt system consists of two "flights" powered by 20 h.p. and 30 h.p., 440V, 3 phase, A.C. nonpermissible motor drives A small drainage water pump located in the belt haulage entry is powered by a 3 h.p., 440V, 3 phase, A.C. nonpermissible motor. No other electrical equipment is used or will be used on this belt line entry except for routine maintenance. The belt entry has been and is maintained in a good, safe condition. This system, including the nonpermissible motors, has been used without incident since the belt system was installed years ago. Approval for use of nonpermissible motors on this belt system was obtained from the United States Department of the Interior January 10, 1973 (Docket No. M 72-6—See Approval Letter attached.[2]

5. Petitioner submits that safety protection to miners in the Lincoln Mine as a result of this proposed modification will not be diminished because of the following:

a. The Lincoln Mine has never been classified as gassy, and "past history of this mine shows very little, if any, methane gas liberation."

b. The belt haulage entry is and will be maintained in excellent condition including required rock dusting.

c. All motors on the belt entry return are and will be maintained in good repair including existing current overload prevention devices.

d. The belt system itself is and will be maintained in good repair.

e. A methane monitor will be installed and maintained in good repair at a location depicted on map No. 2 attached.[2] Such methane detector will be monitored by a certified person at the beginning of every working shift and at intervals thereafter not to exceed 2 hours.

f. Certified persons shall make frequent methane tests at the working faces throughout all working shifts.

[1] The enclosed maps are available for inspection at the address listed in the last paragraph of this notice.

[2] The enclosed maps and letter are available for inspection at the address listed in the last paragraph of this notice.

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g. Escape by mine personnel can be achieved via entries ventilated with intake air obviating the need to utilize the belt haulage entry for escape from the Lincoln Mine.

REQUESTS FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before October 11, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

AUGUST 29, 1977.

[FR Doc.77-26054 Filed 9-7-77;8:45 am]

[Docket No. M 77-252]

YOUGHIOGHENY AND OHIO COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Youghiogheny and Ohio Coal Co., P.O. Box 460, Martins Ferry, Ohio 43935, has filed a petition to modify the application of 30 CFR 75.1100-2(b), Quantity and location of firefighting equipment, belt conveyors, to its Nelms No. 2 Mine, located in Harrison County, Ohio.

The substance of Petitioner's statement is as follows:

1. As an alternative method to the mandatory safety standard all 1¼-inch dry pipe firefighting systems with hose outlets at 300-foot intervals with adequate fire hose will be installed parallel to slope belt which will be activated by an electric valve that would automatically charge the waterline when the fire sensoring system is activated.

2. A by-pass system with manual valve will be installed at the electric valve so that the water line can be charged during a power failure.

3. All employees who work in the vicinity of the hoist and/or supply house shall be instructed in the location and operation of the manual valve.

4. The water for the dry line will be supplied from a storage tank located at an elevated position approximately 250 feet from the mouth of the slope. The tank capacity is 3020 gallons and it is a gravity flow tank.

5. The slope belt drive will not be equipped with a deluge system since it is located 175 feet outby slope mouth.

6. The automatic sensor system will be inspected weekly and a functional test of the complete system will be made at least once annually.

7. Functional tests shall consist of charging the waterline with water by activating the electric valve. A record of weekly inspection and annual functional tests will be maintained by the operator.

8. The most important reason for having a dry pipe system is to keep it from freezing due to the large volume of air going in the mine. Secondly, in a fully charged line the standing water would have a tendency to corrode the pipe and cause damage. The dry pipe can be activated automatically and manually and is as effective as a fully charged line.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before October 11, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

AUGUST 29, 1977.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

[FR Doc. 77-26055 Filed 9-7-77; 8:45 am]

National Park Service

NORTH CASCADES NATIONAL PARK SERVICE COMPLEX

Public Workshops

Notice is hereby given that three public workshops will be held concerning the management and development plan for Stehekin Valley in the North Cascades National Park Service Complex. The plan will include proposals related to land use, transportation, visitor use, and resource management.

The first workshop will be held at Campbell's Conference Room on Woodin Avenue in Chelan, Wash., on Monday, October 3, 1977, at 7:30 p.m. The second workshop will be held at the Chelan Public Utility District Building Auditorium, 327 North Wenatchee Ave., in Wenatchee, Wash., on Tuesday, October 4, 1977, at 7:30 p.m. The third workshop will be held at the Golden West Building in Stehekin, Wash., Thursday, October 6, 1977, at 7:30 p.m.

Anyone interested in obtaining a list of the issues to be discussed at the workshops should contact the Superintendent. Written statements may be submitted to the Superintendent, North Cascades National Park Service Complex, 800 State St., Sedro Woolley, Wash. 98284, up to 30 days following the final workshop.

EDWARD J. KURTZ,
Acting Regional Director,
Pacific Northwest Region.

[FR Doc.77-26060 Filed 9-7-77;8:45 am]

DEPARTMENT OF JUSTICE

Attorney General

OWENS-CORNING FIBERGLAS CORP.

Proposed Consent Judgment in Action To Enjoin Discharge of Pollutants

In accordance with Departmental Policy, 28 C.F.R. 50.7, 38 Fed. Reg. 19029, notice is hereby given that on or about August 19, 1977, a proposed consent order in *United States of America v. Owens-Corning Fiberglas Corporation*, Civil No. 77-3131-HP (C.D. Cal.), was lodged with the United States District Court for the Central District of California in Los Angeles. The proposed consent order requires Owens-Corning Fiberglas Corp. to install emission control equipment adequate to bring its asphalt roofing plant at 1501 North Tamarind in Compton, Calif., into compliance with Regulation IV, Rule 50 of the Los Angeles County Air Pollution Control District, now known as Rule 401 of the South Coast Air Quality Management District (hereinafter "Rule 401"), and thereby achieve compliance with Rule 401 by July 1, 1978.

The Department of Justice will receive written comments relating to the proposed consent order for thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Deparetment of Justice, Washington, D.C. 20530 and should refer to *United States of America v. Owens-Corning Fiberglas Corporation*, D. J. Ref. 90-5-2-5-15.

The proposed consent order may be examined at the office of the United States Attorney, 312 North Spring Street, Los Angeles, Calif.; at the office of the Clerk of the District Court, Central District of California, 312 North Spring Street, Los Angeles, Calif.; at the office of the Environmental Protection Agency, Region IX, Enforcement Division, 100 California Street, San Francisco, Calif.; and at the office of the Pollution Control Section, Land and Natural Resources Division, Room 2625, Department of Justice Building, Ninth Street and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the proposed consent order may be obtained in person or by mail from the Pollution Control Section.

SANFORD SAGALKIN,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc.77-26056 Filed 9-7-77;8:45 am]

Drug Enforcement Administration

[Docket No. 77-8]

GILBERT S. HOGAN, M.D., COLUMBIA, S.C.

Hearing

Notice is hereby given that on February 1, 1977, the Drug Enforcement Administration, Department of Justice, issued to Gilbert S. Hogan, M.D., Columbia, S.C., an Order to Show Cause as to why the Drug Enforcement Administration Registration No. AH0104137 issued to the Respondent pursuant to 21 U.S.C. 823 should not be revoked.

Thirty days having elapsed since the said Order to Show Cause was received by the Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Wednesday, September 7, 1977, in the Hearing Room, Room 1210, Drug Enforcement Administration, 1405 I Street N.W., Washington, D.C.

Dated: August 31, 1977.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc.77-26075 Filed 9-7-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (77-57)]

NASA AEROSPACE SAFETY ADVISORY PANEL

Meeting

The Aerospace Safety Advisory Panel will meet on October 12, 1977, in Room 7002, Federal Office Building 6, 400 Maryland Ave. SW., Washington, D.C. The meeting is open to the public and will be held from 2 p.m. to 3:30 p.m. The seating capacity of the room is about 40 persons, including Council members and other participants. Visitors will be requested to sign a visitor's register.

At this time the Panel will summarize its fact-finding activities, conclusions and recommendations to date on the Shuttle program for the Administrator. The Panel will also present a brief written report to the Administrator for further detailed consideration.

The Panel is chartered by Congress "to review safety studies and operations plans referred to it and shall make reports thereon, shall advise the Administrator with respect to the hazards of proposed or existing facilities and proposed operations and with respect to the adequacy of proposed or existing safety standards, and shall perform such other duties as the Administrator may request."

Pursuant to carrying out its statutory duties, the Panel reviews, evaluates and advises on those program management policies, management systems, procedures and practices that contribute to risk identification and assessment by management. Priority is given to those programs that involve the safety of manned flight.

Chairman of the Panel is Mr. Howard K. Nason. The contact for further information is Carl R. Praktish, Executive Secretary, Aerospace Safety Advisory Panel, 400 Maryland Ave. SW., Washington, D.C. 20546. Phone: Area Code 202-755-8436.

KENNETH R. CHAPMAN,
Assistant Administrator for Department of Defense and Interagency Affairs.

SEPTEMBER 1, 1977.

[FR Doc.77-26032 Filed 9-7-77;8:45 am]

[Notice (77-58)]

APPLICATIONS STEERING COMMITTEE SPACE PROCESSING AD HOC ADVISORY SUBCOMMITTEE

Meeting

The Space Processing Ad Hoc Advisory Subcommittee of the Applications Steering Committee will meet at NASA Headquarters, 600 Independence Ave. SW., Washington, D.C., on October 4-5, 1977. The meeting will be held in Room 226A of FOB 10B from 8 a.m. to 4:30 p.m. on each day. The Subcommittee will discuss, evaluate, and categorize the proposals submitted to NASA in response to the Announcement of Opportunity for Materials Processing Investigations on the Space Processing Application Rocket (SPAR) Project. Discussion of the professional qualifications of the proposers and their potential scientific contributions to Materials Technology would invade the privacy of the proposers and the other individuals involved. Since the Subcommittee sessions will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), as described above, it has been determined that the sessions should be closed to the public.

For further information, please contact Mr. Joseph F. Turtil, NASA Headquarters, Washington, D.C. 20546, area code 202-755-3848.

KENNETH R. CHAPMAN,
Assistant Administrator for Department of Defense and Interagency Affairs.

SEPTEMBER 1, 1977.

[FR Doc.77-26033 Filed 9-7-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-302]

FLORIDA POWER CORP., ET AL.

Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. DPR-72, issued to the Florida Power Corp., City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised Technical Specifications for operation of the Crystal River Unit No. 3 Nuclear Generating Plant located in Citrus County, Fla. The amendment is effective as of the date of issuance.

This amendment waives a maximum discharge temperature limit during the three days in August 1977 that the required thermal plume study is conducted. The limit waived is that the maximum discharge temperature may not exceed 103° F for more than three consecutive hours. In addition, the requirement that all Crystal River Units be operated at greater than or equal to 80% capacity during this study has been changed to require a site loading no less than 70%.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility.

For further details with respect to this action, see (1) the application for amendment dated August 1, 1977, (2) Amendment No. 7 to License No. DPR-72, and (3) the Commission's related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Crystal River Public Library, Crystal River, Fla. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 26th day of August 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-26143 Filed 9-7-77;8:45 am]

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Granting of Relief from ASME Section XI Inservice Inspection (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for In-

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service Inspection of Nuclear Power Plant Components" to Omaha Public Power District. The relief relates to the inservice inspection (testing) program for the Fort Calhoun Unit No. 1 (the facility) located in Washington County, Nebraska. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief consists of exemption from: (1) Certain pump parameter measurements, (2) certain valve tests, and (3) certain pressure vessel weld inspections.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief. Prior public notice of this action was not required since the granting of this relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the request for relief dated March 23, 1977 as amended on August 22, 1977, (2) the Commission's letter to the licensee dated August 31, 1977.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebr. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 31st day of August 1977.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc 77-26144 Filed 9-7-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.4, Revision 1, "Nuclear Criticality in Safety Operations with Fissionable Materials Outside Reactors," provides guidance for complying with the Commission's regulations for the prevention of criticality accidents in the handling, storing, processing, and transporting of fissionable materials outside of nuclear reactors. The original issuance of this guide endorsed ANSI Standard N16.1–1969, "American National Standard for Nuclear Criticality Safety in Operations with Fissionable Materials Outside Reactors." Revision 1 of the guide endorses the revision of that standard, ANSI Standard N16.1–1975.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 3.4 will, however, be particularly useful in evaluating the need for an early revision if received by November 7, 1977.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 31st day of August 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77-26147 Filed 9-7-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 7.7, "Administrative Guide for Verifying Compliance with Packaging Requirements for Shipments of Radioactive Materials," describes a method acceptable to the NRC staff for licensees to verify compliance with certain regulations for shipping radioactive material. This guide endorses ANSI Std N14.10.3–1975, "Administrative Guide for Verifying Compliance with Packaging Requirements for Shipments of Radioactive Materials."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 7.7 will, however, be particularly useful in evaluating the need for an early revision if received by November 4, 1977.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 30th day of August 1977.

For the Nuclear Regulatory Commission.

RAY G. SMITH,
Acting Director, Office of Standards Development.

[FR Doc.77-26148 Filed 9-7-77;8:45 am]

[Docket No. 50-59]

TEXAS A&M UNIVERSITY

Proposed Renewal of Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering renewal of Facility Operating License No. R–23 issued to Texas A&M University (the licensee) for operation of its AGN–201M research reactor (the facility) located on the campus of Texas A&M University in College Station, Tex., and used for educational training. The facility has been operated by the licensee since 1957 and is currently licensed to operate at 5 watts.

The renewal would extend the expiration date of Facility Operating License No. R–23 to August 26, 1997, in accordance with the licensee's timely application for renewal dated May 20, 1977, and the supplement thereto dated August 18, 1977.

Prior to renewal of Facility Operating License No. R–23, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By October 11, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to renewal of the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions. A petition for leave to intervene which is not timely will not be entertained absent a determination by the Commission or the Licensing Board designated to rule on the petition that the petitioner, in addition to the matters specified in 10 CFR 2.714(d), has made a substantial showing of good cause for failure to file on time. The reasons for the tardiness in filing a petition to intervene, as well as the factors specified in 10 CFR 2.714(a)(1)–(4), shall be considered in making a determination as to whether there has been a substantial showing of good cause by the petitioner.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for license renewal dated May 20, 1977, the transmittal letter dated May 31, 1977, and the supplement thereto dated August 18, 1977, each of which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Dated at Bethesda, Md., this 31st day of August 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc 77-26145 Filed 9-7-77;8:45 am]

[Dockets Nos. 50-280, 50-281]

VIRGINIA ELECTRIC & POWER CO. SURRY POWER STATION, UNITS NOS. 1 AND 2

Order for Modification of License

I. Virginia Electric & Power Co. (the Licensee) is the holder of Facility Operating Licenses Nos. DPR–32 and DPR–37 which authorizes the operation of two nuclear power reactors known as Surry Power Station, Units Nos. 1 and 2 (the facility) at steady state reactor power levels not in excess of 2,441 thermal megawatts (rated power). The reactors are pressurized water reactors (PWR) located at the Licensee's site in Surry County, Va.

II. By letter dated August 24, 1977, the Commission authorized the Licensee to install flow-limiting orifices in the discharge of the outside recirculation spray pumps for the facility. In addition, the Commission ordered the following limits on operating parameters for the facility effective August 24, 1977:

> Service water temperature, 55° F to 65° F.
> Containment temperature, 100° F to 125° F.
> Containment air partial maximum pressure, 9.3 PSIA at 85° F service water temperature and 45° F RWST temperature. This value will vary in a manner similar to existing Technical Specification 3.8.

This Order is supplementary and confirmatory to the August 24, 1977, Order and provides the bases, as follows, for our actions.

As a result of the ongoing operating license review of the North Anna Station it appeared that the net positive suction head (NPSH) available to the containment recirculation spray pumps might be insufficient for the post loss-of-coolant accident (LOCA) operation of the recirculation spray system. A review of this matter for the North Anna Station is being conducted by the staff. The Surry Station Units Nos. 1 and 2 are operating plants with a design similar to North Anna.

To determine whether a similar problem may exist at Surry, we requested that the licensee and their architect/engineer, Stone and Webster, meet with the staff on August 19, 1977.

At the meeting held on August 19 1977, and reported in their letter dated August 20, 1977, VEPCO and their architect engineer, Stone and Webster, reported that they have reanalyzed the containment pressure transient response and associated available NPSH in the recirculation cooling pumps. This reanalysis was performed using new considerations in the overall thermodynamic model. The new modeling assumptions minimize the calculated containment pressure and maximizes the containment sump water temperature, thereby minimizing the NPSH. Information was provided from the pump manufacturer which concluded that the pumps would continue to pump reliably at the minimum NPSH available however at reduced flow.

All four recirculation spray pumps were determined to be operable through recent tests. Considering reduced flow, but with all four pumps in service, the containment would depressurize in less than one hour, meeting the original design requirements. The licensee agreed not to remove any of these pumps from service prior to August 24, 1977, and to submit additional information by August 24, 1977, to justify continued operation beyond August 24, 1977. Based on the short time involved, and the availability of all four recirculation spray pumps the staff concluded that continued operation until August 24, 1977, would not pose an undue threat to the health and safety of the public.

The staff met with the licensee on August 24, 1977, to discuss the above cited submittal. Based on the staff's review of the licensee's submittal and on the discussions cited above, the staff found the licensee's proposed modifications and accompanying restrictions acceptable to permit continued operation. While such continued operation was authorized without requiring that all four recirculation spray pumps be continually available for use, the staff concluded that installation of orifices on two of the pumps, as authorized by the August 24 letter, and imposition of the restrictions ordered by that letter, would provide reasonable assurance that continued plant operation would not pose an undue threat to the health and safety of the public. Additional assurance was provided by the test results discussed below.

The calculated pressure of the containment and the temperature of the water that accumulates in the containment sump are important parameters in determining recirculation spray pump operability following a LOCA with regard to available NPSH. These terms in combination with the pump static head and associated line losses establish available NPSH during the transient.

At the meeting held on August 24, 1977, and in their letter dated August 24, 1977, VEPCO presented a pump performance curve of the minimum NPSH required to prevent cavitation as a function of flow rate. The curve is based on tests per-

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formed on August 22, 1977, with a North Anna Unit No. 2 recirculation spray pump, which is the same model as installed in the Surry Units Nos. 1 and 2. Test results preliminarily reported by the licensee indicate that the pumps can be operated in the cavitating mode, though with loss of performance (flow rate and developed head), for periods of time significantly longer than potential periods of cavitation calculated for Surry, without damage to the pump. For a flow rate of 3,300 gpm as assumed in the containment depressurization analyses, the minimum required NPSH is approximately 10.2 feet. The specified NPSH of the pump is 15 feet.

Using the new modeling assumptions an available NPSH of greater than 11 feet is calculated for the two recirculation pumps inside containment, except for the time from 700 to 2,100 seconds after the postulated accident. This NPSH assures satisfactory pump operation. During the 700 to 2,100 second time interval the available NPSH reaches a minimum of 8.4 feet and the pump could potentially operate in a cavitating mode for about 23 minutes with a reduced flow rate of 3,000 gpm.

For the two recirculation pumps located outside containment the friction losses in the suction piping are substantially larger and therefore result in a smaller available NPSH. To assure satisfactory pump operation the licensee has installed a flow limiting orifice, in discharge, reducing the flow to 2,000 gpm with a required NPSH of approximately 6.4 feet compared to an available NPSH of 7.3 feet. This flow reduction assures continued pump operation without cavitation.

On the basis of the above flow as input to the containment response calculation, the licensee stated that the containment spray system pumps will still adequately function and the containment depressurization time requirements are not exceeded for the design basis LOCA.

While we have not been provided with the details of the recent analyses for our review, we believe that the results appear reasonable and are acceptable until additional details have been provided.

The analyses summarized above for plant operations with flow restricting orifices in the discharge piping of the outside recirculation pumps indicate that additional information is required on certain plant operating parameters. These information requirements are given in Section III of this Order.

The licensee has also committed to provide additional detailed analyses to further confirm the operability of the recirculation spray pumps and low head safety injection pumps during potential cavitating modes and to develop a permanent solution eliminating pump operation in a cavitating mode. At the August 24, 1977, meeting the licensee stated that he concluded there was still adequate NPSH margin for the low head safety injection pumping system, a part of the ECCS, while operating in the recirculation mode. Confirmatory calculations are to be provided in subsequent discussions, and as stated in Section III of this Order.

Based on the discussions at our meeting with the licensee on August 19 and 24, 1977, and on their submittals of August 20 and 24, 1977, we conclude, due to the ability of the containment recirculation spray pumps to operate under very adverse NPSH conditions, that operation of Surry Units Nos. 1 and 2, with the modifications detailed above, and until permanent modifications are implemented, will not pose an undue threat to the health and safety of the public.

Copies of the following documents are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Swem Library, College of William and Mary, Williamsburg, Va., (1) Letters from licensee dated August 20, 1977, August 24, 1977, and August 25, 1977, (2) NRC letter dated August 24, 1977, and (3) This Order for Modification of License, In the Matter of Virginia Electric and Power Co., Surry Power Station Units Nos. 1 and 2, Dockets Nos. 50-280 and 50-281.

III. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50; *it is ordered*, That Facility Operating Licenses Nos. DPR-32 and DPR-37 are hereby amended by adding the following new provisions:

1. The Licensee shall submit by August 29, 1977, an interim evaluation concerning the performance of the low head safety injection pumps.

2. The Licensee shall submit by September 12, 1977, the following additional information:

(a) Analyses of the low head safety injection pump performance including input from the pump manufacturer.

(b) The net positive suction head time-history for the inside and outside recirculation spray pumps and the low head safety injection pumps for all modes of operation.

(c) Inspection results of the tests which were conducted on the North Anna recirculation spray pump with additional information on the similarity of the North Anna pump to the Surry pumps.

(d) A description of the bases for the acceptability of operation for these pumps in the cavitating mode.

3. The Licensee shall submit within 90 days from August 24, 1977, their plans and schedules for implementing any required modifications.

4. In order to demonstrate that condition 2.b is complied with the analysis shall include the following containment cooling conditions:

(a) Full containment cooling (i.e., two quench spray pumps and four recirculation spray pumps);

(b) Minimum containment cooling (i.e., one diesel generator operating);

(c) Single failure of a recirculation spray pump; and

(d) Single failure of a quench spray pump.

For each analysis, curves shall be provided to show the responses of containment total pressure, containment vapor pressure, available NPSH, sump water level, and sump water vapor pressure.

Analyze the available NPSH for smaller break sizes in the hot leg and cold leg to demonstrate that the conditions of break location and size which result in the lowest available NPSH have been determined. Provide the mass and energy release rates as a function of time throughout the blowdown, reflood, and post reflood phases.

For each analysis, specify the containment evaluation parameters in a manner similar to that previously reported in your letter dated August 24, 1977. Also, provide a description of the recirculation spray heat exchanger characteristics; e.g., UA and type, parallel flow/counter flow.

Dated in Bethesda, Md., this 24th day of August 1977.

For the Nuclear Regulatory Commission.

EDSON G. CASE,
Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc.77-26146 Filed 9-7-77;8:45 am]

[Docket No. 50-423A]

NORTHEAST NUCLEAR ENERGY CO., CENTRAL MAINE POWER CO., AND MASSACHUSETTS MUNICIPAL WHOLESALE ELECTRIC CO.

Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following additional advice from the Attorney General of the United States, dated August 25, 1977.

You have requested our further advice pursuant to Section 105c of the Atomic Energy Act of 1954, as amended, in regard to the above-captioned application.

On August 10, 1973, we advised you that there appeared to be no need for an antitrust hearing concerning this nuclear unit. You have now provided us with antitrust information submitted by Central Maine Power Company, a new participant which plans to obtain a 2.5 percent interest in the facility. Massachusetts Municipal Wholesale Electric Company (MMWEC), which proposed to increase its participation from 1.603 to 2.942 percent, also provided information for our review. In addition, Montaup Electric Company, one of the original applicants, plans to increase its ownership interest from 2.372 to 4.009 percent.

Our review of the information submitted by Central Maine and MMWEC, as well as other relevant information, has not disclosed any basis upon which to change our earlier conclusion that an antitrust hearing will not be necessary in this matter.

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's rules of practice, 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by October 8, 1977, either (1) by delivery to the NRC Docketing and Service Section at 1717 H Street, NW, Washington, D.C., or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Section.

For the Nuclear Regulatory Commission.

JEROME SALTZMAN,
Chief, Antitrust and Indemnity Group, Nuclear Reactor Regulation.

[FR Doc.77-25802 Filed 9-7-77;8:45 am]

[Docket No. 50-72]

UNIVERSITY OF UTAH

Proposed Renewal of Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering renewal of Facility Operating License No. R-25 issued to The University of Utah (the licensee) for operation of its AGN-201 research reactor located on the licensee's campus in Salt Lake City, Utah, and used for educational training. The facility has been operated by the licensee since 1957 and is currently licensed to operate at 5 watts.

The renewal would extend the expiration date of Facility Operating License No. R-25 to September 12, 1997, in accordance with the licensee's timely application for renewal dated July 8, 1977.

Prior to renewal of Facility Operating License No. R-25, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By October 11, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to renewal of the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions. A petition for leave to intervene which is not timely will not be entertained absent a determination by the Commission or the Licensing Board designated to rule on the petition that the petitioner, in addition to the matters specified in 10 CFR 2.714 (d), has made a substantial showing of good cause for failure to file on time. The reasons for the tardiness in filing a petition for leave to intervene, as well as the factors specified in 10 CFR 2.714(a)(1)-(4), shall be considered in making a determination as to whether there has been a substantial showing of good cause by the petitioner.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for license renewal dated July 8, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 31st day of August, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-25882 Filed 9-7-77;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 77-36]

RESPONSES TO SAFETY RECOMMENDATIONS

Receipt

The National Transportation Safety Board announces the receipt of letters, summarized below, which are in response to or concern certain aviation and railroad safety recommendations issued by the Board in the past several years.

From the Federal Aviation Administration—

Re A-74-105 through 114.—RAA's letter of August 18 is in answer to the Safety Board's request of July 28 (42 FR 39515, August 4, 1977) for a written status report on the ten recommendations issued as a result of the Board's 1974 special study, "Safety Aspects of Emergency Evacuation from Air Carrier Aircraft."

FAA reports regarding A-74-105 that Project No. AFS-230-123 was established in June 1976 to review/revise reporting requirements of FAR's 121.703/705 and 127.313. FAA is evaluating numerous comments from the regions and data from its Maintenance Analysis Center to justify a rule change; estimated completion date is December 1977. Re A-74-106, a training course on emergency evacuation slide systems was commenced on May 5, 1975, at PICO, San Francisco, Calif.

Recommendation A-74-108 was considered in the First Biennial Operations Review, FAA said, and the proposal will be included in Operations Review Notice No. 10, to be published by December 1. FAA reports that the subject of recommendation A-74-110 was proposed in the Biennial Operations Review as Proposal No. 427; the Committee removed the proposal from consideration. FAA notes that present airline practices make it unnecessary to designate the flight attendant responsible for using the megaphone. FAA does not consider it necessary to tell carriers that they must use new, light and compact megaphones and plans no further action at this time.

Recommendation A-74-112 was transferred to the Biennial Operations Review as Proposal No. 586. As a result of Committee recommendation, FAA published Notice of Proposed Rule Making 77-12 on July 21, at 42 FR 37417. Re A-74-113, Advisory Circular AC-121-24, Passenger Safety Information Briefing and Briefing Cards, was forwarded for publication and distribution on June 23.

Recommendations A-74-107, 109, 111, and 114 were transferred to the Biennial Operations Review as Proposals Nos. 3/429, 4/434, 452, and 513/514, respectively. The proposals are being considered for rulemaking action, but FAA is unable to estimate a date for completion of the evaluations. Results of the evaluations will be published in the FEDERAL REGISTER, FAA said.

Re A-75-63.—FAA, by letter of August 19, considers action completed with regard to the recommendation issued following Board investigation into the Beechcraft Model 99 gear-up landing accident at Spokane, Wash., which occurred April 6, 1975. (See 40 FR 36628, August 21, 1975.) The recommendation asked FAA to issue an Airworthiness Directive requiring removal and internal inspection of the Beechcraft Model 99 landing gear motor controller, P/N MC-815-AS-1.

FAA reports that a proposal to issue an AD was published in the FEDERAL REGISTER on January 27, 1976. Subsequently, endurance testing by the motor controller manufacturer established that this part should operate satisfactorily on the affected planes. FAA states, "These testing results, coupled with in-service performance records, led the FAA to con-

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clude that the one failure which prompted the NPRM was an isolated case." After determining that the proposed AD was not required, FAA last September 24 issued a "Withdrawal of Notice of Proposed Airworthiness Directive." FAA considers action completed with regard to this recommendation.

Re A–75–70.—Letter dated August 18 references another Beechcraft accident—a BE–55 which crashed in the dark during an instrument approach to the Lawrenceburg (Tenn.) Municipal Airport. (See 40 FR 40879, September 4, 1975.) The Safety Board recommended that FAA change the wording of restrictions of National Ocean Survey instrument approach charts where night approaches are not authorized so that restrictions are clearly understood.

On September 26, 1975, FAA indicated that Handbook 8260.19 would be revised. FAA now reports that letters were sent to its field offices on June 9, 1976, transmitting draft copies of revised Chapter 10, Handbook 8260.19, providing interim guidance pending issuance of Change 14 to the Handbook; a copy of this draft was furnished informally to the Safety Board staff. FAA reports that Change 14 is being printed, issuance expected late this September. In the interim, FAA field offices are operating in accord with the draft and are, therefore, currently fulfilling recommendation A–75–70, FAA said.

Re A–76–97 through 100.—FAA's August 17 letter updates its response of last March 18 (42 FR 17197, March 31, 1977). The recommendations concern light twin-engine aircraft that fail to recover from apparently unintentional spins.

FAA reports that a meeting was held with the General Aviation Manufacturers Association to discuss the promulgation of a V... speed for general aviation aircraft. The meeting indicated that each manufacturer had a different criteria for establishing V... for his aircraft, and, in light of those discussions and related problems brought up at that meeting, FAA feels that it must not require the use of V... speed at this time. FAA states:

> The basic problem appears to be the need for an acceptable criteria for determining a V... and what is expected to be accomplished by the pilot at this speed since required performance velocities are already defined in the certification of the aircraft. We still feel, however, that something of value may be gained by pursuing the subject of V... To this end, we are continuing to work with industry in the areas of airman and aircraft certification, flight testing, and flight training to secure answers.

FAA states that it hopes to have some positive results in this area by July 1978.

Re A–77–38 and 39.—FAA's letter of August 19 provides rationale for rejecting the two recommendations issued after Board investigation of the crash last March 31 of a Bell Model 214B–1 helicopter during a logging operation near Liberty, Wash. The tail boom fin installation separated from the tail boom of the helicopter. (See 42 FR 29579, June 9, 1977.)

FAA does not believe that an emergency AD or an immediate adopted rule affecting all Model 214B and 214B–1 helicopters is warranted at this time and therefore rejects recommendation A–77–38. FAA reports that as a result of the subject accident, Bell initiated a reevaluation of the tail-boom-fin/tail-boom analysis by conducting a flight strain survey of the particular logging operation. No significant stresses in the tail boom and fin have been found. Completion of the reevaluation is expected by November 1. Also, Bell Service Bulletin No. 214–77–8 was issued June 15, requiring a daily inspection of several areas of the tail fin and boom on the approximately 32 Model 214 series helicopters in civil operations. No other reports of cracks have been received to date, FAA said.

FAA rejects A–77–39 because Bell's assessment completed thus far indicates that the maximum gross weight of 16,000 pounds for external loads, and the torque requirements, do not cause significant stresses in the tail boom and fin. FAA said that when the reevaluation is completed in November, all significant factors will be considered, and the possible need for lower gross weight and/or torque limitations will be decided.

Re A–77–40 through 42.—Leter of August 19 responds to recommendations issued following investigation of the crash last October 17 of a new Bell 212 helicopter after it lost directional control during a landing approach to Natrona County Airport at Casper, Wyo. Failure of the No. 4 section of tail rotor drive shaft P/N 204–040–620–3, caused by torsional overstress, was found to be the cause of the loss of directional control. (See 42 FR 31851, June 23, 1977.)

Recommendation A–77–40 asked FAA to issue an Operations Bulletin to all operators of Bell 212 helicopters and all other Bell models with P/N's 204–040–620–3 or 204–040–620–5 tail rotor drive shafts installed warning them to use caution when operating in flight regimes conducive to main rotor overspeed, and A–77–41 recommended issuance of a Maintenance Alert Bulletin to inspect the tail rotor drive system installation for evidence of shaft yield or tail-cone structure contact if the main rotor speed has exceeded 110 percent.

FAA rejects these two recommendations. FAA notes that Maintenance Alert Bulletins and Operations Alert Bulletins are primarily internal FAA communications to alert FAA inspectors of problem areas. Using this method would require the inspectors to recommunicate the information, resulting in delay and risking less than complete dispersal of the information, FAA said. Further, FAA states:

> The problem is one in which, at critical speed of approximately 115.5 percent, the shaft enters a whirl condition and contacts rivets in the cowling. The contact results in shaft scoring and subsequent shaft failure. It is unlikely that the shaft could operate at the critical speed and mark or be marked by surrounding structure and not fail because of the high loads on the shaft. Operation below the critical speed, or above that speed within the shaft's structural limits, does not result in visible evidence. Operation at the critical speed results in severe damage obvious to all.

FAA believes that the problem is more one of proper operation than one of maintenance or inspection. The manufacturer, FAA notes, has recognized this with the issuance of Operations Safety Notice 212–77–1, which, together with the Rotorcraft Flight Manual limitations, will if adhered to prevent operation at the critical speed except in the case of fuel control failures that result in overspeed.

Recommendation A–77–42 asked FAA to revise FAR 29.923 and 29.931 to require manufacturers to demonstrate 120 percent rotor system overspeed by driving the power train with an external power source, if installed engine power turbine speed (N_2) limits preclude meeting this requirement. FAA comments that Notice of Proposed Rule Making 75–31 would transfer the overspeed test from 29.923 (endurance test) to 29.927 (additional tests) and would also permit use of test facilities, in lieu of testing on the actual rotorcraft, if these facilities closely simulate the conditions that would exist during a test on the actual rotorcraft. The present rule which allows using less than 120 percent will no longer apply. FAA expects to complete final action by January 1, 1978.

With regard to A–77–42 relative to 29.931, FAA points out that 120 percent overspeed is not a representative test where critical speed is involved. The critical speed could be lower or higher, depending on the overall system. FAA says that the Bell 212 tail rotor drive system, on which the recommendation is based, has a critical speed of 115.5 percent plus or minus 0.5 percent, and testing at 120 percent to meet 29.931 would be meaningless. Therefore, FAA rejects the Board's recommendation to revise 29.931.

Re A–77–23 and 44.—In its letter of August 19 responding to these recommendations, which concern failures in the Teledyne Continental Motors (TCM) IO–520 series engine crankshaft (42 FR 33391, June 30, 1977), FAA reports that its Engineering personnel have been working closely with TCM to determine the cause of these crankshaft failures. Metallurgical examination of the fractured crankshafts revealed that material or processing defects were not evident. The fractures involve low-stress, high-cycle fatigue in bending; but, to date, the investigation has failed to disclose the cause of this specific type of fractufre.

FAA says that operators of aircraft which have experienced failures are being contacted to determine if there is any operational pattern that might lead to cause of failure. Findings will be correlated with engine endurance tests now in progress. FAA is investigating maintenance and operational factors that could contribute to crankshaft failures, and FAA will provide advisory information to the public suggesting maintenance and

operational techniques that could help preclude crankshaft failures on all engines.

In rejecting recommendation A–77–43, FAA says that, basically, maintenance alert bulletins would not be used by FAA to alert overhaul shops or manufacturers—other methods would be more suited to this problem. FAA states:

> The IO–520 crankshafts have failed from subsurface fatigue cracks. The present method of inspecting crankshafts is magnaflux, a procedure which is not capable of detecting subsurface cracks. The use of an ultrasonic inspection procedure for detecting subsurface cracks is presently under investigation at TCM. Accordingly, it is premature to issue instructions to inspect the IO–520 series crankshaft for incipient or developed cracks of the type under investigation until such time as an adequate inspection means is identified.

FAA also rejects A–77–44, commenting that a directed safety investigation is used to gather data about a specific problem utilizing the FAA field force of inspectors. In the case of the factured cheeks on crankshafts, FAA states, it would be of little help to gather further information as to the number of failures. From the number of known failures, FAA agrees that there is a problem which needs corrective action but says that the real problem lies in identifying the cause of the failures and the proper corrective action. FAA believes that the continued joint effort of its personnel and TCM Engineering is the best course of action.

From General Aviation Manufacturers Association—

Re A–75–47 through 49.—Letter of August 19 is in response to recommendations issued by the Safety Board in 1975 with a view to further enhancing the accident prevention potential of GAMA's "Specification for Pilots Operating Handbook." The recommendations asked GAMA to supplement the performance section of its handbook by (1) specifying on takeoff distance chart or tables, where applicable, fuel mixture leaning requirements and procedures (A–75–47); (2) specifying a precautionary note on takeoff distance charts or tables indicating the importance, particularly at the higher altitudes and temperatures, or complying with certificated gross weight and center of gravity limitations (A–75–48); and (3) specifying that climb-airspeed data include the indicated airspeed necessary to achieve an airplane's best angle of climb (A–75–49). (See 40 FR 25107, June 12, 1975.)

GAMA reports that recommendation A–75–47 has been adopted. Paragraph 5.15, Associated Conditions, on page 5–2 of the specification, will be amended to include: "(h) Leaning instructions." Although a formal revision has not been issued, GAMA says that most manufacturers are now including leaning instructions, such as "Lean to appropriate fuel flow," on Takeoff Distance Charts.

With reference to A–75–48, GAMA's Handbook Committee considered that present information on gross weight and center of gravity limitations is adequate. Takeoff Distance Charts now incorporate limits of temperature and altitude where performance in the takeoff configuration is marginal, and center of gravity limits are clearly stated in the Weight and Balance section. GAMA states that the suggested precautionary note "would add no new information but might imply that compliance with gross weight and center of gravity limitations was not too important at low altitudes and temperatures."

In answer to recommendation A–75–49, GAMA states:

> The Committee considered that present climb speed information is adequate. Both the 'best rate of climb' and 'best angle of climb' speeds are given under 'Speeds for Normal Operation' under the Normal Procedures Section. Charts in the Performance Section are predicated on best *rate* which is the normal speed for maximum performance climbs. Best *angle* speeds are used only briefly for obstruction clearance and are not intended for sustained use.

From the Federal Railroad Administration—

Re R–76–24 through 32.—These recommendations resulted from the Safety Board's investigation of the rear end collision of two Penn Central Transportation Co. passenger trains near Wilmington, Del., on October 17, 1975. (See 41 FR 32794, August 5, 1976.) FRA's response letter is dated August 22, 1977.

In answer to recommendation R–76–24, which asked FRA to establish regulations on mainlines used by passenger trains that will require trains to stop if the block in front of them is occupied, FRA states that an analysis of accident investigation data concerning rear end collisions for the period 1965–1974 indicate that the vast majority of rear end collisions are caused by failure of crewmembers to comply with operating rules. FRA believes that failure of operating personnel to comply with operating rules indicates a need for training and testing programs to ensure compliance with existing operating rules, rather than a need for additional regulations to prohibit train operation in occupied blocks. Therefore, FRA is analyzing carrier training and testing programs submitted under Part 217—Railroad Operating Rules. Upon completion of the analysis, FRA will determine what training and testing regulations are necessary to ensure adequate carrier programs.

Recommendation R–76–25 asked FRA to establish standards for rear end visibility of trains. FRA reports publication in the FEDERAL REGISTER last January 11 of a regulation dealing with highly visible markers and rear end conspicuity. After December 31, 1977, each train to which this regulation applies, i.e., one that occupies or operates on a main track, shall be equipped with marking devices on the trailing end of the rear car of the train.

Recommendation R–76–26 asked FRA to require that trains are equipped with emergency flagging equipment, and R–76–27 recommended establishment of regulations for the protection by flagging of the rear end of all stopped trains in passenger territory. FRA reports that last January 27 section 218.37—Flag Protection was published in the FEDERAL REGISTER; the regulation prescribes the instances in which flag protection must be provided, as well as the types of flagman's signals to be used. Whether a train is stopped in passenger or nonpassenger territory, FRA believes that the regulation provides the protection necessary to ensure safe train operation. "Any additional requirement for flagging the rear end of all stopped trains in passenger territory would impose superfluous restrictive procedures that could not be justified with available data," FRA said.

With reference to R–76–28, which asked FRA to require carriers to provide emergency lighting and communication systems on passenger cars and to provide for predeparture inspection to assure their operability, FRA notes that three carriers provide the majority of rail passenger service in the United States: National Railroad Passenger Corporation (Amtrak), Southern Railway Co., and Denver and Rio Grande Western Railroad Co. FRA believes that these carriers' extant lighting and communication systems provide adequate service under emergency conditions and that requiring the installation of additional emergency standby power sources for emergency lighting and communication facilities is economically unjustifiable.

Recommendation R–76–29 called for FRA to require carriers to train employees in emergency procedures to be used after an accident, to establish priorities for emergency action, and to conduct accident simulations to test the effectiveness of the program, inviting civic emergency personnel participation. R–76–39 asked FRA to require railroads to include emergency procedures for cab evacuation in its training program for operating employees. According to the August 22, FRA is analyzing carrier training and testing programs under Part 217, as noted above. Emergency procedures to be used following an accident will be one of many items under consideration.

In accord with recommendation R–76–31, which asked FRA to observe a statistically adequate sample of trains equipped with cab signals to establish the reliability of this system, FRA regional personnel will observe operation of the cab signal system to determine its reliability in a special sample of trains.

In response to R–76–32 and the requirement that trains be equipped with reasonably accurate speed indicators, FRA has published an Advance Notice of Proposed Rule Making concerning installation and use of speed indicators. Recognizing the widespread use of speed indicators and their unquestioned safety benefits in higher speed operations, FRA says that mandatory installation may be warranted. FRA is planning an accompanying cost/benefit impact analysis.

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NOTE.—Copies of the full text of the above letters in response to recommendations may be obtained at a cost of $4 for service and 10 cents per page for reproduction. All requests must be in writing, identified by the recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Sec. 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2172 (49 U.S.C. 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

SEPTEMBER 2, 1977.

[FR Doc.77-26193 Filed 9-7-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 31, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

Domestic and International Business Administration, Ethylene oxide, DIB-996, single time, producers of ethylene oxide, C. Louis Kincannon, 395-3211.

National Fire Prevention, fire department survey, single time, fire departments, economics and General Government Division, Ellett, C.A., 395-3451.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service, needs assessment for natural family planning, single time, title X grantees in the 10 DHEW regions, Richard Eisinger, 395-6140.

Social Security Administration, 1978 survey of widows without benefits, SSA-3584, single time, widows who received lump-sum death benefits in January 1977, Sunderhauf, M. B., 395-6140.

Food and Drug Administration, blood sample identification card, FD 3059, other (see SF-83), volunteer blood donors, Richard Eisinger, 395-6140.

Office of Human Development:
Questionnaire for evaluation of OHD transportation demonstration program, other (see SF-83), agencies providing transportation, service, and individuals receiving it, human resources division, Raynsford, R., 395-3532.

Interview Guides Developmental Assessment: survey and identification of head start practices and needs, single time, Head Start teachers, directors, parents, professional staff, Sunderhauf, M. B., 395-6140,

DEPARTMENT OF LABOR

Departmental and other, the 1977 quality of employment survey, ASPER-3, single time, national sample of households, Strasser, A., 395-5867.

REVISIONS

VETERANS ADMINISTRATION

Financial statement (of ability to handle a loan), 26-6807, on occasion, borrower, Caywood, D. P., 395-3443.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration, new animal drug application (drugs for animal use), FD356V, on occasion, pharmaceutical drug manufacturing, premix and feed manufacturing, Richard Elsinger, 395-6140.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, monthly report on employment (payroll and hours) and industry class supplements, BLS 790, monthly, industrial establishments, Strasser, A., 395-5867.

EXTENSIONS

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration, purchases from fishing vessels (Chesapeake States), NOAA 88-29, on occasion, wholesale dealers of fishery products and fishermen, Caywood, D. P., 395-3443.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration:
Progress report for HMO planning and development activities, HSA-254, quarterly, HMO planning and development grantees, Richard Eisinger, 395-6140.
Reporting requirements for HMO feasibility grantees, 0927, quarterly, HMO feasibility grantees, Richard Eisinger, 395-6140.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-26225 Filed 9-7-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13913]

CERTAIN FOREIGN SECURITIES

List of Foreign Issuers Which Have Submitted Information Required by Exemption

Foreign issuers with total assets in excess of $1,000,000 and a class of equity securities held of record by 500 or more persons, of which 300 or more shareholders reside in the United States, are subject to the registration, reporting, proxy and insider trading provisions of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) (the "Act").[1]

Rule 12g3-2(b) (17 CFR 240.12g3-2(b) provides an exemption from registration under section 12(g) of the Act for a foreign issuer which submits on a current basis material specified in the Rule to the Commission. Such required material includes that information about which investors ought reasonably to be informed with respect to the issuer and its subsidiaries and which the issuer (1) has made public pursuant to the law of the country of its domicile or in which it is incorporated or organized, (2) has filed with a stock exchange on which its securities are traded and which was made public by such exchange and/or (3) has distributed to its security holders.

When it adopted Rule 12g3-2 and other rules relating to foreign securities (see Securities Exchange Act Release No. 8066, April 28, 1967), the Commission indicated that from time to time it would issue lists containing those foreign issuers which have obtained exemptions from the registration provisions of section 12(g) of the Act by providing the information specified in Rule 12g3-2(b). The purpose of the present release is to call to the attention of brokers, dealers, and investors that some form of relatively current information concerning the foreign issuers included on the attached list is available in the public files of the Commission. The attached list includes those foreign issuers which, as of July 31, 1977, appear to be current in furnishing information under Rule 12g3-2(b). There is a total of 141 foreign issuers on the list.

The Commission also wishes to bring to the attention of brokers, dealers, and investors the fact that current information concerning certain foreign issuers may not be available in the United States. The Commission continues to expect that brokers and dealers will consider this fact in connection with their obligations under the federal securities laws to have a reasonable basis for recommending these securities to their customers. The Commission will continue to review activity in the markets for foreign securities to determine whether the present rules are achieving their purpose and whether further rules or rule revisions are necessary in the public interest or for the protection of investors.

Any questions regarding Rule 12g3-2 or the list included herein should be directed to Carl T. Bodolus or Charles L. Evans, Office of International Corporation Finance, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549 (202-755-1506).

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 31, 1977.

[1] Foreign issuers may also be subject to such requirements of the Act by reason of having securities registered and listed on a national securities exchange in the United States or subject to the reporting requirements by reason of having registered securities under the Securities Act of 1933 (15 U.S.C. 77a et seq., as amended by Pub. L. 94-29 (June 4, 1975)).

Foreign issuers which are current in submitting material pursuant to the provisions of rule 12g3-2(b) as of July 31, 1977

Registrant	File No.	Domicile
Abitibi Paper Co., Ltd.	82-80	Toronto, Ontario, Canada.
The Afrikander Lease Ltd.	82-245	Johannesburg, South Africa.
Agnico-Eagle Mines Ltd.	82-179	Toronto, Ontario, Canada.
Aktiebolaget Svenska Kullagerfabriken	82-139	Gothenberg, Sweden.
Algoma Steel Corp. Ltd.	82-99	Sault Ste. Marie, Ontario Canada.
Anglo American Corp. of South Africa Ltd.	82-97	Johannesburg, South Africa.
Anglo United Development Corp. Ltd.	82-190	Toronto, Ontario Canada.
B.A.T. Industries Ltd.	82-73	London, England.
Bank of Montreal	82-120	Montreal, Quebec, Canada.
Bank of Nova Scotia	82-132	Toronto, Ontario, Canada.
Bankeno Mines Ltd.	82 162	Do.
Basic Resources International S.A.	82-203	Luxembourg, Luxembourg.
Bell Canada	82-2	Montreal, Quebec, Canada.
Bethlehem Copper Corp.	82-218	Vancouver, British Columbia, Canada.
Bovis Corp. Ltd.	82-62	Toronto, Ontario, Canada.
The Bowater Corp.	82-4	London, England.
Bracken Mines Ltd.	82 219	Johannesburg, South Africa.
Brameda Resources Ltd.	82 143	Vancouver, British Columbia, Canada.
Brascan, Ltd.	82-4	Toronto, Ontario, Canada.
Bridger Petroleum Corp. Ltd.	82 247	Alberta, Calgary, Canada.
Brinco Ltd.	82 102	Montreal, Quebec, Canada.
Broken Hill Proprietary Co. Ltd	82 81	Melbourne, Australia.
Burmah Oil Co., Ltd	82-5	Glasgow, Scotland.
Camflo Mines Ltd.	82 164	Toronto, Ontario, Canada.
Canadian Imperial Bank of Commerce	82 103	Do.
Canadian Marconi Co.	82 86	Montreal, Quebec, Canada.
Celanese Canada Ltd.	82-171	Do.
Charter Consolidated Ltd.	82-224	London, England.
Chromasco Ltd.	82-105	Montreal, Quebec, Canada.
Cominco Ltd.	82 107	Do.
Conigas Mines Ltd.	82 106	Toronto, Ontario, Canada.
Consolidated-Bathurst Ltd.	82 172	Montreal, Quebec, Canada.
Consolidated Gold Fields Ltd.	82-253	London, England.
Cygnus Corp. Ltd.	82-110	Calgary, Alberta, Canada.
DeBeers Consolidated Mines, Ltd.	82 91	Johannesburg, South Africa.
Deelkraal Gold Mining Co. Ltd.	82-246	Do.
Den Norske Amerikalinje A/S	82 111	Oslo, Norway
Denison Mines Ltd.	82 175	Toronto, Ontario, Canada
Dickenson Mines Ltd.	82 8	Do.
Dominion Bridge Co. Ltd.	82 93	Montreal, Quebec, Canada.
Dominion Foundries & Steel Co.	82-114	Hamilton, Ontario, Canada.
Domtar Ltd.	82-18	Montreal, Quebec, Canada.
Doornfontein Gold Mining Co. Ltd.	82-213	Johannesburg, South Africa.
Dresdner Bank AG	82 229	Frankfurt A.M., Federal Republic o Germany.
Dupont of Canada Ltd.	82 19	Montreal, Quebec, Canada.
Durban Roodepoort Deep Ltd.	82-176	Johannesburg, South Africa.
East Daggafontein Mines Ltd.	82-12	Do.
East Driefontein Gold Mining Co., Inc.	82-121	Do.
East Malartic Mines Ltd.	82-212	Toronto, Ontario, Canada.
Elandsrand Gold Mining Co. Ltd.	82-254	Johannesburg, South Africa.
L. M. Ericsson Telephone Co.	82 117	Stockholm, Sweden.
Falconbridge Nickel Mines Ltd.	82-31	Toronto, Ontario, Canada.
Fiat SPA.	82-116	Turin, Italy.
Ford Motor Co. of Canada Ltd.	82-30	Oakville, Ontario, Canada.
Free State Geduld Mines Ltd.	82-40	Johannesburg, South Africa.
Fuji Photo Film Co., Ltd.	82-78	Tokyo, Japan.
Futurity Oils Ltd.	82-243	Edmonton, Alberta, Canada.
Glaxo Holdings Ltd.	82-10	London, England.
Gold Fields of South Africa, Ltd.	82-201	Johannesburg, South Africa.
Gold Fields Property Co. Ltd.	82 214	Do.
Great Canadian Oil Sands Ltd.	82-228	Toronto, Ontario, Canada.
Great West Life Assurance Co.	82-77	Winnipeg, Manitoba, Canada.
The Groenvlei Proprietary Mines Ltd.	82-222	Johannesburg, South Africa.
Gulf Oil Ltd. (Canada)	82-101	Toronto, Ontario, Canada.
Host Ventures Ltd.	82-257	Vancouver, British Columbia, Canada.
IAT Ltd.	82-120	Toronto, Ontario, Canada.
Imasco Ltd.	82-118	Montreal, Quebec, Canada.
Indusmin Ltd.	82-201	Toronto, Ontario, Canada.
The Investors Group	82-13	Winnipeg, Manitoba, Canada.
Japan Air Lines Ltd.	82-122	Tokyo, Japan.
Kerr Addison Mines Ltd.	82-14	Toronto, Ontario, Canada.
Kinross Mines Ltd.	82-220	Johannesburg, South Africa.
Kloof Gold Mining Co. Ltd.	82-205	Do.
Lacana Mining Corp.	82-265	Toronto, Ontario, Canada.
Lake Shore Mines Ltd.	82-17	Do.
Lemans Resources Ltd.	82-250	Vancouver, British Columbia, Canada.
Leslie Gold Mines Ltd.	82-223	Johannesburg, South Africa.
Libanon Gold Mining Co. Ltd.	82-215	Do.
Little Long Lac Mines Ltd.	82-198	Toronto, Ontario, Canada.
Magnum Fund Ltd.	82-125	Amsterdam, The Netherlands.
Marivale Consolidated Mines Ltd.	82-224	Johannesburg, South Africa.
M.I.M. Holdings Ltd.	82-173	Brisbane, Australia.
Minas De Cerro Dorado Ltd.	82-258	Vancouver, British Columbia, Canada.
Moore Corp. Ltd.	82-128	Toronto, Ontario, Canada.
Ne-Chuns International Ltd.	82-209	Do.
Nissan Motor Co., Ltd.	82-207	Tokyo, Japan.
Noranda Mines Ltd.	82-158	Toronto, Ontario, Canada.
Northwest Ventures Ltd.	82-260	Do.
Nowsco Well Service Ltd.	82-261	Calgary, Alberta, Canada.
O'Brien Gold Mines Ltd.	82-262	Toronto, Ontario, Canada.
Oceanic Iron Ore of Canada Ltd.	82-159	Do.
Paiino N.V.	82-135	The Hague, The Netherlands.
Philex Mining Corp.	82-136	Manila, The Philippines.
Pioneer Electronic Corp.	82-243	Tokyo, Japan.
Power Corp. of Canada Ltd.	82-137	Montreal, Quebec, Canada.

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Registrant	File No.	Domicile
President Brand Gold Mining Co., Ltd	82-38	Johannesburg, South Africa.
President Steyn Gold Mining Co., Ltd	82-44	Do.
Quebec Sturgeon River Mines Ltd	82-196	Toronto, Ontario, Canada.
Rank Organisation Ltd	82-17	London, England.
Reed Shaw Osler Ltd	82-254	Toronto, Ontario, Canada.
Rothmans International Ltd	82-84	Basildon, Essex, England.
Royal Trust Co	82-196	Montreal, Quebec, Canada.
Rustenburg Platinum Holdings Ltd	82-241	Johannesburg, South Africa.
Sabina Industries Ltd	82-244	Ontario, Canada.
St. Helena Gold Mines Ltd	82-232	Johannesburg, South Africa.
Santos Ltd	82-34	Adelaide, Australia.
Sanyo Electric Co., Ltd	82-204	Tokyo, Japan.
Shell Canada Ltd	83-91	Toronto, Ontario, Canada.
Sherritt Gordon Mines, Ltd	82-29	Do.
Siemens Aktiengesellschaft	82-73	Munich, Federal Republic of Germany.
Simpsons Ltd	82-53	Toronto, Ontario, Canada.
South African Land & Exploration Co., Ltd	82-59	Johannesburg, South Africa.
Southvaal Holdings Ltd	82-107	Do.
Spartan Capital Corp. Ltd	82-160	Ottawa, Ontario, Canada.
Spooner Mines & Oils Ltd	82-112	Toronto, Ontario, Canada.
Stampede International Resources Ltd	82-242	Vancouver, British Columbia, Canada.
Steel Co of Canada Ltd	82-141	Toronto, Ontario, Canada.
TDK Electronics Co., Ltd	82-255	Tokyo, Japan.
Taro-Vit Chemical Industries Ltd	82-210	Haifa, Israel.
The Tokyo Electric Power Co. Inc	82-72	Tokyo, Japan.
Toronto Dominion Bank	82-142	Toronto, Ontario, Canada.
Toyota Motor Co., Ltd	82-208	Tokyo, Japan.
U.C. Investments Ltd	82-225	Johannesburg, South Africa.
Union Corp. Ltd	82-231	Do.
Union Gas Ltd	82-49	Chatham, Ontario, Canada.
Unisel Gold Mines Ltd	82-236	Johannesburg, South Africa.
United Keno Hill Mines Ltd	82-61	Toronto, Ontario, Canada.
United Siscoe Mines Ltd	82-194	Montreal, Quebec, Canada.
Upper Canada Resources Ltd	82-134	Toronto, Ontario, Canada.
Vaal Reefs Exploration & Mining Co. Ltd	82-56	Johannesburg, South Africa.
Venterspost Gold Mining Co. Ltd	82-216	Do.
Vlakfontein Gold Mining Co. Ltd	82-217	Do.
Voyager Petroleums Ltd	82-149	Calgary, Alberta, Canada.
Welkom Gold Mining Co. Ltd	82-57	Johannesburg, South Africa.
West Driefontein Gold Mining Co. Ltd	82-90	Do.
Western Deep Levels Ltd	82-58	Do.
Western Holdings Ltd	82-54	Do.
Wilroy Mines Ltd	82-182	Toronto, Ontario, Canada.
Winkelhaak Mines Ltd	82-221	Johannesburg, South Africa.
F. W. Woolworth & Co. Ltd	82-200	London, England.
Wright Hargreaves Mines Ltd	82-60	Toronto, Ontario, Canada.

[FR Doc.77-26131 Filed 9-7-77;8:45 am]

[File No. 1-7089]

FREQUENCY SOURCES, INC.

Application To Withdrawal From Listing and Registration

AUGUST 31, 1977.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Boston Stock Exchange.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

As a result of low trading volume on the Exchange, the management of the Company has concluded that the expenses of maintaining the listing on the Exchange outweigh the benefits to be derived therefrom.

The Company will be subject to section 12(g) reporting requirements.

Any interested person may, on or before September 8, 1977, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26130 Filed 9-7-77;8:45 am]

[File No. 1-4729]

HAWAIIAN TELEPHONE CO.

Application To Withdraw From Listing and Registration

AUGUST 31, 1977.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Honolulu Stock Exchange.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

As a result of no trading volume on the Exchange, the Company has concluded that no purpose would be served in maintaining the listing on the Exchange. Further, the Company will no longer be subject to the reporting requirements under the Securities Exchange Act of 1934.

The Honolulu Stock Exchange has not objected to this application.

Any interested person may, on or before September 28, 1977, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26129 Filed 9-7-77;8:45 am]

[Release No. 13904; SR-MSRB-77-11]

MUNICIPAL SECURITIES RULEMAKING BOARD

Filing of Proposed Rule Change and Order Approving Proposed Rule Change

AUGUST 31, 1977.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), as amended by Pub. L. No. 94-29, section 16 (June 4, 1975), notice is hereby given that on August 29, 1977, the Municipal Securities Rulemaking Board ("MSRB"), Suite 507, 1150 Connecticut Avenue NW., Washington, D.C. 20036, filed with the Commission copies of a proposed rule change. The proposed rule change would delay the effective date of subparagraphs (a)(xi)(G) and (a)(xi)(K) of the MSRB rule G-8, filed with the Commission on June 6, 1977 (File No. SR-MSRB-77-5). The text of the proposed rule change is as follows (*italics* indicate new language; [brackets] indicate deletions):

Rule G-8. *Books and Records To Be Made by Municipal Securities Brokers and Municipal Securities Dealers.*

(g) Effective date: The requirements of this rule shall become effective on April 25, 1977, and nothing herein contained shall be construed to require the making of the records specified in paragraph (a) of this rule for events occurring prior to such effective date. The customer account records required by subparagraph (a)(ii) and customer account information required by subparagraph (a)(xi) shall be required only for customers for whom transactions in municipal securities are effective on or after such date. Notwithstanding the foregoing, subparagraphs (a)(xi)(G) and (a)(xi)(K) shall not become effective until [September 1, 1977] *October 15, 1977.*

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change on or before September 29, 1977. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-MSRB-77-11.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

Further, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, since the delayed effective date will provide the Commission with additional time to consider proposed substantive amendments to MSRB rule G-8.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26149 Filed 9-7-77;8:45 am]

[Release No. 13905; SR-MSRB-77-10]

MUNICIPAL SECURITIES RULEMAKING BOARD

Filing of Proposed Rule Change and Order Approving Proposed Rule Change

AUGUST 31, 1977.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), as amended by Pub. L. No. 94-29, section 16 (June 4, 1975), notice is hereby given that on August 29, 1977, the Municipal Securities Rulemaking Board ("MSRB"), Suite 507, 1150 Connecticut Avenue NW., Washington, D.C. 20036, filed with the Commission copies of a proposed rule change. The proposed rule change would delay the effectiveness of the principal substantive provisions of MSRB rule G-7 until October 15, 1977. The text of the proposed rule change is as follows (*italics* indicate new language; [brackets] indicate deletions):

Rule G-7(h): The requirements of paragraphs (b), (c), and (f) of this rule shall not become effective until *October 15, 1977* [September 1, 1977], and shall apply with respect to each person who is an associated person on, or becomes an associated person after, such date. The requirements of paragraph (d) of this rule shall apply only with respect to each person who becomes an associated person on or after December 3, 1976.

Interested person are invited to submit written data, views, and arguments concerning the proposed rule change on or before September 29, 1977. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-MSRB-77-10.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

Further, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, since the delayed effective date will provide the federal bank regulatory agencies with sufficient time for the publication and implementation of regulations designating a form for use by bank dealers in complying with MSRB rule G-7.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26150 Filed 9-7-77;8:45 am]

NATIONAL MARKET ADVISORY BOARD

Renewal

I, Harold M. Williams, Chairman of the Securities and Exchange Commission, with the concurrence of the members of the Commission, have renewed an advisory committee under the Federal Advisory Committee Act designated as the National Market Advisory Board (the "Board") and hereby certify that I have considered the renewal of this Board and, with the concurrence of the members of the Commission, find the renewal of this Board to be in the public interest in connection with the performance of duties of the Commission as stated in the Federal securities laws, particularly the Securities Exchange Act of 1934 as amended by the Securities Acts Amendments of 1975.

The Commission was directed to establish the Board by section 11A(d)(1) of the Securities Exchange Act of 1934 as added by the Securities Acts Amendments of 1975 and did so establish it on September 30, 1975. The Board will continue to operate on a continuous basis subject to that provision and section 14 of the Federal Advisory Committee Act: *Provided, however,* That the Board shall terminate at such time as the terms for which its members are appointed shall all have expired and no further appointments shall have been made. The terms of current Board members are being extended until December 31, 1977.

The Charter of the Board shall be filed with me and with the House Committee on Interstate and Foreign Commerce and with the Senate Committee on Banking, Housing and Urban Affairs. A copy of the Charter shall be furnished to the Library of Congress and a copy shall be furnished to the Office of Public Affairs of the Commission and will be available for public inspection.

HAROLD M. WILLIAMS,
Chairman,
Securities and Exchange Commission.

SEPTEMBER 1, 1977.

[FR Doc.77-26128 Filed 9-7-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 05-05-5089]

CHICAGO COMMUNITY VENTURES, INC.

Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Chicago Community Ventures, Inc. (CCVI), 19 South LaSalle, Chicago, Ill. 60603, a Federal licensee under section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has filed an application pursuant to 13 CFR 107.1004 (1977) for approval of a conflict of interest transaction.

CCVI was licensed by the Small Business Administration (SBA) on June 14, 1972. The licensee's voting stock is owned by 17 large Chicago-based businesses.

CCVI is currently considering financing the Washington National Bank (in organization) by purchasing $74,000 of the bank's common stock. Mr. Arthur R. Velasquez is a director and holder of 5 percent of Washington National Bank's common stock. Mr. Velasquez is also a director of CCVI.

The proposed transaction falls within the purview of section 107.1004 by reason of fact that Mr. Velasquez is an associate of the licensee through his dual directorships.

Notice is hereby given that any interested person may submit to SBA written comments, no later than September 23, 1977, on this proposed financing. Any such communication should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published by the licensee in a newspaper of general circulation in Chicago, Ill.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 31, 1977.

PETER F. MCNEISH,
Deputy Associate
Administrator for Investment.

[FR Doc.77-26121 Filed 9-7-77;8:45 am]

[Application No. 02-02-5332]

KING SMALL BUSINESS INVESTMENT CO.

Application for a License to Operate as a Small Business Investment Co.

On June 17, 1977, notice of the filing of an application for license under section 301(d) of the Small Business Investment Act of 1958, as amended (the Act), (15

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U.S.C. 661 et seq.) by King Small Business Invesement Corp. (Applicant) was published by the Small Business Administration pursuant to 13 CFR 107.102 (1977) in Volume 42 of the FEDERAL REGISTER at page 30958 on June 17, 1977.

Since that time, Richard M. Mancuso, president, general manager, director and 47 percent stockholder named in said notice has withdrawn from the applicant and his ownship of 47 percent of applicant's stock has been acquired by Mr. Neil Ritz, named in the notice above mentioned as vice president, treasurer, director and owner of 22 percent of applicant's stock.

As a result of Mr. Mancuso's withdrawal from the applicant, the officers, directors and stockholders of the applicant will be as follows:

Neil Ritz, President, Treasurer, General Manager, Director and 69 percent Stockholder 32 Longleat Parkway, Eggertsville, N.Y. 14226.

Dr. Lawrence M. Murphy, Vice President, Director and 16 percent Stockholder. 257 E. Ferry St., Buffalo, N.Y. 14208.

Dr. Thomas V. Gullo, Secretary, Director and 10 percent Stockholder. 19 Middlesex Rd., Buffalo, N.Y. 14216.

F. Rene Alvarez, Jr., Assistant Treasurer and 5 percent stockholder--Apartado 354, Valencia, Venezuela.

The Applicant, a New York corporation, authorized to operate in the State of New York, will maintain an office at 110 Pearl Street, Buffalo, N.Y. 14202, and will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of common stock to the above individuals.

As a small business investment company under section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owner and management and the probability of successful operations of the Applicant under this management, including adequate profitability and financial soundness, in accordance with the Act and SBA Rules and Regulations.

Any person may, not later than September 23, 1977, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Buffalo, N.Y.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 31, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-26122 Filed 9-7-77;8:45 am]

[Proposal No. 05-05-0122]

77 CAPITAL CORP.

Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA regulations (13 CFR 107.102 (1977)) by 77 Capital Corp., 777 East Wisconsin Ave., Suite 3060, Milwaukee, Wis. 53202 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and shareholders are:

Name and address	Title and relationship	Percent of voting ownership
Sheldon B. Lubar, 8160 North Green Bay Rd., Milwaukee, Wis. 53209.	Chairman, President, and director.	0
James C. Rowe, 3058 North Stowell Ave., Milwaukee, Wis. 53211.	Vice President and treasurer.	----
Richard A. Van Deuren, 1800 Marine Plaza, Milwaukee, Wis. 53202.	Secretary and director.	0
James F. Junge, c/o Pitcairn Inc., Jenkintown Plaza, 101 Greenwood Ave., Jenkintown, Pa. 19046.	Director	2
Lubar & Co. Inc., 211 West Wisconsin Ave., Milwaukee, Wis. 53202.	Manager	45

There are 14 additional owners of voting stock with none owning as much as 10 percent of said stock.

Lubar & Co. Inc. is a private investment, management, advisory firm concentrating on providing capital for corporate acquisitions and corporate growth.

The Applicant will begin operations with a capitalization of $2,520,000 and will be a source of equity capital and long term loan funds for qualified small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and regulations.

Notice is further given that any person may, not later than September 23, 1977, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L St., N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Milwaukee, Wis.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 1, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-26120 Filed 9-7-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

[No. 111-1.1]

DEPUTY ASSISTANT SECRETARY OF STATE FOR FOREIGN BUILDINGS

Redelegation of Authority

Pursuant to the Authority delegated to me by Redelegation of Authority No. 111-1 dated April 21, 1964 (29 F.R. 5354), as amended, and the provisions of section 636(a)(10) of the Foreign Assistance Act of 1961, as amended, I hereby redelegate to the Deputy Assistant Secretary of State for Foreign Buildings, as agent for A.I.D., authority to lease, purchase, renovate and furnish housing and office space in Cairo, Egypt, as may be required in support on the USAID Egypt Mission, as determined in consultation with the USAID Mission, and subject to the availability of funds under the provisions of the Supplemental Appropriations Act of 1977 (Pub.L. 95-26), and allotments from A.I.D. operating expense funds. This delegation is subject to the provisions of all other applicable laws and regulations, including A.I.D. right to audit use of its funds under this delegation.

This redelegation of authority supplements the functions authorized under provisions of 66 Stat. 140 (22 U.S.C. 297), an amendment to the Foreign Service Buildings Act of 1926, and is executed in compliance with provisions of the Supplemental Appropriations Act of 1977.

The authority delegated herein may be redelegated as necessary to implement

the program at post in accordance with FBO administrative procedures.

This redelegation of authority shall be effective August 31, 1977, and shall remain in effect only through September 30, 1977.

Dated: August 23, 1977.

SAM C. THORNBURG,
Director,
Office of Management Operations.

[FR Doc.77-26057 Filed 9-7-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

U.S. Coast Guard

[CGD 77-159]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from May 5, 1977 to June 22, 1977 (List No. 12-77). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 520p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

COMPASSES, LIFEBOAT

Approval No. 160.014/1/1, Type LMC-101D, compensating mariners liquid-filled magnetic lifeboat compass with mounting, assembly drawing No. D-1 dated July 18, 1945, arranged for chemical light illumination, manufactured by John E. Hand & Sons Co., Beechwood and Birch Avenues, Cherry Hill, N.J. 08034, effective June 7, 1977. (It supersedes Approval No. 160.014/1/0 dated August 5, 1974 to show addition of chemical light.)

LIFEBOAT WINCHES FOR MERCHANT VESSELS

Approval No. 160.015/117/0, Type 7.9 lifeboat winch; approval limited to mechanical components only and for a maximum working load of 17,696 lbs. pull at the drums (8,848 lbs. per fall); identified by Schat Davits, Ltd. drawings S-750144/145 revision A dated April 19, 1977, and drawing list dated May 17, 1977, trackway-mounted unit, manufactured by Watercraft America, Inc., P.O. Box 307, Mims, Fla. 32754, effective June 8, 1977.

BUOYANT CUSHIONS, UNICELLULAR PLASTIC FOAM

Approval No. 160.049/47/0, special approval for 15" x 15" x 3" rectangular unicellular plastic foam buoyant cushion with vinyl dip coating, dwg. No. 62D976 and Bill of Materials dated June 24, 1962, Type IV PFD, manufactured by Guntex Corp., Carbondale, Pa. 18407, effective June 2, 1977. (It is an extension of Approval No. 160.049/27/0 dated May 8, 1972.)

BUOYS, LIFE, RING, UNICELLULAR PLASTIC

Approval No. 160.050/17/3, 30-inch unicellular plastic ring life buoy, U.S.C.G. Specification Subpart 160.050 and dwg. No. 12988, revision 6 dated July 28, 1965, dwg. No. 12988-A dated August 23, 1967, Coast Guard letter, file No. 5946/160.050/17 dated March 24, 1976, Hype IV PFD, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Ave., Brooklyn, N.Y. 11201, effective June 6, 1977. (It is an extension of Approval No. 160.050/17/3 dated June 5, 1972.)

Approval No. 160.050/18/3, 24-inch unicellular plastic ring life buoy, U.S.C.G. Specification Subpart 160.050 and dwg. No. 12988, revision 6 dated July 28, 1965, dwg. No. 12988-A dated August 23, 1967, Type IV PFD, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Ave., Brooklyn, N.Y. 11201, effective June 6, 1977. (It is an extension of Approval No. 160.050/18/3 dated June 5, 1972.)

Approval No. 160.050/19/3, 20-inch unicellular plastic ring life buoy, U.S.C.G. Specification Subpart 160.050 and dwg. No. 12988, revision 6 dated July 28, 1965, dwg. No. 12988-A dated August 23, 1967, Type IV PFD, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Ave., Brooklyn, N.Y. 11201, effective June 6, 1977. (It is an extension of Approval No. 160.050/19/3 dated June 5, 1972.)

HYDRAULIC AND MANUAL RELEASES FOR LIFESAVING EQUIPMENT

Approval No. 160.062/2/0, Model 404 hydraulic and manual releases for lifesaving equipment; for buoyant loads of 200 to 3,750 pounds; identified by assembly drawing BH-2-501, revision B dated June 30, 1969 and drawing list dated September 19, 1969, to be used in accordance with installation and pretensioning details shown on tension gripe assembly drawing BH-4-501, revision C dated September 2, 1969, manufactured by Arrow Manufacturing, Inc., 139 Townsend St., San Francisco, Calif. 94107, effective June 2, 1977. (It is an extension of Approval No. 160.062/2/0 dated August 15, 1972.)

MARINE BUOYANT DEVICE

Approval No. 160.064/17/0, adult, Model No. (s) GP-1 and 712-VH-17-5, vinyl dipped unicellular plastic foam "Sport Fishing or Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 16, Type II PFD, Model 7.2-VH-17.5 has additional marking "Work Vest for Merchant Vessels" and "Repeated Wettings will not injure", manufactured by Gentex Corp., Carbondale, Pa. 18407, effective June 2, 1977. (It is an extension of Approval No. 160.064/17/0 dated May 23, 1972.)

Approval No. 160.064/46/1, Model No. 770D or 8426 cloth covered unicellular plastic foam horseshoe life buoy, manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 7, Type IV PFD, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Ave., Brooklyn, N.Y. 11201, effective June 8, 1977. (It is an extension of Approval No. 160.064/46/1 dated May 9, 1972.)

Approval No. 160.046/55/0, adult, Model No. JPB-2, cloth covered unicellular plastic foam "Motorboat Racing Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 16, Type II PFD, manufactured by Gentex Corp., Carbondale, Pa. 18407, effective June 2, 1977. (It is an extension of Approval No. 160.064/55/0 dated May 23, 1972.)

Approval No. 160.064/60/0, child small, Model Pollywog, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification 160.064 and UL/MD report file No. MQ 16, Type III PFD, manufactured by Gentex Corp., Carbondale, Pa. 18407, effective June 3, 1977. (It is an extension of Approval No. 160.064/60/0 dated May 23, 1972.)

Approval No. 160.064/213/0, child medium, Model Escort, cloth covered unicellular plastic foam "Sailing Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 16, Type III PFD, manufactured by Gentex Corp., Carbondale, Pa. 18407, effective June 2, 1977. (It is an extension of Approval No. 160.064/213/0 dated May 23, 1972.)

Approval No. 160.064/318/0, adult small, Model No. 16260, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 27, and approval 160.064/308 (MQ 28, Sec. 1), Type III PFD, manufactured by Buddy Schoellkopf Products, Inc., 4949 Joseph Hardin Dr., Dallas, Tex. 75236, for Red Head Brand Corp., 4949 Joseph Hardin Dr., Dallas, Tex. 75236, effective June 7, 1977. (It is an extension of Approval No. 160.064/318/0 dated May 11, 1972 and change of address of manufacturer and distributor.)

Approval No. 160.064/319/0, adult medium, Model No. 16260, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 27, and approval 160.064/309 (MQ 28, Sec. 1), Type III PFD, manufactured by Buddy Schoellkopf Products, Inc., 4949 Joseph Hardin Dr., Dallas, Tex. 75236, for Red Head Brand Corp., 4949 Joseph Hardin Dr., Dallas, Tex. 75236, effective June 7, 1977. (It is an extension of Approval No. 160.064/319/0 dated May 11, 1972 and change of address of manufacturer and distributor.)

Approval No. 160.064/320/0, adult large, Model No. 16260, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 27, and approval 160.064/316 (MQ 28, Sec. 1), Type III PFD, manufactured by Buddy Schoellkopf Products, Inc., 4949 Joseph Hardin Dr., Dallas, Tex. 75236, for Red Head Brand Corp., 4949 Joseph Hardin Dr., Dallas, Tex. 75236, effective June 7, 1977. (It is an extension of Approval No. 160.064/320/0 dated May 11, 1972 and change of address of manufacturer and distributor.)

Approval No. 160.064/321/0, adult X-large, Model No. 16260, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 27, and approval 160.064/317 (MQ 28, Sec. 1) Type III PFD, manufactured by Buddy Schoellkopf Products, Inc., 4949 Joseph Hardin Dr., Dallas, Tex. 75236, for Red Head Brand Corp., 4949 Joseph Hardin Dr., Dallas, Tex. 75236, effective June 7, 1977. (It is an extension of Approval No. 160.064/321/0

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dated May 11, 1972 and change of address of manufacturer and distributor).

Approval No. 160.064/1246/0, adult small, cloth covered unicellular plastic foam, Model No. 725 or 750 "Boating & Ski Vest", or Model 751 "Competition Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 16, factory location: Main St., Simpson, Pa., Type III PFD, manufactured by Gentex Corp., Carbondale, Pa. 18407, effective June 22, 1977.

Approval No. 160.064/1247/0, adult medium, cloth covered unicellular plastic foam, Model No. 725 or 750 "Boating & Ski Vest", or Model 751 "Competition Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 16, factory location: Simpson, Pa., Type III PFD, manufactured by Gentex Corp., Carbondale, 18407, effective June 22, 1977.

Approval No. 160.064/1248/0, adult large, cloth covered unicellular plastic foam, Model No. 725 or 750 "Boating & Ski Vest", or Model 751 "Competition Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 16, factory location: Simpson, Pa., Type III PFD, manufactured by Gentex Corp., Carbondale, Pa. 18407, effective June 22, 1977.

Approval No. 160.064/1249/0, adult X-large, cloth covered unicellular plastic foam, Model No. 725 or 750 "Boating & Ski Vest", or Model 751 "Competition Ski Vest" manufactured in accordance with U.S.C.G. Specification subpart 160.064 and UL/MD report file No. MQ 16, factory location: Simpson, Pa., Type III PFD, manufactured by Gentex Corp., Carbondale, Pa. 18407, effective June 22, 1977.

Approval No. 160.064/1250/0, adult small, cloth covered unicellular plastic foam, Model No. 730 or 731 "Boating & Ski Vest", or Model 750 "Sportsman Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 16, factory location: Simpson, Pa., Type III PFD, manufactured by Gentex Corp., Carbondale, Pa., 18407, effective June 22, 1977.

Approval No. 160.064/1251/0, adult medium, cloth covered unicellular plastic foam, Model No. 730 or 731 "Boating & Ski Vest", or Model 740 "Sportsman Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 16, factory location: Simpson, Pa., Type III PFD, manufactured by Gentex Corp., Carbondale, Pa. 18407, effective June 22, 1977.

Approval No. 160.064/1252/0, adult large, cloth covered unicellular plastic foam, Model No. 730 or 731 "Boating & Ski Vest", or Model 740 "Sportsman Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 16, factory location: Simpson, Pa., Type III PFD, manufactured by Gentex Corp., Carbondale, Pa. 18407, effective June 22, 1977.

Approval No. 160.064/1253/0, adult X-large, cloth covered unicellular plastic foam, Model No. 730 or 731 "Boating & Ski Vest", or Model 740 "Sportsman Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 16, factory location: Simpson, Pa., Type III PFD, manufactured by Gentex Corp., Carbondale, Pa. 18407, effective June 22, 1977.

PROTECTING COVER FOR LIFEBOATS

Approval No. 160.065/4/2, "Sea-Jay Anti-Exposure lifeboat cover", Type I, protecting cover for the occupants of all types of aluminum, steel, and fibrous glass reinforced plastic (FRP) lifeboats for lengths 22' through 37' lifeboats identified by general arrangements dwg. CJH/EC/003, Alt. 1 dated June 1972, modifications to the cover and supports may be necessary in the case of some motor-propelled lifeboats equipped with vertical (dry) exhaust lines, radio cabins and antenna masts, manufactured by C. J. Hendry Co., 139 Hendry Company, San Francisco, Calif. 94107, effective June 2, 1977. (It is an extension of Approval No. 160.065/4/2 dated August 2, 1972.)

SOUND-POWERED TELEPHONE STATION

Approval No. 161.005/51/0, sound-powered telephone station, selective ringing, common talking, 19 stations maximum, bulkhead mounting, splash-proof, with internal hand generator bell, Model SW, dwg. No. 50, Alt. 0 dated April 1957, for use in locations not exposed to the weather and where a loud ringing bell is not necessary, manufactured by Hose-McCann Telephone Co., Inc., 524 W. 23rd Street, New York, N.Y. 10011, effective June 7, 1977. (It is an extension of Approval No. 161.005/51/0 dated August 1, 1972.)

Approval No. 161.005/56/0, sound-powered telephone station, selective ringing, common talking, 19 stations maximum, bulkhead mounting, with separately mounted 6" or 8" bell, Model SWT, dwg. No. 56, Alt. 0 dated May 1957, manufactured by Hose-McCann Telephone Co., Inc., 524 W. 23rd Street, New York, N.Y. 10011, effective June 7, 1977. (It is an extension of Approval No. 161.005/56/0 dated August 1, 1972.)

Approval No. 161.005/57/0, sound-powered telephone station, selective ringing, common talking, 19 stations maximum, pedestal mounting, with attached 6" bell, Model SWTP, dwg. No. 58, Alt. 0 dated May 1957, manufactured by Hose-McCann Telephone Co., Inc., 524 W. 23rd Street, New York, N.Y. 1011, effective June 7, 1977. (It is an extension of Approval No. 161.005/57/0 dated August 1, 1972.)

STRUCTURAL INSULATIONS FOR MERCHANT VESSELS

Approval No. 164.007/38/0, "BX-Spintex Type 643" mineral wool type structural insulation identical to that described in Underwriters Laboratories Report R6797-1, 71NK-5638 dated July 6, 1972, bats and blankets approved for use without other insulating material to meet A-60 Class requirements in a 3-inch (75 mm) thickness at 6 pounds per cubic foot (96KG per cubic meter) density, manufactured by Roclaine S. A., 7, Rue Du Cirque, Paris—VIII, France, effective May 5, 1977. (It is an extension of Approval No. 164.-007/38/0 dated July 20, 1972.)

Approval No. 164.007/43/0, "BX-Spintex Type 693" mineral wool type structural-insulation identical to that described in Underwriters Laboratories Report R6797-1, 71 NK5638 dated July 6, 1972, bats and blankets approved for use without other insulating material to meet A-60 Class requirements in a 3-inch (75 mm) thickness at 3.2 pounds per cubic foot (52KG per cubic meter) density, manufactured by Roclaine S. A. 7, Rue Du Cirque, Paris—VIII, France, effective May 5, 1977. (It is an extension of Approval No. 164.007/43/0 dated July 20, 1972.)

Approval No. 164.007/44/0, "BX-Spintex Type 693" mineral wool type structural insulation identical to that described in Underwriters Laboratories Report R6797-1, 71NK563B dated July 6, 1972, bats and blankets approved for use without other insulating material to meet A-60 Class requirements in a 4-inch (102 mm) thickness at 3.2 pounds per cubic foot (52KG per cubic meter) density, manufactured by Roclaine S. A., 7, Rue Du Cirque, Paris—VIII, France, effective May 5, 1977. (It is an extension of Approval No. 164.007/44/0 dated July 20, 1972.)

Approval No. 164.007/51/1, "Ceramospray," sprayed asbestos free fiber type structural insulation, identical to that described in Underwriters Laboratories, Inc., report 65C7000, File R2923-23-24, dated April 29, 1966, approved for use without other insulating material to meet Class A-60 requirements in a 1¾ inch thickness and 11 pounds per cubic foot density, manufactured by Sprayerraft Corp., 2508 Coney Island Avenue, Brooklyn, N.Y. 11223, effective June 10, 1977. (It supersedes Approval No. 164.007/51/0 dated February 11, 1977 to show correct material and identifying data.)

INTERIOR FINISHES FOR MERCHANT VESSELS

Approval No. 164.012/4/0, "Micarta" laminated plastic interior finish type PFR-1, identical to that described in Westinghouse Corp. letter dated March 24, 1972, and Underwriters' Laboratories, Inc., report file R4301, assignment 69NK6512 dated July 21, 1970, bonded with Borden Chemical Cascophen RS-216 adhesive in accordance with instructions accompanying the adhesive, manufactured by Westinghouse Electric Corp., Decorative Micarta Division, Hampton, S.C. 29924, effective June 16, 1977. (It reinstates and supersedes Approval No. 164.012/4/0 terminated May 17, 1977.)

Dated: August 25, 1977.

H. G. LYONS,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[CGD 77-158]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from July 17, 1977, to July 19, 1977 (List No. 13-77). These actions were taken in accordance with the procedure set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specification prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

GAS MASKS, SELF-CONTAINED BREATHING APPARATUS, AND SUPPLIED-AIR RESPIRATORS, FOR MERCHANT VESSELS

The SurvivAir, Division of U.S. Divers Co., 3323 W. Warner Avenue, Santa Ana, Calif. 92704, no longer manufactures certain self-contained breathing apparatus and Approval No. 160.011/32/0 was therefore terminated effective July 18, 1977.

MARINE BUOYANT DEVICE

The L. S. Brown Co., 228 Margaret Street SE., Atlanta, Ga. 30315, no longer manufactures certain marine buoyant devices and Approval Nos. 160.064/677/0 and 160.064/678/0 were therefore terminated effective July 18, 1977.

The A. B. Sea, Ltd., 3596 Geddes Avenue, Littleton, Colo. 80121, no longer manufactures certain marine buoyant devices for the High Performance Products, Inc., 25-Industrial Park, Hingham, Mass. 02043, and Approval Nos. 160.064/679/0, 160.064/680/0, and 160.064/681/0 were therefore terminated effective July 18, 1977.

SAFETY VALVES (POWER BOILERS)

The MIPCO Division, of Clark-Reliance Corp., 15901 Industrial Parkway, Cleveland, Ohio 44135, Approval Nos. 162.001/91/2, 162.001/92/2, 162.001/94/2, 162.001/95/2, 162.001/98/2, 162.001/99/2, 162.001/177/1, 162.001/178/1, 162.001/179/1, 162.001/180/1, 162.001/181/1, and 162.001/182/1 were expired and were terminated effective July 17, 1977.

SAFETY VALVES (STEAM HEATING BOILERS)

The MIPCO Division of Clark-Reliance Corp., 15901 Industrial Parkway, Cleveland, Ohio 44136, no longer manufacture certain safety valves and Approval Nos. 162.012/3/2, 162.012/4/2, 162.012/5/2, 162.012/6/2, 162.012/10/2, 162.012/11/2, 162.012/12/2, 162.012/13/2, and 162.012/14/2 were therefore terminated effective July 19, 1977.

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

The Eastern Cold Storage Insulation Co., Inc., 730 3rd Avenue, New York, N.Y. 10017, no longer manufactures certain incombustible materials and Approval Nos. 164.009/105/1, 164.009/113/1, 164.009/150/0, 164.009/157/0, and 164.009/161/0 were therefore terminated effective July 18, 1977.

Dated: August 25, 1977.

H. G. LYONS,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.77-25985 Filed 9-7-77;8:45 am]

[CGD 77-166]

NEW YORK HARBOR VESSEL TRAFFIC SERVICE ADVISORY COMMITTEE

Open Meeting

The New York Harbor Vessel Traffic Service Advisory Committee will conduct an open meeting on Wednesday, September 28, 1977, in the Community Center, Building 301, Governors Island, N.Y. The meeting is scheduled to begin at 10:30 a.m.

The agenda for this meeting of the New York Harbor Vessel Traffic Service Advisory Committee is as follows:

1. Introduction of Commander P. C. SHEARER, U.S. Coast Guard, the Project Officer and prospective Commanding Officer of the New York Vessel Traffic Service.

2. Status Report on the implementation of the New York Vessel Traffic Service given by the Vessel Traffic Service Staff.

3. Comments or questions from the floor.

The New York Harbor Vessel Traffic Service Advisory Committee was established by the Commander, Third Coast Guard District to advise on the need for, and development, installation and operations of a Vessel Traffic Service for New York Harbor.

Members of the Committee serve voluntarily without compensation from the Federal Government, either travel or per diem.

Interested persons may obtain additional information or the summary of the minutes of the meeting by writing to:

Commander P. C. Shearer, USCG, Project Officer, Vessel Traffic Service, Building 400, Section N, Third Coast Guard District, Governors Island, N.Y. 10004.

or by calling 212-264-0409.

This notice is issued under section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App. 1).

Dated: August 17, 1977.

W. F. REA III,
Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc.77-25983 Filed 9-7-77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

PORTLAND HYDRAULIC CEMENT FROM CANADA

Antidumping Proceeding Notice

AGENCY: United States Treasury Department.

ACTION: Initiation of antidumping investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether or not imports of portland hydraulic cement from Canada are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market.

EFFECTIVE DATE: September 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Vincent P. Kane, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On August 2, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Glens Falls Division of the Flintkote Co., Glens Falls, N.Y., a domestic producer of the subject merchandise, indicating a possibility that portland hydraulic cement from Canada is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

For purposes of this notice the term "portland hydraulic cement" refers to portland hydraulic cement, other than white non-staining cement.

There is evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States. This evidence indicates that losses of sales, production and employment have occurred during the last three years. Further, there is information indicating that the margin by which domestic producers are being undersold by Canadian importers would be eliminated were the price differential between prices in the Canadian home market and for export to the United States eliminated.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined that there are grounds for doing so, the United States Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel.

[FR Doc.77-26142 Filed 9-7-77;8:45 am]

Office of the Secretary

ELEMENTAL SULPHUR FROM MEXICO

Tentative Determination To Modify or Revoke Dumping Finding

AGENCY: U.S. Treasury Department.

ACTION: Tentative modification or revocation of finding of dumping.

SUMMARY: This notice is to advise the public that it appears that Azufrera Panamericana, S.A. (Azufrera), of Mexico is no longer selling elemental sulphur from Mexico at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of

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such or similar merchandise sold in the home market or to third countries. In addition, Azufrera has given assurances that future sales will not be at less than fair value. If this action is made final, imports of this merchandise from Azufrera on or after the effective date of this notice, will no longer be liable for special duties under the Antidumping Act, 1921. Interested persons are invited to make comments.

EFFECTIVE DATE: September 8, 1977.

FOR FURTHER INFORMATION CONTACT:

David P. Mueller, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5492).

SUPPLEMENTARY INFORMATION: A finding of dumping with respect to elemental sulphur from Mexico was published as Treasury Decision 72–179 in the FEDERAL REGISTER of June 28, 1972 (37 FR 12727).

After due investigation, it has been determined tentatively that elemental sulphur produced and sold by Azufrera, from Mexico, is no longer being, nor likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

STATEMENT OF REASONS ON WHICH THIS TENTATIVE DETERMINATION IS BASED

The investigation indicated that all sales of elemental sulphur by Azufrera for a period of two years prior to this determination have been made at not less than fair value, and written assurances have been given that future sales of elemental sulphur to the United States will not be made at less than fair value.

Accordingly, notice is hereby given that the Department of the Treasury intends to modify the finding with respect to elemental sulphur from Mexico, to exclude shipments of sulphur produced and sold by Azufrera.

In accordance with section 153.40, Customs Regulations, (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than September 19, 1977. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than October 11, 1970.

This notice is published pursuant to section 153.44(c) of the Customs Regulations (19 CFR 153.44(c)).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

SEPTEMBER 1, 1977.

[FR Doc.77-26059 Filed 9-7-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 476]

ASSIGNMENT OF HEARINGS

SEPTEMBER 2, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

AB 18 (Sub-No. 21), Chesapeake & Ohio Railway Co. Abandonment of Carferry Service Across Lake Michigan Between Ludington, Mich., and Kewaunee, Milwaukee, and Manitowoc, Wis., and AB 31 (Sub-No. 5), Grand Trunk Western Railroad Co. and The Grand Trunk Milwaukee Carferry Co. Abandonment Of Its Lake Michigan Carferry Operation, From Eastern Port Of Muskegon To Western Port of Milwaukee in Muskegon County, Mich., and Milwaukee County, Wis., now being assigned October 17, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 140908 (Sub-No. 4), Commercial & Package Delivery Service, Inc., now being assigned November 28, 1977 (1 week), at Charlotte, N.C., in a hearing room to be later designated.

MC 121240 (Sub-No. 4), ABC Truck Line, Inc., application dismissed.

MC 142207 (Sub-No. 8), Gulf Coast Truck Services, Inc., now being assigned November 8, 1977 (2 days), for hearing in Memphis, Tenn., in a hearing room to be later designated.

MC 114334 (Sub-No. 35), Builders Transportation Co., now being assigned November 10, 1977 (2 days), for hearing in Memphis, Tenn., in a hearing room to be later designated.

MC 82063 (Sub-No. 72), Klipsch Hauling Co., now being assigned November 14, 1977 (1 week), for hearing in Little Rock, Ark., in a hearing room to be later designated.

MC 125551 (Sub-No. 13), K&W Trucking Co., Inc., now being assigned October 31, 1977 (1 week), at Anchorage, Alaska, in a hearing room to be later designated.

MC 60066 (Sub-No. 11), Bee Line Motor Freight, Inc., now being assigned November 1, 1977 (3 days), at Lincoln, Nebr., in a hearing room to be later designated.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-26158 Filed 9-7-77;8:45 am]

[Notice No. 475]

ASSIGNMENT OF HEARINGS

SEPTEMBER 2, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION

MC 127810 (Sub-No. 3), Sherman & Boddie, Inc., now assigned September 15, 1977, at Washington, D.C. is postponed indefinitely instead of being canceled and application dismissed.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-26159 Filed 9-7-77;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

SEPTEMBER 2, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before September 23, 1977.

FSA No. 43424—*Freight, All Kinds from Ramp Points in Texas.* Filed by Southwestern Freight Bureau, Agent (No. B–700), for interested rail carriers. Rates on freight, all kinds, in carloads, as described in the application, from ramp points in Texas, to specified points in Illinois, Kansas, Missouri, Oklahoma, and Tennessee—TOFC Plan II½.

Grounds for relief—Market competition.

Tariffs—Supplement 196 to Southwestern Freight Bureau, Agent, tariff 74–C, I.C.C. No. 5127, and 3 other schedules named in the application. Rates are published to become effective on September 30, 1977.

FSA No. 43425—*Household Goods from New Orleans, La., and Houston, Tex. (Import).* Filed by Southwestern Freight Bureau, Agent (No. B–701), for interested rail carriers. Rates on household goods, in carloads, as described in the application, from New Orleans, La., and Houston, Tex. (Import), to ramp points in southwestern and western trunk-line territories—TOFC Plan II½.

Grounds for relief—Market competition.

Tariffs—Supplement 196 to Southwestern Freight Bureau, Agent, tariff 74–G, I.C.C. No. 5127, and 4 other schedules named in the application. Rates are published to become effective on September 30, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-26155 Filed 9-7-77;8:45 am]

IRREGULAR ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

SEPTEMBER 2, 1977.

The following letter notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minmizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before September 19, 1977. A copy must also be served upon applicant or its representative Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter notices by number.

No. MC 2607 (Sub-No. E96), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Highway, Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in New Jersey on, north and east of a line beginning at the Delaware River, thence along U.S. Highway 322 to junction New Jersey Highway 77, thence along New Jersey Highway 77 to Bridgeton, N.J., thence along New Jersey Highway 533 to Newport, N.J., near the Delaware River, to points in Queen Annes County, Md. The purpose of this filing is to eliminate points in Caroline County, Md.

No. MC 2607 (Sub-No. E97), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Highway, Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in Kent and Sussex Counties, Del., to points in Connecticut. The purpose of this filing is to eliminate points in Caroline County, Md.

No. MC 2607 (Sub-No. E98), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Highway, Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in New Jersey on, north and east of a line beginning at the Delaware River, thence along U.S. Highway 322 to junction New Jersey Highway 77, thence along New Jersey Highway 77 to Bridgeton, N.J., thence along New Jersey Highway 533 to Newport, N.J., near the Delaware River, to points in Queen Annes County, Md. The purpose of this filing is to eliminate points in Caroline County, Md.

No. MC 2607 (Sub-No. E99), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Highway, Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in Kent and Sussex Counties, Del., to points in Pennsylvania. The purpose of this filing is to eliminate the gateway of points in Caroline County, Md.

No. MC 2607 (Sub-No. E100), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Highway, Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in Kent and Sussex Counties, Del., to Wilmington, Del. The purpose of the filing is to eliminate the gateway of points in Caroline County, Md.

No. MC 44735 (Sub-No. E2), filed May 9, 1977. Applicant: KISSICK TRUCK LINES, INC., 7101 East 12th Street, Kansas City, Mo., 64126. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles* (except commodities in bulk and commodities requiring special equipment), between points in Indiana within the commercial zone of Chicago, Ill., on the one hand, and, on the other, points in Kansas City, Mo. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 61825 (Sub-No. E1025), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385 Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, except commodities of unusual value, commodities in bulk, household goods as defined by the Commission, between the District of Columbia and points in Maryland on and south of a line beginning at the Pennsylvania-Maryland State line, and extending east along U.S. Highway 40 to junction U.S. Highway 40 Alternate, to junction U.S. Highway 40 near Frederick, Md., thence to junction Maryland Highway 144, thence along Maryland Highway 144 to Baltimore, Md., thence along the shores of the Chesapeake Bay and Elk River to the Chesapeake and Delaware Canal, and to the Maryland-Delaware State line, and points in West Virginia on and east of a line beginning at the Virginia-West Virginia State line, and extending west along U.S. Highway 60 to junction U.S. Highway 219, to junction West Virginia Highway 72, to junction West Virginia Highway 26, and thence to the West Virginia-Pennsylvania State line, on the one hand, and, on the other, points in Mississippi. The purpose of this filing is to eliminate the gateways of Lynchburg, Va., and a point in Smyth County, Va.,

No. MC 78228 (Sub-No. E193) (correction), filed August 26, 1975, published in the FEDERAL REGISTER issue of July 7, 1977, and republished, as corrected, this issue. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and metals*, in dump vehicles, from points in New York bounded by a line beginning at Buffalo, N.Y., thence along New York Highway 5 to Silver Creek, N.Y., thence along New York Highway 428 to junction New York Highway 39, thence along New York Highway 39 to junction New York Highway 16, thence along New York Highway 16 to the place of beginning, to points in Delaware. The purpose of this filing is to eliminate the gateway of Niagara Falls, N.Y.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 114019 (Sub-No. E483), filed May 31, 1974. Applicant MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such general merchandise as is dealt in by chain grocery stores, and supplies machinery, fixtures, and equipment*, incidental to the production warehousing and sale thereof (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) from Akron, Ohio, to points in that part of Illinois on, south and west of a line beginning at the Indiana-Illinois State line, thence west along Illinois Highway 33 to junction Illinois Highway 128, thence north along Illinois Highway 128 to junction Illinois Highway 16, thence west along Illinois Highway 16 to junction Illinois Highway 29, thence north along Illinois Highway 29 to junction Illinois Highway 104, thence west along Illinois Highway 104 to junction Illinois Highway 78, thence north along Illinois Highway 78 to junction U.S. Highway 67, thence north along U.S. Highway 67 to junction U.S. Highway 136, thence west along U.S. Highway 136 to the Illinois-Iowa State line. The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Company at Jef-

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fersonville, Ind. (which is located in the Louisville, Ky., commercial zone). (2) From Cincinnati, Ohio, to points in that part of Minnesota, on, north and west of a line beginning at the Iowa-Minnesota State line and extending north along U.S. Highway 63 to junction U.S. Highway 52, thence north along U.S. Highway 52 to junction Minnesota Highway 50, thence north along Minnesota Highway 50 to junction Interstate Highway 35, thence north along Interstate Highway 35 to junction Interstate Highway 494, thence north along Interstate Highway 494 to junction Minnesota Highway 152, thence north along Minnesota Highway 152 to junction U.S. Highway 169, thence north along U.S. Highway 169 to junction Minnesota 18, thence north along Minnesota Highway 18 to junction Minnesota Highway 371, thence north along Minnesota Highway 371 to junction U.S. Highway 71, thence north along U.S. Highway 71 to the Minnesota-Canada Line.

The purpose of this filing is to eliminate the gateways of the warehouse and other storage facility of the Colgate-Palmol Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone), and points in Illinois within the commercial zone of Muscatine, Iowa. (3) From Cleveland, Ohio, to points in that part of Illinois on, west and south of a line beginning at the Illinois-Indiana State line, thence west along Illinois Highway 33 to junction Illinois Highway 128, thence north along Illinois Highway 128 to junction Illinois Highway 16, thence west along Illinois Highway 16 to junction Illinois Highway 29, thence north along Illinois Highway 29 to junction Illinois Highway 104, thence west along Illinois Highway 104 to junction U.S. Highway 67, thence north along U.S. Highway 67 to junction Illinois Highway 99, thence north along Illinois Highway 99 to junction U.S. Highway 24, thence west along U.S. Highway 24 to the Illinois-Missouri State line. The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Company at Jeffersonville, Ind. (which is located in the Louisville, Ky. commercial zone). (4) From Columbus, Ohio, to points in that part of Illinois on, south and west of a line beginning at the Indiana-Illinois State line, thence west along U.S. Highway 50 to junction Illinois Highway 127, thence north along Illinois Highway 127 to junction Interstate Highway 55, thence north along Interstate Highway 55 to junction Illinois Highway 108, thence west along Illinois Highway 108 to junction Illinois Highway 106, thence north along Illinois Highway 106 to junction U.S. Highway 36, thence west along U.S. Highway 36 to junction Illinois Highway 100, thence north along Illinois Highway 100 to junction Illinois Highway 99, thence north along Illinois Highway 99 to junction U.S. Highway 24, thence west along U.S. Highway 24 to the Illinois-Missouri State line. The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone). (5) From Dayton, Ohio, to points in that part of Illinois on and south of U.S. Highway 50. The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone). (6) From Detroit, Mich., to points in that part of Illinois on, south and west of a line beginning at the Illinois-Indiana State line, thence west along Illinois Highway 33 to junction Illinois Highway 128, thence north along Illinois Highway 128 to junction Illinois Highway 16, thence west along Illinois Highway 16 to the Illinois-Missouri State line.

The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone). (7) From Grand Rapids, Mich., to points in that part of Illinois on and south of Illinois Highway 15 and U.S. Highway 460. The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone). (8) (a) From Evansville, Ind., to points in Ohio (except Cincinnati, Dayton, Columbus, Toledo, and Cleveland), the lower Peninsula of Michigan and points in that part of Wisconsin, on and north of U.S. Highway 10. The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone). (8) (b) From Evansville, Ind., to points in that part of Minnesota on, north and west of a line beginning at the North Dakota-Minnesota State line and extending east along U.S. Highway 10 to junction Minnesota Highway 34, thence east along Minnesota Highway 34 to junction Minnesota Highway 371, thence north along Minnesota Highway 371 to junction U.S. Highway 2, thence east along U.S. Highway 2 to unnumbered highway, thence north along unnumbered highway to Minnesota Highway 72, to the Minnesota-Canada line. The purpose of this filing is to eliminate the gateways of the warehouse and other storage facility of the Colgate-Palmolive Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone), and points in Illinois within the commercial zone of Muscatine, Iowa. (9) From Madison, Wis., to points in that part of Ohio on and south of a line beginning at the Indiana-Ohio State line and extending east along Interstate Highway 74 to junction Interstate Highway 275, thence east along Intersetate Highway 275 to junction U.S. Highway 50, thence east along U.S. Highway to junction Ohio Highway 124, thence east along Ohio Highway 124 to junction Ohio Highway 93, thence north along Ohio Highway 93 to junction Ohio Highway 327, thence east along Interstate Highway 275 to along U.S. Highway 50 to junction Ohio east along Ohio Highway 327 to junction Ohio Highway 124, thence east along Ohio Highway 124 to the Ohio-West Virginia State line (except Cincinnati, Ohio).

The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone). (10) From Pittsburgh, Pa., to points in that part of Illinois on, south and west of a line beginning at the Indiana-Illinois State line and extending west along U.S. Highway 150 to junction Illinois Highway 133, thence west along Illinois Highway 133 to junction Illinois Highway 32, thence north along Illinois Highway 32 to junction Illinois Highway 48, thence north along Illinois Highway 48 to junction U.S. Highway 136 to junction U.S. Highway 67, thence north along U.S. Highway 67 to junction U.S. Highway 34, thence west along U.S. Highway 34 to the Illinois-Iowa State line. The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone). (11) From St. Louis, Mo., to points in that part of Ohio on, south and east of a line beginning at the Ohio-Michigan State line, thence south along U.S. Highway 23 to junction Interstate Highway 475, thence south along Interstate Highway 475 to junction Interstate Highway 75, thence south along Interstate Highway 75 to junction Ohio Highway 129 thence west along Ohio Highway 129 to the Indiana-Ohio State line (except Cincinnati, Ohio), points in that part of Michigan on and east of a line beginning at the Ohio-Michigan State line and extending north along Michigan Highway 52 to junction Michigan Highway 46, thence west along Michigan Highway 46 to junction Michigan Highway 30, thence north along Michigan Highay 55, thence along Michigan Highway 55 to junction Michigan Highway 33, thence north along Michigan Highway 33 to Lake Huron. The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone). (12) From Carbondale, Ill., to points in Ohio (except Dayton, Cincinnati, Cleveland, and Columbus).

The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone). *Foodstuffs*, raw and manufactured, from New York, N.Y., and points within 30 miles of New York, N.Y., to points in that part of Minnesota on and west of a line beginning at the

Iowa-Minnesota State line and extending north along U.S. Highway 218 to junction Interstate Highway 35, thence north along Interstate Highway 35 to junction Interstate Highway 494, thence west along Interstate Highway 494 to junction Minnesota Highway 152, thence north along Minnesota Highway 152 to junction U.S. Highway 10, thence north along U.S. Highway 10 to junction Minnesota Highway 371, thence north along Minnesota Highway 371 to junction U.S. Highway 71, thence north along U.S. Highway 71 to the Canada-Minnesota State line, and points in Missouri, on, north and west of a line beginning at the Iowa-Missouri State line and extending west along U.S. Highway 136 to junction Missouri Highway 15, thence south along Missouri Highway 15 to junction Missouri Highway 11, thence west along Missouri Highway 11 to junction U.S. Highway 36, thence west along U.S. Highway 36 to junction U.S. Highway 69, thence south along U.S. Highway 69 to the Missouri-Kansas State line. The purpose of this filing is to eliminate the gateway of points in Illinois within the commercial zone of Muscatine, Iowa. *Foodstuffs*, raw and manufactured (except commodities in bulk and commodities requiring special equipment), (1) from Philadelphia, Pa., and points within 30 miles thereof, and Baltimore, Md., to points in that part of Minnesota on and west of a line beginning at the Iowa-Minnesota State line and extending north along U.S. Highway 218 to junction Interstate Highway 35, thence north along Interstate Highway 35 to junction Interstate Highway 494, thence west along Interstate Highway 494 to junction Minnesota Highway 152, thence north along Minnesota Highway 152 to junction U.S. Highway 10, thence north along U.S. Highway 10 to junction Minnesota Highway 371, thence north along Minnesota Highway 371 to junction U.S. Highway 71, thence north along U.S. Highway 71 to the Canada-Minnesota State line, and points in Missouri, on, north and west of a line beginning at the Iowa-Missouri State line and extending west along U.S. Highway 136 to junction Missouri Highway 15, thence south along Missouri Highway 15 to junction Missouri Highway 11, thence west along Missouri Highway 11 to junction U.S. Highway 36, thence west along U.S. Highway 36 to junction U.S. Highway 69, thence south along U.S. Highway 69 to the Missouri-Kansas State line. The purpose of this filing is to eliminate the gateway of points in Illinois within the commercial zone of Muscatine, Iowa. *Foodstuffs*, raw and manufactured (except commodities in bulk and commodities requiring special equipment), (1) from Philadelphia, Pa., and points within 30 miles thereof, and Baltimore, Md., to points in that part of Minnesota on and west of a line beginning at the Iowa-Minnesota State line and extending north along U.S. Highway 218 to junction Interstate Highway 35, thence north along Interstate Highway 35 to junction Interstate Highway 494, thence west along Interstate Highway 494 to junction Minnesota Highway 152, thence north along Minnesota Highway 152 to junction U.S. Highway 10, thence north along U.S. Highway 10 to junction Minnesota Highway 371, thence north along Minnesota Highway 371 to junction U.S. Highway 71, thence north along U.S. Highway 71 to the Canada-Minnesota State line, and points in Missouri, on, north and west of a line beginning at the Iowa-Missouri State line and extending south along U.S. Highway 63 to junction Missouri Highway 11, thence south along Missouri Highway 11 to junction U.S. Highway 36, thence west along U.S. Highway 36 to junction U.S. Highway 69, thence south along U.S. Highway 69 to junction Missouri Highway 116, thence west along Missouri Highway 116 to the Kansas-Missouri State line.

The purpose of this filing is to eliminate the gateways of points in Ohio and points in Illinois within the commercial zone of Muscatine, Iowa. (2) From points in West Virginia within two miles of the Ohio River extending north from Sistersville, W. Va., to junction West Virginia-Ohio-Pennsylvania State lines, to points in that part of Minnesota, on, north and west of a line beginning at the Iowa-Minnesota State line and extending north along U.S. Highway 59 to the Minnesota-Canada line. The purpose of this filing is to eliminate the gateways of points in Ohio and points in Illinois within the commercial zone of Muscatine, Iowa. *Foodstuffs*, raw and manufactured, from points in Ohio within two miles of the Ohio River extending north from Fly, Ohio, to junction West Virginia-Ohio-Pennsylvania State lines, to points in that part of Minnesota, on, north, and west of a line beginning at the Iowa-Minnesota State line and extending north along U.S. Highway 59 to the Minnesota-Canada line. The purpose of this filing is to eliminate the gateways of points in Illinois within the commercial zone of Muscatine, Iowa.

No. MC 124211 (Sub-No. E94), filed August 14, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (a) Between points in Nebraska (except Richardson County), on the one hand, and, on the other, points in Louisiana. *(Lincoln, Nebr.); (b) between points in Richardson County, Nebr., on the one hand, and, on the other, points in Louisiana on and east of the Mississippi River, and on and south of Interstate Highway 12. *(Lincoln, Nebr.); (c) from points in Louisiana, to points in North Dakota, South Dakota, and Wyoming. *(Lincoln, Nebr. and points in Saunders County, Nebr.); (d) from points in Louisiana, to points in Iowa on, north and west of a line beginning at the Iowa-Nebraska State line, thence over U.S. Highway 6 to junction U.S. Highway 71, thence over U.S. Highway 71 to junction U.S. Highway 20, thence over U.S. Highway 20 to junction U.S. Highway 169, thence over U.S. Highway 169 to the Iowa-Minnesota State line. *(Lincoln, Nebr. and points in Saunders County, Nebr.); (e) from points in Louisiana on and south of U.S. Highway 80, to Austin, Minn., and points in Minnesota on and west of U.S. Highway 61, and to points in Wisconsin on, west and north of a line beginning at Ashland, Wis., thence over U.S. Highway 63 to junction U.S. Highway 10, thence over U.S. Highway 10 to the Minnesota-Wisconsin State line. *(Lincoln, Nebr. and points in Saunders County, Nebr.). The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 124211 (Sub-No. E95), filed August 16, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) From points in Nebraska (except points on and south of Nebraska Highway 2 and on and east of U.S. Highway 77), to points in Indiana, Michigan (except the upper peninsula), and Ohio, *(points in Saunders County, Nebr.); (2) From points in Nebraska on and west of a line beginning at the Nebraska-South Dakota State line, thence over U.S. Highway 81 to junction U.S. Highway 275, thence over U.S. Highway 275 to junction Nebraska Highway 32, thence over Nebraska Highway 32 to junction U.S. Highway 73, thence over U.S. Highway 73 to junction U.S. Highway 30, thence over U.S. Highway 30 to the Nebraska-Iowa State line (except points on and south of Nebraska Highway 2 and on and east of U.S. Highway 77), to points in Illinois *(points in Saunders County, Nebr.); (3) From points in Nebraska (except points on and south of Nebraska Highway 2 and on and east of U.S. Highway 77), to points in Illinois on and east of Interstate Highway 55 *(points in Saunders County, Nebr.); (4) From points in Nebraska on and south of U.S. Highway 30 and on and west of U.S. Highway 77, to points in the upper peninsula of Michigan *(points in Saunders County, Nebr.); (5) From points in Nebraska on and south of Nebraska Highway 2 (except points in Richardson County, Nebr.), to points in Michigan, and those points in Indiana and Ohio on and north of U.S. Highway 30 *(points in Saunders County, Nebr.). The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 124211 (Sub-No. E98), filed August 22, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed meats, meat products, meat. byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (a) from Kansas City, Mo., to points in Nebraska on, west, and north of a line beginning at the South Dakota-Nebraska State line and extending along Nebraska Highway 14 to junction U.S. Highway 34, thence along U.S. Highway 34 to the Nebraska-Colorado State line *(Grand Island, Nebr.); (b) from Chicago, Ill., to points in Nebraska on and west of a line beginning at the Kansas-Nebraska State line, thence over Nebraska Highway 15 to junction Nebraska Highway 74, thence

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over Nebraska Highway 74 to the junction U.S. Highway 81, thence over U.S. Highway 81 to junction Nebraska Highway 91, thence over Nebraska Highway 91 to junction U.S. Highway 281, thence over U.S. Highway 281 to the Nebraska-South Dakota State line °(Grand Island, Nebr.). The purpose of this filing is to elliminate the gateway indicated by the asterisks above.

No. MC 124211 (Sub-No. E105), filed August 23, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk and except liquid commodities in bulk, in tank vessels), (a) from points in Nebraska on and south of U.S. Highway 30, and on and east of U.S. Highway 81, to points in North Dakota °(points in Saunders County, Nebr.); (b) from points in Nebraska on and south of U.S. Highway 30, and on and east of U.S. Highway 281, to points in North Dakota on and north of U.S. Highway 10 °(points in Saunders County, Nebr.); (c) from points in Nebraska on and south of U.S. Highway 30, to points in North Dakota on and east of North Dakota Highway 18 °(points in Saunders County, Nebr.). The purpose of this filing is to elliminate the gateway indicated by asterisks.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77 26160 Filed 9-7-77;8:45 am]

LIST OF INTERMEDIARIES

September 1, 1977.

The provision of the Canons of Conduct of the Interstate Commerce Commission relating to Intermediaries (49 C.F.R. § 1000.735-23) reads as follows:

Intermediaries. Members and employees of the Commission shall not recommend or suggest the use of any nongovernmental intermediary (individual, firm, corporation, or other entity) offering any service as consultant, agency representative, attorney, expeditor, or specialist for the purpose of assisting in any negotiations, transactions, or other business with or before this Commission: *Provided, however*, That making available general reference lists of such nongovernmental intermediaries, the use of which is authorized by the Secretary of the Commission shall not be deemed to be in violation of this section.

The following is a general reference list of nongovernmental intermediaries in the Washington area who regularly utilize the Commission's records in the Public Tariff File Room of its Bureau and others who engage in rate work, the preparation of tariff material, etc.

The list has been prepared solely for the information and convenience of the public. It does not constitute an endorsement by the Commission, nor is any responsibility for the services rendered assumed by the Bureau, its officers, supervisors or employees. Without designating any intermediary listed of the specialized qualifications of any, the entire list must be made available.

Changes and additions to the list will be considered upon request to the Director of the Bureau of Traffic, subject to authorization by the Secretary of the Commission.

H. G. Homme, Jr.,
Acting Secretary.

Alltran Associated, Mr. Lewis, Box 2018, Winchester, Va. 22601, (703-955-3025).
Anderson, James R., 961 South Canosa Ct., Denver, Colo. 80219, (303-934-9998).
Andren, J. Maurice, 1734 Sheridan Lake Rd., Rapid City, S. Dak. 57701, (605-343-4036).
Arbet Trucklines, Inc., Richard E. VanWinkle, 222 East 135th Pl., Chicago, Ill., 60627, (315-928-3400).
Arena, Joseph S., 19 Davenport St., Somerville, N.J. 19113, (201-526-3047).
Arizona Motor Tariff Bureau, Inc., Ms. Carol Hite, 4541 North 12th St., Phoenix, Ariz. 85014, (602-264-5497).
Associated Motor Carrier Tariff Bureau, Mr. W. Hallman, Mr. McKay, or Mr. Anderson, 1745 University Ave., St. Paul, Minn. 55104, (612-647-0166).
Associated Transportation Services, P.O. Box 1397, Hagerstown, Md. 21740, (301-797-6060).
Barrett, Francis E., Jr., Investors Bldg., 536 Granite St., Braintree, Mass. 02184, (617-843-5900).
Bernhard, Russell S., Commonwealth Bldg., 1625 K St. NW., Washington, D.C. 20006, (202-393-3390).
Bowes, Milner & Rodgers, Edward L. Nehez, P.O. Box 1409, Fairfield, N.J. 07006, (201-575-7700).
Bulk Carriers Conference, Bob Roper, P.O. Box 2566, Arlington, Va. 22202, (202-521-2200).
Burch Traffic Service, J. Leo Burch, Jr., 10205 Oasis Dr., suite 101, San Antonio, Tex. 78216, (512-349-5129).
Busch, John A., 4513 Highland Ave., Bethesda, Md. 20014, (301-656-9320).
Butler, Thomas A., P.O. Box 19, Middletown, N.J. 07748, (201-671-6616).
Butler Traffic Service, Inc., Freddy Butler, 300 Wendell Ct., suite 325, Atlanta, Ga. 30336, (404-696-6791).
Carrier Traffic Service, Glen L. Gissing, 4354 South Western Ave., Chicago, Ill. 60609, (312-247-3968).
Carroll, Charles T., 12600 Bluhill Rd., Wheaton, Md. 29096, (301-946-9007).
Casazza, Peter P., P.O. Box 761, Vineland, N.J. 08360, (609-691-9100).
Charleston Traffic Service, John Friedman, 2930 Putman Ave., Hurricane, W. Va. 25526, (304-562-5501).
Christensen, Charles, P.O. Box 854, Downtown Station, Omaha, Nebr. 68101, (402-733-5000).
Consultran, Inc., G. S. Strand, Foshay Tower, 821 Marquette Ave., Minneapolis, Minn. 55402, (612-338-0297).
Continental Traffic Service, Inc., Don Liper, P.O. Box 3309, 220 Falls Bldg., Memphis, Tenn. 38103, (901-525-0747).
Creager, Charles E., 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, Md. 21740, (301-797-6060).
Curnett, Russell B., P.O. Box 366, Harwich, Mass. 02645, (617-432-0907).
Cushman, Frank M., Associates, Transportation Consultants, 36 South Main St., Sharon, Mass. 02067, (617-828-1893).
C. W. Tariff Agency, 5215 Jolly-Cedar Ct., Lansing, Mich. 48910, (517-393-9503).
Danziger, Leroy, 334 King Rd., North Brunswick, N.J. 08902, (201-297-1868).
Davis, Kenneth R., 121 South Main St., Taylor, Pa. 18517, (717-344-8030).
Distribution Publications, Inc., Peter M. Hughes, TPO, 7996 Capwell Dr., Oakland, Calif. 94621, (415-781-8817).
Diversified Traffic Co., Thomas A. Weir, drawer 56, Ellicott Station, Buffalo, N.Y. 14205, (716-632-1345).
Dudley, Kenneth F., 611 Church St., P.O. Box 622, Ottumwa, Iowa 52501, (515-682-6466).
Earnshaw, Samuel W., 833 Washington Bldg., Washington, D.C. 20423, (202-783-4110).
Eastern Freight Traffic Agency, Ralph L. Smith, agent, route 7, box 185X, Pasadena, Md. 21122, (301-255-5602).
Edwards, William, 7420 Grace St., Springfield, Va. 22150, (202-393-1711).
Farrell, James J., 206 North Blvd., Belmar, N.J. 07717, (201-681-3749).
Foley, Thomas F. X., P.O. Box 1409, Fairfield, N.J. 07006, (201-575-7700).
Fort Smith Freight Bureau, Bob C. Worley, P.O. Box 45, Fort Smith, Ariz. 72901, (501-782-0323).
Freeman, Donald E., 172 Green St., Westminister, Md. 21157, (301-833-1729).
General Rate Service, Inc., Joseph H. Herzig, general manager, 121 Shelly Dr., suite 1A, Hackettstown, N.J. 07840, (201-852-4300).
Genesee Traffic Services, Ind., S. Michael Richards, P.O. Box 225, Webster, N.Y. 14580, (716-872-3535).
Gerrity, E. J., Co., E. J. Gerrity, P.O. Box 914, Appleton, Wash. 59411, 414-734-5608).
Goldstein, Sidney L., 109 Church St., New Haven, Conn. 06510, (203-787-1288).
Guthrie, C. B., Tariff Bureau, Inc., David L. Swiger, suite 300, Prudential Bldg., 1334 G St. NW., Washington, D.C. 20005, (202-268-6850).
Hanafan, Ms. Lilia C., P.O. Box 956, Council Bluffs, Iowa 51501, (712-322-7847).
Heckman, August W., counselor-at-law, 297 Academy St., Jersey City, N.J. 07306, (609-653-1113).
Hodder, Clifford C., 212 Venture St., Pittsburgh, Pa. 15214, (412-323-0158).
Hunt, Harold, G.S.B. Bldg., 1 Belmont Ave., Bala-Cynwyd, Pa. 19004, (215-664-5480).
Hunt, Richard, 426 Barclay Bldg., Bala-Cynwyd, Pa. 19004, (215-467-9700).
Idaho Motor Tariff Bureau, Inc., Timothy R. Stivers, P.O. Box 637, Boise, Idaho 83701, (208-343-3430).
Illinois Intrastate Motor Carriers, Rate and Tariff Bureau, Inc., Don Vignali, G.M., Kenn Barr, analyst, Mile Mulvey, compiler, Don Vaughn, assistant to general manager, 301 North 2d St., Springfield, Ill. 62702, (217-522-4494).
Intermountain Tariff Bureau, Inc., C. L. Allen, P.O. Box 686, Salt Lake City, Utah 84110, (801-328-1653).
International Tariff Service, Inc., Dean Putman, 815 15th St. NW., Washington, D.C. 20005, (202-347-8770).
Interstate Tariff Service, Inc., J. C. Shriner, 19706 Center Ridge R., lower suite, Rocky River, Ohio 44116, (216-333-4676).
Interstate Tariff Service, Harold R. Lawson, 2601 Kuerbitz Dr., Lansing, Mich 48906, (517-321-7944).
Kahn, S. Harrison, attorney, Investment Bldg., 15th and K Sts. NW., Washington, D.C. 20005, (202-783-3525).
Kaminsky, Rueben, 410 Asylum St., suite 223, Hartford, Conn. 06103, (203-522-2286).
Kansas Motor Carriers Association, George D. Hutchins, 2900 South Topeka Blvd., Topeka, Kans. 66601, (913-267-1641).

Kelley, Ms. Mary E., 11 Riverside Ave., Medford, Mass 02155, (617-396-4090).
Kiel, Mort, or Collins, Burt, suite 6193, 4 World Trade Center, New York, N.Y. 10048, (212-466-0220).
Kilroy, Thomas F., P.O. Box 624, Springfield, Va. 22150, (703-451-1800).
Kuhner, J. J., P.O. Box 22170, Cleveland, Ohio 44122, (216-991-0440).
Lawrence Traffic Bureau, E. M. Hickman, manager, 625 Live Stock Exchange, 1600 Genesee, Kansas City, Mo. 64102, (816-842-3847).
Lawson, Rufus H., P.O. Box 5114, Oklahoma City, Okla. 73107, (405-528-5505).
Logan, Robert H., 32 North Lexow Ave., Nanuet, N.Y. 10954, (914-623-1550).
Mack and Riggle, Town and Country Towers, 1035 Outer Park Dr., Springfield, Ill. 62704, (217-546-2213).
Maine Motor Rate Bureau, Donald Martin, 94 Auburn St., Portland, Maine 04103, (207-797-5194).
Mann, Kim D., 425 13th St. NW., Pennsylvania Bldg., Washington, D.C. 20004, No Phone Available.
MDR Enterprises, Inc., M. Dale Roberts and Carol Krocht, 7701 Pacific St., suite 7, Omaha, Neb. 68124, (402-341-0893).
Middle West Traffic Service, Bernice A. Carney, 24 Cottonwood Lane, R.R. 3, Breman, Ind. 46506, (219-546-3142).
Midwest Motor Carriers Bureau, Inc., George Thomas, 2400 Northwest 23d St., Oklahoma City, Okla. 73107, (405-525-7841).
Mid-West Truckers Association, Harold Eatherington, 2715 North Dirksen Parkway, Springfield, Ill. 62702, (217-525-0310).
Miller, Douglas, 14 Front St., Hempstead, N.Y. 11550, (516-538-3406).
Miraglia, Nancy, Tariff Service, Charles Miraglia, 1 Chaucer Rd., Englishtown, N.J. 07726, (201-446-3183).
Missouri-Illinois Traffic Service, Inc., L. K. Mocabee or L. Dorris, 633 Collinsville Ave., East St. Louis, Ill. 62201, (618-271-6300).
Motor Carrier Consultants, Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401, (205-578-2836).
Motor Carriers Service Tariff, Frank Green, box 334, Jefferson City, Mo. 65102, (314-636-7912).
Motor Carriers Tariff Bureau, 5275 Ridge Rd., Cleveland, Ohio 44129, (216-661-1132).
Motor Freight Traffic Service, 1506 City Federal Bldg., Birmingham, Ala. 35203, (205-328-9654).
Motor Tariff Service, Dewey Beach, Manager, 5570 South Broadway, Littleton, Colo. 80121, (303-795-0925).
Motor Traffic Consulting Co., Anthony Thomas or Ms. Martha Gierling, 6017 Cermak Rd., Cicero, Ill. 60650 (312-242-2676).
Motor Transport Association of Connecticut, Jos. Roman, 508 Tolland St., P.O. Box 301, East Hartford, Conn. 06108 (203-289-9576).
Motor Truck Rate Bureau, G. F. Murphy, 2425 Devine St., Columbia, S.C. 29205 (803-799-2582).
Motor-Ways, Inc., F. O. Magdefrau, P.O. Box 1634, Des Moines, Iowa 50306 (515-266-1113).
Myers Tariff Bureau, L. Agnew Myers, Jr., Walker Bldg., suite 406-7, Washington, D.C. 20005 (202-737-2188).
Nashville Freight Bureau, Inc., Walter Roach, P.O. Box 2896, Nashville, Tenn. 37219 (615-255-2188).
National Distribution Services, Inc., Gary Rowland, 595 East Tallmadge Ave., Akron, Ohio 44310 (216-535-8222).
New England Motor Rate Bureau, Jack Fraser, 14 New England Executive Park, Burlington, Mass. 01803 (617-272-7540).
New York State Motor Truck Association, 111 Fourth Ave., New York, N.Y. 10003 (212-245-4720).
Norman, Don. H., Associates, Tom Ledman or Gorman Purdy, suite 730, 2941 Jefferson Davis Hwy., Arlington, Va. 22202 (703-521-5670).
O'Donnell, Edward A., 1004 29th St., Sioux City, Iowa 51104 (712-255-3127).
Ohio Carriers Tariff Service, Inc., T. J. Schriner, 14805 Detroit Ave., Cleveland, Ohio 44107 (216-226-2700).
Ohio Motor Bus Association, Langdon D. Bell, 21 East State St., suite 1016, Columbus, Ohio 43215 (614-221-1498).
Oklahoma Motor Carrier Tariff Bureau, Michael H. Lennox, P.O. Box 14607, Oklahoma City, Okla. 73114 (405-843-9480).
Olsen, G. A., 69 Tonnelle Ave., Jersey City, N.J. 07306 (201-435-7140).
Pacific Coast Tariff Bureau, John T. Reed, 450 Mission St., San Francisco, Calif. 94105 (415-392-4535).
Parrish, L. A., P.O. Box 231, Mobile, Ala. 36601 (205-432-0733).
Pennsylvania Motor Truck Association, Martin L. Crawford, Director, Traffic Dept., P.O. Box 276, Camp Hill, Pa. 17011 (717-761-7122).
Pennsylvania Motor Truck Association, C. B. Neilson, Director, 1011 East Erie Ave., Philadelphia, Pa. 19124 (215-743-6555).
Pennsylvania Tariff Agency, Inc., John W. Frame, Box 626, Camp Hill, Pa. 17011 (717-761-0520).
Pepper, Robert B., Tariff Consultant, Forest Park Bldg., 168 Woodbridge Ave., Highland Park, N.J. 08904 (201-572-5551).
Pierce, Harry A., Jr., 21 Victor Dr., Mooresville, Ind. 46158 (317-831-0117).
Piken, Arthur J., suite 1515, 1 Lefrak City Plaza, Flushing, N.Y. 11368 (212-502-8700).
Pitzer, Jim, Tariff Services, Jim Pitzer, 15 South Grady Way, Renton, Wash. 98055 (206-235-1113).
Proctor & Caln, attorneys, S. Proctor, 1107 Blackstone Bldg., Jacksonville, Fla. 32202 (904-632-2300).
Reid, Billy R., P.O. Box 9093, Fort Worth, Tex. 76107 (817-332-4716).
Rhoney, Earl M., P.O. Box 119, LaSalle Station, Niagara Falls, N.Y. 14303 (716-882-2795).
Rittgers, Virden A., 126 North Washington Ave., Bergenfield, N.J. 07621 (201-384-2400).
Roberts, Francis J., 113 Burnham St., Newark, N.Y. 14513 (315-331-7290).
Roberts, William H., P.O. Box 2884, Toledo, Ohio 43606 (419-537-1573).
Rubenstein, Samuel, 301 North Fifth St., Minneapolis, Minn. 55403 (612-339-0481).
Service Bureau Co., 35 East 7th St., Executive Bldg., Cincinnati, Ohio 45202 (513-621-1872).
Sherry, James Patrick, or Sataloff, Kenneth D., P.O. Box 9023, Lester, Pa. 19113 (215-521-2910).
Smith, Ralph L., Route 7, Box 185X, Pasadena, Md. 21122 (301-255-5602).
South Florida Tariff Consultants, P.O. Box 530733, Miamishore, Fla. (305-527-0717).
Sweeney, James H., P.O. Box 684, Woodbury, N.J. 08096 (609-228-3087).
Tariff Publishing, Inc., Otto F. Grausz, 124 Bleecker St., Utica, N.Y. 13501 (315-797-6088).
Thomas, Earl J., 5850 North High St., Worthington, Ohio 43085 (614-885-3451).
Tomljanovich, William S., Fisher Nut Bldg., 2375 Wycliff St., St. Paul, Minn. 55114 (612-645-0635).
Transportation Consulting & Service Corp., George S. Mullins, 4704 West Irving Park Rd., Chicago, Ill. 60641 (312-736-1906).
Transportation Services, John J. Hartsell, P.O. Box 88, Washington, D.C. 20044 (202-347-6550).
Trans-World & Research Service, Inc., John Pyne, 1341 G St. NW., suite 915, Washington, D.C. 20005 (202-347-8874).
Tri-State Motor Tariff Service, G. E. Coone, 1535 Burnett Rd., Topeka, Kans. 66604 (913-272-3333).
Tri-State Traffic Bureau, Inc., Raymond J. Glasch, President, 613 Oxford St., Fort Wayne, Ind. 46806 (219-744-3226).
United Tariff Bureau, Joseph J. Traina, 111 4th Ave., New York, N.Y. 10003 (212-245-4720).
Walczak, Robert F. 631 Niagara St., Buffalo, N.Y. 14201 (716-882-4250).
Weiner, Frank J., Attorney-at-Law, 15 Court Sq., Boston, Mass. 02108 (617-742-3530).
Wentzell, Arthur A., P.O. Box 270, Worchester, Mass. 01601 (617-844-4291).
Wentzell, J. Robert, P.O. Box 5236, Turnpike Station, Shrewsbury, Mass. 01545 (617-844-9877).
Western Motor Tariff Bureau, M. J. Nicolaus, P.O. Box 392, South Gate, Calif. 90280 (213-773-8180).
Western Tariff Service, Inc., Osborne R. Thomasson, President, 2340 Merced St., San Leandro, Calif. 94577 (415-895-8886).
Western Traffic Service, Inc., James Nathanson, 8001 Conser, Overland Park, Kans., (913-341-6505).
Willamette Tariff Bureau, Inc., 1444 Southeast Hawthorne Blvd., Portland, Oreg. 97214 (503-236-1183).
Williams, Charles J., 1615 Front St., Scotch Plains, N.J. 07076 (201-322-5030).
Winter, Edward A., 235 Rosewood Dr., Metairie, La. 70005 (504-835-4724).

[FR Doc 26154 Filed 9-7-77;8:45 am]

[Notice No. 109TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

September 1, 1977.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the office of the Secretary, Interstate Commerce Commis-

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sion, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 20916 (Sub-No. 28TA), filed August 17, 1977. Applicant: JOHN T. SISK, Rt. 2, Box 182 B, Culpeper, Va. 22701. Applicant's representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, Va. 22611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the plant facilities and sawmills of Taylor-Ramsey Corp., located (1) on Route 501 one-mile west of Big Island, Va., (2) on Route 130 in the village of Natural Bridge Station, Va., (3) on Virginia Highway 28 just south of Manassas, (4) on Route 250 two miles west of McDowell in Highland County, Va., and (5) on Rutherford Street in Lynchburg, Va., to points in N.C., for 180 days. Supporting shipper(s): Taylor-Ramsey Corp., P.O. Box 97, Lynchburg, Va. 24505. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Ave., N.W., Room 1413, Washington, D.C. 20423.

No. MC 1977 (Sub-No. 27TA), filed August 15, 1977. Applicant: NORTHWEST TRANSPORT SERVICE, INC., 5231 Monroe St., Denver, Colo. 80216. Applicant's representative: Leslie R. Kehl, Suite 1600, Lincoln Center Bldg., 1660 Lincoln St., Denver, Colo. 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except household goods as defined by the Commission, between Boise, Pocatello, Idaho Falls and Blackfoot, Idaho, on the one hand, and, on the other, points in the Idaho Counties of Washington, Payette, Gem, Canyon, Ada, Boise, Elmoore, Owyhee, Gooding, Twin Falls, Lincoln, Jerome, Minidoka, Cassia, Power, Oneida, Bannock, Bingham, Caribou, Franklin, Bear Lake, Bonneville, Jefferson, Madison and Fremont, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately one-hundred and seventy-four (174) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Sent protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 51146 (Sub-No. 519TA), filed August 19, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJarden, (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends*, from Memphis, Tenn., to Nashua, N.H., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Can Co., 915 Harger Rd., Oak Brook, Ill. 60521. (W. A. Frazier) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 51146 (Sub-No. 520TA), filed August 17, 1977. Applicant: SCHNEIDER TRANSPORT INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin, (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cellulose wood fiber insulation, materials, equipment, supplies, machinery parts and accessories* thereto utilized in the manufacture, production, packaging, installation, and distribution of cellulose wood fiber insulation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): U.S. Fiber Corp., 101 S. Main, Delphos, Ohio 45833. (Lowell R. Weaner) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 69492 (Sub-No. 59TA), filed August 16, 1977. Applicant: HENRY EDWARDS, d.b.a., HENRY EDWARDS TRUCKING CO., P.O. Box 97, Clinton, Ky. 42031. Applicant's representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, related advertising materials and empty containers and pallets*, between Detroit, Mich., and Flat River, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ozark Hill Distributing Co., 211 Reuter St., Flat River, Mo. 63601. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, Suite 2006, 100 North Main Building, 100 North Main St., Memphis, Tenn. 38103.

No. MC 89697 (Sub-No. 34TA), filed August 11, 1977. Applicant: KRAJACK TANK LINES, INC., 480 Westfield Ave., Roselle Park, N.J. 07204. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Liquid *adhesives*, in bulk, in talk vehicles, from Mill Hall, Pa., to Painesville, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Avery International, 415 Huntington Dr., San Marino, Calif. 91108. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 107151 (Sub-No. 26TA), filed August 16, 1977. Applicant: H. F. JOHNSON, INC., P.O. Box 1435, 1524 Lockwood Rd., Billings, Mont. 59103. Applicant's representative: Hibbs, Sweeney & Colberg, 175 North 27th St., Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *No. 6 fuel oil and coal spray oil*, in bulk, in tank vehicles, from Billings, Mont., to the West Decker coal mine in Big Horn County, Mont., via Sheridan County, State of Wyo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jerry R. Smith Plant Superintendent, Decker Coal Co., P.O. Box 12, Decker, Mont. 59025. Send protests to: Paul J. Labane District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 107544 (Sub-No. 140TA), filed August 17, 1977. Applicant: LEMMON TRANSPORT CO., INC., P.O. Box 580, Marion, Va. 24354. Applicant's representative: Daryl J. Henry, P.O. Box 580, Marion, Va. 24354. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prophyllite*, in bulk, in tank vehicles, from Robbins, N.C., to Roanoke, Va., for 180 days. Supporting shipper(s): Dragon Chemical Corp. P.O. Box 7311, Roanoke, Va. 24019. Send protests to: Danny R. Beeler District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 119789 (Sub-No. 366TA), filed August 10, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr., P.O. Box 6188, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt liquor and related packing supplies and dunnage*, between Fort Worth, Tex., and Milwaukee, Wis.; (2) *malt liquor*, from Fort Worth, Tex., to points in Illinois, Louisiana, and Miss., for 180 days. Supporting shipper(s): Miller Brewing Co., 4000 West State St., Milwaukee, Wis. 53208. Send protests to: Opal M. Jones, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 119974 (Sub-No. 89TA) (Correction), filed June 1, 1977, published in the FEDERAL REGISTER issue of June 22, 1977, and republished, as corrected this issue. Applicant: L.C.L. TRANSIT CO., 949 Advance St., Green Bay, Wis. 54305. Applicant's representative: L. F. Abel, P.O. Box 949, Green Bay, Wis. 54305. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sugar and blends thereof*, from the facilities of Amstar Corp. and SuCrest Corp. at Chicago, Ill., to Columbia, Flat River, Malden, Memphis and Warreton, Mo.; and to Osceola, Oskaloosa and Pella, Iowa, for 180 days. Supporting shipper(s): (1) Amstar Corp., 2905 South Western Ave., Chicago, Ill. (E. J. Zglobicki, District Traffic Manager), (2) SuCrest Corp., 330 East North Water St., Chicago, Ill. 60611 (Richard L. Dorsch, Traffic Manager). Send protests to: Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, Wis. 53202. The purpose of this republication is to include the rest of the territorial description.

No. MC 120427 (Sub-No. 4TA), filed July 27, 1977. Applicant: WILLIAMS TRANSFER, INC., P.O. Box 34, Adams, Nebr. 68301. Applicant's representative: John K. Walker, P.O. Box 488, Grand Island, Nebr. 68801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grain storage, drying and handling equipment, and iron and steel articles*, (1) between Grand Island, Nebr.; Webster City, Iowa, and Crawfordsville, Ind.; and (2) from the points mentioned above to Lewisville, and Greenfield, Idaho, Camilla, Ga., and Fairfield, Mont. and Firth, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Don R. Reimer, Jr., Modern Farm Systems, Inc., 2928 E. Highway 30, Grand Island, Nebr. 68801. Send protests to: Max H. Johnson, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 123069 (Sub-No. 18TA), filed August 15, 1977. Applicant: ALLER & SHARP, INC., 817 West 5th Ave., Columbus, Ohio 43212. Applicant's representative: Gregory A. Stayart, Singer & Sullivan, 10 South LaSalle St., Suite 1600, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, in packages, from Akron, Ohio, to points in Indiana and the Chicago, Ill., commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Diamond Crystal Salt Co., 916 South Riverside Ave., St. Clair, Mich. 48079. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg. & U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 135684 (Sub-No. 50TA), filed August 11, 1977. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Rd., Flemington, N.J. 08822. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectioneries*, in vehicles equipped with mechanical refrigeration, from the facilities of E. J. Brach & Sons, Inc., at Chicago and Carold Stream, Ill., to points in Connecticut, Massachusetts, New Jersey, New York, Ohio and Pa., restricted to traffic originating at the above-named origins and destined to the above-named destination points, for 180 days. Supporting shipper(s): E. J. Brach & Sons, Inc. 4656 West Kinzie St., Chicago, Ill. 60644. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State St., Room 204, Trenton, N.J. 08608.

No. MC 136343 (Sub-No. 116TA) (Partial correction), filed July 18, 1977, published in the FEDERAL REGISTER issue of August 9, 1977, and republished as corrected this issue. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306.

NOTE.—The purpose of this partial correction is (1) to add the Supporting shipper: Weis Markets, Inc., P.O. Box 471, Sunbury, Pa. 17801; and (2) to add Send protests to: Charles F. Myers, P.O. Box 869, Harrisburg, Pa. 17108. The rest of the publication remains the same.

No. MC 136371 (Sub-No. 25TA), filed August 12, 1977. Applicant: CONCORD TRUCKING CO., INC., 1 Scout Ave., South Kearny, N.J. 07032. Applicant's representative: Steven J. Kalish, 1750 Pennsylvania Ave. NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by discount department stores (except foodstuffs and commodities in bulk), between the facilities of Gaylords National Corp., located at points in the New York, N.Y., commercial zone, as defined by the Commission, on the one hand, and, on the other hand, points in Alabama, Florida, Georgia, and North Carolina, under a continuing contract or contracts with Gaylords National Corp., of Secaucus, N.J., for 180 days. Supporting shipper: Gaylords National Corp., 10 Enterprise Ave., Secaucus, N.J. 07094. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 138438 (Sub-No. 18TA), filed August 12, 1977. Applicant: D. M. BOWMAN, INC., Route 9, Box 26, 15 East Oak Ridge Dr., Hagerstown, Md. 21740. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals, residues, materials, equipment and supplies* used or useful for a recycling process, between Hagerstown, Md., and its commercial zone, on the one hand, and, on the other, points in the United States located in and east of the States of Wisconsin, Iowa, Missouri, Tennessee and Alabama, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Conservit, Inc. Box 1517, Hagerstown, Md. 21740. Send protests to: W. C. Hersman District Supervisor, Interstate Commerce Commission, 12th & Constitution Ave., N.W., Room 1413, Washington, D.C. 20423.

No. MC 140033 (Sub-No. 28TA), filed August 10, 1977. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Tex. 75220. Applicant's representative: D. Paul Stafford, Winkle & Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* (unfrozen), from Belledeau and St. Francisville, La., to points in the states of Arizona, California, Colorado, Idaho, Illinois, Montana, New Mexico, Nevada, Oregon, Utah, Washington, Wyoming, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Joan of Arc Co., 2231 W. Altorfer Drive, Peoria, Ill. 61614. Send protests to: Opal M. Jones, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 141742 (Sub-No. 3TA), filed August 10, 1977. Applicant: FLOWERS TRANSPORTATION, INC., P.O. Box B, Station A, Auburn, Calif. 95603. Applicant's representative: Randall M. Faccinto, Handler, Baker & Greene, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, (1) from Rocklin, Calif., to Phoenix and Tucson, Ariz.; and (2) from Cottonwood, Calif., to Salt Lake City, Utah, and Denver, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Rocklin Forest Products, Inc., P.O. Box 400, Roseville, Calif. 95678. The Nikkel Corp., 4243 Dominquez Road, Rocklin, Calif. 95677. Send protests to: William J. Huetig, District Supervisor, Interstate Commerce Commission, 203 Federal Bldg., 703 N. Plaza Street, Carson City, Nev. 89701.

No. MC 141776 (Sub-No. 16TA), filed July 28, 1977. Applicant: FOODTRAIN, INC., Spring and South Center Stations, Ringtown, Pa. 17967. Applicant's representative: L. Agnew Myers, Jr., Suite 407, Walker Building, 734 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and food products, not cold packed or frozen, candy and confectionary NOI; rack store displays NOI-KD-flat*, from Vineland, N.J., to points in the states of Arkansas, Illinois, Indiana, Kansas (east of Interstate 35 and U.S. 81), Kentucky, Louisiana, Michigan, Mississippi, Missouri, New York (west of Interstate 81 and Interstate 481), Ohio, Pennsylvania (west of U.S. 220), Tennessee, Texas (east of Interstate 35), and Wisconsin, for 180 days. Supporting shipper(s): Progresso Foods Corp., 500 Elmer Road, Vineland, N.J. 08360. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate

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Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 143319 (Sub-No. 2TA), filed August 15, 1977. Applicant: IRISH RIDGE TRUCKING CO., Box 162, Philo, Ohio 43771. Applicant's representative: John A. Vuono, Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum rock*, in bulk, in dump vehicles, from the facilities of Michigan Gypsum Co. at or near Dundee, Mich., to the plantsites of Columbia Cement Co. at or near East Fultonham, Muskingum County, Ohio, and Southwestern Portland Cement Co. at or near Fairborn, Greene County, Ohio, under a continuing contract, or contracts, with Michigan Gypsum Co. of Saginaw, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers(s): Michigan Gypsum Co., 2840 Bay Road, Saginaw, Mich. 48606. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 143503 (Sub-No. 3TA), filed July 25, 1977. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, Calif. 93030. Applicant's representative: T. J. Brown, 223 Ciudad Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, new home furnishings, appliances, and accessories*, between the facilities of Evans Furniture Co. at or near Louisville, Ky., on the one hand, and, on the other, points in Harrison, Floyd, Clark, Scott, Jefferson, Washington, Orange, Crawford, and Perry Counties, Ind., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Evans Furniture Co., 4600 Shelbyville Road, No. 25 Shelbyville Road Plaza, St. Matthews, Ky. 40207. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 143599TA, filed August 12, 1977. Applicant: CENLA CAB COMPANY, INC., 1401 Murray Street, Alexandria, La. 71301. Applicant's representative: Gregory S. Erwin, P.O. Box 906, Alexandria, La. 71301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Safety valves, safety relief valves, forged steel-globe, gate, and check valves, not exceeding 1,000 pounds*, from the plantsite and facilities of Dresser Industrial Valve and Instrument at or near Alexandria, La., to points in Alabama, Arkansas, Mississippi, Oklahoma, Tennessee, and Texas, under a continuing contract, or contracts, with Dresser Industrial Valve & Instrument Corp., for 180 days. Supporting shipper(s): Dresser Industrial Valve & Instrument Corp., P.O. Box 1430, Alexandria, La. 71301. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 701 Loyola Avenue, 9038 Federal Bldg., New Orleans, La. 70113.

No. MC 143601TA, filed August 15, 1977. Applicant: TRANS COASTAL CORP., P.O. Box 116W, 10 Frankwood Drive, Winslow, Maine 04902. Applicant's representative: Peter L. Murray, 30 Exchange Street, Portland, Maine 04111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Antique furniture, lamp fixtures, lead glass windows and mirrors, glassware, clocks, crockery, and picture frames* (at least 50 years old), from warehouse of Oregon Trail Antiques, Inc., at Fairfield, Maine, to warehouse of Oregon Trail Antiques, Inc. at Venita, Oreg., under a continuing contract, or contracts, with Oregon Trail Antiques, Inc. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Oregon Trail Antiques, Inc., 1825 Grant Street, Eugene, Oreg. 97405. Send protests to: Donald G., Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 307, 76 Pearl Street, Portland, Maine 04111.

PASSENGER APPLICATION

No. MC 143604TA, filed August 16, 1977. Applicant: M.J.M., INC., doing business as WILMINGTON-ATLANTIC CITY SHUTTLE, Suite B-8, 2018 Naamans Road, Wilmington, Del. 19810. Applicant's representative: Martin P. Londergan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and baggage of passengers*, on regularly scheduled, as well as special round trips, by either 10–12 passenger vans or station wagons, in both directions directly between all points within the territory of northern New Castle County, Del. (an area bounded on the north, east, and west by the boundaries of New Castle County and on the south by the Chesapeake and Delaware) and the entire area comprising the city of Atlantic City, N.J., over the following routes: (1) via the Delaware Memorial Bridge and Route 40 or (2) via the Commodore Barry Bridge and Route 322 to Atlantic City, N.J., and return, for 180 days. Supporting shippers: There are approximately seven (7) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-26156 Filed 9-7-77;8:45 am]

[NOTICE NO. 110TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 2, 1977.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 109724 (Sub-No. 4TA), filed August 18, 1977. Applicant: PAUL J. SCHMIT, d.b.a. PAUL J. SCHMIT TRUCKING, 17755 Bedford Drive, Brookfield, Wis. 53005. Applicant's representative: Wm. C. Dineen, 710 N. Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, from Marinette, Wis., to points in the Upper Peninsula of Mich., under a continuing contract, or contracts, with Lake Shore Sand & Stone Division of Construction Agreegates Corp., for 180 days. Supporting shipper(s): Lake Shore Sand & Stone Division of Construction Agreegates Corp., 515 West Canal Street, Milwaukee, Wis. 53203 (James D. Cooper). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 110563 (Sub-No. 207TA), filed August 17, 1977. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, 113 N. Ohio Avenue, Ohio Building, Sidney, Ohio 45365. Applicant's representative: Victor J. Tambascia (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen prepared foods*, from the plantsites and warehouse facilities of Banquet Foods Corp. located at or near Carrollton, Marshall, and Macon, Mo., to points in New Jersey, Massachusetts, New York, Connecticut, Maine, New Hampshire, Rhode Island, Vermont, Delaware, Maryland, Pennsylvania, and Washington, D.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Banquet Foods Corp., 100 N. Broadway, St. Louis, Mo. 63102. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit Street, Toledo, Ohio 43604.

No. MC 111401 (Sub-No. 496TA), filed August 17, 1977. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock, P.O. Box 632, Enid, Okla. 73701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial waste materials*, in bulk, in tank vehicles, from Olive Branch, Miss., to Tulsa, Okla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): W. J. Lamberton Co., 2904 Fourth National Bank Bldg., Tulsa, Okla. 74119. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Building, 215 NW. Third Street, Oklahoma City, Okla. 73102.

No. MC 112266 (Sub-No. 10TA), filed August 17, 1977. Applicant: CRAYCRAFT TRUCKING, INC., U.S. Route 30, Rte. No. 2, P.O. Box 267, Upper Sandusky, Ohio 43351. Applicant's representative: David A. Turano, George, Greek, King, McMahon & McConnaughey, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bricks*, from Upper Sandusky, Ohio, and points in Jefferson Township, Franklin County, Ohio, to points in Allegheny County, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Architectural Clay Products, Inc. 216 S. Highland Avenue, Pittsburgh, Pa. 15206. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 115311 (Sub-No. 237TA), filed August 16, 1977. Applicant: J&M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Kim G. Meyer, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from Akron, Ohio, to points in North Carolina, South Carolina, and Virginia, for 180 days. Supporting shipper(s): Diamond Crystal Salt Co., 916 South Riverside Avenue, St. Clair, Mich. 48079. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street NW., Room 300, Atlanta, Ga. 30309.

No. MC 115311 (Sub-No. 238TA), filed August 18, 1977. Applicant: J&M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Kim G. Meyer, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral fibre, mineral fibre products, and insulating materials*, from the facilities of the U.S. Gypsum Co., at Birmingham, Ala., to Arkansas, Georgia, Florida, Kentucky, Louisiana, Missouri, North Carolina, South Carolina, Tennessee, Texas, Oklahoma, and Virginia, for 180 days. Supporting shipper(s): U.S. Gypsum Co., 101 South Wacker Drive, Chicago, Ill. 60606. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street NW., Room 300, Atlanta, Ga. 30309.

No. MC 116073 (Sub-No. 363TA), filed August 17, 1977. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett, P.O. Box 919, Moorhead, Minn. 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, complete or in sections, in initial movement, from Morris, Minn., to points and places in the states of Nebraska, Nort Dakota, and South Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Trademark Homes of Minnesota, Inc., South Highway 59, Morris, Minn. 56267. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 116110 (Sub-No. 17TA), filed August 16, 1977. Applicant: P. C. WHITE TRUCK LINE, INC., P.O. Box 1488, Murray Road, Dothan, Ala. 36301. Applicant's representative: Bruce E. Mitchell, Serby & Mitchell, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brass plumbing fixtures*, from the plantsite and warehouse facilities of Price-Pfister (Suby. of Morris Industries), at or near Pacoima, Calif., to points in Texas, New Mexico, Louisiana, Mississippi, Alabama, Georgia, Florida, Missouri, Kansas, Indiana, Illinois, Ohio, Pennsylvania, New Jersey, and New York, for 180 days. Supporting shipper(s): Price-Pfister, 13500 Paxton Street, Pacoima, Calif. 91331. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616—2121 Building, Birmingham, Ala. 35203.

No. MC 116254 (Sub-No. 134TA), filed August 16, 1977. Applicant: CHEMHAULERS, INC., P.O. Box 339, Florence, Ala. 35630. Applicant's representative: Hampton M. Mills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids and chemicals*, other than in bulk, from Birmingham, Ala., to points in Connecticut, Delaware, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, West Virginia, and Wisconsin, for 180 days. Supporting shipper(s): Jim Walter Resources, Inc., 3300 First Avenue, North, Birmingham, Ala. 35202. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616—2121 Building, Birmingham, Ala. 35203.

No. MC 116880 (Sub-No. 7TA), filed August 18, 1977. Applicant: WALTER D. DAVIS, INC., Box 339, Houlton, Maine 04730. Applicant's representative: Peter L. Murray, 30 Exchange Street, Portland, Maine 04111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Citrus juices*, in bottles in less than truck-load quantities as part of mixed loads with exempt commodities from points in the Boston, Mass., metropolitan area to Houlton and Calais, on the United States-Canadian boundary line, to points of destination in New Brunswick, under a continuing contract, or contracts, with Atlantic Wholesalers for 180 days. Supporting shipper(s): Atlantic Wholesalers, Fourt Charlotte Street, Sackville, New Brunswick, EOA 3CO. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 307, 76 Pearl Street, Portland, Maine 04111.

No. MC 118811 (Sub-No. 6TA), filed August 18, 1977. Applicant: McKENZIE TRUCKING SERVICE, d.b.a., LAWRENCE McKENZIE, Route 5, Box 111, Winchester, Ky. 40391. Applicant's representative: William L. Willis, 708 BcClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal*, in dump vehicles, from points and places in Kanawha, Putnam and Wood Counties, W. Va., to the plantsites of Kentucky Electric Steel Co., located at or near Ashland, Ky., and Mansbach Metal Co., located at or near Ashland, Ky., for 180 days. Supporting shipper(s): Kentucky Electric Steel Co., Mansbach Metal Co., P.O. Box 1179, Ashland, Ky. 41101. Send protests to: Linda H. Sypher, District Supervisor, Room 216 Bakhaus Building, 1500 West Main St., Lexington, Ky. 40505.

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No. MC 119872 (Sub-No. 14TA), filed August 17, 1977. Applicant: GULF TRANSPORT, LIMITED, 16 Exhibition Drive, P.O. Box 1507, Charlottetown, Prince Edward Island, Canada. Applicant's representative: Kenneth B. Williams, 84 State St., Boston, Mass. 02109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen carrots*, from the International boundary between the United States and Canada at or near Houlton and Calais, Maine to Red Hook, Marlboro and New York, N.Y., Jersey City, N.J., and Trappe, Md., restricted to traffic originating at the plant site of Oxford Frozen Foods, Ltd., Oxford, Nova Scotia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Oxford Frozen Foods, Ltd., P.O. Box 220, Oxford, Nova Scotia. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 307, 76 Pearl St., Portland, Me. 04111.

No. MC 123819 (Sub-No. 44TA), filed August 19, 1977. Applicant: ACE FREIGHT LINE, INC., 3359 Cazassa Rd., P.O. Box 16589, Memphis, Tenn. 38116. Applicant's representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses, liquid feed and liquid feed supplements*, in bulk, in tank vehicles, from Memphis, Tenn., to points in Missouri, Illinois, Indiana, and Kentucky, for 180 days. Supporting shipper(s): Cargill, Inc., P.O. Box 9300, Minneapolis, Minn. 55440. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main St., Memphis, Tenn. 38103.

No. MC 123819 (Sub-No. 45TA), filed August 19, 1977. Applicant: ACE FREIGHT LINE, INC., 3359 Cazassa Rd., P.O. Box 16589, Memphis, Tenn. 38116. Applicant's representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper*, from Pensacola, Fla.; Houma, La.; Monroe, La.; Bernice, La.; Crossett, Ark.; Houston, Tex.; Monticello, Miss.; and Chargins Falls, Ohio, and their commercial zones, to Yazoo City, Miss., for 180 days. Supporting shipper(s): Southern Big Division of Masonite Corp., Box 389, Yazoo City, Miss. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main St., Memphis, Tenn. 38103.

No. MC 123819 (Sub-No. 46TA), filed August 19, 1977. Applicant: ACE FREIGHT LINE, INC., 3359 Cazassa Rd., P.O. Box 16589, Memphis, Tenn. 38116. Applicant's representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fish meal*, from Empire, La., to Port Arthur, Tex., for 180 days. Supporting shipper(s): Petrou Fisheries, Inc., P.O. Box 128, Empire, La. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Bldg., Suite 2006, 100 North Main St., Memphis, Tenn. 38103.

No. MC 124328 (Sub-No. 115TA), filed August 15, 1977. Applicant: BRINK'S, INC., One Crossroads of Commerce Corner, Suite 710, Algonquin Road at Rte. 53, Chicago, Ill. 60008. Applicant's representative: William Gambone, (Same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Precious metal, scrap and sweeps*, between Chicago, Ill., on the one hand, and, on the other, Detroit, Mich., points in New Jersey, points in New York, points in Pennsylvania and points in Connecticut, under a continuing contract, or contracts, with Simmons Refining Co. for 180 days. Supporting shipper(s): Simmons Refining Co., Ellis H. Brown, President, 4105 W. Chicago Ave., Chicago, Ill. 60651. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 124947 (Sub-No. 69TA), filed August 15, 1977. Applicant: MACHINERY TRANSPPORT, INC., 608 Cass St., P.O. Box 2338, East Peoria, Ill. 61611. Applicant's representative: David J. Lister, 1945 South Redwood Rd., Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard, lumber and lumber mill products*, from Navajo, N. Mex., to Illinois, Indiana, and Michigan, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Navajo Forest Products Industries, P.O. Box 1280, Navajo, N. Mex. 87328. Send protests to: Joe Green, District Supervisor, Interstate Commerce Commission, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 125023 (Sub-No. 48TA), filed August 15, 1977. Applicant: SIGMA-4 EXPRESS, INC., 3825 Beech Ave., P.O. Box 9117, Erie, Pa. 16504. Applicant's representative: Richard G. McCurdy, (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Monroe, Wis., to points in North Carolina, South Carolina, Virginia and W. Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Joseph Huber Brewing Co., 1208 14th Ave., Monroe, Wis. 53566. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 126276 (Sub-No. 184TA), filed August 15, 1977. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Rd., Brookfield, Ill. 60513. Applicant's representative: Albert A. Andrin, 180 N. La Salle St., Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends*, from the plantsite of American Can Co. at Memphis, Tenn., to Nashua, N.H., under a continuing contract, or contracts, with American Can Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Can Co., William Frazier Transportation Coordinator, 915 Harger Road, Oak Brook, Ill. 60521, send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 127283 (Sub-No. 15TA), filed August 15, 1977. Applicant: SILICA SAND TRANSPORT, INC., P.O. Box 208, Routes 47 and 71, Yorkville, Ill. 60560. Applicant's representative: Albert A. Andrin, 180 N. La Salle St., Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Filter sand*, in bags, fom Muscatine, Iowa to Deer Park, Tex., under a continuing contract, or contracts, with Bos Sand Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bos Sand Co., Harold Bos, Owner, 9500 S. Avers, Evergreen Park, Ill. 60642. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 129897 (Sub-No. 5TA), filed August 18, 1977. Applicant: M.S.B.P., INC., P.O. Box 904, Council Bluffs, Iowa 51501. Applicant's representative: Gailyn L. Larsen, Peterson, Bowman, Coffman & Larsen, 521 South 15th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tankage and meat scraps*, from Denver and Greeley, Colo., to points in Missouri, Nebraska, and Iowa, under a continuing contract, or contracts, with Mid-States By-Products Co. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Clyde Huddle, president, Mid-States By-Products Co., P.O. Box 7177, Omaha, Nebr. 68107. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 136315 (Sub-No. 22TA), filed August 19, 1977. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, Miss. 39350. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard*, from the facilities of Weyerhaeuser Co., at Briar, Ark., to points in Alabama, Kentucky, Louisiana, Mississippi, and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Weyerhaeuser Co., P.O. Box 1060, Hot Springs, Ark. 71901. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 136605 (Sub-No. 29TA), filed August 15, 1977. Applicant: DAVIS BROS. DIST., INC., P.O. Box 9058, 2024 Trade Street, Missoula, Mont. 59807. Applicant's representative. W. E. Seliski, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour glue extender*, in bags or sacks, from Great Falls, Mont., to points in Washington, Oregon, Idaho, and California (excluding Portland, Oreg., and Seattle, Wash., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gregory H. Schmidt, president, Manzanita International, Inc., 207 S.E. Clay, Portland, Oreg. 97208. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 139495 (Sub-No. 260TA), filed August 18, 1977. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, 1501 East 8th Street, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, Sullivan, Dubin & Kingsley, Suite 1030, 1819 H Street, NW., Washington, D.C., 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Crayon plaster* (except in bulk, in tank vehicles), from Blue Rapids, Kans., to Easton, Pa., and (2) *Corrugated cases*, from Baltimore, Md., to Winfield, Kans., for 180 days. Supporting shipper(s): Binney & Smith, Inc., 1100 Church Lane, P.O. Box 431, Easton, Pa. 18042. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Suite 101, Litwin Building, Wichita, Kans. 67202.

No. MC 139713 (Sub-No. 5TA), filed August 16, 1977. Applicant: DONALD M. NASS, d.b.a. DON NASS TRUCKING, 136 High Street, Clinton, Wisc. 53525. Applicant's representative: Nancy J. Johnson, 4506 Regent Street, Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Newport, Ky., to Beloit, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Beloit Beverage Co., 406 Colby Street, Beloit, Wis. 53511. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson Street, Room 202, Madison, Wis. 53703.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 77-26137 Filed 9-7-77;8:45 am]

[Volume No. 33]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS.

SEPTEMBER 2, 1977.

PETITIONS FOR MODIFICATION, INTERPRETATION, OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

NOTICE

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

The Commission has recently provided for easier identification of substantive petition matters and all documents should clearly specify the "docket", "sub", and "suffix" (e.g. M1, M2) numbers identified by the FEDERAL REGISTER notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 921 (Sub-No. 22), M1, filed July 25, 1977. (Notice of filing of petition to eliminate restriction). Petitioner: DEAN TRUCK LINE, INC., P.O. Box 631, Corinth, Miss. 38834, representative: A. Doyl Cloud, Jr., 2008 Clark Tower, 5100 Popular Ave., Memphis, Tenn. 38127. Petitioner holds a motor *common carrier* Certificate in No. MC 921 (Sub-No. 22), issued December 11, 1975, authorizing transportation, over regular routes, *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment);

(1) Between Birmingham, Ala., and Red Bay, Ala., as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations, serving all intermediate points in Mississippi: From Birmingham over U.S. Highway 78 to Tupelo, Miss., thence over U.S. Highway 45 to Corinth, Miss., thence over U.S. Highway 72 to Iuka, Miss., thence over Mississippi Highway 25 to Belmont, Miss., thence over Mississippi Highway 366 to the Alabama-Mississippi State Line, thence over Alabama Highway 19 to Red Bay, and return over the same route.

(2) Between Belmont, Miss., and Fulton, Miss., as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations, serving no intermediate points: From Belmont over Mississippi Highway 25 to Fulton, and return over the same route.

(3) Between Tremont, Miss., and Red Bay, Ala., as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations, serving no intermediate points: From Tremont over Mississippi Highway 23 to the Alabama-Mississippi State Line, thence over Alabama Highway 24 to Red Bay, and return over the same route.

(4) Between Winfield, Ala., and Hackleburg, Ala., as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations, serving no intermediate points; and serving Hackleburg for purposes of joinder only: From Winfield over Alabama Highway 57 to junction Alabama Highway 44, thence over Alabama Highway 44 to junction Alabama Highway 45, thence over Alabama Highway 45 to junction Alabama Highway 49, thence over Alabama Highway 49 to Hackleburg, and return over the same route.

(5) Between Hackleburg, Ala., and Red Bay, Ala., as an alternate route for operating convenience only in connection with carrier's authorized regular-route operations, serving no intermediate points; and serving Hackleburg for purposes of joinder only: From Hackleburg over Alabama Highway 172 to junction Alabama Highway 19, at or near Vina, Ala., thence over Alabama Highway 19 to Red Bay, Ala., and return over the same route.

(6) Between Hamilton, Ala., and Hackleburg, Ala., as an alternate route for operating convenience only in connection with carrier's authorized regular-route operations, serving no intermediate points: From Hamilton over U.S. Highway 43 to Hackleburg, and return over the same route.

(7) Between Birmingham, Ala., and Iuka, Miss., as an alternate route for operating convenience only in connection with carrier's authorized regular-route operations, serving no intermediate points: From Birmingham over U.S. Highway 31 to junction Alabama Highway 157, thence over Alabama Highway 157 to junction U.S. Highway 72 south of Muscle Shoals, Ala., thence over U.S. Highway 72 to Iuka, and return over the same route.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423

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The authority granted above may not be tacked or joined with, any other authority now held by carrier.

By the instant Petition, Petitioner seeks to delete the restriction "the authority granted above may not be tacked or joined with, any other authority now held by carrier."

No. MC 129455 and (Sub-Nos. 2, 5 and 6) M1 (Correction) (Notice of Filing of Petition to Broaden Commodity Description and Add Origin Points), filed June 13, 1977, as published in the FEDERAL REGISTER issue of August 18, 1977, and republished, as corrected, this issue. Petitioner: CARRETTA TRUCKING INC., 301 Mayhill Street, Saddle Brook, N.J. 07662. Petitioner's representative: Martin M. Geffon, P.O. Box 154, Willingboro, N.J. 08046. Petitioner holds motor *contract carrier* Permits in No. MC 129455 and (Sub-Nos. 2, 5 and 6) issued July 10, 1970, November 10, 1969, September 27, 1974 and November 11, 1975, respectively, authorizing transportation in (1) No. MC 129455, as pertinent, over irregular routes, of *Materials and supplies* used in the manufacture of swimming pools and garden sheds, from St. Louis, Mo., and Bakerstown, Pa., to Paterson, N.J., and the plant site of Quaker City Industries at Carlstadt, N.J., with no transportation for compensation on return except as otherwise authorized. Restriction: The operation authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Quaker City Industries of Carlstadt, N.J. (2) in MC 129455 (Sub-No. 2), as pertinent, over irregular routes of *Steel coils*, from McKeesport, Pa., to Paterson, N.J., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts with Quaker City Industries, Inc., of Carlstadt, N.J.; (3) in No. MC 129455 (Sub-No. 5), over irregular routes, of *Steel* used in the manufacturer of garden sheds, (a) from Youngstown, Ohio, to Saddle Brook, N.J., with no transportation for compensation on return except as otherwise authorized; (b) from Wheeling, W. Va., to Lyndhurst and Saddle Brook, N.J., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Quaker City Industries, Inc.; (4) in MC 129455 (Sub-No. 6), over irregular routes of (A) *Steel* used in the manufacture of garden sheds, (1) from Yorkville, Ohio, to Lyndhurst and Saddle Brook, N.J., and Allentown and Morrisville, Pa., with no transportation for compensation on return except as otherwise authorized; and (2) from Morrisville and Allentown, Pa., to Saddle Brook, N.J., with no transportation for compensation on return except as otherwise authorized; (B) *Steel*, in coils, from Philadelphia, Pa., to Allentown, Pa., and Lyndhurst and Saddle Brook, N.J., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Quaker City Industries, Inc., of Carlstadt, N.J. By the instant petition, petitioner seeks to include *materials and supplies used in the manufacture of swimming pools and garden sheds* and to add the origins points of Pennsylvania, West Virginia and Ohio, in the above-named authorities, under a continuing contract, or contracts, with Quaker City Industries, Inc., of Saddle Brook, N.J. The purpose of this correction is to clarify administrative matters in assigning the docket No. MC 129455 and (Sub-Nos. 2, 5 and 6) M1.

No. MC 129455 and (Sub-Nos. 2 and 3) M2 (Correction) (Notice of Filing of Petition to Broaden Commodity Description), filed June 20, 1977, as published in the FEDERAL REGISTER issue of August 18, 1977, and republished, as corrected, this issue. Petitioner: CARRETTA TRUCKING, INC., 301 Mayhill Street, Saddle Brook, N.J. 07662. Petitioner's representative: Martin M. Geffon, P.O. Box 154, Willingboro, N.J. 08046. Petitioner holds motor *contract carrier* Permits in No. MC 129455 and (Sub-Nos 2 and 3), issued July 10, 1970, November 10, 1969, and March 23, 1972, respectively, authorizing transportation (1) in No. MC 129455 as pertinent, over irregular routes, of *Swimming pools, garden sheds, and radiator enclosures*, from Paterson, N.J., and the plantsite of Quaker City Industries located at Carlstadt, N.J., to points in Arkansas, California, Illinois, Indiana, Kentucky, Michigan, Minnesota, Missouri, New York, Ohio, Oklahoma, Virginia (except Arlington and Fairfax Counties), and those points in that part of Pennsylvania west of the Susquehanna River, under a continuing contract, or contracts with Quaker City Industries of Carlstadt, N.J.; (2) in No. MC 129455 (Sub-No. 2) as pertinent over irregular routes, of *swimming pools, garden sheds, and radiator enclosures*, from Carlstadt and Paterson, N.J., to points in Georgia, Florida, South Carolina, North Carolina, Maryland, Delaware, Connecticut, Rhode Island, Massachusetts, Washington, Colorado, Utah, Arizona, Texas, Louisiana, Wisconsin, Tennessee, the District of Columbia, points in Arlington and Fairfax Counties, Va., and points in that part of Pennsylvania east of the Susquehanna River, under a continuing contract or contracts with Quaker City Industries, Inc., of Carlstadt, N.J.; and (3) in No. MC 129455 (Sub-No. 3), over irregular routes, of: *swimming pools, garden sheds, and radiator enclosures*, from Paterson, Carlstadt, and Saddle Brook, N.J., to points in Alabama, Idaho, Iowa, Kansas, Maine, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Oregon, South Dakota, Vermont, West Virginia, and Wyoming, under a continuing contract or contracts with Quaker City Industries, Inc., of Saddle Brook, N.J. By the instant petition, petitioner seeks to broaden the commodity description of all three of the above Permits to include "redwood products." The purpose of this correction is to clarify administrative matters in assigning the docket No. MC 129455 and (Sub-Nos. 2 and 3) M2 in lieu of No. MC 129455 and (Sub-Nos. 2 and 3) M1.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if not representative is named.

No. MC 119395 (Sub-No. 2) (Republication) (Notice of Filing of Petition to Modify Permit), filed November 30, 1976, published in the FEDERAL REGISTER issue of December 30, 1976, and republished this issue. Petitioner: WILLIAM'S CHEMICAL TRANSPORT, INC., 500 Lambson Lane, New Castle, Del. 19720. Petitioner's representative: E. Stephen Heisley, 805 McLachen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. An Order of the Commission, Review Board Number 3, dated August 5, 1977, and served August 19, 1977, finds that modification of petitioner's Permit No. MC 119395 (Sub-No. 2), issued November 16, 1973 to read "(1) Drugs and chemicals, in containers, and materials, equipment, and supplies used in the manufacture and distribution of drugs and chemicals (except in bulk), between the facilities of ICI United States, Inc., at or near Newark, Del., on the one hand, and, on the other, points in Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont and the District of Columbia; (2) drugs and chemicals, in containers, and materials, equipment, and supplies used in the manufacture and distribution of drugs and chemicals (except in bulk), from the facilities of ICI United States, Inc., at or near New Castle, Del., to points in Connecticut, Maine, Maryland (except Baltimore), Massachusetts, New Hampshire, New Jersey (except Trenton, Camden,

and points within 20 miles of New York, N.Y.), New York (except Beacon and points in the New York, N.Y., commercial zone, as defined by the Commission), Pennsylvania (except Ambler, Harrisburg, Philadelphia, Chester, Fernwood, and Marcus Hook), Rhode Island, and Vermont, and the District of Columbia; and (3) drugs and chemicals, in containers, and materials, equipment, and supplies used in the manufacture and distribution of drugs and chemicals (except in bulk), from points in the destination set forth in (2) above, including the excepted points, to the above described origin facilities in (1), (2), and (3) above under a continuing contract or contracts with ICI United States, Inc., of Wilmington, Del." will be consistent with the public interest and the national transportation policy; that petitioner is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to give notice of the broadening of the commodity description in (2) and (3) above in the modifications authorized to petitioner's Permit.

No. MC 126545 (Sub-No. 8) (Republication), filed January 14, 1976, published in the FEDERAL REGISTER issue of February 26, 1977, and republished this issue. Applicant: GLENERY, INC., 173 Hickory Street, Kearny, N. J. 07032. Applicant's representative: William J. Augello, 120 Main Street, P.O. Box Z, Huntington, N.Y. 11743. An Order by the Commission, Division 1, Acting as an Appellate Division, dated August 9, 1977, and served August 17, 1977, finds on reconsideration, that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of (1) *sanitary tissue paper*, from Milltown, N.J., to Holyoke, Mass., (2) *plastic film*, from Edison, N.J. to Holyoke, Mass., (3) *disposable surgical and clinical paper products*, from Holyoke, Mass. to New York, N.Y. and points in New Jersey and (4) *inter-office correspondence sales, accounting, and computer data*, and *materials, equipment* and *supplies* used in the manufacture, sale or distribution of sanitary paper products, between Milltown and Edison, N.J., on the one hand, and, on the other, Holyoke, Mass., in mixed loads with the commodities in (1), (2), and (3) above, under a continuing contract or contracts with Cel Fibe, a division of Johnson and Johnson, of Milltown, N.J., and Graham Manufacturing Co., a division of Cel Fibe, of Holyoke, Mass., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the additional grant of authority in (4) above.

No. MC 128698 (Sub-No. 13) (Republication), filed September 21, 1976, published in the FEDERAL REGISTER issue of October 21, 1976, and republished this issue. Applicant: ERDNER BROTHERS, INC., Davidson Road, Swedesboro, N.J. 08085. Applicant's representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St. NW., Washington, D.C. 20005. An Order of the Commission, Review Board Number 3, dated April 28, 1977, and served May 25, 1977, finds that operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *materials, supplies, and equipment* used in the manufacture and distribution of foodstuffs (except salt, glass bottles and commodities in bulk), from points in Delaware, New Jersey, New York, Ohio, Pennsylvania, Michigan, Virginia, West Virginia, and the District of Columbia to Salisbury, Md., and Downington, Pa., restricted to the transportation of shipments originating at the above-named origin points and destined to the facilities of Campbell Soup Company and Pepperidge Farm, Incorporated, at or near Salisbury, Md., and Downingtown, Pa.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to broaden the territorial description by the addition of Downingtown, Pa. as a destination point.

No. MC 138875 (Sub-No. 45) (Republication), filed February 16, 1977, published in the FEDERAL REGISTER issue of April 7, 1977, and republished this issue. Applicant: SHOEMAKER TRUCKING CO., a Corporation, 11900 Franklin Road, Boise, Idaho 83705. Applicant's representative: F. L. Sigloh (Same address as applicant). An Order of the Commission, Review Board Number 2, dated August 2, 1977, and served August 19, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *doors and door hardware*, from the plantsite of Jim Walter Doors, located at Lindenhurst, N.Y., and Williamsport, Pa., to points in California, Colorado, Idaho, Nevada, Oregon, Utah and Washington. Applicant is fit and willing and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the grant of authority of Lindenhurst N.Y. as an origin point in lieu of Lindenhurst, Pa. as originally published in the FEDERAL REGISTER.

No. MC 141241 (Sub-No. 1) (Republication), filed June 28, 1976, published in the FEDERAL REGISTER issue of August 5, 1976, and republished this issue. Applicant: PAUL BREWER, doing business as BREWER TRUCKING COMPANY, P.O. Box 1036, Dillon, S.C. 29536. Applicant's representative: William J. McLeod, 102 N. Third Avenue, Dillon, S.C. 29536. An Order of the Commission, Review Board Number 3, dated July 5, 1977, and served August 12, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of (1) *furniture and plywood*, from the facilities of Dillon Furniture and Plywood Co., Inc., at Dillon, S.C., to points in Arkansas, Connecticut, Florida, Georgia, Illinois, Iowa, Mississippi, Missouri, New Jersey, North Carolina, Pennsylvania, Tennessee, Virginia, and Wisconsin; and (2) *tires, tubes, and related articles*, from points in Tennessee, Alabama, Ohio, and Oklahoma, to the facilities of Dillon Tire Service, Inc., at Dillon, S.C.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to give notice of the grant of common carrier authority in lieu of contract carrier authority, and also to give notice of the authority granted in (2) above.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The followng applications are governed by Special Rule 247 of the Commission's *General Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d) (3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularly the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if not representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

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Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the Federal Register of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 2900 (Sub.-No. 311), filed August 3, 1977. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, Fla. 32203. Applicant's representative: S. E. Somers, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: General commodities (except household goods as defined by the Commission, commodities in bulk, commodities of unusual value and those requiring special equipment): Between the junction of U.S. Highway 41 and Interstate Highway 20 and the junction of U.S. Highway 75 and Interstate Highway 20 as an alternate route for operating convenience only; from junction U.S. Highway 41 and Interstate Highway 20 over Interstate Highway 20 to junction of U.S. Highway 75 and Interstate Highway 20, and return over the same route serving the termini and the junction of U.S. Highway 31 and Interstate Highway 20 for the purpose of joinder only.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla., or Washington, D.C.

No. MC 2960 (Sub-No. 16), filed August 2, 1977. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, (a corporation), 2301 McKinney Street, Houston, Tex. 77023. Applicant's representative: E. Larry Wells, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting home furnishings, furniture and home accessories, crated, from the plantsite and storage facilities of Best Imports, Inc., located at Caldwell, Nacogdoches, Dallas, Fort Worth, and Odessa, Tex.; and Fort Smith, Ark., to Houston, Tex., restricted to traffic having a subsequent movement by water.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Dallas or Houston, Tex.

No. MC 3854 (Sub-No. 38), filed July 28, 1977. Applicant: BURTON LINES, INC., 815 Ellis Road, P.O. Box 11306, East Durham Station, Durham, N.C. 27703. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of roofing materials from the plantsite of Johns-Manville Corp., in Chatham County, Ga., to points in Tennessee, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Raleigh, N.C., or Washington, D.C.

No. MC 8973 (Sub-No. 46), filed July 28, 1977. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Aluminum articles, aluminum products, plastic articles, building materials, equipment and supplies used in the manufacture, sale, processing, distribution and installation of the commodities above (except commodities in bulk), between the plant site of and warehouse facilities utilized by Alcan Aluminum Corp. at or near Woodbridge, N.J., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 8989 (Sub-No. 224), filed July 26, 1977. Applicant: HOWARD SOBER, INC., 5810 Moeller Road, P.O. Box 216, Fort Wayne, Ind. 46801. Applicant's representative: Gary Geiger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Motor vehicles and motor vehicle chassis, in initial movements in driveway and truckaway service, and bodies, cabs, parts and accessories for each vehicle, from Harrisburg, Pennsylvania, to points in the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 19227 (Sub-No. 239), filed July 26, 1977. Applicant: LEONARD BROS. TRUCKING CO., INC., 2515 Northwest 20th Street, P.O. Box 520602, Miami, Fla. 33152. Applicant's representative: Thomas A. Leonard, 2515 Northwest 20th Street, Miami, Fla. 33152. Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Construction, earth moving, excavating, hoisting and material handling machinery and equipment*, (2) *Attachments, accessories, and parts for (1) above when moving in the same shipment with (1) above*, (3) *Materials, supplies, and equipment used in the manufacture, assembly and distribution of commodities in (1) and (2) above (except commodities in bulk)*. Between the plantsite and facilities of ATO Construction Equipment Division at or near Goose Creek, South Carolina, on the one hand, and on the other, points in the United States (except Hawaii and Alaska).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Charleston, S.C., Atlanta, Ga., or Washington, D.C.

No. MC 22229 (Sub-No. 117), filed July 21, 1977. Applicant: TERMINAL TRANSPORT COMPANY, INC., 48 Chester Avenue SE., Atlanta, Ga. 30316. Applicant's representative: Harold H. Clokey, 410 The Equitable Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Paper and Paper Products, from Yulee, Florida, to points in Alabama, Georgia, Illinois, Indiana, Kentucky, and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the Applicant requests that it be held in Jacksonville, Fla., or Atlanta, Ga.

No. MC 25798 (Sub-No. 297), filed August 2, 1977. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell, Post Office Box 1186, Auburndale, Fla. 33823. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General Commodities* (except commodities in bulk, those which because of size or weight require the use of special equipment, household goods as defined by the Commission, articles of unusual value and Classes A and B Explosives) from the facilities of Drumtop Atlanta Shippers Association, Inc., at Smyrna, Ga., to points in Florida south and east of the Suwanee River. Restricted to shipments originating at and destined to the above described points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Tampa, Fla., or Atlanta, Ga.

No. MC 26396 (Sub-No. 155), filed August 1, 1977. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, P.O. Box 990, Livingston, Mont. 59047. Applicant's representative: Jacob P. Billig, 2033 K Street NW., Suite 300, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, and fittings and accessories necessary for the installation thereof* (1) from the facilities of Certain-Teed Corp. located at or near McPherson, Kans., to points in Florida, Illinois, Oklahoma, and Texas, (2) from the facilities of Certain-Teed Corp. located at or near Social Circle, Ga., to points in Alabama, Arkansas, Colorado, Florida, Illinois, Indiana, Kansas, Kentucky, Maryland, Minnesota, Mississippi, Nebraska, North Carolina, North Dakota, South Carolina, South Dakota, Tennessee, Virginia, West Virginia, Wisconsin, and Wyoming; and (3) from the facilities of Certain-Teed Corp. located at or near Williamsport, Md., to points in Colorado, Illinois, Indiana, Kansas, Minnesota, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 26739 (Sub-No. 97), filed July 22, 1977. Applicant: CROUCH FREIGHT SYSTEMS, INC., P.O. Box 1159, St. Joseph, Mo. 64502. Applicant's representative: Charles W. Singer, 2440 East Commercial Blvd., Fort Lauderdale, Fla. 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in, or used by, agricultural equipment, industrial equipment and lawn and leisure products manufacturers and dealers (except commodities in bulk), (1) between the facilities of, or used by, International Harvester Co. at East Moline, Moline, and Rock Island, Ill., on the one hand, and, on the other, points in Arkansas, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, Tennessee, and Texas; and (2) between the facilities of, or used by, an International Harvester Co. at Canton, Ill., on the one hand, and, on the other, points in Kansas, Missouri, New Mexico, Oklahoma, and Texas. Restrictions: The above authorities are restricted to the transportation of traffic (a) originating at the facilities of, or used by, International Harvester Co. at the points named in each of the respective paragraphs above and destined to points in the States named in said paragraphs, or (b) originating at points in the States named in each of the respective paragraphs above and destined to the facilities of, or used by International Harvester Co. at the points named in said paragraphs, except that the restrictions in (a) and (b) above shall not apply to traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. Common control may be involved.

No. MC 35706 (Sub-No. 5), filed July 19, 1977. Applicant: ATSL, INC., 6801 State Street, Philadelphia, Pa. 19135. Applicant's representative: Richard Rueda, Suite 612, Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes; transporting juvenile furniture and children's vehicles, and materials, supplies and parts used in the manufacture and packaging of such commodities between the plant site and warehouse facilities of Graco Children's Products located in Elverson, Pa., and Hellam, Pa., on the one hand, and, on the other, points in New Jersey, Delaware, Maryland, New York, Connecticut, and Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Philadelphia, Pa. or Camden, N.J.

No. MC 35831 Sub-No. 13, filed July 28, 1977. Applicant: E. A. Holder, Inc., P.O. Box 69, Kennedale, Tex. 76060. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Lime and limestone, in bags, from the plantsites of Texas Lime Co., at or near Cleburne, Tex., to points in New Mexico, Oklahoma, Louisiana, Arkansas, Kansas, and Colorado.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Fort Worth, Tex., or Dallas, Tex.

No. MC 36509 (Sub-No. 29), filed July 22, 1977. Applicant: LOOMIS ARMORED CAR SERVICE, INC., 821 Sansome Street, San Francisco, Calif. 94111. Applicant's representative: George H. Hart, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *silver bullion*, between points in Owyhee County, Idaho, on the one hand, and, on the other, Portland, Oreg., under a continuing contract or contracts with Earth Resources Co., DeLamar Silver Mine.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif., Portland, Oreg.; or Seattle, Wash. Common control may be involved.

No. MC 41404, Sub-No. 128, filed August 1, 1977. Applicant: ARGO-COLLIER TRUCK LINES CORPORATION, Post Office Box 440, Martin, Tenn. 38237. Applicant's representative: Mark L. Horne (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food products, and food ingredients*, in vehicles equipped with mechanical refrigeration, from the plant and storage facilities of Archer Daniels Midland Co., at Decatur, Ill., to points in Arkansas, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin, restricted to shipments originating at the named origins.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Springfield, Ill., or St. Louis, Mo. Common control may be involved.

No. MC 43038 (Sub-No. 462), filed July 21, 1977. Applicant: COMMERCIAL CARRIERS, INC., 10701 Middlebelt Road, Romulus, Mich. 48174. Applicant's representative: Paul H. Jones, 29725 Shacket Ave., Madison Heights, Mich. 48071. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor Vehicles* (except trailers) in secondary movements, in driveaway service, between Sharonville, Cementdale, and Cincinnati, Ohio, on the one hand, and, on the other, points in Virginia and West Virginia, restricted to the transportation of shipments manufactured, assembled, imported, or distributed by Ford Motor Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Detroit, Mich., or Washington, D.C. Common control may be involved.

No. MC 43038 (Sub-No. 465), filed July 25, 1977. Applicant: COMMERCIAL CARRIERS, INC., 10701 Middlebelt Road, Romulus, Mich. 48174. Applicant's representative: Paul H. Jones, 29725 Shacket Ave., Madison Heights, Mich. 48071. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor Vehicles* (except trailers) in secondary movements, in truckaway service, between Sharonville, Cementdale, and Cincinnati, Ohio, on the one hand, and, on the other, points in Virginia and West Virginia, restricted to the transportation of shipments manufactured, assembled, imported, or distributed by Ford Motor Co.

NOTE.—Common control may be involved. If a hearing is deemed necessary the applicant requests it be held at either Detroit, Mich., or Washington, D.C.

No. MC 48017 (Sub-No. 9), filed: July 21, 1977. Applicant: CAMEL TRUCKING, INC., 7 Nay Street, East Boston, Mass. 02128. Applicant's representative: Ronald I. Shapss, 450 Seventh Avenue, New York, N.Y. 10001. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Philadelphia, Pa., on the one hand, and, on the other, Haverhill, Boston, and Lowell, Mass., and points within 10 miles of Lowell, Mass.; (2) between Philadelphia, Pa., on the one hand, and, on the other, points in Morris, Passaic, and Somerset Counties, N.J.; and (3) Between Boston and Haverhill, Mass., on the one hand, and, on the other, points in that part of New Hampshire on and south of a line beginning at the Maine-New Hampshire state boundary line and extending along U.S. Highway 202 to junction New Hampshire Highway 9 thence along New Hampshire Highway 9 to the New Hampshire-Vermont state boundary line and those in Vermont on and south of Vermont Highway 9.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Boston, Mass., or New York, N.Y.

No. MC 48221 (Sub-No. 11), filed August 4, 1977. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Avenue, Omaha, Nebr. 68107. Applicant's representative: Bruce A. Bullock, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages, and advertising material and premiums*, from Golden, Colo., to points in Nebraska; and (2) *Empty malt beverage containers, packaging material, pallets, and scrap malt beverage containers, and packing dunnage*, from points in Nebraska to Golden, Colo.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, Nebr., or Denver, Colo.

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No. MC 51146 (Sub-No. 511), filed July 25, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. Du Jardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stuffed toys* from Omaha, Nebr., to points in Colorado, Kansas, Missouri, Iowa, Wisconsin, Minnesota, Illinois, Indiana, and Michigan.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 512), filed July 28, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Wayne Downing (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foodstuffs* (except commodities in bulk, in tank vehicles), and (2) *frozen meats and meat by-products*, unfit for human consumption (except commodities in bulk, in tank vehicles) from the facilities of Wiscold, Inc. at or near Beaver Dam and Milwaukee, Wis., to points in Georgia, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 60014 (Sub-No. 52), filed August 4, 1977. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *lumber, particle-board, plywood, insulating board, hardboard, and accessories and supplies* used in the installation of the named products from the plant-sites and storage facilities of Georgia-Pacific Corp. at or near Citronelle, Hurtsboro, and Peterman, Ala.; Chiefland and Cross City, Fla.; Bellville, Camilla, Durand, Lithonia, McRae, Monticello, Port Wentworth, Savannah, Vienna, and Warrenton, Ga.; Ahoskie, Conway, Dudley, Enfield, Murfreesboro, Plymouth, and Whiteville, N.C.; Alcolu, Conway, Prosperity, Russellville, and Varnville, S.C.; and Emporia, Jarratt, and Vansant, Va., to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 61396 (Sub-No. 334), filed July 28, 1977. Applicant: HERMAN BROS. INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha, Nebr. 68101. Applicant's representative: John E. Smith II (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquified petroleum gas*, in bulk, in tank vehicles, from (1) West Memphis, Ark., and (2) Arcadia, La., to Arkansas, Tennessee, Missouri, and Mississippi.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Minneapolis, Minn., or Omaha, Nebr.

No. MC 64651 (Sub-No. 10), filed July 15, 1977. Applicant: STAR TRANSPORT CO., INC., P.O. Box 2006, High Point, N.C. 27261. Applicant's representative: C. G. Pusey, 1791 Westchester Drive, High Point, N.C. 27260. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Cumberland and Salem Counties, N.J., to points in Connecticut, Massachusetts, and Rhode Island.

NOTE.—Applicant states it can tack the requested authority at points in Salem County, N.J., with its existing authority in No. MC 64651 (Sub-No. 3) which authorizes transportation between points in New Jersey, on the one hand, and, on the other, Baltimore, Md., thence it could tack at Baltimore to provide a through service between points in North Carolina, South Carolina, and Georgia, on the one hand, and, on the other, points in Connecticut, Massachusetts, and Rhode Island by joinder with Old Dominion's authority held in No. MC 107478 and related subs pursuant to purchase agreement in No. MC-F 12292. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either High Point, Charlotte, or Greensboro, N.C.

No. MC 64932 (Sub-No. 573), filed August 2, 1977. Applicant: ROGERS CARTAGE CO., a corporation, 10735 South Cicero Avenue, Oak Lawn, Ill. 60453. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Kankakee, Ill., to points in Arizona, Colorado, Florida, Louisiana, Massachusetts, New Mexico, North Carolina, Oklahoma, Pennsylvania, Texas, Utah, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 69397 (Sub-No. 28), filed July 26, 1977. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85, Pocomoke City, Md. 21851. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, wood, and wood products*, from points in Accomack and Northampton Counties, Va., to points in Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C., or Salisbury, Md. Common control may be involved.

No. MC 69492 (Sub-No. 57), filed August 2, 1977. Applicant: HENRY EDWARDS, d.b.a. HENRY EDWARDS TRUCKING CO., P.O. Box 97, Clinton, Ky. 42301. Applicant's representative: A. O. Buck, 618 United American Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, and related advertising materials*, (1) from Fort Worth, Tex., to Woodland Mills, Tenn.; and (2) from Detroit, Mich., to Marston, Mo.

NOTE.—If a hearing is deemed necessary applicant requests that it be held at Memphis, Tenn.

No. MC 69492 (Sub-No. 58), filed August 1, 1977. Applicant: HENRY EDWARDS, d.b.a. HENRY EDWARDS TRUCKING CO., P.O. Box 97, Clinton, Ky. 42301. Applicant's attorney: A. O. Buck, 618 United American Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials*, from Detroit, Mich., to Memphis, Tenn.

NOTE.—If hearing is deemed necessary applicant requests that it be held at Memphis, Tenn.

No. MC 78687 (Sub-No. 49), filed July 28, 1977. Applicant: LOTT MOTOR LINES, INC., P.O. Box 751, West Cayuga Street, Moravia, N.Y. 13118. Applicant's McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from Horseheads, N.Y., to points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, the Lower Peninsula of Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y., or Washington, D.C. Applicant holds contract carrier authority in No. MC 2505, therefore, dual operations may be involved. Common control may be involved.

No. MC 95876 (Sub-No. 206), filed July 22, 1977. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. North, St. Cloud, Minn. 56301. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from Joliet, Ill., to North Dakota, South Dakota, Wisconsin, Minnesota, and that part of Iowa on, north and west of the line from the intersection of the Iowa-Minnesota state line and U.S. Highway 69, south over U.S. Highway 69 to Iowa Highway 3, then west over Iowa Highway 3 to U.S. Highway 75 then south over U.S. Highway 75 to Sioux City then over U.S. Highway 20 to Iowa-South Dakota state line. Restricted to traffic originating at and destined to the named origin and destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. Common control may be involved.

No. MC 104104 (Sub-No. 14), filed July 21, 1977. Applicant: GEORGE A. FETZER, INC., Newton-Sussex Road, Augusta, N.J. 07882. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lawn furniture*, from Hamburg, Pa., Stamford, Conn., Tranquility, N.J., and West Brookfield, Mass., to points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and Washington, D.C., and on return movements, materials and supplies used in connection therewith except in bulk).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Newark, N.J., or New York, N.Y.

No. MC 105501 (Sub-No. 20), filed July 22, 1977. Applicant: TERMINAL WAREHOUSE CO., INC., 1851 Raddison Road NE., Blaine, Minn. 55434. Applicant's representative: Joseph J. Dudley, Dudley & Smith, W-1260 First National Bank Building, St. Paul, Minn. 55101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast and prestressed concrete products* (except in bulk) from Lino Lakes, Minn., to points in South Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at St. Paul, Minn.

No. MC 105733 (Sub-No. 61), filed July 28, 1977. Applicant: H. R. RITTER TRUCKING CO., INC., 928 East Hazelwood Avenue, Rahway, N.J. 07065. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from points in Connecticut to points in New Jersey and New York.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Washington, D.C.

No. MC 106674 (Sub-No. 247), filed Aug. 1, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Linda J. Sundy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building and roofing materials* (except iron and steel articles and commodities in bulk), from the plantsite and warehouse facilities of the GAF Corp. at Joliet, Ill., to points in the Lower Peninsula of Michigan; and (2) *materials, equipment and supplies* used in the manufacture, distribution, and sale of building and roofing materials, from points in the Lower Peninsula of Michigan to the plantsite and warehouse facilities of the GAF Corp. at Joliet, Ill., restricted to traffic originating at and destined to points as noted above.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in either Chicago, Ill., or Indianapolis, Ind.

No. MC 107002 (Sub-No. 513), filed July 22, 1977. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representatives: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, Miss. 39204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Memphis, Tenn., to points in Arkansas on and west of a line beginning at the Arkansas-Louisiana State line and extending along U.S. Highway 167 to Little Rock, Ark., thence along U.S. Highway 65 to the Arkansas-Missouri State line, Illinois, Indiana, points in Kentucky west of U.S. Highway 231, Ohio, and Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Jackson, Miss.

No. MC 107002 (Sub-No. 514), filed August 1, 1977. Applicant MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representatives: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, Miss. 39204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oils*, in bulk, in tank vehicles, (A) from the facilities of Mobile Bulk Terminal, Inc., at or near Mobile, Ala., to points in Louisiana and points in Mississippi north of U.S. Highway 80; (B) from the facilities of Ergon, Inc., at or near Greenville, Miss., to points in Arkansas on, west, and north of a line beginning at the Arkansas-Texas State line and extending along U.S. Highway 67 to Malvern, Ark., thence U.S. Highway 270 to Sheridan, Ark., thence U.S. Highway 167 to Fordyce, Ark., thence U.S. Highway 79 to junction U.S. Highway 49, thence U.S. Highway 49 to the Arkansas-Mississippi State line, points in Louisiana on and north of U.S. Highway 84, and to the site of U.S. Naval Air Station at or near Millington, Tenn.; (C) from the facilities of Ergon, Inc., at or near Vicksburg, Miss., to points in Arkansas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss., or Memphis, Tenn.

No. MC 107515 (Sub-No. 1098), filed August 1, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *intravenous solutions, related drugs and medicines, and related medical supplies*, in vehicles equipped with mechanical refrigeration, from North Cove, N.C., to points in Arizona, California, Colorado, Florida, Illinois, Indiana, Iowa, Missouri, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New Mexico, New York, Ohio, Pennsylvania, Texas, Washington, and Wisconsin.

NOTE.—Applicant holds contract carrier authority in MC 126436 (Sub-No. 2), therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Chicago, Ill., or Washington, D.C.

No. MC 107839 (Sub-No. 172), filed July 19, 1977. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., P.O. Box 16106, Denver, Colo. 80216. Applicant's representative: David E. Driggers, Suite 1600, Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80264. Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Cade and Lozes, La., to points in Iowa, Kansas, Missouri, Nebraksa, and Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New Orleans, La., or Denver, Colo.

No. MC 108207 (Sub-No. 464), filed July 25, 1977. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, Dallas, Tex. 75207. Applicant's representative: Mike Smith, P.O. Box 5888, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from Benton and Washington Counties, Ark., to points in Louisiana and Mississippi, and points in Tennessee on and west of Interstate Highway 65. Restricted to traffic originating at the plantsites and warehouse facilities of Welch Foods, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Dallas, Tex.

No. MC 108341 (Sub-No. 65), filed August 1, 1977. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 8409, Charlotte, N.C. 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Construction, earth moving, excavating, hoisting, and material handling machinery and equipment*; (2) *attachments, accessories, and parts*, for (1) above when moving in the same shipment with (1) above; and (3) *materials, supplies, and equipment*, used in the manufacture, assembly and distribution of commodities in (1) and (2) (except commodities in bulk), between the plantsite and facilities of ATO Construction Equipment Division, at or near Goose Creek, S.C., on the one hand, and, on the other, points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana.

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NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 108341 (Sub-No. 67), filed August 11, 1977. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 8409, Charlotte, N.C. 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products, and supplies, materials and equipment* used in the manufacturing of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc., and its subsidiary and affiliated companies located at or near Decatur, Ala.; Casa Grande, Ariz.; Long Beach, Riverside, Visalia, Perris Valley, and Woodland, Calif.; Loveland, Colo.; Ocala and Plant City, Fla.; Peachtree City and Jonesboro, Ga.; Boise and Twin Falls, Idaho; Chicago, Morris, and St. Charles, Ill.; Bristol, Franklin, and Bicknell, Ind.; McPherson, Kans.; Frederick, Md.; Montevideo, Minn.; St. Louis, Mo.; Hernando, Miss.; Dunkirk, N.Y.; Reidsville, N.C.; Cleveland, Ohio; Tulsa and Checotah, Okla.; Stayton, Oreg.; Bloomsburg, Pa.; Dennison and Mansfield, Tex.; Harrisonburg, Va.; Spokane and Ferndale, Wash.; and Marshfield, Wis., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *Zinc and zinc alloys* between the plantsites of Alumax, Inc., and its subsidiary and affiliated companies located at or near Long Beach, Calif.; Chicago, Ill.; Cleveland, Ohio; and Checotah, Okla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. Hearing: Set for San Francisco, Calif. starting November 7, 1977 (one week); and Atlanta, Ga., on November 14, 1977 (one week).

No. MC 108393 (Sub-No. 124), filed July 26, 1977. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 E. Ogden Avenue, Room 126, Hinsdale, Ill. 60521. Applicant's representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Such merchandise as is dealt in by mail order houses and retail department stores, and equipment, materials and supplies used in the conduct of such business (except commodities in bulk): From Findlay, Ohio to Buffalo, New York. Restrictions: The operations are restricted against the transportation of commodities in bulk, in tank vehicles; The operations are limited to a transportation service to be performed under a continuing contract or contracts with Sears, Roebuck and Co.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 110420 (Sub-No. 770), filed July 25, 1977. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street, NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats and oils*, in bulk, in tank vehicles, from Whitehall, Wis., to Morris, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Minneapolis, Minn. Common control may be involved.

No. MC 110563 (Sub-No. 203), filed August 4, 1977. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, Ohio 45365. Applicant's representative: Mr. Joseph M. Scanlan, 111 West Washington Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Confectionery (except in bulk), in vehicles equipped with mechanical refrigeration, from Chicago and Carol Stream, Ill., to points in Maine, New Hampshire, Ohio, and Vermont:

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 111302 (Sub-No. 109), filed July 28, 1977. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, Knoxville, Tenn. 37919. Applicant's representative: David A. Petersen, P.O. Box 10470, Knoxville, Tenn. 37919. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Chemicals, in bulk, in tank vehicles from the plantsite of Alpine Laboratories in Baldwyn County, Ala., to points in the United States (except Alaska and Hawaii); (2) Styrene, in bulk, in tank vehicles from Baton Rouge, La. and Houston, Tex., to the plantsite of Alpine Laboratories in Baldwyn County, Ala.; (3) butyl phenol, in bulk, in tank vehicles, from Orangeburg, S.C., to the plantsite of Alpine Laboratories in Baldwyn County, Ala.

NOTE.—Common control may involved. If a hearing is deemed necessary, applicant requests that it be held at Mobile, Ala.

No. MC 113434 (Sub-No. 81), filed July 28, 1977. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, Mich. 49423. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Glass containers* and *accessories therefor* and *materials, equipment* and *supplies used in the manufacture and distribution thereof*, except commodities in bulk, (1) from Charlotte, Mich., to points in Illinois, Indiana, Iowa, Kentucky, Maryland, Missouri, New Jersey, New York, Ohio, Pennsylvania, West Virginia, and Wisconsin, and (2) from Holland, Mich., to North East, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio, Detroit, Michigan, or Washington, D.C.

No. MC 113651 (Sub-No. 226), filed July 25, 1977. Applicant: INDIANA REFRIGERATOR LINES, INC., Post Office Box 552, Muncie, Ind. 47305. Applicant's representative: George E. Batty, Post Office Box 552, Muncie, Ind. 47305. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the *Report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 768 (except hides and commodities in bulk), from Worthington, Ind., to points in Alabama, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Missouri, Michigan, Minnesota, Mississippi, Maryland, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, District of Columbia, and ports of entry on the International Boundary Line between the United States and Canada located at Buffalo and Niagara Falls, N.Y., and Detroit, Mich. Restriction: Restricted to traffic originating at the plantsite and storage facilities of Herkly Packing Co. located at or near Worthington, Ind., and destined to the named destination States or to traffic destined to the named ports of entry for movement to final destinations located in Canada.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Indianapolis, Ind. or Chicago, Ill.

MC 113651 (Sub-No. 227), filed August 1, 1977. Applicant: INDIANA REFRIGERATOR LINES, INC., Post Office Box 552, Muncie, Ind. 47305. Applicant's representative: George E. Batty, Post Office Box 552, Muncie, Ind. 47305. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *confectionery and confectionery products* (except in bulk), *and advertising and display matter* in the same vehicle at the same time, from Covington, Tenn., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, and South Carolina.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Nashville, Tenn., or Washington, D.C.

No. MC 113855 (Sub-No. 384), filed August 8, 1977. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Thomas J. van Osdel, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: (1) *self-propelled articulating terminal tractors* each weighing less than 15,000 lbs., and (2) *parts, materials*, and *supplies* used in the construction or manufacture of the commodities described in (1) above, between points in King County, Wash., on the one hand, and, on the other, points in the United States (including Alaska, but excluding Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash. or Portland, Oreg.

No. MC 114323 (Sub-No. 21), filed August 1, 1977. Applicant: PAUL MARCKESANO AND SONS CO., INC., 36 Ferris Street, Brooklyn, N.Y. 11231. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Fly ash, in bulk, from Portland, Pa., to points in Connecticut, New York, and New Jersey.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 114457 (Sub-No. 319), filed July 25, 1977. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products and woodpulp*, from Calhoun, Tenn., to points in Iowa, Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin; (2) *materials, equipment and supplies* used in the manufacture of the commodities described in (1) above (except in bulk), from points in the destination States named in (1) above, to the plantsite of Bowater Southern Paper Corp. located at Calhoun, Tenn.; and (3) *paper and paper products* having prior movement by motor carrier, rail or water, from the warehouses and facilities of Bowater Southern Paper Corp., located at Chicago, Ill., to points in Iowa, Illinois, Indiana, Michigan, Minnesota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Nashville, Tenn., or Louisville, Ky.

No. MC 114457 (Sub-No. 323), filed August 1, 1977. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James C. Hardman, 33 N. LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibreboard containers and container ends*, from Ponca City, Okla., to Chicago, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Paul, Minn., or Chicago, Ill.

No. MC 114552 (Sub-No. 133), filed July 28, 1977. Applicant: Senn Trucking Co., a corporation, Post Office Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Post Office Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel, a Division of Nucor Corp., at or near Darlington, S.C., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, and the District of Columbia.

NOTE.—If an oral hearing is deemed necessary, applicant requests that it be held in Columbia, S.C.

No. MC 114552 (Sub-No. 134), filed August 1, 1977. Applicant: SENN TRUCKING COMPANY, a corporation, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: Ken Simons (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Pulpboard, wrapping paper, paper bags, paper and paper products*, from the facilities of Gilman Paper Co. located at or near St. Marys, Ga., to points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Jacksonville, Fla.

No. MC 114552 (Sub-No. 136), filed August 2, 1977. Applicant: Senn Trucking Co., a corporation, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 north Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) Roofing, building, and insulating materials (except iron and steel articles and commodities in bulk), from the facilities of CertainTeed Corp. in Chatham County, Ga., to points in Alabama, Florida, Mississippi, North Carolina, South Carolina and Tennessee, and (2) materials, equipment and supplies (except iron and steel articles and commodities in bulk) used in the manufacture, installation and distribution of roofing and building materials, from points in the to the facilities of CertainTeed Corp., in Chatham County, Ga.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 114569 (Sub-No. 183), filed July 21, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *frozen foods*, in mechanically refrigerated trailers, from the shipping facilities of Donetta Foods, Inc., located at or near Scranton, Pa., and Gaithersburg, Md., to points in the United States (except Alaska, Hawaii, Georgia, Alabama, North Carolina, South Carolina, Florida, Maine, New Hampshire, Vermont, Montana, Wyoming, North Dakota, and South Dakota).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Harrisburg, Pa. or Washington, D.C.

No. MC 115162 (Sub-No. 377), filed July 28, 1977. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate, Post Office Drawer 500, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Petroleum products and lubricating oils, in packages from the plantsite and warehouses of Mobil Oil Corp. located at or near Beaumont, Tex., to points in Arkansas, Louisiana, New Mexico and Oklahoma; and (2) Empty Containers from Arkansas, Louisiana, New Mexico, and Oklahoma to Port Arthur, Texas.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at either Dallas, Tex. or Houston, Tex.

No. MC 115162 (Sub-No. 378), filed August 1, 1977. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, Ala. 36401. Applicant's Representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground clay*, in containers, from the plantsites of the Floridin Co., located at or near Havana and Quincy, Fla., and Ochlocknee, Ga., to points in Alabama, Arkansas, Mississippi, Louisiana, Georgia, South Carolina, North Carolina, Tennessee and Kentucky.

NOTE: If a hearing is deemed necessary the applicant requests it be held at either Atlanta, Ga., or Washington, D.C.

MC No. 115162 (Sub-No. 379), filed August 4, 1977. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, Ala. 36401. Applicant's Representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Conduit or pipe, cement, containing asbestos fibre and fittings therefor from the plantsite of Cement Asbestos Products Co. (subsidiary of ASARCO Inc.), at or near Ragland, Ala., to points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia and the District of Columbia.

NOTE: If a hearing is deemed necessary the applicant requests it be held at either St. Louis, Mo. or Birmingham, Ala.

No. MC 115730 (Sub-No. 34), filed August 8, 1977. Applicant: THE MICKOW CORP., P.O. Box 1774, 531 SW. Sixth Street, Des Moines, Iowa 50306. Applicant's representative: Cecil L.

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Goettsch, 1100 Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *Common Carrier* over irregular routes in the transportation of *plastic pipe, and fittings and accessories for plastic pipe* from Fairfield, Iowa to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill or Des Moines, Iowa.

No. MC 115826 (Sub-No. 271), filed July 28, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Terminal Annex, Denver, Colo. 80217. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Meat, and meat products, fresh, frozen, cooked or prepared, between points in Utah, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Denver, Colo.

No. MC 116763 (Sub-No. 387), filed August 1, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's Representative: H. M. Richters, P.O. Box 81, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: Citrus Products, from Cameron and Hidalgo Counties, Tex., to points in Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Wisconsin.

NOTE.—If hearing is deemed necessary, the applicant requests it to be at San Antonio, Tex.

No. MC 116763 (Sub-No. 389), filed August 4, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters, P.O. Box 81, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: Paper and paper products (except commodities in bulk), from Ludlow and Covington, Kentucky to points in the United States (except Alaska and Hawaii).

NOTE.—If hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 116913 (Sub-No. 7), filed: July 22, 1977. Applicant: RAYMOND BUIS doing business as BUIS TRUCKING, 110 Tandy Ave., Somerset, Ky. 42501. Applicant's representative: Robert H. Kinker, 314 W. Main St., P.O. Box 464, Frankfort, Ky. 40601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, from the plantsite of C F Industries, Inc., Terre Haute Nitrogen Complex, near Terre Haute, Ind., to points in Kentucky, under a continuing contract or contracts with Southern States Cooperative, Inc. located at Richmond, Va.

NOTE.—If a hearing is deemed necessary applicant requests that it be held at Louisville, Ky.

No. MC 116915 (Sub-No. 31), filed August 1, 1977. Applicant: ECK MILLER TRANSPORTATION CORPORATION, P.O. Box 1365, Kokomo, Ind. 46901. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) mining equipment, and parts and attachments of such equipment and (2) equipment, materials and supplies (except in bulk) used in the manufacture of mining equipment: between the facilities of Reading U.S., Inc., located at or near Orange Park, Fla., on the one hand, and, on the other, points in the U.S. including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Jacksonville, Fla.

No. MC 116915 (Sub-No. 32) filed August 8, 1977. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate Street, P.O. Box 1365, Kokomo, Ind. 46901. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting aluminum pipe, tubing, and accessories between the facilities of Consolidated Pipe & Tube Co. located at or near San Angelo and Lubbock, Texas, on the one hand, and on the other, points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Lubbock, Tex.

No. MC 116915 (Sub-No. 34), filed August 8, 1977. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate St., P.O. Box 1365, Kokomo, Ind. 46901. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Iron and steel and iron and steel articles, between the plantsite and facilities of Sheffield Southern located at or near Lenoir City, Tennessee, on the one hand, and, on the other, points in Alabama, Florida, Georgia, Kentucky, Illinois, Indiana, Michigan, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Knoxville, Tenn., Nashville, Tenn., or Louisville, Ky.

No. MC 116915 (Sub-No. 35), filed August 8, 1977. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate Street, P.O. Box 1365, Kokomo, Ind. 46901. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: steel cryogenic storage vessels, parts and accessories and material used in manufacture thereof: between the plant site of Ryan Industries, located at Louisville, Ky., on the one hand, and, on the other, points and places in the United States (except Hawaii and Alaska).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Louisville or Frankfort, Ky.

No. MC 116915 (Sub-No. 36), filed August 8, 1977. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate St., P.O. Box 1365, Kokomo, Ind. 46901. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: general commodities (except in bulk, Classes A and B explosives, household goods as defined by the Commission, livestock and articles of unusual value.) Between the port site and facilities of the Paducah-McCracken County Riverport Authority, located at or near Paducah, Ky., on the one hand, and, on the other, points in Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Louisville, Ky., St. Louis, Mo., or Frankfort, Ky.

No. MC 117303 Sub-11, filed July 26, 1977. Applicant: HUDSON VALLEY CEMENT LINES, INC., 6 West Market Street, Hyde Park, N.Y. 12538. Applicant's representative: Norman Weiss, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement* from Belchertown, Mass., to points in Connecticut, Massachusetts, New Hampshire, Vermont, Rhode Island and New York.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either New York, N.Y. or Albany, N.Y.

No. MC 118055 (Sub-No. 2), filed June 29, 1977. Applicant: ISLAND SEAFOODS, LTD., Borden, Prince Edward Island, Canada, COB 1XO. Applicant's representative: Lloyd E. Inman, 253 Coronation Avenue, Summerside, Prince Edward Island, Canada C1N 2E6. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juices* in mixed loads with bananas and other fruits and vegetables, from Boston, Mass. to ports of entry on the International Boundary Line between the United States and Canada at or near Houlton and Calais, Maine.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Bangor, Maine or Portland, Maine.

No. MC 118142 (Sub-No. 154), filed July 28, 1977. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, Kansas 67219. Applicant's representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, Kans. 67202. Authority sought to operate as a *common carrier* by motor vehicle, over *irregular routes*, transporting: *Bananas, and agricultural commodities, otherwise exempt from economic regulation under Section 203(b)(6) of the Act, when transported in mixed loads with bananas, restricted to the transportation of traffic having immediately prior movement by water*, from Charleston, S.C., to points in Indiana, Illinois, Ohio, Wisconsin, Michigan, Minnesota, Kentucky, Tennessee, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Wichita, Kans., or Kansas City Mo.

No. MC 118151 (Sub-No. 7), filed August 2, 1977. Applicant: R. L. LETSON, P.O. Box 57, Weatherford, Tex. 76086. Applicant's representative: E. Larry Wells, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Bananas and agricultural commodities exempt from regulation under Section 203(b)(6) of the Interstate Commerce Act, when transported in mixed loads with bananas, from Galveston, Tex. to points in Washington, Wyoming, Oregon, and Idaho.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas, Tex. or Miami, Fla.

No. MC 118159 (Sub-No. 217), filed August 1, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366—Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 from Omaha, Nebr. to points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Ohio (restricted to traffic originating at the plantsite and storage facilities of Armour and Co. and facilities utilized by Armour and Co. at or near Omaha, Nebr.).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill. Common control may be involved.

No. MC 118159 (Sub-No. 223), filed August 8, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366—Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products*, and *articles distributed by meat packinghouses* from Lexington, Ky. to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 118202 (Sub-No. 74), filed August 2, 1977. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, Minn. 55987. Applicant's representative: Thomas J. Beener, P.O. Box 5000, Waterloo, Iowa 50704. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Such commodities as are dealt in by electrical and plumbing wholesalers from points in the United States (except Alaska, Hawaii, and the District of Columbia), to points in Minnesota, South Dakota, and Wisconsin, restricted to shipments destined to the warehouses and job sites of the J. H. Larson Electrical Co. located in the named destination states.

NOTE.—Applicant holds motor contract carrier authority in No. MC-134631 (Sub-No. 4) and other subs, therefore dual operations may be involved. An application is now pending to convert this contract carrier authority to common carrier authority in MC-118202 (Sub.-No. 60). If a hearing is deemed necessary, the applicant requests it be held at Minneapolis-St. Paul, Minn.

No. MC 118318 (Sub-No. 30), filed August 1, 1977. Applicant: IDA-CAL FREIGHT LINES, INC., P.O. Drawer M, Nampa, Idaho 83651. Applicant's representative: Kenneth G. Bergquist, P.O. Box 1775, 910 Main St., Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting beer and wine from Alameda, Kern, Los Angeles, Madera, Marin, Napa, Orange, Solano, Sonoma, and Stanislaus Counties, Calif., to points in Idaho south of the southern boundaries of Adams, Valley, and Lemhi Counties, Idaho.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 118468 (Sub-No. 51), filed August 2, 1977. Applicant: UMTHUN TRUCKING CO., a Corporation, 910 South Jackson Street, Eagle Grove, Iowa 50533. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings and accessories for plastic* pipe from Fairfield, Iowa to points in Arkansas, Colorado, Idaho, Illinois, Indiana, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Tennessee, Utah, Washington, Wisconsin, and Wyoming, under a continuing contract, or contracts, with Plexco, a Division of Amsted Industries.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held at St. Paul, Minn. or Chicago, Ill. Applicant holds motor common carrier authority in No. MC 124813 (Sub-No. 1 and other subs); therefore dual operations may be involved.

No. MC 118776 (Sub-No. 23), filed July 25, 1977. Applicant: C. L. CONNORS, INC., 3820 Wisman Lane, Quincy, Ill. 62301. Applicant's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Limestone, limestone products, trace minerals, and trace mineral ingredients*, (1) From the plantsite of Calcium Carbonate Co. located at Hannibal, Mo., to points in Alabama, Arkansas, Colorado, Delaware, Florida, Georgia, Louisiana, Maryland, Mississippi, Montana, New York, North Carolina, South Carolina, Virginia, and West Virginia; and (2) from the plantsite of Calcium Carbonate Co. located at Quincy, Ill., to points in North Carolina, South Carolina, and Florida.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held on a consolidated hearing with similar applications, at St. Louis, Mo.

No. MC 118806 (Sub-No. 56), filed August 2, 1977. Applicant: ARNOLD BROS. TRANSPORT LTD., 851 Lagimodiere Boulevard, Suite 200, Winnipeg, Manitoba, Canada R2S 3K4. Applicant's representative: Daniel C. Sullivan, 10 South LaSalle Street, Suite 1600, Chicago, Ill. 60603. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting: (A) (1) Forestry and logging machinery and equipment; (2) Attachments and parts for the Commodities in (1): From Ports of Entry on the International Boundary Line between the United States and Canada in Michigan and New York to points in the United States (except Alaska and Hawaii); and (B) Equipment, materials and supplies used in the manufacture or distribution of the Commodities in A (1) and (2): From points in the United States (except Alaska and Hawaii) to the Ports of Entry on the International Boundary Line between the United States and Canada in Michigan and New York; restricted to traffic moving in foreign commerce in (A) and (B) above.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Detroit, Mich. or Chicago, Ill.

No. MC 119619 (Sub-No. 110) (correction), filed July 1, 1977, published in the FEDERAL REGISTER issue of August 11, 1977, and republished as corrected this issue. Applicant: DISTRIBUTORS SERVICE CO., INC., a Corporation, 2000 West 43rd St., Chicago, Ill. 60609. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pneumatic tires and tire tubes*, from the facilities of Seiberling Tire and

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Rubber Co., located in Akron and/or Barberton, Ohio, to points in the United States (except Alaska, Hawaii, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut), (2) *antifreeze* (except in bulk in tank vehicles), from Pittsburgh, Pa., Wyandotte, Mich., Omaha, Nebr., Kansas City, Mo., Bayonne, N.J., Atlanta, Ga., St. Louis, Mo., Ludlow, Ky., West Memphis, Ark., Houston, Tex., Geismar, La., McKees Rocks, Pa., Minneapolis, Minn., Chicago, Ill., Los Angeles, Calif., San Francisco, Calif., and Vancouver, Wash. to points in the United States (except Alaska, Hawaii, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut); and (3) batteries, from Fairfield, Conn., Atlanta, Ga., Memphis, Tenn., Minneapolis, Minn., Omaha, Nebr., Dallas, Tex., Denver, Colo., Logansport, Ind., and Richmond, Calif., to points in the United States (except Alaska, Hawaii, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut).

NOTE.—The purpose of this republication is to indicate the correct exception in paragraph (2). If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 119670 (Sub-No. 29), filed August 2, 1977. Applicant: THE VICTOR TRANSIT CORP., 5250 Este Ave., P.O. Box 32115, Cincinnati, Ohio 45232. Applicant's representative: Robert H. Kinker, 314 W. Main St., P.O. Box 464, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, fibreboard, pulpboard and strawboard (except corrugated)*, from Carthage, Ind. to Illinois, Ohio, West Virginia, and Louisville, Ky. and its commercial zone.

NOTE.—If a hearing is deemed necessary applicant requests that it be held at Cincinnati, Ohio.

No. MC 119875 (Sub-No. 10), filed August 4, 1977. Applicant: WAR-HUNT TRUCKING CO., INC., Box 92A, R.D. No. 3, Allentown, Pa. 18104. Applicant's representative: John W Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: *Confectionery and confectionery products* in vehicles equipped with mechanical refrigeration (except in bulk), from the plantsite and storage facilities of M. & M./Mars, division of Mars, Inc., at or near Hackettstown, N.J. and Elizabethtown, Pa., to points in Ohio, restricted to traffic originating at the above-named origins and destined to points in the named destination state.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Harrisburg, Pa.

No. MC 119988 (Sub-No. 119), filed July 26, 1977. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, Tex. 75901. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex., 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing asphalt*, in drums, from Memphis, Tenn., to points in Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Texas; and (2) *items utilized in the manufacture and distribution* of roofing asphalt, from points in Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Texas to Memphis, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Memphis, Tenn., or Dallas, Tex.

No. MC 120761 (Sub No. 27), filed August 1, 1977. Applicant: NEWMAN BROS. TRUCKING CO., a Corporation, 6559 Midway Road, P.O. Box 13302, Fort Worth, Tex. 76118. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Iron and steel, and iron and steel articles*, from the plantsite of Nucor Steel Corp., located at or near Jewett, Tex., to points in Alabama, Georgia, Florida and South Carolina.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex. Common control may be involved.

No. MC 120981 (Sub-No. 22), filed July 21, 1977. Applicant: BESTWAY EXPRESS, INC., 905 Visco Dr., Nashville, Tenn. 37210. Applicant's representative: George M. Catlett, Suite 708, McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: General commodities, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) Between Nashville, Tenn. and Lexington, Ky.: From Nashville, Tenn. over Interstate Highway 65 to junction of Bluegrass Parkway, thence over Blue Grass Parkway to junction of U.S. Highway 60, thence over U.S. Highway 60, to Lexington, Ky., and return over the same route, serving no intermediate points, restricted against the transportation of traffic moving from or to points in the Louisville, Ky., commercial zone; and (2) between Lexington, Ky., and Delaplain, Ky.: From Lexington, Ky., over U.S. Highway 25 to junction of Ky. Highway 620, thence over Ky. Highway 620 to Delaplain, Ky., and return over the same route, serving all intermediate points, restricted against the handling of traffic originating at, or destined to, points in Connecticut, Delaware, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Nashville, Tenn. or Lexington, Ky.

No. MC 121060 (Sub No. 47), Filed July 28, 1977. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, Ala. 35201. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1267, Arlington, Va. 2210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: Pipe, valves, fittings, hydrants and parts and accessories for the foregoing commodities (except in bulk), from the facilities of United States Pipe and Foundry Co., at or near Birmingham and Bessemer, Ala., to points in Iowa, Wisconsin, Illinois, Indiana, Michigan, Ohio, Kentucky and Missouri.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Birmingham, Ala.

No. MC 123048 (Sub-No. 361), filed: August 1, 1977. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021–21st St., Post Office Box 1557, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty St., Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Bus Bodies and Attachments, Accessories and Parts, from Woodlawn, Tex. to Ports of Entry on the International Boundary between the United States and

Canada in Michigan and New York; restricted to movements destined to Canada.

No. MC 123048 (Sub-No. 362), filed: August 1, 1977. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021–21st Street, Post Office Box 1557, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty St., Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Truck Cabs, from St. Joseph County, Ind. to Woodlawn, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held either at Chicago, Ill. or Washington, D.C.

MC 123048 (Sub-No. 363), filed August 5, 1977. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021–21st Street, Post Office Box 1557, Racine, WI 63401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Grain Dryers, Prefabricated Grain Bins, Tanks, Fans and Heaters, Attachments, Accessories and Parts, from Marengo, Ill. to points in the United States (except Alaska and Hawaii); and (2) Materials, Equipment and Supplies used in the manufacture, sale and/or distribution of commodities in (1) above, from points in the United States (except Alaska and Hawaii) to Marengo, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held either at Chicago, Ill. or Washington, D.C.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held either at Chicago, Ill., or Washington, D.C.

No. MC 123272 (Sub-No. 14), filed July 28, 1977. Applicant: FAST FREIGHT, INC., 9651 Ewing Ave., Chicago, Ill., 60617. Applicant's representative: Joseph M. Scanlan, 111 West Washington St., Chicago, Ill., 60602. Authority sought to operate as a *Common Carrier*, by motor vehicle over *irregular routes*, Transporting: Canned goods, from the plantsite of Lakeside Packing Co. in Manitowoc, Wis. and the plantsite in Plainview, Minn. to points in Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Florida Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. Restricted to traffic originating at the plantsites of Lakeside Packing Co. in Manitowoc, Wis. and Plainview, Minn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 123476 (Sub-No. 27), filed July 28, 1977. Applicant: CURTIS TRANSPORT, INC., P.O. Box 388, Arnold, Mo. 63010. Applicant's representative: David G. Dimit (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Expanded plastic products (except in bulk, in tank vehicles), from Channahon, Ill., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico, and refused or rejected shipments on return.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Louis, Mo. or Chicago, Ill.

No. MC 123788 (Sub-No. 2), filed July 26, 1977. Applicant: AMERICAN-WESTERN COMPANY, INC., P.O. Box 430, Dallas, Oreg. 97338. Applicant's representative: Earle V. White, 2400 S.W. Fourth Ave., Portland, Oreg. 97201. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Lift trucks*, including their parts and attachments when shipped therewith, from Dallas, Oreg. to ports in Oregon, restricted to the transportation of shipments having an immediately subsequent movement by water, under contract with Towmotor Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Portland, Oreg.

No. MC 123805 (Sub-No. 13), filed: August 8, 1977. Applicant: LOMAX TRUCKING SERVICE, INC., R.R. No. 1, Hannibal, Mo. 63401. Applicant's representative: Thomas P. Rose, P.O. Box 205, Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Gypsum, crude, crushed, ground or pulverized, in bulk, in dump vehicles, from the plantsite and warehouse facilities of United States Gypsum Co. located at or near Mediapolis, Iowa to points in Missouri and Illinois.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jefferson City, Mo. or Hannibal, Mo.

Docket No. MC 124111 (Sub-No. 57), filed August 4, 1977. Applicant: OHIO EASTERN EXPRESS, INC., P.O. Box 2297, 300 West Perkins Ave., Sandusky, Ohio 44870. Applicant's representative: David A. Turano, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *bananas* and *agricultural commodities exempt from economic regulation under Section 203(b)(6) of the Interstate Commerce Act*, when transported in mixed loads with bananas, from Philadelphia, Pa. to St. Louis, Mo., and points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y. or Washington, D.C.

MC 124211 (Sub-No. 300) filed August 4, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting: (1) Athletic or Sporting Goods and Equipment, Games or Toys, Recreational Equipment, Clothing, Accessories and Supplies; and (2) Commodities used in the manufacture, distribution, sale, and installation of the commodities described in (1) above, between points in Maricopa County, Ariz., Craighead County, Ark., Los Angeles, Orange, and Stanislaus Counties, Calif., Dade County, Fla., Troup County, Ga., Cook, DuPage, and Lake Counties, Ill., Cumberland County, Me., Harford County, Md., Kent County, Mich., Middlesex and Passaic Counties, N.J., Bronx, Cortland, Kings, New York, and Onondaga Counties, N.Y., Ashland and Hardin Counties, Ohio, Multnomah and Washington Counties, Ore., Coffee, Davidson, Gibson, and Putnam Counties, Tenn., Davis County, Utah, South Carolina, and New York, N.Y., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If oral hearing is deemed necessary, applicant requests it be held at Chicago, Ill. or Washington, D.C.

No. MC 124692 (Sub-No. 178), filed July 28, 1977. Applicant: SAMMONS TRUCKING, (A Corporation), P.O. Box 4347, Missoula, Mont. 59806. Applicant's representative: J. David Douglas, (same as above). Authority sought to operate as a *common carrier*, by motor carrier, over irregular routes, transporting: Heating and cooling units, from Owatonna, Minn., to points in California, Idaho, Montana, Oregon, Utah, Washington and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, Minn.

MC 124711 (Sub-No. 47), filed August 8, 1977 Applicant: BECKER CORP., P.O. Box 1050, El Dorado, Kans. 67042. Applicant's representative: T. M. Brown, 223 Ciudad Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *molasses, liquid feeds, and liquid feed supplements*, in bulk, in tank vehicles, from the facilities of Cargill, Inc., located at or near Garden City, Kans., to points in Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn., or Kansas City, Mo.

No. MC 124920 (Sub-No. 14), filed: August 4, 1977. Applicant: LA BAR'S, INC., 771 Scott Street, Wilkes Barre, Pa. Applicant's representative: L. Agnew Meyers, Jr., 734 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor

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vehicle, over irregular routes, transporting: *Mineral Wool and insulating materials*, from the plantsite or facilities of CertainTeed Products Corp., CSG Group, at Mountain Top, PA., TO Points in Connecticut, Delaware, District of Columbia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Rhode Island, Vermont, Virginia, West Virginia and Wisconsin.

NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Scranton, Pa. or Philadelphia, Pa.

No. MC 124947 (Sub-No. 65), filed August 4, 1977. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Road, Stroud, Okla. 74079. Applicant's representative: David J. Lister, 1945 South Redwood Rd., Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) Buildings, complete, knocked down or in sections, (2) buildings, sections and panels, (3) component parts, materials and supplies for (1) and (2), and (4) parts, accessories and equipment used in the installation of (1), (2), and (3) (except commodities in bulk), from the plantsite and storage facilities of Star Manufacturing Co. located at or near Homer City, Pa., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Rhode Island, Vermont, Virginia, West Virginia and Wisconsin.

NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Salt Lake City, Utah or Chicago, Ill.

No. MC 126904 (Sub-No. 24), filed August 1, 1977. Applicant: H. C. PARRISH TRUCK SERVICE, INC., R.R. 2, Box 264, Freeburg, Ill. 62243. Applicant's representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, Pa. 19107. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Malt beverages from Belleville, Ill., to points to Alabama, Mississippi, and Louisiana.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Philadelphia, Pa., or Washington, D.C.

MC 127064 (Sub-No. 7), filed July 25, 1977. Applicant: E. J. PETER TRUCKING, INC., Route 2, Box 21, Athens, Wis. 54411. Applicant's representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and animal and poultry feed ingredients* (except liquid commodities in bulk, in tank vehicles) from points in Hennepin, Ramsey, Anoka, Dakota, and Washington Counties, Minn., to points in Wisconsin (except points in Clark, Taylor, Marathon, and Langlade Counties, Wis.).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn.

No. MC 127625 (Sub-No. 22), filed August 2, 1977. Applicant SANTEE CEMENT CARRIERS, INC., P.O. Box 638, Holly Hill, S.C. 29059. Applicant's representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, Va. 22611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Cement and mortar, between points in Florida restricted to traffic originating at the plantsite of Santee Portland Cement Corp., Inc., at Holly Hill, S.C., having a prior movement by rail.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbia, S.C. Common control may be involved.

No. MC 128007 (Sub-No. 105), filed August 3, 1977. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, Kans. 66762. Applicant's representative: Larry E. Gregg, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fish meal*, (1) from Empire, La.; Port Arthur, Tex.; and Gulfport, Miss., to points in Alabama, Georgia, Indiana, Kentucky, Louisiana, Minnesota, Mississippi, Tennessee, and Wisconsin; (2) from Port Arthur, Tex., and Gulfport, Miss., to points in Texas; (3) from Gulfport, Miss., to points in Arkansas, Illinois, Iowa, Kansas, Missouri, and Oklahoma.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New Orleans, La.

No. MC 128896 (Sub-No. 6), filed July 19, 1977. Applicant: ANDREWS TRUCKING LIMITED, R.R. No. 4, St. Catharines, Ontario, Canada L2R 6R1. Applicant's representative: Robert G. Gawley, P.O. Box 184, Buffalo, N.Y. 14221. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats* (1) between the ports of entry on the International Boundary Line between the United States and Canada located in Idaho and Washington, on the one hand, and, on the other, points in the United States (excluding Alaska and Hawaii). Restricted to foreign commerce only. (2) Between the ports of entry on the International Boundary Line between the United States and Canada located in Maine, on the one hand, and, on the other, points in the United States (excluding Alaska and Hawaii). Restricted to foreign commerce only. (3) Between Portland, Maine and points in the United States (excluding Alaska and Hawaii). Restricted to foreign commerce only. (4) Between the ports of entry on the International Boundary Line between the United States and Canada located on the Detroit, Niagara, St. Clair, St. Marys and St. Lawrence Rivers, on the one hand, and, on the other, points in the United States (excluding Alaska and Hawaii). Restricted to foreign commerce only. (5) Between the ports of entry on the International Boundary Line between the United States and Canada located in New York and Vermont, on the one hand, and, on the other, points in the United States (excluding Alaska and Hawaii). Restricted to foreign commerce only.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Buffalo, N.Y.

No. MC 129326 (Sub-No. 26), filed July 25, 1977. Applicant: CHEMICAL TANK LINES, INC., P.O. Drawer 437, Mulberry, Fla. 33860. Applicant's representative: L. Agnew Myers, Jr., 734 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphate, phosphate products, phosphate byproducts, and fertilizer and fertilizer materials*, in bulk, in tank vehicles, from the facilities of International Minerals and Chemicals Corp. and New Wales Chemicals, Inc. (a subsidiary of IMCC), in Polk County, Fla., to points in Delaware, Florida, Indiana, Maryland, New Jersey, Pennsylvania, Texas, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Tampa or Jacksonville, Fla.

No. MC 129387 (Sub-No. 33), filed July 28, 1977. Applicant's Name: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, S. Dak. 57350. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from the facilities of Oregon Fruit Products at or near Salem, Oreg., to points in that part of the United States in and east of Montana, Wyoming, Colorado, and New Mexico.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or San Francisco, Calif.

No. MC 133119 (Sub-No. 122), filed July 22, 1977. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 So. 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from points in California to ports of entry on the International Boundary between the United States and Canada, located at or near Sweetgrass, and Raymond, Mont.; Fortuna, Portal and Pembina, N. Dak.; and Noyes, Minn., restricted to the transportation of traffic moving in foreign commerce to points in Saskatchewan and Manitoba, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr., or Great Falls, Mont.

No. MC 133221 (Sub-No. 27), filed August 4, 1977. Applicant: OVERLAND CO., INC., 1991 Buford Hwy., Lawrenceville, Ga. 30245. Applicant's representative: Alvin Button, 2477 N. Decatur Rd., Decatur, Ga. 30033. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Rigid polystyrene, from the plantsites of Southeastern Foam Products, Inc., located at Conyers, Ga., Adamstown, Md., Bargersville, Ind., Burlington, N.C., Elkhorn, Wis., Poglesville, Pa., Jonesboro, Tenn., New Middleton, Ohio; Ocala, Fla., Petersburg, Va., and Wentzville, Mo., to points in the United States (except Alaska and Hawaii).

NOTE: If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga., or Washington, D.C.

No. MC 133233 (Sub-No. 53), filed August 8, 1977. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I-80 & Highway 50, P.O. Box 37306, Omaha, Neb. 68137. Applicant's representative: Donna Ehrlich (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, and forest products*, from points in Colorado, Wyoming, and Pennington County, S. Dak., to points in Arizona, New Mexico, Texas, Oklahoma, and Arkansas, under a continuing contract, or contracts, with Edward Hines Lumber Co.

NOTE: Applicant holds motor common carrier authority in No. MC 138328 (Sub-No. 1) and other subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill. or Omaha, Neb.

No. MC 133391 (Sub-No. 3), filed August 1, 1977. Applicant: SCHWERMAN TRUCKING CO. OF VA., INC., 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Botetourt County, Va., to points in Delware, District of Columbia, Maryland, North Carolina, Pennsylvania, South Carolina, Virginia and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 133655 (Sub-No. 99), filed July 26, 1977. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, Tex. 79120. Applicant's representative: James Steffel (same address as applicant), Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by florists and lawn and garden care retailers, and *equipment, materials*, and *supplies* used in the manufacture, sale, or distribution of the above described commodities (except commodities in bulk and commodities requiring special equipment), between the plant sites and warehouse facilities of or utilized by Highland Supply Co., Inc. located at or near Hobart, Okla.; Highland, Ill.; LaMirada, Calif.; Colton, Calif.; and points in the United States (except Alaska and Hawaii), non-radial movement.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 133966 (Sub-No. 49), filed August 1, 1977. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, Pa. 18707. Applicant's representative: Joseph F. Hoary, 121 South Main Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, over irregular routes transporting: *Building materials*, as described in descriptions of motor carrier certificate, *Ex Parte No. MC-45, Appendix VI*, from points in Minnesota, Iowa, Missouri, Wisconsin Illinois, Michigan, Indiana, Kentucky, Tennessee, Ohio, West Virginia, Virginia, Maryland, Delaware, New Jersey, New York, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, North Carolina, and South Carolina, to Old Forge, Pa.

NOTE.—Applicant holds contract carrier authority in MC-130962 and subs thereunder, therefore dual authority may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 134038 (Sub-No. 6), filed July 28, 1977. Applicant: MAJORS TRANSIT, INC., P.O. Box 7, Caneyville, Ky., 42721. Applicant's representative: John M. Nader, Rt. 3, Box 4. Bowling Green, Ky. 42101. Authority sought as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment; (A) between Central City, Ky. and Nashville, Tenn., serving no intermediate points: from Central City over U.S. Highway 431 to its intersection with U.S. Highway 41, thence over U.S. Highway 41 to Nashville and return over the same route. Restriction: Service at Central City, Ky., is restricted against the transportation of traffic originating at, destined to, or interchanged at Louisville, Ky., or points in its Commercial Zone, as defined by the Commission; and (B) between Central City, Ky., and Nashville, Tenn., as an alternate route for operating convenience only, serving no intermediate points, but serving the intersection of the Green River Parkway and U.S. Highway 231, near Logansport, Ky., for purposes of joinder only: from Central City over U.S. Highway 431 to its intersection with the Western Kentucky Parkway, thence over the Western Kentucky Parkway to its intersection with the Green River Parkway, near Prentis, Ky., thence over the Green River Parkway to its intersection with Interstate Highway 65, thence over Interstate Highway 65 to Nashville and return over the same route.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Louisville, Ky., or Nashville, Tenn.

No. MC 134134 (Sub-No. 24), filed August 2, 1977. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Avenue, Omaha, Nebr. 68107. Applicant's representative: Bruce A. Bullock, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) malt beverages, and advertising material and premiums, from Golden, Colo., to points in Nebraska; and (2) empty malt beverage containers, packaging material, pallets, and scrap malt beverage containers, and packing dunnage, from points in Nebraska, to Golden, Colo.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Omaha, Nebr. or Denver, Colo.

MC 134264 (Sub-No. 16), filed August 1, 1977. Applicant: OCKENFELS TRANSFER, INC., 1301 Sheridan, Iowa City, Iowa 52240. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting, scrap paper, materials, equipment, and supplies between Iowa City, Iowa, and Alton, Ill., under a continuing contract, or contracts, with City Carton Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Des Moines, Iowa.

No. MC 134341 (Sub-No. 7), filed July 30, 1977. Applicant: STROP TRANSPORTATION, INC., Rural Route No. 1, Hastings, Nebr. 68901. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Meats, meat products, meat byproducts and articles distributed by meat packinghouses, as described in sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of Dubuque Packing Co., at or near Mankato, Kans., to points in Rhode Island, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Maine, Massachusetts, Michigan, Missouri, New Jersey, New York, Nebraska, Ohio, Pennsylvania, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, Nebr.

No. MC 134404 (Sub-No. 37), filed July 25, 1977. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, N.J. 08835. Applicant's representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: (1) Steel bath tubs, lavatories, sinks, and parts and accessories thereto; and (2) plumbers fittings and supplies, from Salem, Ohio, to points in Michigan, Illinois, Indiana, New Jersey, West Virginia, and those points in Pennsylvania on and east of a line beginning at the West Virginia-Pennsylvania State Boundary Line, and extending along U.S. Highway 119 to Junction U.S. Highway 219, and thence

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along U.S. Highway 219 to the Pennsylvania-New York State Boundary Line, under a continuing contract or contracts with American Standard, Inc., of New Brunswick, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either New York, N.Y. or Washington, D.C.

Applicant has a common carrier application pending in MC 140768 and subs thereunder, therefore dual operations may be involved.

No. MC 134467 (Sub-No. 22), filed July 29, 1977. Applicant: POLAR EXPRESS, Inc., P.O. Box 845, Springdale, Ark. 72764. Applicant's representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203, 303-571-0798. Authority to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packaged petroleum Products, except in bulk*, from New Kensington, Pa., to Memphis, Tenn., and points in Arkansas, Oklahoma, Louisiana, Texas, and Mississippi.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Pittsburg, Pa., or Little Rock, Ark.

No. MC 134531 (Sub-No. 9), filed August 3, 1977. Applicant: AGGREGATE HAULERS, INC., Route 2, Box 559-A, W. Columbia, S.C. 29169. Applicant's representative: Eric Meierhoefer, Suite 712, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and fertilizer materials*, (a) between Wayne, Iredell, Brunswick, and Columbus Counties, N.C., on the one hand, and on the other, points in South Carolina, and (b) from Columbia, S.C. to Augusta, Ga. and Charlotte, N.C.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbia, S. C.

No. MC 134783 (Sub-No. 37), filed August 1, 1977. Applicant: DIRECT SERVICE, INC., 940 East 66th Street, Lubbock, Tex. 79408. Applicant's representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought as a *common carrier* by motor vehicle, over irregular routes transporting: *Canned and preserved foodstuffs*, in containers, from Timberville, Va., to Chicago, Ill., and New Orleans, La., and points in the commercial zones of each respective city and points in Texas.

NOTE.—Common control may be involved. Applicant holds contract carrier authority in Docket No. MC 139309 and Sub-No. 1 thereto, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at New York City, N.Y.

No. MC 134859 (Sub-No. 11), filed August 1, 1977. Applicant: WILLIAM CARL RUSSELL AND JAMES FRANKLIN RUSSELL, doing business as Frank Russell & Son, 401 S. Ida Street, West Frankfort, Ill. 62896. Applicant's representative: William C. Russell (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magnetite*, in bulk in pneumatic tank vehicles, from Bristol, Tenn., to coal mines located in Union County, Ky., and Illinois, under a continuing contract or contracts with Reiss Viking Corp.

NOTE.—Applicant has motor common carrier authority pending in No. MC 13845 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at St. Louis, Mo., or Springfield, Ill.

No. MC 134959 (Sub-No. 11), filed August 1, 1977. Applicant: BEN-K TRUCKING, INC., 651 O Street, Greeley, Colo. 80631. Applicant's representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, except in bulk in tank vehicles, (1) from Houston, Tex., and Denver and Fort Collins, Colo., to points in New Mexico and Utah; (2) from points in Arkansas, Utah, Texas; points in Butte and Lawrence Counties, S. Dak.; and Minneapolis, Minn., to points in Nebraska and Colorado; (3) from points in Weston, Crook, Natrona, and Converse Counties, Wyo., to points in Kansas, Oklahoma, Nebraska, Texas, Colorado, and New Mexico; (4) from points in Adams and Cass Counties, Nebr., to points in Colorado and Utah. Restricted to transportation services performed under a continuing contract or contracts with Feed Products, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, Applicant requests that it be held at Denver, Colo.

No. MC 135236 (Sub-No. 21), filed July 25, 1977. Applicant: LOGAN TRUCKING, INC., 801 Erie Avenue, Logansport, Ind. 47904. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Plastic resin*, from Trenton, N.J., to points in Michigan, Illinois, Indiana, Ohio, Tennessee, and Arkansas; and (2) *scrap plastic*, from points in Michigan, Illinois, Indiana, Ohio, Tennessee, and Arkansas to Trenton, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 135457 (Sub-No. 5), filed August 2, 1977. Applicant: COMMERCIAL CARTAGE CO., a corporation, 343 Axminster Drive, Fenton (St. Louis County), Mo. 63026. Applicant's representative: R. A. Wilson, P.O. Box 777, Bridgeton, Mo. 63044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from the plantsite of Williams Pipe Line Co., located at or near St. Charles, Mo., to points in Illinois.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either St. Louis, Mo., Springfield, Ill., or Kansas City, Mo.

No. MC 135639 (Sub-No. 7), filed July 28, 1977. Applicant: QUEENSWAY, INC., 105 North Keyser Avenue, Old Forge, Pa. 18518. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: (a) *Plastic dishwashing machine racks, and shelving, wire*, including *materials, parts, and accessories* necessary for the installation thereof, from the plantsites or facilities of Metropolitan Wire Corp., Wilkes-Barre, Pa., and Berkely Heights, N.J., to points in Indiana, Illinois, Ohio, Michigan; and (b) *materials handling vehicles, including food serving carts, wagons or trays*, from the plantsite or facilities of Buckseo, Inc., a subsidiary of Metropolitan Wire Corp., at Quakertown, Pa., to points in Indiana, Illinois, Ohio, and Michigan.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Harrisburg, Pa.

No. MC 135684 (Sub-No. 47), filed July 22, 1977. Applicant: BASS TRANSPORTATION CO. INC., P.O. Box 391, Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Herbert Alan Dubin, Federal Bar Building West, 1819 H Street NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Laboratory, and hospital equipment, and chemicals*, except in bulk, between Bridgewater Township (Somerset County), N.J., and Chicago, Ill., St. Louis, Mo., Houston, Tex., and Rochester, N.Y.; (2) *materials, supplies, and equipment* used in the manufacture, distribution, or sale of laboratory and hospital equipment and chemicals from Boston, Mass., Philadelphia, Pa., Pittsburgh, Pa., Cleveland, Ohio, Cincinnati, Ohio, Chicago, Ill., St. Louis, Mo., Houston, Tex., Rochester, N.Y., Elmira, N.Y., Baltimore, Md., Detroit, Mich., and Washington, D.C., to Bridgwater Township (Somerset County), N.J.

NOTE.—Applicant holds motor contract authority in No. MC 87720 (Sub-No. 2) and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 135684 (Sub-No. 48), filed July 22, 1977. Applicant: BASS TRANSPORTATION CO. INC., P.O. Box 391, Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Herbert Alan Dubin, Federal Bar Building West, 1819 H Street NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Salt and salt products*, except in bulk, from the plantsite and warehouse facilities of Diamond Crystal Salt Co. at or near St. Clair, Mich., and Akron, Ohio, to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island; (2) *materials, supplies, and equipment* used in the manufacture, sale, and distribution of salt and salt products, except in bulk, from the above-described destination territory to St. Clair, Mich., and Akron, Ohio.

NOTE.—Applicant holds motor contract authority in No. MC 87720 (Sub-No. 2) and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 135797 (Sub-No. 78) (correction), filed June 22, 1977, published in the FEDERAL REGISTER issue of August 11, 1977, and republished as corrected this issue. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 200, Lowell, Ark. 72745. Applicant's representative: Paul A. Maestri (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Non-alcoholic beverages* (except in bulk), (a) from Auburndale, Fla., to Plymouth and Trafalgar, Ind., and points in Texas; (b) from Plymouth, Ind., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Wisconsin; (c) from Trafalgar, Ind., to points in Missouri; (d) from Dallas, Tex., to points in Arkansas, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas; (e) from Weslaco, Tex., to points in Alabama, Arizona, Arkansas, California, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Oregon, Tennessee, Texas Washington, and Wisconsin; and (2) *machinery materials* (except in bulk), *equipment and supplies* (except in bulk), used in or in connection with the manufacture, distribution, or use of the commodities named in (1) above, from points in the United States (except Alaska and Hawaii), to Plymouth and Trafalgar, Ind., and Dallas and Weslaco, Tex.

NOTE.—The purpose of this correction is to show the correct territory sought in part (2) above. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 235874 (Sub-No. 91), filed July 28, 1977. Applicant: LTL PERISHABLES, INC., 550 E. 5th Street South, South St. Paul, Minn. 55075. Applicant's representative: Kenneth O. Petrick, 550 E. 5th Street South, South St. Paul, Minn. 55075. Authority sought to operate as a *common carrier* by motor vehicle transporting: (1) *Frozen foodstuffs* (except commodities in bulk, in tank vehicles), and (2) *frozen meats and meat by-products*, unfit for human consumption (except commodities in bulk, in tank vehicles), from the facilities of Wiscold, Inc., at or near Beaver Dam and Milwaukee, Wis., to points in Kentucky, North Carolina, South Carolina, Virginia, and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Madison, Wis., or St. Paul, Minn.

No. MC 136968 (Sub-No. 1), filed August 4, 1977. Applicant: IRMAR TRUCKING, INC., 3701 National Road West, Richmond, Ind. 47374. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Florist and decorators foam*, from Kent, Ohio, and Richmond, Ind., to points in Alabama, Florida, and Georgia, under a continuing contract, or contracts, with Hill Floral Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Chicago, Ill., or Indianapolis, Ind.

MC 138054 (Sub-No. 17), filed July 22, 1977. Applicant: CONDOR CONTRACT CARRIERS, INC., P.O. Box 1354, Garden Grove, Calif. 92642. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lockers, cabinets, storage cases, shelving, sheet metal products, and related parts and accessories*, from Cleveland, Ohio, to points in the United States (except Alaska and Hawaii); and (2) *materials, supplies, and equipment*, utilized in the manufacture, production, and distribution of commodities named in (1) above, from points in the United States (except Alaska and Hawaii), to Cleveland, Ohio. Restriction: Restricted against the transportation of commodities in bulk, in tank vehicles, and further restricted to a transportation service to be performed under a continuing contract, or contracts, with the Interior Steel Equipment Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Cleveland, Ohio.

No. MC 138104 (Sub-No. 43), filed July 26, 1977. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, Tex. 76106. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soda ash*, in bulk, from Baton Rouge, La., to Decatur, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Fort Worth or Dallas, Tex.

No. MC 138235 (Sub-No. 16), filed August 1, 1977. Applicant: DECKER TRANSPORT CO., INC., 412 Route 23, Pompton Plains, N.J. 07444. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *Motor vehicles* (except new and used trucks, automobiles, motor homes, new tractors, and new chassis, in secondary movements, in driveaway service), *hardware, conveyors and conveyor equipment, furniture, lawn mowers, power equipment, wheel goods, and bicycles*, (2) *parts, attachments, and accessories* for the commodities in (1) above; and (3) *materials, equipment, and supplies* (except commodities in bulk), used in the manufacture and sale of the commodities in (1) and (2) above, between the facilities of MTD Products, Inc., located at or near Westfield, Mass., on the one hand, and, on the other, points in Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, Virginia, Wisconsin, and the District of Columbia, under a continuing contract or contracts with MTD Products, Inc., Willard, Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Columbus, Ohio, or Indianapolis, Ind.

No. MC 138328, (Sub-No. 41), filed August 8, 1977. Applicant: CLARENCE L. WERNER, d.b.a. Werner Enterprises, I-80 and Hiway 50, P.O. Box 37308, Omaha, Nebr. 68137. Applicant's representative: Donna Ehrlich (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcium propionate, sodium propionate, and sodium diacetate* (except commodities in bulk), from Verona, Mo.; Dallas, Tex.; and Lodi, N.J., to points in Alabama, Arizona, Arkansas, California, Florida, Georgia, Illinois, Iowa, Maine, Massachusetts, Michigan, Minnesota, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Virginia, and Washington.

NOTE.—Applicant holds motor contract carrier authority in No. MC 133233 (Sub-No. 1) and other subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y.

No. MC 138956 (Sub-No. 7), filed July 25, 1977. Applicant: ERGON TRUCKING, INC., 202 East Pearl Street, Jackson, Miss. 39201. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oils*, in bulk, in tank vehicles, (1) from the facilities of Ergon, Inc., at or near Memphis, Tenn., to points in Alabama, Arkansas, Kentucky, Mississippi, and Missouri; (2) from the facilities of Ergon, Inc., at or near Barfield, Ark., to the facilities of Arkansas-Missouri Power Co. at or near Blytheville, Ark.; (3) from the facilities of Ergon, Inc., at or near Greenville, Miss., to points in Alabama, Arkansas, Louisiana, Mississippi, and Tennessee; (4) from the facilities of Ergon, Inc., at or near Vicksburg, Miss., to points in Alabama, Arkansas, Louisiana, and Mississippi; (5) from the facilities of Mobile Bulk Terminal, Inc., at or near Mobile, Ala., to points in Alabama, Florida, Louisiana, and Mississippi; (6) from the facilities of Ergon, Inc., at or near Chattanooga, Tenn., to points in Alabama, Georgia,

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North Carolina, South Carolina, Tennessee, and Kentucky, restricted in (2) above to traffic having a prior movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Jackson, Miss., or Memphis, Tenn.

No. MC 139312 (Sub-No. 8), filed August 1, 1977. Applicant: JOE H. TIDWELL, doing business as Northeast Truck Brokers, P.O. Box 826, Pharr, Tex. 78577. Applicant's representative: Thomas R. Kingsley, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Used clothing, used rags, and used burlap*, (1) from points in Arizona, Arkansas, California, Colorado, Connecticut (except Bridgeport), Delaware, Idaho, Maine, Massachusetts, Minnesota, Montana, Nevada, New Hampshire, New Jersey (except points in Bergen County), New Mexico, New York (except points in New York, N.Y., and Nassau and Suffolk Counties), North Dakota, Oregon, Rhode Island, South Dakota, Texas, Utah, Vermont, Washington, Wyoming, and the District of Columbia to Nogales, Ariz., McAllen, Tex., and the ports of entry on the international boundary line between the United States and the Republic of Mexico located in Texas; and (2) from Nogales, Ariz., McAllen, Tex., and ports of entry on the international boundary line between the United States and the Republic of Mexico located in Texas to points in the United States (except points in Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either San Antonio, Tex., or Brownsville, Tex.

No. MC 139923 (Sub.No. 35), filed August 1, 1977. Applicant: MILLER TRUCKING CO., INC., P.O. Drawer D, Stroud, Okla. 74079. Applicant's representative: Max G. Morgan, 223 Ciudad Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Quicklime, hydrated lime, and ground limestone*, from the facilities of St. Clair Lime Co. near Marble City and Sallisaw, Okla., to points in Columbia, Conway, Pulaski, and Union Counties, Ark.; and Barton, Butler, Cowley, Ellis, Ford, Graham, McPherson, Russel, Sedgwick, and Sumner Counties, Kans.

NOTE.—Applicant holds motor contract carrier authority in No. MC 139926 (Sub-No. 2), therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Oklahoma City, Okla., or Dallas, Tex.

No. MC 140022 (Sub-No. 4), filed July 28, 1977. Applicant: DONOVAN P. RODRIGUEZ, d.b.a. West Michigan Trucking Service, 4630 Benzie Highway, Benzonia, Mich. 49616. Applicant's representative: James R. Davis, 1018 Michigan National Tower, Lansing, Mich. 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pallets and other shipping and storage devices* made of wood and materials used in the manufacture of the above between points in Michigan, Indiana, and Illinois.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Lansing, Mich., or as an alternate Detroit, Mich.

No. MC 140024 (Sub-No. 72), filed August 2, 1977. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Avenue, Commerce City, Colo. 80022. Applicant's representative: John F. DeCock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen and except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of RJR Foods, Inc., at or near Plymouth, Ind., to Denver, Colo., restricted to traffic originating at the named origin and destined to the named destination.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 140033 (Sub-No. 26) (Correction), filed June 30, 1977, published in the FEDERAL REGISTER issued of August 18, 1977, and republished as corrected this issue. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Tex. 75220. Applicant's representative: Lawrence A. Winkle, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastics and plastic products*, from Troup, Tex., to points in the United States (except Alaska and Hawaii); and (2) *plastics, plastic products, and rubber articles* (except sponge, foam or cellular); and (b) *games and toys*, from Jacksonville, Tex., to points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to indicate the correct MC No. as 140033 (Sub-No. 26), in lieu of MC No. 140033 (Sub-No. 263). If a hearing is deemed necessary, the applicant requests that it be held at either Dallas, Tex., or Washington, D.C.

No. MC 140037 (Sub-No. 4), filed August 4, 1977. Applicant's name: SUNFLOWER CARRIERS, INC., P.O. Box 355, York, Nebr. 68467. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum*, from Oswego, N.Y., Lancaster, Pa., Lewisport and Hawesville, Ky., Davenport, Iowa, Terre Haute, Ind., McCook, Ill., and Omal, Ohio, to Hastings, Nebr., and Powell, Wyo.; and (2) *irrigation pipe*, from Hastings, Nebr. and Powell, Wyo. to points in the United States (except Alaska and Hawaii). Restricted to a transportation service to be performed under a continuing contract or contracts in (1) and (2) with Hastings Irrigation Pipe Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lincoln or Omaha, Nebr.

No. MC 140587 (Sub-No. 4), filed August 4, 1977. Applicant: CECIL CLAXTON TRUCKING, Box 7, Route 3, Wrightsville, Ga. 31096. Applicants' representative: Ronald K. Kolins, 1055 Thomas Jefferson Street NW., Washington, D.C. 20007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Baltimore, Md., to points in Georgia and Alabama.

NOTE.—Applicant holds motor contract carrier authority in No. MC 133492 (Sub-No. 1) and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga., or Washington, D.C.

No. MC 140596 (Sub-No. 2), filed July 28, 1977. Applicant: NEWPORT AIR FREIGHT, INC., Airport Road, Newport, Vt. 05855. Applicant's representative: S. Arnold Smith, Craftsbury, Vt. 05826. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electronic connectors and allied components required in the generation, transmission, and distribution of electricity for consumer and industrial consumption*, between the facilities of Burndy Corp. located at or near St. Johnsbury, Vt., on the one hand, and, on the other, points in Logan International Airport located at or near East Boston, Mass., with prior or subsequent movement by air, under a continuing contract or contracts with Burndy Corp. of St. Johnsbury, Vt.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Boston, Mass., or Montpelier, Vt.

No. MC 140612 (Sub-No. 26), filed July 28, 1977. Applicant: ROBERT P. KAZIMOUR, P.O. Box 2207, Cedar Rapids, Iowa 52406. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Neb. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Appliances, furnaces, and air-conditioners (except commodities which because of size or weight require the use of special equipment) and materials, parts, and supplies (except commodities in bulk) used in the manufacture, production, and distribution of the above*, between Fort Smith, Ark., on the one hand, and on the other, points in Iowa, Indiana, Ohio, Kentucky, and Tennessee.

NOTE.—Applicant holds motor contract carrier authority in MC 138003 and sub numbers thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Lincoln, Neb., or Fort Smith, Ark.

No. MC 140612 (Sub-No. 27), filed August 1, 1977. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, Iowa 52406. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Neb. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Appliances, furnaces, and air-conditioners (except commodities which because of size or weight require the use of special equipment) and materials, parts, and supplies (except commodities in bulk) used in the manufacture, production, and distribution of the above*, between the plantsite and warehouse facilities of Rheem Manufacturing Co. located in Baldwin County, Ga., on the one hand, and, on the other, points in and west of Ohio, Kentucky, Tennessee, and Mississippi (except Hawaii and Alaska).

NOTE.—Applicant holds motor contract carrier authority in MC 138003 and sub numbers thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Lincoln, Neb., or Fort Smith, Ark.

No. MC 140829 (Sub-No. 55), filed July 25, 1977. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Ave., Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Deodorants, disinfectants, breath fresheners, cleaning compounds, swimming pool treatment compounds, insecticides, and materials, supplies, and equipment* used by deodorant and cleaning compound manufacturers (except commodities in bulk, in tank vehicles) between the facilities of Airwick Industries, Inc. at Barberton, Ohio, on the one hand, and, on the other, Carlstadt, N.J., and points in Cook County, Ill.; Dallas, Tex.; Detroit, Mich.; Maple Heights, Ohio; Milwaukee, Wis.; Minneapolis, Minn.; Omaha, Nebr.; St. Peters, Mo.; and Stockton, Calif., restricted to the transportation of shipments originating at and destined to the named facilities of Airwick Industries, Inc.

NOTE.—Applicant holds contract carrier authority in MC 136408 and subs thereunder; therefore dual operations may be involved. If a hearing is deemed necessary the applicant requests it to be held in Washington, D.C.

No. MC 141426 (Sub-No. 8), filed July 25, 1977. Applicant: WHEATON CARTAGE CO., a corporation, Millville, N.J. 08332. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate in interstate or foreign commerce, as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass, metal, plastic, paper, wax, clay, feldspar* and *wood articles* and *products, foodstuffs, antipollution* and *biochemical apparatus, products* used in radiological research, *organic chemistry kits, bottle coating systems, talc, feldspar, candles, pottery, chinaware, ceramics, gift items, molds* and *machinery, parts* and *accessories* for the above-described commodities, and *materials, equipment*, and *supplies* used in the coating, production, distribution, assembly, fabrication, manufacture or sale of the above-named commodities (except in bulk, in tank vehicles), between the plant site of and facilities utilized by Wheaton Industries at or near Syracuse, Nebr., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to a transportation service to be performed under a continuing contract or contracts with Wheaton Industries of Millville, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

Applicant states that it is a commonly-controlled contract carrier for Wheaton Industries and that it holds authority already on the same commodities between other facilities of Wheaton Industries on the one hand, and, on the other, points in the Continental United States. The purpose of this application is to expand the contract carrier services to embrace the Wheaton facilities at or near Syracuse, Nebr.

No. MC 141426 (Sub.-No. 9), filed July 28, 1977. Applicant: WHEATON CARTAGE CO. (a corporation), Millville, N.J. 08332. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought by applicant to operate in interstate or foreign commerce, as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass, metal, plastic, paper, wax, clay, feldspar* and *wood articles* and *products, foodstuffs, antipollution* and *biochemical apparatus, products* used in radiological research, *organic chemistry kits, bottle coating systems, talc, feldspar, candles, pottery, chinaware, ceramics, gift items, molds* and *machinery, parts* and *accessories* for the above-described commodities, and *materials, equipment*, and *supplies* used in the coating, production, distribution, assembly, fabrication, manufacture or sale of the above-named commodities (except in bulk, in tank vehicles), between the plant site of and facilities utilized by Wheaton Industries at or near Easton, Md., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Restriction: The authority granted herein is limited to a transportation service to be performed under a continuing contract or contracts with Wheaton Industries of Millville, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held in Washington, D.C.

Applicant states that it is a commonly-controlled contract carrier for Wheaton Industries and that it holds authority already on the same commodities between other facilities of Wheaton Industries on the one hand, and, on the other, points in the Continental United States. The purpose of this application is to expand the contract carrier services to embrace the Wheaton facilities at or near Easton, Md.

Docket No. MC 141546 (Sub-No. 23), filed July 15, 1977. Applicant: BULK TRANSPORT SERVICE, INC., One Dundee Park, Andover, Mass. Applicant's representative: Kenneth B. Williams, 84 State St., Boston, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Cement, in bulk, in tank vehicles, from ports of entry on the International Boundary line between the United States and Canada located at points in Maine, New Hampshire, Vermont, and New York to points in Massachusetts, Rhode Island and Connecticut, restricted to traffic originating in the Province of Quebec, Canada.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass. Common control may be involved.

No. MC 141599 (Sub-No. 3), filed July 28, 1977. Applicant: MOUNTAIN PACIFIC TRANSPORT (EDMONTON), LTD., DOING BUSINESS AS SHADOW LINES, 241 Schoolhouse Rd., Coquitlam, British Columbia, Canada V3K 4X9. Applicant's representative: George LaBissoniere, 1100 Norton Building, Seattle, Wash. 98104. Authority sought to operate as a *common carrier* over irregular routes transporting lumber and wood products from ports of entry on the United States/Canada boundary line located in Washington, Idaho and Montana to points in Idaho, Montana, North Dakota, South Dakota, Wyoming, Minnesota, Colorado, and Utah; restricted to traffic moving in foreign commerce from the provinces of British Columbia, Alberta and Saskatchewan, Canada to the named destination states.

NOTE.—If a hearing is deemed necessary, the applicant reqeusts that it be held at Seattle, Wash.

No. MC 141776 (Sub-No. 13), filed July 28, 1977. Applicant: FOODTRAIN, INC., Spring and South Center Sts., Ringtown, Pa. 17967. Applicant's representative: L. Agnew Myers, Jr., 734 15th St. NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Foodstuffs and food products (except cold packed or frozen), candy and confectionery, and rack store displays, from Vineland, N.J., to points in Arkansas, Illinois, Indiana, points in Kansas on and east of Interstate Highway 35 and U.S. Highway 81, Kentucky, Louisiana, Michigan, Mississippi, Missouri, points in New York on and west of Interstate Highway 81 and Interstate Highway 481, Ohio, points in Pennsylvania on and west of U.S. Highway 220, Tennessee, points in Texas on and east of Interstate Highway 35, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Philadelphia, Pa. or Washington, D.C.

No. MC 141776 (Sub-No. 15), filed August 1, 1977. Applicant: FOODTRAIN, INC., Spring and South Center Sts., Ringtown, Pa. 17967. Applicant's representative: L. Agnew Myers, Jr., 734 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum Sheet, Aluminum Plate, flat or in coils; Aluminum Blanks, flat*, from Lancaster, Pa., to

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points in Indiana, Illinois, Michigan, Ohio, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant request it be held at Philadelphia, Pa. or Washington, D.C.

No. MC 141804 (Sub-No. 72), filed August 8, 1977. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Charles R. Parker, P.O. Box 422, Goodlettsville, Tenn. 37072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Welders, welder parts* and *systems, welding compounds* and *materials* and *supplies* used in the manufacture, production and distribution thereof (except commodities in bulk and which because of size or weight require special handling or equipment), (1) from City of Industry and Whittier, Calif. to points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas and Louisiana and (2) from points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas and Louisiana to City of Industry and Whittier, Calif., restricted in parts (1) and (2) above to traffic originating at or destined to the plantsites or storage facilities utilized by Stoody International Co. and Stoody Co.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif. or Memphis, Tenn.

No. MC 141914 (Sub-No. 12), filed July 26, 1977. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, Okla. 74332. Applicant's representative: Gary Brasel, Mezzanine Floor, Beacon Building, Tulsa, Okla. 74103. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting: *Maple syrup products* from the ports of entry located on the International Boundary Line between the United States and Canada, located at or near Trout River, N.Y., to Chicago, Ill., and Kansas City, Mo.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Buffalo or New York, N.Y.

No. MC 141914 (Sub-No. 14), field: August 2, 1977. Applicant: FRANKS & SON, INC., Box 108–A, Big Cabin, Okla. 74332. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought by applicant to operate as a *common carrier*, by motor vehicle, in interstate and foreign commerce, over irregular routes transporting: *rubber piping, tubing and hose, including rubber hose, reinforced with fabric or steel*, from the port of entry on the International Boundary line between the United States and Canada, located at or near Stanhope, Vt., to points in the United States (except Alaska and Hawaii), restricted to the transportation of traffic originating at the plant site of and facilities of IVG Rubber Canada Ltd., located at or near St. Alphonse de Granby, Quebec, Canada.

NOTE.—If a hearing is deemed necessary it is requested that it be held in Tulsa, Okla.

No. MC 142015 (Sub No. 1), filed July 28, 1977. Applicant: PERISHABLES TRANSPORT, INC., Route 2, Box 295, Chesterton, Ind. 46304. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Blvd., Post Office Box 1267, Arlington, Va. 22210. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, *equipment, materials and supplies* used in the conduct of such business (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of the Kroger Co., at or near Salem, Va., to the facilities of the Kroger Co., in Greenville, N.C., restricted to the transportation of shipments originating at or destined to facilities of the Kroger Co.; and further restricted to the transportation of shipments under a continuing contract or contracts with the Kroger Co.

NOTE.—If an oral hearing is deemed necessary, applicant requests that it be held in Indianapolis, Ind.

No. MC 142277 (Sub-No. 3), filed: July 28, 1977. Applicant: CONSOLIDATED PARCEL SERVICE, INC., 9847 Page, St. Louis, Mo. 63132. Applicant's representative: Douglas E. Tonkinson (Same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Such merchandise as is dealt in by Department Stores (including, but not limited to, uncrated furniture, loose hanging garments on rods and in cages, and bakery goods) between the department stores and warehouse facilities of the The May Department Stores Co., d.b.a. Famous-Barr Co. located in St. Louis and St. Louis County, Mo., and Springfield, Ill., under a continuing contract or contracts with The May Department Stores Co. d.b.a. Famous-Barr Co.

NOTE.—Applicant holds common carrier authority in MC 136746 (Sub-No. 2), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo.

No. MC 142279 (Sub-No. 3), filed August 1, 1977. Applicant: RAY A. REICH, d.b.a. Ray Reich Trucking Co., Route 1, Box 133F, Forest Hill, La. 71430. Applicant's representative: Paul D. Anglenend, P.O. Box 2207, Austin, Tex. 78768. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular route, transporting: Forest products, lumber products and wood products between points in Red River and Rapides Parishes, La., on the one hand, and, on the other, points in Arkansas, Louisiana, Mississippi and Texas, under continuing contract with the Pineville Kraft Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held in Alexandria or Baton Rouge, La.

MC 142892 (Sub-No. 1), filed July 25, 1977. Applicant: J. H. FOODS, INC., 915 West 80th Street, Minneapolis, Minn. 55420. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of: *Meat and poultry*, from the facilities of J. H. Foods, Inc., in Bloomington, Minn., to points in Anoka, Dakota, Hennepin, Ramsey, and Washington Counties, Minn., under a continuing contract or contracts with Country Club Markets, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn.

No. MC 142941 (Sub-No. 6), filed August 4, 1977. Applicant: SCARBOROUGH TRUCK LINES, a corporation, 1313 North 25th Avenue, Phoenix, Ariz. 85009. Applicant's representative: Lewis P. Ames/Phil B. Hammond, 111 West Monroe, Phoenix, Ariz. 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery items, dessert preparations, and coin operated vending machines* (except in bulk), in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of Leaf Confectionery, Inc., at Chicago, Ill., to points in Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., or Phoenix, Ariz.

No. MC 143150 (Sub-No. 1), filed July 28, 1977. Applicant: JAMES E. ROBERTS, d.b.a. Roberts Trucking, 7086 Washington Blvd., Elkridge, Md. 21227. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, Post Office Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Concrete products, materials, supplies and equipment* used in the manufacture and installation thereof, between Jessup, Md., and Manassas, Va., on the one hand, and, on the other, points in Maryland, Delaware, Virginia, West Virginia, Pennsylvania, Ohio, and the District of Columbia. Under a continuing contract or contracts with Concrete Pipe and Products Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Baltimore, Md.

No. MC 143197 (Sub-No. 2), filed July 8, 1977. Applicant: BONDED MAIL DELIVERY SERVICE, INC., 2040 Prospect Avenue, Erie, Pa. 16510. Applicant's representative: Robert B. McCullough, 416 Marine Bank Building, Erie, Pa. 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical equipment parts used in jet aircraft*, in packages not exceeding 60 pounds in

weight, between the General Electric plant located in Erie County, Pa., on the one hand, and, on the other, points in New York, Ohio, and Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Erie, Pa., or Pittsburgh, Pa.

No. MC 143291 (Sub-No. 1), filed August 1, 1977. Applicant: RAYLS BROTHERS TRANSFER, INC., North Dixie Highway, Box 342, Hoopeston, Ill. 60942. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, unfrozen, from the plantsites and facilities of Joan of Arc Co., Inc., at Hoopeston and Princeton, Ill., to points in Indiana, Iowa, Kentucky, Michigan, and Missouri.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., or St. Louis, Mo.

No. MC 143299 (Sub-No. 1), filed July 28, 1977. Applicant: RAYMOND J. FILASKY, JR., JOHN H. FILASKY, and RAYMOND J. FILASKY, SR., doing business as Filasky Ag-Services, a partnership, Route No. 301, Middletown, Del. 19709. Applicant's representative: Gary P. Dalton, 30 The Green, Dover, Del. 19901. Authority is sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and feed ingredients*, in bulk, utilizing pneumatic unloading equipment, from the Agway Feed Division plantsite in Bordentown, N.J., to points in Delaware, and to points in Cecil, Kent, Queen Annes, Talbot, Caroline, Dorchester, Wicomico, Worcester, and Somerset Counties, Md., under a continuing contract or contracts with Agway, Inc.

NOTE.—If a hearing is deemed necessary, Applicant requests that it be held in Philadelphia, Pa., or Washington, D.C.

No. MC 143359 (Sub-No. 2), filed July 28, 1977. Applicant: Helen McNay, d.b.a. McNay Truck Line, R.R. No. 8, Quincy, Ill. 62301. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated beverages* from Quincy, Ill. to Burlington, Iowa, under a continuing contract or contracts with Pepsi-Cola Quincy Bottling Co., located at Quincy, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Louis, Mo., or Springfield, Ill.

No. MC 143470 (Sub-No. 1), filed August 1, 1977. Applicant: ROBERT CLIFFORD CAST, Box 151, Gratis, Ohio 45330. Applicant's representative: Robert Clifford Cast (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wooden pallets*, from Gratis, Ohio, to Richmond, Ind.; and (2) *lumber*, from points in Kentucky, Tennessee, Mississippi, Alabama, and Georgia, to Gratis, Ohio, under contract with Tolson & Lawson Pallet Manufacturing Co., at Gratis, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Cincinnati or Columbus, Ohio.

No. MC 143503 (Sub-No. 1), filed July 22, 1977. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, Calif. 93031. Applicant's representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, new home furnishings, appliances, and accessories*, between the facilities of Evans Furniture Co., at or near Louisville, Ky., on the one hand, and, on the other, points in Harrison, Floyd, Clark, Scott, Jefferson, Washington, Orange, Crawford, and Perry Counties, Ind.

NOTE.—Applicant holds contract carrier authority under No. MC 136211 (Sub-No. 1) and other subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 143504 (Sub-No. 2), filed July 22, 1977. Applicant: VERNON CAMPBELL, d.b.a. Campbell Trucking, P.O. Box 234, Preston, Iowa 52069. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over *irregular routes*, transporting: *Agricultural concrete products*, from Maquoketa, Iowa, to points in Minnesota, Wisconsin, Illinois, Iowa, and Missouri, restricted to transportation service under continuing contract or contracts with F & W Sales, Inc., of Maquoketa, Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in either Chicago, Ill., or St. Paul, Minn.

No. MC 143517, filed July 21, 1977. Applicant: EMPIRE TRUCKING CO., a Corporation, Post Office Box 206, Old Washington, Ohio 43768. Applicant's representative: E. H. van Deusen, Post Office Box 97, 220 West Bridge Street, Dublin, Ohio 43017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Petroleum and petroleum products, except in bulk, from the facilities of the Quaker State Oil Refining Corp., at or near Emlenton, Pa., Buffalo, N.Y.; Congo, and St. Marys, W. Va., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Pittsburgh, Pa., or Columbus, Ohio.

No. MC 143525, filed July 18, 1977. Applicant: ANDY KING, doing business as Andy's Garage, 309 North Main Street, Perryville, Missouri 63775. Applicant's representative: Kim R. Moore, 11 N. Main Street, Perryville, Mo. 63775. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: Wrecked and disabled motor vehicles, between Perryville, Mo., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Cape Girardeau or St. Louis, Mo. Common control may be involved.

No. MC 143529, filed July 28, 1977. Applicant: NORTH & SOUTH LINES, INC., 2710 S. Main Street, Harrisonburg, Va. 22801. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Corrugated containers, from Harrisonburg, Va., to points in Delaware, Maryland, North Carolina, New Jersey, New York, Pennsylvania, West Virginia, Virginia, and the District of Columbia, under a continuing contract or contracts with Packaging Corp. of America of Harrisonburg, Va.

NOTE.—Applicant holds motor common carrier authority in No. MC 28068 (Sub-No. 1) and other subs, therefore dual operations may be involved. Common control may be involved. If a hearing is deemd necessary, applicant requests that it be held at Washington, D.C.

No. MC 143536 (Sub-No. 1), filed July 28, 1977. Applicant: WALLACE GRAIN CO., INC., 807 Park Avenue, Sheridan, Ind. 46069. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Molding Compound* From Noblesville, Ind., to points in Florida, Illinois, Michigan, New Jersey, New York, North Carolina, Ohio, and Wisconsin; *Materials and Supplies used in producing or processing molding compound*, From Swanton, Ohio; Erie, Mich.; Huntington and Bridgeport (Montgomery Co.), Pa.; Cartersville, Ga.; La Crosse, Wis.; and Postville, Iowa; to Noblesville, Ind., under a continuing contract or contracts with Industrial Dielectrics, Inc., of Noblesville, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Indianapolis, Ind., or Washington, D.C.

No. MC 143540 (Sub-No. 1), filed August 2, 1977. Applicant: MARINE TRANSPORT CO., a Corporation, 1901 Carolina Beach Road, Wilmington, N.C. 28401. Applicant's representative: Ralph McDonald, Post Office Box 2246, Raleigh, N.C. 27602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *Dimethyl Terephthalate and terephthalic acid (except in bulk)*: From New Hanover County, N.C., to Charleston, S.C. and Norfolk, Va., under a continuing contract or contracts with Hercules, Inc., located in New Hanover County, N.C.

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NOTE.—If a hearing is deemed necessary, applicant requests it be held at Wilmington, N.C., or Raleigh, N.C.

No. MC 143543 (Sub-No. 1), filed August 1, 1977. Applicant: THOMAS H. KENNEDY, d/b/a K-Lines Transportation, 726 16th Avenue West, Birmingham, Ala. 35214. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St. NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel, iron and steel articles, iron and steel pipe and pipe fittings, valves, hydrants, parts thereof and accessories therefor*, from Birmingham Ala. to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; and (2) *Materials, equipment, machinery and supplies* used in the manufacturing, processing and distribution of commodities named in (1) above, from points in the States named in (1) above to Birmingham, Ala.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 143545, filed August 1, 1977. Applicant: BLACK ANGUS, INC., P.O. Box 8780, Jackson, Miss. 39202. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Reflective traffic marking products*, except in bulk, from Jackson, Miss., to points in Ohio, West Virginia, Virginia, District of Columbia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, and Maine.

NOTE.—If hearing is deemed necessary, applicant requests that it be held at Jackson, Miss. Applicant holds contract carrier authority in MC 141410 (Sub-No. 1), therefore dual operations may be involved.

No. MC 143548 (Sub-No. 1), filed August 1, 1977. Applicant: LARRY VITITOW, 300 Lee Street, Sulphur Springs, Tex., 75482. Applicant's representative: D. Paul Stafford, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: sulphur, in bags and in bulk: From the plantsite and warehouse facilities of Agri-Sul, Inc. at or near Mineola, Tex., to points in the United States, (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas, Tex.

No. MC 143560, filed August 3, 1977. Applicant: STANLEY TRANSPORTS, CO., 2641 Faxon Avenue, Memphis, Tenn. 38112. Applicant's representative; John Paul Jones, P.O. Box 3140, Front Street Station, Memphis, Tenn. 38103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Malt Beverages from Belleville, Ill., to Memphis, Tenn., under a continuing contract or contracts with Shelby Sales Co., Inc., Memphis, Tenn.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Memphis, Tenn.

No. MC 143588, filed August 8, 1977. Applicant: A–1 MOVING & STORAGE CO., 1219 Eraste Landry Road, Lafayette, La. 70501. Applicant's representative: Richard R. Sigmon, 501 Perpetual Building, 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* and *unaccompanied baggage*, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization and unpacking, uncrating, and decontainerization of such traffic, between points in Louisiana (except points in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. James, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne, and Washington Parishes).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or at any point in Louisiana.

No. MC 143590, filed August 8, 1977. Applicant: NEW HAMPSHIRE CONTINENTAL EXPRESS, INC., P.O. Box 4956, Manchester, N.H. 03108. Applicant's representative: J. Max Harding, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat by-products, articles distributed by meat packinghouses, and such commodities* as are used by meat packers in the conduct of their business as described in Sections A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and warehouse facilities utilized by Claremont Beef Co., Inc., located at or near Claremont, N.H., to points in Michigan, Wisconsin, Illinois, Indiana, Ohio, West Virginia, Virginia, Kentucky, Texas, Arkansas, Louisiana, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina, and Florida; and (2) *Materials, supplies and equipment utilized in the manufacture, sale and distribution of the commodities described in (1) above*, from points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, Texas, and Oklahoma to the plantsite and warehouse facilities utilized by Claremont Beef Co., Inc., located at or near Claremont, N.H. Restriction: Restricted against the transportation of hides or commodities in bulk and further restricted to traffic destined to or originating at the plantsite or warehouse facilities utilized by Claremont Beef Co., Inc., Claremont, N.H.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Concord, N.H. or Manchester, N.H.

No. MC 143595, filed July 14, 1977. Applicant: WALNUT TRUCKING CO., INC., R.D. No. 1, New Oxford, Pa. 17350. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Avenue, Post Office Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, from Rocky Ridge and Baltimore, Md., to points in Connecticut, New Jersey, New York, and Pennsylvania.

NOTE.—Applicant seeks by this application to convert its permit in MC 126885 into a certificate of Public Convenience and Necessity. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

PASSENGERS

No. MC 143507, filed July 25, 1977. Applicant: ACE TRANSPORTATION CO., INC., 156 W. Cheiten Ave., Suite 4, Philadelphia, Pa. 19144. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *passengers and their baggage* in special and charter operations, in non-scheduled door-to-door service, limited to the transportation of not more than 11 passengers in one vehicle, not including the driver, and not including children under 10 years of age, who do not occupy a seat or seats, between Philadelphia, Pa. on the one hand, and, on the other, points in Atlantic County, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Philadelphia, Pa.

No. MC 143528, filed July 28, 1977. Applicant: BECK BUS TRANSPORTATION CORP., Post Office Box 768, Mt. Vernon, Ill. 62864. Applicant's representative: Bruce E. Mitchell, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: Passengers and their baggage, in the same vehicle with passengers, in special and charter operations, from ponts in Perry, Jefferson, Franklin, Hamilton, Wayne, Williamson, Washington, and Marion Counties, Ill., to points in the United States (including Alaska, excluding Hawaii), and return.

NOTE.—If an oral hearing is deemed necessary, applicant requests that it be held at Mt. Vernon, Ill. or St. Louis, Mo.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or

acquire control through ownership of stock, or rail carriers or motor carriers pursuant to Sections 5(2) or 210a((b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Florida East Coast Railway Co., One Malaga Street, St. Augustine, Fla. 32084, represented by Mr. Charles B. Evans, General Counsel, Florida East Coast Railway Co., One Malaga Street, St. Augustine, Fla. 32084, hereby give notice that on the 12th day of May, 1977, as supplemented, August 16, 1977, it filed with the Interstate Commerce Commission at Washington, D.C., an application under Section 1(18) of the Interstate Commerce Act for an order approving and authorizing the acquisition and operation of a line of railroad owned by the Jacksonville Terminal Co., a distance of 1.3 miles located entirely in Duval County, Fla., which application is assigned Finance Docket No. 28474.

Applicant is proposed to acquire and operate a line of railroad presently owned and operated by the Jacksonville Terminal Co. which is the subject of an application for abandonment in docket No. AB–143 filed July 18, 1977.

The route of line proposed to be acquired is from the zero mile post of Florida East Coast Railway Co. on the north bank of the St. John River in Jacksonville, Fla., northwestward to interchange tracks between Seaboard Coast Line Railroad Co. and the Florida East Coast Railway Co.; and the Georgia Southern and Florida Railway Co. and Florida East Coast Railway Co., wholly within the city limits of Jacksonville, Fla.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

In accordance with the Commission's regulations (49 CFR 1108.12) in Ex Parte No. 55 (Sub-No. 4), *Implementation-National Environmental Policy Act, 1969*, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation-National Environmental Policy Act, 1969, supra* at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

Goodwin Railroad, Inc., P.O. Box 1423, Concord, N.H. 03301, represented by Mr. Herbert W. Goodwin, President, Goodwin Railroad Inc., P.O. Box 1423, Concord, N.H. 03301, hereby give notice that on the 8th day of August, 1977, it filed with the Interstate Commerce Commission at Washington, D.C., an application under section 1(18) of the Interstate Commerce Act for an order approving and authorizing the operation over a line of railroad owned by the State of New Hampshire from Concord to Lincoln, in Merrimack, Belknap, and Grafton Counties, N.H., a distance of 76.4 miles, which application is assigned Finance Docket No. 28531.

Applicant is operating a railroad line from Concord to Lincoln, N.H. owned by the State of New Hampshire connecting with the Boston and Maine Corp. at Concord, N.H. The above mentioned line was formerly owned by the Boston and Maine Corp.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.12) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act 1969*, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra* at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

No. MC–F–13300. Authority sought to control and merge by STEVENS VAN LINES, INC., 121 So. Niagara Street, Saginaw, Mich., 48602, of AIRLINE VANS, INC., Dallas, Tex., and for acquisition by ARCHIBALD H. STEVENS, 1920 Kennedy, Saginaw, Mich., MORRISON M. STEVENS, 7818 Geddes, Saginaw, Mich., ARCHIE H. STEVENS, JR., 3810 N. Henlock Rd., Henlock, Mich., and JAMES R. STEVENS, 1920 Kennedy, Saginaw, Mich., of control of such rights through the transaction. Applicants' attorney: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, D.C. 20036. Operating rights sought to be controlled and merged: Household goods, as defined by the Commission, as a common carrier over irregular routes between points within 500 miles of Fort Worth, Tex., including Fort Worth. Between points within 500 miles of Fort Worth, Tex., including Fort Worth, on the one hand, and, on the other, points more than 500 miles from Fort Worth, in Alabama, Colorado, Connecticut, Georgia, Illinois, Indiana, Iowa, Kansas, Maryland, Massachusetts, Michgan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, and the District of Columbia. Vendee is authorized to operate as a common carrier in Arkansas, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

NOTE.—No. MC 74681 (Sub-No. 6) is a directly related matter.

No. MC–F–13308. Authority sought for purchase by RISS INTERNATIONAL CORPORATION, 903 Grand Ave., P.O. Box 2809, Kansas City, Mo., 64142, of the operating rights and certain properties of KOWALSKY'S EXPRESS SERVICE, a corporation, 2235 West Main St., Millville, N.J., 08332, and for acquisition by REPUBLIC INDUSTRIES INC., and, in turn, by ROBERT B. RISS, 903 Grand Ave., P.O. Box 2809, Kansas City, Mo., 64142, of control of the rights and property through the purchase. Applicants' attorneys: Alan Kahn, Suite 1920, Two Penn Center Plaza, Philadelphia, Pa., 19102, and Ivan E. Moody, P.O. Box 3809, Kansas City, Mo., 64142. Operating rights sought to be transferred: General commodities, with certain specified exceptions, as a common carrier over irregular routes, between points in defined portions of Delaware, Maryland, New Jersey, New York, and Pennsylvania, and of special commodities, as a common carrier over irregular routes, between points in Connecticut, Delaware, Maryland, New Jersey, New York, Pennsylvania, and Vir-

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ginia, all of which are more fully described in Certificates Nos. MC 29919 and Subs thereunder. Vendee is authorized to operate as a common carrier in Colorado, Connecticut, Delaware, Iowa, Illinois, Indiana, Kansas, Kentucky, Maryland, Massachusetts, Missouri, Nebraska, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Texas, Virginia, and West Virginia, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 200 (Sub-No. 294) is a directly related matter.

No. MC-F-13311. Authority sought for purchase by WHITFIELD TRANSPORTATION, INC., 821 East Pasadena, P.O. Box 7676, Phoenix, Ariz. 85011, of the operating rights and property of IDAHO FALLS TRANSFER & STORAGE CO., Pocatello Industrial Park, P.O. Box 2618, Pocatello, Idaho 83201, and for acquisition by SUNDANCE TRANSPORTATION, INC., AND ALLAN D. MUSGROVE, of 821 East Pasadena, P.O. Box 7676, Phoenix, Ariz. 85011, of control of such rights and property through the purchase. Applicants' attorney: William S. Richards, P.O. Box 2465, Salt Lake City, Utah 84110. Operating rights sought to be transferred: *General commodities, household goods and petroleum products* as a *common carrier* over irregular routes within the entire State of Idaho. Vendee is authorized to operate as a *common carrier* in Arizona, California, Colorado, Idaho, Montana, New Mexico, Texas, and Utah. Application has been filed for temporary authority under section 210a(b).

NOTE.—The applicant has tendered a directly related gateway elimination application.

No. MC-F-13318. Authority sought for purchase by TRANSCON LINES, 101 Continental Boulevard, El Segundo, Calif. 90245, of a portion of the operating rights of M & M TRANSPORTATION COMPANY, 750 Third Avenue, New York, N.Y. 10017. Applicant's attorneys: Wentworth E. Griffin, 1221 Baltimore Avenue, Kansas City, Mo. 64105 and Herbert Burstein, One World Trade Center, New York, N.Y. 10048. Operating right sought to be transferred: *General commodities*, with the usual exceptions, as a *common carrier* over regular routes, between Scranton, Pa., and Syracuse, N.Y., serving all intermediate points in New York, and off-route points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along U.S. Highway 15 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Pennsylvania-New York State line, and those in Broome, Cayuga, Chemung, Chenango, Cortland, Madison, Onondaga, Schuyler and Tioga Counties, N.Y.; from Scranton over U.S. Highway 11 to Syracuse, and return over the same route, with restrictions. Applicant is authorized to operate as a *common carrier* in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. In Docket No. MC 110325 (Sub-No. 42), Vendee has regular route authorities between Irwin and Harrisburg, Pa.; Buffalo and New York, N.Y.; Pittsburgh, Pa., and Baltimore, Md.; Elizabeth, N.J., and Harrisburg, Pa.; New York, N.Y., and Erie, Pa.; Harrisburg, Pa., and Buffalo, N.Y., among others, which authorize regular route operations through portions of the area sought herein. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13321. Authority sought for control and merger by BENDER & LOUDON MOTOR FREIGHT LINES, INC., 3024 Brecksville Road, Richfield Ohio 44286, of RUSSOM TRANSFER, INC., 823 Carberry Road, Niles, Mich. 49120, and for acquisition by ELIZABETH L. BENDER and ROBERT C. BENDER, both of 3024 Brecksville, Richfield, Ohio 44286, GAIL B. MELL, 731 Delaware, Akron, Ohio 44303, and JEAN B. PRESTON, TRUSTEE, 1200 Yellow Creek Lane, Arkon, Ohio 44313, of control of such rights and properties through the transaction. Applicant's attorney: Rex Eames, 900 Guardian Building, Detroit, Mich 48226. Operating rights sought to be controlled and merged: *General commodities*, with exceptions, as a *common carrier* over regular routes, between Dowagiac, Mich., and South Bend, Ind., serving all intermediate points, and serving Diamond Lake, Mich. and the plantsite of Consolidated Die Cast Corp. of America, located approximately five miles north of Dowagiac, Mich., as off-route points. Transferee is authorized to operate as a *common carrier* in Ohio, Michigan, and Indiana. Application has been filed for temporary authority under section 210a(b).

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 200 (Sub-No. 294), filed August 29, 1977. Applicant: RISS INTERNATIONAL CORP., 903 Grand Ave., P.O. Box 2809, Kansas City, Mo. 64142. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) between Harrisburg, Pa., on the one hand, and, on the other, points in New Jersey within 30 miles of City Hall, New York, N.Y., and those in that part of Pennsylvania, Maryland, and Delaware bounded by a line beginning at Easton, Pa., and extending along U.S. Highway 22 to Allentown, Pa., thence along U.S. Highway 222 to Lancaster, Pa., thence along U.S. Highway 30 to the bank of the Susquehanna River, thence southeast along the east bank of the Susquehanna River to U.S. Highway 1 in Maryland, thence along U.S. Highway 1 to Baltimore, Md., thence southeast, across the Chesapeake Bay to Centreville, Md., thence through Carville and Ingleside, Md., to the Maryland-Delaware State line, at or near Marydel, Md., thence along Delaware Highway 8 to Dover, Del., and thence north along the Delaware River to point of beginning, including all points on the described line. Restriction: Service at Harrisburg, Pa., is restricted for the purpose of joinder only with carrier's presently authorized regular route service at that point.

NOTE.—This application is directly related to Section 5 purchase application captioned Riss International Corporation—Purchase—Kowalsky's Express Service, MC-F-13308. The sole purpose of this application is to change the point of joinder of the rights being purchased with those of the transferee from Philadelphia, Pa. to Harrisburg, Pa. No additional points will be served. If a hearing is deemed necessary, applicant requests that it be held at either Washington, D.C. or Philadelphia, Pa.

Notice of the application filing in MC-F-13308 appears in a prior section of this Federal Register issue.

No. MC 65880 (Sub-No. 22), filed August 24, 1977. Applicant: MUSHROOM TRANSPORTATION CO., INC., 845 East Hunting Park Avenue, Philadelphia, Pa. 19124. Applicant's representatives: A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J. 07006. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment); between Cleveland, Ohio on the one hand, and, on the other, points in Ohio.

NOTE.—The purpose of the application is to effectuate a conversion of a Registered Certificate to a Certificate of Public Convenience and Necessity and is directly related to a Section 5 proceeding in MC-F-13283 published in the FEDERAL REGISTER issue of August 4, 1977. If a hearing is deemed necessary, Applicant requests that it be held at Cleveland, Ohio.

No. MC 74661 (Sub-No. 6), filed August 19, 1977. Applicant: STEVENS VAN LINES, INC., 121 So. Niagara Street, Saginaw, Mich. 48602. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *Household Goods* as defined by the Commission: (1) between points in Colorado, Connecticut, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Virginia, Wisconsin, West Virginia, and the District of Columbia on the one hand, and, on the other, points within 500 miles of Fort Worth, Tex., including Fort Worth, Tex., and points in New Mexico and Louisiana; (2) between points in Colorado, Connecticut, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Virginia, Wisconsin, West Virginia, and the District of Columbia on the one hand, and, on the other, points in Alabama, Colorado, Connecticut, Georgia, Illinois, Indiana, Iowa, Kansas, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, Wisconsin, West Virginia, and the District of Columbia on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia. Removing the gateway of the state of Michigan, and points in Missouri, Nebraska, Tennessee, Iowa, and Colorado, which are within 500 miles of Fort Worth. (These movements would be made as follows: For example from Alabama to Arkansas, Paragraph A-1 to Michigan, Paragraph B-1 to Arkansas.)

NOTE.—This application is directly related to Purchase Application by Stevens Van Lines, Inc. of the operating authority or Airline Vans, Inc., by which Purchase Application Stevens Van Lines, Inc. is purchasing Certificate of Public Convenience and Necessity No. MC-107520. Basically, this is a gateway elimination application. If a hearing is deemed necessary, applicant requests that it be held in Saginaw, Michigan, however, modified procedure is requested. Notice of the finance application in MC-F-13300 appears in a prior section of this FEDERAL REGISTER issue.

No. MC 99623 (Sub-No. 4), filed July 12, 1977. Applicant: JAMES E. GRIFFIN & SONS, INC., 275 Circuit St., P.O. Box 1194, West Hanover, Mass. 02339. Applicant's representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, Mass. 01960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Massachuetts to points in Allegany, Broom, Cattaraugus, Chautaugua, Erie, Genesee, Chemung, Livingston, Niagara, Orleans, Steuben, Tioga, and Wyoming Counties, N.Y.

NOTE.—The purpose of this filing is to eliminate the gateways of Concord and Acton, Mass. If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass. This application will be processed on a consolidated record with MC-F-13218 which was noticed in the FEDERAL REGISTER issue of July 7, 1977.

No. MC 109533 (Sub-No. 93), filed July 19, 1977. Applicant: OVERNITE TRANSPORTATION CO., 1000 Semmes Avenue, Richmond, Va. 23224. Applicant's representative: E. T. Lilpfert, Suite 1000, 1660 L Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment):

(1) Between Elkton, Md., and Reading, Pa., serving all intermediate points in Delaware and Pennsylvania: From Elkton over Maryland Highway 7 to junction U.S. Highway 40, thence over U.S. Highway 40 to Wilmington, Del., thence over U.S. Highway 202 to West Chester, Pa., thence over Pennsylvania Highway 100 to Pottstown, Pa., thence over U.S. Highway 42 to Reading and return over same route:

(2) Between Lancaster, Pa., and Reading, Pa., serving all intermediate points in Berks County, Pa.: From Lancaster over U.S. Highway 222 to Reading and return over same route;

(3) Between Lancaster, Pa., and Lebanon, Pa., serving all intermediate points in Lebanon County, Pa.; From Lancaster, Pa., over Pennsylvania Highway 72 to Lebanon and return over the same route;

(4) Between Lancaster, Pa., and Carlisle, Pa., serving all intermediate points in Cumberland and York Counties, Pa.: From Lancaster over U.S. Highway 222 to junction Interstate Highway 76, thence over Interstate Highway 76 to Carlisle, Pa., and return over same route;

(5) Between Wilmington, Del., and Philadelphia, Pa., serving all intermediate points in Delaware and Pennsylvania: From Wilmington over Interstate Highway 95 to Philadelphia, and return over same route;

(6) Between Reading, Pa., and Carlisle, Pa., serving all intermediate points in Berks, Lebanon, York, and Cumberland Counties, Pa.: From Reading over U.S. Highway 422 to junction U.S. Highway 322, thence over U.S. Highway 322 to junction Interstate Highway 83, thence over Interstate Highway 83 to junction U.S. Highway 11, thence over U.S. Highway 11 to Carlisle, and return over the same route;

(7) Between Philadelphia, Pa., and Pottstown, Pa., serving all intermediate points: From Philadelphia over U.S. Highway 422 to Pottstown, and return over same route; and

(8) In connection with service routes (1) through (7) in Delaware, New Jersey, and Pennsylvania, or other regular routes of carrier, the carrier may serve the following off-route points:

(a) Delaware—all points on and north of the Chesapeake-Delaware Canal;

(b) New Jersey—Camden;

(C) Pennsylvania:

(i) Berks County—points on and south of U.S. Highway 22 from Berks-Lehigh County line to Berks-Lebanon County line; also, the points of Grimes and Schubert;

(ii) Bucks County—Argus, Chalfont, Eureka, Geryville, Hatboro, Line Lexington, Mount Pleasant, Milford Square, Neshaminy, Perkasie, Silverdale, Sellersville, Souderton, Spinners Town, Tradesville, Trumbauersville, Telford, Warrington, and Warminster;

(iii) Chester County—points on and north of Pennsylvania Highway 896;

(iv) Cumberland County—points on and east of Pennsylvaia Highway 34 from Perry-Cumberland County lines, thence along Pennsylvania Highway 34 to Carlisle, thence along Interstate Highway to junction Pennsylvania Highway 233, thence along Pennsylvania Highway 233 to the Cumberland-Adams County line; also the points of Greason, Hackersville, and Plainfield;

(v) Delaware County;

(vi) Lebanon County;

(vii) Lehigh County—Alburtis, Breinigsville, Hosensack, Old Zionsville, Shimerville, Weilersville, and Zettlemoyer;

(viii) Montgomery County;

(ix) Perry County—Cove, Duncannon, Keystone, Kenkora Heights, Marysville, Perdix, and Sterretts Gap;

(x) Philadelphia County—points on and south of Pennsylvania Highway 63;

(xi) Schuylkill County—Auburn, Brommerstown, Camp, Deturksville, Friedensburg, Lincoln, Lorberry June, Marstown, Orwin, Paradise, Pine Grove, Port Clinton (Ravine, Rock, Roedersville, Suedberg, and Summit Station;

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(xii) York County;

Restriction: The operations requested in Routes (1) through (6) above are restricted to the transportation of traffic moving from, to, or through a point in Maryland.

Restriction: The authority sought herein shall not be severable, by sale or otherwise, from the authority contained in carrier's Sub-No. 63 authority.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. This application is a matter directly related to a finance application in MC–F–12715 which appeared in the FEDERAL REGISTER issue of December 31, 1975, and which is presently pending on exceptions to the initial decision dated June 8, 1977, and served June 15, 1977.

No. MC 115331 (Sub-No. 427), filed July 19, 1977. Applicant: TRUCK TRANSPORT INC., 29 Clayton Hills Lane, St. Louis, Mo. 63131. Applicant's representative: Leonard A. Jaskiewicz, Suite 501, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lime*, in bulk (except lime used for agricultural purposes), from points in Shelby County, Ala., to points in Oklahoma, Missouri, Kentucky, Illinois, Texas (except Houston and points in Texas within 50 miles of Houston), Indiana, Michigan, Minnesota, Wisconsin, Ohio, Montana, North Dakota, South Dakota, and Wyoming. The purpose of this filing is to remove the gateways of Limedale, Ark.; Ste. Genevieve, Mo.; Pike County, Mo.; Adams County, Ill.; and Hannibal, Mo.; (2) *lime*, in bulk, from points in Shelby County, Ala., to points in Colorado, Kansas, Arizona, New Mexico, and Nebraska. The purpose of this filing is to remove the gateways of Limedale, Ark.; and Kansas City, Kans.; (3) *anhydrous ammonia*, in bulk, in tank vehicles, and *dry urea*, in bulk, from the plantsite of American Cyanamid at Avondale, La., to points in Illinois, Iowa, Indiana, Ohio, South Dakota, North Dakota, Wyoming, Minnesota, Nebraska, Wisconsin, and Michigan. The purpose of this filing is to remove the gateways of Selma, Mo.; St. Louis, Mo.; the Part Neal Industrial Complex, Woodbury County, Iowa; Fort Madison, Iowa; and Marseilles, Ill.

NOTE.—This application is directly related to Truck Transport Inc.—Purchase (Portion)—Ecoff Trucking, Inc., MC–F–13174, and seeks the elimination of certain gateways which would be created upon approval of the Section 5 application. The proceeding in No. MC–F–13174 was noticed in the FEDERAL REGISTER issue of April 7, 1977. If a hearing is deemed necessary, applicant requests that such hearing be held at St. Louis, Mo. Common control may be involved.

ABANDONMENT APPLICATIONS

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A Certificate of Abandonment will be issued to the applicant carriers 30 days after this FEDERAL REGISTER publication unless the instructions set forth in the notices are followed.

[Docket No. AB–28 (Sub-No. 1)]

CENTRAL OF GEORGIA RAILROAD CO. ABANDONMENT OF OPERATIONS BETWEEN CLAYTON AND OZARK IN BARBOUR AND DALE COUNTIES, ALA.

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on March 28, 1977, and the decision and order of the Commission, Division 3, served July 27, 1977, which affirmed and adopted the initial decision of the Administrative Law Judge entered on March 28, 1977, a finding, which is administratively final, was made stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment of operations by Central of Georgia Railroad Co. over that portion of its line of railroad extending from railroad milepost 355.1 near Clayton, Ala., to railroad milepost 394.1 at Ozark, Ala., consisting of 39 miles of main track and 3.43 miles of yard tracks and sidings, all in Barbour and Dale Counties, Ala. A certificate of abandonment will be issued to the Central of Georgia Railroad Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB–42 (Sub-No. 20)]

ILLINOIS CENTRAL GULF RAILROAD CO.—ABANDONMENT BETWEEN SAXONY AND PONTIAC, IN LIVINGSTON COUNTY, ILL.

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on July 20, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Co. of a line 19.5 miles in length between Saxony, on the east, and Pontiac, on the west, in Livingston County, Ill., beginning at milepost 86 and ending at milepost 105.5. A certificate of abandonment will be issued to the Illinois Central Gulf Railroad Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB–57 (Sub-No. 4)]

SOO LINE RAILROAD CO., ABANDONMENT NEAR A POINT IN DULUTH, ST. LOUIS COUNTY, MINN.

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on July 18, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessary permit the abandonment by the Soo Line Railroad Co. of its Duluth Branch line of railroad extending northeasterly from a point in Duluth, Minn., at railroad milepost 467.93, to the end of the line in Duluth, Minn., at railroad milepost 468.20, a distance of .27 miles, and .71 miles of side track in St. Louis County, Minn. A certificate of abandonment will be issued to the Soo Line Railroad Co. based on the above-described finding of abandonment, 30 days after publication of this notice; unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB–69 (Sub-No. 3)]

WESTERN MARYLAND RAILWAY CO.—ABANDONMENT—HENRY, GRANT COUNTY, W. VA., TO END OF LINE-IN GARRETT COUNTY, MD.

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on July 6, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Western Maryland Railway Co., of a line of railroad constituting its Kempton Branch, extending between Valuation Station 0+00 at or near Henry, Grant County, W. Va., to end of line at Valuation Station 127+05 in Garrett County, Md., a distance of approximately 2.4 miles. A certificate of abandonment will be issued to the Western Maryland Railway Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB–101 (Sub-No. 2)]

DULUTH, MISSABE AND IRON RANGE RAILWAY CO.—ABANDONMENT BETWEEN SAWBILL LANDING AND FOREST CENTER IN LAKE COUNTY, MINN.

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on July 15, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, as supplemented by those established pursuant to section 405 of the Rail Passenger Service Act, the present and future public convenience and necessity permit the abandonment by the Duluth, Missabe and Iron Range Railway Co., of a portion of the Wales Branch extending from milepost 42 north of and near Sawbill Landing, in a northerly direction to the end of the line near Forest Center, a distance of 7.34 miles, all in Lake County, Minn. A certificate of abandonment will be issued to the Duluth, Missabe and Iron Range Railway Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter

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into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the exception of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-125]

NORFOLK SOUTHERN RAILWAY CO. ABANDONMENT OF OPERATIONS BETWEEN DICKERSON SPUR AND BAYBORO IN CRAVEN AND PAMLICO COUNTIES, N.C.

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on July 7, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment of operations over that portion of its line between Dickerson spur, milepost BB-3.0 (near Bridgeton) and Bayboro, N.C., milepost BB-17.0 (the branch line), a distance of 14 miles in Craven and Pamlico Counties, N.C. A certificate of abandonment will be issued to the Norfolk Southern Railway Company based on the above-described finding of abandonment; 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

MOTOR CARRIER ALTERNATE ROUTES DEVIATIONS

NOTICE

The following letter notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC 2202 (Deviation No. 162), ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, Ohio 44309, filed August 19, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Marion, Ill., over Interstate Highway 57 to junction Interstate Highway 24, thence over Interstate Highway 24 to Nashville, Tenn., and (2) from Anna, Ill., over Illinois Highway 146 to junction Interstate Highway 24, thence over Interstate Highway 24 to Nashville, Tenn., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Marion, Ill., over Illinois Highway 13 to junction U.S. Highway 51, thence over U.S. Highway 51 to junction U.S. Highway 50, thence over U.S. Highway 50 to Seymour, Ind., thence over U.S. Highway 31E or 31W to Louisville, Ky., thence over U.S. Highway 31W to Nashville, Tenn., and (2) from Anna, Ill., over U.S. Highway 51 to Centralia, Ill., thence over the above-specified routes to Nashville, Tenn., and return over the same routes.

No. MC 29555 (Deviation No. 20), BRIGGS TRANSPORTATION CO., North 400, Griggs-Midway Bldg., St. Paul, Minn. 55104, filed August 26, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Des Moines, Iowa, over Interstate Highway 80 to junction U.S. Highway 59, thence over U.S. Highway 59 to junction Interstate Highway 29, thence over Interstate Highway 29 to junction U.S. Highway 71, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Des Moines, Iowa, over U.S. Highway 6 to junction U.S. Highway 275 near Council Bluffs, Iowa, thence over U.S. Highway 275 to junction Iowa Highway 2, thence over Iowa Highway 2 to junction U.S. Highway 71 near Clarinda, Iowa, thence over U.S. Highway 71 to Kansas City, Mo., and return over the same route.

No. MC 41432 (Deviation No. 30), EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, P.O. Box 10125, Dallas, Tex. 75207, filed August 12, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From junction U.S. Highway 67 and U.S. Highway 290 over U.S. Highway 290 to Comfort, Tex., thence over U.S. Highway 87 to Stockdale, Tex., thence over Texas Highway 123 to Seguin, Tex.; (2) from junction U.S. Highway 67 and U.S. Highway 290 over U.S. Highway 290 to Comfort, Tex., thence over U.S. Highway 87 to Stockdale, Tex., thence over Texas Highway 123 to Seguin, Tex., thence over Texas Highway 46 to New Braunfels, Tex.; and (3) from junction U.S. Highway 67 and U.S. Highway 290 over U.S. Highway 290 to Comfort, Tex., thence over U.S. Highway 87 to Stockdale, Tex., thence over Texas Highway 123 to San Marcos, Tex., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From junction U.S. Highway 67 and U.S. Highway 290 over U.S. Highway 67 to San Angelo, Tex., thence over U.S. Highway 87 to Fredericksburg, Tex., thence over U.S. Highway 290 to Austin, Tex., thence over U.S. Highway 81 to San Antonio, Tex., thence over U.S. Highway 90 to Seguin, Tex.; (2) from junction U.S. Highway 67 and U.S. Highway 290 over U.S. Highway 67 to San Angelo, Tex., thence over U.S. Highway 87 to Fredericksburg, Tex., thence over U.S. Highway 290 to Austin, Tex., thence over U.S. Highway 81 to New Braunfels, Tex.; and (3) from junction U.S. Highway 67 and U.S. Highway 290 over U.S. Highway 67 to San Angelo, Tex., thence over U.S. Highway 87 to Fredericksburg, Tex., thence over U.S. Highway 290 to Austin, Tex., thence over U.S. Highway 81 to San Marcos, Tex., and return over the same routes.

No. MC 42487 (Deviation No. 113), CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, P.O. Box 5138, Chicago, Ill. 60680, filed August 15, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Marion, Ohio, over Ohio Highway 4 to junction Interstate Highway 70 near Springfield, Ohio, thence over Interstate Highway 70 to Indianapolis, Ind., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Marion, Ohio, over U.S. Highway 30S (now Ohio Highway 309) to Kenton, Ohio, thence over U.S. Highway 68 to Springfield, Ohio, thence over Ohio Highway 440 (formerly portion U.S. Highway 40) via Donnellsville, Phoneton, Vandalia, and Englewood, Ohio, to junction U.S. Highway 40 (near Clayton, Ohio), thence over U.S. Highway 40 to Indianapolis, Ind., and return over the same route.

No. MC 108835 (Deviation No. 8), HYMAN FREIGHTWAYS, INC., 1745 University Ave., St. Paul, Minn. 55104, filed August 26, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Minneapolis, Minn., over Interstate Highway 35E to junction Interstate Highway 94, thence over Interstate Highway 94 to junction Minnesota Highway 56, thence over Minnesota Highway 56 to junction U.S. Highway 52, thence over U.S. Highway 52 to junction U.S. Highway 63, thence over U.S. Highway 63 to Waterloo, Iowa, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Minneapolis, Minn., over U.S. Highway 169 to Fort Dodge, Iowa, thence over U.S. Highway 20 to Waterloo, Iowa, and return over the same route.

No. MC 111231 (Deviation No. 62), JONES TRUCK LINES, INC., 610 E. Emma Ave., Springdale, Ark. 72764, filed August 17, 1977. Carrier's representative: Kim Mann, Suite 1010, 7101 Wisconsin Ave., Washington, D.C. 20014. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Oklahoma City, Okla., over Interstate Highway 35 to junction Interstate Highway 35W, thence over Interstate Highway 35W to junction U.S. Highway 81, thence over U.S. Highway 81 to Belleville, Kans., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Oklahoma City, Okla., over U.S. Highway 66 to junction U.S. Highway 69, thence over U.S. Highway 69 to junction U.S. Highway 24, thence over U.S. Highway 24 to junction U.S. Highway 81, thence over U.S. Highway 81 to Belleville, Kans., and return over the same route.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

NOTICE

The following letter notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 731) (Cancels Deviation No. 722), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077, filed August 23, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passenger and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: From Hillsville, Va., over U.S. Highway 58 to junction Interstate Highway 77, thence over Interstate Highway 77 to Charlotte, N.C., with the following access route: (1) From Mount Airy, N.C., over North Carolina Highway 89 to junction Interstate Highway 77 and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Hillsville, Va., over U.S. Highway 52 via Mount Airy, N.C., to Winston-Salem, N.C., thence over U.S. Highway 158 to Mocksville, N.C., thence over U.S. Highway 64 to Statesville, N.C., thence over North Carolina Highway 115 via Shepherd, Mooresville, Davidson, and Huntersville to junction U.S. Highway 21, thence over U.S. Highway 21 to Charlotte, N.C., and return over the same route.

No. MC 74761 (Deviation No. 11), TAMIAMI TRAIL TOURS, INC., 525 Madison St., Tampa, Fla. 33602, filed August 23, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, and a deviation route as follows: From Woodbury, Ga., over Georgia Highway 85E to Manchester, Ga., thence over U.S. Highway Alternate 27 to junction U.S. Highway 80, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Woodbury, Ga., over Georgia Highway 85W to Warm Springs, Ga., thence over Georgia Highway 41 to Talbotton, Ga., thence over U.S. Highway 80 to junction U.S. Highway Alternate 27, and return over the same route.

MOTOR CARRIER INTRASTATE APPLICATION(S)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Alaska Docket No. 77-269-MF-O, filed August 3, 1977. Applicant: CHUGIAK ENTERPRISES, INC., Lee Road, Box 44, Eagle River, Alaska 99577. Applicant's representative: John M. Stern, Jr., P.O. Box 1672, Anchorage, Alaska 99510. Certificate of Public Convenience and Necessity sought to operate a freight service in *contract carrier* operations transporting: *Dairy and bakery products*, between points in Alaska.

NOTE.—Some of the products transpbrted may be classified as interstate from time to time.

Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to the Alaska Public Utilities Commission, 1000 Mackay Building, 338 Denali St., Anchorage, Alaska 99501, and should not be directed to the Interstate Commerce Commission.

Montana Docket No. 3387, filed August 15, 1977. Applicant: RIMROCK STAGES INC., 1225 Dublin St., Billings, Mont. 59101. Applicant's representative: Hugh Sweeney, 175 N. 27th St., Suite 1201, Billings, Mont. 59101. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *Passengers, baggage and express*, between Helena and Missoula, Mont., via Elliston, Avon, Garrison, and Drummond, Mont., as a Class A (scheduled) intrastate carrier, interstate and foreign commerce authority also sought. Hearing: Date, time, and place set for October 11, 1977, in Helena,

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Mont., at a time and address to be assigned later. Requests for procedural information should be addressed to the Montana Public Service Commission, 1227 11th Avenue, Helena, Mont. 59601, and should not be directed to the Interstate Commerce Commission.

South Carolina Docket No. 77-473-T, filed August 15, 1977. Applicant: SMITH & WATERS, INC., Nation Rd., Ware Shoals, S.C. 29692. Applicant's representative: William B. Patrick, Jr., P.O. Drawer 1207, Greenwood, S.C. 29646. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *Commodities in general* over irregular routes (except any commodities or products in bulk in tank trucks; Classes A and B explosives and Classes A, C and D poisons as defined under explosives and other dangerous articles in American Trucking Association, Inc., Agent, tariff No. 10, MF-ICC No. 11, PSCSC No. 11, supplements thereto or reissues thereof: and household goods and related articles, as defined in Motor Truck Rate Bureau, Agent, household goods tariff, Motor Freight tariff No. 8-C, SCPSC-MF No. 79, supplements thereto or reissues thereof); between points and places in Abbeville, Aiken, Anderson, Edgefield, Greenwood, Laurens, McCormick, Newberry, Oconee, Pickens, and Saluda Counties, S.C.; and between points and places in these counties and points and places in South Carolina and between points and places in Greenville County for the purpose of interchange only, and between points and places in Greenville County for the purpose of interchange only and points and places in South Carolina (except that no commodities in bulk in dump vehicles may be transported between points and places in Laurens, Newberry, Oconee and Pickens Counties, and between points and places in these counties and points and places in South Carolina, not including that area within a five mile radius of the post office at Ware Shoals); *cotton in bales, cotton waste, cotton bagging and cotton ties; and, fertilizer and fertilizer materials:* Between points and places in South Carolina; *fruits and vegetables:* Between points and places in Edgefield and Saluda Counties, S.C., and between points and places in Edgefield and Saluda Counties and points and places in South Carolina; *Brick, tile, terra cotta pipe, concrete blocks, pipe and slabs:* Between points and places in Aiken, Fairfield, Greenwood, Lexington, and Richland Counties, S.C., and from points and places in these counties to points and places in South Carolina, *grain:* Between points and places in Aiken, Edgefield, and Saluda Counties, S.C., and between points and places in these counties and points and places in South Carolina; *and petroleum products* in drums and packages: From Charleston, S.C., to points and places in Edgefield County, S.C. No other change is sought. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the South Carolina Public Service Commission, 8th Floor, Owens Building, P.O. Box 11649, Columbia, S.C. 29211 and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-26152 Filed 9-7-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION.

FEDERAL REGISTER CITATIONS OF PREVIOUS ANNOUNCEMENTS: 10:30 a.m.—42 FR 44111; 10:45 a.m. and 11 a.m.—FR 44112 and 42 FR 44113, September 1, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETINGS: 10:30 a.m., 10:45 a.m., and 11 a.m., September 6, 1977.

CHANGES IN THE MEETING: The three above entitled meetings are cancelled.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary (202-389-4446).

[S-1257-77 Filed 9-6-77;10:59 am]

2

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Monday, September 12, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS. Closed.

MATTERS TO BE CONSIDERED:

NONADJUDICATIVE MATTER

(1) Approval of minutes of nonadjudicative matters considered at meetings of July 22, 26, and 28, 1977.

(2) Consideration of issuance of complaint in (non-public) part II matter.

(3) Consideration of Maroor, et al. (Docket 9092): Motion by respondent to dismiss complaint and recommendation by staff to amend complaint.

(4) Consideration of issuance of proposed resolution authorizing compulsory process in (nonpublic) part 2 matter.

ADJUDICATIVE MATTERS UNDER PART 3 OF THE RULES OF PRACTICE

(1) Approval of minutes of adjudicative matters considered at meeting of July 26, 1977.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information, 202-523-3830; recorded message, 202-523-3806.

[S-1252-77 Filed 9-6-77;10:10 am]

3

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, September 15, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission has not yet scheduled any matters for discussion at this meeting. If no item is placed on the agenda by 10 a.m., or Thursday, September 15, 1977, the meeting will automatically be cancelled. Any item that is placed on the agenda before that time will be announced in accordance with the additional information procedures posted with Commission meeting notices outside Room 130 of the Federal Trade Commission Building.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information, 202-523-3830; recorded message, 202-523-3806.

[S-1253-77 Filed 9-6-77;10:10 am]

4

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Thursday, September 15, 1977.

PLACE: Room 532 (open); Room 540 (closed), Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to public: (1) Oral argument in Perpetual Federal Savings & Loan Association, Docket No. 9083.

Portions closed to the public: (2) Executive session for consideration of oral argument in Perpetual Federal Savings & Loan Association, Docket No. 9083.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information, 202-523-3830; recorded message, 202-523-3806.

[S-1254-77 Filed 9-6-77;10:10 am]

5

SEPTEMBER 2, 1977.

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 2:30 p.m., Monday, September 12, 1977.

PLACE: Room 5124, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Notice of open meeting.

MATTER TO BE CONSIDERED: Division 3, Division Chairman Brown and Commissioners MacFarland and Christian voted unanimously to hold a meeting to consider the following agenda: 1. Review of present Division workload.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Hildred Hersman, Confidential Assistant to Commissioner Brown, telephone 202-275-7535.

[S-1250-77 Filed 9-6-77;8:56 am]

6

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Friday, September 16, 1977 (NM-77-28).

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Aircraft accident report.*—Ruel Insurance Corp. Cessna 414, N8PR, and USAF F-4E, 67-0255, near Brighton, Fla., September 13, 1976.

2. Recommendation to Federal Aviation Administration re timely dissemination by air traffic controllers of all available weather information to flightcrews in the terminal area.

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3. Recommendation to Federal Aviation Administration re implementation of an aviation subsystem for air traffic control environment.

4. *Proposed special study on alcohol.*—Alternatives I and II, proposals for phases II and III.

5. Recommendations to American Gas Association and Connecticut Natural Gas Corp. re pipeline accident in Greenwich, Conn., May 25, 1977.

6. Additional recommendations re Southern Airways, Inc., DC-9 accident in Atlanta, Ga., April 4, 1977.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming (202–755–4930).

[S–1251–77 Filed 9–6–77;9:20 am]

7

NUCLEAR REGULATORY COMMISSION.

FEDERAL REGISTER CITATION ON PREVIOUS ANNOUNCEMENT: 42 FR 43475, additional meeting.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Thursday, September 1.

CHANGES IN THE MEETING: 3:30 p.m.—Briefing on status of Price-Anderson litigation (additional meeting) (public meeting).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee (202–634–1410).

Dated: September 2, 1977.

WALTER MAGEE,
Chief, Operations Branch,
Office of the Secretary.

[S–1256–77 Filed 9–6–77;10:18 am]

8

NUCLEAR REGULATORY COMMISSION.

NOTE.—This document originally appeared at page 44870 in the FEDERAL REGISTER for Wednesday, September 7, 1977. It is reprinted in this issue to meet the assigned day of the week publication schedule.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 44622.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Week of September 5.

CHANGES IN THE MEETING:

WEDNESDAY, SEPTEMBER 7

10 a.m.—New Mexico Uranium Mill lawsuit (approx. 1 hr.) (rescheduled from September 8) (closed—exemption 10).

11 a.m.—Affirmation of ALAB–425—Exxon (public meeting) (rescheduled from 2:30 p.m., Sept. 7) (approx. 5 min.).

2:30 p.m. (approx.)—Discussion of draft administration bill for nuclear plant licensing reform (closed—exemption 9) (continuation of September 1 meeting) (additional meeting). (Meetings on policy statement on alternatives site evaluations under NEPA for nuclear generating stations; and mandatory licensee participation in the nuclear plant reliability data system are postponed to a date to be announced.)

THURSDAY, SEPTEMBER 8

9 a.m.—1. Discussion of proposed testimony on export legislation (as announced) (closed—exemption 9). 2. Discussion of draft administration bill for nuclear plant licensing reform (continuation of September 7 meeting) (closed—exemption 9).

1:30 p.m.—Draft order in Seabrook (as announced) (closed—exemption 10). (The meeting on Commission review of Director's denial of petition for revocation of Bailly Construction permit is postponed to a date to be announced.)

FRIDAY, SEPTEMBER 9

9:30 a.m.—Joint NRC/ACRS meeting (approx. 1 hr.) (as announced) (public meeting).

10:30 a.m.—Discussion of draft administration bill for nuclear plant licensing reform (closed—exemption 9) (continuation of September 8 meeting).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee (202–634–1410).

Dated: September 2, 1977.

WALTER MAGEE,
Chief, Operations Branch,
Office of the Secretary.

[S–1255–77 Filed 9–6–77;10:10 am]

9

RAILROAD RETIREMENT BOARD.

TIME AND DATE: 9 a.m., September 12, 1977.

PLACE: Board's meeting room on the 8th floor of its headquarters building at 844 Rush Street, Chicago, Ill. 60611.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public: (1) Direct access terminals in the Bureau of Retirement Claims.

(2) Delegation of authority.

(3) Union contract interpretation dispute—Mrs. Josephine Schumacher.

(4) Cost-of-living inquiries.

(5) Quality control review of unemployment benefits.

(6) Weekly microfiche of BUSI Master.

Portion closed to the public: (7) Appeal to the Board of denial of waiver of recovery of overpayment, Agnes Reynolds.

CONTACT PERSON FOR MORE INFORMATION:

R. F. Butler, Secretary of the Board, Telephone No. 312–387–4920.

[S–1249–77 Filed 9–2–77;3:45 pm]

federal register

THURSDAY, SEPTEMBER 8, 1977

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

NATIONAL FLOOD INSURANCE PROGRAM

Proposed and Final Flood Elevation Determinations for Various Communities

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Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-3288]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

City of Macon, Mo.; Final Flood Elevation Determination

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Macon, Mo.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Macon, Mo.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Macon are available for review at City Hall, Macon, Mo.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh St. SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the city of Macon, Missouri.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dock Creek, tributary No. 1.	Rustic Dr.	285
Salt River, tributary No. 3.	U.S. Highway 63 (upstream side).	825
	5th St.	832
	6th St.	836
Salt River, tributary No. 4.	Main St.	832
Salt River, tributary No. 5.	Riggs St.	833
Salt River, tributary No. 6.	Walnut St.	814
	Hilldale Dr.	824
Salt River, tributary No. 7.	Vine St.	807
	Walnut St.	835

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25186 Filed 9-7-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-3292]

CITY OF PLATTE CITY, MO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Platte City, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Main Street, Platte City, Mo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Truman Glenn, P.O. Box 716, Platte City, Mo. 64079.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Platte City, Mo., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Platte River	Highway M-92	786
	Corporate limits	785
	do.	780
	do.	777

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128) and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25170 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2944]

CITY OF PHOENIX, MARICOPA COUNTY, ARIZ.

Correction of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration.

ACTION: Correction of proposed rule.

SUMMARY: The notice of Proposed Base Flood Elevation for the City of Phoenix, Maricopa County, Ariz., published in the FEDERAL REGISTER on June 23, 1977, at 42 FR 31952 has been published in error. The Federal Insurance Administration will publish a new notice of Proposed Flood Elevations at a later date.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25171 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3275]

CITY OF WILLCOX, COCHISE COUNTY, ARIZ.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Willcox, Cochise County, Ariz. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the bulletin board in City Hall, 151 West Maley St., Willcox, Ariz.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Wayman Hopkins, Mayor of Willcox, 151 West Maley St., Willcox, Ariz. 85643.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Willcox, Cochise County, Ariz., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will

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also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year-flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Sales Barn Diversion Channel.	Haskell Ave	4,173
	Wood St	4,169
	Railroad	4,166
	Downstream corporate limit.	4,163
Shallow flooding west of I-10.	North corporate limit.	4,180
	South corporate limit.	4,177
Shallow flooding west of Sales Barn Diversion Channel.	Rex Allen Dr.	4,172
	Wood Street Dike	4,170
	Intersection of Curtis Ave. and Fremont St.	4,168
	Intersection of McCourt St. and Railroad Ave.	4,166
	South corporate limit.	4,164

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25172 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3276]

SACRAMENTO COUNTY, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Sacramento County, Calif. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the County Administration Building, 827 7th St., Sacramento County, Calif.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Fred Wade, Chairman, Board of County Supervisors, Sacramento County, County Administration Building, 827 7th St., Sacramento County, Calif. 95814.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh St., SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Sacramento County, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Whitehouse Creek	Elk Grove-Florin Rd.	39
	Southern Pacific RR.	37
	Highway 99 and Alternate 5.	28
Verde Cruz Creek	Crestview Dr.	115
	Schuyler Dr.	112
	Mansanita Ave.	101
Unionhouse Creek	Elk Grove-Florin Rd.	35
	Southern Pacific RR.	34
	Cottonwood Lane	31
	Elsie Ave.	30
	Iona Way	28
	Stockton Blvd.	26
Strong Ranch Slough.	Walnut Ave.	86
	El Camino Ave.	86
	Roxie Way	82
	Melvin Dr.	79
	Mission Ave.	75
	Eastern Ave.	68
	Iona St.	65
	Maple Glen Rd.	61
	do.	58
	Winding Creek Rd.	54
	Watt Ave.	53
	Cottage way	51
	do.	47
	Alta Arden Expressway.	44
	Armstrong Dr.	42
	Arden Way And Fulton Ave.	40
	Wittkop Way	37
	Hurley Way	36
	Bell St.	36
	Howe Manor East	35
	Howe Ave.	35
Strawberry Creek	Southern Pacific RR.	35
	Calvine Rd.	30
	Meghan Way	25
	Frontage Rd.	25
Sierra Creek	32d St (projected)	74
	28th St.	67
San Juan Creek	Sunrise Blvd.	162
	Greenback Lane	155
	San Pablo Ave.	148
	Santa Catarina Ave.	147
	San Simeon Dr.	146
	Mariposa Ave.	145
	Sylvan Rd.	138
	Woodside Rd.	134
Robla Creek	Larchmont Dr.	99
	Floral Dr.	97
	Stoneman Dr.	93
	La Clenga Dr.	92
	Channing Dr.	88
	Thomas Dr.	85
	Watt Ave.	85
	34th St.	82
	32d St.	75
	AFB Patrol Rd.	71
	do.	67
	1 St.	65
	26th St.	64
	24th St.	60
	E St.	57
	22d St.	57
	20th St.	54
	E St.	49
	16th St.	48
	E St.	46
	Dry Creek Rd.	43
Natomas West Drainage Canal.	Elkhorn Blvd.	19
	Schoolhouse Rd.	13
	I-5	13
	Power Line Rd.	13
	Del Paso Rd.	12
	El Centro Rd.	12
	San Juan Rd.	9
Natomas North Drainage Canal.	Access road	23
Natomas Main Drainage Canal.	I-880	9
	West El Camino Ave.	8
Natomas East Main Drainage Canal, tributary 3.	U St.	56
	10th St.	56
	8th St.	54
	6th St.	54
	Sacramento Northern RR.	54
	Rio Linda Blvd.	45
	2d St.	42
	West 2d St.	39
	West 4th St.	35
	Q St.	34
	Marysville Blvd.	33
	Western Pacific RR.	33
Natomas East Main Drainage Canal, tributary 2.	Elverta Rd.	52
	El Verano Rd.	48
	El Medena Rd.	47
	Sacramento Northern RR.	43
	Rio Linda Blvd.	41
	Sorento Rd.	33
	Western Pacific RR.	33
Natomas East Main Drainage Canal, tributary 1.	El Medena Ave.	50
	Elwyn Ave.	40
	Sacramento Northern RR.	39
	Rio Linda Blvd.	39
	Sorento Rd.	33
	Elverta Rd.	33
Natomas East Main Drainage Canal.	Elkhorn Blvd.	33
	Sorento Rd.	33
Natomas East Drainage Canal.	Elverta Rd.	14
	Elkhorn Blvd.	12
Morrison Creek	Kidder Creek Rd.	75
	Jackson Rd.	59
	Bradshaw Rd.	57
	Florin Rd.	53
	Hedge Ave.	49
	Alder Ave.	47
	Elk Grove-Florin Rd.	47
	Steiner Dr.	21
	Highway 99 and Alternate 5.	18
	Florin Rd.	18
	Center Parkway	17
	Franklin Blvd.	16
	I-5	13
Mariposa Creek	Old Auburn Rd.	156
	Mariposa Rd.	149
	Pratt Ave.	147
	Sycamore Rd.	147
	Antelope Rd.	143
	Watson Way	141

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Magpie Creek	Brett Rd.	113
	Green Glen Way	111
	Meghan Way	110
	Walerga Rd.	109
	Sewer Plant Rd.	98
	Palm Dr.	93
	Harrison foot bridge	91
	Madison Ave.	82
	Polk St.	80
	Watt Ave.	80
	AFB traffic bridge	78
	AFB foot bridge	77
	do.	76
	do.	76
	Roseville Rd.	74
	Southern Pacific RR.	74
	Railroad spur	72
	45th St. and railroad spur.	71
	47th St.	70
	Taxiway 7 overrun	69
	Air Freight terminal taxiway.	63
	Taxiway 16/Patrol Rd.	61
	AFB patrol road	59
Linda Creek	Cherry Ave.	281
	Granite Ave.	225
	Hazel Ave.	195
Laguna Creek	Excelsior Creek	79
	Vineyard Rd.	66
	Central California Traction RR.	64
	Carmencita Ave.	64
	Bradshaw Rd.	60
	Calvine Rd.	56
	Sheldon Rd.	53
	Bond-Waterman Rd.	47
	Southern Pacific RR.	42
	Elk Grove-Florin Rd.	39
	Bond Rd.	37
	Frontage Rd.	30
	Highway 99 and alternate 5.	29
	Frontage Rd.	28
	Elk Grove Creek	27
	Whitehouse Creek	27
	Braceville Rd.	27
	Sheldon Rd.	22
	Franklin Blvd.	18
	Western Pacific RR.	18
Gerber Creek	Vineyard Rd.	62
	Gerber Rd.	61
	Bradshaw Rd.	58
	Gerber Rd.	55
	do.	51
	Central California Traction RR.	51
Florin Creek	McComber St.	35
	Southern Pacific RR.	34
	Tokay Ave.	34
	McCurdy Lane	34
	Florin Rd.	31
	Kara Dr.	29
	Power Inn Rd.	28
	Palmer House Dr.	27
	Del Coronado	27
	Stockton Blvd.	26
	Orange Ave.	24
	Highway 99 and Alternate 5	21
	Persimmon Ave.	19
	Waterman Rd.	48
	Southern Pacific RR.	46
	Elk Grove-Florin Rd.	39
	Elk Grove Blvd.	36
	Frontage Rd.	34
	Highway 99 and Alternate 5.	34
	Frontage Rd.	24
Elder Creek	Kidder Creek Rd.	75
	Irrigation Rd.	62
	Bradshaw Rd.	60
	Florin Rd.	51
	Central California Traction RR.	50
	McCoy Ave.	45
	Gerber Creek	44
	Elk Grove-Florin Rd.	43
	French Rd.	37
	Southern Pacific RR.	36
	Reese Rd.	30
	Gerber Rd.	28
	Power Inn Rd.	27
	Stockton Blvd.	22
	Highway 99 and Alternate 5.	20
Dry Creek, north branch.	U St. (extended)	64
	Q St.	57
	Dry Creek Rd.	51
	Curved Bridge Rd.	49
	Sacramento Northern RR. (abandoned).	47
	Elk Horn Blvd.	47
	Rio Linda Blvd.	41
Dry Creek	Elverta Rd.	70
	Q St.	59
	Dry Creek Rd.	52
	Elkhorn Blvd.	49
	Sacramento Northern RR. (abandoned).	45
	Rio Linda Blvd.	41
Cripple Creek	Hickory Ave.	219
	Almond Ave.	205
	Menke Rd.	201
	Oak Ave.	200
	Big Oak Dr. No. 2	184
	Big Oak Dr. No. 1	181
	Old Auburn Ave.	176
	Twin Oaks Ave.	641
	Glentree Dr.	157
	Garino Lane	154
	Sunrise Blvd.	154
	Jurgens Lane	151
	Fair Lane	150
	Patton Ave.	149
	Mariposa Ave.	145
	Baird Way	144
	Scribner Dr.	143
	Holly Dr.	139
	Cripple Creek Rd.	138
	Mariposa Creek	137
	Auburn Blvd.	136
	Antelope Rd.	131
	Calvin Dr.	121
	Van Maren Lane	119
	Sewer Plant Rd.	109
Coyle Creek	Madison Ave.	152
	Link Dr.	139
	Dewey Dr.	130
	Park Oaks Dr.	118
Chicken Ranch Slough.	Walnut Ave.	91
	Whitney Ave.	90
	Mission Ave.	85
	Eastern Ave.	77
	Norris Ave.	73
	Montclaire St.	66
	Watt Ave.	62
	Marconi Ave.	58
	Fulton Ave.	50
	El Camino Ave.	46
	Hernando Rd.	45
	Bell St.	41
	Cottage Way	38
	Wyda Way	37
	Alta Arden Expressway.	36
	Arden Way	36
	Howe Ave.	35
	Hallmark Dr.	35
	Hurley Way	35
Carmichael Creek	Fair Oaks Blvd.	108
	Sutter Ave.	106
	Casaloma Way	99
	Landis Ave.	77
	Stanley Ave.	86
	Palm Dr.	78
	Tarshes Dr.	70
	do.	70
Brooktree Creek	San Juan Dr.	149
	Sperry Way	144
	Brooktree Dr.	134
	Dewey Dr.	122
	Park Oaks Dr.	117
Arcade Creek, south branch.	Coyle Creek	111
	Auburn Blvd.	108
	Illinois Ave.	212
	Kenneth Ave.	199
	Hoffman Lane, east	185
	Hoffman Lane, west	180
	Greenback Lane	169
	Fair Oaks Blvd.	169
Arcade Creek	Birks Lane	216
	Almond Ave.	216
	Gaines Ave.	210
	Kenneth Ave.	201
	Trajan Dr.	199
	Fair Oaks Blvd.	164
	Sunrise Blvd.	153
	Sayonara Dr.	147
	Mariposa Ave.	140
	Sylvan Rd.	135
	Crosswoods Circle	122
	Retreat House Rd.	118
	Van Maren Lane	117
	Auburn Blvd.	115
	Matheney Way	109
	Greenback Lane	108
	Auburn Blvd.	97
	Madison Ave.	90
	Garfield Ave.	86
	Winding Way	77
	College Oak Dr.	79
	I-80	62
	Watt Ave.	62
American River	Greenback Lane	138
	Hazel Ave.	105
	Bridge St.	92
	Sunrise Blvd.	91
	Watt Ave.	46

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4126; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25173 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3277]

TOWN OF GLEN RIDGE, FLA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Glen Ridge, Fla. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 1300 Glen Rd., West Palm Beach, Fla.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Anita G. Yount, Town Hall, 1300 Glen Rd., West Palm Beach, Fla. 33406.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh St. SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Glen Ridge, Fla.,

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in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Palm Beach Canal.	South end of Glen Rd.	12
Rainfall and Ponding.	Intersection of Glen Lake Dr. to Island Rd.	12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25174 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3278]

TOWN OF PALM BEACH, FLA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Palm Beach, Fla. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 360 South County Road, Palm Beach, Fla.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. George R. Frost, Town Manager, Town of Palm Beach, P.O. Box 2029, Palm Beach, Fla. 33480.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Palm Beach, Fla., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	South Ocean Blvd. and State Rd. A-1-A.	7
	South Ocean Blvd. and Kings Rd.	7
	South Ocean Blvd. and Sea View Ave.	7
	North County Rd. and Sanford La.	7
	North Ocean Blvd. and Dolphin Rd.	7
Lake Worth at coast.	Lake Trail Way and El Pueblo Way.	7
	Lake Trail Way and Walls Rd.	7
	Lake Dr. and Peruvian Ave.	7
Inland	State Rd. A-1-A to south corporate limits.	7
	State Rd. A-1-A and South Ocean Blvd.	7
	South Ocean Blvd. and Ocean View Rd.	7
	Cocoanut Row and Sea Spray Ave.	7
	North Lake Way and Cherry Lane.	7

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25175 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3279]

TOWN OF SOUTH PALM BEACH, FLA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of South Palm Beach, Fla. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 3577 South Ocean Boulevard, South Palm Beach, Fla.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor William B. Henry, Town Hall, 3577 South Ocean Boulevard, South Palm Beach, Fla. 33480.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of South Palm Beach, Fla., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	Shoreline north and south to corporate limits.	7
Lake Worth at coast.	....do....	7
Inland	880 ft north along Ocean Blvd. from intersection of Ocean Ave. and Ocean Blvd.	7
	2,600 ft north along Ocean Blvd. from intersection of Ocean Ave. and Ocean Blvd.	7

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25176 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3280]

CITY OF TIFTON, GA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed for selected locations in the City of Tifton, Ga. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Central and Second Streets, Tifton, Ga.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Webster Morgan, City Manager, City of Tifton, City Hall, P.O. Box 229, Tifton, Ga. 31794.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Tifton, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Channel A	Interstate 75	327
	Lake Dr.	338
Channel B	Interstate 75	304
	Magnolia Dr.	311
Channel B-1	2d St.	327
	4th St.	328
Channel C	College Ave.	331
	11th St.	336
Channel D	Maple St.	318
	13th St.	327
Channel D-1	Seaboard Coast Line R.R.	327
	Main St.	332
Channel E	Love Ave.	350
	Hall Ave.	361
Channel F	Pineview Ave.	329
	Love Ave.	337
	U.S. 41 (downstream side).	356
	U.S. 41 (upstream side).	358
Channel G	Lee Ave.	332
	Tift Ave.	339
New River	Elizabeth Circle	342

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968) as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25177 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3281]

VILLAGE OF LA GRANGE PARK, COOK COUNTY, ILL.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of La Grange Park, Cook County, Ill. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the bulletin board at the Village Hall, 447 North Catherine Avenue, La Grange Park, Ill.

Any person having knowledge, information, or wishing to make a comment

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on these proposed elevations should immediately notify Mr. Charles H. Lively, Village Manager of La Grange Park, 447 North Catherine Avenue, La Grange Park, Ill. 60525.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270.
451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of La Grange Park, Cook County, Ill., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Fedearal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Salt Creek	Wolf Rd.	635
	Corporate limits upstream from Wolf Rd.	634
	31st St.	631
	Indiana Harbor Belt R.R.	630
	25th (Kemman) Ave.	630
	17th (Maple) Ave.	618

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25178 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3282]

CITY OF PINEVILLE, BELL COUNTY, KY.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Pineville, Bell County, Ky. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Hall in the Municipal Building, Pineville, Ky.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Andrew Williams, P.O. Box 688, Pineville, Ky. 40977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Pineville, Bell County, Ky., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Cumberland River	Confluence of Straight Creek.	1,020
	Pine Street Bridge	1,020
	Confluence of Stewart Branch.	1,020
	Tennessee Avenue Bridge.	1,020
	Confluence of Mile Branch.	1,019
Straight Creek	State Route 66 Bridge.	1,021
	Louisville & Washville R.R. Bridge.	1,021
	Confluence with Cumberland River.	1,021

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25179 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3283]

TOWN OF SORRENTO, ASCENSION PARISH, LA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Sorrento, Ascension Parish, La. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, Sorrento, La.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor John Nolan Le Blanc, Sr., Route 1, P.O. Box 314, Sorrento, La.

FOR FURTHER INFORMATION CONTACT.

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270. 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Sorrento, Ascension Parish, La., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bayou Conway	Intersection of Main (LA-22) and Trabeaux Sts.	6
	Intersection of Brittany and Robert Sts.	7
Bayou Francois	Intersection of Main (LA-22) and the northeastern corporate limits.	5

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25180 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3284]

VILLAGE OF PENTWATER, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Pentwater, Mich. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Village Hall, 327 Hancock Street, Pentwater, Mich.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Edward A. Schimke, Village Hall, 327 Hancock Street, Pentwater, Mich. 49449.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line (800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Pentwater, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordiances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pentwater Lake	1 Lake Rd., starting 105 ft east of Bean Rd. and extending west to the lake.	584
	On 6th St., starting at its intersection with Hancock extending to 150 ft east of Wythe St.	584

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25181 Filed 9-7-77;8:45 a.m.]

[24 CFR Part 1917]

[Docket No. FI-3285]

TOWNSHIP OF PORT SHELDON, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Port Sheldon, Mich. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Township Hall, 16201 Port Sheldon Road, West Olive, Mich.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Lloyd Bakker, Township Supervisor, Township of Port Sheldon, Township Hall, 16201 Port Sheldon Road, West Olive, Mich. 49460.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

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SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Port Sheldon, Mich., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Michigan	Van Buren St. (extended).	581
	New Holland St. (extended).	581

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969, (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25182 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3201]

CITY OF WYANDOTTE, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Wyandotte, Mich. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 3131 Biddle Avenue, Wyandotte, Mich.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor William L. Cook, City Hall, 3131 Biddle Avenue, Wyandotte, Mich. 48192.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determination of base flood elevations (100-year flood) for the City of Wyandotte, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sexton-Kilfoil drain.	Emmons St.	579
	Harrison St.	581
Ecorse Creek	Jefferson Ave.	577
	Detroit-Toledo Shoreline RR.	577

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25183 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3286]

CITY OF BRAGG CITY, PEMISCOT COUNTY, MO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Bragg City, Pemiscot County, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Napier Supermarket, Main Street, Bragg City, Mo. 63827.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Warren J. Napier, Mayor, City of Bragg City, Box 95, Bragg City, Mo. 63827.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Bragg City, Mo., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ditch No. 72	At Main St. and ditch No. 72.	257
	At intersection of St Louis San Francisco RR. and Clay Roost Bayou.	259
Clay Roose Bayou.	At Cypress and 3d Sts.	261
	At Main and 2d Sts.	261

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25184 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3287]

CITY OF COMMERCE, SCOTT COUNTY, MO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Commerce, Scott County, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the home of Mayor Ann Huck, Corner of St. Mary's and Tywapity, Commerce, Mo. 63742.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Ann Huck, Mayor, City of Commerce, P.O. Box 45, Commerce, Mo. 63742.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-775-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Commerce, Mo., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River	State Highway E and Missouri St.	343
	Washington and Water Sts.	343
	At confluence of Commerce Creek.	343
Commerce Creek	940 ft upstream of Water Street Bridge.	343
	At corporate limit	342

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25185 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3289]

CITY OF NORTHMOOR, MO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Northmoor, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 2022 Northwest 49th Street, Northmoor, Mo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Ford Filger, City Hall, 2022 Northwest 49th Street, Northmoor, Mo. 64151.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Northmoor, Mo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the

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second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Line Creek	50th Ter.[1]	768
	50th St.[1]	768
	49th Ter.[1]	768
	49th St.[1]	767
	U.S. 69 and Ind	766
East Creek	do	772

[1] Extended.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25187 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3290]

CITY OF PARKVILLE, MO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Parkville, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 8701 River Park Drive, Parkville, Mo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor William M. Latta, P.O. Box 12045, Parkville, Mo. 64152.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Parkville, Mo., in accordance with Section 110 of Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Missouri River	Upstream corporate limits.	763
	Downstream corporate limits.	761
White Alice Branch	12th St.	771
	16th St.	762
	Highway M-9	762
	Burlington Northern RR.	762

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974.)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25188 Filed 9-7-77;8:45 am]

federal register

THURSDAY, SEPTEMBER 8, 1977

PART III

ENVIRONMENTAL PROTECTION AGENCY

■

HEAVY-DUTY ENGINES FOR 1979 AND LATER MODEL YEARS

Certification and Test Procedures

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Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 767-7]

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

Certification and Test Procedures for Heavy-Duty Engines for 1979 and Later Model Years

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule prescribes more stringent gaseous emission standards for heavy-duty gasoline-fueled and Diesel engines for the 1979 and later model years, and revises parts of the current instrument requirements and test procedures. Although there have been gains in control of air pollution, there are many air quality control regions which will not be able to meet ambient air quality standards with currently implemented control strategies. Heavy-duty vehicles contribute a significant percentage of the total hydrocarbons (HC), carbon monoxide (CO), and oxides of nitrogen (NO_x) in the air. This regulatory action will result in significant reductions in gaseous emissions from heavy-duty vehicles.

This action is forecast to result in a reduction by 1990 in nationwide emissions of .18 to .30 million tons of HC, up to .80 million tons of CO, and .12 to .22 million tons of NO_x. These reductions correspond to urban air quality improvements of 2 to 5 percent for oxidants, 1 percent for carbon monoxide and 1 to 2 percent for nitrogen dioxide.

EFFECTIVE DATE: October 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Smith, Regulatory Management Staff, Office of Mobile Source Air Pollution Control (AW-455), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202-755-0596).

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency (EPA) published a Notice of Proposed Rulemaking (NPRM) on May 24, 1976, proposing to revise the heavy-duty engine (HDE) emission regulations for 1979 and later model years (41 FR 21292). EPA proposed to lower the current gaseous emission standards of 16 grams/brake horsepower-hour[1] (g/BHP-hr) hydrocarbons plus oxides of nitrogen ($HC+NO_x$) and 40 g/BHP-hr carbon monoxide (CO) to 1.5 g/BHP-hr, HC, 25 g/BHP-hr CO, and 10 g/BHP-hr $HC+NO_x$. Also, a more stringent peak smoke opacity standard for Diesel engines was proposed. The current peak smoke opacity is 50 percent and the proposed level was 35 percent.

Other proposed changes included test procedure and instrumentation revisions. Several significant changes for both gasoline-fueled and Diesel engine sampling and analytical systems were proposed. Hydrocarbons (HC) would be measured by a heated flame ionization detector (HFID), replacing the present non-dispersive infrared (NDIR) analyzer used in testing gasoline-fueled engines. The Diesel test procedure already uses an HFID. Oxides of nitrogen would be measured by a chemiluminescence (CL) analyzer instead of the current NDIR instruments. The CL analyzer, when coupled with a reducing converter, would measure total oxides of nitrogen ($NO+NO_2$) and not just nitric oxide (NO) as is the case with the current NDIR analyzers.

Concurrent with the change in exhaust gas analyzers, changes to the exhaust sample conditioning and transport system were proposed. These revisions in sample line length, sample transit time, arrangements, heating requirements, etc. were considered necessary to insure accurate results. Calibration procedures and instrument checks were revised accordingly.

Air-flow measurement of gasoline-fueled engines was also proposed in order to provide a basis for calculating the wet to dry sample correction factor (Kw), and also to compute a measured air-fuel ratio. The measured air-fuel ratio could then be compared to the air-fuel ratio calculated from the exhaust gas constituents. This would serve as the only overall system quality control check. Measured and calculated values were to agree within 10 percent for a valid test.

Several changes were also proposed to the test cycle for both gasoline-fueled and Diesel engines. For gasoline-fueled engines a change to engine torque to define the various operating modes (instead of engine manifold vacuum) for the 9-mode test was most significant. Two other related changes in the 9-mode test procedures were proposed. First, time in mode was increased to a uniform 60 seconds for each mode. Second, the number of cycles per test was reduced from 4 to 2.

Only one significant change was made in the Diesel 13-mode test cycle. The time in mode was reduced from 10 minutes per mode to 5 minutes per mode to significantly reduced the time required to complete an entire test.

The 90-day comment period on the proposed rules ended August 23, 1976. Twenty-two (22) commenters responded to the request for comments. The bulk of the comments received were from the heavy-duty engine manufacturers. After analyzing the comments, EPA identified several major issues associated with the proposed action. They are: (1) lead time, (2) need for revised test procedures and instrument changes, (3) gasoline emission test cycle percent torque values, (4) emission standards, (5) technological impact, (6) fuel economy, (7) performance, (8) engine and vehicle costs, (9) certification and testing costs, (10) cost effectiveness, and (11) medium-duty Diesel engine test procedures. Each of these issues is discussed in this preamble.

In response to the comments, EPA in this final rulemaking has made 6 significant revisions to the regulations initially proposed:

1. For 1979 only, optional use of the existing test procedures and instrumentation will be allowed. Standards generally equivalent in stringency to these newly promulgated standards will be required to be met for 1979 when using these optional procedures. In addition, optional compliance with a standard of 5 g/BHP-hr $HC+NO_x$ and 25 g/BH-hr CO may be demonstrated using either the existing or new test procedures. All subsequent emission testing (1980 and later) will be by the new test procedures, with the exception of small volume manufacturers, who will afford the option of continuing to use the existing test procedures. For 1980 and subsequent model years compliance may be demonstrated to the originally proposed emission standards (1.5 g/BHP-hr HC, 25 g/BHP-hr CO, and 10 g/BHP-hr $+NO_x$ or the more stringent (5 g/BHP-hr $HC+NO_x$ and 25 g/BHP-hr CO) levels at the option of the manufacturer.

2. EPA has decided not to promulgate the proposed 35 percent peak smoke opacity standard for Diesel engines. The current 50 percent peak smoke opacity standard will remain in effect.

3. The requirement for compliance, without deviation, with a specified analysis system schematic has been deleted. Instead, minimum requirements and performance specifications are substituted. The detailed schematic remains to provide guidance only.

4. The requirement for intake air-flow measurement for gasoline-fueled engines was deleted.

5. A chemiluminescence analyzer was specified for NO_x measurement in the NPRM. In the final rule a chemiluminescence analyzer or a high performance NDIR analyzer with an NO_2 to NO converter is specified for NO_x measurement. An option to allow the use of current NDIR analyzers with an NO_2 to NO converter is also included.

6. The CO_2 measurement for Diesel engines, required in the NPRM, is made optional in the final rule.

Discussion of Major Issues

LEAD TIME

The commenters claimed that there is insufficient lead time to comply with the regulations as proposed for the 1979 model year. EPA's analysis supports the manufacturers' claim that lead time for implementing the new instrumentation and test procedures is tight for the 1979 model year. Consequently, EPA is promulgating the emission standards for 1979 and subsequent model years, but is allowing the continued use of the existing test procedures and instrumentation to demonstrate compliance for 1979. All subsequent demonstrations of compliance (1980 and later) will be only by the new test procedures (with the exception of small volume manufacturers), and compliance may be demonstrated to the originally proposed standards (1.5 HC, 25 CO, 10 $HC+NO_x$ or the more stringent levels (5.0 HC $+NO_x$, 25 CO) at the option of the manufacturer.

Heavy-duty engine test data submitted prior to the 1980 model year may be used in subsequent model years' certification without regard to the test procedure used to generate the data. Any heavy-duty engine that is certified in the 1979 model year may be certified for 1980 and later model years on a carryover basis if no changes in the engine are made to the 1979 certified configuration that would require a new demonstration of compliance. If a new demonstration of compliance is required because of design or calibration changes on the 1980 or later model year engine and/or emission control systems, the new test procedures and standards will apply.

The following chart lists the optional combinations of emission standards and test procedures applicable beginning in 1979. These optional standards are not considered to be absolutely equivalent in stringency to the primary standards but are being allowed to ease the tight lead time situation.

	Engine type	Test procedures and instrumentation	Emission standards (grams per brake horsepower-hour)		
			Hydrocarbons[1]	Carbon monoxide	Hydrocarbons plus oxides of nitrogen
Primary standards applicable to 1979 and later.	Gasoline and diesel.	New	1.5	25	10.0
				25	5.0
Optional standards applicable to 1979 model year only.	Diesel	Current	1.5	25	10.0
	Gasoline and diesel.	do		25	5.0
	Gasoline	do	1.0	25	9.5

[1] The current regulations for gasoline engines specify hydrocarbon measurement by nondispersive infrared. However, the new procedures require heated flame ionization detector (HFID). The empirical HFID to NDIR ratio is about 1.5. The current procedures for diesel engines already require a HFID for HC measurement.

Test Procedure and Instrumentation Changes

EPA proposed in the heavy-duty NPRM various equipment specifications and equipment operational procedures to insure that the emission levels are measured accurately and precisely. Among the equipment specifications proposed were chemiluminescence for NO_x measurement (currently measured by NDIR), heated flame ionization detector for gasoline engine HC measurement (currently measured by NDIR), intake air-flow measurement for gasoline-fueled engines, and CO_2 measurement for Diesel engines. The operational procedures proposed included analytical system leak checks, HC hang-up checks, and response-time checks. More detailed analyzer checkout, optimization, and calibration and test procedures were also proposed.

The commenters questioned the need for the extensive test procedure and instrumentation changes proposed. After analyzing the manufacturers' comments and re-evaluating the need for the proposed test procedure and instrumentation changes, EPA has made the following major revisions to the heavy-duty NPRM:

(a) The requirement for use of a specified analysis system designed without deviation in accordance with EPA's schematic diagram has been deleted. Instead, minimum requirements and performance specifications are substituted. The detailed schematic diagram remains to provide guidance only.

(b) The requirement for intake air-flow measurement for gasoline-fueled engines was deleted.

(c) A chemiluminescence analyzer or high performance NDIR analyzer with an NO_2 to NO converter is specified for NO_x measurement. An option to allow the use of current NDIR analyzers with an NO_2 to NO converter is also included.

(d) The CO_2 measurement is made optional for Diesel engines.

Other minor changes in specifications, tolerances, and procedures were made to provide greater flexibility in complying with the regulations. Detailed discussions of these changes can be found in Appendix I of the "Summary and Analysis of Comments to the NPRM: Revised Heavy-Duty Engine Regulations for 1979 and Later Model Years".

Additionally, variations from the test procedure requirement are permitted if equivalency is proven.

Recent investigations related to the HC measurement system for light-duty Diesels have indicated that the current procedure, which is designed to measure essentially all HC emissions, may result in the measurement of some hydrocarbons that do not contribute to the formation of photochemical smog. It has been suggested that the heated sample system, since it is maintained at high temperature (375° F), measures HC compounds in the vapor state that might normally condense as aerosols in the atmosphere without contributing to smog formation.

The standards now being finalized for heavy-duty engines include the requirement for measurement of HC by means of a heated flame ionization detector (HFID). While this has always been the procedure for heavy-duty Diesel engines, the use of an HFID for gasoline engines is a new requirement. The requirement for such a procedure is being retained for the following reasons even though the issue regarding the appropriateness of measuring HC aerosols is not yet fully resolved:

1. The new heavy-duty engine standards are interim standards which were based on technology limitations and not ultimate air quality needs. Air quality needs would have dictated even more stringent standards. These technology-based standards were developed by considering the lowest emission levels achievable with currently available technology and with measurements being made with an HFID. Until more stringent long term standards are adopted based on air quality needs, there is no need to address further the issue regarding what HC compounds should or should not be regulated.

2. The HC standards was developed by considering the lowest level currently achievable with gasoline engines. This was determined to be 1.0 g/BHP-hr on a "cold basis" using a non-dispersive infrared analyzer. The new standards were adjusted upward to 1.5 g/BHP-hr to account for the fact that the new procedure using an HFID results in higher amounts of HC being recorded. This approach was taken to allow the use of an HFID which avoids HC hang-up problems and provides for a more reliable and repeatable test.

3. Diesel engines certified under current regulations, on the average, have had HC levels well below the 1.5 g/BHP-hr standard being adopted for 1979. The average HC level for 1974 Diesel certification engines was 0.92 g/BHP-hr. These measurements were on a total HC basis using an HFID. Thus, the new regulations will not have caused any undue hardship on Diesel engine manufacturers regardless of the outcome of the total HC measurement issue.

4. If a new test procedure would be developed which eliminated the measurement of any HC compounds that should not be counted, these interim standards would have to be readjusted to reflect the change. At least in the case of Diesel engines if less HC was going to be measured, the combined HC plus NO_x standard would have to be lowered to retain the desired level of NO_x control. That is, without changing the $HC+NO_x$ standard, a new procedure recording less HC would allow a manufacturer a greater margin in the effective NO_x standard. The result would be to require less than the maximum control of NO_x achievable with current technology. This would be a severe compromise, since in the case of Diesel engines, additional NO_x control is the only significant impact of the regulations.

Gasoline Emission Test Cycle Percent Torque Values

EPA proposed to replace the 19, 16, 10 and 3 in-Hg (manifold vacuum) load levels in the 9-mode gasoline Federal Test Procedure (FTP) with percent torque values of 10, 25, 55, and 90, respectively. In general, the gasoline engine manufacturers disagreed with the 90 percent and 55 percent torque equivalents to replace the 3 in-Hg and 10 in-Hg power levels. EPA re-examined its data base and incorporated into it data sup-

[1] Grams per brake horsepower-hour (g/BHP-hr) is the method of choice for expressing engine emission standards since engine emissions must be expressed in terms of units of work performed rather than in terms of grams per mile as is the case with vehicles.

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plied by the commenters. The data analysis indicates that the 90 percent and 55 percent torque values were correct. Most importantly, the latest truck operational data available to EPA (CAPE–21) clearly demonstrated that a substantial amount of truck operation was above 90 percent. EPA has therefore retained the proposed percent torque values in the final regulation.

Emission Standards

In general, the comments submitted indicated that the proposed heavy-duty standards could be met by all of the manufacturers with the use of currently available emission control technology. The majority of the commenters did not object to the proposed gaseous emission standards. EPA has retained the proposed gaseous emission standards in the final regulation.

Several commenters questioned EPA's rationale for proposing to reduce the Diesel smoke opacity from 50 percent to 35 percent and projected losses in acceleration performance to achieve compliance. Based on EPA's analysis, it appears that the Diesel manufacturers can meet the proposed peak smoke standard with a low level of effort and little or no cost. Nearly all Diesel engine families already meet a peak smoke level of 35 percent. On the other hand, an air quality benefit obtained by reducing the current peak smoke level is not readily identifiable. Moreover, if the claimed losses in acceleration in fact occur, and in the face of major technical difficulties in enforcing in the field the difference between a 35 percent and 50 percent opacity standard, widespread misadjustment in the field to regain a performance feature important to the driver might be common. In light of the above facts, EPA deleted the proposed 35 percent peak smoke opacity in the final rule. The current 50 percent peak smoke opacity remains in effect.

Technological Impact of the Proposed Emission Standards

All the manufacturers indicated that the proposed heavy-duty emission standards for 1979 could be met with the use of currently available emission control technology. Thus, the manufacturers did not take issue with EPA's premise that the technology to meet the proposed standards is available. Rather, the commenters summarized the technological impact of the proposed standards. Also, several manufacturers pointed out areas of disagreement in the supporting documents to this regulatory action. The most important issues raised by the manufacturers are:

1. Catalyst technology may be necessary for gasoline engines to meet the proposed standards; and,

2. The proposed standards will force discontinuance of naturally aspirated Diesel engines and require the use of intercoolers and turbochargers.

On the first point, EPA maintains that the proposed emission standards are achievable with currently available control technology. Further, EPA believes that the standards are obtainable without the use of catalysts or of costly and unproven technology. (The General Motors statements support EPA's position on this). However, EPA recognizes that catalyst technology may be an alternative for some manufacturers, especially if fuel economy needs to be maximized without using sophisticated engine improvements.

On the second point, EPA believes that the existing trend toward Diesel engines that use intercoolers and turbochargers is only marginally related to the emission standards. The trend toward constant speed (55 mph) heavy-duty vehicles equipped with an engine with significant torque backup is in response to the desire for improved fuel economy, not emission control. The manufacturers did not submit data that would demonstrate that turbochargers and intercoolers are required to meet the emission standards. Most importantly, a maximum increase of only 4 percent in the use of turbocharges may occur. Therefore, EPA views the costs of intercoolers and turbochargers as not being properly chargeable to the emission control standards.

Fuel Economy

The major Diesel engine manufacturers stated that, when compared to fuel efficiency of existing engines, no fuel economy penalty will result in complying with the proposed emission standards though some potential fuel economy gains may be foregone. On the other hand, the gasoline engine manufacturers have claimed fuel economy penalties ranging from zero to 20 percent. After evaluating the manufacturers' comments, EPA concluded that Diesel engines will not suffer any real fuel economy penalty as a result of the proposed action. However, gasoline engines may have an industry-wide fuel economy penalty anywhere from zero to 5 percent. (The 5 percent figure represents a projection of a sales weighted average fuel economy penalty based on the data submitted by the industry and assumes very limited use of catalyst control technology.) EPA views the 5 percent limit as a worst-case temporary penalty for several reasons. One manufacturer, accounting for over 30 percent of the market, has indicated that he will be able to produce in model year 1979 engines equipped with non-catalyst technology that will not experience a fuel penalty. Over time, other manufacturers should be able to develop similar technologies for use on their engines. Manufacturers could also elect to perfect the use of catalyst technology on heavy-duty gasoline engines to optimize fuel economy.

In general, utilization of fuel efficient emission control technologies by all manufacturers by the 1979 model year is probably precluded at this time, though in one to three years after that manufacturers should have been able to perfect these systems. Certainly the current operating environment for heavy-duty engines is such that the need to conserve energy and limit operating expenses are recognized, and should provide engine manufacturers an incentive to develop fuel efficient technologies. Thus, any fuel penalty which does occur in 1979 should disappear in one to three years' time.

Performance

One gasoline-fueled engine manufacturer claimed that the imposition of the more stringent gaseous emission standards would have a deleterious effect on vehicle performance. Based on evaluation of the comments, EPA agrees that some loss in acceleration for gasoline-fueled vehicles could occur in meeting the proposed emission standards. The magnitude of these possible losses and the associated impacts could not be quantified. On the other hand, competitive market pressures should cause manufacturers to maintain more than acceptable levels of vehicle performance in their products.

Engine and Vehicle Costs

EPA stated in the preamble to the NPRM that the retail price increase per engine would be approximately $110 for gasoline and $120 for Diesel. Except for International Harvester Corp. and General Motors, the gasoline engine manufacturers agreed fairly closely with EPA's estimate. Averaging Ford's, Chrysler's and EPA's estimates results in a cost increase of $120 for gasoline vehicles. This cost increase projection ($120) will replace EPA's original estimate of $110.

The Diesel manufacturers claimed the need for turbochargers to meet the proposed regulations. As explained in the issue on technological impact, EPA has concluded that turbochargers are used primarily to improve fuel economy. A side effect may be lower emissions, but EPA estimates that to meet the 1979 standards improved fuel systems and EGR (exhaust gas recirculation) will suffice, at a total projected cost of $130.

Over a five-year period it will cost the industry approximately $350 million to comply with this regulation assuming no fuel penalty occurs. Approximately $5 million of this is the cost for modifying industry emission test cells to comply with the new regulations and $6 to $8 million for recertification of engines. If a five percent fuel penalty occurs for gasoline-fueled engines, the five-year costs of compliance increases between $200 to $560 million depending upon whether the fuel penalty is incurred for one year only or all five.

Certification and Testing Costs

Several manufacturers commented that EPA's estimates of the costs to certify heavy-duty engines were too low. The expense of running a certification program for heavy-duty engines is not the primary cost passed on to the vehicle purchaser. The emission control system hardware is the major factor. But, if the manufacturers' most pessimistic estimates were used, the overall cost effectiveness of this regulation would not be appreciably affected. Based on conversations with independent laboratories and experience with EPA contracts, it is estimated that certification costs per test engine will be approximately the same as stated in the draft Environmental and Inflationary Impact Statement:

	Durability	Emission data
Diesel	$50,000	$15,000
Gasoline	55,000	10,000

For the typical Diesel engine family with 3000 sales/year and a 3-year certification life, the straight-line amortized cost is about $10 per engine. Gasoline engine families will have lower unit costs due to larger sale volumes.

Cost Effectiveness

Based on the re-evaluation of baseline emission and fuel economy impacts, the cost effectiveness of the standards was recalculated.

From the comments, it appears that a fuel economy penalty (for gasoline engines) of zero to 5 percent may result from imposing the proposed regulation (refer to discussion of the Fuel Economy Issue above). This possible fuel economy impact was factored into the cost effectiveness analysis. For purposes of comparison with other programs, a mid-range value of 2.5 percent fuel economy penalty was assumed for gasoline engines. A zero percent fuel economy penalty was assumed for Diesel engines. The following costs effectiveness figures were obtained:

	Dollars ($) per ton		
	Hydrocarbon	Carbon monoxide	Oxides of nitrogen
Gasoline	154	71	347
Diesel			129

The results indicated that at moderate levels of fuel economy penalty, this action remains cost effective. EPA has used the above values for the cost effectiveness of this regulation. EPA anticipates that any fuel economy penalty which may initially occur will most likely disappear, as stated previously. This will improve the cost effectiveness for subsequent model years.

Diesel Engine Test Procedures for Medium-Duty Application

Currently, the vast majority of all Diesel truck engines are used in vehicles over 26,000 pounds GVWR. The present Diesel engine test procedure was designed specifically for these heavy-duty applications. With increased fuel prices, there is a trend toward installing Diesels in lighter trucks for medium-duty (approximately 8,500–26,000 pounds GVWR) applications. EPA solicited comments on changes to the test procedure to accommodate this trend.

In response to EPA's request, the commenters recommended the following changes in the Diesel test procedure: (1) Optional, less severe certification for trucks up to 26,000 pounds GVWR, (2) revised durability and emission test cycles, and (3) useful life reduced to 5 years/50,000 miles. The commenters did not provide any substantial information or data that could be relied upon as a basis for developing a new class, test procedures, or a redefinition of useful life for a Diesel engine in medium-duty applications. Data available to EPA indicate to EPA that the recommended changes are not called for.

EPA has made no changes in the Diesel engine class definition, test procedures, or useful life at this time. However, if the manufacturers want to certify and build a Diesel engine for medium-duty application, they are encouraged to submit data that demonstrate that the current Diesel test procedures are unreasonable or unrealistic for emission testing. They are also encouraged to submit data and recommendations for an alternative test procedure that would be appropriate for the engine in question. Section 86.079–27, Special Test Procedures (corresponds to § 86.077–27 of existing regulations) of the regulations provides the means for the manufacturers to request special test procedures for emissions testing. If the test procedures specified in Subparts D and J can be shown to be unsatisfactory for testing of a particular power plant, the Administrator has the authority to prescribe alternate procedures. Since it does not appear that there is an urgent requirement for such modified Diesel engine test procedures, § 86.079–27 should serve as an adequate interim means of dealing with this issue until a formal test procedure for medium-duty application can be promulgated, should the need arise.

Additional Information

Comments which were received in response to the NPRM are available for inspection and copying during normal business hours at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M St. SW., Washington, D.C. 20460. As provided for in 40 CFR Part 2, a reasonable fee may be charged for copying services.

Single copies of EPA's detailed analysis of comments received, entitled "Summary and Analysis of Comments to the NPRM: Revised Heavy-Duty Engine Regulations for 1979 and Later Model Years," dated July 1977, as well as copies of the Final Environmental Impact Statement, entitled "Environmental Impact Statement: Emission Standards for New Heavy-Duty Engines," dated August 4, 1977, are available upon request from the Printing Management Section (PM–215), U.S. Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

Readers are alerted that, due to enactment of the Clean Air Act Amendments of 1977 on August 7, 1977, certain provisions of the regulations applicable to light-duty motor vehicles intended for sale at high-altitude locations which are being reprinted herein are no longer in effect. In order not to delay the issuance of this regulation, these provisions have not been removed from this document. EPA intends to modify its high-altitude certification regulations in the near future in order to conform those regulations to the recently enacted law.

Note:—The Environmental Protection Agency has determined that this document contains a major regulation requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949, and OMB Circular A–107 and certifies that an Economic Impact Analysis has been prepared.

Dated: August 22, 1977.

DOUGLAS M. COSTLE,
Administrator.

40 CFR Part 86 is amended as follows:

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, 1977 and Later Model Year New Light-Duty Trucks, and for 1977 and Later Model Year New Heavy-Duty Engines

1. Paragraph (a) of § 86.077–2 is revised to read as follows:

§ 86.077–2 Definitions.

(a) The definitions in this section apply to this subpart and also to Subparts B, D, H, I, and J of this part.

* * * * * * *

2. Paragraph (a) of § 86.078–3 is revised to read as follows:

§ 86.078–3 Abbreviations.

(a) The abbreviations in this section apply to this subpart and also to Subparts B, D, H, I, and J of this part and have the following meanings:

* * * * * * *

3. Section 86.079–2 is revised by adding the following definitions interspersed among the existing definitions in alphabetical order.

§ 86.079–2 Definitions.

* * * * * * *

"Curb-idle" for manual transmission code heavy-duty engines means the manufacturer's recommended engine speed with the transmission in neutral or with the clutch disengaged. For automatic transmission code heavy-duty engines, curb-idle means the manufacturer's recommended engine speed with the automatic transmission in gear and the output shaft stalled.

* * * * * * *

"Dynamometer-idle" for automatic transmission code heavy-duty engines means the manufacturer's recommended engine speed without a transmission that simulates the recommended engine speed with a transmission and with the transmission in neutral.

* * * * * * *

"Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the maximum design loaded weight of a single vehicle.

"Hang-up" refers to the process of hydrocarbon molecules being absorbed, adsorbed, condensed, or by any other method removed from the sample flow prior to reaching the instrument detector. It also refers to any subsquent desorption of the molecules into the sample flow when they are assumed to be absent.

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"Intermediate speed" means peak torque speed if peak torque speed occurs between 60 and 75 percent of rated speed. If the peak torque speed is less than 60 percent of rated speed, intermediate speed means 60 percent of rated speed. If the peak torque speed is greater than 75 percent of rated speed, intermediate speed means 75 percent of rated speed.

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4. A new § 86.079–10 is added and reads as follows:

§ 86.079–10 Emission standards for 1979 gasoline-fueled heavy-duty engines.

(a) Exhaust emissions from new 1979 model year gasoline-fueled heavy-duty engines shall not exceed one of the three following standards, to be selected at the manufacturer's option:

(1) As measured in Subpart D of this part:

(i) *Hydrocarbons.* 1.5 grams per brake horsepower hour.

(ii) *Carbon monoxide.* 25 grams per brake horsepower hour.

(iii) *Hydrocarbons plus oxides of nitrogen.* 10 grams per brake horsepower hour.

(2) As measured in Subpart H of this part:

(i) *Hydrocarbons.* 1.10 gram per brake horsepower hour.

(ii) *Carbon monoxide.* 25 grams per brake horsepower hour.

(iii) *Hydrocarbons plus oxides of nitrogen.* 9.5 grams per brake horsepower hour.

(3) As measured in Subparts D or H of this part:

(i) *Hydrocarbons plus oxides of nitrogen.* 5 grams per brake horsepower hour.

(ii) *Carbon monoxide.* 25 grams per brake horsepower hour.

(b) [Reserved].

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1979 and later model year gasoline-fueled heavy-duty engine.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in Subparts D or H of this part to ascertain that such test engines meet the requirements of paragraphs (a) and (c) of this section.

5. A new § 86.079–11 is added and reads as follows:

§ 86.079–11 Emission standards for 1979 Diesel heavy-duty engines.

(a) Exhaust emissions from new 1979 model year Diesel heavy-duty engines shall not exceed one of the two following standards, to be selected at the manufacturer's option:

(1) As measured in Subparts D or J of this part:

(i) *Hydrocarbons.* 1.5 grams per brake horsepower hour.

(ii) *Carbon monoxide.* 25 grams per brake horsepower hour.

(iii) *Hydrocarbons plus oxides of nitrogen.* 10 grams per brake horsepower hour.

(2) As measured in Subpart D or J of this part:

(i) *Hydrocarbons plus oxides of nitrogen.* 5 grams per brake horsepower hour.

(ii) *Carbon monoxide.* 25 grams per brake horsepower hour.

(b) (1) The opacity of smoke emissions from new 1979 and later model year Diesel heavy-duty engines shall not exceed:

(i) 20 percent during the engine acceleration mode.

(ii) 15 percent during the engine lugging mode.

(iii) 50 percent during the peaks in either mode.

(2) The standards set forth in paragraph (b)(1) of this section refer to exhaust smoke emissions generated under the conditions set forth in Subpart I of this part and measured and calculated in accordance with those procedures.

(c) [Reserved]

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in Subpart D, I, or J of this part to ascertain that such test engines meet the requirements of paragraphs (a) and (b) of this section.

6. Section 86.079–21 is amended to read as follows:

§ 86.079–21 Application for certification.

(a) A separate application for a certificate of conformity shall be made for each set of standards and each class of new motor vehicles or new motor vehicle engines. Such application shall be made to the Administrator by the manufacturer and shall be updated and corrected by amendment.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the vehicle (or engines) covered by the application and a description of their engine (vehicles only), emission control system, and fuel system components. This shall include a detailed description of each AECD to be installed in or on any certification test vehicle (or certification test engine).

(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles (or engines) for which certification is requested.

(3) A description of the test equipment and fuel proposed to be used.

(4) (i) A description of the proposed mileage (or service) accumulation procedure for durability testing.

(ii) A description of the test procedures to be used to establish the evaporative emission deterioration factors required to be determined and supplied in § 86.079–23(a)(2).

(5) A statement of recommended maintenance and procedures necessary to assure that the vehicles (or engines) covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(6) At the option of the manufacturer, the proposed composition of the emission-data and durability-data test fleet.

(c) Complete copies of the application and of any amendments thereto, and all notifications under §§ 86.079–32, 86.079–33, and 86.079–34 shall be submitted in such multiple copies as the Administrator may require.

(d) Incomplete light duty trucks shall have a maximum completed curb weight and maximum completed frontal area specified by the manufacturer.

7. New §§ 86.079–22 through 86.079–25 are added and read as follows:

§ 86.079–22 Approval of application for certification; test fleet selections.

(a) After a review of the application for certification and any other information which the Administrator may require, the Administrator may approve the application and select a test fleet in accordance with § 86.079–24.

(b) The Administrator may disapprove in whole or in part an application for certification for reasons including incompleteness, inaccuracy, inappropriate proposed mileage (or service) accumulation procedures, test equipment, or fuel, and incorporation of defeat devices in vehicles (or on engines) described by the application.

(c) Where any part of an application is rejected, the Administrator shall notify the manufacturer in writing and set forth the reasons for such rejection. Within 30 days following receipt of such notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determinations, and data in support of such objections. If, after the review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078–6 with respect to such issue.

(d) The Administrator does not approve the test procedures for establishing the evaporative emission deterioration factors. The manufacturer shall submit the procedures as required in § 86.079–21(b)(4)(ii) prior to the Administrator's selection of the test fleet under § 86.079–24(b)(1) and if such procedures will involve testing of durability-data vehicles selected by the Administrator or elected by the manufacturer under § 86.079–24(c)(1), prior to initiation of such testing.

§ 86.079–23 Required data.

(a) The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information: *Provided, however,* That:

(1) If requested by the manufacturer, the Administrator may waive any requirement of this section for testing of vehicles (or engines) for which emission data are available, or will be made available, under the provisions of § 86.079–29, or

(2) If requested by the manufacturer, the Administrator may waive any requirement of this section for testing of vehicles at zero kilometers of operation.

(b) (1) Exhaust emission durability data on such vehicles (or engines) tested in accordance with applicable test procedures and in such numbers as specified, which will show the performance of the systems installed on or incorporated in the vehicle (or engine) for extended mileage (or extended operation), as well as a record of all pertinent maintenance (all maintenance and servicing for heavy-duty engines) performed on the test vehicles (or test engines). Records of maintenance and servicing of heavy-duty engines performed prior to the zero-hour point do not need to be submitted but must be maintained.

(2) Evaporative emission deterioration factors for each evaporative emission family—evaporative emission control system combination and all test data that are derived from testing described under § 86.079–21(b)(4)(ii) designed and conducted in accordance with good engineering practice to assure that the vehicles covered by a certificate issued under § 86.079–30 will meet the evaporative emission standards in § 86.078–8 or § 86.079–9, as appropriate, for the useful life of the vehicle.

(c) Emission data.

(1) *Certification vehicles.* (i) Emission data on such vehicles tested in accordance with applicable test procedures and in such numbers as specified, which will show their emissions after zero kilometers (zero miles) and 6,436 kilometers (4,000 miles) of operation.

(ii) Emission data on those vehicles selected under § 86.079–24(b)(1)(v) and § 86.079–24(b)(1)(vii)(D) and tested in accordance with the applicable test procedures of this subpart and in such numbers as therein specified, which shall be tested at zero kilometers (zero miles) at any altitude, and under high-altitude conditions after 6,436 kilometers (4,000 miles) of operation at any altitude.

(2) *Certification engines.* Emission data on such engines tested in accordance with applicable emission test procedures and in such numbers as specified, which will show their emissions after 125 hours of operation. A zero-hour test may be performed after the engine has been approved by the Administrator to begin service accumulation.

(d) A statement that the vehicles (or engines) for which certification is requested conform to the requirements in § 86.078–5(b), and that the descriptions of tests performed to ascertain compliance with the general standards in § 86.078–5(b), and the data derived from such tests, are available to the Administrator upon request.

(e) (1) A statement that the test vehicles (or test engines) with respect to which data are submitted to demonstrate compliance with §§ 86.078–8, 86.079–9, 86.079–10, 86.079–11, 86.080–10, or 86.080–11, as applicable, are in all material respects as described in the manufacturer's application for certification, have been tested in accordance with the applicable test procedures utilizing the fuels and equipment described in the application for certification and that on the basis of such tests the vehicles (or engines) conform to the requirements of the regulations in this part. If such statements cannot be made with respect to any vehicle (or engine) tested, the vehicle (or engine) shall be identified, and all pertinent data relating thereto shall be supplied to the Administrator. If, on the basis of the data supplied and any additional data as required by the Administrator, the Administrator determines that the test vehicle (or test engine) was not as described in the application for certification or was not tested in accordance with the applicable test procedures utilizing the fuels and equipment as described in the application for certification, the Administrator may make the determination that the vehicle (or engine) does not meet the applicable standards. The provisions of § 86.079–30(b) shall then be followed.

(2) For evaporative emission durability, the statement of compliance with paragraph (b)(2) of this section.

§ 86.079–24 Test vehicles and engines.

(a) (1) The vehicles or engines covered by an application for certification will be divided into groupings of engines which are expected to have similar emission characteristics throughout their useful life. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) To be classed in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center-to-center dimensions.

(ii) The dimension from the centerline of the crankshaft to the centerline of the camshaft.

(iii) The dimension from the centerline of the crankshaft to the top of the cylinder block head face.

(iv) The cylinder block configuration (air cooled or water cooled; L–6, 90° V–8, etc.).

(v) The location of intake and exhaust valves, (or ports) and the valve (or port) sizes (within a ¼-inch range on the valve head diameter or within 10 percent on the port area).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(viii) Catalytic converter characteristics.

(ix) Thermal reactor characteristics.

(x) Type of air inlet cooler (e.g., intercoolers and after-coolers) for Diesel heavy-duty engines.

(3) Engines identical in all the respects listed in paragraph (a)(2) of this section may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine.

(i) The bore and stroke.

(ii) The surface-to-volume ratio of the nominally dimensioned cylinder at the top dead center position.

(iii) The intake manifold induction port size and configuration.

(iv) The exhaust manifold port size and configuration.

(v) The intake and exhaust valve sizes.

(vi) The fuel system.

(vii) The camshaft timing and ignition or injection timing characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in paragraphs (a)(2) and (3) of this section, the Administrator will establish families for those engines based upon the features most related to their emission characteristics.

(5) The gasoline-fueled vehicles covered by an application for certification will be divided into groupings which are expected to have similar evaporative emission characteristics throughout their useful life. Each group of vehicles with similar evaporative emission characteristics shall be defined as a separate evaporative emission family.

(6) To be classed in the same evaporative emission family, vehicles must be identical in all of the following respects:

(i) Type of vapor storage device (e.g., canister, air cleaner, crankcase).

(ii) Basic canister design.

(iii) Fuel system.

(7) Where vehicles are of a type which cannot be divided into evaporative emission families based on the criteria listed above, the Administrator will establish families for those vehicles based upon the features most related to their evaporative emission characteristics.

(b) Emission data: (1) *Emission-data vehicles.* Paragraph (b)(1) of this section applies to light-duty vehicle and light-duty truck emission-data vehicles.

(i) Vehicles will be chosen to be operated and tested for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Vehicles of each engine family will be divided into engine displacement-exhaust emission control system combinations as applicable. A projected sales volume will be established for each combination for the model year for which certification is sought. One vehicle of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of vehicles of that engine family is represented, or until a maximum of four vehicles is selected. If any single combination represents over 70 percent, then two vehicles of that combination may be selected. The vehicle selected for each combination will be specified by the Administrator as to such features as engine code, transmission type, fuel system, and inertia weight class.

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(iii) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider such features as the emission control system combination, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, compression ratio, inertia weight class, transmission options, and axle ratios.

(iv) If the vehicles selected in accordance with paragraphs (b)(1) (ii) and (iii) of this section do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Administrator. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with the control system combination in the engine family and will be designated by the Administrator as to such features as transmission type, fuel system, and inertia weight class.

(v) The Administrator will also select one vehicle for each engine-system combination within an engine family for which vehicles are to be sold to ultimate purchasers at high altitude.

(vi) The Administrator may combine testing requirements for any vehicle selected under paragraph (b)(1)(v) or (b)(1)(vii)(D) of this section with the testing requirements for any similar vehicle in the same engine-system combination selected under paragraph (b)(1)(ii), (iii), or (iv) of this section or any similar vehicle in the same engine-system, evaporative emission family, evaporative emission control system combination selected under paragraph (b)(1)(vii)(A) or (B) of this section. The testing requirements may be combined by the Administrator requiring a vehicle selected for testing under paragraphs (b)(1)(ii), (iii), (iv), (vii)(A), or (vii)(B) of this section to be modified (if necessary) after mileage accumulation and emission testing for the purpose of demonstrating compliance with § 86.079-23(b)(1)(ii).

(vii) (A) Vehicles of each evaporative emission family will be divided into evaporative emission control systems. One vehicle of each evaporative emission control system within the evaporative emission family will be selected.

(B) The Administrator may select a maximum of four (4) additional vehicles within each evaporative emission family based upon features indicating that they may have the highest evaporative emission levels of vehicles in that family.

(C) The Administrator may determine that the vehicles selected under paragraph (b)(1)(ii) through (iv) of this section may be used to satisfy the requirements of paragraph (b)(1)(vii)(A) and (B) of this section.

(D) The Administrator will also select one vehicle for each evaporative emission control system within each evaporative family for which vehicles are to be sold at high altitude.

(E) Vehicles selected under paragraph (b)(1)(v) of this section may be used to satisfy the requirements of paragraph (b)(1)(vii)(D) of this section.

(2) *Gasoline-fueled heavy-duty emission-data engines.* Paragraph (b)(2) of this section applies to gasoline-fueled heavy-duty emission-data engines.

(i) Engines will be chosen to be run for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into engine displacement-exhaust emission control system combinations. A projected sales volume will be established for each combination for the applicable model year. One engine of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of engines of that family is represented, or until a maximum of four engines is selected. The engines selected for each combination will be specified by the Administrator as to fuel system.

(iii) The Administrator may select a maximum of two additional engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in that engine family. In selecting these engines, the Administrator will consider such features as the exhaust emission control system, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, and compression ratio.

(iv) If the engines selected in accordance with paragraphs (b)(2) (ii) and (iii) of this section do not represent each engine displacement-exhaust emission control system combination, then one engine of each engine displacement-exhaust emission control system combination not represented shall be selected by the Administrator.

(3) *Diesel heavy-duty emission-data engines.* Paragraph (b)(3) of this section applies to Diesel heavy-duty emission-data engines.

(i) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into groups based upon their exhaust emission control systems. One engine of each engine-system combination shall be run for smoke emission data and gaseous emission data as prescribed in § 86.079-26(c)(3). Either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine that features the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will usually be selected. If there are military engines with higher fuel rates than other engines in the same engine system combinations, then one military engine shall be also selected. The engine with the highest fuel feed per stroke will usually be selected.

(iii) The Administrator may select a maximum of one additional engine within each engine-system combination based upon features indicating that it may have the highest emission levels of the engines of that combination. In selecting this engine, the Administrator will consider such features as the injection system, fuel system, compression ratio, rated speed, rated horsepower, peak torque speed, and peak torque.

(c) Durability data: (1) *Durability-data vehicles.* Paragraph (c)(1) of this section applies to light-duty vehicle and light-duty truck durability-data vehicles.

(i) A durability-data vehicle will be selected by the Administrator to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control-system combination in that engine family and will be designated by the Administrator as to transmission type, fuel system, and inertia weight class.

(ii) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system, and inertia weight class as the vehicle selected for that engine-system combination in accordance with the provisions of paragraph (c)(1)(i) of this section. Notice of an intent to operate and test additional vehicles will be given to the Administrator not later than 30 days following notification of the test fleet selection.

(2) *Gasoline-fueled heavy-duty durability-data engines.* Paragraph (c)(2) of this section applies to gasoline-fueled heavy-duty durability-data engines.

(i) A durability-data engine will be selected by the Administrator to represent each engine-system combination.

(ii) [Reserved]

(iii) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same engine displacement and fuel systems as the engine selected for that combination in accordance with the provisions of paragraph (c)(2)(i) of this section. Notice of an intent to run additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and nonmilitary engines within the same engine-system combination.

(3) *Diesel heavy-duty durability-data engines.* Paragraph (c)(3) of this section applies to Diesel heavy-duty durability-data engines.

(i) One engine from each engine-system combination shall be tested as prescribed in § 86.079-26(c)(3)(ii). At each test point, either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine which features the highest fuel feed per stroke, primarily at rated speed and secondarily at the speed of maximum rated torque, will usually be selected for durability testing. In the case where more than one engine in an engine-system combination has the highest fuel feed per stroke, the engine with the highest maximum rated horsepower will usually be selected for durability testing. If an engine system combination includes both military and nonmilitary engines, then the nonmilitary engine with the highest maximum rated horsepower will usually be selected for durability testing.

(ii) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same model and fuel system as the engine selected in accordance with the provisions of paragraph (c)(3)(i) of this section. Notice of an intent to test additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and non-military engines within the same engine system combination.

(d) For purposes of testing under § 86.079-26 (a)(9), (b)(9), or (c)(11), the Administrator may require additional emission-data vehicles (or emission-data engines) and durability-data vehicles (or durability-data engines) identical in all material respects to vehicles (or engines) selected in accordance with paragraphs (b) and (c) of this section: *Provided*, That the number of vehicles (or engines) selected shall not increase the size of either the emission-data fleet or the durability-data fleet by more than 20 percent or one vehicle (or engine), whichever is greater.

(e) Any manufacturer whose projected sales for the model year in which certification is sought is less than

(1) 2000 gasoline-fueled light-duty vehicles, or

(2) 2000 Diesel light-duty vehicles, or

(3) 2000 gasoline-fueled light-duty trucks, or

(4) 2000 Diesel light-duty trucks, or

(5) 2000 gasoline-fueled heavy-duty engines, or

(6) 200 Diesel heavy-duty engines,

may request a reduction in the number of test vehicles (or engines) determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(f) In lieu of testing an emission-data or durability-data vehicle (or engine) selected under paragraph (b) or (c) of this section, and submitting data therefore, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data and/or fuel evaporative emission data, as applicable, on a similar vehicle (or engine) for which certification has previously been obtained or for which all applicable data required under § 86.079-23 have previously been submitted.

(g)(1) This paragraph (g) applies to light-duty vehicles and light-duty trucks.

(2) Where it is expected that more than 33 percent of an engine family will be equipped with an optional item, the full estimated weight of that item shall be included, unless excluded by the Administrator, in the curb weight computation for each vehicle available with that option in the engine family. Where it is expected that 33 percent or less of the vehicles in an engine family will be equipped with an item of optional equipment, no weight for that item will be added in computing curb weight. In the case of mutually exclusive options, only the weight of the heavier option will be added in computing curb weight. Optional equipment weighing less than 3 pounds per item need not be considered.

(3) Where it is expected that more than 33 percent of an engine family will be equipped with an item of optional equipment that can reasonably be expected to influence emissions, then such items of optional equipment shall actually be installed, unless specifically excluded by the Administrator, on all emission-data and durability-data vehicles in the engine family on which the option is intended to be offered in production. Optional equipment that can reasonably be expected to influence emissions are the air conditioner, power steering, power brakes, and other items determined by the Administrator.

(4) Optional equipment that can reasonably be expected to influence emissions and which is utilized on 33 percent or less of the vehicles in the engine family shall not be installed on any vehicle in that engine family unless specifically required under this section.

§ 86.079-25 Maintenance.

(a) *Light-duty vehicles and light-duty trucks.* Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(1) Scheduled maintenance on the engine, emission control system, and fuel system of durability-data vehicles, selected by the Administrator or elected by the manufacturer under § 86.079-24(c)(1), shall be scheduled for performance during durability testing at the same mileage intervals that will be specified in the manufacturer's maintenance instructions furnished to the ultimate purchaser of the motor vehicle. Such maintenance shall be performed, except as provided in paragraph (a)(5)(iii) of this section, only under the following provisions:

(i) Scheduled major engine tuneups to manufacturer's specifications may be performed no more frequently than every 12,500 miles of scheduled driving: *Provided*, That no tuneup may be performed after 45,000 miles of scheduled driving. A scheduled major engine tuneup shall be restricted to paragraph (a)(1)(i)(A) or (B) of this section, and shall be conducted in a manner consistent with service instructions and specifications provided by the manufacturer for use by customer service personnel.

(A) *For gasoline-fueled vehicles*, the following items may be inspected, replaced, cleaned, adjusted, and/or serviced as required:

(1) Ignition system.

(2) Cold starting enrichment system (includes fast idle speed setting).

(3) Curb idle speed and air/fuel mixture.

(4) Drive belt tension on engine accessories.

(5) Valve lash.

(6) Inlet air and exhaust gas control valves.

(7) Engine bolt torque.

(8) Spark plugs.

(9) Fuel filter and air filter.

(10) Crankcase emission control system.

(11) Fuel evaporative emission control system.

(B) *For Diesel vehicles*, a major engine tuneup shall be restricted to the following:

(1) Adjust low idle speed.

(2) Adjust valve lash if required.

(3) Adjust injector timing.

(4) Adjust governor.

(5) Clean and service injector tips.

(6) Adjust drive belt tension on engine accessories.

(7) Check engine bolt torque and tighten as required.

(ii) Change of engine and transmission oil, and change or service of oil filter will be allowed at the same mileage intervals that will be specified in the manufacturer's maintenance instructions.

(iii) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, in addition to adjustment during scheduled major engine tuneups, once during the first 5,000 miles of vehicle operation.

(2) (i) *For gasoline-fueled vehicles*, unscheduled maintenance on the engine, emission control system, and fuel system of durability vehicles may be performed, except as provided in paragraph (a)(5)(i) of this section, only under the following provisions:

(A) Any persistently misfiring spark plug may be replaced, in addition to replacement at scheduled major engine tuneup points.

(B) Readjustment of the engine cold starting enrichment system may be performed if there is a problem of stalling or if there is visible black smoke.

(C) Readjustment of the engine idle-speed (curb idle and fast idle) may be performed, in addition to that performed as scheduled maintenance under paragraph (a)(1) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 r.p.m. or more, or if there is a problem of stalling.

(D) The idle mixture may be reset, other than during scheduled major engine tuneups, only with the advance approval of the Administrator.

(ii) *For Diesel vehicles*, unscheduled maintenance on the engine emission control system, and fuel system of durability-data vehicles may be performed except as provided in paragraph (a)(5)(i) of this section, only under the following provisions:

(A) Injectors may be changed if a persistent misfire is detected.

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(B) Readjustment of the engine idle speed (curb idle and fast idle) may be performed in addition to that performed as scheduled maintenance under paragraph (a)(1) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 r.p.m. or more, or if there is a problem of stalling.

(3) An exhaust gas recirculation (EGR) system may be serviced during durability testing only under one of the following provisions:

(i) Manufacturers may schedule service to the EGR system at the scheduled major engine tuneups if an audible and/or visual signal approved by the Administrator alerts the vehicle operator to the need for EGR system maintenance at each of those mileage points. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(ii) Manufacturers may service the EGR system as unscheduled maintenance a maximum of three times during the 50,000 miles if failure of the EGR system activates an audible and/or visual signal approved by the Administrator which alerts the vehicle operator to the need for EGR system maintenance. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(iii) Manufacturers may service the EGR system a maximum of three times during the 50,000 miles either at a scheduled major engine tuneup point or as unscheduled maintenance, if an audible and/or visual signal approved by the Administrator alerts the vehicle operator to the need for EGR system maintenance. The signal may be activated either by EGR system failure (unscheduled maintenance) or need for scheduled periodic maintenance. If maintenance is performed, the signal for scheduled periodic maintenance shall be reset. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(iv) Manufacturers may schedule service to the EGR system at the scheduled major engine tuneup(s) if failure to perform EGR system maintenance is not likely, as determined by the Administrator, to result in an improvement in vehicle performance. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(4) The catalytic converter may be serviced once during 50,000 miles if an audible and/or visual signal approved by the Administrator alerts the vehicle operator to the need for maintenance. The signal may be activated either by component failure or need for maintenance at a scheduled point.

(5) Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on durability-data vehicles shall be performed only with the advance approval of the Administrator.

(i) In the case of unscheduled maintenance, such approval will be given if the Administrator:

(A) Has made a preliminary determination that part failure or system malfunction, or the repair of such failure or malfunction, does not render the vehicle unrepresentative of vehicles in use, and does not require direct access to the combustion chamber, except for spark plug, fuel injection component, or removable prechamber removal or replacement; and

(B) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfiring, vehicle stalling, overheating, fluid leakage, loss of oil pressure, or charge indicator warning. For the evaporative emission control system this overt indication may be indicated by such items as fuel odor or fluid leakage.

(ii) Emission measurements may not be used as a means of determining the need for unscheduled maintenance under paragraph (a)(5)(i)(A) of this section.

(iii) Requests for authorization of scheduled maintenance of emission control-related components not specifically authorized to be maintained by these regulations must be made prior to the beginning of durability testing. The Administrator will approve the performance of such maintenance if the manufacturer makes a satisfactory showing that the maintenance will be performed on vehicles in use.

(6) If the Administrator determines that part failure or system malfunction occurrence and/or repair rendered the vehicle unrepresentative of vehicles in use, the vehicle shall not be used as a durability-data vehicle.

(7) Where the Administrator agrees under § 86.079–26 to a mileage accumulation of less than 50,000 miles for durability testing, he may modify the requirements of this paragraph.

(8) (i) Adjustment of engine idle speed on emission-data vehicles may be performed once before the 6,436-kilometer (4,000-mile) test point. Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on emission-data vehicles shall be performed only with the advance approval of the Administrator.

(ii) Maintenance on emission-data vehicles selected under § 86.079–24 (b)(1)(v) or (b)(1)(vii)(D) and permitted to be tested for purposes of § 86.079–23 (b)(1)(ii) under the provisions of § 86.079–24(b)(1)(vi) may be performed in conjunction with emission control system modifications at the 6,436-kilometer (4,000-mile) test point, and shall be performed in accordance with the maintenance instructions to be provided to the ultimate purchaser required under § 86.079–38.

(iii) Maintenance on those emission-data vehicles selected under § 86.079–24(b)(1)(v) which are not capable of being modified in the field for the purpose of complying with emission standards at an altitude other than intended by the original design may be performed in conjunction with the emission control system modifications at the 6,436-kilometer (4,000-mile) test point, and shall be approved in advance by the Administrator.

(9) Repairs to vehicle components of the durability-data or emission-data vehicle, other than the engine, emission control system, or fuel system, shall be performed only as a result of part failure, vehicle system malfunction, or with the advance approval of the Administrator.

(10) Complete emission tests (see §§ 86.106 through 86.145) are required, unless waived by the Administrator, before and after any vehicle maintenance which may reasonably be expected to affect emissions. These test data shall be air posted to the Administrator within 24 hours (or delivered within 3 working days), after the tests, along with a complete record of all pertinent maintenance, including a preliminary engineering report of any malfunction diagnosis and the corrective action taken. A complete engineering report shall be delivered or air posted to the Administrator within 10 working days after the tests. In addition, all test data and maintenance reports shall be compiled and provided to the Administrator in accordance with § 86.079–23.

(11) The Administrator shall be given the opportunity to verify the existence of an overt indication of part failure and/or vehicle malfunction (e.g., misfiring, stalling, black smoke), or an activation of an audible and/or visual signal, prior to the performance of any maintenance to which such overt indication or signal is relevant under the provisions of this section.

(12) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets and

(i) Are used in conjunction with scheduled maintenance on such components,

(ii) Are used subsequent to the identification of a vehicle or engine malfunction, as provided in paragraph (a)(5)(i) of this section for durability-data vehicles or paragraph (a)(8)(i) of this section for emission-data vehicles, or

(iii) Unless specifically authorized by the Administrator.

(b) [Reserved]

(c) (1) *Heavy-duty engines.* Paragraph (c) of this section applies to heavy-duty engines.

(2) (i) The scheduled maintenance described in this section may be performed on a durability-data engine provided the maintenance is requested in the application for certification. Such scheduled maintenance must be specified at the same intervals in the maintenance instructions furnished to the ultimate purchaser of the vehicle in which the engine, represented by the test engine, is installed. (For equivalent dynamometer hours, engine hours, and mileage intervals, see § 86.079–2.) A scheduled major engine servicing shall be restricted to items listed in this subparagraph and shall be conducted in a manner consistent with service instructions and specifications provided by the manufacturer for use by the customer service personnel.

(A) For gasoline-fueled engines, major engine tuneups to manufacturer's specifications may be performed no more frequently than every 375 hours of scheduled dynamometer operation: *Provided*, No tuneups are performed after 1375 hours of scheduled dynamometer operation. The following items may be inspected, replaced, cleaned, adjusted, and/or serviced as required:

(*1*) Ignition system.

(*2*) Cold starting enrichment system (includes fast idle speed setting).

(*3*) Curb idle speed and air/fuel mixture.

(*4*) Drive belt tension on engine accessories.

(*5*) Valve lash.

(*6*) Inlet air and exhaust gas control valves.

(*7*) Engine bolt torque.

(*8*) Spark plugs.

(*9*) Fuel filter and air filter.

(*10*) Crankcase emission control system.

(*11*) Fuel evaporative emission control system.

(B) For Diesel engines one major engine servicing to the manufacturer's specifications may be performed prior to 875 hours (±8 hours) of scheduled dynamometer operation. The following items may be inspected, replaced, cleaned, adjusted, and/or serviced as required:

(*1*) Low idle speed.

(*2*) Drive belt tension.

(*3*) Engine bolt torque.

(*4*) Valve lash.

(*5*) Injection timing.

(*6*) Injector assemblies.

(*7*) Governor settings.

(C) Normal engine servicing such as engine oil change, and oil filter, fuel filter, and air filter cleaning or replacement will be allowed at manufacturer's recommended intervals. If approved in advance by the Administrator, the maintenance for these items may differ from that specified in the manufacturer's maintenance instructions.

(D) Readjustment of the engine low idle speed may be performed once during the first 125 hours of engine operation.

(ii) Unscheduled maintenance may be performed on durability-data engines, except as provided in paragraph (c)(2)(v)(A) of this section, only under the following provisions:

(A) An injector or spark plug may be changed if a persistent misfire is detected.

(B) Readjustment of a gasoline-fueled engine cold-start enrichment system may be performed if there is a problem of stalling or if there is visible black smoke.

(C) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, in addition to that performed as scheduled maintenance under paragraph (c)(2)(i) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 r.p.m. or more, or if there is a problem of stalling.

(D) The idle mixture may be reset, other than during scheduled major engine tuneups, only with the advance approval of the Administrator.

(iii) Any exhaust gas recirculation (EGR) system may be serviced during durability testing only under one of the following provisions:

(A) Manufacturers may schedule service to the EGR system at the scheduled major engine tuneup if an audible and/or visual signal approved by the Administrator alerts the engine operator to the need for EGR system maintenance at the service point. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test engine unrepresentative of engines in use.

(B) Manufacturers may service the EGR system as unscheduled maintenance a maximum of one time during durability testing (1500 hours for gasoline-fuel engines or 1000 hours for Diesel engines) if failure of the EGR system activates an audible and/or visual signal approved by the Administrator which alerts the engine operator to the need for EGR system maintenance. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test engine unrepresentative of engines in use.

(C) Manufacturers may service the EGR system a maximum of three times during durability testing (1500 hours for gasoline-fueled engines or 1000 hours for Diesel engines) either at a scheduled major engine tuneup point or as unscheduled maintenance, if an audible and/or visual signal approved by the Administrator alerts the engine operator to the need for EGR system maintenance. The signal may be activated either by EGR system failure (unscheduled maintenance) or need for scheduled periodic maintenance. If maintenance is performed, the signal for scheduled periodic maintenance shall be reset. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test engine unrepresentative of engines in use.

(D) Manufacturers may schedule service to the EGR system at the scheduled major engine tuneup(s) if failure to perform EGR system maintenance is not likely, as determined by the Administrator, to result in an improvement in engine performance. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test engine unrepresentative of engines in use.

(iv) The catalytic converter may be serviced once during durability testing (1500 hours for gasoline-fueled engines or 1000 hours for Diesel engines) if an audible and/or visual signal approved by the Administrator alerts the engine operator to the need for maintenance. The signal may be activated either by component failure or need for maintenance at a scheduled point.

(v) Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on durability-data engines shall be performed only with the advance approval of the Administrator.

(A) In the case of unscheduled maintenance such approval will be given if the Administrator:

(*1*) Has made a preliminary determination that part failure or system malfunction, or the repair of such failure or malfunction, does not render the engine unrepresentative of engines in use, and does not require direct access to the combustion chamber, except for spark plug, fuel injection component, or removable prechamber removal or replacement; and,

(*2*) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfiring, engine stalling, overheating, fluid leakage, loss of oil pressure, excessive fuel consumption or excessive power loss.

(B) Emission measurements may not be used as a means of determining the need for unscheduled maintenance under paragraph (c)(2)(v)(A)(*1*) of this section.

(C) Requests for authorization of scheduled maintenance of emission-control related components not specifically authorized to be maintained by these regulations must be made prior to the beginning of durability testing. The Administrator will approve the performance of such maintenance if the manufacturer makes a satisfactory showing that the maintenance will be performed on engines in use.

(vi) If the Administrator determines that part failure or system malfunction occurrence and/or repair rendered the engine unrepresentative of engines in use, the engine shall not be used as a durability-data engine.

(3)(i) Scheduled maintenance on emission-data engines is limited to the adjustment of idle speed once before the 125-hour test point, provided the idle speed is outside the manufacturer's specifications.

(ii) Any other engine, emission control system, or fuel system, adjustment, repair, removal, disassembly, cleaning, servicing, or replacement shall be performed only with the advance approval of the Administrator.

(4) [Reserved]

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(5) (i) Complete emission tests (see Subparts D or H of this part for gasoline-fueled engines and Subparts D and I, or I and J of this part for Diesel engines) are required, unless waived by the Administrator, before and after:

(A) Scheduled maintenance approved for durability-data engines, except maintenance performed under § 86.079–25(c)(2)(i)(c);

(B) Unscheduled maintenance which may reasonably be expected to affect emissions.

(ii) The tests before and after scheduled maintenance, which are performed on durability-data engines prior to 117 hours, are waived. The test before scheduled maintenance, which is performed on durability-data engines after 117 hours and prior to 133 hours, is waived. The after-maintenance test must be run and the results used in the deterioration factor calculation in accordance with § 86.079–28.

(iii) The idle speed reset and any scheduled maintenance on the emission-data engine shall be performed prior to the 125-hour test. The before-maintenance and after-maintenance tests associated with idle speed reset and scheduled maintenance on the emission-data engine are waived.

(iv) Test data required by this paragraph shall be air posted to the Administrator within 72 hours of test completion (or delivered within 5 working days), along with a complete record of all pertinent maintenance.

(v) When unscheduled maintenance is approved, a preliminary engineering report, unless waived by the Administrator, shall be air posted within 72 hours (or delivered within 5 working days). A final engineering report shall be delivered or air posted within 10 working days after the completion of the emission tests. The Administrator may approve an extension of the time requirements for the final engineering report.

(vi) All test data, maintenance reports, and required engineering reports shall be compiled and provided to the Administrator in accordance with § 86.079–23.

(6) The Administrator shall be given the opportunity to verify the existence of an overt indication of part failure and/or engine malfunction (e.g., misfiring, stalling).

(7) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets, and:

(i) Are used in conjunction with scheduled maintenance on such components;

(ii) Are used subsequent to the identification of an engine failure or malfunction, as provided in paragraph (c)(2)(v)(A) of this section for durability-data engines or paragraph (c)(3) of this section for emission-data engines; or,

(iii) Unless specifically authorized by the Administrator.

8. Section 86.079–26 is revised to read as follows:

§ 86.079–26 Mileage and service accumulation; emission measurements.

(a) (1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The procedure for mileage accumulation will be the Durability Driving Schedule as specified in Appendix IV to this part. A modified procedure may also be used if approved in advance by the Administrator. Except with the advance approval of the Administrator, all vehicles will accumulate mileage at a measured curb weight which is within 100 pounds of the estimated curb weight. If the loaded vehicle weight is within 100 pounds of being included in the next higher inertia weight class as specified in § 86.125, the manufacturer may elect to conduct the respective emission tests at the higher loaded vehicle weight. Mileage will be accumulated on four-wheel drive vehicles in their normal on-highway mode of operation.

(3) Emission-data vehicles.

(i) *Gasoline-fueled.* (A) Each gasoline-fueled emission-data vehicle shall be driven 4000 miles with all emission control systems installed and operating. Complete exhaust emission tests shall be conducted at zero miles and 4000 miles on those vehicles selected under § 86.079–24(b)(1)(ii) through (b)(1)(v). Complete exhaust and evaporative emission tests shall be conducted at zero miles and 4000 miles on those vehicles selected under § 86.079–24(b)(1)(vii). The manufacturer may at his option test the vehicles selected under § 86.079–29(b)(1)(vii) up to three times at the 4000-mile test point as long as the ±250-mile test tolerance is adhered to. The Administrator may determine under § 86.079–24(f) that no testing is required.

(B) The emission-data vehicle(s) selected for testing under § 86.079–24(b)(1)(v) or (b)(1)(vii)(D) shall be driven 6436 kilometers (4000 miles) at any altitude. Emission tests shall be conducted at zero kilometers (zero miles) at any altitude and 6436 kilometers (4000 miles) under high altitude conditions.

(C) The emission-data vehicle(s) selected for testing under § 86.079–24(b)(1)(v) or (b)(1)(vii)(D) and permitted to be tested for purposes of § 86.079–23(b)(1)(ii) under the provisions of § 86.079–24(b)(1)(vi) shall be driven 6436 kilometers (4000 miles) at low altitude. Emission tests shall be conducted at zero kilometers (zero miles) at low altitude and 6436 kilometers (4000 miles) under both low and high altitude conditions. For the purposes of this subparagraph, low altitude means any elevation less than 549 meters (1800 feet).

(ii) *Diesel.* (A) Each Diesel emission-data vehicle shall be driven 6436 kilometers (4000 miles) with all emission control systems installed and operating. Emission tests shall be conducted at zero kilometers (zero miles) and 6436 kilometers (4000 miles).

(B) The emission-data vehicle(s) selected for testing under § 86.079–24(b)(1)(v) shall be driven 6436 kilometers (4000 miles) at any altitude. Emission tests shall be conducted at zero kilometers (zero miles) at any altitude and 6436 kilometers (4000 miles) under high altitude conditions.

(C) The emission-data vehicle(s) selected for testing under § 86.079–24(b)(1)(v) and permitted to be tested for purposes of § 86.079–23(b)(1)(ii) under the provisions of § 86.079–24(b)(1)(vi) shall be driven 6436 kilometers (4000 miles) at low altitude. Emission tests shall be conducted at zero kilometers (zero miles) at low altitude and 6436 kilometers (4000 miles) under both low and high altitude conditions. For the purpose of this subparagraph low altitude means any elevation less than 549 meters (1800 feet).

(4) Durability-data vehicles.

(i) *Gasoline-fueled.* Each gasoline-fueled durability-data vehicle selected by the Administrator or elected by the manufacturer under § 86.079–24(c)(1) shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objective of this procedure. Complete exhaust emission tests shall be made on all durability-data vehicles selected by the Administrator or elected by the manufacturer under § 86.079–24(c) at the following mileage points: 0; 5000; 10,000; 15,000; 20,000; 25,000; 30,000; 35,000; 40,000; 45,000; 50,000. The Administrator may determine under § 86.079–24(f) that no testing is required.

(ii) *Diesel.* Each Diesel durability-data vehicle shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objectives of this procedure. Complete emission tests (see §§ 86.106 through 86.145) shall be made at the following mileage points: 0; 5,000; 10,000; 15,000; 20,000; 25,000; 30,000; 35,000; 40,000; 45,000; and 50,000.

(5) All tests required by this subpart to be conducted after every 5,000 miles of driving of durability-data vehicles and 4,000 miles for emission-data vehicles must be conducted at any accumulated mileage within 250 miles of each of those test points.

(6) (i) The results of each emission test shall be supplied to the Administrator immediately after the test. The manufacturer shall furnish to the Administrator explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. If a manufacturer conducts multiple tests at any test point at which the data are intended to be used in the calculation of the deterioration factor, the number of tests must be the same at each point and may not exceed three valid tests. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) shall be air posted to the Administrator within 24 hours (or delivered within 3 working days). In addition, all test data

shall be compiled and provided to the Administrator in accordance with § 86.079–23. Where the Administrator conducts a test on durability-data vehicle at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be rounded, using the "Rounding Off Method" specified in ASTM E 29–67, to the number of places to the right of the decimal point indicated by expressing the emission standards of this subpart to three significant figures.

(7) Whenever the manufacturer proposes to operate and test a vehicle which may be used for emission or durability data, he shall provide the zero-mile test data to the Administrator and make the vehicle available for such testing under § 86.079–29 as the Administrator may require before beginning to accumulate mileage on the vehicle. Failure to comply with this requirement will invalidate all test data submitted for this vehicle.

(8) Once a manufacturer begins to operate an emission-data or durability-data vehicle, as indicated by compliance with paragraph (a)(7) of this section, he shall continue to run the vehicle to 4,000 miles or 50,000 miles, respectively, and the data from the vehicle will be used in the calculations under § 86.079–28. Discontinuation of a vehicle shall be allowed only with the written consent of the Administrator.

(9) (i) The Administrator may elect to operate and test any test vehicle during all or any part of the mileage accumulation and testing procedure. In such cases, the manufacturer shall provide the vehicle(s) to the Administrator with all information necessary to conduct this testing.

(ii) The test procedures in §§ 86.106 through 86.145 will be followed by the Administrator. The Administrator will test the vehicles at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other vehicles of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(10) Emission testing of any type with respect to any certification vehicle other than that specified in this subpart is not allowed except as such testing may be specifically authorized by the Administrator.

(11) This section does not apply to testing conducted to meet the requirements of § 86.079–23(b)(2).

(b) (1) Paragraph (b) of this section applies to heavy-duty engines.

(2) (i) For gasoline-fueled engines, the dynamometer service accumulation schedule will consist of several operating conditions which give the percent loads and the modes as specified in the following chart. The percentage of time in each mode must be held within the limits specified. The maximum observed torque for each mode in the service accumulation cycle must be determined at the rpm at which the mode is being conducted. The percent load for that mode will be determined from the maximum torque at the rpm at which the mode is being conducted.

Mode	Observed torque (percentage of maximum observed)	Percentage of time
Idle	Idle	23 (22 to 24).
CT	CT	14 (13 to 15).
PTO	10	6 (5 to 7).
Cruise	25	31 (30 to 32).
PTA	55	15 (14 to 16).
FL	90	11 (10 to 12).

(ii) The equivalent control parameter for engine loading will be manifold vacuum, manifold pressure, or torque. Usage of one of the three parameters will require approval in advance by the Administrator. The control parameter values that correspond to the appropriate percent loads as specified in the emission test cycle will be initially determined at the zero-hour point or after an appropriate break-in procedure. The control parameter values determined initially will be used for the entire service accumulation schedule. If at any time during the service accumulation, the 90 percent torque value cannot be attained, the engine shall be operated at wide-open throttle.

(iii) The average speed shall be between 1,650 and 1,700 rpm. Subject to the requirements as to average speed, there must be operation at speeds in excess of 3,200 rpm (but not in excess of governed speed for governed engines or rated speed for non-governed engines) for a cumulative maximum of 0.5 percent of the actual cycle time, excluding time in transient conditions. Maximum cycle time shall be 15 minutes. A cycle approved in advance by the Administrator shall be used.

(3) (i) For Diesel engines, the following criteria must be met before service accumulation can begin. Failure to comply with these requirements shall invalidate all test data submitted for an engine.

(A) Each engine shall produce at least 95 percent of the maximum horsepower, corrected to rating conditions, at 95 to 100 percent of the rated speed.

(B) The fuel rate at maximum horsepower shall be within manufacturer's specifications.

(ii) During service accumulation, hours can be credited toward the required service accumulation hours when the following criteria are met. If these criteria cannot be met, engine operation shall be discontinued and the Administrator shall be notified immediately. (Adjustments to the fuel rate can be approved under the provisions of § 86.079–25.)

(A) Each engine shall produce at least 95 percent of the maximum horsepower, at 95 to 100 percent of the rated speed, observed at the zero-hour point. Horsepower values shall be corrected to the rating conditions.

(B) The engine shall be operated at 75 percent of the inlet and exhaust restrictions specified in § 86.879–8 except that the tolerance will be ±3 inches of water and ±0.5 inch of Hg respectively.

(C) During each emission test the inlet and exhaust restrictions shall be as specified in § 86.879–8.

(4) If a break-in procedure is used the procedure must be the same as recommended to the ultimate purchaser. Prior approval by the Administrator is required for use of any break-in procedure. The hours accumulated during the break-in procedure will not be counted as part of the service accumulation.

(5) Emission-data engines: Each emission-data engine shall be operated for 125 hours with all emission control systems installed and operating. An emission test shall be conducted at 125 hours. A zero-hour emission may be performed after the engine has been approved by the Administrator to begin service accumulation. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

(6) Durability-data engines: Each gasoline-fueled durability-data engine shall be operated, with all emission control systems installed and operating, for 1,500 hours. Each Diesel durability-data engine shall be operated for 1,000 hours. Emission measurement, as prescribed, shall be made at 125-hour intervals beginning at 125 hours of operation. A zero-hour emission test may be performed after the engine has been approved by the Administrator to begin service accumulation. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

(7) All tests required by this subpart to be conducted after 125 hours of operation or at any multiple of 125 hours may be conducted at any accumulated number of hours within 8 hours of 125 hours or the appropriate multiple of 125 hours respectively.

(8) (i) Daata from all emission tests (including voided tests) shall be air posted to the Administrator within 72 hours (or delivered within 5 working days). The manufacturer shall furnish to the Administrator an explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. If a manufacturer conducts multiple tests at any test point at which the data are intended to be used in the calculation of the deterioration factor, the number of tests must be the same at each point and may not exceed 3 valid tests. Tests between test points may be conducted as required by the Administrator. In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.079–23. Where the Administrator conducts a test on a durability-data engine at a prescribed test point, the results of that test will

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be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be recorded and reported to the Administrator using two places to the right of the decimal point. These numbers shall be rounded in accordance with the "Rounding Off Method" specified in ASTM E 29–67.

(9) Whenever the manufacturer proposes to operate and test an engine which may be used for emission or durability data, he shall provide such information concerning components used on the engine as the Administrator may require and make the engine available for such testing under § 86.079–29 as the Administrator may require, before beginning to accumulate hours on the engine. Failure to comply with this requirement will invalidate all test data later submitted for this engine.

(10) Once a manufacturer begins to operate an emission-data or durability-data engine, as indicated by compliance with paragraph (b) (9) of this section, he shall continue to run any emission-data engine to 125 hours, any gasoline-fueled durability-data engine to 1,500 hours, and any Diesel durability-data engine to 1000 hours. The data from the engine will be used in the calculations under § 86.345. Discontinuation of an engine shall be allowed only with the prior written consent of the Administrator.

(11) (i) The Administrator may elect to operate and test any test engine during all or any part of the service accumulation and testing procedure. In such cases the manufacturer shall provide the engine(s) to the Administrator with all information necessary to conduct the testing.

(ii) The test procedures (Subparts D or H of this part for gasoline-fueled engines, and Subparts D, I, or J of this part for Diesel engines) will be followed by the Administrator. The Administrator will test the engines at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other engines of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(12) Emission testing of any type with respect to any certification engine other than that specified in this subpart is not allowed except as such testing may be specifically authorized by the Administrator.

9. New §§ 86.079–27 through 86.079–29 are added and read as follows:

§ 86.079–27 Special test procedures.

(a) For light-duty vehicles and light-duty trucks the Administrator may, on the basis of a written application therefore by a manufacturer, prescribe test procedures, other than those set forth in this part, for any motor vehicle which he determines is not susceptible to satisfactory testing by the procedures set forth herein or in Subpart B of this part.

(b) For heavy-duty engines:

(1) The Administrator, may on the basis of a written application therefore by a manufacturer, prescribe test procedures, other than those set forth in this subpart, for any motor-vehicle engine which he determines is not susceptible to satisfactory testing by the procedures set forth herein or in Subparts D and I of this part.

(2) If the manufacturer does not submit a written application for use of special test procedures but the Administrator determines that a motor-vehicle engine is not susceptible to satisfactory testing by the procedures set forth herein, the Administrator will reject the applicable portions of the application. The Administrator shall notify the manufacturer in writing and set forth the reasons for such rejection in accordance with the provisions of § 86.079–22(c).

§ 86.079–28 Compliance with emission standards.

(a) (1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The applicable exhaust and fuel evaporative emission standards of this subpart apply to the emissions of vehicles for their useful life.

(3) Since it is expected that emission control efficiency will change with mileage accumulation on the vehicle, the emission level of a vehicle which has accumulated 50,000 miles will be used as the basis for determining compliance with the standards.

(4) The procedure for determining compliance of a new motor vehicle with exhaust emission standards is as follows:

(i) Separate emission deterioration factors shall be determined from the exhaust emission results of the durability-data vehicle(s) for each engine-system combination. A separate factor shall be established for exhaust HC, exhaust CO, and exhaust NO_x for each engine-system combination. A separate evaporative emission deterioration factor shall be determined for each evaporative emission family-evaporative emission control system combination from the testing conducted by the manufacturer.

(A) The applicable results to be used in determining the exhaust emission deterioration factors for each engine-system combination shall be:

(1) All valid exhaust emission data from the tests required under § 86.079–26(a)(4) except the zero-mile tests. These shall include the official test results, as determined in § 86.079–29 for all tests conducted on all durability-data vehicles of the combination selected under § 86.079–24(c) (including all vehicles elected to be operated by the manufacturer under § 86.079–24(c)(1)(ii)).

(2) All exhaust emission data from the tests conducted before and after the scheduled maintenance provided in § 86.079–25.

(3) All exhaust emission data from tests required by maintenance approved under § 86.079–25, in those cases where the Administrator conditioned his approval for the performance of such maintenance on the inclusion of such data in the deterioration factor calculation.

(B) All applicable exhaust emission results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through all these data points. The interpolated 4,000- and 50,000-mile points on this line must be within the standards provided in § 86.078–8 or § 86.079–9, as applicable, or the data will not be acceptable for use in calculation of a deterioration factor, unless no applicable data point exceeded the standard. An exhaust emission deterioration factor shall be calculated for each engine-system combination as follows:

Factor = Exhaust emissions interpolated to 50,000 miles ÷ exhaust emissions interpolated to 4,000 miles.

These interpolated values shall be carried out to a minimum of four places to the right of the decimal point before dividing one by the other to determine the deterioration factor. The results shall be rounded to three places to the right of the decimal point in accordance with ASTM E 29–67.

(C) An evaporative emissions deterioration factor shall be determined from the testing conducted as described in § 86.079–21(b)(4)(ii), for each evaporative emission family-evaporative emission control system combination to indicate the evaporative emission level at 50,000 miles relative to the evaporative emission level at 4,000 miles as follows:

Factor = Evaporative emission level at 50,000 miles minus the evaporative emission level at 4,000 miles.

The factor shall be established to a minimum of two places to the right of the decimal.

(ii) (A) The official exhaust emission test results for each emission-data vehicle at the 4,000-mile test point shall be multiplied by the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in paragraph (a)(4)(i)(B) of this section is less than one, that deterioration factor shall be one for the purposes of this paragraph.

(B) The official evaporative emission test results for each evaporative emission-data vehicle at the 4,000-mile test point shall be adjusted by addition of the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in paragraph (a)(4)(i)(C) of this section is less than zero, that deterioration factor shall be zero for the purposes of this paragraph.

(iii) The emissions to compare with the standard shall be the adjusted emissions of paragraph (a)(4)(ii) (A) and (B) of this section for each emission-data vehicle. Before any emission value is compared with the standard, it shall be rounded, in accordance with ASTM E 29–67, to two significant figures. The rounded emission values may not exceed the standard.

(iv) Every test vehicle of an engine family must comply with the exhaust emission standards, as determined in paragraph (a)(4)(iii) of this section, before any vehicle in that family may be certified.

(v) Every test vehicle of an evaporative emission family must comply with the evaporative emission standards, as determined in paragraph (a)(4)(iii) of this section, before any vehicle in that family may be certified.

(b) (1) Paragraph (b) of this section applies to heavy-duty engines.

(2) The exhaust emission standards for gasoline-fueled engines in § 86.079–10 or for Diesel engines in § 86.079–11 apply to the emissions of engines for their useful life.

(3) Since emission control efficiency decreases with the accumulation of hours on the engine, the emission level of a gasoline-fueled engine which has accumulated 1,500 hours of dynamometer operation or a Diesel engine which has accumulated 1,000 hours of dynamometer operation will be used as the basis for determining compliance with the standards.

(4) The procedure for determining compliance of a new engine with exhaust emission standards is as follows:

(i) Separate emission deterioration factors shall be determined from the emission results of the durability-data engines for each engine-system combination. Separate factors shall be established for HC, CO, and for the combined emissions of HC and NOx. For Diesel engines, separate factors shall also be established for the acceleration mode (designated as "A"), the lugging mode (designated as "B") and the peak opacity (designated as "C").

(A) The applicable results to be used in determining the deterioration factors for each combination shall be:

(*1*) All valid emission data from the tests required under § 86.079–26(b). These shall include the official test results, as determined in § 86.079–29, for all tests conducted on all gasoline-fueled durability-data engines of the combination selected under § 86.079–24(c)(2) or on all Diesel durability-data engines of the combination selected under § 86.079–24(c)(3) (including all engines elected to be operated by the manufacturer under § 86.079–24(c)(2)(iii) for gasoline-fueled engines or under § 86.079–24(c)(3)(ii) for Diesel engines).

(*2*) All emission data from the tests conducted before and after maintenance provided in § 86.079–25(c)(2)(i)(A) for gasoline-fueled engines or in § 86.079–25(c)(2)(i)(B) for Diesel engines.

(*3*) All emission data from the tests conducted before and after maintenance provided in § 86.079–25(c)(2)(v)(C) for Diesel engines if emission tests were conducted.

(B) All applicable emission results for (1) HC, (2) CO, (3) HC+NOx, (4) acceleration smoke ("A"), (5) lugging smoke ("B"), and (6) peak smoke ("C") shall be plotted as a function of durability hours which shall be consistently rounded to the nearest hour. Emission data shall have two figures to the right of the decimal. The best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 125-hour and 1,500-hour points for gasoline-fueled engines or the 1,000-hour point for Diesel engines on each line, rounded to whole numbers in accordance with ASTM E 29–67, must be within the standards specified in § 86.079–10 for gasoline-fueled engines or in § 86.079–11 for Diesel engines or the data shall not be used in the calculation of a deterioration factor, unless no applicable data points exceed the standards.

(C) The interpolated values shall be used to calculate a deterioration factor as follows:

Factor = Exhaust emissions interpolated to 1,500 hours for gasoline-fueled engines or to 1,000 hours for Diesel engines minus the exhaust emissions interpolated to 125 hours. (Negative deterioration factors shall be considered zero.)

(ii) The appropriate deterioration factor, carried out to two places to the right of the decimal point, shall be added to the exhaust emission test results, carried out to two places to the right of the decimal point, for each emission-data engine.

(iii) The emission values to compare with the standards shall be the adjusted emission values of paragraph (b)(4)(ii) of this section rounded to two significant figures in accordance with ASTM E 29–67 for each emission-data engine.

(iv) Every test engine of engine family must comply with all applicable standards, as determined in paragraph (b)(4)(iii) of this section, before any engine in that family will be certified.

§ 86.079–29 Testing by the Administrator.

(a) (1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The Administrator may require that any one or more of the test vehicles be submitted to him, at such place or places as he may designate, for the purposes of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3) (i) Whenever the Administrator conducts a test on a test vehicle, the results of that test shall, unless subsequently invalidated by the Administrator, comprise the official data for the vehicle at the prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on a test vehicle at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided*, That if the Administrator makes a determination based on testing under paragraph (a)(2) of this section that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer: *And further provided*, That if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provisions of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission of further information. If the manufacturer conducts more than one test on a vehicle, as authorized under § 86.079–26(a)(3)(i)(A), the data from the last test in that series of tests on that vehicle will constitute the official data.

(iii) (A) The emission-data vehicle presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the vehicle label (see § 86.079–35(a)(1)(iii)(D)) as specified in the application for certification. If the Administrator determines that a vehicle is not within such tolerances, the vehicle shall be adjusted at the facility designated by the Administrator prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report, the Administrator will determine if the vehicle shall be used as an emission-data vehicle.

(B) If the Administrator determines that the test data developed on an emission-data vehicle under paragraph (a)(3)(i) of this section would cause that vehicle to fail due to excessive 4,000 mile emissions or by application of the appropriate deterioration factor, then the following procedure shall be observed:

(*1*) The manufacturer may request a retest. Before the retest, the vehicle may be readjusted to manufacturer's specifications, if these adjustments were made incorrectly prior to the first test, and other maintenance or repairs may be performed in accordance with § 85.079–25. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(*2*) The vehicle will be retested by the Administrator and the results of this test shall comprise the official data for the emission-data vehicle.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (a)(2) of this section to enable the Administrator to determine whether an

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emission-data vehicle would fail, the manufacturer may request a retest in accordance with the provisions of paragraphs (a)(3)(iii) (A) and (B) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the vehicle from the test premises.

(b) (1) Paragraph (b) of this section applies to heavy-duty engines.

(2) The Administrator may require that any one or more of the test engines be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3) (i) Whenever the Administrator conducts a test on a test engine the results of that test, unless subsequently invalidated by the Administrator, shall comprise the official data for the engine at that prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on a test engine at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided*, That if the Administrator makes a determination based on testing under paragraph (b)(2) of this section that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer: *And further provided*, That if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provision of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission of further information.

(iii) (A) The emission-data engine presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the engine label (see § 86.079-35(a)(2)(iii)) as specified in the application for certification. If the Administrator determines that an engine is not within such tolerances, the engine shall be adjusted at the facility designated by the Administrator prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report the Administrator will determine if the engine shall be used as an emission-data engine.

(B) If the Administrator determines that the test data developed under paragraph (b)(3)(iii)(A) of this section would cause the emission-data engine to fail due to excessive 125-hour emission values or by the application of the appropriate deterioration factor, then the following procedure shall be observed.

(*1*) The manufacturer may request a retest. Before the retest, the engine may be readjusted to manufacturer's specifications if these adjustments were made incorrectly prior to the first test, and other maintenance or repairs may be performed in accordance with § 86.079-25. All work on the engine shall be done at such location and under such conditions as the Administrator may prescribe.

(*2*) The engine will be retested by the Administrator and the results of this test shall comprise the official data for the emission-data engine.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (b)(2) of this section to enable the Administrator to determine whether an emission-data engine would fail, the manufacturer may request a retest in accordance with the provisions of paragraphs (b)(3)(iii)(B) (*1*) and (2) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the engine from the test premises.

10. Section 86.079-30 is revised to read as follows:

§ 86.079-30 Certification.

(a) (1) If, after a review of the test reports and data submitted by the manufacturer, data derived from any inspection carried out under § 86.078-7(c) and any other pertinent data or information, the Administrator determines that a test vehicle(s) (or test engine(s)) meets the requirements of the Act and of this subpart, he will issue a certificate of conformity with respect to such vehicle(s) (or engine(s)) except in cases covered by paragraph (c) of this section. If applicable, the certificate will state which vehicles are certified for sale at high altitude.

(2) Such certificate will be issued for such period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motor vehicle (or new motor vehicle engine) covered by the certificate will meet the requirements of the Act and of this part. Each such certificate shall contain the following language:

This certificate covers only those new motor vehicles (or new motor vehicle engines) which conform, in all material respects, to the design specifications that applied to those vehicles (or engines) described in the application for certification and which are produced during the ----- model year production period of the said manufacturer, as defined in 40 CFR 86.079-2.

It is a term of this certificate that the manufacturer shall consent to all inspections described in 40 CFR 86.078-7(c) which concern either the vehicle (or engine) certified, or any production vehicle (or production engine) covered by this certificate, or any production vehicle (or production engine) which when completed will be claimed to be covered by this certificate. Failure to comply with all the requirements of § 86.078-7(c) with respect to any such vehicle (or engine) may lead to revocation or suspension of this certificate as specified in 40 CFR § 86.079-30(c). It is also a term of this certificate that this certificate may be revoked or suspended for the other reasons stated in § 86.079-30 (c) or (d).

(3) One such certificate will be issued for each engine family and will certify compliance with no more than one set of applicable standards except that for gasoline-fueled light-duty vehicles and light-duty trucks, one such certificate will be issued for each engine family-evaporative emission family combination and will certify compliance with no more than one set of applicable standards.

(4) A violation of section 203(a)(1) of the Clean Air Act occurs when any manufacturer sells, offers for sale, introduces or delivers for introduction into commerce any light-duty vehicle or light-duty truck, subject to the regulations under the Act, which is not covered by a certificate of conformity at high altitude issued under this part:

(i) At a designated high-altitude location, unless such manufacturer has substantial reason to believe that such motor vehicle will not be sold to an ultimate purchaser for principal use at a designated high-altitude location; or,

(ii) At an other than designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle is intended by the ultimate purchaser to be used principally at a designated high-altitude location.

(5) For the purpose of paragraph (a) of this section, "designated high-altitude location" is any county which has substantially all of its area located above 1,219 meters (4,000 feet) and which is identified below.

COUNTIES LOCATED SUBSTANTIALLY ABOVE 1,219 METERS (4,000 FEET) IN ELEVATION

STATE OF ARIZONA	
Apache	Navajo
STATE OF COLORADO	
Adams	Jefferson
Alamosa	Lake
Arapahoe	La Plata
Archuleta	Larimer
Boulder	Las Animas
Chaffee	Lincoln
Clear Creek	Mesa
Conejos	Mineral
Costilla	Moffat
Crowley	Montezuma
Custer	Montrose
Dolores	Morgan
Delta	Ouray
Denver	Park
Douglas	Pitkin
Eagle	Pueblo
Elbert	Rio Banco
El Paso	Rio Grande
Fremont	Routt
Garfield	Saguache
Gilpin	San Juan
Grant	San Miguel
Gunnison	Summit
Hinsdale	Teller
Huerfano	Washington
Jackson	Weld

STATE OF IDAHO	
Bannock	Custer
Bear Lake	Franklin
Bingham	Fremont
Blaine	Jefferson
Bonneville	Madison
Butte	Minidoka
Camas	Oneida
Caribou	Power
Cassia	Teton
Clark	Valley
STATE OF MONTANA	
Beaverhead	Madison
Deer Lodge	Meagher
Gallatin	Park
Jefferson	Silver Bow
STATE OF NEBRASKA	
Banner	Sioux
Kimball	
STATE OF NEVADA	
Carson City	Lander
Douglas	Lyon
Elko	Mineral
Esmeralda	Storey
Eureka	White Pine
Humboldt	
STATE OF NEW MEXICO	
Bernalillo	Mora
Catron	Rio Arriba
Colfax	Sandoval
Curry	San Juan
De Baca	San Miguel
Grant	Santa Fe
Guadalupe	Sierra
Harding	Socorro
Lincoln	Taos
Los Alamos	Torrance
Luna	Union
McKinley	Valencia
STATE OF OREGON	
Lake	
STATE OF UTAH	
Beaver	Piute
Box Elder	Rich
Cache	Salt Lake
Carbon	San Juan
Daggett	Sanpete
Davis	Sevier
Duchesne	Summit
Emery	Tooele
Grand	Uintah
Iron	Utah
Juab	Wasatch
Kane	Wayne
Millard	Weber
Morgan	
STATE OF WYOMING	
Albany	Natrona
Carbon	Niobrara
Converse	Park
Fremont	Platte
Goshen	Sublette
Hot Springs	Sweetwater
Johnson	Teton
Laramie	Uinta
Lincoln	Weston

(6) The provisions of paragraph (a)(4) of this section shall not apply to any light-duty vehicle or light-duty truck, sold, offered for sale, introduced, or delivered for introduction into commerce in California, provided that the vehicle is covered by a certificate of conformity with emission standards in effect in California.

(7) Certificates issued for light-duty vehicles or light-duty trucks certified with catalytic converters shall be subject to the following term in addition to the term in paragraph (a)(2) of this section: "Catalyst-equipped vehicles, otherwise covered by this certificate, which are driven outside the United States, Canada, and Mexico will be presumed to have been operated on leaded gasoline resulting in deactivation of the catalysts. If these vehicles are imported or offered for the importation without retrofit of the catalyst, they will be considered not to be within the coverage of this certificate unless included in a catalyst control program operated by a manufacturer or a United States Government Agency and approved by the Administrator."

(8) Certificates issued for incomplete light-duty trucks shall be subject to the following term in addition to the term in paragraph (a)(2) of this section: "For incomplete light-duty trucks, this certificate covers only those new motor vehicles which when completed by having the primary load-carrying device or container attached, conform to the maximum curb weight and frontal area limitations described in the application for certification as required in 40 CFR 86.079-21(d)."

(9) Certificates issued for heavy-duty engines shall be subject to the following term in addition to the term in paragraph (a)(2) of this section: "For heavy-duty engines, this certificate covers only those new motor vehicle engines installed in heavy-duty vehicles which conform to the minimum gross vehicle weight rating, curb weight, or frontal area limitations for heavy-duty vehicles described in 40 CFR 86.079-2."

(b) (1) The Administrator will determine whether a vehicle (or engine) covered by the application complies with applicable standards by observing the following relationships:

(i) *Light-duty vehicles and light-duty trucks.* (A) The durability-data vehicle(s) selected under § 86.079-24(c)(1)(i) shall represent all vehicles of the same engine-system combination.

(B) The emission-data vehicle(s) selected under § 86.079-24(b)(1)(ii), (b)(1)(iii), and (b)(1)(iv) shall represent all vehicles of the same engine-system combination as applicable to be sold below 4,000 ft.

(C) The emission-data vehicle(s) selected under § 86.079-24(b)(1)(vii)(A) and (b)(i)(vii)(B) shall represent all vehicles of the same evaporative control system within the evaporative family, as applicable, to be sold below 4,000 ft.

(D) The emission-data vehicle(s) selected under § 86.079-24(b)(1)(v) shall represent all vehicles of the same engine-system combination to be sold at high altitude.

(E) The emission-data vehicle(s) selected under § 86.079-24(b)(1)(vii)(D) shall represent all vehicles of the same evaporative control system within the evaporative family sold at high altitude.

(ii) *Gasoline-fueled heavy-duty engines.* (A) A test engine selected under § 86.079-24(b)(2)(ii) and (iv) shall represent all engines in the same engine family of the same engine displacement-exhaust emission controll system combination.

(B) A test engine selected under § 86.079-24(b)(2)(iii) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(C) A test engine selected under § 86.079-24(c)(2)(i) shall represent all engines of the same engine-system combination.

(iii) *Diesel heavy-duty engines.* (A) A test engine selected under § 86.079-24(b)(3)(ii) shall represent all engines in the same engine-system combination.

(B) A test engine selected under § 86.079-24(b)(3)(iii) shall represent all engines of that emission control system at the rated fuel delivery of the test engines.

(C) A test engine selected under § 86.078-24(c)(3)(i) shall represent all engines of the same engine-system combination.

(2) The administrator will proceed as in paragraph (a) of this section with respect to the vehicles (or engines) belonging to an engine family or engine family-evaporative emission family combination (as applicable), all of which comply with all applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer, data derived from any additional testing conducted pursuant to § 86.079-29, data or information derived from any inspection carried out under § 86.078-7(c) or any other pertinent data or information, the Administrator determines that one or more test vehicles (or test engines) of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078-6 with respect to such issue.

(4) For light-duty vehicles and light-duty trucks the manufacturer may, at his option, proceed with any of the following alternatives with respect to an emission-data vehicle determined not in compliance with all applicable standards for which it was tested:

(i) Request a hearing under § 86.078-6; or

(ii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed, from his application;

(A) If the failed vehicle was tested for compliance with exhaust emission standards only: The Administrator may select, in place of the failed vehicle, in

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accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle to be tested for exhaust emission compliance only.

(B) If the failed vehicle was tested for compliance with both exhaust and evaporative emission standards: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle which will be tested for compliance with both exhaust and evaporative emission standards. If one vehicle cannot be selected in accordance with the selection criteria employed in selecting the failed vehicle, then two vehicles may be selected (i.e., one vehicle to satisfy the exhaust emission vehicle selection criteria and one vehicle to satisfy the evaporative emission vehicle selection criteria). The vehicle selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicle selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed from the application and add a vehicle configuration(s) (or evaporative vehicle configuration(s), as applicable) not previously listed. The Administrator may require, if applicable, that the failed vehicle be modified to the new engine code (or evaporative emission code, as applicable) and demonstrate by testing that it meets applicable standards for which it was originally tested. In addition, the Administrator may select, in accordance with the vehicle selection criteria given in § 86.079–24(b), a new emission-data vehicle or vehicles. The vehicles selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicles selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative mission standards; or

(iv) Correct a component or system malfunction and show that with a correctly functioning system or component the failed vehicle meets applicable standards for which it was originally tested. The Administrator may require a new emission-data vehicle, of identical vehicle configuration (or evaporative vehicle configuration, as applicable) to the failed vehicle, to be operated and tested for compliance with the applicable standards for which the failed vehicle was originally tested.

(5) For heavy-duty engines the manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test engine(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 86.078–6; or

(ii) Delete from the application for certification the engines represented by the failing test engine. (Engines so deleted may be included in a later request for certification under § 86.079–32.) The Administrator will then select in place of each failing engine an alternate engine chosen in accordance with selection criteria employed in selecting the engine that failed; or

(iii) Modify the test engine and demonstrate by testing that it meets applicable standards. Another engine which is in all material respects the same as the first engine, as modified, shall then be operated and tested in accordance with applicable test procedures.

(6) If the manufacturer does not request a hearing or present the required data under paragraphs (b)(4) or (b)(5) (as applicable) of this section, the Administrator will deny certification.

(c) (1) Notwithstanding the fact that any certification vehicle(s) (or certification engine(s)) may comply with other provisions of this subpart, the Administrator may withhold or deny the issuance of a certificate of conformity (or suspend or revoke any such certificate which has been issued) with respect to any such vehicle(s) (or engine(s)) if:

(i) The manufacturer submits false or incomplete information in his application for certification thereof;

(ii) The manufacturer renders inaccurate or invalid any test data which he submits pertaining thereto or otherwise circumvents the intent of the Act or of this part with respect to such vehicle (or engine);

(iii) Any EPA Enforcement Officer is denied access on the terms specified in § 86.078–7(c) to any facility or portion thereof which contains any of the following:

(A) The vehicle (or engine);

(B) Any components used or considered for use in its modification or build-up into a certification vehicle (or certification engine);

(C) Any production vehicle (or production engine) which is or will be claimed by the manufacturer to be covered by the certificate;

(D) Any step in the construction of a vehicle (or engine) described in (C) of this subdivision;

(E) Any records, documents, reports, or histories required by this part to be kept concerning any of the above;

(iv) Any EPA Enforcement Officer is denied "reasonable assistance" (as defined in § 86.078–7(c)) in examining any of the items listed in paragraph (c)(1)(iii) of this section.

(2) The sanctions of withholding, denying, revoking, or suspending of a certificate may be imposed for the reasons in paragraphs (c)(1)(i), (ii), (iii), or (iv) of this section only when the infraction is substantial.

(3) In any case in which a manufacturer knowingly submits false or inaccurate information or knowingly renders inaccurate or invalid any test data or commits any other fraudulent acts and such acts contribute substantially to the Administrator's decision to issue a certificate of conformity, the Administrator may deem such certificate void ab initio.

(4) In any case in which certification of a vehicle (or engine) is proposed to be withheld, denied, revoked, or suspended under paragraph (c)(1)(iii) or (c)(1)(iv) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.078–7(c) in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle (or engine) in question was not involved in the violation to a degree that would warrant withholding denial, revocation, or suspension of certification under either paragraph (c)(1)(iii) or (c)(1)(iv) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(5) Any revocation or suspension of certification under paragraph (c)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.078–6 hereof.

(ii) Extend no further than to forbid the introduction into commerce of vehicles (or engines) previously covered by the certification which are still in the hands of the manufacturer, except in cases of such fraud or other misconduct as makes the certification invalid ab initio.

(6) The manufacturer may request in the form and manner specified in paragraph (b)(3) of this section that any determination made by the Administrator under paragraph (c)(1) of this section to withhold or deny certification be reviewed in a hearing conducted in accordance with § 86.078–6. If the Administrator finds, after a review of the request and supporting data, that the request raises a substantial factual issue he will grant the request with respect to such issue.

(d) (1) Notwithstanding the fact that any vehicle configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 86.603; or

(ii) The manufacturer refuses to comply with any of the requirements of § 86.603; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirements of § 86.609; or

(iv) The manufacturer renders inaccurate any test data which he submits pursuant to § 86.609; or

(v) Any EPA Enforcement Officer is denied access to a facility on the terms specified in § 86.606; or

(vi) Any EPA Enforcement Officer is denied the opportunity on the terms specified in § 86.606 to:

(A) Monitor vehicle selection pursuant to § 86.607, or

(B) Select vehicles for testing pursuant to § 86.607, or

(C) Monitor vehicle testing performed to satisfy any of the requirements of this part; or

(vii) Any EPA Enforcement Officer is denied "reasonable assistance" as defined in § 86.606 in examining any of the items listed in that section; or

(viii) The manufacturer refuses to comply with the requirements of §§ 86.604(a), 86.605, and 86,607, 86.608, 86.610, or 86.611.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraphs (d)(1)(i), (ii), or (viii) of this section where such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with those requirements. Such conditions and circumstances shall include, but not be limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanctions of suspending a certificate may be imposed for the reasons in paragraphs (d)(1)(iii), (iv), (v), (vi), or (vii) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submitted false or inaccurate information or knowingly rendered inaccurate any test data or committed any other fraudulent acts, and such acts contributed substantially to the Administrator's original decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a vehicle is proposed to be suspended under paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.608 in fact occurred, the manufacturer, if he wishes to contend that even though the violation occurred, the vehicle configuration or engine family in question was not involved in the violation to the degree that would warrant suspension of certification under either paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (d)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.613 hereof, and

(ii) Not apply to vehicles no longer in the hands of the manufacturer.

11. New §§ 86.079–31 through 86.079–34 are added and read as follows:

§ 86.079–31 Separate certification.

Where possible a manufacturer should include in a single application for certification all vehicles (or engines) for which certification is required. A manufacturer may, however, choose to apply separately for certification of part of his product line. The selection of test vehicles (or test engines) and the computation of test results will be determined separately for each application.

§ 86.078–32 Addition of a vehicle or engine after certification.

(a) If a manufacturer proposes to add to his product line a vehicle (or engine) of the same engine-system combination as vehicles (or engines) previously certified but which was not described in the application for certification when the test vehicle(s) (or test engine(s)) representing other vehicles (or engines) of that combination was certified, he shall notify the Administrator. Such notification shall be in advance of the addition unless the manufacturer elects to follow the procedure described in § 86.079–34. This notification shall include a full description of the vehicle (or engine) to be added.

(b) The Administrator may require the manufacturer to perform such tests on the test vehicle(s) (or test engine(s)) representing the vehicle (or engine) to be added which would have been required if the vehicle (or engine) had been included in the original application for certification.

(c) If, after a review of the test reports and data submitted by the manufacturer, and data derived from any testing conducted under § 86.079–29, the Administrator determines that the test vehicle(s) or test engine(s) meets all applicable standards, the appropriate certificate will be amended accordingly. If the Administrator determines that the test vehicle(s) (or test engine(s)) does not meet applicable standards, he will proceed under § 86.079–30(b).

§ 86.079–33 Changes to a vehicle or engine covered by certification.

(a) The manufacturer shall notify the Administrator of any change in production vehicles (or production engines) in respect to any of the parameters listed in § 86.079–24(a)(3), § 86.079–24(b)(1)(iii), § 86.079–24(b)(2)(iii) or § 86.079–24(b)(3)(iii) as applicable, giving a full description of the change. Such notification shall be in advance of the change unless the manufacturer elects to follow the procedure described in § 86.079–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the vehicle (or engine), as modified, would still be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that the outstanding certificate would cover the modified vehicles (or engines) he will notify the manufacturer in writing. Except as provided in § 86.079–34 the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified vehicles (or engines) would not be covered by the certificate then in effect, the modified vehicles (or engines) shall be treated as additions to the product line subject to § 86.079–32.

§ 86.079–34 Alternative procedure for notification of additions and changes.

(a) A manufacturer may, in lieu of notifying the Administrator in advance of an addition of a vehicle (or engine) under § 86.079–32 or a change in a vehicle (or engine) under § 86.079–33 notify him concurrently with the making of the change if the manufacturer believes the addition or change will not require any testing under the appropriate section. Upon notification to the Administrator, the manufacturer may proceed to put the addition or change into effect.

(b) The manufacturer may continue to produce vehicles (or engines) as described in the notification to the Administrator for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon a description of the addition or change, that no test data will be required, he will notify the manufacturer in writing of the acceptability of the addition or change. If the Administrator determines that test data will be required, he will notify the manufacturer to rescind the change within 5 days of receipt of the notification. The Administrator will then proceed as in § 86.079–32 (b) and (c), or § 86.079–33 (b) and (c), as appropriate.

(d) Election to produce vehicles (or engines) under this section will be deemed to be a consent to recall all vehicles (or engines) which the Administrator determines under § 86.079–32(c) do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

12. Section 86.079–35 is revised to read as follows:

§ 86.079–35 Labeling.

(a) The manufacturer of any motor vehicle (or motor vehicle engine) subject to the applicable emission standards of this subpart, shall, at the time of manufacture, affix a permanent legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles (or engines) available for sale to the public and covered by a certificate of conformity under § 86.079–30(a).

(1) *Light-duty vehicles and light-duty trucks.* (i) A permanent, legible label shall be affixed in a readily visible position in the engine compartment.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not

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be affixed to any equipment which is easily detached from such vehicle.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(A) The label heading: Vehicle Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches), engine, family identification and evaporative family identification;

(D) Engine tuneup specifications and adjustments, as recommended by the manufacturer in accordance with the altitude at which the vehicle is to be sold to the ultimate purchaser, including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable) as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air-conditioner), if any, should be in operation;

(E) An unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations which apply to light-duty vehicles or light-duty trucks;

(F) The altitude at which the vehicle is intended for sale to the public as specified by a certificate of conformity under § 86.079–30.

(2) *Heavy-duty engines.* (i) A permanent legible label shall be affixed to the engine in a position in which it will be readily visible after installation in the vehicle.

(ii) The label shall be attached to an engine part necessary for normal engine operation and not normally requiring replacement during engine life.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals which shall be of a color that contrasts with the background of the label:

(A) The label heading: Engine Exhaust Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches) and engine family and model designations;

(D) Date of engine manufacture (month and year);

(E) Engine specifications and adjustments as recommended by the manufacturer. These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air conditioner), if any, should be in operation;

(F) For gasoline-fueled engines the label should include the idle speed, ignition timing, and the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), and valve lash.

(G) For Diesel engines the label should include the advertised hp. at rpm, fuel rate at advertised hp. in mm³/stroke, valve lash, initial injection timing, and idle speed.

(H) An unconditional statement of compliance with the appropriate model year (e.g., 1979) U.S. Environmental Protection Agency regulations applicable to heavy-duty engines.

(iv) The label may be made up of one or more pieces: *Provided*, That all pieces are permanently attached to the same engine or vehicle part as applicable.

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such vehicle (or engine) conforms to any applicable State emission standards for new motor vehicles (or new motor vehicle engines) or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the vehicle (or engine).

(c)(1) The manufacturer of any light-duty vehicle or light-duty truck subject to the emission standards of this subpart, shall, in addition and subsequent to setting forth those statements on the label required by the Department of Transportation (DOT) pursuant to 49 CFR 567.4, set forth, on the DOT label or on an additional label located in proximity to the DOT label and affixed as described in 49 CFR 567.4(b), the following information in the English language, lettered in block letters and numerals not less than three thirty-seconds of an inch high, of a color that contrasts with the background of the label:

(i) The heading: "Vehicle Emission Control Information";

(ii) The statement: "This Vehicle Conforms to U.S. EPA Regulations Applicable to 1979 Model Year New Motor Vehicles".

(iii) One of the following statements, as applicable, in letters and numerals not less than six thirty-seconds of an inch high and of a color that contrasts with the background of the label:

(A) For all vehicles certified as non-catalyst-equipped: "NON-CATALYST";

(B) For all vehicles certified as catalyst-equipped which are included in a manufacturer's catalyst control program for which approval has been given by the Administrator: "CATALYST-APPROVED FOR IMPORT";

(C) For all vehicles certified as catalyst-equipped which are not included in a manufacturer's catalyst control program for which prior approval has been given by the Administrator: "CATALYST".

(2) In lieu of selecting either of the labeling options of paragraph (c)(1) of this section, the manufacturer may add the information required by paragraph (c)(1)(iii) of this section to the label required by paragraph (a) of this section. The required information will be set forth in the manner prescribed by paragraph (c)(1)(iii) of this section.

(d) Incomplete light-duty trucks or incomplete heavy-duty vehicles optionally certified as light-duty trucks shall have the following statement printed on the label required in paragraph (a)(1) of this section in lieu of the statement required by paragraph (a)(1)(iii)(E) of this section: "This vehicle conforms to U.S. EPA regulations applicable to 19— Model Year New Motor Vehicles when completed at a maximum curb weight of _____ pounds and a maximum frontal area of _____ square feet."

(e) Incomplete heavy-duty vehicles having an 8,500 pound gross vehicle weight rating or less shall have the following statement printed on the label required in paragraph (a)(2) or (a)(3) of this section in lieu of the statement required by paragraph (a)(2)(iii)(F) or (a)(3)(iii)(F) of this section: "This engine conforms to U.S. EPA regulations applicable to 19— Model Year New Heavy-Duty Engines when installed in a vehicle completed at a curb weight of more than 6,000 pounds or with a frontal area greater than 46 square feet."

(f) The manufacturer of any incomplete vehicle shall notify the purchaser of such vehicle of any curb weight, frontal area, or gross vehicle weight rating limitations affecting the emissions certificate applicable to that vehicle. This notification shall be transmitted in a manner consistent with National Highway Traffic Safety Administration safety notification requirements published in 40 CFR Part 568.

13. New §§ 86.079–36 through 86.079–39 are added and read as follows:

§ 86.079–36 Submission of vehicle identification numbers.

(a) The manufacturer of any light-duty vehicle or light-duty truck covered by a certificate of conformity under § 86.079–30(a) shall, not later than 60 days after its manufacture, submit to the Administrator the vehicle identification number of such vehicle: *Provided*, That this requirement shall not apply with respect to any vehicle manufactured within any State, as defined in section 302(d) of the Act.

(b) The requirements of this section may be waived with respect to any manufacturer who provides information satisfactory to the Administrator which will enable the Administrator to identify those vehicles which are covered by a certificate of conformity.

§ 86.079–37 Production vehicles and engines.

(a) Any manufacturer obtaining certification under this part shall supply to the Administrator, upon his request, a reasonable number of production vehicles (or engines) selected by the Administrator which are representative of the engines, emission control systems, fuel systems, and transmissions offered and typical of production models available for sale under the certificate. These vehicles (or engines) shall be supplied for testing at such time and place and for such reasonable periods as the Administrator may require. Heavy-duty engines supplied under this paragraph may be required to be mounted in chassis and

appropriately equipped for operation on a chassis dynamometer.

(b)(1) Any manufacturer of light-duty vehicles or light-duty trucks obtaining certification under this part shall notify the Administrator, on a quarterly basis, of the number of vehicles domestically produced for sale in the United States and the number of vehicles produced and imported for sale in the United States during the preceding quarter. A manufacturer may elect to provide this information every 60 days instead of quarterly, to combine it with the notification required under § 86.079–36. The notification must be submitted 30 days after the close of the reporting period. The vehicle production information required shall be submitted as follows:

(i) Total production volume expressed in terms of units produced;

(ii) Model type production volume, expressed for each model type in terms of units produced and as a percentage of total production;

(iii) Base level production volume, expressed for each base level in terms of units produced and as a percentage of:

(A) Total production of its respective model type(s), and

(B) Total production; and

(iv) Vehicle configuration production volume, expressed for each vehicle configuration in terms of units produced, and as a percentage of the total production of its respective base level. In addition, each vehicle configuration shall be identified by its appropriate engine-system combination.

(2) All light-duty vehicles and light-duty trucks covered by a certificate of conformity under § 86.079–30(a) shall be adjusted by the manufacturer to the ignition or injection timing specification detailed in § 86.079–36(a)(1)(iii)(D).

(c) Any heavy-duty engine manufacturer obtaining certification under this part shall notify the Administrator, on a quarterly basis, of the number of engines of such engine family-engine displacement-exhaust emission control system-fuel system combination produced for sale in the United States during the preceding quarter.

(d) The following definitions apply to this section:

(1) "Model type" means a unique combination of car line, basic engine, and transmission class.

(2) "Base level" means a unique combination of basic engine, inertia weight, and transmission class.

(3) "Vehicle configuration" means a unique combination of basic engine, engine code, inertia weight, transmission configuration, and axle ratio within a base level.

§ 86.079–38 Maintenance instructions.

(a) The manufacturer shall furnish or cause to be furnished to the purchaser of each new motor vehicle (or motor vehicle engine) subject to the standards prescribed in §§ 86.078–8, 86.079–9, 86.079–10, or 86.079–11, as applicable, written instructions for the maintenance and use of the vehicle (or engine) by the purchaser as may be reasonable and necessary to assure the proper functioning of emission control systems.

(1) Such instructions shall be provided for those vehicle and engine components listed in Appendix VI to this part (and for any other components) to the extent that maintenance of these components is necessary to assure the proper functioning of emission control systems.

(2) Such instructions shall be in clear, and to the extent practicable, nontechnical language.

(b) The maintenance instructions required by this section shall contain a general description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with the instructions.

(c) *For gasoline-fuel light-duty vehicles and light-duty trucks.* (1) Such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.079–25(a)(2) or § 86.079–25(b)(2) as applicable, and shall explain the conditions under which EGR system and catalytic converter maintenance are to be performed (e.g., what type of warning device is being employed and whether the device is activated by component failure or the need for periodic maintenance).

(2) Such instructions shall indicate, for vehicles to be sold to ultimate purchasers at low altitude, what adjustments or modifications, if any, are necessary to allow the vehicle to meet emissions standards at high altitude. The maintenance instructions shall, if applicable, include a statement that the vehicle's emission control system was not designed for conversion to allow the vehicle to meet emissions standards when operated at high altitude.

(3) Such instructions shall indicate, for vehicles to be sold to ultimate purchasers at high altitude, what adjustments or modifications, if any, are necessary to allow the vehicle to meet emissions standards at low altitude. The maintenance instructions shall, if applicable, include a statement that the vehicle's emission control system was not designed for conversion to allow the vehicle to meet emissions standards when operated at low altitude.

(d) *For Diesel light-duty vehicles and light-duty trucks.* (1) Such instructions shall indicate, for vehicles to be sold to ultimate purchasers at low altitude, what adjustments or modifications, if any, are necessary to allow the vehicle to meet emissions standards at high altitude. The maintenance instructions shall, if applicable, include a statement that the vehicle's emission control system was not designed for conversion to allow the vehicle to meet emissions standards when operated at high altitude.

(2) Such instructions shall indicate, for vehicles to be sold to ultimate purchasers at high altitude, what adjustments or modifications, if any, are necessary to allow the vehicle to meet emissions standards at low altitude. The maintenance instructions shall, if applicable, include a statement that the vehicle's emission control system was not designed for conversion to allow the vehicle to meet emissions standards when operated at low altitude.

(e) For gasoline-fueled heavy-duty engines, such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.079–25(c)(2). Scheduled maintenance in addition to that performed on the durability-data engine under § 86.079–25(c)(2) may be recommended for reasons such as to offset the effects of operating conditions which differ from the dynamometer durability cycle or to increase the life of the engine beyond 1500 hours (or the equivalent). The instructions may schedule maintenance on a calendar time basis and/or mileage basis in addition to the engine service time basis that was followed by the manufacturer under § 86.079–25(c)(2).

(f) For Diesel heavy-duty engines, such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.079–25(c)(2). Scheduled maintenance in addition to that performed on the durability-data engine under § 86.079–25(c)(2) may be recommended for reasons such as to offset the effects of operating conditions which differ from the dynamometer durability cycle or to increase the life of the engine beyond 1,000 hours (or the equivalent). The instructions may schedule maintenance on a calendar time basis, mileage basis, engine service time basis, or combinations of each.

§ 86.079–39 Submission of maintenance instructions.

(a) The manufacturer shall provide to the Administrator, no later than the time of the submission required by § 86.079–23, a copy of the maintenance instructions which the manufacturer proposes to supply to the ultimate purchaser in accordance with § 86.079–38(a). The Administrator will review such instructions to determine whether they are reasonable and necessary to assure the proper functioning of the vehicle's (or engine's) emission control systems. The Administrator will notify the manufacturer of his determination whether such instructions are reasonable and necessary to assure the proper functioning of the emission control systems.

(b) Any revision to the maintenance instructions which will affect emissions shall be supplied to the Administrator at least 30 days before being supplied to the ultimate purchaser unless the Administrator consents to a lesser period of time.

14. A new § 86.080–10 is added and reads as follows:

§ 86.080–10 Emission standards for 1980 gasoline-fueled heavy-duty engines.

(a)(1) Exhaust emissions from new 1980 model year gasoline-fueled heavy-duty engines shall not exceed one of the two following standards, to be selected at the manufacturer's option:

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(1) (A) *Hydrocarbons.* 1.5 grams per brake horsepower hour.

(B) *Carbon monoxide.* 25 grams per brake horsepower hour.

(C) *Hydrocarbons plus oxides of nitrogen.* 10 grams per brake horsepower hour.

(ii) (A) *Hydrocarbons plus oxides of nitrogen.* 5.0 grams per brake horsepower hour.

(B) *Carbon monoxide.* 25 grams per brake horsepower hour.

(2) The standards set forth in paragraph (a) (1) of this section refer to exhaust gaseous emissions generated under the conditions set forth in Subpart D of this part and measured in accordance with those procedures. For low-volume manufacturers, as defined in § 86.080–24(e), the test procedure in either Subpart D or Subpart H of this part may be used; however, standards (a) (1) (i) (A) and (a) (1) (i) (C) shall be reduced by 0.5 gram per brake horsepower hour if Subpart H of this part is used.

(b) [Reserved]

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1980 and later model year gasoline-fueled heavy-duty engine.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a) (1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures to ascertain that such test engines meet the requirements of paragraphs (a) and (c) of this section.

15. A new § 86.080–11 is added and reads as follows:

§ 86.080–11 Emissions standards for 1980 Diesel heavy-duty engines.

(a) (1) Exhaust emissions from new 1980 model year Diesel heavy-duty engines shall not exceed one of the two following standards, to be selected at the manufacturer's option:

(i) (A) *Hydrocarbons.* 1.5 grams per brake horsepower hour.

(B) *Carbon monoxide.* 25 grams per brake horsepower hour.

(C) *Hydrocarbon plus oxides of nitrogen.* 10 grams per brake horsepower hour.

(ii) (A) *Hydrocarbons plus oxides of nitrogen.* 5 grams per brake horsepower hour.

(B) *Carbon monoxide.* 25 grams per brake horsepower hour.

(2) The standards set forth in paragraph (a) (1) of this section refer to exhaust gaseous emissions generated under the conditions set forth in Subpart D of this part and measured in accordance with those procedures. For low volume manufacturers, as defined in § 86.080–24 (e), the test procedure in either Subpart D or Subpart J of this part may be used.

(b) (1) The opacity of smoke emissions from new 1980 and later model year Diesel heavy-duty engines shall not exceed:

(i) 20 percent during the engine acceleration mode.

(ii) 15 percent during the engine lugging mode.

(iii) 50 percent during the peaks in either mode.

(2) The standards set forth in paragraph (b) (1) of this section refer to exhaust smoke emissions generated under the conditions set forth in Subpart I and measured and calculated in accordance with those procedures.

(c) [Reserved]

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a) (1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures to ascertain that such test engines meet the requirements of paragraphs (a) and (b) of this section.

15. A new § 86.080–24 is added and reads as follows:

§ 86.080–24 Test vehicles and engines.

(a) (1) The vehicles or engines covered by an application for certification will be divided into groupings of engines which are expected to have similar emission characteristics throughout their useful life. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) To be classed in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center-to-center dimensions.

(ii) The dimension from the centerline of the crankshaft to the centerline of the camshaft.

(iii) The dimension from the centerline of the crankshaft to the top of the cylinder block head face.

(iv) The cylinder block configuration (air cooled or water cooled; L–6, 90° V–8, etc.).

(v) The location of intake and exhaust valves (or ports) and the valve (or port) sizes (within a ⅛-inch range on the valve head diameter).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(viii) Catalytic converter characteristics.

(ix) Thermal reactor characteristics.

(x) Type of air inlet cooler (e.g., inter-coolers and after-coolers) for Diesel heavy-duty engines.

(3) Engines identical in all the respects listed in paragraph (a) (2) of this section may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine.

(i) The bore and stroke.

(ii) The surface-to-volume ratio of the nominally dimensioned cylinder at the top dead center position.

(iii) The intake manifold induction port size and configuration.

(iv) The exhaust manifold port size and configuration.

(v) The intake and exhaust valve sizes.

(vi) The fuel system.

(vii) The camshaft timing and ignition or injection timing characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in paragraphs (a) (2) and (3) of this section, the Administrator will establish families for those engines based upon the features most related to their emission characteristics.

(5) The gasoline-fueled vehicles covered by an application for certification will be divided into groupings which are expected to have similar evaporative emission characteristics throughout their useful life. Each group of vehicles with similar evaporative emission characteristics shall be defined as a separate evaporative emission family.

(6) To be classed in the same evaporative emission family, vehicles must be identical in all of the following respects:

(i) Type of vapor storage device (e.g., canister, air cleaner, crankcase).

(ii) Basic canister design.

(iii) Fuel system.

(7) Where vehicles are of a type which cannot be divided into evaporative emission families based on the criteria listed above, the Administrator will establish families for those vehicles based upon the features most related to their evaporative emission characteristics.

(b) Emission data:

(1) *Emission-data vehicles.* Paragraph (b) (1) of this section applies to light-duty vehicle and light-duty truck emission-data vehicles.

(i) Vehicles will be chosen to be operated and tested for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Vehicles of each engine family will be divided into engine displacement-exhaust emission control system combinations as applicable. A projected sales volume will be established for each combination for the model year for which certification is sought. One vehicle of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of the manufacturer's total production of vehicles of that engine family is represented, or until a maximum of four vehicles is selected. If any single combination represents over 70 percent, then two vehicles of that combination may be selected. The vehicle selected for each combination will be specified by the Administrator as to such features as engine code, transmission type, fuel system, and inertia weight class.

(iii) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of vehicles in that engine family. In selecting these vehicles, the Administrator will consider such features as the emission control system combination, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, compression ratio,

inertia weight class, transmission options, and axle ratios.

(iv) If the vehicles selected in accordance with paragraphs (b) (1) (ii) and (iii) of this section do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Administrator. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with the control system combination in the engine family and will be designated by the Administrator as to such features as transmission type, fuel system, and inertia weight class.

(v) The Administrator will also select one vehicle for each engine-system combination within an engine family for which vehicles are to be sold to ultimate purchasers at high altitude.

(vi) The Administrator may combine testing requirements for any vehicle selected under paragraph (b) (1) (v) or (b) (1) (vii) (D) of this section with the testing requirements for any similar vehicle in the same engine-system combination selected under paragraph (b) (1) (ii), (iii), or (iv) of this section or any similar vehicle in the same engine-system, evaporative emission family, evaporative emission control system combination selected under paragraph (b) (1) (vii) (A) or (B) of this section. The testing requirements may be combined by the Administrator requiring a vehicle selected for testing under paragraphs (b) (1) (ii), (iii), (iv), (vii) (A), or (vii) (B) of this section to be modified (if necessary) after mileage accumulation and emission testing for the purpose of demonstrating compliance with § 86.080–23(b) (1) (ii).

(vii) (A) Vehicles of each evaporative emission family will be divided into evaporative emission control systems. One vehicle of each evaporative emission control system within the evaporative emission family will be selected.

(B) The Administrator may select a maximum of four (4) additional vehicles within each evaporative emission family based upon features indicating that they may have the highest evaporative emission levels of vehicles in that family.

(C) The Administrator may determine that the vehicles selected under paragraph (b) (1) (ii) through (iv) of this section may be used to satisfy the requirements of paragraph (b) (1) (vii) (A) and (B) of this section.

(D) The Administrator will also select one vehicle for each evaporative emission control system within each evaporative family for which vehicles are to be sold at high altitude.

(E) Vehicles selected under paragraph (b) (1) (v) of this section may be used to satisfy the requirements of paragraph (b) (1) (vii) (D) of this section.

(2) *Gasoline-fueled heavy-duty emission-data engines.* Paragraph (b) (2) of this section applies to gasoline-fueled heavy-duty emission-data engines.

(i) Engines will be chosen to be run for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into engine displacement-exhaust emission control system combinations. A projected sales volume will be established for each combination for the applicable model year. One engine of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of engines of that family is represented, or until a maximum of four engines is selected. The engines selected for each combination will be specified by the Administrator as to fuel system.

(iii) The Administrator may select a maximum of two additional engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in that engine family. In selecting these engines, the Administrator will consider such features as the exhaust emission control system, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, and compression ratio.

(iv) If the engines selected in accordance with pargaraphs (b) (2) (ii) and (iii) of this section do not represent each engine displacement-exhaust emission control system combination, then one engine of each engine displacement-exhaust emission control system combination not represented shall be selected by the Administrator.

(3) *Diesel heavy-duty emission-data engines.* Paragraph (b) (3) of this section applies to Diesel heavy-duty emission-data engines.

(i) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into groups based upon their exhaust emission control systems. One engine of each engine-system combination shall be run for smoke emission data and gaseous emission data as prescribed in § 86.079–26(c) (3). Either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine that features the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will usually be selected. If there are military engines with higher fuel rates than other engines in the same engine system combinations, then one military engine shall be also selected. The engine with the highest fuel feed per stroke will usually be selected.

(iii) The Administrator may select a maximum of one additional engine within each engine-system combination based upon features indicating that it may have the highest emission levels of the engines of that combination. In selecting this engine, the Administrator will consider such features as the injection system, fuel system, compression ratio, rated speed, rated horsepower, peak torque speed, and peak torque.

(c) Durability data: (1) *Durability-data vehicles.* Paragraph (c) (1) of this section applies to light-duty vehicle and light-duty truck durability-data vehicles.

(i) A durability-data vehicle will be selected by the Administrator to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control-system combination in that engine family and will be designated by the Administrator as to transmission type, fuel system, and inertia weight class.

(ii) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system, and inertia weight class as the vehicle selected for that engine-system combination in accordance with the provisions of paragraph (c) (1) (i) of this section. Notice of an intent to operate and test additional vehicles shall be given to the Administrator not later than 30 days following notification of the test fleet selection.

(2) *Gasoline-fueled heavy-duty durability-data engines.* Paragraph (c) (2) of this section applies to gasoline-fueled heavy-duty durability-data engines.

(i) A durability-data engine will be selected by the Administrator to represent each engine-system combination. The engine selected shall be of the displacement with the largest projected sales volume of engines with that exhaust emission control system in that engine family and will be designated by the Administrator as to fuel system.

(ii) [Reserved]

(iii) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same engine displacement and fuel system as the engine selected for that combination in accordance with the provisions of paragraph (c) (2) (i) of this section. Notice of an intent to run additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and nonmilitary engines within the same engine-system combination.

(3) *Diesel heavy-duty durability-data engines.* Paragraph (c) (3) of this section applies to Diesel heavy-duty durability-data engines.

(i) One engine from each engine-system combination shall be tested as prescribed in § 86.079–26(c) (3) (ii). At each test point, either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine which features the highest fuel feed per stroke, primarily at rated speed and secondarily at the speed of maximum rated torque, will usually be selected for durability testing. In the case where more than one engine in an engine-system combination has the highest fuel feed per stroke, the engine with the highest maximum rated horsepower will usually be selected for durability testing. If an engine-system combination

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includes both military and nonmilitary engines, then the nonmilitary engine with the highest maximum rated horsepower will usually be selected for durability testing.

(ii) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same model and fuel system as the engine selected in accordance with the provisions of paragraph (c)(3)(i) of this section. Notice of an intent to test additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and nonmilitary engines within the same engine system combination.

(d) For purposes of testing under § 86.079–26 (a)(9), (b)(9), or (c)(11), the Administrator may require additional emission-data vehicles (or emission-data engines) and durability-data vehicles (or durability-data engines) identical in all material respects to vehicles (or engines) selected in accordance with paragraphs (b) and (c) of this section: *Provided*, That the number of vehicles (or engines) selected shall not increase the size of either the emission-data fleet or the durability-data fleet by more than 20 percent or one vehicle (or engine), whichever is greater.

(e) Any manufacturer whose projected sales for the model year in which certification is sought is less than

(1) 2,000 gasoline-fueled light-duty vehicles, or (2) 2,000 Diesel light-duty vehicles, or (3) 2,000 gasoline-fueled light-duty trucks, or (4) 2,000 Diesel light-duty trucks, or (5) 2,000 gasoline-fueled heavy-duty engines, or (6) 2,000 Diesel heavy-duty engines,

may request a reduction in the number of test vehicles (or engines) determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(f) (1) In lieu of testing an emission-data or durability-data vehicle (or engine) selected under paragraph (b) or (c) of this section, and submitting data therefore, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data and/or fuel evaporative emission data, as applicable on a similar vehicle (or engine) for which certification has previously been obtained or for which all applicable data required under § 86.079–23 has previously been submitted.

(2) Heavy-duty engine test data submitted prior to the 1980 model year and which complies with paragraph (f)(1) of this section, can be used in subsequent model years, without regard to the test procedure. Any heavy-duty engine certified in the 1979 model year will be certified for 1980 and subsequent model years if requested by the manufacturers.

(g) (1) This paragraph applies to light-duty vehicles and light-duty trucks.

(2) Where it is expected that more than 33 percent of an engine family will be equipped with an optional item, the full estimated weight of that item shall be included, unless excluded by the Administrator, in the curb weight computation for each vehicle available with that option in the engine family. Where it is expected that 33 percent or less of the vehicles in an engine family will be equipped with an item of optional equipment, no weight for that item will be added in computing curb weight. In the case of mutually exclusive options, only the weight of the heavier option will be added in computing curb weight. Optional equipment weighing less than 3 pounds per item need not be considered.

(3) Where it is expected that more than 33 percent of an engine family will be equipped with an item of optional equipment that can reasonably be expected to influence emissions, then such items of optional equipment shall actually be installed, unless specifically excluded by the Administrator, on all emission-data and durability-data vehicles in the engine family on which the option is intended to be offered in production. Optional equipment that can reasonably be expected to influence emissions are the air conditioner, power steering, power brakes, and other items determined by the Administrator.

(4) Optional equipment that can reasonably be expected to influence emissions and which is utilized on 33 percent or less of the vehicles in the engine family shall not be installed on any vehicle in that engine family unless specifically required under this section.

18. A new Subpart D is added to Part 86 and reads as follows:

Subpart D—Emission Regulations for New Gasoline—Fueled and Diesel Heavy-Duty Engines; Gaseous Exhaust Test Procedure

Sec.

86.301–79 Scope; applicability.
86.302–79 Definitions.
86.303–79 Abbreviations.
86.304–79 Section numbering; construction.
86.305–79 Introduction; structure of subpart.
86.306–79 Equipment required and specifications; overview.
86.307–79 Fuel specifications.
86.308–79 Gas specifications.
86.309–79 Sampling and analytical system; schematic drawing.
86.310–79 Sampling and analytical system; component specifications.
86.311–79 Miscellaneous equipment; specifications.
86.312–79 Dynamometer and engine equipment specifications.
86.313–79 Air flow measurement specifications; Diesel engines.
86.314–79 Fuel flow measurement specifications.
86.315–79 General analyzer specifications.
86.316–79 Carbon monoxide and carbon dioxide analyzer specifications.
86.317–79 Hydrocarbon analyzer specifications.
86.318–79 Oxides of nitrogen analyzer specifications.
86.319–79 Analyzer checks and calibrations; frequency and overview.
86.320–79 Analyzer bench check.
86.321–79 NDIR water rejection ratio check.
86.322–79 NDIR CO_2 rejection ratio check.
86.323 through 86.326 [Reserved]
86.327–79 Quench check; NOx analyzer.
86.328–79 Leak checks.
86.329–79 System response-time; check procedure.
86.330–79 NDIR analyzer calibration.
86.331–79 Hydrocarbon analyzer calibration.
§ 86.332–79 Oxides of nitrogen analyzer calibration.
§ 86.333–79 Dynamometer calibration.
§ 86.334–79 Test procedure overview.
§ 86.335–79 Gasoline-fueled engine test cycle.
§ 86.336–79 Diesel engine test cycle.
§ 86.337–79 Information.
§ 86.338–79 Exhaust measurement accuracy.
§ 86.339–79 Pre-test procedures.
§ 86.340–79 Gasoline-fueled engine dynamometer test run.
§ 86.341–79 Diesel engine dynamometer test run.
§ 86.342–79 Post-test procedure.
§ 86.343–79 Chart reading.
§ 86.344–79 Humidity calculations.
§ 86.345–79 Emission calculations.
§ 86.346–79 Alternative NOx measurement technique.
§ 86.347–79 Alternative calculations for Diesel engines.

AUTHORITY: Secs. 202, 206, 207, 208, 301(a), Clean Air Act, as amended (42 U.S.C. 1857f–1, 1857f–5, 1857f–5a, 1857f–6, 1857g(a))

Subpart D—Emission Regulations for New Gasoline-Fueled and Diesel Heavy-Duty Engines; Gaseous Exhaust Test Procedures.

§ 86.301–79 Scope; applicability.

This subpart contains gaseous emission test procedures for gasoline-fueled and Diesel heavy-duty engines. It applies to 1979 and later model years.

§ 86.302–79 Definitions.

The definitions in § 86.077–2, § 86.078–2, and § 86.079–2 apply to this subpart.

§ 86.303–79 Abbreviations.

The abbreviations in § 86.078–3 apply to this subpart.

§ 86.304–79 Section numbering; construction.

(a) The model year of initial applicability is indicated by the section number. The two digits following the hyphen designate the first model year for which a section is effective. A section remains effective until superseded.

Example: Section § 86.311–79 applies to the 1979 and subsequent model years until superseded. If a section § 86.311–81 is promulgated it would take effect beginning with the 1981 model year; § 86.311–79 would apply to model years 1979 and 1980.

(b) A section reference without a model year suffix refers to the section applicable for the appropriate model year.

(c) Unless indicated, all provisions in this subpart apply to both gasoline-fueled and Diesel heavy-duty engines.

§ 86.305–79 Introduction; structure of subpart.

(a) This subpart describes the equipment required and the procedures to follow in order to perform exhaust emission tests on gasoline-fueled and Diesel heavy-duty engines. Subpart A sets forth the testing requirements and test intervals necessary to comply with EPA certification procedures.

(b) Four topics are addressed in this subpart. Sections 86.306 through 86.318 set forth specifications and equipment requirements; §§ 86.319 through 86.333 discuss calibration methods and frequency; test procedures and data requirements are listed (in approximately chronological order) in §§ 86.334 through 86.343; and calculation formulas are found in §§ 86.344 and 86.345. Alternative procedures and calculations are set forth in §§ 86.346 and 86.347.

§ 86.306–79 Equipment required and specifications; overview.

(a) This subpart contains procedures for both gasoline-fueled and Diesel engine gaseous emission tests. Generally, the equipment required is identical for both types of engines. Equipment required and specifications are found in §§ 86.307 through 86.318.

(b) Some analyzer specifications refer to calibration checks found in §§ 86.320 through 86.332.

§ 86.307–79 Fuel specifications.

(a) *Gasoline.* (1) Gasoline having the following specifications will be used by the Administrator in exhaust emission testing. Gasoline having the following specifications or substantially equivalent specifications approved by the Administrator shall be used by the manufacturer in exhaust testing, except that the lead and octane specifications do not apply.

Item	ASTM	Leaded	Unleaded
Octane, research, minimum	D2699	100	96.
Pb, (organic), grams/U.S. gallon		1.4 [1]	0.00 to 0.05.
Distillation range:			
IBP, °F	D86	75 to 95	75 to 95.
10 pct point, °F	D86	120 to 135	120 to 135.
50 pct point, °F	D86	200 to 230	200 to 230.
90 pct point, °F	D86	300 to 325	300 to 325.
EP, °F (maximum)	D86	415	415.
Sulfur, weight percent, maximum	D1266	0.10	0.10.
Phosphorus, grams/U.S. gallon, maximum		0.01	0.005.
RVP, pounds	D323	8.0 to 9.2	8.0 to 9.2.
Hydrocarbon composition—Olefins, percent, maximum	D1319	10	10.
Aromatics, percent, maximum	D1319	35	35.
Saturates	D1319	Remainder	Remainder.

[1] Minimum.

(2) Gasoline representative of commercial gasoline which will be generally available through retail outlets shall be used in service accumulation. For leaded gasoline, the minimum lead content shall be 1.4 grams per U.S. gallon, except that where the Administrator determines that engines represented by a test engine will be operated using gasoline of different lead content from that prescribed in this paragraph, he may consent in writing to use of a gasoline with a different lead content. The octane rating of the gasoline used shall be no higher than 4.0 research octane numbers above the minimum recommended by the manufacturer and have a minimum sensitivity of 5.0 octane numbers for unleaded fuel and 7.0 octane numbers for leaded fuel, where sensitivity is defined as research octane number minus motor octane number.

(b) *Diesel fuel.* (1) The Diesel fuels employed for testing shall be clean and bright, with pour and cloud points adequate for operability. The Diesel fuel may contain nonmetallic additives as follows: Cetane improver, metal deactivator, antioxidant, dehazer, antirust, pour depressant, dye, and dispersant.

(2) Diesel fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emissions testing. The grade of Diesel fuel recommended by the engine manufacturer commercially designated as "Type 1–D" or "Type 2–D", shall be used.

Item	ASTM test Method No.	Type 1-D	Type 2-D
Cetane	D613	45 to 54	42 to 50.
Distillation range	D86		
IBP, °F		330 to 390	340 to 400.
10 pct point, °F		370 to 430	400 to 460.
50 pct point, °F		410 to 480	470 to 540.
90 pct point, °F		460 to 520	550 to 610.
EP, °F		500 to 560	580 to 660.
Gravity, °API	D287	40 to 44	33 to 37.
Total sulfur, percent	D129 or D2622	0.05 to 0.20	0.2 to 0.5.
Hydrocarbon composition	D1319		
Aromatics, percent		8 (minimum)	27 (minimum).
Paraffins, naphthenes, olefins		Remainder	Remainder.
Flash point, °F, (minimum)	D93	120	130.
Viscosity, centistokes	D445	1.8 to 2.0	2.0 to 3.2.

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(3) Diesel fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in service accumulation. The grade of Diesel fuel recommended by the engine manufacturer, commercially designated as "Type 1-D" or "Type 2-D", shall be used.

Item	ASTM test method No.	Type 1-D	Type 2-D
	ASTM test method number		
Cetane (minimum)	D613	42 to 56	38 to 58.
Distillation range 90 pct point, °F	D86	440 to 530	540 to 630.
Gravity, °API	D287	38 to 45	30 to 42.
Total sulfur, percent	D129 or D2622	0.05 (minimum)	0.2 (minimum).
Flash point, °F (minimum)	D56	120	130.
Viscosity, centistokes	D445	1.2 to 2.2	1.5 to 4.5.

(4) Other petroleum distillate fuels may be used for testing and service accumulation provided:

(i) They are commercially available;

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service;

(iii) Use of a fuel listed under paragraphs (b)(2) and (b)(3) of this section would have a detrimental effect on emissions or durability; and,

(iv) Written approval from the Administrator of the fuel specifications was provided prior to the start of testing.

(5) The specification range of the fuels to be used under subparagraphs (b)(2), (b)(3), and (b)(4) of this section shall be reported in accordance with § 86.079-21(b)(3).

§ 86.308-79 Gas specifications.

(a) *Analyzer gases.* (1) Calibration or span gases for the CO and CO_2 analyzers shall have zero-grade nitrogen as a diluent.

(2) Calibration or span gases for the hydrocarbon analyzer shall be propane with zero-grade nitrogen as a diluent when testing gasoline-fueled engines. For Diesel engine tests the diluent shall be zero-grade air.

(3) Calibration or span gases for the NO_x analyzer shall be NO named as NO_x with a maximum NO_2 concentration of 5 percent of the nominal value. Zero-grade nitrogen shall be the diluent.

(4) Zero-grade gases for hydrocarbon analyzers shall be nitrogen when testing gasoline-fueled engines and air when testing Diesel engines.

(5) Zero-grade gases for the carbon monoxide, carbon dioxide and oxides of nitrogen analyzers shall be either zero-grade air or zero-grade nitrogen.

(6) The allowable zero grade gas (air or nitrogen) impurity concentrations shall not exceed 2 ppmC hydrocarbon, 10 ppm carbon monoxide, 400 ppm carbon dioxide and 1 ppm nitric oxide.

(7) "Zero-grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

(b) *Calibration gas.* Calibration gas values are to be derived from NBS "Standard Reference Materials" (SRM's) or other gas standards approved by the Administrator. The uncertainty of the assigned calibration gas values shall not exceed 2.0 percent of the assigned value. The uncertainly is defined as the sum of the precision errors (at the 90 percent confidence level) and the bias errors. Precision and bias errors apply to both the equipment and the derivation procedures.

(c) *Span gas.* Span gas values are to be derived from NBS "Standard Reference Materials" (SRM's) or other gas standards approved by the Administrator. The uncertainty of the assigned calibration gas values shall not exceed 3.0 percent of the assigned value. The uncertainty is defined as the sum of the precision errors (at the 90 percent confidence level) and the bias errors. Precision and bias errors apply to both the equipment and the derivation procedures.

(d) *Hydrocarbon analyzer fuel*—(1) *The fuel shall contain 40±2 percent hydrogen.* The balance shall be helium. The mixture shall contain less than 2 ppmC hydrocarbon.

(2) *Alternate pure hydrogen fuel.* Some HFID's are designed to operate on pure hydrogen. Generally the HFID fuel is incompatible with good relative hydrocarbon response.

(i) For Diesel engines this fuel is not recommended. However, this fuel may be used if the engine manufacturer demonstrates, on each basic combustion system (i.e., 4 cycle DI, 2 cycle DI, 4 cycle pre-cup, etc.) that an HFID using this fuel produces comparable results to an HFID using 40% H_2/60% He fuel. These data must be submitted to and approved by the Administrator prior to testing. Pure H_2 fuel, that may be allowed for testing, must contain at least 99.0 percent hydrogen and contain less than 2 ppmC hydrocarbon.

(ii) For gasoline-fueled engines, pure hydrogen fuel for the HFID is not allowed.

(e) *Hydrocarbon analyzer burner air.* The concentration of oxygen must be within 1 mole percent of the oxygen concentration of the burner air used in the latest oxygen interference check ($\%O_2I$). If the difference in oxygen concentration is greater than 1 mole percent, then the oxygen interference must be checked and the analyzer adjusted, if necessary, to meet the $\%O_2I$ requirements. The burner air must contain less than 2 ppmC hydrocarbon.

(f) Oxygen interference check gases shall contain propane with 350 ppmC ±75 ppmC hydrocarbon. The concentration value shall be determined to calibration gas tolerances by chromatographic analysis of total hydrocarbons plus impurities or by dynamic blending. Nitrogen shall be the predominant diluent with the balance oxygen. Blends required for gasoline-fueled and Diesel engine testing are as follows:

Applicability	O_2 concentration (percent)	Balance
Diesel	21 (20 to 22)	N_2
Diesel and gasoline	10 (9 to 11)	N_2
Do	5 (4 to 6)	N_2
Gasoline	0 (0 to 1)	N_2

§ 86.309-79 Sampling and analytical system; schematic drawing.

(a) Any variation from the specifications in this subpart including performance specifications and emission detection methods may be used only with prior approval by the Administrator.

(b) Schematic drawing.

(1) An example of a sampling and analytical system which may be used for testing under this subpart is shown in Figure D79-1. All components or parts of components that are wetted by the sample or corrosive calibration gases shall be either chemically cleaned stainless steel or inert material, e.g. polytetrafluoroethylene resin. The use of "gauge savers" or "protectors" with nonreactive diaphragms to reduce dead volumes is permitted. The specific detection methods to be used for each exhaust component can be found in § 86.316 for CO, § 86.317 for HC, and § 86.318 for NO. Additional components such as instruments, valves, solenoids, pumps, switches, etc. may be employed to provide additional information and coordinate the functions of the component systems.

(2) The following requirements must be incorporated in each system used for testing under this subpart.

(i) All analyzers must obtain the sample to be analyzed from the same sample line.

(ii) The sample transport system from the engine exhaust pipe to the HC analyzer and the NO_x analyzer must be heated as is indicated in Figure D79-1.

(iii) Carbon monoxide and carbon dioxide measurements must be made on a dry basis. Specific requirements for the means of drying the sample can be found in § 86.309(b)(5) and § 86.311(e).

(iv) All NDIR analyzers must have a pressure gauge immediately downstream of the analyzer. The gauge tap must be within 2 inches of the analyzer exit port. Gauge specifications can be found in § 86.309(b)(3).

(v) All bypass and analyzer flows exiting the analysis system must be measured. Capillary flows such as in HFID and CL analyzers are excluded. For each NDIR analyzer with a flow meter located upstream of the analyzer, an upstream pressure gauge must be used. The gauge tap must be within 2 inches of the analyzer entrance port.

(vi) Calibration or span gases for the NO_x measurement system must pass through the NO_2 to NO converter.

(vii) The temperature of the NO_2 to NO converter must be displayed continuously.

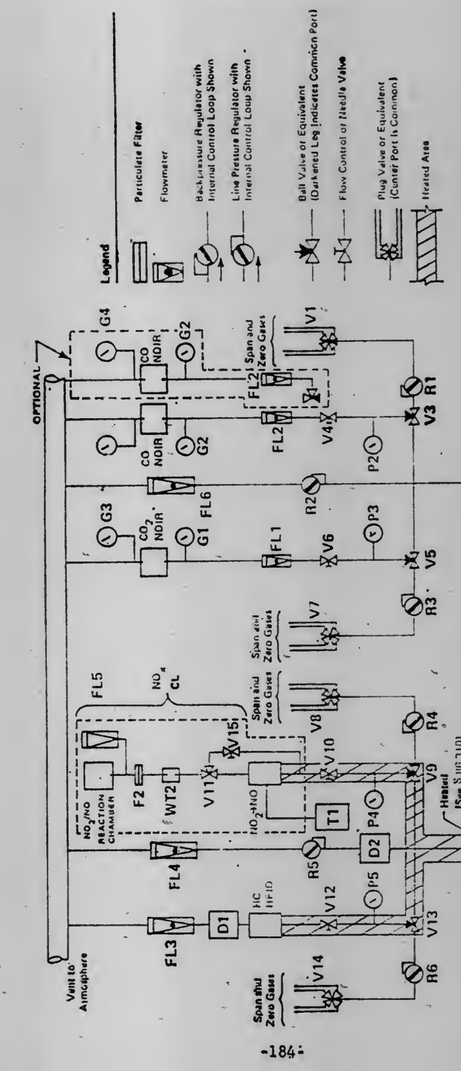


Figure D79-1 HEAVY-DUTY EXHAUST GAS SAMPLING AND ANALYTICAL TRAIN

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(c) *System components list.* The following is a list of components shown in Fig. D79–1 by numeric identifier.

(1) *Filters.* Glass fiber filter paper is permitted for F1, F2, and F3. Optional filter F4 is a coarse filter for large particulates.

(i) F1—Fine particulate filter.

(ii) F2—Fine particulate filter.

(iii) F3—Fine heated particulate filter.

(iv) F4—Coarse heated particulate filter.

(2) *Flowmeters.* (i) Flowmeters FL 1 and FL 2 indicate sample flow rates through the CO and CO_2 analyzers.

(ii) Flowmeters FL 3, FL 4, FL 5, and FL 6 indicate bypass flow rates.

(3) *Gauges.* Downstream gauges are required for any system used for testing under this subpart. Upstream gauges may be required under this subpart per § 86.309(b)(2)(v).

(i) Upstream gauges G1 and G2 measure the input pressure to the CO and CO_2 analyzers.

(ii) Downstream gauges G3 and G4 measure the exit pressure of the CO and CO_2 analyzers. If the normal operating range of the downstream gauges is less than 3 inches of water, then the downstream gauge must be capable of reading both pressure and vacuum.

(4) *Pressure gauges.* (i) P1—bypass pressure.

(ii) P2, P3, P4 and P5—sample or span pressure at inlet to flow control valves.

(5) *Water traps.* Water traps WT1, and WT2 to remove water from the sample. A water trap performing the function of WT1 and meeting the specifications in § 86.311(e) is required for any system used for testing under this subpart. Chemical dryers are not an acceptable method of removing the water. Water removal by condensation is acceptable. Means other than condensation may be used only with prior approval from the Administrator.

(6) *Regulators.* (i) R1, R3, R4, and R6—line pressure regulators to control span pressure at inlet to flow control valves.

(ii) R2 and R5—back pressure regulators to control sample pressure at inlet to flow control valves.

(7) *Valves.* (i) V1, V7, V8, and V14—selector valves to select zero or calibration gases.

(ii) V2—optional heated selector valve to purge the sample probe, perform leak checks, or to perform hang-up checks.

(iii) V3 and V5—Selector valves to select sample or span gases.

(iv) V4, V6, and V15—flow control valves.

(v) V9 and V13—heated selector valve to select sample or span gases.

(vi) V10 and V12—heated flow control valves.

(vii) VII—Selector valve to select NO_x or bypass mode in the chemiluminescence analyzer.

(viii) V16—heated selector valve to perform leak checks.

(8) *Pump.* Sample transfer pump to transport sample to analyzers.

(9) *Temperature sensor.* A temperature sensor (T1) to measure the NO_2 to NO converter temperature is required for any system used for testing under this subpart.

(10) *Dryer.* Dryers D1 and D2 to remove the water from the bypass flows to prevent condensation in flowmeters FL3, FL4, and FL6.

§ 86.310–79 Sampling and analytical system; component specifications.

(a) *Temperature.* (1) For gasoline-fueled engines any heated component;

(i) in the HC sample path must be maintained above 110°C (230°F) and shall not exceed 230°C (446°F),

(ii) in the NO_x sample path must be maintained above 95°C (203°F) and shall not exceed 230°C (446°F).

(2) For Diesel engines any heated component;

(i) in the HC sample path must be maintained above 180°C (356°F) and shall not exceed 230°C (446°F),

(ii) in the NO_x sample path must be maintained above 95°C (203°F) and shall not exceed 230°C (446°F).

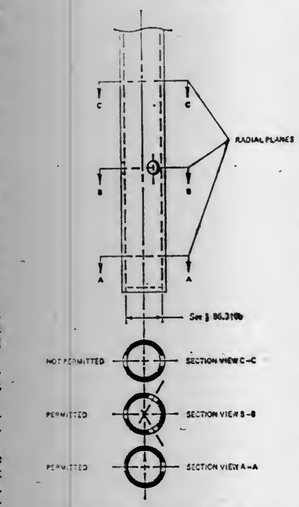


Figure D79–2 SAMPLE PROBE AND TYPICAL HOLE SPACINGS

(3) The sample line outside wall temperature must be maintained at the temperature specified in this paragraph. An exception is made for the first 4 feet of sample line from the exhaust duct. The upper temperature tolerance for this 4 foot section is waived and only the minimum temperature specification applies.

(b) *Sample probe.* (1) The sample probe shall be a straight, closed end, stainless steel, multi-hole probe. The Inside Diameter (I.D.) shall not be greater than the I.D. of the sample line (+.010 in.). The wall thickness of the probe shall not be greater than .040 inch. The fitting that attaches the probe to the exhaust pipe shall be as small as practical in order to minimize heat loss from the probe.

(2) There shall be a minimum of three holes in the probe. The spacing of the radial planes for each hole in the probe must be such that they cover approximately equal cross-sectional areas of the exhaust duct. The angular spacing of the holes must be approximately equal. The angular spacing of any two holes in one plane may not be 180°±20° (i.e., section C–C of Figure D79–2). The holes should be sized such that each has approximately the same flow. If only three holes are used, they may not all be in the same radial plane. See Figure D79–2.

(3) The probe shall extend radially across the exhaust duct. The probe must pass through the approximate center and must extend across at least 80 percent of the diameter of the duct.

(c) *Sample transfer.* (1) The maximum I.D. of the sample line shall not exceed 0.52 inch.

(2) If valve V2 is used, the sample probe must connect directly to valve V2. The location of optional valve V2 may not be greater than 4 feet from the exhaust duct.

(3) The location of optional valve V16 may not be greater than 24 inches from the sample pump. The leakage rate for this section on the pressure side of the sample pump may not exceed the leakage rate specification for the vacuum side of the pump.

(d) *Venting.* All vents including analyzer vents, bypass flows, and pressure relief vents of regulators should be vented in such a manner to avoid endangering personnel in the immediate area.

§ 86.311–79 Miscellaneous equipment; specifications.

(a) *Chart recorders.* (1) The minimum chart speed allowed is 3 inches per minute for gasoline-fueled engines and 0.5 inches per minute for Diesel engines.

(2) When testing gasoline-fueled engines all chart recorders (analyzers, torque, rpm, etc.) shall be provided with Automatic markers which indicate one second intervals. Preprinted chart paper (one second intervals) may be used in lieu of the automatic markers provided the correct chart speed is used.

(b) *Accuracy of temperature measurements.* (1) The following temperature measurements shall be accurate to within 1.2° C:

(i) temperature measurements used in calculating the engine intake humidity;

(ii) the temperature of the fuel in volume measuring flow rate devices;

(iii) The temperature of the sample within the water trap(s).

(2) All other temperature measurements shall be accurate within 2.5° C.

(c) *Intake air humidity and temperature measurements.* (1) Humidity conditioned air supply. Air that has had its absolute humidity altered is considered humidity-conditioned air. For this type of intake air supply, the humidity measurement must be made within the intake air supply system, and after the humidity conditioning has taken place.

(2) Nonconditioned air supply. Humidity measurements in non-conditioned intake air supply systems must be made in the intake air stream entering the supply system. Alternatively, the humidity measurements can be measured within the intake air supply stream.

(3) Engine intake air temperature measurement must be made within 48 inches of the engine. The measurement location must be made either in the supply system or in the air stream entering the supply system.

(d) *Sample component surface temperature.* For each component (pump, sample line section, filters, etc.) in the heated portion of the sampling system that has a separate source of power or heating element, use engineering judgment to locate the coolest portion of that component and monitor the temperature at that location. If several components are within an oven, then only the surface temperature of the component with the largest thermal mass and the oven temperature need be measured.

(e) If water is removed by condensation the sample gas temperature within the water trap must be monitored and may not exceed 7° C (45° F).

§ 86.312–79 Dynamometer and engine equipment specifications.

(a) *Dynamometer.* (1) The dynamometer test stand and other instruments for measurement of power output shall be accurate to within 2 percent of point at all power settings above 10 percent of full-scale. Below 10 percent of full-scale the accuracy shall be within 5 percent of point. The dynamometer must be capable of performing the test cycle described in § 86.335 or § 86.336. Dynamometers used for testing gasoline-fueled engines must have sufficient motoring capability to meet the test requirements. A 60-tooth wheel in combination with a frequency counter shall be considered an absolute standard for engine speed.

(2) *Dynamometer calibration weights.* A minimum of 6 calibration weights for each range used are required. The weights must be equally spaced and traceable to within 0.5 percent of NBS weights. Laboratories located in foreign countries may certify calibration weights to local government bureau standards.

(b) *Engine cooling.* Means of engine cooling which will maintain the engine operating temperatures (e.g., intake air, oil, water, etc.) at approximately the same temperature as specified by the manufacturer shall be used. Auxiliary fan(s) may be used to maintain engine cooling during operation on the dynamometer.

(c) *Exhaust system.* (1) When testing gasoline-fueled engines:

(i) A chassis-type single exhaust pipe shall be used. Standard or specially fabricated "Y" pipes may be used on engines designed for dual exhaust systems.

(ii) For all catalyst systems, the distance from the exhaust manifold flange(s) to the catalyst shall be the same as in the vehicle configuration unless the manufacturer provides temperature data showing equivalent performance at another location.

(iii) For catalyst systems, the probe shall be located in the single exhaust pipe and from 2 to 10 feet downstream of the catalyst(s).

(iv) For noncatalyst systems, the probe shall be located in the single exhaust pipe and from 3 to 20 feet downstream from the exhaust manifold flange or turbocharger exit flange.

(v) For all exhaust systems, the probe shall be located at least 24 inches from the end of the tail pipe. Additional exhaust pipe may be added to the tail pipe to meet the specification.

(2) When testing Diesel engines, a noninsulated exhaust system extending 15±5 feet from the exhaust manifold, or the crossover junction in the case of Vee engines, shall be used. The exhaust back pressure must be within 0.2 inch Hg. of the upper limit at maximum rated horsepower, as established by the engine manufacturer in his sales and service literature for vehicle application. A conventional automotive muffler of a size and type commonly used with the engine being tested shall be employed in the exhaust system during smoke emission testing. The terminal 2 feet of the exhaust pipe shall be a circular cross section and be free of elbows and bends. The end of the pipe shall be cut off squarely. The terminal 2 feet of the exhaust pipe shall have a nominal inside diameter in accordance with the engine being tested, as specified below:

Maximum rated horsepower:	*Exhaust pipe inside diameter (inches)*
Less than 101	2
101 to 200	3
201 to 300	4
301 or more	5

§ 86.313–79 Air flow measurement specifications; Diesel engines.

(a) The air flow measurement method used must have a range large enough to accurately measure the air flow over the engine operating range during the test. Overall measurement accuracy must be ±2 percent of full-scale value of the measurement device for all modes except the idle and 2-percent modes. For the idle and 2-percent modes, the measurement accuracy shall be ±5 percent or less of the full-scale value. The Administrator must be advised of the method used prior to testing.

(b) Corrections to the measured air mass-flow-rate shall be made when an engine system incorporates devices that add or subtract air mass (air injection, bleed air, etc.). The method used to determine the air mass from these devices shall be approved by the Administrator.

(c) An engine air inlet system presenting an air inlet restriction within 1 inch of water of the upper limit for the engine operating condition which results in maximum air flow, as established by the engine manufacturer in his sales and service literature, for the Diesel engine being tested shall be used.

§ 86.314–79 Fuel flow measurement specifications.

(a) The fuel flow rate measurement instrument must have a minimum accuracy of ±1 percent of full-scale flow rate for each measurement range used. An exception for Diesel engines is allowed at the idle and 2-percent power points. For these modes, the minimum accuracy is ±2 percent of full-scale flow rate for each measurement range used. The controlling parameters are the elapsed time measurement of the event and the weight or volume measurement. Restrictions on these parameters are:

(1) The error in the elapsed time measurement of the event must not be greater than 1 percent of the absolute event time. This includes errors in starting and stopping the clock as well as the period of the clock.

(2) For Diesel engines only, if the mass of fuel consumed is measured by discrete weights, then the error in the actual weight of the fuel consumed must not be greater than ±1 percent of the measuring weight. An exception for Diesel engines is allowed at the idle and 2-percent power points. For these modes the error in the actual weight of the fuel consumed must not be greater than ±2 percent of the measuring weight.

(3) If the mass of fuel consumed is measured electronically (load cell, load beam, etc.), the error in the actual weight of fuel consumed must not be greater than ±1 percent of the full-scale value of the electronic device.

(4) If the mass of fuel consumed is measured by volume flow and density, the error in the actual volume consumed must not be greater than ±1 percent of the full-scale value of the volume measuring device.

(b) For devices that have varying mass scales (electronic weight, volume, density, etc.), measurements may not be used for calculations if the measurement is less than 20 percent of full scale.

(c) *Option.* Complete flow-rate measurement systems may be used below 20 percent of full-scale measurement as long as the combination of mass and time measurements indicate a flow rate that has an error of less than 5 percent of the absolute flow rate.

§ 86.315–79 General analyzer specifications.

(a) *Analyzer response time.* The analyzer must respond to an instantaneous step change at the entrance to the analyzer with a response equal to 95 percent of that step change in 6.0 seconds or less on all ranges used. The step change shall be at least 60 percent of full-scale chart deflection. For NO_x analyzers using a water trap, the response time increase due to the water trap and associated plumbing need not be included in the analyzer response time.

(b) *Precision.* The precision of the analyzer must be no greater than ±1 percent of full-scale concentration for each range used. The precision is defined as 2.5 times the standard deviation(s) of 10 repetitive responses to a given calibration or span gas.

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(c) *Noise.* The analyzer peak-to-peak response to zero and calibration or span gases over any 10-second period shall not exceed 2 percent of full-scale chart deflection on all ranges used.

(d) *Zero drift.* The analyzer zero-response drift during a 1-hour period shall be less than 2 percent of full-scale chart deflection on the lowest range used. The zero-response is defined as the mean response including noise to a zero-gas during a 30-second time interval.

(e) *Span drift.* The analyzer span drift during a 1-hour period shall be less than 2 percent of full-scale chart deflection on the lowest range used. The analyzer span is defined as the difference between the span-response and the zero-response. The span-response is defined as the mean response including noise to a span gas during a 30-second time interval.

§ 86.316–79 Carbon monoxide and carbon dioxide analyzer specifications.

(a) Carbon monoxide and carbon dioxide measurements are to be made with nondispersive infrared (NDIR) analyzers.

(b) The use of linearizing circuits is permitted.

(c) The minimum water rejection ratio (maximum CO_2 interference) as measured by § 86.321 shall be:

(i) For CO analyzers, 1000:1.

(ii) For CO_2 analyzers, 100:1.

(d) The minimum CO_2 rejection ratio (maximum CO_2 interference) as measured by § 86.322 for CO analyzers shall be 5000:1.

(e) *Zero suppression.* Various techniques of zero suppression may be used to increase readability, but only with prior approval by the Administrator.

§ 86.317–79 Hydrocarbon analyzer specifications.

(a) Hydrocarbon measurements are to be made with a heated flame ionization detector (HFID) analyzer.

(b) *Option.* A non-heated flame ionization detector (FID) that measures hydrocarbon emissions on a dry basis is permitted for gasoline-fueled testing: *Provided,* That equivalency is demonstrated to the Administrator. With the exception of temperatures, all specifications contained in Subpart D apply to the optional system.

(c) The analyzer shall be fitted with a constant temperature oven housing the detector and sample-handling components. It shall maintain temperature within 2° C of the set point. The detector, oven, and sample-handling components within the oven shall be suitable for continuous operation at temperatures to 200° C.

(d) Fuel and burner air shall conform to the specifications in § 86.308.

(e) The percent of oxygen interference must be less than 3 percent, as specified in § 86.331(d)(7).

(f) Premixed burner air:

(1) For Diesel engines, premixing a small amount of air with the HFID fuel prior to combustion within the HFID burner is not recommended as a means of improving oxygen interference ($\%O_2I$). However, this procedure may be used if the engine manufacturer demonstrates on each basic combustion system (i.e., 4 cycle DI, 2 cycle DI, 4 cycle precup, etc.) that an HFID using this procedure produces comparable results to an HFID not using this procedure. These data must be submitted to the Administrator for his approval prior to testing.

(2) For gasoline-fueled engines, premixing burner air with the HFID fuel is not allowed.

§ 86.318–79 Oxides of nitrogen analyzer specifications.

(a) Oxides of nitrogen are to be measured with a chemiluminescence analyzer.

(1) The NO_x sample must be heated per § 86.309(a) and § 86.310(a) up to the NO_x to NO converter.

(2) For high vacuum CL analyzers with heated capillary modules, supplying a heated sample to the capillary module is sufficient.

(3) The NO_x to NO convertor efficiency shall be at least 90 percent.

(4) The quench interference must be less than 3.0 percent as measured in § 86.327.

(b) *Option.* The oxides of nitrogen may be measured with an NDIR analyzer system that meets the following specifications:

(1) The system shall include an NO_x to NO converter, a water trap, and an NDIR analyzer in that order.

(2) The NO_x to NO converter shall obtain a sample directly from the heated sample line.

(3) The water trap shall meet the specifications in § 86.311(e).

(4) The NO NDIR analyzer shall be calibrated per § 86.330.

(5) The minimum water rejection ratio (maximum water interference) for the NO NDIR analyzer shall be 5,000:1 (see § 86.321).

(6) The minimum CO_2 rejection ratio (maximum CO_2 interference) for the NO NDIR analyzer shall be 30,000:1 (see § 86.322).

§ 86.319–79 Analyzer checks and calibrations; frequency and overview.

(a) Prior to initial use and after major repairs bench check each analyzer (see § 86.320).

(b) At least once every 7 days during testing check the NO_x converter efficiency (see § 86.332).

(c) At least once every 30 days during testing perform the following:

(1) Leak check the pressure side of the system (see § 86.328). If the option described in § 86.328(b)(2) is used, a pressure leak check is not required.

(2) Calibate all analyzers (see §§ 86.330 through 86.332).

(3) Check the analysis system response time (see § 86.329). If the option described in § 86.329(b) is used, a response time check is not required.

(4) Verify that the automatic data collection system (if used) meets the chart reading requirements found in § 86.343.

(5) Check the fuel flow measurement instrument to insure that the specifications in § 86.314 are met. Flow meters of the tapered tube and float design (rotometers) or the balance beam principle need be checked only every 90 days.

(d) At least once every 90 days during testing check the water rejection ratio and the CO_2 rejection ratio on all NDIR analyzers (see §§ 86.321 and 86.322).

(e) At least once every 180 days during testing check the dynamometer test stand and power-output instrumentation (see § 86.333).

§ 86.320–79 Analyzer bench check.

(a) Prior to initial use and after major repairs verify that each analyzer complies with the following specifications:

(1) Response time (see § 86.315(a)).
(2) Precision (see § 86.315(b)).
(3) Noise (see § 86.315(c)).
(4) Zero drift (see § 86.315(d)).
(5) Span drift (see § 86.315(e)).
(6) Water rejection ratio, NDIR analyzers only (see §§ 86.316(c) and 86.318(b)(5)).
(7) CO_2 rejection ratio, NDIR analyzers only (see §§ 86.316(d) and 86.318(b)(6)).
(8) Quench check, CL analyzers only (see § 86.327).

(b) If a stainless steel NO_x to NO converter is used, condition all new or replacement converters. The conditioning consists of either purging the converter with air for a minimum of 4 hours or until the converter efficiency is greater than 90 percent. The converter must be at operational temperature while purging. Do not use this procedure prior to checking converter efficiency on in-use converters.

§ 86.321–79 NDIR water rejection ratio check.

(a) Zero and span the analyzer on the lowest range that will be used.

(b) Introduce a saturated mixture of water and zero gas at room temperature directly to the analyzer.

(c) Determine and record the analyzer operating pressure (*GP*) in absolute units in pascals. Gauges G3 and G4 may be used if the values are converted to the correct units.

(d) Determine and record the temperature of the zero-gas mixture.

(e) Record the analyzers' response (*AR*) in ppm to the saturated zero-gas mixture.

(f) For the temperature recorded in step (d), determine the saturation vapor pressure (P_{WS}) from § 86.344(d).

(g) Calculate the water concentration (*Z*) in the mixture from:

$$Z=(P_{WS}/GP)(10^6)$$

(h) Calculate the water rejection ratio (*WRR*) from:

$$WRR=(Z/AR)$$

§ 86.322–79 NDIR CO_2 rejection ratio check.

(a) Zero and span the analyzer on the lowest range that will be used.

(b) Introduce a CO_2 calibration gas of at least 10 percent CO_2 or greater to the analyzer.

(c) Record the CO_2 calibration gas concentration in *ppm*.

(d) Record the analyzers' response (*AR*) in *ppm* to the CO_2 calibration gas.

(e) Calculate the CO_2 rejection ratio CO_2RR) from:

$$CO_2RR=(ppm\ CO_2)/AR.$$

§ 86.323 through § 86.326 [Reserved]

§ 86.327–79 Quench checks; NOx analyzer.

(a) Perform the reaction chamber quench check for each model of high vacuum reaction chamber analyzer prior to initial use.

(b) Perform the reaction chamber quench check for each new analyzer that has an ambient pressure or "soft vacuum" reaction chamber prior to initial use. Additionally, perform this check prior to reusing an analyzer of this type any time any repairs could potentially alter any flow rate into the reaction chamber. This includes, but is not limited to, sample capillary, ozone capillary, and if used, dilution capillary.

(c) Quench check as follows:

(1) Calibrate the NO_x analyzer on the lowest range that will be used for testing.

(2) Introduce a mixture of CO_2 calibration gas and NO_x calibration gas to the CL analyzer. Dynamic blending may be used to provide this mixture. Dynamic blending may be accomplished by analyzing the CO_2 in the mixture. The change in the CO_2 value due to blending may then be used to determine the true concentration of the NO_x in the mixture. The CO_2 concentration of the mixture shall be approximately equal to the highest concentration experienced during testing. Record the response.

(3) Recheck the calibration. If it has changed more than ±1 percent of full scale, recalibrate and repeat the quench check.

(4) Prior to testing, the difference between the calculated NO_x response and the response of NO_x in the presence of CO_2 (step 2) must not be greater than 3.0 percent. The calculated NO_x response is based on the calibration performed in step (1).

§ 86.328–79 Leak checks.

(a) *Vacuum side leak check.* (1) Any location within the analysis system where a vacuum leak could affect the test results must be checked.

(2) The maximum allowable leakage rate on the vacuum side is 0.5 percent of the in-use flow rate for the portion of the system being checked. The analyzer flows and bypass flows may be used to estimate the in-use flow rates.

(3) The sample probe and the connection between the sample probe and valve V2 (Figure D79–1) may be excluded from the leak check.

(b) *Pressure side leak check.* (1) The maximum allowable leakage rate on the pressure side is 5 percent of the in-use flow rate.

(2) Option: If the flow rate for each flow meter is equal to or greater than the flow rate recorded in § 86.329(b)(1)(ii), then a pressure side leak check is not required.

§ 86.329–79 System response time; check procedure.

(a) Check the system response time by the following procedure:

(1) Stabilize the operating temperature of the sample line, sample pump, and heated filters.

(2) Introduce an HC span gas into the sampling system at the sample probe or valve V2 at atmospheric pressure. Simultaneously, start the time measurement.

(3) When the HC instrument response is 95 percent of the span gas concentration used, stop the time measurement.

(4) If the elapsed time is more than 20.0 seconds, make necessary adjustments.

(5) Repeat with the CO, CO_2, and NO_x instruments and span gases.

(b) Option. If the following parameters are determined, the initial system response time may be generally applied to future checks.

(1) Analyzer and bypass flow rates:

(i) Determine by experimentation the minimum analyzer and bypass flow rates individually and in combination that will produce a response time as close as possible to 20.0 seconds per paragraph (a) of this section.

(ii) Record the highest minimum flow rate for each flow meter as determined in step (i).

(2) Capillary flow analyzers. This procedure is applicable only to analyzers that have sample capillaries such as the HFID and CL analyzers. It is also assumed that the system has sample/span valves that perform the function of valves V9 and V13 in Figure D79–1.

(i) Operate the analyzer(s) at the in-use capillary pressure.

(ii) Adjust the bypass flow rate to the flow rate recorded in paragraph (b)(1)(ii) of this section.

(iii) Measure and record the response time from the sample/span valve(s) per paragraph (a) of this section.

(iv) The response time (step (iii)) can be determined by switching from the "sample" position to the "span" position of the sample/span valve and observing the analyzer response on a chart recorder. Normally, the "sample" position would select a "room air" sample and the "span" position would select a span gas.

(v) Adjust the bypass flow rate to the normal in-use value.

(vi) Measure and record the response time from the sample/span valve(s) per paragraph (a) of this section.

(vii) Determine the slowest response time (step (iii) or step (iv)) and add 2 seconds to it.

§ 86.330–79 NDIR analyzer calibration.

(a) *Detector optimization.* If necessary, follow the manufacturer's instructions for initial start-up and basic operating adjustments.

(b) *Calibration curve.* Develop a calibration curve for each range used as follows:

(1) Zero the analyzer.

(2) Span the analyzer to give a response of approximately 90 percent of full-scale chart deflection.

(3) Recheck the zero response. If it has changed more than 0.5 percent of full scale, repeat steps (1) and (2).

(4) Record the response of calibration gases having nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of full-scale concentration.

(5) Generate a calibration curve. The calibration curve shall be of fourth order or less, have five or fewer coefficients, and be of the form of equation (1) or (2). Include zero as a data point. Compensation for known impurities in the zero gas can be made to the zero-data point. The calibration curve must fit the data points within 2 percent of point or 1 percent of full scale, whichever is less.

$$y=Ax^4+Bx^3+Cx^2+Dx+E \quad (1)$$

$$y=\frac{x}{Ax^4+Bx^3+Cx^2+Dx+E} \quad (2)$$

where:
y = concentration
x = chart deflection

(6) *Option.* A new calibration curve need not be generated if: (i) A calibration curve conforming to step (5) exists; (ii) The responses generated in step (4) are within 1 percent of full scale or 2 percent of point, whichever is less, of the responses predicted by the calibration curve for the gases used in step (4).

(c) If any range is within 2 percent of being linear, a linear calibration may be used. To determine if this criterion is met:

(1) Perform a linear least-square regression on the data generated. Use an equation of the form $y = mx$, where x is the actual chart deflection and y is the concentration.

(2) Use the equation $z = y/m$ to find the linear chart deflection (z) for each calibration gas concentration (y).

(3) Determine the linearity ($\%L$) for each calibration gas by:

$$\text{Percent } L=\frac{(z-x)}{\text{Full-scale linear chart deflection}}(100)$$

(4) The linearity criterion is met if the $\%L$ is less than ±2 percent for each data point generated. For each emission test, a calibration curve of the form $y=mx$ is to be used. The slope (m) is defined for each range by the spanning process.

§ 86.331–79 Hydrocarbon analyzer calibration.

The following steps are followed in sequence to calibrate the hydrocarbon analyzer. It is suggested, but not required, that efforts be made to minimize relative response variations.

(a) If necessary, follow manufacturer's instructions for instrument start-up and basic operating adjustments.

(b) Set the oven temperature 5°C hotter than the required sample-line temperature. Allow at least one-half hour after the oven has reached temperature for the system to equilibrate.

(c) Initial fuel flow adjustment. With the fuel and air-flow rates set at the

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manufacturer's recommendations, introduce a 350 ppmC ± 75 ppmC span gas to the detector. Determine the response at a given fuel flow from the difference between the span-gas response and the zero-gas response. Incrementally adjust the fuel flow above and below the manufacturer's specification. Record the span and zero response at these fuel flows. A plot of the difference between the span and zero response versus fuel flow will be similar to the one shown in Fig. D79–3. Adjust the fuel-flow rate to the rich side of the curve, as shown. This is initial flow-rate setting and may not be the final optimized flow rate.

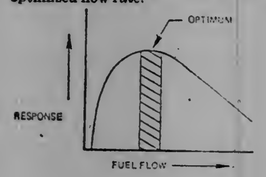


Figure D79-3 RESPONSE VS. FUEL FLOW

$$\text{Percent } O_2 I = \frac{B - \text{Analyser response } (ppmC)}{B} (100)$$

$$\text{Analyser response} = \frac{}{\text{Percent of full-scale analyzer response due to } A} \times (\text{Percent of full-scale analyser response due to } B)$$

A=hydrocarbon concentration (*ppmC*) of the span gas used in step (2).

B=hydrocarbon concentration (*ppmC*) of the oxygen interference check gases used in step (4).

(7) The percent of oxygen interference (%O_2I) must be less than ±3.0 percent for all required oxygen interference check gases prior to testing.

(8) If the oxygen interference is greater than the specifications, incrementally adjust the air flow above and below the manufacturer's specifications, repeating subparagraphs (1) through (7) of this paragraph for each flow.

(9) If the oxygen interference is greater than the specification after adjusting the air flow, vary the fuel flow and thereafter the sample flow, repeating subparagraphs (1) through (7) of this paragraph for each new setting.

(10) If the oxygen interference is still greater than the specifications, repair or replace the analyzer, FID fuel, or burner air prior to testing. Repeat this section with the repaired or replaced equipment or gases.

(d) Oxygen interference optimization. Choose a range where the oxygen interference check gases (see § 86.308) will fall in the upper 50 percent. Conduct this test with the oven temperature set as required. Oxygen interference check gas specifications are found in § 86.308.

(1) Zero the analyzer.

(2) Span the analyzer with the zero-percent oxygen blend for gasoline-fueled engines. Diesel engine instruments shall be spanned with the 21-percent oxygen blend.

(3) Recheck zero response. If it has changed more than 0.5 percent of full scale repeat subparagraphs (1) and (2) of this paragraph.

(4) Introduce the 5 percent and 10 percent oxygen interference check gases.

(5) Recheck the zero response. If it has changed more ±1 percent of full scale, repeat the test.

(6) Calculate the percent of oxygen interference (%O_2I) for each mixture in step (4).

$$\text{Percent } L = \frac{(z-x)}{\text{Full-scale linear chart deflection}} (100)$$

(e) Linearity check. For each range used, check linearity as follows:

(1) With the fuel flow, air flow and sample flow adjust to meet the oxygen interference specification, zero the analyzer.

(2) Span the analyzer using a calibration gas that will provide a response of approximately 90 percent of full-scale concentration.

(3) Recheck the zero response. If it has changed more than 0.5 percent of full scale, repeat steps (1) and (2).

(4) Record the response of calibration gases having nominal concentrations of 30, 60, and 90 percent of full-scale concentration. It is permitted to use additional concentrations.

(5) Perform a linear least square regression on the data generated. Use an equation of the form $y=mx$, where x is the actual chart deflection and y is the concentration.

(6) Use the equation $z=y/m$ to find the linear chart deflection (z) for each calibration gas concentration (y).

(7) Determine the linearity (%L) for each calibration gas by:

(8) The linearity criterion is met if the %L is less than ±2 percent for each data point generated. Below 40 *ppmC* the linearity criterion may be expanded to ±4 percent. For each emission test, a calibration curve of the form $y=mx$ is to be used. The slope (m) is defined for each range by the spanning process.

(9) If the %L for any point exceeds the specifications in step (8), the air, fuel, and sample-flow rates may be varied within the boundaries of the oxygen interference specifications.

(10) If the %L for any data point still exceeds the specifications, repair or replace the analyzer, FID fuel, burner air, or calibration bottles prior to testing. Repeat the procedures of this section with the repaired or replaced equipment or gases.

(f) Optimized flow rates. The fuel-flow rate, air-flow rate and sample-flow rate are defined as "optimized" at this point.

§ 86.332–79 Oxides of nitrogen analyzer calibration.

(a) Perform a converter-efficiency check, (see paragraph (b) of this section), every 7 days. Every 30 days perform a linearity check, (see paragraph (c) of this section), which must be followed by a converter-efficiency check.

(b) *Converter-efficiency check.* The apparatus described and illustrated in Figure D79–4 is to be used to determine the conversion efficiency of devices that convert NO_2 to NO. The following procedure is to be used in determining the values to be used in the equation below:

(1) Follow the manufacturer's instructions for instrument startup and operation.

(2) Zero the oxides of nitrogen analyzer.

(3) Connect the outlet of the NO_x generator (see Figure D79–4) to the sample inlet of the oxides of nitrogen analyzer which has been set to the most common operating range.

(4) Introduce into the NO_x generator-analyzer system a span gas with a NO concentration equal to approximately 80 percent of the most common operating range.

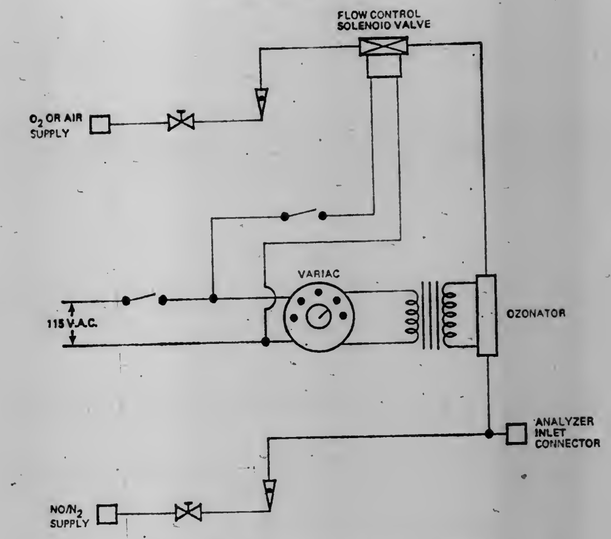


FIGURE D79-4 NO_x CONVERTER EFFICIENCY DETECTOR

(5) With the oxides of nitrogen analyzer in the NO mode, record the concentration of NO indicated by the analyzer.

(6) Turn on the NO generator O_3 (or air) supply and adjust the O_3 (or air) flow rate so that the NO indicated by the analyzer is about 10 percent less than indicated in step (5). Record the concentration of NO in this NO+O_2 mixture.

(7) Switch the NO_x generator to the generation mode and adjust the generation rate so that the NO measured on the analyzer is 20 percent of that measured in step (5). There must be at least 10 percent unreacted NO at this point. Record the concentration of residual NO.

(8) Switch the oxides of nitrogen analyzer to the NO_x mode and measure total NO_x. Record this value.

(9) Switch off the NO_x generation, but maintain gas flow through the system. The oxides of nitrogen analyzer will indicate the total NO_x in the NO+O_2 mixture. Record this value.

(10) Turn off the NO_x generator O_2 (or air) supply. The analyzer will now indicate the total NO_x in the original NO in N_2 mixture. This value should be no more than 5 percent above the value indicated in step (4).

(11) Calculate the efficiency of the NO_x converter by substituting the concentrations obtained into the following equation:

$$\text{Percent efficient} = 1 + \frac{a-b}{c-d} \times 100$$

where:
a=concentration obtained in step (8).
b=concentration obtained in step (9).
c=concentration obtained in step (6).
d=concentration obtained in step (7).

The efficiency of the converter shall be greater than 90 percent. Adjustment of the converter temperature may be necessary to maximize the efficiency. If the converter does not meet the conversion-efficiency specifications, repair or replace the unit prior to testing. Repeat the procedures of this section with the repaired or new converter.

(c) *Linearity check.* For each range used, check linearity as follows:

(1) With the operating parameters adjusted to meet the converter efficiency

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check and the quench checks, zero the analyzer.

(2) Span the analyzer using a calibration gas that will give a response of approximately 90 percent of full-scale concentration.

(3) Recheck the zero response. If it has changed more than 0.5 percent of full scale, repeat steps (1) and (2).

(4) Record the response of calibration gases having nominal concentrations of 30, 60 and 90 percent of full-scale concentration. It is permitted to use additional concentrations.

(5) Perform a linear least-square regression on the data generated. Use an equation of the form $y=mx$, where x is the actual chart deflection and y is the concentration.

(6) Use the equation $z=y/m$ to find the linear chart deflection (z) for each calibration gas concentration (y).

(7) Determine the linearity ($\%L$) for each calibration gas by:

$$\text{Percent } L = \frac{\text{Absolute value } (z-x)}{\text{Full-scale linear chart deflection}} \times 100$$

(8) The linearity criterion is met if the $\%L$ is less than ± 2 percent for each data point generated. For each emission test, a calibration curve of the form $y=mx$ is to be used. The slope (m) is defined for each range by the spanning process.

(9) If the $\%L$ exceeds ± 2 percent for any data point generated, repair or replace the analyzer or calibration bottles prior to testing. Repeat the procedures of this section with the repaired or replaced equipment or gases.

(10) Perform a converter-efficiency check (see paragraph (b) of this section).

(11) The operating parameters are defined as "optimized" at this point.

§ 86.333–79 Dynamometer calibration.

(a) If necessary, follow the manufacturer's instructions for initial start-up and basic operating adjustments.

(b) Check the dynamometer torque measurement for each range used by the following:

(1) Warm up the dynamometer following the equipment manufacturer's specifications.

(2) Determine the dynamometer calibration moment arm. Equipment manufacturer's data, actual measurement, or the value recorded from the previous calibration used for this subpart may be used.

(3) Calculate the indicated torque (*IT*) for each calibration weight to be used by:

IT=calibration weight (lb) x calibration moment arm (ft)

(4) Attach each calibration weight specified in § 86.312 to the moment arm at the calibration distance determined in step (2). Record the power measurement equipment response (ft-lb) to each weight.

(5) For each calibration weight, compare the torque value measured in step (4) to the calculated torque determined in step (3).

(6) The measured torque must be within 2 percent of the calculated torque.

(7) If the measured torque is not within 2 percent of the calculated torque, adjust or repair the system. Repeat steps (1) through (6) with the adjusted or repaired system.

(c) *Option.* A master load-cell or transfer standard may be used to verify the in-use torque measurement system.

(1) The master load-cell and read out system must be calibrated with weights at each test weight specified in § 86.312–79. The calibration weights must be traceable to within 0.1 percent of NBS weights.

(2) Warm up the dynamometer following the equipment manufacturer's specifications.

(3) Attach the master load-cell and loading system.

(4) Load the dynamometer to a minimum of 6 equally spaced torque values as indicated by the master load-cell for each in-use range used.

(5) The in-use torque measurement must be within 2 percent of the torque measured by the master system for each load used.

(6) If the in-use torque is not within 2 percent of the master torque, adjust or repair the system. Repeat step (2) through step (5) with the adjusted or repaired system.

(d) The dynamometer calibration must be completed within 2 hours from the completion of the dynamometer warm-up.

§ 86.334–79 Test procedure overview.

(a) The test consists of prescribed sequences of engine operating conditions to be conducted on an engine dynamometer. The exhaust gases generated during engine operation are sampled for specific component analysis through the analytical train. The test is applicable to engines equipped with catalytic or direct-flame afterburners, induction system modifications, or other systems, or to uncontrolled engines.

(b) The tests are designed to determine the brake-specific emissions of hydrocarbons, carbon monoxide, and oxides of nitrogen. The gasoline-fueled engine test consists of 1 warm-up cycle and 1 hot cycle. The Diesel engine test consists of 3 idle modes and 5 power modes at each of 2 speeds which span the typical operating range of Diesel engines. These procedures require the determination of the concentration of each pollutant, the fuel flow and the power output during each mode. The measured values are weighted and used to calculate the grams of each pollutant emitted per brake-horsepower hour.

(c) (1) When an engine is tested for exhaust emissions or is operated for service accumulation on an engine dynamometer, the complete engine shall be tested, with all emission control devices installed and functioning.

(2) Evaporative emission controls need not be connected if data are provided to show that normal operating conditions are maintained in the engine induction system.

(3) On air cooled engines, the fan shall be installed.

(4) Additional accessories (e.g., oil cooler, alternators, air compressors, etc.) may be installed with advance approval by the Administrator.

(d) All emission control systems installed on or incorporated in a new motor vehicle engine shall be functioning during all procedures in this subpart. In cases of component malfunction or failure, maintenance to correct component failure or malfunction shall be authorized in accordance with § 86.-079–25.

§ 86.335–79 Gasoline-fueled engine test cycle.

(a) The following test sequence shall be followed in dynamometer operation tests of gasoline-fueled heavy-duty engines. Diesel engines are covered in § 86.-336.

Cycle No.	Mode No.	Mode	Observed torque (percent of maximum observed)	Time in mode-seconds	Cumulative time-seconds	Weighting factors
1	1	Idle		60	60	0.232
1	2	Cruise	25	60	120	.077
1	3	PTA	55	60	180	.147
1	4	Cruise	25	60	240	.077
1	5	PTD	10	60	300	.057
1	6	Cruise	25	60	360	.077
1	7	FL	90	60	420	.113
1	8	Cruise	25	60	480	.077
1	9	CT		60	540	.143
2	10	Cruise	25	60	600	.077
2	11	PTA	55	60	660	.147
2	12	Cruise	25	60	720	.077
2	13	PTD	10	60	780	.057
2	14	Cruise	25	60	840	.077
2	15	FL	90	60	900	.113
2	16	Cruise	25	60	960	.077
2	17	CT		60	1,020	.143
2	18	Idle		60	1,080	.232

(b) Except for idles, the engine dynamometer shall be operated at a constant speed of 2000 rpm±100 rpm. Speed deviations, not to exceed 200 rpm, will be allowed during the first 10 seconds of each mode.

(c) The times in-mode specified in paragraph (a) for the CT modes are ±2 seconds. All other times in-mode are ±4 seconds.

(d) Torque for each mode must be held at the specified value ±2 percent of the maximum torque observed except for the first 20 seconds of each mode. For example, mode 3 torques shall be held between 53 and 57 percent of maximum torque (55 ±2%).

(e) The idle operating mode shall be carried out at the manufacturer's recommended curb-idle engine speed. Arrive at the last idle mode by closing the throttle, braking the dynamometer to the engine idle speed, and unloading the dynamometer.

(f) The CT operating mode shall be carried out at the same engine speed as specified in paragraph (b) of this section.

(g) If the Administrator determines that an engine shall be tested as an automatic transmission code engine, then a load shall be applied by the dynamometer during the idle modes (1 and 18) such that the engine speed is decreased from the recommended dynamometer-idle speed to the recommended curb-idle speed. The engine idle torque recorded for the calculations in § 86.345 shall be zero.

(h) If the operating conditions specified in paragraph (a) of this section for modes 2 through 8, and 10 through 16 cannot be maintained, the Administrator may authorize deviations from the specified load conditions. Such deviations shall not exceed 5 percent of the maximum torque at the test speed. The minimum deviations, above and below the specified load, necessary for stable operation shall be determined by the manufacturer and approved by the Administrator prior to the test run. Emission tests shall be performed by operating the engine at the higher approved load setting during cycle 1 and at the lower approved load setting during cycle 2. The weighting factors shall be as specified in paragraph (a) of this section.

§ 86.336–79 Diesel engine test cycle.

(a) The following 13-mode cycle shall be followed in dynamometer operation tests of heavy-duty Diesel engines. Gasoline-fueled engines are covered in § 86.-335.

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Test Segment	Mode No.	Engine Speed	Observed torque (percent of maximum observed)	Time in mode (minutes) Minimum	Maximum	Maximum cumulative time (minutes)
1	1	Curb-idle		4.5	6.0	42
1	2	Intermediate	2	4.5	6.0	
1	3	do	25	4.5	6.0	
1	4	do	50	4.5	6.0	
1	5	do	75	4.5	6.0	
1	6	do	100	4.5	6.0	
1	7	Curb-idle		4.5	6.0	
2	8	Rated	100	4.5	6.0	36
2	9	do	75	4.5	6.0	
2	10	do	50	4.5	6.0	
2	11	do	25	4.5	6.0	
2	12	do	2	4.5	6.0	
2	13	Curb-idle		4.5	6.0	

(b) During each mode the specified speed shall be held to within 50 rpm. Torque for each mode must be held at the specified value ±2 percent of the maximum torque observed. For example, mode 4 torque shall be held between 48 and 52 percent of maximum torque (50 ±2%).

(c) If the operating conditions specified in paragraph (b) of this section for modes 3, 4, 5, 9, 10, and 11 cannot be maintained, the Administrator may authorize deviations from the specified load conditions. Such deviations shall not exceed 10 percent of the maximum torque at the test speed. The minimum deviations, above and below the specified load, necessary for stable operation shall be determined by the manufacturer and approved by the Administrator prior to the test run. Emission tests shall be performed at each of the approved load settings, one above and one below the operating conditions specified in paragraph (a) of this section. The emission values obtained shall be calculated in accordance with § 86.345 except that the weighting factor shall be 0.04.

(d) If the Administrator determines that an engine shall be tested as an automatic transmission code engine, then a load shall be applied by the dynamometer during the idle modes (1, 7, and 13) such that the engine speed is decreased from the recommended dynamometer-idle speed to the recommended curb-idle speed. The engine-idle torque recorded for the calculations in § 86.345 shall be zero.

§ 86.337–79 Information.

The following information, as applicable, shall be recorded for each test:

(a) ***Engine description and specification.*** **A copy of the information specified in this paragraph must accompany each** engine sent to the Administrator for compliance testing. The manufacturer need not record the information specified in this paragraph for each test if the information, with the exception of subparagraphs (3), (12), and (13), is included in the manufacturer's Part I.

(1) Engine-system combination.

(2) Engine identification numbers.

(3) Number of hours of operation accumulated on engine.

(4) Rated maximum horsepower and torque.

(5) Maximum horsepower and torque speeds.

(6) Engine displacement.

(7) Governed speed.

(8) Manufacturer's start-up and warm-up reference, gasoline-fueled engines only).

(9) Curb-idle rpm.

(10) Dynamometer-idle rpm (automatic transmission code engines only).

(11) Maximum horsepower at 2000 rpm (gasoline-fueled engines only).

(12) Fuel consumption and maximum torque at 2000 rpm (gasoline-fueled engines only).

(13) Fuel consumption at maximum power and torque (Diesel engines only).

(14) Maximum air flow (Diesel engines only).

(15) Air inlet restriction (Diesel engines only).

(16) Exhaust pipe diameter(s) (Diesel engines only).

(17) Maximum exhaust system back pressure (Diesel engines only).

(18) Maximum exhaust system back pressure at 2000 rpm, if applicable (gasoline-fueled engines only).

(b) *Test data; general.* This information may be recorded at any time between 4 hours prior to the test and 4 hours after the test.

(1) Engine-system combination.

(2) Engine identification number.

(3) Instrument operator.

(4) Engine operator.

(5) Number of hours of operation accumulated on the engine prior to beginning the warm-up portion of the test.

(6) Fuel identification, including H/C ratio.

(7) Date of most recent analytical assembly calibration.

(8) All pertinent instrument information such as tuning, gain, serial numbers, detector number, calibration curve numbers, etc. As long as this information is traceable, it may be summarized by system number or analyzer identification numbers.

(c) *Test data; pre-test.* (1) Date and time of day.

(2) Test number.

(3) Ambient temperature in dynamometer testing room (gasoline-fueled engines only).

(4) Barometric pressure, pre-test for gasoline-fueled engines, pre-test segment for Diesel engines.

(5) Engine intake humidity, pre-test for gasoline-fueled engines, pre-test segment for Diesel engines with nonconditioned air supply systems.

(6) Maximum observed torque for intermediate and rated speeds (Diesel engines only).

(7) Maximum observed torque at 2000 rpm (gasoline-fueled engines only).

(8) Recorder chart or equivalent. Identify for each test (test segment for Diesel engines) zero traces for each range used, and span traces for each range used.

(d) *Test data; modal.* (1) Recorder chart or equivalent. Identify for each test mode the emission concentration traces and the associated analyzer range(s). The start and finish of each test.

(2) Observed engine torque.

(3) Observed engine rpm.

(4) Record engine torque and engine rpm continuously with a chart recorder or equivalent recording device.

(5) Intake air flow and depression for each mode (Diesel engines only).

(6) Engine intake air temperature for each mode (Diesel engines only).

(7) Fuel flow for each mode. If the fuel flow measurement is a volume measurement system, record the fuel temperature in the measurement system for fuel density corrections to the mass flow rate. If the fuel temperature is within 3°C (5.4° F) of the calibration temperature, no density correction is required.

(8) Engine intake humidity (only for Diesel engines with humidity conditioned air supply).

(e) *Test data; post-test.* (1) Recorder chart or equivalent. Identify the hang-up check.

(2) Recorder chart or equivalent. Identify the zero traces for each range used and the span traces for each range used.

(3) Ambient temperature in the dynamometer testing room (gasoline-fueled engines only).

(4) Total number of hours of operation accumulated on the engine.

§ 86.338–79 Exhaust measurement accuracy.

(a) The analyzers must be operated between 15 percent and 100 percent of full-scale chart deflection during the measurement of the emissions for each mode. The exceptions to the lower limit of this operating rule are:

(1) The analyzer's response may be less than 15 percent of full scale if the full-scale value is 120 ppm (or ppmC) or less.

(2) *Option.* For CO analysis the analyzer's response may be less than 15 percent of full scale if the full-scale value is 5500 ppm or less.

(3) The analyzer's response may be less than 15 percent of full scale if the emissions from the engine are erratic and the average chart-deflection value is greater than 15 percent of full scale.

(4) For gasoline-fueled engines, the analyzer's response may be less than 15 percent of full scale during the initial part of the CT mode provided that the average chart-deflection value is greater than 15 percent of full scale.

(5) The analyzer's response may be less than 15 percent of full scale if the contribution of all modes read below the 15 percent level is less than 10 percent by mass of the final test results.

§ 86.339–79 Pre-test procedures.

(a) Allow a minimum of 30 minutes warm-up in the stand-by or operating mode prior to spanning the analyzers.

(b) Replace or clean the filter elements and then vacuum leak check the system, §86.328(a). A pressure leak check is also permitted per §86.328(b). Allow the heated sample line, filters, and pumps to reach operating temperature.

(c) Perform the following system checks:

(1) If a stainless steel NO_2 to NO converter is used, prior to gasoline-fueled engine tests, purge the converter with air (zero-grade air, room air, or O_2) for a minimum of 30 minutes. The converter must be at operational temperature while purging.

(2) Check the sample-line temperature (see §86.310).

(3) Check the system response time (see §86.329). System response time may be applied from the most recent check of response time if all of the following are met:

(i) The flow rate for each flow meter is equal to or greater than the flow rate recorded in §86.329(b)(1)(ii).

(ii) For analyzers with capillaries, the response time from the sample/span valve is measured using in-use pressures and bypass flows (see § 86.329(b)(2)).

(iii) The response time measured in step (ii) is equal to or less than the response time determined in § 86.329(b)(2)(vii).

(4) A hang-up check is permitted.

(5) A converter-efficiency check is permitted. The check need not conform to § 86.332(b). The test procedure may be aborted at this point in the procedure in order to repair the NO_2 to NO converter. If the test is aborted, the converter must pass the efficiency check described in § 86.332(b) prior to starting the dynamometer test run.

(d) Introduce the zero-grade gases at the same flow rates and pressures used to calibrate the analyzers and zero the analyzers on the lowest anticipated range that will be used during the test. Immediately prior to each test (segment, for Diesel engines), obtain a stable zero for each anticipated range that will be used during the test.

(e) Introduce span gases to the instruments under the same flow conditions as were used for the zero gases. Adjust the instrument gains on the lowest range that will be used to give the desired value. Span gases should have a concentration greater than 70 percent of full scale for each range used. Immediately prior to each test and also prior to each segment of the Diesel test, record the response to the span gas and the span-gas concentration for each range that will be used during the test.

(f) Check the zero responses. If they have changed more than 0.5 percent of full scale, repeat paragraphs (d) and (e) of this section.

(g) Check system flow rates and pressures. Note the values of gauges G3 and G4 for reference during the test.

§ 86.340–79 Gasoline-fueled engine dynamometer test run.

(a) This section applies to gasoline-fueled engines only. Diesel engines are covered in § 86.341.

(b) (1) Mount test engine on the engine dynamometer.

(2) Install instrumentation and sample probe.

(3) Read and record the general test data as specified in § 86.337(b).

(c) Precondition the engine by the following continuous steps:

(1) The engine shall be started and operated at:

(i) Zero load in accordance with the manufacturer's start-up and warm-up procedures for 1 minute ±30 sec;

(ii) A torque equivalent to 10±3 percent of the most recent determination of maximum torque for 4 minutes ±30 sec at 2000 rpm;

(iii) A torque equivalent to 55±5 percent of the most recent determination of maximum torque for 35 minutes ±1 minute at 2000 rpm;

(iv) Option. If the engine has been operating on service accumulation for a minimum of 40 minutes, the service accumulation may be substituted for steps (i) through (iii).

(2) If tested under the provisions of § 86.079–29, check specifications as required. This check must be performed within 10 minutes after completion of engine preconditioning;

(3) Determine the maximum torque of the engine at 2000 rpm ±100 rpm;

(i) Operate the engine with the throttle fully opened for a maximum of three minutes. During the second minute of operation, record the high and low torque readings. The average of these two readings will be the maximum torque value at 2000 rpm.

(ii) Calculate the torque corresponding to 10, 25, 55, and 90 percent of the observed maximum torque value.

(4) Determine the analyzer ranges required for each mode specified in § 86.335 to meet the range specifications of § 86.338. The engine must not be operated for more than 10 minutes. Cycle 1, specified in § 86.335, may be used for this purpose;

(5) The engine shall be turned off and allowed to stand for at least 1 hour, but not more than 2 hours, at an average ambient temperature of 25° C±5° C (77° F±9° F).

(d) The following steps shall be taken for each test:

(1) Maintain dynamometer test cell average ambient temperature at 25° C± 5° C (77°F±9°F);

(2) Observe pre-test procedures; § 86.339;

(3) Start cooling system;

(4) Start engine and operate in accordance with manufacturer's start-up and warm-up procedures. The duration of the warm-up procedure shall be 5 minutes ±30 seconds. Sample flow may begin during the warm-up;

(5) Read and record all pre-test data specified in § 86.337(c) during the 5-minute warm-up;

(6) Release the choke idle-stop (if necessary) and return the engine throttle control to the curb-idle position, start sample flow and recorders if not already started, and begin test sequence of § 86.335;

(7) Should it be determined that the test must be rerun, then only the soak specified in paragraph (c)(5) of this section need be performed prior to paragraph (d) of this section;

(8) Perform the test cycle, § 86.335, and continuously record exhaust gas concentrations;

(9) Read and record all modal data specified in § 86.337(d) during the test cycle;

(10) The engine speed and load must be maintained within the requirements of § 86.343;

(11) If at any time during a test, the test equipment malfunctions or the specifications in paragraph (d)(10) of this section are not met, the test is void, and may be aborted. The test sequence may be restarted under the provisions of paragraph (c)(5) of this section.

(e) *Exhaust gas measurements.* (1) Measure HC, CO, CO_2, and NOx volume concentration in the exhaust sample. Should the analyzer response exceed 100 percent of full scale or respond less than 15 percent of full scale, the next higher or lower analyzer range shall be used per § 86.338. For exceptions to the lower limit see § 86.338. Should the fuel flow instrument read below 20 percent of the full-scale value, a flow measurement unit with a lower scale must be used unless the option in § 86.314 is desired.

(2) For each analyzer, each range that may be used during a test must have the zero and span responses recorded prior to the execution of that test. Only the range(s) used to measure the emissions during a test are required to have their

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zero and span recorded after the completion of the test.

(3) If during an emission test the value of gauges downstream of the NDIR analyzer(s) (G3 or G4) differs by more than ±2 inches of water from the pre-test value, the test is void.

§ 86.341–79 Diesel engine dynamometer test run.

(a) This section applies to Diesel engines only. Gasoline-fueled engines are covered in § 86.340.

(b) The temperature of the air supplied to the engine shall be between 68° F and 86° F. The fuel temperature at the pump inlet shall be 100° F±10° F. The observed barometric pressure shall be between 28.5 inches and 31 inches Hg. Higher air temperature or lower barometric pressure may be used, if desired, but no allowance shall be made for increased emissions because of such conditions.

(c) The governor and fuel system shall have been adjusted to provide engine performance at the levels in the application for certification required under § 86.079–21. These adjustments are only permitted under the provisions of § 86.-079–25.

(d) The following steps shall be taken for each test:

(1) Install instrumentation and sample probes as required;

(2) Observe pre-test procedure, § 86.-339;

(3) Read and record the general test data as specified in § 86.337(b);

(4) Start cooling system;

(5) Precondition the engine in the following manner:

(i) Operate the engine at idle for 2 to 3 minutes;

(ii) Operate the engine at approximately 50 percent power at the peak torque speed for 5 to 7 minutes;

(iii) Operate the engine at rated speed and maximum horsepower for 25 to 30 minutes;

(iv) *Option.* It is permitted to precondition the engine at rated speed and maximum horsepower until the oil and water temperatures are stabilized. The temperatures are defined as stabilized if they are maintained within 2 percent of point for 2 minutes. The engine must be operated a minimum of 10 minutes for this option. This optional procedure may be subsituted for step (iii);

(v) *Option.* If the engine has been operating on service accumulation for a minimum of 40 minutes, the service accumulation may be substituted for steps (i) through (iii);

(vi) Longer preconditioning times may be used only if prior approval is obtained from the Administrator.

(6) Within a total elapsed time of 10 minutes or less, determine by experimentation the maximum torque at the rated and intermediate speeds;

(7) Calculate the torque corresponding to 2, 25, 50, 75, and 100 percent of the maximum observed torque for the rated and intermediate speeds;

(8) Read and record all pre-test data specified in § 86.337(c);

(9) Start the test cycle, § 86.336, within 10 minutes, after determining test load using the torque values determined in paragraph (d)(6) of this section;

(10) Read and record all modal data specified in § 86.337(d) during the last 2 minutes of each mode;

(11) Continuously record the analyzer's response to the exhaust gas during each test segment;

(12) Test segments may be repeated;

(13) If a delay of more than 20 minutes occurs between the end of one segment and the beginning of another segment the test is void. The test may be restarted at paragraph (d)(8) of this section. If the delay exceeds 4 hours, the test shall be restarted at paragraph (d)(2) of this section;

(14) The engine speed and load must be maintained within the requirements of § 86.336 during the last 2 minutes of each mode. If the requirement is not met for all modes during a test segment, that segment of the test is void. The test segment may be restarted beginning with paragraph (d)(8) of this section;

(15) If at any time during a test segment, the test equipment malfunctions or the specifications in paragraph (d)(14) of this section are not met, the test segment is void, and may be aborted. The test segment may be restarted beginning with paragraph (d)(8) of this section;

(16) Fuel flow and air flow during the idle or 2-percent load conditions may be determined just prior to or immediately following the dynamometer sequence, if longer times are required for accurate measurements.

(e) *Exhaust gas measurements.* (1) Measure HC, CO, CO_2, and NO_x volume concentration in the exhaust sample. Should the analyzer response exceed 100 percent of full scale or respond less than 15 percent of full scale, the next higher or lower analyzer range shall be used per § 86.338. For exceptions to the lower limit see § 86.338. Should the fuel flow instrument read below 20 percent of full-scale value, a smaller flow measurement unit must be used unless the option in § 86.314 is desired.

(2) Each analyzer range that may be used during a test segment must have the zero and span responses recorded prior to the execution of that test segment. Only the range(s) used to measure the emissions during a test segment are required to have their zero and span recorded after the completion of the test segment.

(3) It is permitted to change filter elements between test segments.

(4) A leak check is permitted between test segments.

(5) A hang-up check is permitted between test segments.

(6) If, during the emission measurement portion of a test segment, the value of the gauges downstream of the NDIR analyzer(s) G3 or G4 differs by more than ±2 inches of water from the pre-test value, the test segment is void.

§ 86.342–79 Post-test procedures.

(a) Begin a hang-up check within 30 seconds of the completion of the last mode in the test. Use the following procedure:

(1) Introduce a zero-grade gas into the sample probe or valve V2 to check the "hang-up zero" response. Simultaneously start a time measurement;

(2) Select the lowest HC range used during the test;

(3) The difference between the span-zero response and the hang-up zero response shall not be greater than 5.0 percent of full scale or 10 ppmC whichever is greater, within:

(i) 50 seconds for gasoline-fueled engine tests, or

(ii) 4 minutes for Diesel engine tests;

(b) Begin the analyzer span checks within 6 minutes after the completion of the last mode in the test. Record for each analyzer the zero and span response for each range used during the preceding test or test segment.

(c) If during the test, the filter element(s) were replaced or cleaned, a vacuum check must be performed per § 86.328 immediately after the span checks. If the vacuum side leak check does not meet the requirements of § 86.328 the test is void.

(d) Read and record the post-test data specified in § 86.337(e).

(e) For a valid test, the analyzer drift between the before-test and after-test (before-segment and after-segment for Diesels) span checks for each analyzer must meet the following requirements:

(1) The span drift (defined as the change in the difference between the zero response and the span response) must not exceed 2.0 percent of full-scale chart deflection for each range used;

(2) The zero response drift must not exceed 2.0 percent of full-scale chart deflection for each range used.

§ 86.343–79 Chart reading.

(a) A computer or any other automatic data processing device(s) may be used as long as the system meets the requirements of this subpart.

(b) Determine the location on the chart of the analyzer responses corresponding to the end of each mode.

(c) For gasoline-fueled engines, determine whether the test cycle was run in accordance with § 86.335 by observing either chart event marks, speed trace, torque trace, or concentration traces. The test will be invalidated if there is a deviation of more than:

(1) 2 seconds from the specified time for each CT mode, and 4 seconds for all other modes; or,

(2) 2 percent of maximum torque during each mode excluding the first 20 seconds of each mode; or,

(3) 200 rpm during the first 10 seconds of each mode, or 100 rpm during the remainder of each mode.

(d) Determine chart deflections.

(1) Locate the last 10 seconds of each gasoline-fueled engine mode except CT. Locate the last 50 seconds of each gasoline-fueled engine CT mode. For all Diesel engine modes locate the last 60 seconds.

(2) (i) Divide the last 10 seconds or 60 seconds, whichever is applicable, into a minimum of 10 equally spaced increments. Determine the chart deflection of each increment for the CO_x, CO, HC, and NO_x analyzers.

(ii) Option for Diesel engine modes. If the deviation from a straight line (other than instrument noise) during this 60 seconds is less than ±5 percent of full-scale, the average chart deflection may be determined by eye. The average value (one number) may then be used in lieu of the 10 values required by paragraph (d)(2)(i) of this section.

(3) Other methods of determining the chart deflection of the analyzers may be used only with prior approval by the Administrator.

(e) Determine CO_x, CO, HC, and NO_x concentrations for each mode.

(1) If the option in paragraph (d)(2)(ii) of this section is employed, then those chart deflections for both linear and non-linear analyzers may be substituted for the average chart deflection in step (e)(2).

(2) For linear instruments, average the chart deflections determined in paragraph (d)(2)(i) of this section. Determine the concentration for this average chart deflection using calibration data.

(3) For non-linear instruments, calculate concentrations for each chart deflection determined in paragraph (d)(2)(i) of this section. Take the average of these concentrations for each mode.

$$P_V = P'_{WB} - 0.000660\,(T_{DB} - T_{WB})\,BARO\,[1 + 0.00115\,(T_{WB} - 273.15)] \quad (2)$$

(4) For purposes of this paragraph, calibration data includes calibration curves, linearity curves, span-gas responses, and zero-gas responses.

§ 86.344–79 Humidity calculations.

(a) The following abbreviations (and units) are used in this section:

$BARO$ = barometric pressure (Pa)
H = specific humidity, (gm H_2O/gm of dry air)
K = 0.6220 gm H_2O/gm dry air
M_{air} = Molecular weight of air = 28.9645
M_{H_2O} = Molecular weight of water = 18.01534
P_{DB} = Saturation vapor pressure of water at the dry bulb temperature (Pa)
P_{DP} = saturation vapor pressure of water at the dew-point temperature (Pa)
P_v = partial pressure of water vapor (Pa)
P_{WB} = saturation vapor pressure of water at the wet bulb temperature (Pa)
T_{DB} = Dry bulb temperature (°K)
T_{WB} = Wet bulb temperature (°K)
Y = Water-vapor volume concentration

(b) The specific humidity on a dry basis of the intake air (H) is defined by equation (1).

$$H = \frac{(K)\,(P_V)}{BARO - P_V} \quad (1)$$

(c) The partial pressure of water vapor may be determined in two manners:

(1) A dew point device may be used. In that case:

$$P_v = P_{DP}$$

(2) A wet-bulb, dry-bulb method may be used. In that case "Ferrels equation" (eq. (2)) is used.

(d)(1) The saturation vapor pressure (P_{WB}) of water at the wet-bulb temperature is defined by equation (3) (Ref. Wexler and Greenspan, equation (23), National Bureau of Standards).

$$P_{WB} = \exp\left[B \ln T_{WB} + \sum_{i=0}^{9} F_i T_{WB}^{i}\right] \quad (3)$$

where:
P_{WB} is in Pascals (Pa)
T_{WB} = Wet-bulb temperature (°K)
$B = -12.150799$
$F_0 = -8.49922(10)^3$
$F_1 = -7.4231865(10)^1$
$F_2 = 96.1638147$
$F_3 = 2.4017646(10)^{-2}$
$F_4 = -1.2360119(10)^{-4}$
$F_5 = -1.1400454(10)^{-6}$
$F_6 = 2.1701209(10)^{-11}$
$F_7 = -3.610258(10)^{-13}$
$F_8 = 3.8504819(10)^{-16}$
$F_9 = -1.4317(10)^{-18}$

(2) The table in Figure D79–5 may be used in lieu of equation (3).

(e) The saturated vapor pressure of water at the dry-bulb temperature (P_{DB}) is found (if required) by using dry-bulb absolute termperature (°K) in equation (3).

(f) The percent of relative humidity (RH) (if required) is defined by equation (4).

$$RH = \frac{P_v}{P_{DB}}\,(100) \quad (4)$$

(g) The water-vapor volume concentration on a dry basis of the engine intake air (Y) is defined by equation (5).

$$Y = \frac{(H)\,(M_{air})}{(M_{H_2O})} = \frac{P_v}{BARO - P_v} \quad (5)$$

Figure D79- 5

Saturation Vapor Pressure Over Water (pascals)

Temperature deg C	0.0	0.1	0.2	0.3	0.4	0.5	0.6	0.7	0.8	0.9
0	610.752	615.207	619.690	624.203	628.744	633.315	637.916	642.545	647.205	651.894
1	656.614	661.364	666.144	670.955	675.796	680.669	685.572	690.507	695.473	700.471
2	705.500	710.562	715.655	720.781	725.939	731.130	736.354	741.611	746.901	752.224
3	757.581	762.971	768.396	773.854	779.347	784.874	790.436	796.033	801.664	807.331
4	813.034	818.771	824.545	830.355	836.200	842.082	848.001	853.956	859.948	865.978
5	872.045	878.149	884.291	890.470	896.688	902.945	909.239	915.573	921.945	928.357
6	934.808	941.298	947.828	954.399	961.009	967.660	974.351	981.083	987.856	994.670
7	1001.53	1008.42	1015.36	1022.34	1029.37	1036.43	1043.54	1050.70	1057.89	1065.13
8	1072.41	1079.74	1087.11	1094.52	1101.98	1109.48	1117.03	1124.63	1132.27	1139.95
9	1147.68	1155.46	1163.28	1171.15	1179.07	1187.04	1195.05	1203.11	1211.21	1219.37
10	1227.57	1235.83	1244.13	1252.48	1260.88	1269.32	1277.82	1286.37	1294.97	1303.62
11	1312.32	1321.07	1329.87	1338.73	1347.63	1356.59	1365.60	1374.67	1383.78	1392.95
12	1402.17	1411.45	1420.78	1430.16	1439.60	1449.10	1458.64	1468.25	1477.91	1487.62
13	1497.39	1507.22	1517.11	1527.05	1537.04	1547.10	1557.21	1567.39	1577.62	1587.90
14	1598.25	1608.66	1619.12	1629.65	1640.24	1650.88	1661.59	1672.36	1683.18	1694.08
15	1705.03	1716.04	1727.12	1738.26	1749.46	1760.73	1772.06	1783.45	1794.91	1806.43
16	1818.01	1829.67	1841.38	1853.17	1865.02	1876.93	1888.91	1900.96	1913.08	1925.27
17	1937.52	1949.84	1962.23	1974.69	1987.21	1999.81	2012.48	2025.21	2038.02	2050.90
18	2063.85	2076.87	2089.97	2103.13	2116.37	2129.68	2143.07	2156.53	2170.06	2183.66
19	2197.34	2211.10	2224.93	2238.84	2252.82	2266.88	2281.02	2295.23	2309.52	2323.89

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Figure D79-5, Continued

Temperature deg C	0.0	0.1	0.2	0.3	0.4	0.5	0.6	0.7	0.8	0.9
20	2338.34	2352.86	2367.47	2382.15	2396.91	2411.76	2426.68	2441.68	2456.77	2471.93
21	2487.18	2502.51	2517.93	2533.42	2549.00	2564.66	2580.41	2596.24	2612.16	2628.16
22	2644.25	2660.42	2676.68	2693.02	2709.46	2725.98	2742.59	2759.28	2776.07	2792.94
23	2809.91	2826.96	2844.11	2861.34	2878.67	2896.09	2913.60	2931.20	2948.89	2966.68
24	2984.56	3002.54	3020.61	3038.77	3057.03	3075.39	3093.84	3112.39	3131.03	3149.78
25	3168.62	3187.55	3206.59	3225.73	3244.96	3264.30	3283.73	3303.27	3322.91	3342.65
26	3362.49	3382.43	3402.48	3422.63	3442.89	3463.24	3483.71	3504.28	3524.95	3545.71
27	3566.62	3587.62	3608.72	3629.93	3651.25	3672.67	3694.21	3715.86	3737.61	3759.48
28	3781.46	3803.55	3825.75	3848.07	3870.50	3893.04	3915.70	3938.47	3961.36	3984.36
29	4007.48	4030.71	4054.06	4077.53	4101.12	4124.83	4148.65	4172.59	4196.66	4220.84
30	4245.15	4269.58	4294.13	4318.80	4343.60	4368.52	4393.56	4418.73	4444.02	4469.44

§ 86.345–79 Emission calculations.

(a) The following abbreviations (and units) are used in this section.

c = atomic hydrogen/carbon ratio of the fuel
ϕ = dry fuel-air ratio (measured/fuel-air ratio (stoichiometric))
$BARO$ = Barometric pressure (in. Hg-A)
BHP = Brake horsepower
$BSCO$ = Brake specific carbon monoxide emissions, (gm/BHP-HR)
$BSFC$ = Brake specific fuel consumption (lb/BHP-HR)
$BSHC$ = Brake specific hydrocarbon emissions (gm/BHP-HR)
$BSNO_x$ = Brake specific oxides of nitrogen emissions (gm/BHP-HR)
DCO = CO volume concentration in exhaust, ppm (dry)
DCO_2 = CO_2 volume concentration in exhaust, percent (dry)
DHC = HC volume carbon concentration in exhaust, ppmC (dry)
$DKNO$ = NO volume concentration in exhaust, in ppm (dry and humidity corrected)
EIP = engine intake pressure (in. HgA) = $BARO$ – inlet depression
f/a = measured dry fuel-air ratio
G = humidity of the inlet air in grains of water per pound of dry air = (453.59/0.0648) H, (see § 86.344)
K = water–gas equilibrium constant = 3.5
K_{NO_x} = Humidity correction factor for oxides of nitrogen
K_w = Wet to dry correction factor
M_C = Atomic weight of carbon
$(M_C + M_H)$ = mean molecular weight of the fuel per carbon atom
M_{CO} = Molecular weight of CO
M_f = Mass flow-rate of fuel used in the engine in lb/hr = W_f/453.59
M_H = Atomic weight of hydrogen
M_{NO_2} = Molecular weight of nitrogen dioxide (NO_2)
T = Temperature of inlet air (°F)
W_{CO} = Mass rate of CO in exhaust, grams/hr
W_f = Mass flow-rate of fuel used in the engine, in grams/hr = (453.59) x (W_f lbs/hr)
WHC = HC volume concentration in exhaust, ppm C (wet)
W_{HC} = Mass rate of HC in exhaust, grams/hr
W_{NO_x} = Mass rate of NO_x in exhaust, grams/hr
Y = H_2O volume concentration of intake air (See § 86.344)

(b) Determine the exhaust species volume concentration for each mode.

(c) (1) Convert wet basis measurements to a dry basis by the following:

Dry concentrations = 1/K_w x wet concentrations. K_w is defined by the equation in Figure D79–6.

(2) For Diesel engines, for each mode use the measured engine (f/a) entering the combustion chamber when calculating ϕ. If applicable bleed air, etc. must be subtracted from the measured air flow (see § 86.313).

(3) For gasoline-fueled engines, optional for Diesel engines, calculate ϕ for each mode by substituting WHC for DHC in the (f/a) equations in paragraph (d) of this section.

(4) Calculate a Y value for each gasoline-fueled engine test from the pre-test data. Apply the Y value to the K_W equation for the entire test.

(5) Calculate a separate Y value for each Diesel test segment from the pre-test-segment data. Apply the Y value to the K_W equation for the entire test-segment.

$$K_w = \frac{1}{\left[\alpha\left(\frac{DCO_2}{10^2}+\frac{DCO}{10^6}\right)+\frac{2Y}{4}\left(\frac{DCO_2}{10^2}+\frac{DCO}{10^6}+\frac{WHC}{10^6}\right)\left(1+\frac{\alpha}{4}\right)\right]\left[1+\frac{2\left(1+\frac{DCO}{10^6}\right)K}{\left(\frac{DCO_2}{10^2}\right)K}\right]\phi}$$

Figure D79–6 K_w – WET TO DRY CORRECTION FACTOR

(d) Compute the dry (f/a) if required as follows:

$$(f/a) = \frac{1}{X}-\left(\frac{DCO}{2X(10)^4}\right)-\left(\frac{DHC}{X10^4}\right)+\frac{\alpha}{4}\left(1-\frac{DHC}{X(10^4)}\right)-\frac{.75\alpha}{\left(\frac{K}{\frac{DCO}{X(10)^4}}\right)+\left(\frac{(1-K)}{1-\frac{DHC}{X(10)^4}}\right)}$$

$$(f/a)_{stoich} = \frac{4.77\ (1+\alpha/4)\ (f/a)\ \text{stoich}}{138.18\ (1+\alpha/4)}$$

where

$$X = DCO_2/10^2 + DCO/10^6 + DHC/10^6$$

(e) *Data validation*—(1) *Diesel engines only.* Compare the calculated dry (f/a) with the measured fuel and air flow. For a valid test the emission calculated (f/a) must agree within 10 percent of the measured (f/a) for each mode. Diesel engine idle and 2 percent modes do not have to meet this requirement.

(2) *Fuel/Air ratio comparison.* When comparing measured (f/a) ratio to an emissions calculated (f/a) ratio, the measured air flow (in terms of mass) is the total mass of air entering the exhaust pipe. This may include additions of air mass to the exhaust pipe by an air injection system.

(3) Other methods of data validation may be used if prior approval is obtained from the Administrator.

(4) Data validation techniques that have obtained prior approval from the Administrator for use on gasoline-fueled engines may be used to determine void tests.

(f) Multiply the dry nitric oxide volume concentrations by the following humidity correction factor to obtain $DKNO$:

(1) Gasoline-fueled engines:

$$K_{NO_x} = 0.6272 + 0.00629G - 0.0000176G^2$$

(2) Diesel engines:

$$K_{NO_x} = \frac{1}{1+A(G-75)+B(T-85)}$$

where:

$A = 0.044\ (f/a) - 0.0038$
$B = -0.116(f/a) + 0.0053$
T = Temperature of inlet air, °F.

(g) Calculate the mass emissions of each species in grams per hour for each mode as follows:

(1) $$\text{HC grams/hr} = W_{HC} = \frac{(DHC/10^4)\,W_f}{(DCO/10^4)+DCO_2+(DHC/10^4)}$$

(2) $$\text{CO grams/hr} = W_{CO} = \frac{M_{CO}(DCO/10^4)\,W_f}{(M_C+\alpha M_H)[(DCO/10^4)+DCO_2+(DHC/10^4)]}$$

(3) $$\text{NO}_x \text{ grams/hr} = W_{NO_x} = \frac{M_{NO_2}(DKNO/10^4)\,W_f}{(M_C+\alpha M_H)[(DCO/10^4)+DCO_2+(DHC/10^4)]}$$

(h) (1) For gasoline-fueled engines, weight the mass values of BHP, W_{HC}, W_{CO}, M_f, and W_{NO_x} for each mode by multiplying the modal mass values by the appropriate modal weighting factor prescribed by § 86.335.

(2) For Diesel engines, weight the values of BHP, W_{HC}, W_{CO}, W_{NO_x}, and M_f as follows:

(i) Weight the values from each idle mode by multiplying the values by (0.067);

(ii) Weight the remaining modes by multiplying the values by 0.08.

(i) Calculate the brake specific emissions for:

(1) Each gasoline-fueled engine test cycle, and

(2) Each Diesel engine test by summing the weighted values (BHP, W_{HC}, W_{CO}, and W_{NO_x}) from each mode as follows:

$$BSHC(t) = \frac{\sum \text{weighted } W_{HC}}{\sum \text{weighted } BHP}$$

$$BSCO(t) = \frac{\sum \text{weighted } W_{CO}}{\sum \text{weighted } BHP}$$

$$BSNOx(t) = \frac{\sum \text{weighted } W_{NO_x}}{\sum \text{weighted } BHP}$$

(t)=Test cycle number (t=1, 2) (gasoline-fueled engines only).

(j) (1) Calculate the brake-specific fuel consumption ($BSFC$) from the non-weighted BHP and M_f for each mode. Gasoline-fueled engine idle and CT modes, and Diesel idle modes are excluded.

(2) For gasoline-fuel engines use:

$$BSFC = \frac{M_f}{BHP}$$

(3) For Diesel engines use:

$$CBSFC = \frac{M_f}{CBHP}$$

where:

$$CBHP = BHP\left[\frac{29.00}{EIP}\right]\left[\frac{T+459.69}{85+459.69}\right]^{0.7}$$

(4) Other methods of correcting power to determine $BSFC$ may be used only with prior approval of the Administrator.

(k) Calculate the weighted brake-specific fuel consumption ($WBSFC$) for (1) each gasoline engine test cycle by:

$$WBSFC(t) = \frac{\sum \text{weighted } M_f}{\sum \text{weighted } BHP}$$

where:
t=Test cycle number (t=1,2)

(2) each Diesel engine test by:

$$WCBSFC = \frac{\sum \text{weighted } M_f}{\sum \text{weighted } CBHP}$$

(l) For gasoline-fueled engines, calculate the brake-specific emissions and fuel consumption for the complete test as follows:

$BSHC(T) = 0.35\ BSHC(1) + 0.65\ BSHC(2)$
$BSCO(T) = 0.35\ BSCO(1) + 0.65\ BSCO(2)$
$BSNO_x(T) = 0.35\ \ BSNO_x(1) + 0.65\ \ BSNO_x$ (2)
$WBSFC(T) = 0.35\ WBSFC(1) + 0.65\ WBSFC$ (2)

§ 86.346–79 Alternative NO_x measurement technique.

(a) Oxides of nitrogen (NO_x) may be measured with the following "alternative instrumentation" for both Diesel and gasoline-fueled engines. The "alternative instrumentation" shall consist of:

(1) A heated sample line maintained above the dew point;

(2) An NO, to NO converter obtaining a sample directly from the heated sample line; and

(3) A combination per 40 CFR 86.777 or 40 CFR 86.977, whichever is applicable, of a water trap, dryer, flow controls, and an NO NDIR analyzer obtaining a sample from the converter.

(b) The provisions of 40 CFR 86 Subpart D shall apply to the "alternative instrumentation", where applicable, with the following exceptions:

(1) Analyzer specifications found in §§ 86.315, 86.321, and 86.322 do not apply to the "alternative instrumentation".

(2) For the purposes of this section, the full-scale value specified in § 86.338 (a) (1) shall be 1,500 ppm for Diesel engines and 2,500 ppm for gasoline-fueled engines.

(c) The "alternative instrumentation" shall be calibrated per § 86.330.

(d) The NO NDIR analyzer shall meet the performance and interference specifications contained in 40 CFR 86.777 or 40 CFR 86.977, whichever is applicable.

(e) The operation of the dryer shall follow good engineering practice such that the test results are not altered. Proper preconditioning of the dryer is allowed.

§ 86.347–79 Alternative calculations for Diesel engines.

(a) This section applies to Diesel engines only. Gasoline-fueled engines must use the calculations in § 86.345.

(b) For Diesel engines, the calculations specified in 40 CFR 86.977–15 may be substituted for § 86.345.

(c) The modal $BSFC$ and weighted $BSFC$ shall be calculated per § 86.345.

(d) If the provisions of this section are used, a CO_2 measurement is not required.

(e) Both 40 CFR 86.977–15(a) and § 86.313 shall apply to air-flow measurements. For the purposes of this section, the air-flow measurement accuracy specified in § 86.313 shall be ±1 percent.

17. The title to Subpart H is revised to read as follows:

Subpart H—Emission Regulations for New 1977 and 1978 Model Year Gasoline-Fueled Heavy-Duty Engines; Test Procedures

18. Section 86.777–1 is revised to read as follows:

§ 86.777–1 General applicability.

The provisions of this subpart apply to new 1977 and 1978 model year gasoline-fueled heavy-duty engines.

19. New §§ 86.879–5 through 86.879–14 are added to Subpart I and read as follows:

§ 86.879–5 Test procedures.

The procedures described in this and subsequent sections will be the test program to determine the conformity of engines with the standard set forth in § 86.079–11(a).

(a) The test consists of a prescribed sequence of engine operating conditions on an engine dynamometer with continuous examination of the exhaust gases. The test is applicable equally to controlled engines equipped with means for preventing, controlling, or eliminating smoke emissions and to uncontrolled engines.

(b) The test is designed to determine the opacity of smoke in exhaust emissions during those engine operating conditions which tend to promote smoke from Diesel vehicles.

(c) The test procedure begins with a preconditioned engine which is then run through preloading and preconditioning operations. After an idling period, the engine is operated through acceleration and lugging modes during which smoke emission measurements are made to compare with the standards. The engine is then returned to the idle condition and the acceleration and lugging modes are repeated. Three consecutive sequences of acceleration and lugging constitutes the full set of operating conditions for smoke emission measurement.

(d) Except in cases of component malfunction or failure, all emission control systems installed on or incorporated in a new motor vehicle engine shall be functioning during all procedures in this subpart. Maintenance to correct component malfunction or failure shall be authorized in accordance with § 86.079–24.

§ 86.879–6 Diesel fuel specifications.

The requirements of this section are set forth in § 86.307.

§ 86.879–7 Dynamometer operation cycle for smoke emission tests.

(a) The following sequence of operations shall be performed during engine dynamometer testing of smoke emissions, starting with the dynamometer preloading determined and the engine preconditioned (§ 86.879–12(c)).

(1) *Idle mode.* The engine is caused to idle for 5 to 5.5 minutes at the manufacturer's recommended curb-idle speed. The dynamometer controls shall be set to provide minimum load by turning the load switch to the "off" position or by adjusting the controls to the minimum load position.

(2) *Acceleration mode.* (i) The engine speed shall be increased to 200±50 rpm above the manufacturer's recommended curb-idle speed within 3 seconds.

(ii) Immediately upon completion of the mode specified in paragraph (a) (2) (i) of this section, the throttle shall be moved rapidly to, and held in, the fully-open position. The inertia of the engine and the dynamometer, or alternately a preselected dynamometer load, shall be used to control the acceleration of the engine so that the speed increases to 85

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percent of the rated speed in 5±1.5 seconds. This acceleration shall be linear within 100 rpm as specified in § 86.879-13(c).

(iii) After the engine reaches the speed required in paragraph (a)(2)(ii) of this section, the throttle shall be moved rapidly to, and held in, the fully-closed position. Immediately after the throttle is closed, the preselected load required to perform the acceleration in paragraph (a)(2)(iv) of this section shall be applied.

(iv) When the engine decelerates to the intermediate speed (within 50 rpm), the throttle shall be moved rapidly to, and held in, the fully-open position. The preselected dynamometer load which was applied during the preceding transition period shall be used to control the acceleration of the engine so that the speed increases to at least 95 percent of the rated speed in 10±2 seconds.

(3) *Lugging mode.* (i) Immediately upon completion of the preceding acceleration mode, the dynamometer controls shall be adjusted to permit the engine to develop maximum horsepower at rated speed. This transition period shall be 50 to 60 seconds in duration. During the last 10 seconds of this period, the engine speed shall be maintained within 50 rpm of the rated speed, and the power (corrected, if necessary, to rating conditions) shall be no less than 95 percent of the maximum horsepower developed at the zero-hour point.

(ii) With the throttle remaining in the fully-open position, the dynamometer controls shall be adjusted gradually so that the engine speed is reduced to the intermediate speed (within 50 rpm). This lugging operation shall be performed smoothly over a period of 35±5 seconds. The rate of slowing of the engine shall be linear, within 100 rpm, as specified in § 86.879-13(c).

(4) *Engine unloading.* Immediately upon completion of the preceding lugging mode, the dynamometer and engine controls shall be returned to the idle position described in paragraph (a)(1) of this section. The engine must be at the curb-idle condition within one minute after completion of the lugging mode.

(b) The procedures described in paragraphs (a)(1) through (a)(4) of this section shall be repeated until 3 consecutive valid cycles have been completed. If 3 valid cycles have not been completed after a total of 6 consecutive cycles have been run, the engine shall be preconditioned by operation at maximum horsepower at rated speed for 10 minutes before the test sequence is repeated.

§ 86.879-8 Dynamometer and engine equipment.

The following equipment shall be used for smoke emission testing of engines on engine dynamometers.

(a) An engine dynamometer with adequate characteristics to perform the test cycle described in § 86.879-7.

(b) An engine cooling system having sufficient capacity to maintain the engine at normal operating temperatures during conduct of the prescribed engine tests.

(c) A noninsulated exhaust system extending 15±5 feet from the exhaust manifold, or the crossover junction in the case of Vee engines, and presenting an exhaust back pressure within ±0.2 inch Hg of the upper limit at maximum rated horsepower, as established by the engine manufacturer in his sales and service literature for vehicle application. A conventional automotive muffler of a size and type commonly used with the engine being tested shall be employed in the exhaust system during smoke emission testing. The terminal 2 feet of the exhaust pipe shall be circular cross section and be free of elbows and bends. The end of the pipe shall be cut off squarely. The terminal 2 feet of the exhaust pipe shall have a nominal inside diameter in accordance with the engine being tested, as specified below:

Maximum rated horsepower:	*Exhaust pipe inside diameter*
Less than 101	inches 2
101-200	do 3
201-300	do 4
301 or more	do 5

(d) An engine air inlet system presenting an air inlet restriction within 1 inch of water of the upper limit for the engine operating condition which results in maximum air flow, as established by the engine manufacturer in his sales and service literature, for the engine being tested.

§ 86.879-9 Smoke measurement system.

(a) *Schematic drawing.* The Figure I79-1 is a schematic drawing of the optical system of the light extinction meter.

(b) *Equipment.* The following equipment shall be used in the system:

(1) Adapter—the smokemeter optical unit may be mounted on a fixed or movable frame. The normal unrestricted shape of the exhaust plume shall not be modified by the adaptor, the meter, or any ventilator system used to remove the exhaust from the test site.

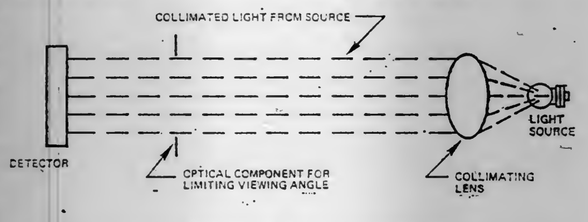


Figure I79-1 SMOKEMETER OPTICAL SYSTEM (SCHEMATIC)

(2) Smokemeter (light extinction meter)—continuous recording, full-flow light obscuration meter. It shall be positioned near the end of the exhaust pipe so that a built-in light beam traverses the exhaust smoke plume which issues from the pipe at right angles to the axis of the plume. The light source is an incandescent lamp operated at a constant voltage of not less than 15 percent of the manufacturer's specified voltage. The lamp output is collimated to a beam with a nominal diameter of 1.125 inches. The angle of divergence of the collimated beam shall be within 4° included angle. A light detector, directly opposed to the light source, measures the amount of light blocked by the smoke in the exhaust. The detector sensitivity is restricted to the visual range and comparable to that of the human eye. A collimating tube with apertures equal to the beam diameter is attached to the detector. It restricts the viewing angle of the detector to within 16° included angle. An amplified signal corresponding to the amount of light blocked is recorded continuously on a remote recorder. An air curtain across the light source and detector window assemblies may be used to minimize deposition of smoke particles on those surfaces provided that it does not measurably affect the opacity of the plume. The meter consists of two units, an optical unit and a remote control unit. Light extinction meters employing substantially identical measurement principles and producing substantially equivalent results but which employ other electronic and optical techniques may be used only after having been approved in advance by the Administrator.

(3) Recorder—a continuous recorder, with variable chart speed over a minimal range of 0.5 to 8.0 inch per minute (or equivalent) and an automatic marker indicating 1-second intervals shall be used for continuously recording the exhaust gas opacity, engine rpm and throttle position. The recorder shall be equipped to indicate only when the throttle is in the fully-open or fully-closed position. The recorder scale for opacity shall be linear and calibrated to read from 0 to 100 percent opacity full scale. The opacity trace shall have a resolution within 1-percent opacity. The recorder scale for engine rpm shall be linear and have a resolution of 30 rpm. The throttle position trace must clearly indicate when the throttle is in the fully-open and fully-closed positions. Any means other than a strip-chart recorder may be used provided it produces a permanent visual data record of quality equal to or better than that described above.

(4) The recorder used with the smokemeter shall be capable of full-scale deflection in 0.5 second or less. The smokemeter-recorder combination may be damped so that signals with a frequency higher than 10 cycles per second are attenuated. A separate low-pass electronic filter with the following performance characteristics may be installed between the smokemeter and the recorder to achieve the high-frequency attenuation.

(i) 3 decibel point—10 cycles per second.

(ii) Insertion loss—zero ± 0.5 decible.

(iii) Selectivity—12 decibles per octave above 10 cycles per second.

(iv) Attenuation—27 decibels down at 40 cycles per second minimum.

(c) *Assembling equipment.* (1) The optical unit of the smokemeter shall be mounted radially to the exhaust pipe so that the measurement will be made at right angles to the axis of the exhaust plume. The distance from the optical centerline to the exhaust pipe outlet shall be 5±1 inch. The full flow of the exhaust stream shall be centered between the source and detector apertures (or windows and lenses) and on the axis of the light beam.

(2) Power shall be supplied to the control unit of the smokemeter in time to allow at least 15 minutes for stabilization prior to testing.

§ 86.879-10 Information.

The following information, as applicable, shall be recorded for each test:

(a) Engine description and specifications. A copy of the information specified in this paragraph must accompany each engine sent to the Administrator for compliance testing. If the engine is submitted to the Administrator for testing under Subpart D, only the information specified in § 86.337 need accompany the engine. The manufacturer need not record the information specified in this paragraph for each test if the information, with the exception of subparagraphs (3); (12), and (13) of this paragraph, is included in the manufacturer's Part I.

(1) Engine-system combination.

(2) Engine identification numbers.

(3) Number of hours of operation accumulated on engine.

(4) Rated maximum horsepower and torque.

(5) Maximum horsepower and torque speeds.

(6) Engine displacement.

(7) Governed speed.

(8) Curb-idle rpm.

(9) Fuel consumption at maximum power and torque.

(10) Maximum air flow.

(11) Air inlet restriction.

(12) Exhaust pipe diameter(s).

(13) Maximum exhaust system back pressure.

(b) Test data; general. This information may be recorded at any time between 4 hours prior to the test and 4 hours after the test.

(1) Engine-system combination.

(2) Engine identification numbers.

(3) Instrument operator.

(4) Engine operator.

(5) Number of hours of operation accumulated on the engine prior to beginning the warm-up portion of the test.

(6) Calibration date(s) of neutral density filters used to calibrate the smokemeter.

(c) Test data; pre-test.

(1) Date and time of day.

(2) Test number.

(3) Barometric pressure.

(4) Smokemeter: Number-zero control setting—calibration control setting—gain.

(5) Intake air humidity and temperature:

(i) Humidity-conditioned air supply. Air that has had its absolute humidity altered is considered humidity-conditioned air. For this type of intake air supply, the humidity measurement must be made within the intake air supply system, and after the humidity conditioning has taken place.

(ii) Non-conditioned air supply. Humidity measurements in non-conditioned intake air supply systems must be made in the intake air stream entering the supply system and within 18 inches of the inlet for supply system. Alternatively, the humidity measurements can be measured within the intake air supply stream.

(iii) Engine intake air temperature measurement must be made within 48 inches of the engine. The measurement location must be made either in the supply system or in the air stream entering the supply system.

(d) Test data; modal.

(1) Observed engine torque and speed during the steady-state test conditions specified in § 86.879-7(a)(3)(i).

(2) Recorder chart: Identify zero traces—calibration traces—idle traces—closed-throttle trace—open-throttle trace—acceleration and lugdown test traces—start and finish of each test.

§ 86.879-11 Instrument checks.

(a) The smokemeter shall be checked according to the following procedure prior to each test:

(1) The optical surfaces of the optical section shall be visually checked to verify that they are clean and free of foreign material and fingerprints;

(2) The zero control shall be adjusted under conditions of "no smoke" to give a recorder trace of zero;

(3) Calibrated neutral density filters having approximately 10, 20, and 40 percent opacity shall be employed to check the linearity of the instrument. The filter(s) shall be inserted in the light path perpendicular to the axis of the beam and adjacent to the opening from which the beam of light from the light source emanates, and the recorder response shall be noted. The nominal opacity value of the filter shall be confirmed by the Administrator semi-annually. Deviations in excess of 1 percent of the nominal opacity shall be corrected.

(b) The instruments for measuring and recording engine rpm, engine torque, air inlet restrictions, exhaust system back pressure, throttle position, etc., which are used in the tests prescribed herein, shall be calibrated in accordance with good engineering practice.

§ 86.879-12 Test run.

(a) The temperature of the air supplied to the engine shall be between 68° F and 86° F. The fuel temperature at the pump inlet shall be 100° F±10° F. The observed barometric pressure shall be between 28.5 inches and 31 inches Hg. Higher air temperature or lower barometric pressure may be used, if desired, but no allowance will be made for possible increased smoke emissions because of such conditions.

(b) The governor and fuel system shall have been adjusted to provide engine performance at the levels in the application for certification required under § 86.079-21.

(c) The following steps shall be taken for each test:

(1) Start cooling system;

(2) Warm-up the engine by the procedure described in § 86.341(d)(5);

(3) Determine by experimentation the dynamometer inertia and dynamometer load required to perform the acceleration in the dynamometer cycle for smoke emission tests (§ 86.879-7(a)(2)). In a manner appropriate for the dynamometer and controls being used, arrange to conduct the acceleration mode;

(4) Install smokemeter optical unit and connect it to the recorder. Connect the engine rpm and throttle position sensing devices to the recorder;

(5) Turn on purge air to the optical unit of the smokemeter, if purge air is used;

(6) Check and record zero and span settings of the smokemeter recorder at a chart speed of approximately 1 inch per minute. (The optical unit shall be retracted from its position about the exhaust stream if the engine is left running.);

(7) Precondition the engine by operating it for 10 minutes at maximum rated horsepower;

(8) Proceed with the sequence of smoke emission measurements on the engine dynamometer as prescribed in § 86.879-7;

(9) During the test sequence of § 86.879-7, continuously record smoke measurements, engine rpm, and throttle position at a minimum chart speed of 1 inch per minute during the idle mode and transitional periods and 8 inches per minute during the acceleration and lugging modes. The smokemeter zero and full-scale recorder deflections may be rechecked during the idle mode of each test sequence. If either zero or full-scale drift is in excess of 2 percent opacity, the smokemeter controls must be readjusted and the test must be repeated;

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(10) Turn off engine;

(11) Check zero and reset if necessary and check span of the smokemeter recorder by inserting neutral density filters. If either zero or span drift is in excess of 2 percent opacity, the test results shall be invalidated.

§ 86.879–13 Chart reading.

The following procedure shall be used to analyze the recorder chart:

(a) Locate the modes specified in § 86.879–7 (a) (1) through (a) (4) by applying the following starting and ending criteria:

(1) The idle mode specified in § 86.879–7(a) (1) starts when engine preconditioning or the lugging mode of a preceding cycle has been completed and ends when the engine speed is raised above the idle speed.

(2) The acceleration mode specified in § 86.879–7(a) (2) (i) starts when the preceding idle mode has been completed and ends when the throttle is in the fully-open position as indicated by the throttle position trace.

(3) The acceleration mode specified in § 86.879–7(a) (2) (ii) starts when the preceding acceleration mode has been completed and ends when the engine speed reaches 85 percent of the rated speed.

(4) The transition period specified in § 86.879–7(a) (2) (iii) starts when the preceding acceleration mode has been completed and ends when the throttle is in the fully-open position as indicated by the throttle position trace.

(5) The acceleration mode specified in § 86.879–7(a) (2) (iv) starts when the preceding transition period has been completed and ends when the engine speed reaches 95 percent of the rated speed.

(6) The transition period specified in § 86.879–7(a) (3) (i) starts when the preceding acceleration mode has been completed and ends when the engine speed is 50 rpm below the rated speed and the provisions of § 86.879–7(a) (3) (i) are met.

(7) The lugging mode specified in § 86.879–7(a) (3) (ii) starts when the preceding transition period has been completed and ends when the engine speed is at the intermediate speed.

(b) Determine if the test requirements of § 86.879–7 are met by applying the following modal criteria:

(1) Idle mode as specified in § 86.879–7 (a) (1):

(i) Duration: 5 to 5.5 minutes.

(ii) Speed: Within specifications during the last 4 minutes of the mode.

(2) Acceleration mode as specified in § 86.879–7(a) (2) (i).

(i) Duration: 3 seconds or less.

(ii) Speed increase: 200±50 rpm.

(3) Acceleration made as specified in § 86.879–7(a) (2) (ii):

(i) Linearity: ±100 rpm as specified in paragraph (c) of this section.

(ii) Duration: 3.5 to 6.5 seconds.

(iii) Throttle position: Fully-open until speed is at least 95 percent of the rated speed.

(4) Transition period as specified in § 86.879–7(a) (2) (iii):

(i) Throttle position: Moved rapidly to, and held in the fully-closed position.

(5) Acceleration mode as specified in § 86.879–7(a) (2) (iv):

(i) Duration: 8 to 12 seconds.

(ii) Throttle position: Fully-open when speed is at intermediate speed.

(6) Transition period as specified in § 86.879–7(a) (3) (i):

(i) Duration: 50 to 60 seconds.

(ii) Speed during last 10 seconds within ±50 rpm of rated speed.

(iii) Corrected power during last 10 seconds: At least 95 percent of horsepower developed during zero-hour testing.

(7) Lugging mode as specified in § 86.879–7 (a) (3) (ii):

(i) Linearity: ±100 rpm as specified in paragraph (c) of this section.

(ii) Duration: 30 to 40 seconds.

(iii) Speed at end: Intermediate speed.

(c) Determine if the linearity requirements of § 86.879–7 were met by means of the following procedure:

(1) For the acceleration mode specified in § 86.879–7(a) (2) (ii), note the maximum deflection of the rpm trace from a straight line drawn between the starting and ending points specified in paragraph (a) (3) of this section.

(2) For the lugging mode specified in § 86.879–7(a) (3) (ii), note the maximum deflection of the rpm trace from a straight line drawn from the starting and ending points specified in paragraph (a) (7) of this section.

(3) The test results will be invalid if any deflection is greater than 100 rpm.

(d) Analyze the smoke trace by means of the following procedure:

(1) Starting at the beginning of the first acceleration, as defined in paragraph (a) (2) of this section, and stopping at the end of the second acceleration, as defined in paragraph (a) (3) of this section, divide the smoke trace into ½-second intervals. Similarly, subdivide into ½-second intervals the third acceleration mode and the lugging mode as defined by paragraphs (a) (5) and (7) respectively, of this section.

(2) Determine the average smoke reading during each ½-second interval.

(3) Locate and record the 15 highest ½-second readings during the acceleration mode of each dynamometer cycle.

(4) Locate and record the five highest ½-second readings during the lugging mode of each dynamometer cycle.

(5) Examine the average ½-second values which were determined in subparagraphs (3) and (4) of this paragraph and record the 3 highest values for each dynamometer cycle.

§ 86.879–14 Calculations.

(a) Average the 45 readings in § 86.879–13(d) (3) and designate the value as "A".

(b) Average the 15 readings in § 86.879–13(d) (4) and designate the value as "B".

(c) Average the 9 readings in § 86.879–13(d) (5) and designate the value as "C".

20. The title to Subpart J is revised to read as follows:

Subpart J—Emission Regulations for New 1977 and 1978 Model Year Diesel Heavy-Duty Engines; Gaseous Exhaust Test Procedure

21. Section 86.977–1 is revised to read as follows:

§ 86.977–1 General applicability.

The provisions of this subpart apply to new 1977 and 1978 model year Diesel heavy-duty engines.

(Secs. 202, 206, 207, 208, 301(a), Clean Air Act, as amended (42 U.S.C. 7521, 7525, 7541, 7542, 7601, formerly 42 U.S.C. 1857f–1, 1857f–5, 1857f–5a, 1857f–6, 1877g(a) which was reclassified by 91 Stat. 685 (August 7, 1977)).)

[FR Doc.77–25747 Filed 9–7–77;8:45 am]

federal register

THURSDAY, SEPTEMBER 8, 1977

PART IV



DEPARTMENT OF TRANSPORTATION

PROCUREMENT REGULATIONS

Revision

V 42 174 SEP 8 77 UMI V

Title 41—Public Contracts and Property Management

CHAPTER 12—DEPARTMENT OF TRANSPORTATION

[OST Docket No. 19]

PROCUREMENT REGULATIONS

Revision

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: The purposes of this document are to: (1) revise and update the Department of Transportation Procurement Regulations (DOTPR) to bring them into line with the Federal Procurement Regulations (FPR), no substantive change being intended; and (2) add a new Part and a Supplement, both concerning Government Property, which, in the absence of comparable FPR coverage, constitute DOT supplementation of the FPR.

EFFECTIVE DATE: September 8, 1977.

FOR FURTHER INFORMATION CONTACT:

H. E. Tetirick, Chief, Procurement Management Division, Office of Installations and Logistics, Department of Transportation, Washington, D.C. 20590 (202–426–4237).

SUPPLEMENTARY INFORMATION: With the exception of the new Part 12–70 and the new supplement 1, discussed below, this update of the DOTPR consists primarily of editorial and administrative additions and deletions to bring the DOTPR into consonance with current FPR coverage; hence, this revision does not promulgate new substantive policy. Where coverage of any subject may now be found in the FPR, previous DOTPR coverage has simply been revoked. Coverage on the subjects of Value Engineering and Classified Material has been updated to current Armed Services Procurement Regulation coverage. For these reasons, and for the additional reason that this material concerns public property and contracts, it is being published without notice and opportunity for public comment and being made effective upon publication in the FEDERAL REGISTER.

The new Part 12–70 and the new Supplement 1 on which public comment was invited (42 FR 5324, January 27, 1977) and received established for the Department a uniform system for the provision, use, control, accounting and disposition of Government property used by contractors in connection with the performance of work under DOT contracts. The regulations prescribe policies, procedures, authorities, and responsibilities as necessary to effectuate such a system, with respect to both the preaward and postaward phases of contracting. Part 12–70 contains directive material applicable to DOT contracting personnel, whereas Supplement 1 is applicable to those DOT contractors that are provided Government property.

The regulations were developed in response to a demonstrated need for such directives within the Department. In the absence of a prescribed Departmental system, the contractual and administrative aspects associated with Government-provided property have not been accorded uniform treatment by the various procurement activities of the Department. By the same token, there has been a lack of consistency in the requirements levied on DOT contractors with respect to the control and accountability of Government property. With regard to the matter of consistency, it is recognized that many contractors presently utilize Government property procedures established by other Federal agencies, particularly the Department of Defense (DOD), the National Aeronautics and Space Administration (NASA), and the Department of Health, Education, and Welfare.

Accordingly, in developing these regulations the existing procurement regulations of such agencies were used as guidelines. In some subject areas the DOTPR coverage is identical to that found in the regulations just cited, while in other areas the coverage of a particular subject is modified or condensed to accommodate DOT's specific needs. Additionally, pertinent provisions of the FPR and the Federal Property Management Regulations have been referenced where appropriate.

As previously indicated, the new Part 12–70 provides direction to DOT contracting personnel. Within this part are set forth policies, procedures, authorities, and responsibilities relative to the following general subjects:

(1) Furnishing Government material to contractors;

(2) Providing Government facilities to contractors;

(3) Use of Government facilities in the possession of contractors or subcontractors;

(4) Property administration;

(5) Vesting of title to equipment under research contracts; and

(6) Disposition of excess and residual contract inventory. Supplement 1 (the manual) sets forth the basic requirements to be followed by contractors in establishing and maintaining control over Government property. It will be incorporated by reference in all contracts under which Government property is provided to contractors, and be made available to each such contractor. Within this manual are contained procedures and responsibilities relative to the following general subjects:

(1) Contractor's assumption of, and relief from, responsibility for Government property;

(2) Records of Government property to be maintained by the contractor;

(3) Identification of Government property;

(4) Conduct of physical inventories;

(5) Care, maintenance, and utilization of Government property;

(6) Passage of title to equipment under research contracts; and

(7) Reports to be provided to the Government.

In response to the notice of proposed rulemaking (42 FR 5324, January 27, 1977), a number of substantive comments were received. After careful consideration, the Department believes none of them should be adopted for the reasons stated below. The proposal, therefore, is being adopted without change, except as explained below:

1. *Comment.* The regulations as written are contrary to the principles established by Office of Management and Budget (OMB) Circular A–21 (Federal Management Circular (FMC) 73–8), OMB Circular A–110, and Cost Accounting Standards.

Response. There is no conflict between the regulations cited in this comment and the DOTPR's. FMC 73–8 and the Cost Accounting Standards pertain solely to cost principles and contractor cost accounting standards, and the DOTPR's do not affect or have an impact on such principles and standards. With respect to OMB Circular A–110, contracts which are awarded and administered under Federal procurement laws and regulations are specifically exempted from the requirements of OMB Circular A–110.

2. *Comment.* Proposed regulations would increase record keeping costs far more than any benefits derived by maintaining detailed records of items costing between $50 and $200.

Response. This comment implies that items under $200 should not be included in the contractor's property records. Exclusion of such items would be inconsistent with the general requirement that accountability be maintained for Government property. In the case of contractor-held property, this requirement is satisfied by having the necessary property records maintained by the contractor rather than by the Government. The standard Government Property clause, which is required to be included in contracts involving Government property, makes the contractor responsible for and accountable for all Government property in his possession and obligates him to maintain records of all such property. The record keeping requirements set forth in the DOTPR are consistent with generally accepted practices and we feel they are not unreasonable.

3. *Comment.* The definition for Materials in § 12–70.101 and Supplement S–101 also includes nonexpendable items with a unit cost of less than $50 unless the Government designates any such items to be classified as plant equipment.

Recommendation. The inclusion of nonexpendable items is at variance with the definitions established by DOD, NASA, and other Government agencies. This variance causes contractors engaged in work for these other agencies to set up different criteria and classification for such items under DOT contracts. It is recommended this be stricken from the definition.

Response. Not adopted. While DOT's definition of Materials is slightly different from that of DOD/NASA, it is not a different or additional "classification" of property. The purpose of the $50 figure in the DOT definition is to prescribe an amount below which items of a nonexpendable nature may be accounted for by the contractor as material (i.e., consumable) rather than as equipment. This provides for a more precise definition, which we believe to be an improvement over the DOD/NASA definition. In practice, this definition works to the advantage of the contractor in that it simplifies record keeping by reducing the number of items that have to be accounted for as equipment.

4. *Comment.* Section 12–70.503(d) provides that only the Contracting Officer is permitted to relieve a contractor of responsibility for loss, damage, destruction, etc. This section and § 12–70.505 (Responsibilities of the Property Administrator) and S1–502 (Reporting Results of Annual Inventories) do not give the Property Administrator any authority to approve "losses." Physical inventories of materials consisting of any significant number of line items and/or units will very likely require record adjustments to shortages as well as overages disclosed by the inventory. Inventory shortages do not necessarily represent a true "loss" of property. In most cases it is only a variance between the record and the count at a point in time by reason of a cause such as a clerical error or a missing document.

Recommendation. Give the Property Administrator authority to relieve the contractor of responsibility for normal inventory shortages and for other losses which are not due to any negligence.

Response. Not adopted. The Property Administrator is responsible for determining whether an inventory shortage represents a true "loss" of property. However, once a true loss has been established, it is our judgment that only the Contracting Officer should have the authority formally to relieve the contractor of responsibility for such a loss. We believe that determinations of contractor liability are of sufficient importance and complexity as to require action by the Contracting Officer. It should also be pointed out that this is an internal procedural matter which poses no additional burden on the contractor.

5. *Comment.* Definitions in Supplement S–101 include the following property categories which are peculiar to DOT and not compatible with agencies such as DOD and NASA:

(c) Capital property.

(d) Capitalized equipment—Nonexpendable items with a unit acquisition cost of $200 or more.

(k) Noncapitalized equipment—Nonexpendable items with a unit acquisition cost of $50 to $199.

(j) Material—Includes noncapitalized equipment with a unit cost of less than $50.

These differences in categorization cause contractors engaged in work with various Government agencies to establish multiple categories and so add to administrative costs.

Recommendation. Establish definitions and categories which are consistent with the Armed Services Procurement Regulation (ASPR) and that the terms "capital" and "capitalized" be changed to some other designation.

Response. Not adopted. While these DOT property categories are titled differently from comparable DOD/NASA categories, they are not incompatible and do not constitute additional or different categories. The basic difference is that we have included dollar limitations within each definition, which provides for a more precise definition and which we feel is an improvement over DOD/NASA.

6. *Comment.* Supplement S1–202 requires the transmittal of receipted Government transfer documents to the Property Administrator.

Recommendation. This should not be a requirement except only in those instances when needed by the Property Administrator since records maintained by the contractor are utilized as the official contract records.

Response. Not adopted. Existing Federal regulations require that the value of contractor-held property be reflected in the Government's financial property accounts. While the records maintained by the contractor are considered to be the official contract property records, these records do not satisfy the requirement for Government-maintained financial accounts. In order to maintain these accounts on a current basis, it is essential that pertinent transaction documents be provided to the DOT accounting offices. Since these documents are already available to the contractor, it does not impose an unreasonable burden on the contractor to furnish them to the Government.

7. *Comment.* The requirement in Supplement S1–203 to submit itemized reports of purchases or fabrications of capital property is impractical and burdensome to a contractor. Since records established and maintained by a contractor are designated and utilized as the official contract records, it should not be necessary to itemize along with application for payment. An approved system would support acquisitions with appropriate records and files of acquisition documents.

Recommendation. The paragraph should be changed to read that the contractor shall maintain records and documents which support his application for payment.

Response. Not adopted. Response made to preceding comment applies.

8. *Comment.* Supplement S1–501 requires an annual inventory of capital property and of noncapitalized equipment.

Recommendation. This part should be revised to require a periodic inventory of these classes in accordance with the frequency determined necessary by the Property Administrator. That frequency should be the same as that approved by other Government agencies having prime cognizance over the contractor's property control system.

Response. Not adopted. We feel that annual physical inventories are necessary to maintain proper control and accounting of contractor-held Government property, and are not an unreasonable requirement. Establishment of a uniform policy assures consistent treatment of all DOT contracts and contractors, and relieves Property Administrators of the burden of making judgmental decisions on a case-by-case basis.

9. *Comment.* Supplement S1–503 requires a final inventory submission within 30 days after completion or termination. This is unrealistic.

Recommendation. Change the requirement to 90 days after completion or termination.

Response. Not adopted. If a contractor has consistently complied with the property administration requirements of the contract, then submission of final inventory reports within 30 days is generally realistic. However, if unusual circumstances exist, the DOTPR specifically provides for an extension of this time upon request.

There is one change from the proposal, prompted not by any comments but by the general DOTPR revision also being accomplished by this document. Section 12–70.901 references various sections of the DOTPR which concern specific contract clauses. The DOTPR revision has changed the section numbers to be referenced and eliminated one of the referenced sections. Section 12–70.901 has been changed accordingly.

In the interest of consistency (since the rest of the DOTPR is being made effective September 8, 1977) and for the additional reason that this material also relates to public property and contracts, although notice and opportunity for public comment were provided, this coverage is also effective September 8, 1977.

Authorship. The persons principally responsible for this document are:

PROGRAM

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LEGAL

W. Lawrence Hollar, Office of the General Counsel

In consideration of the foregoing, Chapter 12 of Title 41, Code of Federal Regulations, is revised to read as set forth below. Issued in Washington, D.C., on August 15, 1977.

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Assistant Secretary for Administration.

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AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

Subpart 12–1.0—Regulation System

§ 12–1.001 Scope of subpart.

This subpart describes the Department of Transportation Procurement Regulations in terms of establishment, authority, applicability, issuance, arrangement, implementation and supplementation of the Federal Procurement Regulations, Office of the Federal Procurement Policy Regulations, exclusions, and deviation procedure.

§ 12–1.002 Purpose.

(a) This subpart establishes Chapter 12, Department of Transportation Procurement Regulations (DOTPR), implementing and supplementing the Federal Procurement Regulations (FPR), and states its relationship to the FPR.

(b) The FPR, as implemented and supplemented by Chapter 12 (DOTPR), are the authorized regulations governing the procurement of supplies and services (including construction and concessions) and the procurement of real property by lease by the Department of Transportation.

§ 12–1.003 Authority.

The DOTPRs are prescribed pursuant to the authority of section 205(c) of the Federal Property and Administrative Services Act of 1949.

§ 12–1.004 Applicability.

These regulations apply to all Department of Transportation procurements, unless otherwise specified.

§ 12–1.005 Exclusions.

(a) Certain Department of Transportation procurement policies and procedures which come within the scope of this Chapter 12 nevertheless may be excluded when there is appropriate justification, such as:

(1) Subject matter which bears a security classification.

(2) Policies or procedures which are expected to be effective for a period of less than six months.

(3) Policies and procedures which are effective on an experimental basis for a reasonable period.

§ 12–1.006–1 Code arrangement.

DOTPR which implement, supplement or deviate from the FPR (Chapter 1 of Title 41 of the Code of Federal Regulations) and have an impact upon the public will be published as Chapter 12 of Title 41, Code of Federal Regulations.

§ 12–1.006–2 Publication.

Chapter 12 of Title 41, Code of Federal Regulations will be published in the FEDERAL REGISTER, in cumulative form in the Code of Federal Regulations, and in separate looseleaf form on blue paper. The looseleaf form is designed to permit interleaf into the FPR.

§ 12–1.006–3 Copies.

Copies of the DOTPR in the FEDERAL REGISTER and in the Code of Federal Regulations may be purchased by Federal agencies and the public, at nominal cost, from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Looseleaf copies of Chapter 12 will be distributed to the Department of Transportation activities as authorized by the Director of Installations and Logistics, Office of the Secretary of Transportation.

§ 12–1.006–4 Coordination.

In the development of the DOTPR, the views of the Operating Administrations of the Department of Transportation will be solicited. Public notice of changes or additions to the DOTPR will be published in the FEDERAL REGISTER before issuance, when appropriate.

§ 12–1.007–1 General plan.

The DOTPR employ the same numbering system and nomenclature used in the FPR, and conform with FEDERAL REGISTER standards approved for the FPR, except that material published in looseleaf form which is not published in Title 41, Code of Federal Regulations will be indicated by the letters "DOT" preceding and following the material.

§ 12–1.007–2 Numbering.

(a) Where the DOTPR implement a part, subpart, section or subsection of the FPR, the implementing part, subpart, section or subsection of DOTPR will be numbered (and captioned) to correspond to the part, subpart, section, or subsection of the FPR.

(b) Where the DOTPR supplement the FPR, the number 50 and up will be assigned to the parts, subparts, or sections involved.

(c) Where the subject matter contained in a part, subpart, section, or subsection of FPR requires no implementation, the DOTPR will contain no corresponding parts, subpart, section, or subsection number and the subject matter as published in the FPR governs.

§ 12–1.007–3 Citation.

DOTPR will be cited in accordance with FEDERAL REGISTER standards approved for the FPR. For example, this section, when referred to in the DOTPR, may be cited as "12–1.007–3". Any section of these regulations may be informally identified for purposes of brevity, as DOTPR, followed by section number; i.e., "DOTPR, 12–1.007–3".

§ 12–1.008 Implementation.

(a) The DOTPR implement and supplement the FPR. Implementing material is that which expands upon related FPR material. Supplementing material is that for which there is no counterpart in the FPR.

(b) The DOTPR may in turn be implemented and supplemented by regulations issued by the following, using the letter suffix indicated:

Issuing organization:	Letter suffix
Federal Aviation Administration	12A [1]
Coast Guard	12B
Federal Highway Administration	12C
Federal Railroad Administration	12D
St. Lawrence Seaway Development Corp.	12E
Office of Administrative Operations, OST	12F
Urban Mass Transportation Administration	12H
National Highway Traffic Safety Administration	12I
Transportation Systems Center	12J

[1] i.e., 12A–1.008(b).

(c) The Administrations and their subordinate organizations shall not issue instructions, including directives, regulations, contract forms, contract clauses, policies, or procedures implementing the DOTPR or covering the procurement of supplies or services or the administration of contracts for such supplies or services, unless permitted by one of the following and consistent with paragraph (d) of this section:

(1) Internal procurement management instructions such as designations and delegations of authority, assignments of responsibilities, work flow procedures, and internal reporting requirements;

(2) Any special contract clause of a non-repetitive nature designed specifically to accomplish the peculiar requirements of an individual procurement, provided a clause relating to the subject is not set forth in this regulation;

(3) A variation of any contract clause which is set forth in this regulation but not for use verbatim, provided that such variation is not inconsistent with the intent, principle and substance of the DOTPR clause or related coverage of the subject matter;

(4) Procurement procedures specifically identified as being essential for carrying out the peculiar needs of an Administration when authorized by the head of the agency, or his designee, and notification is given to OST/TAD–60 prior to such authorization for the purpose of determining whether such procedures should be included in this regulation;

(5) Procurement instructions specifically identified as being essential for carrying out the peculiar needs of overseas commands of the Coast Guard, authorized by the Commandant of the Coast Guard (or his designee) and notification is given to OST/TAD–60

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prior to such authorization for the purpose of determining whether such instructions should be included in this regulation:

(6) Material determined by OST/TAD–60 to be inappropriate for DOTPR coverage, but appropriate for inclusion in Administration publications.

(d) Instructions issued in accordance with paragraph (c) of this section shall not contain material which duplicates, is inconsistent with, or increases or restricts the use of, any authority contained in this regulation.

(e) Each Administration shall screen all existing instructions as well as those subsequently issued pursuant to paragraph (c) of this section and (d) above to assure strict compliance with this paragraph, and for the purpose of determining if the subject matter is appropriate for inclusion in this regulation.

(f) Each Administration shall furnish to OST TAD–60 one copy of each Administration procurement instruction issued in accordance with paragraph (c) of this section.

(g) Regulation implementing and supplementing the DOTPR will not be published in the FEDERAL REGISTER. Any such regulations which are deemed to have an impact on the general public, and any regulations which establish procurement policy, will be reserved for OST publication as DOTPR, Chapter 12.

(h) Those FAA Procurement Regulations which supplement the DOTPR, and which are basically instructional in nature, may be retained until they are superseded by comparable material published by the Office of the Secretary.

§ 12–1.009 Deviations.

§ 12–1.009–2 Procedure.

(a) In the interest of establishing and maintaining uniformity to the greatest extent feasible, deviations from the FPR and DOTPR will be authorized only when essential to effect necessary procurement or where special circumstances make such deviations clearly in the best interest of the Government.

(b) Requests for authority to deviate from the provisions of the FPR or the DOTPR shall be submitted as far in advance as the exigencies of the situation will permit. Each request for deviation shall contain the following:

(1) A clear statement of the deviation desired, including identification of the specific paragraph number(s) of the FPR or DOTPR,

(2) The reason why the deviation is considered necessary or would be in the best interests of the Government,

(3) If applicable, the name of the contractor and identification of the contract affected,

(4) A statement as to whether the deviation has been requested previously and, if so, circumstances of the previous request,

(5) A description of the intended effect of the deviation,

(6) A statement of the period of time for which the deviation is needed, and

(7) Any pertinent background information which will contribute to a full understanding of the desired deviation.

(c) Deviations from the FPR and DOTPR involving a single contract or procurement may be authorized by the Administrators of the Federal Aviation Administration, Federal Highway Administration, Federal Railroad Administration, St. Lawrence Seaway Development Corp., Urban Mass Transportation Administration, National Highway Traffic Safety Administration, and the Commandant of the Coast Guard, and each with the power of redelegation. For procurements processed by the Transportation Systems Center and Office of Administrative Operations (OST), deviations may be authorized by the Assistant Secretary for Administration, with the power of redelegation. A copy of each authorized deviation shall be sent to the Director of Installations and Logistics.

(d) Request for deviations from the FPR or DOTPR affecting more than one contract or contractor shall be forwarded to the Director of Installations and Logistics. Requests involving deviations from the FPR will be considered jointly by the Department and the General Services Administration, unless, in the judgment of the Assistant Secretary for Administration, after due consideration of the objective of uniformity and program responsibility of the Department, circumstances preclude such joint effort. In such cases, the Assistant Secretary for Administration will approve such class deviations as he determines necessary and will appropriately notify the General Services Administration.

§ 12–1.010 Interagency Procurement Policy Committee.

The Director of Installations and Logistics, OST has been designated the representative for the Department of Transportation on the Interagency Procurement Policy Committee.

Subpart 12–1.2—Definition of Terms

§ 12–1.204 Head of the agency.

"Head of the agency" means the Secretary and the following assistant chief officials: the Deputy Secretary, the Assistant Secretary for Administration; and for procurements within their Administrations, the Administrators of the Federal Aviation Administration, Federal Highway Administration, Federal Railroad Administration, Urban Mass Transportation Administration, National Highway Traffic Safety Administration, St. Lawrence Seaway Development Corp., and the Commandant, U.S. Coast Guard and the Director, Transportation Systems Center.

§ 12–1.206 Head of the procuring activity.

The following officials have been designated as "head of the procuring activity":

(a) In the Office of the Secretary—

(1) The Chief, Procurement & Supply Division, Transportation Systems Center, Cambridge, Mass.

(2) The Chief, Procurement Operations Division, Washington, D.C.

(b) In the Federal Aviation Administration—

(1) The Director, Logistics Service, Washington, D.C.

(2) The Director, Metropolitan Washington Airport Service, Gravelly Point, Va.

(3) The Director, Alaskan Region, Anchorage, Alaska.

(4) The Director, Western Region, Los Angeles, Calif.

(5) The Director, Southern Region, Atlanta, Ga.

(6) The Director, Pacific Region, Honolulu, Hawaii.

(7) The Director, Central Region, Kansas City, Mo.

(8) The Director, Eastern Region, New York, N.Y.

(9) The Director, Southwest Region, Fort Worth, Tex.

(10) The Director, Aeronautical Center, Oklahoma City, Okla.

(11) The Director, National Aviation Facilities Experimental Center, Atlantic City, N.J.

(12) The Director, New England Region, Burlington, Mass.

(13) The Director, Great Lakes Region, Des Plaines, Ill.

(14) The Director, Rocky Mountain Region, Denver, Colo.

(15) The Director, Northwest Region, Seattle, Wash.

(c) For the Coast Guard, the Comptroller of the Coast Guard, Washington, D.C.

(d) For the Federal Highway Administration, the Associate Administrator for Administration, Washington, D.C.

(e) For the National Highway Traffic Safety Administration, the Associate Administrator for Administration, Washington, D.C.

(f) For the Federal Railroad Administration, the Associate Administrator for Administration, Washington, D.C.

(g) For the St. Lawrence Seaway Development Corporation, the Director, Office of Procurement and Supply, Massena, N.Y.

(h) For the Urban Mass Transportation, the Director, Office of Procurement and Third Party Contract Review, Washington, D.C.

§ 12–1.250 Administration.

"Administration" means the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, the Urban Mass Transportation Administration, the Coast Guard, the St. Lawrence Seaway Development Corp., and the National Highway Traffic Safety Administration. The term "Administration" also includes the Transportation Systems Center, and the Office of Administrative Operations of the Office of the Secretary. The term "Administration" as used, for example, in the phrase "in accordance with Administration procedures" would include the foregoing organizations, unless the paragraph states otherwise.

§ 12–1.251 Procurement office.

"Procurement office" means an office with a designated contracting officer with authority to enter into contracts over $10,000 in value.

§ 12–1.252 Change order.

"Change order" means a unilateral written order signed by the contracting officer, and issued to a contractor pursuant to the Changes clause of the contract.

§ 12–1.253 Supplemental agreement.

"Supplemental agreement" means any contract modification or contract amendment which is accomplished by mutual action of the parties.

§ 12–1.254 Shall.

"Shall" is imperative.

§ 12–1.255 May.

"May" is permissive. However, the words "no person may * * *" mean that no person is required, authorized, or permitted to do the act proscribed.

Subpart 12–1.3—General Policies

§ 12–1.302–3 Contracts between the Government and Government employees or business concerns substantially owned or controlled by Government employees.

Unless a higher authority is specified within an Administration, heads of procuring activities are authorized to except individual contracts from the policy against awarding contracts to Government employees or business concerns substantially owned or controlled by Government employees. Each such exception shall be evidenced by a written determination signed by the head of the procuring activity, setting forth the facts in sufficient detail to demonstrate that the exception is being granted for the most compelling reasons, and attaching any supporting documentation. A copy of each such determination, with attachments, shall be forwarded to the Director of Installations and Logistics, OST.

§ 12–1.305–3 Deviations from Federal specifications.

(a) Each Administration shall designate an official to carry out the responsibilities set forth in FPR 1–1.305–3. One copy of each such designation shall be forwarded to the Director of Installations and Logistics, OST.

(b) Whenever a notification or recommendation for a change in a Federal Specification is submitted to the General Services Administration, as provided in FPR 1–1.305–3(b)(5), an information copy shall be forwarded to the Director of Installations and Logistics, OST. Similarly, the Director of Installations and Logistics shall be advised any time the General Services Administration disapproves a deviation from a Federal Specification.

§ 12–1.305–50 Index to Federal and Department of Defense Specifications and Standards.

The "Index of Federal Specifications and Standards" and the "Department of Defense Index of Specifications and Standards" are issued annually with periodic supplements. These indexes contain general information pertaining to their use and the availability of other Government specifications.

§ 12–1.306–1 Mandatory use and application of Federal Standards.

Whenever a request for an exception to the use of a Federal Standard is submitted to the General Services Administration, an information copy of the submission and GSA's response shall be forwarded to the Director of Installations and Logistics, OST.

§ 12–1.307–5 Limitations on use of "brand name or equal" purchase description.

Purchase descriptions containing the phrase "or equal" shall not be used as a device to grant an advantage to particular manufacturers by favoring one product over other products, or to substantiate a determination that no other manufacturer's products are equal in quality and performance to the products specifically named. Where a proper determination has been made that only one supplier can furnish the required item or items, the procurement will be accomplished by negotiation in accordance with FPR Part 1–3.

§ 12–1.311 Priorities, allocations and allotments.

The programs of the Coast Guard and certain programs of the Federal Aviation Administration are defense-related programs to which the priorities and allocations regulations apply. Rateable contracts and purchase orders shall contain the clause set forth in DOTPR 12–7.150–3 and the appropriate DO or DX rating (and the appropriate allotment number if the order calls for authorized controlled materials) in accordance with the provisions of DMS [Defense Materials System] Regulation 1 and BDSA Regulation 2. These regulations are available from the Business and Defense Services Administration of the Department of Commerce.

§ 12–1.313 Records of contract actions.

(a) In compliance with the requirements of FPR 1–1.313, each procurement office shall maintain for each procurement exceeding $10,000 a contract file containing a comprehensive record of all pre-award and post-award actions and other data. Adherence to this policy will require the assembly of either the original or a copy of all documents pertaining to the procurement in a file consisting of one or more folders. It will also require documentation for the record of all understandings, oral agreements, and any other facts or information pertinent to the transaction. It is left to the discretion of the procurement official to determine the manner in which unwritten matters are documented. However, it would be expected, for example, that those of a complex nature would be carefully documented by typewritten "memorandum for the record", while routine data might be recorded by a handwritten notation in the file. Photographs should be employed wherever they will serve to effectively document pertinent contract matters.

(b) Complete documentation will permit ready reconstruction of all stages of the transaction in order to:

(1) Support actions taken by various personnel in the procurement cycle.

(2) Provide information for internal management review and for reviews by the General Accounting Office.

(3) Supply data for use in preparing replies to legitimate inquiries.

(4) Furnish essential facts in the event of litigation.

(c) Small purchase records shall be maintained in accordance with FPR subpart 1–3.6 and DOTPR subpart 12–3.6.

§ 12–1.315 Use of liquidated damages provisions in procurement contracts.

§ 12–1.315–2 Policy.

(a) *Criteria for use.* (1) In proposed contracts involving an item where only a portion of the quantity ordered is for immediate programs, and liquidated damages provisions are considered to be necessary, care shall be taken to have the liquidated damages provisions apply only to the urgent quantity.

(2) The use of liquidated damages provisions should never be construed as relieving procurement officials of the obligation of establishing realistic delivery or performance schedules. Realistic delivery or performance schedules should be a prerequisite to the use of liquidated damages.

(3) Liquidated damages provisions generally should not be used:

(i) In contracts for supplies or services required for routine administrative purposes.

(ii) In contracts for standard commercial or "shelf items".

(iii) In any contract where time would permit the needs of the Department to be met by termination and reprocurement if the initial contractor defaults.

(iv) In small purchases.

(v) In study, experimental, development, or research contracts, including equipment contracts requiring developmental work.

(b) *Rate of assessment.* (1) Contracting officers must assure that the rate of liquidated damages stipulated for a given contract is a reasonable forecast of the Government's anticipated damages. A fixed formula, based on percentage of value, shall not be used to establish the rate of damages. The minimum amount of liquidated damages should be based on the estimated cost of inspection and

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superintendence of each day of delay in completion. In addition, the following factors are examples of matters to be considered in establishing the rate of damages:

(i) The importance of the item in relation to the facility or project for which it is intended.

(ii) The relative importance of the item to the facility or project in the overall program of the Department.

(iii) Any rental of facilities necessitated by the delay in a construction completion date.

(iv) Cost of additional maintenance required on structures being replaced by contract items.

(v) Any unusual damages that can be anticipated.

(2) Unless it is clear that partial delivery will proportionately reduce the extent of probable damages, rates shall not be specified to be applicable to individual units of an item, but rather to quantities of an item or to groups of items which are required for delivery or completion at the same time. Rates should generally be expressed in terms of even dollars per day of delay.

(c) *Enforcement.* Where liquidated damages provisions are used, they shall be strictly enforced. In making partial or progress payments, deductions for damages should be made on the basis of the actual number of days of delay multiplied by the rate.

(d) *Termination.* If the contract is terminated, the contractor remains liable for liquidated damages that have accrued. Moreover, on a default termination, liquidated damages continue to accrue even after default, until the Department can reasonably obtain delivery of the supplies or performance of the service. This is in addition to any other rights of the Government to damages under default provisions for the excess costs of reprocuring the supplies or services of the terminated contract.

(e) *Remission.* An information copy of each submission to the Comptroller General of a recommendation for the remission of liquidated damages shall be forwarded to the Director of Installations and Logistics, OST.

§ 12–1.318 Disputes clause.

When a dispute cannot be settled by agreement and a decision under the Disputes clause is necessary, the contracting officer shall review the available facts pertinent to the dispute before making his final decision. When there is any doubt as to whether the issue in dispute is subject to the disputes procedure, a decision will be made pursuant to the Disputes clause. The disputes procedure shall not be invoked in cases when a dispute is clearly not subject to the procedure. The contracting officer shall obtain, from assigned legal and other advisors, such advice and assistance as is required to render a decision. However, the decision must be that of the contracting officer.

§ 12–1.318–50 Contracting officer's decision under the Disputes clause.

When a final decision of the contracting officer concerns a dispute that is or may be subject to the Disputes clause, the following paragraph shall be added to the paragraph contained in FPR 1–1.318–1:

The Department of Transportation Contract Appeals Board is the authorized representative of the Secretary in hearing, considering, and deciding such appeals. The rules of the Department of Transportation Contract Appeals Board are set forth in the Code of Federal Regulations (41 CFR 12–60 *et seq.*)

§ 12–1.318–51 Agreement after appeal is filed.

After an appeal has been filed, contracting agencies are encouraged to seek agreement as to disposition of the controversy. However, such efforts to dispose of a controversy shall not be conducted in lieu of formal board actions or hearings and shall not result in suspension of processing of an appeal, except as ordered or authorized by the Department of Transportation Contract Appeals Board.

§ 12–1.318–52 Payment after appeal is filed.

In the event of an appeal, the amount determined to be payable in the decision of the contracting officer, less any portion previously paid, normally should be paid in advance of any decision by the Board without prejudice to the rights of either party or the appeal.

§ 12–1.318–53 Implementation of decisions of the Contract Appeals Board.

(a) It is the policy of the Department of Transportation to take prompt action to effect payment in accordance with any decision of the Contract Appeals Board wholly or partially favorable to the appellant. If, however, an Administration believes such decision is "appropriate for review in court under prevailing statutory and judicial standards", it may recommend that action be taken to seek judicial review of the Board's decision. The recommendation shall be made to the DOT General Counsel who shall determine whether or not judicial review of the Board's decision will be sought. In the event that the DOT General Counsel determines that judicial review will be sought, the matter shall be referred to the Department of Justice and the appellant shall be promptly advised that payment in accordance with the Board's decision will not be made.

(b) In cases where the question of entitlement only has been decided by the Board and the matter of amount has been remanded to the parties for negotiation, if agreement is not reached the appellant will be afforded a prompt decision and an opportunity to appeal on the matter of amount.

§ 12–1.320 Subcontractor gifts and kickbacks.

Reports of suspected violations and action being taken shall be furnished to the Director of Installations and Logistics, OST.

§ 12–1.351 Contract number prefixes.

All contracts, exclusive of purchase orders, issued by the Department will be identified by a number of combination of letters and numbers, in accordance with Department Order 4220.1A (set forth in DOTPR Part 12–99).

§ 12–1.352 Industrial security.

(a) Pursuant to Executive Order 10865 (3 CFR, 1959–1963 Comp.) an agreement between the Department of Defense and the Department of Transportation was entered into on June 1, 1967, extending regulations prescribed by the Secretary of Defense under the Executive Order to apply to protect releases of classified information relating to DOT contracts and releases of other classified information which DOT has the responsibility for safeguarding. The Office of Investigations and Security, OST, has been designated as the Department of Transportation liaison for industrial security matters. The Defense Logistics Agency will perform all cognizant security office functions specified in, and will have the authority and responsibilities prescribed by, Deparment of Defense Industrial Security Regulations (ISR) (DOD 5220.22R) and Department of Defense Industrial Security Manual (DOD 5220.22M).

(b) Any DOT contract or prospective contract which would require access to classified information by the contractor or any of his employees in the bid, negotiation, award, performance, or termination of the contract, including clearances required for visit purposes, is considered to be a "classified contract" subject to the procedures of this section, even though the contract doument itself is unlassified.

(c) All proposed procurements shall be reviewed specifically to determine if access to classified information will be required by prospective contractors during the solicitation period or by a contractor at any time in the performance of the contract. If access to classified information will be required during the solicitation period, the security staff of the headquarters of the Administration, as designated in DOT Order 1640.4, dated 12/12/72 shall be advised immediately and furnished the list of firms to be solicited. Invitations for bid or requests for proposals shall not be issued until notification has been received from the appropriate security staff that the firms to be solicited have a valid facility security clearance. If access to classified information will not be required during the solicitation period but will be required during the performance of the contract, the invitation for bids or requests for proposals shall so state, and award shall only be made after the facility security clearance of the proposed contractor has been verified and approved by the appropriate security staff.

(d) Immediately upon the award of a classified contract, or in connection with precontract negotiations, if appropriate, the contracting officer shall furnish a copy of DD Form 254, Contract Security Classification Specification, to the prime contractor.

(e) Any DOT contract, the performance of which will require access to classified information by the contractor or any of his employees, shall contain a security requirements clause. For classified contracts of the type cited in this regulation, the appropriate Military Security Requirements clause as set forth in this regulation shall be used. Other types of classified contracts shall contain the appropriate Military Security Requirements clause of Section VII of ASPR.

(f) The Industrial Security Program encompassed by the publications cited in (a) applies only to contracts involving access to classified information which are performed within the United States, its territories, Puerto Rico and Canada. Offices which may wish to let classified contracts for performance outside the United States, its territories, Puerto Rico or Canada shall consult with their appropriate security staff.

§ 12–1.353 Variation in quantity.

(a) To the extent that a variation in quantity is caused by any of the conditions specified in the Variation in Quantity clause in FPR 1–7.102–4, the varied quantity may be accepted only to the extent specified in the contract. The Extent of Quantity Variation clause in DOTPR 12–7.102–450, or a substantially similar clause, shall be used for this purpose. The acceptable variation stated in the Extent of Quantity Variation clause shall be stated as a percentage of the required quantity, and may be an increase, a decrease, or combination of both. There should be no standard or usual percentage or variation. The variation in quantity permitted in any procurement should be based upon the normal commercial practices of the particular industry for the particular items, and the permitted percentage should be no larger than is necessary to afford a contractor reasonable protection against the conditions specified in the Variation in Quantity clause. In no event may the acceptable variation exceed plus or minus 10 percent. The clause set forth in DOTPR 12–7.102–450 may be included in the contract only when one or more of the conditions specified in the Variation in Quantity clause is foreseeable at the time of solicitation in the case of an advertised procurement, or at the time of award in the case of a negotiated procurement.

(b) Consideration shall be given to the quantity to which the percentage variation applies. For example, when it is contemplated that delivery will be made to multiple destinations and it is desired that the quantity variation extend to the item quantity for each destination, this requirement must be set forth with particularity. Similarly, when it is desired that the quantity variation extend to the total quantity of each item and not to the quanity for each destination, it may be desirable to express a percentage limitation for each destination to prevent unrealistic distribution of any increase or decrease.

§ 12–1.354 Standards of conduct.

All government personnel engaged in procurement and related activities shall conduct business dealings with industry in a manner above reproach in every respect. Transactions relating to expenditure of public funds require the highest degree of public trust to protect the interests of the Government. While many Federal laws and regulations place restrictions on the action of government personnel, the latter's official conduct must, in addition, be such that the individual would not be reluctant to make a full public disclosure thereof. DOT regulations on Employee Responsibilities and Conduct are set forth in the Department of Transportation regulations (49 CFR Part 99).

§ 12–1.355 Breakout of component items.

(a) Consideration shall be given to the breakout of component items (including services) of an end product for separate procurement whenever the possibility exists that such breakout would be both economical and practicable.

(b) Breakout decisions will be based largely on the degree and significance of the probable risks to quality, performance, reliability, timely delivery of the end item, and on the estimated overall cost savings. The following factors should be considered in determining whether to procure component items of an end product separately;

(1) In the case of sole source procurement of the end product, whether there is another source capable of supplying the component.

(2) Whether breakout will result in significant net cost savings.

(3) Whether breakout would cause over-fragmentation of the end item, and thereby materially impede administration and performance of the end item contract and identification of the cause of any end item failure.

(4) Whether the design of the component (and the design of the end item insofar as it will affect the component) is sufficiently stable that further design or engineering effort by the end item contractor in respect to the component is unlikely to be required.

(5) Whether any problems of quality control and reliability of the component can be resolved without requiring effort by the end item contractor.

(6) Whether breakout can be accomplished without jeopardizing delivery requirements of the end item.

(c) Support parts which are to be stocked as separate items should be considered for separate procurement, as should such required services as installation services or contractor-conducted instruction courses. Component items of an equipment system (such as common test equipment) which are to be physically separate from the basic equipment and which will require no modification or installation as an integral part of a more complex system or component, shall be procured separately unless separate procurement is found to be not economical or practicable.

§ 12–1.356 General procurement policy—Departmental orders.

DOT policy on selected subjects related to procurement matters is set forth in the Departmental orders contained in DOTPR Part 12–99.

Subpart 12–1.4—Procurement Responsibility and Authority

§ 12–1.402–50 Contracting officer's representatives.

(a) A contracting officer may designate Government personnel to act as his authorized representatives for such functions as inspection, approval of shop drawings, testing, approval of samples and other functions of a technical nature not involving a change in the scope, price, terms or conditions of the contract or order. Such designation shall be in writing and shall contain specific instructions as to the extent to which the representative may take action for the contracting officer, but will not contain authority to sign contractual documents. The responsibilities and limitations of the contracting officer's representatives may be set forth in the contract or in a separate letter, a copy of which shall be furnished to the contractor.

(b) A person assigned to and performing his primary duty within a procurement office, and who is under the supervision of a contracting officer, does not require designation as a representative to perform his assigned duties. Such a person is considered to be an employee of the contracting officer, acting in his behalf and as such has the authority to perform acts as assigned by the contracting officer. The contracting officer cannot, without delegating contracting officer authority, authorize his employees to sign any contract document or letter where the signature of a contracting officer is required.

§ 12–1.450 Responsibility of procurement personnel to question requirements and reaffirm their validity.

(a) Procurement personnel have a responsibility to question any contemplated procurement action which appears inconsistent with their knowledge of commodities, markets, prices and normal processes of doing business, or inconsistent with the authority of the requisitioner.

(b) When the award of a proposed procurement has been prolonged over an extended period of time or when during the processing of the procurement, matters are disclosed which give rise to questioning the magnitude of or necessity for the requirement, procurement personnel should reaffirm the validity of the requirement before award of contract.

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Subpart 12–1.5—Contingent Fees

§ 12–1.508–3 Misrepresentation or violations of the covenant against contingent fees.

The views of the Office of the General Counsel, OST, shall be obtained prior to the referral of a case to the Department of Justice.

Subpart 12–1.6—Debarred, Suspended, and Ineligible Bidders

§ 12–1.602 Establishment and maintenance of a list of concerns or individuals debarred, suspended, or declared ineligible.

The Federal Aviation Administration is delegated authority to compile, print, and distribute on a Department-wide basis, the Department of Transportation Consolidated List of Debarred, Ineligible, and Suspended Contractors. Refer to Departmental Order DOT 4200.5 dated January 15, 1968, contained in DOTPR 12–99.

§ 12–1.604–1 Procedural requirements relating to the imposition of debarment.

(a) Administrative debarment by the Department shall be initiated within each Administration or OST in accordance with the procedures set forth in FPR 1–1.604–1. The written notice required by FPR 1–1.604–1 shall be signed by the head of the agency. Where no hearing on the basis of either oral testimony or a written statement is requested by the concern or individual sought to be debarred, debarment may be imposed by the head of the agency and shall be applicable to the entire Department. Where a hearing is properly requested, the debarment, if any, shall be imposed by the Secretary upon recommendation of the Chairman of the Department of Transportation Contract Appeals Board (DOTCAB), and shall be similarly applicable to the entire Department.

(b) The written notice of proposed debarment to be furnished in accordance with FPR 1–1.604–1 shall, in addition to the requirements specified therein, apprise the concern or individual that if such party desires to present information, either in person or in writing, in opposition to such action, at a hearing, (1) a request therefor is to be made to the Chairman of the DOTCAB by that party within 20 days following receipt of the notice of the proposed debarment, and (2) the request for a hearing is to be accompanied by a statement setting forth the grounds upon which the proposed debarment will be contested. In addition, the notice shall be include a notification that debarment, if imposed, shall be applicable throughout the Department. The notice shall be sent by registered or certified mail, return receipt requested, to the last known address of the concern or individual, but where actual or personal delivery is not effected by the Postal Service, a debarment may be imposed by the head of the agency; but any such debarment shall, upon the submission of an appropriate application, be subject to reopening and in such event a hearing shall be accorded with respect to the debarment. A copy of each such notice shall be sent to TAD–60.

(c) Hearings requested in connection with debarment proceedings as provided in FPR 1–1.604–1(b) shall be conducted before the DOTCAB. An opportunity shall be afforded the concern or individual to appear with witnesses and counsel to show cause why such concern or individual should not be debarred. Where a concern or individual requests a hearing and fails to appear, the DOTCAB shall consider the case on the basis of the records and information made available to it. In any instance where a party has requested a hearing, he may elect to forego the submission of oral testimony and may submit a written statement (together with any information relating thereto) in opposition to the proposed action. Hearings shall be held by the DOTCAB within 30 days after receipt of the request for a hearing, unless the Chairman of the DOTCAB grants additional time. The Chairman shall include in his recommendation to the Secretary whether or not debarment is warranted under the particular circumstances and, where debarment is warranted, a recommended period thereof.

(d) When debarment is imposed by the head of the agency, or by the Secretary, the concern or individual shall be notified of the decision and of the period during which such debarment shall be effective. If a proposed debarment is not upheld by the Secretary, the concern or individual shall be so notified. Notice as to the imposition of a debarment shall be furnished to the concern or individual in the same manner as provided in DOTPR 12–1.604–1(b) for a notice of proposed debarment.

§ 12–1.605 Suspension of bidders.

Where a suspension is effected by the Department, it shall be invoked by the Secretary upon recommendation of the General Counsel, OST.

§ 12–1.606 Agency procedure.

(a) Each Administration and OST, as applicable, shall furnish the notifications to GSA required by FPR 1–1.606(c), for debarments initiated by it, and shall concurrently forward a like copy to (1) Federal Aviation Administration, Logistics Service, Contracts Division, Procurement Management and Services Branch, ALG–380 for inclusion on or removal from the Department list, and (2) the Director of Installations and Logistics, OST, for information.

(b) Requests for standard distribution and for individual copies of the Department Consolidated List shall be made to the Federal Aviation Administration, Logistics Service, Contracts Division, Procurement Management and Services Branch, ALG–380, Washington, D.C. 20591.

Subpart 12–1.7—Small Business Concerns

§ 12–1.701–1 Small Business concern (for Government procurement).

(a) When the solicitation is for a manufactured product classified within an industry set forth in FPR 1–1.701–1 (h), and small business set-aside procedures are utilized, a size standard reading substantially as follows shall be included in the solicitation:

> The small business employment size standard prescribed for this procurement is not more than ------[1] employees, except when the concern is a small business non-manufacturer in which case the employment size standard is not more than 500 employees.

(b) When the solicitation is for a manufactured product that is not classified within an industry set forth in FPR 1–1.701–1(h), and small business set-aside procedures are utilized, a size standard reading substantially as follows shall be included in the solicitation:

> The small business employment size standard prescribed for this procurement is not more than 500 employees.

(c) Similar language shall be used to prescribe other size standard criteria.

§ 12–1.704 Agency program direction and operation.

Each Administration of the Department will establish and maintain a strong and viable small business program, designed to further the small business policies as set forth in FPR 1–1.702.

§ 12–1.704–50 Small business assistance officer.

Each Administration will designate an individual as the Administration's small business assistance officer. The small business assistance officer will be responsible, either on a full time basis or as a collateral duty, for the establishment, implementation and execution of the small business program of his Administration. He will be the central point of contact within his Administration for inquiries concerning the small business program such as from industry, the Small Business Administration (SBA), the Congress or the Office of the Secretary of Transportation. His duties shall include developing a plan of operation to increase the share of contracts awarded to small business by his Administration.

§ 12–1.704–51 Small business specialists.

(a) A small business specialist shall be appointed by name, in writing, for each procurement office, to operate on either a full time or collateral duty basis. Only those individuals possessing the necessary business acumen, knowledge of the Department's procurement policies and procedures, training and background to accomplish effectively the objectives of the small business program shall be considered for appointment. In any instance where the duty of a small business specialist is on a part-time basis, the appointment shall clearly indicate that the part-time nature of the assignment shall in no way relieve the individual from full responsibility for effectively accomplishing the activity's small business program requirements.

(b) In larger offices, where practical, the small business specialist shall not be the contracting officer nor an individual under the supervision of the contracting officer. He shall be given the authority to exercise independent judgment in his areas of responsibility. In small offices the assignment of the small business specialist should promote maximum effectiveness within the capabilities of the office.

(c) The small business specialist appointed pursuant to paragraph (a) of this section shall perform such of the following duties as are determined by the Administration to be appropriate for his procurement office:

(1) Maintain a program designed to locate capable small business sources for current and future procurements;

(2) Coordinate inquiries and requests for advice from small business concerns on procurement matters;

(3) Review proposed solicitations for supplies and services, assuring that small business concerns will be afforded an equitable opportunity to compete, and as appropriate initiating recommendations for small business set-asides;

(4) Take action to assure the availability of adequate specifications and drawings, when necessary, to obtain small business participation in a procurement;

(5) Review proposed procurements for possible breakout of items suitable for procurement from small business concerns;

(6) Advise small business concerns with respect to the financial assistance available under existing laws and regulations and assist such concerns in applying for financial assistance;

(7) Participate in determinations concerning the responsibility of a prospective small business contractor;

(8) Participate in the evaluation of a prime contractor's small business subcontracting programs;

(9) Assure that adequate records are maintained, and accurate reports prepared, concerning small business participation in the procurement program;

(10) Make available to SBA copies of solicitations when so requested; and

(11) Act as liaison between the contracting officer and the appropriate SBA office in connection with set-asides, certificates of competency, size classification and any other matter in which the small business program may be involved.

§ 12–1.708 Certificate of competency program.

§ 12–1.708–2 Applicability and procedure.

No referrals shall be made to the SBA unless the contracting officer has determined that the bid or proposal of the small business concern is responsive. All referrals shall be in writing.

§ 12–1.750 Procurement set-asides for small business when an SBA representative is not available.

§ 12–1.750–1 General.

If no SBA representative is available, the small business specialist shall initiate recommendations to the contracting officer for a small business set-aside for an individual procurement or class of procurements or portion thereof.

§ 12–1.750–2 Review of set-aside recommendations initiated by small business specialists.

When a small business specialist has recommended that all, or a portion, of an individual procurement or class of procurements be set aside for small business, the contracting officer shall promptly either (a) concur in the recommendation or (b) disapprove the recommendation, stating in writing his reasons for disapproval. If the contracting officer disapproves the recommendation of a small business specialist, the small business specialist shall be afforded an opportunity to appeal to an official above the level of the contracting officer. The decision of this official shall be final.

§ 12–1.750–3 Withdrawal or modification of set-asides.

Withdrawal or modification of an individual or class set-aside which was originally established upon the recommendation of the small business specialist may be initiated by the contracting officer by giving notice containing the reason therefor, to the small business specialist. If the small business specialist does not agree to a withdrawal or modification, the action may be appealed to an official above the level of the contracting officer, whose decision shall be final.

§ 12–1.750–4 Contracting authority.

For purposes of determining the appropriate contract authority, set-asides initiated by the small business specialist and concurred in by the contracting officer shall be considered to be unilateral small business set-asides, and shall cite 41 U.S.C. 252(c)(1) or 10 U.S.C. 2304 (a)(1), as applicable.

§ 12–1.751 Small business set-aside for proposed construction procurements.

(a) Each proposed procurement for construction services (excluding ship construction) estimated to cost between $2,500 and $500,000, shall be set aside for exclusive small business participation. Such set-asides shall be considered to be unilateral small business set-asides, and shall be withdrawn, in accordance with the procedures of FPR 1–1.706–3 and DOTPR 12–1.750–3, only if found not to serve the best interest of the Government.

(b) Small business set-aside preferences should be considered for construction procurements in excess of $500,000 on a case-by-case basis.

Subpart 12–1.8—Labor Surplus Area Concerns

§ 12–1.807 Report on preference procurement in labor surplus areas.

Reports required by FPR 1–1.807 will be forwarded to the Director of Installations and Logistics, OST, no later than November 1 (annual) and May 1 (semi-annual) of each year. The Director of Installations and Logistics will prepare and submit to GSA the consolidated Departmental report.

Subpart 12–1.9—Reporting Possible Antitrust Violations

§ 12–1.901 General.

The reports required by FPR Subpart 1–1.9 shall be prepared for the signature of the Secretary, and forwarded to the Director of Installations and Logistics, OST.

Subpart 12–1.11—Qualified Products

§ 12–1.1150 General.

(a) It is sometimes necessary to test products in advance of any procurement action to determine if a product is available that will meet specification requirements. In such cases, the specification may require qualification of the product. Qualification is the entire process by which products are obtained from manufacturers or distributors, examined and tested for compliance with specification requirements, and then identified on a list of qualified products. Qualification is performed in advance and independent of any specific procurement action.

(b) A Qualified Products List (QPL) identifies the specification, manufacturer or distributor, item by part or model number or trade name, place of manufacture, and the test report involved. Suppliers whose products have successfully passed qualification and who furnish evidence thereof are eligible for award even though the product is not yet included in the QPL.

(c) Chapter IV of the Federal Standardization handbook (Federal Property Management Regulations 101–29) is the basic instruction concerning qualified products and qualifications procedures. Copies of this handbook may be purchased by the public from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(d) A specification is the only medium for establishing a requirement for qualification. The preparing activity identified in the specification is responsible for qualification.

§ 12–1.1151 Justification for inclusion of qualification requirements.

Subject to approval by the office as designated in Administration procedures, a qualification requirement may be included in a specification only when one or more of the following conditions exist:

(a) The time required for testing after award would unduly delay delivery of the supplies being purchased.

[1] (Insert "750", "1000", or "1500", as appropriate)

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(b) The cost of repetitive testing would be excessive.

(c) The tests would require expensive or complicated testing apparatus not commonly available.

(d) The interest of the Government requires assurance, prior to award, that the product is satisfactory for its intended use.

(e) The determination of acceptability would require performance data to supplement technical requirements contained in the specification.

§ 12–1.1152 Prior determinations.

Prior to inclusion of qualification in a specification, the preparing activity shall determine that:

(a) There is no other practicable way to obtain evidence of availability of products meeting the requirements of the specification.

(b) Sources, sufficient in number to provide an adequate base of supply, insofar as practicable, are available and willing to submit their products for qualification.

(c) Test facilities and resources are available to establish and maintain the QPL adequately and without delay.

§ 12–1.1153 Availability of lists.

Qualified Products Lists are intended for the use of the Government and its contractors, subcontractors, prospective bidders, and suppliers. Lists may be obtained by prospective bidders or suppliers who require these Lists in furnishing supplies or services to the Government or its contractors. Lists are also available to the public upon request. When a person is provided with, or given access to, a QPL he should be advised as follows:

(a) The QPL has been prepared for use by or for the Government in the procurement of products covered by the specification and such listing of a product is not intended to and does not connote endorsement of the product by the Department of Transportation;

(b) All products listed have been qualified under the requirements for the prod as specified in the latest effective issue of the applicable specification;

(c) The QPL may be revised or amended as necessary, and subject to change without notice;

(d) The listing of a product does not release the supplier from compliance with the specification requirements; and

(e) Use of the information for advertising or publicity purposes is permitted, provided that such publicity or advertising does not state or imply that the product is the only product of that type so qualified or that the Department of Transportation in any way recommends or endorses the manufacturer's product.

§ 12–1.1154 Opportunity for qualification.

(a) Upon determination that a product is to be covered by a QPL, manufacturers shall be urged to submit their products for qualification and where possible shall be given sufficient time to arrange for qualification testing prior to issuance of the initial invitation for bids or request for proposals for the item as a qualified product. Appropriate notice of such determination shall be furnished to the U.S. Department of Commerce, Commerce Business Daily, Room 1304, 433 West Van Buren Street, Chicago, Ill. 60607, requesting publication in five consecutive issues of the daily "Synopsis of U.S. Government Proposed Procurement, Sales and Contract Awards". The publicity given to the requirement for qualification testing shall include the following:

(1) An intention to establish a QPL for a product;

(2) The specification number and nomenclature of the product, and the name and address of the office to which the request for qualification should be submitted; and

(3) Notice that in making future awards consideration shall be given only to such products as have been accepted for inclusion in a QPL.

(b) Lists shall always be kept open for inclusion of products from additional suppliers.

§ 12–1.1155 Clarification of qualification requirements.

When there is any question concerning qualification requirements in a specification, the activity that prepared the specification will furnish clarification when requested by the contracting activity.

§ 12–1.1156 Procurement of qualified products.

§ 12–1.1156–1 General.

(a) Whenever qualified products are to be procured by the Government as end items, only bids or proposals offering products which are qualified for listing on the applicable QPL at the time set for opening of bids or award of negotiated contracts shall be considered in making awards.

(b) Whenever a qualified product is to be procured by a prime contractor as a component of an end item, the prime contractor shall be required to furnish a component which has been tested and qualified for inclusion in the applicable QPL by the time of award of the subcontract. Delay resulting from the prime contractor's awaiting qualification approval by the Government of a component shall not constitute excusable delay when a previously qualified component could have been procured in time to meet the end item delivery schedule.

(c) Procurements involving qualified products shall be governed by paragraph (c)(1) through (4) of this section.

(1) Synopses of proposed procurements shall be published by purchasing activities, in accordance with FPR 1–1.1003, promptly upon receipt of procurement requests.

(2) The maximum time consistent with delivery requirements shall be allowed between issuance of the solicitation and the opening of bids or the award of a negotiated contract. As a minimum, however, contracting officers shall allow 30 calendar days between the dates of issuance and opening (award, in the case of negotiated contracts): *Provided*, That periods of less than 30 days may be set in cases of urgency when the justification for a shorter period is set forth in writing and made a part of the procurement file. In appropriate cases, advance notice of procurement involving qualified products may be given suppliers through the use of preinvitation notices. Such notices shall identify the specification requiring qualification.

(3) In procuring qualified products by formal advertising, invitations for bids will be distributed to suppliers in the same manner as if a qualified product were not involved, and will not be restricted to suppliers whose products have been qualified.

(4) Contracting officers shall forward requests from suppliers concerning qualification of products to the specification preparing activity.

§ 12–1.1157 Contract provisions.

(a) When qualified end products are to be procured, the provision in FPR 1–1.1101(b) shall be inserted in the solicitation, supplemented by the following:

> The offeror shall insert the item name and the text number (if known) of each qualified product in the blank spaces below.
> Item name ----------
> Test No. ----------
>
> Any change in location or ownership of the plant at which a previously approved product is, or was, manufactured requires re-evaluation of the qualification. Such re-evaluation must be accomplished prior to the bid opening date in the case of advertised procurements and prior to the date of award in the case of negotiated procurements. Failure of offerors to arrange for such re-evaluation shall preclude consideration of their offers.

If the procurement is formally advertised, the following statement shall also be included:

> Any bid which does not identify the qualified product being offered, either above or elsewhere in the bid, will be rejected.

(b) When qualified products are to be procured as components of end items, insert the following provision in the solicitation:

> QUALIFIED PRODUCTS—COMPONENTS
>
> When any of the end items which are to be supplied to the Government by the Contractor will contain one or more components which are required by the applicable specification to be qualified products, such components shall have been tested and shall be qualified for inclusion in the Qualified Products List (whether or not actually included in the List) at the time of award of any subcontract by the Contractor for such components, or, in the event the Contractor plans to manufacture such components himself, shall have been so tested and have so qualified before the Contractor begins to manufacture such components for performance of this contract (not before manufacture of the prototype, preproduction model, or first article, for qualification testing). Unless required for interchangeability or compatibility, the Contractor shall not cite brand names from any Qualified Products List in any subcontract solicitation, but shall refer to the pertinent specification so that optimum competition may be obtained. Delay resulting from the Contractor's awaiting qualification approval by the Government of a component shall not constitute excusable delay when a previously qualified component could have been procured in time to meet the end item delivery schedule. Any change in location or ownership of the plant at which a previously approved product is, or was, manufactured requires re-evaluation of the qualification. Such re-evaluation must be accomplished prior to the award of any subcontract by the Contractor for such components or prior to the beginning of manufacture if the Contractor manufactures such components himself.

§ 12–1.1158 Effect of debarment or suspension.

The inclusion of a product on the QPL's may be denied, and the qualification of a listed product may be withdrawn, by the Administration concerned, without notification to the manufacturer, if the name of the manufacturer appears on the lists of debarred or ineligible bidders which are maintained pursuant to FPR Subpart 1–1.6.

§ 12–1.1159 Waiver of qualification requirement.

When procuring a product under a specification which includes qualification requirements either for the end item or for components of the end item, such qualification requirements can be waived only by the activity that prepared the specification. In appropriate cases, when requested by the contracting officer, the preparing activity may waive qualification requirements. A notice, issued by the preparing activity, directing a waiver of the qualification requirement, constitutes adequate authorization for waiver of product qualification requirements. Where waivers have been granted, solicitations shall specifically indicate that the qualification requirement is inapplicable. Such information shall also be included in any Synopsis of the procurement.

§ 12–1.1160 Inadequate competition.

(a) *Pre-solicitation.* In connection with procurement of a qualified product as an end item, the contracting officer shall review the applicable QPL prior to solicitation to ascertain whether the number of sources is adequate for competition. If, in the opinion of the contracting officer, the number of sources is inadequate, action shall be taken as prescribed below unless he already has the necessary information.

(1) The contracting officer shall request the activity that prepared the specification to provide information concerning the status of tests on additional products, including the anticipated dates when such tests will be completed so that opening of bids or submission of proposals may be so scheduled as to allow completion of the tests.

(2) If no tests are being conducted or contemplated, the contracting officer shall further request the preparing activity to advise whether a means of quality assurance other than qualification approval may be substituted in the procurement.

(b) *Post-solicitation.* The contracting officer shall advise the specification preparing activity of the name and address of any concern which requested copies of the solicitation but was not included on the QPL. The specification preparing activity may then attempt to interest such concerns in becoming qualified.

§ 12–1.1161 Reporting nonconformance with specification requirements.

If a supplier on the QPL repeatedly submits products not meeting specification requirements for inspection, resubmits products previously rejected without correcting the defects, or is otherwise unsatisfactory in the performance of contracts, he shall be reported to the activity that prepared the specification for a determination as to whether the supplier's product shall be removed from the list.

§ 12–1.1162 Misuse of QPL information.

Misuse of QPL information, such as for advertising or publicity purposes contrary to that permitted in DOTPR 12–1.1153(e), shall be reported promptly to the preparing activity.

Subpart 12–1.12—Responsible Prospective Contractors

§ 12–1.1204 Determination of responsibility or nonresponsibility.

§ 12–1.1204–1 Requirement.

(a) Except as provided in paragraph (c) of this section, the contracting officer shall, prior to award, prepare, sign, and place in the contract file, DOT Form F 4220.1 titled "Determination of Prospective Contractor Responsibility." Where a prospective contractor is determined to be nonresponsible, the form shall also be completed before notice of the rejection is furnished and the contract awarded to another.

(b) For each factor applicable to the procurement, the type of evaluation and the rating shall be checked. A completed form may include any combination of checks in the A, B, and C columns. Where the determination of responsibility is based on an SBA certificate of competency, a copy of the certificate shall be attached to the form and Block 6 of the form should not be completed except to reference the attachment.

(c) The form need not be completed in the case of:

(1) Procurements of the types listed in FPR 1–1.1201(b);

(2) Contracts of $10,000 or less, except that the form shall be prepared prior to the award of all contracts the primary purpose of which is research; or

(3) Contracts for perishable subsistance supplies available for immediate shipment.

(d) Pending a revision of DOT Form F 4220.1, the reference in Block 7 to "FPR 1–1.310–6" shall be changed to read "FPR 1–1.1202."

Subpart 12–1.16—Report of Identical Bids

§ 12–1.1603 Reporting requirements.

§ 12–1.1603–3 Submission of reports.

The report required by FPR 1–1.1603–3 (b) shall be sent by each Administration directly to the Attorney General. An information copy shall be sent to the Director of Installations and Logistics, OST.

Subpart 12–1.50—Options

§ 12–1.5000 Scope of subpart.

This subpart applies to contracts for supplies and services other than for construction and research and development. It does not preclude the use of appropriate option provisions in such construction and research and development contracts.

§ 12–1.5001 Definition.

As used in this subpart, an option clause is a provision in a contract under which, for a specified time, the Government may elect to purchase additional quantities of the supplies or services called for by the contract, or may elect to extend the period of performance of the contract.

§ 12–1.5002 Applicability.

(a) Option clauses may be included in contracts where increased requirements within the period of contract performance are foreseeable, or where continuing performance beyond the original period of contract performance may be in the best interest of the Government. Since options require offerors to guarantee prices for definite periods of time with no guarantee that orders will be placed, their improper use could result in prices which are unfair to either the Government or the contractor. When additional requirements are foreseeable and subsequent competition would be impracticable because of such factors as production lead time and delivery requirements, the use of options may be preferable to later negotiating a price with the contractor at a time when it is the only practical source.

(b) An option normally should not be used where it can reasonable be foreseen that (1) minimum economic production quantities will be procured at some future date, and (2) start-up costs, production lead time, and probable delivery requirements would not preclude adequate future competition.

(c) Option provisions and clauses shall not be included in contracts when:

(1) The supplies or services being purchased are readily available on the open market.

(2) The contractor would be required to incur undue risks: e.g., the price or availability of necessary materials or labor is not reasonably foreseeable.

(3) An indefinite quantity contract or requirements contract is appropriate except that options for continuing performance may be used in such contracts.

(4) Market prices for the supplies or services involved are likely to change substantially.

(5) The option quantities represent known firm requirements for which procurement funds are available.

§ 12–1.5003 Procedures.

(a) When a contract is to contain an option quantity, the solicitation must contain an appropriate option provision and the contract file shall be documented with a justification for the inclusion of

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the option. If the contract is to be negotiated, the determination and findings shall set forth the approximate quantity to be awarded and the extent of the increase to be permitted by the option. The contract shall limit the additional quantities of supplies or services which may be procured, or the duration of the period for which performance of the contract may be extended, under the option and will fix the period within which the option may be exercised. In fixing the period within which the option may be exercised, consideration shall be given to (1) necessary lead time in order to assure continuous production and (2) the time required for additional funding and other necessary approval action. The period specified for exercising the option shall in all cases be kept to a minimum.

(b) Solicitations containing option provisions should cover five basic points:

(1) *Quantity of additional supplies or services which may be procured.* Where the exercise of the option would result in increased quantities of supplies, the option quantity should be expressed in terms of a specified number of additional units rather than as a percentage of the base quantity. Where exercise of the option would result in an increase in the performance of services, the option may be similarly expressed in terms of the units of work contained in the contract (e.g., man hours). Where exercise of the option would result in an extension of the duration of the contract, the option may be expressed in terms of a specific date or dates or of an additional time period such as days, weeks, or months. Generally the quantity subject to the option should not exceed the basic quantity by more than 25%.

(2) *The period within which the option may be exercised.* The contract shall fix the period within which the option may be exercised. The period specified shall in all cases be kept to a minimum (generally no longer than 6 months).

(3) *Delivery terms for the option quantities.*

(4) *Prices for the option quantities.* The clause shall provide for firm unit prices for any additional quantity that may be ordered up to the maximum quantity of the option, or for any increase in the performance of services or extension of the duration of the contract.

(5) *A statement on the evaluation of bids or proposals.* Solicitations shall state that evaluation will be on the basis of the firm quantity set forth in the schedule and the option quantity, if any, exercised at time of award.

The option clause should not contain a price control feature on the option quantities, such as a requirement that the option quantities be offered at prices no higher than those of the basic quantity. The use of price controls to avoid unreasonable offers on option quantities can be disadvantageous to the Government because the contractor may spread the cost of bona fide risks of option quantities to the basic quantity.

§ 12–1.5004 Exercise of options.

(a) The exercise of an option by the Government requires the contracting officer's written notification to the contractor within the time period specified in the contract.

(b) Where the contract provides for price escalation and the contractor requests revision of price pursuant to such provision, or the provision applies only to the option quantity, the effect of escalation on prices under the option must be ascertained before the option is exercised.

(c) Options should be exercised only if it is determined that:

(1) Funds are available.

(2) The requirement covered by the option fulfills an existing need of the Government, and

(3) The exercise of the option is most advantageous to the Government, price and other factors considered.

(d) Insofar as price is concerned, the determination under paragraph (c)(3) of this section shall be made on the basis of one of the following:

(1) A new solicitation fails to produce a better price than that offered by the option. When the contracting officer anticipates that the option price will be the best price available, he should not use this method of testing the market but should use one of the methods in paragraph (d) (2), (3), or (4) of this section.

(2) An informal investigation of prices, or other examination of the market, indicates clearly that a better price than that offered by the option cannot be obtained.

(3) The time between the award of the contract containing the option and the exercise of the option is so short that it indicates the option price is the lowest price obtainable, considering such factors as market stability and a comparison of the time since award with the usual duration of contracts for such supplies and services.

(4) Established prices are readily ascertainable and clearly indicate that formal advertising or informal solicitation can obviously serve no useful purpose.

(e) Insofar as the "other factors" mentioned in paragraph (c)(3) of this section are concerned, the determination should, among other things, take into account the Government's need for continuity of operations and potential costs to the Government of disrupting operations, including the cost of relocating necessary Government-furnished property (as, for example, in certain repair and overhaul contracts for aircraft or other complex equipment).

(f) When it has been determined that an option may properly be exercised, such determination shall be set forth in writing and included in the contract file. Written notification to the contractor of the exercise of the option and any contract modification resulting therefrom shall cite the option clause contained in the contract as authority for the procurement of the option quantity, and no citation under 41 U.S.C. 252(c) or 10 U.S.C. 2304(a) is required.

§ 12–1.5005 Examples of option provisions.

Clauses substantially as set forth in 12–7.151–17 may be used in accordance with the provisions of this subpart.

Subpart 12–1.51—[Reserved]

Subpart 12–1.52—Value Engineering

§ 12–1.5201 Policy.

(a) Value engineering (VE) is concerned with the elimination or modification of anything that contributes to the cost of a contract item or task but is not necessary for needed performance, quality, maintainability, reliability, or interchangeability. Specifically, VE as contemplated by this Subpart constitutes a systematic and creative effort, not required by any other provision of the contract, directed toward analyzing each contract item or task to ensure that its essential function is provided at the lowest overall cost. Overall cost may include, but need not be limited to, the costs of acquiring, operating, and logistically supporting an item or system. VE provisions may be incorporated into a contract by using the VE incentive clause which sets forth the methods by which a contractor may propose ways to perform the contract more economically and share in any resulting cost saving, or by using the VE program requirement clause which requires the contractor to establish a VE program aimed at identifying more economical ways to perform the contract and which may include incentive sharing.

(b) In order to realize fully the cost saving potential of VE, it is DOT policy to:

(1) Incorporate provisions which encourage or require VE into all contracts for supplies, services and construction of sufficient size and duration which offer reasonable likelihood for cost savings.

(2) Assure contractors a substantive share in cost savings, i.e., a fair proportion of the savings applied to a substantial base.

(3) Objectively and expeditiously process value engineering change proposals (VECPs) submitted by contractors.

(4) Encourage subcontractor participation through extension of VE incentives, by prime contractors, to appropriate subcontractors.

§ 12–1.5202 Value engineering incentives.

§ 12–1.5202–1 Description.

(a) The objective of a VE incentive provision is to encourage the contractor to submit VECPs by permitting the contractor to share in cost savings. To be acceptable, a VECP must involve some change in the contract specifications, purchase description, or statement of work; this may include the elimination or modification of any requirement found to be in excess of actual needs in the areas of, for example, design, components, materials, material processes, tolerances, packaging requirements, technical data requirements, or testing procedures and requirements, and consequent reduction in the contract cost. Furthermore, even when the contract cost may be increased, the incentive provisions encourage contractors to submit VECPs that are likely to lead to overall savings resulting from significant net reductions in collateral costs of Government-furnished property, operational requirements or logistic support requirements.

(b) VE proposals which satisfy the above requirements shall not be rejected on the ground that they also involve a termination, in whole or in part, of contract line items; moreover, the cost savings resulting from such quantitative reductions shall be shared with the contractor. On the other hand, contractor proposals which concern the quantitative requirements of the Government but do not satisfy the above criteria are not within the intent of the VE provisions, and the contractor will not share, under the VE Incentive clause, in savings resulting solely from such quantitative proposals.

(c) In all cases, the contractor's share in overall cost savings resulting from the Government's acceptance of a VECP shall be determined as provided in the VE Incentive clause.

§ 12–1.5202–2 Use of value engineering incentive clause.

(a) Except as provided in paragraph (b) of this section, a VE incentive clause shall be included in all advertised and negotiated supply and service contracts, and construction contracts of $100,000 or more, unless it is determined by the contracting officer that VE offers no potential for cost reduction, as for example, where a particular contract or class of contracts is of insufficient duration to allow VECPs to be processed, or where the item or class of items being procured is a commercial product whose design and cost are primarily controlled by the commercial market. A VE clause should be included in contracts under $100,000 if the contracting officer foresees a potential for significant savings.

(b) Normally, a VE incentive clause shall not be included in the following type contracts unless the contracting officer affirmatively determines that the contract has a clear potential for VE cost savings and that a VE incentive clause will provide the effective stimulus to the contractor:

(1) Contracts for research or exploratory development;

(2) Contracts for engineering services from "not-for-profit" organizations;

(3) Cost reimbursement type contracts other than cost plus incentive fee or cost plus award fee type contracts;

(4) Contracts for architect-engineer services;

(5) Contracts containing a VE Program Requirement clause except as provided by 12–1.5206 below;

(6) Contracts providing for product or component improvement unless the VE incentive clause application is restricted to areas not covered by provisions for product or component improvement;

(7) Contracts for commercial items (See FPR 1–3.807–1(b)(2)) being procured without invoking special requirements and specifications (such as packaging specifications); and

(8) Contracts for personal services.

§ 12–1.5202–3 Value engineering clauses.

In accordance with this subpart 12–1.5202 and 12–1.5206, the VE clauses set forth in §§ 12–7.151–13, 12–7.251–9 and 12–7.651–16 are to be used as applicable.

§ 12–1.5202–4 Types of savings to be shared with the contractor.

(a) There are two types of savings to be shared between the Government and the contractor. These are acquisition savings and collateral savings.

(b) Acquisition savings are those which accrue from the net reduction in the contract price for supplies, service and construction. Acquisition savings may include instant, concurrent and future savings.

(1) "Instant contract savings" are those net measurable reductions in the price of the contract under which a VECP has been submitted by the contractor and accepted by the Government. In the case of requirements or other indefinite delivery type contracts, basic ordering agreements, multi-year contracts, fixed-price contracts providing for prospective price redetermination, or contracts in which supplemental agreements or other modifications increase the quantity of items or add items to the contract, see paragraph (j) of the clause in § 12–7.151–13(a) for the appropriate definition of "instant contract."

(2) "Concurrent contract savings" are those net measurable reductions in the price of a concurrent contract let by the same procuring activity.

(3) "Future contract savings" are either those measurable net reductions in the price of a future contract (other than the contract under which the VECP was accepted) or a lump sum payment paid to the contractor at the time the VECP is accepted and based upon estimated future applications.

(c) Collateral savings are those ascertainable net reductions in the Government's overall documented projected costs including but not limited to costs of operations, maintenance, logistics support, and Government furnished property where such collateral savings result from a VECP submitted by the contractor. A contractor may share in collateral savings in addition to sharing in instant contract savings. However, when a contracting officer determines that there is no reasonable potential for significant collateral savings, the collateral savings provision may be omitted from the VE incentive clause.

§ 12–1.5203 Sharing arrangements.

§ 12–1.5203–1 Sharing rates.

(a) The sharing rates used in the various VE clauses for acquisition savings are shown below. These rates are common for all acquisition savings, i.e., instant concurrent and future contract savings.

Type of contract	Incentive clause (Government/contractor)	Program clause (Government/contractor)
Fixed price (other than incentive)	50/50	75/25
Fixed price (construction)	45/55	(1)
Fixed-Price-Incentive (FPI) or cost - plus - incentive - fee (CPIF)	65/35	80/20
Cost-plus-award-fee (CPAF)	75/25	85/15
Cost reimbursement (other than CPIF and CPAF)	(1)	85/15

[1] Not applicable.

(b) The contractor's share of collateral savings is 20 percent of the estimated savings to be realized during an average or typical year of use, as determined by the Procuring Activity except that such share shall not exceed the price of the contract on which the VECP is submitted or $100,000, whichever is greater.

(c) The clauses in 12–7.151–13 and 12–7.251–9 (specifically the sharing provisions of paragraph (e)), may be modified when used in incentive contracts to provide no adjustment to targets or ceilings when a VECP is approved. This permits instant VE savings to be rewarded under the overall contract cost incentive. Appropriate substitute clause language is in 12–7.151–13(e), and 12–7.251–9. Concurrent and future contract rates shall be the same as specified in (a) above, unless modified in accordance with 12–1.5203–4(c).

(d) The method of computing a contractor's share of acquisition and collateral savings is provided in the VE clauses in DOTPR Part 7.

§ 12–1.5203–2 Sharing base.

The sharing base is defined to be the affected end items on contracts of the procurement office or its successor approving the VECP. This base may be expanded to include contracts of other procurement offices. Such expansion of the base shall be specified in the contract.

§ 12–1.5203–3 Sharing period.

(a) The contractor shall share in the savings on all affected end items scheduled for delivery not later than 3 years after acceptance of the first item incorporating the VECP, or until the originally scheduled delivery date of the last affected end item under the instant contract, whichever is later. The contractor shall be responsible for maintaining adequate records to identify the first unit delivered which incorporates the applicable VECP. These records must be maintained for a period of three years after final payment on the contract under which the VECP was accepted. For the purpose of establishing the starting date of the sharing period, the contractor shall identify the first unit incorporating the VECP on the applicable invoice or inspection and receiving report.

(b) When the contract is for items which require an extended period of time for production (e.g., ship construction), it may be desirable to provide for future sharing on items accepted under all contracts awarded within the sharing pe-

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riod, even if the scheduled delivery date is outside the sharing period.

§ 12–1.5203–4 Methods of sharing for future acquisitions.

(a) *Methods.* There are two methods of sharing future acquisition savings. The clause in § 12–7.151–13(a)(1) provides for contractor sharing in savings by the procurement office, or its successor, on future purchases of essentially the same end item utilizing the VECP. Payments are not made until such future contracts are actually awarded. The lump sum method, which is optional, provides for a single payment at the time of VECP approval by a contract modification, based upon estimated application of the VECP to other projected procurements by the procurement office or its successor (i.e., five-year plan, or other suitable projection). To use the lump sum method, substitute § 12–7.151–13(a)(4) for paragraph (e)(3) of the clause in § 12–7.151–13(a)(1). In deciding whether to use the lump sum method, the contracting officer shall consider:

(1) The accuracy with which the number of items to be procured during the sharing period can be estimated and the probability of actual production of the projected procurement;

(2) The availability of funds for a lump sum payment;

(3) Whether disclosure of estimated future requirements would compromise national security; and

(4) The administrative expense of using the future payment method.

(b) *Calculations.* The contractor's share of future acquisition savings is based upon the sharing percentage (specified in the clause), the unit cost reduction, and the number of units involved. The calculations are in the clauses in § 12–7.151–13. However, the contracting officer should carefully select the definition of the future contracts unit cost reduction to be used. Normally this is the unit cost reduction in the instant contract without considering any cost of contractor development and implementation (see paragraph (e)(3)(i) of the clauses in § 12–7.151–13(a)(1)(2)(3) or (4)). However, if significant future contract unit cost changes (e.g., item still in design or early production, or significant changes in the rate of production) are expected, it may be desirable to reflect this in the clause by substituting the definition in § 12–7.151–13(a)(5).

(c) *Modifications for design to cost.* For design and development contracts with design to cost features (e.g., future unit production cost targets or thresholds are specified), the future acquisition sharing portion of the clause should be modified appropriately. If the contract has a production unit cost target requirement, but no incentive in this regard, it may be desirable to share future VECP savings only on the amount that the achieved unit production cost is lower than the target unit production cost. If the design to cost requirement is incentivized, care should be taken to insure that no duplication in incentive awards exists, before sharing any future VECP savings.

§ 12–1.5204 Submission and processing.

(a) Instructions for submission and processing of VECPs are provided in the clauses.

(b) The contracting officer, with the necessary technical and other support, shall be responsible for expeditiously evaluating and determining the acceptability of all VECPs submitted under a contract. The contracting officer's decision shall be final and shall not be subject to the Disputes clause of the contract.

(c) If a VECP is not accepted, the contracting officer shall notify the contractor in writing giving reason why the VECP was rejected.

(d) Before accepting a VECP which involves sharing collateral savings, the contracting officer must make sure that sufficient funds are available under the instant contract or from other sources to cover any increase in the contract price.

§ 12–1.5205 Future payment funding and notice for future acquisition contracts.

The future payments will be made pursuant to the contract under which the VECP was accepted; however, they shall be funded from the appropriation supporting any succeeding contract which utilizes the VECP. In order to provide guidance on the proper citation of appropriations, insert the following notice in each contract for additional purchase of items on which future payments will be made. The notice should be inserted directly following the citation of appropriation and accounting data or, if space does not permit such insertion, the notice should be referred to there.

Notice of Value Engineering Payments. Award of this contract obligates the Government to make payments to the contractor under Contract No. _____[1] in accordance with the Value Engineering provisions of that contract. These payments are to be made from appropriations currently available for the procurement of items under this contract. To the extent that the Government does not, in fact, receive delivery of and accept all items on which payment is made, the Government is entitled to reimbursement of a proportionate share of the payment from the contractor to whom it was paid.

§ 12–1.5206 Value engineering program requirement.

(a) The purpose of the VE program requirement clause is to apply VE methods early in the project life (i.e., in the initial stages of design development or production), so that specifications, drawings, and production methods will reflect the full benefit of VE. The clause requires the contractor to establish a VE program and engage in a sustained VE effort, as specified in the contract. The VE program requirement shall be shown as a separately priced line item in the contract and may apply to all or to selected phases of contract performance. This clause is designed primarily for contracts covering conceptual, validation and full-scale development phases of a program. It may also be used in production or service contracts.

(b) If this clause is restricted to well defined areas of performance under the contract, a VE incentive clause consistent with § 12–1.5202 should be included for the remaining requirements of the contract.

§ 12–1.5207 Contracting Officer Decision Check List.

Application of the clauses in § 12–7.151–13 to a specific contract requires at least two decisions by the contracting officer. Additional decisions may be made to vary the clause to fit the individual contract at hand.

(a) Mandatory decisions: Should a VE clause be used? If so, what kind? (See paragraph 12–1.5202).

(b) Additional decisions to modify coverage:

(1) If this is an incentive type contract, should the modified instant sharing be used? See § 12–1.5203–1(c)

(2) Should the sharing base be expanded? See § 12–1.5203–2

(3) Should the sharing period be modified? See § 12–1.5203–3

(4) Should the lump sum method of payment be used for future acquisition sharing? See § 12–1.5203–4(a)

(5) Should the clause for future acquisition sharing be modified to reflect major differences in instant contract unit cost reduction and future contract unit cost reduction? See § 12–1.5203–4(b)

(6) (Development Contracts Only) Should the future acquisition sharing be modified to accommodate design to cost requirements or incentives? See § 12–1.5203–4(c)

(7) Should collateral savings be omitted? See § 12–1.5202–4(c)

(c) In addition, should the contractor be requested to submit notification of a potention VECP prior to risking significant expenditures? (Note this can be invoked at any time during the contract). See paragraph (j)(7) of the clause in § 12–7.151–13(a)(1).

§ 12–1.5301 General.

Subpart 12–1.53—Voluntary Refunds

A voluntary refund is a payment or credit, not required by any contractual or other legal obligation, made to the Government by a contractor or subcontractor either as a payment or as an adjustment under one or more contracts or subcontracts. It may be unsolicited or it may be made in response to a request by the Government. Where it is desired to solicit a voluntary refund from a subcontractor, the prime contractor should be encouraged to facilitate the making of such refund. In deciding whether to solicit a voluntary refund or to accept an unsolicited refund, the contracting officer shall ask legal counsel to review the contract or contracts and all data relevant thereto to determine whether the Government's rights would be jeopardized or impaired, by the contracting officer's proposed action.

[1] Insert the number of the contract under which the pertinent VE change proposal was accepted

§ 12–1.5302 Solicited refunds.

Voluntary refunds may be requested during or after contract performance. They shall be requested only when it is considered that the Government was overcharged under a contract or was inadequately compensated for the use of Government-owned property, or in the disposition of contractor inventory, retention by the contractor or subcontractor of the amount in question would be contrary to good conscience and equity. Generally, retention by the contractor or subcontractor shall not be considered contrary to good conscience and equity, and thus a voluntary refund shall not be requested unless the overcharged or inadequate compensation was due, at least in part, to the fault of the contractor or subcontractor. The decision to solicit a voluntary refund shall be made by the head of the procuring activity.

§ 12–1.5303 Disposition of voluntary refunds.

(a) If a refund is offered prior to final payment, it is preferable that the contract price be appropriately modified to reflect the refund. In such a case, the amount of the refund shall be credited to the applicable appropriation cited in the contract.

(b) In cases where the refund is to be made by check rather than by an adjustment in the contract price, the check shall be made payable to the Treasurer of the United States, and shall be forwarded in accordance with the procedures of each Administration.

Subpart 12–1.54—Acquisition of Equipment by Lease, Purchase, or Lease With Option To Purchase

§ 12–1.5401 General.

This subpart prescribes DOT policy and procedures with respect to determination of whether to lease, purchase, or lease with option to purchase, when acquiring equipment for Department use, where these options are available.

§ 12–1.5402 Telewriting equipment and office copying machines.

Guidelines for making lease/purchase determinations in the acquisition of telewriting equipment and office copying machines are specified in the Federal Property Management Regulations (FPMR), Subpart 101–25.5.

§ 12–1.5403 Automatic data processing equipment.

See FPMR Part 101–32 (referred to in FPR subpart 1–4.1).

§ 12–1.5404 Lease/purchase determinations.

(a) Whenever procurement is to be made of items of equipment normally available for both lease and purchase, a determination shall be made as to whether acquisition by lease, purchase, or lease with option to purchase is most advantageous to the Government. The determination shall be supported by comparisons of costs of the various acquisition alternatives. The extent of the cost comparison required to support the determination will be a matter of judgment, depending primarily on the estimated cost of the equipment.

(b) For equipments of relatively high dollar values, considerations shall be given to including the following cost elements in the cost comparison:

(1) Purchase price delivered to the point of installation.

(2) Leasing cost including delivery charges to the Department and cost of return to the vendor.

(3) Present value of money to be used in the acquisition of the equipment. The present value computation is applicable to all costs over the life of the equipment.

(4) Maintenance costs to the Government under lease and under purchase. When maintenance is to be performed by the Government, these costs would include:

(i) Cost of direct labor.

(ii) Cost of parts and supplies, including investment costs and warehousing and distribution costs.

(iii) Cost of additional tools and repair equipment needed for maintenance of the equipment.

(iv) Cost of training maintenance personnel.

(v) Cost of repair manuals.

(vi) Cost of any applicable overhead.

(5) Installation and dismantling costs.

(6) Residual value of equipment after expected use period, including possible continued use by the Government in another application or program.

(7) Operating costs (exclusive of maintenance costs) in those instances where, under the lease method, the vendor would perform part or all of the labor incident to the operation of the equipment.

(c) For equipments of small dollar value, the cost comparison can be limited to the cost of purchase and an estimate of installation and maintenance cost versus the cost of lease, as described in FPMR Subpart 101–25.5.

§ 12–1.5405 Selecting the method of acquisition.

§ 12–1.5405–1 Purchase method.

(a) The purchase method is preferred when all of the following conditions exist:

(1) There is little or no doubt that the equipment to be procured can be efficiently and effectively utilized, cost and other factors considered.

(2) A comparative cost analysis of the alternative methods of acquisition indicates that a cost advantage will accrue over the anticipated useful life of the equipment by using the purchase method.

(3) The capabilities of the equipment will continue to be needed and will be sufficient to satisfy the requirements of the Government, current and projected, for a period beyond the point in time at which the purchase method begins to provide a cost advantage. The possibility that future technological advances would make the selected equipment comparatively less desirable before the cost advantage point is reached should not rule out purchase if the selected equipment is expected to be able to satisfy the Government's requirements economically.

§ 12–1.5405–2 Lease-with-option-to-purchase method.

The lease-with-option-to-purchase method is preferred when it is reasonably anticipated that purchase may be justified, but it is desirable to defer this decision temporarily because the conditions necessary to indicate purchase are not fully satisfied. This situation might arise when it is determined that a short period of operational experience is desirable to prove the effectiveness of an equipment for which there is no previous experience, or where technical changes might substantially alter the requirement for the equipment.

§ 12–1.5405–3 Lease method.

The lease method, without option to purchase, is indicated when it has been established that neither the conditions in § 12–1.5405–1 nor § 12–1.5405–2 prevail.

§ 12–1.5406 Periodic cost comparisons on leased equipment.

For equipment under lease, the contracting officer shall compute cost comparisons periodically (at least once a year) to revalidate the original determination that the lease method is most advantageous to the Government.

Subpart 12–1.55—Multi-Year Procurement

§ 12–1.5500 Scope of subpart.

This subpart contains the multi-year method of procurement for supplies.

§ 12–1.5501 Description of multi-year procedure.

Multi-year procurement is a method for competitive contracting for known requirements for supplies, in quantities and total cost not in excess of planned requirements for five years set forth in approved programs, even though the total funds ultimately to be obligated by the contract are not available to the contracting officer at the time of entering into the contract. Under this method, contract quantities are budgeted for and financed in accordance with the program year for which each quantity is authorized. The procedure provides for solicitation of prices based either on award of the current one-year program quantity only, or, in the alternative, on the total multi-year quantities. Award is made on whichever of these two alternative bases reflects the lowest unit prices to the Government. If award is made on the multi-year basis, funds are obligated only for the first year's quantity, with succeeding years' contract quantities funded annually thereafter. In the event funds are not made available to support one or more succeeding year's quantities, cancellation is effected. The contractor is protected against loss resulting from cancellation by contract provisions allowing reimbursement of unrecovered nonrecurring costs included in prices for canceled items.

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§ 12–1.5502 Policy.

§ 12–1.5502–1 Principal advantages.

Multi-year procurement shall be used to the maximum extent consistent with §§ 12–1.5502–4, 12–1.5503, and 12–1.5511. Advantages of this method include, for example:

(a) Lower costs;

(b) Enhancement of standardization;

(c) Reduction of administrative burden in the placement and administration of contracts;

(d) Substantial continuity of production;

(e) Stabilization of work forces; and

(f) Broadening the competitive base with opportunity for participation by firms not otherwise willing or able to compete for lesser quantities, particularly in cases involving high startup costs.

§ 12–1.5502–2 Principal objective.

The principal objective of the multi-year procedure is to generate realistic competition by minimizing competitive disadvantage and by increasing contractor interest in participating in procurements which involve high startup costs and makeready expense and which also may require substantial capital investment by contractors for expansion of their facilities. Under this procedure:

(a) Nonrecurring costs are distributed over a larger number of units, thus narrowing any price advantage of a firm already in production;

(b) There is greater assurance of depreciation recovery for capital investment; and

(c) The competitive base is broadened with better prospects for lower prices, where firms otherwise might be unwilling or unable to compete.

§ 12–1.5502–3 Cost savings factors to consider.

Another major objective is to obtain lower prices in those procurements which do not necessarily involve high startup cost but which do provide opportunity for substantial cost savings and other advantages through assurance of continuity of production over longer periods of time. In determining whether substantial cost savings and related advantages can be realized, consideration may be given to whether:

(a) Production or performance close-out or shut-down costs, including employee severance pay, represent a substantial cost contingency in prices quoted on only one year's program;

(b) Stabilization of work forces will provide greater assurance of sustaining and improving production efficiency and quality;

(c) Substantial cost and quality advantage will accrue through avoidance of the possible need for establishing and "proving out" quality control techniques and procedures for a new contract each year;

(d) Costly preproduction or pilot testing will be avoided;

(e) The ability to recruit and retain highly skilled personnel will be enhanced through assurance to employees of longer periods of employment than would be the case in single-year procurement, thereby avoiding costs of repeated training of new personnel;

(f) The ability to vary production rates during peak and off-peak periods in each program year will result in economies; and

(g) Substantial in-house savings in maintenance and supply operations will accrue from standardization of supplies accomplished by procurement from a single source throughout the multi-year period.

§ 12–1.5502–4 Set-asides.

Total small business set-asides are compatible with the multi-year method of procurement and may be used when both procedures are appropriate. Partial set-aside procedures (both small business and labor surplus area) generally are not compatible with the multi-year procedure when high startup costs are involved because of the potential duplication of such costs by the set-aside contractor and the non-set-aside contractor. However, when the multi-year procedure is based not on high startup costs but on the opportunity for cost savings through assurance of continuity of production over longer periods of time, partial set-aside procedures are compatible with the multi-year procedure. Furthermore, even where high startup costs are involved, use of partial set-aside procedures together with the multi-year procedure may be appropriate in exceptional circumstances, such as where criteria for partial set-asides are met under FPR 1–1.7 or 1–1.8, and it is likely that broader or more realistic competition will result from a combination of both procedures, and this broader competition is likely to more than offset any duplication of startup costs. When reviewing a proposed procurement involving possible use of this procedure, in addition to consideration of the criteria established in this subpart, the contracting officer shall invite the advice and counsel of the activity's small business specialist and the SBA representative, if one is assigned to that activity, permitting either or both to review all pertinent facts and make recommendations thereon.

§ 12–1.5502–5 Multi-year subcontracts.

The same benefits and advantages that are derived from multi-year prime contracts may frequently be increased by multi-year subcontracts thereunder. The prime contractor in the exercise of his management responsibilities must freely choose the subcontract types that best satisfy his needs. However, multi-year prime contractors should be encouraged to employ multi-year subcontracts selectively and only when:

(a) The subcontract item is of stable design and specification;

(b) The quantity required is known and firm;

(c) Effective competition is assured; and

(d) The use of multi-year subcontracts can reasonably be expected to result in reduced prices.

In such cases, the prime contractor is adequately protected against cancellation since appropriate cancellation charges for such multi-year subcontractors are included within the cancellation charge of the multi-year prime contract. Multi-year subcontracts may be particularly desirable under a sole source multi-year prime contract since effective competition at the subcontract level may thereby be enhanced and the attendant cost reductions realized by the prime contractor and the Government.

§ 12–1.5503 Application—criteria.

Except as provided in DOTPR 12–1.5511 below, the multi-year procurement method should be used when all of the following criteria are present:

(a) Reduced unit prices can reasonably be anticipated over annual buys by reason of continuity of production or elimination of repetitive substantial startup costs, including such costs as preproduction engineering, special tooling, plant rearrangement, initial rework, initial spoilage, and pilot runs;

(b) There is reasonable expectation that effective competition can be obtained;

(c) There are known requirements for the quantities to be purchased under the multi-year contract;

(d) The design and specifications of the item are not expected to change to an extent that would involve a major impact on contract price; and

(e) The items being procured are not regularly manufactured and offered for sale in substantial quantities in the commercial market, except that (1) when quantities to be procured by the Government represent a substantial portion of the total market and would require special manufacturing runs for all or substantially all of the Government's requirements and (2) significant cost savings would result from multi-year procurement, this procedure may be authorized by the head of the procuring activity or his designee with the procurement file fully documented as to reasons why the expected substantial savings are not obtainable under annual procurements.

§ 12–1.5504 Method of solicitation.

Formal advertising, including two-step formal advertising, is the preferred method for use in multi-year procurement. In cases where the period of production is such that a contingency for labor and material costs is likely otherwise to be included in the multi-year contract price, the contracting officer should normally use a provision for price escalation.

§ 12–1.5505 Procedures.

Solicitations shall include the information described in §§ 12–1.5505–1 through 12–1.5505–9, as appropriate.

§ 12–1.5505–1 Requirements.

State the requirements, separately identified by bid or proposal item in the schedule, for (a) the first program year;

and (b) the multi-year procurement including the quantities for each program year thereunder.

§ 12–1.5505–2 Previous competition.

When previous production procurements of the item have been made with competition:

(a) Include a provision that a price may be submitted for the total requirements of the first program year, or for the total multi-year requirements, or both, or

(b) When competition in future procurements of the items would be impracticable after award of a contract covering the first program year quantity alone and the head of the procuring activity determines that, in order to eliminate the possibility of a first program year "buy-in," these provisions will be in the best interests of the Government—include provisions that a price may be submitted only for the total multi-year quantity and that prices on a single-year basis will not be considered for any purpose.

§ 12–1.5505–3 No previous competition.

When there has been no previous competition for the production of the item:

(a) Include provisions that a price must be submitted for the total requirements of the first program year, that a price may be submitted for the total multi-year quantity, and that a bid or offer on the multi-year quantity only will be considered nonresponsive; and a provision that if only one responsive bid or offer on the multi-year requirements is received from a responsible bidder or offeror, the Government reserves the right to disregard the bid or offer on the multi-year quantity and to make an award only for the first program year requirements; or

(b) When competition in future procurements of the items would be impractical after award of a contract covering the first program year quantity alone and the head of the procuring activity determines that, in order to eliminate the possibility of a first program year "buy-in," these provisions will be in the best interest of the Government—

(1) Include provisions that a price may be submitted only for the total multi-year quantity and that prices on a single-year basis will not be considered for any purpose, and

(2) A provision that if only one responsive bid or offer on the multi-year requirements is received from a responsible bidder or offeror, the Government reserves the right to cancel the solicitation and resolicit on a single-year basis by whatever procedures are then appropriate.

§ 12–1.5505–4 Pricing—unit price.

Include a provision that the unit price of each item in the multi-year requirement shall be the same for all program years included therein.

§ 12–1.5505–5 Comparison criteria.

Provide criteria for comparing the lowest evaluated submission on the first program year's requirement against the lowest evaluated submission on the multi-year requirements.

§ 12–1.5505–6 Single year and/or multi-year award.

When the solicitation permits bids or offers on either the first program year requirements or the multi-year requirements or both, include a provision that in the event the Government determines prior to award that only the first program year quantities are actually required, the Government may evaluate bids or offers and make award solely on the basis of prices bid or offered on the first program year requirements.

§ 12–1.5505–7 Cancellation ceiling.

Include a provision setting forth a separate cancellation ceiling (on a percentage basis) applicable to each program year subject to cancellation (see § 12–1.5506).

§ 12–1.5505–8 Schedule provision.

Include a prominently placed provision directing attention to the multi-year features of the soliciation, and to—

(a) The Limitation of Price and Contractor Obligations clause (see § 12–7.151–14) which limits the payment obligation of the Government to the requirements of the first program year and to those of such succeeding program years as may be funded by the Government;

(b) The Cancellation of Items clause Government to cancel, by a specified date (see § 12–7.151–14) which allows the Government to cancel, by a specified date or within a specified period, all remaining program years; and

(c) The cancellation ceiling set forth in the schedule.

§ 12–1.5505–9 Quantity obligation.

Include a statement that award will not be made on less than the quantity stated as the first program year requirements.

§ 12–1.5506 Establishment and revision of cancellation ceilings.

(a) The term "cancellation" as used in multi-year procurement refers only to the cancellation of the total requirements of all remaining program years. Such cancellation results from (1) notification from the contracting officer to the contractor of nonavailability of funds for contract performance for any subsequent program year, or (2) failure of the contracting officer to notify the contractor that funds have been made available for performance of the succeeding program year requirement. For each program year except the last, the contracting officer shall establish a cancellation ceiling applicable to the remaining program years which are subject to cancellation. Cancellation ceilings will be lower for each succeeding program year in that such ceilings must exclude all amounts allocable to items included in prior program years. Such ceilings shall be expressed in the schedule and shall apply to all bidders alike. The reduction in the cancellation ceilings percentage for each program year shall be in direct proportion to the reduction in the quantity remaining subject to cancellation. For example, if the total nonrecurring costs are estimated at 10 percent of the total multiyear price and program year quantities for 5 years are 30, 30, 20, 10, and 10; the cancellation percentage after deducting 3 percent for the first program year would be 7 percent, 4 percent, 2 percent, and 1 percent of the total multiyear price applicable to the 2nd, 3rd, 4th, and 5th program years respectively. In determining cancellation ceilings, the contracting officer must estimate reasonable preproduction, labor learning and other nonrecurring costs, to be incurred by an "average" prime or subcontractor which would be applicable to and which normally would be amortized in all items to be furnished under the multi-year requirements. They include such costs as plant rearrangement, special tooling, preproduction engineering, initial rework, initial spoilage, pilot runs, and unrealized labor learning. They shall not include any costs of labor or materials, or other expenses (except as indicated above) which might be incurred for production of the items subject to cancellation for each program year. The total estimate must then be compared with the best estimate of the procurement cost to arrive at a reasonable percentage figure. To perform this calculation, it is essential that the contracting officer obtain in-house engineering cost estimates which will identify the detailed recurring and nonrecurring costs, and indicate labor learning implications. Cancellation dates for each program year's requirements shall be established with due regard for production lead time and the date by which funding therefor can reasonably be accomplished.

(b) Original cancellation ceilings may be revised from information developed after issuance of a solicitation discloses that such ceilings are not realistic. In the case of formal advertising, such changes shall be by amendment of the invitation for bids prior to bid opening. In two-step formal advertising, discussion conducted during the first step may indicate the need for revised ceilings in step two. Negotiations with offerors in a negotiated procurement may provide information requiring a change in cancellation ceilings for all offerors, prior to final negotiation and contract award. In order to assure that all interested sources of supply are thoroughly aware plished, use of pre-solicitation or pre-bid conferences may be advisable. During such conferences the contracting officer should ascertain whether escalation provisions are appropriate (see FPR 1–2.104–3) and whether the proposed cancellation ceiling is adequate.

§ 12–1.5507 Funds obligation—contingent liabilities.

For each program year requirement, funds shall be obligated to cover the quantities to be delivered thereunder. In addition, contingent liabilities for cancellation charges shall be carried as outstanding commitments.

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§ 12–1.5508 Payment for cancellation.

In the event of a cancellation the contractor is entitled to payment as consideration therefor in accordance with the terms of the Cancellation of Items clause in § 12–7.151–14 in an amount not to exceed the cancellation ceiling.

§ 12–1.5509 Schedule provision limiting payment obligation.

The schedule shall contain a provision limiting the payment obligation of the Government to a monetary amount there described as being available for contract performance. Such amount for the first program year requirements shall be inserted by the contracting officer upon award of the contract and shall be modified for successive program years upon availability of funds for such years.

§ 12–1.5510 Termination for convenience.

In the event of a total termination for the convenience of the Government, including items subject to cancellation, the Government's obligation shall not exceed the amount set forth in the schedule as available for contract performance, plus the applicable amount established as the cancellation ceiling.

§ 12–1.5511 Limitations.

Multi-year procurement shall not be used:

(a) When funds covering the procurement are limited by statute for obligation during the fiscal year in which the contract is executed;

(b) For quantities or total costs in excess of the planned requirements for five years set forth in approved programs; or

(c) When any one of the criteria set forth in § 12–1.5503 is not present.

§ 12–1.5512 Evaluation.

(a) Evaluation of offers in a multi-year procurement involves not only the determination of the lowest overall evaluated cost to the Government for both alternatives, the multi-year procurement and the first program year procurement; it also involves the comparison of the cost of buying the total requirement under a multi-year procurement with cost of buying the total requirement in successive independent procurements. All the factors to be considered for the various evaluations involved shall be set forth in the solicitation.

(b) In the event the Government determines prior to award that only the first program year quantities are actually required, the procurement will no longer be evaluated on a multi-year basis:

(1) When the solicitation permits bids or offers on either the first program year requirements or the multi-year requirements or both, only bids or offers on the first program year requirements will be evaluated; and

(2) When the solicitation does not permit the submission of prices on a single-year basis, the single year requirement will be resolicited.

(c) The cancellation ceiling shall not be a factor for evaluation. Unless Government administrative costs incident to annual procurement methods and contract administration can be reasonably established and supported, they shall not be used as a factor for evaluation. When administrative costs are to be used in evaluation, the dollar amount to be used shall be stated in the solicitation.

(d) Delivery destinations may be unknown for certain quantities due to the extended duration of contract performance. In such cases, destinations shall be developed on the basis of best estimates; a definite place or places shall be designated in the solicitation as the point to which transportation costs will be computed (but only for the purpose of evaluating bids or proposals); and the solicitation shall contain the notice required by FPR 1–19.202–7.

(e) When Government production and research property is provided, the use of such property may be on a rent-free basis. In this event, the solicitation shall set forth a detailed description of the procedure to be followed and the factors to be considered for the elimination of competitive advantage. The amount added for evaluation to each offeror's unit price for the first program year requirement shall also be added to his unit price for the multi-year requirements.

(f) When the solicitation requires the submission of prices on the first program year requirements in accordance with § 12–1.5505–3(a), bids or offers which submit prices on the multi-year requirements only shall be rejected as nonresponsive.

(g) When the solicitation provides for submission of prices only for the total multi-year quantity, submission of prices for the single-year quantity will be disregarded for any purpose but will not render the bid or offer nonresponsive as to any alternate multi-year submission by the same bidder or offeror.

(h) To determine the lowest evaluated unit price, compare the lowest evaluated bid or offer on the first program year alternative against the lowest evaluated bid or offer on the multi-year alternative as follows:

(1) Multiply the evaluated unit price for each item of the lowest evaluated bid or offer on the first program year alternative times the total number of units of that item required by the multi-year alternative, and then

(2) Take the sum of these products for all the items, plus the dollar amount of any administrative costs of the Government which are to be used in the evaluation, and finally

(3) Compare this result against the total evaluated price of the lowest bid or offer on the multi-year alternative.

§ 12–1.5513 Award.

(a) Except as provided in paragraphs (b) and (c) of this section, award shall be made on the basis of the lowest evaluated unit price determined in accordance with § 12–1.5512, whether that price is on a single-year basis or a multi-year basis.

(b) If only one responsive bid or offer is received on the multi-year requirements from a responsible bidder or offeror, then award shall be made as follows:

(1) If the solicitation gave the bidder or offeror the choice of submitting prices on a single-year basis or multi-year basis or both, then award shall be made in accordance with § 12–1.5512(a) above;

(2) If the solicitation required the submission of prices on the first program year requirements in accordance with § 12–1.5505–3(a) award shall be made to the lowest evaluated bidder or offeror on the single-year basis, even though the multi-year price submission may represent the lowest evaluated price submission, except that if the multi-year price offers distinct advantages to the Government a multi-year award may be made with the advance approval of the head of the procuring activity;

(3) If the solicitation restricted the submission of prices to the multi-year basis only, the solicitation shall be cancelled and a new solicitation issued by whatever procedures are then appropriate except that if the multi-year price offers a distinct advantage to the Government a multi-year award may be made with the advance approval of the head of the procuring activity.

(c) In no event shall award be made at an unreasonable price.

§ 12–1.5514 Contract clauses.

The clauses in § 12–7.151–14 shall be included in all contracts under the multi-year procurement method.

Subpart 12–1.56—Preaward Survey Procedures

§ 12–1.5600 Scope of subpart.

This subpart prescribes the procedures for conducting preaward on-site evaluations (preaward surveys) of prospective contractors. While the procedures are primarily applicable to supply contracts, they shall be applied, to the extent appropriate, to other contracts.

§ 12–1.5601 General.

§ 12–1.5601–1 Need for survey.

(a) Before requesting or performing an on-site survey, the contracting officer shall review the data available in the procurement office files or information available from other sources (e.g., other Government procurement offices, contractor's performance under current or prior contracts, and such commercial sources as banks and credit rating and reporting firms). Prior preaward evaluation reports, if any, should be reviewed.

(b) When available information is not sufficient for the contracting officer to determine the prospective contractor's responsibility, the contracting officer shall perform or have performed a preaward survey to determine if the prospective contractor meets the standards set forth in FPR subpart 1–1.12 and any additional requirements set forth in the solicitation. A survey is not ordinarily performed on contracts of less than $10,000, or when there is sufficient data available to make a positive determination of responsibility.

§ 12–1.5601–2 Type of survey.

A complete survey encompasses investigation of all standards concerning responsibility and any other requirements of special inquiry as deemed necessary by the contracting officer. A partial survey is limited to certain standards: for example, it might cover only technical qualifications, production backlog, or financial resources.

§ 12–1.5601–3 Conducting the survey.

When a preaward survey is necessary, it shall be conducted by the contracting officer or his designated representative, or by a survey team consisting of the contracting officer or his designated representative and such other qualified specialists as are deemed necessary to evaluate all appropriate phases of the prospective contractor's capability. The type of survey needed (complete or partial) and the areas of consideration shall be identified by the contracting officer. Personnel of the field contract inspection staffs within the Department may be employed, through cross-servicing, as provided in DOT Order 4200.6c.

§ 12–1.5601–4 Release of survey information.

No indication shall be made to the prospective contractor that an award will or will not be made. This prohibition does not preclude discussion with the prospective contractor of questionable areas which require clarification. Information obtained during the survey shall be treated in strict confidence and divulged only to Government personnel having a need to know. The survey report is confidential business information and shall not be released outside the Government. The completed report, however, or the facts it contains can be discussed with the concern involved.

§ 12–1.5601–5 Preparation for the survey.

The contracting officer or the individual designated by him as responsible for the conduct of the survey shall:

(a) Review all requirements set forth in the solicitation or proposal.

(b) Determine composition of the team if more than one specialist is required.

(c) Make arrangements for plant visits. On-site preaward evaluations must be completed in timely fashion. Therefore it is necessary to make prompt contact and arrangements with the prospective contractor for the survey. At the time contact is made, the prospective contractor should be advised of the documentation that may be needed, such as financial statement, resumes of company personnel, descriptions of existing plant workload, and production loading charts.

(d) Advise team members what information is required from their respective organizational elements, the date needed, and any particular portion of the survey for which they are responsible.

(e) Brief team members on their responsibilities and conduct relative to interviews and discussions with officials of the concern.

(f) Arrange for discussion among members during and after the on-site survey to assure that evaluations by individual specialists are coordinated and complete.

§ 12–1.5601–6 On-site survey procedures.

(a) Discussions should be held with the prospective contractor's management officials. These discussions should be in sufficient detail to obtain as much information as can be supplied by the officials concerning the prospective contractor's ability to perform satisfactorily, and to assure that the solicitation requirements and its technical aspects (such as specifications, prototype, data, inspection and testing, packaging, delivery, instruction books and reports), are understoood. If a cost-reimbursable contract is contemplated, the prospective contractor's accounting system will be reviewed to determine that it is adequate for the determination of costs applicable to the contract.

(b) The facilities and procedures the prospective contractor proposes to use, and his overall plans for performing the contract, shall be reviewed and analyzed for adequacy.

(c) The contracting officer or the individual designated by him as responsible for the conduct of the survey shall:

(1) Review with other team members the findings developed during the survey. Points of disagreement should be reviewed in depth.

(2) Obtain clarification from the contracting officer when questions of interpretation arise during the course of the evaluation.

(3) Write a narrative report of the team's findings.

(4) Otherwise direct the efforts of the team.

(d) Each team member shall analyze and evaluate the prospective contractor's capability to perform with respect to that part of the survey for which he is responsible. His report shall be promptly furnished to the team leader, and be in sufficient detail to substantiate his findings.

§ 12–1.5602 Survey report.

§ 12–1.5602–1 Format.

The report shall be in narrative form. The format set forth in DOTPR 12–1.5604 shall be used to the maximum extent practicable. All pertinent documentation should be forwarded with the report.

§ 12–1.5602–2 Standards.

The report shall discuss the standards set forth in FPR 1–1.12 and the requirements of the solicitation sufficiently to substantiate the conclusion. I shall include a discussion of all pertinent topics of the "Guide for On-Site Evaluation of Prospective Contractor" (see DOTPR 12–1.5603). In any case where there is conflict of opinion between team members as to whether the prospective contractor meets a standard, this fact shall be discussed in detail, and the team leader shall determine the survey team's position on that standard. Copies of team members' reports, including those which dissent from the position recommended by the team, shall be included as enclosures to the survey report. The survey report shall unequivocally state that the prospective contractor does or does not meet each standard.

§ 12–1.5603 Guide for on-site evaluation of prospective contractor.

This guide is intended to assist in developing the facts to be used for preparing the survey report. It should be used only as a guide, not as a question/answer sheet.

GENERAL INFORMATION

(a) Solicitation or proposal number or other identification.
(b) Date(s) of evaluation.
(c) Firm name, address, telephone number.
(d) Name(s) and title(s) of the person(s) contacted in making evaluation.
(e) Name(s) and routing symbol(s) of evaluation team members.

ORGANIZATION

(a) List the names, titles, and citizenship of the principal company officials. Also list experience and background if resumes not available.

(b) Form of company: Corporation (parent/subsidiary affiliations), partnership, sole proprietorship? Date company was founded. If incorporated, in which State?

(c) Name and relationship of parent company, if any.

(d) Location of parent company. (Complete only if applicable to the solicitation.)

(e) Evaluate organization against the requirements of the solicitation; i.e., are there any conflicts of duties within or between organizational segments which may endanger contract performance; is the organization such that all facets of the contract will be controlled?

(f) Does the prospective contractor have the necessary organization to satisfactorily perform the proposed work?

FINANCIAL RESOURCES

(a) Obtain a copy of the prospective contractor's financial statements for the prior two fiscal years and a copy of his most recent financial statement.

(b) Does the prospective contractor intend to obtain bank or other lines of credit financing to perform on the proposed contract? 1. If so, in what amount? ---------- with whom? ----------

(c) Obtain data on credit available from local financial institutions. Differentiate between credit available on an open basis and that available as a result of an award of the proposed contract. Identify the financial institution, its address and telephone number, and personnel who may be contacted for verification of information. Also identify the prospective contractor's banking facilities.

(d) Is the prospective contractor receiving any Government financing? If so, indicate:

1. Amount of unliquidated progress payments outstanding ----------

2. Amount of Government guaranteed loans with dollar amount being used at present ----------

3. Identify Government agencies and contract numbers involved in (a) and (b) above.

(NOTE.—If requested by the contracting officer, send the financial information to him immediately upon receipt. Include complete address and name of person(s) who may be contacted regarding financial matters.)

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EXPERIENCE

(a) Is the item to be procured a standard item for the prospective contractor? If so, for how many years has the item been produced, and what is the quantity produced?

(b) Has the prospective contractor ever produced identical or similar items to those required on the solicitation for either Government or commercial purposes? If so, describe in detail giving dates produced, Government contract numbers, and quantities delivered.

(c) Has the prospective contractor performed previous contracts such that he is familiar with Government specifications in general or applicable specifications in particular?

(d) Do the prospective contractor's responsible officials question any of the contract requirements or allege any misunderstanding of the contract requirements?

(e) List the firm's present product, or obtain brochures listing same, and years of production experience with such products.

(f) Are the prospective contractor's purchasing personnel experienced in procuring materials, components, services, and subcontracting to Government specifications?

(g) Does the prospective contractor have the necessary experience to satisfactorily perform the proposed contract?

TECHNICAL QUALIFICATIONS

List the names and positions of the prospective contractor's key engineering, quality control, and all other technical personnel who will be involved with an award. Also list experience and educational background if resumes are not available.

(a) *Engineering competence.* (1) Do the prospective contractor's engineers fully understand all equipment specification requirements of the solicitation?

(2) What experience do the prospective contractor's engineers have with design, development and manufacturing of the products required by the solicitation?

(3) Do the prospective contractor's engineers have the specialized engineering experience considered necessary to build the product required by the solicitation?

(4) How many engineers will be assigned to the proposed contract?

(5) Will the engineers who will be assigned to the proposed contract also be assigned to other projects?

(6) If the engineers will be assigned to other projects, at what time during the proposed contract will they actually commence work on the proposed contract?

(7) What percentage of each engineer's time will be devoted to the proposed contract?

(8) Does the prospective contractor propose to employ consultants to assist in any of the engineering or technical areas? If so, are the consultants available? (Give name, address, experience, and confirm that arrangements have been made for these services.)

(9) Does the prospective contractor have qualified technical writers and do they intend to write their own instruction books or other manuals required by the contract? Explain, equating the technical writer's experience with the specific requirements.

(10) If the prospective contractor intends to obtain outside technical writing services, are such services immediately available? (Give name, address, experience, and confirm that arrangements have been made for these services.)

(b) *Quality and reliability assurance.* (1) Does the prospective contractor have a Quality Control or Quality Assurance Department?

(2) Does the prospective contractor have written Quality Control or Quality Assurance procedures? If so, obtain a copy.

(3) Are the prospective contractor's quality procedures now implemented in all respects?

(4) Do the prospective contractor's responsible quality control personnel fully understand all quality control inspection, testing, source inspection and certification of compliance requirements of the solicitation?

(5) Do the prospective contractor's quality control personnel have the specialized inspection experience considered necessary to test the product required by the solicitation? Explain.

(6) Does the prospective contractor have the necessary facilities and equipment, including peculiar or special test equipment for performing all tests required and will it be available for the proposed work? (Obtain list of required test equipment.)

(7) Are the prospective contractor's quality assurance procedures and controls adequate in all respects to meet the requirements of the solicitation?

(c) *Summary of technical qualification.* (1) Do you find the prospective contractor's engineering, quality control and other technical staff competent to satisfactorily complete the proposed contract? Explain, equating the technical competency, and experience to the specific item(s) required.

FACILITIES

(a) *Land, buildings, production, and test equipment.* (1) What is the area of land on which building(s) is located?

(2) Describe buildings.

(3) Describe floor area: (1) Administrative, (2) Engineering, (3) Production, (4) Storage, (5) Maintenance, etc.

(4) Obtain list of type, quantity, and condition of prospective contractor-owned production equipment and test equipment.

(5) Does the prospective contractor employ preventive maintenance and are maintenance facilities available and adequate?

(6) What percentage of equipment and facilities (including land and buildings) are:

(1) Being purchased ----------?
(2) Owned ----------?
(3) Leased ----------?

(7) Are any facilities or equipment Government-owned? If so, from whom and under what terms and conditions are they leased?

(8) Will any conversion of existing facilities and equipment be required to produce the solicitation item(s)?

(9) Does the prospective contractor have the necessary facilities for domestic and/or overseas packing of the items required? If subcontracted, identify by name and location the proposed subcontractor.

(10) Are present facilities, including production and test equipment, adequate to fulfill the requirements of the solicitation?

(11) If any part is leased, what portion and under what terms and conditions?

(b) *Production capacity.* (1) Is the item to be procured a stock item with the prospective contractor? If so, are stock quantities sufficient to supply initial or all quantities on the schedule?

(2) What is the current condition of the prospective contractor's Government Order Board?

(1) Indicate backlog in man-hours and dollars.

(2) Indicate monthly production rate (in dollars and man-hours or percent of company's overall capacity).

(3) What is the current condition of the prospective contractor's Commercial Order Board?

(1) Indicate backlog in manhours and dollars.

(2) Indicate monthly production rate (in dollars and manhours or percent of company's overall capacity).

(4) Does the prospective contractor use records and charts, i.e., production flow charts, operation sheets, and machine-loading charts, to schedule and control production? Obtain from the prospective contractor a copy of his projected master production schedule; and, if possible, a man hour breakdown related to the schedule. Ascertain if the schedule is feasible and compatible with the proposed contract schedule. If the situation does not warrant obtaining proposed schedules from the prospective contractor, prepare one from the information (data) developed during the survey.

(5) List the names and addresses of important potential subcontractors and the functions which such subcontractors will perform; e.g., shop testing, packaging, annealing, anodizing, etc. Quoted delivery time for these services should also be obtained. Are the delivery times realistic and compatible with the solicitation schedule?

(6) List the names and addresses of suppliers who are to provide critical and components, and/or materials for the contract; e.g., major components, materials in short supply, items which would normally be expected to have long delivery periods, and items needed relatively early in the production process. List such items, the quantities required, and the required delivery dates. Vendor's quoted delivery dates shall also be listed.

(7) Are vendor deliveries in line with lead time required to meet the production schedule? Are vendor-quoted deliveries realistic?

(7) Equating the prospective contractor's present production schedule commitments for Government and commercial orders and schedule requirements of the solicitation with his overall capacity, is there now sufficient production capacity to produce the required items within the required delivery schedule?

(c) *Transportation.* (1) Will the end items of the proposed contract require special transportation handling or facilities?

(2) Are the transportation facilities (rail, motor, truck, etc.) available to the prospective contractor adequate for the delivery of end items of the proposed contract?

(d) *Power and fuel.* (1) Does the proposed contract require any special power or fuel requirements?

(2) Is the prospective contractor's power and fuel supply sufficient to enable the prospective contractor to meet all performance requirements of the proposed contract?

(e) *Government property.* (1) Does the prospective contractor have written procedures for control of Government property?

(2) Is there a particular employee designated as a Government property representative?

(3) What facilities does the prospective contractor have for protecting and safeguarding of GFP?

(4) Does the solicitation provide for the furnishing of GFP? Does the prospective contractor plan to ask for any GFP? If so, identify type of property and reason for request.

(5) Will the prospective contractor acquire any property for the Government other than that to be incorporated into the end item(s)? If so, identify the type of property. Does the prospective contractor's control system provide for control of contractor-acquired property as well as GFP?

(f) *Security.* (1) Does the proposed contract require plant security clearance?

(2) What Government agency has plant security cognizance of the contractor's facility?

(3) What is the level of security clearance that has been granted the contractor's facility by a Government agency?

(g) *Summary of facilities.* Are the facilities of the prospective contractor adequate in all respects to satisfactorily perform the proposed contract?

SKILLS

(a) Present number of employees by skills.
(1) Professional (Scientific) ----------
(2) Engineers----------
(3) Quality Control----------
(4) Production----------
(5) Managerial or Administrative----------
(6) Others----------

(b) What is the present work schedule (number of work shifts, hours per shift, number of employees per shift, and work days per week)?

(c) Is present work schedule and personnel complement adequate to satisfactorily perform the proposed contract concurrently with present commitments? If additional personnel are required, are the necessary skills available? In particular evaluate the need for, and availability of, any unusual or scarce skills.

(d) What, if any, is (are) the prospective contractor's present labor affiliation(s)? Give dates of expiration of any existing collective bargaining agreements.

(e) Does anything indicate any current or anticipated problems with the labor force? Does the propsective contractor have the necessary skills to satisfactorily perform the proposed contract?

OFFEROR'S RECORD OF INTEGRITY, JUDGMENT, AND PERFORMANCE

(a) Has the prospective contractor previously completed a contract with the Department? Yes---- No----. Identify the contracts by commodity and total value.

(1) Were delivery schedules met? If not, why?

(2) What problems, if any, were encountered?

(b) Has the prospective contractor previously completed contracts for other Government agencies? Yes---- No----.

(1) Were delivery schedules met? If not, why?

(2) What problems, if any, were encountered?

(c) Does the prospective contractor presently have Department contracts? Identify contracts by number, commodity, and value.

(1) Is contract(s) on schedule? If not, why?

(2) What problems are being encountered?

(3) What percentage of current contracts are delinquent in performance?

(4) Did the Government cause or contribute to the problems or were they within the control of the contractor?

(d) Does the prospective contractor presently have contracts with other Government agencies? Identify by agency, number, commodity and value.

(1) Is contract on schedule? If not, why?

(2) What problems are being encountered?

(3) What percentage of current contracts are delinquent in performance?

(4) Did the Government cause or contribute to the problems or were they within the control of the contractor?

(e) Has the prospective contractor required unusual and burdensome (to the Government) assistance (e.g., inspection, testing) on above contracts?

(f) Does the prospective contractor have a satisfactory record of integrity, judgment, and performance?

ABILITY TO COMPLY WITH TIME OR DELIVERY OR PERFORMANCE SCHEDULE

Does the prospective contractor have the ability and all things necessary to comply with the delivery or performance schedule of the solicitation?

§ 12–1.5604 Formal on-site survey report.

Subj: Preaward survey report of ----------
(prospec-
---------- under Solicitation No ----------
tive contractor)

To: ----------

(In the first paragraph, give date(s) of the on-site evaluation; name, address and telephone number of the prospective contractor; names and titles or positions of personnel contacted and names and routing symbols of DOT personnel who participated in the onsite evaluation.)

(Subsequent paragraph headings should generally be used as shown below, and the findings, discussions and conclusions under each heading will be based on the information developed with the guide in DOTPR 12–1.5603 and other relevant facts deemed pertinent by the representative responsible for performing the survey.)

Organization:
Financial:
Experience:
Technical qualifications:

(a) Engineering competence. (b) Quality and reliability assurance.
Facilities:
(a) Land, buildings, and production and test equipment.
(b) Production capacity.
(c) Transportation.
(d) Power and fuel.
(e) Government property.
(f) Security.
Skills:
Prospective Contractor's Record of Integrity, Judgment, Performance and Ability To Comply With Time of Delivery or Performance Schedule:
Conclusion: This conclusion must specifically state the standards which the prospective contractor does meet, and the standards which the prospective contractor does not meet. As an example of a prospective contractor who meets all standards, the conclusion should be written similar to the following:

"Based on the facts developed during this on-site evaluation, it is concluded that (prospective contractor) has the necessary organization, experience, technical qualifications, skills, facilities, satisfactory record of integrity, judgment and performance, and has the ability to comply with the required delivery (or performance) schedule."

Signature: ----------

PART 12–2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 12–2.1—Use of Formal Advertising

Sec.
12–2.102 Policy.

Subpart 12–2.2—Solicitation of Bids

12–2.201 Preparation of invitations for bids.
12–2.202–1 Bidding time.
12–2.202–2 Telegraphic bids.
12–2.202–5 Descriptive literature.
12–2.203–1 Mailing or delivery to prospective bidders.
12–2.203–3 Publicity in newspapers and trade journals.
12–2.205–5 Release of bidders mailing list.

Subpart 12–2.4—Opening of Bids and Award of Contract

12–2.402–50 Classified bids.
12–2.407–8 Protests against award.
12–2.408 Information to bidders.

Subpart 12–2.5—Two-Step Formal Advertising

12–2.503–1 Step one.
12–2.503–50 Determination of size status.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

Subpart 12–2.1—Use of Formal Advertising

§ 12–2.102 Policy.

Chapter 137 of Title 10 of the United States Code (see 10 U.S.C. 2304(a)), is applicable to procurements by Coast Guard. Negotiation of contracts is authorized under certain circumstances enumerated therein. The circumstances are set forth in DOTPR Subpart 12–3.2.

Subpart 12–2.2—Solicitation of Bids

§ 12–2.201 Preparation of invitations for bids.

In addition to the applicable information contained in FPR 1–2.201, the following shall be included in the invitation for bid if applicable to the procurement:

(a) *For supply and service contracts including construction.*

(50) In all cases where multiple awards are to be considered, the following provision:

EVALUATION OF BIDS FOR MULTIPLE AWARDS

In addition to other factors, bids will be evaluated on the basis of advantages or disadvantages to the Government that might result from making more than one award (multiple awards). For the purpose of making this evaluation, it will be assumed that the amount of $100 would be the administrative cost to the Government for issuing and administering each contract awarded under this invitation, and individual awards will be for the items and combinations of items which result in the lowest aggregate price to the Government, including such administrative costs.

§ 12–2.202–1 Bidding time.

The minimum bidding times set forth in FPR 1–2.202–1 and 1–1.307–4(a) should not be construed to be maximum or automatic bidding times. The bidding time permitted under each procurement should reflect the considered judgment of the contracting officer taking into account all of the facts surrounding the procurement, and recognizing that doubts should be resolved in favor of a longer rather than a shorter bidding time. If the bidding time for any procurement is reduced below the minimum, the reduction shall be fully justified and documented in the contract file by the contracting officer.

§ 12–2.202–2 Telegraphic bids.

When telegraphic bids are authorized, include the following provision in the Schedule of the invitation:

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TELEGRAPHIC BIDS

Telegraphic bids may be submitted in response to this invitation for bids. Telegraphic bids must be received in this office prior to the time specified for opening of bids. Such bids must specifically refer to this invitation for bids, include the item or sub-items, quantities and unit prices for which the bid is submitted and the time and place of delivery; and contain all the representations and other information required by the invitation for bids together with a statement that the bidder agrees to all the terms, conditions and provisions of the invitation. Failure to furnish, in the telegraphic bid, the representations and information required by the invitation for bids may necessitate rejection of the bid. Signed copies of the invitation for bids must be furnished in confirmation of the telegraphic bids.

§ 12–2.202–5 Descriptive literature.

(a) Descriptive literature shall not be required of the bidder unless all requirements of FPR 1–2.202–5 and this § 12–2.202–5 have been met.

(b) The justification required by FPR 1–2.202–5(c) must state, in sufficient detail, the reasons why acceptable products cannot be procured without the submission of descriptive literature. A justification that states little more than the conclusion that descriptive literature is required is not acceptable. Bidders shall not, except in the most unusual circumstances which can be clearly justified, be required to furnish descriptive literature when the specifications are stated in such detail that they leave nothing for the bidder to describe.

(c) Among other things, FPR 1–2.202–5(d) requires "• • • the invitation for bids shall clearly state *what* descriptive literature is to be furnished, the *purpose* for which it is required, the *extent* to which it will be considered in the evaluation of bids, *and* the *rules* which will apply if a bidder fails to furnish it before bid opening • • •." The asterisked note in FPR 1–2.202–5(d)(1) lists categories of general subjects which may be appropriate for inclusion in the Requirement for Descriptive Literature clause. A mere repetition of these subjects in the clause is not sufficient to establish a common basis for evaluation of bids.

(d) An invitation for bids must contain sufficient particularity to put bidders on notice (1) as to why the descriptive data is necessary, and (2) as to how much detail the bidder must furnish in his descriptive data for his bid to be considered responsive.

§ 12–2.203–1 Mailing or delivery to prospective bidders.

(a) Copies of invitations may be furnished for informational purposes to non-governmental organizations such as trade associations and bidding informational services, provided they lend some assistance in advertising the requirements. The extent to which supporting papers (drawings, specifications and general provisions) are furnished will depend on how the organizations intend to use the material. If they merely prepare a synopsis of bid solicitations for distribution to their members or subscribers, the invitation itself should suffice. If, however, they provide a reading room service (such as various trade associations do for construction projects), a complete set of all papers should be furnished without cost.

(b) In connection with invitations for construction, where the cost of reproduction and distribution of plans or drawings is a substantial cost item, the extent of distribution of bidding papers may be controlled by charging prospective contractors and subcontractors a flat, non-refundable deposit fee. This method is preferred over the use of a refundable deposit system. When the plan fee method is used, arrangements should be made for plans and other bidding papers to be readily available for free inspection at the originating procurement office and other appropriate procurement offices, trade association reading rooms, and similar locations. The non-refundable plan fee should be $5.00, $10.00, or $15.00 per set, or more as may be appropriate. The value of the project and the cost of reproduction and distribution of the plan should be considered in determining the fee to be charged. No additional charge should be made for plans which are revised or added after the invitation is issued, or for additional plans required by the successful bidder. Plan fees collected are for deposit in the "Miscellaneous Receipts" account.

§ 12–2.203–3 Publicity in newspapers and trade journals.

(a) Section 3703 of Title 44 of the U.S. Code provides that "All advertisements, notices, proposals for contracts, and all forms of advertising required by law for the several departments of the Government may be paid for at a price not to exceed the commercial rates charged to private individuals, with the usual discounts." Section 3701 of the same title prohibits advertising in any newspaper published and printed in the District of Columbia unless the supplies or labor to be secured are to be furnished or performed in the District of Columbia or in the adjoining counties in Maryland and Virginia.

(b) The head of the agency may authorize the publication of advertisements, notices, or proposals relating to the procurement and disposal of real and personal property and services. This authority may be delegated, but without power to further delegate, to subordinate officials.

(c) Standard Forms 1143 and 1143a shall be used to place orders for paid advertising.

§ 12–2.205–5 Release of bidders mailing lists.

When it is necessary to dispatch identical information by means of electrical transmission to prospective bidders or offerors, the electrically transmitted message, when released for communications handling, shall be marked "Book Message—Transmit a Single Address Message" to preclude prospective bidders or offerors from knowing the names of others solicited.

Subpart 12–2.4—Opening of Bids and Award of Contract

§ 12–2.402–50 Classified bids.

The opening of classified bids shall not be accessible to the general public. Such opening may be witnessed and the results recorded by those bidder representatives who have been previously cleared from a security standpoint and who represent bidders which were invited to bid on the procurement. Bids shall be made available only to those persons authorized to attend the opening of bids. The procedures set forth in FPR 1–2.402 for safeguarding unclassified bids are also applicable to classified bids. Classified bids shall be stored in GSA-approved security containers. No public record shall be made of bids or bid prices received on classified invitations for bids.

§ 12–2.407–8 Protests against award.

When a protest is received after award of contract, the contracting officer shall obtain the views and advice of legal counsel and the head of the procuring activity.

§ 12–2.408 Information to bidders.

Unsuccessful bidders shall be given a written notification of award. It shall contain the name of the successful contractor(s), and the unit price(s) or the total amount of the contract, whichever is appropriate. However, when numerous unit prices apply, thereby creating an extensive workload in furnishing this information, or where the total amount of the contract would not be meaningful, price information may be omitted. In the latter instance, the location where the abstract of bids is available for inspection shall be stated.

Subpart 12–2.5—Two-Step Formal Advertising

§ 12–2.503–1 Step one.

Although the Government's delivery or performance requirements are not evaluation factors under Step One, information about those requirements may be of assistance to potential bidders in determining whether or not to submit a technical proposal. Accordingly, a request for technical proposals may contain a statement indicating what the Government's probable contract delivery or performance requirements will be. The statement shall also advise that such information is not binding on the Government and that the Government's actual delivery or performance requirements will be contained in the invitation for bid issued under Step Two.

§ 12–2.503–50 Determination of size status.

Where a two-step procurement is set aside for small business firms, the controlling point in time for determining the size status of a concern is, as prescribed in FPR 1–1.703–1(b), the date of award of contract. The fact that the size status of an offeror submitting a proposal in good faith changed from a "small" to a "large" business during the interval between Step One and Step Two is not

sufficient to justify an exception to the rule that size status is for determination at time of award.

PART 12–3—PROCUREMENT BY NEGOTIATION

Subpart 12–3.2—Circumstances Permitting Negotiation

Sec.
12–3.200 Scope of subpart.
12–3.201 National emergency
12–3.202 Public exigency.
12–3.203 Purchases not in excess of $10,000.
12–3.204 Personal and professional services.
12–3.205 Services of educational institutions.
12–3.206 Purchases outside the United States.
12–3.207 Medicine or medical supplies.
12–3.208 Property purchased for authorized resale.
12–3.209 Subsistence supplies.
12–3.210 Impracticable to secure competition by formal advertising.
12–3.211 Experimental, development, or research work.
12–3.212 Purchases not to be publicly disclosed.
12–3.213 Technical equipment requiring standardization and interchangeability of parts.
12–3.214 Negotiation after advertising.
12–3.215 Otherwise authorized by law.
12–3.250 Technical or specialized supplies requiring substantial initial investment or extended period of preparation for manufacture.
12–3.251 Purchases in the interest of national defense or industrial mobilization.
12–3.252 Negotiation of construction contracts.

Subpart 12–3.3—Determinations, Findings and Authorities

12–3.301 General.
12–3.305–50 Format for D&F for authority to negotiate a contract.
12–3.305–51 Format for D&F for use of cost reimbursable or fixed-price incentive type contracts.

Subpart 12–3.4—Types of Contracts

12–3.408 Letter contract.
12–3.450 Delivery orders.
12–3.451 Letter of intent.

Subpart 12–3.50—Solicitation of Proposals

Subpart 12–3.6—Small Purchases

12–3.603–2 Data to support small purchases.
12–3.650 Purchase orders.
12–3.650–1 "Minimum billing" quotations.
12–3.650–2 Unpriced purchase orders.
12–3.650–3 Estimated purchase orders.
12–3.650–5 List of vendors.
12–3.650–6 Follow-up.
12–3.650–7 Inspection and acceptance.
12–3.651 Service Contract Act of 1965.
12–3.651–1 General.
12–3.651–2 Purchase order transactions.
12–3.652 Fast payment procedures.
12–3.652–1 General.
12–3.652–2 Conditions for use.
12–3.652–3 Preparation of orders.
12–3.652–4 Fast payment clause.
12–3.652–5 Consignee notification of nonreceipt, damage, or nonconformance.
12–3.652–6 Responsibility for collection of debts.

Subpart 12–3.7—Negotiated Overhead Rates

Sec.
12–3.700 Scope of subpart.
12–3.703 Applicability.
12–3.704 Contract clauses.
12–3.704–1 Contracts with concerns other than educational institutions.
12–3.704–2 Contracts with educational institutions.
12–3.704–50 Interim payment of indirect costs.
12–3.704–51 Audit determination (actual).

Subpart 12–3.8—Price Negotiation Policies and Techniques

12–3.801–2 Responsibility of contracting officers.
12–3.807–6 Refusal to provide cost or pricing data.
12–3.808–2 Factors for determining fee or profit.
12–3.809 Contract audit as a pricing aid.

Subpart 12–3.50—Solicitation of Proposals

12–3.5000 Scope of subpart.
12–3.5001 Competition.
12–3.5002 Preparation of request for proposals.
12–3.5003 Receipt and safeguarding of offers.
12–3.5004 Solicitation for informational or planning purposes.
12–3.5005 Bidders mailing lists.
12–3.5006 Pre-proposal conferences.
12–3.5006–1 General.
12–3.5006–2 Procedure.
12–3.5007 Amendment of request for proposals—prior to closing date.
12–3.5008 Treatment of procurement information.
12–3.5008–1 Restrictions on disclosure and use of data in proposals.
12–3.5008–2 Disclosure of information during the pre-award or pre-acceptance period.
12–3.5008–3 Pre-award notice of unacceptable offers.
12–3.5009 Notice of award technique.
12–3.50–10 Protests against award.
12–3.5011 Unsolicited contract proposals.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

Subpart 12–3.2—Circumstances Permitting Negotiation

§ 12–3.200 Scope of subpart.

(a) This subpart is applicable only to the Coast Guard.

(b) Procurements by the Coast Guard may be effected by negotiation under any one of the seventeen exceptions contained in 10 U.S.C. 2304(a). Except as modified in this subpart 12–3.2, the regulations set out in FPR Subpart 1–3.2 shall apply to Coast Guard negotiated procurement.

§ 12–3.201 National emergency.

Section 2304(a)(1) of 10 U.S.C. shall be cited as the authority for Coast Guard procurement under this section.

§ 12–3.202 Public exigency.

Section 2304(a)(2) of 10 U.S.C. shall be cited as the authority for Coast Guard procurement under this section.

§ 12–3.203 Purchases not in excess of $10,000.

Section 2304(a)(3) of 10 U.S.C. shall be cited as the authority for Coast Guard procurement under this section.

§ 12–3.204 Personal and professional services.

Section 2304(a)(4) of 10 U.S.C. shall be cited as the authority for Coast Guard procurement under this section.

§ 12–3.205 Services of educational institutions.

Section 2304(a)(5) of 10 U.S.C. shall be cited as the authority for Coast Guard procurement under this section.

§ 12–3.206 Purchases outside the United States.

(a) *Authority.* Section 2304(a)(6) of 10 U.S.C. shall be cited as the authority for Coast Guard procurement under this section "for property or services to be procured and used outside the United States, and its territories, possessions and Puerto Rico."

(b) *Application.* This authority shall be used only for the procurement of—

(1) Supplies to be (i) shipped from, (ii) delivered, and (iii) used, or

(2) Services to be performed

outside of the United States, its possessions and Puerto Rico, irrespective of the place of negotiation or execution of the contract.

§ 12–3.207 Medicines or medical supplies.

Section 2304(a)(7) of 10 U.S.C. shall be cited as the authority for Coast Guard procurement under this section.

§ 12–3.208 Property purchased for authorized resale.

Section 2304(a)(8) of 10 U.S.C. shall be cited as authority for Coast Guard procurement under this section.

§ 12–3.209 Subsistence supplies.

Section 2304(a)(9) of 10 U.S.C. shall be cited as authority for Coast Guard procurement under this section.

§ 12–3.210 Impracticable to secure competition by formal advertising.

Section 2304(a)(10) of 10 U.S.C. shall be cited as authority for Coast Guard procurement under this section.

§ 12–3.211 Experimental, development, or research work.

(a) *Authority.* Section 2304(a)(11) of 10 U.S.C. shall be cited as authority for Coast Guard procurement under this section.

(b) *Limitations.* In addition to the limitations set forth in FPR 1–3.211(b), determinations and findings for contracts negotiated under this section requiring expenditures of not more than $100,000, shall be made by the Comptroller, Coast Guard Headquarters (Commandant (G–F)); those in excess of $100,000 shall be made by the Commandant of the Coast Guard.

(c) *Reporting requirement.* (1) Reports required by Section 2304(e), of 10 U.S.C. to be made to the Congress on May 19 and November 19 of each year shall be made by Chief, Procurement Division (Commandant (G–FCP)), to the Department of Transportation, Office of Installations and Logistics, TAD–60, by

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May 1 and November 1 of each year of the purchases and contracts made under this § 12–3.211 since the date of last report.

(2) Reports shall contain the following information:

(i) Name of contractor;

(ii) Dollar amount of contract (including amendments); and

(iii) Brief description of the work required to be performed under the contract (when necessary, because of the national security, the word "Classified" may be used in lieu of the description).

§ 12–3.212 Purchases not to be publicly disclosed.

(a) *Authority.* Section 2304(a)(12) of 10 U.S.C. shall be cited as the authority for Coast Guard procurement under this section.

(b) *Limitations.* Determinations and findings for negotiation under this section shall be made by the Commandant.

§ 12–3.213 Technical equipment requiring standardization and interchangeability of parts.

(a) *Authority.* Section 2304(a)(13) of 10 U.S.C. shall be cited as authority for Coast Guard procurement under this section.

(b) *Limitations.* Determinations and findings for negotiation under this section shall be made by the Commandant.

§ 12–3.214 Negotiation after advertising.

(a) *Authority.* Section 2304(a)(15) of 10 U.S.C. shall be cited as authority for Coast Guard procurement under this section. Determinations and findings for negotiation under this section shall be made by the Commandant.

(b) *Limitations.* (1) In addition to the limitations imposed in FPR 1–3.214(b), the negotiated price must be less than the lowest rejected bid of any responsible bidder, as determined by the Commandant.

(2) Determinations and findings for negotiation under this section shall be made by the Commandant.

§ 12–3.215 Otherwise authorized by law.

(a) *Authority.* Section 2304(a)(17) of 10 U.S.C. shall be cited as authority for Coast Guard procurement under this section.

(b) *Application.* The contract shall cite as authority to negotiate, in addition to 10 U.S.C. 2304(a)(17), the applicable statute or United States Code reference.

§ 12–3.250 Technical or specialized supplies requiring substantial initial investment or extended period of preparation for manufacture.

(a) *Authority.* Pursuant to 10 U.S.C. 2304(a)(14), purchases and contracts may be negotiated if "for technical or special property that he [the Commandant] determines to require a substantial initial investment or an extended period of preparation for manufacture and for which he determines that formal advertising would be likely to result in additional cost to the Government by reason of duplication of investment or would result in duplication of necessary preparation which would unduly delay the procurement of the property."

(b) *Application.* The authority of this section may be used for the procurement of technical or specialized supplies; for example, aircraft, radar, guided missiles, rockets, and similar items of equipment; major components of any of the foregoing, and any supplies of a technical or specialized nature which may be necessary for the use or operation of any of the foregoing. Such procurement generally involves:

(1) High starting costs which have already been paid for by the Government or by the supplier;

(2) Preliminary engineering and development work that would not be useful to or useable by any other supplier;

(3) Elaborate special tooling already acquired;

(4) Substantial time and effort already expended in developing a prototype or initial production model; and

(5) Important design changes which will continue to be developed by the supplier.

The authority cited in this section will, in general, be used in situations where it is preferable to place a production contract with the supplier who had developed the equipment, and thereby either assure to the Government the benefit of the techniques, tooling, and equipment already acquired by that supplier or avoid undue delay arising from a new supplier having to acquire such techniques, tooling, and equipment. This exception should not be used to avoid duplication of private investment unless this duplication would be likely to result in additional cost to the Government.

(c) *Limitations.* The authority of this section requires a determination and findings by the Commandant which states:

(1) The supplies are of a technical or special nature requiring a substantial investment or an extended period of preparation for manufacture; and

(2) Procurement by formal advertising either—

(i) Would be likely to result in additional cost to the Government by reason of duplication of investment; or

(ii) Would result in duplication of necessary preparation which would unduly delay the procurement.

§ 12–3.251 Purchases in the interest of national defense or industrial mobilization.

(a) *Authority.* Pursuant to 10 U.S.C. 2304(a)(16), purchases and contracts may be negotiated if "he [the Commandant] determines that (i) it is in the interest of national defense to have a plant, mine, or other facility, or a producer, manufacturer or other supplier, available for furnishing property or services in case of a national emergency; or (ii) the interests of industrial mobilization, in the case of such an emergency, or the interests of national defense in maintaining active engineering, research, and development, would otherwise be subserved."

(b) *Application.* The authority cited in this section may be used to effectuate such plans and programs as may be evolved under the direction of the Commandant to provide incentives to manufacturers to maintain and keep active, engineering and design staffs and manufacturing facilities available for maximum production. The following are illustrative of circumstances with respect to which this authority may be used:

(1) When procurement by negotiation is necessary to keep vital facilities or suppliers in business or to make them available in the event of national emergency.

(2) When procurement by negotiation with selected suppliers is necessary in order to train them in the furnishing of critical supplies to prevent the loss of their ability and employee skills, or to maintain active engineering, research, and development work.

(3) When procurement by negotiation is necessary to maintain properly balanced sources of supply for meeting the requirements of procurement programs in the interest of industrial mobilization. (When the quantity required is substantially larger than the quantity which must be awarded in order to meet the objectives of this authority, that portion not required to meet such objectives will ordinarily be procured by formal advertising or by negotiation under another appropriate negotiation exception.)

(c) *Limitations.* The authority cited in this section shall not be used unless and until the Commandant has determined that—

(1) It is in the interest of national defense to have a particular plant, mine, or other facility or a particular producer, manufacturer, or other supplier available for furnishing supplies or services in case of national emergency and negotiation is necessary to that end; or

(2) The interests of industrial mobilization in the case of a national emergency would be subserved by negotiation with a particular supplier; or

(3) The interest of national defense in maintaining active engineering, research and development would be subserved by negotiation with a particular supplier.

(d) *Reporting requirements.* Reports required by section 2304(e) of 10 U.S.C. to be made to the Congress on May 19 and November 19 of each year will be made by the Chief, Procurement Division (Commandant (G–FCP)), by May 1 and November 1 of each year to the Department of Transportation, Director of Installations and Logistics, TAD–60, of the purchases and contracts made under 10 U.S.C. 2304(a)(16) since the date of last reporting.

(1) Reports shall contain the following information:

(i) Name of contractor.

(ii) Dollar amount of contract (including amendments).

(iii) Brief description of the work required to be performed under the contract. (When necessary, because of the national security, the word "classified" may be used in lieu of description.)

(2) Negative reports are not required.

§ 12–3.252 Negotiation of construction contracts for work to be performed in the United States, its possessions and Puerto Rico.

(a) *Authority.* Section 2304(a)(1), (2), (3), (10), (11), (12), or (15) of 10 U.S.C. shall be cited as authority for Coast Guard procurement under this section. The appropriate code provision shall be cited in the contract as authority for the negotiation.

(b) *Limitation.* Coast Guard contracts to be performed under this section may not be negotiated pursuant to 10 U.S.C. 2304(a)(6).

Subpart 12–3.3—Determinations, Findings, and Authorities

§ 12–3.301 General.

The determinations and findings required to be made under FPR Part 1–3 by the Coast Guard shall cite the appropriate section of Chapter 137 of Title 10 of United States Code. Determinations and findings of all other Administrations shall cite the appropriate section of Title 41 of United States Code.

§ 12–3.305–50 Format for D & F for authority to negotiate a contract.

DEPARTMENT OF TRANSPORTATION

(Name of Administration)

DETERMINATION AND FINDINGS

Authority to negotiate a contract under ----------

(insert authority)

FINDINGS

(1) The proposed contract provides for the procurement of (describe here the nature and scope of the work to be performed, including estimated cost).

(2) (In this and any subsequent paragraphs, set forth the facts and circumstances that clearly and convincingly establish that formal advertising would not be feasible and practicable for the procurement.)

DETERMINATION

Upon the basis of these findings, I hereby determine that the proposed contract may be negotiated without formal advertising pursuant to ----------

(insert authority)

Dated: ----------

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§ 12–3.305–51 Format for D & F for use of cost reimbursable or fixed price incentive type contracts.

DEPARTMENT OF TRANSPORTATION

DETERMINATION AND FINDINGS

(Name of Administration)

DETERMINATION AND FINDINGS

Authority to use a ---------- contract

(insert type)

FINDINGS

(1) The proposed contract provides for the procurement of ---------- at an estimated cost of $----------.

(brief description of supplies or services)

(2) (In this and any subsequent paragraphs set forth the facts that show why it is impracticable to secure supplies or services of the kind or quality required without the use of such type of contract, or that such method of contracting is likely to be less costly than other methods.)

DETERMINATION

Upon the basis of these findings, I hereby determine that it is impracticable to secure supplies or services of the kind or quality required without the use of (insert type of contract). [Alternate: * * * I hereby determine that the use of (insert type of contract) is likely to be less costly than other methods.]

(When a cost-plus-a-fixed-fee is involved, the following finding is also to be made:)

Pursuant to (insert "41 U.S.C. 254(b)" or "10 U.S.C. 2306(d)", as applicable), I hereby determine that the estimated cost of the contract, exclusive of the fee, is $----------, that the fee in the amount of $---------- is ------ percent of the estimated cost, exclusive of fee, and that the fee is within statutory and administrative limitations.

Dated: ----------

Subpart 12–3.4—Types of Contracts

§ 12–3.408 Letter contract.

(a) *Request for approval.* The use of letter contracts must be approved in advance on a case-by-case basis by the head of the procuring activity, and variations from the limitations set forth in (b) below must be approved by the head of the procuring activity. The request for approval must state: the necessity and advantage to the Government in issuing the letter contract; why no other type of contract is suitable; name and address of the proposed contractor; duration of proposed letter contract in number of days from date of execution; amount of letter contract and estimated amount of definitive contract showing source and citation of funds with statement that funds are available; the estimated delivery date or dates and the proposed type of definitive contract.

(b) *Limitations.* In addition to the limitations prescribed in FPR 1-3.408(c), the following apply to, and shall be expressly stated in, each letter contract:

(1) The period of effectiveness for the letter contract, including a specific date when definitization will be completed. This date shall not be later than the first to occur of the following:

(i) The expiration of 120 days from the date of the letter contract; or

(ii) The date by which 40 percent of the performance of the work will be completed.

(2) The maximum liability of the Government stated in the letter contract shall not exceed fifty percent of the total estimated cost of the procurement.

Amendments to letter contracts to accomplish new procurement are subject to the same limitations as new letter contracts.

(c) *Content.* In addition to the requirements in FPR 1–3.408(d), the letter contract shall also:

(1) Incorporate, by reference or otherwise, all clauses required by statute, FPR, DOTPR, and optional standard and special clauses determined to be applicable.

(2) State that the definitive contract shall contain all provisions under paragraph (c)(1) of this paragraph.

(3) Contain an overall price ceiling or a maximum ceiling on fee, where a quoted price has been received and it is considered appropriate to limit the Government's ultimate liability.

§ 12–3.450 Delivery orders.

(a) Except as to specialized procurements for which other instructions have been issued, delivery orders shall be used without monetary limitation for ordering supplies and services (1) under an established contract: *Provided*, The order is issued in accordance with the terms and conditions of the contract and the order refers to the particular contract involved, (2) from another Government agency whether or not a contract number has been assigned.

(b) When the delivery order is issued to another Government agency and the precise extent of the work to be done is not known at time of issuance, an estimated delivery order may be issued. Each estimated delivery order shall contain a provision reading substantially as follows:

NOTICE.—Funds are available in the estimated amount stated below. If at any time the amount to be vouchered under this order is expected to exceed the estimated amount, withhold performance and immediately notify the Contracting Officer.

§ 12–3.451 Letters of intent.

Letters of intent shall not be used.

Subpart 12–3.6—Small Purchases

§ 12–3.603–2 Data to support small purchases.

DOT Form F 4230.1 titled "Small Purchase Summary" may be used to satisfy the documentation requirements of FPR 1–3.603–2.

§ 12–3.650 Purchase orders.

§ 12–3.650–1 "Minimum billing" quotations.

Occasionally an item can be obtained only from a supplier who quotes a minimum order price or a minimum order quantity, which either unreasonably exceeds the agency's needs or results in an unreasonable price for the quantity required. If practicable before placing the order the requiring activity should be informed in such cases of all facts regarding the quotation and consideration should be given to increasing the quantity, consolidation of orders, or other appropriate action. The file shall be documented to show the final action taken in such cases.

§ 12–3.650–2 Unpriced purchase orders.

(a) *General.* An unpriced purchase order is an order for supplies or services the price of which is not firmly established at the time of issuance of the order. Such orders shall contain a "Not To Exceed" provision. The contracting officer shall assure that suppliers receiving unpriced purchase orders are carefully selected.

(b) *Conditions for use.* An unpriced purchase order may be used only when all of the following conditions are present:

(1) The purchase will not exceed $10,000, and

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(2) It is impractical to obtain pricing in advance of issuance of the purchase order, and

(3) The procurement is for (i) repairs to equipment requiring disassembly to determine the nature and extent of such repairs, (ii) sole source material for which cost cannot be readily established, or (iii) supplies or services where prices are known to be competitive but exact prices are not known.

(c) *Procedures.* A realistic "Not To Exceed" limitation shall be placed on the order which shall be stated in the Notice to Supplier provision in the blank space provided. This amount shall be obligated subject to adjustment when the firm price is established. Each unpriced purchase order shall contain the following provision:

NOTICE TO SUPPLIER.—This is a firm order if the total price does not exceed the amount of $_____. If the amount to be invoiced will exceed the amount stated below, or if you cannot furnish the work described in exact accordance with the description and delivery schedule set forth herein, withhold performance and immediately notify the Contracting Officer giving your quotation or proposed substitution or changes. In no event will the total amount paid under this order exceed the amount stated unless and until the order has been amended in writing and signed by the Contracting Officer.

The contracting officer or his designated representative shall certify that the invoiced price is fair and reasonable and process the invoice for payment. Suitable local records and controls of outstanding unpriced purchase orders shall be maintained to assure regular follow-up with suppliers until the order is firmly priced. These records should include any information available to support the fairness and reasonableness of the proposed monetary limitation. If the firm price exceeds the "not to exceed" price and the contracting officer determines, nevertheless, that such purchase be made from the supplier, the order shall be amended accordingly: *Provided*, That in no event may the amount of the order exceed $10,000. If the firm price does not exceed the "not to exceed" price, the order should not be amended for the sole purpose of changing the estimated price to a firm price.

§ 12–3.650–3 Estimated purchase orders.

(a) *General.* An estimated purchase order is an order of $2,000 or less for supplies or services the price of which is not firmly established at the time of issuance of the order but which, unlike the unpriced purchase order, provides for approval and payment of billed prices without referral to the contracting officer. Such orders may be issued when it is not practical to obtain a firm price as when, for example, the need is urgent or the vendor is other than a local source and the administrative cost to secure a firm offer would be disproportionate to the value of the order.

(b) *Preparation of order.* The word "estimated," the total price, and a provision reading substantially as follows shall be included on the order:

NOTICE TO SUPPLIER.—This is a firm order if the amount to be invoiced does not exceed the estimated amount stated by 10%. In such cases, submit your invoice to the Paying Office. If the amount to be invoiced will exceed the stated limitations, withhold performance and immediately notify the Contracting Officer. In no event will the total amount paid under this order exceed the stated amount by 10 percent unless and until the order has been amended in writing and signed by the Contracting Officer.

§ 12–3.650–4 List of vendors.

Each procurement office shall establish such lists of vendors as are necessary for recurring requirements to assure access to adequate sources of supply. Where the number of firms on a list is considered excessive, the list may be reduced by any method which will promote competition commensurate with the dollar value of the purchase to be made. If a rotation method is used, the vendors known to regularly submit the lowest price shall be solicited.

§ 12–3.650–5 Follow-up.

Each procurement office shall establish and maintain a simple and effective follow-up system. It should permit maximum latitude for the exercise of initiative and judgment in the administration process and be designed to assure that, to the maximum practicable extent, purchase orders are completed in accordance with their terms. The system may use copies of purchase orders, one or more cards, or the like.

§ 12–3.650–6 Inspection and acceptance.

When inspection and acceptance are to be performed at destination, advance copies of the purchase order shall be furnished to consignee(s) for material receipt purposes. Receiving reports shall be accomplished immediately upon receipt and acceptance of material to assure expeditious payment of orders and to obtain prompt payment discounts.

§ 12–3.651 Service Contract Act of 1965.

§ 12–3.651–1 General.

The Service Contract Act of 1965 applies, with certain exceptions, to Federal contracts whose principal purpose is to furnish services through the use of service employees. The Act applies without dollar limitation, but different contract clauses are required depending upon whether the contract price exceeds $2500 in accordance with FPR Subpart 1–12.9.

§ 12–3.651–2 Purchase order transactions.

The Act applies to contracts made through use of purchase order forms if such contracts have as their principal purpose the furnishing of services through the use of service employees and if such contracts are not otherwise exempt. The clause prescribed in FPR 1–12.904–2 shall be included in purchase orders subject to the Act's coverage.

§ 12–3.652 Fast payment procedures.

§ 12–3.652–1 General.

The procedure is designed to simplify the handling and payment of small purchases. It provides for payment for supplies based on the vendor's submission of an invoice which constitutes a representation that ordered supplies have been delivered in accordance with the provisions of the purchase order. The vendor agrees, by acceptance of the order, to replace, repair, or correct supplies not received by the consignee at destination, damaged in transit, or not conforming to the order.

§ 12–3.652–2 Conditions for use.

(a) Except as set forth in paragraph (b) of this section, the fast payment procedure should be used to the maximum extent practicable, provided its use is consistent with the other conditions of the procurement, when all of the conditions set forth below are present:

(1) Each order does not exceed $10,000;

(2) Title to the supplies will vest in the Government (i) upon delivery to a post office or common carrier for mailing or shipment to destination, or (ii) upon receipt by the Government when the shipment is by means other than post office or common carrier;

(3) The vendor agrees to replace, repair, or correct supplies not received at destination, damaged in transit, or not conforming to the order; and

(4) The supplies will be shipped transportation or postage prepaid. Therefore, no Government Bill of Lading (GBL) will ever be issued.

(b) Use of the fast payment procedure would not be indicated, for example, in small purchases by offices, vessels, air stations, bases, and other locations when material being purchased is destined for use at such activities and contract administration will be performed by the procurement office of such activities.

§ 12–3.652–3 Preparation of orders.

(a) Orders shall be issued on the appropriate purchase order form except that calls against blanket purchase agreements shall be issued in accordance with Administration procedures. Orders may be either priced or unpriced.

(b) Special data to be included in purchase orders or in blanket purchase agreements using fast payment procedures are:

(1) A requirement for the supplies to be shipped transportation or postage prepaid; and

(2) A requirement that invoices be submitted directly to the paying office designated in the order, or in the case of unpriced purchased orders, to the contracting officer.

§ 12–3.652–4 Fast payment clause.

The clause set forth in § 12–7.104–50 shall be included in all fast payment orders.

§ 12–3.652–5 Consignee notification of nonreceipt, damage, or nonconformance.

The consignee shall be instructed to notify the procurement office within 30 days after the specified date of delivery in the purchase order, of supplies not received or damaged in transit, or not conforming to purchase description.

§ 12–3.652–6 Responsibility for collection of debts.

The Contracting Officer shall be primarily responsible for collecting debts resulting from failures of contractors to properly replace, repair, or correct supplies lost, damaged, or not conforming to purchase requirements.

Subpart 12–3.7—Negotiated Overhead Rates

§ 12–3.700 Scope of subpart.

This subpart sets forth policy and procedures governing the negotiation of overhead rates for use in cost-reimbursement type contracts.

§ 12–3.703 Applicability.

Negotiated final overhead rates are authorized for use primarily in cost-reimbursement type contracts for research and development with commercial organizations and nonprofit or educational institutions. They may also be used in other cost-reimbursement type contracts, after a determination is made by the contracting officer that their use is advantageous to the Government. Where it is not apparent that any one of the major purposes enumerated in FPR 1–3.702 results or will result by the use of negotiated final overhead rates, the contracting officer will provide for settlement of overhead by audit determination.

§ 12–3.704 Contract clauses.

§ 12–3.704–1 Contracts with concerns other than educational institutions.

When the "Negotiated Overhead Rates" clause set forth in FPR1–3.704–1 is included in the contract, the appropriate "Indirect Cost" clause cited in DOTPR 12–3.704–50 shall also be included in the contract. When the contract is a cost-plus-incentive-fee type, delete "Allowable Cost, Fixed Fee, and Payment" from paragraph (a) of the clause in FPR 1–3.704–1 and substitute "Allocable Cost, Incentive Fee, and Payment."

§ 12–3.704–2 Contracts with educational institutions.

When either the "Postdetermined" or "Predetermined" negotiated overhead rates clauses in FPR 1–3.704–2 is included in the contract, the appropriate "Indirect Costs" clause cited in DOTPR 12–3.704–50 shall also be included in the contract.

§ 12–3.704–50 Interim payment of indirect costs.

(a) When the contract includes a "Negotiated Overhead Rate" clause as set forth in FPR 1–3.704–1 or 1–3.704–2, one of the clauses set forth in DOTPR 12–7.23–950 (whichever is consistent with the contractor's normal method of interim and final overhead reimbursement) shall be inserted in the contract schedule.

(b) Prior to establishing or revising the negotiated provisional rates, the contracting officer should request the contractor to submit for review his proposed overhead rates with supporting cost data, with a copy to the cognizant audit activity.

(c) Provisional overhead rates may be revised after the contracting officer has received advice that the Department of Defense or other Government office sponsoring overhead negotiations with the contractor has negotiated acceptable overhead rates.

§ 12–3.704–51 Audit determination (actual).

Where it is not apparent that any of the major purposes enumerated in FPR 1–3.702 results or will result by the use of negotiated final overhead rates, the contracting officer will provide for settlement of overhead by audit determination. In these cases the clause set forth in 12–7.203–951 shall be used in lieu of the "Negotiated Overhead Rate" clause prescribed in FPR 1–3.704–1 or 1–3.704–2.

Subpart 12–3.8—Price Negotiation Policies and Techniques

§ 12–3.801–2 Responsibility of contracting officers.

In the event a contractor insists on a price or demands a profit or fee which the contracting officer considers unreasonable, and if the contracting officer is unable to obtain a satisfactory solution after exhausting the courses of action set forth in FPR 1–3.801–2(c), the matter shall be referred for resolution to the head of the procuring activity with a statement of facts and the contracting officer's recommendations.

§ 12–3.807–6 Refusal to provide cost or pricing data.

In addition to the data required by FPR 1–3.807–6, a referral to higher authority should indicate the impact on the affected procurement program if an award is not made to the refusing offeror, and include a recommended course of action.

§ 12–3.808–2 Factors for determining fee or profit.

In determining the fee or profit, consideration must be given to the tax posture of the organization. A fair and reasonable fee to a non-profit or not-for-profit organization, with tax exemptions would be considerably lower than a fee to a commercial enterprise with no tax exempt status.

§ 12–3.809 Contract audit as a pricing aid.

(a) In establishing the due date for receipt of the auditor's report, the minimum time which will be allowed by DOT contracting officers shall normally be 30 days. Exceptions to this 30 day minimum period may be made only when program considerations require a shorter time. Urgency caused by end of year funding considerations will not be a justification for requiring a shorter period for advisory audit review.

(b) When DCAA is assigned post-award audit responsibility under cost reimbursable contracts, the contractor shall be instructed to forward the first and final vouchers to the cognizant auditor for audit review. The cognizant DCAA auditor shall also be furnished a paid copy of each voucher furnished under the contract by the paying office.

§ 12–3.811 Record of negotiations.

The requirement in FPR 1–3.811(a) shall be satisfied by the preparation of a memorandum which summarizes the key procurement decisions and the principal elements of the negotiations. The format below shall be followed to the extent appropriate:

(a) *Introduction.* (1) Describe the products or services to be purchased.

(2) Specify the type and amount of proposed contract.

(b) *Background.* (1) Identify the requisitioning office and the individual responsible for requirement.

(2) Show the procurement request number and its total estimated cost.

(c) *Solicitation of proposals.* (1) Identify the RFP by number and date.

(2) Show number of sources solicited, including requests received resulting from the synopsis.

(3) Reference any pre-bid conference held.

(4) Indicate date proposals were due.

(5) Furnish explanation for opening date of less than 30 days.

(d) *Proposals.* (1) Indicate the number of proposals received.

(2) Identify offerors and the amounts of their price proposals.

(e) *Technical evaluation of proposals.* (1) Identify the memorandum received from the technical evaluation team.

(2) List the firms whose proposals were considered technically acceptable and their ratings.

(3) Identify those firms considered to be within a competitive range.

(f) *Negotiations.* (1) In addition to the applicable information described in FPR 1–3.811, this section of the memorandum should also:

(i) Summarize any pre-negotiation conference, including the primary objectives in the areas of price and technical and legal considerations.

(ii) Describe any special contract provisions negotiated. Provide an explanation if the delivery schedule or period for performance negotiated differs from that in the RFP. State the reasons for any substantive differences between the RFP and the contract proposed for award.

(iii) Describe any consideration given to the use of an incentive type contract and, when used, the details of the incentive provisions.

(iv) Explain why the final negotiated price is fair and reasonable. Include a statement of receipt of the certificate of current cost or pricing data. Reference the prospective contractor's confirmation of the negotiated price, terms, and conditions of the contract.

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(g) *Other information.* Provide details, if the procurement involves procedural or contractual innovations, protests by unsuccessful proponents, GAO or Congressional inquiries, or any other special circumstances which would be of interest to approving authority.

(h) *Recommendations.* Include a positive recommendation for award.

Subpart 12–3.50—Solicitation of Proposals

§ 12–3.5000 Scope of subpart.

This subpart applies to all negotiated procurement except small purchases.

§ 12–3.5001 Competition.

Competitive proposals shall be solicited from the maximum practicable number of qualified and eligible suppliers.

§ 12–3.5002 Preparation of request for proposals.

(a) Generally, requests for proposals shall be in writing. However, in appropriate cases, such as the procurement of perishable subsistence, proposals may be solicited orally. When the request is to be in writing, the following forms shall be used:

(1) For negotiated construction contracts, the standard forms in FPR 1–16.401.

(2) For other than construction, Standard Form 33 (Solicitation, Offer, and Award) and Standard Form 33A (Solicitation Instructions and Conditions).

(b) Requests for proposals shall indicate the type of contract contemplated by the Government. When technical proposals are required, requests for proposals shall indicate the factors on which the Government will evaluate the proposals and list them in their relative order of importance. Any other factors, excluding price, which will be given paramount consideration in making an award shall also be indicated.

(c) The guidelines established in DOTPR 12–2.202–1 for minimum bidding times are applicable to requests for proposals.

§ 12–3.5003 Receipt and safeguarding of offers.

The instructions for the receipt and safeguarding of bids in FPR 1–2.401 shall also apply to the receipt and safeguarding of proposals.

§ 12–3.5004 Solicitation for informational or planning purposes.

See FPR 1–1.314.

§ 12–3.5005 Bidders mailing lists.

Bidders mailing lists for negotiated procurements shall be established, maintained, and utilized in accordance with FPR 1–2.205 and DOTPR 12–2.205–5.

§ 12–3.5006 Pre-proposal conferences.

§ 12–3.5006–1 General.

(a) The pre-proposal conference is a procedure which may be used, generally in complex negotiated procurement, as a means of briefing prospective offerors after a solicitation has been issued but before offers or proposals are prepared.

(b) Such a conference permits the Government to explain or clarify complicated specifications and requirements to interested firms. It may also be used to provide an opportunity for interested firms to examine a model of the equipment being procured, where for reasons such as security or limited quantities, such model can only be shown at a specific time and location.

§ 12–3.5006–2 Procedure.

(a) Where it is determined to be in the best interests of the Government to hold a pre-proposal conference, the contracting officer shall make the necessary arrangements and notify all those to whom solicitations have been issued as to the time, place, and general nature of the proposed conference. If time permits, prospective offerors should be asked to submit, in advance, any questions they may have.

(b) The pre-proposal conference shall be conducted by the contracting officer or his representative, with participation by technical and legal personnel as appropriate.

(c) All prospective offerors shall be furnished identical information in connection with the proposed procurement. All conferees shall be advised that remarks and explanations at the conference shall not qualify the terms of the solicitation and specifications unless the solicitation is amended in writing. A summary shall be made of the conference and copies furnished prospective offerors.

§ 12–3.5007 Amendment of request for proposals—prior to closing date.

(a) If after issuance of a request for proposals, but before the closing date of its receipt, it becomes necessary to make changes in quantity, specifications, delivery schedules, or closing dates, or to correct a defect or ambiguity, such change shall be accomplished by issuance of an amendment to the request, whether or not a preproposal conference is held. SF–30 shall be used for amending requests for proposals.

(b) When it is considered necessary to issue an amendment to a request for proposals, the period of time remaining before closing and the need for extending this period by postponing the time set for closing must be considered. Where only a short time remains before the time set for closing, consideration should be given to notifying offerors of an extension of time by telegram or telephone. Such notification should be confirmed in the amendment.

(c) Any information given to a prospective offeror concerning a request for proposals shall be furnished promptly to all other prospective offerors as an amendment to the request if the lack of such information would be prejudicial to uninformed offerors. No award shall be made on request for proposals unless such amendment thereto has been issued in sufficient time to permit prospective offerors to consider such information in submitting or modifying their proposals.

§ 12–3.5008 Treatment of procurement information.

§ 12–3.5008–1 Restrictions on disclosure and use of data in proposals.

(a) Requests for proposals may require the offeror to submit data with his proposal which may include a design or plan for accomplishing the objectives of the procurement. Such data may include information which the offeror does not want disclosed to the public or used by the Government for any purpose other than evaluation of the proposals.

(b) Contracting officers and other Government personnel shall not refuse to consider any proposal merely because it or the data submitted with it is so marked with a restrictive legend. Those portions of the proposal and data which are so marked (except for information which is also obtained from another source without restriction) shall be used only to evaluate the proposal and shall not be disclosed outside the Government without the written permission of the offeror. If it is desired to duplicate, use, or disclose the data of the offeror to whom the contract is to be awarded, for purposes other than to evaluate the proposal, the contract should so provide.

§ 12–3.5008–2 Disclosure of information during the pre-award or pre-acceptance period.

(a) *General.* See FPR 1–3.805–1(b) for restrictions regarding the disclosure of information.

(b) *Equal consideration and information to all prospective contractors.* During the interval between mailing of requests for proposals and the making of awards, discussion of the procurement with prospective contractors and the transmission of technical or other information shall be conducted only by or with the knowledge of the contracting officer; except that necessary technical or other information during such period may be transmitted to prospective contractors by other personnel via contracting personnel, at meetings arranged by contracting personnel, or by official correspondence from the contracting officer to the originating activity or technical office seeking clarification of the matter in question. In the conduct of necessary discussion of a request for proposals with suppliers, no personnel shall furnish any information to a supplier which may afford him any advantage over others. However, general information which would not be prejudicial to others may be furnished upon request, e.g., explanations of a particular contract clause or a particular condition of the schedule. When necessary to clarify ambiguities, or correct mistakes or omissions an appropriate amendment to the solicitation shall be issued.

§ 12–3.5008–3 Pre-award notice of unacceptable offers.

In any procurement in excess of $10,000 in which it appears that the period of evaluation of proposals is likely to exceed 60 days or in which a limited number of suppliers have been selected for additional negotiation, the contracting officer, upon determination that a proposal is unacceptable shall provide prompt notice of that fact to the source submitting the proposal. Such notice need not be given where the proposed contract is to be awarded within a few days and notice pursuant to FPR 1–3.103 would suffice. In addition to stating that the proposal has been determined to be unacceptable, notice to the offeror shall advise that, since further negotiation with him concerning this procurement is not contemplated, a revision of his proposal will not be considered. If the firm requests a debriefing, this shall be provided at the earliest feasible time after the request, but not prior to award of the contract.

§ 12–3.5009 Notice of award technique.

When time is of the essence, the notice of award technique may be used as an acceptance of a proposal. To assure that the notice of award will constitute a valid acceptance of the offeror's proposal, the contracting officer will insure that the proposal fully embodies the terms of the agreement between the parties. If the proposal is changed, for any reason, the contractor must set forth his understanding of any modifications or additions in a letter to the contracting officer. The notice of award shall reference the contractor's proposal and any other document modifying the proposal. The following is a sample notice of award:

NOTICE OF AWARD

Gentlemen: The United States of America, acting through the undersigned contracting officer, hereby accepts your proposal No. ____, dated _____, as modified by your letter(s) of _____, to furnish (supplies, services, work) in accordance with RFP No. ____ dated _____, for a total price of $_____. This notice of award constitutes a binding contract obligation from time of mailing. All delivery dates will be computed from the date of this notice unless otherwise provided.

A document formalizing this contract will be sent to you for signature as soon as possible. This formal contract will be dated and numbered as above.

You are directed to proceed with the performance of this contract in accordance with the terms of your proposal and this acceptance.

Sincerely,

(Written Signature)
(Typed Name)
Contracting Officer _____
(on copies only) (Date)

Funds Citation: _____

Negotiation Authority: _____

§ 12–3.5010 Protests against award.

Protests against awards of negotiated procurements shall be processed in the same manner as prescribed in FPR 1–2.407.8.

§ 12–3.5011 Unsolicited contract proposals.

Department Order 4200.4 (set forth in DOTPR Part 90) establishes the policies and procedures for processing unsolicited contract proposals.

PART 12–4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 12–4.10—Architect-Engineer Services

Sec.
12–4.1002 Definitions.
12–4.1003 Public announcements.
12–4.1004 Selection.
12–4.1004–1 Establishment of Architect-Engineer Evaluation Boards.
12–4.1004–2 Functions of the Evaluation Board.
12–4.1004–3 Evaluation criteria.
12–4.1004–4 Action by the agency head or his authorized representative.
12–4.1004–5 Procedures for procurements estimated not to exceed $10,000.
12–4.1005 Negotiation procedures.
12–4.1006–1 General.
12–4.1050 Release of information.
12–4.1051 Clauses for architect-engineer contracts.
12–4.1052 Debriefing unsuccessful interviewed firms.

Subpart 12–4.50—Utilization and Disposal of Personal Property Pursuant to Exchange/Sale Authority

12–4.5001 General.

Subpart 12–4.51—Procurement of Tax-Free Spirits

12–4.5100 Scope of subpart.
12–4.5101 Delegation of authority.
12–4.5102 Procedure.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

Subpart 12–4.10—Architect–Engineer Services

§ 12–4.1002 Definitions.

(a) [Reserved]

(b) "Agency Head" refers to those DOT officials designated in DOTPR 12–1.204.

(c) [Reserved]

(d) "head of the Procuring Activity" refers to those DOT officials designated in DOPR 12–1.206.

(e) "Fee"—The compensation (contract price) for professional services paid to the A–E.

§ 12–4.1003 Public announcements.

The time allowed for A–E firms to respond to an advertisement of a project notice shall generally follow the requirements for bidding time in FPR 1–2.202–1 and DOTPR 12–2.202–1. If practical the time allowed for firms to respond to a project notice shall be 30 days from the date the notice is published; however, the minimum time shall be 15 days. If the time allowed for response is reduced below 15 days the contracting officer shall document in the contract file the full justification for the reduction.

§ 12–4.1004 Selection.

§ 12–4.1004–1 Establishment of Architect-Engineer Evaluation Boards.

(a) Each agency head (or his authorized representative) shall establish an ad hoc Architect-Engineer Evaluation Board for each procurement of Architect-Engineer services. The Board shall perform the functions set forth in § 12–4.1004–2 unless procedures for contracts estimated to be $10,000 and under are used as provided for in § 12–4.1004–5. The A–E Evaluation Board shall be composed of the following members, one of whom shall be appointed as Chairman and one of whom may be appointed recording secretary:

(1) One member with experience in procurement of A–E services. This member will normally be the cognizant contracting officer or the contract negotiator for the project.

(2) Two members with technical experience in the fields of architecture, engineering or construction. These members will normally be from the organization responsible for the work.

(3) One member with technical knowledge of the functional (user) requirements of the project.

(4) For A–E procurements estimated at $60,000 or more, a member appointed by the Director, Installations and Logistics, OST (TAD–60), unless he declines to appoint a member.

(5) Other special members as are deemed necessary.

(6) A–E Board members may be appointed from among highly qualified professional employees of other Government agencies or the private sector, engaged in the practice of architecture, engineering, construction or related professions. When a proposed Architect-Engineer Evaluation Board includes a member from the private sector, the Office of Installations and Logistics, OST (TAD–60) shall be notified before the Board is established. No firm or organization shall be eligible for consideration for a contract with a procuring activity during the period in which any of its principals or associates are participating as members of an A–E Evaluation Board on behalf of that procuring activity.

(7) Operating elements and secretarial offices that do not have personnel experienced in Architect-Engineer selection procedures or personnel with the necessary technical disciplines to evaluate Architect-Engineer firms for a particular project may request the assistance of the Office of Installations and Logistics, OST (TAD–60) in establishing the A–E Evaluation Board.

§ 12–4.1004–2 Functions of the Evaluation Board.

(a) (1) Because of the Department policy to establish ad hoc evaluation boards instead of permanent boards to select Architect-Engineers, the cognizant procurement office or facilities design and construction activity shall be responsible for collecting the Standard Forms 254 and maintaining the qualification data on file. Although A–E firms should submit a new Form 254 each year, forms up to three years old shall be considered current. Forms more than three years old may be discarded.

(2) Organizations may choose not to maintain A–E qualification data files and arrange to use existing data files of other DOT organizations including the files available in the Office of Installations and Logistics, OST (TAD–60). If an organization chooses this option it should forward all A–E qualification data it receives from interested firms to the organization maintaining the data file.

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(b) The following outlines the functions of the Architect-Engineer Evaluation Board in more detail and the sequence in which the functions are to be performed:

(1) Analyze the nature and scope of the project work requirements.

(2) Develop the criteria and evaluation systems to be used in screening firms for the Pre-selection List and in the final selection.

(3) Prepare the public announcement for the project (§ 12–4.1003) and provide it to the procurement office for publication.

(4) Screen the Standard Form 254s and Standard Form 255s and any other qualification data received in response to the public announcement of the project and prepare a Pre-selection List of the best qualified firms for further consideration. The Pre-selection List must consist of at least three firms.

(5) Obtain additional, detailed qualification and past performance information for each of the firms on the Pre-selection List. This information shall include the following:

(i) *Past record of performance.* How well firms have performed on previous projects including quality of work, ability to meet schedules, accuracy of cost estimates and any other pertinent factors. This information should be obtained by contacting former clients in Government and private industry.

(ii) *Project proposal.* The A–E firm shall submit a project proposal to the A–E Evaluation Board, in writing, prior to the interviews required by § 12–4.1004–2(b)(6). The project proposal should normally include the type of information outlined below. However, the proposal may vary in content and level of detail depending on the scope, complexity and nature of the particular project under consideration. The firm shall be provided with a description of the nature and scope of work to be accomplished to assist the firm in preparing the proposal. In addition, firms selected to submit proposals shall be advised of the evaluation criteria that will be used to select the firm for negotiations.

(A) *Technical approach.* A brief discussion of: the tasks or steps that the firm will undertake to accomplish the work described in the scope of work, overall planning and design approach/philosophy, possible conceptual approaches (narrative) and unusual aspects or potential problems the firm envisions that may be encountered during project execution, and which may require special consideration (including environmental considerations and provisions for the handicapped).

(B) *Energy conservation approach.* Brief narrative of the technical approach that the A–E firm would use to maximize energy conservation for the project under consideration. The approach should discuss those systems that could have significant impact on energy conservation, and the criteria and engineering considerations that would be used to design these systems for maximum energy conservation. The A–E should also give examples of energy conservation design techniques and measures that the firm has used in previous design projects including the results obtained. If possible the results should be expressed quantitatively in terms of operating costs, resource consumption or BTU's per square foot.

(C) Proposed project schedule and man-loading plan (manpower in each technical discipline over contract period).

(D) Visual examples of previous work such as photographs of completed construction projects designed by the firm and copies of completed plans and specifications. (These may be provided at the interviews required by 12–4.1004–2(b)(6).)

(E) *Management approach.* A brief discussion of the project team organization, project management procedures, methods to be used in controlling construction cost estimates, quality control procedures, and the anticipated A–E/client relationship.

(F) *Firm's current workload.* For example, a list of on-going projects including their construction value (or A–E fee if construction value is not applicable) and percentage of completion.

(G) Percentage and number of minority and women employees in all job classifications and pay scales. Minorities are specified as being American Indian, Negro, Spanish Surnamed Americans, Orientals, Aleuts and Eskimos.

The project proposal should also include any changes to the information provided in the Standard Forms 254 and 255 that the firms may wish to make, particularly on proposed key personnel and consultants and relevant past work. The A–E firm should be advised not to submit price proposals at this time, or design sketches, drawings, and design data in connection with the proposed project. If an Administration or element of OST desires conceptual designs from A–E firms written approval shall be obtained from the Assistant Secretary for Administration prior to soliciting such proposals.

(6) Conduct interviews with the firms on the Pre-selection List. As part of the interview the Architect-Engineer firms shall be given an opportunity to make an oral presentation of their qualification and experience data, proposed project approach and any other relevant data. The project manager and other key project personnel and consultants proposed by a firm should participate in the interview.

(7) Whenever it is practical and advantageous, the A–E Evaluation Board should visit the offices of the A–E firms on the Pre-selection List to inspect their facilities and work environment, to meet members of the proposed project team, to see work in progress and additional examples of completed projects. These visits should be made in conjunction with the interviews referred to in § 12–4.1004–2(b)(6).

(8) Review the Standard Forms 254 and 255, the project proposals, and other experience and qualification data for each firm on the Pre-selection List and perform a systematic numerical evaluation rating and ranking of the firms using the applicable evaluation criteria in § 12–4.1004–3.

(9) Develop, in rank order, a listing of not less than three firms considered most highly qualified to perform the required services, based on the evaluation rating and ranking of the firms on the Pre-selection List, and prepare a report to the agency head (or his authorized representative) recommending these firms for negotiations. The report shall include in sufficient detail the extent of the evaluation and the considerations upon which the recommendations were based, and any other data and material developed by the A–E Evaluation Board which might be useful in the negotiations.

§ 12–4.1004–3 Evaluation criteria.

The following expands the evaluation criteria provided in the FPR. Each criteria factor should be weighted according to its order of importance with respect to the project under consideration.

(a) *Specialized experience.* Relevant recent experience of the firm (including joint venture or association) in projects comparable to the proposed project.

(b) *Capacity/capability.* (1) Relevant experience and capability of key project personnel, and key individual and outside consultants.

(2) Diversity of skills the firm proposes to apply to the project in order to perform all aspects of the work, such as planning, architectural design and civil, mechanical and electrical engineering.

(3) Total number of personnel the A–E firm employs in the technical disciplines required for the proposed project.

(4) Firm's current workload.

(c) *Technical ability and understanding of requirements.* (1) Technical approach.

(2) Understanding and experience in energy conservation design.

(3) Project schedule.

(4) Man-loading plan.

(5) Quality of examples of previous work.

(d) *Project organization and management.* (1) Project team organization.

(2) Project management procedures.

(3) Methods to be used in controlling construction cost estimates.

(4) Quality control procedures.

(5) Anticipated A–E/client relationship.

(e) *Past record of performance.* Past record of performance on contracts with DOT and other former clients in Government and private industry with respect to such factors as quality of work, ability to meet schedules, accuracy of cost estimates compared to actual bids and quotes, number and dollar amount of construction change orders, and A–E/Client relationship. The following evaluation criteria factors do not necessarily relate to the ability of an A–E firm to do the required work. However, they do reflect Department policy and therefore they should be used in the A–E evaluation process. They may be used separately from the other criteria in terms of bonus or penalty points to the basic numerical evaluation rating.

(f) *Volume of department-wide work previously awarded to the firm during the past 3 years.* The object of this factor is to promote the distribution of Department Architect-Engineering contracts to the maximum extent possible among all qualified Architect-Engineer firms. A list of A–E firms that have been awarded DOT contracts during the most recent past three year period will be distributed to all procurement offices by the Office of Installations and Logistics, OST, TAD–60.

(g) *Familiarity with and proximity to the site location of the project.*

(h) *Minority/Women Employment.* Percentage of minority employees in all job classifications and pay scales, noting the percentage of minorities in the immediate locality and general surrounding area. Minorities are specified as being American Indian, Negro, Spanish surnamed Americans, Orientals, Aleuts and Eskimos. In addition, the percentage of women in all job classifications and pay scales shall also be considered.

§ 12–4.1004–4 Action by the agency head or his authorized representative.

(a) The agency head (or his authorized representative) shall review the recommendations of the Architect-Engineer Evaluation Board. The recommendations of the Architect Engineer Evaluation Board will normally be accepted, unless the report does not adequately support the recommendations. If the recommendations are not accepted the Architect-Engineer Evaluation Board shall be required to reconvene until an acceptable set of recommendations is agreed upon.

(b) The accepted report shall serve as authorization for the contracting officer to commence negotiations with the A–E firm ranked number one by the A–E Evaluation Board.

§ 12–4.1004–5 Procedures for procurements estimated not to exceed $10,000.

When authorized by the agency head (or his authorized representative) the following procedure may be used in lieu of the procedures prescribed in §§ 12–4.1004–1, 12–4.1004–2, and 12–4.1004–4.

(a) The selection shall be accomplished by an informal evaluation board consisting of at least two members from the organization responsible for the work who are knowledgeable in the technical fields most significantly related to the proposed project. The Board shall follow the procedures prescribed in § 12–4.1002(b). However, the Board shall use its judgment in determining the extent of detailed qualification and past performance data needed to fully evaluate the A–E firms. The Board should at least obtain the Standard Forms 254, the firms' past record of performance and visual examples of previous projects.

(b) The Board's report, recommending at least three firms, in rank order, considered best qualified to perform the required services, shall be submitted to the contracting officer for review. If the report is acceptable it shall serve as authorization for the contracting officer to begin negotiations with the firm ranked number one.

§ 12–4.1005 Negotiation procedures.

§ 12–4.1005–1 General.

The limitation on Architect-Engineer fees of 6 percent of the estimated construction cost applies to all services that are an integral part of the production and delivery of plans, designs, drawings and specifications of a construction project. The limitation, however, does not apply to the cost of investigative and other services including but not limited to the following:

Development of program requirements (scope of work).
Determination of project feasibility.
Preparation of drawings of an existing facility, where current drawings are not available.
Subsurface investigations (soil borings).
Structural, electrical, and mechanical investigations of an existing building, where current information is not available.
Surveys: Topographic, boundary, utility.
Preparation of models, color renderings, photographs, or other presentation materials.
Travel and per diem for special presentations.
Supervision and inspection of construction.
Preparation of operating and maintenance manuals.
Master planning.

§ 12–4.1050 Release of information.

The rank order list of firms selected by the A–E Evaluation Board as most highly qualified is for the internal use of the Department, and such information shall at no time be made known to the firms under consideration or to any other non-governmental source. Information may be released by the contracting officer, unless precluded by security considerations, identifying the A–E selected for negotiation and describing the work in general terms. If negotiations are terminated without consummating a contract, the contracting officer may release such information and the name of the firm with which the Government will start new negotiations. When an award has been made, the contracting officer may release this information, giving special notice of the award to any firms interviewed by the A–E Evaluation Board.

§ 12–4.1051 Clauses for architect-engineer contracts.

The clauses for A–E contracts are set forth in FPR Subpart 1–16.7 and DOTPR Subpart 12–7.51.

§ 12–4.1052 Debriefing unsuccessful interviewed firms.

(a) After a contract is awarded unsuccessful firms that participated in the interviews shall be debriefed upon request of the firm. The purpose of the debriefing is to give firms information which may assist them in improving future presentations, and to provide assurance that the selection was made fairly and in accordance with regulations and the provisions of the solicitation.

(b) The debriefing shall inform the unsuccessful firms where they were weak or deficient. However point by point comparisons with other firms shall not be made nor shall the merits, technical standing or evaluation scoring of other firms be discussed.

Subpart 12–4.50—Utilization and Disposal of Personal Property Pursuant to Exchange/Sale Authority

§ 12–4.5001 General.

The procedures governing the exchange or sale of personal property are set forth in the Federal Property Management Regulations (FPMR) Part 101–46. Prior to any disposal action, Federal agencies shall be solicited to the extent required by FPMR 101–46.301. See also FPMR 101–46.202 for restrictions and limitations, and FPMR 101–46.402 for cash and exchange (trade-in) bids.

Subpart 12–4.51—Procurement of Tax-Free Spirits

§ 12–4.5100 Scope of subpart.

This subpart covers the procurement of tax-free spirits and specially denatured spirits.

§ 12–4.5101 Delegation of authority.

The Assistant Secretary for Administration and the Administrators of the Federal Aviation Administration, Federal Highway Administration, Federal Railroad Administration, Urban Mass Transportation Administration and the Commandant, U.S. Coast Guard have been delegated authority to execute Internal Revenue Service (IRS) application forms 1486 and 1444 to procure specially denatured spirits and tax-free spirits in accordance with sections 211.231 and 213.142 respectively, of Title 26 of the Code of Federal Regulations. The foregoing officials may redelegate this authority to one or more officials within their organizations but without power to further redelegate. Any redelegation of this authority shall be in the form of a letter addressed to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C. 20224.

§ 12–4.5102 Procedure.

(a) See § 211.233 of Title 26 for procurement of specially denatured spirits, and § 213.143 of Title 26 for procurement of tax-free spirits.

(b) If the application is to cover more than one geographical location; insert in Item 2, Form 1486 or 1444: "Various locations of the (insert name of Administration) as indicated by purchase order." IRS processes the application and, on the same form, issues the permit to procure. The application form may be signed only by an official named in 12–4.5101 or his designee. The permit remains valid until surrendered by the Administration or cancelled by IRS.

(c) The permit issued on Form 1444 authorizes procurement from any qualified distilled spirits plant. A listing of such plants is provided on IRS Document No. 5237. The list and revision

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service may be obtained upon request to IRS, Alcohol and Tobacco Tax Division, 1111 Constitution Avenue NW., Washington, D.C. 20224.

PART 12–5—SPECIAL AND DIRECTED SOURCES OF SUPPLY

Subpart 12.50—Procurement Under the Economy Act From or Through Another Federal Agency

Sec.
12-5.5000 Scope of subpart.
12-5.5001 Authorization and policy relating to placing and filling orders.
12-5.5002 Execution of agreements with agency heads.

Subpart 12–5.51—Procurement of Printing and Related Supplies

12-5.5100 Printing and related supplies.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301-2314.

Subpart 12–5.50—Procurement Under the Economy Act From or Through Another Federal Agency

§ 12–5.5000 Scope of subpart.

This subpart deals with orders for supplies or services placed with another Government department or agency pursuant to the authority of the Economy Act of June 30, 1932, as amended (31 U.S.C. 686), except that it does not apply to any procurement covered by other subparts of this Part 12–5.

§ 12–5.5001 Authorization and policy relating to placing and filling orders.

(a) It is the policy of the Department of Transportation not to place Government agencies in direct competition with commercial sources. Accordingly, prior to soliciting bids or proposals from commercial sources, it shall be decided whether to obtain supplies or services from Government agencies. Invitations for bids and requests for proposals shall not be sent to Government agencies. Current market prices, recent procurement prices, or prices obtained by informational bids as provided in FPR 1–1.314 may be used to ascertain whether procurement can be effected more cheaply from commercial sources.

(b) Each procuring activity, when it is in the interest of the Government to do so, may place orders with any other Government department or agency for supplies or services that any such requisitioned department or agency may be in a position to furnish or perform or to obtain by contract.

(c) Where the Department procures commercial or industrial products or services from another Government agency, any authorization required for the furnishing of such products or services, in accordance with BOB Circular No. A–76, dated August 30, 1967, as revised by OMB Transmittal Memorandum No. 2 of October 18, 1976, shall be accomplished by the furnishing Government agency.

§ 12–5.5002 Execution of agreements with agency heads.

Execution of any written interdepartmental or interagency agreement which is to be signed by *the head* of the other department or agency is reserved to the Secretary, as provided in section 1.44(1) of the DOT Organization Manual (DOT 1100.23(A)).

Subpart 12–5.51—Procurement of Printing and Related Supplies

§ 12–5.5100 Printing and related supplies.

The Government Printing and Binding Regulations of the Congressional Joint Committee on Printing set forth specific prohibitions and regulations for the acquisition of printing, binding, blankwork, envelopes, paper, and related supplies.

PART 12–6—FOREIGN PURCHASES

Sec.
12-6.000 Scope.

Subpart 12–6.1—Buy American Act—Supply and Service Contracts

12-6.103 Exceptions.
12-6.103-2 Nonavailability in the United States.
12-6.104 Procedures.
12-6.104-4 Evaluation of bids and proposals.
12-6.105 Excepted articles, materials, and supplies.

Subpart 12–6.8—Balance of Payments Program

12-6.801 General.
12-6.801-50 Use of excess and near-excess foreign currencies.
12-6.806 Procedures.
12-6.806-2 Method of purchase:

Subpart 12–6.10—Omission of the Examination of Records Clause From Contracts With Foreign Contractors

12-6.1004 Determinations and findings.

Subpart 12–6.50—Purchases From Certain Communist Areas

12-6.5001 Restrictions.
12-6.5002 Contract provision.
12-6.5003 Exceptions.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301-2314.

§ 12–6.000 Scope.

This part includes restrictions and procedures affecting procurements of foreign-made items; and restrictions on purchases from communist countries or areas.

Subpart 12–6.1—Buy American Act—Supply and Service Contracts

§ 12–6.103 Exceptions.

§ 12–6.103–2 Nonavailability in the United States.

(a) Certain items determined to be exempt under the exception in FPR 1–6.103–2 are set forth in DOTPR 12–6.105. Supplies not listed may be excepted only after a written determination has been made by the contracting officer. Each determination shall include the following information:

(1) Description of the item(s) to be procured with specific information pertaining to special features, performance, versatility, etc.

(2) Unit, quantity, estimated cost (including duty, if any, separately shown).

(3) Country of origin, and name and address of prospective contractor, if available.

(4) Brief statement as to the necessity for the procurement.

(5) Statement of effort made to procure a similar item of domestic origin or statement that there is no domestic item which can be used as a reasonable substitute.

When a determination has been made that the restrictions of the Buy American Act are inapplicable for the end products being purchased, notification to this effect shall be included in this solicitation and contract.

(b) Notwithstanding the foregoing, procurement of foreign end products on the basis of "nonavailability," whether or not listed in DOTPR 12–6.105, shall be made only after a written determination has been made by the contracting officer and approved at a higher level in accordance with Administration procedures. Before granting such approval, or making such determination, the feasibility of foregoing the requirement or providing a United States substitute shall be considered.

(c) Notwithstanding paragraph (b) of this section, approvals and determinations may be made by the contracting officer covering individual procurements of spare and replacement parts for foreign manufactured items, if the procurement must be restricted to the original manufacturer or his supplier in accordance with FPR 1–3.213.

(d) Notwithstanding paragraph (b) of this section, approval is not required for:

(1) Purchases for resale in domestic commissaries of brand name subsistence items of foreign origin for which there are no substitutes of U.S. origin. All purchases of such brand name subsistence items of foreign origin shall be made from domestic concerns.

(2) Procurement of swords and scabbards.

(3) Procurement of books, pamphlets, newspapers, magazines, periodicals, and printed briefs and films not printed in the United States and for which domestic editions are not available.

(4) Procurement of bananas, tea, coffee, spices, herbs, sugar, cocoa, cream of tarter, tapioca, and coconut.

(e) The following is a format for the determination and findings of nonavailability:

DEPARTMENT OF TRANSPORTATION

Determination and findings of nonavailability under the Buy American Act regarding purchase of (item description).

FINDINGS

(Set forth the information required by DOTPR 12–6.103–2(a).)

DETERMINATION

Upon the basis of these findings, I hereby determine that the above supplies are not mined, produced, or manufactured at the present time in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality; and that the provisions of the Buy American Act (41 U.S.C. 10a–d) are inapplicable.

(Add appropriate approval when required by Administration procedures.)

Contracting Officer

Date

§ 12–6.104 Procedures.

§ 12–6.104–4 Evaluation of bids and proposals.

When a proposed award is required to be submitted to the head of the agency for decision pursuant to FPR 1–6.104–4 (b) or FPR 1–6.104–4 (c) (1) or (c) (2), the submission shall include a copy of each bid or offer being considered for award, the date the bids or offers expire, a copy of the abstract of bids or offers, and a statement justifying the proposed award.

§ 12–6.105 Excepted articles, materials, and supplies.

Pursuant to the Buy American Act, the Government has determined that the articles, materials, and supplies listed below are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality, or that it would be inconsistent with the public interest to apply the restrictions of the Act to such articles, materials, and supplies. When required to be incorporated into an end product or construction material manufactured in the United States, these items may be regarded as components of domestic origin for the purpose of determining the origin of such manufactured end product or construction material. However, the procurement of any of these items other than as components of domestic source end products or construction materials must be approved by the appropriate authority designated by the Administrations pursuant to DOTPTR 12–6.103–2 (b).

Acetylene black.
Asbestos, amosite
Bananas.
Beef extract.
Bismuth.
Brazil nuts, unroasted.
Cadmium, ores and flue dust.
Calcium cyanamide.
Capers.
Cashew nuts.
Chestnuts.
Chicle.
Chrome ore or chromite.
Cinchona bark.
Cobalt, in cathodes, rondelles, or other primary forms.
Cocoa beans.
Coconut and coconut meat, unsweetened, in shredded, desiccated, or similarly prepared form.
Coffee, raw or green bean.
Cork, wood or bark and waste.
Diamonds, industrial, stones.
Emetine, bulk.
Ergot, crude.
Fair linen, altar.
Fibers of the following types: Abac, agave, coir, flax, jute, and palmyra.
Goat and kid skins.
Graphite, natural.
Hand Sewing Needles.
Hog bristles for brushes
Hyoscine, bulk.
Ipecac, root.
Leather, Sheepskin, Hair Type.
Menthol, natural bulk.
Mica.
Nickel, primary, in ingots, pigs, shot, cathodes, or similar forms; nickel oxide and nickel salts.
Nitroguanidine (also known as picrite).
Olive oil.
Olives (green), pitted or stuffed in bulk.
Opium, crude.
*Petroleum, crude oil, unfinished oils and finished products.
Platinum and platinum group metals refined, as sponge, powder, ingots, or cast bars.
Pyrethrum flowers
Quartz crystals
Quebracho.
Radium salts.
Rosettes.
Rubber, crude and latex.
Rutile.
Silk, raw.
Sperm oil.
Spices and herbs in bulk.
Sugars, raw.
Talc, block, steatite.
Tapioca flour and cassava.
Tartar, crude, tartaric acid and cream of tartar in bulk.
Tea in bulk.
Thread, metallic (gold).
Tin.
Vanilla beans.
Venom, cobra.
Wax, carnauba.
Woods of the following species: Angelique, balsa, ekki, greenheart, lignum vitae, mahogany and teak.

Petroleum definitions, as used in this subpart:

(a) "Crude oil" means crude petroleum as it is produced at the wellhead and liquids (under atmospheric conditions) that have been recovered from mixtures of hydrocarbons which existed in a vaporous phase in a reservoir and that are not natural gas products.

(b) "Finished products" means any one or more of the following petroleum oils, or a mixture or combination of such oils, which are to be used without further processing except blending by mechanical means:

(1) Liquefied gases—hydrocarbon gases recovered from natural gas or produced from petroleum refining and kept under pressure to maintain a liquid state at ambient temperatures;

(2) Gasoline—a refined petroleum distillate which by its composition, is suitable for use as a carburant in internal combustion engines;

(3) Jet fuel—a refined petroleum distillate used to fuel jet propulsion engines;

(4) Naphtha—a refined petroleum distillate falling within a distillation range overlapping the higher gasoline and the lower kerosenes;

(5) Fuel oil—a liquid or liquefiable petroleum product burned for lighting or for the generation of heat or power and derived directly or indirectly from crude oil, such as kerosene, range oil, distillate fuel oils, gas oil, diesel fuel, topped crude oil, residues;

(6) Lubricating oil—a refined petroleum distillate or specially treated petroluem residue used to lessen friction between surfaces;

(7) Residual fuel oil—a topped crude oil or viscous residuum which, as obtained in refining or after blending with other fuel oil, meets or is the equivalent of Military Specification Mil–F–859 for Navy Special Fuel Oil and any other more viscous fuel oil, such as No. 5 or Bunker C;

(8) Asphalt—a solid or semi-solid cementitious material which gradually liquefies when heated, in which the predominating constituents are bitumins, and which is obtained in refining crude oil;

(9) Natural gas products—liquids (under atmospheric conditions), including natural gasoline, which are recovered by a process of absorption, adsorption, compression, refrigeration, cycling, or a combination of such processes, from mixtures of hydrocarbons that existed in a vaporous phase in a reservoir and which, when recovered and without processing in a refinery, otherwise fall within any of the definitions of products contained in (b) (2) through (5), inclusive, of this section.

(c) "Unfinished oils" means one or more of the petroleum oils listed in (b) above, or a mixture or combination of such oils, which are to be further processed other than by blending by mechanical means.

Subpart 12–6.8—Balance-of-Payments Program

§ 12–6.801 General.

§ 12–6.801–50 Use of excess and near-excess foreign currencies.

Where practicable, contracts and other obligations incurred in excess and near-excess currency countries should provide for payment in foreign currencies rather than U.S. dollars notwithstanding the appropriation or fund that will be used for payment. This should include contracts with U.S. contractors to the extent that the contractor may be expected to require such currencies for necessary expenses in the country involved.

§ 12–6.806 Procedures.

§ 12–6.806–2 Method of purchase.

In lieu of the authority cited in FPR 1–6.806–2, the following is applicable to Coast Guard procurement: Contracts entered into pursuant to conventional negotiation shall cite exceptions (2) through (17) of 10 U.S.C. 2304(a), as appropriate. Where such negotiation authority is not applicable or where contracts are entered into pursuant to the Balance of Payments Restricted Advertising method of procurement, 10 U.S.C. 2304(a)(1) shall be cited as negotiation authority.

Subpart 12–6.10—Omission of the Examination of Records Clause From Contracts With Foreign Contractors

§ 12–6.1004 Determinations and findings.

A determination and finding made by the Coast Guard shall cite 10 U.S.C. 2313(c) as authority for omission of the Examination of Records clause. Determinations and findings made by other Administrations shall cite 41 U.S.C. 254(c).

Subpart 12–6.50—Purchases From Certain Communist Areas

§ 12–6.5001 Restrictions.

Supplies originating from the following countries shall not be acquired for public use except as authorized by the

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Secretary of the Treasury or his designee:

(a) *From China (except Formosa), North Korea, Cambodia, and Vietnam,* the items set forth in § 500.204 of Part 500 of Title 31 of the Code of Federal Regulations.

(b) *From Cuba,* any merchandise that is of Cuban origin, or is or has been located in or transported from or through Cuba, or is made or derived in whole or in part of any article, which is the growth, produce, or manufacture of Cuba (§ 515.204 of Part 515 of Title 31 of the Code of Federal Regulations).

§ 12–6.5002 Contact provision.

Instructions. The clause in § 12–7.151–18 shall be included in all contracts for supplies, services, or construction, where acceptance is to take place outside the United States, its possessions, or Puerto Rico. The clause need not be included in purchase orders for small purchases where there is reasonable assurance of compliance with § 12–6.5001.

§ 12–6.5003 Exceptions.

Requests for exceptions to this subpart shall be forwarded through Administration channels to the Director of Installations and Logistics, OST/TAD–60.

PART 12–7—CONTRACT CLAUSES

Sec.
12–7.000 Scope of part.

Subpart 12–7.1—Clauses for Fixed-Price Supply Contracts

12–7.100 Scope of subpart.
12–7.101 Applicability.
12–7.102 Required clauses.
12–7.102–1 Definitions.
12–7.102–2 Changes.
12–7.102–3 Extras.
12–7.102–4 Variation in quantity.
12–7.102–5 Inspection.
12–7.102–6 Responsibility for supplies.
12–7.102–7 Payments.
12–7.102–8 Assignment of claims.
12–7.102–9 [Reserved]
12–7.102–10 Federal, state, and local taxes.
12–7.102–11 Default.
12–7.102–12 Disputes.
12–7.102–13 [Reserved]
12–7.102–14 Buy American Act.
12–7.102–15 Contract Work Hours and Safety Standards Act—overtime compensation.
12–7.102–16 Equal opportunity.
12–7.102–17 Officials not to benefit.
12–7.102–18 Covenant against contingent fees.
12–7.102–19 Termination for convenience of the Government.
12–7.102–20 Pricing of adjustments.
12–7.102–21 Employment of the handicapped.
12–7.102–22 Payment of interest on contractor's claim.
12–7.102–23 Clean air and water.
12–7.103 Clauses to be used when applicable.
12–7.103–1 Clauses for fixed-price supply contracts involving construction.
12–7.103–2 Additional bond security.
12–7.103–3 Examination of records by the Comptroller General.
12–7.103–4 Notice and assistance regarding patent and copyright infringement.
12–7.103–5 Convict labor.
12–7.103–6 Walsh-Healey Public Contracts Act.
12–7.103–7 Utilization of small business concerns.
12–7.103–8 Small business subcontracting program.
12–7.103–9 Utilization of labor surplus area concerns.
12–7.103–10 Labor surplus area subcontracting program.
12–7.103–11 Utilization of minority business enterprises.
12–7.103–12 Minority business enterprises subcontracting program.
12–7.103–13 Humane slaughter of livestock.
12–7.103–14 Required source for jewel bearings.
12–7.103–15 [Reserved]
12–7.103–16 Disabled Veterans and veterans of the Vietnam era.
12–7.103–17 Price reduction for defective cost or pricing data.
12–7.103–18 Audit and records.
12–7.103–19 Subcontractor cost and pricing data.
12–7.103–20 Advance payments.
12–7.103–21 Progress payments.
12–7.103–22 Workmen's compensation insurance (Defense Base Act).
12–7.103–23 Late offers and modifications or withdrawals.
12–7.103–24 Contracts with the Small Business Administration.
12–7.103–25 Supplementary tax clauses.
12–7.103–26 Preference for U.S. flag air carriers.
12–7.103–27 Cost accounting standards.
12–7.103–28 Subcontracts.
12–7.103–29 Privacy Act.
12–7.103–30 Clauses for solicitations and contracts for automatic data processing (ADP) equipment, software, maintenance services, and supplies.
12–7.103–31 Use of U.S. flag commercial vessels.
12–7.104 Additional clauses.
12–7.104–1 Liquidated damages provisions.
12–7.104–2 Changes to "make-or-buy" program.
12–7.104–50 Fast payment procedures.
12–7.150 Required DOTPR clauses.
12–7.150–1 Gratuities.
12–7.150–2 New materials.
12–7.150–3 Priorities, allocations, and allotments.
12–7.150–4 Interpretation or modification.
12–7.150–5 Notice of readiness for inspection.
12–7.150–6 Definition of delivery terms.
12–7.150–7 Evidence of delivery.
12–7.150–8 Withholding payment for nondelivery of data.
12–7.150–9 Notice of delays.
12–7.150–10 Dissemination of contract information.
12–7.150–11 Authorization and consent.
12–7.150–12 Background patents (license).
12–7.151 DOTPR clauses to be used when applicable.
12–7.151–1 Patent indemnity.
12–7.151–2 Filing of patent applications.
12–7.151–3 Reporting of royalties (foreign).
12–7.151–4 Refund of royalties.
12–7.151–5 Rights in data—unlimited contract clause.
12–7.151–6 Rights in data—title contract clause.
12–7.151–7 Recovery of developmental costs.
12–7.151–8 Government furnished property.
12–7.151–9 Military security requirements.
12–7.151–10 Price redetermination (prospective).
12–7.151–11 Price redetermination (retroactive).
12–7.151–12 Stop work order.
12–7.151–13 Value engineering.
12–7.151–14 Multi-year procurement clauses.
12–7.151–15 Renegotiation.
12–7.151–16 Lease of aircraft.
12–7.151–17 Options.
12–7.151–18 Procurement from certain Communist areas.

Subpart 12–7.2—Clauses for Cost-Reimbursement Type Supply Contracts

12–7.200 Scope of subpart.
12–7.201 Applicability.
12–7.202 Required clauses.
12–7.202–1 Definitions.
12–7.202–2 Changes.
12–7.202–3 Limitation of cost or funds.
12–7.202–4 Allowable cost, fee, and payment.
12–7.202–5 Inspection of supplies and correction of defects.
12–7.202–6 Assignment of claims.
12–7.202–7 Examination of records by Comptroller General.
12–7.202–8 Subcontracts.
12–7.202–9 [Reserved]
12–7.202–10 Termination for default or convenience of the Government.
12–7.202–11 Excusable delays.
12–7.202–12 Disputes.
12–7.202–13 [Reserved]
12–7.202–14 Buy American Act.
12–7.202–15 Convict labor.
12–7.202–16 Contract Work Hours and Safety Standards Act—overtime compensation.
12–7.202–17 Walsh-Healey Public Contracts Act.
12–7.202–18 Equal opportunity.
12–7.202–19 Officials not to benefit.
12–7.202–20 Covenant against contingent fees.
12–7.202–21 [Reserved]
12–7.202–22 [Reserved]
12–7.202–23 [Reserved]
12–7.202–24 Notice and assistance regarding patent and copyright infringement.
12–7.202–25 [Reserved]
12–7.202–26 Utilization of small business concerns.
12–7.202–27 Utilization of labor surplus area concerns.
12–7.202–28 Utilization of minority business enterprises.
12–7.202–29 Payment for overtime premiums.
12–7.202–30 Competition in subcontracting.
12–7.202–31 Price reduction for defective cost or pricing data.
12–7.202–32 Audit and records.
12–7.202–33 Subcontractor cost and pricing data.
12–7.202–34 Payment of interest on contractors' claims.
12–7.202–35 Disabled veterans and veterans of the Vietnam era.
12–7.202–36 Late offers and modifications or withdrawals.
12–7.202–37 Employment of the handicapped.
12–7.202–38 Clean air and water.
12–7.203 Clauses to be used when applicable.
12–7.203–1 Clauses for cost-reimbursement type supply contracts involving construction.
12–7.203–2 [Reserved]

12–7.203–3 Notice to the Government of labor disputes.
12–7.203–4 [Reserved]
12–7.203–5 [Reserved]
12–7.203–6 [Reserved]
12–7.203–7 [Reserved]
12–7.203–8 [Reserved]
12–7.203–9 Negotiated overhead rates.
12–7.203–950 Negotiated overhead rates—indirect costs.
12–7.203–951 Audit—indirect costs (actual).
12–7.203–10 Make-or-buy program.
12–7.203–11 Advance payments.
12–7.203–12 Required source for jewel bearings.
12–7.203–13 General Services Administration supply sources.
12–7.203–14 Use of interagency motor pool vehicles and related services.
12–7.203–15 Interest.
12–7.203–16 [Reserved]
12–7.203–17 [Reserved]
12–7.203–18 Small business subcontracting program.
12–7.203–19 Labor surplus area subcontracting program.
12–7.203–20 Minority business enterprises subcontracting program.
12–7.203–21 Government property.
12–7.203–22 Preference for U.S. flag air carriers.
12–7.203–23 Cost accounting standards.
12–7.203–24 Privacy Act.
12–7.203–25 Use of U.S. flag commercial vessels.
12–7.204 Additional clauses.
12–7.204–1 Alterations in contract.
12–7.204–2 Approval of contract.
12–7.204–3 Date of incurrence of cost.
12–7.204–4 Notice regarding late delivery.
12–7.204–5 Insurance—Liability to third persons.
12–7.204–50 Insurance—Liability to third persons.
12–7.250 Required DOTPR clauses.
12–7.250–1 Gratuities.
12–7.250–2 New material.
12–7.250–3 Priorities, allocations, and allotments.
12–7.250–4 Interpretation or modification.
12–7.250–5 Dissemination of contract information.
12–7.250–6 Authorization and consent.
12–7.251 DOTPR clauses to be used when applicable.
12–7.251–1 Patent indemnity.
12–7.251–2 Filing of patent applications.
12–7.251–3 Reporting of royalties (foreign).
12–7.251–4 Refund of royalties.
12–7.251–5 Patent rights.
12–7.251–6 Rights in data.
12–7.251–7 Military security requirements.
12–7.251–8 Stop work orders.
12–7.251–9 Value engineering.
12–7.251–10 Multi-year procurement.
12–7.251–11 Renegotiation.
12–7.251–12 Background patents (license).

Subpart 12–7.3—Fixed-Price Research and Development Clauses

12–7.300 Scope of subpart.
12–7.301 Applicability.
12–7.302 Required clauses.
12–7.302–1 Definitions.
12–7.302–2 Payments.
12–7.302–3 Standards of work.
12–7.302–4 Inspection.
12–7.302–5 Assignment of claims.
12–7.302–6 Examination of records by Comptroller General.
12–7.302–7 Federal, state, and local taxes.
12–7.302–8 Utilization of small business concerns.
12–7.302–9 Default.
12–7.302–10 Termination for convenience of the Government.
12–7.302–11 Disputes.
12–7.302–12 [Reserved]
12–7.302–13 Buy American Act.
12–7.302–14 Convict labor.
12–7.302–15 Walsh-Healey Public Contracts Act.
12–7.302–16 Contract Work Hours and Safety Standards Act—overtime compensation.
12–7.302–17 Equal opportunity.
12–7.302–18 Officials not to benefit.
12–7.302–19 Covenant against contingent fees.
12–7.302–20 [Reserved]
12–7.302–21 [Reserved]
12–7.302–22 Notice and assistance regarding patent and copyright infringement.
12–7.302–23 Patents.
12–7.302–24 [Reserved]
12–7.302–25 [Reserved]
12–7.302–26 Utilization of labor surplus area concerns.
12–7.302–27 [Reserved]
12–7.302–28 [Reserved]
12–7.302–29 Pricing of adjustments.
12–7.302–30 Disabled veterans and veterans of the Vietnam era.
12–7.302–31 Utilization of minority business enterprises.
12–7.302–32 Payment of interest on contractor's claims.
12–7.302–33 Employment of the handicapped.
12–7.302–34 Clean air and water.
12–7.303 Clauses to be used when applicable.
12–7.303–1 Clauses for fixed-price research and development contracts involving construction.
12–7.303–2 [Reserved]
12–7.303–3 [Reserved]
12–7.303–4 [Reserved]
12–7.303–5 [Reserved]
12–7.303–6 [Reserved]
12–7.303–7 Government property.
12–7.303–8 [Reserved]
12–7.303–9 Notice to the Government of labor disputes.
12–7.303–10 [Reserved]
12–7.303–11 [Reserved]
12–7.303–12 Subcontracts.
12–7.303–13 [Reserved]
12–7.303–14 [Reserved]
12–7.303–15 [Reserved]
12–7.303–16 Price reduction for defective cost of pricing data.
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12–7.303–18 [Reserved]
12–7.303–19 [Reserved]
12–7.303–20 [Reserved]
12–7.303–21 Advance payments.
12–7.303–22 Workmen's compensation insurance (Defense Base Act).
12–7.303–23 Progress payments.
12–7.303–24 Required source for jewel bearings.
12–7.303–25 [Reserved]
12–7.303–26 Interest.
12–7.303–27 Competition in subcontracting.
12–7.303–28 Audit and records.
12–7.303–29 Subcontractor cost and pricing data.
12–7.303–30 [Reserved]
12–7.303–31 [Reserved]
12–7.303–32 [Reserved]
12–7.303–33 [Reserved]
12–7.303–34 [Reserved]
23–7.303–35 [Reserved]
12–7.303–36 [Reserved]
12–7.303–37 [Reserved]
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12–7.303–40 [Reserved]
12–7.303–41 United States products and services (balance of payments program).
12–7.303–42 [Reserved]
12–7.303–43 [Reserved]
12–7.303–44 Care of laboratory animals.
12–7.303–45 [Reserved]
12–7.303–46 Insurance.
12–7.303–47 [Reserved]
12–7.303–48 [Reserved]
12–7.303–49 [Reserved]
12–7.303–50 [Reserved]
12–7.303–51 Minority business enterprises subcontracting program.
12–7.303–52 [Reserved]
12–7.303–53 [Reserved]
12–7.303–54 [Reserved]
12–7.303–55 Cost accounting standards.
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12–7.303–57 [Reserved]
12–7.303–58 Labor surplus area subcontracting program.
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12–7.303–61 [Reserved]
12–7.303–62 [Reserved]
12–7.303–63 Preference for U.S. flag air carriers.
12–7.303–64 Contracts with the Small Business Administration.
12–7.303–65 Privacy Act.
12–7.303–66 Use of U.S. flag commercial vessels.
12–7.304 Additional clauses.
12–7.304–1 Changes.
12–7.304–2 Alterations in contract.
12–7.304–3 Approval of contract.
12–7.304–4 [Reserved]
12–7.304–5 Notice regarding late delivery.
12–7.304–6 Key personnel.
12–7.304–7 Liquidated damages.
12–7.304–8 Disposition of material.
12–7.304–9 Reports of work.
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12–7.350–1 Gratuities.
12–7.350–2 Authorization and consent.
12–7.350–3 Withholding payment for nondelivery of data.
12–7.350–4 Dissemination of contract information.
12–7.350–5 Priorities, allocations, and allotments.
12–7.350–6 Notice of delays.
12–7.350–7 New material.
12–7.350–8 Interpretation or modification.
12–7.350–9 Rights in data.
12–7.351 DOTPR clauses to be used when applicable.
12–7.351–1 Military security requirements.
12–7.351–2 Stop work orders.
12–7.351–3 Renegotiation.
12–7.351–4 Background patents (license).
12–7.351–5 Filing of patent applications.
12–7.351–6 Reporting of royalties.
12–7.351–7 Refund of royalties.
12–7.351–8 Recovery of developmental costs.
12–7.351–9 Value engineering.

Subpart 12–7.4—Clauses for Cost-Reimbursement Type Research and Development Contracts

12–7.400 Scope of subpart.
12–7.401 Applicability.
12–7.402 Required clauses.
12–7.402–1 Definitions.
12–7.402–2 Limitation of cost or funds.
12–7.402–3 Allowable cost, fee, and payment.
12–7.402–4 Standards of work.
12–7.402–5 Inspection and correction of data.
12–7.402–6 Assignment of claims.
12–7.402–7 Examination of records by Comptroller General.
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12–7.402–9 Utilization of small business concerns.

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12-7.402-16	Contract Work Hours and Safety Standards Act—overtime compensation.
12-7.402-17	Equal opportunity.
12-7.402-18	Officials not to benefit.
12-7.402-19	Covenant against contingent fees.
12-7.402-20	[Reserved]
12-7.402-21	Notice and assistance regarding patent and copyright infringement.
12-7.402-22	Patents.
12-7.402-23	[Reserved]
12-7.402-24	[Reserved]
12-7.402-25	Government property.
12-7.402-26	[Reserved]
12-7.402-27	Utilization of labor surplus area concerns.
12-7.402-28	Payment for overtime premiums.
12-7.402-29	Competition in subcontracting.
12-7.402-30	Price reduction for defective cost or pricing data.
12-7.402-31	Price reduction for defective cost or pricing data.
12-7.402-32	Subcontractor cost and pricing data.
12-7.402-33	Utilization of minority business enterprises.
12-7.402-34	Disabled veterans and veterans of the Vietnam era.
12-7.402-35	Payment of interest on contractor's claims.
12-7.402-36	Employment of the handicapped.
12-7.402-37	Clean air and water.
12-7.403	Clauses to be used when applicable.
12-7.403-1	Clauses for cost-reimbursement type research and development contracts involving construction.
12-7.403-2	[Reserved]
12-7.403-3	[Reserved]
12-7.403-4	[Reserved]
12-7.403-5	Excusable delays.
12-7.403-6	[Reserved]
12-7.403-7	[Reserved]
12-7.403-8	[Reserved]
12-7.403-9	Negotiated overhead rate.
12-7.403-10	Notice to the Government of labor disputes.
12-7.403-11	[Reserved]
12-7.403-12	[Reserved]
12-7.403-13	[Reserved]
12-7.403-14	Make-or-buy program.
12-7.403-15	[Reserved]
12-7.403-16	[Reserved]
12-7.403-17	[Reserved]
12-7.403-18	[Reserved]
12-7.403-19	[Reserved]
12-7.403-20	Advance payments.
12-7.403-21	Workmen's compensation insurance (Defense Base Act).
12-7.403-22	Required source for jewel bearings.
12-7.403-23	General Services Administration supply sources.
12-7.403-24	Use of interagency motor pool vehicles.
12-7.403-25	Interest.
12-7.403-26	[Reserved]
12-7.403-27	[Reserved]
12-7.403-28	[Reserved]
12-7.403-29	[Reserved]
12-7.403-30	[Reserved]
12-7.403-31	[Reserved]
12-7.403-32	[Reserved]
12-7.403-33	[Reserved]
12-7.403-34	[Reserved]
12-7.403-35	[Reserved]
12-7.403-36	United States products and services (balance of payments program).
12-7.403-37	[Reserved]
12-7.403-38	[Reserved]
12-7.403-39	Care of laboratory animals.
12-7.403-40	[Reserved]
12-7.403-41	[Reserved]
12-7.403-42	[Reserved]
12-7.403-43	[Reserved]
12-7.403-44	[Reserved]
12-7.403-45	[Reserved]
12-7.403-46	[Reserved]
12-7.403-47	[Reserved]
12-7.403-48	[Reserved]
12-7.403-49	[Reserved]
12-7.403-50	Cost accounting standards.
12-7.403-51	[Reserved]
12-7.403-52	[Reserved]
12-7.403-53	Small business subcontracting program.
12-7.403-54	Labor surplus area subcontracting program.
12-7.403-55	Minority business enterprises subcontracting program.
12-7.403-56	[Reserved]
12-7.403-57	[Reserved]
12-7.403-58	Preference for U.S. flag air carriers.
12-7.403-59	[Reserved]
12-7.403-60	Privacy Act.
12-7.403-61	Use of U.S. flag commercial vessels.
12-7.404	Additional clauses.
12-7.404-1	Alterations in contract.
12-7.404-2	Approval of contract.
12-7.404-3	Date of incurrence of costs.
12-7.404-4	Notice regarding late delivery.
12-7.404-5	Changes.
12-7.404-6	Key personnel.
12-7.404-7	Disposition of material.
12-7.404-8	Reports of work.
12-7.404-9	Insurance—liability to third persons.
12-7.450	Required DOTPR clauses.
12-7.450-1	Gratuities.
12-7.450-2	New material.
12-7.450-3	Priorities, allocations, and allotments.
12-7.450-4	Interpretation or modification.
12-7.450-5	Dissemination of contract information.
12-7.450-6	Authorization and consent.
12-7.450-7	Notice of delays.
12-7.450-8	Rights in data.
12-7.451	DOTPR clauses to be used when applicable.
12-7.451-1	Recovery of developmental costs.
12-7.451-2	Filing of patent applications.
12-7.451-3	Reporting of royalties (foreign).
12-7.451-4	Refund of royalties.
12-7.451-5	Military security requirements.
12-7.451-6	Stop work orders.
12-7.451-7	Value engineering.
12-7.451-8	Renegotiation.
12-7.451-9	Background patents (license).

Subpart 12-7.6—Clauses for Fixed-Price Construction Contracts

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12-7.600	Scope of subpart.
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12-7.602-9	Material and workmanship.
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12-7.602-19	Officials not to benefit.
12-7.602-20	Buy American Act.
12-7.602-21	Convict labor.
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12-7.602-25	[Reserved]
12-7.602-26	Utilization of small business concerns.
12-7.602-27	Federal, State, and local taxes.
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12-7.602-32	Suspension of work
12-7.602-33	Utilization of minority business enterprises.
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12-7.602-35	Payment of interest on contractor's claims.
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12-7.603-4	[Reserved]
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12-7.603-11	Price reduction for defective cost or pricing data.
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12-7.603-16	[Reserved]
12-7.603-17	[Reserved]
12-7.603-18	[Reserved]
12-7.603-19	Use of U.S. Flag Commercial Vessels.
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12-7.603-23	Small business subcontracting program.
12-7.603-24	Minority business enterprises subcontracting program.
12-7.603-25	Late bids and modifications or withdrawals.
12-7.603-26	Preference for U.S. flag air carriers.
12-7.603-27	Cost accounting standards.
12-7.603-28	Subcontracts.
12-7.604	Additional clauses.
12-7.604-1	Liquidated damages.
12-7.650	Required DOTPR clauses.
12-7.650-1	Gratuities.
12-7.650-2	Protection of existing vegetation, structures, utilities, and improvements.
12-7.650-3	Operations and storage areas (use with SF-23A).
12-7.650-4	Modification proposals—price breakdown (use with SF-23A).
12-7.650-5	Work schedule (use with SF-19).
12-7.650-6	Cleaning up (use with SF-23A).
12-7.650-7	Additional definitions (use with SF-23A).
12-7.650-8	Safety requirements (use with SF-23A).
12-7.650-9	Contracting officer's representative (use with SF-23A).
12-7.650-10	Contract time—notice to proceed (use with SF-23A).
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12-7.650-13	Priorities, allocations, and allotments (use with SF-23A).
12-7.650-14	Dissemination of contract information (use with SF-23A).
12-7.650-15	Guarantee (use with SF-23A).
12-7.650-16	General conduct of work (use with SF-19).
12-7.650-17	Contractor inspection system (use with SF-23A).
12-7.650-18	Information regarding Buy American Act (use with SF-23A).
12-7.651	Clauses to be used when applicable.
12-7.651-1	Notice and assistance regarding patent and copyright infringement.
12-7.651-2	Authorization and consent.
12-7.651-3	Military security requirements.
12-7.651-4	Performance of work by contractor.
12-7.651-5	Government-furnished property.
12-7.651-6	Physical data.
12-7.651-7	Variations in estimated quantities contracts.
12-7.651-8	Availability and use of utility services.
12-7.651-9	Misplaced material.
12-7.651-10	Signal lights.
12-7.651-11	Time extensions for delays to elements of the work.
12-7.651-12	Progress charts and requirements for overtime work.
12-7.651-13	Special precautions for work at operating airports.
12-7.651-14	Quantity surveys.
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12-7.651-16	Value engineering incentive.

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Sec.	
12-7.5000	Scope.
12-7.5001	Required clauses.
12-7.5001-1	Definitions.
12-7.5001-2	Payments.
12-7.5001-3	Assignment of claims.
12-7.5001-4	Federal, State, and local taxes.
12-7.5001-5	Termination for convenience of the Government.
12-7.5001-6	Default.
12-7.5001-7	Disputes.
12-7.5001-8	Convict labor.
12-7.5001-9	Contract Work Hours Standards Act—overtime compensation.
12-7.5001-10	Officials not to benefit.
12-7.5001-11	Covenant against contingent fees.
12-7.5001-12	Gratuities.
12-7.5001-13	Equal opportunity.
12-7.5001-14	Examination of records by Comptroller General.
12-7.5001-15	Requirements.
12-7.5001-16	Contract period.
12-7.5001-17	Area of performance.
12-7.5001-18	Specifications.
12-7.5001-19	Using activities.
12-7.5001-20	Delivery orders and invoices.
12-7.5001-21	Delivery and performance.
12-7.5001-22	Subcontracting.
12-7.5001-23	Additional default provision.
12-7.5001-24	Inspection.
12-7.5001-25	Group interment.
12-7.5001-26	Professional requirements.
12-7.5001-27	Facility requirements.
12-7.5001-28	Preparation history.
12-7.5001-29	Changes.
12-7.5001-30	Inconsistent provisions.
12-7.5001-31	Coordination.
12-7.5001-32	Preparation of remains at other than contractor's establishment.
12-7.5001-33	Major restorative art.
12-7.5001-34	Passenger car.

Subpart 12-7.51—Clauses for Architect-Engineer Contracts

Sec.	
12-7.5100	Scope.
12-7.5100-1	Amendment of Standard Form 253.
12-7.5101	Required clauses.
12-7.5101-1	Composition of contractor.
12-7.5101-2	Interpretation of modification
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12-7.5101-4	Inspection.
12-7.5101-5	Notice of delays.
12-7.5101-6	Certification of drawings and other documents.
12-7.5101-7	Gratuities.
12-7.5102	Clauses to be used when applicable.
12-7.5102-1	Military security requirements.
12-7.5102-2	Audit and records.
12-7.5102-3	Price reduction for defective cost or pricing data.
12-7.5102-4	Subcontractor cost or pricing data.
12-7.5102-5	Architectural designs and data—Government rights (sole property).
12-7.5102-6	Renegotiation.
12-7.5103	Additional clauses.
12-7.5101-1	Method of payment.
12-7.5103-2	Preparation of specifications.
12-7.5103-3	Construction cost limitations.
12-7.5103-4	Building codes

Subpart 12-7.52—Clauses for Fixed-Price Vessel Repair, Alteration, or Conversion Contracts

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12-7.5200	Scope of subpart.
12-7.5201	Required clauses.
12-7.5201-1	Delivery and shifting of vessel.
12-7.5201-2	Performance.
12-7.5201-3	Inspection and manner of doing work.
12-7.5201-4	Subcontracts.
12-7.5201-5	Lay days.
12-7.5201-6	Changes.
12-7.5201-7	Extras.
12-7.5201-8	Payments.
12-7.5201-9	Government-furnished property.
12-7.5201-10	Liability and insurance.
12-7.5201-11	Title.
12-7.5201-12	Discharge of liens.
12-7.5201-13	Federal, State, and local taxes.
12-7.5201-14	Default.
12-7.5201-15	Delays.
12-7.5201-16	Termination for convenience of the Government.
12-7.5201-17	Disputes.
12-7.5201-18	Patent indemnity.
12-7.5201-19	Authorization and consent.
12-7.5201-20	Notice and assistance regarding patent and copyright infringement.
12-7.5201-21	Buy American Act.
12-7.5201-22	Convict labor.
12-7.5201-23	Contract Work Hours and Safety Standards Act—overtime compensation.
12-7.5201-24	Walsh-Healey Public Contracts Act.
12-7.5201-25	Department of Labor safety and health regulations for supplies.
12-7.5201-26	Equal opportunity.
12-7.5201-27	Officials not to benefit.
12-7.5201-28	Covenant against contingent fees.
12-7.5201-29	Additional bond security.
12-7.5201-30	Interpretation or modification.
12-7.5201-31	Notice of delays.
12-7.5201-32	Gratuities.
12-7.5201-33	Examination of records by Comptroller General.
12-7.5201-34	Utilization of small business concerns.
12-7.5201-35	Utilization of labor surplus area concerns.
12-7.5201-36	Assignment of claims.
12-7.5201-37	Definitions.
12-7.5202	Clauses to be used when applicable.
12-7.5201-1	Price reduction for defective cost of pricing data.
12-7.5202-2	Audit and records.
12-7.5202-3	Subcontractor cost and pricing data.
12-7.5202-4	Military security requirements.
12-7.5202-5	Guaranty.
12-7.5202-6	Priorities, allocations, and allotments.
12-7.5202-7	Index for specifications.

AUTHORITY: Sec 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301-2314.

§ 12-7.000 Scope of part.

This part sets forth all contract clauses for use in connection with the procurement of supplies and services.

Subpart 12-7.1—Clauses for Fixed Price Supply Contracts

§ 12-7.100 Scope of subpart.

This subpart sets forth uniform clauses for use in fixed price supply contracts.

§ 12-7.101 Applicability.

The clauses set forth or cited in this subpart shall be used when required, or as applicable or additional clauses in all fixed-price supply contracts cited in FPR 1-7.101.

§ 12-7.102-1 Definitions.

Insert the clauses set forth in FPR forth in FPR Subpart 1-7.102.

§ 12-7.102 Definitions.

Insert the clause set forth in FPR 1-7.102-1.

§ 12-7.102-2 Changes.

Insert the clause set forth in FPR 1-7.102-2.

12-7.102-3 Extras.

Insert the clause set forth in FPR 1-7.102-3.

§ 12-7.102-4 Variation in quantity.

Insert the clause set forth in FPR 1-7.102-4.

§ 12-7.102-450 Extent of quantity variation.

The following clause is prescribed for use in accordance with DOTPR 12-1.353.

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EXTENT OF QUANTITY VARIATION

The permissible variation under the clause of the General Provisions entitled "Variation in Quantity" shall be limited to:

Increase (insert: ------ percent or none)
Decrease (insert: ------ percent or none)

This increase or decrease shall apply to ------. (Insert in the blank the designation(s) to which the percentages apply, such as (1) the total contract quantity; (2) Item 1 only; (3) each quantity specified in the delivery schedule of the "Time or Delivery" clause; (4) the total item quantity for each destination; (5) the total quantity of each item without regard to destination.)

(End of clause)

§ 12–7.102–5 Inspection.

Insert the clause set forth in FPR 1–7.102–5.

§ 12–7.102–6 Responsibility for supplies.

Insert the clause set forth in FPR 1–7.102–6.

§ 12–7.102–7 Payments.

Insert the clause set forth in FPR 1–7.102–7.

§ 12–7.102–8 Assignment of claims.

Insert the clause set forth in FPR1–30.703 under the conditions contained therein.

Subpart 12–7.1—Clauses for Fixed Price Supply Contracts

§ 12–7.102–9 [Reserved]

§ 12–7.102–10 Federal, State, and local taxes.

Insert the clauses cited in FPR 1–7.102–10 as prescribed therein.

§ 12–7.102–11 Default.

Insert the clause set forth in FPR 1–8.707 as prescribed in FPR 8–700–2(b)(1).

§ 12–7.102–12 Disputes.

Insert the clause set forth in FPR 1–7.102–12.

§ 12–7.102–13 [Reserved]

§ 12–7.102–14 Buy American Act.

Insert the clause set forth in FPR 1–6.104–5 as prescribed therein.

§ 12–7.102–15 Contract work hours and Safety Standards Act—overtime compensation

Insert the clause set forth in FPR 1–12.303 as prescribed in FPR 1–12.302.

§ 12–7.102–16 Equal opportunity.

Insert the clause set forth in FPR 1–12.803–2 as prescribed in FPR 1–12.803–1.

§ 12–7.102–17 Officials not to benefit.

Insert the clause set forth in FPR 1–7.102–17.

§ 12–7.102–18 Covenant against contingent fees.

Insert the clause set forth in FPR 1–1.503 as prescribed in FPR 1–1.501.

§ 12–7.102–19 Termination for convenience of the Government.

Insert the clause cited in FPR 1–7.102–19 as prescribed therein.

§ 12–7.102–20 Pricing of adjustments.

Insert the clause set forth in FPR 1–7.102–20.

§ 12–7.102–21 Employment of the handicapped.

Insert the clause set forth in FPR Temporary Regulation No. 38, May 1976.

§ 12–7.102–22 Payment of interest on contractor's claim.

Insert the clause set forth in FPR 1–1.322 as prescribed therein.

§ 12–7.102–23 Clean air and water.

Insert the clause set forth in FPR 1–1.2302–2 as prescribed therein.

§ 12–7.103 Clauses to be used when applicable.

§ 12–7.103–1 Clauses for fixed-price supply contracts involving construction.

Insert the clauses cited in FPR 1–7.103–1 under the conditions prescribed therein.

§ 12–7.103–2 Additional bond security.

Insert the clause set forth in FPR 1–7.103–2.

§ 12–7.103–3 Examination of records by the Comptroller General.

Insert the clause set forth in FPR 1–7.103–3 under the conditions prescribed therein.

Insert the clause set forth in FPR 1–7.103–3 under the conditions prescribed therein.

§ 12–7.103–4 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in FPR 1–7.103–4 under the conditions prescribed therein.

§ 12–7.103–5 Convict labor.

Insert the clause set forth in FPR 1–12.204 under the conditions prescribed in FPR 1–12.203.

§ 12–7.103–6 Walsh-Healey Public Contracts Act.

Insert the clause set forth in FPR 1–12.605 under the conditions prescribed in FPR 1–12.602.

§ 12–7.103–7 Utilization of small business concerns.

Insert the clause set forth in FPR 1–1.710–3(a) under the conditions prescribed therein.

§ 12–7.103–8 Small business subcontracting program.

Insert the clause set forth in FPR 1–1.710–3(b) under the conditions prescribed therein.

§ 12–7.103–9 Utilizaton of labor surplus area concerns.

Insert the clause set forth in FPR 1–1.805–3(a) under the conditions prescribed therein.

§ 12–7.103–10 Labor surplus area subcontracting program.

Insert the clause set forth in FPR 1–1.805–3(b) under the conditions prescribed therein.

§ 12–7.103–11 Utilization of minority business enterprises.

Insert the clause set forth in FPR 1–1.1310–2(a) under the conditions prescribed therein.

§ 12–7.103–12 Minority business enterprises subcontracting program.

Insert the clause set forth in FPR 1–1.1310–2(b) under the conditions prescribed therein.

§ 12–7.103–13 Humane slaughter of livestock.

Insert the appropriate clause set forth in FPR 1–4.605 or 1–4.606 under the conditions prescribed in FPR 1–4.604.

§ 12–7.103–14 Required source for jewel bearings.

Insert the clause set forth in FPR 1–1.319 under the conditions prescribed therein.

§ 12–7.103–15 [Reserved]

§ 12–7.103–16 Disabled veterans and veterans of the Vietnam era.

Insert the clause set forth in FPR Temporary Regulations No. 39 in all contracts which exceed $10,000.

§ 12–7.103–17 Price reduction for defective cost or pricing data.

Insert the appropriate clause set forth in FPR 1–3.814–1 under the conditions prescribed therein.

§ 12–7.103–18 Audit and records.

Insert the appropriate clause(s) set forth in FPR 1–3.814–2 under the conditions prescribed therein.

§ 12–7.103–19 Subcontractor cost and pricing data.

Insert the clause set forth in FPR 1–3.814–3 under the conditions prescribed therein.

§ 12–7.103–20 Advance payments.

Insert the provisions cited in FPR 1–7.103–20 under the conditions prescribed therein.

§ 12–7.103–21 Progress payments.

Insert the clause cited in FPR 1–7.103–21 under the conditions prescribed therein.

§ 12–7.103–22 Workmen's compensation insurance (Defense Base Act).

Insert the clause set forth in FPR 1–10.402 under the conditions prescribed therein.

§ 12–7.103–23 Late offers and modifications or withdrawals.

Insert the provisions cited in FPR 1–7.103–23 under the conditions prescribed therein.

§ 12–7.103–24 Contracts with the Small Business Administration.

Insert the clause(s) cited in FPR 1–7.103–24 under the conditions prescribed therein.

§ 12–7.103–25 Supplementary tax clauses.

Insert the clause(s) cited in FPR 1–7.103–25 under the conditions prescribed therein.

§ 12–7.103–26 Preference for U.S. flag air carriers.

Insert the clause set forth in FPR 1–1.323–2 under the conditions prescribed therein.

§ 12–7.103–27 Cost accounting standards.

Insert the notices and clauses cited in FPR 1–7.103–27 under the conditions prescribed therein.

§ 12–7.103–28 Subcontracts.

Insert the clause set forth in FPR 1–7.103–27 under the conditions prescribed therein.

§ 12–7.103–29 Privacy Act.

Insert the clause set forth in FPR 1–1.327–5 as amended below under the conditions prescribed therein.

Substitute the following for FPR 1.327–5 (b):

(b) The following notification shall be included in every solicitation and in every contract when performance of work under the contract may involve the design, development, and/or operation of a system of records on individuals for an agency function.

PRIVACY ACT NOTIFICATION

Performance of work by the contractor under this procurement action may involve the design, development and/or operation of a system of records on individuals that is to be operated by the contractor to accomplish an agency function. When such work is to be performed, the contractor shall comply with the Privacy Act of 1974, Pub. L. 93–579, December 31, 1974 (5 U.S.C. 552a) and applicable agency regulations. Violations of the Act may involve the imposition of criminal penalties.

Substitute the following for FPR 1.327–5 (c):

(c) The following clause shall be included in every solicitation and in every contract when the performance of work thereunder may involve the design, development, or operation of a system of records on individuals that is to be operated by the contractor to accomplish an agency function, regardless of whether the system is the primary purpose of the contract.

PRIVACY ACT

(a) The contractor agrees: (1) To comply with the Privacy Act of 1974 (the Act) and the rules and regulations issued pursuant to the Act when performance under the contract involves the design, development, or operation of any system of records on individuals to be operated by the contractor in order to accomplish an agency function;

(2) To notify the Government when he anticipates operating a system of records in order to accomplish the requirements of this contract, if such system contains information about individuals which will be retrieved by the individual's name or other identifier assigned to the individual. A system of records subject to the Act may not be employed in the performance of this contract until the necessary approval and publication requirements applicable to the system have been carried out. The contractor agrees to correct, maintain, disseminate, and use such records in accordance with the requirements of the Act, and to comply with all applicable requirements of the Act;

(3) To include the Privacy Act Notification contained in this contract in every subcontract solicitation and in every subcontract when the performance of work under the proposed subcontract may involve the design, development, or operation of a system of records on individuals that is to be operated under the contract to accomplish an agency function; and

(4) To include this clause, including this paragraph, in all subcontracts under which work for this contract is performed or which is awarded pursuant to this contract when the performance of work under the subcontract may involve the design, development, or operation of such a system of records.

(b) For the purposes of the Act, when the contract involves the operation of a system of records on individuals to accomplish an agency function, the contractor and any employee of the contractor is considered to be an employee of the agency, and the requirements of the Act, including the civil and criminal penalties for violation of the Act, are applicable except that the criminal penalties shall not apply with regard to contracts effective prior to September 27, 1975. In addition, failure to comply with the provisions of the Act or of this clause will make this contract subject to termination for default as provided for in the general provisions of this contract.

(c) The terms used in this clause have the following meanings: (1) "Operation of a system of records" means performance of any of the activities associated with maintaining the system of records including the collection, use, and dissemination of records.

(2) "Record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print, or a photograph.

(3) "System of records" on individuals means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

(End of clause)

§ 12–7.103–30 Clauses for solicitations and contracts for automatic data processing (ADP) equipment, software, maintenance services, and supplies.

Insert the clauses cited in FPR 1–7.103–30 as prescribed therein.

§ 12–7.103–31 Use of U.S. flag commercial vessels.

Insert the clause prescribed by FPR 1–19.108–2 under the conditions set forth therein.

§ 12–7.104 Additional clauses.

Insert the clauses cited in FPR Subpart 1–7.104 if it is desired to cover the subject matter.

§ 12–7.104–1 Liquidated damages provisions.

Insert the provisions set forth in FPR 1–1.315–3 under the conditions prescribed in FPR 1–1.315.

§ 12–7.104–2 Changes to "make-or-buy" program.

Insert the clause set forth in FPR 1–3.902–3 in all contracts containing a "make or buy" program.

§ 12–7.104–50 Fast payment provisions.

In accordance with DOTPR 12–3.653 insert the following clause in all fast payment orders:

FAST PAYMENT PROCEDURE

(a) *General.* This is a fast payment order. Invoices will be paid on the basis of the Contractor's delivery to a post office, common carrier, or, in shipment by other means, to the point of first receipt by the Government.

(b) *Responsibility for supplies.* Title to the supplies shall vest in the Government upon delivery to a post office or common carrier for shipment to the specific destination. If shipment is by means other than post office or common carrier, title to the supplies shall vest in the Government upon delivery to the point of first receipt by the Government. Notwithstanding any other provision of the purchase order, the contractor shall assume all responsibility and risk of loss for supplies (i) not received at destination, (ii) damaged in transit, or (iii) not conforming to purchase requirements. The Contractor shall either replace, repair, or correct such supplies promptly at his expense, *Provided*, Instructions to do so are furnished by the Contracting Officer within ninety (90) days from the date title to the supplies vests in the Government.

(c) *Preparation of invoice.* (1) Upon delivery of supplies to a post office, common carrier, or in shipments by other means, the point of first receipt by the Government, the Contractor shall prepare an invoice in accordance with the instructions in this order, except that invoices under a blanket purchase agreement shall be prepared in accordance with the provisions of the agreement. In shipments by either post office or common carriers, the Contractor shall either (A) cite on his invoice the date of shipment, name and address of carrier, bill of lading number or other shipment document number, or (B) attach copies of such documents to his invoice as evidence of shipment. In addition the invoice shall be prominently marked "Fast Pay." In case of delivery by other than post office of common carrier, a receipted copy of the Contractor's delivery document shall be attached to the invoice as evidence of delivery.

(2) If the purchase price excludes the cost of transportation, the contractor shall enter the prepaid shipping cost on the invoice as a separate item. The cost of parcel post insurance will not be paid by the Government. If transportation charges are separately stated on the invoice, the contractor agrees to retain related paid freight bills or other transportation billings paid separately for a period of three years and to furnish such bills to the Government when requested for audit purposes.

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(d) *Certification of invoice.* The contractor agrees that the submission of an invoice to the Government for payment is a certification that the supplies for which the Government is being billed have been shipped or delivered in accordance with shipping instructions issued by the ordering officer, in the quantities shown on the invoice, and that such supplies are in the quantity and of the quality designated by the cited purchase order.

(End of provisions)

§ 12–7.150 Required DOTPR clauses.

The following clauses shall be inserted in all fixed price supply contracts exceeding $10,000, except where they are clearly inappropriate for use (e.g., contracts for subsistence supplies). Additional clauses may be used which are considered by each Administration to be essential to its operations.

§ 12–7.150–1 Gratuities.

GRATUITIES

(a) The Government may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract if it is found, after notice and hearings, by the agency head or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the Government with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such contract; *Provided*, That the existence of the facts upon which the agency head or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

(b) In the event this contract is terminated as provided in paragraph (a) hereof, the Government shall be entitled (i) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor (ii) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the agency head or his duly authorized representative) which shall be not less than three or more than ten times the cost incurred by the Contractor in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

§ 12–7.150–2 New materials.

NEW MATERIALS

Except as to any supplies or components which the contract specifically provides need not be new, all supplies and components to be provided under this contract shall be new (not used or reconditioned, and not of such age or so deteriorated as to impair their usefulness or safety), of current production, and of the most suitable grade for the purpose intended. If at any time during the performance of this contract the Contractor believes that the furnishing of supplies or components which are not new is necessary or desirable, he shall notify the Contracting Officer immediately, in writing, including the reasons therefor and proposing any consideration which will flow to the Government if authorization to use such supplies is granted.

(End of clause)

§ 12–7.150–3 Priorities, allocations, and allotments.

PRIORITIES, ALLOCATIONS, AND ALLOTMENTS

The Contractor shall follow the provisions of DMS Reg. 1 and all other applicable regulations and orders of the Business and Defense Services Administration in obtaining controlled materials and other products and materials required for the performance of this contract.

(End of clause)

§ 12–7.150–4 Interpretation or modification.

INTERPRETATION OR MODIFICATION

No oral statement of any person, and no written statement of anyone other than the Contracting Officer, or his authorized representative designated in accordance with section 12–1.402–50 of the DOT Procurement Regulations (41 CFR 12–1.402–50), acting within the limits of his authority specified in such designation, shall modify or otherwise affect any provision of the contract.

(End of clause)

§ 12–7.150–5 Notice of readiness for inspection.

NOTICE OF READINESS FOR INSPECTION

(a) If the contract provides for inspection at the Contractor's plant, the Contractor shall give the Contracting Officer at least 5 days' (unless a longer period is specified in the Schedule) written or telegraphic notice of readiness for inspection in cases where no security clearance is required for the Government Inspector. In cases where security clearance is required for the Government Inspector to obtain access to the Contractor's plant, the Contractor shall also advise the Contracting Officer and give at least 8 days' notice of readiness for inspection.

(b) In those cases where a Government Inspector is assigned to the plant for the purpose of conducting continuous inspections of production on the contract, and he is otherwise kept informed of the progress of production, the written notices specified in (a) above need not be given.

(End of clause)

§ 12–7.150–6 Definition of delivery terms.

DEFINITION OF DELIVERY ITEMS

The meaning of delivery terms used in this contract such as "f.o.b. origin", "f.o.b. destination", "f.a.s. vessel, port of shipment", and other delivery terms shall be as those terms are defined in subpart 1–19.3 of the Federal Procurement Regulations (41 CFR 1–19.3).

(End of clause)

12–7.150–7 Evidence of delivery.

EVIDENCE OF DELIVERY

When the contract delivery point is "f.o.b. origin", evidence of delivery shall be submitted with invoices. In the case of freight or express shipment, this evidence shall be in the form of memorandum copies of Bills of Lading duly receipted by the carrier. In the case of parcel post shipments this evidence shall be by Post Office Certificate of Mailing, Form 3817. If the invoice submitted for payment is not accompanied by evidence of delivery, discounts for prompt payment will be computed from date of receipt of such evidence of delivery, when the contract delivery point is other than "f.o.b. origin", evidence of delivery will be obtained from the consignee.

(End of clause)

12–7.150–8 Withholding payment for nondelivery of data.

When the contract requires data to be furnished, its timely delivery is important. The clause set forth below is designed to insure timely delivery of complete and current data. The clause provides for a withholding of a certain percentage of the contract price, but the contracting officer may specify a lesser amount in the schedule if circumstances warrant.

WITHHOLDING PAYMENT FOR NONDELIVERY OF DATA

(a) If technical data such as plans, drawings, reports, spare parts lists, repair parts lists, or the like, or instruction books (including manuscript or printer's copy), or any part thereof, are not delivered within the time specified by this contract or are deficient upon delivery, the Contracting Officer shall, at his discretion, withhold from each invoice a percentage of the contract price in accordance with the following table:

When total contract price is:

	Percentage to be withheld is—
Less than $250,000	10
$250,000 to $1,000,000	5
Over $1,000,00	2

(b) The withholding of any sums pursuant to this clause shall not be construed as, or constitute in any manner, a waiver by the Government of the Contractor's obligation to furnish the data required under this contract. In the event the Contractor fails to furnish these items, the Government shall have those rights and remedies provided by law and pursuant to this contract in addition to, and not in lieu of, the sums withheld in accordance with this clause.

(End of clause)

§ 12–7.150–9 Notice of delays.

NOTICE OF DELAYS

(a) Whenever the Contractor encounters any difficulty which is delaying or threatens to delay the timely performance of this contract (including actual or potential labor disputes), the Contractor shall immediately give notice thereof in writing to the Contracting Officer, stating all relevant information with respect thereto. Such notice shall not in any way constitute a basis for an extension of the delivery schedule or be construed as a waiver by the Government of any rights or remedies to which it is entitled by law or pursuant to provisions of this contract. Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery schedule because of such delay.

(b) The Contractor agrees to insert the substance of this clause, including this paragraph (b), in any subcontract hereunder; except that each such subcontract shall provide that in the event its timely performance is delayed or threatened by delay, the subcontractor shall immediately notify his next higher tier subcontractor, or the prime contractor, as the case may be, of all relevant information with respect thereto.

(End of clause)

12–7.150–10 Dissemination of contract information.

DISSEMINATION OF CONTRACT INFORMATION

The Contractor shall not publish, permit to be published, or distribute for public consumption, any information, oral or written, concerning the results or conclusions made pursuant to performance of this contract, without prior written consent of the Contracting Officer. (Two copies of any material proposed to be published or distributed shall be submitted to the Contracting Officer.)

(End of clause)

12–7.150–11 Authorization and consent.

Insert the following clause under the conditions prescribed in DOTPR 12–9.–151–1.

AUTHORIZATION AND CONSENT

The Government hereby gives its authorization and consent (without prejudice to any rights of indemnification) for all use and manufacture, in the performance of this contract or any part hereof or any amendment hereto or any subcontract hereunder (including any lower tier subcontract, of any invention described in and covered by a patent of the United States (i) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract, or (ii) utilized in the machinery, tools, or methods the use of which necessarily results from compliance by the Contractor or the using subcontractor with (a) specifications or written provisions now or hereafter forming a part of this contract, or (b) specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clauses, if any, included in this contract or any subcontract hereunder (including any lower tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

(End of clause)

§ 12–7.150–12 Background patents (license).

Insert the following clause under the conditions prescribed in DOTPR 12–9.150.

BACKGROUND PATENTS (LICENSE)

(a) "Product" as used herein means a process, machine article of manufacture, or composition of matter the same as, or substantially the same as, that worked on under the contract.

(b) "Background patent" as used herein means any United States patent, under which the Contractor has the right to license others, and which covers the manufacture, use or sale of any product.

(c) When the Secretary determines:

(1) That a product is required by members of the public in the interest of the public health, safety, or welfare; and,

(2) That neither the Contractor, nor any other person deriving rights from his patents, has produced the product at a reasonable price, in sufficient, quantity, and at a level of quality to meet public needs;

the Contractor shall, on written application, issue appropriate licenses to others under any Background Patent on reasonable terms, such licenses to be restricted to the production, sale, and use of the product.

(d) when the Secretary has made the determination set forth in (c) above, the Contractor (or those deriving rights from the Contractor) shall not seek injunctive relief to enforce a Background Patent without:

(1) Previously advising the General Counsel, Office of the Secretary, Department of Transportation;

(2) Granting the Government the right to intervene in the injunction proceeding; and

(3) Disclosing the commitment set out in this clause to the court from which the injunction is sought.

(End of clause)

§ 12–7.151 DOTPR clauses to be used when applicable.

The following clauses shall be included in the contract when their use is appropriate.

§ 12–7.151–1 Patent indemnity.

In accordance with DOTPR 12–9.152–1 and DOTPR 12–9.152–3, insert the following clause or clauses under the conditions prescribed therein.

(a) *Patent indemnity.* If the amount of this contract is in excess of $10,000, the Contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs, for infringement of any United States letters patent (except letters patent issued upon an application which is now or may hereafter be kept secret or otherwise withheld for issue by order of the Government) arising out of the manufacture or delivery of supplies or out of construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this contract, or out of the use or disposal by or for the account of the Government of such supplies or construction work. The foregoing indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement, and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in the defense thereof; and further, such indemnity shall not apply to : (i) an infringement resulting from compliance with specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the Contractor; (ii) an infringement resulting from addition to, or change in, such supplies or components furnished or construction work performed which addition or change was made subsequent to delivery or performance by the Contractor; or (iii) a claimed infringement which is settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction.

(End of clause)

(b) *Waiver of indemnity.* Any provision of this contract to the contrary notwithstanding, the Government hereby authorizes and consents to use and manufacture, solely in the performance of this contract, of any invention covered by the United States patents identified and listed below, and waives indemnification by the Contractor with respect to such patents: (Identify the patents by number or by other means if more appropriate).

(End of clause)

§ 12–7.151–2 Filing of patent applications.

Insert the following clause under the conditions prescribed in DOTPR 12–9.154.

FILING OF PATENT APPLICATIONS

(a) Before filing or causing to be filed a patent application in the United States disclosing any subject matter of this contract, which subject matter is classified "Secret" or higher, the Contractor shall, citing the thirty (30) day provision below, transmit the proposed application to the Contracting Officer for determination whether, for reasons of national security, such application should be placed under an order of secrecy or sealed in accordance with the provisions of 35 U.S.C 181–188 or the issuance of a patent should be otherwise delayed under pertinent United States statutes or regulations; and the Contractor shall observe any instructions of the Contracting Officer with respect to the manner of delivery of the patent application to the United States Patent Office for filing, but the Contractor shall not be denied the right to file such patent application. If the contracting Officer shall not have given any such instructions within thirty (30) days from the date of mailing or other transmittal of the proposed application, the Contractor may file the application.

(b) The Contractor shall furnish to the Contracting Officer, at the time of or prior to the time when the Contractor files or causes to be filed a patent application in the United States disclosing any subject matter of this contract, which subject matter is classified "Confidential", a copy of such application for determination whether, for reasons of national security, such application should be placed under an order of secrecy or the issuance of a patent should be otherwise delayed under pertinent United States statutes or regulations.

(c) Where the subject matter of this contract is classified for reasons of security, the Contractor shall not file, or cause to be filed in any country, other than in the United States as provided in (a) and (b) of this clause, an application or registration for a patent containing any of said subject matter without first obtaining written approval of the Contracting Officer.

(d) When filing any patent application coming within the scope of this clause, the Contractor shall observe all applicable security regulations covering the transmission of classified subject matter, and shall also promptly furnish to the Contracting Officer the serial number, filing date, and name of country of any such patent application. When transmitting the application to the United States Patent Office, the Contractor shall by separate letter identify by agency and number the contract or contracts which require security classification markings to be placed on the application.

(e) The substance of this clause shall be included in all subcontracts which cover or are likely to cover classified subject matter.

(End of clause)

§ 12–7.151–3 Reporting of royalties (foreign).

Insert the following clause under the conditions prescribed in DOTPR 12–9.156 (d) (1).

REPORTING OF ROYALTIES (FOREIGN)

(a) If this contract is in an amount which exceeds fifty thousand United States dollars ($50,000), the Contractor shall report in writing to the Contracting Officer during the performance of this contract the amount of royalties paid or to be paid by the Contractor directly to others in the performance of this contract. The Contractor shall also (i) furnish in writing any additional information relating to such royalties as may be requested by the Contracting Officer, and (ii) insert a provision similar to this clause in any

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subcontract hereunder which involves an amount in excess of the equivalent of fifty thousand United States dollars ($50,000).

(b) The term "royalties" as used herein refers to any costs or charges in the nature of royalties, license fees, patent or license amortization costs, or the like for the use of or for rights in patents or patent applications.

(End of clause)

§ 12–7.151–4 Refund of royalties.

Insert the following clause under the conditions prescribed in DOTPR 12–9.157.

REFUND OF ROYALTIES

(a) The contract price includes certain amounts for royalties payable by the Contractor or subcontractors or both, which amounts have been reported to the Contracting Officer.

(b) The term "royalties" as used in this clause refers to any costs or charges in the nature of royalties, license fees, patent or license amortization costs, or the like, for the use or for rights in patents and patent applications in connection with the performance of this contract or any subcontracts hereunder.

(c) The Contractor shall furnish to the Contracting Officer, before final payment under this contract, a statement of royalties paid or required to be paid in connection with the performance of this contract and subcontracts hereunder together with the reasons therefor.

(d) The Contractor will be compensated for royalties reported under (c) above only to the extent that such royalties were included in the contract price and are determined by the Contracting Officer to be properly chargeable to the Government and allocable to the contract. Therefore, to the extent that any royalties which are included in the contract price are not in fact paid by the Contractor or are determined by the Contracting Officer not to be properly chargeable to the Government and allocable to the contract, the contract price shall be reduced. Repayment or credit to the Government shall be made as the Contracting Officer directs.

(e) If, at any time within three (3) years subsequent to final payment under this contract, the Contractor for any reason is relieved in whole or in part from the payment of the royalties included in the final contract price as adjusted pursuant to paragraph (d) above, the Contractor shall promptly notify the Contracting Officer of that fact and shall reimburse the Government in a corresponding amount.

(f) The substance of this clause, including this paragraph (f), shall be included in any subcontract in which the amount of royalties reported during negotiation of the subcontract exceeds $250.

(End of clause)

§ 12–7.151–5 Rights in data—unlimited.

Insert the following clause under the conditions prescribed in DOTPR 12–9.201–1(a). Alterations in the clause may be made under the conditions prescribed in DOTPR 12–9.201–2.

RIGHTS IN DATA—UNLIMITED

(a) The term "subject data" as used herein means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this contract. The term includes graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or photographs; design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to, engineering drawings and associated lists, specifications, standards, process sheets, manual, technical reports, catalog item identifications, and related information. The term does not include financial reports, cost analyses, and similar information incidental to contract administration.

(b) (1) The Government may duplicate, use, and disclose, in any manner and for any purpose whatsoever, and have others to so do, all subject data delivered under this contract.

(2) The Contractor agrees to and does hereby grant to the Government, and to its officers, agents and employees acting within the scope of their official duties, a royalty-free, non-exclusive, irrevocable license throughout the world, to publish, translate, deliver, perform, dispose of, and to authorize others to so do, all subject data now or hereafter covered by copyright.

(3) The Contractor shall report to the Contracting Officer promptly and in reasonably written detail, each notice or claim of copyright infringement with respect to all subject data delivered under this contract.

(c) Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(d) The Contractor shall not affix any restrictive markings upon any subject data, and if such markings are affixed, the Government shall have the right at any time to modify, remove, obliterate or ignore any such markings.

(End of clause)

§ 12–7.151–6 Rights in data—title.

Insert the following clause under the conditions prescribed in DOTPR 12–9.201–1(b). Alterations in the clause may be made under the conditions prescribed in DOTPR 12–9.201–2.

RIGHTS IN DATA—TITLE

(a) The term "subject data" as used herein means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this contract. The term includes graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term does not include financial reports, cost analyses, and similar information incidental to contract administration.

(b) (1) The Government may duplicate, use, and disclose, in any manner and for any purpose whatsoever, and have others to so do, all subject data delivered under this contract.

(2) The Contractor agrees to and does hereby grant to the Government, and to its officers, agents and employees acting within the scope of their official duties, a royalty-free, non-exclusive, irrevocable license throughout the world (1) to publish, translate, reproduce, deliver, perform, use, and dispose of, in any manner, any and all data not first produced or composed in the performance of this contract but which is incorporated in the work furnished under this contract; and (2) to authorize others so to do.

(d) The Contractor shall indemnify and save and hold harmless the Government, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, performance, use, or disposition of any data furnished under this contract.

(e) Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(f) Paragraphs (c) and (d) above are not applicable to material furnished to the Contractor by the Government and incorporated in the work furnished under the contract; *Provided*, Such incorporated material is identified by the Contractor at the time of delivery of such work.

(End of clause)

§ 12–7.151–7 Recovery of developmental costs.

Insert the following clause under the conditions prescribed in DOTPR 12–9.702.

RECOVERY OF DEVELOPMENTAL COSTS

(a) As may be determined by the contracting officer to be fair, reasonable and equitable, the contractor shall pay to the Government up to 5% of sums hereafter received by or credited to the Contractor or its privies (including subcontractors) on sales or leases (exclusive of sales or leases to the U.S. Government, either directly or indirectly through Government prime contractors or subcontractors) of any product which is substantially the same in design as, or which is directly derived from, that developed by the Contractor or any of its subcontractors in the performance of this contract.

(b) In selling or leasing the product identified in paragraph (a) above to the Government, either directly or indirectly through Government prime Contractors or subcontractors, the Contractor or its privies (including subcontractors) shall notify the purchaser or lessee in writing that the product was developed under a Department of Transportation contract containing a Recovery of Development Costs clause and that the purchase or lease price of such product is less than the price of such product when sold or leased to other than the Government by an amount no less than the Government's share under the Recovery of Developmental Costs clause. A copy of each such notice shall be sent to the Contracting Officer. In the event the product is sold or leased to the Government, the amount by which the sales or lease price was reduced by virtue of this clause shall be credited to the amount recoverable under this clause.

(c) As may be determined by the Contracting Officer to be fair, reasonable and equitable, the Contractor shall also pay to the Government up to 33% of all sums hereafter received by, or credited to, the Contractor or its privies (including subcontractors) as payments under technical agreements permitting others (1) to sell, lease, or manufacture the product identified in paragraph (a) above, or (2) to use any process which is substantially the same as, or which is directly derived from, that developed by the Contractor or any of its subcontractors in the performance of this contract.

(d) Recovery by the Government under this clause shall be limited to amounts paid and credited to the Contractor under this contract Payments to the Government under this clause shall not be so high as to destroy the Contractor's competitive position for the product involved, provided that the product is otherwise reasonably priced and efficiently and economically produced.

(e) The Contractor shall report to the Government all sales leases, licensing agreements royalties and receipts, which might reasonably be considered to be subject to this clause; and the Contractor shall promptly render accurate, certified accounts thereon to the Government at reasonable intervals

(End of clause)

§ 12–7.151–8 Government - furnished property.

(a) Except as provided in (b) and (c) below, insert the following clause in the contract when property will be furnished by the Government in the performance of this contract:

GOVERNMENT-FURNISHED PROPERTY

(a) *Property administration* The Contractor shall establish and administer a system to control, protect, preserve and maintain Government property in his possession or under his control or that of his subcontractors Such a system must be satisfactory to the Contracting Officer and in accordance with this clause and any other requirements of the contract.

(b) *Government-furnished property* (1) The Government shall deliver to the Contractor for use in connection with and under the terms of this contract, the property described as Government-furnished property in the Schedule or specifications, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (hereinafter referred to as "Government-furnished property")

(2) The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-furnished property suitable for use will be delivered to the Contractor at the time stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet such delivery or performance dates.

(3) If the Schedule does not state a date when Government-furnished property will be delivered, the Contractor shall notify the Contracting Officer in writing of the date by which he requires such property to meet the contract delivery or performance dates. The Contractor shall allow a minimum of 30 days for delivery of Government-furnished property unless a different time is specified in the Schedule. If not received five days before the date it is required by the Contractor, the Contracting Officer shall be so notified.

(4) If Government-furnished property is not delivered to the Contractor by the date specified in the Schedule, or by the date specified by the Contractor pursuant to (3) above, the Contracting Officer shall, upon timely request made by the Contractor, make a determination of the delay, if any, occasioned the Contractor and shall equitably adjust the delivery or performance dates or the contract price, or both, and any other contractual provision affected by any such delay in accordance with the procedures of the "Changes" clause of this contract.

(5) In the event that Government-furnished property is received by the Contractor in a condition not suitable for intended use (except for such property furnished "as is" or otherwise specified), the Contractor shall, upon receipt thereof, notify the Contracting Officer of such fact and, as directed by the Contracting Officer, either (i) return such property at the Government's expense or otherwise dispose of the property, or (ii) effect repairs or modifications. Upon completion of (i) or (ii) above, the Contracting Officer upon request of the Contractor shall equitably adjust the delivery or performance dates or the contract price or both, and any other contractual provisions affected by the return or disposition, or the repair or modification, in accordance with the procedures of the "Changes" clause of this contract.

(6) The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government-furnished property or delivery of such property in a condition not suitable for its intended use.

(c) *Changes in Government-furnished property.* (1) By notice in writing, the Contracting Officer may (i) decrease the property provided or to be provided by the Government under this contract, or (ii) substitute other Government-owned property for property to be provided by the Government or to be acquired by the Contractor for the Government under this contract. The Contractor shall promptly take such action as the Contracting Officer may direct with respect to the removal and shipping of property covered by such notice.

(2) In the event of any decrease in or substitution of property pursuant to subparagraph (1) above, or any withdrawal of authority to use property provided under any other contract or lease, which property the Government had agreed in the Schedule to make available for the performance of this contract, the Contracting Officer, upon the written request of the Contractor or on his own initiative (if the substitution of property causes a decrease in the cost of performance), shall equitably adjust such contractual provisions as may be affected by the decrease substitution, or withdrawal, in accordance with the procedures provided for in the "Changes" clause of this contract.

(d) *Title to property.* Title to all property furnished by the Government shall remain in the Government. Title to Government property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty.

(e) *Use of Government-furnished property.* The Government-furnished property shall, unless otherwise provided herein or approved by the Contracting Officer, be used only for the performance of this contract.

(f) *Maintenance and repair of Government property.* The Contractor shall maintain and administer, in accordance with sound industrial practice, a program for the maintenance, repair, protection, and preservation of Government property, while in custody of the Contractor. In the event that any damage occurs to Government property the risk of which has been assumed by the Government under this contract, the Government shall replace such items or the Contractor shall make such repair of the property as the Government directs: *Provided, however,* That if the Contractor cannot effect such repair within the time required, the Contractor shall dispose of such property in the manner directed by the Contracting Officer. The contract price includes no compensation to the Contractor for the performance of any repair or replacement for which the Government is responsible, and an equitable adjustment will be made in any contractual provisions affected by such repair or replacement of Government property made at the direction of the Government in accordance with the procedures provided for in the "Changes" clause of this contract. Where replacement parts are provided at the expense of the Government, the parts which are displaced remain the property of the Government. Any repair or replacement for which the Contractor is responsible under the provisions of this contract shall be accomplished by the Contractor at his own expense.

(g) *Risk of loss.* Unless otherwise provided in this contract, the Contractor assumes the risk of, and shall be responsible for, any loss or damage to Government property provided under this contract upon its delivery to him or any of his subcontractors or upon passage of title thereto to the Government as provided in paragraph (d) hereof, except for reasonable wear and tear and except to the extent that such property is justifiably consumed in the performance of this contract. The Contractor shall not be liable for loss or destruction of or damage to Government property if such loss, destruction or damage is due to causes beyond the control and without the fault or negligence of the Contractor or any of his subcontractors.

(h) *Access.* The Government, and any persons designated by it, shall at all reasonable times have access to the premises wherein any Government property is located, for the purpose of inspecting the Government property, or inventorying the same, or removing any part or all of the same, or for determining compliance with terms of the contract.

(i) *Final accounting and disposition of Government property.* Upon the completion of this contract, or at such earlier dates as may be fixed by the Contracting Officer, the Contractor shall submit, in a form acceptable to the Contracting Officer, inventory schedules covering all items of Government property not justifiably consumed in the performance of this contract (including any resulting scrap) or not theretofore delivered to the Government, and shall prepare for shipment, deliver f.o.b. origin (unless otherwise provided in the contract), or dispose of the Government property, as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or shall be paid in such other manner as the Contracting Officer may direct.

(j) *Notification.* The Contractor shall notify the Contracting Officer as soon as Government-furnished property is no longer required for performance of the contract. All shipments of Government-furnished property not delivered as an end item of the contract shall be effected only upon receipt of shipping instructions signed by the Contracting Officer or his duly authorized representative.

(k) *Restoration of Contractor's premises.* Unless otherwise provided herein, the Government: (1) May abandon any Government property in place, and thereupon all obligations of the Government regarding such abandoned property shall cease; (2) shall not be under any duty or obligation to restore or rehabilitate, or to pay the costs of the restoration or rehabilitation of, the Contractor's plant or any portion thereof which is affected by the abandonment or removal of any Government property; (3) shall be indemnified against all suits or claims arising out of the Government's failure to restore or rehabilitate the Contractor's property or the property of subcontractors, except for such damage

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as may be occasioned by the negligence of the Government, its agents, its employees, or independent contractors.

(i) *Communications.* All communications issued pursuant to this clause shall be in writing.

NOTE.—If this contract is with other than a United States firm or individual, the terms "Government" or "Government-furnished", wherever they appear in the text, are defined as meaning "United States Government."

(End of clause)

(b) In negotiated fixed-price contracts, when the Contracting Officer determines it inappropriate to place liability on the contractor for loss, destruction, or damage to Government-furnished property (e.g., where the cost of insurance against the potential liability is so high as to be unjustified when the value of the property is compared to the contract price), paragraph (g) of the clause shall be deleted and the paragraph (g) set forth in ASPR 7-104.24(c) substituted therefor.

§ 12-7.151-9 Military security requirements.

Insert the following Military Security Requirements clause (ASPR 7-104.12) in the contract in accordance with instructions for its use in DOTPR 12-1.352:

MILITARY SECURITY REQUIREMENTS (1971 APR)

(a) The provisions of this clause shall apply to the extent that this contract involves access to information classified "Confidential," "Secret" or "Top Secret."

(b) The Contractor shall comply with (i) the Security Agreement (DD Form 441), including the attached Department of Defense Industrial Security Manual for Safeguarding Classified Information (DOD 5220.22-M); and (ii) any revisions thereto, notice of which has been furnished to the Contractor.

(c) If, subsequent to the date of this contract, the security classification or security requirements under this contract are changed by the Government as provided in this clause and the security costs or time required for delivery under this contract are thereby increased or decreased, the contract price, delivery schedule, or both and any other provision of the contract that may be affected shall be subject to an equitable adjustment by reason of such increased or decreased costs. Any equitable adjustment shall be accomplished in the same manner as if such changes were directed under the "Changes" clause of this contract.

(d) The Contractor agrees to insert in all subcontracts hereunder which involve access to classified information provisions which shall conform substantially to the language of this clause, including this paragraph (d) but excluding the last sentence of paragraph (c) of this clause.

(End of clause)

§ 12-7.151-10 Price redetermination (prospective).

When it is determined, in accordance with FPR 1-3.404-5, to use a fixed-price contract providing for prospective redetermination of price, insert the clause set forth in ASPR 7-109.2.

§ 12-7.151-11 Price redetermination (retroactive).

When it is determined, in accordance with FPR 1-3.404-7, to use a fixed-price contract providing for retroactive redetermination of price, insert the clause set forth in ASPR 7-109.3.

§ 12-7.151-12 Stop work order.

The following clause may be included in negotiated contracts when the contracting officer determines its use appropriate. Examples might include contracts under which work stoppage may be required for reasons such as advancements in the state of the art, production or engineering breakthroughs, or realignment of programs. In no event shall the clause be used routinely.

STOP WORK ORDER

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of no longer than ninety (90) days after the order is delivered to the Contractor, and for any further period to which the parties may agree. Any such order shall be specifically identified as a Stop Work Order issued pursuant to this clause. Upon receipt of such an order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Prior to the expiration of the period of the stop work order, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either—

(1) Cancel the stop work order, or

(2) Terminate the work covered by such order as provided in the "Termination for Convenience" clause of this contract.

(b) If a stop work order issued under this clause is cancelled, or the period of the order or any extension thereof expires, the Contractor shall resume work. An equitable adjustment shall be made in the delivery schedule or contract price, or both, and the contract shall be modified in writing accordingly, if—

(1) The stop work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract, and

(2) The Contractor asserts a claim for such adjustment within thirty (30) days after the end of the period of work stoppage: *Provided*, That, without prejudicing the right to reject any claim asserted after this time, if the Contracting Officer decides the facts justify such action, he may receive and act upon any such claim asserted at any time prior to final payment under this contract.

(c) Failure to agree to any adjustment under paragraph (b) of this clause shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

(d) If a stop work order is not canceled and the work covered by such order is terminated for the convenience of the Government, the reasonable costs resulting from the stop work order shall be allowed in arriving at the termination settlement.

(End of clause)

§ 12-7.151-13 Value engineering clauses.

A value engineering incentive clause and/or a value engineering program requirement clause shall be included in the contract in accordance with the instructions for its use in DOTPR 12-1.5202-2 and DOTPR 12-1.5206.

(a) *Value engineering incentive clause.* (1) In accordance with DOTPR 12-1.5202 the following clauses are to be used in fixed price or fixed price with prospective price redetermination supply and service contracts:

VALUE ENGINEERING INCENTIVE

(a) *Application.* This clause applies to a contractor developed and documented Value Engineering Change Proposal (VECP) which

(i) Requires a change to this contract to implement the VECP, and

(ii) Reduces the overall costs to the agency without impairing essential functions or characteristics: *Provided*, That it is not based:

(A) Solely on a change in deliverable end item quantities; or

(B) A change in R&D end item or test quantities due solely to results of previous testing under this contract; or

(C) Solely on a change to the contract type.

(b) *Documentation.* As a minimum, the following information shall be submitted by the Contractor with each VECP:

(1) A description of the difference between the existing contract requirement and the proposed change, and the comparative advantages and disadvantages of each, justification when a function or characteristic of an item is being altered, and the effect of the change on the performance of the end item;

(ii) An analysis and itemization of the requirements of the contract which must be changed if the VECP is accepted and a recommendation as to how to make each such change (e.g., a suggested specification revision);

(iii) A separate detailed cost estimate for both the existing contract requirement and the proposed change to provide an estimate of the reduction in costs, if any, that will result from acceptance of the VECP, taking into account the costs of development and implementation by the Contractor (including any amount attributable to subcontracts in accordance with paragraph (h) below);

(iv) A prediction of any effects the proposed change would have on collateral costs to the agency such as Government furnished property costs, costs of related items, and costs of maintenance and operation;

(v) A statement of the time by which a contract modification accepting the VECP must be issued so as to obtain the maximum cost reduction, noting any effect on the contract completion time or delivery schedule; and

(vi) Identification of any previous submission of the VECP, including the dates submitted, the agencies involved, the numbers of the Government contracts involved, and the previous actions by the Government, if known.

(c) *Submission.* VECPs shall be submitted to the Contracting Officer (CO). VECPs shall be processed expeditiously; however, the Government shall not be liable for any delay in acting upon any VECP submitted pursuant to this clause. The Contractor has the right to withdraw, in whole or in part, any VECP not accepted by the Government within the period specified in the VECP.

(d) *Acceptance.* The Contracting Officer may accept, in whole or in part, by contract modification either before or within a reasonable time after performance has been completed under this contract, any VECP submitted pursuant to this clause. Until a contract modification applies a VECP to this contract, the Contractor shall remain obligated to perform in accordance with the terms of the existing contract. Contract modifications made pursuant to this clause will so state. The decision of the Contracting Officer as to the acceptance of any VECP under this contract (including the decision as to which clause is applicable to the proposal if this contract contains both a "Value Engineering Incentive" and a "Value Engineering Program Requirement" clause) shall be final and shall not be subject to the "Disputes" clause of this contract.

(e) *Sharing.* If a VECP submitted by the Contractor pursuant to this clause is accepted, the Contractor shall share in savings realized by the Government in accordance with the following provisions:

1. *Instant contract.* (i) *Definitions.* (A) Instant contract savings to the Contractor (ICS) is the unit cost reduction times the number of units affected in the instant contract. The proposed unit cost reduction includes estimated allowable contractor development and implementation costs (CC). The Contractor's development and implementation costs include any subcontractor development and implementation costs and any subcontractor incentive payments (see (h) below). For purposes of this clause, contractor development costs are those costs incurred after the Contractor has identified a specific VE project and prior to acceptance by the Government.

(B) Government Costs (GC) are those costs which directly result from development and implementation of the VECP, such as test and evaluation of the VECP, and any increased costs in DOT operations, maintenance, and logistics support.

(ii) *Calculations and actions.* (A) Calculate GC and ICS.

(B) If ICS exceeds GC, calculate fifty percent (50%) (Government share) of the sum of ICS and GC, i.e. (0.5 (ICS plus GC)), unless this is a VE Program Requirement Change (VEPRC), in which case calculate (0.75 ICS plus 0.25 GC). In either case, subtract the result from the contract price.

(C) If GC exceeds ICS, but acceptance of the VECP is still desirable due to concurrent or future savings, reduce the instant contract price by the amount of ICS and offset the amount by which GC exceeds ICS against concurrent or future savings.

(D) If the Contractor's cost of developing and implementing the VECP would result in an increase in the instant contract price, but the VECP is still desirable due to concurrent or future savings, equitably adjust the instant contract price in accordance with the "Changes" clause. In addition, offset the increase in the instant contract price and any GC against concurrent or future contract savings.

(E) See (e)(3)(ii) for those actions to be taken when a future contract is expected.

2. *Concurrent contracts.* (i) If the VECP accepted under this contract is also used on concurrent contracts of the purchasing office for essentially the same items, the Contractor shall be paid a share of any savings as calculated in (ii) below.

(ii) Calculations: (A) Determine the reduction in the price of each concurrent contract(s) as a result of incorporating the VECP.

(B) Subtract from the total amount in (A) any government costs (GC) not yet offset. (If GC was greater than ICS) in (e)(1)(ii) (C) or (D) above, and any increase in the instant contract price, i.e., if ICS was negative in (e)(1)(ii)(D). If the resulting number is positive, multiply it by fifty percent (50%) (25% if this is a VEPRC). Add this amount to the instant contract price.

3. *Future contracts.* Definition. The term unit cost reduction for future contract sharing shall be the unit cost reduction under this instant contract without deducting any cost of development or implementation.

(ii) If the VECP accepted under this contract is used on future purchases of essentially the same item by the purchasing office, or its successor, the Contractor shall share in the savings on all affected end items scheduled for delivery not later than three (3) years after acceptance of the first item incorporating the VECP, or until the originally scheduled delivery date of the last affected end item under the instant contract, whichever is later. When sharing on future contracts is expected, the Contractor shall be responsible for the following:

(A) Maintaining records adequate to support identification of the first delivered unit to which the VECP applies. These records are considered an intergral part of contract documentation and shall be maintained for a period of three years after final payment on the contract under which the VECP was accepted.

(B) Annotating the receiving report or invoice, which applies to the initial unit covered by the VECP with the following statement:

"This is the initial unit delivered which incorporates VECP No. -------- Contract Modification No. -------- dated --------."

(iii) Calculations. At the time each eligible future contract is awarded:

(A) Determine the number of units scheduled to be delivered prior to expiration of the contractor sharing period determined in (ii) above. Multiply this by the unit cost reduction as defined in (e)(3)(i).

(B) Subtract from the total amount in (A) any Government costs or instant contract increases not yet offset in (e)(1)(ii) (C) or (D) or in (e)(2)(ii)(B), or in other contracts awarded since acceptance of the VECP. If the resulting number is positive, multiply it by fifty percent (50%) (25% if this is a VEPRC) and add the result to the instant contract price.

4. *Collateral savings.* If an accepted VECP results in a measurable net reduction in the agency's overall documentable projected costs of maintenance, operation, logistic support or Government-furnished property, which exceeds any increase in costs attributable to incorporation of such VECP, including acquisition costs, the contract shall be increased by twenty percent (20%) of the projected net reduction in ascertainable collateral costs (i.e., savings determined to be realized during an average year of use of the item in which the change is incorporated) and, if applicable, of the actual savings accruing from a change or reduction of Government-furnished property under the instant contract. However, such increase representing the Contractor's share of collateral savings shall, in no event exceed the price of this contract or $100,000 whichever is greater. The determination of the amount of collateral savings, if any, will be made solely by the Government and shall not be subject to the "Disputes" clause of this contract. In all cases, degradation of performance, service life, or capability shall be a consideration in the determination of actual savings to the agency.

(f) Payment. The Contractor's concurrent and future contract shares should be paid upon modification of concurrent contracts or future contract award, or within six (6) months thereafter. However, any such payments are subject to the condition that to the extent the Government does not receive delivery of and accept all items on which the share is paid, the contractor shall reimburse the Government the proportionate share of the payments. If this clause is modified to provide for lump sum payments, such payments shall be made upon modification of the instant contract.

(g) Operation and maintenance contracts. If this is a contract for overhaul or maintenance (including repair, alteration, modification or modernization), the Contractor will be paid a share of future contract savings realized by the Government only on overhaul and maintenance of the designated items accomplished by purchase, under contract, by the designated purchasing office. Only collateral savings will be paid on application of accepted VECPs to overhaul and maintenance of items within Government resources.

(h) Subcontracts. The Contractor shall include appropriate VE arrangements in any subcontract of $100,000 or greater, and may include such arrangements in contracts of lesser value. To compute any adjustment in the contract price under paragraph (e)(1) above, the Contractor's cost of development and implementation of a VECP which is accepted under this contract shall include any development and implementation costs of a subcontractor and any VE incentive payments to a subcontractor, which clearly pertain to such VECP. However, no such payment or accrual to a subcontractor will be permitted, either as a part of the contractor's development or implementation costs or otherwise, to reduce the Government's share on collateral savings or additional purchases as contemplated by paragraph (e) (2), (3), or (4) of this clause.

(i) Data. The Contractor may restrict the Government's right to use any sheet of a VECP or of the supporting data, submitted pursuant to this clause, in accordance with the terms of following legend if it is marked on such sheet:

"This data furnished pursuant to the Value Engineering clause of contract ------- shall not be disclosed outside the Government, or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a VECP submitted under said clause. This restriction does not limit the Government's right to use information contained in this data if it is or has been obtained, or is otherwise available, from the Contractor or from another source, without limitations. If such a VECP is accepted by the Government under said contract after the use of this data in such an evaluation, the Government shall have the right to duplicate, use, and disclose any data reasonably necessary to the full utilization of such VECP as accepted, in any manner and for any purpose whatsoever, and have others so do."

In the event of acceptance of a VECP, the Contractor hereby grants to the Government all rights to use, duplicate or disclose, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so, any data reasonably necessary to fully utilize such VECP.

(j) Miscellaneous Provisions. (1) For purposes of sharing under paragraph (e)(1) above, the term "instant contract" shall not include any modifications of the instant contract, executed after acceptance of the particular VECP, by which the Government increases the quantity of any item, or adds any item, nor shall it include any extension of the instant contract through exercise of an option provided under this contract after acceptance of the VECP. Such modifications and extensions shall be considered "future contracts" within the provisions of paragraph (e)(3) of this clause.

(2) If this is an indefinite delivery type contract, the term "instant contract" for purposes of sharing under paragraph (e)(1) above shall include only those orders actually placed by the Government up to the time the particular VECP is accepted. All orders placed subsequent to the acceptance of the particular VECP shall be considered "future contracts" within the provisions of paragraph (e)(3) of this clause.

(3) If this clause is included in a basic ordering agreement, the term "instant contract", for purposes of sharing under paragraph (e)(1) above, shall be the order under which the particular VECP is approved. Other orders under the same agreement shall be considered either "concurrent contracts" (if awarded prior to acceptance of the VECP) or

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"future contracts" (if awarded after acceptance of the VECP), within the provisions of paragraph (e)(2) or (e)(3) of this clause respectively.

(4) If this clause is included in a multi-year contract, "instant contract" for the purpose of sharing under paragraph (e)(1) above, shall be the funded contract at the time the VECP is approved, and items purchased under subsequent funding under this contract shall be treated under the future contract VE sharing provisions in paragraph (e)(3) of this clause. The sharing period shall be the entire life of the multi-year contract, or three (3) years after delivery of the first item incorporating the VECP, whichever, is longer.

(5) If this clause is included in a fixed price contract providing for prospective price redetermination, the term "instant contract" for purposes of sharing under paragraph (e)(1) above shall be that period for which firm prices have been established. The remaining periods under this contract shall be treated under the future contract VE sharing provisions in paragraph (e)(3) of this clause.

(6) Those portions of an accepted VECP which are rewardable under other performance incentive provisions of this contract shall be rewarded under the provisions of this clause to the extent that they are not rewarded under the other performance incentive provisions.

(7) The Contracting Officer may require the Contractor to provide written notification prior to risking significant expenditures for VECP effort.

(End of clause)

(2) *Fixed-price incentive (firm target) contracts.* Substitute the following "sharing" provisions for paragraph (e) of the clause in paragraph (a)(1) of this section:

(e) Sharing. If a VECP submitted by the Contractor pursuant to this clause and affecting any of the items described in paragraph (a) of the "Incentive Price Revision (Firm Target)" clause of this contract is accepted, the Contractor shall share in savings realized by the Government in accordance with the following provisions:

(1) Instant contract.

(i) Definitions.

(A) Instant contract savings to the Contractor (ICS) is the unit cost reduction times the number of units affected in the instant contract. The proposed unit cost reduction includes estimated allowable Contractor development and implementation costs (CC). The Contractor's development and implementation costs include any subcontractor development and implementation costs and any subcontractor incentive payments (see (h) below). For purposes of this clause, Contractor development costs are those costs incurred after the Contractor has identified a specific VE project and prior to acceptance by the Government.

(B) Government Costs (GC) are those which directly result from development and implementation of the VECP, such as test and evaluation of the VECP, and any increased costs in DOT operations, maintenance, and logistic support.

(ii) Calculations and actions.

(A) If there is a reduction in costs, reduce the total target cost of items affected by the VECP by ICS. If there is an increase in cost, see (E) below.

(B) If ICS exceeds GC, add 35% (20% if this is a VE Program Requirement Change (VEPRC)) of the excess to total target profit relating to such items.

(C) If GC exceeds ICS, but acceptance of the VECP is still desirable due to concurrent or future savings, do not adjust total target profit relating to such items, and offset the amount by which GC exceeds ICS against concurrent or future contract savings.

(D) Subtract 65% (80% if this is a VEPRC) of ICS from the maximum dollar limit on the total final price of such items.

(E) If the Contractor cost of developing and implementing the VECP would result in an increase in the instant contract target cost, but the VECP is still desirable due to concurrent or future savings, equitably adjust the total target cost, total target profit and maximum dollar limit on the total final price of the items affected by the VECP in accordance with the "Changes" clause. Offset this increase and any GC against concurrent or future savings.

(F) See (e)(3)(ii) for those actions to be taken when a future contract is expected.

(2) Concurrent contracts.

(i) If the VECP accepted under this contract is also used on concurrent contracts of the purchasing office for essentially the same items the Contractor shall be paid a share of any savings as calculated in (ii) below.

(ii) Calculations.

(A) Determine the reduction in the price of each concurrent contract(s) as a result of incorporating the VECP

(B) Subtract from the total amount in (A) any government costs not yet offset (if GC was greater than ICS) in (e)(1)(ii) (C) or (E) above, and any increase in the instant contract price, i.e., if ICS was negative in (e)(1)(ii)(E). If the resulting number is positive, multiply it by 35% (20% if VEPRC). Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters.

(3) Future contracts.

(i) Definition. The term unit cost reduction for future contract sharing shall be the unit cost reduction under this instant contract without deducting any cost of development or implementation.

(ii) If the VECP accepted under this contract is used on future purchases of essentially the same item by the purchasing office, or its successor, the Contractor shall share in the savings on all affected end items scheduled for delivery not later than 3 years after acceptance of the first item incorporating the VECP, or until the originally scheduled delivery date of the last affected end item under the instant contract, whichever is later. When sharing on future contracts is expected, the Contractor shall be responsible for the following:

(A) Maintaining records adequate to support identification of the first delivered unit to which the VECP applies. These records are considered an integral part of contract documentation and shall be maintained for a period of three years after final payment on the contract under which the VECP was accepted.

(B) Annotating the receiving report or invoice, which applies to the initial unit covered by the VECP with the following statement:

"This is the initial unit delivered which incorporates VECPP No. ----, Contract Modification No. ----, dated ----------."

(iii) Calculations. At the time each eligible future contract is awarded:

(A) Determine the number of units scheduled to be delivered prior to expiration of the Contractor sharing period determined in (ii) above. Multiply this by the unit cost reduction as defined in (e)(3)(i).

(B) Subtract from the total amount in (A) any government costs or instant contract increases not yet offset in (e)(1)(ii) (C) or (E) or in (e)(2)(ii)(B), or in other contracts awarded since acceptance of the VECP. If the resulting number is positive, multiply it by 35% (20% if VEPRC). Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters.

(4) Collateral savings. If an accepted VECP results in a measurable net reduction in the agency's overall documentable projected costs of maintenance, operation, logistics support or Government-furnished property, which exceeds any increase in costs attributable to incorporation of such VECP, including acquisition costs, the contract shall be increased by twenty percent (20%) of the projected net reduction in ascertainable collateral costs (i.e., savings determined to be realized during an average year of use of the item in which the change is incorporated), and, if applicable, of the actual savings accruing from a change or reduction of Government-furnished property under the instant contract. Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters. However, such increase representing the Contractor's share of collateral savings shall, in no event, exceed the price of this contract or $100,000, whichever is greater. The determination of the amount of collateral savings, if any, will be made solely by the Government and shall not be subject to the "Disputes" clause of this contract. In all cases, degradation of performance, service life, or capability shall be a consideration in the determination of actual savings to the agency.

(End of clause paragraph)

(3) *Fixed-price incentive (successive target) contracts.* Substitute the following "sharing" provision for paragraph (e) of the clause in paragraph (a)(1) of this section:

(e) Sharing. If a V submitted by the Contractor pursuant s clause and affecting any of the items described in paragraph (a) of the "Incentive Price Revision (Successive Target)" clause of this contract is accepted, the Contractor shall share in savings realized by the Government in accordance with the following provisions:

(1) Instant contract.

(i) Definitions.

(A) Instant contract savings to the Contractor (ICS) is the unit cost reduction times the number of units affected in the instant contract. The proposed unit cost reduction includes estimated allowable Contractor development and implementation costs (CC). The Contractor's development and implementation costs include any subcontractor development and implementation costs and any subcontractor incentive payments (see (h) below). For purposes of this clause, Contractor development costs are those costs incurred after the Contractor has identified a specific VE project and prior to acceptance by the Government.

(B) Government Costs (GC) are those costs which directly result from development and implementation of the VECP, such as test and evaluation of the VECP, and any increased costs in DOT operations, maintenance and logistics support.

(ii) Calculations and actions.

(A) If the VECP is accepted and applied to this contract before the establishment of a firm fixed price in accordance with paragraph (c) of the "Incentive Price Revision (Successive Targets)" clause of this contract:

(I) If there is a reduction in cost, reduce the then total target cost of items affected by the VECP by ICS. If there is an increase in cost see (V) below.

(II) If ICS exceeds GC, add 35% (20% if this is a VE Program Requirements change (VEPRC)) of the excess to the then target profit relating to such items (if a firm profit adjustment formula is established in accordance with paragraph (a) of the "Incentive Price Revision (Successive Targets)" clause of this contract, the above percentage may be modified for application to VE cost reduction proposals, submitted pursuant to this clause, which are accepted under this contract after the establishment of said formula).

(III) If GC exceeds ICS, but acceptance of the VECP is still desirable due to concurrent or future savings, do not adjust the then target profit, and offset the amount GC exceeds ICS against concurrent or future contract savings.

(IV) Subtract 65% (80% if this is a VEPRC) of ICS from the maximum dollar limit on the total final price of such items.

(V) If the Contractor cost of developing and implementing the VECP would result in an increase in the then instant contract target cost, but the VECP is still desirable due to concurrent or future savings, equitably adjust the then total target cost, the then target profit, and the then maximum dollar limit on the total final price of the items affected by the VECP in accordance with the "Changes" clause. Offset this increase and any GC against concurrent or future savings. (If a firm profit adjustment formula is established in accordance with paragraph (a) of the "Incentive Price Revision (Successive Targets)" clause of this contract, and the VECP significantly increases the target cost, the above percentage may be modified for application to the VECPs, submitted pursuant to this clause, which are accepted under this contract after the establishment of said formula.)

(B) If the VECP is accepted after the establishment of a firm fixed price in accordance with paragraph (c) of the "Incentive Price Revision (Successive Targets)" clause of this contract.

(I) Calculate GC and ICS.

(II) If ICS exceeds GC, calculate 50% (Government share) of the sum of ICS and GC, i.e., (.5 (ICS plus GC)), unless this is a VE Program Requirement change (VEPRC), in which case calculate (.75 ICS plus .25 GC). In either case, subtract the result from the contract price.

(III) If GC exceeds ICS, but acceptance of the VECP is still desirable due to concurrent or future savings, reduce the instant contract price by the amount of ICS and offset the amount by which GC exceeds ICS against concurrent or future savings.

(IV) If the Contractor's cost of developing and implementing the VECP would result in an increase in the instant contract price, but the VECP is still desirable due to concurrent or future savings, equitably adjust the instant contract price in accordance with the "Changes" clause. In addition, offset the increase in the instant contract price and any GC against concurrent or future contract savings.

(C) See (e)(3)(ii) for those actions to be take when a future contract is expected.

(2) Concurrent contracts.

(i) If the VECP accepted under this contract is also used on concurrent contracts of the purchasing office for essentially the same items, the Contractor shall be paid a share of any savings as calculated in (ii) below.

(ii) Calculations.

(A) Determine the reduction in the price of each concurrent contract(s) as a result of incorporating the VECP.

(B) Subtract from the total amount in (A) any Government costs (GC) not yet offset (if GC was greater than ICS) in (e)(1)(ii)(A) (III) or (V) or (e)(1)(ii)(B) (III) or (IV) above, and any increase in the then instant contract target cost, i.e., if ICS was negative in either (e)(1)(ii)(A)(V) or (e)(1)(ii)(B)(IV). If the resulting number is positive, and the VECP was accepted under paragraph (e)(1)(ii)(A) multiply it by 35% (20% if this is a VEPRC). Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters. If the resulting number is positive, but the VECP was accepted under paragraph (e)(1)(ii)(B), multiply it by 50% (25% if this is a VEPRC), and add this amount to the instant contract price.

(3) Future contracts.

(i) Definition. The term unit cost reduction for future contract sharing shall be the unit cost reduction under this instant contract without deducting any cost of development or implementation.

(ii) If the VECP accepted under this contract is used on future purchases of essentially the same item by the purchasing office, or its successor, the Contractor shall share in the savings on all affected end items scheduled for delivery not later than three years after acceptance of the first item incorporating the VECP, or until the originally scheduled delivery date of the last affected end item under the instant contract, whichever is later. When sharing on future contracts is expected, the Contractor shall be responsible for the following:

(A) Maintaining records adequate to support identification of the first delivered unit to which the VECP applies. These records are considered an integral part of contract documentation and shall be maintained for a period of three years after final payment on the contract under which the VECP was accepted.

(B) Annotating the receiving report or invoice, which applies to the initial unit covered by the VECP with the following statement:

"This is the initial unit delivered which incorporates VECP No. ----, Contract Modification No. ----, dated ----------."

(iii) Calculations, at the time each eligible future contract is awarded:

(A) Determine the number of units scheduled to be delivered prior to expiration of the Contractor sharing period determined in (ii) above. Multiply this by the unit cost reduction as defined in (e)(3)(i).

(B) Subtract from the total amount in (A) any Government costs or instant contract increases not yet offset in (e)(1)(ii)(A) (III) or (V), or (e)(1)(ii)(B) (III) or (IV), or in (e)(2)(ii)(B), or in contracts awarded since acceptance of the VECP. If the resulting number is positive, and the VECP was accepted under paragraph (e)(1)(ii)(A), multiply it by 35% (20% if this was a VEPRC). If the resulting number was positive, but the VECP was accepted under paragraph (e)(1)(ii)(B), multiply it by 50% (25% if this was a VEPRC. In either case, add the amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contracts incentive parameters.

(4) Collateral Savings. If an accepted VECP results in a measurable net reduction in the agency's overall documentable projected costs of maintenance, operation, logistic support or Government-furnished property, which exceeds any increase in costs attributable to incorporation of such VECP, including acquisition costs, the contract shall be increased by twenty percent (20%) of the projected net reduction in ascertainable collateral costs (i.e., savings determined to be realized during an average year of use of the item in which the change is incorporated), and, if applicable, of the actual savings accruing from a change or reduction of Government-furnished property under the instant contract. Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters. However, such increase representing the Contractor's share of collateral savings shall, in no event, exceed the price of this contract or $100,000, whichever is greater. The determination of the amount of collateral savings, if any, will be made solely by the Government and shall not be subject to the "Disputes" clause of this contract. In all cases, degradation of performance, service life, or capability shall be a consideration in the determination of actual savings to the agency.

(End of clause)

(4) *Lump sum method of payment for future contract sharing.* In accordance with § 12-1.5203-4 substitute the following provisions for paragraph (e)(3) "Future Contracts" of the clause in paragraph (a)(1) of this section for use of the Lump Sum Method of payment for future contract sharing:

(3) Future contracts (lump sum). (i) Definition. The term unit cost reduction for lump sum sharing purposes shall be the unit cost reduction under this instant contract without deducting any cost of development or implementation.

(ii) If a VECP accepted under this contract is expected to be used on future purchases of essentially the same item by the purchasing office, or its successor, the Contractor shall share in the savings on the purchases which the purchasing office estimates will be delivered not later than three years after acceptance of the first item incorporating the VECP, or until the originally scheduled delivery date of the last affected end item under the instant contract, whichever is later.

(iii) Lump sum base. The number of items the Government estimates will be delivered during the period specified in (ii) above is ----(insert the number of units).

(iv) Calculations and actions.

(A) Multiply the unit cost reduction in (i) by the number of units specified in (iii) above.

(B) Subtract from the total amount in (A) any Government costs (GC) not yet offset (if GC was greater than ICS) and any increase in the increase in the instant contract price, i.e., if ICS was negative, multiply it by the Contractor percentage share. Add this amount to the instant contract.

(End of clause paragraph)

(5) *Future contract sharing provisions.* With respect to the future contract sharing provisions paragraph (e)(3) of the clause in paragraph (a)(1) of this section, or as those provisions may be modified by the lump sum provisions in paragraph (a)(4) of this section, when, in the judgment of the Contracting Office, the unit costs under the instant contract will not be fairly representative of the unit costs to be expected under future contracts due for example to learning curve application (as will generally be the case with developmental or design contracts and may be the case with early production contracts), the definition in paragraph (e)(3)(i) shall be changed as follows:

(i) Definition. The term "unit cost reduction" for future contract purposes shall be the average amount of the decrease in unit cost of performance (without deducting any Contractor costs of development or implementation) which the Contracting Officer

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estimates will result from utilization of the VECP on future purchases of the item. The item for design contracts will be the item to be produced as a result of the design process.

(End of clause paragraph)

(6) *Modification of sharing provisions applicable to incentive contracts.* When the sharing provisions applicable to incentive contracts are to be modified in accordance with 12-1.5203-1(c), clause paragraph (e) in paragraph (a)(2) or (a)(3) of this section, whichever is applicable, shall be further modified as follows:

(i) Modifications to clause paragraph (e) of paragraph (a)(2) of this section:

(A) Change clause paragraph (e)(1)(ii) to provide substantially as follows:

(ii) If the cost reduction proposal submitted pursuant to this clause involves an anticipated decrease in the cost of performance of this contract and is accepted by the Government, the parties agree that neither the target cost, target profit, nor ceiling price of the instant contract shall be adjusted by reason of the acceptance of such proposal. The new requirement will be incorporated into the contract by a contract modification which will state that it is made pursuant to this Value Engineering clause. When the cost of performance of this contract is increased as a result of the changes, the equitable adjustment increasing the contract price shall be in accordance with the "Changes" clause rather than under this clause, but the resulting contract modification will state that it is made pursuant to this clause.

(End of clause paragraph)

(B) Change clause paragraph (e)(2)(ii)(B) to provide substantially as follows:

(B) Subtract from the total amount in (A) any government costs not yet offset and any increase in the instant contract price. If the resulting number is positive, multiply it by 35% (20% if VEPRC) Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters.

(End of clause paragraph)

(C) Substitute the definition in paragraph (a)(5) of this section for the definition in clause paragraph (e)(3)(i).

(D) Change clause paragraph (e)(3)(iii)(B) to provide substantially as follows:

(B) Subtract from the total amount in (A) any government costs or instant contract increases not yet offset. If the resulting number is positive, multiply it by 35% (20% if VEPRC). Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters.

(End of clause paragraph)

(ii) Modifications to clause paragraph (e) of paragraph (a)(3) of this section.

(A) Change clause paragraph (e)(1)(ii)(A) to provide substantially as follows:

(A) If the cost reduction proposal submitted pursuant to this clause involves an anticipated decrease in the cost of performance of this contract and is accepted by the Government, the parties agree that neither the target cost, target profit, nor ceiling price of the instant contract shall be adjusted by reason of the acceptance of such proposal. The new requirement will be incorporated into the contract by a modification which will state that it is made pursuant to this Value Engineering clause. When the cost of performance of this contract is increased as a result of the changes, the equitable adjustment increasing the contract price shall be in accordance with the "Changes" clause rather than under this clause, but the resulting contract modification will state that it is made pursuant to this clause.

(End of clause paragraph)

(B) Change clause paragraph (e)(2)(ii)(B) to provide substantially as follows:

(B) Subtract from the total amount in (A) any government costs not yet offset and any increase in the instant contract price. If the resulting number is positive, multiply it by 35% (20% if VEPRC) Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters.

(End of clause paragraph)

(C) Substitute the definition in paragraph (a)(5) of this section for the definition in clause paragraph (e)(3)(i).

(D) Change clause paragraph (e)(3)(iii)(B) to provide substantially as follows:

(B) Subtract from the total amount in (A) any government costs or instant contract increases not yet offset. If the resulting number is positive, and the VECP was accepted before establishment of the firm fixed price under the instant contract, multiply it by 35 percent (20 percent if this was a VEPRC). If the resulting number is positive, but the VECP was accepted after establishment of the firm fixed price under the instant contract, multiply it by 50 percent (25 percent if this is a VEPRC). In either case, add the amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters.

(End of clause paragraph)

(b) *Value engineering program requirement.* In accordance with § 12-1.5206 insert the following revised contract clause title and paragraph (a) of the clause in paragraph (a)(1) of this section:

VALUE ENGINEERING PROGRAM REQUIREMENT

(a) The Contractor shall engage in a value engineering program in accordance with requirements specified by the Contracting Officer, shall submit progress reports thereon as specified in the contract and shall submit to the Contracting Officer any value engineering change proposals (VECPs) resulting from the required program. This clause applies to all VECPs developed by the Contractor unless the Contracting Officer determines the proposal to be rewardable under the "Value Engineering Incentive" clause (if any) of this contract, which:

(1) Requires a change to this contract to implement the VECP, and

(ii) Reduce the overall costs to the cognizant agency, without impairing essential functions or characteristics, *Provided*, That they are not based:

(A) Solely on a change in deliverable end item quantities; or

(B) A change in R&D end item or test quantities due solely to results of previous testing under this contract; or

(C) Solely on a change to the contract type.

(End of clause paragraph)

Paragraphs (b) through (j) of the clause set forth in paragraph (a)(1) of this section above shall be included as part of the VE Program Requirements clause except that, the guidelines in paragraph (a)(2) through (a)(5) of this section shall also be applicable.

§ 12-7.151-14 Multi-year procurement.

In accordance with DOTPR 12-1.55 insert the following clauses:

LIMITATIONS OF PRICE AND CONTRACTOR OBLIGATIONS

(a) This clause applies only in the event this contract is awarded on the alternative basis for award described in the Schedule as "Multi-Year Procurement."

(b) Funds are available for performance of this contract in the amount specifically described in the Schedule, as available for contract performance. The amount of funds so described at the time of award is not considered sufficient for the contract performance required by and described in the Schedule for any Program Year other than the First Program Year. Upon availability to the Contracting Officer of additional funds sufficient for performance of the full requirements for the next succeeding Program Year, the Contracting Officer shall, not later than the date specified in the Schedule, unless a later date is agreed to by the parties, so notify the Contractor in writing and the amount of funds described in the Schedule as available for contract performance shall be modified accordingly. This procedure shall apply for each successive Program Year.

(c) The Government is not obligated to the Contractor for contract performance in any monetary amount in excess of that described in the Schedule or modifications thereto, as available for contract performance.

(d) The Contractor is not obligated to incur costs for the performance required for any Program Year after the first and until he has been notified in writing by the Contracting Officer of an increase in availability of funds in accordance with paragraph (b) of this clause. If so notified, the Contractor's obligation shall be increased only to the extent contract performance is required for the additional Program Year for which funds have been made available.

(e) In the event of termination pursuant to the "Termination for Convenience of the Government" clause of this contract, the term "total contract price" as used in that clause refers to the amount available for performance of this contract, as provided for in this clause, plus the applicable amount established as the cancellation ceiling, and the term "work under the contract" as used in that clause refers to the work under Program Year requirements for which funds have been made available. In the event of termination for default, the Government's rights under this contract shall apply to the entire multi-year requirements.

(f) Notification to the Contractor of an increase or decrease in the funds available for performance of this contract as a result of a clause other than this clause (e.g., exercise of an option for increased quantities or the "Changes" clause) shall not constitute the notification contemplated by paragraph (b) of this clause.

(End of clause)

CANCELLATION OF ITEMS

(a) This clause applies only in the event this contract is awarded on the alternative basis for award described in the Schedule as "Multi-Year Procurement."

(b) As used herein, the term "cancellation" means that the Government is canceling, pursuant to this clause, its Program Year requirements for items set forth in the Schedule for all Program Years subsequent to that in which notice of cancellation is provided. Such cancellation shall occur only if, by the date or within the time period specified in the Schedule, or such further time as may be agreed to, the Contracting Officer (i) notifies the Contractor that funds will not be available for contract performance for any subsequent Program Year; or (ii) fails to notify the Contractor that funds have been made available for performance of the Program Year requirement for the succeeding Program Year.

(c) Except for cancellation pursuant to this clause or for termination pursuant to the "Default" clause, any reduction by the Contracting Officer in the quantities called for under this contract shall be considered a termination in accordance with the "Termination for Convenience of the Government" clause of this contract.

(d) In the event of cancellation pursuant to this clause, the Contractor will be paid, as consideration therefor, a cancellation charge not to exceed the cancellation ceiling described and separately set forth in the Schedule as being applicable at the time of cancellation.

(e) The cancellation charge is intended to cover (1) only costs reasonably necessary for production which would have been equitably amortized in the unit prices for the entire multiyear contract period, but which, because of the cancellation, are not so amortized and (ii) a reasonable profit on such costs. The cancellation charge shall be computed and claim therefor made as would be applicable under the "Termination for Convenience of the Government" clause of this contract. The Contractor shall submit the claim promptly but in no event later than one year (1) from the date of notification of the nonavailability of funds, if issued pursuant to paragraph (b)(i), or (ii) from the date specified in the Schedule by which notification of the availability of additional funds for the next succeeding program year is required to be issued, whichever is earlier, unless one or more extensions in writing are granted by the Contracting Officer, upon request of the Contractor made in writing within such one year period or authorized extension thereof. The claim may include reasonable preproduction and other nonrecurring costs, incurred by the prime contractor or his subcontractor, applicable to and which normally would be amortized in all items to be furnished under the multi-year requirements, such as plant rearrangement, special tooling, preproduction engineering, initial rework, initial spoilage and pilot runs, as well as costs not amortized by the level contract unit price solely because the cancellation had precluded anticipated benefits of Contractor or subcontractor learning. The claim shall not include any amount for:

(1) Labor, materials, or other expenses incurred by the Contractor or its subcontractors for production of canceled items;

(2) Any item or cost for which payment has already been made to the Contractor; or

(3) Anticipated profit on the cancelled items.

(End of clause)

Where options are otherwise authorized, multiyear contracts may include an appropriate "Option to Increase Quantities" clause in which the period for exercise of the option is limited to the date set forth in the contract Schedule for notifying the contractor that funds are available for the requirements of the next succeeding program year. If such an option is included, the following paragraph (f) should be added to the clause set forth above.

(f) The Contractor agrees not to include in the price for option quantities any costs of a startup or nonrecurring nature, which costs have been fully provided for in the unit prices of the firm quantities of the Program Years, and further agrees that the prices offered for option quantities will reflect only those recurring costs, and a reasonable profit thereon, which are necessary to further the additional option quantities. Therefore, any quantities added to the original contract quantities through exercise of the Government option in the "Option to Increase Quantities" clause of this contract shall not be substracted from what would otherwise be considered the quantity canceled for the purpose of computing allowable cancellation charges.

(End of clause paragraph)

§ 12-7.151-15 Renegotiation.

Except where it has been determined that the contract is exempt from the Renegotiation Act of 1951, as amended, insert the following clause in contracts awarded by the Federal Aviation Administration:

RENEGOTIATION

(A) To the extent required by law, this contract is subject to the Renegotiation Act of 1951 (50 U.S.C. App. 1211, et seq.), as amended, and to any subsequent act of Congress providing for the renegotiation of contracts. Nothing contained in this clause shall impose any renegotiation obligation with respect to this contract or any subcontract hereunder which is not imposed by an act of Congress heretofore or hereafter enacted. Subject to the foregoing, this contract shall be deemed to contain all the provisions required by Section 104 of the Renegotiation Act of 1951, and by any such other act, without subsequent contract amendment specifically incorporating such provisions.

(B) The Contractor agrees to insert the provisions of this clause, including this paragraph, in all subcontracts, as that term is defined in Section 103g of the Renegotiation Act of 1951, as amended.

(End of clause)

§ 12-7.151-16 Lease of aircraft.

(a) In accordance with the conditions prescribed in DOTPR 12-10.450-1 insert the following clause:

LOSS OR DAMAGE TO LEASED AIRCRAFT

(a) The Government assumes all risk of loss of or damage (except normal wear and tear) to the leased aircraft during the term of this lease while the aircraft is in the possession of the Government.

(b) In the event of damage to the aircraft, the Government, at its option, shall make the necessary repairs with its own facilities or by contract, or pay the Contractor the reasonable cost of repair of the aircraft.

(c) In the event the aircraft is lost or damaged beyond repair, the Government shall pay to the Contractor a sum equal to the fair market value of the aircraft at the time of such loss or damage, which value may be specifically agreed to in the clause "Fair Market Value of Aircraft" less the salvage value of the aircraft. However, the Government may retain the damaged aircraft or dispose of it as it wishes. In that event, the Contractor will be paid the fair market value of the aircraft as stated in the clause.

(d) The Contractor certifies that the contract price does not include any cost attributable to hull insurance or to any reserve fund it has established to protect its interest in the aircraft. If, in the event of loss or damage to the leased aircraft, the Contractor receives compensation for such loss or damage in any form from any source, the amount of such compensation shall be credited to the Government in determining the amount of the Government's liability under this clause; except that this shall not apply to proceeds of insurance received (1) solely as advances on insurance pending determination of Government liability, or (2) for an increment of value of the aircraft beyond the value for which the Government is responsible.

(e) In the event of loss of or damage to the aircraft, the Government shall be subrogated to all rights of recovery by the Contractor against third parties for such loss or damage and the Contractor shall promptly assign such rights in writing to the Government. Except as the Contracting Officer may permit in writing, the Contractor shall neither release nor discharge any third party from liability for such loss or damage nor otherwise compromise or adversely affect the Government's subrogation rights hereunder. The Contractor shall cooperate with the Government in any suit or action undertaken by the Government against any such third party.

(f) Any failure to agree as to the responsibility of the Government under this clause shall, after a final finding and determination by the Contracting Officer, be considered a dispute within the meaning of the "Disputes" clause of this contract.

(g) The Contractor's rights under this clause are in addition to, and not in lieu of, any rights it may have under the Federal Tort Claims Act as amended (28 U.S.C. 2671, et seq.). However, any sum for which the Government may be liable under this clause shall be reduced by the amount of any award, compromise, or settlement for loss of, or damage to, the leased aircraft, obtained by or on behalf of the Contractor under said Act as amended.

(End of clause)

(b) In accordance with the conditions prescribed in DOTPR 12-10.450-2 insert the following clause:

FAIR MARKET VALUE OF AIRCRAFT

For purposes of the clause "Loss or Damage to Leased Aircraft," it is agreed that the fair market value of the aircraft to be used in the performance of this contract shall be the lesser of the two values set out in paragraphs (a) and (b) below:

(a) $----------- or

(b) If the contractor has insured the same aircraft against loss or destruction in connection with other operations, the amount of such insurance coverage on the date of the loss or damage for which the Government may be responsible under this contract.

(End of clause)

(c) In accordance with the conditions set forth in DOTPR 12-450-3 insert the following clause:

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RISK AND INDEMNITIES

The Contractor hereby agrees to indemnify and hold harmless the Government, its officers and employees from and against all claims, demands, damages, liabilities, losses, suits and judgments (including all costs and expenses incident thereto) which may be suffered by, accrue against, be charged to or recoverable from the Government, its officers and employees by reason of injury to or death of any person other than officers, agents, or employees of the Government or by reason of damage to property of others of whatsoever kind (other than the property of the Government, its officers, agents or employees) arising out of the operation of the aircraft. In the event the Contractor holds or obtains insurance in support of this covenant, a Certificate of Insurance shall be delivered to the Contracting Officer.

(End of clause)

§ 12–7.151–17 Options.

(a) In accordance with DOTPR 12–1.50, insert a clause reading substantially as follows where the contract expresses the option quantity as an additional quantity of a specific line item:

OPTION FOR INCREASED QUANTITY

The Government may increase the quantity of supplies called for herein by the amount stated in the Schedule and at the unit price specified therein. The Contracting Officer may exercise this option, at any time within the period specified in the Schedule, by giving written notice to the Contractor. Delivery of the items added by the exercise of this option shall continue immediately after, and at the same rate as, delivery of like items called for under this contract unless the parties otherwise agree.

(End of clause)

(b) A clause substantially as follows may be used where it is intended to extend the services described in the schedule.

OPTION TO EXTEND SERVICES

The Government may require the Contractor to continue to perform any or all items of services under this contract within the limits stated in the Schedule. The Contracting Officer may exercise this option, at any time within the period specified in the Schedule, by giving written notice to the Contractor. The rates set forth in the Schedule shall apply to any extension made pursuant to this option provision.

(End of clause)

(c) A clause substantially as follows may be used to provide for continuing performance of the contract beyond its original term.

OPTION TO EXTEND THE TERM OF THE CONTRACT

This contract is renewable, at the option of the Government, by the Contracting Officer giving written notice of renewal to the Contractor within the period specified in the schedule; *Provided*, That the Contracting Officer shall have given preliminary notice of the Government's intention to renew at least 60 days before this contract is to expire. (Such preliminary notice will not be deemed to commit the Government to renewals). If the Governmeat exercises this option for renewal, the contract as renewed shall be deemed to include this option provision. However, the total duration of this contract, including the exercise of any options under this clause, shall not exceed ----------

(End of clause)

§ 12–7.151–18 Procurement from certain Communist areas.

Insert the clause set forth below under the conditions described in DOTPR 12–6.5002.

PROCUREMENT FROM CERTAIN COMMUNIST AREAS

Unless he first obtains the written approval of the Contracting Officer, the Contractor shall not acquire for use in the performance of this contract any supplies, however processed, which are or were located in or transported from or through China (excluding Formosa), North Korea, North Vietnam, or Cuba, or any services originating from sources within such countries. The Contractor agrees to insert the substance of this clause in all subcontracts hereunder.

(End of clause)

Subpart 12–7.2—Clauses for Cost-Reimbursement Type Supply Contracts

§ 12–7.200 Scope of subpart.

This subpart sets forth uniform contract clauses for use in cost reimbursement type supply contracts.

§ 12–7.201 Applicability.

The causes set forth in this subpart shall be used when required, or as applicable or additional clauses, in all cost reimbursement type supply contracts.

§ 12–7.202 Required clauses.

Insert the required clauses cited or set forth in FPR Subpart 1–7.202 in all cost reimbursement type supply contracts.

§ 12–7.202–1 Definitions.

Insert the clause set forth in FPR 1–7.102–1. Additional definitions may be inserted provided they are not inconsistent with the clause or the provisions of the FPR and these regulations.

§ 12–7.202–2 Changes.

Insert the clause in FPR 1–7.202–2. In the clause, the period of "thirty (30) days" within which any claim must be asserted may be varied in accordance with Administration procedures.

§ 12–7.202–3 Limitation of cost or funds.

Insert the appropriate clause set forth in FPR 1–7.202–3.

§ 12–7.202–4 Allowable cost, fee, and payment.

Except as provided in § 12–7.202–450, insert the clause set forth in FPR 1–7.202–4.

§ 12–7.202–450 Allowable cost, incentive fee, and payment.

(a) When, in accordance with FPR 1–3.405–4, incentive revision of the fee in a cost-reimbursement type supply contract is to be provided, insert the following clause. Additional instructions for use of the clause are provided after the clause.

ALLOWANCE COST, INCENTIVE FEE, AND PAYMENT

(a) (1) For the performance of this contract, the Government shall pay to the Contractor—(i) The cost thereof (hereinafter referred to as "allowable cost") determined by the Contracting Officer to be allowable in accordance with—

(A) Subpart 1–15.2, of Part 1–15 of the Federal Procurement Regulations as in effect on the date of this contract; and

(B) The terms of this contract; and

(ii) A fee determined as provided in this contract.

(2) The target cost and target fee of this contract are set forth in the Schedule and shall be subject to adjustment in accordance with (h) and (i) below. As used throughout this contract the term—

(i) "Target cost" means the estimated cost of this contract initially negotiated, adjusted in accordance with (h) below; and

(ii) "Target fee" means the fee which was initially negotiated on the assumption that this contract would be performed for a cost equal to the estimated cost of this contract initially negotiated, adjusted in accordance with (h) below.

(b) Once each month (or at more frequent intervals, if approved by the Contracting Officer), the Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as such representative may require, an invoice or voucher supported by a statement of cost incurred by the Contractor in the performance of this contract and claimed to constitute allowable cost.

(c) Promptly after receipt of each invoice or voucher and statement of cost, the Government shall except as otherwise provided in this contract, subject to the provisions of (d) below, make payment thereon as approved by the Contracting Officer. Normally, payment of fee shall be made to the Contractor as specified in the Schedule. However, when in the opinion of the Contracting Officer, the Contractor's performance or cost indicates that target will not be achieved, the Government shall pay on the basis of such lesser fee as is appropriate. Further, when the Contractor demonstrates that his performance or cost clearly indicates that he will earn a fee significantly in excess of target fee, the Government may, in the sole discretion of the Contracting Officer, pay on the basis of such higher fee as is appropriate. After payment of eighty-five percent (85%) of the applicable fee, the Contracting Officer may withhold further payment of fee until a reserve shall have been set aside in an amount which he considers necessary to protect the interests of the Government, but such reserve shall not exceed fifteen percent (15%) of the total applicable fee or one hundred thousand dollars ($100,000) whichever is less.

(d) At any time or times prior to final payment under this contract, the Contracting Officer may have the invoices or vouchers and statements of cost audited. Each payment theretofore made shall be subject to reduction for amounts included in the related invoice or voucher which are found by the Contracting Officer, on the basis of such audit, not to constitute allowable cost. Any payment may be reduced for overpayments, or increased for underpayments, on preceding invoices or vouchers.

(e) On receipt and approval of the invoice or voucher designated by the Contractor as the "completion invoice" or "completion voucher" and upon compliance by the Contractor with all the provisions of this contract (including without limitation, the provisions relating to patents and the provisions of (f) below), the Government shall promptly pay to the Contractor any balance of allowable cost, and any part of the fee, which has been withheld pursuant to (c) above or otherwise not paid to the Contractor. The completion invoice or voucher shall be submitted by the Contractor promptly following completion of the work under this contract but in no event later than one (1) year (or

such longer period as the Contracting Officer may in his discretion approve in writing) from the date of such completion.

(f) The Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor or any assignee under this contract shall be paid by the Contractor to the Government to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract. Reasonable expenses incurred by the Contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable costs hereunder when approved by the Contracting Officer. Prior to final payment under this contract, the Contractor and each assignee under this contract whose assignment is in effect at the time of final payment under this contract shall execute and deliver—

(i) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including any interest thereon) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(ii) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions—

(A) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor;

(B) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of this contract; provided, that such claims are not known to the Contractor on the date of the execution of the release; and provided further, that the Contractor gives notice of such claims in writing to the Contracting Officer not more than six (6) years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier; and

(C) Claims for reimbursement of costs (other than expenses of the Contractor by reason of his indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents.

Except as provided in (i) below, payments under the assignment and claims excepted from the release shall be subject to adjustment by reason of the adjustment of fee in accordance with (i) below.

(g) Any cost incurred by the Contractor under the terms of this contract which would constitute allowable cost under the provisions of this clause shall be included in determining the amount payable under this contract, notwithstanding any provisions contained in the specifications or other documents incorporated in this contract by reference, designating services to be performed or materials to be furnished by the Contractor at his expense or without cost to the Government.

(h) When the work under this contract (including any supplies or services which are ordered separately under, or otherwise added to, this contract) is increased or decreased by contract modification or when any equitable adjustment in the target cost is authorized under any other clause of this contract, equitable adjustments in the target cost, target fee, minimum fee, maximum fee or any or all of them, as appropriate shall be set forth in an amendment or supplemental agreement to this contract.

(i) The fee payable hereunder shall be the target fee increased by (insert Contractor's participation) cents for every dollar by which the total allowable cost is less than the target cost or decreased by (insert Contractor's participation) cents for every dollar by which the total allowable cost exceeds the target cost. In no event shall the fee be greater than ---- percent, nor less than ---- percent, of the target cost; and, except as provided in (j) below, within these limits such fee shall be subject to adjustment, by reason of increase or decrease of total allowable cost, on account of payments under the assignment required by (f) (i) above, and claims excepted from the release required by (f) (ii) above. If this contract is terminated in its entirety, the portion of the target fee payble shall not be subject to an increase or decrease as provided in this paragraph. The terminations shall be otherwise accomplished pursuant to other applicable provisions of this contract.

(j) For the purpose of the adjustment of the fee in accordance with (i) above, the term "total allowable cost" shall not include allowable costs arising out of:

(i) Any of the causes covered by the clause hereof entitled "Excusable Delays" to the extent they are beyond the control and without the fault or negligence of the Contractor or any subcontractor;

(ii) The taking effect, after the negotiation of the target cost of this contract, of a statute court decision, written ruling or regulation which results in the Contractor being required to pay or bear the burden of any tax or duty, or increase in the rate thereof;

(iii) Any direct cost attributed to the Contractor's assistance or participation in litigation as required by the Contracting Officer pursuant to a provision of this contract, including the furnishing of evidence and information requested pursuant to the clause hereof entitled "Notice and Assistance Regarding Patent and Copyright Infringement";

(iv) The procurement and maintenance of additional insurance not included in the target cost and required by the Contracting Officer or claims for reimbursement for liabilities to third persons pursuant to the clause hereof entitled "Insurance-Liability to Third Persons";

(v) Any claim, loss or damage resulting from a risk for which the Contractor has been relieved of liability pursuant to the clause hereof entitled "Government Property".

Except as otherwise specifically provided in this contract, all other allowable costs shall be included in the term "total allowable cost" for the purpose of the adjustment of the fee in accordance with (i) above.

(In the event the contract calls for spare parts or other supplies and services which are to be ordered under a provisioning document or Government option, the following provision (k) shall be included.)

(k) Compensation for supplies (including spare parts) and services which are to be furnished under this contract pursuant to a provisioning document or Government option shall be determined in accordance with the provisions of this clause notwithstanding any inconsistent provision in such provisioning document or Government option.

(End of clause)

(b) (1) In paragraph (f) (ii) (B) of the clause in FPR 1–7.202–4 and the foregoing clause the period of years may be increased to correspond with any statutory period of limitation applicable to claims of third parties against the contractor: *Provided*, That a corresponding increase is made in the period of retention of records required in paragraph (d) of the clause set forth in FPR 1–7.103–3.

(2) With respect to paragraph (c) of the clause set forth above, generally, the payment of fee provisions in the Schedule should be based on target fee.

(3) In the case of cost-sharing contracts and cost-reimbursement type supply contracts without fee—

(i) Insert the following sentence in lieu of the second sentence of paragraph (c) of the clause set forth above, except that, if the contract does not provide for cost-sharing, delete the parenthetical references to the Government's share:

After payment of an amount equal to eighty percent (80%) of (the Government's share of) the total estimated cost of performance of this contract set forth in the Schedule, the Contracting Officer may withhold further payment on account of allowable cost until a reserve shall have been set aside in an amount which he considers necessary to protect the interests of the Government, but such reserve shall not exceed one percent (1%) of (the Government's share of) such total estimated cost or one hundred thousand dollars ($100,000), whichever is less.

(ii) delete the words "and any part of the fixed fee" from paragraph (e) of the clause set forth in FPR 1–7.202–4.

(iii) in contracts which provide for cost-sharing, change paragraph (a) of the clause set forth in FPR 1–7.204–4 as follows:

(A) the allowability of costs incurred in the performance of this contract shall be determined by the Contracting Officer in accordance with—

(1) Subpart 1–15.2 of Part 1–15 of the Federal Procurement Regulations as in effect on the date of this contract; and

(2) the terms of this contract; and

(iv) Change the title of the clause set forth in FPR 1–7.202–4 to "Allowable Cost and Payment".

(4) The Contracting Officer shall determine to his satisfaction that the estimated cost of the contract initially negotiated does not include amounts for the contingencies identified in paragraph (j) of the clause set forth above.

(5) The amount to be withheld under paragraph (c) of the foregoing clause and the clause set forth in FPR 1–7.202–4 shall normally be the maximum authorized by the clause except that the Contracting Officer may, if he believes that such amount exceeds the amount necessary to protect the interests of the Government, review the status of all funds being withheld from the contractor under the particular contract concerned and under any other contracts with the Contractor. The Contracting Officer shall decide whether to reduce the rate of withholding or whether to release a portion of the amount already reserved under the contract, as appropriate.

§ 12–7.202–5 Inspection of supplies and correction of defects.

Insert the clause set forth in FPR 1–7.202–5.

§ 12–7.202–6 Assignment of claims.

Insert the clause set forth in FPR 1–30.703 under the conditions prescribed therein.

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§ 12–7.202–7 Examination of records by Comptroller General.

Insert the clause set forth in FPR 1–7.103–3.

§ 12–7.202–8 Subcontracts.

Insert the clause set forth in FPR 1–7.202–8.

§ 12–7.202–9 [Reserved]

§ 12–7.202–10 Termination for default or convenience of the Government.

Insert the clause set forth in FPR 1–8.702 in accordance with conditions prescribed in FPR 1–8.700–2(a)(3) FPR 1–8.700–2(b)(2).

§ 12–7.202–11 Excusable delays.

Insert the clause set forth in FPR 1–8.708 under the conditions prescribed in FPR 1–8.700–2(c).

§ 12–7.202–12 Disputes.

Insert the clause set forth in FPR 1–7.102–12.

§ 12–7.202–13 [Reserved]

§ 12–7.202–14 Buy American Act.

Insert the clause set forth in FPR 1–6.104–5 under the conditions prescribed therein.

§ 12–7.202–15 Convict labor.

Insert the clause set forth in FPR 1–12.204 under the conditions prescribed in FPR 1–12.203.

§ 12–7.202–16 Contract Work Hours and Safety Standards Act—overtime compensation.

Insert the clause set forth in FPR 1–12.303 under the conditions prescribed in FPR 1–12.302.

§ 12–7.202–17 Walsh-Healey Public Contracts Act.

Insert the clause set forth in FPR 1–12.605 under the conditions prescribed in FPR 1–12.602.

§ 12–7.202–18 Equal opportunity.

Insert the clause set forth in FPR 1–12.803–2 under the conditions prescribed in FPR 1–12.803–1.

§ 12–7.202–19 Officials not to benefit.

Insert the clause set forth in FPR 1–7.102–17.

§ 12–7.202–20 Convenant against contingent fees.

Insert the clause set forth in FPR 1–1.503 under the conditions prescribed in FPR 1–1.501.

§ 12–7.202–21 [Reserved]

§ 12–7.202–22 [Reserved]

§ 12–7.202–23 [Reserved]

§ 12–7.202–24 Notice and assistance regarding patent and copyright infringement.

In accordance with DOTPR 12–9.153, insert the clause set forth in FPR 1–7.103–4.

§ 12–7.202–25 [Reserved]

§ 12–7.202–26 Utilization of small business concerns.

Insert the clause set forth in FPR 1–1.710–3(a) under the conditions prescribed therein.

§ 12–7.202–27 Utilization of labor surplus area concerns.

Insert the clause set forth in FPR 1–1.805–3(a) under the conditions prescribed therein.

§ 12–7.202–28 Utilization of minority business enterprises.

Insert the clause set forth in FPR 1–1.1310–2(a) under the conditions prescribed therein.

§ 12–7.202–29 Payment for overtime premiums.

Insert the clause set forth in FPR 1–7.202–29 when payment of overtime premiums is to be made in accordance with FPR 1–12.102.

§ 12–7.202–30 Competition in subcontracting.

Insert the clause set forth in FPR 1–7.202–30.

§ 12–7.202–31 Price reduction for defective cost or pricing data.

Insert the clause set forth in FPR 1–3.814–1 under the conditions prescribed therein.

§ 12–7.202–32 Audit and records.

Insert the clause cited in FPR 1–7.202–32 as prescribed therein.

§ 12–7.202–33 Subcontractor cost and pricing data.

Insert the appropriate clause set forth in FPR 1–3.814–3 under the conditions prescribed therein.

§ 12–7.202–34 Payment of interest on contractors' claims.

Insert the clause set forth in FPR 1–1.322 under the conditions prescribed therein.

§ 12–7.202–35 Disabled veterans and veterans of the Vietnam era.

Insert the clause set forth in FPR Temporary Regulation 39 of July 1976 in all contracts which exceed $10,000.

§ 12–7.202–36 Late offers and modifications or withdrawals.

Insert the provision(s) cited in FPR 1–7.202–36 as prescribed therein.

§ 12–7.202–37 Employment of the handicapped.

Insert the clause set forth in FPR Temporary Regulation 38 of May 1976.

§ 12–7.202–38 Clean air and water.

Insert the clause prescribed by FPR 1–1.2302–2 under the conditions prescribed therein.

§ 12–7.203 Clauses to be used when applicable.

§ 12–7.203–1 Clauses for cost-reimbursement type supply contracts involving construction.

Insert the clauses cited in FPR 1–7.203–1 as prescribed therein.

§ 12–7.203–2 [Reserved]

§ 12–7.203–3 Notice to the Government of labor disputes.

Insert the clause set forth in FPR 1–7.203–3 wherever a work stoppage would result in delay in an urgent program.

§ 12–7.203–4 [Reserved]

§ 12–7.203–5 [Reserved]

§ 12–7.203–6 [Reserved]

§ 12–7.203–7 [Reserved]

§ 12–7.203–8 [Reserved]

§ 12–7.203–9 Negotiated overhead rates.

Insert the clause set forth in FPR 1–3.704 under the conditions prescribed therein.

§ 12–7.203–950 Negotiated overhead rates—indirect costs.

(a) In accordance with DOTPR 12–3.704–50, the following clause shall be used when the contractor's normal method of interim overhead reimbursement is based on billing rates approved by the Contracting Officer (normally through an exchange of correspondence) rather than on formally negotiated provisional rates:

INDIRECT COSTS (BILLING RATES)

Pending the establishment of final overhead rates as provided for in the clause entitled "Negotiated Overhead Rates", the Contractor shall be reimbursed for indirect costs on the basis of billing rates mutually agreed upon by the Contracting Officer and the Contractor.

(End of clause)

Prior to establishing or changing the billing rates, the Contracting Officer should seek the advice of the cognizant audit activity as to the acceptability of the billing rates proposed by the contractor.

(b) The following clause shall be used when the contractor's normal method of interim overhead reimbursement is based on negotiated provisional rates. The provisional rates will remain in effect until such time as the contract is amended. The rates shall be listed immediately below the clause along with the base of applications for each rate listed:

INDIRECT COSTS (PROVISIONAL RATES)

Pending establishment of final overhead rates as provided for in the clause entitled "Negotiated Overhead Rates", the Contractor shall be reimbursed for indirect costs on the basis of the negotiated provisional rates set forth below, which rates shall remain in effect until the contract is amended to incorporate either (a) final overhead rates for a specific period or periods or (b) revised negotiated provisional overhead rates as provided for in paragraph (e) of the clause of this contract entitled "Negotiated Overhead Rates".

(End of clause)

§ 12–7.203–951 Audit—indirect costs (actual).

Insert the following clause in accordance with DOTPR 12–3.704–51.

INDIRECT COSTS (ACTUAL)

In accordance with the "Allowable Cost, Fixed Fee, and Payment" clause of the contract, the contractor shall be paid his actual overhead cost. Allowable overhead cost will be determined in accordance with the principles set forth in Subpart 1–15.2 of the Federal Procurement Regulations. Any failure of the parties hereto to agree as to what constitutes actual overhead costs shall be considered a dispute covering a question of fact within the meaning of the clause of this contract entitled "Disputes".

(End of clause)

§ 12–7.203–10 Make-or-buy program.

Insert the clause set forth in FPR 1–3.902–3 under the conditions prescribed therein.

§ 12–7.203–11 Advance payments.

When advance payments are to be made in accordance with FPR Subpart 1–30.4, insert the appropriate provisions as prescribed in FPR 1–30.414–2.

§ 12–7.203–12 Required source for jewel bearings.

Insert the clause set forth in FPR 1–1.319 under the conditions prescribed therein.

§ 12–7.203–13 General Services Administration supply sources.

Insert the clause set forth in FPR 1–7.203–13 under the conditions set forth in FPR Subpart 1–5.9.

§ 12–7.203–14 Use of interagency motor pool vehicles and related services.

Insert the clause set forth in FPR 1–7.203–14 as prescribed therein.

§ 12–7.203–15 Interest.

Insert the clause set forth in FPR 1–7.203–15 as prescribed therein.

§ 12–7.203–16 [Reserved]

§ 12–7.203–17 [Reserved]

§ 12–7.203–18 Small business subcontracting program.

Insert the clause set forth in FPR 1–1.710–3(b) under the conditions prescribed therein.

§ 12–7.203–19 Labor surplus area subcontracting program.

Insert the clause set forth in FPR 1–1.805–3(b) under the conditions prescribed therein.

§ 12–7.203–20 Minority business enterprises subcontracting program.

Insert the clause set forth in FPR 1–1.1310–2(b) under the conditions prescribed therein.

§ 12–7.203–21 Government property.

Insert the clause set forth in FPR 1–7.203–21 when the Government is to furnish or the contractor is to acquire, Government property.

§ 12–7.203–22 Preference for U.S. flag air carriers.

Insert the clause set forth in FPR 1–1.322–2 under the conditions prescribed therein.

§ 12–7.203–23 Cost accounting standards.

Insert the notices and clauses cited in FPR 1–7.203–23 as prescribed therein.

§ 12–7.203–24 Privacy Act.

Insert the clause prescribed in FPR 1–1.327–5 as amended by DOTPR 12–7.103–29 under the conditions prescribed therein.

§ 12–7.203–25 Use of U.S. flag commercial vessels.

Insert the clause prescribed by FPR 1–19–108.2 under the conditions set forth therein.

§ 12–7.204 Additional clauses.

The following clauses may be inserted in cost-reimbursement type supply contracts when it is desired to cover the subject matter thereof:

§ 12–7.204–1 Alterations in contract.

Insert the clause set forth in FPR 1–7.204–1.

§ 12–7.204–2 Approval of contract.

Insert the clause set forth in FPR 1–7.204–2.

§ 12–7.204–3 Date of incurrence of costs.

Insert the clause set forth in FPR 1–7.204–3.

§ 12–7.204–4 Notice regarding late delivery.

Insert the clause set forth in FPR 1–7.204–4.

§ 12–7.204–5 Insurance—Liability to Third Persons.

Insert the clause set forth in 12–7.204–50 below in lieu of the clause set forth in FPR 1–7.204–5.

§ 12–7.204–50 Insurance—Liability to Third Persons.

Insert the following clause in cost-reimbursement type supply contracts pursuant to the general policies set forth in FPR Subpart 1–10.5.

INSURANCE—LIABILITY TO THIRD PERSONS

(a) The Contractor shall procure and thereafter maintain workmen's compensation, employer's liability, comprehensive general liability (bodily injury) and comprehensive automobile liability (bodily injury and property damage) insurance, with respect to performance under this contract, and such other insurance as the Contracting Officer may from time to time require with respect to performance under this contract: *Provided*, That the Contractor may with the approval of the Contracting Officer, maintain a self-insurance program: And provided further, That with respect to workmen's compensation the Contractor is qualified pursuant to statutory authority. All insurance required pursuant to the provisions of this paragraph shall be in such form, in such amount, and for such periods of time, as the Contracting Officer may from time to time require or approve, and with insurers approved by the Contracting Officer.

(b) The Contractor agrees, to the extent and in the manner required by the Contracting Officer, to submit for the approval of the Contracting Officer any other insurance maintained by the Contractor in connection with the performance of this contract and for which the Contractor seeks reimbursement hereunder.

(c) The Contractor shall be reimbursed: (1) For the portion allocable to this contract of the reasonable cost of insurance as required or approved pursuant to the provisions of this clause, and (2) for liabilities to third persons for loss of or damage to property (other than property (i) owned, occupied or used by the Contractor or rented to the Contractor or (ii) in the care, custody, or control of the Contractor), or for death or bodily injury, not compensated by insurance or otherwise, arising out of the performance of this contract, whether or not caused by the negligence of the Contractor, his agents, servants or employees: *Provided*, Such liabilities are represented by final judgments or by settlements approved in writing by the Government and expenses incidental to such liabilities, except liabilities (a) for which the Contractor is otherwise responsible under the express terms of the clause or clauses, if any, specified in the Schedule, or (b) with respect to which the Contractor has failed to insure as required or maintain insurance as approved by the Contracting Officer or (c) which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of its managers, superintendents, or other equivalent representatives, who has supervision or direction of (1) all or substantially all of the Contractor's business, or (2) all or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed, or (3) a separate and complete major industrial operation in connection with the performance of this contract. The foregoing shall not restrict the right of the Contractor to be reimbursed for the cost of insurance maintained by the Contractor in connection with the performance of this contract, other than insurance required to be submitted for approval or required to be procured and maintained pursuant to the provisions of this clause: *Provided*, Such cost would constitute allowable cost under the clause of this contract entitled "Allowable Cost, Fixed Fee and Payment."

(d) The Contractor shall give the Government or its representatives immediate notice of any suit or action filed, and prompt notice of any claim made, against the Contractor arising out of the performance of this contract, the cost and expense of which may be reimbursable to the Contractor under the provisions of this contract, and the risk of which is then uninsured or in which the amount claimed exceeds the amount of coverage. The Contractor shall furnish immediately to the Government copies of all pertinent papers received by the Contractor. If the amount of the liability claimed exceeds the amount of coverage, the Contractor shall authorize representatives of the Government to collaborate with counsel for the insurance carrier, if any, in settling or defending such claim. If the liability is not insured or covered by bond, the Contractor shall, if required by the Government, authorize representatives of the Government to settle or defend any such claim and to represent the Contractor in or take charge of any litigation in connection therewith; *Provided*, That the Contractor may, at his own expense, be as-

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sociated with the representatives of the Government in the settlement or defense of any such claim or litigation.

(End of clause)

§ 12–7.250 Required DOTPR clauses.

Insert the following DOTPR clauses in cost-reimbursement type supply contracts.

§ 12–7.250–1 Gratuities.

Insert the clause set forth in DOTPR 12–7.150–1.

§ 12–7.250–2 New material.

Insert the clause set forth in DOTPR 12–7.150–2.

§ 12–7.250–3 Priorities, allocations, and allotments.

Insert the clause set forth in DOTPR 12–7.150–3.

§ 12–7.250–4 Interpretation or modification.

Insert the clause set forth in DOTPR 12–7.150–4.

§ 12–7.250–5 Dissemination of contract information.

Insert the clause set forth in DOTPR 12–7.150–10.

§ 12–7.250–6 Authorization and consent.

Insert the clause set forth in DOTPR 12–7.150–11 in accordance with DOTPR 12–9.151–1.

§ 12–7.251 DOTPR clauses to be used when applicable.

The following DOTPR clauses shall be included in cost-reimbursement type supply contracts when applicable.

§ 12–7.251–1 Patent indemnity.

Insert the clause set forth in DOTPR 12–7.151–1 in accordance with instructions in DOTPR 12–9.152.

§ 12–7.251–2 Filing of patent applications.

Insert the clause set forth in DOTPR 12–7.151–2 in accordance with instructions in DOTPR 12–9.154.

§ 12–7.251–3 Reporting of royalties (foreign).

Insert the clause set forth in DOTPR 12–7.151–3 in accordance with instructions in DOTPR 12–9.156.

§ 12–7.251–4 Refund of royalties.

Insert the clause set forth in DOTPR 12–7.151–4 in accordance with instruction in DOTPR 12–9.157.

§ 12–7.251–5 Patent Rights.

When experimental, developmental, or research work may be performed under the contract, insert the appropriate patent rights clause set forth in FPR 1–9.1.

§ 12–7.251–6 Rights in data.

Insert the clause set forth in DOTPR 12–7.151–5 or DOTPR 12–7.151–6 in accordance with instructions in DOTPR 12–9.201–1.

§ 12–7.251–7 Military security requirements.

When required by DOTPR 12–1.352, insert the Military Security Requirements clause in DOTPR 12–7.151–9, modified by deleting paragraphs (c) and (d) and substituting the following:

(c) If, subsequent to the date of this contract, the security classifications or security requirements under this contract are changed by the Government as provided in this clause, and if such changes cause an increase or decrease in the estimated cost or time required for performance of this contract, the estimated cost, fee, delivery schedule, or any other provision of the contract that may be affected, shall be subject to an equitable adjustment. Any such equitable adjustment shall be accomplished in the manner set forth in the "Changes" clause of this contract.

(d) The Contractor agrees to insert, in all subcontracts hereunder which involve access to classified information, provisions which shall conform substantially to the language of this clause, including this paragraph (d) but excluding the last sentence of paragraph (c) of this clause. (1971 APR.)

(End of clause paragraphs)

§ 12–7.251–8 Stop work orders.

The clause set forth in DOTPR 12–7.151–12 may be included in any cost-reimbursement type contract under the conditions described therein: *Provided*, The clause is modified as follows:

(a) The words "the 'Termination for Convenience' clause of this contract" shall be changed to read "the 'Termination' clause of the contract"; and

(d) The words "an equitable adjustment shall be made in the delivery schedule or contract price, or both" shall be changed to read "an equitable adjustment shall be made in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other provisions of the contract that may be affected."

(End of clause paragraphs)

§ 12–7.251–9 Value engineering.

(a) Use of a value engineering incentive clause: In accordance with DOTPR 12–1.5202–2 insert the value engineering incentive clause set forth in DOTPR 12–7.151–13(a) as modified in paragraph (b) or (c) of this section.

(b) Cost - Plus - Incentive - Fee Contracts: Substitute the following "Sharing" provision for paragraph (e) of the applicable clause in DOTPR 12–7.151–13 (a):

(e) Sharing. If a VECP submitted by the Contractor pursuant to this clause is accepted, the Contractor shall share in the savings realized by the Government in accordance with the following provision:

(1) Instant Contract. (i) Definitions: (A) Instant contract savings to the Contractor (ICS) is the unit cost reduction times the number of units affected in the instant contract. The proposed unit cost reduction includes estimated allowable Contractor development and implementation costs (CC). The Contractor's development and implementation costs include any subcontractor development and implementation costs and any subcontractor incentive payments (see (b) below). For purposes of this clause, Contractor development costs are those costs incurred after the Contractor has identified a specific value engineering project and prior to acceptance by the Government.

(B) Government costs (GC) are those costs which directly result from development and implementation of the VECP, such as test and evaluation of the VECP, and any increased costs in operations, maintenance, and logistic support.

(ii) Calculations and actions: (A) Reduce the target cost of items affected by the VECP by ICS. The estimated cost for "limitation of cost" or "limitation of funds" purposes (12–7.202–3), if different or separately stated, should also be reduced by the same amount.

(B) If ICS exceeds GC, add 35% (20% if this is a VE Program Requirement Change (VEPRC)) of the excess to minimum, target, and maximum fees relating to such items.

(C) If GC exceeds ICS, but acceptance of the VECP is still desirable due to concurrent or future savings, do not adjust minimum, target, or maximum fees, but offset the amount GC exceeds ICS against concurrent or future contract savings.

(D) If the Contractor cost of developing and implementing the VECP would result in an increase in the instant contract target cost, but the VECP is still desirable due to concurrent or future savings, equitably adjust the total target cost and fee in accordance with the "Changes" clause. Offset this increase and any GC against concurrent or future savings.

(2) Concurrent contracts. (i) If the VECP accepted under this contract is also used on concurrent contracts of the purchasing office for essentially the same items the Contractor shall be paid a share of any savings as calculated in (ii) below.

(ii) Calculations: (A) Determine the reduction in the price of each concurrent contract(s) as a result of incorporating the VECP.

(B) Subtract from the total amount in (A) any Government costs (GC) not yet offset (if GC was greater than ICS) in (e)(1)(ii) (C) or (D) above, and any increase in the instant contract target cost, i.e., if ICS was negative in (e)(1)(ii)(D). If the resulting number is positive, multiply it by 35% (20% if this is a VEPRC). Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters.

(3) Future contracts. (i) Definition. The term unit cost reduction for future contract sharing shall be the unit cost reduction under this instant contract without deducting any cost of development or implementation.

(ii) If the VECP accepted under this contract is used on future purchases of essentially the same item by the purchasing office, or its successor, the Contractor shall share in the savings on all affected end items scheduled for delivery not later than three years after acceptance of the first item incorporating the VECP, or until the originally scheduled delivery date of the last affected end item under the instant contract, whichever is later. When sharing on future contracts is expected, the Contractor shall be responsible for the following:

(A) Maintaining records adequate to support identification of the first delivered unit to which the VECP applies. These records are considered an integral part of contract documentation and shall be maintained for a period of three years after final payment on the contract under which the VECP was accepted.

(B) Annotating the receiving report or invoice, which applies to the initial unit covered by the VECP with the following statement: "This is the initial unit delivered which incorporates VECP No. ---------, Contract Modification No. ------, dated -------."

(iii) Calculations. At the time each eligible future contract is awarded:

(A) Determine the number of units scheduled to be delivered prior to expiration of the Contractor sharing period determined in (ii) above. Multiply this by the unit cost reduction as defined in (e)(3)(i).

(B) Subtract from the total amount in (A) any Government costs or instant contract increases not yet offset in (e)(1)(ii) (C) or (D), or in (e)(2)(ii)(B), or in other contracts awarded since acceptance of the VECP. If the resulting number is positive, multiply it by 35% (20% if this is a VEPRC). Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters.

(4) Collateral savings. If an accepted VECP results in a measurable net reduction in the agency's overall documentable projected costs of maintenance, operation, logistic support or Government-furnished property, which exceeds any increase in costs attributable to incorporation of such VECP, including acquisition costs, the contract shall be increased by twenty percent (20%) of the projected net reduction in ascertainable collateral costs (i.e., savings determined to be realized during an average year of use of the item in which the change is incorporated) and, if applicable, of the actual savings accruing from a change or reduction of Government-furnished property under the instant contract. Add this amount to the instant contract as a separate item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters. However, such increase representing the Contractor's share of collateral savings shall, in no event, exceed the price of this contract, or $100,000, whichever is greater. The determination of the amount of collateral savings, if any, will be made solely by the Government and shall not be subject to the "Disputes" clause of this contract. In all cases, degradation of performance, service life, or capability shall be a consideration in the determination of actual savings to the agency.

(End of clause paragraph)

(c) Cost-plus-fixed fee and cost-plus-award-fee contracts: Substitute the following "Sharing" provision for paragraph (e) of the applicable clause in § 12–7.151–13(a):

(e) Sharing. If a VECP submitted by the Contractor pursuant to this clause is accepted the Contractor shall share in savings realized by the Government in accordance with the following provisions:

(1) Instant contract. (i) Definitions: (A) Instant contract savings to the Contractor (ICS) is the unit cost reduction times the number of units affected in the instant contract. The proposed unit cost reduction includes estimated allowable Contractor development and implementation costs (CC). The Contractor's development and implementation costs include any subcontractor development and implementation costs and any subcontractor incentive payments (see (b) below). For purposes of this clause, Contractor development costs are those costs incurred after the Contractor has identified a specific value engineering project and prior to acceptance by the Government.

(B) Government Costs (GC) are those costs which directly result from development and implementation of the VECP, such as test and evaluation of the VECP, and any increased costs in operations, maintenance, and logistic support.

(ii) Calculations and actions: (A) If ICS exceeds GC, add 25% (15% if this a VE Program Requirements Change (VEPRC) of the excess to the contract fee), and reduce the estimated cost of the items affected by the VECP, for "limitation of cost" or "limitation of funds" purposes (12–7.202–3) by ICS.

(B) If GC exceeds ICS, but acceptance of the VECP is still desirable due to concurrent or future savings, do not adjust contract fee, but offset the amount GC exceeds ICS against concurrent or future savings.

(C) If the Contractor cost of developing and implementing the VECP would result in an increase in instant contract cost, but the VECP is still desirable due to concurrent or future savings, equitably adjust the estimated cost and fee in accordance with the "Changes" clause. Offset the increase and any GC against concurrent or future savings.

(2) Concurrent contracts. (i) If the VECP accepted under this contract is also used on concurrent contracts of the purchasing office for essentially the same items the Contractor shall be paid a share of any savings as calculated in (ii) below.

(ii) Calculations: (A) Determine the reduction in the price of each concurrent contract(s) as a result of incorporating the VECP.

(B) Subtract from the total amount in (A) any Government Costs (GC) not yet offset (if GC was greater than ICS) in (e)(1)(ii) (B) or (C) above, and any increase in the instant contract price, i.e., if ICS was negative in (e)(1)(ii)(C) If the resulting number is positive, multiply it by 25% (15% if this is a VEPRC). Add this amount to the contract fee.

(3) Future contracts. (i) Definition. The term unit cost reduction for future contract sharing shall be the unit cost reduction under this instant contract without deducting any cost of development or implementation.

(ii) If the VECP accepted under this contract is used on future purchases of essentially the same item by the purchasing office, or its successor, the Contractor shall share in the savings on all affected end items scheduled for delivery not later than three years after acceptance of the first item incorporating the VECP, or until the originally scheduled delivery date of the last affected end item under the instant contract, whichever is later. When sharing on future contracts is expected, the Contractor shall be responsible for the following:

(A) Maintaining records adequate to support identification of the first delivered unit to which the VECP applies. These records are considered an integral part of contract documentation and shall be maintained for a period of three years after final payment on the contract under which the VECP was accepted.

(B) Annotating the receiving report or invoice, which applies to the initial unit covered by the VECP with the following statement: "This is the initial unit delivered which incorporates VECP No. ---------, Contract Modification ---------, Dated---------."

(iii) Calculations. At the time each eligible future contract is awarded:

(A) Determine the number of units scheduled to be delivered prior to expiration of the Contractor sharing period determined in (ii) above. Multiply this by the unit cost reduction as defined in (e)(3)(i).

(B) Subtract from the total amount in (A) any Government costs or instant contract increases not yet offset in (e)(1)(ii) (B) or (C), or in (e)(2)(ii)(B), or in other contracts awarded since acceptance of the VECP. If the resulting number is positive, multiply it by 25% (15% if this is a VEPRC).

(4) Collateral savings. If an accepted VECP results in a measurable net reduction in the cognizant agency's overall documentable projected costs of maintenance, operation, logistic support or Government-furnished property, which exceeds any increase in costs attributable to incorporation of such VECP, including acquisition costs, the contract shall be increased by twenty percent (20%) of the projected net reduction in ascertainable collateral costs (i.e., savings determined to be realized during an average year of use of the item in which the change is incorporated) and, if applicable, of the actual savings accruing from a change or reduction of Government-furnished property under the instant contract. However, such increase representing the Contractor's share of collateral savings shall, in no event, exceed the price of this contract or $100,000, whichever is greater. The determination of the amount of collateral savings, if any, will be made solely by the Government and shall not be subject to the "Disputes" clause of this contract. In all cases, degradation of performance, service life, or capability shall be a consideration in the determination of actual savings to the agency.

(End of clause paragraph)

(d) When the sharing provisions applicable to incentive contracts are to be modified in accordance with § 12–1.5203–1(c), clause paragraph (e) in paragraph (b) of this section shall be further modified as follows:

(1) Change clause paragraph (e)(1)(ii) to provide substantially as follows:

(ii) If the cost reduction proposal submitted pursuant to this clause involves anticipated decrease in the cost of performance of this contract and is accepted by the Government, the parties agree that neither the target cost, target profit, nor ceiling price of the instant contract shall be adjusted by reason of the acceptance of such proposal. The new requirement will be incorporated into the contract by a contract modification which will state that it is made pursuant to this Value Engineering clause. When the cost of performance of this contract is increased as a result of the changes, the equitable adjustment increasing the contract price shall be in accordance with the Changes clause rather than under this clause, but the resulting contract modification will state that it is made pursuant to this clause.

(End of clause paragraph)

(2) Change clause paragraph (e)(2)(ii)(B) to provide substantially as follows:

(B) Subtract from the total amount in (A) any government costs not yet offset and any increase in the instant contract target cost. If the resulting number is positive, multiply it by 35% (20% if VEPRC). Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters.

(End of clause paragraph)

(3) Substitute the definition in 12–7.151–13(a)(5) for the definition in clause paragraph (e)(3)(i).

(4) Change the clause paragraph (e)(3)(iii)(B) to provide substantially as follows:

(B) Subtract from the total amount in (A) any government costs or instant contract increases not yet offset. If the resulting number is positive, multiply it by 35% (20% if VEPRC). Add this amount to the instant contract as a separate line item independent

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of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters.

(End of clause paragraph)

§ 12–7.251–10 Multi-year procurement.

The clauses set forth in DOTPR 12–7.151–14 shall be included in all contracts under the multi-year procurement method in accordance with instructions contained in DOTPR 12–1.55.

§ 12–7.251–11 Renegotiation.

Insert the clause set forth in DOTPR 12–7.151–15 in accordance with instructions contained therein.

§ 12–7.251–12 Background patents (license).

Insert the clause set forth in DOTPR 12–7.150–12 in accordance with the instructions contained in DOTPR 12–9.150.

Subpart 12–7.3—Fixed Price Research and Development Contracts

§ 12–7.300 Scope of Subpart.

This subpart sets forth uniform contract clauses for use in fixed-price research and development contracts. The clauses are also appropriate for use in fixed-price contracts for studies, tests, and reports.

§ 12–7.301 Applicability.

The clauses set forth in this subpart shall be used when required, or as applicable or additional clauses in all fixed-priced research and development contracts and as otherwise stipulated in FPR 1–7.301.

§ 12–7.302 Required clauses.

The clauses set forth or cited in this subpart 12–7.3 shall be inserted, as required, in all fixed-price research and development contracts.

§ 12–7.302–1 Definitions.

Insert the clause set forth in FPR 1–7.102–1. Additional definitions may be included provided they are not inconsistent with the clauses or the provisions of the FPR and these regulations.

§ 12–7.302–2 Payments.

Insert the clause set forth in FPR 1–7.302–2.

§ 12–7.302–3 Standards of work.

Insert the clause set forth in FPR 1–7.302–3.

§ 12–7.302–4 Inspection.

Insert the appropriate clause set forth in FPR 1–7.302–4 under the conditions prescribed therein.

§ 12–7.302–5 Assignment of claims.

Insert the clause set forth in FPR 1–30.703 under the conditions prescribed therein.

§ 12–7.302–6 Examination of records by Comptroller General.

Insert the clause set forth in FPR 1–7.103–3.

§ 12–7.302–7 Federal, State, and local taxes.

Insert the appropriate clause cited in FPR 1–7.302–7 as prescribed therein.

§ 12–7.302–8 Utilization of small business concerns.

Insert the clause set forth in FPR 1–1.710–3(a) under the conditions and in the manner prescribed therein.

§ 12–7.302–9 Default.

Insert the clause set forth in FPR 1–8.710 under the conditions prescribed in FPR 1–8.700–2(b)(3).

§ 12–7.302–10 Termination for convenience of the Government.

Insert the clause set forth in FPR 1–8.701 or FPR 1–8.704–1, as appropriate.

§ 12–7.302–11 Disputes.

Insert the clause set forth in FPR 1–7.102–12.

§ 12–7.302–12 [Reserved]

§ 12–7.302–13 Buy American Act.

Insert the clause set forth in FPR 1–6.104–5 under the conditions prescribed therein.

§ 12–7.302–14 Convict labor.

Insert the clause set forth in FPR 1–12.204 under the conditions prescribed in FPR 1–12.203.

§ 12–7.302–15 Walsh-Healey Public Contracts Act.

Insert the clause set forth in FPR 1–12.605 under the conditions prescribed in FPR 1–12.602.

§ 12–7.302–16 Contract Work Hours and Safety Standards Act—overtime compensation.

Insert the clause set forth in FPR 1–12.303 under the conditions prescribed in FPR 1–12.302.

§ 12–7.302–17 Equal Opportunity.

Insert the clause set forth in FPR 1–12.803–2 under the conditions prescribed in FPR 1–12.803–1.

§ 12–7.302–18 Officials not to benefit.

Insert the clause set forth in FPR 1–7.102–17.

§ 12–7.302–19 Covenant against contingent fees.

Insert the clause set forth in FPR 1–1.503 under the conditions prescribed in FPR 1–1.501.

§ 12–7.302–20 [Reserved]

§ 12–7.302–21 [Reserved]

§ 12–7.302–22 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in FPR 1–7.103–4.

§ 12–7.302–23 Patents.

Insert the appropriate clause set forth in FPR 1–9.107 under the conditions contained in FPR Subpart 1–9.1.

§ 12–7.302–24 [Reserved]

§ 12–7.302–25 [Reserved]

§ 12–7.302–26 Utilization of labor surplus area concerns.

Insert the clause set forth in FPR 1–1.805–3(a) under the conditions prescribed therein.

§ 12–7.302–27 [Reserved]

§ 12–7.302–28 [Reserved]

§ 12–7.302–29 Pricing of adjustments.

Insert the clause set forth in FPR 1–7.102–20 under the conditions prescribed therein.

§ 12–7.302–30 Disabled veterans and veterans of the Vietnam era.

Insert the clause set forth in FPR Temporary Regulation 39 of July 1976 in all contracts which exceed $10,000.

§ 12–7.302–31 Utilization of minority business enterprises.

Insert the clause set forth in FPR 1–1.1310–2(a) under the conditions prescribed therein.

§ 12–7.302–32 Payment of interest on contractors' claims.

Insert the clause set forth in FPR 1–1.322(b) under the conditions prescribed therein.

§ 12–7.302–33 Employment of the handicapped.

Insert the clause set forth in FPR Temporary Regulation 38 of May 1976.

§ 12–7.302–34 Clean air and water.

Insert the clause prescribed by FPR 1–1.2302 under the conditions set forth therein.

§ 12–7.303 Clauses to be used when applicable.

§ 12–7.303–1 Clauses for fixed-price research and development contracts involving construction.

Insert the clauses cited in FPR 1–7.303–1 as prescribed therein.

§ 12–7.303–2 [Reserved]

§ 12–7.303–3 [Reserved]

§ 12–7.303–4 [Reserved]

§ 12–7.303–5 [Reserved]

§ 12–7.303–6 [Reserved]

§ 12–7.303–7 Government property.

Insert the appropriate clause set forth in FPR 1–7.303–7 under the conditions for its use prescribed therein.

§ 12–7.303–8 [Reserved]

§ 12–7.303–9 Notice to the Government of labor disputes.

Insert the clause set forth in FPR 1–7.203–3 under the conditions prescribed therein.

§ 12–7.303–10 [Reserved]

§ 12–7.303–11 [Reserved]

§ 12–7.303–12 Subcontracts.

Insert the clause set forth in FPR 1–7.303–12 under the conditions for its use prescribed therein.

§ 12–7.303–13 [Reserved]

§ 12–7.303–14 [Reserved]

§ 12–7.303–15 [Reserved]

§ 12–7.303–16 Price reduction for defective cost or pricing data.

Insert the appropriate clause set forth in FPR 1–3.814–1 under the conditions prescribed therein.

§ 12–7.303–17 [Reserved]

§ 12–7.303–18 [Reserved]

§ 12–7.303–19 [Reserved]

§ 12–7.303–20 [Reserved]

§ 12–7.303–21 Advance payments.

When advance payments are to be made in accordance with FPR Subpart 1–30.4, insert the appropriate provisions as prescribed in FPR 1–30.414–2.

§ 12–7.303–22 Workmen's compensation insurance (Defense Base Act).

Insert the clause set forth in FPR–1–10.402 under the conditions prescribed therein.

§ 12–7.303–23 Progress payments.

When progress payments are to be made in accordance with FPR 1–30.5, insert the appropriate provisions as prescribed in FPR 1–30.510.

§ 12–7.303–24 Required source for jewel bearings.

Insert the clause set forth in FPR 1–1.319 under the conditions prescribed therein.

§ 12–7.303–25 [Reserved]

§ 12–7.303–26 Interest.

Insert the clause set forth in FPR 1–7.203–15 under the conditions prescribed therein.

§ 12–7.303–27 Competition in subcontracting.

Insert the clause set forth in FPR 1–7.202–30 in accordance with conditions prescribed in FPR 1–7.303–27.

§ 12–7.303–28 Audit and records.

Insert the appropriate clause(s) set forth in FPR 1–3.814–2 under the conditions prescribed therein.

§ 12–7.303–29 Subcontractor cost and pricing data.

Insert the appropriate clause set forth in FPR 1–3.814–3 under the conditions prescribed therein.

§ 12–7.303–30 [Reserved]

§ 12–7.303–31 [Reserved]

§ 12–7.303–32 [Reserved]

§ 12–7.303–33 [Reserved]

§ 12–7.303–34 [Reserved]

§ 12–7.303–35 [Reserved]

§ 12–7.303–36 [Reserved]

§ 12–7.303–37 [Reserved]

§ 12–7.303–38 [Reserved]

§ 12–7.303–39 [Reserved]

§ 12–7.303–40 [Reserved]

§ 12–7.303–41 United States products and services (Balance of Payments Program).

Insert the clause set forth in FPR 1–6.806–4 under the conditions prescribed in FPR Subpart 1–6.8.

§ 12–7.303–42 [Reserved]

§ 12–7.303–43 [Reserved]

§ 12–7.303–44 Care of laboratory animals.

Insert the clause set forth in FPR 1–7.303–44 under the conditions prescribed therein.

§ 12–7.303–45 [Reserved]

§ 12–7.303–46 Insurance.

Insert the clause set forth in FPR 1–7.303–46 under the conditions prescribed therein.

§ 12–7.303–47 [Reserved]

§ 12–7.303–48 [Reserved]

§ 12–7.303–49 [Reserved]

§ 12–7.303–50 [Reserved]

§ 12–7.303–51 Minority business enterprises subcontracting program.

Insert the clause set forth in FPR 1–1.1310–2(b) under the conditions and in the manner prescribed therein.

§ 12–7.303–52 [Reserved]

§ 12–7.303–53 [Reserved]

§ 12–7.303–54 [Reserved]

§ 12–7.303–55 Cost accounting standards.

Insert the notices for solicitations and the clauses cited in FPR 12–7.303–55 as prescribed therein.

§ 12–7.303–56 [Reserved]

§ 12–7.303–57 [Reserved]

§ 12–7.303–58 Labor surplus area subcontracting program.

Insert the clause set forth in FPR 1–1.805–3(b) under the conditions and in the manner prescribed therein.

§ 12–7.303–59 Small business subcontracting program.

Insert the clause set forth in FPR 1–1.710–3(b) under the conditions and in the manner prescribed therein.

§ 12–7.303–60 [Reserved]

§ 12–7.303–61 [Reserved]

§ 12–7.303–62 [Reserved]

§ 12–7.303–63 Preference for U.S. flag air carriers.

Insert the clause set forth in FPR 1–1.323–2 under the conditions prescribed therein.

§ 12–7.303–64 Contracts with the Small Business Administration.

Insert the clauses cited in FPR 1–7.303–64 in accordance with conditions prescribed therein.

§ 12–7.303–65 Privacy Act.

Insert the clause prescribed by FPR 1–1.327–5 as amended by DOTPR 12–7.103–29 as set forth therein.

§ 12–7.303–66 Use of U.S. flag commercial vessels.

Insert the clause prescribed by FPR 1–19.108–2 under the conditions set forth therein.

§ 12–7.304 Additional clauses.

The following clauses may be inserted in fixed-price research and development contracts when it is desired to cover the subject matter.

§ 12–7.304–1 Changes.

Insert the clause set forth in FPR 1–7.304–1.

§ 12–7.304–2 Alterations in contract.

Insert the clause set forth in FPR 1–7.204–1.

§ 12–7.304–3 Approval of contract.

Insert the clause set forth in FPR 1–7.204–2.

§ 12–7.304–4 [Reserved]

§ 12–7.304–5 Notice regarding late delivery.

Insert the clause set forth in FPR 1–7.204–4.

§ 12–7.304–6 Key personnel.

Insert the clause set forth in FPR 1–7.304–6.

§ 12–7.304–7 Liquidated damages.

Insert the provisions cited in FPR 1–7.304–7 in accordance with conditions prescribed therein.

§ 12–7.304–8 Disposition of material.

Insert the provisions cited in FPR 1–7.304–8.

§ 12–7.304–9 Reports of work.

Insert the clause set forth in FPR 1–7.304–9.

§ 12–7.350 Required DOTPR Clauses.

Insert the following DOTPR clauses in all fixed-price research and development contracts except where they are clearly inappropriate for use (e.g., certain clauses with educational institutions). The clauses are also appropriate for use in fixed-price contracts for studies, tests, and reports.

§ 12–7.350–1 Gratuities.

Insert the clause set forth in DOTPR 12–7.150–1.

§ 12–7.350–2 Authorization and consent.

Insert the following clause in accordance with conditions prescribed in DOTPR 12–9.151–2.

AUTHORIZATION AND CONSENT

The Government hereby gives its authorization and consent for all use and manufacture of any invention described in and covered by a patent of the United States in the performance of this contract or any part

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hereof or any amendment hereto or any subcontract hereunder (including any lower-tier subcontract).

(End of clause)

§ 12–7.350–3 Withholding payment for nondelivery of data.

Insert the clause set forth in DOTPR 12–7.150–8.

§ 12–7.350–4 Dissemination of contract information.

Insert the clause set forth in DOTPR 12–7.150–10.

§ 12–7.350–5 Priorities, allocations, and allotments.

Insert the clause set forth in DOTPR 12–7.150–3.

§ 12–7.350–6 Notice of delays.

Insert the clause set forth in DOTPR 12–7.150–9.

§ 12–7.350–7 New material.

Insert the clause set forth in DOTPR 12–7.150–2.

§ 12–7.350–8 Interpretation or modification.

Insert the clause set forth in DOTPR 12–7.150–4.

§ 12–7.350–9 Rights in data.

In accordance with DOTPR 12–9.201–1, insert the clause set forth in DOTPR 12–7.151–5 or DOTPR 12–7.151–6. Alterations in either clause may be made under the conditions prescribed in DOTPR 12–9.201–2.

§ 12–7.351 DOTPR clauses to be used when applicable.

The following clauses shall be included in the contract when their use is appropriate.

§ 12–7.351–1 Military security requirements.

Insert the Military Security Requirements clause set forth in DOTPR 12–7.151–9 in accordance with instructions for its use in DOTPR 12–1.352.

§ 12–7.351–2 Stop work orders.

Insert the clause set forth in DOTPR 12–7.151–12 in accordance with instructions contained therein.

§ 12–7.351–3 Renegotiation.

Insert the clause set forth in DOTPR 12–7.151–1 in accordance with instructions contained therein.

§ 12–7.351–4 Background patents (license).

Insert the clause set forth in DOTPR 12–7.150–12 in accordance with instructions contained in DOTPR 12–9.150.

§ 12–7.351–5 Filing of patent applications.

Insert the clause set forth in DOTPR 12–7.151–2 under the conditions prescribed in DOTPR 12–9.154.

§ 12–7.351–6 Reporting of royalties.

In accordance with DOTPR 12–9.156, insert the clause set forth in DOTPR 12–7.151–3.

§ 12–7.351–7 Refund of royalties.

In accordance with DOTPR 12–9.157, insert the clause set forth in DOTPR 12–7.151–4.

§ 12–7.351–8 Recovery of developmental costs.

Insert the clause set forth in DOTPR 12–7.151–7 in accordance with conditions contained in DOTPR 12–9.702.

§ 12–7.351–9 Value engineering.

A value engineering incentive clause substantially as set forth in DOTPR 12–7.151–13 shall be included in the contract in accordance with instructions for its use in DOTPR 12–1.5202–2.

Subpart 12–7.4—Clauses for Cost-Reimbursement Type Research and Development Contracts

§ 12–7.400 Scope of subpart.

This subpart sets forth uniform contract clauses for use in cost-reimbursement type research and development contracts.

§ 12–7.401 Applicability.

Applicability shall be in accordance with instructions set forth in FPR 1–7.401.

§ 12–7.402 Required clauses.

The clauses set forth or cited in this subpart 12–7.402 shall be inserted, as required, in all cost-reimbursement type research and development contracts.

§ 12–7.402–1 Definitions.

Insert the clause set forth in FPR 1–7.102–1. Additional definitions may be included provided they are not inconsistent with the clauses or the provisions in the FPR and these regulations.

§ 12–7.402–2 Limitation of cost or funds.

Insert the appropriate clause set forth in FPR 1–7.202–3(a) or FPR 1–7.402–2 in accordance with conditions prescribed in FPR 1–7.402–2. In the clause used, the period of "sixty (60) days" may be varied from 30 to 90 days and the percentage of "seventy-five percent (75%)" may be varied from 75 percent to 85 percent. Where a contract is of the installment type, the clauses may be appropriately modified.

§ 12–7.402–3 Allowable cost, fee, and payment.

Insert the clause set forth in FPR 1–7.202–4 in accordance with the conditions prescribed in FPR 1–7.402–3.

§ 12–7.402–4 Standards of work.

Insert the clause set forth in FPR 1–7.302–3.

§ 12–7.402–5 Inspection and correction of defects.

Insert the appropriate clause set forth in FPR 1–7.402–5 in accordance with instructions provided therein.

§ 12–7.402–6 Assignment of claims.

Insert the clause set forth in FPR 1–30.703 under the conditions prescribed therein.

§ 12–7.402–7 Examination of records by Comptroller General.

Insert the clause set forth in FPR 1–7.103–3. In the case of research and development contracts with nonprofit institutions and subcontracts thereunder, and pursuant to procedures approved by the Comptroller General, original documentary evidence in support of costs of the transportation of things will not be required pursuant to said clause.

§ 12–7.402–8 Subcontracts.

Insert the clause set forth in FPR 1–7.402–8.

§ 12–7.402–9 Utilization of small business concerns.

Insert the clause set forth in FPR 1–1.710–3(a) under the conditions prescribed therein.

§ 12–7.402–10 Termination for default or convenience of the Government.

Insert the clause set forth in FPR 1–8.702 in accordance with conditions prescribed in FPR 1–8.700–2(a)(3) and FPR 1–8.700–2(b)(2); or, insert the clause set forth in FPR 1–8.704–1 in accordance with conditions prescribed in FPR 1–8.700–2(a)(4).

§ 12–7.402–11 Disputes.

Insert the clause set forth in FPR 1–7.102–12.

§ 12–7.402–12 [Reserved]

§ 12–7.402–13 Buy American Act.

Insert the clause set forth in FPR 1–6.104–5 under the conditions prescribed therein.

§ 12–7.402–14 Convict labor.

Insert the clause set forth in FPR 1–12.204 under the conditions prescribed in FPR 1–12.203.

§ 12–7.402–15 Walsh-Healey Public Contracts Act.

Insert the clause set forth in FPR 1–12.605 under the conditions prescribed in FPR 1–12.602.

§ 12–7.402–16 Contract Work Hours and Safety Standards Act—overtime compensation.

Insert the clause set forth in FPR 1–12.303 under the conditions prescribed in FPR 1–12.302.

§ 12–7.402–17 Equal opportunity.

Insert the clause set forth in FPR 12.803–2 under the conditions prescribed in FPR 1–12.803–1.

§ 12–7.402–18 Officials not to benefit.

Insert the clause set forth in FPR 1–7.102–17.

§ 12–7.402–19 Covenant against contingent fees.

Insert the clause set forth in FPR 1–1.503 under the conditions prescribed in FPR 1–1.501.

§ 12–7.402–20 [Reserved]

§ 12–7.402–21 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in FPR 1–7.103–4.

§ 12–7.402–22 Patents.

Insert the appropriate clause set forth in FPR 1–9.107 under the conditions prescribed in FPR Subpart 1–9.1.

§ 12–7.402–23 [Reserved]

§ 12–7.402–24 [Reserved]

§ 12–7.402–25 Government property.

Insert the clause set forth in FPR 1–7.203–21(a) or FPR 1–7.402–25(b) under the conditions prescribed in FPR 1–7.402–25.

§ 12–7.402–26 [Reserved]

§ 12–7.402–27 Utilization of labor surplus area concerns.

Insert the clause set forth in FPR 1–1.805–3(a) under the conditions prescribed therein.

§ 12–7.402–28 Payment for overtime premiums.

Insert the clause set forth in FPR 1–7.202–29 when payment for overtime premiums is to be made in accordance with FPR 1–12.102.

§ 12–7.402–29 Competition in subcontracting.

Insert the clause set forth in FPR 1–7.202–30.

§ 12–7.402–30 Audit and records.

Insert the clause cited in FPR 1–7.402–30 as prescribed therein.

§ 12–7.402–31 Price reduction for defective cost or pricing data.

Insert the clause set forth in FPR 1–3.814–1(a) under the conditions prescribed therein.

§ 12–7.402–32 Subcontractor cost and pricing data.

Insert the appropriate clause set forth in FPR 1–3.814–3 under the conditions prescribed therein.

§ 12–7.402–33 Utilization of minority business enterprises.

Insert the clause set forth in FPR 1–1.1310–2(a) under the conditions prescribed therein.

§ 12–7.402–34 Disabled veterans and veterans of the Vietnam Era.

Insert the clause set forth in FPR Temporary Regulation 39 of July 1976 in all contracts which exceed $10,000.

§ 12–7.402–35 Payment of interest on contractors' claims.

Insert the clause set forth in FPR 1–1.322(b) under the conditions prescribed therein.

§ 12–7.402–36 Employment of the handicapped.

Insert the clause set forth in FPR Temporary Regulation 38 of May 1976.

§ 12–7.402–37 Clean air and water.

Insert the clause prescribed by FPR 1–1.2302–2 under the conditions set forth therein.

§ 12–7.403 Clauses to be used when applicable.

§ 12–7.403–1 Clauses for cost-reimbursement type research and development contracts involving construction.

Insert the clauses cited in FPR 1–7.403–1 as prescribed therein.

§ 12–7.403–2 [Reserved]

§ 12–7.403–3 [Reserved]

§ 12–7.403–4 [Reserved]

§ 12–7.403–5 Excusable delays.

Insert the clause set forth in FPR 1–8.708 under the conditions prescribed in FPR 1–8.700–2(c).

§ 12–7.403–6 [Reserved]

§ 12–7.403–7 [Reserved]

§ 12–7.403–8 [Reserved]

§ 12–7.403–9 Negotiated overhead rates.

Insert the appropriate clause set forth in FPR 1–3.704 under the conditions prescribed therein.

§ 12–7.403–10 Notice to the Government of labor disputes.

Insert the clause set forth in FPR 1–7.203–3 under the conditions prescribed in the section.

§ 12–7.403–11 [Reserved]

§ 12–7.403–12 [Reserved]

§ 12–7.403–13 [Reserved]

§ 12–7.403–14 Make-or-buy-program.

Insert the clause set forth in FPR 1–3.902–3 under the conditions prescribed therein.

§ 12–7.403–15 [Reserved]

§ 12–7.403–16 [Reserved]

§ 12–7.403–17 [Reserved]

§ 12–7.403–18 [Reserved]

§ 12–7.403–19 [Reserved]

§ 12–7.403–20 Advance payments.

When advance payments are to be made in accordance with FPR Subpart 1–30.4, insert the appropriate provisions as prescribed in FPR 1–30.414–2.

§ 12–7.403–21 Workmen's compensation insurance (Defense Base Act).

Insert the clause set forth in FPR 1–10.402 under the conditions prescribed therein.

§ 12–7.403–22 Required source for jewel bearings.

Insert the clause set forth in FPR 1–1.319 under the conditions prescribed therein.

§ 12–7.403–23 General Services Administration supply sources.

Insert the clause set forth in FPR 1–7.203–13 under the conditions prescribed in FPR Subpart 1–5.9.

§ 12–7.403–24 Use of interagency motor pool vehicles and related services.

Insert the clause set forth in FPR 1–7.203–14 under the conditions prescribed in FPR Subpart 1–5.5.

§ 12–7.403–25 Interest.

Insert the clause set forth in FPR 1–7.203–15 under the conditions prescribed therein.

§ 12–7.403–26 [Reserved]

§ 12–7.403–27 [Reserved]

§ 12–7.403–28 [Reserved]

§ 12–7.403–29 [Reserved]

§ 12–7.403–30 [Reserved]

§ 12–7.403–31 [Reserved]

§ 12–7.403–32 [Reserved]

§ 12–7.403–33 [Reserved]

§ 12–7.403–34 [Reserved]

§ 12–7.403–35 [Reserved]

§ 12–7.403–36 United States products and services (Balance of Payments Program).

Insert the clause set forth in FPR 1–6.806–4 under the conditions prescribed in FPR Subpart 1–6.8.

§ 12–7.403–37 [Reserved]

§ 12–7.403–38 [Reserved]

§ 12–7.403–39 Care of laboratory animals.

Insert the clause set forth in FPR 1–7.303–44 under the conditions prescribed therein.

§ 12–7.403–40 [Reserved]

§ 12–7.403–41 [Reserved]

§ 12–7.403–42 [Reserved]

§ 12–7.403–43 [Reserved]

§ 12–7.403–44 [Reserved]

§ 12–7.403–45 [Reserved]

§ 12–7.403–46 [Reserved]

§ 12–7.403–47 [Reserved]

§ 12–7.403–48 [Reserved]

§ 12–7.403–49 [Reserved]

§ 12–7.403–50 Cost accounting standards.

Insert the notices and clauses cited in FPR 1–7.403–50 as prescribed therein.

§ 12–7.403–51 [Reserved]

§ 12–7.403–52 [Reserved]

§ 12–7.403–53 Small business subcontracting program.

Insert the clause set forth in FPR 1–1.710–3(b) under the conditions prescribed therein.

§ 12–7.403–54 Labor surplus area subcontracting program.

Insert the clause set forth in FPR 1–1.1310–2(b) under the conditions prescribed therein.

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§ 12–7.403–55 Minority business enterprises subcontracting program.

Insert the clause set forth in FPR 1–1.1310–2(b) under these conditions prescribed therein.

§ 12–7.403–56 [Reserved]

§ 12–7.403–57 [Reserved]

§ 12–7.403–58 Preference for U.S. flag air carriers.

Insert the clause set forth in FPR 1–1.323–2 under the conditions prescribed therein.

§ 12–7.403–59 [Reserved]

§ 12–7.403–60 Privacy Act.

Insert the clause prescribed in FPR 1–1.327–5 as amended by DOTPR 12–7.103–29 under the conditions contained therein.

§ 12–7.403–61 Use of U.S. flag commercial vessels.

Insert the clause prescribed by FPR 1–19.108–2 under the conditions set forth therein.

§ 12–7.404 Additional clauses.

The following clauses may be inserted in cost-reimbursement type research and development contracts when it is desired to cover the subject matter thereof.

§ 12–7.404–1 Alterations in contract.

Insert the clause set forth in FPR 1–7.204–1.

§ 12–7.404–2 Approval of contract.

Insert the clause set forth in FPR 1–7.204–2.

§ 12–7.404–3 Date of incurrence of costs.

Insert the clause set forth in FPR 1–7.204–3.

§ 12–7.404–4 Notice regarding late delivery.

Insert the clause set forth in FPR 1–7.204–4.

§ 12–7.404–5 Changes.

Insert the clause set forth in FPR 1–7.404–5. In the clause, the period of "thirty (30) days" within which any claim for adjustment must be asserted may be varied in accordance with Administration procedures.

§ 12–7.404–6 Key personnel.

Insert the clause set forth in FPR 1–7.304–6.

§ 12–7.404–7 Disposition of material.

Insert the clause set forth in FPR 1–7.304–8.

§ 12–7.404–8 Reports of work.

Insert the clause set forth in FPR 1–7.304–9.

§ 12–7.404–9 Insurance—liability to third persons.

Insert the clause set forth in DOTPR 12–7.204–50 in lieu of FPR clause 1–7.204–5 prescribed in FPR 1–7.404–9. However, when the conditions contained in FPR 1–7.404–9 exist, the clauses set forth in the section shall be inserted with or in lieu of DOTPR 12–7.204–50.

§ 12–7.450 Required DOTPR clauses.

Insert the following DOTPR clauses in all cost-reimbursement type research and development contracts, except where their use is clearly inappropriate (e.g., certain clauses with educational institutions).

§ 12–7.450–1 Gratuities.

Insert the clause set forth in DOTPR 12–7.150–1.

§ 12–7.450–2 New material.

Insert the clause set forth in DOTPR 12–7.150–2.

§ 12–7.450–3 Priorities, allocations, and allotments.

Insert the clause set forth in DOTPR 12–7.150–3.

§ 12–7.450–4 Interpretation or modification.

Insert the clause set forth in DOTPR 12–7.150–4.

§ 12–7.450–5 Dissemination of contract information.

Insert the clause set forth in DOTPR 12–7.150–10.

§ 12–7.450–6 Authorization and consent.

Insert the clause set forth in DOTPR 12–7.150–11 in accordance with DOTPR 12–9.151–1

§ 12–7.450–7 Notice of delays.

Insert the clause set forth in DOTPR 12–7.150–9.

§ 12–7.450–8 Rights in data.

Insert the clause set forth in DOTPR 12–7.151–5 or DOTPR 12–7.151–6 in accordance with instructions in DOTPR 12–9.201–1.

§ 12–7.451 DOTPR clauses to be used when applicable.

The following DOTPR clauses shall be included in the contract when their use is appropriate.

§ 12–7.451–1 Recovery of developmental costs.

Insert the clause set forth in DOTPR 12–7.151–7 in accordance with conditions contained in DOTPR 12–9.702.

§ 12–7.451–2 Filing of patent applications.

Insert the clause set forth in DOTPR 12–7.151–2 in accordance with instructions in DOTPR 12–9.154.

§ 12–7.451–3 Reporting of royalties (foreign).

Insert the clause set forth in DOTPR 12–7.151–3 in accordance with instructions in DOTPR 12–9.156.

§ 12–7.451–4 Refund of royalties.

Insert the clause set forth in DOTPR 12–7.151–4 in accordance with instructions in DOTPR 12–9.157.

§ 12–7.451–5 Military security requirements.

When required by DOTPR 12–1.352, insert the clause set forth in DOTPR 12–7.151–9 and modifications thereto set forth in DOTPR 12–7.251–7.

§ 12–7.451–6 Stop work orders.

The clause set forth in DOTPR 12–7.151–12 may be included under the conditions described therein, provided the clause is modified as prescribed in DOTPR 12–7.251–8.

§ 12–7.451–7 Value engineering.

A value engineering incentive clause substantially as set forth in DOTPR 12–7.151–13, substituting the "Sharing" paragraph (e) in DOTPR 12–7.251–9 (b) or (c) for paragraph (e) of the clause in DOTPR 12–7.151–13, as applicable, shall be included in the contract in accordance with instructions for its use in DOTPR 12–1.5202–2.

§ 12–7.451–8 Renegotiation.

Insert the clause set forth in DOTPR 12–7.151–15 in accordance with instructions contained therein.

§ 12–7.451–9 Background patents (license).

Insert the clause set forth in DOTPR 12–7.150–12 in accordance with instructions contained in DOTPR 12–9.150.

Subpart 12–7.6—Clauses for Fixed-Price Construction Contracts

§ 12–7.600 Scope of subpart.

This subpart sets forth or cites contract clauses and notices for solicitations for use in fixed-price construction contracts.

§ 12–7.601 General.

The clauses and notices prescribed in FPR Subpart 1–7.6 shall be used in accordance with instructions set forth in FPR 1–7.601.

§ 12–7.602 Required clauses.

Subject to the exceptions in FPR 1–7.601, the following clauses shall be inserted in all advertised and negotiated fixed-price construction contracts. For convenience many of the required clauses have been included on standard forms which are prescribed for use in construction contracts by FPR Subpart 1–16.4.

§ 12–7.602–1 Definitions.

Insert the clause set forth in FPR 1–7.602–1. Additional definitions may be included provided they are not inconsistent with the clause or provisions of the FPR and these regulations.

§ 12–7.602–2 Specifications and drawings.

Insert the clause set forth in FPR 1–7.602–2.

§ 12–7.602–3 Changes.

Insert the clause set forth in FPR 1–7.602–3.

§ 12–7.602–4 Differing site conditions.

Insert the clause set forth in FPR 1–7.602–4, and incorporate physically or by reference the provisions of FPR 1–18.117 in contracts which include this clause until such time as an amendment of the clause has been effected.

§ 12–7.602–5 Termination for default—damages for delay—time extensions.

In accordance with FPR 1–8.700–2(b)(4) and (5), insert the clause set forth in either FPR 1–8.709–1 or FPR 1–8.709–2 as appropriate.

§ 12–7.602–6 Disputes.

Insert the clause set forth in FPR 1–7.602–6.

§ 12–7.602–7 Payments to contractor.

Insert the clause set forth in FPR 1–7.602–7.

§ 12–7.602–8 Assignment of claims.

Insert the clause set forth in FPR 1–30.703 under the conditions prescribed therein.

§ 12–7.602–9 Material and workmanship.

Insert the clause set forth in FPR 1–7.602–9.

§ 12–7.602–10 [Reserved]

§ 12–7.602–11 Inspection and acceptance.

Insert the clause set forth in FPR 1–7.602–11.

§ 12–7.602–12 Superintendance by contractor.

Insert the clause set forth in FPR 1–7.602–12.

§ 12–7.602–13 Permits and responsibilities.

Insert the clause set forth in FPR 1–7.602–13.

§ 12–7.602–14 Conditions affecting the work.

Insert the clause set forth in FPR 1–7.602–14.

§ 12–7.601–15 Other contracts.

Insert the clause set forth in FPR 1–7.602–15.

§ 12–7.602–16 Patent indemnity.

Insert the clause set forth in FPR 1–7.602–16.

§ 12–7.602–17 Additional bond security.

Insert the clause set forth in FPR 1–7.602–17.

§ 12–7.602–18 Covenant against contingent fees.

Insert the clause set forth in FPR 1–1.503 under the conditions prescribed in FPR 1–1.501.

§ 12–7.602–19 Officials not to benefit.

Insert the clause set forth in FPR 1–7.102–17.

§ 12–7.602–20 Buy American Act.

Insert the clause set forth in FPR 1–18.605.

§ 12–7.602–21 Convict labor.

Insert the clause set forth in FPR 1–12.204 under the conditions prescribed in FPR 1–12.203.

§ 12–7.602–22 Equal opportunity.

Insert the clause set forth in FPR 1–12.803–2, except as provided in FPR 1–12.804–1.

§ 12–7.602–23 Labor standards provisions.

Insert the clauses set forth in FPR 1–18.703 as provided in FPR 1–18.701–1. The clauses are listed in FPR 1–7.602–23.

§ 12–7.602–24 [Reserved]

§ 12–7.602–25 [Reserved]

§ 12–7.602–26 Utilization of small business concerns.

Insert the clause set forth in FPR 1–1.710–3(a) under the conditions described therein.

§ 12–7.602–27 Federal, State, and local taxes.

Insert the clause in FPR 1–11.401–1 or FPR 1–11.401–2 and, when appropriate, insert the supplementary clause in FPR 1–11.401–3(a), in accordance with the conditions prescribed in those sections.

§ 12–7.602–28 [Reserved]

§ 12–7.602–29 Termination for convenience of the Government.

In accordance with the requirements of FPR 1–8.700–2, insert the appropriate clause set forth in FPR 1–8.703 or FPR 1–8.705–2.

§ 12–7.602–30 Pricing of adjustments.

Insert the clause set forth in FPR 1–7.102–20 under the conditions described therein.

§ 12–7.602–31 Use and possession prior to completion.

Insert the clause set forth in FPR 1–7.602–31.

§ 12–7.602–32 Suspension of work.

Insert the clause set forth in FPR 1–7.602–32.

§ 12–7.602–33 Utilization of minority business enterprises.

Insert the clause set forth in FPR 1–1.1310–2(a) under the conditions described therein.

§ 12–7.602–34 Disabled veterans and veterans of the Vietnam era.

Insert the clause set forth in FPR Temporary Regulation 39 of July 1976 in all contracts which exceed $10,000.

§ 12–7.602–35 Payment of interest on contractors' claims.

Insert the clause set forth in FPR 1–1.322(b) under the conditions described therein.

§ 12–7.602–36 Shop drawings.

Insert the clause set forth in FPR 1–7.602–36.

§ 12–7.602–37 Employment of the handicapped.

Insert the clause set forth in FPR Temporary Regulation 38 of May 1976.

§ 12–7.602–38 Clean air and water.

Insert the clause set forth in FPR 1–1.2302–2 under the conditions described therein.

§ 12–7.603 Clauses to be used when applicable.

§ 12–7.603–1 [Reserved]

§ 12–7.603–2 [Reserved]

§ 12–7.603–3 [Reserved]

§ 12–7.603–4 [Reserved]

§ 12–7.603–5 [Reserved]

§ 12–7.603–6 [Reserved]

§ 12–7.603–7 Examination of records by Comptroller General.

The clause set forth in FPR 1–7.103–3 shall be included in all negotiated contracts in excess of $10,000, under the conditions described therein.

§ 12–7.603–8 [Reserved]

§ 12–7.603–9 [Reserved]

§ 12–7.603–10 [Reserved]

§ 12–7.603–11 Price reduction for defective cost or pricing data.

Insert the appropriate clause set forth in FPR 1–3.814–1 under the conditions described therein.

§ 12–7.603–12 Workmen's compensation insurance (Defense Base Act).

In accordance with the requirements of FPR 1–10.402 insert the clause set forth therein.

§ 12–7.603–13 [Reserved]

§ 12–7.603–14 Advance payments.

When advance payments are to be made in accordance with FPR Subpart 1–30.4, insert the appropriate provisions as prescribed in FPR 1–30.414–2.

§ 12–7.603–15 Performance of work by contractor.

The clause set forth in FPR 1–18.104 is prescribed for use under the conditions described therein.

§ 12–7.603–16 [Reserved]

§ 12–7.603–17 [Reserved]

§ 12–7.603–18 [Reserved]

§ 12–7.603–19 Use of U.S. Flag Commercial Vessels.

Insert the clause prescribed by FPR 1–19.108–2 under the conditions set forth therein.

§ 12–7.603–20 Audit and records.

Insert the clause set forth in FPR 1–3.814–2 under the conditions described therein.

§ 12–7.603–21 Subcontractor cost and pricing data.

Insert the appropriate clause set forth in FPR 1–3.814–3 under the conditions described therein.

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§ 12–7.603–22 Contracts with the Small Business Administration (Special 8 (a) Contract).

(a) Insert the clause set forth in FPR 1–1.713–4(g)(1) in contracts with the Small Business Administration awarded pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

(b) Insert the clause set forth in FPR 1–1.713–4(h) in subcontracts which will be executed by the Small Business Administration with its subcontractors.

§ 12–7.603–23 Small business subcontracting program.

Insert the clause set forth in FPR 1–1.710–3(b) under the conditions described therein.

§ 12–7.603–24 Minority business enterprises subcontracting program.

Insert the clause set forth in FPR 1–1.1310–2(b) under the conditions described therein.

§ 12–7.603–25 Late bids and modifications or withdrawals.

Insert the provisions cited in FPR 1–7.603–25 in solicitations under the conditions prescribed therein.

§ 12–7.603–26 Preference for U.S. flag air carriers.

Insert the clause set forth in FPR 1–1.323–2 under the conditions described therein.

§ 12–7.603–27 Cost accounting standards.

Insert the notices for solicitations set forth in FPR 1–3.1203(a)(3), (h)(2), and (i)(2) and the clauses set forth in FPR 1–3.1204–1 and FPR 1–3.1204–2 under the conditions contained in FPR Subpart 1–3.12.

§ 12–7.603–28 Subcontracts.

Insert the clause set forth in FPR 1–7.103–28 under the conditions contained in the section.

§ 12–7.604 Additional clauses.

§ 12–7.604–1 Liquidated damages.

Insert the clause set forth in FPR 1–18.110 under the conditions prescribed therein.

§ 12–7.650 Required DOTPR clauses.

§ 12–7.650–1 Gratuities.

Insert the clause set forth in DOTPR 12–7.150–1.

§ 12–7.650–2 Protection of existing vegetation, structures, utilities, and improvements.

Use with Standard Form 19 or 23A.

PROTECTION OF EXISTING VEGETATION, STRUCTURES, UTILITIES, AND IMPROVEMENTS

(a) The Contractor will preserve and protect all existing vegetation (such as trees, shrubs, and grass) on or adjacent to the site of work which is not to be removed and which does not unreasonably interfere with the construction work. Care will be taken in removing trees authorized for removal to avoid damage to vegetation to remain in place. Any limbs or branches of trees broken during such operations or by the careless operation of equipment or by workmen, shall be trimmed with a clean cut and painted with an approved tree pruning compound, as directed by the Contracting Officer.

(b) All existing utilities, communications facilities, and other improvements, including but not limited to conduit, pipe, wiring, or cable (hereinafter referred to as "improvements"), whether above or below ground, shall be protected by the Contractor from damage or destruction. The Contractor shall ascertain from the drawings and specifications the location of any concealed improvements, at or near the site of the work. Any destruction of or damage to existing improvements, above or below ground, shall be promptly repaired, restored, or replaced at the direction of the Contracting Officer. The directions of the Contracting Officer may require complete replacement of conduits, pipes, wiring, cables, or similar improvements where original installation was made under a requirement for continuous, unspliced lengths. The Contracting Officer has the right to have the necessary corrective work performed by the Contractor at his expense, or by others and charge the cost thereof to the Contractor. If concealed improvements are encountered and they are not shown on the drawings or specifications, the provisions of the "Differing Site Conditions" clause of this contract shall apply.

(End of clause)

§ 12–7.650–3 Operations and storage areas (use with SF–23A).

OPERATIONS AND STORAGE AREAS

(a) All operations of the Contractor (including storage of materials) upon Government premises shall be confined to areas authorized or approved by the Contracting Officer. The Contractor shall hold and save the Government, its officers and agents, free and harmless from liability of any nature occasioned by his operations.

(b) Temporary buildings (storage sheds, shops, offices, etc.) may be erected by the Contractor only with the approval of the Contracting Officer, and shall be built with labor and materials furnished by the Contractor without expense to the Government. Such temporary buildings and utilities shall remain the property of the Contractor and shall be removed by him at his expense upon the completion of the work. With the written consent of the Contracting Officer, such buildings and utilities may be abandoned and need not be removed.

(c) The Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways or construct and use such temporary roadways as may be authorized by the Contracting Officer. Where materials are transported in the prosecution of the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State or local law or regulation. When it is necessary to cross curbing or sidewalks, protection against damage shall be provided by the Contractor and any damaged roads, curbings, or sidewalks shall be repaired by, or at the expense of the Contractor.

(End of clause)

§ 12–7.650–4 Modification proposals—price breakdown (use with SF–23A).

MODIFICATION PROPOSALS—PRICE BREAKDOWN

The Contractor, in connection with any proposal he makes for contract modification, shall furnish a price breakdown, itemized as required by the Contracting Officer. Unless otherwise directed, the breakdown shall be in sufficient detail to permit an analysis of all material, labor, equipment, subcontract, and overhead costs, as well as profit, and shall cover all work involved in the modification, whether such work was deleted, added or changed. Any amount claimed for subcontracts shall be supported by a similar price breakdown. In addition, if the proposal includes a time extension, a justification therefor shall also be furnished. The proposal together with the price breakdown and time extension justification, shall be furnished by the date specified by the Contracting Officer.

(End of clause)

§ 12–7.650–5 Work schedule (use with SF–19).

WORK SCHEDULE

The Contractor shall, within 10 days from date of award of contract (unless a different time is specified in the contract), furnish to the Contracting Officer, in triplicate, a schedule showing the proposed dates on which the major phases of the work will be started and completed. Acceptance of the schedule by the Contracting Officer shall not excuse the Contractor for any delay in completing the work.

(End of clause)

§ 12–7.650–6 Cleaning up (use with SF–23A).

CLEANING UP

The contractor shall at all times keep the construction area, including storage areas used by him, free from accumulations of waste material or rubbish and prior to completion of the work remove from the premises any rubbish and all tools, scaffolding, equipment, and material not the property of the Government. Upon completion of the construction the Contractor shall leave the work and premises in a clean, neat and workmanlike condition satisfactory to the Contracting Officer.

(End of clause)

§ 12–7.650–7 Additional definitions (use with SF–23A).

ADDITIONAL DEFINITIONS

(a) Wherever in the specifications or upon the drawings the words "directed", "required", "ordered", "designated", "prescribed", or words of like import are used, it shall be understood that the "direction", "requirement", "order", "designation", or "prescription", of the Contracting Officer is intended and similarly the words "approved", "acceptable", "satisfactory" or words of like import shall mean "approved by" or "acceptable to", or "satisfactory to" the Contracting Officer, unless otherwise expressly stated.

(b) Where "as shown", "as indicated", "as detailed", or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provided complete in place", that is "furnished and installed".

(End of clause)

§ 12–7.650–8 Safety requirements (use with SF–23A).

SAFETY REQUIREMENTS

(a) The Contractor shall provide safety controls for protection to the life and health of employees and other persons; for prevention of damage to property, materials, supplies, and equipment; and for avoidance of work interruptions in the performance of this contract; and the Contractor shall comply with any accident prevention or safety requirements included or referenced in this contract.

(b) The Contractor will maintain an accurate record of, and will report to the Contracting Officer in the manner and on the forms prescribed by the Contracting Officer, exposure data and all accidents resulting in death, traumatic injury, occupational disease, and damage to property, materials, supplies and equipment incident to work performed under this contract.

(c) The Contracting Officer will notify the Contractor of any noncompliance with the foregoing provisions and the action to be taken. The Contractor shall, after receipt of such notice, immediately take corrective action. Such notice, when delivered to the Contractor or his representative at the site of the work, shall be deemed sufficient for the purpose. If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop orders shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor.

(d) Compliance with the provisions of this clause by subcontractors will be the responsibility of the Contractor.

(End of clause)

§ 12–7.650–9 Contracting officer's representative (use with SF–23A).

CONTRACTING OFFICER'S REPRESENTATIVE

The Contracting Officer may designate Government personnel to act as his authorized representatives for one or more contract administration functions not involving a change in the scope, price, terms, or conditions of the contract. Such designation will be in writing, set forth elsewhere in the contract or by separate letter signed by the Contracting Officer, and will contain specific instructions as to the extent to which the representative may take action for the Contracting Officer. Such designation will not contain authority to sign contractual documents, nor will it authorize the designee to order contract changes, modify contract terms, or create any liability on the part of the Government different from that set forth in the contract.

(End of clause)

§ 12–7.650–10 Contract time—notice to proceed (use with SF–23A).

CONTRACT TIME—NOTICE TO PROCEED

(a) Provided the contract is not terminated pursuant to paragraph 4, Standard Form 22, "Instructions to Bidders", if in the opinion of the Contracting Officer, the Contractor's delay in executing formal contract documents or furnishing performance or payment bonds causes a delay in the issuance of the notice to proceed, the time to complete the work as specified in the contract, may be reduced to reflect such delay.

(b) The Contractor shall perform no work under this contract until the required contract documents and bonds have been furnished. Thereafter, work at other than the contract site may be undertaken. The Contractor shall perform no work at the contract site except pursuant to a notice to proceed given by the Contracting Officer.

(c) Notice to proceed may be issued by the Government at its convenience. Any right of the Contractor to price adjustment because of unreasonable delay on the part of the Government in issuing notice to proceed shall be determined in accordance with the clause titled "Suspension of Work".

(End of clause)

§ 12–7.650–11 Rights in shop drawings use with SF–23A).

RIGHTS IN SHOP DRAWINGS

(a) Shop drawings for construction means drawings, submitted to the Government by the Construction Contractor, subcontractor or any lower tier subcontractor pursuant to a construction contract, showing in detail (i) the proposed fabrication and assembly of structural elements and (ii) the installation (i.e., form, fit, and attachment details) of materials or equipment. The Government may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(b) This clause, including this paragraph (b), shall be included in all subcontracts hereunder at any tier.

(End of clause)

§ 12–7.650–12 Notice of delays (use with SF–23A).

Insert the clause set forth in DOTPR 12–7.150–9.

§ 12–7.650–13. Priorities, allocations, and allotments (use with SF–23A).

Insert the clause set forth in DOTPR 12–7.150–3.

§ 12–7.650–14 Dissemination of contract information (use with SF–23A).

Insert the clause set forth in DOTPR 12–7.150–10.

§ 12–7.650–15 Guarantee (use with SF–23A).

GUARANTEE

(a) Unless otherwise provided in the contract, the Contractor guarantees all work performed and materials and equipment delivered to be in accordance with contract requirements and free from defective or inferior materials, equipment and workmanship for one year from the date of final acceptance of the contract work by the Government. The guarantee provided for in this clause shall not extend to or apply to Government-furnished material or equipment except as to such work as may be performed thereon by the Contractor.

(b) Upon receipt of notice from the Contracting Officer that work, material, or equipment furnished under this contract has failed to meet the contract guarantee, the contractor shall promptly return to the site of the work and at his expense (1) place in satisfactory condition in every particular all such guaranteed work, correcting all defects therein, (2) restore to a satisfactory condition the building or site or any equipment or contents thereof which, in the opinion of the Contracting Officer, are affected or damaged as a result of the use of material, equipment or workmanship which are inferior, defective or not in accordance with the terms of the contract, and (3) restore to a satisfactory condition any work, materials and equipment disturbed in fulfilling the guarantee.

(c) In any case where in fulfilling the requirements of the contract or of any guarantee, embraced in or required thereby, the Contractor disturbs any work guaranteed under another contract, he shall restore such disturbed work to a condition satisfactory to the Contracting Officer and guarantee such restored work to the same extent as it was guaranteed under such other contract.

(d) Should the Contractor fail to proceed promptly to comply with the terms of a guarantee under this contract, the Contracting Officer may cause corrective action to be taken by others and the Contractor shall promptly reimburse the Government its cost incurred thereby, or in lieu of taking corrective action, the Contracting Officer may cause the Contractor to pay to the Government an amount of money commensurate with what the corrective action would cost.

(End of clause)

§ 12–7.650–16 General conduct of work (use with SF–19).

GENERAL CONDUCT OF WORK

(a) The Contractor shall comply with any accident prevention or safety requirements included or referenced in this contract, and shall take any additional protective measures deemed necessary by the Contracting Officer.

(b) All operations of the Contractor (including storage of materials) shall be confined to areas authorized by the Contracting Officer. If the use of temporary buildings is authorized by the Contracting Officer, such buildings shall be removed by the Contractor at his expense upon completion of the work.

(c) The Contractor shall keep the construction area free from waste material or rubbish. Upon completion of the work, he shall remove his equipment, tools, and material, and leave the premises in a clean, neat, and orderly condition.

(d) The Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways or construct and use such temporary roadways as may be authorized by the Contracting Officer.

(End of clause)

§ 12–7.650–17 Contractor inspection system (use with SF–23A).

CONTRACTOR INSPECTION SYSTEM

The Contractor shall (i) maintain an adequate inspection system and perform such inspections as will assure that the work performed under the contract conforms to contract requirements, and (ii) maintain and make available to the Government adequate records of such inspection.

(End of clause)

§ 12–7.650–18 Information regarding Buy American Act (use with SF–23A).

INFORMATION REGARDING BUY AMERICAN ACT

(a) The Buy American Act (41 U.S.C. 10a–10d) generally requires that only domestic construction material be used in the performance of this contract. (See the clause entitled "Buy American" in Standard Form 23A, General Provisions, Construction Contract.) This requirement does not apply to the following construction material or components:

Acetylene black
Asbestos, amosite
Bismuth
Cadmium, ores and flue dust
Chrome ore or chromite
Cork, wood or bark and waste
Graphite, natural
Mica
Rubber, crude and latex
Wax, carnauba
Woods of the following species: angelique, balsa, ekki, greenheart, lignum vitae, mahogany and teak

(b)(1) Furthermore, bids or proposals offering use of additional nondomestic construction material may be acceptable for award if the Government determines that use of comparable domestic construction material is impracticable or would unreasonably increase the cost or that domestic construction material (in sufficient and reasonably available commercial quantities and of a satisfactory quality) is unavailable. Reliable evidence shall be furnished justifying such use of additional nondomestic construction material.

(2) Where it is alleged that use of domestic construction material would unreasonably increase the cost:

(i) Data shall be included, based on a reasonable canvass of suppliers, demonstrating

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that the cost of each such domestic construction material would exceed by more than 6 percent the cost of comparable nondomestic construction material (All costs of delivery to the construction site shall be included, as well as any applicable duty)

(ii) For evaluation purposes, 6 percent of the cost of all additional, nondomestic construction material, which qualifies under paragraph (1) above, will be added to the bid or proposal

(3) When offering additional nondomestic construction material bids or proposals may also offer at stated prices, any available comparable domestic construction material, so as to avoid the possibility that failure of a nondomestic construction material to be acceptable under (1) above will cause rejection of the entire bid

(End of clause)

§ 12–7.651 Clauses to be used when applicable.

§ 12–7.651–1 Notice and assistance regarding patent and copyright infringement.

In accordance with DOTPR 12–9 153, insert the clause set forth in FPR 1–7 - 103–4

§ 12–7.651–2 Authorization and consent.

Insert the clause set forth in DOTPR 12–7 150–11 in accordance with the instructions for its use in DOTPR 12–9 - 151–1.

§ 12–7.651–3 Military security requirements.

Insert the Military Security Requirements clause set forth in DOTPR 12–7 - 151–9 in accordance with the instructions for its use in DOTPR 12–1 352

§ 12–7.651–4 Performance of work by contractor.

Insert the clause set forth in FPR 1–18 104 in accordance with the instructions for its use

§ 12–7.651–5 Government-furnished property.

When property will be furnished by the Government, insert the following clause in the contract

GOVERNMENT-FURNISHED PROPERTY

(a) *Title, use, and quantities* Any property to be furnished by the Government as listed elsewhere in this contract under the heading "Government-Furnished Property List" hereafter referred to as "GFPL") is for use only in connection with the performance of the work hereunder Title to all such property shall remain vested in the Government The property shall be furnished in the quantities shown, with the exception of items marked "as required" which will be furnished in whatever quantities are required to complete the work All additional quantities of the items on this list and any other property required to complete the work will be furnished by the Contractor

(b) *Point of delivery* The Government shall deliver this property to the Contractor at the point(s) specified in the GFPL The Contractor shall at no expense to the Government inspect, unload, load and make further delivery of the property at the job site The Contractor shall be responsible for payment of any demurrage and storage charges accruing more than 5 days after his receipt of notice to proceed.

(c) *Time of delivery* Any property to be furnished by the Government shall be delivered to the Contractor in sufficient time to enable him to perform the work without delay The Contractor will be given advance notice of expected delivery dates if they are not already shown on the GFPL If the property is not delivered to the Contractor by the 5th day subsequent to the expected delivery date, he shall notify the Contracting Officer within 3 days thereafter The Contractor shall acknowledge receipt thereof in writing to the Contracting Officer and if there are shortages or defective property in any shipment, the contractor shall notify the Contracting Officer within 24 hours after delivery of shipment or in the case of concealed defects and shortages, within 3 days after they are discovered In either event, the Contracting Officer will take appropriate action to rectify the matter In the absence of information from the Contractor to the contrary within the periods specified above, the Government will consider that all property has been delivered to the Contractor on time and in good condition and he will be held responsible thereafter for any shortages and defective property that may later be discovered, or for any damages incurred through inadequate protection No claim for adjustments in the time and price for performance of the contract ("Suspension of Work" and the "Termination For Default-Damages For Delay-Time Extensions" clause) shall be allowed for failure of the Government to furnish property unless the Contractor reports the delinquent deliveries within the periods specified above Notifications to the Contracting Officer are in addition to the requirements under the above-cited clauses for making timely notifications to the Contracting Officer if time and price adjustments are desired

(d) *Surplus* In accordance with instructions furnished by the Contracting Officer, upon completion of the work any unused property shall be prepared for shipment and be delivered by the Contractor to the nearest appropriate common carrier or Government storage point in the locality of the work

(End of clause)

§ 12–7.651–6 Physical data.

All the information concerning local conditions pertaining to the performance of the contract work, which has been made available to the contractor should be referenced into the contract by completing the clause set forth below Wherever test borings, analyses, or hydrographic data are to be made available to the contractor, the wording of this special clause should be such as only to inform the contractor as to the source of the data and where it may be examined

PHYSICAL DATA

Information and data furnished or referred to below are furnished for the Contractor's information However it is expressly understood that the Government will not be responsible for any interpretation or conclusion drawn therefrom by the Contractor

(a) The physical conditions indicated on the drawings and in the specifications are the result of site investigations by (insert investigational methods used, such as surveys, auger borings, core borings, test pits, probings, test runnels, etc.)

(b) *Weather conditions* (Insert summary of weather records and warnings)

(c) *Transportation facilities* (Insert the summary of transportation facilities accessible to project, availability and limitations)

(d) (Insert other pertinent information)

(End of clause)

§ 12–7.651–7 Variations in estimated quantities contracts.

Insert the following clause in contracts containing estimated quantity items in accordance with DOTPR 12–18 201–50

VARIATION IN ESTIMATED QUANTITIES CONTRACTS

Where the quantity of a pay item in this contract is an estimated quantity and where the actual quantity of such pay item varies more than fifteen percent (15%) above or below the estimated quantity stated in this contract, an equitable adjustment in the contract price shall be made upon demand of either party The equitable adjustment shall be based upon any increase or decrease in costs due solely to the variation above one hundred fifteen percent (115%) or below eighty-five percent (85%) of the estimated quantity If the quantity variation is such as to cause an increase in the time necessary for completion the Contracting Officer shall upon receipt of a written request for an extension of time within ten (10) days from the beginning of such delay or within such further period of time which may be granted by the Contracting Officer prior to the data of final payment of the contract, ascertain the facts and make such adjustment for extending the completion date as in his judgment the findings justify

(End of clause)

§ 12–7.651–8 Availability and use of utility services.

Insert the following clause in contracts for performance at Government installations when it is determined that one or more utility systems and supplies are adequate for the needs and use of both the Government and the contractor and it is advantageous to the Government to furnish such utility services

AVAILABILITY AND USE OF UTILITY SERVICES

(a) The Government will make available to the Contractor from existing outlets and supplies, all reasonably required amounts of utilities as specified in the Schedule or specifications Except as otherwise provided in the schedule or specifications, each utility shall be charged to or paid for by the Contractor at prevailing rates charged to the Government or, where the utility is produced by the Government, at reasonable rates as determined by the Contracting Officer

(b) Utilities furnished the Contractor without charge shall be carefully conserved The Contractor at his own expense and in a workmanlike manner satisfactory to the Contracting Officer shall install and maintain all necessary temporary connections and distribution lines and if necessary to determine charges, all meters required to measure the amount of each utility used, and he shall remove the same prior to final acceptance of the construction

(End of clause)

§ 12–7.651–9 Misplaced material.

Insert the following clause in all contracts involving work near or on navigable waterways

MISPLACED MATERIAL

Should the Contractor during the progress of the work, lose, dump, throw overboard, sink, or misplace any material, plant, machinery, or appliance, which in the opinion of the Contracting Officer may be dangerous to or obstruct navigation, the Contractor shall recover and remove the same with the utmost dispatch. The Contractor shall give immediate notice, with description and location of such obstructions, to the Contracting Officer or inspector, and when required shall mark or buoy such obstructions until the same are removed. Should he refuse, neglect, or delay compliance with the above requirements, such obstructions may be removed by the Contracting Officer, and the cost of such removal may be deducted from any money due or to become due the Contractor, or may be recovered under his bond. The liability of the Contractor for the removal of a vessel wrecked or sunk without fault or negligence shall be limited to that provided in Sections 15, 19, and 20 of the River and Harbor Act of March 3, 1899. (33 U.S.C. 410 et seq.)

(End of clause)

§ 12–7.651–10 Signal lights.

Insert the following clause in all contracts requiring the use of marine equipment.

SIGNAL LIGHTS

The Contractor shall display signal lights and conduct his operations in accordance with the General Regulations of the Department of the Army and of the Coast Guard government lights and day signals to be displayed by towing vessels with tows on which no signals can be displayed, vessels working on wrecks, dredges, and vessels engaged in laying cables or pipe or in submarine or bank protection operations, lights to be displayed on dredge pipe lines, and day signals to be displayed by vessels of more than 65 feet in length moored or anchored in a fairway or channel, and the passing by other vessels of floating plant working in navigable channels, as approved by the Secretary of the Army (33 C.F.R. 201.1–201.16) and the Commandant, U.S. Coast Guard (33 C.F.R. 80.18–80.31a and 33 C.F.R. 95.51–95.70).

(End of clause)

§ 12–7.651–11 Time extensions for delays to elements of the work.

The following clause shall be inserted in contracts in which there are separate completion dates for various items of work and liquidated damages are provided for:

TIME EXTENSIONS

Notwithstanding any other provisions of this contract, any time extensions for changes in the work depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of construction. The contract modification making such time extension will provide for an extension of contract completion date only for those specific elements so delayed and will not alter the contract completion dates for other portions of the work. This contract modification may further provide for an equitable readjustment of liquidated damages pursuant to the new completion schedule.

(End of clause)

§ 12–7.651–12 Progress charts and requirements for overtime work.

Insert the following clause in contracts having a performance time of four weeks or more.

PROGRESS CHARTS AND REQUIREMENTS FOR OVERTIME WORK

(a) The Contractor shall, within 10 days from date of award of contract (unless a different time is specified in the contract), submit to the Contracting Officer for approval a practicable schedule, showing the order in which the Contractor proposes to carry on the work, the date on which he will start the several salient features (including procurement of materials, plant and equipment) and the contemplated dates for completing the same. The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion at any time. The Contractor shall enter on the chart the actual progress at such intervals as directed by the Contracting Officer, and shall immediately deliver to the Contracting Officer three copies thereof. If the Contractor fails to submit a progress schedule within the time herein prescribed, the Contracting Officer may withhold approval of progress payment estimates until such time as the Contractor submits the required progress schedule.

(b) If, in the opinion of the Contracting Officer, the Contractor falls behind the progress schedule, the Contractor shall take such steps as may be necessary to improve his progress and the Contracting Officer may require him to increase the number of shifts, or overtime operations, days of work, or the amount of construction plant, or all of them, and to submit for approval such supplementary schedule or schedules in chart form as may be deemed necessary to demonstrate the manner in which the agreed rate of progress will be regained, all without additional cost to the Government.

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this provision shall be grounds for determination by the Contracting Officer that the Contractor is not prosecuting the work with such diligence as will insure completion within the time specified. Upon such determination the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part thereof, in accordance with the clause of the contract entitled "Termination for Default-Damages for Delay-Time Extensions."

(End of clause)

§ 12–7.651–13 Special precautions for work at operating airports.

Insert the following clause in contracts when work is to be performed at an operating airport:

SPECIAL PRECAUTIONS FOR WORK AT OPERATING AIRPORTS

(a) When work is to be performed at an operating airport the Contractor must arrange his work schedule so as not to interfere with flight operations. Such operations will take precedence over construction convenience. Any operations of the Contractor which would otherwise interfere with or endanger the operations of aircraft shall be performed only at times and in the manner directed by the Contracting Officer. The Government will make every effort to reduce the disruption of the Contractor's operation.

(b) Unless otherwise specified by local regulations, all areas in which construction operations are underway shall be marked by yellow flags during daylight hours and by red lights at other times. The red lights along the edge of the construction areas within the existing aprons shall be the electric type of not less than 100 watts intensity placed and supported as required. All other construction markings on roads and adjacent parking lots may be either electric or battery type lights. These lights and flags shall be placed so as to outline the construction areas and the distance between any two flags or lights shall not be greater than 25 feet. The Contractor shall provide adequate watch to maintain the lights in working condition at all times other than daylight hours. The hour of beginning and the hour of ending of daylight will be determined by the Contracting Officer

(c) All equipment and materials in the construction areas or when moved outside the construction area shall be marked with airport safety flags during the day, and when directed by the Contracting Officer, with red obstruction lights at night. All equipment operating on the apron, taxiway, runway and intermediate areas after darkness hours shall have clearance lights in conformance with instructions from the Contracting Officer. No construction equipment shall operate within 50 feet of aircraft undergoing fuel operations. Open flames are not allowed on the ramp except at times authorized by the Contracting Officer.

(d) Trucks and other motorized equipment entering the airport or construction area shall do so only over routes determined by the Contracting Officer. Use of runaways, aprons, taxiways or parking areas as truck or equipment routes will not be permittted unless specifically authorized for such use. Flagmen shall be furnished by the Contractor at points on apron and taxiway for safe guidance of his equipment over these areas to assure right of way to aircraft. Areas and routes used during the contract must be returned to their original condition by the Contractor. The maximum speed allowed on the Airport shall be as established by the airport management. Vehicles shall be operated so as to be under safe control at all times, weather and traffic conditions considered. Vehicles must be equipped with head and tail lights during the hours of darkness.

(End of clause)

§ 12–7.651–14 Quantity surveys.

(a) Except as provided in paragraph (b) of this section, insert the following clause in contracts containing unit price items where the specifications provide for payment based on surveys.

QUANTITY SURVEYS

(a) The Government shall make original and final surveys and make computations to determine the quantities of work performed or finally in place.

(b) The Contractor shall make such surveys and computations as are necessary to determine the quantities of work performed or placed during each period for which a progress payment is to be made. All original field notes, computations and other records for the purpose of layout and progress surveys shall be recorded in duplicating field books, the original pages of which shall be furnished promptly in ring binders to the representatives of the Contracting Officer at the site of the work and shall be used by the Contracting Officer to the extent necessary in determining the proper amount of progress payments due the Contractor. Unless waived by the Contracting Officer in each specific case, quantity surveys made by the Contractor shall be made under the direction of a representative of the Contracting Officer.

(End of clause)

(b) When Government personnel may not be available; it may be advisable to require the contractor to make original and final quantity surveys as well as progress surveys. In this case, the following clause may be used in place of the clause in paragraph (a) of this section, with the approval of the head of the procuring activity or his designee.

QUANTITY SURVEYS

(a) The Contractor shall make such surveys and computations as are necessary to

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determine the quantities of work performed or placed during each period for which a progress payment is to be made. The Contractor shall also make original and final surveys. The Government will make such computations as are necessary to determine the quantities of work performed or finally in place. Unless waived by the Contracting Officer in each specific case, quantity surveys made by the Contractor shall be made under the direction of a representative of the Contracting Officer.

(b) All original field notes, computations and other records of the Contractor for the purposes of layout, original, progress and final surveys shall be recorded in duplicating field books, the original pages of which shall be furnished promptly in ring binders to the representative of the Contracting Officer at the site of the work and shall be used by the Contracting Officer to the extent necessary in determining the proper amounts of progress and final payments.

(End of clause)

§ 12-7.651-15 Layout of work.

The following clause is authorized for use in construction contracts where appropriate.

LAYOUT OF WORK

The Contractor shall lay out his work from Government established base lines and bench marks indicated on the drawings and shall be responsible for all measurements in connection therewith. The Contractor shall furnish, at his own expense, all stakes, templates, platforms, equipment, tools, and materials and labor as may be required in laying out any part of the work from the base lines and bench marks established by the Government. The Contractor will be held responsible for the execution of work to such lines and grades as may be established or indicated by the Contracting Officer. It shall be the responsibility of the Contractor to maintain and preserve all stakes and other marks established by the Contracting Officer until authorized to remove them. If such marks are destroyed, by the Contractor or through his negligence, prior to their authorized removal, they may be replaced by the Contracting Officer at his discretion. The expense of replacement will be deducted from any amounts due or to become due the Contractor.

(End of clause)

§ 12-7.651-16 Value engineering incentive.

When required by the instructions for its use in DOTPR 12-1.5202-2, insert the value engineering incentive clause set forth below:

VALUE ENGINEERING INCENTIVE

(a) Application. This clause applies to a Contractor developed and documented Value Engineering Change Proposal (VECP) which:

(i) Requires a change to this contract to implement the VECP; and

(ii) Reduces the contract price without impairing essential function or characteristics, provided that it is not based solely on a change in deliverable end item quantities.

(b) Documentation. As a minimum, the following information shall be submitted by the Contractor with each VECP:

(1) A description of the difference between the existing contract requirement and the proposed change, and the comparative advantages and disadvantages of each; justification where function or characteristics of a work item is being altered; and the effect of the change on the performance of the end item;

(ii) An analysis and itemization of the requirements of the contract which must be changed if the VECP is accepted and a recommendation as to how to make each such change (e.g., a suggested specification revision);

(iii) A separate detailed cost estimate for both the existing contract requirement and the proposed change to provide an estimate of the reduction in costs, if any, that will result from acceptance of the VECP, taking into account the costs of development and implementation by the Contractor (including any amount attributable to subcontracts in accordance with paragraph (f) below);

(iv) A prediction of any effects the proposed change would have on related costs to the agency such as Government furnished property costs, and costs of maintenance and operation;

(v) A statement of the time by which a change order adopting the VECP must be issued so as to obtain the maximum cost reduction during the remainder of this contract, noting any effect on the contract completion time or delivery schedule; and

(vi) Identification of any previous submission of the VECP, including the dates submitted, the agencies involved, the numbers of the Government contracts involved, and the previous actions by the Government, if known.

(c) Submission. To expedite a determination, VECPs shall be submitted to the Resident Engineer at the worksite with a copy to the Contracting Officer. Proposals shall be processed expeditiously; however, the Government shall not be liable for any delay in acting upon any proposal submitted pursuant to this clause. The Contractor has the right to withdraw, in whole or in part, any VECP at any time prior to acceptance by the Government.

(d) Acceptance. The Contracting Officer may accept, in whole or in part, by contract modification any VECP submitted pursuant to this clause. The Contracting Officer may accept the VECP even though an agreement on price reduction has not been reached, by issuing the Contractor a notice to proceed with the change. Until a notice to proceed is issued or a contract modification applies a VECP to this contract, the Contractor shall remain obligated to perform in accordance with this contract. Contract modifications made pursuant to this clause will so state. The decision of the Contracting Officer as to the acceptance of any VECP under this contract shall be final and shall not be subject to the "Disputes" clause of this contract.

(e) Sharing. If a VECP submitted by the Contractor pursuant to this clause is accepted, the contract price shall be adjusted without regard to profit in accordance with the following provisions:

(i) Definition:

(A) Instant contract savings to the Contractor (ICS) are the estimated reduction in the Contractor's cost of performance resulting from the acceptance of the VECP. The proposed cost reduction includes estimated allowable Contractor development and implementation costs (CC). The Contractor's development and implementation costs include any subcontractor development and implementation costs (see (f) below). For purposes of this clause, Contractor development costs are those costs incurred after the Contractor has identified a specific VE project and prior to acceptance and implementation by the Government.

(B) Government Costs (GC) are those DOD costs which directly result from development and implementation of the VECP, such as test and evaluation of the VECP.

(ii) Calculations and Actions. Multiply ICS by 45% and GC by 55%. Add these two results, e.g., (.45 ICS plus .55 GC) and subtract from the contract price.

(f) Subcontracts. The Contractor shall include appropriate VE arrangements in any subcontract of $50,000 or greater, and may include such arrangements in contracts of lesser value. To compute any adjustment in the contract price under paragraph (e) above, the Contractor's cost of development and implementation of a VECP which is accepted under this contract shall include any development and implementation costs of a subcontractor, and any VE incentive payments to a subcontractor, which clearly pertain to such VECP. However, no such payment or accrual to a subcontractor will be permitted, either as part of the Contractor's development or implementation costs or otherwise, to reduce the Government's share.

(g) Data. The Contractor may restrict the Government's right to use any sheet of a VECP or of the supporting data, submitted pursuant to this clause, in accordance with the terms of the following legend if it is marked on such sheet:

"This data furnished pursuant to the Value Engineering Incentive clause of contract ---------- shall not be disclosed outside the Government, or dpulicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a VECP submitted under said clause. This restriction does not limit the Government's right to use information contained in this data if it is or has been obtained, or is otherwise available, from the Contractor or from another source, without limitations. If such a VECP is accepted by the Government under said contract after the use of this data in such an evaluation, the Government shall have the right to duplicate, use, and disclose any data reasonably necessary to the full utilization of such VECP as accepted, in any manner and for any purpose whatsoever, and have others so do."

In the event of acceptance of a VECP, the Contractor hereby grants to the Government all rights to use, duplicate or disclose, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so, any data reasonably necessary to fully utilize such VECP.

(End of clause)

Subpart 12-7.50—Clauses for Procurement of Mortuary Services

§ 12-7.5000 Scope.

This subpart sets forth uniform contract clauses for use in mortuary services contracts.

§ 12-7.5001 Required clauses.

The following clauses shall be included in procurement of mortuary services contracts, except where clearly inappropriate.

§ 12-7.5001-1 Definitions.

Insert the clause set forth in FPR 1-7.102-1.

§ 12-7.5001-2 Payments.

Insert the clause set forth in FPR 1-7.102-7.

§ 12-7.5001-3 Assignment of claims.

Insert the clause set forth in FPR 1-30.703.

§ 12-7.5001-4 Federal, State and local taxes.

Insert the clause set forth in FPR 1-11.401-1.

§ 12-7.5001-5 Termination for convenience of the Government.

Insert the clause set forth in FPR 1-8.705.1.

§ 12-7.5001-6 Default.

Insert the clause set forth in FPR 1-8.707.

§ 12-7.5001-7 Disputes.

Insert the clause set forth in FPR 1-7.102-12.

§ 12-7.5001-8 Convict labor.

Insert the clause set forth in FPR 1-12.203.

§ 12-7.5001-9 Contract Work Hours Standards Act—overtime compensation.

Insert the clause set forth in FPR 1-12.203.

§ 12-7.5001-10 Officials not to benefit.

Insert the clause set forth in FPR 1-7.102-17.

§ 12-7.5001-11 Covenant against contingent fees.

Insert the clause set forth in FPR 1-1.503.

§ 12-7.5001-12 Gratuities.

Insert the clause set forth in DOTPR 12-7.150-1.

§ 12-7.5001-13 Equal opportunity.

Insert the clause set forth in FPR 1-12.803-2 under the conditions and in the manner prescribed therein.

§ 12-7.5001-14 Examination of records by Comptroller General.

Insert the clause set forth in FPR 1-7.103-3 in negotiated contracts.

§ 12-7.5001-15 Requirements.

REQUIREMENTS

(a) This is a requirements contract for the supplies or services specified in the Schedule, and for the period set forth in this contract. Delivery of supplies or performance of services shall be made only as authorized by orders issued in accordance with the clause entitled "Delivery Orders and Invoices". The quantities of supplies or services specified herein are estimates only and are not purchased hereby. Except as may be otherwise provided herein, in the event the Government's requirements for supplies or services set forth in the Schedule do not result in orders in the amounts or quantities described as "estimated" or "maximum" in the Schedule, such event shall not constitute the basis for an equitable price adjustment under this contract.

(b) The Government shall order from the Contractor all the supplies, services, and transportation set forth in the Schedule which are required to be purchased by the Government activity named herein, and the Contractor shall furnish to the Government such supplies, services, and transportation as may be ordered by the Contracting Officer. The Government, however, reserves the right not to order supplies and services under this contract in instances where the body is removed from the area for medical, scientific, or other cogent reason. In the event of an epidemic or other emergency, the Contractor shall not be required to provide services in excess of the capacity of his facilities.

(End of clause)

§ 12-7.5001-16 Contract period.

CONTRACT PERIOD

Any contract awarded as a result of bids submitted under this Invitation for Bids shall extend from ---------- through ----------.

(End of clause)

§ 12-7.5001-17 Area of performance.

AREA OF PERFORMANCE

(a) The area of performance is specified elsewhere in this contract. This contract includes taking possession of the remains at the place where they are located, transporting them to the Contractor's place of preparation and transporting them thereafter to a place designated by the Contracting Officer. The Contractor shall not be entitled to reimbursement for transportation when both the place where the remains were located and the delivery point are within the area of performance.

(b) If remains are located outside the area of performance, the Government may call on the Contractor or obtain the services elsewhere. If the Government calls on the Contractor, the Contractor shall be paid the amount per mile indicated in the Schedule for the number of miles required to transport the remains by a reasonable route from the point where located to the boundary of the area of performance. If the Government elects to have the remains brought into the area of performance by some other means, it may require the Contractor to perform after the remains are within the area of performance.

(c) The Government may require the Contractor to deliver remains to any point within one hundred (100) miles of the area of performance. In this case the Contractor shall be paid the amount per mile indicated in the Schedule for the number of miles required to transport the remains by a reasonable route from the boundary of the area of performance to the delivery point.

(End of clause)

§ 12-7.5001-18 Specifications.

SPECIFICATIONS

Armed Services Specifications, Care of Deceased Personnel, hereinafter referred to as "Specification" are attached hereto and made a part of this contract.

(End of clause)

§ 12-7.5001-19 Using activities.

USING ACTIVITIES

Contracting Officers of the following activities may order services and supplies under this contract:

(End of clause)

§ 12-7.5001-20 Delivery orders and invoices.

DELIVERY ORDERS AND INVOICES

Delivery orders for supplies or services shall be issued by the Contracting Officer and shall set forth (i) the supplies or services being ordered, (ii) the quantities to be furnished, (iii) delivery or performance dates, (iv) place of delivery or performance, (v) packing and shipping instructions, and (vi) the address to which invoices for services rendered under this contract shall be sent. Amendments to delivery orders may be made by the Contracting Officer issuing the order. Each delivery order or change order shall cite the funds from which payment for the supplies or services ordered shall be made.

(End of clause)

§ 12-7.5001-21 Delivery and performance.

DELIVERY AND PERFORMANCE

(a) Except as otherwise herein provided, the Contractor shall furnish the material ordered and perform the services specified in each case as promptly as possible but in no event later than thirty six (36) hours after the Contractor has received notification to remove the remains, exclusive of the time necessary for the Government to inspect and check results of preparation. The Government may, at no additional charge, require the Contractor to hold the remains for an additional period not to exceed seventy-two (72) hours from the time the remains are casketed and final inspection completed.

(b) In no case will shipment be made until the Contractor certifies that the remains will be in an acceptable state of preservation upon final delivery. The Contractor shall not be responsible for notifying the consignee of time of arrival of shipped remains.

(End of clause)

§ 12-7.5001-22 Subcontracting.

SUBCONTRACTING

No contract shall be made by the Contractor with any other party for furnishing any of the work or services herein contracted for without the written approval of the Contracting Officer. This provision does not apply to contracts of employment between the Contractor and his personnel.

(End of clause)

§ 12-7.5001-23 Additional default provision.

ADDITIONAL DEFAULT PROVISION

(a) This clause supplements the "Default" clause of this contract.

(b) This contract may be terminated for default by written notice without the ten (10) day notice specified under paragraph (a) (ii) of the "Default" clause if during the performance of this contract:

(1) The Contractor, through circumstances reasonably within his control or that of persons in his employ, performs any act or acts under or in connection with this contract, or fails in the performance of any service under this contract, and such acts or failures may reasonably be considered to reflect discredit upon the Coast Guard in fulfilling its responsibility for proper care of remains;

(2) The Contractor, either by his own act or through persons in his employ, solicits relatives or friends of the deceased to purchase supplies or services not provided for under this contract (the Contractor may furnish supplies or arrange for services not provided for under this contract, only where such other supplies or services are voluntarily requested, selected and paid for by the representatives of the deceased);

(3) The services, or any part thereof, to be performed under this contract are, without the written authorization of the Contracting Officer, performed by an individual, partnership, corporation, or other person or business association whatsoever, other than the Contractor to whom this contract is awarded, his employees and members of the firm;

(4) The Contractor refuses to perform the services required for any particular remains; or

(5) The Contractor advertises in any way that he has a contract for mortuary services with the Government.

(c) All other provisions of the "Default" clause shall apply to a termination made pursuant to this "Additional Default Provision" clause.

(End of clause)

§ 12-7.5001-24 Inspection.

INSPECTION

All services, material, and workmanship shall be subject to inspection and test by representatives of the Government. For this purpose, the Contractor shall allow inspectors and other representatives of the Con-

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tracting Officer free access to the plant and operations at all reasonable times and shall furnish such facilities, supplies and services, as may be required.

(End of clause)

§ 12–7.5001–25 Group interment.

GROUP INTERMENT

Payments to the Contractor for supplies and services provided for remains to be interred as a group shall be made on the basis of the number of caskets furnished rather than on the basis of the number of persons in the group.

(End of clause)

§ 12–7.5001–26 Professional requirements.

PROFESSIONAL REQUIREMENTS

The Contractor shall meet all State and local licensing requirements and shall furnish the highest quality of professional services. Preparation and transportation of remains shall be performed in accordance with all applicable Federal, State, and local health laws, statutes, and regulations. The Contractor shall obtain and furnish all necessary health department and shipping permits at no additional cost to the Government, and shall insure that all necessary health department permits are in order for disposition of the remains.

(End of clause)

§ 12–7.5001–27 Facility requirements.

FACILITY REQUIREMENTS

The Contractor's building shall have complete facilities for maintaining the highest standards of solemnity, reverence, and assistance to the family, and for prescribed ceremonial services. The preparation room shall be clean, sanitary, and adequately equipped. The Contractor shall have, or be able to obtain, catafalques, church trucks and equipment for Protestant, Catholic, and Jewish services. The funeral home, furnishings, grounds and surroundings area shall be carefully maintained so as to present a clean well-kept appearance.

(End of clause)

§ 12–7.5001–28 Preparation history.

PREPARATION HISTORY

For each body prepared, or in the case of group interment for each casket handled, the Contractor shall state briefly the results of the embalming process on a certificate furnished by the Contracting Officer.

(End of clause)

§ 12–7.5001–29 Changes.

The Contracting Officer may at any time, by a written order, and without notice to the sureties, if any, make changes in or additions to specifications, issue additional instructions, require modified or additional work or services within the scope of the contract, and change the place of delivery, method of shipment, or the amount of Government-furnished property. If any such change causes an increase or decrease in the cost, or in the time required for, the performance of this contract, an equitable adjustment shall be made in the contract price, or time of performance, or both, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change; *provided*, however, that the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(End of clause)

§ 12–7.5001–30 Inconsistent provisions.

INCONSISTENT PROVISIONS

In the event of any inconsistency in the provisions of any of the parts of this contract, the following order shall control: the Schedule; the contract clauses; and the Specifications as in effect on the date of this contract.

(End of clause)

§ 12–7.5001–31 Coordination.

COORDINATION

Necessary coordination shall be effected with the Contractor's funeral director on all funeral arrangements, which shall include the time remains will be ready for inspection, viewing and shipment, time and place of religious services, time and place of interment and shipping schedules, and final disposition of remains.

(End of clause)

§ 12–7.5001–32 Preparation of remains at other than contractor's establishment.

PREPARATION OF REMAINS AT OTHER THAN CONTRACTOR'S ESTABLISHMENT

Preparation of remains at a place other than the Contractor's establishment shall require the concurrence of the Contracting Officer.

(End of clause)

§ 12–7.5001–33 Major restorative art.

MAJOR RESTORATIVE ART

The Contractor shall advise the Contracting Officer promptly of any need for major restorative art technique (restoration of facial contours, such as nose, ears, mouth, chin, etc.) required for any remains prepared under this contract to permit the viewing of remains at final destination, and upon the direction of the Contracting Officer, shall perform such restoration. The cost of such restoration shall be allowed as approved by the Contracting Officer.

(End of clause)

§ 12–7.5001–34 Passenger car.

PASSENGER CAR

When a passenger car is required to transport members of the immediate family to the funeral service and, if necessary, to the selected terminal and return, the cost shall be allowed as approved by the Contracting Officer.

(End of clause)

Subpart 12–7.51—Clauses for Architect-Engineer Contracts

§ 12–7.5100 Scope.

This subpart set forth contract clauses for use in fixed-price architect-engineer contracts in addition to those prescribed in the April 1975 edition of Standard Form 253 (see FPR 1–16.701).

§ 12–7.5100–1 Amendment of Standard Form 253.

The following clauses shall be used with Standard Form 253 (1975 Edition) pending the publication of a new edition of the form: (1) the clause Disabled Veterans and Veterans of the Vietnam Era set forth in FPR Temporary Regulation No. 39 effective July 26, 1976; (2) the clause Employment of the Handicapped set forth in FPR Temporary Regulation No. 38 of May 1976; and (3) the Clean Air and Water clause set forth in FPR 1–1.2302–2.

§ 12–7.5101 Required clauses.

§ 12–7.5101–1 Composition of contractor.

COMPOSITION OF CONTRACTOR

If the Contractor hereunder is comprised of more than one legal entity, each entity shall be jointly and severally liable hereunder.

(End of clause)

§ 12–7.5101–2 Interpretation or modification.

Insert the clause set forth in DOTPR 12–7.150–4.

§ 12–7.5101–3 Dissemination of contract information.

Insert the clause set forth in DOTPR 12–7.150–10, substituting "Architect-Engineer" for "Contractor."

§ 12–7.5101–4 Inspection.

INSPECTION

The Government, through any authorized representative, may at all reasonable times, inspect or otherwise evaluate the work being performed hereunder and the premises in which it is being performed. If any inspection or evaluation is made by the Government on the premises of the Architect-Engineer or subcontractor, the Architect-Engineer shall provide and shall require his subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

(End of clause)

§ 12–7.5101–5 Notice of delays.

Insert the clause set forth in DOTPR 12–7.150–9, substituting "Architect-Engineer" for "Contractor".

§ 12–7.5101–6 Certification of drawings and other documents.

CERTIFICATION OF DRAWINGS AND OTHER DOCUMENTS

The Architect-Engineer or his authorized representative shall sign the original tracings of all drawings and the first page of all specifications, estimates, or similar documents under the Architect-Engineer's printed name and over the affixed replica of his professional seal or his registration certificate number, including the State or jurisdiction of issuance.

(End of clause)

§ 12–7.5101–7 Gratuities.

Insert the clause set forth in DOTPR 12–7.150–1, substituting "Architect-Engineer" for "Contractor".

§ 12–7.5102 Clauses to be used when applicable.

The following clauses shall be included in the contract when their use is appropriate.

§ 12–7.5102–1 Military security requirements.

Insert the Military Security Requirements clause set forth in DOTPR 12–7.151–9 in accordance with the instructions for its use in DOTPR 12–1.352.

§ 12–7.5102–2 Audit and records.

Insert the clause set forth in FPR 1–3.814–1(a) in accordance with the instructions for its use.

§ 12–7.5102–3 Price reduction for defective cost or pricing data.

Insert the clause set forth in FPR 1–3.814–1(a) in accordance with the instructions for its use.

§ 12–7.5102–4 Subcontractor cost or pricing data.

Insert the clause set forth in FPR 1–3.814–3(a) in accordance with the instructions for its use.

§ 12–7.5102–5 Architectural designs and data—Government rights (sole property).

Where the purpose of a contract for architect-engineer services is to obtain a unique architectural design of a building, a monument, or construction of a similar nature, which for artistic, esthetic or other special reasons the Government does not want duplicated by anyone else, the Government may desire to acquire exclusive control of the data pertaining to such design. The clause set forth in FPR 1–16.703(d) shall be used only in those cases where the contracting officer determines for the foregoing reasons that it is desirable to maintain exclusive control over the design and data.

§ 12–7.5102–6 Renegotiation.

Insert the clause set forth in DOTPR 12–7.151–15 in accordance with the instructions for its use.

§ 12–7.5103 Additional clauses.

The following clauses shall be included in the contract when it is deemed necessary or desirable to cover the subject matter thereof. The clauses may be modified, when necessary, to adapt to special situations.

§ 12–7.5103–1 Method of payment.

METHOD OF PAYMENT

(a) Estimates shall be made monthly of the amount and value of the work and services performed by the Architect-Engineer under this contract, such estimates to be prepared by the Architect-Engineer and accompanied by such supporting data as may be required by the Contracting Officer.

(b) Upon approval of such estimate by the Contracting Officer payment upon properly certified vouchers shall be made to the Architect-Engineer as soon as practicable of 90% of the amount as determined above, less all previous payments; *Provided, however*, That if the Contracting Officer: determines that the work is substantially complete and that the amount of retained percentages is in excess of the amount considered by him to be adequate for the protection of the Government, he may at his discretion release to the Architect-Engineer such excess amount.

(c) Upon satisfactory completion by the Architect-Engineer and acceptance by the Contracting Officer of the work required by the contract, the Architect-Engineer will be paid the unpaid balance of any money due under the contract.

(d) As a precedent to final payment under the contract, the Architect-Engineer shall execute and deliver to the Contracting Officer a release of all claims against the Government arising under or by virtue of this contract, other than such claims, if any, as may be specifically excepted by the Architect-Engineer from the operation of the release in stated amounts to be set forth therein.

(End of clause)

§ 12–7.5103–2 Preparation of specifications.

PREPARATION OF SPECIFICATIONS

The Architect-Engineer shall make reference to applicable Federal specifications, if available, for items and materials used. If Federal specifications are not available, the Architect-Engineer shall reference specifications prepared by recognized professional manufacturer or construction societies, or furnish descriptions of the items or materials containing all the fundamental properties and all the essential requirements to be met by the items or materials. When an item or material cannot be described because of its technical construction or composition or because it is a proprietary item, the name of one, and if available, several, suitable commercial products shall be included as part of the required description, followed by the words "or equal." If it is determined that one and only one brand of item or material will meet the requirement, the Architect-Engineer shall so state and shall give full justification for that determination. Specifications will not duplicate, contradict or over the same subject matter contained in the general and special provisions to be used with the construction contract. A complete set of construction contract general and special provisions will be furnished to the Architect-Engineer by the Contracting Officer.

(End of clause)

§ 12–7.5103–3 Redesign Responsibility.

(a) Insert the following clause in all Architect-Engineer contracts except (1) those involving projects for which the Head of the Procuring Activity or his designee determines that cost limitations are secondary to performance considerations and that additional funding can be expected if necessary, and (2) those for the design of a standard structure which is not intended for a specific location site.

DESIGN WITHIN FUNDING LIMITATIONS (1971 APR)

(a) The Architect-Engineer shall accomplish the design services required under this contract so as to permit the award of a contract, pursuant to standard Department of Transportation procedures, for the construction of the facilities designed at a price that does not exceed the estimated construction contract price set forth in this contract. When bids or proposals for the construction contract are received which exceed such estimated price, the Architect-Engineer shall perform such redesign and other services as are necessary to permit contract award within such funding limitation. These additional services shall be performed at no increase in the price of this contract. However, the Architect-Engineer shall not be required to perform such additional services at no cost to the Government if the unfavorable bids or proposals are the result of conditions beyond his reasonable control.

(b) The Architect-Engineer will promptly advise the Contracting Officer if he finds that the project being designed will exceed or is likely to exceed the funding limitations and he is unable to design a usable facility within these limitations. Upon receipt of such information, the Contracting Officer will review the Architect-Engineer's revised estimate of construction cost. The Contracting Officer may, if he determines that the estimated construction contract price set forth in this contract is so low that award of a construction contract not in excess of such estimate is improbable, authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth elsewhere in the contract, or he may adjust such estimated construction contract price. When bids or proposals are unreasonably delayed, the Government shall increase the estimated construction contract price by a percentage representing the increase in the level of building construction costs during the period between the estimated bid opening date and the actual bid opening date. The percentage of increase shall be determined by averaging the building construction cost indices for that period as published by the Engineering News Record Building Cost Index, the Associated General Contractors of America Construction Cost Index; and, E. H. Boeckh and Associates, and this estimate shall be used in lieu of the architect-engineer's estimate to determine compliance with the funding limitation

(End of clause)

(b) Whenever the clause set forth in paragraph (a) of this section is included in a contract, the following statement shall be inserted in the description of the work to be performed by the Architect-Engineer.

The estimated construction contract price for the project described herein is $ _____.

The figure to be inserted in this statement is to be established at the beginning of contract negotiations by agreement between the Architect-Engineer and the Government. Such estimated construction contract price shall take into account any statutory or other limitations and exclude any allowances for Government supervision and overhead and any amounts set aside by the Government for contingencies. In negotiating the figure to be inserted, the Contracting Officer should make available to the Architect-Engineer the information upon which the Government has based its initial estimate and any subsequently acquired information which may affect the construction cost.

§ 12–7.5103–4 Building codes.

BUILDING CODES

The Architect-Engineer shall plan and design this project in accordance with the building ordinances, codes, and regulations of the county and political subdivision in which the project is to be constructed insofar as they are binding upon the United States Government. The project shall also be planned and designed in compliance with the latest edition of the American National Building Code as recommended by the Board of Fire Underwriters.

(End of clause)

Subpart 12–7.52—Clauses for Fixed-Price Vessel Repair, Alteration or Conversion Contracts

§ 12–7.5200 Scope of subpart.

This subpart is applicable only to the Coast Guard. It sets forth or cites contract clauses to be used for fixed-price vessel repair, alteration or conversion contracts and where necessary provides instructions for their use.

§ 12–7.5201 Required clauses.

The clauses set forth or cited in this section shall be included in fixed-price

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vessel repair, alteration or conversion contracts which are formally advertised and to be performed within the United States, its possessions, or Puerto Rico. Unless inappropriate, the clauses should also be included in negotiated contracts and contracts to be performed outside the United States.

§ 12–7.5201–1 Delivery and shifting of vessel.

DELIVERY AND SHIFTING OF VESSEL

The Government shall deliver the vessel to the Contractor at his place of business. Upon completion of the work the Government shall accept delivery of the vessel at the Contractor's place of business. The Contractor shall provide, at no additional charge, upon 24 hours' advance notice, a tug or tugs and docking pilot, acceptable to the Contracting Officer, to assist in handling the vessel between (to and from) the Contractor's plant and the nearest point in a waterway regularly navigated by vessels of equal or greater draft and length. While the vessel is in the hands of the Contractor, any necessary towage, cartage, or other transportation between ship and shop or elsewhere, which may be incident to the work herein specified, shall be furnished by the Contractor without additional charge to the Government.

(End of clause)

§ 12–7.5201–2 Performance.

PERFORMANCE

(a) The Contractor shall make the necessary arrangements for receiving the vessel on the specified date, such arrangements to be satisfactory to the Contracting Officer or his duly authorized representative.

(b) The Contractor shall promptly commence the work required by the contract and shall diligently prosecute same to completion to the satisfaction of the Contracting Officer.

(c) Except as otherwise provided in this contract, the Contractor shall furnish all necessary material, labor, services, equipment, supplies, power, accessories, facilities and such other things and services as are necessary for accomplishing the work specified in this contract subject to the rights reserved in the Government under the "Government-furnished Property" clause of the contract.

(d) The Contractor shall without charge and without specific requirement therefor:

(1) Make available at the plant to personnel of the vessel, while in drydock or on a marine railway, toilet and similar facilities acceptable to the Contracting Officer as adequate in number and sanitary standards. For cutters or boats fitted with pollution Abatement Systems, provide for disposal of shipboard waste (non-oily) by installing a portable hose between the cutter's or boat's weather deck sewage overboard discharge connection and, either a shore-side holding facility, sewage treatment plant, or a municipal sewage system. Directing of shipboard waste to waters covered by the Federal Water Pollution Control Act, as amended, will not be allowed. In freezing conditions the contractor will provide protection to the hook up system.

(2) Supply and maintain, in such condition as the Contracting Officer may reasonably require, suitable brows and gangways from the pier, drydock or marine railway to the vessel (access to vessel shall be lighted by the Contractor during all periods of darkness).

(3) Treat salvage, scrap, or other ship's material of the Government resulting from performance of work as though they were items of Government-furnished property in accordance with provisions of the "Government-furnished Property" clause of this contract.

(4) Perform, or pay the cost of, any repairs, reconditioning or replacements necessary as a result of the use by the Contractor of any of the vessel's machinery, equipment or fittings including, but not limited to, winches, pumps, rigging, or pipelines.

(e) The Contractor shall conduct dock and sea trials of the vessel as required by the specifications. During such trials the vessel shall be under the control of the vessel's commander and crew with representatives of the Contractor and the Government on board to determine whether or not the work done by the Contractor has been satisfactorily performed. Dock and sea trials not specified herein which the Contractor requires for his own benefit shall not be undertaken by the Contractor without prior notice to and approval of the Contracting Officer; any such dock trials shall be conducted at the expense of the Contractor, and any such sea trials shall be conducted at the risk and expense of the Contractor.

(End of clause)

§ 12–7.5201–3 Inspection and manner of doing work.

INSPECTION AND MANNER OF DOING WORK

(a) All work and material shall be subject to the approval of the Contracting Officer or his duly authorized representative. Work shall be performed in accordance with the plans and specifications of this contract as modified by any change order issued under the "Changes" clause in this contract.

(b) Unless otherwise specifically provided for herein, all operational practices of the Contractor and all workmanship and material, equipment and articles used in the performance of work thereunder shall be in accordance with American Bureau of Shipping Rules for Building and Classing Steel Vessels, U.S. Coast Guard Marine Engineering Regulations and Material Specifications (Subchapter J, 46 CFR), U.S. Coast Guard Electrical Engineering Regulations (Subchapter J, 46 CFR), U.S. Coast Guard Navigation and Vessel Inspection Circular No. 4–60 (Part IV—Notes on Repair), and U.S.P.H.S., Handbook on Sanitation in Vessel Construction, in effect at the time of the Contractor's submission of bid (or acceptance of the contract, if negotiated), and the best commercial maritime practices except where Navy specifications are specified, in which case such standards of material and workmanship shall be followed. Where the detailed specifications do not require a Navy standard, and the requirements are not clearly or specifically covered by one of the aforementioned standards, the Contracting Officer or his designated representative shall prescribe a Navy or industrial standard for the work wherever applicable, and the decision shall be final: *Provided*, however, that where the requirements of the representative for development of detailed drawings, selection of materials and equipment, standards of workmanship, which are not specifically required in the specifications result in a change in unit price, total contract price, quantity, quality, or delivery schedule, the Contracting Officer will be advised accordingly and the Contractor will not proceed with the work until specifically directed to do so by the Contracting Officer.

(c) All material and workmanship shall be subject to inspection and test at all times during the Contractor's performance of the work to determine their quality and suitability for the purpose intended and compliance with the contract. In case any material or workmanship furnished by the Contractor is found prior to redelivery of the vessel to be defective, or not in accordance with the requirements of the contract, the Government, in addition to its rights under any "Guaranty" clause which may be contained in this contract, shall have the right prior to redelivery of the vessel to reject such material or workmanship, and to require its correction or replacement by the Contractor at the Contractor's cost and expense. If the Contractor fails to proceed promptly with the replacement or correction of such material or workmanship, as required by the Contracting Officer, the Government may, by contract or otherwise, replace or correct such material or workmanship and charge to the Contractor the excess cost occasioned the Government thereby. The Contractor shall provide and maintain an inspection system acceptable to the Government covering the work specified in the contract. Records of all inspection work by the Contractor shall be kept complete and available to the Government during the performance of the contract and for a period of sixty days after completion of all work required by the contract.

(d) No welding, including tack welding and brazing, shall be permitted in connection with repairs, completions, alterations, or additions to hulls, machinery, or components of vessels, by a welder or procedure not qualified in accordance with MIL–STD–248C. Procedure qualifications tests shall be conducted in accordance with the requirements of MIL–STD–248C.

(e) The Contractor shall exercise reasonable care to protect the vessel from fire, and the Contractor shall maintain a reasonable system of inspection over the activities of welders, burners, riveters, painters, plumbers and similar workers, particularly where such activities are undertaken in the vicinity of the vessel's magazines, fuel oil tanks or storerooms containing flammable materials. A reasonable number of hose lines shall be maintained by the Contractor ready for immediate use on the vessel at all times while the vessel is berthed alongside the Contractor's pier or in drydock or on a marine railway. All tanks under alteration or repair shall be cleaned, washed and steamed out or otherwise made safe by the Contractor if and to the extent necessary, and the Contracting Officer shall be furnished with a "gas-free" or "safe-for-hotwork" certificate before any hotwork is done on a tank. Unless otherwise provided in this contract, the Contractor shall at all times maintain a reasonable fire watch about the vessel, including a fire watch on the vessel while work is being performed thereon.

(f) The Contractor shall place proper safeguards and/or effect such safety precautions as necessary, including suitable and sufficient lighting, for the prevention of accidents or injury to persons or property during the prosecution of work under this contract and/or from time of receipt of the vessel until acceptance of work performed by the Government.

(g) Except as otherwise provided in this contract, when the vessel is in the custody of the Contractor or in drydock or on a marine railway and the temperature becomes as low as 35 degrees Fahrenheit, the Contractor shall keep all pipelines, fixtures, traps, tanks, and other receptacles on or hooked up to the vessel drained to avoid damage from freezing, or if this is not practical, the vessels shall be kept heated to prevent such damage. It shall be the Contractor's responsibility to insure adequate circulation in the firemain water supply to prevent freezing of the water lines. The vessel's stern tube and propeller hubs shall be protected from frost damage by applied heat through the use of a salamander or other proper means.

(h) The work shall, whenever practicable, be performed in such manner as not to interfere with the berthing and messing of

civilian or military personnel attached to the vessel, and provisions shall be made so that personnel assigned shall have access to the vessel at all times, it being understood that such personnel will not interfere with the work or the Contractor's workmen. The Contractor shall provide messing and sanitary facilities for his employees, subcontractors and agents separate from the vessel.

(i) The Government does not guarantee the correctness of the dimensions, sizes and shapes given in any sketches, drawings, plans or specifications prepared or furnished by the Government. The Contractor shall be responsible for the correctness of the shape, sizes and dimensions of parts to be furnished hereunder, other than those furnished by the Government.

(j) The Contractor shall at all times keep the site of the work on the vessel free from accumulation of waste material or rubbish caused by his employees or the work, and at the completion of the work shall remove all rubbish from and about the site of the work and shall leave the work in its immediate vicinity "broom clean," unless more exactly specified in this contract.

(k) Any question regarding or rising out of the interpretations of plans and specifications of this contract or any discrepancies between the plans and specifications shall be determined by the Contracting Officer or his duly authorized representative; *provided*, however, that any interpretations or determinations by the authorized representative which affect the price or delivery time specified in this contract must be approved in writing by the Contracting Officer prior to proceeding with the requirements of such interpretations or determinations.

(l) While in drydock or on a marine railway, the commanding officer of the vessel, if then in commission, shall be responsible for the proper closings of openings to the ship's bottom upon which no work is being done by the Contractor. The Contractor shall be responsible for the closing before the end of working hours, of all valves and openings upon which work is being done by its workmen when such closing is practicable. The Contractor shall keep the commanding officer cognizant of the closure status of all valves and openings upon which the Contractor's workmen have been working.

(End of clause)

§ 12–7.5201–4 Subcontracts.

SUBCONTRACTS

(a) Nothing contained in the contract shall be construed as creating any contractual relationship between any subcontractor and the Government. The divisions or sections of the specifications are not intended to control the Contractor in dividing the work among subcontractors or to limit the work performed by any trade.

(b) The Contractor shall be responsible to the Government for acts and omissions of his own employees, and of subcontractors and their employees. He shall also be responsible for the coordination of the work of the trades, subcontractors, and material men.

(c) The Contractor shall, without additional expense to the Government, employ specialty subcontractors where required by the specifications.

(d) The Government or its representatives will not undertake to settle any differences between the Contractor and his subcontractors, or between subcontractors.

(End of clause)

§ 12–7.5201–5 Lay days.

LAY DAYS

(a) Lay day time will be paid by the Government at the Contractor's stipulated bid price for this item of the contract when the vessel remains on the dry dock or Marine Railway as a result of any change that involves work in addition to that required under the basic contract.

(b) No cost for lay day time shall be paid until all accepted items of the basic contract for which a price was established by the Contractor and for which docking of the vessel was required have been satisfactorily completed.

(c) Days of hauling out and floating, whatever the hour, shall not be paid as lay day time, and days when no work is performed by the Contractor shall not be paid as lay day time.

(d) Payment of lay day time shall constitute complete compensation for all cost except for the direct cost of performing the changed work.

(End of clause)

§ 12–7.5201–6 Changes.

Insert the clause set forth in FPR 1–7.602–3.

§ 12–7.5201–7 Extras.

Insert the clause set forth in FPR 1–7.102–3.

§ 12–7.5201–8 Payments.

PAYMENTS

Unless otherwise specified, the Contractor shall be paid, upon the submission of proper invoice or vouchers, the prices stipulated herein for supplies delivered and accepted or services rendered and accepted, less deductions, if any, as herein provided

(End of clause)

§ 12–7.5201–9 Government-furnished property.

Insert the clause set forth in DOTPR 12–7.151–8 in accordance with conditions prescribed therein.

§ 12–7.5201–10 Liability and insurance.

LIABILITY AND INSURANCE

(a) The Contractor shall exercise reasonable care and use his best efforts to prevent accidents, injury or damage to all employees, persons and property, in and about the work, and to the vessel or part thereof upon which work is done.

(b) The Contractor shall be responsible for and make good at his own cost and expense any and all loss of or damage of whatsoever nature to the vessel (or part thereof), its equipment, moveable stores and cargo, and Government-owned material and equipment for the repair, completion, alteration of or addition to the vessel in the possession of the Contractor, whether at the plant or elsewhere, arising or growing out of the performance of the work, except where the Contractor can affirmatively show that such loss or damage was due to causes beyond the Contractor's control, was proximately caused by the fault or negligence of agents or employees of the Government acting within the scope of their authority, or which loss or damage the Contractor by exercise of reasonable care was unable to prevent; provided, that the Contractor shall not be responsible for any such loss or damage discovered after redelivery of the vessel unless (i) such loss or damage is discovered within sixty (60) days after redelivery of the vessel and (ii) such loss or damage is affirmatively shown to have been the result of the fault or negligence of the Contractor. To induce the Contractor to perform the work for the compensation provided, it is specifically agreed that the Contractor's aggregate liability on account of loss of or damage to the vessel (or part thereof), its equipment, movable stores and cargo and said Government-owned materials and equipment shall in no event exceed the sum of $300,000, and the Government assumes as to the Contractor the risk of loss or damage (including, but not limited to, loss or damage from negligence of whatsoever degree of the Contractor's servants, employees, agents or subcontractors but specifically excluding loss or damage from willful misconduct or lack of good faith on the part of any of the Contractor's directors, officers and any of his managers, superintendents or other equivalent representatives who have supervision or direction of (i) all or substantially all of the Contractor's business or (ii) all or substantially all of the Contractor's operation at any one plant) to the vessel (or part thereof), its equipment, movable stores and cargo and said Government-owned materials and equipment in excess of $300,000, *Provided*, however, that as to such risk assumed and borne by the Government, the Government shall be subrogated to any claim, demand or cause of action against third persons which exists in favor of the Contractor, and the Contractor shall, if required, execute a formal assignment or transfer of claims, demands or causes of action: *Provided, further*, that nothing contained in this paragraph shall create or give rise to any right, privilege or power in any person except that Contractor, nor shall any person (except the Contractor be or become entitled thereby to proceed directly against the Government, or join the Government as a co-defendant in any action against the Contractor brought to determine the Contractor's liability or for any other purpose.

(c) The Contractor indemnifies and holds harmless the Government, its agencies and instrumentalities, the vessel and its owners, against all suits, actions, claims, costs or demands (including, without limitation, suits, actions, claims, costs or demands resulting from death, personal injury, and property damage) to which the Government, its agencies and instrumentalities, the vessel or its owner may be subject or put by reason of damage or injury (including death) to the property or person of any one other than the Government, its agencies, instrumentalities and personnel, the vessel or its owner, arising or resulting in whole or in part from the fault, negligence, wrongful act or wrongful omission of the Contractor, or any subcontractor, his or their servants, agents or employees; *Provided*, That the Contractor's obligation to indemnify under this paragraph (c) shall not exceed the sum of $300,000 on account of any one accident or occurrence in respect of any one vessel. Such indemnity shall include, without limitation, suits, actions, claims, costs or demands of any kind whatsoever, resulting from death, personal injury or property damage occurring during the period of performance of work on the vessel or within 60 days after redelivery of the vessel; and with respect to any such suits, actions, claims, costs, or demands resulting from death, personal injury or property damage occurring after the expiration of such period, the rights and liabilities of the Government and the Contractor shall be as determined by other provisions of this contract and by law; *Provided, however*, That such indemnity shall apply to death occurring after such period which results from any personal injury received during the period covered by the Contractor's indemnity as provided herein.

(d) The Contractor shall, at his own expense, procure, and thereafter maintain such casualty, accident and liability insurance, in such forms and amounts as may be approved by the Contracting Officer, insuring the performance of his obligations under paragraph (c) of this clause. In addition,

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the Contractor shall at his own expense procure and thereafter maintain such ship repairer's legal liability insurance as may be necessary to insure the Contractor against his liability as ship repairer in the amount of $300,000 or the value of the vessel as determined by the Contracting Officer, whichever is the lesser, with respect to each vessel on which work is performed; provided, that, in the discretion of the Contracting Officer, no such insurance need be procured whenever the contract requires work on parts of a vessel only and such work is to be performed at a plant other than the site of the vessel. Further, the Contractor shall procure and maintain in force Workmen's Compensation Insurance (or its equivalent) covering his employees engaged on the work and shall insure the procurement and maintenance of such insurance by all subcontractors engaged on the work. The Contractor shall provide such evidence of such insurance as may be, from time to time, required by the Contracting Officer.

(e) No allowance shall be made the Contractor in the contract price for the inclusion of any premium expense or charge for any reserve made on account of self insurance for coverage against any risk assumed by the Government under this clause.

(f) As soon as practicable after the occurrence of any loss or damage the risk of which the Government has assumed, written notice of such loss or damage shall be given by the Contractor to the Contracting Officer, which notice shall contain full particulars of such loss or damage. If claim is made or suit is brought thereafter against the Contractor as a result or because of such event, the Contractor shall immediately deliver to the Government every demand, notice, summons or other process received by him or his representatives. The Contractor shall cooperate with the Government and, upon the Government's request, shall assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of suits; and the Government shall pay to the Contractor the expense, other than the cost of maintaining the Contractor's usual organization, incurred in so doing. The Contractor shall not, except at his own cost, voluntarily make any payment, assume any obligation or incur any expense other than shall be imperative for the protection of the vessel or vessels at the time of said occurrence of such event.

(End of clause)

§ 12–7.5201–11 Title.

TITLE

Unless title to materials and equipment acquired or produced for, or allocated to, the performance of this contract shall have vested previously in the Government by virtue of other provisions of this contract, title to all materials and equipment to be incorporated in any vessel or part thereof, or to be placed upon any vessel or part thereof in accordance with the requirements of the contract, shall vest in the Government upon delivery thereof at the plant or such other location as may be specified in the Contract for the performance of the work: *Provided, however*, That the provisions of this clause or other provisions of this contract shall not be construed as relieving the Contractor from the full responsibility for all such Contractor-furnished materials and equipment or the restoration of any damaged work or as a waiver of the right of the Government to require the fulfillment of all the terms of this contract, it being expressly understood and agreed that the Contractor shall assume without limitation the risk of loss for any such materials and equipment until such time as all work is completed and accepted by the Government and the vessel is redelivered to the Government. Upon completion of the contract, or with the approval of the Contracting Officer at any time during the performance of the contract, all such Contractor-furnished materials and equipment not incorporated in any vessel or part thereof, or not placed upon any vessel or part thereof, in accordance with the requirements of the contract, shall become the property of the Contractor, except those materials and equipment the cost of which has been reimbursed by the Government to the Contractor.

(End of clause)

§ 12–7.5201–12 Discharge of liens.

DISCHARGE OF LIENS

The Contractor shall immediately discharge or cause to be discharged any lien or right in rem of any kind, other than in favor of the Government, which at any time exists or arises in connection with work done or materials furnished under this contract with respect to the machinery, fittings, equipment or materials for any vessel. If any such lien or right in rem is not immediately discharged, the Government may discharge or cause to be discharged such lien or right at the expense of the Contractor.

(End of clause)

§ 12–7.5201–13 Federal, State, and local taxes.

Insert the clause set forth in FPR 1–11.401–1(c).

§ 12–7.5201–14 Default.

Insert the clause set forth in FPR 1–8.707.

§ 12–7.5201–15 Delays.

DELAYS

When during the performance of this contract, the Contractor is required to delay work on a vessel temporarily, due to orders or actions of the Government respecting stoppage of work to permit shifting the vessel, stoppage of hot work to permit bunkering, stoppage of work due to embarking or debarking passengers, and loading or discharging cargo, and the Contractor is not given sufficient advance notice or is otherwise unable to avoid the incurring of additional costs on account thereof, an equitable adjustment shall be made in the price of the contract pursuant to the "Changes" clause.

(End of clause)

§ 12–7.5201–16 Termination for convenience of the Government.

(a) Insert the clause set forth in FPR 1–8.705–2 in contracts not exceeding $10,000.

(b) Insert the clause set forth in FPR 1–8.703 in contracts exceeding $10,000.

§ 12–7.5201–17 Disputes.

Insert the clause set forth in FPR 1–7.102–12.

§ 12–7.5201–18 Patent indemnity.

In accordance with DOTPR 12–9.152–1 and DOTPR 12–9.152–3, insert the clause or clauses set forth in DOTPR 12–7.151–1 under the conditions prescribed therein.

§ 12–7.5201–19 Authorization and consent.

Insert the clause set forth in DOTPR 12–7.150–11 in accordance with DOTPR 12–9.151–1.

§ 12–7.5201–20 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in FPR 1–7.103–4 under the condition described therein.

§ 12–7.5201–21 Buy American Act.

Insert the clause set forth in FPR 1–6.104–5 under the conditions prescribed therein.

§ 12–7.5201–22 Convict labor.

Insert the clause set forth in FPR 1–12.204 under the conditions prescribed in FPR 1–12.203.

§ 12–7.5201–23 Contract Work Hours and Safety Standards Act—overtime compensation.

Insert the clause set forth in FPR 1–12.303 under the conditions prescribed in FPR 1–12.302.

§ 12–7.5201–24 Walsh-Healey Public Contracts Act.

Insert the clause set forth in FPR 1–12.605 under the conditions prescribed in FPR 1–12.602.

§ 12–7.5201–25 Department of Labor Safety and Health Regulations for Ship Repairing.

DEPARTMENT OF LABOR SAFETY AND HEALTH REGULATIONS FOR SHIP REPAIRING

Attention of the Contractor is directed to Pub. L. 85–742, approved August 23, 1958 (72 Stat. 835, 33 U.S.C. 941), amending section 41 of the Longshoremen's and Harbor Worker's Compensation Act and to the Safety and Health Regulations for Ship Repairing promulgated thereunder by the Secretary of Labor (29 CFR Part 1501). These regulations apply to all ship repair and related work, as defined in the regulations, performed under this contract on the navigable waters of the United States including any drydock or marine railway. Nothing contained in this contract shall be construed as relieving the Contractor from any obligations which it may have for compliance with the aforesaid regulations.

(End of clause)

§ 12–7.5201–26 Equal opportunity.

Insert the clause set forth in FPR 1–12.803–2 under the conditions prescribed in FPR 1–12.803–1.

§ 12–7.5201–27 Officials not to benefit.

Insert the clause set forth in FPR 1–7.102–17.

§ 12–7.5201–28 Covenant against contingent fees.

Insert the clause set forth in FPR 1–1.503 under the conditions prescribed in FPR 1–1.501.

§ 12–7.5201–29 Additional bond security.

Insert the clause set forth in FPR 1–7.103–2.

§ 12–7.5201–30 Interpretation or modification.

Insert the clause set forth in DOTPR 12–7.150–4.

§ 12–7.5201–31 Notice of delays.

Insert the clause set forth in DOTPR 12–7.150–9.

§ 12–7.5201–32 Gratuities.

Insert the clause set forth in DOTPR 12–7.150–1.

§ 12–7.5201–33 Examination of records by Comptroller General.

Insert the clause set forth in FPR 1–7.103–3.

§ 12–7.5201–34 Utilization of small business concerns.

Insert the clause set forth in FPR 1–1.710–3(a) under the conditions prescribed therein.

§ 12–7.5201–35 Utilization of labor surplus area concerns.

Insert the clause set forth in FPR 1–1.805–3(a) under the conditions described therein.

§ 12–7.5201–36 Assignment of claims.

Insert the clause set forth in FPR 1–30.703 under the conditions contained therein.

§ 12–7.5201–37 Definitions.

Insert the clause set forth in FPR 1–7.102–1.

§ 12–7.5202 Clauses to be used when applicable.

The following clauses shall be included in the contract when their use is appropriate. Other clauses may be used if considered essential and not inconsistent with or in limitation of clauses in this subpart.

§ 12–7.5202–1 Price reduction for defective cost or pricing data.

Insert the appropriate clause set forth in FPR 1–3.814–1 under the conditions described therein.

§ 12–7.5202–2 Audit and records.

Insert the appropriate clause set forth in FPR 1–3.814–2 under the conditions described therein.

§ 12–7.5202–3 Subcontractor cost and pricing data.

Insert the appropriate clause set forth in FPR 1–3.814–3 under the conditions described therein.

§ 12–7.5202–4 Military security requirements.

Insert the clause set forth in DOTPR 12–7.151–9 under the conditions and in the manner prescribed in DOTPR 12–1.352.

§ 12–7.5202–5 Guaranty.

(a) The clause set forth below shall be used where general guaranty provisions are deemed desirable by the contracting officer (for modifications see paragraph (b) of this section).

GUARANTY

In case any work done or materials furnished by the Contractor under this contract on or for any vessel or the equipment thereof shall, within 60 days from date of delivery of the vessel by the Contractor, prove defective or deficient, such defects or deficiencies shall, as required by the Government, be corrected and repaired by the Contractor or at his expense to the satisfaction of the Contracting Officer: *Provided, however*, That with respect to any individual work item incomplete at the delivery of the vessel the guarantee period shall run from the date of completion of such item. The Government shall, if and when practicable, afford the Contractor an opportunity to effect such corrections and repairs himself, but when, because of conditions or the location of the vessel or for any other reason, it is impracticable or undesirable to return it to the Contractor, or the Contractor fails to proceed promptly with any such repairs as directed by the Contracting Officer, such corrections and repairs shall be effected at the Contractor's expense at such other locations as the Government may determine. Where corrections and repairs are to be effected by other than the Contractor, due to nonreturn of the vessel to him, the Contractor's liability may be discharged by an equitable deduction in the price of the job. The Contractor's liability under this clause shall however, in no event extend beyond the correction of such defects or deficiencies or payment for the cost thereof: *Provided, however*, That nothing in this clause shall be deemed to limit or relieve the Contractor of his responsibilities as set forth in the clause entitled "Liability and Insurance" and the clause entitled "Inspection" of this contract. At the option of the Contracting Officer, defects and deficiencies may be left in their then condition, and an equitable deduction from the contract price, as agreed by the Contractor and Contracting Officer, shall be made therefore. If the Contractor and Contracting Officer fail to agree upon the equitable deduction from the contract price to be made, the dispute shall be determined as provided in the "Disputes" clause of this contract.

(End of clause)

(b) When inspection and acceptance tests will afford full protection to the Government in ascertaining conformance to specification and the absence of defects and deficiencies, no guaranty provision for that purpose shall be included in the contract. In certain instances, the contracting officer may desire to include a provision in a contract for a guaranty period of more than 60 days. In such instances, where after full inquiry, it has been determined that such longer guaranty period will not involve increased costs, the longer guaranty period may be substituted for the 60 days specified in the guaranty clause. Where the full inquiry discloses that such longer guaranty period will involve, or is reasonably expected to involve, increased costs, such fact, and the reason for the need of such longer period shall be set forth in letter form to the Commandant (F), requesting approval for use of a guaranty period in excess of 60 days.

§ 12–7.5202–6 Priorities, allocations, and allotments.

Insert the clause set forth in DOTPR 12–7.150–3.

§ 12–7.5202–7 Index for specifications.

Insert the following clause, when appropriate.

INDEX FOR SPECIFICATIONS

If an index or table of contents is furnished in connection with specifications, it is understood that such index or table of contents is for convenience only. Its accuracy and completeness is not guaranteed, and it is not to be considered as part of the specifications. In case of discrepancy between the index or table of contents and the specifications, the specifications shall govern.

(End of clause)

PART 12–9—PATENTS, DATA, COPYRIGHTS, AND RECOVERY OF DEVELOPMENTAL COSTS

Subpart 12–9.1—Patents

Sec.

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Subpart 12–9.2—Rights in Data

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12–9.201 Rights in data.
12–9.201–1 Selection of appropriate rights in data clause.
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Subpart 12–9.7—Recovery of Developmental Costs

12–9.700 Scope of subpart.
12–9.701 General.
12–9.702 Recovery of developmental costs.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

Subpart 12–9.1—Patents

§ 12–9.100 Scope of Subpart.

This part sets forth policies, instructions, and contract clauses pertaining to patents, data, copyrights, and the recovery of developmental costs, in the conduct of experimental, developmental, or research work, or in connection with the procurement of supplies and services.

§ 12–9.100–50 Description of terms.

§ 12–9.100–50–1 Patents.

Patents are rights in inventions, protected by Federal law in the case of those issued in the United States. A patent is a Government grant that lasts for seventeen years. During that time it gives the inventor, or his assignee, the right to exclude anyone else from making, using, or selling the patented invention. The patent holder thus has a property right, which is, in effect, a monopoly. He may sell or assign the patent; he may grant licenses to practice the invention; and,

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if his patent is infringed, he is protected by law. He may obtain an injunction restraining the infringement, against anyone but the Government or persons acting on behalf of the Government, and he may also receive damages from anyone (including the Government under 28 U.S.C. 1498(a)) for the economic injury already sustained.

§ 12–9.100–50–2 Data.

(a) The term "data" means recorded information, whether or not copyrighted, that may be acquired with a procurement. The term includes graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, computer memory printouts; and information retained in computer memory. Examples of recorded information include, but are not limited to, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information.

(b) The owner of "data" may have an economic interest in intellectual property rights such as a copyright or trade secret. If the data is copyrighted, it is protected by law. The owner may restrain copyright infringement by obtaining an injunction against anyone but the Government or persons acting on behalf of the Government, and he may also receive damages from anyone (including the Government under 28 U.S.C. 1498 (b)) for the economic injury already sustained. In the case of trade secrets, the owner's rights are governed by the contractual relationship between him and the person to whom he discloses it (28 U.S.C. 1498 does not apply to trade secrets).

§ 12–9.107–350 DOT policy on data, rights, and recovery of developmental costs.

It is DOT policy in negotiating contracts under which the Government pays a part or all of the costs of research or development, to acquire for the benefit of the United States, rights to data and patent rights, based on the criteria set forth in the Presidential Memorandum and the Statement of Government Patent Policy, and to recover the Government's contribution toward such research and development through royalties to the Government upon commercial exploitation of the products developed.

§ 12–9.107–450 Patent Rights clauses.

Use of Patent Rights clauses in contracts is governed by FPR 1–9.107 and § 12–9.107–451. Contracting Officers shall consult Patent Counsel for advice and interpretation of these sections.

§ 12–9.107–451 Pre-award Patent Rights Documentation Checklist.

In addition to the procedures of FPR 1–9.107–4, the "Pre-award Patent Rights Documentation Checklist" set forth below shall be used in determining the appropriate Patent Rights clause to be incorporated in a request for proposals in procurements involving experimental, developmental, or research work. The Checklist shall be made a part of the contract file.

(Authorized for local reproduction)

PRE-AWARD PATENT RIGHTS DOCUMENTATION CHECKLIST

Procurement Identification: _____
Purpose of Proposed Procurement: _____

1. Is a principal purpose of the proposed contract, either by itself or as one of a series of directly related contracts to create, develop or improve an end item intended for use in the civilian economy?[3] (See FPR 1–9.107–3(a)(1)). Yes____ No____
If "Yes", identify the end item and briefly describe its intended use in the civilian economy.

2. Is a principal purpose of the proposed contract, either by itself, or as one of a series of directly related contracts to create, develop or improve an end item which will be required for use by the general public by a Government regulation? Yes____ No____
If "Yes", identify the end item and cite applicable regulation. (See FPR 1–9.107–3(a)(1)).

3. Is a principal purpose of the contract exploration into a field directly concerned with public health, public safety, or public welfare (as distinguished from items predominantly of military concern)?[4] (See FPR 1–9.107–3(a)(2)). Yes____ No____
If "Yes", identify such principal purpose of the contract and briefly describe its relationship to the public health, or public safety, or public welfare.

4. Is the contract for procurement in a field of science or technology in which there has been little significant experience outside of work funded by the Government?[3] (See FPR 1–9.107–3(a)(3)). Yes____ No____
If "Yes", briefly describe such field.

5. Is the contract for procurement in a field of science or technology in which the Government has been the principal developer of the field?[5] (See FPR 1–9.107–3(a)(3)). Yes____ No____
If "Yes", briefly describe such field.

6. If the answer to either 4 or 5 is "Yes", would the contractor be likely to get a preferred or dominant commercial position in that field if he were permitted to acquire title to inventions made under the contract? (See FPR 1–9.107–3(a)(3)). Yes____ No____
Explain the answer.

7. Does the contract require that the contractor both (i) provide services for operation of a Government-owned research or production facility and (ii) perform experimental, developmental or research work at that facility? (See FPR 1–9.107–3(a)(4)(i)). Yes____No____

8. Does the contract require the contractor to coordinate and direct the work of others (as distinguished from the normal contractor relationship) which might result in a potential organizational conflict of interest? (See FPR 1–9.107–3(a)(4)(ii)). Yes____No____
If "Yes", explain briefly why such a potential conflict of interest is considered to exist.

_____
(Typed Name, Office and Signature of Person Completing This Form)

The Patents Rights Acquisition by the Government Clause, FPR 1–9.107–5(a), will ____ will not ____ be used in the solicitation. (Give reasons for determination.)

_____
(Typed Name and Signature of Contracting Officer or Representative)

[3] The contract or series of contracts need not necessarily require delivery of the end item. The end item may be a product, a process, or data.

[4] Examples in the public welfare category would include weather modification or control.

[5] The mere fact that the Government has been or is the principal funder or developer of a specific piece of hardware does not necessarily make the Government the principal funder or developer in a field of science or technology which encompasses the piece of hardware.

§ 12–9.150 Background patents (license).

(a) Insert the clause set forth in § 12–7.150–12 in all contracts requiring a "Patent Rights—Acquisition by the Government" or "Patent Rights—Deferred" clause (either long or short form).

(b) Insert the clause in supply contracts when the Department buys the product for test or evaluation purposes and where as a result of the Government's efforts, a commercial market for the product may be created or enhanced.

(c) The clause need not be used in supply contracts:

(1) Where the product to be tested (or evaluated) is substantially complete for the commercial purpose for which it is being tested (or evaluated), or

(2) Where the prospective contractor's monetary contribution to the program resulting in the development of the hardware is substantially greater than the Government's monetary contribution, or

(3) Where the commercial market for the product existed prior to, or will not be created primarily as a result of, the Government's test or evaluation.

(d) The Contracting Officer may alter the clause to suit a particular situation. However, any such alteration must accord with DOT policy requiring, whenever investment of public funds in a program which may create or enhance the market for a product required in the interest of public health, safety, or welfare, that the Government receive assurance that the product will be available at reasonable prices, and in sufficient quantity and quality to meet the public needs. To this end, the contractor must agree to license the manufacture and sale of any such product under any patents under which he has the right to grant such licenses, such license to be restricted to use on products to which the contract relates.

§ 12–9.151 Authorization and consent.

(a) Under 28 U.S.C. 1498, any suit for infringement of a United States patent based on the manufacture or use by or for the United States of an invention described in and covered by a patent of the United States by a contractor or by a subcontractor (including lower-tier subcontractors) can be maintained only against the Government in the Court of Claims and not against the contractor or subcontractor, in those cases where the Government has authorized or consented to the manufacture or use of the patented invention. Accordingly, to insure that work by a contractor or subcontractor under a Government contract may not be enjoined by reason of patent infringement, authorization and consent shall be given as herein provided. The liability of the Government for damages in any such suit against it may, however, ultimately be borne by the contractor or subcontractor in accordance with the terms of any patent indemnity clause also included in the contract, and an authorization and consent clause does not detract from any patent indemnification commitment by the contractor or subcontractor. Therefore, both a patent indemnity clause and an authorization and consent clause may be included in the same contract.

(b) Contracts shall not include any provision whereby the Government expressly agrees to indemnify the contractor against liability for patent infringement.

(c) An authorization and consent clause shall not be used in contracts where both complete performance and delivery are to be used outside the United States, its possessions, or Puerto Rico.

§ 12–9.151–1 Authorization and consent in contracts for supplies or services.

The contract clause set forth in § 12–7.150–11 may be included in all contracts for supplies or services (including construction or architect-engineering work), except:

(a) When prohibited by § 12–9.151(c); or

(b) In contracts for experimental, developmental, or research work in which the clause cited in § 12–9.151–2 is required.

§ 12–9.151–2 Authorization and consent in contracts for research and development.

Greater latitude in the use of patented inventions may by necessary in a contract for experimental, developmental, or research work than in a contract for supplies. Unless prohibited by § 12–9.151(c) the clause set forth in § 12–7.350–2 of this chapter shall be included in all contracts calling exclusively for experimental, developmental, or research work and may be included in contracts calling for both supplies and experimental, developmental or research work where the latter work is a primary purpose of the contract. In all other contracts for both supplies and experimental, developmental, or research work, the Authorization and Consent clause cited in § 12–9.151–1 shall be used. If the clause set forth in § 12–7.350–2 of this chapter is included in a contract, the clause cited in § 12–9.151–1 shall not be included.

§ 12–9.152 Patent indemnification of Government by contractor.

In order that the Government may be reimbursed for liability for patent infringement arising out of or resulting from the performance of construction contracts or contracts for supplies which normally are or have been sold or offered for sale to the public in the commercial open market or which are the same as such supplies with a relatively minor modification thereof, a clause providing for indemnification of the Government is to be included in such contracts in accordance with the instructions set forth below. A patent indemnity clause shall not be used in contracts:

(a) Where the Authorization and Consent clause cited in § 12–9.151–2 applicable to research and development contracts is authorized, except that in contracts calling also for supplies of the kind described above, a patent indemnity clause may be used with respect to such supplies;

(b) Where the contract is for supplies which clearly are not or have not been sold or offered for sale to the public in the commercial open market. However, even in the foregoing instance, a patent indemnity clause may be included where (1) in the case of contracts to be awarded by formal advertising it is desired to obtain an indemnity as to specific components or spare parts so sold or offered for sale, in which case the clause shall be modified pursuant to § 12–9.152–1(b); or (2) in the case of contracts to be awarded either by formal advertising or negotiation, a patent owner contends that the prospective procurement would infringe his patent and the low bidder or offeror is willing to indemnify the Government as to such patent either (i) without increase in price on the basis that the patent is invalid or not infringed, or (ii) for other good reasons.

(c) Where both performance and delivery are to be outside the United States, its possessions, or Puerto Rico, unless the contract indicates that the supplies are ultimately to be shipped into the United States, its possessions, or Puerto Rico, in which case the instructions of § 12–9.152–1 or § 12–9.152–3 are applicable; or

(d) Where the contract is for an amount of $10,000 or less, except that, as a matter of administrative convenience, the clause need not be deleted where it is a part of a standard form being used for contracts of $10,000 or less, since it is self-deleting as to such contracts.

§ 12–9.152–1 Patent-indemnification in formally advertised contracts—commerical status predetermined.

(a) Except as prohibited by § 12–9.152, the clause set forth in 12–7.151–1(a) of this chapter is appropriate in formally advertised construction contracts and shall be included in formally advertised contracts for supplies when it has been determined in advance of issuing the invitation for bids that the supplies (or such supplies apart from relatively minor modifications to be made thereto) normally are to have been sold or offered for sale for any supplier to the public in the commercial open market.

(b) Where a supply contract calls in part for specific components or spare parts which normally are or have been sold or offered for sale by any supplier to the public in the commercial open market, or such items with relatively minor modifications, the Patent Indemnity clause cited in paragraph (a) of this section shall be modified by adding to the end of the clause either of the following sentences:

The foregoing shall apply to the following: (Specifically identify the items to be excluded from the Patent Indemnity clause)

or

The foregoing shall not apply to the following: (Specifically identify the items to which the Patent Indemnity clause applies).

§ 12–9.152–2 Patent indemnification in negotiated contracts.

(a) A patent indemnity clause is not required to be included in negotiated contracts, but may be included (1) in negotiated construction contracts, (2) as authorized in § 12–9.152(b)(2), and (3) in negotiated contracts for supplies where such supplies normally are or have been sold or offered for sale to the public in the commercial open market, or are such supplies with relatively minor modifications made thereto. Ordinarily, the Contracting Officer, in consultation with the contractor, should be able to determine whether the supplies being purchased normally are on sale or have been sold or offered for sale to the public in the commercial open market.

(b) Subject to the foregoing and to the prohibitions in § 12–9.152 the clause cited in § 12–9.152–1(a) is approved for use in negotiated contracts for construction work or supplies.

(c) Where a supply contract calls in part for specific components or spare parts which normally are or have been sold or offered for sale to the public in the commercial open market, or such items with relatively minor modifications, the patent indemnity clause cited in § 12–9.152–1(a) shall be modified by adding to the end of the clause either of the following sentences:

The foregoing shall apply to the following: (Specifically identify the items to be excluded from the Patent Indemnity clause)

or

The foregoing shall not apply to the following: (Specifically identify the items to which the Patent Indemnity clause applies).

§ 12–9.152–3 Waiver of indemnity by the Government.

In the event that it is desired to exempt one or more specified United States patents from the patents indemnity clause cited in § 12–9.152–1, authority shall first be obtained from the head of the agency and the clause set forth in § 12–7.151–1(b) of this chapter shall be included in the contract, in addition to the patent indemnity clause.

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§ 12–9.153 Notice and assistance.

The Government should be notified by the contractor of all claims of infringement in connection with the performance of a Government contract which come to the contractor's attention. The contractor should also assist the Government, to the extent of evidence and information in the possession of the contractor, in connection with any suit against the Government, or any claims against the Government made before suit has been instituted, on account of any alleged patent or copyright infringement arising out of or resulting from the performance of the contract. Accordingly, the clause set forth in FPR 1–7.103–4 shall be included in all contracts in excess of $10,000 for supplies, construction, or experimental, developmental, or research work; provided, that the clause shall not be included in contracts:

(a) Where both performance and delivery are to be outside the United States, its possessions, or Puerto Rico, unless the contract indicates that the supplies are ultimately to be shipped into the United States, its possessions, or Puerto Rico; or

(b) Of $10,000 or less, except that as a matter of administrative convenience, the clause need not be deleted when it is a part of a standard form being used for such contracts, since it is self-deleting.

§ 12–9.154 Classified contracts.

Unauthorized disclosure of classified subject matter, whether in patent applications or resulting from the issuance of a patent, may be a violation of 18 U.S.C. 791 *et seq.* (Espionage and Censorship) and related statutes and may be contrary to the interests of national security. Accordingly, the clause set forth in § 12–7.151–2 of this chapter shall be included in every classified contract and every contract which covers or is likely to cover classified subject matter.

§ 12–9.154–1 Classified contracts—contracting officer's duties.

(a) Upon receipt from the contractor of a patent application, not yet filed, which has been submitted by the contractor in compliance with paragraphs (a) or (b) of the clause cited in § 12–9.154, the contracting officer shall ascertain the proper security classification of the patent application. Upon a determination that the application contains classified material, the contracting officer shall inform the contractor of any instructions deemed necessary or advisable relating to transmittal of the application to the United States Patent Office in accordance with procedures in the Department of Defense Industrial Security Manual for Safeguarding Classified Information. If the material is classified "Secret" or higher, the contracting officer shall make every effort to notify the contractor of the determination within 30 days pursuant to paragraph (a) of the clause.

(b) In the case of all applications filed under the provisions of this paragraph, the contracting officer, upon receiving the application serial number, the filing date, and the information furnished by the contractor under paragraph (d) of the clause, shall promptly submit that information to personnel having cognizance of patent matters in order that necessary steps may be taken to ensure the security of the application.

(c) A request for the approval referred to in paragraph (c) of the clause cited in § 12–9.154 must be considered and acted upon promptly in order to avoid the loss of valuable patent rights of the Government or the contractor.

§ 12–9.155 Register of Government rights in inventions.

(a) Licenses, assignments, or other documents evidencing any rights of the Government in inventions shall be reviewed to assure that each such document fully confirms the rights to which the Government is entitled.

(b) The original and a copy of each such document shall be forwarded to the activity designated by administration regulations for receiving such documents. This latter activity shall forward the originals of all licenses, assignments, or other documents evidencing any rights of the Government in or under any patents or applications for patents to the Commissioner of Patents for recording in accordance with Executive Order No. 9424 of February 18, 1944.

§ 12–9.156 Reporting of royalties—anticipated or paid.

(a) (1) The term "royalties", as used in this section, refers to any costs or charges in the nature of royalties, license fees, patent or license amortization costs, or the like, for the use of or for rights in patents or patent applications.

(2) To determine whether royalties anticipated or actually paid under Government contracts are excessive, improper, or inconsistent with rights which the Government may possess in particular inventions, patents, or patent applications, the Department shall require royalty information and reports as prescribed below. See 12–9.158, for action to be taken to reduce or eliminate excessive or improper royalties.

(3) Royalty information should not be required in formally advertised contracts. When it is expected that work may be performed in the United States, its possessions, or Puerto Rico, any solicitation which may result in a negotiated contract for which royalty information is desired, or for which cost or pricing data are obtained, shall contain a special provision substantially as follows:

ROYALTY INFORMATION

When the response to this solicitation contains costs or charges for royalties totalling more than $1,000, the following information shall be furnished with the offer, proposal, or quotation on each separate item of royalty or license fee:

(i) Name and address of licensor;
(ii) Date of license agreement;
(iii) Patent numbers, patent application serial numbers of other basis on which the royalty is payable;
(iv) Brief description, including any part or model numbers of each contract item or component on which the royalty is payable;
(v) Percentage or dollar rate of royalty per unit;
(vi) Unit price of contract item;
(vii) Number of units; and
(viii) Total dollar amount of royalties.

DD Form 783, Royalty Report, is approved for use in furnishing the above information. In addition, if specifically requested by the Contracting Officer prior to execution of the contract, a copy of the current license agreement and identification of applicable claims of specific patents shall be furnished.

(End of provision)

(b) If the work is to be performed in the United States, its possessions or Puerto Rico, then upon receipt of an offer, proposal, or quotation which includes a charge for royalties, the contracting officer shall, prior to award of the contract, forward the information called for by paragraph (a) of this section to the office having cognizance of patent matters for the procuring activity concerned. The cognizant office shall promptly advise the contracting officer of appropriate action. The contracting officer shall then take action with respect to such royalties, with due regard to all pertinent factors relating to the proposed procurement.

(c) Where subcontract work is to be performed in the United States, its possessions, or Puerto Rico, the contracting officer, when considering approval of a subcontract, shall require the same information and take the same action with respect to such subcontracts in relation to royalties as required for prime contracts under paragraph (b) of this section. However, approval need not be withheld pending receipt of advice in regard to such royalties from the office having cognizance of patent matters.

(d) (1) In negotiated contracts to be performed outside the United States, its possessions and Puerto Rico, regardless of the place of delivery, the clause set forth in § 12–7.151–3 of this chapter shall be included.

(2) The contracting officer shall forward a copy of each positive royalty report received in accordance with the clause cited in (d) (1) of this section to the office having cognizance of patent matters for the procuring activity concerned.

§ 12–9.157 Refund of royalties.

When a fixed-price-type contract is negotiated under circumstances which make it questionable whether or not substantial amounts of royalties will have to be paid by the contractor or his subcontractors, such royalties may be included in the target or contract price, with provision made in the contract that the Government will be reimbursed the amount of such royalties if they are not paid. Such circumstances might include, for example, either a pending anti-trust action by the Government or pending or prospective litigation challenging the validity of a patent or patents or the enforceability of an agreement upon which the contractor or subcontractor bases the asserted obligation to pay the royalties to be included in the target or contract price. In the event the contracting officer determines that a refund of royalties clause should be included, the clause set forth in § 12–7.151–4 of this chapter shall be used in firm fixed-price contracts. It shall be appropriately modified for use in incentive contracts.

§ 12–9.158 Adjustment of royalties.

If at any time the contracting officer has reason to believe that any royalties paid, or to be paid, under an existing or prospective contract or subcontract are inconsistent with Government rights, excessive, or otherwise improper, he shall promptly report the facts to the office having cognizance of patent matters for the procuring activity concerned. The cognizant office shall review the royalties thus reported and such royalties as are reported under §§ 12–9.156 and 12–9.157. In coordination with the contracting officer, the cognizant office shall:

(a) Take prompt action to protect the Government against payment of royalties on supplies or services (1) with respect to which the Government has a royalty-free license, or (2) at a rate in excess of the rate at which the Government is licensed, or (3) when the royalties in whole or in part otherwise constitute an improper charge; and

(b) In appropriate cases obtain a refund pursuant to a "Refund of Royalties" clause or enter into negotiation for a reduction of royalties.

Subpart 12–9.2—Rights in Data

§ 12–9.200 Scope of subpart.

This subpart prescribes Rights in Data clauses and sets forth instructions for their use.

§ 12–9.201 Rights in data.

Insert the contract clause set forth in § 12–7.151–5 or § 12–7.151–6 of this chapter in accordance with § 12–9.201–1.

§ 12–9.201–1 Selection of appropriate rights in data clause.

(a) *Rights in data—unlimited.* The "Rights in Data—Unlimited" clause set forth in § 12–7.151–5 of this chapter shall be used where data (other than financial reports, cost analyses, and similar information incidental to contract administration) is specified to be delivered under the contract and such data is incidental to or a byproduct of the contract.

(b) *Rights in data—title.* (1) The "Rights in Data—Title" clause set forth in § 12–7.151–6 of this chapter shall be used in contracts where data (other than that incidental to contract administration) is specified to be delivered under the contract and the preparation of such data is the principal object or end item of the contract e.g., contracts for: (i) The production of motion pictures with or without accompanying sound; (ii) the preparation of motion picture scripts, musical compositions, sound tracks, translations, and the like; (iii) work pertaining to training or career guidance; (iv) survey of Government establishments; (v) works pertaining to the instructions or guidance of Government officers and employees in the discharge of their official duties; (vi) study contracts in which the principal end item is a final report; and (vii) contracts calling for the preparation of software.

(2) When the "Rights in Data—Title" clause is used in research contracts with academic institutions, the last sentence of paragraph (b) shall be deleted from the clause.

§ 12–9.201–2 Alteration of clause.

In particular situations, (e.g., where the contractor contends that certain data is "proprietary"), the contracting officer may alter either of the Data clauses, set forth in §§ 12–7.151–5 and 12–7.151–6 of this chapter. In all cases, however, the contracting officer shall obtain the advice of cognizant patent counsel before approving any such alteration.

Subpart 12–9.7—Recovery of Developmental Costs

§ 12–9.700 Scope of subpart.

This subpart prescribes a Recovery of Developmental Costs clause and sets forth instructions for its use.

§ 12–9.701 General.

(a) It is DOT policy to recover the Department's contributions toward research and development through royalties to the Government upon commercial exploitation of the products development thereby. To carry out this policy, the contract clause cited in § 12–9.702 shall be inserted in the contract in accordance with the instructions for its use. However, royalties are not paid unless the commercial product developed under the contract is profitably sold. Also, royalties cannot be so high as to price the product out of the market, and the royalties cease when the Government gets its money back.

(b) This development cost recovery program is based, first, on the established Government policy, that, where a direct beneficiary of a Government action can be identified, that beneficiary, and not the general taxpayer, should pay the cost of providing the benefit conferred. When a product developed with Government funds is sold, there are two identifiable beneficiaries—the user and the company that makes the sale. The royalty program gets the cost back to the general taxpayer from these beneficiaries.

(c) A second justification for the program is the need to protect the developing company's competitors. When the Government provides support to the development of a commercial product, the company that gets the development contract is given an advantage over its competitors who might have to develop a competing product with their own funds. These competitors have to spread their development costs over the sales of their product. With the Government paying his development costs, the original development contractor generally has very little development costs to recover. This could put the company helped by the Government in a position to make an unconscionable high profit, to undersell his competitors, or prevent them from entering the market. None of these results seems a fair or reasonable by-product of a Government-financed development effort.

§ 12–9.702 Recovery of developmental costs.

Instructions for use of clause. The clause set forth in § 12–7.151–7 of this chapter shall be included in all contracts exceeding $50,000 for design, research, development, test, or experimental work where a product (e.g., equipment or other items of hardware) is to be furnished as an end item. It may be included in other types of contracts and in contracts of $50,000 or less if appropriate. The contracting officer may alter the clause to suit a particular situation (e.g., when the contract includes quantity production or when the hardware being developed will be placed into operative use, the amount recoverable under the clause may be reduced by the fair market value of such hardware). However, any such alterations must be in accordance with the policy set forth in DOTPR 12–9.100–51.

PART 12–10—BONDS AND INSURANCE

Subpart 12–10.1—Bonds

Sec.
12–10.109 Execution and administration of bonds.

Subpart 12–10.2—Sureties on Bonds

12–10.205 Consent of surety.

Subpart 12–10.3—Insurance—General

12–10.305 Procedures to be followed in the event of loss or damage to Government property.

Subpart 12–10.4—Insurance Under Fixed-Price Contracts

12–10.400 Scope of subpart.
12–10.450 Contracts for lease of aircraft.
12–10.450–1 Loss or damage of leased aircraft clause.
12–10.450–2 Fair market value of aircraft clause.
12–10.450–3 Risks and indemnities.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

Subpart 12–10.1—Bonds

§ 12–10.109 Execution and administration of bonds.

(a) *Execution.* When required by Instruction Number 2 of the standard bond forms, the evidence of authority of a principal's representative shall be a duly executed power of attorney reciting that the individual executing the bond or consent of surety is authorized to do so. A corporation, in lieu of such power of attorney may submit a "Certificate as to Corporate Principal" in the format prescribed in paragraph (c) of this section.

(b) *Administration.* When a contractor is performing his contract in such a manner as to lead to default, timely notification to the surety may result in action by the surety that will avoid a default. Therefore, on all such contracts, the surety shall be promptly notified of any failure by the contractor to perform (see FPR 1–8.602–4(a)).

(c) *Certificate as to corporate principal.* When a certificate as to Corporate Principal is to be furnished, the following format shall be used:

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CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____
(Name printed)
certify that I am the _____
(Office held)
of the corporation named as principal in the (performance) (and) (payment) bond(s); that _____ who signed the said bond(s) on behalf of the said corporation principal was then _____
(Capacity in which bond was executed)
of said corporation; that I know his signature and that his signature thereto is genuine; and that said bond(s) was (were) duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

_____ (Affix Corporate Seal)

(d) *Name of principal.* When a partnership is a principal on a bond, the names of all the members of the firm shall be listed in the bond following the name of the firm and the phrase "a partnership composed of." If a principal is a corporation, the state of incorporation must appear.

CONSENT OF SURETY AND INCREASE OF PENALTY

Modification No. _____, dated _____, Contract No. _____

The surety (co-surety) hereby consents (consent) to the foregoing contract modification and agrees (agree) that its (their) bond or bonds shall apply and extend to the contract as thereby modified or amended. The principal and the surety (co-sureties) further agree that on and after the execution of this consent, the penalty of the aforementioned performance bond or bonds is hereby increased by _____ dollars ($_____) and the penalty of the aforementioned payment bond or bonds is hereby increased by _____ dollars ($_____), *Provided*, however, that the increase of the liability of each co-surety resulting from this consent shall not exceed the sums set forth below:

Name of surety	Increase in liability limit under performance bond	Increase in liability limit under payment bond

_____ (Signature of individual principal)[1] (SEAL) (Date of execution)
(Type name of individual principal)
(Business address)
(Corporate principal)[1] (Date of execution)
(Business address)
By _____ (Affix corporate seal)
(Signature of person executing)
(Type name and title of person executing)
(Corporate surety)
(Business address)
By _____ (Affix corporate seal)
(Signature of person executing)
(Type name and title of person executing)
(Add similar signature blocks for cosureties).

[1] This consent of surety and increase of penalty shall be executed by the principal or his authorized representative concurrent with the execution of the attached modification to which it pertains. If the individual who signs the consent is signing in a representative capacity (e.g., attorney in fact), but is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved a power of attorney or certificate as to corporate principal, as appropriate, shall be submitted with the consent.

(e) *Date of bond.* A performance or payment bond other than an annual bond shall not antedate the contract to which it pertains.

(f) *Continuation sheet.* The Standard Form 25–B (Continuation Sheet) is prescribed for use when there are more than seven sureties on a bid, performance, or payment bond. It shall also be used when there are co-sureties on an annual bid or performance bond.

(g) *Recording and filing.* Bonds shall be filed with the related original contract or the contract file shall be cross-referenced to the file containing the applicable bonds.

Subpart 12–10.2—Sureties on Bonds

§ 12–10.205 Consent of surety.

The following form of Consent of Surety and Increase of Penalty is authorized for contract modifications to all types of contracts that provide for an increase in the penal sums of bonds previously given by the original surety or sureties.

Subpart 12–10.3—Insurance—General

§ 12–10.305 Procedures to be followed in the event of loss or damage to Government property.

Upon the happening of loss of or damage to any Government property, concerning which the contractor is relieved of responsibility by contract provision, the procedure shall be as prescribed in the applicable "Government Property" clause of the contract.

Subpart 12–10.4—Insurance Under Fixed-Price Contracts

§ 12–10.400 Scope of subpart.

This subpart is applicable only to the Federal Aviation Administration.

§ 12–10.450 Contracts for lease of aircraft.

The clauses in § 12–7.151–16 of this chapter shall, unless otherwise indicated by the specific instructions for their use, be inserted in any contract for the lease of aircraft (including aircraft used in out-service flight training).

§ 12–10.450–1 Loss or damage to leased aircraft clause.

Use of clause. Insert the clause in § 12–7.151–16(a) of this chapter except that the clause need not be inserted in the contract:

(a) When the hourly rental rate does not exceed $250 and the total rental cost for any single transaction is not in excess of $2,500 or

(b) Where the cost of hull insurance does not exceed 10% of the contract rate, or

(c) When the lessor's insurer does not grant a credit for uninsured hours, thereby preventing the lessor from granting the same to the Government.

§ 12–10.450–2 Fair market value of aircraft clause.

When the fair market value of the aircraft can be determined, insert the clause in § 12–7.151–16(b) of this chapter.

§ 12–10.450–3 Risks and indemnities.

(a) *Background.* Section 504 of the Federal Aviation Act of 1958 provides "* * * no lessor of any such aircraft * * * under a bona fide lease of thirty days or more, shall be liable * * * by reason of his interest as lessor or owner of the aircraft * * * for any injury to or death of persons, or damage to or loss of property * * * *unless such aircraft * * * is in the actual possession or control of such person* at the time of such injury, death, damage or loss." (Underscoring supplied.) On short-term or intermittent-use leases, however, the owner may be liable for damage caused by operation of the aircraft. It is usual for the aircraft owner to retain insurance covering this liability during the term of such lease. Such insurance can, often for little or no increase in premium, be made to cover the Government's exposure to liability as well. In order to take advantage of this coverage, the Risks and Indemnities clause prescribed in paragraph (b) of this section is used.

(b) *Risks and indemnities clause.* Insert the clause in 12–7.151–16(c) of this chapter in any contract for out-service flight training, or the lease of aircraft where the Government will have exclusive use of the aircraft for a period of less than thirty days.

(c) *Contract schedule provision.* Any contract for out-service flight training shall include a provision in the Schedule stating substantially that the contractor's personnel shall, at all times during the course of the training, be in command of the aircraft, and that at no time shall other personnel be permitted to take command of the aircraft.

PART 12–16—PROCUREMENT FORMS

Sec.
12–16.000 Scope of part.

Subpart 12–16.4—Forms for Advertised Construction Contracts

12–16.401 Forms prescribed.
12–16.450 Other forms.

Subpart 12–16.8—Miscellaneous Forms

12–16.800 Scope of subpart.
12–16.804–3 Standard Form 37, Report on Procurement by Civilian Executive Agencies.
12–16.850 Small purchase summary.
12–16.851 Procurement request forms.
12–16.852 Determination of prospective contractor responsibility.
12–16.853 Contractor's request for progress payment.
12–16.854 Preconstruction conference agenda and checklist.
12–16.855 Contractor's release.
12–16.856 Labor forms.
12–16.856–1 Labor standards interviews.
12–16.856–2 Employee claim for wage restitution.
12–16.856–3 Summary of labor standards investigation report.
12–16.856–4 Summary of underpayments.
12–16.856–5 Establishment of additional wage rates.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

§ 12–16.000 Scope of part.

This part prescribes and illustrates forms for use by all procurement offices in the Department in connection with the procurement of supplies and services, including construction.

Subpart 12–16.4—Forms for Advertised Construction Contracts

§ 12–16.401 Forms prescribed.

In addition to the standard forms prescribed for use in FPR 1–16.401, Standard Form 30 shall be used to amend a construction solicitation or modify a construction contract.

§ 12–16.450 Other forms.

DOT forms prescribed for use in connection with construction contracts are prescribed or referenced in DOTPR subpart 12–16.8.

Subpart 12–16.8—Miscellaneous Forms

§ 12–16.800 Scope of subpart.

This subpart prescribes miscellaneous forms for use in procurement. The forms are illustrated in DOTPR subpart 12–16.9.

§ 12–16.804–3 Standard Form 37, Report on Procurement by Civilian Executive Agencies.

The semiannual SF–37 required by FPR 1–16.804–3(f) shall be submitted to the Office of Installations and Logistics, TAD–60, by May 1 and November 1, for consolidation and submission to the General Services Administration.

§ 12–16.850 Small purchase summary.

DOT Form F 4230.1 titled "Small Purchase Summary" is an optional form which may be used to satisfy the small purchase documentation requirements set forth in FPR 1–3.603–2.

§ 12–16.851 Procurement request forms.

(a) *General.* The procurement request forms listed in paragraph (c) below shall be used to request the procurement of supplies, services, or construction, and may be used, if appropriate, to request items obtained through FEDSTRIP, MILSTRIP, or similar single- or multi-line requisitioning methods.

(b) *Description of forms.* The forms are issued in units of "PAD". Each pad contains 100 sheets of "no carbon required" type paper.

(c) *Forms.* The procurement request forms are DOT Form F 4200.1.1 for use by the Coast Guard, DOT Form F 4200.1 for use by all other Administrations, and DOT Form F 4200.2 (Continuation Sheet) for use by the Federal Aviation Administration.

§ 12–16.852 Determination of prospective contractor responsibility.

DOT Form F 4220.1 titled "Determination of Prospective Contractor Responsibility" shall be used as prescribed in DOTPR 12–1.1204–1.

§ 12–16.853 Contractor's request for progress payment.

DOT Form F 4220.2 titled "Contractor's Request for Progress Payment" shall be used as prescribed in DOTPR 12–30.519.

§ 12–16.854 Preconstruction conference agenda and checklist.

DOT Form F 4220.3 titled "Preconstruction Conference Agenda and Checklist" shall be used as prescribed in DOTPR 12–18.151.

§ 12–16.855 Contractor's release.

DOT Form F 4220.4 titled "Contractor's Release" shall be used to obtain a release from the contractor for:

(a) All cost type contracts.

(b) Construction contracts, where a release is required by the contracting officer (see paragraph (e) of Clause 7 of Standard Form 23–A).

(c) Any other type of contract when the contracting officer determines its use appropriate.

§ 12–16.856 Labor forms.

§ 12–16.856–1 Labor standards interviews.

DOT Form F 4220.5 shall be used to record the results of interviews with contractor employees working at the construction site. (Sec. 5.6(a)(3) of the Labor Department regulations (29 C.F.R.) requires Federal agencies to make such investigations as are deemed necessary to insure compliance with the labor standards provisions contained in the contract. These investigations include interviews with employees to ascertain whether laborers and mechanics are being or have been properly classified and paid.)

§ 12–16.856–2 Employee claim for wage restitution.

DOT Form F 4220.7 shall be used by contractor employees to file claim for unpaid wages when contract funds have been transferred to the General Accounting Office to cover such underpayment. (Even though contract funds have been transferred to GAO to cover the underpayment, GAO requires that a claim be submitted before it will make payment directly to the employee. See Comptroller General Decision B–3368 of 3/19/57.)

§ 12–16.856–3 Summary of labor standards investigation report.

DOT Form F 4220.6 shall be used as the first page of reports on special labor standards investigations to summarize the findings of the investigation.

§ 12–16.856–4 Summary of underpayments.

DOT Form F 4220.8 shall be used to summarize the findings of wage underpayment and liquidated damages and shall be included in the investigation report when a special labor standards investigation is made.

§ 12–16.856–5 Establishment of additional wage rates.

(a) Except as provided in paragraph (b) of this section, DOT Form F 4220.10 shall be used by the contractor to obtain the contracting officer's approval or disapproval of the contractor's proposed classification and wage rate for any category of laborers or mechanics not listed in the contract wage determination but needed in performance of the contract work. Procedures shall be established to assure contracting officer approval of additional classifications and rates prior to their use by the contractor.

(b) FHWA Form PR–1140 may be used by the Federal Highway Administration for direct Federal contracts and Federal-aid contracts in lieu of DOT Form F 4220.10.

PART 12–17—EXTRAORDINARY CONTRACTURAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE

Subpart 12–17.1—General

Sec.
12–17.101 Authority.

Subpart 12–17.2—Requests for Contractual Adjustment

12–17.205 Processing cases.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

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Subpart 12–17.1—General

§ 12–17.101 Authority.

The Department of Transportation Contract Appeals Board has been authorized by the Secretary to exercise the authority granted by the Act of August 28, 1958 (Pub. L. 85–804).

Subpart 12–17.2—Requests for Contractural Adjustment

§ 12–17.208 Processing cases.

A contractor's request for adjustment shall be coordinated with legal counsel and processed within each Administration in accordance with its procedures.

PART 12–18—PROCUREMENT OF CONSTRUCTION

Subpart 12–18.1—General Provisions

Sec.

12–18.108 Government estimate
12–18.109 Disclosure of size of construction projects.
12–18.110 Liquidated damages.
12–18.112 Construction contracts with design-engineers (A–E).
12–18.151 Preconstruction conference.

Subpart 12–18.2—Formal Advertising

12–18.201–50 Types of contracts.
12–18.202 Preinvitation notices.
12–18.203–51 Fee for plans and specifications.
12–18.203–52 Inquiries from bidders.

Subpart 12–18.3—Negotiations

12–18.301 Limitation on authority to negotiate contracts.
12–18.301–50 Coast Guard negotiation citations.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

Subpart 12–18.1—General Provisions

§ 12–18.108 Government estimate.

After all bids have been read and recorded, the Government estimate shall, when required to be prepared in accordance with FPR 1–18.108, be read and recorded in the same detail as the invitation for bids. If the procurement is by negotiation, cost breakdown figures in the Government estimate may be disclosed during negotiations but only to the extent deemed necessary for arriving at a fair and reasonable price: *Provided*, That the overall amount of the Government estimate is not disclosed.

§ 12–18.109 Disclosure of size of construction projects.

For purposes of disclosing the size of construction projects, the estimated cost thereof shall be stated in ranges, such as the following:

"under $25,000"
"between $25,000 and $100,000"
"between $100,000 and 250,000"
"between $250,000 and $500,000"
"between $500,000 and $1,000,000"
"between $1,000,000 and $2,500,000"
"between $2,500,000 and $5,000,000"
"between $5,000,000 and $10,000,000"
"over $10,000,000."

§ 12–18.110 Liquidated damages.

Liquidated damages provisions are generally appropriate in construction contracts in accordance with the provisions of FPR 1–1.315–2(a). However, inclusion of liquidated damages provisions may be inappropriate in situations such as a construction contract consisting of repairs, alteration or improvements, where any delay in the completion would still permit the user to continue its normal function in an uninterrupted manner without resulting in added expense to the Government.

§ 12–18.112 Construction contracts with design-engineers (A–E).

No contract for construction of a project shall be awarded to a firm or person that designed the project except with approval of the Secretary. The A–E shall be informed of this restriction prior to the commencement of negotiations for his services.

§ 12–18.151 Preconstruction conference.

(a) When the contracting officer considers such action warranted, he shall arrange a preconstruction conference with the contractor and such subcontractors as the contractor may designate to assure that there is a clear understanding of the contract requirements (including labor standards provisions) and of the rights and obligations of the parties.

(b) DOT Form F 4220.3 titled "Preconstruction Conference Agenda and Checklist", or a similar checklist, shall be used as the agenda of or checklist for the preconstruction conference.

Subpart 12–18.2—Formal Advertising

§ 12–18.201–50 Types of contracts.

When unit prices are used, the Variation in Estimated Quantities clause set forth in DOTPR 12–7.651–7 shall be included in the contract.

§ 12–18.202 Preinvitation notices.

Standard Form 20 may be used as preinvitation notice providing it is clearly identified as such.

§ 12–18.203–51 Fee for plans and specifications.

When a flat, nonrefundable fee is to be charged in accordance with DOTPR 12–2.203–1(b), a statement reading substantially as follows shall be included in the solicitation:

Nonrefundable fee for plans and specifications. A fee of $_____ is required for the plans and specifications referenced in this solicitation. Send check or money order to _____. The fee is not refundable. Plans and specifications need not be returned.

§ 12–18.203–52 Inquiries from bidders.

A statement similar to the following shall be included in each solicitation:

For information call (insert name, telephone number). Submit written requests in accordance with paragraph 1 of Standard Form 22.

Subpart 12–18.3—Negotiations

§ 12–18.301 Limitation of authority to negotiate contracts.

§ 12–18.301–50 Coast Guard negotiations.

For limitation of Coast Guard authority to negotiate construction contracts see DOTPR 12–3.252

PART 12–26—CONTRACT MANAGEMENT

Subpart 12–26.4—Novation Agreements and Change of Name Agreements

Sec

12–26.450 Processing novation agreements and change of name agreements.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

Subpart 12–26.4—Novation Agreements and Change of Name Agreements

§ 12–26.450 Processing novation agreements and change of name agreements.

(a) When only one Administration or the Office of the Secretary of Transportation has outstanding contracts with the contractor or contractors seeking a novation or change of name agreement, the documents pertaining thereto shall be forwarded to the appropriate addressee in (b) below. This addressee may authorize the procuring activity of its Administration (or OST) having the largest unsettled (unbilled plus billed but unpaid) dollar balance with the contractor or contractors to process and execute the agreement.

(b) When more than one Administration (including OST) has outstanding contracts with the contractor or contractors seeking a novation or change of name agreement, a single agreement covering all such contracts shall be executed by the Administration having the largest unsettled (Unbilled plus billed but unpaid) dollar balance with the contractor or contractors. Such agreements shall be executed by a duly authorized official of the appropriate office listed herein.

Federal Aviation Administration, Director, Logistics Service, 800 Independence Avenue SW., Washington, D.C. 20591.
Federal Highway Administration, Office of Associate Administrator for Administration, 400 7th Street SW., Washington, D.C. 20590.
U.S. Coast Guard, Commandant (G–F), 400 7th Street SW., Washington, D.C. 20590.
Federal Railroad Administration, Office of Associate Administrator for Administration, 400 7th Street SW., Washington, D.C. 20590.
St. Lawrence Seaway Development Corporation, Administrative Services Officer, 800 Independence Avenue SW., Washington, D.C. 20591.
Office of the Secretary of Transportation, Director of Administrative Operations, 400 7th Street SW., Washington, D.C. 20590.
Transportation Systems Center, Office of Administration, Kendall Square, Cambridge, Mass. 02142.
Urban Mass Transportation Administration, Director, Office of Procurement and Third Party Review, 400 7th Street SW., Washington, D.C. 20590.
National Highway Traffic Safety Administration, Office of Associate Administrator for Administration, 400 7th Street SW., Washington, D.C. 20590.

(c) The Administration processing a proposed novation agreement shall promptly provide notice of the proposed agreement, including the list of contracts as required by FPR 1–26.402(c)(2) to the other Administrations (and OST, if applicable) having contracts with the contractor or contractors concerned. Such notice shall be transmitted to the appropriate addressee listed in (b) above. Within 30 days after receipt of such notice, the Administration(s) may submit comments to the processing Administration, which comments shall be considered prior to execution of the proposed agreement. The absence of comment from an Administration within 30 days after its receipt of notice of a proposed novation agreement shall be construed as approval by that Administration. When only a single Administration is concerned, the procuring activity processing a proposed novation agreement shall give similar notice of it to all other interested procuring activities in that Administration.

(d) Where substantial alterations or additions to the formats set forth in FPR 1–26.402 and FPR 1–26.403 are considered appropriate by the Administration processing the proposed agreement, that Administration shall coordinate the agreement with the other Administrations prior to execution. Any objection shall be resolved before the agreement is executed.

(e) A signed copy of the executed novation agreement or change of name agreement shall be forwarded to the contractor, a signed copy shall be retained in the Administration executing the agreement, and where more than one Administration is involved, two copies of the agreement shall be distributed to the appropriate addressee listed in DOTPR 12–26.450(b).

(f) After execution and distribution of an agreement, an administative change (Standard Form 30) shall be prepared by the processing activity incorporating a summary of the agreement and attaching thereto a complete list of the contracts affected. For single Administration agreements, three copies of the Standard Form 30 shall be furnished for each contract to the procuring activities concerned, and for multi-Administration agreements, to the appropriate addressee listed in DOTPR 12–26.450(b).

PART 12–30—CONTRACT FINANCING

Subpart 12–30.5—Progress Payments Based on Costs

Sec.

12–30.519 Contractor's request.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

Subpart 12–30.5—Progress Payments Based on Costs

§ 12–30.519 Contractor's request.

All invoices for progress payments described in FPR 1–30.519 shall be supported by DOT Form F 4220.2 titled "Contractor's Request for Progress Payment" (or, at the contractor's option, he may submit DOD Form 1195), with any other information that may be reasonably required.

PART 12–50—SERVICE CONTRACTS

Sec.

12–50.000 Scope of part.

Subpart 12–50.1—Technical Support Services

12–50.100 Scope of subpart.

Subpart 12–50.2—[Reserved]

Subpart 12–50.3—Procurement of Expert or Consultant Services

12–50.300 Scope of subpart.
12–50.301 Negotiation authority.
12–50.302 Definition of experts and consultants.
12–50.303 Policy.
12–50.304 Limitations on use of expert or consultant authority.
12–50.305 Justification to enter into contracts.
12–50.306 Contracts with individual experts or consultants.
12–50.306–1 Method and amount of payment.
12–50.306–2 Benefits.
12–50.306–3 Taxes.
12–50.306–4 Conflict of interest.
12–50.306–5 Administrative treatment.
12–50.307 Contracts with firms for expert or consultant services.
12–50.308 Contracts for stenographic reporting services.
12–50.309 Modification of contracts.

Subpart 12–50.4—Procurement of Mortuary Services

12–50.400 Scope of subpart.
12–50.401 Procurement by contract.
12–50.402 Area of performance.
12–50.403 Solicitation provision.
12–50.404 Schedule format.
12–50.405 Contract clauses.
12–50.406 Procurement by purchase order.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

§ 12–50.000 Scope of part.

This Part deals generally with the obtaining of services by contract, and specifically with certain types of contracts which can properly be classified as service contracts. It does not cover the services of individuals obtained by direct appointment or through normal Civil Service employment procedures, nor does it cover the obtaining of services by grant.

Subpart 12–50.1—Technical Support Services

§ 12–50.100 Scope of subpart.

Guidance and instructions for the procurement of non-personal technical support services are set forth in DOT Order 4200.13 included in DOTPR 12–99.

Subpart 12–50.2—[Reserved]

Subpart 12–50.3—Procurement of Expert or Consultant Services

§ 12–50.300 Scope of subpart.

This subpart sets forth policy and procedures for the procurement by contract, pursuant to 5 U.S.C. 3109, of expert or consultant services from individuals and from firms. This subpart does not govern employment of individual experts or consultants by excepted appointment; the requirements for such employment are set forth in personnel regulations of the Civil Service Commission and of the Department.

§ 12–50.301 Negotiation authority.

Contracts with individuals or firms for expert and consultant services are usually negotiated, normally under the authority of 41 U.S.C. 252(c)(4), or 10 U.S.C. 2304(a)(4), as applicable.

§ 12–50.302 Definition of experts and consultants.

(a) The term "experts" means those persons who are exceptionally qualified in a particular field, by education or by experience, to perform some specialized service. The term "consultants" means those persons whose advice and counsel are sought on matters of Departmental interest. These terms also include firms meeting the foregoing definitions.

(b) Stenographic reporting services are included in the term "expert or consultant services" for purposes of procurement by contract under this subpart.

§ 12–50.303 Policy.

(a) The proper use of experts and consultants is a legitimate and economical way to improve Government services and operations. Activities of the Department can be strengthened by utilizing the highly specialized knowledge and skills of such individuals. Accordingly, the services of experts and consultants may be used at any organizational level to help managers achieve maximum effectiveness and economy in their operations.

(b) The following are examples of services which may be procured from experts or consultants by contract:

(1) Specialized opinion unavailable in the Department;

(2) Outside points of view, to avoid too limited judgment, on critical administrative or technical issues;

(3) Advice on developments in industrial and other research;

(4) For especially important projects, opinions of noted experts which are highly important to the success of an undertaking;

(5) The advisory participation of citizens to develop or implement Government programs that by their nature or by statute call for citizen participation;

(6) The services of specialists (experts) who are not needed full-time, who cannot serve regularly or full-time, or whose full-time employment is uneconomical to the Government.

§ 12–50.304 Limitations on use of expert or consultant authority.

(a) Authority to employ experts or consultants, whether by contract or by appointment, is limited to Secretarial officers and heads of Operating Administrations. They shall not be used to perform duties which can be performed by regular employees, to fill positions which call for full-time continuing employees,

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or to circumvent competitive civil service procedures and Classification Act pay limits. The prior approval of the Deputy Secretary is required for any expert or consultant contract or series of contracts with the same individual or firm that will reimburse him for a total of more than 10 days' work in any consecutive 12-month period.

(b) The nature of the duties to be performed must be temporary (not more than one year) or intermittent (not cumulatively more than 130 working days in any consecutive 12-month period), and no contract shall be entered into for longer than one year at a time.

(c) Expert or consultant services shall not be used when existing facilities of the Department are adequate or when personnel with the necessary skills can be obtained through normal civil service appointment procedures. Procurement of expert or consultant services shall not be used as a means of circumventing manpower space ceilings or the limit on the daily rate that experts or consultants may be paid under section 9(b) of the DOT Act.

§ 12–50.305 Justification to enter into contracts.

(a) All contracts to be entered into pursuant to 5 U.S.C. 3109 or other statutory authority for expert or consultant services must be justified in writing and the justification signed by the appropriate Secretarial officer or head of Operating Administration. Ordinarily each contract shall be separately authorized. However, when the justification can appropriately be made with respect to a class of contracts, the authorizing official may execute a blanket authority for that class of contracts.

(b) Each justification shall authorize a contract or class of contracts to be entered into during a stated period not to exceed one year. A justification may be issued during one fiscal year to authorize a contract or class of contracts to be entered into during the following fiscal year, provided the determinations are reasonably expected to hold true at the time the contract or contracts are to be entered into.

(c) Each justification shall contain the following:

(1) A brief description of the services authorized to be procured, the estimated time of performance and the estimated cost;

(2) Determination with respect to the particular contract or class of contracts that:

(i) The duties to be performed are of a temporary or intermittent nature;

(ii) The existing facilities of this Department are inadequate to furnish the services; and

(iii) It is not feasible to obtain personnel with the necessary skills from other Federal agencies or through normal civil service appointment procedures.

§ 12–50.306 Contracts with individual experts or consultants.

§ 12–50.306–1 Method and amount of payment.

The contract may provide for compensation at rate for time actually worked (e.g., amount per day, per week, per month, etc.), or it may provide for performance of a specific task at a fixed price, or it may provide for nominal compensation. The amount of rate of payment will be determined on a case-by-case basis, taking into account (among any other relevant factors) the relative importance of the duties to be performed, the stature of the individual in his specialized field, comparable pay for positions under the Classification Act or other Federal pay systems, rates paid by private employers, and rates previously paid other experts or consultants for similar work. Compensation at a per diem rate will be no more than that permitted by statutory authority and normally no less than $55. In addition, the contract may provide for such expenses as would be authorized for a Government employee, including actual transportation and per diem in lieu of subsistence while the expert or consultant is traveling between his home or place of business and his official duty station. However, no more than one round-trip to the official duty station shall be provided unless the services are rendered on an intermittent basis.

§ 12–50.306–2 Benefits.

No benefits shall be accorded the contractor which are not specifically provided for in the written contract.

§ 12–50.306–3 Taxes.

Where the individual is to render services, the compensation generally is subject to FICA (Social Security), FUTA (Unemployment), and federal income withholding tax. It may also be necessary to report or withhold state income tax under 5 U.S.C. 5517. The contracting officer shall take appropriate steps in coordination with the cognizant personnel office to have deductions and reports made where required by law.

§ 12–50.306–4 Conflict of interest.

The contracting officer shall assure himself that individual experts or consultants who are to render services under contract, familiarize themselves with Executive Order 11222, May 8, 1965, Part III, "Standards of Ethical Conduct for Special Government Employees," 30 FR 6469 (1965), and that they comply with it and with Departmental regulations implementing it.

§ 12–50.306–5 Administrative treatment.

Individual experts or consultants who are to render personal services under contract are charged against personnel ceilings in the same way as experts and consultants employed by excepted appointment. Also, the cognizant personnel office must maintain certain records on individual experts and consultants who render personal services. Therefore, the contracting officer shall effect necessary coordination with the cognizant personnel office before award of a contract for expert or consultant services, and may also designate the appropriate personnel officer as his representative for the purpose of obtaining necessary data from the contractor for tax withholding purposes, for suitability investigation under Executive Order 10450 and for administering applicable conflict of interest provisions.

§ 12–50.307 Contracts with firms for expert or consultant services.

Contracts with firms for expert or consultant services ordinarily need deal only with rights and obligations as between the Government and the firm, and need not deal with the question of compensation by the firm of the individuals it assigns to the work or with any other rights or obligations as between the firm and these individuals.

§ 12–50.308 Contracts for stenographic reporting services.

Stenographic reporting services normally are provided by Federal Government employees appointed under the usual civil service procedures. However, these services may be procured by contract from individuals or firms pursuant to 5 U.S.C. 3109, or other statutory authority where there are variable requirements or insufficient qualified personnel, and necessity or economy to the Government demands procurement by contract. Such contracts normally shall be written on an end-product basis and payment made according to delivered items (e.g., number of copies of transcript, words per page, etc.), and the contractor ordinarily shall be required to furnish the necessary material (typewriter, paper, bindings, etc.). These contracts are subject to all provisions of this subpart.

§ 12–50.309 Modification of contracts.

When supplemental agreements or change orders are required which substantially change the basis upon which the justification was made, such as to revise substantially the scope of work or time limitations, or to apply additional funds, authorization shall be requested in the same way and is subject to the same limitations as authorization to procure the total services by contract would have required in the first place.

Subpart 12–50.4—Procurement of Mortuary Services

§ 12–50.400 Scope of subpart.

This subpart is applicable only to the Coast Guard. It sets forth procurement procedures peculiar to contracts for mortuary services (the care of remains) of Coast Guard personnel.

§ 12–50.401 Procurement by contract.

(a) Where an existing contract for the care of remains is not available for Coast Guard use, procurement of such services shall be formally advertised except where negotiation is authorized, consistent with limitations and requirements set forth in Chapter 12B of the Coast Guard Personnel Manual.

(b) The contract format, terms and conditions, and clauses set forth in this subpart are appropriate for inclusion in a requirements type contract. They should be altered as deemed necessary by the contracting officer to fit a different contract type or procurement situation.

§ 12–50.402 Area of performance.

Each contract for care of remains shall clearly define the geographical area covered by the contract. The area shall be determined by the activity entering into the contract in accordance with the following general guidelines. It shall be an area using political boundaries, streets, and other features as demarcation lines. Generally, this should be a size roughly equivalent to the contiguous metropolitan or municipal area enlarged to include the activities served. In the event the area of performance best suited to the needs of a particular contract is not large enough to include a carrier terminal commonly used by people within such area, the contract area of performance shall specifically state that it includes such terminal as a pickup or delivery point.

§ 12–50.403 Solicitation provision.

Invitations for bids for mortuary services contracts shall contain the provision set forth below. This provision shall be appropriately modified for use in requests for proposals.

AWARD TO SINGLE BIDDER

Subject to the provisions contained herein, award shall be made to a single bidder. Bids must include unit prices for each item listed in order that bids may be properly evaluated. Failure to do this shall require rejection of the entire bid. Bids shall be evaluated on the basis of the estimated quantities shown and award shall be made to that responsive/responsible bidder whose total aggregate price is low.

§ 12–50.404 Schedule format.

Set forth below is an example of a Schedule format suitable for use in solicitations:

Item No.	Supplies, services, and transportation	Estimated Quantity	Unit	Unit price	Amount
1	For a type I casket, standard size, supplies and services in accordance with specifications		Each		
2	For a type II casket, standard size, supplies and services in accordance with specifications		do		
3	For a shipping case, standard size, in accordance with specifications. (For use with item 1 or 2 above.)		do		
4	For a type I casket, exceeding standard size, supplies and services in accordance with specifications		do		
5	For a type II casket, exceeding standard size, supplies and services in accordance with specifications		do		
6	For shipping case, exceeding standard size, in accordance with specifications. (To be used with item 4 or 5 above.)		do		
7	For transportation of remains, in accordance with specifications and as provided for in pars. (b) and (c) of the area of performance clause of this contract		Loaded mile		

§ 12–50.405 Contract clauses.

The clauses in DOTPR 12–7.50 shall, if appropriate, be included in contracts.

§ 12–50.406 Procurement by purchase order.

Where no contract for mortuary services exists and the use of a purchase order is appropriate, such services shall be obtained by use of DD Form 1155 and DD Form 1155r, in accordance with the following instructions:

(a) The "Changes" clause (paragraph 17 of DD Form 1155r) shall be deleted and the "Changes" clause in DOTPR 12–7.5001–29 shall be substituted therefor.

(b) The "Additional Default Provision" clause in DOTPR 12–7.5001–23 shall be included in the purchase order except it shall be amended:

(1) By changing paragraph (a) thereof to read: "(a) This clause supplements the 'Termination for Default' clause of this contract."

(2) By changing the first sentence of paragraph (b) thereof to read: "This contract may be terminated for default by written notice if during the performance of this contract:".

(c) The following clauses shall also be included in the purchase order:

(1) The "Specifications" clause in DOTPR 12–7.5001–18.

(2) The "Delivery and Performance" clause in DOTPR 12–7.5001–21.

(3) The "Subcontracting" clause in DOTPR 12–7.5001–22.

(4) The "Inspection" clause in DOTPR 12–7.5001–24.

(5) The "Professional Requirements" clause in DOTPR 12–7.5001–26.

(6) The "Facility Requirements" in DOTPR 12–7.5001–27.

(7) The "Preparation History" clause in DOTPR 12–7.5001–28.

PART 12–60—CONTRACT APPEALS

Sec.
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12–60.102 Qualifications of members.
12–60.103 Authority and duties of the Board and its members.
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AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

§ 12–60.000 Scope of part.

This part establishes the Department of Transportation Contract Appeals Board, prescribes its functions and procedures, provides for the appointment of a chairman and members of the Board, and authorizes the members of the Board to act.

Subpart 12–60.1—Contract Appeals Board

§ 12–60.101 Establishment.

A Department of Transportation Contract Appeals Board ("Board") is established. The Secretary of Transportation ("Secretary") appoints and terminates the appointments of the members of the Board, and designates one of them as chairman. The Board is responsible directly to the Secretary.

§ 12–60.102 Qualifications of members.

Each member of the Board must be a qualified attorney who is admitted to practice before the highest court of a State or the District of Columbia, and shall be a civilian employee of a commissioned officer of the Department.

§ 12–60.103 Authority and duties of the Board and its members.

(a) The Board acts for the Secretary in hearing and deciding:

(1) Appeals by contractors from decisions made by contracting officers under contracts which provide for such an appeal to the Secretary; and

(2) Other matters as directed by the Secretary.

(b) In each case, the Board shall make a final decision which is impartial, fair, and just to the parties and is supported by the record of the case and the law. The member or members assigned to hear an appeal have authority to act for the Board in all matters with respect to such appeal, except that the final decision is made by a majority of a panel of Board members designated by the chairman for that purpose. No member may act for the Board or participate in a decision if he has participated directly in any aspect of the award or administration of the contract involved.

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§ 12–60.104 Authority and duties of the chairman.

The chairman is delegated authority over and is responsible for:

(a) The internal organization and administration of the Board;

(b) The receipt and custody of all papers and material relating to contract appeals;

(c) The assignment of a member or members of the Board to act for the Board in each appeal and the assignment of the panel of Board members to decide each appeal;

(d) The designation of an acting chairman during his absence, disqualification, or disability; and

(e) The promulgation of additional or supplemental rules of procedure, not inconsistent with those established by the Secretary.

Subpart 12–60.2—Contract Appeal Procedures

§ 12–60.201 General.

(a) It is the intent of the rules in this part to provide for the just and inexpensive determination of appeals without unnecessary delay. It is the objective of the Board's preliminary procedures to encourage full disclosure of relevant and material facts, and to discourage surprise. Each specified time limitation is a maximum, and should not be fully exhausted if the action described can be accomplished in a shorter period. The Board may extend any time limitation (except the time specified in the contract for filing the notice of appeal) for good cause.

(b) For the purposes of this part—

(1) "The parties" means the appellant and the contracting officer;

(2) "Appellant" means the contractor who appeals; and

(3) "Contracting officer" means the Government contracting officer whose decision is appealed, or his successor.

(c) Ordinarily, the appellant has the burden of proof.

§ 12–60.202 Notice of appeal.

An appeal from a decision of a contracting officer is made by sending a written notice of appeal to the contracting officer addressed to the Secretary. The notice shall be mailed or filed within 30 days after the date of receipt of the contracting officer's decision, unless a different time is provided in the contract. The contractor shall sign the notice, identify the contract involved and the decision appealed from, and state that he is appealing from that decision. A general letter of complaint objecting to some action may be considered not to be a notice of appeal. The notice should be in triplicate, specify the part or parts of the decision from which the appeal is taken, and should state the reason why those parts are erroneous. The notice of election referred to in § 12–60.205, and the complaint referred to in § 12–60.208, may be filed with, or as part of, the notice of appeal.

§ 12–60.203 Forwarding of appeals.

Upon receiving a notice of appeal, the contracting officer shall endorse on the original and the copies the date of mailing, or the date of receipt if otherwise filed. He shall immediately send the notice and one copy to the Board for docketing. The Board shall promptly advise the appellant and the contracting officer of the receipt of the original notice of an appeal (whether received from the contracting officer or otherwise), and shall furnish the appellant a copy of the rules in this part and advise him of his option of procedures.

§ 12–60.204 Duties of the contracting officer.

(a) Within 30 days after the first written notice to him that an appeal has been taken, the contracting officer shall send to the Board an appeal file, consisting of the originals or true copies of the following:

(1) The findings of fact and the decision from which the appeal is taken, and the letters or other documents of claim in response to which the decision was issued;

(2) The contract and pertinent specifications, plans, drawings, modifications, change orders, and amendments;

(3) All correspondence between the parties relating to the dispute;

(4) Transcripts of any testimony taken in connection with the dispute, and any affidavits or statements of any witnesses that were considered by the contracting officer in reaching his decision; and

(5) Any additional data that the contracting officer may consider pertinent.

(b) The contracting officer shall retain a complete copy of the appeal file, except for voluminous exhibits of which the appellant has identical copies, or which the appellant has had the opportunity to inspect. At the time the file is sent to the Board he shall so notify the appellant, provide him with a listing of its contents, and advise him that he may examine it at the office of the contracting officer or the Board. As soon as possible the appellant should suggest to the Board any additional documentation he considers pertinent for inclusion in the appeal file. The Board may order the inclusion of the suggested material.

§ 12–60.205 Appellant's election as to procedure.

(a) The appellant may elect to have the appeal considered upon:

(1) The written record, without oral hearing (§ 12–60.206);

(2) A conference hearing (§ 12–60.207); or

(3) A hearing under the Board's regular procedure.

(b) The appellant shall notify the chairman of the Board of his election within 30 days after the date he receives the contracting officer's notice of transmittal of the appeal file under § 12–60.204.

(c) For good cause, at the timely request of the contracting officer or on the Board's own motion, the Board may direct that the parties follow either the conference hearing procedure or the regular procedure if the appellant has elected to have the appeal considered upon the written record; or it may direct that the parties follow the regular procedure if the appellant has elected to have the appeal considered under the conference hearing procedure.

§ 12–60.206 Procedure for submission on written record.

If the appeal is considered on the written record, the pleadings specified in § 12–60.208 are not required. The appellant may submit to the Board any additional relevant material for the record within 45 days after the date he receives the contracting officer's notice of transmittal of the appeal file under § 12–60.204. The contracting officer shall submit any answering material within 30 days after the date he receives the material submitted by the appellant. Thereafter the record shall be settled as provided in § 12–60.221 after at least 15 days notice to the parties by the Board. The Board may permit the record to be supplemented by oral argument and by briefs.

§ 12–60.207 Conference hearing procedure.

(a) *General.* This procedure provides a means for hearing and deciding appeals which is more expeditious and informal than the regular procedure set forth in the rules in this part. It may be of particular value when the appellant regards only limited additional testimony and oral argument as necessary to sustain his case on the written record.

(b) *Pleadings and issues.* Under the conference hearing procedure, pleadings are not required. The issues are those raised by the appellant's claim letter and the contracting officer's decision or those identified at a prehearing conference.

(c) *The hearing.* The hearing consists of an informal conference at which the evidence is presented and discussed by the witnesses. The presiding Board member controls the course of the hearing. He may vary the order or presentation so that all evidence on a particular issue is received at the same time and he may refuse to receive any evidence or argument on matters not directly in issue or any repetitive, irrelevant, prejudicial, or improper material. The presiding Board member may also develop facts, obtain admissions, stipulations, and concessions through questioning parties and witnesses.

(d) *Evidence and arguments—how presented.* Evidence and argument is presented by the witnesses and the parties without regard to the formal order of proof. The technical rules of evidence do not apply, but the Board may refuse to consider any statements or documents which are not of sufficient probative weight as to be considered "substantial" evidence. Although witnesses are not separately and sequentially examined and cross-examined, questioning and cross-questioning may be permitted when needed to get relevant information on the record or to test the credibility of witnesses. Evidence and argument may be limited to matters directly in issue.

(e) *Other rules.* All of the rules in this part, except §§ 12–60.208 and 12–60.216 apply to appeals considered under the conference hearing procedure.

§ 12–60.208 Pleadings.

(a) Unless he elects to have the appeal considered on the written record or under the conference hearing procedure, the appellant shall, within 30 days after receipt of the contracting officer's notice of transmittal of the appeal file under § 12–60.204, file with the Board an original and two copies of a complaint setting forth a concise statement of each of his claims, alleging the basis, with appropriate reference to contract provisions, for each claim, and the dollar amount claimed. If the Board orders a complaint to be filed, the complaint shall be filed within the time specified in the Board's order.

(b) Within 30 days after the date of receipt of the complaint, the contracting officer shall file with the Board an original and two copies of an answer, setting forth a concise statement of his defense to each claim asserted by the appellant.

(c) Although no particular form or formality is required, the complaint and answer shall fulfill the generally recognized requirements for pleading.

§ 12–60.209 Motions.

(a) Motions are made by filing an original and two copies thereof, together with any supporting papers, with the Board. Motions may also be made upon the record, in the presence of the other party, at a prehearing conference or hearing. The Board shall consider any timely motion:

(1) For extension of time or to cure defaults;

(2) To require that a pleading be made more definite and certain, or for leave to amend a pleading;

(3) To dismiss for lack of jurisdiction; to dismiss for failure to prosecute; or to grant summary relief because a pleading does not raise a justifiable issue;

(4) For discovery, for interrogatories to a party, and for the taking of depositions;

(5) To reopen a hearing; or to reconsider a decision; or

(6) For any other appropriate order.

(b) The Board may, on its own motion, initiate any such action by notice to the parties. Unless a longer time is allowed by the Board, a party who receives a motion shall file any answering material within 20 days after the date of receipt. The Board shall make an order on each motion that is appropriate and just to the parties, and upon conditions that will promote efficiency in disposing of the appeal. The Board may permit oral hearing or argument on motions, and may require the presentation of briefs. Motions to reconsider a decision must be made within 30 days after the date of receipt of the decision.

§ 12–60.210 Prehearing conference.

(a) The Board may, upon the request of either party, or upon its own motion, require the parties to appear for a prehearing conference to consider—

(1) Simplification or clarification of the issues;

(2) Stipulations and admissions;

(3) Limitations on the evidence and the number of witnesses whose testimony is to be presented;

(4) Possibility of agreement on any of the issues in dispute; and

(5) Any other matter that may aid in the disposition of the appeal.

(b) The presiding Board member shall reduce results of the conference to writing. The results are a part of the record.

§ 12–60.211 Service of papers.

Except for the appeals file, a copy of each document and each communication to the Board shall be served upon the other party at the time it is filed with or sent to the Board. Service of papers shall be made personally or by mail.

§ 12–60.211–1 Notation: copy to other party.

Except for the appeals file, each written communication to the Board from or on behalf of the contracting officer or the appellant shall include a notation or statement that a copy has been served on or sent to the other party. The letter to the Board transmitting the appeal file shall indicate that a copy of the letter and a list of the documents have been sent to the appellant.

§ 12–60.212 Depositions and discovery.

(a) *Depositions.*

(1) After an appeal has been docketed, the Board may, for good cause, order the taking of the testimony of any person, by deposition upon oral examination or written interrogatories. A party's application for the order shall specify whether the deposition is for (i) the purpose of discovery, or (ii) use as evidence.

(2) The taking of evidentiary depositions will not ordinarily be ordered unless it appears that it is impracticable to present the witness' testimony at the hearing of the appeal, or unless a hearing has been waived and the case submitted or the written record pursuant to § 12–60.206. Testimony taken by deposition shall not be considered part of the evidence in the hearing of an appeal unless and until it is offered and received in evidence. It shall not ordinarily be received in evidence if the witness can testify personally at the hearing, except that depositions may be used to contradict or impeach the testimony of witnesses.

(b) *Inspection of documents.* For good cause, the Board may order any party to produce and permit the inspection and copying or photographing of designated documents, not privileged, regarding any matter that is relevant to the appeal.

(c) *Admission of facts.* For good cause shown, the Board may permit a party to serve upon the opposing party a request for the admission of specified facts.

(d) *Orders of the Board.* The time, place and manner of taking depositions, producing documents or making admissions under this section shall be governed by the order of the Board.

§ 12–60.213 Prehearing briefs.

Either party may file a prehearing brief, and the Board may require both parties to submit prehearing briefs. Such a brief should be filed at least 15 days before the date set for hearing.

§ 12–60.214 Notice of hearing; where and when held.

Hearings are held in Washington, D.C., except that, upon request seasonably made and upon good cause shown, the Board in its discretion may set the hearing at another location. Hearings are scheduled by the Board with due consideration to the regular order of appeals, the desires of the parties, the requirement for just and inexpensive determination of appeals without unnecessary delay, and other pertinent factors. The parties shall be given at least 15 days notice of the time and place set for hearings.

§ 12–60.215 Unexcused absence of a party.

The unexcused absence of a party at the time and place set for hearing does not delay the hearing. In such a case, the hearing proceeds and the case is considered to be submitted on the written record by the absent party, as provided in § 12.60.206.

§ 12–60.216 Nature of hearings.

Hearings shall be as informal as may be reasonable and appropriate under the circumstances. Subject to the discretion of the presiding Board member as to the extent and manner of the presentation of such evidence, the appellant and the contracting officer may offer any relevant evidence that would be admissible under the generally accepted rules of evidence applied in the courts of the United States in nonjury trials. In general, admissibility depends on relevancy and materiality. Letters or copies thereof, affidavits, or other evidence may be admitted in the discretion of the presiding Board member. The weight to be attached to evidence presented in any particular form is within the discretion of the Board, after considering the circumstances of the particular case. The Board may in any case require evidence in addition to that offered by the parties.

§ 12–60.217 Examination of witnesses.

Witnesses before the Board may be examined orally under oath or affirmation. If the testimony of a witness is not given under oath the Board shall warn the witness that his statements are subject to sections 287 and 1001 of Title 18, United States Code, and any other provisions of law imposing penalties for knowingly making false representations

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in connection with claims against the United States.

§ 12–60.218 Copies of papers.

A true copy may be substituted for any book, record, paper or other document that has been received in evidence. If this is done, an identical copy shall be furnished to the other party.

§ 12–60.219 Posthearing briefs.

Posthearing briefs may be submitted upon such terms as may be agreed upon by the parties, or as may be directed by the presiding Board member.

§ 12–60.220 Transcript of proceedings.

Unless the Board otherwise orders, testimony and argument at hearings shall be reported verbatim. Any party to a hearing may buy a transcript of the proceedings at rates fixed by contract between the Board and the reporter, or equivalent rates if the proceedings are reported by an employee of the United States.

§ 12–60.221 Settling the record.

(a) A case which is heard is ready for decision upon receipt of transcript, or upon receipt of briefs when briefs are to be submitted.

(b) A case submitted on the record pursuant to § 12–60.206 is ready for decision when the parties are so notified by the Board. At any time before the date that such a case is ready for decision, either party may, upon good cause shown, supplement the record with documents and exhibits that the Board considers relevant and material.

(c) The Board may, upon its own motion, call upon either party, with appropriate notice to the other, for evidence that it considers relevant and material. The weight attached to any evidence or record is within the discretion of the Board. Either party may at any stage of the proceeding, on notice to the other party, question by objection the relevance or materiality of material in the record or offered into the record.

(d) The Board record consists of the appeal file described in § 12–60.204 and any additional material filed with or heard by the Board, except material which the Board strikes or excludes.

(e) This record is at all times available for inspection by either party, upon reasonable prior arrangement, at the office of the Board. Copies of material in the record may, if practicable, be furnished to the appellant upon payment of the established fees for reproduction.

§ 12–60.222 Representation of parties.

An individual appellant may prosecute his appeal in person; a corporation, by an officer; a partnership or joint venture, by a member; and any appellant may be represented by an attorney. The contracting officer is represented by Government counsel.

§ 12–60.223 Settlement.

A dispute may be settled at any time before the decision by the filing of a written notice by the appellant withdrawing his appeal or by written stipulation between the appellant and the contracting officer, settling the dispute. Proceedings may be suspended while the parties are considering settlement.

§ 12–60.224 Decisions.

Written decisions of the Board shall be forwarded simultaneously to both parties. The rules of the Board and all final orders and decisions are open for public inspection at the offices of the Board in Washington, D.C. Decisions of the Board are made upon the record.

PART 12–70—GOVERNMENT PROPERTY

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12–70.901 Contract clauses.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

§ 12–70.000 Scope of Part.

This part sets forth the policies of the Department of Transportation with respect to providing property for use by contractors in connection with procurement by the components of the Department of Transportation, prescribes responsibilities and procedures pertinent thereto, and references applicable contract clauses. This part does not apply to property to which the Government has acquired a lien or title solely as a result of partial, advance, or progress payments. When lien or title is acquired solely as a result of such payments, the provisions of the partial, advance, or progress payments clauses shall apply, including any modifications to such clauses as may be contained in the contract.

Subpart 12–70.1—General

§ 12–70.101 Definitions.

As used in this part, the following terms have the meaning stated below. Additional definitions applicable to property administration are set forth in DOTPR Supplement 1—"Manual for Control of Property in Possession of Contractors."

§ 12–70.101–1 Property.

Includes all property, both real and personal. For the purpose of this part, it consists of two separate categories—material and facilities.

§ 12–70.101–2 Government property.

Means all property owned by or leased to the Government or acquired by the Government under the terms of a contract. However, the term "Government property" does not include property to which the Government has acquired a lien or title solely as a result of partial, advance, or progress payments. Government property includes both Government-furnished property and contractor-acquired property as defined below:

(a) Government-furnished property is property in the possession of, or acquired directly by, the Government and subsequently delivered or otherwise made available to the contractor; and

(b) Contractor-acquired property is property procured or otherwise provided by the contractor for the performance of a contract, title to which is vested in the Government.

§ 12–70.101–3 Provide.

As used in the context of such phrases as "Government property provided to the contractor" and "Government-provided property", means either to furnish, as in "Government-furnished property", or to acquire, as in "contractor-acquired property."

§ 12–70.101–4 Material.

Means property which may be incorporated into or attached to an end item to be delivered under a contract or which may be consumed or expended in the performance of a contract. It includes, but is not limited to, raw and processed material, parts, components, assemblies, and small tools and supplies which may be consumed in normal use in the performance of a contract. It also includes items of a nonexpendable nature with a unit acquisition cost of less than $50, unless the Government has designated any such items to be classified as plant equipment.

§ 12–70.101–5 Non-expendable.

Means items of Government personal property which:

(a) Have a unit acquisition cost of $50.00 or more, and

(b) Have a life expectancy of one year or more, and

(c) Retain their identity when put into use, and

(d) Are not consumed in the performance of work on the contract.

§ 12–70.101–6 Plant equipment.

Means personal property of a nonexpendable nature (consisting of equipment, machine tools, test equipment, furniture, vehicles, and accessory and auxiliary items) used or capable of use in the manufacture of supplies or in the performance of services or for any administrative or general plant purpose.

§ 12–70.101–7 Facilities.

Means property (other than material) for production, maintenance, research, development, or test, including real property and rights therein, buildings, structures, improvements, and plant equipment.

§ 12–70.101–8 Nonseverable.

When related to Government facilities, means that such property cannot be removed after erection or installation without substantial loss of value or damage thereto, or to the premises where installed.

§ 12–70.101–9 Excess and residual contract inventory.

"Excess and residual contract inventory" means:

(a) Any property acquired by and in the possession of a contractor or subcontractor (including Government-furnished property) under a contract pursuant to the terms of which title is vested in the Government, and in excess of the amounts needed to complete full performance under the entire contract; and

(b) Any property which the Government is obligated to or has an option to take over under any type of contract as a result either of any changes in the specifications or plans thereunder or of the termination of such contract (or subcontract thereunder), prior to completion of the work, for the convenience or at the option of the Government.

§ 12–70.102 Use for or by contractors of test facilities owned and operated by the Government.

(a) The on-site use for or by contractors of existing Government-owned test facilities located at installations owned and operated by the Government may be authorized in connection with the performance of Government contracts only when:

(1) there is no commercial test capability adequate for the testing needs, or

(2) substantial cost savings will result from use of the Government-owned test facilities.

(b) Whenever any such use is authorized, adequate consideration comparable to commercial charges, if any, shall be obtained under any affected contract.

§ 12–70.103 Government property contract clauses.

When Government property is provided under a contract, the contract shall contain the appropriate Government Property clause as referenced in Subpart 12–70.9 of this part.

§ 12–70.104 Control of government property.

The control of Government property shall be in accordance with DOTPR Supplement 1—Manual for Control of Property in Possession of Contractors. Each contract under which Government property is provided shall incorporate this Manual by reference.

§ 12–70.105 Disposition of excess and residual contract inventory.

Excess and residual contract inventory shall be disposed of in accordance with the procedures contained in Subpart 12–70.7 of this part.

Subpart 12–70.2—Furnishing Government Material to Contractors

§ 12–70.201 Policy.

It is the general policy of the Department of Transportation that contractors will furnish all material required for the performance of Govenment contracts. However, the Government may furnish material to a contractor when it is determined to be in the best interest of the Government by reason of economy, standardization, the expediting of production, or other appropriate circumstances.

§ 12–70.202 Procedure.

(a) Material to be furnished by the Government shall be set forth in the solicitation in sufficient detail to permit evaluation by prospective contractors.

(b) Where material is to be furnished by the Government, the contract shall state whether the requisitioning documentation is to be prepared by the contractor or the procuring activity. When the responsibility is placed upon the contractor, such documentation shall be prepared in accordance with the instructions provided by the procuring activity.

§ 12–70.203 Changing the amount of material to be furnished by the government.

(a) At any time after a contract has been entered into, whether as a result of formal advertising or negotiation, the contract may be bilaterally modified to provide for the furnishing of Government material or to increase the amount to be furnished, provided there is adequate consideration for such modification.

(b) When it is anticipated that substantial quantities of Government material will become available for the contract by transfer from another contract or otherwise, the contract may provide that a unilateral increase in the amount of material to be furnished by the Government may be ordered by the contracting officer, and that the contract shall be equitably adjusted therefor.

(c) Unilateral decreases in or substitutions for the material specified under a contract to be provided by the Government may be ordered by the contracting officer, subject to the equitable adjustment of the contract, in accordance with the provisions of the applicable Government Property clause(s) and other terms of the contract.

Subpart 12–70.3—Providing Government Facilities to Contractors

§ 12–70.301 Policy.

(a) It is the policy of the Department of Transportation that contractors will furnish all facilities required for the performance of Government contracts. Facilities will not be provided to a contractor, nor will competitive solicitations offer to provide such property, except as follows:

(1) For use in a Government-owned, contractor-operated plant operated on a cost-plus-fixed-fee basis; or

(2) When the Contracting Officer determines in writing that (i) the contract cannot be fulfilled by any other practical means, or (ii) it is in the public interest.

(b) New facilities will not be provided by the Government where an economical, practical and appropriate alternative exists. Examples include:

(1) Procuring from sources not requiring Government-owned facilities;

(2) Requiring the contractor to make full utilization of subcontractors possessing adequate and available capacity;

(3) Having the contractor rent facilities from commercial sources; and

(4) Using existing Government-owned facilities.

(c) Prospective contractors who propose to use Government facilities, including property offered for use in the solicitation as well as property already

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in possession of the contractor or his subcontractors, will be required to identify such property in their bids or proposals. Unless prior written approval has been obtained by the procurement Contracting Officer, prospective contractors who propose to use Government facilities already in possession of the contractor or his subcontractors under other contracts will be required to submit written approval for the use of such property from the contracting officer cognizant of such property.

§ 12–70.302 Providing government facilities when disposal is limited.

(a) *Nonseverable property.* Government facilities, other than foundations and similar improvements necessary for the installation of plant equipment, shall not be installed or constructed on land not owned by the Government in such fashion as to be nonseverable, unless the Head of a Procuring Activity determines in writing that such location is necessary, and:

(1) The contract under which such property is provided contains a provision for reimbursing the Government for the fair value of the property at the completion or termination of the contract or within a reasonable time thereafter (for example, in appropriate cases, such a provision may require the contractor to purchase the property at a value to be determined by appraisal, or at a price equal to its acquisition cost less depreciation at a specified rate considering its estimated useful life, or may require the contractor to reimburse the Government for its scrap or salvage value if the Head of a Procuring Activity determines that its estimated useful life will not extend beyond the expiration of the contract or the completion of the work for which the property was provided);

(2) The Government has an option to acquire the underlying land; or

(3) The contract under which such property is provided contains an alternate provision that the Head of the Procuring Activity considers to be adequate to protect the interests of the Government therein. (The authority of the Head of the Procuring Activity under this paragraph may not be delegated.)

(b) *Property Subject to Patent or Other Proprietary Rights.* If patent or other proprietary rights of a contractor may restrict the disposal of Government facilities, the condition in either subparagraph (a) (1) or (a) (3) of this section shall be satisfied before such property is provided.

§ 12–70.303 Offers to furnish government facilities.

(a) Generally, where Government facilities are offered for use in a competitive procurement, the solicitation should provide that the user will assume all costs related to making the property available, to avoid the need for separate evaluation of such costs. Where this is not feasible, or it is otherwise in the Government's interest, the Government may assume such costs provided they are included in the evaluation of bids or proposals.

(b) When a solicitation contains an offer to furnish Government facilities (including an offer to use Government property already in the possession of a prospective contractor), and when the furnishing and use of such property will result in either direct and measurable costs to the Government or direct and measurable savings to the Government, then:

(1) Such costs or savings will be set forth in the solicitation;

(2) The manner in which such costs or savings will be applied in the evaluation of bids or proposals will be set forth in the solicitation; and

(3) Such costs or savings will be considered in the evaluation of bids and proposals.

(c) Government facilities may be offered on an "as is" basis in solicitations for fixed-price type contracts, whether such property is in storage or in the possession of a contractor, provided that the property can be inspected by bidders or proposers prior to the submission of their offers. In such cases, the solicitation will state:

(1) The availability and location of the property, and the conditions under which it may be inspected;

(2) That the property will be offered in its current condition, f.o.b. present location;

(3) That bidders or proposers must satisfy themselves that the property is suitable for their use;

(4) That any costs of transporting, installing, modifying, repairing, or otherwise making the property suitable for use shall be borne by the successful bidder or proposer; and

(5) The bidders or proposers to whom the property is offered, if it is not to be offered to all.

(d) If it is not feasible to make Government facilities available to all bidders or proposers, solicitations offering to furnish such property may limit the offer accordingly.

§ 12–70.304 Changing Government facilities to be provided.

The amount of Government facilities specified under a contract to be provided may be increased by a bilateral modification of the contract. Such increases will be made only when approved in accordance with the policies prescribed in this Subpart 12–70.3 and when the Government receives adequate consideration therefor. Unilateral decreases in or substitutions for the Government property specified under a contract to be provided by the Government may be ordered by the contracting officer, subject to the equitable adjustment of the contract, in accordance with the appropriate Government property clause and other terms of the contract.

Subpart 12–70.4—Use of Government Facilities in the Possession of Contractors or Subcontractors

§ 12–70.401 Policy.

It is the policy of the Department of Transportation to put Government facilities which are in the possession of a contractor or subcontractor to the greatest possible use in the performance of Government contracts or subcontracts. Facilities over which DOT has cognizance and which are in the possession of a contractor or subcontractor will not be authorized for use except for the performance of Government contracts or subcontracts, unless other use of such property is specifically authorized by law or other DOT regulation. When a contractor is authorized to use facilities over which DOT has cognizance for the performance of Government contracts or subcontracts, no charge will be made for such use. However, the Contracting Officer having cognizance of the prime contract must determine that the Government will receive adequate consideration for the use of the property through reduced costs for the supplies or services or otherwise.

§ 12–70.402 Use of facilities under the cognizance of another department or agency.

When a DOT procurement contracting officer has obtained approval for the use by a contractor or subcontractor of Government facilities over which another department or agency has cognizance, and regulations of such department or agency require that the contractor be charged for such use, then the contract will provide for the payment of such charge. It is the responsibility of the contracting officer of the department or agency having cognizance of the property to collect for such charges.

§ 12–70.403 Use by another department or agency of facilities under the cognizance of DOT.

When a contracting officer of another department or agency requests approval for the use by a contractor or subcontractor of facilities over which DOT has cognizance, it is the responsibility of the requesting contracting officer to make any evaluations or other contractual determinations required relative to the furnishing of Government property to a contractor. When the DOT contracting officer cognizant of the property has determined that the property can be made available for the requested use, approval for such use will be granted.

Subpart 12–70.5—Property Administration

§ 12–70.501 General.

This subpart sets forth responsibilities and procedures to:

(a) Assure performance of property control to protect the interests of the Government;

(b) Assure uniformity in the administration of contract provisions relating to Government property; and

(c) Meet management data requirements of the Government.

§ 12–70.502 Responsibilities of the Contracting Officer.

The Contracting Officer is responsible for:

(a) Assuring that all contracts which provide for the use of Government property include necessary provisions relative to the use, control, and disposition of such property, including the appropriate Government Property clause and DOT PR Supplement 1—Manual for Control of Property in the Possession of Contractors;

(b) Performing, or arranging for the performance of, all actions required to effect and carry out the provisions of the contract and this part relative to Government property;

(c) Providing necessary direction to the contractor, either directly or through an authorized representative of the contracting officer, on all matters pertaining to Government property;

(d) Obtaining from the contractor all required reports and other management data; and

(e) Cooperating with and assisting the appropriate DOT accounting office in all matters pertaining to the financial accounting for Government property.

§ 12–70.503 Actions Requiring Approval of the Contracting Officer.

The actions listed below (and which are subject to other applicable provisions of this part) require the written approval of the Contracting Officer, except that the actions set forth in paragraphs (e) and (f) of this section may be approved by an authorized representative of the Contracting Officer who has been designated as such in writing. The contractor will be notified in writing when an authorized representative has been so designated. No other person will be permitted to approve these actions on behalf of the Government—

(a) Providing Government property to a contractor when providing such property has not been previously authorized in the contract.

(b) Changing the amount of Government property specified to be provided in a contract.

(c) Authorizing the use by a contractor of Government property provided under one contract for work under another contract, unless the latter contract specifically authorizes such use.

(d) Relieving a contractor of responsibility for Government property due to loss, damage, destruction, or unreasonable wear or deterioration or unjustifiable consumption in the performance of the contract.

(e) Directing the removal of Government property from the custody of a contractor, the transfer of Government property to another contract or to another contractor (but only when such transfer has been authorized pursuant to paragraph (a), (b), or (c) of this section), or the disposal of Government property.

(f) Approving a contractor's property control system.

§ 12–70.504 Assignment of responsibility for Property Administration.

The Contracting Officer may delegate to another individual the authority to administer the contract requirements and obligations relative to Government property. The individual to whom this authority is delegated will be designated in writing as the Property Administrator for the contract, and the contractor will be notified of such designation in writing. In selecting a Property Administrator, the Contracting Office will consider the qualifications of the individual in terms of training, education, and experience in property matters. When a specific individual has not been designated as Property Administrator, the Contracting Officer is the Property Administrator.

§ 12–70.505 Responsibilities of the Property Administrator.

A designated Property Administrator should be assigned the responsibilities and duties set forth below. This listing is provided for guidance and is not intended to be inclusive or exclusive. Any responsibilities of the Contracting Officer relative to Government property which are not assigned to a Property Administrator remain with the Contracting Officer—

(a) Establishing and maintaining a property control file for each contract.

(b) Evaluating and approving the contractor's property control system.

(c) Reviewing the contractor's property control system during contract performance, to the extent required by § 12–70.510.

(d) Advising the Contracting Officer as to the contractor's noncompliance with approved procedures.

(e) Resolving property administration matters with the contractor's management and with Government procurement, property, accounting, and audit personnel.

(f) Obtaining assistance in property matters from other Government personnel in such technical areas as accounting, audit, disposal, quality assurance, engineering, and pricing.

(g) Providing necessary direction to the contractor on matters pertaining to Government property, including authorization for the commingling of Government and contractor property.

(h) Assisting the servicing DOT accounting office in matters pertaining to financial accounting for Government property.

(i) Analyzing the use or consumption of Government property by the contractor to determine reasonableness of consumption and proper utilization.

(j) Preparing written determinations, for the Contracting Officer's signature, for relieving the contractor of responsibility for Government property due to loss, damage, destruction, or unreasonable wear or deterioration or unjustifiable consumption in the performance of the contract.

(k) Effecting the removal of Government property from the custody of a contractor, the transfer of Government property to another contract or to another contractor, and the disposal of Government property.

(l) Certifying to the Contracting Officer that all Government property provided under a completed or terminated contract has been properly accounted for and disposition effected.

§ 12–70.506 DOTPR Supplement 1—Manual for control of property in possession of contractors.

This manual sets forth basic requirements to be observed by contractors in establishing and maintaining control over Government property provided for performance of contracts with the Department. The manual supplements provisions of the contract that apply to Government property, but does not supersede them. The contract provisions will govern in the event of any conflict with the manual. If there is evidence that Government property will be required in performance of a contract, the Contracting Officer will reference the manual in the solicitation and make it available on request. The manual will be incorporated by reference in all contracts which provide for the use of Government property and will be issued to the contractor at time of award if not previously provided.

§ 12–70.507 Records of government property.

(a) Records of Government property established and maintained by the contractor pursuant to the terms of the contract will be designated and utilized as the official contract records. Exceptions to this policy may be authorized by the Contracting Officer for those contracts in which contract administration is retained by the procurement office involving Government property (1) furnished to a contractor for repair or servicing and return to the shipping organization or (2) furnished to a contractor for use on a Government installation. In such cases, the property will be accounted for as a suspense item within the Government property account designated by the procurement office, and the Government property clause will be appropriately modified.

(b) Maintenance of official records for DOT financial accounting purposes is the responsibility of the DOT accounting activity that provides accounting service to the procurement office responsible for the contract. The Property Administrator will ensure that the servicing accounting activity is provided copies of documents necessary to maintain financial accounting for Government property, including: (1) Government shipments, (2) notices of contractor acquisitions, (3) physical inventory reports, (4) transfers and disposals, and (5) contractors annual financial property reports as specified in DOTPR Supplement 1.

(c) Each procurement office having contracts involving Government property will maintain a consolidated and current listing of all such contracts. This listing is to be primarily used for the purpose of verifying that contractors submit the annual reports prescribed in DOTPR Supplement 1. The Property Administrator will take prompt action to obtain any delinquent reports and will assist the accounting activity as necessary in effecting reconciliation between contractor property reports and the DOT financial accounts.

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(d) When contracts involving property are reported for inclusion in the DOT Contract Information System, the procurement office will ensure that input to the system includes the required property code.

§ 12–70.508 Contract property control file.

Upon award of a contract, the Property Administrator will establish a Contract Property Control File which will include as a minimum:

(a) copy of the contract or extract of provisions thereof establishing requirements for property administration (except when the Property Control File is maintained as an adjunct to the contract working file);

(b) letters designating authorized representatives of the Contracting Officer for property matters;

(c) report of initial review, evaluation, and approval of the contractors property control system;

(d) record of visits, property system examinations and analyses, and appropriate work papers;

(e) documents evidencing the furnishing of Government property;

(f) contractor's receipts for Government furnished property;

(g) contractor's notices of acquisitions of contractor purchased or fabricated Government property as prescribed in DOTPR Supplement 1;

(h) contractor's physical inventory and financial property reports as prescribed in DOTPR Supplement 1;

(i) documents evidencing the removal of Government property from the custody of the contractor, the transfer of Government property to another contract or another contractor, and the disposal of Government property;

(j) documents evidencing relief of the contractor from responsibility for Government property due to loss, damage, destruction, or unreasonable wear or deterioration or unjustifiable consumption in the performance of the contract;

(k) any other correspondence affecting the status of Government property under the contract; and

(l) statement of closure of the contract property account.

§ 12–70.509 Evaluation and approval of contractor's property control system.

(a) The choice of the methods to be used for evaluation and approval of the contractors property control system is a matter of judgment by the Property Administrator, predicated on the nature and amount of Government property involved in any particular contract. Regardless of the methods used, it is the responsibility of the Property Administrator to determine that the contractor's system will meet the requirement of DOTPR Supplement 1 and other contract requirements as appropriate.

(b) It is normal contractor practice to provide for the control of property by means of written procedures that communicate the organization's standards, techniques, and instructions to operational personnel for uniform application. However, depending on the number of contractor employees and the nature, quantity, and value of the property, a contractor may not need written procedures for effective management of Government property. In such cases, the Property Administrator, if he agrees that written procedures are not required, will evaluate the adequacy of the contractor's system on the basis of the contractor's explanation of his controls and prepare a brief description of the applicable procedures for inclusion in the Contract Property Control File.

(c) Upon completing his evaluation of the contractor's system, the Property Administrator will prepare a written summary of his findings to support approval of the system or requirement for corrective action prior to such approval. The Property Administrator will forward to the contractor a listing of any deficiencies found as a result of the evaluation. The contractor will be requested to indicate within 30 days his willingness to correct the deficiencies or to forward to the Property Administrator a statement of his position thereon.

(d) When the Property Administrator is not successful in obtaining compliance with contract requirements, he will advise the Contracting Officer. If the Contracting Officer concurs with the Property Administrator, he will advise the contractor in writing of the changes or additions required in his property control system and will establish a schedule for accomplishment of the corrective actions. The contractor will be informed that approval of his property control sysem will be withheld (or withdrawn if previously approved) unless corrective action is accomplished within the specified period. Such notice will also advise the contractor that in the event approval of his property control system is withheld (or withdrawn if previously approved) his liability for loss or damage may be increased. If the contractor fails to make satisfactory progress for correction of the deficiencies in accordance with the schedule, the Contracting Officer will advise him in writing, with a copy to the Property Administrator, that approval of his property control system is, as the case may be, withheld or withdrawn.

(e) When the contractor's property control system is acceptable, the Property Administrator will so advise the contractor in writing. When the contract involves Government property at subcontractor plants or prime contractor secondary locations, and the controls for the property at such locations have been determined to be adequate, the approval will be expanded to include the procedures governing Government property at such locations.

§ 12–70.510 Review of Contractor's Property Control System During Contract Performance.

(a) While the contractor has an incurred obligation to comply, it is incumbent upon the Government to ensure that the contractor does in fact comply with the property control requirements of the contract. The preferred method for carrying out this responsibility is the periodic conduct by the Government of system reviews at the contractor's premises. The need for and frequency of such reviews should be based on case-by-case determinations, considering the particular circumstances relative to a given contract or contractor. When the Property Administrator feels that a system review is necessary, then he must arrange for the conduct of such a review by an appropriate means.

(b) Notwithstanding the requirements of paragraph (a) of this section, it is the continuing responsibility of the Property Administrator to be alert to any indications that the contractor's property control system may be deficient. Examples of such indications are as follows:

(1) Failure of the contractor to acknowledge receipt of Government furnished property;

(2) Failure of the contractor to provide notices of contractor acquisitions of Government property when the contract provides for such acquisition;

(3) Failure of the contractor to submit the annual physical inventory and financial property reports specified in DOTPR Supplement 1;

(4) Discrepancies in contractor's records and weaknesses in control as reflected by the contractor's physical inventory reports;

(5) Contractor's financial property reports do not reconcile with DOT financial control accounts;

(6) Andlysis of contractor's costs indicates consumption of material in excess of that considered reasonable;

(7) Inability of the contractor to furnish property listings when requested to do so; or

(8) Analysis of contractor's request for relief of responsibility due to loss or damage indicates inadequate control.

(c) When the Property Administrator has reason to believe that the contractor's property control system is deficient or inadequate, the Property Administrator must take prompt action to obtain correction of such problems. In some cases, discussions with the contractor may suffice. In other cases, it may be necessary to arrange for an on-site system review as discussed in paragraph (a) of this section. Another alternative is to request the conduct of an audit by the appropriate Government contract audit activity. If the situation demands, the procedures set forth in § 12–70.509(d) of this part will be applied.

(d) Records and accounts of Government property will be audited by the Government as frequently as conditions warrant or as may be specifically requested by the Contracting Officer. Audits may take place at any time during the performance of the contract, upon completion or termination of the contract, or at any time thereafter. Audits will include records maintained by the contractor and Government-maintained records for the property involved. Government personnel and the contractor are required to make all property records, including correspondence related thereto, available to the auditors.

Subpart 12–70.6—Vesting of Title to Equipment Under Research Contracts

§ 12–70.601 General.

(a) In accordance with the provisions of 42 U.S.C. 1892, DOT is authorized to transfer title to equipment acquired with research contract funds to nonprofit institutions of higher education and to other nonprofit organizations whose primary purpose is the conduct of scientific research. This statutory authority must be implemented by express provision in the Special Provisions of contracts with eligible contractors, permitting the Contracting Officer to transfer to the contractor title to equipment acquired with research contract funds at any time during the term of the contract or upon its completion or termination. The contract will reserve the right to require the contractor to transfer title to equipment costing $1,000 or more per unit to the Government or to a third party named by the Government, where the third party is eligible under existing statutes. The reservation will provide that the right may be exercised at any time prior to final payment under the contract.

(b) Title to equipment not acquired with research contract funds will not be transferred but will remain vested in the Government.

§ 12–70.602 Conditions of transfer.

In research contracts with eligible institutions and organizations, the Contracting Officer may, upon his own initiative or upon the request of the contractor, transfer title to equipment at any time during the term of the contract or upon its completion or termination. All transfers of title must be based upon a written determination by the Contracting Officer that transfer with respect to the specific items of equipment is consistent with the best interests of the Department. Until such time as title has been transferred, the property will be administered and controlled as "Government property" in accordance with this part and DOTPR Supplement 1. Upon transfer, such equipment ceases to be "Government property"; however, the transfer of title will be subject to the terms and conditions of the contract and the requirements described in DOTPR Supplement 1.

§ 12–70.603 Contracts performed at government installations.

Notwithstanding the provisions of § 12–70.602 of this part, when the contractor is performing at a Government installation and there will be a continuing need for the equipment at that location following completion of the contract, title to such equipment will not be vested in or transferred to the contractor.

Subpart 12–70.7—Disposition of Excess and Residual Contract Inventory

§ 12–70.701 General.

(a) Disposition of excess and residual contract inventory (hereinafter referred to as "contract inventory") must be accomplished in a timely manner and in accordance with statutory and regulatory requirements. Regulations governing the disposition of contract inventory are:

(1) Federal Procurement Regulations (FPR), Part 1–8;

(2) Federal Property Management Regulations (FPMR), Parts 101–43 through 101–45;

(3) DOT Procurement Regulations (DOTPR); and

(4) Other DOT regulations as referenced herein.

All actions taken by Contracting Officers with respect to disposition of contract inventory must be in strict conformance with the above cited regulations.

(b) Contracting Officers will issue disposition instructions expeditiously upon receipt of acceptable contract inventory reports. Contracts involving Government property cannot be closed out until all residual property has been accounted for and/or disposed of and the Government property file of the contract specifically noted to that effect.

(c) The disposal of nonseverable property will be governed by the provisions set forth in DOTPR § 12–70.302.

§ 12–70.702 Application of FPR, FPMR and other DOT regulations.

(a) FPR Subpart 1–8.5 sets forth policies and procedures for the disposition of termination inventory and may also be used for the disposition of contract inventory generally. Pursuant to the authority contained in FPR 1–8.000, FPR Subpart 1–8.5 will be utilized by the Department for the disposition of contract inventory generally.

(b) FPR Subpart 1–8.5 incorporates by reference various requirements and procedures of the FPMR pertaining to disposition of Government property, some of which are optional in nature insofar as contract inventory is concerned. However, it is the policy of the Department, with respect to paragraphs (e) through (h) of § 12–70.704 to effect disposition of contract inventory in accordance with the same requirements and procedures set forth in the FPMR for disposition of other Government excess or surplus property.

(c) The reporting and screening of contract inventory for possible redistribution within DOT will be accomplished in the same manner, and to the same extent, as required for other types of excess property. Procedures applicable to such reporting and screening will be prescribed in issuances published under the Department's internal management directives system.

§ 12–70.703 Reports of contract inventory.

Requirements and procedures for the submission of contract inventory reports by contractors are set forth in DOTPR Supplement 1. Procedures applicable to the processing of such reports by Contracting Officers are set forth in FPR Subpart 1–8.5.

§ 12–70.704 Disposition methods and priorities.

Subject to the Government exercising its rights to require delivery of any items of contract inventory to satisfy known Government requirements, contract inventory will be disposed of by the following methods in the priority indicated:

(a) Purchase or retention of contractor acquired property at cost by prime contractor or subcontractors (see FPR Subpart 1–8.5);

(b) Return of contractor acquired property to suppliers (see FPR Subpart 1–8.5);

(c) Reassignment within the procuring activity (see § 12–70.702(c));

(d) Redistribution within DOT (see § 12–70.702(c));

(e) Utilization by other Government agencies (see FPMR Parts 101–32 and 101–43);

(f) Donation to eligible donees (see FPMR Part 101–44);

(g) Sale—including purchase at less than cost by prime or subcontractor (see FPMR Part 101–45);

(h) Abandonment or destruction (see FPMR Part 101–45).

Subpart 12–70.8—Contract Closure

§ 12–70.801 Actions by the property administrator.

(a) Upon completion or termination of a contract, the Property Administrator must monitor the actions of the contractor and the Government with respect to the return, transfer, or other disposition of Government property. Prior to closing of the contract, the Property Administrator will determine that:

(1) All Government property provided under the contract has been properly accounted for;

(2) Disposition of Government property has been properly accomplished and documented;

(3) Adjustment documents, including request of the contractor for relief from responsibility, have been processed to completion;

(4) Proceeds from disposals or other property transactions, including adjustments, have been properly credited to the contract or paid to the Government as directed by the Contracting Officer;

(5) All questions as to title to property fabricated or acquired under the contract have been resolved and appropriately documented; and

(6) The Contract Property Control File is complete and ready for retirement.

(b) Upon completion of the above actions, the Contract Property Control File will be annotated accordingly and retired with the contract file.

Subpart 12–70.9—Contract Clauses, Government Property

§ 12–70.901 Contract clauses.

Contract clauses and guidance as to their use in specific types of contracts may be found in the following sections:

(a) 12–7.151–8 Fixed Price Supply Contracts,

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(b) 12-7.203-21 Cost Reimbursement Type Supply Contracts.

(c) 12-7.303-7 Fixed Price Research and Development Contracts.

(d) 12-7.402-25 Cost Reimbursement Type Research and Development Contracts.

(e) 12-7.651-5 Fixed Price Construction Contracts.

(f) 12-7.5201-9 Fixed Price Vessel Repair, Alteration or Conversion Contracts.

PART 12-99—DEPARTMENT ORDERS

§ 12-99.000 Scope of part.

This Part contains the following Departmental orders and notices which pertain to procurement:

DOT 1210.5	DOT Public Affairs Management Manual (02/06/74) Chapter I, "Release of Information".
DOT 1340.5B	Contracts Information System (01/12/73).
DOT 4000.1A	Logistics and Certain Logistics-Related Reporting Requirements (05/09/72).
DOT 4200.4	Unsolicited Contract Proposals (12/27/67).
DOT 4200.5	Debarred Bidder's List (01/15/68).
DOT 4200.6C	Field Contract Inspection Staffs (06/23/75).
DOT 4220.1A	Authority to Make Contractual Commitments (09/25/68).
DOT 4220.1A	Prefixes for Department of Transportation Contract Numbers (04/05/71).
DOT 4400.3	Establishment of Department of Transportation Procurement Regulations (06/15/68).
DOT 4200.9	Approval of Acquisition of Major Systems (09/07/72).
DOT 4200.10	Sole Source Review and Approval (09/07/72).
DOT 4200.11	Source Selection (09/07/72).
DOT 4200.12	Review of Proposed Contract Awards (09/07/72).

DEPARTMENT OF TRANSPORTATION, PROCUREMENT REGULATIONS, SUPPLEMENT 1

MANUAL FOR CONTROL OF PROPERTY IN POSSESSION OF CONTRACTORS

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Part 1—Introduction

S1-100 *General.*

(a) This Manual sets forth the basic requirements to be followed by contractors in establishing and maintaining control over Government property provided pursuant to the terms of contracts with the Department of Transportation. To to extent of any inconsistency between this Manual and the terms of the contract under which the Government property is provided the terms of the contract will govern. The contractor shall be directly responsible for and accountable for all Government property in accordance with the provisions of the contract, including property provided under such contract which may be in the possession or control of a subcontractor.

(b) Pursuant to the terms of a contract, the Government may acquire a lien or title to property upon the making of partial, advance, or progress payments to the contractor. Property to which the Government has acquired a lien or title solely as a result of such payments will not be subject to the provisions of this Manual. When lien or title is acquired solely as a result of such payments, the provisions of the partial, advance, or progress payments clauses will apply, including any modifications to such clauses as may be contained in the contract.

(c) The contractor shall establish and maintain a system (in accordance with the provisions of this Manual) to control, protect, preserve, and maintain all Government property. This system shall be reviewed and, if satisfactory, approved in writing by the assigned Property Administrator. The contractor shall maintain and make available such records as are required by Part 3 of this Manual and must account for all Government property until relieved of responsibility therefor in accordance with Part 2 of this Manual. Liability for loss, damage, or excessive use of property in a given instance will necessarily depend upon all the circumstances surrounding the particular case and must be considered and determined in accordance with the provisions of the contract. The contractor shall furnish all necessary data to substantiate any request for discharge from responsibility.

(d) The contractor shall require any of his subcontractors who are provided Government property under the prime contract to comply with the provisions of this Manual. Procedures for assuring subcontractor compliance shall be included in the contractor's approved property control system.

(e) In the event any portion of the contractor's property control system is found to be inadequate upon review by the Property Administrator, any necessary corrective action shall be accomplished by the contractor prior to approval of the system.

(f) When Government property is disclosed to be in the possession or control of the contractor but not provided in accordance with the provisions of any contract, the contractor shall, as promptly as possible, (1) record such property according to the established property control procedure, and (2) furnish the Property Administrator with all known circumstances and factual data pertaining to its receipt and a statement as to whether there is a need for retention of such property.

(g) The Contractor shall report to the Property Administrator all Government property in excess of the amounts needed to complete full performance under the contract pursuant to which it was provided, or other existing contracts which authorize the use of such property, within 30 days after disclosure of the condition.

S1-101 *Definitions.*

As used in the Manual: (a) "Accessory item" means an item which facilitates or enhances the operation of equipment but which is not essential for its operation, such as remote control devices.

(b) "Auxiliary item" means an item without which the basic unit of equipment cannot operate, such as motors for pumps and machine tools.

(c) "Capital property" means real property and capitalized equipment.

(d) "Capitalized equipment" means personal property of a nonexpendable nature having a unit acquisition cost of $200 or more.

(e) "Custodial records" means written memoranda or identifying checks of any description or type used to control items issued from tool cribs, tool rooms, stockrooms, etc., such as requisitions, issue hand receipts, tool checks, stock record books, etc.

(f) "Discrepancies incident to shipment" means all deficiencies incident to shipment of Government property to or from a contractor's facility whereby differences exist between the property purported to have been shipped and the property actually received. Such deficiencies include, but are not limited to, loss, damage, destruction, improper status and condition coding, error in identity or classification, and improper consignment.

(g) "Educational or other nonprofit organization" means any corporation, foundation, trust, or other institution operated for scientific or educational purposes, not organized for profit, not any part of the net earnings of which inures to the profit of any private shareholder or individual.

(h) "Government property" means all property, both real and personal, owned by or leased to the Government or acquired by the Government under the terms of a contract. However, the term "Government property" does not include property to which the Government has acquired a lien or title solely as a result of partial, advance, or progress payments. Government property includes both Government-furnished property and contractor-acquired property as defined below:

(1) Government-furnished property is property in the possession of, or acquired directly by, the Government and subsequently delivered or otherwise made available to the contractor.

(2) Contractor-acquired property is property procured or otherwise provided by the contractor for the performance of a contract, title to which is vested in the Government.

(i) "Individual item record" means a separate card for or document utilized to account for one item of property.

(j) "Material" means property which may be incorporated into or attached to an end item to be delivered under a contract or which may be consumed or expended in the performance of a contract. It includes, but is not limited to, raw and processed material, parts, components, assemblies, and small tools and supplies which may be consumed in normal use in the performance of a contract. It also includes items of a nonexpendable nature with a unit acquisition cost of less than $50, unless the Government has designated any such items to be classified as noncapitalized equipment.

(k) "Noncapitalized equipment" means personal property of a nonexpendable nature having a unit acquisition cost of $50 or more but less than $200, and other items of personal property regardless of cost when so designated by the Government.

(l) "Nonexpendable" means items of Government personal property which:

(1) Have a unit acquisition cost of $50.00 or more;

(2) Have a life expectancy of one year or more;

(3) Retain their identity when put into use; and

(4) Are not consumed in the performance of work on the contract.

(m) "Property account" means the official records of the Government property provided to a contractor which are established and maintained under the provisions of this Manual. Separate property accounts will be maintained on an individual contract basis.

(n) "Property Administrator" means the individual designated, in writing, by appropriate authority to administer the contract requirements and obligations relative to Government property. He is an authorized representative of the Contracting Officer. When a specific individual has not been designated as Property Administrator, the Contracting Officer is the Property Administrator.

(o) "Provide" as used in the context of such phrases as "Government property provided to the contractor" and "Government-provided property," means either to furnish, as in "Government-furnished property," or to acquire, as in "contractor-acquired property."

(p) "Real property" for purposes of accounting classification means:

(1) Land and rights therein;
(2) Ground improvements;
(3) Utility distribution systems;
(4) Buildings; and
(5) Structures.

(q) "Salvage" means property which because of its worn, damaged, deteriorated or incomplete condition, or specialized nature, has no reasonable prospect of sale or use as serviceable property without major repairs or alterations, but which has some value in excess of its scrap value.

(r) "Scrap" means property that has no reasonable prospect of being sold except for the recovery value of its basic material content.

(s) "Stock record" means a perpetual inventory form of record which shows, by nomenclature, the quantities received and issued and the balances on hand.

(t) "Utility distribution system" means a system (including distribution and transmission lines, substations, and installed equipment forming an integral part of the system), by which gas, water, steam, electricity, sewage, or other utility services are transmitted between:

(1) Outside of the building or structure in which the services are used, and

(2) The point of origin or disposal, or the connection with some other system.

S1-102 *Segregation or Commingling of Government Property and Contractor's Property.*

Ordinarily, Government property, particularly material, should be segregated and kept physically separate from contractor-owned property at all times. However, when advantageous to the Government and consistent with the contractor's authority to use such property, the property may be commingled:

(1) When the Government property is clearly identified and recorded as Government property; or

(2) When scrap of a uniform nature is produced from both Government-owned and contractor-owned materials and physical segregation is impracticable, or when scrap produced from Government-owned materials is insignificant in consideration of the cost of segregation and control; or

(3) When otherwise approved by the Property Administrator.

S1-103 *Written Property Control Procedures.*

It is normal contractor practice to provide for the control of property by means of written procedures that communicate the organization's standards, techniques, and instructions to operational personnel for uniform application. However, depending on the number of contractor employees and the nature, quantity, and value of the property, a contractor may not have a need for written procedures for effective management of Government property. Immediately after the award of an initial contract involving property, the contractor shall forward to the Property Administrator the name, title, address, and telephone number of the contractor's representative to contact for review and discussion of the proposed property control system. If the Property Administrator determines that written property control procedures are not required, the contractor will be so advised.

S1-104 *Audit of Property Control System and Accounts.*

The contractor's Government property control system and accounts will be audited by the Government as frequently as conditions warrant. Audits may take place at any time during the performance of the contract, upon completion or termination of the contract, or at any time thereafter, during the period the contractor is required to retain such records. The contractor shall make all such records, including correspondence related thereto, available to the auditors.

Part 2—Contractor's Responsibility

S1-200 *General.*

This part covers to the extent not otherwise provided in the contract: (1) The duties and responsibilities of the contractor with respect to Government property; (2) the obligations of the contractor with respect to the control of Government property, both physically and administratively; and (3) the liability of the contractor for Government property lost, damaged, or destroyed, or for which the contractor is otherwise unable to account.

S1-201 *Assumption of Responsibility.*

A contractor is responsible for all Government property in his possession or control in accordance with the terms of the contract, including property provided under such contract which may be in the possession or control of a subcontractor. Sources from which Government property may be furnished or acquired are as follows:

(a) *Shipments from Government Activities or Other Sources.* Government property may be shipped to a contractor from agencies of DOT, other Government activities, other contractors, or suppliers. For the purpose of this Manual, the contractor becomes responsible for such property upon delivery of the property into his custody or control. The Government will furnish the contractor with copies of documents necessary to permit the contractor's property records to accurately reflect the transaction.

(b) *Direct Purchase by the Contractor.* For purposes of property control within the scope of this Manual, it will be considered that property purchased by the contractor, for which reimbursement is to be requested, becomes Government property upon its receipt by the contractor. However, this provision will not be deemed to alter or modify contractual provisions relating to passage of title. Direct purchases will be subject to a determination by the contracting officer that the items are allocable to the contract involved and are reasonably necessary therefor.

(c) *Withdrawal from Contractor-Owned Stores.* For purposes of property control, within the scope of this Manual, property withdrawn from contractor-owned stores, for direct charge to the contract, will be considered Government property at the time of approval of the claim for reimbursement, or at the time of issuance for use of such property for the performance of the contract, whichever is earlier.

(d) *Contract Provisions, Termination, Contract Changes.* Pursuant to specific contractual provisions or as a result of termination of a contract, or change orders issued under a contract, the Government may acquire title to property. For purposes of property control, such property will, unless otherwise provided by the contract, be considered Government property upon acceptance of title by the Government.

S1-202 *Evidence of Receipts of Government Property.*

Immediately upon receipt of any Government-furnished property the contractor shall sign and return the Government transfer document to the Property Administrator. For contractor-acquired capital property, the contractor shall submit reports in accordance with S1-203 of this Manual.

S1-203 *Report of Property Purchased or Fabricated.*

As a condition to reimbursement of costs incurred in the purchase or fabrication of capital property, the contractor shall submit itemized reports of such purchases or fabrications. Each item shall be adequately described, including unit cost. Reports shall be provided by the contractor not later than the time he submits his application for payment (public voucher) for the property. Upon request of the Government, the contractor shall submit supporting data for any material cost or noncapitalized equipment included in the voucher.

S1-204 *Discrepancies Incident to Shipment.*

(a) *Government - Furnished Property.* When overages, shortages, or damages are discovered upon receipt of Government-fur-

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nished property, the contractor shall provide a statement of the condition and the apparent causes to the Property Administrator. When the quantity or description of property received by a contractor differs from the quantity or description denoted as shipped on the Government transfer document, only that quantity, or property, actually received shall be recorded on the official records of the contractor.

(b) *Contractor - Acquired Property.* The contractor shall take all actions necessary to adjust shortages, overages, or damages in shipment of contractor-acquired property from a vendor or supplier except in those instances where the shipment has moved via Government bill of lading and carrier liability is indicated. In the latter event, the contractor shall report the instance in accordance with paragraph (a) of this section.

S1-205 *Relief from Responsibility.*

Subject to specific instructions of the Contracting Officer, and unless otherwise provided for in the contract, the contractor will be relieved of his property control responsibility for Government property by the following:

(1) *Consumption of Property in the Performance of the Contract.* To the extent that the Property Administrator determines that property has been consumed or expended for proper purpose and in reasonable amounts in the performance of the contract;

(2) *Shipment of Government Property from a Contractor's Facility.* When Government property is shipped from the contractor's facility (except when shipment is to a subcontractor or other location of the contractor) pursuant to the instructions of the Contracting Officer or the Property Administrator;

(3) *Retention by the Contractor.* When the contractor retains, with Contracting Officer approval, Government property for which the Government has received consideration;

(4) *Sale of Property.* For Government property sold pursuant to instructions of the Contracting Officer or the Property Administrator, provided that proceeds from such sale have been received by or credited to the Government;

(5) *Determination by the Contracting Officer.* For Government property which is lost, damaged, destroyed, or consumed in excess of that normally anticipated in a manufacturing, processing, or research operation, and for which the Contracting Officer has determined the extent of liability, if any, of the contractor; *Provided,* That:

(i) Such determination is furnished to the contractor in writing;

(ii) The Government has been reimbursed where required by the determination; and

(iii) Proper disposition of property rendered unserviceable by damage has been accomplished, and appropriate cross-reference is recorded on the determination as to the shipping documents or other documents evidencing disposal; and

(6) *Transfer of Title.* When title to equipment has been transferred to the contractor in accordance with 42 U.S.C. 1892 and thereby ceases to be Government property. However, certain obligations attach to contractor-owned property acquired with contract funds as set forth in Part 7 of this Manual.

S1-206 *Contractor's Liability.*

(a) *Property Discrepancies.* Subject to the terms of the contract, the contractor may be liable when shortages of Government property are disclosed or when Government property is lost, damaged, or destroyed or when there is evidence of unreasonable wear or deterioration or unjustifiable consumption in the performance of the contract.

(b) *Report Requirements.* The contractor shall report all cases of loss, damage, or destruction of Government property in his possession or control to the Property Administrator as soon as such facts become known or when requested by the Property Administrator. The report shall contain all factual data as to the circumstances surrounding such loss, damage, or destruction. A similar report shall be furnished when completed products or end items are lost, damaged, or destroyed while such property is in the possession or control of the contractor. Any loss that may be due to theft must be reported immediately to the local police and the nearest field office of the Federal Bureau of Investigation by the contractor or subcontractor.

(c) *Subcontractor's Liability.* The contractor shall require any of his subcontractors having Government property in their possession or control, which is accountable under the contract, to report to him all instances of loss, damage, or destruction of such Government property. Further procedures shall be in accordance with that prescribed in paragraphs (a) and (b) of this section.

Part 3—Records of Government Property

S1-300 *General.*

This part establishes minimum requirements for records to be established and maintained by the contractor for Government property in his possession or control.

(a) *Policy.* It is the Government's policy to rely upon contractor property control records and to designate and use such records as the official contract records unless an exception has been authorized due to special circumstances. The contractor shall establish and maintain adequate control records, either manual or mechanized, in accordance with the requirements of this Manual for all Government property provided under a contract, including property provided under such contract as may be in the possession or control of a subcontractor. When the subcontractor has a property control system approved by the Government for Government property provided under the subcontractor's own prime contracts, the contractor will utilize records created and maintained in accordance with such approved system unless otherwise directed by the Property Administrator.

(b) *Financial Control System.* The contractor's property control system shall provide financial accounts for Government property (capital and noncapital) in the contractor's possession or control, as prescribed in S1-309(a) of this Manual. The system shall be subject to internal control standards and be supported by property records in the manner described in this Part 3.

(c) *Property Records.* The official records shall be kept in such condition that at any stage of completion of the work under a contract the status of Government property can be readily ascertained.

(1) Separate property records for each contract shall be maintained. Contractors shall furnish the Property Administrator with the name and title of the individual who will have cognizance over all Government property in the contractor's possession and who will be responsible for maintenance of property records.

(2) Property records of the same type which would have been established for components if acquired separately shall be established for such usable components which are permanently removed from items of Government property, as a result of modification, or otherwise.

(3) The contractor's property control system shall contain an adequate locator system or techniques to permit the location of any item of Government property within a reasonable period of time after request therefor.

S1-301 *Pricing.*

Except as provided in paragraph (a) of this section, the contractor's property control system shall contain the unit acquisition price for each item of Government property recorded therein. It is a recognized practice of many contractors to record the unit acquisition price of property on other than the quantitative inventory record, thus requiring the use of supplementary records to ascertain unit prices. Under such circumstances, the supplementary records containing such information shall be identified and recognized as a portion of the official property records.

(a) *Contractor-Acquired and Contractor-Fabricated Property.* The unit acquisition price of contractor-acquired and contractor-fabricated property shall be determined in accordance with the system established by the contractor in conformance with generally accepted accounting principles and consistently applied. Generally, it is desired that separate unit prices be applied to work-in-process items fabricated or acquired by the contractor. However, if the contractor's accounting system is acceptable and if the maintenance of detailed cost records results in excessive accounting cost or is otherwise impracticable considering all circumstances, group pricing may be used for work-in-process inventory. Processed material, fabricated parts, components, assemblies, etc., charged to the contractor's work-in-process inventory, including items in temporary storage while awaiting processing, may be considered as work-in-process for the purpose of compliance with this requirement. Nothing in the foregoing lessens the requirement for quantitative property controls for work-in-process necessary for the proper protection of the Government's interest.

(b) *Government-Furnished Property.* The unit acquisition price of Government-furnished property will be determined by the Government and furnished to the contractor. Transportation and installation costs will not be considered as part of the unit price for this purpose. Normally, the unit price of Government-furnished property will be provided on the transfer document covering shipment of the property to the contractor. In the event the unit price is not provided on the document, action will be taken through the Property Administrator to obtain the information.

S1-302 *Records of Material.*

All Government material furnished to the contractor, as well as other material to which title has passed to the Government by reason of allocation from contractor-owned stores or purchase by the contractor for direct charge to a Government contract or otherwise, shall be recorded in accordance with the contractor's property control system, as follows:

(a) *Material Issued Directly Upon Receipt.* (1) Fixed-Price Contracts. In the case of Government-furnished material which is issued directly by the contractor upon receipt so as to be considered consumed under the contract, the documents evidencing receipt and issue maintained by the contractor will be accepted as property control records.

(2) Cost-Type Contracts. For material, whether Government-furnished or contractor-acquired, issued by the contractor directly so as to be considered consumed under the contract, the Government invoices, contractor's purchase documents, or other documentary evidence of acquisition and issue will be accepted as adequate property records.

(b) *Material Maintained in Stocks.* For material maintained by the contractor in stocks or stores, the contractor's property control system shall be such as to provide the following information:

(1) Contract number or equivalent code designation;

(2) Nomenclature or description of item (including National Stock Number when available);

(3) Quantity received;

(4) Quantity issued;

(5) Balance on hand;

(6) Posting reference;

(7) Date received or issued;

(8) Unit price; and

(9) Disposition action taken.

(c) *Consolidated Stock Record.* When a contractor has more than one Government contract under which Government material is provided, a consolidated record for material may be authorized by the Property Administrator; *Provided,* The total quantity of any item is allocated to each contract by contract number and each requisition of material from contractor-owned stores is charged to the contract on which the material is to be used. The supporting document or issue slip shall show the contract number or equivalent code designation to which the issue is charged.

(d) *Custodial Records.* Custodial records shall be maintained for sensitive items, tool crib items, guard force items, protective clothing, and other items for the use of individuals in the performance of their work under the contract.

S1-303 Records of Noncapitalized Equipment.

Except where individual item records are necessary for effective control, calibration, or maintenance, summary stock records may be maintained for noncapitalized equipment. The contractor's property control system shall be such as to provide the following minimum information:

(1) Contract number or equivalent code designation;

(2) Noun name of the item;

(3) Manufacturer and model/part number (including National Stock Number when available);

(4) Quantity received;

(5) Balance on hand;

(6) Posting reference and date of transaction;

(7) Unit price;

(8) Location; and

(9) Disposition.

In addition, where appropriate as determined by the Property Administrator, the serial number and/or Government identification number for each item shall be recorded in a permanent manner in the property records and, upon disposition, lined out or otherwise deleted from the record.

S1-304 *Records of Capitalized Equipment.*

(a) *Item Records.* The contractor shall maintain individual item records (manual or mechanized) of each item of Government-owned capitalized equipment which will provide the following minimum information:

(1) Name of the equipment manufacturer;

(2) Manufacturer's model/part number (including National Stock Number when available);

(3) Serial number and year built (when available);

(4) Government identification/tag number;

(5) Noun name of the item;

(6) Acquisition document reference and date;

(7) Location;

(8) Disposition document reference and date;

(9) Contract number or equivalent code designation; and

(10) Unit price. (Unit price will be reduced when accessory and auxiliary items are permanently separated from the basic item of capitalized equipment.)

(b) *Records of Accessory and Auxiliary Equipment.* Accessory and auxiliary equipment which is attached to or otherwise a part of an item of capitalized equipment or has been acquired for use in connection with a specific item shall be recorded on the record of the item of capitalized equipment. In the event the accessory or auxiliary item is not attached to, a part of, or acquired for use with a specific item of capitalized equipment, it shall be recorded as indicated in S1-303 or S1-304(a) of this Manual.

S1-305 *Records of Real Property.*

The contractor shall maintain a continuous itemized record of the description, location, acquisition cost, and disposition of all Government real property including unimproved real property, all alterations, and all construction, whether acquired by purchase, lease, or otherwise. The foregoing records shall be complete, show the original cost of the property and improvements and the cost of changes and additions thereto, and be appropriately classified as indicated in S1-101 (f) of this Manual.

S1-306 *Records of Scrap and Salvage.*

Unless the Property Administrator has determined that such records are not necessary, the contractor shall maintain records of all scrap and salvage generated.

(a) *Records of Scrap.* The contractor's property control system shall be such as to provide the following minimum information:

(1) Contract number, if practicable, or equivalent code designation;

(2) Scrap classification (material content);

(3) Quantity on hand;

(4) Unit of measure;

(5) Posting reference and date of transaction; and

(6) Disposition.

(b) *Records of Salvage.* The contractor's property control system shall be such as to provide the following minimum information:

(1) Contract number, if practicable, or equivalent code designation;

(2) Nomenclature or description of item (including National Stock Number, if available);

(3) Quantity on hand;

(4) Posting reference and date of transaction; and

(5) Disposition.

S1-307 *Records of Related Data and Information.*

The contractor shall maintain property control and accountability in accordance with sound business practice with respect to manufacturing or assembly drawings, installations, operation, repair, or maintenance instructions, or other similar data and information provided to the contractor by the Government. Other requirements set forth in this Manual are not applicable to such property unless specified in the contract or required by the Property Administrator.

S1-308 *Records of Completed Products.*

The contractor shall maintain a record of all completed products produced under the contract as follows:

(a) When there is not any lapse of time between Government inspection and acceptance of the completed products and shipment from the contractor's facility, the records shall, as a minimum, consist of a summary of quantities accepted or shipped. When end items are accepted by the Government and stored with the contractor awaiting shipment, the record shall identify quantities stored, location, and disposition action.

(b) On contracts which provide that completed products are to be retained by the contractor for further use under the contract, or other contracts, such items shall be considered Government-furnished property upon acceptance and shall be recorded as prescribed in this part.

(c) When completed products are returned to a contractor under the terms of a warranty clause, the contractor shall, as a minimum, maintain a record by contract setting forth a description of the items involved, quantities received and returned to the Government, and such other pertinent data as may be required to permit determination that a proper accounting for all property has been made.

S1-309 *Financial Control Accounts and Reports.*

(a) *Control System.* The contractor's property control system shall be such as to provide at any time for each contract the dollar amount of Government property for which he is accountable in the following classifications:

(1) Real property;

(2) Capitalized equipment;

(3) Noncapitalized equipment; and

(4) Material maintained in stocks.

The contractor's accounts shall be susceptible to reconciliation in totals and subtotals as to whether contractor-acquired or Government-furnished.

(b) *Financial Property Reports.* The contractor shall prepare a report as of July 31 each year, for each contract, showing the dollar amount of Government real property and capitalized equipment in the possession of the contractor and his subcontractors. Reports shall be prepared in the format shown below and shall be furnished to the Property Administrator not later than September 15 each year. Subcontract reports shall be consolidated with prime contract reports. The contractor shall certify that the reports have been reconciled and are in balance with the contract property records. If specifically requested by the Property Administrator, the contractor shall submit similar reports for Government noncapitalized equipment and material maintained in stocks.

	Real property	Capitalized equipment	Total
Balance beginning of period			
Acquisitions during period:			
Government furnished			
Contractor acquired			
Dispositions during period:			
Government furnished			
Contractor acquired			
Balance end of period			

Part 4—Identification

S1-400 *General.*

This part establishes minimum requirements for the identification and marking of Government property in the possession or control of the contractor. The contractor shall identify and record all Government property promptly upon receipt, except as may be exempted by this part, and it shall remain so identified. Assigned Government property identification numbers shall be recorded on all applicable receiving documents, shipping documents, disposal documents, and any other documents pertaining to the property control system. Such markings shall be removed or obliterated from the property involved when Government ownership is terminated.

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S1-401 *Material and Noncapitalized Equipment.*

All Government material and noncapitalized equipment shall be identified as Government property except in those cases where:

(1) Material or noncapitalized equipment of the same type at the same location is not owned by the contractor, his employees, or other contracting agencies;

(2) Adequate physical control is maintained over sensitive items, tool crib items, guard force items, protective clothing, and other items issued for use by individuals in the performance of their work under the contract;

(3) Property is of bulk type or by its size or general nature of packing or handling precludes adequate markings; or

(4) The property is segregated and kept physically separate from contractor-owned property at all times.

S1-402 *Capitalized Equipment.*

(a) *Equipment Identification.* Unless already marked in compliance with these instructions, all Government capitalized equipment shall be marked by the contractor with a Government identification number except: when the size or nature of the equipment makes it impracticable, or the equipment is accessory or auxiliary and attached to or otherwise a part of an item of capitalized equipment and is required for its normal operations, in which case such item shall be entered and described on the record of the equipment to which it is attached or of which it is otherwise a part. Identification shall be effected by affixing a numbered decal direct to the equipment, or, when practicality dictates, by using indellible ink, acid, or electric etch, steel dies, or any other legible, permanent, conspicuous, and tamper proof method which will identify the equipment with the Government number assigned.

(b) *Position of Markings or Identification.* Identification shall be affixed on the main body of the item, not on a removable part. For practical purposes, identification should be placed where it is conspicuous and readily visible without requiring the item to be moved and where it will not interfere with the functioning, especially if it is a sensitive instrument. If the manufacturer's identification plate or label is in a readily accessible position, a position immediately above or below it is preferable to any other.

S1-500 *General.*

This part establishes minimum requirements for the physical inventory of Government property in the possession or control of the contractor.

S1-501 *Annual Inventories.*

The contractor shall perform an annual physical inventory of the following categories of Government property in his possession or control and shall require such inventories of any subcontractors that are in possession of Government property provided under the contract: (1) Capital property; (2) noncapitalized equipment; and (3) material maintained in stocks. The contractor's procedures for the performance of annual physical inventories constitute a necessary part of the contractor's property control system. For the purposes of this Manual, inventory consists of sighting, tagging or marking, describing, recording, and reporting the property involved, and reconciling the inventory results with the property records.

S1-502 *Reporting Results of Annual Inventories.*

The contractor shall promptly submit to the Property Administrator information as follows:

(1) A list on both a quantitative and monetary basis of all discrepancies disclosed by the inventory in each category of Government property;

(2) A signed statement that physical inventory of Government property under the contract was completed on a specified date and that the contractor's official property records were found to be in agreement with the physical inventory except for the discrepancies noted; and

(3) If specifically requested by the Property Administrator, a list of all items of capital property.

S1-503 *Inventories Upon Termination or Completion.*

Immediately upon termination or completion of a contract, the contractor shall perform a physical inventory adequate for disposal purposes of all Government property applicable to the terminated or completed contract. Further, the contractor shall cause each subcontractor to perform a physical inventory adequate for disposal purposes of all Government property in the subcontractor's possession or control which is applicable to the terminated or completed contract. Within 30 days after the contract's completion or termination, unless the Contracting Officer specifically approves an extension of time, the prime contractor shall submit a final inventory of Government property (including subcontractor property) in the form and detail as prescribed below:

(a) *Form.* Separate reports are required for Government-furnished property and for contractor-acquired property and for each of the following property categories:

(1) Real Property;
(2) Capitalized Equipment;
(3) Noncapitalized Equipment;
(4) Materials;
(5) Salvage; and
(6) Scrap.

(b) *Details Required.* Each item of capital property must be completely identified with sufficient detail to permit verification by reference to the covering reimbursement voucher or (if furnished by the Government) shipping or other documents. To the extent to which they apply, the following particulars are required for all items:

(1) Commercial description, adequate for screening and disposal purposes;
(2) Make, model, type, serial number, and National Stock Number when available;
(3) Government identification number;
(4) Quantity;
(5) Cost;
(6) Condition (use codes listed in Exhibit A of this Manual); and
(7) Location (contractor's facility or other site).

(c) *Copies Required.* Three copies of the inventory reports shall be submitted to the Property Administrator.

(d) *Certification.* The following certification signed by the contractor or an authorized official shall accompany each copy of the inventory schedules:

I do hereby certify as (Title) of (Name of Contractor) that the attached inventory reports are complete and correctly list and describe all items of property furnished to the contractor, or for which the contractor has been or will be reimbursed by the Government, for use in the performance of Contract No. ____ which as of this date have not been consumed in performance of this contract; and that I will immediately notify the Contracting Officer of any change affecting these inventory reports at any time prior to final disposition of the inventory.

(S) _____

Dated _____

(e) *Disposal of Property.* Disposal of property will be directed by the Contracting Officer, or a designated representative of the Contracting Officer, in accordance with the terms of the contract. The contractor shall not make disposition of any property except as so directed.

Part 6—Care, Maintenance, and Utilization

S1-600 *General.*

This part establishes minimum requirements as to care, maintenance, and utilization of Government property in the possession or control of the contractor. The contractor shall be responsible for the proper care, maintenance, and utilization of Government property in his possession or control from the time of receipt of the property until properly relieved of responsibility in accordance with the contract. The removal of Government property to storage, or its contemplated transfer, shall not relieve the contractor of these responsibilities.

S1-601 *Contractor's Maintenance Program.*

(a) *Policy.* The contractor's maintenance program (which shall be approved in accordance with Part 1 of this Manual) shall be such as to provide, consistent with sound industrial practice and the terms of the contract, for:

(1) Disclosure of need for the performance of preventive maintenance;
(2) Disclosure and reporting of need for capital type rehabilitation; and
(3) Recording of work accomplished under the program.

(b) *Preventive Maintenance.* Preventive maintenance is maintenance generally performed on a regularly scheduled basis to prevent the occurrence of defects and to detect and correct minor defects before they result in serious consequences. An effective preventive maintenance program shall consist of, but not be limited to, the following actions:

(1) Inspection of buildings at such periodic intervals as will assure detection of deterioration and the need for repairs;
(2) Inspection of equipment at such periodic intervals as will assure detection of maladjustment, wear, or impending breakdown;
(3) Regularly scheduled lubrication of bearings and moving parts in accordance with a lubrication chart or equivalent plan;
(4) Protection from exposure to deteriorating agents;
(5) Adjustments for wear, repair, or replacement of worn or damaged parts and the elimination of causes of deterioration of associated parts;
(6) Removal of sludge, chips, and cutting oils from equipment which will not be used for a period of time; and
(7) Proper storage and preservation of accessories and special tools furnished with an item of capitalized equipment but not regularly used with it.

(c) *Capital Type Rehabilitation.* The contractor's maintenance program shall be such as to provide for the disclosure and reporting of the need for major repair, replacement, and other rehabilitation work for Government property in the possession or control of the contractor.

(d) *Records of Maintenance.* The contractor's maintenance program shall provide for records sufficient to disclose the maintenance actions performed and deficiencies discovered as a result of inspections.

S1-602 *Utilization of Government Property.*

The contractor's procedures shall be adequate to assure that Government property will be utilized only for those purposes authorized in the contract.

S1-603 *Property in Possession of Subcontractors.*

The contractor shall require any of his subcontractors having Government property in their possession or control adequately to care for and maintain that property and assure that it is utilized only as authorized by the contract. Procedures necessary to assure the accomplishment of this responsibility shall be included in the contractor's approved property control system.

S1-604 *Property Excess to Contract Requirements.*

Government property which becomes excess to contract performance requirements shall be reported to the Property Administrator within 30 days. The contractor's excess declaration shall be prepared in the same manner as prescribed in S1-503 of this Manual. Disposal of excess property will be directed by the Contracting Officer, or a designated representative of the Contracting Officer, in accordance with the terms of the contract. The contractor shall not make any disposition of such property except as so directed.

Part 7—Passage of Title to Equipment Under Research Contracts

S1-700 *General.*

This part covers to the extent not otherwise provided in the contract or elsewhere in this Manual the obligations of the contractor with respect to property acquired with research contract funds, title to which has passed to him. In accordance with the provisions of 42 U.S.C. 1892, DOT is authorized to transfer title to equipment acquired with research contract funds to nonprofit institutions of higher education and to other nonprofit organizations whose primary purpose is the conduct of scientific research. This statutory authority is implemented by express provision in the Special Provisions of contracts with eligible institutions and organizations permitting the Contracting Officer to transfer to the contractor title to equipment acquired with research contract funds at any time during the term of the contract or upon its completion or termination. The contract will reserve the right to require the contractor to transfer title of equipment costing $1,000 or more per unit to the Government, or to a third party named by the Government, at any time prior to final payment under the contract.

S1-701 *Conditions of Transfer.*

In research contracts with eligible institutions and organizations, the Contracting Officer may, upon his own initiative or upon the request of the contractor, transfer title to equipment at any time during the term of the contract or upon its completion or termination. All transfers of title must be based upon a written determination by the Contracting Officer that transfer with respect to the specific items of equipment is consistent with the best interests of the Department. Until such time as title has been transferred, the property shall be administered and controlled as Government property in accordance with Parts 1 through 6 of this Manual. Upon transfer, such equipment ceases to be Government property, however, the transfer of title is subject to the terms and conditions of the contract and this Part 7.

S1-702 *Contractor's Obligations.*

Although equipment ceases to be Government property when title to it is vested in or transferred to the contractor, nonetheless the following obligations attach to the property and the contractor agrees to such obligations by accepting title thereto:

(1) *Utilization.* The contractor agrees to use the property for the benefit of research under the contract and any extensions or successor contracts thereto and to continue to use such property for the benefit of research of interest to the Government;

(2) *Charges with Respect to the Property.* The contractor is not permitted to charge for any depreciation, amortization, or use with respect to such equipment under any Government contract, any Government grant, or any subcontract under a Government contract;

(3) *Transfer of Title to Government.* With respect to each item of equipment having a unit acquisition cost of $1,000 or more, the contractor's ownership rights are qualified by the contractor's express agreement to transfer title to any such items to the Government, or to a third party designated by the Government, in accordance with any written request therefore issued by the Contracting Officer at any time prior to final payment under the contract;

(4) *Control of Property.* The contractor shall maintain a property control system which will provide for adequate identification, recording, location, utilization, maintenance, and physical inventory of equipment acquired with contract funds; and

(5) *Inventories Upon Completion or Termination.* Immediately upon completion or termination of the contract, the contractor shall perform a physical inventory of all contractor-owned equipment acquired with contract funds and having a unit acquisition cost of $1,000 or more. The inventory shall be performed, prepared, and submitted in the same manner as prescribed in S1-503 of this Manual.

DOTPR supplement 1, exhibit A—Property condition codes

[See S1-503 of this manual]

Code	Brief definition	Expanded definition
N-1	New—Excellent	New or unused property in excellent condition. Ready for use and identical or interchangeable with new items delivered by manufacturer or normal source of supply.
N-2	New—Good	New or unused property in good condition. Does not quite qualify for N-1 (because slightly shopworn, soiled, or similar), but condition does not impair utility.
N-3	New—Fair	New or unused property in fair condition. Soiled, shopworn, rusted, deteriorated, or damaged and its utility is slightly impaired.
N-4	New—Poor	New or unused property so badly soiled, rusted, mildewed, deteriorated, or damaged, that its utility is seriously impaired.
E-1	Used—Reconditioned excellent	Used property, but repaired or renovated and in excellent condition.
E-2	Used—Reconditioned good	Used property which has been repaired or renovated and, while still in good usable condition, has become worn from further use and cannot qualify for excellent condition.
E-3	Used—Reconditioned fair	Used property which has been repaired or renovated but has deteriorated since reconditioning and is only in fair condition. Further overhauling required or expected to be needed in near future.
E-4	Used—Reconditioned poor	Used property which has been repaired or renovated and is in poor condition from serious deterioration such as from major wear and tear, corrosion, exposure to weather or mildew.
O-1	Used—Usable without repairs—Excellent	Property which has been slightly or moderately used, no repairs required, and still in excellent condition.
O-2	Used—Usable without repairs—Good	Used property, more worn than O-1, but still in good condition with considerable use left before any important repairs would be required.
O-3	Used—Usable without repairs—Fair	Used property which is still in fair condition and usable without repairs; however, somewhat deteriorated with some parts (or portion) worn and should be replaced.
O-4	Used—Usable without repairs—Poor	Used property which is still usable without repairs, but in poor condition and undependable or uneconomical in use. Parts badly worn and deteriorated.
R-1	Used—Repairs required—Excellent	Used property, still in excellent condition, but minor repairs required (repairs would not cost more than 10 pct of acquisition cost).
R-2	Used—Repairs required—Good	Used property, in good condition but considerable repairs required. Estimated cost of repairs would be from 11 to 25 pct of acquisition cost.
R-3	Used—Repairs required—Fair	Used property, in fair condition but extensive repairs required. Estimated repair costs would be from 26 to 40 pct of acquisition cost.
R-4	Used—Repairs required—Poor	Used property, in poor condition and requiring major repairs. Badly worn, and would still be in doubtful condition of dependability and uneconomical to use if repaired. Estimated repair costs from 41 to 65 pct of acquisition cost.
X	Salvage	Property which because of its worn, damaged, deteriorated or incomplete condition, or specialized nature, has no reasonable prospect of sale or use as serviceable property without major repairs or alterations, but which has some value in excess of its scrap value.
S	Scrap	Property that has no reasonable prospect of being sold except for the recovery value of its basic material content.

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federal register

THURSDAY, SEPTEMBER 8, 1977
PART V

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

■

CHILD MEDICAL ASSISTANCE PROGRAM

Penalty for Failure to Provide Early and Periodic Screening, Diagnosis, and Treatment

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[45 CFR Parts 205, 249]

MEDICAL ASSISTANCE PROGRAM

Penalty for Failure To Provide Early and Periodic Screening, Diagnosis, and Treatment

AGENCY: Health Care Financing Administration, HEW.

ACTION: Proposed rule.

SUMMARY: This proposal would revise current rules on the financial penalty imposed on States that fail to carry out the child health screening program required under title XIX of the Social Security Act (Medicaid program). Experience with the existing regulation indicates a need for greater clarity and for updating certain provisions. The proposal clarifies the steps States must take to avoid the penalty, provides alternative ways of meeting requirements and specifies the circumstances under which the penalty will be applied.

DATES: Closing date for receipt of comments November 7, 1977. Please refer to MSA–157–P. Agencies and organizations are requested to submit comments in duplicate.

ADDRESSES: Address comments in writing to:

Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013.

Beginning two weeks from today, the public may review the comments Monday through Friday of each week, from 8:30 a.m. to 5 p.m.

Department of Health, Education, and Welfare, Health Care Financing Administration, Room 5225, 330 C Street S.W., Washington, D.C. 202–245–0950.

FOR FURTHUR INFORMATION CONTACT:

Beatrice D. Moore, 202–245–6575.

SUPPLEMENTARY INFORMATION: The purpose of these proposed regulations is to revise the conditions implementing section 403(g) of the Social Security Act, which provides for a one percent penalty, applied to payments to a State under title IV–A of the Social Security Act (Aid to Families with Dependent Children), for failure to provide early and periodic screening, diagnosis, and treatment (EPSDT) for children under the State's Medical Assistance program.

A previous Notice of Proposed Rule Making (NPRM) was published on August 20, 1975 (40 FR 36378). Its purposes were to (1) clarify requirements with regard to State action necessary to implement the EPSDT program; (2) to facilitate State compliance with requirements in order to avoid the penalty; and (3) to strengthen basic structural support for an effective program of health care for children under 21.

Approximately 100 comments were received in response to the NPRM. In addition, meetings were held with representatives of 45 States and with interest groups and providers at which the following issues were discussed in depth: effective informing; follow-up and support services; timely delivery of EPSDT services; screening services requirements; and documentation. Analyses of comments and suggested alternatives derived from these activities have been taken into account in the amendments now being proposed.

Due to the large volume of comments on all provisions of the NPRM that reflect significantly different and frequently opposite points of view, the Department is publishing a second NPRM rather than final regulations. It is the Department's intent to consider comments on the current proposal, which is intended to synthesize and accommodate earlier public response, before publishing final regulations.

It is Department policy to publish a Notice of Intent to issue proposed rule making in order to involve the public in the rule making process during the drafting phase. However, that step is being omitted in the publication of this NPRM, since the Department believes that the intent of the Notice of Intent to develop regulations has already been met through the publication of an NPRM in August 1975 and subsequent meetings with States and other interested parties.

The following summary of major public comments on the 1975 NPRM indicates significant areas which the Department wishes to reconsider. The Department's response, as reflected in the current proposal, is also summarized.

(1) Commenters took the position that the 1975 NPRM was overly process-oriented and did not focus sufficiently on program outcomes or goals, such as improvement in health status or assuring delivery of EPSDT services to specified numbers of children.

The current proposal relates application of the penalty to administrative and service delivery outcomes (e.g., informing of families, initiation of treatment found necessary as a result of screening, provision of support services) that should produce desired program goals, rather than to actual achievement of broad program goals. The Department believes such an approach is more in keeping with the legislative authority, which requires that families be informed, screening be provided if requested, and follow-up treatment be provided if necessary, than an approach focusing on health-related outcomes would be. Further, after in-depth consideration of comments in this area, the Department determined that identification of health-related outcomes and related measures of health status, as well as specifying numbers of children to be served, would be essentially arbitrary and involve requirements over which States would have less control than the administrative and service delivery outcomes.

(2) Commenters felt the 1975 NPRM did not allow sufficient administrative flexibility for States or recognize sufficiently variations in health care delivery patterns.

The current proposal attempts to accommodate these comments by specifying timely delivery of EPSDT services in terms of one time period from request to initiation of treatment, rather than specifying numbers of days for each of the required activities to occur. The proposal also differentiates State responsibilities for families who request State assistance in obtaining EPSDT services and those who do not, and for families who receive EPSDT services from certain comprehensive care providers, or from a health care provider from whom they may usually receive health services. Although the proposal identifies certain actions which States must carry out, under each of these circumstances, ways in which such activities are to be accomplished are left to State discretion.

(3) Many commenters felt that the previous NPRM would take eligible children out of the mainstream of health care or make State Medicaid agencies responsible for activities that are more properly the responsibility of health care providers.

The current proposal specifically recognizes that EPSDT medical and health-related support services may be provided by certain comprehensive care providers under different procedures than those used by a State agency making arrangements for each EPSDT service. Thus, provision is made for distinguishing between State responsibilities and health care provider responsibilities for eligible individuals who are, or request to be, under the care of certain comprehensive care providers.

In addition, the proposal provides for the delivery of initial and periodic EPSDT services over the course of a year, but under the frequency intervals of the State's periodicity schedule, rather than within the shorter time period otherwise applicable under the proposal, in the case of families requesting EPSDT services under the care of the health care provider whom they usually receive health care services.

(4) Most commenters emphasized the value of verbal, face-to-face contact as an effective informing method and strongly discredited written informing when used alone. In addition, almost all States reported that verbal informing of the availability of EPSDT services is occurring at AFDC eligibility intake or with notification of eligibility, though the scope and intensity varies among, and sometimes within, States.

The current proposal requires verbal informing, in addition to written, of AFDC families who become eligible for the first time or after a period of ineligibility.

(5) Most commenters indicated a need for exceptions to time requirements imposed for EPSDT service delivery.

The current proposal provides such exceptions by making it clear that States are not responsible for the inaction of eligible families and by providing different time requirements depending on the pattern of service delivery.

(6) Proposed requirements related to periodicity of notification and services were mentioned by several commenters as administratively cumbersome and possibly could result in harassment of eligible families.

The current proposal retains, but further clarifies, these requirements, since the law requires State plans to provide for periodic screening services.

(7) A large number of comments was received from States in resistance to proposed documentation requirements.

Most resistance was based on misunderstanding of the intent and possible methods of meeting the requirements. The current proposal clarifies that documentation requirements may be met with any appropriate form of written evidence, such as claims forms, reports, case records, etc., that, as a whole, include the information necessary for assessing compliance. Further, such documentation need not all be available only at the State level, but may be maintained at the State, local, or provider level, as appropriate. Similarly, each activity documented may be produced by the person responsible for the underlying activity: one person would not be required to document all required informing, assistance, follow-up, and service delivery activities for an individual child. Finally, requirements for documentation have been retained in the current proposed changes, since the Department believes that documentation is essential to State accountability, and to provision of a more equitable and objective basis for determining whether or not a penalty is applicable than would a verbal, other non-written, or other clearly subjective method. It should be noted that the current proposal, as did the 1975 NPRM, requires documentation only for the administrative or service delivery outcomes identified by the proposed requirements.

As a whole, the proposed changes are intended to achieve a balance among legal requirements for specificity, State needs for administrative flexibility, and eligibles' needs for comprehensive, preventive health care. The Department recognizes that these objectives are often mutually contradictory and invites comments on the extent to which the proposed changes achieve an appropriate and feasible balance and suggestions of alternative ways of meeting these objectives if the proposal does not seem to have met our goal.

The major provisions of the current proposal are summarized as follows:

Section 205.147(a) provides requirements related to the legislative provision that all AFDC families be informed of the availability of EPSDT services under the State's Medicaid plan. The purposes of the requirements are to assure that families can make a judgment on whether or not they want to receive EPSDT services, to provide sufficient opportunity to families to make such a choice and to obtain State assistance in getting services, and to reinforce the periodic nature of preventive health services.

Thus, the proposed changes in informing requirements specify major subjects of information, both written and face-to-face explanations, reinforming and periodic notices, and State responsibilities for follow-up with families who do not answer the first offer of services. These requirements are intended to provide a mechanism whereby States clearly know of the family's desire to receive EPSDT.

Section 205.147(b) specifies a 120 day period from date of request for services during which screening must be completed and treatment initiated. This single period replaces the separate periods specified in both the currently effective regulation (45 CFR 205.146(c)) and the 1975 NPRM. It is intended to assure that the individuals eligible for EPSDT services receive screening and beginning treatment within a reasonable period, while allowing States flexibility to work out arrangements for screening and treatment on an overall schedule that can be adjusted as necessary for the individual components. The Department believes that a period of time less than 120 days would not allow sufficient time for States to arrange for delivery of the full screening package and initiation of all necessary follow-up treatment services required under EPSDT for all eligibles who may request services. On the other hand, the Department believes that a time period longer than 120 days would not provide sufficient assurance of delivery of all necessary EPSDT services for individuals who may become ineligible after four months. (The turnover rate for EPSDT eligibles is about 17 percent annually.) Further, a longer time period would not, the Department believes, provide sufficient assurance that follow-up treatment would be initiated soon enough after screening findings indicate that they are necessary to be effective or that arrangements for delivery of screening services would be carried out soon enough after the family's request to be responsive to their interest, which is essential to the family's motivation in seeking preventive health services and keeping appointments.

Section 205.147(b) also includes a requirement that States provide a minimum screening package which in the Department's judgment will assure that the most critical elements of child health care are rendered to eligible children at appropriate periods of their development (see the discussion of 45 CFR 249.10 below).

Section 205.147(c) provides that the 120 day period specified under paragraph (b) will not apply in instances where:

(1) The individual is under the care of a "comprehensive care" provider (see § 205.147(e));

(2) The individual is already under the care of a health care provider from whom they usually receive health care services (see § 205.147(f));

(3) The individual refuses treatment, or requests EPSDT services, but is determined to have already received them;

(4) The individual missed an appointment(s) scheduled with State assistance, or the family had not requested State assistance in getting services but wished to make their own arrangements, and the necessary appointments were not scheduled or not kept, and the State has made one follow-up offer, within 150 days of the request for EPSDT, of help with appointments and transportation for the missed or unscheduled appointment(s). In no case must a State continue to offer such assistance to an individual who has missed two or more appointments for the same services for that recorded request.

These exceptions, together with the added flexibility of treating the time period as a whole, are intended to provide for a variety of arrangements among States to achieve the services goal while recognizing situations in which the State's responsibility is reasonably changed or ended for purposes of compliance with requirements which impose a financial penalty if States do not meet them.

Thus, the Department believes that States have a responsibility to provide scheduling assistance, transportation, and follow-up services to eligibles in order to remove significant obstacles that program experience clearly indicates eligibles generally have in obtaining EPSDT services. However, limiting State responsibility to one follow-up attempt after missed appointments in general and to no more than one for an appointment for the same service recognizes a certain responsibility that eligibles must take in obtaining EPSDT services once the State has provided requested, necessary support services. Similarly, providing for eligibles who want to make their own arrangements for appointments, with some assurance of fall-back State support if they have been unable to do so for whatever reason, is also an attempt to achieve a balance between State and eligible responsibility. Both provisions further recognize that more intensive State offers of assistance than would be required by the current proposal may be perceived as coercive.

By providing exceptions to the 120 day requirement and to certain State responsibilities for assistance in the case of eligibles under the care of certain comprehensive care providers and other health care providers (see summary of § 205.147 (e) and (f) for a fuller discussion of these provisions), the proposal recognizes instances where the necessity for State management and coordination of the EPSDT service delivery process may be somewhat less where there is assurance that certain health care providers may reasonably carry out those responsibilities for EPSDT service delivery.

Section 205.147(e) recognizes that arrangements have been and can be made with "comprehensive care" providers under which the Federal requirements for EPSDT services can be met in a satisfactory or improved manner without direct State action in tracking an eligible's progress through the EPSDT process. Under the proposed changes, a State has fewer direct responsibilities in relation

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to eligibles for purposes of compliance with the penalty provisions, if an eligible is under care of such a provider with whom the State Medicaid agency has an agreement. These providers may be grantees under title V of the Act (e.g, Children and Youth projects, Maternity and Infant Care programs), neighborhood health centers, private physicians, HMOs, Head Start projects, or other providers equipped to deliver comprehensive health care and certain related support services.

The agreement entered into between the Medicaid agency and such provider must cover all pertinent aspects of the EPSDT program and specify the respective responsibilities of each party. Under the agreement, the Medicaid agency's responsibilities, for penalty compliance purposes, must include:

(1) Assuring that the eligible requesting to be under the care of such provider for EPSDT services in fact reaches that provider for the first appointment for initial and periodic screening;

(2) Verifying that the eligible is under the provider's care; and

(3) Assuring transportation up to the limits of the Medicaid State plan provisions.

The comprehensive care providers must agree to deliver or arrange for all screening, diagnostic, and treatment (except dental) services and certain health related support services in order to qualify under this provision.

The Department believes that this provision can be important in encouraging full use of all existing comprehensive care providers in a State who provide services identical in content and equivalent in timing to the EPSDT program. Thus, the provision should stimulate more provider participation in the EPSDT program, as well as lessen the problems of poorly coordinated services that sometimes result from use of different providers for each service to a child. The items specified for inclusion in the agreements between the State and comprehensive care providers are intended to protect the interests of both parties and assure that appropriate care is actually given.

Section 205.147(f) recognizes that some health care providers who are capable of delivering comprehensive medical services may not be equipped or willing to enter into an agreement that includes responsibilities for health related support services, as provided for under § 205.147(e) of the proposal. However, families who are already receiving health care from such a provider may also wish to assure that their children receive all of the services to which they are entitled under EPSDT and may wish to continue under that provider's care for receipt of the full range of EPSDT services. In this case, the state may arrange for such providers to review their services over the year prior to the eligible's request for EPSDT and verify screening services and relevant treatment components already rendered. If the screening services appropriate to the eligible's age under the State's EPSDT periodicity schedule have not been rendered, and necessary treatment services not initiated, the State would be responsible for arranging for the delivery of services not yet received, either with that provider, or other provider if necessary. The State would also be responsible for arranging services not usually provided by private physicians or certain other comprehensive care providers—such as dental services—and for providing transportation and scheduling assistance, if requested by the family. Services under the State's periodicity schedule could be provided in the same manner. The intent of this provision is to recognize that the child may have been receiving care appropriate to his age and consistent with good health care practices, and that it is not necessary to require duplication of any services already provided, and not necessary that, if a child is already under a provider's care, the full range of screening be provided within the specific time span otherwise required (i.e., within 120 days of request) when the State agency is managing and coordinating EPSDT service delivery. The Department does consider it to be essential to the intent of the law and goals of the program that the required screening and necessary follow-up treatment services and the frequency intervals of the State's periodicity schedule must be identical for all eligibles requesting EPSDT.

Section 205.147(g) specifies the documentation States must make available to the Department as evidence that the regulatory requirements have been met. While specificity is necessary so that there will be no uncertainty as to what the required evidence is, the Department's intention, as stated under comment No. 7 above, is that States may work out, in the way most feasible under their particular system, where and how the documentation is produced. In addition, adjustments in the documentation requirements have been made for the special arrangements made with comprehensive care providers. In the past, some of the most frequent criticism of EPSDT monitoring both inside and outside the Department has been the inability in certain cases to determine effectively whether essential program requirements are being met by States. Without full knowledge of what actions States have taken to inform AFDC families of EPSDT and the subsequent provision of services where requested, the Department believes that it cannot adequately fulfill the Congressional mandate to assure the provision or arrangement of EPSDT services in each case in which recipients indicate an interest in receiving the benefits of the program.

Section 205.147(h) specifies the bases for determining application of the penalty. The Department believes that the underlying statutory authority for the penalty (section 403(g) of the Social Security Act) clearly requires that each eligible family shall be informed of the availability of the State's EPSDT services, and that each person requesting EPSDT services shall be provided such services if a State is to avoid the imposition of the penalty. For this reason, the Department has required 100 percent compliance with all of the statutory provisions related to the penalty.

The Department also recognizes that human and/or administrative systems error may cause a temporary delay or unanticipated failure to inform or arrange for services in an otherwise efficiently operated program or may result in an occasional failure to record the documented evidence necessary for determining whether federal regulatory requirements are met. Thus penalty determinations will be based upon compliance with two distinct requirements for timely informing and service delivery. The first will be based upon a State's obligation to comply with the various timing requirements set forth in proposed § 205.147(a), (b), (c), (e), and (f) which, for example, require that certain persons requesting EPSDT services have screening provided and necessary treatment initiated within 120 days of the initial request. Compliance with these provisions will be deemed satisfied if there is documented evidence, as required under the proposed section (g), that (a) the time limits and other applicable requirements are met in 90 percent of the cases reviewed by the Department on the basis of a statistically valid sample and (b) specific evidence of noncompliance exists in any case reviewed by the State has corrected that failure within 120 days of notification by HCFA that such a failure exists. This requirement means that if the Department finds, in the course of its reviews, more than 10 percent of the case files do not have the requisite documentation specified in paragraph (g), the penalty would be assessed notwithstanding a State's subsequent effort to demonstrate that the regulation's underlying requirements have in fact been met.

Ninety percent is believed to be a reasonable rate of compliance that takes into account the sort of unforeseeable error that is apt to occur because of an unanticipated systems failure or other type of State administrative error causing temporary delays in an otherwise efficiently operated program.

The Department believes that a level of compliance documented in less than 90 percent of the cases reviewed would, however, indicate that a State's EPSDT program is not operating at a capacity sufficient to carry out its full obligation under the law for all eligibles.

Providing for 120 days to correct specific failures of which the State is notified is thought to provide the means by which the needs of eligibles may be met, while providing States ample time within which to take the steps they are otherwise required to take in informing and/or providing services to these individuals. Compliance with this provision for a grace period will be based on a State's ability to comply with respect to all such individuals who fall within this section's coverage. The Department firmly believes that while it may not reasonably expect perfect adherence by States to the first set of time limits described above (e.g., the 120 day limitations), it must require perfect adherence for reasonably timely informing and service provision to all EPSDT eligibles for whom there is documented evidence that the regulatory requirements had not been met. Were the Department to adopt a requirement that all requests not responded to within the first set of time limits were to be responded to within an unspecified, and unlimited, period of time, there could be no certainty that all persons were assured of receiving requested EPSDT services because of the impossibility of monitoring such a provision. Adopting a regulation that contained such an open-ended provision would, in the Department's view, be in violation of the statute.

The two sets of time limits discussed above concerning timely service delivery are a direct response to the difficulties attending the existing penalty requirement that all services be provided "normally" within a 60 day period (45 CFR 205.146(c)). There has been frequent criticism that this current requirement is difficult to measure and subject to uneven enforcement. In its place, the Department believes that specific, readily measurable time limits would allow application of the penalty on an objective and equitable basis among all States.

In addition to determinations of compliance as discussed above, the proposal also specifies that the proposed requirement for an agreement, which meets specified conditions, between the State agency and certain comprehensive care providers must be met in 100 percent of the applicable cases reviewed.

Since the proposed requirements for such an agreement would require that such agreements be contractual and binding and the Department believes that such an agreement would be entered into in good faith by both parties, the proposal would not hold a State liable, for penalty purposes, for those activities otherwise required of the State but accepted by a comprehensive care provider under the agreement. The Department believes, however, that total adherence must be required for the existence of an agreement that meets the specified conditions in order to deem the statutory requirements for service delivery satisfied in the case of eligibles under the care of such providers. The Department also expects that State agencies will monitor such provider's adherence to the terms of such agreements just as it would any other legally binding contract that it has established.

The proposal indicates that the penalty shall be assessed upon a failure to comply with applicable requirements on a countywide basis. While this does nothing more than reflect the Department's current policy with respect to the imposition of the penalty, it is included in the proposal for purposes of clarity. The Department has always contended that one of the reasons for the statutory penalty provision was Congressional recognition that the compliance mechanism available to the Secretary to force program compliance in EPSDT under section 1904 of the Social Security Act was extremely harsh and, therefore, not a realistic approach to program enforcement. The traditional compliance mechanism has generally been viewed as addressing "substantial non-compliance", often on a State-wide basis. In light of the statute's clear reflection of the Congressional mandate that failure to inform any AFDC family or arrange for EPSDT services for any individual requesting such services results in penalty liability, the Department believes that the imposition of the penalty is supportable if there is a disclosure of any failure of a State to perform its required obligations with respect to any one individual. Accordingly, the Department, while believing it could be monitoring State's EPSDT performance and assessing penalties on the basis of findings smaller in scale than a county-wide basis, has chosen to review States' compliance with penalty requirements on a county-wide basis for purposes of administrative convenience and uniformity.

In Section 249.10, regulations on the program requirements for providing EPSDT services, changes from the previous NPRM include a new format for better comprehension; an additional requirement for State consultation with medical and dental organizations on certain program provisions; and, in the minimum screening package, addition of immunizations, developmental assessment, and rewording of "nutritional assessment." The consultation requirement has been developed in light of difficulties States have experienced in determining what constitutes an effective minimum screening package and periodicity schedule and adequate provision of vision, hearing, and dental treatment services. Advice from experienced professionals is considered essential in assuring that appropriate decisions are reached. Changes in the required screening services result from our determination that a developmental assessment is necessary to carry out the statutory requirement for screening for "mental" as well as physical health problems. "Nutritional assessment" was reworded after consultation with persons in the field. It is believed that "nutritional assessment" may have suggested a highly specialized procedure which is not appropriate to the initial screening process. The term "assessment of nutritional status" has been substituted to clarify that potential nutritional problems are an appropriate and essential area to be included in the screening services, but that a full diagnostic and treatment process would follow screening findings indicating that such services are necessary.

The addition of immunization to the screening package is a change from the previous NPRM inclusion of a "determination of immunization status." The Department strongly believes that because EPSDT is a preventive health program, in contrast to the remedial thrust of other Medicaid services, immunizations are more appropriate as an element of screening rather than treatment. In light of the potentially disabling effects of diseases that may occur in the absence of immunizations, and the concomitant costly treatment of those diseases, the Department believes it is essential that immunizations as a tool of preventive health care be provided at the screening stage of EPSDT rather than risk the uncertainties of treatment referrals that would otherwise occur.

In addition to proposing revisions as contained in this Notice of Proposed Rule Making to the current regulations implementing section 403(g) of the Social Security Act, the Department is also proposing to the Congress that certain legislative changes be made both in the statutory provision for a penalty related to the EPSDT program as well as in the legislative provision authorizing the EPSDT program under Title XIX of the Social Security Act. As a part of the Department's proposed legislative changes, the name of the program would be changed from Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) to Child Health Assessment Program (CHAP). The proposed revisions contained in this Notice are compatible with the goals and major features of the proposed legislation. These revisions would serve as a direct transition, to the extent possible under current law, between current program requirements and the CHAP proposal by: (a) Encouraging more effective informing methods; (b) facilitating the development of comprehensive, continuous care for EPSDT eligibles; (c) strengthening follow-up and support services; and (d) providing specific standards under which penalties may be assessed.

Also, the Department recognizes the limitations of process requirements in achieving the goals of the EPSDT program (as stated above) and the new legislation and prefers the use of performance standards, where possible. The new legislation proposes to make available a bonus for Medicaid administration for States which meet certain performance criteria. Thus, the Department feels that performance standards are feasible for purposes of a bonus, but not yet sufficiently developed for use in penalty assessment. Suggestions from reviewers for specific performance standards will be welcome.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302). Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

NOTE: The Health Care Financing Administration has determined that this document does not require preparation of an Economic Impact Statement under Executive Order 11821, as amended by EO 11949, and OMB Circular A-107.

Dated July 19, 1977.

R. A. DERZON,
Administrator, Health Care Financing Administration.

Approved: August 31, 1977.

HALE CHAMPION,
Acting Secretary.

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Chapter II, Title 45 of the Code of Federal Regulations is amended as set forth below.

1. Part 205 is amended by revising §205.146(c) and by redesignating it as a new §205.147 to read as follows:

§ 205.147 Penalty for failure to provide early and periodic screening, diagnosis and treatment (EPSDT) of children under Title XIX of the Act.

Pursuant to section 403(g) of the Act, notwithstanding any other provision of this chapter, total payments to a State under title IV–A of the Act for any quarter of any fiscal year beginning on or after July 1, 1974, shall be reduced by 1 percentage point if the State fails to meet any of the following requirements with respect to informing, screening, diagnosing, and treating individuals eligible for EPSDT services and with respect to documenting implementation of such requirements.

(a) *Informing families and offering to provide or arrange for the provision of EPSDT services.* (1) Notification of the EPSDT services available under the State title XIX plan shall be made to each eligible family:

(i) Through written material and through a face-to-face contact with a person knowledgeable in explaining EPSDT services and their benefits, within 60 days following the authorization of AFDC payment for families becoming eligible for AFDC for the first time or after any period of ineligibility, and

(ii) Through written material, for families who have not requested EPSDT services, within one year of the date in which they were last notified, and through written material for families who have requested EPSDT services and whose children are eligible for a periodic screening based on the periodicity schedule under the State title XIX plan, within periods of time that fall within such schedule as it applies to children in such families;

(2) Both the written and face-to-face notification shall clearly and specifically describe EPSDT services in nontechnical language and shall include at least the following information:

(i) The nature and value of preventive health services;

(ii) That screening services should be received periodically; that the family can request information specifying which screening services will be provided upon request; at what ages after an initial screening; and in the case of families notified under paragraph (a)(1)(iii) of this section, that it is time for a periodic screening for the family's children and that the family should tell the State whether they want such periodic screening services;

(iii) The elements of the screening package available under the State title XIX plan;

(iv) That treatment services covered under the State title XIX plan will be provided for problems discovered through screening, including treatment for vision, hearing and dental problems;

(v) How EPSDT services can be obtained, including an offer to schedule appointments, if requested, for EPSDT services, and to provide, if requested, necessary transportation as required under § 249.10(a)(5)(ii) of this chapter;

(vi) That the family can obtain information from a specified local office identifying public and private providers which are located nearest to the family and who provide EPSDT services;

(vii) That the family is entitled to EPSDT services covered under the State's title XIX plan at no cost;

(viii) That the State will assure that the family receives EPDST services on a timely basis (as required in paragraphs (b) and (c) of this section);

(ix) That the family should tell the State whether it does or does not request EPSDT services and State assistance with scheduling and transportation.

(3) Either written or face-to-face notification must be adjusted to the language requirements of families who are blind or illiterate, cannot read English, or are not conversant in English.

(4) In the case of any family notified under paragraph (a)(1)(i) of this section, if such family makes no written or verbal response to the notification as to whether or not it requests EPSDT services and assistance with scheduling and/or transportation, the State shall, within 60 days of the date of such notification, make one attempt to obtain such a response, either by mail, face-to-face contact, or telephone.

(b) *Providing or arranging for EPSDT services for families requesting EPSDT.* All requested initial or periodic screening services must be completed, and all necessary followup treatment services covered under the State title XIX plan must be initiated, within 120 days of the family's request for initial or periodic EPSDT services for the eligible individual. Requested assistance with transportation must be provided in accordance with provision under the State's title XIX plan for assuring necessary transportation of recipients to and from providers of services, as required under § 249.10(a)(5)(ii) of this chapter. Screening services that must be provided upon request must include at least those specified under § 249.10(a)(3)(vi) of this chapter. For purposes of this requirement, initiation of treatment means that the first encounter has occurred between the eligible individual and health care provider(s) for purposes of beginning treatment services found necessary as a result of screening (and, as appropriate, diagnostic) findings.

(c) *Exceptions to requirements for timely service delivery.* The requirements under paragraph (b) of this section do not apply when the State can show that the following condition(s) exist:

(1) The family has requested to be under the care of a comprehensive care provider as described under paragraph (e) of this section; or

(2) The family has requested to be under the care of a provider from whom they usually receive health care services as provided for under paragraph (f) of this section; or

(3) In the case of requested screening services not having been completed within the 120 day period, the eligible individual has already received, within the range of time indicated by the periodicity schedule under the State's title XIX plan, the elements of the State's screening package appropriate to his age that were not completed, as well as the necessary related treatment services; or

(4) In the case of necessary treatment services not having been initiated within the 120 day period, the eligible individual declined the treatment service(s) indicated to be necessary by screening; or

(5) The family requested EPSDT services but did not request State assistance with scheduling appointments; the appointment(s) necessary to complete screening services and/or to initiate necessary treatment services were not scheduled or not kept; and the State made one attempt (after determining that such appointment(s) were not scheduled or kept) within 150 days of the request for EPSDT services to offer scheduling and transportation assistance for the necessary appointments; or

(6) The State provided requested assistance with scheduling EPSDT appointments, but the eligible individual failed to keep an appointment arranged by the State and the State made one attempt (after determining that such appointments were not kept) within 150 days of the family's request for EPSDT to offer scheduling and transportation assistance for each of the appointments that were missed. In cases where the eligible individual misses two appointments scheduled by the State for the same service, no further assistance from the State is required for that recorded request.

(d) *Referral for treatment services not covered under the State's plan.* States must provide referral assistance for treatment services not covered under the State's plan.

(e) *Providing or arranging for EPSDT services for families requesting EPSDT under the care of certain comprehensive care providers.* (1) Except as specified in this paragraph, the requirements contained in paragraphs (b)-(c) of this section do not apply in the case of eligible individuals who are or request to be under the care of:

(i) A Children and Youth project, Crippled Children's Service program, Maternal and Infant Care project, other title V grantee, or State health agency which has entered into an agreement with the State Medicaid agency under § 251.10 of this chapter; or

(ii) Other comprehensive health care provider (including a Head Start project) which has entered into an agreement identical to that required under § 251.10 of this chapter,

for providing or arranging for screening, diagnostic, and treatment services on a periodic basis as provided for under the State's title XIX plan.

(2) Such agreements must:

(i) Meet each condition under § 251.10 of this chapter;

(ii) Identify the estimated number of eligible children who are to be maintained under the care of the comprehensive care provider;

(iii) Provide that the first appointment for delivery of screening services will be scheduled to occur within 90 days of the date of request for EPSDT services under the care of the comprehensive care provider for eligible individuals not already under the care of such provider;

(iv) Specify the respective responsibilities of the comprehensive care provider and the Medicaid agency for notifying the family that, based on the periodicity schedule provided for in the State title XIX plan, it is time for a periodic screening for the eligible individual under care;

(v) Specify that the Medicaid agency is responsible for:

(A) Assuring necessary transportation as required under § 249.10(a)(5)(ii) of this chapter;

(B) Providing scheduling assistance requested by the family, within 90 days of the request for such assistance, with regard to the first appointment with the comprehensive care provider for eligible individuals not already under such provider's care and with regard to the first appointment for periodic screening with such provider;

(C) Arranging for appointments scheduled by the State at the family's request to occur within 90 days of the family's request for EPSDT services under the care of the comprehensive care provider;

(D) Determining within 90 days of the family's request for receiving EPSDT services under the care of the comprehensive care provider, whether the eligible individual is under such provider's care and, if not, making one attempt within the 90 days (after determining that the eligible individual is not under care) to offer scheduling assistance to the family; and

(vi) Specify the comprehensive care provider's responsibility for:

(A) Delivering or arranging for delivery (through referral to other health care providers) periodically, of all screening services required under the State title XIX plan and necessary follow-up diagnostic and treatment services, except that providing or arranging for dental services may, upon mutual agreement, remain the Medicaid agency's responsibility; and

(B) For appropriate health-related support services, including, specifically, follow-up with patients and other health care providers with whom arrangements have been made by the comprehensive care provider to assure that appointments are kept or rescheduled and to assure delivery of services that the comprehensive care provider has arranged for; and

(C) Maintaining specific reports of the screening, diagnosis, and treatment and health-related support services delivered to each eligible individual under its care.

(3) Where the comprehensive care provider does not agree to provide or arrange for the dental services required under § 249.10(a)(3)(iv) of this chapter, the State shall retain the responsibility for assuring the delivery of such services in accordance with the requests specified in paragraphs (a)–(d) of this section.

(f) *Providing or arranging for EPSDT services for families requesting EPSDT who are already under the care of a health care provider.* Except as specified in this paragraph, the requirements of paragraphs (b), (c), and (e) of this section do not apply. In the case of families who request EPSDT services under the care of a provider from whom they usually receive health care services, the State must within 120 days of such request for EPSDT services and, if applicable, within 120 days of the family's request for periodic screening services under that provider's care:

(1) Verify that all the elements of the State's screening package appropriate for the age of the eligible individual, as specified under the periodicity schedule provided in the State's title XIX plan, were completed and all necessary follow-up treatment services covered under the State title XIX plan were initiated by such provider during the year prior to such request, and

(2) If not, make one attempt after such determination to offer scheduling assistance to the family and to make arrangements with such provider or another provider, if necessary, so that within such 120 day period the screening services appropriate to the eligible individual's age under the State's periodicity schedule are completed and all necessary treatment services that had not been initated and that were discovered necessary upon completion of the screening package are initiated.

Requested assistance for transportation related to receipt of any EPSDT services from such provider must be provided, in accordance with provision under the State's title XIX plan for assuring necessary transportation, as required under § 249.10(a)(5)(ii) of this chapter. The 120 day requirement specified in this paragraph does not apply when the State can show that the conditions specified in paragraph (c)(4), (5), and (6) of this section exist.

(g) *Documentation.* States must make written documentation available at the State and/or local level, consisting of reports, claims forms, case records and/or other appropriate written evidence which must, when considered as a whole, include the following information:

(1) The screening services provided for under the State's Title XIX plan and the State's periodicity schedule for such screening services (as required under § 249.10(a)(3)(iv) of this chapter);

(2) The written material with which families are notified and material used by or available to persons notifying families through face-to-face contact in accordance with the content requirements under paragraph (a)(2) of this section;

(3) For each family, the date(s) of initial and annual or periodic notification through face-to-face contact and/or through written material, as required under paragraph (a)(1) of this section;

(4) For each family notified under paragraph (a)(1) of this section which has not requested EPSDT services, whether such family has specifically declined the services;

(5) For each applicable family, the date of the attempt to obtain a response to notification, as required in paragraph (a)(4) of this section;

(6) For each eligible individual for whom initial and periodic, as applicable, EPSDT services are requested (except for such requests described under paragraph (e) of this section related to certain comprehensive care providers):

(i) The date of the request(s) for EPSDT services, whether for initial or periodic services;

(ii) That scheduling and/or transportation assistance was requested or declined (whether in response to notification under paragraph (a)(1) of this section, to the follow-up attempt required under paragraph (a) of this section, and/or to the follow-up attempt after missed appointments specified under paragraph (c)(5) and (6) of this section), and that such assistance was provided if requested, or that no response has been made to the State's offer(s) of such assistance;

(iii) Where an appointment(s) scheduled with State assistance is missed, that an attempt was made to offer scheduling and transportation assistance for a second appointment, as required under paragraph (c)(6) and paragraph (f) of this section, and the date of such attempt;

(iv) Where State assistance with scheduling has not been requested and where it is determined that screening services have not been completed and/or necessary follow-up treatment services not initiated within 120 days of request for EPSDT services, that the attempt was made to offer scheduling and transportation services as required under paragraph (c)(5) and paragraph (f) of this section, and the date of such attempt;

(v) The initial and periodic screening services, as applicable, provided;

(vi) Screening findings (or screening and diagnostic findings if performed simultaneously) for each of the completed screening services;

(vii) The date(s) of initiation of treatment service(s) covered under the State's Title XIX plan and provided as a result of positive screening (or, as appropriate, diagnostic) findings, or the date that such services were declined; and the types of such treatment services provided; and

(viii) The source(s) of referral for treatment services not covered under the State's Title XIX plan.

(7) For each eligible individual who has requested EPSDT services under the care of a comprehensive care provider, as provided in paragraph (e) of this section:

(i) The agreement made under paragraph (e) of this section between the applicable comprehensive care provider and the Title XIX agency;

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(ii) Written verification from such provider that the eligible individual is under its care and the date the individual was placed under care;

(iii) The date of request for EPSDT services under the care of such provider;

(iv) That scheduling assistance requested of the Medicaid agency was provided for an initial and, if applicable, a periodic screening appointment and the date such assistance was provided;

(v) Where it is determined that the eligible individual is not under the care of the comprehensive care provider, that the attempt was made to offer scheduling assistance as required under paragraph (e)(2)(v)(D) of this section; and

(vi) That requested transportation was provided within the scope of the agreement and the State Medicaid agency's responsibility for assuring necessary transportation under § 249.10(a)(5)(ii) of this chapter.

(h) *Application of the penalty.* (1) The penalty shall be applied on a quarterly basis where findings described in paragraph (h)(3) of this section indicate non-compliance with the requirements of this section.

(2) Determination of whether the penalty is applicable will be based on:

(i) Such reviews, including statistical sampling, as may be deemed necessary by HCFA, of documentation from States including documentation specified in paragraph (g) of this section; and

(ii) Such interviews of HCFA may deem necessary with persons responsible for face-to-face informing to determine compliance with the requirements under paragraph (a)(2) of this section.

(3) On the basis of evidence described in paragraph (h)(2) of this section, a State will be considered in compliance with the requirements of this regulation as specified in paragraphs (a)–(d), (e)(2)(vi) and (v), (e)(3) and (f)–(g) of this section if in all counties reviewed:

(i) There is evidence that requirements for informing and providing or arranging for EPSDT service delivery under paragraphs (a)–(d), (e)(2)(iv) and (v), (e)(3) and (f) are met in 90 percent of the instances reviewed; and

(ii) If the requirements of paragraph (h)(3)(i) of this section are met, and if there is specific evidence of non-compliance with applicable requirements in any of the cases reviewed, but there is evidence in all such cases that the State has corrected the failure to inform the family in accordance with paragraph (a) of this section or to provide EPSDT services in accordance with paragraphs (b)–(d), (e)(2)(iv) and (v), (e)(3) and (f) of this section within 120 days of the notification by HCFA to the State of such failure; and

(iii) An agreement as required in paragraph (e)(2) of this section is found to exist in 100 percent of the instances reviewed that are applicable to eligible individuals under the care of a comprehensive care provider as provided for under paragraph (e) of this section.

(4) On the basis of evidence described in paragraph (h)(2) of this section, the penalty shall be assessed where, in any county, any one or more of the requirements of paragraph (h)(3) of this section are not met.

(i) *Reconsideration of penalty imposition.* Whenever a penalty is imposed under section 403(g) of the Social Security Act and the provisions of this section, the State shall be entitled to, and upon request shall receive a reconsideration of the imposition of the penalty in accordance with section 1116(d) of the Social Security Act and § 201.14 of this chapter.

2. In § 249.10, paragraph (a)(3)(iv) is amended as set forth below:

§ 249.10 Amount, duration, and scope of medical assistance.

(a) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must:

• • • • •

(3) With respect to the requirements of paragraphs (a) (1) and (2) of this section as they relate to the provision of early and periodic screening, diagnosis, and treatment under paragraph (b)(4)(ii) of this section, provide:

• • • • •

(iv) For making available to all eligible individuals under 21 years of age:

(A) Early and periodic screening and diagnosis to ascertain physical and mental defects; and

(B) Treatment of conditions discovered, within the State plan limits on the amount, duration, and scope of care and services; and

(C) Whether or not otherwise included under the State plan, eyeglasses, hearing aids, and other kinds of treatment for visual and hearing defects, and at least such dental care as is necessary for relief of pain and infection and for restoration of teeth and maintenance of dental health, subject, however, to such utilization controls as may be imposed by the State agency;

(v) For consultation with representatives of recognized medical and dental organizations of the State in the development of the periodicity schedule, the specific screening services applicable at each age, beginning with the neonatal period of age 21, and the amount, duration, and scope of dental, vision, and hearing treatment services to be provided under EPSDT;

(vi) For at least the following screening services, adjusted as appropriate for the age of the eligible individual (as determined by the State in accordance with paragraph (a)(3)(v) of this section) at the time of the request for screenings:

(A) Health and developmental history;

(B) Unclothed physical examination;

(C) Developmental assessment;

(D) Provision of immunizations appropriate for age and health history;

(E) Determination of nutrition status;

(F) Vision screening;

(G) Hearing testing;

(H) Laboratory procedures appropriate for age and population group; and

(I) Dental diagnostic services provided by a dentist, or dental screening based on clear and specific criteria for referral to a dentist for diagnostic and treatment services, and referral as indicated by such screening findings;

(vii) For a periodicity schedule which identifies the time periods, based on age or lapse of time between each delivery of the screening package, at which screening services under the State plan are to be provided after initial screening.

See § 205.147 of this chapter relating to reduction in Federal financial participation under Title IV-A of the Act for failure to provide early and periodic screening, diagnosis, and treatment of children.

• • • • • •

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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Director, Executive Secretariat, is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3314(a)(35) is added as set out below:

§ 213.3314 Department of Commerce.

(a) *Office of the Secretary.* • • •

(35) Director, Executive Secretariat.

• • • • • •

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26242 Filed 9-8-77;8:45 am]

PART 213—EXCEPTED SERVICE

Equal Employment Opportunity Commission

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) revokes under the automatic revocation system because they have been vacant for more than 60 days four positions of Special Assistant to the Chairman, and the positions of Secretary to each of two Special Assistants to the Chairman; and (2) excepts under Schedule C because they are confidential in nature the following positions: one position of Special Assistant to the Chair and one position of Secretary to the Chair.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3377 (a) and (c) are amended and (d) is revoked as set out below:

§ 213.3377 Equal Employment Opportunity Commission.

(a) One Special Assistant to the Chair.

• • • • • •

(c) Two Secretaries to the Chair and one Private Secretary and Confidential Assistant to the Chair.

(d) (Revoked).

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc 77-26039 Filed 9-8-77;8:45 am]

PART 213—EXCEPTED SERVICE

General Services Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Confidential Assistant to the Director of Administration is excepted from the competitive service under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3337(a)(22) is added as set out below:

§ 213.3337 General Services Administration.

(a) *Office of the Administrator.* • • •

(22) One Confidential Assistant to the Director of Administration.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26482 Filed 9-8-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following positions are excepted under Schedule C because they are confidential in nature: One position of Confidential Assistant to the Commissioner of Education, and one position of Staff Director, Federal Interagency Committee on the Integration of Human Service Delivery Systems.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR § 213.3316(c)(3) is amended and (c)(15) is added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

• • • • • •

(c) *Office of Education.* • • •

(3) Two Confidential Assistants to the Commissioner of Education.

• • •

(15) Staff Director, Federal Interagency Committee on the Integration of Human Service Delivery Systems.

(5 U.S.C 3301, 3302, E.O 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26038 Filed 9-8-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Treasury

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Two positions of Special Assistant to the Assistant Secretary (Legislative Affairs) are reestablished under Schedule C because they are confidential in nature.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3305(a)(51) is amended as set out below:

§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* • • •

(51) Three Special Assistants to the Assistant Secretary (Legislative Affairs).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26040 Filed 9-8-77;8:45 am]

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Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Areas Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release portions of Honolulu County in Hawaii from the areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the areas quarantined. No areas remain under quarantine in the State of Hawaii.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. M. A. Mixson, USDA, APHIS, VS, Federal Building, Room 748, Hyattsville, Md. 20782 (301-436-8073).

SUPPLEMENTARY INFORMATION: This amendment excludes portions of Honolulu County in Hawaii from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded areas.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects.

In § 82.3, paragraph (a)(1) relating to the State of Hawaii is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141.)

The amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 2d day of September 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

J. K. ATWELL,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77-26418 Filed 9-8-77;8:45 am]

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS; ORGANISMS AND VECTORS

PART 113—STANDARD REQUIREMENTS

Miscellaneous Amendments

AGENCY: Animal and Plant Health Inspection Service (APHIS).

ACTION: Final rule.

SUMMARY: This amendment will clarify the second stage testing provisions for potency used in evaluating Encephalomyelitis Vaccine. The second stage test requirement for a product when one fraction thereof is found to be acceptable by the first stage test is not clear. This amendment clarifies this requirement.

EFFECTIVE DATE: This amendment becomes effective September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Price, 301–436–8245.

SUPPLEMENTARY INFORMATION: The test used for evaluating Encephalomyelitis Vaccine for potency, which is found in § 113.127(b), is a two stage test. The first stage is used for all fractions of the product. The second stage is applicable only to fractions of a product which are found unacceptable by the first stage test, but are not rejected as being unsatisfactory.

The current regulations are unclear in this respect. Section 113.127(b)(4) indicates that if one or less of the vaccinate serum samples meets the titer requirements for one fraction in the first stage, such fraction need not be retested. However, this is not what was intended, as shown in the table in subpart (6) of that section. What was intended was that when a fraction is found acceptable by first stage testing, i.e., if there is one or less failure, such fraction need not be retested. Therefore, the purpose of this amendment is to eliminate any confusion which might be caused by the present wording.

Each word in the heading of § 113.127 shall be capitalized.

Section 113.127 is amended by revising paragraph (b)(4) to read:

§ 113.127 Encephalomyelitis vaccine, Eastern and Western, killed virus.

* * * * * *

(b) * * *

(4) If two or three of the vaccinate serum samples show a titer of less than 1:4 for the Eastern type fraction or less than 1:32 for the Western type fraction, or both, the second stage may be used; except, that if a fraction is found to be acceptable by the first stage test, such fraction need not be retested. Otherwise, the second stage shall be conducted in a manner identical to the first stage.

* * * * * *

(21 U.S.C. 151 and 154; 37 FR 28477, 28646; 38 FR 19141.)

This amendment makes administrative changes to clarify the second stage test provisions in the potency test without making substantive changes in the regulations. In order for this amendment to be of maximum benefit, it must be made effective immediately.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure concerning this amendment are impracticable and unnecessary, and good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

The foregoing amendment shall become effective upon issuance.

Done at Washington, D.C., this 2nd day of September, 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

J. K. ATWELL,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77-26267 Filed 9-8-77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Resumption of Adjustments To Lower and Upper Tier Crude Oil Price Ceilings To Reflect Impact of Inflation

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: The Federal Energy Administration ("FEA") by this action issues Crude Oil Price Schedule No. 8, which resumes in September 1977, crude oil price increases to take into account the impact of inflation, as permitted under the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA"). These price increases were discontinued because during 1976 and part of 1977 actual weighted average prices for domestic crude oil exceeded the statutory maximum weighted average first sale ("composite") price.

Pursuant to this action, FEA will, beginning in September 1977, apply the inflation adjustment to the projected August lower tier price (approximately $5.17 per barrel), and will begin to restore over a 3 month period the upper tier price to a level that represents the $11.28 per barrel price originally intended to be achieved for upper tier crude oil in February 1976 by the Energy Policy and Conservation Act "EPCA" crude oil pricing policy, plus the $ 27 per barrel increase in upper tier prices that was authorized for the months of March through June 1976 By November 1977, as a result of this action, lower tier prices will be approximately $5 26 per barrel and upper tier prices will be approximately $11 75 per barrel.

Thereafter, lower tier and upper tier prices will be allowed to rise at the rate not in excess of the rate of inflation, as was proposed in the National Energy Plan issued by the President on April 20, 1977.

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT.

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SUPPLEMENTARY INFORMATION.

A *Background.*
B *The Basis For This Action.*
C *Crude Oil Price Schedule No. 8.*

A. *Background.*—Under the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA," Pub. L. 93–159), Congress provided FEA with flexibility to control first sale prices of domestic crude oil as long as the national weighted average first sale price ("actual composite price") did not exceed $7.66 per barrel ("statutory composite price") for all domestic crude oil produced and sold in February 1976.

Beginning in March 1976, the EPAA authorized increases in the statutory composite price to reflect the effects of inflation and to provide production incentives. Under present authority, the statutory composite price is adjusted upward by FEA at a rate not to exceed 10 percent annually.

In specifying a composite price of $7.66 per barrel for all domestic crude oil in February 1976, Congress assumed that the existing ceiling price on domestic old crude oil (lower tier) would be continued and that the average price of old crude oil was $5.25 per barrel. The $5.25 per barrel estimate was derived originally by the Cost of Living Council ("CLC") as the average first sale price of controlled domestic crude oil in December 1973. FEA was not required, nor did it have any regulatory need, to monitor actual first sale prices of controlled domestic crude oil until the advent of EPCA. Inasmuch as old crude oil prices had remained frozen from December 1973, the $5 25 figure was thought to be a reasonable estimate of lower tier crude oil prices

In specifying the $7 66 per barrel composite price, the Congress also assumed that "new," "released," and "stripper well" crude oil (which were not then subject to ceiling price limitations), would not have to be rolled back from the average first sale price of uncontrolled domestic crude oil in January 1975, which was $11 28 per barrel. The January 1975 price was based on the most recent price data available which was free from the influence of (1) the 1975 supplemental import fees on crude oil, and (2) the October 1975 price increase by the Oil Producing and Exporting Countries which subsequently affected domestic crude oil prices.

It was also estimated that old crude oil constituted sixty percent of total domestic crude oil. The $7.66 per barrel composite price figure was therefore calculated as follows:

(.6) ($5.25) + (.4) ($11 28) = $7.66.

(See generally S. Rept. No. 94–516, 94th Cong., 1st. Sess. 187–191 (1975).)

Under FEA price regulations adopted to implement the pricing policy that included the statutory composite price restrictions, domestic crude oil is classified either as lower tier (which currently accounts for about 50 percent of total domestic production), upper tier (which currently accounts for about 36 percent of total domestic production) and crude oil produced from stripper well properties (which currently accounts for about 14 percent of total domestic production).

Stripper well property crude oil, which is production from properties that have declined to a level of 10 barrels or less per well per day for a proceeding consecutive 12-month period, is permitted by statutory authority to be sold at market price levels, so as to encourage continued production from such marginal properties for as long as possible. For purposes of determining compliance with the statutory composite price limitation, however, stripper well property crude oil is given by statutory formula an imputed value which approximates the average upper tier price. (Section 121 of the Energy Conservation and Production Act, "ECPA," Pub. L. 94–385.)

Upper tier crude oil generally includes production from properties which first began producing crude oil after 1972 (except those which qualify as stripper well properties or which produce crude oil that is otherwise exempt from first sale price controls), plus incremental production from older properties which exceeds a certain "base production control level." The upper tier price (an average of $11.64 per barrel at the end of 1976) is generally designed to stimulate increased production from older properties and to encourage further exploration and development of domestic crude oil resources. The lower tier price, which averaged about $5.17 per barrel nationally at the end of 1976, applies to all domestic production which is not exempt or which does not qualify as upper tier crude oil.

FEA adopted regulations to implement the composite price limitation of EPCA that were predicated on the same estimates and assumptions that had been used by the Congress. Pursuant to those regulations, which became effective February 1, 1976, comprehensive data on actual first sale prices were obtained for the first time. Those data revealed that the average first sale price for lower tier crude oil was, in fact, $5.05 per barrel, rather than the estimated $5.25 per barrel; that lower tier crude oil constituted approximately 56.1 percent of domestic production rather than the estimated 60 percent; and that the upper tier ceiling price (the September 30, 1975 posted price, less $1.32 per barrel) had resulted, in February 1976, in average upper tier prices of $11.48 per barrel rather than the intended $11.28 per barrel. These factors, among others, led FEA to discontinue price increases in July 1976.

Effective July 1, 1976, FEA halted further monthly increases in crude oil price ceilings and continued them at their June 1976 levels in order to compensate for actual composite prices in excess of adjusted statutory composite price levels. FEA took further corrective action to achieve compliance with statutory composite price restrictions by reducing upper tier price ceilings by 20 cents per barrel effective January 1, 1977, and by an additional 45 cents per barrel effective March 1, 1977. These actions were projected to eliminate all excess crude oil receipts by June 30, 1977 (see 42 FR 13013, March 8, 1977). (Although the ceiling prices for lower tier crude oil had been frozen since June 1976, and the ceiling prices for upper tier crude oil had been frozen—and subsequently rolled back—since June 1976, ceiling prices for lower and upper tier crude oil are determined on a field-by-field basis. As a result, the average actual prices for lower tier and upper tier crude oil vary from month to month as a function of the mix of types of crude oil selling at varying ceiling prices from field to field.)

On March 15, 1977, FEA submitted Energy Action No. 11 to the Congress, pursuant to section 8(f) of the EPAA, to continue in effect that portion of the 10 percent annual increase in the statutory composite price relating to production incentives. That action, having undergone legislative review without disapproval by either house of Congress, permits the statutory composite price to continue to increase at an annual rate of 10 percent.

In congressional hearings relating to Energy Action No. 11, FEA stated that the 10 percent annual adjustment in the statutory composite price was anticipated to be entirely or almost entirely used to reflect the impact of inflation on the ceiling prices for lower and upper tier crude oil (anticipated at between 5.5 and 6.5 percent annually) and to account for the automatic increase in the actual composite price attributable to the continuing decline in the percentage of lower tier crude oil (resulting in an increase in

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the actual composite price of approximately 3.0 to 3.6 percent annually). Accordingly, FEA stated that it intended in the future to adjust lower tier and upper tier prices by not more than the amount necessary to reflect the impact of inflation.

On August 11, 1977, FEA issued a Notice of Proposed Rulemaking and Public Hearing (42 FR 41396, August 16, 1977) to consider a proposal to specify the price levels for lower tier and upper tier crude oil to which such future adjustments should be applied and to implement the provision of the National Energy Plan that calls for allowing lower tier and upper tier ceiling prices to rise at not more than the rate of inflation.

Pursuant to Section 8(d) of the EPAA, the impact of inflation is measured for purposes of adjusting the composite price by using the "adjusted GNP deflator." The Act defines the term "adjusted GNP deflator" to mean:

> . . . the first revision of the quarterly percent change, seasonally adjusted at annual rates, of the most recent implicit price deflator for the gross national product which shall be computed and published for each calendar quarter by the Department of Commerce, subject to such additional modification as the President shall make to exclude therefrom any amount which he determines is attributable solely and directly to increases which occur after the date of enactment of this section in prices of imported crude oil, residual fuel oil, or any refined petroleum product resulting from concerted action of two or more petroleum exporting countries.

For purposes of this rulemaking proceeding, the inflation adjustment for the months of September, October, and November 1977 was computed at an annual rate of 5.5 percent. This was the most recent first revision of the GNP deflator at the time, which was published by the Department of Commerce in late June 1977. As FEA stated in the August 11 Notice, actual adjustments to crude oil price ceilings for the months of September through November 1977, pursuant to the regulations adopted in this rulemaking, would be based on the first revision of the GNP deflator published on August 20, 1977, which is now known to be 7.1 percent. Beginning in December the first revision of the GNP deflator published on or about November 20, 1977 will be used to adjust ceiling prices for the next three months to reflect the rate of inflation, and so forth.

B. *The Basis For This Action.*—As indicated above, monthly increases in both lower tier and upper tier crude oil price ceilings were deferred and upper tier crude oil price ceilings were reduced in order to compensate for actual composite price levels in excess of statutory composite price limits. This elimination of excess receipts is projected to be completed by June 30, 1977—final data for a particular month are not available to FEA until the end of the third month following that month—and resumption of monthly price adjustments can therefore be resumed September 1, 1977. As FEA indicated in the August 11 Notice, this more conservative pricing policy is intended to further the EPAA goal of providing a more stable and predictable basis for future pricing actions by decreasing the potential for future price freezes or rollbacks.

This action applies such inflation adjustments prospectively to existing lower tier prices and to upper tier prices adjusted to reflect (1) the fact that actual upper tier prices when the upper tier ceiling price was first imposed in February 1976 were higher than the intended average of $11.28 per barrel, and (2) the fact that upper tier prices have been reduced by a total of $.65 per barrel in recent months. Because the restoration of upper tier prices will represent a price increase of some significance, it will, as proposed, be phased in over a 3 month period so as to avoid creating any substantial incentive to withhold production in anticipation of a price increase.

FEA has concluded, as proposed, that it would not be appropriate to restore lower tier and upper tier price levels to the real dollar equivalent of their February 1976 price levels because the overall economic impact of such an action would not, in all likelihood, be counterbalanced by any measurable production response. Domestic crude oil production has been subject to frozen or reduced price levels for more than a year without any measurable effect on production. (FEA has granted price relief on a case-by-case basis in all instances in which those price levels have resulted in a demonstrable threat to continued production.)

Accordingly, FEA has concluded that restoration of crude oil ceiling prices to their February 1976 real dollar equivalent would constitute essentially a windfall to producers, in that it would constitute a form of payment for production that has already taken place under economically advantageous circumstances. In this regard, however, FEA has also concluded that equitable considerations favor the restoration of upper tier prices to a level that recognizes the initial pricing objectives of the EPAA crude oil pricing policy and the fact that the upper tier price has, in fact, been rolled back to compensate for prices in excess of the statutory composite price.

This result is not inconsistent with Energy Action No. 11, which was submitted to Congress on March 15, 1977, the purpose of which was to provide for a continuation of the adjustment to the statutory composite price as a production incentive. In the absence of that Energy Action, no adjustment as a production incentive could be given any effect beyond March 15, 1977, and only the adjustment to take into account the impact of inflation could thereafter have been applied. In transmitting Energy Action No. 11 to Congress, FEA stated:

> In essence, continuation of the adjustment as a production incentive *could* permit lower tier and upper tier ceiling prices to be restored to and maintained in real dollars at the level that existed in February, 1976 for lower tier crude oil ($5.05 per barrel), and at the level that was intended in February, 1976 for upper tier crude oil ($11.28 per barrel).

Discontinuation of the adjustment as a production incentive would mean, on the other hand, that the legal composite price could be increased at not more than the rate of inflation. Because the projected rate of decline in production of lower tier crude oil results in an increase in the actual composite price of approximately 3 to 3.6 percent annually, a projected inflation rate of 5.5 percent would result in a maximum rate of increase in lower tier and upper tier ceiling prices of approximately only 1.9 to 2.5 percent per year.

Discontinuation of the adjustment as a production incentive would, therefore, effectively prevent maintenance of February, 1976 ceiling price levels for domestic crude oil in real dollars. It would therefore, tend to have a dampening effect on domestic production, particularly in view of the fact that there are indications that the cost of producing crude oil is increasing at a faster rate than the rate of inflation as measured by the GNP deflator. (Emphasis added.)

Comments submitted in response to the August 11 Notice, indicated producers' misperception that this language in Energy Action No. 11 indicated FEA's intention to resume adjustments to lower tier and upper tier ceiling prices based upon February 1976 ceiling price levels for domestic crude oil in real dollars. Of particular concern to those submitting comments was the statement that failure to maintain these ceiling price levels in real dollars would

> tend to have a dampening effect on domestic production, particularly in view of the fact that there are indications that the cost of producing crude oil is increasing at a rate faster than the rate of inflation as measured by the GNP deflator.

Initially, it should be stressed that Energy Action No. 11 was submitted to Congress to provide for continuation of the adjustment as a production incentive provided for in Section 8 of the EPAA. In establishing the need to continue the production incentive adjustment, FEA was concerned that failure to do so might lead to the result that FEA would be unable to maintain February 1976 ceiling prices in real dollars for existing production i.e., production currently subject to ceiling price controls: lower tier and upper tier crude oil). To avoid the possible dampening effects on such production that might have ensued as a result of the extended freeze on ceiling prices for lower and upper tier crude oil and the rollback of ceiling prices for upper tier crude oil. FEA sought from Congress the additional flexibility, if needed, under the full 10 percent composite price adjustment to offset any significant declines in domestic production during the freeze and rollback period and to guard against any subsequent declines in flowing production after the freeze period was ended, due to impacts of inflation in excess of the GNP deflator on crude oil subject to current controls.

Accordingly, it was inappropriate to draw the conclusion from statements made in the Energy Action that FEA in fact would, or intended to, resume adjusments to lower and upper tier ceiling prices based on February 1976 real dollar equivalents. Rather, FEA indicated only that approval of the Energy Action would provide FEA with sufficient flexibility so that prices for currently controlled crude oil could be escalated to such levels if necessary, but indicated that in no event would currently controlled domestic production be escalated at a faster rate than necessary to provide for the impact of inflation. This is consistant with the policy of the National Energy Plan to allow lower and upper tier ceiling prices to rise at a rate not in excess of the rate of inflation.

With respect to the period during which lower and upper tier ceiling prices were frozen and upper tier ceiling prices were rolled back, as FEA indicated in the August 11 Notice, to restore ceiling prices to February 1976 real dollar equivalents—in effect to reimburse producers for production during that period under circumstances in which (a) production was economically favorable, or (b) where not economically favorable, individual producers were granted price relief on a case-by-case basis by the FEA Office of Exceptions and Appeals—would constitute a windfall to producers for a period during which there was no significant "dampening effect" on domestic production. With respect to future production of crude oil currently subject to price controls, Crude Oil Price Schedule No. 8 provides for adjustments, consistent with the National Energy Plan, to reflect the impact of inflation as measured by the GNP deflator.

Persons that submitted comments in this rulemaking argued that the absence of a "dampening effect" on production during the freeze and rollback period should not be considered in determining whether to restore ceiling price levels to their February 1976 real dollar equivalents because investment decisions made by producers in "reliance" on Energy Action No. 11 would not necessarily have resulted in a significant production response during the freeze period. However, this argument fails to persuade FEA that such ceiling price levels should be restored for two reasons.

First, as stated above, FEA does not believe that the statements made in connection with the Energy Action should have been construed as a commitment by FEA to take such action. More fundamentally, however, such long term investment actions would presumably have been taken in reliance on incentive prices for production such as newly discovered oil as set forth in the National Energy Plan, and would not necessarily have depended upon an assumption that ceiling price levels for crude oil subject to current controls would be restored to their February 1976 real dollar equivalents. Accordingly, as noted above, for FEA to restore ceiling price levels to February 1976 real dollar equivalents would constitute a windfall to producers for production that occurred during the freeze period.

C. *Crude Oil Price Schedule No. 8.*—Under Crude Oil Price Schedule No. 8, effective September 1, 1977, the previous lower tier ceiling price (the May 15, 1973 posted price plus $1.48 per barrel, resulting in an average first sale price of approximately $5.17 per barrel), is adjusted for inflation beginning with September 1977.

Thus, the ceiling price for lower tier crude oil and the approximate average first sale price pursuant to that ceiling price in September, October, and November, is determined as follows:

Month	Ceiling price	Estimated average first sale price
August	May 15, 1973, highest posted field price plus $1.48	$5.17
September	May 15, 1973, highest posted field price plus $1.51	5.20
October	May 15, 1973, highest posted field price plus $1.54	5.23
November	May 15, 1973, highest posted field price plus $1.58	5.26

The upper tier ceiling price is determined as follows: First, as noted above, the upper tier ceiling price is established by reference to September 30, 1975 highest posted field prices. When the ceiling price rule was first promulgated, FEA estimated the average of highest posted field prices on September 30, 1975 to be $12.60 per barrel; hence the price rule provided for a subtraction of $1.32 from that posted price for February 1976, with the intent of achieving an average price of $11.28. Actual upper tier pricing data have varied from month to month (which results from changes in the volumes of the various grades and qualities of upper tier crude oil produced and sold each month).

For the months of June through December 1976, when upper tier prices were frozen at the September 30, 1976 posted prices less $1.05 per barrel, actual average first sale prices ranged from $11.60 to $11.65 per barrel, averaging $11.62 per barrel. These data therefore indicate that the September 30, 1975 reference postings average approximately $12.67 per barrel (i.e., $11.62+$1.05=$12.67), rather than the $12.60 per barrel estimated by FEA when the upper tier price rule was first adopted.

Based on the foregoing actual pricing data, a February 1976 upper tier ceiling price of $11.28 per barrel would best be approximated by a ceiling price of the September 30, 1975 posted price (averaging $12.67 per barrel), less $1.39 per barrel. The adjustments to the upper tier ceiling price provided during March through June totalled $.27 per barrel. Applying this $.27 adjustment to the Congressionally intended February 1976 upper tier price of $11.28 results in a price of $11.55. The ceiling price for September that would be most likely to result in an average first sale price of $11.55 per barrel is, therefore, the September 30, 1975 posted price (approximately $12.67 per barrel), less $1.12 per barrel.

As noted above, however, the restoration of the upper tier ceiling price will be phased in over a 3 month period. Application of the 7.1 percent annual rate of inflation to the "restored" upper tier price level of $11.55 for September yields an average upper tier price of $11.75 for November 1977.

FEA does not currently have final or preliminary data with respect to actual prices in August 1977. However, assuming that the September 30, 1975 posted price averages $12.67 per barrel in August 1977, applying a $1.70 reduction in that month pursuant to Schedule No. 7 of Monthly Price Adjustments (42 FR 38894, August 1, 1977) results in a projected average upper tier price of $10.97 for August 1977 ($12.67 less $1.70).

In order to provide a smooth transition from the projected August 1977 average upper tier price of $10.97, to the November 1977 target price of $11.75, FEA will add to the projected August 1977 upper tier price $.26 per barrel in September, October and November 1977.

Thus, the ceiling price for upper tier crude oil and the approximate average first sale price pursuant to that ceiling price in September, October, and November, is determined as follows:

Month	Ceiling price	Estimated average first sale price
August	Sept. 30, 1975, highest posted field price less $1.70.	$10.97
September	Sept. 30, 1975, highest posted field price less $1.44.	11.23
October	Sept. 30, 1975, highest posted field price less $1.18.	11.49
November	Sept. 30, 1975, highest posted field price less $.92.	11.75

Beginning in December, the lower and upper tier ceiling price would be adjusted each month at not more than the rate of inflation as determined by the most recent first revision of the GNP deflator.

The following table summarizes on a monthly basis the projected cumulative excess receipts for the months February 1976 through November 1977.

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Month	Lower tier percent	Lower tier price	Upper tier price	Statutory composite price	Actual composite price1/	Cumulative excess receipts (millions)
1976						
February	56.12	$5.05	$11.48	$7.66	$7.87	$ 49
March	56.93	5.07	11.39	7.72	7.79	67
April	56.69	5.07	11.52	7.78	7.86	86
May	57.04	5.13	11.55	7.84	7.89	97
June	55.92	5.15	11.60	7.88	7.99	123
July	55.58	5.19	11.60	7.93	8.04	152
August	55.68	5.18	11.62	7.98	8.03	164
September	53.41	5.17	11.65	8.04	8.19	198
October	52.39	5.15	11.62	8.11	8.23	228
November	49.94	5.17	11.62	8.17	8.40	282
December	50.07	5.17	11.64	8.24	8.40	322
1977						
January	50.61	5.17	11.44	8.30	8.28	316
February	49.52	5.18	11.39	8.37	8.33	308
March	49.18	5.15	11.03	8.44	8.19	246
April	49.46	5.15,	10.97	8.50	8.14	161
May2/	48.48	5.18	11.00	8.57	8.23	78
June3/	48.84	5.17	10.99	8.64	8.20	- 27
July3/	46.22	5.17	10.99	8.71	8.16	-169
August3/	44.35	5.17	10.97	8.78	8.13	-342
September3/	44.09	5.20	11.23	8.85	8.26	-494
October3/	43.84	5.23	11.49	8.92	8.39	-635
November3/	43.58	5.26	11.75	8.99	8.52	-755

1/ Beginning with the month of September 1976, includes prices for stripper well crude oil production at values imputed in accordance with section 121 of the DCPA.
2/ Preliminary.
3/ Projected. Effects of Alaska North Slope (ANS) crude oil production, which commenced June 20, 1977, are included.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C., September 1, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 212.77 is revised in paragraph (c) to read as follows:

§ 212.77 Adjustments to ceiling prices.

• • • • •

(c) *Application of price adjustments.*—(1) Price adjustment schedules issued pursuant to paragraph (b) of this section shall, beginning with prices for September 1977, adjust the lower tier and the upper tier ceiling prices by not more than the amount necessary to reflect the impact of inflation on the weighted average first sale price for each tier.

(2) Notwithstanding paragraph (c)(1) of this section, FEA may issue price adjustment schedules pursuant to paragraph (b) of this section to (A) discontinue or restrict price adjustments or require reductions in ceiling prices to the extent deemed necessary by the FEA to achieve compliance with the Act, or (B) restore, in part or in full, to the upper tier ceiling price an amount not in excess of any reductions in such ceiling prices for months prior to September 1977.

APPENDIX.—*Schedule No. 8 of monthly price adjustments effective Sept. 1, 1977*

Month	Lower tier, May 15, 1973, posted price (plus) [1]	Upper tier, Sept. 30, 1975, posted price (less) [2]
1976:		
February	1.35	1.32
March	1.38	1.25
April	1.41	1.18
May	1.45	1.11
June	1.48	1.05
July	1.48	1.05
August	1.48	1.05
September	1.48	1.05
October	1.48	1.05
November	1.48	1.05
December	1.48	1.05
1977:		
January	1.48	1.25
February	1.48	1.25
March	1.48	1.70
April	1.48	1.70
May	1.48	1.70
June	1.48	1.70
July	1.48	1.70
August	1.48	1.70
September	1.51	1.44
October	1.54	1.18
November	1.58	.92

[1] The price referred to in 10 CFR 212.73(b)(1) or in 212.73(c)(1), 212.73(c)(3), and 212.73(c)(4).
[2] The price referred to in 10 CFR 212.74(b)(1).

This schedule of monthly price adjustments was issued by the Federal Energy Administration on September 1, 1977, pursuant to 10 CFR 212.77. It restates without change the lower and upper tier price ceilings applicable to crude oil produced and sold in the months of February 1976 through August 1977, as determined under 10 CFR 212.73, 212.74, and 212.77. Upper tier ceiling prices, which were reduced under Schedule No. 5 effective January 1, and further reduced effective March 1, 1977, are increased as indicated in this schedule. Also, lower tier ceiling prices, which were held at the ceiling price level for the month of June 1976, are increased as indicated in this schedule.

This schedule is effective only through November 30, 1977. Price ceilings for subsequent months will be provided by Schedule No. 9, to be issued on or about November 30, 1977. This schedule may, however, be superseded prior to November 30, 1977, by early issuance of Schedule No. 9 to reflect further ceiling price adjustments based on presently unanticipated trends in actual composite price levels.

[FR Doc.77-26221 Filed 9-6-77;10:31 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Docket No. R-0090; Reg. H and Reg. Y]

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

PART 225—BANK HOLDING COMPANIES

Municipal Securities Dealers

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This rule requires State member banks, and their subsidiaries, departments, and divisions, that are municipal securities dealers to file with the Board information about persons who are associated with them as municipal securities principals or municipal securities representatives. The Board believes that these requirements will facilitate compliance by those dealers with Municipal Securities Rulemaking Board rules concerning the qualification of municipal securities principals and municipal securities representatives.

EFFECTIVE DATE: October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert S. Plotkin, Assistant Director, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2782).

SUPPLEMENTARY INFORMATION: On March 30, 1977, the Board issued for comment in the FEDERAL REGISTER (42 FR 16821) proposed amendments to its Regulation H (12 CFR Part 208) and Regulation Y (12 CFR Part 225) to require State member banks and bank holding companies, and certain of their subsidiaries, departments, and divisions, that are muncipal securities dealers for which the Board is the appropriate regulatory agency under section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)) to file with the Board information about persons who are associated with them as municipal securities principals or municipal securities representatives. In conjunction with that proposal, the Board also proposed Form MSD-4, "Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer," and Form MSD-5, "Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer," for use in complying with the proposed amendments to Regulations H and Y.

Concurrent with the Board's proposal of amendments to Regulations H and Y, the Federal Deposit Insurance Corporation and the Comptroller of the Currency proposed similar regulations requiring the filing of proposed Forms MSD-4 and MSD-5.[1] Proposed Form MSD-4 and proposed Form MSD-5 were drafted jointly by the Board, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency for use by municipal securities dealers subject to their regulation. After considering the comments submitted on the proposed amendments to Regulations H and Y and proposed Forms MSD-4 and MSD-5 and working with the Federal Deposit Insurance Corporation and the Comptroller of the Currency in drafting final Forms MSD-4 and MSD-5, the Board has adopted the amendment to Regulation H and forms substantially as proposed, but has determined not to adopt the proposed amendment to Regulation Y at this time.

The proposed amendment to Regulation Y would have established a record system for municipal securities principals and representatives associated with bank holding companies. The activities of bank holding companies are generally limited by the Bank Holding Company Act to those the Board determines to be "so closely related to banking or managing or controlling banks as to be a proper incident thereto." The Board has not made such a determination concerning municipal securities dealer activities and accordingly, as a general matter, bank holding companies are not permitted to engage in such activities at this time. On October 19, 1976, the Board suspended for a period of time not to exceed twelve months a proposed regulation that would permit bank holding companies generally to engage in certain municipal securities activities. In the event the Board upon further consideration determines that municipal securities dealer activities should be permissible for bank holding companies, the Board may also at that time adopt the proposed amendment to Regulation Y with modifications similar to those the Board has made in the amendment to Regulation H.

As a result of the comments received, the following changes have been made in the amendment and forms:

[1] Forms MSD-4 and MSD-5 filed as part of the original document. See FR Doc. 77-26068 (part III of this issue).

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1. The period during which municipal securities dealers must retain copies of forms or statements that they are required to file with the Board under the amendment to Regulation H is specified as until at least three years after the termination of the employment or other association with the dealer of the municipal securities principal or municipal securities representative to whom the form or statement relates. That retention requirement is parallel to the one imposed on municipal securities dealers under paragraph (e) of Municipal Securities Rulemaking Board Rule G–7.

2. The instructions to Forms MSD–4 and MSD–5 have been revised to require that only the original of Forms MSD–4 and MSD–5 be manually signed.

3. For purposes of Forms MSD–4, and MSD–5 and the instructions thereto, the term bank municipal securities dealer has been defined as a municipal securities dealer which is a bank or a subsidiary or a department or division of a bank.

4. Item 8 of proposed Form MSD–4 (Item 6 of final Form MSD–4) has been changed to indicate that qualification as both a municipal securities principal and municipal securities representative can be requested on a single Form MSD–4.

5. Item 9 of proposed Form MSD–4 (Item 7 of final Form MSD–4), which describes the functions to be performed by a municipal securities principal or municipal securities representative, has been expanded to reflect a change in Municipal Securities Rulemaking Board rules effected after Form MSD–4 was proposed for comment.

6. The "permitted to resign" and "voluntary" reasons for termination contained in Item 8 of proposed Form MSD–5 (Item 7 of final Form MSD–5) have been combined into a single "resigned" category. Further, municipal securities dealers are required to furnish full details about the reason for termination only if the termination is related to a violation or probable violation of securites or banking law.

7. Editorial changes have been made in Forms MSD–4 and MSD–5 and the instructions thereto for clarification purposes.

The Board considered but decided not to adopt a suggestion that Form MSD–4s, Form MSD–5s, and statements received pursuant to paragraph (c) of Municipal Securities Rulemaking Board Rule G–7 be considered filed with the Board when mailed. Upon receipt of a Form MSD–4 or Form MSD–5, the Board will remit to the sender the acknowledgement found at the bottom of the form.

The Board also noted the concern expressed in several comments about the effect of Item 10 of proposed Form MSD–4 (Item 8 of final Form MSD–4) on the privacy of individuals. In completing Item 10 municipal securities dealers are required to confirm that they have made the inquiry of former employers of a municipal securities principal or municipal securities representative required under paragraph (d) of Municipal Securities Rulemaking Board Rule G–7. Since Item 10 reflects a Municipal Securities Rulemaking Board requirement, the Board decided not to alter Item 10 other than to renumber it as Item 8.

The Board prescribed Form MSD–4 for purposes of paragraph (b) of Municipal Securities Rulemaking Board Rule G–7 which becomes effective on October 15, 1977. Printed copies of Forms MSD–4 and MSD–5 will be available from the Federal Reserve Banks and the Board of Governors of the Federal Reserve System on and after September 20, 1977. The amendment to Regulation H will become effective on October 31, 1977. In the proposed amendment to Regulation H the paragraph to be added was designated 12 CFR 208.8(h). As adopted, that paragraph has been redesignated 12 CFR 208.8(j).

1. Pursuant to sections 15B(c) (5), 17, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(c)(5), 78q, and 78w) and section 11(a) of the Federal Reserve Act (12 U.S.C. 248(a)), the Board amends Regulation H (12 CFR Part 208) by adding a new paragraph (j) to § 208.8 as set forth below:

§ 208.8 Banking practices.

* * * * *

(g) [Reserved]

(h) [Reserved]

(i) [Reserved]

(j) *State member banks, and subsidiaries, departments, and divisions thereof, which are municipal securities dealers.* (1) For purposes of this paragraph, the terms herein have the meanings given them in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) and the rules of the Municipal Securities Rulemaking Board. The term Act shall mean the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).

(2) On and after October 31, 1977, a State member bank of the Federal Reserve System, or a subsidiary or a department or a division thereof, that is a municipal securities dealer shall not permit a person to be associated with it as a municipal securities principal or municipal securities representative unless it has filed with the Board an original and two copies of Form MSD–4, "Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer," completed in accordance with the instructions contained therein, for that person. Form MSD–4 is prescribed by the Board for purposes of paragraph (b) of Municipal Securities Rulemaking Board Rule G–7, "Information Concerning Associated Persons."

(3) Whenever a municipal securities dealer receives a statement pursuant to paragraph (c) of Municipal Securities Rulemaking Board Rule G–7, "Information Concerning Associated Persons," from a person for whom it has filed a Form MSD–4 with the Board pursuant to subparagraph (2) of this paragraph, such dealer shall, within ten days thereafter, file three copies of that statement with the Board accompanied by an original and two copies of a transmittal letter which includes the name of the dealer and a reference to the material transmitted identifying the person involved and is signed by a municipal securities principal associated with the dealer.

(4) Within thirty days after the termination of the association of a municipal securities principal or municipal securities representative with a municipal securities dealer that has filed a Form MSD–4 with the Board for that person pursuant to subparagraph (2) of this paragraph, such dealer shall file an original and two copies of a notification of termination with the Board on Form MSD–5, "Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated With a Bank Municipal Securities Dealer," completed in accordance with instructions contained therein.

(5) A municipal securities dealer that files a Form MSD–4, Form MSD–5, or statement with the Board under this paragraph shall retain a copy of each such Form MSD–4, Form MSD–5, or statement until at least three years after the termination of the employment or other association with such dealer of the municipal securities principal or municipal securities representative to whom the form or statement relates.

(6) The date that the Board receives a Form MSD–4, Form MSD–5, or statement filed with the Board under this paragraph shall be the date of filing. Such a Form MSD–4, Form MSD–5, or statement which is not prepared and executed in accordance with the applicable requirements may be returned as unacceptable for filing. Acceptance for filing shall not constitute any finding that a Form MSD–4, Form MSD–5 or statement has been completed in accordance with the applicable requirements or that any information reported therein is true, current, complete, or not misleading. Every Form MSD–4, Form MSD–5, or statement filed with the Board under this paragraph shall constitute a filing with the Securities and Exchange Commission for purposes of section 17(c)(1) of the Act (15 U.S.C. 78q(c)(1)) and a "report," "application," or "document" within the meaning of section 32(a) of the Act (15 U.S.C. 78ff(a)).

(15 U.S.C. 78o–4(c)(5), 78q, 78w (12 U.S.C. 248(a)).)

By order of the Board of Governors, September 1, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77–26070 Filed 9–8–77;8:45 am]

[Docket No. R–0110]

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Administration of Municipal Securities Rulemaking Board Rules

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has delegated certain of its functions in connection with the administration of Municipal Securities Rulemaking Board rules to the Director of the Division of Banking Supervision and Regulation. These delegations were made to expedite and facilitate the Board's administration of Municipal Securities Rulemaking Board rules.

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert S. Plotkin, Assistant Director, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–2782).

SUPPLEMENTARY INFORMATION: The Board of Governors has amended its Rules Regarding Delegation of Authority (12 CFR Part 265) to authorize the Director of the Division of Banking Supervision and Regulation (or, in the Director's absence, the Acting Director) (i) to grant or deny requests for waiver of examination and waiting period requirements for municipal securities principals and municipal securities representatives under Municipal Securities Rulemaking Board Rule G–3, (ii) to grant or deny requests for a determination that a natural person or municipal securities dealer subject to a statutory disqualification is qualified to act as a municipal securities principal or municipal securities representative or municipal securities dealer under Municipal Securities Rulemaking Board Rule G–4, and (iii) to approve or disapprove clearing arrangements under Municipal Securities Rulemaking Board Rule G–8, in connection with the administration of Municipal Securities Rulemaking Board rules for municipal securities dealers for which the Board is the appropriate regulatory agency as defined in section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)).

The provisions of section 553 of Title 5, United States Code, relating to notice and public participation and deferred effective date, are not followed in connection with the adoption of these amendments because the changes involved are procedural in nature and do not constitute substantive rules subject to the requirements of that section.

Section 265.2 is amended by adding a new subparagraph (24) to paragraph (c) as follows:

§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

* * * * *

(c) The Director of the Division of Banking Supervision and Regulation (or, in the Director's absence, the Acting Director) is authorized:

* * * * *

(24) Pursuant to section 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78w) (i) to grant or deny requests for waiver of examination and waiting period requirements for municipal securities principals and municipal securities representatives under Municipal Securities Rulemaking Board Rule G–3, (ii) to grant or deny requests for a determination that a natural person or municipal securities dealer subject to a statutory disqualification is qualified to act as a municipal securities principal or municipal securities representative or municipal securities dealer under Municipal Securities Rulemaking Board Rule G–4, and (iii) to approve or disapprove clearing arrangements under Municipal Securities Rulemaking Board Rule G–8, in connection with the administration of Municipal Securities Rulemaking Board rules for municipal securities dealers for which the Board is the appropriate regulatory agency under section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)). (15 U.S.C. 78w and 12 U.S.C. 248)

By order of the Board of Governors, September 1, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77–26071 Filed 9–8–77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–5882; IC–9916; File No S7–537]

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER

Sales Literature for Mutual Funds

AGENCY: Securities and Exchange Commission.

ACTION: Amendment to statement of policy.

SUMMARY: The Commission amends its Statement of Policy governing mutual fund sales literature to allow certain additional charts and tables reflecting compound rates of total return and adopts an interpretive letter procedure under which the staff can express its opinion relative to the proposed use of charts and tables not included in the Statement. These actions are taken in order to update the Statement and give mutual funds more flexibility in the development of sales literature. The use of the new charts and tables should make available to investors more meaningful and comparable measures of mutual fund performance. The Commission is also requesting comments on certain proposed changes in the requirements relating to charts and tables currently authorized by the Statement.

EFFECTIVE DATE OF AMENDMENT: Immediately. Comments must be submitted on or before October 31, 1977.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All material should be designated "Program to Revise the Statement of Policy," File No. S7–537. Such communications will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Gene A. Gohlke, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202–755–1815).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the adoption of an amendment to its Statement of Policy ("Statement") (Statement of Policy adopted by the Commission August 11, 1950, and amended January 31, 1955, November 5, 1957 and May 19, 1975 (15 FR 5469 as amended 20 FR 793, 22 FR 8977 and 40 FR 21711)) governing sales literature of investment companies. The amendment adds to the charts and tables currently described in the Statement as not misleading charts and tables which portray investment results on a total return basis. Two of the charts added to the Statement by the amendment are revisions of charts included in a proposed amendment to the Statement published on November 4, 1974 (Release No. 33–5537 and IC–8571, 39 FR 40789); a third chart and a table were considered independently. In addition, the Commission is requesting comments on whether the use of the new mountain chart, Sample Chart E, should be made mandatory in conjunction with the use of any other chart currently allowed by the Statement, and whether the time period portrayed in any existing Statement chart or table should be limited to the most recent ten years unless specific Commission approval to use a longer time period is obtained.

In addition to expanding the number of presentations described in the Statement, the Commission announced that the staff of the Division of Investment Management would respond to interpretive requests relating to the use in investment company sales literature of presentations not discussed in the Statement of Policy.

REVISION AND ADOPTION OF PORTRAYALS PREVIOUSLY PROPOSED

In contrast to the proposed amendment, the amendment to the Statement contained herein applies only to mutual funds and not to variable annuities. In addition, this amendment adds three new formats for displaying investment results on a total return basis, one of which must be used whenever any of the total return charts herein adopted is used, and establishes a procedure that is designed to introduce flexibility to and adaptability of the content of the Statement.

The Statement sets forth the respects in which the Commission considers that literature used in connection with the sale of investment company shares may be misleading and violate the standards of the securities laws which, generally speaking, provide that it shall be unlawful to offer or sell securities by means of any untrue statement or omission of a material fact or by any fraudulent or deceitful practice or device. Initially pub-

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lished in 1950, the Statement was last amended in 1975.

The current Statement does not permit, in using the mountain chart illustrated therein, the display of investment results on a total return basis or the measurement of these results in terms of a compound rate of total return. Neither has the use of semi-logarithmic charts nor the display of investment results on a fund-price-high to fund-price-low basis been approved. Furthermore, the Statement does not provide for the presentation of investment results in summary form during successive periods of less than ten years.

Reasons for the Amendment to the Statement

An investor considering the purchase of mutual fund shares might benefit from the inclusion in sales literature of standardized charts of past investment results in a semi-log format, based on the total return earned (net investment income plus capital appreciation) and displayed on an annual fund-price-high to fund-price-low basis. An investor may also benefit from studying the changes in total value of an investment from period to period as shown in a mileage chart or in successive period tables. These innovations, and others contained in the new charts and tables, could help investors better to understand and evaluate past returns, risks and costs of mutual funds, and thus provide an efficient means of conveying information about the principal service investment companies provide to the investing public.

The Charts as Originally Proposed

Under the amendment as originally proposed, the investment results of mutual funds could have been portrayed on Sample Charts E and F. Chart E, a mountain chart in semi-log format, had both a cumulative growth scale and an actual investments results scale. The cumulative growth scale was based on continuously compounded rates of return. Investment results were plotted on a yearly market-high to market-low basis using the Standard and Poor's Composite 500 Stock Index (S&P 500) as the market index. The S&P 500, on a total return basis, was also plotted on Chart E in order to give investors some indication of variations in the value of the investment in comparison to the market index. Fund investment results, both before and after fund expenses, were displayed in terms of capital appreciation and investment income. The base line of the chart was drawn at the net amount invested (gross investment minus sales load). The year-by-year summary of results tabulated at the base of Chart E was in terms of continuously compounded rates of return. Chart E portrayed the ten most recent years of a fund's existence or its life if less than ten years.

Chart F portrayed in a bar chart format the year-by-year total returns for the fund and the S&P 500, side-by-side, over the most recent ten-year period along with the ten-year average compound rate of return for the fund. The chart also indicated by means of percentages the relative effects of capital appreciation and net investment income on returns as well as the effects of fund expenses and sales charges on the ten-year average return. Also included at the base of Chart F was a year-by-year listing of the average assets of the fund. The use of both Charts E and F would have been required whenever fund performance on a total return basis was portrayed.

Charts E and F As Adopted

Charts E and F as adopted are based upon the total return concept and show compound rates of return. However, several changes have been made in the format and content of the charts.

Chart E

Sample Chart E, set forth and described further in the Appendix, presents a continuous record of the results of an investment in a mutual fund on a total return basis. It continues the use of the semi-log format in order to allow accurate visual comparison and interpretation of results. It graphically illustrates investment results only in terms of changes in the dollar value of a sample investment. The cumulative growth scale has been deleted. Rather than requiring comparison of fund performance to that of the S&P 500, the chart makes optional comparison of fund performance to that of an appropriate index on a total return basis. Because the use of an index is optional, the presentation of fund results on a yearly fund-price-high to fund-price-low basis was substituted for the market-high to market-low basis. Fund results continue to be displayed in terms of capital appreciation and investment income so as to call attention to the variations in each component and the relative effect of each on the total return. The line representing fund total returns before fund expenses has been eliminated in order to simplify the chart. The primary base line (horizontal axis) of the chart has been redrawn at the $10,000 level, the amount of the original investment, rather than at the $9,150 level, the amount of the net investment, in order to give more emphasis to the effect of the sales charge on the total return. The use of a uniform period—the most recent ten years or the life of the fund if shorter—and uniform dimensions is continued so as to promote comparison of results among different funds and to minimize the possibility of distortion. Fund performance is shown in a tabular format at the base of Chart E in terms of both dollars and percentages. The percentages represent annual rates of return except for the 10 year averages which represent average, annually compounded rates of return.

Chart E may be presented alone and must be presented whenever any other chart portraying fund performance on a total return basis is presented.

In summary, Chart E is designed to permit investors to make meaningful visual interpretations of the past performance and current cost of an investment in a fund and to facilitate the comparison of such results from fund to fund.

Chart F

Sample Chart F, set forth and described further in the Appendix, portrays the same investment results as are portrayed in Chart E utilizing a bar graph of year-by-year total returns for the fund and an appropriate index, side by side, over the most recent ten-year period along with the ten-year average annual compound rate of return for the fund. The chart is drawn on a semilog scale in order that equal dollar changes, both plus and minus, in the value of the investment are represented by bars of equal length. The use of an appropriate index on a total return basis is optional. This change was made because the S&P 500 may not be a suitable basis of comparison for all funds. Average annual compound rates of return have been substituted for continuously compounded rates of return. The chart continues to show the relative effects of capital appreciation and net investment income on returns as well as the effects of expenses and sales charges on the annual and ten-year average returns. A line showing the percentage of annual fund expenses applicable to the $10,000 investment has been added. This line of percentages replaces the portrayal of fund expenses on Chart E. The line representing average annual assets of the fund has been eliminated.

Presentation of annual variations in the fund's return should assist investors in distinguishing the average rate of return for a mutual fund which varies from year to year from the rather constant return available from a savings account or a fixed-income security. Contrasting the annual variations with the ten-year average rate should emphasize the potential differences in the annual returns with the average return over a longer period of time. Breaking the return into its component parts allows investors to distinguish between results obtained from income and capital appreciation and allows them to make their own evaluation of the variability of each source. The chart also more clearly illustrates the impact of costs and expenses on the total return. Comparing the annual returns with the index, if used, would also give some indication of how fund returns are related to market fluctuations.

Sample Chart F must be accompanied, in the same piece of sales literature, by Sample Chart E.

Additional New Charts and Tables

In addition to Sample Charts E and F dis ussed above, the Commission has amended the Statement to include Sample Chart G, a "mileage" chart and variants thereof. While Chart G has not been exposed for public comment, it is based on the same total return concept as used in Sample Charts E and F and expands the alternatives available to investment companies for portraying their investment results on a total return basis.

Mileage Chart

Sample Chart G (set forth and described further in the Appendix) is called a "mileage" chart because it has the format of the familiar mileage chart on a road map; it portrays the results of a $10,000 investment on a total return basis (reinvestment of dividends and distributions) for any investment period or successive periods (in years) for a maximum of the most recent ten years or the life of the fund if shorter. From this chart, an investor can determine the value of a $10,000 investment at the end of any number of years within a ten-year period by looking at the appropriate column or row. For example, the investor could ascertain investment results for each three-year period, each five-year period or each seven-year period during the last ten years. The figure at the bottom of each column represents the value of a $10,000 investment at the end of the most recent year for each of ten possible different periods of time beginning with the year listed at the top of the column. The mileage chart must be accompanied in the same piece of literature by Sample Chart E and Sample Table 5 which is described below.

Successive Period Table(s)

Sample Chart G described above shows the investment results for every successive period for a maximum of the previous ten years. So, for example, from Chart G it is possible to determine the value of a $10,000 investment at the end of each five-year period for six successive periods and at the end of each eight-year period for three successive periods. As an alternative to showing an investment company's results for every possible successive period during the most recent ten years, a fund may select certain successive periods such as every five years or every eight years and show in an appropriate tabular format the results of a $10,000 investment for only the selected successive periods. If only selected successive periods are illustrated, every period within the successive period(s) selected must be shown on the table.

The length of the successive periods used could be any number of whole year periods from one year to ten years and any number of different successive period tables can be used. The successive period tables must be accompanied in the same piece of sales literature by Sample Table 5 which is described below.

Table To Accompany the Mileage Chart and Successive Period Tables

In order to make the use of mileage charts and successive period tables not misleading and also to provide persons using such charts and tables with detailed data on the components of total return, a table similar to Sample Table 5 (set forth and described further in the Appendix) must accompany, in the same piece of sales literature, the mileage chart and successive period tables.

Sample Table 5 portrays for the entire period covered, on either the mileage chart or successive period table(s), the components of the investment value at the end of each year. The components identified are (1) the initial $10,000 investment, (2) capital gains distributions reinvested, and (3) dividends reinvested. The total value of these components at each year end should equal the total value of the investment at that time. Knowing the year-by-year details should give investors a better understanding of how the three components change from year to year both relatively and in total. Furthermore, by comparing the value of the three components for the most recent year to the line on the table entitled "Cost plus actual amounts available for distributions and dividends," an investor can determine how much the initial investment, capital gain distributions and dividends have increased or decreased through investment or reinvestment in the fund.

Even though in Sample Table 5 dividends reinvested each year are not shown as being added to the initial cost of the investment, the total amount of dividends as well as the total amount of capital gains distributions that could have been received in cash are shown in the last row of the table. Both the reinvested distributions and dividends are then added to the initial cost of the investment to obtain a total "amount invested" figure against which the total value of the shares can be compared. Thus, Table 5 shows in total, for both distributions and dividends, what current Statement tables show on a yearly basis.

Sample Table 5 can be presented independently of any other chart or table. Sample Table 5 can portray at a maximum the most recent ten years of life of the fund if shorter.

Location of Sample Charts and Tables in Prospectuses

In addition to their use in sales literature, one or more of Sample Charts E, F, or G, the successive period tables, and sample Table 5 may also be used in prospectuses. If the charts and/or tables are used in prospectuses, they may be located anywhere in the prospectus but in such a way so as not to obscure or detract from other portions of the prospectus.

Procedure for Interpretive Letters

While the Statement carefully conditions the use of the various charts and tables illustrated therein, it does not proscribe the use of alternate presentations not discussed in the Statement, but states that "Persons using other charts and tables must assume responsibility that they are not materially false or misleading." Nevertheless, the use of charts and tables has been, as a practical matter, almost completely restricted to those illustrated in the Statement. We believe that this restriction prevails because of the policy of the Commission staff in the past not to issue opinions that presentations not specifically included in the Statement were not misleading and the reluctance of the industry to use novel presentations without some indication from the Commission or its staff that the presentation was considered not misleading. Such a situation can easily result in the failure of investment companies to develop and use to their legitimate advantages new, and possibly better, charts and tables which are not misleading.

In order to assist the industry in its effort to develop and use nonmisleading novel presentations, the Division of Investment Management will respond to requests for interpretive positions relating to presentations of investment company results not discussed in the Statement. While this procedure is being established in order to make nonmisleading presentations available for use more quickly than would be the case if an amendment to the Statement were required for each new chart or table, such submissions will be given full consideration by the staff and it is expected that the NASD will be consulted. It is anticipated that any such new presentations may be subject to conditions, one of which may be the inclusion of Chart E in order to maintain comparability among investment companies. Moreover, the Division anticipates that, because the Statement extensively describes the presentations included therein and the conditions under which they may be used, favorable responses will not ordinarily be given in the case of modifications of the charts and tables included in the Statement. All letters requesting an interpretive position pursuant to this procedure should include a statement by the sender that he does not object to the request and the reply thereto being made public immediately upon the issuance of the reply.

Appended to this Release is the text of the amendment to the Statement and the Sample Charts and Tables the use of which is permissible under the amendment.

Request for Comments on Proposed Changes to the Requirements for Charts and Tables Currently Authorized by the Statement

In connection with its consideration of the total return charts and tables being adopted by this Release, the Commission considered the length of the time period that should be portrayed in these charts and tables. Among the points considered by the Commission as warranting a ten-year limitation were the following:

1. The average individual investor does not appear to retain his investment in a fund for more than ten years,[1] and

2. The economic environment, events, and fund management that existed more than ten years ago may not be similar to the current circumstances of the fund.

On the basis of these considerations, the Commission determined that the total return charts and tables should be limited to a maximum of the most re-

[1] While it is difficult to compute a precise figure for the length of time the average individual investor remains invested in a fund, the staff estimates that the average person retains his investment in a mutual fund for approximately ten years.

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cent ten years or life of the fund if shorter.

The Commission is also considering, for the same reasons, limiting the maximum time period that could be portrayed on charts and tables currently approved by the Statement to ten years or the life of the fund if shorter.[2]

The Commission recognizes, however, that an argument could be made that charts and tables showing periods in excess of ten years may not be misleading in all situations. For example, the sales effort of a mutual fund might be directed toward pension funds or other institutions whose investment horizon may reasonably be assumed to be in excess of ten years. For these exceptional situations, two approaches are possible. On the one hand, standards might be developed approving the use of periods greater than ten years in specified circumstances. On the other hand, the Commission could consider whether specific charts and/or tables that exceed the ten-year limitation are misleading on an individual request basis. Under either approach, the circumstances which would make a chart or table portraying a period in excess of ten years not misleading would have to be such as to make inapplicable the two basic reasons on which the Commission based its general ten-year limitation.

The Commission in its consideration of the total return charts decided that Sample Chart E, the mountain chart, should accompany, in the same piece of sales literature, Sample Charts F and G in order to obtain a greater degree of uniformity and comparability among funds in their presentations of performance on a total return basis and in order to make Charts F and G not misleading. The Commission is also considering whether Sample Chart E should accompany, in the same piece of sales literature, any of the charts currently approved by the Statement in order to make such charts not misleading and both to achieve greater comparability among funds and to show performance on a total return basis whenever any performance chart is used.

Interested persons are requested to submit their views and comments on the proposals to:

(1) Limit the time period portrayed in existing Statement charts and tables to a maximum of the most recent ten years,

(2) Find that certain charts and tables which exceed the ten-year limit are not misleading, and

(3) Require the use of Sample Chart E in conjunction with the use of any other performance chart approved by the Statement.

In order to provide further guidance for the inclusion of 1977 fund operating results in charts and tables which may be used in 1978 sales literature and prospectuses, the Commission intends to publish its definitive views on these three proposals before the end of the current calendar year. Accordingly, the Commission does not contemplate any extension of the comment period.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 1, 1977.

AMENDMENT TO THE STATEMENT OF POLICY

It will be considered materially misleading hereafter for sales literature—

(a) To represent or imply a percentage return in the shares of an investment company except in accordance with paragraph (t) or unless based upon—

. . . . . .

(b) (1) To combine into any one amount distributions from net investment income and distributions from any other source except in a manner consistent with Sample Charts E, F, and G, successive period tables and Sample Table 5.

. . . . . .

(i) . . .

(1) . . .

(i) The text, graphic detail and arrangement of any such chart or table should be substantially as shown on Sample Charts A, B, C, D, E, F, G and Sample Table 5 in the Appendix, whichever is applicable.

. . . . . .

(j) (3) Approved charts and tables patterned after Charts A, B, C, and D and Tables 1, 2, 3, and 4 should conform with the following:

. . . . . .

(j) (4) Approved charts patterned after Charts E and F should conform with the following:

(i) If the life of the fund is less than 10 years, the maximum number of complete calendar years available should be used and the average compound return over the period covered should be used instead of the ten-year average compound return.

(ii) The visual presentation on Chart E may be extended to cover a portion of the current calendar year by means of an overlay which would cover the figures for the investment results which appear on the right hand side of these charts. The extensions should be plotted as straight lines starting with the values at the end of the last complete calendar year and ending with the most recent values.

(iii) The dates of the intermediate fund highs and lows during the year needed in constructing Chart E should be determined in reference to the net asset value per share of the subject fund.

(iv) The results of an investment of other than $10,000 may be portrayed on charts similar to Charts E and F: *Provided*, That they are accompanied by Chart(s) E and F portraying a $10,000 investment.

(v) If the sales charge for a fund has changed, the most recent charge, if any, applicable to an investment of $10,000 and the reinvestment of dividends should be portrayed on Charts E and F for the entire period covered.

(vi) The investment results portrayed can be based on either a calendar or fiscal year so long as the calendar or fiscal year base is used consistently.

(vii) Distributions of both net investment income and capital gains that are to be reinvested in fund shares should be assumed to be reinvested at the net asset value per share on the dates such distributions took place. Any sales charge levied on reinvested net investment income should be considered in computing the number of shares purchased.

(viii) The results of a single investment of $10,000 in a mutual fund may be portrayed on a chart substantially similar to Chart E which contains the following information:

A. The growth of the investment in dollars on a total return basis showing both the growth due to net investment income (after fund expenses) and the growth due to capital appreciation, plotted on a semi-logarithmic scale on an annual fund-price-high to fund-price-low basis over the most recent ten calendar years;

B. The chart should clearly differentiate by means of separate markings the cumulative effects of capital appreciation, net investment income and capital appreciation and income needed to recover the initial sales charge.

C. An appropriate index may be plotted using the fund-price-high and fund-price-low dates as the intermediate plotted points during each year. The index chosen should be appropriate considering the fund's investment policies and objectives. Examples of indexes that may be appropriate include the S&P 500, New York Stock Exchange or American Stock Exchange Index, NASDAQ Index or an index of mutual fund performance. The Dow Jones Industrial Average will not be considered an appropriate index except in those cases where the fund's portfolio is primarily invested in very large New York Stock Exchange listed equities. The figures for any index used should reflect the total return (both dividends and appreciation) on the index in order to be comparable to the total return figures of the fund. If an index is used, an appropriate second vertical scale should be added to Chart E or, alternatively, the index should be converted into dollar amounts.

D. A year-by-year tabular summary of results in dollars disclosing end of year value of the investment and income during the year assuming income was taken in cash and end of year value of the investment assuming income is reinvested.

E. A year-by-year tabular summary of results in percentages disclosing:

(a) The year-by-year total return and a ten-year average, annually compounded total return after expense deductions expressed as the sum of the returns due to net investment income before deduction of any sales charges on reinvested dividends and capital appreciation before deduction of any initial sales charge and any withdrawal charge;

(b) The effect of any initial sales charge on the first year's total return;

(c) The effect on a year's total return of any sales charge on reinvested dividends during the year;

(d) The effect of any withdrawal charge on the tenth year's total return; and

(e) The effect of any sales and/or withdrawal charges on the ten-year average total return.

(f) The annual total return and the ten-year average total return after deduction of all sales charges.

(g) The Fund expenses applicable to the investment expressed as a percentage.

(ix) The annual and the ten-year average annual rate of total return on a single investment of $10,000 in a mutual fund may be portrayed on a semi-logarithmic chart substantially similar to Chart F which contains the following information:

A. A bar graph presentation of the total returns after sales charges and expense deductions for each year over the most recent ten calendar years, side-by-side with the value on a total return basis, of an appropriate index. The use of a comparative index is optional. If an index is used, it should comply with the guidelines enumerated in paragraph (viii)C of this section. If indices are used in both Sample Charts E and F, the same index must be used on both charts.

B. A bar graph presentation of the ten year average annually compounded total return expressed as the sum of the average compound return due to capital appreciation and the average compound return due to investment income, indicating the effects of fund expenses and any sales charges on the initial investment and reinvested dividends (and any withdrawal charge) on the ten-year average compound return and highlighting the return after expenses and after the sales (and/or withdrawal) charges.

C. The year-by-year tabular summary of results in percentages at the base of the chart should be constructed in accordance with the instructions contained in paragraph (j) (3) (viii) E(a)–(g).

(x) If Sample Chart E is used, it should be accompanied in the same piece of literature by Sample Chart E.

(xi) For purposes of constructing Sample Charts E and F, the following definitions apply:

A. Dates of the fund-price-high and fund-price-low during a year are, respectively, the days on which the per share net asset value of the fund was at its high and at its low during a year.

B. Actual Investment Results Plotted on a fund-price-high to fund-price-low basis means that the values of the investment at year ends and at the dates of fund-price-highs and lows should be plotted on the chart and these values connected by straight lines.

C. Actual Investment Results Scale is a logarithmic scale which is used to measure changes in the dollar value of the sample investment on Chart E. The Actual Investment Results Scale can be constructed using natural logarithms. Alternatively, the logarithmic scale on single cycle, semi-log graph paper may be used to construct the Actual Investment Results Scale.

(a) A radial line representing a 10 percent annually compounded rate of return and plotted from the $10 000 point on the Actual Investment Results Scale shall not have more than a 25 degree angle with the horizontal axis ($10,000 level) of the chart.

D. The Percentage Change Scale on Chart F is a logarithmic scale which is used to measure the annual percentage change in the value of the sample investment. The Percentage Change Scale can be constructed using natural logarithms. Alternatively, the logarithmic scale on single cycle, semi-log graph paper may be used to construct the Percentage Change Scale.

E. The annual percentage changes on Sample Chart E and, if used, Chart F, should be calculated in the following manner:

(a) The net income return (after fund expenses) is the percentage calculated by dividing the gross cash dividends (before deducting any sales charge on reinvested dividends) declared on the shares held in the sample investment during a year by the total value of the investment at the beginning of the year. For the year in which the initial investment is made, the value at the beginning of the year is the total amount invested ($10,000).

(b) The appreciation return is the percentage calculated by dividing the total change in the value of the investment during a year minus the actual amount of dividends reinvested (gross dividends minus any sales charge) during the year by the total value of the investment at the beginning of the year. For the year in which the initial investment is made, the value at the beginning of the year is the total amount invested ($10,000).

(c) The total return before sales charges is the sum of the net income return and the appreciation return for the year.

(d) The sales charge on the initial investment is the percentage computed by dividing the dollar amount of the sales charge by the total amount invested.

(e) The sales charge on reinvested dividends is the percentage computed by dividing the dollar amount of sales charges on dividends reinvested during the year by the value of the investment at the beginning of the year. For the year in which the initial investment is made, the value at the beginning of the year is the total amount invested ($10,000). These percentages would be shown only by those funds that have a sales charge on reinvested dividends.

(f) The total return after sales charges is the summation of items "a" through "e" above. The total return can also be computed by dividing the difference between the value of the investment at the beginning and end of each year by the value of the investment at the beginning of the year.

For the year in which the initial investment is made, the value at the beginning of the year is the total amount invested ($10,000).

(g) The fund expense percentage is calculated by dividing the total fund expenses applicable to the shares held in the sample investment during the year by the value of the investment at the beginning of the year. For the year in which the initial investment is made, the value at the beginning of the year is the total amount invested ($10,000).

F. The 10 year average compound return on Sample Chart E, and if used, Chart F represents annually compounded returns and the computations should be done in such a way that the components of the average return when added together equal the ten year average compound return after sales charges. Both the average compound income return and the average compound appreciation return should be computed using the full $10,000 invested and not the net amount invested.

(i) (5) Approved charts patterned after Sample Chart G, total return successive period tables, and tables patterned after Sample Table 5 should conform with the following:

(i) The investment results portrayed may be based on either a calendar or fiscal year so long as the calendar or fiscal year base is used consistently.

(ii) Distributions of both net investment income and capital gains that are to be reinvested in fund shares should be assumed to be reinvested at the net asset value per share on the date such distributions took place. If a sales charge is levied on reinvested net investment income, such charge should be considered in computing the number of new shares purchased.

(iii) If the sales charge for a fund has changed, the most recent charge, if any, applicable to an investment of $10,000 and the reinvestment of dividends should be used.

(iv) The value at the end of each year of a single investment of $10,000 in a mutual fund on a total return basis may be portrayed on a chart substantially similar to Sample Chart G which contains the following information:

A. The period shown is a maximum of the most recent ten years or the life of the fund if shorter.

B. A column for each year during the period covered showing the total value of the $10,000 investment at the end of the year in which the investment was assumed to have been made and at the end of every successive year thereafter up to the end of the most current year.

C. A row for each of the periods included in the chart with the rows constructed in such a way that the dollar amount shown at the intersection of each row and column would represent te value of $10,000 invested at the beginning of the year listed at the top of the column and invested for the number of years indicated by the number of the row.

D. Appropriate explanations of the rows and columns and how the rows and columns are to be used in interpreting the chart.

(v) Where a chart patterned after Sample Chart G is used, the chart should be accompanied in the same piece of literature by Sample Chart E and a table substantially similar to Sample Table 5 described in subparagraph (v) of this subsection.

(vi) As an alternative to using Sample Chart G which shows investment results for every possible successive period during a maximum of the most recent ten years, a table or tables may be presented which show total investment results for only selected successive periods. Such successive periods may be any period such as every five-year period or every eight-year period during the most recent ten years or life of the fund if shorter. Any whole number of years from one to ten may be used as the length of the successive periods. All successive period total return charts should conform to the following requirements.

A. Every successive period of the length of the successive periods selected during the number of years included in the table should be shown in the table. Thus, for example, if five-year successive periods are selected, every five-year period within the period covered by the table should be shown.

B. The table(s) should have a column for the successive periods included showing both the beginning and ending year of each successive period.

C. The table(s) should have a column showing the total value of the investment at the end of each successive period listed.

D. The table(s) should be accompanied in the same piece of literature by a table substantially similar to Sample Table 5 described in the following subparagraph.

(vii) A table substantially similar to Sample Table 5, and covering the same number of years as are shown on Chart G and/or total return successive period tables should accompany Sample Chart G and total return successive period tables. Table 5 may be presented independently of any other chart or table. Table 5 should contain the following information:

A. Columns showing the value of a single $10,000 investment at the end of each year by component and the total value of the investment at the end of each year.

B. The numbers in the "Total Value of Shares" column should be the same as those shown in the first left hand total value column of the Sample Chart G (if used).

C. The last row of the table entitled "Cost plus actual amounts available for distributions and dividends" should show, respectively, the initial amount of the investment, the total amount of capital gains distributions that could have been received in cash during the total period illustrated, the total amount of income dividends that could have been received in cash during the total period illustrated, and the total of the three columns.

D. If a sales charge is levied on reinvested dividends, a note to the table should state the total amount of dividends actually reinvested after deduction of the sales charge.

E. If the table is used alone, it should cover the most recent ten years of the life of the fund if shorter.

. . . . . .

(t) To represent or imply in sales literature a compound rate of total return on an investment in a mutual fund unless such representation is accompanied by charts substantially similar to Sample Charts, E, F, G, successive period tables or Sample Table 5.

[2] Currently, charts and tables approved by the Statement can portray periods of time up to the life of the fund.

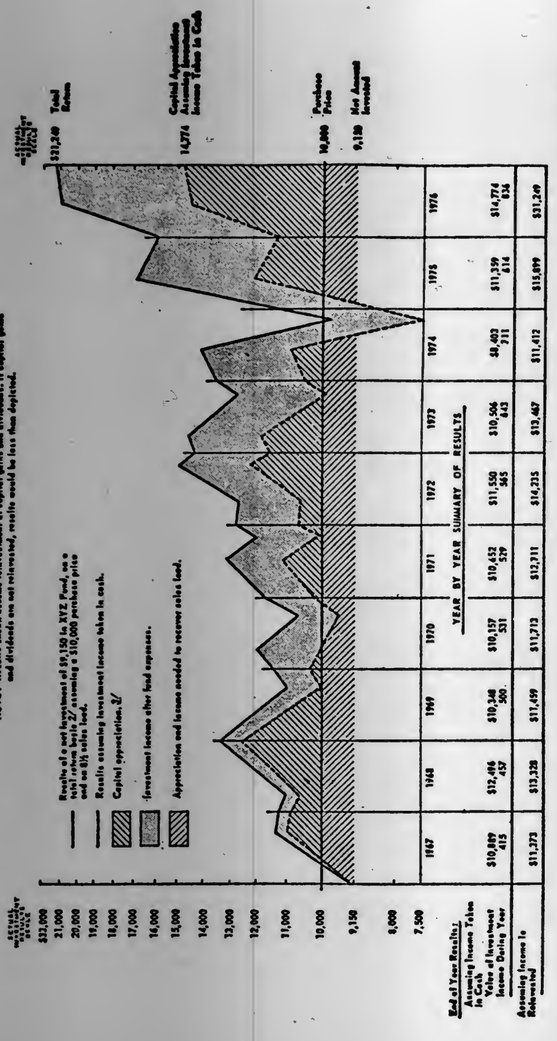
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SAMPLE CHART E

RESULTS OF A $10,000 INVESTMENT IN XYZ FUND

With Dividends and Capital Gains Distribution Reinvested, before Taxes 1/

NOTE: Results shown assume reinvestment of capital gains and dividends. If capital gains and dividends are not reinvested, results would be less than depicted.



	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	10 YR. AVERAGE
End of Year Results:											
Assuming Income Taken in Cash	$10,889	$12,496	$10,348	$10,157	$10,652	$10,506	$8,402	$11,339	$15,899	$31,240	
Value of Investment Income During Year	415	457	500	531	529	443	311	614	826		
Assuming Income is Reinvested	$11,273	$13,228	$11,459	$11,713	$12,711	$12,487	$11,412	$15,899	$31,240		
PERCENTAGES											
Income Return	3.8%	3.8%	3.5%	4.3%	4.2%	4.2%	4.2%	4.9%	5.0%	4.9%	4.4%
Appreciation	17.4	14.5	(17.5)	(2.1)	4.3	7.9	(9.6)	34.3	28.8		4.7
Total Return Before Sales Charge	21.2%	18.3%	(14.0%)	2.2%	8.5%	12.0%	(5.4%)	39.2%	33.7%		9.1%
Sales Charge on Initial Investment	(8.5)										(.9)
Total Return After Sales Charge	12.7%										8.2%
Fund Expenses	.3%		.3%	.3%	.4%	.3%	.4%	.4%	.4%	.4%	.5%

1/ Results shown do not take into account personal income and capital gains taxes.

2/ Total return refers to the results available when dividends and capital gains distributions are reinvested.

3/ Capital appreciation includes reinvested capital gains distributions and appreciation/depreciation on reinvested income dividends.

SAMPLE CHART F

ILLUSTRATION OF TEN YEAR AVERAGE 8.2% TOTAL RETURN FOR XYZ FUND 1/2/

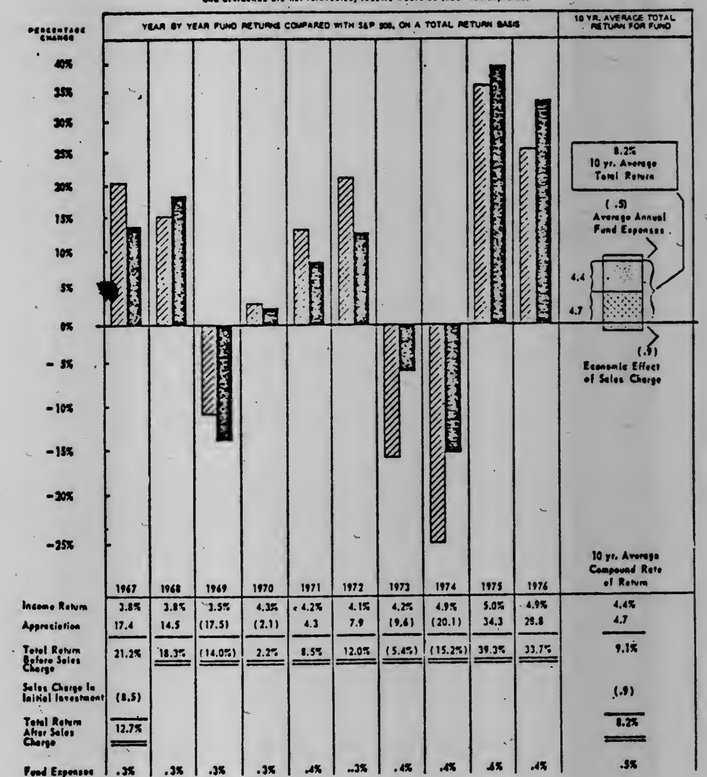
Ten Year Average Return Due to Capital Appreciation 3/

Ten Year Average Return Due to Fund Investment Income Before Expenses

Annual Total Fund Returns

Annual Changes in S&P 500

NOTE: Results shown assume reinvestment of capital gains and dividends. If capital gains and dividends are not reinvested, results would be less than depicted.



	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	10 yr. Average Compound Rate of Return
Income Return	3.8%	3.8%	3.5%	4.3%	4.2%	4.1%	4.2%	4.9%	5.0%	4.9%	4.4%
Appreciation	17.4	14.5	(17.5)	(2.1)	4.3	7.9	(9.6)	(20.1)	34.3	28.8	4.7
Total Return Before Sales Charge	21.2%	18.3%	(14.0%)	2.2%	8.5%	12.0%	(5.4%)	(15.2%)	39.3%	33.7%	9.1%
Sales Charge in Initial Investment	(8.5)										(.9)
Total Return After Sales Charge	12.7%										8.2%
Fund Expenses	.3%	.3%	.3%	.3%	.4%	.3%	.4%	.4%	.4%	.4%	.5%

1/ Results shown do not take into account personal income and capital gains taxes.

2/ Total return refers to the results available when dividends and capital gains distributions are reinvested.

3/ Capital appreciation includes reinvested capital gains distributions and appreciation/depreciation on reinvested income dividends.

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SAMPLE CHART G

Chart showing the Results of a Single Investment of $10,000 in the XYZ Fund on a Total Return Basis over any Investment Period during the Last Ten Years

NOTE: Results shown assume reivestment of capital gains and dividends. If capital gains and dividends are not reinvested, results would be less than depicted.

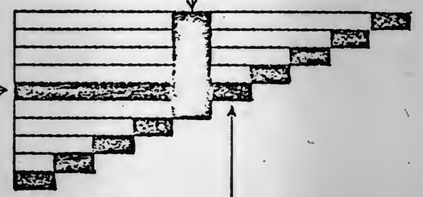
Initial $10,000 investment made January 1, this year. Results reflect reinvestment of dividends and capital gains in additional shares

Investment period	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976
1	$11,273	$10,976	$ 7,908	$ 9,501	$10,076	$10,396	$ 8,736	$ 7,801	$12,929	$12,450
2	13,328	9,351	8,103	10,306	11,290	9,795	7,346	10,851	17,357	
3	11,459	9,581	8,790	11,549	10,637	8,233	10,220	14,569		
4	11,713	10,395	9,850	10,881	8,946	11,459	13,720			
5	12,711	11,647	9,281	9,152	12,445	15,386				
6	14,235	10,974	7,805	12,731	16,708					
7	13,467	9,229	10,857	17,092						
8	11,412	12,839	14,578							
9	15,899	17,237								
10	21,249									

Investment period tells you the number of years your money remained invested

These vertical columns show how a $10,000 investment changed from year to year. Select any January during the last 10 years as the starting point of your hypothetical investment, then look down the column of figures to see how the value of your investment would have changed over the years.

Look along any horizontal row of figures to find the value of a $10,000 investment at the end of any specific period



The figures at the bottom of each column show the value of a $10,000 investment on December 31, 1976 at the end of ten different periods. These periods range in length from 10 years (the vertical column on the left) to 1 year (the vertical column on the right.)

SAMPLE TABLE 5

ILLUSTRATION OF AN ASSUMED INVESTMENT OF $10,000 with Dividends Reinvested and Capital Gains Distributions Accepted in Shares

The table below covers the period from January 1, 1967 to December 31, 1976. This period was one in which common stock prices fluctuated severely and were generally at the same level at the end of the period as they were at the beginning. The results shown should not be considered as a representation of the dividend income or capital gain or loss which may be realized from an investment made in the fund today.

	Value of Shares by Component			
Year ended December 31	Value of $10,000 Investment	Value of Capital gains Distributions	Value of Reinvested Dividends	Total Value of Shares
1967	$10,104	$ 785	$ 384	$11,273
1968	10,725	1,771	832	13,328
1969	8,360	1,988	1,111	11,459
1970	8,012	2,145	1,556	11,713
1971	8,082	2,570	2,059	12,711
1972	8,488	3,062	2,685	14,235
1973	7,479	3,027	2,961	13,467
1974	5,937	2,466	3,009	11,412
1975	7,838	3,521	4,540	15,899
1976	9,844	4,930	6,475	21,249
Cost plus actual amounts available for distributions and dividends	$10,000	$ 4,473	$ 5,801	$20,274

Dividends reinvested are subject to sales commissions of 7 1/4% as described in the prospectus and such commissions were deducted from the dividends paid each year in computing the dollar amount of dividends reinvested. The cumulative amount of dividends reinvested during the period 1967 - 1976 was $5,367.

No adjustment has been made for any income taxes payable by shareholders on capital gains distributions and dividends invested in shares.

[FR Doc.77-26326 Filed 9-8-77;8:45 am]

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Title 20—Employees' Benefits

CHAPTER VI—EMPLOYMENT STANDARDS ADMINISTRATION, DEPARTMENT OF LABOR

SUBCHAPTER A—LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AND RELATED STATUTES

PART 702—ADMINISTRATION AND PROCEDURES

Office of Workers' Compensation Programs; Longshoremen's and Harbor Workers' Compensation

AGENCY: Department of Labor.

ACTION: Final rule.

SUMMARY: This rule clarifies and expands the rules applicable to the filing, processing and adjudication of claims filed under the Longshoremen's and Harbor Workers' Compensation Act as amended and extended. It includes procedures for processing discrimination charges and defines the term "physician" and "final payment of compensation." The amendments will enable the Department of Labor to process in a more efficient and timely manner the increasing number of claims filed each year.

DATE: These amendments will be effective October 11, 1977.

FOR FURTHER INFORMATION CONTACT:

John E. Stocker, Associate Director for Longshore and Harbor Workers' Compensation, U.S. Department of Labor, Washington, D.C. 20210. (202–523–8721).

SUPPLEMENTARY INFORMATION: On August 13, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 34294), which proposed to amend certain rules of the Department of Labor governing the administration of the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C. 901 et seq., as amended by Pub L. 92–576, 86 Stat. 1251 (20 CFRP 701 and 702) to clarify and expand the rules applicable to the filing, processing and adjudication of claims. The public was given until September 13, 1976 to make written comments on the proposal. Written comments were received by the Office of Workers' Compensation Programs from 28 parties.

Substantive comments received from all sources have been considered and have resulted in changes being made to several provisions of the regulations. Some of the suggestions were not adopted either because the changes suggested were unwarranted, unnecessary, or went beyond the scope of the rules to be revised. A section by section summary of the substantive comments received and of the action taken in response thereto is set forth below.

1. *Section 702.104.* Under this section a deputy commissioner may transfer an individual case file to another compensation district whenever he determines that such transfer is necessary or appropriate to properly develop the claim. Such action may be taken with the prior or subsequent approval of the Director, OWCP. Under the proposed amendment an employee who moves from one district to another may request that his file be transferred to the second compensation district. Several persons suggested that the employer should also have the right to request that the file be transferred and further that such action should be taken only where it would not be unduly burdensome to all of the parties. The final regulation has been revised to grant the employer as well as the claimant the right to request a transfer, while reserving to the deputy commissioner, with the Director's approval, the ultimate decision making authority. The provision in the proposal which requires that the letter contemplated by § 702.104(b) be sent to all interested parties is adopted.

2. *Section 702.162.* Two comments were received concerning this section. The first suggested that a specified period should be established within which the claimant may dispute the right of a trust fund to the lien provided for in section 17(b) of the Longshoremen's Act or to the amount stated in the application for a lien. This suggestion has merit and the regulation has been revised to indicate that such opposition should be filed within 30 days after the claimant received a copy of the application or such other longer period as the deputy commissioner may set.

The second commentator urges that once a lien satisfies the "threshold" criteria of section 17(b) it shall be authorized either by the deputy commissioner at the informal level or by the administrative law judge at the formal hearing level, thus eliminating any exercise of discretion by the deputy commissioner or administrative law judge in authorizing a lien. Without gainsaying the merit or rationale for, in effect, substituting "shall" for "may" in the proposed regulation, the fact is that the regulation simply tracks "may" from section 17(b) itself, and it would be neither appropriate nor proper to vary the statutory language by implementing regulation. With regard to the contention that Congress intended the lien authorization to be mandatory upon satisfaction of the criteria in section 17(b), we consider that the language of that section is clear that although the basic criteria are satisfied the authorization of the lien is still a matter for the Secretary's discretion, as exercised by the deputy commissioner or administrative law judge.

3. *Section 702.212.* Under the proposed revision to § 702.212(c) a claim would be "any writing evidencing a claimant's intent to claim compensation and benefits provided by" the Act. The comments received objected to this amendment because it was neither specific nor clear as to what might actually constitute a claim for purposes of section 13 of the Longshoremen's Act. After reviewing such comments it has been decided that the provision in question should not be amended at this time.

The proposed new § 702.212(b) has been adopted as proposed.

4. *Section 702.235.* This section is being revised in accordance with the comments received to clarify what constitutes a final payment of compensation within the meaning of section 14(g) of the Longshoremen's Act by adding a new subparagraph (5) which reads—

(5) Any other payment of compensation which anticipates no further payments under the Act.

Another suggestion that the regulation specify that the required reports must be filed within 16 working days must be rejected as inconsistent with the statute. It was also suggested that the third line of subparagraph (a) be revised to impose the duty to file timely reports on the insurance carrier when the employer is not self-insured. This suggestion has been approved and incorporated into the final regulation.

5. *Sections 702.271–702.274.* These provisions are designed to establish procedures for resolving claims seeking redress from an employer because of an alleged violation of section 49 of the Act. Several persons suggested that if a penalty is to be assessed against an employer in a contested case, such penalty should be assessed by the administrative law judge as part of the final decision resolving the issues relating to the alleged unlawful activity, rather than by the deputy commissioner as proposed in § 702.274. These comments have much merit and thus § 702.273 has been revised to authorize the administrative law judge to assess a penalty where appropriate. Section 702.274 as proposed has been deleted.

Section 702.271(b) has been revised to state that the deputy commissioner shall notify the employer of the filing of a discrimination complaint.

Section 702.272 as proposed has also been clarified to ensure that the employee is entitled to a hearing where the deputy commissioner's informal recommendation is to deny the claim.

6. *Section 702.281.* Although no comments received strongly opposed this section of the regulations, one commentator suggested that information concerning the terms, conditions and amounts of third party settlements, compromises or judgments should be required only where written approval of the settlement or compromise has been given by the employer and insurance carrier. Such a limitation is deemed unnecessary and inconsistent with the basic purposes of the regulation which is designed to assist the employee, employer and/or insurance carrier, and the deputy commissioner in complying with the provisions of section 33 of the Longshoremen's Act.

7. *Section 702.312.* In adopting this section as proposed, we have rejected the suggestion that where a claimant is represented an informal conference may be called only at the request of the representative. Since the primary purpose of the informal conference is to resolve, where possible, contested issues, the suggested limitation would unduly restrict the actions of the deputy commissioner and may result in some unnecessary delays in the processing of claims.

8. *Section 702.315.* This section has been revised to state that upon the request of any party the deputy commissioner shall issue a formal compensation order within 30 days of the request.

9. *Section 702.404.* In the notice of proposed rulemaking (41 FR 34294) it was stated that the definition of "physician" as used in the Act would conform to the use of that term as defined in the Federal Employees' Compensation Act (FECA). Although most comments received concerning this proposal were favorable, several objections were received, particularly with respect to the inclusion of chiropractors. Since Congress amended the FECA to specifically include chiropractors and others within the definition of physician and since the Secretary has always been guided by the terms of the FECA in defining "physician" for Longshoremen's Act purposes, these objections have been rejected. Section 702.404 has been revised to ensure conformity of interpretation under the two statutes.

10. *Section 702.411.* This section dealing with special examinations conducted pursuant to section 7(e) of the Act has been revised to provide that upon request a party shall be given copies of all information, opinions, reports, etc., that were made available to the impartial specialist. Another suggestion which would restrict the use of impartial specialists to those situations where claimant's counsel has requested an impartial examination has been rejected as an unreasonable and unnecessary limitation on the authority of the deputy commissioner.

11. *Section 702.412.* One commentator suggested that the cost of the initial special examination should be borne by the party requesting the examination. This suggestion was rejected as being contrary to the provisions of section 7(e) of the Act. For the same reason another suggestion that the Special Fund established by section 44 of the Act should always pay where more than one special examination is ordered was also rejected.

12. In addition to adopting those proposals published August 13, 1976, §702.410 has also been revised to authorize deputy commissioners to order the suspension of compensation payments where the employee unreasonably refuses to submit to a medical examination by a physician selected by the employer or where an employee refuses to submit to a special examination as required by §§ 702.408 and 702.409. Although this revision was not initially published as a proposal, the requirements of 5 U.S.C. 553 do not apply since it is not in the public interest to permit the continued payment of compensation where the party will not cooperate and there is a potential for fraud.

This document was prepared under the direction and supervision of George M. Lilly, Counsel for Longshore, Suite N-2716, New Department of Labor Building, Washington, D.C. 20210, Telephone No. area code 202–523–7651. Accordingly, 20 CFR Part 702 is amended as follows:

1. Section 702.104 is revised to read as follows:

§ 702.104 Transfer of individual case file.

(a) At any time after a claim is filed, the deputy commissioner having jurisdiction thereof may, with the prior or subsequent approval of the Director, transfer such case to the deputy commissioner in another compensation district for the purpose of making an investigation, ordering medical examinations, or taking such other action as may be necessary or appropriate to further develop the claim. If, after filing a claim, the claimant moves to another compensation district, the deputy commissioner may, upon request by the claimant or the employer and with the approval of the Director, transfer the case to such other compensation district.

(b) The deputy commissioner making the transfer may by letter or memorandum to the deputy commissoner to whom the case is transferred give advice, comments, suggestions, or directions if appropriate to the particular case. The transfer of cases shall be by registered or certified mail. All interested parties shall be advised of the transfer.

2. Section 702.161 is revised to read as follows:

LIENS ON COMPENSATION

§ 702.161 Liens against assets of insurance carriers and employers.

(a) Where a claimant is entitled to compensation under the provisions of this Act, and the carrier or employer shall have suffered insolvency, bankruptcy, or reorganization in bankruptcy proceedings and be unable to pay appropriate compensation, the claimant shall have a lien against the assets of such carrier or employer, or both. Such lien shall be without limit and shall be entitled to preference and priority in the distribution of the assets of such carrier or employer, or both.

(b) Where payments have been made from the special fund pursuant to section 18(b) of the Act and § 704.145(f) the Secretary of Labor shall, for the benefit of the fund, be subrogated to all the rights of the person receiving such payments including the right of lien and priority provided for by section 17(a) of the Act, 33 U.S.C. 917(a). The Secretary may institute proceedings under either section 18 or 21(d) of the Act, 33 U.S.C. 918 or 921(d), or both, to recover the amount expended by the fund or so much as in the judgment of the Secretary is possible, or the Secretary may settle or compromise any such claim.

3. Section 702.162 is revised to read as follows:

§ 702.162 Liens on compensation authorized under special circumstances.

(a) Pursuant to section 17(b) of the Act, 33 U.S.C. 917(b), when a trust fund which complies with section 302(c) of the Labor-Management Relations Act of 1947, 29 U.S.C. 186(c) [LMRA], established pursuant to a collective bargaining agreement in effect between an employer and an employee entitled to compensation under this Act, has paid disability benefits to an employee which the employee is legally obligated to repay by reason of his entitlement to compensation under this Act, a lien may be authorized on such compensation in favor of the trust fund for the amount of such payments.

(b)(1) An application for such a lien shall be filed on behalf of the trust fund with the deputy commissioner for the compensation district where the claim for compensation has been filed, 20 CFR 702.101. Such application shall include a certified statement by an authorized official of the trust fund that:

(i) The trust fund is entitled to a lien in its favor by reason of its payment of disability payments to a claimant-employee (including his name therein);

(ii) The trust fund was created pursuant to a collective bargaining agreement covering the claimant-employee;

(iii) The trust fund complies with section 302(c) of the Labor-Management Relations Act of 1947, 29 U.S.C. 186(c);

(iv) The trust agreement contains a subrogation provision entitling the fund to reimbursement for disability benefits paid to the claimant-employee who is entitled to compensation under the Longshoremen's Act;

(2) The statement shall also state the amount paid to the named claimant-employee and whether such disability benefit payments are continuing to be paid.

(3) If the claimant has signed a statement acknowledging receipt of disability benefits from the trust fund and/or a statement recognizing the trust fund's entitlement to a lien against compensation payments which may be received under the Longshoremen's and Harbor Worker's Compensation Act as a result of his present claim and for which the fund is providing disability payments, such statement[s] shall also be included with or attached to the application.

(c) Upon receipt of this application, the deputy commissioner shall, within a reasonable time, notify the claimant, the employer and/or its compensation insurance carrier that the request for a lien has been filed and each shall be provided with a copy of the application. If the claimant disputes the right of the trust fund to the lien or the amount stated, if any, he shall, within 30 days after receipt of the application or such other longer period as the deputy commissioner may set, notify the deputy commissioner and he shall be given an opportunity to challenge the right of the trust fund to, or the amount of, the asserted lien; notice to either the employer or its compensation insurance carrier shall constitute notice to both of them.

(d) If the claim for compensation benefits is resolved without a formal hearing and if there is no dispute over the amount of the lien or the right of the trust fund to the lien, the deputy commissioner may order and impose the lien

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and he shall notify all parties of the amount of the lien and manner in which it is to be paid.

(e) If the claimant's claim for compensation cannot be resolved informally, the deputy commissioner shall transfer the case to the Office of the Chief Administrative Law Judge for a formal hearing, pursuant to section 19(d) of the Act, 33 U.S.C. 919(d), and 20 CFR 702.-317. The deputy commissioner shall also submit therewith the application for the lien and all documents relating thereto.

(f) If the administrative law judge issues a compensation order in favor of the claimant, he may include therein a lien in favor of the trust fund if it is determined that the trust fund has satisfied all of the requirements of the Act and regulations.

(g) If the claim for compensation is not in dispute, but there is a dispute as to the right of the trust fund to a lien, or the amount of a lien, the deputy commissioner shall transfer the matter together with all documents relating thereto to the Office of the Chief Administrative Law Judge for a formal hearing pursuant to section 19(d) of the Act, 33 U.S.C. 919(d), and 20 CFR 702.317.

(h) In the event that either the deputy commissioner or the administrative law judge is not satisfied that the trust fund qualifies for a lien under section 17(b), he may require further evidence including but not limited to the production of the collective bargaining agreement, trust agreement, or portions thereof.

(i) Before any such lien is finally approved, if the trust fund has provided continued disability payments after the application for a lien has been filed, the trust fund shall submit a further certified statement showing the total amount paid to the claimant as disability payments. The claimant shall likewise be given an opportunity to contest the amount alleged in this subsequent statement.

(j) In approving a lien on compensation, the deputy commissioner or administrative law judge shall not order an initial payment to the trust fund in excess of the amount of the past due compensation. The remaining amount to which the trust fund is entitled may thereafter be deducted from the affected employee's subsequent compensation payments and paid to the trust fund, but any such payment to the trust fund shall not exceed 10 percent of the claimant-employee's bi-weekly compensation payments.

4. Section 702.212(b) is revised to read as follows:

§ 702.212 Claims for compensation; time limitations.

* * * * *

(b) The time limitations set forth, supra, do not apply to claims filed under section 49 of the Act, 33 U.S.C. 948a, see § 702.271.

5. Section 702.235 is revised to read as follows:

§ 702.235 Report by employer of final payment of compensation.

(a) Within 16 days after the final payment of compensation has been made, the employer, the insurance carrier, or where the employer is self-insured, the employer shall notify the deputy commissioner on a form prescribed by the Secretary, stating that such final payment has been made, the total amount of compensation paid, the name and address of the person(s) to whom payments were made, the date of the injury or death and the name of the injured or deceased employee, and the inclusive dates during which compensation was paid.

(b) A "final payment of compensation" for the purpose of applying the penalty provision of § 702.236 shall be deemed any one of the following:

(1) The last payment of compensation made in accordance with a compensation order awarding disability or death benefits, issued by either a deputy commissioner or an administrative law judge;

(2) The payment of an agreed settlement approved under section 8(i) (A) or (B), of the Act, 33 U.S.C. 908(i);

(3) A lump sum payment of future compensation payments commuted under section 14(j) of the Act, 33 U.S.C. 914(j);

(4) The last payment made pursuant to an agreement reached by the parties through informal proceedings;

(5) Any other payment of compensation which anticipates no further payments under the Act.

6. Section 702.271 is revised to read as follows:

§ 702.271 Review of discharge or other acts of discrimination.

(a) Under the provisions of section 49 of the Act, 33 U.S.C. 948a any employer or its duly authorized agent who discharges, or in any other manner discriminates against an employee because he or she has claimed or attempted to claim compensation or has testified or is about to testify in a proceeding under this Act, shall be liable to a penalty of not less than $100 nor more than $1,000.

(b) When a deputy commissioner receives a complaint from an employee alleging discrimination as defined under section 49, he or she shall notify the employer, and within five working days, initiate specific inquiry to determine all the facts and circumstances pertaining thereto. This may be accomplished by interviewing the employee, employer representatives and other parties who may have information about the matter. Interviews may be conducted by written correspondence, telephone or personal interview.

(c) If circumstances warrant, the deputy commissioner may also conduct an informal conference on the issue as described in §§ 702.312–314.

(d) Any employee discriminated against is entitled to be restored to his employment and to be compensated by the employer for any loss of wages arising out of such discrimination provided that the employee is qualified to perform the duties of the employment. If it is determined that the employee has been discriminated against, the deputy commissioner shall also determine whether the employee is qualified to perform the duties of the employment. The deputy commissioner may use medical evidence submitted by the parties or he may arrange to have the employee examined by a physician selected by the deputy commissioner. The cost of the medical examination arranged for by the deputy commissioner may be charged to the special fund established by section 44, 33 U.S.C. 944.

7. Section 702.272 is revised to read as follows:

§ 702.272 Informal recommendation by deputy commissioner.

(a) If the deputy commissioner determines that the employee has been discharged or suffered discrimination and is able to resume his or her duties, the deputy commissioner will recommend that the employer reinstate the employee and/or make such restitution as is indicated by the circumstances of the case, including compensation for any wage loss suffered as the result of the discharge or discrimination. The deputy commissioner may also assess the employer an appropriate penalty, as determined under authority vested in the deputy commissioner by the Act. If the deputy commissioner determines that no violation occurred he shall notify the parties of his findings and the reasons for recommending that the complaint be denied. If the employer and employee accept the deputy commissioner's recommendation, it will be incorporated in an order and mailed to each party within 10 days.

(b) If the parties do not agree to the recommendation, the deputy commissioner shall, within 10 days after receipt of the rejection, prepare a memorandum summarizing the disagreement, mail a copy to all interested parties, and shall within 14 days thereafter refer the case to the Office of the Chief Administrative Law Judge for hearing pursuant to § 702.317.

8. Section 702.273 is revised to read as follows:

§ 702.273 Adjudication by Office of the Chief Administrative Law Judge.

The Office of Administrative Law Judges is responsible for final determinations of all disputed issues connected with the discrimination complaint, including the amount of penalty to be assessed, and shall proceed with a formal hearing as described in §§ 702.331 to 702.394.

9. Section 702.274 is revised to read as follows:

§ 702.274 Employer's refusal to pay penalty.

In the event the employer refuses to pay the penalty assessed, the deputy commissioner shall refer the complete administrative file to the Associate Director, Division of Longshore and Harbor Workers' Compensation, for subsequent transmittal to the Associate Solicitor for Employee Benefits, with the request that appropriate legal action be taken to recover the penalty.

10. Section 702.281 is revised to read as follows:

§ 702.281 Third party action.

(a) Every person claiming benefits under this Act (or the representative) shall promptly notify the employer and the deputy commissioner when:

(1) A claim is made that someone other than the employer or person or persons in its employ, is liable in damages to the claimant because of the injury or death and identify such party by name and address.

(2) Legal action is instituted by the claimant or the representative against some person or party other than the employer or a person or persons in his employ, on the ground that such other person is liable in damages to the claimant on account of the compensable injury and or death; specify the amount of damages claimed and identify the person or party by name and address.

(3) Any settlement, compromise or any adjudication of such claim has been effected and report the terms, conditions and amounts of such resolution of claim. (Caution: See 33 U.S.C. 933(g).)

11. Section 702.312 is revised to read as follows:

§ 702.312 Informal conferences: Called by and held before whom.

Informal conferences shall be called by the deputy commissioner or his designee assigned or reassigned the case and held before that same person, unless such person is absent or unavailable. When so assigned, the designee shall perform the duties set forth below assigned to the deputy commissioner, except that a compensation order following an agreement shall be issued only by a person so designated by the Director to perform such duty.

12. Section 702.315 is revised to read as follows:

§ 702.315 Conclusion of conference; agreement on all matters with respect to the claim.

(a) Following an informal conference at which agreement is reached on all issues, the deputy commissioner shall, within 10 days after conclusion of the conference, embody the agreement in a memorandum or within 30 days issue a formal compensation order, to be filed and mailed in accordance with § 702.349. If either party requests that a formal compensation order be issued the deputy commissioner shall, within 30 days of such request, prepare, file, and serve such order in accordance with § 702.349. Where the problem was of such nature that it was resolved by telephone discussion or by exchange of written correspondence, the parties shall be notified by the same means that agreement was reached and the deputy commissioner shall prepare a memorandum or order setting forth the terms agreed upon. In either instance, when the employer or carrier has agreed to pay, reinstate or increase monetary compensation benefits, or to restore or appropriately change medical care benefits, such action shall be commenced immediately upon becoming aware of the agreement, and without awaiting receipt of the memorandum or the formal compensation order.

* * * * *

13. Section 702.403 is revised to read as follows:

§ 702.403 Employee's right to choose physician; limitations.

The employee shall have the right to choose his attending physician from among those authorized by the Director, OWCP, to furnish such care and treatment. In determining the choice of a physician, consideration must be given to availability, the employee's condition and the method and means of transportation. Generally 25 miles from the place of injury, or the employee's home is a reasonable distance to travel, but other pertinent factors must also be taken into consideration.

14. Section 702.404 is revised to read as follows:

§ 702.404 Physician defined.

The term "physician" includes doctors of medicine (MD), surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. The term includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation shown by x-ray or clinical findings. Physicians defined in this part may interpret their own x-rays. All physicians in these categories are authorized by the Director to render medical care under the Act. Naturopaths, faith healers, and other practitioners of the healing arts which are not listed herein are not included within the term "physician" as used in this part.

15. Section 702.410 is revised to read as follows:

§ 702.410 Duties of employees with respect to special examinations.

(a) For any special examination required of an employee by §§ 702.408 and 702.409, the employee shall submit to such examination at such place as is designated in the order to report, but the place so selected shall be reasonably convenient for the employee.

(b) Where an employee fails to submit to an examination required by §§ 702.408 and 702.409, the deputy commissioner may order that no compensation otherwise payable shall be paid for any period during which the employee refuses to submit to such examination unless circumstances justified the refusal.

(c) Where an employee unreasonably refuses to submit to medical or surgical treatment, or to an examination by a physician selected by the employer, the deputy commissioner may by order suspend the payment of further compensation during such time as the refusal continues.

16. Section 702.411 is revised to read as follows:

§ 702.411 Special examinations; nature of impartiality of specialists.

(a) The special examinations required by § 702.408 shall be accomplished in a manner designed to preclude prejudgment by the impartial examiner. No physician previously connected with the case shall be present, nor may any other physician selected by the employer, carrier, or employee be present. The impartial examiner may be made aware, by any party or by the OWCP, of the opinions, reports, or conclusions of any prior examining physician with respect to the nature and extent of the employee's impairment, its cause, or its effect upon the wage-earning capacity of the injured employee, if the Deputy Commissioner determines that, for good cause, such opinions, reports or conclusions shall be made available. Upon request, any party shall be given a copy of all materials made available to the impartial examiner.

* * * * *

17. Section 702.412 is revised to read as follows:

§ 702.412 Special examinations; costs chargeable to employer or carrier.

(a) The Director or his designee ordering the special examination shall have the power in the exercise of his discretion, to charge the cost of the examination or review to the employer, to the insurance carrier, or to the special fund established by section 44 of the Act, 33 U.S.C. 944.

(b) The Director or his designee may also order the employer or the insurance carrier to provide the employee with the services of an attendant, where the deputy commissioner considers such services necessary, because the employee is totally blind, has lost the use of both hands, or both feet or is paralyzed and unable to walk, or because of other disability making the employee so helpless as to require constant attendance in the discretion of the deputy commissioner. Fees payable for such services shall be in accord with the provisions of § 702.412

18. Section 702.413 is revised to read as follows:

§ 702.413 Fees for medical services; prevailing community charges.

All fees charged by physicians for the care of persons covered by this Act, or any other charges for medical treatment or supplies within the purview of this Act, shall be limited to such charges for similar treatment, services or supplies as prevail in the community in which the physician, medical facility or suppler is located. In those jurisdictions where there are official State medical fee

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schedules for workers' compensation, they may be used as guidelines.

Signed at Washington, D.C., this 6th day of September 1977.

JOHN B. MUMFORD,
Acting Assistant Secretary for Employment Standards.

[FR Doc.77-26366 Filed 9-8-77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 76N-0384]

PART 310—NEW DRUGS

Requirement for Labeling Directed to the Patient

AGENCY: Food and Drug Administration.

ACTION: Delay of effective date of final regulation.

SUMMARY: The effective date of the final regulation requiring patient labeling for estrogenic drug products is extended to October 18, 1977. The extension is in response to a request to delay the running of the effective date for the length of time required to consider petitions to stay the final regulation.

EFFECTIVE DATE: Section 310.515 (21 CFR 310.510) shall be effective on October 18, 1977.

ADDRESS: Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Philip L. Paquin, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857. (301-443-5220).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of July 22, 1977 (42 FR 37636), the Commissioner of Food and Drugs issued a final regulation to require patient labeling for prescription estrogenic drug products. The regulation specifies the kind of information to be contained in the patient labeling and how it is to be made available to the patient. The regulation was scheduled to become effective on September 20, 1977.

On August 4, 1977, the Food and Drug Administration (FDA) received petitions from the Pharmaceutical Manufacturers Association and The American College of Obstetricians and Gynecologists requesting a stay of this effective date pending the outcome of litigation challenging the validity of the regulation. At the same time, counsel for the two petitioners requested that the running of the 60-day period between publication of the final regulation in the FEDERAL REGISTER and its effective date be tolled, i.e., suspended, for the length of time it takes the agency to consider the petitions. Petitioners argued that unless a suspension in the running of the 60-day period is granted, manufacturers would be required to begin taking steps to meet the new labeling requirements before the agency decision on the petitions requesting a stay. In its response to the request, FDA acknowledged that the time between the Commissioner's decision on the petitions and the scheduled effective date of September 20, 1977, might be insufficient to enable manufacturers to comply with the regulation. Therefore, the agency agreed to suspend the running of the 60-day period for the brief period needed to respond to the petitions.

On September 1, 1977, the Commissioner denied the petitions to stay the final regulation. Copies of the petitions and the Commissioner's responses to them are on file in the office of the Hearing Clerk, Food and Drug Administration. In all, 28 days had elapsed from date of submission of the petitions (August 4, 1977) to the issuance of the Commissioner's decision. Accordingly, consistent with the request, the effective date of the final regulation is extended to October 18, 1977.

This action is taken under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701(a), 52 Stat. 1050-1053 as amended, 1055 (21 U.S.C. 352, 355, 371(a)) and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: September 1, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-26025 Filed 9-2-77;9:57 am]

SUBCHAPTER E—ANIMAL FEEDS, DRUGS, AND RELATED PRODUCTS

[FRL 787-7; FAP 6H5145-T28]

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation permitting the experimental use of the nematocide ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate in pineapple bran. The regulation was requested by the Pineapple Growers' Assoc. of Hawaii. This rule will permit the marketing of pineapple bran while further data is collected on the subject pesticide.

EFFECTIVE DATE: Effective on September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Ms. Libby Zink, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. (202-755-4851).

SUPPLEMENTARY INFORMATION: On November 18, 1976, the EPA announced (41 FR 50854) that the Pineapple Growers' Association of Hawaii, 1902 Financial Plaza of the Pacific, Honolulu, HA 96813, had filed a food additive petition (FAP 6H5145). This petition proposed that 21 CFR Part 561 be amended to establish a food additive regulation permitting the use of the nematocide ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in a proposed experimental program involving application of the nematocide to growing pineapples with a tolerance limitation of 10 parts per million (ppm) for residues of the nematocide in dried pineapple bran. This petition was submitted in accordance with two experimental use permits that are being issued concurrently under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136 (a) et seq. No comments were received by the Agency in response to this notice of filing.

The scientific data reported and other relevant material have been evaluated, and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permits. It has further been determined that since residues of the pesticide may result in dried pineapple bran from the agricultural use provided for in the experimental use permits, the feed additive regulation should be established and should include a tolerance limitation. The toxicological data considered in support of the proposed tolerance were 90-day dog and rat-feeding studies, a two-year dog-feeding study, a rabbit teratology study, and a hen neurotoxicity study. The metabolism of the subject pesticide in plants and animals has been adequately described, and an adequate analytical method (gas chromatography with thermionic detection) is available for enforcement purposes. There is no reasonable expectation of residues from the proposed use in eggs, meat, milk, or poultry as delineated in 40 CFR 180.6(a)(3).

The available data and information are sufficient to support the proposed tolerance. The following data must be supplied prior to the establishment of a permanent tolerance or for any expanded use: The manufacturing process for the pesticide, the toxicological significance of residues of phenolic hydrolysis products, the composition of a certain inert ingredient, correct nomenclature for the sulfoxide and sulfone metabolites of the pesticide, and additional residue data reflecting the proposed use in Hawaii. Also a mutagenicity study may be required.

Permanent tolerances have previously been established (40 CFR 180.349) for residues of the pesticide on peanut hulls at 0.4 ppm; bananas, brussels sprouts, and cabbage at 0.1 ppm; cottonseed and soybeans at 0.05 ppm; and peanuts at 0.02 ppm. (A related document establishing a tolerance of 0.2 ppm for residues of the pesticide on pineapples appears elsewhere in today's FEDERAL REGISTER.) Accordingly, a feed additive regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before October 11, 1977, file written objections with the Hearing Clerk, EPA, Rm. 1019, East Tower, 401 M St. SW., Washington D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on September 9, 1977, 21 CFR Part 561 is amended as set forth below.

Dated: August 31, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Sec. 408(c)(1), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1))

Part 561 is amended by adding section 561.232 to read as follows:

§ 561.232 Ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate.

(a) A tolerance of 10 parts per million is established for combined residues of the nematocide ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in pineapple bran resulting from application of the nematocide in accordance with the provisions of two experimental use permits that expire August 31, 1980.

(b) Residues in pineapple bran not in excess of 10 parts per million resulting from the use described in paragraph (a) of this section remaining after expiration of the experimental use program will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permits and feed additive tolerance.

(c) The Pineapple Growers' Association of Hawaii shall immediately notify the Environmental Protection Agency of any findings from the experimental use that have a bearing on safety. The association shall also keep records of distribution and performance and on request make the records available to any authorized officer or employee of the Environmental Protection Agency or the Food and Drug Administration.

[FR Doc.77-26259 Filed 9-8-77;8:45 am]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—MORTGAGE AND LOAN INSURANCE PROGRAMS UNDER NATIONAL HOUSING ACT

[Docket No. R-77-429]

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Mobile Home Loans; Prepayment of Loans

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This rule prescribes the mathematical method to be used for calculating finance charges when loans are prepaid. The rule provides that lenders must use the "actuarial method," which is defined in the rule, in calculating earned and unearned finance charges. Use of the "actuarial method" provides for a more exact calculation of interest and will result in lower interest charges for consumers who prepay mobile home loans.

EFFECTIVE DATE: This amendment is effective October 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Christopher LaMartina, Director, Title I Insured Loan Division, Dept. Housing and Urban Development, 451 Seventh Street, SW., Room 6133, Washington, D.C. 20410. (202-755-8636).

SUPPLEMENTAL INFORMATION. On January 7, 1977, a proposed rule was published in the FEDERAL REGISTER (42 FR 1487). Sixteen comments were received and the rule has been modified in certain respects as a result of the comments received.

Several commenters questioned the allowance of a minimum retained charge, not to exceed $50 where authorized under state law, when a loan is prepaid. This provision has been deleted because of the penalty it would impose on consumers.

In response to other comments, the regulations were amended to provide that in the event of prepayment a lender would be permitted to retain a 1 percent origination fee, if such fee was assessed against the borrower, as an earned charge, without provision for total or partial rebate with respect to such fee.

A number of financial institutions and trade associations representing financial institutions stated their objections to the adoption of the rule on the grounds that the reduction in earnings resulting from the rule might discourage lending institutions from making mobile home loans. Other commenters felt that the "Rule of 78th's" method should be retained because it is a simpler method. A commenter suggested that the actuarial method be used only for loans having terms of more than 144 months. After careful consideration these suggestions and objections were rejected as it is unfair to require borrowers who prepay their loans to pay proportionately larger finance charges than borrowers whose loans run for the term of the loan. For instance, with a $10,000 loan for 12 years at 12 percent prepaid in the 52nd month, the debt would be calculated under the "Rule of 78th's" as $555.91 more than it would be if calculated according to the actuarial method. The Department recognizes that prepayment of loans in some cases results in loss of anticipated income to lending institutions; however, this factor is considered in establishing the initial interest charge for loans.

A commenter expressed serious concern about the effect of the Department's proposed rule on banks' methods for extending insured mobile home credit, stating that several states' laws governing rebate of finance charges require the use of the "sum of the digits" method ("Rule of 78th's") in the computation of earned financing charges. Many state laws require the use of the "Rule of 78th's." However, the Department has determined that these laws set minimum requirements and do not prohibit the rebating of a greater portion of the finance charge to consumers.

The actuarial method of computation of earned and unearned finance charges is a more exact and understandable method than the "Rule of 78th's" and results in all cases in lower charges to consumers who prepay their loans. After careful consideration of all of the comments that have been received it has been determined to adopt the actuarial method.

A finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

Accordingly, 24 CFR Part 201 is amended as follows:

1. By adding a new paragraph (n) to § 501 to read as follows:

§ 201.501 Definitions.

* * * * * *

(n) "Actuarial method" means the method of allocating payments made on a debt between the amount financed and the finance charge, pursuant to which a payment is applied first to the accumulated finance charge, and any remainder is subtracted from, or any deficiency is added to, the unpaid balance of the amount financed.

2. Section 201.540(b) is amended to read as follows:

§ 201.540 Financing charges.

* * * * * *

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(b) *Prepayment rebate.* If an obligation is paid in full, or otherwise matured, prior to its scheduled maturity, the insured shall rebate the full unearned charge, if any, where such rebate is $1.00 or more. The earned charge shall be calculated by the actuarial method. When an obligation is prepaid in full and the borrower has previously paid an origination fee, where the law of the jurisdiction permits, such origination fee, or permissible portion thereof, may be retained by the insured and not included in the charge for the purpose of calculating the unearned charge to be rebated.

3. Section 201.585 is amended by adding the following material after the final sentence, to read as follows:

§ 201.585 Refinancing.

* * * The full amount of any unearned finance charge on the original obligation shall be rebated to the borrower. The earned charge shall be calculated by the actuarial method. The finance charge for the purpose of calculating the earned charge and the unearned finance charge shall not include an origination fee paid by the borrower, if any. The borrower may be assessed a handling charge of not more than $25.00 in figures in connection with the refinancing.

4. Section 201.680(a) is amended to read as follows:

§ 201.680 Amount of claim.

* * * * *

(a) Deduct from the unpaid amount of the obligation (net unpaid principal, and the earned portion of the finance charge calculated according to the actuarial method) * * *

* * * * *

(Sec. 7(d) 79 Stat. 670 (42 U.S.C. 3535(d)); sec. 2, 48 Stat. 1246, (12 U.S.C. 1703), as amended.)

NOTE.—The Department of Housing & Urban Development has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821.

Issued at Washington, D.C., August 27, 1977.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc.77-26275 Filed 9-8-77;8:45 am]

Title 29—Labor

CHAPTER IV—OFFICE OF LABOR-MANAGEMENT STANDARDS ENFORCEMENT, DEPARTMENT OF LABOR

PART 452—GENERAL STATEMENT CONCERNING THE ELECTION PROVISIONS OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959

Subpart E—Candidacy for Office; Reasonable Qualifications

AGENCY: Labor-Management Services Administration, Department of Labor.

ACTION: Typographical corrections to a final amendment to an interpretative rule.

SUMMARY: The amendments in this document correct typographical errors in the amendment to § 452.38 of Department of Labor's regulations as published in F.R. Vol. 42, No. 148 at 39105 and 39106 on August 2, 1977.

EFFECTIVE DATE: Since this amendment corrects typographical errors and does not change substance, it is effective on September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Herbert Raskin, Chief, Branch of Interpretations and Standards, Division of Program Standards, Office of Labor-Management Standards Enforcement, Labor-Management Services Administration, Department of Labor, Washington, D.C. 20210. (202-523-7373).

SUPPLEMENTARY INFORMATION: This document was prepared under the direction and control of Carl Rolnick, Director, Office of Labor-Management Standards Enforcement, Room N5408, New Department of Labor Building, 200 Constitution Ave. N.W., Washington, D.C. 20210, telephone 202-523-7377.

29 CFR Part 452 is amended by revising section 452.38 as follows:

1. The figure 70 at the end of the second line in paragraph (A-1) should be 79.

2. In the 11th line of paragraph (b) the section symbol before 11,857 should be a paragraph symbol.

3. In the 18th line of paragraph (b) "was mott" should be "as moot."

4. In the 22nd line of paragraph (b) the semicolon after Ass'n should be a comma.

5. In the 22nd line of paragraph (b) 985 should be 965.

6. In the 10th line from the end of paragraph (b) there should be a paragraph symbol before 12,816.

7. In the 10th line from the end of paragraph (b) there should be a comma instead of a period in 12,816.

Signed at Washington, D.C., this 31st day of August, 1977.

FRANCIS X. BURKHARDT,
Assistant Secretary of Labor.

[FR Doc.77-25955 Filed 9-8-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 779-3]

PART 80—REGULATION OF FUELS AND FUELS ADDITIVES

Unleaded Gasoline Regulations; Information and Reports; Liability Provisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This amendment allows EPA to request information from wholesale purchaser-consumers concerning suspected violations of the unleaded gasoline regulations. This amendment also changes the liability of branded refiners for contamination of unleaded gasoline at owned or leased facilities to conform with applicable case law.

EFFECTIVE DATE: October 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert A. Weissman, Attorney-Advisor, Mobile Source Enforcement Division (EN-340), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. (202-755-2816).

SUPPLEMENTARY INFORMATION:

1. REQUESTS FOR INFORMATION FROM WHOLESALE PURCHASER-CONSUMERS

On November 12, 1974, it was proposed that section 80.7 be added to 40 CFR Part 80 to require refiners, distributors, and retailers to provide the Agency, upon request, information pertaining to compliance with the unleaded gasoline regulations. (39 FR 39988). At the time of proposal refiners, distributors and retailers constituted all classes of persons who were subject to the principal controls on unleaded gasoline. The regulations were amended to include section 80.7 on August 20, 1975. (40 FR 36335). However, this amendment failed to take into account an intervening promulgation. On December 12, 1974, regulations were promulgated subjecting wholesale purchaser-consumers to all provisions of the unleaded gasoline regulations applicable to retailers except for the provision, 40 CFR 80.22(b), requiring retailers to offer for sale unleaded gasoline. (39 FR 43281). When section 80.7 was added a few months later, however, reference to wholesale purchaser-consumers was inadvertently omitted. Therefore, section 80.7 is now being revised to require that wholesale purchaser-consumers provide the Agency, upon request, information related to compliance with the unleaded gasoline regulations.

2. LIABILITY OF BRANDED REFINERS

On December 5, 1974, and December 12, 1974, EPA amended the unleaded gasoline regulations at 40 CFR Part 80 setting forth the liability of gasoline retailers, wholesale purchaser-consumers, resellers, distributors and refiners for gasoline offered for sale that is represented to be unleaded but does not conform with the requirements for unleaded gasoline under 40 CFR 80.2(g). 40 CFR 80.21, 80.22, 80.23. (39 Fed. Reg. 42360; 39 Fed Reg. 43284). In 40 CFR 8023(b)(2)(iv), the branded refiner was provided a defense to liability based upon quality control contracts, but the defense did not extend to a refiner where the refiner directly supplied a retail outlet substantially owned or leased by the refiner. The U.S. Court of Appeals for the District of Columbia Circuit, in *Amoco Oil Co., Inc. v. EPA*, 543 F. 2d 270,279 (D.C. Cir. 1976) (hereinafter *Amoco II*), held that the language herein being removed from section 80.23(b)(2)(iv) be stricken to permit a contract defense to liability for a refiner in a direct supply situation to a retail outlet owned or leased by the branded refiner.

3. DEFINITION OF "WAS CAUSED"

In *Amoco II* the Court endorsed a stipulation of the parties modifying the regulations regarding the burden of proof that a refiner has to meet to establish a defense to liability under 40 CFR 80.23(b)(2)(ii) through (vi). 543 F. 2d at 273n.8. Section 80.23(b) is accordingly being revised by the addition of section 80.23(b)(2)(viii) defining the words "was caused" as used in subparagraphs (ii) through (vi) to conform with the agreed upon language.

4. GENERAL

The amendment to section 80.7 is intended to correct an oversight in the promulgation of that section. The amendments to section 80.23 are necessary under judicial decision. Therefore, the Agency finds good cause to promulgate these amendments without prior notice and public procedure. The Agency also finds these amendments are not environmentally or economically significant and therefore do not require an Environmental Impact Statement, or an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

40 CFR Part 80 is amended as follows:

1. In § 80.7, paragraph (a), by inserting the words "wholesale purchaser-consumer," between the word "distributor," and the words "or retailer."

2. In § 80.7, subparagraph (a)(1), by inserting the words ", wholesale purchaser-consumer" between the words "to a distributor" and the words "or a retail outlet."

3. In § 80.7, subparagraph (a)(1)(i), by inserting the words ", wholesale purchaser-consumers" between the words "of distributors" and the words "or retail outlets."

4. In § 80.7, by revising subparagraph (a)(2) to read as follows:

§ 80.7 Requests for information.

* * * * *

(a) * * *

(2) For any bulk shipment of gasoline represented to be unleaded gasoline received by a retail outlet or a wholesale purchaser-consumer facility within the previous six months, whether by purchase or otherwise, the retailer or wholesale purchaser-consumer shall maintain accessibility to and provide the following information:

(i) Business or corporate name and address of the distributor.

(ii) Quantity of gasoline received.

(iii) Date of receipt.

5. In § 80.7, by revising paragraph (c) to read as follows:

§ 80.7 Request for information.

* * * * *

(c) Any refiner, distributor, wholesale purchaser-consumer or retailer shall provide such other information as the Administrator, the Regional Administrator, or their delegates may reasonably require to enable him to determine whether such refiner, distributor, wholesale purchaser-consumer and retailer has acted or is acting in compliance with section 211(c) of the Act and the regulations thereunder and shall, upon the request of the Administrator, the Regional Administrator, or their delegates, produce and allow reproduction of any relevant records at all reasonable times. Such information may include but is not limited to records of unleaded gasoline inventory at a wholesale purchaser-consumer facility or a retail outlet, unleaded pump meter readings at a wholesale purchaser-consumer facility or a retail outlet, and receipts providing the date of acquisition of signs, labels, and nozzles required by § 80.22. No person shall be required to furnish information requested under this paragraph if he can establish that such information is not maintained in the normal course of his business.

6. In § 80.23, subparagraph (b)(2)(iv), by deleting the words "and whose assets or facilities are not substantially owned, leased, or controlled by the refiner," immediately following the words "(and not by a reseller)."

7. In § 80.23, by adding a new subparagraph (b)(2)(viii) reading as follows:

§ 80.23 Liability for violations.

* * * * *

(b) * * *

(2) * * *

(viii) In subparagraphs (ii) through (vi) hereof, the term "was caused" means that the refiner must demonstrate by reasonably specific showings by direct or circumstantial evidence that the violation was caused or must have been caused by another.

(Sections 211 and 301 of the Clean Air Act, as amended (42 U.S.C. 1857f-6c, 1857g).)

Dated: August 31, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-26204 Filed 9-8-77;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 177—FEDERAL, STATE, AND PRIVATE PROGRAMS OF LOW-INTEREST LOANS TO VOCATIONAL STUDENTS AND STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

Technical Correction—Annual Loan Limits for Health Professions Students Under the Guaranteed Student Loan Program

AGENCY: Office of Education, HEW.

ACTION: Notice.

SUMMARY: This technical correction is being issued to clarify the eligibility requirements for health professions schools under health professions student loan provisions of the Guaranteed Student Loan Program. These provisions were published as an interim final regulation in the FEDERAL REGISTER on June 30, 1977 (42 FR 33290).

EFFECTIVE DATE: August 5, 1977 (this is the effective date of the provisions of the interim final regulation corrected by this notice).

FOR FURTHER INFORMATION CONTACT:

Robert F. Carmody, Jr., Director, Division of Program Development, Office of Guaranteed Student Loans, Bureau of Student Financial Assistance, Office of Education, 7th and D Streets SW., Washington, D.C. 20202 (202-472-2758).

NOTICE

An interim final regulation which raises annual loan limits for qualified health professions students under the Guaranteed Student Loan Program (GSLP) was published in the FEDERAL REGISTER on June 30, 1977 (42 FR 33290). This interim final regulation allows health professions students attending eligible schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health to borrow up to $10,000 annually under the existing GSLP. Qualified students attending eligible schools of pharmacy may borrow up to $7,500 annually under the existing GSLP. The preamble to the interim final regulation states that students who would have been eligible under the Health Professions Guaranteed Student Loan Program (HPGSLP), had the program been in operation, are eligible for the raised health professions loan limits under the GSLP.

This technical correction clarifies that students attending health professions schools located outside the United States, who would not have been eligible to participate in the HPGSLP, are not eligible to receive the higher loan amounts for health professions students under the GSLP. This is in accordance with section 737(1) of the Public Health Service Act, as amended, which states that a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, or public health must be located within the United States in order to be eligible for the HPGSLP (42 U.S.C. 294j).

(Catalog of Federal Domestic Assitance Number 13.460, Guaranteed Student Loan Program.)

Dated: September 1, 1977.

JOHN ELLIS,
Acting United States Commissioner of Education.

Approved: September 1, 1977.

L. DAVID TAYLOR,
Deputy Assistant Secretary for Management, Planning, and Technology.

1. 45 CFR 177.12 is corrected by revising paragraph (a)(1)(xv) as follows:

§ 177.12 Agreements for Federal payments to reduce student interest costs for insured loans.

(a)(1) * * *

(xv) Authorizes the insurance of up to $10,000 in the case of a student en-

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rolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry or public health located within the United States, and $7,500 in the case of a student enrolled in a school of pharmacy located within the United States who has satisfactorily completed three years of training.

2. 45 CFR 177.43 is corrected by revising paragraphs (a)(2) and (a)(3) as follows:

§ 177.43 Limitations governing maximum amount of federally insured loans.

(a) • • •

(2) To a student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health located within the United States in an amount in excess of $10,000;

(3) To a student who has satisfactorily completed three years of training and is enrolled in a school of pharmacy located within the United States in an amount in excess of $7,500; and

• • • • • •

[FR Doc 77-26317 Filed 9-8-77;8.45 am]

Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 252—OPERATING DIFFERENTIAL SUBSIDY FOR BULK CARGO VESSELS ENGAGED IN WORLDWIDE SERVICE

Wages Allowable as a Variable Cost

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: Part 252 of Title 46, Code of Federal Regulations, which prescribes regulations governing the payment of operating-differential subsidy to operators of bulk cargo vessels engaged in worldwide services is hereby amended. The amendment increases the amount of subsidizable overlap in wages for replacement of crew. The new maximum number of overlap days is three for officers and two for unlicensed personnel. The amendment is being made to reflect the hiring practices and payoff requirements for crew members of bulk cargo vessels.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

James S. Dawson, Jr., Secretary, Maritime Subsidy Board, Washington, D.C. 20230, Tel. 202-377-2188.

Accordingly, § 252.31(e)(1)(ii), Title 46, Code of Federal Regulations (General Order 117) is amended as follows:

§ 252.31 Wages of officers and crews.

• • • • • •

(e) *Calculation of collective bargaining costs* (1) • • •

(ii) *Variable costs.* Variable costs are all regularly incurred employment costs which are not stated in specific or determinable amounts per time period since they vary with ship operating experience. Variable costs include but are not limited to:

Payroll taxes
Overtime and penalty pay
Payments to Master for piloting
Transportation expenses and travel allowances
Payments to relief officers and crews.
Lodging allowances
Overlap in wages for replacement of crew (maximum of three days for officers and two days for unlicensed personnel)
Division of wages occasioned by other than a shortage of crew

• • • • • •

(Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114); Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840) as amended by Pub. L. 91-469 (84 Stat. 1036), Department of Commerce Organization Order 10-8 (38 FR 19707, July 23, 1973))

By Order of the Maritime Subsidy Board, Maritime Administration.

Dated: September 6, 1977.

JAMES S. DAWSON, Jr.,
Secretary,
Maritime Subsidy Board.

[FR Doc 77-26277 Filed 9-8-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[RM 2243; FCC 77-588]

PART 97—AMATEUR RADIO SERVICE

Frequencies Available to Amateur Radio Stations

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: The Commission is amending its Rules to permit amateur radio operation by amateur stations operating outside the United States and outside the jurisdiction of foreign governments on all frequencies authorized for amateur operation by the International Telecommunication Union. This action is taken in response to complaints that the existing restrictions on such operation are unnecessarily severe.

EFFECTIVE DATE: September 12, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. Gregory M. Jones, Personal Radio Division, 202-632-7175, Safety and Special Radio Services Bureau.

SUPPLEMENTARY INFORMATION: In the matter of Amendment of Part 97 of the Commission's Rules concerning the frequencies available to amateur radio stations (RM-2243).

Adopted: August 24, 1977.

Released: September 1, 1977.

1. The Commission has before it petition for rulemaking, RM-2243, submitted by Mr. Max Grossman of Las Vegas, Nev., in accordance with the Administrative Procedure Act, 5 U.S.C. 553(e), and Section 1.401 of the Commission's Rules.

2. Petitioner in RM-2243 requests amendment of Section 97.95 of the Rules to permit operation of amateur radio stations licensed by the Commission outside the United States and outside the jurisdiction of foreign governments on all amateur frequency bands between 3.5 MHz and 148 MHz. Section 97.95(b)(2) of the Rules presently limits such operation to amateur frequency bands between 7.0 MHz and 148 MHz when a station is located in International Telecommunication Union (ITU) Region 2. Operation outside the jurisdiction of a foreign government in ITU Regions 1 and 3 is limited to 7.0-7.1 MHz, 14.00-14.35 MHz, 21.00-21.45 MHz, and 28.0-29.7 MHz.

3. Petitioner states that as the number of amateur stations operated on airplanes and ships increases, a greater number of frequencies are needed to accommodate the operations of such stations. It is also alleged that a greater number of available frequencies will result in safer operation of ships and aircraft. A comment supporting the proposals in RM-2443 was submitted by Mr. Norman White of North Hollywood, Calif.

4. We believe the proposals contained in RM-2443 to be meritorious. Section 97.61 of the Rules lists the frequency bands and emissions authorized amateur stations in the United States, which is in ITU Region 2. Section IV of Article 5 of the Radio Regulations of the International Telecommunication Union lists those frequency bands that signatory administrations may allocate to the Amateur Service. We believe there to be no reason why amateur stations operating outside the United States and outside the jurisdiction of foreign governments should be restricted in their operation to the frequency bands listed in Section 97.95 of the Rules. We are therefore amending the Rules to permit amateur operation outside the jurisdiction of a foreign government in ITU Region 2 on all frequency bands listed in Section 97.61 of the Rules. We are also authorizing amateur operation outside the jurisdiction of a foreign government in ITU Regions 1 and 3 on those frequencies listed in Section IV of Article 5 of the ITU Radio Regulations. All operations are subject to the provisions and limitations of the ITU Radio Regulations. Additionally, except for permissible frequency bands, all operation must comply with all other requirements of Part 97 of the Rules.

5. The specific amendments we are adopting are set forth below. As an aid to users of these rules, we are replacing the text of the Note following Section 97.95, which defines ITU Region 2, with a map of the world, outlining graphically each of the three ITU Regions. Because this is a very minor amendment of the Commission's Rules, merely increasing slightly the privileges available to licensees in the Amateur Service, and because adoption of this amendment will have an insignificant impact on amateur licensees and the public-at-large, the Commission finds, for good cause, that the notice and public procedure provisions of the Administrative Procedure Act, 5 U.S.C. 553, are unnecessary. This amendment relieves a previously imposed restriction, and its effective date may be immediate under the provisions of the Administrative Procedure Act. Authority for this action is contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended.

6. *Accordingly, it is ordered,* That RM-2243 is granted and that Part 97 of the Commission's Rules is amended as set forth in the attached Appendix effective September 12, 1977.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082, 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 97 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended to read, as follows:

1. In § 97.95, paragraph (b)(2) and the Note are amended and new paragraphs (b)(3) and (b)(4) are added, as follows:

§ 97.95 Operation away from the authorized fixed operation station location.

• • • • • •

(b) • • •

• • • • • •

(2) When outside the jurisdiction of a foreign government, amateur operation may be conducted within ITU Region 2 subject to the limitations of, and on those frequency bands listed in, § 97.61.

(3) When outside the jurisdiction of a foreign government, amateur operation may be conducted within ITU Regions 1 and 3 on the following frequencies, subject to the limitations and provisions of Section IV of Article 5 of the Radio Regulations of the ITU:

(i) Region 1: 3.5-3.8 MHz, 7.0-7.1 MHz, 14.0-14.35 MHz, 21.0-21.45 MHz, 28.0-29.7 MHz, 144-146 MHz, 430-440 MHz, 1215-1300 MHz, 2300-2450 MHz.

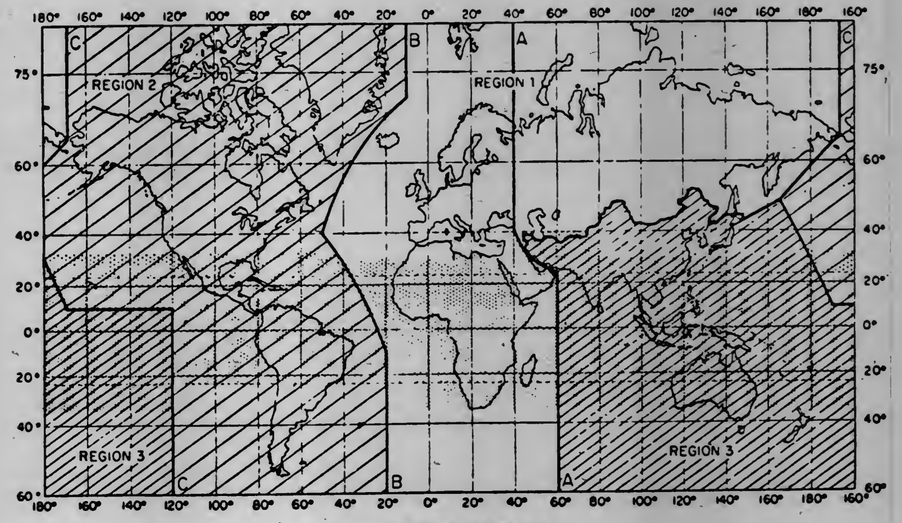
Region 3: 3.5-3.9 MHz, 7.0-7.1 MHz, 14.0-14.35 MHz, 21.0-21.45 MHz, 28.0-29.7 MHz, 50.0-54.0 MHz, 144-148 MHz, 420-450 MHz, 1215-1300 MHz, 2300-2450 MHz.

(ii) Operation on amateur frequency bands above 2450 MHz may be conducted subject to the limitations and provisions of Section IV of Article 5 of the Radio Regulations of the ITU.

(4) Except as otherwise provided, amateur operation conducted outside the jurisdiction of a foreign government shall comply with all requirements of Part 97 of this Chapter.

NOTE:

CHART OF ITU REGIONS



[FR Doc 77-26189 Filed 9-8-77;8.45 am]

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Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 20—MIGRATORY BIRD HUNTING

Final Frameworks for Late Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final frameworks, that is, the outer limits for dates and times when shooting may begin and end, and the number of birds which may be taken and possessed for late season migratory bird hunting regulations. The Service annually prescribes hunting regulations frameworks to the States. The effects of this final rule are to facilitate the selection of hunting seasons by the States and to establish late season migratory bird hunting regulations for the 1977–78 season.

EFFECTIVE DATE: September 8, 1977.

FOR FURTHER INFORMATION CONTACT:

John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202–343–8827).

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold purchased, shipped, carried, exported, or transported.

The annual process for developing migratory game bird hunting regulations is divided into those for "early" seasons and those for "late" seasons. Early seasons include those which open before October 1 while late seasons open on or after October 1. Regulations are developed independently for early and late seasons. The early season regulations cover mourning doves, white-winged doves, bandtailed pigeons, rails, gallinules, woodcock, common snipe, sea ducks in the Atlantic Flyway, teal in September in the Central and Mississippi Flyways, lesser sandhill cranes in North Dakota and South Dakota, doves in the Virgin Islands and Hawaii, all migratory game birds in Puerto Rico and Alaska and special falconry seasons. Late seasons include the general waterfowl seasons; special seasons for scaup and goldeneyes; extra scaup and blue-winged teal in regular seasons; most sandhill crane seasons in the Central Flyway; coits, gallinules, and snipe in the Pacific Flyway; and special falconry seasons.

Certain general procedures are followed in developing regulations for both the early and the late seasons. Initial regulatory proposals are first announced in a FEDERAL REGISTER document in early March, and opened to public comment. As additional information becomes available, and comments are received and considered to the initial proposals, a supplemental proposed rulemaking is announced in the FEDERAL REGISTER. At the termination of the comment periods and following a public hearing, the Service develops and publishes the proposed frameworks for times of seasons, season lengths, shooting hours, daily bag and possession limits, and other regulatory restraints or options. Following another public comment period and after consideration of additional comments, the Service publishes in the FEDERAL REGISTER the final frameworks. Using these frameworks, State conservation agencies select hunting season dates and offered options. States may select more restrictive seasons and options than those offered in the Service's frameworks. The final regulations, reflected in amendments to Subpart K of 50 CFR 20 then appear in the FEDERAL REGISTER, and become effective upon publication.

On March 10, 1977, the Service published for public comment in the FEDERAL REGISTER (42 FR 13311) proposals to amend 50 CFR Part 20, with a comment period ending May 18, 1977. That document dealt with minor modifications in § 20.11 of Subpart B, the addition of § 20.40 in Subpart D, and with establishment of seasons, limits, and shooting hours for migratory game birds under §§ 20.101 through 20.107 of Subpart K. On May 25, 1977, the Service published for public comment in the FEDERAL REGISTER (42 FR 26669) a second document in the series consisting of supplemental or modified proposals and clarification or correction of minor portions of the earlier document. On July 5, 1977, the Service published in the FEDERAL REGISTER (42 FR 34305) a third document in the series consisting of final rulemaking dealing specifically with final frameworks from which wildlife conservation agency officials in Puerto Rico and the Virgin Islands could select season dates for hunting certain migratory birds in Puerto Rico and the Virgin Islands during the 1977–78 season. On July 5, 1977, the Service also published for public comment in the FEDERAL REGISTER (42 FR 34342) a fourth document in the series consisting of supplemental proposed rulemaking dealing specifically with proposed frameworks for early season migratory bird hunting regulations from which, when finalized, States could select season dates and daily bag and possession limits for the 1977–78 season. On July 15, 1977, the Service announced in a fifth document in the FEDERAL REGISTER (42 FR 36495) the availability of a draft environmental assessment on shooting hours and allowed a 10-day public comment period. On July 22, 1977, the Service published in the FEDERAL REGISTER (42 FR 37552) a sixth document in the series consisting of final rulemaking dealing specifically with final frameworks (except shooting hours) for early season migratory bird hunting regulations in all States during the 1977–78 seasons from which States selected early season dates and daily bag and possession limits for the 1977–78 season. On August 9, 1977, the Service published in the FEDERAL REGISTER (42 FR 40211) a seventh document in the series, consisting of final rulemaking dealing specifically with final frameworks for shooting hours for early season migratory game bird hunting regulations in all States during the 1977–78 season. On August 15, 1977, the Service published in the FEDERAL REGISTER (41145) an eighth document in the series consisting of supplemental proposed rulemaking dealing specifically with proposed frameworks for late season migratory bird hunting regulations from which, when finalized, States could select season dates shooting hours, and daily bag and possession limits for the 1977–78 season. On August 18, 1977, the Service published in the FEDERAL REGISTER (42 FR 41636) a ninth document in the series consisting of final rulemaking amending Subpart K of 50 CFR 20 to set open hunting seasons, certain closed areas, shooting hours, and bag and possession limits for mourning doves, white-winged doves, bandtailed pigeons, rails, woodcock, snipe, and gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic Flyway; sandhill cranes in designated portions of North Dakota and South Dakota; and migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands. This document is the tenth in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with final regulations frameworks for 1977–78 late hunting seasons on certain migratory game birds.

On June 21, 1977, a public hearing was held in Washington, D.C., as announced in the FEDERAL REGISTER (42 FR 26709; May 25, 1977; and 42 FR 29345; June 8, 1977) to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, rails, gallinules, lesser sandhill (little brown) cranes in North Dakota and South Dakota, and common (Wilson's) snipe. Proposed hunting regulations for these species were discussed plus those governing migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; mourning doves in Hawaii; September teal seasons in the Mississippi and Central Flyways; and special sea duck seasons in the Atlantic Flyway. Statements or comments were invited. On August 2, 1977, a public hearing was held in Washington, D.C., as announced in the FEDERAL REGISTER (42 FR 26709; May 25, 1977; and 42 FR 34897; July 7, 1977), to review information on population status and proposed hunting regulations for waterfowl, coots, and gallinules; lesser sandhill (little brown) cranes in Colorado, New Mexico, Oklahoma, Texas, Montana, and Wyoming; common (Wilson's) snipe in the Pacific Flyway; and special falconry regulations. Statements or comments were invited.

REVIEW OF PUBLIC COMMENTS AND THE SERVICE RESPONSE TO SAME

The public was given several opportunities to comment on regulations being proposed for late seasons during 1977–78. Altogether, 662 written public comments were received by August 4, 1977, and given consideration. The Service advised that interested persons should respond by May 18, 1977, to the initial regulatory proposals shown in the FEDERAL REGISTER dated March 10, 1977, on page 13313. One hundred twenty-eight comments were received. A supplemental proposed rulemaking appeared in the FEDERAL REGISTER on May 25, 1977 (42 FR 26669), and the public was given until July 14, 1977, to submit comments. Twenty-nine comments were submitted. The public was notified in the FEDERAL REGISTER on July 15, 1977 (42 FR 36495), that a draft environmental assessment on shooting hours for migratory game birds was available for review and comment, and that comments would be considered if received by July 25, 1977. Four written comments on the draft environmental assessment were received by July 25, 1977. Five additional written comments were received between July 26 and August 1 after the close of this comment period but were, nevertheless, considered in preparing the final environmental assessment for proposed shooting hours regulations.

Many of the earlier comments dealt with the early season regulations, and these were tabulated and analyzed in the FEDERAL REGISTER dated July 5, 1977, on page 34306, and July 22, 1977, on page 37552. Many letters contained statements on several topics. Some regulatory proposals, such as shooting hours, pertained to both early and late season proposals. Some respondents submitted more than one statement during the overall comment period. Also, some of the comments addressed topics outside the scope of the regulatory proposals, and, in this regard, were irrelevant.

An additional 364 comments regarding late season regulations were received from August 4, 1977, through the close of the public comment period on August 25, 1977. Most of these were from individuals commenting on the proposed shooting hours. Eight other comments, all favorable, were received regarding the overall proposed frameworks for late hunting seasons. These were from 6 State conservation agencies, 1 organization, and 1 individual. One organization recommended against the proposed shooting hours and continuation of the point system; urged greater restrictions for the black duck and reductions in daily bag limits for coots, mergansers, and sea ducks; proposed elimination of whistling swan and sandhill crane seasons; and opposed the special falconry seasons, alleging that falconry threatens hawk populations by encouraging nest robbing. In previous FEDERAL REGISTER documents the Service commented on these issues raised by the same organization.

Of the 355 comments received on shooting hours, 189 were in favor of one-half hour before sunrise to sunset shooting while 164 were opposed to these hours. Two other comments were opposed to more restrictive hours which one State had selected. In general, those favoring retention of the one-half hour before sunrise shooting period noted that this was a time of day when waterfowl were active, hunting success was good, and that these shooting hours were not detrimental to waterfowl or other birds. In contrast, opponents to the one-half hour before sunrise shooting period alleged that flying birds could not be identified by species in the pre-sunrise period, and that the shooting of protected or endangered species was contrary to purposes of the Migratory Bird Treaty Act and the Endangered Species Act. Very few comments, either favoring or opposing the proposed shooting hours, provided any data or new information. The Service notes that a final environmental assessment on shooting hours was completed on August 1, 1977 (42 FR 40211), and made available to the public.

The most extensive comments on shooting hours were submitted by Defenders of Wildlife (hereinafter Defenders) in a letter to the Director dated August 25, 1977. They were in the form of a detailed criticism of the Environmental Assessment on Proposed Shooting Hours Regulations completed by the Service on August 1, 1977. Defenders' comments reiterated and expanded upon points made in their July 30, 1977, comments on a draft of this environmental assessment. The Service response to Defenders' July 30 comments is discussed in detail in the August 9, 1977, FEDERAL REGISTER (42 FR 40211). As noted there, the assessment was modified and expanded in a number of ways in response to these and other comments.

In their August 25, 1977, comments Defenders reiterated the view that the assessment is inadequate because (1) it does not assess, in a satisfactory way, the impact of shooting hours on populations of protected species, (2) lacks information on the effects of available light on the waterfowl identification abilities of hunters, and (3) relies on data gathered for purposes other than an evaluation of shooting hours. Specific points and assertions made by Defenders in connection with these three general points, and Service responses to them are discussed below in the order in which they were presented in Defenders' August 25, 1977, letter. The Service makes special note that in these responses a distinction is made between protected species and endangered species. This is appropriate and necessary because of the Service's additional statutory responsibilities for endangered and threatened species above and beyond those for migratory birds generally. Therefore, references to protected species in the following Service responses do not include endangered species. Where the responses concern endangered species, they are specifically mentioned.

Defenders asserts that the information used by the Service is 5 to 10 years out of date, no new information is supplied, and no plans are set forward for gathering new information.

The Service believes that the information presented in the assessment is modern, up to date, and fully pertinent to the questions at hand. Much of the information is new in the sense that it has only recently been obtained from on-going field studies. Much of the remainder is new in the sense that it is derived from analyses not previously conducted and made available for use. Defenders apparently refers chiefly to the hunter performance survey. The Service believes that these data cannot be considered out of date simply because they were gathered during an eight-year period ending five years ago. They measure attributes of hunting that are likely to change slowly and there is no reason known to the Service to consider them obsolete. In regard to research, the assessment was viewed as a vehicle for analyzing and presenting currently available information on shooting hours rather than discussing future research plans.

Defenders asserts that only 320 hunts per year were observed in hunter performance observations in seasons with pre-sunrise shooting hours; that this represents only a few hunts per day of an activity involving millions of citizens throughout the nation; and that the observations were gathered according to convenience rather than scientific procedures. Defenders objects that the sample is too limited for conclusions to be drawn, and the results contribute relatively little to the problem at hand.

The Service notes that the 320 hunts per year cited by Defenders represents less than half of the annual sample. It is not appropriate to consider only hunts that were observed in seasons with pre-sunrise shooting hours because observations made in seasons with shooting hours beginning at sunrise also contain information relevant to the 90-minute shooting hour period that is contested. The 8 years of data used in the study consisted of 5,417 hunts by 11,562 hunters. These, rather than the number of hunts per year, are the relevant figures on sample size. Further, the reference to "millions of citizens" in connection with the number of hunts observed per day exaggerates the actual situation. The number of waterfowl hunters in the U.S. is on the order of 2 million, only a portion of which are in the field on any given day. The observations were not gathered on the basis of convenience but, on the contrary, were in line with an effort to obtain the best possible estimates of the attributes of an activity that is distributed in a highly uneven and non-random manner, i.e., the observations were focused on those places where waterfowl and waterfowl hunters concentrate in large numbers. These are the places where it was determined that data

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could best and most usefully be gathered. As stated previously in 42 FR 40211 (August 9, 1977), the Service believes that the sample was actually quite large and the data very strong. The sample size is large enough to draw reasonable conclusions regarding the extent to which any shooting of protected or endangered species occurs, and contributes importantly to an understanding of the impact of shooting hours on these species.

Defenders asserts that they have little confidence in the hunter performance surveys because observers cannot check the accuracy of their observations with bag checks if they are (1) uncertain as to who shot a given bird, (2) uncertain if one or more birds were retrieved or not, and (3) uncertain as to the numbers and kinds of birds taken by multiple shots.

The Service considers item 1 to be irrelevant to the analysis since the important information is whether or not a particular bird was shot by the hunters under observation. As noted previously in 42 FR 40211 and on page 15 of the assessment, in cases where there were questions such as those in items 2 and 3, the observations were not used in this analysis. Nine percent of the hunts observed to completion were rejected on the basis of such selection criteria.

Defenders objects that no information is provided on where the data were obtained and what protected birds could be found in those areas.

The Service notes that it was pointed out on page 13 of the assessment that observations were made throughout all or part of the 8-year period in all of the 48 conterminous States. While each of the individual observation records identifies the specific area where the observation was made, it was not considered necessary or desirable to describe the data base in such minute detail in the assessment. The assessment was not intended to provide such an area by area analysis but instead to provide a clear, concise, and understandable analysis of the relationship of shooting hours to the nationwide kill of protected and endangered species. General information on populations and distribution of the protected and endangered species identified as being of most concern in connection with hunting in general and shooting hours in particular was provided in the assessment. This is discussed in the section on species evaluations for protected species, and in the appendices for endangered species. As noted on page 24 in the assessment, such information is often not precise. Nevertheless, the Service believes that it is adequate for an understanding of the impact of shooting hours on the species in question.

Defenders asserts that most if not all of the hunter performance surveys were conducted on national wildlife refuges where hunters know law enforcement is more thorough, and this may have biased the data as hunters may behave differently under such circumstances.

The Service notes that the majority of the observations were made by State biologists and law enforcement officers on areas other than national wildlife refuges.

Defenders asserts that the selection of hunter observation sites was non-random and subjective and that a randomizing procedure should have been used to obtain statistically valid data. The Service notes that waterfowl hunting is not uniformly distributed but is focused on those places where waterfowl concentrate and are accessible to hunters. Consequently, the Service believes that the way the data were obtained does not compromise the validity of the observations.

Defenders asserts that data presented in the assessment shows that the highest incidence of shooting protected waterfowl and protected non-waterfowl occurred during the shooting hours contested and that this identifies a problem which the Service failed to treat adequately in the assessment.

The Service notes that the assessment shows only a fraction of one percent of the birds killed throughout the entire day consisted of protected waterfowl and protected non-waterfowl, and only a fraction of this small percentage occurred during the contested 90-minute period. This is applicable to regular waterfowl hunting seasons with shooting hours that begin either one-half hour before sunrise, or at sunrise. The Service believes that this was adequately discussed and considered in the sections on Environmental Impacts of the Proposed Action and Alternatives to the Proposed Action.

Defenders asserts that the analysis of data on page 23 of the assessment excludes protected waterfowl and non-waterfowl for which hunting was allowed at other times of the year.

The Service finds that this assertion is not correct and that the data discussed on page 23 include the birds in question.

Defenders asserts that birds killed in violation of bag limits or point totals, which are not included in Tables 4–6 in the assessment but which are considered elsewhere should have been lumped with the other data.

The information on ducks shot in excess of the daily bag limit was added to the assessment in response to Defenders' comments of July 30, 1977, on the draft assessment. The Service decided to present it separately to insure that it would not be overlooked. Further, the Service believes that the information in question is different in nature than that presented in Tables 4–6 and should not be combined with other data. As pointed out on page 22 of the assessment, ducks shot in excess of the daily bag limit were most commonly shot later in the day than one hour after sunrise. This is consistent with other studies of harvest as well as the information presented in the assessment showing that the average daily bag per hunter is on the order of one or two birds. Thus, hunters seldom are in an over-bagging situation during the contested shooting hours.

Defenders asserts that the assessment clearly shows a potential problem with the shooting of canvasbacks and redheads during sunrise and sunset portions of the day but the assessment balks at probing further into the impacts.

The Service believes that the impacts on canvasbacks and redheads are adequately discussed and explained in the context of information presented on pages 21, 22, and 24–25 in the assessment.

Defenders asserts that for most of the species considered the sample sizes are extremely small and a change in 1 or 2 individual birds killed can make a major difference in the percentages involved.

The Service notes again that the sample on which this study is based is not small but is actually quite large. It is the extent to which protected species are killed that is small because of relatively infrequent occurrence. An increase of 1 or 2 individuals per species would not change this. This is an attribute of the sample, not the sample itself, and it is important to recognize this distinction.

Defenders asserts that the Service should have conducted studies on the amount of light necessary to make the identifications needed to distinguish species because the assessment does not demonstrate that protected species are not being harmed by hunting and the evidence is at best inconclusive.

The Service notes that this point was discussed at some length in 42 FR 40211 in responding to comments received on the draft environmental assessment. At that time it was noted that the Service decided not to undertake additional studies on the amount of light necessary to make identifications during early morning and late afternoon hunting unless the assessment indicated that there was a significant problem associated with hunting at these times, or at other times of the day, that resulted in an adverse impact on the populations of protected waterfowl and non-waterfowl species or endangered species. In light of the inconsequential take of protected species during all hours of the day, it was decided that further studies on illumination in relation to species identification were unnecessary. It is therefore the view of the Service that the assessment complies with the Court's directive.

Defenders refers to Objective No. 3 in the discussion of the role of regulations in page 2 of the assessment which reads as follows: To avoid the taking of endangered or threatened species so that their continued existence is not jeopardized and their conservation is enhanced. Defenders asserts that the important concept of restoration of endangered and threatened species, or species that have been depleted significantly, is not mentioned in the goal.

The Service notes that the concept referred to above is included in the meaning of the term their conservation is enhanced and is so understood by the Service. The definition of conservation as set forth in the Endangered Species Act of 1973 includes the concept of restoration. It is the Service's view that the mi-

gratory bird hunting regulations, including shooting hours, currently proposed are consistent with and supportive of programs to enhance the conservation of those protected or endangered species whose numbers are depleted and the management objective is to increase them. For further information on these programs in relation to the present discussion, readers are referred to the discussions of endangered species in the appendices to the assessment. It is the view of the Service that these programs are effectively enhancing the conservation of these species, and that hunting regulations set in consonance with them are contributing to that enhancement. The programs for whooping cranes and the Aleutian Canada geese provide examples of successful programs and show the inter-relationship of different actions, including appropriate hunting restrictions. No need is presently discerned for new and different types of regulatory restrictions, such as a broad application of more restrictive shooting hours, which go beyond those types of regulatory restrictions already in use and found to be effective, in order to continue the success of these and similar programs.

Correction in Ohio Zoning

In the August 15, 1977, FEDERAL REGISTER, on page 41152, the Service proposed zoned hunting seasons on ducks, coots and mergansers and described the zones for Ohio as follows *North Zone*—That portation of Ohio north of U.S. Highway 30 North. *South Zone*—The remainder of Ohio. The Service has been notified by Ohio that it erred in the highway number designation when it submitted its zone descriptions to the Service. In the final regulations frameworks the Service has changed the zone descriptions for Ohio to read as follows *North Zone*—That portion of Ohio north of Interstate Highway 70 to the Ohio, Michigan, Ontario, Pennsylvania boundary in Lake Erie. *South Zone*—That portion of Ohio south of Interstate Highway 70 to the Ohio River. This change is intended to correct the zone description error.

Steel Shot Regulations

Non-toxic shot requirements in some areas apply to waterfowl regulations frameworks being finalized here. On April 28, 1977, the Service published in the FEDERAL REGISTER (42 FR 21614) final regulations regarding areas in the Atlantic and Mississippi Flyways in which shotshells loaded with steel shot will be required for waterfowl hunting in seasons commencing in 1977. Subsequently, the Service proposed in the FEDERAL REGISTER (42 FR 33354, June 30, 1977) that these requirements would apply only to 12-gauge shotshells, and final rulemaking on this proposal was published in the FEDERAL REGISTER on August 3, 1977 (42 FR 39106). The intended effect of establishing these steel shot regulations is to reduce the number of deaths of waterfowl caused by ingesting spent lead pellets. The regulations appear under 50 CFR, § 20.21 and § 20.108, and will also be summarized in the Service's regulations leaflets to be published late this summer.

Environmental Review

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the FEDERAL REGISTER on June 13, 1975 (40 FR 25241). The final environmental assessment on shooting hours (42 FR 40211; August 9, 1977) supplements the discussion on shooting hours in FES 75–54.

Compliance With Section 7 of the Endangered Species Act of 1973

Section 7 of this act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act," and "by taking such action necessary to insure that actions authorized, funded, or carried out • • • do not jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species • • • which is determined to be critical." Consequently, the Service reviewed all migratory bird regulations being contemplated for early seasons in the United States this year and concluded in a biological opinion that none of the proposals, including shooting hours, if implemented, would result in jeopardizing the continued existence of any species designated as endangered or threatened under the act, or adversely modify their critical habitat or habitats that may be determined as critical in the future. Likewise, the biological opinion concluded that the proposed regulations were not contrary to, and did not undermine the Service's obligation to conserve endangered or threatened species. The consideration of section 7 was described in more detail in the FEDERAL REGISTER dated July 22, 1977, on page 37554. It should be noted that much of the discussion and evaluation of shooting hours in the shooting hours environmental assessment related to protected or endangered species. No evidence was found that the proposed shooting hours were detrimental to any endangered or threatened species.

The proposed late season regulatory frameworks were likewise subjected to careful study to insure that they complied with section 7 of the Endangered Species Act. Five endangered species were considered in a threshold examination completed on August 22, 1977. These included the Aleutian Canada goose (*Branta canadensis leucopareia*), Everglade kite (*Rostrhamus sociabilis plumbeus*), bald eagle (*Haliaeetus leucocephalus*), Arctic peregrine falcon (*Falco peregrinus tundris*) and the American peregrine falcon (*F. p. anatum*). The threshold examination report reviewed and evaluated the population and habitat status and trends of these endangered species; factors affecting their status and welfare; management programs under way or planned to enhance the status of the species; and the impacts, if any, of the proposed late season hunting regulations. It was concluded that no likelihood exists that the late season migratory game bird regulations for 1977–78 will jeopardize the continued existence of any of the five endangered species, or destroy or adversely modify their critical habitat or habitats that may in the future be determined to be critical for them. Furthermore, it was concluded that the Service has taken all reasonable measures to insure that these regulations are compatible with the conservation programs being carried out for each of these species. The Service wishes to reiterate that delays or closures of migratory bird hunting seasons will be considered, and invoked when justified, for the protection of endangered species.

The proposed migratory bird hunting regulations for late seasons were also evaluated as they relate to the Mexican duck (*Anas diazi*) and the whooping crane (*Grus americana*). A biological opinion on these endangered species was issued in a report dated August 22, 1977. This opinion concluded that the proposed regulations were unlikely to jeopardize the continued existence of either species, or destroy or adversely modify habitats that have been proposed as critical habitat or that may in the future be determined to be critical for either species.

However to insure that programs administered by the Service are used to further the purposes of the Endangered Species Act, the Service intends to initiate new investigation and management programs for each species. These are described in detail in the biological opinion, and summarized here.

New efforts for the Mexican duck include projects to further determine the status, distribution, and genetic purity of Mexican-like ducks in the United States, determine the proper taxonomic classification of the Mexican duck; and increase public information and education programs for the species. In addition, the Service intends to prohibit the hunting of all ducks in all or portions of 13 southwestern counties in the range of the Mexican duck. These include Cochise County in Arizona, Catron, Dona Ana, Hidalgo, and Luna Counties in New Mexico and Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Pecos, Presidio, and Reeves Counties in Texas. The closure boundaries in these three States are fully described in the framework text. Hunting seasons for migratory game birds other than ducks are unaffected by these closures.

Additional management efforts for the whooping crane particularly in the Bosque del Apache National Wildlife Refuge area of New Mexico, were also specified. Whooping cranes of the Grays Lake transplant program winter in the area where limited snow goose hunting is permitted. Changes in the snow goose hunt conducted on the refuge include expanding the hunter education and testing program, shifting certain refuge fields to closed or open to hunting status, improving the hunter communications

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system operative while hunting is under way, relocating some blinds, expanding law enforcement efforts, increasing food supplies, and changing the schedule of hunting days. The Service will invoke an emergency closure on snow goose hunting on the refuge should such action become necessary. Emergency closures elsewhere for the Grays Lake and the Aransas whooping crane flocks will also be invoked if necessary. Such emergency closure will be based upon the proportion of the population involved, degree of risk of hunter-induced mortality, and extent of crane redistribution.

The Service devoted more than 500 hours to consideration of the early season regulations in the section 7 consultation process this year, and in excess of 750 hours were devoted to the late season regulations. In addition, the review process involved the appropriate endangered species recovery teams, consultations with employees of various State conservation agencies, other federal agencies, and universities; and field trips to potential problem areas.

The Service's biological opinions and threshold examination reports resulting from consultation under section 7 are available for public inspection in the Office of Endangered Species, U.S. Fish and Wildlife Service, Room 1100, 1612 K Street NW., Washington, D.C 20240, or the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 2243, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240. Copies may also be supplied by mail upon request.

Drafting Information

This final rulemaking was authored by Dr. John P. Rogers, Chief, Office of Migratory Bird Management.

Regulations Promulgation

The rulemaking process for migratory game bird hunting, must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rulemakings were published on March 10, May 25, July 5, July 15, and August 15, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the States would have insufficient time to select their season dates, and bag limits; to communicate those selections to the Service, and finally to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

Accordingly, the Service prescribes the final frameworks setting forth the species to be hunted, daily bag and possession limits, season dates, shooting hours, and special closures from which State conservation agency officials may select open season dates Upon receipt of season selections from State officials, the Service will publish in the Federal Register final rulemaking amending certain sections of Subpart K of 50 CFR Part 20 to reflect seasons, limits and shooting hours for the contiguous United States for the 1977–78 season.

Final Regulations Frameworks for 1977–78 Late Hunting Seasons on Certain Migratory Game Birds.

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved final frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which states may select seasons for hunting waterfowl, coots, and gallinules; cranes in parts of New Mexico, Texas, Colorado, Oklahoma, Montana, and Wyoming; common snipe in the Pacific Flyway; and special extended falconry seasons. States may be more restrictive in selecting season regulations, but may not exceed the framework provisions. For the guidance of State conservation agencies, these frameworks are summarized below

General

States may split their seasons for ducks or geese into two segments of equal or unequal lengths. Exceptions are noted in appropriate sections.

Shooting hours in all States, on all species, and for all seasons are ½ hour before sunrise until sunset, except that September teal season shooting hours are sunrise until sunset.

States in the Atlantic, Mississippi, and Central Flyways selecting neither a September teal season nor the point system may select an extra daily bag and possession limit of 2 and 4 blue-winged teal, respectively, for 9 consecutive days designated during the regular duck season. These extra limits are in addition to the regular duck bag and possession limits.

States in the Atlantic, Mississippi and Central Flyways may select a special scaup-only hunting season not to exceed 16 consecutive days, with daily bag and possession limits of 5 and 10 scaup, respectively, subject to the following conditions:

1. The season must fall between October 1, 1977, and January 31, 1978, all dates inclusive.

2. The season must fall outside the open season for any other ducks except sea ducks.

3. The season must be limited to areas mutually agreed upon between the State and the Service prior to September 1, 1977.

4. These areas must be described and delineated in State hunting regulations

OR

As an alternative, States in the Atlantic, Mississippi, and Central Flyways, except those selecting a point system, may select an extra daily bag and possession limit of 2 and 4 scaup, respectively, during the regular duck hunting season, subject to conditions 3 and 4 listed above These extra limits are in addition to the regular duck limits and apply during the entire regular duck season.

Selection of the point system for any State entirely within a flyway must be on a statewide basis, *except* if New York selects the point system, conventional regulations may be retained for the Long Island Area. New York may not select the point system within the Upstate zoning option. Maine may not select the point system with the State zoning option

States that did not select their rail, woodcock, snipe, gallinule, and sea duck seasons in July should do so at the time they make their waterfowl selections.

Frameworks for open seasons and season lengths, bag and possession limit options, and other special provisions are listed below by Flyway

Atlantic Flyway

Between October 1, 1977, and January 20, 1978, States in this Flyway may select open seasons on ducks, coots, and mergansers of (a) 45 days, with basic daily bag and possession limits of 4 and 8 ducks, respectively, of which no more than 2 in the daily bag and 4 in possession may be black ducks or (b) 45 days, with basic daily bag and possession limits of 5 and 10 ducks, respectively, of which no more than 1 in the daily bag and 2 in possession may be black ducks Under either option (a) or (b), a 50-day season may be selected provided the season is opened on a Wednesday with shooting hours beginning at noon on opening day If the 50-day season is split, each segment must open on a Wednesday with shooting hours beginning at noon on opening day

Except in closed areas, the limit on canvasbacks and redheads is 1 canvasback daily and 1 in possession or 1 redhead daily and 1 in possession. Under the point system, canvasbacks count 100 points each and redheads count 70 points each, except in closed areas. Areas closed to canvasback and redhead hunting are

New York—Upper Niagara River between the Peace Bridge at Buffalo, New York, and the Niagara Falls All waters of Lake Cayuga.

New Jersey—Those portions of Monmouth County and Ocean County lying east of the Garden State Parkway

Marvland, Virginia and North Carolina—Those portions of each State lying east of U S. Highway 1

Under conventional and point system options, the daily bag and possession limits may not include more than 2 and 4 wood ducks, respectively, except that Virginia, North Carolina, South Carolina, Georgia and Florida may split their regular hunting season in such a way that a hunting season not to exceed 9 consecutive days occurs between October 1 and October 15 During this period under conventional regulations, no special restrictions within the regular daily

bag and possession limits established for the flyway in 1977 shall apply to wood ducks. Under the point system, the point value of wood ducks shall be 25. For other species of ducks, daily bag and possession limits shall be the same as established for the flyway under conventional or point system regulations. For those States using conventional regulations, the 9 consecutive days extra blue-winged teal option may be selected concurrent with the early wood duck season option. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

The daily bag limit on mergansers is 5 only 1 of which may be a hooded mergansers. The possession limit is 10, only 2 of which may be hooded mergansers.

The daily bag and possession limits of coots are 15 and 30, respectively.

The Lake Champlain Area of New York must follow the waterfowl seasons, daily bag and possession limits, and shooting hours selected by Vermont. This area includes that part of New York lying east and north of a boundary running south from the Canadian border along U.S. Highway 9 to New York Route 22 south of Keeseville, along New York Route 22 to South Bay, along and around the shoreline of South Bay to New York Route 22, along New York Route 22 to U.S. Highway 4 at Whitehall, and along U.S. Highway 4 to the Vermont border.

In lieu of a special scaup season, Vermont may, for the Lake Champlain Area, select a special scaup and goldeneye season not to exceed 16 consecutive days, with a daily bag limit of 3 scaup or 3 goldeneyes or 3 in the aggregate and a possession limit of 6 scaup or 6 goldeneyes or 6 in the aggregate, subject to the same provisions that apply to the special scaup season elsewhere.

New York may, for Long Island, select season dates and daily bag and possession limits which differ from those in the remainder of the State.

Upstate New York (excluding the Lake Champlain area) may be divided into three zones (West, North, South) on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. Option (a) or (b) for seasons and bag limits is applicable to the zones in the Upstate area within the Flyway framework; only conventional regulations may be selected. The West Zone will be permitted the full number of days offered under options (a) or (b), with or without the Wednesday opening with shooting hours beginning at noon on opening day. In addition, a split season without penalty may be selected in the West Zone. The North Zone and the South Zone must take a 5-day reduction in season length under either option, with or without the Wednesday opening, with shooting hours beginning at noon on opening day. The basic daily bag limit on ducks in each zone and the restrictions applicable to options (a) and (b) of the regular season for the Flyway also apply. Teal and scaup bonus birds, shall be applicable to the Upstate zones, but the 16-day special scaup season will not be allowed.

The zones are defined as follows The West Zone is that portion of Upstate New York lying west of a line commencing at the north shore of the Salmon River and its junction with Lake Ontario and extending easterly along the north shore of the Salmon River to its intersection with Interstate Highway 81, then southerly along Interstate Highway 81 to the Pennsylvania border

The North and South Zones are bordered on the west by the boundary described above and are separated from each other as follows:

Starting at the intersection of Interstate Highway 81 and New York Route 49 and extending easterly along Route 49 to its junction with Route 8 in Utica, then southerly along Route 8 to its intersection with U.S. Highway 20 in Bridgewater, then easterly along U.S. Highway 20 to the Massachusetts border.

Maine may be divided into two zones (North, South) on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. Option (a) or (b) for seasons and bag limits is applicable to the zones within the Flyway framework; only conventional regulations may be selected. Both zones will be permitted the full number of days offered under options (a) or (b) with or without the Wednesday opening with shooting hours beginning at noon on opening day. In addition, a split season without penalty may be selected in the South Zone. The basic daily bag limit on ducks in each zone and the restrictions applicable to options (a) and (b) of the regular season for the Flyway also apply Teal and scaup bonus bird options, if offered, shall be applicable, but the 16-day special scaup season will not be allowed.

The Maine zones are defined as follows: North Zone—Game Management Zones 1, 2 and 3. South Zone—Game Management Zones 4 through 8.

As an alternative to conventional bag limits for ducks, a 45-day season with a point-system bag limit may be selected by States in the Atlantic Flyway during the framework dates prescribed. A 50-day season may be selected provided the season is opened on a Wednesday with shooting at noon on opening day If the 50-day season is split, each segment must open on a Wednesday with shooting hours beginning at noon on opening day. Point values for species and sexes taken are as follows in Florida only, the fulvous tree duck counts 100 points each, in all States the canvasback counts 100 points each (except in closed areas); the female mallard, black duck, mottled duck, wood duck (except in Virginia, North Carolina, South Carolina, Georgia and Florida during the early wood duck season option), redhead (except in closed areas) and hooded merganser count 70 points each, the blue-winged teal, green-winged teal, pintail, gadwall, shoveler, scaup, sea ducks, and mergansers (except hooded) count 10 points each; the male mallard, the wood duck during the early wood duck season option in Virginia, North Carolina, South Carolina, Georgia and Florida, and all other species of ducks count 25 points each The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day reaches or exceeds 100 points The possession limit is the maximum number of birds which legally could have been taken in 2 days.

In any State in the Atlantic Flyway selecting both point-system regulations and a special sea duck season, sea ducks count 10 points each during the point-system season, but during any part of the regular sea duck season falling outside the point-system season, regular sea duck daily bag and possession limits of 7 and 14, respectively, apply.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Between October 1, 1977, and January 20, 1978, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, West Virginia, New Jersey, Maryland, and Virginia (excluding those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17) may select 70-day seasons on Canada geese; the daily bag and possession limits are 3 and 6 geese, respectively However, in the area comprised of Delaware, the Delmarva Peninsula portions of Maryland and Virginia, and that portion of Pennsylvania lying east and south of a boundary beginning at Interest Highway 83 at the Maryland border and extending north to Harrisburg, then east on U.S. Highway 22 to the New Jersey border, the Canada goose season length will be 90 days with the closing framework date extended to January 31, 1978. The daily bag limit within this area will be 4 birds with a possession limit of 8 birds. North Carolina, South Carolina, and those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17 in Virginia may select 50-day seasons on Canada geese within the October 1, 1977, to January 20, 1978, framework; the daily bag and possession limits are 1 and 2 Canada geese, respectively.

The season is closed on Canada geese in Florida and Georgia.

Between October 1, 1977, and January 20, 1978, concurrent with either the regular waterfowl season or the Canada goose season, States in the Atlantic Flyway may select 60 day seasons on snow geese (including blue geese); the daily bag and possession limits are 2 and 4 geese, respectively

For snow geese (including blue geese) the Director, U.S. Fish and Wildlife Service, shall close the season within 48 hours should such closure be necessary to avoid excessive harvest.

The season is closed on Atlantic brant.

Mississippi Flyway

Between October 1, 1977, and January 20, 1978, States in this Flyway may select concurrent 45-day seasons on ducks, coots, and mergansers. The daily

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bag limit for ducks is 5, and may include no more than 2 mallards or 2 black ducks, or one of each, and 2 wood ducks (except as noted below). The possession limit is 10, including no more than 4 mallards or 4 black ducks, or 4 in the aggregate, and 4 wood ducks (except as noted below).

Except in closed areas, the limit on canvasbacks and redheads is 1 canvasback daily and 1 in possession or 1 redhead daily and 1 in possession. Under the point system, canvasbacks count 100 points each and redheads count 70 points each, except in closed areas. Areas closed to canvasback and redhead hunting are:

Mississippi River—entire river, both sides, from Alton Dam upstream to Prescott, Wisconsin, at confluence of St. Croix River.

Alabama—Baldwin and Mobile Counties.

Louisiana—Caddo, St. Charles, and St. Mary Parishes; that portion of Ward 1 formerly designated as Ward 6 of St. Martin Parish; and Catahoula Lake in LaSalle and Rapides Parishes.

Michigan—Arenac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola, and Wayne Counties, and those adjacent waters of Saginaw Bay south of a line extending from Point au Gres in Sec. 6, T18N, R7E (Arenac County) to Sand Point in sec. 11, T17N, R9E (Huron County), the St. Clair River, Lake St. Clair, the Detroit River and Lake Erie, under jurisdiction of the State of Michigan.

Minnesota—Douglas, Mahnomen, Polk, Pope and Sibley Counties. Where the county line of any of the above counties crosses any portion of a lake, that entire lake is closed. In addition, all land in sec. 13, T130N, R31W (i.e., land between Lake Christina and Pelican Lake) is closed.

Ohio—Land and water areas comprising Erie, Ottawa and Sandusky Counties.

Tennessee—Kentucky Lake lying north of Interstate Highway 40.

Wisconsin—In the Mississippi River Zone, all that portion of Wisconsin west of the Burlington-Northern Railroad in Grant, Crawford, Vernon, LaCrosse, Trempealeau, Buffalo, Pepin and Pierce Counties. Also, the following lakes and waters, including a strip of land 100 yards wide adjacent to the shorelines thereof: Lake Poygan in Winnebago and Waushara Counties and Lakes Winneconne and Butte des Morts, including the connecting waters thereof, in Winnebago County.

The daily bag limit on mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

The daily bag and possession limits on coots are 15 and 30, respectively.

As an alternative to conventional bag limits for ducks, a 45-day season with point-system bag and possession limits may be selected by States in the Mississippi Flyway during the framework dates prescribed. Point values for species and sexes taken are as follows: Except in closed areas, the canvasback counts 100 points; the redhead (except in closed areas), female mallard, wood duck (except as noted below), black duck and hooded merganser count 70 points each, the pintail, blue-winged teal, cinnamon teal, gadwall, shoveler, scaup, green-winged teal and mergansers (except hooded merganser) count 10 points each; the male mallard and all other species of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Kentucky, Arkansas, Tennessee, Louisiana, Mississippi and Alabama may split their regular duck hunting seasons in such a way that a hunting season not to exceed 9 consecutive days may occur between October 1 and October 15. During this period, under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the Flyway shall apply to wood ducks, and under the point system, the point value for wood ducks shall be 25 points. For other species of ducks, daily bag and possession limits shall be the same as established for the Flyway under conventional or point system regulations. In addition, the extra blue-winged teal option available to States in this Flyway that select conventional regulations and do not have a September teal season may be selected during this period. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

In that portion of Louisiana west of a boundary beginning at the Arkansas-Louisiana border on Louisiana Highway 3; then south along Louisiana Highway 3 to Shreveport; then east along Interstate 20 to Minden; then south along Louisiana Highway 7 to Ringgold, then east along Louisiana Highway 4 to Jonesboro; then south along U.S. Highway 167 to Lafayette; then southeast along U.S. Highway 90 to Houma; then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass—the season on ducks, coots and mergansers may extend 5 additional days, provided that the season opens on November 5, 1977. If the 5-day extension is selected, and if point-system regulations are selected for the State, point values will be the same as for the rest of the State.

The waterfowl seasons, limits, and and shooting hours in the Pymatuning Reservoir area of Ohio will be the same as those selected by Pennsylvania. The area includes Pymatuning Reservoir and that part of Ohio bounded on the north by County Road 306 known as Woodward Road, on the west by Pymatuning Lake Road, and on the south by U.S. Highway 322.

Michigan, Illinois, Indiana, Ohio and Missouri may select hunting seasons on ducks, coots and mergansers by zones described as follows

MICHIGAN

North Zone—The Upper Peninsula.
South Zone—The Lower Peninsula.

ILLINOIS

North Zone—St Clair Clinton Marion, Clay Richland and Lawrence Counties and all counties to the north
South Zone—The remainder of Illinois.

INDIANA

North Zone—That portion of Indiana north of State Highway 18
South Zone—The remainder of Indiana.

OHIO

North Zone—That portion of Ohio north of Interstate Highway 70 to the Ohio Michigan, Ontario, Pennsylvania boundary in Lake Erie
South Zone—That portion of Ohio south of Interstate Highway 70 to the Ohio River

MISSOURI

North Zone—That portion of Missouri north of a line running easterly from the Kansas-Missouri border along U.S. Highway 160 to the junction of U.S. Highway 60 in Springfield, along U.S. Highway 60 to the junction of State Highway 21 along State Highway 21 to the junction of State Highway 34, and along State Highway 34 to the Illinois-Missouri border along the Mississippi River at Cape Girardeau
South Zone—The remainder of Missouri

Within each State (1) The season must be continuous in both zones, (2) the same bag limit option must be selected for both zones, and (3) if a special scaup season is selected, it shall not begin until after the latest season closing date in the State.

Between October 1, 1977 and January 20, 1978, States in this Flyway except Louisiana, may select 70-day seasons on geese, with daily bag and possession limits of 5 geese, to include no more than 2 white-fronted geese. Regulations for Canada geese are shown below by State

Between October 1, 1977 and February 14, 1978, Louisiana may select 70-day seasons on snow including blue and white-fronted geese by zones established for duck hunting seasons, with daily bag and possession limits of 5 geese, to include no more than 2 white-fronted geese. The season on Canada geese is closed in Louisiana.

In Minnesota, in the (a) Lac Qui Parle Zone—the season on Canada geese closes after 45 days or when 5,000 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose or 2 white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese. The quota zone is that area encompassed by a boundary described as follows: beginning at Montevideo, then west on U.S. Highway 212 to U.S. Highway 75, then north on U.S. Highway 75 to State Highway 7 at Odessa, then north on County State Aid Highway 21, Big Stone County, to U.S. Highway 12, then east on U.S. Highway 12 to County State Aid Highway 17, Swift

County, then south on C.S.A.H. 17 and C.S.A.H. 9, Chippewa County, to State Highway 40, then east on State Highway 40 to State Highway 29, then south on State Highway 29 to point of beginning at Montevideo.

(b) Southeastern Zone (same as description in 1971)—the season for Canada geese may extend for 70 consecutive days. The daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each, the possession limit is 2 Canada and 2 white-fronted geese.

(c) Remainder of the State—the season on Canada geese may not exceed 45 days. The daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

In Iowa, the season for Canada geese may extend for 45 consecutive days. The daily bag and possession limits are 2 Canada geese.

In Missouri, in the: (a) Swan Lake Zone (same description as in 1971)—the season on Canada geese closes after 45 days or when 25,000 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose or 2 white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

(b) Southeastern Area (east of U.S. Highway 67 and south of Crystal City)—State may select a 45-day season on Canada geese between December 1, 1977, and January 20, 1978, with a daily bag limit of 2 Canada geese or 2 white-fronted geese or 1 of each; and a possession limit of 4 Canada and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese.

(c) Remainder of the State—the season on Canada geese may not exceed 45 days. The daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit it 2 Canada gees and 2 white-fronted geese.

In Wisconsin, the harvest of Canada geese is limited to 35,000. The daily bag limit is 1 Canada goose, 2 white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese, except that in the Horicon Zone the possession limit for Canada geese is 1. In the Horicon Zone and the East Central Zone, Canada goose hunting is restricted to those persons holding valid Canada goose hunting permits issued by the State. The Horicon Zone is defined as those portions of the counties of Fond du Lac, Green Lake, Washington and Dodge enclosed by a line beginning at the intersection of County Highway N and State Highway 175 in Fond du Lac County, then southerly on State Highway 175 to its Intersection with State Highway 33, then westerly on State Highway 33 to the city of Beaver Dam, then northerly on State Highway 33 to its intersection with County Highway A, then northerly on County Highway A to its intersection with County Highway S, then easterly on County Highway S to its intersection with County Highwav E, then northerly on County Highway E to its intersection with County Highway N, then easterly on County Highway N to the point of beginning.

The East Central Zone is defined as those portions of Fond du Lac, Winnebago, Green Lake, Marquette, Columbia and Dodge Counties enclosed by a line beginning in Winnebago County at the intersection of State Highway 21 and U.S. Highway 45, then southerly on U.S. Highway 45 to its intersection with State Highway 175, then northerly on State Highway 175 to its intersection with County Highway N, then westerly on County Highway N to its intersection with County Highway E, then southerly on County Highway E to its intersection with County Highway S, then westerly on County Highway S to its intersection with County Highway A, then southerly on County Highway A to its intersection with State Highway 33, then southeasterly on State Highway 33 to its intersection with U.S. Highway 151, then southwesterly on U.S. Highway 151 to its intersection with U.S. Highway 16, then northwesterly on U.S. Highway 16 to its intersection with State Highway 73, then northerly on State Highway 73 to its intersection with State Highway 33, then westerly on State Highway 33 to its intersection with State Highway 22, then northerly on State Highway 22 to its intersection with State Highway 23, then northeasterly on State Highway 23 to its intersection with State Highway 49, then northerly on State Highway 49 to its intersection with State Highway 116, then easterly on State Highway 116 to State Highway 21, then easterly on State Highway 21 to the point of beginning

In Illinois, the harvest of Canada geese is limited to 35,000, with 29,000 birds allocated to the Southern Illinois Zone (same description as in 1971). The daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 4 Canada geese and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese. The season on Canada geese may open at a later date in the Southern Illinois Zone and extend to January 20, 1978, or until the Zone's quota of 29,000 birds is reached, whichever occurs first.

In Michigan, in the (a) Counties of Baraga, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee and Ontonagon—the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

(b) Southeastern Canada Goose Management area—the Canada goose season will open with the duck season and extend through December 9. Through November 14, the daily bag limit will be 1 Canada goose or 2 white-fronted geese or 1 of each, the possession limit is 1 Canada and 2 white-fronted geese. From November 15 through December 9, the daily bag limit will be 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese. The Management Area is encompassed by a boundary described as follows: beginning at the junction of State Highway M-21 and State Highway M-53 in Lapeer County, then south on State Highway M-53 to its junction with Interstate Highway 94, then west on Interstate Highway 94 to its junction with Interstate Highway 75, then south on Interstate Highway 75 to its junction with Gibralter Road, then west on Gibralter Road to Flat Rock, then west on West Carlton, Oakville and Waltz Roads to the junction with Rawsonville Road, then north on Rawsonville Road to Willow Road, then west on Willow Road to U.S. Highway 23, then south on U.S. Highway 23 to State Highway M-50 in Dundee, then west on State Highway M-50 to State Highway M-52, then south on State Highway M-52 to State Highway M-34, then west on State Highway M-34 to U.S. Highway 127, then north on U.S. Highway 127 to Interstate Highway 69, then north and east on Interstate Highway 69 to State Highway M-21 in Flint, then east on State Highway M-21 to the point of beginning

(c) Remainder of the State—the daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each, the possession limit is 1 Canada goose and 2 white-fronted geese.

In Ohio, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each, the possession limit is 2 Canada and 2 white-fronted geese.

In Indiana, the daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each, except in Posey County where the daily bag limit on Canada geese is 2, the possession limit is 2 Canada and 2 white-fronted geese.

In Kentucky, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each, the possession limit is 4 Canada geese and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese. In the Ballard County Zone, the harvest of Canada geese is limited to 15,000. This zone is described as follows: a boundary beginning at the northwest city limits of Wickliffe in Ballard County to the middle of the Mississippi River; then north along the Mississippi River to the low water mark of the Ohio River along the Illinois shore to the Ballard-McCracken County line; then along the county line south to State Road 358; then south along State Road 358 to its junction with U.S. Highway 60 at LaCenter; then southwest along U.S. Highway 60 to the northeast city limits of Wickliffe.

In Tennessee, the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese, except in that portion of the State west of State Highway 13, where the daily bag and possession limits are 2 Canada geese.

In Mississippi, in the Sardis Reservoir Area (that area encompassed by Interstate Highway 55 on the west, State Highway 7 on the east, State Highway 310 on the north and State Highway 6 on the south), the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese. In the remainder of the State, the season on Canada geese is closed.

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In Alabama, the season is closed on all geese in the Counties of Chambers, Henry, Russell and Barbour Elsewhere in Alabama, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 4 Canada and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese.

In Arkansas, the Canada goose season will be concurrent with, and the same length as, the duck season, with a daily bag limit of 1 Canada goose and a possession limit of 2 Canada geese, except that the Canada goose season is closed in that portion of the State east of a line described as follows: Beginning at the junction of State Highway 1 and the Arkansas-Missouri border, then south along State Highway 1 to the junction of U.S. Highway 65 at McGehee, then south along U.S. Highway 65 to the junction of U.S. Highway 165, then south along U.S. Highway 165 to the Arkansas-Louisiana border.

When it has been determined that the quota of Canada geese allotted to Illinois and Wisconsin, to the Swan Lake Zone of Missouri, to the Lac Qui Parle Zone of Minnesota, and the Ballard County Zone of Kentucky will have been filled, the season for taking Canada geese in the respective area will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing.

Geese taken in Illinois and Missouri and in the Kentucky Counties of Ballard, Hickman, Fulton, and Carlisle may not be transported, shipped, or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of the hunter taking the birds.

Central Flyway

Seasons on ducks (including mergansers) and coots may be selected between October 1, 1977, and January 22, 1978, inclusive, in Central Flyway States and portions of States, except in designated areas of New Mexico and Texas closed to duck hunting for the protection of the Mexican duck.

The basic season may include no more than 55 days and bag limits on ducks (including mergansers), singly or in the aggregate, are 5 daily and 10 in possession. The aggregate daily bag limit on ducks (including mergansers) may include no more than 1 hooded merganser, 2 wood ducks and 1 female mallard, and the possession limit may include no more than 2 hooded mergansers, 4 wood ducks and 2 female mallards.

The daily bag and possession limits on coots are 15 and 30, respectively.

The daily bag and possession limits, except in closed areas, may include no more than 1 canvasback or 1 redhead. Except in closed areas, canvasbacks count 100 points each and redheads 70 points each under the point system. The areas closed to canvasback and redhead hunting are:

North Dakota—that portion lying east of State Highway 3, including all or portions of 27 counties.

South Dakota—all of Marshall County; that portion of Day County east of State Highway 25; that portion of Codington County south of State Highway 20 and west of U.S. Highway 81, that portion of Hamlin County west of U.S. Highway 81; and that portion of Kingsbury County east of State Highway 25 and north of U.S. Highway 14.

Texas—the Counties of Brazoria, Chambers, Galveston, Harris, Jefferson, and Orange.

The season is closed on the Mexican duck. In order to provide greater protection to the endangered Mexican duck, all duck hunting is prohibited in designated portions of New Mexico and Texas. These areas are described as follows:

That portion of New Mexico lying south and west of the boundary described as follows:

Interstate Highway 10 from the Arizona-New Mexico border east to Deming, north on U.S. Highway 180 to State Highway 26, east on State Highway 26 to Interstate Highway 25, south on Interstate Highway 25 to Las Cruces, and south on Interstate Highway 10 to the New Mexico-Texas border.

Also, the Tula Rosa Creek Area defined as beginning where State Highway 12 crosses the Continental Divide, and extending westward along State Highway 12 to Apache, and encompassing the area one mile south of the above boundary, all in Catron County.

That portion of Texas lying west and south of the boundary described as follows:

Interstate Highway 10 from the Texas-New Mexico border south and east to Fort Stockton, U.S. Highway 385 from Fort Stockton south to the bounary of the Big Bend National Park, and southwesterly along the west boundary of the Big Bend National Park to the U.S.-Mexico border along the Rio Grande.

As an alternative to conventional bag and possession limits for ducks, point-system regulations may be selected for States and portions of States in this Flyway. The point system season length in the High Plains Mallard Management Unit is 83 days *Provided*, That the last 23 days of such season must begin on or after December 12, 1977. The High Plains Unit, roughly defined as that portion of the Central Flyway which lies west of the 100th meridian, shall be described in State regulations. The season length for the Low Plains Unit (those portions of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas not included in the High Plains Mallard Management Unit) may not exceed 55 days.

The point values for species and sexes taken in the Central Flyway are as follows: Except in closed areas, canvasbacks count 100 points each; female mallards, wood ducks, redheads (except in closed areas) and hooded mergansers count 70 points each; blue-winged teal, green-winged teal, cinnamon teal, scaup, pintails, gadwalls, shovelers, and mergansers (except the hooded merganser) count 10 points each; all other species and sexes of ducks count 20 points each. The daily bag limit is reached when the point value of the last bird taken, when added to the sum of the point values of other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under conventional limits.

Those portions of Colorado and Wyoming lying west of the Continental Divide, that portion of New Mexico lying west of the Continental Divide plus the entire Jicarilla Apache Indian Reservation, and that portion of Montana which includes the Counties of Hill, Chouteau, Cascade, Meagher, and Park and all counties west thereof, must select open seasons on waterfowl and coots in accordance with the framework for the Pacific Flyway.

Between October 1, 1977, and January 22, 1978, States in this Flyway may select goose seasons as follows:

(a) For the Central Flyway portions of Montana, Wyoming and Colorado, States may select seasons of 93 days, with daily bag and possession limits of 2 and 4 geese, respectively.

(b) For the Central Flyway portion of New Mexico and that portion of Texas west of U.S. Highway 81, States may select seasons of 93 days with a daily bag limit of 5 geese which may include no more than 2 dark (Canada and white-fronted) geese and a possession limit of 5 geese which may include no more than 4 dark geese.

(c) North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas (for that portion east of U.S. Highway 81) may select seasons of 86 days for light (snow and blue) geese and seasons of 72 days for dark (Canada and white-fronted) geese subject to the following:

Seasons for light and dark geese need not be concurrent.

The daily bag and possession limits may not exceed 5 geese during periods when such light and dark goose seasons may be concurrent.

The daily bag and possession limit may include no more than 5 light geese.

The daily bag limit may include no more than 2 dark geese and the possession limit may include no more than 4 dark geese subject to the following:

In North Dakota, the daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose or 2 white-fronted geese. The possession limit may include no more than 2 Canada or 2 white-fronted geese or 1 of each. The season on dark geese may not extend beyond November 13, 1977.

In South Dakota, the daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose and the possession limit may include no more than 2 Canada geese or 2 white-fronted geese or 1 of each The season on dark geese may not extend beyond November 27, 1977. in the Counties of Buffalo, Brule, Campbell, Charles Mix, Corson, Dewey, Gregory, Hughes, Hyde, Lyman, Potter, Stanley, Sully and Walworth.

In Nebraska, the season on dark geese may not extend beyond December 18, 1977 The daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose and the possession limit may include no more than 2 Canada geese or 2 white-fronted geese or 1 of each except that, in that portion of the State west of U.S Highway 183, prior to November 21, the daily bag limit may include no more than 2 Canada geese and the possession limit no more than 4 Canada geese.

In Kansas, the season on Canada and white-fronted geese may not extend beyond December 25, 1977 The daily bag limit may include no more than 1 Canada and 1 white-fronted goose and the possession limit may include no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

In the Oklahoma Counties of Alfalfa, Bryan, Johnston, and Marshall, the State may select either:

(a) A season of 72 days with a daily bag limit of no more than 1 Canada goose and 1 white-fronted goose, and a possession limit of no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

OR

(b) A season of 53 days (within the 72-day period selected for the remainder of the State) with a daily bag limit of no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose, and a possession limit of no more than 2 Canada geese and 2 white-fronted geese or 1 of each.

In the remainder of Oklahoma, the daily bag limit may include no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose and the possession limit no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

In that portion of Texas east of U.S. Highway 81, the State may select either:

(a) A season of 72 days with a daily bag limit of no more than 1 Canada goose or 1 white-fronted goose and a possession limit of no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

OR

(b) A season of 64 consecutive days commencing no earlier than November 12, 1977, with a daily bag limit of no more than 1 Canada and 1 white-fronted goose and a possession limit of no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

In all States in the Flyway, the daily bag and possession limits may include no more than 1 Ross' goose.

Colorado, New Mexico, Oklahoma, Texas, Montana and Wyoming may select a lesser sandhill (little brown) crane season with daily bag and possession limits of 3 and 6 respectively, within an October 1, 1977-January 31, 1978, framework as follows

(a) 37 consecutive days from October 1 through November 6, 1977, in the Central Flyway portion of Colorado except the San Luis Valley area

(b) 93 consecutive days between October 22, 1977, and January 31, 1978, in the New Mexico Counties of Chaves, Curry, De Baca, Eddy, Lea, Quay and Roosevelt, and in that portion of Texas west of a boundary from the Oklahoma border along U.S Highway 287 to U.S. Highway 87 at Dumas, along U.S. Highway 87 (including all of Howard and Lynn Counties) to U.S Highway 277 at San Angelo, and along U.S. Highway 277 to the International Toll Bridge in Del Rio.

(c) 58 consecutive days on or after November 26, 1977, in that portion of Oklahoma west of U.S. Highway 81, and in that portion of Texas east of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, then along U.S. Highway 87 to San Angelo, and west of a line running north from San Angelo along U.S. Highway 277 to Abilene, along State Highway 351 to Albany, along U.S. 283 to Vernon, and then along U.S. Highway 183 east to the Oklahoma border.

(d) 37 consecutive days to open with the goose season in Phillips County, Montana.

(e) 30 consecutive days beginning on or after October 8, 1977, in Platte and Goshen Counties, Wyoming.

All persons hunting sandhill cranes in the above designated areas of the Central Flyway must obtain and possess valid Federal permits issued by the appropriate State conservation agency on an equitable basis without charge.

Emergency closures of hunting seasons will be considered whenever portions of either the Gray's Lake or Arkansas flocks of whooping cranes are found in areas where there is risk to their taking by hunters.

Pacific Flyway

Between October 1, 1977, and January 22, 1978, concurrent 93-day season on ducks, mergansers, coots, and gallinules may be selected in Pacific Flyway States and portions of States, except the Columbia Basin Area and the designated portion of Arizona closed to duck hunting for protection of the Mexican duck. Basic daily bag and possession limits on ducks are 7 and 14, respectively.

No more than 2 redheads or 2 canvasbacks or 1 of each may be taken daily and no more than 4 singly or in the aggregate may be possessed.

The season is closed on the Mexican duck. In order to provide greater protection to the endangered Mexican duck, all duck hunting is prohibited in a designated portion of Arizona. This area is described as follows:

That portion of Cochise County, Arizona, lying south and east of the boundary described as follows:

Interstate Highway 10 from the New Mexico-Arizona border west to Benson, south on U.S. Highway 80 to the San Pedro River, and south along the San Pedro River to the U.S.-Mexico border

The daily bag possession limits on mergansers are 5 and 10, respectively, of which no more than 1 daily and 2 in possession may be hooded mergansers.

The daily bag and possession limits on coots and gallinules are 25 singly or in the aggregate.

For that portion of California lying south of the Tehachapi Mountains and west of the Colorado River Area (as described in Title 14 California Fish and Game Code, Section 502), the State may designate season dates differing from those in the remainder of the State.

Waterfowl season dates for Clark and Lincoln Counties in Nevada and the Colorado River Area of California must coincide with season dates selected by Arizona for waterfowl. Waterfowl season dates for the Tule Lake Area of California must must coincide with season dates selected by Oregon for waterfowl.

In the Columbia Basin Area of Washington, Oregon and Idaho, between October 1, 1977, and January 22, 1978, the season lengths for ducks, mergansers, coots and gallinules may be 100 days with all seasons to run concurrently. The daily bag limit is 7 ducks and the possession limit is 14 ducks, to include no more than 2 redheads or 2 canvasbacks or 1 of each daily, and no more than 4 singly or in the aggregate in possession. The bag limit on mergansers is 5 daily and 10 in possession, of which no more than 1 daily and 2 in possession may be hooded mergansers. The daily bag and possession limits on coots and gallinules are 25 singly or in the aggregate.

Between October 1, 1977, and January 22, 1978, 93-day seasons on geese may be selected in States or portions of States in this Flyway, except the Columbia Basin Area. The basic daily bag and possession limits are 6, provided, that the daily bag limit includes no more than 3 snow geese and 3 geese of the dark species (Canada and white-fronted); the daily bag and possession limits are proportionately reduced in those areas where special restrictions apply to Canada geese. In Washington and Idaho, the daily bag and possession limits are 3 and 6 geese, respectively.

The season is closed on the Aleutian Canada goose.

Three areas in California, described as follows, are restricted to the hunting of Canada geese in order to protect the Aleutian Canada goose for which no hunting is allowed:

(1) In the Counties of Del Norte and Humboldt there will be no open season on Canada geese during the 1977-78 waterfowl hunting season.

(2) In the Sacramento Valley in the area described as follows: Beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes on the Sacramento River; then south on the Sacramento River to the Tisdale By-pass; then east-

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erly on the Tisdale By-pass to where it meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45–162 to Glenn; then westerly on State Highway 162 to the point of beginning in Willows, the hunting season for taking Canada geese will not open until December 15, 1977, and will then continue to the end of the 1977–78 waterfowl hunting season.

(3) In the San Joaquin Valley in the area described as follows: beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate 5; then southerly on Interstate 5 to the junction of State Highway 152 in Merced County; then easterly on State Highway 152 to the junction of State Highway 59; then northerly on State Highway 59 to the junction of State Highway 99 at Merced; then northerly and westerly to the point of beginning; the hunting season for taking Canada geese will close on November 24, 1977 at sunset.

Emergency closures may be invoked for all Canada geese should Aleutian Canada goose distribution pattern or other circumstances justify such actions.

In the Washington Counties of Adams, Franklin, Grant, Walla Walla, Lincoln, Douglas, Yakima, Benton, Klickitat, and Kittitas, and in the Oregon Counties of Morrow, Wasco, Sherman, Gilliam, Umatilla, Union and Wallowa, the goose season must run concurrently with the Columbia Basin duck season and the bag limits for geese are to be the same as in the general goose season in their respective States.

In that portion of Idaho lying west of U.S. Highway 93 (except Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Lewis, Clearwater and Idaho Counties); in the Oregon Counties of Baker and Malheur; in that portion of Montana and Wyoming in the Pacific Flyway, the daily bag and possession limit is 2 Canada geese and the season on Canada geese may not extend beyond January 1, 1978.

In that portion of Idaho lying east of U.S. Highway 93; in that portion of Colorado in the Pacific Flyway; in Utah except Washington County, the season on Canada geese may be no more than 72 days and may not extend beyond December 18, 1977.

In Arizona; in that portion of New Mexico in the Pacific Flyway; in Clark and Lincoln Counties, Nevada; in Washington County, Utah; and in the Tehachapi waterfowl area of California, the season on Canada geese may be no more than 72 days. The daily bag and possession limit is 2 Canada geese and the season on Canada geese may not extend beyond January 1, 1978.

In that portion of California Fish and Game District 22 for which California selects the open season (that portion of District 22 lying outside the Colorado River area), the daily bag limit is 1 Canada goose with 2 in possession and the season on Canada geese may be no more than 72 days and may not extend beyond January 1, 1978.

In all States in the Flyway, the daily bag and possession limits may include no more than 1 Ross' goose.

Between October 22, 1977, and February 22, 1978, States in this Flyway may select an open season on black brant of 93 days with daily bag and possession limits of 4 and 8 brant, respectively.

In Utah, Nevada and Montana, an open season for taking a limited number of whistling swans may be selected subject to the following conditions: (a) the season must run concurrently with the duck season; (b) in Utah, no more than 2,500 permits may be issued, authorizing each permittee to take 1 whistling swan; (c) in Nevada, no more than 500 permits may be issued, authorizing each permittee to take 1 whistling swan in Churchill County; (d) in Montana, no more than 500 permits may be issued authorizing each permittee to take 1 whistling swan in Teton County; (e) permits and correspondingly numbered metal locking seals must be issued by the appropriate State conservation agency on an equitable basis without charge.

For all States entirely in the Pacific Flyway, open seasons on common (Wilson's) snipe must coincide with the duck season locally in effect. For other States partially within the Pacific Flyway seasons between September 1, 1977, and February 28, 1978, and not to exceed 93 days, may be selected. The daily bag and possession limits are 8 and 16, respectively. Any State may split its snipe season without penalty.

SPECIAL FALCONRY SEASONS FRAMEWORKS

Any State that provides special falconry hunting seasons may select extended falconry seasons for taking certain migratory game birds in accordance with the following provisions:

1. Seasons must fall within the framework dates provided for selecting regular hunting seasons for the various groups of species (e.g. October 1–January 20 for waterfowl, etc.).

2. Season lengths for all permitted methods of hunting within a given area may not exceed 107 days for any species.

3. Hawking hours to be ½ hour before sunrise until sunset.

4. Daily bag and possession limits for waterfowl (ducks, geese, and mergansers) may not exceed 2 and 4 birds, respectively, singly or in the aggregate.

5. Daily bag and possession limits for coots, gallinules, rails, snipe, woodcock, doves and pigeons only may not exceed 4 and 8 birds, respectively, singly or in the aggregate.

6. States offering extended seasons shall evaluate and report to the Service the results of each regular and extended falconry hunting season each year.

Hunting by falconry during regular migratory game bird seasons is permitted in accordance with applicable regulations.

States selecting extended falconry seasons must inform the Service of seasons and other regulations and publish said regulations.

NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 2, 1977.

LYNN A. GREENWALT,
Director,
U.S Fish and Wildlife Service.

[FR Doc 77-26163 Filed 9-8-77;8:45 am]

PART 26—PUBLIC ENTRY AND USE

Catahoula National Wildlife Refuge, La.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Service announces a hunter access route across a specified part of the Catahoula National Wildlife Refuge, La. The opening of this access route is compatible with the objectives for which the area was established, and will provide for a route to enter areas open to hunting.

DATES: These regulations will be effective for the 1977–78 hunting season.

FOR FURTHER INFORMATION CONTACT:

Stephen K. Joyner, Refuge Manager, Catahoula National Wildlife Refuge, P.O. Drawer LL, Jena, La. 71342; telephone 318–992–5261.

SUPPLEMENTARY INFORMATION:

§ 26.34 Special regulations concerning public access, use, and recreation for individual national wildlife refuges.

A corridor open for the transportation of unloaded and encased firearms by vehicles during any and all legal waterfowl hunting seasons as follows:

The corridor shall consist of a Parish maintained road on the south side of French Fork of Little River in Sections 8 and 9, T. 6N., R. 4E.

This special regulation supplements the regulations governing transportation of firearms on national wildlife refuges generally which are set forth in 50 CFR, Chapter I, Subchapter C. The public is invited to offer suggestions and comments at any time.

NOTE.—The service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

The primary author of this document is Stephen Joyner, Refuge Manager, Catahoula National Wildlife Refuge, La.

Dated: September 2, 1977.

RAY R. VAUGHN,
Acting Regional Director.

[FR Doc.77-26318 Filed 9-8-77;8:45 am]

PART 32—HUNTING

Opening of Alamosa National Wildlife Refuge, Colo., to Public Hunting of Migratory Game Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of geese, ducks, coots, mergansers, mourning doves, and Wilson's snipe on Alamosa National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977, through January 19, 1978

FOR FURTHER INFORMATION CONTACT:

Robert L. Darnell, Refuge Manager, Alamosa National Wildlife Refuge, P.O. Box 1148, Alamosa, Colo. 81101; telephone 303–589–4021.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Hunting of geese, ducks, coots, mergansers, mourning doves, and Wilson's snipe is permitted on Alamosa National Wildlife Refuge, Colo., but only on the areas designated by signs as being open to hunting. These areas comprising 3,946 acres, is delineated on maps available at refuge headquarters, Alamosa, Colo., and from the office of the Regional Director, U.S. Fish and Wildlife Service, 10597 West 6th Avenue, Denver, Colo. 80215. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of geese, ducks, coots, mergansers, mourning doves, and Wilson's snipe subject to the following special conditions:

(1) The hunting of mourning doves and Wilson's snipe will be limited to those dates open to the hunting of waterfowl, (geese, ducks, coots, and mergansers).

(2) Admittance—Entrance to the area open to hunting, and the parking of vehicles will be restricted to designated hunter parking areas.

(3) Dogs—Not to exceed two dogs per hunter may be used in the hunting of the above species.

(4) Boats—The use of boats is prohibited. One or two-man life rafts that can be carried by one individual from the parking areas to the hunting area may be used to retrieve dead or wounded birds.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 30, 1977.

ROBERT L. DARNELL,
Refuge Manager, Alamosa National Wildlife Refuge, Alamosa, Colo.

[FR Doc.77-26320 Filed 9-8-77;8:45 am]

PART 32—HUNTING

Opening of Alamosa National Wildlife Refuge, Colo., to Public Hunting of Upland Game

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of cottontail rabbits and white and black-tailed jack rabbits on Alamosa National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977, through January 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert L. Darnell, Refuge Manager, Alamosa National Wildlife Refuge, P.O. Box 1148, Alamosa, Colo. 81101. Telephone 303–589–4021.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Hunting for cottontail rabbits, white and black-tailed jack rabbits is permitted on the Alamosa National Wildlife Refuge, Colo., but only on the areas designated by signs as being open to hunting. These areas comprising 3,946 acres are delineated on maps available at refuge headquarters, Alamosa, Colo., and from the office of the Regional Director, U.S. Fish and Wildlife Service, 10597 West Sixth Avenue, Denver, Colo. 80215. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Hunting of rabbits will be permitted only during the Colorado waterfowl season.

(2) Admittance—Entrance to the area open to hunting and parking of vehicles will be restricted to designated parking areas.

(3) Dogs—Not to exceed two dogs per hunter may be used in the hunting of rabbits.

(4) Hunting with rifles and handguns is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 30, 1977.

ROBERT L. DARNELL,
Refuge Manager, Alamosa National Wildlife Refuge, Alamosa, Colo.

[FR Doc.77-26319 Filed 9-8-77;8:45 am]

PART 32—HUNTING

Opening of Cape Romain National Wildlife Refuge, S.C., to Public Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to rail hunting of Cape Romain National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 22 through October 29, 1977, except Sundays.

FOR FURTHER INFORMATION CONTACT:

George R. Garris, Refuge Manager, Cape Romain National Wildlife Refuge, Rt. 1, Box 191, Awendaw, S.C. 29429. Telephone 803–928–3368.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory birds; for individual wildlife refuge areas.

Public hunting of rail on portions of the Cape Romain National Wildlife Refuge, Awendaw, S.C., is permitted only on the area designated by signs as open to hunting. The open portion of the refuge consists of approximately 12,000 acres of marsh as delineated on a map which is available upon request from refuge headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Hunting will be in accordance with all applicable State and Federal regulations governing the hunting of rails and subject to the following special conditions on the refuge areas:

1. Only the areas designated by signs as open to hunting may be hunted. (Only rails may be hunted or taken.)

2. Only shotguns are allowed and they must be unloaded and either encased or broken down, except when in the designated hunting area.

3. Dogs are permitted only in the hunting area. (Dogs and weapons are not per-

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mitted on any of the islands outside the hunting area.)

4. A special refuge permit is required and may be obtained from refuge headquarters, Monday through Friday (except holidays), from 9 a.m. to 3:30 p.m. Hunters also may obtain their permits through the mail by written request. (Be sure to include complete name and mailing address.)

5. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 2, 1977.

RAY R. VAUGHN,
Acting Regional Director.

[FR Doc.77-26321 Filed 9-8-77;8:45 am]

PART 32—HUNTING

Opening of Eufaula National Wildlife Refuge, Ga., to Waterfowl Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to waterfowl hunting of Eufaula National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Each Saturday morning of the regular Georgia waterfowl season.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Eufaula National Wildlife Refuge, P.O. Box 258, Eufaula, Ala. 36027. Telephone 205-687-4065.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Waterfowl hunting is permitted on the Eufaula National Wildlife Refuge, Ga., only on the areas designated by signs as being open to hunting. These areas comprising 770 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Waterfowl hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Hunts will be held from 30 minutes prior to sunrise until 11:30 a.m. (Eastern Time) on each Saturday morning of the season.

2. Hunters must hunt only from designated blinds provided and located by refuge personnel. Shooting is not permitted outside of designated blind zone.

3. Guns must be unloaded while being transported on the refuge and while being carried to and from the blinds.

4. Each hunter is limited to one box of 12-gauge shells in his possession. Only shells containing steel shot will be permitted and these may be purchased at the check-in station at cost.

5. Hunters are required to check in and out of the hunt area and must present all bagged game for inspection.

6. A refuge permit is required. A blind fee of $6 per blind will be charged at the time the permits are issued prior to each day's hunt.

7. Applications for reservations for the refuge permits must be received by the Refuge Manager, Eufaula Refuge, Eufaula, Ala., prior to 12 noon, Friday, October 28, 1977. Successful applicants will be determined by an impartial drawing on Monday, October 31, 1977.

8. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

9. Blind reservations are nontransferable.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

The primary author of this document is Jimmie L. Tisdale, Refuge Manager, Eufaula National Wildlife Refuge, Ala./Ga.

Dated: September 2, 1977.

RAY R. VAUGHN,
Acting Regional Director.

[FR Doc.77-26340 Filed 9-8-77;8:45 am]

PART 32—HUNTING

Opening of National Wildlife Refuge in Oklahoma to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Sequoyah National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1977, through the last day of the regular 1977-78 duck season.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Sequoyah National Wildlife Refuge, Box 398, Sallisaw, Okla. 74955. Telephone 918-775-4931.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game birds; for individual wildlife refuge areas.

Public hunting of quail, rabbit, and squirrel on the Sequoyah National Wildlife Refuge is permitted on three areas designated by signs as open to hunting. These open areas, comprising a total of 10,500 acres, are delineated on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting seasons are as follows: squirrel, September 1, 1977, through January 1, 1978; quail, November 20, 1977, through the last day of the regular 1977-78 duck season; rabbits, October 1, 1977, through the last day of the regular 1977-78 duck season. Hunting shall be in accordance with all applicable State regulations covering the hunting of quail, squirrel, and rabbits, subject to the following special conditions:

1. Only shotguns without slug ammunition or longbow and arrow are permitted.

2. Hunting weapons of any kind are prohibited in areas not posted as open to public hunting, except the Kerr-McClellan Navigation Channel where weapons must be cased or broken down.

3. Dogs may be used for hunting quail or rabbit, but must be under immediate control or supervision and restrained from pursuit of protected species.

4. Camping or possession of firearms on the refuge at night is prohibited.

5. All vehicles must be parked in designated parking areas as shown on maps available at refuge headquarters and at leaflet boxes throughout the public hunting area.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

W. O. NELSON, JR.,
Regional Director,
Albuquerque, N. Mex.

AUGUST 31, 1977.

[FR Doc.77-26343 Filed 9-8-77;8:45 am]

PART 32—HUNTING

Opening of Pathfinder National Wildlife Refuge, Wyoming, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Pathfinder National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: As established by Wyoming Game and Fish Commission for Calendar Year 1977.

FOR FURTHER INFORMATION CONTACT:

V. Carrol Donner, Refuge Manager, Pathfinder National Wildlife Refuge, Box 457, Walden, Colo. 80480. Telephone 303-723-4717.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Hunting of deer and antelope is permitted on Pathfinder National Wildlife Refuge, Wyoming, in accordance with dates and areas designated in the Wyoming 1977 Orders regulating deer and antelope hunting. These areas, comprising 16,807 acres, are composed of four separate units and are delineated on maps available at refuge headquarters in Walden, Colo. and from the office of the Area Manager, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 S. State St., Salt Lake City, Utah 84138. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer and antelope.

The provisions of this special regulation supplement the regulations which govern hunting in wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

V. CARROL DONNER,
Refuge Manager.

AUGUST 30, 1977.

[FR Doc.77-26341 Filed 9-8-77;8:45 am]

PART 32—HUNTING

Opening of Piedmont National Wildlife Refuge, Georgia, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Piedmont National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Deer hunts—Archery—October 1-9, 1977. Gun hunts: Bucks only—October 27-29, 1977. Either sex—November 5 and 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Ronnie A. Shell, Refuge Manager, Piedmont National Wildlife Refuge, Round Oak, Ga. 31080. Telephone 912-986-3651.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Hunting is permitted on the entire Piedmont National Wildlife Refuge, Georgia, except on the areas designated by signs as being closed to hunting. This open area, comprising approximately 33,000 acres, is delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Open season and bag limit: (a) Archery hunt—October 1-9, 1977; limit two deer of either sex; (b) buck hunt—October 27-29, 1977; limit two bucks with visible antlers; (c) either sex hunts—November 5 and 12, 1977; limit one deer.

2. During deer hunts, if weather permits gates blocking roads will be opened one hour prior to official sunrise and closed one hour after sunset. Parked vehicles must not block entrances to roads.

3. Handguns may not be used or possessed. Target practice during the hunts is prohibited.

4. All deer must be checked in at refuge headquarters the day killed and before leaving the refuge.

5. Dogs are prohibited.

6. Camping and fires are restricted to the designated camping area in Compartment 19, which will be open one day before, during, and one day after each deer hunt.

7. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons the ratio should be one adult to one juvenile, but in no case may one adult have more than two juveniles under his/her supervision.

8. It is unlawful to drive a nail, spike, or other metal object into any tree or to hunt from any tree in which a nail, spike, or other metal object has been driven.

9. Prehunt scouting and stand placement will be permitted from 12 noon until sunset on the day immediately prior to each deer hunt. Weapons are not permitted in the woods during scouting periods.

10. A refuge permit is required. Hunt permits are nontransferable. Submission of more than one permit application or applications containing false information is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 2, 1977.

RAY R. VAUGHN,
Acting Regional Director.

[FR Doc.77-26342 Filed 9-8-77;8:45 am]

PART 32—HUNTING

Opening of Yazoo National Wildlife Refuge, Mississippi, to Resident Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Yazoo National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Squirrels: October 1, 1977 through October 8, 1977 (Sundays excluded). Raccoon and Opossum: December 3, 1977 through December 10, 1977 (Sundays excluded).

FOR FURTHER INFORMATION CONTACT:

James M. Dale, Refuge Manager, Route 1, Box 286, Hollandale, Miss. 38748. Telephone 601-839-2638.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; hunting of upland game; for individual wildlife refuge areas.

Squirrel, raccoon, and opossum hunting is permitted on the Yazoo National Wildlife Refuge, Mississippi, in wooded areas not designated by signs as closed to hunting. The open areas comprising 7,800 acres are delineated on a map along with special regulation sheets and are available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Upland game hunting shall be in accordance with all State regulations subject to the following conditions:

1. Bag limit: To comply with State regulations at time of hunt.

2. Hunting Hours: Squirrels may be hunted from one half hour before official sunrise until official sunset. Raccoons and opossums may be hunted from official sunset to 12 midnight.

3. Dogs: No dogs will be permitted during squirrel hunt. Dog use during raccoon and opossum hunt will be in accordance with State laws at that time.

4. Weapons: Shotguns, 10-gauge or smaller, and .22 caliber rimfire rifles only.

5. Permits: One day, free permits are required. All hunters must check in and check out at refuge office.

6. Carrying of loaded firearms in vehicles is prohibited. Shooting or spotlighting from vehicles or any paved road is prohibited. No firearms may be dis-

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charged within 250 yards of any residences or refuge office.

7. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Date: September 2, 1977.

RAY R. VAUGHN,
Acting Regional Director.

[FR Doc.77-26344 Filed 9-8-77;8:45 am]

PART 32—HUNTING

Opening of Lake Zahl National Wildlife Refuge, North Dakota, to Archery Hunting of Deer

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to archery hunting of deer on Lake Zahl National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 2, 1977 through September 30, 1977, and November 21, 1977 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles S. Peck, Project Leader, Des Lacs NWR, Kenmare, N. Dak. 58746. (701-385-4046).

SUPPLEMENTARY INFORMATION.

§ 32.32 Special regulations; big game, for individual wildlife refuge areas.

Public archery hunting of deer will be permitted on Lake Zahl National Wildlife Refuge. The refuge portion owned in fee title consisting of 3,296 acres located in northern Williams County will be open for archery hunting. Hunting shall be in accordance with all applicable State Regulations covering archery hunting of deer, subject to the following conditions:

(1) No motorized vehicles will be allowed within the boundaries of the refuge.

(2) Archery hunting is permitted from 12 noon (CDT) September 2 to sunset September 30, and from 12 noon November 21 to sunset December 31, 1977.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas, generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1977.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 31, 1977.

ROLLAND J. KRIEGER,
Acting Project Leader, Des Lacs National Wildlife Refuge Complex, Kenmare, N. Dak. 58746.

[FR Doc.77-26223 Filed 9-8-77;8:45 am]

PART 32—HUNTING

Opening of White Lake National Wildlife Refuge, North Dakota, to Archery Hunting of Deer

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to archery hunting of deer on White Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 2, 1977 through September 30, 1977, and November 21, 1977 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles S. Peck, Project Leader, Des Lacs NWR, Kenmare, N. Dak., 58746. (701-385-4046.)

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations, big game, for individual wildlife refuge areas.

Public archery hunting of deer will be permitted on White Lake National Wildlife Refuge. The entire refuge of 1040 acres located in Slope County will be open for archery hunting. Hunting shall be in accordance with all applicable State Regulations covering archery hunting of deer, subject to the following conditions:

(1) No motorized vehicles will be allowed within the boundaries of the refuge.

(2) Archery hunting is permitted from 12 noon (CDT) September 2 to Sunset September 30, and from 12 noon November 21 to sunset December 31, 1977.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50. Code of Federal Regulations, Part 32 and are effective through December 31, 1977

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107

Dated: August 31, 1977.

ROLLAND J. KRIEGER,
Acting Project Leader, Des Lacs National Wildlife Refuge Complex, Kenmare, N. Dak. 58746.

[FR Doc.77-26224 Filed 9-8-77;8:45 am]

PART 32—HUNTING

Opening of Wildlife Management Areas 10 and 11 to Public Pheasant Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of parts of the Lacreek National Wildlife Refuge to public hunting of cock pheasants is compatible with the objectives for which the area was established, will utilize a renewable natural resource and will supply additional recreational opportunities to the public.

DATES: October 15, 1977 through November 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Lacreek National Wildlife Refuge, Martin, S. Dak. 57551. Telephone 605-685-6508.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of cock ringneck pheasant on the Lacreek National Wildlife Refuge, South Dakota is permitted in those parts of Wildlife Management Areas 10 and 11 (2,800 acres) delineated on maps available at designated parking areas, at Refuge Headquarters, Martin, S. Dak. 57551 and at the U.S. Fish and Wildlife Service, Area Office, Pierre, S. Dak. 57501 and not designated closed. Hunting shall be according to State and Federal Regulations governing the hunting of cock pheasants subject to the following special conditions:

(a) The hunting of other than cock pheasant is prohibited.

(b) Designated hunting access and parking sites will be available. Entering and parking at other sites will be prohibited.

(c) Hunting will be allowed only by Special Permit Report forms available at designated parking sites.

The provisions of this special regulation supplements the regulations which governs hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations Part 32 and are effective through December 31, 1977. The public is invited to offer suggestions and comments at any time.

NOTE.—The U S Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under

Executive Order 11949 and OMB Circular A-107.

HAROLD H BURGESS,
Refuge Manager, Lacreek National Wildlife Refuge, Martin, S. Dak.

AUGUST 30, 1977.

[FR Doc.77-26345 Filed 9-8-77;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg 109]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period September 11-17, 1977 This regulation is needed to provide for orderly marketing of fresh lemons for the regulation period because of the production and marketing situation confronting the lemon industry

EFFECTIVE DATE September 11, 1977

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S Department of Agriculture, Washington, D C. 20250. Telephone 202-447-3545

SUPPLEMENTARY INFORMATION

Findings. (1) Pursuant to the amended marketing agreement and Order No 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937 as amended (7 U.S.C 601-674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such lemons, as provided in this regulation, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the specified week stems from the production and marketing situation confronting the lemon industry

(i) The committee has submitted its recommendation for the quantity of lemons it considers advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for lemons is good on all sizes.

Average f.o.b. price was $6.95 per carton the week ended September 3, 1977, compared to $6.73 per carton the previous week.

Track and rolling supplies at 135 cars were down 30 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for lemons and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of lemons. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified. The committee meeting was held on September 6, 1977.

§ 910.409 Lemon Regulation 109.

(a) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period September 11, 1977, through September 17, 1977, is established at 215,000 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: September 8, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agriculture Marketing Service.

[FR Doc.77-26545 Filed 9-8-77;11:32 am]

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

Industry Committee Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $140,642, fixes a rate of assessment of eight cents per lug (23 pounds) of grapes handled for the functioning of the Industry Committee for the 1977-78 fiscal period, and approves carrying over unexpended funds from the previous fiscal period as a reserve. The committee is established under a Federal marketing order program regulating Tokay grapes grown in San Joaquin County, Calif. This regulation enables the committee to collect assessments from handlers on all assessable grapes handled and to use the resulting funds for its expenses.

DATES: Effective for the period April 1, 1977, through March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: On August 15, 1977, notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 41130) regarding proposed expenses and rate of assessment, under Marketing Order No. 926 (7 CFR Part 926) regulating Tokay grapes grown in San Joaquin County, Calif. This notice allowed interested persons opportunity to submit written comments pertaining to the proposal until September 2, 1977 None were submitted. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

After consideration of all relevant matter presented, including the proposal set forth in the notice, which was submitted by the Industry Committee (established under the marketing order), it is found and determined that:

§ 926.217 Expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Industry Committee during the period April 1, 1977, through March 31, 1978, will amount to $140,642.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each first handler in accordance with § 926.46,

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is fixed at eight cents ($0.08) per No. 38L grape lug (as specified in § 1380.19 of the Regulations of the California Department of Food and Agriculture) or equivalent quantity of Tokay grapes.

(c) *Reserve.* Unexpended assessment funds in excess of expenses incurred during the fiscal period which ended March 31, 1977, shall be carried over as a reserve in accordance with the applicable provisions of § 926.47.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) handling of the current crop of Tokay grapes grown in the production area is now underway; (2) provisions of the marketing order require that the rate of assessment shall apply to all assessable grapes handled during the fiscal period; and (3) the fiscal period began April 1, 1977, and the rate of assessment will automatically apply to all grapes handled during the period.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: September 6, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-26362 Filed 9-8-77;8:45 am]

PART 967—CELERY GROWN IN FLORIDA

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $65,000 and a rate of assessment of one cent per crate of celery for the functioning of the Florida Celery Committee. The regulation enables the committee to collect assessments from first handlers on all assessable celery handled and to use the resulting funds for its expenses.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 149 and Order No. 967, both as amended, regulate the handling of celery grown in Florida. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Celery Committee, established under the order, is responsible for its local administration.

Notice was published in the August 17 FEDERAL REGISTER (42 FR 41431) regarding the proposals It afforded interested persons an opportunity to file written comments not later than September 2, 1977 None was filed

After consideration of all relevant matters, including the proposals in the notice, it is found that the following expenses and rate of assessment should be approved.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because this part requires that the rate of assessment for a particular fiscal year shall apply to all assessable celery from the beginning of such year

The regulation is as follows

§ 967.213 **Expenses and rate of assessment.**

(a) The reasonable expenses that are likely to be incurred during the fiscal year ending July 31, 1978, by the Florida Celery Committee, for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to $65,000

(b) The rate of assessment to be paid by each handler in accordance with this part shall be one cent ($0.01) per crate of celery handled by him as the first handler during the fiscal year.

(c) Unexpended income in excess of expenses for the fiscal year may be carried over as a reserve to the extent authorized in § 967 62.

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

(Secs. 1 19, 48 Stat 31, as amended; 7 U.S.C. 601 674)

Dated: September 6, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-26363 Filed 9-8-77;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Community Services Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following positions are excepted under Schedule C because they are confidential in nature: One position of Special Assistant to the Director, one position of Special Assistant to the Assistant Director, Office of Community Action, and one position of Executive Director to the Director, Office of Regional Operations.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3373(a)(6) is amended, and (h)(2) and (k) are added as set out below:

§ 213.3373 **Community Services Administration.**

(a) *Office of the Director.* • • •

(6) Two Special Assistants to the Director.

• • • • • •

(h) *Office of Community Action.* • • •

(2) One Special Assistant to the Assistant Director.

• • • • • •

(k) *Office of Regional Operations.* (1) One Executive Assistant to the Director.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26526 Filed 9-8-77;10:10 am]

PART 213—EXCEPTED SERVICE

Equal Employment Opportunity Commission

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Director, Office of Congressional Affairs is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3377(k) is added as set out below:

§ 213.3377 **Equal Employment Opportunity Commission.**

• • • • • •

(k) One Director, Office of Congressional Affairs.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26525 Filed 9-8-77;10:10 am]

Title 7—Agriculture

CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE, DEPARTMENT OF AGRICULTURE

PART 2852—PROCESSED FRUITS, VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—Regulations Governing Inspection and Certification of Processed Fruits and Vegetables

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document adds overtime rates to the list of charges for inspection service, because it has been determined that commodity graders are not exempt from the requirements of the Fair Labor Standards Act. This action means that recipients of commodity grading services will be required to pay for such overtime services at the rates prescribed.

EFFECTIVE DATE: September 11, 1977.

FOR FURTHER INFORMATION CONTACT:

E. C. Williams, Chief, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3810).

SUPPLEMENTARY INFORMATION: Until recently, the Department had declared commodity graders of the Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, were exempt from the Fair Labor Standards Act which required time and a half pay for overtime worked. Most graders requested compensatory leave for overtime worked in lieu of overtime pay. Because of the seasonal nature of fruit and vegetable grading, this provided year-round employment. It has now been determined that the processed fruit and vegetable graders are not exempt. They no longer have the option of requesting compensatory time and must be paid for overtime worked.

Under the provisions of the Agricultural Marketing Act of 1946, fees must be assessed to recover the full cost of providing service. Therefore, overtime rates are being added to the list of charges for inspection service.

Accordingly, § 2852.42—Schedule of fees—and § 2852.52—Charges for inspection service on a contract basis—are being amended to recover increased costs.

Pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1097, et seq., as amended; 7 U.S.C. 1621–1627), § 2852.42 and § 2852.52 (c)(6) and (d)(5) are hereby amended to read as follows:

§ 2852.42 **Schedule of fees.**

Unless otherwise provided in a written agreement between the applicant and the Administrator, the fee for any inspection service performed under the regulations in this part, including analyses specified in § 2852.47, shall be at the rate of $18.45 per hour plus an additional $5 per hour for all scheduled overtime hours.

• • • • • •

§ 2852.52 **Charges for inspection service on a contract basis.**

• • • • • •

(c) • • •

(6) *Overtime.* All overtime hours will be charged at the regular rate specified in (c) (1) and (2) of this section plus $5.00 per hour.

(d) • • •

(5) *Overtime.* All overtime hours will be charged at the regular rates specified in (d)(1) of this section plus $5 per hour

• • • • • •

Notice of proposed rulemaking, public procedure thereon, and the postponement of the effective time of this action later than September 11, 1977 (5 U.S.C. 553), are impracticable, unnecessary, and contrary to the public interest in that (1) the Agricultural Marketing Act of 1946 provides that the fees charged shall be reasonable and, as nearly as possible, cover the cost of the service rendered, (2) the increases in fee rates set forth herein are necessary to more nearly cover such cost, and (3) additional time is not required by the users of the inspection service to comply with this amendment.

(Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended, (7 U.S.C. 1622; 1624))

Dated to become effective at 12.01 a.m., September 14, 1977.

NOTE.—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: September 2, 1977.

ROBERT ANGELOTTI,
Administrator, Food Safety, and Quality Service.

[FR Doc.77-26514 Filed 9-8-77;8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Part 210]

NATIONAL SCHOOL LUNCH PROGRAM

Nutritional Requirements

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: Notice is hereby given that the Food and Nutrition Service, U.S. Department of Agriculture (FNS), proposes to amend the regulations governing the nutritional requirements of the National School Lunch Program. The major purposes of the proposed changes in the lunch requirements are to meet more accurately the nutritional needs of children of varying ages and to bring the lunch requirements into conformance with the 1974 revisions of the Recommended Dietary Allowances (RDA) as published by the Food and Nutrition Board of the National Research Council, National Academy of Sciences (NRC-NAS).

DATES: Comments must be received on or before October 25, 1977.

ADDRESS: Comments should be sent to: William G. Boling, Manager, Child Nutrition Programs, USDA, FNS, Washington, D.C. 20250 (202–447–8130).

FOR FURTHER INFORMATION CONTACT:

William G. Boling, Manager, Child Nutrition Programs, USDA, FNS, Washington, D.C. 20250 (202–447–8130).

SUPPLEMENTARY INFORMATION:

Summarized Changes

Public comments are invited from all sectors and on the full range of meal quality and acceptability issues affected by this proposal. The principal changes in the lunch requirements, as set forth in a new section, § 210.19b, are to: (1) Specify minimum quantities of foods appropriate for five age groups; (2) require the service of lunch to preschool children ages 1 through 5 years at two service periods which, in combination, will meet the quantities and components of the appropriate lunch pattern; (3) expand the bread alternates to include enriched or whole-grain rice, macaroni, noodles and other pasta products; (4) specify the number of servings of bread or bread alternates to be served for a school week to provide added flexibility in menu planning; (5) specify that a serving of dry beans and peas, or peanut butter can be used to meet no more than one-half of the meat/meat alternate requirement for all children; (6) specify that eggs may be used to meet only one-half of the meat/meat alternate requirement for children ages 3 and above, and that eggs may be used to meet the full meat/meat alternate requirement for children ages 1 and 2 years; (7) specify that eggs, cooked dry beans or peas and peanut butter may be combined with meat, poultry, fish or cheese to meet the total meat/meat alternate requirement; or eggs, cooked beans or peas and peanut butter may be used with one another in equal quantities to meet the total meat/meat alternate requirement; (8) provide that children 12 years and over may request smaller portion sizes of the required lunch components than are specified to meet their individual food needs and to reduce plate waste; (9) specify that unflavored fluid lowfat milk, skim milk, or buttermilk must be available to students in addition to whole milk, flavored or unflavored, or any other flavored milk.

All public sectors, including parents and students are invited to comment during this basic 45-day comment period on proposed regulations. After the comment period, interim regulations incorporating public concerns will be issued. Interim regulations may be used by any State agency, at its option, for the interim field testing period, in willing schools of various grade levels in lieu of current regulations will permit optional testing of interim lunch patterns under actual operating experience over a four-month time period. Comments from the general public, as well as from all parties associated with field testing, will continue to be accepted and considered by the Department. These comments will be especially helpful to the Department in developing acceptable final regulations. Also of assistance to the Department will be public comments received during the course of public hearings on Child Nutrition Programs, scheduled during the fall. It is contemplated that final regulations will be adopted after the termination of the interim regulatory period putting into effect mandatory lunch patterns and related regulatory changes.

Background

The National School Lunch Program, since its inception in 1946, has specified lunch requirements. The "Type A" pattern, once the predominant lunch pattern, became the sole allowable lunch pattern as the program grew and developed.

The kinds and amounts of foods specified in the Type A lunch pattern are minimum amounts of foods to serve 10 to 12 year old children. This pattern provides a flexible framework to allow managers to choose from a wide variety of foods in planning and serving nutritious and well-balanced lunches. The lunch pattern is designed to allow flexibility to provide children with a wide variety of foods. Also, the pattern is a tool for teaching children about food and nutrition which assists in formulating good eating habits. The flexibility of the pattern also allows managers to plan menus which reflect the regional, cultural, ethnic, and special dietary needs and food practices of the children they serve.

The Type A pattern has been revised from time to time to reflect new knowledge about the nutritional needs, food consumption habits and food preferences of children. The current regulations encourage School Food Authorities, if consistent with State policy, to serve younger children lesser amounts and older children larger amounts of some foods than are prescribed by the Type A lunch. This provision allows School Food Authorities flexibility in providing lunches consistent with the nutritional needs of children. In spite of guidance and regulatory recommendations which encourage portion size variations to accommodate the food needs of children of various ages, many program administrators at the State and local levels have not implemented these recommendations. This appears to have been a factor contributing to some plate waste in the younger age groups. At the same time, older students often have complained that school lunches do not provide enough food for their increased appetites. In an effort to allow smaller portion sizes for young students and to more accurately meet the nutritional needs of children of all ages, while at the same time maintaining the original flexibility of the Type A pattern, the proposed lunch patterns define minimum portion sizes for children of varying age groups. The proposed lunch patterns are set forth in the Table, in § 210.19b.

The Nutritional Goals

The nutritional goals of the proposed lunch patterns are based on Recommended Dietary Allowances (RDA) for children of different ages.

In developing the proposed lunch patterns, consideration was given to amounts of food energy (kilocalories) and all nutrients for which Recommended Dietary Allowances have been established and adequate reliable food composition data are available. The specific nutrients include protein, calcium, iron, vitamin A, thiamin, riboflavin, niacin, magnesium, vitamin B_6, vitamin B_{12}, and ascorbic acid. Since the proposed lunch patterns allow for a variety of foods that will meet goals for these nutrients, it is assumed that the patterns

will also provide sufficient amounts of the many other nutrients for which no Recommended Dietary Allowances are established or inadequate food composition data are available.

The nutritional goal—one-third of the Recommended Dietary Allowances for the various nutrients (excluding food energy)—is believed to be justified. Many children rely on the lunch for approximately one-third of their nutrient intake.

Approximately 22 percent of the Recommended Dietary Allowances for energy will be provided when lunches meet minimum requirements of the proposed patterns. Lunches which furnish less food energy (kilocalories) than one-third of the Recommended Dietary Allowances appear to be appropriate for this program. Many children may not need a comparably high level of food energy at lunch time because foods eaten at other meals and snacks may provide more than two-thirds of their daily energy requirements. Health statistics indicate that obesity resulting from an excessive intake of food is a major nutritional problem in this country, even among children. Lunches providing high levels of food energy may contribute to overeating or food waste and may be neither practical nor nutritionally sound for most children. The Department is interested in comments on this issue.

In the 1974 edition of the Recommended Dietary Allowances, the consumption of fat and refined sugars is identified as a dietary issue, but an optimal level for these nutrients in diets for the general population is not specified. The level of fat in the proposed patterns is lower than that found in diets of many individuals and of that indicated by studies of school lunch composition, conducted by USDA and other researchers. The approximate percentage of food energy provided by fat in the proposed new lunch patterns ranges for various age groups between 34 and 37 percent when whole milk is served; 30 and 33 percent when lowfat milk is served; and 24 and 29 percent when skim milk is served. Schools will be expected to provide lunches whose fat content falls within these ranges. If the student selects whole milk as a part of lunches meeting minimum requirements of the proposed patterns, the approximate amount of food energy that would be derived from fat would be 34 to 37 percent. To make lunches available which contain a lower level of fat, while maintaining a degree of individual choice, proposed regulations specify that unflavored fluid lowfat milk, skim milk, or buttermilk must be available to students. Such milks may be offered as a choice item along with other types of fluid milk or as a single item to meet the milk component of the lunch requirements. In regard to refined sugars, the Department encourages the service of foods with relatively low sugar content (such as fresh fruits or fruits canned in natural juices or light syrup) to meet lunch requirements. Recommendations are also made to keep at a minimum quantities of sugar needed to prepare acceptable menu items such as desserts, which are not a required part of the lunch.

Recommendations for menu planning which will be identified in guidance materials include: (1) Include several foods for iron each day; (2) include a vitamin A vegetable or fruit at least twice a week; (3) use no more than three eggs per five school lunches per week per child as a meat/meat alternate or in food preparation; (4) include a vitamin C vegetable or fruit several times a week; and (5) keep fat, sugar and salt at a moderate level.

Specified Age Group Patterns

The 1974 Recommended Dietary Allowances specify nine age-sex groups of children and young adults from one to twenty-two years of age. To provide realistic age groups of preschool and school-aged children, and to reduce the number of groups for practical and administrative purposes, some age-sex groups have been combined. This reduces the number of groups while providing realistic differences in required quantities of some lunch components. The proposed lunch patterns provide approximately one-third of the Recommended Dietary Allowances for five age groups. These groups are: Group I—ages 1 and 2; Group II—ages 3, 4, and 5; Group III—ages 6, 7, and 8; Group IV—ages 9, 10, and 11; Group V—ages 12 and up.

The nutrient goal for lunch for children 1 and 2 years of age is one-third of the amounts specified for the 1 through 3 year old child in the 1974 Recommended Dietary Allowances. For the other four age groups, the nutrient goals have been derived from the sex-age groupings as specified in the 1974 Recommended Dietary Allowances. Allowances for 3, 4, and 5 year old children were interpolated using the Recommended Dietary Allowances for children 1 through 3 years of age and 4 through 6 years of age. For 6, 7, and 8 year old children, the allowances at the midpoint of the category were interpolated using the Recommended Dietary Allowances for the children 4 through 6 years and 7 through 10 years of age. For the 9, 10, and 11 year olds, the allowances at the midpoint of the category were interpolated using the Recommended Dietary Allowances for children of ages 7 through 10 years and the average Recommended Dietary Allowances for males and females 11 through 14 years of age. For children 12 years and older, allowances at the midpoint are interpolated between average Recommended Dietary Allowances for males and females 11 through 14 years of age and the average Recommended Dietary Allowances for males and females 15 through 18 years of age.

Group I serves preschool children (ages 1 and 2); Group II—kindergarten (ages 3, 4, and 5); Group III—school grades 1 through 3 (ages 6, 7, and 8); Group IV—school grades 4 through 6 (ages 9, 10, and 11); and Group V—school grades 7 through 12 (ages 12 and above).

These age-grade designations reflect the predominant configurations in the United States, provided in U.S Bureau of the Census, "Current Population Reports," Series P20, No. 303, "School Enrollment—Social and Economic Characteristics of Students, October 1975," U.S. Government Printing Office, Washington, D.C. 20402. In recognition that age-grade designations vary by locality, the proposed regulations permit State officials and local school administrators and managers reasonable flexibility in adapting the age level groups to appropriate grade levels.

Those schools with the capability to serve children solely on the basis of ages of children are encouraged to do so Since the lunch patterns are developed on the basis of the nutritional needs of each age grouping, this is a desirable goal and is the most sound approach nutritionally.

However, it is likely that some groups of children cannot be classified exactly into one of the five designated age-grade groups: that is, the ages of children may not necessarily correspond to the grades, as specified in these proposed regulations. In determining which lunch patterns are most appropriate to use, the School Food Authority must review the ages of the children being served on a school-by-school basis and base a determination of the meal patterns to be used on that data. This provision is set forth for ease of administration For instance a junior high school serving grades 7 through 9, with a predominance of children aged 12, 13, and 14, may also have a few 11 year olds enrolled. Because the predominant ages are 12 and above, it would be appropriate as a matter of practicality to serve a Group V lunch pattern to all children in the school In a second example, if age 12 is the highest age in a given elementary school, but only a few 12 year old children are enrolled, the School Food Authority may wish to serve the Group IV lunch pattern to all grades in which the 9, 10, and 11 year old children are predominantly enrolled. Even though some older children may also be enrolled in the school, the predominant ages of the children served would determine which patterns are most appropriate. However, if a substantial number of 12 year old children were enrolled in this school, the School Food Authority is obligated to provide a Group V lunch pattern to such children. The Department intends to provide more specific guidance in this area in subsequent regulations or instructions, and is particularly interested in comments on this matter.

Administration of Groups I and II Lunch Patterns

The proposed patterns for Groups I and II (preschool and kindergarten children, approximate ages 1 through 5) are designed to provide approximately one-third of their Recommended Dietary Allowances—the traditionally established nutritional goal for the school lunch for children of all ages. However, knowledge of food consumption habits

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of young children indicates that serving such children more frequently than three times a day through the service of small meals and between meal supplemental foods is desirable Inasmuch as the quantity of foods specified to be served to such children to approximate one-third of their Recommended Dietary Allowances may be excessive for one serving, regulations are being proposed which require school officials to serve the required foods to children in Groups I and II in two separate food services daily The foods from each service, in combination, will meet the quantities and components as specified in the Table for children in Groups I and II, as applicable. To allow optimum flexibility at the local level, no specific requirements are placed upon the division of the required food components and quantities into two food services, as long as, in combination, the foods served meet the total daily lunch pattern for children in Groups I and II. The two daily food services are designed to be consistent with recommended dietary practices for children of this age group.

Administration of Group V Lunch Pattern Requirements

The proposed pattern for Group V (ages 12 and older) increases the quantities of some of the food items required under the existing lunch pattern requirements. This proposed pattern is designed to meet the higher nutritional needs of older children. However, in view of the need to accommodate differing food preferen es of individuals and minimize unnecessary waste of foods, schools serving the Group V lunch pattern shall allow individual children served this pattern to request smaller portion sizes of the required lunch components.

Second Helpings

The Department observes that, as stated above, the new lunch patterns provide less than one-third of the Recommended Dietary Allowances for food energy (kilocalories) and entail some reduction in portion sizes among certain age groups. The Department is concerned that there may be a need for schools to make second helpings available. While no provision for second helpings appears in the proposed regulations, the Department is interested in comments on whether provisions for second helpings should be added to the regulations, and on possible reimbursement mechanisms to deal with this issue.

Student Involvement and Education

Student education and student and community involvement in the programs have been found, in many instances, to be keys that have successfully led to better student acceptability of foods, higher overall participation levels, and increased nutrition awareness, all of which can have a positive impact upon student health and well-being.

Therefore, the proposed regulations encourage School Food Authorities to utilize the school food service program to teach students about good nutrition practices. School Food Authorities are also required to involve students in the program through activities su h as menu planning, enhancement of the food service environment, program promotion and related student-community support activities, and also encourage the involvement of parents teachers and community in these activities

Further the proposed regulations also address-situations where a substantial number of students over a period of time routinely (1) do not accept a particular menu item (2) have a high degree of plate waste (3) request lesser food quantities than are specified as minimums in the Table under the proposed provisions for Group V students; or 4) choose less than all five food items in the case of senior high school students under the provisions of existing regulations and where schools are experiencing declining or low program participation The proposed regulations require State agencies in cooperation with local School Food Authorities experiencing these problems, to develop, implement and monitor an action plan to upgrade the quality of food service to encourage the acceptance and consumption of the complete lunch School Food Authorities are required by the proposed regulations to involve students in this process.

Monitoring Of Lunch Pattern Requirements

Lunches shall continue to be planned to meet daily the appropriate food components and quantities specified in the Table However for ease and practicality of administration and to promote flexibility, these proposed regulations restructure the monitoring of the lunch pattern requirements from a daily to a weekly basis This arrangement is consistent with current philosophy with regard to Federal-State relationships in the operation of cooperative programs. Specifically planned menus will be evaluated over a week's time to determine if total quantities of food for each meal as specified in the Table found in § 210 19b for children of various age groups are being provided. All required food components must be served each day However it is conceivable that a quantity shortage may occur occasionally and in such an instance, the manager should make every attempt to identify such a shortage and compensate for it by providing extra foods from that component later in the week. Such compensations will assist in assuring that foods are served over a week's time which, in total, meet the prescribed appropriate lunch patterns.

Monitoring of regulatory compliance, including lunch requirements, will continue under the supervisory assistance efforts of State administering agencies described in § 2:0 14 of the regulations. However as part of the supervisory assistance effort, the traditional approach to performing a nutritional review and meal analysis must be restructured under the proposed regulations. These proposed regulations encourage State agencies to review lunch menu plans on a weekly basis to determine if lunch requirements are met over a week's time. State agencies are also encouraged to continue to review each day's menus as part of their supervisory assistance effort and make recommendations which would help the school or School Food Authority serve nutritious, well-planned acceptable lunches every school day. In the event that a School Food Authority fails to meet the lunch requirements over a week's time, the State agency must develop, implement and monitor a plan of action, in cooperation with the local authority, to correct the failure. Repeated failure to meet the requirements established for lunches means that children are not served lunches which meet their nutritional needs. It is required that penalties be imposed where such repeated failures occur.

Nutrient Standard

In an effort to allow maximum flexibility to menu planners and to increase the variety of menu planning approaches, the Department is continuing to explore alternatives to menu planning in addition to the traditional menu planning approach being used currently and in these proposed regulations. One such approach under consideration for possible future development into proposed regulations is the nutrient standard approach to menu planning.

The nutrient standard approach involves planning menus to meet a predetermined nutrient level instead of a meal pattern, such as the Type A pattern, which specifies food components and quantities to approximate this nutrient goal.

While the Department is not prepared to address the nutrient standard approach in these proposed regulations, the Department will give consideration to all public comments on this approach to menu planning. These comments will be helpful to the Department in determining if such an approach is feasible.

Field Testing

After a basic 45-day comment period on the proposed regulations, interim regulations incorporating public comments will be developed. Interim regulations will authorize State agencies and School Food Authorities to voluntarily participate in an effort to field test the provisions of the interim regulations from January 1, 1978, through April 30, 1978. School Food Authorities authorized to participate in the field test are required, during the field test, to comply with all of the provisions of the proposed regulations as well as with other provisions not inconsistent with interim regulations. After April 30, 1978, and up until September, 1978, School Food Authorities which were approved to participate in the field test will be authorized by FNS, at the discretion of the State agency, to (1) continue to operate in accordance with the provisions of the interim regulations; (2) revert back to use of existing (Type A) pattern; or (3) adopt the changes appearing in the final regulations. School Food Authorities which do not wish to participate in the field test will continue to operate under

the now current regulations. During the field testing phase, public comments will continue to be accepted from all sectors.

State agencies are encouraged to begin plans for coordinating a field testing effort by School Food Authorities under their administration. The Department will provide further detailed guidance on the structure and content of the field tests. The guidance will identify areas of concern upon which the Department would find comments from field testing schools of special assistance in formulating final regulations. Such areas would include the impact of the proposed lunch patterns upon direct costs, food acceptability, plate waste levels, student opinions and administrative costs at the State level. Participating State agencies will be expected to seek a representative sampling of schools, both public and private, representing a wide diversity of situations and age-grade ranges for participation in field testing. Due to the nature of the proposed changes, it is essential that schools of all age and grade levels be adequately represented in the field test. Of particular interest to the Department is an assessment of the effect these minimum standards have on lunches produced for and consumed by children. The preamble to the forthcoming interim regulations will also provide additional information on the conduct of field tests. State agencies are encouraged to consider the use of the special developmental project authority under § 210 7 to assist in the conduct of the field testing efforts.

Time Frames

Inasmuch as the timing of this proposed change is vital to its successful implementation, the implementation time frames in these proposed regulations are also subject to public comment. The time frames have been devised to allow an initial 45-day comment period on proposed regulations. All public comments on proposed regulations must be presented to the Department by October 25, 1977. The comment period on proposed regulations will lead into an interim field testing phase (explained above) during which time public comments will continue to be invited. The field testing phase will last four months, from January 1978 through April 1978. All final comments on the interim regulations must be presented to the Department by May 15, 1978, to be assured of consideration. The regulations are scheduled to be made final in June 1978, with voluntary implementation up until September 1978, at which time they will be mandatory in all participating schools. During the initial comment and interim testing periods, the Department plans to conduct hearings to more fully explain the proposed changes and to receive public comments, concerns, and questions directly.

Comment Period

The Department has determined that the traditional 30-day proposed rulemaking and public participation procedures are inadequate for handling the many changes it wishes to make in the lunch patterns and associated procedures And, because the Department wishes to coordinate these regulations with the school year, it has determined it necessary and in the best interest of the program to provide for a 45-day initial comment period on proposed regulations leading into a four-month optional field testing period, beginning in January 1978 The Department expects that the extended public comment and field testing periods will allow the public to provide invaluable comments, suggestions and input and will assist the Department in developing final regulations which are more nutritionally sound and responsive to local needs and concerns In this regard, School Food Authorities participating in the field testing will be expected to measure student response, to encourage students to comment, and to incorporate these comments into their general comment report or to ask the students to write directly to this Department.

Comments, suggestions, or objections on these proposed regulations are invited from all sectors, including children as well as parents In order to be assured of consideration, such comments, suggestions, or objections should be delivered to William G. Boling, Manager, Child Nutrition Programs, Food and Nutrition Service, U.S Department of Agriculture, Washington, D.C 20250, no later than October 25, 1977, or submitted by mail postmarked no later than that date Communications should identify the regulation section and paragraph on which comments, etc., are offered All written submissions received pursuant to this notice will be made available for public inspection at the Office of the Manager, Child Nutrition Programs, during regular business hours (8.30 a.m. to 5 p.m.) (7 CFR 1.27(b)).

Due to the fact that implementation of the new lunch pattern requirements will be a voluntary alternative after adoption of the final regulations until September 1978, the regulations are proposed to be amended, by adding a separate section as follows

A new § 210 19b would be added to read as follows

§ 210.19b Field testing and interim lunch patterns.

(a) State agencies, or FNSROs where applicable, may field test interim provisions for new lunch patterns set forth in this section, at their option, in selected schools, in order to make comments and suggestions on such lunch patterns which will assist the Department in developing final regulations The field testing period will extend from January 1978 through April 1978. Public comments received by May 15, 1978 will be considered Schools which participate in the field test may continue to implement the interim regulations until they are issued in final form

(b) School Food Authorities which participate in the field testing phase shall comply with all of the provisions of this section as well as with other provisions not inconsistent with this section. School Food Authorities which do not participate in the field testing phase will not be affected by the provisions of this section, and shall continue to comply with all other provisions of this part.

(c) Additional definitions applicable to this sub-section are as follows:

(1) "Group I lunch pattern" means kinds and amounts of foods to serve preschool children, ages 1 and 2.

(2) "Group II lunch pattern" means kinds and amounts of foods to serve kindergarten children, ages 3, 4, and 5

(3) "Group III lunch pattern" means kinds and amounts of foods to serve children in school grades 1 through 3 ages 6, 7, and 8.

(4) "Group IV lunch pattern" means kinds and amounts of foods to serve children in school grades 4 through 6, ages 9, 10, and 11.

(5) "Group V lunch pattern" means kinds and amounts of foods to serve children in school grades 7 through 12, ages 12 and above.

(d) To provide a nutritious and well-balanced lunch to each child daily, minimum serving sizes of food are specified to serve children of five specific age-grade groupings. Except as otherwise provided in this section, to be eligible for Federal cash reimbursement, lunches shall be planned to contain, as a daily minimum, the foods described in the following Table in the quantities specified for each of the five age-grade groupings, as applicable.

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TABLE – School Lunch Pattern Requirements – Amounts of Foods Listed By Food Components to Serve Children of Various Ages

Food Components	Preschool Children Group I (1 and 2 years)	Group II (3,4 and 5 years)	Elementary School Children Group III (6,7 and 8 years)	Group IV (9, 10 and 11 years)	Secondary School Boys and Girls Group V (12 years and over)
MEAT AND MEAT ALTERNATES 1/					
Meat--a serving (edible portion as served) of cooked lean meat, poultry, or fish, OR Meat Alternates:	1 ounce equivalent 2/	1 1/2 ounces equivalent	1 1/2 ounces equivalent	2 ounces equivalent	3 ounces equivalent
Cheese	1 ounce equivalent 2/	1 1/2 ounces equivalent	1 1/2 ounces equivalent	2 ounces equivalent	3 ounces equivalent
The following meat alternates 3/may be used to meet only 1/2 of the meat/meat alternate requirement:					
Eggs (1 large egg may replace 1 ounce cooked lean meat.)	1 egg 4/	3/4 egg	3/4 egg	1 egg	1 1/2 eggs
Cooked Dry Beans or Peas (1/2 cup may replace 1 ounce cooked lean meat.) 5/	1/4 cup	3/8 cup	3/8 cup	1/2 cup	3/4 cup
Peanut Butter (2 tablespoons may replace 1 ounce cooked lean meat.)	1 tablespoon	1 1/2 tablespoons	1 1/2 tablespoons	2 tablespoons	3 tablespoons
VEGETABLES AND FRUITS 5/ Two or more servings consisting of vegetables or fruits or both. A serving of full strength vegetable or fruit juice can be counted to meet not more than 1/2 of the total requirement.	1/2 cup	1/2 cup	1/2 cup	3/4 cup	3/4 cup
BREAD AND BREAD ALTERNATES 6/ A serving (1 slice) of enriched or whole-grain bread; OR a serving of biscuits, rolls, muffins, etc., made with whole-grain or enriched meal or flour; 7/ OR a serving (1/2 cup) of cooked enriched or whole-grain rice, macaroni, or noodle products 8/	5 slices or alternates/week	8 slices or alternates/week	8 slices or alternates/week	8 slices or alternates/week	10 slices or alternates/week
MILK, FLUID An option to fluid whole milk or flavored milk must be offered. 9/	1/2 cup	3/4 cup	3/4 cup	1/2 pint	1/2 pint

NOTES:

1/ Meat and Meat Alternates must be served in a main dish, or in a main dish and one other menu item.

2/ Equivalents will be determined and published in guidance materials by FNS/USDA.

3/ Eggs, cooked dry beans or peas, and peanut butter may be combined with one-half of the quantity requirements for meat, poultry, fish or cheese to meet the total Meat/Meat Alternate requirement, or they may be used in equal quantities in combination with one another to meet the total Meat/Meat Alternate requirement. For example, for Group IV children, 2 tablespoons of peanut butter may be supplemented with 1 hard cooked egg to meet the total Meat/Meat Alternate component.

4/ For Group I children an egg may be served to meet the total Meat/Meat Alternate requirement.

5/ Cooked dry beans or dry peas may be used as part of the Meat Alternate or as part of the Vegetable/Fruit component, but not as both food components in the same meal.

6/ One-half or more slices of bread or an equivalent amount of bread alternate must be served with each lunch with the total requirement being served during a five day period. Schools serving lunch 6 or 7 days per week should increase this specified quantity for the five day period by approximately 20% (1/5) for each additional day.

7/ Bread Alternates and serving sizes will be published in guidance materials by FNS/USDA.

8/ Enriched macaroni products with fortified protein as defined in Appendix A, March 1974, may be used as part of a Meat Alternate or as a Bread Alternate, but not as both food components in the same meal.

9/ Unflavored fluid lowfat milk, skim milk, or buttermilk must be available to students, in addition to whole milk, or any flavored milk.

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(e) Inasmuch as the age-grade designations for the five groups shown in the Table may not correspond exactly with the ages and grades of children in every local situation, the School Food Authority may exercise a reasonable degree of flexibility in adapting the age level groups to appropriate local grade levels. While the quantities of food in the lunch patterns are developed on the basis of the nutritional needs of children of various ages, for ease of program administration, grade levels have been provided along with the age level designations. School Food Authorities which have the capability to serve quantities of foods to children solely on the basis of their ages are encouraged to do so. For schools where this is not feasible, the School Food Authority shall adapt the age-grade groups provided in the Table to those which most closely approximate the ages served in each school under its jurisdiction. In no case shall the School Food Authority plan to serve a substantial number of children foods from a specified pattern that is designated to serve a younger age-grade grouping.

(f) Inasmuch as the quantities of foods specified in the Table for children in Groups I and II may be excessive at one sitting, School Food Authorities shall serve the foods required by Groups I and II lunch patterns, as appropriate, in two distinctive service periods. The foods served in the two sittings, in combination, must meet the minimum components and quantities specified in the Table for children in Groups I and II, as applicable.

(g) Inasmuch as the larger quantities of food specified for children in Group V may not be consistent with preferences of individual children, School Food Authorities shall permit children served the Group V lunch pattern to request smaller portion sizes of the lunch components than are specified in the Table. The acceptance of such smaller portion sizes shall not affect reimbursement earned under §210.11 nor shall the price of the lunch be reduced when reduced portion sizes are requested.

(h) To provide variety and to encourage consumption and participation, the School Food Authority should, whenever possible, provide a selection of foods and types of milk from which children may choose the lunch When more than one lunch is offered, or when a variety of foods and types of milk is offered for choice within the required lunch pattern, all children shall be offered the same selections regardless of whether they are eligible for free or reduced price lunches or pay the full price.

(i) The kinds and amounts of food specified in the Table shall serve as minimums to be used in planning menus for the applicable age-grade group of children being served daily To allow flexibility at the local level, monitoring of compliance with these lunch requirements shall be made over a week's time to assure that the components and the total appropriate component quantity requirements specified are provided by the menus.

(j) Senior high school students shall be offered complete lunches. Such students must choose at least three of the five food items contained within the four food components of the lunch. The choice of fewer that all five food items shall not relieve nonneedy students from paying the full price of the lunch or those determined eligible for reduced price lunches under Part 245 of this chapter from paying the reduced price charge.

(k) Substitutions may be made in foods listed in the Table, if individual participating children are unable, because of medical or other special dietary needs, to consume such foods. Such substitutions shall be made only when supported by a statement from a recognized medical authority which includes recommended alternate foods.

(l) The inability of a school to obtain a supply of milk on a continuing basis shall not bar it from participation in the Program. In such cases, the State agency, or FNSRO where applicable, may approve the service of lunches without milk, provided that an equivalent amount of canned, whole dry or non-fat dry milk is used in the preparation of the components of the lunch.

(m) If emergency conditions temporarily prevent a School Food Authority which normally has a supply of milk from obtaining delivery thereof, the State agency, or FNSRO where applicable, may approve the service of lunches without milk during the emergency period.

(n) In American Samoa, Puerto Rico, and the Virgin Islands, the following variation from the lunch requirements is authorized A serving of a starchy vegetable, such as yams, plantains, or sweet potatoes, may be substituted for one serving under the bread, bread alternate requirement.

(o) Monitoring for compliance with the lunch requirements set forth in the Table may be made over a week's time. State agencies, or FNSROs where applicable, at their discretion, may monitor compliance on a more frequent, or daily basis. If the State agency, or FNSRO where applicable, finds that a School Food Authority is failing to meet the lunch requirements as set forth in the Table over a week's time, the State agency or FNSRO shall develop, implement and monitor a plan which provides that positive corrective actions will be taken to overcome any such failure. Repeated failure by a School Food Authority to meet lunch reouirements as set forth in the Table shall subject the School Food Authority to disallowance of all or part of Federal reimbursement.

(p) In the event that the State agency, or FNSRO where applicable, finds that a School Food Authority has poor management practices leading to decreasing student participation or poor student acceptability of the program or of foods served as indicated by a substantial number of students who routinely over a period of time (1) request lesser food quantities than the minimum specified serving quantities (Group V children); (2) do not favorably accept a particular menu item; (3) return foods uneaten; or (4) choose less than all five food items (in the case of senior high school students under the provisions of paragraph (h) of this section), the State agency, or FNSRO where applicable, in cooperation with the School Food Authority, shall develop, implement and monitor a plan of corrective action to correct these management deficiencies. Such a plan shall promote the involvement of students in activities which would lead to the correction of such deficiencies. Such activities may include, but are not limited to, menu planning, the enhancement of the eating environment, program promotion and related student-community program support activities.

(q) School Food Authorities must involve students in the program through activities such as menu planning, enhancement of the eating environment, program promotion and related student-community support activities. School Food Authorities are encouraged to utilize the school food service program to teach students about good nutrition practices and to involve parents, teachers, faculty, and community in activities designed to enhance the program.

(Catalog of Federal Domestic Assistance No. 10.555. National Archives Reference Service)

NOTE. The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A 107

Dated: September 6, 1977

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

[FR Doc 77-26416 Filed 9-8-77;8:45 am]

Agricultural Marketing Service

[7 CFR Part 910]

HANDLING OF LEMONS GROWN IN CALIFORNIA AND ARIZONA

Proposed Expenses and Rate of Assessment for the 1977–78 Fiscal Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION Proposed rule.

SUMMARY: This notice invites written comment on proposed expenses of $396,000 and a rate of assessment of 3.3 cents per carton of lemons for the functioning of the Lemon Administrative Committee for the 1977–78 fiscal year This committee locally administers a Federal marketing order regulating the handling of lemons grown in California and Arizona. The regulation would enable the committee to collect assessments from handlers on all assessable lemons handled and use the resulting funds for its expenses.

DATES Comments must be received on or before September 24, 1977 Proposed effective dates: August 1, 1977, through July 31, 1978.

ADDRESSES: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: The proposals under consideration were submitted by the Lemon Administrative Committee, established under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions.

The proposals are as follows:

§ 910.215 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Lemon Administrative Committee during the fiscal year August 1, 1977, through July 31, 1978, will amount to $396,000.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 910.41, is fixed at 3.3 cents per carton of lemons.

Dated: September 6, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-26364 Filed 9-8-77;8:45 am]

[7 CFR Part 1049]

[Docket No. AO-319-A28]

MILK IN THE INDIANA MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends changes in the present order provisions based on industry proposals considered at a public hearing held July 26, 1977. The recommended changes would add four Michigan counties to the marketing area and make a limited change in the classification of milk. The changes are needed to reflect changed marketing conditions and to insure orderly marketing in the area.

DATES: Comments are due on or before September 26, 1977.

ADDRESS: Comments (4 copies) should be filed with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Irving E. Sutin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. (202–447–4829).

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of hearing, issued June 22, 1977; published June 29, 1977 (42 FR 33040).

PRELIMINARY STATEMENT

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Indiana marketing area, and of the opportunity to file exceptions thereto. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., 20250, by September 26, 1977. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Indianapolis, Indiana, on July 26, 1977, pursuant to notice thereof which was issued June 22, 1977 (42 FR 33040).

The material issues on the record of the hearing relate to:

1. Expansion of the marketing area; and

2. Classifying the shrinkage of nonfat milk solids used in modifying fluid milk products.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Expansion of the marketing area.* The Indiana marketing area, now comprised of 64 Indiana counties, should be expanded to include the four Michigan counties of Berrien, Branch, Cass, and St. Joseph. About three-quarters of the route disposition in each of the four counties is from eight Indiana order pool plants. The remaining route disposition in the four counties is from five Southern Michigan order pool plants and from a plant regulated under the Chicago order.

The handling of milk in the enlarged marketing area is in the current of interstate commerce and directly burdens, obstructs or affects interstate commerce in milk and its products.

The four-county area, which is in southwestern Michigan, borders on the northern boundary of the present Indiana marketing area. Two of the four counties, St. Joseph and Branch, are bounded on the north by Kalamazoo and Calhoun Counties, respectively, which counties are in the southwestern corner of the Southern Michigan order marketing area. The 1970 census population of the four counties is 292,000. For each county the population is: Berrien, 164,000; Branch, 38,000; Cass, 43,000; and St. Joseph, 47,000.

Expansion of the marketing area, which was proposed by McDonald Dairy Cooperative Association, was favored by the major cooperatives in the Indiana market. There was no opposition to the proposal.

McDonald operates a pool distributing plant in Benton Harbor in Berrien County, Mich. The route disposition from that plant in the four Michigan counties proposed to be added to the marketing area is greater than from any other plant. In May 1977 about 27 percent of the Benton Harbor plant's route disposition was in the Indiana marketing area and about 23 percent in the Southern Michigan marketing area. The remaining route disposition from the plant was in a presently unregulated five-county area—four proposed counties and Van Buren County, Mich., which attaches to the northern boundary of Berrien and Cass counties.

Although the Benton Harbor plant has been qualifying each month for pooling under both the Indiana and Southern Michigan orders, it has been pooled continuously under the Indiana order. This is because its route disposition each month in the Indiana marketing area has been greater than in the Southern Michigan marketing area. However, in some recent months the total route disposition in the Southern Michigan marketing area has been close to that in the Indiana marketing area.

For May 1977 it appeared that the Benton Harbor plant's route disposition in the Southern Michigan marketing area was greater than in the Indiana marketing area. Only after an audit was made by the market administrator was it determined that the route disposition from the plant was greater in the Indiana marketing area than in the Southern Michigan area.

The McDonald spokesman stated that unless the four counties are included in the marketing area, and the Benton Harbor plant's distribution therein becomes route disposition in the marketing area, regulation of the plant could shift back and forth between the Indiana and Southern Michigan orders. This is because in some months the plant's route disposition in the present Indiana marketing area could be less than in the Southern Michigan marketing area, which would result in the Benton Harbor plant being regulated for the month under the Southern Michigan order.

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Including the four proposed counties in the Indiana marketing area will result in the Benton Harbor plant having substantially more sales each month in the foreseeable future in the Indiana marketing area than in the Southern Michigan marketing area. This would remove any uncertainty regarding the order under which the plant would be regulated.

The Indiana order provides for a "takeout-payback" fall production incentive plan that withholds 20 cents per hundredweight from the payments otherwise due producers for their deliveries in April–July. This money is distributed to producers on the basis of their production in the payback months of September–December. Under the Southern Michigan order, producers are paid on a base-excess plan throughout the year. The base on which each producer is paid is determined by his deliveries in the preceding August–December. If regulation of a plant shifted back and forth between orders, the producers involved could lose the benefits of the producer payment plan in the order under which their milk was usually pooled without obtaining the comparable benefits realized by producers regularly associated with the other order. Without the inclusion of the proposed four counties in the Indiana marketing area, producers supplying the Benton Harbor plant could find themselves in such a situation.

Including in the Indiana marketing area the proposed four counties, wherein Indiana order handlers are the principal distributors, will contribute to market stability. Particularly, it would serve as a safeguard against disruptive marketing conditions and the inequities among producers that would result if regulation of the plant they supplied shifted back and forth between the Indiana and Southern Michigan orders.

The provisions of the existing order as herein proposed to be amended are equally appropriate for the expanded marketing area.

2. *Classifying the shrinkage of nonfat milk solids used in modifying fluid milk products.* When fluid milk products are modified by adding nonfat milk solids (i.e., nonfat dry milk, condensed skim milk, or similar products), shrinkage in Class III up to two percent of the fluid equivalent of the quantity of nonfat milk solids added should be allowed.

Fluid products modified by the addition of nonfat milk solids, commonly called fortified products, represent a significant Class I disposition of handlers. Such a modified product must be accounted for under the order as Class I in a quantity equal to the weight of an equal volume of the same unmodified product. The small increase in volume due to the addition of the nonfat milk solids is accounted for when the modified product is disposed of as Class I. The remainder of the fluid equivalent of nonfat milk solids added but not represented by a volume increase in the modified product is classified as Class III.

The market administrator's laboratory tests the modified milk products of a handler to determine their total nonfat milk solids content. From that total he subtracts the nonfat milk solids content of milk utilized by the handler in making the modified milk products to determine the quantity of solids added.

The quantity of nonfat milk solids determined by the market administrator to have been added to the modified product is the basis for computing the fluid equivalent of the nonfat milk solids to be accounted for and classified.

The handler who proposed the change adopted in this decision complained that the order makes no allowance for the loss of nonfat dry milk solids used in fortification. He testified that, in addition to the loss incurred in processing fluid milk products, losses result from spillage and from nonfat dry milk sticking to the bags in which it is received at the plant.

Some disappearance of nonfat milk solids may be due to a lack of detailed records for each batch of fluid milk products fortified with added nonfat milk solids. For example, when more of a fortified fluid milk product is made than is needed for packaging on a particular day, the excess would be diverted for use in another product at the plant. It may not always be practicable for a handler to maintain a complete and accurate record of the nonfat milk products from each batch of a fortified product so diverted.

When the amount of nonfat milk solids in modified fluid milk products is determined by the market administrator's laboratory testing, a reasonable basis exists for computing a shrinkage allowance for nonfat milk solids used in the fortification process. A Class III shrinkage allowance of not more than two percent of the fluid equivalent of the quantity of nonfat milk solids so used, which is adopted in this decision, is appropriate for this purpose. This is the same rate of Class III shrinkage allowance applicable to milk received from producers.

The loss of nonfat milk solids associated with the fortifying process should be treated separately from the shrinkage allowances applied to receipts of fluid milk products. The shrinkage allowance in this case should be a part of the classification procedure of the specific modified fluid milk product disposed of.

The present classification provisions specify how much of the fluid equivalent of the nonfat milk solids in a fortified product may be classified in Class III. The shrinkage allowance provided herein would be a quantity of Class III milk in addition to the quantity now calculated under the present provision.

Any disappearance of nonfat milk solids in excess of the two percent limit would enter into the total plant accounting for receipts and disposition under the present order provisions applicable to shrinkage.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. The briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held;

(d) All milk and milk products handled by handlers, as defined in the tentative marketing agreement and the order as hereby proposed to be amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1049.85 of the aforesaid tentative marketing agreement and the order as proposed to be amended.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Indiana marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. Section 1049.2 is revised as follows:

§ 1049.2 Indiana marketing area.

"Indiana marketing area" (hereinafter referred to as the "marketing area") means all of the territory within the boundaries of the following counties, including territory wholly or partly within such boundaries occupied by Government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments:

(a) In Indiana, the counties of:

Adams	La Porte
Allen	Lawrence
Bartholomew	Madison
Blackford	Marion
Boone	Marshall
Brown	Miami
Cass	Monroe
Clay	Montgomery
Clinton	Morgan
Decatur	Noble
De Kalb	Owen
Delaware	Parke
Elkhart	Porter
Fayette	Putnam
Fountain	Randolph
Franklin	Ripley
Fulton	Rush
Grant	St. Joseph
Hamilton	Shelby
Hancock	Starke
Hendricks	Steuben
Henry	Switzerland
Howard	Tippecanoe
Huntington	Tipton
Jackson	Union
Jay	Vermillion
Jefferson	Vigo
Jennings	Wabash
Johnson	Warren
Kosciusko	Wayne
Lagrange	Wells
Lake	Whitley

(b) In Michigan, the counties of:

Berrien	Cass
Branch	St. Joseph

2. In § 1049.40, paragraph (c) (6) is revised as follows:

§ 1049.40 Classes of utilization.

. . . . . .

(c) . . .

(6) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1049.15, plus the fluid equivalent of loss of nonfat milk solids occurring in the process of modification in any case where determination of the quantity of added nonfat milk solids disposed of in such products is based upon laboratory analysis by the market administrator, such loss allowable pursuant to this subparagraph not to exceed two percent of the fluid equivalent of the quantity of added nonfat milk solids so determined to be added; and

. . . . . .

Signed at Washington, D.C., on: September 6, 1977.

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc 77-26266 Filed 9-8-77; 8:45 am]

Rural Electrification Administration

[7 CFR Part 1701]

SPECIFICATIONS FOR STEP-DOWN DISTRIBUTION SUBSTATION TRANSFORMERS

Proposed Revision of REA Specification S–3

AGENCY: Rural Electrification Administration.

ACTION: Advance notice of proposed rule.

SUMMARY: REA proposes to revise REA Specification S–3, REA Specifications for Step-Down Distribution Substation Transformers, 34.4–138 kV. This revision is intended to bring REA specifications up to date with existing standards publications. Because of the extent of the revision, the entire specification is published below. On issuance of REA Specification S–3, Appendix A to Part 1701 will be modified accordingly.

DATES: Public comments must be received by REA no later than October 11, 1977.

ADDRESS: Interested persons may submit written data, views, comments to the Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director, Power Supply and Engineering Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Rowland C. Hand, Sr., Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone number 202–447–4413.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), the text of the proposed revision of REA Specification S–3 is as follows:

REA Specifications for Step-Down Distribution Substation Transform

Date accepted: Spec. No. S–3

I. *Scope.*—These specifications apply to step-down distribution substation type transformers used on rural electric systems. The transformers covered by these specifications shall be 60 hertz, single-phase or three-phase, and of the outdoor, oil-immersed type. The standard ratings are to be at 55/65° C rise.

II. *Rating.*—A. *High voltage:* The nominal high voltage rating, BIL, percent impedance and full capacity tap range shall be one of the following:

Voltage rating, kilovolt	BIL	Percent Impedance	Tap voltage, kilovolt
34.4	200	6.0	36.2/35.3/33.5/32.6
43.8	250	6.5	46.2/45.0/42.6/41.4
67.0	350	7.0	70.6/68.8/65.2/63.4
115.0	550	8.0	120.75/117.875/112.125/109.25
115.0	450	7.5	120.75/117.875/112.125/109.25
138.0	650	8.5	144.9/141.45/134.55/131.1
138.0	550	8.0	144.9/141.45/134.55/131.1

B. *Low voltage:* The nominal low voltage rating and BIL shall be one of the following:

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Voltage rating, volts		BIL, kilovolt
Single phase	3 phase	
7200/12470Y	12470Y/7200	110
7620/13200Y	13200Y/7620	110
14400/24940Y	24940Y/14400	150

C. These specifications apply to the kVA ratings in categories I, II, and III as follows:

Single phase, capacity, kilovoltampere

Primary voltage, kilovolt	Category I			Category II			
34.4	167	250	333	500	833	1250	1667
43.8	167	250	333	500	833	1250	1667
67.0	167	250	333	500	833	1250	1667
	Category III						
43.8	2500	3333	5000	6667	8333	10,000	
67.0	2500	3333	5000	6667	8333	10,000	
115.0	2500	3333	5000	6667	8333	10,000	
138.0	2500	3333	5000	6667	8333	10,000	

3 phase[1]

Primary voltage, kilovolt	Category II, capacity, kilovoltampere						
34.4	750	1000	1500	2000	2500	3750	5000
43.8	750	1000	1500	2000	2500	3750	5000
67.0	750	1000	1500	2000	2500	3750	5000
115.0	.....	.....	.....	.....	.....	.....	5000
138.0	.....	.....	.....	.....	.....	.....	5000
	Category III, capacity, 1,000 VA						
34.4	7.5	10	12	15	20	25	30
43.8	7.5	10	12	15	20	25	30
67.0	7.5	10	12	15	20	25	30
115.0	7.5	10	12	15	20	25	30
138.0	7.5	10	12	15	20	25	30

[1] Category I, none.

III. *Applicable standards.*—Transformers shall comply with the following national standards publications, except where they conflict with the specific requirements of these specifications:

American National Standard General Requirements for Distribution, Power and Regulating Transformers. ANSI C57.12.00 (1973).

American National Standard Requirements for Transformers 138,000 volts and Below, 501 through 10,000/13,333/16,667 kVA, Single Phase and 501 through 30,000/40,000/50,000 kVA, Three Phase, ANSI C57.12.10 (1969) (Categories II and III).

American National Standard Requirements for Overhead-Type Distribution Transformers, 67,000 Volts and Below; 500 kVA and Smaller, ANSI C57.12.20 (1974) (Category I).

NEMA Standards Publication on Transformers, Regulators, and Reactors. Publication No. TR–1 (1974).

IEEE Standard on Distribution and Power Transformer Short Circuit Test Code, IEEE Standard 262A (1977).

IV. *Specific requirements.*—Transformers shall be equipped for tank mounting of lightning arresters for both primary and secondary protection.

V. *Load-tap-changing transformers.*—Load-tap-changing transformers shall meet the requirements of this specification and of ANSI C57.12.30 (1971), and the tap changing mechanism shall be such that it can be removed from the transformer and the transformer returned to service with minor modifications.

VI. *Other transformers.*—A. Category IV transformers shall meet the requirements of ANSI C57.12.00 (1973).

B. Transformers with secondary voltages higher than 24,940/14,400 volts shall meet the requirements of ANSI C57.12.00 (1973), and ANSI C57.12.10 (1969).

Dated: August 31, 1977.

RICHARD F. RICHTER,
Assistant Administrator—Electric.

[FR Doc.77-26010 Filed 9-8-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 113]

CUSTOMS BONDS

Proposed Change of Policy Relating to Foreign Landing Certificates

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of proposed change of policy.

SUMMARY: Customs proposes to require that landing certificates be presented to confirm that certain purchases from "duty-free shops" are exported to Mexico. This action is necessary to ensure that the articles purchased are exported to Mexico and not entered into the commerce of the United States without the payment of duties and taxes.

DATES: Comments must be received on or before October 11, 1977.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

John R. Cookfair, Operations Officer, Inspection and Control Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202–566–5354).

SUPPLEMENTARY INFORMATION:

BACKGROUND

A "duty-free shop" is a store in which a variety of merchandise is offered for sale without the payment of Customs duties and taxes. The merchandise is sold on the condition that it will be used outside the United States. Customs duties and taxes will be assessed on the merchandise if it is returned to this country. Duty-free shops were first established at airports in the United States and on the land borders with Mexico and Canada in the early 1960's, with the express purpose of providing duty and tax-free merchandise for the personal use abroad of individuals about to leave the country. These shops continue to service individuals who purchase items for their personal use abroad, following long-established administrative procedures tailored to accommodate this type of sale.

The Customs Service has discovered, however, that duty-free shops on the United States-Mexican border have become major wholesale suppliers, using the procedure designed to effect small, personal use sales to individuals. These simplified procedures were never intended to be used in wholesale transactions. Moreover, a substantial quantity of the merchandise purchased in duty-free shops is entered into Mexico illegally without the payment of Mexican Customs duties, then smuggled back into the United States to be entered into the commerce of this country without payment of United States duties and taxes. The result is a substantial loss of revenue to the United States.

To prevent this loss of revenue to the United States, the Customs Service has determined that it may be necessary to require that landing certificates be presented in certain specified circumstances. A landing certificate is a document signed by a revenue officer of the country to which merchandise is exported, certifying that the merchandise has been received into foreign Customs custody. The landing certificate is a formal acknowledgment by the foreign Customs administration that the exportation to that country has been recognized and accepted, and ensures that any required duties and taxes will be collected and any restriction governing the importation will be met.

Section 622 of the Tariff Act of 1930 (19 U.S.C. 1622) provides that the Secretary of the Treasury may prescribe regulations requiring landing certificates when merchandise is exported from the United States in cases in which he considers it necessary for the protection of the revenue. Therefore, section 113.55(d)(2) of the Customs Regulations (19 CFR 113.55(d)(2)) provides that a landing certificate may be required by the district director of Customs for merchandise exported from the United States when he considers the certificate necessary for the protection of the revenue. This certificate must be presented to the district director within six months from the date of exportation.

Since March 1973, duty-free shops have been specifically exempted from the requirement to present a landing certificate when certain commodities are exported in Customs bond, although other types of bonded warehouses were made subject to the requirement at that time. In view of the problems encountered at the Mexican border, the Customs Service proposes to require a landing certificate whenever a purchase of the commodities listed below from duty-free shops for exportation to Mexico exceeds $250. However, a landing certificate would not be required for the exportation of a single item with a purchase price over $250.

Alcoholic beverages	Porcelain
Chocolates and sweets	Powdered milk
Christmas ornaments	Radios
Clothing	Tape recorder players
Cosmetics	Tape recorders
Costume jewelry	Television sets
Crystal	Suit material
Perfumes	

These commodities were chosen, after consultation with Mexican Customs officials, to represent "high-risk" merchandise with a potential to be smuggled because of their high rates of duty in both the United States and Mexico and, in some cases, because their entry into the United States is subject to quota. The $250 amount is consistent with the regulations of the Bureau of the Census, Department of Commerce, which do not require filing a Shipper's Export Declaration when merchandise valued less than that amount is exported.

Landing certificates would also be required for all exportations of the following commodities in Customs bond, regardless of value, whenever the quantity exported exceeds that determined appropriate for personal use, as indicated:

Cigarettes, 2 cartons.
Watches, 2 each.

The proposed requirement for landing certificates would have the dual result of impeding the illegal entry in Mexico of merchandise purchased in wholesale quantities from duty-free shops, while protecting the revenue of the United States from the loss of Customs duties and taxes which occurs due to the illegal return of that merchandise into the commerce of this country. The Customs Service emphasizes that this proposal is not intended to and will not hinder purchases by individuals from duty-free shops of merchandise for export in personal use quantities. Those sales will continue to be permitted for the convenience of the individual traveler.

PROPOSED CHANGE

Accordingly, it is proposed to require the production of a landing certificate to confirm that purchases of certain commodities from duty-free shops, as set forth above, are exported to Mexico. This change is being proposed under the authority of sections 622 and 624, 46 Stat. 759 (19 U.S.C. 1622, 1624). Notice of this proposed change is being published for public comment pursuant to section 177.10(c)(2) of the Customs Regulations (19 CFR 177.10(c)(2)).

COMMENTS

Before adopting this proposal, consideration will be given to any written comments submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) during regular business hours at the Regulations and Legal Publications Division, Headquarters, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

DRAFTING INFORMATION

The principal author of this document is Todd Schneider, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the United States Customs Service participated in its development, both on matters of substance and style.

ROBERT E. CHASEN,
Commissioner of Customs.

[FR Doc.77-26203 Filed 9-8-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 120]

[FRL 771-5]

WATER QUALITY STANDARDS

Navigable Waters of the State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule to amend 40 CFR 120.

SUMMARY: The Nebraska Environmental Control Council adopted a State water quality standards regulation on September 10, 1976, that was submitted to EPA on November 2, 1976, which downgraded the uses of 35 waters of the State of Nebraska. That downgrading of water uses for the 35 waters did not meet the requirements of 40 CFR 130.17(c)(3). This proposed rule redesignates beneficial uses for the 35 waters to those in existence prior to the September 10, 1976, downgrading action.

DATES: Comments must be received on or before October 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Dale B. Parke, Head, Water Quality Standards, Water Division, EPA, 1735 Baltimore Street, Kansas City, Mo. 64108. (816–374–6391).

SUPPLEMENTARY INFORMATION: Section 303(c) of the Federal Water Pollution Control Act (the Act), as amended, (33 U.S.C. 1313(c)), and 40 CFR 130.17 provide that whenever a State revises its existing water quality standards or adopts new standards, such standards must be submitted to the Regional Administrator for approval. If the Regional Administrator determines that the revised standards do not meet the requirements of the Act, he must notify the State and specify the changes necessary for compliance. If such changes are not adopted by the State within 90 days after the date of notification, the Administrator shall promulgate water quality standards that meet the requirements of the Act.

Pursuant to 40 CFR 130.17(c)(3), EPA approval of a downgrading of designated beneficial uses must be based upon a demonstration by the State of one of the following: (1) The existing designated use cannot be attained because of natural background conditions; (2) the existing designated use cannot be attained because of irretrievable man-induced conditions; or (3) the existing designated use cannot be attained because the imposition of controls above or in addition to he technology-based requirements of best available technology economically achievable and best practicable wastewater treatment technology would result in a substantial and widespread adverse economic and social impact.

On March 31, 1977, the Acting Regional Administrator, Region VII, EPA, disapproved water quality standards revisions for the 35 waters which were downgraded from primary contact recreational uses to secondary or non-contact uses, or completely eliminated by the September 10, 1976, revision of Rule 7 of the Nebraska Water Quality Standards.

In March 31, 1977 letter, the Acting Regional Administrator indicated to the Governor of Nebraska that the transcript of the public hearing at which Rule 7 was adopted did not satisfy the requirements of 40 CFR 130.17(c)(3). The letter pointed out that the justification for downgrading had not been made on a case-by-case basis. In addition, to satisfy the requirements of 40 CFR 130.17(c)(3), pertinent data should have accompanied the public hearing transcript which demonstrated the unattainability of the previously designated beneficial uses and which formed the basis for the rule adopted by the Council. Thus, the Acting Regional Administrator disapproved Rule 7 of the revised Nebraska water quality standards. He informed the Governor that:

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The State Water Quality Standards must be modified so that the designated beneficial uses on these waters are reinstated as they were prior to the amendments to Rule 7 adopted on September 10, 1976. If the State chooses in the alternative to provide a less restrictive designation of beneficial uses on any or all of the subject 35 waters, an appropriate rule must be adopted by the Nebraska State Environmental Control Council after consideration of each water so affected on a case-by-case basis; and a decision based on and justified to EPA with information demonstrating that the existing designated uses are not appropriate in accordance with the criteria specified at 40 CFR 130.17(a)(3).

Since neither of these conditions has not been met, the Administrator of the Environmental Protection Agency has prepared a proposed regulation reinstating the previous beneficial use classification (primary contact recreation) for the 35 waters, in compliance with 40 CFR 130.17 and section 303(c)(4)(A) of the Act.

If the Nebraska Environmental Control Council takes either of the actions specified in the Acting Regional Administrator's March 31, 1977, letter, these proposed modifications to the Nebraska water quality standards will not be promulgated. If such changes are not made, the Administrator must promulgate these proposed standards no later than 90 days after the date of this notice under section 303(c)(4) of the Act.

The Agency encourages the submission of comments on the proposed regulations by all interested persons, organizations, and governmental agencies. Comments should be sent to: Dale B. Parke, Water Division, U.S. Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Mo. 64108. All comments received on or before October 25, 1977, will be considered by the Agency prior to promulgation of these regulations.

Dated: August 31, 1977.

DOUGLAS M. COSTLE,
Administrator.

Section 120.37 of Part 120 of Chapter I, Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

§ 120.37 Nebraska.

The water quality standards applicable to the surface waters of the State of Nebraska, adopted by the Nebraska Environmental Control Council on May 14, 1976, with subsequent revisions adopted on September 10, 1976, and December 10, 1976, are amended as follows:

The designated uses adopted in Rule 7 by the State of Nebraska on September 10, 1976, for the following navigable waters are amended in each case to be full body contact, partial body contact, and fish and wildlife protected. The criteria necessary to support the designated beneficial uses for these waters are those in Rule 2 and Rule 6 of the Nebraska water quality standards:

Hanson Memorial Reserve State Special Use Area
Limestone Bluffs State Special Use Area
Pawnee Prairie State Special Use Area
Ponderosa State Special Use Area
Wilson Creek State Special Use Area
Crystal Lake State Recreational Area
Blue Bluff State Special Use Area
Diamond Lake Wildlife Area State Special Use Area
Dead Timber State Recreational Area
Wood Duck State Special Use Area
Yellowbanks State Special Use Area
Arnold Lake State Recreational Area
Bowman Lake State Recreational Area
Ravenna State Recreational Area
Milburn Dam State Special Use Area
Pibel Lake State Recreational Area
Victoria Springs State Recreational Area
Memphis Lake State Recreational Area
Coot Shallows State Special Use Area
War Axe State Wayside Area
Plattsmouth State Special Use Area
Verdon Lake State Recreational Area
American Game Marsh State Special Use Area
Ballards Marsh State Special Use Area
Walgren Lake State Recreational Area
Champion Lake State Recreational Area
Sacramento-Wilcox State Special Use Area
Carter P. Johnson Lake
Blue Hole East State Special Use Area
Union Pacific State Wayside Area
Pressy Lake State Special Use Area
Stagecoach No. 9 State Recreational Area
Teal No. 22 State Special Use Area
Box Elder Canyon State Special Use Area
Buffalohead State Special Use Area

[FR Doc.77-26262 Filed 9-8-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 182]

COOPERATIVE EDUCATION PROGRAMS

Proposed Criteria Governing Awards for Planning, Establishing, Expanding or Carrying Out Programs

AGENCY: U.S. Office of Education, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: The purpose of this notice of proposed rulemaking is to amend existing regulations for the Cooperative Education Programs under Title VIII of the Higher Education Act, as amended, to conform with section 129 of the Education Amendments of 1976 (Pub. L. 94-482). The proposed regulations set forth rules and criteria governing awards for planning, establishing, expanding, or carrying out programs of cooperative education, and for support of training, research, or demonstration projects for cooperative education.

DATES: Interested persons are invited to submit written comments, suggestions, or objections regarding these proposed regulations for the Commissioner's consideration. In order to receive consideration, all comments, suggestions, or objections must be received no later than the 45th day after publication of this notice of proposed rulemaking in the FEDERAL REGISTER, or on the next business day if the 45th day is a Saturday, Sunday, or Federal holiday. Comments must be received on or before October 25, 1977.

ADDRESSES: All comments should be sent to Bureau of Postsecondary Education, Division of Training and Facilities, U.S. Office of Education, Room 3053, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. 20202. Comments will be available for inspection at the above office, between 8:30 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Dr. John L. Chase, Bureau of Postsecondary Education, Room 3053, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. 20202; telephone 202-245-2280.

SUPPLEMENTARY INFORMATION: The provisions of the Education Amendments of 1976 make several technical changes in the Cooperative Education Programs under Title VIII, formerly Title IV-D of the Higher Education Act, as amended. Section 129 of the Education Amendments of 1976 provides that programs of cooperative education may now include alternating periods of work and school attendance, removing the requirement that students be enrolled on a full-time basis. In addition, the Commissioner may now make grants to institutions or combinations of institutions for up to five fiscal years, instead of three, to plan, establish, expand or carry out programs of cooperative education and for support of training, research, or demonstration projects for cooperative education.

These proposed regulations amend existing regulations for the Cooperative Education Programs, which were published in the FEDERAL REGISTER on May 9, 1975, to include these technical changes. There have also been numerous editorial modifications made in the existing regulations to provide greater simplicity and clarity for the reader.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Number 13:510; Cooperative Education Institutional Grants.)

Dated: June 30, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: September 2, 1977.

HALE CHAMPION,
Acting Secertary of Health, Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended by revising Part 182 to read as follows:

PART 182—COOPERATIVE EDUCATION

Subpart A—General

Sec.
182.1 Scope of part.
182.2 Purpose of the program.
182.3 Definitions.
182.4 General provisions regulations.
182.5 Applications—general.
182.6 Performance reports.

Subpart B—Cooperative Education Programs

Sec.
182.11 Eligible parties.
182.12 Eligible programs.
182.13 Limit on number of grants.
182.14 Limit on amounts of grants.
182.15 Content of application.
182.16 Funding criteria.
182.17 Student work experience.
182.18 Ineligible expenditures.
182.19 Eligible costs of administration.

Subpart C—Training, Research, and Demonstration Projects

182.30 Eligible parties.
182.31 Eligible projects.
182.32 Funding criteria for training projects.
182.33 Funding criteria for research and demonstration projects.

AUTHORITY: Title VIII of the Higher Education Act of 1965, as amended, 90 Stat. 2144-2146 (20 U.S.C. 1133-1133b), unless otherwise noted.

Subpart A—General

§ 182.1 Scope of part.

The regulations in this part apply to the Cooperative Education Programs (Title VIII of the Higher Education Act of 1965, as amended).

(20 U.S.C. 1133, 1133a, 1133b.)

§ 182.2 Purpose of the program.

The Commissioner is authorized to make awards for planning, establishing, expanding, or carrying out programs of cooperative education, and for support of training, research, or demonstration projects for cooperative education.

(20 U.S.C. 1133, 1133a, 1133b.)

§ 182.3 Definitions.

As used in this part:

(a) "Act" means Title VIII of Higher Education Act of 1965, as amended.

(b) "Cooperative education" means a program of study at an institution of higher education under which regular students undertake academic study for specified periods of time alternating with work experience in government, industry, business, or non-profit social welfare or educational agencies. In cooperative education, work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time.

(c) "Regular student" is a person in a program of cooperative education who is carrying at least a half-time academic load of course work and related required activites, other than by correspondence. Whether a person comes within this definition must be determined by the institution of higher education on the basis of work loads normally required of students who are full-time degree candidates.

(d) "Institution of higher education" means an institution of higher education as defined in section 1201(a) of the Higher Education Act of 1965, as amended.

(e) "Combination of institutions of higher education" means a group of institutions of higher education which have entered into a cooperative arrangement for the purpose of carrying out a common objective, or a public or private non-profit agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on their behalf.

(20 U.S.C. 1133a-1133b, 1141.)

§ 182.4 General provisions regulations.

Assistance provided under this part is subject to the regulations in 45 CFR Parts 100 and 100a (relating to fiscal, administrative, property management, reporting requirements, and other matters).

(20 U.S.C. 1133b, 1133c.)

§ 182.5 Applications—general.

Each applicant under this part shall submit an application which meets the requirements of 45 CFR Part 100a (subpart B).

(20 U.S.C. 1133a, 1133b.)

§ 182.6 Performance reports.

Each recipient under this part shall submit the following performance reports to comply with 45 CFR Part 100a (Subpart Q):

(a) An interim progress report at the end of six months which must include information on:

(1) The extent to which the objectives of the project have been accomplished;

(2) What factors, if any, have prevented the accomplishment of project objectives, and what, if any, corrective measures are being taken; and

(3) Any highly significant aspects of the project.

(b) A final report which must be submitted with the final financial status report.

(20 U.S.C 1133a, 1133b; H. (Conf.) Rept. 94-1701 at 199 (1976).)

Subpart B—Cooperative Education Programs

§ 182.11 Eligible parties.

An institution of higher education or a combination of institutions of higher education may apply for an award under this subpart.

(20 U.S.C. 1133(a), 1133a(a).)

§ 182.12 Eligible programs.

The Commissioner may make awards under this subpart to plan, establish, expand, or carry out a program of cooperative education.

(20 U.S.C. 1133(a), 1133a(a).)

§ 182.13 Limit on number of grants.

No institution of higher education, individually or as a participant in a combination of institutions of higher education, may receive grants under this subpart for more than five fiscal years.

(20 U.S.C. 1133a(c).)

§ 182.14 Limit on amounts of grants.

(a) An institution of higher education may not receive an award of more than $175,000 for any fiscal year. A combination of institutions of higher education may not receive in any fiscal year an award of more than $125,000 multiplied by the number of institutions which apply as participants in the combination.

(20 U.S.C. 1133a(a).)

(b) Each award under this subpart may not include more than the following amounts for administering the program of cooperative education:

(1) 100 percent of the total cost of administering the program in the first fiscal year in which an award is made.

(2) 90 percent of th total cost of administering the program in the second fiscal year for which an award is made.

(3) 80 percent of the total cost of administering the programs in the third fiscal year for which an award is made.

(4) 60 percent of the total cost of administering the program in the fourth fiscal year for which an award is made.

(5) 30 percent of the total cost of administering the program in the fifth fiscal year for which an award is made.

(20 U.S.C. 1133a(c).)

§ 182.15 Content of application.

Each application under this subpart must meet the requirements of section 802(b) of the Act.

(20 U.S.C. 1133a(b).)

§ 182.16 Funding criteria.

The Commissioner evaluates applications under this subpart with the criteria in 45 CFR 100a.26(b) and with the following additional criteria (maximum of 100 points):

(a) The extent to which the applicant shows in its application that:

(1) The applicant will use its own resources to increase the size and scope of its cooperative education program during the period of Federal support (5 points);

(2) The applicant has arranged for employment opportunities which to the extent practicable are related to its students' educational, professional, or occupational objectives (10 points);

(3) The applicant supervises its students during the work;

(4) The applicant makes continuing efforts to promote close interaction between its students' work experience and academic study (5 points);

(5) The President and first-line administrators of the applicant support the program (10 points); and

(6) The applicant has a record-keeping system that keeps track of each students' status, attendance periods, and work periods (5 points);

(b) Whether the total amount of work experience is long enough to make a significant contribution toward meeting the student's educational, professional, and occupational objectives (10 points);

(c) The extent to which the applicant has involved administrators, faculty, students, employers, and cooperative education specialists in planning the program (10 points);

(d) Whether the applicant has procedures for making curriculum and cal-

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endar changes as necessary to meet the particular needs of students (10 points);

(e) Whether the applicant has a written cooperative education philosophy appropriate to the needs and characteristics of the applicant (10 points);

(f) The extent to which employers will provide appropriate work experience for students in the applicant's program of cooperative education (10 points); and

(g) The extent to which the applicant demonstrates its intention and ability to continue its cooperative education program after Federal financial assistance ends (10 points).

(20 U.S.C. 1133(a), 1133a(b), 1133a(d).)

§ 182.17 Student work experience.

The recipient of an award under this subpart must insure that:

(a) Each student's work experience is incorporated into the student's program of study; and

(b) The student receives compensation from the employer at a rate comparable to employees who do similar work. However, a student may choose to work without pay or at a lesser rate, if the student works for a social welfare or educational organization.

(20 U.S.C. 1133 (a), (c).)

§ 182.18 Ineligible costs.

(a) A recipient may not use funds provided under this subpart to:

(1) Compensate any student for his or her work experience or to provide financial assistance to any student to meet the costs of his or her education;

(2) Purchase or lease equipment, unless specifically authorized by the Commissioner in writing;

(3) Purchase or lease land, or purchase, lease, construct, or improve any building; or

(4) Pay teaching salaries or purchase capital equipment.

(b) A recipient may not use funds provided under this subpart for any program which involves sectarian training or which is intended primarily to prepare students to be ministers or teachers of theological subjects.

(b) A recipient may not us funds provided under ths subpart for any progrm

(c) A recipient may not use funds provided under this subpart for the development and production of audio-visual materials unless specifically authorized by the Commissioner in writing.

(20 U.S.C. 1133(c), 1133a.)

§ 182.19 Eligible costs of administration.

The costs of administering the project may include the following:

(a) Salaries of the director, any coordinators, and secretaries;

(b) Release time for faculty to help administer the program, including student counseling and supervision, job location and placement, and promotional activities;

(c) Salaries of administrative personnel such as job placement staff, or admission counselors who publicize the programs and recruit students;

(d) Travel costs of administrative staff, and necessary subsistence costs for them; and

(e) Expendable office supplies and promotional literature.

(20 U.S.C. 1133a(c)); H. (Conf.) Report No. 94-1701 at 199 (1976).)

Subpart C—Training, Research, and Demonstration Projects

§ 182.30 Eligible parties.

The Commissioner may make awards under this subpart as follows:

(a) To institutions of higher education or combinations of institutions of higher education; and

(b) To other public or private nonprofit agencies or organizations, if the awards will make an especially significant contribution to attaining the objectives of this subpart.

(20 U.S.C. 1133b.)

§ 182.31 Eligible projects.

The Commissioner may make awards under this subpart for:

(a) Projects to train persons in planning, establishing, administering, or coordinating programs of cooperative education;

(b) Projects to demonstrate or explore the feasibility or value of innovative methods of cooperative education; or

(c) Projects for research into methods of improving, developing, or promoting the use of programs of cooperative education in institutions of higher education.

(20 U.S.C. 1133b.)

§ 182.32 Funding criteria for training projects.

The Commissioner evaluates applications for training projects under this subpart with the criteria in 45 CFR 100a.26(b) and with the following additional criteria (maximum score of 100 points):

(a) The extent to which the applicant proposes to make trainees aware of the need to modify existing undergraduate teaching practices, student calendars, and curricula, to begin to administer a cooperative education program (10 points);

(b) The extent to which the applicant has based its project on its experience in cooperative education or on successful cooperative education programs, or on innovations which have been used successfully in a cooperative education program (25 points);

(c) The extent to which the applicant has clearly defined procedures that give evidence of comprehensive planning (25 points);

(d) The extent to which the proposed project has promise of developing trainees who can apply their expertise in more than one type of cooperative education program (20 points); and

(e) The extent to which the applicant provides evidence of a need for the training in its geographical area (20 points).

(20 U.S.C. 1133b.)

§ 182.33 Funding criteria for research and demonstration projects.

The Commissioner evaluates applications for research or demonstration projects under this subpart with the criteria in 45 CFR 100a.26(b) and with the following additional criteria (maximum of 100 points):

(a) The extent to which the proposed project is likely to develop information of practical value to administrators of cooperative education programs, or presidents, deans and other principal administrative officers who establish or administer cooperative education programs (25 points);

(b) The extent to which the research design includes:

(1) Well-defined methodologies;

(2) Realistic work schedules; and

(3) A logical relationship between the research design and the stated objectives (25 points);

(c) The extent to which the applicant will explore innovative approaches to the operation of cooperative education programs and evaluate those approaches (20 points);

(d) The extent to which the applicant will demonstrate the feasibility of a stated hypothesis for developing, improving, and promoting the use of cooperative education nationally through:

(1) Experimental models; and

(2) Information dissemination (15 points); and

(e) The extent to which the proposed research will shed new light on:

(1) The effectiveness of cooperative education as an educational process or as preparation for employment, or both;

(2) The beneficial effects of cooperative education for students, employers, and institutions of higher education; or

(3) The effectiveness of innovative approaches to cooperative education (15 points).

(20 U.S.C. 1133b.)

[FR Doc.77-26315 Filed 9-8-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21371; FCC 77-585]

[47 CFR Part 2]

REQUIREMENT OF A DESCRIPTION OF MEASUREMENT FACILITIES USED IN THE EQUIPMENT AUTHORIZATION PROGRAM AND TO MAKE OTHER CHANGES

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FCC is proposing to expand its requirements for filing a description of measurement facilities used in the equipment authorization program for radio frequency devices. The agency is also requiring the submission of a report of measurement with each application for type approval. The proposed regulations are designed to ensure that persons making measurements for equipment authorization have adequate facilities to ensure that the reported measurements are accurate and the equipment is in compliance with FCC technical specifications.

DATES: Comments must be received on or before October 11, 1977, and reply comments must be received on or before October 21, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Herman Garlan, Chief, RF Devices and Experimental Branch, Office of Chief Engineer, 202-632-7095.

SUPPLEMENTARY INFORMATION: Method of Measuring test site attenuation is described in OCE 44 attached to notice of proposed rulemaking.

Adopted: August 24, 1977.

Released: September 6, 1977.

In the matter of amendment of Part 2 to require a description of measurement facilities used in the equipment authorization program and to make other changes, Docket No. 21371.

1. Notice is hereby given of rulemaking to extend the requirement to furnish a description of measurement facilities now required for certification to other parts of the equipment authorization program.

2. Radiofrequency devices, e.g. transmitters, receivers, microwave ovens, etc., offered for sale to the public, with very few exceptions, require an equipment authorization from the Commission as a prerequisite for legal marketing.[1] With an application for type acceptance or certification, the applicant must submit a report of measurements to show that the subject equipment complies with the technical specifications promulgated by the Commission.[2] It is proposed herein to require a similar report of measurements with an application for type approval to provide some assurance that equipment submitted to the FCC Laboratory for type approval testing can reasonably be expected to pass the FCC tests. Our experience during the last two years has shown that about 50 percent of equipments submitted for type approval testing have failed during the initial submission (about 70 percent for video games). This has resulted in needless expense on the part of the manufacturer/applicant and to the Commission. By requiring the manufacturer/applicant to test his equipment prior to submission, we expect this 50 percent failure rate to be cut at least in half.

3. The integrity of the equipment authorization program depends in large measure on the accuracy of the measurement data received by the Commission. Measurements of radiation—on the fundamental, of harmonics and other spurious—are particularly susceptible to error since they are materially affected by the characteristics of the test site on which the measurement is made. The need to evaluate the suitability of the test site was recognized in the early days of the certification program and a regulation was promulgated[3] to require such a filing with the Commission. We are now proposing to extend this requirement to measurements made for type approval and type acceptance.[4] We are also proposing to require attenuation measurements of the test site to verify that the test site is suitable for making open field radiation measurements.

4. At the same time, we are proposing to require information about the calibration of the instrumentation used for the measurements reported to the Commission to insure that lack of calibration does not introduce errors in the data.

5. Many persons operating measurement facilities have already filed the information required by the rules proposed herein. These individuals will not be required to file a new description but will be expected to update and supplement the description currently on file at the end of the three year period proposed in § 2.955.

6. In view of the above, the Commission is proposing to delete § 15.38 and to add general regulations to Part 2 to require the filing by all parties of a description of measurement facilities used in our equipment authorization program. The proposed rules are attached. As part of this filing each party will be required to furnish site attenuation data measured pursuant to Bulletin OCE 44 which is attached as Appendix A.

7. Pursuant to procedures set forth in § 1.415 interested parties are invited to file comments in this proceeding on or before October 11, 1977. Reply comments may be filed on or before October 21, 1977. In accordance with § 1.419 an original and 5 copies of each comment or reply comment shall be furnished to the Commission. Members of the public who wish to express their interest by participating informally in this rulemaking proceeding may do so by submitting one copy of their comment, without regard to form, provided the docket Number of this proceeding is specified. Responses will be available for public inspection during regular business hours in the Commission's Docket Reference Room at 1919 M Street NW., Room 239, Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 2 is amended by adding a new undesignated subpart and Sections 2.951-2.956 inclusive, by adding paragraph (e) to Section 2.963. Part 15 is amended by deleting Section 15.38.

1. Part 2 is amended by adding a new undesignated subpart under Subpart J to read as follows:

MEASUREMENT FACILITIES

§ 2.951 Approval of measurement facility.

(a) Each person making measurements to be filed with an application for an equipment authorization shall file a description of his measurement facilities with the Commission. The description shall be sent to FCC Laboratory Div., P.O. Box 40, Laurel, Md. 20810, as a separate document, not attached to an application.

(b) In determining the acceptability of a measurement facility, the Commission will consider the adequacy and calibration schedule of the instrumentation, the terrain and the number of reflecting objects within the measurement area, and the site attenuation curve(s) furnished by the applicant. To be acceptable, the site attenuation should be within ±2dB of the theoretical site attenuation. See appendix to Bulletin OCE 44 for the method of computing the theoretical site attenuation.

(c) The Commission will advise the person filing the description as to its acceptability.

§ 2.952 Description of measurement facility.

The description of the measurement facility shall include the following information:

(a) Name and mailing address of person(s) and company operating the measurement facility.

(b) Location of the measurement facility and/or test site. Specify this location as city, street, and number. If no street and number, specify the distance and direction from the nearest city.

(c) Physical description of the test site accompanied by photographs 8" by 10" in size clearly showing the surrounding landscape 360° in azimuth of the test site. Smaller photographs may be submitted if they show the required details and are mounted on full size sheets of paper.

(d) Scale plot of the test site showing the physical layout of test structures and all surrounding structures within 5 times the distance between the measuring set and the device being measured. Show all pipes, roads, sidewalks, wiring, metallic objects with any dimension greater than 6 inches, etc., whether above or below ground.

(e) Physical description of all structures shown on the plot of the test site. For each structure indicate the materials of which it is constructed.

(f) Information on the calibration of the test site pursuant to Section 2.953 and Bulletin OCE 44.

(g) List all the measuring instruments used in the facility. For each piece of equipment, indicate the date of the last calibration and the interval between calibrations. Specify the antenna factor and

[1] 47 U.S.C. 302; 47 CFR Part 2, Subpart I.
[2] 47 CFR Part 2, Subpart J.
[3] 47 CFR 15.38.
[4] In a subsequent rulemaking proceeding, the Commission proposes to review the several equipment authorization procedures now in use with a view toward simplifying these requirements and combining them into a single procedure.

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indicate how the antenna factor was determined for each antenna used in making field strength measurements. Include a sample calculation showing how the antenna factor is used in converting instrument readings into field strength in microvolts per meter (μV/m).

(h) For the line impedance stabilization network used in making line conducted measurements, furnish a graph of the impedance magnitude characteristic measured from either side of the receiver receptacle to chassis.

(i) A list of the published standards and measurement procedures employed by persons at the facility, and a copy of each unpublished standard and procedure that is used.

(j) A statement indicating whether this facility is available to do measurement work for others on a contract basis.

§ 2.953 Characteristics of a test site.

(a) A test site to be used for radiation measurements shall be provided with facilities and appurtenances suitable to make the technical measurements for the particular type(s) of equipment as described in an appropriate standard or measurement procedure.

(b) The site should provide for measurements at the following distances:

Below 2 MHz—limitation on the size of the test site usually makes it necessary to extrapolate measured data to determine the variation of field strength with distance at the site by measuring a known signal at several points and plotting measured field strength vs. distance.
2–25 MHz—30 meters.
25–1000 MHz—3 meters.
1–40 MHz—3 meters or less. The minimum measurement distance depends both on radiation characteristics of the device to be tested and the dimensions of the measuring antenna.

NOTE.—Instrumentation limitations and Commission requirements may dictate altering these distances in some cases.

(c) It is recommended that every site be provided with a ground screen. If the site is partially or wholly enclosed in a shelter, or lies partly or wholly over an area that is paved or of non-uniform conductivity, a ground screen is mandatory. For a site to be acceptable without a ground screen, the earth within the area must be uniform and of good conductivity. Any pipes or cables within the site shall be buried to such a depth that they have negligible effect on the measurements.

(d) To provide assurance that the site is free from the effects of reflections or other discontinuities, site attenuation measurements shall be made pursuant to Bulletin OCE 44.

§ 2.954 Changes in measurement facilities.

The description of the measurement facilities shall be kept current at all times. When a change in these facilities is made, an amendment to the description filed pursuant to Section 2.951 shall be submitted.

§ 2.955 Update of filed information.

The accuracy of the description filed pursuant to Section 2.951 shall be verified every three years by the person(s) or organization that filed the description. If this verification is not received approval of the site for use in making equipment authorization measurements may be withdrawn.

§ 2.956 Exemptions.

The description of measurement facilities is not required for measurements of a decoder device used to detect the EBS Attention Signal, as defined in Section 73.906 of this chapter.

2. Section 2.963 is amended by adding a new paragraph (e) to read as follows:

§ 2.963 Application for type approval.

* * * * *

(e) The applicant shall attach a report of measurements showing that the equipment complies with the technical specifications applicable to the equipment.

3. Section 15.38 of Part 15 is deleted and the word [Reserved] is inserted as follows:

§ 15.38 [Reserved]

APPENDIX A

FEDERAL COMMUNICATIONS COMMISSION, OFFICE OF THE CHIEF ENGINEER, WASHINGTON, D.C. 20554

Bulletin OCE 44

CALIBRATION OF A RADIATION MEASUREMENT SITE—SITE ATTENUATION

1. The suitability of a test site used to make radiation measurements may be best determined by measuring the site attenuation. This information will reveal the existence of ground discontinuities which could invalidate measurements of radiation.

2. Site attenuation should be measured over the frequency range 25–1,000 MHz at the distance(s) to be used for actual measurements (commonly 30 or 3 meters). Measurements should be made at 25 MHz intervals in the range 25–300 MHz and at 50 MHz intervals in the range 300–1,000 MHz. Site attenuation data should be furnished for each measurement distance as a plot of attenuation versus frequency over the range 25–1,000 MHz. If anomalies occur when plotting the data pursuant to paragraph 4.1 below, additional measurements should be made around that point(s) to determine the extent of the anomaly.

3. To measure site attenuation follow steps 3.1 through 3.10. See Figure 1.

3.1 Set a signal generator on the turntable at the location of the equipment under test. Connect the signal generator output to a radiating antenna through a balun or other transformer to match the generator output to the antenna.

3.2 Basic site attenuation should be measured with an adjustable dipole antenna as the radiating antenna connected to the signal generator. The adjustable dipole antenna to be used is similar to that used with the field strength meter (FSM). The radiating antenna should be adjusted to proper length for each frequency of measurement. It should be set up for horizontal polarization at a height of H as specified in Figure 1 oriented for maximum radiation toward the location of the measuring instrument which may be a field strength meter or a spectrum analyzer.

3.3 In some measuring procedures, the antenna to be used with the device under test is specified. IEEE Standard 187 for measuring radiation from an FM or TV receiver calls for a specified dipole. EIA Standard RS–378 for measuring radiation from an FM or TV receiver stipulates the use of the EIA-Laurel antenna developed at the FCC Laboratory. If the site will be used to make radiation measurements pursuant to these procedures, additional site attenuation curves must be submitted to the Commission using the particular antenna and antenna height called for in the standard. If the EIA-Laurel antenna is used, a 50–300 ohm balun must be inserted between the signal generator and the antenna and the balun attenuation must be subtracted from the measured site attenuation.

3.4 Set up the FSM connected to its antenna which must be tuned to the frequency of the signal generator.

3.5 Set the output level of the signal generator at a value that gives an FSM reading significantly above the ambient noise level or interfering signals from other sources. Record the signal generator reading.

3.6 Measure the horizontal component of the field strength at the location of the FSM. Find the maximum value of the field strength by raising and lowering the measuring antenna over the search distance specified in Figure 1. Note the reading of the FSM.

3.7 Move the signal generator to the location of the FSM and connect it directly to the input terminals of the FSM (through a suitable matching network, if necessary).

3.8 Adjust the signal generator attenuator to give the same FSM reading as that recorded in 3.5. Record the signal generator reading.

3.9 Alternatively for a 3 meter measurement site, to avoid moving the signal generator, a suitable length of coaxial cable can be attached to the output of the signal generator. This cable must be matched to the signal generator output impedance. The cable becomes an integral part of the signal generator and is used both to provide the source signal and the calibrating (FSM comparison) signal.

3.10 The site attenuation is the difference in dB between the attenuator setting of the signal generator recorded in 3.5 and that in 3.8, with due accounting of the losses, if any, of the matching network required at the signal generator.

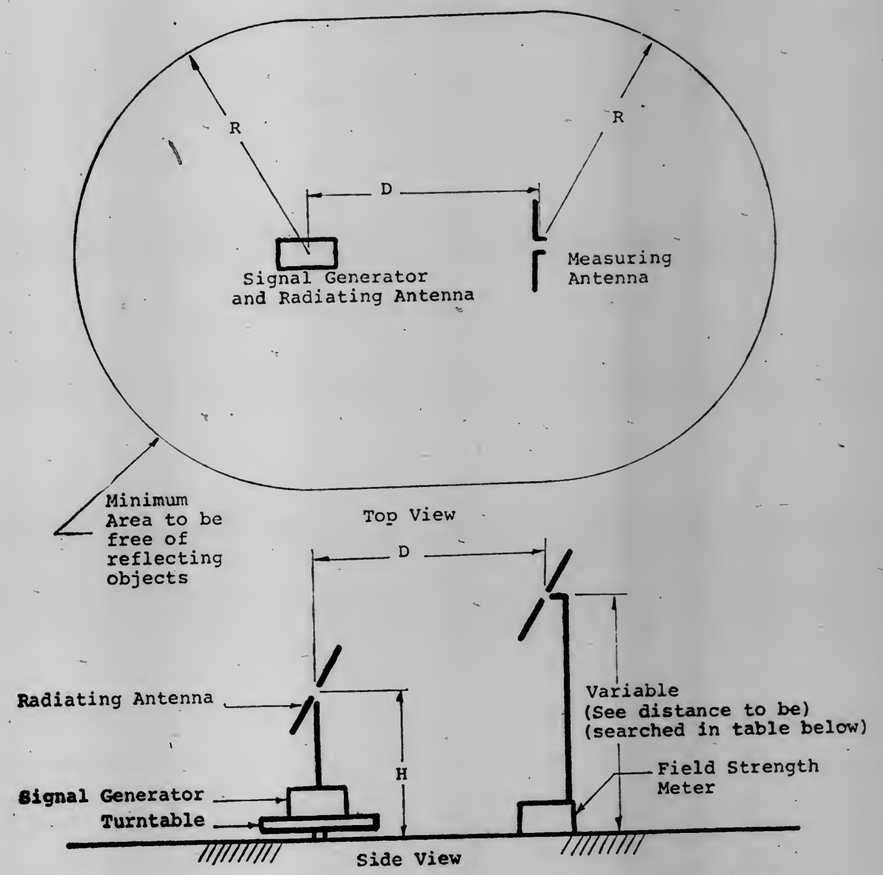
NOTE.—Do not adjust the data by applying corrections for antenna factor or cable loss of the cable from the FSM to its antenna.

4. Report of site attenuation.

4.1 Plot the site attenuation data on 2 cycle, semi-log factor graph paper with frequency as the abscissa on the log scale and site attenuation in dB as the ordinate on the linear scale. See Figure 2.

4.2 Specify on the graph the radiating antenna that was used with the signal generator.

4.3 Specify on the graph the distance of separation between the radiating antenna (connected to the signal generator) and the measuring antenna (connected to the FSM).



for D = 3m, R= 3m, H = 2m, Search 1-4 meters.
for D = 30m, R= 50m H = 5m Search 2-7 meters.

FIGURE 1. Equipment Arrangement for Measuring Site Attenuation of a Radiation Test Site.

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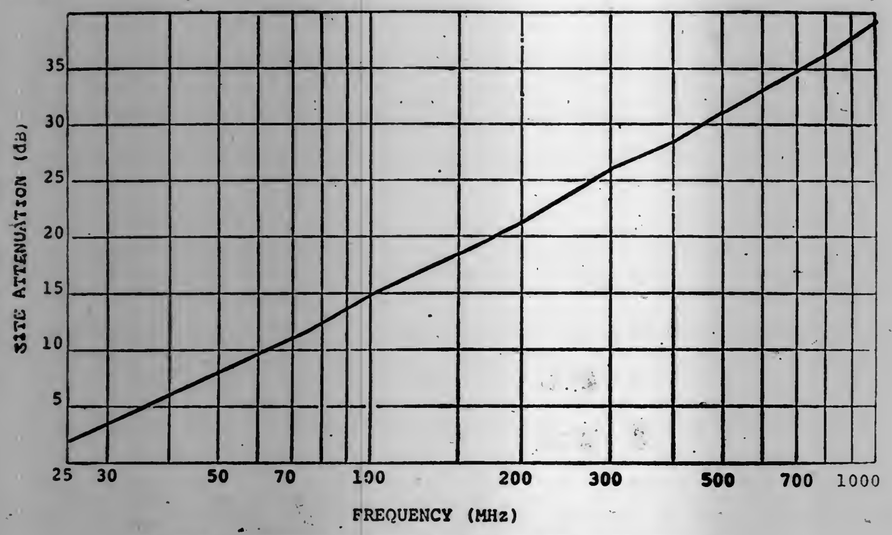


FIGURE 2. Sample Theoretical Site Attenuation Curve.

Both antennas tuned dipoles
D = 3m
C_a = 30 feet of RG58 cable
Assumes 4.7dB for average ground reflection

GENERAL EQUATION FOR SITE ATTENTION

The theoretical site attenuation of a measurement site can be calculated from equation (1).

$$A = 20 \log_{10} D + 20 \log_{10} F_m - G_r - G_r + C_a - 32.3 \quad (1)$$

where

A = Site attenuation in dB.
D = Distance in meters between the source (transmitting) antenna and receiving (FSM search) antenna.
F_m = Frequency in megahertz of the transmitted signal.
G_r = Gain in dB of the source antenna relative to isotropic.
G_r = Gain in dB of the receiving antenna relative to isotropic.
C_a = Cable attenuation in dB (a function of frequency).

Equation (1) assumes a 3.7dB value as the average of the ground reflected component.

Average figures for C_a—cable attenuation—are given in Figure 40, page 22-41, of the ITT Reference Data for Radio Engineers, 5th edition. However, since variations in these values exist not only because of the conditions of the cable being used but also because of variation in the characteristics of cable produced by various manufacturers, it is preferable that the actual cable attenuation be measured by standard techniques.

If two tuned dipoles are used as the source and receiving antennas $G_t = G_r = 2.5$ dB and equation (1) becomes:

$$A = 20 \log_{10} D + 20 \log_{10} F_m + C_a - 36.6 \quad (2)$$

Sample calculation: Let

$D = 3$ m.
$F_m = 100$ MHz.
C_a = Attenuation of 30 feet of RG58 cable. = 2 dB.

Source antenna and receiving antennas are tuned dipoles.

Using equation (2):

$A = 20 \log_{10} 3 + 20 \log_{10} 100 + 2 - 36.6$
$= 9.5 + 40 + 2 - 36.6$
$= 14.9$ dB

[FR Doc.77-26194 Filed 9-8-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1242]

[No. 36622]

SEPARATION OF COMMON OPERATING EXPENSES BETWEEN FREIGHT SERVICE AND PASSENGER SERVICE FOR RAILROADS

Proposed Revision to Rules

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking and order.

SUMMARY: The Interstate Commerce Commission has adopted a revision to the Rules Governing the Separation of Common Operating Expenses Between Freight Service and Passenger Service for Railroads (Separation Rules). This revision updates the current Separation Rules to conform to the revised Uniform System of Accounts (USOA) (49 CFR Part 1201) served on June 24, 1977, under Docket No. 36367.

DATES: Comments must be received on or before October 12, 1977. Proposed effective date: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John A. Grady, Director, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423. Phone 202-275-7565.

SUPPLEMENTARY INFORMATION: The basic content of the Separation Rules is substantially changed by the revised USOA (Docket No. 36367). The revised USOA operating expense account structure includes separate account for labor, material, and other expenses. The Separation Rules maintain this distinction which has permitted the improvement of the rationale for allocation bases.

Secondly, the revised USOA requires carriers to maintain separtate accounts for solely related freight, solely related passenger, and common expenses. Consequently, the Separation Rules no longer address the assignment of solely related expenses but focus on the allocation of common expenses between solely related freight and passenger services.

Thirdly, the USOA prescribes that operating expenses be maintained by certain activities and subactivities. For example, the Way and Structure Activity includes the subactivities of Running, Switching and Other. As a result, the Separation Rules need not contain regulations that define activity/subactivity accounting.

The revised Separation Rules continue to use fully shared cost concepts in which freight and passenger services are each assigned full and fairly allocated portions of total expenses. The allocation bases developed for the revised rules utilize certain operating statistics, solely related freight passenger ratios, and other common account apportionments. We specifically solicit comments and suggestions from interested parties on the allocation bases used in the revised Separation Rules.

Accordingly, it is proposed that Part 1242 of Title 49 of the Code of Federal Regulations be amended to read as follows:

H. G. HOMME, JR.,
Acting Secretary.

PART 1242—SEPARATION OF COMMON OPERATING EXPENSES BETWEEN FREIGHT SERVICE AND PASSENGER SERVICE;[1] RAILROADS

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[1] The accounts mentioned in this Part refer to and agree with Part 1201 of this Chapter.

EQUIPMENT—FREIGHT CARS

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TRANSPORTATION—YARD OPERATIONS

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1242.68 Freight lost or damaged—solely related (to yard) (account 51-53-00).
1242.69 Clearing wrecks (accounts XX-52-63).
1242.70 Fringe benefits (account 12-52-00).
1242.71 Joint facility—debit and credit (accounts 37-52-00 and 38-52-00).
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TRANSPORTATION—TRAIN AND YARD OPERATIONS COMMON

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LIST OF INSTRUCTIONS

§ 1242.0 Separation of common operating expenses.

(a) Commencing with annual or quarterly reports for the year 1978 or for any portion thereof until further order, all Class I railroad companies including Class I switching and terminal companies (Section 1240.1 of this chapter) subject to section 20 of the Interstate Commerce Act as amended shall separate operating expenses common to both freight service and passenger service in accordance with the regulation in this part.

(b) The carrier shall report common expense apportionments to the Commission as required by annual or other reports.

GENERAL

§ 1242.01 Expenses solely related to freight service and passenger service.

The Uniform System of Accounts for Railroad Companies (49 CFR Part 1201) requires that carriers assign directly to freight service or to passenger service, including allied services, the expenses, taxes and purchased services incurred solely for the benefit of either freight or passenger service.

§ 1242.02 Common expenses.

The Uniform System of Accounts also requires that carriers assign to common expense accounts the remaining expenses, taxes and purchased services which are not solely related to either freight or passenger service. The following instructions govern the separation of common expense accounts between freight and passenger services.

§ 1242.03 Made by accounting divisions.

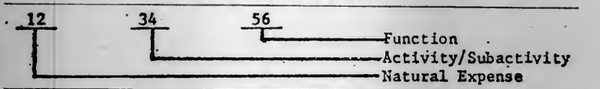
The separation shall be made by accounting divisions, where such divisions are maintained, and the aggregate of the accounting divisions reported for the quarter and for the year.

§ 1242.04 Special tests.

When the separation of common expense accounts between freight and passenger services is based upon special tests or service unit factors, such tests shall be made at sufficiently frequent intervals to represent actual operating conditions. The service unit factors used are those of the reporting period.

§ 1242.05 Operating expense account number notation.

(a) The operating expense account numbers consist of a six-digit coding structure divided into three two-digit groups. The first two-digit group denotes natural expenses; the second group denotes activities/subactivities for freight, passenger or common services; and the third group signifies applicable function assignment.



(b) For reporting purposes, four natural expense categories are utilized. The categories are: Salaries and wages (accounts 11-XX-XX); material, tools, supplies, fuels and lubricants (accounts 21-XX-XX); purchased services (accounts 31-XX-XX to 41-XX-XX, inclusive); and general (accounts 61-XX-XX to 65-XX-XX, inclusive, 51-XX-XX, 52-XX-XX, 53-XX-XX and 12-XX-XX).

(c) The symbol "XX" in the first two-digit group is used throughout the separation instructions to denote more than one natural expense associated with the same activity/subactivity-function account structure. For reporting purposes, the natural expense account numbers represented by "XX" include:

11—Salaries and wages.
21—Materials, tools, supplies, fuels, lubricants.
30 or 41—Purchased services.
30—Summation of certain purchased service accounts.
41—Other purchased services.
61—General.

(d) The "30" natural expense designation indicates a summation of specific purchased service accounts that are reported in total rather than individually. The specific accounts under the Way and Structures Activity except for administration functions include 39-1X-XX, Repairs Billed by Others, Dr.; 40-1X-XX, Repairs Billed to Others, Cr.; and 41-1X-XX, Other Purchased Services. For the Equipment Activity excluding administration functions, the "30" designation denotes the summation of 39-2X-XX and 41-2X-XX.

(e) The "41" natural expense designation (Other Purchased Services) is the purchased service category of the "XX" code for the following:

(1) Way and structures activity administration-function accounts,

(2) Equipment activity administration-function accounts,

(3) Transportation activity expense accounts, and

(4) General and administration activity expense accounts.

(f) The "61" general natural expense designation is applicable to all accounts with the "XX" symbol except transportation, train and yards accounts (XX-(33/43/53)-XX).

(g) The natural expense account number "50" is used throughout the

separation instructions to indicate the summation of accounts 52-XX-XX, Other casualties, and 53-XX-XX, Insurance, that are reported as one item, "Casualties and Insurance," (50-XX-XX).

(h) The number "98" in the function account group (last two digits) is used to designate the summation of a natural expense consisting of more than one functional assignment that is reported as one item. This includes Repairs Billed to Others, Cr.—Equipment (40-2X-XX). For example, the locomotive subactivity containing accounts 40-(21/24/26)-40, 40-(21/24/26)-41, and 40-(21/24/26)-48 are reported as 40-(21/24/26)-98.

§ 1242.06 Instructions for separation.

(a) Certain instructions for separating common expense accounts (dependent accounts) between freight and passenger services base the allocation on the proportional freight/passenger separation of other common expense accounts (independent accounts). The dependent account is frequently identified by an "XX" symbol in the natural expense position (first two digits) with corresponding independent accounts also identified by the "XX" natural expense symbol. Unless otherwise stated, the applicable natural expense associated with the "XX" symbol shall be the same for both the dependent and independent accounts.

(b) To illustrate, § 1242.10 provides instructions for separating common Way and Structures, Administration—Track Accounts (dependent accounts) designated by XX-19-02. The separation is based on certain other common Way and Structures accounts including Roadway-Running, XX-17-10, and Roadway-Switching, XX-18-10.

(c) As § 1242.05 states, the "XX" symbol denotes the following natural expenses for Way and Structures administration functions:

11—Salaries and wages,
21—Materials, tools, supplies, fuels, lubricants,
41—Other purchased services, and
61—General.

These natural expenses shall be individually applied to the separation rules in § 1242.10. In each case, the independent accounts providing the basis for freight/passenger separation of the dependent account shall have the same natural expense designation. For example, the basis of separating account 11-19-02, Salaries and Wages, Way and Structures, Administration—Track, would be based on certain independent accounts including 11-17/18-10, Salaries and Wages, Way and Structures, Running/Switching, Repair and Maintenance, Roadway.

OPERATING EXPENSES WAY AND STRUCTURES

§ 1242.10 Administration - track (Accounts XX-19-02).

Separate common administration—track expenses between freight and passenger services in the same proportion as the common expenses of the following accounts are separated between freight and passenger services:

Roadway:
Running (XX-17-10).
Switching (XX-18-10).
Ties:
Running (21-17-13).
Switching (21-18-13).
Rails:
Running (21-17-14).
Switching (21-18-14).
Other Track Materials:
Running (21-17-15).
Switching (21-18-15).
Ballast:
Running (21-17-16).
Switching (21-18-16).
Track Laying and Surfacing:
Running (XX-17-17).
Switching (XX-18-17).
Road Property Damaged:
Running (XX-17-48).
Switching (XX-18-48).
Other (XX-19-48).
Roadway Machines (XX-19-36).
Snow Removal (XX-19-38).
Dismantling Retired Road Property:
Running (XX-17-39).
Switching (XX-18-39).
Other (XX-19-39).

§ 1242.11 Administration—bridges and buildings (Accounts XX-19-03).

Separate common administration—bridges and buildings expenses between freight and passenger services in the same proportion as the common expenses of the following accounts are separated between freight and passenger services:

Tunnels and Subways:
Running (XX-17-11).
Switching (XX-18-11).
Bridges and Culverts:
Running (XX-17-12).
Switching (XX-18-12).
Electric Power Systems (XX-19-21).
Station and Office Buildings (XX-19-23).
Shop Buildings:
Locomotives (XX-19-24).
Other Equipment (XX-19-26).
Locomotive Servicing Facilities (XX-19-27).
Miscellaneous Buildings and Structures (XX-19-28).

§ 1242.12 Administration—signals (Accounts XX-19-04).

Separate common administration — signals expenses between freight and passenger services in the same proportion as the common expenses of the following accounts are separated between freight and passenger services.

Signals and Interlockers:
Running (XX-17-19).
Switching (XX-18-19).

§ 1242.13 Administration—Communications (Accounts XX-19-05).

Separate common administration—communications expenses between freight and passenger services in the same proportion as the common expenses of the following accounts are separated between freight and passenger services:

Communications Systems (XX-19-20).

§ 1242.14 Administration—other (Accounts XX-19-06).

Separate common administration—other expenses between freight and passenger services in the same proportion as the common expenses of the following accounts are separated between freight and passenger services:

Administration:
Track (XX-19-02).
Bridges and Buildings (XX-19-03).
Signals (XX-19-04).
Communications (XX-19-05).

§ 1242.15 Roadway, tunnels and subways, bridges and culverts, ties, rails, other track material, ballast, track laying and surfacing, and road property damaged (Accounts XX-17-10 to XX-18-12 inclusive, 21-17-13 to 21-18-16 inclusive, XX-17-17, XX-17-48 and X-18-48).

(a) The expenses for running and switching subactivities shall be separated between freight service and passenger service as follows:

(1) *Switching Tracks.*— (i) *Yard.* Expenses for yards used in common by freight and passenger services shall be apportioned on the basis of the respective switching locomotive unit-hours in the common yards. (ii) *Way:* Where the tracks at any one location are used in common by both freight and passenger services, expenses may be assigned to that service which makes the dominant use of them.

(2) *Running Tracks.* The expenses of tracks used in common by both services shall be apportioned on the basis of gross ton-miles (including locomotive ton-miles) handled over these tracks in the respective services.

§ 1242.16 Road property damaged—other (Accounts XX-19-48).

Separate common expenses in proportion to the total common expenses assigned to freight/passenger from the following Way and Structures accounts:

Road Property Damaged—Running (XX-17-48).
Road Property Damaged—Switching (XX-18-48).

§ 1242.17 Signals and interlockers (Accounts XX-17-19 and XX-18-19).

Separate common expenses on the basis of the total train-hours in running service, and/or the yard-switching plus train switching hours in the switching service over the tracks on which the common signals and interlockers are used.

§ 1242.18 Communication Systems (Accounts XX-19-20).

Separate common expenses on the basis of the common expense separation in:

Way and Structures—Administration—Track, Bridges and Culverts, and Signals (Accounts XX-19-02 to XX-19-04, inclusive),
Equipment — Administration — Locomotives and Other Equipment (Accounts XX-26-01 and XX-27-01).
Transportation — Administration — Train, Yard, and Administrative Support (Accounts XX-51-01, XX-52-01, and XX-55-01).
Dispatching Trains (Accounts XX-51-58).

§ 1242.19 Electric Power Systems (Accounts XX-19-21).

Separate common expenses on basis of common expenses of electric power

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purchased or produced for motive power (Accounts XX–51–68 and XX–52–68).

§ 1242.20 Highway Grade Crossings (Accounts XX–17–22 and XX–18–22).

Separate running and switching common expenses according to distribution of the running and switching portions only of common expense accounts listed in § 1242.10, Administration-Track (Accounts XX–19–02).

§ 1242.21 Station and Office Buildings (Accounts XX–19–23).

If the sum of the direct freight and the direct passenger expenses is more than 50 percent of the total charges to this account for an accounting division, separate the common expenses on the basis of the directly assigned expenses in this account for the accounting division involved. If the sum of the direct freight and the direct passenger expenses does not aggregate to more than 50 percent of the total charges for an accounting division, the common expenses should be separated on the basis of special test. Where common expenses exist in an accounting division but the direct expenses are applicable to only one service, i.e., freight or passenger, the common expenses shall be separated on the basis of a special test. If the accounting is performed on a system basis rather than by accounting divisions, the common expenses shall be separated on the basis of a special study.

§ 1242.22 Shop buildings—Locomotives (Accounts XX–19–24).

Separate common expenses according to distribution of common expenses in the following accounts:

Machinery Repair (XX–26–40).
Locomotive—Repair and Maintenance (XX–26–41).

§ 1242.23 Shop Buildings—Freight Cars (Accounts XX–13–25).

These accounts pertain solely to freight service and contain no common expense for separation herein.

§ 1242.24 Shop Buildings—other equipment (Accounts XX–19–26).

Assign directly to freight (or as particular facts suggest otherwise).

§ 1242.25 Locomotive Servicing Facilities (Accounts XX–19–27).

Separate common expenses according to distribution of common expenses in the following accounts:

Locomotive Fuel (XX–51–67 and XX–52–67).
Electric Power Purchased or Produced for Motive Power (XX–51–68, XX–52–68).
Servicing Locomotives (XX–51–69 and XX–52–69).

§ 1242.26 Miscellaneous Buildings and Structures (Accounts XX–19–28).

Separate common expenses as specific facts indicate or according to distribution of common expenses listed in section 1242.11, Administration-Bridges and Buildings (Accounts XX–19–03).

§ 1242.27 Coal marine terminals, ore marine terminals, TOFC/COFC terminals, other marine terminals, motor vehicle loading and distribution facilities, and facilities for other specialized service operations (Accounts XX–13–29 to XX–13–35, inclusive).

These accounts pertain solely to freight service and contain no common expenses for separation herein.

§ 1242.28 Roadway machines, small tools and supplies, and snow removal Accounts XX–19–36 to XX–19–38, inclusive).

Separate common expenses according to distribution of common expenses listed in § 1242.14, Administration—Other (Accounts XX–19–06).

§ 1242.29 Fringe benefits (Accounts 12–17–00, 12–18–00, and 12–19–00).

Separate common expenses in the running subactivity in the same proportion as the salaries and wages, way and structures, common expenses in all accounts with a designated running subactivity. Separate common expenses in the switching subactivity in the same proportion as the salaries and wages, way and structure, common expense accounts with a designated switching activity. Separate common expenses in the other subactivity in the same proportion as the salaries and wages, way and structures, common expenses in all accounts with a designated other subactivity.

§ 1242.30 Dismantling retired road property and depreciation (Accounts XX–17–39, XX–18–39, XX–19–39, 62–17–00, 62–18–00 and 62–19–00).

Separate common expenses in each account for each subactivity (running, switching and other) in proportion to the separation of common repair and maintenance expenses associated with the particular common properties depreciated and/or dismantled.

§ 1242.31 Lease Rentals—debit and credit and other rents—debit and credit (Accounts 31–17–00, 31–18–00, 31–19–00, 32–17–00, 32–18–00, 32–19–00, 35–17–00, 35–18–00, 35–19–00, 36–17–00, 36–18–00, and 36–19–00).

(a) Separate common debit expense accounts in each subactivity (running, switching and other) in proportion to the separation of solely related freight or passenger service in each account. If there are no solely related expenses in an account or if the solely related expenses are assignable entirely to freight or to passenger service, separate common debit expense accounts on the basis of the same percentages calculated for the separation of administration—other (Accounts XX–19–06).

(b) Separate all common credit expense accounts on the same percentages calculated for the separation of administration—other (Accounts XX–19–06).

§ 1242.32 Joint facility rents—debit and credit and joint facility—debit and credit (Accounts 33–17–00, 33–18–00, 33–19–00, 34–17–00, 34–18–00, 34–19–00, 37–17–00, 37–18–00, 37–19–00, 38–17–00, 38–18–00, and 38–19–00).

(a) Solely related (freight or passenger service) debit expense accounts in each subactivity (running, switching and other) shall be assigned according to the use made of each facility by the reporting carrier, regardless of the use by other carriers. Common debit expenses shall be separated on the basis of the percentage separations of the solely related expenses in each individual account. If there are no solely related expenses or if the solely related expenses are assigned entirely to freight or to passenger service, separate common debit expenses on the same percentages calculated for the separation of administrative—other (Accounts XX–19–06).

(b) Separate all common credit expense accounts on the same percentages calculated for the separation of administration—other (Accounts XX–19–06).

§ 1242.33 Other expenses and casualties and insurance (Accounts XX–17–99, XX–18–99, XX–19–99, 50–17–00, 50–18–00 and 50–19–00).

Separate common expenses on the basis of the percentages calculated for the separation of administrative—other (Accounts XX–19–06).

OPERATING EXPENSES—EQUIPMENT

LOCOMOTIVES

§ 1242.34 Administration (Accounts XX–26–01).

Separate common expenses according to distribution of common expenses in the following accounts:

Repair and Maintenance (XX–26–41).
Machinery Repair (XX–26–40).
Equipment Damaged (XX–26–48).
Dismantling Retired Property (XX–26–39).
Depreciation (62–26–00).

§ 1242.35 Repair and maintenance (Accounts XX–26–41).

(a) The carrier maintains records of the repairs by individual locomotive units or classes of locomotive units.

(1) If individual locomotive units or classes of locomotive units are used exclusively in road-freight, road-passenger, yard-freight, or yard-passenger service, the separation shall be actual.

(2) If individual locomotive units or classes of locomotive units are used interchangeably (common) in road-freight (including train-switching), road passenger (including train switching), yard-freight or yard passenger service, separate the heavy shop repairs between these services on the basis of run-out unit miles of individual locomotive units or classes of locomotive units since the previous shopping; and separate the cost of running repairs between such services on the basis of the miles run by the individual locomotive unit or class of locomotive unit in each service during the accounting period for which the separation is being made.

(b) The carrier maintains records of heavy shop repair costs by individual locomotive units or classes of locomotive units, but does not maintain records of the cost of running repairs by individual locomotive units or classes of locomotive units

(1) The heavy shop repairs shall be separated as indicated in paragraph (a) of this section.

(2) The common expenses of running repairs shall be separated among road-freight (including train switching), road passenger (including train switching), yard-freight and yard-passenger services on the basis of locomotive unit miles for the accounting period for which the separation is being made.

(c) The carrier does not maintain records of either heavy shop repairs or running repairs by individual locomotive units or classes of locomotive units. The expenses shall be separated among road-freight service (including train-switching), road-passenger service (including train switching), yard freight, and yard passenger services, on the basis of locomotive unit-miles for the accounting period for which the separation is being made.

§ 1242.36 Machinery repair and equipment damaged (Accounts XX–26–40 and XX–26–48).

Separate common expenses according to separation of common expenses in repair and maintenance (Accounts XX–26–41).

§ 1242.37 Dismantling retired property and depreciation (Accounts XX–26–39 and 62–26–00).

Separate common expenses in each account in proportion to the separation of common repair and maintenance expenses associated with the particular common properties depreciated and/or dismantled.

§ 1242.38 Fringe Benefits (Account 12–26–00).

Separate common expenses in proportion to the split of common salaries and wages in administration, locomotive repair and maintenance, machinery repair, equipment damaged, and dismantling retired road property (Accounts 11–26–01, 11–26–41, 11–26–40, 11–26–48, and 11–26–39).

§ 1242.39 Lease rentals—debit and credit, other rents—debit and credit, and repairs billed to others (Accounts 31–26–00, 32–26–00, 35–26–00, 36–26–00 and 40–26–98).

(a) Separate common debit expense accounts in proportion to the assignment of solely related freight or passenger service in each individual debit account. If there are no solely related expenses or if the solely related expenses are assigned entirely to freight or passenger service, separate common debit expense accounts on the same percentage basis calculated for the separation of administration (Accounts XX–26–01).

(b) Separate all common credit accounts on the same percentages calculated for the separation of administration (Accounts XX–26–01).

§ 1242.40 Joint facility rents—debit and credit, and joint facility—debit and credit (Accounts 33–26–00, 34–26–00, 37–26–00 and 38–26–00).

(a) Solely related freight and passenger debit expense accounts shall be assigned according to the use made of each facility by the reporting carrier, regardless of the use by other carriers. Common debit expenses shall be separated on the basis of the percentage separation of the solely related expenses; or if the solely related expenses are assigned entirely to freight or passenger service, separate common expenses on the same percentages calculated for the separation of administration (Accounts XX–26–01).

(b) Separate all common credit expense accounts on the same percentages calculated for the separation of administration (Accounts XX–26–01).

§ 1242.41 Other and casualties and insurance (Accounts XX–26–99 and 50–26–00).

Separate common expenses on the basis of percentages calculated for the separation of administration (Accounts XX–26–01).

FREIGHT CARS

1242.42 Administration, repair and maintenance, machinery repair, equipment damaged, dismantling retired property, fringe benefits, other casualties and insurance, lease rentals, joint facility rents, other rents, depreciation, joint facility, repairs billed to others, and other (Accounts XX–22–01, XX–22–42, XX–22–40, XX–22–48, XX–22–39, 12–22–00, 50–22–00, 31–22–00 to 38–22–00 inclusive, 62–22–00, 40–22–98 and XX–22–99).

These accounts pertain solely to freight service and contain no common expenses for separation herein.

OTHER EQUIPMENT

§ 1242.43 Administration (Accounts XX–27–01).

Separate common expenses according to freight/passenger separation of the following accounts:

Passenger and Other Revenue Equipment (XX–27–45).
Computers and Data Processing Equipment (XX–27–46).
Work and Other Non-Revenue Equipment (XX–27–47).

§ 1242.44 Trucks, trailers, and containers (Revenue Service) and floating equipment (Revenue Service) (Accounts XX–23–43 and XX–23–44).

These accounts pertain solely to freight service and contain no common expenses for separation herein.

§ 1242.45 Passenger and other revenue equipment (Accounts XX–27–45).

Separate as particular facts suggest.

§ 1242.46 Computers and data processing equipment (Accounts XX–27–46).

If the sum of the direct freight and the direct passenger expenses is more than 50 percent of the total charges to this account for an accounting division, separate the common expenses on the basis of the directly assigned expenses in this account for the accounting division involved. If the sum of the direct freight and the direct passenger expenses does not aggregate 50 percent of the total charges for an accounting division, the common expenses shall be separated on the basis of a special test. If common expenses exist in an accounting division but the direct expenses are applicable to only one service, i.e., freight or passenger, the common expenses shall be separated on the basis of a special test. If the accounting is performed on a system basis rather than by accounting divisions, follow the intent of the above instructions.

§ 1242.47 Machinery (Accounts XX–27–40).

Separate common expenses on the basis of the freight/passenger separation of administration (Accounts XX–27–01).

§ 1242.48 Work and other non-revenue equipment (Accounts XX–27–47).

Separate common expenses according to distribution of common expenses in Way and structures—administration—other (Accounts XX–19–06).

§ 1242.49 Equipment damaged (Accounts XX–27–48).

Separate common expenses according to distribution of common expenses in machinery, passenger and other revenue equipment, computer and data processing equipment and work and other non-revenue equipment accounts (Accounts XX–27–40, XX–27–45, XX–27–46, and XX–27–47).

§ 1242.50 Fringe benefits (Account 12–27–00).

Separate common expenses in proportion to the percentage separation of common salaries and wages in administration (Account 11–27–01).

§ 1242.51 Dismantling retired property and depreciation (Accounts XX–27–39 and 62–27–00).

Separate common expenses in proportion to the separation of common repair and maintenance expenses associated with the particular common property depreciated and/or dismantled.

§ 1242.52 Lease rentals—debit and credit, other rents—debit and credit, repairs billed to others—credit (Accounts 31–27–00, 32–27–00, 35–27–00, 36–27–00, and 40–27–98).

Separate common debit expense accounts in proportion to the separation of solely related (freight or passenger serv-

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ice) in each individual account. If there are no solely related expenses or if the solely related expenses are assignable entirely to freight or passenger service, separate common debit expense accounts on the same percentages calculated for the separation of administration (Accounts XX–27–01).

§ 1242.53 Joint facility rents—debit and credit and joint facility—debit and credit (Accounts 33–27–00, 34–27–00, 37–27–00 and 38–27–00).

(a) Solely related freight and passenger service debit expense accounts shall be assigned according to the use made of each facility by the reporting carrier, regardless of the use made of the facility by other carriers. Common debit expense accounts shall be separated on the basis of the percentage separation of the solely related expenses in each individual account. If there are no solely related expenses or if the solely related expenses are assigned entirely to freight or passenger service, separate common expenses on the same percentages calculated for the separation of administration (Accounts XX–27–01).

(b) Separate all common credit expense accounts on the basis of the same percentages calculated for the separation of administration (Accounts XX–27–01).

§ 1242.54 Other and casualties and insurance (Accounts XX–27–99 and 50–27–00).

Separate common expenses on the basis of the percentages calculated for the separation of administration (Accounts XX–27–01).

TRANSPORTATION—TRAIN OPERATIONS

§ 1242.55 Administration (Accounts XX–51–01).

Separate common expenses according to distribution of common expenses in the following accounts:

Engine Crews (XX–51–56).
Train Crews (XX–51–57).
Dispatching Trains (XX–51–58).
Operating Signals and Interlockers (XX–51–59).
Operating Drawbridges (XX–51–60).
Highway Crossing Protection (XX–51–61).
Train Inspection and Lubrication (XX–51–62).
Locomotive Fuel (XX–51–67).
Electric Power Purchased/Produced for Motive Power (XX–51–68).
Servicing Locomotives (XX–51–69).
Clearing Wrecks (XX–51–63).

§ 1242.56 Engine crews and train crews (Accounts XX–51–56 and XX–51–57.)

Separate common expenses on the basis of direct assignment or if there are no directly assignable expenses, separate on the basis of train hours, including train switching hours.

§ 1242.57 Dispatching trains (Accounts XX–51–58).

Separate common expenses on the basis of train hours, including train switching hours.

§ 1242.58 Operating signals and interlockers, operating drawbridges, highway crossing protection (Accounts XX–51–59, XX–51–60 and XX–51–61).

Separate common expenses on the basis of total train hours (including train switching hours) of the particular common operating divisions or track segment on which the common signals, interlockers, drawbridges and highway crossings are located.

§ 1242.59 Train inspection and lubrication (Accounts XX–51–62).

Separate common expenses on basis of directly assigned expenses. If there are no directly assignable expenses, separate on the basis of train miles.

§ 1242.60 Locomotive fuel, electric power purchased/produced for motive power and servicing locomotives (Accounts XX–51–67, XX–51–68 and XX–51–69).

Separate common expenses in each account on basis of direct expenses. If there are no direct expenses, separate on the basis of train hours and way-switching service hours.

§ 1242.61 Freight lost or damaged—solely related (to train) (Accounts 51–51–00).

Separate common expenses on the basis of proportion of the solely related expenses assigned to freight and passenger services or on the basis of a special study.

§ 1242.62 Clearing wrecks (Accounts XX–51–63).

Separate common expenses according to specific circumstances.

§ 1242.63 Fringe benefits (Account 12–51–00).

Separate common expenses in proportion to the percentage separation calculated for the salaries and wages account—administration (Account 11–51–01).

§ 1242.64 Joint facility—debit and credit (Accounts 37–51–00 and 38–51–00).

(a) Solely related freight and passenger service debit expense accounts shall be assigned according to the use made of each facility by the reporting carrier, regardless of the use made of the facility by other carriers. Common debit expense accounts shall be separated on the basis of the percentage separation of the solely related expenses. If there are no solely related expenses or if the solely related expenses are assigned entirely to either freight or passenger service, separate common expenses on the same percentages calculated for the separation of administration (Accounts XX–51–01).

(b) Separate common credit expense accounts on the basis of the percentages calculated for the separation of administration (Accounts XX–51–01).

§ 1242.65 Other and casualties and insurance (Accounts XX–51–99 and 50–51–00).

Separate common expenses on the basis of the percentages calculated for the separation of administration (Accounts XX–51–01).

YARD OPERATIONS

§ 1242.66 Administration (Accounts XX–52–01).

Separate common expenses according to distribution of common expenses in the following accounts:

Switch Crews (XX–52–64).
Controlling Operations (XX–52–65).
Yard and Terminal Clerical (XX–52–66).
Operating Switches, Signals, Retarders and Humps (XX–52–59).
Locomotive Fuel (XX–52–67).
Servicing Locomotives (XX–52–69).
Electric Power Purchased/Produced for Motive Power (XX–52–68).
Clearing Wrecks (XX–52–63).

§ 1242.67 Switch crews; controlling operations; yard and terminal clerical; locomotive fuel; electric power purchased/produced for motive power; operating switches, signals, retarders, and humps; and servicing locomotives (accounts XX–52–64, XX–52–65, XX–52–66, XX–52–59, XX–52–67, XX–52–68 and XX–52–69).

Separate common expenses on the basis of the distribution of freight and passenger yard switching hours in those yards common to both freight and passenger services.

§ 1242.68 Freight lost or damaged—solely related (to yard) (Account 51–52–00).

Separate common expenses on the basis of the solely related freight and passenger expenses or on the basis of a special study.

§ 1242.69 Clearing wrecks (Accounts XX–52–63).

Separate common expenses according to specific circumstances.

§ 1242.70 Fringe benefits (Account 12–52–00).

Separate common expenses in proportion to the percentage separation calculated for the salaries and wages administration account (Account 11–52–01).

§ 1242.71 Joint facility—debit and credit (Accounts 37–52–00 and 38–52–00).

(a) Solely related freight and passenger service debit expenses accounts shall be assigned according to the use made of each facility by the reporting carriers, regardless of the use made of the facility by other carriers. Common debit expenses shall be separated on the basis of the percentage separation of the solely related expenses. If there are no solely related expenses or if the solely related expenses are assigned entirely to freight or passenger service, separate common expenses on the same percentages calculated for the separation of administration (Accounts XX–52–01).

(b) Separate common credit expense account on the basis of the percentages calculated for the separation of administration (Accounts XX–52–01).

§ 1242.72 Other and casualties and insurance (Accounts XX–52–99 and 50–52–00).

Separate common expenses on the basis of the percentages calculated for the separation of administration (Accounts XX–52–01).

TRAIN AND YARD OPERATIONS COMMON

§ 1242.73 Cleaning car interiors and freight lost and damaged—all other (Accounts XX–53–70 and 51–53–00).

Separate common expenses on basis of solely related freight and passenger expenses or special study.

§ 1242.74 Adjusting and transferring loads, and car loading devices and grain doors (Accounts XX–33–71 and XX–33–72).

These accounts pertain solely to freight service and contain no common expenses for separation herein.

§ 1242.75 Fringe benefits (Account 12–53–00).

Separate common expenses in proportion to the freight/passenger separation calculated for the salaries and wages—cleaning car interiors common account (Account 11–53–70).

SPECIALIZED SERVICE OPERATIONS

§ 1242.76 Administration; pickup and delivery, marine line haul, and rail substitute service; loading, unloading and local marine; protective services; freight lost or damaged—solely related; fringe benefits; casualties and insurance; joint faacility, and other (Accounts XX–34–01, XX–34–73, XX–34–74, XX–34–75, 51–34–00, 12–34–00, 50–34–00, 37–34–00, 38–34–00 and XX–34–99).

These accounts pertain solely to freight service and contain no common expenses for separation herein.

ADMINISTRATIVE SUPPORT OPERATIONS

§ 1242.77 Administration (Accounts XX–55–01).

Separate common expenses in the same proportion as common expenses are separated in employees performing clerical and accounting functions, communication systems operations and loss and damage claims processing (Accounts XX–55–76, XX–55–77 and XX–55–78).

§ 1242.78 Employees performing clerical and accounting functions, and loss and damage claims processing (Accounts XX–55–76 and XX–55–78).

If the sum of the direct freight and the direct passenger expenses is more than 50 percent of the total charges to this account for an accounting division, separate the common expenses on the basis of the directly assigned expenses in this account for the particular accounting division. If the sum of the direct freight and the direct passenger expenses does not aggregate 50 percent of the total charges for an accounting division, the common expenses shall be separated on the basis of special test. If common expenses exist in an accounting division but the direct expenses are applicable to only one service, i.e., freight or passenger, and even though the direct charges are over 50 percent of the total charges, the common expenses shall be separated on the basis of a special test. If the accounting is performed on a system basis rather than by accounting division, follow the intent of the above instructions.

§ 1242.79 Communication systems operations (Accounts XX–55–77).

Separate common expenses on basis of total common expense separations in the following administration and dispatching trains accounts:

Administration.
Way and Structures:
Track (XX–19–02).
Bridges and Structures (XX–19–03).
Signals (XX–19–04).
Other (XX–19–06).
Equipment:
Locomotives (XX–26–01).
Other Equipment (XX–27–01).
Transportation:
Train Operations (XX–51–01).
Yard Operations (XX–52–01).
Dispatching Trains—Transportation (XX–51–58).

§ 1242–80 Fringe benefits (Account 12–55–00).

Separate common expenses in proportion to the percentage separation calculated for the salaries and wages—administration account (Account 11–55–01).

§ 1242.81 Joint facility—debit and credit (Accounts 37–55–00 and 38–55–00).

(a) Solely related freight and passenger service debit expense accounts shall be assigned according to the use made of each facility by the reporting carriers, regardless of the use made of the facility by other carriers. Common debit expenses shall be separated on the basis of the percentage separation of the solely related expenses. If there are no solely related expenses or if the solely related expenses are assigned entirely to either freight or passenger service, separate common expenses on the same percentages calculated for the separation of administration (Accounts XX–55–01).

(b) Separate common credit expenses on the basis of the percentages calculated for the separation of administration (Accounts XX–55–01).

§ 1242.82 Other and casualties and insurance (Accounts XX–55–99 and 50–55–00).

Separate common expenses on the basis of the percentages calculated for the separation of administration (Accounts XX–55–01).

OPERATING EXPENSES, GENERAL AND ADMINISTRATIVE

§ 1242.83 Officers—general superintendence; accounting, auditing and finance; management services and data processing; personnel and labor relations; legal and secretarial; research and development; writedown of uncollectible accounts; property taxes; other taxes except on corporate income or payrolls; and other (Accounts XX–63–01, XX–63–86, XX–63–87, XX–63–91, XX–63–92, XX–63–94, 63–63–00, 64–63–00, 65–63–00 and XX–63–99).

Separate common expenses in proportion to the separation of all other common expenses except General and Administrative Expenses.

§ 1242.84 Marketing, sales, and public relations and advertising (Accounts XX–63–88, XX–63–89 and XX–63–93).

Separate each common expense account on the basis of the solely related freight and passenger expense accounts.

§ 1242.85 Fringe benefits (Account 12–63–00).

Separate the common expenses in proportion to the total common salaries and wages expense separation (Accounts 11–XX–XX) determined in Section 1242.83 and 1242.84.

§ 1242.86 Industrial development (Accounts XX–61–90).

These accounts pertain solely to freight service and contain no common expenses for separation herein.

§ 1242.87 Joint facility—debit and credit and casualties and insurance (Accounts 37–63–00, 38–63–00 and 50–63–00).

Separate the common expenses in proportion to the total of all common expense separations determined in §§ 1242.–83 and 1242.84 above.

NOTE.—If compliation of the data in compliance with any of the above separation rules results in an undue burden in accounting expense, the carrier may request relief from such rules by letter to the Director, Bureau of Accounts. If reliable data can be developed through other methods and procedures, the carrier may request substitution of such methods also by letter to the Director, Bureau of Accounts. In both cases, the carrier shall support the request with full details.

[FR Doc.77–26365 Filed 9–8–77;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

CERTAIN STOCKYARDS AND LIVESTOCK MARKETS

Approval

The regulations in 9 CFR Part 76, as amended, contain restrictions on the interstate movement of swine and swine products to prevent the spread of hog cholera and other swine diseases. This document adds certain livestock markets to the list of livestock markets approved for purposes of the regulations on the basis of a determination of their eligibility for such approval under § 76.18 of the regulations and removes from the list certain other livestock markets which have been found no longer to qualify for such approval.

The following livestock markets preceded by an asterisk are specifically approved to handle any class of swine and those livestock markets not preceded by an asterisk are specifically approved to handle slaughter swine only:

ALABAMA

Casey's Selma Stockyard, Selma.
*Hodges Stockyard, Inc., Montgomery.
Pickens County Livestock Commission Co., Aliceville.
*Winfield Livestock Commission Co., Winfield.

ARKANSAS

Central Livestock Auction, Inc., Morrilton.
Ola Livestock Market, Ola.
White Livestock Auction, Russellville.

COLORADO

Clougherty Packing Co., Greeley.

GEORGIA

B. H. Harrison Livestock Co., Bainbridge.
Miller Livestock Co., Colquitt.

IDAHO

*Rexburg Livestock Auction, Inc., Rexburg.

ILLINOIS

*Paris Livesotck Sales Co., Paris.

IOWA

*Bowman Order Buyers, De Witt.
*Porth & Baxter, De Witt.

KANSAS

*Coffeyville Livestock Sales Co., Inc., Coffeyville.
*Concordia Sales Co., Concordia.
*Clay Center Livestock Co., Inc., Clay Center.
Farmland Foods, Seneca.
*Goodland Livestock Commision Co., Inc., Goodland.
*Hays Livestock Market Center, Inc., Hays.
*J. J. Livestock Commission Co., Effingham.
*Mid-Kansas Swine Improvement Association, Hutchinson.
*Moline Auction Co., Inc., Moline.

KENTUCKY

*Clark County Livestock Market, Winchester.
Elizabeth NFO Reload, Elizabethtown.
*Farmers Livestock Marketing Corp., Russellville.
*NFO Collection Point, Walton.
Purchase Reload NFO, Fancy Farm.
*Good Day Stockyards, Princeton.
*Garfield Auction Barn, Garfield.

MINNESOTA

*Minnesota Feeder Pig Market, Inc., Morris.
*Lewiston Livestock Market, Lewiston.
*Skelton Feeder Pig Market, Bemidji.
*Speldrich Feeder Pig Market, Belgrade.

MISSOURI

*Brookfield Livestock Auction, Inc., Brookfield.
*Jack Civils Sales Co., Inc., Butler.
*McDonald County Sale Co., Jane.
Meyer Livestock, Granada.
*Mid-West Livestock Market, Inc., Nevada.
*Moberly Auction Co., Inc., Moberly.
*Mountain View Sales Co., Mountain View.
*Platte County Livestock Co., Platte City.
Richland Livestock, Richland.
*Savannah Sales Co., Savannah.
*Summersville Livestock Market, Summersville.
*Van Meter Auction, Kingsville.

NEBRASKA

*Creighton Livestock Market, Inc., Creighton.
*Huss Platte Valley Auction, Inc., Kearney.
*Midwest Livestock Commission Co., Inc., McCook.
*Pawnee Livestock Inc., Pawnee City.
*Platte Valley Livestock Auction, Inc., Gering.

NORTH CAROLINA

Bill Martin, Greensboro.
Turner's Livestock, Inc., Elizabeth City.
William A. Crofton Livestock Market, Rowland.
W. H. Horney, Siler City.

NORTH DAKOTA

*Bowman Livestock Auction Market, Bowman.
*Park River Livestock Exchange, Park River.

SOUTH DAKOTA

*Eureka Sales Co., Eureka.
*Herreid Livestock Market, Herreid.

TENNESSEE

*Warren County Livestock Asen., McMinnville.

VIRGINIA

Blackstone Livestock Market, Blackstone.
Caret Livestock Market, Caret.
*Madison Livestock Market, Inc., Madison Mills.
Orange Livestock Market, Orange.
*Petersburg Livestock Market, Petersburg.
Roanoke-Hollins Stockyard, Hollins.

WISCONSIN

Peshtigo Livestock Sales, Peshtigo.

The following livestock markets are deleted from the specifically approved lists:

ALABAMA

*Hodges Stockyard, Inc., Montgomery.
Pickens County Livestock Co., Aliceville.

FLORIDA

*H. S. Camp & Sons, Ocala.

IDAHO

Rexburg Livestock Auction, Inc., Rexburg.

ILLINOIS

Paris Livestock Sales Co., Paris.

IOWA

*Marshall County Feeder Pig Association, Marshalltown.

KANSAS

*Clay Center Livestock, Inc., Clay Center.
*Coffeyville Livestock Sales, Coffeyville.
*Goodland Livestock Auction, Goodland.
*Hays Livestock Commission Co., Inc., Hays.
*Mid-Kansas Pig Station, Hutchinson.

KENTUCKY

Clinton Livestock Reload Collection Point, Clinton.
*Garfield Auction Market, Garfield.
*Farmers Livestock Feeder Pig Sale, Mayfield.
*Logan County Livestock Market, Inc., Russellville.
Louisa Stockyards, Louisa.
Nichols Stockyard, Milburn.
Smith Livestock Co., Symsonia.
*Winchester Stockyards, Winchester.

MINNESOTA

*Rushford Feeder Pig Tel-O-Auction, Rushford.

MISSISSIPPI

Buckhalter Assembly Point, Newhebron.

MISSOURI

De Berry Livestock Exchange, Richland.
Dillard Livestock Order Buyers, Auxvasse.
*Farmers Auction Co., Mountain View.
*Linn County Auction, Inc., Brookfield.
*McDonald County Livestock Market, Jane.
*Moberly Auction Co., Moberly.
NFO Collection Point, Chillicothe.
*Platte County Sale Co., Platte City.
Tarkio Hog Yards, Tarkio.
Tarkio NFO Collection Point, Tarkio.
*Summersville Auction Sale, Summersville.
*Urbana Livestock Auction, Urbana.

NEBRASKA

*Midwest Livestock Co., McCook.
*Pawnee Livestock Co., Pawnee City.

NORTH DAKOTA

*Park River Livestock Sales, Inc., Park River.
*Penfield Auction Yards, Bowman.

NORTH CAROLINA

J & P Livestock Co., Inc., Fairmont.
Robeson Livestock Co., Inc., Rowland.
Turner's Livestock Market, Elizabeth City.

PENNSYLVANIA

Easkay Buying Station, Littlestown.
*Stockton's Livestock Auction, Union City.
*Perkiomenville Sales Stables, Inc., Perkiomenville.

SOUTH DAKOTA

*Eureka Livestock Commission Co., Eureka.
*Herreid Livestock Commission Co., Herreid.

TENNESSEE

Caldwell Livestock, Inc., Jackson.
*McMinnville Area Feeder Pig Sale, McMinnville.
*Weakley County Feeder Pig Sale, Dresden.

TEXAS

*Montgomery County Feeder Pig Sales, Clarksville.

VIRGINIA

Caret Livestock Commission Co., Caret.
Madison Livestock Market, Inc., Madison Mills.
*Orange Livestock Market, Inc., Orange.
Roanoke-Hollins Livestock Market, Hollins.

WISCONSIN

*Midwest Livestock Producers, Peshtigo.

(Sec. 2, 32 Stat. 792, as amended; secs. 4 and 5, 23 Stat. 32, as amended; sec. 1, 75 Stat. 481; sec. 1, 32 Stat. 791, as amended; secs. 3 and 4, 33 Stat. 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 114g, 120, 125, 126, 134b, 134f; 37 FR 28464, 28477, 38 FR 19140).)

Effective date. The foregoing notice shall become effective on Setpember 9, 1977.

This action imposes certain restrictions necessary to prevent the spread of hog cholera and relieves certain restrictions presently imposed. It should become effective promptly to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this action are impracticable and contrary to the public interest, and good cause is found for making this notice effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 1st day of September 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

J. K. ATWELL,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77-26268 Filed 9-8-77;8:45 am]

Soil Conservation Service

BUCK CREEK WATERSHED, ET AL.

Authorization for Watershed Planning

Concerned State Conservationists of the Soil Conservation Service have been authorized to provide planning assistance to local organizations for the indicated watersheds. The State Conservationists may proceed with investigations and surveys as necessary to develop watershed plans under authority of the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and in accordance with requirements of the National Environmental Policy Act of 1969, Pub. L. 91-190.

Persons interested in these projects may contact the State Conservationists listed below:

Buck Creek Watershed, Covington County, Ala., State Conservationist—William B. Lingle, Soil Conservation Service, Wright Building, 138 South Gay St., P.O. Box 311, Auburn, Ala. 36830.

Saint David Watershed, Cochise County, Ariz., State Conservationist—Thomas G. Rockenbaugh, Soil Conservation Service, 230 North 1st Ave., 3008 Federal Building, Phoenix, Ariz. 85025.

Tyronza River Watershed, Miss., and Poinsett Counties, Ark., State Conservationist—Maurice J. Spears, Soil Conservation Service, Federal Building, Room 5029, 700 West Capitol St., P.O. Box 2323, Little Rock, Ark. 72203.

Track Ditch Watershed, Chaffee County, Colo., State Conservationist—Robert G. Halstead, Soil Conservation Service, Room 313, 2490 West 26th Ave., P.O. Box 17107, Denver, Colo. 80217.

Rock Creek Watershed, Cassia, Oneida, and Power Counties, Idaho, State Conservationist—Amos I. Garrison, Jr., Soil Conservation Service, Room 345, 304 North 8th St., Boise, Idaho 83702.

Lower Des Plaines Tributaries Watershed, Lake, Cook, Will, and DuPage Counties, Ill., State Conservationist—Daniel E. Holmes, Soil Conservation Service, Federal Building, 200 West Church St., P.O. Box 678, Champaign, Ill. 61820.

Hacklebarney Watershed, Montgomery and Adams Counties, Iowa, State Conservationist—William J. Brune, Soil Conservation Service, 823 Federal Building, 210 Walnut St., Des Moines, Iowa 50309.

Parkhurst Siding Watershed, Aroostook County, Maine, State Conservationist—Warwick M. Tinsley, Jr., Soil Conservation Service, USDA Building, University of Maine, Orono, Maine 04473.

Stevens-Callahan Watershed, Lancaster, Cass, and Saunders Counties, Nebr., State Conservationist—Benny Martin, Soil Conservation Service, Federal Building—U.S. Courthouse, Room 345, Lincoln, Nebr. 68508.

Dry Creek Watershed, Lincoln County, Okla., State Conservationist—Roland R. Willis, Soil Conservation Service, Agricultural Center Office Building, Farm Rd. and Brumley St., Stillwater, Okla. 74074.

Thomas-Cottonwood Creek Watershed, Lake County, Oreg., State Conservationist—Guy W. Nutt, Soil Conservation Service, Federal Office Building, 16th Floor, 1220 Southwest 3rd Ave., Portland, Oreg. 97204.

Quittapahilla Creek Watershed, Lebanon County, Pa., State Conservationist—Graham T. Munkittrick, Soil Conservation Service, Federal Building and U.S. Courthouse, Box 985, Federal Square Station, Harrisburg, Pa. 17108.

Six-Mile Creek Watershed, Brookings and Deuel Counties, S.Dak., State Conservationist—Robert D. Swenson, Soil Conservation Service, 239 Wisconsin Ave., SW., P.O. Box 1357, Huron, S.Dak. 57350.

Wolf Creek Watershed, Gibson and Carroll Counties, Tenn., State Conservationist—Donald C. Bivens, Soil Conservation Service, 561 U.S. Courthouse, Nashville, Tenn. 37203.

Upper Appomattox River Watershed, Appomattox, Buckingham, Cumberland, and Prince Edward Counties, Va., State Conservationist—David N. Grimwood, Soil Conservation Service, Federal Building, Room 9201, 400 North 8th St., P.O. Box 10026, Richmond, Va. 23240.

Swale Creek Watershed, Klickitat County, Wash., State Conservationist—Galen S. Bridge, Soil Conservation Service, 360 U.S. Courthouse, West 920 Riverside Ave., Spokane, Wash. 99201.

Middle Grave Creek Watershed, Marshall County, W. Va., State Conservationist—Craig M. Right, Soil Conservation Service, U S Post Office and Federal Office Building, P.O. Box 865, Morgantown, W. Va. 26505.

Dated: September 2, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program.)

R. M. DAVIS,
Administrator, Soil Conservation Service.

[FR Doc 77-26286 Filed 9-8-77;8:45 am]

Rural Electrification Administration

MINNKOTA POWER COOPERATIVE

Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a request for a long guarantee commitment from the Rural Electrification Administration for Minnkota Power Cooperative of Grand Forks, N. Dak. This loan guarantee commitment will assist in obtaining financing to purchase a 30 percent share in a new 440 MW generating plant to be constructed near Beulah, N. Dak., with associated transmission facilities.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C., or at the borrower address indicated above.

Final REA action with respect to this matter (including any release of funds) may be taken after October 11, 1977, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after the requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 8th day of September 1977.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc.77-26524 Filed 9-8-77;10:12 am]

COMMISSION ON CIVIL RIGHTS

CALIFORNIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the California Advisory Committee (SAC) of the Commission will convene at 9:00 a.m. on September 30, 1977, and will end at 6:00 p.m. at the Biltmore Hotel, 514 South Olive Street, Los Angeles, Calif. 90013.

Persons wishing to attend this open meeting should contact Committee

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Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, Calif. 90012.

The purpose of this meeting is to bring together Immigration Experts who can provide information on immigration and naturalization law and the Department's policies, procedures and practices. These Experts will also analyze problems faced by legal aliens and undocumented workers with the immigration system.

This meeting wil be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 6, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-26282 Filed 9-8-77;8:45 am]

HAWAII ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Hawaii Advisory Committee (SAC) of the Commission will convene at 7 p.m. on September 27, 1977, and end at 9:30 p.m. at the Ala Moana Hotel, 451 Atkinson Drive, Honolulu, Hawaii 96814.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, Calif. 90012.

The purpose of this meeting is to discuss the restructuring of the Advisory Committee and to continue plans for the immigration Seminar.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 6, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-26283 Filed 9-8-77;8:45 am]

CIVIL SERVICE COMMISSION

PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS

Public Availability of Report of Activities

Pursuant to section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and OMB Circular A-63 of March 27, 1974, the President's Commission on White House Fellowships has prepared a report on its activities during fiscal year 1977.

The report is available for public inspection and copying at the following location:

U.S. Civil Service Commission, President's Commission on White House Fellowships, 1900 E Street NW., Washington, D.C. 20415.

DONALD J. BIGLIN,
Advisory Committee Management Officer, U.S. Civil Service Commission.

[FR Doc.77-26241 Filed 9-8-77;8:45 am]

DEPARTMENT OF THE TREASURY

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Treasury to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Office of Revenue Sharing, Office of Deputy Secretary, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26062 Filed 9-8-77;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE OF THE AMERICAN STATISTICAL ASSOCIATION

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix I (Supp. V, 1975)), notice is hereby given that the Census Advisory Committee of the American Statistical Association will convene on September 29 and 30, 1977 at 9 a.m. The Committee will meet in Room 2424, Federal Building 3 at the Bureau of the Census in Suitland, Md.

The Census Advisory Committee of the American Statistical Association was established in 1919. It advises the Director, Bureau of the Census, on the Bureau's programs as a whole and on their various parts, considers priority issues in the planning of censuses and surveys, examines guiding principles, advises on questions of policy and procedures, and responds to Bureau requests for opinions concerning its operations.

The Committee is composed of 15 members appointed by the President of the American Statistical Association.

The agenda for the September 29 meeting, which will adjourn at 6 p.m. is: (1) Topics of current interest at the Bureau of the Census; (2) review of published Bureau revisions to the Manufacturers' Shipments, Inventories, and Orders Series; (3) review of the process for setting Census Bureau program priorities; (4) coverage improvements for the 1980 census; (5) evaluation of the Survey of Income and Education; and (6) development of Committee recommendations.

The agenda for the September 30 meeting, which will adjourn at 12:30 p.m. is: (1) Committee discussion of recommendations; (2) progress report on the National Science Foundation—American Statistical Association—Census Bureau Program to Improve the Social Science Data Base; (3) progress report on the new Census programs for fuels and energy; (4) professional audit review team for the Federal Government's energy conservation—progress report; (5) Census Bureau responses to prior Committee recommendations, and the status of specific Bureau activities described at earlier Committee meetings; and (6) recommendations, plans, and suggested agenda items for the next meeting.

The meeting will be open to the public, and a brief period will be set aside on September 30 for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Mr. James L. O'Brien, Assistant Chief, Statistical Research Division, Bureau of the Census, Room 3573, Federal Building 3, Suitland, Md. (mail address: Washington, D.C. 20233); telephone 301-763-5350.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

SEPTEMBER 6, 1977.

[FR Doc.77-26303 Filed 9-8-77;8:45 am]

Domestic and International Business Administration

SUBCOMMITTEE ON EXPORT ADMINISTRATION OF THE PRESIDENT'S EXPORT COUNCIL

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (Supp. V, 1975)), notice is hereby given that a meeting of the Subcommittee on Export Administration of the President's Export Council will be held on Friday, September 30, 1977, at 9:00 a.m., in Room 4830 of the Department of Commerce, Washington, D.C.

The Subcommittee on Export Administration was initially established on June 1, 1976. On January 6, 1977, the Assistant Secretary for Administration approved the recharter and extension through December 31, 1978, of the Subcommittee, pursuant to the provisions of Section 3 of Executive Order 11753 (December 20, 1973), as extended by Section 1(k) of Executive Order 11948 (December 20, 1976), and the Federal Advisory Committee Act.

The Subcommittee advises the Secretary of Commerce on matters pertinent to those portions of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401 et seq.) that deal with United States policy of encouraging trade with all countries with which the United States has diplomatic or trading relations and of controlling trade for national security and foreign policy reasons.

The Subcommittee meeting agenda has seven parts:

GENERAL SESSION

9:00-10:30

I. Unfinished business: Demo Policy; MacAvoy Report; Service Licenses; Bucy Report; Brief Explanation of the Export Administration Amendments of 1977; Simplification & Clarification of Export Administration Regulations.

II. Future Agenda Topics.

III. Panel Presentation on National Security & Foreign Policy Export Controls.

IV. Other Business.

(Coffee Break)

EXECUTIVE SESSION

10:45-4:00

V. Discussion of Panel's Presentation.

(Lunch)

VI. Update on COCOM List Review Preparations.

VII. Discussion of Technology Transfer Control Policy.

The General Session is open to the public. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to Agenda Items V, VI and VII, the Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 11, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In the Sunshine Act (Pub. L. 94-409), that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by Executive Order 11652 to be kept secret in the interest of the national defense or foreign policy. Materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under the Executive Order. All Subcommittee members have appropriate security clearances.

The complete Notice of Determination to close portions of the series of meetings of the Subcommittee on Export Administration of the President's Export Council is printed at 42 FR 3011 (January 14, 1977).

Copies of the minutes of the General Session will be available upon written request addressed to Mr. Lawrence J. Brady, Deputy Director, Office of Export Administration, Room 1886-C, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Brady either in writing at the address shown above or by telephone at 202-377-4188.

Dated: September 1, 1977.

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Domestic Commerce.

[FR Doc.77-26058 Filed 9-8-77;8:45 am]

Maritime Administration

LIST OF FREE WORLD AND POLISH VESSELS ARRIVING IN CUBA SINCE JANUARY 1, 1963

Notice

The National Security Action Memorandum No. 220, dated February 5, 1963, which prohibited the shipment of U.S. Government-owned or financed cargoes from the United States on foreign flag vessels if such vessels had called at a Cuban port on or after January 1, 1963, was rescinded by the National Security Council effective June 10, 1977.

In accordance with this action, the list of free world and Polish vessels arriving in Cuba since January 1, 1963, as noticed in the FEDERAL REGISTER issue of February 28, 1963 (28 FR 2011), and subsequent notices, is hereby discontinued.

By Order of the Assistant Secretary for Maritime Affairs.

Dated: September 1, 1977.

ROBERT J. BLACKWELL,
Assistant Secretary for Maritime Affairs.

[FR Doc.77-26265 Filed 9-8-77;8:45 am]

[Docket No. S-577]

STATES STEAMSHIP CO.

Application

Notice is hereby given that States Steamship Co. has applied for written permission from the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, for the carriage of passengers between California and Hawaii. Such written permission will be required in the event a new long-term operating-differential subsidy contract is concluded between States and the Maritime Subsidy Board, which long-term contract has been the subject of hearing before the Board in Docket S-447.

States has also applied for a short-term interim contract as described in the FEDERAL REGISTER of August 26, 1977 (42 FR 43112). In the event such a short-term contract application is granted, written permission for the above-described domestic service will be required under section 805(a).

As information, all of the vessels of States, both RO/RO and C4 types, have capacity for carrying 12 passengers each.

Interested parties may inspect the foregoing application in the Office of the Secretary, Maritime Administration, Room No. 3099B, Department of Commerce Building, Fourteenth and E Streets NW., Washington, D.C. 20230.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on Sept. 19, 1977 file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By order of the Assistant Secretary for Maritime Affairs.

Dated: September 6, 1977.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-26264 Filed 9-8-77;8:45 a.m]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

TEXTILE CATEGORY SYSTEM

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Amending Textile Category System.

SUMMARY: The Textile Category System, published in the FEDERAL REGISTER on August 10, 1977, is hereby amended by the changing of Tariff Schedules of the United States Annotated (TSUSA) numbers 382.0403 and 382.7805, Body Suits, from Category 639, Knit Shirts and Blouses, Women's, Girls' and Infants' to Category 659, Other Apparel. These changes are necessary to provide desired uniformity in the system. The Textile Category System is used in the bilateral textile agreements negotiated with other countries under the Arrange-

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ment Regarding International Trade in Textiles. Recent negotiations under this Arrangement revealed that the placing of man-made fiber body suits in Category 639 was inconsistent with the placement of cotton body suits which were placed in Category 359. Cotton Body suits are not identified specifically in the TSUSA and are grouped in TSUSA's which include certain other knit wearing apparel. Full descriptions of the TSUSA numbers covered by this notice are available in the TSUSA.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Leonard A. Mobley, Director, Trade Analysis Division, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–4212).

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce.

[FR Doc.77–26274 Filed 9–8–77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1977 a commodity to be produced by and a service to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 12, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street, North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher (703–557–1145).

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and service to Procurement List 1977, November 18, 1976 (41 FR 50975):

NOTICES

Class 5999

Circuit Card Assembly, 5999–00–111–4957.

SIC 0782

Grounds Maintenance, Fort Ord, Calif. For areas 1 thru 24 only.

C. W. FLETCHER,
Executive Director.

[FR Doc.77–26270 Filed 9–8–77;8:45 am]

PROCUREMENT LIST 1977

Proposed Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed deletions from procurement list.

SUMMARY: The Committee has received proposals to delete from Procurement List 1977 a commodity produced by and services provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 12, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher (703–557–1145).

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

It is proposed to delete the following commodity and services from Procurement List 1977, November 18, 1976 (41 FR 50975):

Class 6532

Cap, Operating, Surgical, 6532–00–543–7378.

SIC 0872

Grounds Maintenance, Federal Aviation Administration, Palmdale, Calif.

SIC 7699

Repair and Maintenance of Adding Machines and Calculators, For the following locations: 1515 Broadway, 32 Old Slip, 26 Federal Plaza and U.S. Customs at 6 World Trade Center, New York, N.Y.

C. W. FLETCHER,
Executive Director.

[FR Doc.77–26271 Filed 9–8–77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Availability

The following is a list of environmental impact statements received by the Council on Environmental Quality from August 29 through September 2, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (October 24, 1977.) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statments are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307A, Washington, D.C. 20250 (202–447–6827).

FARMERS HOME ADMINISTRATION

Draft

Megan Heights, Proposed Plat, Kitsap County, Wash., September 1: The proposed action is a request to subdivide 46 acres of wooded, undeveloped land into 148 lots for single-family detached dwelling units. The property involved in the proposed plat is approximately one mile from the unincorporated community of Manchester and fronts on the west side of California Avenue north of Polk Street. Adverse effects include the clearing of trees for roadway and residence construction, and the destruction of wildlife habitat caused by vegetation removal. (ELR Order No. 71016.)

FOREST SERVICE

Draft

Maumelle-Saline Unit Plan, Ouachita National Forest, Perry, Saline, and Garland Counties, Ark., August 30: The proposed action is to manage, administer, and utilize the forest resources of the Maumelle-Saline Unit, Ouachita National Forest, from October 1, 1976 to September 30, 1986 in accordance with the management direction in the Maumelle-Saline Unit Plan. This plan covers 66,590 acres of National Forest land located on the Winona and Jessieville Ranger Districts. Major actions include regeneration cutting on 6,800 acres in pine working group; construction of 6 miles of new road, reconstruction of 42 miles and restoration of 104 miles of existing roads; and construction of 11 family camping units and 1 group unit at Lake Sylvia Recreation Area. (ELR Order No. 71070.)

Final

Allegheny National Forest Timber Management Plan, several counties in Pennsylvania, August 29: Proposed is the establishment of a new 8-year timber management plan for the Allegheny National Forest, Pennsylvania, for the period July 1, 1976 through June 30, 1984. As a result of the sell program portion of the plan, an estimated 66 MCcf (40 MMBF) of sawtimber and 84 MCcf (106 M cords) of pulpwood per year will be harvested. Timber management activities may affect air and water quality and soil will be subjected to erosive forces. Other negative impacts include alteration of landscape and the loss of some roadless areas. Comments made by: DOI, USDA, EPA, State and local agencies and interest groups. (ELR Order No. 71062.)

Francis Marion National Forest Land Management Plan, Berkeley and Charleston Counties, S.C., August 29: The proposed

action is the implementation of a ten year management plan for the 249,412 acre Francis Marion National Forest in South Carolina. The plan provides for suitable public access as well as sustained yield of timber through silvicultural activities. Adverse effects include soil compaction, visual changes, periodic lowered air quality, increased noise levels and impacts related to limited use of pesticides. Comments made by: USDA, COE, EPA, DOI, State agencies, concerned groups, and individuals. (ELR Order No. 71064.)

Supplement

Central Nevada Unit, Toiyabe National Forest (S–1), several counties in Nevada, August 29: This statement supplements an EIS filed with CEQ in 1976. The Toiyabe Chapter of the Sierra Club and the Friends of Nevada Wilderness requested reconsideration of the decision to implement the land use plan regarding areas not selected for wilderness study. This statement involves the reconsideration of the wilderness study area alternative. After re-inventory and re-evaluation, two additional wilderness study areas have been recommended. These are located adjacent to the Arc Dome and Arc Dome Extension Wilderness Study Area, and provide an undeveloped foreground for these areas. (ELR Order No. 71053.)

RURAL ELECTRIFICATION ADMINISTRATION

Final

Gamerco Coal Mine, New Mexico, McKinley County, N. Mex., August 29: Proposed is the development, by Arizona Electric Power Cooperative, Inc., of 8,011 acres of land, located approximately 3 miles northwest of the City of Gallup, as a coal stripmine facility. Associated with the mine will be a proposed coal washing plant with associated settling and freshwater holding ponds, coal loadout facility, 2.1 mile railroad spur, 116 one-hundred-ton coal railroad cars, shops and offices, deepwater well, haul roads, and substation. Adverse effects include disturbances to topography, soils, air quality, and archaeological resources. Comments made by: DOI, USDA, EPA, DOT, and State agencies. (ELR Order No. 71052.)

SOIL CONSERVATION SERVICE

Draft

Southeast Choctawhatchee River Watershed, Dale, Houston, and Geneva Counties, Ala., September 1: Proposed is a project for watershed protection, land stabilization, and recreation to be implemented under authority of the Watershed Protection and Flood Prevention Act. The planned works of improvement include accelerated conservation land treatment, critical area treatment and roadside stabilization, stabilization of about 600 gullies, and construction of a 780-acre single-purpose recreation lake and recreational facilities. The project will reduce erosion and improve scenic and aesthetic qualities of the watershed. Adverse impacts include increased air and water pollution during project construction. (ELR Order No. 71065.)

Final

Marshyhope Creek Watershed, Maryland and Delaware, September 2: Proposed is the implementation of a plan for watershed protection, flood prevention, and drainage for Kent and Sussex Counties, Delaware, and Carolina and Dorchester Counties, Maryland, to be installed by the local sponsors with Federal assistance. The project consists of land treatment measures of 104,798 acres and about 260 miles of multi-purpose channel work. Adverse effects include the drainage of approximately 1,100 acres of type 1 and type 2 wetlands and 72 acres of type 7 wetlands immediately adjacent to the channels. Grassland will be decreased by 2,380 acres. Comments made by: DOC, HEW, DOI, EPA, AHP, State and local agencies. (ELR Order No. 71060.)

DEPARTMENT OF COMMERCE

OFFICE OF COASTAL ZONE MANAGEMENT

Contact: Dr. William Aron, Director, Office of Ecology and Environmental Conservation, NOAA, Room 5813, Department of Commerce, Washington, D.C. 20230 (202–377–5181).

Final

Rookery Bay Estuarine Sanctuary, Collier County, Fla., August 29: The proposed action is to award a grant to the State of Florida to acquire, develop, and operate an estuarine sanctuary in Rookery Bay. Boundaries of the existing 5,400 acre, privately maintained Rookery Bay Sanctuary would be expanded to include adjacent mangrove and upland transitional areas resulting in about 8,500 acres of land and water under State control. The action may result in potential conflicts between the sanctuary and adjacent owners in terms of drainage projects, mosquito control activities, and restrictions imposed by scientific research. Comments made by: USDA, USAF, HUD, DOI, NRC, GSA, DOC, and environmental groups. (ELR Order No. 71065.)

DEPARTMENT OF DEFENSE

ARMY

Contact: George A. Cunney, Jr., Acting Chief, Environmental Office, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, (202–694–4269).

Final

Rocky Mountain Arsenal, Pilot Containment Operations, Adams County, Colo., August 29: The proposed action is the construction and operation of a pilot system for contaminated ground-water containment at Rocky Mountain Arsenal, Colorado. The proposed system consists of a ground-water collection subsystem, a water purification subsystem, and a ground-water recharge subsystem. This will be the first step taken toward compliance with Cease and Desist Orders issued by the State of Colorado against Rocky Mountain Arsenal. Alternatives to the action include no action and delayed action. Comments made by: HEW, DOI, EPA, State and local agencies. (ELR Order No. 71054.)

DEPARTMENT OF DEFENSE

Final

Bold Eagle 78—Joint Readiness Exercise, Florida, September 2: Proposed is the execution of Bold Eagle 78, a Joint Readiness Exercise, at the Eglin AFB Test Range Complex from Oct. 24 to Oct. 30, 1977. The objectives are to exercise and evaluate the planning and execution of an air superiority campaign; strategic deployment and tactical employment; and the planning and use of electronic warfare to penetrate air defense systems. Adverse impacts include increased air contamination through use of explosives, damage to underbrush and habitat caused by track vehicle operations, and disturbance of the Red-Cockaded Woodpecker and Okaloosa Darter, both endangered species. Comments made by: DOI, USDA, DOC, HEW, DOT, EPA, State and local agencies. (ELR Order No. 71091.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attention: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1900 Independence Avenue SW., Washington, D.C. 20314, (202–693–6795).

Draft

Dickey-Lincoln School Lakes, Maine/Canada, Aroostook County, Maine, August 31: Proposed is the construction of a combination hydroelectric, flood control, and recreation project in northern Maine along the St. John River. Two earth-filled dams would impound 7.7 million acre feet of water at maximum pool heights; five dikes would be constructed to prevent flowage to other watersheds. The project would provide 830,000 KW of electric capacity and 1.2 billion kwh annually of peaking energy and 262 million kwh annually of intermediate range energy to the New England system. Adverse effects include relocation of 161 families in the project area. (New England Division.) (ELR Order No. 71083.)

Jarvis Creek Navigation Improvements, Northumberland County, Va., August 31: Proposed is the improvement of navigation at Jarvis Creek by dredging a channel about 2,000 feet long with a bottom width of 80 feet and total depth of 10 feet. Approximately 44,000 cubic yards of highly organic marine silts and clay will be removed by hydraulic pipeline dredge and disposed of in a 10-acre confined upland site. Adverse effects include displacement and extirpation of the flora and fauna of 1 10-acre terrestrial area, and increased suspended solids during dredging with potential for decreased dissolved oxygen. (Norfolk District.) (ELR Order No. 71080.)

Supplement

Trexler Lake Project (S–2), Lehigh County, Pa., September 1: This statement supplements a final EIS filed with CEQ in 1973. Proposed is an earth and rockfill embankment 130 feet high at the maximum section. The dam would have a surface area of 1,220 acres and extend about 5.6 miles upstream when filled to the top of the conservation pool. Relocation of 3.4 miles of roads, as well as power and telephone lines would occur. The recreation plan includes four public access recreation areas along the lake. Adverse effects include modification of the present environmental setting, the conversion of 5.6 miles of free-flowing stream to slack water, the acquisition of 50 percent of Lowhill Township, and the loss of productive farmland. (ELR Order No. 71086.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Please refer to the separate notice published by EPA in this issue of the FEDERAL REGISTER for the appropriate EPA contact.

Draft

North-Central Ocean Basin Wastewater Facility, Worcester County Md., August 29: Proposed is a regional wastewater treatment facility for the North-Central Ocean Basin area, Maryland. The project consists of four major components: Expansion of the Ocean City sewage treatment plan (STP) from a capacity of 12 to 20.5 mgd., construction of a 8.9 mgd.-capacity Mainland STP near West Ocean City, installation of a regional interceptor system, and local wastewater treatment and disposal. The Ocean City facility would receive wastewater only from Ocean City. The service area of the West Ocean City facility would include West Ocean City, Berlin, the community of Ocean Pines and extensive areas along the major highways

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in the proposed service area. (Region III.) (ELR Order No. 71059.)

Martha's Vineyard Water Quality Plan, Massachusetts, August 29: Proposed is a water quality management plan for Martha's Vineyard, Massachusetts. The program has been developed to protect the Island's waters in three areas of concern: The protection of the groundwater and its recharged areas; the protection of coastal waters including harbors and areas of shell and fin-fish production; and the protection of the fragile ecology of the Island's ponds, marshes, and other surface water bodies. Specific actions recommended and their respective impacts are discussed. (Region I.) (ELR Order No. 71061.)

Old Colony 208 Area, "Towards Clean Water," several counties in Massachusetts, September 2: This EIS is a product of the cooperative efforts of the Old Colony Planning Council and the U.S. EPA, Region I, as part of a 2-year areawide water quality management planning process for the Old Colony 208 Area. It summarizes the alternative technical control and management alternatives developed towards a composite areawide plan. The Old Colony 208 Area includes about 172 square miles, located just south of the Boston SMSA. It contains the communities of Abington, Avon, Bridgewater, Brockton, East Bridgewater, Easton, Hanson, Pembroke, West Bridgewater, and Whitman. "Towards Clean Air: Alternatives for Action," Vol. 2 will be prepared following input from Vol. 1. (Region I.) (ELR Order No. 71088.)

Final

New Milford Wasterwater Collection & Treatment, Connecticut, August 29: This statement proposes the development of a regional wastewater treatment and collection system to serve the towns of New Milford and Brookfield, Conn. Included is the expansion in three phases of an already existing system which currently serves only the downtown area of New Milford. The treatment facility will be located in New Milford, on the west bank of the Housatonic River. Limited adverse effects are anticipated. (Region I.) Comments made by: DOC, DOI, AHP, EPA, State and local agencies, concerned groups and individuals. (ELR Order No. 71060.)

Tunnel Component, Lower Des Plaines TARP Cook County, Ill., August 31: This statement relates to the tunnel component of the Tunnel and Reservoir Plan, Lower Des Plaines Tunnel System, proposed by the Metropolitan Sanitary District of Greater Chicago. The proposed action identified and defined for this EIS is the Phase I conveyance tunnel systems and their associated subsystems only. The following information is included in the statement: Alternative plans, plan selector, TARP Tunnel Systems, TARP Subsystems, Des Plaines Tunnel Segments and Branches, cost of Tunnel System and Subsystems, and TARP financing. (Region 5.) Comments made by: DOI, USDA, DOC, State and local agencies, concerned groups and individuals. (ELR Order No. 71084.)

FEDERAL ENERGY ADMINISTRATION

Contact: Mr. Robert Stern, Director, Office of Environmental Programs, Federal Energy Administration, New Post Office Building, Room 7119, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202–566–9760.

Final

Petroleum Feedstocks to Synthetic Nat. Gas Plants, August 29: Proposed is the modification of FEA's current program of case-by-case review of applications for the allocation of naphtha and natural gas liquids (NGL) for use in the manufacture of synthetic natural gas (SNG). This programmatic EIS presents the impacts in 1980 and 1985 of (1) continuation of the current program (Review of each petition), and (2) modification of that program through 1 of 5 options ranging from the adoption of a more restrictive policy toward the use of naphtha and NGL for SNG manufacture, to complete removal of control on these products. Comments made by: EPA, HEW, DOI, ERDA, DOD, DOC, and concerned groups. (ELR Order No. 71055).

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202–755–6308).

Draft

Fox Trails Development, McHenry County, Ill., August 29: Proposed is the provision of FHA mortgage insurance for 1,644 housing units on 375 acres of land. The project is in the southwest edge of the Village of Cary in the southeast corner of McHenry County. Adverse effects include pollution from construction activities, disturbance of wildlife habitat, and overcrowding during Phase I in School District No. 26. (ELR Order No. 71063.)

Belle Terre Development, St. John the B County, La., August 31: The proposed action is the securing of home mortgage insurance for a total of 1,600 housing units located between U.S. Highway 61 (Airline Highway) and Interstate 10 in LaPlace, St. John the Baptist Parish, La., approximately 15 miles west of New Orleans. The units are to be built over the next seven years; they will utilize a 900-acre site, and will consist of single family residences and an 18-hole golf course with club house, swimming pools, and tennis courts. Increased population of the area will have a long-term adverse impact on air quality and will increase noise and traffic levels. (ELR Order No. 71079.)

Final

Bellehaven/Vista Grande Terrace/Clear View Estates, El Paso County, Colo., August 31: Proposed is the issuance of HUD/FHA mortgage insurance for the developers of Bellehaven, Vista Grand Terrace, and Clear View estates to build 205 single family detached units, 24-single family detached units, and 380 single family detached units, respectively. The former two developments are located in Colorado Springs and the latter in El Paso County. Adverse impacts include increased levels of air pollution, greater pressure on local facilities, and destruction of wildlife habitat. Comments made by: COE, DOI, AHP, FEA, USDA, EPA, Statt and local agencies, concerned groups and individuals. (ELR Order No. 71073.)

Eastwood Village Disposition, Hamilton County, Ohio, August 31: Proposed is the disposition of Secretary owned property of Eastwood Village as prescribed by the Department of HUD regulations. Eastwood Village consists of two sections of property, each having a separate deed. Section One contains 540 units on 39.3 acres and section two contains 370 units on 46.9 acres. The primary impact as a result of the disposition of Eastwood Village is the demolition of 910 housing units and the subsequent redevelopment of the land for different uses. Comments made by: DOT, COE, DOI, AHP, EPA, state agencies, interest groups. (ELR order No. 71076.)

Summerfields Community, Tarrant County, Tex., August 31: Proposed is the approval for home mortgage purposes of the application of the Cambridge Realty Development Corp. for the 1,561-acre Summerfields Development nine miles north of Fort Worth. Of the 6024 units in the project, 3,132 are low-density single family homes, 1,464 units are medium density apartments, and another 1,428 units are cluster housing and other types of units. Adverse effects include higher air and noise pollution levels, urban runoff, loss of croplands and pasturelands, effects on aquatic life, the deterioration of inner-city Forth Worth, and the irreversible commitment of 1,468 acres of land to manmade structures. Comments made by: EPA, USDA, AHP, DOI, DOT, DOC, COE, VA, State and local agencies. (ELR Order No. 71077.)

CandleRidge—So. Ridge Communities, Tarrant County, Tex., August 31: Proposed is the approval of an application by CandleRidge Development Corp. and the Foster Financial Co. for FHA mortgage insurance for the proposed communities of CandleRidge and South Ridge. The 1,684-acre project is located 8 miles southwest of the Fort Worth Central Business District and is designed to accomodate a 1985 population of 15,500 persons with a housing supply of 5,664 units. Of these units, 2,796 are low-density single family homes, 1,164 units are medium-density apartments, and another 1,704 units are cluster housing, condominiums, townhomes and duplexes. Adverse effects include loss of prairie lands, and degradation of water. Comments made by: EPA, AHP, COE, VA, DOC, DOI, State and local agencies, interest groups. (ELR Order No. 71078.)

Section 104(h)

The following are Community Development Block Grant statement prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD).

Draft

Carbondale, Ill.—Drainways/Greenways Demo Project, Jackson County, Ill., September 2: Proposed is the Drainways/Greenways demonstration project in Carbondale, Ill. The project represents the initial effort in implementing the city-wide Drainways/Greenways system. This system proposes a functional multiple-use open space system providing multiple benefits including drainage, recreation, and transportation. The project is located entirely within census tract 1601.02. Adverse effects include disruption of natural vegetation and wildlife, increased runoff, and erosion during construction. (ELR Order No. 71089.)

Tooele, Utah.—City W. Sewer Trunk Line, Tooele County, Utah, August 29: Proposed is the construction of a sewer mainline and collection lines on the west side of the city of Tooele, Utah, to connect approximately 250 homes to the sewage treatment plant. These homes are currently using sewer septic tank and drain field systems which are threatening the city water wells located in the same area. The primary impacts in the area will be the result of projected growth. Land use changes will take place as agricultural and unused lands are utilized for development projects. (ELR Order No. 71066.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240 (202–343–3891).

BUREAU OF LAND MANAGEMENT

Final

1977 OCS Oil and Gas Lease Sale, North Atlantic States, August 29: Proposed is the leasing of 178 tracts (410, 112 hectares) of OCS land offshore of southeastern New England. The tracts range in distance to shore from 47 to 167 miles and are situated in water depths from 36 to 210 meters. The major resultant adverse impact is the possibility of accidental or chronic oil spillage, which would seriously endanger the environment. In addition, 33 tracts present a particular risk to commercial fishing, pelagic birds or a combination of these resources. If implemented, this sale is tentatively scheduled to be held in fall of 1977. Comments made by: EPA, DOC, DOI, AHP, STAT, FPC, NRC, COE, State and local agencies, concerned groups and individuals. (ELR Order No. 71056.)

Alunite Mine and Processing Plant, Beaver County, Utah, August 31: Proposed is the development of an alunite mine and processing plant complex for the annual production of 370,000 tons of potassium sulfate fertilizer up to 1.7 million tons of phosphate fertilizer, and up to 20,000 tons of aluminum fluoride. Major components of the project would include: an open pit mine and waste rock pile, and a processing plant complex including a 75-MW power plant, tailings ponds, and necessary support facilities. Adverse impacts include increased air pollution and alteration of wildlife systems on 2,400 acres. Comments made by: DOI, USDA, EPA, HEW, DOC, DOT, FEA, HUD, and local agencies. (ELR Order No. 71072.)

BONNEVILLE POWER ADMINISTRATION

Final

Bonneville Power Administration Electrical Service to Addy, Stevens County, Wash., August 29: Proposed is the addition of a new point of delivery for electrical power to the Aluminum Company of America at the Northwest Alloys magnesium plant at Addy, Washington. Full service to the plant over new permanent electrical facilities is planned to commence on June 1, 1977. Continued plant operation would result in the continued loss of an undetermined acreage of timber and cropland to mining and other plant-related uses. Mining activities associated with plant operation would result in at least temporary visual degradation. Comments made by: FPC, AHP, USDA, HEW, HUD, DOI, ERDA, EPA, State and local agencies, concerned groups and individuals. (ELR Order No. 71058.)

NATIONAL PARK SERVICE

Draft

Glen Canyon National Recreation Area, Management, Arizona and Utah, August 30: Proposed is a General Management Plan and Preliminary Wilderness Proposal for the Glen Canyon National Recreation Area, Arizona and Utah. The general management plan consists of a management zoning proposal dividing the recreation area into four management zones: Natural (50 percent), Recreation and Resource Utilization (48 percent), Cultural (less than 0.1 percent), and Development (almost 2 percent). The preliminary Wilderness proposal calls for adding 519,000 acres (42 percent of the recreation area) to the National Wilderness System; an additional 68,030 acres (5 percent of the recreation area) are proposed for potential wilderness additions. (ELR Order No. 71068.)

INTERSTATE COMMERCE COMMISSION

Contact: Mr. Richard I. Chais, Chief, Section of Energy and Environment, Room 3373, 12th and Constitution Avenue, NW., Washington, D.C. 20423 (202–275–7692).

Draft

Maine Central RR Acquisition, Amoskeag and Dumaines, August 31: This revised draft updates a draft EIS filed with CEQ in November 1976, and relates to a formal complaint filed with the ICC by the Maine Central Railroad alleging that Amoskeag Company and its parent organization, Dumaines, which control the Bangor and Aroostook Railroad Company, are unlawfully in control of the Maine Central in violation of Section 5(4) of the Interstate Commerce Act. This statement includes a detailed Environmental Impact Report from Amoskeag et al., which was not included in the original draft, and considers the DEIR and comments received in response to the 1978 draft EIS. (ELR Order No. 71082.)

Louisville and Nashville RR Co., Grand Trunk Western RR, Illinois and Indiana, August 31: Proposed is the acquisition by Louisville and Nashville Railroad Company (L&N) of truckage rights over a portion of the Grand Trunk Western Railroad Company's (GTW) main-line extending approximately 5.6 miles between Munster, Lake County, Indiana, and Thorton Junction, Cook County, Illinois. Included in this action is a proposal by L&N to construct a 1,294 foot connecting track between the GTW and L&N lines at Munster, Indiana. The proposed action would allow the applicant's planned elimination of its South Hammond, Indiana marshalling yard and consolidation of activities at Yard Center, Illinois. (ELR Order No. 71081.)

Final

Radioactive Materials, Special Trains Service, August 31: This statement proposes the nationwide use of special trains for the transportation of radioactive materials. These special trains differ from regular trains in the following ways: (1) They carry only the designated radioactive commodity; (2) they consist of an engine, caboose, and a flat car with 100 ton casks containing the radioactive material; (3) train speeds are limited to 35 miles per hour; and (4) when passing another train, either the special train or the regular train must come to a complete stop. This EIS is generic in nature, and can be used by the Commission in any proceeding in which the issue is the health/safety effects associated with special train service. Comments made by: ERDA, DOI, HEW, DOC, TVA, EPA, NRC, and concerned groups. (ELR Order No. 71074.)

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590 (202–426–4357).

FEDERAL AVIATION ADMINISTRATION

Final

Whiteman Airport, Los Angeles, Los Angeles County, Calif., August 30: The statement concerns the improvement of Whiteman Airport, Los Angeles, California. Included is the proposed construction of a new lighted runway and extension of an existing runway, 2 warm-up pads, an aircraft apron, an extension of the taxiway, temporary runways and roads for use during construction, and other related work. Adverse impacts include increased air pollution and aircraft noise. A 4(f) determination will be necessary in regard to Roger Jessup Recreational Park. Comments made by: DOT, EPA, DOI, HEW, USDA, DOC, State and local agencies, concerned groups and individuals. (ELR Order No. 71071.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

F.M. 1604 and I–10, I–10 to Babcock Road, Bexar County, Tex., August 31: Proposed is the improvement of F.M. 1604 in the vicinity of the University of Texas at San Antonio by stage construction to a freeway between I.H. 10 in northwest San Antonio and Babcock Road about 2 miles to the west. Interstate Highway 10 would have its frontage roads changed to one way facilities with ramp adjustments and relocations to meet the demands of the new traffic generator, the University. A three level cloverleaf interchange would be built in stages between F.M. 1604 and I.H. 10. Adverse effects include the potential threat to pollution of the Edwards Aquifer Recharge Zone. (Region 6.) (ELR Order No. 71075.)

Evanston Streets Improvement, Unita County, Wyo., September 2: Proposed are improvements to highways within the city of Evanston, Wyoming. The improvements consist of replacing an existing railroad, underpass, building new bridges over the Bear River, widening U.S. Highway 30 and Wyoming Highway 150 through Evanston, and relocating a portion of Wyoming Highway 89 in Evanston. Adverse impacts include removal of several houses, businesses and municipal buildings, the relocation of families, and increased noise, water, and air pollution during construction. (Region 8.) (ELR Order No. 71087.)

Final

U.S. 27 and KY–151, Southern RR Bridge to Alton, Anderson and Franklin Counties, Ky., August 30: Proposed is a replacement for the existing road from the Southern Railroad Bridge, northwest of Lawrenceburg, to U.S. 127, east of Alton, Kentucky. The 2-lane (ultimately 4-lane) roadway will extend from the bridge to I–64 at the KY–151 interchange, a distance of 6.9 miles, and then to U.S. 127 one mile from Alton, a distance of 1.75 miles. A grade séparated interchange at the route junction and a 40 foot depressed grass median are included in the project. Negative impacts include removal of one business, eight residences, and four farm buildings, and obtaining of sixty-six right-of-way parcels. (Region 4.) Comments made by: HEW, EPA, DOI, USDA, FPC, and State agencies. (ELR Order No. 71069.)

URBAN MASS TRANSPORTATION ADMINISTRATION

Final

Red Line Extension, Harvard Square-Arlington Heights, Massachusetts, August 30: Proposed is a 6.5 mile extension of the Red Line rapid transit from its present termini at Harvard Square to Arlington Heights, Massachusetts. The Harvard Station will be rebuilt on new location and 5 other stations will be constructed on various locations. Approximately 1.5 miles will be in a tunnel/deep hold and approximately 5 miles will be in a tunnel/cut-and-cover. Adverse impacts include disturbance of 3 acres of wetland vegetation, and degradation of air. A 4(f) statement is being prepared for the 3.5 acres of publicly owned park lands to be affected. (743 pages.) Comments made by: EPA, DOT, OD 2, State and local agencies, concerned groups and individuals. (ELR Order No. 71067.)

NICHOLAS C. YOST,
Acting General Counsel.

[FR Doc.77–26415 Filed 9–8–77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 787–8; PP 6G1850/T123]

ETHYL 3-METHYL-4-(METHYLTHIO) PHENYL (1-METHYLETHYL) PHOSPHORAMIDATE

Establishment of a Temporary Tolerance

The Pineapple Growers' Association of Hawaii, 1902 Financial Plaza of the Pacific, Honolulu, Hawaii 96813, has submit-

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ted a pesticide petition (PP 6G1850) to the Environmental Protection Agency (EPA). This petition requests that a temporary tolerance be established for combined residues of the nematocide ethyl 3 - methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity pineapples at 0.2 part per million (ppm). (A related document establishing a feed additive tolerance for residues of the subject pesticide in dried pineapple bran at 10 ppm appears elsewhere in today's FEDERAL REGISTER.)

Establishment of this temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with two experimental use permits that are being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

An evaluation of the scientific data reported and other relevant material has shown that the requested tolerance is adequate to cover residues resulting from the proposed experimental use, and it has been determined that the temporary tolerance will protect the public health. The toxicological data considered in support of the proposed tolerance were 90-day dog and rat-feeding studies, a two-year dog-feeding study, a rabbit teratology study, and a hen neurotoxicity study. The metabolism of the subject pesticide in plants and animals has been adequately described, and an adequate analytical method (gas chromatography with thermionic detection) is available for enforcement purposes. There is no reasonable expectation of residues from the proposed use in eggs, meat, milk, or poultry as delineated in 40 CFR 180.6(a)(3).

The available data and information is sufficient to support the proposed tolerance. The following data must be supplied prior to the establishment of a permanent tolerance or any expanded use: The manufacturing process for the pesticide, the toxicological significance of residues of phenolic hydrolysis products, the composition of one inert ingredient, correct nomenclature for the sulfoxide and sulfone metabolites of the pesticide, and additional residue data reflecting the proposed use in Hawaii. Also a mutagenicity study may be required.

Permanent tolerances have previously been established (40 CFR 180.349) for residues of the pesticide on peanut hulls at 0.4 ppm; bananas, brussels sprouts, and cabbage at 0.1 ppm; cottonseed and soybeans at 0.05 ppm; and peanuts at 0.02 ppm. The temporary tolerance is established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. The Pineapple Growers' Association of Hawaii must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of distribution and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires August 31, 1980. Residues not in excess of 0.2 ppm remaining in or on pineapples after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permits and temporary tolerance. This temporary tolerance may be revoked if the experimental use permits are revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Special Registrations Section, Registration Division (WH-567), Office of Pesticide Programs, Room 315, East Tower, 401 M Street SW., Washington, D.C. 20460 (202-755-4851).

(Sec. 408(j) Federal Food, Drug and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: August 26, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-26260 Filed 9-8-77;8:45]

[FRL 788-1]

SCIENCE ADVISORY BOARD

Open Meeting

The Executive Committee of the Science Advisory Board of EPA has authorized the establishment of an ad hoc study group (hereafter called the Study Group) to examine health and environmental problems that may be associated with polymeric materials used for encapsulating agricultural chemicals used on food crops. The Study Group is concerned with the encapsulating materials in general, and not with associated agricultural chemicals as capsule contents.

The Study Group will hold an open meeting on September 26-27, 1977, in the Conference Room of the Faculty Club of the University of California at Davis, beginning each day at 9:30 a.m. P.D.T. This meeting will address questions of health and environmental problems of the capsules as residuals on food crops after the chemical contents have been released. This is an informal meeting and not a "hearing." The Study Group does not "take testimony." Persons or groups desiring to attend the meeting or submit information to the Study Group must contact the Study Group Officer, Dr. Joel L. Fisher at 703-557-7710 by September 20, 1977. Submissions of materials should be substantive and scientifically supported, but bulky reference materials should be avoided to minimize distribution problems.

Neither the Study Group nor the Science Advisory Board will pass judgment on any specific commercial preparations or products with respect to any EPA regulatory actions involved in registration or deregistration.

LLOYD T. TAYLOR,
Acting Staff Director,
Science Advisory Board.

SEPTEMBER 2, 1977.

[FR Doc.77-26196 Filed 9-8-77;8:45 am]

[FR 2747-6]

TOXIC SUBSTANCES CONTROL ACT

Notification of Substantial Risk Under Section 8(e)

AGENCY: Environmental Protection Agency.

ACTION: Proposed guidance.

SUMMARY: On March 11, 1977 a "Notice of Intent to Develop Regulations and Guidance Regarding Records, Health and Safety Studies, and Notices of Substantial Risk" was published in the FEDERAL REGISTER. In this action, guidance is proposed on submission of notices of substantial risk to the Administrator under section 8(e) of the Toxic Substances Control Act (TSCA) (Pub. L. 94-469, 90 Stat. 2029, 15 U.S.C. 2607). The provisions of that section went into effect on January 1, 1977.

Section 8(e) states that "Any person who manufactures, processes, or distributes in commerce a chemical substance or mixture and who obtains information which reasonably supports the conclusion that such substance or mixture presents a substantial risk of injury to health or the environment shall immediately inform the Administrator of such information unless such person has actual knowledge that the Administrator has been adequately informed of such information."

DATES: Interested persons are invited to submit written comments regarding this proposed guidance by October 15, 1977.

ADDRESS: Written views and comments should bear the document control number OTS-080004 and should be submitted in triplicate to the U.S. Environmental Protection Agency, Office of Toxic Substances (WH-557), 401 M Street SW., Washington, D.C. 20460, Attention: Vickie Briggs. All written comments filed pursuant to this notice will be available for public inspection in the Office of Toxic Substances, from 8:30 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Edward M. Brooks (Project Leader) at the above address or by telephone 202-755-8043.

SUPPLEMENTARY INFORMATION: On February 1, 1977, comments on section 8(e) were solicited from an informed group of industry representatives, environmentalists and other interested parties. Their comments, as well as other comments received, are discussed below.

WHO IS SUBJECT TO THE REQUIREMENTS?

Several commenters suggested that the reporting requirements be applied only to establishments that manufacture, process, or distribute in commerce chemical substances or mixtures, and not to the employees of such establishments. These commenters argued that such establishments, by considering the variety of information at their disposal, could screen out inconsequential information and submit pertinent data in an orderly manner. They also noted that this would conform with corporate practice of regarding employees as agents of the establishment.

However, problems arise under this approach relating to the timing and extent of an establishment's discovery and evaluation procedures that would precede a finding on its part of "substantial risk." Also, all employees capable of recognizing substantial risks should have the responsibility to be alert to such information. Since the purpose of section 8(e) is to immediately acquaint the Administrator with information on substantial risks, the reporting requirements are construed to apply to all relevant establishments and to those employees of such establishments capable of appreciating pertinent information. Section 23 of TSCA prohibits any employer from discharging or otherwise discriminating against any employee because the employee has complied with section 8(e) requirements.

The Administrator does not intend to require burdensome, duplicative reporting, however, nor does he seek to interfere in internal company reporting practices. Therefore an employee need not report information that is reported by a formally designated company official within the specified time. It is assumed that companies will establish internal procedures whereby evidence of substantial risk is promptly transmitted by employees to a designated official who in turn forwards it to EPA, together with all relevant information, including internal company memoranda, and notifies all employees who have knowledge of the information of its transmittal to EPA.

Agency enforcement activities (see Part IX of this guidance) will be focused primarily on:

(a) Employees reasonably capable of appreciating pertinent information who fail to submit or delay submitting such information to supervisors for corporate processing,

(b) Supervisors who fail to process substantial-risk information for submission to the Administrator in a timely manner, and

(c) Establishments and their chief executive officers that fail to process and notify the Administrator of substantial-risk information in a timely manner (sec. Part IV of this guidance).

WHEN WILL A PERSON BE REGARDED AS HAVING "OBTAINED" INFORMATION?

Two commenters suggested that a person should not be considered to have obtained information until he has determined that such information should be reported. The Administrator disagrees. A person is deemed to have obtained such information as soon as he (or, in the case of an establishment, as soon as any officer or employee capable of appreciating the information) is aware that such information may suggest substantial risk—not after analyses or evaluations have been conducted to confirm or reject that risk. The schedule described in Part IV of this document allows ample time for such person to determine whether or not the information must be reported. In the event that effects as described in Part V occur in a work area where several chemicals are being manufactured, processed, or distributed in commerce, one report shall be submitted listing each of the chemicals.

Since establishments are regarded as having simultaneously obtained any risk information that their officers or employees have obtained, it is incumbent upon them to process such information promptly, in order to comply with the schedule set forth in Part IV.

HOW CAN THE ADMINISTRATOR BE BOTH "IMMEDIATELY" AND COMPREHENSIVELY INFORMED?

One commenter suggested a two-phase notification procedure, whereby the Administrator would be immediately alerted of a potential substantial risk, with delayed submission of a complete report. The option of a two-phase notification is provided if necessitated by the bulk of material or by lack of immediate access to all pertinent information—not to allow analyses and evaluations to confirm or reject the risk.

WHAT INFORMATION REASONABLY SUPPORTS A CONCLUSION OF SUBSTANTIAL RISK?

One commenter suggested that qualified experts determine, case-by-case, whether information "reasonably supports the conclusion (of) substantial risk of injury to health or the environment," and one further suggested that explicit and reasonable criteria would evolve through such a process. While more definitive criteria for "substantial risk" may evolve, the Administrator believes that the health and environmental effects outlined in Part V provide a basis for reporting at this time. In any event, the delay involved with convening "qualified experts" to review each risk report prior to submission is not warranted.

One commenter suggested that section 8(e) is intended to "red-flag" critically important information. The criteria set forth in Part V focus on the level of risk appropriately addressed by section 8(e). Section 8(e) is construed to cover information regarding (a) toxic effects, as outlined in Part V of this guidance, ascribed to a chemical substance or mixture, and (b) incidents of extraordinary exposure to a chemical substance or mixture whose adverse effects have already been established or are strongly suspected, which critically imperil human health or the environment, as described in Part V of this guidance.

WHAT INFORMATION NEED NOT BE REPORTED?

Several commenters suggested that information that has been submitted to EPA in response to other mandatory reporting requirements of TSCA or other authorities administered by EPA be exempted from section 8(e) requirements. Such information is exempted, subject to the conditions outlined in Part VI of this guidance. These conditions will ensure that information on substantial risks is surfaced for immediate attention. In addition, information contained in notifications of spills under section 311(b)(5) of the Federal Water Pollution Control Act is exempted.

Several commenters suggested that information submitted to other regulatory agencies be exempted from section 8(e) reporting requirements, focusing concern on information submitted to the Occupational Safety and Health Administration, the National Institute of Occupational Safety and Health, the Consumer Product Safety Commission and the Food and Drug Administration. The Agency intends within 12 months after issuance of this guidance to establish interagency arrangements for the timely exchange of such information and amend this guidance to eliminate the possibility of duplicative reporting. In the interim, however, reports to other agencies do not substitute for reports to EPA under section 8(e).

In conformance with a number of comments, information published in English language, scientific literature widely available in the United States is also exempted, since EPA would otherwise be continuously burdened with receiving and processing myriad, highly duplicative literature references. Several comments were received relating to information generated by the Agency, in consideration of which the proposed guidance exempts from section 8(e) requirements information published by EPA in reports. Information corroborative of well-established adverse effects already documented in the published, English language, scientific literature is also exempted (unless such information concerns emergency incidents of environmental contamination).

DOES TSCA SECTION 8(e) APPLY TO INFORMATION FIRST RECEIVED BY A PERSON PRIOR TO THE EFFECTIVE DATE OF TSCA?

Commenters have argued that because section 8(e) requires the reporting of information by "Any person • • • who obtains information • • •," the section should be contrued to apply only to information first received on or after January 1, 1977. The Administrator considers this an overly narrow and restrictive interpretation. The purpose of the section 8(e) requirement is to bring to the Administrator's immediate attention information dealing with substantial risks posed by substances or mixtures, so that appropriate action may be taken. This purpose would not be served

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if such information went unreported simply because it was possessed by or known to a person before January 1, 1977. Accordingly the section 8(e) reporting requirement applies to risk information possessed by or known to a person before, on, or after January 1, 1977.

Several commenters stated that EPA should not use section 8(e) to require an immediate, exhaustive search of all health and environmental information in the historical files and archives of persons subject to section 8(e). This proposed guidance would require persons to report only that risk information of which they are aware after January 1, 1977, regardless of when they first obtain it. Thus, if a person obtained risk information prior to January 1, 1977 (but has not been aware of it since that date, that person would not be required to report. By limiting the scope of section 8(e) to risk information of which a person has been aware during 1977, EPA intends to limit the need for searchers of historical records and files.

In developing this guidance, EPA considered other approaches to risk information obtained prior to 1977. At this time EPA has not yet adopted an approach which establishes requirements for searching and reviewing information obtained before 1977. The emphasis in this proposed guidance upon a person's current awareness of such information appears to be consistent with the Congress' intent in including section 8(e) in TSCA. However, EPA solicits comments upon the best means for acquiring risk information obtained before 1977.

In this regard, it should be noted that section 8(d) will be used by EPA to selectively acquire information first obtained prior to 1977. That section requires EPA to issue rules under which persons must provide to EPA lists of health and safety studies conducted "at any time," as well as the studies themselves. The term "health and safety study" is defined broadly in section 3(6) of the Act to include "any study of any effect of a chemical substance or mixture on health or the environment." Furthermore, the Conference Report on TSCA states that the term "health and safety study" encompasses not only "formal, disciplined" studies, but also "[a]ny data which bears on the effects of a chemical substance on health or the environment • • •" (H.R. Rep. No. 94-1679, 94th Cong., 2d Sess. 58 (1976).) In the future EPA will propose rules under section 8(d) which will cover specific health and safety studies conducted before January 1, 1977.

PROPOSED GUIDANCE

Accordingly, the Administrator's proposed policy regarding TSCA section 8(e) is set forth below.

I. DEFINITIONS

For purposes of this guidance:

The term "chemical substance" means any organic or inorganic substance of a particular molecular identity, including (1) any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature, and (2) any element or uncombined radical. The term "chemical substance" does not include: (i) any mixture; (ii) any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured, processed, or distributed in commerce for use as a pesticide; (iii) tobacco or any tobacco product; (iv) any source material, special nuclear material, or by-product material (as such terms are defined in the Atomic Energy Act of 1954 and regulations issued under such Act); (v) any article the sale of which is subject to the tax imposed by Section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by Section 4182 or 4221 or any other provision of such Code); and (vi) any food, food additive, drug, cosmetic, or device (as such terms are defined in Section 201 of the Federal Food, Drug, and Cosmetic Act) when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device. The term "food" includes poultry and poultry products (as defined in Sections 4(e) and 4(f) of the Poultry Products Inspection Act), meat and meat food products (as defined in Section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in Section 4 of the Egg Products Inspection Act).

The term "commerce" means trade, traffic, transportation, or other commerce (1) between a place in a State and any place outside of such State; or (2) which affects trade, traffic, transportation, or commerce described in clause (1).

The terms "distribute in commerce" and "distribution in commerce" when used to describe an action taken with respect to a chemical substance or mixture or article containing a substance or mixture mean to sell, or the sale of, the substance, mixture, or article in commerce; to introduce or deliver for introduction into commerce, or the introduction or delivery for introduction into commerce of, the substance, mixture, or article; or to hold, or the holding of, the substance, mixture, or article after its introduction into commerce.

The term "manufacture" means to import into the customs territory of the United States (as defined in general headnote 2 of the Tariff Schedules of the United States), produce, or manufacture.

The term "manufacture or process for commercial purposes" means to manufacturer or process (1) for distribution in commerce; (2) for use as a catalyst or an intermediate; (3) for use by the manufacturer; or (4) for test marketing purposes.

The term "mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except that such term does include any combination which occurs, in whole or in part, as a result of a chemical reaction if none of the chemical substances comprising the combination is a new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined.

The term "person" means any natural or juridical person including any individual, corporation, partnership, or association, any State or political subdivision thereof, any municipality, any interstate body and any department, agency, or instrumentality of the Federal Government.

The term "process" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce: (1) in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance or mixture; or (2) as part of an article containing the chemical substance or mixture.

II. PERSONS SUBJECT TO THE REQUIREMENT

Persons subject to Section 8(e) requirements include both natural persons and juridical persons engaged in the manufacturing, processing, or distribution in commerce of a chemical substance or mixture. In the case of corporations or other business organizations, all officers and employees of the organization are subject to the notification requirement to the extent that they are capable of appreciating pertinent information.

III. WHEN A PERSON WILL BE REGARDED AS HAVING OBTAINED INFORMATION

A person obtains information at the time: (a) the person first comes into possession of information reasonably supporting the conclusion that the chemical substance or mixture presents a substantial risk; or (b) the person knows or should know of the existence of such information not in his possession but which would be delivered to him on request.

A person has obtained information as described in (a) or (b) above as soon as he is aware that such information may suggest substantial risk—not after analyses or evaluations have been conducted to confirm or reject that risk. An establishment obtains information at the time any of its officers or employees obtains information.

IV. REQUIREMENT THAT A PERSON "IMMEDIATELY INFORM" THE ADMINISTRATOR

With the exception of information on emergency incidents of environmental contamination (see Part V(d) of this guidance) a person has "immediately informed" the Administrator if the information is received by EPA not later than the fifteenth calendar day after the date the person obtained such information. Information currently in the possession of a person who is subject to reporting

must all be reported by November 15, 1977. For emergency incidents of environmental contamination, a person shall, as soon as he has knowledge of the incident, immediately by telephone report the incident to the Administrator (see Part VIII for appropriate telephone contacts), with the report containing as much of the information required by Part VIII of this guidance as possible. A written report in accordance with Part VIII (a) through (f) is to be submitted within 15 days.

In some cases, submission of all available information may not be possible within 15 days; for example, if a large amount of information is being compiled, or if the person lacks immediate access to all information known or suspected to be pertinent. In such cases an initial notice is to be submitted within 15 days, identifying the chemical substance or mixture and describing the nature and magnitude of the potential substantial risk, the need for delay, and a schedule for submitting the completed information. This schedule is to be followed unless the Agency notifies the sender otherwise within five working days following receipt of the notice. Under no circumstances may the time, from the date on which the person first obtained information to submission of all available information, exceed 30 days. Such an extension of the reporting period does not apply to information currently in the possession of persons subject to the reporting requirement.

V. INFORMATION WHICH REASONABLY SUPPORTS A CONCLUSION OF SUBSTANTIAL RISK

Any risk should be examined to determine if reporting is required. Economic or social benefits of use, or costs of restricting use, are not to be considered in determining whether a risk is "substantial."

Information which ascribes relatively serious risk to a chemical substance or mixture, including but not limited to any of the following health and environmental effects, should be reported.

a. *Human Health Effects*

Human health effects need not be conclusively demonstrated to be caused by the chemical substance or mixture as long as evidence links the chemical substance or mixture to the effects.

(1) Any instance of cancer, gene mutations, or birth defects. Any instance of toxicity that results in death, or serious or prolonged incapacitation (other than due to gross misuse).

(2) Any pattern of effects or evidence which reasonably supports the conclusion that the chemical substance or mixture produces cancer, gene mutations, birth defects or toxic effects resulting in death, or serious or prolonged incapacitation. Consideration should be given to the extent and seriousness of the ailment, and/or whether or not the immediate manifestation may be a precursor of a more serious affliction. Impaired health requiring reporting may include such effects as dermal ailments or nausea if they meet the above criteria.

b. *Scientific Studies*

Any evidence acquired as a result of epidemiological studies, bioassay tests, in vivo or in vitro experiments or any other formal studies that (1) reasonably supports the conclusion that the chemical substance or mixture presents a substantial risk of injury to human health (as outlined above), considering both toxicity and levels and extent of exposure; or (2) reasonably supports the conclusion that the chemical substance or mixture presents a substantial risk of significant ecological damage (as outlined below).

Such evidence is not to be withheld until completion of the studies but should be reported to the Administrator as soon as it reasonably supports the conclusion of substantial risk.

c. *Environmental Effects*

Environmental effects need not be conclusively demonstrated to be caused by the chemical substance or mixture as long as evidence links the chemical substance or mixture to the effects.

1. Extreme persistence of a chemical substance not naturally occurring or occurring in greater than natural concentrations as a result of commerce.

2. Pronounced bioaccumulation, including bioaccumulation in fish beyond 50,000 times water concentration in a 30-day exposure or having a n-octanol/water partition coefficient greater than 10,000.

3. Interference with critical biogeochemical cycles, such as the nitrogen cycle. Chemical substances which are known to be toxic to key organisms in the cycles (for example, nitrifying bacteria) would present a substantial risk.

4. Excessive stimulation of primary producers (algea, macrophytes) in aquatic ecosystems, e.g., resulting in nutrient enrichment, or eutrophication, of aquatic ecosystems.

5. Any ecologically significant effects on non-human organisms due to acute or chronic toxicity such as cancer, mutation, birth-defects, or serious or prolonged incapacitation.

6. Facile transformation or degradation to a chemical having an unacceptable risk as defined above.

d. *Emergency Incidents of Environmental Contamination*

Any environmental contamination by a chemical substance or mixture to which has been ascribed any of the above adverse effects which, because of the pattern, extent and amount of contamination, critically imperils a human population or critically threatens non-human organisms with large-scale and ecologically significant population destruction.

VI. INFORMATION WHICH NEED NOT BE REPORTED

Information need not be reported if such information: (a) has been published by EPA in reports; (b) has been submitted in writing to EPA within the time constraints set forth in Part IV of this guidance, pursuant to this guidance, or pursuant to mandatory reporting reporting requirements under TSCA or any other authority administered by EPA (including the Federal Insecticide, Fungicide and Rodenticide Act, the Clean Air Act, the Federal Water Pollution Control Act, the Marine Protection, Research, and Sanctuaries Act, the Safe Drinking Water Act, and the Resource Conservation and Recovery Act), provided that the information encompasses that required by Part VIII of this guidance, including, from now on, Part VIII(b); (c) has been published in the English language, scientific literature widely available in the United States; (d) is corroborative of well-established adverse effects already documented in the published, English language, scientific literature, unless such information concerns emergency incidents of environmental contamination as described in Part V of this guidance, or (e) is contained in notification of spills under Section 311(b)(5) of the Federal Water Pollution Control Act.

VII. INFORMATION FIRST RECEIVED BY A PERSON PRIOR TO THE EFFECTIVE DATE OF TSCA

Any information obtained by a person prior to January 1, 1977, of which the person is aware after January 1, 1977, shall be reported by November 15, 1977, if the information is otherwise subject to the requirements of Section 8(e).

VIII. REPORTING REQUIREMENTS

Notices shall be delivered to the Director of the Office of Toxic Substances (WH-557), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

A notice should: (a) be sent by certified mail, or in any other way permitting verification of its receipt by the Agency; (b) state that it is being submitted in accordance with Section 8(e); (c) contain the job title, name, address, telephone number and signature of the person reporting and the name and address of the manufacturing, processing or distributing establishment with which he is associated; (d) identify the chemical substance or mixture; (e) summarize the adverse effects being reported, describing the nature and the extent of the risk involved; and (f) contain the specific source of the information together with a summary and the source of any available supporting technical data.

If all available information cannot be submitted within 15 days the initial notice shall be submitted in accordance with instructions (a) through (d) above, and, in addition: (1) describe the potential hazard insofar as possible; (2) explain the need for delay; and (3) propose a schedule, not to exceed an additional 15 days, for submitting the complete data.

For emergency incidents of environmental contamination (see Part V(d) of the Guidance), a person shall, as soon as he has knowledge of the incident, immediately by telephone report the incident to the Administrator (see below for ap-

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propriate telephone contacts), with the report containing as much of the information required by instructions (b) through (f) above as possible. A written report, in accordance with instructions (a) through (f) above, is to be submitted within 15 days.

Twenty-four hour emergency telephone numbers are:

Region III, 215-597-9898 (PA, W. VA, VA, MD, NH).
Region II, 201-548-8730 (NY, NJ, Puerto Rico, Virgin Islands).
Region III, 215-597-9898 (PA, W.VA, VA, MD, DE, DC).
Region IV, 404-881-4062 (KY, TN, NC, SC, GA, AL, MS, FL).
Region V, 312-353-6188 (WI, IL, IN, MI, OH, MN).
Region VI, 214-749-3840 (N. MX, TX, OK, AR, LA).
Region VII, 816-374-3778 (NE, IA, MO, KS).
Region VIII, 303-837-3880 (CO, UT, WY, MT, ND, SD).
Region IX, 415-556-6254 (CA, NV, AZ, HI).
Region X, 206-442-1200 (WA, OR, ID, AK).

IX. FAILURE TO REPORT INFORMATION

Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to submit information required under Section 8(e). Section 16 provides that a violation of Section 15 renders a person liable to the United States for a civil penalty and possible criminal prosecution. Pursuant to Section 17, the Government may seek judicial relief to compel submittal of Section 8(e) information and to otherwise restrain any violation of Section 8(e).

APPENDIX

QUICK REFERENCE SUMMARY FOR EMERGENCY INCIDENTS OF ENVIRONMENTAL CONTAMINATION

A. *What Should be Reported as an "Emergency Incident"*: An emergency incident of environmental contamination is "any environmental contamination by a chemical substance or mixture . . . which, because of the pattern, extent and amount of contamination, critically imperils a human population or critically threatens non-human organisms with large scale and ecologically significant population destruction." (See Part V of the Guidance for complete description.)

B. *What Need Not be Reported as an Emergency Incident*: Information contained in notification of spills under Section 311(b)(5) of the Federal Water Pollution Control Act (FWPCA). (For a complete list of exemptions to reporting, see Part VI of the Guidance.)

C. *When and Where to Report Emergency Incidents*: Emergency incidents of environmental contamination are to be reported immediately by telephone to the appropriate EPA Regional 24-hour telephone emergency line listed below.

Region I, 617-223-7265 (ME, RI, CT, VT, MA, NH).
Region II, 201-548-8730 (NY, NJ, Puerto Rico, Virgin Islands).
Region III, 215-597-9898 (PA, W.VA, VA, MD, DE, DC).
Region IV, 404-881-4062 (KY, TN, NC, SC, GA, AL, MS, FL).
Region V, 312-353-6188 (WI, IL, IN, MI, OH, MN).
Region VI, 214-749-3840 (N.MX, TX, OK, AR, LA).
Region VII, 816-374-3778 (NE, IA, MO, KS).
Region VIII, 303-837-3880 (CO, UT, WY, MT, ND, SD).
Region IX, 415-556-6254 (CA, NV, AZ, HI).
Region X, 206-442-1200 (WA, OR, ID, AK).

In addition, a written report, in accordance with instructions (a) through (f) of Part VIII of this Guidance, is to be submitted within 15 days to the Director, Office of Toxic Substances (WH-557), 401 M Street SW., Washington, D.C. 20460.

Dated: August 3, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-26284 Filed 9-8-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Negative Determination of Environmental Impact Re Iowa Electric Light and Power Company's Sutherland Generating Station, Powerplants 1, 2, and 3

Pursuant to 10 CFR 208.4, and 305.9, the FEA hereby gives notice that it has performed an analysis and review of the environmental impact of the proposed issuance of a Notice of Effectiveness for the prohibition order to Iowa Electric Light and Power Company, Sutherland Generating Station, Powerplants 1, 2, and 3.

On June 30, 1975, the FEA issued prohibition orders to the above-listed powerplants which prohibited the powerplants from burning natural gas or petroleum products as their primary energy source. The prohibition orders provided, however, that in accordance with the requirements of 10 CFR Parts 303 and 305, the orders would not become effective until either, (1) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with section 119(d)(1)(B) of the Clean Air Act, that a particular powerplant will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a compliance date extension under section 119, or (2) if no notification is given by EPA, the date that the Administrator of EPA certifies pursuant to section 119(d)(1)(B) of the Clean Air Act is the earliest date that a particular power plant will be able to comply with all applicable air pollution requirements under section 119 of the Act; and, until FEA has performed an analysis of the environmental impact of the issuance of a Notice of Effectiveness, pursuant to 10 CFR 305.9, and has served the powerplant the Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7.

The FEA has analyzed and reviewed the effect on the human environment of issuance of the Notice of Effectiveness, and has determined that issuance of a Notice of Effectiveness for the prohibition orders to the above-listed powerplants is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(e) FEA concludes that an environmnetal impact statement is not required.

Additional copies of this negative determination of environmental impact and copies of the environmental assessment upon which it is based are available upon request from the FEA National Energy Information Center, Room 1404, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the documents are also available for public review in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views, or arguments with respect to the environmental impacts of the Notice of Effectiveness and the associated negative determination and environmental assessment to Executive Communications, Box PG, Room 3317, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Negative Determination-Proposed NOE to Iowa Electric Light and Power Company's Sutherland Generating Station, Powerplants 1, 2, and 3." Fifteen copies should be submitted on or before September 29, 1977.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., on September 2, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-26337 Filed 9-8-77;8:45 am]

FLYING DIAMOND OIL CO.

Proposed Consent Order

I. INTRODUCTION.

Pursuant to 10 CFR 205.197(c), the Federal Energy Administration (FEA) hereby gives notice of a Consent Order which was executed between Flying Diamond Oil Co. (Flying Diamond) and FEA on August 3, 1977. In accordance with that Section, FEA will receive comments with respect to this Consent Order. Although this Consent Order has been signed and tentatively accepted by FEA, FEA may, after consideration of comments received, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

II. THE CONSENT ORDER

Flying Diamond is a publicly held corporation engaged in the production and sale of crude oil and is therefore subject to FEA regulations.

As a result of an audit conducted by FEA of Flying Diamond's pricing practices for the period January 1, 1974, through May 31, 1975, FEA advised Flying Diamond that Flying Diamond had apparently overcharged two purchasers of crude oil by charging prices in excess of those permitted under the Cost of Living Council price rule set forth in 6 CFR 150.354 and FEA's price rule set forth in 10 CFR 212.73. FEA contended that those overcharges resulted from Flying Diamond's improper computation of the base production control level for its properties from which crude oil was produced, with the consequence that "old" crude oil was sold as "new" and "released" crude oil.

In an effort to conclude this compliance proceeding and to resolve the issues raised by the audit results, FEA and Flying Diamond entered into a Consent Order, the significant terms of which are:

(1) Flying Diamond shall refund to its crude oil purchasers all amounts charged in excess of maximum lawful selling prices together with appropriate interest payments. FEA has computed the total overcharge (excluding interest) at $740,062.63. Refunds shall be made to Husky Oil Corp. in the form of a cash payment and to Major Oil Corp. through a special interest-bearing escrow account to be controlled by FEA.

(2) All refunds and interest payments will be made within thirty days from the effective date of this Consent Order.

(3) The provisions of 10 CFR 205.197, including the publication of this Notice, are applicable to the Consent Order.

III. SUBMISSION OF WRITTEN COMMENTS

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to: Dudley E. Faver, Regional Administrator, P.O. Box 26247—Belmar Branch, 1075 South Yukon Street, Lakewood, Colo. 80226. Copies of this Consent Order may be received free of charge by written request at this same address or by calling 303-234-2420.

Comments should be identified on the outside of the envelope and on documents submitted with the designation "Comments on Flying Diamond Consent Order." All comments received by 4:30 MDT on the 30th calendar day folowing publication of this Notice in the FEDERAL REGISTER will be considered by FEA in evaluating the Consent Order. Any information or data which, in the opinion of the person furnishing it, is confidential, must be identified as such and submitted in accordance with the procedures outlined in 10 CFR 205.9(f).

Issued in Washington, D.C., on this 2d day of September 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-26186 Filed 9-8-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER77-570]

CAROLINA POWER & LIGHT CO.

Filing of Revised Agreements

SEPTEMBER 2, 1977.

Take notice that Carolina Power & Light Co. (CP&L) on August 29, 1977, tendered for filing with the Federal Power Commission changes outlined below in its tariff filings with certain electric membership corporations and municipalities.

1. *Central EMC.*—For the Sanford Point of Delivery a correction to properly reflect the actual location of the point of delivery. For the Siler City Point of Delivery the existing 12 KV point of delivery is cancelled and a new point of delivery is established at 115 KV.

2. *Lumbee River EMC.*—Laurinburg 23 KV, Red Springs 23 KV, Rockfish 115 KV, and South Lumberton 23 KV—For these points of delivery the Agreement is amended to incorporate the supplying of metering pulse information by the Company to the Customer.

3. *Piedmont EMC.*—The Customer is extending, from the Roxboro Point of Delivery, a 115 KV line into its service area. The point of delivery is relocated approximately 100 feet and the metered voltage is changed to 115 KV.

4. *Pitt & Green EMC.*—The establishment of a new point of delivery at 115 KV, to be known as Hugo, near Structure No. 225 on the Company's Lee-New Bern 115 KV line. The initial load to be served at this point of delivery will be transferred from existing points of delivery.

5. *City of Lumberton.*—The initial filing of the Company with the Commission incorrectly stated the location of the point of delivery as being "Company pole one span from the Lumberton City 115/23 KV Substation;" whereas, the actual point of delivery is on the secondary bus of Company's Lumberton City 115/23 KV Substation.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26227 Filed 9-8-77;8:45 am]

[Docket No. CP77-588]

CITIES SERVICE GAS CO.

Application

(SEPTEMBER 2, 1977).

Take notice that on August 25, 1977, Cities Service Gas Co. (Applicant), P.O. Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP77-588 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a town border meter station on Applicant's Neodesha 8-inch transmission pipeline in Wilson County, Kans., for delivery of natural gas to the City of Neodesha for resale and distribution to consumers in and around the City of Neodesha, Kans., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is authorized to provide natural gas service to the City of Neodesha by the Commission's order issued October 6, 1958, in Docket No. G-14721 (20 FPC 460). Applicant further states that the City of Neodesha's distribution system is a low pressure system and is regulated only at existing delivery points and that pressures at the existing delivery points cannot be increased above present levels. It is indicated that the City of Neodesha has experienced difficulty in maintaining service in the northeastern section of the city during the past two winters and has requested that Applicant install an additional town border meter station to alleviate this problem.

The construction costs are estimated to be $10,140, which will be reimbursed by the City of Neodesha, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to inter-

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vene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-26228 Filed 9-8-77;8:45 am]

[Docket No. CP77-590]

FAIR ENVIRONMENTAL DEALS FOR UNITED PEOPLE v. NATIONAL FUEL GAS SUPPLY CORP. AND NATIONAL GAS STORAGE CORP.

Complaint

SEPTEMBER 2, 1977.

Take notice that on August 5, 1977, Fair Environmental Deals for United People (Complainant), Basset Road R.D. 2, Andover, N.Y. 14806, filed in Docket No. CP77-590, a complaint pursuant to Section 1.6 of the Commission's Rules of Practice and Procedure (18 CFR 1.6) praying for expedited investigation, injunctive, declaratory, and other relief, inter alia, restraining National Fuel Gas Supply Corp. (NFG) and National Gas Storage Corp. (NG) from alleged violations of the Natural Gas Act and other laws in connection with NFG's and NG's storage projects in Allegany County, NY., all as more fully set forth in the complaint which is on file with the Commission and open to public inspection.

Complainant states that on August 10, 1975, NFG and NG jointly filed in Docket No. CP76-492 an application pursuant to Section 7(c) of the Natural Gas Act for authority to construct and operate substantial facilities for underground storage of interstate gas in the West Independence Pools and Beach Hill Pools, Allegany County, N.Y.

It is said that on December 2, 1976, December 10, 1976, February 16, 1977, April 4, 1977, and May 11, 1977, NFG and NG sought temporary certificates of public convenience and necessity for authority to begin construction on the proposed underground gas storage facilities at West Independence and that in each instance the requested temporary authority was denied by orders dated November 2, 1976, February 1, 1977, May 6, 1977, and June 10, 1977.

Complainant further states that on or about May 15, 1977, in violation of the above orders, the National Environmental Policy Act, and the Natural Gas Act (15 U.S.C. 717(f)(c)), NFG and NG did begin construction on the proposed Beech Hill Storage Project and prepared the Beech Hill Compressor Station site for construction.

Accordingly, Complainant requests that the Commission:

(1) Investigate and find, pursuant to 15 U.S.C. 717m, that NFG and NG are or have been unlawfully constructing jurisdictional facilities on Beech Hill, Independence, and Willing Townships, Allegany County, State of New York, without having first secured the proper authorization from the Commission to do so, in violation of 15 U.S.C. 717f(c);

(2) Issue a Cease and Desist Order, ordering Defendants to cease and desist from continuing said violations of 15 U.S.C. 717f(c);

(3) Petition the United States District Court for the Western District of New York, pursuant to 15 U.S.C. 717s et seq. for an injunction restraining defendants from continuing said violations of 15 U.S.C. 717f(c);

(4) Transmit to the Attorney General of the United States, pursuant to 15 U.S.C. 717s(a), evidence of defendants said violations of 15 U.S.C. 717f(c) for his consideration regarding proceedings which should be instituted.

Secondly, Complainant alleges that on May 7, 1976, NFG filed in Docket No. CP76-364 an application for a temporary certificate authorizing emergency construction on 13 gas wells in the West Independence Field located in the Towns of Independence and Willing, Allegany County, N.Y., and that in its application NFG stated that "* * * immediate steps are necessary to protect residents and gas company work crews from the possibility of blow outs." Complainant further indicates that NFG stated that the proposed construction would "also be directed towards ultimate development of this pool for storage purposes."

It is alleged that after May 7, 1976, and before June 11, 1977, an unknown agent of NFG requested that the Commission dismiss the application because the Commission lacked jurisdiction over its proposed activities because the activities were unrelated to development of the West Independence pool for storage of interstate gas and were part of its "normal maintenance program." Relying on the truth of this statement, the Secretary of the Commission sent a letter to John H. Comet, President of LFG dismissing the application in CP76-364 and finding that Commission authorization is not required for the construction proposed, it is said. It is indicated that on or after July 1, 1977, LFG began the proposed construction on 13 wells, constructed access roads, cleared well sites, and commenced drilling activities without conducting environmental studies or complying with environmental guidelines of the Commission or any other Federal or State agency in conducting said construction. Consequently, Complainant alleges that NFG's activities caused injury to its individual members and to local residents including environmental damage, invasion of privacy, nuisance, loss of timber, water and other natural resources, exposure to unsafe conditions and hazards, right to quiet enjoyment of property, etc.

Accordingly, Complainant requests that the Commission:

(1) Investigate and Find, pursuant to 15 U.S.C. 717m, that defendants NFG knowingly and willfully communicated false information to the Commission for the purpose of evading Commission jurisdiction over proposed construction in Docket No. CP76-364 in violation of 18 U.S.C. 1001;

(2) Declare the Commission's letter dated June 11, 1976, to John A. Comet to have been erroneously issued, void ab initio, and of no effect;

(3) Issue a Cease and Desist Order ordering defendant NFG to cease and desist from all construction and other activity conducted pursuant to Commission's letter to John A. Comet dated June 11, 1976;

(4) Petition the United States District Court for the Western District of New York, pursuant to 15 U.S.C. 717s et seq., for an injunction restraining defendants from continuing construction and other activity conducted pursuant to Commission's letter to John A. Comet dated June 11, 1976;

(5) Transmit to the Attorney General of the United States, pursuant to 15 U.S.C. 717s(a), evidence of defendant's said violations of 18 U.S.C. 1001 for his consideration regarding proceedings which should be instituted.

Thirdly, Complainant alleges that NFG's enlarging and extending the storage capacity of the East Independence Pool beyond the 5,000,000 Mcf authorized by the Commission's order dated February 15, 1972, in Docket No. CP71-263 violated the certificate issued in said docket.

Accordingly, Complainant requests that the Commission:

(1) Investigate and find, pursuant to 15 U.S.C. 717m, that defendants are or have been unlawfully constructing jurisdictional facilities on West Independence Pool, Independence Township, Allegany County, State of New York, without having first secured proper authorization from the Commission, in violation of 15 U.S.C. 717f(c).

(2) Issue a Cease and Desist Order, ordering defendants to cease and desist from continuing said violations of 15 U.S.C. 717f(c);

(3) Petition the United States District Court for the Western District of New York, pursuant to 15 U.S.C. 717s et seq for an injunction restraining defendants from continuing said violations of 15 U.S.C. 717f(c);

(4) Transmit to the Attorney General of the United States, pursuant to 15 U.S.C. 717s(a), evidence of defendants said violations of 15 U.S.C. 717f(c) for his consideration regarding proceedings which should be instituted.

Finally, Complainant indicated that prior to January 1, 1975, NFG's maps defining the boundary of the West Independence storage reservoir showed the property of Jack Mason to be within the reservoir and showed two storage wells proposed to be constructed on the Mason property. It is stated that New York State Environmental Conservation Law provides that an underground gas storage permit will not issue until the prospective

operator "has acquired by grant, lease or other agreement at least 75 percent of the storage rights in said reservoir * * *" According to NFG's then existing maps, NFG held or controlled less than 75 percent of the storage rights in said reservoir, it is said.

Complainant alleges that subsequent to January 1, 1975, NFG did fraudulently and with intent to deceive the State of New York and United States of America falsely redraw the reservoir boundary on its maps so as to exeise the Mason property from the reservoir for the purpose of increasing the percentage of the surface acreage of the reservoir controlled by NFG to greater than 75 percent. Accordingly, Complainant requests that the Commission:

(1) Investigate and find, pursuant to 15 U.S.C. 717m, that defendants did knowingly and willfully falsify data provided to the Commission concerning the size and shape of the West Independence reservoir in violation of 18 U.S.C. 1001;

(2) Transmit to the Attorney General of the United States, pursuant to 15 U.S.C. 717s(a) and 18 U.S.C. 1001, evidence of defendant's said violations of 18 U.S.C. 1001 for his consideration regarding proceedings which should be instituted.

Any person desiring to be heard or to make any protest with reference to said complaint should on or before October 3, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26229 Filed 9-8-77;8:45 am]

[Docket Nos. G-2801, CI72-50, G-10020, and CI71-722]

GETTY OIL CO. (OPERATOR), ET AL., AND PHILLIPS PETROLEUM CO. (OPERATOR), ET AL.

Certification of Stipulation and Settlement Proposal

SEPTEMBER 2, 1977.

Take notice that on August 22, 1977, the Presiding Administrative Law Judge certified to the Commission a proposed stipulation and settlement together with the related hearing record in the above referenced proceeding. The proposed settlement relates to Phillips Petroleum Co., Docket Nos. G-10020 and CI71-722.

At a hearing convened, pursuant to the notice of the Presiding Judge issued August 18, 1977, for the purpose of receiving the proposed settlement, Phillips Petroleum Co. (Phillips) requested that the Presiding Judge certify to the Commission the settlement proposal. All parties present at the hearing, including the Commission Staff, indicated that they agreed to said settlement.

The proposed settlement relates to gas production attributable to the interest of Phillips Petroleum Co. in the Erath Field Unit, Vermilion Parish, La. Presently, Phillips delivers its Erath Field Unit interest to Columbia Gas Transmission Corp. (Columbia). Phillips had claimed, however, that Trunkline Gas Co. (Trunkline) was contractually entitled to Phillips' Erath Field Unit gas, 80% of which gas Trunkline was obligated to redeliver for Phillips' use. Under the proposed settlement Phillips would waive any right to receive a portion of such volumes for company use, and Phillips' Erath Field Unit interest would be apportioned 50% each to Columbia and Trunkline. The proposed settlement would resolve all outstanding issues relating to Docket Nos. G-10020 and CI71-722.

Any person desiring to comment on the Stipulation and Settlement Proposal should file such comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 on or before September 16, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26230 Filed 9-8-77;8:45 am]

[Docket No. ER76-555]

INTERSTATE POWER CO.

Compliance Filing

SEPTEMBER 2, 1977.

Take notice that Interstate Power Co. (Interstate), on August 25, 1977, tendered for filing revised rate schedules as First Revised Supplement No. 2 to Rate Schedule FPC Nos. 38, 40, 67, 101, 103 and 105, and First Revised Supplement No. 3 to Rate Schedule FPC No. 108. Interstate states that the effective dates of the rate schedules for the cities of Jackson, Windom, and Lakefield conform to the contract expiration dates of August 2, 1978, April 6, 1979, and March 16, 1979, and that the revised settlement rate levels to Adrian, Luverne, Westbroke and Worthington, Minn., are effective with the August billing month.

Interstate states that the filing is made pursuant to the Order Approving Settlement Agreement issued by he Commission on August 3, 1977.

Interstate states that copies of the filing were sent to each municipal customer.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before September 26, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26231 Filed 9-8-77;8:45 am]

[Docket No. ER77-573]

IOWA-ILLINOIS GAS AND ELECTRIC CO.

Filing of Facilities Agreement

SEPTEMBER 2, 1977.

Take notice that Iowa-Illinois Gas and Electric Co., Davenport, Iowa (Company) on August 29, 1977, tendered for filing a Facilities Agreement with Eastern Iowa Light and Power Cooperative, Wilton, Iowa (Eastern Iowa), dated February 15, 1977.

Relating to facilities to be rearranged or provided by Company at an estimated cost of $122,000, consisting principally of a 69-kV circuit breaker-equipped terminating bay at Company's Hills Substation near Hills, Johnson County, Iowa, the Facilities Agreement, augmenting Eastern Iowa's transmission capacity to its loads, is proposed to become effective on the in-service date of facilities, and Company seeks waiver of the notice requirements accordingly.

Company states the purpose of the proposed rates and charges are to recover reflected costs of the facilities to be provided and for associated operation and maintenance of those facilities, for transformation and associated operation and maintenance, and for transformation copper and core losses, under a variety of foreseeable circumstances, all as more fully set forth in the Agreement.

Company states copies of the filing have been mailed to Eastern Iowa and to the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26232 Filed 9-8-77;8:45 am]

[Docket No. CP70-239]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Petition To Amend

SEPTEMBER 2, 1977.

Take notice that on August 26, 1977, Kansas-Nebraska Natural Gas Co., Inc.,

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(Petitioner), P.O. Box 608, Hastings, Nebr. 68901, filed in Docket No. CP70-239 a petition to amend the Commission's order of July 22, 1970 (44 FPC 149), as amended by orders issued June 30, 1972 (47 FPC 1747), and May 9, 1977 (57 FPC ____) in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to authorize Petitioner to deliver gas to Cities Service Gas Co. (Cities Service) at an existing exchange point which has been used only as a point for receipt of gas from Cities Service to Petitioner, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner says that by its order of July 22, 1970, in Docket No. CP70-258 (44 FPC 149), the Commission authorized Cities Service to exchange up to 150,000 Mcf of natural gas per day with Petitioner pursuant to an exchange agreement dated March 27, 1970. Under the terms of the exchange agreement, says Petitioner, Cities Service delivers gas to Petitioner at the discharge of Cities Service's Hugoton Compressor station in Grant County, Kans.; and Petitioner delivers equivalent volumes to Cities Service at the Haven Exchange Point on Cities Service's Hugoton-Kansas City pipeline near the town of Haven in Reno County, Kans.

By amendments on February 4, 1972, July 26, 1973, and April 13, 1976, the exchange agreement was amended to provide for additional points of delivery from Cities Service to Applicant at the Copeland Exchange Point in Haskell County, Kans., the Unruh Exchange Point in Edwards County, Kans., and the Deerfield Exchange Point in Kearny County, Kans., respectively. On May 28, 1975, an order was issued in Docket No. CP74-23 authorizing Applicant to receive gas from Cities at these delivery points.

Petitioner says that on June 30, 1977, the exchange agreement was further amended to provide that the enlisting exchange point at Cities Service's Hugoton Compressor Station may be used for either the delivery or receipt of gas by either party. Accordingly, Petitioner now proposes to deliver gas which it receives from Cities Service at the Deerfield exchange point back to Cities Service at the Hugoton Compressor Station. Petitioner states that it can deliver gas to Cities Service at the Hugoton Station without the addition of any facilities and without significant changes in the operation of its pipeline system.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26233 Filed 9-8-77;8:45 am]

[Docket No. ER77-572]

KANSAS POWER AND LIGHT CO.

Proposed Changes in Rates and Charges

SEPTEMBER 2, 1977.

Take notice that on August 29, 1977, The Kansas Power and Light Co. (Kansas) tendered for filing a newly executed contract dated July 28, 1977, with the City of Osage City, Kans. for wholesale electric service to that community. The proposed effective date is not later than July 1, 1978. Kansas states that copies of the contract have been mailed to the City of Osage City and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.-10). All such petitions or protests should be filed on or before September 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26234 Filed 9-8-77;8:45 am]

[Docket No. ER77-569]

MONTANA LIGHT AND POWER CO.

Filing of Rate Schedule

SEPTEMBER 2, 1977.

Take notice that Montana Light and Power Co. (ML&P) on August 24, 1977, tendered for filing ML&P Rate Schedule FPC No. 2, consisting of an agreement dated May 1, 1977, between ML&P and Pacific Power & Light Co. (PP&L). ML&P states that this rate schedule is filed in compliance with the Commission's Order Approving Settlement issued July 25, 1977, in Docket No. ER77-43.

ML&P indicates that the agreement sets forth the basis for the pricing of energy sold by ML&P to PP&L.

ML&P requests waiver of the Commission's notice requirements to allow said rate schedule to become effective as of May 1, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26235 Filed 9-8-77;8:45 am]

[Docket No. ER77-43]

MONTANA LIGHT AND POWER CO.

Compliance Filing

SEPTEMBER 2, 1977.

Take notice that Montana Light & Power Co. (ML&P) on August 24, 1977, tendered for filing ML&P Rate Schedule FPC No. 2, consisting of an agreement dated May 1, 1977, between ML&P and Pacific Power & Light Co. (PP&L), and a letter dated April 22, 1977, from PP&L to ML&P. ML&P states that this rate schedule is filed in compliance with the Commission's Order Approving Settlement issued on July 25, 1977, in the above-named docket.

ML&P indicates that the agreement sets forth the basis for the pricing of energy sold by ML&P to PP&L. PP&L states in its letter of April 22, 1977, in view of current water conditions in the Pacific Northwest, beginning May 1, 1977, and until further notice, PP&L will purchase all electric energy that may flow or be delivered into PP&L's system from ML&P, at the Tibby point of delivery, at a rate of 10 miles per kilowatt-hour.

Any person desiring to be heard or to protest said filing should file a petition to protest with the Federal Power Commission, 825 North Capitol Street NW., Washington, D.C., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 16, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26236 Filed 9-8-77;8:45 am]

[Docket No. CP76-247]

NORTHERN NATURAL GAS CO. AND PANHANDLE EASTERN PIPE LINE CO.

Petition To Amend

SEPTEMBER 2, 1977.

Take notice that on August 25, 1977, Northern Natural Gas Co. (Northern), 2223 Dodge Street, Omaha, Nebr. 68102, and Panhandle Eastern Pipe Line Co. (Panhandle), P.O. Box 1642, Houston, Tex. 77001, (Petitioners) filed in Docket No. CP76-247 a petition to amend the Commission's order issued August 9, 1976 (56 FPC ____), as amended on January 11, 1977 (57 FPC ____), and June 10, 1977 (57 FPC ____), pursuant to section 7(c) of the Natural Gas Act in the instant docket to authorize Petitioners to add and delete wells to the exchange of natural gas as required from time to time in the Anadarko Area, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that by the Commission's order of August 9, 1976, they are authorized to transport and exchange gas on volume-for-volume basis in accordance with two Gas Exchange Agreements dated August 11, 1957. It is stated that said order was amended on June 10, 1977, by adding two wells on Northern's system and on January 11, 1977, by adding two wells on Panhandle's system.

Petitioners assert that the purpose of this exchange is to enable them to receive into their respective pipeline systems for general system use, by displacement, gas that has been committed by producers from properties which would not otherwise be feasible or economical to connect the existing system of the Petitioner to which the gas is committed. Petitioners state that the grant of the certificate authorizaion requested would materially assist Petitioners in being able to assure producers in the area of prompt connection of wells while at the same time avoiding delay incident to the filing and processing of individual applications for each addition or deletion.

Petitioners indicate that they would install jurisdictional facilities required to connect such exchange wells to their systems pursuant to their respective budget-type certificates for gas-purchase facilities, which, they state, specifically include authorization to construct and operate such facilities and to deliver gas in the implementation of authorized exchange arrangements with other pipelines.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26237 Filed 9-8-77;8:45 am]

[Docket No. ER77-530]

OHIO EDISON CO.

Order Accepting for Filing and Suspending Proposed Increased Rates, Granting Intervention, Providing for a Hearing and Establishing Procedures

AUGUST 31, 1977.

On July 29, 1977, Ohio Edison Co. (Ohio) submitted for filing a proposed rate increase of $8,010,000 (35.9 percent) for the 12-month period succeeding the proposed effective date of September 1, 1977. The proposed increase is applicable to the customers itemized on Attachment A.[1]

The Company's case-in-chief is based on a test period consisting of the 12 months ended June 30, 1978. Attachment B is a copy of the Company's Statement N for this period which indicates that with the proposed rate increase, revenues will substantially equal the cost of service at the claimed rate of return of 10.4 percent on equity.

Notice of Ohio's filing was issued on August 9, 1977, with comments, protests, or petitions to intervene due on or before August 19, 1977.

On August 19, 1977, a joint petition to intervene and motion to reject the proposed rates was filed by the Cities of Amherst, Beach City, Brewster, Colombiana, Cuyahoga Falls, Galion, Grafton, Hubbard, Hudson, Lodi, Lucas, Milan, Monroeville, Newton Falls, Niles, Oberlin, Prospect, Seville, South Vienna, Wadsworth, and Wellington, Ohio (Ohio Cities). Alternatively, Ohio Cities request that the Commission suspend Ohio's rates for five months.

Ohio Cities state that Ohio's filing with a requested effective date of September 1, 1977, violates a moratorium agreed to by the parties in the Settlement Agreement in Docket Nos. E-9497, et al., as approved by Commission order issued July 6, 1977. They maintain that the terms of the Agreement foreclose Ohio from seeking any increase in its wholesale rates if such increase is effective prior to November 16, 1977.

Ohio Cities argue that the filing should be rejected because (1) it was tendered for filing on July 29, 1977, more than 90 days prior to the date when Ohio could first have the rates become effective under the terms of the Docket No. E-9497, et al. Settlement and is thus contrary to Section 35.3(a) of the Commission's Regulations; and (2) Ohio's Period I Exhibit fails to comply with the seven month requirement of Section 35.13(b)(4)(iii) of the Commission's Regulations to the extent that August 16, 1977, is the first date on which Ohio's filing could have lawfully been submitted, and the last day of Ohio's Period I (December 31, 1976) is more than seven months prior to that date.

On August 29, 1977, Ohio filed an Answer to the Cities' Petition For Leave to Intervene, Motion to Reject Rate Filing, and Complaint And Request For Suspension of Rate Schedules and Hearing.

The Commission does not agree with Ohio Cities' contention that Ohio's proposed rate increase should be rejected because the proposed effective date violates the terms of the above-mentioned settlement agreement. The agreement only indicated when a rate increase could first become effective, not when a filing could be made or what cost support should be utilized. Although Ohio requested an effective date of September 1, 1977, it acknowledges that the agreement precludes an increase from becoming effective prior to November 16, 1977. Consequently, it requested suspension of the filing at least until that date.

Alternatively, good cause would exist to waive the 90-day filing requirement of section 35.3(a) of the Regulations. Otherwise, Ohio would be obligated to resubmit a cost of service study containing a Period I ending no earlier than January 16, 1977, only 16 days after December 31, 1976, the termination date of the Period I study submitted by Ohio. We do not believe that the difference of 16 days warrants the expense that would be incurred by Ohio in revising its study.

The proposed increase in rates and charges tendered by Ohio on July 29, 1977, have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful.

The Commission will therefore accept Ohio's rates for filing, suspend them from operation for four months, until January 1, 1978, when they will become effective subject to refund and establish hearing procedures.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the Commission order a hearing concerning the lawfulness of the proposed increased rates tendered by Ohio on July 29, 1977, establishing procedures for that hearing, and that the proposed increased rates and charges be accepted for filing, suspended, and the use thereof deferred, all as hereinafter provided.

(2) Participation of Ohio Cities in this proceeding may be in the public interest.

The Commission orders: (A) Pursuant to the Federal Power Act, particularly Sections 205, 206, 301, 307, 308, and 309 thereof, the Commission's rules and regulations, a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Ohio in this proceeding.

(B) Pending such hearing and decision thereon, the proposed increased rates filed by Ohio are hereby accepted for filing and suspended for 4 months, until January 1, 1978, when they shall become effective subject to refund.

(C) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before January 16, 1978. (See Administrative Order No. 157).

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR § 3.5(d)) shall convene a settlement con-

[1] Attachment A contains the designations and descriptions.

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ference in this proceeding on a date certain within 10 days after the service of top sheets by the Staff, in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the rules of practice and procedure.

(E) Ohio Cities are hereby permitted to intervene in this proceeding subject to the Commission's rules and regulations: *Provided, however,* that participation of such intervenors shall be limited to the matters affecting asserted rights and interests specifically set forth in the petition to intervene; and *Provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any orders issued in this proceeding.

By the Commission.

KENNETH F. PLUMB,
Secretary.

FILED: JULY 29, 1977

Designation	Other Party
(1) Supplement No. 2 to Rate Schedule FPC No. 142 (Supersedes Supplement No. 1).	Amherst
(2) Supplement No. 2 to Rate Schedule FPC No. 123 (Supersedes Supplement No. 1).	Beach City.
(3) Supplement No. 2 to Rate Schedule FPC No. 124 (Supersedes Supplement No. 1).	Brewster.
(4) Supplement No. 2 to Rate Schedule FPC No. 125 (Supersedes Supplement No. 1).	Columbiana.
(5) Supplement No. 2 to Rate Schedule FPC No. 126 (Supersedes Supplement No. 1).	Cuyahoga Falls.
(6) Supplement No. 2 to Rate Schedule FPC No. 127 (Supersedes Supplement No. 1).	Galion.
(7) Supplement No. 2 to Rate Schedule FPC No. 128 (Supersedes Supplement No. 1).	Grafton.
(8) Supplement No. 2 to Rate Schedule FPC No. 129 (Supersedes Supplement No. 1).	Hubbard.
(9) Supplement No. 2 to Rate Schedule FPC No. 130 (Supersedes Supplement No. 1).	Monroeville.
(10) Supplement No. 2 to Rate Schedule FPC No. 131 (Supersedes Supplement No. 1).	Hudson.
(11) Supplement No. 2 to Rate Schedule FPC No. 132 (Supersedes Supplement No. 1).	Lodi.
(12) Supplement No. 2 to Rate Schedule FPC No. 133 (Supersedes Supplement No. 1).	Lucas.
(13) Supplement No. 2 to Rate Schedule FPC No. 134 (Supersedes Supplement No. 1).	Milan.
(14) Supplement No. 2 to Rate Schedule FPC No. 135 (Supersedes Supplement No. 1).	Prospect.
(16) Supplement No. 2 to Rate Schedule FPC No. 136 (Supersedes Supplement No. 1).	Seville.
(16) Supplement No. 2 to Rate Schedule FPC No. 137 (Supersedes Supplement No. 1).	South Vienna.
(17) Supplement No. 2 to Rate Schedule FPC No. 138 (Supersedes Supplement No. 1).	Wadsworth.
(18) Supplement No. 2 to Rate Schedule FPC No. 139 (Supersedes Supplement No. 1).	Wellington.
(19) Supplement No. 3 to Rate Schedule FPC No. 140 (Supersedes Supplement No. 2).	Oberlin.
(20) Supplement No. 3 to Rate Schedule FPC No. 141 (Supersedes Supplement No. 2).	Niles.
(21) Supplement No. 3 to Rate Schedule FPC No. 122 (Supersedes Supplement Nos. 1 & 2).	Newton Falls.

Each of the above designated rate schedule supplements is Ohio Edison's rate for Municipal Resale Service—Transmission Voltage.

ATTACHMENT B.—*Statement N, Ohio Edison Co. municipal resale service; comparison of cost of service with revenues under the proposed rates, twelve months ending June 30, 1978*

Class of service	Cost of service (statement M, sec. 1)	Revenue under proposed rates (statement N, page 2)
(1)	(2)	(3)
Transmission	$29,606,700	$29,606,000
Primary	399,500	399,500
Total	30,006,200	30,005,000

[FR Doc.77-26181 Filed 9-8-77;8:45 am]

[Docket No. ES77-57]

OKLAHOMA GAS AND ELECTRIC CO.

Application

SEPTEMBER 2, 1977.

Take notice that on August 26, 1977, Oklahoma Gas and Electric Co. (Applicant), filed an application pursuant to section 204 of the Federal Power Act seeking an order authorizing the issuance of unsecured Promissory Notes to commercial banks and to commercial paper dealers in amounts not exceeding in the aggregate $125,000,000 outstanding at any one time.

The Promissory Notes to be issued by the Applicant to commercial banks will be issued on various days during the period ending December 31, 1979, but no Note will mature more than twelve months after date of issue or renewal. The interest rate of such Notes will be at the prime loan interest rate of the banks in effect from time to time.

The Promissory Notes issued to commercial paper dealers will be issued on various days during the period ending December 31, 1979, but no Note will mature more than nine months after date of issue nor will any Note be extended or renewed. The interest rate on such Notes will be dependent upon the term of the Notes and the money market conditions at the time of issuance.

According to the application, the aggregate amount of commercial paper to be outstanding at any one time will not exceed the sum of (1) the dollar amount of Applicant's receivables arising out of the sale of electric service and (2) the dollar amount of depreciation and amortization charges on plant and equipment for the preceding year.

Applicant states that the proceeds from the issuance of the Notes will be added to the general funds of the Applicant, which general funds will be used, among other things, to finance in part the Applicant's 1978 and 1979 construction program. Applicant estimates that construction expenditures for the year ending December 31, 1978 will total about $184,000,000 and for the year ending December 31, 1979 will total about $177,000,000.

Any person desiring to be heard or to make any protest with reference to said application should, on or before September 16, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). The application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26238 Filed 9-8-77;8:45 am]

[Docket No. CP77-580]

SEA ROBIN PIPELINE CO.

Pipeline Application

SEPTEMBER 2, 1977.

Take notice that on August 22, 1977, Sea Robin Pipeline (Sea Robin), filed an application for a certificate of public convenience and necessity in Docket No. CP77-580, pursuant to section 7(c) of the Natural Gas Act, requesting authorization to acquire, through assignment of lease, all rights and interests in a 1,200-horsepower compressor facility and related equipment at Block 222 Ship Shoal Area, Offshore Louisiana. Furthermore, Sea Robin requests permission to reimburse the Operator of the subject block, Southern Natural Gas Exploration and Production Division (Southern E & P), for all expenses incurred in the transportation, installation, operation, maintenance and rental of such compressor and related equipment.

Sea Robin states that it purchases gas from Southern E & P, The Offshore Co., Chater Exploration & Production Co., Pennzoil Producing Co., Oxy Petroleum Inc., Amoco Production Co. and Dixilyn Corp. at Block 222, Ship Shoal Area. Sea Robin further states that in order to increase production and to recover additional reserves it will be necessary to install compression at the Block 22 location. Both the subsequent accelerated production and enhanced recovery of volumes to be realized by such compression are vital to Sea Robin's continued efforts to not only take all available steps toward assuring the continued availability of its current gas supply but also to strive toward expediting the flow of gas volumes whenever possible, all as more fully described in the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 26, 1977, should file with the Federal Power Commission, Wshington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed wth the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if not petition to intervene is filed within the time required herein, if the Commission on it own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26239 Filed 9-8-77;8:45 am]

[Docket No. CP77-589]

UNITED GAS PIPE LINE CO.

Application

SEPTEMBER 2, 1977.

Take notice that on August 25, 1977, United Gas Pipe Line Co. (Applicant), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP77-589 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of tap facilities and the transportation of natural gas in interstate commerce all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport natural gas for Mid-Louisiana Gas Co. (Mid-La) in accordance with the terms and agreement between Applicant and Mid-La dated July 15, 1977. According to Applicant, the agreement provides that Mid-La will deliver to Applicant up to 2,500 Mcf per day of gas for transportation. The gas is proposed to be delivered at one or more taps to be installed by Applicant at Mid-La's expense at a point on United's 18-inch Baton Rouge-New Orleans line in Section 67, T. 11 S., R. 5 E., St. James Parish, La. Under the terms of the agreement, Applicant states, it will redeliver an equivalent volume to Mid-La, less one and one-half percent or such greater percentage as may be determined on a yearly basis as a charge for fuel and gas used by the company. Redelivery is proposed to be at the existing authorized point of interconnection between Applicant's system and Mid-La's system at Scotland, East Baton Rouge Parish, La., or at other mutually agreeable existing authorized points of interconnection between the two systems.

Applicant states that the term of the agreement is five years beginning on the date deliveries of gas commence thereunder. The agreement will continue from year to year thereafter until cancelled by either party on proper notice. Mid-La, it is said, has agreed to pay Applicant for all gas transported an amount equal to Applicant's average jurisdictional transmission cost of service in effect from time to time in Applicant's Southern or Northern Rate Zone, as applicable, less any amount attributable to gas consumed in the operation of Applicant's pipeline system. Applicant says that its current average jurisdictional transmission cost of service, excluding a component for gas consumed in the operation of its pipeline system, is 17.92 cents per Mcf in its Southern Rate Zone and 20.04 cents per Mcf in its Northern Rate Zone. The Northern Rate Zone rate will apply if the redelivery point is located in the Northern Rate Zone; otherwise the Southern Rate Zone rate will apply.

Applicant estimates that the cost of the proposed tap will be $950. It is said that no new financing will be required.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26240 Filed 9-8-77;8:45 am]

FEDERAL RESERVE SYSTEM

FIRST NATIONAL FAIRBURY CORP.

Formation of Bank Holding Company

First National Fairbury Corporation, Lincoln, Nebraska, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Fairbury, Fairbury, Nebraska. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 30, 1977.

Board of Governors of the Federal Reserve System, September 1, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26301 Filed 9-8-77;8:45 am]

FIRST SECURITY NATIONAL CORP.

Order Approving Acquisition of FSN Life Insurance Company

First Security National Corporation, Beaumont, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under § 4(c)(8) of the Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), to acquire FSN Life Insurance Company, Beaumont, Texas ("Company"), a company that will engage de novo in the activity of underwriting, directly and as reinsurer, credit life and credit accident and health insurance that is directly related to extensions of credit by Applicant's subsidiary banks. Such activity has been

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determined by the Board to be closely related to banking (12 CFR § 225.4(a)(10)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (42 FR 33065 (1977)). The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those of Dial M. Dunkin, Harlingen, Texas ("Protestant"), in the light of the public interest factors set forth in § 4(c)(8) of the Act (12 U.S.C. § 1843(c)(8)).

Applicant, the 16th largest banking organization in Texas, controls ten subsidiary banks with combined total deposits of $325.8 million,[1] representing 0.6 percent of the total deposits in commercial banks in the State. Applicant also controls one nonbanking subsidiary, a mortgage lender, that is dormant and funding no new loans.

Company is chartered under the laws of Texas and will engage in the activity of underwriting, directly and as reinsurer, credit life and credit accident and health insurance sold in connection with extensions of credit by Applicant's subsidiary banks.[2] Inasmuch as the subject proposal involves engaging in this activity de novo, consummation of this transaction would not have any significant adverse effects upon existing or potential competition in any relevant market.

Credit life and credit accident and health insurance is generally made available by banks and other lenders and is designed to assure repayment of a loan in the event of death or disability of the borrower. In connection with its addition of the underwriting of such insurance to the list of permissible activities for bank holding companies, the Board stated:

To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally, such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service. (12 CFR § 225.4(a)(10), fn. 7).

Applicant proposes to offer, through Company, various credit life and credit accident and health insurance coverages to its customers at rates ranging from 3.4 to 3.8 percent below the approved and prima facie rates established in Texas.[3] In addition, upon consummation of the subject proposal, Company will retain the option of reinsuring any credit-related policies written by Allied for Applicant's customers since August 1, 1976. If such insurance is ceded, Applicant has committed to rebate to such in-force policy holders the differences between the rates originally paid and the rates that would have been paid if such policies had been written by Company at the proposed reduced rates, thus assuring that all policy holders insured by Company will receive the benefits of the proposed reduced rates. Based upon these factors and other facts of record,[4] the Board concludes that the subject proposal is in the public interest.

Protestant contends that the interim agreement[5] entered into between Applicant and Allied that requires Allied to cede to and reinsure with Company all credit life and credit accident and health insurance originated by Applicant between the effective date of the agreement, August 1, 1976, and the date of approval of this application, would violate the prior approval provisions of § 4(c)(8) of the Act in that Company would, in effect, be engaging in the activity for which it is now seeking Board approval prior to securing such approval. It is the Board's view, however, that the agreement between Applicant and Allied does not violate the Act. The activity for which Applicant and Company seek approval, as set forth at 12 CFR § 225.4(a)(10), is "acting as underwriter for credit life insurance and credit accident and health insurance which is directly related to extensions of credit by the bank holding company system." If such approval is given, Company will be allowed to begin such underwriting activities. The insurance business ceded to or reinsured with Company will have been underwritten by Allied, not by Company. Inasmuch as Applicant is not engaging in the activity of underwriting, the Board concludes that it does not require prior Board approval to enter into the existing agreement with Allied. The Board also notes that if this application is approved, those customers purchasing insurance underwritten by Allied pursuant to the agreement with Company will receive a rebate from Company based upon the difference between the rate charged by Allied and the proposed lower rate to be charged by Company. Therefore, it is concluded, based on the foregoing, that the agreement does not cause Applicant to engage in any activities requiring prior Board approval.

Based upon the foregoing and other considerations reflected in the record, including a commitment by Applicant to maintain on a continuing basis the public benefits which the Board has found to be reasonably expected to result from this proposal and upon which the approval of this proposal is based, the Board has determined that the balance of the public interest factors the Board is required to consider under § 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

This transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[6] effective September 1, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26302 Filed 9-8-77;8:45 am]

[1] Unless otherwise indicated, all banking data are as of December 31, 1976.

[2] Following the decision to file for permission to enter the credit life and credit accident and health insurance business, Applicant entered into an agreement, effective August 1, 1976, with Allied Bankers Life Insurance Company ("Allied"), Dallas, Texas, which provides that Allied will underwrite all credit life and credit accident and health insurance submitted by Applicant or its subsidiaries. When Applicant acquires Company, Allied agrees to cede to and reinsure with Company all insurance business originated by Applicant or its subsidiaries. If this application were denied, Allied would continue as the underwriter of credit-related insurance for customers of Applicant's subsidiaries.

[3] *Prima facie* rates are the maximum rates allowed by the state for particular types of insurance coverage. Where no *prima facie* rate exists for a particular type of coverage, the insurance company may apply to the State insurance department for approval of a proposed rate.

[4] Upon consummation, Company will enter into a service agreement with Jim Stewart and Associates ("Stewart"), Dallas, Texas, which will provide technical assistance in the management of Company. This will enable Applicant to minimize the burden of extensive training and staffing requirements. In exchange for such technical assistance, Company will pay Stewart a fee equal to 6 percent of the net premiums written by Company.

[5] See footnote 2.

[6] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns.

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPR 29]

FEDERAL PROCUREMENT

Current Interest Rate of 7⅞ Percent Pursuant to Public Law 92-41

1. *Purpose.* This bulletin provides, for the information of executive agencies, the current interest rate established by the Secretary of the Treasury pursuant to Pub. L. 92-41 (50 U.S.C. App. 1215(b)(2)) for the Renegotiation Board.

2. *Expiration date.* This bulletin expires January 1, 1978, unless sooner revised or superseded.

3. *Background.* Pub. L. 92-41 provides that the Secretary of the Treasury shall set the interest rate to be paid by contractors on excessive profits as determined by the Renegotiation Board. Various provisions of the FPR require contractors to pay interest on amounts owed the Government at the rate established by the Secretary of the Treasury pursuant to Pub. L. 92-41. The FPR also provides that the same rate of interest shall be paid by the Government when a contractor's claim is decided in his favor under the Disputes clause.

4. *Agency information.* The Secretary of the Treasury has established an interest rate of 7⅞ percent as applicable to the 6-month period beginning on July 1, 1977, and ending on December 31, 1977. The following sections of the Federal Procurement Regulations are affected by the interest rate:

(Sections 1-1.322, 1-7.203-15, 1-8.212-1(f), 1-8.701(j), 1-8.702(j), 1-8.703(j), 1-8.704-1(f), 1-8.706(h), 1-8.804-2(b), 1-8.806-4 (article 6, paragraph (e)), 1-30.403, 1-30.414-2(k)(2), and 1-30.414-2(n)(3).)

Dated: August 25, 1977.

ROBERT P. GRAHAM,
Commissioner, Federal Supply Service.

[FR Doc.77-26191 Filed 9-8-77;8:45 am]

QUARTERLY REPORT ON ENVIRONMENTAL ACTIONS

March 1, 1977, Through May 31, 1977

Pursuant to the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.), and section 1500.6(e) of the Council on Environmental Quality Guidelines for the Preparation of Environmental Impact Statements (38 FR 20550) the following is a list of administrative actions for which environmental impact statements were under preparation by the General Services Administration from March 1, 1977, through May 31, 1977, and a list of administrative actions for which environmental impact statements are planned in the future. Also listed are actions for which environmental assessments were completed with negative declarations.

Dated: August 29, 1977.

JAMES B. SHEA, JR.,
Commissioner,
Public Buildings Service.

ENVIRONMENTAL IMPACT STATEMENTS/NEGATIVE DECLARATIONS

REGION 1

A. EIS' in preparation:
Ft. Kent, Maine.—Preliminary draft EIS for construction of a new Border Station.
Springfield, Mass.—Draft EIS for construction of a new Courthouse-Federal Office Building and Parking Facility.
Providence, R.I.—Preliminary draft EIS for construction of a Federal Office Building and the repair and alteration of the existing Federal Building-U.S. Courthouse.
B. EIS's planned: Boston, Mass.—Preliminary draft EIS for lease construction of a new Veterans Administration Clinic Building.
C. Environmental assessments completed with negative declarations: None.

REGION 2

A. EIS' in preparation:
New York, N.Y.—201 Varick Street—Draft EIS for repair and alteration project to include a detention facility for illegal aliens.
Otisville, N.Y.—Supplement to final EIS on Federal Correctional Institution.
B. EIS' planned: None.
C. Environmental assessments completed with negative declarations: None.

REGION 3

A. EIS' in preparation:
Suitland, Md.—Draft EIS for the Suitland Federal Center Master Plan—Southern Portion including Smithsonian Institution Museum Support Center.
Washington, D.C.—Draft EIS for the repair and alteration of the Old Post Office (12th and Pennsylvania Avenue NW.).
Washington, D.C.—Draft EIS for new construction—Pennsylvania Avenue Annex (extension to the New Post Office) between 12th and 14th Street, along Pennsylvania Avenue NW.
Washington, D.C.—Draft EIS for the West Heating Plant, 29th and K Streets NW., modification to boilers and ancillary equipment (repair and alteration).
B. EIS' planned: None.
C. Environmental assessments completed with negative declarations: None.

REGION 4

A. EIS' in preparation: Savannah, Ga.—Draft EIS for new construction of a Federal Office Building and Parking Facility.
B. EIS' planned: Knoxville, Tenn.—Draft EIS for new construction of a Federal Building.
C. Environmental assessment completed with negative declarations:
Tallahassee, Fla.—Repair and Alteration of U.S. Post Office and Courthouse Conversion.
Miami, Fla.—Repair and Alteration of U.S. Post Office and Courthouse Conversion.
Atlanta, Ga.—Repair and Alteration of U.S. Courthouse Conversion.
Plains, Ga.—Presidential Compound (Security Improvements).

REGION 5

A. EIS's in preparation:
East St. Louis, Ill.—Final EIS for construction of a Federal Building and Courthouse.
Detroit, Mich.—Draft EIS for acquisition, repair, and alteration of a Secondary Truck Inspection Facility for the U.S. Customs Service.
B. EIS' planned: Detroit, Mich.—Draft EIS for the U.S. Federal Courthouse Annex (new construction for the Bureau of Prisons).
C. Environmental assessments completed with negative declarations: None.

REGION 6

A. EIS' in preparation: Omaha, Neb.—Draft EIS for construction of a Federal Office Building and Vehicle Maintenance Facility.
B. EIS' planned: None.
C. Environmental assessments completed with negative declarations: None.

REGION 7

A. EIS's in preparation:
Santa Fe, N. Mex.—Draft EIS for construction of the National Park Service Building.
El Paso, Tex.—Draft EIS for construction of Federal Building and Parking Facility and the repair and alteration of Courthouse Federal Building Conversion.
Dallas, Tex.—Final EIS for repair and alteration of the Federal Building at 1114 Commerce Street.
B. EIS's planned:
Anapra, N. Mex.—Draft EIS for construction of a Border Station.
San Antonio, Tex.—Master Plan of Federal Center.
Corpus Christi, Tex.—Draft EIS for Federal construction of a Courthouse.
Tulsa, Okla.—Draft EIS for repair and alteration of Federal Building—Parking Facility.
C. Environmental assessment completed with negative declaration: None.

REGION 8

A. EIS' in preparation: Salt Lake City, Utah—Final EIS for construction of the Bureau of Mines Metallurgy Research Center.
B. EIS' planned: None.
C. Environmental assessments completed with negative declaration: None.

REGION 9

A. EIS' in preparation:
Los Angeles, Calif.—Draft EIS for construction of a Parking Facility.
West Los Angeles, Calif.—Draft EIS for construction of a Federal Bureau of Investigation—Parking Facility.
B. EIS' planned:
San Jose, Calif.—Draft EIS for construction of a Federal Building and Parking Facility.
San Francisco, Calif.—Draft EIS for construction of a Federal Building.
Menlo Park, Calif.—Draft EIS for U.S. Geological Survey.
C. Environmental assessments completed with negative declarations: None.

REGION 10

A. EIS' in preparation: None.
B. EIS' planned: None.
C. Environmental assessments completed with negative declarations: None.

[FR Doc.77-26299 Filed 9-8-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of October 1977:

SOCIAL WORK EDUCATION REVIEW COMMITTEE

Date and time: October 11, 9 a.m.
Place: Conference Room A, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.
Type of meeting: Open meeting.
Contact: Dr. Milton Wittman, Parklawn Building, Room 8C-26, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4187).
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to social work education and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: from 9 a.m. to 4 p.m., on October 11, the meeting will be open for administrative announcements and discussion of review criteria in the light of new program initiatives and priorities of the Institute.

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DRUG ABUSE RESEARCH REVIEW COMMITTEE

Date and time: October 25–28; 9 a.m.
Place: Conference Rooms M, J, and I, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.
Type of meeting: Open—October 25, 9–9:30 a.m. Closed—Otherwise.
Contact: Mrs. Lucy Stevens, Rockwall Building, Room 750, 11400 Rockville Pike, Rockville, Md. 20852.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to research activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.
Agenda: From 9 a.m. to 9:30 a.m., October 25, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact persons listed above. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. Edwin Long, Deputy Director, Division of Scientific and Public Information, NIMH, Parklawn Building, Room 15–105, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3600). The NIDA Information Officer who will furnish summaries of the meeting and a roster of the committee membership on request is Mr. Kenneth Howard, Director, Office of Communications and Public Affairs, Rockwall Building, Room 110, 11400 Rockville Pike, Rockville, Md. 20852 (301–443–6500).

Dated: September 2, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc 77-26219 Filed 9-8-77;8:45 am]

ADVISORY COMMITTEES

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of October 1977:

NATIONAL ADVISORY COUNCIL ON DRUG ABUSE

Date and time: October 3–4; 9:30 a.m.
Place: Conference Room 873, Rockwall Building, 11400 Rockville Pike, Rockville, Md. 20852.
Type of meeting: Closed—9:30 a.m.–noon, October 3. Open—Otherwise.
Contact: Ms. Pamela Thurber, Room 844, Rockwall Building, 11400 Rockville Pike, Rockville, Md. 20852. (301–443–6618).
Purpose: The National Advisory Council on Drug Abuse advises and makes recommendations to the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute on Drug Abuse, on the development of new initiatives and priorities and the efficient administration of drug abuse research, training, demonstration, prevention, and community services programs. The Council also gives advice on policies and priorities for drug abuse grants and contracts and reviews and makes recommendations on grant applications.
Agenda: From 9:30 a.m. to 12 noon, October 3, the meeting will be closed for final review of grant applications for Federal assistance in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

The remainder of the meeting from 1 p.m., on October 3 until 5 p.m., on October 4 will be open to the public for a discussion of issues in the field of drug abuse, orientation to the programs of the Institute, development of priorities for action by the Council, and administrative announcements.

Agenda items are subject to change as priorities dictate.

Substantive information, summaries of the meeting and rosters of the Council members can be obtained from contact person listed above.

Dated: September 2, 1977.

CAROLYN T. EVANS,
Committee Management Officer Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-26220 Filed 9-8-77;8:45 am]

Health Resources Administration

TASK FORCE ON COST-SHARING OF THE COOPERATIVE HEALTH STATISTICS ADVISORY COMMITTEE

Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory body scheduled to assemble during the month of September 1977:

TASK FORCE ON COST-SHARING OF THE COOPERATIVE HEALTH STATISTICS ADVISORY COMMITTEE

Date and Time: September 26–27, 1977, 12 Noon.
Place: Conference Room 1–25, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782.
Type of meeting: Open the entire meeting.
Purpose: The Cooperative Health Statistics Advisory Committee felt that one of the key issues that should be explored and developed by a Task Force was the matter of cost-sharing as it relates to the Cooperative System. As the funding of the Cooperative Health Statistics System continues and increases, it is essential that valid evaluation criteria and cost-sharing mechanisms be developed in support of this funding to insure that each participating level of government contributes its fair share to the System and that each of the seven components is funded adequately and on the basis of equitable formulae.
Agenda: Review the problems with implementation of the Cost-Sharing formula in the vital statistics components of the Cooperative Health Statistics System.

The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, or other relevant information, should contact Mr. James A. Smith, National Center for Health Statistics, Room 2–12, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436–7122.

Agenda items are subject to change as priorities dictate.

Dated: September 6, 1977.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.77-26382 Filed 9-8-77;8:45 am]

Health Services Administration

GRANTS FOR BLIND AND DISABLED CHILDREN

Availability of Information and Clearance for State Plan Submission

Section 501(a) of Pub. L. 94-566 amended Title XVI of the Social Security Act by revising section 1615. The revised section 1615(b) requires the establishment of criteria for the approval of State plans for services for blind and disabled children under the age of 16 years.

Blind or disabled persons under 16 years of age receiving benefits under the Supplemental Security Income Program are to be referred to an identifiable unit of the State for certain enumerated services.

Under the revised section 1615(b), the State agency administering the State plan for Crippled Children's Services must establish an identifiable unit for serving blind or disabled children and must coordinate its activities with other agencies serving disabled children. An agency other than the agency administering the Crippled Children's Services plan may be designated by the Governor of a State as the responsible agency under this program if he finds that such other agency can carry out the function in a more efficient and effective manner.

The designated agency must submit a plan acceptable to the Secretary for carrying out section 1615(b). That section directs the Secretary to prescribe, by regulation, criteria for approval of State plans for:

(a) Assuring appropriate counseling for disabled children so referred and their families;

(b) Establishment of individual service plans for such disabled children, and prompt referral to appropriate medical, educational, and social services;

(c) Monitoring to assure adherence to such service plan; and

(d) Provision for such disabled children who are 6 years of age and under, or who have never attended public school and require preparation to take advantage of public educational services and of medical, social, developmental, and rehabilitative services, in cases where such services reasonably promise to enhance the child's ability to benefit from subsequent education or training, or otherwise to enhance his opportunities for self-sufficiency or self-support as an adult.

Regulations for establishing such criteria will be forthcoming. To facilitate the development of State plans for carrying out the program under section 1615, however, the Secretary has concluded that he should provide the States with preliminary information and guidance in developing such plans. Accordingly, notice is hereby given that preliminary information and guidance on developing applications for funds under section 1615 for blind and disabled children under the age of 16 may be obtained by writing to the DHEW Regional Health Administrator or to the Office of Maternal and Child Health, Bureau of Community Health Services, Room 7–15, 5600 Fishers Lane, Rockville, Md. 20857. All information and guidance so obtained is provided subject to the qualification that it reflects preliminary policies only and that subsequent changes contained in regulations may require appropriate revisions in a proposed State plan as a condition to approval of such plan by the Secretary.

The revised section 1615 authorizes $30 million for implementation of this program. Under the statute, payments to a State or the District of Columbia may not exceed an amount which bears the same ratio to $30 million as the under-age-7 population of such States or the District of Columbia bears to the total under-age-7 population of the 50 States and the District of Columbia. The Secretary is directed under section 1615 to publish the limitation applicable to each State for each fiscal year, based on the most recent satisfactory Department of Commerce data. The limits of the amounts available to each State and the District of Columbia for the last quarter of fiscal year 1977, appear at Appendix A to this notice.

Dated: September 1, 1977.

GEORGE I. LYTHCOTT,
Administrator, Health Services Administration.

APPENDIX A—LIMITS OF AMOUNTS AVAILABLE TO STATES PURSUANT TO SECTION 1615(b) OF THE SOCIAL SECURITY ACT, AS AMENDED BY PUB. L. 94-566, REHABILITATION SERVICES FOR BLIND AND DISABLED CHILDREN, FISCAL YEAR 1977[1]

State:	Amount
Alabama	$137,250
Alaska	18,000
Arizona	91,500
Arkansas	78,000
California	726,000
Colorado	93,000
Connecticut	96,000
Delaware	20,250
District of Columbia	23,250
Florida	265,500
Georgia	195,750
Hawaii	35,250
Idaho	33,750
Illinois	396,750
Indiana	195,000
Iowa	98,250
Kansas	75,750
Kentucky	126,750
Louisiana	155,250
Maine	37,500
Maryland	138,000
Massachusetts	180,000
Michigan	330,000
Minnesota	135,000
Mississippi	99,750
Missouri	160,500
Montana	27,000
Nebraska	54,000
Nevada	22,500
New Hampshire	28,500
New Jersey	237,000
New Mexico	48,000
New York	582,000
North Carolina	198,750
North Dakota	22,500
Ohio	376,500
Oklahoma	97,500
Oregon	77,250
Pennsylvania	372,000
Rhode Island	29,250
South Carolina	112,500
South Dakota	24,750
Tennessee	150,000
Texas	490,500
Utah	61,500
Vermont	17,250
Virginia	173,250
Washington	120,000
West Virginia	64,500
Wisconsin	156,000
Wyoming	15,000
Total	7,500,000

[1] Total amount available equal to one quarter of amount authorized.

[FR Doc.77-26298 Filed 9-8-77;8:45 am]

Office of Education

COMMUNITY EDUCATION ADVISORY COUNCIL

Meeting

AGENCY: Office of Education, HEW, Community Education Advisory Council.

ACTION: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Community Education Advisory Council. It also describes the functions of the Council. Notice of these meetings is required under section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-634. This document is intended to notify the general public of their opportunity to attend.

DATES: Meeting: September 26 and 27, 1977.

ADDRESS: Sheraton National Motor Hotel, Columbia Pike and Washington Boulevard, Arlington, Va.

FOR FURTHER INFORMATION CONTACT:

Paul Tremper, Office of Education, Department of Health, Education, and Welfare, Room 5622—ROB 3, 7th and D Streets SW., Washington, D.C. 20202; telephone 202–245–0691.

SUPPLEMENTARY INFORMATION: The Community Education Advisory Council is authorized under Pub. L. 93-380. The Council is established to advise the Commissioner of Education on policy matters relating to the interest of community schools.

All sessions of this meeting will be open to the public.

The meeting on September 26 will begin at 9 a.m. and end at 5 p.m. On September 27, the meeting will begin at 9 a.m. and end at 3:30 p.m.

The Community Education Advisory Council has been interested in the impact community education can have on problems of school violence, vandalism, and juvenile delinquency. During this meeting the Council will have the opportunity to examine components of community education which could be relevant to the prevention of juvenile delinquency. The Council has a special interest in promoting working relationships with other agencies, associations, and organizations in order to enhance the services provided through these programs and the Federal Community Education Program.

The proposed agenda includes:

(1) Special reports;
(2) Status of Advisory Council special projects;
(3) Update on evaluation;
(4) Discussion on juvenile delinquency;
(5) Future programmatic directions of the Federal community education program;
(6) Schedule of future meetings;
(7) Report on community education grantees;
(8) Update on study of State education agency community education programs;
(9) Other administrative matters and related business.

Records shall be kept of all Council proceedings and shall be available for public inspection in Room 5622, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. 20202.

Signed at Washington, D.C., on September 6, 1977.

PAUL TREMPER,
Acting Director, Community Education Program.

[FR Doc 77-26780 Filed 9-8-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

Meeting

AGENCY: Office of Education, HEW, National Advisory Council on Bilingual Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Bilingual Education. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: September 19, 1977, November 1 Report Committee Meeting, 9 a.m.–10 a.m. September 19, 1977, Non-Spanish Minority Languages Committee Meeting, 10 a.m.–11 a.m. September 19, 1977,

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Budget Committee Meeting, 11 a.m.–12 noon. September 20, 1977, Business Meeting, 9 a.m.–4:30 p.m.

ADDRESS: NASA Auditorium, Room 6104 FOB–6, 400 Maryland Avenue SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Dr. John C. Molina, Director, Office of Bilingual Education, Reporters' Bldg., Room 421, Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202 (202–245–2600).

The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 880b–11) to advise the Secretary of Health, Education, and Welfare and the Commissioner of Education concerning matters arising in the administration of the Bilingual Education Act.

On September 19, 1977, three of the council's standing committees will meet: November 1 Report—discussion on the August 22, 1977 meeting held in Washington, D.C. regarding the first draft of the Third Annual Report to Congress (9–10 a.m.); Non-Spanish Minority Languages—review of recommendations relating to issue paper on "Serving diverse language groups" (10 a.m.–11 a.m.); and Budget—update Report of FY 1977 expenditures (11 a.m.–12 noon); On-going council business and Office of Bilingual Education Report to the Council (1:30–4:30).

The proposed agenda for the Council meeting on September 20, 1977 includes: (1) Committee Reports; (2) FY 1978 Work Plans; (3) Review of second draft of the Report to Congress with contractor.

Records will be kept of all Council proceedings and shall be available for public inspection in Room 421, Reporters' Bldg., 300 7th Street SW., Washington, D.C. 20202. In the event that the proposed agenda is completed prior to the projected date or time, the Council will adjourn the meeting.

Signed at Washington, D.C., on August 25, 1977.

JOHN C. MOLINA,
Director,
Office of Bilingual Education.

[FR Doc.77–26285 Filed 9–8–77;8:45 am]

Statement of Organization, Functions and Delegations of Authority

Part EE, Office of Education (formerly Part 2B), Section EE.10 of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare is amended to reflect the additions of Divisions in the Bureau of Student Financial Assistance which was created by the Secretary of Health, Education, and Welfare and the Commissioner of Education at 42 FR 13263 (March 9, 1977). A statement for an Office of Student Financial Assistance in each Region has been added in order to conform with an order by the Secretary on July 19, 1977.

The specific changes are as follows:

(1) A new functional statement for the Bureau of Student Financial Assistance and the regional Offices of Student Financial Assistance is aded as follows immediately after the statements for the Bureau of Education for the Handicapped and its Divisions:

BUREAU OF STUDENT FINANCIAL ASSISTANCE (EEM)

The Bureau of Student Financial Assistance formulates policy for and directs and coordinates activities of the Office of Education which provide financial assistance through grants, work and loan programs to students pursuing a postsecondary education. Programs include a grant program which provides for payment of entitlements to students enrolled or accepted for enrollment as undergraduates in eligible postsecondary educational institutions who are in financial need; programs which provide funds to eligible postsecondary educational institutions to provide grants to undergraduate students in exceptional financial need, to provide for part-time employment of needy students, and to establish and maintain loan funds to provide assistance to needy students; programs which provide for long-term low interest insured loans to students under which loans made by commercial and other lending institutions are insured or reinsured by the Federal government and for which payments are made to reduce interest costs for student borrowers, and special incentive allowances are paid to lenders; programs which provide for insured loans to students enrolled in health profession schools, under which loans made by commercial and other lending institutions are insured by the Federal government and payments are made for claims on insured loans; and programs which provide incentive grants to State agencies to provide financial assistance to students enrolled in postsecondary education and funds for training of institutional student financial aid officers. Provides direction to regional offices on regional program activities.

Division of Certification and Program Review (EEMC). Develops and disseminates standards for institutional certification for student assistance programs; develops and disseminates operating procedures for internal program reviews based on standards. Resolves audit exceptions and initiates actions which may result in limitation, suspension and termination proceedings for institutional participation in student assistance programs. Provides direction to regional offices on certification and review activities.

Division of Policy and Program Development (EEMF). Develops short and long-terms issues for program planning purposes and formulates program requirements, including legislative initiatives and fund requirements for student assistance programs; directs development of revised program policies and requirements; coordinates planning initiatives and provides authoritative advice on student assistance programs.

Division of Program Operations (EEMP). Provides the operational support for student assistance programs including the processing of fund requests and the issuing of award documents and authorizations; fund reconciliation, payment of interest billings and special allowances for insured loans; payment of claims to lenders, collection of insurance premiums, payment of claims for death and disability and teacher cancellations. Provides direction to the regional offices on operational activities.

Division of Quality Assurance (EEMQ). Determines the need for data and reports; prepares reports for management and planning purposes. Determines the impact of Bureau programs by analyzing statistical trends; analyzes program characteristics and recommends appropriate changes in policies or operating procedures. Reviews results of regional office operations to determine their effectiveness.

Division of Systems Design and Development (EEMR). Designs and develops automated systems for student assistance programs to meet operational objectives, both short and long-term. Directs system implementation and monitors contracts for system performance. Establishes controls over, and designs forms for system operations. Determines and authorizes expenditures for system contracts. Provides direction and support to regional offices on systems.

Division of Training and Dissemination (EEMT). Determines need for and provides for training of institutional student financial aid officers and staff, including development of training materials; develops and disseminates program brochures and program information to institutions, students, and the general public. Prepares program manuals for school and lender use in program administration. Provides direction to regional offices on training and dissemination activities.

Division of Compliance (EEMU). Develops standards and procedures for compliance and investigative reviews of problem schools in conjunction with the Office of the Inspector General/HEW and the Department of Justice; conducts and coordinates investigations; provides direction to regional staff and maintains liaison with the Inspector General and Department of Justice including providing support for potential criminal and civil proceedings.

The title and statement for the Division of Guaranteed Student Loans in each of the ten Regional Offices are deleted in their entirety and are replaced by the title and statement for the Office of Student Financial Assistance as follows:

Office of Student Financial Assistance (EEDIS-EEDXS). Conducts the field activities of the Bureau of Student Financial Assistance in accordance with direction and supervision from the Deputy Commissioner for Student Financial Assistance. Regional student assistance activities include, but are not limited to: Institutional program reviews and compliance; examination of loans' claims and collections; review of institutional funding requests; operation of automated system; and dissemination of information to institutions, students and the general public.

The titles and statements for the Division of Basic and State Student Grants published at 39 FR 36368, October 9, 1974, the Division of Student Financial Aid published at 41 FR 7980, February 23, 1976, and the Office of Guaranteed Student Loans and its three Divisions, the Division of Operational Support, the Division of Program Development, and the Division of Program Systems published at 39 FR 26185, July 17, 1974, are deleted in their entirety.

Dated: September 1, 1977.

HALE CHAMPION,
Acting Secretary.

[FR Doc.77–26288 Filed 9–8–77;8:45 am]

National Institutes of Health

BOARD OF SCIENTIFIC COUNSELORS

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Arthritis, Metabolism, and Digestive Diseases, October 28–29, 1977, National Institutes of Health, Building 4, Room 336.

This meeting will be open to the public from 9:30 a.m. to 4:30 p.m. on October 28 and from 9 to 11 a.m. on October 29. The open portion will be devoted to scientific presentations by various laboratories of NIAMDD intramural research. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 4:30 p.m. to closing on October 28 and from 11 a.m. to adjournment on October 29 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Messrs. James N. Fordham or Leo E. Treacy, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Md. 20014, will provide summaries of the meeting and rosters of the committee members.

Dated: August 26, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77–26255 Filed 9–8–77;8:45 am]

BOARD OF SCIENTIFIC COUNSELORS

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Allergy and Infectious Diseases, October 24, 25, and 26, 1977, at Rocky Mountain Laboratory in Hamilton, Mont.

This meeting will be open to the public on October 24 and 25 from 8:00 a.m. until recess. During this open session, the permanent staff of the Rocky Mountain Laboratory will present and discuss their immediate, past, and present research activities.

In accordance with the provisions set forth in sections 552b(c)(6), title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the meeting of the Board will be closed to the public on October 26 from 9:00 a.m. to adjournment for the review, discussion, and evaluation of individual intramural programs and projects conducted at the Rocky Mountain Laboratory of the National Institute of Allergy and Infectious Diseases, including consideration of personal qualifications and performance, and the competence of individual investigators.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Md., telephone 301–496–5717, will provide summaries of the meetings and rosters of the Board members.

Dr. Franklin A. Neva, Acting Executive Secretary, Board of Scientific Counselors, NIAID, NIH, Building 5, Room 116, telephone 301–496–2486, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.301, National Institutes of Health.)

Dated: September 2, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77–26253 Filed 9–8–77;8:45 am]

BOARD OF SCIENTIFIC COUNSELORS

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Institute Board of Scientific Counselors, November 10 and 11, 1977, National Institutes of Health, Building 10, Room 7N214. This meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on November 10 and from 9:00 to 12 noon on November 11 for discussion of the general trends in research relating to cardiovascular, pulmonary and certain hematologic diseases. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552(b)(c)(6), title 5, U.S. Code Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 1:30 p.m. to adjournment November 11 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A21, National Institutes of Health, Bethesda, Md. 20014, phone 301–496–4236, will provide summaries of the meeting and rosters of the Board members. Substantive program information may be obtained from Dr. Jack Orloff, Director, Division of Intramural Research, NHLBI, NIH Building 10, Room 7N214, phone 301–496–2116.

Dated: September 2, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77–26250 Filed 9–8–77;8:45 am]

BOARD OF SCIENTIFIC COUNSELORS, DIVISION OF CANCER TREATMENT

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCT, National Cancer Institute, October 24–25, 1977, Building 31C, Conference Room 6, National Institutes of Health. This meeting will be open to the public on October 24, 1977, from 8:30 a.m. to 3:15 p.m. The Board will make a site visit to the Frederick Cancer Research Center on October 25, 1977, convening at approximately 9:30 a.m., and this will be open to the public until adjournment at approximately 3:00 p.m. Attendance by the public will be limited to space available.

In acordance with the provisions set forth in section 552b(c)(6), title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 24, 1977, from 3:30 p.m. to 5:30 p.m., for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Vincent T. DeVita, Director, Division of Cancer Treatment, National Cancer Institute, Building 31, Room 3A–52, National Institutes of Health, Bethesda, Md. 20014 (301–496–4291) will furnish summaries of meetings, rosters of committee members, and substantive program information.

Dated: August 26, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77–26247 Filed 9–8–77;8:45 am]

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CLINICAL APPLICATIONS AND PREVENTION ADVISORY COMMITTEE

Amended Meeting

Notice is hereby given of a change in the meeting date of the Clinical Applications and Prevention Advisory Committee, National Heart, Lung, and Blood Institute, which was published in the FEDERAL REGISTER on August 2, 1977, 42 FR 39142.

The Committee was to have met for two days on September 26 and 27, 1977, and will now meet for only one day. The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on Monday, September 26, in Conference Room B119, Federal Building, Bethesda, Md.

Dated: August 29, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-26251 Filed 9-8-77;8:45 am]

NATIONAL DIABETES ADVISORY BOARD

Amended Meeting

Notice is hereby given of a change in the meeting September 20, 1977, Conference Room 723A, South Portal Building, DHEW, Washington, D.C., of the Executive Committee of the National Diabetes Advisory Board, which was published in the FEDERAL REGISTER on August 2, 1977, 42 FR 39143.

This Committee was to have convened at 8:30 a.m., but has been changed to 1:30 to 5:00 p.m. on September 20. In addition, in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 1:30 to 2:30 p.m., for discussion of internal personnel matters disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: September 2, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-26244 Filed 9-8-77;8:45 am]

NATIONAL ADVISORY ALLERGY AND INFECTIOUS DISEASES COUNCIL

Amended Meeting

Notice is hereby given of changes in the times of the "closed" and "open" portions of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, which was published in the FEDERAL REGISTER on August 30, 1977 (42 FR 43669).

This meeting will be open to the public on October 12 from 9:00 a.m. until 12:30 p.m., and on October 13 from 9:00 a.m. until recess, and will be closed to the public on October 12 from 1:30 p.m. until recess, and on October 14 from 9:00 a.m. until adjournment.

Dated: September 2, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-26254 Filed 9-8-77;8:45 am]

NATIONAL ADVISORY RESEARCH RESOURCES COUNCIL

Amended Meeting

Notice is hereby given of a change in the agenda in the meeting of the National Advisory Research Resources Council, Division of Research Resources, September 19-21, 1977, Conference Room 9, Building 31, National Institutes of Health, Bethesda, Md. 20014, which was published in the FEDERAL REGISTER on August 23, 1977 (42 FR 42382).

The open portion of the meeting, scheduled for September 19, from 9:00 a.m. to recess, will include a status report and discussion of the Biotechnology Resources Program Work Group. The meeting will reconvene on September 19, at 7:30 p.m. to recess, in closed session, for the review and discussion of an application requesting support for the maintenance of a non-human primate blood grouping research resource, including the review of the administrative handling of the application. On September 20, the meeting will reconvene at 8:30 a.m. to recess, in closed session, for review, discussion, and evaluation of individual grant applications, and on September 21, the meeting will reconvene from 8:30 a.m. to adjournment, in closed session, for further review and discussion of an application requesting support for the maintenance of a non-human primate blood grouping research resource.

Dated: September 2, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-26243 Filed 9-8-77;8:45 am]

NATIONAL COMMISSION ON DIGESTIVE DISEASES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Commission on Digestive Diseases, October 10, 11, 12, 1977, at the times and locations listed below. The entire meeting will be open to the public. Attendance by the public will be limited to space available.

On October 10, from 7:00-10:00 p.m., at the Barclay Hotel, Hamilton Suite, 111 E. 48th Street, New York, N.Y., the Commission will have a business and planning meeting. On October 11, from 8:30 to 10:00 a.m., in Room 109, Memorial Sloan Kettering Cancer Center, 1275 York Avenue, New York City, the Commission will continue the business and planning meeting; from 10:00 a.m. to 6:00 p.m., in Room 107, the Commission will hear public testimony. On October 12, from 8:30-10:00 a.m., Room C677, College of Medicine and Dentistry of New Jersey, 100 Bergen Street, Newark, N.J., the Commission will hold a business meeting; from 10:00 a.m. to 6:00 p.m., Room B515, the Commission will hear public testimony.

Any member of the public who wishes to appear before the Commission between 10:00 a.m. and 6:00 p.m., October 11 and 12 shall file a written statement or detailed summary of his remarks with the Commission before October 1, 1977. Statements or summaries shall be sent to Dr. Thomas P. Vogl, Executive Secretary, National Commission on Digestive Diseases, Room 6C16, the Federal Building, 7550 Wisconsin Avenue, Bethesda, Md. 20014. The time allotted to each participant will be determined by the Commission Chairman based upon the number of individuals who request an opportunity to make presentations.

Messrs. James N. Fordham or Leo E. Treacy, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Md. 20014, will provide summaries of the Commission meeting.

(Catalog of Federal Domestic Assistance Program No. 13.484, National Institutes of Health.)

Dated: August 29, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-26256 Filed 9-8-77;8:45 am]

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

Meeting

In compliance with the intent of Congress, as stated in the Report of the House Committee on Appropriations (95th Congress), to assess the state-of-the-art in Cooley's anemia research and treatment, the National Heart, Lung, and Blood Institute is holding a meeting with pediatric hematologists; basic scientists; epidemiologists; and family health, public health, and nurse practitioners who have had experience with Cooley's anemia patients and their families. The participants will also consider the epidemiology of the disease; the public and private resources for the diagnosis of, screening for, and research on Cooley's anemia; and the most fruitful areas for future research.

The entire meeting is open to the public from 9:30 a.m. to adjournment on Monday, October 3, 1977, in Building 31, Conference Room 4, National Institutes of Health, Bethesda, Md. 20014. Individuals interested in obtaining further information about this meeting should contact Mr. John B. Lyons, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, Bethesda, Md. 20014, phone 301-496-3533. Attendance will be limited to the space available.

Dated: September 2, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-26252 Filed 9-8-77;8:45 am]

NEUROLOGICAL DISORDERS PROGRAM-PROJECT REVIEW A COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Neurological Disorders Program-Project Review A Committee, National Institutes of Health, October 20-22, 1977, in the Chancery Room A, Embassy Row Hotel, 2015 Massachusetts Avenue, Washington, D.C. 20036.

The meeting will be open to the public from 8:30 p.m. until 10:30 p.m. on October 20th, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 21st, from 8:30 a.m. to adjournment on October 22nd, for the review, discussion and evaluation of individual initial pending and renewal grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Robert N. Hinkel, Acting Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, Md. 20014, telephone 301-496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. Leon J. Greenbaum, Jr., Executive Secretary, Federal Building, Room 9C14B, Bethesda, Md. 20014, 301-496-9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health.)

Dated: August 29, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-26257 Filed 9-8-77;8:45 am]

NEUROLOGICAL DISORDERS PROGRAM-PROJECT REVIEW B COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Neurological Disorders Program-Project Review B Committee, National Institutes of Health, October 20-22, 1977, in the Chancery Room B, Embassy Row Hotel, 2015 Massachusetts Avenue, Washington, D.C. 20036.

This meeting will be open to the public from 8:30 p.m. until 10:30 p.m. on October 20th, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 21st, from 8:30 a.m. to adjournment on October 22nd, for the review, discussion and evaluation of individual initial pending and renewal grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Robert N. Hinkel, Acting Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, Md. 20014, telephone 301-496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. John W. Diggs, Executive Secretary, Federal Building, Room 9C10B Bethesda, Md. 20014 (301-496-9223), will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health.)

Dated: August 29, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-26258 Filed 9-8-77;8:45 am]

REVIEW OF CONTRACT PROPOSALS AND GRANT APPLICATIONS

Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual contract proposals and grant applications, as indicated. These proposals and applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals and applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014 (301-496-5708) will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014, unless otherwise stated.

CARCINOGENESIS PROGRAM SCIENTIFIC REVIEW COMMITTEE A

Dates: October 6-7, 1977; 8:30 a.m.
Place: Landow Building Room C418, 7910 Woodmont Avenue, Bethesda, Md. 20014.
Times: Open: October 6, 8:30 a.m.-9:00 a.m.
Open: October 7, 8:30 a.m.-9:00 a.m.
Agenda/open portion: To discuss program information. Closed: October 6, 9:00 a.m.-9:00 p.m. Closed: October 7, 9:00 a.m.-adjournment.
Closure reason: To review research contract proposals.
Executive secretary: Dr. Carl E. Smith. Address: Landow Building, Room C-841, National Institutes of Health. Phone: 301-496-5471.

(Catalog of Federal domestic assistance No. 13.393, National Institutes of Health.)

NATIONAL PROSTATIC CANCER PROJECT WORKING CADRE

Dates: October 12, 1977; 8:30 a.m.
Place: Research Study Center, Roswell Park Memorial Institute, Buffalo, N.Y.
Times: Open: October 12, 8:30 a.m.-9:00 a.m. Closed: October 12, 9:00 a.m.-adjournment.
Close reason: To review research grant applications.
Executive secretary: Dr. Andrew Chiarodo. Address: Westwood Building, Room 853, National Institutes of Health. Phone 301-496-7194.
(Catalog of Federal Domestic Assistance Nos. 13.393; 13.394, 13.395, National Institutes of Health.)

CANCER CONTROL TREATMENT, REHABILITATION, AND CONTINUING CARE REVIEW COMMITTEE

Dates: October 20-21, 1977; 8:30 a.m.
Place: Building 31C, Conference Room 8, National Institutes of Health.
Times: Open: October 20, 8:30 a.m.-3:30 p.m. Open: October 21, 8:30 a.m.-adjournment. Closed: October 20, 3:30 p.m.-recess.
Closure reason: To review research contract proposals.
Executive secretary: Dr. Carlos E. Caban. Address: Blair Building, Room 7A07, National Institutes of Health. Phone: 301-427-7945.

(Catalog of Federal Domestic Assistance No. 13.399, National Institutes of Health.)

COMMITTEE ON CANCER IMMUNODIAGNOSIS

Dates: October 25, 1977; 1:00 p.m.
Place: Building 10, Conference Room 4B14, National Institutes of Health.
Times: Open: October 25, 1:00 p.m.-1:30 p.m. Closed: October 25, 1:30 p.m.-adjournment.
Closure reason: To review research contract proposals.
Executive secretary: Mrs. Judith M. Whalen. Address: Building 10, Room 4B17, National Institutes of Health. Phone: 301-496-1791.

(Catalog of Federal Domestic Assistance No. 13.394, National Institutes of Health.)

COMMITTEE ON CANCER IMMUNOBIOLOGY

Dates: October 27-28, 1977; 7:00 p.m.
Place: Building 1, Wilson Hall, National Institutes of Health.
Times: Open: October 27, 7:00 p.m.-7:30 p.m. Open: October 28, 8:30 a.m.-11:30 p.m.
Agenda/open portion: To discuss immunobiology program review and planning closed: October 27, 7:30 p.m.-11:30 p.m.

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Closure reason: To review research contract proposals

Executive secretary: Mrs. Judith M. Whalen. Address: Building 10, Room 4B17, National Institutes of Health. Phone: 301–496–1791.

(Catalog of Federal Domestic Assistance No. 13.396, National Institutes of Health.)

CANCER CONTROL GRANT REVIEW COMMITTEE

Dates: October 31, 1977; 8:30 a.m.

Place: Building 31C, Conference Room 9, National Institutes of Health.

Times: Open: October 31, 8:30 a.m.–9:00 a.m.
Closed: October 31, 9:00 a.m.–5:00 p.m.
Closed: November 1, 8:30 a.m.–adjournment.

Closure reason: To review research grant applications.

Executive secretary: Dr. M. Wayne Hurst. Address: Blair Building, Room 7A07, National Institutes of Health. Phone: 301–427–7945.

(Catalog of Federal Domestic Assistance No. 13.399, National Institutes of Health.)

Dated: August 26, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77–26248 Filed 9–8–77;8:45 am]

REVIEW OF GRANT APPLICATIONS

Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, for the review, discussion, and evaluation of individual grant applications, as indicated. These applications and the discussions could reveal personal information concerning individuals associated with the applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014 (301–496–5708) will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. meetings and rosters of committee memstitutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014, unless otherwise stated.

CLINICAL CANCER EDUCATION COMMITTEE

Dates: October 5–6, 1977; 8:30 a.m.

Place: Building 31C, Conference Room 7 (October 5). Building 31C, Conference Room 8 (October 6).

Times: Open: October 5, 8:30 a.m.–9:30 a.m.
Closed: October 5, 9:30 a.m.–5:00 p.m.
Closed: October 6, 8:30 a.m.–adjournment.

Closure reason: To review research grant applications.

Executive secretary: Dr. Margaret H. Edwards. Address: Westwood Building, Room 10A18, National Institutes of Health. Phone: 301–496–7761.

(Catalog of Federal Domestic Assistance No. 13.398, National Institutes of Health.)

SUBCOMMITTEE ON CANCER ETIOLOGY AND PREVENTION OF THE CANCER RESEARCH MANPOWER REVIEW COMMITTEE

Dates: October 6–7, 1977; 9:00 a.m.–adjournment.

Place: Building 31C, Conference Room 9, National Institutes of Health.

Times: Closed for the entire meeting.

Closure reason: To review research grant applications.

Executive secretary: Dr. Leon J. Niemiec. Address: Westwood Building, Room 10A18, National Institutes of Health. Phone: 301–496–7803.

(Catalog of Federal Domestic Assistance No. 13.398, National Institutes of Health.)

SUBCOMMITTEE ON DETECTION, DIAGNOSIS, TREATMENT AND RESTORATIVE CARE OF THE CANCER RESEARCH MANPOWER REVIEW COMMITTEE

Dates: October 6–7, 1977; 9:00 a.m.–adjournment.

Place: Building 31C, Conference Room 7, National Institutes of Health.

Times: Closed for the entire meeting.

Closure reason: To review research grant applications.

Executive secretary: Dr. Leon J. Niemiec. Address: Westwood Bldg., Rm. 10A18, National Institutes of Health. Phone: 301–496–7803.

(Catalog of Federal Domestic Assistance No. 13.398, National Institutes of Health.)

CANCER RESEARCH MANPOWER REVIEW COMMITTEE

Dates: October 6, 1977; 9:00 a.m.

Dates: October 8, 1977; 9:00 a.m.

Place: Building 31C, Conference Room 6, National Institutes of Health.

Times: Open: October 8, 9:00 a.m.–9:30 a.m.
Closed: October 8, 9:30 a.m.–adjournment.

Closure reason: To review research grant applications.

Executive secretary: Dr. Leon J. Niemiec. Address: Westwood Building, Rm. 10A18, National Institutes of Health. Phone: 301–496–7803.

(Catalog of Federal Domestic Assistance No. 13.398, National Institutes of Health.)

Dated: August 29, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77–26249 Filed 9–8–77;8:45 am]

SICKLE CELL DISEASE ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee, National Heart, Lung, and Blood Institute, September 29 and 30, 1977. The meeting will be held in Conference Room 9, C-Wing, Building 31, National Institutes of Health, Bethesda, Maryland 20014. The entire meeting will be open to the public from 8:30 a.m. to 5:00 p.m. on both days, to discuss recommendations on the implementation and evaluation of the Sickle Cell Disease Program. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Building 31, Room 5A03, 301–496–4236, will provide summaries of the meeting and rosters of Committee members.

Mr. Howard F. Manly, Executive Secretary, Sickle Cell Disease Advisory Committee, NHLBI, NIH, Building 31, Room 4A29, 301–496–6931, will furnish substantive program information.

Dated: September 2, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77–26245 Filed 9–8–77;8:45 am]

STUDY SECTIONS

Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the following study sections for October and November 1977, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to Study Section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552(b)(c)(4) and 552(b)(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Richard Turlington, Chief, Grants Inquiries Office of the Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Md. 20014, telephone area code 301–496–7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each Executive Secretary whose name, room number, and telephone number are listed below each study section. Anyone planning to attend a meeting should contact the Executive Secretary to confirm the exact meeting time.

OCTOBER TO NOVEMBER

Study section	1977 meetings	Time	Location
Allergy and Immunology, Dr. Morton Reltman, room 320, telephone 301–496–7260.	Nov. 2 to 5	8:45 a.m.	Holiday Inn, Chevy Chase, Md
Applied Physiology and Orthopedics, Mrs. Ileen E. Stewart, room 318, telephone 301–496–7581.	Nov. 10 to 12	8:30 a.m.	Room 8, Bldg. 31, Bethesda, Md.
Bacteriology and Mycology, Dr. Milton Gordon, room 231, telephone 301–496–7240.	Oct. 27 to 29	8:30 a.m.	Holiday Inn, Bethesda, Md
Bioanalytical and Metallobiochemistry (formerly; Medicinal Chemistry B), Mr. Richard P. Bratrel, room 310, telephone 301–496–7733.	Nov. 10 to 12	9 a.m.	Embassy Row Hotel, Washington, D.C.
Biochemistry, Dr. Adolphus P. Toliver, room 350, telephone 301–496–7516.	Oct. 26 to 29	9 a.m.	Do.
Biophysics and Biophysical Chemistry A, Dr. Irvin Fuhr, room 236, telephone 301–496–7060.	Nov. 4 to 8	9 a.m.	Mayflower Hotel, Washington, D.C.
Biophysics and Biophysical Chemistry B, Dr. John B. Wolff, room 236, telephone 301–496–7070.	Oct. 27 to 29	8:30 a.m.	Linden Hill Hotel, Bethesda, Md.
Cardiovascular and Pulmonary, Dr. Vincent J. Cairoli, room 339, telephone 301–496–7901.	Nov. 1 to 5	8:30 a.m.	Holiday Inn, Georgetown, D.C.
Cardiovascular and Renal, Dr. Floyd O. Atchley, room 339, telephone 301–496–7901.	Nov. 9 to 12	9 a.m.	Holiday Inn, Bethesda, Md.
Cell Biology, Dr. Gerald Greenhouse, room 2A 01, telephone 301–496–7020.	Oct. 26 to 29	8:30 a.m.	Holiday Inn, George town, D.C.
Communicative Sciences, Mr. Frederick J. Gutter, room 321, telephone 301–496–7550.	Oct. 26 to 28	8:30 a.m.	Holiday Inn, Bethesda, Md.
Developmental Behavioral Sciences, Dr. Bertie H. R. Woolf, room 232, telephone 301–496–7471.	Nov. 16 to 18	8:30 a.m.	Bellevue Hotel, San Francisco, Calif.
Endocrinology, Mr. Morris M. Graff, room 333, telephone 301–496–7346.	Oct. 17 to 20	7 p.m.	Sheraton Inn, Silver Spring, Md.
Epidemiology and Disease Control, Mr. Glenn G. Lamson, Jr., room 345, telephone 301–496–7246.	Oct. 26 to 28	8:30 a.m.	Holiday Inn, Georgetown, D.C.
Experimental Psychology, Dr. A. Keith Murray, room 220, telephone 301–496–7558.	Nov. 2 to 4	9 a.m.	Ambassador Hotel, Los Angeles, Calif.
Experimental Therapeutics, Dr. Anne R. Bourke, room 349, telephone 301–496–7539.	Oct. 26 to 29	1 p.m.	Kenwood Country Club, Bethesda, Md.
Experimental Virology, Dr. Eugene Zebovitz, room 206, telephone 301–496–7474.	Oct. 30 to Nov. 2	2 p.m.	Room 8, Bldg. 31, Bethesda, Md.
General Medicine A, Dr. Harold M. Davidson, room 354, telephone 301–496–7797.	Nov. 7 to 9	8:30 a.m.	Room 10, Bldg. 31, Bethesda, Md.
General Medicine B, Dr. William F. Davis, Jr., room 322, telephone 301–496–7720.	Nov. 16 to 19	9 a.m.	Shoreham Americana, Washington, D.C.
Genetics, Dr. David J. Remondini, room 349, telephone 301–496–7271.	Nov. 3 to 5	9 a.m.	Room 8, Bldg. 31, Bethesda, Md.
Hematology, Dr. Clark K. Linn, room 355, telephone 301–496–7568.	Oct. 20 to 22	9 a.m.	Linden Hill Hotel, Bethesda, Md.
Human Embryology and Development, Dr. Samuel Moss, room 221, telephone 301–496–7507.	Oct. 26 to 29	9 a.m.	Do.
Immunobiology, Dr. James H. Turner, room 233, telephone 301–496–7780.	Nov. 2 to 4	8:30 a.m.	Embassy Row Hotel, Washington, D.C.
Immunological Sciences, Dr. Lottie Kornfeld, room 233, Telephone 301–496–7179.	Nov. 6 to 9	7 p.m.	Sheraton Inn, Silver Spring, Md.
Medicinal Chemistry A, Dr. Asher A. Hyatt, room 222, telephone 301–496–7296.	Oct. 27 to 30	9 a.m.	Ramada Inn, Rosslyn, Va.
Metabolism, Dr. Robert M. Leonard, room 218, telephone 301–496–7180.	Nov. 9 to 12	8:30 a.m.	Room 4, Bldg. 31, Bethesda, Md
Microbial Chemistry, Dr. Gustave Silver, room 357, telephone 301–496–7130.	Nov. 3 to 5	8:30 a.m.	Room 9, Bldg. 31, Bethesda, Md.
Molecular Biology, Dr. Donald T. Dicque, room 328, telephone 301–496–7850.	do	8:30 a.m.	Holiday Inn, Bethesda, Md.
Molecular Cytology, Dr. Wendell H. Kyle, room 222, telephone 301–496–7149.	Oct. 27 to 29	8:30 a.m.	Room 8, Bldg. 31, Bethesda, Md
Neurological Sciences, Dr. Edwin M. Bartus, room 207, telephone 301–496–7060.	Nov. 3 to 5	8:30 a.m.	Los Angeles Hilton, Los Angeles, Calif.
Neurology A, Dr. William E. Morris, room 326, telephone 301–496–7095.	do	9 a.m.	Do.
Neurology B, Dr. Willard L. McFarland, room 2A–10, telephone 301–496–7422.	Oct. 27 to 29	8:30 a.m.	Hyatt Regency Hotel, Washington, D.C.
Nutrition, Dr. John R. Schubert, room 204, telephone 301–496–7178.	Nov. 9 to 11	8:30 a.m.	Room 9, Bldg. 31, Chevy Chase, Md.
Oral Biology & Medicine, Dr. Thomas M. Tarpley, Jr., room 325, telephone 301–496–7818.	Nov. 16 to 19	9 a.m.	Shoreham Americana, Washington, D.C.
Pathobiological Chemistry, Dr. Ellen G. Archer, room 206, telephone 301–496–7482.	Oct. 26 to 29	8:30 a.m.	Room 7, Bldg. 31, Bethesda, Md.
Pathology A, Dr. William B. Savchuck, room 337, telephone 301–496–7305.	Oct. 25 to 28	5 p.m.	Sheraton Inn, Silver Spring, Md.
Pathology B, Mrs. Barbara S. Bynum, room 352, telephone 301–496–7241.	Oct. 25 to 27	8:30 a.m.	Holiday Inn, Chevy Chase, Md.
Pharmacology, Dr. Joseph A. Kaiser, room 334, telephone 301–496–7408.	Oct. 18 to 20	8:30 a.m.	Holiday Inn, Bethesda, Md.
Physiological Chemistry, Dr. Robert L. Ingram, room 255, telephone 301–496–7837.	Nov. 3 to 5	9 a.m.	Embassy Row Hotel, Washington, D.C.
Physiology, Dr. Clara E. Hamilton, room 209, telephone 301–496–7878.	do	9 a.m.	Room 4, Bldg. 31, Bethesda, Md.
Population Research, Miss Carol A. Campbell, room 210, telephone 301–496–7140.	do	9 a.m.	Mayflower Hotel, Washington, D.C.
Radiation, Dr. Robert L. Straube, room A–10, telephone 301–496–7073.	Oct. 25 to 27	9 a.m.	Holiday Inn, Arlington, Va.
Reproductive Biology, Dr. Dharam S. Dhindsa, room 307, telephone 301–496–7318.	Nov. 1 to 4	8:30 a.m.	Holiday Inn, Bethesda, Md.
Surgery, Anesthesiology and Trauma, Dr. Keith Kraner, room 338, telephone 301–496–7771.	Oct. 27 and 28	8:30 a.m.	Holiday Inn, Arlington, Va.
Surgery and Bioengineering, Dr. Joe W. Atkinson, room 348, telephone 301–496–7506.	do	8:30 a.m.	Do.
Toxicology, Dr. Rob S. McCutcheon, room 226, telephone 301–496–7570.	Oct. 27 to 29	8 a.m.	Holiday Inn, Bethesda, Md.
Tropical Medicine and Parasitology, Dr. Betty June Myers, room 319, telephone 301–496–7494.	do	8:30 a.m.	Holiday Inn, Chevy Chase, Md.
Virology, Dr. Claire H. Winestock, room 309, telephone 301–496–7128.	do	8:30 a.m.	Room 6, Bldg. 31, Bethesda, Md.
Visual Sciences A, Dr. Orvil E. A. Bolduan, room 2A–05, telephone 301–496–7180.	Oct. 31 to Nov. 4	9 a.m.	Hilton Hotel, Los Angeles, Calif.
Visual Sciences B, Dr. Luigi Giacometti, room 325, telephone 301–496–7251.	Nov. 3 to 6	9 a.m.	Anaheim Hyatt House, Anaheim, Calif.

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(Catalog of Federal Domestic Assistance Program Nos. 13.333, 13.337, 13.349, 13.393–13.396, 13.836–13.844, 13.846–13.871, 13.876, National Institutes of Health, HEW.)

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-26246 Filed 9-8-77;8:45 am]

Public Health Service

QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

Notice

Notice is hereby given, pursuant to 42 CFR § 110.605, that in the month of July 1977 the following entities have been determined to be qualified health maintenance organizations under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e–9(d)):

LIST OF QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

NAME, ADDRESS, SERVICE AREA, AND DATE OF QUALIFICATION

(Operational Qualified Health Maintenance Organization: 42 CFR § 110.603(a))

1. Group Health Plan of New Jersey, Inc. (Staff model, see section 1310(b)(1) of the Public Health Service Act), 501–70th Street, Guttenberg, N.J. 07093. Service area as follows:

Cliffside PK., 07010.	Union City, 07087.
Edgewater, 07020.	Weehawken, 07087.
Fairview, 07020.	Guttenberg, 07093.
Fort Lee, 07024.	West New York, 07093.
East Newark, 07024.	Secaucus, 07094.
Harrison, 07024.	Jersey City, 07302, 07304, 07306, 07307.
Hoboken, 07030.	Teterboro, 07608.
Kearny, 07032.	Little Ferry, 07643.
No. Arlington, 07032.	Palisades Park, 07650.
No. Bergen, 07047.	Ridgefield, 07657.
Lyndhurst, 07071.	
Carlstadt, 07072.	
E. Rutherford, 07073.	
Moonachie, 07074.	

Date of qualification: July 1, 1977. (Achieved preoperational status on June 27, 1977, see 42 FR 38649–50, July 29, 1977.)

(Transitionally Qualified Health Maintenance Organizations: 42 CFR § 110.603(b))

1. American Health Plan, Inc. (Medical Group Model, see section 1310(b)(1) of the Public Health Service Act), 1701 Northeast 164th Street, North Miami Beach, Fla. 33162. Service area: Dade and Broward Counties in the State of Florida. Date of qualification: July 29, 1977.

2. Family Health Program, Inc. (Staff Model, see section 1310(b)(1) of the Public Health Service Act), 2925 No. Palo Verde Avenue, Long Beach, Calif. 90815. Service area as follows: Orange County, Calif. and that portion of Los Angeles County, Calif. South of Firestone Boulevard (Manchester Boulevard). Salt Lake County and Davis County, Utah, and those portions of Utah, Tooele and Summit Counties, Utah within a thirty (30) mile radius of the FHP/Utah Medical Centers. The Island of Guam.

Zip codes in the service area are as follows:

Los Angeles County, California

90059 90061 90220 90221 90222 90240 90241 90242 90245 90247 90248 90249 90262 90280 90501 90502 90503 90504 90505 90506 90602 90603 90604 90605 90631 90638 90650 90670 90701 90706 90710 90712 90713 90715 90716 90717 90723 90731 90732 90744 90745 90746 90747 90748 90749 90801 90802 90803 90804 90805 90806 90807 90808 90810 90812 90813 90814 90815 91320 91360

Orange County, California

90620 90621 90622 90623 90630 90631 90680 90720 90740 90742 90743 92621 92624 92625 92626 92627 92630 92631 92632 92633 92635 92638 92640 92641 92643 92644 92645 92646 92647 92648 92649 92650 92651 92653 92655 92660 92661 92662 92663 92664 92665 92666 92667 92668 92669 92670 92675 92677 92680 92683 92686 92701 92703 92704 92705 92706 92707 92708 92709 92713 92714 92715 92719 92801 92802 92803 92804 92805 92806 92807

Salt Lake, Davis, Utah, Tooele, and Summit Counties Utah[1]

84003 84006 84010 84014 84020 84025 84032 84043 84044 84047 84054 84057 84060 84062 84070 84084 84087 84101 84102 84103 84104 84105 84106 84107 84108 84109 84111 84112 84113 84114 84115 84116 84117 84118 84119 84120 84121

Date of qualification: July 29, 1977.

3. California Medical Group Health Plan, Inc., (Staff model, see section 1310(b)(1) of the Public Health Service Act), 1880 Century Park East, Suite 1500, Los Angeles, Calif. 90067. Service area: The zip codes included in the area are as follows:

Los Angeles County California

90001 90002 90003 90004 90005 90006 90007 90008 90010 90011 90012 90013 90014 90015 90016 90017 90018 90019 90020 90021 90022 90024 90025 90026 90027 90028 90029 90031 90032 90033 90034 90035 90036 90037 90038 90039 90040 90041 90042 90043 90044 90045 90046 90047 90048 90049 90056 90057 90058 90059 90061 90062 90063 90064 90065 90066 90067 90068 90069 90071 90201 90210 90211 90212 90220 90221 90222 90230 90240 90241 90242 90245 90247 90248 90249 90250 90254 90255 90260 90262 90265 90266 90270 90272 90274 90277 90278 90280 90290 90291 90301 90302 90303 90304 90305 90401 90402 90403 90404 90405 90501 90502 90503 90504 90505 90506 90601 90602 90603 90604 90605 90606 90638 90640 90650 90660 90670 90701 90706 90710 90712 90713 90715 90716 90717 90723 90731 90732 90744 90745 90746 90747 90801 90802 90803 90804 90805 90806 90807 90808 90810 90812 90813 90814 90815 90840 91001 91006 91010 91011 91016 91020 91024 91030 91040 91042 91046 91101 91103 91104 91105 91106 91107 91108 91201 91202 91203 91204 91205 91206 91207 91208 91214 91301 91302 91303 91304 91306 91307 91310 91311 91316 91321 91324 91331 91335 91340 91342 91343 91344 91350 91351 91352 91355 91364 91401 91402 91403 91405 91406 91411 91423 91436 91501 91502 91504 91505 91506 91601 91602 91604 91605 91606 91607 91608 91702 91706 91711 91722 91723 91724 91731 91732 91733 91738 91740 91744 91745 91748 91750 91754 91765 91766 91767 91768 91770 91773 91775 91776 91780 91789 91790 91791 91792 91801 91803 93510 93532 93534 93543 93544 93550 93553 93563

[1] Several zip code areas may straddle the 30 mile radious from Family Health Plan medical centers. Individuals in the areas immediately outside the limit may enroll but must use the Family Health Plan physicians and the facilities of the medical centers.

Orange County, California

90620 90621 90623 90630 90631 90720 90740 90742 90743 92621 92624 92625 92626 92627 92629 92630 92631 92632 92633 92640 92641 92643 92644 92645 92646 92647 92648 92649 92650 92651 92653 92655 92660 92661 92662 92664 92665 92666 92667 92668 92669 92670 92672 92675 92676 92677 92678 92680 92683 92686 92687 92701 92703 92704 92705 92706 92707 92708 92709 92801 92802 92804 92805 92806 92807

Riverside County, California[2]

91720 91752 91760 92330 92370 92388 92501 92503 92504 92505 92506 92507 92508 92509

Santa Barbara County, California

93013 93017 93067 93101 93103 93105 93108 93109 93110 93111 93427 93441 93460 93463

San Bernardino County California

91701 91710 91730 91739 91743 91761 91762 91763 91764 91786 92316 92318 92324 92335 92346 92354 92369 92373 92376 92401 92404 92405 92407 92408 92409 92410 92411

San Diego County California

92001 92002 92007 92008 92010 92011 92014 92017 92020 92021 92024 92025 92027 92032 92035 92037 92040 92041 92045 92050 92064 92065 92067 92069 92071 92073 92075 92077 92078 92101 92102 92103 92104 92105 92106 92107 92108 92109 92110 92111 92113 92114 92115 92116 92117 92118 92119 92120 92121 92122 92123 92124 92215 9226 92127 92128 92129 92131 92133 92135 92137 92139 92140 92145 92154 92155 92162

Ventura County CaHfornia

91320, 91360 91361 91362 93010 93015 93021 93040 93042 93063 93065

Date of qualification: July 19, 1977.

4. Group Health Association, Inc., (Staff model, see section 1310(b)(1) of the Public Health Service Act) 2121 Pennsylvania Avenue NW., Washington, D.C. 20037. Service area: The geographical area encompassing the District of Columbia and the counties of Howard, Montgomery, and Prince Georges in the State of Maryland and the counties of Arlington, Loudoun, Prince William, and Fairfax, and all incorporated communities therein including, but not limited to, the cities of Alexandria, Falls Church, and Fairfax in the State of Virginia.

Date of qualification: July 18, 1977.

Files containing detailed information regarding the qualified health maintenance organizations will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, at the Office of Quality Standards, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Room 16A–08, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Questions about the review process or requests for information about qualified health maintenance organizations should be sent to the same office.

Dated: August 30, 1977.

WILLIAM B. MUNIER,
Director,
Office of Quality Standards.

[FR Doc.77-26207 Filed 9-8-77;8:45 am]

[2] Zip codes include a 30 mile radius of the health center.

Office of the Secretary

NATIONAL INSTITUTE OF EDUCATION

Statement of Organization, Functions, and Delegations of Authority

Part E of the Statement of Organization, Functions, and Delegations of Authority for the Education Division of the Department of Health, Education, and Welfare is amended to revise Chapter EN, "National Institute of Education", published in the FEDERAL REGISTER (40 FR 22019, May 20, 1075) and amended (40 FR 37071, August 25, 1975, and 42 FR 2544, January 12, 1977) to provide for a new Order of Succession by making the Deputy Director for Management the Acting Director in the absence of, or vacancy in the Office of, the Director and the Deputy Director.

Section EN.40, Order of Succession, is amended to read as follows: In the absence of the Director or in the event that there is a vacancy in that office, the Deputy Director shall serve as the Acting Director. In the event that both the Director and the Deputy Director are absent, or there is a vacancy in both offices, the following shall serve as Acting Director in the order indicated: Deputy Director for Management; Associate Director for Planning, Budget and Program Analysis; Associate Director for Administration and Management.

Dated: August 31, 1977.

JOHN YOUNG,
Assistant Secretary for
Budget and Management.

[FR Doc.77-26287 Filed 9-8-77;8:45 am]

PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

Meeting

The President's Committee on Mental Retardation was established by Executive Order to provide advice and assistance in the area of mental retardation to the President including evaluation of the adequacy of the national effort to combat mental retardation; coordination of activities of Federal agencies; provision of adequate liaison between foundations and other private organizations; and development of information designed for dissemination to the general public.

The Committee in cooperation with the National Association for Retarded Citizens and other national, public and private agencies will meet on Tuesday, September 27, 1977, 6 p.m. to 9:30 p.m., Wednesday, September 28, 1977, 9 a.m. to 9:30 p.m., and Thursday, September 29, 1977, 8:30 a.m. to 4 p.m., at the Airlie House, Warrenton, Va. At the meeting the Committee will discuss legal rights and issues as they relate to retarded citizens obtaining a status of full citizenship.

These meetings are open to the public.

Further information on the President's Committee on Mental Retardation may be obtained from Fred J. Krause, Executive Director, President's Committee on Mental Retardation, Room 2614, ROB No. 3, 7th & D Streets SW., Washington, D.C. 20201, telephone: 202–245–7634.

Dated: September 1, 1977.

FRED J. KRAUSE,
Executive Director, President's
Committee on Mental Retardation.

[FR Doc.77-26261 Filed 9-8-77;8:45 am]

Health Services Administration

MIGRANT HEALTH ADVISORY COUNCIL

Rechartering of a Statutorily Established Council

Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463 (5 U.S.C. Appendix I), the Health Services Administration announces the rechartering by the Secretary, HEW, on July 31, 1977, of the National Advisory Council on Migrant Health. The Council has been rechartered only through October 31, 1977.

Dated: August 18, 1977.

JOHN H. KELSO,
Acting Administrator.

[FR Doc.77-25909 Filed 9-8-77;8:45 am]

DEPARTMENT OF HOUSING URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–77–506]

PRIVACY ACT OF 1974

Deletion of Systems of Records

AGENCY: Department of Housihg and Urban Development.

ACTION: Deletion of Systems of Records.

SUMMARY: Notice is given that nine Privacy Act Systems of Records are deleted.

EFFECTIVE DATE: September 8, 1977.

ADDRESS: Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 Seventh St. SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Rosenthal, Departmental Privacy Officer, Room 3176, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh St., S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: On November 16, 1976, the Department published in the FEDERAL REGISTER (41 FR 50599) an annual notice of systems of records as required by the Privacy Act of 1974. This notice deletes the systems of records listed below since, with the exception of HUD/DEPT–33 which will be covered by HUD/DEPT–34 (Pay and Leave Records of Employees), the systems do not contain records with personal data that is retrievable by name or other individual personal identifier.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the Rules Docket Clerk address set forth above.

HUD/DEPT–13

System name:
Cost Analyses of Projects.
Reason:
Records contained in this system have been determined not to be subject to the Privacy Act. The system contains records about HUD insured projects, corporations, businesses, and firms.

HUD/DEPT–30

System name:
Mobile Home Park Inspection.
Reason:
Records contained in this system have been determined not to be subject to the Privacy Act. The system contains records on mobile home park inspections.

HUD/DEPT–33

System name:
Multi-family Project Case Files.
Reason:
Records contained in this system have been determined not to be subject to the Privacy Act. The system contains records about HUD insured projects, corporations, businesses, and firms.

HUD/DEPT–36

System name:
Personnel Timekeeping System.
Reason:
This system is being covered by the Pay and Leave Records of Employees system, numbered HUD/DEPT–34.

HUD/DEPT–39

System name:
Project Files.
Reason:
Records contained in this system have been determined not to be subject to the Privacy Act. The system contains records about HUD insured projects, corporations, businesses, and firms.

HUD/DEPT–50

System name:
Freedom of Information Act Files.
Reason:
Records contained in this system have been determined not to be subject to the Privacy Act. The records do not contain information of a personal nature which is retrievable by name or other individual personal identifier.

HUD/FIA–2

System name:
Flood Insurance Files.
Reason:
Records contained in this system have been determined not to be subject to the Privacy Act. The system contains records relating to community participation in the Flood Insurance Program.

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HUD/OILSR–1

System name:
Interstate Land Sales Registration.
Reason:
Records contained in this system have been determined not to be subject to the Privacy Act. The system contains records about developers, corporations, and subdivisions in interstate land sales.

HUD/OILSR–2

System name:
Interstate Land Sales Registration Investigations.
Reason:
Records contained in this system have been determined not to be subject to the Privacy Act. The system contains records about investigations of violations of the Interstate Land Sales Full Disclosure Act and the records are retrieved by name of subdivision or by name of subdivision developer.

(AUTHORITY: (5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d))).)

NOTE.—It is hereby certified that the economic and inflationary impacts of this Notice have been carefully evaluated in accordance with OMB Circular A-107.

Issued at Washington, D.C., August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc.77-26269 Filed 9-8-77;8:45 am]

DEPARTMENT OF JUSTICE

UNITED STATES COMMITTEE ON SELECTION OF FEDERAL JUDICIAL OFFICERS

Meeting

The first and second scheduled meetings of the nominating panel for the United States Committee on Selection of Federal Judicial Officers is as follows:

(1) The first meeting will be held on Friday, September 16, 1977, at 9:30 a.m., in the United States Court of Claims, 717 Madison Place NW., Washington, D.C. The morning session will be concerned with the discussion of the procedural and substantive work of the Court of Claims and will be open to the public. The afternoon session will be devoted to procedures to be adopted by the Committee to accomplish its work and a discussion of the candidates. The afternoon session will be closed to the public pursuant to Pub. L. 92–463, Section 10(D) as amended. (Cf. 5 U.S.C. 552b(c)(6).)

(2) The second meeting will begin on Monday, October 10, 1977, at 9:30 a.m., in the United States Court of Claims, 717 Madison Place NW., Washington, D.C., and will continue, if necessary, through Wednesday, October 12, 1977. The purpose of this meeting will be to conduct interviews of applicants and to determine the recommendations to be made to the President. This meeting will be closed to the public pursuant to Pub. L. 92–463, Section 10(D) as amended. (Cf. 5 U.S.C. 552b(c)(6).)

JOSEPH A. SANCHES,
Advisory Committee Management Officer.

AUGUST 30, 1977.

[FR Doc.77-26209 Filed 9-8-77;8:45 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON MANPOWER AND EMPLOYMENT

Meeting

The BRAC Committee on Manpower and Employment will meet at 1:30 p.m., September 29, 1977, at the General Accounting Office Building, 441 G Street NW., Room 4454A, Washington, D.C. The agenda for the meeting is as follows:

1. Local Area Unemployment Statistics.
2. Job Vacancies.
3. National Occupational Information Coordinating Committee (NOICC).
4. Collection of weekly earnings in CPS.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on area code 202–523–1559.

Signed at Washington, D.C. this 1st day of September 1977.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc.77-26354 Filed 9-8-77;8:45 am]

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON PRODUCTIVITY AND TECHNOLOGICAL DEVELOPMENTS

Meeting

The BRAC Committee on Productivity and Technological Developments will meet at 9:30 a.m., September 27, 1977, in Room S4215 (A, B, and C) of the New Department of Labor Building located at 200 Constitution Avenue NW., Washington, D.C. The agenda for the meeting is as follows:

1. The role of the National Academy of Science's Productivity Measurement Review Committee.
2. Developments in BLS studies of technology.
3. Status of studies on construction labor and material requirements.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code 202–523–1559.

Signed at Washington, D.C. this 1st day of September 1977.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc.77-26355 Filed 9-8-77;8:45 am]

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St. NW., Washington, D.C. 20213.

Signed at Washington, D.C. this Sixth day of September 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

Applications received during the week ending Sept. 2, 1977

Name of applicant	Location of enterprise	Principal product or activity
C Y R Bros. Meat Packing, Inc.	Caribou, Maine	Potato processing and food wholesaling.
Gerald Dwight Paul	Hernando, Miss.	Roadway inn.
B. J. Nursery, Inc.	Homestead, Fla.	Foliage nursery.
C. A. Britt	Shelby County, Ala.	Veterinary clinic.
Boone Medical Investors, Ltd.	Boone, N.C.	Skilled and intermediate nursing care.
Agricultural Services, Inc.	Starkville, Miss.	Manufacture and sales of agricultural supplies.
Hydro-Systems, Inc.	Portland, Tenn.	Manufacture of fabricated steel products.
Francis George Becker	Chetek, Wis.	Supper club.
Mineralwood Insulation Manufacturing Co.	Rogers, Tex.	Manufacture of attic insulation.
Eastern Ozarks Community Hospital, Inc.	Sharp County, Ark.	Health care facility.
Buccaneer, Inc.	Cord, Ark.	Manufacture of fiberglass boats.
F. J. Garcon Manufacturing, Corp. (tenant of city of Flandreau).	Flandreau, S. Dak.	Manufacture of cellulose insulation.
Great Plains Supply Co. (tenant of city of Flandreau).	do.	Construction of houses and sales of building materials.

[FR Doc.77-26367 Filed 9-8-77;8:45 am]

FEDERAL-STATE EXTENDED BENEFITS

Availability of Extended Benefits in All States

This notice announces the beginning of a national Extended Benefit Period in all States, effective on August 28, 1977.

BACKGROUND

The Federal-State Extended Unemployment Compensation Act of 1970 (title II of Public Law 91–373; 84 Stat. 695, 708) created a program of extended unemployment benefits (referred to as Extended Benefits) as a permanent part of the Federal-State Unemployment Compensation Program, for unemployed individuals who have exhausted their rights to regular unemployment benefits under State and Federal unemployment compensation laws. Extended Benefits are payable during an Extended Benefit Period, which is triggered on in a State when unemployment in the State or nation reaches the high levels set in the Act. An Extended Benefit Period actually begins at the beginning of the third week after the week for which there is an "on" indicator. During an Extended Benefit Period the maximum amount of Extended Benefits which is payable to eligible individuals is up to 13 weeks.

There is a national Extended Benefit "on" indicator for a week if the United States Secretary of Labor determines that for the thirteen week period ending with that week the average rate of insured unemployment (seasonably adjusted) for all States equalled or exceeded 4.5 per centum. Whenever there is a national "on" indicator under the Act, an Extended Benefit Period will commence in every State in which an Extended Benefit Period is not already in effect, on the first day of the third week following the week for which there was an "on" indicator.

During an Extended Benefit Period, individuals who are unemployed and qualified may receive up to 13 weeks of Federal-State Extended Benefits, after they have exhausted their rights to regular unemployment benefits under State laws and benefits under the federal unemployment compensation programs for federal government employees and for ex-servicemen and ex-servicewomen. An Extended Benefit Period in any State will last for a minimum period of 13 weeks, and will end with the third week after which there is both a State and national "off" indicator in accordance with the State's unemployment compensation law and the Federal-State Unemployment Compensation Act of 1970.

DETERMINATION OF "ON" INDICATOR

The United States Secretary of Labor has determined in accordance with Section 203(d)(1) of the Federal-State Extended Unemployment Compensation Act of 1970 that the average rate of insured unemployment (seasonably adjusted) for all States for the period consisting of the week ending on August 13, 1977, and the immediately preceding twelve weeks, equalled 4.5 per centum.

Therefore, I have determined in accordance with the Federal-State Unemployment Compensation Act of 1970 and applicable regulations, and as authorized by Secretary of Labor's Order No. 4–75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a national Extended Benefit "on" indicator for the week ending on August 13, 1977, and that an Extended Benefit Period begins on August 28, 1977, in all States not currenty in Extended Benefit Periods.

INFORMATION FOR CLAIMANTS

The Extended Benefit Period announced in this notice will last for not less than thirteen weeks. During the Extended Benefit Period, eligible individuals will be able to receive up to thirteen weeks of Extended Benefits.

The State employment security agency will furnish a written notice of potential entitlement to Extended Benefits to each individual who is an "exhaustee" (as defined in the Act and in Section 615.4(b) of Title 20, Code of Federal Regulations) of regular benefits payable under State unemployment compensation laws and under the federal unemployment compensation laws for federal government employees and for ex-servicemen and ex-servicewomen.

Persons who believe they may be entitled to Extended Benefits in any State (including the District of Columbia and the Commonwealth of Puerto Rico), or who wish to inquire about their rights under this program, should contact the nearest employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on Aug. 31, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc 77-26350 Filed 9-8-77;8:45 am]

FEDERAL-STATE EXTENDED BENEFITS

Clarification of Notice of Ending of Extended Benefit Period in Vermont

A Notice of Ending of Extended Benefit Period and Federal Supplemental Benefit Period in Vermont was published in the FEDERAL REGISTER on September 2, 1977 (42 FR 44296). That notice announced that the average rate of insured unemployment in the State of Vermont had lowered in the 13-week period ending August 13, 1977, so that the Extended Benefit Period and Federal Supplemental Benefit Period in that State would end on September 3, 1977. Subsequently, it was determined that the average rate of insured unemployment (seasonally adjusted) for all States for the 13-week period ending on August 13, 1977, equalled 4.5 per centum, and this national "on" indicator was effective for Extended Benefit Periods with the week beginning on August 28, 1977. For that reason, the Extended Benefit Period in the State of Vermont will not terminate on September 3, 1977, and Extended Benefits will remain available to eligible individuals in that State.

As announced in the notice of September 2, 1977, the Federal Supplemental Benefit Period which began in the State on January 5, 1975, terminated on September 3, 1977.

Signed at Washington, D.C., on September 2, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment & Training.

[FR Doc.77-26351 Filed 9-8-77;8:45 am]

FEDERAL SUPPLEMENTAL BENEFITS (EMERGENCY UNEMPLOYMENT COMPENSATION)

Notice of Ending of Federal Supplemental Benefit Period in Oregon

This notice announces the ending of the Federal Supplemental Benefit Period in the State of Oregon, effective on September 10, 1977.

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BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Pub. L. 93-572, enacted December 31, 1974) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the Nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals is up to 13 weeks. A Federal Supplemental Benefit Period commenced in the State of Oregon on January 5, 1975.

The Act also provides that a Federal Supplemental Benefit Period in a State will trigger off when the rate of insured unemployment in the State averages less than 5.0 percent over a period of thirteen consecutive calendar weeks. The benefit period actually terminates at the end of the third week after the week for which there is an "off" indicator, if the benefit period will have been in effect for a minimum duration of 13 weeks.

DETERMINATION OF "OFF" INDICATOR

The employment security agency of the State of Oregon has determined under the Act and 20 CFR 618.19(b) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on August 20, 1977, and the immediately preceding twelve weeks, was less than 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19(b), and as authorized by the Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "off" indicator in the State of Oregon for the week ending August 20, 1977, and that the Federal Supplemental Benefit Period in that State terminates on September 10, 1977.

Benefits to the same extent as if the Federal Supplemental Benefit Period continued to be in effect. The additional eligibility period will have a duration of 13 weeks, unless it is terminated sooner by reason of the beginning of a new Federal Supplemental Benefit Period in the State.

Any individual to whom Federal Supplemental Benefits or Federal-State Extended Benefits were payable in the State (whether or not any payment actually was made), for any portion of the last week of the Federal Supplemental Benefit Period, will have an additional eligibility period beginning immediately

INFORMATION FOR CLAIMANTS

following the end of the Federal Supplemental Benefit Period. During the additional eligibility period the individual will be entitled to Federal Supplemental

Individuals currently filing claims for Federal Supplemental Benefits will receive written notices from the Oregon Employment Division of the end of the Federal Supplemental Benefit Period in that State and its effect on their entitlement to Federal Supplemental Benefits. The notice to any individual who will have an aditional eligibility period following the Federal Supplemental Benefit Period will include information concerning potential entitlement to Federal Supplemental Benefits during the additional eligibility period.

Persons who wish information about their rights to Federal Supplemental Benefits in the State of Oregon should contact the nearest State Employment Office of the Oregon Employment Division in their locality.

Signed at Washington, D.C., on September 6, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc 77-26349 Filed 9-8-77;8:45 am]

MIGRANT AND SEASONAL FARMWORKER PROGRAMS

Fiscal Year 1978 State Planning Estimates, Programs and Areas To Be Renewed Without Competition, and Areas Open for Competition

AGENCY: Employment and Training Administration, Labor.

ACTION: Correction.

SUMMARY: In FR Doc. 77-19528 appearing at page 35330 on Friday, July 8, 1977, it was stated that "Intrastate planning estimates for Texas and California will be published to enable participants for funding in areas not closed to competition to prepare funding requests." The sentence is corrected to read "Planning estimates for grantees in Texas and California which are being renewed without competition will be published to enable those grantees to perpare funding requests."

FOR FURTHER INFORMATION CONTACT:

Mr. Paul A. Mayrand, Director, Office of Farmworker Programs, Room 7122, 601 D Street NW., Washington, D.C. 20213. Phone: 202-376-7288.

Signed in Washington, D.C., this 31st day of August 1977.

LAMOND GODWIN,
Administrator, Office of National Programs.

[FR Doc.77-26352 Filed 9-8-77;8:45 am]

MIGRANT AND SEASONAL FARMWORKER PROGRAMS

Fiscal Year 1978 Area Planning Estimates for Programs To Be Renewed Without Competition

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: Pursuant to the notice in the FEDERAL REGISTER of July 8, 1977, Volume 42, Number 131, page 35330 entitled "Fiscal Year 1978 State Planning Estimates, Programs and Areas to be Renewed Without Competition, and Areas Open for Competition" and the correction thereto, the Employment and Training Administration announces planning estimates for areas to be renewed without competition.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul A. Mayrand, Director, Office of Farmworker Programs, DOL/ETA, 601 D Street NW., Washington, D.C. 20213. Phone: 202-376-7288.

SUPPLEMENTARY INFORMATION: Planning estimates are announced for the following grantees in Texas and California, which are being renewed without competition.

TEXAS

Community Action Council of South Texas, $230,400.
Economic Opportunities Development Corporation of San Antonio, $345,600.
Motivation Education and Training, $3,268,000.

CALIFORNIA

County of Los Angeles, $62,200.

Signed at Washington, D.C., this 31st day of August 1977.

LAMOND GODWIN,
Administrator, Office of National Programs.

[FR Doc.77-26353 Filed 9-8-77;8:45 am]

Occupational Safety and Health Administration

ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH

Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on Tuesday October 4, and Wednesday October 5, 1977, at the Broadway Arms Room, The Cosmopolitan Hotel, 1780 Broadway, Denver, Colo. The meeting is open to the public.

The purpose of this meeting is to review and develop recommendations on Subpart M (floor and wall openings, and stairways) and Subpart L (ladders and scaffolds) of Part 1926—Construction Standards.

Written data, views or arguments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the Chairman, depending on the extent to which time permits.

Communications may be mailed to:

Ken Hunt, Office of Public and Consumer Affairs, Department of Labor, Occupational Safety and Health Administration, Third Street and Constitution Avenue NW., Room N-3635, Washington, D.C. 20210. Phone: 202-523-8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C. this 31st day of August 1977.

BASIL WHITING,
Deputy Assistant Secretary of Labor, Occupational Safety and Health.

[FR Doc 77-26346 Filed 9-8-77;8:45 am]

[V-74-28]

INTERLAKE STAMPING CORP.

Extension of Variance

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Extension of variance.

SUMMARY: This notice announces the extension of an experimental variance to Interlake Stamping Corp. from the standards prescribed in 29 CFR 1910.217 power presses.

DATES: The effective date of the variance is September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

James J. Concannon, Director, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Room N-3668, Washington, D.C. 20210. Telephone: 202-523-7121.

or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 32nd Floor—Room 3263, 230 South Dearborn Street, Chicago, Ill. 60604.

U.S. Department of Labor, Occupational Safety and Health Administration, 1240 East Ninth Street, Cleveland, Ohio 44199.

I. BACKGROUND

Pursuant to the authority in section 6(b)(6)(C) of the Occupational Safety and Health Act of 1970 (84 Stat. 1595; 29 U.S.C. 655) an experimental variance from the safety standards prescribed in 29 CFR 1910.217(c)(3)(iii)(b) was granted to Interlake Stampng Corp., 4732 East 355th Street, Willoughby, Ohio 44094 on August 31, 1976 (41 FR 36702-5).

II. FACTS

The variance granted authorized the use of Erwin Sick electronic light curtains as a tripping means as well as a presence sensing device on 5 Bliss-OBI mechanical power presses. This system has been used in Sweden and West Germany with excellent safety records, but has not been permitted in this country. Five additional Bliss-OBI mechanical power presses were used as a control group with conventional tripping means in order to compare the safety, worker acceptance and productivity of the two methods. It was anticipated that through this experiment sufficient information would be developed to enable OSHA to determine whether this system should be approved for general or limited use, and, if so, to develop appropriate regulations governing its use.

This experimental year has been successful, both from safety and informational aspects. There were only two minor malfunctions on the 5 presses equipped with the light curtain as a tripping means. In each instance the press failed in a safe manner. On the control group of 5 presses there were 18 minor malfunctions. There have been no injuries on any of the presses involved in the experiment. On 12 occasions the operator inadvertently broke the presence sensing light field. In each instance the press stopped immediately without completing its downstroke.

The press operators stated that they found the automatic tripping with the light curtain to be less fatiguing and, therefore, the preferred method of operation. In addition, Interlake Stamping Corp. reported increased production averaging approximately 34 percent.

Personnel from the OSHA National, Regional and Area Offices made visits to the Interlake facility to observe the operation during the experimental year.

III. DECISION

In spite of the success of the experiment to date, it has been determined that additional information would be obtained through an extension of this variance. Because of the learning curve associated with the new tripping method, less use was made of it during the first part of the year than subsequently. Extending the experiment will thus enable OSHA to obtain a broader data base on which to base its subsequent decisions concerning this issue. In addition, the extension will enable OSHA to observe the presses and obtain data concerning their use after the novelty has worn off and the presses are being operated as a part of the regular industrial environment.

IV. ORDER

Pursuant to authority in section 6(b)(6)(C) of the Occupational Safety and Health Act of 1970, and in Secretary of Labor's Order No. 8-76 (41 FR 25059), it is ordered that Interlake Stamping Corp. be, and it is hereby, authorized to continue the use of the Erwin Sick electronic light curtain as a means of initiating slide motion on its Bliss-OBI power presses under the terms of the experimental variance granted August 31, 1976 (41 FR 36702-5), except that item No. 17 shall be struck from the terms of the order and the following item inserted:

17. This variance shall continue in effect for 6 months, unless it is determined by OSHA that sufficient information has been obtained before the 6 months has expired. The Assistant Secretary for Occupational Safety and Health reserves the right to again extend the experiment if additional information is desired at the end of the 6 month period.

As soon as possible Interlake Stamping Corp. shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for variance.

Effective date: This order shall become effective on September 1, 1977, and shall remain in effect for 6 months, unless revoked or extended.

Signed at Washington, D.C. this 3rd day of September 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc 77-26348 Filed 9-8-77;8:45 am]

Office of the Secretary

[TA-W-1501]

BETHLEHEM STEEL CORP., JOHNSTOWN, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1501: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 15, 1976, in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing wire products, wheels and axles at the Johnstown, Pa., plant of the Bethlehem Steel Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3367). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bethlehem Steel Corp., its customers, the United Steelworkers of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assist-

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ance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (2) has not been met with respect to workers engaged in the production of wire products and criterion (3) has not been met with respect to workers engaged in the production of wheels and axles.

WIRE PRODUCTS

Sales of wire products at the Johnstown plant increased 17 percent in quantity in 1976 compared to 1975.

Production of wire products increased 21 percent in 1976 compared to 1975.

WHEELS AND AXLES

Imports of wheels and axles increased each year from 1972 through 1975, from 24,391 tons in 1972 to 74,955 tons in 1975. Imports decreased in 1976 by 57 percent to 32,197 tons. The ratio of imports to domestic production of wheels and axles decreased in 1973 to 6.7 percent from 7.1 percent in 1972, increased to 14.2 percent in 1974, increased further in 1975 to 19.9 percent, then decreased in 1976 to 10.6 percent.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that neither sales nor production of wire products produced at the Johnstown, Pa., plant of Bethlehem Steel Corp. has decreased as required for certification under section 222 of the Trade Act of 1974; and that imports of articles like or directly competitive with wheels and axles produced at the Johnstown, Pa., plant of Bethlehem Steel Corp. has not increased as required for certification under section 222 of the Trade Act of 1974. Therefore, workers engaged in employment related to the production of wire products, wheels, and axles are not eligible to apply for adjustment assistance.

Signed at Washington, D.C., this 26th day of August 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-25933 Filed 9-8-77;8:45 am]

[TA-W-1534]

BETHLEHEM STEEL CORP., SPARROWS POINT, MD.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1534: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 15, 1976, in response to a worker petition received on December 15, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers producting nails and staples, carbon steel wire, cold rolled carbon steel sheet, and hot rolled carbon steel sheet at the Sparrows Point plant of the Bethlehem Steel Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3368). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bethlehem Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articels like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales and production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met with regard to workers engaged in employment related to the production of nails and staples. The investigaton also revealed that without regard to whether any of the other criteria have been met, criterion (2) has not been met for workers engaged in employment related to the production of wire, cold rolled sheet, and hot rolled sheet.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Workers at the Sparrows Point plant are separately identifiable by mill.

A. WIRE MILL (INCLUDES WORKERS ENGAGED IN THE PRODUCTION OF NAILS AND STAPLES AND WIRE)

The average number of workers engaged in employment related to the production of nails and staples and wire decreased 35 percent in 1975 compared to 1974. Employment declined 1 percent in 1976 compared to 1975.

Employment decreased 45 percent in the fourth quarter of 1975 and 27 percent in the first quarter of 1976 compared to the same quarters one year earlier. In the second quarter of 1976, employment increased 11 percent compared to the first quarter of 1976 (and showed no change from the second quarter of 1975). Employment increased 20 percent and 15 percent, respectively, in the third and fourth quarters of 1976 compared to the like quarters one year earlier.

Separate data were not available for workers engaged in the production of nails and staples and workers engaged in the production of wire.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

A. NAILS AND STAPLES

Sales in quantity declined 51 percent from 1974 to 1975 and further declined 13 percent from 1975 to 1976. Sales decreased 54 percent in quantity in the fourth quarter of 1975 and 56 percent in the first quarter of 1976 compared to the like quarters one year earlier. Sales then increased in the second and third quarters of 1976 compared to the like quarters one year earlier.

Production in quantity declined 44 percent from 1974 to 1975 and further declined 14 percent from 1975 to 1976. Production decreased 51 percent in quantity in the fourth quarter of 1975 and 60 percent in quantity in the first quarter of 1976 compared to the like quarters one year earlier. Production then increased in the second, third, and fourth quarters of 1976 compared to the like quarters one year earlier.

B. WIRE

Sales in quantity declined 44 percent from 1974 to 1975. Sales increased 31 percent from 1975 to 1976. Sales increased in every quarter of 1976 compared to the like quarter in 1975.

Production in quantity declined 33 percent from 1974 to 1975. Production increased 26 percent from 1975 to 1976. Production increased in every quarter of 1976 compared to the like quarter in 1975.

C. COLD ROLLED SHEET

Sales in quantity declined 45 percent from 1974 to 1975. Sales increased 49 percent from 1975 to 1976. Sales increased in every quarter of 1976 compared to the like quarter in 1975.

Production in quantity declined 45 percent from 1974 to 1975. Production increased 52 percent from 1975 to 1976. Production increased in every quarter of 1976 compared to the like quarter in 1975.

D. HOT ROLLED SHEET

Sales in quantity declined 35 percent from 1974 to 1975. Sales increased 26 percent from 1975 to 1976.

Production in quantity declined 27 percent from 1974 to 1975. Production increased 23 percent from 1975 to 1976.

INCREASED IMPORTS

A. NAILS AND STAPLES

Imports of nails and staples decreased from 359 thousand tons in 1972 to 326 thousand tons in 1973. In 1974 imports increased to 340 thousand tons, decreased to 210 thousand tons in 1975, then increased to 340 thousand tons in 1976.

The ratio of imports to domestic production of nails and staples decreased from 101.1 percent in 1972 to 90.4 percent in 1973. In 1974 the ratio increased to 102.4 percent, decreased to 79.2 percent in 1975, then increased to 121.4 percent in 1976.

CONTRIBUTED IMPORTANTLY

A. NAILS AND STAPLES

A survey of customers who purchase nails and staples from the Sparrows Point plant indicated that many customers had decreased purchases of nails and staples from the Sparrows Point plant and increased purchases of imported nails and staples. The lower prices of the imports was the reason most frequently cited for switching.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with nails and staples produced at the Sparrows Point, Md., plant of Bethlehem Steel Corp. contributed importantly to the total or partial separations of workers engaged in the production of those products at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Sparrows Point, Md., plant of Bethlehem Steel Corp. engaged in the production of nails and staples who became totally or partially separated from employment on or after November 15, 1975, and before April 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

It is further concluded that neither sales nor production of wire, cold rolled sheet, or hot rolled sheet have declined at the Sparrows Point, Md., plant of the Bethlehem Steel Corp. as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of August 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-25934 Filed 9-8-77;8:45 am]

[TA-W-1775]

HAMILTON STANDARD DIVISION, UNITED TECHNOLOGIES, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1775: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 8, 1977, in response to a worker petition received on March 7, 1977, which was filed by Local 743 of the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing aircraft accessory parts at the Windsor Locks, Conn., plant of the Hamilton Standard Division of United Technologies, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Hamilton Standard Division of United Technologies, Inc. and its customers.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met for workers employed in Buildings 1 and 2 and criterion (1) has not been met for workers employed in Building 3.

The Windsor Locks facility of Hamilton Standard consists of a main plant (Buildings 1 and 2) and an electronic plant (Building 3).

Evidence developed in the Department's investigation revealed that there have been no total or partial separations of workers at Building 3 from February 28, 1976, one year prior to the signature date on the petition, to the present. In addition, company officials indicated that there were no expectations that separations would occur in the future at Building 3.

Further evidence developed during the Department's investigation revealed that separations of employment from Buildings 1 and 2 principally involved workers engaged in employment related to the production of fuel controls and environmental control systems (ECS's) for jet aircraft.

The Department conducted a survey of Hamilton Standard's customers for these fuel controls and ECS's. The survey revealed that none of the customers had bought fuel controls or ECS's from foreign sources. The customers contacted indicated that they rescheduled or cancelled orders with Hamilton Standard as a result of decreased demand for the jet aircraft they produced.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the fuel controls and environmental control systems produced at Buildings 1 and 2 at the Windsor Locks, Conn., plant of United Technologies, Inc. have not contributed importantly to the total or partial separation of workers at these plants. I further conclude that a significant number or proportion of workers in building 3 at the Windsor Locks, Conn., plant have not become totally or partially separated, or threatened to become separated, as required for certification in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of August 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-26356 Filed 9-8-77;8:45 am]

Pension and Welfare Benefit Programs

[Application No. D-850]

CERAIN TRANSACTIONS INVOLVING CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS PENSION FUND

Pendency of Proposed Exemptions

CROSS REFERENCE: For a document issued jointly by the Department of Labor, Pension and Welfare Benefit Programs, and the Department of the Treasury Internal Revenue Service dealing with the above matter, see FR Doc. 77-26530 appearing in the Notices section of this issue of the FEDERAL REGISTER.

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[TA-W-1789]

MR. POWELL, ARANSAS PASS, TEX.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1789: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 10, 1977 in response to a worker petition received on March 1, 1977 which was filed by three workers on behalf of workers and former workers engaged in shrimp fishing aboard the trawler Mr. Powell in Aransas Pass, Texas.

The Notice of Investigation was published in the FEDERAL REGISTER on March 23, 1977 (42 FR 16200). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the trawler Mr. Powell, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

The Department's investigation has revealed that Mr. Powell's major customer purchases all the shrimp that Mr. Powell is able to supply. This customer only purchases imported shrimp when Mr. Powell and other domestic suppliers are unable to meet its requiremen's. Several factors tended to depress levels of shrimp production in 1976 and consequently the quantities made available to Mr. Powell's customer. These factors included adverse weather conditions, a lack of shrimp available in known fishing grounds in the first quarter of 1977 and the imposition by the Mexican government of a 200-mile fishing restriction which prevented domestic shrimpers from fishing within Mexican coastal waters.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with the shrimp produced by the trawler Mr. Powell of Aransas Pass, Tex., have not contributed importantly to the total or partial separations of workers or threat thereof of that company as required for a certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-25935 Filed 9-8-77;8:45 am]

[TA-W-1686]

OHIO FERRO-ALLOYS CORP., PHILO, OHIO

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1686: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 24, 1977, in response to a worker petition received on February 8, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing high carbon ferromanganese, silicomanganese and ferrosilicon at the Philo, Ohio plant of Ohio Ferro-Alloys Corp.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13091). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ohio Ferro-Alloys Corp., its customers, the U.S. International Trade Commission, U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that criterion four (4) has not been met with respect to ferromanganese and silicomanganese and that criteria two (2) and four (4) have not been met with respect to ferrosilicon.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the Philo, Ohio plant declined 4.2 percent in 1975 compared to 1974 and declined 3.8 percent in 1976 compared to 1975.

Production workers are used interchangeably in the production of high carbon ferromanganese, silicomanganese and ferrosilicon.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Plant sales of high carbon ferromanganese, in net tons, declined 16.0 percent in 1975 compared to 1974 and 9.5 percent in 1976 compared to 1975. Plant production, in net tons, declined 12.5 percent in 1975 compared to 1974 and 17.6 percent in 1976 compared to 1975.

Plant sales of silicomanganese, in net tons, declined 17.6 percent in 1975 compared to 1974 and 3.2 percent in 1976 compared to 1975. Plant production, in net tons, declined 6.6 percent in 1975 compared to 1974 and 14.2 percent in 1976 compared to 1975.

Plant sales of ferrosilicon, in net tons, declined 11.0 percent in 1975 compared to 1974 and increased 6.3 percent in 1976 compared to 1975. Sales declined 3.2 percent in the last quarter of 1976 compared to the same quarter in 1975. Plant production, in net tons, declined 7.8 percent in 1975 compared to 1974 and increased 5.6 percent in 1976 compared to 1975. Production declined 12.6 percent in the first quarter of 1976 compared to the same quarter in 1975.

INCREASED IMPORTS

Imports of high carbon ferromanganese increased from 290,281 short tons in 1972 to 374,228 short tons in 1974, declined to 369,821 short tons in 1975 and increased to 461,802 short tons in 1976.

Imports of silicomanganese increased from 38,674 short tons in 1972 to 67,751 short tons in 1974, declined to 55,567 short tons in 1975 and increased to 80,118 short tons in 1976.

Imports of ferrosilicon increased from 39,600 short tons in 1972 to 142,204 short tons in 1974, declined to 70,577 short tons in 1975 and increased to 96,775 short tons in 1976.

CONTRIBUTED IMPORTANTLY

A representative sample of the Philo plant's customers of ferromanganese indicated that most companies do not purchase imports. These firms cited availability of supply and price as the factors that most influenced their purchasing decisions.

A representative sample of the plant's customers of silicomanganese indicated that most do not purchase imports. The only customer that reported increased purchases of imported silicomanganese also increased purchases from the Philo plant.

A representative sample of the plant's customers of ferrosilicon indicated that customers which decreased purchases of ferrosilicon either do not purchase imported ferrosilicon or decreased purchases of imported ferrosilicon.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ferrosilicon, ferromangense and ferrosilicon produced at the Philo, Ohio plant of Ohio Ferro-Alloys Corporation did not contribute importantly to the total or partial separations of the workers engaged in the production of such products at that plant as required in Sectin 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-25937 Filed 9-8-77;8:45 am]

[TA-W-1446]

PITTSBURG WORKS, PITTSBURG, CALIFORNIA, U.S. STEEL CORP.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1446: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 15, 1976, in response to a worker petition received on December 15, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers engaged in employment related to the production of carbon steel wire rod, wire and wire products, and pipe and tubing at the Pittsburg Works of the U.S. Steel Corp. in Pittsburg, Calif.

The Notice of Investigation was published in the FEDERAL REGISTER on January 7, 1977 (42 FR 1541). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the U.S. Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

A. WIRE ROD

Average employment declined 20.4 percent in the fourth quarter of 1975 as compared to the like 1974 quarter. Average employment declined 26.4 percent and 7.2 percent in the first and second quarters, respectively, of 1976 as compared to the like 1975 quarters before increasing 25.9 percent in the July–November period of 1976 as compared to the like 1975 period.

Although plant sales of carbon steel wire rod began increasing in the second quarter of 1976, plant employment of workers engaged in the production of carbon steel wire rod did not begin to increase until the third quarter of 1976 as the company was reducing inventories.

B. WIRE AND WIRE PRODUCTS

Average employment declined 63.3 percent in the fourth quarter of 1975 as compared to the like 1974 quarter and declined 29.3 percent and 10.6 percent in the first and second quarters of 1976, respectively, as compared to the like 1975 quarters before increasing 20.9 percent in the July–November period of 1976 as compared to the like 1975 period.

Although plant sales of carbon steel wire and wire products began increasing in the second quarter of 1976, plant employment of workers engaged in the production of carbon steel wire and wire products didn't begin to increase until the third quarter of 1976 as the company was reducing inventories.

C. PIPE AND TUBING

Average employment declined 68.6 percent in the fourth quarter of 1975 as compared to the like 1974 quarter and declined 26.2 percent in the first eleven months of 1976 as compared to the like 1975 period.

SALES OR PRODUCTION OR BOTH, HAVE DECREASED ABSOLUTELY

A. WIRE ROD

Plant sales of carbon steel wire rod declined 14.5 percent in quantity in the fourth quarter of 1975 as compared to the like 1974 quarter. Plant sales declined 35.8 percent in the first quarter of 1976 as compared to the like 1975 quarter before increasing 36.4 percent in the April–November period of 1976 as compared to the like 1975 period.

B. WIRE AND WIRE PRODUCTS

Plant sales of carbon steel wire and wire products declined 60.4 percent in quantity in the fourth quarter of 1975 as compared to the like 1974 quarter. Plant sales continued to decline 39.6 percent in quantity in the first quarter of 1976 as compared to the like 1975 quarter before increasing 27.4 percent in the April–November period of 1976 as compared to the like 1975 period.

C. PIPE AND TUBING

Plant sales of carbon steel pipe and tubing declined 65.4 percent in the fourth quarter of 1975 as compared to the like 1974 quarter and declined 16.6 percent in the first eleven months of 1976 as compared to the like 1975 period.

INCREASED IMPORTS

A. WIRE ROD

Imports of carbon steel wire rod declined from 1,313,200 tons in 1972 to 1,306,400 tons in 1973, increased to 1,827,600 tons in 1974, declined to 1,027,600 tons in 1975, and increased to 1,032,900 tons in 1976.

The ratio of imports of carbon steel wire rod to domestic shipments declined from 52.3 percent in 1972 to 46.0 percent in 1973, increased to 71.8 percent in 1974, declined to 65.1 percent in 1975, and continued to decline to 35.7 percent in 1976.

B. WIRE AND WIRE PRODUCTS

Imports of carbon steel wire and wire products increased from 628,500 tons in 1972 to 894,200 tons in 1973 and continued to increase to 991,500 tons in 1974, then declined to 602,600 tons in 1975, and increased to 695,600 tons in 1976.

The ratio of imports of carbon steel wire and wire products to domestic shipments increased continuously from 21.7 percent in 1972 to 32.0 percent in 1974 and then declined to 28.5 percent in 1975 before increasing to 28.9 percent in 1976.

C. PIPE AND TUBING

Imports of carbon steel pipe and tubing declined from 1,768,100 tons in 1972 to 1,574,600 tons in 1973, increased to 1,761,500 tons in 1974, declined to 1,542,500 tons in 1975, and increased to 1,820,700 tons in 1976.

The ratio of imports of carbon steel pipe and tubing to domestic shipments declined from 28.6 percent in 1972 to 20.3 percent in 1973 and then increased continuously to 35.8 percent in 1976.

CONTRIBUTED IMPORTANTLY

The Department conducted surveys of customers of the Pittsburg plant that purchased one of the following products: carbon steel wire rod, carbon steel wire and wire products, and carbon steel pipe and tubing. For each product surveyed the comments of customers revealed that there is import influence in the domestic markets of these products. Some custom-

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ers of each product that were surveyed indicated that they reduced purchases of the respective steel product made at the Pittsburg Works and switched to foreign sources to fill some of their needs.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the carbon steel wire rod, carbon steel wire and wire products, and carbon steel pipe and tubing produced at the Pittsburg Works of the United States Steel Corp. in Pittsburg, Calif., have contributed importantly to the total or partial separations of workers engaged in employment related to the production of the above products at the plant as required for certification under Section 222 of the Trade Act of 1974.

In accordance with the provisions of the act, I make the following determinations:

All workers engaged in employment related to the production of either carbon steel wire rod or carbon steel wire and wire products at the Pittsburg Works of the United States Steel Corp. in Pittsburg, Calif., who became totally or partially separated from employment on or after November 15, 1975, and before July 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers engaged in the production of carbon steel wire rod or carbon steel wire and wire products that were separated on or after July 1, 1976, are not eligible to apply for adjustment assistance.

All workers engaged in employment related to the production of carbon steel pipe and tubing at the Pittsburg Works of the United States Steel Corp. in Pittsburg, Calif., who became totally or partially separated from employment on or after November 15, 1975, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of August 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-25938 Filed 9-8-77;8:45 am]

[TA-W-602]

RCA CORP., HARRISON, N.J.

Revised Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, on April 19, 1976, the Department of Labor issued a negative determination applicable to workers formerly engaged in employment related to the production of electronic test equipment at RCA Corp., Harrison, N.J. Notice of the determination was published in the FEDERAL REGISTER on April 30, 1976 (41 FR 18189).

At the request of a petitioning worker and following the issuance of a certification applicable to workers employed by a firm which produced the electronic test equipment under contract for RCA (Kenbar Industries, TA-W-1674), a review investigation was instituted by the Director of the Office of Trade Adjustment Assistance. The review investigation developed further information concerning operations performed in test equipment-related activities at the Harrison plant.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

After remaining unchanged throughout 1973 and 1974, employment of workers engaged in the designing and other activities related to the production of electronic test equipment at RCA declined 50 percent in December 1975 when RCA sold its test equipment operations. Remaining test equipment workers were separated in the first half of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of electronic test equipment by RCA declined 10 percent in 1975 from 1974.

Production of one model of test equipment, designed in Harrison, N.J., and produced for two months by RCA in Asheville, N.C., was terminated in mid-1975.

INCREASED IMPORTS

Imports of electronic testing equipment increased in each year from 1972 through 1976. Imports increased from $88 million in 1972 to $179 million in 1976. Imports increased relative to domestic production from 10.6 percent in 1972 to 11.2 percent in 1975 and 12.2 percent in 1976.

CONTRIBUTED IMPORTANTLY

Sales of test equipment imported by RCA increased from 31 percent of total test equipment sales in 1974 to 46 percent of sales in 1975.

Purchases of imported test equipment by RCA relative to total sales increased from 34 percent in 1973 to 39 percent in 1974 and 53 percent in 1975.

Separations of workers from RCA's test equipment activity were due to both RCA's increased reliance on imported test equipment and the firm's ultimate sale of its test equipment operations. Separations of workers began in August 1975, several months prior to RCA's decision to leave the test equipment market, and at a time when imports were significantly increasing their share of RCA's total test equipment sales. All test equipment produced by and for RCA domestically was designed, tested, and shipped by RCA employees; employees separated between July 31, 1975 and mid-January 1976, when RCA left the test equipment market, were thus adversely affected by RCA's increased reliance on imported test equipment.

CONCLUSION

The revised determination applicable to TA-W-602 is hereby issued as follows:

All workers engaged in employment related to the production of electronic test equipment at RCA Corp., Harrison, N.J., who became totally or partially separated from employment on or after July 31, 1975, and before January 15, 1976, are eligible to apply for adjustment under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-25939 Filed 9-8-77;8:45 am]

[TA-W-1977]

S. KLEIN DIE CUTTING, INC. NEW YORK, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1977: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 12, 1977 in response to a worker petition received on April 11, 1977 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers cutting brassieres and corsets at the New York, N.Y. plant of S. Klein Die Cutting, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on April 29, 1977 (42 FR 21873). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of S. Klein Die Cutting, Inc., its customers, the American Textile Manufacturers Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

The Department's investigation revealed that S. Klein Die Cutting is engaged only in the cutting of brassieres (and negligible amounts of corsets). S. Klein receives material from brassiere and corset manufacturers, cuts the material to specifications, and returns the cut pieces to the manufacturers for assembly into finished garments.

Customers (manufacturers of brassieres) of S. Klein decreased the absolute amount and the percentage of their cutting work contracted to S. Klein in the first half of 1977 compared to the first half of 1976 in favor of performing this work in-house. A small amount of cutting work has been contracted by the manufacturers to Puerto Rico. Thus, all cutting of the brassieres produced by these manufacturers continues to be performed domestically.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with brassiere cuttings produced at the New York, N.Y. plant of S. Klein Die Cuting, Inc., did not contribute importantly to the decline in sales or producton or separation of workers of that plant as required for certification under section 222 of the Act.

Signed at Washington, D.C., this 29th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-25936 Filed 9-8-77;8:45 am]

[TA-W-2041]

SANDLER OF BOSTON NEW BEDFORD, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2041: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 2, 1977, in response to a worker petition received on May 2, 1977, which was filed on behalf of workers and former workers producing women's footwear at the New Bedford, Mass. plant of Sandler of Boston.

The notice of investigation was published in the FEDERAL REGISTER on May 13, 1977 (42 FR 24336). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Sandler of Boston, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation revealed that the second criterion has not been met.

The Department's investigation revealed that production in quantity at the New Bedford plant increased 25.8 percent in 1975 compared to 1974 and increased 63.8 percent in 1976 compared to 1975. For the January–April period of 1977, production increased 20.4 percent compared to the same period of 197. There is no indication that current workers are threatened with any involuntary separations.

Sandler of Boston also sells footwear purchased from outside sources and does not maintain separate sales data for the New Bedford plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales or production at the New Bedford, Mass. plant of Sandler of Boston have not decreased as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-25940 Filed 9-8-77;8:45 am]

[TA-W-1582]

UNION CARBIDE CORP., MARIETTA, OHIO, METALS DIVISION PLANT

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1582: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 18, 1977 in response to a worker petition received on that date which was filed by the Oil, Chemical and Atomic Workers' International Union on behalf of workers and former workers at the Marietta, Ohio Metals Division plant of Union Carbide Corp.

The notice of investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5455). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Union Carbide Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that with respect to Medium Carbon/Medium Silicon Ferromanganese and Silicomanganese, criteria (2) and (4) have not been met and with respect to High Carbon Ferrochrome criterion (3) has not been met. However, with respect to Low Carbon Ferrochrome and High Carbon

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Ferromanganese all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average weekly production employment at the plant decreased 10 percent in 1975 from 1974 and 3 percent in 1976 from 1975.

Workers at the plant are generally not identifiable by product.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY HIGH CARBON FERROCHROME (HCFeCr)

Production, in quantity, of HCFeCr at the Marietta plant declined 23 percent in 1975 from 1974 and increased 29 percent in 1976 from 1975.

Sales, in quantity, of HCFeCr at the plant declined 48 percent in 1975 from 1974 and 16 percent in 1976 from 1975.

HCFeCr accounted for 9–11 percent (in quantity) of production at the plant in each of the three years, 1974–1976.

LOW CARBON FERROCHROME (LCFeCr)

Production, in quantity, of LCFeCr at the plant declined 24 percent in 1975 from 1974 and 19 percent in 1976 from 1975.

Sales, in quantity, of LCFeCr at the plant declined 37 percent in 1975 from 1974 and 9 percent in 1976 from 1975.

LCFeCr accounted for 7–12 percent, in quantity, of production at the plant in each of the three years, 1974–1976.

HIGH CARBON (STANDARD) FERROMANGANESE (HCFeMn)

Production, in quantity, of HCFeMn increased 26 percent in 1975 from 1974 and remained virtually unchanged in 1976.

Sales, in quantity, of HCFeMn at the plant decreased 4 percent in 1975 from 1974 and 3 percent in 1976 from 1975.

HCFeMn accounted for 33–48 percent (in quantity) of production at the plant in each of the three years, 1974–1976.

MEDIUM SILICON/MEDIUM CARBON FERROMANGANESE (MS/MCFeMn)

Production, in quantity, of MS/MCFeMn at the plant decreased 40 percent in 1975 from 1974 and increased 84 percent in 1976 from 1975.

Sales, in quantity, of MS/MCFeMn at the plant decreased 37 percent in 1975 from 1974 and increased 43 percent in 1976 from 1975.

MS/MCFeMn accounted for 7–13 percent (in quantity) of production at the plant in each of the three years, 1974–1976.

SILICOMANGANESE (SiMn)

Production, in quantity, of SiMn at the plant decreased 35 percent in 1975 from 1974 and increased 40 percent in 1976 from 1975.

Sales, in quantity, of SiMn at the plant declined 39 percent in 1975 from 1974 and increased 11 percent in 1976 from 1975.

SiMn accounted for 17–25 percent (in quantity) of production at the plant in each of the three years, 1974–1976.

Manganese metal, chromium metal, vanadium and electrolytic manganese dioxide are also produced at the plant but they each accounted for less than 4 percent (in quantity) of the production at the plant in each of the three years 1974–1976.

INCREASED IMPORTS

Imports of HCFeCr increased in absolute terms and relative to domestic production in 1972–1975 from the previous year. Imports decreased from 257,577 tons in 1975 to 178,846 tons in 1976. Relatively, imports were 118.9 percent of domestic production in the first 10 months of 1976 compared to 215.0 percent in the same period of 1975.

Imports of LCFeCr, in absolute terms and relative to domestic production, increased in 1972 from 1971, decreased in 1973 from 1972, and increased in 1974 from 1973 and in 1975 from 1974. Imports increased absolutely from 61,257 tons in 1975 to 63,750 tons in 1976. Relatively, imports were 211.6 percent in the first 10 months of 1976 compared to 104.6 percent in the first 10 months of 1975.

Imports of HCFeMn, in absolute terms and relative to domestic production, increased in 1972 from 1971, in 1973 from 1972, in 1974 from 1973 and decreased in 1975 from 1974. Imports increased from 369,821 tons in 1975, 72.5 percent of domestic production, to 461,802 tons, 116.5 percent of domestic production in 1976.

Imports of medium and low carbon ferromanganese in absolute terms and relative to domestic production increased in 1972 from 1971, decreased in 1973 from 1972, and decreased in 1974 from 1973. Imports decreased absolutely in 1975 from 1974, but increased relative to domestic production. Imports increased from 36,990 tons, 37.9 percent of domestic production in 1975 to 75,607 tons, 80.0 percent of domestic production in 1976.

Imports of silicomanganese increased in absolute terms in 1972 from 1971, in 1973 from 1972, in 1974 from 1973 and decreased in 1975 from 1974. Relative to domestic production, imports increased in 1972 from 1971, decreased in 1973 from 1972 and increased in 1974 from 1973 and in 1975 from 1974. Imports increased from 55,567 tons, 24.9 percent of domestic production in 1975, to 80,118 tons, 45.5 percent of domestic production in 1976.

CONTRIBUTED IMPORTANTLY

Customers of LCFeCr and HCFeMn indicated that they have decreased purchases of these products from Union Carbide and have increased purchases of imports. Customers of MS/MCFeMn and SiMn did not switch purchases from Union Carbide to imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with low-carbon ferrochrome and high carbon ferromanganese produced at the Marietta, Ohio, Metals Division plant of Union Carbide Corp., contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification.

All workers engaged in employment related to the production of low carbon ferrochrome and high carbon ferromanganese at the Marietta, Ohio, Metals Division plant of Union Carbide Corp. who became totally or partially separated from employment on or after August 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

It is further concluded that workers engaged in employment related to the production of high carbon ferrochrome, medium silicon/medium carbon ferromanganese and siliconmanganese are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 29th day of January 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-25941 Filed 9-8-77;8:45 am]

[TA-W-2042]

VOGUE INDUSTRIES, INC., LOWELL, MASSACHUSETTS

Certification Regarding Eligibility To Apply for Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2042: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 2, 1977 in response to a worker petition received on that date which was filed by Vogue Industries, Inc. on behalf of workers and former workers engaged in employment related to the production of stainless steel flatware at Vogue Industries, Inc., Lowell, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on May 13, 1977 (42 FR 24346). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Vogue Industries, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or threatened to become totally or partially separated;

(2) That sales or production, or both of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at Vogue Industries decreased 33 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales at Vogue Industries decreased 41 percent in dollar value from 1975 to 1976.

Production at Vogue Industries decreased 39 percent in quantity from 1975 to 1976.

INCREASED IMPORTS

Imports of stainless steel flatware have increased absolutely and relatively to domestic production each year from 1972 through 1976. From 1975 to 1976, the ratio of imports to domestic production increased from 173.1 in 1975 to 233.7 percent in 1976.

CONTRIBUTED IMPORTANTLY

Customers surveyed reduced purchases of stainless steel flatware from Vogue Industries and increased purchases from domestic firms which have increasingly used foreign manufacturers as the source of stainless steel flatware.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with stainless steel flatware manufactured at Vogue Industries, Inc., Lowell, Mass. contributed importantly to the total or partial separation of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Vogue Industries, Inc., Lowell, Mass. who became totally or partially separated from employment on or after April 26, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-25942 Filed 9-8-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (77-59)]

SPACE SCIENCE STEERING COMMITTEE; OUT-OF-ECLIPTIC (OOE) MISSION AD HOC ADVISORY SUBCOMMITTEE

Establishment

Pursuant to Section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) and after consultation with the Office of Management and Budget NASA has determined that the establishment of an Ad Hoc Advisory Subcommittee for the Out-of-Ecliptic (OOE) Mission is in the public interest in connection with the performance of duties imposed upon NASA by law. The Space Science Steering Committee, under which the Subcommittee will operate, is a NASA internal committee, composed wholly of Government employees.

The function of this Subcommittee will be to obtain the advice of the scientific community on proposals in the specialized areas identified by the name of the Subcommittee.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs.

AUGUST 31, 1977.

[FR Doc.77-26273 Filed 9-8-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

EDUCATION PROGRAMS PANEL

Notice of Meeting

SEPTEMBER 2, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Education Programs Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1025, from 9:30 a.m. to 5:30 p.m. on October 6, 1977.

The purpose of the meeting is to review Humanities Institutes applications submitted to the National Endowment for the Humanities for projects beginning after December 1, 1977.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc 77-26335 Filed 9-8-77;8:45 am]

FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 30, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314 from 9:30 a.m. to 5:30 p.m. on October 1, 1977.

The purpose of the meeting is to review 1978 Summer Seminar applications from perspective seminar directors in the field of German Language and Literature submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc 77-26327 Filed 9-8-77;8:45 am]

FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 30, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW.,

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Washington, D.C. 20506, in room 314 from 9:30 a.m. to 5:30 p.m. on October 3, 1977.

The purpose of the meeting is to review 1978 Summer Seminar applications from perspective seminar directors in the field of Classics submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202–724–0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc.77-26328 Filed 9-8-77;8:45 am]

FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 30, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1130 from 9:30 a.m. to 5:30 p.m. on October 3, 1977.

The purpose of the meeting is to review 1978 Summer Seminar applications from perspective seminar directors in the field of Religion submitted to the National Endownment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Office, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202–724–0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc.77-26329 Filed 9-8-77;8:45 am]

FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 30, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1023 from 9:30 a.m. to 5:30 p.m. on October 3, 1977.

The purpose of the meeting is to review 1978 Summer Seminar applications from perspective seminar directors in the field of Art History and Architecture submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202–724–0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc.77-26330 Filed 9-8-77;8:45 am]

FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 30, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314 from 9:30 a.m. to 5:30 p.m. on October 4, 1977.

The purpose of the meeting is to review 1978 Summer Seminar applications from perspective seminar directors in the field of Spanish submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202–724–0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc.77-26331 Filed 9-8-77;8:45 am]

FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 30, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314 from 9:30 a.m. to 5:30 p.m. on October 6, 1977.

The purpose of the meeting is to review 1978 Summer Seminar applications from perspective seminar directors in the field of Music submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202–724–0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc.77-26332 Filed 9-8-77;8:45 am]

FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 30, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, NW., Washington, D.C. 20506, in room 1023 from 9:30 a.m. to 5:30 p.m. on October 6, 1977.

The purpose of the meeting is to review 1978 Summer Seminar applications from perspective seminar directors in the field of Science submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202–724–0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc.77-26333 Filed 9-8-77;8:45 am]

FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 30, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, NW., Washington, D.C. 20506, in room 1023 from 9:30 a.m. to 5:30 p.m. on October 7, 1977.

The purpose of the meeting is to review 1978 Summer Seminar applications from perspective seminar directors in the field of French submitted to the National Endowment for the Humanities for project beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202–724–0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc.77-26334 Filed 9-8-77;8:45 am]

PUBLIC PROGAMS PANEL

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463) notice is hereby given that a meeting of the Public Programs Panel will meet at Washington, D.C. on October 13, 1977, from 9 a.m. to 5:30 p.m., and October 14, 1977, from 9 a.m. to 5:30 p.m., in the First Floor Conference room, National Endowment for the Humanities at 806 15th Street NW., Washington, D.C.

The purpose of the meeting is to review applications for the development of humanities Public Program formats submitted to the National Endowment for the Humanities for project beginning after January 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202–724–0368.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc.77-26336 Filed 9-8-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

PRIVACY ACT OF 1974

Report on New Systems

The Purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires that agencies give advance notice to the Congress and the Office of Management and Budget to their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(o)). During the period August 22 through September 2, 1977 the Office of Management and Budget received the following reports on new (or revised) systems of records

PANAMA CANAL COMPANY

System Name: Canal Protection Division Activity Report Files.

Report Date: August 29, 1977.

Point-of-Contact: Joseph J. Wood, Agency Records Officer, Chief, Administrative Services Division, Panama Canal Company, Box M, Balboa Heights, Canal Zone.

Summary: This system contains records concerning maintenance of security for the Panama Canal and Canal Zone facilities.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77-26483 Filed 9-8-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–13929; File No. SR–DTC–77–8]

DEPOSITORY TRUST CO.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94–29, 16 (June 4, 1975), notice is hereby given that on August 25, 1977, the abovementioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change permits inclusion of interchangeable debt securities issued by state and local governments (municipal bonds) among the securities eligible for the book-entry transfer and pledge system of the Depository Trust Co. (DTC). Participant Operating Procedures for deposits and withdrawals of municipal bonds in the bearer form, a form of indemnity agreement from a Participant and a form of agreement between a municipal bond transfer agent and DTC are attached as Exhibits 2, 3, and 4, respectively, to DTC's filing on Form 19b–4A, File No. SR–DTC–77–8. The proposed rule change requires a determination pursuant to Rules 8c–1(g) and 15c2–1(g) under the Securities Exchange Act of 1934. The proposed rule change also establishes fees associated with deposits and withdrawals of municipal bonds in the bearer form.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change are as follows:

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The purpose of the proposed rule change is to permit inclusion of interchangeable municipal bonds (i.e., municipal bonds which are issued in both the bearer form and the registered form) among the securities eligible for the DTC book-entry transfer and pledge system. Currently, municipal bonds are not DTC-eligible. The proposed rule change would enable Participants to deposit the bearer form of some municipal bond issues at DTC or the transfer agent and to deposit the bearer form of other municipal bond issues only at the transfer agent. All deposits of the bearer form of municipal bonds would be added to a balance certificate registered in the name of DTC's nominee, Cede & Co., pursuant to the FAST program, and all withdrawals of bearer municipal bonds would be deducted from the balance certificate. DTC would not store in its vault municipal bond certificates in the bearer form. Participants would pick up withdrawals of municipal bonds in the bearer form at the transfer agent upon presentation of a window receipt issued to them by DTC. Safeguards implemented by DTC to prevent such receipts from being improperly issued or used would include controls over the issuance and authentication of the receipts, photographic evidence of their delivery to Participants' messengers, and direct communication by DTC of receipt data to the transfer agent for matching against receipts presented at its window. Participants would be required to indemnify DTC against any losses incurred as a result of delivery of bearer municipal bonds by the Participant to the transfer agent or pick-up of bearer municipal bonds by the Participant from the transfer agent after receiving a valid window receipt from DTC. Any fees charged to DTC by transfer agents for handling deposits and withdrawals of municipal bonds in the bearer form would be passed through to the Participants initiating such transactions. In most other respects, the municipal bond services provided by DTC would be the same as those for corporate debt securities.

The proposed rule change will facilitate the prompt and accurate clearance and settlement of securities transactions by encouraging immobilization of interchangeable municipal bonds.

DTC developed the proposed rule change as a result of suggestions from Participants. Discussions with the Securities Operations Division of the Securities Industry Association, the Securities Committee of the New York Clearing House Association, the Public Securities Association, and the Municipal Securities Rulemaking Board indicated their support of efforts to immobilize municipal bonds. A DTC study of the feasibility of including a new municipal bond issue in DTC's book-entry underwriting distribution systems was announced in the DTC Newsletter of June 1977. The Municipal Securities Rulemaking Board commented on the inapplicability of one of its rules to the proposed municipal bond service. In meetings and telephone conversations with Participants and transfer agents, favorable opinions on the proposed municipal bond service were expressed on the grounds that the proposed service would reduce municipal bond processing costs and the risk of loss or theft associated with physical deliveries of bearer municipal bonds.

DTC perceives no burden on competition by reason of the proposed rule change.

On or before October 14, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should be submitted on or before September 30, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 2, 1977.

[FR Doc 77-26305 Filed 9-8-77;8:45 am]

[File No. 1-6767]

MARK CONTROLS CORP.

Application To Withdraw From Listing and Registration

SEPTEMBER 1, 1977.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

This security has become listed and registered on the New York Stock Exchange, Inc., and the management of the Company has concluded that the costs of maintaining the listing on both exchanges outweigh the possible benefits of dual listing.

The American Stock Exchange, Inc. has not objected to this application.

Any interested person may, on or before September 29, 1977, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26309 Filed 9-8-77;8:45 am]

[Release No. 34-13879;
File No. SR-MOC-77-4]

MIDWEST CLEARING CORP.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on August 18, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change involves the implementation of the MST Communications System (the "MST System") of the Midwest Clearing Corp. ("MCC"). The MST System will provide a fast, flexible and cost effective communications link for broker/dealers and institutions. Development of this system is another step toward realization of a national securities processing system.

MST System terminal applications will include inquiry, input, report retrieval, and administrative message capability. Although the MST System will be phased in gradually and made available to all participants, it will not be required. MCC plans to run the MST System at no cost for at least a month after receiving Commission approval. After the month, the initial fee has been set at $200 a month per participant.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to implement a communication linkage between MCC, its participants, and other clearing agencies which will enable them to receive information via terminal—a CRT screen, keyboard, printer, and optional card reader. Terminal receipt of information will reduce the necessity of preparation and physical delivery of many written instructions.

The proposed rule change will facilitate the prompt and accurate clearance and settlement of securities transactions by implementing an automated communications link with MCC, its participants, and other clearing agencies that MCC believes will reduce geographic disadvantages, improve cash and securities management (same day movement of cash and securities, timely confirmation of cash and security activity, reduced interest cost, reduced errors, and improved stock loan utilization), and provide more timely pay and collect notification.

The proposed fee represents an equitable allocation of reasonable fees among its participants.

Comments have neither been solicited nor received.

The Midwest Clearing Corp. believes that no burdens have been placed on competition.

On or before October 14, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 30, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 19, 1977.

[FR Doc.77-26304 Filed 9-8-77;8:45 am]

[Release No. 34-13916; File No.
SR-MSE-77-31]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 27, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

(*Additions italicized*—[Deletions bracketed])

Interpretation and policy .01 of Rule 10 of Article I of the Midwest Stock Exchange Rules is hereby amended as follows:

.01 The Executive Committee has adopted the following procedure for processing transfers of membership:

All bids for, and offerings of, memberships will be submitted to, and processed by, the Exchange's Membership Department. No private negotiations and/or sales of memberships will be allowed without the written approval of the Exchange and any sale contracts resulting from such private negotiations may be nullified by the Exchange.

Applicants for membership will not be permitted to enter a bid for a membership until the staff has [recommended to the Executive Committee that the applicant be elected to membership or in the absence of such recommendation, until the Executive Committee has elected the applicant to membership.] *determined from the application submitted that no statutory bar to membership exists.*

Any contract for the sale of a membership, which contract has been made by the Exchange on behalf of the buyer and seller, will remain in force for the fifteen calendar days next following the date on which the contract was executed. Such contract will be extended beyond the original termination date only if both parties agree in writing to such an extension and to a new termination date.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of this amendment is to clarify the practice that bids for memberships are accepted upon preliminary determination that no statutory disqualification to membership exists. Upon acceptance of a bid, membership is posted and the procedures established for election to membership are commenced.

The procedure established herein is consistent with the requirements of section 6(c) of the Act which provides in part that a National Securities Exchange may deny membership to any person who is subject to a statutory disqualification.

Comments have neither been solicited nor received.

The proposed rule change will impose no burden on competition.

On or before October 14, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 30, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 1, 1977.

[FR Doc.77-26306 Filed 9-8-77;8:45 am]

[Release No. 34-13915; File No.
SR-NYSE-77-24]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29 (June 4, 1975), notice is hereby given that on August 26, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF THE PROPOSED RULE CHANGE AS SUBMITTED BY THE NEW YORK STOCK EXCHANGE, INC. ("NYSE")

Rule 103A. Upon notice to the member and an opportunity to be heard, Exchange approval to act as a specialist may be withdrwn in one or more stocks by the Market Performance Committee when the member's performance as a specialist is below acceptable performance levels established by the Market Performance Committee.

Notice to the member required by this Rule shall be in writing and shall contain the specific grounds to be considered as the basis for withdrawal of approval. The member shall have an opportunity to submit a written reply no later than ten days after the receipt of such notice.

The member shall also have an opportunity to be heard upon the specific grounds to be considered before the Market Performance Committee and a written record of any such hearing shall be maintained. The decision of a majority of the members of that Committee shall be final, subject to the power of the

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Board of Directors to review such decision in accordance with the provisions of Article III, Section 1 of the Constitution.

* * * Supplementary Material:

.10 Acceptable Performance. — The Market Performance Committee has established that a specialist's performance will be below acceptable levels if such specialist has been evaluated below average by members other than specialists on a specialist performance evaluation questionnaire which is used to evaluate specialists in various aspects of their performance, with an overall quarterly weighted grade below 3.00 for two or more quarters, average quarterly grades below 3.00 on three or more individual questions for two or more quarters, or an average quarterly grade below 3.00 for the same individual question for four or more consecutive quarters.

NYSE's STATEMENT OF PURPOSE

The purpose of proposed new Rule 103A is to authorize the Exchange's Market Performance Committee, pursuant to authority delegated by the Exchange's Board of Directors, to establish methods of evaluating the performance of Exchange specialists, to establish minimum acceptable levels of performance based upon those evaluations, to withdraw the registration of a specialist organization in one or more stocks when its performance is below acceptable performance levels, and to initiate reallocation proceedings for such stock(s). The new rule enables the Market Performance Commitee to initiate reallocation proceedings in those stocks where it believes that performance might significantly be improved by transfer to another specialist organization. This procedure will occur for the purpose of improving the quality of the Exchange's marketplace, not as a disciplinary action.

A specialist organization whose stock is selected for such reallocation may apply to retain the stock or may apply to register as a competing specialist in the stock should it be assigned to another specialist.

Rule 103A also provides due process guarantees with respect to any specialist organization whose performance is below acceptable performance levels established by the Market Performance Committee. The specialist will be provided a written notice and statement of the grounds considered as the basis for initiating reallocation proceedings, and will have the opportunity to submit a written reply and be heard by the Market Performance Committee. A written record of such hearing will be maintained, and any decision of the Committee can be appealed to the Board of Directors. Moreover, as previously mentioned, when reallocation proceedings are initiated, the specialist may apply to retain the stock, or he also may apply to compete in the stock.

Proposed Rule 103A.10 describes the measures of performance and minimum acceptable performance levels which shall be used by the Market Performance Committee to identify those specialist organizations against whom reallocation proceedings may be initiated. These will be subject to change from time to time by the Market Performance Committee as it develops new or improved performance evaluation procedures.

Rule 103A.10, as proposed, provides that the performance evaluation procedure to be used by the Market Performance Committee will be the Exchange's Specialist Performance Evaluation Questionnaire. The Questionnaire is distributed every quarter to non-specialist Floor Members, and is completed each quarter by approximately 130 such members. It contains eight questions relating to various aspects of specialist performance, and the nonspecialist Floor members are asked to evaluate specialists on each question on a scale of 5 to 1, where 5 is excellent, 4 above average, 3 average, 2 below average and 1 poor. For each specialist organization, an average grade for each question is calculated. In addition, each of the eight questions is weighted according to its relative importance, and these weights are used to comput an overall weighted grade for each specialist organization.

The Market Performance Committee may exercise its reallocation authority as set forth in proposed Rules 103A and 103A.10 based on results achieved by specialist organizations on the Specialist Performance Evaluation Questionnaire. In all cases where a specialist organization receives a grade below 3.00 it will be given at least one quarter to improve its performance before any reallocation proceeding is initiated. During that time, Exchange staff and members of the Market Performance Committee will meet with the specialist organization to counsel and assist it regarding possible methods of improving performance.

NYSE's STATEMENT OF BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

Proposed new Rules 103A and 103A.10 will provide a method for the Exchange to renew the competition for registration in a stock through reallocation procedures and provide a means for the Exchange to enhance the quality of its marketplace and, thus, to remain competitive with other market centers. The proposed new Rules are consistent with section 6(b)(5) of the Securities Exchange Act of 1934 which, in part, provides for Exchange rules concerned with the administration of the Exchange, and section 11A(a)(1)(C)(ii) which states that the Congress finds that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

The Exchange has not solicited comments on the proposed rule change nor have any written comments been received.

BURDEN ON COMPETITION

NYSE asserts that the proposed rule change does not impose any burden on competition.

On or before October 14, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 30, 1977.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 1, 1977.

[FR Doc 77-26307 Filed 9-8-77;8:45 am]

[Release No 34-13893; File No. SR-NYSE-77-23]

NEW YORK STOCK EXCHANGE, INC.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29 (June 4, 1975), notice is hereby given that on August 19, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

NEW YORK STOCK EXCHANGE'S ("NYSE's") STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change provides guidelines governing the conduct and safety of members and Floor clerical employees of a member or member organization, and a schedule of penalties which would be imposed where a violation of a guideline is found to have occurred.

NYSE STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to insure that the behavior of individuals on the Floor of the Exchange contributes to the efficient, undisrupted conduct of business, and does not jeopardize the safety or welfare of others. The Exchange's Board of Directors has given Floor Officials the authority to impose on-the-spot penalties against any member or Floor clerical employee of a member or member organization found in violation of the guidelines.

Permitting Floor Officials to impose on-the-spot penalties simplifies and facilitates the administration of disciplinary sanctions for minor offenses, thus enabling the Exchange to maintain better control of conduct on the trading Floor. Individuals adversely affected by the action of a Floor Official may appeal the decision to a committee of three Floor Governors. This is in addition to the due process rights guaranteed under Article III, section 1 of the Exchange Constitution, and Rule 345.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The NYSE states that the proposed rule change ensures the efficient, undisrupted conduct of business on the Floor of the Exchange, and, in so doing, contributes to the protection of investors and of the public interest.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

NYSE states that no comments were solicited by the Exchange on the proposed rule change nor have any written comments been received.

BURDEN ON COMPETITION

The Exchange has determined that no burden on competition will be imposed by the proposed rule change.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 30, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 26, 1977.

[FR Doc.77-26308 Filed 9-8-77;8:45 am]

[File No. 1-4935]

OVERHEAD DOOR CORP.

Application to Withdraw From Listing and Registration

SEPTEMBER 1, 1977.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities and Exchange Act of 1934 and rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

This security has become listed and registered on the New York Stock Exchange, Inc., and the management of the Company has concluded that the costs of maintaining the listing on both exchanges outweigh the possible benefits of dual listing.

The American Stock Exchange, Inc., has not objected to this application.

Any interested person may, on or before September 29, 1977, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26310 Filed 9-8-77;8:45 am]

VETERANS ADMINISTRATION

WAGE COMMITTEE

Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, notice is hereby given that meetings of the Veterans Administration Wage Committee will be held on:

Thursday, October 6, 1977
Thursday, October 20, 1977
Thursday, November 3, 1977
Thursday, November 17, 1977
Thursday, December 1, 1977
Thursday, December 15, 1977
Thursday, December 29, 1977

The meetings will convene at 2:30 p.m. and will be held in Room 1144C, Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, D.C.

The Committee's primary responsibility is to consider and make recommendations to the Chief Medical Director, Department of Medicine and Surgery, on all matters involved in the development and authorization of wage rate schedules for Federal Wage System (blue-collar) employees.

At these scheduled meetings, the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, as amended by Pub. L. 94-409, meetings may be closed to the public when they are concerned with matters listed under section 552b, Title 5, United States Code. Two of the matters so listed are those related solely to the internal personnel rules and practices of an agency (5 U.S.C. 552b(c)(2)) and those involving trade secrets and commercial or financial information obtained from a person and privileged or confidential (5 U.S.C. 552b(c)(4)).

Accordingly, I hereby determine that all portions of the meetings cited above will be closed to the public because the matters considered are related to the internal rules and practices of the Veterans Administration (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who wish to do so are invited to submit material in writing to the Chairman regarding matters believed to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue NW., Washington, D.C.

Dated: September 1, 1977.

MAX CLELAND,
Administrator.

[FR Doc.77-26272 Filed 9-8-77;8:45 am]

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DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

[INT DES 77-22]

ALUMAX-PACIFIC CORP. PRIMARY ALUMINUM REDUCTION PLANT AND ASSOCIATED TRANSMISSION AND SUBSTATION FACILITIES

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bonneville Power Administration has prepared a draft environmental statement covering the construction and operation of the Alumax-Pacific Corp. primary aluminum reduction plant and associated transmission and substation facilities to be located near Umatilla, Oreg.

Copies of the draft environmental statement are available for inspection in the library of the headquarters office of BPA, 1002 Northeast Holladay Street, Portland, Oreg. 97232; the Washington, D.C., office, Interior Building, Room 5600; and in the Walla Walla Area office, West 101 Poplar, P.O. Box 1518, Walla Walla, Wash. 99362.

Copies are also available in approximately 260 public libraries in the Pacific Northwest, and at the following Government Depository Libraries:

GOVERNMENT DEPOSITORY LIBRARIES

Boise Public Library, Reference Dept., 715 Capitol Blvd., Boise, Idaho 83706.
University of Idaho, Library—U.S. Documents, Moscow, Idaho 83843.
Documents Division, Idaho State University Library, Pocatello, Idaho 83209.
Documents Librarian, Montana State University Library, Bozeman, Mont. 59715.
University of Montana Library, Documents Division, Missoula, Mont. 59801.
Southern Oregon State College Library, Documents Section, Ashland, Oreg. 97520.
Documents Division, William Jasper Kerr Library, Oregon State University, Corvallis, Oreg. 97331.
University of Oregon Library, Documents Section, Eugene, Oreg. 97403.
Harvey W. Scott Memorial Library, Pacific University, Forest Grove, Oreg. 97116.
Eastern Oregon State College Library, Eighth at K, La Grande, Oreg. 97850.
Northus Library, Linfield College, McMinnville, Oreg. 97128.
Eric V. Hauser Memorial Library, Reed College, 3203 Southeast Woodstock, Portland, Oreg. 97202.
Aubrey R. Watzek Library, Lewis and Clark College, Attn.: Reference Department, 0615 Southwest Palatine Hill Rd., Portland, Oreg. 97219.
Oregon State Library, State Library Bldg., Salem, Oreg. 97301.
Willamette University Library, 900 State St., Salem, Oreg. 97301.
Documents Division, Mabie Zoe Wilson Library, Western Washington State College, 516 High St., Bellingham, Wash. 98225.
Documents Department, Victor J. Bouillon Library, Central Washington State College, Ellensburg, Wash. 98926.
Everett Community College Library, 801 Wetmore Ave., Everett, Wash. 98201.
Documents Center, Washington State Library, Olympia, Wash. 98504.
Washington State University Library, Serial-Record Section, Pullman, Wash. 99163.
Fort Vancouver Regional Library, Attn.: Reference Librarian, 1007 East Mill Plain Blvd., Vancouver, Wash. 98663.
Library Association of Portland, 801 Southwest 10th Ave., Portland, Oreg. 97205.
Documents Librarian, Portland State University Library, P.O. Box 1151, Portland, Oreg. 97207.
Oregon College of Education, Library, Monmouth, Oreg. 97361.
Boise State College Library, Boise, Idaho 83725.
Idaho State Library, 325 West State St., Boise, Idaho 83702.
Ricks College, David O. McKay Library, Rexburg, Idaho 83440.
University of Puget Sound, Everill S. Collins Memorial Library, Tacoma, Wash. 98416.
Eastern Washington State College Library, John F. Kennedy Memorial Library, Cheney, Wash. 99004.
Evergreen State College, Daniel J. Evans Library, Olympia, Wash. 98505.
Seattle Public Library, 1000 Fourth Ave., Seattle, Wash. 98104.
University of Washington, School of Law Library, 3000 Condon Hall, Seattle, Wash. 98105.
Northwest Collection, Penrose Memorial Library, Whitman College, Walla Walla, Wash. 99362.
Henry Suzzallo Memorial Library, University of Washington, Seattle, Wash. 98195.
Oregon Supreme Court Library, 12th and State Sts., Salem, Oreg. 97310.
Idaho State Law Library, Documents Librarian, Pocatello, Idaho 83201.
College of Idaho, Terteling Library, 2112 Cleveland Blvd., Caldwell, Idaho 83605.
College of Southern Idaho, Documents Library—Box 1238, 315 Falls Ave., Twin Falls Idaho 83301.
Tacoma Public Library, 1102 Tacoma Ave. South, Tacoma, Wash. 98402.
Everett Public Library, 2702 Hoyt Ave., Everett, Wash. 98201.
North Olympic Library System, Library Service Center, 2210 South Peabody, Port Angeles, Wash. 98362.
Spokane Public Library, Comstock Bldg., West 906 Main Ave., Spokane, Wash. 99201.

A limited number of copies are available by writing to the Environmental Manager, Bonneville Power Administration—SJ, P.O. Box 3621, Portland, Oreg. 97208, or by calling toll free from anywhere in the Pacific Northwest: 1-800-547-8088. In Oregon call 1-800-452-8429. Comments on the draft environmental statement must be sent to the Environmental Manager by December 14, 1977.

Dated: July 25, 1977.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-25613 Filed 9-8-77;8:45 am]

[INT DES 77-21]

ROLE OF THE BONNEVILLE POWER ADMINISTRATION IN THE PACIFIC NORTHWEST POWER SUPPLY SYSTEM, INCLUDING ITS PARTICIPATION IN THE HYDRO-THERMAL POWER PROGRAM

Availability of Program Environmental Statement and Planning Report

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bonneville Power Administration has prepared a draft environmental statement covering its role in the regional power system. The statement consists of two parts and three appendixes, and is bound in five volumes.

Copies of the draft environmental statement are available for inspection in the library of the headquarters office of BPA, 1002 Northeast Holladay Street, Portland, Oreg. 97232; the Washington, D.C., office, Interior Building, Room 5600; and in the following area and district offices: Portland area office, Lloyd Plaza Building, 919 Northeast 19th Avenue, Room 201, Portland, Oreg. 97232; Seattle area office, 415 1st Avenue North, Room 250, Seattle, Wash. 98109; Spokane area office, Room 561, U.S. Court House, West 920 Riverside Avenue, Spokane, Wash. 99201; Walla Walla area office, West 101 Poplar, P.O. Box 1518, Walla Walla, Wash. 99362; Eugene district office, U.S. Federal Building, Room 206, 211 East 7th Street, Eugene, Oreg. 97401; Idaho Falls district office, 531 Lomax Street, Idaho Falls, Idaho 83401; Kalispell district office (5 miles east of Kalispell on Highway 2), Box 758, Kalispell, Mont. 59901; and the Wenatchee district office, Room 314, U.S. Federal Building, 301 Yakima Street, Wenatchee, Wash. 98801.

Copies are also available in approximately 260 public libraries in the Pacific Northwest, and at the following Government Depository Libraries:

GOVERNMENT DEPOSITORY LIBRARIES

Boise Public Library, Reference Dept., 715 Capitol Blvd., Boise, Idaho 83706.
University of Idaho, Library—U.S. Documents, Moscow, Idaho 83843.
Documents Division, Idaho State University Library, Pocatello, Idaho 83209.
Documents Librarian, Montana State University Library, Bozeman, Mont. 59715.
University of Montana Library, Documents Division, Missoula, Mont. 59801.
Southern Oregon State College Library, Documents Section, Ashland, Oreg. 97520.
Documents Division, William Jasper Kerr Library, Oregon State University, Corvallis, Oreg. 97331.
University of Oregon Library, Documents Section, Eugene, Oreg. 97403.
Harvey W. Scott Memorial Library, Pacific University, Forest Grove, Oreg. 97116.
Eastern Oregon State College Library, Eighth at K, La Grande, Oreg. 97850.
Northus Library, Linfield College, McMinnville, Oreg. 97128.
Eric V. Hauser Memorial Library, Reed College, 3203 Southeast Woodstock, Portland, Oreg. 97202.
Aubrey R. Watzek Library, Lewis and Clark College, Attn.: Reference Department, 0615 Southwest Palatine Hill Rd., Portland, Oreg. 97219.
Oregon State Library, State Library Building, Salem, Oreg. 97301.
Willamette University Library, 900 State St., Salem, Oreg. 97301.
Documents Division, Mabie Zoe Wilson Library, Western Washington State College, 516 High St., Bellingham, Wash. 98225.
Documents Department, Victor J. Bouillon Library, Central Washington State College, Ellensburg, Wash. 98926.
Everett Community College Library, 801 Wetmore Ave., Everett, Wash. 98201.
Documents Center, Washington State Library, Olympia, Wash. 98504.
Washington State University Library, Serial-Record Section, Pullman, Wash. 99163.

Fort Vancouver Regional Library, Attn.: Reference Librarian, 1007 East Mill Plain Blvd., Vancouver, Wash. 98663.
Library Association of Portland, 801 Southwest 10th Ave., Portland, Oreg. 97205.
Documents Librarian, Portland State University Library, P.O. Box 1151, Portland, Oreg. 97207.
Oregon College of Education, Library, Monmouth, Oreg. 97361.
Boise State College Library, Boise, Idaho 83725.
Idaho State Library, 325 W. State St., Boise, Idaho 83702.
Ricks College, David O. McKay Library, Rexburg, Idaho 83440.
University of Puget Sound, Everill S. Collins Memorial Library, Tacoma, Wash. 98416.
Eastern Washington State College Library, John F. Kennedy Memorial Library, Cheney, Wash. 99004.
Evergreen State College, Daniel J. Evans Library, Olympia, Wash. 98505.
Seattle Public Library, 1000 Fourth Ave., Seattle, Wash. 98104.
University of Washington, School of Law Library, 3000 Condon Hall, Seattle, Wash. 98105.
Northwest Collection, Penrose Memorial Library, Whitman College, Walla Walla, Wash. 99362.
Henry Suzzallo Memorial Library, University of Washington, Seattle, Wash. 98195.
Oregon Supreme Court Library, 12th and State Sts., Salem, Oreg. 97310.
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College of Southern Idaho, Documents Library—Box 1238, 315 Falls Ave., Twin Falls, Idaho 83301.
Tacoma Public Library, 1102 Tacoma Ave. South, Tacoma, Wash. 98402.
Everett Public Library, 2702 Hoyt Ave., Everett, Wash. 98201.
North Olympic Library System, Library Service Center, 2210 South Peabody, Port Angeles, Wash. 98362.
Spokane Public Library, Comstock Bldg., West 906 Main Ave., Spokane, Wash. 99201.

A Summary Report of the draft environmental statement is available at no charge by writing the Environmental Manager, Bonneville Power Administration—SJ, P.O. Box 3621, Portland, Oreg. 97208. This Summary described the contents and scope of the five-volume Role Statement. The Summary also contains an order form and price list for purchasing the draft of the official Role Statement. Because of the length of the Role Statement, a nominal charge is made to defray printing costs. For additional information call toll free from anywhere in the Pacific Northwest: 1-800-547-8088. In Oregon call 1-800-452-8429. Comments on the Draft Environmental Statement must be sent to the Environmental Manager by December 14, 1977.

Dated: July 22, 1977.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-25612 Filed 9-8-77;8:45 am]

Bonneville Power Administration

DRAFT ENVIRONMENTAL STATEMENT

Public Meetings

The Bonneville Power Administration hereby gives notice of a series of public meetings to be held to discuss BPA's Fiscal Year 1979 Draft Program Environmental Statement. The purpose of the meetings is twofold: to present to the public BPA's proposed Fiscal Year 1979 Program (including major new proposed facilities included as part of this program), and to elicit comments from the public with respect to the environmental impact of BPA's proposed program.

The dates, hours, and places of these meetings are as follows: Multipurpose Room, Noxon School, Noxon, Mont., on October 11, 1977, at 7:30 p.m.; First National Bank, 504 Mineral Avenue, Libby, Mont., on October 12, 1977, at 7:30 p.m.; City Council Chambers, Sandpoint City Hall, Second Avenue Entrance, Sandpoint, Idaho, on October 13, 1977, at 7:30 p.m.; and at the Franklin County P.U.D. Auditorium, 1411 West Clark Street, Pasco, Wash., on October 25, 1977, at 7:30 p.m.

In addition to the four public meetings mentioned above, a public information center will also be set up. The purpose of the public information center is to answer questions which interested members of the public may have regarding the Fiscal Year 1979 Proposed Program in general and the proposal for Libby Integrating Transmission in particular. The public information center will be open to the public in the Council Room of the Bonner's Ferry City Hall, 104 Main, Bonner's Ferry, Idaho, on October 13, 1977, from 1 p.m. to 4:30 p.m.

For those who cannot attend any of these meetings, written comments will be accepted until the close of comment date, which is November 4, 1977. Additional or clarifying information may be obtained by writing or calling the Environmental Manager's Office, Bonneville Power Administration, P.O. Box 3621, Portland, Oreg. 97208 (503-234-3361, Ext. 5136).

Dated: September 6, 1977.

WILLIAM H. CLAGETT,
Assistant Administrator.

[FR Doc.77-26281 Filed 9-8-77;8:45 am]

Bureau of Land Management

[Group 658]

CALIFORNIA

Filing of Plats of Survey; Filing Date Suspended

SEPTEMBER 2, 1977.

FR Doc.77-20949, appearing on Page 37446 of the issue for July 21, 1977, prescribed that plats of dependent resurvey and survey for certain lands in T. 11 N., R. 21 E., and T. 10 N., R. 22 E., San Bernardino Meridian, Calif., would be officially filed in the California State Office, Bureau of Land Management, Sacramento, Calif., effective at 10 a.m. on September 2, 1977.

The official filing date is herewith suspended.

ELEANOR K. WILKINSON,
Chief, Branch of Records and Data Management.

[FR Doc 77-26289 Filed 9-8-77;8:45 am]

[Group 614]

Filing of Plat of Survey

COLORADO

SEPTEMBER 2, 1977.

1. Plat of survey of the following described lands accepted August 18, 1977, will be officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colo., effective November 1, 1977.

6TH PRINCIPAL MERIDIAN

T. 1 N., R. 77 W.

Dependent resurvey and Survey of Portions of the Township.

2. This survey was performed to meet administrative needs of the Bureau of Land Management.

3. All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202.

GEORGE C. HINTON,
Chief, Public Affairs.

[FR Doc.77-26290 Filed 9-8-77;8:45 am]

COLORADO

Closure of Lands to Surface Disturbing Activities

AUGUST 31, 1977.

Notice is hereby given that under the authority of Executive Order 11644, as amended May 24, 1977, and the regulations in 43 CFR 6010, the Fruita Paleontological Area under the administration of the Bureau of Land Management is closed to unauthorized motorized and mechanized vehicular use and all other unauthorized surface disturbing activities. The area is more specifically described as:

UTE PRINCIPAL MERIDIAN, COLO.

T. 1 N., R. 3 W.,
Sec. 13: SW¼SW¼;
Sec. 24: NW¼, W½NE¼.

The described area aggregates approximately 280 acres in Mesa County, Colo.

This closure is necessary to preserve the unique scientific values and protect the natural environment of the site from possible destruction by surface disturbing activities.

The closure shall become effective on August 31, 1977.

CHARLES W. LUSCHER,
Acting State Director.

[FR Doc.77-26291 Filed 9-8-77;8:45 am]

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UMI

[NM 31448]

NEW MEXICO

Application

SEPTEMBER 1, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Co. has applied for one 4-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.

T. 32 N., R. 10 W.,
Sec. 18, lots 14, 19, and 20;
Sec. 19, lots 10, 11, and 14.
T. 32 N., R. 11 W.,
Sec. 24, $SE\frac{1}{4}SW\frac{1}{4}$;
Sec. 25, $N\frac{1}{2}NE\frac{1}{4}$, $NE\frac{1}{4}NW\frac{1}{4}$;
Sec. 35, $E\frac{1}{2}SE\frac{1}{4}$.

This pipeline will convey natural gas across 1.68 miles of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77 26292 Filed 9 8-77;8:45 am]

[NM 31485]

NEW MEXICO

Application

SEPTEMBER 1, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corp. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 5 W.,
Sec. 3, $SW\frac{1}{4}NW\frac{1}{4}$ and $N\frac{1}{2}SW\frac{1}{4}$.

This pipeline will convey natural gas across 0.496 mile of public land in Rio Arriba County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief Branch of Lands and Minerals Operations.

[FR Doc.77 26293 Filed 9-8-77;8:45 am]

[Wyoming 60183]

WYOMING

Application; Correction

SEPTEMBER 1, 1977.

In FR Doc. 77-21728 appearing at page 38424 in the FEDERAL REGISTER of July 28, 1977, the first paragraph is corrected in the thirteenth line by deleting "13" and adding in its place "12".

WILLIAM S. GILMER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-26294 Filed 9-8-77;8:45 am]

[Wyoming 59189—Amendment]

WYOMING

Application

AUGUST 31, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Marathon Pipeline Co. of Casper, Wyo., has filed an application amending its right-of-way application Wyoming 59189 for the purpose of constructing two rectifiers and related ground bed facilities across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 45 N., R. 92 W.,
Sec. 21, $SW\frac{1}{4}NW\frac{1}{4}$;
Sec 26, $E\frac{1}{2}NW\frac{1}{4}$.

The rectifiers and related ground bed facilities are necessary for the operation of the oil and other synthetic liquid fuels pipelines already under consideration in this application.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the amended application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyo. 82401.

WILLIAM S. GILMER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 77-26295 Filed 9-8-77;8:45 am]

[Wyoming 59863—Amendment]

WYOMING

Application

SEPTEMBER 1, 1977.

Notice is hereby given that pursuant to section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185) Montana-Dakota Utilities Co. of Bismarck, N. Dk. filed an application for an amendment to existing right-of-way Wyoming 59863 to construct a 4-inch lateral pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 39 N., R. 90 W.,
Sec. 29, $E\frac{1}{2}SW\frac{1}{4}$, $NW\frac{1}{4}SE\frac{1}{4}$.

The pipeline will transport natural gas from Cottonwood well in $SE\frac{1}{4}$ of section 29, T. 39 N., R. 90 W., Fremont County, Wyo., to the applicant's pipeline in $SW\frac{1}{4}$ of section 29, T. 39 N., R. 90 W.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. 670, 1300 Third Street, Rawlins, Wyo. 82301.

WILLIAM S. GILMER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-26296 Filed 9-8-77;8:45 am]

Fish and Wildlife Service

C. J. CHAMBERLAIN

Endangered Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under sction 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: C. J. Chamberlain, L/J Game Bird Ranch, 4850 Alcorn Road, Fallon, Nev. 89406.

Attachments to 3-200
50 CFR 17.22

Target
Jim Chamberlain Nevada
Do
Dr. Jesus Cotubillo Mexico

(1) Phasianus Versicolor Mongolicus, (Ceresopitilion-manchuricus).
Jim (2).
1976 Hatch, Home.
Explanation for new blood, propagation and enhancement of the species.

(2) Phasianus covered by this application were bred and hatched and raised in captivity at Fallon, Nevada, U.S.A. by the applicant during the year of 1976.

(3) No attempt has been made, nor is one contemplated by the applicant to obtain wild stock from the wild as in any other manner that would cause injury or death to the species.

(4) As in (2) above, these pheasants were hatched and raised in captivity in Fallon, Nv.

(5) Phasianus covered by this application will be housed in the aviaries of Dr. Cotubillo a 200 hour drive from Mexico City, Mexico 1976 - Colonia Portales - Mexico 13 DF.

(6)(1) The Ranchero of Dr. Cotubillo covers many acres and the beauty of the well layed out and landscaped aviaries is beyond the description of the written word. Photographs and aviaries are only planted with the various trees over 40 ft high.
See Enclosure #1 for available photographs. Minimum pen size 10' x 30'.

(6)(2) Dr. Cotubillo is a certified veterinarian in Mexico. His collection of birds of more variety exists in one of the finest and largest in the world and additional info. held for the world wide as above requested. See Enclosure #1 for additional info.

(6)(3) Dr. Cotubillo will be more than willing to participate in any breeding program that will tend to enhance the survival of any species.

(6)(4) The two pheasants will be transported in all new ressorts crates. Size will be 12-1/2 wide x 14-1/4 high x 33-1/2" long. The inside top will be heavily padded with foam rubber to prevent any head damage during shipment. Food and water containers will be wired into the corners of the shipping crates.

(6)(5) Yes the past five years the only mortalities in the aviaries of Dr. Cotubillo have been due to old age of a very few birds.

(7) There are no contracts or agreements in this transaction other than the cost of the pheasants which is less than $300.

(8) The issuance of this Permit will enable Dr. Cotubillo to introduce new blood lines into his existing flock of Ramchukors.

(9)(1) Details of activities authorized by this Permit are described in Block #5.

(9)(2) As in (9)(1) above.

(9)(3)(i) The object of this Permit is to further the propagation and survival of the species. It intends to carry the two hens covered by this application with it, after that has already obtained from the Cabin Zoo then the completion of the Chinese Government.

(9)(3)(ii) If and when Dr. Cotubillo consumates his activities in propagating the various species of birds he would like sell them to other qualified aviculturist in the Republic of Mexico in accordance with existing rules and regulations of the Mexican Government at that time.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Check one): ☐ LICENSE/EXPORT LICENSE ☒ PERMIT — One time only

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS REQUIRED: To export ten (12) Bears Eared Pheasants from Jim Chamberlain (Consopitilion-manchuricus) to Dr. Jesus Cotubillo at address in Block #3 to Dr. Jesus Cotubillo L of Mexico City, DF. for New Blood in an existing flock for propagation and the enhancement of the species. The above birds are 1976 hatch.

3. APPLICANT: (Name, complete address and area code (telephone) (individual, business, or institution)
C.J. (Jim) Chamberlain
L/J Game Bird Ranch
4850 Alcorn Road
Fallon, Nv. 89406
PH. (702)867-2237

4. IF APPLICANT IS AN INDIVIDUAL, COMPLETE THE FOLLOWING: ☐ MR. ☐ MRS. ☐ MS. — HEIGHT 5-7 1/2" — WEIGHT 140
DATE OF BIRTH: 2/18/1911 — COLOR EYES: Blue — COLOR HAIR: Gray
PHONE NUMBER WHERE EMPLOYED: (702)867-2237 — SOCIAL SECURITY NUMBER: 530-10-0581
OCCUPATION: Retired, Civil Service, Navy Dept.
IF APPLICANT IS A CORPORATION, GIVE RELATIONSHIP TO INSTITUTION OR BUSINESS ENTITY DESIRING TO ENGAGE IN ACTIVITY AUTHORIZED BY THIS PERMIT: N.A.

5. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED: Between address as in Block #3 and Ramachkis #910, Colonia Portales, Mexico 13, D.F.

6. CERTIFIED CHECK OR MONEY ORDER (If required) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE: N.A.

7. IF THIS APPLICATION IS MADE BY AN AGENT, ATTACH LETTER OF AUTHORIZATION FROM PRINCIPAL.

8. IF THIS APPLICATION IS FOR AN AMENDMENT OR RENEWAL OF A PERMIT, GIVE PERMIT NUMBER: N.A.

9. GIVE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT DESIGNATED IN BLOCK 1 ABOVE. IF ADDITIONAL SPACE IS REQUIRED, USE ADDITIONAL SHEETS OF PAPER AND ATTACH HERETO. IF ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED: 50 CFR 17.22

10. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU HAVE REQUESTED IN BLOCK 2? (If yes, list jurisdictions and type of document(s)): Dr. Cotubillo will provide Mexican Import Permit & Export Permit & Certificate

11. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU HAVE REQUESTED IN BLOCK 2? (If yes, list jurisdictions and type of document(s)): I have Nevada State Commercial game Permit

12. DESIRED EFFECTIVE DATE: ASAP

13. DURATION NEEDED: 4-5 Months

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 11 OF THE CODE OF FEDERAL REGULATIONS AND THE CRIMINAL PROVISIONS OF THE ENDANGERED SPECIES ACT OF 1973, AND FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE OF APPLICANT: C.J. (Jim) Chamberlain — DATE: 15 August 1977

V 42 175
SEP 9 77
UMI

Documents and other information submittd in connection with this application are available for public inspection durng normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, reviews, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1332-07; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977, will be considered.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (If other, specify one): [X] IMPORT OR EXPORT LICENSE [ ] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: to export 6 Edwards hens (Lophura edwardsi) '77 hatch, purpose to provide new blood for propagation & enhancement of the species in Europe, as a gift to The World Pheasant Association Recipient will be T. Winstanley, 10, Reddings Road, Bairnsby, Grantham, Lincs, England

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Charles Sivelle
41 Westcliff Drive
Dix Hills, N.Y. 11746
516-423-6146

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
SEX: [X] MALE [ ] FEMALE [ ] UNK. | HEIGHT: 5'11" | WEIGHT: 190 lbs.
DATE OF BIRTH: 9-24-18 | COLOR HAIR: Brown | COLOR EYES: Blue
PHONE NUMBER WHERE EMPLOYED: 516-423-6146 | SOCIAL SECURITY NUMBER: 125-97-0277
OCCUPATION: Manufacturer
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: None

5. IF "APPLICANT" IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: n.a.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: n.a.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED: n.a.

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED: Export from New York City to England

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [X] YES [ ] NO
(If yes, list license or permit number)
PRT 2-362, PRT 8 306-C
ES-68

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [X] YES [ ] NO
(If yes, list jurisdictions and type of documents)
Necessary Import Number to be supplied by Importer

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: a. No fee required

10. DESIRED EFFECTIVE DATE: At once

11. DURATION NEEDED: 3 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
Attachment

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Charles Sivelle — DATE: Aug. 4, 1977

3-200 10/76 GPO 899-842

Dated: September 2, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-26076 Filed 9-8-77;8:45 am]

CHARLES SIVELLE

Endangered Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Charles Sivelle, 41 Westcliff Drive, Dix Hills, N.Y. 11746.

DIX HILLS, N.Y.,
August 4, 1977.

DIRECTOR (FWS),
U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C.

DEAR SIR: The undersigned hereby applies for an Endangered Species Permit under Section 10(a) of the Endangered Species Act of 1973. The following information is submitted pursuant to paragraph 17.22 of Volume 40, No. 188 of the FEDERAL REGISTER. A corresponding Export Permit pursuant to the Convention on International Trade Endangered Species is also requested simultaneously.

Request is made for a permit to export 6 female Edwards pheasants (*Lophura edwardsi*) 1977 hatch, as a gift for the purpose of providing new blood for propagation and enhancement of the species in Europe. The specimens referred to were propagated in the aviaries of the undersigned at 41 Westcliff Drive, Dix Hills, N.Y., 11746 during 1977.

Four (4) female Edwards pheasants (*Lophura edwardsi*) 1976 hatch were shipped in March to Mr. Winstanley under Permit No. PRT 2-526 and they have already been bred successfully, yielding progeny in 1977.

Mr. Winstanley is one of the foremost propapators of rare pheasants in England. He has successfully raised quantities of Edwards pheasants (*Lophura edwardsi*) and other rare pheasants during the last 12 years. His pheasant aviaries contain inside protective enclosures of 1,200 cubic feet and outside runs of approximately 3,000 cubic feet. The enclosures are landscaped and his management techniques have proven successful in the past. The British Ministry of Fish and Widlilfe has authorized him to maintain a Quarantine Station so that he can arrange for the direct importation

The undersigned is a prime propagator of the *Lophura edwardsi* pheasant in the United States today and is participating in the World Pheasant Association project for the enhancement of the survival and propagation program for this endangered pheasant.

The recipient will participate in a cooperative breeding program established by the World Pheasant Association and all data will be collected by Dr. Tim Lovell, official record holder of the World Studbook on Edwards Pheasants.

Birds will be shipped in crates similar and equal to International Air Transport Association taken from Live Animal Regulations 5th Edition, Feb. 7, 1975, containing litter on bottom, containers for feed and water and a padded top for the protection of the birds.

Proper import permits including any permit that applies to the Convention on International Trade in Endangered Species will be provided by Mr. Winstanley and the World Pheasant Association.

Sincerely,

CHARLES SIVELLE.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1274-C07; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977, will be considered.

Dated: September 2, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-26085 Filed 9-8-77;8:45 am]

CHARLES SIVELLE

Endangered Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Charles Sivelle, 41 Westcliff Drive, Dix Hills, N.Y. 11746.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (If other, specify one): [X] IMPORT OR EXPORT LICENSE [ ] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: to export in the course of a commercial activity 2 pr. of white eared and 2 pr. of Palawan Peacock pheasants to E.G. Drew, Codorniz S.A., P.O. Box 4279, San Jose, Costa Rica

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Charles Sivelle
41 Westcliff Drive
Dix Hills, N.Y. 11746
516-423-6146

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
SEX: [X] MALE [ ] FEMALE [ ] UNK. | HEIGHT: 5'11" | WEIGHT: 190 lbs.
DATE OF BIRTH: 9-24-18 | COLOR HAIR: Brown | COLOR EYES: Blue
PHONE NUMBER WHERE EMPLOYED: 516-423-6146 | SOCIAL SECURITY NUMBER: 125-07-0277
OCCUPATION: Manufacturer
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: None

5. IF "APPLICANT" IS A BUSINESS CORPORATION, PUBLIC AGENCY OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: N.A.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: N.A.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED: N.A.

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED: Export from New York City to San Jose, Costa Rica

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [X] YES [ ] NO
(If yes, list license or permit number)
PRT 2-362, PRT 8 306-C
ES-68

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THE APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [X] YES [ ] NO
(If yes, list jurisdictions and type of documents)
Necessary Import Permit to be supplied by Importer

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: a. No fee required

10. DESIRED EFFECTIVE DATE: At once

11. DURATION NEEDED: 6 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
Attachment

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Charles Sivelle — DATE: Aug. 8, 1977

3-200 10/76 GPO 899-842

DIX HILLS, N.Y.
August 8, 1977.

DIRECTOR (FWS),
U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C.

DEAR SIR: The undersigned hereby applies for an Endangered Species Permit under Section 10(a) of the Endangered Species Act of 1973. The following information is submitted pursuant to paragraph 17.22 of Volume 40, No. 188 of the FEDERAL REGISTER.

Request is made for a permit to export two (2) pair of White Eared pheasants (*Cros. cros. drouyni*) and two (2) pair of Palawan Peacock pheasants (*polyplectron emphanum*). The specimens referred to were captive propagated in the aviaries of the undersigned at 41 Westcliff Drive, Dix Hills, N.Y. 11746 during 1977.

Mr. E. G. Drew of Cordoniz, S.A., P.O. Box 4279, San Jose, Costa Rica, is a noted game bird breeder within his country having propagated many rare species of waterfowl, quail and partridge over the past ten years. He now wishes to propagate the above mentioned endangered species of pheasants. He has prepared aviaries with shelter of approximately 1,800 cubic feet and outside runs of approximately 3,000 cubic. The aviaries where these birds will be kept is approximately 8 feet high by 20 feet long by 12 feet wide and are covered at one end. The enclosures are landscaped and his management techniques have proven successful in the past with the various game birds including other pheasants.

He operates a commercial Quail Farm and has a veterinarian available for necropsy and analytical work. He is familiar with the many avian diseases and their remedies. His mortalities on game birds have not been excessive and not repetitive. A commercial Quail operation of necessity involves extreme care, sanitary control, and alertness.

He hopes to establish a captive self-sustaining flock of these species in his country and distribute progeny among other breeders therein. At present there aren't any of these species available in Costa Rica.

The recipient will participate in a cooperative breeding program which is one of the conditions of the sale and will contribute data to any Studbook when required.

Birds will be shipped in crates similar and equal to International Air Transport Association taken from Live Animal Regulations, 5th Edition, Feb. 7, 1975, containing litter on bottom, containers for feed and water and a padded top for the protection of the birds.

Proper import permits including any permit that applies to the Convention on International Trade in Endangered Species will be provided by Mr. Drew.

Sincerely yours,

CHARLES SIVELLE.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1301-07; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977, will be considered.

Dated: September 2, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-26086 Filed 9-8-77;8:45 am]

DEPARTMENT OF CONSERVATION AND CULTURAL AFFAIRS

Endangered Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Bureau of Fish and Wildlife, Dept. of Conservation and Cult. Aff., P.O. Box 1878, Frederiksted, St. Croix, V.I. 00604.

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Form NO. 42-R1875

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Reintroduction of Endangered Species (St. Croix ground lizard, Ameiva polops) to Buck Island, near St. Croix, U.S. Virgin Islands

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Bureau of Fish and Wildlife
Dept. of Conservation &Cult. Aff.
P.O. Box 1878
Frederiksted, St. Croix, V.I.
00840 Tel: 809/772-1955

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Research and development activities, as "cooperators" under Dingell-Johnson, Pittman-Robertson, and NMFS Federal Aid Programs

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Dr. Joseph Sylvester, Acting Director: 809/775-0470
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Buck Island, Green Cay, and Protestant Cay, all near St. Croix, U.S. Virgin Islands

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list licenses or permits possessed)
Not St. Croix office

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of document)
Not required

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ see attached remarks

10. DESIRED EFFECTIVE DATE: 1 Nov. 1977

11. DURATION NEEDED: 11/1/77-9/30/80

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17.22 (a): (1),(2),(3),(4),(5),(6 i-v),(7),(8 i-iv)

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) John A. Yntema
John A. Yntema, for Bureau of Fish & Wildlife
DATE: 17 August 1977

3-200
10/76

ATTACHMENT TO FORM 3-200: FEDERAL FISH AND WILDLIFE PERMIT APPLICATION

Re: *Ameiva polops* (endangered species)

Remarks: Application, item 9: Instructions indicate fees are listed in 50 CFR 13.11, but no permit fee for endangered species is listed. Accordingly, no fee is enclosed. Please advise if fee is required.

Attachment information (itemized as referenced in 50 CFR 17.22(a)):

(1) Common name: St. Croix ground lizard.

Scientific name: *Ameiva polops.*

Number, age, and sex: Approximately 15–20 adults, both sexes (actual ages cannot be determined, sex is difficult to establish on live specimens).

Activity: Reintroduction to Buck Island from Protestant Cay (and Green Cay if necessary; though this is unlikely), all small islands north of St. Croix, U.S. Virgin Islands. (See item 7, below.)

(2) The lizards which would be covered by this permit:

(i) Are still in the wild.

(ii) Have not been removed from the wild.

(iii) Were not born in captivity.

(3) Since *A. polops* was designated an endangered species, by notification in the FEDERAL REGISTER (Vol. 42, No. 107, pp. 28543–28545), no member of our Bureau (applicant) has attempted to obtain this lizard, in any manner, for any purpose.

However, in 1968, prior to his employment with this Bureau, Dr. Richard Philibosian, and an associate of his, Dr. Rodolfo Ruibal, introduced 16 *A. polops* from Protestant Cay to Buck Island. (See Appendix A, attached.)

(4) The lizards sought to be covered by this permit have now already been removed from the wild; no specimens have been raised in captivity.

(5) If the permit is issued, *A. polops* will be transferred, live, from Protestant Cay (and Green Cay, if necessary, though this is unlikely) to the same grove of manchineel trees (*Hippomane mancinella*) adjacent to west end picnic area on Buck Island, where the 1968 reintroduction occurred. The location and description of this area is described in Appendix A. Buck Island is a National Monument, managed by the National Park Service. It is our understanding that reintroduction of *A. polops* to Buck Island is part of the National Park Service's Master Plan (personal comm. from Robert Thomas, Park Ranger, Buck Island National Monument).

(6) We seek to have live specimens covered by this permit.

(i) Specimens will not be maintained in any facility. They would be captured alive and unharmed, kept that way and transferred immediately to Buck Island for prompt release.

(ii) Members of the Bureau (applicant), Dr. Richard Philibosian or John Yntema, have successfully maintained in captivity several species of frogs, lizards (*Anolis* spp.) and snakes (*Alsophis portoricensis* and *Arrhyton exiguum*, among others) for periods ranging from months to years, either for use in scientific experiments or as pets. Two attempts to maintain a specimen of an *Ameiva* (*A. exsul*) resulted in death of the lizards within 2–3 months; they would not eat in captivity.

(iii) Applicant is willing to participate in a cooperative breeding program, but we advise against such a program if captive specimens are used. Survival rate in captivity for prolonged periods has been zero. (See 6(ii), above, for related species.) *A. polops* breeds satisfactorily in its normal habitat if predators (e.g., mongoose, cats) are absent. Adequate natural habitat presently exists for the natural propagation and survival of the species.

(iv) After capture and until release, specimens will be maintained in individual porous cloth bags, kept in the shade. Our experience in collecting lizards indicates this is the most satisfactory method of holding such animals for the brief periods anticipated in the transfer from one island to another. Feeding and watering under these conditions are unnecessary and inappropriate.

(v) Two *A. polops* were captured on Protestant Cay by applicants in December 1973, were photographed, and preserved in our museum collection for future comparative identification purposes. A photograph (slide) of one of these lizards was supplied to the Office of Endangered Species, at their request. (See Appendix C.)

Specimens of *A. exsul* were captured in November 1974, and preserved. These were voucher specimens for a series of biogeographic distribution records papers (see Appendix B). Mortalities of two *A. exsul* held in captivity are described in 6(ii), above.

(7) Enclosed are the relevant portions of contracts and agreements pursuant to which the activities sought to be authorized by the permit will be carried out, viz:

(A) Approved Application for Federal Assistance, dated 4 June 1975. The relevant portions included are: AFA form for 5-year project FW-2, narrative for Study IV, and literature cited for research and survey activities. (See Appendix D.)

(B) Project Agreement with Fish and Wildlife Service, as prepared for fiscal year 1978. This document has not yet been approved, but such approval is anticipated. The regional office (Region 4) advised that the documents be submitted, per usual, with Study IV included, and that we should apply for a permit, as we are hereby doing. The relevant portions included are: Project Agreement (form 3-1552) for FY 78 and description of Job IV-A. (See Appendix E.)

(8) The reasons for justification in obtaining the permit are generally covered in the foregoing information and attached Appendices. However, to specifically refer to the itemizations:

(1) The details of the activities sought to be authorized by the permit are explained in:
(a) Response (5), above.
(b) Response (6) (i) and (iv), above.
(c) "Procedures" section of Study IV of Program Narrative, contained in Appendix D, enclosed.
(d) "Procedures" section of description of Job IV-A, contained in Appendix E, enclosed.

(ii) The details of how such activities will be carried out are fully explained in the items referred to in (8)(i), above.

(iii) The relationship of such activities to scientific objectives or to objectives enhancing the propagation of the wildlife sought to be covered by the permit is fully covered in Appendices A, B, D, and E.

(iv) Planned disposition of such wildlife upon termination of the activities sought to be authorized by the permit:

(a) With the cooperation of the National Park Service (see response (5), above), it is the intention to reintroduce a self-sustaining population of *Ameiva polops* on Buck Island, near St. Croix, V.I. The success of this effort will depend largely on the continued trapping of mongoose on Buck Island.

Theoretically, the mongoose can be entirely eliminated from Buck Island if there is adequate and continued trapping. Such trapping is necessarily a job for the National Park Service, which has jurisdiction over Buck Island, although our Bureau will cooperate in whatever way possible.

(b) If, for some reason, the trapping of mongoose on Buck Island terminates permanently at some time in the future, and we have by then shown that the mongoose is capable of extirpating the reintroduced *A. polops* population, every effort would then be made to remove the remaining *A. polops* population from Buck Island and:

(1) Return the live lizards to the Cay(s) from which they were originally captured, or

(2) Possibly introduced them to another area free of mongoose, where they would have a good chance of survival without interference. In the event this course of action were to be followed, specific permission for such activity would be requested.

Such "another area" appears to exist: Ruth Island, a.k.a. Harvey Island, a dredge spoil island just off the St. Croix south shore location of the Martin-Marietta alumina plant at the former Krause Lagoon. The island was created in the 1960s, and is composed of sand, coral, shells, and some vegetation which has become established. Its area is probably in excess of 25 acres, or more than the combined areas of the only present habitat (Protestant and Green Cays, off St. Croix) where *A. polops* now exists. To the best of our knowledge, Ruth Island is owned by the government of the U.S. Virgin Islands.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1345-07; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977, will be considered.

Dated: September 2, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-26080 Filed 9-8-77;8:45 am]

DENVER ZOOLOGICAL GARDENS

Endangered Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Denver Zoological Gardens, City Park, Denver, Colo. 80205.

Form NO. 42-R1875

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Purchase 1 male, 1 female Black Lemur, Lemur macacc, for breeding in captivity and public exhibition. These animals now located at the Denver Zoo as a breeding loan.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Denver Zoological Gardens
City Park
Denver, Colorado 80205
Phone: 303-575-5542

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Public Zoo - conservation, breeding and propagation programs, in addition to research, recreational activities, and educational programs.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. 303-575-5542
Clayton F. Freiheit, Director
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Purchase from the St. Louis Zoological Gardens, Forest Park, St. Louis, Missouri 63110

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☐ NO
(If yes, list licenses or permits possessed)
Scientific Collecting permit and permits E.S.-181 and E.S.-433

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of document)
not required

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ not required

10. DESIRED EFFECTIVE DATE: A.S.A.P.

11. DURATION NEEDED: Until terminated

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
(6) (i,ii,v); (7)

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Clayton F. Freiheit, Director, Denver Zoo
DATE: August 2, 1977

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DENVER ZOOLOGICAL FOUNDATION, INC.
Denver, Colo.
August 3, 1977.

DIRECTOR (FWS/LE),
U.S. Fish & Wildlife Service, U.S. Department of the Interior, P.O. Box 19183, Washington, D.C.

DEAR SIR: The Denver Zoological Gardens requests an endangered species permit to purchase one (1) male Black Lemur and one (1) female Black Lemur from the Saint Louis Zoological Gardens, Forest Park, Saint Louis, Mo. 63110. These animals now reside at the Denver Zoo on an inter-institutional breeding loan.

1. Common and scientific name of the species or subspecies, number, age and sex of the wildlife to be covered in the permit.

Black Lemur. Scientific Name: *Lemur macacc.* Number and Sex: one (1) male and

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one (1) female, the male born 21 March, 1975 and the female born 26 March, 1975.

2. Copy of the contract or other agreement under which wildlife is to be shipped, showing country of origin, name and address of the seller, date of the contract, number and weight (if available) and description of the wildlife.

Attached is a photocopy of a letter from Mr. C. Hoessle, Deputy Director of the Saint Louis Zoo, Forest Park, Saint Louis, Mo. 63110, which is an agreement to sell the above pair of Lemurs to the Denver Zoological Gardens.

3. A full statement of justification for the permit including details of the project or other plans for utilization of the wildlife in relation to zoological, educational, scientific, or propagational purposes, as appropriate and the planned disposition of the wildlife upon termination of the project.

The Denver Zoo currently displays two species of Lemurs totaling eleven specimens. These animals are kept in accepted primate cages behind glass for optimum security and health. By obtaining this particular species we believe we have an excellent chance to reproduce them based on our previous experience.

In addition, these Lemurs will be on public display with appropriate graphics explaining the purpose and nature of the exhibit.

Any specimens that would die would receive a total post mortem examination and distribution of requested body parts by our staff veterinarian. The specimen would then be preserved as a skin or a whole mount for deposit in the Denver Museum of Natural History.

4. A description and the address of the institution or other facility where the wildlife will be used or maintained.

The pair of Lemurs will be held at the Denver Zoo. This institution is owned by the City and County of Denver but managed and operated by a Colorado non-profit organization known as the Denver Zoological Foundation, incorporated in 1950. The postal address is Denver Zoo, City Park, Denver, Colo. 80205, telephone: 303-575-2432.

5. A statement that at the time of application the wildlife to be purchased is still in the wild, was hatched in captivity, or has been removed from the wild. As stated in Mr. Hoessle's letter, the pair of Lemurs were captive born and raised in the Saint Louis Zoo, Saint Louis, Mo., in the year of 1975.

6. A resume of the applicant's attempts to obtain the wildlife to be purchased from sources which would not cause the death or removal of mammals from the wild. The pair of Lemurs were captive born and reared, thus will not be a drain on the natural population of Black Lemurs.

7. (i) A complete description, including blueprints, of the area and facilities in which the wildlife will be housed. Individual primate cages in which the Lemurs will be housed measure 8'x7½'x7'. (See attached photocopies.)

The primate building consists of 14 of these cages. Each cage has tiled walls, sealed, heated, concrete floors, glass fronted viewing, climbing devices, and interconnecting holding cages between individual cages. A separate ventilating system provides heat and air exchange to all cages. Access to individual cages is through a single metal door located on the side of each cage, access to holding spaces is through a single wire door located on the front of each such cage. Feeding is accomplished through small metal feeding doors located at the bottom of the glass viewing areas of each cage, each feeding door has a lock. The public is maintained at a distance from the cages by a 2½ foot high guard rail and at no time can the public come into contact with the animals. This type of primate cage has proven successful in many zoological parks around the country and has been very successful at the Denver Zoo for over six years.

7. (ii) A brief resume of the technical expertise available including any experience the applicant or his personnel have had in propagating the species or closely related to the species to be purchased. See enclosed resumes. Over the past six years the Denver Zoo has maintained two species of Lemurs: the Mongoose Lemur, *Lemur mongoz*, and the Ringtail Lemur, *Lemur catta*. A resume of the history of these two species follows:

Ring-tailed Lemurs (Lemur catta).—In May and June of 1971, the Denver Zoo received two pair of Ring-tailed Lemurs, all four of which came from other zoos in the United States. The two pair proved to be incompatible and had to be separated; one pair subsequently being shipped to the Hogle Zoo in Salt Lake City, Utah on a breeding loan where they reside today, and the other pair were placed on exhibit in the Denver Zoo Primate House in a cage previously described. Since April of 1973 the following breeding has taken place in this group:

April 8, 1973—female born.
March 30, 1974—male born.
March 25, 1975—female born.
March 8, 1976—twins—stillborn
March 20, 1977—male born.

All of the above animals with the exception of the stillborn twins are alive and in the collection. The male born in 1974 was sent to the Jackson, Miss. Zoo in December 1975 on a breeding loan where he continues to do well.

Mongoose Lemurs (Lemur mongoz).—In June 1970, the Denver Zoo received a trio, one (1) male and two (2) females, of Mongoose Lemurs from an animal dealer, original source unknown. The trio did well and one female produced an offspring in 1972. The male offspring was abandoned and died two days later.

Subsequent observations made it necessary to separate the two females, and a second pair was created by purchasing a male from the Brownsville, Tex. Zoo in December, 1972. This pair produced no offspring and the female died in 1975 and was replaced with a female sent to us by the Los Angeles, Calif. Zoo on a breeding loan. This pair has also failed to produce any offspring as of this application. The breeding of the original pair is as follows:

May 9, 1972—female born.
April 5, 1975—male born.
March 14, 1976—male born.
April 27, 1977—female born.

Of the above animals, the female born in 1972 lived for 3 years and died in 1975. The male born in 1975 was abandoned at birth and died 2 days later. The other two animals are alive and well, and are in the collection at this time.

7. (iii) A statement of willingness to participate in a cooperative breeding program and maintain or contribute data to a studbook. We will collaborate in contributing to/or maintaining a studbook. We, at this time, contribute to studbooks for the Edwards Pheasant, the Orangutan, Przewalski Horse, and are involved in over 50 breeding loan agreements throughout the country.

8. (iv) A detailed description of the type, size and construction of the container: Arrangements for caring for the wildlife in transit. The lemurs were shipped from St. Louis, Mo., to Denver, Colo. in crates similar and equal to International Air Transport Association requiremetns with one animal per crate.

I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I, Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

Sincerely,

EDWARD C. SCHMITT,
General Curator,
Denver Zoological Gardens.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1271-C07; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977 will be considered.

Dated: September 2, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office,
U.S. Fish and Wildlife Service.

[FR Doc.77-26077 Filed 9-8-77;8:45 am]

DENVER ZOOLOGICAL GARDENS

Endangered Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Denver Zoological Gardens, City Park, Denver, Colo. 80205. Clayton F. Freiheit, Director.

Form Approved OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED
Purchase 1 male and 1 female Palawan Peacock Pheasant, Polyplectron emphanum, for breeding in captivity and public exhibition. These birds now located at the Denver Zoo as a breeding loan.

3. APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Denver Zoological Gardens
City Park
Denver, Colorado 80205
Phone: (303)-575-5542

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Public Zoo - conservation, breeding and propagation programs, in addition to research, recreational activities, and educational programs.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. Clayton F. Freiheit, Director, (303) 575-5542
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Purchase from private game breeder M. Ollson, Route 1, Box 152, Glendale, Arizona 85301.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number)
Scientific collecting permits and permits ES-181 and ES-433

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)
not required

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
not required

10. DESIRED EFFECTIVE DATE
A.S.A.P.

11. DURATION NEEDED
Until Terminated

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
(6) (i,ii,v); (7)

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Clayton F. Freiheit, Director Denver Zoological Gardens
DATE August 3, 1977

3-200 10/76

DENVER ZOOLOGICAL FOUNDATION, INC.,
Denver, Colo., August 3, 1977.

DIRECTOR (FWS/LE),
U.S. Fish & Wildlife Service, U.S. Department of the Interior, Washington, D.C.

DEAR SIR: The Denver Zoological Gardens requests an endangered species permit to purchase one (1) male Palawan Peacock Pheasant and one (1) female Palawan Peacock Pheasant from M. Ollson, Route 1, Box 152, Glendale, Ariz. 85301. These birds are now located at the Denver Zoo as an interinstitution breeding loan.

1. Common and Scientific name of the species or subspecies, number, age, and sex of the wildlife to be covered in the permit.

Palawan Peacock Pheasant. Scientific Name: *Polyplectron emphanum*. Number and Sex: one (1) male and one (1) female, 1976 hatch (captive-bred).

2. Copy of the contract or other agreement under which wildlife is to be shipped, showing country of origin, name and address of the seller, date of the contract, number and weight (if available) and description of wildlife.

Attached is a photocopy of a letter from Mr. Mickey Ollson, Route 1, Box 152, Glendale, Ariz., which is an agreement to loan the said birds to the Denver Zoological Gardens until such time as the birds may legally be purchased by the Denver Zoological Gardens.

3. A full statement of justification for the permit including details of the project or other plans for utilization of the wildlife in relation to zoological, educational, scientific, or propagational purposes, as appropriate and the planned disposition of the wildlife upon termination of the project.

The Denver Zoo currently exhibits seven (7) species of pheasants in a newly completed pheasantry that is very heavily planted, providing excellent bird security. By obtaining these birds, we feel we have an excellent chance of captive propagation. We currently exhibit a related species, the Grey Peacock Pheasant (*Polyplection bicalcaratum*) which at present is laying eggs. By providing this unique environment and breeding these birds, we would hope to supply a surplus of these birds to increase the nucleus of these birds in the United States.

In addition, these birds will be in a public display which contains appropriate graphics explaining the purpose and nature of the exhibit.

Any specimens that would die would receive a total postmortem examination and distribution of requested body parts by our staff veterinarian. The specimen would then be preserved as a skin or a whole mount for deposit in the Denver Museum of Natural History.

4. A description and the address of the institution or other facility where the wildlife will be used or maintained.

The pair of pheasants will be held at the Denver Zoo. This institution is owned by the City and County of Denver, but managed and operated by a Colorado non-profit organization known as the Denver Zoological Foundation, Incorporated in 1950. The postal address is: Denver Zoo, City Park, Denver, Colo. 80205, telephone 303-575-5542.

5. A statement that at the time of application the wildlife to be purchased is still in the wild, was hatched in captivity, or has been removed from the wild.

As documented in Mr. Ollson's letter, the pair of pheasants were captive hatched in 1976.

6. A resume of the applicant's attempts to obtain the wildlife to be purchased from sources which would not cause the death or removal of birds from the wild.

The pair of pheasants were captive hatched, thus will not be a drain on the natural population of Palawan Peacock Pheasants.

7. (i) A complete description, including blueprints of the area and facilities in which the wildlife will be housed.

Individual pheasant pens in which the birds will be displayed measure 15 foot x 30 foot with a maximum height of 11 foot. The pheasantry consists of ten individual pens. At the back of each pen (farthest from public viewing area) is a wooden, insulated building, heated inside, with a ceiling height of 11 foot. One-by-two inch welded wire covers the entire series of pens. Access to the individual aviaries is through a single wooden door located inside the service-holding barn. This access prevents escape by being within a holding cage and it is necessary to pass through 2 doors before reaching the access door. A substantial hedge is planted in the 2½ foot space between the front of the cage and the guard rail, and serves as a buffer between the public and the birds. (Blueprints of aviarys' floor plan is enclosed.)

This type of aviary has proven successful in many zoological and private situations throughout the country.

This pheasantry has been in operation since September of 1976 with the loss of only one bird due to a trauma inflicted injury.

(ii) A brief resume of the technical expertise available, including any experience the applicant or his personnel have had in propagating the species or closely related to the species to be purchased.

See enclosed resumes. A list of the birds that have been reproduced through the efforts of the Curator is attached.

(iii) A statement of willingness to participate in a cooperative breeding program and maintain or contribute data to a studbook.

We are participating in various studbooks at this time, including the one on the White Eared Pheasant and will continue to contribute to or help maintain a studbook. This project is in fact a cooperative and collaborative effort of game breeders throughout the world. We, at this time, are actively participating in 30 breeding loan arrangements throughout the country.

(iv) A detailed description of the type, size and construction of the container: Arrangements for caring for the wildlife in transit.

The pheasants have been shipped from Phoenix, Ariz., to Denver in crates similar and equal to International Air Transport Association Style F with one bird per compartment.

I hereby certify that I have read and am familiar with the regulations contained in

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Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I, Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

Sincerely,

EDWARD C. SCHMITT,
General Curator,
Denver Zoological Gardens.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1272-C07; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977, will be considered.

Dated: September 2, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-26078 Filed 9-8-77;8:45 am]

KEITH S. ESSELINK

Threatened Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under Section 4(d), 16 U.S.C. 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Keith S. Esselink, Box 306, Leota, Minn. 56153.

OMB NO. 42-R1370

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Unlimited CSSP Permit
To purchase some Pheasants which come under this permit.
Swinhoe (Lophura swinhoii), Brown Eared (Crossoptilon mantchuricum), Humes Bartailed (Syrmaticus humiae), and Mikado (Syrmaticus mikado).

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Keith S. Esselink
Box 306
Leota Minnesota 56153
PH. 507-443-6211

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.

HEIGHT	WEIGHT
5-9	170

DATE OF BIRTH	COLOR HAIR	COLOR EYES
8/25/55	Brown	Blue

PHONE NUMBER WHERE EMPLOYED: 507-443-6211
SOCIAL SECURITY NUMBER: 469-80-1024
OCCUPATION: Farming

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
None

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
From Colo. to Minn.
And possibly other states if I can.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number)
No. 557

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF:
No fee is required

10. DESIRED EFFECTIVE DATE: Oct. 1 1977

11. DURATION NEEDED: Two Years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
"50 CFR 17.33."

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Keith Esselink
DATE: 8/20/77

3-200
8/76

OMB NO. 42-R1370

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Sale of 4/4 Arabian oryx (Oryx leucoryx) to Nature Reserve Authority, 16 Hanitziv Street, Tel Aviv, Israel. All animals captive born at Los Angeles Zoo (ISIS sheets enclosed).

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Los Angeles Zoo
5333 Zoo Drive
Los Angeles, California 90027
(213) 666-4650

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.

HEIGHT	WEIGHT

DATE OF BIRTH	COLOR HAIR	COLOR EYES

PHONE NUMBER WHERE EMPLOYED: SOCIAL SECURITY NUMBER:
OCCUPATION:

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Public zoo operated by City of Los Angeles, Department of Recreation and Parks.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: Warren D. Thomas, D.V.M., Zoo Director 213-666-4650

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Los Angeles, California

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number)
PRT-8-374-C
PRT-8-237-C

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Israeli import permit (enclosed).

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF:

10. DESIRED EFFECTIVE DATE: 15 Sept 77

11. DURATION NEEDED: 6 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17-22 (1-8)

CERTIFICATION

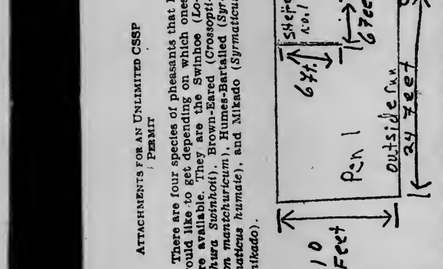
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Warren D. Thomas
DATE: August 3, 1977

3-200
8/76

I would like to have the unlimited permit so I will be able to purchase these birds whenever they are available.

They will be housed in pens that have an outside run and a shelter in which they can be locked inside during stormy weather. The shelter house would be six feet square by eight feet high that slopes to six feet. The outside run would be ten feet wide and twenty-four feet wide by six feet high.



ATTACHMENTS FOR AN UNLIMITED CSSP PERMIT

There are four species of pheasants that I would like to get depending on which ones are available. They are the Swinhoe (*Lophura Swinhoii*), Brown-Eared (*Crossoptilon mantchuricum*), Humes-Bartailed (*Syrmaticus humiae*), and Mikado (*Syrmaticus mikado*).

I will be the one who will be taking care of the pheasants. I have been raising pheasants and peafowl for about the last five years. I am willing to participate in a cooperation breeding program and to contribute data on a studbook. I have a friend that also lives in Minnesota and we will be helping each other from time to time breeding birds.

Depending on how far I have to travel to buy the birds they will be put in a small wooden box. I will bring the box with me to feed to keep the birds in the dark to keep them settled. If it's a long trip they will be given sufficient time for water and feed. In which I will personally attend them.

Their transportation will be by car as I will not have them shipped by plane or other.

I would get the birds myself.

I have not had any of these birds before so I cannot comment on mortalities. The birds I have now are okay. I have had a couple die of colds and sinus problems. To combat this I have given the sick birds an injection of penicillin and a couple of days later they are back to normal.

I feel that the permit so I can buy these birds legally from other states. And so I can also sell the young that I would raise. If I were ever to quit I would sell out to other people who are qualified to raise and purchase them.

ATTACHMENTS FOR AN ENDANGERED SPECIES PERMIT

There is one species of pheasants that I would like to get, the Elliots (*Symaticus elliotti*).

This is the only difference otherwise it is the same as the above.

KEITH ESSELINK.

LOS ANGELES ZOO

Threatened Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Los Angeles Zoo, 5333 Zoo Drive, Los Angeles, Calif. 90027.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1344-25; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977, will be considered.

Dated: September 2, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-26079 Filed 9-8-77;8:45 am]

V 42 175 SEP 9 77 UMI

THE LOS ANGELES ZOO,
Los Angeles, Calif., August 8, 1977.

USDI
Federal Wildlife,
Permit Office,
Washington, D.C.

TO WHOM IT MAY CONCERN:

(1) Export (sell) 8 Arabian oryx, (*Oryx leucoryx*), born Los Angeles Zoo 1976 and 1977 (ISIS sheets enclosed), to Nature Reserve Authority, 16 Hanatalv Street, Tel Aviv, Israel.

(2) Born in captivity.

(3) All specimens captive born—no animals removed from the wild.

(4) All animals born Los Angeles Zoo, Los Angeles, Calif.

(5) See enclosure on Hal-Bar Reserve.

(6) a.I. See enclosure on Hal-Bar Reserve.

II. Like all the other animals in the Reserve, the oryx will be under the devoted, joint care of the following excellent team:

(a) Dr. Amnon Tadmor—After graduation from a secondary agricultural school in Israel, Dr. Tadmor studied veterinary medicine at the Royal University of Utrecht, from which he graduated in 1960. He is a first-class veterinarian, highly experienced in the treatment of wild animals for some twenty years now. Dr. Tadmor is a senior employee of the Veterinary Services Dept. in Israel, and has been in charge of the Tel Aviv University Zoological Garden for many years.

(b) Dr. Moshe Avram—Studied veterinary medicine at Bern University (Switzerland), from which he graduated in 1954. Worked for 9 years as District Veterinarian at the 'Hahakla'it' Animal Insurance Company. He has been Director of the Zoological Garden of Tel Aviv for many years, and has had 15 years of experience in the treatment of wild animals at the Hai-Bar Reserve, as well as at the Tel Aviv University Zoo. Dr. Avram is a member of the Board of Directors of Hai-Bar.

(c) Mr. Mike van Grevenbroek—A 32-year-old Dutchman, studied at a university in Holland, from which he graduated with a degree in animal husbandry. He has been managing the Hai-Bar Reserve since September 1969, and is a man of outstanding knowledge and experience in the treatment of the wild animals in the Hai-Bar Reserve.

(d) Mr. Berend van Wyk—A Dutch veterinary student, who has been in Israel since January 1977, for a year's work at the Hai-Bar Reserve. He is extremely capable, loyal, and devoted in his work and treatment of our wild animals.

(e) Mr. Uri Tzon—Studied Zoology at Tel Aviv University. Has had much practical experience with wild animals' breeding and upbringing since 1951. He was one of the original keepers at the Hai-Bar Reserve (since 1968), and has been General Secretary of the Hai-Bar Organization since 1960.

III. The Los Angeles Zoo is and will continue to submit data to the Arabian oryx studbook keeper. Data is also submitted to ISIS and to the International Zoo Yearbook. The Hai-Bar Reserve submits data to the appropriate studbook keeper on those species which it maintains.

IV. The animals will be sent to Israel by air. Each animal will be in its own crate measuring 61" long 62" high and 30" wide. They will be flown from Los Angeles to Lod Airport in Israel, or with one intermediate stop in New York or in Europe. The flight will take 12–14 hours. At Lod Airport they will be unloaded from the aeroplane, and loaded onto a special truck which will carry them straight to the Hai-Bar Wildlife Reserve, which is located in the Arava (in the south of Israel). The trip from Lod Airport to the Hai-Bar Wildlife Reserve will take 5½ hours. On the trip from Lod Airport the animals will be accompanied by two Veterinary Doctors, Dr. Amnon Tadmor and Dr. Moshe Avram, and by a team of employees of the Wildlife Reserve, who will all be waiting at the airport for the animals to arrive.

V. (a) Addax—2 (one of these died of old age and the other as a result of goring by a Scimitar-orned oryx).

(b) Ecimitar-horned oryx—3 (one was rejected by the herd and killed in a fight between two males; the second (aged one month) died as a result of being bitten and trampled on by an onager; the third died at the age of two months as a result of a congenital defect causing it loss of balance).

(c) Nubian ibex—6 (five died of food poisoning, and the sixth broke its neck as a result of panic caused by a low-flying aeroplane).

All the mortalities described above occurred in the open 3,000-acres terrain, where the animals were free in natural surroundings, with not a single case of mortality having been due to disease.

Mike van Grevenbroek from the Hai-Bar Reserve will most probably be sent to the United States to accompany the animals from Los Angeles to Lod Airport in Israel.

(7) Offer of sale and Israel import permit enclosed.

(8) I. and II. Los Angeles Zoo personnel will accompany the animals to the Los Angeles Airport. Upon arrival at the Reserve the oryx will be accommodated in two separate groups, consisting of two males and two females each. Both groups will be released into two separate 3-acres enclosures, well protected by 2" × 3" wire-netted 7 ft. high fencing secured with a very strong wooden base.

Each enclosure will be equipped with adequate feeding and drinking facilities, and with special arrangements which will make possible the isolation of any one animal for purpose of treatment, etc. Likewise, there will be special arrangements for isolating all the males, or part of them or each one of them separately, if necessary, in the case of any one male being rejected by the other specimens in the herd.

At a later stage, after several months of acclimatization, one pair of oryx will be released into an open 3000-acre area, well protected by a fence, consisting of strong concrete posts and 7 ft. high wire-netting, secured, on a slant, 3.5 ft. below ground.

There is plenty of natural pasture in this terrain, and the indigenous Acacia trees give much shade. Several drinking stations are dispersed over the area.

After an additional period of several months, yet another pair of oryx will be released into this terrain, and so forth until all the animals will have been so released.

III. The aim of the Hai-Bar Reserve in obtaining the Arabian oryx is propagation of the species. The overall goal of this organization is to encourage the breeding of rare wild species which in ancient times populated Israel, the Holy Land and which have been completely exterminated there and are now on the list of endangered species. The Nature Reserve Authority hopes to populate the 3,000-acre Hai-Bar Reserve in the Arava (in the south of Israel) with wild animals that once lived in the area.

IV. The 8 Arabian oryx will be permanently maintained at the Hai-Bar Reserve.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1306-C07; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977, will be considered.

Dated: September 2, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-26082 Filed 9-8-77;8:45 am]

MYRNA A. WATANABE

Threatened Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 4(d), 16 U.S.C. 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant: Myrna A. Watanabe, 141 Columbia Heights, Brooklyn, N.Y. 11201.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

Form No. 42-R1175

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Capture, tag, disturb American alligator; take no more than 20 alligator eggs, for scientific research. Ship and/or transport any specimens found dead or which die as a result of capture.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Myrna E. Watanabe
141 Columbia Heights
Brooklyn, N.Y. 11201
212-624-4853

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☒ MS.
HEIGHT: 5'2" | WEIGHT: 110 lbs.
DATE OF BIRTH: 12/19/48 | COLOR HAIR: Brown | COLOR EYES: Green
PHONE NUMBER WHERE EMPLOYED: 212-598-3096 | SOCIAL SECURITY NUMBER:
OCCUPATION: Graduate Student
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT:
Biology Department (Expected to change during course of study.) New York University New York, N.Y. 10003

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY OR INSTITUTION
NAME, TITLE AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Okefenokee National Wildlife Refuge, Ga.; Savannah River Ecology Lab, S.C.; Rockefeller Refuge, La; and unspecified locations in states of Georgia, South Carolina, North Carolina, Florida, Louisiana, and Texas.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit numbers)
PRT 8-268-C

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of document)
Will renew current North Carolina, South Carolina & Florida permits. Georgia permit valid through 3/78. Ia. permit not received

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF $

10. DESIRED EFFECTIVE DATE: 1/1/78 | 11. DURATION NEEDED: 3 years

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (see 50 CFR 13.12(b)) MUST BE ATTACHED; IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 C.F.R. UNDER WHICH ATTACHMENTS ARE PROVIDED: 17.22, 17.32

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Myrna E. Watanabe | DATE: July 22, 1977

3-200 GPO 885-042
16-746 • Will apply for La. & Texas permits for 1978.

MYRNA E. WATANABE.
141 Columbia Hts.,
Brooklyn, N.Y. 11201.

Re: Permit to capture, tag, and disturb American alligator, and to take no more than 20 alligator eggs.

Sec. 17.22; 17.32

(1) American alligator (*Alligator mississippiensis*). Activity to be covered includes capture, tagging, marking, disturbing American alligator. Unlimited numbers of males and females of all age and size classes to be included. Animals will be released immediately after tagging. Allow for taking of up to 20 eggs in different developmental stages from unguarded nests. Transport of dead specimens.

(2) The animals to be covered by this permit are in the wild.

(3) In 1976 and 1977 capture of yearlings has been accomplished successfully by hand. In 1977 larger juveniles and adults have been captured by noosing. Neither method has resulted in any fatalities.

(4) NA.
(5) NA.
(6) (i) NA.
(ii) NA.
(iii) NA.
(iv) NA.

(v) To date, no animals captured for tagging by this individual, have died as a result of the capturing and tagging procedure.

(7) Attachments: Letter permitting activity at Okefenokee N. W. R., renewable 1-1-78; current permits for states of North Carolina, South Carolina, and Florida, renewable 1-1-78; current permit for state of Georgia, renewable 4-1-78. Contract with Oak Ridge Associated Universities for work at Savannah River Ecology Laboratory.

(8) (i), (ii), and (iii) I propose to continue my study of the reproductive and social behavior of the American alligator (*Alligator mississippiensis*) in one of its least disturbed habitats, the Okefenokee Swamp in Georgia, and in other areas, including, but not limited to, the Savannah River Ecology Laboratory in South Carolina, the Rockefeller Refuge in Louisiana, and coastal regions of South Carolina and Georgia. Included in this study will be comparison of nesting sites used in each year of the study (beginning with 1978), observations and photography of behavior patterns seen in courtship, mating, nest-building, hatching of the young, and mother-offspring interactions, and analysis of response of these animals to different alligator vocalizations. The role of the female and vocalizations in protecting and nurturing the young will be emphasized.

This study is important in that it will (1) clarify the predominant mating system and thus denote its sensitivity to environmental change; (2) determine factors influencing survival of the young and the tolerable range of variability of these factors; (3) outline communication systems in the alligator, and analyze the components of these systems, especially in comparison with communication systems in avians; and (4) give a clearer indication of phylogeny of crocodilian behavior.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1277-26; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977, will be considered.

Dated: September 2, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-26087 Filed 9-8-77;8:45 am]

NATIONAL AUDUBON SOCIETY

Endangered Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant: National Audubon Society, Research Department, 115 Indian Mound Trail, Tavernier, Fla. 33070. Alexander Sprunt, IV.

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DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

OMB NO. 42-R1478

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Studies of life history, census and supplying support for nests vulnerable to wind damage. All activities concerning the Everglades Kite.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
National Audubon Society
Research Department
115 Indian Mound Trail
Tavernier, Florida 33070
(305) 852-5092

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
A privately endowed wildlife conservation organization.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. Alexander Sprunt, IV (address as above)
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
New York

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Lake Okeechobee, Florida

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMITS? ☒ YES ☐ NO
(If yes, list license or permit numbers)
Collecting permit 4-SC-391-9
Band permit #7104

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N/A

10. DESIRED EFFECTIVE DATE as soon as possible.

11. DURATION NEEDED as long as possible.

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Alexander Sprunt IV
DATE 15 August 1977

3-200
10-76

Attachment to Application for Permit to enhance the survival of the Everglade Kite (*Rostrhamus sociabilis plumbeus*).

We expect to supply a nest-support structure, in the form of a welded wire basket, about 20" in diameter, 8" deep, for nests which we consider extremely vulnerable to destruction by high wind. Since 1973, we have provided this type of support for approximately 20 nests per year. The nests average about 2.5 viable eggs. The eggs, nestlings, or adults are not handled. The nest is not moved except as necessary to place it in the basket, at the same height and location. We have seen no evidence that the Florida Everglade Kite (*Rostrhamus sociabilis plumbeus*) is in any way disturbed by this action. On the contrary, very few nests which are not supported have survived the effects of high winds in recent years.

This action will take place only on that portion of Lake Okeechobee, Florida, that is leased by the State to the National Audubon Society for a wildlife sanctuary.

Only those nests which, in our judgment based upon several years of experience, are apt to capsize in the wind will be supported by the structures.

Our research indicates that this management measure greatly enhances the production of young Everglade Kites on Lake Okeechobee. Prior to the application of this technique, production varied from zero to 3 young per year for several years. Since then about 20 young have survived annually.

Mr. Roderick Chandler, 505 SW., 10th Street, Okeechobee, Fla. 33472, telephone 813-763-3946, will be the only individual performing the work under this permit.

The Principal Officer's name is Alexander Sprunt, IV, Director, Research Department, National Audubon Society. His office address is 115 Indian Mound Trail, Tavernier, Fla. 33070. Telephone 305-852-5092.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1348-07; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977, will be considered.

Dated: September 2, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-26083 Filed 9-8-77;8:45 am]

SEA WORLD OF FLORIDA

Endangered Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Sea World of Florida, 7007 Sea World Drive, Orlando, Fla. 32809.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

OMB NO. 42-R1478

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Purchase captive born Hawaiian Goose (Branta sandvicensis) an endangered species, from the St. Louis Zoological Park for the purpose of public display, education and propagation

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Sea World of Florida
7007 Sea World Drive
Orlando, Florida 32809

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Corporation. Aquatic zoological park and educational facility for mass audiences.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Edward D. Asper, Director/Curator
305-351-3600
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
Florida

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Sea World of Florida
7007 Sea World Drive
Orlando, Florida 32809

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMITS? ☒ YES ☐ NO
(If yes, list license or permit numbers)
PRT-2-264-AT
9-PR-1188

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Permit to possess Wildlife #106

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ NA

10. DESIRED EFFECTIVE DATE As soon as possible

11. DURATION NEEDED Permanent

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 C.F.R. 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
Please see attached.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Edward D. Asper
DATE July 25, 1977

3-200
10-76
GPO 885-042

50 CFR 17.22.

(1) One male, one female Hawaiian Goose (*Branta sandvicensis*), ages, one year. Purchase the pair of Hawaiian Goose that have been sent to Sea World of Florida on breeding loan.

(2) This pair of Hawaiian Goose was born in captivity at the St. Louis Zoological Park.

(3) Not applicable.

(4) Born in captivity, St. Louis Zoological Park, St. Louis, Mo., (spring 1976).

(5) Sea World of Florida, 7007 Sea World Drive, Orlando, Fla. 32809. One hundred twenty-five acre Aquatic Zoological Park, specializing in marine animals, fishes, and aquatic birds.

(6) Hawaiian Goose will be maintained in a simulated natural environmental exhibit. Proper foliage, space and constant running well water is provided. (Diagram attached.)

The Sea World Animal Care staff has been specifically trained in the area of animal husbandry which includes general maintenance procedures, nutritional requirements, egg collection and incubation procedures, brooding and rearing techniques, sexing and pinioning procedures. Waterfowl collection at Sea World of Florida is 600 individuals. Annual propagation results average 1,000 waterfowl raised each year.

Sea World of Florida is willing to cooperate and participate in any breeding program and to maintain or contribute data for stud books.

Sea World has maintained one pair of Hawaiian Goose for one year without any complications or mortalities.

(7) Copy of breeding loan agreement between the St. Louis Zoo and Sea World of Florida is attached.

(8) Activities to be conducted will be to cooperatively propagate and distribute this wildlife to assure and maintain a captive breeding population. Standard practices in animal husbandry and waterfowl incubation, brooding and rearing techniques will be utilized to maximize the effectiveness of the program.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1273-C07; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977, will be considered.

Dated: September 2, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-26084 Filed 9-8-77;8:45 am]

SUSAN R. JOHNSON

Threatened Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under Section 4(d), 16 USC 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Susan R. Johnson, Rt. 1, Box 19, Lake Arthur, N. Mex. 88252.

V 42 175 SEP 9 77 UMI

OMB NO. 42-R1470

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
n/a
[ ] IMPORT OR EXPORT LICENSE [ ] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.

RECEIVED
AUG 08 '77
L.E.

APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Susan R. Johnson
Rt 1 Box 19
Lake Arthur, New Mexico 88252
505 365-2319

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☒ MRS. ☐ MISS ☐ MS.
HEIGHT: 5'2 WEIGHT: 110
DATE OF BIRTH: Dec 18, 1951
COLOR HAIR: Blonde COLOR EYES: Hazel
PHONE NUMBER WHERE EMPLOYED: 365-2319
SOCIAL SECURITY NUMBER: 585-54-9513
OCCUPATION: homemaker

3. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Rt 1 Box 19, Lake Arthur, NM
or 7 miles North of Artesia, NM-
½ mile west of State Road 2.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit number)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)
NM State propagation permit
No. 1859

9. CERTIFIED CHECK OR MONEY ORDER IF APPLICABLE PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ n/a

10. DESIRED EFFECTIVE DATE: Sept. 1, 1977
11. DURATION NEEDED: Sept. 1, 1979

12. ATTACHMENTS: THE SPECIFIC INFORMATION OUTLINED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Susan R. Johnson
DATE: Aug 3, 1977

3-200
(6-74)

Attachment
Part 12 of Form 3-200

(a) Application for permit under section 17.33 of 50-CFR for captive self-sustaining populations.

(1) I would like to purchase the following pheasants, which are on the Endangered and Threatened Wildlife list, for propogation of the said species and eventual dispersal of 2nd and 3rd generation of excess offspring through interstate sale and shipment.

(a) Brown Eared Pheasant, *Crossoptilon Manchuricum.*

(b) Edwards Pheasant, *Lophura Edwardsi.*

(c) Bar-Tailed Phesant, *Symaticus Humiae.*

(d) Mikado Pheasant, *Symaticus Mikado.*

(e) Swinhoe Pheasant, *Lophura Swinhoii.*

(2) See attached graph paper.

(3) I will personally care for the birds myself. I have had two years experience raising Golden, Lady Amherst, Reeves, Silver, Ringneck pheasants. I also have had great success in raising Blue Scale, Bobwhite, Gamble, Valley quail. I have visited several people in the pheasant business and by combining their experience and proven ways into a successful program for myself.

(4) I would be willing to participate in a cooperative breeding program and maintain the required data on a stud book.

(5) The transport cartons are well ventilated, waxed cartons, 24 inches by 18 inches by 7. I use this type carton for my quail. I prefer to use apple boxes for my pheasants. I include in the boxes sliced apple and lettuce for their food source. I have always picked up my birds in person so that I may control their environment during shipping. That is what I intend to do with these birds that are concerned in this application.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1307-25; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977, will be considered.

Dated: September 2, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-26081 Filed 9-8-77;8:45 am]

Office of the Secretary

[INT DES 77-30]

BONNEVILLE POWER ADMINISTRATION; FISCAL YEAR 1979 PROPOSED PROGRAM

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bonneville Power Administration has prepared a draft environmental statement covering its Fiscal Year 1979 Proposed Program.

Copies of the draft environmental statement are available for inspection in the library of the headquarters Office of BPA, 1002 NE. Holladay Street, Portland, Oreg. 97232; the Washington, D.C., Office in the Interior Building, Room 5600; and in the following Area and District Offices: Portland Area Office, Lloyd Plaza Bldg., 919 NE. 19th Avenue, Room 201, Portland, Oreg. 97232; Seattle Area Office, 415 First Avenue North, Room 250, Seattle, Wash. 98109; Spokane Area Office, Room 561, U.S. Court House, West 920 Riverside Avenue, Spokane, Wash. 99201; Walla Walla Area Office, West 101 Poplar, P.O. Box 1518, Walla Walla, Wash. 99362; Eugene District Office, U.S. Federal Building, Room 206, 211 East 7th Street, Eugene, Oreg. 97401; Idaho Falls District Office, 531 Lomax Street, Idaho Falls, Idaho 83401; Kalispell District Office (5 miles east of Kalispell on Highway 2), Box 758, Kalispell, Mont. 59901; and the Wenatchee District Office, Room 314, U.S. Federal Building, 301 Yakima Street, Wenatchee, Wash. 98801.

Copies are also available at the following Government Depository Libraries:

GOVERNMENT DEPOSITORY LIBRARIES

IDAHO

Boise Public Library, Reference Department, 715 Capitol Blvd., Boise, Idaho 83706.
University of Idaho, Library—U.S. Documents, Moscow, Idaho 83843.
Documents Division, Idaho State University Library, Pocatello, Idaho 83209.
Boise State College Library, Boise, Idaho 83725.
Idaho State Library, 325 West State Street, Boise, Idaho 83702.
Ricks College, David O. McKay Library, Rexburg, Idaho 83440.
Idaho State Law Library, Documents Librarian, Pocatello, Idaho 83201.
College of Idaho, Terteling Library, 2112 Cleveland Blvd., Caldwell, Idaho 83605.
College of Southern Idaho, Documents Library—Box 1238, 315 Falls Ave., Twin Falls, Idaho 83301.

MONTANA

Documents Librarian, Montana State University Library, Bozeman, Mont. 59715.
University of Montana Library, Documents Division, Missoula, Mont. 59801.

OREGON

Southern Oregon State College Library, Documents Section, Ashland, Oreg. 97520.
Documents Division, William Jasper Kerr Library, Oregon State University, Corvallis, Oreg. 97331.
University of Oregon Library, Documents Section, Eugene, Oreg. 97403.
Harvey W. Scott Memorial Library, Pacific University, Forest Grove, Oreg. 97116.
Eastern Oregon State College Library, Eighth at K Street, La Grande, Oreg. 97850.
Northus Library, Linfield College, McMinnville, Oreg. 97128.
Oregon College of Education Library, Monmouth, Oreg. 97361.
Aubrey R. Watzek Library, Lewis and Clark College, Attention: Reference Department, 0615 SW. Palatine Hill Road, Portland, Oreg. 97219.
Library Association of Portland, 801 SW. Tenth Avenue, Portland, Oreg. 97205.
Documents Librarian, Portland State University Library, P.O. Box 1151, Portland, Oreg. 97207.
Eric V. Hauser Memorial Library, Reed College, 3203 SE. Woodstock, Portland, Oreg. 97202.
Oregon State Library, State Library Building, Salem, Oreg. 97301.
Willamette University Library, 900 State Street, Salem, Oreg. 97301.
Oregon Supreme Court Library, 12th and State Streets, Salem, Oreg. 97310.

WASHINGTON

Documents Division, Mabie Zoe Wilson Library, Western Washington State College, 516 High Street, Bellingham, Wash. 98225.
Documents Department, Victor J. Boutilon Library, Central Washington State College, Ellensburg, Wash. 98926.
Everett Community College Library, 801 Wetmore Avenue, Everett, Wash. 98201.
Documents Center, Washington State Library, Olympia, Wash. 98501.
Washington State University Library, Serial—Record Section, Pullman, Wash. 99163.
Henry Suzzallo Memorial Library, University of Washington, Seattle, Wash. 98105.
Northwest Collection, Penrose Memorial Library, Whitman College, Walla Walla, Wash. 99362.
University of Puget Sound, Everill S. Collins Memorial Library, Tacoma, Wash. 98416.
Eastern Washington State College, John F. Kennedy Memorial Library, Cheney, Wash. 99004.
Evergreen State College, Daniel J. Evans Library, Olympia, Wash. 98506.
Seattle Public Library, 1000 Fourth Ave., Seattle, Wash. 98104.
University of Washington, School of Law Library, 300 Condon Hall, Seattle, Wash. 98105.
Tacoma Public Library, 1102 Tacoma Ave. South, Tacoma, Wash. 98402.
Everett Public Library, 2702 Hoyt Ave., Everett, Wash. 98201.
North Olympic Library System, Library Service Center, 2210 South Peabody, Port Angeles, Wash. 98362.
Spokane Public Library, Comstock Bldg., West 906 Main Avenue, Spokane, Wash. 99201.
Port Angeles Public Library, 207 South Lincoln Street, Port Angeles, Wash. 98362.
Fort Vancouver Regional Library, Attn.: Reference Librarian, 1007 East Mill Plain Blvd., Vancouver, Wash. 98663.

A limited number of copies are also available and may be obtained by writing to the Environmental Manager, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208. Comments on the draft environmental statement should be sent to the Environmental Manager's Office by November 4, 1977.

Dated: September 1, 1977.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc.77 26208 Filed 9-8-77;8:45 am]

Office of the Secretary

[INT DES 77-31]

PINE CREEK STATE AND NATIONAL SCENIC RIVER

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Bureau of Outdoor Recreation has prepared a draft environmental statement for the proposed Pine Creek State and National Scenic River in Pennsylvania.

The environmental statement considers the probable impact of establishing Pine Creek and selected tributaries as a component of the State and National Wild and Scenic Rivers Systems.

Comments are invited and should be submitted to the Regional Director, Bureau of Outdoor Recreation, 600 Arch Street, Room 9310, Philadelphia, Pennsylvania 19106, within 45 days. Copies of the draft statement are available for inspection at the following locations:

Office of Communications, Department of the Interior, room 7200, Washington, D.C. 20240, telephone: 202-343-4662.
Office of Information, Bureau of Outdoor Recreation, room 242, Department of the Interior, Washington, D.C. 20240, telephone: 202-343-5726.
Office of the Regional Director, Bureau of Outdoor Recreation, 600 Arch Street, room 9310, Philadelphia, Pa. 19106, telephone: 215-597-7995.
Tioga County Planning Commission, Courthouse Annex, Wellsboro, Pa. 16901, telephone: 717-724-1906.
District Forestry Office, 66 Main Street, Wellsboro, Pa. 16901, telephone: 717-724-2868.
Mr. Leonard Harrison, State Parks Office, R.D. 6, Wellsboro, Pa. 16901, telephone: 717-724-3061.
State Parks Office, Little Pine State Park, Waterville, Pa. 17776, telephone: 717-647-3200.
District Forestry Office, 423 East Central Avenue, South Williamsport, Pa. 17701, telephone: 717-326-3576.
Lycoming County Planning Commission, County Courthouse, Williamsport, Pa. 17701, telephone: 717-323-9611 x317.

Single copies are available to the public and may be obtained by writing to the Regional Director, Bureau of Outdoor Recreation, 600 Arch Street, Room 9310, Philadelphia, Pennsylvania 19106. Please refer to the statement number shown above.

Dated: September 2, 1977.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-26297 Filed 9-8-77;8:45 am]

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DEPARTMENT OF STATE

Agency for International Development

[Redelegation of Authority No. 99.1.62, Amdt. No. 1]

COUNTRY DEVELOPMENT OFFICER/CHAD

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.62 dated November 11, 1974, (39 FR 41266), as follows:

(1) The first paragraph is revised to read as follows: "U.S. Government contracts and grants and amendments thereto: *Provided*, That the aggregate amount of each individual contract or grant does not exceed $50,000 or local currency equivalent."

(2) Delete Paragraph "2." in its entirety.

(3) The third paragraph is revised to read as follows: "The authority herein delegated may be redelegated in writing, in whole or in part, by said Country Development Officer only to the person designated by the Country Development Officer as Contracting Officer. Such redelegation shall remain in effect until such designated person ceases to hold the office of Contracting Officer or until the redelegation is revoked by the Country Development Officer, whichever shall first occur. The authority so redelegated by the Country Development Officer may not be further redelegated."

(4) The fourth paragraph is revised to read as follows: "The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated."

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: August 19, 1977.

HUGH L. DWELLEY,
Director,
Office of Contract Management.

[FR Doc 77-26216 Filed 9-8-77;8:45 am]

[Redelegation of Authority No. 99.1.60, Amdt. No. 1]

COUNTRY DEVELOPMENT OFFICER/MALI

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.60 dated November 11, 1974 (39 FR 41266), as follows:

(1) The first paragraph is revised to read as follows: "U.S. Government contracts and grants and amendments thereto: *Provided*, That the aggregate amount of each individual contract or grant does not exceed $50,000 or local currency equivalent."

(2) Delete Paragraph "2." in its entirety.

(3) The third paragraph is revised to read as follows: "The authority herein delegated may be redelegated in writing, in whole or in part, by said Country Development Officer only to the person designated by the Country Development Officer as Contracting Officer. Such redelegation shall remain in effect until such designated person ceases to hold the office of Contracting Officer or until the redelegation is revoked by the Country Development Officer, whichever shall first occur. The authority so redelegated by the Country Development Officer may not be further redelegated."

(4) The fourth paragraph is revised to read as follows: "The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated."

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: August 19, 1977.

HUGH L. DWELLEY,
Director,
Office of Contract Management.

[FR Doc.77-26217 Filed 9-8-77;8:45 am]

[Redelegation of Authority No. 99.1.61, Amdt. No. 1]

COUNTRY DEVELOPMENT OFFICER/ UPPER VOLTA

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.61 dated November 11, 1974 (39 FR 41267), as follows:

(1) The first paragraph is revised to read as follows:

"U.S. Government contracts, grants, and amendments thereto: *Provided*, That the aggregate amount of each individual contract or grant does not exceed $50,000 or local currency equivalent."

(2) Delete Paragraph "2." in its entirety.

(3) The third paragraph is revised to read as follows:

"The authority herein delegated may be redelegated in writing, in whole or in part, by said Country Development Officer only to the person designated by the Country Development Officer as Contracting Officer. Such redelegation shall remain in effect until such designated person ceases to hold the office of Contracting Officer or until the redelegation is revoked by the Country Development Officer, whichever shall first occur. The authority so redelegated by the Country Development Officer may not be further redelegated."

(4) The fourth paragraph is revised to read as follows: "The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated."

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: August 19, 1977.

HUGH L. DWELLEY,
Director,
Office of Contract Management.

[FR Doc.77-26214 Filed 9-8-77;8:45 am]

[Redelegation of Authority No. 99.1.63, Amdt. No. 1]

COUNTRY DEVELOPMENT OFFICER/ MAURITANIA

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.63 dated November 11, 1974, (39 FR 41266), as follows:

(1) The first paragraph is revised to read as follows: "U.S. Government contracts, grants, and amendments thereto: *Provided*, That the aggregate amount of each individual contract or grant does not exceed $50,000 or local currency equivalent."

(2) Delete Paragraph "2." in its entirety.

(3) The third paragraph is revised to read as follows: "The authority herein delegated may be redelegated in writing, in whole or in part, by said Country Development Officer only to the person designated by the Country Development Officer as Contracting Officer. Such redelegation shall remain in effect until such designated person ceases to hold the office of Contracting Officer or until the redelegation is revoked by the Country Development Officer, whicheves shall first occur. The authority so redelegated by the Country Development Officer may not be further redelegated."

(4) The fourth paragraph is revised to read as follows:

"The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated."

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: August 19, 1977.

HUGH L. DWELLEY,
Director, Office of Contract Management.

[FR Doc.77-26215 Filed 9-8-77;8:45 am]

[Redelegation of Authority No. 99.1.91]

MISSION DIRECTOR, USAID/PAKISTAN

Regarding Contracting Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Mission Director, USAID/Pakistan, the authority to sign U.S. Government contracts, grants, and amendments thereto: *Provided*, That the aggregate amount of each individual contract or grant does not exceed $100,000 or local currency equivalent.

The authority herein delegated may be redelegated in writing, in whole or in part, by said Mission Director only to the person or persons designated by the Mission Director as Contracting Officer. Such redelegation shall remain in effect until such designated person ceases to hold the office of Contracting Officer for the Mission, or until the redelegation is revoked by the Mission Director, whichever shall first occur. The authority so redelegated by the Mission Director may not be further redelegated.

The authority delegated herein is to be exercised in accordance with AID regulations, procedures, and policies in effect at the time the authority is exercised and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein delegated to the Mission Director may be exercised by duly authorized persons who are performing the functions of the Mission Director in an acting capacity.

Any official actions taken prior to the effective date hereof by officers duly authorized pursuant to previous delegations are hereby continued in effect, according to their terms until modified, revoked, or superseded by action of the officer to whom I have delegated relevant authority in this delegation.

Actions within the scope of this delegation heretofore taken by the official designated in such delegation are hereby ratified and confirmed.

This redelegation of authority shall be effective on the date of signature.

Dated: August 19, 1977.

HUGH L. DWELLEY,
Director, Office of Contract Management.

[FR Doc.77-26213 Filed 9-8-77;8:45 am]

[Redelegation of Authority No. 99.1.57, Amdt. No. 1]

REGIONAL DEVELOPMENT OFFICER/ DAKAR

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.57 dated November 11, 1974 (39 FR 41267), as follows:

(1) The first paragraph is revised to read as follows:

"U.S. Government contracts and grants and amendments thereto: *Provided*, That the aggregate amount of each individual contract or grant does not exceed $50,000 or local currency equivalent."

(2) Delete Paragraph "2." in its entirety.

(3) The third paragraph is revised to read as follows:

"The authority herein delegated may be redelegated in writing, in whole or in part, by said Regional Development Officer only to the person designated by the Regional Development Officer as Contracting Officer. Such redelegation shall remain in effect until such designated person ceases to hold the office of Contracting Officer or until the redelegation is revoked by the Regional Development Officer, whichever shall first occur. The authority so redelegated by the Regional Development Officer may not be further redelegated."

(4) The fourth paragraph is revised to read as follows:

"The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated."

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: August 18, 1977.

HUGH L. DWELLEY,
Director, Office of Contract Management.

[FR Doc.77-26210 Filed 9-8-77;8:45 am]

[Redelegation of Authority No. 99.1.58, Amdt. No. 1]

REGIONAL DEVELOPMENT OFFICER/ NIAMEY

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.58 dated November 11, 1974 (39 FR 41267), as follows:

(1) The first paragraph is revised to read as follows:

"U.S. Government contracts, grants, and amendments thereto: *Provided*, That the aggregate amount of each individual contract or grant does not exceed $50,000 or local currency equivalent."

(2) Delete Paragraph "2." in its entirety.

(3) The third paragraph is revised to read as follows:

"The authority herein delegated may be redelegated in writing in whole or in part, by said Regional Development Officer only to the person designated by the Regional Development Officer as Contracting Officer. Such redelegation shall remain in effect until such designated person ceases to hold the office of Contracting Officer or until the redelegation is revoked by the Regional Development Officer, whichever shall first occur. The authority so redelegated by the Regional Development Officer may not be further redelegated."

(4) The fourth paragraph is revised to read as follows:

"The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated."

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: August 18, 1977.

HUGH L. DWELLEY,
Director, Officer of Contract Management.

[FR Doc.77-26211 Filed 9-8-77;8:45 am]

[Redelegation of Authority No. 99.1.59, Amdt. No. 1]

REGIONAL DEVELOPMENT OFFICER/ YAOUNDE

Redelegation of Authority Regarding Contracting Functions

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V 42 175 SEP 9 77 UMI

99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.59 dated November 11, 1974 (39 FR 41267), as follows:

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(2) Delete Paragraph "2." in its entirety.

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"The authority herein delegated may be redelegated in writing in whole or in part, by said Regional Development Officer only to the person designated by the Regional Development Officer as Contracting Officer. Such redelegation shall remain in effect until such designated person ceases to hold the office of Contracting Officer or until the redelegation is revoked by the Regional Development Officer, whichever shall first occur. The authority so redelegated by the Regional Development Officer may not be further redelegated."

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Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: August 18, 1977.

HUGH L. DWELLEY,
Director, Office of Contract Management.

[FR Doc.77-26212 Filed 9-8-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

LETTERS OF CREDIT TO SECURE POTENTIAL COUNTERVAILING DUTY LIABILITY

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice announces that the Customs Service will accept letters of credit to secure the payment of possible countervailing duties on certain Japanese electronic products. The procedure is to be used as an alternative to the acceptance of bonds for the potential liability for duties.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

John E. Elkins, Attorney, Drawback and Bonds Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5856).

SUPPLEMENTARY INFORMATION:

BACKGROUND

In general, a countervailing duty is an additional duty which is imposed upon imported merchandise after it has been determined that the manufacture, production, or export of that merchandise has benefited directly or indirectly from a bounty or grant (subsidy) bestowed by a foreign government or person.

On April 12, 1977, the United States Customs Court, in *Zenith Radio Corp.* v. *United States*, C.D. 4691, held that the rebate or forgiveness of the Japanese commodity tax upon the export of certain consumer electronic products from Japan is a bounty or grant within the meaning of the United States countervailing duty law (section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303)). The Court ordered that countervailing duties be ascertained and assessed on the products covered by its decision entered or withdrawn from warehouse for consumption on or after April 13, 1977. Section 516(g) of the Tariff Act of 1930, as amended (19 U.S.C. 1516(g)), provides for the suspension of liquidation of merchandise covered by such decisions of the Customs Court until final disposition is made of the action. On July 28, 1977, the decision of the Customs Court was reversed by the U.S. Court of Customs and Patent Appeals in *United States* v. *Zenith Radio Corp.*, C.A.D. 1195. The decision of the Court of Customs and Patent Appeals will be final and conclusive unless modified, vacated, set aside, reversed, or remanded by the U.S. Supreme Court.

As a result of the decision of the Customs Court, the Commissioner of Customs authorized a bonding procedure to be followed until final disposition of the *Zenith* action. The procedure allows importers to obtain delivery of their merchandise prior to the ascertainment and collection of countervailing duties, and at the same time adequately protects the revenue. Under the authority of section 623(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1623(a)), and Treasury Department Order No. 165, Revised (T.D. 53654, 19 FR 7241), as amended, the Commissioner by specific instruction authorized Customs officers to require a special countervailing duty bond. Under this procedure, the products may be released under a bond to guarantee payment of any countervailing duties that may be assessed. The bonding requirement went into effect with respect to any of the products entered or withdrawn from warehouse for consumption on or after April 13, 1977.

The Commissioner subsequently determined that an alternate means of securing the possible countervailing duty liability may be permitted without jeopardizing the revenue. The Commissioner has therefore authorized district/area directors of Customs to accept clean irrevocable letters of credit, as an alternative to the bonding requirements, to secure potential countervailing duty liability for merchandise covered by the opinions in the *Zenith* cases.

A clean letter of credit is one that requires no documents to be presented with the draft or demand for payment thereunder. An irrevocable letter of credit, once established in favor of the district/area director, cannot be modified or revoked without the consent of the district/area director.

In order to be accepted by the district/area director, the letter of credit must meet the following requirements:

(a) It must cover entries of a single importer filed in a single district or area.

(b) It must contain a statement indicating the letter of credit will be automatically renewed for additional one-year periods without any affirmative action by the district/area director, unless the provisions of item (c), below, are invoked by the issuing bank.

(c) It must contain a statement indicating that the letter of credit may be terminated by the issuing bank at the end of its term only if the issuing bank submits a written intent of termination by registered mail at least 30 days prior to the expiration date of the letter of credit. If this termination provision is exercised by the issuing bank, the district/area director will immediately draw on the credit in the full amount of the potential countervailing duty liability.

(d) It must contain a statement that the letter of credit is to secure a potential liability for countervailing duties.

(e) It must be submitted in an original and two copies.

(f) The initial term of the letter of credit must be for one year or for any longer period willing to be undertaken by the issuing bank.

(g) The letter of credit must be clean and irrevocable.

(h) If the letter of credit is issued by other than a local bank, it must be confirmed through a local bank.

Further information regarding the letter of credit procedure can be obtained from Customs officers at the port where the merchandise is to be entered.

LEONARD LEHMAN,
Assistant Commissioner, Regulations and Rulings.

[FR Doc.77-26263 Filed 9-8-77;8:45 am]

Internal Revenue Service

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

[Application No. D-850]

CERTAIN TRANSACTIONS INVOLVING THE CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS PENSION FUND

Pendency of Proposed Exemptions

AGENCIES: Department of the Treasury/Internal Revenue Service and the Department of Labor.

ACTION: Notice of pendency of proposed exemptions.

SUMMARY: This document contains a notice of pendency before the Internal Revenue Service (the Service) and the Department of Labor (the Department) of several proposed exemptions from certain restrictions imposed by the Internal Revenue Code of 1954 (the Code) and the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemptions were requested in applications filed by The Equitable Life Assurance Society of the United States (Equitable) and Victor Palmieri and Co. Inc. (VPCO) for transactions involving the Central States, Southeast and Southwest Areas Pension Fund (the Fund).

The proposed exemptions, if granted, would affect participants and beneficiaries of the Fund, their employers, the Fund's named fiduciary and investment managers, and other persons participating in the described transactions.

DATES: Written comments must be received by the Service on or before September 26, 1977.

A public hearing with respect to the proposed exemptions will be held on September 26, 1977, beginning at 10 a.m. in the Department of Labor Auditorium, Main Building Lobby, 200 Constitution Avenue NW., Washington, D.C. 20016.

Any interested person who desires to present oral comments at the hearing and who wishes to be assured of being heard should submit a statement to that effect, an outline of the topics he wishes to discuss, and the time he wishes to devote, by 4 p.m. on September 22, 1977. The statement and outline should be submitted to the Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: E:EP:PT (D-850) Hearing. An agenda will then be prepared containing the order of presentation of oral comments and the time allotted to such presentation. Ordinarily, a period of 10 minutes will be the time allotted to each person for making his oral comments. Information with respect to the contents of the agenda may be obtained on September 23, 1977, by telephoning Neil Grossman of the Internal Revenue Service, 202-566-4260. This is not a toll free number.

At the conclusion of the presentation of comments by persons listed in the agenda, to the extent time permits, other comments will be received. The public hearing will be transcribed.

A person wishing to make oral comments at the hearing may do so without filing written comments. Persons making oral comments should be prepared to answer questions regarding information brought forth in their comments (including written comments, if any).

ADDRESS: All written comments (at least six copies) should be addressed to the Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: E:EP:PT (D-850). The applications for exemptions referred to in this notice and all comments relating thereto will be available for public inspection at the Internal Revenue Service National Office Reading Room, 1111 Constitution Avenue NW., Washington, D.C. 20224, and the Public Documents Room of Pension and Welfare Benefit Programs, Room N-4677, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Neil Grossman of the Internal Revenue Service, 202-566-4260, or Martha McLane of the Department of Labor, 202-523-9141. These are not toll free numbers.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department and the Service (hereinafter collectively referred to as the Agencies) of applications filed by Equitable and VPCO (hereinafter collectively referred to as the applicants) for exemptions from the taxes imposed by sections 4975 (a) and (b) of the Code by reason of sections 4975(c)(1)(A) through (F) of the Code and from the restrictions of sections 406(a), 406(b), and 407(a) of the Act. The proposed exemptions would apply to a number of transactions involving Equitable, VPCO, entities related to Equitable and VPCO, the Fund's other investment managers, and the Fund as a result of contractual agreements dated June 30, 1977. The proposed exemptions are based on the representations contained in various applications for exemptions on file with the Agencies which are summarized below. Interested persons are referred to the applications for exemptions for the complete representations of the applicants. The applications were filed pursuant to section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

BACKGROUND

Equitable and VPCO have made the following common representations which apply to each proposed exemption.

The Fund is a multiemployer employee benefit plan established and maintained pursuant to collective bargaining agreements between employers and certain affiliated unions of the International Brotherhood of Teamsters. It was established in 1955 by trust agreement, amended from time to time thereafter, by and between Central Conference of Teamsters, Central States Drivers Council, Southern Conference of Teamsters, and their affiliated local unions, and the Southeastern Area Motor Carriers Labor Relations Association, Southwest Operators Association, National Automobile Transporters Labor Council, Motor Carriers Employers Conference—Central States, Cartage Employers Management Association; Cleveland Draymen Association, Inc., and Northern Ohio Truck Association, Inc. In accordance with section 302(c)(5) of the Labor Management Relations Act, 1947 (29 U.S.C. section 186(c)(5)), the Fund is jointly administered by ten trustees, consisting of an equal number of employee and employer representatives. The Fund generally covers Teamster employment in 33 states located in the Central, Southeast and Southwest areas of the United States.

The Fund has been the subject of investigation by the Department of Labor, the Department of Justice, the Internal Revenue Service, the Securities and Exchange Commission and other agencies for a period of years. It has also been the subject of numerous Congressional inquiries and hearings. In published statements of government agencies, congressional committees, and the Fund's staff, and in other publicly available information, there has been widespread criticism and allegations of abuse in connection with the management of the Fund's assets.

During the last year, the following governmental actions, among others, have been announced:

By letter dated June 25, 1976, the District Director of the Internal Revenue Service, Chicago District, revoked the Fund's tax exempt status.

Subsequent to the date of the initial revocation letter, the Internal Revenue Service delayed the application of the revocation four times with respect to certain contributing employers, employees, beneficiaries, and survivors of participants of the Fund. During this period, government attorneys and attorneys for the Fund engaged in a series of negotiations on problem areas.

On March 14, 1977, the Service and the Department issued a joint release (USDL 77-232, IR 1775) announcing the resolution of certain issues respecting asset management of the Fund "in a manner that meets the government's objectives." In part, the release stated:

> The trustees of the Fund have resolved to delegate to one or more investment managers (as defined in section 3(38) of the Act) the control of all investments of the Fund.

Based on this and other matters announced, and subject, among other things, to the engagement of professional investment managers, the Service said that it would issue a determination letter requalifying the Fund and the Department said that it would terminate that portion of its investigation relating to procedures of the Fund respecting asset management.

Subsequently, on April 26, 1977, the Service issued a determination letter requalifying the Fund for tax years beginning after December 31, 1976, subject to a number of conditions, including, among others, the following:

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1. The Fund completing by May 1, 1978 an examination of all loans and related financial transactions entered into by the Fund from February 1, 1965 to April 30, 1977. The results of this examination, including all background information, conclusions and recommendations will be submitted to unrelated independent professionals to determine if the Fund has an enforceable causes of action or other recourse arising from the transactions. These independent professionals may require the Fund to produce, or may themselves otherwise obtain, such additional information concerning these transactions as they deem necessary to make their determination. The completed reports and recommendations for each transaction will be available to the IRS no later than the 5th working day of each month, summarizing progress on this activity.

2. The Trustees placing all Fund assets and receipts, including funds derived from liquidation of existing investments (except funds reasonably retained by the Fund for (a) payment of plan benefits and (b) payment of administrative expenses), under direct continuing control of independent professional investment managers as defined by section 3(38) of ERISA. The Trustees will adopt appropriate amendments to the trust agreement to accomplish this condition and will expeditiously transfer the assets to the investment managers. Recognizing the complexities of the large investment portfolio, the completion date for accomplishing delivery of the investment assets will be no later than December 31, 1977. However, the securities-related assets and the majority of the real estate-related assets will be made available to the investment managers for inspection, documentation and evaluation no later than June 30, 1977.

During this period, officials of the Fund were actively attempting to secure independent, professional investment managers. The selection of independent investment managers for the Fund was regarded by the government as a crucial objective of governmental demands upon representatives of the Fund. Representatives of the Department were continually apprised of the progress of the negotiations. Ultimately, on June 17, 1977, the trustees of the Fund announced their selection of Equitable as named fiduciary for the Fund and Equitable, VPCO, and others as investment managers.

Equitable is a mutual life insurance company whose principal office is located at 1285 Avenue of the Americas, New York, N.Y. 10019. Its Employer I.D. No. is 13-5570651. It is a New York corporation subject to the insurance laws of New York, and it is registered as an investment adviser under the Investment Advisers Act of 1940. Equitable is the third largest life insurance company in the United States; as of December 31, 1976, its assets were a total of $22,430,472,618. Prior to its execution of the June 30, 1977 contracts, with a minor exception described below, it had no affiliation or relationship with the Fund.[1]

VPCO is a corporation which has provided executive management services to various businesses and whose application for registration as an investment adviser under the Investment Advisers Act of 1940 is currently pending. It is presently managing assets and operating companies valued at more than $1,500,000,000, including all the non-rail assets and operating companies of the Penn Central Transportation Co. and those of Levitt and Sons, Inc. It has a principal office at 2021 K Street NW., Washington, D.C. 20006; its Employer I.D. No. is 95-2644862. Prior to its execution of the June 30, 1977 contracts, with a minor exception described below, it had no affiliation or relationship with the Fund.[2]

To effectuate the independent, professional management of the Fund's assets, the trustees of the Fund entered into a series of agreements with Equitable, VPCO, Lazard Freres and Co. (Lazard), Mercantile National Bank at Dallas (Mercantile), and Crocker Investment Management Corp. (CIMCO).

The agreements establish a framework whereby Equitable will serve as named fiduciary of the Fund, having responsibility for, among other things, monitoring, appointing, and removing investment managers (other than VPCO) and custodians, allocating available investment funds among different types of investments and different investment managers, and developing and implementing investment objectives and policies. Equitable, Lazard, Mercantile, and CIMCO will be appointed investment managers for securities-related assets, with each to receive, as determined by Equitable, an initial allocation of approximately one-fourth of the total market value of the securities-related assets held by the Fund, and with the restriction that the securities-related assets initially allocated to Equitable for its management will have a value of approximately one-fourth of the total market value of the securities-related assets as of the closing date and that Equitable will be allocated one-fourth of such additional funds as may become available for new investment in securities-related assets. Equitable and VPCO will be appointed investment managers for real estate-related assets, with Equitable generally responsible for property situated east of the Mississippi River and VPCO generally responsible for property situated west of the Mississippi River. However, Equitable and VPCO may agree to reallocate property between themselves, any any such reallocation may result in a corresponding reallocation of their management fees. In the performance of their fuctions as investment managers for the real estate-related assets, Equitable and VPCO or companies related to either may provide goods or services to the Fund. In the event that the Fund holds assets other than securities-related and real estate-related assets, Equitable will be authorized to appoint an investment manager for such other assets, which may include itself or VPCO. The trustees will retain all authority not vested in Equitable, the investment managers, and the custodians, including responsibility for the management of the Benefits and Administration Acount and the concomitant power to cause Equitable to provide for the transfer of available investment funds to the Benefits and Administration Account for the purpose of paying benefits and administrative expenses of the Fund.

The fees paid to each of the investment managers for securities-related assets will be based on a percentage of the value of the assets under its management. Equitable and VPCO, as investment managers for real estate-related assets, will receive annual fees of $1,900,000 and $3,100,000, respectively. Equitable's fee for serving as named fiduciary will be based on a percentage of the Fund's assets under the management of all the investment managers except Equitable.

The appointment of Equitable as named fiduciary and Equitable and VPCO as investment managers can only be terminated during the first five years by the trustees "for cause" and with the consent of the Secretary of Labor.

These agreements are now scheduled to take effect on October 3, 1977, which has been established as the closing date for most of the above arrangements. However, this date may be extended by Equitable or VPCO if either determines that it has not received all necessary rulings, exemptions, and opinions of governmental authorities. The trustees of the Fund may rescind the agreements if the closing date does not occur on or before November 1, 1977.

The Department and the Service will play a continuing role after the agreements become effective. As set forth in the agreements, the Department has established a special task force for the purpose of providing assistance and guidance to the investment managers and protecting the interests of participants and beneficiaries of the Fund. In addition, Equitable and VPCO will, through reports, the subject and nature of which are specified below, provide the Department and the Service with the opportunity to review certain aspects of their activities as named fiduciary and investment managers. The Agencies will review these reports and, if circumstances warrant, take appropriate action to protect the interests of the Fund and its participants and beneficiaries. For example, see sections 9.02 and 9.03 of Rev. Proc. 75-26, 1975-1, C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

The reports submitted to the Department will be available for public inspection at the Public Documents Room of the Pension and Welfare Benefit Programs, Room N-4677, U.S. Department

[1] The minor exception involves a ground lease between the Fund and Equitable which arose because of a mortgage foreclosure between Equitable and an unrelated third party.

[2] The minor exception involves a loan made by the Fund in 1963 (and refinanced in 1974) to an independent third party to finance a hotel, secured by the hotel property and by guarantees of the third party. In 1976, a limited partnership, in which two executives (one also a stockholder) of VPCO have interests, purchased the hotel, subject to the Fund mortgage on which the third party remains liable.

of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216.

Notice of the pending exemptions as published in the FEDERAL REGISTER will be send by certified mail within 3 days of publication in the FEDERAL REGISTER to each current trustee and to each employer association and employee organization which is a signatory to the trust agreement.

PROPOSED EXEMPTIONS

The applications contain certain representations which are specifically applicable to each of the proposed exemptions which are summarized below. Interested persons are referred to the applications and supporting documents on file with the Agencies for the complete representations of the applicants. Each part set forth below contains a summary of the specific representations which are applicable to the particular proposed exemption followed by the proposed exemption.

PART I.—ALLOCATION BY EQUITABLE OF SECURITIES-RELATED ASSETS AMONG THE INVESTMENT MANAGERS

Summary of representations. Under the agreements, each of the securities investment managers will be initially allocated approximately one-fourth of the value of the Fund's securities-related assets. Equitable in its capacity as named fiduciary will make the initial allocation of securities-related assets among the investment managers, including itself. In so doing, Equitable will allocate to itself securities-related assets valued at approximately one-fourth of the total value of all such assets held by the Fund. However, Equitable will determine which securities-related assets will be allocated to each manager.

In addition, under the agreements, Equitable has exclusive responsibility and authority to appoint and remove any securities investment manager and to increase or decrease the portion of the securities-related assets allocated to each investment manager (except that Equitable will be allocated approximately one-fourth of all securities-related assets initially allocated and one-fourth of any additional funds as may become available for new investment in securities-related assets). Further, Equitable is authorized, subsequent to the initial allocation of securities-related assets, to name additional or substitute investment managers for any or all of the Fund's securities-related assets.

Within 45 days following each calendar quarter (or such other three month period as the trustees shall designate in writing), Equitable is required to render to the trustees a report concerning its services and activities as named fiduciary which will include a report concerning the initial allocations of any securities-related assets. Any report concerning the allocation of securities-related assets will contain the following information:

(a) A list of the securities-related assets each manager has received,

(b) A description of how Equitable valued the securities-related assets,

(c) A description of the allocation plan,

(d) The reason for adopting the particular method of allocation, and

(e) Any other information the trustees may request.

As part of their overall responsibility under the agreements for monitoring the performance of Equitable in its capacity as named fiduciary, the trustees of the Fund are required to monitor the actions of Equitable in initially allocating securities-related assets. Beginning with the first quarterly report submitted to the trustees subsequent to January 1, 1978, Equitable will submit to the Agencies for their review annually copies of the reports which were submitted to the trustees during the prior twelve months. Such annual reports will be submitted to the Agencies at the same time that the first quarterly report of the calendar year is submitted to the trustees.

Pending exemption. Based on the application described herein, the Agencies have under consideration the granting of an exemption, effective the date of the closing pursuant to the agreements, under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), so that the taxes imposed by sections 4975 (a) and (b) of the Code by reason of sections 4975(c)(1) (D) and (E) of the Code and the restrictions of sections 406(a)(1)(D) and 406(b)(1) of the Act shall not apply to Equitable's development and implementation of short-term and long-term investment objectives and policies for the Fund.

PART II.—EQUITABLE'S AUTHORITY TO DEVELOP AND IMPLEMENT INVESTMENT OBJECTIVES AND POLICIES FOR THE FUND

Summary of representations. Under the agreements, Equitable as named fiduciary is responsible for developing and implementing short-term and long-term investment objectives and policies for the Fund. These objectives and policies are to be developed by Equitable with appropriate regard for the actuarial requirements of the Fund and will be submitted for review by the trustees on a regular basis. Each investment manager, including Equitable, is required to follow the investment objectives and policies established by Equitable.

In addition, within 45 days following each calendar quarter (or such other three month period as the trustees shall designate in writing), Equitable is required to render to the trustees a report concerning its services and activities as named fiduciary which will include a report as to the development and implementation of the investment objectives and policies of the Fund.

As part of their overall responsibility under the agreements for monitoring the performance of Equitable in its capacity as named fiduciary, the trustees of the Fund are required to monitor the actions of Equitable in developing and implementing the objectives and policies that the trustees have reviewed. Beginning with the first quarterly report submitted to the trustees subsequent to January 1, 1978, Equitable will submit to the Agencies for their review annually copies of the reports which were submitted to the trustees during the prior twelve months. Such annual reports will be submitted to the Agencies at the same time that the first quarterly report of the calendar year is submitted to the trustees.

Pending exemption. Based on the application described herein, the Agencies have under consideration the granting of an exemption, effective the date of the closing pursuant to the agreements, under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set for in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), so that the taxes imposed by sections 4975 (a) and (b) of the Code by reason of sections 4975(c)(1) (D) and (E) of the Code and the restrictions of sections 406(a)(1) (D) and 406(b)(1) of the Act shall not apply to Equitable's development and implementation of short-term and long-term investment objectives and policies for the Fund.

PART III.—EQUITABLE'S AUTHORITY TO DIRECT THE INVESTMENT MANAGERS TO PROVIDE FUNDS FOR THE BENEFITS AND ADMINISTRATION ACCOUNT

Summary of representations. The Benefits and Administration Account (the Account) contains assets of the Fund needed for the payment of pension benefits and the Fund's administrative expenses. The Account is managed by the Executive Director of the Fund, who has no affiliation or relationship with Equitable; neither Equitable nor any of the investment managers has any responsibility for managing, or supervising the management of, the assets of the Account.

Generally, money for the Account will be derived from two sources: employer contributions and income earned by the Fund on its real estate and mortgage investments which is not needed to offset the Fund's expenses in managing such investments. Although the influx of money from these sources should ordinarily be sufficient to pay pension benefits and the Fund's administrative expenses, it is conceivable that additional money may be needed for the Account at some time in the future. In such a case, the Fund's Executive Director is authorized to request Equitable to transfer additional funds to the Account, and, under the agreements, Equitable can comply with the request by directing the investment managers, including itself and VPCO, to liquidate assets and transfer money to the Account. Equitable, acting on its own, has no authority to initiate a transfer of assets to the Account.

Although the likelihood of such a transfer is remote, if requested, Equitable will determine the best source of funds from which to make the transfer. If Equitable decides to make a transfer

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from the Fund's securities-related assets, Equitable will supply 25 percent of the assets and the other securities managers will supply the remaining 75 percent. If Equitable decides to transfer real estate-related assets, it has the authority to decide on the basis of the best interests of the Fund what portion will be provided by VPCO and what portion by Equitable. Under the agreements of June 30, 1977, within 45 days following each calendar quarter (or such other three month period as the trustees shall designate in writing), Equitable is required to render to the trustees a report concerning its services and activities as named fiduciary, which will include a report explaining the reasons for any such transfer. The trustees are required under the agreements to monitor the actions of Equitable as a named fiduciary, which includes any direction to make payments to the Account. Beginning with the first quarterly report submitted to the trustees subsequent to January 1, 1978, Equitable will submit to the Agencies for their review annually copies of the reports which were submitted to the trustees during the prior twelve months. Such annual reports will be submitted to the Agencies at the same time that the first quarterly report of the calendar year is submitted to the trustees.

Pending exemption. Based on the application described herein, the Agencies have under consideration the granting of an exemption, effective the date of the closing pursuant to the agreements, under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722, and ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), so that the taxes imposed by sections 4975(a) and (b) of the Code by reason of sections 4975(c)(1)(D) and (E) of the Code and the restrictions of sections 406(a)(1)(D) and 406(b)(1) of the Act shall not apply to Equitable's determination of which assets to liquidate in order to provide the Account with additional funds.

PART IV.—PROVISION OF SERVICES UNDER THE CONTRACTUAL ARRANGEMENTS

Summary of representations. Prior to the execution of these agreements, neither, Equitable nor VPCO was a disqualified person (party-in-interest) with respect to the Fund. Under the new arrangements, however, both Equitable and VPCO will be required to perform a number of services for the Fund. For instance, in addition to acting as investment manager, Equitable, in its capacity as named fiduciary, will monitor the performance of the other investment managers, including VPCO, and will develop general investment objectives and policies to be followed by the other investment managers. Similarly, VPCO will serve as investment manager for a portion of the Fund's real estate-related assets and will also make an evaluation of the asset management staff.

Further, under the agreements, Equitable and VPCO are required to perform a preliminary physical inspection and examination of the documentation relating to the real estate-related assets as soon as practicable after the execution of the agreements (dated June 30, 1977), and are required to use their best efforts to complete the inspection and documentation within 90 days after the closing date. Equitable and VPCO began performing services in accordance with this provision of the agreements immediately upon the execution of the agreements.

Equitable and VPCO assert that the services to be provided under the new arrangements are necessary for the operation of the Fund and that no more than reasonable compensation will be paid for such services. Further, they assert that the contracts for the provision of services are reasonable, notwithstanding their limited terminability provisions. Under the agreements, neither Equitable nor VPCO may be dismissed during the first five years of the agreements, except "for cause" and with the consent of the Secretary of Labor. Nor may the contractual terms of the agreements be terminated, modified, or amended for five years without the consent of Equitable or VPCO.

Equitable and VPCO assert that while these provisions for limited terminability are unusual, they are appropriate under the circumstances of this case. They also assert that the provisions are consistent with the Agencies' objectives of preventing the trustees from quickly reasserting control over the Fund and of ensuring the protection of the Fund's participants by means of independent, professional investment management during the next five years. Finally, they note that in the event of the termination for cause or resignation by Equitable or VPCO, the recurring fees payable to the party being terminated or resigning will be prorated to the effective date of the termination or resignation. Thus, should a termination or resignation occur, the Fund will not be penalized by reason of these provisions.

Pending exemption. Based on the application described herein, the Agencies have under consideration the granting of an exemption, effective June 30, 1977, under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722, and ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), so that the taxes imposed by sections 4975 (a) and (b) of the Code by reason of section 4975(c)(1)(C) of the Code and the restrictions of section 406(a)(1)(C) of the Act shall not apply to the execution of the new agreements by Equitable and VPCO or to their performance of services under those agreements.

PART V.—PROVISION OF "SUPPLEMENTAL SERVICES" BY EQUITABLE AND VPCO

Summary of representations. Under the agreements, the Fund will pay Equitable and VPCO an annual fee for the management of the Fund's real estate-related assets. This fee, plus an initial "start-up fee," is compensation for "basic services" that Equitable and VPCO will provide. With respect to the inspection, documentation, and evaluation of assets prior to acceptance for management, "basic services" will include the following:

(a) Examination of all items of documentation delivered.

(b) Examination of additional documents determined to be relevant and necessary for an adequate understanding of the assets and the Fund's interests therein.

(c) Arranging for, as appropriate, legal advice and opinions in order to clarify, insofar as possible, the existence, extent, and status of the Fund's interest in each asset.

(d) Conducting on-site inspections of each property and real estate project owned by the Fund, the operations of each operating business owned by the Fund, and the tangible asset and, where necessary and appropriate, operations securing obligations owing to the Fund.

(e) Organization and analysis of all of the information obtained from the foregoing items, and verification of the existence and condition of each asset, and otherwise completion of all documentation and inspection.

(f) Preparation of Valuation Files (with a recommended valuation) for each asset, where required, containing such materials and documents as are ordinarily and customarily employed in the evaluation of such asset, and arranging for, where deemed necessary and appropriate for such purpose, legal advice and opinions, appraisals, accounting analyses, audits, market and economic studies, land use and planning, engineering and architectural advice.

With respect to real estate-related assets accepted for management, "basic services" will include the following general management services:

(a) Supervision of the provision of all servicing and related accounting for each loan and receivable, including supervision of collection and supervision of payment of taxes, assessments and insurance premiums where required.

(b) Review and refinement, development and implementation, where necessary, of accounting and management information systems for the general loan portfolio sufficient to provide appropriate management controls and the preparation of required periodic reports to the fiduciary, the trustees and governmental agencies.

(c) Monitoring compliance with terms of each loan.

(d) Physical inspection on a regular basis of any collateral securing each loan.

(e) Periodic evaluation of each loan and determination of whether it should be "classified", and whether reserves or additional reserves are necessary or appropriate, all under statutory requirements.

(f) Development and implementation of actions and strategies to be taken with respect to loans in default.

(g) Negotiating with borrowers, where appropriate, with respect to restructuring defaulted loans or refinancings.

(h) Determining and supervising any appropriate legal steps to be taken in order to protect the interests of the Fund in each loan and other receivable.

(i) Directing and supervising the management of all properties, projects and business operations owned or otherwise controlled by the Fund (Controlled Assets), including the replacement of employees, contractors and consultants employed by the

individual projects or operations for work on those specific projects or operations.

(j) Supervision of the review and refinement, development and implementation, where necessary, of accounting and management information systems for the Controlled Assets sufficient to provide appropriate management controls for these assets and the preparation of required periodic reports to the fiduciary, the Fund trustees and governmental agencies.

(k) Supervision of the development of annual operating plans for each Controlled Asset including cash controls and forecasts, operating programs and budgets, capital expenditures and marketing or leasing strategies where appropriate.

(l) Physical inspection of each of the Controlled Assets on a regular basis.

(m) Periodic evaluation of each of the Controlled Assets and determination of whether reserves or additional reserves are necessary or appropriate under statutory requirements.

(n) Supervision of the employment and retention of those providing "supplemental services."

Under the agreements, Equitable, in its capacity as investment manager for real estate-related assets, or VPCO each may provide "supplemental services" to the Fund or cause such "supplemental services" to be provided to the Fund by other persons or companies, including those in which it or any of its officers, directors, or shareholders has a financial interest of 5 percent or more (hereinafter collectively referred to as related companies). The cost of "supplemental services" will not be covered by the fees paid for "basic services," but rather will be provided at an additional cost to the Fund. "Supplemental services" are defined to include the following:

(a) In relation to a specific asset, including its valuation, the contractual work of architects, attorneys, accountants, appraisers, auditors, brokers, collection agents, engineers, insurance agents, land planners, market and economic analysts, surveyors and zoning experts.

(b) Direct operating, project management and property management activities related to a specific managed asset, including the activities of employees, contractors, managers and consultants employed by an individual project or operation for work on such projects or operation.

(c) To the extent not included in the above, the leasing or selling of a specified managed asset including marketing, advertising and brokerage services, and the making of any additional investments, repairs and improvements in such assets to the extent permitted; and the payment of expenses associated with management of specific managed assets, including but not limited to property taxes, title insurance, surveys, interest and other similar expenses.

Equitable and VPCO will be initially responsible for determining whether a service that it or one of its related companies will provide is "supplemental" or "basic".

It is Equitable's and VPCO's current intention not to use related companies to provide "supplemental services" to the Fund. However, it is possible that Equitable or VPCO might use a related company to provide "supplemental services" in the future.

If a "supplemental service" is performed by Equitable, VPCO, or a related company, the cost to the Fund will be the direct salary and related benefit costs of the employees performing such "supplemental service". In calculating direct salary and related benefit costs, only the actual time spent by personnel of Equitable or VPCO will be considered. Time spent by executives generally responsible for the operations of Equitable or VPCO will not be considered at all. Direct salary costs will be determined by multiplying the periodic salary actually paid to an employee by the percentage of such employee's time during that period actually spent on providing the "supplemental service". Related benefit costs represent those additional amounts actually contributed by Equitable or VPCO for pension, health, and other benefits, and will be prorated in the same manner as direct salary costs. In no event will Equitable or VPCO receive compensation in excess of direct salary and related benefit costs in connection with the provision of "supplemental services" to the Fund by Equitable, VPCO or any related company; however, a payment might be made from a related company to Equitable or VPCO as a result of the provision of "supplemental services" to the Fund by the related company. In addition, if a related company performs any "supplemental service", it will not receive any compensation from unrelated third parties with respect to the performance of such "supplemental service". Further, if "supplemental services" are provided to the Fund by unrelated third parties, neither Equitable, VPCO or any related company will receive any compensation in connection therewith.

Pursuant to the agreements of June 30, 1977 Equitable and VPCO are required to render certain reports with respect to the provision of "supplemental services". Whenever Equitable or VPCO provide, or arrange for any party to provide, a "supplemental service", Equitable is required to provide the trustees and VPCO is required to provide Equitable and the trustees with the following information:

(a) The name and qualifications of the party retained to provide the service,

(b) A description of the service to be provided,

(c) A description of the fees to be paid, and

(d) Any other information that is requested by the trustees.

Such reports will also include an explanation of why the service is necessary.

Further, within 30 days following each calendar quarter (or such other three month period as the trustees shall designate in writing), Equitable is required to render to the trustees and VPCO is required to render to Equitable and the trustees a report concerning its services as an investment manager, which will include a report concerning the provision of any "supplemental service" provided to the Fund. Equitable is also required to provide the trustees with a quarterly report of the fees that it or any of its related companies received from the Fund for "supplemental services". Similarly, VPCO is required to provide both Equitable, in its capacity as named fiduciary, and the trustees of the Fund with a quarterly report of the fees that VPCO or any of its related companies have received from the Fund for "supplemental services".

Equitable, as named fiduciary, and the trustees are required under the agreements to monitor the actions of VPCO as investment manager, in providing, or arranging for the provision of, any "supplemental services" to the Fund by VPCO or its related companies. As part of their responsibility under the agreements to monitor the performance of Equitable as an investment manager, the trustees are required to monitor the actions of Equitable in providing, or arranging for the provision of, any "supplemental services" to the Fund by Equitable or its related companies. Beginning with the first quarterly report submitted to the trustees subsequent to January 1, 1978, Equitable and VPCO will submit to the Agencies for their review annually copies of the reports which were submitted to the trustees during the prior twelve months. Such annual reports will be submitted to the Agencies at the same time the first quarterly report of the calendar year is submitted to the trustees.

Pending Exemption. Based on the application described herein, the Agencies have under consideration the granting of an exemption, effective the date of the closing pursuant to the agreements, under the authority of section 4975(c)(2) of the Act and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722, and ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), so that the taxes imposed by sections 4975 (a) and (b) of the Code by reason of section 4975(c)(1)(C), (D), (E) and (F) of the Code and the restrictions of sections 406(a)(1)(C), 406(a)(1)(D), and 406(b) of the Act shall not apply to the provision of "supplemental services" by Equitable, VPCO or related companies to the Fund and their receipt of compensation for such "supplemental services" from the Fund, or to the determination by Equitable or VPCO that a particular service is "supplemental" rather than "basic".

PART VI.—REALLOCATION OF REAL ESTATE-RELATED ASSETS BETWEEN EQUITABLE AND VPCO

Summary of Representations. Although the investment management responsibility over real estate-related assets will be allocated pursuant to the agreement, under certain conditions Equitable and VPCO will be permitted to make changes in the initial allocation. During the term of the agreements, however, all real estate-related assets will be managed by either Equitable or VPCO.

In general, under the initial allocation, Equitable will be given responsibility for the management of real estate-related assets located east of the Mississippi River, and VPCO will manage the real

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estate-related assets located west of the Mississippi River.

The Fund will pay a fixed fee for real estate investment management. Under the agreements, Equitable will receive a one-time start-up fee of $500,000 and an annual fee of $1,900,000. VPCO will receive a start-up fee of $900,000 and an annual fee of $3,100,000.

The agreements permit the initial allocation described above to be changed during their term by reallocation between Equitable and VPCO. Reallocations may be made only if both Equitable and VPCO agree that the reallocation of responsibility would not be adverse to the interests of the Fund. Neither Equitable nor VPCO is required to accept management responsibility over any real estate-related asset the management of which the other is seeking to reallocate.

In the event of a reallocation, an appropriate adjustment in the real estate management fees may be made between Equitable and VPCO to reflect the change. The total annual fee of $5,000,000 for real estate management will not change as a result of any reallocation. Because Equitable's fee for serving as named fiduciary for the Fund is computed on the basis of only those assets which it does not manage, the fee for serving as named fiduciary may increase or decrease as a result of any reallocation.

A complete analysis of the Fund's real estate-related assets was not available on June 30, 1977 and, given the size of the fund's portfolio, an accurate listing will take some time. As a result, it is not possible for Equitable and VPCO to make all appropriate allocations of real estate-related assets either at the closing date or upon their acceptance of such assets for management. Accordingly, Equitable and VPCO believe that it is not only desirable to permit adjustments at a later date when they can be made on the basis of the manager's knowledge of the individual properties and the portfolio as a whole, but also in the interests of sound professional investment management.

Under the agreements, within 30 days following each calendar quarter (or such other three month period as the trustees shall designate in writing), Equitable is required to render to the trustees and VPCO is required to render to Equitable and the trustees a report concerning its services as an investment manager, which will include a report concerning any reallocation of real estate-related assets. As part of their responsibility under the agreements to monitor the performance of Equitable and VPCO, the trustees are required to monitor the actions of Equitable and VPCO in reallocating any real estate-related asset. Beginning with the first quarterly report submitted to the trustees subsequent to January 1, 1978, Equitable and VPCO will submit to the Agencies for their review annually copies of the reports which were submitted to the trustees during the prior twelve months. Such annual reports will be submitted to the Agencies at the same time that the first quarterly report of the calendar year is submitted to the trustees.

Pending Exemption. Based on the application described herein, the Agencies have under consideration the granting of an exemption, effective the date of the closing pursuant to the agreements, under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), so that the taxes imposed by sections 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (D) and (E) of the Code and the restrictions of sections 406(a)(1)(D) and 406(b)(1) of the Act shall not apply to the reallocation between Equitable and VPCO of investment management authority over any real estate-related asset and to any resulting adjustments in the investment management fees for the real estate-related assets.

PART VII.—LEASE OF OFFICE SPACE BY VPCO

Summary of Representations. Under the agreements, investment management authority over the Fund's real estate-related assets is given exclusively to Equitable and VPCO and allocated between them in the manner described above. As soon as practicable, the trustees are obligated to deliver to the custodian certain items of documentation relating to each real estate-related asset. These documents are then to be made available to Equitable or VPCO, as the case may be, which is directed to conduct a physical inspection of each asset to be managed by it, to verify the existence and condition of each asset, and to determine the need for such additional documentation as it considers appropriate.

In general, each investment manager's inspection and documentation of each asset is to be completed prior to its acceptance of the asset for management. Where the documentation has not been completed prior to the closing date of the agreements, Equitable and VPCO shall each use its best efforts to complete the process within 90 days thereafter.

At the time this application was filed, VPCO had not received a complete listing of the real estate-related assets located west of the Mississippi River, but it believes that these assets consist largely of loans secured by real property. The documents pertaining to these loans are on file at the Fund's headquarters in Chicago, Ill. In order to assume management responsibility for these assets and to comply with its contractual obligations regarding inspection and documentation, it is necessary for VPCO to inspect and copy the documents filed in Chicago. VPCO estimates that this process will take several months.

VPCO is also obligated to undertake and complete a study of the Fund's asset management staff with a view to determining the extent to which, and the basis upon which, the staff's functions should continue to be performed by the staff.

In view of its obligation to inspect and copy documents on the Fund's real estate-related assets and its obligation to complete a study of the Fund's asset management staff, VPCO must occupy space during this period at or near the Fund's headquarters. Because the Fund's headquarters is not centrally located with respect to other office space, VPCO desires to occupy space in the building owned by and headquartering the Fund on a short-term basis. VPCO will pay rent to the Fund for this space at the same rate per square foot as other commercial tenants in the building pay.

Pending exemption. Based on the application described herein, the Agencies have under consideration the granting of an exemption, effective July 1, 1977, under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), so that the taxes imposed by sections 4975 (a) and (b) of the Code by reason of section 4975(c)(1)(A) of the Code and the restrictions of section 406(a)(1)(A) of the Act shall not apply to VPCO's lease of office space from the Fund on a short-term basis.

PART VIII.—ADJUSTMENT AND/OR CONTINUATION BY INVESTMENT MANAGERS OF ANY LOAN, LEASE, SERVICE AGREEMENT, OR OTHER ARRANGEMENT, OR THE HOLDING BY THE FUND OF ANY EMPLOYER SECURITY OR REAL PROPERTY

Summary of representations. Because the process of delivering asset schedules, inspecting and verifying assets, determining the acceptability of assets for management, and allocating assets among managers had just begun at the time this application was filed, Equitable, VPCO, and the other investment managers have no significant first-hand knowledge concerning the assets of the Fund that they will manage. However, the Annual Report for the Fund for the fiscal year ending January 31, 1976, indicates that there were approximately 30 transactions involving the Fund's assets with a person known to be a party in interest (with a current value of $43,400,000) and approximately 74 loans and leases currently uncollectable or in default.

The primary goal of the investment managers is to preserve the viability of the Fund by obtaining the best financial results for the Fund consistent with prudent management, given the assets which the investment managers inherit for management and the needs of the Fund. The investment managers must make decisions with respect to each asset on the basis of financial considerations, without regard to whether the asset may once have been the subject of a prohibited transaction. Accordingly, the investment managers intend to accept loans and other real estate-related assets without regard to whether another party to the loan or other real estate-related transaction is or may be a party in interest or a disqualified person and without any investigation as to whether there is or may be a past or ongoing prohibited transaction related to the asset.

Where a party in interest transaction is brought to the attention of Equitable, VPCO, or another investment manager, it may be in the interest of the Fund and its participants and beneficiaries to permit the investment manager to determine whether it is prudent to rescind, modify, or continue the arrangement. Additionally, where Equitable, VPCO, or another investment manager determines that it would be prudent and in the best interests of the Fund to continue existing arrangements with parties in interest or disqualified persons, but not in accordance with their current terms, that investment manager may wish to adjust existing arrangements in order to achieve, on behalf of the Fund, the most favorable investment results obtainable under the circumstances. In such case, any adjustments will be made pursuant to a written agreement executed or authorized by the investment manager responsible for the management of the Fund asset or the arrangement related to the Fund asset. Also, Equitable and VPCO expect to be "working-out" troubled loans with various parties, some of whom will be parties in interest or disqualified persons.

In the absence of an exemption for the continuation or adjustment of prior prohibited transactions, Equitable, VPCO, and the other investment managers would not be permitted the type of flexibility necessary to make decisions that are in the best interests of the Fund. Further, the burden of investigating whether previously entered transactions constitute a violation of the prohibited transactions rules would be enormous and to a large extent duplicative where, as in this case, a procedure has already been established for an investigation of past loan transactions.

Pending exemption. Based on the application described herein, the Agencies have under consideration the granting of an exemption under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), so that the taxes imposed by sections 4975 (a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code and the restrictions of sections 406(a) and 407(a) of the Act shall not apply to:

(1) The continuation of any loan, lease, service agreement, or other arrangement, or the continued holding of any employer security or real property, which is or relates to a plan asset of the Central States, Southeast and Southwest Areas Pension Fund, or

(2) The adjustment of the terms of any loan, lease, service agreement, or other arrangement (and all acts necessary and proper to the carrying out of such arrangement in accordance with its terms as adjusted), which is or relates to a plan asset of the Central States, Southeast and Southwest Areas Pension Fund: *Provided*, That any adjustment is made pursuant to a written agreement executed or authorized by the investment manager responsible for the management of the Fund asset or the arrangement related to the Fund asset.

If granted, the proposed exemption would apply to the following persons:

(1) An investment manager of Fund assets whose management commenced on or after October 3, 1977, to the extent that such person, as investment manager, caused the Fund to engage in the continuation or adjustment described above, and

(2) Any party in interest or disqualified person involved in the transaction, but only if the existence of a prohibited transaction is brought to the attention of the investment manager described in the preceding clause as a result of a formal notification by an agency of the United States Government, a final order of a United States Court, or an acknowledgment in writing communicated to the investment manager of such prohibited transaction by the party in interest or disqualified person involved in the transaction, and

(a) The investment manager affirmatively determines that the continuation or modification (other than a rescission or termination) is in the best interest of the Fund, and

(b) Such determination is promptly communicated in writing by the investment manager to the Department of Labor and the Internal Revenue Service.

If granted, the proposed exemption would be effective as to the investment managers on the date of the closing pursuant to the agreements with respect to the assets for which management was assumed on or after the closing date and as to a party in interest or disqualified person involved in the transaction on the date that the investment manager communicates to the Agencies in writing (pursuant to section (2)(b) above) its determination that the continuation or modification of the transaction is in the best interest of the Fund.

PART IX.—NEW TRANSACTIONS WITH CERTAIN PARTIES IN INTEREST AND DISQUALIFIED PERSONS

Summary of representations. The Annual Report of the Fund for the fiscal year ending January 31, 1976, indicates that the Fund held, among its assets, over $97,000,000 of commercial paper or other corporate debt; over $96,000,000 of common stock consisting of shares of approximately 120 corporations; over $114,000,000 of real estate consisting of land, air rights, various buildings, including one or more shopping centers, hotels and/or motels, and office buildings; and approximately 500 mortgage notes and collateral loans with an assigned current value of $832,000,000. In addition, the Report indicates that, during the plan year, the Fund had 167 service providers and 16,300 contributing employers. Taking into account affiliated corporations and partnerships, there appear to be an immense number of persons who are parties in interest or disqualified persons with respect to the Fund by virtue of their status as service providers, contributing employers, or persons related to service providers or contributing employers. Thus, because of the magnitude of the Fund's assets and the immense number of parties in interest and disqualified persons with respect to the Fund, the management of its assets will inevitably, and perhaps inadvertently, result in transactions which are prohibited by the Code and the Act.

If an investment manager causes the Fund to engage in a transaction with a service provider with respect to the Fund and any other person which is a party in interest or disqualified person solely by virtue of a relationship to such service provider (other than a trustee, administrator or investment manager with respect to the Fund and any other person which is a party in interest or disqualified person by virtue of a relationship to such trustee, administrator, or investment manager), who at the time of the transaction such investment manager actually knows is a party in interest or disqualified person with respect to the Fund, it will submit to the Agencies a report concerning the transaction. The report wil be submitted to the Agencies annually with the copies of the quarterly investment manager reports submitted to the trustees and will include a description of the transaction, the identification of the party in interest or disqualified person and its relationship to the Fund, and an explanation of hy the transaction is in the interest of the Fund and its participants and beneficiaries and protective of the rights of participants and beneficiaries of the Fund.

Pending exemption. Based on the application described herein, the Agencies have under consideration the granting of an exemption, effective the date of the closing pursuant to the agreements and five years thereafter, under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), so that the taxes imposed by sections 4975 (a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code and the restrictions of sections 406(a) and 407(a) of the Act shall not apply to any transactions between or involving the Fund and any of the following persons:

(1) A service provider with respect to the Fund and any other person which is a party in interest or disqualified person solely by virtue of a relationship to such service provider (other than a trustee, administrator, or investment manager with respect to the Fund and any other person which is a party in interest or disqualified person by virtue of a relationship to such trustee, administrator, or investment manager),

(2) An employer (treating employers who are of the same affiliated group, within the meaning of section 1563(a) of the Code, determined without regard to section 1563(a)(4) and (e)(3)(C) of the Code as one employer) whose contributions for the preceding plan year did not exceed five percent of the total employer contributions paid to or under the Fund for that year, or

(3) Any other person which is a party in interest or disqualified person solely by virtue of a relationship to such employer

Provided, That the transaction is no less favorable to the Fund than the terms

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that would be obtained in an arm's-length transaction with an unrelated party, *And provided*, That where the transaction involves a person described in (1) above whom the investment manager actually knows to be a party in interest or disqualified person with respect to the Fund, it shall have determined prior to causing the Fund to engage in the transaction that the transaction is in the interest of the Fund and its participants and beneficiaries and protective of the rights of the participants and beneficiaries of the Fund.

The pending exemptions, if granted, will be subject to the express conditions that the material facts and representations contained in the applications are true and complete.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code and section 408(a) of the Act does not relieve a fiduciary or other disqualified person or party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Code and the Act, including any prohibited transactions provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 4975(c)(2) of the Code and section 408(a) of the Act, the Agencies must find that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(3) The pending exemptions, if granted, are supplemental to, and not in derogation of, any other provisions of the Code and the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) All interested persons are invited to submit written comments on the pending exemptions contained herein to the address and within the time period set forth above. The applications for exemption referred to herein and all comments relating thereto will be open to public inspection at the addresses set forth above.

(5) The Agencies will hold a public hearing on the pending exemptions at the time and address set forth above. All interested persons who desire to present oral comments at the hearing should comply with the procedures set forth above.

Signed at Washington, D.C., this 8th day of September 1977.

ALVIN D. LURIE,
Assistant Commissioner (Employee Plans and Exempt Organizations), Internal Revenue Service.

J. VERNON BALLARD,
Deputy Administrator, Pension and Welfare Benefit Programs, Department of Labor.

[FR Doc.77-26530 Filed 9-8-77;11:08 am]

INTERSTATE COMMERCE COMMISSION

[No. 477]

ASSIGNMENT OF HEARINGS

SEPTEMBER 6, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 46879 Sub No. 12 Walters Transit Corp., now being assigned December 20, 1977 (3 days) at Newark, New Jersey, in a hearing room to be later designated.

MC 135874 (Sub-No. 75), LTL Perishables, Inc., now being assigned November 29, 1977, (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 142855 (Sub-No. 1), Wiersema Charter Service, Inc., now being assigned for November 30, 1977 (3 days), at Chicago, Ill., in a hearing room to be later designated.

MC 123980 (Sub-No. 4), Mandus R. Olson, now being assigned December 5, 1977 (1 week), at Chicago, Ill., in a hearing room to be later designated.

MC 116703 (Sub-No. 368), Carl Subler Trucking, Inc., and MC 119726 (Sub-No. 81), N. A. B. Trucking, Inc., now being assigned December 6, 1977 (1 day), at Memphis, Tenn., in a hearing room to be later designated.

MC 138177 (Sub-No. 8), Brown Trucking, Inc., now being assigned December 7, 1977 (3 days), at Memphis, Tenn., in a hearing room to be later designated.

MC 114211 (Sub-No. 294), Warren Transport, Inc., now being assigned December 12, 1977 (1 week), at Memphis, Tenn., in a hearing room to be later designated.

MC 65697 Sub 52, Theaters Service Co., Inc. now assigned October 3, 1977 and November 28, 1977 at Atlanta, Georgia and will be held in the Atlanta American Motor Hotel, 160 Spring Street N.W.

MC 33641 Sub 128, IML Freight Lines, Inc. now assigned November 1, 1977 at Atlanta, Georgia and will be held November 1 through November 4, 1977 in the Spokane Convention Center, Spokane Falls Boulevard and November 7, 1977 through November 18, 1977 at the Sheraton Hotel, 322 Spokane Falls Court.

MC 124211 Sub 289, Hilt Truck Line, Inc. now being assigned October 17, 1977 (1 day) at Chicago, Illinois and will be held in Court Room 704, Federal Building, 610 South Canal Street.

MC-F 13104, North Shore & Central Illinois Freight Co.—Purchase (Portion)—Buske Lines, Inc., and MC 99680 Sub 4, North Shore & Central Illinois Freight Co. now being assigned December 7, 1977 (3 days) at Chicago, Illinois in a hearing room to be later designated.

MC 140829 Sub 46, Cargo Contract Carrier Corp. now being assigned November 29, 1977 (1 day) at Chicago, Illinois in a hearing room to be later designated.

MC 95540 Sub 848, Watkins Motor Lines, Inc., Extension Madison, Wisconsin, to Four States now being assigned December 5, 1977 (2 days) at Chicago, Illinois in a hearing room to be later designated.

MC-F 13131, Bee Line Transportation, Inc.—Purchase (Portion)—Hove Truck Line now being assigned November 30, 1977 (3 days) at Chicago, Illinois in a hearing room to be later designated.

MC 123407 (Sub-No. 360), Sawyer Transport, Inc., now assigned October 17, 1977, at St. Louis, Mo. is canceled and application dismissed.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-26314 Filed 9-8-77;8:45 am]

[Ex Parte No. 241; Rule 19, Exemption 94, Amdt. No. 11]

DETROIT, TOLEDO AND IRONTON RAILROAD CO. AND CONSOLIDATED RAIL CORP.

Exemption Under Mandatory Car Service Rules

Upon further consideration of Exemption No. 94 issued February 5, 1975.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 94 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire November 30, 1977.

This amendment shall become effective August 31, 1977.

Issued at Washington, D.C. August 26, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-26312 Filed 9-8-77;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

SEPTEMBER 6, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before September 26, 1977.

FSA No. 43426—Rice from Houston, Tex. Filed by Southwestern Freight Bureau, Agent, (No. B-704), for interested rail carriers.

Rates on cracked or broken rice (brewers' rice) or milled rice, in bulk in covered hopper cars, as described in the application, from Houston, Tex., to Waverly, N.J.

Grounds for relief—Market competition.

Tariff—Supplement 83 to Southwestern Freight Bureau, Agent, tariff 326-C, I.C.C. No. 5155.

Rates are published to become effective on October 5, 1977.

AGGREGATE-OF-INTERMEDIATES

FSA No. 43427—Rice from Houston, Tex. Filed by Southwestern Freight Bureau, Agent, (No. B-705), for interested rail carriers.

Rates on cracked or broken rice (brewers' rice) or milled rice, in bulk in covered hopper cars, as described in the application, from Houston, Tex., to Waverly, N.J.

Grounds for relief—Maintenance of depressed rates published to meet market competition without use of such rates as factors in constructing combination rates.

Tariff—Supplement 83 to Southwestern Freight Bureau, Agent, tariff 326-C, I.C.C. No. 5155.

Rates are published to become effective on October 5, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-26313 Filed 9-8-77;8:45 am]

[Ex Parte No. 241; Rule 19, Corrected Exemption 104, Amdt. 7]

NORFOLK AND WESTERN RAILWAY CO. AND THE PITTSBURGH AND LAKE ERIE RAILROAD CO.

Exemption Under Mandatory Car Service Rules

Upon further consideration of Corrected Exemption No. 104 issued October 7, 1975.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Corrected Exemption No. 104 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire November 30, 1977.

This amendment shall become effective August 31, 1977.

Issued at Washington, D.C., August 25, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-26311 Filed 9-8-77;8:45 am]

V 42 175 SEP 9 77 UMI

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD.

NOTICE OF CORRECTION AND ADDITION OF ITEMS TO THE SEPTEMBER 8, 1977 MEETING AGENDA

TIME AND DATE: 10 a.m., September 8, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Request by Braniff Airways, Inc. for waiver from the requirements of section 221.171 (Memo No. 7372, BE, BAS). 10a. Dockets 29193, Alamogordo's and Ponca City's petitions for reconsideration of Order 77–2–116 insofar as it granted Frontier's petition to overfly Ponca City and Alamogordo (Memo No. 6408–B, BOR). 21. Docket 29926, Notice of Proposed Rulemaking, SPDR–56—OTC Advance Purchase Period (For Information Memo 8/3, BIA, OGC, BOE, BE, BOR).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary (202–673–5068).

SUPPLEMENTARY INFORMATION: Because of an administrative problem, it was not possible to announce these additions to the September 8, 1977, agenda by close of business September 1, 1977. Item 10a. concerns petitions for reconsideration filed March 24 and 28, 1977. Item 21 concerns a notice of proposed rulemaking issued February 28, 1977. The staff will be prepared to answer Vice Chairman O'Melia's questions on September 8, 1977, on Item 21. So that the Board's consideration of these items will not be delayed, the following Members have voted that agency business requires that these items be added to the agenda on less than seven days' notice and that no earlier announcement of the additions was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

This notice also corrects a typographical error in item 1 which originally said "section 221.771". The correct citation "section 221.171" is above.

[S–1260–77 Filed 9–7–77;9:02 am]

2

CIVIL AERONAUTICS BOARD.

NOTICE OF DELETION OF ITEM 16 FROM THE SEPTEMBER 8, 1977 MEETING AGENDA

TIME AND DATE: 10 a.m., September 8, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 16. Report of the Ad Hoc Committee on Financial Security Aspects of the Board's Charter Regulations and Comments of Chairman Kahn requesting staff views. (For Information Memo dated 8/17/77, BOR.)

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary 202–673–5068.

SUPPLEMENTARY INFORMATION: Item 16 was announced on the September 8, 1977 agenda. At the time the agenda was prepared, it was believed that there was a draft notice of proposed rulemaking ready for Board deliberation. This was not the case. There is no need at this time for further Board discussion of the Report. Accordingly, the following Members have voted that agency business requires the deletion of this item from the September 8, 1977, agenda and that no earlier announcement of the deletion was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

[S–1261–77 Filed 9–7–77;9:02 am]

3

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., September 14, 1977.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed Delegation of Authority to Managing Director with Respect to Passenger Vessel Certification Matters.
2. Agreement No. T–3484: Between South Carolina State Ports Authority and The Italian Line—Terminal Lease at Charleston Harbor.
3. Agreement No. 9984–10, modification of the South Atlantic North Europe Rate Agreement Regarding Inland Movement of Containers and Collection of Underpayments of Freight.
4. Agreement No. 10292: Bermuda Discussion Agreement, between Pan Atlantic Shipping Ltd. and Bermuda Express Service.
5. Agreement No. 10305: Far East Trades Self-Policing Discussion Agreement.
6. Provisions and Reporting Requirements Applicable to Self-Policing Systems Under General Order 7—Docket No. 73–64—Further Proposed Rules.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary (202–523–5727).

[S–1265–77 Filed 9–7–77;10:46 am]

4

FEDERAL POWER COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 44867, 9/7/77.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., September 8, 1977; continued 10:00 a.m., September 9, 1977.

CHANGE IN THE MEETING: The following items have been added:

Item No.:	Docket No. and company
G–65..	RP77–122, Locust Ridge Gas Processing Co.
G–66..	CP77–299, Columbia Gas Transmission Corp.
G–67..	CP77–450, Northern Natural Gas Co.; CP77–533, Trunkline Gas Co. and Panhandle Eastern Pipe Line Co.

KENNETH F. PLUMB, *Secretary.*

[S–1269–77 Filed 9–7–77;10:46 am]

5

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, September 14, 1977—Closed Portion. 12 noon, Wednesday, September 14, 1977—Open Portion.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551. (Please use the C Street entrance.)

STATUS: Part of the meeting will be open; part will be closed.

MATTERS TO BE CONSIDERED:

Closed portion:

1. Proposed statement to be presented to the Senate Committee on Banking, Housing and Urban Affairs regarding S. 684, a bill entitled the "Federal Bank Commission Act of 1977" and S. 711, a bill entitled the "Federal Bank Examination Council Act". This matter was originally considered at a meeting on August 15, 1977.
2. Proposed statement to be presented to the Subcommittee on Consumer Affairs of the House Committee on Banking, Finance and Urban Affairs regarding H.R. 8753, the Consumer Credit Protection Act Amendments of 1977.
3. Any agenda items carried forward from a previously announced meeting.

Open Portion:

1. Proposed revisions to the Federal Reserve System's Reports of Condition and Income.
2. Report to the Comptroller of the Currency regarding the competitive factors involved in the proposed acquisition of The First National Bank of Lawton, Lawton, Mich., by The American National Bank and Trust Company of Michigan, Kalamazoo, Mich.
3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board: (202) 452–3204.

Dated: September 7, 1977.

GRIFFITH L. GARWOOD, *Deputy Secretary of the Board.*

[S–1268–77 Filed 9–7–77;11:39 am]

6

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., September 14, 1977.

PLACE: Room 500, 1730 K Street NW., Washington, D.C.

STATUS: Open to the Public.

Docket 182, Fort Sill Apache.
Docket 229, Navajo.

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006. Tel: 202–653–6184.

[S–1259–77 Filed 9–6–77;3:45 pm]

7

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, September 22, 1977.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Investigation TA–201–26 (Malleable Cast-Iron Pipe and Tube Fittings)—vote.
5. Petitions and complaints:

a. Motion M–280 with respect to Investigation AA1921–165. (Metal-Walled, Above-Ground Swimming Pools from Japan);

b. Motion M–283 with respect to Investigation AA1921–127. (Elemental Sulphur from Canada).

6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202–523–0161.

[S–1258–77 Filed 9–6–77;2:46 pm]

8

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Tuesday, September 13, 1977.

PLACE: Board Hearing Room, 8th Floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED.

(1). Ratification of Board actions taken by notation voting during the month of August, 1977.

(2). Jurisdictional determination re Catalina Airlines, Inc.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rowland K. Quinn, Jr., Executive Secretary; Tel: 202–523–5920.

SUPPLEMENTARY INFORMATION: A majority of the Board has determined by recorded vote that agency business requires a meeting on this date and that no earlier announcement of such meeting was practicable.

(Date of Notice: September 2, 1977.)

9

NATIONAL RAILROAD PASSENGER CORPORATION.

SPECIAL BOARD OF DIRECTORS MEETING

In accordance with rule 4a. of Appendix A of the By-laws of the National Railroad Passenger Corp., notice is given that the Board of Directors will meet on September 19, 1977.

A. The meeting will be held on Monday, September 19, 1977, in the Monet Suite of the Loew's L'Enfant Plaza East, SW., Washington, D.C. beginning at 9:30 a.m.

B. The meeting will be open to the public.

C. The agenda items to be discussed at the meeting follow:

AGENDA, NATIONAL RAILROAD PASSENGER CORPORATION, SPECIAL MEETING OF THE BOARD OF DIRECTORS, SEPTEMBER 19, 1977 (9:30 a.m.)

1. *Selection of Chairman for Meeting.*
2. *Approval of Five Year Plan.*
3. *Consideration of Request for Supplemental Operating Appropriation.*
4. *Consideration of Request for Supplemental Capital Appropriation.*
5. *Adjournment.*

D. Inquiries regarding the information required to be made available to the public pursuant to Appendix A of the Corporation's By-laws should be directed to the Corporate Secretary at (202) 484–7679.

Dated: September 7, 1977.

ELYSE G. WANDER, *Corporate Secretary.*

[S–1264–77 Filed 9–7–77;10:46 am]

10

NATIONAL SCIENCE BOARD.

TIME AND DATE: 9 a.m., September 15, 1977. 9:30 a.m., Sepember 16, 1977.

PLACE: Room 540, 1800 G Street NW., Washington, D.C. 20550.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Minutes—Open Session—192nd Meeting.
2. Report from Science Information Activities Task Force.
3. Chairman's Report.
4. Director's Report.
5. Reports of Board Committees.
6. Consideration of Group Research Grants Program.
7. Scientific Program in the Antarctic.
8. Proposed Changes in "Criteria" Policy Statement.
9. Amendment to Government in the Sunshine Act Regulations.
10. Proposed Basic Research Stability Grants Program.
11. Preliminary Plans for Science and Engineering Applications.
12. Reports on NSF Advisory Groups.
13. Board Representation at Future Site Visits.

Portions closed to the public:

1. Report of Ad Hoc Committee on NSF Staff and NSB Nominees.

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2. Minutes—Closed Session—192nd Meeting.

3. NSF Budget for Fiscal Year 1979.

CONTACT PERSON FOR MORE INFORMATION:

Miss Vernice Anderson, Executive Secretary, 202–632J5840.

[S–1267–77 Filed 9–7–77;10:46 am]

11

POSTAL RATE COMMISSION.

TIME AND DATE: 9 a.m., Thursday, September 15, 1977.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Order consolidating certain proposals from Docket No. MC76–2 into Docket No. R77–1.

2. Tentative Decision re: OOC proposal to expand red tag service and institute surcharge, Docket No. MC76–2.

By recorded vote the Commission has determined that notice cannot be given at least one week prior to the meeting since Commission business requires that the meeting be called at an earlier time.

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, Telephone 202–254–5614.

[S–1266–77 Filed 9–7–77;10:46 am]

12

UNITED STATES PAROLE COMMISSION.

Public Announcement pursuant to the Government in the Sunshine Act [5 U.S.C. § 552(b)]

A meeting of the National Commissioners of the United States Parole Commission will be held at 10 a.m. on Tuesday, September 20, 1977, in Room 338 of the Federal Home Loan Bank Board Building at 320 First Street NW., Washington, D.C.

Referrals of approximately 20 cases in which inmates of Federal Prisons have applied for parole or are opposing revocation of parole or mandatory release have been made by Regional Commissioners for decision at this meeting pursuant to 28 CFR § 2.17. Each case will be adjudicated on a record following the inmate's parole or revocation hearing.

The General Counsel of the United States Parole Commission has certified that this meeting may be closed to the public pursuant to 5 U.S.C. § 552b(c)(10) and 28 CFR § 16.205(b)(1).

The name and phone number of the official designated by this agency to respond to questions about this meeting is Mr. Lee H. Chait, Analyst, 202–724–3094.

Dated: September 6, 1977.

[S–1270–77 Filed 9–7–77;10:46 am]

federal register

FRIDAY, SEPTEMBER 9, 1977

PART II



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Various Communities

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[Docket No. FI-2774]

[24 CFR Part 1917]

TOWNSHIP OF PORTAGE, CAMERON COUNTY, PA.

Correction of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration.

ACTION: Correction of proposed rule.

SUMMARY: The notice published on March 28, 1977, at 42 FR 16605 in the FEDERAL REGISTER, showing the display location as the home of Mr. Salsgiver, R.D. 2, Box 400, Portage, Pa., and the Chief Executive Officer as Mr. Steve Havrilak, Chairman of the Board of Supervisors, 807 Luther Avenue, Portage, Pa., was in error. It should be corrected to show the display location as the home of Twila Aldin, Secretary/Treasurer, R.D. 1, Emporium, Pa. The Community Executive Officer is Mr. Leonard Burkhouse, Chairman of the Board of Supervisors of Portage, R.D. 1, Emporium.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25201 Filed 9-8-77;8:45 am]

[Docket No. FI-3293]

[24 CFR Part 1917]

TOWNSHIP OF CINNAMINSON, N.J.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Cinnaminson, N.J. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Township Hall, 1621 Riverton Road, Cinnaminson, N.J.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor James Meckel, Township Hall, 1621 Riverton Road, Cinnaminson, N.J. 08077.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20510.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Cinnaminson, N.J., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pompeston Creek and west branch.	Riverton Rd., Moorestown Rd.	[1]31
	Parry Rd.	28
	Devon Rd.	[1]26
	Wayne Ave.	[1]24
	Willow Dr.	22
	U.S. Route 130.	[1]18
	North Broad St.	10
East and southeast branch of Pompeston Creek.	Parry-New Albany Rd.	[1]24
	School driveway	28
Jacks Run	Highland Ave.	54
	Thomas Ave.	[1]27
	Cherry Lane	19
	Main St.	18
Pheasant Run	Waterford Dr.	[1]26

[1] Elevation downstream of bridge.

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pennsauken Creek and south branch.	New Jersey Route 73	10
	U.S. Route 130.	10
North branch of Pennsauken Creek.	Fork Landing Rd.	10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25189 Filed 9-8-77;8:45 am]

[Docket No. FI-3294]

[24 CFR Part 1917]

TOWN OF ELLICOTTVILLE, CATTARAUGUS COUNTY, N.Y.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Ellicottville, Cattaraugus County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, 1 West Washington Street, Ellicottville, N.Y. 14731.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. John C. Mason, Town Supervisor, Ellicottville, N.Y. 14731.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Ellicottville, Cattaraugus County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Great Valley Creek.	Downstream Ellicottville town boundary.	1,510
	Chessie System	1,528
	Downstream Ellicottville village boundary.	1,529
	Upstream Ellicottville village boundary.	1,540
	Private road	1,544
	Chessie System	1,554

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25190 Filed 9-8-77;8:45 am]

[Docket No. FI-3295]

[24 CFR Part 1917]

VILLAGE OF HERKIMER, HERKIMER COUNTY, N.Y.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Herkimer, Herkimer County, N.Y.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the bulletin board in the Municipal Building, 120 Green Street, Herkimer, N.Y.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Donald Relle, Mayor of Herkimer, 120 Green Street, Herkimer, N.Y. 13350.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Herkimer, Herkimer, County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mohawk River	Upstream corporate limits.	394
	New York State Throughway bridge.	391
	Confluence with Hydraulic Canal.	388
	Downstream corporate limits.	387
West Canada Creek.	Upstream corporate limits.	414
	East State St. Bridge	390
	ConRail	387
	Confluence with Mohawk River.	384
Bellinger Brook	Maple Grove Ave. Bridge.	419
	Church St. Bridge	414
	High school footbridge.	402
	Downstream corporate limits.	395

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128) and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25191 Filed 9-8-77;8:45 am]

[Docket No. FI-3296]

[24 CFR Part 1917]

TOWN OF LEWISTON, NIAGARA COUNTY, N.Y.

Proposed Flood Elevation Determinations

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Lewiston, Niagara County, N.Y.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, 1375 Ridge Road, Lewiston, N.Y.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. James

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J. Lombardi, Town Supervisor, P.O. Box 326, Lewiston, N.Y. 14092.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Lewiston, Niagara County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be constructed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fish Creek	Robert Moses Parkway.	559
	Route 104	579
	Route 265	592
	Confluence with unnamed tributary.	598
	Bronson Dr.	600
	Hewitt Dr.	601
Gill Creek	Confluence with unnamed tributary.	604
	Upstream confluence with unnamed tributary.	617

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968) as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–25192 Filed 9–8–77;8:45 am]

[Docket No. FI–3297]

[24 CFR Part 1917]

CITY OF PORT JERVIS, ORANGE COUNTY, N.Y.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Port Jervis, Orange County, N.Y.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 1418 Hammond Street, Port Jervis, N.Y. 12771.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable H. Robert Eccleston, Mayor of Port Jervis, 1418 Hammond Street, Port Jervis, N.Y. 12771.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Port Jervis, Orange County, N.Y. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at anytime enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Delaware River	Downstream corporate limits.	431
	Interstate 84	431
	Pike St.	442
	Upstream corporate limits.	451
Neversink River	Downstream corporate limits.	431
	Main St. (Tristates Bridge).	432
	Con Rail	436
	Confluence of Cold Creek.	439
	Upstream corporate limits.	439
Cold Brook	Confluence with Neversink River.	439
	Beach Rd.	440
	Hamilton St.	440
	Confluence of tributary A.	440
	Abandoned railroad bridge.	440
	Kingston Ave.	441
	Corporate limits	441
Tributary A	Confluence with Cold Brook.	440
	Abandoned railroad bridge.	440
	Kingston Ave.	444
	Glass St.	454
	Canal St.	461
	Brooklyn St.	472
	Orange St.	485
	Hudson St.	504
	Cedar St.	517
	Reservoir Bridge	540
	Access Road Bridge	561
	Corporate limits	571
Tributary B	Driveway Bridge (downstream).	513
	Driveway Bridge (upstream).	544
	Corporate limits	574

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–25193 Filed 9–8–77;8:45 am]

[Docket No. FI–3298]

[24 CFR Part 1917]

TOWN OF SMITHTOWN, SUFFOLK COUNTY, N.Y.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Smithtown, Suffolk County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the bulletin board in the Town Hall, 99 West Main Street, Smithtown, N.Y.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Charles Cacciabaudo, Town Supervisor of Smithtown, 99 West Main Street, Smithtown, N.Y. 11787.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Smithtown, Suffolk County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Nissequogue River	Highland Dr. (extended).	11
	Smithtown Landing Country Club.	11
	Landing Rd. (extended).	11
	Landing Ave.	11
	Main St.	11
Sunken Meadow Creek	Old Dock Rd. (extended).	11
	Sunken Meadow Street Parkway.	11
	Salonga Rd.	11
	Locust Dr. (extended).	11
Phillips Millpond	Long Island RR. crossing.	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–25194 Filed 9–8–77;8:45 am]

[Docket No. FI–3299]

[24 CFR Part 1917]

VILLAGE OF WATKINS GLEN, SCHUYLER COUNTY, N.Y.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Watkins Glen, Schuyler County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the Bulletin Board in the hallway of the Municipal Building, 303 North Franklin Street, Watkins Glen.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Warren Miller, Municipal Building, 303 North Franklin Street, Watkins Glen, N.Y. 14890.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Watkins Glen, Schuyler County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Chemung Barge Canal	State Route 414	449
	Corporate limits (upstream).	449
Glen Creek	Confluence with Chemung Barge Canal.	449
	Con Rail Bridge	461
	Decatur St.	470
	State Route 14/ Franklin St.	474

[1] Seneca Lake.—It should be noted that the flood zones along Chautauqua Lake west of the Con Rail R.R. are limited to a very narrow band extending upward from the lake shore to elevations 449 and 450 ft. In the area east of the Con Rail R.R., Seneca Lake flooding extends upward and inundates at an elevation of 449 ft the flat marshy lands that contain the Barge Canal and the Seneca Lake Inlet.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–25195 Filed 9–8–77;8:45 am]

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[Docket No. FI-3300]

[24 CFR Part 1917]

TOWN OF WILLIAMSON, WAYNE COUNTY, N.Y.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Williamson, Wayne County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, 7 East Main Street, Williamson, N.Y. 14589.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Ms. Jean Elliott, Town Clerk, Town Hall, 7 East Main Street, Williamson, N.Y. 14589.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Williamson, Wayne County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Salmon Creek	Mill St	252
	Hamilton Rd	274
	Tuckahoe Rd	303
	Eaton Rd	336
	Salmon Creek Rd	346
	do	390
	do	401
	do	414
	ConRail	415
	Route 88	416
	Chapel Rd	431
	Eddy Ridge Rd	440
Unnamed tributary to Salmon Creek	Upstream limit of study.	440

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25196 Filed 9-8-77;8:45 am]

[Docket No. FI-3301]

[24 CFR Part 1917]

TOWN OF MARSHALL, N.C.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Marshall, N.C. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Marshall, N.C.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor George E. Penland, P.O. Box 548, Marshall, N.C. 28753.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Marshall, N.C., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
French Broad River.	Capitola Dam [1]	1,652
	do.[2]	1,648
	Redmon Dam [1]	1,629
	do.[2]	1,601

[1] Upstream.
[2] Downstream.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128), and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25197 Filed 9-8-77;8:45 am]

[Docket No. FI-3302]

[24 CFR Part 1917]

TOWNSHIP OF BENSALEM, BUCKS COUNTY, PA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Bensalem, Bucks County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Zoning and Building Office, Bensalem Township Municipal Building, 3800 Hulmeville Road, Cornwell Heights, Pa.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Stephen Kelly, Chairman of the Bensalem Township Board of Supervisors, Bensalem Township Municipal Building, 3800 Hulmeville Road, Cornwell Heights, Pa. 19020.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Bensalem, Bucks County, Pa., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Delaware River	Upstream corporate limits.	11
	Poquessing Creek	10.5
Neshaminy Creek	Reading RR	51
	U.S. Route 1	45
	Old Lincoln Highway	48
	Hulmeville Rd	32
	Penna Turnpike	22
	Newportville Rd	19
	I-95	16
	Bristol Pike	13
	Penn Central RR	13
Poquessing Creek	Reading RR	126
	Roosevelt Blvd	112.5
	Bensalem Turnpike	107
	Cloverdale Rd	93.5
	Richilieu Rd	87
	Century Lane	76
	Dunks Ferry Rd	70
	Knights Rd	61
	Eddington Golf Course tributary.	50.5
	Byberry Rd	42
	Woodhaven Rd	41
	Red Lion Rd	28
	Frankford Ave	26
	State road	10.5
Eddington Golf Course tributary.	Street road	83
	Brown Ave	78
	Private drive	76
	Foot bridge	61
	Downstream corporate limits confluence with Poquessing Creek.	50

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25198 Filed 9-8-77;8:45 am]

[Docket No. FI-3303]

[24 CFR Part 1917]

TOWNSHIP OF LIGONIER, WESTMORELAND COUNTY, PA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Ligonier, Westmoreland County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Ligonier Township Municipal Building, Old Route 30 West, Ligonier, Pa.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Clarence H. Carns, Chairman of the Ligonier Township Board of Supervisors, R.D. 2, Box 6A, Ligonier, Pa. 15658.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Ligonier, Westmoreland County, Pa., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Loyalhanna Creek	Confluence with Laughlin Run.	1,180
	Township Route 605	1,164
	S.R. 711	1,152
	Confluence with Mill Creek.	1,143
	L.R. 64071	1,141
	Confluence with Four Mile Run.	1,130
	U.S. Route 30	1,109
Four Mile Run	L.R. 64075	1,173
	Township Route 944 (bridge deck collapsed).	1,158
	L.R. 64080	1,141
	Confluence with unnamed tributary.	1,130

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Source of flooding	Location	Elevation in feet above mean sea level
Two Mile Run	Township Route 505	1,322
	L.R. 64060	1,312
	L.R. 64071	1,140
Mill Creek	Ann Roberts Rd.	1,381
	Pennsylvania Route 271.	1,322
	Confluence with Mack's Run.	1,308
	Pennsylvania Route 271.	1,287
	State Route 711	1,163
	Abandoned railroad	1,151
	Township Route 950	1,115
	U.S. Route 30 West	1,113
	U.S. Route 30 East	1,148
	Robb Rd.	1,224
	White City Rd	1,217
	Confluence of Mary Ann Run.	1,205
Tributary No 2	Private drive	1,216
	L.R. 64038	1,215
Tributary No. 1	Township Route 505	1,282
	Confluence with Mill Creek.	1,273
Mack's Run	Township Route 951	1,316
	Confluence with Mill Creek.	1,308
Langhlintown Run	Mill St.	1,299
	U.S. Route 30	1,271
	Private drive	1,263
	Confluence with Naugle Run.	1,228
	Private drive	1,209
	Laurel Glen Dr.	1,196
	State Route 381	1,187
Naugle Run	Mill St.	1,286
	Private drive	1,277
	Confluence with Langhlinton Run.	1,227
Lynn Run	7,450 ft above confluence of Loyalhanna Creek.	1,368
	6,200 ft above confluence of Loyalhanna Creek.	1,342
	4,600 ft above confluence of Loyalhanna Creek.	1,311
	L.R. 64060	1,285

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR, 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25199 Filed 9-8-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3304]

BOROUGH OF MOUNT CARMEL, NORTHUMBERLAND COUNTY, PA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Borough of Mount Carmel, Northumberland County, Pa. These base flood elevations are the basis for the flood plain managenment measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Mount Carmel Municipal Building, 50 North Oak Street, Mount Carmel, Pa.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Hon. Frank Cimino, Mayor of Mount Carmel, Mount Carmel Municipal Building, 50 North Oak Street, Mount Carmel, Pa. 17851.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Borough of Mount Carmel, Northumberland County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-488), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Shamokin Creek	Upstream corporate limit.	1,074
	Locust St.	1,064
	Hickory St.	1,058
	Poplar St.	1,053
	Downstream corporate limit.	1,050

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25200 Filed 9-8-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3308]

CITY OF ALAMO HEIGHTS, BEXAR COUNTY, TEX.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Alamo Heights, Bexar County, Tex.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Alamo Heights, Tex.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Ellcon McGaughy, 6116 Broadway, San Antonio, Tex. 78209.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Alamo Heights, Bexar County, Tex., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any exist-

ing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Broadway [1]	Grove Pl.	707
Austin Highway [1]	Routt St.	730
New Braunfels Ave.[1]	Cloverleaf Ave.	754
	East Elm View Pl.	774

[1] These are street names. Streets are utilized for drainage during storms.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25202 Filed 9-8-77;8:45 am]

[Docket No. FI-3307]

[24 CFR Part 1917]

CITY OF WEST LAKE HILLS, TRAVIS COUNTY, TEX.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base- flood elevations (100-year flood) listed below for selected locations in the city of West Lake Hills, Travis County, Tex.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the bulletin board, West Lake Hills City Office, 101 West Bee Cave Road, Suite 11, Austin, Tex.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Tom H. Taylor, Mayor of West Lake Hills, West Lake Hills City Office, 101 West Bee Cave Road, Suite 11, Austin, Tex. 78746.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of West Lake Hills, Travis County, Tex. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricted requirements on its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Bee Creek	Lake Austin	503
	West Lake Dr.	520
	Confluence with tributary near Toro Canyon.	553
	Confluence with tributary near west end of Wild Basin Ledge.	584
	Small dam downstream of 1st tributary entering from south.	645
	1st tributary entering from south.	650
	Small dam down stream of 2d tributary entering from south.	668
	2d tributary entering from south.	679
	Upstream corporate limits.	680
Little Bee Creek	Lake Austin	500
	Top of 1st dropoff	549
	Top of 2d dropoff	572
	Top of 3rd dropoff	600
	Red Bud Trail	627
	West Lake Dr.	632
	Laurel Valley Rd. (1st crossing)	646
	Laurel Valley Rd. (2d crossing).	675
	Laurel Valley Rd. (3d crossing).	717
	Approximately 600 ft east of Madrone Rd.	779

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25203 Filed 9-8-77;8:45 am]

[Docket No. FI-3308]

[24 CFR Part 1917]

TOWN OF ALTAVISTA, CAMPBELL COUNTY, VA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Altavista, Campbell County, Va.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the bulletin board, Town Hall, 510 Seventh Street, Altavista, Va.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Wilson L. Dickerson, Town Manager, Town Hall, 510 Seventh Street, Altavista, Va.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determina-

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tions of base flood elevations (100-year flood) for the Town of Altavista, Campbell County, Va., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Roanoke River	Downstream corporate limits.	531
	State Route 668	536
	U.S. 29	537
	Norfolk & Western RR.	538
Lynch Creek	3d St	536
	U.S. 29	548
	Southern RR (downstream).	558
	Southern RR (upstream).	570
	Upstream corporate limits.	610

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25204 Filed 9-8-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3309]

COUNTY OF BOTETOURT, VA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the County of Botetourt, Va.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the County Courthouse, Fincastle, Va. 24090.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Stephen C. Shelton, County Administrator of Botetourt County, P.O. Box 279, Fincastle, Va. 24090.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the County of Botetourt, Va. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Back Creek	Confluence with Ellis Run.	919
	State Route 630	921
	State Route 636	960
	State Route 640	996
Buffalo Creek	Norfolk & Western Ry.	1,169
	U.S. Route 81 on ramp.	1,181
	U.S. Route 220	1,187
	U.S. Route 81	1,193
	State Route 653	1,254
	County limits	1,295
Craig Creek	Confluence with James River.	911
	State Route 615	941
	State Route 635	953
	Footbridge	957
	Roaring Run	958
Eagle Rock Creek	Confluence with James River.	936
	Chesapeake & Ohio RR.	936
	State Route 688	938
	State Route 41	954
	State Route 742	982
	State Route 715 (downstream).	991
	State Route 715 (upstream).	1,019
Ellis Run	Confluence with Back Creek.	919
	State Route 640	928
Glade Creek	County limits	996
	Norfolk & Western Ry. (downstream).	1,007
	Norfolk & Western Ry. (upstream).	1,013
	State Route 736	1,013
	Confluence with Laymantown Creek.	1,014
Jackson River	Confluence with James River.	1,015
	State Route 727	1,019
	County limits	1,021
	do	761
James River	State Route 611	788
	Jennings Creek	802
	Buchanan corporate limits (downstream).	832
	Buchanan corporate limits (upstream).	841
	Looney Mill Creek	840
	U.S. Route 81 (east lane).	842
	Milepost 322	903
	State Route 220	938
	Confluence with Craig Creek.	911
	Old railroad bridge	942
	Milepost 326.16	948
	Mill Creek	956
	Sinking Creek	957
	Milepost 334.69	968
	State Route 633	991
Laurel Run	State Route 640	856
	Norfolk & Western Ry.	893
Laymantown Creek	Confluence with Glade Creek.	1,014
	State Route 658	1,027
	State Route 660	1,039
	State Route 658	1,042
Long Run	Looney Mill Creek	840
	State Route 625	841
Looney Mill Creek	Confluence with James River.	840
	Long Run	840
	State Route 625	840
	U.S. Route 11	857
	Laurel Run	858
Mill Creek	Confluence with James River.	956
	Chesapeake & Ohio Ry.	957
	U.S. Route 220	958
	State Route 604	982
	Private drive	1,010
Roaring Run	Confluence with Craig Creek.	908
	State Route 615	908
Sinking Creek	Confluence with James River.	957
	Chesapeake & Ohio RR.	957
	U.S. Route 220	958
Tinker Creek	County limits	1,102
	Service Rd. (downstream).	1,102
	U.S. Route 220	1,106
	State Route 654	1,132
	State Route 1103	1,133
	Diversion Dam (downstream).	1,133
	Service Rd. (1st upstream crossing).	1,134
	Service Rd. (2d upstream crossing).	1,139
	U.S. Route 11	1,141
	Interstate 81	1,150
	Diversion Dam (upstream).	1,155
	State Route 816	1,161

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974.)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25205 Filed 9-8-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3310]

TOWN OF CHILHOWIE, SMYTH COUNTY, VA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Chilhowie, Smyth County, Va.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Chilhowie Town Hall, Highway 11, Chilhowie, Va.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable Edwin B. Sanders, Mayor of Chilhowie, Drawer M, Chilhowie, Va. 24319.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Chilhowie, Smyth County, Va. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain managemnet measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Middle Fork Holston River.	Downstream corporate limits.	1,945
	Virginia Highway 751	1,946
	Walton Ave. (extended).	1,947
	Church Ave. (extended).	1,948
	Chestnut Ave. (extended).	1,949
	Bonham Ave. (extended).	1,950
	Norfolk & Western RR.	1,951
Carlock Creek	U.S. Highway 11	1,952
	Upstream corporate limits.	1,952
Sulphur Spring Creek.	Norfolk & Western RR.	1,945
	Pendleton Ave. (extended).	1,947
	Upstream corporate limits.	1,947

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128) and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25206 Filed 9-8-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3311]

TOWN OF PALOUSE, WHITMAN COUNTY, WASH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Palouse, Whitman County, Wash.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Bulletin Board in the City Hall, Palouse, Wash.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable Eugene L. Allan, Mayor of Palouse, City Hall, P.O. Box 248, Palouse, Wash. 99161.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Palouse, Whitman County, Wash. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Palouse River.....	Upstream corporate limits.	2,438
	F St.....	2,430
	Bridge St.....	2,427
	Unnamed stream.....	2,425
	Railroad bridge.....	2,425
	Unnamed stream.....	2,425
	Main St.....	2,423
	Corporate limits downstream from Main St.	2,422
	Corporate limits upstream from State Route 272.	2,417
	State Route 272.....	2,417
	Railroad bridge.....	2,417
	Downstream corporate limits.	2,417

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128), and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25207 Filed 9-8-77;8:45 am]

federal register

FRIDAY, SEPTEMBER 9, 1977

PART III



DEPARTMENT OF THE TREASURY

Comptroller of the Currency

MUNICIPAL SECURITIES DEALERS

System of Records

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Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 10—MUNICIPAL SECURITIES DEALERS

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Adoption of regulations.

SUMMARY: The Comptroller of the Currency has adopted regulations and accompanying forms and instructions which establish the method to be used by national and District of Columbia bank municipal securities dealers and their associated persons in complying with the professional qualifications rules of the Municipal Securities Rulemaking Board. The detailed system of records to be created through operation of the regulations will enable the Comptroller of the Currency to monitor this compliance effectively.

DATE: The effective date of these regulations is October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Harold I. Freilich, Securities Disclosure, 202–447–1954 or Richard H. Neiman, Attorney, Legal Advisory Services Division, 202–447–1884; Comptroller of the Currency, Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION: On March 30, 1977, the Comptroller of the Currency ("Comptroller") published for comment in the FEDERAL REGISTER (42 FR 16813) proposed regulations (12 CFR Part 10) requiring national and District of Columbia bank municipal securities dealers to file with the Comptroller certain information about those persons who are or seek to be associated with these dealers as municipal securities principals or municipal securities representatives. Proposed Part 10 included two forms, with instructions, designed for the collection of the required information. Form MSD–4 was proposed to report a person's existing or prospective association with the dealer in a given capacity, and Form MSD–5 to report the termination of that association.

Proposed Part 10 was identical in all significant respects to proposals published the same day by the Board of Governors of the Federal Reserve System ("FED") and the Federal Deposit Insurance Corporation ("FDIC") for bank municipal securities dealers and associated persons under their respective jurisdictions. The FED, the FDIC and the Comptroller cooperated in drafting the forms and establishing a uniform record processing system in order to assure equal regulation among all classes of bank municipal securities dealers. As discussed more fully in the preamble to proposed Part 10, the three agencies expect to use the computer data base and processing facilities of the National Association of Securities Dealers ("NASD") to analyze, store, and retrieve the information filed by bank municipal securities dealers.

DISCUSSION OF COMMENTS

A. All comments received by the Comptroller, the FED and the FDIC on their respective proposals were exchanged and collectively considered in order to maintain the uniformity of the forms, instructions, and procedures which had been proposed. As here adopted, Part 10 incorporates several changes from the March 30, 1977 proposal in response to the comments received, as discussed below.

1. For purposes of Forms MSD–4 and MSD–5 and the respective instructions, the term "bank dealers" has been replaced by "bank municipal securities dealers." It includes all municipal securities dealers for which the Comptroller, the FED and the FDIC are the appropriate regulatory agencies under Section 3(a)(34) of the Securities Exchange Act of 1934 ("the Act") (15 U.S.C. 78c(a)(34)).

This change should minimize questions about filing requirements for those municipal securities dealers which are sometimes erroneously referred to as "bank dealers," but for which the Securities and Exchange Commission ("SEC"), not one of the Federal bank regulatory agencies, is the appropriate regulatory agency.

2. The record retention provisions of Part 10 have been clarified to require municipal securities dealers filing documents with the Comptroller under Part 10 to retain a copy of each filing for at least three years following termination of the association of the individual to whom the filing relates. This change tracks the record retention requirements of Municipal Securities Rulemaking Board ("MSRB") Rule G–7(e).

3. The instructions to Forms MSD–4 and MSD–5 have been changed to require that only the original, not the copies, need be manually signed.

4. A slight change in the wording of Item 6 (formerly Item 8) of Form MSD–4 allows a person to apply for qualification as both a "municipal securities principal" and "representative" by means of a single form.

5. Item 7 (formerly Item 9) of Form MSD–4, which describes the functions to be performed by the applicant, has been expanded to include three more activity categories. This reflects recent changes in the MSRB professional qualification rules.

6. In Item 7 (formerly Item 8) of Form MSD–5, the termination categories "permitted to resign" and "voluntary" have been combined under the single term "resigned." Another change in this item specifies that municipal securities dealers must furnish details about the reason for termination only if it is related to an actual or probable violation of banking or securities law.

7. The effective date of Part 10 has been changed from September 1, 1977 to October 31, 1977, to correspond with the dates set by the FED and the FDIC. It should be noted that the effective date of MSRB Rule G–7 is October 15, 1977. Rule G–7 in part requires municipal securities dealers to obtain background and qualification information from their associated persons, but does not require that this information be filed with the appropriate regulatory agencies. Forms MSD–4 and MSD–5 will be available prior to the effective date of Rule G–7, so bank municipal securities dealers will be able to use Form MSD–4 to comply with the rule first, and then have an additional period of time within which to assemble the forms and data for formal filing with the Comptroller, FED or FDIC, as appropriate.

8. Several minor editorial changes have also been made in Part 10 to correct errors and clarify some of its provisions.

B. The following comments were carefully considered but not adopted for the reasons given.

1. Concern about the effect of Item 10 (now Item 8) of Form MSD–4 on the privacy of individuals appeared in many of the comments. This item requires the employing bank municipal securities dealer to verify the employment information provided by the applicant by contacting the applicant's former employers.

One commentator suggested that applicants be required to execute several authorizations and certifications as part of Form MSD–4, similar to the format found in the securities industry's Form U–4. The employer inquiry language in Form MSD–4 is based on the explicit requirements of MSRB Rule G–7. Municipal securities dealers may well be able to resolve their privacy concerns through their own personnel practices, including perhaps the execution of appropriate authorization documents by an applicant, as long as these practices do not conflict with MSRB Rule G–7.

Another commentator was concerned that responses to inquiries of former employers may be less than candid, if received at all, because of the potentially sensitive nature of employee information. The extent of a municipal securities dealer's obligation under MSRB Rule G–7 and Form MSD–4 is to make a good-faith attempt to obtain appropriate information. On the other hand, MSRB Rule G–7 does impose an obligation on municipal securities dealers who receive these inquiries to respond to the extent required by that rule. Existing personnel practices which limit the information given out in such cases may conflict with Rule G–7.

2. One commentator proposed that a definition of the term "municipal securities dealer" be included in the regulations and that the definition contain considerably more detail than Section 3(a)(30) of the Act. The Act requires municipal securities dealers to register with the SEC, and that agency, not the bank regulatory agencies, has the authority to define the term further. The SEC did this in Securities Exchange Act Release 34–11742 (October 15, 1975), and subsequently its staff has issued interpretive letters.

3. Comments on Form MSD–4 that some of the activities listed in Item 9 (now Item 7) could include "operational personnel," and that educational and residential histories are not meaningful, did not result in any changes because both items reflect the requirements of the MSRB professional qualification rules.

4. A suggestion that Form MSD–4 include a check-off box labeled "grandfathered" was not followed because the form already contains informational items which will indicate whether an applicant is in fact "grandfathered" under MSRB rules.

5. A comment that more space be provided on Forms MSD–4 and MSD–5 for answers to some items was not followed because of a desire to keep the forms as short as possible. Attachment sheets may be used when necessary, as explained in the instructions to forms.

6. A suggestion that documents filed under Part 10 be considered "filed" when mailed rather than when received was not followed in order to be consistent with long-established filing procedures of the SEC. Forms MSD–4 and MSD–5 are also required to be filed with the SEC. By special arrangement, the SEC intends to accept filing with the appropriate bank regulatory agency as meeting this filing requirement.

7. All Part 10 filings made by a given bank municipal securities dealer will contain the identity, address and registration number of the dealer. One commentator was concerned that a change in any of these items might require the filing of an amendment to every previously filed document, and suggested that a single "letter amendment" be permitted to accomplish this.

The instructions in Part 10 governing the preparation and filing of amendments are intended to track the requirements of MSRB Rule G–7, which requires updating of the information furnished to municipal securities dealers by their associated persons. This would not apply to the situation posed. Changes in dealer identity, address or registration must be reported to the SEC as amendments to the dealer registration form and as such would be reflected in the computerized dealer registration list maintained by the SEC and available to the bank regulatory agencies. Such changes will be entered into the Part 10 filings by the Comptroller as a matter of course.

8. Several comments concerning specific language in Part 10 require interpretations of MSRB rules. The Comptroller intends to submit questions of this nature to the MSRB for resolution.

Finally, one commentator asked about Part 10 filing procedures. The Comptroller considers the filing requirements to be explained adequately in §§ 10.3 and 10.4 of Part 10, in the instructions to Forms MSD–4 and MSD–5, and in the lengthy FEDERAL REGISTER preamble to proposed Part 10 published on March 30, 1977.

The Comptroller urges municipal securities dealers to familiarize themselves with MSRB Rule G–7 in order to understand the interaction between that rule and Part 10.

AVAILABILITY OF FORMS

The Comptroller expects to distribute printed copies of Forms MSD–4 and MSD–5 to municipal securities dealers under its jurisdiction prior to the effective date of MSRB Rule G–7. Additional copies will be available from the Comptroller as needed after this initial distribution.

PRIVACY ACT

The filing requirements of Part 10 will create a system of records which may be subject to the Privacy Act of 1974, 5 U.S.C. 552a. A detailed notice of this proposed system of records was published the same day as proposed Part 10 at 42 FR 16882.

The Comptroller has adopted the system of records with only minor changes. A formal notice of adoption which lists the routine uses to be made of the information in the system is published elsewhere in this issue of the FEDERAL REGISTER. Affected persons are urged to read the full text of that notice.

RULEMAKING PROCEDURE

The Comptroller finds that the changes made in the Part 10 proposal of March 30, 1977, respond to public comments and otherwise consist of corrections and clarifications which do not impose additional burdens on affected persons. Accordingly, further public participation in this rulemaking process is not required by the relevant provisions of 5 U.S.C. 553.

DRAFTING INFORMATION

Forms MSD–4 and MSD–5 and their respective instructions are the result of a cooperative drafting effort of the Federal bank regulatory agencies which involved several individuals. The principal author of this preamble and of sections 10.1 to 10.4 of Part 10 is Attorney R. Michael Hagen.

EFFECTIVE DATE

The effective date of this Part 10 is October 31, 1977.

REGULATIONS

Under the authority of Sections 15 B(c)(5), 17 and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(c)(5), 78q and 78w) and the general authority of the National Banking Laws, 12 U.S.C. 1 et seq., the Comptroller hereby amends Chapter I of Title 12 of the Code of Federal Regulations by adopting new 12 CFR Part 10 as follows:

REGULATIONS

Sec.

10.1 Scope of part.
10.2 Definitions.
10.3 Filing of materials.
10.4 Application on Form MSD–4 for municipal securities principals and representatives; amendments; notice of termination on Form MSD–5.

FORMS

10.41 Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer (Form MSD–4).
10.42 Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer (Form MSD–5).

AUTHORITY: 12 U.S.C. 1 et seq.; 15 U.S.C. 78o–4(c)(5), 78q–78w.

REGULATIONS

§ 10.1 Scope of part.

This part is issued by the Comptroller of the Currency and applies to:

(a) All national banks and banks operating under the Code of Law for the District of Columbia, or their subsidiaries or separately identifiable departments or divisions, which act as municipal securities dealers, as that term is defined in Section 3(a) of the Securities Exchange Act of 1934; and

(b) Any person associated or to be associated with any such bank, subsidiary, department or division in the capacity of a municipal securities principal or a municipal securities representative, as those terms are defined in Rule G–3 of the Municipal Securities Rulemaking Board.

§ 10.2 Definitions.

For the purposes of this Part, including all forms and instructions, unless the context otherwise requires:

(a) The term "Act" shall mean the Securities Exchange Act of 1934, 15 U.S.C. 78 et seq.;

(b) The term "Board" shall mean the Municipal Securities Rulemaking Board;

(c) The term "Commission" shall mean the Securities and Exchange Commission;

(d) The term "bank municipal securities dealer" shall mean any bank or any subsidiary, department, or division of a bank referred to in § 10.1(a);

(e) Other terms used in this part shall have the meanings set forth in the Act, in the rules and regulations of the Commission, and in the rules of the Board, to the extent they are defined therein.

§ 10.3 Filing of documents.

(a) All documents required to be filed with the Comptroller of the Currency in accordance with this Part are to be filed at the Office of the Comptroller of the Currency, Washington, D.C. 20219.

(b) Filing may be accomplished by direct delivery, through the mails, or otherwise. The date on which documents are actually received by the Comptroller of the Currency shall be the date of filing, but documents which are not prepared and executed in accordance with the applicable requirements may be returned as unacceptable for filing.

(c) Acceptance of any document for filing shall not constitute any finding by the Comptroller of the Currency that the document has been completed in accordance with the applicable requirements, or that any information contained in the document is true, current, complete, or not misleading.

§ 10.4 Application on Form MSD–4 for municipal securities principals and representatives; amendments; notice of termination on Form MSD–5.

(a) *Application requirement.* (1) The Form MSD–4 referred to in this Part is prescribed by the Comptroller of the Currency as an appropriate means of carrying out the purposes of paragraph (b) of Rule G–7 of the Board, "Information Concerning Associated Persons."

(2) On and after September 15, 1977, no bank municipal securities dealer shall permit a person to be associated with it as a municipal securities principal or municipal securities representative unless:

(i) An application on Form MSD–4, "Uniform Application for Municipal Se-

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curities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer," has been completed and signed in accordance with the instructions which accompany the form, and has been submitted to the bank municipal securities dealer by that person; and

(ii) The bank municipal securities dealer has filed the original and two copies of the Form MSD–4 with the Comptroller of the Currency.

(b) *Amendments.* (1) The information reported on Form MSD–4 shall be true, current, complete, and not misleading at the time and in light of the circumstances under which it is reported. Intentional misstatements or omissions of fact may be violations of Federal criminal law.

(2) (i) If any information reported on a Form MSD–4 becomes materially inaccurate or incomplete, the applicant named in the Form MSD–4 shall provide the bank municipal securities dealer with a statement containing corrective information in accordance with paragraph (c) of Rule G–7 of the Board.

(ii) The bank municipal securities dealer, within ten days after receiving such a corrective statement, shall file three copies of the statement with the comptroller of the Currency, accompanied by an original and two copies of a transmittal letter which identifies the bank municipal securities dealer, the affected applicant, and the corrective statements which are being transmitted, and which is signed by a municipal securities principal associated with the bank municipal securities dealer.

(c) *Notice of termination of association with a bank municipal securities dealer.* (1) Within thirty days after a person's association with a bank municipal securities dealer as a municipal securities principal or municipal securities representative is terminated, the bank municipal securities dealer shall prepare and file with the Comptroller of the Currency an original and two copies of a notice of that termination on Form MSD–5, "Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer," in accordance with the instructions which accompany the form.

(2) A Form MSD–5 filed in accordance with this paragraph must include such details as may be necessary to make the information contained in the form true, current, complete, and not misleading. Intentional misstatements or omissions of fact may be violations of Federal criminal law.

(d) *Record retention; filings under the Act.* (1) A bank municipal securities dealer shall retain for its own records copies of all its Part 10 filings relating to any given associated person for at least three years after that person's association is terminated.

(2) Every Form MSD–4, Form MSD–5, amendment, and related document filed with the Comptroller of the Currency in accordance with this part shall constitute a filing with the Commission for purposes of section 17(c)(1) of the Act and a "report," "application," or "document" within the meaning of section 32(a) of the Act.

FORMS

§ 10.41 Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer (Form MSD–4).

INSTRUCTIONS FOR COMPLETING AND FILING FORM MSD–4

GENERAL INSTRUCTIONS

1. As used in these instructions and Form MSD–4:

a. The term bank municipal securities dealer means a municipal securities dealer which is a bank or a subsidiary or department or division of a bank.

b. The term applicant means a person who is or seeks to be associated with a bank municipal securities dealer as a municipal securities principal or municipal securities representative.

2. Form MSD–4 is to be used by bank municipal securities dealers and persons who are or seek to be associated with such dealers as municipal securities principals or municipal securities representatives to comply with Municipal Securities Rulemaking Board Rule G–7, "Information Concerning Associated Persons," and rules and regulations of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, or the Federal Deposit Insurance Corporation which require the filing of Form MSD–4.

3. Bank municipal securities dealers are required to file Form MSD–4 with the appropriate regulatory agency as set forth below:

a. A bank municipal securities dealer which is a State member bank of the Federal Reserve System or a subsidiary or department or division of any such bank is required to file with the Board of Governors of the Federal Reserve System.

b. A bank municipal securities dealer which is a bank insured by the Federal Deposit Insurance Corporation (other than a bank which is a member of the Federal Reserve System) or a subsidiary or department or division of any such bank is required to file with the Federal Deposit Insurance Corporation.

c. A bank municipal securities dealer which is a national bank or bank operating under the Code of Law for the District of Columbia or a subsidiary or a department or division of any such bank is required to file with the Comptroller of the Currency.

4. Copies of Form MSD–4 may be obtained from any one of the appropriate regulatory agencies listed in Instruction 3.

5. An original and two copies of Form MSD–4 and any attachments are to be filed with the appropriate regulatory agency listed in Instruction 3. A bank municipal securities dealer filing Form MSD–4 shall retain an exact copy in its records for at least three years after the applicant's employment or other association with such dealer has terminated.

6. If more space is needed to complete an answer, an appropriate designation shall be entered in the answer space provided, and one or more attachment sheets shall be used to complete the response. All attachments shall be submitted in the same format as the items to which response is made and should be typed on white 8½ by 11 inch paper. Answers to more than one question may appear on an attachment sheet if the questions are clearly identified. Attachments should be paginated and the name of both the applicant and the bank municipal securities dealer should appear on every attachment sheet.

7. Form MSD–4 and any attachments may be duplicated by any method which produces legible copies of type size identical to that of the Form MSD–4 on white 8½ by 11 inch paper.

8. Form MSD–4 shall be manually signed on page one by a municipal securities principal of the employing bank municipal securities dealer and on page three by the applicant.

9. All items on Form MSD–4 are to be completed, except that disclosure of one's social security number is not mandatory. The date on which the Form MSD–4 is received by the appropriate regulatory agency shall be the date of filing. A Form MSD–4 which is not prepared and executed in accordance with the applicable requirements may be returned as unacceptable for filing. Acceptance for filing shall not constitute any finding that a Form MSD–4 has been completed in accordance with those requirements or that any information reported on the form is true, current, complete, or not misleading.

10. Section 17(c)(1) of the Securities Exchange Act of 1934 requires every bank municipal securities dealer which files any application, notice, report, or document with its appropriate regulatory agency to file a copy of that application, notice, report, or document with the Securities and Exchange Commission. The Securities and Exchange Commission and the appropriate regulatory agencies listed in Instruction 3 have developed procedures under which the latter will transmit a copy of any application, notice, report, or document filed with them by a bank municipal securities dealer to the Securities and Exchange Commission. Accordingly, when this form is filed with the appropriate regulatory agency, it will be deemed to have been filed with the Securities and Exchange Commission.

INSTRUCTIONS TO SPECIFIC ITEMS ON FORM MSD–4

11. Items 2 through 8 are to be completed by the bank municipal securities dealer employing or proposing to employ the applicant named in Item 1. All other items are to be completed by the applicant.

12. Item 3: Give the address of the office of the bank municipal securities dealer in which the applicant is or will be employed.

13. Item 5: Indicate the appropriate regulatory agency as set forth in Instruction 3.

14. Item 6: Municipal Securities Rulemaking Board Rule G–3, "Classification of Principals and Representatives; Numerical Requirements; Testing," provides a description of the functions performed by a municipal securities principal or municipal securities representative.

15. Item 8: This item need not be completed if the applicant was employed by the bank municipal securities dealer named in Item 2 on December 3, 1976, and continuously thereafter in the capacity or capacities for which qualification is requested in Item 6.

16. Item 17: All time periods must be accounted for.

17. Item 26: (a) Although this item relates only to convictions during the past ten years, it should be noted that section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) prohibits any insured bank, except with the written consent of the Federal Deposit Insurance Corporation, from employing any person who has ever been convicted of a criminal offense involving dishonesty or breach of trust.

(b) Paragraph (iv) of this item relates only to convictions within the past ten years under sections 152, 1341, 1342, 1343 or Chapters 25 or 47 of Title 18, United States Code.

Form MSD–4 Page 1 of 3

UNIFORM APPLICATION FOR MUNICIPAL SECURITIES PRINCIPAL OR MUNICIPAL SECURITIES REPRESENTATIVE ASSOCIATED WITH A BANK MUNICIPAL SECURITIES DEALER

1. APPLICANT NAME _____ (LAST) (FIRST) (MIDDLE (If none, so specify))

2. BANK MUNICIPAL SECURITIES DEALER:
   A. NAME _____
   B. REGISTRATION NUMBER _____
   C. MAIN ADDRESS _____

3. OFFICE OF EMPLOYMENT OF APPLICANT _____

4. DATE OF EMPLOYMENT OF APPLICANT _____

5. TO BE FILED WITH THE FOLLOWING (Indicate One):
   Board of Governors of the Federal Reserve System ☐
   Comptroller of the Currency ☐
   Federal Deposit Insurance Corporation ☐

6. TYPE(S) OF QUALIFICATION REQUESTED: Municipal Securities Representative ☐ Municipal Securities Principal ☐

7. It is anticipated that the applicant will perform the following functions in the capacity indicated:

	Capacity: Supervisory	Capacity: Non-Supervisory
A. Underwriting, trading or sales of municipal securities:	☐	☐
B. Financial advisory or consultant services for issuers in connection with the issuance of municipal securities:	☐	☐
C. Research or investment advice with respect to municipal securities in connection with the activities described in (A) and (B) above:	☐	☐
D. Activities other than those specifically mentioned which involve communication, directly or indirectly, with public investors in municipal securities in connection with the activities described in (A) and (B) above:	☐	☐
E. Processing and clearance activities with respect to municipal securities:	☐	N/A
F. Maintenance of records involving activities described in (A) through (E) above:	☐	N/A
G. Training of municipal securities principals or municipal securities representatives:	☐	N/A

8. For the purpose of verifying the information furnished on this form by the applicant named in Item 1 above, this institution has made inquiry of all employers of the applicant during the immediately preceding three years, as set forth below, concerning the accuracy and completeness of the information provided, as well as the record and reputation of the applicant as related to the ability to perform the duties for which employed or to be employed:

EMPLOYER	NAME AND POSITION OF PERSON CONTACTED

Date _____ Print Name of Municipal Securities Principal _____ Signature of Municipal Securities Principal _____

DO NOT WRITE BELOW

Experience _____ Clearance _____
Further Training Required _____ Exam Taken: Date _____
Exam Required _____ Grade _____
Issue _____ Date Approved: Cond. _____
Exam Grade OK _____ Final _____

ACCEPTANCE OF THIS FORM FOR FILING SHALL NOT CONSTITUTE ANY FINDING THAT THE INFORMATION SUBMITTED HEREIN IS TRUE, CURRENT, COMPLETE, OR NOT MISLEADING. INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACT MAY CONSTITUTE FEDERAL CRIMINAL VIOLATIONS. (See 18 U.S.C. 1001, 1005, and 1007 and 15 U.S.C. 78ff.)

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PERSONAL HISTORY OF APPLICANT

9. _____ (Last Name – First – Middle)

10. _____ Social Security Number (Completion is not mandatory)

11. _____ Resident Street Address

12. _____ City State Zip

13. ___/___/___ Date of Birth

14. _____ Place of Birth

15. Any other name ever used or by which known: _____

16. EDUCATION

The following is a statement of all educational institutions attended starting with high school:

Name and Address of Institution (Street, City, State, Zip Code)	From Mo.	From Yr.	To Mo.	To Yr.	Did you Graduate?	Degree

17. EMPLOYMENT HISTORY

The following is a complete, consecutive statement of all my business connections for the past ten years starting with my current position:

NAME OF EMPLOYER, COMPLETE ADDRESS AND TYPE OF BUSINESS	From Mo.	From Yr.	To Mo.	To Yr.	Position Held	Reason for Leaving	Full or Part Time

18. RESIDENTIAL HISTORY

The following is a complete, consecutive statement of all my residential addresses for the past ten years starting with my current residential address:

ADDRESS (Street, City, State, Zip Code)	From Mo.	From Yr.	To Mo.	To Yr.

19. A. Have you ever taken a qualification examination for municipal securities principals, municipal securities representatives or financial and operations principals prescribed by the Municipal Securities Rulemaking Board? If so, state below the type of examination and the approximate date taken:

Yes_____ No_____

_____ Type of Examination _____ Approximate Date

_____ Type of Examination _____ Approximate Date

B. Have you ever been exempt from or received a waiver of the requirement to take and pass an examination of the nature specified in question 19A? If so, state below the type of examination, the basis for such exemption or waiver, and, in the case of a waiver, the approximate date:

Yes_____ No_____

_____ Type of Examination _____ Basis for Exemption or Waiver _____ Approximate Date

_____ Type of Examination _____ Basis for Exemption or Waiver _____ Approximate Date

20. Are you currently bonded? Yes_____ No_____

IF THE ANSWER TO ANY OF THE FOLLOWING QUESTIONS IS YES, ATTACH COMPLETE DETAILS:

21. Have you ever been refused coverage under a fidelity bond or has any surety company paid out any funds on your coverage or cancelled such coverage?

Yes_____ No_____

22. Have you ever been denied membership, registration, license, permit, or certification by any federal or state securities or federal or state bank regulatory agency, any national securities exchange, registered securities association, or registered clearing agency?

Yes_____ No_____

23. Has any disciplinary action ever been taken against you, or any sanction imposed upon you, including any finding that you were a cause of any disciplinary action or violated any law, rule or regulation or were an aider, abettor or co-conspirator in any such violation, by any federal or state securities or federal or state bank regulatory agency, any national securities exchange, registered securities association, or registered clearing agency?

Yes_____ No_____

24. While you were associated in any capacity with any broker, dealer or municipal securities dealer:

A. Was its registration denied, suspended or revoked?

Yes_____ No_____

B. Was its membership in any national securities exchange, registered securities association, or registered clearing agency denied, suspended, or revoked, or was it expelled from any such organization?

Yes_____ No_____

25. Has any permanent or temporary injunction (including a cease and desist order) ever been entered against you or against any broker, dealer, or municipal securities dealer with which you were associated in any capacity when such injunction was entered enjoining conduct as an investment adviser, underwriter, broker, dealer or municipal securities dealer or as an affiliated person of any investment company, bank or insurance company, or any conduct related to such activities or any transactions in any security?

Yes_____ No_____

26. Have you been convicted within the past ten years of any felony or misdemeanor: (i) involving the purchase or sale of any security, the taking of a false oath, the making of a false report, bribery, perjury, burglary, or conspiracy to commit any such offense; (ii) arising out of the conduct of the business of a broker, dealer, municipal securities dealer, investment adviser, bank, insurance company; or fiduciary; (iii) involving larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds or securities; (iv) involving crimes of concealment of assets, false oaths or claims or bribery in a bankruptcy proceeding, mail fraud, fraud by wire including telephone, telegraph, radio or television, fraud or false statements?

Yes_____ No_____

Date_____ Signature of Applicant_____

FORM MSD-4 ACKNOWLEDGMENT

27. Applicant Name_____

28. Bank Municipal Securities Dealer Name_____

29. Bank Municipal Securities Dealer Address_____

Receipt Stamp

30. Attention:_____

WHEN THE FORM MSD-4 IS RECEIVED BY THE APPROPRIATE REGULATORY AGENCY, THIS ACKNOWLEDGMENT WILL BE STAMPED TO SHOW RECEIPT AND RETURNED TO THE PERSON NAMED IN ITEM 30. THE STAMPED ACKNOWLEDGMENT SHOULD BE RETAINED TO SUBSTANTIATE FILING.

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§ 10.42 Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer (Form MSD–5).

INSTRUCTIONS FOR COMPLETING AND FILING FORM MSD–5

1. As used in these instructions and Form MSD–5, the term bank municipal securities dealer means a municipal securities dealer which is a bank or a subsidiary or department or division of a bank.

2. Form MSD–5 is intended for use by bank municipal securities dealers in reporting the termination of a municipal securities principal's or municipal securities representative's association with such a dealer.

3. Bank municipal securities dealers are required to file Form MSD–5 with the appropriate regulatory agency as set forth below:

a. A bank municipal securities dealer which is a State member bank of the Federal Reserve System or a subsidiary or department or division of any such bank is required to file with the Board of Governors of the Federal Reserve System.

b. A bank municipal securities dealer which is a bank insured by the Federal Deposit Insurance Corporation (other than a bank which is a member of the Federal Reserve System) or a subsidiary or department or division of any such bank is required to file with the Federal Deposit Insurance Corporation.

c. A bank municipal securities dealer which is a national bank or bank operating under the Code of Law for the District of Columbia or a subsidiary or department or division of any such bank is required to file with the Comptroller of the Currency.

4. Copies of Form MSD–5 may be obtained from any one of the appropriate regulatory agencies listed in Instruction 3.

5. An original and two copies of Form MSD–5 and any attachments are to be filed with the appropriate regulatory agency listed in Instruction 3 within 30 days after termination of the association of the individual named in Item 1. A bank municipal securities dealer filing Form MSD–5 shall retain an exact copy in its records for at least three years following the termination.

6. If more space is needed to complete an answer, an appropriate designation shall be entered in the answer space provided, and one or more attachment sheets shall be used to complete the response. All attachments shall be submitted in the same format as the items to which response is made and should be typed on white 8½ by 11 inch paper. Answers to more than one question may appear on an attachment sheet if the questions are clearly identified. Attachments should be paginated and the name of both the person terminated and the bank municipal securities dealer should appear on every attachment sheet.

7. Form MSD–5 and any attachments may be duplicated by any method which produces legible copies of type size identical to that of the Form MSD–5 on while 8½ by 11 inch paper.

8. Form MSD–5 shall be manually signed by a municipal securities principal of the employing bank municipal securities dealer.

9. All items on Form MSD–5 are to be completed, except that disclosure of the individual's social security number is not required if that information is unavailable. The date on which the Form MSD–5 is received by the appropriate regulatory agency shall be the date of filing. A Form MSD–5 which is not prepared and executed in accordance with the applicable requirements may be returned as unacceptable for filing. Acceptance for filing shall not constitute any finding that a Form MSD–5 has been completed in accordance with those requirements or that any information reported on the form is true, current, complete, or not misleading.

10. Section 17(c)(1) of the Securities Exchange Act of 1934 requires every bank municipal securities dealer which files any application, notice, report, or document with its appropriate regulatory agency to file a copy of that application, notice, report, or document with the Securities and Exchange Commission. The Securities and Exchange Commission and the appropriate regulatory agencies listed in Instruction 3 have developed procedures under which the latter will transmit a copy of any application, notice, report, or document filed with them by a bank municipal securities dealer to the Securities and Exchange Commission. Accordingly, when this form is filed with the appropriate regulatory agency, it will be deemed to have been filed with the Securities and Exchange Commission.

FORM MSD–5

UNIFORM TERMINATION NOTICE FOR
MUNICIPAL SECURITIES PRINCIPAL OR MUNICIPAL SECURITIES
REPRESENTATIVE ASSOCIATED WITH A BANK MUNICIPAL SECURITIES DEALER

1. INDIVIDUAL'S NAME _____ ☐
LAST FIRST MIDDLE(If none, so specify)

2. CAPACITY: _____PRINCIPAL _____REPRESENTATIVE ☐

3. SOCIAL SECURITY NUMBER _____ ☐

4. BANK MUNICIPAL SECURITIES DEALER:

A. NAME _____ ☐

B. REGISTRATION NUMBER _____ ☐

C. MAIN ADDRESS _____ ☐

5. OFFICE OF EMPLOYMENT ADDRESS _____ ☐

6. DATE TERMINATED _____ ☐

7. REASON FOR TERMINATION - CHECK ONE:

RESIGNED _____* ☐ DECEASED _____ ☐

DISCHARGED _____* ☐ OTHER _____* ☐

*FURNISH FULL DETAILS ON ATTACHED SHEET IF RELATED TO A VIOLATION OR PROBABLE VIOLATION OF BANKING OR SECURITIES LAW.

8. While associated, was the individual the subject of any investigation, proceeding, disqualification or disciplinary action by any governmental agency or self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act of 1934) described in Rules G-4 and G-5 of the Municipal Securities Rulemaking Board? ☐

_____ **Yes _____ No

**FURNISH FULL DETAILS ON ATTACHED SHEET.

_____ Date _____ Print Name of Municipal Securities Principal _____ Signature of Municipal Securities Principal

PERSON TO CONTACT FOR FURTHER INFORMATION _____

ACCEPTANCE OF THIS FORM FOR FILING SHALL NOT CONSTITUTE ANY FINDING THAT THE INFORMATION SUBMITTED HEREIN IS TRUE, CURRENT, COMPLETE, OR NOT MISLEADING. INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACT MAY CONSTITUTE FEDERAL CRIMINAL VIOLATIONS. (See 18 U.S.C. 1001 and 1005, and 15 U.S.C. 78ff.)

Receipt Stamp

FORM MSD–5 ACKNOWLEDGMENT.

9. NAME OF PERSON TERMINATED _____

10. BANK MUNICIPAL SECURITIES DEALER NAME _____

11. BANK MUNICIPAL SECURITIES DEALER ADDRESS _____

12. ATTENTION _____

WHEN THE FORM MSD–5 IS RECEIVED BY THE APPROPRIATE REGULATORY AGENCY, THIS ACKNOWLEDGMENT WILL BE STAMPED TO SHOW RECEIPT AND RETURNED TO THE PERSON NAMED IN ITEM 12. THE STAMPED ACKNOWLEDGMENT SHOULD BE RETAINED TO SUBSTANTIATE FILING.

Dated: August 23, 1977.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc.77-26068 Filed 9-8-77;8:45 am]

V 42 175 SEP 9 77 UMI

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

PRIVACY ACT OF 1974

Notice of Adoption of System of Records

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Adoption of a new system of records.

SUMMARY: The Comptroller of the Currency ("Comptroller") has adopted a new system of records, first proposed on March 30, 1977 (42 FR 16882), to aid its enforcement of the professional qualification rules of the Municipal Securities Rulemaking Board ("MSRB"). These rules affect certain persons who are or seek to be associated with national and District of Columbia bank municipal securities dealers. The new system of records will give the Comptroller an adequate data base to carry out its statutory enforcement responsibilities in this area.

DATE: This system of records will go into operation on October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Harold I. Freilich, Securities Disclosure Division, Comptroller of the Currency, Washington, D.C. 20219 (202–447–1954).

SUPPLEMENTARY INFORMATION: This system of records was published for comment in connection with proposed regulations contained in a new 12 CFR Part 10, which was also published for comment on March 30, 1977, at 42 FR 16813. The Comptroller urges interested persons to read the preamble to that document to gain a better understanding of the legislative and regulatory background which gave rise to Part 10 and this system of records.

The Comptroller has now adopted 12 CFR Part 10 with changes, as detailed elsewhere in this issue of the FEDERAL REGISTER. Part 10 requires national and District of Columbia bank municipal securities dealers to file with the Comptroller certain personal and professional information about those persons who are or seek to be associated with these dealers as municipal securities principals or representatives. Part 10 includes two forms, with instructions, designed for collection of the required information which will be the basis of this system of records. The Comptroller considers Part 10 and its complementary record system to be an appropriate means of enforcing the MSRB professional qualification rules, in keeping with the statutory allocations of responsibility for municipal securities regulation contained in section 15B of the Securities Exchange Act of 1934, 15 U.S.C. 78o–4.

DISCUSSION OF COMMENTS

As adopted, this system of records contains two changes made in response to comments received. The first corrects the address at which computerized files will be maintained, and the second, under the caption Retention and Disposal, alters the retention period of records in the system. As proposed, retention was to be for the life of an individual covered by the system. This provision now states that records will be maintained "indefinitely." This change avoids a specific time frame and allows the Comptroller to dispose of a given individual's record much sooner, if warranted. For obvious reasons, it should not result in the maintenance of a record beyond the life of any individual.

No other direct comments were received in response to the Comptroller's March 30, 1977, notice of this system of records. The Comptroller did receive several comments on proposed 12 CFR Part 10 itself which dealt with Privacy Act issues, and the preamble to the adopted Part 10 found in the "Regulations" section of this issue of the FEDERAL REGISTER discusses those comments.

ADOPTION OF SYSTEM

The Comptroller finds that the changes made in the system of records as originally proposed respond to public comments, and thus further public participation prior to adoption of the system is unnecessary. The Comptroller has determined that the requirements of the Privacy Act of 1974 (Pub. L. 93–579; 5 U.S.C. 552a) have been and are being complied with in connection with the establishment of this system of records, and has adopted the system in the following form:

TREASURY/COMPTROLLER—00.221

System name:

Treasury/Comptroller — Professional Qualifications Records for Municipal Securities Principals and Municipal Securities Representatives.

System location:

Office of the Comptroller of the Currency, 490 L'Enfant Plaza East SW., Washington, D.C. 20219. Records stored in computerized files are maintained off-premises at the National Association of Securities Dealers, 1735 "K" Street NW., Washington, D.C. 20006.

Categories of individuals covered by the system:

Persons who are or seek to be associated with a municipal securities dealer which is a national or District of Columbia bank, or a department, division, or subsidiary of any such bank, in the capacity of municipal securities principals or municipal securities representatives.

Categories of records in the system:

These records contain identifying information, detailed educational and occupational histories, certain professional qualifications examination information, disciplinary histories, and information concerning the termination of employment of individuals covered by the system. Identifying information includes names, address history, date and place of birth, and may include social security number.

Authority for maintenance of the system:

Section 15B(c) (5), 17 and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 780–4(c) (5), 78q and 78w) and the general authority of the National Banking Laws, 12 U.S.C. 1 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The information contained in these records may be subject to the following uses:

(a) Referral to the appropriate governmental authority, whether Federal, State, local, or foreign, or to the appropriate self-regulatory organization, of such information as may indicate a violation or potential violation of law, regulation or rule.

(b) Referral to the oppropriate court, magistrate, or administrative law judge of such information as may be relevant to proceedings before any such court or judicial officer.

(c) Disclosure of such information as may aid in the resolution of any action or proceeding:

(1) In which the Federal securities or banking laws are at issue;

(2) In which the propriety of any disclosure of information contained in the system is at issue; or

(3) To which the Comptroller of the Currency or a past or present member of its staff is a party or otherwise involved in an official capacity.

(d) Disclosure to a Federal, State, local, or foreign governmental authority, or to a self-regulatory organization, of such information as may be necessary to obtain from such authority or organization additional information concerning the qualifications of an individual covered by the system.

(e) Disclosure of such information as may be necessary to respond to a request from a Federal, State, local, or foreign governmental authority, or from a self-regulatory organization, for information needed in connection with the issuance of a license, granting of a benefit, or similiar action by such authority or organization affecting an individual covered by the system.

(f) Disclosure of such information as may be necessary to respond to any Congressional inquiry undertaken at the request of an individual covered by the system.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Records are maintained in file folders and on computer memory discs.

Retrievability:

Records are indexed by name of individual.

Safeguards:

File folders are stored in lockable metal cabinets and computer memory discs are accessed only by authorized personnel.

Retention and disposal:

Records may be maintained indefinitely. Disposal is by normal methods.

System manager and address:

Deputy Comptroller for Banking Operations, Comptroller of the Currency, 490 L'Enfant Plaza East SW., Washington, D.C. 20219.

Notification procedure:

Inquiries, including name and date and place of birth, should be addressed to the System Manager. Inquirers may be required to include a notarized statement attesting to identity.

Record access procedure:

Same as notification procedure.

Contesting records procedure:

Same as notification procedure.

Record source categories:

Those individuals and municipal securities dealers described in the section entitled *Categories of Individuals Covered by the System* provide the bulk of the information in the system. Additional input is provided by Federal, State, local, and foreign governmental authorities, and by self-regulatory organizations, which regulate the securities industry.

Dated: August 23, 1977.

JOHN G. HEIMMANN,
Comptroller of the Currency.

[FR Doc.77-26069 Filed 9-8-77;8:45 am]

V 42 175 SEP 9 77 UMI

federal register

FRIDAY, SEPTEMBER 9, 1977
PART IV



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

ESTUARINE SANCTUARY

Guidelines

V 42 175
SEP 9 77 UMI

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[15 CFR Part 921]

ESTUARINE SANCTUARY GUIDELINES

Policies and Procedures for Selection Acquisition and Management

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Proposed rule.

SUMMARY: This proposed rule will allow the National Oceanic and Atmospheric Administration to make a preliminary acquisition grant to a State to undertake a fair market value appraisal, and to develop a uniform relocation act plan, a detailed management plan and a research framework for a proposed estuarine sanctuary, developed pursuant to Section 315 of the Coastal Zone Management Act of 1972, as amended.

DATE: Comments must be received on or before October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert R. Kifer, Physical Scientist, Policy and Programs Development Office, Office of Coastal Zone Management, 3300 Whitehaven Parkway, Page One Building, Washington, D.C. 20235 (202–634–4241).

SUPPLEMENTARY INFORMATION: On June 4, 1974, The National Oceanic and Atmospheric Administration (NOAA) published 15 CFR Part 921 entitled, "Estuarine Sanctuary Guidelines" pursuant to then section 312 of the Coastal Zone Management Act of 1972, as amended, for the purpose of establishing policy and procedures for the selection, acquisition, and management of estuarine sanctuaries.

Under new subsection 315(1) of the Act, the Secretary of Commerce is authorized to make available to coastal States grants of up to 50 per centum of the cost of acquisition, development, and operation of estuarine sanctuaries. In general, subsection 315(1) provides that grants may be awarded to States on a matching basis to acquire, develop, and operate natural areas as estuarine sanctuaries in order that scientists and students may be provided the opportunity to examine over a period of time ecological relationships within the area. The purpose of these guidelines is to implement this program.

As a result of two years of program implementation, the regulations are proposed to be modified to specifically authorize the granting of acquisition money to States in two stages:

(i) An initial grant for such preliminary purposes, as surveying and assessing the land to be acquired, and the development of management procedures and research programs; and

(ii) A second grant for the actual acquisition of the land. The Federal share of the sum of the two grants shall not exceed 50 percent of the acquisition costs involved. Any State receiving an initial grant shall be obligated to repay it if, due to any fault of the State, the sanctuary is not established.

As a result of this new grant procedure, much more information relating to costs, values, management procedures, and research programs will be available at the time of the publication of a draft environmental impact statement. Proposals made public to date in the form of an Environmental Impact Statement (EIS) have been criticized for lack of specificity in these areas. By making a small preliminary acquisition grant to a State, the estuarine sanctuary proposal can be more fully developed and the public can become more aware of the costs and the exact nature of the long-term management.

In response to State questions about estuarine sanctuary research, the proposed regulations provide that such research can be funded if it can be shown to be related to program administration.

NOAA has reviewed these proposed regulations pursuant to the National Environmental Policy Act of 1969 and has determined that promulgation of these regulations will have no significant impact on the environment.

Compliance with Executive Order 11821. The economic and inflationary impact of these proposed regulations has been evaluated in accordance with OMB Circular A–107 and it has been determined that no major inflationary impact will result.

Dated: August 26, 1977.

T. P. GLEITER,
Assistant Administrator for Administration.

It is proposed to amend 15 CFR Part 921 as follows:

(1) By revising the table of contents and authority citation to read as follows:

Subpart A—General

Sec.
921.1 Policy and objectives.
921.2 Definitions.
921.3 Objectives and implementation of the program.
921.4 Biogeographic classification.
921.5 Multiple use.
921.6 Relationship to other provisions of the Act and to marine sanctuaries.

Subpart B—Application for Grants

921.10 General.
921.11 Application for preliminary acquisition grants.
921.12 Application for land acquisition grants.
921.13 Application for operational grants.
921.14 Federally-owned lands.

Subpart C—Selection Criteria

921.20 Criteria for selection.
921.21 Public participation.

Subpart D—Operation

921.30 General.
921.31 Changes in the sanctuary boundary, management policy, or research program.
921.32 Program review.

AUTHORITY: Sec. 315(1), Coastal Zone Management Act of 1972, as amended (90 Stat. 1030, (16 U.S.C. 1461) Pub. L. 94–370).

(2) By revising Subpart B—Application for Grants—as follows:

Subpart B—Application for Grants

§ 921.10 General.

Section 315 authorizes Federal grants to coastal States so that the States may establish sanctuaries according to regulations promulgated by the Secretary. Coastal States may file applications for grants with the Associate Administrator for Coastal Zone Management (OCZM), Office of Coastal Zone Management, Page 1, 3300 Whitehaven Parkway NW, Washington, D.C. 20235. That agency which has been certified to the Office of Coastal Zone Management as the entity responsible for administration of the State coastal zone management program may either submit an application directly, or must endorse and approve applications submitted by other agencies within the State.

§ 921.11 Application for preliminary acquisition grants.

(a) A grant may be awarded on a matching basis to cover costs necessary to preliminary actual acquisition of land. As match to the Federal grant, a State may use money, the cost of necessary services, the value of foregone revenue, and/or the value of land either already in its possession or acquired by the State specifically for use in the sanctuary. If the land to be used as match already is in the State's possession and is in a protected status, the State may use such land as match only to the extent of any revenue from the land foregone by the State in order to include it in the sanctuary. Application for a preliminary acquisition grant shall be made on form SF 424 application for Federal assistance (non-construction programs).

(b) A preliminary acquisition grant may be made for the defrayal of the cost of:

(1) An appraisal of the land, or of the value of any foregone use of the land, to be used in the sanctuary;

(2) The development of a Uniform Relocation Assistance and Real Property Acquisition Policies Act plan;

(3) The development of a sanctuary management plan;

(4) The development of a research and educational program; and/or,

(5) Such other activity of a preliminary nature as may be approved in writing by OCZM. Any grant made pursuant to this subsection shall be refunded by the State to whatever extent it has spent in relation to land not acquired for the sanctuary, and if OCZM requests such refund.

(c) The application should contain:

(1) Evidence that the State has conducted a scientific evaluation of its estuaries and selected one of those most representative.

(2) Description of the proposed sanctuary including location, proposed boundaries, and size. A map(s) should be included, as well as an aerial photograph if available.

(3) Classification of the proposed sanctuary according to the biogeographic scheme set forth in § 921.4.

(4) Description of the major physical, geographic, biological characteristics and resources of the proposed sanctuary.

(5) Demonstration of the necessary authority to acquire or control and manage the sanctuary.

(6) Description of existing and potential uses of, and conflicts within, the area if it were not declared an estuarine sanctuary; and potential use restriction and conflicts if the sanctuary is established.

(7) List of protected sites, either within the estuarine sanctuaries program or within other Federal, State, or private programs, which are located in the same region or biogeographic classification.

(8) The manner in which the State solicited the views of interested parties.

(9) In addition to the standard A–95 review procedures, the grant application should be sent to the State Historic Preservation Office for comment to insure compliance with section 106 of the National Preservation Act of 1966.

(d) In order to develop a truly representative scheme of estuarine sanctuaries, the States should coordinate their activities. This will help to minimize the possibility of similar estuarine types being proposed in the same region. The extent to which neighboring States were consulted should be indicated.

§ 921.12 Application for land acquisition grants.

(a) Acquisition grants will be made to acquire land and facilities for estuarine sanctuaries that have been thoroughly described in a preliminary acquisition grant application, or where equivalent information is available. Application for an acquisition grant shall be made on SF 424 application for Federal assistance (construction program).

In general, lands acquired pursuant to this subsection are legitimate costs and their fair market value, developed according to Federal appraisal standards, may be included as match. The value of lands donated to the State and cash donations may also be used as match. If the State already owns land which is to be used in the sanctuary, the value of any use of the land foregone by the State in order to include such land in the sanctuary, capitalized over the next 20 years, may be used by the State as match. The value of lands purchased by a State within the boundaries of proposed sanctuaries while an application for a preliminary acquisition grant or land acquisition grant is being considered may also be used as match.

(b) An acquisition application should contain the following information:

(1) Description of any changes in proposed sanctuary from that presented in the preliminary acquisition grant application. If such an application has not been made, then, information equivalent to that required in such a grant application should be provided.

(2) Identification of ownership patterns, proportions of land already in the public domain; fair market value appraisal and Uniform Relocation Act plan.

(3) Description of research programs, potential and committed research organizations or agencies, and benefits to the overall coastal zone management program.

(4) Description of proposed management techniques, including the management agency and proposed budget—including both State and Federal shares.

(5) Description of planned or anticipated land and water use and controls for contiguous lands surrounding the proposed sanctuary (including, if appropriate, an analysis of the desirability of creating a marine sanctuary in adjacent areas).

(6) Assessment of the environmental, and socio-economic impacts of declaring the area an estuarine sanctuary, including the economic impact on the surrounding community and its tax base.

(7) Discussion, including cost and feasibility of alternative methods for acquisition and protection of the area.

§ 921.13 Application for operation grants.

(a) Although an acquisition grant application for creation of an estuarine sanctuary should include initial operation costs, subsequent applications may be submitted following acquisition and establishment of an estuarine sanctuary for additional operational funds. As indicated in § 921.11, these costs may include administrative costs necessary to monitor the sanctuary and to protect the integrity of the ecosystem. Extensive management programs, capital expenses, or research will not normally be funded by section 315 grants.

(b) After the creation of an estuarine sanctuary established under this program, applications (Form SF 424) for Federal assistance (non-construction program), for such operational grants should include at least the following information:

(1) Identification of the boundary (map).

(2) Specifications of the research and management programs, including managing agency and techniques.

(3) Detailed budget.

(4) Discussion of recent and projected use of the sanctuary.

(5) Perceived threats to the integrity of the sanctuary.

§ 921.14 Federally-owned lands.

(a) Where Federally-owned lands are a part of or adjacent to the area proposed for designation as an estuarine sanctuary, or where the control of land and water uses on such lands is necessary to protect the natural system within the sanctuary, the State should contact the Federal agency maintaining control of the land to request cooperation in providing coordinated management policies. Such lands and State request, and the Federal agency response, should be identified and conveyed to the Office of Coastal Zone Management.

(b) Where such proposed use or control of Federally-owned lands would not conflict with the Federal use of their lands, such cooperation and coordination is encouraged to the maximum extent feasible.

(c) Section 315 grants may not be awarded to Federally-owned lands; however, a similar status may be provided on a voluntary basis for Federally-owned lands under the provisions of the Federal Committee on Ecological Perserves program.

§ 921.20 [Amended]

(4) Subpart C—Selection Criteria—is amended by changing the first sentence in § 921.20 to read: "Applications for preliminary acquisition or land acquisition grants to establish estuarine sanctuaries will be reviewed and judged on criteria including:"

(5) Section 921.21 is revised, as follows:

§ 921.21 Public participation.

(a) Public participation in the selection of an estuarine sanctuary is required. In the selection process, the selecting entity (see § 921.10) shall seek the views of possibly affected landowners, local governments, and Federal agencies, and shall seek the views of possibly interested other parties and organizations. The latter would include, but need not be limited to, private citizens and business, social, and environmental organizations in the area of the site being considered for selection. This solicitation of views may be accomplished by whatever means the selecting entity deems appropriate, but shall include at least one public hearing in the area. Notice of such hearing shall include information as to the time, place, and subject matter, and shall be published in the principal area media. The hearing shall be held no sooner than 15 days following the publication of notice.

(b) The Office of Coastal Zone Management (OCZM) shall prepare draft and final environmental impact statements pertaining to the site finally selected for the estuarine sanctuary following public participation in the selection of that site, and shall distribute these as appropriate. OCZM may hold a public hearing in the area of such site at which both the draft environmental impact statement (DEIS) and the merits of the site selection may be addressed by those in attendance. OCZM shall hold such a hearing if: (1) In its view, the DEIS is controversial, or (2) if there appears to be a need for further informing the public with regard to either the DEIS or one or more aspects of the site selected, or (3) if such a hearing is requested in writing (to either the selecting entity or (CZM) by an affected or interested party, or (4) for other good cause. If held, such hearing shall be held no sooner than 30 days following the issuance of the DEIS and no sooner than 15 days after appropriate notice of such hearing has been given in the area by OCZM with the assistance of the selecting entity.

[FR Doc.77–26123 Filed 9–8–77;8:45 am]

V 42 175 SEP 9 77 UMI

federal register

FRIDAY, SEPTEMBER 9, 1977
PART V



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Final Threatened Status and Critical Habitat for Five Species of Southeastern Fishes

V 42 175 SEP 9 77 7 UMI

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, BARTER, PURCHASE, EXPORTATION, AND IMPORTATION OF WILDLIFE AND PLANTS

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Final Threatened Status and Critical Habitat for Five Species of Southeastern Fishes

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rulemaking.

SUMMARY: The Service determines the following five species of fishes to be Threatened species and determines their Critical Habitat: Alabama cavefish (*Speoplatyrhinus poulsoni*), slender chub (*Hybopsis cahni*), spotfin chub (*Hybopsis monacha*), slackwater darter (*Etheostoma boschungi*), yellowfin madtom (*Noturus flavipinnis*). This action is being taken because of the threatened adverse modification of their habitat. In the past, destruction of habitat has greatly reduced populations of these species.

DATES: This final rulemaking becomes effective on October 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202–343–4646).

SUPPLEMENTARY INFORMATION:

Background

On January 12, 1977, the Service published a proposed rulemaking in the FEDERAL REGISTER (42 FR 2507–2515) advising that sufficient evidence was on file to support a determination that the Alabama cavefish, slender chub, spotfin chub, slackwater darter, and yellowfin madtom were Threatened species as provided for by the Act. That proposal summarized the factors thought to be contributing to the likelihood that these fishes could become Endangered within the foreseeable future; specified the prohibitions which would be applicable if such a determination were made; and solicited comments, suggestions, objections, and factual information from any interested person. Section 4(b)(1)(A) of the Act requires that the Governor of each State, within which a resident species of wildlife is known to occur, be notified and be provided 90 days to comment before any such species is determined to be a Threatened species or an Endangered species. A letter was sent to the Governors of the States of Alabama, North Carolina, Tennessee, and Virginia, notifying them of the proposed rulemaking for the Alabama cavefish, slender chub, spotfin chub, slackwater darter, and yellowfin madtom. A similar letter was sent to the State Conservation Department of the States involved. A memorandum was sent to the Service Directorate and affected Regional personnel, and other interested parties were contacted regarding this proposal.

Summary of Comments and Recommendations

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the FEDERAL REGISTER prior to adding any species to the List of Endangered and Threatened Wildlife.

In the January 12, 1977, FEDERAL REGISTER proposed rulemaking (42 FR 2507–2515) and the associated January 16, 1977, News Release, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

Letters were received from 3 Federal agencies, the U.S. Forest Service, U.S. Soil Conservation Service, and the TVA. Four States, Alabama, North Carolina, Tennessee, and Virginia, submitted responses to the proposal. Comments were also received from the American Society of Ichthyologists and Herpetologists, the Sierra Club and two individuals.

The U.S. Soil Conservation Service raised questions regarding the total distribution of the slackwater darter in the southern bend of the Tennessee River system in Alabama and Tennessee. They suggested it might have a wider distribution but offered no supporting distributional data. They also suggested excluding all or portions of five streams in the Cypress Creek system as Critical Habitat. We agree, in part, and have so altered the Critical Habitat delineations to reflect these changes.

The U.S. Forest Service had no objection to the proposal. They did suggest that we contact Dr. H. T. Boschung for his input. The Fish and Wildlife Service did contact Dr. Boschung and obtained his data and recommendations.

The TVA had no objection to the proposed Threatened status for the five fishes. They did not feel that there was sufficient data to support Critical Habitat delineation for the fishes, except the Alabama cavefish.

The response from the Governor of Alabama indicated that he was basically in agreement with the proposal. The fisheries staff of the State of Alabama and the specialists they consulted were also in agreement with the proposal. They did indicate that the spotfin chub (*Hybopsis monacha*) had been extirpated in Alabama. They also submitted the results of a recent statewide symposium on Endangered and Threatened Plants and Animals of Alabama which referred to the Alabama cavefish (*Speoplatyrhinus poulsoni*) as an Endangered species. After considering all data, we do not feel that the degree of threat for the Alabama cavefish is sufficient to warrant an Endangered classification.

The State of North Carolina comments were restricted to the spotfin chub (*Hybopsis monacha*) Critical Habitat designation in Macon County, N.C. They were interested in obtaining more information about the specific habitat requirements of the spotfin chub in order to more adequately evaluate the impacts of the possible development of a small flood control project. This information will be forwarded to the State of North Carolina.

Response from the State of Tennessee, Tennessee Wildlife Resources Agency, indicates they are in basic agreement with the proposed Threatened classification and Critical Habitat determination for the four species of fishes occurring in their State. The Tennessee Department of Public Health submitted comments relative to the existing industrial and domestic discharges emptying into the Powell and Clinch River.

The Governor of Virginia responded and had no objection to the proposed Threatened status and Critical Habitat determination for the three fishes occurring in the State of Virginia.

Two organizations, the American Society of Ichthyologists and Herpetologists and the Sierra Club supported the proposed listing and the Critical Habitat determination.

Two professional ichthyologists responded and both concur with findings presented in the proposal.

Conclusion

After a thorough review and consideration of all the information available, the Director has determined that the Alabama cavefish, slender chub, spotfin chub, slackwater darter, and yellowfin madtom are likely to become Endangered throughout all or a significant portion of their range due to one or more of the factors described in Section 4(a) of the Act. This review amplifies and substantiates the description of those factors included in the proposed rulemaking (42 FR 2507–2515). Those factors were described as follows:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range:

The geographic range of the slackwater darter, *Etheostoma boschungi*—Proposed Threatened—is four tributaries to the southern bend of the Tennessee River in northern Alabama and southwestern Tennessee. It is known from one locality in the headwaters of the Buffalo River in Lawrence County, Tennessee; 19 localities in Cypress Creek drainage in Wayne County, Tennessee, and Lauderdale County, Alabama; three localities in Swan Creek in Limestone County, Alabama; and three localities in the Flint River drainage in Madison County, Alabama. Intensive collecting in adjacent drainages has failed to demonstrate the presence of the slackwater darter. The habitat of *Etheostoma boschungi* is small to medium-sized streams with moderate to slow current. It seems to prefer bottom conditions characterized by an accumulation of leaves and detritus, but in some areas it has been found in association with clean silt, sand, and small gravel substrates.

Over the past five years periodic sampling of the slackwater darter in the headwaters of the Buffalo River in Lawrence County, Tennessee, has indicated that its population is extremely small and limited. In this area the species is confined to a short segment of a very small stream and the number of individuals in this population is apparently quite low. The population of *Etheostoma boschungi* in the Flint River drainage in Madison County, Alabama, is similarly small and limited. Changing land use patterns associated with the growth of the city of Huntsville, Alabama, jeopardizes the survival of the population in this system. The Swan Creek population is threatened by a stream channelization project.

Of the four stream systems inhabited by the slackwater darter the largest population and the stronghold of the species is in the Cypress Creek drainage system. As presently planned the proposed Soil Conservation Service project for the Cypress Creek Watershed will adversely affect the species. The project will result in the destruction of habitat through the construction of headwater impoundments, new channel excavations, bedload removal and other stream alterations.

Slender chub, *Hybopsis cahni*—Proposed Threatened—is restricted to the Clinch and Powell Rivers in Tennessee above Norris Reservoir and is threatened by the coal industry effluents which are on the increase, municipal wastes and the continuing risk of chemical spillage including fly ash and sulfuric acid. A coal output of 30,000,000 tons is projected for this area by the year 2000. Many of the 24 authorized sewage dischargers are overloaded and not capable of producing an acceptable effluent under current water quality standards. Gravel removed from sand and gravel bars in the river channel and the resulting siltation is a threat at one locality.

Spotfin chub, *Hybopsis monacha*—Proposed Threatened—is restricted to the Tennessee River drainage where it once occurred widely in twelve tributary systems distributed among five States, but is today known only from the lower North Fork of the Holston River, Virginia and Tennessee; in the Emory River, Clear Creek tributary of the Emory River System, Tennessee; and the upper Little Tennessee River, North Carolina. Only in the Emory River system is this species still abundant, although it appears to be recovering in the Little Tennessee River in North Carolina.

Threats to this species include runoff from coal mining, operations, municipal and industrial wastes, and siltation.

Yellowfin madtom, *Noturus flavipinnis*—Proposed Threatened—is restricted to the Powell River in Tennessee, and Copper Creek tributary to the Clinch River in Virginia. It was formerly known from Chikamauga Creek in Georgia, Hines Creek in Tennessee and the North Fork of the Holston River in Virginia. It is threatened by coal mining and coal washing in the Powell River, siltation and enrichment from agricultural operations in Copper Creek. The risk of chemical spillage where the rivers are crossed by major roads, is a potential threat.

Alabama cave fish, *Speoplatyrhinus poulsoni*—Proposed Threatened—is a blind, white, troglobitic cave fish known only from a cave in Lauderdale County, Alabama. It may occur in other subterranean waters of the area, but is, definitely absent from nearby caves and other caves which were inundated by Pickwick Lake. It is threatened by disruption of the ecosystem through interference with bat populations and groundwater pesticide pollution due to agricultural operations. A proposed industrial park in this area constitutes an additional threat. Few eggs are produced per female and reproduction does not occur every year.

(2) Overutilization for commercial, sporting, scientific, or educational purposes. Not applicable.

(3) Disease or predation. Not applicable.

(4) The inadequacy of existing regulatory mechanisms. Not applicable.

(5) Other natural or man-made factors affecting its continued existence. Not applicable.

Critical Habitat

The Director has considered all comments and data submitted in response to the proposed determination of Critical Habitat for the slender chub, spotfin chub, slackwater darter, yellowfin madtom, and Alabama cavefish (42 FR 2507–2515). Based on this review, Critical Habitat for the slackwater darter has been reduced in the Cypress Creek system and eliminated in the Flint River system until additional data is obtained. This reduction in area is based on data presented by the biologists from the States of Alabama and Tennessee, the TVA, Fish and Wildlife Service, and ichthyologists from four colleges and universities in the State of Alabama.

Effect of the Rulemaking

The effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below.

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered and Treatened species. The regulations referred to above, which pertain to Endangered and Threatened species, are found in §§ 17.21 and 17.31 of Title 50 and are reprinted below:

Subpart C—Endangered Wildlife

§ 17.21 Prohibitions.

(a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c)(1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c)(2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from Service.

(5) Notwithstanding paragraph (c)(1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties take Endangered Species, for conservation programs in accordance with the Cooperative Agreement, provided that such taking is not reasonably anticipated to result in: (i) the death or permanent disabling of the specimen; (ii) the removal of the specimen from the State where the taking occurred; (iii) the introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or (iv) the holding of the specimen in captivity for a period of more than 45 consecutive days.

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was

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taken in violation of paragraph (c) of this section.

Example. A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d) (1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a warning to tht effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

Subpart D—Threatened Wildlife

§ 17.31 Prohibitions.

(a) Except as provided in Subpart A of this Part, or in a permit issued under this Subpart, all of the provisions in § 17.21 (a) through (c) (4) shall apply to threatened wildlife.

(b) In addition to any other provisions of this Part 17, any employee or agent of the Service, of the National Marine Fisheries Service, or of a State conservation agency which is operating a conservation program pursuant to the terms of a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take any threatened wildlife to carry out scientific research or conservation programs.

(c) Whenever a special rule in §§ 17.40 to 17.48 applies to a threatened species, none of the provisions of paragraphs (a) and (b) of this section will apply. The special rule will contain all the applicable prohibitions and exceptions.

The determination set forth in this final rulemaking also makes the Alabama cavefish, slender chub, spotfin chub, slackwater darter and yellowfin madtom eligible for the consideration provided by Section 7 of the Act. That Section reads as follows:

INTERAGENCY COOPERATION

Section 7. The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of the Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

The Director has prepared, in consultation with an ad hoc interagency committee, guidelines for Federal agencies for the application of Section 7 of the Act. In addition, proposed provisions for interagency cooperation were published on January 26, 1977, in the FEDERAL REGISTER (42 FR 4868–4875) to assist Federal agencies in complying with Section 7. Regulations which appear in Part 17, Title 50 of the Code of Federal Regulations were first published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412), and provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances.

EFFECT INTERNATIONALLY

In addition to the protection provided by the Act, the Service will review the Alabama cavefish, slender chub, spotfin chub, slackwater darter, and yellowfin madtom to determine whether they should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate Appendix(ices) to that Convention or whether they should be considered under other, appropriate international agreements.

NATIONAL ENVIRONMENTAL POLICY ACT

An Environmental Assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. It addresses this action as it involves the Alabama cavefish, slender chub, spotfin chub, slackwater darter, and yellowfin madtom. The assessment is the basis for a decision that this determination is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

This rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (U.S.C. 1531–1543; 87 Stat. 884), and was prepared by Dr. James D. Williams, Office of Endangered Species, 202–343–7814.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 1, 1977.

LYNN A. GREENWALD,
Director,
Fish and Wildlife Service.

Accordingly, Part 17 of Chapter 1 of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. Add the Alabama cavefish, slender chub, spotfin chub, slackwater darter, and yellowfin madtom to the list in § 17.11 under "fishes" as indicated below:

Species			Range				
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
Fishes:							
Cavefish, Alabama	*Speoplatyrhinus poulsoni.*	N/A	United States (Alabama).	Entire	T	28	N/A
Chub, slender	*Hybopsis cahni*	N/A	United States (Tennessee, Virginia).	do	T	28	17.44(c)
Chub, spotfin	*Hybopsis monacha.*	N/A	United States (Virginia, Tennessee, North Carolina).	do	T	28	17.44(c)
Darter, slackwater	*Etheostoma boschungi.*	N/A	United States (Alabama, Tennessee).	do	T	28	17.44(c)
Madtom, yellowfin	*Noturus flavipinnis.*	N/A	United States (Tennessee, Virginia).	do	T	28	17.44(c)

2. Add a new paragraph (c) to § 17.44 as follows:

(c) Slender chub (*Hybopsis cahni*), spotfin chub (*Hybopsis monacha*), slackwater darter (*Etheostoma boschungi*), and yellowfin madtom (*Noturus flavipinnis*).

(1) All the provisions of § 17.31 apply to these species, except that they may be taken in accordance with applicable State law.

(2) Any violation of State law will also be a violation of the Act.

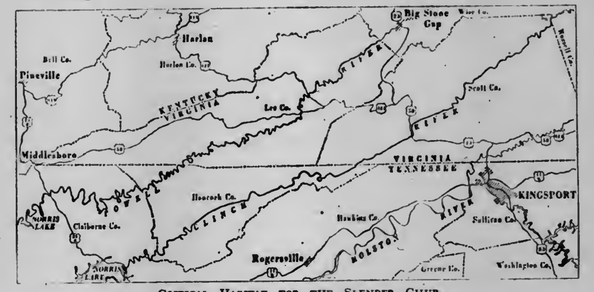
Subpart I—Interagency Cooperation

§§ 17.90–17.94 [Reserved]

§ 17.95 Critical habitat—fish and wildlife.

The following areas (exclusive of those existing man-made structures or settlements which are not necessary to the normal needs or survival of the species) are Critical Habitat for the species indicated. Pursuant to Section 7 of the Act, all Federal agencies must insure that actions authorized, funded, or carried out by them do not result in the destruction or adverse modification of these areas:

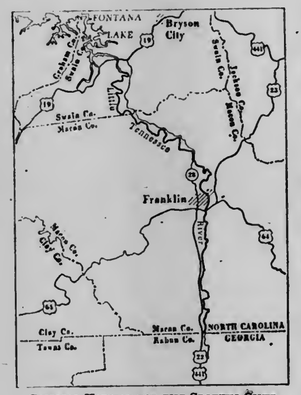
(e) Fishes.



CRITICAL HABITAT FOR THE SLENDER CHUB

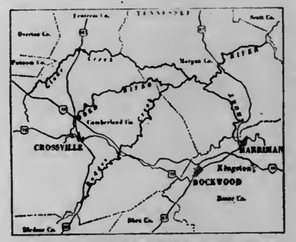
Spotfin Chub (*Hybopsis monacha*).

North Carolina. Macon and Swain Counties. Little Tennessee River, main channel from the backwaters of Fontana Lake upstream to the North Carolina-Georgia State line.



CRITICAL HABITAT FOR THE SPOTFIN CHUB

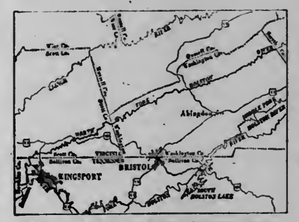
Tennessee. Cumberland, Fentress, and Morgan Counties. Emory and Obed Rivers and Clear and Daddys Creek in Morgan County. Clear Creek in Fentress County. Obed River upstream to U.S. Interstate Highway 40, Clear Creek upstream to U.S. Interstate Highway 40 and Daddys Creek upstream to U.S. Highway 127 in Cumberland County.



CRITICAL HABITAT FOR THE SPOTFIN CHUB

Tennessee. Hawkins and Sullivan Counties. North Fork Holston, main channel upstream from junction with South Fork Holston River to the Tennessee-Virginia State line.

Virginia. Scott and Washington Counties. North Fork Holston River, main channel from the Virginia-Tennessee State line upstream through Scott and Washington Counties.



CRITICAL HABITAT FOR THE SPOTFIN CHUB

Slender Chub (*Hybopsis cahni*).

Tennessee. Claiborne and Hancock Counties. Powell River, main channel from backwaters of Norris Lake upstream to the Tennessee-Virginia State line. Clinch River, main channel from backwaters of Norris Lake upstream to the Tennessee-Virginia State line.

Virginia. Lee and Scott Counties. Powell River, main channel from the Tennessee-Virginia State line upstream through Lee County, Va. Clinch River, main channel from the Tennessee-Virginia State line upstream through Scott County, Va.

Slackwater Darter (*Etheostoma boschungi*).

Alabama. Launderdale County. All permanent and intermittent streams with flowing water from December to June tributary to Cypress Creek and its tributaries upstream from the junction of Burcham Creek, including Burcham Creek, excluding Threet Creek and its tributaries.

Tennessee. Wayne County. All permanent and intermittent streams with flowing water from December to June tributary to Cypress and Middle Cypress Creek drainage.



CRITICAL HABITAT FOR THE SLACKWATER DARTER

Tennessee. Lawrence County, Buffalo River and its tributaries in Lawrence County, Tenn.



CRITICAL HABITAT FOR THE SLACKWATER DARTER

Yellowfin Madtom (*Noturus flavipinnis*).

Tennessee. Claiborne and Hancock Counties. Powell River, main channel from backwaters of Norris Lake upstream to the Tennessee-Virginia State line.

Virginia. Lee, Scott, and Russell Counties. Powell River, main channel from the Virginia-Tennessee State line upstream through Lee County. Copper Creek, main channel from its junction with Clinch River upstream through Scott County and upstream in Russell County to Dickensonville.

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CRITICAL HABITAT FOR THE YELLOWFIN MADTOM

Alabama Cavefish (*Speoplatyrhinus poulsoni*).

Alabama. Lauderdale County. More specific locality data for Federal agencies fulfilling their obligations under Section 7 of the Endangered Species Act of 1973 can be obtained from the Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

[FR Doc.77-26182 Filed 9-8-77;8:45 am]

federal register

FRIDAY, SEPTEMBER 9, 1977

PART VI

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

■

GENERALIZED SYSTEM OF PREFERENCES

Reviews Pertaining to Eligibility of Articles

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Title 15—Commerce and Foreign Trade

CHAPTER XX—OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

PART 2007—REVIEWS PERTAINING TO ELIGIBILITY OF ARTICLES FOR THE GENERALIZED SYSTEM OF PREFERENCES (GSP)

Revision

AGENCY: Office of the Special Representative for Trade Negotiations.

ACTION: Final rulemaking.

SUMMARY: This action constitutes a substantial revision of regulations dealing with the Generalized System of Preferences as provided for by Title V of the Trade Act of 1974. The new Part 2007 contains guidance and procedural requirements for parties requesting modifications to the list of articles eligible for the GSP duty-free treatment, and a timetable for future reviews of the GSP product eligibility. The regulations published below also supersede the "Guidance for Petitioners" set forth in the FEDERAL REGISTER of Monday, October 18, 1976 (41 FR 45923).

DATES: Effective Monday, September 12, 1977. Comments are due on or before October 3, 1977.

ADDRESS: Send written comments on the regulations in duplicate to: Office of the Special Representative for Trade Negotiations, Room 715, ATTN: GSP Regulations Public Comments File, 1800 G Street NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

C. Michael Hathaway, Office of the General Counsel, or Doral Cooper, Executive Director, GSP Subcommittee, TPSC, Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C. 20506. Telephone 202-395-3432 or 395-6971.

SUPPLEMENTARY INFORMATION: The regulations set forth below are considered procedural in nature, and hence exempt from the requirements of 5 U.S.C. 553. Accordingly, the regulations are final as published herein on the day following the date of publication of the regulations in the FEDERAL REGISTER. The Office of the Special Representative for Trade Negotiations, nevertheless, invites written comments on the regulations, on or before October 3, 1977, and will consider carefully any comments received.

1. The effect of this action on the next full review of products covered by the GSP is set forth in a FEDERAL REGISTER notice accompanying this publication.

2. The following new Part 2007 supersedes the existing Part 2007 which was published on December 31, 1975 (40 FR 60042). Accordingly, 15 CFR Part 2007 is revised to read as follows:

Sec.

2007.0 Requests for reviews.
2007.1 Information required in requests and other submissions.
2007.2 Action following receipt of requests.
2007.3 Timetable for reviews.
2007.4 Publication regarding requests.
2007.5 Written briefs and oral testimony.
2007.6 Information open to public inspection.
2007.7 Information exempt from public inspection.
2007.8 Other reviews of article eligibilities.

AUTHORITY: 19 U.S.C. 2461-2465. 88 Stat. 2066-2071; E.O. 11846 of March 27, 1975, 40 FR 14291, March 31, 1975.

§ 2007.0 Requests for reviews.

(a) An interested party or foreign government may submit a request (1) that additional articles be designated as eligible for the GSP; or (2) that the duty-free treatment accorded to eligible articles under the GSP be withdrawn, suspended or limited; or (3) that product coverage be otherwise modified.

(b) An interested party or foreign government may also make submissions supporting, opposing, or otherwise commenting on a request.

(c) An interested party is defined as a party who has a significant economic interest in the subject matter of the request, or any other party representing a significant economic interest that would be materially affected by the action requested, such as a domestic producer of a like or directly competitive article, a commercial importer or retailer of an article which is eligible for the GSP, or for which such eligibility is requested.

(d) All requests and other submissions should be submitted in 20 copies, and should be addressed to the Chairman, GSP Subcommittee, Trade Policy Staff Committee, Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C. 20506. Requests by foreign governments may be made in the same manner as by an interested party. Alternatively, such a request may be made by diplomatic correspondence and may be accepted by the Trade Policy Staff Committee (TPSC) on its own motion.

(e) The TPSC may, on its own motion, propose any of the actions described in § 2007.0(a).

§ 2007.1 Information required in requests and other submissions.

A request submitted pursuant to this Part, hereinafter also referred to as a petition, shall state clearly on the first page that it is a request for action with respect to the provision of duty-free treatment for an article or articles under the GSP, and shall contain, in addition to any other information specifically requested, the following information:

(1) The name of the petitioner, the person, firm, or association represented by the petitioner, and a brief description of the interest of the petitioner affected by the GSP;

(2) An identification of the product or products of interest to the petitioner, both by description and by item number of the Tariff Schedules of the United States;

(3) A description of the action requested, together with a statement of the reasons therefor and supporting information, and a statement of whether the reasoning and information has been presented to the TPSC previously on behalf of the interest represented in the request;

If the request constitutes the resubmission of a request made previously, it must include either new information which indicates changed circumstances, or a rebuttal of the factors supporting the denial of the previous request;

(4) If the action requested is the designation of an additional article or articles as eligible for the GSP, a statement of why such article or articles should be so designated, together with specific information on: (i) how the GSP treatment would affect the petitioner's business and the industry producing like or directly competitive articles in the United States, including information on how the requested action would affect competition in that industry; (ii) the source of petitioner's competition and the markets and firms supplied by both the petitioner and competitor firms; and (iii) any other available information such as that referred to in § 2007.1(5) below;

(5) If the action requested is the withdrawal, suspension, or limitation of duty-free treatment accorded under the GSP to an eligible article or articles, information sufficient to show for the relevant United States industry:

(i) The actual production;

(ii) The production capacity;

(iii) The number, type, wage rate, and location of employees, and the changes therein;

(iv) The quantity, value, and destination of sales;

(v) The profitability, including that for the particular branch of the firm(s) producing the specific product(s);

(vi) A cost analysis, including the cost of materials, labor, and overhead;

(vii) The number and location of firms;

(viii) The identity of competitors, the competitive situation in the United States, and the effect imports receiving duty-free treatment under the GSP have on competition and the business of the interest on whose behalf the request is made; and

(ix) The name of each beneficiary developing country which exports the relevant product(s) to the United States;

(x) And any other relevant information.

This information should be submitted with the request for each product that is the subject of a request, both for the single firm making the request, and to the extent possible, for the industry to which the request pertains. The information should be submitted for each year beginning with the third year prior to the relevant GSP product designation and continuing through the present year. In determining whether the information submitted is adequate, due regard will be given to the ability of the party making the request to obtain information.

(6) Requests by foreign governments, whether in the form of a petition or diplomatic correspondence, should be supported by specific information for each product requested on the current status in the foreign country of production, capacity, employment, prices, and sales together with an analysis of how those factors might change in the future both with and without the GSP treatment of the product. In addition, foreign governments should, if available and appropriate, submit the information requested of interested parties.

(7) Submissions made by persons in support or opposition to a request made under this Part should conform to the requirements for requests contained in §§ 2007.0, 2007.1(1), 2007.1(2), and 2007.1(3), and should supply such other relevant information as is available.

§ 2007.2 Action Following Receipt of Requests.

(a) If the request does not conform to the requirements set forth above, or if it is clear from available information that the request does not warrant further consideration, the request may be returned together with a written statement of the reasons why it was found not to conform, or did not warrant further consideration. Requests which conform to these regulations, or which do not so conform but are deemed to present sufficient information upon which to proceed, and for which further consideration is deemed to be warranted, shall be accepted for review. In making the determination of adequacy of a request, due regard will be given for the ability of the requesting party to supply the information solicited under this Part. Parties making requests prior to the deadline for receiving requests for review (see section 2007.3) whose requests are not accepted for review will be informed of such non-acceptance, and may be given additional time, up to the final announcement of accepted petitions, to correct the defect, or rebut the determination that further review is not warranted.

(b) In conducting reviews, the TPSC may hold public hearings.

(c) The GSP Subcommittee of the TPSC shall conduct the first level of interagency consideration under this Part, and shall submit the results of its review to the TPSC.

(d) The TPSC shall review the work of the GSP Subcommittee and shall conduct, as necessary, further reviews of requests submitted and accepted under this Part. Unless subject to additional review, the TPSC shall prepare recommendations for the President on any modifications to the GSP under this Part, and shall make the decisions where no change is to be recommended to the GSP. The Chairman of the TPSC shall report the results of the TPSC's review to the Deputy Special Trade Representative and the Special Trade Representative who may convene the Trade Policy Review Group (TPRG) or the Trade Policy Committee (TPC) for further review of recommendations and other decisions as necessary.

(e) In considering whether to recommend to the President (1) that additional articles be designated as eligible for the GSP; (2) that the duty-free treatment accorded to eligible articles under the GSP be withdrawn, suspended, or limited; or (3) that product coverage be otherwise modified, the GSP Subcommittee of the TPSC, the TPSC, the TPRG, or the TPC shall review the relevant information submitted in connection with or concerning a request under this Part, together with any other information which may be available relevant to the statutory prerequisites for Presidential action contained in Title V of the Trade Act of 1974 (19 U.S.C. 2461-2465).

§ 2007.3 Timetable for reviews.

(a) Reviews of pending requests shall be conducted at least once each year, according to the following schedule unless otherwise specified by FEDERAL REGISTER notice: (1) June 1, announcement of review, (2) July 15, deadline for receiving petitions; (3) August 1, announcement of accepted petitions; (4) September 15, public hearings; (5) March 1, effective date of changes. If the date specified is on, or immediately follows, a weekend or holiday, the effective date will be on the second working day following such weekend or holiday date.

(b) Requests which indicate the existence of unusual circumstances warranting an immediate review may be reviewed separately. Requests for urgent consideration should contain a justification for the urgency.

§ 2007.4 Publication regarding requests.

Whenever a request is received that conforms to these regulations or that is accepted pursuant to Sec. 2007.2 a statement of the fact that the request has been received, the TSUS item number or numbers and description of the article or articles covered by the request, the name of the party submitting the request, and an invitation for all interested parties to submit views to the TPSC shall be published in the FEDERAL REGISTER.

Upon the completion of a review, and publication of any Presidential action modifying the GSP, a summary of the decisions made will be published in the FEDERAL REGISTER including:

(a) A list of requests upon which action has been taken,

(b) A list of requests that remain pending.

Whenever, following a review, there is to be no change in the status of an article with respect to the GSP, the party submitting a request with respect to such article, shall be individually notified.

§ 2007.5 Written briefs and oral testimony.

Sections 2003.2 and 2003.4 of this Part shall be applicable to the submission of any written briefs or requests to present oral testimony in connection with a review under this Part.

§ 2007.6 Information open to public inspection.

With the exception of information subject to § 2007.7, an interested person may, upon request, inspect at the Office of the Special Representative for Trade Negotiations:

(a) Any written request, brief, or similar submission of information made pursuant to this Part; and

(b) Any stenographic record of any public hearings which may be held pursuant to this Part.

§ 2007.7 Information exempt from public inspection.

(a) Information submitted in confidence shall be exempt from public inspection if it is determined that the disclosure of such information is not required by law.

(b) A party requesting an exemption from public inspection for information submitted in writing shall clearly mark each page "Submitted in Confidence" at the top, and shall submit a nonconfidential summary of the confidential information. Such person shall also provide a written explanation of why the material should be so protected.

(c) A request for exemption from public inspection of any particular information may be denied if it is determined that such information is not entitled to exemption under law. In the event of such a denial, the information will be returned to the person who submitted it, with a statement of the reasons for the denial.

§ 2007.8 Other reviews of article eligibilities.

(a) As soon after the beginning of each calendar year, as relevant trade data for the preceding year is available, modifications of the GSP in accordance with section 504(c) of the Trade Act of 1974 (19 U.S.C. 2464) will be considered.

Dated: September 1, 1977.

WILLIAM B. KELLY,
Chairman, Trade Policy Staff Committee.

[FR Doc.77-26166 Filed 9-8-77;8:45 am]

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OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Timetable for the Next Full Review of Requests for Modifications of the List of Articles Receiving Duty-Free Treatment Under the Generalized System of Preferences

The next full review of products covered by the GSP was announced by FEDERAL REGISTER notice of Monday, May 16, 1977 (42 FR 24878) and will be conducted pursuant to the new regulations (15 CFR 2007) accompanying this notice. The May 16, 1977 FEDERAL REGISTER notice stated that in order to be considered in the next full review, requests for modifications of the list of articles receiving duty-free treatment under the GSP must be received no later than the close of business on Thursday, September 15, 1977.

In order to allow parties making requests for modifications of the GSP product coverage to conform to the new Part 2007, notice is hereby given that the September 15, 1977 deadline for receiving requests is extended according to the following timetable for the next full review of products covered by the GSP:

Oct. 3, 1977----	Deadline for receiving requests for modifications to the list of articles receiving duty-free treatment under the GSP (extended from former deadline of Sept. 15, 1977).
Oct. 7, 1977----	Announcement of petitions accepted for review.
Nov. 7, 1977---	Public hearings.

Dated: September 1, 1977.

WILLIAM B. KELLEY,
Chairman, Trade Policy Staff Committee.

[FR Doc.77-26165 Filed 9-8-77;8:45 am]

federal register

FRIDAY, SEPTEMBER 9, 1977

PART VII



DEPARTMENT OF LABOR

Occupational Safety and Health Administration

■

OCCUPATIONAL EXPOSURE TO 1,2 DIBROMO-3-CHLOROPROPANE (DBCP)

Emergency Temporary Standard; Hearing

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Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Emergency Temporary Standard for Occupational Exposure to 1,2 Dibromo-3-chloropropane (DBCP); Hearing

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Emergency Temporary Standard; Notice of Hearing.

SUMMARY: This emergency temporary standard (ETS) is based on the determination that data conclusively establish that employee exposure to DBCP presents a hazard of sterility as well as cancer. Therefore, a grave danger currently exists for workers exposed to this sterility-inducing and cancer-causing substance. As a result, it is necessary to issue an emergency temporary standard to protect exposed employees. By this ETS the Occupational Safety and Health Administration (OSHA) limits employee exposure to DBCP to 10 parts DBCP per billion parts of air (10 ppb), as an 8 hour time-weighted average concentration, with a ceiling level of 50 ppb for any 15 minute period during the 8-hour day. In addition, the ETS requires the measurement of employee exposure, engineering controls, personal protective equipment and clothing, employee training, medical surveillance, work practices, and recordkeeping. The ETS will be superseded by a permanent standard within six months. A public hearing on the permanent standard will commence on December 6, 1977.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Ms. Flo Ryer, Directorate of Health Standards Programs, OSHA, Third Street and Constitution Avenue NW., Room N-3663, Washington, D.C. 20210 (202-523-7174).

SUPPLEMENTARY INFORMATION: The accompanying document is an emergency temporary standard issued pursuant to sections 6(c) and 8(c) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1596, 1599; 29 U.S.C. 655, 657), the Secretary of Labor's Order No. 8-76 (41 FR 25059) and 29 CFR Part 1911. The new standard, § 1910.1044 applies to all employments in all industries covered by the Act, including "general industry", construction and maritime, excluding only agriculture.

Pursuant to section 6(c)(3) of the Act, OSHA will shortly commence a rulemaking proceeding under section 6(b) of the Act. The emergency temporary standard will serve as a proposed final rule, along with other proposed requirements which will be published in the FEDERAL REGISTER pursuant to 29 CFR 1911.12. OSHA will publish an additional proposal in the very near future encompassing those areas of occupational safety and health considered appropriate for the agency's permanent regulation of DBCP. This document sets a public hearing on the permanent DBCP standard to begin on December 6, 1977.

The development of a permanent standard will be conducted pursuant to the rulemaking procedures of section 6(b) of the Act. The Assistant Secretary's decisions on the provisions of the final standard will be based on the entire record developed, including public comments and the informal rulemaking hearing.

I. BACKGROUND

DBCP has been used as an agricultural nematocide since 1955. DBCP is a dense yellow or amber liquid with a pungent odor at high temperatures. It has a low vapor pressure (0.8 mm Hg at 20OC) and slight solubility in water (1,000 ppm).

DBCP is produced primarily by the bromination of allyl chloride at room temperature, usually a vigorous reaction which requires cooling. DBCP is produced in the United States by Dow Chemical Co. and Shell Chemical Co. The Federal Republic of Germany and Israel also export DBCP to this country. About 12 million pounds of DBCP were consumed in 1972.

DBCP is shipped to formulators who reprocess the chemical into products for consumer use. Formulators may vary the concentration of the chemical in an end product or change its physical state by simple blending and mixing operations. DBCP is formulated into emulsifiable concentrates, liquid concentrates, powder, granules and solid material. Formulating granular DBCP involves spraying liquid DBCP onto inert granules. The formulation of liquid and emulsified DBCP concentrates can involve the following operations: Transferring technical grade DBCP from railroad tank cars to storage tanks, and from the storage tanks to a mixing tank, adding an emulsifier or solvent to the mixing tank, transferring the blended material to a holding tank and then to drums; other transferring operations take place during the packaging of the DBCP materials. About 80 formulators have labels registered with EPA for the approximately 160 products which contain DBCP. The complete distribution chain generally includes the manufacture of technical grade DBCP, formulation of DBCP pesticides, distribution of DBCP pesticide and the agricultural consumption of DBCP pesticide.

In 1961, the authors of a research paper, Torkelson, et al., recommended that occupational exposure to DBCP be limited to less than 1 ppm in air. There is currently no OSHA standard for DBCP, a chemical substance to which approximately 2,000 to 3,000 employees in facilities manufacturing and formulating DBCP have recently been or may currently be exposed.

In July of this year, a worker at the Occidental Chemical Plant in Lathrop, Calif., noted and complained of the inability to father a child. During discussions with fellow workers, it was discovered that several other workers were having a similar problem. These workers were tested and found to be sterile. (August 31, 1977 statement of Dr. Whorton.) As a result of this testing, on August 5, 1977, the Oil, Chemical and Atomic Workers (OCAW) union requested the National Institute for Occupational Safety and Health (NIOSH) to conduct a health hazard evaluation at the Occidental Chemical Co. Plant. This request was made after representatives of OCAW learned that a number of workers at this plant had abnormally low sperm counts.

On August 9 and 10, 1977, NIOSH conducted a walk-through inspection of the Lathrop plant and met with representatives from the company, the local union, and California OSHA. The NIOSH staff also met with Dr. Donald Whorton, University of California, Berkeley, who had consulted previously with the company and the union and who had conducted medical examinations of the affected employees. Medical examinations of a number of additional employees have subsequently been conducted by NIOSH staff in conjunction with Dr. Whorton.

On August 12, 1977, the Occupational Safety and Health Administration in a telegram alerted approximately 80 manufacturers and formulators to the potential hazard of worker exposure to DBCP. On August 23, 1977, a guideline document detailing suggested work practices was forwarded to these same affected companies. Although Shell and Dow have temporarily suspended production of DBCP and requested the return of outstanding stocks of the substance, its use in formulating pesticides may still be occurring. Therefore this ETS is necessary to limit occupational exposure.

On August 19, 1977, the Director, NIOSH, wrote to the major manufacturers of DBCP requesting information to fully evaluate the extent of the hazard posed by exposure to DBCP.

On August 23, 1977, the Oil Chemical and Atomic Workers International Union President, A. F. Grospiron, formally requested that the Secretary of Labor take immediate steps to prevent worker exposure to DBCP. Specifically, that worker exposure be limited to one part DBCP per billion parts of air, and that a broad testing program to locate incidents of cancer and sterility among workers be established.

II. EFFECTS OF EXPOSURE TO DBCP

The possible health effects of exposure to DBCP are illustrated by the results of acute and chronic toxicity studies in several animal species and the recent shocking discovery of sterility in a large number of male employees exposed to DBCP in the manufacture and formulation of pesticides. These effects may include in addition to sterility, diminished renal function, degeneration and cirrhosis of the liver, and cancer.

A. STERILITY

Evidence in Animals. In 1961, Torkelson, et al. conducted experiments in which four animal species (male and female rats, guinea pigs, rabbits and monkeys) were exposed to DBCP by inhalation. The test animals were subjected to 50-66 exposures of 12 ppm DBCP over 70 to 92 days. A 40 to 50 percent mortality was observed in the rat study groups which, in most cases, was attributed to lung infections. Examination at autopsy showed damage to the lungs, kidneys, digestive system, and "severe atrophy and degeneration of the testes of all species." This effect was accompanied by a reduced sperm count, abnormal sperm cell development and degeneration of the seminiferous tubules. A 1970 subacute study by Faydysh et al. showed that a 70 mg/kg/day dose of DBCP, administered orally in oil solution for 45 days, produced a necrotic action on the testicles of white rats.

A more recent report in 1971 by Rakmatullaev disclosed that chronic (8 months) exposures to 5 mg/kg/day DBCP produced a distinct decrease in sperm motility for male rats and a decrease in overall female fertility.

Additional research on DBCP by Reznik and Sprinchan (1975) specifically showed gonadotoxic effects in male and female rats. In a series of both acute (single dose of 100 mg/kg) and chronic (10 mg/kg in multiple doses for 4-5) experiments, these investigators found that DBCP not only severely affected spermatogensis, but had a profound effect on the estrous cycle of the female rats.

Evidence in humans. Concern for possible sterility effects resulting from exposure to DBCP first developed among employees of the Agricultural Chemical (Ag Chem) Division of Occidental Chemical Company in Lathrop, Calif. For several years, the lack of children being born to families of men working in the Ag Chem Plant was a topic of casual discussion among these employees. Within the last several months, there developed an increasing concern that the low birth rate among these families might be related to pesticide poisoning. Finally, at the suggestion of the employee union, the Oil, Chemical, and Atomic Workers (OCAW), seven employees from the Ag Chem Plant volunteered for sperm counts to be taken.

Early in July 1977, laboratory reports of abnormal sperm counts taken from these seven men were sent to Dr. Donald Whorton, a physician at the University of California at Berkeley, who specializes in internal medicine and occupational diseases.

On the 22nd of July, Dr. Whorton performed sperm counts on five of the seven men. Again their sperm counts showed either oligospermia (low sperm count) or aspermia (no sperm). Arrangements were made with management for Dr. Whorton to see the remaining employees who worked in the Ag Chem area or in the adjacent laboratory that did the quality control work. Twenty-six were production workers, 3 were supervisors, 4 were maintenance mechanics, 2 were clerical, and 6 were laboratory personnel. This made a total of 41 employees of which 3 were women.

The examination consisted of: (1) A complete medical history with emphasis on the reproductive tract as well as diseases and conditions that may cause sterility; (2) a work history; and (3) a thorough physical examination, including laboratory tests of a comprehensive nature.

The results of the physical exams were essentially normal, other than anticipated conditions based on medical history non-related to occupational exposure. The results of the blood analysis, kidney and renal functions, cholesterol, glucose, calcium and phosphorus determinations revealed no unexpected results.

As stated earlier, three of the 41 employees examined were women. Eleven of the 38 men had had previous vasectomies. The remaining 27 men had complete sperm analysis. A complete sperm analysis includes a sperm count (sperms per cubic millimeter of seminal fluid), sperm motility (movement), and morphology (size and shape). Of these 27 men, 14 had sperm counts less than 40 million—considered abnormally low by Dr. Whorton's criterion. None of the 14 were completely aspermic, having sperm counts of zero. Two had counts in the range of 1 million, one had a count in the range of 10 to 20 million, and two had counts in the range of 20 to 30 million. Dr. Whorton described sperm count as a relatively standard examination performed in most clinical laboratories and by a large number of urologists, primarily in evaluating male infertility.

Samples of sperm from all workers, except 4, examined by Dr. Whorton, were analyzed immediately upon collection, and the remaining ones were done within 12 hours or less. Sperm samples can be used up to 24 hours after the time they have been collected.

In all the men the testes were of normal size, and the serum testosterones of workers who had normal sperm counts were essentially normal. There was a marked difference in the FSH (follicle-stimulating hormone) levels and the LH (luteinizing hormone) levels in the eleven employees most severely affected (sperm count of 1 million or less) as compared to the 13 who had sperm counts of more than 40 million.

Studies are continuing on ten of the 41 men. These men were selected for open bilateral testicular biopsy on the basis of clinical findings and in order to learn all that could be learned of what was happening histologically to these testes. Also through a contract with NIOSH the rest of the employees in the Occidental plant are to be examined on a volunteer basis for sperm counts, FSH, LH, and serum testosterone. Examining a larger population may more clearly indicate the value of these tests in determining the adverse health effects.

Under a NIOSH contract Dr. Whorton is engaged in a medical examination of some pesticide applicators and set-up men employed by Occidental Chemical to demonstrate the proper application and use of DBCP to farmers. At present, there is only limited data regarding these men, but already Dr. Whorton has observed abnormal sperm counts in approximately five out of nine workers.

Evidence of effects similar to those observed by Dr. Whorton have been reported to OSHA by the Dow Chemical Co. and Shell Oil Co., the only two known U.S. producers of DBCP (both of these companies reported that they have recently suspended all operations involving manufacture and formulation of DBCP pesticides and have requested the return of all outstanding stocks).

In a telegram dated August 31, 1977, the Corporate Medical Director of Shell Oil Co. reported that among employees exposed to DBCP who had been examined to date, abnormally low sperm counts had been obtained based on a single specimen per employee. Seven of eleven employees from one plant had sperm counts of 40 million or less. Twenty out of twenty-seven employees in a second plant had resulting sperm counts less than 40 million. In the second plant, production of DBCP was discontinued in 1975. Shell estimates that employee exposures to DBCP have ranged from less than 100 ppb to 600 ppb for the past three years.

In a letter dated September 1, 1977, the Medical Director of Dow Chemical Co. reported that in their plant in Magnolia, Ark., DBCP production and formulation began in January 1976 and was discontinued in August 1977. To date 86 employees have been examined out of a total of approximately 150 who may have been exposed to DBCP. Among the 86 examined, aspermia has been found in 24 percent and 46 percent have oligospermia.

In summary, sterility has been consistently found in employees in several plants whose exposure to DBCP was in some cases quite brief and in most cases at levels which have generally been regarded as low. The possibility of other health effects cannot be dismissed as the examination of large numbers of exposed workers continues.

B. CARCINOGENICITY

The National Cancer Institute undertook in 1972 studies of the possible carcinogenicity of DBCP, as one of a group of halogenated compounds. As early as 14 weeks after the initiation of administration by stomach tube of daily doses of 24 mg/kg of DBCP dissolved in corn oil, 5 times per week, several female rats were found to have palpable mammary tumors. Female rats given daily doses of 12 mg/kg of DBCP had not developed mammary tumors. After the fourteenth week, the doses were increased to 30 and 15 mg/kg/day. These doses were continued up to a total duration of the experiment of 52 weeks. During this period, 7 males and 11 females of the 50 rats of each sex given each dose of DBCP used in the experiment died without tumors. Seventeen of the male rats and 33 of the females given the high dose developed squamous carcinomas of the forestomach and 12 of the females had adenocarcinomas of the breast. Five female rats given the low dose of DBCP developed mammary carcinomas and 4 males and

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14 females developed gastric carcinomas. One male among the 20 rats of each sex used as vehicle controls developed a tumor that was not described more specifically. Groups of 50 male mice given 160 or 80 mg/kg/day of DBCP for 14 weeks, 200 or 100 mg/kg/day for the next 13 weeks, and 260 or 130 mg/kg/day for 25 weeks and numerically similar groups of female mice given 120 or 60 mg/kg/day for the first 14 weeks and thereafter given the same doses as the males developed 14 gastric carcinomas in males and 9 in females on the high dose, and 3 in each sex on the low dose of DBCP. No mammary carcinomas developed in the female mice and no tumors of any sort developed in the vehicle controls (20 of each sex or each species).

A report in abstract form (Powers et al., 1975) at a later stage of the same study (after 78 weeks) changed the results in a quantitative way only, the incidence of mammary adenocarcinoma in female rats increasing to 54 percent and that of squamous cell carcinoma of the stomach exceeding 60 percent in the rats and 90 percent in the mice.

A draft of the final report of the contractor (Hazleton Laboratories America, 1977) to the National Cancer Institute reveals that male B6C3F1 mice received 160 or 80 mg/kg/day of DBCP by gavage for 11 weeks, 200 or 100 mg/kg/day for 14 weeks and 260 or 130 mg/kg/day for 22 or 33 weeks, respectively. The time weighted average daily doses were 219 mg/kg for the high-dose group and 113 mg kg for the low-dose group. The female mice of the same strain received 120 or 60 mg/kg/day during the first 11 weeks and thereafter received the same doses as the males. The time-weighted average doses for the females were 209 mg/kg and 109 mg/kg. Osborne-Mendel rats of the two sexes were given identical doses: 24 or 12 mg/kg for the first 9 weeks, 15 mg/kg for 60 weeks (males) or 64 weeks (females), followed by a 5-week observation period for the males, for the low-dose group, and 30 mg/kg for 55 weeks for the high dose group. For both male and female rats, the time-weighted average daily doses, 5 days/week, were 15 mg/kg for the low dose group and 29 mg/kg for the high dose one.

The preliminary estimates are that the growth of male mice decreased slightly after the first 8 weeks on the high dose and after 22 weeks on the low dose. The growth of the females may have decreased after 32 weeks on the high dose. Mortality among the male mice increased after 36 weeks on the high dose and after 38 weeks on the low dose; that among the females increased after 36 weeks on the high dose and after 43 weeks on the low dose. The incidences of gastric cancer in male mice were 93.5 percent on the low dose and 97.9 percent on the high dose. No other tumors were reported in the mice but toxic nephropathy was found in 23.8 percent and 93.8 percent of male mice on the low and high doses, respectively.

The similar preliminary estimates for rats are that the growth of the females decreased slightly after 9 weeks on either the low or the high dose. Mortality among the male rats increased after 47 weeks on the high dose and after 60 weeks on the low dose; that among female rats increased after 28 weeks on the high dose and after 31 weeks on the low dose. The incidences of gastric cancer were 76 percent on the low dose and 59 percent on the high dose. In the females, adenocarcinoma of the breast appeared in 48 percent of the rats on the low dose and 62 percent of those on the high dose. In both sexes of this species, there were appreciable occurrences of other malignant and benign tumors (50 percent and 18 percent in males on the low and high doses, respectively, and 14 percent and 20 percent in the females on the low and high doses). The most common of these tumors were hemangiomas and hemangiosarcomas.

Among the control rats, mammary carcinoma occurred in 10% of the female colony controls and in none of the vehicle controls. Hemangiomas or hemangiosarcomas occurred in about 5.3 percent of male colony control rats and 15 percent of the females; they appeared in 5.0 percent of female vehicle control rats and in none of the male ones. Cancer of the forestomach was found in no control rats or mice.

Ward and Habermann (1974), reported that the squamous cell carcinomas of the forestomach induced in mice and rats by gavage of DBCP directly into the stomach invaded the wall of the stomach and metastasized to peritoneal surfaces, especially in rats. The metastatic tumors frequently were associated with peritonitis and abcesses.

An increased risk for cancer has not been seen with inhalation studies in rats, however OSHA believes these results must be viewed as inconclusive due to the relatively brief duration of the studies.

There are indications from in vitro experiments that DBCP may cause mutagenic effects. Rosenkranz (1975) examined the effects of DBCP on two strains of *E. coli* and on two of the tester strains of *Salmonella typhimurium;* TA 1530 and TA 1538. DBCP was mutagenic for the first of these tester strains but not for the second, indicating that it induces mutations of the base-substitution but not of the frame-shift type. While these results are not conclusive in themselves they are not inconsistent with the animal carcinogenicity data. In general, a high correlation has been found between the results of in vitro mutagenicity tests and long term animal carcinogenicity studies.

In view of the demonstration of carcinogenicity in two mammalian species, both sexes, at multiple dose levels, in well-designed studies, OSHA believes it is necessary, as a prudent policy matter, to treat DBCP as posing a potential carcinogenic risk to workers.

C. OTHER TOXIC EFFECTS

While sterility and a potential carcinogenic risk appear to be the most important health effects associatd ewith exposure to DBCP, animal studies and human experience have revealed a variety of other acute and chronic toxic effects of skin contact (percutaneous absorption), inhalation, and ingestion. Exposure to DBCP results in irritation of the eyes and respiratory passages. The central nervous system is depressed causing apathy, sluggishness and atoxia.

The skin is slightly irritated upon short exposure. Repeated exposure causes necrosis of the dermis. Toxic amounts can be absorbed through the skin. Excessive exposure to the vapors results in damage to the liver, kidneys and various tissues including dermic, bronchioles, renal collecting tubules, lens and cornea and alimentary canal. Injury caused by DBCP is particularly slow in healing.

These aspects of DBCP toxicity further indicate the necessity of limiting employee exposure by any route of entry.

III. REASONS FOR ISSUANCE OF AN EMERGENCY TEMPORARY STANDARD

The Assistant Secretary finds that exposure to DBCP poses a grave danger to humans. Specifically, human exposure to DBCP can cause oligospermia and aspermia—commonly known as sterility. Moreover, accumulated animal studies of good design have established that DBCP is clearly a carcinogen in animals, and must therefore be viewed as posing a risk of cancer to humans.

The data on sterility in workers involved in the manufacture and formulation of DBCP have only recently been collected. In fact, investigations into this ominous loss of reproductive capacity in these men are continuing. However, current data conclusively and reliably show that the deleterious effect on the testes is significant even at extremely low levels of exposure to DBCP. The preliminary investigations, which principally involve testing for sperm counts, have been interpreted by OSHA to conclusively establish that DBCP causes sterility. This evidence of a new hazard to employees is further substantiated by earlier evidence that DBCP causes sterility in animals, even though the dosages were higher. The Assistant Secretary, in light of this new and convincing evidence, concludes that occupational exposure to DBCP causes sterility.

In addition, recent animal studies have demonstrated the carcinogenicity of DBCP. Olsen, et al. in 1973, Powers, et al. in 1975, and Weisburger, et al. in 1977, have produced squamous cell carcinomas of the stomach in a high percentage of the exposed population of animals. In light of this recent evidence and the overwhelming scientific support for the view that substances shown to cause cancer in animals must be treated as posing a carcinogenic risk to man, the Assistant Secretary must treat DBCP as posing a cancer risk in humans, especially since it has been shown to have detrimental biological effect in man. The best available scientific evidence indicates that no safe level for exposure to a carcinogen, including DBCP, can be established at present. OSHA has considered this question of a safe level in previous rulemaking proceedings (see preambles to carcinogen standards (39 FR 3758), vinyl chloride standard (39 FR 35892), and

coke oven emissions standard (41 FR 46742)) and has concluded that, as a prudent policy matter, in the absence of a demonstrated safe level or threshold for a particular carcinogen, it must be assumed that none exists. This view is consistent with a considerable body of scientific opinion holding that when dealing with a carcinogen, no safe level can be determined for any given population. For example, the National Cancer Institute's Ad Hoc Committee on the Evaluation of Low Levels of Environmental Chemical Carcinogens (1970) states:

> No level of exposure to a chemical carcinogen should be considered toxicologically insignificant for man. For carcinogenic agents, a "safe level for man" cannot be established by application of our present knowledge. (NCI, 1970, p. 1.)

And NIOSH has taken the position that in regulating cancer-causing substances "• • • it is not possible at present to determine a safe exposure level for carcinogens." (Rev. Arsenic Crit. Doc. 1975.)

In conclusion, the Assistant Secretary determines that exposure of employees to a known sterility-inducing and cancer-causing substance in the workplace environment is a "grave danger" within the meaning of section 6(c)(1)(A) of the Act.

That cancer and substances which cause cancer pose a grave danger within the meaning of section 6(c)(1)(A) needs little supportive discussion. The nature of the cancer hazard differs from many other types of toxicity. Employees exposed to carcinogens risk incurable, irreversible and even fatal consequences. No symptomatic evidence of the development of the cancer may be apparent to the employee during a long latency period of 10–30 years. A single exposure episode may be sufficient to cause cancer. These factors, which establish the grave danger posed by exposure to carcinogens, also lead inexorably to the conclusion that it is necessary to provide immediate protection for employees through the issuance of an emergency temporary standard, within the meaning of section 6(c)(1)(B) of the Act.

Substances which cause involuntary sterility must also be viewed as posing a grave danger within the meaning of section 6(c)(1)(A) of the Act. Sterility in man, while perhaps not physically painful, nor equivalent to the loss of life itself, is a serious impairment of a vital and necessary bodily function—the ability to reproduce. Furthermore, sterility can have devastating psychological effects.

The need for immediate regulation to limit exposure to DBCP is apparent from the above discussion. Both as a carcinogen and as a quick-acting sterilant (some employees who became sterile had been exposed for only a few months), DBCP can pose its life-threatening danger in a very brief period of exposure. Without this emergency temporary standard, employees would continue to be exposed to this threat during the period of time necessary to complete the normal rulemaking process. Issuance of this ETS is therefore necessary to protect employees from this grave danger.

IV. SUMMARY AND EXPLANATION OF THE STANDARD

The requirements of the emergency temporary standard are those which OSHA considers essential and feasible to protect employees from the grave danger resulting from DBCP exposure until a permanent standard can be promulgated in accordance with sections 6(b) and (c) of the Act. The following section discusses the significant provisions of the emergency temporary standard for DBCP and the necessity for including these provisions in the ETS.

1. Paragraph (a).—*Scope and application.* This standard applies to all employment where DBCP is present with the limited exception provided below. The principal activities covered by this ETS include the manufacture of DBCP, the formulation of pesticides containing DBCP, and related activities of packaging, repackaging, storage, transportation, and disposal of DBCP.

This standard does not apply to exposures which result solely from the application and use of DBCP as a pesticide. The clinical evidence of sterility has been observed principally among employees engaged in manufacture of DBCP and formulation of pesticides containing DBCP. However, among the employees of Oxidental Chemical Co., examined by Dr. Whorton were nine demonstrator applicators and "set-up" men. Five of the nine were found to have abnormally low sperm counts. Few examinations have been performed to date among the workers whose only exposure to DBCP has resulted from its typical use as a pesticide in agricultural operations. Nevertheless, OSHA believes that the human health effects actually observed among workers exposed to relatively low levels of DBCP combined with the related findings of reproductive effects and carcinogenicity in several animal studies strongly indicate that similar hazards are to be expected among those workers exposed to DBCP in the agricultural pesticide applications. At the same time, OSHA recognizes the important role that EPA regulation of pesticides has for the protection of those workers engaged in the application and use of DBCP. In issuing this ETS, OSHA is acting to assure immediate protection of workers whose exposure to DBCP is not presently covered by a specific regulation of either agency, i.e. those engaged in manufacturing and formulation operations. EPA has indicated that it intends to respond immediately to appropriately limit the use of DBCP-containing pesticides based on the recent new evidence. In view of the possibility that immediate EPA action in this case could remove the need for further action by OSHA to protect these employees, this ETS does not now apply to the application of DBCP pesticides or to subsequent exposure of field employees. OSHA will consider including these operations and employees in the permanent standard for DBCP and possibly amending this ETS to cover these operations and employees as information concerning adverse effects on these employees and possible parallel EPA action develops.

2. Paragraph (c).—*Permissible exposure limits.* The ETS establishes a permissible airborne exposure limit and a prohibition on eye or skin contact with DBCP. The eight-hour time-weighted average is set at 10 parts DBCP per billion parts of air (10 ppb); or 0.097 milligrams DBCP per cubic meter of air (0.097 mg/cu. m.) where exposure is to dusts or mists, or dusts and/or mists combined with vapor. A ceiling permissible exposure limit is established at 50 ppb (0.48 mg/cu. m.), as averaged over any 15 minutes.

The reported exposure of employees at concentrations significantly less than 1 ppm at several manufacturing and formulating plants and the resulting sterility effect in a substantial proportion of the exposed employees even at that level clearly indicates that a substantial reduction must be accomplished to mitigate the risk. There is, unfortunately, no accurate information on the exact level necessary to eliminate this risk. Here, we cannot determine the exact mechanism and cannot determine whether there is a safe level or threshold level below which reproductive effects would not occur.

In addition, while DBCP has not yet been demonstrated to be a carcinogen in humans, the clear evidence from several animal tests in mammalian species indicates that for the protection of the worker, we must regard DBCP as posing a potential carcinogen risk. OSHA policy, which is based on the best available scientific evidence and which is consistent with the policies and recommendations of nearly all public bodies which have addressed the problem of exposure to cancer-causing substances, has been and is that a substance which causes cancer in animals must be regulated as a human carcinogen and in the absence of a demonstrated "safe" or "no effect" level for human exposure to a carcinogen, it must be assumed, as a prudent policy matter, that no safe level exists.

Accordingly, the setting of an exposure level for DBCP cannot be based on a determination of a "safe" level which will eliminate the cancer and sterility hazard, but rather on a determination of a level which will immediately minimize the hazard to the greatest extent possible, within the confines of feasibility. Consequently it is determined that a prudent assessment of both the health effects, and the measurement technology, and the means for reducing employee exposure directs the establishment of an eight-hour time weighted average permissible exposure limit of 10 ppb.

In addition to limiting the 8-hour time weighted average exposures to 10 ppb, the emergency standard requires that no employee be exposed to DBCP in excess of 50 ppb averaged over any 15-minute period. An employee may be exposed to

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varying concentrations of DBCP during the course of the work day with some periods of exposure above 10 ppb and corresponding periods below 10 ppb. OSHA believes that the uncertainty regarding the concentrations and duration of exposure that may cause sterility or increase carcinogenic risk requires that the magnitude of brief excursions must be limited. Consequently, a ceiling limit of 50 ppb averaged over any 15 minute period is established.

3. Paragraph (d).—*Notification of use.* The ETS requires employers to notify the OSHA Area Director of the location of workplaces where DBCP is present, and to describe the conditions of use and exposure and the protective measures in effect. This will permit OSHA to assemble a better profile of the industry, its capabilities, and the affected workforce and to more effectively schedule and conduct its enforcement activities.

4. Paragraph (e).—*Exposure monitoring.* The exposure monitoring provisions intend that the employer determine the exposure for each employee exposed to DBCP. This does not require separate measurements for each employee. If a number of employees perform essentially the same job under the same conditions, it may be sufficient to monitor a significant fraction of such employees and obtain results that are representative of the remaining employees.

Where exposures are determined to be above the permissible exposure limit, the employer must monitor monthly. Otherwise the employer may monitor quarterly. "Exposure" in this connection means the airborne concentrations in the worker's breathing zone, with no adjustment for the protection of any respirator the employee may be wearing.

The employer is also required to monitor again if any changes in production, processes, control measures or personnel make it likely that new or additional exposures to DBCP will result.

5. Paragraph (f).—*Methods of compliance.* The standard is flexible and permits a variety of responses to achieve the required reduction in employee exposure. The employer may use feasible engineering controls, work practices, personal protective equipment and respirators as necessary to achieve the required degree of protection. This is substantively different from the requirement in existing OSHA permanent standards. In these there is a hierarchy, requiring maximal use of engineering controls, and work practices, and allowing respirators and personal protection only where all other feasible means fail to control exposure.

Some fundamental and easily implemented work practices are prescribed specifically in the standard; limiting access to work areas to only necessary employees; prohibiting smoking and eating in work areas, and housekeeping and maintenance to reduce amounts of material that may be present in the workplace.

The ETS also requires employers to prepare a plan to reduce employee exposure to the lowest feasible level solely by engineering and work practice methods, within 90 days of the issuance of the ETS. While the ETS will be in effect for only a brief time, and a full public proceeding must precede the issuance of a permanent standard, OSHA believes it is necessary to begin planning now for employee protection in the long term. Because of the general irreversibility of cancer as pointed out above, OSHA considers the early reduction of employee exposures the most significant provision in decreasing the gravity of the health risk.

6. Paragraph (g).—*Respiratory protection.* The ETS provides that, whenever the permissible exposure limits are exceeded, the employer must provide and assure that the employees use respirators. The ETS contains a respirator selection table (table 1) so the employer will provide the type of respirator which affords the proper degree of protection based on the airborne concentrations of DBCP to which the employee may be exposed. The respirator table for DBCP is derived from the Standards Completion Project respirator decision logic.

Because of the lead time in obtaining atmosphere supplying respirators, the ETS permits the use of air-purifying respirators (pesticide type, using a chemical cartridge with particulate filter), in spite of the fact that DBCP has no useful warning properties at concentrations where the protection factor of negative-mode respirators may be used.

Because DBCP has no warning properties at concentrations where the use of air-purifying respirators is permitted, and because these respirators have no end-of-service life, the ETS requires that the cartridges or cannister be replaced at the end of each work shift in which they are first used. Special care must be taken in their use to assure proper fitting.

The ETS requires that the employee be properly trained to wear the respirator, to know why the respirator is needed and to understand the limitations of the respirator. An understanding of the hazards involved is necessary to enable the employee to take steps for his or her own protection. The respiratory protection program implemented by the employer must conform with 29 CFR 1910.134. This section contains the basic requirements for use, cleaning, and maintenance of respirators.

To prevent skin irritation and to minimize the discomfort of respirator use, the ETS requires that employees must be allowed to periodically wash their faces and respirator facepieces in order to remove any accumulation of the DBCP or to reduce the chance of irritation from the wearing of the facepiece itself, such as a heat rash.

7. Paragraph (h).—*Protective clothing and equipment.* The ETS requires the employer to provide and assure that employees, who are subject to skin or any eye contact, use impermeable protective clothing or equipment such as goggles in order to minimize these hazards.

The ETS also requires that the employer clean, launder, or dispose of the required protective clothing to eliminate any potential exposure that might result were the clothing to be laundered by the employee, at home or in a commercial laundry.

The ETS also requires that protective clothing be provided in a clean and dry condition daily. Since skin contact with DBCP creates a potential for skin absorption, OSHA believes that the regular cleaning of contaminated work clothing plays an important role in the prevention of this hazard. The ETS also requires that protective clothing and equipment be maintained and replaced as needed in order to ensure effectiveness.

The ETS provides that the employer assure that all protective clothing is removed at the end of each work shift, and that the clothing that is to be laundered, cleaned, or disposed of be placed in a closable container. The purpose in requiring such a container is to prevent the contaminants on the clothing from being released in the ambient air or from being contacted by an individual handling the container.

Finally, the ETS requires employers to inform those who handle the contaminated protective clothing of the potentially harmful effects of exposure to DBCP. This provision is designed to make clear the need to use proper care in handling of the contaminated protective clothing.

8. Paragraph (i).—*Housekeeping.* Removal and prevention of accumulations of liquid deposits of DBCP or dusts containing DBCP, on all surfaces are important aspects in minimizing employee exposure. To assure that DBCP is not reintroduced into the workplace air, the standard prohibits dry sweeping or the use of compressed air for cleaning floors and other surfaces where DBCP is found. The standard also requires that when DBCP is present in liquid form, or as a resultant vapor, that all containers or vessels be enclosed to the maximum extent feasible and tightly covered when not in use.

For disposal of waste scrap or equipment or debris containing DBCP, the standard requires that such material be collected and disposed of in sealed or closed containers which prevent the dispersion of DBCP outside the containers. State environmental protection agencies designate appropriate landfills for the disposal of such waste.

9. Paragraph (j).—*Hygiene facilities and practices.* § 1910.141 prescribes hygiene facilities and practices required in all workplaces for ordinary sanitary protection. In addition, it includes provisions applicable where toxic substances are handled, for appropriate facilities and practices. While § 1910.141 is a separately applicable provision in OSHA regulations, attention is directed to it by specifically referring to it in this ETS.

10. Paragraph (k).—*Medical surveillance.* The standard requires that each employer institute a medical surveillance program for all employees who are, or will be exposed to DBCP. OSHA believes that a medical surveillance program is necessary in dealing with the problem of employee exposure to DBCP; hence, pursuant to the Act, this standard has prescribed it. The authority, indeed the requirement, to include medical surveillance in an OSHA standard is found in 6(b)(7) of the Act:

> • • • where appropriate, any such standard promulgated under subsection 6(b) shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at his cost, to employees exposed to such employment related hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure.

The ETS requires that the medical surveillance program provide each covered employee with an opportunity for medical examination.

All examinations and procedures are required to be performed by or under the supervision of a licensed physician and provided without cost to the employee. While the physician will usually be selected by the employer, the standard does not so mandate, leaving the employer free to institute alternative procedures such as joint selection with the employee or selection by the employee. Clearly, a licensed physician is the appropriate person to be conducting a medical examination. However, certain parts of the required examination (e.g. taking of a history) do not necessarily require a physician's expertise and may be conducted by another person under the supervision of the physician. As noted above, the Congress has mandated, by reason of section 6(b)(7) of the Act, that medical examinations and procedures required by OSHA standards be provided at no cost to the employee.

The ETS provides that a work history, medical history, and medical examination be performed. The content of the examination is consistent with that which has been employed by Dr. Whorton and physicians at Dow and Shell in the clinical evaluation of employees exposed to DBCP and which OSHA therefore believes is appropriate for this ETS. The purpose of this requirement is to make an initial medical assessment of each employee and to establish a baseline health condition against which future changes in an employee's health may be compared.

The standard requires that the employer provide the physician with certain information. This includes: (1) A copy of the regulation; (2) a description of the affected employee's duties as they relate to the employee's exposure; (3) the results of the employee's exposure monitoring; (4) if any personal protective equipment is used or is to be used; and (5) information from previous medical examinations of the affected employee to the extent that they are not readily available to the physician. The purpose of making this information available to the physician is to aid in the evaluation of the employee's health in relation to his assigned duties and fitness to wear personal protective equipment when required.

The employer is required to obtain a written opinion from the examining physician containing: (1) The results of the medical tests; (2) the physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of health from exposure to DBCP; (3) any recommended limitations upon the employee's exposure to DBCP and upon the use of protective clothing and equipment such as respirators; and (4) a statement that the employee has been informed by the physician in writing of the test results, and of any medical conditions which require further examination or treatment. This written opinion must not reveal specific findings or diagnoses unrelated to occupational exposure. A copy of the opinion must be provided to the affected employee by the employer.

The requirement that the employee be provided with a copy of the physician's written opinion will assure that the employee is informed of the results of the medical examination and may take any appropriate action. The purpose in requiring that specific findings or diagnoses unrelated to occupational exposure not be included in the written opinion is to encourage employees to submit to medical examination by removing the fear that employers may find out information about their physical condition that has no relation to occupational exposures.

11. Paragraph (l).—*Employee information and training.* The ETS requires the employer to provide a training program for employees exposed to DBCP. OSHA believes that an information and training program is essential for the protection of employees, because an employee can do much to protect himself if informed of the nature of the hazards in the workplace. To be effective, an employee education system must, at the minimum, apprise the employee of the specific hazards associated with his work environment. For this reason, the employer is required to inform each employee exposed to the DBCP of the nature of the related health problems; the necessity for exposure control and the medical and industrial hygiene monitoring programs.

The content of the training program is intended to apprise the employees of: (1) The hazards to which they are exposed; (2) the necessary steps to protect themselves, including avoiding exposures, using respiratory protection and taking medical examinations; (3) their role in reducing exposures; and (4) the contents of the standard. Section 6(b)(7) of the Act makes it clear that these are appropriate goals of an employee training program, and the standard, therefore, includes them.

The employer is also required to provide, upon request, all materials relating to the training program to the Secretary and the Director. This is intended to provide an objective check of compliance with the requirements of the standard.

12. Paragraph (m).—*Signs and labels.* OSHA believes that it is important, and indeed section 6(b)(7) of the Act provides, that appropriate forms of warning, as necessary, be used to apprise employees of the hazards to which they are exposed in the course of their employment. OSHA believes, as a matter of policy, that employees should be given the opportunity to make informed decisions as whether to work at a job under the particular working conditions. Furthermore, OSHA believes that since control of safety and health problems involves the cooperation of employees, success of a program is highly dependent upon the employee's understanding of the hazards attendant to that job.

In light of the serious nature of the hazard of exposure to DBCP, OSHA does not believe that periodic training alone will adequately apprise employees of the health hazards of DBCP. However, coupled with the training requirements, OSHA believes that the requirement to post signs and labels will adequately do so.

The standard requires that no statement which contradicts or detracts from the effect of any sign required by this paragraph shall appear on or near any such required sign.

Due to the hazardous nature of exposure to DBCP, OSHA believes that emphasis should be placed on warning employees and other persons about the danger of exposure. For this reason, the standard includes a requirement that caution labels be affixed to all containers containing DBCP and of the products containing it, not only because of the hazardous nature of such exposure, but because of the related necessity for both the employer and employee to know whether the product contains any DBCP. The labeling provisions for the standard also require the employer to assure that caution labels are affixed to any product containing the DBCP when such product leaves the employer's workplace. This requirement is designed to protect any other employees who will be handling, transporting, or using this product. Thus manufacturers and suppliers would be required to affix caution labels. The rationale for this requirement is that the manufacturer or supplier is the employer creating the hazard and is in the best position to know whether the product does contain DBCP and therefore to warn other employers and their employees. However, where DBCP or products containing DBCP are sold, distributed or otherwise leave the employer's workplace bearing appropriate labels required by EPA under the regulations in 40 CFR Part 162, the labels required by this paragraph need not be affixed.

13. Paragraph (n).—*Recordkeeping.* Section 8(c)(3) of the Act provides for the promulgation of regulations requiring employers to maintain accurate records of employee exposures to potentially toxic or harmful physical agents which are required to be monitored or measured.

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The standard provides that records must be kept to identify the employee and to accurately reflect the employee's exposure. Specifically, it must include: (a) The names, social security numbers; and job classification of the employees monitored; (b) the dates, number, duration, and results of each of the samples taken, including a description of the representative sampling procedure used to determine employee exposure where applicable; (c) the type of respiratory protective devices worn by the employee, if any; and (d) a description of the sampling and analytical methods used, and evidence of their accuracy.

The ETS also requires that the employer keep an accurate medical record for each employee who is subject to medical surveillance. Section 8(c) of the Act authorizes the promulgation of regulations requiring any employer to keep such records regarding the employer's activities relating to the Act as are necessary or appropriate for the enforcement of the Act or for developing information regarding the causes and prevention of occupational illnesses. OSHA believes that medical records (like exposure monitoring records) are both necessary and appropriate to both the enforcement of the standards and the development of information regarding the causes and prevention of illness.

As explained above, it is necessary to relate employees' medical conditions with their exposures in order to develop information regarding cause and prevention. Medical records are necessary and appropriate for this purpose. In addition, medical records are necessary for the proper evaluation of an individual employee's health. For all of these reasons, medical records have been required in the ETS.

The ETS requires that employees or their designated representatives be provided access to examine and copy records of required monitoring. The purpose of this provision is to assure current employees that their exposure is being properly monitored and that they are working in a safe and healthful environment. Section 8(c)(3) of the Act explicitly provides "employees or their representatives with an opportunity to observe • • • monitoring or measuring • • • and to have access to the records thereof."

The ETS requires that employee medical records be made available upon request for examination and copying to the affected employee or former employee or to a physician designated by the affected employee or former employee. The purpose of this provision is to protect the employee's health by authorizing his designated physician to have access to medical records useful in the diagnosis of illness.

14. Paragraph (o).—*Observation of monitoring.* Section 8(c)(3) of the Act requires that employers provide employees or their representatives with the opportunity to observe monitoring of employee exposures to toxic substances or harmful physical agents. In accordance with this section, the ETS contains provisions for such observation of DBCP monitoring. To assure that the right to observe is meaningful, observers are entitled to receive an explanation of the measurement procedure, to observe all steps related to the measurement procedure and record the results obtained.

The observer, whether an employee or designated representative, must be provided with, and is required to use, any personal protective devices required to be worn by employees working in the area that is being monitored, and must comply with all other applicable safety and health procedures.

15. Paragraph (p).—*Effective date.* The ETS becomes effective upon publication. However, certain paragraphs do contain briefly delayed effective dates.

The Assistant Secretary determines that all requirements under the new § 1910.1044 are feasible. Since the number of affected employers and employees is relatively small and since the required personal protective equipment, respirators, and monitoring equipment is standard, all necessary equipment is readily available in sufficient quantities. Where additional time for compliance is needed under certain provisions of the standard, such time has been explicitly granted. Examples of this are the medical surveillance and the training sections. Furthermore, many of the requirements of the new standard are already required by other OSHA standards, such as the eye and face protection under § 1910.133, respiratory protection under § 1910.134, and sanitation under § 1910.141. Finally, any feasibility problems concerning the immediate effective date are mitigated by: (1) The fact that, for years, EPA has required the use of labels warning of the hazardous nature of DBCP; (2) the fact that emergency information was sent by OSHA to all producers and formulators of DBCP warning of its hazardous properties; and (3) the fact that the two domestic producers have suspended production and have requested the return of all outstanding inventories of DBCP. Accordingly, employers for a substantial period of time, have been apprised of the hazardous nature of DBCP and of the need to provide protection, including the need for respirators and other protective equipment. Moreover, the number of employees exposed to DBCP should decrease as a result of the suspended productions.

16. Paragraph (q).—*Appendices.* The ETS includes three appendices: Appendix A titled "Substance Safety Data Sheet." Appendix B titled "Substance Technical Guidelines," and Appendix C titled "Medical Surveillance Guidelines." It should be noted that appendices are for informational purposes only. None of the statements contained therein should be construed as imposing a mandatory requirement not in the ETS, negating any requirement which is imposed by the standard.

The information in Appendix A is specifically written for the employee. Appendix B contains additional scientific and technical information to aid the employer in complying with requirements of the standard. Appendix C gives the employer a means of providing the examining physician with an explanation of the potential health effects of exposure to DBCP and provides information needed by the physician to evaluate the results of the medical examination. Appendix C also lists other types of examinations, not required by the individual standard, which may help the physician in making an accurate determination of whether an employee should be exposed or should continue to be exposed to DBCP.

17. References

The studies and other data listed below, as well as the additional material referred to in this document, represent the principal sources upon which the Emergency Temporary Standard is based. A complete set of the references is available for examination and copying at the OSHA Technical Data Center, Docket Office, Room S6212, U.S. Department of Labor, Second Street and Constitution Avenue NW., Washington, D.C. between 8:30 a.m. and 4:30 p.m. Monday through Friday, legal holidays excepted.

1. Faydyah, E. V., N. N. Rakhmatullaev, and V. A. Varshavskii: The cytoxic action of Nemagon in a subacute experiment. *Med. Zh. Uzbekistana*, 1:64–5, 1970 (Russian).

2. Olsen, W. A., R. T. Habermann, E. K. Weisburger, J. M. Ward, and J. H. Weisburger: Induction of stomach cancer in rats and mice by halogenated aliphatic fumigants. *Journal of the National Cancer Institute*, 51(6):1993–1995, 1973.

3. Powers, M. B., R. W. Voelker, N. P. Page, E. K. Weisburger, and H. F. Kraybill: Carcinogenicity of Ethylene Dibromide (EDB) and 1,2-Dibromo-3-chloropropane (DBCP) after oral administration in rats and mice.

4. Rakhmatullaev, N. N.: Hygienic characteristics of the nematocide Nemagon in relation to water pollution control. *Hyg. Sanit.*, 36(3):344–348, 1971 (Russian).

5. Reznik, Ya. B., and G. K. Sprinchan: Experimental data on the gonadotoxic effect of Nemagon. *Gig. Sanit.*, 6:101–102, 1975 (Russian).

6. Torkelson, T. R., S. E. Sadek, V. K. Rowe, J. K. Kodama, H. H. Anderson, G. S. Loquvam, and C. H. Hine: Toxicologic investigations of 1,2-Dibromo-3-chloropropane. *Toxicology and Applied Pharmacology*, 3:545–559, 1961.

7. Weisburger, E. K.: Carcinogenicity studies on halogenated hydrocarbons. *Environmental Health Perspectives*, In press.

8. Whorton, Donald, M.D. OSHA interview with Dr. Whorton on August 31, 1977, concerning the sterility of workers exposed to 1,2-Dibromo-3-chloropropane at Occidental Chemical Co.'s Lathrop, Calif., plant.

9. Telegram, Dr. Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C., to Dr. V. K. Rowe, Dow Chemical U.S.A., 1803 Building, Midland, Mich., requesting information on employee exposure to 1,2-Dibromo-3-chloropropane and Ethylene dibromide; dated August 30, 1977.

10. Letter from Dow Chemical U.S.A., Dr. Benjamin B. Holder responding for Dr. Rowe to Dr. Eula Bingham, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, dated September 1, 1977.

11. Telegram, Dr. Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C., to Dr. R. E. Joyner, Corporate Medical Director, Shell Oil Co., P.O. Box 2463, Houston, Tex. 77001, requesting information on employee exposure to 1,2-Dibromo-3-chloropropane, and Ethylene dibromide; dated August 30, 1977.

12. Telegram from Shell Oil Co., Dr. R. E. Joyner, M.D., Corporate Medical Director to Dr. Eula Bingham, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, dated August 31, 1977.

13. Telegram, U.S. Department of Labor, Occupational Safety and Health Administration, Office of Field Coordination, to all producers and users of 1,2-Dibromo-3-chloropropane, dated August 12, 1977.

14. Letter, Occupational Health Guideline for 1,2-Dibromo-3-chloropropane (DBCP), U.S. Department of Labor, Occupational Safety and Health Administration, sent to all producers and users of DBCP, dated August 25, 1977.

15. Joint NIOSH–OSHA Standards Completion Program, Respirator Decision Logic, August 2, 1976. Occupational Safety and Health Administration, Washington, D.C. 20210.

16. Draft working document for 29 CFR Part 1990. Identification, classification, and regulation of certain toxic substances. Identification, classification, and regulation of toxic substances posing a potential occupational carcinogenic risk. Occupational Safety and Health Administration, Directorate of Health Standards, Washington, D.C. 20210 (January 1977).

V. Environmental and Economic Impacts

The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and regulations issued thereunder (29 CFR Part 1999) require that Federal agencies assess their proposed major actions to determine whether a significant impact on the quality of the human environment may result, and if necessary to prepare an environmental impact statement. An environmental impact statement on the regulation of occupational exposure to DBCP will be prepared and made available as required during the rulemaking proceedings under section 6(b) of the Act. Because of the emergency nature of this standard, no environmental impact statement can be prepared or is required for the emergency temporary standard.

In accordance with Executive Order 11821 (39 FR 41501, November 29, 1974) Executive Order 11949 (42 FR 1017, January 5, 1977), OMB Circular No. A-107 (January 28, 1975), and Secretary's Order No. 15–75 (40 FR 54484, November 24, 1975), and administrative instructions thereto (U.S. Department of Labor Temporary Directive No. 1, November 17, 1975), OSHA has assessed the potential economic impact of this proposal. Based on the economic identification criteria specified in section 5(c) of Secretary's Order No. 15–75, OSHA has concluded that the subject matter of this proposal is not a "major" action which would necessitate further economic impact evaluation or the preparation of an Economic Impact Statement, and so certifies pursuant to section 4(a) of the Secretary's Order.

Issues concerning cost and economic impact, however, will be appropriate issues for consideration at the rulemaking proceeding.

VI. Public Participation—Notice of Hearing

Pursuant to section 6(c)(3) of the Act, this ETS as published also serves as a proposal for a permanent rule. It is OSHA's intention to develop and publish a more comprehensive proposal in the very near future. This proposal will contain additional provisions and some modifications of this emergency standard. Since the comprehensive proposal will be based on the emergency standard and since the emergency nature of the proceeding and requirements of section 6(c) will necessitate expedited treatment throughout the development of the final standard on DBCP, interested parties should begin preparation of their written comments and oral presentations immediately.

Interested persons are invited to submit written data, views, and arguments with respect to this ETS and the supplementary proposal to be published shortly. These comments must be postmarked on or before October 10, 1977, and submitted in quadruplicate to the Docket Officer, Docket No. H–061, Room S6212, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210. Written submissions must clearly identify the provisions of the ETS and the proposal which are addressed and the position taken with respect to each issue.

The data, views, and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions received will be available for public inspection and copying at the above address. All timely written submissions will be made a part of the record of this proceeding.

Pursuant to section 6(b)(3) of the Act, an opportunity to submit oral testimony concerning the issues raised by the ETS and the proposed standard, including the economic and environmental impacts, will be provided at an informal public hearing scheduled to begin at 9:30 a.m. on December 6, 1977, in the New Department of Labor Auditorium, New Department of Labor Building, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210.

Notices of Intention To Appear

All persons desiring to participate at the hearing, must file in quadruplicate a notice of intention to appear, postmarked on or before November 4, 1977, addressed to Mr. Stephen Kaffee, OSHA Division of Consumer Affairs, Docket No. H–061, Room N–3635, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210; telephone 202–523–8024.

The notices of intention to appear, which will be available for inspection and copying at the OSHA Technical Data Center—Docket Office (Room S6212), telephone 202–523–7895, must contain the following information:

(1) The name, address, and telephone number of each person to appear;

(2) The capacity in which the person will appear:

(3) The approximate amount of time requested for the presentation;

(4) The specific issues that will be addressed;

(5) A detailed statement of the position that will be taken with respect to each issue addressed; and

(6) Whether the party intends to submit documentary evidence, and if so, a brief summary of that evidence.

Filing of Testimony and Evidence Before Hearing

Any party requesting more than 15 minutes for a presentation at the hearing, or who will submit documentary evidence, must provide in quadruplicate the complete text of his testimony including any documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs. This material must be received by November 21, 1977, and will be available for inspection and copying at the Technical Data Center—Docket Office. Each such submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with this requirement may be limited to a 15 minute presentation, and may be requested to return for questioning at a later time.

Conduct of Hearings

The hearing will commence at 9:30 a.m. on December 6, 1977, with resolution of any procedural matters relating to the proceeding. The hearing will be conducted in accordance with 29 CFR Part 1911. In view of the emergency nature of this rulemaking proceeding, the hearing will be conducted in as expedited a manner as possible consistent with a full development of the record and the rights of the parties.

The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary or appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911. Following the close of the hearing or of any posthearing comment period, the presiding Administrative Law Judge will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health. The proposal will be reviewed in light of all oral and written submissions received as part of the record, and a standard will be issued based on the entire record in this proceeding.

Authority

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, pursuant to sections 6(c) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596, 1599, 29 U.S.C. 655, 657), the Secretary of

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Labor's Order No. 8-76 (41 FR 25059), and 29 CFR Part 1911, it is hereby proposed to amend Part 1910 of Title 29, Code of Federal Regulations by adding a new § 1910.1044 as set forth below. This amendment is effective on September 9, 1977.

Signed at Washington, this third day of September 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

§ 1910.1044 1,2 - dibromo - 3 - chloropropane.

(a) *Scope and application.* This section applies to all occupational exposures to 1,2-dibromo-3-chloropropane (DBCP), Chemical Abstracts Service Registry Number 96-12-8, except that this section does not apply to exposure to DBCP which results solely from the application and use of DBCP as a pesticide.

(b) *Definitions.* "Authorized person" means any person specifically authorized by the employer and whose duties require the person to be present in areas where DBCP is present; and any person entering this area as a designated representative of employees exercising an opportunity to observe employee exposure monitoring.

"DBCP" means 1,2-dibromo-3-chloropropane.

"Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, or designee.

"OSHA Area Office" means the Area Office of the Occupational Safety and Health Administration having jurisdiction over the geographic area where the affected workplace is located.

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

(c) *Permissible exposure limits*—(1) *Inhalation.*—(i) *Time-weighted average limit (TWA).* The employer shall assure that no employee is exposed to an airborne concentration in excess of 10 parts DBCP per billion part of air (ppb) as an 8-hour time-weighted average.

(ii) *Ceiling limit.* The employer shall assure that no employee is exposed to an airborne concentration in excess of 50 parts DBCP per billion parts of air (ppb) as averaged over any 15 minutes during the working day.

(2) *Dermal and eye exposure.* The employer shall assure that no employee is exposed to eye or skin contact with DBCP.

(d) *Notification of use.* Within ten (10) days of the effective date of this section or within ten (10) days following the introduction of DBCP into the workplace, every employer who has a workplace where DBCP is present shall report the following information to the nearest OSHA Area Office for each such workplace:

(1) The address and location of each workplace in which DBCP is present;

(2) A brief description of each process or operation which may result in employee exposure to DBCP;

(3) The number of employees engaged in each process or operation who may be exposed to DBCP and an estimate of the frequency and degree of exposure that occurs;

(4) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to DBCP.

(e) *Exposure monitoring*—(1) *General.* Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to DBCP over an 8-hour period. (For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.)

(2) *Initial.* Each employer who has a place of employment in which DBCP is present shall monitor, within thirty (30) days of the effective date of this section, each workplace and work operation to accurately determine the airborne concentrations of DBCP to which employees may be exposed.

(3) *Frequency.* (i) If the monitoring required by this section reveals employee exposures to be below the permissible exposure limits, the employer shall repeat these determinations at least quarterly.

(ii) If the monitoring required by this section reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employee at least monthly. The employer shall continue these monthly determinations until at least two consecutive measurements, taken at least seven (7) days apart, are below the permissible exposure limit, thereafter the employer shall monitor at least quarterly.

(4) *Additional.* Whenever there has been a production process, control or personnel change which may result in any new or additional exposure to DBCP, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to DBCP, additional monitoring which complies with this paragraph (e) shall be conducted.

(5) *Employee notification.* (i) Within five (5) working days after the receipt of monitoring results, the employer shall notify each employee in writing of results which represent the employee's exposure.

(ii) Whenever the results indicate that employee exposure exceeds the permissible exposure limit, the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(6) *Accuracy of measurement.* The method of measurement shall be accurate, to a confidence level of 95 percent, to within plus or minus 25 percent for concentrations of DBCP at or above the permissible exposure limits.

(f) *Methods of compliance.* The employer shall control employee exposures to airborne concentrations of DBCP to within the permissible exposure limit, and shall protect against employee exposure to eye or skin contact with DBCP by engineering controls, work practices and personal protective equipment.

(1) *Engineering controls.* The employer shall develop and implement, as soon as possible, feasible engineering controls to reduce the airborne concentrations of DBCP to within the permissible exposure limits.

(2) *Work practices.* The employer shall examine each work area in which DBCP is present and shall institute, as soon as possible, work practices to reduce employee exposure to DBCP. The work practices shall be described in writing and shall include, among other things, the following mandatory work practices:

(i) Limiting access to work areas where DBCP is present to authorized personnel only;

(ii) Prohibiting smoking and the consumption of food and beverages in work areas where DBCP is present; and

(iii) Establishing good maintenance and housekeeping practices including the prompt cleanup of spills, repair of leaks, and the practices required in paragraph (i) of this section.

(3) *Respiratory protection.* Where engineering and work practice controls are not sufficient to reduce employee exposures to airborne concentrations of DBCP to within the permissible exposure limits, the employer shall provide at no cost to the employee, and assure that employees wear, respirators in accordance with paragraph (g) of this section.

(4) *Engineering and work practice control plan.* (i) Within ninety (90) days of the effective date of this section, the employer shall develop a written plan describing proposed means to reduce employee exposures to DBCP to the lowest feasible level solely by means of engineering and work practice controls.

(ii) Written plans required under this paragraph (f)(4) shall be submitted upon request to the Secretary and the Director, and shall be available at the worksite for examination and copying by the Secretary, the Director, and any affected employee or designated representative of employees.

(g) *Respirators.*—(1) *Required use.* The employer shall assure that respirators are used where required under this section to reduce employee exposure to within the permissible exposure limits, and in emergencies.

(2) *Respirator selection.* (i) Where respirators are used to reduce employee exposures to within the permissible exposure limit and in emergencies, the employer shall select and provide, at no cost to the employee, the appropriate respirator from Table I below and shall assure that the employee wears the respirator provided.

(ii) The employer shall select respirators from among those approved by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

TABLE 1—RESPIRATORY PROTECTION FOR DBCP

Concentration	Respiratory protection
Concentration not greater than:	
100 ppb:	Any chemical cartridge respirator with pesticide cartridge(s). Any supplied-air respirator. Any self-contained cartridge breathing apparatus.
500 ppb:	A chemical cartridge respirator with full facepiece and pesticide cartridge(s). A gas mask with full facepiece and pesticide canister. Any supplied-air respirator with full facepiece, helmet or hood. Any self-contained breathing apparatus with full facepiece.
5,000 ppb:	A Type C supplied-air respirator operated in pressure-demand or other positive pressure or continuous flow mode.
20,000 ppb:	A Type C supplied-air respirator with full fasepiece operated in pressure-demand or other positive pressure mode, or with full facepiece, hood or helmet operated in continuous flow mode.
Greater than 20,000 ppb or entry and escape from unknown concentrations:	A combination respirator which includes a Type C supplied-air respirator with full facepiece operated in pressure-demand or other positive pressure or continuous flow mode and an auxiliary self-contained breathing apparatus operated in pressure-demand or positive pressure mode. A self-contained breathing apparatus with full facepiece operated in pressure-demand or other positive pressure mode.
Firefighting:	A self-contained breathing apparatus with full facepiece operated in pressure-demand or other positive pressure mode.

(3) *Respirator program.* (i) The employer shall institute a respiratory protection program in accordance with 29 CFR 1910.134(b), (d), (e), and (f).

(ii) Where air-purifying respirators (chemical cartridge or gas mask) are used, the air-purifying canister or cartridge(s) shall be replaced prior to the expiration of their service life or the beginning of each shift, whichever occurs first.

(iii) Employees who wear respirators shall be allowed to wash their face and respirator facepiece to prevent potential skin irritation associated with respirator use.

(h) *Protective clothing and equipment.*—(1) *Provision and use.* Where eye or skin contact with liquid or solid DBCP may occur, employers shall provide at no cost to the employee, and assure that employees wear impermeable protective clothing and equipment in accordance with §§ 1910.132 and 1910.133 to protect the area of the body which may come in contact with DBCP.

(2) *Cleaning and replacement.* (i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this paragraph to maintain their effectiveness. In addition, the employer shall provide clean protective clothing and equipment at least daily to each affected employee.

(ii) The employer shall assure that the employee removes all protective clothing and equipment at the completion of a workshift.

(iii) The employer shall assure that DBCP-contaminated protective work clothing and equipment is placed and stored in closed containers which prevent dispersion of DBCP outside the container.

(iv) The employer shall inform any person who launders or cleans DBCP-contaminated protective clothing or equipment of the potentially harmful effects of exposure to DBCP.

(v) The employer shall assure that the containers of contaminated protective clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with paragraph (m)(3) of this section.

(vi) The employer shall prohibit the removal of DBCP from protective clothing and equipment by blowing or shaking.

(i) *Housekeeping.*—(1) *Surfaces.* (i) All surfaces shall be maintained free of accumulations of DBCP.

(ii) Dry sweeping and the use of air for the cleaning of floors and other surfaces where DBCP dust or liquids are found is prohibited.

(iii) Where vacuuming methods are selected, either portable units or a permanent system may be used.

(*a*) If a portable unit is selected, the exhaust shall be attached to the general workplace exhaust ventilation system or collected within the vacuum unit, equipped with high efficiency filters or other appropriate means of contaminant removal, so that DBCP is not reintroduced into the workplace air; and

(*b*) Portable vacuum units used to collect DBCP may not be used for other cleaning purposes and shall be labeled as prescribed by paragraph (m)(3) of this section.

(iv) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(2) *Liquids.* Where DBCP is present in a liquid form, or as a resultant vapor, all containers or vessels containing DBCP shall be enclosed to the maximum extent feasible and tightly covered when not in use.

(3) *Waste disposal.* DBCP waste, scrap, debris, bags, containers or equipment, shall be disposed in sealed bags or other closed containers which prevent dispersion of DBCP outside the container.

(j) *Hygiene facilities and practices.* Hygiene facilities shall be provided and practices implemented in accordance with the requirements of § 1910.141.

(k) *Medical surveillance.*—(1) *General.* The employer shall institute a program of medical surveillance for each employee who is or will be exposed, without regard to the use of respirators, to DBCP. The employer shall provide each such employee with an opportunity for medical examinations and tests in accordance with this paragraph. All medical examinations and procedures shall be performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(2) *Frequency and content.* Within 30 days of the effective date of this section or time of initial assignment, and whenever exposure to DBCP, the employer shall provide a medical examination including at least the following:

(i) A complete medical and occupational history with emphasis on reproductive history.

(ii) A complete physical examination with emphasis on the genito-urinary tract, testicle size, and body habitus including the following tests:

(*a*) Sperm count;

(*b*) Complete urinalysis (U/A);

(*c*) Complete blood count; and

(*d*) Thyroid profile.

(iii) A serum specimen shall be obtained and the following determinations made:

(*a*) Serum multiphasic analysis (SMA 12);

(*b*) Serum testosterone;

(*c*) Serum follicle stimulating hormone (FSH);

(*d*) Serum luteinizing hormone (LH).

(3) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(i) A copy of this emergency temporary standard and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The level of DBCP to which the employee is exposed; and

(iv) A description of any personal protective equipment used or to be used.

(4) *Physician's written opinion.* (i) The employer shall obtain a written opinion from the examining physician which shall include:

(*a*) The results of the medical tests performed;

(*b*) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of health from exposure to DBCP;

(*c*) Any recommended limitations upon the employee's exposure to DBCP or upon the use of protective clothing and equipment such as respirators; and

(*d*) A statement that the employee was informed by the physician of the results of the medical examination, and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to DBCP.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(l) *Employee information and training*—(1) *Training Program.* (i) Within thirty (30) days of the effective date of this standard, the employer shall insti-

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tute a training program for all employees who may be exposed to DBCP and shall assure their participation in such training program.

(ii) The employer shall assure that each employee is informed of the following:

(*a*) The information contained in Appendixes A, B, and C;

(*b*) The quantity, location, manner of use, release or storage of DBCP and the specific nature of operations which could result in exposure to DBCP as well as any necessary protective steps;

(*c*) The purpose, proper use, and limitations of respirators;

(*d*) The purpose and description of the medical surveillance program required by paragraph (k) of this section; and

(*e*) A review of this standard.

(2) *Access to Training Materials.* (i) The employer shall make a copy of this standard and its appendixes readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the Secretary and the Director.

(m) *Signs and labels*—(1) *General.* (i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to or in combination with, signs and labels required by this paragraph.

(ii) The employer shall assure that no statement appears on or near any sign or label required by this paragraph which contradicts or detracts from the required sign or label.

(2) *Signs.* (i) The employer shall post signs to clearly indicate all work areas where DBCP may be present. These signs shall bear the legend:

DANGER

1,2-Dibromo-3-chloropropane

(Insert appropriate trade or common names)

CANCER HAZARD

AUTHORIZED PERSONNEL ONLY

(ii) Where airborne concentrations of DBCP exceed the permissible exposure limits, the signs shall bear the additional legend:

RESPIRATOR REQUIRED

(3) *Labels.* (i) The employer shall assure that precautionary labels are affixed to all containers of DBCP and of products containing DBCP, and that the labels remain affixed when the DBCP or products containing DBCP are sold, distributed, or otherwise leave the employer's workplace. Where DBCP or products containing DBCP are sold, distributed or otherwise leave the employer's workplace bearing appropriate labels required by EPA under the regulations in 40 CFR Part 162, the labels required by this paragraph need not be affixed.

(ii) The employer shall assure that the precautionary labels required by this paragraph are readily visible and legible. The labels shall bear the following legend:

DANGER

1,2-Dibromo-3-chloropropane

CANCER HAZARD

(n) *Recordkeeping*—(1) *Exposure monitoring.* (i) The employer shall establish and maintain an accurate record of all monitoring required by paragraph (e) of this section.

(ii) This record shall include:

(*a*) The dates, number, duration and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure;

(*b*) A description of the sampling and analytical methods used;

(*c*) Type of respiratory worn, if any; and

(*d*) Name, social security number, and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for the effective period of this emergency temporary standard and for any additional period required by the permanent standard.

(2) *Medical surveillance.* (i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance required by paragraph (k) of this section.

(ii) This record shall include:

(*a*) A copy of the physician's written opinion.

(*b*) Any employee medical complaints related to exposure to DBCP;

(*c*) A copy of the information provided the physician as required by paragraph (k)(3) of this section; and

(*d*) A copy of the employee's work history.

(iii) The employer shall assure that this record be maintained for the effective period of this emergency temporary standard and for any additional time required by the permanent standard.

(3) *Availability.* (i) The employer shall assure that all records required to be maintained by this section be made available upon request to the Secretary and the Director for examination and copying.

(ii) The employer shall assure that employee exposure monitoring records required by this section be made available upon request, for examination and copying to the affected employee or former employee, and their designated representatives.

(iii) The employer shall assure that employee medical records required to be maintained by this section be made available, upon request, for examination and copying to the affected employee or former employee, or to a physician designated by the affected employee or former employee or designated representative.

(o) *Observation of monitoring*—(1) *Employee observation.* The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to DBCP conducted under paragraph (e) of this section.

(2) *Observation procedures.* (i) Whenever observation of the measuring or monitoring of employee exposure to DBCP requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring or measurement, observers shall be entitled to:

(*a*) Receive an explanation of the measurement procedures;

(*b*) Observe all steps related to the measurement of airborne concentrations of DBCP performed at the place of exposure; and

(*c*) Record the results obtained.

(p) *Effective date.* This section shall become effective September 9, 1977.

(q) *Appendices.* The information contained in the appendices is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligation.

APPENDIX A—SUBSTANCE SAFETY DATA SHEET FOR DBCP

I. SUBSTANCE IDENTIFICATION

A. Synonyms and trade names: DBCP; Dibromochloropropane; Fumazone (Dow Chemical Co. TM); Nemafume; Nemagon (Shell Chemical Co. TM); Nemaset; BBC 12; and OS 1870.

B. DBCP can be found as a: Concentrate; liquid; solution; and granules;

C. DBCP is used on crops including: cotton; soybeans; fruits; nuts; vegetables; and ornamentals.

D. DBCP can be applied to crops: Before planting; during planting; and after planting.

E. Permissible exposure: Exposure may not exceed either:

1. 10 parts DBCP per billion parts of air (10 ppb) averaged over the eight-hour work day; or

2. 50 parts DBCP per billion parts of air (50 ppb) averaged over any 15 minute period in the workday.

II. HEALTH HAZARD DATA

A. Routes of entry: Employees may be exposed:

1. Through inhalation (breathing);
2. Through ingestion (swallowing);
3. Skin contact; and
4. Eye contact.

B. Effects of overexposure:

1. Short-term exposure: DBCP may cause drowsiness, irritation of the eyes, nose, throat and skin, nausea and vomiting. In addition, overexposure may cause damage to the lungs, liver or kidneys.

2. Long-term exposure: Prolonged or repeated exposure to DBCP may cause injury to the lungs, liver or kidneys. DBCP has been associated with sterility in humans and laboratory animals. It also has been shown to produce cancer in laboratory animals.

3. Reporting Signs and Symptoms: If you develop any of the above signs or symptoms that you think are caused by exposure to DBCP, you should inform your employer.

III. EMERGENCY FIRST AID PROCEDURES

A. *Eye exposure.* If DBCP liquid or dust containing DBCP gets into your eyes, wash your eyes immediately with large amounts of water, lifting the lower and upper lids occasionally. Get medical attention immediately. Contact lenses should not be worn when working with DBCP.

B. *Skin exposure.* If DBCP liquids or dusts containing DBCP get on your skin, immediately wash using soap or mild detergent and water. If DBCP liquids or dusts containing DBCP penetrate through your clothing, remove the clothing immediately and wash. If irritation is present after washing get medical attention.

C. *Breathing.* If you or any person breathe in large amounts of DBCP, move the exposed person to fresh air at once. If breathing has stopped, perform artificial respiration. Do not use mouth-to-mouth. Keep the affected person warm and at rest. Get medical attention as soon as possible.

D. *Swallowing.* When DBCP has been swallowed and the person is conscious, give the person large amounts of water immediately. After the water has been swallowed, try to get the person to vomit by having him touch the back of his throat with his finger. Do not make an unconscious person vomit. Get medical attention immediately.

E. *Rescue.* Notify someone. Put into effect the established emergency rescue procedures. Know the locations of the emergency rescue equipment before the need arises.

IV. RESPIRATORS AND PROTECTIVE CLOTHING

A. *Respirators.* You may be required to wear a respirator for non-routine activities or in emergencies and while your employer is in the process of reducing DBCP exposures through engineering controls. If respirators are worn, they must have a Mining Enforcement and Safety Administration (MESA) or National Institute for Occupational Safety and Health (NIOSH) approval label. (Older respirators may have a Bureau of Mines Approval label). For effective protection, a respirator must fit your face and head snugly. The respirator should not be loosened or removed in work situations where its use is required. DBCP does not have a detectable odor except at 300 times or more above the permissible exposure limit. Do not depend on odor to warn you when a respirator cartridge or canister is exhausted. Cartridges or canisters must be changed daily. Re-use of these may allow DBCP to gradually filter through the cartridge and cause exposures which you cannot detect by odor. If you can smell DBCP while wearing a respirator, the respirator is not working correctly; go immediately to fresh air. If you experience difficulty breathing while wearing a respirator, tell your employer.

B. *Protective Clothing.* You should wear impervious coveralls or similar fullbody work clothing, gloves, headcoverings, boots or shoe coverings to avoid contact with liquid or dust containing DBCP. Standard rubber and neoprene gloves do not offer adequate protection.

DBCP should never be allowed to remain on the skin. Clothing and shoes should not be allowed to become contaminated with the material, and if they do, they should be promptly removed and not worn again until completely free of the material. Turn in impervious clothing that has developed leaks for repair or replacement.

C. *Eye protection.* You must wear splashproof safety goggles where there is any possibility of DBCP liquid or dust contacting your eyes.

V. PRECAUTIONS FOR SAFE USE, HANDLING, AND STORAGE

A. DBCP must be stored in tightly closed containers in a cool, well-ventilated area.

B. If your work clothing may have become contaminated with DBCP, or liquids or dusts containing DBCP, you must change into uncontaminated clothing before leaving the work premises.

C. You must promptly remove any nonimpervious clothing that becomes contaminated with DBCP. This clothing must not be reworn until the DBCP is removed from the clothing.

D. If your skin becomes contaminated with DBCP, you must promptly and thoroughly wash or shower with soap or mild detergent and water to remove any DBCP from your skin.

E. You must not keep food, beverages, or smoking materials, nor eat or smoke, in areas where DBCP is handled, processed or stored.

F. If you handle DBCP, you must wash your hands thoroughly with soap or mild detergent and water, before eating, smoking, or using toilet facilities.

G. Ask your supervisor where DBCP is used in your work area and for any additional safety and health rules.

VI. ACCESS TO INFORMATION

A. Each year, your employer is required to inform you of the information contained in this Substance Safety Data Sheet for DBCP. In addition, your employer must instruct you in the safe use of DBCP, emergency procedures, and the correct use of protective equipment.

B. Your employer is required to determine whether you are being exposed to DBCP. You or your representative have the right to observe employee exposure measurements and to record the result obtained. Your employer is required to inform you of your exposure. If your employer determines that you are being overexposed, he is required to inform you of the actions which are being taken to reduce your exposure.

C. Your employer is required to keep records of your exposure and medical examinations. Your employer is required to keep exposure and medical data for at least the effective period of this emergency temporary standard.

D. Your employer is required to release exposure and medical records to your physician upon your written request.

APPENDIX B—SUBSTANCE TECHNICAL GUIDELINES FOR DBCP

I. PHYSICAL AND CHEMICAL DATA

A. Substance Identification.

1. **Synonyms: 1,2-dibromo-3-chloropropane**; DBCP, Fumazone; Nemafume; Nemagon; Nemaset; BBC 12; OS 1879. DBCP is also included in agricultural pesticides and fumigants which include the phrase "Nema ------" in their name.

2. Formula: $C_3H_5Br_2Cl$

3. Molecular Weight: 236

B. Physical Data.

1. Boiling point (769 mm Hg): 195C (383F)

2. Specific gravity (water=1): 2.093

3. Vapor density (air=1 at boiling point of DBCP): Data not available

4. Melting point: 6C (43F)

5. Vapor pressure at 20C (68F): 0.8 mm Hg

6. Solubility in water: 1000 ppm

7. **Evaporation rate (Butyl Acetate=1): very much less than 1**

8. Appearance and odor: Dense yellow or amber liquid with a pungent odor at high concentrations. Any detectable odor of DBCP indicates overexposure.

II. FIRE EXPLOSION AND REACTIVITY HAZARD DATA

A. Fire.

1. **Flash point: 170 F TOC.**

2. Autoignition temperature: Data not available.

3. Flammable limits in air, % by volume: Data not available.

4. **Extinguishing media: Carbon dioxide, dry chemical.**

5. **Special fire-fighting procedures: Do not use a solid stream of water since a stream will scatter and spread the fire. Use water spray to cool containers exposed to a fire.**

6. Unusual fire and explosion hazards: None known.

7. **For purposes of complying with the requirement of 29 CFR 1910.106, liquid DBCP is classified as a class III A combustible liquid.**

8. **For the purpose of complying with 29 CFR 1910.309, the classification of hazardous locations as described in article 500 of the National Electrical Code for DBCP shall be class I group D.**

9. **For the purpose of compliance with § 1910.157, DBCP is classified as a Class B fire hazard.**

10. **For the purpose of compliance with § 1910.178, locations classified as hazardous locations due to the presence of DBCP shall be Class I, Group D.**

11. **Sources of ignition such as smoking or open flames are prohibited where DBCP presents a fire or explosion hazard.**

B. Reactivity

1. Conditions contributing to instability: None known.

2. Incompatibilities: Reacts with chemically active metals, such as aluminum, magnesium and tin alloys.

3. Hazardous decomposition products: Toxis gases and vapors (such as HBr, HCl and carbon monoxide) may be released in a fire involving DBCP.

4. Special precautions: DBCP will attack some rubber materials and coatings.

III. SPILL, LEAK AND DISPOSAL PROCEDURES

A. If DBCP is spilled or leaked, the following steps should be taken:

1. The area should be evacuated at once and re-entered only after thorough ventilation.

2. Ventilate area of spill or leak.

3. If in liquid form, collect for reclamation or absorb in paper, vermiculite, dry sand, earth or similar material.

4. If in solid form, collect spilled material in the most convenient and safe manner for reclamation or for disposal.

B. Persons not wearing protective equipment should be restricted from areas of spills or leaks until cleanup has been completed.

C. Waste disposal methods:

1. For small quantities of liquid DBCP absorb on paper towels, remove to a safe place (such as a fume hood) and burn the paper. Large quantities can be reclaimed or collected and atomized in a suitable combustion chamber equipped with an appropriate effluent gas cleaning device. If liquid DBCP is absorbed in vermiculite, dry sand, earth or similar material and placed in sealed containers it may be disposed of in a state-approved sanitary landfill.

2. If in solid form, for small quantities place on paper towels, remove to a safe place (such as a fume hood) and burn. Large quantities may be reclaimed. However, if this is not practical, dissolve in a flammable solvent (such as alcohol) and atomize in a suitable combustion chamber equipped with

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an appropriate effluent gas cleaning device. DBCP in solid form may also be disposed in a state approved sanitary landfill.

IV. MONITORING AND MEASUREMENT PROCEDURES

A. Exposure above the Permissible Exposure Limit.

1. *Eight hour exposure evaluation.* Measurements taken for the purpose of determining employee exposure under this section are best taken so that the average eight-hour exposure may be determined from a single 8-hour sample or two (2) four-hour samples. Air samples should be taken in the employee's breathing zone (air that would most nearly represent that inhaled by the employee).

2. *Ceiling Evaluation.* Measurements taken for the purpose of determining employee exposure under this section must be taken during periods of maximum expected airborne concentrations of DBCP in the employee's breathing zone. A minimum of three measurements should be taken on one work shift. The highest of all measurements taken is an estimate of the employee's exposure.

3. *Monitoring Techniques.* The sampling and analysis under this section may be performed by collecting the DBCP vapor on charcoal adsorption tubes with subsequent chemical analyses. The method of measurement chosen should determine the concentration or airborne DBCP to an accuracy of plus or minus 25%. If charcoal tubes are used a total volume of 10 liters should be collected at a flow rate of 50 cc. per minute for each tube. Analyse the resultant samples as you would samples of halogenated solvent.

C. Since many of the duties relating to employee protection are dependent on the results of monitoring and measuring procedures, employers should assure that the evaluation of employee exposures is performed by a competent industrial hygienist or other technically qualified person.

V. PROTECTIVE CLOTHING

Employees should be provided with and required to wear appropriate protective clothing to prevent any possibility of skin contact with DBCP. Because DBCP is absorbed through the skin, it is important to prevent skin contact with both liquid and solid forms of DBCP. Protective clothing should include impermeable coveralls or similar fullbody work clothing, gloves, headcoverings, and workshoes or shoe coverings. Standard rubber and neoprene gloves do not offer adequate protection and should not be relied upon to keep DBCP off the skin. DBCP should never be allowed to remain on the skin. Clothing and shoes should not be allowed to become contaminated with the materials, and if they do, they should be promptly removed and not worn again until completely free of the material. Any protective clothing which has developed leaks or is otherwise found to be defective should be repaired or replaced. Employees should also be required to wear splash-proof safety goggles where there is any possibility of DBCP contacting the eyes.

VI. HOUSEKEEPING AND HYGIENE FACILITIES

For purposes of complying with 29 CFR 1910.141 the following items should be emphasized:

1. The workplace should be kept clean, orderly and in a sanitary condition;

2. Dry sweeping and the use of compressed air is unsafe for the cleaning of floors and other surfaces where DBCP dust or liquids are found. To minimize the contamination of air with dust, vacuuming with either portable or permanent systems may be used. If a portable unit is selected, the exhaust should be attached to the general workplace exhaust ventilation system, or collected within the vacuum unit equipped with high efficiency filters or other appropriate means of contamination removal and not used for other purposes. Units used to collect DBCP should be labeled as prescribed in § 1910.1044(m) (DBCP standard).

3. Adequate washing facilities with hot and cold water should be provided, and maintained in a sanitary condition. Suitable cleansing agents should also be provided to assure the effective removal of DBCP from the skin.

4. Change or dressing rooms with individual clothes storage facilities should be provided to prevent the contamination of street clothes with DBCP. Because of the hazardous nature of DBCP, contaminated protective clothing should be stored in closed containers for cleaning or disposal.

VII. MISCELLANEOUS PRECAUTIONS

A. Store DBCP in tightly closed containers in a cool, well ventilated area.

B. Use of supplied-air suits or other impervious clothing (such as acid suits) may be necessary to prevent skin contact with DBCP. Supplied-air suits should be selected, used, and maintained under the supervision of persons knowledgeable of limitations and potential life-endangering characteristics of supplied-air suits.

C. Advise employees of all areas and operations where exposure to DBCP could occur.

VIII. COMMON OPERATIONS

Common operations in which exposure to DBCP is likely to occur are: During its production; formulation into pesticides and fumigants; application of such pesticides and fumigants; and work in areas where such pesticides and fumigants have been applied, and processing of agricultural products containing residues of DBCP.

Appendix C—Medical Surveillance Guidelines For DBCP

I. ROUTE OF ENTRY

Inhalation; skin absorption.

II. TOXICOLOGY

Recent data collected on workers involved in the manufacture and formulation of DBCP has shown that exposures to DBCP can cause sterility. This finding is supported by studies showing that DBCP causes sterility in animals. Chronic exposure to DBCP resulted in pronounced necrotic action on the parenchymatous organs (i.e., liver, kidney, spleen) and on the testicles of rats. Rats that were chronically exposed to DBCP also showed changes in the composition of the blood, showing low RBC, hemoglobin, and WBC, and high reticulocyte levels as well as functional hepatic disturbance, manifesting itself in a long prothrombin time. Reznik et al. noted a single dose of 100 mg produced profound depression of the nervous system of rats. Their condition gradually improved. Acute exposure also resulted in the destruction of the sex gland activity of male rats as well as causing changes in the estrous cycle in female rats. Animal studies has also associated DBCP with an increased incidence of carcinoma. Olson et al. orally administered DBCP to rats and mice 5 times per week at experimentally predetermined maximally tolerated doses and at half those doses. As early as ten weeks after initiation of treatment, DBCP induced a high incidence of squamous cell carcinomas of the stomach with metastases in both species. DBCP also induced mammary adenocarcinomas in the female rats at both dose levels.

III. SIGNS AND SYMPTOMS

A. Inhalation: Nausea, eye irritation, conjunctivitis, respiratory irritation, pulmonary congestion or edema, CNS depression with apathy, sluggishness, and ataxia.

B. Dermal: Erythema or inflammation and dermatitis on repeated exposure.

IV. SPECIAL TESTS

1. Complete semen analysis (sperm count, motility, raorphology);
2. Complete urinalysis;
3. Complete blood count;
4. Serum Multiphasic Analysis (SMA 12);
6. Serum testosterone;
7. Serum Follicle Stimulating Hormone (FSH); and
8. Serum Luteinizing Hormone (LH).

V. TREATMENT

Remove from exposure immediately, give oxygen or artificial resuscitation if indicated. Contaminated clothing and shoes should be removed immediately.

Flush eyes and wash contaminated skin. If swallowed and the person is conscious, induce vomiting. Recovery from mild exposures is usually rapid and complete.

VI. SURVEILLANCE AND PREVENTIVE CONSIDERATIONS

A. *Other considerations.* DBCP can cause both acute and chronic effects.

It is important that the physician become familiar with the operating conditions in which exposure to DBCP occurs. Those with respiratory disorders may not tolerate the wearing of negative pressure respirators.

B. *Surveillance and screening.* Medical histories and laboratory examinations are required for each employee aubject to exposure to DBCP. The employer should screen employees for history of certain medical conditions (listed below) which might place the employee at increased risk from exposure.

1. *Liver disease.* The primary site of biotransformation and detoxification of DBCP is the liver.

Liver dysfunctions likely to inhibit the conjugation reactions will tend to promote the toxic actions of DBCP. These precautions should be considered before exposing persons with impaired liver function to DBCP.

2. *Renal disease.* Because DBCP has been associated with injury to the kidney it is important that special consideration be given to those with possible impairment of renal function.

3. *Skin disease.* DBCP can penetrate the skin and can cause erythema on prolonged exposure. Persons with pre-existing skin disorders may be more susceptible to the effects of DBCP.

4. *Blood dyscrasias.* DBCP has been shown to decrease the content of erythrocytes, hemoglobin, and leukocytes in the blood, as well as increase the prothrombin time. Persons with existing blood disorders may be more susceptible to the effects of DBCP.

5. *Reproductive disorders.* Animal studies have associated DBCP with various effects on the reproductive organs.

Among these effects are atrophy of the testicles and changes in the estrous cycle. Persons with pre-existing reproductive disorders may be at increased risk to these effects of DBCP.

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4. Olson, W. A. et al.: Induction of Stomach Cancer in Rats and Mice by Halogenated Aliphatic Fumigants, *Journal of the National Cancer Institute* (51), 1973, pp. 1993–1995.

5. Torkelson, T. R. et. al: Toxicologic Investigations of 1, 2-Dibromo-3-chloropropane, *Toxicology and Applied Pharmacology*, 3, 1961, pp. 545–559.

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federal register

FRIDAY, SEPTEMBER 9, 1977
PART VIII



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

FISHERY CONSERVATION AND MANAGEMENT

Foreign Fishing

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 611]

FOREIGN FISHING

Fishery Conservation and Management

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Proposed amendments to regulations.

SUMMARY: Modifications to the foreign fishing regulations promulgated under the Fishery Conservation and Management Act of 1976 are being proposed in light of deficiencies discovered during the first year of administration. The intended effect is to improve the administration of fisheries over which the United States exercises exclusive fishery management authority.

DATE: Comments must be received by October 8, 1977.

ADDRESS: Comments may be submitted in writing to the Director, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Richard H. Schaefer, Chief, Fishery Management Operations Division, National Marine Fisheries Service, Washington, D.C. 20235. Telephone number 202–634–7454.

SUPPLEMENTARY INFORMATION: The proposed amended regulations are similar in most respects to the foreign fishing regulations which are in effect for 1977 (50 CFR Part 611). Subpart A (the general provisions section) has been refined in light of the experience gained during the first year of administering the provisions of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801–1882 (Act).

Several changes have been made in the definitions (§ 611.2). Most of these are clarifications. However, § 611.2(g) contains proposed procedures under which the Director may amend existing foreign fishing permits. This proposal was first published as a proposed amendment in 42 FR 35996 on July 13, 1977.

There is a change in reporting procedures. Section 611.4(b) is intended to encourage foreign fisherman to communicate necessary information through commercial channels rather than through the U.S. Coast Guard.

Section 611.10 would prohibit foreign fishing support vessels from supporting U.S. fisheries unless specifically authorized to do so.

Subpart C—*Atlantic Fisheries.* The regulations governing foreign fishing in the fishery conservation zone in the north Atlantic and mid-Atlantic areas have been simplified. Provision is made in this Subpart for reassessment of available surpluses of several important fisheries. In addition, negotiations are currently being conducted with Canada concerning the mutual maritime boundaries and resource matters which may impact on these regulations when they become final.

Foreign fishermen will receive allocations of both directed fishery species and incidental fishery species. It will be the responsibility of the foreign fishermen to plan their fishing in such a way that the incidental catch allocation is not reached before the directed fishery allocation is reached.

Continued fishing in the directed fishery will not be allowed if it could result in additional fishing mortality of the incidental species. Fishing vessels of a nation whose allocation of incidental species had been filled would have to stop fishing.

Subpart E—*Northeast Pacific Ocean.* The total allowable level of foreign fishing for hake has been reduced, and there has been a decrease in the minimum mesh size for nets used by foreign fishermen.

Subpart F—*Western Pacific Ocean.* There are two modifications in the 1978 regulations. The first restricts foreign fishing to a very specific area in the fishery conservation zone. The second modification shifts coral from an incidental fishery to a prohibited species. Foreign fishermen taking coral will now be required to record certain data pertaining to that catch and then return the coral to the sea.

Subpart G—*North Pacific Ocean and Bering Sea.* There is a reduced directed fishery for one species of tanner crab (*C. bairdi*). The total allowable level of foreign fishing for sablefish, herring, and other species has been reduced.

Signed at Washington, D.C., this 2d day of September 1977.

WINFRED H. MEIBOHM,
Acting Deputy Director,
National Marine Fisheries Service.

Subpart A—General

Sec.
611.1 Purpose.
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611.4 Vessel reporting.
611.5 Vessel identification.
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611.7 Prohibitions.
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611.15 Disposal of fishing gear and other articles.

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Subpart C—Atlantic Ocean

611.50 Northwest Atlantic Ocean Fisheries.

Subpart D—South Atlantic, Caribbean, and Gulf of Mexico

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611.70 Washington, Oregon, California, trawl fishery.

Subpart F—Western Pacific Ocean

611.80 Seamount groundfish fishery.

Subpart G—North Pacific Ocean and Bering Sea

611.90 General provisions.
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611.95 Snails.

Subpart A—General

§ 611.1 Purpose.

This part governs fishing for over which the United States exercises exclusive fishery management authority under the Fishery Conservation and Management Act of 1976.

§ 611.2 Definitions.

In addition to the definitions contained in the Act, and unless the context requires otherwise, in this Part 611 the terms used shall have the following meaning (some definitions in the Act have been repeated here to aid fishermen in understanding the regulations):

(a) "Act" means the Fishery Conservation Act of 1976, Pub. L. 94–265 (16 U.S.C. 1801–1882).

(b) "Anadromous species" means species of fish which spawn in fresh or estuarine waters of the United States and which migrate to ocean waters, including but not limited to:

King Salmon (*Oncorhynchus tshawytscha*)
Pink Salmon (*Oncorhynchus gorbuscha*)
Chum Salmon (*Oncorhynchus keta*)
Sockeye Salmon (*Oncorhynchus nerka*)
Silver Salmon (*Oncorhynchus kisutch*)
Steelhead Trout (*Salmo gairdnerii*)
Atlantic Salmon (*Salmo salar*)

(c) "Authorized officer" means:

(1) Any commissioned, warrant or petty officer of the Coast Guard;

(2) Any enforcement agent of the National Marine Fisheries Service;

(3) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary of Commerce or Transportation to enforce the Act; and

(4) Any Coast Guard personnel accompanying and acting under the direction of any person described in subparagraph (1) of this paragraph.

(d) "Continental Shelf" means the seabed and subsoil of the submarine areas which appertain to the United States beyond the territorial sea, at any place where the depth of the superjacent waters allows exploitation of the natural resources of such areas.

(e) Continental Shelf fishery resource means the following:

COLENTERATA

Bamboo Coral (*Acanella spp.*)
Black Coral (*Antipathes spp.*)
Gold Coral (*Callagorgia spp.*)
Precious Red Coral (*Corrallium spp.*)
Bamboo Coral (*Keratoisis spp.*)
Gold Coral (*Parazoanthus spp.*)

CRUSTACEA

Tanner Crab (*Chionoecetes tanneri*)
Tanner Crab (*Chionoecetes opilio*)
Tanner Crab (*Chionoecetes angulatus*)
Tanner Crab (*Chionoecetes bairdi*)
King Crab (*Paralithodes camtschatica*)
King Crab (*Paralithodes platypus*)
King Crab (*Paralithodes brevipes*)
Lobster (*Homarus americanus*)
Dungeness Crab (*Cancer magister*)
Californi King Crab (*Paralithodes californiensis*)
California King Crab (*Paralithodes rathbuni*)
Golden King Crab (*Lithodes aequispinus*)
Northern Stone Crab (*Lithodes maja*)
Stone Crab (*Menippe mercenaria*)
Deep-sea Red Crab (*Geryon quinquedins*)

MOLLUSKS

Red Abalone (*Haliotis refescens*)
Ping Abalone (*Haliotis coorugata*)
Japanese Abalone (*Haliotis kamtschatkana*)
Queen Conch (*Strombus gigas*)
Surf Clam (*Spisula solidissima*)
Ocean Quahog (*Artica islandica*)

SPONGES

Glove Sponge (*Hippiospongia canaliculata*)
Sheepswool Sponge (*Hippiospongia lachne*)
Grass Sponge (*Spongia graminea*)
Yellow Sponge (*Spongia barbera*)

(f) "Directed fishery" with respect to any species, means a fishery conducted for the purpose of catching that species.

(g) "Director" means the Director of the National Marine Fisheries Service or his designee.

(h) "Existing International Fishery Agreement" means any treaty convention or agreement, to which the United States is a party, which relates to fishing and which was in effect on April 13, 1976, namely:

(1) The International Convention for the High Seas Fisheries of the North Pacific Ocean, with Annex and Protocol of May 9, 1952, as amended; and

(2) The Convention for the Preservation of the Halibut Fishery of the North Pacific Ocean and the Bering Sea of March 2, 1953;

(i) "Fish" means finfish, mollusks, crustaceans, and all other forms of marine animal or plant life other than marine mammals, birds and highly migratory species.

(j) "Fish over which the United States exercises exclusive fishery management authority" means:

(1) All fish within the fishery conservation zone;

(2) All anadromous species beyond the fishery conservation zone, except when they are within any foreign nation's territorial sea or fishery conservation zone (or equivalent) to the extent that such sea or zone is recognized by the United States; and

(3) All continental shelf fishery resources beyond the fishery conservation zone.

(k) "Fishery" means: (1) One or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; or

(2) Any fishing for such stocks. (For related definitions, see Directed Fishery, paragraph (f) of this section, and Incidental Catch, paragraph (u) of this section.)

(l) "Fishery conservation zone" means the area adjacent to the United States which, except where modified by international agreement, encompasses all waters from the seaward boundary of each of the coastal states to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

(m) "Fishery resource" means any fishery, any stock of fish, any species of fish, and any habitat of fish.

(n) "Fishing" means: (1) Any activity other than scientific research which does, which is intended to, or which reasonably can be expeced to result in the removal from the sea of fish over which the United States exercises exclusive fishery management authority; or

(2) Any operations at sea in support of, or in preparation for, any activity described in subparagraph (1) of this paragraph, including, but not limited to:

(i) Scouting or exploring for the presence of fish by visual, acoustic or other means;

(ii) Processing or refrigerating fish or fish products;

(iii) Transferring or transporting fish or fish products; or

(iv) Supplying another fishing vessel with water, fuel, provisions, personnel, fishing equipment, fish processing equipment, or other supplies.

(o) "Fishing vessel" means any boat, ship, or other craft which is used for, equipped to be used for, or of a type normally used for, fishing, except a scientific research vessel.

(p) "Foreign fishing" means fishing by a vessel other than a vessel of the United States.

(q) "Foreign fishing vessel" means any fishing vessel other than a vessel of the United States.

(r) "Gear Conflict" means any incident at sea involving one or more fishing vessels, foreign or domestic—

(1) In which one fishing vessel or its gear comes into contact with another vessel or the gear of another vessel, and

(2) Which results in the loss of, or damage to, a fishing vessel, fishing gear, or catch.

(s) "Governing International Fishery Agreement" means an agreement between the United States and a foreign nation under Section 201(c) of the Act.

(t) "Highly migratory species" means the species of tuna which in the course of their life cycle spawn and migrate over great distances in the waters of the ocean, including, but not limited to:

Albacore (*Thunnus alahunga*).
Blackfin tuna (*Thunnus atlanticus*).
Bigeye tuna (*Thunnus obesus*).
Bluefin tuna (*Thunnus thynnus*).
Yellowfin tuna (*Thunnus albacares*).
Black skipjack (*Euthynnus lineatus*).
Kawakawa (*Euthynnus affinis*).
Little tunny (*Euthynnus alletteratus*).
Skipjack tuna (*Euthynnus pelamis*).

(u) "Incidental catch" means the fish of any species, other than the directed fishery species, which are caught during a directed fishery.

(v) "Master," with respect to any vessel, means the person in charge of the vessel.

(w) "Operator" means any charterer, whether bareboat, time, or voyage; or any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similarly worded agreement that bestows control over the destination, function or operation of the vessel.

(x) "Prohibited species" means any species of fish for which a foreign fishing vessel has no applicable national allocation or for which the applicable national allocation has been caught.

(y) "Secretary" means the Secretary of Commerce or his designee.

(z) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States. It does not include the Trust Territory of the Pacific Islands.

(aa) "Vessel day" means a unit of fishing effort measured by the presence, for any part of a day, of a vessel rigged for fishing (as defined in paragraphs (n) (1) and (2) of this section) in a designated fishing area.

(bb) "Vessel of the United States" means: (1) A vessel five net tons or over which the U.S. Coast Guard has documented under U.S. law for fisheries, foreign trade, or coastwise trade; or

(2) A vessel under five net tons which is registered under the laws of any State.

§ 611.3 Permits for foreign fishing vessels.

(a) No foreign fishing vessel shall engage in fishing unless it has on board a permit issued to it under this section.

(b) Registration permits for foreign vessels to engage in fishing pursuant to an Existing International Fishery Agreement may be issued annually by the Secretary of State upon application from the foreign country and payment of a fee, if any, established by the Secretary of State.

(c) Permits for foreign fishing vessels to engage in fishing may be issued annually by the Director upon:

(1) His approval of an application from the foreign country;

(2) The foreign country's acceptance of the applicable terms and conditions; and

(3) The payment of the fees established by the Secretary.

(d) To allow time for processing, the foreign country should submit a permit application to the Secretary of State at least 150 days prior to the date on which the foreign vessel desires to start fishing.

(e) Permit applications shall be submitted on forms available from: Office of Fisheries Affairs, Department of State (OES/OFA), Washington, D.C. 20520.

(f) If a foreign fishing vessel has been used in the commission of any act pro-

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hibited by § 611.7, the Director may take appropriate action under the administrative civil procedures specified in Part 621 of this chapter.

(g) Permits issued under this section may be modified by the Director as follows:

(1) The Director may modify any permit by amendment of this Part 611 since such regulations are a part of each permit. Any such modification which would adversely affect any permit will be effective no sooner than ten days after publication of the final amended regulation in the FEDERAL REGISTER. Other changes in the regulations may be made effective immediately. Notice of potentially adverse modifications will be sent by the Director to:

(i) Each foreign country whose fishing vessels are affected (via the Secretary of State); and

(ii) The owner and operator of each affected fishing vessel (via the agent).

(2) The Director may modify any permit for purposes of "Conservation and management" (as defined in section 3(2) of the Act) of fishery resources covered by the permit. Such modifications will be effected as follows:

(i) The Director shall notify the owner and operator of the affected foreign fishing vessel of the nature of the proposed modification and shall provide a summary of the reasons underlying the proposal.

(ii) The owner and operator of the affected vessel may:

(A) Submit written comments on the proposed modification within 30 days after receipt of the notice; and

(B) Receive an informal hearing on the proposed modification if his written request for such a hearing is received by the Director within 15 days after receipt of the notice.

(iii) The Director will publish a notice of the proposed modification in the FEDERAL REGISTER, providing for a 30-day public comment period. The Director will also notify the affected Regional Fishery Management Councils, the Secretary of State, and the Secretary of transportation asking for their written comments within 30 days of receipt of such notice.

(iv) Not less than 15 days prior to the date of a hearing, the Director shall:

(A) Publish a notice of the hearing in the FEDERAL REGISTER; and

(B) Notify the requesting owner and operator of the time and place of the hearing.

(v) The Director may allow public participation at the hearing. The requesting owner and operator and other participants may submit all relevant material, data, views, comments, arguments, and exhibits at the hearing. A summary record shall be kept of any such hearing.

(vi) The Director shall make a final decision regarding the proposed modification as soon as practicable after the 30-day comment period and the hearing, if any. Notice of the modification will be published in the FEDERAL REGISTER and will be sent, via the Secretary of State, to the foreign nation involved, the operator of the permitted foreign fishing vessel, each affected Regional Fishery Management Council, the Secretary of State, the Secretary of Transportation, the Committee on Merchant Marine and Fisheries of the House of Representatives, and the Committees on Commerce, Science and Transportation, and on Foreign Relations of the Senate.

(vii) If necessary to prevent substantial harm to a fishery resource of the United States, the Director may make the proposed modification effective immediately or otherwise earlier than 30 days after the date of notice of proposed modification. In such cases, the Director shall summarize his findings of necessity and the reasons therefor in the notices of the proposed modification required by this section. The Director shall expedite the hearing process whenever a modification has been implemented on an interim basis.

(3) A foreign nation may submit a written request for a modification of any permit applicable to a vessel of that foreign nation. The Director may make technical modifications or corrections requested by the foreign nation such as change in ownership of a vessel, home port, or radio call sign, which will be effective immediately.

(4) If, in the opinion of the Director, a permit change requested by a foreign nation could significantly affect the status of any fishery resource, such request will be treated as an application for a new permit and procedures for issuance of the permit will be in accordance with section 204 of the Act.

(5) Upon deciding to modify a permit under subparagraphs (2) or (3) of this paragraph, the Director shall promptly transmit a revised permit to the Secretary of State for transmittal to the foreign nation involved.

§ 611.4 Vessel reporting.

(a) The master or operator of each foreign fishing vessel shall notify the National Marine Fisheries Service and the Coast Guard of:

(1) The time and position at which the vessel will begin fishing;

(2) Any change in its directed fishery;

(3) Any change in its fishing area; and

(4) The time and position it will cease fishing, intending to leave the fishery conservation zone.

(b) The notices required by paragraph (a) of this section shall be in writing, in English. They should be delivered via private or commercial communications facilities to the appropriate Coast Guard commander who will relay them to the appropriate National Marine Fisheries Service Region (See Table I).

TABLE I

Area	National Marine Fisheries Service	Coast Guard
Pacific Ocean, off Hawaii and other insular possessions.	Southwest region, Terminal Island, Calif.	Pacific area, San Frandisco, Calif. (Telex; 330427).
Pacific Ocean off California, Oregon, and Washington.	Northwest region, Seattle, Wash.	Do.
Pacific Ocean and Bering Sea off Alaska	Alaska region, Juneau, Alaska	17th District, Juneau, Alaska (Telex; 0945383).
Atlantic Ocean north of Cape Hatteras	Northeast region, Gloucester, Mass.	Atlantic area, New York, N.Y. (Telex; 126831).
Atlantic Ocean south of Cape Hatteras, the Gulf of Mexico, and the Caribbean Sea.	Southeast region, St. Petersburg, Fla.	Do.

(c) The notices required by paragraphs (a) (1) and (a) (4) of this section must be delivered to the appropriate Coast Guard commander at least 24 hours prior to beginning or ceasing fishing. The other notices required by paragraph (a) of this section must be transmitted by the quickest means available prior to the event requiring notice.

(d) The notices required by this section shall be given in the following format:

From: (Vessel's name, international radio call sign, and permit number.)

To: (The appropriate National Marine Fisheries Service regional director as set forth in Table I.) (The appropriate Coast Guard commander as set forth in Table I.)

This vessel will (begin) (cease) conducting the activities authorized by its permit in the ---------- fishery at ---- G.m.t. on ------ (Date) in position ---------- N. ---------- (Latitude) (Longitude) W. (or E.), or this vessel will shift to the ---------- (fishery) (fishing area) at ---- G.m.t. on ------ (Date) in position ---------- N., (Latitude) ---------- W. (or E.). (Longitude)

§ 611.5 Vessel identification.

(a) (1) Each foreign fishing vessel assigned an international radio call sign (IRCS) shall display that call sign amidships on the deck house or hull, and on an appropriate weather deck.

(2) Each foreign fishing vessel not assigned an IRCS, such as a small trawler associated with a mothership or one of a pair trawlers, shall display the IRCS of the associated vessel followed by a numerical suffix. (For example, JCZM–1, JCZM–2, etc. would be displayed on small trawlers not assigned an IRCS operating with a mothership whose IRCS is JCZM; JANP–1 would be displayed by a pair trawler not assigned an IRCS operating with a trawler whose IRCS is JANP.)

(b) Each United States fishing vessel shall be marked as required by the regulations implementing the fishery management plan for the fishery in which it is fishing.

(c) The identifying markings for foreign fishing vessels shall be permanently affixed to the vessel in contrasting block Roman alphabet letters and Arabic numerals at least one meter in height for vessels over 20 meters in length and at least one-half meter in height for all other vessels.

(d) The operator of each vessel shall:

(1) Keep the identifying markings clearly legible and in good repair; and

(2) Insure that no part of the vessel, its rigging or its fishing gear obstructs the view of the markings from an enforcement vessel or aircraft.

(e) Each fishing vessel shall display the lights and shapes prescribed by the International Regulations for Preventing Collisions at Sea, 1972, C.G. 169, for the activity in which the vessel is engaged.

(f) All fishing gear, including trawl doors, shall be marked with the vessel identification number in an indelible way so that any derelict or lost gear may be identified as to its owner.

§ 611.6 Facilitation of enforcement.

(a) The operator of each fishing vessel shall immediately comply with instructions issued by authorized officers to facilitate boarding and inspection of the vessel for purposes of enforcing the Act and these regulations.

(b) Upon being approached by a Coast Guard cutter or aircraft or other vessel or aircraft authorized to enforce the Act, a vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" meaning "You should stop your vessel instantly;"

(2) "SQ3" meaning "You should stop or heave to; I am going to board you;" and

(3) "AA AA AA etc." which is the call for an unknown station, to which the signalled vessel should respond by illuminating (or clearing obstructions from) the vessel identification required by § 611.5.

(c) A vessel signalled to stop or heave to for boarding shall:

(1) Guard channel 16, VHF–FM, if available;

(2) Stop immediately and lay to or maneuver in such a way as to permit the authorized office and his party to come aboard;

(3) Provide a ladder for the authorized officer and his party;

(4) When necessary to facilitate the boarding, provide a manrope, safety line and illumination for the ladder; and

(5) Take such other actions as necessary to ensure the safety of the authorized officer and his party and to facilitate the boarding.

(d) A Coast Guard cutter whose personnel wish to board a fishing vessel for purposes other than law enforcement will display the international signal "SQ3 RQ" which means "Will you stop or heave to? May I board you?"

(e) Each foreign fishing vessel shall guard 500 KHz or 2182 KHz, as available, each day from 2000 to 2030 GMT.

(f) Foreign fishing vessels, through a fleet commander or otherwise shall provide vessel positions within 4 hours when requested by National Marine Fisheries Service or Coast Guard.

§ 611.7 Prohibitions.

(a) It is unlawful for any person to:

(1) Violate any provision of the Act or any regulation or permit issued under the Act;

(2) Use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, of an applicable permit issued under the Act;

(3) Violate any provision of, or regulation under, an applicable Governing International Fishery Agreement entered into under Section 201(c) of the Act;

(4) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Act or any regulation, permit, or agreement referred to in paragraph (a) (1) or (a) (3) of this section;

(5) Forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (a) (4) of this section;

(6) Resist a lawful arrest for any act prohibited by this section;

(7) Ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this Act or any regulation, permit, or agreement referred to in paragraph (a) (1) or (a) (3) of this section; or

(8) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section.

(b) It is unlawful for any vessel other than a vessel of the United States, and for the owner or operator of any vessel other than a vessel of the United States, to engage in fishing:

(1) Within the boundaries of any State; or

(2) Within the fishery conservation zone, or for any anadromous species or Continental Shelf fishery resources beyond such zone, unless such fishing is authorized by, and conducted in accordance with, a valid and applicable permit issued pursuant to section 204(b) or 204(c) of the Act.

(c) A person is guilty of a criminal offense if he commits any act prohibited by paragraph (a) (4), (a) (5), (a) (6), (a) (8) or (b) of this section.

§ 611.8 Observers.

(a) For the purposes of collecting scientific data and carrying out such other management and enforcement activities as he may authorize, the Secretary may assign an observer to any foreign fishing vessel. The owner or operator of any vessel to which such an observer is assigned shall:

(1) Provide, at no cost to the observer or the United States, accommodations for the observer aboard the vessel which are equivalent to those provided to the officers of that vessel.

(2) Cause the vessel to proceed to such places and at such times as may be designated by the Director for the purpose of embarking and debarking the observer;

(3) Allow the observer to use the vessel's communications equipment and personnel as necessary for the transmission and receipt of messages; and

(4) Provide all other reasonable assistance to enable the observer to carry out his duties.

(b) The owner or master of each foreign fishing vessel to which an observer is assigned shall reimburse the United States for the total costs of placing the observer aboard, including salary, per diem, and transportation of observers and overhead costs. Payment of these costs shall be made upon billing at the end of the calendar year.

(c) No person shall forcibly assault, resist, oppose, impede, intimidate, or interfere with an observer placed aboard a vessel under this section.

§ 611.9 Reports and record keeping.

(a) The master of each fishing vessel shall maintain an accurate log of catch and effort information in accordance with the regulations for the fishery in which the fishing vessel is engaged.

(b) Upon each transfer of any fish or fishery product, the masters of both the transferring and receiving vessels shall record in their respective logs:

(1) The date, time, and position of the transfer;

(2) The weight or number by species of all fish transferred; and

(3) The name, nationality, and permit number of the other vessel involved in the transfer.

(c) The master of each foreign fishing vessel shall record in a communications log, the Greenwich Mean Time and content of each notification made under § 611.4.

(d) In addition, the owner or operator of each fishing vessel shall provide to the Director, in such form and at such times as the Director may prescribe, such other information as the Director may request to carry out his duties under the Act.

(e) The records and logbooks required to be kept by this section shall be:

(1) Maintained in a form satisfactory to the Director; and

(2) Made available for inspection by any authorized officer at any time.

§ 611.10 Fishery support operations.

(a) Fishery support operations are those activities described in § 611.2(n) (2).

(b) Fishery support operations by foreign vessels within the fishery conservation zone are allowed only in those areas and during those times in which the vessel being supported is authorized to conduct directed fisheries, and in such other areas as may be designated in these regulations.

(c) No foreign fishing vessel may conduct operations at sea in support of United States fishing vessels except as specifically authorized in the supporting vessel's permit.

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§ 611.11 Gear conflicts.

(a) Each fishing vessel shall conduct its operations with due regard for the activities of other fishing vessels. Fishing vessels using mobile fishing gear shall take special care to minimize the possibility of conflict with, and damage to, fixed fishing gear.

(b) Each foreign fishing vessel shall maintain an up to date plot of fixed gear areas on a chart on its bridge.

(c) Each fishing vessel which is involved in a gear conflict, or which retrieves the gear of another fishing vessel in its gear, shall immediately notify the appropriate Coast Guard commander as indicated in Table I accompanying § 611.4 by calling:

(1) "Any Coast Guard Unit" (voice); or

(2) "NCG" (radiotelegraphy); on 500 KHz, 2182 KHz or channel 16 VHF–FM.

(d) [Reserved]

§ 611.12 Directed fisheries.

(a) No foreign fishing vessel may conduct a directed fishery unless such directed fishery is authorized by, and conducted in accordance with, this Part.

(b) A foreign fishing vessel's authorization to conduct a directed fishery pursuant to the terms and conditions found in § 611.20 shall be cancelled when the Director finds that:

(1) The total allowable level of foreign fishing for the directed fishery species has been reached;

(2) The overall vessel days authorized for the directed fishery species or area have been expended;

(3) The total allowable level of foreign fishing for the incidental catch of a species (including "other finfish") taken during the directed fishery has been reached;

(4) The national allocation for the directed fishery species, which applies to the vessel in question, has been reached;

(5) The national allocation applicable to the vessel in question, which limits the incidental catch of species (including "other finfish") taken during the directed fishery, has been reached; or

(6) The authorized vessel days applicable to vessels of its nationality, which pertain to directed fishery species or area, have been expended;

(c) The Director will notify (1) the foreign nation involved and (2) the agent of the owner or operator of the affected fishing vessels at least 48 hours prior to closing a directed fishery under paragraph (b) of this section, if possible. Such notification should be considered a courtesy. Failure of the Director to so notify will not relieve the foreign nation of possible liability, including the remedy described in § 611.20(f).

§ 611.13 Incidental catch—prohibited species.

(a) No specimen or part of a prohibited species may be retained except for the time necessary to dispose of it as required under subparagraph (d) of this section.

(b) It shall be a rebuttable presumption that any prohibited species found on board a foreign fishing vessel were taken in violation of this part.

(c) Each foreign fishing vessel shall minimize its catch of prohibited species.

(d) Each foreign fishing vessel shall sort its catch as soon as possible after retrieval of its gear and shall return the catch of prohibited species to the sea immediately with a minimum of injury regardless of its condition.

(e) The following is a partial list of species which are prohibited for 1978, (see § 6112(x)) except as otherwise specified in these regulations:

(1) All creatures of the continental shelf.

(2) All species of salmon (both Atlantic and Pacific).

(3) Steelhead trout.

(4) Pacific halibut.

(5) Striped bass.

(6) Atlantic Cod.

(7) Atlantic Haddock.

(8) Atlantic Yellow tail flounder.

§ 611.14 Incidental catch—other species.

(a) The incidental catch of species other than prohibited species may be retained if specifically authorized by this part.

(b) Species which a foreign fishing vessel is not specifically authorized to retain under this Part shall be treated as prohibited species in accordance with § 611.13.

§ 611.15 Disposal of fishing gear and other articles.

(a) Except in cases of force majeure, no fishing vessel may discharge or otherwise put into the waters of the fishery conservation zone, any article which may interfere with fishing, or obstruct fishing gear or fishing vessels, or cause damage to any fishery resource or marine mammals.

(b) All fishing gear which is set or otherwise deployed in a manner in which it may entrap or otherwise catch fish shall be attended as frequently as necessary to insure that its catch remains suitable for the use intended.

(c) No fishing gear may be willfully discarded within the fishery conservation zone.

(d) Fishing vessels are obligated to report the position of any derelict fishing gear encountered in the fishery conservation zone.

(e) Exact location of lost gear shall be transmitted immediately to the appropriate Regional Director of National Marine Fisheries Service.

SUBPART B—SURPLUSES

§ 611.20 Allowable level.

(a) The total allowable level of foreign fishing (TALFF), if any, with respect to any fishery subject to the exclusive fishery management authority of the United States shall be that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States.

(b) The surpluses for foreign fishing for 1978 by ocean area are as follows:

Species	Ocean area	Quantity (metric tons)
Silver hake	Atlantic	[1] 45,400
Red hake	do	[1] 27,400
Shortfinned squid	do	[1] 23,500
Longfinned squid	do	[1] 19,000
Atlantic herring	do	[2] 3,200
Atlantic mackerel	do	31,000
River herring	do	2,500
Butterfish	do	[2] 1,000
All other finfish	do	[2] 16,800
Pacific hake	Pacific	[3] 89,000
Jack mackerel	do	4,000
Other species	do	0
Pollock	Unif of Alaska	[4] 151,100
Pacific Ocean perch	do	23,300
Other rockfishes	do	5,600
Flounders	do	24,300
Sablefish	do	[5] 18,400
Atka mackerel	do	24,800
Pacific cod	do	25,100
Other species	do	14,000
Pollock	Bering Sea	950,000
Yellowfin sole	do	106,000
Other flounders	do	139,000
Pacific Ocean perch	do	21,500
Sablefish	Aleutian and Bering.	6,500
Cod	Bering Sea	58,000
Herring	do	8,670
Squid	do	10,000
Other species (trawl fishery)	do	82,800
Atka mackerel (Aleutians)		24,800
Tanner crab	do	12,500
Snails (meats)	do	3,000
Seamount groundfish	Western Pacific.	2,000

[1] The TALFF for these species will be reevaluated if it is determined by the Secretary on or about June 15, 1978, that the U.S. fleet will not take its estimated harvest.

[2] Permitted as incidental catch only.

[3] The TALFF for these species will be reevaluated if it is determined by the Secretary on or about July 31, 1978 that the U.S. fleet will not take its estimated harvest.

[4] Includes Pacific Ocean perch, other rockfishes, flounders, sablefish, and others. Incidental catch only permitted at fixed low percentages of hake catch.

[5] The TALFF for sablefish will be reevaluated if it is determined by the Secretary on or about Nov. 1, 1978, that the U.S. fleet will not take its estimated harvest.

(c) The Secretary of State, in cooperation with the Secretary, shall determine the allocation among foreign nations of the surpluses identified in paragraph (b) of this section. Those allocations (tonnage and vessel days) among foreign nations are presented in the following tables:

Table I. Atlantic Coast Allocation [reserved].
Table II. Pacific Coast Allocation [reserved].

(d) The above allocations will be used by the United States in computing the

"poundage fees" to be assessed for foreign fishing during 1978.

(e) An allocation in terms of vessel days has been provided by the National Marine Fisheries Service for the Pacific seamount groundfish fishery and the Northeast Pacific hake fishery, in addition to a tonnage allocation.

(f) Each foreign nation shall take necessary measures to ensure that fishing vessels of that nation shall not in any year exceed such nation's allocation for any species.

(g) Any failure by the Director to make any notification to the foreign nation or to any person in accordance with § 611.12(c) or any other notice requirement in these regulations shall not excuse any foreign nation from complying with the requirements of paragraph (f) of this section.

Subpart C—Atlantic Ocean

§ 611.50 Northwest Atlantic Ocean Fisheries.

(a) *Purpose.* Regulations of this section shall apply to foreign fishing vessels fishing for all species (except highly migratory species or species covered by any reciprocal fisheries agreement between the United States and Canada), during the period January 1, 1978, to December 31, 1978, within the portion of the Atlantic Ocean over which the United States exercises exclusive fishery management authority. Unless otherwise stated, all terms used in this section shall have the same meanings as used in Subpart A of this part. All scientific names of species of fish are contained in Appendix I.

(b) *Catch quotas.* The total allowable level of foreign fishing (TALFF) for all species covered by this section is set out in § 611.20(b). Table 1 of § 611.20(c) specifies the national allocations of the TALFF for the Atlantic Coast fisheries. It shall be unlawful for any foreign nation to exceed its authorized species allocation. The directed fishery species for 1978 are mackerel, silver and red hake, long-finned squid, and short-finned squid. All other species which may be taken and retained are incidental species. The national allocations shown on Table 1 of § 611.20(c) include both directed species and incidental species. (See § 611.13 for discussion of prohibited species.)

(c) *Authorized fishing seasons and areas.* It shall be unlawful for any foreign fishing vessel to conduct fishing operations except during the season and in the areas specified in Table I.

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FOREIGN FISHING REQUIREMENTS

TABLE I[1]

SPECIES	Quota[1] (mt)	Type Direct.	Fishery Incidental	Fishing Area[2]	Fishing Season[3]
1. Prohibited	Zero	N/A	N/A	None	None
(a) Any Continental Shelf fishery resource					
(b) Any other crustaceans or molusks, except squids					
(c) See other species §611.13					
2. Regulated					
(a) Silver hake	45,400	X	X	Hake 1	January thru March
		X	X	Hake 2	April thru June
(b) Red hake	27,400	X	X	Hake 1	January thru March
		X	X	Hake 2	April thru June
(c) Squids	23,500	(X	X	Squid 1	November, December
		(X	X	Squid 2	January thru March, June 15 thru September 15, November, December
short-finned		(			
long-finned	19,000	(X	X	Squid 3	January thru March, November December
(d) Mackerel	34,000	(X	X	Squid 1	January thru March
		(X	X	Squid 3	March, July thru August 15
(e) Other finfish	500		X	N/A	N/A
(i) River herring					
(ii) Butterfish	1,000		X	N/A	N/A
(iii) Atlantic herring	3200		X	N/A	N/A
(IV) All others (See Table IV) (reserved)	46,800		X	N/A	N/A

N/A means not applicable

FOOTNOTES

[1] Includes both the directed fishery allocation and the incidental catch allocation.

[2] See Figures 1 and 2.

[3] Times based on local times in the area.

(d) *Closures of authorized fishing seasons and areas.* Based upon catch statistics maintained by the National Marine Fisheries Service, the Director shall close any fishery when he has determined that the TALFF for the fishery will be reached. He shall also prohibit further fishing by vessels of a specific nation in a particular fishery when he determines that the national allocation for that fishery will be reached. In either case, notification of such closure shall be made under the procedures specified in § 611.13(c), and subject to the disclaimer in § 611.20(g).

(e) *Gear restrictions.* (1) It shall be unlawful for any foreign fishing vessel to use any trawl net having in any part of the net meshes of dimensions less than 60 millimeters for nets made of manila and measured wet after use, or 55 millimeters for nets made of manila and measured dry before use, or 55 millimeters for nets made of any other material. Meshes are to be measured by a flat, wedge-shaped gauge having a taper of 2 centimeters in 8 centimeters and a thickness of 2.3 millimeters, inserted into meshes under a pressure or pull of 5 kilograms. The mesh size of a net shall be taken to be the average of the measurements of any series of twenty consecutive meshes, at least ten meshes from the lacings, and when measured in the codend of the net beginning at the after end and running parallel to the long axis.

(2) It shall be unlawful for any foreign fishing vessel to use any means or device which would obstruct the meshes of a net or which would otherwise, in effect, diminish the size of the meshes of a net, provided that devices may be attached to the upper side of the codend in such a manner that they will not obstruct the meshes of the codend.

(f) *Reporting, collections, and maintenance of data relating to fishing operations.* It shall be unlawful for any foreign nation or foreign fishing vessel to fail to collect, maintain, or report on a timely basis, accurate data relating to fishing operations as specified below. All submissions required below shall be sent to the Regional Director, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, Telex number 940007. The following reports shall be required for all foreign fishing vessels subject to this section:

(1) *Trawl log.* All foreign fishing vessels using trawls shall maintain a trawl log on a set-by-set basis. This log shall have recorded all catches during the permit period. The log shall be maintained aboard the vessel during the duration of the permit period. The log at a minimum shall contain the following information on a set-by-set basis:

(i) Position in degree and minute of latitude and longitude;

(ii) Date;

(iii) Quantity of total catch to the nearest tenth of a metric ton;

(iv) Composition of the catch by species as a percentage of the haulback;

(v) Disposition of the catch (human consumption, fishmeal, or discarded);

(vi) Type of gear used;

(vii) Size of net or number of hooks per line; and

(viii) Duration of the set to the nearest tenth of an hour.

No specific form for such log shall be required, but all foreign fishing vessels must use the species codes set forth in Appendix I.

(2) *Cumulative catch log.* All foreign fishing vessels shall maintain a cumulative catch log in English on a daily basis. This log shall have recorded on a cumulative basis all catches of all species during the permit period. The log shall be maintained aboard the vessel during the duration of the permit period. The log must contain the following information:

(i) Name and call sign of the vessel;

(ii) Permit number;

(iii) Date;

(iv) Species by common name and code number;

(v) Area where caught, e.g., Hake Area 1;

(vi) Daily catch by species to the nearest tenth of a metric ton;

(vii) Disposition of the catch, e.g., human consumption, fishmeal, or discarded; and

(viii) Cumulative total catch for each species.

This log must be in the format illustrated in Appendix II, and must use the species names and species code numbers set forth in Appendix I. No adjustment shall be made in this log to reflect any catch offloaded.

(3) *Weekly report.* A weekly report shall be submitted by the designated official of each foreign nation, stating, on a vessel by vessel basis, the catch of the species specified in Appendix II for the weekly period—Sunday through Saturday. This report must arrive at the address specified above no later than Tuesday of the week following the reporting period. The report should be sent by Telex, but mail is permitted if it will arrive no later than Tuesday. This report shall contain the following information:

(i) Name of vessel;

(ii) Permit number;

(iii) Month and day;

(iv) Fishing area;

(v) Number of days actually fished during the seven day period;

(vi) Species caught during the week, by name and code number (regardless whether retained or discarded); and

(vii) Weight of catch, by species, in metric tons rounded off to the nearest ton.

This weekly report must be in the format illustrated in Appendix III, which contains instructions for completing the report, the applicable species names and code numbers, and a sample of a telex report.

(4) *Quarterly report.* A quarterly report shall be submitted by the designated official of each foreign nation. Reports must be submitted no later than the time specified below:

TABLE 3

Fishing period	Due date
January, February, March	July 1.
April, May, June	Oct. 1.
July, August, September	Jan. 1.
October, November, December	Apr. 1.

This report shall contain catch and effort statistics for all species and gear types for weekly time periods reflecting 0°30′ square areas on a vessel by vessel basis. Reports will be submitted using 0°30′ square areas on either Statland 21B Forms, magnetic tape, computer cards, or printouts.

(5) The Secretary may require, from time to time, additional information or reports concerning fishing operations of foreign vessels. Foreign nations will be advised of any such additional information requested and procedures for providing such information.

(g) *Incidental catch.* (1) The taking of any species for which a foreign nation has an allocation is permitted as an incidental catch in any directed fishery provided:

(i) That the quantity taken, whether directed, incidental, or both, does not exceed the allocation of that species provided to that nation under § 611.20;

(ii) That if the allocation of incidental species is taken before the directed fishery allocation for another species is caught, all fishing for the incidental species by the nation involved must stop even if that means that the directed fishery must also stop.

(2) It should be unlawful for any foreign fishing vessel to discard or possess any fish without accurately recording in the log the information specified in paragraph (f) of this section. Foreign fishing vessels may elect to retain or discard species other than prohibited species, but the poundage fees and the computation of the allocation utilization will be based on the total quantity of that species which was caught. Prohibited species, however, must always be returned to the sea after having been logged as required under paragraph (f) of this section.

(3) All fishing as defined in § 611.2(n) (1) by fishing vessels of a foreign nation shall cease when that foreign nation has reached its allocation of "other finfish."

(h) *Fixed gear avoidance.* Foreign fishing vessels are cautioned that they must comply with the requirements of § 611.11, "Gear Conflicts", in addition to the requirements in this paragraph (h).

(1) It shall be unlawful for foreign fishing vessels to fish between the 100–200 fathom curves on the continental shelf within any authorized fishing area designated by this § 611.50.

(2) It shall be unlawful for any foreign fishing vessel to fish in areas of reported fixed gear. The operator of each foreign fishing vessel operating in an authorized fishing area shall not fish within 2 nautical miles of such reported gear areas. Operation in areas of fixed gear locations shall be at the risk of the owner or operator of the foreign vessel for liability purposes resulting from damage

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to fixed gear. Locations of fixed gear geographic coordinates (latitude and longitude) are broadcast on the first day of each month by Coast Guard Communications Station Boston (NMFS) on 472 MHZ at 1350 G.M.T. in radiotelegraphy. These summary lists are updated each day at 1350 G.M.T., with a broadcast on the same frequency listing changes in fixed fishing gear locations reported by fishermen. Additionally, voice broadcasts in English are made each day by NMF on 2,670 KHZ at 1405 G.M.T., and by Coast Guard Communications Station Portsmouth (NMN) on 2,670 KHZ at 1905 G.M.T., and by the Boston Marine Operator and Norfolk Marine Operator after their scheduled Marine Information broadcasts. The voice broadcasts list the location of the fixed gear in loran A Coordinates. Both the radiotelegraphy and voice broadcasts are numbered sequentially by month, day, and year. A printed monthly summary of fixed gear information is available by contacting Commander (Aol), U.S. Coast Guard, Atlantic Area, Governors Island, New York, N.Y. 10004; telephone: 212-264-0644 or 212-264-0645. All masters of foreign fishing vessels shall comply with the requirements of § 611.11(b).

(3) It shall be unlawful for any vessels(s) involved in a conflict with other gear, fixed or mobile, to fail to comply with the requirements of § 611.11(c). Such incidents should be reported immediately in accordance with instructions contained in section § 611.11(c).

(4) It shall be unlawful for any foreign fishing vessel to dispose of any gear of other vessels retrieved during fishing operations without the approval of an authorized enforcement officer. Reports of such retrieval shall be made immediately in accordance with instructions contained in § 611.11(c).

(i) For the purpose of assisting in compliance with the regulations, a listing of all required records, reports, logs, and data is illustrated in Table III. Persons are cautioned that this is a summary table and that references must be made to the specific sections of the regulations to ensure compliance.

SPECIES CODE

Appendix I

Code	Common English Name	Scientific Name
	PRINCIPAL GROUNDFISH (EXCEPT FLATFISHES)	
101	Atlantic cod	*Gadus morhua*
102	Haddock	*Melanogrammus aeglefinus*
103	Atlantic redfish	*Sebastes marinus*
104	Silver hake	*Merluccius bilinearis*
105	Red hake	*Urophycis chuss*
106	Pollock (=Saithe)	*Pollachius virens*
	FLATFISHES	
112	American plaice	*Hippoglossoides platessoides*
114	Witch flounder	*Glyptocephalus cynoglossus*
116	Yellowtail flounder	*Limanda ferruginea*
118	Greenland halibut	*Reinhardtius hippoglossoides*
120	Atlantic halibut	*Hippoglossus hippoglossus*
122	Winter flounder	*Pseudopleuronectes americanus*
124	Summer flounder	*Paralichthys dentatus*
129	Flatfishes (NS)	*Pleuronectiformes*
	OTHER GOUNDFISH	
132	American angler	*Lophius americanus*
136	Atlantic searobins	*Prionotus sp.*
138	Atlantic tomcod	*Microgadus tomcod*
142	Cunner	*Tautogolabrus adspersus*
144	Cusk (=Tusk)	*Brosme brosme*
148	Greenland cod	*Gadus ogac*
152	Ling	*Molva molva*
154	Lumpfish	*Cyclopterus lumpus*
158	Northern kingfish	*Menticirrhus saxatilis*
160	Northern puffer	*Sphoeroides maculatus*
164	Ocean pout	*Macrozoarces americanus*
168	Roundnose grenadier	*Macrourus repestris*
172	Sandeels (=Sand lances)	*Ammodytes sp.*
174	Sculpins	*Myoxocephalus sp.*
176	Scup	*Stenotomus chrysops*
180	Tautog	*Tautoga onitis*
182	Tilefish	*Lopholatilus chamaeleonticeps*
186	White hake	*Urophycis tenuis*
188	Wolffishes (=Catfishes)	*Anarhichas sp.*
199	Groundfish (NS)	
	PRINCIPAL PELAGIC FISH	
202	Atlantic herring	*Clupea harengus*
204	Atlantic mackerel	*Scomber scombrus*
	OTHER PELAGIC FISH	
212	Atlantic butterfish	*Peprilus triacanthus*
216	Atlantic menhaden	*Brevoortia tyrannus*
220	Atlantic saury	*Scomberesox saurus*

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SPECIES CODES (continuation)

224	Bay anchovy	*Anchoa mitchilli*
228	Bluefish	*Pomatomus saltatrix*
232	Crevalle jack	*Caranx hippos*
236	Frigate mackerels	*Auxis sp.*
240	King mackerel	*Scomberomorus cavalla*
244	Spotted spanish mackerel	*Scomberomorus maculatus*
252	Atlantic sailfish	*Istiopherus platypterus*
256	Atlantic white marlin	*Tetrapturus albidus*
260	Blue marlin	*Makaira nigricans*
264	Swordfish	*Xiphias gladius*
272	Albacore	*Thunnus alalunga*
274	Atlantic bonito	*Sarda sarda*
276	Atlantic little tunny	*Euthynnus alletteratus*
278	Bigeye tuna	*Thunnus obesus*
280	Bluefin tuna	*Thunnus thynnus*
282	Skipjack tuna	*Euthynnus pelamis*
284	Yellowfin tuna	*Thunnus ablacares*
289	Tunas (NS)	*Scombridae*
299	Pelagic fish (NS)	

OTHER FISH

302	Alewife	*Alosa pseudoharengus*
304	Amberjacks	*Seriola sp.*
306	American conger	*Conger oceanicus*
308	American eel	*Anguilla rostrata*
310	America shad	*Alosa sapidissima*
312	Atlantic argentine	*Argentina silus*
314	Atlantic croaker	*Micropogon undulatus*
316	Atlantic needlefish	*Strongylura marina*
318	Atlantic salmon	*Salmo salar*
320	Atlantic silverside	*Menidia menidia*
322	Atlantic thread herring	*Opisthonema oglinum*
330	Black drum	*Pogonias cromis*
332	Black seabass	*Centropristis striata*
334	Blueback herring	*Alosa aestivalis*
340	Capelin	*Mallotus villosus*
342	Chars (NS)	*Salvelinus sp.*
344	Cobia	*Rachycentron canadum*
346	Common pompano	*Trachinotus carolinus*
354	Gizzard shad	*Dorosoma cepedianum*
356	Grunts (NS)	*Pomadasyidae*
360	Hickory shad	*Alosa mediocris*
370	Mullets	*Mugilidae*
380	North Atlantic harvestfish	*Peprilus alepidotus*
390	Pigfish	*Orthopristis chrysoptera*
300	Rainbow smelt	*Osmerus mordax*
402	Red drum	*Sciaenops ocellata*
404	Red porgy	*Pagrus sedecim*
406	Rough scad	*Trachurus lathami*
410	Sand perch	*Diplectrum formosum*
412	Sheepshead	*Archosargus probatocephalus*
414	Spot	*Leiostomus xanthurus*
416	Spotted weakfish	*Cynoscion nebulosus*

SPECIES CODE (continuation)

418	Squeteague	*Cynoscion regalis*
420	Striped bass	*Morone saxatalis*
422	Sturgeons	*Acipenseridae*
430	Tarpon	*Megalops atlantica*
432	Trouts (NS)	*Salmo sp.*
440	White perch	*Morone americana*
452	Spiny (=Picked) dogfish	*Squalus acanthias*
459	Dogfishes (NS)	*Squalidae*
462	Porbeagle	*Lamna nasus*
469	Sharks (NS)	*Squaliformes*
479	Skates (NS)	*Raja sp.*
499	Finfishes (NS)	

INVERTEBRATES

502	Long-finned squid	*Leligo pealei*
504	Short-finned squid	*Illex illecebrosus*
509	Squids (NS)	*Loliginadae ommastrephidae*
512	Atlantic razor clam	*Ensis directus*
514	Hard clam	*Mercenaria mercenaria*
516	Ocean quahog	*Arctica islandica*
518	Soft clam	*Mya arenaria*
520	Surf clam	*Spisula solidissima*
529	Clams (NS)	
532	Bay scallop	*Argopecten irradians*
534	Calico scallop	*Argopecten gibbus*
536	Sea scallop	*Placopecten magellanicus*
539	Scallops (NS)	*Pectinidae*
542	American cupped oyster	*Crassostrea virginica*
552	Blue mussel	*Mytilus edulis*
559	Mussels (NS)	
562	Conchs	*Strombus and Busycon sp.*
564	Periwinkles	*Littorina sp.*
589	Marine molluscs (NS)	
602	Atlantic rock crab	*Cancer irroratus*
604	Blue crab	*Callinectes sapidus*
606	Green crab	*Carcinus maenas*
608	Jonah crab	*Cancer borealis*
610	Queen crab	*Chionoecetes opilio*
612	Red crab	*Geryon quinquedens*
619	Marine crabs (NS)	
622	Northern lobster	*Homarus americanas*
632	Northern deepwater prawn	*Pandalus borealis*
639	Pink shrimps (=prawns)	*Pandalus sp.*
649	Marine crustaceans (NS)	
652	American sea-urchin	*Strongylocentrotus sp.*
669	Marine worms (NS)	*Polychaeta*
672	Horseshoe crab	*Limulus polyphemus*
699	Marine invertebrates (NS)	

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APPENDIX II

RECORD OF CUMULATIVE CATCH

(in metric tons round weight)

Permit Number _____

Vessel Name and Call Sign _____

DATE			SPECIES (name & code no.)					SPECIES (name & code no.)				
			Permit Area					Permit Area				
Day	Month	Year	Daily Total mt	Disposition C H D	Cumulative Total			Daily Total mt	Disposition C H D	Cumulative Total		

appropriate embassy, or any other responsible individual. Information received from afloat will be checked and compiled by the official and forwarded to the Regional Director within the time frame allowed and in the prescribed format. Reports should be Telexed (using the format on the following page). The Telex number is 940007; answerback is LAW ENF CLOS. If no telex/twx is available, reports may be mailed if their timely receipt is assured. Telephone reports will not be accepted.

3. FISHING AREA CODES:

Hake area	HAK (followed by 1 or 2)
Squid area	SQU (followed by 1,2,3,4, or 5)

4. SPECIES CODES:

Silver hake	104
Red hake	105
Atlantic herring	202
Atlantic mackerel	204
Atlantic butterfish	212
Long-finned squid	502
Short-finned squid	504
Other finfish	499

5. AN ILLUSTRATION OF A SAMPLE REPORT IS AS FOLLOWS:

The stern trawler NAVIS, call LTUX permit number LT-78-0001-A entered the Fishery Conservation Zone on Monday, March 6, 1978 began fishing on Tuesday, March 7, 1978 and continued fishing throughout the period. The vessel was fishing in Squid Area 2 for squid. During this period the vessel caught 17 metric tons of squid, (504) 1.3 tons of mackerel, (204) .8 tons of silver hake, (104) and .6 tons of butterfish. (212) The reporting period is March 5-11, 1978.

```
NAVIS / LT770001A //
0311  / SQU2 / 05 //
104   / 0001 // 204 / 0001 //
212   / 0001 // 504 / 0017 //
```

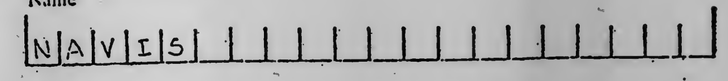
The report submitted by mail would be as follows:

REPORT ON FOREIGN FISHING VESSEL OPERATIONS

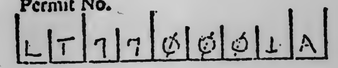
VESSEL GENERATED

VESSEL IDENTIFICATION:

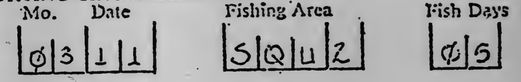
Name



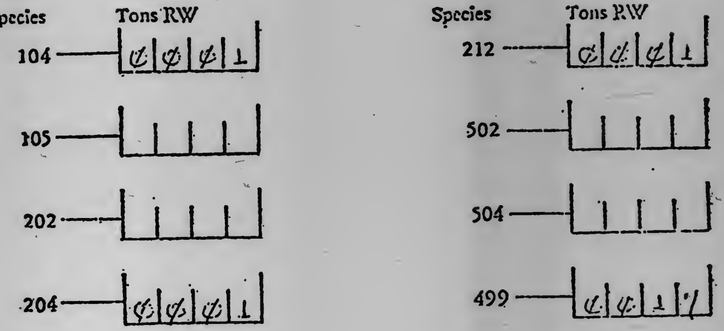
Permit No.



REPORTING CIRCUMSTANCES:



YIELD:



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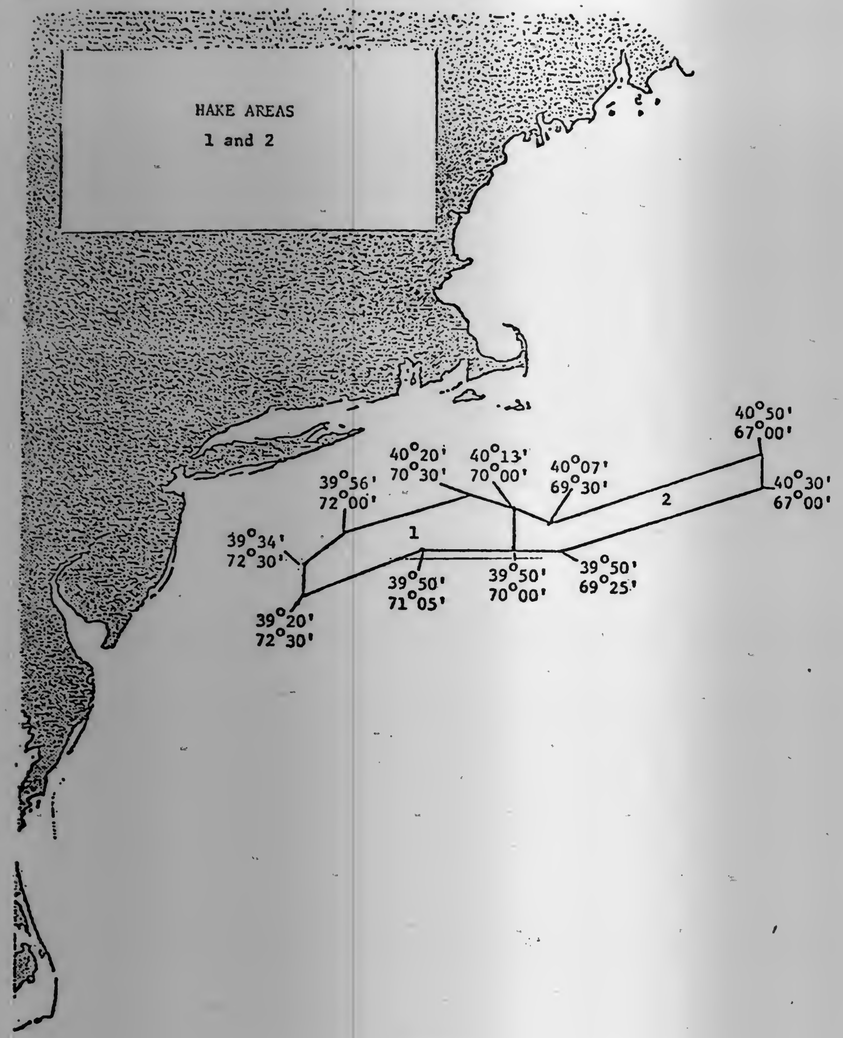


Figure 1
Not to be used for navigational purposes

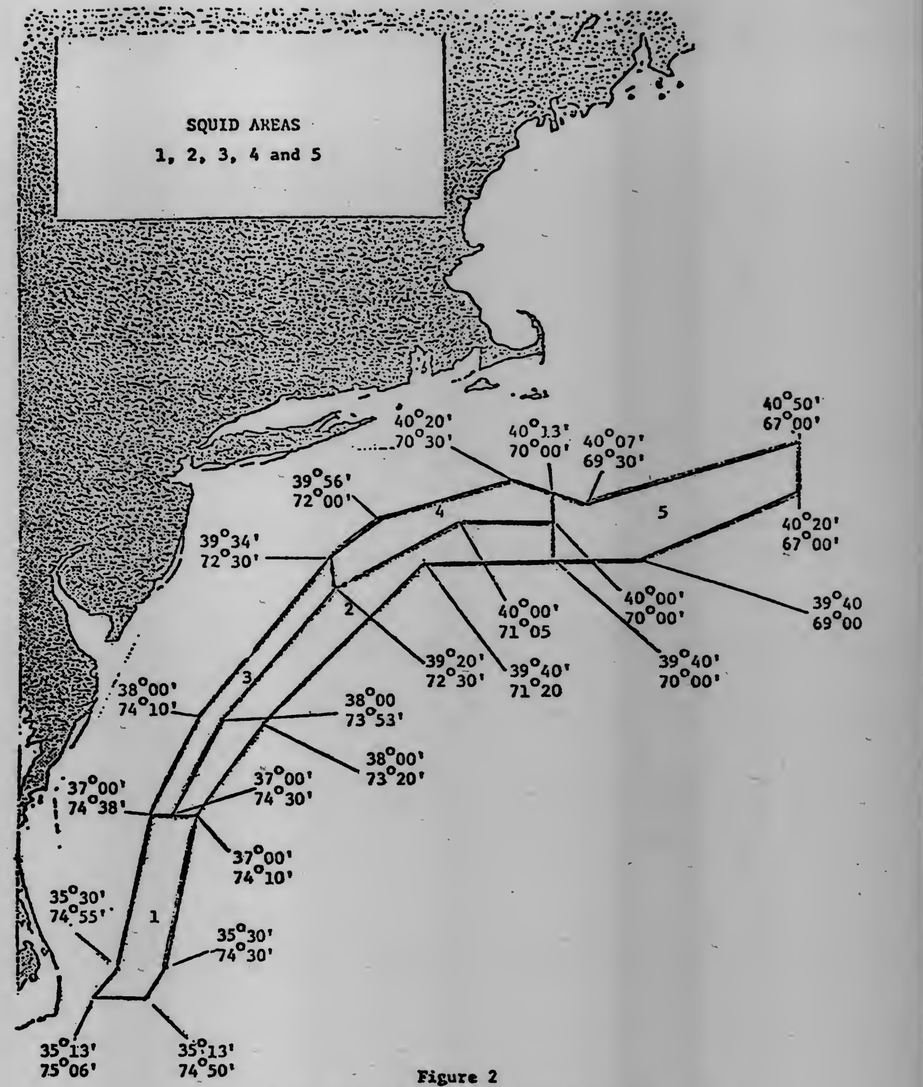


Figure 2
Not to be used for navigational purposes

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TABLE II

SUMMARY TABLE OF REQUIRED REPORTS OR RECORDS

EVENT OF CIRCUMSTANCE	WHEN FILED OR RECORDED	WHO FILES OR RECORDS	WHERE FILED OR RECORDED	REMARKS	REFERENCE
(reserved)					611.4
Transfer of Fish or Fishery Products	Upon transfer	Operators of Both Transferring and Receiving Vessels	Noted in Cumulative Catch Log	Record facts of transfer	611.9(b)
Fishing in Area of Fixed Gear Location	Entry into an area having fixed gear	Master or Person in Charge of Vessel	Copy, list, and plot on chart and maintained on vessel's bridge	Record and plot position of fixed gear	611.11(b), 611.50(h)
Gear Conflict	Immediately	Each Involved Fishing Vessel	Coast Guard Atlantic Area	Send message via nearest Coast Guard or commercial station (Table II, 611.4).	611.11(c)
Fishing Effort	Daily	Master or Person in Charge of Vessel	Trawl Log	Maintained aboard Vessel	611.50(f)(1)
Cumulative Catch and Disposition	do	do	Cumulative Catch Log	do	611.50(f)(2) • Appendix II
Weekly Effort/Yield Report	Weekly	Each Country's Designated Official	Regional Director Northeast Region, National Marine Fisheries Service	Includes Effort Yield and Disposition Statistics. Telex transmission preferred	611.50(f)(3) • Appendix III
Quarterly Catch Effort Report	Quarterly	do	do	Includes Catch and Effort Statistics for each Vessel for Weekly Periods for 0 30' Square Areas	611.50(f)(4)

Subpart E—Northeast Pacific

§ 611.70 Washington, Oregon, California, trawl fishery.

(a) *Purpose.* Regulations of this section shall apply to all species of fish taken in trawl gear as specified below. Unless otherwise defined herein, all other terms used in this subpart will have the meanings ascribed to them in subpart A of these regulations.

(1) The regulatory area for taking of fish in the area seaward of the States of Washington, Oregon, and California over which the United States exercises exclusive fishery management authority.

(b) *Catch quota.* (1) The 1977 maximum catch quotas for foreign fishermen in the Washington, Oregon, and California area are as follows:

Species	Catch quota in metric tons (t)
Pacific hake	89,000.
Pacific Ocean perch and other rockfish.	Incidental catch only, not to exceed 0.8 percent of hake catch.
Flounders	Incidental catch only, not to exceed 0.1 percent of hake catch.
Sablefish	Incidental catch only, not to exceed 0.1 percent of hake catch.
Jack mackerel	4,000—from north of 39° N. only.
Others	Incidental catch only, not to exceed 0.5 percent of hake catch.

(2) Total foreign effort limitations in vessel days on the grounds are as follows:

(i) Landward of 125°40′ W. long., and north of 39°00′ N.—

Soviet: hake quota÷20 MT/day=vessel days
Others: hake quota÷30 MT/day=vessel days

(ii) Seaward of 125°40′ W. long.—none at this time.

(3) When the national allocation of any species authorized in the Washington, Oregon, California trawl fishery has been exceeded, trawling by fishermen of that nation in that fishery shall cease for the remainder of the calendar year.

(c) *Open season.* The open season for each country's directed fishing for Pacific hake shall begin at 0801 GMT on June 1, 1977, and terminate at 2400 GMT on October 31, 1977, or sooner if that country's allocation of any species listed in paragraph (b)(1) of this section or the vessel-day limitation listed in paragraph (b)(2) of this section is reached. The open season for each country's directed fishing for jack mackerel, west of 125°40′ W. long., shall begin at 0801 GMT on March 1, 1977, and terminate when that country's catch allocation is reached.

(d) *Closed seasons and areas.* (1) The National Marine Fisheries Service shall maintain records of vessel days and catch of foreign vessels fishing for species under this section. Upon determination by the Director that foreign fishing vessels of a country have taken their assigned allocation of Pacific hake or jack mackerel, or have exceeded the allowed incidental catch of other species or have achieved their assigned effort limitation, notification of such determination shall be given to the appropriate agent or a government official of the country not less than 48 hours prior to the closure of such fishery. Upon notification, foreign fishing vessels shall cease the directed fishing for Pacific hake or jack mackerel as of the specified closure date.

(2) Fishing by foreign vessels is prohibited at all times in the following areas:

(i) East of 125°40′ W. long., except during those times and in those areas designated for taking Pacific hake.

(ii) 47°30′ N. latitude northward to the line connected by the following coordinates:

48°29′37.19″ N. lat., 124°43′33.19″ W. long.; 48°30′11″ N. lat., 124°47′13″ W. long.; 48°30′22″ N. lat., 124°50′21″ W. long.; 48°30′14″ N. lat., 124°54′52″ W. long.; 48°29′57″ N. lat., 124°59′14″ W. long.; 48°29′44″ N. lat., 125°00′06″ W. long.; 48°28′09″ N. lat., 125°05′47″ W. long.; 48°27′10″ N. lat., 125°08′25″ W. long.; 48°26′47″ N. lat., 125°09′12″ W. long.; 48°20′16″ N. lat., 125°22′48″ W. long.; 48°18′22″ N. lat., 125°29′58″ W. long.; 48°11′05″ N. lat., 125°53′48″ W. long.; 47°49′15″ N. lat., 126°40′57″ W. long.; 47°36′47″ N. lat., 127°11′58″ W. long.; 47°22′00″ N. lat., 127°41′23″ W. long.; 46°42′05″ N. lat., 128°51′56″ W. long.; 45°31′47″ N. lat., 129°07′39″ W. long.

(iii) 39°00′ N. lat. southward to the line connected by the following coordinates:

32°35′22.11″ N. lat., 117°27′49.42″ W. long.; 32°37′37.00″ N. lat., 117°49′51.00″ W. long.; 32°37′37.00″ N. lat., 117°49′31.00″ W. long.; 31°07′58.00″ N. lat., 118°36′18.00″ W. long.; 31°07′58.00″ N. lat., 118°6′18.00″ W. long.; 30°32′31.20″ N. lat., 121°51′58.37″ W. long.

(iv) "Columbia River Recreational Fishery Sanctuary" is that area bounded by lines projected between, and to the shore from the following coordinates:

47°00′ N. lat., 125°20′ W. long.; 46°20′ W. lat., 124°40′ W. long.; 46°00′ N. lat., 124°55′ W. long.

(v) Klamath River Pot Sanctuary is that area bounded by the following coordinates:

(3) When the total incidental catch (including discards) of Pacific Ocean perch reaches 50 metric tons in the area bounded by 44°53′ N. and 45°24′ N. latitude, and 124°74′ W. and 124°32′ W. longitude, the Regional Director may, in his discretion, close this area to all further foreign fishing during any appropriate period.

41°37′ N. lat. 124°34′ W. long.; 41°37′ N. lat. 124°30′ W. long.; 41°20′ N. lat., 124°28′ W. long.; 41°20′ N. lat. 124°32′ W. long.; 41°37′ N. lat., 124°34′ W. long.

(e) *Gear restrictions.* (1) No foreign vessel fishing for Pacific hake or jack mackerel, shall use any gear other than a pelagic trawl with a minimum mesh size of 3.94 inches (100 mm) stretched measure. No liners will be permitted in the codend of the trawl.

(2) It shall be unlawful for any foreign fishing vessel to attach any protective device to pelagic fishing gear or to employ any means that would, in effect, make it possible to fish for demersal species or any device or method which would have the effect of diminishing the size of the meshes.

(f) *Statistical reporting.* The owner or operator of any foreign fishing vessel shall maintain catch and effort statistics and shall report the information, through its government, to the Director, Northwest Region, National Marine Fisheries Service, Seattle, Washington, U.S.A. 98109.

(1) *Daily Fishing Log.* The basis for the reports furnished below shall be a daily fishing log which contains the following information:

(i) Date.
(ii) Time of set and haul of each tow.
(iii) Starting and Ending position of each tow (lat. and long.).
(iv) Bottom depth.
(v) Gear depth.
(vi) Catch.
(A) Hake.
(B) Rockfish.
(C) Sablefish.
(D) Flatfish.
(E) Other.
(1) Halibut.
(2) Salmon (number of fish only).
(3) Other.

(2) *Annual.* Each country whose fishing vessels operate in the area shall report by May 30 of the following year, annual catch and effort statistics, as follows: *Effort* in hours trawled, by vessel class, by gear type, by month, by ½° (lat.) x 1° (long.) statistical area; *Catch* in metric tons, by vessel class, by gear type, by month, by ½° (lat.) x 1° (long.) statistical area, by the following species groupings: Pacific hake, jack mackerel, Pacific ocean perch, other rockfishes, sablefish, dover sole, other flounders, anchovies, herring, any other species taken in excess of 1,000 metric tons, other fishes.

(3) *Monthly.* In addition to the annual statistical report in (1) above, each country shall report by the end of the following month, provisional monthly fishery information as follows: *Effort* in vessel days on the grounds (by vessel class and gear type); and *Catch* in metric tons of Pacific hake, jack mackerel, rockfishes, flounders, and others for each of the following areas: Point Conception, Monterey, Eureka, Columbia, and Vancouver (including that portion off Canada).

(g) *Restrictions.* (1) There shall be no fishing for shrimp or scallops or fishing for or retention of salmon, steelhead, halibut, or Continental Shelf Fishery resources.

(4) There shall be no foreign fishing within 12 miles of the baseline used to measure the Territorial Sea unless authorized.

(5) The number of foreign vessels fishing in the Pacific Coast fishery management area shall not exceed 35 Soviet and 6 Polish vessels at any time.

Subpart F—Western Pacific Ocean

§ 611.80 Seamount groundfish fishery.

(a) *Purpose.* Regulations of this section shall apply to pelagic armorheads

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(*Pentaceros richardsoni*) and Alfonsins (*Beryx spendens*) and other groundfish resources and shall also apply to the following species of precious corals taken incidentally to the direct fishing for pelagic armorheads red or pink corals (*Acanella spp.*) and bamboo corals (*Keratiosis spp.*), during the period January 1, 1978 to December 31, 1978, in that portion of the Pacific Ocean over which the United States exercises exclusive fishery management authority For the purposes of this section, the term other groundfish resources comprises all other species of finfish caught incidental to directed fishing for pelagic armorheads and alfonsins.

(b) *Catch and effort limitation.* (1) "The allowable foreign catch in 1978 for pelagic armorhead, alfonsin, and other groundfish resources in the portions of the fishery conservation zone west of the 180° meridian and north of 28° N latitude shall not exceed 2,000 metric tons (t) of any single species or any combination of species of groundfish."

(2) The 1977 vessel day limit for foreign fishing vessels fishing for seamount groundfish shall not exceed 50 vessel days each of trawling and bottom longlining.

(3) "It shall be unlawful for any foreign fishing vessel to take and retain, or to possess (except for the time necessary to record the data specified in paragraph (f) of this section and to dispose of them) any Continental Shelf fishery resources, including precious corals designated in paragraph (a) of this section, within the fishery conservation zone, in accordance with § 611.13(a) of these regulations.

(c) *Open season and areas.* The open season for the seamount groundfish fishery by foreign fishing vessels in the area west of the 180° meridian shall begin at 0801 GMT on January 1, 1978, and terminate at a time and date to be announced under paragraph (d).

(d) *Closed season and areas.* (1) The National Marine Fisheries Service shall maintain records of vessel days and catch of foreign vessels fishing for seamount groundfish in the area west of 180° meridian and north of 28° latitude. Upon determination by the Director that foreign fishing vessels of a country have taken their assigned allocation of seamount groundfish, or have used their allocation of vessel days, notification of such determination shall be given to the appropriate agent or a government official of the country not less than 48 hours prior to the closure of such fishery. Upon notification, foreign fishing vessels shall cease the directed fishing for seamount groundfish as of the specified closure date.

(2) It shall be unlawful for foreign vessels to fish for seamount groundfish resources in the fishery conservation zone in the Pacific Ocean except in that portion of the fishery conservation zone west of the 180° meridian and north of 28° N. latitude.

(e) *Gear Restrictions.* No gear other than trawl or bottom longlining gear shall be used.

(f) *Statistical reporting.* (1) The master or operator of every foreign vessel fishing for seamount groundfish in the U.S. Fishery Conservation Zone in the Eastern Pacific shall maintain an accurate logbook of fishing operations. All logbook data shall be submitted to the Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, Calif. 90731, or the National Marine Fisheries Service observer on board the vessel upon request, unless otherwise provided in this section.

(2) The logbook for trawling operations shall contain data for each haul as follows:

(i) Catch, by individual species, to the nearest one-tenth (0.1) t;

(ii) The approximate weight (kilograms), by genus, of the incidental catch of the precious corals designated in paragraph (a) of this section;

(iii) The time at the beginning of the haul and the total duration of the haul to the nearest five (5) minutes;

(iv) The location at the midpoint of each haul to the nearest one-tenth (0.1) minute of latitude and longitude;

(v) The average depth of the seabottom to the nearest meter;

(vi) The average fishing depth of the footrope to the nearest meter;

(vii) The average fishing speed of the vessel (towing speed) to the nearest one-tenth (0.1) knot;

(viii) The date;

(ix) The vessel permit number;

(x) The codend mesh size to the nearest millimeter;

(xi) The length of the footrope to the nearest one-tenth (0.1) meter and average distance between footrope and headrope to the nearest one-tenth (0.1) meter.

(3) The logbook for bottom longlining operations shall contain the following data for each fishing day:

(i) Midday location of fishing, to the nearest one-tenth (0.1) minute of latitude and longitude;

(ii) Number of hooks set and average soak time;

(iii) Number of fish caught, by species, for pelagic armorhead, alfonsin, and other groundfish species;

(iv) Average depth of hooks set, in meters.

(4) *Annual.* Each nation whose fishermen fish in the area set forth in Part 3.0 above shall report by February 28 of the following year, annual catch and effort statistics, as follows: Catch in metric tons by gear type by month by area to the nearest one-half degree (0.5°) latitude and by one degree (1°) longitude, by the following species groupings: pelagic armorhead, alfonsin, other groundfish; Catch in kilograms of precious-corals taken incidental to fishing operations by month by area to the nearest one-tenth degree (0.1°) latitude and longitude square, by the following species groupings: pink coral, gold coral, bamboo coral, other corals; Effort in hours trawled by month by area to the nearest one-half degree (0.5°) latitude and by one degree (1°) longitude; and Effort in average number of hooks soaked per 24-hour period by month by area to the nearest one-half degree (0.5°) latitude and by one degree (1°) longitude. The annual report shall be submitted to the Regional Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, Calif. 90731.

(5) *14-day periods.* Every country will report within 5 days following each 14-day fishing period, provisional fishery information as follows: Catch in metric tons, of pelagic armorhead, alfonsin, other groundfish, by gear type; Incidental catch, in kilograms of pink coral, gold coral, bamboo coral, and other corals; and Effort in hours trawled and/or average number of hooks soaked per 24-hours period. The provisional report(s) shall be given to the National Marine Fisheries Service observer on board the vessel, except that if no observer is on board the vessel, the report(s) shall be made to the observer on board the nearest vessel of the country involved, unless otherwise specified at the time of entry into the fishing grounds.

Subpart G—North Pacific Ocean and Bering Sea

§ 611.90 General provisions.

(a) *Purpose.* Regulations of this subpart shall apply to foreign fisheries in the North Pacific Ocean and the Bering Sea for those fisheries specified in the following sections. Unless otherwise defined herein, all other terms used in this Subpart will have the meanings ascribed to them in Subpart A of these regulations.

(b) *Open Season.* Unless otherwise specified in the following sections, the open season for fishing by foreign vessels shall begin at 0801 GMT on January 1, 1978, and terminate at a time and date to be determined under specific provisions where applicable of each of the following sections.

(c) *Closed season and areas.* (1) The National Marine Fisheries Service shall maintain records of vessel days and catch of foreign vessels fishing for species under this section. Upon determination by the Director that foreign fishing vessels of a country have taken their assigned allocation of any species specified in the following sections, notification of such determination shall be given to the appropriate agent or a government official of the country not less than 48 hours prior to the closure of such fishery. Upon notification, foreign fishing vessels shall cease the directed fishing for that species as of the specified closure date.

(d) *Loading zones.* Loading and other support operations are permitted by foreign vessels during 1978 seaward of three nautical miles from the baseline from which the United States territorial sea is measured:

(1) Near Forrester Island, Alaska, in the waters bounded on the north by 54°–54′ North Latitude, on the east by 133°16′ West Longitude, and on the south 54°44′ N. lat. from January 1, 1978, to December 31, 1978, inclusive.

(2) On the east side of Kayak Island, Alaska, in the waters between 58°48′ North Latitude and 59°56′ North Latitude west of 143°53′ West Longitude and

on the west side of Kayak Island in the waters between 59°52′ North Latitude and 60°07′ North Latitude east of 145° W. long., from January 1, 1978, to December 31, 1978, inclusive.

(3) North of Tonki Cape on Afognak Island, Alaska, in the waters bounded on the north by 58°35′ North Latitude, on the south by 58°25′ North Latitude, on the west by 152°02′ West Longitude and on the east by 151°52′ W. long., from January 1, 1978, to December 31, 1978, inclusive.

(4) North and west of Sanak Island, Alaska, in the waters bounded on the north by 54°36′ North Latitude, on the south by 54°26′ North Latitude, on the west by 163°40′ W. long., from January 1, 1978, to December 31, 1978, inclusive.

(5) On the south side of Unalaska Island, Alaska, in the waters between 167°–18′ West Longitude and 167°40′ West Longitude, from January 1, 1978, to October 14, 1978, inclusive.

(6) On the north side of Unalaska Island, Alaska, in the waters between 167°15′ West Longitude and 167°35′ West Longitude, from January 1, 1978, to October 14, 1978, inclusive.

(7) On the south side of Umnak Island, Alaska, in the waters between 168° 15′ West Longitude and 168°30′ West Longitude, from October 15, 1978, to December 31, 1978, inclusive.

(8) On the north side of Umnak Island, Alaska, in the waters between 168° 25′ West Longitude and 168°0′ West Longitude and between 168°50′ West Longitude and 169° West Longitude, from October 15, 1978, to December 31, 1978, inclusive.

(9) Off St. George Island of the Pribilof Islands, Alaska, from January 1, 1978, to April 30, 1978, and November 1, 1978 to December 31, 1978 inclusive.

(10) On the north side of St. Matthew Island, Alaska, in the waters between 172°29′ West Longitude, and 172°46′ W. longitude, and on the south side of St. Matthew Island, in the waters between 172°17′ West Longitude, and 172°35′ West Longitude, and in the waters between 172°54′ West Longitude, and 173° 04′ West Longitude from January 1, 1978, to December 31, 1978, inclusive.

(e) *Statistical reporting.* The owner or operator of any foreign fishing vessel shall maintain catch and effort statistics and shall report the information, through its government, to the Director, Alaska Region, National Marine Fisheries Service, Juneau, Alaska, U.S.A. 99801.

(f) *General restrictions.* (1) There shall be no fishing for or retention of shrimp, scallops, salmon, steelhead, halibut, or Continental Shelf Fishery resources.

(2) There shall be no foreign fishing within 12 miles of the baseline used to measure the Territorial Sea, except as otherwise provided in this subpart.

§ 611.91 Crab fishery.

(a) Regulations of this section shall apply to: Red king crab (*Paralithodes camtschatica*), Blue king crab (*Paralithodes platypus*), brown king crab (*Lithodes acquispina*), snow (Tanner) crabs (*Chionoecetes bairdi* and *C. opilio*).

(b) *Catch quotas.* No more than 12,500 metric tons of snow (Tanner) crab may be taken by foreign fishing vessels from that portion of the Bering Sea area over which the United States exercises fishing jurisdiction.

(c) *Closed Seasons and Areas.* It shall be unlawful for any foreign fishing vessel to fish for crabs at any time in the Bering Sea south and east of straight line drawn between the following coordinates:

53°00′ N. lat. 169°30′ E. long.; 56°00′ N. lat. 173°00′ E. long.; 56°00′ N. lat. 173°00′ W. long.; 58°00′ N. lat. 173°00′ W. long.; 58°00′ N. lat. 164°00′ W. long.; North along 164°00′ W. long. to a distance of 12 nautical miles from the baseline used to measure the U.S. territorial sea; throughout the Northeastern Pacific Ocean; and within 12 nautical miles of the baseline used to measure the U.S. territorial sea.

(d) *Gear restrictions.* It shall be unlawful for any foreign fishing vessels fishing in the unauthorized area for crabs to use gear other than pots. A pot is a portable structure designed and constructed to capture and retain crabs alive in the water.

(e) *Statistical Reports.* The catch and effort statistics required by § 611.90(d) shall be reported as follows:

(1) Annual. Each nation whose fishermen operate in the area shall report by May 30 of the following year, annual catch and effort statistics as follows: Effort in pots hauled and hours pots soaked Catch in metric tons and number of crabs. Each to be supplied by vessel class, by 10-day period, by ½° (lat.) by 1° (long.) statistical area, by the following species: Snow (Tanner) crab (*Chionoecetes bairdi* and *C. opilio*), and any other crab species.

(2) 10-day Periods. Each country will report within 3 days following each 10-day fishing period, provisional 10-day fishery information as follows: Effort in total pot lifts; and Catch in metric tons and number of crabs of *C. opilio* and *C. bairdi* separated by the area described in paragraph (b)(2) of this section and by the area outside that described in paragraph (b)(2) of this section.

(f) *Restrictions.* No master or any other person in charge of any foreign vessel engaged in fishing for crabs under this subpart shall:

(1) Conduct a directed fishery for, or retain any species of crab other than snow (tanner) crabs;

(2) Process crabs except on designated factory ships or fishing vessels specifically authorized by permit to process crabs in the crab fishery.

(3) Retain and process female or soft shell crabs; any crabs not retained must be discarded immediately after the pots are taken aboard in a manner that will minimize mortality.

(4) Take crabs aboard factory ships or off load or transfer crabs from any fishing vessel specifically authorized by permit to engage in the crab fishery in a manner in which the observer can not verify the total weight of crabs taken aboard.

(5) In the case of a vessel specifically authorized by permit to engage in the crab fishery, other than a factory ship, fail to report daily to the Regional Director (i) its position, (ii) its daily catch, and (iii) its cumulative catch.

(6) In the case of a vessel specifically authorized by permit to engage in the crab fishery, other than a factory ship, to depart from the fishing area until its catch of crabs on board is checked by an observer.

§ 611.92 Gulf of Alaska Trawl Fishery.

(a) *Purpose.* Regulations of this section shall apply to all species of fish taken in trawl gear in the Gulf of Alaska which includes that portion of the North Pacific Ocean, exclusive of the Bering Sea, between 132°40′ W. long. and 170° W. longitude. Unless otherwise defined herein, all other terms used in this section will have the meanings ascribed to them in subpart A of these regulations.

(b) *Catch quota.* The 1978 maximum catch quotas for foreign fishermen in the Gulf of Alaska are as follows:

Species:	Catch quota (metric tons)
Pollock	151,100
Pacific ocean perch	23,900
Other rockfishes	5,600
Flounders	24,300
Sablefish	(1)
Atka mackerel	24,800
Pacific cod	25,100
Others (combination)	14,000

[1] Incidental trawl catch not to exceed 1.5 percent.

(c) *Open Area.* The open area for foreign fishing, which includes support operations, in the western Gulf of Alaska beyond 3 miles from the baseline used to measure the Territorial Sea is between 169° W. long., and 170° W. long.

(d) *Closed Areas.* (1) Six "Kodiak Gear Areas", bounded respectively by straight lines connecting in each of the following groups the coordinates in the order listed, shall be closed to foreign fishing from January 1, 1978 to May 31, 1978, and from August 10, 1978 to December 31, 1978 inclusive.

(i) 57°15′ N. Lat.–154°51′ W. long.; 50°57′ N. lat.–154°34′ W. long.; 56°21′ N. lat.–155°40′ W. long.; 56°26′ N. lat. 155°55′ W. long.; 57°15′ N. lat. 154°51′ W. long.

(ii) 56°27′ N. lat.–154°06′ W. long.; 55°46′ N. lat.–155°27′ W. long.; 55°40′ N. lat.–155°17′ W. long.; 55°48′ N: lat.–155°00′ W. long.; 55°54′ N. lat.–154°55′ W. long.; 56°03′ N. lat.–154°36′ W. long.; 56°03′ N. lat.–153°45′ W. long.; 56°30′ N. lat.–153°45′ W. long.; 50°30′ N. lat.–153°–49′ W. long.; 56°27′ N. lat.–154°06′ W. long.

(iii) 56°30′ N. lat.–153°49′ W. long.; 56°30′ N. lat.–153°00′ W. long.; 56°44′ U. lat.–153°′ W. long.; 56°57′ N. lat.–153°15′ W. long.; 56°45′ N. lat.–153°45′ W. long.; 56°30′ N. lat.–153°49′ W. long.

(iv) 57°05′ N. lat.–152°52′ W. long.; 56°54′ N. lat.–152° W. long.; 56°46′ N. lat.–152°37′ -W. long.; 56°46′ N. lat.–152°20′ W. long.; 57°19′ N. lat.–152°20′ W. long.; 57°05′ N. lat.–152°52′ W. long.

(v) 5735′ N. lat.–152°03′ W. long.; 57°11′ N. lat.–151°14′ W. long.; 57°19′ N.

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lat.–150°00′ W. long.; 57°48′ N. lat.–152°00′ W. long ; 57°35′ N. lat.–152°03′ W. long.

(vi) 58°00′ N.. lat.–152°00′ N. lat.–150°00′ W. long 58°12′ N lat.–150°00′ N. long.: 58°19′ N. lat.–151°29′ W. long.; 58°00′ N lat.–152°00′ W. long.

(2) 58°30′ N lat. to 59°30′ N. lat. between 147°40′ W. long. and 150°20′ W. long.; 57 40′ N lat. to 58°05′ N. lat. between 148°50′ W. long. and 150°30′ W. long.; 55°30′ N lat. to 56°25′ N. lat. between 155°45′ W. long. and 156°30′ W. long closed to foreign trawling from 5 days prior to 5 days after, the first of the several openings of the U.S. halibut setline fishery in 1978.

(3) 163°04′ W. long. to 166° W. long. closed to foreign fishing January 1, 1978 to December 31, 1978, inclusive.

(4) 147° W. long. to 157° W. long. closed to foreign trawling from February 16, 1978 to May 15, 1978 inclusive.

(5) 140° W. long. to 147° W. long. closed to foreign trawling from January 1, 1978 to February 15, 1978, December 1, 1978 to December 31, 1978 inclusive.

(6) When the national allocation of any species authorized in the Gulf of Alaska trawl fishery has been exceeded, trawling by fishermen of that nation in that fishery within the Gulf of Alaska shall cease for the remainder of the calendar year.

(e) *Statistical reports.* The catch and effort statistics required by § 611.90(d) shall be reported as follows:

(1) Annual. Each nation whose fishermen operate in the area shall report by May 30 of the following year—annual catch and effort statistics as follows: *Effort* in hours trawled, by vessel class, by gear type, by month, by ½° (lat.) × 1° (long.) statistical area; *Catch* in metric tons, by vessel class, by gear type, by month, by ½° (lat.) × 1° (long.) statistical area, by the following species groupings: Rock sole; Flathead sole; Arrowtooth flounder; Other flounders; Pacific ocean perch; Other rockfish; Pacific cod; Sablefish (blackcod); Walleye (Alaska) pollock; Atka mackeral; any other species taken in excess of 1,000 mt.; and other fishes.

(2) Monthly. In addition to the annual statistical report in subparagraph (1) of this paragraph, each nation will report by the end of the following month, provisional fishery information for each month as follows: Effort in vessel-days on the grounds by vessel-class and gear-type; and Catch in metric tons by species of flounders, rockfishes, Pacific cod, pollock, sablefish (black cod), Atka mackerel, herring and others.

§ 611.93 Bering Sea and Aleutian Islands Trawl and Herring Gillnet Fishery.

(a) Regulations of this section shall apply to all species of fish taken with trawl gear, longline or gillnet in the area which includes that portion seaward of the Territorial Sea in the Bering Sea and Aleutian Islands over which the United States exercises exclusive fishery management authority.

(b) *Catch quotas.* The 1978 catch quotas for foreign fishermen are as follows:

Species	Catch quota (metric tons and area)
Pollock	950,000.
Yellowfin Sole	106,000.
Other Flounders	139,000.
Pacific Ocean Perch	6,500 (areas I, III, III combined), 15,000 (area IV).
Sablefish	5,000 (areas I, II, III combined),[1] 500 (area IV)[1]
Pacific Cod	58,000.
Herring	8,670.
Squid	10,000.
Atka Mackerel	24,800.
Others	53,600 (areas I, II, III combined). 29,200 (area IV).

[1] The sablefish quotas are for trawl, set line and trap gear collectively.

(c) *Open seasons and areas.* The open seasons for foreign fishing, which includes support operations, in the Aleutian Islands area beyond 3 miles from the baseline used to measure the Territorial Sea are as follows: In the waters off the Bering Sea coast of the Aleutian Islands:

(i) Between 169° and 170° west longitude, trawl fishing from June 1, 1978 to November 30, 1978, inclusive, and longline fishing from January 1, 1978 to December 31, 1978, inclusive.

(ii) Between 170° and 172° west longitude, trawl and longline fishing from January 1, 1978 to December 31, 1978, inclusive.

(iii) Between 172° and 176° west longitude, longline fishing from April 1, 1978, to October 31, 1978, inclusive.

(iv) West of 176° west longitude, trawl fishing from May 1, 1978, to December 31, 1978, inclusive, and longline fishing from January 1, 1978, to December 31, 1978, inclusive.

In waters off the Pacific coast of the Aleutian Islands:

(v) Between 170° and 172° west longitude, trawl and longline fishing from January 1, 1978, to December 31, 1978, inclusive.

(vi) Between 172° and 176° west longitude, longline fishing from April 1, 1978, to October 31, 1978, inclusive.

(vii) Between 176° and 178°30′ west longitude, longline fishing from April 1, 1978, to October 31, 1978, inclusive, and trawl fishing from July 1, 1978, to October 31, 1978, inclusive.

(viii) West of 178°30′ west longitude, trawl fishing from May 1, 1978, to December 31, 1978, inclusive and longline fishing from January 1, 1978 to December 31, 1978, inclusive.

(d) *Closed Seasons and Areas.* Trawling by foreign vessels is prohibited in the following areas and during the time periods shown below:

(1) There shall be no trawling at any time in the Bristol Bay "Pot Sanctuary" which is the area enclosed by straight lines from Cape Sarichef to 55°16′ N. lat. 166°10′ W. long., to 56°20′ N. lat. 163°00′ W. long., to 57°10′ N. lat. 163° 00′ W. long., to 58°10′ N. lat. 160°00′ W. long., then due south along 160°00′ W. long., to the Alaska Peninsula.

(2) There shall be no trawling from January 1, 1978, to May 31, 1978, and December 1, 1978 to December 31, 1978, in the following International Pacific Halibut Commission (IPHC) Conservation Areas:

(i) Area B.

(ii) Area E east of 166°00′ W. long.—south of 56°30′ N. lat.

(iii) Area E west of 166°00′ W. long.—south of 56°30′ N. lat.

(iv) Area A—south of 55°30′ lat.

(3) There shall be no trawling from January 1, 1978, to May 31, 1978 and from December 1 to December 31, 1978, in the area bounded by straight lines connecting the coordinates in the order listed—56°18′ N. lat.—170°24′ W. long., 56°20′ N. lat.—169°03′ W. long., 56°12′ N. lat.—168°46′ W. long., 55°56′ N. lat.—169°10′ W. long., 55°56′ N. lat.—170°24′ W. long., 58°18′ N. lat.—170°24′ W. long.

(4) When the national allocation of any species authorized in the Bering Sea and Aleutian Islands trawl and herring gillnet fishery has been exceeded, trawling or gillnetting by fishermen of that nation in that fishery shall cease for the remainder of the calendar year.

(e) *Gear restrictions.* Gear restrictions for foreign fishing in the regulatory area are described in paragraph (c) of this section during the open season for specific areas.

(f) *Statistical reports.* The catch and effort statistics required by § 611.90(d) shall be reported as follows:

(1) Annual. Each nation whose fishermen operate in the area shall report by May 30 of the following year—annual catch and effort statistics as follows:

Effort in hours trawled, by vessel class, by gear type, by month, by ½° (lat.) x 1° (long.) statistical area;

Catch in metric tons, by vessel class, by gear type, by month, by ½° (lat.) x 1° (long.) statistical area, by the following species groupings: yellowfin sole; rock sole; flathead sole; arrowtooth flounder; greenland turbot; other flounders; Pacific ocean perch; Pacific cod; sablefish (blackcod); walleye (Alaska) pollock; Atka mackerel; Pacific herring; any other species taken in excess of 1,000 mt; and "other fishes."

(2) Monthly. In addition to the annual statistical report in subparagraph (1) of this paragraph, each country will report by the end of the following month, provisional fishery information for each month as follows:

Effort in vessel days on the grounds, by vessel class, and gear type; and *Catch* in metric tons of yellowfin sole, other flounders, rockfishes, Pacific cod, pollock, sablefish (blackcod), Atka mackerel, herring, and others.

(g) *General restrictions.* (1) There shall be no trawling or gillnetting within 12 miles of the baseline used to measure the Territorial Sea, except in the Aleutian Islands as described in paragraph (c) of this section.

(2) There shall be no fishing for herring by foreign fishing vessels east of 168°00′ W. long.

§ 611.94 Sablefish (Blackcod).

(a) Regulations of this sections shall apply to sablefish, blackcod, (*Anoplopoma fimbria*) taken by foreign fishing vessels in the North Pacific Ocean and the Bering Sea over which the United States exercises exclusive fishery management authority. Unless otherwise defined herein, all other terms used in this section will have the meanings ascribed to them in Subpart A of these regulations.

(b) *Area quotas.* (1) Bering Sea (north of 54°30′ N. lat. and west of 170° W. long.). The 1978 surplus sablefish available for foreign fisheries is 5,000 metric tons to be taken by all gears combined.

(2) Aleutian Region. The 1978 surplus sablefish available for foreign fisheries is 1,500 metric tons to be taken by all gears combined.

(3) Gulf of Alaska (includes that portion of North Pacific Ocean exclusive of the Bering Sea, between 132°40′ and 170° W. long.). The 1978 surplus sablefish in the regulatory area available for foreign fisheries is 18,400 metric tons.

(i) Up to 4,000 metric tons of the surplus may be taken as an incidental catch by trawl gear.

(ii) The balance of the surplus 18,400 less the incidental trawl catch may be taken by longline and trap gear.

(iii) No more than 2,800 metric tons of the surplus can be taken by all gear combined in the INPFC Statistical Area "Southeastern Alaska".

(4) Washington, Oregon, and California. No directed foreign fishery for sablefish permitted.

(5) The sablefish fishery in each area will terminate when the quota or effort limitation for that area is reached.

(c) *Open season.* (1) The open season for sablefish fishing by foreign fishing vessels in the Gulf of Alaska, Bering Sea and Aleutian Islands shall begin at 0801 GMT hours on January 1, 1978 and terminate at a time and date to be determined and announced under paragraph (d) of this section.

(2) The open seasons for foreign fishing which includes support operations in the Aleutian Islands area beyond 3 miles from the baseline used to measure the Territorial Sea are as follows: In the waters off the Bering Sea coast of the Aleutian Islands:

(i) Between 169° and 170° west longitude, trawl fishing from June 1, 1978, to November 30, 1978, inclusive, and longline fishing from January 1, 1978, to December 31, 1978, inclusive.

(ii) Between 170° and 172° west longitude, trawling and longline fishing from January 1, 1978, to December 31, 1978, inclusive.

(iii) Between 172° and 176° west longitude, longline fishing from April 1, 1978, to October 31, 1978, inclusive.

(iv) West of 176° west longitude, trawl fishing from May 1, 1978, to December 31, 1978, inclusive and longline fishing from January 1, 1978, to December 31, 1978, inclusive. In the waters off the Pacific coast of the Aleutian Islands.

(v) Between 170° and 172° west longitude; trawl and longline fishing from January 1, 1978, to December 31, 1978, inclusive.

(vi) Between 172° and 176° west longitude, longline fishing from April 1, 1978, to October 31, 1978, inclusive.

(vii) Between 176° and 178°30′ west longitude, longline fishing from April 1, 1978, to October 31, 1978, inclusive and trawl fishing from July 1, 1978, to October 31, 1978, inclusive.

(viii) West of 178°30′ west longitude, trawl fishing from May 1, 1978, to December 31, 1978, inclusive and longline fishing from January 1, 1978 to December 31, 1978, inclusive.

In the Western Gulf of Alaska:

(ix) Between 169° and 170° W. long., trawl, longline, and trap net fishing from January 1, 1978, to December 31, 1978, inclusive.

(d) *Closed season and areas.* It shall be unlawful for any foreign fishing vessel to fish for sablefish at any time with longline or trap gear shoreward of the 500 meter (273.3 fathoms) depth contour in the Gulf of Alaska.

(e) *Gear restrictions.* Foreign fishing vessels are authorized to fish for sablefish with the type of gear used during 1976.

(e) *Statistical reports.* The catch and effort statistics required by § 611.90(d) shall be reported as follows:

(1) Annual. Each nation whose fishermen operate in the area shall report by May 30 of the following year annual catch and effort statistics as follows: *Effort* in hours trawled, number of longline units, number of traps, duration of soaking time for longlines and traps and number of days fishing, by vessel class, by gear type, by month, by ½° (lat.) x 1° (long.) statistical area; *Catch* in metric tons, by vessel class, by gear type, by month, by ½° (lat.) x 1° (long.) statistical area. The characteristic features of gear and vessels are also to be reported.

(2) Monthly. In addition to the annual statistical report in subparagraph (1) of this paragraph, each nation will report to the Regional NMFS Director by the end of the following month, provisional monthly fishery information as follows: *Catch* in metric tons of sablefish and *Effort* in vessel-days by vessel type and INPFC large statistical areas in the Gulf of Alaska, the Bering Sea and the Aleutian Region areas.

§ 611.95 Snails.

(a) Regulations in this section shall apply to snails of the genus *Neptunea, Fusitriton, Buccinum, Beringius, Volutopsius, Clinopegma, Plicifusus,* and *Pyrulofusus,* taken by foreign fishing vessels in that portion of the Bering Sea over which the United States exercise exclusive fishery management authority.

(b) *Catch quota.* The 1977 catch quota for all species of snails combined in the Bering Sea shall not exceed 3,000 metric tons of edible meat.

(c) *Area, gear, and general restrictions.* (1) It shall be unlawful for any foreign fishing vessel to fish for snails east of 164° W. long., or within 12 miles of the baseline used to measure the Territorial Sea.

(2) It shall be unlawful for any foreign fishing vessel fishing for snails to use gear other than pots.

(3) There shall be no retention of halibut or crab, if these species are taken incidental to snail fishing, they must be returned immediately to the sea with minimum injury.

(d) *Statistical reports.* The catch and effort statistics required by § 611.90(d) shall be reported as follows:

(1) Annual. Each country whose fishermen take snails in the area shall report by May 30 of the following year, annual catch and effort statistics as follows: *Effort* in number pots hauled, hours pots soaked by month, by ½° (lat.) x 1° (long.) statistical area; *Catch* in metric tons of recovered edible meat, by month, by ½° (lat.) x 1° (long.) statistical area.

(2) Monthly. In addition to the annual statistical report, each nation will submit monthly reports within 30 days of the end of the month in which the fishing occurred, containing provisional fishery information as follows: *Effort* in vessel days on the grounds; and *Catch* in metric tons of recovered edible meat.

[FR Doc.77-26218 Filed 9-8-77;8:45 am]

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federal register

FRIDAY, SEPTEMBER 9, 1977
PART IX



DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

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DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alaska:
AK77–5052 ---------- May 20, 1977.
Arkansas:
AR77–4114 ---------- June 10, 1977.
Arizona:
AZ77–5058; AZ77–5059; AZ77–5060. June 17, 1977.
Delaware:
DE77–3042 ---------- Apr. 1, 1977.
Maryland:
MD77–3077 ---------- June 3, 1977.
Michigan:
MI77–2051 ---------- May 6, 1977.
MI77–2052 ---------- May 13, 1977.
Minnesota:
MN77–2048 ---------- May 20, 1977.
Nevada:
NV77–5061 ---------- June 17, 1977.
NV77–5072 ---------- July 8, 1977.
New Jersey:
NJ77–3079 ---------- June 17, 1977.
Ohio:
OH77–2108 ---------- July 8, 1977.
Oklahoma:
OK77–4163; OK77–4164; OK77–4165; OK77–4166; OK77–4167. July 15, 1977.
OK77–4168; OK77–4174--- July 29, 1977.
Pennsylvania:
PA77–3016 ---------- Aug. 26, 1977.
Tennessee:
TN77–1080 ---------- July 22, 1977.
Utah:
UT77–5075 ---------- Aug. 5, 1977.
Washington:
WA77–5076 ---------- Aug. 19, 1977.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Arkansas:
AR77–4217 (AR77–4106)-- May 27, 1977.
Maryland:
MD77–3119 (MD76–3151)- Mar. 19, 1976.
New Mexico:
NM77–4218 (NM77–4116)- June 17, 1977.
New York:
NY77–3116 (NY77–3001)-- Apr. 1, 1977.
NY77–3120 (NY77–3084)-- July 1, 1977.
Pennsylvania:
PA77–3121 (PA77–3031)-- Apr. 8, 1977.
PA77–3122 (PA77–3030)--- May 12, 1976.
PA77–3123 (PA77–3034)--- Apr. 15, 1977.
PA77–3124 (PA77–3033); PA77–3125 (PA77–3029). Feb. 18, 1977.
PA77–3126 (PA77–3032)--- Mar. 25, 1977.

Signed at Washington, D.C., this 1st day of September 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

Modifications page 2

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AK77-5052 - Mod. 82 (42 FR 31056 - June 17, 1977) Statewide, Arizona					
Change: Ironworkers: Central and Southern Areas Northern Area	$11.48 13.48	$1.24 1.24	$2.22 2.22		.08 .08
Plumbers; Steamfitters: Zone I Zone II Zone III	11.74 12.09 12.51	.75 .75 .75	1.35 1.35 1.35		.10 .10 .10
Zone IV	13.81	.75	1.35		.10
Sheet Metal Workers: (Zone Rates - from the Administration Building or City Hall in Flagstaff, Kingman, Phoenix, Prescott and Yuma)					
Zone I	10.48	3%+.75	1.20		.10
Zone II	11.13	3%+.75	1.20		.10
Zone III (Zone Rates - from the Administration Building or City Hall in Douglas and Yuma)	12.90	3%+.75	1.20		.10
Zone A	9.90	3%+1.04	1.91		.04
Zone B	10.85	3%+1.04	1.91		.04
Zone C	12.40	3%+1.04	1.91		.04
Terrazzo Workers; Tile Setters; Marble Masons (Tucson Area)	9.27	.90	.85		

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AR77-4116 - Mod. 45 (42 FR 30105 - June 10, 1977) Sebastian, Crawford and Washington Counties, Arkansas					
CHANGE: ASBESTOS WORKERS (Sebastian and Crawford Counties)	$11.50	.35	.75		.015

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AK77-5058 - Mod. 82 (42 FR 31056 - June 17, 1977) Statewide, Arizona					
Change: Ironworkers: Central and Southern Areas Northern Area	$11.48 13.48	$1.24 1.24	$2.22 2.22		.08 .08
Plumbers; Steamfitters: Zone I Zone II Zone III Zone IV	11.74 12.09 12.51 13.81	.75 .75 .75 .75	1.35 1.35 1.35 1.35		.10 .10 .10 .10
Sheet Metal Workers: (Zone Rates - from the Administration Building or City Hall in Flagstaff, Kingman, Phoenix, Prescott and Yuma)					
Zone I	10.48	3%+.75	1.20		.10
Zone II	11.13	3%+.75	1.20		.10
Zone III (Zone Rates - from the Administration Building or City Hall in Douglas and Yuma)	12.90	3%+.75	1.20		.10
Zone A	9.90	3%+1.04	1.91		.04
Zone B	10.85	3%+1.04	1.91		.04
Zone C	12.40	3%+1.04	1.91		.04
Terrazzo Workers; Tile Setters; Marble Masons (Tucson Area)	9.27	.90	.85		

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AK77-5052 - Mod. 84 (42 FR 26115 - May 20, 1977) Statewide, Alaska					
Add: ELECTRICIANS: RESIDENTIAL	$10.25	1.05			
CHANGE: IRONWORKERS: Bender Operator; Bridge; Fence Erector; Machinery Mover; Ornamental; Reinforcing Steel; Structural	17.05	.85	2.75		.20
PLUMBERS: RESIDENTIAL: Area I	14.32	.73	1.40		.15
SHEET METAL WORKERS: Areas II and III	18.61	.61	.75		.15
DECISION NO. AR77-4116 - Mod. 45 (42 FR 30105 - June 10, 1977) Sebastian, Crawford and Washington Counties, Arkansas					
CHANGE: ASBESTOS WORKERS (Sebastian and Crawford Counties)	$11.50	.35	.75		.015

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AZ77-5059 - Mod. #2 (42 FR 31065 - June 17, 1977) Maricopa County, Arizona					
Change:					
Ironworkers	$11.48	$1.24	$2.22		.08
Plumbers; Steamfitters:					
Zone I	11.74	.75	1.35		.10
Zone II	12.09	.75	1.35		.10
Zone III	12.51	.75	1.35		.10
Zone IV	13.81	.75	1.35		.10
Sheet Metal Workers:					
Zone I	10.48	3%+.75	1.20		.10
Zone II	11.13	3%+.75	1.20		.10
Zone III	12.98	3%+.75	1.20		.10
DECISION NO. AZ77-5060 - Mod. #3 (42 FR 31070 - June 17, 1977) Pima County, Arizona					
Change:					
Ironworkers	$11.48	$1.24	$2.22		.08
Plumbers; Steamfitters:					
Zone I	11.74	.75	1.35		.10
Zone II	12.09	.75	1.35		.10
Zone III	12.51	.75	1.35		.10
Zone IV	13.81	.75	1.35		.10
Sheet Metal Workers:					
Zone A	9.90	3%+1.04	1.91		.04
Zone B	10.85	3%+1.04	1.91		.04
Zone C	12.40	3%+1.04	1.91		.04
Terrazzo Workers; Tile Setters; Marble Setters	9.27	.90	.85		
DECISION #DE77-3042 - Mod. #6 (42 FR-17756 - April 1, 1977) State of Delaware					
Change:					
Boilermakers:					
New Castle County	$12.80	1.05	1.00		.02
Plumbers & Steamfitters:					
New Castle & Kent (north of the southern boundary of Dover City) Counties:					
Plumbers	10.95	1.15	1.00	.99 + d	.10
DECISION #MD77-3077 - Mod. #4 (42 FR-28760 - June 3, 1977) Counties of Anne Arundel (excluding the D. C. Training School), Baltimore, Harford, Howard, and Baltimore City, Maryland					
Change:					
Bricklayers	$9.98	.70	.50		.07
Marble Setters	9.98	.70	.50		.07
Sprinkler Fitters:					
Baltimore City including a 10-mile radius beyond the City limits	11.10	.65	.95		.05
Stone Masons	9.98	.70	.50		.07
DECISION #MI77-2051 - Mod. #3 (42 FR 23374 - May 6, 1977) Alger, Baraga, Chippewa, Dickinson, Gogebic, Houghton, Keweenaw, Mackinac, Marquette & Ontongon Counties, Michigan					
CHANGE:					
Plumbers & Steamfitters	$9.43	.70	.70	1.00	.02
DECISION #MI77-2052 - Mod. #3 (42 FR 24618 - May 13, 1977) Marquette County, Michigan					
ADD:					
Plumbers & Steamfitters	$9.43	.70	.70	1.00	.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MN77-2048 - Mod. #3 (42 FR 26157 - May 20, 1977) Aitkan, Anoka, Benton, Blue Earth, Carlton, Carver, Chisago, Cook, Dakota, Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Itasca, Kanabec, Koochiching, Lake, LeSueur, Martin, Meaker, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Nobles, Olmstead, Pine, Ramsey, Rice, Rock, Scott, Sherburne, Sibley, Stearns, Steel, St. Louis, Wabasha, Waseca, Washington, Winona & Wright Counties, Minnesota					
CHANGE:					
Power Equipment Operators: Counties of Nobles & Rock & the Remainder of Benton, Itasca, Koochiching, McLeod, Martin, Meaker, Morrison, Nicollet, Sibley & Stearns					
Group 1	$13.45	.45	.40		
Group 2	9.27	.45	.40		
Group 3	9.02	.45	.40		
Group 4	8.88	.45	.40		
Group 5	8.80	.45	.40		
Group 6	8.27	.45	.40		
Group 7	7.87	.45	.40		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NV77-5061 - Mod. #4 (42 FR 31074 - June 17, 1977) Clark County (does not include the Nevada Test Site), Nevada					
Change:					
Lathers	$10.60	.70	$1.00	$1.00	.16
Painters:					
Brush; Roller	12.64	.75	.35		.06
Paperhangers; Spray; Steel; Swing Stage; Sandblasters; Tapers	12.99	.75	.35		.06
DECISION #NV77-5072 - Mod. #3 (42 FR 35562 - July 8, 1977) Nevada Test Site including Tonopah Test Range in Clark and Nye Counties, Nevada					
Change:					
Asbestos Workers	$11.82	.85	$1.20	$1.00	
Ironworkers:					
Reinforcing; Ornamental; Structural	11.56	1.24	2.22	1.46	.06
Plumbers; Steamfitters	12.15	1.03	1.90	1.85	.08
DECISION #NJ77-3079 - Mod. #2 (42 FR-31080 - June 17, 1977) Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean, and Salem Counties, New Jersey					
Change:					
Bricklayers, Stonemasons, Marble Masons, Cement Masons, Plasterers, Tile Layers, & Terrazzo Workers Zone 3	$10.40	.50	.25		.02

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DECISION NO. OH77-2108 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Athens, Hocking, Vinton, & Washington Cos.					
Carpenters	$9.77	.50	.70		.02
Pile Drivermen	10.37	.50	.70		.02
Belmont & Monroe Cos.					
Carpenters	9.85	.87	.65		.02
Columbiana, Harrison & Jefferson Cos.					
Carpenters	9.85	.87	.65		.02
Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.					
Carpenters	10.35	.60	1.00		.05
Piledrivermen	10.35	.60	1.00		.05
Defiance, Henry, Paulding & Williams Cos.					
Carpenters	11.54	.93	.75		
Mahoning & Trumbull Cos.					
Carpenters	10.34	1.07	1.00		.04
Piledrivermen	11.13	1.07	1.00		.04
Electricians:					
Allen, Auglaize, Hardin, Logan, Mercer, Shelby, & Van Wert Cos. (W. of Crane, Pitt, & Tymochtee Twps.)	11.44	.32	3%+.37		.04
Brown, Clermont, & Hamilton Cos.					
Within 18 mi. of Hamilton Co. Court House	11.85	.70	3%+.40		.5%
From 18 to 21 miles	12.15	.70	3%+.40		.5%
From 21 to 25 miles	12.25	.70	3%+.40		.5%
Over 25 miles	12.40	.70	3%+.40		.5%
Lorain Co. (Rem. of Co.) & Medina Co. (Twps. of Litchfield & Liverpool)	12.50	.60	3%+.80		.11
Morgan Co.	9.40	.28	3%		.02
Ironworkers:					
Ashtabula (Rem. of Co.)	10.74	1.86	1.01		.15
Belmont, Guernsey, Harrison, Jefferson, & Monroe Cos.	11.28	.70	.85		.03

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DECISION NO. OH77-2108 - Mod. #1 (42 FR 35591 - July 8, 1977) Statewide, Ohio

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers:					
Athens Co.	$11.75	.60	.60		
Brown, Clermont, & Hamilton Cos.	12.095	.55	.35		
Butler & Warren Cos. & Preble Co. (Twps. of Dixon, Gratis, Israel, Lanier, & Somers)	12.095	.55	.35		
Columbiana Co. (Twps. of E. Liverpool, Franklin, Madison, St. Clair, Washington, Knox, & Yellow Creek) & Jefferson Co. (Twps: of Bush, Creek & Salina)	10.30	.60	.50		
Darke, Miami, & Shelby Cos.	10.35	.75	.25		
Noble Co. (Twps. of Beaver, Buffalo, Marion, Seneca & Wayne)	10.33	.60	.50		
Jackson & Vinton Cos.	11.25		.50		
Lawrence Co.	10.70				
Carpenters & Piledrivermen:					
Adams, Fayette, Gallia, Highland, Jackson, Lawrence, Meigs, Pike, Ross, & Scioto Cos.					
Carpenters	10.60	.40	.30		
Piledrivermen	10.89	.40	.30		
Ashland, Crawford, Huron, Lorain & Richland Cos.					
Carpenters	10.81	.55	1.00		"
Erie (W. of B & O RR Tracks) Carpenters	10.81	.55	1.00		"
Erie (W. of B & O RR Tracks) Ottawa, Sandusky & Seneca Cos. & city of Fostoria in Wood & Hancock Cos.					
Carpenters	10.81	.55	1.00		"

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DECISION NO. OH77-2108 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lorain Co. (except Columbia Twp.) & Medina Co. (Twps. of Litchfield & Liverpool)	$12.50	.60	3%+.80		.11
Painters:					
Ashland, Crawford, Marion, Morrow, & Richland Cos.					
Brush	8.80		.50		
Structural steel	9.30		.50		
Spray	9.55		.50		
Brown, Clermont, & Hamilton Cos.					
Brush	11.40		.25		
Spray	11.80		.25		
Carroll, Holmes, Stark, Tuscarawas & Wayne Cos.					
Brush	9.91	.78	.60		.02
Spray	10.44	.78	.60		.02
Structural steel	10.62	.78	.60		.02
Delaware, Fairfield, Fayette, Franklin, Madison, Pickaway, & Union Cos.					
Brush	9.99	.55	.55		.02
Spray	10.29	.55	.55		.02
Structural steel	10.49	.55	.55		.02
Erie, Hancock, Huron, Sandusky, Seneca & Wyandot Cos.					
Brush	9.40	.50	.60		$50.00p/yr
Structural steel & bridges	9.85	.50	.60		50.00p/yr
Plumbers & Steamfitters:					
Allen, Auglaize, Hardin, Mercer, Shelby, & Van Wert Cos.	12.00	.50	.75		.05
Ashland, Crawford, Erie, Huron, Knox, Lorain, Morrow, Richland & Wyandot Cos. (except Twps. of Carroll Co. (except Lee, Ross, Harrison, Perry & London), Orange, Union, Lee, Stark & Wayne Cos.	12.25	.60	.88		.05
	11.42	.45	.70		.05

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DECISION NO. OH77-2108 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Crawford, Fayette, Hardin, Hocking, Jackson (¾ of Co.), Knox, Marion, Morrow, Muskingum, Perry, Pike (Pt.), Ross, Vinton, Wyandot, & the rem. of Champaign, Clark, Highland & Logan Cos.	$11.10	.90	1.55		.05
Delaware, Fairfield, Licking, Madison, Pickaway, & Union Cos.	11.00	.90	1.55		.05
Franklin Co.	10.85	.90	1.55		.05
Fulton, Hancock, Henry, Lucas, Ottawa, Sandusky, Seneca, & Wood Cos.	12.30	.93	1.11		.5%
Linemen:					
Allen, Auglaize, Hardin, Logan, Mercer, Shelby, Van Wert & Wyandot Cos. (Rem. of Co.)	11.68	.45	3%		.5%
Ashland, Crawford, Marion, Morrow, & Richland Cos., Huron Co. (Twps. of Greenwich, New Haven, Richmond, & Ripley), Knox Co. (North half incl. the Twps. of Clinton, Howard, Liberty, Monroe, & Union), & Wyandot Co. (East half incl. the Twps. of Crane, Pitt & Tymochtee)	11.35	.45	3%+.30		.5%
Brown, Clermont, & Hamilton Cos.					
Within 18 mi. of Hamilton Co. Court House	11.85	.70	3%+.40		.5%
From 18 to 21 miles	12.15	.70	3%+.40		.5%
From 21 to 25 miles	12.25	.70	3%+.40		.5%
Over 25 miles	12.40	.70	3%+.40		.5%
Erie Co., & Huron Co. (Rem. of Co.)	11.85	.53	3%		.5%
Fayette, Highland, Hocking & Ross Cos. & the rem. of Jackson, Pike & Vinton Cos.	10.95	.28	3%		.5%

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DECISION NO. OH77-2108 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carroll (Twps. of Ross, Monroe, Union, Lee, Orange, Perry & London), Coshocton, Guernsey, Holmes, Morgan (S. of State Rte #78 & from McConnelsville West on State Rte #37 to the Perry Co. line), Muskingum, Noble, & Tuscarawas Cos.	$10.93	.35	.50		.08
Clinton, Darke, Fayatte, Miami, Montgomery, Preble, & Greene Co. (Rem. of Co.)	11.81	.55	.70		.03
Portage Co. & the rem. of Medina & Summit Cos.	11.46	.79	.90		.05
Omit: Footnote under cement masons: 2 Paid Holidays: Memorial Day and Independence Day					
Add: Footnote under carpenters: a. Paid Holidays: Memorial Day and Independence Day					

DECISION NO. OK77-4163 - Mod. #4
(42 FR 36764 - July 15, 1977)
Garfield County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE: BRICKLAYERS-Stonemasons	$ 8.75		.30		

DECISION NO. OK77-4164 - Mod. #3
(42 FR 36766 - July 15, 1977)
Muskogee, Adair and Cherokee Counties, Oklahoma

CHANGE:					
ASBESTOS WORKERS	11.50	.35	.75		.015
CEMENT MASONS:					
Cement masons	8.85				
Power tool operator	9.10				

DECISION NO. OK77-4165 - Mod. #3
(42 FR 36769 - July 15, 1977)
Wagoner County, Oklahoma

CHANGE:					
ASBESTOS WORKERS	11.50	.35	.75		.015
CEMENT MASONS (ZONE II-Remainder of Wagoner County)	8.85				

DECISION NO. OK77-4166 - Mod. #2
(42 FR 36771 - July 15, 1977)
McIntosh County, Oklahoma

CHANGE:					
ASBESTOS WORKERS	11.50	.35	.75		.015
CEMENT MASONS	8.85				
Change Carpenters to read:					
CARPENTERS Northern half of Co.					
Carpenters	8.25		.25		.01
Millwrights-Piledrivermen	8.75		.25		.01
ADD:					
CARPENTERS Southern half of Co.					
Carpenters	7.85	.45	.45		.05
Millwrights-Piledrivermen	9.20	.45	.45		.05

DECISION NO. OK77-4167 - Mod. #3
(42 FR 36773 - July 15, 1977)
Pittsburg County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE: ASBESTOS WORKERS	$11.50	.35	.75		.015

DECISION NO. OK77-4168 - Mod.#3
(42 FR 38884 - July 29, 1977)
Tulsa, Creek, Craig, Ottawa, Delaware, Mayes, and Rogers Counties, Oklahoma

CHANGE:					
ASBESTOS WORKERS	11.50	.35	.75		.015

DECISION NO. OK77-4174 - Mod. #3
(42 FR 38887 - July 29, 1977)
Oklahoma, Cleveland, Caddo, Kingfisher, Canadian, Grady, Logan, Lincoln, McClain, Seminole, and Pottawatomie Counties, Oklahoma

CHANGE:					
BRICKLAYERS-STONEMASONS:					
Kingfisher County	8.75		.30		

DECISION #PA77-3016 - Mod. # 1
(42 FR 43353 - August 26, 1977)
Bucks, Chester, Delaware, Montgomery, Philadelphia Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	$12.80	1.05	1.00		.02
Electricians:					
Zone - 1 Commercial	12.39	6%	3%+6%		2%

DECISION #TN77-1080 - Mod. #1
(42 FR 37764 - July 22, 1977)
Hamilton (Building and Heavy Construction); Bradley, Marion, Meigs, Polk and Rhea (Building Construction Only) Counties, Tennessee.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Delete From Counties:					
Bradley, Marion, and Meigs					

DECISION #UT77-5075 - Mod. #1
(42 FR - August 5, 1977)
Statewide Utah

Change:					
Carpenters:					
Heavy and Highway construction:					
Zone 1: Area 0 to 40 miles from the following Cities: Brigham City, Cedar City, Kanab, Logan, Moab, Monticello, Ogden, Price, Provo, Richfield, St. George, Salt Lake City, Vernal:					
Carpenters	$9.75	.55	.60		.03
Saw Operators; Carpenters handling creosote materials	10.00	.55	.60		.03
Millwrights	10.35	.55	.60		.03
Piledrivermen	11.98	.55	.60		.03
Zone 2: Area 40 to 60 miles from the above-named Cities:					
Carpenters	10.75	.55	.60		.03
Saw Operators; Carpenters handling creosote materials	11.00	.55	.60		.03
Millwrights	10.35	.55	.60		.03
Piledrivermen	11.98	.55	.60		.03
Zone 3: Area over 60 miles from the above-named Cities:					
Carpenters	11.75	.55	.60		.03
Saw Operators; Carpenters handling creosote materials	12.00	.55	.60		.03
Millwrights	10.35	.55	.60		.03
Piledrivermen	11.98	.55	.60		.03
Glaziers:					
Iron, Washington Counties	13.50	.50	.40		.05
Remaining Counties	8.96	.51	.30	b+ 1.05	
Plasterer Tenders	8.80	.40	.35		
Plasterers	9.90	.55	.60		.01

DECISION #UT77-5075 (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Plumbers; Pipefitters:					
Zone 1: Within a 15 mile radius from the center of each City, namely Salt Lake City, Ogden and Provo, Utah	$10.75	.51	$1.00		.06
Zone 2: Zone 1 plus 15 miles	11.30	.51	1.00		.06
Zone 3: Zone 2 plus 15 miles	11.65	.51	1.00		.06
Zone 4: Zone 3 plus 15 miles	13.25	.51	1.00		.06
Zone 5: All areas beyond Zone 4	13.75	.51	1.00		.06
Power Equipment Operators:					
Heavy and Highway construction:					
Steel Erection:					
Group 1	9.69	.90	1.615	.85	.14
Group 2	10.10	.90	1.615	.85	.14
Group 3	11.19	.90	1.615	.85	.14
Group 4	11.34	.90	1.615	.85	.14
Group 4-A	11.65	.90	1.615	.85	.14
Group 5	12.17	.90	1.615	.85	.14
Group 6	12.61	.90	1.615	.85	.14
Group 6-A	13.22	.90	1.615	.85	.14
Group 7	14.31	.90	1.615	.85	.14
Piledriving:					
Group 1-A	9.18	.90	1.615	.85	.14
Group 1-B	9.55	.90	1.615	.85	.14
Group 1-C	9.78	.90	1.615	.85	.14
Group 2-A	9.78	.90	1.615	.85	.14
Group 2-B	10.60	.90	1.615	.85	.14
Group 3	10.92	.90	1.615	.85	.14
Group 3-A	11.36	.90	1.615	.85	.14
Group 4	11.73	.90	1.615	.85	.14
Group 5	12.11	.90	1.615	.85	.14
Group 6	13.27	.90	1.615	.85	.14

DECISION NO. WA77-5076 - Mod. 41
(42 FR 42145-August 19, 1977)
Statewide, Washington

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Truck Drivers:					
(Area 1)					
Group 1	$9.38	$1.02	.75		

STATE: Arkansas
COUNTY: Conway, Faulkner, Van Buren, Cleburne & Perry
DECISION NO. AR77-4217
DATE: Date of Publication
SUPERSEDES DECISION NO. AR77-4106 dated May 27, 1977 in 42 FR 27563
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including four stories). Building Construction includes construction of sheltered enclosures, with walk-in access for the purpose of housing persons, machinery, equipment or supplies; includes, in all construction of such structures, the installation inside the building of utilities and equipment, both above and below ground level, as well as excavation and foundation.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.40	.45	.60		.02
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS	8.70	.40	.35		.04
CARPENTERS:					
Cleburne, Van Buren, Faulkner County and the Eastern half of Conway and Perry Counties:					
Carpenters	8.63	.45	.35		.05
Millwrights & Piledrivermen	9.13	.45	.35		.05
Western half of Conway and Perry Counties:					
Carpenters	7.93	.45	.35		.04
Millwrights & Piledrivermen	8.43	.45	.35		.04
CEMENT MASONS	8.67	.25			.03
ELECTRICIANS:					
Electricians	10.45	.40	3%		1/4%
Cable splicers	10.575	.40	3%		1/4%
ELEVATOR CONSTRUCTORS:					
Journeymen	8.88	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers - Probationary	50%JR				
Glaziers	7.90		.25		
IRONWORKERS	9.50	.45	.40		.04
LABORERS:					
Group I	6.00	.25	.52		
Group II	6.25	.25	.52		
Group III	6.40	.25	.52		
Group IV	6.50	.25	.52		
Group V	6.65	.25	.52		
Group VI	6.90	.25	.52		
Group VII	6.80	.25	.52		

LABORERS CLASSIFICATION DEFINITIONS

GROUP I
Construction laborers, concrete labor, wrecking labor, mechanic's labor, excavating labor, plumber's labor, electricians labor, green cutter, blowpipe, and concrete pump hose placer

GROUP II
Semi-skilled laborer; pipelayers, concrete-clay and mechanical tool, cement mixer, wet or dry finishers, and plasterers, mason tender, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

GROUP III
Steelform setters, curb and gutters, grout and cement muckers

GROUP IV
Swinging scaffold, Barco, 90 lb pavement breaker, and burners

GROUP V
Nozzleman (Gunite, Grout, and sandblasterer; concrete pump (nozzle placer)

GROUP VI
Powderman and blasterers

GROUP VII
Wagon drill

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$ 8.85				.02
LINE CONSTRUCTION:					
Linemen	10.85		3%		3/8%
Cable splicers	10.975		3%		3/8%
Operator	10.85		3%		3/8%
Groundmen (advanced)	65%JR		3%		3/8%
Groundmen (1st 6 months)	49%JR		3%		3/8%
Winch equipment	73%JR		3%		3/8%
MARBLE, TILE AND TERRAZZO WORKERS	7.95				
MARBLE, TILE & TERRAZZO FINISHERS	5.80				
PAINTERS:					
Painters, paperhangers and steam cleaners, sheet rock finishers and wall cover hangers	7.80		.35		.02
Spray gun operators and sand blasterers	8.40		.35		.02
All skelton steel and all work on stages, structural steel over 30 feet high	8.05		.35		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	$ 8.85				.02
PLUMBERS & PIPEFITTERS:					
Within 10 mile radius of Pulaski County Courthouse	10.35	.45	.55		.02
Over 10 mile from Pulaski County Courthouse	10.65	.45	.55		.02
POWER EQUIPMENT OPERATORS:					
GROUP I	9.64	.35	.35		
GROUP II	8.76	.35	.35		
GROUP III	8.36	.35	.35		
GROUP IV	6.92	.35	.35		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics and/or welders

GROUP II
Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturer, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradealls, all above equipment irrespective of size.

GROUP III - HEAVY EQUIPMENT OPERATORS:
All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers, all central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator.

GROUP IV - LIGHT EQUIPMENT OPERATORS:
Oiler driver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material, Lad-A-Vator, conveyor, batch plant and mortar or concrete mixers, below 10S, end dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, and motive power, equipment greaser, oiler, mechanic helper, drilling machine helper, asphalt distributor, and like equipment, safety boat operator and deckhand.

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DECISION NO. AR77-4217

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$ 7.95		.10		.05
SHEET METAL WORKERS	10.25	.45	.44		.08
SPRINKLER FITTERS	10.12	.65	.95		

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A - New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Paid Holidays - A through F
b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employees who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

SUPERSEDEAS DECISION

STATE: Maryland

COUNTIES: Anne Arundel, Calvert Carroll, Charles, Frederick, Howard, Montgomery, Prince George's, St. Mary's, And Washington

DECISION NO.: MD77-3119
Supersedes Decision No.: MD76-3151 dated March 19, 1976 in 41 FR-11742
DESCRIPTION OF WORK: Highway Construction (does not include airport runways and taxiways, bridges over navigable waters, tunnels, rest areas which include building structures, and railroad construction)

ZONE 1: Anne Arundel, Calvert, Charles, Prince George's, & St. Mary's Counties ZONE 2: Carroll, Howard, Frederick, Montgomery, & Washington Counties	Zone 1	Zone 2
Bricklayers	$8.20	$8.20
Carpenters	6.57	5.60
Cement Finishers - Masons	6.08	5.85
Electricians	6.45	5.67
Ironworker, Structural	7.15	7.50
Ironworker, Reinforcing	5.40	5.40
Painters	----	5.65
Laborers:		
Laborer	3.80	4.45
Air Tool Oper. (Jackhammer, Vibrator)	5.43	4.90
Asphalt Raker - Spreader	5.15	4.96
Chipper Machine Operator	----	5.25
Formsetters	5.00	4.55
Mulch Blower	----	5.00
Pipelayers (Concrete, Clay, & Drainage)	5.21	4.60
Piledrivermen	6.75	----
Power Equipment Operators:		
Asphalt Distributors, Liquid	5.92	5.43
Asphalt Screed	5.18	----
Backhoe	5.83	5.30
Backend Paver	5.00	5.20
Bituminous - Concrete Paver	5.66	5.09
Bulldozer	6.00	5.28
Cranes, Derricks, & Draglines	7.20	6.80
Concrete Finishing Machine	5.20	5.20
Drilling Machine	----	5.99
Gradall	----	5.40
Guardrail - Post Hammer Operator	4.50	6.00
Hydroseeder	5.00	----
Loaders	6.03	5.17
Mechanics	6.83	5.72
Motor Patrol - Grader	6.52	5.51
Oilers - Greasers	5.86	5.25
Piledriver Operator	----	6.50
Rollers, Base	5.26	4.55

Decision #MD77-3119 (Cont')

	ZONE 1	ZONE 2
Power Equipment Operators - Cont'd		
Rollers, Finish	5.73	5.14
Scrapers, Pans, Scoops	5.00	----
Spreader, Aggregate	----	5.00
Tractor	----	5.20
Trenching Machine	----	4.50
Truck Drivers	5.56	5.08
Welders	6.88	----

SUPERSEDEAS DECISION

STATE: New Mexico
DECISION NO. NM77-4218
SUPERSEDEAS DECISION NO. NM77-4116 dated June 17, 1977 in 42 FR 31094
DESCRIPTION OF WORK: BUILDING AND HEAVY CONSTRUCTION (Heavy construction consists of modifications, addition, alterations or repairs on railroad construction projects, drainage project, aqueducts, irrigation projects, flood control projects, reclamation projects, reservoirs, water supply projects (exclusive of distribution lines and appurtenances and filtration plants earth dams (over 1 million yards), concrete dams, dikes, levees, revetments, channels, channel cutoffs, intakes, dredging projects, jetties, breakwaters, docks, harbors, excavation and disposals by contract or overburden and the excavation and loading of all material from which the overburden has been removed, open-pit strip mining, viaducts, pedestrian tunnels, piers, abutments and clearing and grubbing, incidental to such heavy construction projects (exclusive of such work in connection with highway, building and light construction projects), subways, tunnels, shafts, missile silos and missile projects. (Except buildings underground), hydro-electric power plant projects and power plant facilities in their entirety (exclusive of steam plants), electric transmission lines, and including the operation, maintenance and repair of all land and floating plant, equipment, vehicles and other facilities used in connection with and serving the aforementioned work and services incidental to such projects (also, including RESIDENTIAL CONSTRUCTION in Santa Fe, Bernalillo, Rio Arriba, Taos, Sandoval and Valencia Counties).

COUNTY: Statewide
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING & HEAVY CONSTRUCTION					
ASBESTOS WORKERS:					
(Statewide, except Union, Lea, Harding, Curry, Roosevelt and Quay Counties)	$11.56	.50	1.27a		.06
Union, Harding, Lea, Roosevelt, Curry and Quay Counties	10.00	.65	.55		.07
BOILERMAKERS	9.625	.775	1.00	.50	.02
BRICKLAYERS-STONEMASONS:					
Zone I-A	9.56	.57	.50		.10
Zone I-B	10.56	.57	.50		.10
Zone I-C	11.06	.57	.50		.10
Zone II	9.61	.57	.30		.10
Zone III	10.36	.57	.30		.10
Zone IV	9.81	.57	.20		.10
Zone V	10.56	.57	.30		.10
Zone VI	9.01	.57	.30		.10
Zone VII	9.81	.57	.20		.10
Zone VIII	9.79	.67	.20		.10
Zone IX	8.79	.67	.20		.10

BRICKLAYERS' ZONE DEFINITIONS

ZONE I - Union, Harding, Santa Fe, Valencia, Torrence, Taos, Scorro, Mora, McKinley, Colfax, Catron, San Miguel, San Juan, Sandoval, Rio Arriba, Bernalillo and Los Alamos Counties

From basing point of Albuquerque Main Post Office:
Zone I-A - 0 to 25 road miles
Zone I-B - 25 to 50 road miles
Zone I-C - Over 50 road miles

ZONE II - Curry, and Roosevelt Counties

ZONE III - DeBaca, Guadalupe and Quay Counties

ZONE IV - Chaves County

ZONE V - Lincoln County

ZONE VI - Lee and Eddy Counties

ZONE VII - Otero Counties

ZONE VIII - Luna and Grant Counties, communities of Silver City, Bayard, Central, Hurley and new town site of Tyrone; Hidalgo and Sierra Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING AND HEAVY CONSTRUCTION					
CARPENTERS:					
Dwelling houses & apartments not to exceed two stories in height:					
Zone I-A	$ 7.50	.95	1.00	.65	.20
Zone I-B	8.75	.95	1.00	.65	.20
Zone I-C	9.50	.95	1.00	.65	.20
General Building, Heavy and Residential Construction (Dwelling houses and apartments over two stories in height):					
Zone 2-A	9.50	.95	1.00	.65	.20
Zone 2-B	10.75	.95	1.00	.65	.20
Zone 2-C	11.50	.95	1.00	.65	.20

CARPENTERS' ZONE DEFINITIONS

CARPENTERS (STATEWIDE) - From nearest basing points of the following cities of Towns: Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlsbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rosa, Silver City, Socorro, Taos, and Tucumcari:
ZONE I - Dwelling houses & apartments not to exceed two stories in height:
Zone I-A - 0 - 15 road miles from nearest basing point
Zone I-B - 15 to 35 road miles from nearest basing point
Zone I-C - Over 35 road miles from nearest basing point
ZONE II - General Building & Heavy Engineering and Residential Construction (Dwelling Houses and Apartments over two stories in height):
Zone 2-A - 0 to 15 road miles from nearest basing point
Zone 2-B - 15 to 35 road miles from nearest basing point
Zone 2-C - Over 35 road miles from nearest basing point

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MILLWRIGHTS & PILEDRIVERMEN:					
Zone 1	$10.25	.95	1.00	.65	.20
Zone 2	11.50	.95	1.00	.65	.20
Zone 3	12.25	.95	1.00	.65	.20

MILLWRIGHTS & PILEDRIVERMEN ZONE DEFINITIONS

BASING POINT - FROM ALBUQUERQUE CITY LIMITS:
Zone 1 - 0 to 15 road miles from basing point
Zone 2 - 15 to 35 road miles from basing point
Zone 3 - Over 35 road miles from basing point

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:					
Area I	$ 8.37	.57	.50		
Area II					
Zone 1	8.42	.57	.50		
Zone 2	8.77	.57	.45		
Zone 3	9.02	.57	.45		
Cement masons (Residential)	5.35	.57	.50		
Cement masons (Heavy)	8.37	.57	.50		
CEMENT MASONS:					
Composition & Machine Operators					
Area I	8.62	.57	.50		
Area II					
Zone 1	8.67	.57	.50		
Zone 2	8.92	.57	.45		
Zone 3	9.27	.57	.45		

CEMENT MASONS AREA DEFINITIONS

AREA I - Statewide except Farmington, San Juan County
AREA II - Farmington, San Juan County
Zone I - 0-15 miles from Farmington City Hall
Zone II - 15-35 miles from Farmington City Hall
Zone III - 35 miles and over from Farmington City Hall

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
ZONE I					
Area 1					
1-A	$10.50	.60	3%+.70		1/2%
1-B	11.24	.60	3%+.70		1/2%
1-C	11.87	.60	3%+.70		1/2%
1-D	12.60	.60	3%+.70		1/2%
Area 2					
2-A	9.91	.60	3%+.70		1/2%
2-B	10.60	.60	3%+.70		1/2%
2-C	11.20	.60	3%+.70		1/2%
2-D	11.89	.60	3%+.70		1/2%
ZONE II	11.87	.60	3%+.70		1/2%
ZONE III					
3-A	9.10	.30	3%		1/2%
3-B	10.55	.30	3%		1/2%
ZONE IV					
4-A	10.15	.60	3%		.01
4-B	10.50	.60	3%		.01
4-C	10.65	.60	3%		.01
4-D	10.90	.60	3%		.01
ZONE V	5.80	.30	1%		1/4%
CABLE SPLICERS:					
ZONE I					
Area 1	11.55	.60	3%+.70		1/2%
1-A	11.55	.60	3%+.70		1/2%
1-B	12.29	.60	3%+.70		1/2%
1-C	12.92	.60	3%+.70		1/2%
1-D	13.65	.60	3%+.70		1/2%
Area 2					
2-A	10.90	.60	3%+.70		1/2%
2-B	11.59	.60	3%+.70		1/2%
2-C	12.19	.60	3%+.70		1/2%
2-D	12.88	.60	3%+.70		1/2%
ZONE II	12.40	.60	3%+.70		1/2%
ZONE III					
3-A	9.35	.30	3%		1/2%
3-B	10.80	.30	3%		1/2%
ZONE IV					
4-A	10.50	.60	3%		.01
4-B	10.85	.60	3%		.01
4-C	11.00	.60	3%		.01
4-D	11.25	.60	3%		.01

ELECTRICIANS-CABLE SPLICERS ZONE DEFINITIONS

ZONE I
AREA 1 - Bernalillo, Santa Fe, Torrance, DeBaca, Guadalupe, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos Rio Arriba, Grant, Sandoval, Valencia, Socorro, Catron, McKinley, Sierra and all of San Juan County excluding the Navajo Indian Reservation.
AREA 2 - Chaves, Curry, Lincoln and Roosevelt Counties

AREAS 1-A & 2-A
From nearest basing point cities, towns and mileage from main post office in the following towns:
Albuquerque - 15 miles from main post office
Santa Fe - 15 miles from main post office
Las Vegas - 8 miles from main post office
Farmington - 8 miles from main post office
Raton - 6 miles from main post office
Tucumari - 6 miles from main post office
Aztec - 6 miles from main post office
Roswell - 12 miles from main post office
Ruidoso - 12 miles from main post office
Portales - 12 miles from main post office
Carrizozo - 12 miles from main post office
Clovis - 12 miles from main post office
Gallup - 10 miles from main post office
*Pojoaque - 2 miles from main post office
*All areas adjacent to Pojoaque that are over two (2) miles distant from the main post office in that town will be zoned out of Santa Fe.

AREAS 1-B & 2-B
Area 1-B and 2-B extending up to 20 miles beyond Area 1-A & 2-A
AREAS 1-C & 2-C
Area 1-C & 2-C extending up to 30 miles from Area 1-A & 2-A
AREAS 1-D & 2-D
Area 1-D & 2-D anything beyond 30 miles from Area 1-A & 2-A
ZONE II - Los Alamos County
ZONE III - Dona Ana, Otero, Luna, Hidalgo Counties
Zone 3-A - Within 10 miles radius from the post office in Las Cruces and within a 5 mile radius from the Post Office in Alamogordo.
Zone 3-B - Dona Ana, Otero, Luna, and Hidalgo Counties (except that area specified in Zone 3-A)
ZONE IV - Eddy and Lea Counties - the following zones shall be designated from the main post office of Artesaia, Carlsbad, Hobbs and Lovington:
Zone 4-A - 0 - 12 miles from main post office
Zone 4-B - 12 to 22 miles from main post office
Zone 4-C - 22 to 40 miles beyond main post office
Zone 4-D - 40 miles and beyond main post office

ZONE V - Single or mutiple, family dwelling or apartments up to and including 26 units under one roof not exceeding two stories - Bernalillo, Santa Fe, Taos, Rio Arriba, Sandoval, Valencia and San Juan Counties, but not on the Navajo Indian Reservation

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Bernalillo, Catron, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union and Valencia Counties:					
Elevator constructors	$ 10.42	.545	.35	4%+a+b	.02
Elevator constructors helpers	70%JR	.545	.35	4%+a+b	.02
Elevator constructors, prob.	50%JR				
Chaves, Hidalgo, Dona Ana, Eddy Grant, Lee, Luna, Otero and Sierra Counties:					
Elevator constructors	8.17	.545	.35	4%+a+b	.02
Elevator constructors helper	70%JR	.545	.35	4%+a+b	.02
Elevator constructors prob.	50%JR				
GLAZIERS:					
Zone I	6.94	.30	.10		.02
Zone II	8.54	.35	.20		.02

GLAZIERS' ZONE DEFINITIONS

GLAZIERS
ZONE I - Dona Ana, Luna, Otero Counties.
ZONE II - Statewide, except Doan Ana, Luna and Otero Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
ZONE I - Area I	$10.30	.55	1.00		.14
ZONE I - Area II					
Zone 1	10.30	.55	1.00		.14
Zone 2	11.05	.55	1.00		.05
Zone 3	11.80	.55	1.00		.14
Zone 4	12.05	.55	1.00		.14
ZONE II	9.75	.55	1.00		.10
ZONE III	10.75	.55	1.00		.10

IRONWORKERS ZONE DEFINITIONS

ZONE I
AREA I - Bernalillo, Catron, Colfax, DeBaca, Guadalupe, Lincoln, Los Alamos McKinley, Mora, Rio Arriba, Sandoval, Santa Fe, Socorro, Taos, Torrance and Valencia Counties

ZONE I
AREA II - Farmington, San Juan County
Zone 1 - Shall extend a distance of 6 road miles inclusive beyond the City Hall.
Zone 2 - Shall extend a distance of 8 road miles inclusive beyond the outer perimeter of zone 1.
Zone 3 - Shall extend a distance of 10 road miles inclusive beyond the outer limits of zone 2.
Zone 4 - Shall extend a distance of 27 road miles inclusive beyond the outer limits of zone 3.
All areas not within Zones 1, 2, 3, and 4 shall revert to the $15.00 per day subsistence rate.

ZONE II - Dona Ana, county with the exception of that portion of the county that lies within the White Sands Missile Range; Chaves County, Eddy County except that Potash Basin and defined as the area 10 road miles on Highway 62 and Highway 180, east of Carlsbad.

ZONE III - Curry, Harding, Quay, Union, Hidalgo, Grant, Lea, Luna, Otero and Sierra Counties; also Potash Basin, White Sands and McGregor Missile Ranges.

LABORERS: BUILDING, HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group I	$6.31	.53	.67		.05
Group II	6.61	.53	.67		.05
Group III	6.61	.53	.67		.05
Group IV	6.91	.53	.67		.05
Group V	7.06	.53	.67		.05

LABORERS' CLASSIFICATION DEFINITIONS

GROUP I
Unskilled; Building and common laborers, carpenter tenders, concrete workers, chainmen-stakedrivers, concrete buggy operators

GROUP II
Semi-skilled; Air and power tool operator, asphalt rakers, demolition, gunite rebound men, fog machine operator, power buggy operators, rodmen, sand blasterers (pot men), window washers, wagon, core and diamond drillers tender outside, grade setter.

GROUP III
Wagon core, diamond drillers

GROUP IV
Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunite nozzlemen, pipelayer, pumpcrete nozzlemen

GROUP V
Powdermen and blasterers

LABORERS (RESIDENTIAL CONSTRUCTION)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group I	$5.02	.53	.67		.05
Group II	5.32	.53	.67		.05
Group III	5.42	.53	.67		.05
Group IV	5.62	.53	.67		.05

RESIDENTIAL LABORERS' CLASSIFICATION DEFINITIONS

GROUP I
Unskilled - Building and common laborers, carpenter tenders, concrete workers, chainmen-stakedrivers, concrete buggy operators, hand

GROUP II
Semi-skilled - Air and power tool operator, asphalt rakers, demolition, gunite rebound men, fog machine operator, power buggy operator, rodmen, sand blasterers (pot men), window washers, wagon, core, and diamond drillers tender outside

GROUP III
Wagon core, diamond drillers

GROUP IV
Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunite nozzlemen, pipelayer, pumpcrete nozzlemen

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Zone I	$ 9.105	.57			.02
Zone II	10.50				.01
Zone III	8.55				.01

LATHERS' ZONE DEFINITIONS

ZONE I
Catron, Grant, Bernalillo, Roosevelt, Union, Sandoval, San Juan, Socorro, Torrance and Valencia Counties.

ZONE II
Colfax, Los Alamos, Mora, Rio Arriba, San Miguel, Santa Fe and Taos Counties.

ZONE III
Dona Ana and Otero Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
BERNALILLO COUNTY ONLY					
Cable splicers	$ 9.65	.60	1%+.60		4%
Linemen - technicians	9.00	.60	1%+.60		4%
Equipment operators	8.58	.60	1%+.60		4%
Equipment mechanics	7.88	.60	1%+.60		4%
Powderman	7.88	.60	1%+.60		4%
Groundmen and jackhammer opers.					
1st 6 months	4.88	.60	1%+.60		4%
2nd 6 months	5.51	.60	1%+.60		4%
Experienced	6.36	.60	1%+.60		4%
LINE CONSTRUCTION:					
STATEWIDE (Except Bernalillo Co.		.60	1%+.60		
Cable splicers	10.51	.60	1%+.60		4%
Linemen - technicians	9.82	.60	1%+.60		4%
Equipment operators	9.35	.60	1%+.60		4%
Equipment mechanics	8.58	.60	1%+.60		4%
Powdermen	8.58	.60	1%+.60		4%
Groundmen and jackhammer Oprs.:					
1st 6 months	5.31	.60	1%+.60		4%
2nd 6 months	5.99	.60	1%+.60		4%
Experienced	6.96	.60	1%+.60		4%
MARBLE, TILE & TERRAZZO WORKERS	7.85	.67			
MARBLE, TILE & TERRAZZO FINISHERS	6.28	.67			
TERRAZZO MACHINE OPERATORS	6.53	.67			
PAINTER: ZONE I	8.52	.35	.20		.05
Zone 1-A	9.02	.35	.20		.05
Zone 1-B	8.77	.35	.20		.05
Zone 1-C	9.10	.35	.20		.05
Zone 1-D	8.85	.35	.20		.05
Zone 1-E					
PAINTERS (INDUSTRIAL WORK):					
Brush, roller, sandblast and grinder operators	9.32	.35	.20		.05
Spray	9.82	.35	.20		.05
Pot tender	8.32	.35	.20		.05

PAINTERS' ZONE II CONT'D	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: ZONE II					
Zone 2-A	$ 7.95	.35	.20		.05
Zone 2-B	9.17	.35	.20		.05
Zone 2-C	8.60	.35	.20		.05
Zone 2-D	8.05	.35	.20		.05
Zone 2-E	8.70	.35	.20		.05
Zone 2-F	7.95	.35	.20		.05
Zone 2-G	8.45	.35	.20		.05
PAINTERS: ZONE III					
Zone 3-A	7.66	.30			.02
Zone 3-B	8.08	.30			.02
Zone 3-C	7.805	.30			.02
Zone 3-D	8.08	.30			.02
Zone 3-E	8.51	.30			.02
Zone 3-F - 12½¢ above scale		.30			.02
Zone 3-G - 25¢ above scale		.30			.02
Zone 3-H - 50¢ above scale		.30			.02
Zone 3-I - 75¢ above scale		.30			.02
Zone 3-J - $1.00 above scale		.30			.02
PAINTERS: ZONE IV					
Zone 4-A	7.12	.35	.20		.05
Zone 4-B	7.62	.35	.20		.05
Zone 4-C	7.37	.35	.20		.05
Zone 4-D	7.22	.35	.20		.05
Zone 4-E	7.70	.35	.20		.05
Zone 4-F	7.45	.35	.20		.05

PAINTERS' ZONE AND CLASSIFICATION DEFINITIONS

PAINTERS:

ZONE I - San Juan, McKinley, Bernalillo, Torrance, Guadalupe, Quay, Catron, Socorro, Lincoln, DeBaca, Roosevelt, Chaves, Valencia, Sierra, Grant, Hidalgo, Curry, Lea and Eddy Counties, New Mexico.
- Zone 1-A - Painters, roller and hand textures
- Zone 1-B - Painters, spray, sandblasting, painter on steel bridges, tanks towers, pipe and structural
- Zone 1-C - Paperhanger
- Zone 1-D - Drywall finisher; ames tool operator
- Zone 1-E - Hand finisher machine texture

ZONE II - Colfax, Harding, Los Alamos, Mora, Sandoval, San Miguel, Rio Arriba, Taos, Union and Santa Fe Counties.
- Zone 2-A - Painters and roller
- Zone 2-B - Paperhangers
- Zone 2-C - Spray, sandblast, steel, special coating applicator
- Zone 2-D - Vinyl hangers
- Zone 2-E - Drywall finisher tool and machine texture
- Zone 2-F - Hand texture
- Zone 2-G - Hand finisher

ZONE III - Luna, Otero and Dona Ana Counties
- Zone 3-A - Brush, tapers and rollers
- Zone 3-B - Spray, sandblasting
- Zone 3-C - Ames tool and steel brush after erection
- Zone 3-D - Stripping machine
- Zone 3-E - Radio towers, water tanks, smoke stack
- Zone 3-F - Radio towers, water tanks, smoke stacks 50 to 75 feet
- Zone 3-G - Radio towers, water tanks, smoke stacks 75 to 100 feet
- Zone 3-H - Radio towers, water tanks, smoke stacks 100 to 200 ft
- Zone 3-I - Radio towers, water tanks, smoke stacks 200 to 300 ft
- Zone 3-J - Radio towers, water tanks, smoke stacks 300 to 400 ft.

ZONE IV -Residential Construction in Santa Fe, Sandoval, Rio Arriba & Taos Cos.
- Zone 4-A - Brush and roller
- Zone 4-B - Spray, parking lot striping
- Zone 4-C - Paperhangers
- Zone 4-D - Vinyl hangers
- Zone 4-E - Drywall finishers - ames tool op., machine texture
- Zone 4-F - Drywall finishers - hand finisher

BUILDING AND HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Statewide, except Otero, Grant, Sierra, Dona Ana, Luna and Hidalgo Counties	$ 8.00	.48	.30		.01
Otero, Grant, Sierra, Dona Ana, Luna and Hidalgo Counties	7.27	.48			.01
PLUMBERS-PIPEFITTERS:					
Area I	10.85	.63	1.42		.16
Area II	11.35	.63	1.42		.16
Area III	12.60	.63	1.42		.16
Specific Area	11.48	.63	1.42		.16
Residential	6.50	.63	.25		.16

PLUMBERS - PIPEFITTERS' ZONES DEFINITIONS

BASING POINT CITIES OR TOWNS:
Albuquerque, Alamogordo, Anthony, Artesia, Belen, Carlsbad, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari, Truth of Consequence and Socorro, New Mexico.

Area I - Shall include a distance of seven road miles inclusive beyond the city or town limits.

Area II - Shall extend a distance of four road miles inclusive beyond the outer perimeter of area I.

Area III - Shall apply to all areas not within areas 1 or 2, or not within the specific area.

Specific Area - Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range and/or Proving Grounds, Atlas Missile Complex Sites in Chaves and Lincoln Counties, and the Oro Grande Range Camp and Dona Ana and Otero Counties.

POWER EQUIPMENT OPERATORS AREA DEFINITIONS:
AREA I - Farmington, San Juan County
- Zone I - 0 - 15 miles from Farmington City Hall
- Zone II - 15-35 miles from Farmington City Hall
- Zone III - 35-50 miles from Farmington City Hall

AREA II - Statewide, except San Juan County

BUILDING AND HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA I (RESIDENTIAL AND BUILDING CONSTRUCTION)					
ZONE I					
Group 1	$7.58	.60	.60		.11
Group 2	8.12	.60	.60		.11
Group 3	8.20	.60	.60		.11
Group 4	8.26	.60	.60		.11
Group 5	8.32	.60	.60		.11
Group 6	8.42	.60	.60		.11
Group 7	8.52	.60	.60		.11
Group 8	8.70	.60	.60		.11
Group 9	9.50	.60	.60		.11
ZONE II					
Group 1	8.83	.60	.60		.11
Group 2	9.37	.60	.60		.11
Group 3	9.45	.60	.60		.11
Group 4	9.51	.60	.60		.11
Group 5	9.57	.60	.60		.11
Group 6	9.67	.60	.60		.11
Group 7	9.77	.60	.60		.11
Group 8	9.95	.60	.60		.11
Group 9	10.75	.60	.60		.11
ZONE III					
Group 1	9.08	.60	.60		.11
Group 2	9.62	.60	.60		.11
Group 3	9.70	.60	.60		.11
Group 4	9.76	.60	.60		.11
Group 5	9.82	.60	.60		.11
Group 6	9.92	.60	.60		.11
Group 7	10.02	.60	.60		.11
Group 8	10.20	.60	.60		.11
Group 9	11.00	.60	.60		.11
AREA II (RESIDENTIAL AND GENERAL BUILDING CONSTRUCTION)					
Group 1	7.58	.60	.60		.11
Group 2	8.12	.60	.60		.11
Group 3	8.20	.60	.60		.11
Group 4	8.26	.60	.60		.11
Group 5	8.32	.60	.60		.11
Group 6	8.42	.60	.60		.11
Group 7	8.52	.60	.60		.11
Group 8	8.70	.60	.60		.11
Group 9	9.50	.60	.60		.11

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HEAVY CONSTRUCTION (POWER EQUIPMENT OPERATORS AREA DEFINITIONS

AREA I - Statewide, except San Juan County
Basing points for zone pay shall be determined from the Center of the following cities - Albuquerque, Carlsbad, Gallup, Raton and Las Cruces.
Zone I - 0 to 50 miles
Zone II - Over 50 miles
AREA II - Farmington, San Juan County
Zone I - 0 to 15 miles from Farmington City Hall
Zone II - 15 to 35 miles from Farmington City Hall
Zone III - Over 35 miles from Farmington City Hall

HEAVY CONSTRUCTION (AREA I):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I					
Zone 1	$7.43	.60	.60		.11
Zone 2	8.43	.60	.60		.11
GROUP II					
Zone 1	7.97	.60	.60		.11
Zone 2	8.97	.60	.60		.11
GROUP III					
Zone 1	8.05	.60	.60		.11
Zone 2	9.05	.60	.60		.11
GROUP IV					
Zone 1	8.11	.60	.60		.11
Zone 2	9.11	.60	.60		.11
GROUP V					
Zone 1	8.17	.60	.60		.11
Zone 2	9.17	.60	.60		.11
GROUP VI					
Zone 1	8.27	.60	.60		.11
Zone 2	9.27	.60	.60		.11
GROUP VII					
Zone 1	8.37	.60	.60		.11
Zone 2	9.37	.60	.60		.11
GROUP VIII					
Zone 1	8.55	.60	.60		.11
Zone 2	9.55	.60	.60		.11
GROUP IX					
Zone 1	9.35	.60	.60		.11
Zone 2	10.35	.60	.60		.11

HEAVY CONSTRUCTION)
POWER EQUIPMENT OPERATORS

HEAVY CONSTRUCTION (AREA II)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I					
Zone 1	$ 7.43	.60	.60		.11
Zone 2	8.18	.60	.60		.11
Zone 3	8.43	.60	.60		.11
GROUP II					
Zone 1	7.97	.60	.60		.11
Zone 2	8.72	.60	.60		.11
Zone 3	8.97	.60	.60		.11
GROUP III					
Zone 1	8.05	.60	.60		.11
Zone 2	8.80	.60	.60		.11
Zone 3	9.15	.60	.60		.11
GROUP IV					
Zone 1	8.11	.60	.60		.11
Zone 2	8.86	.60	.60		.11
Zone 3	9.11	.60	.60		.11
GROUP V					
Zone 1	8.17	.60	.60		.11
Zone 2	8.92	.60	.60		.11
Zone 3	9.17	.60	.60		.11
GROUP VI					
Zone 1	8.27	.60	.60		.11
Zone 2	9.02	.60	.60		.11
Zone 3	9.27	.60	.60		.11
GROUP VII					
Zone 1	8.37	.60	.60		.11
Zone 2	9.12	.60	.60		.11
Zone 3	9.37	.60	.60		.11
GROUP VIII					
Zone 1	8.55	.60	.60		.11
Zone 2	9.30	.60	.60		.11
Zone 3	9.55	.60	.60		.11
GROUP IX					
Zone 1	9.35	.60	.60		.11
Zone 2	10.10	.60	.60		.11
Zone 3	10.35	.60	.60		.11

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NOTICES

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (BUILDING & RESIDENTIAL)

GROUP I
Fireman, oiler, screedman, scale operator such as (Bin-A-Batch), rubber tired farm type tractor, tractors under 50 HP w/o attachments, breakman, concrete paving curing machine (bridge-type), helpers; mechanic, welder grease truck.

GROUP II
Roller, sheepsfoot or pneumatic self propelled w/o dozer, concrete conveyor, service truck operator (head oiler), air compressor (300 CFM and over), pumps (6" and over), screening plants, concrete mixers (under 1 CY), concrete saw or grinder-span type, 1 drum hoists, air tugger, elevating belt type loaders, forklift, lumber stacker, tractor-farm type (under 50 HP w/attachments), motorman and industrial locomotive operator, winch trucks, front end loader (under 2 CY), power plants which generate over 15 KW, welding machines

GROUP III
Bituminous distributors, boilers, retort and hot oil heaters, concrete mixers (1 CY and over), concrete paver-single drum, drilling equipment, motor graders (rough), shaft and tunnel equipment; (refrigeration, slusher, jumbo form), trenching machines (all types), pump crete and gunite machines, slipform paver, mechanical bullfloats, concrete slab spreading machine, concrete slab finishing machines, crushing plants.

GROUP IV
Front end loader (2 thru 10 CY), rollers, steel wheeled-all types, bulldozers, scrapers, (motor or towed), elevating graders, concrete batching plants, self propelled rollers equipped with dozer. Twin bowl scrapers and quad 8 or 9 pushers (35¢ over basic rate). Three bowl scrapers (60¢ over basic rate). Tractor (farm type w/hydraulic backhoes).

GROUP V
Hydraulic cranes with less than 50 feet of boom (20 tons and under). Concrete paver double drum. 2 drum hoist, auto fine grader, cat cranes, hysters, side and swingboom cats.

GROUP VI
Mucking machines, all types; motor grader, finish; mechanic, welder

GROUP VII
Steam engineers; loader (front end over 10 CY); concrete pump (snorkel type)

GROUP VIII
All shovel type equipment; cranes, draglines, backhoes, derricks, guy and stiff leg; pipemobile (No. 2 op.), pile driver, hydraulic cranes (20 tons and over), mine hoist, belt loader ("C.M.I." type), cranes & draglines, with booms and jib over 150 feet - 25¢ per hour additional.

GROUP IX
Shovel (wheel type), boring machine (tunnel or shaft mole), pipemobile

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (HEAVY CONSTRUCTION)

GROUP I
Fireman, oiler, screedman, scale operator such as (bin-a-batch), rubber tired farm type tractor, tractors under 50 HP w/o attachments, breakman, concrete paving curing machine (bridge-type), helpers; (mechanic, welder), grease truck

GROUP II
Rollers, sheepsfoot or pneumatic self propelled w/o dozer, concrete conveyor, service truck operator (head oiler), air compressor (300 CFM and over), pumps, (6" and over), screening plants, concrete mixers (under 1 CY), concrete saw or grinder-span type, 1 drum hoist, air tugger, elevating belt type loaders, forklift, lumber stacker, tractor-farm type (under 50 HP w/attachment), motorman and industrial locomotive operator, winch truck front end loader (under 2 CY), power plants which generate over 15 KW, welding machines

GROUP III
Bituminous distributors, boilers, retort and hot oil heaters, concrete mixers (1 CY and over), concrete paver-single drum, drilling equipment, motor graders (rough), shaft and tunnel equipment, refrigeration, slusher, jumbo forms, trenching machines, (all types), pump crete and gunite machines, slipform paver, mechanical bullfloats, concrete slab spreading machine, concrete slab finishing machine, asphalt plants, bituminous finishing machines, crushing plants

GROUP IV
Front end loader (2 thru 7 CY), rollers steel wheeled (all types), bulldozers, scrapers, (motor or towed), elevating graders, concrete batching plants, self-propelled rollers, equipped with dozer, twin-bowl scrapers and quad 8 or 9 pushers (35¢ over basic rate), three bowl scrapers (60¢ over basic rate).

GROUP V
Front end loader (over 7 CY thru 10 CY), hydraulic cranes, with less than 50 feet of boom (20 tons and under), concrete paver, double drum, cat cranes, hysters, side and swingboom cats, 2 drum hoist, auto fine grader.

GROUP VI
Mucking machines,alltypes,motor grader (finish), mechanic, welder

GROUP VII
Steam engineers, loader (front end over 10 CY)

GROUP VIII
All shovel type equipment; cranes, draglines, backhoes, derricks, guy and stiff leg,pipemobile (NO. 2 operator), piledriver,hydraulic cranes (20 tons and over), mine hoist, belt loader ("C.M.I." Type)

GROUP IX
Shovel (wheel type), boring machine (tunnel or shaft mole), pipe mobile

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NOTICES

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$7.55	.25			
SHEET METAL WORKERS:					
Zone 1	10.87	.53	1.00		.12
Zone 2	9.17	3%+.51	.385		.025
Zone 3	8.35	.20			.05
Zone 4	11.87	.53	1.00		.12

SHEET METAL WORKERS ZONE DEFINITIONS

Zone 1 - Bernalillo, Catron, Chaves, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Miguel, Santa Fe, Socorro, Union, Taos, Torrance, Valencia, San Juan Counties, Kirtland Air Force Base.
Zone 2 - Dona Ana, Eddy, Grant, Hidalgo, Lea, Luna, Sierra and Otero Counties
Zone 3 - Holloman Air Force Base, White Sands and McGregor Ranges
Zone 4 - Los Alamos County

SPRINKLER FITTERS	11.26	.65	.95		.08
SOFT FLOOR LAYERS:					
Zone 1	7.23	.30	.10		.02
Zone 2	7.85	.35	.30		.02

SOFT FLOOR LAYERS' ZONE DEFINITIONS

Zone 1 - Dona Ana, Luna and Otero Counties
Zone 2 - Statewide (excluding Dona Ana, Luna and Otero Counties)

SOUND INSTALLERS:					
SOUNDMAN					
Zone 1	10.10	.60	3%		1/2%
Zone 2	11.36	.60	3%		1/2%
Zone 3	13.89	.60	3%		1/2%
TECHNICIANS					
Zone 1	8.08	.60	3%		1/2%
Zone 2	9.34	.60	3%		1/2%
Zone 3	11.87	.60	3%		1/2%
SOUND INSTALLERS					
Zone 1	6.57	.60	3%		1/2%
Zone 2	7.83	.60	3%		1/2%
Zone 3	10.36	.60	3%		1/2%

SOUND INSTALLERS ZONE DEFINITIONS

ZONE I
Thirty mile radius of main post office of Albuquerque
ZONE II
Remainder of Valencia, Sandoval, Santa Fe, Torrance, and Socorro Counties, the hourly rates of pay shall be increased to twelve and one-half (12½) percent of journeyman rate of pay for Zone I.
ZONE III
Chavez, Curry, Roosevelt, Lincoln, Guadalupe, DeBaca, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arriba, Catron, Sierra, Grant, Los Alamos, San Juan, McKinley Counties, the hourly rates of pay shall be increased by thirty-seven and one-half (37.5) percent of the journeyman rate of pay for Zone I.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GENERAL BUILDING CONSTRUCTION					
TRUCK DRIVERS:	$6.61	.57	.50		
Group 1	6.73	.57	.50		
Group 2	6.81	.57	.50		
Group 3	6.93	.57	.50		
Group 4	6.98	.57	.50		
Group 5	7.08	.57	.50		
Group 6	7.18	.57	.50		
Group 7	7.32	.57	.50		
Group 8	7.47	.57	.50		
Group 9					
TRUCK DRIVERS (RESIDENTIAL CONST.)	6.31	.57	.50		
Group 1	6.43	.57	.50		
Group 2	6.51	.57	.50		
Group 3	6.63	.57	.50		
Group 4	6.68	.57	.50		
Group 5	6.78	.57	.50		
Group 6	6.88	.57	.50		
Group 7	7.02	.57	.50		
Group 8	7.17	.57	.50		
Group 9					
TRUCK DRIVERS (HEAVY CONSTRUCTION					
Group 1	6.76	.57	.50		
Group 2	6.88	.57	.50		
Group 3	6.96	.57	.50		
Group 4	7.08	.57	.50		
Group 5	7.13	.57	.50		
Group 6	7.23	.57	.50		
Group 7	7.33	.57	.50		
Group 8	7.47	.57	.50		
Group 9	7.62	.57	.50		

TRUCK DRIVERS CLASSIFICATION DEFINITIONS (BUILDING, RESIDENTIAL AND HEAVY CONSTRUCTION.

GROUP I
Pickup 3/4 ton and under, service station, including lubrication, light tire repair and washer, swamper or riding helper, 2 or up

GROUP II
Bus or taxi driver, dump or batch truck under 8 C.W.L.C.; flat bed (bobtail) 2 ton and under; mechanic and welder helper; fork lift under 5 ton MRC.

GROUP III
Dump trucks (including all highway and off highway) 8 up to 16 C.Y.W.L.C.; water, fuel or oil trucks less than 3,000 gal., flat bed (bobtail) over 2 tons

GROUP IV
Distributor driver; heavy tire repairman; lumber carrier driver; young buggy or similar equipment, transit mix or agitator 2 or 3 axle bobtail equipment; scissor truck; bulk cement bobtail 2 or 3 axles; semi-trailer driver (flat-bed or van single axle); forklifts 5 ton and over MRC; field equipment servicemen.

GROUP V
Dumpster and dumpcrete driver; water, fuel or oil truck, 3,000 to 6,000 gal; lowboys and light equipment driver; euclid type tank wagon under 6,000 gal.

GROUP VI
Vacuum truck; dump trucks (including all highway and off-highway 16 up to 22 C.Y.W.L.C.

GROUP VII
Transit mix or agitator semi or 4 axle equipment driver; flaherty truck type spreader box driver; slurry truck driver; bulk cement driver; semi-doubles; 4 axle bobtail; winch truck and "A" frame; dump trucks (including all highway and off-highway) 22 CY up to 35 C.Y.W.L.C.; head field equipment servicemen.

GROUP VIII
Euclid diesel power turnarocker; terra cobe-DW10—DW20—LeTourneau Pulls and similar diesel powered equipment when used to haul materials and assigned to a teamster—lowboy heavy equipment driver; water, fuel or oil trucks 6,000 gal. and over including tank wagon drivers, semi-trailer driver (flat-bed or van tandems); light equipment mechanic; dump trucks (including all highway and off-highway) 35 C.Y.W.L.C. and over; truck and trailer or semi-trailer (flatbed); eject all

GROUP IX
Warehousemen including material checker; cardex man; lowboy (heavy equipment double gooseneck); heavy equipment mechanic; welder (body and fender men)

TEAMSTERS classifications not listed shall be paid a rate comparable to classifications listed.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LEAD BURNERS					
AREA I	$11.35	.63	1.42		.16
AREA II	11.85	.63	1.42		.16
AREA III	13.20	.63	1.42		.16
AREA IV	11.98	.63	1.42		.16

LEAD BURNERS BASING POINT & AREA DEFINITIONS

BASING POINT CITIES OR TOWNS:
Albuquerque, Alamogordo, Anthony, Artesia, Belen, Carlsbad, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lovington, Portales, Raton, Scorro, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari and Truth or Consequence.
AREA I
Shall include a distance of seven road miles inclusive beyond the city or town limits.
AREA II
Shall extend a distance of 4 road miles inclusive beyond the outer perimetar of area I.
AREA III
Shall apply to all areas not within areas 1 or 2, or not within the specific areas.
AREA IV (SPECIFIC AREA)
Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range, and/or Proving Grounds.

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:
a - Includes $0.07 contribution to the Occupational Health Fund.
b - 1st 6 months - none; 6 months to 5 years, 2%; over 5 years, 4% of basic hourly rate.
c - Paid Holidays; A through F
PAID HOLIDAYS:
A- New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: CHEMUNG
DECISION NO.: NY77-3116 DATE: DATE OF PUBLICATION
Supersedeas Decision No. NY77-3001 dated April 1, 1977 in 42 FR 17766
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKER	$12.15	.81	.35		.04
BOILERMAKERS	11.15	.90	1.25		.02
BRICKLAYERS, CEMENT MASONS, MARBLE SETTERS, PLASTERERS, STONE MASONS, TERRAZZO WORKERS AND TILE SETTERS	9.70	.60	.50		
CARPENTERS, (BUILDING):					
Twps. of Chambers, Post Creek, Big Flats and Sagetown:					
Carpenters	9.11	.80	1.00		.02
Millwrights and piledrivermen	9.41	.40	1.00		.02
Remainder of County:					
Carpenters & soft floor layers	9.77	.35	.50		.04
Millwrights and piledrivermen	10.02	.35	.50		.04
CARPENTERS, (HEAVY & HIGHWAY):					
Twps. of Chambers, Post Creek, Big Flats and Sagetown	8.97	.40	.95	a	.025
Remainder of County	9.85	.35	.50	a	.045
CEMENT MASONS, (HEAVY & HIGHWAY)	9.70		.50		
ELECTRICIANS	12.20	.50	4%+.50	f	.05
ELEVATOR CONSTRUCTORS	9.425	.495	.32	3%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS	6.60	.495	.32	3%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS PROBATIONARY	4.71				
GLAZIERS	8.96	.35	.50		.01
IRONWORKERS:					
Structural, ornamental and reinforcing	9.78	.70	.92		.05
LABORERS, (BUILDING):					
Laborers	7.32	.45	.30		
Mortar mixer (hand or machine for 3 or more men), jackhammer, pavement breakers, pipelayers (over 6"), gin buggy, work on scaffold, chain saw operator, and all other types of gas, electric and air tools	7.52	.45	.30		
LATHERS	10.28		.20		.01
LEAD BURNERS	10.75	.40	.25	d	.01

DECISION NO. NY77-3116

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Lineman	11.10	.65	3%+.60	e	4%
Cable splicer	12.21	.65	3%+.60	e	4%
Groundman digging machine op.	9.99	.65	3%+.60	e	4%
Groundman mobile equipment op.	8.88	.65	3%+.60	e	4%
Groundman truck driver	8.325	.65	3%+.60	e	4%
Groundman dynamite man	8.88	.65	3%+.60	e	4%
PAINTERS:					
Brush	8.01	.35	.30		
Structural steel	9.01	.35	.30		
Swinging scaffold	8.26	.35	.30		
Boatswain chair	8.26	.35	.30		
Spray	8.86	.35	.30		
Brush-roll epoxy	8.56	.35	.30		
Spray-epoxy	9.26	.35	.30		
PLUMBERS AND STEAMFITTERS	10.40	.60	.80		.10
ROOFERS	9.54	.69	1.00		
SHEET METAL WORKERS	9.89	3%+.60	.80		.07
SPRINKLER FITTERS	11.86	.65	.95		.08

FEDERAL REGISTER, VOL. 42, NO. 175—FRIDAY, SEPTEMBER 9, 1977

DECISION NO. NY77-3116

HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day

FOOTNOTES:
a. Holidays: Independence Day and Labor Day.

b. Holidays: A through F.

c. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

d. Holidays A through F; Washinton's Birthday, Good Friday, X-Mas Eve, providing employee has worked 30 full days during the 90 calender days prior to the holidays, and the regular schedule work day immediately preceeding and following the holidays.

e. Holidays: A through F; Good Friday, Washington's Birthday, Election Day for President of the United States and Election of Governor of New York State providing the employee works the day before and after the holiday.

f. Employee shall work 4 hours and receive 8 hours pay on Christmas Eve.

DECISION NO. NY77-3116

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS, (HEAVY AND HIGHWAY CONSTRUCTION):					
GROUP I	$8.24	.50	.45	a	
GROUP II	8.44	.50	.45	a	
GROUP III	8.64	.50	.45	a	
GROUP IV	8.84	.50	.45	a	

LABORERS DEFINITIONS

GROUP I
Laborers and driller helpers

GROUP II
Concrete aggregate-bin, mortar mixer, hand or machine vibrator gin, buggy, mason tenders, concrete bootmen, chain saw, jackhammer, pavement breaker and all other gas, electric oil and airtool operators, bull float tamper and pipe-layers

GROUP III
Drillers, asphalt rakers, stone or granite curb setters and acetylene torch operator

GROUP IV
Blasters, form setters, stone or granite curb setters

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays A through F, providing the employee works the day before and after the holiday.

DECISION NO. NY77-3116

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
POWER EQUIPMENT OPERATORS, (BUILDING CONSTRUCTION):					
GROUP I:					
A	11.45	.50	.50+.30	a	.10
B	11.70	.50	.50+.30	a	.10
C	11.95	.50	.50+.30	a	.10
D	12.20	.50	.50+.30	a	.10
E	12.70	.50	.50+.30	a	.10
F	13.20	.50	.50+.30	a	.10
G	13.70	.50	.50+.30	a	.10
H	14.20	.50	.50+.30	a	.10
GROUP II	11.45	.50	.50+.30	a	.10
GROUP III	11.27	.50	.50+.30	a	.10
GROUP IV	10.18	.50	.50+.30	a	.10

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION

GROUP I
Cranes (cable and hydraulic, climbing and tower)
A 121 ft. and under
B 121 ft. and 151 ft.
C 151 ft. and 201 ft.
D 201 ft. and 251 ft.
E 251 ft. and 301 ft.
F 301 ft. and 351 ft.
G 351 ft. and 401 ft.
H 401 ft. and 451 ft.

GROUP II
Air tugger, derrick, dredge, big generator plant, cableway, backhoe, clamshell, dragline, shovel and similar machines over 3/8 cubic yards capacity (factory rating), bridge crane (all types), caisson auger and similar type machine, fork-lift (with factory rating of 15 ft. or more of lift), hoist (on steel erection), mucking machines, roes carrier (and similar types), three drum hoist (when all three drums are in use)

GROUP III
A frame truck, backfilling machine, hoist (1 or 2 drums), barber green and similar typer machine, maintenance engineer (mechanic), mechanical slurry machines (all kinds), belt crete and similar type machines, bituminous spreading machine, post hole digger, bulldozer, carry all type scraper, core drill, pumps, (regardless of motive power) no more than (4) in number not to exceed 20

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POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION (CONT'D)

GROUP III (CONT'D)
inches in total capacity), fine grade and finish rollers, side boom tractor, stone crusher, compressors: 4 not to exceed 2000 cfm combined capacity 3 or less with more than 12000 CFM, but not to exceed 2000 CFM, concrete mixer, concrete placer, concrete pumps, tournadozer and similar types, crane-hoe-shovel 3/8 yd. capacity or less (factory rating), tournapull and similar types, dinky locomotive (all types), tower-mobile and similar types, elevating grader, elevator trenching machines, fine grade machines (all kinds), welder, front end loader, forklift, with factory rating of less than 15 feet of lift, well drill, well point syatem, high pressure boiler, Exception: single electric pumps up to and including 4 inches not be manned

GROUP IV
Any combination (not to exceed 3 pieces of equipment), welding, machine or mechanical heater, roller (fill & grade), pumps (regardless of motive power) no more than (3) in number, not to exceed twelve inches total capacity, rubber tired tractor, compressor 3 or less, not to exceed 1200 CFM combined capacity, longitudinal float, Exception: single gasoline driven welding machines up to 300 amps need not be manned

GROUP V
Truck crane oilers

FOOTNOTES:
a. Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day regardless of the day of the week in which the holiday may fall.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS, (HEAVY & HIGHWAY CONSTRUCTION):					
GROUP I	$10.15	.90	.60	a	.10
GROUP II	9.82	.90	.60	a	.10
GROUP III	9.10	.90	.60	a	.10
GROUP IV	8.27	.90	.60	a	.10

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

GROUP I
Automated concrete spreader (CMI), automatic fine grader, backhoe (ecxept tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over) crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel

GROUP III
Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary dill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit; drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lobs. and over), hoist (one drum) Kolman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greaseman/welder, mixer (for stablized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch oat

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POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D

GROUP III
A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point

GROUP IV
Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet- (concrete or pavement grinder), power broom (towed), power hesterman, revinius widener, shell winder, steam cleaner, tractor

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Lanor Day; E-Thanksgiving Day aND F-CHristmas Day.

FOOTNOTE:
a. Holidays: A through F; providing the employee works the working day before and after the holiday.

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DECISION NO. NY77-3116

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS, HEAVY AND HIGHWAY CONSTRUCTION:					
CLASS 1	$8.04	.65	.70	a	
CLASS 2	8.09	.65	.70	a	
CLASS 3	8.14	.65	.70	a	
CLASS 4	8.29	.65	.70	a	
CLASS 5	8.44	.65	.70	a	

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION

CLASS 1
Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs), single axel dump trucks, dumpsters, material checkers and recsivers, greasers, truck tiremen, mechanic helpers and parts chaser

CLASS 2
Tandems, batch trucks, mechanics and dispatcher

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributor trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier

CLASS 5
Off-highway tandem back-dump, twin engine equipment and double-hitched equipment where not self loaded

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F, provided the employee has worked the working day before and after the holiday.

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: ORANGE
DECISION NO.: NY77-3120 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY77-3084 dated July 1, 1977 in 42 FR 34220
DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$13.29	5%	10%		
Boilermakers	12.33	5%	15%	7%	.02
Bricklayers: All that portion bounded on the east by the Hudson River to the Woodbury Twp. line south of Bear Mt., thence along this line to to the Tuxedo Twp. line, thence along this line to a point south of Lake Nombashe, thence due west to the Lehigh-Hudson River R.R. line, thence northerly along this R.R. line to Maybrook, then northerly along the Penn Central R.R. line to the Ulster County line and along this line easterly to the starting point, the Hudson River. All that portion lying within these boundaries including the towns on the East side of the above named R.R. lines: Bricklayers, Cement Masons, Plasterers, and Stonemasons:					
(Building)	9.95	1.10	1.10		
(Heavy and Highway)	10.20	1.10	1.10	a	
Starting at the junction of Ulster County, Sullivan County, and Orange County, along Ulster County line, southeast to the New York, New Haven, and Hartford R.R. line to a point south of Wisner, thence east to the top of the Bellvale Mt. Range, thence southerly to the New Jersey State line, including the Towns of Warwick, New Milford, & Bellvale: Bricklayers, Cement Masons, Plasterers, and Stonemasons:					
(Building)	10.00	.83	1.53		
(Heavy and Highway)	10.25	.83	1.53	a	

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DECISION NO. NY77-3120

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters: Carpenters, Bridge, Dock and Wharf carpenters: Twps. of Tuxedo, Woodbury, Part of Cornwell, Monroe, Chester, Blooming Grove and Highlands Carpenters, Piledrivermen and Dock Builders:	9.97	1.10	.50	1.45+b	.155
Remainder of County:	9.95	.60	.85	.55	.05
Electricians: Twps. of Otisville, Middletown, Goshen, Florida, Warwick, Port Jervis, Sparrow Bush, Monroe, Harriman, Southfield, Tuxedo Lake and Tuxedo:	10.00	8%		10%	1%
Remainder of County:	10.60	.79	3%+.75	.60	3%
Remainder of County: For the repair, renovation, alteration and new installation of electrical systems in light commercial and industrial property, herein defined to include stores, gas stations, motels and hotels	6.35	.75	1%	.30	
Elevator COnstructors	10.12	.495	.32+c	b+d	.02
Elevator Constructors helpers	7.59	.495	.32+c	b+d	.02
Elevator Constructors helpers (probation)	5.06				
Elevator Constructors Modernization	9.35	.495	.32+c	b+d	.02
Elevator Constructors Modernization helpers	7.01	.495	.32+c	b+d	.02
Elevator Constructor Repair	8.50	.495	.32+c	b+d	.02
Elevator Constructor Repair helper	6.38	.495	.32+c	b+d	.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Glaziers	11.20	.66	1.66	.67	.01
Ironworkers: Reinforcing, Ornamental, and Structural	9.75	1.45	2.02	1.50	
Laborers: Building Common Laborers, Mason Tenders, Mortar Mixers, Hod Carriers, Scaffold Builders, Concrete men, Vibrator men, poured gypsum, Roof work, wrecking, Walking Power Buggy men, Landscaper, Chipping Hammer (air or electric 1" and under)	8.30	1.00	1.00	e	
Asphalt men, Pipelayers, Air or Electric Jackhammer, Powdermen, Gunnite, Sandblasting, Air Trac, Barmen, Chain Saw, Riding Power Buggy, Vibro, Barco, Joy Tamper or similar, Joy or Jib Drills, Walk Behind Roller, Wagon Drill, All Fork Lifts	8.55	1.00	1.00	e	
Grade, Pipe, Concrete Clearing Black Top, Drill, Paving etc., Blaster, Form Setter, Burner (acetylene torch), Ingersoll-Rand, Heavy Duty Crawler Type HCMZ, Drill Machines or equivalent, All wrecking work fifty feet or more above grade	8.95	1.00	1.00	e	
Lathers	9.02	1.05	.15	1.00	.01
Leadburners	10.75	.40	.25	f	.01

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DECISION NO. NYTT-3120

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers and Steamfitters: Typs., Villages, and Hamlets and/or portions thereof: Lakeville, Four Corners, Sterling Forest, Tuxedo, Tuxedo Park, Southfield, Arden, Newburgh Junction, Greenwood Lake, Monroe, Harriman, Woodbury Falls, Woodbury Station, Central Valley, and the Palisades Interstate Park and Bear Mountain Park	9.50	1.05	2.48	1.14	.10
Remainder of County	10.36	14.4%	7%	6%	.10
Roofers:					
Pitch, Pitch built up	10.65	1.00	1.63	j	.35
Asphalt Shingle	7.65	1.00	1.63	j	.35
Asphalt Slate and Tile, Slab, and Asphalt Built-up	10.15	1.00	1.65	j	.35
Sheet Metal Workers	10.37	19%	17%	10%	.02
Soft Floor Layers	11.45	1.40	1.78	.70+k	.02
Sprinkler Fitters	11.86	.65	.95		.08
Welders-receive rate prescribed for craft performing operation to which welding is incidental.					

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DECISION NO. NYTT-3120

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen cable splicer helper & material man	$11.10	.65	12+.60	g	1/2%
Groundman digging machine operator	9.99	.65	12+.60	g	1/2%
Groundman mobile equipment operator	8.88	.65	12+.60	g	1/2%
Groundman truck driver and mechanic	8.325	.65	12+.60	g	1/2%
Groundman dynamite man	8.88	.65	12+.60	g	1/2%
Cable splicer	12.21	.65	12+.60	g	1/2%
MARBLE SETTERS, TERRAZZO WORKERS AND TILE SETTERS:					
West Newburgh, Little Britain, Rock Cavern, Lagrange, New Hampton, Ridgeburg & Johnson to County Line and all areas inclusive south thereof County Line:					
Marble setters, cutters	10.00	1.13	1.19	h	
Marble setters' helpers	8.50	1.05		1.15	
Terrazzo workers	9.10	1.09	1.50		
Terrazzo workers' helpers	9.14	1.21	1.50		
Terrazzo machine operator	7.68	.475	.475		
Tile setters	8.50	.80	2.05		
Tile setters' helpers	7.90	.50	1.27		
That area in Orange County falling within a 5 mile radius from Columbus Circle, NYC. (Arced boundary line is just South of Newburgh; South of Maybrook; North of Goshen, South of Middletown; North of Johnson; North of Unionville					
Marble setter helpers	10.45			i	
Tile setter helper	10.15			i	
Terrazzo helper	10.50			i	
Painters:					
Commercial	8.50	10%	.50		
Spray and Sandblasting	9.50	10%	.50		
Steel, Smoke Stacks, Bridges, Power Plants, Radio Towers	9.40	10%	.50		
Epoxy and other toxic materials	9.50	10%	.50		

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DECISION NO. NYTT-3120

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
HEAVY & HIGHWAY CONSTRUCTION	$ 8.80	1.00	1.00	a	
GROUP I	9.45	1.00	1.00	a	
GROUP II	9.45	1.00	1.00	a	
GROUP III					

HEAVY AND HIGHWAY CONSTRUCTION

GROUP I
Laborer, pitman, flagman, chuck tender, dump man, handling and distributing of drinking water, placing and maintenance of all flares, lights, barricades and all reflective type materials for traffic control

GROUP II
Concrete men, vibrator man, asphalt man, joint setter, signal man, mason tenders, mortar men, pipelayers, rip rap and dry stone layers, steel rod carriers, jackhammer, pavement breaker, wagon drill, air track, jib rig and joy drill op., power buggy op., gunite and manhole miners, coal passers and other machine op. not listed herein, all landscape work and caretakers, all bridge work, walk behind self propelled power saw walk behind rollers and tampers of all types, wrecking laborers (including burnermen and burnermen). All sheeting and shoring coming under the laborers jurisdiction bit grinder, operator of form pin pullers and drivers, joint and jet sealers and filling and wiring of baskets for gabion walls, permanent sign man

GROUP III
Concrete finisher on highways, form setter, granite stone layer, ingersoll rand heavy duty crawler mounted drill using a 4" or larger bit

HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Columbus Day; Election Day; Veteran's Day; Provided employee works one day in the calendar week in which the holiday falls and reports for work the first working day following the holiday.

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DECISION NO. NYTT-3120

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Holidays: A through F; Lincoln's Birthday, Washington's Birthday, Armistice Day, Columbus Day and Election Day.

b. In the event of a death in the family of the member of the unit he shall be paid 3 days wages. Family means husband, wife, mother, father, sister, brother or children. Wages are only paid on the condition that the member of the unit attends the funeral of the deceased.

c. Employee contributes $7.00 per day to Annuity Fund.

d. Employee contributes 6.4% of basic hourly rate for 5 years or more service or 4.2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

e. Election day shall be observed in accordance with New York State Law.

f. Holidays: A through F; Washington's Birthday, X-Mas Eve; and Good Friday, provided employee has worked 30 full days during the 90 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holiday.

g. Holidays: A through F; Washington's Birthday, Election Day for President of the United States and Election of Governor of New York (provided employee works the day before and the day after the holiday).

h. Holidays: New Year's Eve & X-Mas Eve.

i. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Good Friday; Columbus Day; providing employee works any one of three days preceding or following the holiday.

j. Two hours off with pay on General Election Day, provided the employee has received 4 hours pay that day.

k. Employees employed on the last legal working day before Christmas Day and New Year's Day, and who report to work on such days, shall receive 3 hours pay.

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DECISION NO. NY77-3120

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION					
GROUP 1	$15.31	7%	15%	a	3%
GROUP 2	13.49	7%	15%	a	3%
GROUP 3	12.61	7%	15%	a	3%
GROUP 4	12.50	7%	15%	a	3%
GROUP 5	12.27	7%	15%	a	3%
GROUP 6	11.78	7%	15%	a	3%
GROUP 7	11.49	7%	15%	a	3%
GROUP 8	11.32	7%	15%	a	3%
GROUP 9	11.27	7%	15%	a	3%
GROUP 10	11.15	7%	15%	a	3%
GROUP 11	11.10	7%	15%	a	3%
GROUP 12	10.86	7%	15%	a	3%
GROUP 13	10.46	7%	15%	a	3%
GROUP 14	10.29	7%	15%	a	3%
GROUP 15	9.95	7%	15%	a	3%

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION

GROUP 1
Helicopters pilot/engineer

GROUP 2
Autograde-combination subgrader, base MTL spreader & base trimmer (CMI & similar type); autograde placer-trimmer-spreader-combination (CMI & similar types); autograde slip form paver (CMI & similar types); back hoes (all types, including all combination hoe loaders); central power plants (all types); concrete paving machines; cranes (all types, including overhead & straddle travelling type); cranes, gantry; derricks - land or floating (building & heavy construction rate only); drillmaster, quarry master (down the hole drill); draglines; elevator graders; engines, large diesel (1625 HP) and staging pump; front end loaders (5 yds & over); gradalls; grader, rago; helicopters co-pilot and communication engineer; jacks, screw air hydraulic power operated unit or console type (not hand jack or pile load test type); locomotive (large); mucking machines; pavers (21E and over); paver, resinous, Broyhill; pavement and concrete breaker (i.e. superhammer); pavement breaker truck mounted; piledriver; scooper (loader and shovel) Koahring; shovels; treechopper with boom; trench machines

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POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONT'D)

GROUP 3
Pump, staging

GROUP 4
A-frame, boom attachment on loaders; boring & drilling machines; brush chopper, shipper & shredder; cableways; carryalls; cherry pickers - 6 tons & under (over 6 tons - crane rate applies); concrete pump; concrete pump system, pumpcrete, squeezecrete & similar types; conveyors, 125' & over; economobiles (hilo, lull, hyster similar type equipment); forklifts; front end loaders (2yds but less than 5 yds); groove cutting machines (ride or type); heater planer; hoist (Chicago Boom); Pans, LeTourneau, DW's, Dkes, pumpcrete-unit type; pumpcrete machines, squeezecrete & concrete pumping; scrapers-LeTourneau, DW's Dkes; side booms; squeezecrete; "straddle" carrier, Ross and similar types; winch trucks (hoisting)

GROUP 5
Aerial platform (used as hoist); hoists all types except Chicago Boom type (building & heavy construction rate only); elevator or house cars (building and heavy construction rate only); roof hoists

GROUP 6
Asphalt spreaders; bridge deck finisher; grader, finish only; rollers-blacktop

GROUP 7
Asphalt curbing machines; asphalt plant engineer; autograde tube finisher & texturing machine (CMI & similar types); autograde concrete machine (CMI & similar types); autograde curb trimmer & sidewalk shoulder, slip-form (CMI & similar types); barbending machines (power); batchers, batching plant & crusher on site; bet convey or system; boilers and steam jennies (building & heavy construction rate only); boom type skimmer machines (building & heavy construction rate only); car dumpers (railroad); compressor and blower type units; concrete breaking machines; concrete finishing machines; concrete saws & cutters (ride on type); concrete spreaders-hetzel, recomatic & similar types; concrete vibrators (highway, road, street & sewer construction rate only); conveyors, under 125 ft.; crushing machines; ditching machine, small (ditch witch or similar);

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POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONT'D)

GROUP 7 (CONT'D)

drill doctor (duties include dust collector); dope pots (mechanical with or without pump); dumsters; fine grade machine (large type); front end loaders (1 yd & over but less than 2 yds) - highway, road, street & sewer construction rate only; front end loaders (under 2 yds) - building and heavy construction rates only; generators; giraffe grinders; graders and motor patrols; gunnite machines (excluding nozzle); hammer vibratory (in conjunction with generator); hoppers; hopper doors (power operated); ladders (motorized) - building & heavy construction rate only; laddervator; lights, portable generating light plants; locomotive (dinky type); mechanic; mixers (excepting paving mixers); motor patrols & graders; pavers (under 21E); pavement breakers - small, self-propelled ride on type (also maintains compressor or hydraulic unit); pipe bending machine (power); pitch pump; plaster pump (regardless of size) - building & heavy construction rate only; post hole digger; rod bending machines (power); scales, power; seaman pulverizing mixer; silos; skimmer machines (boom type) - highway, road, street & sewer construction rate only; steam jennies and boilers; steel cutting machines, services & maintains; vibrating plants (used in conjunction with unloading); welder and repair machanic

GROUP 8
Compressors (2 or 3 within a total distance of 100' constitutes a battery) - building & heavy construction rate only; welding machines, gas or electric converters of any type - (2 or 3 in battery) - building and heavy construction rates only; welding system, multiple (rectifier transformer type) - building & heavy construction rate only

GROUP 9
Brooms & sweepers; bulldozer, D5 and over; fireman; sprinkler and water pump trucks (used on job site or in conjunction with jobsite); stone spreaders; sweepers & brooms; tractor, D8 & over; water and sprinkler trucks (used on job site or in conjunction with hob site)

GROUP 10
Compressors (2 or 3 within a total distance of 100' constitutes a battery) - highway, road, street and sewer construction rate only

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POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONT'D)

GROUP 11
Front end loaders (under 1 yd.) - highway, road, street & sewer construction rate only

GROUP 12
Bulldozer under D5; rollers - grade fill or stone base; tractors, under D8

GROUP 13
Compressor (single); heaters (Nelson or other type including propane, natural gas or flow type units); pumps (4 inch suction & over including submersible pumps); pumps (2 of less than 4 inch suction including submersible pumps); pumps, diesel engiher & hydraulic (immaterial of power) - highway, road, street & sewer construction rate only; temporary heating plant (Nelson or other type, including propane, natural gas or flow type units); welding machines, gas or electric converters of any type - single (building & heavy construction rate only); welding machines, gas or electric converters of any type (2 or 3 in battery) - highway, road, street & sewer construction rate only; wellpoint systems (including installation and maintenance)

GROUP 14
Concrete spreaders, (small type) convey or loaders (not including elevator graders) - highway, road, street & sewer construction rate only; farm tractors (highway, road, street & sewer construction rate only); fertilizing equipment; fine grade machine (small type) - highway, road, street and sewer construction rate only; form line graders (small type) - highway, road, street & sewer construction rate only; grease, gas, fuel and oil supply trucks; mixers, concrete small (highway, road, street and sewer construction rate only); mucking equipment; road finishing machines (small type) - highway, road, street and sewer construction only; seeding equipment; tamping machines, vibrating self-propelled; welding machines, gas or electric converters of any type-single (highway, road, street and sewer construction rate only)

GROUP 15
Assistant engineer/oiler; mechanics helper; tire repair and maintenance

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50c per hour on machines where "Cat Head" or "Sheave Point" is at least 100 feet above ground level and less than 140 feet; 75c per hour on machines where "Cat Head" or "Sheave Point" is 140 feet, or over above ground level.

FOOTNOTES:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Presidential Election Day, and Veterans Day provided the employee works any of the 3 days in the 5 work days preceeding the holiday and the first work day after the recognized holiday.

20-PEO-2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
STEEL ERECTION					
GROUP 1	$17.12	7%	15%	a	3%
GROUP 2	15.31	7%	15%	a	3%
GROUP 3	14.40	7%	15%	a	3%
GROUP 4	13.66	7%	15%	a	3%
GROUP 5	11.88	7%	15%	a	3%
GROUP 6	11.49	7%	15%	a	3%
GROUP 7	11.34	7%	15%	a	3%
GROUP 8	10.97	7%	15%	a	3%
GROUP 9	10.41	7%	15%	a	3%

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POWER EQUIPMENT OPERATORS - STEEL ERECTION

GROUP 1
Helicopters pilot/engineer

GROUP 2
Cranes (all cranes - land or floating with booms - including jib, 140 feet and over above the ground); derricks (land or floating with booms including jib, 140 feet and over above the ground); helicopters co-pilot & communications engineer

GROUP 3
Cranes (all cranes - land or floating with booms - including jib, less than 140 feet above the ground); derricks (land or floating, with booms including jib, less than 140 feet above the ground)

GROUP 4
Aerial platform used as hoist; A-frame; cherry pickers - 6 tons and under (over 6 tons - crane rate applies); fork lifts; hoists (all types except Chicago Boom type); jacks (screw air hydraulic power operated unit or console type, not hand jack or pile load test type); side booms

GROUP 5
Compressors (2 or 3 in battery); generators; welding machines (gas or electric convertors of any type 2 or 3 in battery multiple welders) welding system multiple (rectifier transformer type)

GROUP 6
Maintenance engineer

GROUP 7
Fireman

GROUP 8
Compressor (single); rod bending machines (power); welding machines (gas or electric converters of any type-single)

GROUP 9
Assistant engineer/oiler; straddle carrier

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FOOTNOTES:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Presidential Election Day, and Veterans Day provided the employee works any of the 3 days in the 5 day work week preceeding the holiday and the first work day after the recognized holiday.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
Drivers on LeTourneau tractors, double barrel Euclids, Athey wagon and similar equipment (except when hooked to scrapers), low beds, I-Beam, pole trailers, road oil distributors, tire trucks tractors and trailers with 5 axle and over	10.00	.95	.95	a+b	
Equipment 25 yards and over up to and including 30 yard bodies cable dump trailers, powder snf dynamite trucks	9.90	.95	.95	a+b	
Equipment up to and including 24 yards bodies, mixer trucks, dump crete trucks and similar types of equipment, fuel trucks and all other tractor trailers	9.70	.95	.95	a+b	
Ten wheelers, grease trucks and tiller men	9.60	.95	.95	a+b	
Straight trucks	9.50	.95	.95	a+b	
Pick-up trucks used for hauling material parts escort man over the road	9.50	.95	.95	a+b	
Helpers	9.40	.95	.95	a+b	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day

FOOTNOTE:
a. Holidays: A through F; Washington's Birthday; Election Day; Veteran's Day, Lincoln's Birthday, Election Day, Good Friday.

b. 3 day bereavement pay (spouse, mother, father, mother in law, father in law, grandmother, grandfather, sister, brother, children, grandchildren.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Lebanon
DECISION NO.: PA77-3121 DATE: Date of Publication
Supersedes Decision No. PA77-3031, dated April 8, 1977, in 42 FR 18339.
DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$10.91	.52	.90		.01
Boilermakers	12.80	1.05	1.00		.02
Bricklayers	9.60	.60	.57		.01
Carpenters	10.14	.40	.50		.03
Cement masons:					
West of Rte. 501	10.035	.55	.40		
East of Rte. 501	9.69		.50		
Electricians:					
Lava, East Hanover & Indiantown Gap Military Reservation	10.36	.65	3%+.31		3/4%
Remainder of County	9.30	.45	3%		1/2 of 1%
Elevator Constructors	10.20	.545	.35	4%+b+c	.02
Elevator Constructors' Helpers	7.14	.545	.35	4%+b+c	.02
Elevator Constructors' Helpers (Prob.)	5.10				
Glaziers:					
Twps. of Bethel, Jackson, Mill Creek, Lebanon, E. of Rte. 72, Heidlberg & Richland	8.89	.40	.30		.01
Remainder of County	9.39	.40	.40		.01
Ironworkers	11.28	.84	1.36		.03
Laborers:					
Unskilled	6.70	.40	.25		
Air fuel & electric tool op., pipelayers, power-buggy, pre-cast slab placers & signalman, brick, stone, plasterers & cement masons tenders, machine mixers, stockers scaffold builders, plaster pump & conveyors, blasters, caisson workers, wagon air track & diamond point drill operators, burning torches, green cutting machine, steam jenny & blasting	6.80	.40	.25		
Lathers	9.83		.15		.01
Lead burners	10.75	.40	.25	a	.01
Line Construction:					
Linemen & Cable splicers	11.51	.40	3%		3/4%
Groundmen	6.87	.40	3%		3/4%
Winch truck operator	8.03	.40	3%		3/4%

DECISION #PA77-3121 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Marble setters	$9.60	.60	.48		
Millwrights	11.29	.40	.50		.03
Painters (East of Route 72)					
Brush	8.95	.70	.55		
Structural steel & spray	10.00	.70	.55		
Highway bridges	10.40	.70	.55		
Painters (West of Route 72)					
Brush	8.60	.26	.24		
Structural steel	9.05	.26	.24		
Spray	9.35	.26	.24		
Piledrivermen	10.77	2.13	1.30	g	.12
Plasterers:					
East of Rte. 501	9.71		.53		.01
West of Rte. 501	9.25	.55	.40		.01
Plumbers & Steamfitters:					
East of Rte. 501	11.76	.80	1.45		.11
West of Rte. 501	10.85	.30	.65		.12
Roofers:					
Annville, Cold Springs, East Hanover, North Annville, North Cornwall, North Londonderry, South Annville, South Londonderry, Union, West Cornwall Twps.:					
Compositions	9.71	.60	.55		
Remainder of County:					
Composition, damp & Waterproofing	10.60	.65	.25	f	
Sheet metal workers	10.05	1.39	1.18		.05
Soft floor layers	8.88	.40	.30		.03
Sprinkler fitters	11.86	.65	.95		.08
Stonemasons	9.60	.60	.57		.01
Terrazzo workers	8.375	.50			
Tile setters	8.375	.50			
Truck Drivers:					
Pick-ups, dump, flat trucks to & including 2 highway license plates	7.99	d	e		
Transit-mix, winch, trucks, tractor trailers, all types euclids, ross lumber carriers & trucks over 2 plates	8.24	d	e		

DECISION NO. PA77-3121 Page 3

Welders - rate for craft

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Indpendence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. 8 paid holidays, A through F and Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holiday.

b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Six paid holidays: A through F.

d. $71.37 per month for employees who have worked sixty hours or more during the month.

e. $41.95 per month for employees who have worked sixty or more hours during the month.

f. Paid holidays: Election Day and Labor Day.

g. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day; Thanksgiving Day; and Christmas Day.

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POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.36	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5.5%	9.5%	a	1.2%
GROUP 7	12.54	5.5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverising mixer, power broom, seeding spreader, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: Pennsylvania
Decision No.: PA77-3122
Supersedes Decision No. PA77-3030, dated May 21, 1976, in 41 FR 21137.
DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories).

COUNTIES: Cumberland, Dauphin, Perry, Juniata, New Cumberland Depot in York County
DATE: Date of Publication

DECISION NO. PA77-3122

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asbestos workers	$10.91	.52	.90		.01
Boilermakers	12.80	1.05	1.00		.02
Bricklayers & block layers	9.60	.60	.57		.01
Carpenters	10.14	.40	.50		.03
Cement masons	10.035	.55	.40		
Electricians	10.36	.56	3%+.31		3/4%
Elevator constructors	10.20	.545	.35	4%+b+c	.02
Elevator constructors' helpers	7.14	.545	.35	4%+b+c	.02
Elevator constructors' helpers (prob.)	5.10				
Glaziers	9.39	.40	.40		.01
Ironworkers, structural	11.28	.84	1.36		.03
Ironworkers, ornamental	11.28	.84	1.36		.03
Ironworkers, reinforcing	11.28	.84	1.36		.03
Laborers:					
Air, fuel and electric tool operators and all other pneumatic and mechanical tools including blow-pipe and vacuum cleaners					
Pipelayers, power-buggy, precast slab placers and signal men	7.70	.30	.35		
Unskilled laborer	7.55	.30	.35		
Plaster and cement mason tenders, machine mixers, plaster pump and scaffold builders (excluding masonry scaffolding) for cassion workers, blasters, wagon air track and diamond point drill operators, burning torches, green cutting machine and steam jenny.	8.02	.30	.35		
Mason tenders, machine mixers, motorized stockers, scaffold builders (masonry), mortar pump, conveyors, mechanical cleaners and sandblasting for masonry and masonry equipment	8.12	.30	.35		
Laborers: (CON'T)					
Nursery workers, window washers, floor scrubbers and watchmen	7.20	.30	.35		
Lathers	9.01	.25	.25		.01
Lead burners	10.75	.40	.25	a	.01
Marble setters	9.73	.60	.55		
Millwrights	11.29	.40	.50		.03
Line Construction:					
Linemen	10.81	.40	3%		3/8%
Groundmen	6.45	.40	3%		3/8%
Cable splicers	10.81	.40	3%		3/8%
Winch truck operator	7.54	.40	3%		3/8%
Painters:					
Brush	8.60	.26	.24		
Structural steel	9.05	.26	.24		
Spray	9.35	.26	.24		
Tanks, bridges, stacks	9.85	.26	.24		
Piledrivermen	10.77	2.13	1.30	f	.12
Plasterers	9.25	.55	.40		.01
Plumbers	10.85	.30	.65		.12
Roofers:					
Composition	9.71	.60	.55		
Sheet metal workers	10.05	1.39	1.18		.05
Soft floor layers	8.88	.40	.50		.03
Sprinkler fitters	11.86	.65	.95		.08
Steam fitters	10.85	.30	.65		.12
Stone masons	9.60	.60	.57		
Terrazzo Workers & Tile Setters	8.48	.60			
Truck Drivers:					
Truck drivers, building Pick-ups, dump, service trucks, flat trucks, to and including 2 highway license plates	7.99	d	e		
Transit Mix, winch trucks, tractor all types euclid, rose lumber and over 2 plates	8.24	d	e		
Welders - Receive rate prescribed for craft performing operation to which welding is incidental					

DECISION NO. PA77-3122

PAID HOLIDAYS: (Where applicable):
New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Eight paid holidays, A through F and Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days prior to the holiday, and is available for work the days preceding and the holiday.

b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Six paid holidays: A through F

d. $71.37 per month for employees who has worked sixty hours or more during the month.

e. $41.95 per month for employees who has worked sixty hours or more during the month.

f. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veteran's Day and Thanksgiving Day.

DECISION NO. PA77-3122

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.36	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5.5%	9.5%	a	1.2%
GROUP 7	12.54	5.5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE Pennsylvania COUNTY Schuylkill
DECISION NO. PA77-3123 DATE Date of Publication
SUPERSEDEAS DECISION NO.: PA77-3034, dated April 15, 1977, in 42 FR 20100.
DESCRIPTION OF WORK: Building construction, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$10.41	.42	.40		.01
Boilermakers	12.80	1.05	1.00		.02
Bricklayers & stonemasons	9.30	.60	.95		
Carpenters	10.14	.40	.50		.03
Cement masons	9.30	.60	.95		
Electricians:					
North Manheim, South Manheim, West Brunswick, Wayne, Washington, Pottsville, Schuylkill Haven Twps.	10.49	.73	3%		.03
Pine Grove Twp.	9.30	.45	3%		1/2%
North Union, East Union, West Mahony, (excluding Praeswille Borough), Mahony, Delano, Kline, Rush, Ryan, Blythe, Schuylkill, Walker Rahn, East Brunswick and West Penn. Twps.	10.77	.55	3%+.25	f	g
Remainder of County	10.95	.35	3%+.20		.05
Glaziers	8.89	.40	.30		.01
Ironworkers	11.80	.84	1.36		.02
Laborers:					
Unskilled laborers & window cleaners	6.70	.40	.25		
Operator of jackhammer, paving breaking & other pneumatic, electric & mechanical tools, laying of all clay, terra corta, ironstone, vitrified concrete or non-metallic pipe & the making of joints for same, wagon drill operators, cofferdams (below 10'), tunnel free air handling & using cutting or burning torches in the wrecking of buildings, blasters, plasterer-tenders, mason tenders, scaffold builders and removal & power buggies	6.80	.40	.25		
Lathers	7.25	.15			.01
Lead Burners	10.75	.40	.25	a	.01

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Lineman, heavy equipment operator	$10.30	.35	3%	-	1/8%
Groundman, truck driver	7.28	.35	3%		1/8%
Groundman	6.97	.35	3%		1/8%
Marble setters & terrazzo workers	9.30	.60	.95		
Millwrights	11.29	.40	.50		.03
Painters:					
Townships of North Union, East Union, Union, Mahanoy, West Mahanoy, West Mahanoy, Butler, Kline, Delano, Ryan, Rush, Rahn, West Penn, and City of Tamaqua					
Brush	9.30	.50	.30		.05
Tapers	9.56	.50	.30		.05
Hazardous	10.56	.50	.30		.05
Painters: (Remainder of County):					
Commercial and Industrial					
Brush	8.95	.70	.55		
Steel	10.00	.70	.55		
Spray	10.00	.70	.55		
Piledrivermen	10.77	2.13	1.30	e	.12
Plasterers	9.30	.60	.95		
Plumbers	11.49	.40	.75		.04
Roofers:					
Barry Branch, Butler, Delano, East Brunswick, East Union, Eldred, Foster, Frailey, Hegins, Hubley, Kline, New Castle, North Union, Porter, Rahn, Reilly, Rush, Fremont, Union, Upper Mahantango, West Penn:					
Composition	9.65	.85	.80		
Remainder of County:					
Composition, damp waterproofing	10.60	.45	.25	d	
Slate, tile & asbestos	11.15	.45	.25	d	
Precast slab	11.40	.45	.25	d	
Sheet metal workers	11.12	.73	.40		.02
Soft floor layers	8.88	.60	.50		.03
Sprinkler Fitters	11.86	.65	.95		.08
Steamfitters	11.04	.65	.95		.04
Tile setters	8.30	.60	.95		
Truck drivers	6.23	b	c		
Welders - rate for craft					

DECISION NO.: PA77-3123 Page 3

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F, plus Washington's Birthday, Good Friday, and Christmas Eve provided the employee has worked at least 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

b. Employer contributes $58.37 per month to Health and Welfare fund.

c. Employer contributes $43.34 per month to Pension Fund.

d. Paid Holiday: C

e. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day, and Thanksgiving Day.

f. Paid Holidays; July 4th, Labor Day; Thanksgiving Day, and Good Friday.

g. Employer shall contribute .12 per day per employee.

DECISION NO. PA77-3123 Page 4

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
GROUP 1	$12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.36	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5.5%	9.5%	a	1.2%
GROUP 7	12.54	5.5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: Pennsylvania — County: Northampton
DECISION NO.: PA77-3124 — Date of Publication
Supersedeas Decision No. PA77-3033, dated February 18, 1977, in 42FR 10268.
DESCRIPTION OF WORK: Building construction.(does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$10.91	.52	.90		.01
Boilermakers	12.80	1.05	1.00		.02
Bricklayers & stonemasons	10.69	.60	.66		.01
Carpenters	10.20	.44	.72		.01
Cement masons	10.19	.60	.60		.01
Electricians:					
Allen, Hanover, Lehigh, Bath, Freemansburg, Hellertown and Bethlehem	10.90	.35	3%+.80		.02
Remainder of County	11.20	6%	3%+1.00		.02
Glaziers	8.89	.40	.30		.01
Ironworkers, structural	12.10	.84	1.36		
Laborers:					
Laborers &Window Cleaners	7.45	.35	.45		
Operator of jackhammer, paving breaking and other pneumatic and mechanical tools coming under the jurisdiction of laborers, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe and the making of joints for the same and cofferdams (below 10')	7.70	.35	.45		
Wagon drills and men handling burning torches in the wrecking of buildings	8.20	.35	.45		
Plaster and mason tenders, scaffold builders and handling of all materials to be used by plasterers and masons, brick and block loaded on pallets, cement finisher tenders, gunniting and molded-D and sandblaster helpers, power buggies, all floor hardner and "cure" application shall be the work of the mason tender. All pump such as the concrete, plaster,					

DECISION NO. PA77-3124

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr Tr
LABORERS CONT'D.					
Mortar and water, installing plastic or other non-solid refractory materials in connection with the boiler work	$7.85	.35	.45		
Barko Tamper Operator	8.47	.35	.45		
Lathers	10.21		.25		.01
Lead burners	10.75	.40	.25	b	.01
Line Construction:					
Linemen	12.48	.40	3%		3/8of1%
Cable splicer	12.48	.40	3%		3/8of1%
Groundman	8.71	.40	3%		3/8of1%
Winch truck operator	8.71	.40	3%		3/8of1%
Millwrights	10.60	.44	.72		
Painters (Bethlehem):					
Brush	8.05	.83	.60		
Structural Steel	9.05	.83	.60		
Spray	9.05	.83	.60		
Painters, Remainder of County					
Brush	8.70	1.00	.60		
Structural Steel	9.45	1.00	.60		
Spray	10.41	1.00	.60		
Piledrivermen	10.77	2.13	1.30	a	.12
Plasterers	10.00	.60	.66		.01
Plumbers	10.02	.57	.92		.08
Roofers, Composition, Slate & Tile	11.53	.15	.80		
Roofers, helpers	7.21	.15	.80		
Sheet metal workers	10.05	1.39	1.18		.05
Sprinkler fitters	11.86	.65	.95		.08
Steamfitters	10.02	.57	.92		.01
Terrazzo workers	9.59	.60	.66		.01
Truck Drivers:					
Class I					
Helper, Stake Body Truck (single axle), Dumpster	8.47				

DECISION NO.: PA77-3124

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (CONT'D)					
Class II					
Dump Trucks, Tandem & Batch Trucks, Semi-Trailers, Agitator Mixer Trucks, Ready Mix and Dumpcrete Type Vehicles Asphalt Distributors, Farm Tractor when used for transportation, Stake Body Truck (Tandem)	8.54				
Class III					
Euclid Type, Off-Highway Equipment - Back or Belly Dump Trucks and Double Hitched Equipment, Straddle (Ross) Carrier, Low-Bed Trailers	9.03				
Soft floor layers	8.55	.44	.72	.45	

Welders - receive rate prescribed for craft performing operation to which welding is incidental

Paid Holidays (Where Applicable): A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Footnotes:

a. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day; Thanksgiving Day and Christmas Day.

b. 9 paid holidays, A through F and Washington's Birthday. Good Friday and Christmas Eve, provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday, and is available for work the days preceding and following the holiday.

DECISION #PA77-3124

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
GROUP 1	$12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.36	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5.5%	9.5%	a	1.2%
GROUP 7	12.54	5.5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ o.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

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SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Berks
DECISION NO.: PA77-3125 DATE: Date of Publication
Supersedes Decision No. PA77-3029, dated February 18, 1977, in 42 FR 10263.
DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers					
Asbestos workers	$10.91	.52	.90		.01
Boilermakers	12.80	1.05	1.00		.02
Bricklayers	9.30	.60	.75		
Carpenters	9.18	.52	.45		
Cement masons	9.69		.50		
Electricians:					
Herford, Longswamp & Washington, Twps., portion of Maxatawney, Twp., east of Sacony Creek	10.90	.35	3%+.80		.02
Marion, Tulpehocken & Bethel Twps.	9.30	.45	3%		1/2 of 1%
Remeinder of County	10.49	.73	3%		.03
Elevator Constructors	11.06	.545	.35	4%+b+c	.02
Elevator Constructors' Helpers	7.75	.545	.35	4%+b+c	.02
Elevator Constructors' Helpers (Prob.)	5.535				
Glaziers	8.89	.40	.30		.01
Ironworkers, structural & ornamental, bridge	11.80	.84	1.36		.02
Ironworkers, reinforcing	11.80	.84	1.36		.02
Laborers:					
General laborers	7.45	.40	.25		
Operators of jackhammer, paving breaking and other pneumatic, electrical and mechanical tools, coming under the jurisdiction of laborer, laying of all clay terra cotta, ironstone, vitrified concrete or non-metallic pipe and the making of joints for same, wagon drill operator and concrete power buggies, precast slab placers, signalmen, brick, stone, plasterers and cement masons tenders, machine mixers, stockers, scaffold building, plaster pump and conveyors, blasters, caisson workers, wagon air track and diamond point drill operators, burning torches, green cutting machine, steam jenny and blastin	7.68	.40	.25		

DECISION # PA77-3125

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers (Cont'd.)					
Cofferdam, (below 10'), tunnel free air and muckers	7.73	.40	.25		
Handling and using cutting or burning torches in the wrecking of buildings, plasterer tenders, scaffold building and removal for plasterers	7.84	.40	.25		
Lathers	9.83		.13		.01
Lead Burners	10.75	.40	.25	e	.01
Line Construction:					
Cable splicers	11.51	.40	3%		3/4%
Groundman	6.87	.40	3%		3/4%
Linemen	11.51	.40	3%		3/4%
Winch truck operator	8.03	.40	3%		3/4%
Millwrights	9.70	.52	.65		
Painters:					
Brush	8.95	.70	.55		
Bridge, tower, stacks & tanks	10.40	.70	.55		
Spray and steel	10.00	.70	.55		
Piledrivermen	10.77	2.13	1.30	g	.12
Plasterers	9.71		.53		.01
Plumbers	11.76	.80	1.45		.11
Roofers:					
Albany, Maxatany and Windsor Composition and slate	11.53	.15	.80		
Remeinder of County					
Composition, damp & waterproof	10.60	.45	.25	d	
Precast slab	11.40	.45	.25	d	
Slate, tile & Asbestos	11.15	.45	.25	d	
Sheet metal workers	10.05	1.39	1.18		.05
Soft floor layers	9.18	.52	.65		
Sprinkler Fitters	11.86	.65	.95		.08
Steamfitters	11.76	.80	1.45		.11
Stone masons	9.30	.60	.75		
Truck Drivers:					
Truck drivers	6.23	e	f		
Truck drivers, helpers	6.18	e	f		

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS (Where Applicable):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. 9 paid holidays, A through F and Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday, and is available for work the days preceding and following the holiday.

b. Employer contributes 1% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Six paid holidays: A through F

d. Paid holiday: Election Day and Labor Day

e. Employer contributes $58.37 per month to a Health and Welfare.

f. Employer contributes $43.34 per month to a Pension Fund.

g. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veteran's Day and Thanksgiving Day.

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.36	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5.5%	9.5%	a	1.2%
GROUP 7	12.54	5.5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power brooms, seeding spreader, tireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

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SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Lycoming
DECISION NUMBER: PA77-3126 DATE: Date of Publication
Supersedes Decision No. PA77-3032, dated March 25, 1977, in 42 FR 16373.
DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$10.70	.65	.60		.01
Boilermakers	12.80	1.05	1.00		.02
Bricklayers & stonemasons	9.75	.65	.50		.015
Carpenters	10.14	.40	.50		.03
Cement masons	9.45				
Electricians	9.48	.50	3%+.50	.60	.02
Elevator Constructors	10.20	.545	.35	4%+b+c	.02
Elevator Constructors' Helpers	70%ofJR	.545	.35	4%+b+c	.02
Elevator Constructors' Helpers					
Elevator Constructors' Helpers (Prob.)	50%ofJR				
Ironworkers	11.28	.84	1.36		.03
Laborers:					
Unskilled Laborers, scaffold builders, wrecking, window cleaners & demolition	7.20	.40	.35		
Mason tenders, operators of jackhammers, paving breakers, vibrators & other pneumatic & mechanical tools coming under the jurisdiction of laborers, wagon drill operators, excavating for caisson, under pinning & pier holes (below 12'), non-metallic pipe layers, plaster tenders, mortar men (mixed by hand), handling & using cutting or burning torches in the wrecking of building	7.35	.40	.35		
Lathers	9.825		.20		.01
Lead Burners	10.75	.40	.25	a	.01
Line Construction:					
Lineman & Cable Splicers	10.30	.35	3%		3/8%
Winch truck drivers	7.28	.35	3%		3/8%
Groundmen	6.97	.35	3%		3/8%
Millwrights	11.29	.40	.50		.03
Painters:					
Brush	9.30	.50	.30		.05
Tapers	9.56	.50	.30		.05
Hazardous	10.56	.50	.30		.05

DECISION NO.: PA77-3126 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	$10.20				
PILEDRIVERMEN	10.77	2.13	1.30	d	.12
PLUMBERERS	10.56	.69	.50	.20	.05
ROOFERS & KETTLEMEN	9.65	.85	.80		
SHEET METAL WORKERS	11.12	.73	.40		.02
SOFT FLOOR LAYERS	8.88	.40	.50		.03
SPRINKLER FITTERS	11.86	.65	.95		.08
STEAMFITTERS	10.56	.69	.50	.20	.05
WELDERS - rate for craft					

PAID HOLIDAYS: (Where Applicable)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day

FOOTNOTES:

a. Nine Paid Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 full days for the employer.

b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Six paid holidays: A through F.

d. Paid Holidays: Washington's Birthday, Good Friday, Memorial Day; Labor Day, Presidential Election Day; Veterans' Day and Thanksgiving Day.

DECISION #PA77-3126 Page 3

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
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GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

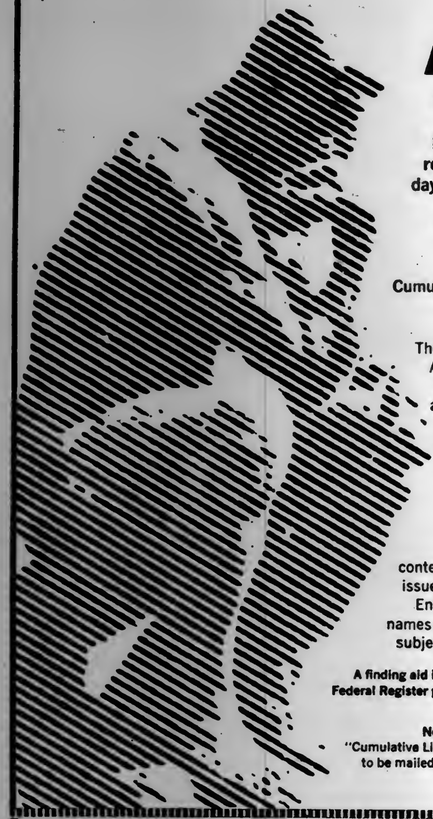
GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

[FR Doc.77-26222 Filed 9-8-77;8:45 am]

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Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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FCC—Palm Springs, Calif.; FM broadcast table of assignments 39982; 8–8–77

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 4—Accounts

CHAPTER III—COST ACCOUNTING STANDARDS BOARD

Contract Coverage, Modified Contract Coverage, Basic Requirements and Cost Accounting Standards

AGENCY: Cost Accounting Standards Board.

ACTION: Final rule.

SUMMARY: The new and amended regulations will exempt small business concerns and will reduce the requirements that certain other companies must meet. The amendment will also extend the applicability of the standard covering allocation of home office expenses to segments to some additional companies. The action is in response to requests that the Board review and revise the applicability of its standards, rules, and regulations.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Noah Minkin, Associate General Counsel, Cost Accounting Standards Board, 441 G Street NW., Washington, D.C. 20548 (202-275-5508).

SUPPLEMENTARY INFORMATION: A detailed discussion of public comments received in response to the initial proposal of these regulations and of principal issues considered in preparing the final promulgation precedes the regulations.

CONTRACT COVERAGE, MODIFIED CONTRACT COVERAGE, BASIC REQUIREMENTS AND COST ACCOUNTING STANDARDS

This publication adds a new Part 332 and amends Parts 331, 351 and 403 of the Cost Accounting Standards Board's rules, regulations and Standards. The proposal to add Part 332 and to amend Parts 331 and 351 were published for comment in the February 16, 1977 FEDERAL REGISTER (42 FR 9389). The proposal to amend Part 403 was published for comment in the November 30, 1976 FEDERAL REGISTER (41 FR 52473). Appropriate periods for comment on the proposals were provided. Numerous and extensive comments were received concerning both proposals. The Board appreciates the interest expressed by the commentators and thanks them for their participation.

COMMENTS OF PARTS 332, 331 AND 351

GENERAL

Many commentators expressed general approval of the proposal to exempt certain businesses and provide modified coverage for others. Information available to the Board does not demonstrate that the benefits to be derived from applying all requirements to all contracts clearly outweigh the cost of requiring such application. Moreover the Board does not believe that many small companies with less sophisticated accounting systems and small accounting staffs can comply with the Board's requirements without experiencing inordinate difficulty and some cost. Under these circumstances, the Board has concluded that it is appropriate to remove completely the obligation of small businesses to comply with Standards, rules, and regulations of the Board. In reaching this conclusion the Board has also given some weight to the belief expressed by a few commentators that the prospect of having to comply with Board requirements has caused some companies to avoid Government contracts.

As noted by some commentators who opposed the Board's proposal, the granting of exemptions tends to reduce rather than increase uniformity of cost accounting practices because of the exemptions. In that sense the action may be viewed as not being in furtherance of that statutory goal which is set forth in Pub. L. 91-379. It has long been recognized that uniformity is an extremely important objective of the Board's actions. It is not, however, the only consideration. If there were any doubt on this point, the fact that the Law authorizes the Board to prescribe rules and regulations exempting contractors from its requirements should dispel that doubt. The Board believes that the action being taken is consistent with its statutory duties viewed as a whole even though uniformity among some business units will be reduced.

THRESHOLD DETERMINATIONS

Several commentators noted that the $10 million threshold provided in Part 332 would be based on all contracts subject to Cost Accounting Standards rather than being limited to national defense contracts and subcontracts. They noted that Pub. L. 91-379 does not apply to nondefense contracts and that such contracts are subject to Board Standards rules and regulations only to the extent that the Administrator of General Services has extended coverage to it. Because of this they urged that the calculation be made only on the basis of national defense contracts and subcontracts. This recommendation has been adopted by the Board.

The proposal to exempt all contracts under $500,000 was viewed as generally desirable by many commentators. Some recommended that $1 million or more be established as the minimum coverage level. However, some commentators opposed exempting small contracts of a contractor required to follow Standards on large contracts. They contended that once the contractor has to establish practices in compliance with Standards, there is no additional burden involved in applying those practices to its small contracts. In any case it is unlikely that application of those practices could result in burdens that would be equal to those that would result from applying one set of cost accounting practices to large contracts and another set to small contracts. For this reason the Board has not adopted the proposal to exempt all contracts under $500,000. Instead the existing provisions providing for coverage of smaller contracts awarded to a business unit which has received an award of $500,000 or more are being retained.

One commentator noted that some contractors receive contract awards of $10 million or more every other year and few, if any, covered awards in the intervening years. The large contracts would not be subject to disclosure requirements or Standards under the February 16 proposal. The Board has remedied this problem by providing that any single contract award of $10 million or more is subject to all Standards and must be covered by a Disclosure Statement.

SMALL BUSINESS

Several commentators urged that all businesses which qualify as small business concerns under the rules and regulations of the Small Business Administration be exempted. The February 16, 1977 proposal would have provided such an exemption only for a small business which received less than $10 million in awards during its preceding fiscal year. Modified coverage would have been provided for other small businesses. Research indicates that there are very few companies which would fall into the category of small businesses receiving awards of $10 million or more. In the interest of using a single test, i.e., whether the contractor qualifies as a small business concern, rather than a dual test which would result only in a few small businesses being subject to modified coverage, the Board has adopted the recommendation to exempt all small business concerns. Research indicates that if this action had been applied to Federal Fiscal Year 1976 it would have resulted in exemption of 198 small business concerns which were doing business with the Department of Defense and which had $460 million of contracts of the type subject to Cost Accounting Standards. Consequently, on average, each small business concern would have a relatively small amount of covered contracts.

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OTHER CATEGORIES

Various commentators renewed previous recommendations that the Board exempt other categories of contracts and contractors. The categories included colleges, universities, nonprofit organizations, hospitals, and government-owned-contractor-operated facilities. The Board has considered these recommendations and concluded that none of these categories should be exempted.

PART 332 ELIGIBILITY

The February 16 publication would require that a contractor have less than $10 million in covered contracts and that the covered contracts be less than 10% of total sales to be eligible for Part 332. In discussing this provision some commentators proposed a wide variety of tests in lieu of the tests proposed in that publication. Some suggested using only a dollar test or only a percentage test rather than both. The amounts recommended ranged up to $100 million and 50 percent of total sales. Some suggested using sliding scales to determine eligibility. None of the suggested tests appear more likely to achieve the purposes of the Board than the test originally proposed. The Board has therefore retained its initial proposal.

SCOPE OF PART 332

A number of commentators recommended that eligibility for Part 332 should result in complete exemption. Others recommended that requirement for compliance with Parts 401 and 402 be the only requirement and that the disclosure obligation be eliminated. The Board believes that substantial benefits may be derived by continuing to require compliance with Parts 401 and 402. There is nothing which suggests that compliance with the two Standards entails any significant cost. Consequently this requirement is being retained. According to information reported to the Board, adoption of Part 332 will relieve 264 segments of 131 contractors of the requirements to comply with all Standards but will remove only $405 million of contracts from full coverage.

DISCLOSURE STATEMENT REQUIREMENTS

Many commentators suggested that preparation of a Disclosure Statement was burdensome. They also contended that in the situation where a large commercial contractor receives only a few small contracts containing a Cost Accounting Standards clause the need for a Disclosure Statement appears to be minimal. Some asserted that adoption of the proposal to require a Disclosure Statement for all covered contracts would reduce the number of companies that would accept contracts subject to the Board's Standards, rules and regulations. The Board is persuaded that for the time being Disclosure Statements should not be required for all covered contracts. Accordingly it is not adopting the February 16 proposal. The Board is retaining the existing Disclosure Statement requirement provided in Part 351 except that a business unit will be required to submit a Disclosure Statement if it is a company or a segment of a company which received awards of national defense contracts subject to Cost Accounting Standards in excess of $10 million during its preceding cost accounting period rather than the preceding Federal fiscal year.

REVISIONS TO PART 351

Part 332 and the amendments to Part 331 generally will result in annual determinations being made of a contractor's obligation to follow Standards and to submit Disclosure Statements. The determination will be made on the basis of sales and awards data from the immediately preceding cost accounting period. The requirement to continue to submit a Disclosure Statement so long as the contractor has a contract subject to Cost Accounting Standards will no longer apply. Disclosure Statements must be maintained for and applied to only those contracts which were awarded during a cost accounting period in which the contractor met the filing requirements of § 351.40. Sections 351.40 and 351.50 have been revised to reflect this change.

SEGMENTS OF LARGE COMPANIES

A number of commentators sought to have small segments of large companies treated in the same way that small businesses are treated. In their view, small segments are competing in the same environment as small business and are operating with essentially similar capacity and resources. Therefore, such segments, they concluded, should be subject to the same rules as small business. The Board does not accept this line of reasoning. Even in those cases where a segment may appear to operate as a small business its status as a segment precludes it from being regarded in the same way. It has available to its capacities and resources of the company of which it is a part. Also the policy considerations of the Small Business Act have no applicability to segments of a larger company. Further, as a practical matter, the rules already exist in the Small Business Administration for identifying small business concerns. There are no comparable rules for identifying small segments.

As indicated by the February 16 proposal the Board nonetheless recognizes that segments which are engaged in primarily noncovered work should be eligible for modified coverage. This coverage is provided by Part 332. It will apply to segments which according to information submitted to the Board have average covered sales of approximately $1.4 million per segment. The relatively small amount of covered contract sales by each of these segments, the limited Government interest in the total business activity of the unit and the fact that the implementation and administration involves some cost lead to the conclusion that modified coverage is appropriate and sufficient to protect the interests of the Government.

SUMMARY

The results of the Board's adoption of Part 332 and amendment of Parts 331 and 351 are:

1. None of the Board's requirements apply to a business unit unless it has received an award of at least one covered contract of more than $500,000. Thereafter covered contracts of more than $100,000 are subject to the Board's requirements.

2. A Disclosure Statement must be submitted by any business unit receiving a covered contract if it is either a company which received net awards of negotiated national defense prime contracts and subcontracts subject to Cost Accounting Standards totaling $10 million or more in its preceding cost accounting period or a segment of such a company.

3. Contracts awarded to any business unit which received less than $10 million in awards of covered contracts in its preceding cost accounting period are subject to:

(a) Standards 401 and 402, if the dollar amount of such awards is equal to less than 10 percent of the business unit's total sales during that period; or

(b) All Standards, if the dollar amount of such awards is equal to 10 percent or more of the business unit's total sales during that period.

4. Any single award of a covered contract of $10 million or more is subject to all Standards and requires submission of a Disclosure Statement.

5. Contracts awarded to any business unit which received $10 million or more in awards of covered contracts during the preceding cost accounting period are subject to all Standards.

6. Notwithstanding the foregoing, all businesses which qualify as small business concerns under the rules and regulations of the Small Business Administration are exempt from all Cost Accounting Standards Board requirements.

COMMENTS ON PART 403

With respect to the amendment of Part 403, the November 30, 1976 proposal was to revise that Standard to make it applicable to any contract which was subject to Cost Accounting Standards generally. The amendment being promulgated today retains this concept. However, as recommended by a number of commentators, the Board deferred the promulgation of this amendment pending the amendments to Parts 331 and 351 and the addition of Part 332 discussed above.

The decision to extend the application of Part 403 to additional contractors was made on the basis of extensive research. This research included both those contractors who were already required to use Part 403 and those who were expected to use it as a result of this amendment. With respect to the current users, the Board is satisfied that this Standard has resulted in more equitable allocations, with little administrative effort in most cases. With respect to potential additional users, the research indicated that many of these would have to make

few, if any, changes to comply with Part 403 and that the remainder could comply with little difficulty. The Board notes in addition, an independent study by the Conference Board which found that defense contractors who are using Part 403 for contract costing purposes are using the same allocation procedures for internal reporting purposes. According to the Conference Board, it was typical of these companies to allocate home office expenses on a blanket basis prior to the promulgation of Part 403. (Information Bulletin No. 17, February 1977.)

A number of commentators suggested various limitations for the application of Part 403. Some of these suggestions were expressed in general terms. Some of the commentators recommended, for example, that the requirement to use Part 403 should not be extended to "small contractors." Alternatively or additionally it was recommended that Part 403 should not be required for a large contractor with little work subject to Cost Accounting Standards. More specifically, recommendations were received to exempt those contractors with less than 10 percent of their revenue from Government work. Others recommended that contractors who have less than $10 million in contracts subject to Cost Accounting Standards should be exempt. The Board believes that the recommendations of this nature have been accommodated to the extent desirable and practical by the amendments to Parts 331 and 351 and the addition of Part 332 being promulgated today. Accordingly, any further exemption from Part 403, specifically, is considered to be unnecessary.

In publishing the proposed amendment to Part 403 in the FEDERAL REGISTER of November 30, 1976, the Board stated that there is evidence that almost all contractors who were required to make significant changes in their allocation practices as a result of Part 403 did so without undue trouble or expense. Several commentators questioned the Board's conclusion in this regard. The Board's conclusion was based in part on Staff research involving 147 home offices who now use Part 403 to allocate home office expenses. This research sought to determine, among other things, the administrative problems and expense involved in making allocations pursuant to Part 403. Government auditors reported that of the 147 home offices, only 4 had problems in developing the necessary data and that there was evidence of significant administrative costs at one of these four offices. In addition, evidence of significant administrative costs in making the allocations was found by the Government auditors at four other of the 147 home offices.

Some of the respondents who questioned the Board's conclusions regarding administrative problems and expense referred to an industry report on the economic impact of Cost Accounting Standards as support for this position. These respondents variously referred the Board to those sections of the report which summarized (i) contractor's appraisal of benefits from Part 403; (ii) the number of contractors who were required to make changes as a result of Part 403; (iii) the number of noncompliance notices issued in connection with Part 403; and (iv) the increase and decrease in costs allocated to Government work as a result of CAS 403. Nothing in these sections, however, specifically addresses the question of administrative problems or expense involved in complying with Part 403.

Two associations reported that, contrary to the Board's findings, their member companies had experienced trouble and expense in complying with Part 403. These associations declined to identify the companies involved, the nature of the problems, or the amount of the expenses. Under these circumstances, there is no basis to alter the conclusion that contractors have been able to make changes required as a result of Part 403 without undue trouble or expense.

One commentator stated that it would not be desirable to make more contractors subject to Part 403 because he believes it to be defective, particularly with respect to its application to the allocation of state and local taxes. With respect to the application of the Standard to the allocation of state and local taxes specifically, the Board notes that it reached its conclusion on the basis of considerable research and extensive deliberation. Moreover, it has reexamined its conclusions, even after the promulgation of Part 403. Notwithstanding the views of the commentator, the Board continues of the view that the provision in question is proper. Accordingly, the Board does not agree that this Standard should not be extended to additional contractors because of the tax allocation provision.

EFFECTIVE DATE

The effective date of the regulations being published today is March 10, 1978. Pub. L. 91-379 provides that regulations shall take effect not earlier than the expiration of the first period of sixty calendar days of continuous session of the Congress following the date on which a copy of the regulations is transmitted to the Congress. The calendars of the Congress indicate that the required sixty days will not pass until some time in February 1978. Accordingly, March 10, 1978, has been selected to assure sufficient time for the regulation to lie before the Congress.

PART 331—CONTRACT COVERAGE

Add the following provisions to § 331.20.

§ 331.20 Definitions.

• • • • •

(h) [Reserved]

(i) [Reserved]

(j) [Reserved]

(k) A "small business concern" is any concern, firm, person, corporation, partnership, cooperative or other business enterprise which pursuant to 15 U.S.C. 637(b)(6) and the rules and regulations of the Small Business Administration set forth in Part 121 of Title 13 of the Code of Federal Regulations, is determined to be a small business concern for the purpose of Government procurement.

Delete § 331.30(b)(1), (2) and (3) and insert the following in lieu thereof.

§ 331.30 Applicability, exemption, and waiver.

• • • • •

(b)(1) Any contract or subcontract awarded to a small business concern.

(2) Any contract or subcontract awarded to a contractor for performance in a business unit which is eligible to use the provisions of Part 332 of the Board's regulations and which elects to use that part.

(3) [Reserved]

• • • • •

Delete the first paragraph of § 331.50 and insert the following in lieu thereof:

§ 331.50 Contract clause.

Except as provided in either § 331.30 or Part 332 of this chapter, the following clause shall be inserted in all negotiated national defense prime contracts and subcontracts in excess of $100,000.

• • • • •

Insert the following after § 331.70:

§ 331.71 [Reserved]

§ 331.72 Relationship to Part 332.

Contracts subject to this part may be performed during a cost accounting period in which a previously awarded contract subject to Part 332 of this part is also being performed. Compliance with the requirements established by this part may compel the use of cost accounting practices for contracts covered by this part that are not required under Part 332. Under these circumstances, the cost accounting practices applicable to contracts subject to Part 332 of this part need not be changed. Any resulting differences in practices between the contracts subject to this part and those subject to Part 332 of this part shall not constitute violations of Standards 401 or 402.

PART 332—MODIFIED CONTRACT COVERAGE

Add a new Part 332 as follows:

Sec.
332.10 Purpose.
332.20 Definition.
332.30 Applicability.
332.40 Solicitation.
332.50 Contract clause.
332.60 Post-award disclosure.
332.70 Interpretation.
332.80 Effective date.

AUTHORITY: Sec. 103, 84 Stat. 796; 50 U.S.C. App. 2168.

§ 332.10 Purpose.

The regulations contained in this part are promulgated to provide modified contract coverage for certain classes of business units.

§ 332.20 Definition.

The definitions set forth in § 331.20 of this chapter and the following definitions shall apply to this part.

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(a) A "covered contract" is any negotiated national defense prime contract or subcontract which exceeds $100,000 and pursuant to requirements of the Cost Accounting Standards Board is required to include a Cost Accounting Standards clause (see 4 CFR Part 331 and this chapter).

(b) A "business unit" is any segment of an organization, or an entire business organization which is not divided into segments.

(c) A "segment" is one of two or more divisions, product departments, plants, or other subdivisions of an organization reporting directly to a home office, usually identified with responsibility for profit and/or producing a product or service. The term includes Government-owned contractor-operated (GOCO) facilities, and joint ventures and subsidiaries (domestic and foreign) in which the organization has a majority ownership. The term also includes those joint ventures and subsidiaries (domestic and foreign) in which the organization has less than a majority of ownership, but over which it exercises control.

§ 332.30 Applicability.

(a) Except for the award of a single covered contract of $10 million or more the provisions of this part may be applied in lieu of Part 331 of this chapter to any covered contract received by a business unit which in its immediately preceding cost accounting period received less than $10 million in awards of covered contracts: *Providing*, That the sum of such awards equals less than 10 percent of the business unit's total sales during that period.

(b) If in any cost accounting period the provisions of this part are applied to any one award to a business unit, they must be applied to all covered contracts awarded to that unit during that period, except under the following conditions. If the business unit receives a single contract award of $10 million or more, that contract must contain the clause set forth in § 331.50 of this chapter. Thereafter any covered contract awarded in the same cost accounting period must also contain that clause.

(c) Any covered contract awarded subject to this part shall remain subject thereto even if a portion of the contract is performed in a subsequent cost accounting period in which the business unit is exempt from the requirements of the Cost Accounting Standards Board or ineligible to use this part.

§ 332.40 Solicitation.

Any covered contract awarded subject to this part shall have been made in conformity with the requirements of § 331.40, Solicitation Notice, of the Board's regulations.

§ 332.50 Contract clause.

Upon appropriate certification by the offeror that he is eligible and elects to use this part, the following clause shall be inserted in any resulting contract in lieu of the clause prescribed in § 331.50 of this chapter.

DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES

(a) The contractor, in connection with this contract shall: (1) Comply with the requirements of 4 CFR Parts 401, Consistency in Estimating, Accumulating and Reporting Costs, and 402, Consistency in Allocating Costs Incurred for the Same Purpose, in effect on the date of award of this contract.

(2) If it is a business unit of a company required to submit a Disclosure Statement, disclose in writing its cost accounting practices as required by regulations of the Cost Accounting Standards Board. The required disclosures must be made prior to contract award unless the Contracting Officer provides a written notice to the contractor authorizing post-award submission in accordance with regulations of the Cost Accounting Standards Board. If the contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement will be protected and will not be released outside of the Government.

NOTE.—See, however, the note set out following paragraph (d) of the Cost Accounting Standards contract clause in § 331.50 of the Board's regulations.

(3) Follow consistently the cost accounting practices disclosed pursuant to (2) above and the established cost accounting practices of the business unit. A change to such practices may be proposed, however, by either the Government or the contractor, and the contractor agrees to negotiate with the Contracting Officer the terms and conditions under which a change may be made. After the terms and conditions under which the change is to be made have been agreed to, the change must be applied prospectively to this contract, and the Disclosure Statement if affected must be amended accordingly. No agreement may be made under this provision that will increase costs paid by the United States.

(4) Agree to an adjustment of the contract price or cost allowance, as appropriate, if he or a subcontractor fails to comply with the applicable Cost Accounting Standards or to follow any practice disclosed or established pursuant to subparagraph (a)(2) or (a)(3) above and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the rate determined by the Secretary of the Treasury pursuant to Pub. L. 92-41, 85 Stat. 97, or 7 percent per annum, whichever is less, from the time the payment by the United States was made to the time the adjustment is effected.

(b) If the parties fail to agree whether the contractor has complied with an applicable Cost Accounting Standard, rule or regulation of the Cost Accounting Standards Board and as to any cost adjustment demanded by the United States, such failure to agree shall be a dispute concerning a question of fact within the meaning of the disputes clause of this contract.

(c) The contractor shall permit any authorized representatives of the head of the agency, of the Cost Accounting Standards Board, or of the Comptroller General of the United States to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The contractor shall include in all negotiated subcontracts which he enters into the substance of this clause except paragraph (b) of this section, and shall require such inclusion in all other subcontracts of any tier, except that:

(1) If the subcontract is awarded to a business unit which pursuant to Part 331 is required to follow all Cost Accounting Standards, the clause entitled "Cost Accounting Standards" set forth in § 331.50 of the Board's regulations shall be inserted in lieu of this clause, or

(2) This requirement shall not apply to negotiated subcontracts where the price negotiated is based on:

(i) Established catalog or market prices of commercial items sold in substantial quantities to the general public or

(ii) Prices set by law or regulation, or

(3) The requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to accept a Cost Accounting Standards clause by reason of § 331.30(b) of the Board's regulation.

(e) Notwithstanding (d) above, if this is a contract with an agency which permits subcontractors to appeal final decisions of the Contracting Officer directly to the head of the agency or his duly authorized representative, then the contractor shall include the substance of paragraph (b) as well.

§ 332.60 Post-award disclosure.

Any business unit entering into a prime contract or subcontract containing the clause set forth in § 332.50 if required to submit a Disclosure Statement must do so prior to award unless post-award submission is authorized pursuant to § 331.60(b).

§ 332.70 Interpretation.

(a) For the purpose of determining under § 332.30(a) whether the sum of covered contract awards equals less than 10 percent of the business unit's total sales, an order received by the one segment from another segment shall be treated in the same way that a subcontract award to the receiving segment would be treated. In measuring sales for a year, a transfer by one segment to another shall be deemed to be a sale by the transferor.

(b) Contracts subject to this Part 332 may be performed during a cost accounting period in which a subsequently awarded contract subject to Part 331 is also being performed. Compliance with the requirements established by Part 331 may compel the use of cost accounting practices for the subsequently awarded contract that are not required under this Part 332. Under these circumstances, the cost accounting practices applicable to contracts subject to this Part 332 need not be changed. Any resulting differences in practices between the contracts subject to this Part and those subject to Part 331 of this chapter shall not constitute violations of Standards 401 or 402.

(c) In applying § 332.30(a), business units using Federal Management Circular 73-8 (Cost Principles for Educational Institutions) shall use the amount of current funds expeditures in lieu of total sales.

(d) The interpretations set forth in § 331.70 shall also apply to this part.

§ 332.80 Effective date.

The effective date of this part is March 10, 1978.

PART 351—BASIC REQUIREMENTS

§ 351.40 [Amended]

Delete § 351.40(e) and insert the following paragraph in lieu thereof.

• • • • •

(e) Any company that receives a negotiated national defense contract award which is subject to Cost Accounting Standards and is for $10 million or more must submit a completed Disclosure Statement.

• • • • •

Amend § 351.40(f) to read as follows:

• • • • •

(f) Any company which, together with its subsidiaries, received net awards of negotiated national defense prime contracts and subcontracts subject to Cost Accounting Standards totaling more than $10 million in its most recent cost accounting period, must submit a completed Disclosure Statement within ninety (90) days after the end of that period.

§ 351.50 [Amended]

Delete § 351.50 (c) and (d).

PART 403—ALLOCATION OF HOME OFFICE EXPENSES TO SEGMENTS

Amend § 403.70(a) by adding the following:

§ 403.70 Exemptions.

(a) • • • This exemption expires on March 10, 1978. Any contractor, unless otherwise exempt, who receives a negotiated national defense contract after March 10, 1978, shall be required to comply at the start of his first cost accounting period following receipt of that award.

• • • • •

2. Amend § 403.80 Effective date to redesignate § 403.80 to be § 403.80(a) and to add a paragraph (b) as follows:

§ 403.80 Effective date.

(a) • • •

(b) The effective date of § 403.70(a) as amended is March 10, 1978.

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.77-26503 Filed 9-9-77;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 919—PEACHES GROWN IN MESA COUNTY, COLO.

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $1,000 and a rate of assessment of $0.00728 per cwt. of peaches for the functioning of the Administrative Committee for the 1976-77 fiscal period. This committee locally administers a Federal marketing order regulating the handling of peaches grown in Mesa County, Colo. The regulation would enable the committee to collect assessments from handlers on all assessable peaches handled and use the resulting funds for its expenses.

DATES: Effective for the period December 1, 1976, through November 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: On August 17, 1977, notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 41431) regarding proposed expenses and rate of assessment, under the marketing agreement, as amended, and Order No. 919, as amended (7 CFR Part 919) regulating the handling of peaches grown in Mesa County, Colo. This notice allowed interested persons 14 days during which they could submit written comments pertaining to these proposals. None were submitted. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

After consideration of all relevant matter presented, including proposals in the notice submitted by the Administrative Committee, it is found and determined that:

919.216 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Administrative Committee during the fiscal period December 1, 1976, through November 30, 1977, will amount to $1,000.

(b) *Rate of assessment.* The rate of assessment for the fiscal period, payable by each handler in accordance with § 919.41, is fixed at $0.00728 per cwt. of peaches.

It is further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (7 U.S.C. 553) in that (1) shipments of peaches are underway; (2) this marketing agreement and order requires that the rate of assessment apply to all assessable peaches handled during a fiscal period; and (3) the fiscal period began December 1, 1976, and the rate of assessment will automatically apply to all peaches handled during this period.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: September 7, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-26419 Filed 9-9-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-NW-20-AD; Amend. 39-3034]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 77-10-08 which requires inspections of the horizontal stabilizer center section front spar junction fitting on Boeing Model 727 series airplanes. Due to adverse service experience, a new AD is necessary to require that the fitting be eddy current or dye penetrant inspected sooner than required by AD 77-10-08 and to require repetitive inspections.

DATES: Effective date September 12, 1977. Initial compliance: As prescribed in the body of the AD.

ADDRESSES: Boeing service bulletins specified in this directive may be obtained upon request to Boeing Commercial Airplane Co., P.O. Box 3707, Seattle, Wash. 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

FOR FURTHER INFORMATION, CONTACT:

Gerald R. Mack, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108. Telephone 206-767-2516.

SUPPLEMENTARY INFORMATION: Amendment 39-2901 (42 FR 24723), AD 77-10-08 was issued on May 12, 1977, for inspections of the horizontal stabilizer center section front spar junction fitting on Boeing Model 727 series airplanes. Cracks had been detected in the jackscrew support lugs of one fitting. Specifically, the AD requires a one-time visual inspection within 750 flight hours (or by August 15, 1977) and a one-time eddy current or dye penetrant inspection within 3,000 flight hours (or by August 15, 1978). Since issuing Amendment 39-2901, cracks in the lugs of additional horizontal stabilizer center section front spar junction fittings have been reported. Most of the fittings were cracked to the extent that replacement was required. Several fittings had more than one cracked lug. The cracked fittings were detected by either eddy current or dye penetrant methods with the jackscrew support arms removed so as to expose the inner face of lugs. Cracking is attributed to stress corrosion of the 7079-T6 aluminum alloy material. Due to the number of crack findings and since the cracks have only been detected with the jackscrew support arms removed, the FAA now believes that 3,000 flight hours compliance time for the inspection with the

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jackscrew support arms removed is excessive. Also, the service experience now indicates the need for repetitive inspections.

A low frequency eddy current procedure with removal of the bolts and bushings but without removal of the support arms has been developed and is considered acceptable for compliance with this new AD. Additionally, a provision is made for increasing the repetitive inspection intervals if the lugs of the fitting are reworked.

Accordingly, AD 77-10-08 is being superseded by a new AD requiring an eddy current or dye penetrant inspection with the jackscrew support arms removed or low frequency eddy current inspection with the jackscrew support arms not removed within 750 flight hours and thereafter at intervals of 1,500 flight hours.

A meeting was held in Seattle, Wash., on August 9, 1977, to discuss this rule with interested persons.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Gerald R. Mack, Engineering and Manufacturing Branch, FAA Northwest Region, and Jonathan Howe, Regional Counsel, Northwest Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by superseding AD 77-10-08 and adding the following new Airworthiness Directive:

BOEING. Applies to Boeing Model 727 series airplanes with horizontal stabilizer center section front spar junction fittings, P/Ns 65-17448-1 or 65-81273-1, certificated in all categories. Compliance required as indicated.

To detect cracks in the horizontal stabilizer center section front spar fitting, accomplish the following:

A. Within the next 750 flight hours time-in-service from the effective date of this AD or prior to January 1, 1978, whichever occurs first, unless accomplished per paragraph B of AD 77-10-08 or since April 20, 1977, inspect the horizontal stabilizer center section front spar junction fittings for cracks in the forward lugs in accordance with one of the inspections of paragraph B of this AD or dye penetrant procedures with the jackscrew support arms removed. Following the inspection, apply LPS 3, BMS 3-23 or equivalent corrosion inhibitor to the lugs. Reinspect per paragraph C of this AD.

B. Inspect the eight (8) lugs of the horizontal stabilizer center section front spar junction fitting which attach the jackscrew support arms to the fitting in accordance with one of the following:

1. Eddy current inspection with the jackscrew support arms removed as specified in Boeing Alert Service Bulletin No. 727-55-A69, or later FAA approved revisions, or equivalent.

2. Low frequency eddy current inspection with the jackscrew support arms installed as specified in Boeing Alert Service Bulletin No. 727-55-A69, Revision 1, or later FAA approved revisions.

3. A procedure approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

Following each inspection, apply LPS 3, BMS 3-23 or equivalent corrosion inhibitor to the lugs.

C. Repeat the inspections per paragraph B of this AD at intervals of either 1 or 2 below:

1. 1,500 flight hours time-in-service or nine (9) months from the last inspection, whichever occurs first, or

2. 3,000 flight hours time-in-service or eighteen (18) months from the last inspection, whichever occurs first, if the fittings are reworked in accordance with Boeing Alert Service Bulletin No. 727-55-A69, Revision 1, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

D. Cracked fittings are to be replaced or repaired prior to further flight in accordance with Boeing Alert Service Bulletin No. 727-55-A69, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. Report findings of cracks directly to the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, within 64 hours after detection. Include in the report, description of the crack(s), method used to detect the crack(s), and airplane total time in fight hours. (Reporting approved by the Bureau of the Budget under BOB No. 04-R0174.)

E. Terminating action of this AD consists of replacement of the horizontal stabilizer center section front spar junction fitting with a 7075-T73 aluminum alloy material fitting, Boeing P/N65-31278-4, or equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

F. Airplanes may be ferried to a maintenance base for repairs or replacement in accordance with FAR 21.197, subject to prior approval by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

G. Requests for adjustments of the inspection threshold and intervals in this AD should by made directly to the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. Such requests should contain substantiating data to justify the increase.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Co., P.O. Box 3707, Seattle, Wash. 98124. The documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

Airworthiness Directive 77-10-08, Amendment 39-2901, is hereby superseded.

This amendment becomes effective September 12, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Seattle, Wash. on September 1, 1977.

C. B. WALK, Jr.,
Director, Northwest Region.

NOTE.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.77-26406 Filed 9-9-77;8:45 am]

[Docket No. 77-NW-23-AD; Amdt. 39-3032]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 737-100 and -200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing Airworthiness Directive to provide relief in circumstances where an operator elects to limit use to only some of the hydraulic fluids that meet Boeing Specification BMS 3-11. The need for this type relief was generated by a request from United Airlines for relief on 737 aircraft they sell or lease.

DATE: Effective date, September 12, 1977.

FOR FURTHER INFORMATION, CONTACT:

W. B. Slifer, Systems and Equipment Section, ANW-213, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone 206-767-2500.

SUPPLEMENTARY INFORMATION: Airworthiness Directive 75-24-09, Amendment 39-2436, (FR 75-31332) prohibited the use of Stauffer Aero Safe ER Type IV hyrdaulic fluid in Boeing 737 airplanes unless the ground spoilers were modified in accordance with Boeing Service Bulletin 737-27-1080 dated November 21, 1975.

A recent request for authorization to use a placard listing one of the hydraulic fluids approved for use in the Boeing 737 airplane as the only hydraulic fluid to be used has been received. This has the same effect as prohibiting the use of Stauffer Aero Safe ER Type IV. Since the existing AD did not provide for an approval of this type by the Chief, Engineering and Manufacturing Branch, Northwest Region, the AD is being amended to include this provision.

Since this AD imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are W. B. Slifer, Engineering and Manufacturing Branch, Northwest Region, and Jonathan Howe, Regional Counsel, Northwest Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending AD 75-24-09, Amendment 39-2436 (FR 75-31332) as follows:

Change the first sentence of paragraph A to read in part as follows: "• • • or later revisions, or any other equivalent placard, approved by the Chief, Engineering and Manufacturing Branch, Northwest Region • • •"

This amendment becomes effective September 12, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Seattle, Washington on August 31, 1977.

C. B. WALK, Jr.,
Director, Northwest Region.

NOTE.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.77-26200 Filed 9-9-77;8:45 am]

[Docket No. 77-WE-10-AD; Amdt. 39-3035]

PART 39—AIRWORTHINESS DIRECTIVES

Lockheed-California Company Model L-1011-385 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This new airworthiness directive (AD) supersedes existing airworthiness directives (ADs) AD 77-10-04 and AD 77-14-06 on Lockheed-California Company Model L-1011-385 Series Airplanes and requires a visual pre-takeoff check of the elevator/stabilizer surface position, one time inspection of the elevator drive system quadrant assemblies' upper and lower bearings, and modification of the elevator drive system. Additionally, the flight crews must be informed of the recommended Pitch Axis Control Assist Procedures. This new AD incorporates procedures and modifications based on additional information received since the issuance of the superseded ADs and is needed to preclude further occurrences of elevator drive system jams which may result in degradation of airplane controllability.

DATE: Effective, September 15, 1977.

Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, Calif. 91520. Attention: Commercial Support Contracts, Department 63-11, U33, B-1.

Also, a copy of these service bulletins may be reviewed at, or a copy obtained from:

Rules Docket, in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or

Rules Docket, in Room 6W14, FAA Western Region, 15000 Aviation Blvd., Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Wallace M. Frei, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: As a result of first occurrence of jamming of one of the two elevator drive systems on the horizontal stabilizer of the primary pitch control system which resulted in degradation of the airplane controllability, FAA issued Airworthiness Directive Amendment 39-2898 (42 FR 24721), AD 77-10-04, on April 15, 1977. The AD required inspection of the functional integrity of the upper bearing, verification of the minimum operational clearance between the quadrant hub base and the elevator actuation pushrod, replacement of components as necessary, and conduct of repetitive inspections.

A second occurrence of jamming was experienced on an aircraft which was reported to have been inspected in accordance with the above requirements of AD 77-10-04. FAA concluded that an additional mandatory safety interim action was necessary. FAA issued Airworthiness Directive Amendment 39-2956 (42 FR 34865), AD 77-14-06, on June 11, 1977, which required an exterior visual check of the elevator/stabilizer surface positions after full aft controls check and with the control column full forward to assure there was no obvious discrepancy between the elevator surface positions. This visual check was considered to provide the additional necessary interim safety action.

On June 17, 1977, FAA approved revision to the Lockheed L-1011 FAA approved Airplane Flight Manual (AFM), LR 25925, which includes information to flight crews containing the Pitch Axis Control Assist Procedures published in Lockheed L-1011 Operating Information Letter (OIL), Number 98, of May 6, 1977, as revised on May 12, 1977.

In numerous discussions and meetings with representatives of the airlines, the Air Transport Association, and the Lockheed-California Company, significant additional data has been presented, and this data has been reviewed by the FAA. The FAA has approved two new service bulletins which contain the procedures and modifications set forth in this new AD. The FAA presented specific proposals for this AD action to the above parties. The public docket in AD Rules Docket 77-WE-10-AD contains a record of the foregoing actions.

The FAA, after reviewing all the information and service experience presently available, has reached these conclusions:

(1) The inspection results obtained from compliance with the AD 77-10-04 indicate that the inspection techniques then used in determining the functional integrity of the upper and lower bearings are not sufficiently accurate and reliable to assure the minimum necessary level of integrity of the elevator drive system.

(2) The revised inspection techniques contained in the FAA approved Lockheed Alert Service Bulletin 093-27-A158 are considered to provide for inspection results of greater accuracy and reliability than those obtained from (1) above.

(3) Analytical, flight and simulator studies have determined that an elevator surface jam results in degradation of the airplane controllability and consequently the occurrence of these jams must be prevented. The two elevator surface jam incidents occurred as a result of routine controls check prior to take-off and resulted in degradation of the airplane controllability.

(4) The exterior visual check of the elevator/stabilizer surface positions required by the AD 77-14-06 in combination with a one time fleet inspection in accordance with inspection of (2), above, provides the maximum available assurance of unjammed elevator drive systems at take-off, pending modification of the elevator drive systems.

(5) The modification performed on the elevator drive systems in accordance with Lockheed Alert Service Bulletin 093-27-A158 is considered to provide the necessary functional integrity, subject to 2000 hours time in service repetitive replacement cycles.

(6) The modification performed on the elevator drive system in accordance with Service Bulletin 093-27-158 is also considered to provide the necessary functional integrity. The installation of this modification is on a one-time basis without a need for periodic replacements.

(7) The Pitch Axis Control Assist Procedures contained in the Airplane Flight Manual (AFM) provide valuable flight crew information for any pitch axis control deficiency and consequently the flight crews should be apprised of these procedures.

In consideration of the above conclusions, the FAA is adopting this new airworthiness directive to supersede (ADs) AD 77-10-04 and AD 77-14-06. This new AD requires a visual pre-takeoff check of the elevator/stabilizer surface position, one time inspection of the elevator drive system quadrant assemblies' upper and lower bearings, and modification of the elevator drive system. Additionally, the flight crews must be informed of the recommended Pitch Axis Control Assist Procedures

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are George E. Vasley, Aircraft En-

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gineering Division, and Richard G. Wittry, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), is amended by adding the following new airworthiness directive:

LOCKHEED-CALIFORNIA COMPANY. Applies to Lockheed-California Company Model L-1011-385 Series airplanes certificated in all categories.

Compliance required as indicated.

To prevent take-off with a possible jammed elevator drive system on the horizontal stabilizer of the primary pitch control system which can result in degradation of the airplane controllability, accomplish the following:

(a) Initiate the following check program prior to next flight after the effective date of this amendment, until the repetitive or the one-time modification requirements of the paragraph (d) have been accomplished on all aircraft of each operator's fleet:

(1) Prior to each take-off conduct an exterior visual check of the elevator/stabilizer surface positions after the full aft controls check and with the control column full forward to assure there is no obvious discrepancy between elevator positions. The pilot in command shall be informed of the results of this check.

(2) If obvious discrepancy noted, correct prior to further flight.

(3) No further full aft control column movement may be performed prior to take-off.

NOTES.—(1) This check can be accomplished with any one single hydraulic system pressurized by any main hydraulic system pump.

(2) FAA approved Lockheed-California Company Alert Service Bulletin 093-27-A158, Revision 1 dated August 17, 1977, Paragraph 2.A, covers the same subject.

(b) Within the next thirty days after the effective date of this amendment, unless already accomplished, revise the FAA Approved Lockheed L-1011 Airplane Flight Manual (AFM), LR 25925, to incorporate the Pitch Axis Control Assist Procedures contained in the AFM revision dated June 17, 1977. Flight crews should be informed of these procedures as soon as practicable.

(c) Within the next 150 hours time in service after the effective date of this amendment, unless already accomplished, inspect the elevator quadrant bearings in accordance with the applicable instructions of the FAA approved Lockheed-California Company Alert Service Bulletin 093-27-A158, Revision 1, dated August 17, 1977 or later FAA approved revisions.

(1) The upper and lower bearings which do not meet the specified acceptable inspection standards must be replaced prior to next flight.

(2) Those inspections accomplished prior to August 17, 1977 will be considered acceptable provided the inspection standards used are equivalent to those specified in the above service bulletin.

NOTE.—The inspections accomplished in accordance with the requirements of AD 77-10-04 are not considered to be equivalent to the inspections required by the paragraph (c), above.

(d) Within the next 1500 hours time in service after the effective date of this amendment, or on or before March 1, 1978, whichever occurs first, unless already accomplished, accomplish either (1) or (2), below.

(1) Modify the elevator drive systems in accordance with the instructions of Paragraph 2.E of FAA approved Lockheed-California Company Alert Service Bulletin 093-27-A158, Revision 1 dated August 17, 1977, or later FAA approved revisions, except as provided in paragraph (e), below. Accomplish this modification at intervals not to exceed 2000 hours time in service; or

(2) Modify the elevator drive systems in accordance with the instructions of the FAA approved Lockheed-California Company Service Bulletin 093-27-158, dated August 10, 1977 or later FAA approved revisions.

(e) The initial modification performed in accordance with the requirements of paragraph (d)(1) need not include the installation of the thrust washer, P/N 1616733-103. However, at the next subsequent modification required by paragraph (d)(1) the installation of the thrust washer, P/N 1616733-103, is required.

(f) Equivalent checks, inspections and modifications may be used when approved by Chief, Aircraft Engineering Division, FAA Western Region.

This supersedes Amendment 39-2808 (42 FR 24721), AD 77-10-04, and Amendment 39-2956 (42 FR 34865), AD 77-14-06.

This amendment becomes effective September 15, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, California on September 1, 1977.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.77-26407 Filed 9-9-77;8:45 am]

[Airspace Docket No. 77-RM-2]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Durango, Colo., 700 foot transition area, because the present 700 foot transition area was found to be inadequate to accommodate the VOR Runway 2 approach to La Plata County Airport, Durango, Colo.

EFFECTIVE DATE: 0901 GMT November 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Joseph T. Taber, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colo. 80010; telephone 303-837-3937.

SUPPLEMENTARY INFORMATION:

HISTORY

On July 7, 1977, the FAA published for comment a proposal to alter the transition area at Durango, Colo. (42 FR 34891). The only comment received expressed no objection.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) redefines the 700 foot transition area at Durango, Colo.

The present 700 foot transition area was found to be inadequate to accommodate the VOR Runway 2 approach to La Plata County Airport, Durango, Colo.

DRAFTING INFORMATION

The principal authors of this document are Joseph T. Taber, Operations, Procedures and Airspace Branch, Air Traffic Division, and Daniel J. Peterson, Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 GMT November 24, 1977, as follows:

By amending Subpart G, § 71.181 so as to alter the following transition area to read:

DURANGO, COLO.

That airspace extending upward from 700 feet above the surface within a 7 mile radius of the La Plata County Airport (latitude 37°09'12" N., longitude 107°45'04" W.) and within 5 miles each side of the Durango VOR 224° T. radial extending from the 7 mile radius area to 17.5 miles southwest of the VOR • • •

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Aurora, Colo., on August 30, 1977.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.77-26278 Filed 9-9-77;8:45 am]

[Airspace Docket No. 77-RM-7]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Helena, Mont., Control Zone. The alteration is necessary to encompass the new LOC/DME-BC instrument approach at Helena, Mont.

EFFECTIVE DATE: 0901 GMT November 24, 1977.

FOR FURTHER INFORMATION CONTACT:

David M. Laschinger, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colo. 80010; telephone 303-837-3937.

SUPPLEMENTARY INFORMATION:

HISTORY

On July 11, 1977, the FAA published, for comment, a proposal to alter the Helena, Mont., Control Zone (42 FR 35657). The only comment received expressed no objection.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) redefines the Control Zone at Helena, Mont.

The present Control Zone was inadequate to accommodate the new LOC/DME-BC instrument approach at Helena, Mont.

DRAFTING INFORMATION

The principal authors of this document are David M. Laschinger, Operations, Procedures and Airspace Branch, Air Traffic Division, and Daniel J. Peterson, Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulation (14 CFR Part 71) is amended effective November 24, 1977, as follows:

By amending Subpart F, § 71.171 so as to alter the following Control Zone to read:

HELENA, MONT.

Within a 5 mile radius of the Helena County-City Airport (latitude 46°36'27" N., longitude 111°58'45" W.), within 2½ miles each side of the Helena VORTAC 102° radial extending from the 5 mile radius zone to 4½ miles east of the VORTAC, and within 1 mile each side of the 282° bearing from the airport reference point, from the 5 mile radius zone 8 miles west of the VORTAC.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Aurora, Colo., on August 30, 1977.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.77-26279 Filed 9-9-77;8:45 am]

[Airspace Docket No. 77-SO-28]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Federal Airways and Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments realign an overlying segment of V-56/J-4/J-20 to extend from Meridian, Miss., direct to Montgomery, Ala., rather than via an intersection or the Cahaba, Ala., VORTAC. These actions eliminate the circuitous route thereby reducing the route distance between Meridian and Montgomery.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On August 1, 1977, the FAA published for comment a proposal to realign V-56 airway and Jet Routes J-4/J-20 which overlie each other between Meridian and Montgomery (42 FR 38917). Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objection.

THE RULE

These amendments to Parts 71 and 75 of the Federal Aviation Regulations realign:

1. A segment of V-56 to go from Meridian via Kewanee, Miss., direct to Montgomery, Ala. This airway is presently designated via the Cahaba, Ala., VORTAC which is being decommissioned by the Department of Air Force.

2. J-4 and J-20 to go direct from Meridian to Montgomery. These routes presently overlie V-56 by using radials that intersect at the Cahaba VORTAC.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished and amended (42 FR 307, 707, and 55863), are further amended, effective 0901 GMT, December 1, 1977, as follows.

In § 71.123 (42 FR 307) V-56 "Cahaba, Ala.;" is deleted.

In § 75.100 (42 FR 707, 55863) Jet Route No. 4 "INT of the Meridian 091° and the Montgomery, Ala., 282° radials; Montgomery;" is deleted and "Montgomery, Ala.;" is substituted therefor.

In § 75.100 (42 FR 707) Jet Route No. 20 "INT of the Meridian 091° and the Montgomery, Ala., 282° radials; Montgomery;" is deleted and "Montgomery, Ala.;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.09).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 2, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-26405 Filed 9-9-77;8:45 am]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 17174; Amdt. No. 1089]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For examination.—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

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For purchase.—Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By subscription.—Copies of all SIAPs, mailed weekly, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The current annual subscription price is $150; add $30 for each additional copy mailed to the same address.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Avation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 9) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * *effective November 3, 1977.*

Durango, CO—Durango LaPlata County, VOR Rwy 2, Amdt. 3, cancelled
Durango, CO—Durango LaPlata County, VOR-A, Amdt. 3
Durango, CO—Durango LaPlata County, VOR/DME Rwy 2, Original

* * * *effective October 20, 1977.*

San Luis Obispo, CA—San Luis Obispo County, VOR-A, Amdt. 2
Benton Harbor, MI—Ross Field, VOR Rwy 9, Amdt. 3
Benton Harbor, MI—Ross Field, VOR Rwy 27, Amdt. 12
Niles, MI—Jerry Tyler Memorial, VOR, Rwy 3, Amdt. 3
Tecumseh, MI—Al Meyers, VOR-A, Amdt. 3
Grand Rapids, MN—Grand Rapids Itasca County, VOR Rwy 34, Amdt. 6
Ardmore, OK—Downtown Ardmore, VOR-A, Amdt. 7
Laredo, TX—Laredo Airport, VOR Rwy 33, Amdt. 12, cancelled
Laredo, TX—Laredo Airport, VOR/DME Rwy 15, Amdt. 10, cancelled
West Bend, WI—West Bend Municipal, VOR Rwy 13, Amdt. 2
West Bend, WI—West Bend Municipal, VOR Rwy 24, Amdt. 2
West Bend, WI—West Bend Municipal, VOR Rwy 31, Amdt. 5
Santa Fe, NM—Santa Fe County, VOR Rwy 33, Amdt. 5

* * * *effective October 6, 1977.*

Tanana, AK—Ralph M. Calhoun Memorial, VOR-A, Amdt. 5
Kingman, AZ—Mohave County, VOR Rwy 21, Amdt. 3
Lake Havasu City, AZ—Lake Havasu City, VOR/DME-A, Amdt. 3
Needles, CA—Needles Airport, VOR-A, Amdt. 1
Lansing, MI—Capital City, VOR Rwy 6, Amdt. 15
Lansing, MI—Capital City, VOR Rwy 24, Amdt. 1

NOTE.—The FAA published an amendment in Docket No. 17143, Amdt. No. 1087 to Part 97 of the Federal Aviation Regulations (42 FR 42848; August 25, 1977) under section 97.23, effective October 6, 1977, which is hereby amended as follows: Valdosta, GA—Valdosta Muni., vor Rwy 35, Amdt. 24 is rescinded.

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * *effective October 20, 1977.*

Benton Harbor, MI—Ross Field, LOC BC Rwy 9, Amdt. 2

* * * *effective October 6, 1977.*

Lansing, MI—Capital City, LOC(BC) Rwy 9, Amdt. 13, cancelled

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * *effective October 20, 1977.*

Ponape Island, Caroline Islands, Ponape Int'l, NDB-B, Amdt. 1
Ponape Island, Caroline Islands, Ponape Int'l, NDB-C, Amdt. 1
Bloomfield, IA—Bloomfield Municipal, NDB Rwy 36, Original
Benton Harbor, MI—Ross Field, NDB Rwy 27, Amdt. 4
Grand Rapids, MN—Grand Rapids Itasca County, NDB Rwy 34, Amdt. 2
Breckenridge, TX—Stephens County, NDB Rwy 17, Amdt. 1, cancelled
Breckenridge, TX—Stephens County Airport, NDB-A, Orig.
Marble Falls, TX—Horseshoe Bay, NDB Rwy 17, Amdt. 1
Johnson City, TX—Johnson City, NDB-A, Amdt. 11
Oconto, WI—Oconto Municipal, NDB Rwy 11, Amdt. 1
West Bend, WI—West Bend Municipal, NDB Rwy 31, Amdt. 6

* * * *effective October 6, 1977*

Tanana, AK—Ralph M. Calhoun Memorial, NDB-B, Amdt. 2
Chicago, IL—Chicago O'Hare International, NDB Rwy 32L, Amdt. 15
Chicago, IL—Chicago O'Hare International, NDB Rwy 32R, Amdt. 15
Fremont, NE—Fremont Muni., NDB Rwy 13, Amdt. 2

* * * *effective August 29, 1977.*

Atlanta, GA—The William B. Hartsfield Atlanta Int'l, NDB Rwy 8, Amdt. 41
Atlanta, GA—The William B. Hartsfield Atlanta Int'l, NDB Rwy 9L, Amdt. 4
Atlanta, GA—The William B. Hartsfield Atlanta Int'l, NDB Rwy 9R, Amdt. 5

NOTE.—The FAA published an amendment in Docket No. 17143, Amdt. No. 1087 to Part 97 of the Federal Aviation Regulations (42 FR 42848; August 25, 1977) under section 97-27, effective October 6, 1977, which is hereby amended as follows: Manteo, NC—Manteo, NDB Rwy 4, Amdt. 1 is rescinded.

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * *effective October 20, 1977.*

Merced, CA—Merced Municipal, ILS Rwy 30, Amdt. 3
Benton Harbor, MI—Ross Field, ILS Rwy 27, Amdt. 1
Grand Rapids, MN—Grand Rapids, Itasca County, MLS Rwy 34 (Interim), Amdt. 2

* * * *effective October 6, 1977.*

Chicago, IL—Chicago O'Hare International, ILS Rwy 32L, Amdt. 17

Chicago, IL—Chicago O'Hare International, ILS Rwy 32R, Amdt. 15
Lansing, MI—Capital City, ILS Rwy 9, Original
Minneapolis, MN—Minneapolis-St. Paul Int'l (Wold-Chamberlain), ILS BC, Rwy 11R, Amdt. 5
Minneapolis, MN—Minneapolis-St. Paul Int'l (Wold-Chamberlain), ILS BC, Rwy 22, Amdt. 5

NOTE.—The FAA published an amendment in Docket No. 17143, Amdt. No. 1087 to Part 97 of the Federal Aviation Regulations (42 FR 42848; August 25, 1977) under section 97.29, effective October 6, 1977, which is hereby amended as follows: Valdosta, GA—Valdosta Muni., ILS Rwy 35, Amdt. 2 is rescinded.

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * *effective October 6, 1977.*

Minneapolis, MN—Minneapolis-St. Paul Int'l (Wold-Chamberlain) RADAR-1, Amdt. 26

* * * *effective August 29, 1977.*

Atlanta, GA—The William B. Hartsfield Atlanta Int'l, RADAR-1, Amdt. 28

6. By amending § 97-33 RNAV SIAPs identified as follows:

* * * *effective October 20, 1977.*

Hayward, CA—Hayward Air Terminal, RNAV-C, Original, cancelled
Ukiah, CA—Ukiah Municipal, RNAV-B, Amdt. 1

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354 (a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 6489 and Paragraph 802 of Orders FS P 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 2, 1977.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.77-26199 Filed 9-9-77;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. 3330]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL FLOOD HAZARD AREAS

Communities With Minimal Hazard Areas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the Special Flood Hazard areas, that it is appropriate at this time to convert the communities listed below to the Regular Program of the National Flood Insurance Program without determining base flood elevations.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: In these areas, there is no reason not to make full limits of coverage available. The available limits of coverage for flood insurance in these communities is increased to $70,000 for 1-4 family residential structures, $200,000 for other residential and commercial structures, $20,000 for contents of residential structures, and $200,000 for contents of commercial structures. Flood insurance is available at Zone C rates throughout the entire community.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Association servicing company for the State.

The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the FEDERAL REGISTER.

The entry reads as follows:

§ 1915.7 List of Communities with Minimal Hazard Areas.

State	County	Community name
Alabama	Escambia	City of Atmore.
Do.	Mobile	City of Citronelle.
Do.	Crenshaw	City of Luverne.
Arkansas	Lafayette	City of Bradley.
Do.	Saline	City of Bryant.
California	San Diego	City of Carlsbad.
Kentucky	Logan	City of Lewisburg.
Louisiana	Tangipahoa Parish.	Village of Tickfaw.
Do.	Tensas Parish	Town of Waterproof.
Maryland	Washington	Town of Williamsport.
Oklahoma	Hughes	Town of Dustin.
Pennsylvania	Perry	Borough Blain.
Do.	Cumberland	Borough of Newburg.
South Carolina	Lexington	Town of Batesburg.
Do.	do.	Town of Swansea.
Texas	Bowie	City of Nash.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26324 Filed 9-9-77;8:45 am]

[Docket No. 3331]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL FLOOD HAZARD AREAS

Communities With Minimal Hazard Areas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the Special Flood Hazard areas, that it is appropriate at this time to convert the communities listed below to the Regular Program of the National Flood Insurance Program without determining base flood elevations.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: In these areas, there is no reason not to make full limits of coverage available. The available limits of coverage for flood insurance in these communities is increased to $70,000 for 1-4 family residential structures, $200,000 for other residential and commercial structures, $20,000 for contents of residential structures, and $200,000 for contents of commercial structures. Flood insurance is available at Zone C rates throughout the entire community.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Association servicing company for the State.

The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the FEDERAL REGISTER.

The entry reads as follows:

§ 1915.7 List of Communities with Minimal Hazard Areas.

State	County	Community name
California	Solano	City of Benicia.
New Hampshire	Carroll	Town of Brookfield.
Do.	Hillsboro	Town of Francestown.
Do.	Merrimack	Town of Sutton.
New Jersey	Camden	Borough of Berlin.
Do.	do.	Borough of Laurel Springs.
Do.	Mercer	Borough of Princeton.
North Carolina	Gates	Town of Gatesville.
Pennsylvania	Armstrong	Borough of Leechburg.
Do.	Bedford	Borough of Rainsburg.
South Carolina	Spartanburg	Town of Duncan.
Do.	do.	Town of Lyman.
Washington	Grays Harbor	City of Montesano.
Do.	Franklin	City of Pasco.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act

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of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26325 Filed 9-9-77;8:45 am]

[Docket No. FI-2872]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for City of Alpharetta, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Alpharetta, Ga. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Alpharetta, Ga.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Alpharetta are available for review at City Hall, 12 South Main Street, Alpharetta, Ga.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-551 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Alpharetta.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the Community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Creek	Haynes Bridge Rd.	970
	Kimball Bridge Rd.	977
	State Bridge Rd.	984
	Webb Bridge Rd.	988
	Shirley Bridge Rd.	994
Foe Killer Creek	Rocky Mill Way Rd.	967
	Rucker Rd.	1,032
	Mid Broadwell Rd.	1,035
	Mayfield Rd.	1,070
Camp Creek	Union Hill Rd.	993
Caney Creek	Shirley Bridge (extension).	1,007
Tributary 2	Rock Mill Rd.	988
	State Route 400 (Turner McDonald Parkway).	990
	Michael Dr. (extension).	1,024
Tributary 3	Rock Mill Rd.	990
Tributary 5	State Bridge Rd.	995
	State Route 400 (Turner McDonald Parkway).	1,005
	Webb Bridge Rd.	1,010
	Union Hill Rd.	1,052
Tributary 6	Webb Bridge Rd.	1,019

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25544 Filed 9-9-77;8:45 am]

[Docket No. FI-2870]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for City of Lafayette, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Lafayette, Ga. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Lafayette, Ga.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Lafayette are available for review at City Hall, Lafayette, Ga.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Lafayette.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Town Creek	Warthen St.	780
	Villanow St.	780
Chattooga Creek tributary.	Broomton Rd.[1]	790
	Central of Georgia RR.[2]	773
	Barwick-Lafayette Airport.[1]	769
Spring Creek	Probasco St.[2]	846
	do.[1]	841
	Villanow St.[2]	788
	do.[1]	787
	McLemore St.[2]	778
	do.[1]	775
Spring Creek tributary No. 1.	West Main St.	825
	Magnolia St.[2]	792
	do.[1]	790
	Central of Georgia RR.[2]	778
	do.[1]	776
Spring Creek tributary No. 2.	2d St.	798
	1st St.[2]	792
Town Creek tributary No. 1.	Foster Mill Rd.	813
Town Creek tributary No. 2.	Rhyne Rd.[2]	818
	do.[1]	815
	Broken Earth Dam	795
	Wasthen St.	790

[1] Downstream side.
[2] Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25545 Filed 9-9-77;8:45 am]

[Docket No. FI-2871]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for City of Acworth, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year-flood) are listed below for selected locations in the City of Acworth, Ga. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Acworth, Ga.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Acworth are available for review at City Hall, 4375 Senator Russell Square, Acworth, Ga.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Acworth.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tanyard Creek	Acworth Dr.	883
	Cherokee St.	869
	Cowan Rd.	889
Butler Creek	Nance Rd.	861
Proctor Creek	Highway 293	861

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25546 Filed 9-9-77;8:45 am]

[Docket No. FI-2869]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for Stephenson County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in Stephenson County, Ill. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for Stephenson County, Ill.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Stephenson County are available for review at County Courthouse, 15 North Galena Avenue, Freeport, Ill.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for Stephenson County.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pecatonica River	Farwell Bridge	748
	Chicago and North Western RR.	755
	Chicago, Milwaukee, St. Paul & Pacific RR.	762
	Illinois Central Gulf RR.	767
	North Damascus Rd.	772
	West McConnell Rd.	779
	West Winslow Rd.	785

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25547 Filed 9-9-77;8:45 am]

[Docket No. FI-2868]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for City of Newburyport, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Newburyport, Mass. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Newburyport, Mass.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Newburyport are available for review at City Hall, Newburyport, Mass.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Newburyport.

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This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Merrimack River	Route 95	11
	Route 1	10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25548 Filed 9-9-77;8:45 am]

[Docket No. FI-2866]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Village of Grand Beach, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Village of Grand Beach, Mich. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Village of Grand Beach, Mich.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Grand Beach are available for review at Village Hall, Village of Grand Beach, New Buffalo, Mich.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Village of Grand Beach.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Taylor Creek	Crescent Rd	595
	Station Rd	607

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25549 Filed 9-9-77;8:45 am]

[Docket No. FI-3072]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for Township of Spring Lake, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Township of Spring Lake, Mich. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Township of Spring Lake, Mich.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Spring Lake are available for review at Township Hall, 106 South Buchanan Street, Spring Lake, Mich.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for Township of Spring Lake.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Grand River	Confluence with Lloyd Bayou.	585
	Confluence with Pottawattomie Bayou.	588

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25550 Filed 9-9-77;8:45 am]

[Docket No. FI-3017]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for City of Tawas, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Tawas, Mich. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Tawas, Mich.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Tawas are available for review at City Hall, 508 Lake Street West, Tawas, Mich.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Tawas.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tawas River	U.S. 23	584
	Mathews St	585
	Whitmore St	588
	1st St	588
	M 55	588

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25551 Filed 9-9-77;8:45 am]

[Docket No. FI-2862]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for Township of Downe, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Township of Downe, N.J. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Township of Downe, N.J.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Downe are available for review at 33 Union Street, Dividing Creek, N.J.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Township of Downe, N.J.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Delaware Bay	Bayview Rd.[1]	9
	Money Island Rd.[1]	9
	Newport Neck Rd.[1]	9
	Gandy Rd.[1]	9

[1] Entire length.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25552 Filed 9-9-77;8:45 am]

[Docket No. FI-2861]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for Borough of Lodi, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Borough of Lodi, N.J. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Borough of Lodi, N.J.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Lodi are available for review at Borough Hall Annex, 59 Main Street, Lodi, N.J.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Borough of Lodi, N.J.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363

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to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saddle River	Terrace Ave	23.0
	Route 46	32.0
	Interstate 80	39.8

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25553 Filed 9-9-77;8:45 am]

[Docket No. FI-2985]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for City of Myrtle Creek, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Myrtle Creek, Oreg. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Myrtle Creek, Oreg.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Myrtle Creek are available for review at City Hall, Myrtle Creek, Oreg.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Myrtle Creek.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Umpqua River.	Highway 99 [1]	606
	Southern Pacific R.R. [1]	619
Myrtle Creek	Highway 99 (Main Ave.) [2]	609
North Myrtle Creek.	Johnson St. [1]	610
	Northeast division [2]	615

[1] Upstream side.
[2] Downstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25554 Filed 9-9-77;8:45 am]

[Docket No. FI-2906]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for Ashland County, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in Ashland County, Wis. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for Ashland County, Wis.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Ashland County are available for review at Ashland County Courthouse, Ashland, Wis.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for Ashland County.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
White River	STH 112	680
	STH 13	690
Bad River-Mellen	STH 169	1222
Bad River-Morse	T43N R2W	1498
Marengo River	T45N R4W	806
	CTH "C"	792
	T46N R4W	779
	T46N R4W	768
	T46N R4W	765
	STH 13	757
Marengo tributary No. 1.	STH 112	800
	T46N R4W	794
	T46N R4W	781
Marengo tributary No. 2.	CTH "F"	792
	T46N R4W	786
	T46N R4W	786
East Fork Chippewa River.	T42N R2W	1519
	Soo Line RR	1518
	CTH "N"	1517
	STH 13	1516
	T42N R2W	1516
	T42N R2W	1515
Butternut Creek	CTH F	1507
	CTH F	1506
	CTH "B"	1496

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25555 Filed 9-9-77;8:45 am]

[Docket No. FI-2873]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for City of Marietta, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Marietta, Ga.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Marietta, Ga.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Marietta are available for review at City Hall, 36 Atlanta Street, Marietta, Ga.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Marietta.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Slope branch	Apachee St	1,085
	Fairground St	1,039
	Driveway Bridge	1,022
Elizabeth branch	Interstate 75 [1]	1,055
	do. [2]	1,050
	Overbrook Circle	1,032
	Allgood Rd	1,015
Slope Creek	U.S. Highway 41	1,019
	Interstate 75	1,012
	Barnes Mill Rd	987
	Roswell Rd	978
Hope Creek	Loop 120	975
	Interstate 75	968
Rottenwood Creek	Barclay Circle	1,007
	U.S. Highway 41	955
	Franklin Rd	944
	Delk Rd	939
Olley Creek	Hellemeade Rd	987
	Cunningham Rd	977
West Side branch	Polk St	1,053
	Whitlock Ave	1,073
Ward Creek	Maxwell Ave	1,041
	Kilpatrick Ave	1,009
Noes Creek	Kennesaw Ave	1,079
	Burnt Hickory Rd	1,037

[1] Upstream side.
[2] Downstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25556 Filed 9-9-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 779-5]

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

PART 600—FUEL ECONOMY OF MOTOR VEHICLES

Fuel Economy and Emission Testing and Other Procedures for 1978 and Later Model Year Automobiles

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: This action promulgates a regulation originally published as a combined Notice of Proposed Rulemaking (NPRM) and Interim-Final Rulemaking (IFRM) on September 10, 1976. The IFRM dealt with the regulations for the testing and calculation procedures concerning an automobile manufacturer's passenger automobile average fuel economy. The regulations were published as final rules for the 1978 model year and as proposed for 1979 and later model years. The NPRM proposed some test procedure changes to the exhaust emission test procedure used to determine compliance with section 206 of the Clean Air Act and to develop the fuel economy value for fuel economy labeling and compliance purposes. This action promulgates those test procedure changes and the fuel economy calculation procedures as final rules. Comments were received during the public comment period on many aspects of this action, and several changes have been made to the original proposal in response to the comments. In addition, two of the proposed test procedure changes, the revised inertia weight classes and the new definition for option, model, and optional equipment usage are being postponed until the 1980 model year to allow the manufacturers additional time to purchase equipment and to facilitate an orderly changeover to the revised procedure.

EFFECTIVE DATE: For sections applicable to the 1978 model year: September 12, 1977. For sections applicable to later model years: October 12, 1977.

DATE FOR COMMENTS (For interim regulations discussed in the preamble under "Other Minor Changes"): December 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Gary Timm; Office of Mobile Source, Air Pollution Control (AW-455), U.S. Environmental Protection Agency, Washington, D.C. 20460 (202-755-0596).

SUPPLEMENTARY INFORMATION:

STATUTORY BACKGROUND

On December 22, 1975, the President signed the Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 871. Title III of this Act amended the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 1901 et seq. (hereinafter referred to as "the Act") for the purpose of regulating the fuel economy of automobiles. This notice relates primarily to Section 501 of the Act relating to definitions and Section 503 which requires the Administrator of EPA to promulgate rules prescribing testing and calculation procedures which will be used for the computation of automobile manufacturers' passenger automobile average fuel economy values. These manufacturers' average fuel economy values will be used by the Secretary of Transportation (hereinafter referred to as "the Secretary") to determine compliance with the minimum fuel economy standards in Section 502 of the Act.

SUMMARY OF THE REGULATIONS

These regulations specify testing and calculation procedures for labeling of automobiles and for passenger automobile fuel economy compliance. Since these rules were published previously on September 10, 1976 (41 FR 38673) as interim-final for the 1978 model year and were described in great detail at that time, all of the provisions of the regulations will not be discussed again here. Rather, only those significant portions of the regulations for which comments were received will be discussed in this preamble. How-

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ever, the 1978 and later model year testing and compliance procedures are published here in total.

Discussion of Major Issues

REVISED INERTIA WEIGHT INCREMENTS

Under the compliance procedures adopted effective beginning with the 1978 model year, a manufacturer's product line is divided into base levels. A base level is defined as a unique combination of inertia weight class, basic engine and transmission class. A manufacturer must test at least one vehicle per base level. Base levels are further subdivided into vehicle configurations. A vehicle configuration is defined as a unique combination of inertia weight class, basic engine and transmission class (all of which determine a base level) plus engine code, transmission configuration and axle ratio. Vehicle configurations are used to determine the number and types of vehicles that a manufacturer is required to test within a base level.

The NPRM proposed to reduce dynamometer inertia weight intervals in order to reduce weight-related test errors and provide greater incentive for manufacturers to pursue vehicle weight reduction programs which would result in real fuel economy benefits. Currently, dynamometer inertia weight intervals are 250 pounds for inertia weight settings up through 3000 pounds and 500 pounds for settings from 3000 to 5500 pounds. The proposal reduced these intervals to 125 pounds for inertia weight settings up through 4000 pounds and to 250 pounds for settings from 4000 to 5500 pounds.

Based on analysis of the comments on the Notice of Proposed Rulemaking and other available data, EPA has concluded that the potential benefits of the proposal exceed the costs (Technical Support Report for Regulatory Action, "The Effects of Dynamometer Inertia Weight Simulation on Fuel Economy Measurements," U.S. Environmental Protection Agency, February, 1976). Therefore, this test procedure change is being promulgated as proposed except that it will be effective beginning with the 1980 model year. Furthermore, for the purpose of incorporating this test procedure change within the fuel economy program, regulatory provisions have been added as explained below so that this test procedure change will only affect how vehicles are selected and tested within a vehicle configuration and not the number of vehicles specified for required testing.

All manufacturers who commented on the proposed change in inertia weight increments opposed the proposal, at least for 1979. Although not all manufacturers opposed the proposal for the same reasons, the general areas of opposition were:

1. Increased test load.
2. Reduction in measured average corporate fuel economy.
3. Insufficient lead time and high cost for facilities modification.
4. Reduced incentive for vehicle weight reduction.

(1) Increased test load: The preamble to the NPRM suggested that if the smaller dynamometer inertia weight increments were incorporated directly into the current fuel economy program—for example, in the base level or vehicle configuration definition—an approximate doubling of required tests could result since at least one vehicle is required per inertia weight class. EPA stated in the preamble that such a large increase in required testing was not contemplated and therefore requested alternate proposals for incorporating the smaller inertia weight increments which would not result in a significant increase in the number of required tests. Commenting manufacturers largely supported EPA's contention that direct incorporation of the smaller inertia weight increments would approximately double the required number of tests but offered no alternate means for incorporating the smaller inertia weight increments.

So as not to significantly increase the required number of fuel economy tests, EPA is making a distinction between the weights at which vehicles are tested, which have approximately doubled in number, and the weight classes which are used to determine which vehicles are selected for testing. EPA is defining the term "inertia weight class" to replace the term "inertia weight" as previously used in the emission certification program, meaning the class into which a vehicle is grouped based on its loaded vehicle weight, and the term "test weight," meaning the weight, within an inertia weight class, at which a vehicle is tested based on its loaded vehicle weight. Similarly, the definitions of base level and vehicle configuration will now use the term "inertia weight class" in place of the previously used term "inertia weight." In order to accurately represent the weight distribution of vehicles offered for sale within a vehicle configuration and the effect on fuel economy of this weight distribution, the EPA will consider the relative projected sales volume of the various test weights within a vehicle configuration in selecting the test vehicle and establishing its test weight.

Although the inertia weight classes have not been changed in breadth (i.e.; the classes below 3000 pounds continue to have a 250 pound range; those above 3000 pounds, a 500 pound range; and the 3000 pound class, a 375 pound range), it was necessary to change slightly the boundary points of the inertia weight classes to make them coincide with the cutpoints for the new test weights.

It may be helpful to explain the need for this change in inertia weight class boundary points. When 125 pound test weight increments are substituted for 250 pound test weight increments (or 250 pound test weight increments are substituted for 500 pound increments) the new test weights fall on the current inertia weight class boundaries. Since standard rules of numerical rounding are used to establish a vehicle's test weight from its loaded vehicle weight, the cutpoints between test weights must be half of the width of the test weight increment, i.e., ±62.5 pounds of the test weight for test weights that are 125 pounds apart (±125 pounds of the test weight for test weights that are 250 pounds apart). Since vehicles which are tested at the same weight must be included in the same inertia weight class, it was necessary to slightly shift the inertia weight boundary points to correspond with the new test weight cutpoints. This results in a shift of 63 pounds in the boundaries for inertia weight classes containing test weights at 125 pound increments, and a shift of 125 pounds for inertia weight classes containing test weights at 250 pound increments.

The choice of whether the boundaries are shifted up or down could be made arbitrarily, except for one factor: the present car population is not randomly distributed within inertia weight classes but tends to be concentrated at the high end of each inertia weight class. It is therefore desirable to shift the boundaries of the inertia weight classes upward, to avoid grouping similar vehicles into separate inertia weight classes which, if done, would tend to increase the requirement for fuel economy data vehicle testing.

An example may be helpful. The current 4500 pound class includes vehicles with loaded vehicle weight of 4251 through 4750 pounds and has a test weight of 4500 pounds. Beginning in 1980, 4500 pounds and each of the two boundary weights of 4250 and 4750 pounds will be test weights. To maintain the range of the 4500 pound inertia weight class at 500 pounds, the 4500 pound inertia weight class must contain two test weights at increments of 250 pounds. The 4500 pound test weight will, of course, be included, but the question is whether the other test weight in the class should be 4250 pounds or 4750 pounds. EPA has decided to include the 4750 test weight to be in the 4500 pound inertia weight class because, at present, more than half of the vehicles in the current 4500 pound inertia weight class fall between 4500 and 4750 pounds. The new 4500 pound inertia weight class will thus include the 4500 and 4750 pound test weights and will have boundaries of 4376 (4500 minus 124) and 4875 (4750 plus 125).

(2) Reduction in measured average corporate fuel economy: All major U.S. manufacturers commented that the change in inertia weight intervals would reduce their measured corporate average fuel economy. Several manufacturers stated that since the fuel economy change would be systematic, a modification of the fuel economy standards would be required.

The Energy Policy and Conservation Act, states that procedures used in testing and calculating fuel economy for use in determining corporate average fuel economy "* * * shall be the procedures utilized by the EPA Administrator for model year 1975 * * * or procedures which yield comparable results". (15 U.S.C. 2003(d)(1)). It is the Agency's opinion that, under this provision of the Act, EPA may modify the 1975 test procedures to make them more accurate, valid, or easy to administer, so long as the modification does not substantially alter the measured average fuel economy of an ordinary fleet of vehicles subject to the statutory standards. If a vehicle manufacturer has altered the design or composition of its fleet to take advantage of some inaccuracy in EPA's test procedure, elimination of that inaccuracy may substantially alter the measured average fuel economy of an ordinary fleet—one that is not biased to take advantage of the test inaccuracy—then the change would be permissible. By eliminating inaccurately high measured average fuel economy for biased fleets of certain manufacturers, such improvements in EPA test procedures would protect both consumers and competing manufacturers against misleading fuel economy estimates and claims.

Analysis of comments received in response to the Notice and review of data from certification records for the 1975 and 1977 model years indicates reducing the size of the inertia weight increments would not substantially alter the measured average fuel economy of an ordinary fleet of vehicles. The smaller inertia weight test increments are intended to improve the accuracy of test simulation of actual loaded vehicle weights. Adoption of this test procedure change could only decrease a manufacturer's measured average fuel economy if the manufacturer has chosen to bias the weights of the vehicles offered for sale so that, on the average, the weights tend to exceed the current test weight within each inertia weight class, thereby taking advantage of an inaccuracy in the 1975 test procedures. Although eliminating this inaccuracy may substantially alter measured average fuel economy of such a biased fleet, it should not substantially alter the measured average fuel economy of an ordinary fleet without such bias. Therefore, no industry-wide adjustment in either the fuel economy standards or the individual test results is required.

However, under the provisions of NHTSA's final rulemaking on "Reduction Of Passenger Automobile Average Fuel Economy Standards" soon to be published, manufacturers may individually request from NHTSA a reduction in fuel economy standards based on changes in the stringency of nonfuel economy standards or changes in test procedures which affect the stringency of nonfuel economy standards. EPCA provides for such reductions for only the 1978 through 1980 model years due to the lead time constraints placed upon manufacturers for modifying their product plans to meet both fuel economy and non-fuel economy standards (15 U.S.C. 2002(d)). Since this test procedure change is also being promulgated for the emissions certification program, individual manufacturers may request from NHTSA that their individual fuel economy standard be reduced.

(3) Insufficient lead time and high cost for facilities modification: Several manufacturers commented that there was insufficient lead time for the dynamometer modifications prior to the 1979 model year. Although some of the modified dynamometer packages have already been manufactured and delivered, it will take approximately one year to equip one-half of the dynamometers currently in the field. Equitable distribution of the dynamometer modifications might also be a problem. If the available modifications are not uniformly distributed, it may be very difficult for some manufacturers to obtain the new inertia weight systems with sufficient lead time for 1979 model year testing. Therefore, the proposal has been changed to be effective beginning with the 1980 model year. Such a change will provide sufficient lead time for dynamometer facility modifications.

In regard to the cost of the modification, estimates by EPA and manufacturers indicate an expense of up to $20,000 per test cell, which includes $6,000 for automatic road load selection. This modification gives a dynamometer the ability to test vehicles at all the new inertia weight settings. Less costly modifications (about $3,000) are also available; however, these would limit a dynamometer's capability to test vehicles in either the high or low inertia weight ranges, but not in both. Such lower cost modifications may be very practical for manufacturers whose product line does not cover the full range of inertia weights, and for manufacturers who can earmark dynamometers for either low or high inertia weight vehicles. For the full modification at a cost of $20,000 per dynamometer, the total cost to the industry for facility modifications is estimated at $6 million. Amortized over 5 years, this total industry cost equates to approximately $0.14 per vehicle sold. The Agency does not believe that this represents a significant cost burden to the industry.

(4) Reduced incentive for vehicle weight reduction: Some manufacturers commented that the proposed change would reduce, or at least not increase, incentive for large vehicle weight reductions They argue that under the current inertia weight increments, a significant vehicle weight reduction (for example, 500 pounds) may be required in order to move a vehicle into the next lower inertia weight class, but they receive a corresponding fuel economy test benefit. EPA continues, however, to support the increased incentive for weight reduction due to smaller inertia weight test increments. With the adoption of the smaller increments, a larger percentage of manufacturer's product line will be close to the next lower test weight. Therefore, more vehicles will be likely to receive a fuel economy test credit for a relatively small decrease in vehicle weight. The larger credit available by way of a major redesign which significantly reduces vehicle weight can still be realized by a manufacturer. However, as stated by one manufacturer, this change in test weight increments is expected to make vehicle weight reduction efforts more cost effective than under the current system.

REVISED ROAD LOAD DETERMINATION

When EPA exhaust emission or fuel economy tests are performed on a chassis dynamometer, the dynamometer is adjusted to simulate the road experience of the test vehicle. The total vehicle road load is the sum of the aerodynamic drag and the rolling resistance. The rolling resistance is primarily from the energy dissipation of the tires. On a dynamometer with small, twin rolls, such as that currently used by EPA and the industry, the two tires rotate on the rolls and dissipate approximately the same amount of power as four tires would on a flat road surface. Therefore, the tire rolling resistance of the vehicle is primarily simulated by the power dissipation of the two driving tires during the dynamometer test. The dynamometer power absorption is adjusted for each test and each vehicle, and is intended to predominantly represent the aerodynamic drag of the vehicle.

The current regulations specify that the dynamometer power absorption be determined from the vehicle weight. This assumes that the aerodynamic drag is indirectly predicted by the vehicle weight. This assumption is reasonable for vehicles of conventional shape and proportion because vehicle size, aerodynamic drag, and weight tend to increase simultaneously. However, within a particular weight range, vehicle shape, and thus aerodynamic drag, may vary considerably. The proposed regulations attempted to improve the accuracy of the prediction system by proposing a system based directly on parameters related to the vehicle aerodynamic drag. The proposed system uses vehicle reference frontal area in conjunction with vehicle shape and protuberance information to estimate the aerodynamic drag coefficient of the vehicle.

The comments on this proposal by the manufacturers were negative. The general areas of objection were:

1. The equation predicts higher road load values than those in the current regulations or those derived from road data.
2. The equation is too complex. The necessary parameters are difficult to ascertain. It is confusing.
3. The equation establishes a design standard and may result in vehicle designs which are not aerodynamically optimum.
4. The equation does not consider some important areas of vehicle design which affect the vehicle aerodynamic drag.

In response to these objections, the road load prediction equation has been modified. The discrepancies between the road load values predicted by the equation and the road load data supplied by the manufacturers resulted primarily from discrepancies in the measurements of the vehicle reference frontal areas. The source of these discrepancies has been identified. The use of vehicle reference frontal areas supplied by the manufacturers has eliminated the net overall tendency for the equation to predict road load values higher than those in the current table in the regulations.

The equation has been substantially simplified. The revised equation considers vehicle shape only to determine if the vehicle should be classed as a fastback or

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non-fastback model. The separation of vehicles into classes based on aerodynamic drag characteristics is a similar approach to that used in the light-duty truck regulations (41 FR 56316) in which distinctions were made between open and closed bed trucks. Further simplification occurs in the protuberance term of the revised equation since only a single protuberance term is used which corresponds to the increase in frontal area (and hence aerodynamic drag) caused by the various protuberances. Each protuberance was treated individually in the original proposal.

The simplification of the equation should eliminate the objection that it establishes design standards since the revised equation only differentiates between fastback and non-fastback models, and only considers the additional frontal area due to protuberances. In any event, the establishment of testing procedures that take account of the actual effects of a design does not establish a design standard.

The objection that the equation does not consider some important areas of vehicle design which affect the vehicle aerodynamic drag is still valid. However, the simplified equation is substantially more representative than the equation in the current regulations, and it answers the criticisms of the proposed version of excessive complexity and imposition of a design standard.

No manufacturer indicated that the use of an equation for road load prediction, versus the current table, would require significant lead time for equipment modifications. Consequently, effective beginning with the 1979 model year, the method of determining the nominal dynamometer road load setting will be based primarily upon vehicle reference frontal area rather than vehicle inertia weight. Alternative procedures for determining vehicle road load will continue to be allowed.

OPTION, MODEL AND OPTIONAL EQUIPMENT USAGE

The NPRM proposed, for the first time, specific definitions for the terms "option" and "model" as they apply to the emission regulations. Also proposed was a revised method for assigning the weight of optional equipment for calculating vehicle curb weight. The latter proposal stated that an option must now be expected to be sold on over 33 percent of a carline, rather than an engine family, for its weight to be included.

The manufacturers who responded had mixed reactions. All agreed that the proposal was much more realistic than the current regulations, but some objected on the grounds that some vehicles would be shifted to a higher inertia weight class or test weight, the result of which would be a decrease in measured fuel economy. Objections to the model definition were based upon the same reasoning—a change in inertia weight class or test weight.

EPA agrees that individual vehicles may shift from one inertia weight class or test weight to another solely because of these revised definitions just as movement of vehicles between test weights might be expected due to the adoption of smaller inertia weight increments. However, no substantial change in measured average fuel economy of an ordinary fleet of vehicles should result from adoption of this change in definitions of option and model or the revised optional equipment usage procedure. Therefore, for the same reasons as more fully explained in the discussion concerning the revised inertia weight increments, no industry-wide adjustment in the fuel economy standard or individual test results is required. EPA is promulgating the option and model and optional equipment usage changes for the 1980 model year instead of the 1979 model year as proposed in order to coincide with the implementation of the new test weight intervals. This will minimize the disruption of the manufacturers product line while still implementing these amendments. As in the case of the change in dynamometer inertia weight increments, individual manufacturers may request from NHTSA a reduction in their fuel economy standards for the 1980 model year since this test procedure change is also being promulgated for the emissions certification program.

OTHER TEST PROCEDURE CHANGES

The Notice included a number of test procedure changes most of which were promulgated as interim-final for the 1978 model year plus some gasoline test fuel specification changes proposed for 1979. Comments were received on all of these items, with several of the comments being adverse.

Four manufacturers chose to comment on the change to require the measurement of the actual driven distance during the test. The Agency proposed this change in order to be able to measure the distance actually driven by each vehicle on each test, as opposed to simply assuming a nominal driven distance as in the current practice. Although all commentors agreed that the change is a reasonable amendment, one manufacturer argued that the change had a definite directional effect on measured fuel economy and emissions and that a correction factor should be developed. However, tests at the EPA facility have not indicated any necessarily directional effect on measured fuel economy for the industry. For this reason, the actual driven distance measurement will remain in the regulations, effective beginning with the 1978 model year, without any adjustment to the fuel economy standard. However, as in the case of the change in dynamometer inertia weight increments, individual manufacturers may request from NHTSA a reduction in their fuel economy standards for the 1978 through 1980 model years since this test procedure change is also being promulgated for the emissions certification program.

Another manufacturer suggested that other means of measuring actual driven distance are feasible in addition to the technique described in the regulations. The Agency has accepted this suggestion and the accompanying suggestion that the regulations be revised to allow other measurement techniques if approved in advance by the Administrator.

The change in the gasoline test fuel specifications included changes in maximum allowable Research octane numbers and the addition of minimum fuel sensitivity values. There were no adverse comments concerning the reduced Research octane numbers; however, most commentors objected to the magnitude of the sensitivity values for leaded fuel. EPA has re-examined the data available and agrees with the comments that the proposed sensitivity specification for leaded fuel was in error. The regulations are amended to change the leaded test fuel sensitivity specification from 9.0 to 7.5.

For mileage accumulation fuel, the proposed regulations required that the fuel be within 1.0 Research octane number (RON) of the fuel recommended to the consumer and that the fuel sensitivity be a minimum of 8.0. Two manufacturers objected to the RON specification proposed. The comment was essentially that the limit on the RON should reflect the range of commercially available fuel. However, the Agency believes that the vehicles tested for emissions should demonstrate the ability to operate successfully on fuel representative of the fuel which will be recommended to the ultimate purchaser.

Further, an objection to the sensitivity specification was also expressed. As in the case of the test fuel, a re-examination of the data has caused EPA to change its position and amend the sensitivity specification in the final rulemaking from 8.0 to 7.5.

One commentor objected to the increase in the number of calibrating gases for HC and NO_x analyzers. However, more recent data developed by EPA since the publication of the IFRM have further demonstrated the inadequacy of the old procedures and strengthened the need for the new procedure when measuring HC and NO_x on non-linear analyzer ranges. Therefore, the regulations will be adopted as proposed. No adverse comments were received on any other test procedure (Part 86) proposals.

DATA ACCEPTANCE AND DATA HANDLING

One manufacturer pointed out an error in the proposed regulations which is being corrected in the final regulations. The proposal stated that all engine, emission control system, and drivetrain items on a fuel economy data vehicle must be the same as when the mileage was accumulated. This is inconsistent with the EPA policy of allowing some engine components, transmissions, and axles to be changed on fuel economy data vehicles. The final regulations have been changed to correct this error.

Two comments were received regarding the lack of specificity in the regulations regarding the procedures used to evaluate whether test data are acceptable. The current procedure of having only general guidelines in the regulations and re-evaluating the specific data screening criteria annually provides the flexibility necessary to react to changing vehicle designs and circumstances. Therefore, the Agency will not be changing this policy.

The section of the regulations pertaining to the review and acceptance of data caused one manufacturer to express concern that previously accepted data and previously calculated labels might be suspended due to a correlation problem. The Agency realizes the jeopardy which a manufacturer could face if a longstanding correlation problem is suddenly identified. EPA will continually monitor the correlation between the manufacturers' and EPA's laboratories, and will attempt to minimize jeopardy while maintaining the integrity of the program at the highest possible level.

DATA REPORTING

The expanded detail now required in the quarterly production reports drew mixed comments. One manufacturer stated that they did not object to the new requirements; another stated that they could meet the requirements but that the submission of the early 1978 model year quarterly reports might be delayed until new tracking systems are fully implemented. A third manufacturer stated that the new requirements would cause them to need 30 additional days to submit reports.

Because of the widely varying comments, the Agency must assume that the impact of a timing constraint for submission of data differs considerably between manufacturers and that a single timing requirement for all manufacturers may be inappropriate. For this reason, the regulations have been changed from the proposal to allow the Administrator to grant an extension of time to manufacturers for submitting the quarterly production reports.

One manufacturer indicated that it might have a parallel problem in responding to the requirement to calculate and to submit a preliminary average fuel economy value within 10 days. Here also, the regulations are being changed to allow the Administrator to grant a waiver.

The suggestion was received from one source that the Agency accept and use data from uncertified vehicles in the preliminary calculation. However, the preliminary average and subsequent determination of exemption from further running change testing are based on projected sales of certified vehicle configurations rather than actual sales. The major reason the Agency must reject this idea is that a substantial number of certification test vehicles are never certified or, if they are certified, they are not offered for sale. Allowing the use of data from uncertified vehicle configurations would exacerbate the problems associated with determining testing exemptions. If new base levels or vehicle configurations are added to the product line after the preliminary calculation, they are tested (in most cases) and the data included in a recalculation of the preliminary average. By accepting data from uncertified vehicles, the Agency runs the untenable risk of granting an exemption based upon data from a car which may never be certified and sold.

The regulations currently require that any manufacturer who desires to receive a credit for application against another model year's average must conduct running change testing. One respondent commented that it is unfair to require a manufacturer whose average is considerably above the standard to conduct running change testing, when it is clear with or without the running change testing that he deserves a credit. EPA agrees, and the regulations have been amended to modify the restriction on credits. It is expected that separate running change exemption criteria might be applied to manufacturers who desire both a credit and a running change exemption.

GM commented that running changes should be tested only if they affect significant model types, with a significant model type being defined as a model type that constitutes at least one percent of the product line. The Agency has examined this proposal and has found good cause to reject it. An examination of 1977 model year data showed that less than ten percent of GM's model types would be considered to be significant model types. This fact, coupled with another facet of GM's proposal which suggested that only running changes which caused a fuel economy change of ±1 mpg (which is very uncommon) be accounted for in production, would effectively negate the value of testing running changes. Furthermore, the proposal ignores the fact that a series of running changes could cause more than one mpg change in model fuel economy.

The notice requested comments on the expected testing impact upon the regulated industry due to the requirement to evaluate the fuel economy effect of running changes. Two manufacturers responded and neither felt that the proposed sampling scheme was unduly burdensome. One manufacturer expressed concern that although the total number of test vehicles per manufacturer is expected to be minimal, all of these vehicles arriving at the EPA laboratory for testing at the same time could overload the EPA test facility in Ann Arbor. The Agency does not believe that this will be a problem.

BASIC SAMPLING SCHEME

In addition to the comments discussed previously, the Agency received comments on the basic sampling scheme. Two manufacturers supported the scheme as reasonable and sufficient.

The Agency specifically solicited the assistance of the American Society for Testing and Materials (ASTM) in evaluating the sampling scheme. Although time did not permit any official ASTM response, several members of the ASTM statistical committee commented at length on the issue and offered several suggestions.

The committee members strongly opposed the proposed "representativeness" sampling scheme for the purpose of determining a manufacturer's average fuel economy. They suggested that the sampling scheme should be based upon a statistical sampling plan, with both the number of vehicles and the identification of test vehicles determined by statistical methods. Their criticism of the proposal centered upon the facts that the proposal was completely non-statistical in nature and that many statistically insignificant vehicles would be tested.

The Agency is in agreement with the ASTM committee members' comments. As the preamble to the IFRM pointed out, the Agency made a serious and protracted effort to devise a statistically-based sampling scheme for fuel economy compliance. However, the reasons for dropping the original statistical proposals also apply to the ASTM commentors' suggestions, at least for the near term. The requirements of the Act, as well as economic considerations, dictate that the fuel economy testing program and the emission certification program share the same data base to the maximum extent possible. Since leadtime did not permit the redesign and amendment of the regulations for the certification program vehicle selection procedure. EPA had to use data from the certification test vehicles (approximately 600) as the basis of the fuel economy data base and supplement these data with data from additional vehicles as necessary.

A second constraint not mentioned by the commentors from ASTM is that fuel economy data are generated not only for the calculation of a manufacturer's average but also for use in the fuel economy labeling program. The labeling program requires that data generated from only a few test vehicles be representative of the fuel economy of an entire model type. One of the ASTM commentors stated that when sample sizes less than 10 are necessary, purposive sampling rather than random sampling may yield better results. The requirements of the labeling program dictate that some degree of purposive sampling is appropriate unless a considerably larger test fleet with much higher testing costs is to be required. In EPA's judgment, requiring a significantly larger test fleet is not cost effective.

For the longer term, adoption of some of the ASTM committee members' suggestions may be feasible. EPA will give further consideration to the ASTM committee members' proposals and attempt to improve current vehicle selection procedures.

INDEPENDENT AUDIT

One manufacturer commented that it is not possible to provide a meaningful audit of production data, and other commentors challenged EPA's authority to require an independent audit. The Agency believes that an independent audit may be a somewhat burdensome method to verify the accuracy of the final production data that will be used to calculate a manufacturer's final fuel economy average and is therefore subetituting the requirement that the chief executive officer of the corporation attest to the accuracy of the production data in lieu

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of the independent audit requirement that was contained in the proposal. This approach properly places the responsibility for accurate production data solely on the manufacturer, but it does not specify how the verification of the data should be made.

Other Minor Changes

A number of minor changes are being made to the regulations based on EPA's experience with the mandatory fuel economy labeling program in the 1977 model year and on the pilot fuel economy calculation program. These changes are more significant than technical amendments but do not impose any significant burden on the regulated industry. These changes, listed below are therefore being promulgated as interim regulations, applicable as published to the 1978 model year and proposed for later model years.

The Agency finds that notice and public participation is contrary to the public interest in order to make these rules effective for the beginning of the 1978 model year. Comment is invited on the application of these provisions to later model years.

1. In the certification vehicle definition, the section reference was changed to reflect applicability to light-duty vehicles and light-duty trucks only. (§ 600.002)

2. The requirement was added that all vehicles used to generate fuel economy data must be certified before the data is used in any calculations. (§ 600.007)

3. The round off procedures for calculating fuel economy values for a vehicle configuration and for a model type are clarified. (§ 600.206 and § 600.207).

4. The requirements concerning a manufacturer's request for a general label have been clarified. (§ 600.313–78)

5. The requirements concerning submittal of the manufacturer's average fuel economy value are clarified. The term "public introduction date" has been changed to "date of the preliminary calculation submission." The data to be included in the preliminary calculations are clarified. The precision of the sales fraction to be used in the calculation has been defined. (§ 600.506)

6. The fuel economy data from vehicles tested for determining Part 86 compliance of running changes are included in the determination of average fuel economy. The word "annual" is used in place of "model year" for passenger automobile production data. The conversion factor for converting gallons of diesel fuel to equivalent gallons of gasoline is revised to 1.0 from 0.96. The precision in the manufacturer's average calculation has been clarified and revised. (§ 600.510)

Technical Amendments

As discussed in the IFRM, the Agency must promulgate fuel economy testing and calculation procedures applicable to a model year not less than 12 months before the model year. However, the Act does allow that amendments of a technical or clerical nature may by made subsequent to this time (15 U.S.C. 2003 (d)(3)). The preamble of the IFRM noted that we would evaluate the comments received and make any appropriate technical or clerical amendments, and that these amendments would be effective for the 1978 model year. Accordingly, several amendments have been made to the regulations, most of which are discussed earlier in this preamble, and are outlined below:

1. Measurement of actual driven distance—alternate procedures now allowed if approved in advance by the Administrator.

2. Vehicle acceptability—correct the regulations to reflect current practice.

3. Quarterly production reports—allow the Administrator to waive the timing constraint upon petition of the manufacturer.

4. Preliminary average—allow the Administrator to waive the timing constraint upon petition of the manufacturer.

5. Credits—remove the requirement that a manufacturer must conduct running change testing in order to receive a credit.

In addition, it was determined that the procedures, as described in the IFRM, for the calculation of manufacturers' average fuel economy (§ 600.510) were in need of clarification. In response to this need and in view of the non-passenger fuel economy regulations which will soon be promulgated as amendments to these regulations, it was decided to revise and reorganize the section pertaining to the determination of average fuel economy. The calculation procedures will remain in section 600.510 but the model year report requirements have been placed in a new section 600.512. (The old section 600.512, Independent audit of production data, has been deleted.) The reformulation of the calculation procedures does not represent a substantive change.

Effective Date

The Agency finds that notice and public procedure before promulgating these interim regulations would be contrary to the public interest, because it is in the public interest to make these changes effective at the beginning of the 1978 model year, and notice and public procedure would prevent that. Comment is invited on the application of these provisions to later model years.

Economic Impact

The Environmental Protection Agency has determined that this document does not contain a major action requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A–107.

Availability of Documents

Copies of EPA's summary and analysis of comments to the NPRM and supporting documentation are available for inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

Date: August 31, 1977.

Douglas M. Costle,
Administrator.

Part 86 of Chapter I, Title 40 of the Code of Federal Regulations is hereby amended in Subparts A and B as follows:

1. § 86.078–37 is amended by revising paragraph (b)(1) to read as follows:

§ 86.078–37 Production vehicles and engines.

* * * * *

(b)(1) Any manufacturer of light-duty vehicles or light-duty trucks, obtaining certification under this part shall notify the Administrator, on a quarterly basis, of the number of vehicles domestically produced for sale in the United States and the number of vehicles produced and imported for sale in the United States during the preceding quarter. A manufacturer may elect to provide this information every 60 days instead of quarterly, to combine it with the notification required under § 86.078–36. The notification must be submitted 30 days after the close of the reporting period unless, upon petition by the manufacturer, the Administrator finds good cause to waive this requirement and set an alternative reporting date for this report. The vehicle production information required shall be submitted as follows:

(i) Total production volume expressed in terms of units produced.

(ii) Model type production volume, expressed for each model type in terms of units produced and as a percentage of total production.

(iii) Base level production volume, expressed for each base level in terms of units produced and as a percentage of (A) the total production of its respective model type(s) and, (B) total production.

(iv) Vehicle configuration production volume, expressed for each vehicle configuration in terms of units produced, and as a percentage of the total production of its respective base level. In addition, each vehicle configuration shall be identified by its appropriate engine-system combination.

2. A new § 86.080–2 is added as follows:

§ 86.080–2 Definitions.

The following definitions apply beginning with the 1980 model years. Section 86.079–2 remains in effect, except for the definition of vehicle configuration which is hereby superseded.

"Body style" means a level of commonality in vehicle configuration as defined by number of doors and roof treatment (e.g., Sedan, Convertible, Fastback, Hatchback).

"Drivetrain configuration" means a unique combination of engine code, transmission configuration and axle ratio.

"Inertia weight class" means the class, which is a group of test weights, into which a vehicle is grouped based on its loaded vehicle weight in accordance with the provisions of Part 86.

"Model" means a specific combination of carline, body style, and drivetrain configuration.

"Option" means any available equipment or feature not standard equipment on a model.

"Standard equipment" means those features or equipment which are marketed on a vehicle over which the purchaser can exercise no choice.

"Test weight" means the weight, within an inertia weight class, which is used in the dynamometer testing of a vehicle, and which is based on its loaded vehicle weight in accordance with the provisions of Part 86.

"Vehicle configuration" means a unique combination of basic engine, engine code, inertia weight class, transmission configuration and axle ratio.

3. A new § 86.080–24 is added as follows:

§ 86.080–24 Test vehicles and engines.

(a)(1) The vehicles or engines covered by an application for certification will be divided into groupings of engines which are expected to have similar emission characteristics throughout their useful life. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) To be classed in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center-to-center dimensions.

(ii) The dimension from the centerline of the crankshaft to the centerline of the camshaft.

(iii) The dimension from the centerline of the crankshaft to the top of the cylinder block head face.

(iv) The cylinder block configuration (air cooled or water cooled; L–6, 90° V–8, etc.).

(v) The location of intake and exhaust valves and the valve sizes (within a ¼-inch range on the valve head diameter).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(viii) Catalytic converter characteristics; gasoline-fueled vehicles and engines only.

(ix) Thermal reactor characteristics; gasoline-fueled vehicles and engines only.

(3) Engines identical in all the respects listed in paragraph (a)(2) of this section may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

(i) The bore and stroke.

(ii) The surface-to-volume ratio of the nominally dimensioned cylinder at the top dead center position.

(iii) The intake manifold induction port size and configuration.

(iv) The exhaust manifold port size and configuration.

(v) The intake and exhaust valve sizes.

(vi) The fuel system.

(vii) The camshaft timing and ignition or injection timing characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in paragraphs (a)(2) and (3) of this section, the Administrator will establish families for those engines based upon the features most related to their emission characteristics.

(5) The gasoline-fueled vehicles covered by an application for certification will be divided into groupings which are expected to have similar evaporative emission characteristics throughout their useful life. Each group of vehicles with similar evaporative emission characteristics shall be defined as a separate evaporative emission family.

(6) To be classed in the same evaporative emission family, vehicles must be similar with respect to:

(i) Type of vapor storage device (e.g., canister, air cleaner, crankcase).

(ii) Canister design characteristics.

(iii) Fuel system characteristics.

(7) Where vehicles are of a type which cannot be divided into evaporative emission families based on the criteria listed above, the Administrator will establish families for those vehicles based upon the features most related to their evaporative emission characteristics.

(b) Emission data. (1) *Emission-data vehicles.* Paragraph (b)(1) of this section applies to light-duty vehicle and light-duty truck emission-data vehicles.

(i) Vehicles will be chosen to be operated and tested for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Vehicles within an engine family will be divided into engine displacement-exhaust emission control system combinations as applicable. A projected sales volume will be established for each combination for the model year for which certification is sought. One vehicle of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of vehicles of that engine family is represented, or until a maximum of four vehicles is selected. If any single combination represents over 70 percent, then two vehicles of that combination may be selected. The vehicle selected for each combination will be specified by the Administrator as to such features as engine code, transmission type, fuel system, inertia weight class, and test weight.

(iii) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider such features as the emission control system combination, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, compression ratio, inertia weight class, test weight, transmission options, and axle ratio.

(iv) If the vehicles selected in accordance with paragraphs (b)(1)(ii) and (iii) of this section do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Administrator. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with the control system combination in the engine family and will be designated by the Administrator as to such features as engine code, transmission type, fuel system, intertia weight class, and test weight.

(v) The Administrator will also select one vehicle for each engine-system combination within an engine family for which vehicles are to be sold to ultimate purchasers at high altitude.

(vi) The Administrator may combine testing requirements for any vehicle selected under paragraph (b)(1)(v) or (b)(1)(vii)(D) of this section with the testing requirements for any similar vehicle in the same engine-system combination selected under paragraph (b)(1)(ii), (iii), or (iv) of this section or any similar vehicle in the same engine-system, evaporative emission family evaporative emission control system combination selected under paragraph (b)(1)(vii)(A) or (B) of this section. The testing requirements may be combined by the Administrator by requiring a vehicle selected for testing under paragraphs (b)(1)(ii), (iii), (iv), (vii)(A), or (vii)(B) of this section to be modified (if necessary) after mileage accumulation and emission testing for the purpose of demonstrating compliance with § 86.078–23(c)(1)(ii).

(vii) (A) Vehicles of each evaporative emission family will be divided into evaporative emission control systems. One vehicle of each evaporative emission control system within the evaporative emission family will be selected.

(B) The Administrator may select a maximum of four additional vehicles within each evaporative emission family based upon features indicating that they may have the highest evaporative emission levels of vehicles in that family.

(C) The Administrator may determine that the vehicles selected under paragraphs (b)(1)(ii) through (iv) of this section may be used to satisfy the requirements of paragraphs (b)(1)(vii)(A) and (B) of this section.

(D) The Administrator will also select one vehicle for each evaporative emission control system within each evaporative family for which vehicles are to be sold at high altitude.

(E) Vehicles selected under (b)(1)(v) may be used to satisfy the requirements of (b)(1)(vii)(D).

(2) *Gasoline-fueled heavy-duty emission-data engines.* Paragraph (b)(2) of this section applies to gasoline-fueled heavy-duty engines.

(i) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into engine displacement-exhaust emission control system combinations. A projected sales volume will be

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established for each combination for the applicable model year. One engine of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of engines of that family is represented, or until a maximum of four engines is selected. The engines selected for each combination will be specified by the Administrator as to fuel system.

(iii) The Administrator may select a maximum of two additional engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in that engine family. In selecting these engines, the Administrator will consider such features as the exhaust emission control system, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, and compression ratio.

(iv) If the engines selected in accordance with paragraphs (b)(2) (ii) and (iii) of this section do not represent each engine displacement-exhaust emission control system combination, then one engine of each engine displacement-exhaust emission control system combination not represented shall be selected by the Administrator.

(3) *Diesel heavy-duty emission-data engines.* Paragraph (b)(3) of this section applies to Diesel heavy-duty emission-data engines.

(i) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into groups based upon exhaust emission control system. One engine of each engine-system combination shall be run for smoke emission data and gaseous emission data as prescribed in § 86.078–26(c)(3). Either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine that features the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will usually be selected. If there are military engines with higher fuel rates than other engines in the same engine-system combinatoion, then one military engine shall also be selected. The engine with the highest fuel feed per stroke will usually be selected.

(iii) The Administrator may select a maximum of one additional engine within one engine-system combination based upon features indicating that it may have the highest emission levels of the engines of that combination. In selecting this engine, the Administrator will consider such features as the injection system, fuel system, compression ratio, rated speed, rated horsepower, peak torque speed, and peak torque.

(c) Durability data. (1) *Durability-data vehicles.* Paragraph (c)(1) of this section applies to light-duty vehicle and light-duty truck durability-data vehicles.

(i) A durability-data vehicle will be selected by the Administrator to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control-system combination in that engine family and will be designated by the Administrator as to transmission type, fuel system, inertia weight class, and test weight.

(ii) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system, inertia weight class, and test weight as the vehicle selected for that engine-system combination in accordance with the provisions of paragraph (c)(1)(i) of this section. Notice of an intent to operate and test additional vehicles shall be given to the Administrator no later than 30 days following notification of the test fleet selection.

(2) *Gasoline-fueled heavy-duty durability-data engines.* Paragraph (c)(2) of this section applies to gasoline-fueled heavy-duty durability-data engines.

(i) A durability-data engine will be selected by the Administrator to represent each engine-system combination. The engine selected shall be of the displacement with the largest projected sales volume of engines with that exhaust emission control system in that engine family and will be designated by the Administrator as to fuel system.

(ii) [Reserved]

(iii) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same engine displacement and fuel system as the engine selected for that combination in accordance with the provisions of paragraph (c)(2)(i) of this section. Notice of an intent to run additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and nonmilitary engines within the same engine-system combination.

(3) *Diesel heavy-duty durability-data engines.* Paragraph (c)(3) of this section applies to Diesel heavy-duty durability-data engines.

(i) One engine from each engine-system combination shall be tested as prescribed in § 86.078–26(c)(3)(ii). At each test point, either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine which features the highest fuel feed per stroke, primarily at rated speed and secondarily at the speed of maximum rated torque, will usually be selected for durability testing. In the case where more than one engine in an engine-system combination has the highest fuel feed per stroke, the engine with the highest maximum rated horsepower will usually be selected for durability testing.

(ii) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same model and fuel system as the engine selected in accordance with the provisions of paragraph (c)(3)(i) of this section. Notice of an intent to test additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and nonmilitary engines within the same engine-system combination.

(d) For purposes of testing under § 86.078–26 (a)(9), (b)(9) or (c)(11), the Administrator may require additional emission-data vehicles (or emission-data engines) and durability-data vehicles (or durability-data engines) identical in all material respects to vehicles (or engines) selected in accordance with paragraphs (b) and (c) of this section: *Provided*, That the number of vehicles selected shall not increase the size of either the emission-data fleet or the durability-data fleet by more than 20 percent or one vehicle, whichever is greater.

(e) Any manufacturer whose projected sales for the model year in which certification is sought is less than

(1) 2000 gasoline-fueled light-duty vehicles, or

(2) 2000 Diesel light-duty vehicles, or

(3) 2000 gasoline-fueled light-duty trucks, or

(4) 2000 Diesel light-duty trucks, or

(5) 700 gasoline-fueled heavy-duty engines, or

(6) 200 Diesel heavy-duty engines, may request a reduction in the number of test vehicles (or engines) determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(f) In lieu of testing an emission-data or durability-data vehicle (or engine) selected under paragraph (b) or (c) of this section, and submitting data therefor, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data and/or fuel evaporative emission data, as applicable on a similar vehicle (or engine) for which certification has previously been obtained or for which all applicable data required under § 86.078–23 has previously been submitted.

(g) (1) This paragraph applies to light duty vehicles and light duty trucks.

(2) Where it is expected that more than 33 percent of a car line, within an engine-system combination, may be equipped with an item (whether that item is standard equipment or an option), the full estimated weight of that item shall be included in the curb weight computation of each vehicle available with that item in that carline, within that engine-system combination. Where it is expected that 33 percent or less of the carline, within an engine-system combination, will be equipped with an item (whether that item is standard equipment or an option) no weight for that item will be added in computing the curb weight for any vehicle in that carline, within that engine-system combination, unless that item is standard equipment on the vehicle. In the case of mutually exclusive options, only the weight of the heavier option will be added in computing the curb weight. Optional items weighing less than three pounds per item need not be considered.

(3) Where it is expected that more than 33 percent of a car line, within an engine-system combination, will be equipped with an item (whether that item is standard equipment or an option) that can reasonably be expected to influence emissions, then such items shall actually be installed, unless specifically excluded by the Administrator, on all emission data and durability data vehicles of that car line, within that engine-system combination, on which the items are intended to be offered in production. Items that can reasonably be expected to influence emissions are: air conditioning, power steering, power brakes, and other items determined by the Administrator.

(4) Where it is expected that 33 percent or less of a car line within an engine-system combination, will be equipped with an item (whether that item is standard equipment or an option) that can reasonably be expected to influence emissions, that item shall not be installed on any emission data vehicle or durability data vehicle of that car line, within that engine-system combination, unless that item is standard equipment on that vehicle or specifically required by the Administrator.

4. A new § 86.080–26 is added as follows:

§ 86.080–26 Mileage and service accumulation; emission measurements.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The procedure for mileage accumulation will be the Durability Driving Schedule as specified in Appendix IV to this part. A modified procedure may also be used if approved in advance by the Administrator. Except with the advance approval of the Administrator, all vehicles will accumulate mileage at a measured curb weight which is within 100 pounds of the estimated curb weight. If the loaded vehicle weight is within 100 pounds of being included in the next higher inertia weight class as specified in § 86.129, the manufacturer may elect to conduct the respective emission tests at the test weight corresponding to the higher loaded vehicle weight.

(3) *Emission-data vehicles.* Unless as otherwise provided for in § 86.078–23(a), emission-data vehicles shall be operated and tested as follows:

(i) *Gasoline-fueled.* (A) Each gasoline-fueled emission-data vehicle shall be driven 4000 miles with all emission control systems installed and operating. Complete exhaust emission tests shall be conducted at zero and 4000 miles on those vehicles selected under § 86.078–24(b)(1)(ii) through (b)(1)(v). Complete exhaust and evaporative emission tests shall be conducted at zero miles and 4000 miles on those vehicles selected under § 86.078–24(b)(1)(vii). The manufacturer may at his option test the vehicles selected under § 86.078–24(b)(1)(vii) up to three times at the 4000-mile test point as long as the ±250-mile test tolerance is adhered to. The Administrator may determine under § 86.078–24(f) that no testing is required.

(B) The emission-data vehicle(s) selected for testing under § 86.078–24(b)(1)(v) or (b)(1)(vii)(D) shall be driven 6436 kilometers (4000 miles) at any altitude. Emission tests shall be conducted at zero kilometers (zero miles) at any altitude and 6436 kilometers (4000 miles) under high-altitude conditions.

(C) The emission-data vehicle(s) selected for testing under § 86.078–24(b)(1)(v) or (b)(1)(vii)(D) and permitted to be tested for purposes of § 86.078–23(c)(1)(ii) under the provisions of § 86.078–24(b)(1)(vi) shall be driven 6,436 kilometers (4,000 miles) at low altitude. Emission tests shall be conducted at zero kilometers (zero miles) at low altitude and 6,436 kilometers (4,000 miles) under both low- and high-altitude conditions. For the purposes of this subparagraph, "low altitude" means any elevation less than 549 meters (1,800 feet).

(ii) *Diesel.* (A) Each Diesel emission-data vehicle shall be driven 6,436 kilometers (4,000 miles) with all emission control systems installed and operating. Emission tests shall be conducted at zero kilometers (zero miles) and 6,436 kilometers (4,000 miles).

(B) The emission-data vehicle(s) selected for testing under § 86.078–24(b)(1)(v) shall be driven 6,436 kilometers (4,000 miles) at any altitude. Emission tests shall be conducted at zero kilometers (zero miles) at any altitude and 6,436 kilometers (4,000) miles under high-altitude conditions.

(C) The emission-data vehicle(s) selected for testing under § 86.078–24(b)(1)(v) and permitted to be tested for purposes of § 86.078–23(c)(1)(ii) under the provisions of § 86.078–24(b)(1)(vi) shall be driven 6,436 kilometers (4,000 miles) at low altitude. Emission tests shall be conducted at zero kilometers (zero miles) at low altitude and 6,436 kilometers (4,000 miles) under both low- and high-altitude conditions. For the purpose of this subparagraph "low altitude" means any elevation less than 549 meters (1,800 feet).

(4) *Durability-data vehicles.* Unless as otherwise provided for in § 86.078–23(a), durability-data vehicles shall be operated and tested as follows:

(i) *Gasoline-fueled.* Each gasoline-fueled durability-data vehicle selected by the Administrator or elected by the manufacturer under § 86.078–24(c)(1) shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objective of this procedure. Complete exhaust emission tests shall be made on all durability-data vehicles selected by the Administrator or elected by the manufacturer under § 86.078–24(c) at the following mileage points: 0; 5,000; 10,000; 15,000; 20,000; 25,000; 30,000; 35,000; 40,000; 45,000; 50,000. The Administrator may determine under § 86.078–24(f) that no testing is required.

(ii) *Diesel.* Each Diesel durability-data vehicle shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objectives of the procedure. Complete emission tests (see §§ 86.106 through 86.145) shall be made at the following mileage points: 0; 5,000; 10,000; 15,000; 20,000; 25,000; 30,000; 35,000; 40,000; 45,000; 50,000.

(5) All tests required by this subpart to be conducted after every 5,000 miles of driving for durability-data vehicles and 4,000 miles for emission-data vehicles must be conducted at any accumulated mileage within 250 miles of each of those test points.

(6) (i) The results of each emission test shall be supplied to the Administrator immediately after the test. The manufacturer shall furnish to the Administrator explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. If a manufacturer conducts multiple tests at any test point at which the data are intended to be used in the calculation of the deterioration factor, the number of tests must be the same at each point and may not exceed three valid tests. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) shall be air posted to the Administrator within 24 hours (or delivered within 3 working days). In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.078–23. Where the Administrator conducts a test on a durability-data vehicle at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be rounded, using the "Rounding Off Method" specified in ASTM E29–67, to the number of places to the right of the decimal point indicated by expressing the applicable emission standards of this subpart to three significant figures.

(7) Whenever the manufacturer proposes to operate and test a vehicle which may be used for emission or durability data, he shall provide the zero-mile test data to the Administrator (except for those vehicles for which the zero-mile test requirement has been waived under § 86.078–23(a)(2)) and make the vehicle available for such testing under § 86.078–29 as the Administrator may require before beginning to accumulate mileage on the vehicle. Failure to comply with this requirement will invalidate all test data submitted for this vehicle.

(8) Once a manufacturer begins to operate an emission-data or durability-data vehicle, as indicated by compliance

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with paragraph (a)(7) of this section, he shall continue to run the vehicle to 4,000 miles or 50,000 miles, respectively, and the data from the vehicle will be used in the calculations under § 86.078–28. Discontinuation of a vehicle shall be allowed only with the written consent of the Administrator.

(9) (i) The Administrator may elect to operate and test any test vehicle during all or any part of the mileage accumulation and testing procedure. In such cases, the manufacturer shall provide the vehicle(s) to the Administrator with all information necessary to conduct this testing.

(ii) The test procedures in §§ 86.106 through 86.145 will be followed by the Administrator. The Administrator will test the vehicles at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other vehicles of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(10) Emission testing of any type with respect to any certification vehicle other than that specified in this part is not allowed except as such testing may be specifically authorized by the Administrator.

(11) This section does not apply to testing conducted to meet the requirements of § 86.078–23(b)(2).

(b) (1) Paragraph (b) of this section applies to gasoline-fueled heavy-duty engines.

(2) The engine dynamometer service accumulation schedule will consist of several operating conditions which give the same percentage of time at various manifold vacuums and modes as specified in the emission test cycle. The average speed shall be between 1,650 and 1,700 r.p.m. Subject to the requirements as to average speed, there must be operation at speeds in excess of 3,200 r.p.m. (but not in excess of governed speed for governed engines or rated speed for nongoverned engines) for a cumulative maximum of 0.5 percent of the actual cycle time, excluding time in transient conditions. Maximum cycle time shall be 15 minutes. A cycle approved in advance by the Administrator shall be used.

(3) *Emission-data engines.* Unless as otherwise provided for in § 86.078–23(a), emission-data engines shall be operated and tested as follows: Each emission-data engine shall be operated for 125 hours with all emission control systems installed and operating. Emission tests shall be conducted at zero and 125 hours. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

(4) *Durability-data engines.* Unless as otherwise provided for in § 86.078–23(a), durability-data engines shall be operated and tested as follows: Each durability-data engine shall be operated with all emission control systems installed and operating, for 1,500 hours. Emission tests shall be conducted at zero hours and at each 125-hour interval. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

(5) All tests required by this subpart to be conducted after 125 hours of operation or at any multiple of 125 hours may be conducted at any accumulated number of hours within 8 hours of 125 hours or the appropriate multiple of 125 hours, respectively.

(6) (i) The results of each emission test shall be supplied to the Administrator within 72 hours (or delivered within 5 working days). The manufacturer shall furnish to the Administrator an explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. If a manufacturer conducts multiple tests at any test point at which the data are intended to be used in the calculation of the deterioration factor, the number of tests must be the same at each point and may not exceed three valid tests. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) shall be air posted to the Administrator within 72 hours (or delivered within 5 working days). In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.078–23. Where the Administrator conducts a test on a durability-data engine at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be recorded and reported to the Administrator using two places to the right of the decimal point. These numbers shall be rounded in accordance with the "Rounding Off Method" specified in ASTM E29–67.

(7) Whenever the manufacturer proposes to operate and test an engine which may be used for emission or durability data, he shall provide the zero-hour test data to the Administrator (except for those engines for which the zero-hour test requirement has been waived under § 86.078–23(a)(2)) and make the engine available for such testing under § 86.078–29 as the Administrator may require, before beginning to accumulate hours on the engine. Failure to comply with this requirement will invalidate all test data later submitted for this engine.

(8) Once a manufacturer begins to operate an emission-data or durability-data engine, as indicated by compliance with paragraph (b)(7) of this section, he shall continue to run the engine to 125 hours or 1,500 hours, respectively, and the data from the engine will be used in the calculations under § 86.078–28. Discontinuation of an engine shall be allowed only with the prior written consent of the Administrator.

(9) (i) The Administrator may elect to operate and test any test engine during all or any part of the service accumulation and testing procedure. In such cases the manufacturer shall provide the engine(s) to the Administrator with all information necessary to conduct the testing.

(ii) The test procedures (§§ 86.777–5 through 86.777–15) will be followed by the Administrator. The Administrator will test the engines at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other engines of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(10) Emission testing of any type with respect to any certification engine other than that specified in this subpart is not allowed except as such testing may be specifically authorized by the Administrator.

(c) (1) Paragraph (c) of this section applies to Diesel heavy-duty engines.

(2) The procedures set forth in this section describe the service accumulation that shall be accomplished on each test engine and when tests are to be conducted.

(3) (i) *Emission-data engines.* Unless as otherwise provided for in § 86.078–23(a), emission-data engines shall be operated and tested as follows: Each emission-data engine shall be operated for 125 hours with all emission control systems installed and operating. Emission tests shall be conducted at zero and 125 hours.

(ii) *Durability-data engines.* Unless as otherwise provided for in § 86.078–23(a), durability-data engines shall be operated and tested as follows: Each durability-data engine shall be operated, with all emission control systems installed and operating, for 1,000 hours. Emission tests shall be conducted at zero hours and at each 125-hour interval.

(4) A break-in procedure, not to exceed 20 hours, may be run if approved in writing in advance by the Administrator. This procedure would be run after the zero-hour test, and the hours accumulated would not be counted as part of the service accumulation.

(5) Before service accumulation can begin, the following criteria must be met. Failure to comply with these requirements shall invalidate all test data submitted for an engine.

(i) Each engine shall produce at least 95 percent of the maximum horsepower, corrected to rating conditions, at 95 to 100 percent of the rated speed.

(ii) The fuel rate at maximum horsepower shall be within manufacturer's specifications.

(iii) The zero-hour test data shall be provided to the Administrator (except for those engines for which the zero-hour test requirement has been waived under § 86.078–23(a)(2)) and the engine shall be made available for such testing under § 86.078–29 as the Administrator may require.

(6) During service accumulation, hours can be credited toward the required service accumulation hours when the following criteria are met. If these criteria cannot be met, engine operation shall be discontinued and the Administrator shall be notified immediately. (Adjustments to the fuel rate can be approved under the provisions of § 86.078–25.)

(i) Each engine shall produce at least 95 percent of the maximum horsepower, at 95 to 100 percent of the rated speed, observed during zero-hour testing. Horsepower values shall be corrected to the rating conditions.

(ii) The engine shall be operated at 75 percent of the inlet and exhaust restrictions specified in § 86.877–8 except that the tolerance will be ±3 inches of water and ±0.5 inches of Hg, respectively.

(7) During each emission test the inlet and exhaust restrictions shall be as specified in § 86.877–8.

(8) Tests, other than zero-hour tests, may be conducted within 8 hours of the nominal test point.

(9) (i) The results of each emission test shall be air posted to the Administrator within 72 hours of test completion (or delivered within 5 working days). The manufacturer shall furnish to the Administrator an explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided tests. If a manufacturer conducts multiple tests (not to exceed three valid tests) at any test point, the number of tests must be the same at each point. The data obtained from all valid tests shall be used in the calculation of the deterioration factor. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) shall be air posted to the Administrator within 72 hours or delivered within 5 working days). In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.078–23. Where the Administrator conducts a test on a durability-data engine at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be recorded and reported to the Administrator using two places to the right of the decimal point. These numbers shall be rounded in accordance with the "Rounding Off Method" specified in ASTM E29–67.

(10) Once a manufacturer begins to operate an emission-data or durability-data engine, as indicated by compliance with paragraph (c) of this section, he hours or 1,000 hours respectively, and shall continue to run the engine to 125 the data from the engine shall be used in the calculations under § 86.078–28. Discontinuation of an engine shall be allowed only with the prior written consent of the Administrator.

(11) (i) The Administrator may elect to operate and test any test engine during all or any part of the service accumulation and testing procedure. In such cases, the manufacturer shall provide the engine(s) to the Administrator with all information necessary to conduct the testing.

(ii) The test procedures (§§ 86.877–5 through 86.877–14 and §§ 86.977–5 through 86.977–15) will be followed by the Administrator. The Administrator will test the engines at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other engines of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(12) Emission testing of any type with respect to any certification engine other than that specified in this part is not allowed except as such testing may be specifically authorized by the Administrator.

5. § 86.108–78 is amended to read as follows:

§ 86.108–78 Dynamometer.

(a) The dynamometer shall have a power absorption unit for simulation of road load power and fly wheels or other means of simulating the inertia weight as specified in § 86.129.

(b) (1) The dynamometer shall have a roll or shaft revolution counter for determination of distance driven.

(2) In lieu of the requirement in (b)(1) of this paragraph the manufacturer shall provide some means, approved in advance by the Administrator, for the determination of distance driven.

6. A new § 86.108–79 is added and reads as follows:

§ 86.108–79 Dynamometer.

(a) The dynamometer shall have a power absorption unit for simulation of road load power and flywheels or other means of simulating the inertia weight as specified in § 86.129.

(b) (1) The dynamometer shall have a roll or shaft revolution counter for determination of distance driven.

(2) In lieu of the requirement in (b)(1) of this paragraph the manufacturer shall provide some means, approved in advance by the Administrator, for the determination of distance driven.

(c) Small twin-roll dynamometers shall have a nominal roll diameter of 8.65 inches and a nominal roll spacing of 17 inches. Large single-roll dynamometers shall have a nominal roll diameter of 48 inches. Dynamometers with other roll specifications may be used if the total simulated road load power can be shown to be equivalent, and if approved in advance by the Administrator.

7. § 86.113–78 is amended by revising the last sentence of the text and the table in paragraph (b)(2), and revising the last sentence of the text and the table in paragraph (b)(3) to read as follows:

§ 86.113–78 Fuel specifications.

* * * * * *

(b) * * *

(2) * * * "Type 2D" grade diesel fuel shall be used.

Item	ASTM test method No.	Type 2-D
Cetane	D613	42–50
Distillation range:	D86	
IBP, °F		340–400
10 pct point, °F		400–460
50 pct point, °F		470–540
90 pct point, °F		550–610
EP, °F		580–660
Gravity, °API	D287	33–37
Total sulfur, percent	D129 or D2622	0.2–0.5
Hydrocarbon composition:	D1319	
Aromatics, percent (minimum)		27
Paraffins, naphthenes, olefins		Remainder
Flashpoint, °F (minimum)	D93	130
Viscosity, centistokes	D445	2.0–3.2

(3) * * * "Type 2-D" grade diesel fuel shall be used.

Item	ASTM test method No.	Type 2-D
Cetane (minimum)	D613	38–58
Distillation range: 90 pct point, °F	D86	430–630
Gravity °API	D287	30–42
Total sulfur, percent (minimum)	D129 or D2622	0.2
Flashpoint, °F (minimum)	D93	130
Viscosity, centistokes	D445	1.5–4.5

* * * * * *

8. A new § 86.113–79 is added, identical to § 86.113–78, except for paragraph (a) which reads as follows:

§ 86.113–79 Fuel specifications.

(a) *Gasoline.* (1) Gasoline having the following specifications will be used by the Administrator in exhaust and evaporative emission testing. Gasoline having the following specifications or substantially equivalent specifications approved by the Administrator, shall be used by the manufacturer in exhaust and evaporative testing, except that the lead and octane specifications do not apply.

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Item	ASTM	Leaded	Unleaded
Octane, research, minimum.	D2699	98	93
Sensitivity, minimum		7.5	7.5
Lead (organic), grams U.S. gallon.		[1] 1.4	0.00-0.05
Distillation range:			
IBP,[2] °F	D86	75-95	75-95
10 pct point, °F	D86	120-135	120-135
50 pct point, °F	D86	200-230	200-230
90 pct point, °F	D86	300-325	300-325
EP,[2] °F (maximum)	D86	415	415
Sulphur, weight percent, maximum.	D1266	0.10	0.10
Phosphorus, grams U.S. gallon, maximum.		0.01	0.005
RVP,[2 4] pounds per square inch.	D323	8.7-9.2	8.7-9.2
Hydrocarbon composition:			
Olefins, percent, maximum.	D1319	10	10
Aeromatics, percent, maximum.	D1319	35	35
Saturates	D1319	[5]	[5]

[1] Minimum.
[2] For testing at altitudes above 1,219 m (4,000 ft) the specified range is 75-105.
[3] For testing which is unrelated to evaporative emission control, the specified range is 8.0-9.2.
[4] For testing at altitudes above 1,219 m (4,000 ft) the specified range is 7.9-9.2.
[5] Remainder.

(2) Gasoline representative of commercial gasoline which will be generally available through retail outlets shall be used in service accumulation. For leaded gasoline the minimum lead content shall be 1.4 grams per U.S. gallon, except that where the Administrator determines that vehicles represented by a test vehicle will be operated using gasoline of different lead content than that prescribed in this paragraph, he may consent in writing to use a gasoline with a different lead content. The octane rating of the gasoline used shall be no higher than 1.0 research octane number above the minimum recommended by the manufacturer and have a minimum sensitivity of 7.5 octane numbers, where sensitivity is defined as the Research octane number minus the Motor octane number. The Reid Vapor Pressure of the gasoline used shall be characteristic of the motor fuel used during the season in which the service accumulation takes place.

(3) The specification range of the gasoline to be used under paragraph (a) (2) of this section shall be reported in accordance with § 86.077–21(b) (3).

* * * * * * *

9. § 86.114–78 is amended by adding paragraph (a) (7) to read as follows:

§ 86.114–78 Analytical gases.

(a) * * *

(7) The use of proportioning and precision blending devices to obtain the required analyzer gas concentrations is allowable provided their use has been approved in advance by the Administrator.

* * * * * * *

10. § 86.121–78 is amended by revising paragraph (b) (3) to read as follows:

§ 86.121–78 Hydrocarbon analyzer calibration.

* * * * * * *

(b) * * *

(3) Calibrate on each normally used operating range with propane in air calibration gases having nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of that range. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2 percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2 percent at any point, the best-fit non-linear equation which represents the data to within 2 percent of each test point shall be used to determine concentration.

11. § 86.123–78 is amended by revising paragraph (b) (3) to read as follows:

§ 86.123–78 Oxides of nitrogen analyzer calibration.

* * * * * * *

(b) * * *

(3) Calibrate on each normally used operating range with NO in N2 calibration gases having nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of that range. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2 percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2 percent at any point, the best-fit non-linear equation which represents the data to within 2 percent of each test point shall be used to determine concentration.

12. § 86.129–79 is amended by revising the table in paragraph (a) and by revising paragraphs (b) and (c) to read as follows:

§ 86.129–79 Road load power and inertia weight determination.

(a) * * *

Loaded vehicle weight (pounds)	Equivalent inertia weight (pounds)	Road load power at 50 mi/h (horsepower)—light duty trucks [1 2 3]
Up to 1,125	1,000	
1,126 to 1,375	1,250	
1,376 to 1,625	1,500	
1,626 to 1,875	1,750	
1,876 to 2,125	2,000	
2,126 to 2,375	2,250	
2,376 to 2,625	2,500	
2,626 to 2,875	2,750	
2,876 to 3,250	3,000	
3,251 to 3,750	3,500	
3,751 to 4,250	4,000	
4,251 to 4,750	4,500	
4,751 to 5,250	5,000	
5,251 to 5,750	5,500	
5,751 to 6,250	[4] 6,000	
6,251 to 6,750	6,500	
6,751 to 7,250	7,000	
7,251 to 7,750	7,500	
7,751 to 8,250	8,000	
8,251 to 8,750	8,500	
8,751 to 9,250	9,000	
9,251 to 9,750	9,500	
9,751 to 10,000	10,000	

[1] For all light duty trucks except vans, and for heavy duty vehicles optionally certified as light duty trucks, the road load power (horsepower) at 50 mi/h shall be be 0.58 times B (defined below) rounded to the nearest ½ hp.
[2] For vans, the road load power at 50 mi/h (horsepower) shall be 0.50 times B (defined below) rounded to the nearest ½ hp.
[3] "B" is the basic vehicle frontal area (square foot) plus the additional frontal area (square foot) of mirrors and optional equipment exceeding 0.1 ft² which are anticipated to be sold on more than 33 pct of the car line. Frontal area measurements shall be computed to the nearest 10th of a square foot using a method approved in advance by the administrator.
[4] Light duty vehicles over 5,750 lb loaded vehicle weight shall be tested with a 5,500 lb equivalent inertia.

(b) *Power absorption unit adjustment—light duty trucks.* (1) The power absorption unit shall be adjusted to reproduce road load power at 50 mph true speed. The indicated road load power setting shall take into account the dynamometer friction. The relationship between road load (absorbed) power and indicated road load power for a particular dynamometer shall be determined by the procedure outlined in § 86.118 or other suitable means.

(2) The road load power listed in the table above shall be used or the vehicle manufacturer may determine the road load power by an alternate procedure requested by the manufacturer and approved in advance by the Administrator.

(3) Where it is expected that more than 33 percent of an engine family will be equipped with air conditioning per § 86.078–24(g)(2), the road load power listed above or as determined in paragraph (b)(2) of this section shall be increased by 10 percent, up to a maximum increase of 1.4 horsepower, for testing all test vehicles representing that car line within that engine-system combination if those vehicles are intended to be offered with air conditioning in production. The above increase for air conditioning shall be added prior to rounding off as instructed by notes 2 and 3 of the table.

(c) *Power absorption unit adjustment—light-duty vehicles.* (1) The power absorption unit shall be adjusted to reproduce road load power at 50 mph true speed. The dynamometer power absorption shall take into account the dynamometer friction, as discussed in § 86.118.

(2) The dynamometer road load setting is determined from the equivalent inertia weight, the reference frontal area, the body shape, the vehicle protuberances and the tire type by the following equations.

(i) For light-duty vehicles to be tested on a twin-roll dynamometer.

$$Hp = aA + P + tW$$

Where:

Hp = the dynamometer power absorber setting at 50 mph (horsepower).
A = the vehicle reference frontal area (ft²). The vehicle reference frontal area is defined as the area of the orthogonal projection of the vehicle, including tires and suspension components, but excluding vehicle protuberances, onto a plane perpendicular to both the longitudinal plane of the vehicle and the surface upon which the vehicle is positioned. Measurements of this area shall be computed to the nearest tenth of a square foot using a method approved in advance by the Administrator.
P = the protuberance power correction factor from table 1 of this paragraph (horsepower).
W = vehicle equivalent inertia weight (lbs) from the table in paragraph (a).
a = 0.43 for fastback shaped vehicles
= 0.50 for all other light-duty vehicles.
t = 0.0 for vehicles equipped with radial ply tires
= 3×10^{-4} for all other vehicles.

A vehicle is considered to have a fastback shape if the rearward projection of that portion of the rear surface (A_b) which slopes at an angle of less than 20 degrees from the horizontal is at least 25 percent as large as the vehicle reference frontal area. In addition, this surface must be smooth, continuous and free from any local transitions greater than four degrees. An example of a fastback shape is presented in Figure 1.

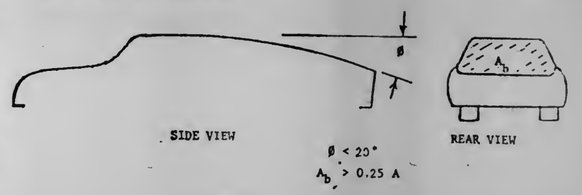


Figure 1

TABLE I.—*Protuberance power, P versus total protuberance frontal area, A_p*

A_p (square foot):	P (horsepower)
A_p<0.30	0.0
0.30≤A_p<0.60	.40
0.60≤A_p<0.90	.70
0.90≤A_p<1.20	1.00
1.20≤A_p<1.50	1.30
1.50≤A_p<1.80	1.60
1.60≤A_p<2.10	1.90
2.10≤A_p<2.40	2.20
2.40≤A_p<2.70	2.50
2.70≤A_p<3.00	2.80
3.00≤A_p	3.10

The protuberance frontal area A_p, is defined in a manner analogous to the definition of the vehicle reference frontal area, i.e., the total area of the orthogonal projections of the vehicle mirrors, hood ornaments, roof rack, and other protuberance onto a plane(s) perpendicular to both the longitudinal plane of the vehicle and the surface upon which the vehicle is positioned. A protuberance is defined as any fixture attached to the vehicle protruding more than 1 inch from the vehicle surface and having a projected area greater than 0.01 ft² with the area calculated by a method approved in advance by the Administrator. Included in the total protuberance frontal area shall be all fixtures which occur as standard equipment. The area of any optional equipment shall also be included if it is expected that more than 33 percent of the car line sold will be equipped with this option.

(ii) The dynamometer power absorber setting for light-duty vehicles shall be rounded to the nearest 0.1 horsepower.

(iii) For light-duty vehicles to be tested on a single, large roll dynamometer.

$$HP = aA + P + (5.0 \times 10^{-4} + 0.33t)W$$

All symbols in the above equation are defined in paragraph (c)(2)(i) of this section. The rounding criteria of paragraph (c)(2)(i) also apply to this paragraph.

(3) The road load power calculated above shall be used or the vehicle manufacturer may determine the road load power by an alternate procedure requested by the manufacturer and approved in advance by the Administrator.

(4) Where it is expected that more than 33 percent of an engine family will be equipped with air conditioning, per § 86.078–24(g)(2), the road load power as determined in paragraph (c)(2) or (3) of this section shall be increased by 10 percent, up to a maximum increment of 1.4 horsepower, for testing all test vehicles of that engine family if those vehicles are intended to be offered with air conditioning in production. This power increment shall be added to the indicated dynamometer power absorption setting prior to rounding off of this value.

13. A new § 86.129–80 is added to read as follows:

§ 86.129–80 Road load power test weight and inertia weight class determination.

(a) Flywheels, electrical or other means of simulating test weight as shown in the following table shall be used. If the equivalent test weight specified is not available on the dynamometer being used, the next higher equivalent test weight (not to exceed 250 pounds) available shall be used.

Road load power at 50 mi/h—light duty trucks [1 2 3]	Loaded vehicle weight (pounds)	Equivalent test weight (pounds)	Inertia weight class (pounds)
	Up to 1,062	1,000	1,000
	1,063 to 1,187	1,125	1,000
	1,188 to 1,312	1,250	1,250
	1,313 to 1,437	1,375	1,250
	1,438 to 1,562	1,500	1,500
	1,563 to 1,687	1,625	1,500
	1,688 to 1,812	1,750	1,750
	1,813 to 1,937	1,875	1,750
	1,938 to 2,062	2,000	2,000
	2,063 to 2,187	2,125	2,000
	2,188 to 2,312	2,250	2,250
	2,313 to 2,437	2,375	2,250
	2,438 to 2,562	2,500	2,500
	2,563 to 2,687	2,625	2,500
	2,688 to 2,812	2,750	2,750
	2,813 to 2,937	2,875	2,750
	2,938 to 3,062	3,000	3,000
	3,063 to 3,187	3,125	3,000
	3,188 to 3,312	3,250	3,000
	3,313 to 3,437	3,375	3,500
	3,438 to 3,562	3,500	3,500
	3,563 to 3,687	3,625	3,500
	3,688 to 3,812	3,750	3,500
	3,813 to 3,937	3,875	4,000
	3,938 to 4,125	4,000	4,000
	4,126 to 4,375	4,250	4,000
	4,376 to 4,625	4,500	4,500
	4,626 to 4,875	4,750	4,500
	4,876 to 5,125	5,000	5,000
	5,126 to 5,375	5,250	5,000
	5,376 to 5,750	5,500	5,500
	5,751 to 6,250	[4] 6,000	6,000
	6,251 to 6,750	6,500	6,500
	6,751 to 7,250	7,000	7,000
	7,251 to 7,750	7,500	7,500
	7,751 to 8,250	8,000	8,000
	8,251 to 8,750	8,500	8,500
	8,751 to 9,250	9,000	9,000
	9,251 to 9,750	9,500	9,500
	9,751 to 10,000	10,000	10,000

[1] For all light duty trucks except vans, and for heavy duty vehicles optionally certified as light duty trucks, the road load power (horsepower) at 50 mi/h shall be 0.58 times B (defined below) rounded to the nearest ½ hp.
[2] For vans, the road load power at 50 mi/h (horsepower) shall be 0.50 times B (defined below) rounded to the nearest ½ hp.
[3] B is the basic vehicle frontal area (square foot) plus the additional frontal area (square foot) of mirrors and optional equipment exceeding 0.1 ft² which are anticipated to be sold on more than 33 pct of the car line. Frontal area measurements shall be computed to the nearest 10th of a square foot using a method approved in advance by the administrator.
[4] Light duty vehicles over 5,750 lb loaded vehicle weight shall be tested at a 5,500 lb equivalent test weight.

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(b) *Power absorption unit adjustment—light-duty trucks.* (1) The power absorption unit shall be adjusted to reproduce road load power at 50 mph true speed. The indicated road load power setting shall take into account the dynamometer friction. The relationship between road load (absorbed) power and indicated road load power for a particular dynamometer shall be determined by the procedure outlined in § 86.118 or other suitable means.

(2) The road load power listed in the table above shall be used or the vehicle manufacturer may determine the road load power by an alternate procedure requested by the manufacturer and approved in advance by the Administrator.

(3) Where it is expected that more than 33 percent of a car line within an engine-system combination will be equipped with air conditioning per § 86.-078–24(g)(2), the road load power listed above or as determined in paragraph (b)(2) of this section shall be increased by 10 percent, up to a maximum increase of 1.4 horsepower, for testing all test vehicles representing that car line within that engine-system combination if those vehicles are intended to be offered with air conditioning in production. The above increase for air conditioning shall be added prior to rounding off as instructed by notes 2 and 3 of the table.

(c) *Power absorption unit adjustment—light-duty vehicles.* (1) The power absorption unit shall be adjusted to reproduce road load power at 50 mph true speed. The dynamometer power absorption shall take into account the dynamometer friction, as discussed in § 86.118.

(2) The dynamometer road load setting is determined from the equivalent test weight, the reference frontal area, the body shape, the vehicle protuberances, and the tire type by the following equations.

(i) For light-duty vehicles to be tested on a twin roll dynamometer.

$$Hp = aA + P + tW$$

Where:

Hp = the dynamometer power absorber setting at 50 mph (horsepower).

A = the vehicle reference frontal area (ft^2). The vehicle reference frontal area is defined as the area of the orthogonal projection of the vehicle; including tires and suspension components, but excluding vehicle protuberances, onto a plane perpendicular to both the longitudinal plane of the vehicle and the surface upon which the vehicle is positioned. Measurements of this area shall be computed to the nearest tenth of a square foot using a method approved in advance by the Administrator.

P = the protuberance power correction factor from table 1 of this paragraph (horsepower).

W = vehicle equivalent test weight (lbs) from the table in paragraph (a).

a = 0.43 for fastback-shaped vehicles; = 0.50 for all other light duty vehicles.

t = 0.0 for vehicles equipped with radial ply tires; = 3×10^{-4} for all other vehicles.

A vehicle is considered to have a fastback shape if the rearward projection of that portion of the rear surface (A_b) which slopes at an angle of less than 20 degrees from the horizontal is at least 25 percent as large as the vehicle reference frontal area. In addition, this surface must be smooth, continuous, and free from any local transitions greater than four degrees. An example of a fastback shape is presented in Figure 1.

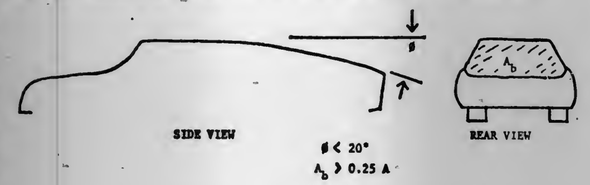


Figure 1

TABLE I.—*Protuberance power, P, versus total protuberance frontal area, A_p*

A_p (square foot):	P (horsepower)
$A_p < 0.30$	0.0
$0.30 \leq A_p < 0.60$	.40
$0.60 \leq A_p < 0.90$	.70
$0.90 \leq A_p < 1.20$	1.00
$1.20 \leq A_p < 1.50$	1.30
$1.50 \leq A_p < 1.80$	1.60
$1.80 \leq A_p < 2.10$	1.90
$2.10 \leq A_p < 2.40$	2.20
$2.40 \leq A_p < 2.70$	2.50
$2.70 \leq A_p < 3.00$	2.80
$3.00 \leq A_p$	3.10

The protuberance frontal area, A_p, is defined in a manner analogous to the definition of the vehicle reference frontal area, i.e., the total area of the orthogonal projections of the vehicle mirrors, hood ornaments, roof racks, and other protuberance onto a plane(s) perpendicular to both the longitudinal plane of the vehicle and the surface upon which the vehicle is positioned. A protuberance is defined as any fixture attached to the vehicle protruding more than 1 inch from the vehicle surface and having a projected area greater than 0.01 ft^2 with the area calculated by a method approved in advance by the Administrator. Included in the total protuberance frontal area shall be all fixtures which occur as standard equipment. The area of any optional equipment shall also be included if it is expected that more than 33 percent of the car line sold will be equipped with this option.

(ii) The dynamometer power absorber setting for light-duty vehicles shall be rounded to the nearest 0.1 horsepower.

(iii) For light-duty vehicles to be tested on a single, large roll dynamometer.

$$Hp = aA + P + (5.0 \times 10^{-4} + 0.33t)W$$

All symbols in the above equation are defined in paragraph (c)(2)(i) of this section. The rounding criteria of paragraph (c)(2)(i) also apply to this paragraph.

(3) The road load power calculated above shall be used or the vehicle manufacturer may determine the road load power by an alternate procedure requested by the manufacturer and approved in advance by the Administrator.

(4) Where it is expected that more than 33 percent of a car line within an engine-system combination will be equipped with air conditioning, per § 86.-078–24(g)(2), the road load power as determined in paragraph (c)(2) or (3) of this section shall be increased by 10 percent, up to a maximum increment of 1.4 horsepower, for testing all test vehicles of that car line within that engine-system combination if those vehicles are intended to be offered with air conditioning in production. This power increment shall be added to the indicated dynamometer power absorption setting prior to rounding off this value.

14. § 86.135–78 is amended by adding paragraph (h) to read as follows:

§ 86.135–78 Dynamometer procedure.

• • • • • • •

(h) The driving distance as measured by counting the number of dynamometer roll or shaft revolutions, shall be determined for the transient cold start, stabilized cold start, and transient hot start phases of the test. The revolutions shall be measured on the same roll or shaft used for measuring the vehicle's speed.

15. § 86.136–78 is amended by revising paragraph (c) to read as follows:

§ 86.136–78 Engine starting and restarting.

• • • • • • •

(c) If the vehicle does not start after 10 seconds of cranking, cranking shall cease and the reason for failure to start shall be determined. The gas flow measuring device (or revolution counter) on the constant volume sampler (and the hydrocarbon integrator when testing diesel vehicles, see § 85.135 Dynamometer Test Runs) shall be turned off and the sample selector valves placed in the "standby" position during this diagnostic period. In addition, either the CVS should be turned off or the exhaust tube disconnected from the tailpipe during the diagnostic period. If failure to start is an operational error, the vehicle shall be rescheduled for testing from a cold start.

(1) If a failure to start occurs during the cold portion of the test and is caused by a vehicle malfunction corrective action of less than 30 minutes duration may be taken (according to § 86.077–25), and the test continued. The sampling system shall be reactivated at the same time cranking begins. When the engine starts, the driving schedule timing sequence shall begin. If failure to start is caused by vehicle malfunction and the vehicle cannot be started, the test shall be voided, the vehicle removed from the dynamometer, and corrective action may be taken according to § 86.077–25. The reasons for the malfunction (if determined) and the corrective action taken shall be reported.

(2) If a failure to start occurs during the hot start portion of the test and is caused by vehicle malfunction, the vehicle must be started within one minute of key on. The sampling system shall be reactivated at the same time cranking begins. When the engine starts, the driving schedule timing sequence shall begin. If the vehicle cannot be started within one minute of key on, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken, (according to § 86.077–25), and the vehicle rescheduled for testing. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

• • • • • • •

16. § 86.137–78 is amended by adding a second sentence to paragraph (b)(1), revising paragraph (b)(7), inserting a sentence after the first sentence of paragraph (b)(11), inserting a sentence after the first sentence of paragraph (b)(13), revising the second sentence of paragraph (b)(16), and adding a sentence at the end of paragraph (b)(17) to read as follows:

§ 86.137–78 Dynamometer test runs.

• • • • • • •

(b) • • •

(1) • • • Reset and enable the roll revolution counter.

• • • • • • •

(7) Start the gas flow measuring device, position the sample selector valves to direct the sample flow into the "transient" exhaust sample bag and the "transient" dilution air sample bag (turn on the diesel hydrocarbon analyzer system integrator and mark the recorder chart, if applicable), turn the key on, and start cranking the engine.

• • • • • • •

(11) • • • Before the acceleration which is scheduled to occur at 510 seconds, record the measured roll or shaft revolutions and reset the counter or switch to a second counter. • • •

• • • • • • •

(13) • • • Record the measured roll or shaft revolutions and reset the counter. • • •

• • • • • • •

(16) • • • The key-on operation step described in paragraph (b)(7) of this section shall begin between 9 and 11 minutes after the end of the sample period for the cold start test.

(17) • • • Record the measured roll or shaft revolutions.

• • • • • • •

17. § 86.142–78 is amended by revising paragraph (f) and adding paragraph (p) to read as follows:

§ 86.142–78 Records required.

• • • • • • •

(f) Vehicle: ID number, Manufacturer, Model year, Standards, Engine family, Evaporative emissions family, Basic engine description (including displacement, number of cylinders, and catalysts usage), Fuel system (including number of carburetors, number of carburetor barrels, fuel injection type, and fuel tank(s) capacity and location), Engine code, Inertia weight class, Actual curb weight at zero miles, Actual road load at 50 mph, Transmission configuration, Axle ratio, Car line, Odometer reading, Idle rpm, and Drive wheel tire pressure, as applicable.

• • • • • • •

(p) The driving distance for each of the three phases of the test, calculated from the measured role of shaft revolutions.

18. A new § 86.142–80 is added to read as follows:

§ 86.142–80 Records required.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System or device tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument operator.

(e) Driver or operator.

(f) Vehicle: ID number, Manufacturer, Model year, Standards, Engine family, Evaporative emissions family, Basic engine description (including displacement, number of cylinders, and catalyst usage), Fuel system (including number of carburetors, number of carburetor barrels, fuel injection type, and fuel tank(s) capacity and location), Engine code, Gross vehicle weight rating, Inertia weight class, Test weight, Actual curb weight at zero miles, Actual road load at 50 mph, Transmission configuration, Axle ratio, Car line, Odometer reading, Idle rpm, and Drive wheel tire pressure as applicable.

(g) Indicated road load power absorption at 50 mph (80 km/h) and dynamometer serial number. As an alternative to recording the dynamometer serial number, a reference to a vehicle test cell number may be used, with the advance approval of the Adminstrator, provided the test cell records show the pertinent information.

(h) All pertinent instrument information such as tuning—gain—serial number—detector number—range. As an alternative, a reference to a vehicle test cell number may be used, with the advance approval of the Administrator, provided test cells calibration records show the pertinent instrument information.

(i) Recorder charts: Identify zero, span, exhaust gas, and dilution air sample traces.

(j) Test cell barometric pressure, ambient temperature and humidity.

NOTE.—A central laboratory barometer may be used; *Provided*, That individual test cell barometric pressures are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.

(k) Fuel temperatures, as prescribed.

(l) Pressure of the mixture of exhaust and dilution air entering the CVS metering device, the pressure increase across the device, and the temperature at the inlet. The temperature may be recorded continuously or digitally to determine temperature variations.

(m) The number of revolutions of the positive displacement pump accumulated during each test phase while exhaust samples are being collected. The number of standard cubic feet metered by a critical flow venturi during each test phase would be the equivalent record for a CFV–CVS.

(n) The humidity of the dilution air.

NOTE.—If conditioning columns are not used (see § 86.122 and § 86.144) this measurement can be deleted. If the conditioning columns are used and the dilution air is taken from the test cell, the ambient humidity can be used for this measurement.

(o) Temperature set point of the heated sample line and heated hydrocarbon detector temperature control system (for Diesel vehicles only).

(p) The driving distance for each of the three phases of the test, calculated from the measured roll of shaft revolutions.

19. Section 86.144–78 is amended by revising paragraph (a); adding two terms to the end of the text portion of paragraph (d)(1), revising the equation for H and adding two equations to the end of paragraph (d)(1); adding two equations to the end of paragraph (d)(2); adding two equations to the end of paragraph (d)(3); and revising paragraph (d)(4). § 86.144–78 is amended to read as follows:

§ 86.144–78 Calculations; exhaust emissions.

The final reported test results shall be computed by use of the following formula:

(a) For light duty vehicles and light duty trucks:

$$Y_{wm} = 0.43\ ((Y_{ct} + Y_s)/(D_{ct} + D_s)) + 0.57\ ((Y_{ht} + Y_s)/(D_h + D_s))$$

Where:

Y_{wm} = Weighted mass emissions of each pollutant, i.e., HC, CO, NO_x or CO_2 in grams per vehicle mile.

Y_{ct} = Mass emissions as calculated from the "transient" phase of the cold start test, in grams per test phase.

Y_{ht} = Mass emissions as calculated from the "transient" phase of the hot start test, in grams per test phase.

Y_s = Mass emissions as calculated from the "stabilized" phase of the cold start test, in grams per test phase.

D_{ct} = The measured driving distance from the "transient" phase of the cold start test, in miles.

D_{ht} = The measured distance from the "transient" phase of the hot start test, in miles.

D_s = The measured driving distance from the "stabilized" phase of the cold start test, in miles.

• • • • • • •

(d) • • •

(1) • • • $CO_M = 0.032\%$; $D_{ct} = 3.596$ miles.

• • •

$H = (43.478)\ (48.2)\ (22.225)/[762 - (22.225 \times 48.2/100)] = 62$ grains of water per pound of dry air.

• • •

$CO_{wm} = 1.43 - .032\ (1 - 1/9.116) = 1.402\%$

$CO_{mass} = (2595.0)\ (51.85)\ (1.402/100)$
$= 1886$ grams per test phase.

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(2) • • •

CO_{mass} = 2346 grams per test phase.
D_c = 3.902 miles.

(3) • • •

CO_{mass} = 1758 grams per test phase.
D_{cs} = 3.598 miles.

(4) Weighted mass emission results:

HC_{wm} = 0.43 [(4.027+0.62)/(3.598+3.902)]+0.57 [(0.51+0.62)/(3.598+3.902)] = 0.352 grams per vehicle mile.

$NO_{x_{wm}}$ = 0.43 [(1.389+1.27)/(3.598+3.902)]+0.57 [(1.38+1.27)/(3.598+3.902)] = .354 grams per vehicle mile.

CO_{wm} = 0.43 [(23.96+5.98)/(3.598+3.902)]+0.57 [(5.01+5.98)/(3.598+3.902)] = 2.55 grams per vehicle mile.

CO_{wm} = 0.43 [(1886+2346)/(3.598+3.902)]+0.57 [(1758+2346)/(3.598+3.902)] = 555 grams per vehicle mile.

[Sec. 202, 206, 207, 208 and 301(a) of the Clean Air Act; as amended (42 U.S.C. 1857f–1, 1857f–5, 1857f–5a, 1857f–6, 1857g(a)).]

Part 600 of Title 40 of the Code of Federal Regulations is amended as follows:

20. By revising paragraph (a)(15) of § 600.002–77 to read as follows:

§ 600.002–77 Definitions.

(a) • • •

(15) "Certification Vehicle" means a vehicle which is selected under § 86.077–24(b)(1) and used to determine compliance under § 86.077–30 for issuance of an original certificate of conformity.

• • • • • •

21. By adding a new § 600.002–80 reading as follows:

§ 600.002–80 Definitions.

(a) As used in this subpart all terms not defined herein shall have the meaning given them in the Act:

(1) "Act" means Part I of Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.).

(2) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(3) "Secretary" means the Secretary of Transportation or his authorized representative.

(4) "Automobile" means any 4-wheeled vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, or highways (except any vehicle operated on a rail or rails) and which is rated at 6,000 lbs gross vehicle weight or less or is a type of vehicle which the Secretary determines is substantially used for the same purposes.

(5) "Passenger Automobile" means any automobile which the Secretary determines is manufactured primarily for use in the transportation of no more than 10 individuals.

(6) "Model Year" means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year. If a manufacturer has no annual production period, the term "model year" means the calendar year.

(7) "Federal Emission Test Procedure" refers to the dynamometer driving schedule, dynamometer procedure, and sampling and analytical procedures described in Part 86 for the respective model year, which are used to derive city fuel economy data.

(8) "Federal Highway Fuel Economy Test Procedure" refers to the dynamometer driving schedule, dynamometer procedure, and sampling and analytical procedures described in Subpart B of this part and which are used to derive highway fuel economy data.

(9) "Fuel" means gasoline and diesel fuel.

(10) "Fuel Economy" means the average number of miles traveled by an automobile or group of automobiles per gallon of gasoline or diesel fuel consumed as computed in § 600.113 or § 600.207.

(11) "City Fuel Economy" means the fuel economy determined by operating a vehicle (or vehicles) over the driving schedule in the Federal Emission Test Procedure.

(12) "Highway Fuel Economy" means the fuel economy determined by operating a vehicle (or vehicles) over the driving schedule in the Federal Highway Fuel Economy Test Procedure.

(13) "Combined Fuel Economy" means the fuel economy value determined for a vehicle (or vehicles) by harmonically averaging the city and highway fuel economy values, weighted 0.55 and 0.45 respectively.

(14) "Average Fuel Economy" means the production-weighted combined fuel economy value of all passenger automobiles produced by a manufacturer in a single model year as computed in § 600.510.

(15) "Certification Vehicle" means a vehicle which is selected under § 86.077–24(b)(1) and used to determine compliance under § 86.007–30 for issuance of an original certificate of conformity.

(16) "Fuel Economy Data Vehicle" means a vehicle used for the purpose of determining fuel economy which is not a certification vehicle.

(17) "Label" means a sticker that contains fuel economy information and is affixed to new automobiles in accordance with Subpart D of this part.

(18) "Dealer" means a person who resides or is located in the United States, any territory of the United States or the District of Columbia and who is engaged in the sale or distribution of new automobiles to the utimate purchaser.

(19) "Model Type" means a unique combination of car line, basic engine, and transmission class.

(20) "Car Line" means a name denoting a group of vehicles within a make or car division which has a degree of commonality in construction (e.g., body, chassis). Car line does not consider any level of decor or opulence and is not generally distinguished by characteristics as roof line, number of doors, seats or windows except for station wagons or light-duty trucks. Station wagons and light-duty trucks are considered to be different car lines than passengers cars.

(21) "Basic Engine" means a unique combination of manufacturer, engine displacement, number of cylinders, fuel system (as distinguished by number of carburetor barrels or use of fuel injection), catalyst usage, and other engine and emission control system characteristics specified by the Administrator.

(22) "Transmission Class" means the basic type of transmission, e.g., manual, automatic or semi-automatic.

(23) "Base Level" means a unique combination of basic engine, inertia weight, and transmission class.

(24) "Vehicle Configuration" means a unique combination of basic engine, engine code, inertia weight, transmission configuration, and axle ratio within a base level.

(25) "Engine Code" means a unique combination, within an engine-system combination (as defined in Part 86), of displacement, carburetor (or fuel injection) calibration, distributor calibration, choke calibration, auxiliary emission control devices and other engine and emission control system components specified by the Administrator.

(26) "Inertia Weight Class" means the class, which is a group of test weights, into which a vehicle is grouped based on its loaded vehicle weight in accordance with the provisions of Part 86.

(27) "Transmission Configuration" means a unique combination, within a transmission class, of the number of forward gears, and, if applicable, overdrive. The Administrator may further subdivide a transmission configuration (based on such criteria as gear ratios, torque converter multiplication ratio, stall speed, shift calibration, etc.) if he determines that significant fuel economy differences exist within that transmission configuration.

(28) "Axle Ratio" means the number of times the input shaft to the differential (or equivalent) turns for each turn of the drive wheels.

(29) "Auxiliary Emission Control Devices (AECD)" means an element of design as defined in Part 86.

(30) "Rounded" means a number shortened to the specific number of decimal places in accordance with the "Round Off Method" specified in ASTM E 29–67.

(31) "Calibration" means the set of specifications, including tolerances, unique to a particular design, version or application of a component or component assembly capable of functionally describing its operation over its working range.

(32) "Production Volume" means, for a domestic manufacturer, the number of vehicle units domestically produced in a particular model year but not exported, and for a foreign manufacturer, means the number of vehicle units of a particular model imported into the United States.

(33) "Body Style" means a level of commonality in vehicle configurations as defined by number of doors and roof treatment (e.g., sedan, convertible, fastback, hatchback) and number of seats (i.e. front seat, second, or third seat) requiring seat belts pursuant to National Highway Traffic Safety Administration

safety regulations. Station wagons and light trucks are identified as car lines.

(34) "Hatchback" means a passenger automobile where the conventional luggage compartment, i.e., trunk, is replaced by a cargo area which is open to the passenger compartment and accessed vertically by a rear door which encompasses the rear window.

(35) "Pickup Truck" means a nonpassenger automobile which has a passenger compartment and an open cargo bed.

(36) "Station Wagon" means a passenger automobile with an extended roof line to increase cargo or passenger capacity, cargo compartment open to the passenger compartment, a tailgate and one or more rear seats readily removed or folded to facilitate cargo carrying.

(37) "Gross Vehicle Weight Rating" means the manufacturer's gross weight rating for the individual vehicle.

(38) "Ultimate Consumer" means the first person who purchases an automobile for purposes other than resale, or leases an automobile.

(39) through (42) [Reserved]

(43) "Test Weight" means the weight, within an inertia weight class, which is used in the dynamometer testing of a vehicle, and which is based on its loaded vehicle weight in accordance with the provisions of Part 86.

22. By revising paragraphs (b)(1) and (f) of § 600.007–77 to read as follows:

§ 600.007–77 Vehicle acceptability.

• • • • • •

(b) • • •

(1) A fuel economy data vehicle may have accumulated not more than 10,000 miles. A vehicle will be considered to have met this requirement if the engine and drivetrain have accumulated 10,000 or fewer miles. The components installed for a fuel economy test are not required to be the ones with which the mileage was accumulated, e.g., axles, transmission types, and tire sizes may be changed. Engine components may be changed only with the advance approval of the Administrator.

• • • • • •

(f) All vehicles used to generate fuel economy data must be covered by a certificate of conformity under Part 86 before:

(1) The data may be used in the calculation of any approved general or specific label value, or

(2) The data will be used in any calculations under Subpart F.

23. By adding a new § 600.007–80 to read as follows:

§ 600.007–80 Vehicle acceptability.

(a) All certification vehicles and other vehicles tested to meet the requirements of Part 86 (other than those chosen per § 86.077–24(c)) are considered to have met the requirements of this section.

(b) Any vehicle not meeting the provisions of paragraph (a) must be judged acceptable by the Administrator under this section in order for the test results to be reviewed for use in Subpart C or F of this part. The Administrator will judge the acceptability of a fuel economy data vehicle on the basis of the information supplied by the manufacturer under § 600.006(b). The criteria to be met are:

(1) A fuel economy data vehicle may have accumulated not more than 10,000 miles. A vehicle will be considered to have met this requirement if the engine and drivetrain have accumulated 10,000 or fewer miles. The components installed for a fuel economy test are not required to be the ones with which the mileage was accumulated, e.g., axles, transmission types, and tire sizes may be changed. Engine components may be changed only with the advance approval of the Administrator.

(2) A vehicle may be tested in different vehicle configurations by change of vehicle components, as specified in paragraph (b)(1), or by testing in different inertia weight classes. Also, a single vehicle may be tested under different test conditions, i.e., test weight and/or road load horsepower, to generate fuel economy data representing various situations within a vehicle configuration. For purposes of this part, data generated by a single vehicle tested in various configurations and under various test conditions will be treated as if the data were generated by the testing of multiple vehicles.

(3) The mileage on a fuel economy data vehicle must be, to the extent possible, accumulated according to § 86.077–26(a)(2).

(4) Each fuel economy data vehicle must meet the same exhaust emission standards as certification vehicles of the respective engine-system combination during the test in which the city fuel economy test results are generated. The deterioration factors established for the respective engine-system combination per § 86.077–28 will be used.

(5) The calibration information submitted under § 600.006(b) must be representative of the vehicle configuration for which the fuel economy data were submitted.

(c) If, based on review of the information submitted under § 600.006(b), the Administrator determines that a fuel economy data vehicle meets the requirements of this section, the fuel economy data vehicle will be judged to be acceptable and fuel economy data from that fuel economy data vehicle will be reviewed pursuant to § 600.008.

(d) If, based-on the review of the information submitted under § 600.006(b), the Administrator determines that a fuel economy data vehicle does not meet the requirements of this section, the Administrator will reject that fuel economy data vehicle and inform the manufacturer of the rejection in writing.

(e) If, based on a review of the emission data for a fuel economy data vehicle, submitted under § 600.006(b), or emission data generated by a vehicle tested under § 600.008(e), the Administrator finds an indication of non-compliance with Section 202 of the Clean Air Act, 42 U.S.C. Section 1857 et seq. of the regulation thereunder, he may take such investigative actions as are appropriate to determine to what extent emission non-compliance actually exists.

(1) The Administrator may, under the provisions of § 86.077–37(a) request the manufacturer to submit production vehicles of the configuration(s) specified by the Administrator for testing to determine to what extent emission non-compliance of a production vehicle configuration or of a group of production vehicle configurations may actually exist.

(2) If the Administrator determines, as a result of his investigation, that substantial emission non-compliance is exhibited by a production vehicle configuration or group of production vehicle configurations, he may proceed with respect to the vehicle configuration(s) as provided under section 206(b)(2) or section 207(c)(1), as applicable of the Clean Air Act, 42 U.S.C. section 1857 et seq.

(f) All vehicles used to generate fuel economy data must be covered by a certificate of conformity under Part 86 before:

(1) The data may be used in the calculation of any approved general or specific label value, or

(2) The data will be used in any calculations under Subpart F.

24. By adding a new Subpart B reading as follows:

Subpart B—Fuel Economy Regulations for 1978 and Later Model Year Automobiles—Test Procedures

§ 600.101–78 General applicability.

The provisions of this subpart are applicable to 1978 and later model year automobiles.

§ 600.102–78 Definitions.

The definitions in § 600.002 apply to this subpart.

§ 600.103–78 Abbreviations.

The abbreviations in § 600.003 apply to this subpart.

§ 600.104–78 Section numbering, construction.

The section numbering system set forth in § 600.004 applies to this subpart.

§ 600.105–78 Record keeping.

The record keeping requirements set forth in § 600.005 apply to this subpart.

§ 600.106–78 Equipment requirements.

The requirements for test equipment to be used for all fuel economy testing are given in §§ 86.106, 86.107, 86.108, 86.109, and 86.111 of this chapter, as applicable.

§ 600.107–78 Fuel specifications.

(a) The test fuel specifications for gasoline-fueled automobiles are given in paragraph (a)(1) of § 86.113 of this chapter.

(b) The test fuel specifications for diesel automobiles are given in para-

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graphs (b) (1) and (2) of § 86.113 of this chapter.

§ 600.108–78 Analytical gases.

The analytical gases for all fuel economy testing must meet the criteria given in § 86.114 of this chapter.

§ 600.109–78 EPA driving cycles.

(a) The driving cycle to be utilized for generation of the city fuel economy data is prescribed in § 86.115 of this chapter.

(b) The driving cycle to be utilized for generation of the highway fuel economy data is specified in this paragraph.

(1) The Highway Fuel Economy Driving Schedule is set forth in Appendix I to this Part. The driving schedule is defined by a smooth trace drawn through the specified speed versus time relationships.

(2) The speed tolerance at any given time on the dynamometer driving schedule specified in Appendix I, or as printed on a driver's aid chart approved by the Administrator, when conducted to meet the requirements of paragraph (b) of § 600.111 is defined by upper and lower limits. The upper limit is 2 mph higher than the highest point on trace within 1 second of the given time. The lower limit is 2 mph lower than the lowest point on the trace within 1 second of the given time. Speed variations greater than the tolerances (such as may occur during gear changes) are acceptable provided they occur for less than 2 seconds on any occasion. Speeds lower than those prescribed are acceptable provided the vehicle is operated at a maximum available power during such occurrences.

(3) A graphic representation of the range of acceptable speed tolerances is found in paragraph (c) of § 86.115 of this chapter.

§ 600.110–78 Equipment calibration.

The equipment used for fuel economy testing must be calibrated according to the provisions of § 86.116 of this chapter.

§ 600.111–78 Test procedures.

(a) The test procedures to be followed for generation of the city fuel economy data are those prescribed in §§ 86.127 through 86.138 of this chapter, as applicable. (The evaporative loss portion of the test procedure may be omitted unless specifically required by the Administrator.)

(b) The test procedures to be followed for generation of the highway fuel economy data are those specified in § 600.111–78 (b) through (h) inclusive.

(1) The Highway Fuel Economy Dynamometer Procedure consists of a preconditioning highway driving sequence and a measured highway driving sequence.

(2) The highway fuel economy test is designated to simulate non-metropolitan driving with an average speed of 48.6 mph and a maximum speed of 60 mph. The cycle is 10.2 miles long with 0.2 stops per mile and consists of warmed-up vehicle operation on a chassis dynamometer through a specified driving cycle. A proportional part of the diluted exhaust emissions is collected continuously for subsequent analysis using a constant volume (variable dilution) sampler. Diesel dilute exhaust is continuously analyzed for hydrocarbons using a heated sample line and analyzer.

(3) Except in cases of component malfunction or failure, all emission control systems installed on or incorporated in a new motor vehicle must be functioning during all procedures in this subpart. The Administrator may authorize maintenance to correct component malfunction or failure.

(c) Transmissions—The provisions of § 86.128 of this chapter apply for vehicle transmission operation during highway fuel economy testing under this subpart.

(d) Road load power and inertia weight determination—§ 86.129 of this chapter applies for determination of road load power and inertia weight for Highway Fuel Economy Dynamometer

(e) Vehicle preconditioning—The Highway Fuel Economy Dynamometer Procedure is designed to be performed immediately following the Federal Emission Test Procedure, §§ 86.127 through 86.138 of this chapter. When conditions allow, the tests should be scheduled in this sequence. In the event the tests cannot be scheduled within three hours of the Federal Emission Test Procedure (including one hour hot soak evaporation loss test, if applicable) the vehicle should be preconditioned as in paragraph (e) (1) or (2) of this section, as applicable.

(1) If the vehicle has experienced more than three hours of soak (68° F–86° F) since the completion of the Federal Emission Test Procedure, or has experienced periods of storage outdoors, or in environments where soak temperature is not controlled to 68° F,–86° F the vehicle must be preconditioned by operation on a dynamometer through one cycle of the EPA Urban Dynamometer Driving Schedule, § 86.115 of this chapter;

(2) In unusual circumstances where additional preconditioning is desired by the manufacturer, the provisions of paragraph (a)(3) of § 86.132 of this chapter apply.

(f) Highway Fuel Economy Dynamometer Procedure—

(1) The dynamometer procedure consists of two cycles of the Highway Fuel Economy Driving Schedule (§ 600.109 (b)) separated by 15 seconds of idle. The first cycle of the Highway Fuel Economy Driving Schedule is driven to precondition the test vehicle and the second is driven for the fuel economy measurement.

(2) The provisions of paragraphs (b), (c), (e), (f), (g), and (h) of § 86.135 *Dynamometer proccdure* of this chapter, apply for highway fuel economy testing.

(3) Only one exhaust sample and one background sample are collected and analyzed for hydrocarbons (except diesel hydrocarbons which are analyzed continuously), carbon monoxide, and carbon dioxide.

(4) The fuel economy measurement cycle of the test includes two seconds of idle indexed at the beginning of the second cycle and two seconds of idle indexed at the end of the second cycle.

(g) Engine starting and restarting—

(1) If the engine is not running at the initiation of the highway fuel economy test (preconditioning cycle), the start-up procedure must be according to the manufacturer's recommended procedures.

(2) False starts and stalls during the preconditioning cycle must be treated as in paragraphs (d) and (e) of § 86.136 of this chapter. If the vehicle stalls during the measurement cycle of the highway fuel economy test, the test is voided, corrective action may be taken according to § 86.077–25 of this chapter, and the vehicle may be rescheduled for test. The person taking the corrective action shall report the action so that the test records for the vehicle contain a record of the action.

(h) Dynamometer Test Run—The following steps must be taken for each test:

(1) Place the drive wheels of the vehicle on the dynamometer. The vehicle may be driven onto the dynamometer.

(2) Open the vehicle engine compartment cover and positon the cooling fan(s) required. Manufacturers may request the use of additional cooling fans for additional engine compartment or under-vehicle cooling and for controlling high tire or brake temperatures during dynamometer operation.

(3) Preparation of the CVS must be performed before the measurement highway driving cycle.

(4) Equipment preparation—The provisions of paragraphs (b) (3) through (5) inclusive of § 86.137 of this chapter apply for highway fuel economy test except that only one exhaust sample collection bag and one dilution air sample collection bag need be connected to the sample collection systems.

(5) Operate the vehicle over one Highway Fuel Economy Driving Schedule cycle according to the dynamometer driving schedule specified in paragraph (b) of § 600.109.

(6) When the vehicle reaches zero speed at the end of the preconditioning cycle, the driver has 13 seconds to prepare for the emission measurement cycle of the test. Reset and enable the roll revolution counter.

(7) Operate the vehicle over one Highway Fuel Economy Driving Schedule cycle according to the dynamometer driving schedule specified in paragraph (b) of § 600.109 while sampling the exhaust gas.

(8) Sampling must begin two seconds before beginning the first acceleration of the fuel economy measurement cycle and must end two seconds after the end of the deceleration to zero. At the end of the deceleration to zero speed, the roll or shaft revolutions must be recorded.

§ 600.111–80 Test procedures.

(a) The test procedures to be followed for generation of the city fuel economy data are those prescribed in §§ 86.127 through 86.138 of this chapter, as applicable. (The evaporative loss portion of the test procedure may be omitted unless specifically required by the Administrator.)

(b) The test procedures to be followed for generation of the highway fuel economy data are those specified in § 600.111–78 (b) through (h) inclusive.

(1) The Highway Fuel Economy Dynamometer Procedure consists of a preconditioning highway driving sequence and a measured highway driving sequence.

(2) The highway fuel economy test is designated to simulate non-metropolitan driving with an average speed of 48.6 mph and a maximum speed of 60 mph. The cycle is 10.2 miles long with 0.2 stops per mile and consists of warmed-up vehicle operation on a chassis dynamometer through a specified driving cycle. A proportional part of the diluted exhaust emissions is collected continuously for subsequent analysis using a constant volume (variable dilution) sampler. Diesel dilute exhaust is continuously analyzed for hydrocarbons using a heated sample line and analyzer.

(3) Except in cases of component malfunction or failure, all emission control systems installed on or incorporated in a new motor vehicle must be functioning during all procedures in this subpart. The Administrator may authorize maintenance to correct component malfunction or failure.

(c) Transmission—The provisions of § 86.128 of this chapter apply for vehicle transmission operation during highway fuel economy testing under this subpart.

(d) Road load power and test weight determination—§ 86.129 of this chapter applies for determination of road load power and test weight for highway fuel economy testing. The test weight for the testing of a certification vehicle will be that test weight specified by the Administrator under the provisions of Part 86. The test weight for a fuel economy data vehicle will be that test weight specified by the Administrator from the test weights covered by that vehicle configuration. The Administrator will base his selection of a test weight on the relative projected sales volumes of the various test weights within the vehicle configuration.

(e) Vehicle preconditioning—The Highway Fuel Economy Dynamometer Procedure is designed to be performed immediately following the Federal Emission Test Procedure, §§ 86.127 through 86.138 of this chapter. When conditions allow, the tests should be scheduled in this sequence. In the event the tests cannot be scheduled within three hours of the Federal Emission Test Procedure (including one hour hot soak evaporation loss test, if applicable) the vehicle should be preconditioned as in paragraph (e) (1) or (2) of this section, as applicable.

(1) If the vehicle has experienced more than three hours of soak (68°F–86° F) since the completion of the Federal Emission Test Procedure, or has experienced periods of storage outdoors, or in environments where soak temperature is not controlled to 68° F–86° F, the vehicle must be preconditioned by operation on a dynamometer through one cycle of the EPA Urban Dynamometer Driving Schedule, § 86.115 of this chapter.

(2) In unusual circumstances where additional preconditioning is desired by the manufacturer, the provisions of paragraph (a) (3) of § 86.132 of this chapter apply.

(f) Highway Fuel Economy Dynamometer Procedure—

(1) The dynamometer procedure consists of two cycles of the Highway Fuel Economy Driving Schedule (§ 600.109 (b)) separated by 15 seconds of idle. The first cycle of the Highway Fuel Economy Driving Schedulr is driven to precondition the test vehicle and the second is driven for the fuel economy measurement.

(2) The provisions of paragraphs (b), (c), (e), (f), (g), and (h) of § 86.135 *Dynamometer procedure* of this chapter, apply for highway fuel economy testing.

(3) Only one exhaust sample and one background sample are collected and analyzed for hydrocarbons (except diesel hydrocarbons which are analyzed continuously), carbon monoxide, and carbon dioxide.

(4) The fuel economy measurement cycle of the test includes two seconds of idle indexed at the beginning of the second cycle and two seconds of idle indexed at the end of the second cycle.

(g) Engine starting and restarting—

(1) If the engine is not running at the initiation of the highway fuel economy test (preconditioning cycle), the start-up procedure must be according to the manufacturer's recommended procedures.

(2) False starts and stalls during the preconditioning cycle must be treated as in paragraphs (d) and (e) of § 86.136 of this chapter. If the vehicle stalls during the measurement cycle of the highway fuel economy test, the test is voided, corrective action may be taken according to § 86.077–25 of this chapter, and the vehicle may be rescheduled for test. The person taking the corrective action shall report the action so that the test records for the vehicle contain a record of the action.

(h) Dynamometer Test Run—The following steps must be taken for each test:

(1) Place the drive wheels of the vehicle on the dynamometer. The vehicle may be driven onto the dynamometer.

(2) Open the vehicle engine compartment cover and position the cooling fan(s) required. Manufacturers may request the use of additional cooling fans for additional engine compartment or under-vehicle cooling and for controlling high tire or brake temperatures during dynamometer operation.

(3) Preparation of the CVS must be performed before the measurement highway driving cycle.

(4) Equipment preparation—The provisions of paragraphs (b) (3) through (5) inclusive of § 86.137 of this chapter apply for highway fuel economy test except that only one exhaust sample collection bag and one dilution air sample collection bag need be connected to the sample collection systems.

(5) Operate the vehicle over one Highway Fuel Economy Driving Schedule cycle according to the dynamometer driving schedule specified in paragraph (b) of § 600.109.

(6) When the vehicle reaches zero speed at the end of the preconditioning cycle, the driver has 13 seconds to prepare for the emission measurement cycle of the test. Reset and enable the roll revolution counter.

(7) Operate the vehicle over one Highway Fuel Economy Driving Schedule cycle according to the dynamometer driving schedule specified in paragraph (b) of § 600.109 while sampling the exhaust gas.

(8) Sampling must begin two seconds before beginning the first acceleration of the fuel economy measurement cycle and must end two seconds after the end of the deceleration to zero. At the end of the deceleration to zero speed, the roll or shaft revolutions must be recorded.

§ 600.112–78 Exhaust sample analysis.

The exhaust sample analysis must be performed according to § 86.140 of this chapter.

§ 600.113–78 Fuel economy calculations.

The calculations of vehicle fuel economy values require the weighted grams/mile values for HC, CO, and CO_2 for the city fuel economy test and the grams/mile values for HC, CO, and CO_2 for the highway fuel economy test. The city and highway fuel economy values must be calculated by the procedures of this section. A sample calculation appears in Appendix II to this Part.

(a) Calculate the weighted grams/mile values for the city fuel economy test for HC, CO, and CO_2 as specified in § 86.144 of this chapter.

(b)(1) Calculate the mass values for the highway fuel economy test for HC, CO, and CO_2 as specified in paragraph (b) of § 86.144 of this chapter.

(2) Calculate the grams/mile values for the highway test for HC, CO, and CO_2 by dividing the mass values obtained in (b)(1) by the actual distance traveled, measured in miles, as specified in paragraph (h) of § 86.135 of this chapter.

(c) Calculate the city fuel economy and highway fuel economy from grams/mile values for HC, CO, and CO_2. The HC values (obtained per paragraph (a) or (b) as applicable) used in each calculation in this section are rounded to the nearest 0.01 grams/mile. The CO values (obtained per paragraph (a) or (b) as applicable) used in each calculation in this section are rounded to the nearest 0.1 grams/mile. The CO_2 values (obtained per paragraph (a) or (b) of this section as applicable) used in each calculation in this section are rounded to the nearest gram/mile.

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(d) For gasoline-fueled automobiles, calculate the fuel economy in miles per gallon of gasoline by dividing 2421 by the sum of three terms:

(1) 0.866 multiplied by HC (in grams/mile as obtained in paragraph (c)),

(2) 0.429 multiplied by CO (in grams/mile as obtained in paragraph (c)), and

(3) 0.273 multiplied by CO_2 (in grams/mile as obtained in paragraph(c)).

Round to quotient to the nearest 0.1 mile per gallon.

(e) For diesel powered automobiles, calculate the fuel economy in miles per gallon of diesel fuel by dividing 2778 by the sum of three terms:

(1) 0.866 multiplied by HC (in grams/mile as obtained in paragraph (c) of this section),

(2) 0.429 multiplied by CO (in grams/mile as obtained in paragraph (c)), and

(3) 0.273 multiplied by CO_2 (in grams/mile as obtained in paragraph (c)).

Round the quotient to the nearest 0.1 mile per gallon.

25. By revising paragraphs (c)(1) (i), (ii), and (iii) of § 600.206-77 to read as follows:

§ 600.206-77 Calculation and use of fuel economy values for a vehicle configuration.

• • • • • •

(c) • • •

(1) • • •

(i) The annual fuel cost per gallon (as obtained by the Administrator from the FEA Administrator), expressed in dollars to the nearest 0.05 dollar, by

(ii) Average annual mileage (as obtained by the Administrator from the Secretary), expressed in miles per year to the nearest 1,000 miles per year, by

(iii) The inverse, rounded to the nearest 0.0001 gallons per mile, of the combined fuel economy value for a vehicle configuration (expressed in miles per gallon rounded to the nearest whole mile per gallon).

• • • • •

26. By adding a new § 600.206-79 to read as follows:

§ 600.206-79 Calculation and use of fuel economy values for a vehicle configuration.

(a) Fuel economy values determined for each vehicle and as approved in § 600.008 (b) or (f) are used to determine city, highway, and combined fuel economy values for each vehicle configuration (as determined by the Administrator) for which data are available.

(1) If only one city fuel economy and one highway fuel economy value exist for a vehicle configuration, those values, rounded to the nearest tenth of a mile per gallon, comprise the city fuel economy value and highway fuel economy value for that configuration.

(2) If more than one city and one highway fuel economy value exist for a vehicle configuration:

(i) All data shall be grouped according to the road load horsepower setting at which the data were generated.

(ii) Within each group of data, all values are harmonically averaged and rounded to the nearest 0.0001 of a mile per gallon for the city fuel economy values, and harmonically averaged and rounded to the nearest 0.0001 mile per gallon for the highway values, in order to determine a city and a highway fuel economy value for each road load horsepower setting at which the vehicle configuration was tested.

(iii) All city fuel economy values and all highway fuel economy values calculated in (ii) are (separately for city and highway) harmonically averaged in proportion to the relative sales within the vehicle configuration (as provided to the Administrator by the manufacturer) of vehicles of each tested road load horsepower setting. The resultant values, rounded to the nearest 0.0001 mile per gallon, are the city and highway fuel economy values for the vehicle configuration.

(3) The combined fuel economy value for a vehicle configuration is calculated by harmonically averaging the city and highway fuel economy values, as determined in § 600.206(a) (1) and (2), weighted 0.55 and 0.45, respectively, and rounding to 0.0001 of a mile per gallon. A sample of this calculation appears in Appendix II to this Part.

(b) The city, highway, and combined fuel economy values determined for the vehicle configuration according to paragraph (a) and rounded to the nearest whole mile per gallon comprise the fuel economy values that appear on specific labels as described in § 600.309

(c) The annual fuel cost estimate for operating an automobile included in a vehicle configuration will be computed by the Administrator by using values for the fuel cost per gallon and avarage annual mileage and the combined fuel economy determined in (a)(3).

(1) The annual fuel cost estimate for a vehicle configuration is computed by multiplying

(i) Fuel cost per gallon (as obtained by the Administrator from the FEA Administrator), expressed in dollars to the nearest 0.05 dollar, by

(ii) Average annual mileage (as obtained by the Administrator from the Secretary), expressed in miles per year to the nearest 1,000 miles per year, by

(iii) The inverse, rounded to the nearest 0.0001 gallons per mile, of the combined fuel economy for a vehicle configuration (expressed in miles per gallon rounded to the nearest whole mile per gallon).

(2) The product computed in (c)(1) and rounded to the nearest dollars per year will comprise the annual fuel cost estimate that appears on specific labels for that vehicle configuration.

27. By adding a new § 600.206-80 identical to § 600.206-79 except that paragraph (a)(2) reads as follows:

§ 600.206-80 Calculation and use of fuel economy values for a vehicle configuration.

(a) • • •

(2) If more than one city and one highway fuel economy value exist for a vehicle configuration:

(i) All data shall be grouped according to each unique road load horsepower setting/test weight combination at which the data was generated.

(ii) Within each group of data, all values are harmonically averaged and rounded to the nearest 0.0001 of a mile per gallon for the city fuel economy values, and harmonically averaged and rounded to the nearest 0.0001 mile per gallon for the highway values, in order to determine a city and a highway fuel economy value for each road load horsepower setting/test weight at which the vehicle configuration was tested.

(iii) All city fuel economy values and all highway fuel economy values calculated in (ii) are (separately for city and highway) harmonically averaged in proportion to the relative sales within the vehicle configuration (as provided to the Administrator by the manufacturer) of vehicles of each tested road load horsepower setting/test weight combination. The resultant values, rounded to the nearest 0.0001 mile per gallon, are the city and highway fuel economy values for the vehicle configuration.

• • • • •

28. By revising paragraphs (d)(1) (i), (ii), and (iii) of § 600.207-77 to read as follows:

§ 600.207-77 Calculation and use of fuel economy values for a model type.

• • • • • •

(d) • • •

(1) • • •

(i) Fuel cost per gallon expressed in dollars to the nearest 0.05 dollar, by

(ii) Average annual mileage, expressed in miles per year to the nearest 1,000 miles per year, by

(iii) The inverse, rounded to the nearest 0.0001 gallons per mile, of the combined fuel economy value for a model type (expressed in miles per gallon rounded to the nearest whole mile per gallon).

• • • • •

29. By adding a new § 600.207-78 to read as follows:

§ 600.207-78 Calculation and use of fuel economy values for a model type.

(a) Fuel economy values for a base level are calculated from vehicle configuration fuel economy values as determined in § 600.206(a) for low altitude tests.

(1) If the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other states, he will calculate fuel economy values for each base level for vehicles intended for sale in California and for each base level for vehicles intended for sale in the rest of the states.

(2) The manufacturer shall supply model year sales projections for each vehicle configuration within each car line to the Administrator.

(i) Sales projections must be supplied separately for each vehicle configuration intended for sale in California and each configuration intended for sale in the rest of the states if required by the Administrator under paragraph (a)(1) of this section.

(ii) The sales projections must be updated as of the date a manufacturer requests that fuel economy calculations for a model type be made by the Administrator.

(iii) The requirements of this section may be satisfied by providing an amended application for certification, as described in § 86.007-21 of this chapter.

(3) Vehicle configuration fuel economy values, as determined in § 600.206(a), are grouped according to base level.

(i) If only one vehicle configuration within a base level has been tested, the fuel economy value from that vehicle configuration constitutes the fuel economy for that base level.

(ii) If more than one vehicle configuration within a base level have been tested, the vehicle configuration fuel economy values are harmonically averaged in proportion to the respective projected sales fraction (rounded to the nearest 0.0001) of each vehicle configuration and the resultant fuel economy value rounded to the nearest 0.0001 of a mile per gallon.

(iii) If the Administrator has not accepted fuel economy data derived from the testing of a certification vehicle (or a vehicle tested for running changes approved under § 86.078-23) for at least one vehicle configuration within each base level, the manufacturer shall submit (on or before the date that the manufacturer requests the Administrator to calculate the respective general label values) data as specified in § 600.006. The fuel economy data submitted shall be for the vehicle configuration with the largest projected sales within the respective base level.

(4) The procedure specified in § 600.207(a) will be repeated for each base level, thus establishing city, highway, and combined fuel economy values for each base level.

(5) For the purposes of calculating a base level fuel economy value, if the only vehicle configuration(s) within the base level are vehicle configuration(s) which are intended for sale at high altitude, the Administrator may use fuel economy data from tests conducted on these vehicle configuration(s) at high altitude to calculate the fuel economy for the base level.

(b) For each model type, as determined by the Administrator, a city, highway, and combined fuel economy value will be calculated by using the projected sales and fuel economy values for each base level within the model type.

(1) If the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other states, he will calculate fuel economy values for each model type separately for vehicles intended for sale in California and for those intended for sale in the rest of the states.

(2) The sales fraction for each base level is calculated by dividing the projected sales of the base level within the model type by the projected sales of the model type and rounding the quotient to the nearest 0.0001.

(3) The city fuel economy values of the model type (calculated to the nearest 0.0001 mpg) are determined by dividing one by a sum of terms, each of which corresponds to a base level and which is a fraction determined by dividing

(i) The sales fraction of the base level, by

(ii) The city fuel economy value for the respective base level.

(4) The procedure specified in paragraph (b)(3) of this section is repeated in an analogous manner to determine the highway and combined fuel economy values for the model type.

(c) The city, highway, and combined fuel economy values as calculated in § 600.207(b) and rounded to the nearest whole mile per gallon are the fuel economy values used on general labels for that model type.

(d) The annual fuel cost estimate for operating an automobile included in a model type will be computed by the Administrator by using values for the fuel cost per gallon and average annual mileage, predetermined by the Administrator, and the combined fuel economy determined in (b).

(1) The annual fuel cost estimate for a model type is computed by multiplying

(i) Fuel cost per gallon expressed in dollars to the nearest 0.05 dollar, by

(ii) Average annual mileage, expressed in miles per year to the nearest 1,000 miles per year, by

(iii) The inverse, rounded to the nearest 0.0001 gallons per mile, of the combined fuel economy value for a model type (expressed in miles per gallon rounded to the nearest whole mile per gallon).

(2) The product computed in (d)(1) and rounded to the nearest dollar per year will comprise the annual fuel cost estimate that appears on general labels for that model type.

30. By adding a new § 600.207-79 identical to § 600.207-78 except paragraph (a)(3)(iii) reads as follows:

§ 600.207-79 Calculation and use of fuel economy values for a model type.

(a) • • •

(3) • • •

(iii) If the Administrator has not accepted fuel economy data derived from the testing of a certification vehicle (or a vehicle tested for running changes approved under § 86.078-23) for at least one vehicle configuration within each base level, the manufacturer shall submit (on or before the date that the manufacturer requests the Administrator to calculate the respective general label values) data as specified in § 600.006. The fuel economy data submitted shall be for the vehicle configuration with the largest projected sales within the respective base level. The vehicle tested will be tested at the road load horsepower with the highest projected sales within the vehicle configuration.

• • • • •

31. By adding a new § 600.207-80 identical to § 600.207-78 except paragraph (a)(3)(iii) reads as follows:

§ 600.207-80 Calculation and use of fuel economy values for a model type.

(a) • • •

(3) • • •

(iii) If the Administrator has not accepted fuel economy data derived from the testing of a certification vehicle (or a vehicle tested for running changes approved under § 86.078-23) for at least one vehicle configuration within each base level, the manufacturer shall submit (on or before the date that the manufacturer requests the Administrator to calculate the respective general label values) data as specified in § 600.006. The fuel economy data submitted shall be for the vehicle configuration with the largest projected sales within the respective base level. The vehicle will be tested at the road load horsepower/test weight combination which has the largest projected sales within the vehicle configuration.

• • • • •

32. By adding a new § 600.309-80 to read as follows:

§ 600.309-80 Specific label contents.

The specific fuel economy label must contain the following:

(a) The information and statements as described in § 600.307(a) through (k);

(b) A statement that the fuel economy estimates are from tests of this specific vehicle configuration and might not be in the booklet described in Subpart E.

(c) A description of the applicable vehicle specifying:

(1) Car line,

(2) Engine displacement,

(3) Number of cylinders,

(4) Transmission class and number of forward speeds,

(5) Fuel metering system, including number of carburetor barrels, if applicable,

(6) Catalyst usage, if so equipped,

(7) Other engine or vehicle parameters, if approved by the Administrator,

(8) Inertia eight class,

(9) Axle ratio, and

(10) California emission control system usage, where applicable, if the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other States.

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(d) Specific label fuel economy values and estimated fuel cost for that vehicle as determined according to § 600.206.

(e) The estimated range of fuel economy of comparable automobiles and effective date of the range except as provided in § 600.306(b)(1). This range is determined by the Administrator according to § 600.311 for each class of vehicles as described in § 600.315.

33. By adding a new § 600.313–78 to read as follows:

§ 600.313–78 Timetable for data and information submittal and review.

(a) The Administrator will notify the manufacturer of the classification of each of the manufacturer's car lines after the manufacturer makes a request for such determination.

(b) Each fuel economy label format which the manufacturer intends to use must be approved by the Administrator before the manufacturer requests the Administrator to determine fuel economy values for use on that type of label. For example, a California general label format must be approved by the Administrator before the manufacturer requests California general label fuel economy values.

(c) If a manufacturer requests and submits sufficient information, the Administrator will determine, according to Subpart C, general label or specific label fuel economy values based upon information submitted by the manufacturer.

(1) A manufacturer must submit sufficient information to determine general label fuel economy values within the following time constraints:

(i) For model types initially offered for sale on or before the date of the availability of the initial range of fuel economy values of comparable automobiles, the submission must be made prior to the date established by the Administrator.

(ii) For model types initially offered for sale after the date of the availability of the initial range of fuel economy values of comparable automobiles, the submission must be made no later than thirty calendar days before the date that the model is initially offered for sale.

(2) As of the date of the request, the manufacturer may not submit additional information pertaining to this request except as required by the Administrator.

(3) After receipt of a manufacturer's request for computation of label values, the Administrator will review, according to § 600.008, the fuel economy submission received from the manufacturer and notify the manufacturer of approval or request further data, information, or vehicles in accordance with the approval procedure specified in Subpart A.

(4) After receipt of a manufacturer's data, information, or vehicles in response to paragraph (c)(3), the Administrator will conduct any testing and complete data review required under subparagraph (3), and notify the manufacturer of the results of this testing and review.

(5) After completion of any testing or review of the data which satisfy the requirements of paragraph (c)(3), the Administrator will provide the manufacturer with general label and/or specific label (as requested under this paragraph) fuel economy values, annual fuel cost estimates, and a range of fuel economy of comparable automobiles (when a range is available) as calculated from approved data. After receipt of approved fuel economy label values, the manufacturer may use these data in the labeling of his automobiles.

(6) The manufacturer should submit any request for approval of data under this section at least 25 working days before he desires the Administrator's response. This should allow the Administrator sufficient time to conduct any additional testing required.

34. By adding a new Subpart F reading as follows:

Subpart F—Fuel Economy Regulations for 1978 and Later Model Year Automobiles—Procedures for Determining Manufacturer's Average Fuel Economy

§ 600.501–78 General applicability.

The provisions of this subpart are applicable to 1978 and later model year passenger automobiles.

§ 600.502–78 Definitions.

(a) The definitions in § 600.002 and the following definitions apply to this subpart.

(1) "Declared value" of imported components shall be the value at which components are declared by the importer to the U.S. Customs Service at the date of entry into the customs territory of the United States, or, with respect to imports into Canada, the declared value of such components as if they were declared as imports into the United States at the date of entry into Canada.

(2) "Cost of production" of a car line shall mean the aggregate of the products of:

(i) The average U.S. dealer wholesale price for such car line as computed from each official dealer price list effective during the course of a model year, and

(ii) The number of passenger automobiles within the car line produced during the part of the model year that the price list was in effect.

§ 600.503–78 Abbreviations

The abbreviations in § 600.003 apply to this subpart.

§ 600.504–78 Section numbering, construction.

The section numbering procedure set forth in § 600.004 applies to this subpart.

§ 600.505–78 Record keeping.

The record keeping procedure set forth in § 600.005 applies to this subpart.

§ 600.506–78 Preliminary determination of manufacturer's average.

(a) The manufacturer shall submit, for approval by the Administrator, a determination of his preliminary average fuel economy value.

(1) The average must be submitted within 10 days after the date of the availability of the initial range of fuel economy values of comparable automobiles (ref. § 600.314(d)(1)) or within 30 days after the date the manufacturer's first model type is initially offered for sale, whichever is later.

(2) The deadline for submission of the preliminary average may be waived upon petition by the manufacturer to the Administrator if the Administrator finds good cause. The Administrator will set a new reporting date if a waiver is granted.

(b) The preliminary average fuel economy value will be calculated according to the procedures in § 600.510 except that:

(1) Sales projections will be used for the calculations in place of the production values, and must be updated at the time of the preliminary calculation.

(2) The fuel economy data used in the calculation shall be that approved by the Administrator as of the date of the preliminary average calculation including:

(i) All fuel economy data from original certification vehicles and fuel economy data vehicles as required by § 600.207;

(ii) Fuel economy data from all vehicles tested for running changes approved under § 86.077–23, and

(iii) Fuel economy data required by paragraph (d).

(iv) Other fuel economy data accepted by the Administrator under Subpart A.

(c) Minimum data requirements will be established under paragraph (d) of this section for each base level with a sales fraction of 0.0100 or greater (known as a significant base level).

(1) The sales to be used in this determination are those in paragraph (b)(1) of this section.

(2) For the purposes of this section, the sales fraction for a base level shall be the quotient (rounded to the nearest 0.0001) of projected sales of the base level divided by the manufacturer's total projected sales of passenger automobiles, where total projected sales are calculated according to § 600.511 except that projected sales are used in place of production values.

(d) For each significant base level identified in paragraph (c) of this section the manufacturer shall submit prior to the submission of the preliminary calculation, fuel economy data for those vehicle configurations, taken in order of decreasing sales (according to the projection submitted in paragraph (b)(1) of this section, whose sales total a minimum of 90 percent of the sales of that base level. For all other base levels, the minimum data requirements of § 600.207(a)(3)(iii) must be met.

(e) All fuel economy data submitted under this subpart must:

(1) Be determined by the test procedures specified in Subpart B or an approved analytical method as permitted under § 600.006(e), and

(2) Be accepted by the Administrator under the requirements of Subpart A.

§ 600.507–78 Running change data requirements.

(a) The manufacturer will be required to submit additional running change fuel economy data for any running change approved under § 86.077–23 which creates a new vehicle configuration in a significant base level originally identified for minimum data under § 600.506(c), or subsequently identified in § 600.508(b), unless exempted by the Administrator.

(1) The manufacturer may petition the Administrator for an exemption from the requirement to submit additional running change fuel economy data.

(2) If the exemption is not granted, the Administrator will notify the manufacturer of the denial and the manufacturer shall submit running change fuel economy data as prescribed in this section.

(b) The additional fuel economy data required for a running change in paragraph (a) of this section will be determined based on the sales of the vehicle configurations in the affected base level as updated and submitted to the Administrator at the time of running change approval.

(1) Within each base level identified in paragraph (a) of this section, fuel economy data shall be submitted for the new vehicle configuration, created by the running change, with the greatest projected sales.

(2) Fuel economy data required by this section shall be submitted no later than 30 days after the manufacturer receives approval of the running change for those running changes approved after the calculation of the manufacturer's preliminary average, and no later than 90 days after the calculation of the preliminary average for those running changes approved prior to the calculation of the preliminary average.

(c) Any manufacturer required to submit data under this section as a result of an addition of a base level under § 600.508, must submit data on any running change identified by paragraph (a) of this section.

(1) Data identified by paragraph (a) of this section which were approved prior to the date of approval to add the base level which caused the recalculation of the preliminary average fuel economy value according to § 600.508, must meet the requirements of (b) of this section, except that the data may be submitted at any time before the final calculation of the manufacturer's average fuel economy value in § 600.510.

(2) Any running change identified by paragraph (a) of this section approved on or after that date must be submitted according to paragraph (b)(2) of this section.

§ 600.507–79 Running change data requirements.

(a) The manufacturer will be required to submit additional running change fuel economy data for any running change approved under § 86.077–23 which creates a new vehicle configuration in a significant base level originally identified for minimum data under § 600.506(c), or subsequently identified in § 600.508(b), unless exempted by the Administrator.

(1) The manufacturer may petition the Administrator for an exemption from the requirement to submit additional running change fuel economy data.

(2) If the exemption is not granted, the Administrator will notify the manufacturer of the denial and the manufacturer shall submit running change fuel economy data as prescribed in this section.

(b) The additional fuel economy data required for a running change in paragraph (a) of this section will be determined based on the sales of the vehicle configurations in the affected base level as updated and submitted to the Administrator at the time of running change approval.

(1) Within each base level identified in paragraph (a) of this section, fuel economy data shall be submitted for the new vehicle configuration created by the running change, with the greatest projected sales. Unless that configuration was specified and tested under § 86.078–23, the Administrator will specify the road load horsepower for the test vehicle.

(2) Fuel economy data required by this section shall be submitted no later than 30 days after the manufacturer receives approval of the running change for those running changes approved after the calculation of the manufacturer's preliminary average, and no later than 90 days after the calculation of the preliminary average for those running changes approved prior to the calculation of the preliminary average.

(c) Any manufacturer required to submit data under this section as a result of an addition of a base level under § 600.508, must submit data on any running change identified by paragraph (a) of this section.

(1) Data identified by paragraph (a) of this section which were approved prior to the date of approval to add the base level which caused the recalculation of the preliminary average fuel economy value according to § 600.508, must meet the requirements of (b) of this section, except that the data may be submitted at any time before the final calculation of the manufacturer's average fuel economy value in § 600.510.

(2) Any running change identified by paragraph (a) of this section approved on or after that date, must be submitted according to paragraph (b)(2) of this section.

§ 600.507–80 Running change data requirements.

(a) The manufacturer will be required to submit additional running change fuel economy data for any running change approved under § 86.077–23 which creates a new vehicle configuration in a significant base level originally identified for minimum data under § 600.506(c), or subsequently identified in § 600.508(b), unless exempted by the Administrator.

(1) The manufacturer may petition the Administrator for an exemption from the requirement to submit additional running change fuel economy data.

(2) If the exemption is not granted, the Administrator will notify the manufacturer of the denial and the manufacturer shall submit running change fuel economy data as prescribed in this section.

(b) The additional fuel economy data required for a running change in paragraph (a) of this section will be determined based on the sales of the vehicle configurations in the affected base level as updated and submitted to the Administrator at the time of running change approval.

(1) Within each base level identified in paragraph (a) of this section, fuel economy data shall be submitted for the new vehicle configuration, created by the running change, with the greatest projected sales. Unless that configuration was specified and tested under § 86.078–23, the Administrator will specify the road load horsepower and test weight for the test vehicle.

(2) Fuel economy data required by this section shall be submitted no later than 30 days after the manufacturer receives approval of the running change for those running changes approved after the calculation of the manufacturer's preliminary average, and no later than 90 days after the calculation of the preliminary average for those running changes approved prior to the calculation of the preliminary average.

(c) Any manufacturer required to submit data under this section as a result of an addition of a base level under § 600.508, must submit data on any running change identified by paragraph (a) of this section.

(1) Data identified by paragraph (a) of this section which were approved prior to the date of approval to add the base level which caused the recalculation of the preliminary average fuel economy value according to § 600.508, must meet the requirements of (b) of this section, except that the data may be submitted at any time before the final calculation of the manufacturer's average fuel economy value in § 600.510.

(2) Any running change identified by paragraph (a) of this section approved on or after that date, must be submitted according to paragraph (b)(2) of this section.

§ 600.508–78 Addition of a base level—data requirements.

(a) Any manufacturer who adds a base level to his product line at any time after the preliminary determination of his average fuel economy value in § 600.506, shall submit in accordance with the requirements of § 600.207, fuel economy and sales projection data for such base level.

(b) If a new base level being added has a sales fraction of 0.0100 or greater (as defined in § 600.506(c)(2) using sales updated as of the date of receipt of approval to add the base level, the manufacturer shall, within 30 days of receipt of the approval:

(1) Submit to the Administrator the minimum data required in accordance with § 600.506(c), and then

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(2) Recalculate and submit to the Administrator fuel economy values in accordance with procedures in § 600.506 except that all fuel economy data approved by the Administrator to date shall be used.

(c) If the total projected sales, updated as of the date of approval to add the latest base level, of all base levels added since the latest calculation in § 600.506 is equal to a sales fraction of 0.0300 or greater (as defined in § 600.506 (c)(2)), the manufacturer shall recalculate his average as in paragraph (b)(2).

(d) Any manufacturer required under paragraph (b) or (c) to perform a recalculation may be required by the Administrator to supply any additional data required under § 600.507 regardless of any exemption granted under § 600.507(a) based upon the results of that recalculation.

§ 600.509–78 Voluntary submission of additional data.

(a) The manufacturer may, at his option, submit data in addition to the data required by the Administrator.

(1) Additional fuel economy data may be submitted by the manufacturer for any vehicle configuration which is to be tested as required in § 600.506 or § 600.507 or for which fuel economy data were previously submitted under paragraph (a)(2) of this section.

(2) Within a base level, additional fuel economy data may be submitted by the manufacturer for any vehicle configuration which is not required to be tested by § 600.506 or § 600.507. Additional data which is submitted within a base level after the calculation of the manufacturer's preliminary average fuel economy must be submitted in rank order such that data is first submitted for all configurations with a higher sales fraction (as defined in § 600.506(c)(2)).

§ 600.510–78 Calculation of average fuel economy.

(a) Average fuel economy will be calculated to the nearest 0.1 mpg for the classes of automobiles identified herein, and the results of such calculations will be reported to the Secretary of Transportation for use in determining compliance with the applicable fuel economy standards.

(1) An average fuel economy calculation will be made for the category of passenger automobiles that are domestically manufactured plus the includable imports as defined in § 600.511(d)(1).

(2) An average fuel economy calculation will be made for the category of passenger automobiles that are not domestically manufactured as defined in § 600.511(d)(2).

(b) For the purpose of calculating average fuel economy under paragraphs (c) and (e) of this section:

(1) All fuel economy data submitted under § 600.512 must be used.

(2) Fuel economy will be calculated for each model type according to § 600.207 except that:

(i) Separate fuel economy values will be calculated for model types and base levels associated with car lines that are:

(A) Domestically produced and

(B) Non-domestically produced and imported;

(ii) Model year passenger automobile production data, as required by this subpart, will be used instead of sales projections;

(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline;

(iv) The fuel economy value will be rounded to the nearest 0.1 mpg; and

(v) High altitude test data will be included.

(3) The fuel economy value for each vehicle configuration is the combined fuel economy calculated according to § 600.206 except that:

(i) Separate fuel economy values will be calculated for vehicle configurations associated with car lines that are:

(A) Domestically produced and

(B) Non-domestically produced and imported;

(ii) Model year passenger automobile production data, as required by this subpart, will be used instead of sales projections; and

(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline.

(c) *For passenger automobiles*, average fuel economy will be calculated as follows:

(1) For the category of passenger automobiles defined in § 600.511(d)(1), divide:

(i) The total domestic production volume plus the includable import volume, as determined in § 600.511, by

(ii) A sum of terms, where

(A) One term is a fraction determined by dividing the includable import volume by the average passenger automobile fuel economy value determined in paragraph (e) of this section, and

(B) Each of the remaining terms corresponds to a domestically produced model type and is a fraction determined by dividing the total production volume of that model type by the fuel economy value for that model type calculated in accordance with paragraph (b)(2).

(2) The average fuel economy for the category of automobiles defined in § 600.511(d)(2) is the value calculated in accordance with paragraph (e).

(d) [Reserved]

(e) An average fuel economy value will be calculated for those passenger automobiles which are not domestically produced and which are imported by a manufacturer, as specified below.

(1) Divide the total volume of passenger automobiles which are not domestically produced and which are imported by

(2) A sum of terms, each of which corresponds to a model type and is a fraction determined by dividing:

(i) The number of passenger automobiles of that model type imported by the manufacturer in the model year, by

(ii) The fuel economy calculated for that model type in accordance with paragraph (b)(2) of this section.

§ 600.510–80 Calculation of average fuel economy.

(a) Average fuel economy will be calculated to the nearest 0.1 mpg for the classes of automobiles identified herein, and the results of such calculations will be reported to the Secretary of Transportation for use in determining compliance with the applicable fuel economy standards.

(1) An average fuel economy calculation will be made for the category of passenger automobiles defined in § 600.511(d)(1).

(2) An average fuel economy calculation will be made for the category of passenger automobiles defined in § 600.511(d)(2).

(b) For the purpose of calculating average fuel economy under paragraphs (c) and (e) of this section:

(1) All fuel economy data submitted under § 600.512 must be used.

(2) Fuel economy will be calculated for each model type according to § 600.207 except that:

(i) Separate fuel economy values will be calculated for model types and base levels associated with car lines that are:

(A) Domestically produced and

(B) Non-domestically produced and imported;

(ii) Model year passenger automobile production data, as required by this subpart, will be used instead of sales projections;

(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline;

(iv) The fuel economy value will be rounded to the nearest 0.1 mpg; and

(v) High altitude test data will be included.

(3) The fuel economy value for each vehicle configuration is the combined fuel economy calculated according to § 600.206 except that:

(i) Separate fuel economy values will be calculated for vehicle configurations associated with car lines that are:

(A) Domestically produced and

(B) Non-domestically produced and imported;

(ii) Model year passenger automobile production data, as required by this subpart, will be used instead of sales projections; and

(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline.

(c) *For passenger automobiles*, average fuel economy will be calculated as follows:

(1) For the category of passenger automobiles defined in § 600.511(d)(1), divide:

(i) The total domestic production volume by

(ii) A sum of terms, where each corresponds to a domestically produced model type and is a fraction determined by dividing the total production volume of that model type by the fuel economy value for that model type calculated in accordance with paragraph (b)(2).

(2) The average fuel economy for the category of automobiles defined in § 600.511(d)(2) is the value calculated in accordance with paragraph (e) of this section.

(d) [Reserved]

(e) An average fuel economy value will be calculated for those passenger automobiles which are not domestically produced and which are imported by a manufacturer, as specified below.

(1) Divide the total volume of passenger automobiles which are not domestically produced and which are imported by

(2) A sum of terms, each of which corresponds to a model type and is a fraction determined by dividing:

(i) The number of passenger automobiles of that model type imported by the manufacturer in the model year, by

(ii) The fuel economy calculated for that model type in accordance with paragraph (b)(2) of this section.

§ 600.511–78 Determination of domestic production.

(a) An automobile shall be considered domestically produced in any model year if it is included within a domestically produced car line (car line includes station wagons for purposes of this paragraph), unless the assembly of such automobile is completed in Canada and such automobile is not imported into the United States prior to the expiration of 30 days following the end of the model year. For purposes of this paragraph, a car line will be considered domestically produced if the following ratio is less than 0.25:

(1) The sum of the declared value, as defined in § 600.502, of all of the imported components installed or included on automobiles produced within such a car line within a given model year plus the cost of transportation and insuring such components to the United States or Canadian port of entry but exclusive of any customs duty, divided by

(2) The cost of production, as defined in § 600.502, of automobiles within such car line.

(b) For the purposes of calculations under this subpart with respect to automobiles manufactured during any model year,

(1) An average exchange rate for the country of origin of each imported component shall be used that is calculated by taking the mean of the exchange rates in effect at the end of each quarter set by the Federal Reserve Bank of New York for twelve calendar quarters prior to and including the calendar quarter ending one year prior to the date that the manufacturer submits the calculation of the preliminary average for such model year. Such rate, once calculated, shall be in effect for the duration of the model year. Upon petition of a manufacturer, the Administrator may permit the use of a different exchange rate where appropriate and necessary.

(2) Components shall be considered imported unless they are either:

(i) Wholly the growth, product, or manufacture of the United States and/or Canada, or

(ii) Substantially transformed in the United States or Canada into a new and different article of commerce.

(c) If it is determined by the Administrator at some date later than the date of entry that the declared value of such imported components did not represent fair market value at the date of entry, through U.S. Bureau of Customs appraisals, the Administrator may review the determination made pursuant to paragraph (a) of this section as to whether the pertinent car lines which utilize such components were correctly included within the manufacturer's domestically-produced or foreign-produced fleets. If such a determination was in error due to misrepresentation of the valuation of imported components at the date of entry, the Administrator may recalculate the manufacturer's average for the affected model year, according to § 600.510, to reflect the correct valuation of such imported components in each affected car line.

(d) In calculating average fuel economy under § 600.510(c), the Administrator will separate the total number of passenger automobiles produced by a manufacturer into the following two categories:

(1) Passenger automobiles which are domestically produced by the manufacturer plus passenger automobiles which are within the includable import volume of the manufacturer.

(2) Passenger automobiles which are not domestically produced by the manufacturer, are imported by the manufacturer, and are not within the includable import volume of the manufacturer.

(e) For purposes of this section:

(1) The term "includable import volume," with respect to any manufacturer, is the number of passenger automobiles which is the lesser of

(i) The manufacturer's base import volume or

(ii) The number of passenger automobiles calculated by multiplying

(A) The quotient obtained by dividing the manufacturer's base import volume by the manufacturer's base production volume, times

(B) The total number of passenger automobiles produced by the manufacturer during such model year.

(2) The term "base import volume" means one-half the sum of:

(i) The total number of passenger automobiles which were not domestically produced by the manufacturer during the 1974 model year and which were imported by the manufacturer during the 1974 model year, plus

(ii) 133 percent of the total number of passenger automobiles which were not domestically produced by the manufacturer during the first 9 months of model year 1975 and which were imported by the manufacturer during that 9-month period.

(3) The term "base production volume" means one-half of the sum of

(i) The total number of passenger automobiles produced by the manufacturer during model year 1974 plus

(ii) 133 percent of the total number of passenger automobiles produced by the manufacturer during the first 9 months of model year 1975.

(f) For purposes of paragraph (e) of this section, any passenger automobile

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imported during model year 1976, but prior to July 1, 1975, will be deemed to have been produced (and imported) during the first 9 months of model year 1975.

§ 600.511–80 Determination of domestic production.

(a) An automobile shall be considered domestically produced in any model year if it is included within a domestically produced car line (car line includes station wagons for purposes of this paragraph), unless the assembly of such automobile is completed in Canada and such automobile is not imported into the United States prior to the expiration of 30 days following the end of the model year. For purposes of this paragraph, a car line will be considered domestically produced if the following ratio is less than 0.25:

(1) The sum of the declared value, as defined in § 600.502, of all of the imported components installed or included on automobiles produced within such a car line within a given model year plus the cost of transportation and insuring such components to the United States or Canadian port of entry but exclusive of any customs duty, divided by

[illegible] as defined

ported components at the date of entry, the Administrator may recalculate the manufacturer's average for the affected model year, according to § 600.510, to reflect the correct valuation of such imported components in each affected car line.

(d) In calculating average fuel economy under § 600.510(c), the Administrator will separate the total number of passenger automobiles produced by a manufacturer into the following two categories:

(1) Passenger automobiles which are domestically produced by the manufacturer.

(2) Passenger automobiles which are not domestically produced and which are imported by the manufacturer.

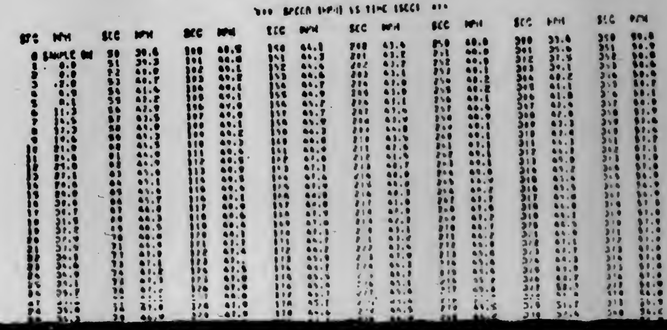
§ 600.512–78 Model year report.

(a) For each model year, the manufacturer shall submit to the Administrator a report, known as the model year report, containing all information necessary for the calculation of the manufacturer's average fuel economy.

(b)(1) The model year report shall be in writing, signed by the authorized representative of the manufacturer and

APPENDIX I.—HIGHWAY FUEL ECONOMY DRIVING SCHEDULE

(Applicable to 1978 and later model year automobiles.)



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(2) Recalculate and submit to the Administrator fuel economy values in accordance with procedures in § 600.506 except that all fuel economy data approved by the Administrator to date shall be used.

(c) If the total projected sales, updated as of the date of approval to add the latest base level, of all base levels added since the latest calculation in § 600.506 is equal to a sales fraction of 0.0300 or greater (as defined in § 600.506 (c)(2)), the manufacturer shall recalculate his average as in paragraph (b)(2).

(d) Any manufacturer required under paragraph (b) or (c) to perform a recalculation may be required by the Administrator to supply any additional data required under § 600.507 regardless of any exemption granted under § 600.507(a) based upon the results of that recalculation.

§ 600.509–78 Voluntary submission of additional data.

(a) The manufacturer may, at his option, submit data in addition to the data required by the Administrator.

(1) Additional fuel economy data may be submitted by the manufacturer for any vehicle configuration which is to be tested as required in § 600.506 or § 600.507 or for which fuel economy data were previously submitted under paragraph (a)(2) of this section.

(2) Within a base level, additional fuel economy data may be submitted by the manufacturer for any vehicle configuration which is not required to be tested by § 600.506 or § 600.507. Additional data which is submitted within a base level after the calculation of the manufacturer's preliminary average fuel economy must be submitted in rank order such that data is first submitted for all configurations with a higher sales fraction (as defined in § 600.506(c)(2)).

§ 600.510–78 Calculation of average fuel economy.

(a) Average fuel economy will be calculated to the nearest 0.1 mpg for the classes of automobiles identified herein, and the results of such calculations will be reported to the Secretary of Transportation for use in determining compliance with the applicable fuel economy standards.

(1) An average fuel economy calculation will be made for the category of passenger automobiles that are domestically manufactured plus the includable imports as defined in § 600.511(d)(1).

(2) An average fuel economy calculation will be made for the category of passenger automobiles that are not domestically manufactured as defined in § 600.511(d)(2).

(b) For the purpose of calculating average fuel economy under paragraphs (c) and (e) of this section:

(1) All fuel economy data submitted under § 600.512 must be used.

(2) Fuel economy will be calculated for each model type according to § 600.207 except that:

(i) Separate fuel economy values will be calculated for model types and base levels associated with car lines that are:

(A) Domestically produced and

(B) Non-domestically produced and imported;

(ii) Model year passenger automobile production data, as required by this subpart, will be used instead of sales projections;

(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline;

(iv) The fuel economy value will be rounded to the nearest 0.1 mpg; and

(v) High altitude test data will be included.

(3) The fuel economy value for each vehicle configuration is the combined fuel economy calculated according to § 600.206 except that:

(i) Separate fuel economy values will be calculated for vehicle configurations associated with car lines that are:

(A) Domestically produced and

(B) Non-domestically produced and imported;

(ii) Model year passenger automobile production data, as required by this subpart, will be used instead of sales projections; and

(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline.

(c) *For passenger automobiles*, average fuel economy will be calculated as follows:

(1) For the category of passenger automobiles defined in § 600.511(d)(1), divide:

(i) The total domestic production volume plus the includable import volume, as determined in § 600.511, by

(ii) A sum of terms, where

(A) One term is a fraction determined by dividing the includable import volume by the average passenger automobile fuel economy value determined in paragraph (e) of this section, and

(B) Each of the remaining terms corresponds to a domestically produced model type and is a fraction determined by dividing the total production volume of that model type by the fuel economy value for that model type calculated in accordance with paragraph (b)(2).

(2) The average fuel economy for the category of automobiles defined in § 600.511(d)(2) is the value calculated in accordance with paragraph (e).

(d) [Reserved]

(e) An average fuel economy value will be calculated for those passenger automobiles which are not domestically produced and which are imported by a manufacturer, as specified below.

(1) Divide the total volume of passenger automobiles which are not domestically produced and which are imported by

(2) A sum of terms, each of which corresponds to a model type and is a fraction determined by dividing:

(i) The number of passenger automobiles of that model type imported by the manufacturer in the model year, by

(ii) The fuel economy calculated for that model type in accordance with paragraph (b)(2) of this section.

§ 600.510–80 Calculation of average fuel economy.

(a) Average fuel economy will be calculated to the nearest 0.1 mpg for the classes of automobiles identified herein, and the results of such calculations will be reported to the Secretary of Transportation for use in determining compliance with the applicable fuel economy standards.

(1) An average fuel economy calculation will be made for the category of passenger automobiles defined in § 600.511(d)(1).

(2) An average fuel economy calculation will be made for the category of passenger automobiles defined in § 600.511(d)(2).

(b) For the purpose of calculating average fuel economy under paragraphs (c) and (e) of this section:

(1) All fuel economy data submitted under § 600.512 must be used.

(2) Fuel economy will be calculated for each model type according to § 600.207 except that:

(i) Separate fuel economy values will be calculated for model types and base levels associated with car lines that are:

(A) Domestically produced and

(B) Non-domestically produced and imported;

(ii) Model year passenger automobile production data, as required by this subpart, will be used instead of sales projections;

(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline;

(iv) The fuel economy value will be rounded to the nearest 0.1 mpg; and

(v) High altitude test data will be included.

(3) The fuel economy value for each vehicle configuration is the combined fuel economy calculated according to § 600.206 except that:

(i) Separate fuel economy values will be calculated for vehicle configurations associated with car lines that are:

(A) Domestically produced and

(B) Non-domestically produced and imported;

(ii) Model year passenger automobile production data, as required by this subpart, will be used instead of sales projections; and

(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline.

(c) *For passenger automobiles*, average fuel economy will be calculated as follows:

(1) For the category of passenger automobiles defined in § 600.511(d)(1), divide:

(i) The total domestic production volume by

(ii) A sum of terms, where each corresponds to a domestically produced model type and is a fraction determined by dividing the total production volume of that model type by the fuel economy value for that model type calculated in accordance with paragraph (b)(2).

(2) The average fuel economy for the category of automobiles defined in § 600.511(d)(2) is the value calculated in accordance with paragraph (e) of this section.

(d) [Reserved]

(e) An average fuel economy value will be calculated for those passenger automobiles which are not domestically produced and which are imported by a manufacturer, as specified below.

(1) Divide the total volume of passenger automobiles which are not domestically produced and which are imported by

(2) A sum of terms, each of which corresponds to a model type and is a fraction determined by dividing:

(i) The number of passenger automobiles of that model type imported by the manufacturer in the model year, by

(ii) The fuel economy calculated for that model type in accordance with paragraph (b)(2) of this section.

§ 600.511–78 Determination of domestic production.

(a) An automobile shall be considered domestically produced in any model year if it is included within a domestically produced car line (car line includes station wagons for purposes of this paragraph), unless the assembly of such automobile is completed in Canada and such automobile is not imported into the United States prior to the expiration of 30 days following the end of the model year. For purposes of this paragraph, a car line will be considered domestically produced if the following ratio is less than 0.25:

(1) The sum of the declared value, as defined in § 600.502, of all of the imported components installed or included on automobiles produced within such a car line within a given model year plus the cost of transportation and insuring such components to the United States or Canadian port of entry but exclusive of any customs duty, divided by

(2) The cost of production, as defined in § 600.502, of automobiles within such car line.

(b) For the purposes of calculations under this subpart with respect to automobiles manufactured during any model year,

(1) An average exchange rate for the country of origin of each imported component shall be used that is calculated by taking the mean of the exchange rates in effect at the end of each quarter set by the Federal Reserve Bank of New York for twelve calendar quarters prior to and including the calendar quarter ending one year prior to the date that the manufacturer submits the calculation of the preliminary average for such model year. Such rate, once calculated, shall be in effect for the duration of the model year. Upon petition of a manufacturer, the Administrator may permit the use of a different exchange rate where appropriate and necessary.

(2) Components shall be considered imported unless they are either:

(i) Wholly the growth, product, or manufacture of the United States and/or Canada, or

(ii) Substantially transformed in the United States or Canada into a new and different article of commerce.

(c) If it is determined by the Administrator at some date later than the date of entry that the declared value of such imported components did not represent fair market value at the date of entry, through U.S. Bureau of Customs appraisals, the Administrator may review the determination made pursuant to paragraph (a) of this section as to whether the pertinent car lines which utilize such components were correctly included within the manufacturer's domestically-produced or foreign-produced fleets. If such a determination was in error due to misrepresentation of the valuation of imported components at the date of entry, the Administrator may recalculate the manufacturer's average for the affected model year, according to § 600.510, to reflect the correct valuation of such imported components in each affected car line.

(d) In calculating average fuel economy under § 600.510(c), the Administrator will separate the total number of passenger automobiles produced by a manufacturer into the following two categories:

(1) Passenger automobiles which are domestically produced by the manufacturer plus passenger automobiles which are within the includable import volume of the manufacturer.

(2) Passenger automobiles which are not domestically produced by the manufacturer, are imported by the manufacturer, and are not within the includable import volume of the manufacturer.

(e) For purposes of this section:

(1) The term "includable import volume," with respect to any manufacturer, is the number of passenger automobiles which is the lesser of

(i) The manufacturer's base import volume or

(ii) The number of passenger automobiles calculated by multiplying

(A) The quotient obtained by dividing the manufacturer's base import volume by the manufacturer's base production volume, times

(B) The total number of passenger automobiles produced by the manufacturer during such model year.

(2) The term "base import volume" means one-half the sum of:

(i) The total number of passenger automobiles which were not domestically produced by the manufacturer during the 1974 model year and which were imported by the manufacturer during the 1974 model year, plus

(ii) 133 percent of the total number of passenger automobiles which were not domestically produced by the manufacturer during the first 9 months of model year 1975 and which were imported by the manufacturer during that 9-month period.

(3) The term "base production volume" means one-half of the sum of

(i) The total number of passenger automobiles produced by the manufacturer during model year 1974 plus

(ii) 133 percent of the total number of passenger automobiles produced by the manufacturer during the first 9 months of model year 1975.

(f) For purposes of paragraph (e) of this section, any passenger automobile

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imported during model year 1976, but prior to July 1, 1975, will be deemed to have been produced (and imported) during the first 9 months of model year 1975.

§ 600.511–80 Determination of domestic production.

(a) An automobile shall be considered domestically produced in any model year if it is included within a domestically produced car line (car line includes station wagons for purposes of this paragraph), unless the assembly of such automobile is completed in Canada and such automobile is not imported into the United States prior to the expiration of 30 days following the end of the model year. For purposes of this paragraph, a car line will be considered domestically produced if the following ratio is less than 0.25:

(1) The sum of the declared value, as defined in § 600.502, of all of the imported components installed or included on automobiles produced within such a car line within a given model year plus the cost of transportation and insuring such components to the United States or Canadian port of entry but exclusive of any customs duty, divided by

(2) The cost of production, as defined in § 600.502, of automobiles within such car line.

(b) For the purposes of calculations under this subpart with respect to automobiles manufactured during any model year,

(1) An average exchange rate for the country of origin of each imported component shall be used that is calculated by taking the mean of the exchange rates in effect at the end of each quarter set by the Federal Reserve Bank of New York for twelve calendar quarters prior to and including the calendar quarter ending one year prior to the date that the manufacturer submits the calculation of the preliminary average for such model year. Such rate, once calculated, shall be in effect for the duration of the model year. Upon petition of a manufacturer, the Administrator may permit the use of a different exchange rate where appropriate and necessary.

(2) Components shall be considered imported unless they are either:

(i) Wholly the growth, product, or manufacture of the United States and/or Canada, or

(ii) Substantially transformed in the United States or Canada into a new and different article of commerce.

(c) If it is determined by the Administrator at some date later than the date of entry that the declared value of such imported components did not represent fair market value at the date of entry, through U.S. Bureau of Customs appraisals, the Administrator may review the determination made pursuant to paragraph (a) of this section as to whether the pertinent car lines which utilize such components were correctly included within the manufacturer's domestically-produced or foreign-produced fleets. If such a determination was in error due to misrepresentation of the valuation of imported components at the date of entry, the Administrator may recalculate the manufacturer's average for the affected model year, according to § 600.510, to reflect the correct valuation of such imported components in each affected car line.

(d) In calculating average fuel economy under § 600.510(c), the Administrator will separate the total number of passenger automobiles produced by a manufacturer into the following two categories:

(1) Passenger automobiles which are domestically produced by the manufacturer,

(2) Passenger automobiles which are not domestically produced and which are imported by the manufacturer.

§ 600.512–78 Model year report.

(a) For each model year, the manufacturer shall submit to the Administrator a report, known as the model year report, containing all information necessary for the calculation of the manufacturer's average fuel economy.

(b)(1) The model year report shall be in writing, signed by the authorized representative of the manufacturer and shall be submitted no later than 60 days after the report required in § 86.078–37 for the final production quarter.

(2) The Administrator may waive the requirement that the model year report be submitted within 60 days after the final quarterly production report. Based upon a request by the manufacturer, if the Administrator determines that 60 days is insufficient time for the manufacturer to provide all additional data required as determined in either §§ 600.506, 600.507, or 600.508, the Administrator shall establish a date by which the model year report must be submitted.

(c) The model year report must include the following information:

(1) All fuel economy data used in the preliminary calculation and subsequently required by the Administrator either under §§ 600.506, 600.507, or 600.508.

(2) All fuel economy data for certification vehicles, and for vehicles tested for running changes approved under paragraph 86.078–33.

(3) Any additional fuel economy data submitted by the manufacturer under § 600.509.

(4) A fuel economy value for each model type of the manufacturer's product line calculated according to § 600.510.

(5) The manufacturer's average fuel economy value calculated according to § 600.510.

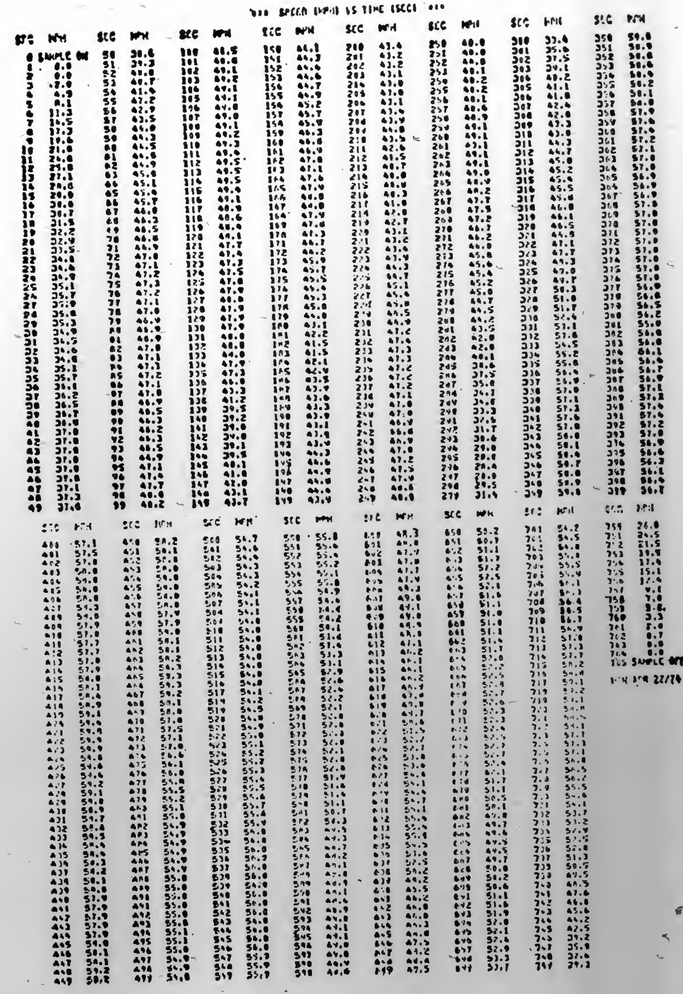
(6) A listing of both domestically and non-domestically produced car lines as determined in § 600.511 and the cost information upon which the determination was made.

(7) Production data, the authenticity and accuracy of which shall be attested to by the corporation, and shall bear the signature of the Chief Executive Officer.

35. By adding new Appendices I and II to Part 600 reading as follows:

APPENDIX I.—HIGHWAY FUEL ECONOMY DRIVING SCHEDULE

(Applicable to 1978 and later model year automobiles.)



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APPENDIX II.—SAMPLE TEST VALUE CALCULATIONS

(APPLICABLE TO 1978 AND LATER MODEL YEAR AUTOMOBILES)

(a) Assume that a gasoline-fueled vehicle was tested by the Federal Emission Test Procedure and the following results were calculated:
HC = 1.03 grams/mile
CO = 6.74 grams/mile
CO_2 = 785 grams/mile

According to the procedure in § 600.113, the city fuel economy or MPG_c for the vehicle may be calculated by substituting the HC, CO, and CO_2 gram/mile values into the following equation.

$$MPG_c = \frac{2421}{(0.866\times HC)+(0.429\times CO)+(0.273\times CO_2)}$$

$$= \frac{2421}{(0.866\times 1.03)+(0.429\times 6.74)+(0.273\times 785)}$$

$$= \frac{2421}{218.1}$$

$$= 11.1 \text{ MPG}$$

(b) Assume that the same vehicle was tested by the Federal Highway Fuel Economy Test Procedure and a calculation similar to that shown in (a) resulted in a highway fuel economy or MPG_h of 18.6. According to the procedure in § 600.113, the combined fuel economy (called MPG_{FA}) for the vehicle may be calculated by substituting the city and highway fuel economy values into the following equation:

$$MPG_{FA} = \frac{1}{\frac{0.55}{MPG_c}+\frac{0.45}{MPG_h}}$$

$$= \frac{1}{\frac{0.55}{11.1}+\frac{0.45}{18.6}}$$

$$= \frac{1}{0.0737}$$

$$MPG_{FA} = 13.6 \text{ MPG}$$

36. By replacing all blanket citations of statutory authority for Part 600 with the following single citation:

AUTHORITY: Sec. 301, Pub. L. 94-163, 89 Stat. 901 et seq. (15 U.S.C. 2001, 2003, 2005, 2006).

[FR Doc.77-26374 Filed 9-9-77;8:45 am]

[FRL 779-2]

PART 600—FUEL ECONOMY OF MOTOR VEHICLES

Fuel Economy Labeling and Other Requirements for 1978 and Later Model Year Automobiles

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: An NPRM published June 6, 1977 (42 FR 28969) proposed several changes to the fuel economy labeling regulations to make the information which appears on fuel economy labels more useful to the consumer. This action adopts several of the proposed changes (essentially as proposed) as follows: division of the "Subcompact" class of passenger automobiles, division of the "Van/Special Purpose Truck" class, use of a normalized width dimension in determining the interior volume index of passenger automobiles, prohibition of the use of specific labels, the requirement that final stage manufacturers affix the fuel economy label, and addition of the number of forward speeds and overdrive to the definition of base level.

EFFECTIVE DATE: September 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Gary E. Timm, Regulatory Management Staff, Office of Mobile Source Air Pollution Control (AW-455), U.S. Environmental Protection Agency, Washington, D.C. 20460 (202-755-0596).

SUPPLEMENTARY INFORMATION: On November 10, 1976, the Environmental Protection Agency promulgated a final rule on fuel economy labeling procedures for 1977 and later model year automobiles (41 FR 49752). At that time EPA recognized the need to consider appropriate improvements to the program and solicited comments from interested parties on several issues regarding vehicle classification and labeling requirements. As a result of these and other comments, several suggested changes to the labeling regulations were proposed by EPA on June 6, 1977 (42 FR 28970).

After receipt of comments from manufacturers, the general public and consumer groups, EPA determined that final action could be taken on a number of proposals, but that others could not be decided on the basis of comments and information received. Thus, resolution of the following issues is deferred and will be the subject of a future rulemaking for 1979 and later model years: Change to the fuel economy estimates used in fuel economy labeling and the "Gas Mileage Guide," changes in the procedures for calculation of cargo volume for station wagons and hatchbacks to determine comparable class for fuel economy labeling, change in the measurement procedure for front seat leg room, and engine code redefinition in relationship to air conditioning usage.

DISCUSSION OF ISSUES RESOLVED BY THIS ACTION

1. *Division of Van/Special Purpose Truck.* EPA proposed for the 1978 model year to separate the Van/Special Purpose Truck Class into two separate classes to distinguish between these vehicles which have demonstrably different uses. Vans were proposed to be defined as any nonpassenger automobile having an integral enclosure fully enclosing the driver compartment and load carrying area and a hood length of less than 30 inches.

All commentors supported the proposal. One manufacturer expressed a reservation concerning the choice of a 30 inch maximum hood length in the definition as being too restrictive to include all future vans. EPA chose this definition to be consistent with the definition used in the emissions program which is based on the characteristics of the present van population. EPA will revise the definition in the future if the van manufacturers show a need that EPA do so.

2. *Division of Subcompact Class.* EPA proposed to divide the current Subcompact class into two smaller classes which the Agency proposed to call "Subcompact and "Small". The purpose of the proposal was to separate the extremely small subcompacts from the subcompacts which approach the compacts in size.

Most commentors agreed with EPA that such a separation was desirable. One manufacturer and the Office of Consumer Affairs (OCA) of the Department of Health, Education, and Welfare disagreed with the proposal stating that little is accomplished by way of reducing the broad fuel economy ranges of the current subcompact class by this proposal and that this proposal would separate into different classes vehicles that consumers viewed as comparable. These comments are correct; no meaningful reduction in the fuel economy range of the subcompact class occurs due to the proposed change but that is not its intended purpose. Its intended purpose is to separate the larger subcompacts from the smallest cars on the market, which it accomplishes. Although the 85 cubic foot volume cutpoint does separate some vehicles which are deemed comparable for marketing and advertizing purposes, this problem is not unique to this class. Any other cutpoint would also cause separation of some vehicles that are comparable in terms of interior size, for there is no gap in the distribution of interior volumes. Noting the lack of such a gap, EPA has decided to divide the present subcompact class with 85 cubic foot volume as the cutpoint, because it divides current subcompacts almost equally and, as such, would most effectively separate vehicles that are not comparable.

Only two suggestions were made regarding the name of the smallest class. It was suggested that the names "minicompact" or "minicar" were more descriptive than "small." EPA has adopted the term minicompact for this class for the 1978 model year.

The analysis of the issue of revising the means of measuring interior volume to be more representative of actual useable space has pointed out again the difficulties associated with the use of fixed cutpoints between classes. EPA will continue to examine other alternatives for cutpoints, and may propose changes for future model years.

3. *Change to the Width Dimension Used in Calculating the Interior Volume Index of the Passenger Compartment.* Due to concern expressed by two manufacturers in comments on the 1977 labeling regulations regarding the proper width dimension to use in calculating the interior volume index of the passenger compartment, EPA proposed two alternatives (numbers used below in parentheses refer to individual dimension measurement procedures in the Society of Automotive Engineers (SAE) procedure J1100a):

(a) The simple averaging of hip (W5) and shoulder (W3) measurements to determine the width, or

(b) The use of a normalized average of hip (W5) and shoulder (W3), i.e., the sum of hip width plus shoulder and width plus 4 inches divided by two if the difference between shoulder and hip width is greater than 4 inches. Shoulder width only is used if this difference is less than four inches.

The normalized average concept proposed by EPA recognizes that hip room is an important consideration under some circumstances but that the hip room requirement is smaller for virtually all segments of the population than shoulder room. EPA proposed a differential of 4 inches between the two, based on consideration of seating three large (85th percentile) men on a bench seat sitting vertically with elbows to the side.

A more sophisticated analytical methodology used by General Motors has indicated that this differential should be larger (i.e., 6 or 7 inches) to account for elbow relaxation and occupant lean. EPA believes that comfortable accommodation, which is the basis of this change to the regulations, should be determined without including occupant lean.

Most commentors supported the proposal to use a normalized average of hip and shoulder widths (option (b)). Two manufacturers preferred no change; one preferred the simple averaging approach (option (a)).

EPA is therefore adopting the normalized average approach for 1978 and later model years but with a 5 inch differential instead of 4. A 5 inch differential is supported by the methodology used by GM if occupant lean is not included in the analysis. Thus, for either the front or back seat, if the shoulder width exceeds the hip width by more than five inches, the width dimension of the respective seat shall be the sum of hip width plus shoulder width plus 5 divided by 2. If the shoulder width does not exceed the hip room by more than 5 inches, the shoulder room dimension is used in determining the interior volume index.

4. *Specific versus General Labeling.* EPA currently permits the use of two different fuel economy labels: one, termed a "general label," gives the fuel economy of a model type which may be composed of several vehicle configurations; the other, a "specific label," gives the fuel economy of individual vehicle configurations (i.e., cars that differ in axle ratio, inertia weight, and engine code in addition to the characteristics that distinguish model types). EPA has proposed for the 1979 and later model years the elimination of the specific label after the start of production period of each model year. Following the current testing schedule manufacturers have to use specific labels during the start of production period because of the general unavailability of general labels.

One manufacturer and AAA supported the proposal to eliminate specific labeling stating that the specific label is too technical for the average consumer and may tend to misrepresent the fuel economy capability of some cars to the casual eye of the car buyer. Most manufacturers opposed the proposal stating that, if adopted, they would no longer have any mechanism to inform consumers of their highest fuel economy vehicles. In spite of this objection, EPA believes that the potential costs of continuing specific labeling in terms of potential consumer deception and reduced consumer confidence in the fuel economy labeling program outweigh the benefits of more detailed information.

The potential of consumer deception and public dissatisfaction with the EPA labeling program arise out of the fact that some manufacturers tend to design stripped-down, low-powered vehicles of which they plan to build and sell only a few, but for which they can generate very high fuel economy values; manufacturers then emphasize such high fuel economy values in their advertising, tending to implant in the buyers' minds a perception of high fuel economy for the entire car line which is not achievable by the large majority of cars sold under the same vehicle name. By eliminating the specific label option, manufacturers will not be able to claim that their vehicles perform better than the sales-weighted average of the car line. Inasmuch as all fuel economy values published or confirmed by EPA are necessarily estimates, it appears to be more valid to base such published values on the sales-weighted average of the car line than on specially designed vehicles that may not be widely available or sold. In addition, by breaking out vehicles on the basis of overdrive (see below), any legitimate need for retaining the specific label that may have existed in the past is greatly reduced, since vehicles with overdrive—a feature that improves highway fuel economy in comparison to otherwise similar vehicles—will be identified separately from others in the car line.

However, there remains the problem of facilitating production of vehicles prior to the availability of the general label value. To accommodate this in past model years, EPA has permitted manufacturers to utilize specific labels on cars until the general label is available, and then to shift to use of the general label. EPA will at some future point propose an alternative to specific labeling to deal with this problem; however, beginning with the 1979 model year, EPA hereby adopts the proposal to utilize only general labels on all low altitude vehicles built 15 days after the general label for the vehicles has become available.

5. *Transmission Class.* Beginning with the 1979 model year EPA proposed to redefine "transmission class" so that no model type or base level will include vehicles with different numbers of forward speeds. It should be noted that the redefinition will apply in determining a manufacturer's average fuel economy for compliance purposes as well as in fuel economy labeling. The purpose of this proposal is to isolate one of the main factors affecting the ratio of engine speed to vehicle speed (N/V) which in turn is a significant factor in fuel economy.

Although most manufacturers and all consumer groups supported the proposal and its aims, two manufacturers commented that separation by number of forward speeds was not the proper delineation to make since many three speed manual and four speed manual transmission cars have virtually identical fuel economy if equipped with the same axle, whereas not all four speed vehicles, for example, have similar fuel economy if one has a top gear ratio appreciably less than 1:1 and the other is 1:1. These manufacturers suggested an overdrive/non-overdrive breakout either instead of, or in addition to, the proposed approach.

EPA originally intended to propose a redefinition based on the presence or lack of overdrive but could not find a precise definition of overdrive. The commonly accepted definition, a transmission gear that transmits to the drive shaft a greater speed than the engine speed, is not sufficiently exclusive to ensure that vehicles whose final transmission gear ratio is less than 1:1 but whose axle ratio is unusually high so as to cancel the fuel economy benefits are properly excluded. EPA was not successful at including an N/V restriction to narrow the definition.

Public response to the rulemaking on this issue was overwhelmingly favorable. Consumers apparently identify and attach considerable significance to the number of forward speeds when purchasing a manual transmission equipped vehicle. Therefore, even if fuel economy differences don't always exist between transmissions with different numbers of forward speeds, this information is important to the consumer. EPA will therefore adopt the proposal with the addition of a provision for breakout of overdrive at the Administrator's discretion. It is believed that this will go a long way toward making the distinctions that were suggested by manufacturers in their comments, and asked for by public commentors, and will avoid lumping dissimilar transmissions together in the future.

6. *Multi-Stage Vehicle Manufacture.* EPA proposed for the 1978 model year to place the responsibility for labeling a vehicle built by more than one manufacturer on the final stage manufacturer. Almost all comments received favored this proposal. A few commentors misinterpreted the EPA proposal and objected. The proposal merely states that the final stage manufacturer be responsible for affixing the label to the vehicle, not for conducting the testing. EPA believes that there are no objections to the

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correctly understood proposal, and is hereby adopting it.

7. *"Base Vehicle" Definition.* A manufacturer pointed out in comments that, though the term "Base Vehicle" is used in the proposed regulations, this term is not defined in § 600.002–79. A definition for "Base Vehicle" is included in these final regulations to correct this oversight. Because this correction does not change the substance of these regulations, EPA finds that notice and public procedure are unnecessary.

8. *Revocation of § 600.406—Distribution of Booklet Information.* The National Highway Traffic Safety Administration, which is charged with enforcement of the provisions of the Motor Vehicle Information and Cost Savings Act and regulations related to display and availability of the "Gas Mileage Guide," requested that EPA clarify the language in § 600.405 to facilitate enforcement of the regulations relative to car dealers' responsibilities. EPA agrees with NHTSA that this section could be read to contradict some of the provisions of § 600.405 relating to dealers' responsibilities. Since § 600.406 was intended to be only explanatory and its deletion does not change the responsibilities of any party, EPA finds good cause to revoke this section without notice or public procedure to avoid any potential conflict in the regulations.

THIRTY-DAY NOTICE REQUIREMENT WAIVER

EPA finds good cause to make this action effective immediately upon publication since it is in the public interest to make the 1978 changes effective at the beginning of the 1978 model year.

ECONOMIC IMPACT

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major action requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A–107.

AVAILABILITY OF DOCUMENTS

Copies of EPA's summary and analysis of comments to the notice of proposed rulemaking and supporting documentation are available for inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

Dated: August 31, 1977.

DOUGLAS M. COSTLE,
Administrator.

Part 600 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. By amending § 600.002–78 by adding new paragraphs (a)(39) and (a)(40) reading as follows:

§ 600.002–78 Definitions.

(a) • • •

(39) "Van" means any nonpassenger automobile having an integral enclosure, fully enclosing the driver compartment and load-carrying device, and having no body sections protruding more than 30 inches ahead of the leading edge of the windshield.

(40) "Base vehicle" means the lowest priced version of each body style that makes up a car line.

2. By adding a new § 600.002–79 identical to § 600.002–78 except that definition (22), "Transmission Class", reads as follows:

§ 600.002–79 Definitions.

• • • • • •

(22) "Transmission Class" means a group of transmissions having the following common features: Basic transmission type (manual, automatic, or semi-automatic), number of forward speeds (e.g., manual 4-speed, 3-speed automatic, 2-speed semi-automatic), and other characteristics determined to be significant by the Administrator (e.g., "creeper" first gear, over-drive final gear ratio, or overdrive unit) when considering factors such as the manufacturers' recommendation for use and/or the numerical gear ratios.

• • • • • •

3. By adding a new § 600.306–79 identical to § 600.306–77 except for paragraph (a) which reads as follows:

§ 600.306–79 Labeling requirements.

(a) Prior to being offered for sale, each manufacturer shall affix or cause to be affixed and each dealer shall maintain or cause to be maintained on each automobile:

(1) A general fuel economy label as described in § 600.308, or

(2) A specific label, as described in § 600.309, for those low altitude automobiles manufactured or imported before the date that occurs 15 days after general labels are approved for the manufacturer.

• • • • • •

4. By adding a new § 600.309–79 reading as follows:

§ 600.309–79 Specific label contents.

The specific fuel economy label must contain the following:

(a) The information and statements as described in § 600.307 (a) through (k);

(b) A statement that the fuel economy estimates are from tests of this specific vehicle configuration and might not be in the booklet described in Subpart E.

(c) A description of the applicable vehicle specifying:

(1) Car line,

(2) Engine displacement,

(3) Number of cylinders,

(4) Transmission class and number of forward speeds,

(5) Fuel metering system, including number of carburetor barrels, if applicable,

(6) Catalyst usage, if so equipped,

(7) Other engine or vehicle parameters, if approved by the Administrator,

(8) Test (inertia) weight,

(9) Axle ratio, and

(10) California emission control system usage, where applicable, if the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other States.

(d) Specific label fuel economy values and estimated fuel cost for that vehicle as determined according to § 600.206.

5. By adding a new § 600.312–79 reading as follows:

§ 600.312–79 Approval of labels.

All fuel economy values, fuel cost estimates, label formats, and other information pertaining to the fuel economy label must be approved by the Administrator before a label is affixed to the vehicle.

(a) The manufacturer shall submit for approval by the Administrator each typical label format exemplifying the intended representation of all information required on the fuel economy label as well as the size and color of print, and paper, and spacing and location of all printed information. After approval by the Administrator, the manufacturer may not change the label except as required for proper vehicle description, fuel economy values, and estimated annual fuel costs. Where the fuel economy label is incorporated with the Automobile Information Disclosure Act label, the above requirements pertain to that section of the label reserved for fuel economy labeling.

(b) All vehicle descriptions, fuel economy values and annual fuel cost estimates intended for use on general and specific labels must be approved in advance by the Administrator. Fuel economy values are computed according to Subpart C of this part from approved vehicle fuel economy results as determined under § 600.008.

6. By adding a new § 600.315–78 reading as follows:

§ 600.315–78 Classes of comparable automobiles.

(a) (1) The Administrator will classify passenger automobiles by car line into one of the following comparable classes, based on interior volume index or seating capacity:

(i) *Two Seaters.* A car line shall be classed as "Two Seaters" if the majority of the vehicles in that car line have no more than two designated seating positions as such term is defined in the regulations of the National Highway Traffic Safety Administration, Department of Transportation, 49 CFR 571.3.

(ii) *Minicompact cars.* Interior volume index less than 85 cubic feet.

(iii) *Subcompact cars.* Interior volume index greater than or equal to 85 cubic feet but less than 100 cubic feet.

(iv) *Compact cars.* Interior volume index greater than or equal to 100 cubic feet but less than 110 cubic feet.

(v) *Mid-size cars.* Interior volume index greater than or equal to 110 cubic feet but less than 120 cubic feet.

(vi) *Large cars.* Interior volume index greater than or equal to 120 cubic feet.

(vii) *Small station wagons.* Station wagons with interior volume index less than 130 cubic feet.

(viii) *Mid-size station wagons.* Station wagons with interior volume index greater than or equal to 130 cubic feet but less than 160 cubic feet.

(ix) *Large station wagons.* Station wagons with interior volume index greater than or equal to 160 cubic feet.

(2) The Administrator will classify nonpassenger automobiles into the following categories: Small pickup trucks, standard pickup trucks, vans, and special purpose trucks. Pickup trucks will be separated by car line on the basis of gross vehicle weight rating (GVWR). For pickup truck car lines with more than one GVWR, the GVWR of the pickup truck car line is the arithmetic average of all distinct GVWR's less than or equal to 6,000 pounds available for that car line.

(i) *Small pickup trucks.* Pickup trucks with a GVWR less than 4,500 pounds.

(ii) *Standard pickup trucks.* Pickup trucks with a GVWR of 4,500 pounds up to and including 6,000 pounds.

(iii) *Vans.*

(iv) *Special purpose trucks.* All nonpassenger automobiles with GVWR less than or equal to 6,000 pounds which do not meet the requirements of subparagraph (2) (i), (ii), or (iii) of this paragraph.

(3) Once a certain car line is classified by the Administrator, the classification will remain in effect for the model year.

(b) Interior volume index—passenger automobiles.

(1) The interior volume index shall be calculated for each car line, which is not a "Two Seater" car line, in cubic feet rounded to the nearest 0.1 cubic feet. For car lines with more than one body style, the interior volume index for the car line is the arithmetic average of the interior volume indices of each body style in the car line.

(2) For all body styles except station wagons and hatchbacks with more than one seat (e.g., with a second or third seat) equipped with seat belts as required by DOT safety regulations, interior volume index is the sum, rounded to the nearest 0.1 cubic feet, of the front seat volume, the rear seat volume, if applicable, and the luggage capacity.

(3) For all station wagons and hatchbacks with more than one seat (e.g., with a second or third seat) equipped with seat belts as required by DOT safety regulations, interior volume index is the sum, rounded to the nearest 0.1 cubic feet, of the front seat volume, the rear seat volume and the cargo volume index.

(c) All interior and cargo dimensions are measured in inches to the nearest 0.1 inches. All dimensions and volumes shall be determined from the base vehicles of each body style in each carline and do not include optional equipment. The dimensions H61, W3, W5, L34, H63, W4, W6, L51, H201, L205, L210, L211, H198, and volume V1 are to be determined in accordance with the procedures outlined in Motor Vehicle Dimensions SAE J1100a (Report of Human Factors Engineering Committee, Society of Automotive Engineers, approved September 1973 and last revised September 1975) except as noted herein:

(1) SAE J1100a(2.3) Cargo Dimensions—all dimensions measured with the front seat positioned the same as for the interior dimensions and the second seat, for station wagons and hatchbacks, in the upright position. All head restraints shall be in the stowed position and considered part of the seat.

(2) SAE J1100a(8). Luggage Capacity—Total of volumes of individual pieces of standard luggage set plus H-boxes stowed in the luggage compartment in accordance with the procedure described in 8.2. For passenger automobiles with no rear seat or with a rear seat with no rear seat belts, the luggage compartment shall include the area to the rear of the front seat, with the rear seat (if applicable) folded, to the height of a horizontal plane tangent to the top of the front seatback.

(3) SAE J1100a(7). Cargo Dimensions.

(i) *L210—Cargo length at second seatback height—hatchback.* The minimum horizontal dimension from the "X" plane tangent to the rearmost surface of the second seatback to the inside limiting interference of the hatchback door on the zero "Y" plane.

(ii) *L211—Cargo length at floor—second—hatchback.* The minimum horizontal dimensions at floor level from the rear of the second seatback to the normal limiting interference of the hatchback door on the vehicle zero "Y" plane.

(iii) *H198—Second seatback to load floor height.* The dimension measured vertically from the horizontal tangent to the top of the second seatback to the undepressed floor covering.

(d) The front seat volume is calculated in cubic feet by dividing 1728 into the product of three terms listed below and rounding the quotient to the nearest 0.001 cubic feet:

(1) H61—Effective head room—front. (In inches, obtained according to paragraph (c)),

(2) (i) (W3+W5+5)/2—Average of shoulder and hip room—front, if hip room is more than 5 inches less than shoulder room. (In inches, W3 and W5 are obtained according to paragraph (c) of this section), or

(ii) W3—Shoulder room—front, if hip room is not more than 5 inches less than shoulder room. (In inches, W3 is obtained according to paragraph (c) of this section), and

(3) L34—Maximum effective leg room—accelerator. (In inches, obtained according to paragraph (c) of this section), Round the quotient to the nearest 0.001 cubic feet.

(e) The rear seat volume is calculated in cubic feet, for vehicles with a rear seat equipped with rear seat belts (as required by DOT) by dividing 1,728 into the product of three terms listed below and rounding the quotient to the nearest 0.001 cubic feet:

(1) H63—Effective head room—second. (Inches obtained according to paragraph (c) of this section),

(2) (i) (W4+W6+5)/2=Average of shoulder and hip room—second, if hip room is more than 5 inches less than shoulder room. (In inches, W4 and W6 are obtained according to paragraph (c) of this section), or

(ii) W4—Shoulder room—second, if hip room is not more than 5 inches less than shoulder room. (In inches, W3 is obtained according to paragraph (c) of this section), and

(3) L51—Minimum effective leg room—second. (In inches obtained according to paragraph (c) of this section.)

(f) The luggage capacity is V1, the usable luggage capacity obtained according to paragraph (c) of this section. For passenger automobiles with no rear seat, or with a rear seat but no rear seat belts, the area to the rear of the front seat shall be included in the determination of V1, usable luggage capacity, as outlined in paragraph (c) of this section.

(g) Cargo volume index:

(1) For station wagons the cargo volume index V2 is calculated in cubic feet, by dividing 1,728 into the product of three terms and rounding the quotient to the nearest 0.001 cubic feet:

(i) W4—Shoulder room—second. (In inches obtained according to paragraph (c) of this section.)

(ii) H201—Cargo height. (In inches obtained according to paragraph (c) of this section), and

(iii) L205—Cargo length at belt—second. (In inches obtained according to paragraph (c) of this section.)

(ii) The usable luggage capacity V1, determined in accordance with paragraph (f) of this section.

(3) For station wagons with more than one seat (e.g., with a second or third seat) equipped with seat belts as required by DOT safety regulations:

(i) The dimensions H201 and L205 determined in accordance with paragraph (c) and,

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(ii) The cargo volume index V2 determined in accordance with paragraph (g)(1) of this section.

(4) For hatchbacks with more than one seat (e.g., with a second or third seat) equipped with seat belts as required by DOT safety regulations:

(i) The dimensions L210, L211, and H198 determined in accordance with paragraph (c) of this section and,

(ii) The cargo volume index V3 determined in accordance with paragraph (g)(2) of this section.

(5) For Pickup trucks:

(i) All GVWR's of less than or equal to 6,000 pounds available in the car line.

(ii) The arithmetic average GVWR for the car line.

7. By adding a new section, § 600.316–78 to read as follows:

§ 600.316–78 Multi-stage manufacture.

Where more than one person is the manufacturer of a vehicle, the final stage vehicle manufacturer (as defined in 49 CFR 549.3) is treated as the manufacturer for purposes of compliance with this subpart.

§ 600.406–77 [Reserved]

8. By revoking and reserving § 600.406–77, "Distribution of booklet information."

(Sec. 301, Pub. L. 94–163, 89 Stat. 901 (15 U.S.C. 2003 and 2006).)

[FR Doc.77–26372 Filed 9–9–77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER I—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 183]

PART 1–16—PROCUREMENT FORMS

New Editions of Standard and Optional Forms

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment of the Federal Procurement Regulations prescribes the use of the February 1977 editions of Standard Form 37, Report on Procurement by Civilian Executive Agencies, and Optional Form 61, Subcontracting Program—Quarterly Report of Participating Large Company on Subcontract Commitments to Small Business Concerns and Minority Business Enterprises. The action is taken in order to physically incorporate on the forms the new and revised reported requirements which previously were approved for use in connection with the prior editions. The intended effect of this amendment is to eliminate the requirements to supplement the forms.

EFFECTIVE DATE: This amendment is effective October 1, 1977, but may be observed as soon as copies of the forms prescribed herein are available.

FOR FURTHER INFORMATION CONTACT:

Philip G. Read, Director of Federal Procurement Regulations, 703–557–8947.

SUPPLEMENTARY INFORMATION: It is anticipated that copies of the forms will be available for use by December 1, 1977, and may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

The table of contents for Part 1–16 is amended to revise an entry as follows:

Sec.
1–16.902 OF61 Optional Form 61, Subcontracting Program — Quarterly Report of Participating Large Company on Subcontract Commitments to Small Business Concerns and Minority Business Enterprises.

Subpart 1–16.8—Miscellaneous Forms

1. Section 1–16.804–3 is amended to make appropriate changes in paragraphs (a), (c), (d), and (e) as follows:

§ 1–16.804–3 Standard Form 37, Report on Procurement by Civilian Executive Agencies.

(a) *Form prescribed.* Standard Form 37, Report on Procurement by Civilian Executive Agencies (February 1977 edition), is prescribed for use when reporting procurement in accordance with this section. However, where determined advantageous by the reporting agency, mechanized printout reports containing the same information and in the same format as called for on Standard Form 37 may be submitted in lieu of Standard Form 37.

* * * * *

(c) *Prime procurement to be reported.* The net dollar amount procured shall be reported with subtotals showing the dollar amounts awarded to small business concerns, to other than small business concerns, and to minority business enterprises. The following additional information shall be reported.

* * * * *

(d) * * *

(3) Summary data shall be furnished showing the total dollar amount of construction contracts and the extent to which such contracts are placed with small business concerns (including minority business enterprises) and other than small business concerns.

(4) Summary data shall be furnished showing the dollar amount of contracts with educational institutions and nonprofit organizations.

(5) Summary data shall be furnished showing the dollar amount of subcontract and purchase commitments reported by large company prime contractors under the Minority Business Enterprises Subcontracting Program clause (§ 1–1.1310–2(b)) and the Small Business Subcontracting Program clause (§ 1–1.710–3(b)) and the total number of prime contractors submitting such reports. See § 1–16.804–5 concerning the reporting form to be used by prime contractors. Due to the normal time lag between the time prime contracts are awarded and subcontracts thereunder are placed, information in this regard may appear unbalanced on any individual periodic report.

(e) *Instructions for preparation of Standard Form 37.* Instructions for preparation of Standard Form 37 are provided on the reverse side of the form, which is illustrated in § 1–16.901–37.

* * * * *

2. Section 1–16.804–5 is revised as follows:

§ 1–16.804–5 Reports by contractors under Small Business Subcontracting Program and Minority Business Enterprise Subcontracting Program.

(a) Optional Form 61, February 1977 edition (illustrated in § 1–16.902–OF61), is designed for use when obtaining information from large business concerns (e.g., other than small business concerns) as to the dollar value of their subcontract and purchase commitments under the Small Business and/or Minority Business Enterprises Subcontracting Program. Reports are not required under prime contracts for standard commercial items unless the contracting agency specifically provides for such reports. In the latter case paragraph (a)(8) of the clause prescribed by § 1–1.710–3(b) must be modified. Also, unless otherwise provided by the contracting agency, reports are not required under contracts or subcontracts with small business concerns, minority business enterprises, and educational and nonprofit institutions.

(b) For the purpose of achieving Government-wide uniformity, the essential elements of this optional form are similar to those in the reporting form used by the Department of Defense. Accordingly, Optional Form 61 shall be used by all civilian agencies in the collection of such information from prime contractors unless it is determined by the procuring agency that use of an agency form would be more advantageous. Where such an agency determination is made, the essential elements of information called for on the agency form shall be the same as those called for on Optional Form 61.

Subpart 1–16.9—Illustrations of Forms

Sections 1–16.901–37 and 1–16.902–OF 61 are revised to illustrate the revised editions of Standard Form 37 and Optional Form 61.

§ 1–16.901–37 Standard Form 37, Report on Procurement by Civilian Executive Agencies.

(a) Page 1 of Standard Form 37.

REPORT ON PROCUREMENT BY CIVILIAN EXECUTIVE AGENCIES (See instructions on reverse)	Interagency Report Control No. 1118–GSA–SA	PERIOD COVERED	FORM APPROVED OMB No. 29–R0018

REPORTING AGENCY (Include bureau, office, etc.)

REFER QUESTIONS TO (Name and title) TELEPHONE NO. (or Code and Extension)

PART I—TOTAL PRIME PROCUREMENT

PROCUREMENTS REPORTED (a)	NET DOLLAR AMOUNT PROCURED (Round to nearest thousand) TOTAL (c+d) (b)	Small Business Concerns (c)	Other Than Small Business (d)	Minority Business Enterprise (e)
1. Total (2+3+4)				
2. Formally advertised				
3. Negotiated				
4. Procurements under other agency contracts (5+6)				
5. Fed. Sup. Sched. & other GSA contracts				
6. Other agency contracts				

PART II—STATISTICS ON SELECTED TYPES OF PROCUREMENT
(Breakouts of procurements reported in Part I)*

PROCUREMENTS REPORTED (a)	NET DOLLAR AMOUNT PROCURED (Round to nearest thousand) TOTAL (c+d) (b)	Small Business Concerns (c)	Other Than Small Business (d)
7. Small business set-asides (8+9)			
8. Other than construction set-asides			
9. Construction set-asides			
10. Procurements in labor surplus areas (11+14)			
11. Under preference procedures (12+13)			
12. With certified eligible concerns			
13. With other labor surplus area concerns			
14. Under nonpreference procedures			
15. Procurement of construction			
16. Procurement from educational institutions and nonprofit organizations			

*Procurement not broken out under the agency's reporting system, due to dollar value floors on reportable transactions, may be omitted from Part II. However, the dollar amounts of such cut offs must be entered under "Remarks."

PART III—SMALL BUSINESS SUBCONTRACTING PROGRAM

17. Dollar amount of subcontract and purchase commitments under the Small Business Subcontracting Program			
18. No. of prime contractors submitting small business subcontracting reports			

PART IV—MINORITY BUSINESS ENTERPRISES SUBCONTRACTING PROGRAM

PROCUREMENTS REPORTED (a)	NET DOLLAR AMOUNT PROCURED (Round to nearest thousand) TOTAL (c+d) (b)	Minority Business Enterprises (c)	Other Than Minority Business Enterprises (d)
19. Dollar amount of subcontract and purchase commitments under the Minority Business Enterprises Subcontracting Program			
20. No. of prime contractors submitting minority business enterprises subcontracting reports			

Remarks

SUBMITTED BY (Signature)	TITLE	DATE

37–105 STANDARD FORM 37 (Rev. 2–77) Prescribed by GSA, FPR (41 CFR) 1–16.804

SPECIMEN

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(b) Page 2 of Standard Form 37.

I. GENERAL INSTRUCTIONS

A. Submission of Reports. Cumulative reports are to be submitted semi-annually within 45 calendar days after the end of each reporting period. One report for the 6-month period ending March 31, and the other for the 12-month period ending September 30 of each year.

B. Procurements to be Reported. Except as otherwise provided herein, the report shall include the dollar amount of all commitments which obligate the Government to an expenditure of funds for property and services (including maintenance, repair and construction of buildings, roads, etc.; and research and development). The dollar amount for small purchases under $10,000 may be developed by generally accepted statistical sampling methods, and purchases under $100 may be excluded from lines numbered 2 and 3. Also, exclude procurements (1) from Governmental sources of supply, such as D.C. Government, Federal Prisons Industries, Inc., Government Printing Office, and General Services Administration (supply depots, fuel yards, etc.); and (2) for transportation by government bill of lading and transportation of personnel.

C. Definitions.

(1) "Net Dollar Amount Procured" or "Dollar Amount" means the actual or estimated cost to the Government of the property or services procured. In most instances, this is the obligation incurred.

(2) "Small Business Concern" means any firm which meets the criteria established by Title 13, Chapter 1, Part 121 of the Code of Federal Regulations.

(3) "Labor Surplus Area" means any geographical area of substantial unemployment, persistent unemployment, and any section of concentrated unemployment or underemployment, as defined and classified in the Department of Labor publication "Area Trends in Employment and Unemployment." (See FPR 1–16.804–4 regarding principal place of performance.)

(4) "Other Than Small Business" means large business concerns, non-profit organizations, educational institutions, and any others which do not meet the criteria for classification as a small business concern.

(5) "Minority Business Enterprise" is a "business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members." For the purpose of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American-Eskimos, and American-Aleuts.

II. INSTRUCTIONS FOR LINE ENTRIES
(Except self-explanatory lines)

Line 1. Enter the total dollar amount of all reportable procurements for construction, supplies, equipment and services, including set-asides for small business, set-asides under Defense Manpower Policy 4, and minority business enterprise.

Line 2. Enter the dollar amount of reportable procurements awarded by the reporting agency which involve formal advertising (see FPR Part 1–2). NOTE: "Restricted" advertising for small business and balance of payments is reportable in Line 3.

Line 3. Enter the dollar amount of reportable procurement awarded by the reporting agency which involve negotiation (see FPR Part 1–3), including "restricted" advertising for small business, and balance of payments, the set-aside portion for partial set-asides, and minority business enterprise.

Line 4. Enter the dollar amount of reportable procurements, under contracts established by another agency, from non-Federal established sources of supply, including orders placed with commercial suppliers under Federal Supply Schedule contracts, GSA local service contracts, Defense Supply Agency contracts for petroleum, etc.

Line 5. Enter the dollar amount of all procurements (regardless of amount) under Federal Supply Schedule contracts and GSA local service contracts with non-Federal sources of supply.

Line 6. Enter the dollar amount of procurements under contracts entered into by other agencies, except those reported on Line 5.

Line 14. Enter the dollar amount of procurements awarded by the reporting agency in Labor Surplus Areas under preference procedures, including set-asides and tie bids (see FPR 1–1.807).

Line 15. Enter the dollar amount of procurements awarded by the reporting agency in Labor Surplus Areas under non-preference procedures (see FPR 1–1.807).

Line 16. Enter the dollar amount of contracts for construction, alteration, and repair (including painting and decorating) of buildings, bridges, roads or other real property.

Line 17. Enter the dollar amount of subcontract and purchase commitments reported by prime contractors under the Small Business Subcontracting Program (see FPR 1–16.804–5). Due to timing factors, this dollar amount need not be directly related to prime contracts placed during any reporting period.

Line 18. Enter the number of prime contractors that are currently submitting small business subcontracting reports.

Line 19. Enter the dollar amount of subcontract and purchase commitments reported by prime contractors under the Minority Business Enterprises Subcontracting Program (see FPR 1–16.804–5). Due to timing factors, this dollar amount need not be directly related to prime contracts placed during any reporting period.

Line 20. Enter the number of prime contractors that are currently submitting minority business enterprises subcontracting reports.

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Standard Form 37 Back (Rev. 2–77)

§ 1-16.902-OF61 Optional Form 61, Subcontracting Program - Quarterly Report of Participating Large Company on Subcontract Commitments to Small Business Concerns and Minority Business Enterprises.

(a) Page 1 of Optional Form 61.

SUBCONTRACTING PROGRAM—QUARTERLY REPORT OF PARTICIPATING LARGE COMPANY ON SUBCONTRACT COMMITMENTS TO SMALL BUSINESS CONCERNS AND MINORITY BUSINESS ENTERPRISES

Form Approved OMB No. 29-R0190

1. CONTRACTING AGENCY AND REPRESENTATIVE	2. QUARTERLY PERIOD FROM TO
3a. NAME OF COMPANY, PLANT OR DIVISION COVERED	b. ADDRESS (Number, Street, City, State and ZIP Code)
4a. NAME OF COMPANY IF DIFFERENT FROM ITEM 3a	b. ADDRESS (Number, Street, City, State and ZIP Code)

5a. SUBCONTRACT AND PURCHASE COMMITMENTS TO SMALL BUSINESS CONCERNS (Net)	DOLLAR AMOUNT (To nearest dollar)	c. TOTAL (5a+5b)
b. SUBCONTRACT AND PURCHASE COMMITMENTS TO LARGE BUSINESS CONCERNS (Net)	DOLLAR AMOUNT (To nearest dollar)	
6a. SUBCONTRACT AND PURCHASE COMMITMENTS TO MINORITY BUSINESS ENTERPRISES (Net)	DOLLAR AMOUNT (To nearest dollar)	b. TOTAL (6a+6b)
b. SUBCONTRACT AND PURCHASE COMMITMENTS TO OTHER THAN MINORITY BUSINESS ENTERPRISES (Net)	DOLLAR AMOUNT (To nearest dollar)	
7a. TYPED NAME AND TITLE OF COMPANY OR SUBDIVISION LIAISON OFFICER	b. SIGNATURE	c. DATE OF REPORT

GENERAL INSTRUCTIONS

1. This report is to be submitted for each calendar quarter by all contractors maintaining SMALL BUSINESS and/or MINORITY BUSINESS ENTERPRISE SUBCONTRACTING PROGRAMS, and required to report. The original and _____ copies of each report shall be submitted to:

Reports shall be submitted not more than 45 calendar days after the close of the quarter being reported. Data pertaining to individual companies will be treated as confidential.

2. Each reporting company, division or plant shall report the required information for the reporting unit as a whole on the basis of the total "mix" of contracting agency business (e.g., commitments for subcontracting work shall not be segregated as between subcontracts under prime or under subcontracts).

SPECIFIC INSTRUCTIONS

ITEM 1.—Specify the agency and its representative who established reporting arrangements under the small business and/or minority business enterprise subcontracting program.

ITEM 2.—Enter the day, month and year of the first and last days of the period covered by this report.

ITEM 3.—Enter the name of the reporting company or subdivision thereof (e.g., division or plant) which is covered by the data submitted. A company may elect to report on a corporate, division or plant basis.

ITEM 4.—If the report is for a division, plant or other subdivision of a company, enter the name of the company of which the reporting subdivision is a part.

ITEM 5a.—Enter the net dollar amount of the commitments made by the reporting organization during the quarter to small business concerns for agency (*see Item 1*) subcontracts and purchases. The reporting company may accept the representation of a supplier that it is a small business concern under Definition No. 1.

b. Enter the net dollar amounts of commitments made by the reporting organization during the quarter to large business concerns for agency (*see Item 1*) subcontracts and purchases.

c. Enter the total net dollar amount of commitments made by the reporting organization during the quarter to all business concerns for agency (*see Item 1*) subcontracts and purchases.

(INSTRUCTIONS CONTINUED ON REVERSE)

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OPTIONAL FORM 61 (Rev. 2-77)
FPR (41 CFR) 1-16.804

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(b) Page 2 of Optional Form 61.

ITEM 6a.—Enter the net dollar amount of the commitments made by the reporting organization during the quarter to minority business enterprises for agency (*see Item 1*) subcontracts and purchases. The reporting company may accept the representation of a supplier that it is a minority business enterprise under Definition No. 2.

b.—Enter the net dollar amounts of commitments made by the reporting organization during the quarter to other than minority business enterprises for agency (*see Item 1*) subcontracts and purchases.

c.—Enter the total net dollar amount of commitments made by the reporting organization during the quarter to all business concerns for agency (*see Item 1*) subcontracts and purchases.

ITEM 7.—Self explanatory.

ITEM 8.—Enter the date (day, month, year) this report is submitted.

DEFINITIONS

1. SMALL BUSINESS CONCERN.—A small business concern is a concern that meets the pertinent criteria established by the Small Business Administration and set forth in Title 13, Chapter 1, Part 121 of the Code of Federal Regulations.

2. MINORITY BUSINESS ENTERPRISE.—A minority business enterprise is a "business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members." For the purpose of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American-Eskimos, and American-Aleuts.

3. SUBCONTRACTS AND PURCHASES.—Subcontracts and purchases as used herein means procurement by a business concern of any article, material or service, including agency (*see Item 1*) portions of stock inventory and, where reasonably determined to be attributable to such agency contracting, purchases of plant maintenance, production, operation, and capital equipment, entering into the performance of such agency supply, service or facility contract received by that business concern from (*i*) the agency (*see Item 1*), or (*ii*) another business concern. Procurement of Experimental, Developmental, Research work is to be included.

4. COMMITMENTS.—Commitments as used herein means contracts, purchase orders or other legal obligations executed by the reporting Company for goods and services to be received by the reporting Company. Commitments shall include increases to purchase orders and contracts less downward adjustments to purchase orders and contracts as a result of contract changes, cut-backs, or terminations.

5. SUBCONTRACT AND PURCHASE COMMITMENTS.—Subcontract and purchase commitments will include all commitments (net, after adjustments) to a supplier of subcontracted or purchased articles, materials or services, as defined in 3 above, except purchases from a company, division, or plant which is an affiliate of the reporting company.

SAMPLE

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OPTIONAL FORM 61 Back (Rev. 2-77)

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c).)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: August 29, 1977.

JAY SOLOMON,
Administrator,
General Services Administration.

[FR Doc.77-26316 Filed 9-9-77;8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 75-017]

PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS

PART 35—OPERATIONS

Air Compressors on Tank Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This document amends the tanker regulations by eliminating the requirement that tank barges locate air compressors outside the cargo deck space and the requirement that air compressors and intakes for air compressors be removed or be made inoperative in foreign flag vessels. These requirements were inadvertently included in an earlier amendment to the tanker regulations. Correcting this oversight does not reduce safety for these vessels since an equivalent level of safety is retained by an operating requirement and by installation requirements.

EFFECTIVE DATE: This amendment is effective on September 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1477).

SUPPLEMENTARY INFORMATION: In the May 19, 1977, issue of the FEDERAL REGISTER (42 FR 25734), the Coast Guard published amendments to 46 CFR Parts 32 and 35. Section 32.35-15, which was added to Part 32, prohibits the installation of air compressors or intakes to air compressors in the cargo areas of certain tank vessels contracted for on or after June 15, 1977. Section 35.35-85, which was added to Part 35, prohibits the use of installed air compressors in certain locations on existing tank vessels. In addition, it requires the owner to remove or make inoperative air compressors or intakes to air compressors in a cargo area.

"Cargo deck space," as defined in § 32.35-15(f), applies to tankships and tank barges and was included to make the wording and application for tankships consistent with the existing associated regulation, § 32.45-1(f)(4-a). The prohibition in § 32.35-15(f) of air compressors in the cargo deck space, such as those used for diesel engine-starting, affects some tank barges. In promulgating the rule, the Coast Guard did not intend this prohibition which is inconsistent with existing regulations for tank barges in Subchapter D, such as § 32.45-1(f)(4), which allows explosion-proof electrical equipment to be installed on or above the weather deck, provided it is not within 10 feet of cargo tank openings. This document corrects the oversight by excepting tank barges from the requirements of § 32.35-15(f). Since the locations in which air compressors could be installed on tank barges would still be limited to spaces not prohibited by § 32.35-15 (a) through (e), (g), and (h), the Coast Guard has determined that tank barges would be afforded an equivalent level of safety as tankships.

Under 46 CFR 30.01-5(e) (1), each vessel of the foreign nations signatory to the International Convention for the Safety of Life at Sea, 1960 (16 UST 185, TIAS 5780, 536 UNTS 27) that has on board a current valid Safety Equipment Certificate, or each vessel of the foreign nations having inspection laws approximating those of the United States and reciprocal inspection arrangements with the United States that has on board a current valid certificate of inspection issued by its government, is subject only to the requirements under Subchapter D of § 35.01-1, Part 35.30, and Part 35.35. This application to foreign flag vessels was overlooked in the promulgation of the rule. It was the intention of the Coast Guard to prohibit the operation of this equipment by foreign tank vessels when they are in the navigable waters of the United States. It was not the intention of the Coast Guard to require the owner of a foreign flag vessel to remove air compressors or intakes of air compressors from cargo areas or make them permanently inoperative. This document corrects the oversight by excepting foreign flag vessels from the requirements of § 35.35-85(b).

Since the amendments in this document reduce burdens placed on tank barges by 46 CFR 32.35-15(f) and on foreign flag vessels by 46 CFR 35.35-85 (b), notice under 5 U.S.C. 553 is unnecessary, and the amendments may be made effective in less than 30 days.

DRAFTING INFORMATION

The principal persons involved in drafting this document are: Lieutenant Commander Paul K. Anderson, Project Manager, Office of Merchant Marine Safety, and Stanley M. Colby, Project Attorney, Office of the Chief Counsel.

In accordance with the foregoing, Parts 32 and 35 of Title 46, Code of Federal Regulations, are amended as follows:

1. By revising the first sentence of § 32.35-15(f) to read as follows:

§ 32.35-15 Installation of air compressors on tank vessels contracted on or after June 15, 1977—TB/ALL.

* * * * * * *

(f) Except for tank barges, the cargo deck space. * * *

* * * * * * *

§ 35.35-85 [Amended]

2. By adding the words ", except a foreign flag vessel," after the word "vessel" and before the word "that" in the first sentence of § 35.35-85(b).

(R.S. 4405, as amended (46 U.S.C. 375); R.S. 4417a, as amended (46 U.S.C. 391a); R.S. 4462, as amended (46 U.S.C. 416); sec. 1, 77 Stat. 475 (46 U.S.C. 481); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b), (n)(4).)

Dated: September 2, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77-26505 Filed 9-9-77;8:45 am]

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER A—GENERAL PROVISIONS

[General Order 16, Amdt. 20; Docket No. 77-12]

PART 502—RULES OF PRACTICE AND PROCEDURE

Designation of Parties

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: Rules of Practice and Procedure are amended to terminate the practice of naming persons protesting individual changes in tariffs "complainants" and to cease making them automatic parties to formal proceedings instituted by the Commission to investigate rate changes in general-revenue cases. The amendment is necessary to eliminate delay and confusion which resulted from the practice. The effect will be to simplify general-revenue proceedings and advise persons who protest rate changes of the appropriate procedural steps to take to protect their interests.

EFFECTIVE DATE: September 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Joseph C. Polking, Acting Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573 (202-523-5725).

SUPPLEMENTARY INFORMATION: This proceeding was instituted by notice of proposed rulemaking published in the FEDERAL REGISTER of May 3, 1977 (42 FR 22383). The purpose of the proceeding was to amend Rule 41 of the Commission's Rules of Practice and Procedure (46 CFR 502.41) so as to discontinue the practice of naming persons who protest proposed rate changes "complainants" and automatically making them parties to proceedings instituted by the Commission to determine the lawfulness of proposed rate changes in so-called "general-revenue" cases. As the Commission explained in the notice cited, this practice frequently causes such proceedings to suffer undue delay because such protesting persons are usually interested in issues pertaining to the reasonableness of an individual rate or rates rather than the central issue whether the gross revenue which the carrier is seeking to derive

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from its proposed rate changes is just and reasonable. Consequently protestants usually consume time needlessly during the proceeding while they attempt to present evidence and arguments irrelevant to the basic issue, or they often do not appear or participate in the proceeding at all, although named as parties, requiring them to be served with pleadings and evidentiary documents, often at great expense to the active parties. Because such protestants are often interested in issues extraneous to the basic issue, they unduly broaden the proceeding and might not have even qualified as interveners under the standards prescribed by Rule 72, 46 CFR 502.-72, had they petitioned for leave to intervene under that rule. Nevertheless, under present practice, protestants are, in effect, granted intervention without having to make a showing of substantial interest in the issues in the proceeding or representing that they will not unduly broaden the issues.

Finally, the practice of designating protestants as "complainants" has led to confusion in the minds of such persons who have mistakenly believed that they have qualified as persons filing complaints pursuant to section 22 of the Shipping Act, 1916 (46 U.S.C. 821) with consequent rights and obligations. The Commission therefore proposed to eliminate confusion and unnecessary consumption of time and assist persons in understanding their rights and obligations in general-revenue proceedings simply by discontinuing the practice of naming such persons "complainants" and of making them parties to general-revenue proceedings automatically in orders instituting such proceedings. Should such persons have a substantial interest in the issues in these proceedings and make a proper showing that they will not unduly broaden the issues, they may, of course, be granted leave to intervene pursuant to Rule 72, cited above, and participate as parties to the proceeding.

Comments to the proposed rule were submitted by Matson Navigation Co. (Matson), Sea-Land Service, Inc. (Sea-Land), and the Military Sealift Command (MSC). Matson supports the proposed rule, stating that "it will help eliminate confusion and unnecessary consumption of time and to assist persons in understanding their rights." Sea-Land agrees with the objective of simplifying and streamlining procedures and assisting persons to understand their rights, but does not believe that the proposed rules will achieve these objectives. On the contrary, Sea-Land believes that the rules will add uncertainty and place additional burdens on carriers.

Sea-Land contends that a person protesting a rate change or changes may merely file a protest, cause an investigation and suspension of the proposed rate changes, and have nothing further to do with the proceeding, unless he files a petition for leave to intervene. Sea-Land believes that this situation may be unfair to the person with a legitimate interest in active participation in the proceeding and furthermore unfair to the carrier who is faced with an ongoing proceeding without the presence of the adversary party who caused the proceeding to commence in the first place. Sea-Land suggests that the Commission should continue to name protestants as parties to the proceeding so that the carrier can decide whether to direct its attention to the substance of the protests.

We believe that Sea-Land's comments lack merit. Even Sea-Land admits that "[i]n many, if not most such instances," statements of persons protesting rate changes "do not meet the requirements of the Commission's rules and the senders frequently have no intention of participating in an official investigation proceeding." Sea-Land even agrees that "generally speaking, senders of such statements, if called upon, will add little or nothing to the development of a factual record upon which a proper decision could be made." Furthermore, Sea-Land appears to be under the mistaken impression that protestants must be participants in Commission investigations so that the carrier can protect its interests. Sea-Land also incorrectly believes that failure to name protestants parties at the outset of the proceeding is tantamount to their being "arbitrarily dismissed in advance."

The decision to institute an investigation is made by the Commission on the basis of information submitted by the carriers, protesting persons, and other information available to the Commission, and not because protesting persons may or may not intend to take an active role in the proceeding. If protesting persons decide not to participate actively, as even Sea-Land admits happens frequently, this does not mean that the carrier suffers some kind of prejudice. By law a carrier has the burden of proving the justness and reasonableness of its proposed rate changes. Section 3, Intercoastal Shipping Act, 1933, 46 U.S.C. 845; *Commonwealth of Puerto Rico* v. *Federal Maritime Commission*, 468 F. 2d 872 (D.C. Cir., 1972). The failure to name as a party someone who had filed a protest before the proceeding was instituted does not change the carrier's burden nor should it prejudice the carrier if the protestant has so little interest in the proceeding that he does not even bother to seek to intervene, thereby presenting no evidence or arguments on the record against the carrier's interests. Should the carrier for whatever reason need to examine the position of such an absentee protestant, the carrier is not without means to obtain information from such a person by means of the Commission's deposition and subpena processes. Nor does the protestant suffer from arbitrary dismissal if he is not automatically named a party to the proceeding, because, as mentioned above, if sufficiently interested, such person can seek to become an active party by filing a petition for leave to intervene as provided by Rule 72.

MSC opposes adoption of the proposed rule change. MSC does not believe that protestants are confused by being designated "complainants" in orders instituting proceedings but has no objection to another appellation for such persons. However, MSC does object to the view expressed by the Commission that "general revenue cases are only concerned with carriers' needs for increased revenue and that other matters raised by protestants are not appropriate for investment." MSC contends that a carrier's revenue needs "cannot be examined in a vaccum" and that changes in the level of particular rates will have an effect on the quantity of cargo that will move depending upon various demand factors, and therefore consideration of particular rate levels must be considered by carriers and the Commission in evaluating the reasonableness of the carrier's requests for increased revenue and the effect on the carrier's ultimate rate of return. Furthermore, MSC contends that a carrier might incorrectly evaluate the effect of increases on particular rates with the result that individual rates or groups of rates might be unjust or unreasonable. These matters should be included in any general-revenue investigation, according to MSC. Additional matters that bear consideration in general-revenue investigations are the questions whether, in the age of containerization and uniform costs, rate levels on commodities should be more uniform and whether tariffs should reduce the number of individual rates published.

Finally, MSC argues that there are two disadvantages which would result if protesting persons were compelled to file formal complaints under section 22 of the Act. First, this would create multiple proceedings with probable consolidation and increased costs of additional pleadings. Second, the burden of proof would shift from the carrier to the complainant, contrary to the Congressional intent expressed in section 3 of the 1933 Act, cited above.

The comments submitted by MSC are not without some merit but do not withstand careful analysis. Contrary to MSC's beliefs, confusion has in fact arisen in the minds of parties named as "complainants" who have confused their status as protestants with actual complainants filing under section 22 of the Act. In *Matson Navigation Company—General Rate Increase in the Hawaiian Trade*, Docket Nos. 73–22, etc. (Initial Decision, February 22, 1977), fourteen protestants were named as "complainants", yet only one such "complainant" fully participated in the proceeding (Docket No. 73–22), Id., pp. 3, 4. Furthermore, in Docket No. 73–22 (Sub. No. 1), a protesting shipper named as "complainant" in the Commission's Order of Investigation, did indeed argue that it had been transformed into a section 22 complainant and was entitled to seek reparation, although it had never filed a formal complaint under that law. Id., pp. 26, 27. The presiding judge called attention to the confusion arising out of the present practice. Id., pp. 3, 4, footnote 10.[1]

MSC's contention that the proposed rule change would eliminate all consideration of evidence pertaining to individual commodity rates and movements is unfounded. The proposed rule change is designed to facilitate general-revenue investigations by concentrating on the essential issue to be determined, that is, the reasonableness of the carrier's expected gross revenue and to avoid excursions into essentially different issues pertaining to the reasonableness of a particular rate or rates. This is not to say, as MSC seems to fear, that evidence concerning effect on the movement of particular rates has no relevance in determining the general-revenue issue. Of course, in any general-revenue case, the carrier attempts to predict volume of movement and the revenue to be expected following rate changes. Any such prediction or evaluation may obviously be affected by changes in volume of movement of particular commodities and if the commodities are major-moving items which are affected by elastic demand factors, the carrier's predictions may be subject to significant revisions. The proposed rule changes do not preclude consideration of these factors, as MSC seems to fear.[2] However, the question of reasonableness of a particular rate is still an essentially different issue which should be litigated in consideration of transportation factors such as cost of service, value of service, etc., which focus upon the particular commodity in question.[3] All too frequently, however, shippers interested in obtaining a determination that a particular commodity rate or rates are unjust or unreasonable engage in the futile endeavor of contesting evidence pertaining to the carrier's need for increased overall revenue armed with little more than evidence concerning anticipated effects on movements of their particular commodities.

As the Commission remarked in our previous notice, these efforts usually consume time needlessly and are essentially irrelevant in a general-revenue case. The answer to this problem is to avoid the wasteful practice of litigating issues in wrong proceedings. The proposed rule would require protestants to file their own complaints or, under the proper circumstances, petition the Commission to institute investigations concerning a particular rate or rates. In either event, the resulting proceeding would concentrate on the proper issue to be determined and the parties would proceed to develop truly relevant evidence pertaining to revenue, transportation, and rate-making factors relating to the specific rate in question. Similarly, this would also apply to shippers who wish to litigate issues concerning revision of tariff rate structures or reduction in the number of published rates.

After consideration of all of the comments, the Commission remains convinced that the present practice in question has caused delay and confusion in the conduct of general-revenue proceedings and that the amendments will benefit all parties in obtaining quicker decisions in such proceedings as well as shippers or other protesting persons in more effectively protecting their interests.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553), sections 22 and 43 of the Shipping Act, 1916 (46 U.S.C. 821, 841a), and section 3 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 845), Part 502 of Title 46, Code of Federal Regulations, is amended as set forth below.

1. Section 502.41 is amended by deleting the following words from the second sentence: "and/or § 502.67 (Rule 5(g))".

Effective date. Inasmuch as the expeditious adoption of this rule change is desirable and the change is procedural in nature, it shall be effective September 12, 1977, and shall be applicable to all future proceedings.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-26387 Filed 9-9-77;8:45 am]

[1] Significantly, despite MSC's argument that the term "complainant" is appropriate because section 3 of the Intercoastal Shipping Act, 1933, uses the term "complaint," there is independent evidence that the use of that term in the statute has no special importance. In a recent report issued by the House Committee on Merchant Marine and Fisheries on a bill amending section 3 (H.R. 6503), the Committee draft would replace the term "complaint" with the word "protest" as a routine change. See Report No. 95-474, 95th Congr., 1st Sess., June 30, 1977, pp. 14, 15.

[2] Indeed, the Commission, in several recent orders of investigation, has made clear that although the basic issue in a general-revenue proceeding still concerns the reasonableness of the carrier's gross revenue to be derived from the proposed rate changes, "[e]vidence as to the effect of the proposed changes on movement of any particular commodity or commodities will be considered relevant to this basic issue and may be used to determine what overall revenue, in fact, will be derived." See Docket No. 77–27, *Trailer Marine Transport Corporation—General Increase in Rates*, Order of Investigation and Suspension, June 30, 1977; Docket No. 77–28, *Gulf Caribbean Marine Lines, Inc.—General Increase in Rates*, Order of Investigation and Suspension, June 30, 1977; Docket No. 77–30, *Puerto Rico Maritime Shipping Authority—General Increase in Rates*, Order of Investigation, July 7, 1977.

[3] The Commission, other regulatory agencies, and the courts have recognized that the issues in a general-revenue case are essentially different from those in specific commodity cases. See, e.g., *Alcoa Steamship Co., Inc.—General Increases in Rates in the Atlantic/Gulf Puerto Rico Trade*, 9 F.M.C. 220, 222 (1966); *Matson Navigation Company—Rate Structure*, 3 U.S.M.C. 82, 87–88 (1966); *Wool Rates from Boston to Philadelphia*, 1 U.S.S.B. 20, 21 (1921). In commenting upon a decision of the Interstate Commerce Commission establishing the distinction between the two types of cases, one court stated:

> In 1905 (footnote omitted) the Commission pointed out the difference between such a rate (i.e., for carriage of a single commodity) and an entire system of rates. It said the question whether the revenue yielded by all the rates is a fair return has "only a very remote, if any practical, bearing on the reasonableness of a rate on a single article of traffic." On the other hand, it said, the reasonableness of a single rate depends upon "the value, volume and other characteristics affecting the transportation of the particular commodity." That decision of the Commission was affirmed by the Supreme Court (footnote omitted) * * *. So far as we can ascertain, that rule is well established law. *Chicago Board of Trade* v. *United States*, 223 F. 2d 348, 351 (D.C. Cir. 1955).

For a similar discussion see Locklin, *Economics Transportation* (Irwin, Inc., 7th ed. 1972), Chapter 18, pp. 421–22, citing, among other cases, *Interstate Commerce Commission* v. *Union Pacific R.R. Co.*, 222 U.S. 541, 549 (1912). See also Docket No. 76–43, *Matson Navigation Company—Proposed Rate Increases in the United States Pacific Coast/Hawaii Domestic Offshore Trade*, Denial of Appeal, May 13, 1977, where we recently confirmed this principle, and the orders of investigation served in Dockets Nos. 77–27, 77–28, and 77–30, cited in the previous footnote.

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20727; RM-2557; FCC 77-543]

PART 73—RADIO BROADCAST SERVICES

TELEVISION BROADCAST STATIONS IN RIVERSIDE AND SANTA ANA, CALIFORNIA

Changes Made in Table of Assignments

Correction

In FR Doc.77-23456 appearing at page 41125 in the issue for Monday, August 15, 1977, the following correction should be made.

1. On page 41127, first column, in the second line of the table for § 73.606, the Channel No. for Santa Ana, Calif. should be added as follows: "40, * 50–".

This corrects a correction appearing on page 44545 in the issue of Tuesday, September 6, 1977.

[Docket No. 20065, RM-2224]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Hay Springs-Scottsbluff, Nebr.

Changes Made in Table of Assignments

Correction

In FR Doc. 77-23458 appearing at page 41123 in the issue for Monday, August 15, 1977, the following correction should be made.

1. The Docket No. should read as set forth above.

This corrects a correction appearing on page 44545 in the issue of Tuesday, September 6, 1977.

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 987]

[Docket No. AO-269-A6]

DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

Recommended Decision and Opportunity To File Written Exceptions To Proposed Further Amendment of Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This recommended decision would amend the Federal marketing agreement and order covering domestic dates produced or packed in Riverside County, Calif. It provides interested persons with the opportunity to file written exceptions concerning the recommendations made herein.

The major purpose of the recommended changes in the order is to recognize market changes and changes in handler-producer relationships and thus improve order operations. The principle changes would: (1) Restructure the California Date Administrative Committee; (2) change the term of office of Committee members from one year to two years; (3) change volume regulation to include new major markets; (4) authorize the Committee to utilize the services of a consumer consultant; and (5) make minor changes in assessment and record keeping provisions.

DATES: Written exceptions to this recommended decision must be received on or before October 21, 1977.

ADDRESSES: Written exceptions should be submitted in duplicate to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, Department of Agriculture, Washington, D.C 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued February 18, 1977; published February 23, 1977 (42 FR 10695).

PRELIMINARY STATEMENT

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed further amendment of the marketing agreement and Order No. 987 (7 CFR Part 987), regulating the handling of domestic dates produced or packed in Riverside County, Calif., and of the opportunity to file written exceptions thereto. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Material Issues. Material issues of record are as follows: (1) Changing the order by revising the definitions of "crop year"; "handler"; "handle"; "trade demand"; "marketable date"; "free dates"; "substandard dates"; and "cull dates".

(2) Changing the structure of the California Date Administrative Committee; changing the nomination procedures; changing the term of office of members and alternate members; and changing the voting procedures.

(3) Changing the order to provide authority for the Committee to utilize the services of a consumer consultant.

(4) Restructuring marketing policy provisions to reflect market changes and to gain additional handler information.

(5) Changing the order to clarify the applicability of the grade regulation provision in years when no volume regulation is established.

(6) Changing the order designate outlets for marketable dates.

(7) Changing volume control determinations.

(8) Changing certain assessment criteria.

(9) Changing certain recordkeeping requirements.

Findings and conclusions. The following findings and conclusions on these material issues are based on the record of the hearing: (1) The definition of "Crop year" in § 987.6, should be revised by deleting the obsolete phrase "except that the crop year ending September 30, 1971, shall begin on August 1, 1970". This phrase was necessary to define the then current crop year when the term "crop year" was revised in 1971 to begin on October 1.

The term "Handler" in § 987.8 should be revised by substituting "§ 987.21" for "§ 987.22". A recommended change discussed in Material Issue (2) would combine the provisions on establishment and membership of the Committee into § 987.21. Currently, § 987.21 provides for establishment of the Committee and § 987.22 provides for its membership.

Under the term "Handle" in § 987.9, transportation of dates is a handling function. However, the definition exempts from handling the movement of dates by a handler to storage for his own account so long as the movement is within the area of production (i.e., Riverside County), San Bernardino and Imperial Counties, Calif., and such other counties in California (i.e., Orange and San Diego Counties) adjoining the area of production as the Committee may prescribe with the approval of the Secretary. The evidence is that storage facilities in Riverside, San Bernardino, and Imperial Counties have, at times, been inadequate. For example, during harvest available cold storage facilities in these counties may be limited. The evidence also is that adequate storage facilities are available in Yuma County, Ariz., which adjoins Riverside County, and handlers should be able to move dates to storage in that county for their own account without such movement being considered as handling. Moreover, it is unnecessary to require the Committee, with the approval of the Secretary, to specifically designate Orange, San Diego, and Yuma Counties as additional storage areas. Therefore, § 987.9 should be amended by deleting that part of the definition beginning with "• • • the counties of San Bernardino, etc. • • •" and substituting "• • • or counties adjoining the area of production, shall not be considered handling". The evidence indicates that storage of dates in Riverside, San Bernardino, and Imperial Counties has presented no problems with order compliance. However, storage facilities in San Diego and Yuma Counties are of some distance from the production area, and storage of dates in these counties could lead to loss of surveillance and control by the Committee over these dates. Some form of monitoring by the Committee may be necessary to assure compliance with all applicable requirements of the order, and the Committee should be able to establish safeguards to maintain surveillance and control over dates stored in Orange, San Diego, and Yuma Counties. For example, handlers could be required to submit applications to the Committee for approval to store dates in those counties. In order to enable the Committee to establish safeguards, a new sentence should be added to § 987.9 authorizing the Committee, with the approval of the Secretary, to establish procedures for storage of dates in Orange, San Diego, and Yuma Counties.

The term "Trade demand" in § 987.11 now means the aggregate quantity of whole and pitted dates which the trade will acquire from all handlers during the crop year for distribution in the continental United States, Canada, and such

other countries as the Committee finds will acquire dates at prices reasonably comparable with prices received in the continental United States. This term is used by the Committee in marketing policy deliberations when considering the demand for marketable dates and, specifically, in establishment of volume regulation for a crop year. It excludes the demand for marketable dates sold in other export or product use, which account for about half of the date shipments. To provide a term of reference more in keeping with current marketing conditions, "trade demand" should include the needs of each market or outlet in which marketable dates are sold. Thus, the term should be revised to mean those quantities of marketable dates which the Committee finds are required to satisfy the need for dates in specific outlets in which marketable dates are handled. This would include whole and pitted dates used in the domestic market (the United States and Canada), and marketable dates used in export and products. The term should also include any other category of importance in which marketable dates are handled in the future. "Trade demand" would continue to be used by the Committee in considering marketing policy, and also the need to continue or change grade and size regulations for dates moving in each outlet.

The term "Marketable dates" is defined in § 987.12 to mean, for any crop year, whole or pitted dates which are certified as equal to or higher than the applicable minimum grade then in effect pursuant to § 987.39, and any additional, applicable requirements, pursuant to § 987.40, which may then be in effect for restricted dates. This definition has created some confusion because it embodies the concept of volume control predicated on quality requirements. The quality requirements for marketable dates have been effective each year, whether or not any volume regulation was in effect for that year. Thus, references to "crop year" and requirements for restricted dates should be deleted from the definition. As revised, "marketable dates" should mean those dates which are certified as equal to or higher than the applicable minimum grade and size requirements in effect pursuant to § 987.39, and any additional applicable requirements in effect pursuant to § 987.40. Moreover, the definition should include the various outlets for marketable dates. These outlets include, but should not be limited to, "DAC dates", "dates for further processing", "export dates", and "product dates".

"DAC dates" should mean marketable whole or pitted dates that are inspected and certified as meeting the grade, size, container, and identification requirements established by the Committee, with the approval of the Secretary, for a specific variety for handling in the United States and Canada. This definition corresponds with current industry usage. In the past, the term "DAC dates" has been used synonymously with "free dates". However, "free dates" are currently defined, and will continue to be defined, in terms of dates which are free to be handled pursuant to any free percentage. On the other hand, the term "DAC dates" would be applicable whether or not volume regulation is in effect for a crop year.

"Dates for further processing" should be defined to mean marketable whole dates acquired by one handler from another handler that are certified as meeting the same grade and size requirements for DAC dates, with the exception of moisture requirements, and such identification requirements applicable to dates for further processing that are established by the Committee with the approval of the Secretary for any specific variety. This term and its definition also reflect current industry usage.

"Export dates" should be defined to mean marketable whole or pitted dates that are inspected and certified as meeting the grade, size, container and identification requirements established by the Committee, with the approval of the Secretary, for a specific variety, to be handled in export to any country or group of countries with the exception of Canada. Because different countries may have different requirements or preferences, the Committee should be authorized to establish different requirements for different countries. This definition is consistent with current industry usage.

"Product dates" currently are defined in § 987.55. This definition should be deleted from § 987.55, and the term "product dates" should be defined in § 987.12 to mean marketable dates that are inspected and certified as meeting the applicable grade and size requirements for dates to be handled in such forms as rings, chunks, pieces, butter, macerate, paste, or any other forms which the Committee deems appropriate and which will result in dates moving into consumption in a form other than that of whole or pitted dates.

The term "free dates" in § 987.13 should be revised to mean dates of any variety that are at the time of certification destined for consumption in whole or pitted form in the United States and Canada (and such other countries as the Committee determines are likely to acquire them at prices reasonably comparable with prices received domestically) and which are free to be handled pursuant to any free percentage established by the Secretary in accordance with § 987.44. A portion of this wording is included in the current definition of "trade demand" in § 987.11. The proposed definition more adequately defines "free dates" in terms of whole or pitted dates destined for specific outlets and conforms with the proposed revision of the term "trade demand".

Section 987.15 defines the term "substandard dates" to mean those dates which fail to meet the requirements for marketable dates but are not cull dates. The term is derived from the substandard grade in the U.S. Standards for Grades of Dates. However, the term "utility dates" has been used by the industry for several years in referring to substandard dates. The term "utility dates" is defined in § 987.103 of Subpart—Administrative Rules (7 CFR 987.101-987.168) to be synonymous with the term "substandard dates". The terms "utility dates" and "substandard dates" are interchangeable and have the same meaning under the order. However, the word "substandard" has certain undesirable connotations in terms of quality and implies a quality lower than that covered by the substandard grade. Therefore, the term "utility dates" should be substituted for "substandard dates" whenever that term appears in the order.

The definition of "cull dates" in § 987.16 includes a reference to "section 798 of the Agricultural Code" of California. The heading of the code has been revised and the citation in § 987.16 is obsolete. In lieu of "Section 798 of the Agricultural Code", the new citation "Title 3, Group 4, Article 24, section 1434 of the Food and Agricultural Code" should be inserted.

(2) For the purpose of clarity, the provisions of § 987.21 on establishment of the California Date Administrative Committee, and the provisions of § 987.22 on membership representation on the Committee, should be combined into one section. This section should be designated § 987.21 and entitled "Establishment and membership". Section 987.21 now provides for the Committee to consist of eight members, with authority to increase the membership from eight to nine, or decrease the membership from nine to eight. Section 987.22 allocates the Committee membership among producers and handlers. The producer membership is further allocated among cooperative producers and independent producers. "Cooperative producers" are defined in § 987.22 as producers affiliated with cooperative associations of producers. "Independent producers affiliated with cooperative associations having no such affiliation. Independent producer representation is further divided between producers and producer-handlers. Producer-handlers are persons who produced during a particular period at least 51 percent of the dates they handled during that period. The order does not limit a person, who may be a producer but is also employed by a handler, from serving on the Committee either as a producer member or a handler member. The Committee currently consists of eight members: four independent producer members, one cooperative producer member, and three handler members.

The evidence is that a nine-member Committee would give adequate representation to the date industry, as currently constituted. However, because of changes within the industry which can be expected to continue, producer membership on the Committee no longer should be allocated between "cooperative producers" and "independent producers." In addition, the current category of

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"producer-handler"—i.e., those who produced at least 51 percent of the dates they handled—should be deleted because this precentage or any percentage is not appropriate in determining whether a producer, who also handles dates, should be identified as a producer or a producer-handler. Based on recent data, the production by producer-handlers of the dates each handled ranged from a low of 22 percent to a high of 100 percent. The evidence is that it is difficult to take the position that a person producing 22 percent of the dates he handles is any less a producer-handler than one producing 51 percent of the dates he handles.

In lieu of the current allocation of the Committee membership, § 987.21 should allocate three members of the Committee to producers, or officers or employees of producers. In the Notice of Hearing, it was proposed that the term "producer members" should exclude persons handling dates, employees of handlers, or those serving as officers or on the Board of Directors of any handler organization. However, the nature of the date industry is such that these exclusions could prove too restrictive. Some producers are employed by handlers on a part time basis in capacities which do not involve dictation of policy in the operation and management of the handler organization. Evidence was presented at the hearing that the term "producer members" should exclude salaried handler employees because they would be members of a professional group more likely to represent handlers instead of producers. Included in this group would be directors, officers, and any other employees exercising a supervisory or managerial function in the handler operation. Evidence was also presented that a producer with a proprietary interest in a packing house, however small, should be disqualified from serving as a producer member because their decisions could tend to be influenced by their handler affiliation and therefore less likely to reflect the views of producers. However, a stockholder in a handling operation should not be disqualified from serving as a producer member unless that person would dictate policy in the operation and management of the handling operation. Therefore, § 987.21 should exclude directors, officers, or employees exercising a supervisory or managerial function, of a handler, from the term "producer members." Since there may be other considerations involved in determining questions of eligibility, the Committee should be authorized to prescribe rules and regulations covering matters of eligibility, including, if necessary, specific positions or situations which would qualify or disqualify a person from serving as a producer member.

The remaining six members of the Committee should be allocated to handlers and those referred to as "producer-handlers". While there appears to be no current conflict in views between producers and producer-handlers, changing circumstances could cause the interests of these two groups to differ. Thus, for purposes of representation on the Committee, a distinction should be made between these two groups. A separation of these two groups would give producers better assurance of representation on the Committee. Most of the independent producer members now serving on the Committee are producer-handlers. The evidence is that the interests of producer-handlers are more closely aligned with those of handlers, and thus both should be included in the same group. This would also tend to eliminate confusion which has occurred in the past during nominations because producers, who were also handlers, could nominate and vote for nominees in either category (producer or handler) and eliminate uncertainty whether such nominees would be selected to represent producers or handlers. Persons who are (1) handlers, or directors, officers or employees of handlers, or (2) producers who are also handlers, or directors, officers, or employees exercising, a supervisory or managerial function of a handler, should be eligible to serve in the producer-handler group.

It is necessary that there be an alternate member for each member of the Committee. Therefore, § 987.21 should also provide that for each member there shall be an alternate member and the provisions of Part 987 applicable to the number, nomination, qualification and selection of members shall apply in like manner to alternate members.

Changes may occur in the date industry which would have a bearing on the composition and membership of the Committee. For example, acreage may increase with a concomitant increase in the quantity of dates produced by either or both groups, or new groups of producers or handlers may become established with interests materially different from the proposed producer and producer-handler groups. The Committee should be able to restructure its membership to reflect these changes. The Committee, with the approval of the Secretary, should have authority to: (1) Increase or decrease the total number of members of the Committee to reflect the position of each group of the industry; (2) reallocate membership between the various groups on the Committee, and (3) establish new groups in addition to the two groups now proposed.

Any change in the allocation of membership between producer and producer-handler groups should be based on the quantity of field-run dates delivered by each group within a representative period. In the event that the handling of dates changes so that a new handler group emerges with views or interests which differ from the proposed producer-handler group, any allocation of membership between the producer-handler group and the new handler group should be on the basis of marketable dates certified for handling for each group during a representative period. These changes should be accomplished through rulemaking, which could also require modification of the procedures prescribed in § 987.24 pertaining to nomination and selection of Committee members, and § 987.31, pertaining to voting requirements. Any changes in these sections should also be made through rulemaking.

Pursuant to § 987.23, the term of office for committee members and alternate members is one year. Based on past experience, most incumbents serve consecutive terms. The evidence is that there is no need to hold nominations each year, or to stagger terms of office to achieve continuity. Therefore, the term of office for members and their alternate members should be two years beginning August 1. However, § 987.23 should also provide that the term may be shorter if the Committee composition is changed in the interim pursuant to § 987.21. If this occurs, the new members and alternates should serve the remainder of the two-year term for continuity.

Section 987.23 currently contains a proviso which states, in part, that the incumbent members and alternate members serving on the Date Administrative Committee immediately prior to the effective date of this amended subpart (36 FR 15036; August 12, 1971) shall serve as members and alternate members, respectively, of the California Date Administrative Committee until such time as the successor producer members and handler members selected by the Secretary to serve on the California Date Administrative Committee have qualified. This provision was included when the order was amended in 1971 to provide an orderly transition from one committee to another. This provision is obsolete and should be deleted.

Provisions on nomination and selection of Committee members and alternate members are contained in § 987.24. Because of the changes recommended in the composition of the Committee, and in order to simplify and obtain fuller participation in Committee nominations, these provisions should be changed.

Consistent with the recommendation to change the term of Committee members and alternate members from one year to two years, § 987.24 should provide for nomination for members and alternate members of the Committee to be made not later than June 15 of every other year. In anticipation of completion of this amendatory action early during the current calendar year, it was proposed in the Notice of Hearing that, in 1977, the latest date for such nominations shall not be later than a reasonable time after the effective date of this action, and that the nominations be held every odd year thereafter. Testimony at the hearing supported this proposal. However, because of time considerations, it is not practical to delay the nominations in 1977 for the term beginning August 1, 1977. Thus, the proposal to hold the 1977 nominations not later than a reasonable time after the effective date of the amendment is denied. Moreover, if the changes in the amendatory action are made effective, it is likely than any nominations based on those changes would be held in the 1978 calendar year, and therefore § 987.24 should provide for the nominations to be held "every other year" instead of "every odd year" as proposed.

In view of the changes recommended in the composition of the Committee, it is necessary to revise the provisions on nominations. The provisions on nominations by a cooperative association of producers should be deleted, and the provisions for the nomination of producer member and alternate member nominees and handler members and alternate members, should be revised. The evidence is that absentee owners, investors, and others make up a large segment of the date industry, and these persons may be unable to attend nomination meetings. Section 987.24 should be revised to provide opportunity for producers and handlers to nominate individuals to serve on the Committee by establishing a day for polling, and also for casting absentee ballots.

Persons voting in the nominations should be limited to those who are eligible to serve on the Committee, and should vote only for those who will represent them on the Committee. Therefore, § 987.24 should provide that persons will only be able to vote in nominations for the group in which they will be qualified to serve on the Committee, and shall nominate the applicable number of individuals for the positions prescribed pursuant to § 987.21. Each producer, regardless of the number and locations of his date gardens, voting in the nominations for producer members and producer alternate members, should be entitled to one vote for each member and alternate member position to be filled. The individual receiving the highest number of votes should be the nominee for each position.

At the hearing, testimony was presented that voting for producer members and alternate members should be weighted. That is, it was proposed that each producer be entitled to vote for only one producer member position and alternate member position and the ballot cast by the producer would be weighted by his field-run deliveries of dates to handlers during a specified period. The three persons receiving the highest total of weighted votes would be the nominees.

In 1958, the Department received a proposal for the weighting of producer votes when voting for representation on the Committee. That proposal was denied because it was not the policy under marketing orders to weigh producer votes in nomination meetings. The Department's policy in administering marketing agreements and orders has not changed since then, and the concept of weighted votes in nominating producer representatives on marketing agreement and order committees is not recognized. Thus, the proposal for producer weighted votes is denied.

Section 987.24 should also provide that each person voting in the nominations for producer-handler members and producer-handler alternate members, shall be given the opportunity to vote for one member and one alternate member position. His ballot should be weighted by the pounds of dates he had certified as marketable dates, from the beginning of the then current crop year through April which he produced in his own gardens, or acquired from other producers. The individual receiving the highest vote for a producer handler position should be the nominee.

A number of questions may arise on nomination and voting procedures. The Committee, with the approval of the Secretary, thus should be authorized to issue rules and regulations on the manner in which names of nominees for a position may be obtained, polling, balloting, absentee ballots, and the weighting of votes for producer-handler positions in the event that the Committee is restructured during a term of office.

Although the California date industry is small and fairly concentrated, it has been difficult to get a good turnout of producers at nomination meetings. Even with the recommended changes in the voting procedures, it is possible that an insufficient number of nominees could be elected to fill the positions on the Committee. Under current procedures, it would be necessary to hold another nomination meeting. This is time consuming and costly. Thus, a new paragraph (c) should be included in § 987.24 to give the incumbent Committee authority to recommend nominees to positions not filled through the nomination procedure.

To conform with the changes suggested concerning nomination and selection of Committee members, a new paragraph (d) should be included in § 987.24 replacing current paragraph (e). It should require the Committee to submit reports of nomination meetings to the Secretary, including the eligibility of the nominees, and any other information requested by the Secretary. Paragraph (d) should authorize the Secretary to select members and alternate members on the basis of representation provided in § 987.21 from nominations made pursuant to the order, or from other eligible persons. If nominations are not made within the time and manner prescribed, the Secretary should be authorized, without regard to nominations, to select the members and alternate members on the basis of representation provided pursuant to § 987.21.

Section 987.26 provides for filling vacancies on the Committee, describes how vacancies occur, and describes the manner in which they can be filled. However, the description of vacancies is incomplete in that it does not cover vacated nominations. The evidence is that § 987.26 should also provide for the Committee to nominate nominees for any vacancies arising before the Secretary selects a nominee to serve on the Committee. Therefore, § 987.26 should provide that in the event of any vacancy occasioned by the failure to qualify, declination to serve, removal, resignation, disqualification, or death of any person nominated to serve on the Committee, or any member or alternate member selected by the Secretary, the Committee shall promptly submit its recommendation to the Secretary of a nominee eligible to serve in accordance with the requirements specified for the group in § 987.21.

Alternate members frequently attend Committee meetings notwithstanding the attendance at the same meeting of the regular member, and alternates are knowledgeable of Committee business. Thus, § 987.26 should provide that if the vacancy is for a member position, the Committee shall recommend if that person is willing to serve in that position.

If the Committee's recommendation is not submitted within 30 calendar days after such vacancy occurs, the evidence is that the Secretary may fill such vacancy without regard to nominations, and the selection shall be made on the basis of representation provided in § 987.21.

In the second sentence in § 987.27, the words "(producers or handlers as the case may be) they represent" should be deleted, and "he represents" substituted. In view of the changes recommended in the groups represented on the Committee, the parenthetical phrase would not be wholly accurate and, in any event is unnecessary.

Voting procedures of the Committee are prescribed in § 987.31. Paragraph (a) of that section currently provides that five members, including alternates acting as members of the Committee, shall constitute a quorum. If the total membership of the Committee is increased to nine, as recommended, five members would constitute a majority. However, if the total membership of the Committee is increased or decreased as a result of industry changes, five may no longer be appropriate. Therefore, § 987.31 should be revised to provide that a majority of the Committee shall constitute a quorum. In addition, the evidence is that matters relating to restructuring of the Committee, or the establishment, modification and application of free and restricted percentages should require more stringent voting requirements. Thus, with a Committee membership of nine, matters involving restructuring of the Committee should require eight concurring votes; matters involving free and restricted percentages should require seven concurring votes, and maters relating to paid advertising or major market promotion should continue to require six concurring votes. With respect to matters relating to paid advertising and major market promotion, the voting requirement currently is specified in the third sentence in § 987.33. Since this voting requirement would be set forth in § 987.31, the third sentence of § 987.33 should be deleted.

In the event that the total membership of the Committee is increased or decreased from nine, the minimum voting requirements under those circumstances should be in the same ratio, as

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nearly as practicable, to the recommended requirements are to nine (i.e., 5:9, 6:9, etc.).

Section 987.31 should also require that at all assembled meetings each vote shall be cast in person. This requirement should be included as a new paragraph (d) in § 987.31, and current paragraph (d) should be redesignated as paragraph (e).

(3) Authority should be included as a new paragraph (h) in § 987.30 for the Committee to utilize the services of a consumer consultant, if needed. The Committee should have the opportunity to obtain and consider consumer viewpoints.

However, the date industry is small, and there are serious financial limitations on the ability of the Committee to obtain any large-scale consumer input. Currently, "feed-back" is obtained through commercial sales outlets, particularly from direct sales to consumers. Many producers in the industry deal in direct sales, and thus any input is received firsthand. However, the Committee should have an additional means of obtaining consumer views, should this become necessary to aid in the functioning of the Committee. If the services of a consultant are utilized, such person would serve without a salary, but the Committee should have authority to provide compensation for travel and other necessary expenses in carrying out the instructions of the Committee. Such expenses would include those incurred in attending Committee meetings. Since the views of the consumer consultant should be impartial, the order should provide that the consumer consultant shall have no financial interest in the date industry.

(4) Section 987.34 provides for the development of the Committee's marketing policy for the regulation of dates in a crop year. This section should be amended to reflect changes which have taken place in the marketing of dates since the establishment of the order in 1955. At that time, dates were sold primarily in the United States. Few, if any, were exported. A small percentage of those marketed domestically were diverted into products, but the bulk were marketed as whole and pitted dates. The order was instituted to prohibit the sale of low-quality dates in normal outlets and to provide for the setting aside of excessive supplies of whole dates and their diversion into export or date product outlets. The provisions on volume control were designed to fit these marketing conditions. A minimum quality level was established, which performed a certain volume control action. Control of volume was designed to protect the primary market; i.e., whole and pitted dates sold in the United States and Canada. Through the order, diversion outlets were developed. A market for exports and date products were established.

As stated in the discussion on revision of the definition of "trade demand" in Material Issue (1), the demand for marketable dates sold in export or product use accounts for about one-half of domestic date shipments. Thus, the method originally set up to determine free and restricted percentages no longer applies, and therefore the provisions pertaining to the determination and establishment of the volume regulation of dates should be revised.

Section 987.34 should provide that as early as practicable, but no later than October 31, the Committee shall prepare and submit to the Secretary, a report setting forth its marketing policy, including data on which it is based by variety, for regulation of dates in the crop year. Currently, § 987.34 provides for the marketing policy meeting to be held no later than October 15. Changing this date to October 31 would provide the Committee with extra days to prepare for this meeting, and allow elimination of the September 1 carryover report required to be submitted by handlers pursuant to § 987.61. Evidence indicated that each season's marketing policy information and data should cover grade, size, and free and restricted percentages, for each variety regulated under the order.

In order to enable the Committee to arrive at its recommendations, § 987.34 should provide for the Committee to consider such factors as: (1) The estimated production of dates during the crop year; (2) the estimated production of DAC dates, export dates, and product dates; (3) the handler carryin on October 1 of dates of those qualities; (4) the estimated trade demand in each outlet during the crop year; and (5) the desirable carryout, by outlet. Items (1), (2) and (3) deal with the supply aspect of marketing dates, and Items (4) and (5) deal with the demand aspect. Item (2) would divide the estimated production of marketable dates into various quality levels, i.e., DAC, export, and product dates. Production estimates of dates in these specific quality levels are necessary because changing marketing conditions have created demands for differing quality levels. In previous years volume control was designed to protect the primary market; i.e., sales of whole and pitted dates in the United States and Canada. Therefore, volume control placed special restrictive connotations on the term "trade demand". Currently, "trade demand" applies only to the need for dates as whole and pitted dates sold in the continental United States and Canada, and such other countries as the Committee finds will acquire dates at prices reasonably comparable with prices received in the continental United States. The proposed definition of "trade demand" would include all of the major outlets for marketable dates. Therefore, Item (4) should consider the need for dates in these specific outlets. Also, to help estimate the demand, Item (5) should consider the desirable carryout in each of these outlets.

The current volume control provisions are designed to protect one market. The desire of the industry now is to protect not just the domestic whole and pitted market (DAC market), but the export and products markets as well. Therefore, a mechanism that provides flexibility is needed. Section 987.34 should be revised to require the necessary information should this flexibility be needed; i.e., that free dates can be dates that are not synonymous with DAC dates or those dates handled in DAC outlets. In that situation, the Committee should consider such additional factors as (1) the supply of marketable dates that will be available from the estimated production, and from the October 1 carryin, that could be used as free dates during the current crop year, and the desirable carryout for free dates. This additional language is necessary to provide for the situation when the Committee includes other categories in addition to DAC dates that may be free dates.

Also as part of the Committee's marketing policy report, § 987.34 should provide for the Committee to submit its recommendation as to grade, size, and container regulations and its recommendations whether free and restricted percentages should be established and, if so, the free and restricted percentages and the appropriate withholding factor.

Section 987.50 now provides, in part, for the regulations established for any crop year to continue in effect with respect to all dates for which control obligations have not been previously met, until regulations are established for the new crop year. Thus for a crop year following a crop year in which volume control was established, it is necessary to establish a free percentage of 100 percent and a restricted percentage of 0 percent even though no volume control is needed in order to terminate the previous year's volume control percentages. However, the evidence is that in the year or years succeeding the year in which free and restricted percentages of 100 percent free and 0 percent restricted are established, no rulemaking action should be taken if volume regulations are not recommended by the Committee.

In order to enable the Committee to better estimate the current season's production for marketing policy purposes, a new § 987.38 should be added. This section should provide that each crop year but no later than October 10 for continuing handlers, and prior to handling dates in the case of new handlers, any person desiring to handle dates shall submit a report to the Committee for all dates that the peron expects to handle. This report should include the name and address of each producer, the location of each date garden, and the acreage and estimated current season's production from that garden. Section 987.38 should also require those reports to be filed by October 10 to reflect producers who are signed up with the handlers as of October 1 of the then current crop year. The Committee, with the approval of the Secretary, should be authorized to issue rules and regulations to carry out the provisions of that section.

(5) Section 987.39 provides that the minimum standards for all whole and

pitted dates handled under the order shall meet the requirements of U.S. Grade C, or, if for further processing, U.S. Grade C (Dry), of the effective U.S. Standards for Grades of Dates. That section also authorizes the Secretary, upon recommendation of the Committee, to prescribe other minimum standards of quality for any variety of dates. Section 987.40 authorizes the Committee to recommend grade or size requirements for any variety of dates, in addition to the minimum standard provided pursuant to § 987.39, to govern dates of any such variety to be handled or to be withheld to meet restricted obligation, or both. The current grade and size provisions of the order are structured in terms of regulatory provisions relating to "free" and "restricted" percentages; reflecting a concept that volume regulations would be used each crop year. Thus, the grade and size provisions of the order are not separate from those pertaining to volume regulation. However, no volume regulation has been established for any crop year since the 1971–72 crop year.

The evidence is that minimum grade and size regulations should always be in effect. The term "marketable dates" has been redefined to include specific outlets, in order to clarify the separation of minimum standards and volume control. Moreover, the minimum standards should apply to all marketable dates, including those exported and those used in product dates. Therefore, the first sentence in § 987.39 should be revised by substituting "marketable dates" for "whole and pitted dates".

In addition, the proviso in the first sentence of § 987.39 should authorize the Secretary, upon a recommendation of the Committee, to prescribe other minimum standards of grades and sizes for marketable dates of any variety to be handled in any designated outlet. The minimum standards should include authority for size requirements because small dates are generally poor in quality and have a poor pit to flesh ratio. Small dates are less desirable and therefore should not be included as marketable dates. Currently, size determination is by weight since measurement of size based on length, diameter, or volume is not practical for dates graded by passage over a grading belt.

Since certain sizes and grades could be more acceptable in one outlet than another, or for one variety over another, § 987.39 should allow for regulation of different sizes and grades in different outlets for different varieties. In addition, the minimum standards for grades and sizes of dates should continue in effect irrespective of whether the season average price to producers for dates is above or below parity. Thus, as a conforming change, the term "the minimum standards of quality" in the third sentence of § 987.39 should be changed to "the minimum standards of grades and sizes for marketable dates".

As discussed in Material Issue (6), a new section on outlets and specifications for marketable dates should be included. Such outlets would be defined in the proposed definition of "marketable dates" in § 987.12. Thus, as a conforming change in § 987.40, the words "in any designated outlet" should be inserted in the first sentence between the words "handled" and "or", and in the last sentence between "variety" and "or". Also, as a conforming change in the first sentence, "withholding obligation" should be substituted for "restricted obligation". The term "withholding obligation" is used in other sections of the order and has the same meaning as "restricted obligation".

(6) Consistent with the need to establish provisions on grade, size, container, and identification requirements for dates used in specific outlets apart from the provisions relating to volume regulation, a new § 987.43, entitled "Outlets and specifications for marketable dates" should be included under the general heading of Grade Regulations. That section should provide that marketable dates shall not be handled or otherwise disposed of except as provided in the order. However, § 987.43 should not preclude dates of better grades or sizes being handled or otherwise disposed of in any outlet established for dates of lesser grades or sizes. Section 987.43 should authorize the Committee, with the approval of the Secretary, to modify the designations specified in § 987.12 to reflect new major outlets and regulatory requirements needed because of changes in marketing conditions. Marketable dates should include, but not be limited to DAC dates, dates for further processing, export dates, and product dates. This provision should permit the addition of other outlets to reflect changes in marketing conditions.

(7) Section 987.44 provides for the establishment of volume regulation for a crop year. Currently, the Committee recommends free and restricted percentages to the Secretary whenever it find that the available supply of marketable dates for any crop year exceeds the total trade demand for marketable dates, and that limiting the volume of dates sold domestically in whole or pitted form of any or all varieties through establishing free and restricted percentages applicable to such supply would tend to effectuate the declared policy of the act.

This provision is based on the marketing conditions existing in 1954, i.e., one major market—dates sold in the United States and Canada as whole and pitted dates. Since the demand for dates in other cutlets with their varying quality demands, was insignificant or did not exist, the current provisions on volume regulation are designed to protect only the domestic whole and pitted market.

Based on current usage, the meaning of the term "total trade demand" as used in § 987.44(a) is not clear. In years with volume regulation, it meant free dates and was synonymous with "trade demand". In years with no volume regulation, "total trade demand" and hence "free dates," became associated with the total needs in all markets. Currently, "trade demand" refers to the need for whole or pitted dates in specific markets. As discussed in Material Issue (1), this definition was appropriate when there was but one major market, with the expectation that volume regulation would be used every year. However, these conditions no longer exist, and trade demand should be redefined so that it no longer is associated with the term "free dates."

Any volume regulations now issued pursuant to § 987.44(a) are based on the total marketable supply of dates. Again when there was only one market to protect, this was adequate. However, current date marketing conditions require a more complete breakdown of the quantity of dates of various quality levels available for the different outlets of marketable dates. Using the supply of all marketable dates does not serve to measure what can be sold as free dates. Without a measure of the quantity of dates of free date quality, the Committee cannot determine whether free and restricted precentages should be recommended. Rather § 987.44 (a) should authorize the Committee to recommend "free" and "restricted" percentages whenever it finds that the available supply of marketable dates of applicable grade and size (i.e., of free date quality) available to supply the trade demand for free dates of any variety is likely to be excessive.

In past years when volume regulation was established, with certain exceptions, all dates that were shipped were either free or restricted dates. For purposes of volume control, the words "handle," "handled", or "handling" had a special connotation in that only free dates were handled. Restricted dates were not handled—they were disposed of. As new markets were developed, the need for flexibility in determining free and restricted dates led the industry to discontinue usage of the narrow volume control concept of "handle", and is using this term as is broadly defined in § 987.9. Therefore, while dates are handled their handling does not make them free or restricted dates.

Sections 987.45, 987.46, and 987.50 deal with the various aspects of the withholding of restricted dates when volume regulation is established for a crop year. In order to incorporate the changes in the concept of handling as it relates to free and restricted dates, as discussed under the revision of § 987.44, changes are needed in these sections.

In § 987.45(a) that part of the first sentence reading "or for further processing" should be deleted and "as free dates (including those for further processing that are to be handled as free dates)" inserted in lieu thereof. Thus, a handler would be required to withhold dates from handling at the time he has dates certified for handling as free dates. In the last sentence of § 987.45(b), "as free dates (including those for further processing that are handled as free dates)" should be inserted after the word "handled". This change is necessary because the quantity of dates referred to in this last sentence represents the quantity of dates handled as free dates. Under the new concept of handling, dates could be

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certified and handled but not be free dates.

Section 987.45(c) deals with the identification and certification of marketable dates when volume regulations are in effect. These requirements are retained here so as to apply to free dates. Section 987.46 deals with the revision of free and restricted percentages. Section 987.50 deals with the application of regulations after the end of a crop year. In the preceding sections, the word "dates" now refers to free dates, and therefore the word "free" should be inserted before the word "dates" in § 987.45(c) where the word appears in the first sentence, the fourth sentence and the fifth sentence; in § 987.46, in the second sentence; and in § 987.50 wherever the word "dates" appears.

In (d) and (f) of § 987.45 the terms "restricted obligation" and "withholding obligation" appear. Both terms are used interchangeably and have the same meaning. To be consistent, the terms "withholding obligation" or "withholding obligations" wherever applicable should be used throughout both paragraphs.

In § 987.46 additional changes are necessary. Whenever volume regulations are established pursuant to these recommendations, trade demands would be estimated for free dates. The recommended definition of "trade demand" includes the need for marketable dates in all markets including the trade demand for free dates. Any increase in the free percentage pursuant to § 987.46 would be based on a revision of the early season trade demand estimate for free dates. Therefore, it is necessary to add the words "for free dates" after the words "trade demand" in the first sentence of this section. When free and restricted percentages are establisehd the supply is in terms of "marketable dates of applicable grade and size.". This also applies when the percentages are revised. Therefore, "of marketable dates of applicable grade and size" should be added after the words "available supply" in the first sentence of § 987.46.

Section 987.45(e) allows a handler to temporarily defer meeting any portion of his restricted obligation to withhold restricted dates by setting aside graded dates. In the first sentence, the words "from handling" are superfluous and should be deleted.

Section 987.54 deals with disposition of other than free dates. The evidence is that this section should be deleted because it no longer serves any purpose. Sections 987.55 and 987.56 provide for disposition of dates other than free dates, and it is unnecessary to have a section merely referencing these two sections. Therefore, § 987.54 should be deleted.

Section 987.55 deals with outlets for restricted dates and other marketable dates. Since outlets for marketable dates would be covered in new § 987.43, and defined in § 987.12, § 987.55 should be revised to provide that restricted dates may be disposed of only through exportation to such countries as the Committee may approve of by diversion in product outlets described in § 987.43 which the Committee concludes to be appropriate and which will result in dates moving into consumption in a form other than that of whole or pitted dates. In order to facilitate sales and promote orderly marketing of any variety of restricted dates handled in export, § 987.55 should authorize the Committee to participate in or negotiate for handlers, the sale of such dates to meet all or a substantial part of the needs of the particular county and, in connection with each such sale, the Committee shall extend to all handlers an opportunity to participate therein, and shall distribute the returns therefrom to participating handlers according to their respective contributions of dates. Section 987.55 should also authorize the Committee, with the approval of the Secretary, to prescribe rules and regulations governing the opportunity to participate in such sales. Moreover, the provisions of § 987.55 should not preclude restricted dates being disposed of in outlets for utility and cull dates prescribed in § 987.56.

Section 987.56 specifies outlets for substandard and cull dates and makes reference to outlets that are noncompetitive with the outlets for free and restricted dates. Substandard (utility) dates are currently being used in product outlets. Under normal supply conditions this practice may continue. Therefore, the phrase "with the approval of the Secretary, may specify:" should be inserted in lieu of "concludes are noncompetitive with the outlets for free and restricted dates:".

For purposes of clarity, the title of § 987.57 should be shortened to "approved manufacturers or feeders" and the first sentence revised to provide that diversion of dates pursuant to §§ 987.55 or 987.56 shall be accomplished only by such persons (which may include handlers) as are approved manufacturers or feeders. These changes would not change the meaning of application of this section.

(8) Currently, § 987.72 provides for assessment of marketable dates including the eligible portion of any field-run dates certified and set aside or disposed of pursuant to § 987.45(f). Utility dates used in the manufacture of date products should be assessed the same as product dates. Assessing utility dates used in the manufacture of date products will provide a uniform application of assessments since these dates are used in products, and therefore should receive the same treatment as product dates. However, should the Committee authorize an outlet for utility dates that is not included under outlets for marketable dates, then utility dates used in such outlets should not be assessed. Because differing lots contain a wide range of utility dates and conditions may exist wherein the utility portion of those dates is needed to satisfy a certain market outlet, these varying conditions should be enumerated by rulemaking.

(9) Certain changes should be made in the reporting requirements prescribed in §§ 987.61, 987.64, and 987.68, to aid in ease of operations under the order. Section 987.61 should be revised to require the January 1 carryover report only when volume regulations have been established for the crop year. This information is needed by January 31 to aid the Committee in determining whether or not the percentages should be revised pursuant to § 987.46. The notice of hearing left the April 1 and October 1 carryover dates intact. However, the industry believes that since the State of California requires an inventory report on March 1, for tax purposes, it would be a duplication of time and effort to require an April 1 inventory report. Thus, it was recommended in the hearing that the April 1 date be changed to March 1 to coincide with the reporting date of the State of California. An October 1 reporting date should be specified in place of the September 1 and September 30 reports. No useful purpose is served in having reports one month apart if, as has been recommended, sufficient time will be allowed before holding the required marketing policy meeting October 31. In order to allow the Committee to act more quickly in compiling figures from the carryover reports, 10 days should be allowed for submissions of the reports, instead of 15 days.

Section 987.64 should be amended by deleting references to restricted, other marketable, substandard, or cull dates. These words are superfluous and do not aid in clarification in the application of this section. As revised, § 987.64 should provide for each handler disposing of any dates pursuant to §§ 987.55 and 987.56 to promptly thereafter report such disposition to the Committee in such form as the Committee may prescribe.

Section 987.68 should be amended by changing the third sentence to provide that all handlers shall establish and maintain complete records which accurately show the quantity of dates handled, disposed of, and withheld. Currently, handlers are required to maintain complete records without requiring the making of complete records. The purpose of this change is to assist the Committee in determining handler compliance with the requirements of the order.

(10) Some of the amendatory actions included in this recommended decision require conforming changes elsewhere in the order as amended. Such changes have been discussed with the issues to which they are pertinent. All such changes should be incorporated in the recommended amendment of the order.

Rulings on briefs of interested persons. At the end of the hearing, the Administrative Law Judge fixed March 28, 1977, as the final date for interested persons to file proposed findings and conclusions, and written arguments or briefs, based upon the evidence received at the hearing. No briefs were filed.

General findings. Upon the basis of the record, it is found that:

(1) The findings hereinafter set forth are supplementary, and in addition, to the previous findings and determinations

which were made in connection with the issuance of the marketing agreement and order and each previously issued amendment thereto. Except insofar as such findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed;

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulates the handling of dates produced or packed in Riverside County, Calif. in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(4) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivision of the production area would not effectively carry out the declared policy of the act;

(5) There are no differences in the production and marketing of dates in the production area which make necessary different terms and provisions applicable to different parts of such area and;

(6) All handling of dates grown in the production area as defined in the marketing agreement and order, as amended, as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

RECOMMENDED AMENDMENT OF THE MARKETING AGREEMENT AND ORDER.

The following amendment of the marketing agreement and order, as amended, is recommended as the detailed means by which the foregoing conclusions may be carried out:

1. Section 987.6 is amended to read:

§ 987.6 Crop year.

"Crop year" means the 12-month period beginning October 1 of each year and ending September 30 of the following year.

2. Section 987.8 is amended by deleting reference to "§ 987.22" and substitute "§ 987.21".

3. Section 987.9 is amended by deleting that part of the provision starting with "the counties of San Bernardino" through "as handling" and substitute "or counties adjoining the area of production, shall not be considered handling. The Committee, with the approval of the Secretary, may establish monitoring procedures for storage of dates in Orange, San Diego, and Yuma Counties."

4. Section 987.11 is amended to read:

§ 987.11 Trade demand.

"Trade demand" means those quantities of marketable dates which the Committee finds are required to satisfy the need for dates in specific outlets in which marketable dates are handled.

5. Section 987.12 is revised to read:

§ 987.12 Marketable dates.

"Marketable dates" means those dates which are certified as equal to or higher than the applicable minimum grade and size requirements in effect pursuant to § 987.39, and any additional applicable requirements in effect pursuant to § 987.40. Marketable dates shall include but not be limited to the following:

(a) *DAC dates.* DAC dates are marketable whole or pitted dates that are inspected and certified as meeting the grade, size, container, and identification requirements established by the Committee, with the approval of the Secretary, for a specific variety for handling in the United States and Canada.

(b) *Dates for further processing.* Dates for further processing (FP) are marketable whole dates acquired by one handler from another handler that are certified as meeting the same grade and size requirements for DAC dates, with the exception of moisture requirements, and such identification requirements applicable to FP dates that are established by the Committee, with the approval of the Secretary, for any specific variety.

(c) *Export dates.* Export dates are marketable whole or pitted dates that are inspected and certified as meeting the grade, size, container, and identification requirements established by the Committee, with the approval of the Secretary, for a specific variety, to be handled in export to any country or group of countries with the exception of Canada. The Committee may establish different requirements for different countries.

(d) *Product dates.* Product dates are marketable dates that are inspected and certified as meeting the applicable grade and size requirements for dates to be handled in such forms as rings, chunks, pieces, butter, macerate, paste, or any other forms which the Committee deems appropriate and which will result in dates moving into consumption in a form other than that of whole or pitted dates.

6. Section 987.13 is amended to read:

§ 987.13 Free dates.

"Free dates" means dates of any variety that are at the time of certification destined for consumption in whole or pitted form in the United States and Canada (and such other countries as the Committee determines are likely to acquire them at prices reasonably comparable with prices received domestically) and which are free to be handled pursuant to any free percentage established by the Secretary in accordance with § 987.44.

7. Sections 987.9, 987.15, 987.47, 987.56, 987.57, and 987.64 are amended by substituting "utility dates" in lieu of "substandard dates."

8. Section 987.16 is amended by deleting the words "section 798 of the Agricultural Code" and inserting in lieu thereof "Title 3, Group 4, Article 24, section 1434 of the Food and Agricultural Code."

9. Section 987.21 is revised to read:

§ 987.21 Establishment and membership.

A California Date Administrative Committee consisting of nine members is hereby established to administer the terms and conditions of this part. For each member there shall be an alternate member and the provisions of this part applicable to the number, nomination, qualification and selection of members shall apply in like manner to alternate members. Three of the members, referred to in this part as "producer members", shall be producers or officers or employees of producers, and shall not be handlers, or directors, officers, or employees exercising a supervisory or managerial function of a handler. The six remaining members, referred to in this part as "producer-handlers", shall be selected from (1) handlers, or directors, officers or employees of a handler, or (2) producers who are also handlers or directors, officers, or employees exercising a supervisory or managerial function of a handler. The Committee, with the approval of the Secretary, may issue rules and regulations covering matters of eligibility for producer members, or revising the composition of the Committee prescribed in this section if it no longer is representative following a substantial change in the industry.

10. § 987.22 [Delete]

11. Section 987.23 is revised to read:

§ 987.23 Term of office.

The term of office for members and alternate members shall be two years beginning August 1, except such term may be shorter if the Committee composition is changed in the interim pursuant to § 987.21. Each member and alternate member shall, unless otherwise ordered by the Secretary, continue to serve until his successor has been selected and has qualified.

12. Section 987.24 is revised to read:

§ 987.24 Nomination and selection.

(a) Nomination for members and alternate members of the Committee shall be made not later than June 15 of every other year.

(b) Opportunity shall be provided producers and handlers to nominate individuals to serve on the Committee by establishing a day for polling and also for casting absentee ballots. Persons will only be able to vote in nominations for the group in which they would be qualified to serve on the Committee, and shall nominate the applicable number of individuals for the positions prescribed pursuant to § 987.21. Each producer, regardless of the number and locations of his date gardens, voting in the nominations for producer members and producer alternate members, shall be entitled to one

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vote for each member and alternate member position to be filled. The individual receiving the highest number of votes for a position shall be the nominee. Each person voting in the nominations for producer-handler members and producer-handler alternate members, shall be given the opportunity to vote for one member and one alternate member position. His ballot shall be weighted by the pounds of dates he had certified as marketable dates, from the beginning of the then current crop year through April which he produced in his own gardens or acquired from other producers. The individual receiving the highest weighted vote for a producer-handler position shall be the nominee. The Committee, with the approval of the Secretary, may issue rules and regulations on the manner in which nominees for a position may be obtained, polling, balloting, absentee ballots, and the weighting of votes for producer-handler positions when the Committee is restructured during a term of office.

(c) In the event that nominees for all available positions are not provided by the aforesaid procedure, the then current Committee may recommend nominees for the unfilled positions.

(d) Promptly after each election, the Committee shall report to the Secretary the results thereof, including the eligibility of the nominees, and any other information requested by the Secretary. The Secretary shall select members and alternate members on the basis of representation provided in § 987.21 from nominations made pursuant to this subpart, or from other eligible persons. If nominations are not made within the time and manner prescribed herein, the Secretary may, without regard to nominations, select the members and alternate members on the basis of representation provided in § 987.21.

13. Section 987.26 is amended to read:

§ 987.26 Vacancies.

In the event of any vacancy occasioned by the failure to qualify, declination to serve, removal, resignation, disqualification, or death of any person nominated to serve on the Committee, or any member or alternate member selected by the Secretary, the Committee shall promptly submit its recommendation to the Secretary of a nominee eligible to serve in accordance with the requirements specified for the group in § 987.21. If the vacancy is for a member position, the Committee shall recommend appointment of the alternate member if that person is willing to serve in that position. If the Committee's recommendation is not submitted within 30 calendar days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, and the selection shall be made on the basis of representation provided in § 987.21.

14. Section 987.27 is amended by deleting from the second sentence the words "(producers or handlers as the case may be) they represent" and substitute instead "he represents".

15. Section 987.30 is amended by adding a new paragraph (h) to read:

* * * * *

§ 987.30 Duties.

(h) To furnish the Committee viewpoints of the consumer, the Committee may utilize a consumer consultant. The consumer consultant shall have no financial interest in the date industry and shall receive no compensation, however, such person shall be reimbursed for necessary expenses attendant to those assignments that the Committee has given prior support and approval.

16. Section 987.31 is amended to read:

§ 987.31 Procedure.

(a) A majority of the Committee shall constitute a quorum.

(b) * * *

(c) For any decision of the Committee to be valid, a concurring vote of at least five members is required, except as follows:

(i) In matters relating to restructuring Committee composition pursuant to § 987.21, concurrence by at least eight members is required;

(ii) In matters relating to establishment, modification and application of free and restricted percentages pursuant to §§ 987.44 and 987.46, concurrence by at least seven members is required; and

(iii) In matters relating to recommendation of any program of paid advertising or major program of market promotion pursuant to § 987.33, concurrence by at least six members is required.

(d) At all assembled meetings each vote shall be cast in person.

(e) The Committee may vote upon any proposition by mail, or telephone when confirmed in writing within two weeks, or telegram, upon due notice and full and identical explanation to all members, including alternates acting as members, but any such action shall not be considered valid unless unanimously approved.

(f) If the total number of members of the Committee is changed pursuant to § 987.21, the minimum voting requirements shall be in the same ratio to the revised total number of members, as nearly as practicable, as the minimum voting requirements prescribed in paragraph (c) of this section are to nine.

17. Section 987.33 is amended by deleting the third sentence.

18. Section 987.34 is revised to read:

§ 987.34 Development.

As early as practicable, but no later than October 31, the Committee shall prepare and submit to the Secretary, a report setting forth its marketing policy, including data on which it is based, by variety, for regulation of dates in the crop year.

(a) The Committee shall consider such factors as: (1) The estimated production of dates during the crop year; (2) the estimated production of DAC dates, export dates, and product dates; (3) the handler carryin on October 1 of dates of those qualities; (4) the estimated trade demand in each outlet during the crop year; and (5) the desirable carryout, by outlet.

(b) If dates to be handled as free dates are not synonymous with those to be handled in DAC outlets, the Committee shall consider such additional factors as: (1) The supply of marketable dates that will be available from the estimated production, and from the October 1 carryin, that could be used as free dates, and (2) the estimated trade demand for free dates during the current crop year, and the desirable carryout for free dates.

(c) The Committee shall submit its recommendation as to grade, size, and container regulations and its recommendation whether free and restricted percentages should be established and if so, the free and restricted percentages and the appropriate withholding factor.

19. A new § 987.38 is added to read as follows:

§ 987.38 Handlers of record.

Each crop year but no later than October 10 for continuing handlers and prior to handling dates in the case of new handlers, any person desiring to handle dates shall submit a report to the Committee on a form prescribed by it containing the following information with respect to all dates which such person expects to handle:

(a) The name and address of each producer;

(b) the location of each date garden; and

(c) the acreage and estimated current season's production thereon.

Those reports required to be filed by October 10 shall reflect producers who are signed up with the handlers as of October 1 of the then current crop year.

The Committee, with the approval of the Secretary, may issue rules and regulations to carry out the provisions of this section.

20. The first and third sentences in § 987.39 are amended to read:

§ 987.39 The establishment of minimum standards.

In order to effectuate the declared policy of the act, all dates handled as marketable dates shall meet the requirements of U.S. Grade C, or if for further processing, U.S. Grade C (Dry) of the effective U.S. Standards for Grades of Dates, 7 CFR § 52.1001: *Provided*, That the Secretary, may upon recommendation of the Committee, prescribe other minimum standards of grades and sizes for marketable dates of any variety to be handled in any designated outlet. * * * The provisions hereof relating to minimum standards of grades and sizes for marketable dates and inspection requirements, within the meaning of section 2(3) of the act, and any other provisions relating to the administration and enforcement thereof shall continue in effect irrespective of whether the season average price to producers for dates is or is not in excess of the parity level specified in section 2(1) of the act. * * *

21. The first and last sentences in § 987.40 are amended to read:

§ 987.40 Additional grade or size regulations.

Whenever the Committee deems it advisable to establish grade or size requirements for any variety of dates, in addition to the minimum standard provided pursuant to § 987.39, to govern dates of such variety to be handled in any designated outlet or to be withheld to meet withholding obligation, or both, it shall recommend to the Secretary requirements as to grade based on the effective United States Standards for Grades of Dates or any modification thereof, and such size requirements as it may deem appropriate. * * * On and after the effective date no handler shall handle dates of such variety in any designated outlet or withhold such dates to meet withholding obligation except in accordance with such regulations.

22. Section 987.43 is added to read:

§ 987.43 Outlets and specifications for marketable dates.

Marketable dates shall not be handled or otherwise disposed of except as provided in this subpart. This shall not preclude dates of better grades or sizes being handled or otherwise disposed of in any outlet established for dates of lesser grades or sizes. The Committee, with the approval of the Secretary, may modify the designations specified in § 987.12 to reflect new major outlets and regulatory requirements needed because of changes in marketing conditions. Marketable dates shall include but not be limited to the following: DAC dates, Dates for further processing, Export dates, and Product dates.

23. Section 987.44 is amended to read:

§ 987.44 Free and restricted percentages.

(a) Whenever the Committee finds that the available supply of marketable dates of applicable and size available to supply the trade demand for free dates of any variety is likely to be excessive, and that limiting the volume of marketable dates to be handled as free dates through establishment of free and restricted percentages applicable to such variety of such dates would tend to effectuate the declared policy of the act, it shall recommend such percentages to the Secretary. * * *

24. Section 987.45 is amended as follows:

In paragraph (a) delete the part of the first sentence that reads "or for further processing" and insert in lieu thereof: "as free dates (including those for further processing that are to be handled as free dates)".

In paragraph (b) after the word "handled" in the last sentence, insert "as free dates (including those for further processing that were handled as free dates),".

In paragraph (c) insert the word "free" before the word "dates" where that word appears in the first sentence, the fourth sentence and the fifth sentence.

In paragraphs (d) and (f) wherever "restricted obligation" or "restricted obligations" appear, substitute the words "withholding obligation" or "withholding obligations", as applicable.

In the first sentence of paragraph (e), delete the words "from handling".

25. Section 987.46 is amended as follows:

§ 987.46 [Amended]

In the first sentence after the words "trade demand" and "available supply" insert the words, respectively, "for free dates" and "of marketable dates of applicable grade and size". In the second sentence before the word "dates" insert the word "free".

26. Section 987.50 isamended as follows:

§ 987.50 [Amended]

Insert the word "free" before the word "dates" wherever that word appears in this section.

27. Section 987.54 is deleted.

28. Section 987.55 is revised to read:

§ 987.55 Outlets for restricted dates.

Restricted dates may be disposed of only through exportation to such countries as the Committee may approve or by diversion in product outlets described in § 987.43 which the Committee concludes to be appropriate and which will result in dates moving into consumption in a form other than that of whole or pitted dates. To facilitate sales and promote orderly marketing of any variety of restricted dates handled in export, the Committee may participate in or negotiate for handlers, the sale of such dates to meet all or a substantial part of the needs of the particular country, and, in connection with each such sale, the Committee shall extend to all handlers an opportunity to participate therein and shall distribute the returns therefrom to participating handlers according to their respective contributions of dates. The Committee, with the approval of the Secretary, may prescribe rules and regulations governing the opportunity to participate in such sales. The provisions of this section shall not preclude restricted dates being disposed of in outlets for utility and cull dates prescribed in § 987.56.

29. Section 987.56 is amended by deleting from the first sentence the phrase "concludes are noncompetitive with the outlets for free and restricted dates:", and insert in lieu thereof "with the approval of the Secretary, may specify:".

30. Section 987.57 is amended by revising the title and the first sentence thereof to read:

§ 987.57 Approved manufacturers or feeders.

Diversion of dates pursuant to § 987.55 or § 987.56 shall be accomplished only by such persons (which may include handlers) as are approved manufacturers or feeders. * * *

31. Section 987.61 is revised to read:

§ 987.61 Reports of handler carryover.

Each handler shall file each year with the Committee written reports of his carryover of dates as of March 1, October 1, and at such other times as the Committee may prescribe: *Provided*, That during those seasons when volume regulations are established by the Secretary, the handler shall file an additional report on his January 1 carryover. Such reports shall be filed within 10 days of the date of the carryover. These reporting dates specified may be changed, upon recommendation of the Committee, together with substantiation of the need therefore, with the approval of the Secretary.

32. Section 987.64 is revised to read:

§ 987.64 Reports on disposition of restricted, other marketable, utility, and cull dates.

Each handler disposing of any dates pursuant to §§ 987.55 and 987.56 shall promptly thereafter report such disposition to the Committee in such form as the Committee may prescribe.

33. Section 987.68 is amended by changing the third sentence to read: "All handlers shall establish and maintain complete records which accurately show the quantity of dates handled, disposed of, and withheld".

34. Section 987.72 is amended by changing the first sentence of paragraph (a) to read:

§ 987.72 Assessments.

(a) *Requirement for payment.* Each handler shall pay to the Committee, upon demand, on all dates he has certified as meeting the requirements for marketable dates and utility dates utilized in product outlets including the eligible portion of any field-run dates certified and set aside or disposed of pursuant to § 987.45(f), his pro rata share of all expenses which the Secretary finds are reasonable and likely to be incurred by the Committee during each crop year. Should the condition arise wherein the utility portion of dates handled in certain other outlets should not be, in the opinion of the Committee, subject to the payment of assessments on that portion, the Committee may recommend and the Secretary approve by rulemaking, such exclusion. * * *

Signed at Washington, D.C., on September 6, 1977.

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc.77-26479 Filed 9-9-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 40]

LICENSING OF SOURCE MATERIAL

General License for Government Agencies' Operational Use of Small Quantities of Source Material; Correction

AGENCY: U.S. Nuclear Regulatory Commission.

V 42 176 SEP 1277 UMI

ACTION: Correction to proposed rule.

SUMMARY: This notice corrects a typographical error concerning the comment period expiration date in the original notice of proposed rulemaking published in the FEDERAL REGISTER on September 1, 1977 (42 FR 43983) to consider a rule change requested by the U.S. Air Force Radioisotope Committee. The expiration date, incorrectly given as October 31, 1977, is being corrected to October 3, 1977.

DATES: Comment period expires October 3, 1977.

ADDRESSES: Written comments or suggestions for consideration in connection with the proposed amendments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Deborah A. Bozik, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; phone 301-443-6911.

For the Nuclear Regulatory Commission.

CHASE R. STEPHENS,
Chief, Docketing and Service Branch, Office of the Secretary of the Commission.

[FR Doc.77-26527 Filed 9-9-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 76-WE-12-AD]

AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) superseding Amendment 39-2802 (42 FR 2053) AD 77-01-04 that would require modification of the air conditioning compartment access door handle in addition to the presently required one-time inspection and rigging procedure. This proposed AD is considered necessary since additional service experience and laboratory tests reveal that the present AD does not, by itself, prevent in-flight separation of an air conditioning compartment access door.

DATES: Comments must be received on or before October 15, 1977.

ADDRESSES: Send comments on the proposal in duplicate to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. Telephone: 213-536-6351.

SUPPLEMENTARY INFORMATION: AD 77-01-04 requires a one-time inspection and rigging procedure. After the issuance of AD 77-01-04, an aircraft lost two air conditioning compartment access doors are a result of a lightning strike. Subsequent laboratory tests have revealed that a lightning strike can open a properly closed door notwithstanding the accomplishment of the rigging procedure required by AD 77-01-04.

Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed AD would require modification of the air conditioning compartment access door handles in addition to the presently required one-time inspection and rigging procedure.

Lightning simulation tests have demonstrated that the handle, modified as proposed will withstand the pressure and dynamic response to the extremely short-time pressure pulse associated with a lightning strike.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration as listed in "Addresses" above. All communications received on or before October 15, 1977, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments and reports of contracts with members of the public during the course of rulemaking will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

DRAFTING INFORMATION

The principal authors of this document are Douglas T. Sharman, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive which will supersede AD 77-01-04.

MCDONNELL DOUGLAS. Applies to Model DC-10-10, DC-10-10F, DC-10-30, DC-10-30F, and DC-10-40 airplanes, certificated in all categories.

Compliance required as indicated.

To prevent in-flight separation of an air conditioning compartment access door accomplish the following:

(a) Unless already accomplished, within 2000 flight hours after January 12, 1977 (the effective date of AD 77-01-04) accomplish the inspection and rigging procedure specified in the DC-10 Maintenance Manual, Chapter 52-42-01, Temporary Revision 52-231, dated September 17, 1976, paragraph 3, or later FAA approved revision with the following manual amendments:

(1) Steps outlined in 3.A.(1), (a) through (d) and 3.A.(2) may be omitted.

(2) Before accomplishing steps 3.A.(3), (a), and (b) and (3a), (a) through (g) inspect the doors to verify that when the upper edge of the door makes contact with the door jamb the clearance does not exceed 1.2 inches between the lower edge of the door and door jamb. If this dimension is not exceeded, steps 3.A.(3), (a) and (b) and (3a), (a) through (g) may be omitted. Otherwise, those steps must be performed.

(b) Unless already accomplished, within the next 2000 flight hours after the effective date of this AD modify the air conditioning compartment access door handle as follows:

(1) Install a Camloc stud (fastener) in accordance with McDonnell Douglas DC-10 Service Bulletin No. 52-116, dated July 2, 1974, or later FAA approved revision, or

(2) Install a handle catch in accordance with McDonnell Douglas DC-10 Service Bulletin No. 52-168, dated, June 7, 1977, or later FAA approved revision.

(3) If the air conditioning compartment access door is removed to accomplish the handle modification, verify the door handle position and loads are in accordance with paragraphs 3.A(11) and 3.A(18) of the DC-10 Maintenance Manual, Chapter 52-42-01, Temporary Revision 52-231, dated September 17, 1976, or later FAA approved revision.

(c) Equivalent procedures or modifications may be approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(d) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to operate airplanes to a base for the accomplishment of this AD.

(Secs. 313(a), 601, and 603 Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on August 30, 1977.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.77-26205 Filed 9-9-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-WE-24]

PROPOSED DESIGNATION OF TRANSITION AREA

Placerville, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a 700 foot transition area at Placerville, Calif., to provide protection for aircraft executing a new instrument approach procedure (NDB Rwy-5) to the Placerville Airport.

DATES: Comments must be received on or before October 14, 1977.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261; telephone 213-536-6182.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the Airspace Docket Number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261. All communications received on or before October 14, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Chief, Airspace and Procedures Branch, 15000 Aviation Boulevard, Lawndale, Calif. 90261, or by calling 213-536-6180. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Placerville, Calif., 700 foot transition area. This action will provide additional controlled airspace to accommodate aircraft executing the NDB-Rwy 5 approach procedure to the Placerville Airport.

Accordingly, the Federal Aviation Administration proposed to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following:

PLACERVILLE, CALIF.

That airspace extending upward from 700 feet above the surface within a four mile radius of Placerville Airport (latitude 38°43'30" N., longitude 120°45'18" W.) and within four miles each side of the Placerville Nondirectional Radio Beacon (NDB) (latitude 38°43'23" N., longitude 120°45'54" W.) 210° magnetic bearing extending from the four mile radius area to eleven miles southwest of the NDB.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division, and DeWitte T. Lawson, Jr., Esquire, Regional Counsel.

(This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on August 30, 1977.

HERMAN C. BUSS,
Acting Deputy Director, Western Region.

[FR Doc 77-26206 Filed 9-9-77;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 296]

[EDR-333; Docket No. 30783; Dated: September 1, 1977]

USE OF AIR FREIGHT FORWARDERS BY COOPERATIVE SHIPPERS ASSOCIATIONS AND BY OTHER AIR FREIGHT FORWARDERS

Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites comments from members of the general public, direct air carriers, international air freight forwarders, air freight forwarders, cooperative shippers associations, shippers, consumer organizations, and interested government agencies, on proposed rules which would permit the use of air freight forwarders by other air freight forwarders and cooperative shippers associations, and the use of international air freight forwarders by other international air freight forwarders. This proceeding is in response to a petition for rulemaking filed by Novo Airfreight Corporation, an authorized air freight forwarder.

DATES: Comments by: October 24, 1977. Reply comments by: November 14, 1977. Requests to be placed on the Service List by September 19, 1977.

ADDRESSES: Comments should be sent to Docket 30783, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Stephen Babcock, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5442).

SUPPLEMENTARY INFORMATION: Part 296 of the Board's Economic Regulations (14 CFR Part 296) contains rules governing the operations of three types of indirect air carriers of property: air freight forwarders, international air freight forwarders, and cooperative shippers associations. The definition of the term "air freight forwarder" contained in Part 296 (14 CFR 296.1(b)) includes a statement that a forwarder is an indirect air carrier that "utilizes * * * the services of a direct air carrier * * *" for the air transportation it performs. An identical provision is found in the definition of an international air freight forwarder (14 CFR 296.1(f)) and of a cooperative shippers association (14 CFR 296.1(c)).

Novo Airfreight Corporation (Novo), an air freight forwarder, has filed with the Board a petition concerning the "utilization" requirement in this definitional language. Novo seeks, in the alternative, three forms of relief. First, Novo asks the Board to issue a declaratory order stating that the requirement that a cooperative shippers association must "utilize" the services of a direct air carrier permits such an association to ship property via an air freight forwarder, which in turn would "utilize" the services of a direct air carrier. Secondly, Novo asks, if the Board determines not to issue such an order, whether certain movie film distributors (who are now Novo's customers) may designate a common agent to pool and tender their shipments to an air freight forwarder as one consolidated shipment. Finally, Novo asks, if the answer to its second request is also negative, that the Board institute a rulemaking proceeding to amend the definition of the term "cooperative shippers association" contained in the Board's rules to permit cooperative shippers associations to utilize the services of air freight forwarders.

Air Express International Corp. (AEI), another air freight forwarder, answered Novo's petition in opposition.[1] AEI states that the petition is merely a device to regain business which Novo has lost to AEI and is without substantive merit since (1) the Board's position with respect to the "utilization" requirement is clear, (2) there already exists a Board-sanctioned method (Petition of Southern States Traffic Systems, Inc., Docket 28359, Order 76-4-72) of pooling traffic through the use of an agent, and (3) the institution of a rulemaking proceeding to allow cooperative shippers associations to use air freight forwarders is unwarranted, because nothing has changed since the Board initially concluded that

[1] AEI's answer is styled "comments," and was accompanied by a motion to file an otherwise unauthorized document. Good cause having been shown, the motion is granted, and AEI's "comments" will be considered as an answer.

V 42 176 SEP 12 77 UMI

cooperative shippers associations are indirect air carriers.[4]

Upon consideration of this matter, we have decided to deny Novo's first two requests, and to institute a rulemaking proceeding to consider amendments to our rules to permit cooperative shippers associations to use air freight forwarders, and to permit air freight forwarders and international air freight forwarders to ship traffic on other members of the same class of indirect carriers. Our reasons are as follows:

Novo's first request is that the Board issue a declaratory order interpreting the existing definition of a cooperative shippers association so that such associations can ship their members' traffic via air freight forwarders. As Novo's petition recites, however, the Board has already considered the precise question that Novo raises, and has determined that the definitional language—i.e., the phrase "utilizes * * * a direct air carrier * * *"—does indeed prohibit the interposition of another indirect air carrier between a cooperative shippers association and the underlying direct carrier. Petition of WTC Airfreight, Inc., Docket 18818, letter dated December 26, 1967. Even Novo's own arguments supporting its request for a declaratory order appear to recognize that there is no genuine controversy about the Board's past interpretation of this definitional language, and instead in effect urge the Board to reconsider its views. Therefore, since there really is no "controversy" or "uncertainty" as to the Board's views here, in the sense in which those terms are used in section 5 of the Administrative Procedure Act (5 U.S.C. 554(e)), we must decline to issue a declaratory order.

Similarly, we see no need for any extended discussion of the circumstances in which an intermediary such as a shippers' agent may act as consignor and/or consignee of freight owned by its principals, since this issue (as noted by AEI) was dealt with in detail in Order 76-4-72, adopted on April 15, 1976, in Petition of Southern States Traffic Systems, Inc., supra. We remain in agreement with the views expressed in Order 76-4-72, and conclude that the film distributors referred to in Novo's petition could utilize an agent, just as did the wearing apparel shippers whose proposal was at issue in Order 76-4-72, in the manner described in that order.

Novo's final request is that the Board amend its rules to permit cooperative shippers associations to ship their members' traffic on air freight forwarders. In 1955, when the Board first established regulations for cooperative shippers associations,[5] the Board expressed the view that such associations should remain in the effective control of their members,[6] and a corollary of that view was (and is) that forwarders should not be allowed to dominate cooperative shippers associations to the possible detriment of the association's members, the forwarder's other customers, or competing forwarders.[7] While we continue to adhere to our views on this subject, we have tentatively concluded that we no longer need to prohibit the use of air freight forwarders by cooperative shippers associations in order to prevent such abuses. Members of cooperative shippers associations now appear to be, in the usual case, firms that are regular shippers of air freight, having traffic department employees who are quite well informed as to their firms' distribution costs generally, and as to common carriers' rates in particular. Because of this, we think it is far less likely than it may have been in the past that an air freight forwarder could successfully dominate an association to the detriment of the interests of its members, the forwarder's other customers, or competing forwarders. We adhere to our view that airfreight forwarders should not be allowed to dominate or control cooperative shippers associations,[8] of course, and merely tentatively conclude here that the danger of such domination is not so great that cooperative shippers associations should be prohibited from using the services of air freight forwarders by our regulations.

While the petition before us raised only the issue of the use of forwarders by associations, we have tentatively determined, in addition, to amend the definitions of an "air freight forwarder" and of an "international air freight forwarder" to permit each of the two classes of indirect air carriers to use the services of other members of the same class. Our reasons for doing so are related to those for permitting cooperative shippers associations to use forwarders, in that there appear to be instances in which a forwarder, as well as a cooperative shippers association, might find the use of another forwarder to be more advantageous than the use of a direct carrier.

All the foregoing are our tentative conclusions only, and we solicit the views of all interested persons to assist us in determining whether to adopt the proposed rules set forth in this notice.

Request for Comments

Interested persons may participate in this proceeding by submitting 20 copies of written data, views, or arguments addressed to: Docket 30783, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All comments received by October 24, 1977, and reply comments received by November 14, 1977, will be considered by the Board before taking further action.

Those persons planning to participate who wish to be served with the comments of others, and who are willing to serve their own comments and reply comments on others, may, on or before September 19, 1977, request the Docket Section to place them on the Service List. The Service List will be prepared by the Docket Section and mailed to those named on it. Persons filing responsive comments should serve any person whose comment is dealt with in their responsive comment, whether or not either party is on the Service List.

Individual members of the general public who wish to express their interest as consumers may do so by submitting comments in letter form, in the manner and by the dates indicated above, without the necessity of filing additional copies.

Proposed Rules

The Board proposes to amend Part 296 of its Economic Regulations as follows:

1. Section 296.1 (b)(2), (c)(2) and (f)(2) would be amended to read as follows:

§ 296.1 Definitions.

* * * * * * *

(b) * * *

(2) Which in the ordinary and usual course of its undertaking, assembles and consolidates or provides for assembling and consolidating of property or performs or provides for the performance of break-bulk and distributing operations with respect to consolidated shipments, is responsible for the transportation of property from the point of receipt to point of destination and utilizes for the whole or any part of such transportation either the services of a direct air carrier, as defined in § 296.1 (d) (1) and (3), or those of another air freight forwarder.

* * * * * * *

(c) * * *

(2) Which undertakes to ship property for the account of such association or its members, by air, in the name of either the association or the members, in order to secure the benefits of volume rates or improved services for the benefit of its members, and utilizes for the whole or any part of such transportation either the services of a direct air carrier as defined in § 296.1(d) (1) and (3), or those of an air freight forwarder.

* * * * * * *

(f) * * *

(2) Which, in the ordinary and usual course of its undertaking, assembles and consolidates or provides for assembling and consolidating of property or performs or provides for the performance of break-bulk and distributing operations with respect to consolidated shipments, is responsible for the transportation of such property from the point of receipt to point of destination, and utilizes for the whole or any part of such transportation either the services of a direct air carrier as defined in § 296.1(d) (1), (2), and (4), or those of another international air freight forwarder.

(Secs. 101(3), 204(a), and 416(a) of the Federal Aviation Act of 1958, as amended; 72 Stat. 737, 743, 771; (49 U.S.C. 1301(3). 1324(a), 1386(a)).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-26396 Filed 9-9-77;8:45 am]

[3] Consolidated Flower Shipments, Inc., Bay Area, 16 C.A.B. 804 (1953); Consolidated Flower Shipments, Inc., Bay Area v. Civil Aeronautics Board, 213 F.2d 814 (9th Cir. 1954); Airfreight Forwarder Investigation, 21 C.A.B. 536 (1955).

[4] Airfreight Forwarder Investigation, 21 C.A.B. 536 (1955).

[4] Id. at 553, 645-46.

[5] Cf., Transportation Services of the Pacific, Inc., Docket 26445, Order 75-8-79.

[6] See, Transportation Services of the Pacific, Inc., supra.

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

[CGD 77-144]

PRINCE WILLIAM SOUND, ALASKA

Anchorage Regulations

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard proposes to establish an anchorage ground in Prince William Sound, Alaska. This anchorage is needed because of increased vessel traffic transiting these waters to and from the oil terminal at Port Valdez. This anchorage is intended to provide a safe haven for these vessels when there are adverse weather conditions, they have navigational problems, or they must wait because of delays at Port Valdez.

DATES: Comments must be received on or before Oct 27, 1977.

ADDRESSES: Comments should be submitted to Commander, Seventeenth Coast Guard District (m), P.O. Box 3-5000, Juneau, Alaska 99802. Comments will be available for examination at the office of the Commander, Seventeenth Coast Guard District (m), Room 613A Federal Building, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1477).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include his name and address, identify the notice (CGD 77-144) and the specific section of the proposal to which his comment applies, and give the reasons for his comment. All comments received before the expiration of the comment period will be considered beforfe final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

Drafting Information

The principal persons involved in drafting this proposal are: Lieutenant Commander H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Stephen D. Jackson, Project Attorney, Office of the Chief Counsel.

Discussion of the Proposed Rule

This proposed anchorage is intended to be part of an overall vessel safety program for Prince William Sound. The Coast Guard promulgated regulations for a Vessel Traffic Service (VTS) on July 25, 1977 (33 CFR Parts 301-387, 42 FR 37928). This VTS includes vessel traffic lanes and equipment and reporting requirements to prevent vessel collisions and groundings. This anchorage would be for the temporary use of vessels that are unable to transit the VTS area. Vessels wishing to use this anchorage must notify the vessel traffic center at Valdez and must notify the vessel traffic center before leaving the anchorage. This notification will enable the vessel traffic center to direct vessels to anchor outside the anchorage if necessary and will also inform the center when a vessel is ready to resume transit in the VTS area.

This proposed anchorage is to be established off Knowles Head. This is a fairly protected area, convenient to the vessel traffic lanes, but also clear of normal vessel traffic. The Coast Guard has determined that an anchorage is necessary, although it realizes that no location is totally non-disruptive to some local interests. This anchorage covers a small area and it should not cause undue hardships to the local fishermen. This location was chosen after the tanker demonstrations in Prince William Sound this spring during which several locations were tested. The Coast Guard is proposing this location because it is convenient to the traffic lanes, has an appropriate depth of water a safe distance offshore, is large enough to accommodate the tankers utilizing the oil terminal at Port Valdez, and the bottom has good holding capabilities.

In consideration of the foregoing, it is proposed that Part 110 of Title 33 Code of Federal Regulations be amended by adding a new § 110.233 to read as follows:

§ 110.233 Prince William Sound, Alaska.

(a) *The anchorage grounds.* In Prince William Sound, Alaska, beginning at a point at latitude 60°40'00" N., longitude 146°40'00" W.; thence south to latitude 60°38'00" N., longitude 146°40'00" W.; thence east to latitude 60°38'00" N., longitude 146°30'00" W.; thence north to latitude 60°39'00" N., longitude 146°30'00" W.; thence northwesterly to the beginning point.

(b) *The regulations.* (1) This anchorage area is for the temporary use of vessels during:

(i) Adverse weather or tidal conditions;

(ii) Vessel equipment failure; or

(iii) Delays at Port Valdez;

(2) No vessel may anchor in this anchorage without notifying the vessel traffic center in Valdez; and

(3) Each vessel anchored shall notify the vessel traffic center in Valdez when it weighs anchor.

(Sec. 7, 38 Stat. 1053, as amended (33 U.S.C. 471); sec. 6(g)(1), 80 Stat. 940 (49 U.S.C. 1655(g)(1)); 49 CFR 1.46(c)(1).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: September 7, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc.77-26506 Filed 9-9-77;8:45 am]

PANAMA CANAL COMPANY

[35 CFR Part 10]

ACCESS TO INFORMATION CONCERNING INDIVIDUALS

Proposed Exemption From Access of System of Records Under the Privacy Act

AGENCY: Canal Zone Government and Panama Canal Company.

ACTION: Proposed rule.

SUMMARY: The proposed rule would exempt a system of records, called "Canal Protection Division Activity Report Files, PCC-CZG/CACP-2," from certain provisions of the Privacy Act of 1974. The general effect of the exemption would be to make information in the system inaccessible to the subjects of the records. The exemption is needed because the system consists of information maintained by a component of the Canal Zone Government whose principal function is the maintenance of the security of the Panama Canal and its vital installations and the prevention and detection of crime; divulging the information in the system to the subjects of the records could render the efforts of the Division ineffective.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 12, 1977.

ADDRESS FOR COMMENTS: Secretary, Panama Canal Company, Room 312, Pennsylvania Building, 425 13th Street NW., Washington, D.C.; or Chief, Administrative Services Division, Panama Canal Company, Box M, Balboa Heights, Canal Zone.

FOR FURTHER INFORMATION CONTACT:

Mrs. Hazel M. Murdock, Assistant to the Secretary, Panama Canal Company, Room 312, Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004 (telephone 202-724-0104).

Under the Privacy Act of 1974, 5 U.S.C. 552a, the Canal Zone Government and Panama Canal Company propose to amend Part 10 of 35 CFR by adding a

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new paragraph (30) to 35 CFR 10.13(a), and by adding a new paragraph (xli) to 35 CFR 10.14(a)(2), as follows:

§ 10.13 General exemptions.

(a) • • •

(30) Canal Protection Division Activity Report Files, PCC–CZG/CACP–2.

§ 10.14 Specific Exemptions.

(a) • • •

(2) • • •

(xli) Canal Protection Division Activity Report Files, PCC–CZG/CACP–2.

Dated: August 19, 1977.

H. R. PARFITT,
Governor of the Canal Zone,
President, Panama Canal Company.

[FR Doc.77–26487 Filed 9–9–77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 25, 33, 75, 94, 161, 164, 167, 180, 192]

[CGD 76–28S]

LIFESAVING EQUIPMENT

Lights and Retro-Reflective Materials for Life Preservers and Other Lifesaving Equipment

AGENCY: Coast Guard, DOT.

ACTION: Supplemental Notice of Proposed Rulemaking.

SUMMARY: In the FEDERAL REGISTER of May 23, 1977, the Coast Guard proposed regulations concerning lights and retro-reflective material for life preservers and other lifesaving equipment. This document gives notice of a public hearing to be held on the proposal, extends the comment period to November 4, 1977, and gives notice of additions to the proposal that have been made since the notice of proposed rulemaking was published. Comments were received requesting that a public hearing be held and that the comment period be extended. The additions to the notice of proposed rulemaking are based upon recent tests conducted by the Coast Guard.

DATE: (1) As stated above, comments must be received on or before November 4, 1977. (2) Public hearing: The Coast Guard will hold a public hearing on this proposal. The public hearing will be held in Room 8236, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C., beginning at 9 a.m. on September 30, 1977.

ADDRESS: Written comments on the notice of proposed rulemaking and on this supplemental notice of proposed rulemaking should be submitted to the Coast Guard Marine Safety Council (G–CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G–CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–1477).

SUPPLEMENTARY INFORMATION: Twenty-four comments have been received on the notice of proposed rulemaking of May 23, 1977 (42 FR 26229). These comments are available for examination at the Coast Guard Marine Safety Council located at the address listed above.

DRAFTING INFORMATION

The principal persons involved in drafting this supplemental notice of proposed rulemaking are: Lieutenant Commander Paul K. Anderson and Robert L. Markle, Project Managers, Office of Merchant Marine Safety, and William R. Register, Project Attorney, Office of the Chief Counsel.

ISSUES RAISED BY THE NOTICE OF PROPOSED RULE MAKING

Among the issues and concerns raised in comments to the notice of proposed rulemaking are the following:

(a) Projected, excessive costs of lights if they are to be required items for life preservers.

(b) Anticipated storage life and reliability of battery powered lights.

(c) Extra space needed for stowage of life preservers with lights attached.

(d) Possible pilferage of the lights by vessel passengers.

(e) Decreased buoyancy of life preservers because of the addition of retro-reflective material.

(f) Applicability of the proposed rules to vessels operating during daylight hours only.

(g) Method of attaching lights and retro-reflective material to life preservers.

PUBLIC HEARING AND EXTENSION OF COMMENT PERIOD

Two of the commenters on the notice of proposed rulemaking requested that the comment period be extended and one commenter requested that a public hearing be held. On the basis of the comments received and the issues raised, the Coast Guard has determined that a public hearing is needed and the comment period should be extended in order to provide an adequate opportunity for thorough review and analysis of the proposed rules and issues raised.

Accordingly, a public hearing will be held at the time and place listed above and the comment period has been extended to November 4, 1977. (The original closing date of the comment period was July 4, 1977.) All comments received before November 4, 1977, on the notice of proposed rulemaking, on this supplemental notice of proposed rulemaking, and at the public hearings will be considered before taking final action on this rulemaking.

DISCUSSION OF ADDITIONAL PROPOSED RULES

This supplemental notice of proposed rulemaking, in addition to giving notice of public hearing and extending the comment period, proposes additional rules. Comments on these additional rules, both in writing and at the public hearings, are specifically requested. Each person submitting a comment on this supplemental notice should include his or her name and address, identify this supplemental notice (CGD 76–28S) and give reasons in support of the comment.

The additions proposed in this supplemental notice of proposed rulemaking include the following:

1. A provision has been added to the construction requirements for lights in proposed § 161.012–7 to require that each light be designed so that when attached to a personal flotation device its beam is visible, at a minimum, in an arc of 180° directly above or in front of the wearer of the device.

2. A provision has been added to the performance requirements for lights in proposed § 161.012–9 to prohibit use of a flashing light if its light beam is concentrated by means of a lens or curved reflector.

3. Additions have been made to proposed Table 164.018–9 to specify performance required for retro-reflective materials when using incidence angles of 45 degrees.

These proposals are based upon tests conducted by the Coast Guard on May 6, 1977, at Coast Guard Air Station, Elizabeth City, N.C. The tests were conducted to determine the effectiveness of various types of personal flotation device lights an dtwo types of retro-reflective material used in lifesaving equipment. The tests show that—

(1) The probability of sighting retro-reflective material which did not meet the requirements proposed below was significantly less than the probability of sighting material that did meet these requirements. Unless material with the lesser incidence angle performance was nearly perpendicular to the light source, it was not seen by the observers. It was clear that effective performance of retro-reflective material is needed at large angles of incidence since the material when attached to a personal flotation device will not always be perpendicular or nearly perpendicular to the light source and line of sight of the observer.

(2) Lights tested meeting the proposal below were adequate. However, it was apparent that a light with a narrow beam does not show over enough area to be effective as an aid in search and rescue. The proposal in the May 23, 1977 NPRM would not preclude a light with a narrow beam width.

(3) A flashing light with a beam that is concentrated by means of a lens or curved reflector is likewise not effective as a detection aid.

It is noted that commenters to the notice of proposed rulemaking made comments concerning the subject matter of these additional proposals. These comments are currently being analyzed along with the other comments received.

In accordance with the foregoing, the following additions to the notice of proposed rulemaking of May 23, 1977, are proposed:

PART 161—ELECTRICAL EQUIPMENT

1. Add a new paragraph (g) to proposed § 161.012–7 in the notice of proposed rulemaking to read as follows:

§ 161.012–7 Construction.

• • • • • •

(g) Each light must be designed so that when attached to a PFD, its light beam, at a minimum, is visible in an arc of 180 degrees above or in front of the wearer.

2. Add a new paragraph (e) to proposed § 161.012–9 in the notice of proposed rulemaking to read as follows:

§ 161.012–9 Performance.

• • • • • •

(e) A light that concentrates its light beam by means of a lens or curved reflector must not be a flashing light.

PART 164—MATERIALS

3. Revise proposed Table 164.018–9 in the notice of proposed rulemaking to read as follows:

TABLE 164.018–9—*Reflective intensity*

Divergence angle [1]	Incidence angle [1]	Reflective intensity [1]
0.2	−4°	150
.2	+30°	75
.2	+45°	50
.5	−4°	57
.5	+30°	33
.5	+45°	25
2.0	−4°	2.5
2.0	+30°	2.0
2.0	+45°	1.0

[1] These terms are described in Federal specification L–S–300.

(46 U.S.C. 375, 390b, 391a, 416, 481, 526p, and 1454; (49 U.S.C. 1655(b); 49 CFR 1.46.)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A–107.

Dated: September 6, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc.77–26512 Filed 9–9–77;8:45 am]

Materials Transportation Bureau

[49 CFR Part 178]

[Docket No. HM–153]

CONSOLIDATION OF BAG SPECIFICATIONS

Advance Notice of Proposed Rule Making

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Advance Notice of Proposed Rule Making.

SUMMARY: This advance notice provides information and an opportunity for comment on the proposed consolidation of specifications for bags to be used for the transportation of hazardous materials.

DATE: Comments must be received on or before November 17, 1977.

ADDRESS: Comments should be addressed to the Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Five copies should be submitted.

FOR FURTHER INFORMATION CONTACT:

Mr. Alan I. Roberts, Director, Office of Hazardous Materials Operations, Department of Transportation, 2100 Second Street SW., Washington, D.C. 20590 (202–426–0656).

SUPPLEMENTARY INFORMATION: There have been a number of attempts made to consolidate the specifications for bags as provided for in Part 178 of the Hazardous Materials Regulations. As an example, the Chemical Packaging Committee of the Manufacturing Chemists Association (MCA) developed several alternatives for consolidating some, but not all, of the specifications for bags in Part 178 of Title 49 CFR. As a result of this work, a petition for rule making was received which sought an amendment of Part 178 of the Department of Transportation's Hazardous Materials Regulations to consolidate the specifications for multiwall paper bags in the 44 series, i.e., Specifications 44B, 44C, 44D, and 44E. Primary drafters of this document are Mario E. Gigliotti and Douglas A. Crocket.

The background information on this subject indicates that many benefits will accrue as a result of bag specification consolidation. Among these benefits are: The number of bag specifications can be reduced; the Regulations can be made more concise and uniform, and thus easier to use; the bag specifications can be made simpler and less redundant, as well as more readily adapted to the incorporation of performance-oriented test procedures and requirements. Moreover, the background information also implies that the bag consolidation may favorably affect packagers and shippers of hazardous materials, carriers, and bag manufacturers and, therefore, could enhance the safe transportation of hazardous materials.

To develop a Notice of Proposed Rule Making, certain information is required. Therefore, the Materials Transportation Bureau is providing this opportunity for comment on the consolidation of specifications for bags for hazardous materials. Comments should be addressed to the following questions:

1. Is there a need to consolidate the specifications for bags?

2. Should the consolidation, if made, embrace all bag specifications? That is, cloth, Specification 36A; burlap, Specifications 36B and 36C; paper, Specifications 44B, 44C, 44D, and 44E; plastic, Specification 44P; cloth and paper, Specification 45B.

3. Should the consolidation be limited to specifications for bags consisting of cloth or cloth and paper, i.e., Specifications 36A and 45B?

4. Should the consolidation be narrowed to include only the multiwall paper bags in series 44 as proposed by the MCA in its petitions to consolidate Specifications 44B, 44C, 44D, and 44E?

5. Should the consolidation be limited to specifications for burlap bags, i.e., specifications 36B and 36C?

6. Should the consolidation(s) break down the specifications into "families" of bags? For instance—

(a) Bags, lined, i.e., Specifications 36A, 36B, 36C, and 45B.

(b) Bags, burlap, i.e., Specifications 36B and 36C.

(c) Bags, all paper, i.e., Specifications 44B, 44C, 44D, and 44E.

(d) Bag, all plastic, i.e., Specification 44P.

7. Based on neglible use for hazardous materials or lack of production, are certain specification bags obsolete and thus appropriate for cancellation?

8. Should the consolidation(s) of bag specifications be substantive in nature (i.e., include technical changes) or be solely editorial?

Comments addressing potential editorial or substantive amendment of the DOT bag specifications should identify and substantiate any reasonably foreseen costs or benefits to industry, the public or to Federal or State Governments. This information is necessary for an adequate evaluation of the comments and for examination of possible economic impacts prior to publication of any subsequent notice of proposed rule making.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a)(4) of App. A to Part 102.)

Issued in Washington, D.C., on September 6, 1977.

ALAN I. ROBERTS,
Director, Office of
Hazardous Materials Operations.

[FR Doc.77–26369 Filed 9–9–77;8:45 am]

[49 CFR Part 178]

[Docket No. HM–154]

CONSOLIDATION OF BOX SPECIFICATIONS

Advance Notice of Proposed Rule Making

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Advance notice of proposed rule making.

SUMMARY: This advance notice provides information and an opportunity for comment on the proposed consolidation of specifications for boxes to be used for the transportation of hazardous materials.

DATE: Comments must be received on or before November 17, 1977.

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ADDRESS: Comments should be addressed to the Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Five copies should be submitted.

FOR FURTHER INFORMATION CONTACT:

Mr. Alan I. Roberts, Director, Office of Hazardous Materials Operations, Department of Transportation, 2100 Second Street SW., Washington, D.C. 20590 (202-426-0656).

SUPPLEMENTARY INFORMATION: Since 1972, there have been sereval attempts made to consolidate the specifications for boxes as provided for in Part 178 of the Hazardous Materials Regulations. For instance, the Chemical Packaging Committee of the Manufacturing Chemists Association (MCA) developed several alternatives for consolidating some but not all of the specifications for boxes in Part 178 of Title 49 CFR. As a result of this work, a petition for rule making was received which sought an amendment of Part 178 of the Department of Transportation's Hazardous Materials Regulations to consolidate the specifications for fiberboard boxes in the 12 series. Primary drafters of this document are Mario E. Gigliotti and Douglas A. Crockett.

The background information on this subject indicates that many benefits will accrue as a result of consolidating the box specifications. Among these benefits are: the number of box specifications can be reduced; the Regulations can be made more concise and uniform, and thus easier to use; the box specifications can be made simpler and less redundant, as well as more readily adapted to the incorporation of performance-oriented test procedures and requirements. Moreover, the background information also implies that the box consolidation may favorably affect packagers and shippers of hazardous materials, carriers and box manufacturers and, therefore, could enhance the safe transportation of hazardous materials.

To develop a Notice of Proposed Rule Making certain information is required and, therefore, the Bureau is providing this opportunity for comment on the consolidation of specifications for boxes for hazardous materials. Comments should be addressed to the following questions:

1. Is there a need to consolidate the specifications for boxes?

2. Should the consolidation, if made, embrace all box specifications: That is, fiberboard (series 12) Specifications 12A, 12B, 12C, 12D, 12E, 12H, 12P, and 12R; (series 23) Specifications 23F, 23G, and 23H; Wooden, Specification 24; (series 15) Specifications 15A, 15B, 15C, 15D, 15E, 15L, 15M 15X, and 15P; (series 16) Specifications 16A, 16B, and 16D; (series 19) Specifications 19A and 19B; Metal, Specifications 32A, 32B, 32C, and 32D; Expanded polystyrene, Specification 33A.

3. Should the consolidation be limited to specifications for fiberboard boxes, i.e., series 12 and series 23?

4. Should the series 12 boxes and series 23 boxes be treated separately?

5. Should corrugated fiberboard boxes and solid fiberboard boxes be treated separately?

6. Should the consolidation be narrowed to include only fiberboard boxes in series 12, as proposed by the MCA in their petition to consolidate specifications 12A, 12B, 12C, 12D, and 12E?

7. Should the consolidation be limited to specifications for wooden boxes, i.e., series 15, series 16, series 19, and Specification 14? Should series 15, 16, and 19 wooden boxes be treated separately?

8. Should the consolidation be limited to specifications for metal boxes, i.e., series 32?

9. Should the consolidation(s) break down the specifications into "families" of boxes? For instance—

(a) Corrugated fiberboard boxes.
(b) Solid fiberboard boxes.
(c) Wooden boxes, nailed, e.g., Specifications 14, 15A, 15B, 15C, and 15D.
(d) Wooden boxes, lined, e.g., Specifications 15E and 15M.
(e) Wooden boxes, with or for inside containers, e.g., Specifications 15L, 15X, and 15P.
(f) Wooden boxes, wirebound, e.g., Specification 16A, 16B, and 16D.
(g) Wooden boxes, glued plywood, e.g., Specifications 19A and 19B.
(h) Expanded polystyrene box, e.g., Specification 33A.

10. Based on negligible use for hazardous materials or lack of production, are certain specification boxes obsolete and thus appropriate for cancellation?

11. Should the consolidation(s) of box specifications be substantive in nature (i.e., include technical changes) or be solely editorial?

Comments addressing potential editorial or substantive amendment of the DOT box specifications should identify and substantiate any reasonably foreseen costs or benefits to industry, the public, or to Federal or State Governments. This information is necessary for an adequate evaluation of the comments and for examination of possible economic impacts prior to publication of any subsequent notice of proposed rulemaking.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a)(4) of Appendix A to Part 102.)

Issued in Washington, D.C. on September 6, 1977.

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Operations.

[FR Doc.77-26370 Filed 9-9-77;8:45 am]

[49 CFR Part 178]

[Docket No. HM-155]

CONSOLIDATION OF DRUM SPECIFICATIONS

Advance Notice of Proposed Rule Making

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Advance notice of proposed rule making.

SUMMARY: This advance notice provides information and an opportunity for comment on the proposed consolidation of specifications for drums to be used for the transportation of hazardous materials.

DATE: Comments must be received on or before November 17, 1977.

ADDRESS: Comments should be addressed to the Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Five copies should be submitted.

FOR FURTHER INFORMATION CONTACT:

Mr. Alan I. Roberts, Director, Office of Hazardous Materials Operations, 2100 Second Street SW., Washington, D.C. 20590 (202-426-0656).

SUPPLEMENTARY INFORMATION: In recent years there have been a number of attempts made to consolidate the specifications for drums as provided for in Part 178 of the Hazardous Materials Regulations. For instance, the staff of this Office discussed with the Steel Shipping Container Institute (SSCI) and the Chemical Packaging Committee of the Manufacturing Chemists Association (MCA), several alternatives for consolidating some, but not all, of the specifications for drums in Part 178 of Title 49 CFR. As a result of this cooperative work, a petition for rule making was received which sought an amendment of Part 178 of the Department of Transportation's Hazardous Materials Regulations to consolidate the specifications for steel drums in the 17 and 37 (single-trip) series. Another petition to consolidate the specifications for aluminum drums in the 42 series was received at a later date. Primary drafters of this document are Mario E. Gigliotti and Douglas A. Crockett.

Extensive background information on this subject indicates that many benefits will accrue as a result of consolidating the drum specifications. Among these are: The number of drum specifications in the Regulations can be reduced; the Regulations can be made more concise and uniform, and thus easier to use; the drum specifications can be made simpler and less redundant, as well as more readily adapted to the incorporation of performance-oriented test procedures and requirements. Moreover, the background information also implies that the drum consolidation may favorably affect packagers and shippers of hazardous materials, carriers and drum manufacturers and, therefore, could enhance the safe transportation of hazardous materials.

To develop a Notice of Proposed Rule Making certain information is required and, therefore, the Bureau is providing this opportunity for comment on the consolidation of specifications for drums for hazardous materials. Comments should be addressed to the following questions:

1. Is there a need to consolidate the specifications for drums?

2. Should the consolidation, if made, embrace all drum specifications? That is, Metal (series 5) Specifications 5, 5A, 5B, 5C, 5D, 5F, 5H, 5K, 5L, 5M, 5X, and 5P; (series 6) Specifications 6A, 6B, 6C, 6J, 6K, and 6D; (series 42) Specifications 42B, 42C, 42D, 42F, 42G, 42H, and 42E; (series 17) Specifications 17C, 17E, 17F, 17H, and 17X; (series 37) Specifications 37K, 37A, 37B, 37P, 37M, 37C, and 37D; Specification 13A; Fiber, Specifications 21C and 21P; Wooden, plywood, Specifications 22A, 22B, and 22C; Polyethylene, Specification 34; Rubber, Specification 43A.

3. Should the consolidation be limited to specifications for metal drums, i.e., series 5, series 6, series 42, series 17, series 37, plus specification 13A? Or should each of the series of metal drum specifications be separately consolidated? That is, consolidate the 5's, the 6's, the 42's, the 17's, the 37's?

4. Should the consolidation be narrowed to include only the drums in series 17 and series 37 as proposed by the SSCI and MCA?

5. Should the consolidation(s) break down the specifications into "families" of drums? For instance—

(a) Single-trip containers (STC); nonreuseable containers (NRC); and reusable containers.
(b) Removable head drums; and nonremovable head drums.
(c) Steel drums, e.g., series 5, 6, 17, and 37, plus specification 13A.
(d) Aluminum drums, e.g., series 42.
(e) Fiber drums, e.g., Specifications 21C and 21P.
(f) Wooden (plywood) drums, e.g., Specifications 22A, 22B, and 22C.
(g) Polyethylene drum, e.g., Specification 34.
(h) Rubber drum, e.g., Specification 43A.

6. Based on negligible use for hazardous materials or lack of production, are certain specification drums obsolete and thus appropriate for cancellation?

7. Should the consolidation(s) of drum specifications be substantive in nature (i.e., include technical changes) or solely editorial?

Comments addressing potential editorial or substantive amendment of the DOT drum specifications should identify and substantiate any reasonably foreseen costs or benefits to industry, the public, or to Federal or State Governments. This information is necessary for an adequate evaluation of the comments and for examination of possible economic impacts prior to publication of any subsequent notice of proposed rule making.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a)(4) of Appendix A to Part 102.)

Issued in Washington, D.C., on September 6, 1977.

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Operations.

[FR Doc.77-26371 Filed 9-9-77;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

NOTICE TO FEDERAL AGENCIES

Beginning October 1, 1977, Federal agencies must reimburse the Government Printing Office (GPO) for the cost of printing documents in the FEDERAL REGISTER and Code of Federal Regulations.

The Legislative Branch Appropriation Act, 1978 (Pub. L. 95-94, August 5, 1977) amended the Federal Register Act to require Federal agencies to reimburse the Government Printing Office for the cost of printing, binding, and distributing the FEDERAL REGISTER and Code of Federal Regulations. The pertinent provisions of Pub. L. 95-94 amending 44 U.S.C. 1509 are contained in Appendix A to this document.

FEDERAL REGISTER

In order to make certain that statutory requirements for publication in the FEDERAL REGISTER can be met on and after October 1, 1977, agencies must submit a Printing and Binding Requisition (Standard Form 1) before September 15 to the following address:

Superintendent of Planning Service, Room C830, Government Printing Office Washington, D.C. 20401.

CODE OF FEDERAL REGULATIONS

Every agency that has rules in the Code of Federal Regulations must submit a second Printing and Binding Requisition (Standard Form 1) to the Superintendent of Planning Service at the above address.

COMPUTATION OF COSTS-BILLING: FISCAL YEARS 1978, 1979

For fiscal year 1978 agencies will be charged $285 for each page of printed matter they publish in the FEDERAL REGISTER and $50 for each page in the Code of Federal Regulations. Fractions of pages published in the FEDERAL REGISTER will be counted on a column basis with a minimum charge of one column ($95). GPO will bill each agency monthly for the material the agency has printed in the previous month. Billing for the Code of Federal Regulations will be on an as printed basis.

For budget planning purposes, agencies are advised that current estimates for printing services in Fiscal Year 1979 are as follows: FEDERAL REGISTER $300 per page; Code of Federal Regulations $55 per page.

These prices cover the costs of composition, printing, binding and distribution.

INFORMATION AND ASSISTANCE

For information and assistance in filing out the Printing and Binding Requisition (Standard Form 1) and in computing your projected printing costs, call: Mr. William Rose, 202-275-2867.

APPENDIX A

[Pub. L. 95-94 Approved Aug. 5, 1977]

* * * * * *

"§ 1509. Costs of publication, etc.

"(a) The cost of printing, reprinting, wrapping, binding, and distributing the FEDERAL REGISTER and the Code of Federal Regulations, and, except as provided in subsection (b), other expenses incurred by the Government Printing Office in carrying out the duties placed upon it by this chapter shall be charged to the revolving fund provided in section 309. Reimbursements for such costs and expenses shall be made by the Federal agencies and credited, together with all receipts, as provided in section 309(b)."

* * * * * *

(b) The amendments made by subsection (a) shall take effect on October 1, 1977.

* * * * * *

DEPARTMENT OF AGRICULTURE

Forest Service

ST. FRANCIS UNIT PLAN

Availability of Final Environmental Statement; Correction

In FR Doc. 77-23124 appearing at page 40719 in the FEDERAL REGISTER of August 11, 1977, first paragraph, last sentence, 75-06, is corrected with 76-06 and in second paragraph, second column, August 4, 1977 is the correction.

Dated: August 30, 1977.

ROBERT F. WILLIAMS,
Regional Environmental Coordinator.

[FR Doc.77-26397 Filed 9-9-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 77-9-2; Dockets 27999, 28000]

UNITED AIR LINES, INC.

Order To Show Cause and Granting Temporary Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of September, 1977.

On June 8, 1977, United Air Lines filed a petition for an order to show cause why its certificate for Route 51 should not be amended so as to authorize it to perform nonstop air transportation between Cleveland, Ohio, and New Orleans, La.[1] The carrier also requests that the exemption granted in Order 75-8-23 for similar authority be extended pending final Board action on its certificate amendment application.[2]

In support of its application for renewal of its exemption authority, United states that it is the only carrier authorized to serve the Cleveland-New Orleans market on a single-carrier basis;[3] the exemption enabled United to improve service in the primary market, in the Buffalo-New Orleans market,[4] and in 12 beyond markets;[5] United's 1976 Cleveland-New Orleans nonstop service resulted in an overall positive system impact of $30,000 despite the 1975 holiday season strike;[6] and United expects to earn an operating profit of $426,000 in 1978 if the authority is granted. In support of its petition for an order to show cause, United points out that condition (12) of its certificate for Route 51 was originally imposed in the *Great Lakes-Southeast* Case, when Cleveland and several other cities were added to the certificate of United's predecessor, Capital Airlines;[7] the scope of the proceeding was such that a restriction against nonstop service between points included in the investigation and points outside the scope of the case was found to be desirable; and to preserve a restriction imposed almost 20 years ago, which does not protect any other carrier or serve any other useful purpose, would merely deprive the traveling public of the benefits of nonstop service in the market.

[1] Condition (12) of Route 51 prohibits United from performing nonstop air transportation, inter alia, between Cleveland and New Orleans.

[2] By Order 75-8-23, August 6, 1975, United was authorized to provide nonstop service between Cleveland and New Orleans for a period of two years, or until 90 days after final decision in Docket 27999, whichever occurred first.

[3] This is correct—Delta Air Lines has certificate authority to provide one-stop service between Cleveland and New Orleans via Chicago or Detroit; and Eastern Air Lines has one-stop authority in the market via Tampa. In addition, Northwest Airlines can, as a result of its recently awarded Chicago-New Orleans nonstop authority, provide one-stop service via Chicago between Cleveland and New Orleans.

[4] United implemented the exemption authority by rerouting a former Cleveland-Pittsburgh-New Orleans round-trip flight to serve Buffalo instead of Cleveland. The carrier indicates that the new one-stop Buffalo-New Orleans flight benefitted over 9,000 Buffalo passengers in 1976.

[5] United states that the new Cleveland-New Orleans nonstop service benefitted over 17,000 passengers for whom Cleveland is a natural gateway.

[6] United states that although more than 39,000 passengers were carried over the Cleveland-New Orleans segment during 1976, the strike prevented the carrier from achieving its forecast passenger goal, and it experienced a segment loss of $18,000.

Upon consideration, we have decided to (1) issue an order to show cause why United's certificate for Route 51 should not be amended under section 401(g) of the Act so as to permit nonstop service between Cleveland, Ohio, and New Orleans, La., and (2) grant United's exemption request pendente lite.

We tentatively find and conclude that the public convenience and necessity require the proposed amendment to United's certificate.[8] In support of our ultimate determination, we make the following tentative findings and conclusions. The one-stop restriction contained in condition (12) of United's certificate for Route 51 was imposed nearly 20 years ago on United's predecessor, Capital. The purpose of the restriction was to prohibit nonstop service between the new points Capital had been awarded on Route 51 and points already on its system which were not within the geographic scope of the proceeding (see fn. 7, supra).

Except for a short period from May through June of 1963, United did not provide single-plane service between Cleveland and New Orleans until the summer of 1967. For three and one-half years, until November 1, 1970,[9] the carrier provided one-stop jet service daily in both directions via Atlanta. The effect of this major service improvement was significant—O&D plus connecting passengers between Cleveland and New Orleans increased from 12,490 for the year 1966 to 20,070 for the twelve months ended September 30, 1968. On September 13, 1971, United inaugurated two daily one-stop round trips, both of which operated via Pittsburgh. Again traffic responded, increasing from 19,730 for fiscal year 1971 to 28,870 for calendar year 1972. Finally, on October 26, 1975, United substituted a nonstop round trip for one of the two one-stop round trips (utilizing the exemption authority granted in Order 75-8-23). O&D plus connecting traffic increased from 28,580 passengers in fiscal year 1975 to 33,670 for fiscal year 1976. Thus, there is a demonstrated demand for the services United has provided in the market, and traffic has responded to service improvements.[10]

Given these facts, and the fact that United accounts for 99 percent of the single-carrier traffic between Cleveland and New Orleans, it would not be in the public interest to continue the imposition of a one-stop restriction in United's certificate which would preclude the carrier from providing nonstop services in the market. Of New Orleans' top 28 markets, Cleveland is one of only two in which no carrier is certificated to provide nonstop service.[10] The removal of United's stop restriction in this market would be consistent with our general policy of eliminating or modifying certificate restrictions absent an affirmative showing that their continuance is required.[11] This is especially so where, as here, no other carrier will be adversely affected. We note that no objections to United's petition for an order to show cause have been filed, and that the City of New Orleans supports United's request.

We further find that it would be in the public interest to exempt United from the provisions of its certificate so as to authorize the carrier to provide nonstop service between Cleveland and New Orleans, pending Board action on United's certificate amendment application in Docket 27999. The carrier's nonstop services operated pursuant to its exemption authority have provided significant public benefits, not only in the primary market but in ancillary markets as well. Furthermore, United expects to realize a substantial operating profit during 1978 if its application for renewal is granted. Grant of the requested renewal will permit the carrier to tailor its schedules to meet demand for direct services between Cleveland and New Orleans as well as in beyond-markets, without any adverse impact on any other carrier. Accordingly, we find that enforcement of section 401 of the Act and the terms, conditions, and limitations of United's certificate for Route 51, to the extent that they would otherwise prevent United from providing the services authorized here, would be an undue burden on United by reason of the limited extent of, and unusual circumstances affecting, its operations in this instance and is not in the public interest.

Finally, we have determined that in view of our tentative findings and conclusions, we will require United to file an environmental evaluation with respect to the certificate amendment being proposed. In complying with this requirement, United should assume in its exhibits the service pattern in existence before the grant of exemption authority in 1975, i.e., two daily one-stop round trips between Cleveland and New Orleans, and use the procedures set forth in Part 312 to determine the environmental effect of the changes in such schedules which would result from implementing the proposed 1978 service pattern. We will require United to file such information within 20 days of the date of adoption of this order.

Interested persons will be given 30 days following the date of this order to show cause why the tentative findings and conclusions set forth above should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If any evidentiary hearing is requested, the objector should state in detail what he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, *it is ordered*, That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending the certificate of public convenience and necessity of United Air Lines, Inc., for Route 51 so as to eliminate the one-stop restriction on flights between Cleveland, Ohio, and New Orleans, La., from condition (12) of that route;

2. Any interested person having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth in this order shall, within 30 days after the date of service, file with the Board and serve upon all persons listed in paragraph 8, a statement of objections together with a summary of testimony, statistical data and other evidence expected to be relied upon to support the stated objections; answers to objections shall be filed within 10 days of such date;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

[7] *The Great Lakes Southeast Service* Case, Docket 2396, involved proposals for new air service between Florida, on the one hand, and Chicago, Detroit, and Buffalo, on the other, and between Chicago and Washington, D.C. Capital's Route 51 was amended in the proceeding by (1) extending it from Pittsburgh to Buffalo via Youngstown, Akron-Canton, Cleveland, and Erie, and (2) extending it from Atlanta to Miami via Jacksonville, Tampa-St. Petersburg-Clearwater and West Palm Beach. The authority was awarded in such a way that Cleveland and New Orleans were on the same segment (E-13024, decided September 30, 1958). Before the proceeding, Capital had authority to serve both Cleveland and New Orleans, but the two points were located on different routes.

[8] We further find that United is a citizen of the United States within the meaning of the Act and is fit, willing, and able to perform properly the transportation pursuant to the amended certificate proposed and to conform to the provisions of the Act and the Board's rules, regulations, and requirements thereunder.

[9] There was an 11-month interval between November 1970 and September 1971 when no direct service between Cleveland and New Orleans was available.

[10] Orlando, which ranked 25th among New Orleans' top markets, currently receives one-stop service; there are no carriers certificated to provide nonstop service in that market. These rankings are on the basis of 1976 O&D plus connecting traffic.

[11] See, e.g., Order 77-1-9, January 4, 1977.

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4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth in this order;

5. United Air Lines, Inc., be exempted temporarily from the provisions of section 401 of the Act and the terms, conditions, and limitations of its certificate of public convenience and necessity for Route 51 to the extent necessary to permit it to provide nonstop service between Cleveland, Ohio, and New Orleans, La.;

6. The authority granted in paragraph 5 shall be effective on the date of service of this order and shall continue until 60 days after final decision in Docket 27999;

7. United Air Lines, Inc., shall file an environmental evaluation pursuant to section 312.12 of the Board's Regulations within 20 days of service of this order;

8. A copy of this order will be served upon United Air Lines, Inc.; Allegheny Airlines, Inc.; American Airlines, Inc.; Braniff Airways, Inc.; Continental Air Lines, Inc.; Delta Air Lines, Inc.; Eastern Air Lines, Inc.; National Airlines, Inc.; North Central Airlines, Inc.; Northwest Airlines, Inc.; Southern Airways, Inc.; Texas International Airlines, Inc.; Trans World Airlines, Inc.; Wright Air Lines, Inc.; Mayor of New Orleans; Mayor of Cleveland; Governor of Louisiana; Governor of Ohio; Airport Manager, New Orleans International Airport; Airport Manager, Cleveland Hopkins International Airport; Louisiana Department of Public Works, State Aviation Division; Ohio Department of Transportation; and the Postmaster General; and

9. The exemption authority granted in this order may be amended or revoked at any time in the discretion of the Board without hearing.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-26410 Filed 9-9-77;8:45 am]

COMMISSION ON CIVIL RIGHTS

ILLINOIS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 10 a.m. on October 3, 1977 and will end at 3 p.m. at 230 South Dearborn Street, the Midwestern Regional Office Conference Room, Chicago, Ill. 60604.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Ill. 60604.

The purpose of this meeting is to report to the membership what took place at the National Advisory Committee Conference on September 18–20, 1977, and to discuss ways of finalizing existing projects during the transitional period, i.e. State Committees to Regional Committees.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 7, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-26489 Filed 9-9-77;8:45 am]

NEW YORK AND NEW JERSEY ADVISORY COMMITTEES

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New York and New Jersey Advisory Committees (SACs) of the Commission will convene at 7 p.m. on September 30, 1977 and will end at 10:30 p.m. and will convene again at 8 a.m. on October 1, 1977 and will end at 3 p.m. at the Tappan Zee Inn, Interstate Highway 87, Nyack, New York.

Persons wishing to attend this open meeting should contact either Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss and plan for the transition from State Advisory Committees to a Regional Advisory Committee.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 7, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-26490 Filed 9-9-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

ADVISORY COMMITTEE ON EAST-WEST TRADE

Partially Closed Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp, V, 1975), notice is hereby given that a meeting of the Advisory Committee on East-West Trade will be held on Wednesday, September 28, 1977, at 9:30 a.m., in Room 6802, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

The Committee was established on February 11, 1974 to advise the Department, through the Deputy Assistant Secretary for East-West Trade, on ways to further its mission to promote and encourage the orderly expansion of commercial and economic relations between the United States and the Communist countries.

The Committee meeting agenda has two parts:

GENERAL SESSION, ROOM 6802

MORNING 9:30 A.M.–12:00 NOON

(1) Summary of recent events in East-West trade by the Deputy Assistant Secretary for East-West Trade.

(2) East-West trade legislative update.

(3) Review and comment on BEWT program for increasing public understanding of East-West trade issues.

(4) Review and comment on Atlantic Council report on, "East-West Trade: Managing Encounter and Accommodation."

(5) Review and comment on Soviet economic problems and prospects.

AFTERNOON 2 P.M.–3:30 P.M.

(6) Review and comment on upcoming meetings of Joint U.S.–East European commercial commissions.

(7) Review and comment on the potential for technology transfer from the U.S.S.R. to the United States.

(8) Review of items submitted by Committee members.

(9) Review of items submitted by the public.

EXECUTIVE SESSION, ROOM 6802

AFTERNOON 1 P.M.–2:00 P.M.

(10) Discussion of matters pertaining to the implementation of economic and commercial provisions of the Helsinki Final Act.

The General Session of the meeting will be open to public observation. Approximately 50 seats will be available (including 5 seats reserved for media representatives) on a first-come first-served basis.

A period will be set aside for oral comments or questions by the public which do not exceed ten minutes each. More extensive questions or comments should be submitted in writing before September 22, 1977. Other public statements regarding committee affairs may be submitted at any time before or after the meeting.

With respect to agenda item (10), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 8, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c).

Copies of minutes of the open portion of the meeting will be available 30 days after the meeting upon written request addressed to the Domestic and International Business Administration, Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. William F. Kolarik, Jr., Committee Control Officer, Office of East-West Policy and Planning, Bureau of East-West Trade, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202–377–4691.

The complete Notice of Determination to close the aforementioned portion of the September 28 meeting of the Advisory Committee on East-West Trade is hereby published.

ALLEN J. LENZ,
Director, Office of East-West Policy and Planning Bureau of East-West Trade.

NOTICE OF DETERMINATION

The Secretary of Commerce, having determined that it is in the public interest in connection with the duties imposed on the Department by law, initially established the Advisory Committee on East-West Trade ("the Committee") on February 11, 1974, pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975). The Committee, which currently has 14 members, will terminate no later than December 10, 1978, unless renewed by appropriate action.

The Committee advises the Deputy Assistant Secretary for East-West Trade on ways to promote, facilitate, and coordinate the expansion of two way trade with the Soviet Union, Poland, Hungary, Czechoslovakia, Romania, Bulgaria, the People's Republic of China, and certain other areas of the world with similar economic political structures, so as to contribute materially to a more positive balance of trade and payments situation.

The Committee may identify and make recommendations concerning current and proposed government policies and programs relating to the promotion and expansion of such trade; advise on the development of future government plans and actions directed at promoting and increasing such trade and improving trading relations; advise on ways U.S. firms could enter this trade or expand existing trade programs and activities; advise on problems encountered by U.S. business in pursing such trade and recommend solutions; and provide a forum for business, the academic community and government to discuss problems and issues in the field of East-West trade.

The Committee's activities are conducted pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), and Office of Management and Budget Circular A-63 (Revised), Advisory Committee Management, effective May 1, 1974. Section 10 of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, provides, among other things, that the meetings of advisory committees are to be open to the public, and to public participation, unless the President, or the head of the agency to which the advisory committee reports, determines that such portion of such meeting may be closed to the public in accordance with 5 U.S.C. 552b(c).

5 U.S.C. 552b(c)(9)(B) provides that agency meetings or portions thereof may be closed to the public where they are likely to disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. In order to provide advice to the Department under the terms of its charter, on September 28, 1977, from 1 p.m.–2 p.m. the Committee will conduct a review of progress toward implementation of economic and commercial (Basket II) provisions of the Helsinki Final Act, agreed to by representatives of the U.S.S.R. and other East European countries in August 1975. Advice and information received from the Committee at this meeting will subsequently be transmitted to the U.S. Delegation to the upcoming Belgrade Conference on Security and Cooperation in Europe which will review the Helsinki accords for its use in the Conference. Public disclosure of information and advice furnished by the Committee on Basket II provisions prior to the Belgrade Conference could severely prejudice the negotiating position of the U.S. Delegation on these matters. In addition, knowledge that attributed information provided by the Committee would be disclosed would inhibit frank discussion of Basket II provisions by committee members at the September 28 meeting. All remaining portions of the meeting will be open to the public.

Accordingly, I hereby determine, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the portion of the Committee meeting scheduled from 1 p.m.-2 p.m. on September 28, 1977, which will address economic and commercial provisions of the Helsinki Final Act, shall be exempt from the provisions of section 10 (a)(1) and (a)(3) relating to open meetings and public participation therein, because the aforementioned Committee discussion will be concerned with matters listed in 5 U.S.C. 552b(c). Remaining portions of the meeting will be open to the public.

Dated: September 7, 1977.

Guy W. CHAMBERLAIN,
Acting Assistant Secretary for Administration.

Dated: September 6, 1977.

DANIEL GARBERN,
Acting General Counsel.

[FR Doc 77-26502 Filed 9-9-77;8:45 am]

National Bureau of Standards

CHARACTER SETS FOR OPTICAL CHARACTER RECOGNITION

Proposed Revision of Federal Information Processing Standard

In FR Doc. 77-25629 appearing at page 44259 in the issue of Friday, September 2, 1977, the Revised Standards for Character Recognition were inadvertently omitted. For the convenience of the reader, this document is being reprinted in its entirety.

Under the provisions of Pub. L. 89-306 and Executive Order 11717, the Secretary of Commerce is authorized to establish uniform Federal Automatic Data Processing (ADP) Standards. A revised standard for Character Sets for Optical Character Recognition is being recommended for use by Federal agencies in their Optical Character Recognition (OCR) data entry systems.

Prior to the submission of this proposed revision to the Secretary of Commerce for approval, it is essential to assure that proper consideration is given to the needs and views of manufacturers, the public, and state and local governments. The purpose of this notice is to solicit such views.

This revised Federal Information Processing Standard contains two basic sections: (1) An announcement section which provides information concerning the applicability and implementation of the standard, and (2) a specification section which defines the technical parameters of the standard. Both sections are provided with this notice.

Interested parties may obtain copies of the referenced voluntary standards, ANSI X3.49–1975—Character Set for Optical Character Recognition (OCR-B), and X3.2–1976—Print Specifications for Magnetic Ink Character Recognition (MICR), from the American National Standards Institute, 1430 Broadway, New York, N.Y. 10018. Copies of X3.17–197X, Character Set and Print Quality for Optical Character Recognition (OCR-A), are available from the NBS Office of ADP Standards Management.

Comment should be submitted to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. Comments to be considered must be submitted on or before December 12, 1977.

Dated: August 29, 1977.

ARTHUR O. MCCOUBREY,
Acting Director.

CHARACTER SETS FOR OPTICAL CHARACTER RECOGNITION

ANNOUNCEMENT

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of standard. Character Sets for Optical Character Recognition (FIPS PUB 32-1).

Category of standard. Hardware Standard, Character Recognition.

Explanation. This standard provides the description, scope, identification, and application rules for standard sets of graphic shapes to be used in the Optical Character Recognition (OCR) data entry systems used in Federal agencies.

Approving authority. Secertary of Commerce.

Maintenance authority. Department of Commerce, National Bureau of Standards, (Institute for Computer Sciences and Technology).

Cross index. Standards required to implement this FIPS PUB:

(a) X3.2–1976, American National Standard Print Specifications for Magnetic Ink Character Recognition (MICR).

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(b) X3.17-197X, American National Standard Character Set and Print Quality for Optical Character Recognition (OCRA).

(c) X3.49-1975, American National Standard Character Set for Optical Character Recognition (OCR-B).

Other related standards and guidelines:

(a) FIPS PUB 1, Code for Information Interchange.

(b) FIPS PUB 33, character Set for Handprinting.

(c) FIPS PUB 40, Guideline for Optical Character Recognition Forms.

(d) X3.4-1976, American National Standard Code for Information Interchange (ASCII).

(e) X3.45-1974, American National Standard Character Set for Handprinting.

(f) ECMA 6-1965, European Computer Manufacturers Association Nominal Character Dimensions of the Numeric OCR-A.

(g) ECMA 11-976, European Computer Manufacturers Association Character Set for Optical Character Recognition (OCR-B).

(h) ECMA 30-1976, European Computer Manufacturers Association OCR-B Subsets for Numeric Application.

(i) ISO R-1004, International Standard for Print Specifications for Magnetic Ink Character Recognition (MICR).

(j) ISO R-1073, International Standard for Character Sets for Optical Character Recognition (OCR-A and OCR-B).

Applicability. This standard is applicable to acquisition and use of OCR systems, equipment, and services utilizing any part or all of the character sets contained herein. This standard provides for three OCR sets—OCR-A, OCR-B, and MICR Read Optically. The selection between these sets is an operational decision which depends upon the requirements of specific applications. OCR Read Optically is a special application normally used in conjunction with MICR installations.

Implementation. The earlier version of this standard (FIPS PUB 32) became effective on December 1, 1974. The changes provided by this revision become effective on the date of publication.

All applicable equipment, systems, or services ordered on or after the date of this FIPS PUB 32-1 must be in conformance with this standard unless a waiver has been obtained in accordance with the procedure described below.

Waiver procedure. Heads of agencies may waive the provisions of the implementation schedule. Proposed waivers relating to the procurement of nonconforming equipment or the use of nonconforming character sets will be coordinated in advance with the National Bureau of Standards. Letters should be addressed to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. Letters requesting waivers should describe the nature of the waiver and the reasons therefor.

Sixty days should be allowed for review and response by the National Bureau of Standards. However, the final decision for the granting of the waiver is a responsibility of the agency head.

Specifications. Technical considerations for implementing this standard are affixed.

Qualifications. As contained in American National Standards X3.17-197X, X3.49-1975, or X3.2-1976. In this standard (FIPS PUB 32-1), both SI and common measurements are expressed, where practicable.

Where to obtain copies of the standard. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161. When ordering, refer to Federal Information Processing Standards Publication 32-1 (NBS-FIPS-PUB-32-1), title and Accession number. Payment may be made by check, money order, or deposit account.

CHARACTER SETS FOR OPTICAL CHARACTER RECOGNITION AND MAGNETIC INK CHARACTERS READ OPTICALLY

SPECIFICATIONS

1. *Name of standard.* Character Sets for Optical Character Recognition.

2. *Category of standard.* Hardware Standard, Character Recognition.

3. *Explanation.* This standard provides the description, scope, identification, and application rules for standard sets of graphic shapes to be used in the Optical Character Recognition (OCR) data entry systems used in Federal agencies.

4. *Specifications.* American National Standards X3.17-197X, except Sections 3, 4, 5, Appendix B, and related illustrations, and X3.49-1975 are incorporated into this standard (FIPS PUB 32-1) by reference. Specifications for MICR Read Optically are based on American National Standard X3.2-1976. These American National Standards are required in the implementation of this standard.

5. *Qualifications.* As contained in American National Standards X3.17-197X, X3.49-1975, or X3.2-1976. In this standard (FIPS PUB 32-1), both SI and common measurements are expressed, where practicable.

Part I.—General

1. *Introduction.* This section of FIPS PUB 32-1 will establish a Magnetic Ink Character Set based on the E 13 B set of graphic shapes, to be used in data entry systems where data in the form of Magnetic Ink Characters are to be read optically in an Optical Character Recognition (OCR) system. This is a special application normally used in conjunction with a MICR installation.

If compatability with magnetic ink character reading systems is required, the user is directed to American National Standard X3.2-1976, Print Specifications for Magnetic Ink Character Recognition.

Part II.—Standard Characters

2.1 *Character sizes.* Standard character shapes are specified in one size only. The characters are designed upon an 0.013 in. (0.33 mm.) grid which forms a 7 x 9 matrix, as shown in Figure 15, X3.2-1976. The matrix and thereby the largest character (ZERO) is 0.117 in. (2.98 mm.) high by 0.091 in. (2.31 mm.) wide.

2.2 *Strokewidth.* Nominal strokewidths are multiples of the 0.014 (0.33 mm.) grid and are defined in the individual character drawings (See Figures 1 through 14, X3.2-1976).

2.3 *Character set repertoire.* The ten numerals and four special symbols defined in this standard constitute the total repertoire for magnetic ink characters read optically. No subsets are defined. This standard places no restrictions on the meaning or information content of the characters since this must be established by the user.

2.4 *Relationship to the ASCII code table.* This standard does not define a relationship with respect to output coding. The placement in the ASCII Code Table is shown in Figure 1, herein.

2.5 *Character shapes and dimensions.* Figures 1 through 14 of X3.2-1976 and this subsection define the characters of the standard set. Note that the graphic shapes of this section differ from those of OCR-A (ANSI X3.17-197X) and OCR-B (ANSI X3.49-1975) in that the character edges are specified rather than stroke centerlines.

All radii are 0.0065 in. (0.165 mm.) except in the case of the character zero, whose radii are specified in Figure 1 of X3.2-1976. All radii will produce curves which must meet the adjacent straight portions of the character edge tangentially.

Part III.—Character Positioning

3.1 *Form reference edges.*

3.1.1 *Horizontal dimensions.* The right-hand edge of the right-hand character on the form shall be located not less than 0.250 in. (6.350 mm.) from the right-hand edge of the form.

3.1.2 *Vertical dimensions.* All vertical format dimensions are measured from the bottom edge of the document.

3.2 *Horizontal character spacing.* The average edge is defined as an imaginary line that divides the irregularities along the edge of a character. The summation of the white areas on one side of this line is equal to the black areas on the other side. The distance between the right average edge of adjacent characters shall be 0.125±0.010 in. (3.175 ±0.025 mm.). See Figure 16, of X3.2-1976.

3.3 *Line separation.* The minimum vertical distance between the maximum character boundaries of adjacent lines shall be 0.040 in. (1.026 mm.).

3.4 *Alignment.* Each drawing has a vertical centerline (cu) which serves to establish a common vertical alignment for all characters of a line.

A line of characters in any field shall be aligned such that the bottom edges of adjacent characters within each field do not vary vertically more than 0.015 in. (0.380 mm.). For characters which are not of full matrix height (see Figures 14 and 15 of X3.2-1976) the same tolerance will apply to the horizontal centerlines (see Figure 17 of X3.2-1976).

3.5 *Character skew.* The maximum allowable character skew is ±3 degrees, measured from a line which is perpendicular to the average bottom edge of characters, excluding symbols 3 and 4. Note that the American National Standard X3.2-1976, Print Specifications for Magnetic Ink Characters, limits the maximum character skew to ±1.5 degrees for magnetic ink character recognition applications (see Figure 18 of X3.2-1976). This difference is applicable only to optical character recognition devices to permit the recognition of characters which are rejected by magnetic ink recognition devices. Magnetic ink characters which meet this tolerance, but exceed X3.2-1976, still fail print specifications.

	b_7	0	0	0	0	1	1	1	1
	b_6	0	0	1	1	0	0	1	1
	b_5	0	1	0	1	0	1	0	1
b_4 b_3 b_2 b_1		0	1	2	3	4	5	6	7
0 0 0 0	0				0				
0 0 0 1	1				1				
0 0 1 0	2				2				
0 0 1 1	3				3				
0 1 0 0	4				4				
0 1 0 1	5				5				
0 1 1 0	6				6				
0 1 1 1	7				7				
1 0 0 0	8				8				
1 0 0 1	9				9				
1 0 1 0	10				:				
1 0 1 1	11				;				
1 1 0 0	12				<				
1 1 0 1	13				=				
1 1 1 0	14				>				
1 1 1 1	15				?				

Figure 1
Correspondence to the ASCII Set

[FR Doc.77-25629 Filed 9-1-77;8:45 am]

National Oceanic and Atmospheric Administration

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a meeting of the Gulf of Mexico Fishery Management Council established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The Gulf of Mexico Fishery Management Council will have authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to Alabama, west coast of Florida, Louisiana, Mississippi, and Texas. The Council, will among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on foreign fishing applications, and conduct public hearings.

The meeting will be held Tuesday, Wednesday, and Thursday, October 4, 5, and 6, 1977, on the mezzanine floor of the Sheraton Hotel, 301 Government Street, Mobile, Ala. The meeting will convene at 1:30 p.m. on October 4, and adjourn at about noon on October 6, 1977. The daily sessions will start at 8:30 a.m. and adjourn at 5 p.m., except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

1. Management plans.
2. Personnel and administration categories.
3. Review of foreign fishing applications, if any.
4. Other fishery management business.

This meeting is open to the public and there will be seating for a limited number of public members available on a first-come, first-served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about September 26, 1977:

Mr. Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, Tampa, Fla. 33609.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to submit written comments should do so by addressing the Executive Director at the above address.

V 42 1176 SEP 1277 UMI

To receive due consideration and to facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

Dated: September 7, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc 77-26408 Filed 9-9-77;8:45 am]

MISSISSIPPI RIVER AND VIOLET CANAL, ST. BERNARD PARISH, LA.

Proposed Approval of Funding for Water System

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, is considering the approval of funding for a water system on the banks of the Mississippi and the Violet Canal located in St. Bernard Parish, La. This project will affect the use of the wetlands in this area.

The project will divert an estimated 2 billion cubic feet of water yearly over a five-month period from the Mississippi River into the Violet Canal to reverse salt water intrusion into the marsh lands of St. Bernard Parish. The project will require a U.S. Army Corps of Engineers section 404) dredge and fill permit.

The views of interested persons and organizations are solicited. Written comments may be submitted to the following address:

Coastal Energy Impact Program, National Oceanic and Atmospheric Administration, Office of Coastal Zone Management, 3300 Whitehaven Street NW., Washington, D.C. 20235, Phone 202-254-8000.

Such comments should be received before September 29, 1977, to assure adequate consideration for inclusion in the project Environmental Impact Assessment.

Copies of the project proposal and environmental assessment are available from the Office of Coastal Zone Management.

Dated: September 2, 1977.

T. P. GLEITER,
Assistant Administrator
for Administration.

[FR Doc 77-26478 Filed 9-9-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

SPACE SHUTTLE PROGRAM, VANDENBERG AFB, CALIF.

Public Hearing and Availability of Draft Environmental Impact Statement

An informal public hearing will be held for the purpose of soliciting comments from the public on the Draft Environmental Impact Statement (EIS) on the Space Shuttle Program, Vandenberg AFB, CA. The hearing is scheduled to be conducted on September 28, 1977, at 7 p.m. in the Civic Auditorium, Lompoc, Calif. Name and phone number of the presiding officer and any changes to this schedule will be publicized in the local news media.

The program includes construction, activation and operation of Space Shuttle facilities at Vandenberg AFB and Port Hueneme Harbor, Calif. Primary elements in the proposed action are: landing strip extension and other modifications, new orbiter processing facilities adjacent to VAFB; new facilities at Port Hueneme Harbor to receive, process, and store Shuttle External Tanks (ET's) and recovered spent Solid Rocket Boosters (SRBs) delivered by sea; new marine facilitity on the VAFB coast for receipt of ETs and SRBs; a tow route for transporting the Orbiter; and modified expanded support facilities at SLC-6 for handling of cryogenic propellants.

The Draft EIS on the proposed program was filed with the Council on Environmental Quality (CEQ) on August 19, 1977. Copies of the Draft EIS are available from:

Information Office, HQ Space and Missile Systems Organization, P.O. Box 92960, World Way Postal Center, Los Angeles, Calif. 90009.

In addition, copies of the Draft EIS have been placed in the following libraries for public reference:

Lompoc Public Library, 601 East North Ave., Lompoc, Calif. 93436.

Santa Maria Public Library, 420 South Broadway, Santa Maria, Calif. 93454.

University of California at Santa Barbara, Library, Goleta, Calif. 93017.

Santa Barbara Public Library, 4040 East Anapamu St., Box 1019, Santa Barbara, Calif. 93102.

Los Angeles Public Library, 630 West 5th St., Los Angeles, Calif. 90017.

University of California at Los Angeles, Library, 405 Hilliguard, Los Angeles, Calif. 90024.

U.C. Berkeley Library, 2090 Kitterage St., Berkeley, Calif. 94704.

San Francisco Public Library, Civil Center, San Francisco, Calif. 94102.

U.C. Riverside Library, 7th and Orange, Box 468, Riverside, Calif 92502.

Oxnard Public Library, 241A C Street, Oxnard, Calif. 93030.

Ventura Public Library, 651 East Main St., Box 771, Ventura, Calif. 93001.

Santa Barbara City College Library, 712 Cliff Dr., Santa Barbara, Calif 93109.

San Luis Obispo Public Library, San Luis Obispo, Calif. 93401.

The following procedures will be followed during the informal public hearings. Individual speakers will be limited to five minutes, with ten minutes for a group spokesman. There will be no relinquishing of time by one speaker to another. Written statements, in addition to or in lieu of oral presentations will be accepted. The closing date for including written communications in the hearing record is five days after date of public hearing. Submit written communications to the presiding officer or as directed at the public hearing.

Other persons not able to participate in the public hearing have until October 10, 1977, to submit their written comments to the Deputy for Environment and Safety, Office of the Secretary of the Air Force (SAF/MIQ), Washington, D.C. 20330.

For further information contact Mr. R. W. Munsie, Environmental Planning Division, Headquarters USAF, phone 202-695-1422.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc 77-26409 Filed 9-9-77;8:45 am]

Army Department

BOARD OF VISITORS, UNITED STATES MILITARY ACADEMY

Partially Closed Meeting

In Accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following meeting.

NAME OF COMMITTEE: Board of Visitors, United States Military Academy

DATE OF MEETING: September 28 1977.

PLACE OF MEETING: Room No. S146, U.S. Capitol Building, Washington, D.C.

TIME:

1st Session, 0900-1230 hours.
2d Session, 1400-1700 hours

AGENDA:

0900-1130 hrs.—Open Session.
1130-1230 hrs.—Closed Session (Discussion of specific individuals involved in specific alleged Honor Code Violations).
1230-1400 hrs.—Lunch.
1400-1700 hrs.—Open Session.

The USMA Board of Visitors will inquire into the morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods and other matters relating to the Military Academy that the Board decides to consider. A portion of this meeting is to address the Department of the Army Study Group report now being completed on the implementation of the recommendations set forth by the Special Commission on USMA in its report to the Secretary of the Army.

The session from 1130 to 1230 hours, 28 Sep 77 will be closed to the public for the sole purpose of discussing, by name or other information sufficient to identify the person, certain cadets and specific Honor Code matters in which they have been involved. An integral and inseparable portion of this session will involve discussion and review of material from personnel or similar files. The public disclosure of this information would constitute a clearly unwarranted invasion of the personal privacy of the individuals. These matters are exempt from public disclosure under Title 5, U.S.C., Section 552b(c)(6).

For further information, contact Captain Robert W. Miller, Jr., USMA, Telephone (914) 938-4110.

For the Board of Visitors.

DANA G. MEAD,
Colonel, USA, Executive
Secretary, Board of Visitors.

[FR Doc 77-26568 Filed 9-9-77;8:45 am]

CHEMICAL PROPULSION ADVISORY COMMITTEE

Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463) announcement is made of the following meeting:

NAME: Monopropellant Working Group (a sub element of the Chemical Advisory Committee).

DATE: September 27 thru 29, 1977.

PLACE: Naval Postgraduate School, Monterey, California.

TIME: Initial meeting 1:30 PM, 27 September 1977.

PROPOSED AGENDA: 27 September, 1:30 PM-6:00 PM: The technical steering committee will meet to outline Working Group future objectives, goals, and schedules and make work assignments.

28 September, 8:30 AM-5:00 PM: Progress Reports on Monopropellant Technology Programs.

29 September, 8:30 AM-5:00 PM: Committee workshops covering progress toward identified goals of the Advisory Working Group.

PURPOSE OF MEETING: The Committee's primary responsibility is to provide technical advice to the Joint Army-Navy-NASA-Air Force (JANNAF) Interagency Propulsion Committee and to promote the exchange of technical information in the field of chemical propulsion. The working group will review the progress of the individual subcommittees on assigned tasks of monopropellant technology since the last semi-annual meeting. The committee will also discuss technical problems identified by the attending engineers and program managers.

The meeting is open to the public. Public attendance, depending on available space, may be limited to those persons who have notified the Advisory Working Group representative in writing at least five (5) days prior to the meeting, of their intention to attend.

Any member of the public may file a written statement with the Working Group representative before, during, or after the meeting. To the extent that time permits, the committee chairman may allow public presentation of oral statements at the meeting.

All communications regarding this meeting should be addressed to Mr. L. B. Piper, Working Group Representative, The Johns Hopkins University/APL, Chemical Propulsion Information Agency, Johns Hopkins Road, Laurel, MD 20810.

Dated: September 8, 1977.

By authority of the Secretary of the Army.

JEANNE G. HAMILTON,
Captain, United States Army,
Acting Director, Administrative Management.

[FR Doc.77-26566 Filed 9-9-77;8:45 am]

CHEMICAL PROPULSION ADVISORY COMMITTEE

Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463) announcement is made of the following meeting:

NAME: Propulsion Systems Cost Working Group (a subelement of the Chemical Propulsion Advisory Committee).

DATE: September 28, 1977.

PLACE: Conference Room A-12, Building 18, Area B, Wright-Patterson AFB, OH.

TIME: 9:00 a.m. to 4:00 p.m.

PURPOSE AND PROPOSED AGENDA:

The Committee's primary responsibility is to provide technical advice to the Joint Army-Navy-NASA-Air Force (JANNAF) Interagency Propulsion Committee and to promote the exchange of technical information in the field of chemical propulsion. At this meeting, the Ramjet Cost Estimating Handbook prepared by Vought Corporation, Dallas, Texas, under the sponsorship of the Air Force Aero Propulsion Laboratory, Wright Patterson AFB, Ohio, will be reviewed. Current and future activities of the Airbreathing Engine Cost Committee will also be reviewed.

The meeting is open to the public. Public attendance, because of limitation on available space, will be limited to the persons who notify the Committee Chairman in writing, at least five (5) days prior to the meeting, of their intention to attend.

Members of the public who may wish to do so are invited to submit material in writing to the Committee Chairman concerning matters believed to be deserving of the attention of the meeting participants. To the extent that time permits, the Committee Chairman may allow public presentation of oral statements at the meeting.

All communications regarding this meeting should be addressed to the Committee Chairman, Mr. Andrew C. Victor, Code 3241, Naval Weapons Center, China Lake, CA 93555.

Dated: September 8, 1977.

By authority of the Secretary of the Army.

JEANNE G. HAMILTON,
Captain, United States Army,
Acting Director, Administrative Management TAGCEN.

[FR Doc.77-26567 Filed 9-9-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 789-3]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES AND NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority to the State of Indiana

Pursuant to Section 111 of the Clean Air Act, as amended, the Administrator of the Environmental Protection Agency (EPA) has promulgated regulations establishing standards of performance of new stationary sources (NSPS). Pursuant to Section 112 of the Clean Air Act, as amended, the Administrator promulgated national emission standards for hazardous air pollutants (NESHAPS). Sections 111(c) and 112(d) direct the Administrator to delegate his authority to implement and enforce NSPS and NESHAPS to any State which has submitted adequate procedures. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to the State.

On April 21, 1976, the Regional Administrator, Region V, EPA, delegated to the State of Indiana twelve categories of NSPS and the three categories of NESHAPS. This was reported at 41 FR 43148, 41 FR 43148, and 41 FR 43237, all dated September 30, 1976. The Indiana Air Pollution Control Board requested on February 18, 1977, delegation for an additional twelve categories of NSPS and one additional category of NESHAPS and, in a subsequent letter, requested all updates to the NSPS and NESHAPS previously delegated. After a thorough review of this request, the Regional Administrator has determined that delegation is appropriate for the source categories set forth in paragraphs (A) and (B) of the following official letter to Mr. Ralph C. Pickard, Technical Secretary, Indiana Air Pollution Control Board, subject to the terms set forth in conditions 1 through 10 of that letter:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JUNE 6, 1977

MR. RALPH C. PICKARD,
Technical Secretary,
Indiana Air Pollution Control Board,
1330 West Michigan Street,
Indianapolis, Indiana 46206

DEAR MR. PICKARD: Thank you for your letter of February 18, 1977, requesting delegation of authority to implement and enforce additional categories of the Standards of Performance for New Stationary Sources (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAPS) to the Indiana Air Pollution Control Board. Additionally, on May 2, 1977, you requested that those categories previously delegated on April 21, 1976, be updated to reflect all succeeding revisions to the NSPS. Indiana originally requested all categories of NSPS and NESHAPS extant as of February 28, 1975. Indiana was delegated these source categories on April 21, 1976, and the public was notified of these delegations on September 30, 1976 (41 FR 43148 and 41 FR 43237).

We have reviewed the submitted material, including pertinent laws and regulations of

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Waiver procedure. Heads of agencies may waive the provisions of the implementation schedule. Proposed waivers relating to the procurement of nonconforming equipment or the use of nonconforming character sets will be coordinated in advance with the National Bureau of Standards. Letters should be addressed to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. Letters requesting waivers should describe the nature of the waiver and the reasons therefor.

Sixty days should be allowed for review and response by the National Bureau of Standards. However, the final decision for the granting of the waiver is a responsibility of the agency head.

Specifications. Technical considerations for implementing this standard are affixed.

Qualifications. As contained in American National Standards X3.17-197X, X3.49-1975, or X3.2-1976. In this standard (FIPS PUB 32-1), both SI and common measurements are expressed, where practicable.

[illegible] Standard Characters

2.1 *Character sizes.* Standard character shapes are specified in one size only. The characters are designed upon an 0.013 in. (0.33 mm.) grid which forms a 7 x 9 matrix, as shown in Figure 15, X3.2-1976. The matrix and thereby the largest character (ZERO) is 0.117 in. (2.98 mm.) high by 0.091 in. (2.31 mm.) wide.

2.2 *Strokewidth.* Nominal strokewidths are multiples of the 0.014 (0.36 mm.) grid and are defined in the individual character drawings (See Figures 1 through 14, X3.2-1976).

2.3 *Character set repertoire.* The ten numerals and four special symbols defined in this standard constitute the total repertoire for magnetic ink characters read optically. No subsets are defined. This standard places no restrictions on the meaning or information content of the characters since this must be established by the user.

[illegible] Print Specifications for Magnetic Ink Character Recognition

3.1 *Character size.* Character size shall be as specified in Section 2.1 of this standard.

3.2 *Character set repertoire.* Only the ten numerals and four special symbols defined in this standard shall be used.

3.3 *Character spacing.* Character spacing shall be as specified in Section 2.4 of this standard.

3.4 *Character height.* Character height shall be as specified in Section 2.5 of this standard. Character height tolerance shall be ±0.002 in. (±0.05 mm.). Character height tolerance will apply to the character height (see Figures 14 and 15 of X3.2-1976) the same tolerance will apply to the horizontal centerlines (see Figure 17 of X3.2-1976).

3.5 *Character skew.* The maximum allowable character skew is ±3 degrees, measured from a line which is perpendicular to the average bottom edge of characters, excluding symbols 3 and 4. Note that the American National Standard X3.2-1976, Print Specifications for Magnetic Ink Characters, limits the maximum character skew to ±1.5 degrees for magnetic ink character recognition applications (see Figure 18 of X3.2-1976). This difference is applicable only to optical character recognition devices to permit the recognition of characters which are rejected by magnetic ink recognition devices. Magnetic ink characters which meet this tolerance, but exceed X3.2-1976, still fail print specifications.

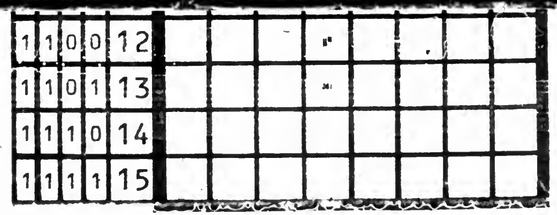


Figure 1
Correspondence to the ASCII Set

[FR Doc.77-25629 Filed 9-1-77;8:45 am]

specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any made to the agenda, interested members of the public should contact on or about September 26, 1977:

Mr. Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, Tampa, Fla. 33609.

At the discretion of the Council, interested members of the public may be permitted to speak at times that will allow the orderly conduct of Council business. Interested members of the public who wish to submit written comments should do so by addressing the Executive Director at the above address.

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To receive due consideration and to facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

Dated: September 7, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-26408 Filed 9-9-77;8:45 am]

MISSISSIPPI RIVER AND VIOLET CANAL, ST. BERNARD PARISH, LA.

Proposed Approval of Funding for Water System

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, is considering the approval of funding for a water system on the banks of the Mississippi and the Violet Canal located in St. Bernard Parish, La. This project will affect the use of the wetlands in this area.

The project will divert an estimated 2 billion cubic feet of water yearly over a five-month period from the Mississippi River into the Violet Canal to reverse salt water intrusion into the marsh lands of St. Bernard Parish. The project will require a U.S. Army Corps of Engineers (section 404) dredge and fill permit.

The views of interested persons and organizations are solicited. Written comments may be submitted to the following address:

Coastal Energy Impact Program, National Oceanic and Atmospheric Administration, Office of Coastal Zone Management, 3300 Whitehaven Street NW., Washington, D.C. 20235, Phone 202-254-8000.

Such comments should be received before September 29, 1977, to assure adequate consideration for inclusion in the project Environmental Impact Assessment.

Copies of the project proposal and environmental assessment are available from the Office of Coastal Zone Management.

Dated: September 2, 1977.

T. P. GLEITER,
Assistant Administrator
for Administration.

[FR Doc.77-26478 Filed 9-9-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

SPACE SHUTTLE PROGRAM, VANDENBERG AFB, CALIF.

Public Hearing and Availability of Draft Environmental Impact Statement

An informal public hearing will be held for the purpose of soliciting comments from the public on the Draft Environmental Impact Statement (EIS) on the Space Shuttle Program, Vandenberg AFB, CA. The hearing is scheduled to be conducted on September 28, 1977, at 7 p.m. in the Civic Auditorium, Lompoc, Calif. Name and phone number of the presiding officer and any changes to this schedule will be publicized in the local news media.

The program includes construction, activation and operation of Space Shuttle facilities at Vandenberg AFB and Port Hueneme Harbor, Calif. Primary elements in the proposed action are: landing strip extension and other modifications, new orbiter processing facilities adjacent to VAFB; new facilities at Port Hueneme Harbor to receive, process, and store Shuttle External Tanks (ET's) and recovered spent Solid Rocket Boosters (SRBs) delivered by sea; new marine facilitity on the VAFB coast for receipt of ET's and SRBs; a tow route for transporting the Orbiter; and modified expanded support facilities at SLC-6 for handling of cryogenic propellants.

The Draft EIS on the proposed program was filed with the Council on Environmental Quality (CEQ) on August 19, 1977. Copies of the Draft EIS are available from:

Information Office, HQ Space and Missile Systems Organization, P.O. Box 92960, World Way Postal Center, Los Angeles, Calif. 90009.

In addition, copies of the Draft EIS have been placed in the following libraries for public reference:

Lompoc Public Library, 601 East North Ave., Lompoc, Calif. 93436.

Santa Maria Public Library, 420 South Broadway, Santa Maria, Calif. 93454.

University of California at Santa Barbara, Library, Goleta, Calif. 93017.

Santa Barbara Public Library, 4040 East Anapamu St., Box 1019, Santa Barbara, Calif. 93102.

Los Angeles Public Library, 630 West 5th St., Los Angeles, Calif. 90017.

University of California at Los Angeles, Library, 405 Hilliguard, Los Angeles, Calif. 90024.

U.C. Berkeley Library, 2090 Kitterage St., Berkeley, Calif. 94704.

San Francisco Public Library, Civil Center, San Francisco, Calif. 94102.

U.C. Riverside Library, 7th and Orange, Box 468, Riverside, Calif 92502.

Oxnard Public Library, 241A C Street, Oxnard, Calif. 93030.

Ventura Public Library, 651 East Main St., Box 771, Ventura, Calif. 93001.

Santa Barbara City College Library, 712 Cliff Dr., Santa Barbara, Calif 93109.

San Luis Obispo Public Library, San Luis Obispo, Calif. 93401.

The following procedures will be followed during the informal public hearings. Individual speakers will be limited to five minutes, with ten minutes for a group spokesman. There will be no relinquishing of time by one speaker to another. Written statements, in addition to or in lieu of oral presentations will be accepted. The closing date for including written communications in the hearing record is five days after date of public hearing. Submit written communications to the presiding officer or as directed at the public hearing.

Other persons not able to participate in the public hearing have until October 10, 1977, to submit their written comments to the Deputy for Environment and Safety, Office of the Secretary of the Air Force (SAF/MIQ), Washington, D.C. 20330.

For further information contact Mr. R. W. Munsie, Environmental Planning Division, Headquarters USAF, phone 202-695-1422.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc 77-26409 Filed 9-9-77;8:45 am]

Army Department

BOARD OF VISITORS, UNITED STATES MILITARY ACADEMY

Partially Closed Meeting

In Accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following meeting.

NAME OF COMMITTEE: Board of Visitors, United States Military Academy.

DATE OF MEETING: September 28 1977.

PLACE OF MEETING: Room No. S146, U.S. Capitol Building, Washington, D.C

TIME:

1st Session, 0900-1230 hours.
2d Session, 1400-1700 hours

AGENDA:

0900-1130 hrs. —Open Session.
1130-1230 hrs.—**Closed** Session (Discussion of specific individuals involved in specific alleged Honor Code Violations).
1230-1400 hrs.—Lunch.
1400-1700 hrs.—Open Session.

The USMA Board of Visitors will inquire into the morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods and other matters relating to the Military Academy that the Board decides to consider. A portion of this meeting is to address the Department of the Army Study Group report now being completed on the implementation of the recommendations set forth by the Special Commission on USMA in its report to the Secretary of the Army.

The session from 1130 to 1230 hours, 28 Sep 77 will be closed to the public for the sole purpose of discussing, by name or other information sufficient to identify the person, certain cadets and specific Honor Code matters in which they have been involved. An integral and inseparable portion of this session will involve discussion and review of material from personnel or similar files. The public disclosure of this information would constitute a clearly unwarranted invasion of the personal privacy of the individuals. These matters are exempt from public disclosure under Title 5, U.S.C., Section 552b(c)(6).

For further information, contact Captain Robert W. Miller, Jr., USMA, Telephone (914) 938-4110.

For the Board of Visitors.

DANA G. MEAD,
Colonel, USA, Executive
Secretary, Board of Visitors.

[FR Doc 77-26568 Filed 9-9-77;8:45 am]

CHEMICAL PROPULSION ADVISORY COMMITTEE

Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463) announcement is made of the following meeting:

NAME: Monopropellant Working Group (a sub element of the Chemical Advisory Committee).

DATE: September 27 thru 29, 1977.

PLACE: Naval Postgraduate School, Monterey, California.

TIME: Initial meeting 1:30 PM. 27 September 1977.

PROPOSED AGENDA: 27 September, 1:30 PM-6:00 PM: The technical steering committee will meet to outline Working Group future objectives, goals, and schedules and make work assignments.

28 September, 8:30 AM-5:00 PM: Progress Reports on Monopropellant Technology Programs.

29 September, 8:30 AM-5:00 PM: Committee workshops covering progress toward identified goals of the Advisory Working Group.

PURPOSE OF MEETING: The Committee's primary responsibility is to provide technical advice to the Joint Army-Navy-NASA-Air Force (JANNAF) Interagency Propulsion Committee and to promote the exchange of technical information in the field of chemical propulsion. The working group will review the progress of the individual subcommittees on assigned tasks of monopropellant technology since the last semiannual meeting. The committee will also discuss technical problems identified by the attending engineers and program managers.

The meeting is open to the public. Public attendance, depending on available space, may be limited to those persons who have notified the Advisory Working Group representative in writing at least five (5) days prior to the meeting, of their intention to attend.

Any member of the public may file a written statement with the Working Group representative before, during, or after the meeting. To the extent that time permits, the committee chairman may allow public presentation of oral statements at the meeting.

All communications regarding this meeting should be addressed to Mr. L. B. Piper, Working Group Representative, The Johns Hopkins University/APL, Chemical Propulsion Information Agency, Johns Hopkins Road, Laurel, MD 20810.

Dated: September 8, 1977.

By authority of the Secretary of the Army.

JEANNE G. HAMILTON,
Captain, United States Army,
Acting Director, Administrative Management.

[FR Doc.77-26566 Filed 9-9-77;8:45 am]

CHEMICAL PROPULSION ADVISORY COMMITTEE

Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463) announcement is made of the following meeting:

NAME: Propulsion Systems Cost Working Group (a subelement of the Chemical Propulsion Advisory Committee).

DATE: September 28, 1977.

PLACE: Conference Room A-12, Building 18, Area B, Wright-Patterson AFB, OH.

TIME: 9:00 a.m. to 4:00 p.m.

PURPOSE AND PROPOSED AGENDA:

The Committee's primary responsibility is to provide technical advice to the Joint Army-Navy-NASA-Air Force (JANNAF) Interagency Propulsion Committee and to promote the exchange of technical information in the field of chemical propulsion. At this meeting, the Ramjet Cost Estimating Handbook prepared by Vought Corporation, Dallas, Texas, under the sponsorship of the Air Force Aero Propulsion Laboratory, Wright Patterson AFB, Ohio, will be reviewed. Current and future activities of the Airbreathing Engine Cost Committee will also be reviewed.

The meeting is open to the public. Public attendance, because of limitation on available space, will be limited to the persons who notify the Committee Chairman in writing, at least five (5) days prior to the meeting, of their intention to attend.

Members of the public who may wish to do so are invited to submit material in writing to the Committee Chairman concerning matters believed to be deserving of the attention of the meeting participants. To the extent that time permits, the Committee Chairman may allow public presentation of oral statements at the meeting.

All communications regarding this meeting should be addressed to the Committee Chairman, Mr. Andrew C. Victor, Code 3241, Naval Weapons Center, China Lake, CA 93555.

Dated: September 8, 1977.

By authority of the Secretary of the Army.

JEANNE G. HAMILTON,
Captain, United States Army,
Acting Director, Administrative Management TAGCEN.

[FR Doc.77-26567 Filed 9-9-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 789-3]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES AND NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority to the State of Indiana

Pursuant to Section 111 of the Clean Air Act, as amended, the Administrator of the Environmental Protection Agency (EPA) has promulgated regulations establishing standards of performance of new stationary sources (NSPS). Pursuant to Section 112 of the Clean Air Act, as amended, the Administrator promulgated national emission standards for hazardous air pollutants (NESHAPS). Sections 111(c) and 112(d) direct the Administrator to delegate his authority to implement and enforce NSPS and NESHAPS to any State which has submitted adequate procedures. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to the State.

On April 21, 1976, the Regional Administrator, Region V, EPA, delegated to the State of Indiana twelve categories of NSPS and the three categories of NESHAPS. This was reported at 41 FR 43148, 41 FR 43148, and 41 FR 43237, all dated September 30, 1976. The Indiana Air Pollution Control Board requested on February 18, 1977, delegation for an additional twelve categories of NSPS and one additional category of NESHAPS and, in a subsequent letter, requested all updates to the NSPS and NESHAPS previously delegated. After a thorough review of this request, the Regional Administrator has determined that delegation is appropriate for the source categories set forth in paragraphs (A) and (B) of the following official letter to Mr. Ralph C. Pickard, Technical Secretary, Indiana Air Pollution Control Board, subject to the terms set forth in conditions 1 through 10 of that letter:

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

JUNE 6, 1977

MR. RALPH C. PICKARD,
Technical Secretary,
Indiana Air Pollution Control Board,
1330 West Michigan Street,
Indianapolis, Indiana 46206

DEAR MR. PICKARD: Thank you for your letter of February 18, 1977, requesting delegation of authority to implement and enforce additional categories of the Standards of Performance for New Stationary Sources (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAPS) to the Indiana Air Pollution Control Board. Additionally, on May 2, 1977, you requested that those categories previously delegated on April 21, 1976, be updated to reflect all succeeding revisions to the NSPS. Indiana originally requested all categories of NSPS and NESHAPS extant as of February 28, 1975. Indiana was delegated these source categories on April 21, 1976, and the public was notified of these delegations on September 30, 1976 (41 FR 43148 and 41 FR 43237).

We have reviewed the submitted material, including pertinent laws and regulations of

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the State of Indiana, and have determined that the State of Indiana has the resources and the ability to implement and enforce the additional NSPS and NESHAPS. Therefore, subject to the specific conditions and exceptions set forth below, we hereby grant delegation of authority to the State of Indiana to implement and enforce all of the current revisions to the NSPS and NESHAPS categories delegated on April 21, 1976, and the additional categories of NSPS and NESHAPS which follow:

A. Authority for all sources located in the State of Indiana subject to the standards of performance for new stationary sources published in 40 CFR Part 60 as amended, Subparts D through AA. (All references to the CFR in this letter apply to Code of Federal Regulations revised as of July 1, 1976.) In addition to the revisions to the first twelve NSPS delegated, twelve new categories are delegated by this letter. The new categories are primary copper smelters, primary zinc smelters, primary lead smelters, primary aluminum reduction plants, wet process phosphoric acid plants, superphosphoric acid plants, diammonium phosphate plants, triple superphosphate plants, granular triple superphosphate storage facilities, coal preparation plants which process more than 200 tons per day, ferroalloy production facilities and electric arc furnaces in steel plants.

B. Authority for all sources located in the State of Indiana subject to NESHAPS for the three previously delegated pollutants and subsequent revisions, as well as for the additional pollutant vinyl chloride, which was promulgated at 41 FR 46560 and 41 FR 53017.

This delegation is based upon the following conditions:

1. Acceptance of this delegation of these presently promulgated NSPS and NESHAPS does not commit the State of Indiana to request or accept delegation of future standards and requirements for other source categories or pollutants. A new request for delegation will be required for such standards not included in the State's requests of February 18, 1977, and May 2, 1977, or previous requests.

2. Upon approval of the Regional Administrator of Region V, the Technical Secretary of the Indiana Air Pollution Control Board may subdelegate his authority to implement and enforce these NSPS and NESHAPS to other air pollution control agencies in the State when the agencies have demonstrated that they have equivalent or more stringent programs in force.

3. The State of Indiana will at no time grant a waiver of compliance with NESHAPS.

4. This delegation to the State of Indiana does not include the authority to implement and enforce NSPS and NESHAPS for sources owned or operated by the United States which are located in the State. This condition in no way relieves any Federal Facility from meeting NSPS and NESHAPS.

5. Federal NSPS and NESHAPS (41 CFR Parts 60 and 61 as amended) do not have provisions for granting variances other than NESHAPS waivers of compliance, hence this delegation does not convey authority to the State of Indiana to grant variances.

6. The Indiana Air Pollution Control Board and the U.S. Environmental Protection Agency (EPA), Region V, will continue to maintain a system of communication for the purpose of insuring that each office is informed on (a). the current compliance status of subject sources in the State of Indiana, (b) the interpretation of applicable regulations, and (c) the description of sources and source inventory data.

7. At no time shall the State of Indiana enforce a State regulation less stringent than the Federal requirements for NSPS and NESHAPS (40 CFR Parts 60 and 61 as amended).

8. Enforcement of the NSPS and NESHAPS in the State of Indiana will be the primary responsibility of the State of Indiana. If, after appropriate discussion with the Indiana Air Pollution Control Board, the Regional Administrator determines that a State procedure for implementing and enforcing the NSPS or NESHAPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Governor of the State of Indiana or his designee for NSPS and NESHAPS matters.

9. If the State of Indiana determines that a violation of a delegated NSPS and NESHAPS exists, the Indiana Air Pollution Control Board shall immediately notify EPA, Region V, of the nature of the violation together with a brief description of State efforts or strategy to secure compliance. EPA may exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act, as amended, with regard to any violations of the NSPS and NESHAPS regulations.

10. The Indiana Air Pollution Control Board will utilize the methods especified in 40 CFR Parts 60 and 61 as amended by 41 FR 46560 in performing source tests pursuant to the regulations.

A Notice announcing these delegations will be published in the FEDERAL REGISTER in the near future. The Notice will state, among other things, that effective immediately, all reports required pursuant to these additional categories of Federal NSPS and NESHAPS from sources located in the State of Indiana shall be submitted to the Indiana Air Pollution Control Board, 1330 West Michigan Street, Indianapolis, Indiana 46206, as well as the EPA Region V office. However, reports required pursuant to 40 CFR Section 60.7(c) (excess emissions and malfunctions) will be submitted to the State Agency only. Any such reports which have been or may be received by EPA, Region V, will be promptly transmitted to the Indiana Air Pollution Control Board.

Although this delegation is effective immediately, and although there is no requirement that the State notify EPA of its acceptance, we would appreciate written notice of acceptance or objection to the above delegations within 15 days of the date of receipt of this letter. Should no notice be received, we will proceed with public notice of the delegation in the FEDERAL REGISTER.

Sincerely yours,

GEORGE R. ALEXANDER, JR.,
Regional Administrator.

Therefore, pursuant to the authority delegated to him by the Administrator, the Regional Administrator notified the Technical Secretary of the Indiana Air Pollution Control Board on June 6, 1977, that authority to implement and enforce the additional standards of performance for new stationary sources and the national emission standards for hazardous air pollutants was delegated to the State of Indiana.

All reports required pursuant to these additional categories of Federal NSPS and NESHAPS from sources located in the State of Indiana shall be submitted as required by 40 CFR 60.4(b), as modified by 41 FR 43148, and 40 CFR 61.4(b), as modified by 41 FR 43148, to the Indiana Air Pollution Control Board, 1330 West Michigan Street, Indianapolis, Indiana 46206, as well as to the Environmental Protection Agency, Region V office. However, reports required pursuant to 40 CFR 6.7(c) (excess emissions and malfunctions) need to be submitted to only the Indiana Air Pollution Control Board.

Copies of the request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region V Office, 230 South Dearborn Street, Chicago, Illinois 60604.

This Notice is issued under the authority of Sections 111 and 112 of the Clean Air Act, as amended.

42 U.S.C. 1857 C-6 and 7.

Dated: August 31, 1977.

GEORGE ALEXANDER, JR.,
Regional Administrator.

[FR Doc.77-26513 Filed 9-9-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

Environmental Assessment of Proposed Waiver of Propane Purchase and Use Limitations

AGENCY: Federal Energy Administration.

ACTION: Notice of availability of Environmetal assessment and negative determination.

SUMMARY: The Federal Energy Administration (FEA) has prepared an environmental assessment (EA) on its proposal to grant a waiver of the purchase and use limitations on propane to the Amoco Chemical Corporation for the operation of its No. 2 olefins unit at the Chocolate Bayou Plant, Alvin, Tex. FEA has determined that an environmental impact statement, pursuant to the National Environmental Policy Act, section 102(2)(C), is not required, and a negative determination (ND) to that effect is issued herewith. FEA announces the availability of the EA and invites comments on the EA and ND.

DATE: Comments by September 19, 1977.

ADDRESS: Written comments to: Executive Communications, Box PK, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (FEA Reading Room), 12th and Pennsylvania Ave. NW., Room 2107, Washington, D.C. 20461 (202–566–9161).

Richard Johnson (Regulatory Programs), 2000 M St. NW., Room 6318, Washington, D.C. 20461 (202–254–3330).

Carol Borgstrom (Environmental Policy), 12th and Pennsylvania Ave. NW., Room 7119, Washington, D.C. 20461 (202–566–9760).

J. Thomas Wolfe (General Counsel), 12th and Pennsylvania Ave. NW., Room 7146, Washington, D.C. 20461 (202–566–9760).

SUPPLEMENTARY INFORMATION: Amoco Chemical Corp., a wholly owned subsidiary of the Standard Oil Co. (Indiana), operates a petro-chemical manufacturing facility at Chocolate Bayou, Tex., using propane as a feedstock. A new No. 2 olefins unit at the site has been constructed and is scheduled to go on stream in October 1977. Amoco Chemical is requesting authorization to purchase and use an additional 9,000 barrels per day of naphtha and to maintain an inventory of 500,000 barrels of propane for its No. 2 unit. This request requires a waiver of the propane use limitations as provided for at 10 CFR 211.10(g)(8).

Following a review of the environmental impacts of the proposed issuance of the propane waiver, FEA has determined that the proposed action does not constitute a "major Federal action significantly affecting the quality of the human environment," within the meaning of section 102(2)(C) of the National Environmental Policy Act. Therefore, pursuant to 10 CFR 208.4(c), FEA concludes that an environmental impact statement is not required.

Single copies of the EA may be obtained from the National Energy Information Center, Room 1404, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the EA are also available for public review in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Interested parties are invited to submit written comments with respect to the EA and ND to Executive Communications, Box PK, Room 3317, Federal Energy Administration, Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the documents submitted to FEA with the designation, "Environmental Assessment—Amoco Propane Use Waiver." Five copies should be received by FEA by September 19, 1977, in order to assure consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., September 6, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-26386 Filed 9-9-77;8:45 am]

CANADIAN ALLOCATION PROGRAM

Supplemental Allocation Notice for July 1 Through September 30, 1977, Allocation Period

In accordance with §214.32(c) of the Mandatory Canadian Crude Oil Allocation Regulations, 10 CFR Part 214, the Federal Energy Administration (FEA) hereby issues a supplemental allocation notice to reflect revisions in authorized export levels of Canadian condensate for the allocation period July 1 through September 30, 1977.

The revised issuance of Canadian crude oil rights for the July 1, 1977, allocation period to refiners and other firms is set forth in the Appendix to this notice. As to this allocation period, the Appendix lists: (1) The name of each refiner and other firm to which rights have been issued; (2) the base period volume[1] of Canadian crude oil for each refiner's first or second priority refinery; (3) the base period volume of Canadian light and heavy crude oil, respectively, for each refiner's first or second priority refinery; (4) the nominations to FEA for Canadian light and heavy crude oil, respectively, of each refiner or other firm; (5) the number of rights for Canadian light and heavy crude oil, respectively, expressed in barrels per day, issued to each such refiner or other firm; and (6) the specific first or second priority refineries for which rights are applicable.

The Canadian National Energy Board (NEB) has advised FEA that the total volumes of Canadian light and heavy crude oil authorized for export to the United States, and therefore subject to allocation under Part 214, for the three-month allocation period commencing July 1, 1977, will remain at the average level of 137,000 barrels per day (B/D) of Canadian light crude oil and 106,522 B/D of Canadian heavy crude oil, as specified in the Allocation Notice for the current allocation period issued on June 20, 1977 (42 FR 32567, June 27, 1977). However, the NEB has further advised FEA that the volume of condensate reflected in the total export volume of light crude oil will change from 30,000 B/D in July, as specified in the June 27 Allocation Notice, to 38,000 B/D in August and 31,000 B/D in September.

The NEB has further advised FEA of the following operational constraints with respect to the export of condensate in the months of August and September:

12,000 B/D of condensate must be delivered through the Rangeland-Aurora-Glacier pipeline system to Montana in August 1977.

10,000 B/D of condensate must be delivered through the Rangeland-Aurora-Glacier pipeline system to Montana in September 1977.

Pursuant to 10 CFR 214.35, FEA has given effect to these operational constraints in the revised issuance of Canadian crude oil rights for the June 1 through September 30, 1977, allocation period set forth in the Appendix. These issuances were computed in accordance with the formulas set forth in the June 27, 1977, allocation notice.

This notice is issued pursuant to Subpart G of FEA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with FEA's Office of Exceptions and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed within 30 days of the publication of this notice.

Issued in Washington, D.C., on September 2, 1977.

ERIC J. FYGI,
Acting General Counsel.

[1] "Base period volume" for the purpose of this notice means average number of barrels of Canadian crude oil included in a refinery's crude oil runs to stills or consumed or otherwise utilized by a facility other than a refinery during the base period on a barrels per day basis.

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APPENDIX

CANADIAN ALLOCATION PROGRAM

RIGHTS - July 1, 1977 to September 30, 1977
(Barrels Per Day)

Priority	Refiner/Refinery	Base Period Volumes: Total Canadian Runs	Base Period Volumes: Canadian Light Crude Oil	Base Period Volumes: Canadian Heavy Crude Oil	Nominations: Light	Nominations: Heavy	Allocation: Light	Allocation: Heavy
	AMOCO							
II	Whiting, Ind.	26,751	25,560	1,191	11,000	3,315	0	3,315
II	Casper, Wyo	2,991	2,991	0	0	0	0	0
II	Mandan, N.D.	8,995	8,995	0	10,000	0	0	0
II	Sugar Creek, Mo.	317	317	0	0	0	0	0
	ARCO							
II	Cherry Point, Wash.	34,225	34,225	0	9,013	0	0	0
	ASHLAND							
II	Buffalo, N.Y.	36,752	32,033	4,719	0	6,000	0	5,577
II	Findlay, Ohio	2,198	33	2,165	0	11,000	0	334
I	St. Paul Park, Minn	44,707	39,904	4,803	36,700	8,000	32,581	8,000
	DOW CHEMICAL, U.S.A							
II	Bay City, Mich.	2,767	2,767	0	1,000	0	0	0
	CLARK							
II	Blue Island, Ill	18,764	18,764	0	0	0	0	0
	CONSUMERS POWER							
I	Essexville, Mich	13,872	13,872	0	681	0	681	0
I	Marysville, Mich.	27,306	27,306	0	27,306	0	20,357 1/ 2/	0
	CONTINENTAL							
I	Billings, Mont.	25,994	25,994	0	26,000	0	21,224	0
II	Denver, Colo.	4,639	4,639	0	0	0	0	0
II	Ponco City, Ok.	1,188	1,188	0	0	0	0	0
I	Wrenshall, Minn.	20,651	20,651	0	20,700	0	16,861	0

1/ Operational Constraint

Priority	Refiner/Refinery	Base Period Volumes: Total Canadian Runs	Base Period Volumes: Canadian Light Crude Oil	Base Period Volumes: Canadian Heavy Crude Oil	Nominations: Light	Nominations: Heavy	Allocation: Light	Allocation: Heavy
	CRA							
II	Coffeyville, Kan.	318	318	0	318	0	0	0
II	Philipsburg, Kan.	173	173	0	173	0	0	0
II	Scotsbluff, Neb.	401	401	0	401	0	0	0
	CRYSTAL							
II	Carson City, Mich.	1,104	1,104	0	3,000	2,000	0	168
	ENERGY COOPERATIVE							
II	East Chicago, Ind.	10,804	10,267	537	0	0	0	0
	EXXON							
I	Billings, Mont.	15,908	15,908	0	19,000	0	12,989	0
	FARMERS UNION							
I	Laurel, Mont.	13,439	13,439	0	13,500	0	10,973	0
	GLADIEUX							
II	Port Wayne, Ind.	774	774	0	2,500	2,500	0	117
	GULF							
II	Toledo, Ohio	13,253	13,253	0	41,521	0	0	0
	HUSKY							
II	Cheyenne, Wyo.	4,865	4,865	0	0	0	0	0
II	Cody, Wyo.	806	806	0	0	0	0	0
	KOCH							
I	ST. Paul, Minn	74,383	5,691	68,692	5,000	85,000	4,647	69,736
	LAKE SUPERIOR D.P.							
I	Ashland, Wisc.	125	125	0	125	0	102	0
	LAKETON							
II	Laketon, Ind.	141	10	131	0	0	0	0
	LAKESIDE							
II	Kalamazoo, Mich.	1,240	1,240	0	3,000	2,000	0	188
	LITTLE AMERICA							
II	Casper, Wyo.	2,248	2,248	0	0	0	0	0

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Priority	Refiner/Refinery	Base Period Volumes: Total Canadian Runs	Base Period Volumes: Canadian Light Crude Oil	Base Period Volumes: Canadian Heavy Crude Oil	Nominations: Light	Nominations: Heavy	Allocation: Light	Allocation: Heavy
	MARATHON							
II	Detroit, Mich.	10,301	10,159	142	9,435	0	0	0
	MOBIL							
II	Buffalo, N.Y.	24,995	24,995	0	0	0	0	0
II	Ferndale, Wash.	45,444	45,444	0	5,000	0	0	0
II	Joliet, Ill.	14,606	2,132	12,474	0	10,000	0	2,216
	MURPHY							
I	Superior, Wisc.	25,625	20,253	5,372	19,651	10,000	16,536	9,089
	NCRA							
II	McPherson, Kan.	836	836	0	0	0	0	0
	PESTER REFINING CO.							
II	EL DORADO, ARK.	196	196	0	1,000	0	0	0
	PASCO							
II	Sinclair, Wyo.	709	709	0	0	0	0	0
	PHILLIPS							
II	Great Falls, Mont.	1,222	1,222	0	2,000	100	0	100 1/
II	Kansas City, Kan.	3,352	3,105	247	0	0	0	0
	ROCK ISLAND							
II	Indianapolis, Ind.	1,063	1,063	0	0	0	0	0
	SHELL							
II	Anacortes, Wash.	55,919	55,919	0	35,000	0	0	0
II	Wood River, Ill.	8,673	8,673	0	25,000	0	0	0
	SUN							
II	Toledo, Ohio	16,427	16,427	0	13,000	0	0	0
	SOHIO							
II	Toledo, Ohio	29,182	29,182	0	25,000	15,000	0	4,428
	TENNECO							
II	Chalmette, La.	1,767	1,767	0	0	0	0	0
	TESORO							
II	New Castle, Wyo.	676	676	0	300	0	0	0

1/ Operational Constraint

Priority	Refiner/Refinery	Base Period Volume: Total Canadian Runs	Base Period Volume: Canadian Light Crude Oil	Base Period Volume: Canadian Heavy Crude Oil	Nominations: Light	Nominations: Heavy	Allocation: Light	Allocation: Heavy
	TEXACO							
II	Anacortes, Wash.	41,229	41,229	0	58,696	0	0	0
II	Casper, Wyo.	1,380	1,380	0	4,500	0	0	0
II	Lockport, Ill.	1,244	1,244	0	26,000	0	0	0
	THE REFINERY CORP.							
II	Commerce City, Colo	174	174	0	0	0	0	0
	THUNDERBIRD							
II	Cut Bank, Mont.	554	554	0	64	0	50 1/	0
	TOTAL PETROLEUM							
II	Alma, Mich.	9,727	3,020	6,707	0	5,000	0	1,476
	TEXAS AMERICAN							
II	West Branch, Mich.	2,011	2,011	0	2,011	0	0	0
	UNION OIL OF CALIF							
II	Lemont, Ill.	11,711	11,711	0	10,000	10,000	0	1,777
	UNITED REFINING							
II	Warren, Pa.	9,917	9,789	128	9,836	0	0	0
	TOTAL PRIORITY I	262,010	183,143	78,867	168,663	103,000	136,950	86,825
	TOTAL PRIORITY II	469,029	440,588	28,441	308,768	66,915	50	19,697
	TOTAL I&II	731,039	623,731	107,308	477,431	169,915	137,000	106,522

1/ Operational Constraint

[FR Doc.77-26107 Filed 9-9-77;8:45 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to 46 CFR Part 542 and section 311(p) (1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	Owner/operator and vessels
01074	Sigval Bergesen: *Solfonn.*
01077	H. M. Wrangell & Co. A/S: *Hot Ying.*
01210	A/S Brovigtank: *Randi Brovig.*
01322	Cardigan Shipping Co. Ltd.: *Norse Trader.*
01513	Rederiaktiebolaget Dalen: *Stove Friend.*
01546	Belgian Fruit Lines S.A.: *Frubel Oceania.*
01881	BP Tanker Co. Ltd.: *British Dart, British Explorer, British Pioneer, British Test, British Wye, British Severn, British Navigator, British Cygnet, British Osprey.*
01890	A/S Billabong: *Star Atlantic.*
01991	Malmros Rederi Aktiebolag: *Jacob Malmros, Frans Malmros.*
02091	Mathiasen's Tanker Industries, Inc.: *Joseph D. Potts.*
02145	Memphis Boat Refueling Service, Inc.: *Caribe 51.*
02198	Peninsular & Oriental Steam Navigation Co.: *Strathtrvine, Remuera, Vikfrost.*
02446	Cosmopolitan Shipping Co., S.A.: *Claude Conway.*
02458	The China Navigation Co., Ltd.: *Sinking, New Guinea Chief, Kwangtung, Coral Chief.*
02470	La Crosse Dredging Corp.: *J. W. Wilkinson.*
02493	Sheridan Transportation Co.: *Mary J. Sheridan.*
02494	Simms Bros. Towing Co., Inc.: *RWH 43, JGH 33, Simms No. 6, Simms No. 2, Simms No. 3, Simms No. 4, Simms No. 5*
02507	Union Navale: *Eldonia-Delmas.*
02602	Fyffes Group Ltd.: *Tucurinca.*
02650	Adalbert Friesocke Reederei: *Albert Friesecke.*
02660	Partenreederei M/S Inge Kruger: *Inge Kruger.*
02734	Italia Societa Per Azioni di Navigazione: *Rossini, Verdi, Donizetti.*
02862	Ocean Shipping & Enterprises, Ltd.: *Sea Dolphin.*
02916	Oregon Steamship Co. Ltd.: *Lutetian, Lawrentian.*
02975	Venture Shipping (Managers) Ltd.: *Eastern Venture.*
03004	Rederi Ab Soya: *Carmen.*
03315	Afran Transport Co.: *Bering Sea.*
03477	Nissui Shipping Corp.: *Toko Maru, Seiko Maru, Hokko Maru, Matsushima Maru.*
03501	Osaka Shosen Mitsui Senpaku K.K.: *Norfolk Maru.*
03508	Teiyo Gyogyo K.K.: *Orient Maru No. 1.*
03571	Ringdals Rederi A/S and Olav Ringdals Tankrederi A/S: *Ringstad.*
03614	A/S Kristian Jebsens Rederi: *Frines, Korsnes.*
03692	Marmac Corporation: *JGH-33, RWH-43.*
03723	Southern Terminal and Transport Co.: *AD-104, AD-103, AD-102, AD-101, LTC-32, DONNA RAE, CHEM III, LRL-201, LRL-200, JIMMY, UM-187, P-394-A, SP-4, SP-3, P-394-B, NBC-751, NBC-750.*
03733	Great Lakes Dredge & Dock Co.: *Toledo.*
04050	A/S Uglands Rederi: *Vinita.*
04055	Missouri Barge Line Co, Inc.: *SW-2032, BW-2027.*
04085	Navitlazione Mongerbino SPA.: *Nai Monreale.*
04171	Young Brothers, Ltd.: *YB-22, YB-23.*
04173	Foss Launch & Tug Co.: *Foss 275.*
04357	Nedlloyd Lijnen B.V.: *Nijkerk.*
04398	Hapag-Lloyd Aktiengesellschaft: *Saarland, Havelland.*
04454	Satsumaru Kaiun K.K.: *Satsu Maru No. 27, Satsu Maru No. 57.*
04565	Consolidated Navigation Corp.: *New Energy.*
04625	American Commercial Lines, Inc.: *Chem 10, Chem 57.*
04642	South African Marine Corp. Ltd.: *S. A. John Ross, S. A. Tzaneen.*
04997	Aliakmon Marine Enterprises Corp. Monrovia: *Aliakmon Pilot.*
05017	Amerada Hess Corp.: *Hess Trader, Hess Bunker.*
05208	Gaelic Tugboat Co.: *E-17.*
05437	The Dow Chemical Co.: *H 1806, TCB 307, TCB 304, NMS 1401, NMS 1453, NMS 1454.*
05579	Black Sea Shipping Co.: *Khudozhnik Pakhomov.*
05636	Takashiromaru Kaiun Kabushiki Kaisha: *Takashiro Maru No. 21.*
05775	Good Luck Shipping Co., Ltd.: *Good Luck.*
05816	Alan B. Hyde and Meade D. Hyde: *Hybur Transport.*
05845	Shinto Kaiun K.K.: *Shinzan Maru.*
05995	Association of Maryland Pilots: *Baltimore.*
06065	K/S Norfold A/S & Co.: *Ross Head.*
06071	CIA Colombiana de Alcalis Planta Colombiana de Soda Ltda.: *Julio Caro, Planta de Betania, Salinas de Manaure, Luis Angel Arango, Planta de Mamonal.*
06399	Tokumaru kaiun K.K.: *Meitoku Maru.*
06435	Dampskibsaktieselskabet Den Norske Afrika-Og Australielinie, Wilhelmsens Dampskibsaktieselskab, A/S Tonsberg, A/S Tankfart I, A/S Tankfart IV, A/S Tankfart V, A/S Tankfart VI: *Traviata.*
06596	Issei Kisen K.K.: *Yusei Maru.*
06712	Chang An Marine Corp.: *Ever Safety.*
07026	Minami Nihon Senpaku K.K.: *Erimo Maru.*
07112	Dampskibsaktieselskabet Den Norske Afrika-Og Australielinie, Wilhelmsens Dampskibsaktieselskab, A/S Tonsberg, A/S Tankfart I, A/S Tankfart IV, A/S Tankfart V, A/S Tankfart VI, Skips A/S Triton, Skips A/S Tudor: *Takamine.*
07212	Euterpe (Panama) S.A.: *Grand Apollo.*
08048	Andros Trading, Ltd.: *Konstantinos G. Chimples.*
08071	Anglo Nordic Bulkships (Management), Ltd.: *Russell H. Green.*
08116	Skopi Shipping Co., Ltd.: *Cretan Life.*
08130	Great Circle Marine, Ltd.: *Bolina.*
08131	Empresa navegacion caribe: *Bahia de Santiago de Cuba.*
08655	Navios viatlantica S.A.: *Wave Crest.*
08785	Maleme Maritime Co., Ltd.: *Cretan History.*
08787	Smit Internationale Zeesleep-en Bergings-Bedrijf BV: *Barentz Zee.*
08818	Venus Carriers Corp. S.A.: *Rose Daphne.*
08858	Miryung Navigation Co., Ltd.: *Garnet, Jasper.*
08871	Nisshin Gyogyo Kabushiki Kaisha: *Shinko Maru.*
08909	Dominique Maritime Corp.: *Dominique.*
09137	Arne Teigens Rederi A/S: *Torasund.*
09300	Yerania Shipping Corp.: *Drepanon.*
09319	Odajima Kaiun, Ltd.: *Yukikaze Maru.*
09374	International Ocean Transport Corp.: *Bradford Island.*
09380	Hoffman International, Inc.: *Century.*
09439	Candia Maritime Corp.: *Cretan Liberty.*
09718	Hosei Kaiun Shoji Kabushiki Kaisha: *Sanyo Maru.*
09882	Cyclops Drilling Co.: *Rig 14.*
09916	Ybarra Y Compania S.A.: *Cabo San Roque.*
09931	Georgian Bay Shipping Co., Ltd.: *Al Hilal.*
09997	Robinia Shipping Co., S.A.: *South Wing.*
10063	Ho Shin Shipping S.A.: *Ho Shin.*
10095	Escobal Naviera Co., S.A.: *Shunho.*
10227	Professional Navigation Corp.: *Silvania.*
10334	Atlantic Overseas Petroleum Carriers, Inc.: *Oriental Satellite.*
10615	Clew Bay Shipping Co., Inc., Panama: *Hope Star.*
10744	A/S Shipping Engagement: *Ragni Berg.*
10931	Hansung Shipping Co., Ltd.: *Blue Andromeda, Blue Cassiopeia.*
11159	Northern Sealanes Corp.: *Andros Petros.*
11304	Issei Kaiun, Yugen Kaisha: *Akitu Maru No. 5.*
11437	Friendship Carrier, Inc.: *Friendship.*
11464	Harris Tankers Corp.: *Tilia.*
11466	Lee-Vac, Ltd.: *H & S No. 3, H & S No. 2, Tidemar 20.*
11558	Skysea Corp., S.A.: *Titika.*
11948	Ardgowan Shipping Co., Ltd: *Darro.*
12091	Green Nobility Line S.A.: *Green Nobility.*
12514	Giant Tarzan Marine Corp., S.A: *Giant Tarzan.*
12939	Pesquera Costa De La Luz S.A.: *Captain Jorge II.*

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-26394 Filed 9-9-77;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by Section 311 (p) (1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 36 CFR.

Certificate No.	Owner/operator and vessels
01077	H. M. Wrangell & Co. A/S: *Lars Meling.*
01113	A/S J. Ludwig Mowinckels Rederi: *Para.*
01190	A/S Gerrards Rederi & A/S Gerrards Rederi II: *Georgia.*
01428	Ocean Transport & Trading Limited: *Menelaus.*
01621	The Scottish Tanker Co. Ltd.: *King William.*
01854	Southern Towing Co.: *Jo Anne Stegbauer.*
01890	A/S Billabong: *Star Shiraz.*
02194	Compagnie Generale Maritime: *Haussmann.*
02199	Atlantic Richfield Co.: *Arco Mariner, Arco Discovery.*
02242	Dal. Deutsche Afrika-Linien G.m.b.h. & Co: *Tabora, Gulf Clipper.*
02250	Neste Oy: *Tiira.*
02344	Empresa Lineas Maritimas Argentinas S.A.: *Bahia Aguirre.*
02367	Canadian Pacific (Bermuda) Ltd.: *Fort Yale.*
02862	Ocean Shipping & Enterprises Ltd.: *Ocean Sincerity.*
02956	Ashland Oil Inc.: *Star Diamond, Star Shamrock.*
02976	Arthur-Smith Corp.: *AS-103, TCD-304.*
02982	The Shipping Corp. of India Ltd.: *Hargobind.*
03447	K. K. Kyokuyo: *Daishin Maru No. 18.*
03483	Sankyo Kaiun Kabushiki Kaisha: *Fire Star.*
03488	Sanwa Senpaku K. K.: *Itoham Maru.*
03489	Sanwa Shosen K. K.: *Keigo Maru.*
03502	Shinyei Senpaku K. K.: *Norfolk Maru.*
03503	Shofuku Kisen K. K.: *Saikyo Maru.*
03518	Tokyo Senpaku K. K.: *Tokyo Maru, Djakarta.*
03533	Skibs-A/S Nanset: *Iver Stream.*
04173	Foss Launch & Tug Co.: *PT & S 286-1, Foss 286-1, PT & S 286-3.*
04228	Compagnie Maritime Belge (Lloyd Royal) S.A.: *Montalva.*
04299	Erie Navigation Co.: *Loc Bay.*
04404	Lar Rej Johansen: *Bolina.*
04565	Consolidated Navigation Corp.: *Star Capella.*
04569	Marasia S.A.: *Antartico.*
04601	American Tunaboat Association: *Claire P.*
04966	Marlinea Armadora S.A.: *Lento.*
05016	Hess Oil Virgin Islands Corp.: *Horie V.*
05027	Westwind Africa Line Ltd.: *Desert King, Desert Queen.*
05089	H. F. Eimskipafelag Islands: *Laxfoss, Haifoss, Studlafoss.*
05098	Esso-Tankers Inc.: *Esso Westernport, Esso Caribbean.*
05346	Sociedad Anonima de Navegacion Petrolera: *Cabo De Hornos II, Punta Arenas II.*
05372	Rowan Companies Inc.: *Rowan Juneau.*
05500	Petroleos Mexicanos: *18 De Marzo, Chac. Bacab.*
15537	Empresa Navegacion Mambisa: *Lazaro Peana.*
05581	Latvian Shipping Co.: *Ivan Polzunov.*
05743	Reederei Barthold Richters: *Claudia Maria.*
05834	Koyo Suisan K.K.: *Koyo Maru No. 65.*
05846	Nordsee-Deutsche Hochseefischerei G.M.B.H.: *Mainz, Wiesbaden.*
05926	Maritime Services G.M.B.H.: *Spindrift.*
05985	Murata Gyogyo Kabushiki Kaisha: *Taiko Maru No. 17.*
05998	Navarino Shipping & Transport Co. Ltd.: *Honesty, Integrity.*
06130	Northern Shipping Co. *Petr Strelkov.*
06150	Lineas Asmar S.A.: *Rosario Del Mar.*
06208	Hochseefischerei Nordstern A.G.: *Friedrich Busse.*
06246	Pam Shipping Ltd.: *Victory.*
06248	Commercial Corp. "Sovryblot": *Sulak.*
06350	Malaysian International Shipping Corp. Berhad: *Rimba Merbau.*
06498	Federal Steam Navigation Co. Ltd.: *Wild Martin, Wild Mallard.*
06510	Compagnie Nationale Algerienne de Navigation C.N.A.N.: *Bejaia.*
06877	Societe Francaise de Transports Maritimes: *Ville D'Anvers, Ville de Rouen.*
07075	Federal Oil-Shore Services Ltd.: *Arctic Pelly.*
07204	Zensei Gyogyo Yugen Kaisha: *Zensei Maru No. 23.*
07633	Hawaiian Tug & Barge Co. Ltd.: *DTB-9, DTB-10, DTB-33, DTB-25, DTB-27, DTB-29, DTB-35, DTB-39.*
08071	Anglo Nordic Bulkships (Management) Ltd.: *Nordic Merchant.*
08370	Indiana & Michigan Electric Co.: *C. V. Sorenson, Richard E. Hodges.*
08488	Multinational Gas & Petrochemical Co.: *Bavaria Multina.*
08530	Prompt Shipping Corp. Ltd.: *Ceram Career.*
08533	Capital Marine Supply Inc.: *CMS 1.*
08699	Taikyu Suisan Kabushiki Kaisha: *Sumiyoshi Maru No. 58.*
08818	Venus Carriers Corp. S.A.: *Edelweiss.*
08840	Bangladesh Shipping Corp.: *Banglar Maan.*
08871	Nisshin Gyogyo Kabushiki Kaisha: *Meisei Maru No. 11.*
09053	Farpesca S.A.: *Farpesca Cuarto.*
09531	Societa Partenopea di Navigazione S.P.A.: *Span Terza.*
10423	Merry Shipping Co. Inc.: *Royal Lancer I, Royal Lancer II.*
10507	Ashford Shipping Inc.: *Gogo River.*
10651	Naviera Industrial S.A.: *Lucile.*
10931	Hansung Shipping Co. Ltd.: *Blue Nagoya, Blue Tokyo, Scan Crusaders.*
10969	Partrederiet AF 11/12-73: *Agnes Dania.*
11011	Power Corp. of Canada, Ltd.: *Eskimo.*
11082	Interocean Management Corp.: *Bradford Island.*
11195	Ondarrutarra S.A.: *Itxas-Tzori.*
11287	Carlton Steamship Co. Ltd.: *Federal Tyne.*
11635	L & L Oil Co. Inc.: *CAGC No. 1.*
11674	Park Shipping Corp.: *Asian Rose.*
11776	Coen Marine Equipment Inc. and Marine Transport Inc.: *California, Coen 61, Coen 130.*
12080	Lyndhurst Financial Corp., Panama: *Tommy II.*
12247	Seabulk Chemical Carriers Inc.: *SCC 3902.*
12292	St. Christopher Maritime Inc.: *Norheim.*
12403	Val-Cap Marine Services Inc.: *Joy M.*
12424	Riogrande Shipping Co. S.A.: *Riogrande.*
12425	Riobravo Shipping Co. S.A.: *Riobravo.*
12426	Anesis Shipping Co. S.A.: *Riodoro*
12427	Riodon Shipping Co. S.A.: *Riodon.*
12531	Don Mulco Inc.: *BG-476.*
12534	PCI International Inc.: *Wittwater II.*
12565	Port City Barge Line Inc.: *UM-95, UM-98, UM-97, UM-191, UM-192, UM-190.*
12665	Ever Master Line S.A.: *Ever Master.*
12608	Youssef Shipping Corp: S.A.: *Youssef B.*
12676	Oriental Pearl Line Kabushiki Kaisha: *Pacific Queen.*
12699	The Levens Corp.: *CC 209, CC 212.*
12709	Childress Co.: *CT1, CT2.*
12719	Evergreen Marine Corp.: *Ever Safety.*
12720	Pollux (Panama) S.A.: *Ever Glory*
12721	Productos Pesqueros Mexicanos S.A. de C.V. Pesquero Santo Isabel S.A.: *Propemex E-1, Propemex E-2.*
12731	Productos Pesqueros Mexicanos S.A. de C.V./Atun Mex.: *Propemex E-5 Ensenada, Propemex E-6 Guaymas, Propemex E-7 Masatlan.*
12761	Seaspir Corp.: *Coastal Spirit.*
12792	International Transport Suhaili Inc.: *Suhaili.*
12832	Conrad & Victor Bouchard: *Conrad Marie.*
12836	Superior Shipping Inc.: *Thilda.*
12856	Transporte Industrial S.A.: *Vencemos I, Vencemos III, Vencemos IV.*
02862	Chugach Electric Association Inc.: *Susitna.*
12865	Naviera Zabat S.A.: *Zabat Dos.*
12866	Dillingham Jebsen Shipping Corp.: *Bessnes.*
12903	Efpalinos Shipping Co. Ltd.: *Agios Nicolaos K.*
12906	Adam Shipping Enterprises Corp.: *SCT Vincent.*
12908	Naviera Del Sur S.A.: *Arona.*
12921	Atalanta Shipping Corp.: *Ledea.*
12936	Vamos Navigation S.A.: *Vamos.*
12937	Pierce County, Wash.: *Steilacoom.*
12939	Pesquera Costa de la Luz S.A.: *Capitan Jorge II.*
12940	Strider 3 Ltd.: *Saudi Crown.*
12943	Schepers & Co. Kg.: *Marlene S.*
12945	Elounda Maritime S.A.: *Elounda.*
12954	Damon S.A.: *Elisa.*
12958	Broland Shipping Co. Ltd.: *Broland.*
12959	Erico Enterprises S.A.: *Leonidas.*
12960	Pallas Shipping Agency Ltd.: *World Sovereign.*
12961	Lord Marine Co. S.A.: *Greenauklet.*
12962	Radiant Navigation Co. Ltd. S.A.: *Bungalon.*
12964	Manuel Veiga Costas: *Consuelo Veiga.*
12965	Nefeli Shipping Co. S.A.: *Nefeli.*
12966	Marko Marine Enterprises S.A. of Panama: *Adelphi Yemelos.*
12968	Kornal Trade & Finance Inc.: *Brazilian Vitoria.*
12969	Pleasure Shipping Ltd.: Paget.
12970	Mr. Masuhiro Hamada: Omasu *Maru No. 2.*
12971	Navios Crusader Inc.: *Navios Crusader.*
12972	Ms Hektor Reederei & Schiffahrts G.M.B.H. KG: *ASD Hektor.*

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Certificate No.	Owner/operator and vessels
12973---	Sapho Shipping Co.: *Sapho.*
12975---	Scheepvaart Maatschappij Fairlift N.V.: *Fairlane.*
12978---	Freedom Shipping Corp. S.A.: *Theodoros A.S.*
12979---	Tri-Arrow Transportation Co Ltd.: *Fortuna Carrier.*
12980---	Bela Lines Co. Inc.: *Ocean Biko.*
12981---	Thomson Shipping Co. Ltd: *Jeannie.*
12982---	Euro-Pirates International Inc.: *Capt. Francois Le Clerc, Chevalier De Gramont, L'Olonnois.*
12983---	Chemlink Co. Inc.: *NMS 1801. NMS 1905.*
12984---	Arimanios Corp. of Monrovia, Liberia: *Artemis.*
12985---	Partrederiet Titus: *Titus.*
12987---	Troll River Shipping Ltd: *Troll River.*
12988---	Sivaris Maritime Corp: *Joanna*

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-26395 Filed 9-9-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP77-100 et al.]

TENNECO ATLANTIC PIPELINE CO.

Availability of the Final Environmental Impact Statement

SEPTEMBER 12, 1977.

Notice is hereby given in the above docket that on September 12, 1977, as required by section 2.82(b) of the Commission's General Policy and Interpretations (18 CFR 2.82(b)), copies of the Final Environmental Impact Statement (FEIS) are being transmitted pursuant to the requirements of the National Environmental Policy Act of 1969 and section 2.82(b) of the Commission's General Policy and Interpretations.

The FEIS, prepared by the staff of the Federal Power Commission, concerns applications filed by Tenneco Atlantic Pipeline Co. (TAPCO) Docket No. CP77-100 et al., which relate directly or indirectly to a proposal by TAPCO, pursuant to section 3 of the Natural Gas Act, to import liquefied natural gas (LNG) from Algeria to a terminal to be located in the vicinity of St. Johns, New Brunswick, Canada, and enter the United States via the proposed natural gas pipeline near Calais, Maine. Approval of the applications would authorize the construction and operation of facilities necessary to transport approximately one billion cubic feet of natural gas to consumers along Tennessee Gas Pipeline Co.'s system. A total of 506 miles of pipeline would be required in order to transport the regasified LNG from the border near Calais, Maine, to Milford, Pa.

This FEIS has been sent to the persons shown in the FEIS summary sheet, all parties to the proceeding, and interested citizens. The FEIS is on file with the Commission and is available for public inspection at its Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426, and its regional office located at 26 Federal Plaza, 22nd Floor, New York, N.Y. 10007. Copies of the FEIS are available in limited quantities from the Federal Power Commission's Office of Public Information, Washington, D.C. 20426.

A Draft Environmental Impact Statement (DEIS) was circulated for comments on or before July 11, 1977. The period for comments has expired, and all timely comments received are attached to the FEIS in accordance with section 2.82(b) of Commission Order 415-C.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26477 Filed 9-7-77;2:44 pm]

[Docket Nos. G-3812, et al.]

THE SUPERIOR OIL COMPANY, et al.

Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates[1]

SEPTEMBER 2, 1977.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commisssion on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 Ft³	Pressure base
G-3812..... D 6/9/77	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	United Gas Pipe Line Co., certain acreage in the 4 Isle Dome Field, Terrebonne Parish, La.	(1)	--------
G-16388..... D 6/9/77	The Superior Oil Co	United Gas Pipeline Co., certain acreage in the 4 Isle Dome Field, Terrebonne Parish, La.	(1)	--------
C177-552 B 6/10/77	A. G. Murphy dba A. G. Murphy & Associates, 634 Onconta St., New Orleans, La. 71106.	United Gas Pipeline Co., Greenwood-Waskom, Caddo Parish, La.	(1)	--------
C177-569 6/15/77	Helmerich & Payne, Inc., 1579 East 21st St., Tulsa, Okla. 74114.	Michigan Wisconsin Pipe Line Co., East Binger Field, Caddo County, Okla.	$1.45	14.73
C177-570 A 6/16/77	The Superior Oil Co. P.O. Box 1521, Houston, Tex. 77001.	El Paso Natural Gas Co., West Jal Field, Lea County, N. Mex.	$1.45	14.73
C177-571 A 6/16/77	Freeport Oil Co., a division of Freeport Minterals Co., P.O. Box 3038, Midland, Tex. 79701.	Mississippi River Transmission Corp., Mills Ranch Field, Wheeler County, Tex.	181.331¢	14.65
C177-572 A 6/17/77	American Petrofina Co. of Texas, P.O. Box 2159, Dallas, Tex. 75221.	Northern Natural Gas Co., Mocane Laverne Field, Beaver County, Okla.	(2)	15.025
C177-574 A 6/17/77	Monsanto Co., 1300 Post Oak Tower, 5051 Westheimer, Houston, Tex. 77056.	Transwestern Pipeline Co., Albert Federal No. 1 Well (Morrow Formation) Eddy County, N. Mex.	$1.560606	14-65
C177-575 B 5/31/77	Mullins & Prichard, 416 Oil & Gas Bldg., New Orleans, La. 70112.	Southern Natural Gas Co., Pointe A La Hache Field, Plaquemines Parish, La.	(1)	--------
C177-576 (C161-831). B 5-31-77	H. J. Porter, 1111 Houston Club Bldg., Houston, Tex. 77002.	Coastal States Gas Producing Co., Johns Field, Duval, Tex.	(1)	--------
C177-577 B 6/13/77	Glenn E. Jeffery, successor to Texaco Inc., P.O. Box 667, Meade, Kans. 67864.	Transwestern Pipe Line Co., Harper Field, Clark County, Kans.	(1)	--------
C177-578 A 6/20/77	Mobil Oil Corp., 3 Greenway Plaza East, suite 800, Houston, Tex. 77046.	Texas Eastern Transmission, Vermilion area, Block 262, Federal offshore, Louisiana.	$147.94¢	15.025
C177-579 A 6/20/77	Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102.	Tennessee Gas Pipeline Co., N/2 of East Cameron Block 42, offshore Louisiana.	(2)	15.025
C177-580 A 6/21/77	Petroleum Inc., 300 West Douglas, Wichita, Kans. 67202.	Northwest Pipeline Corp., Sublette County, Wyo.	$99.91	15.025
C177-581 A 7/7/77	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Mountain Fuel Supply Co., Spearhead Area, Converse County, Wyo.	(2)	15.025
C177-583 (G-19415). B 5/31/77	H. J. Porter	Coastal States Gas Producing Co., Johns, Duval, Tex.	(1)	--------
C177-585 A 6/13/77	Cotton Petroleum Corp., 2121 South Columbia, suite 600, Tulsa, Okla. 74114.	El Paso Natural Gas Co., Roydon Field, Roger Mills County, Okla.	$155.2644¢	15.025
C177-586 A 6/13/77	Texas Eastern Exploration, Co., P.O. Box 2521, Houston, Tex. 77001.	Texas Eastern Transmission Corp., Block 361 Field, West Cameron Area, Offshore La.	$1.90	15.025
C177-587 A 6/23/77	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221.	Transco Gas Supply Co., Brazos Area, Block A-70 (South Addition) Offshore, Tex.	(2)	14.73
C177-589 A 6/13/77	Napeco Inc., 122 South Michigan Ave., Chicago, Ill. 61603.	Natural Gas Pipeline Co. of America, Arahra Bailey No. 1 Well, Polk County, Tex.	(2)	14.73
C177-592 (G-15361). B 6-22-77	Union Oil Co. of California, P.O. Box 7600, room 901, Los Angeles, Calif. 90057.	Texas Eastern Transmission Corp., North Arneckeville Field, DeWitt County, Tex.	(1)	--------
C177-593 A 6/23/77	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Panhandle Eastern Pipe Line Co., Hartzog Draw Field, Campbell County, Wyo.	(2)	15.025
C177-595 A 6/23/77	Napeco Inc., 122 South Michigan Ave., Chicgo, Ill. 60603.	Natural Gas Pipeline Co. of America, H. L. Peterson No. 1 Well, Brazoria County, Tex.	(2)	14.73
C177-596 A 6/24/77	Monsanto Co., 1300 Post Oak Tower, 5051 Westheimer, Houston, Tex. 77056.	Transwestern Pipeline Co., Foster Federal No. 1 Well (Morrow Formation) Eddy County, N. Mex.	$1.560606	14.65
C177-597 A 6-24-77	Union Oil Co. of America, P.O. Box 7600, Los Angeles, Calif. 90051.	United Gas Pipe Line Co., Tiger Field, Jones and Perry Counties, Miss.	$161.02	15.025
C177-600 (G-9455). B 6/20/77	Terra Resources, Inc., Agent for Union Oil Co. of California, P.O. Box 2329, Tulsa, Okla. 74101.	Tennessee Gas Pipeline Co., North Tidehaven Field, Matagorda County, Tex.	(?)	--------
C177-601 (G-9544). B 6/20/77	Terra Resources, Inc.	Tennessee Gas Pipeline Co., North Tidehaven Field, Matagorda County, Tex.	(?)	--------
C177-602 (C171-169). B 6/23/77	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	Montana-Dakota Utilities Co., Manderson Field, Big Horn County, Wyo.	(?)	--------
C177-603 A 6/23/77	Shell Oil Co., 1 Shell Plaza, P.O. Box 2463, Houston, Tex. 77001.	El Paso Natural Gas Co., Lusk (Morrow) Field, Lea County, N. Mex.	(?)	15.025

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

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Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
C177-604 A 6/23/77	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Transwestern Pipeline Co., South Empire Deep No. 6 Well, Eddy County, N. Mex.	(2)	15.025
C177-605 A 6/23/77	do	Lone Star Gas Co., Sholem Alechem Field, Denny No. 1 Well, Carter County, Okla.	(2)	15.025
C177-606 A 2/23/77	do	Southern Natural Gas Co., main pass east addition, Block 288, offshore Louisiana.	(2)	15.025
C177-607 A 6/24/77	Columbia Gas Development Corp., P.O. Box 1350, Houston, Tex. 77001.	Columbia Gas Transmission Corp., Blocks 142 and 143, South Marsh Island, offshore Louisiana.	[3] $1.90	15.025
C177-609 A 6/28/77	Pennzoil Offshore Gas Operators, Inc., P.O. Box 2967, Houston, Tex. 77001.	Sea Robin Pipeline Co., Block 125, South Marsh Island area, south addition, offshore, Louisiana.	[3] $1.75 [4] $1.75	15.025
C177-610 A 6/28/77	do	Sea Robin Pipeline Co., Block 127, South Marsh Island area, south addition, offshore Louisiana.	[3] $1.75	15.025
C177-611 A 6/30/77	Pennzoil Louisiana & Texas Offshore, Inc., P.O. Box 2967, Houston, Tex. 77001.	do	[3] $1.75	15.025
C177-612 A 6/30/77	do	Sea Robin Pipeline Co., Block 125, South Marsh Island area, south addition, offshore Louisiana.	[3] $1.75	15.025
C177-613 A 7/1/77	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Northern Natural Gas Co., Baggett (Strawn) Field, Crockett County, Tex.	[5] $173.6216	11.73
C160-214 D 6/21/77	Petroleum, Inc. (Operator), et al., 300 West Douglas, Wichita, Kans. 67202.	Michigan Wisconsin Pipe Line Co., certain acreage in Bever County, Okla.	(2)(10)	

[1] Non productive.
[2] Well was not abandoned.
[3] Supra.
[4] Depleted.
[5] Contract terminated.
[6] Wells depleted.
[7] Leases expired.
[8] Well was shut-in.
[9] 100 pct leasehold interest in the N/2 NE/4 and SE/4 SW/4, 6.5 pct leasehold interest in the SE/4, S/2 NE/4 and NE/4 SW/4; all in sec. 9-5N-27ECM, Beaver County.
[10] Lowrey Trust Unit will no longer deliver commercial quantities of gas. The available supply of natural gas from said unit is now depleted to an extent that continuance of service is impossible.

[FR Doc.77-26226 Filed 9-9-77;8:45 am]

FOREIGN CLAIMS SETTLEMENT COMMISSION

PRIVACY ACT OF 1974

German Democratic Republic Claims Program Records System Notice

The Foreign Claims Settlement Commission (FCSC) hereby publishes for comment an additional records system designated "FCSC-32," "German Democratic Republic, Claims Against." Any person interested in commenting on this system may do so by submitting comments in writing to the Executive Director (Privacy officer), Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. 20579. Comments must be submitted on or before October 12, 1977.

Dated at Washington, D.C., on September 6, 1977.

WAYLAND D. MCCLELLAN,
General Counsel.

FCSC-32

System name:

German Democratic Republic, Claims Against FCSC-32.

System location:

Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. 20579, and General Services Administration Office, Region 3, Washington, D.C.

Categories of individuals covered by the system:

U.S. national who suffered certain property losses in the German Democratic Republic.

Categories of records in the system:

Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership and value of property; and evidence to support claim for the purpose of receiving compensation.

Authority for maintenance of the system:

Title VI, International Claims Settlement Act of 1949, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records are used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment. Names and other data furnished by claimants used for verifying citizenship status with INS. Law Enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil or criminal or regulatory in nature, and whether arising by general statute or particular program statute or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the repsonsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a Congressional staff member in response to any inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records maintained in file folders with some information transferred to magnetic tape for ease of retrieval and location.

Retrievability:

Filed numerically by claim number. Alphabetical index used for identification of claim. Information also may be retrieved by data printout.

Safeguards:

At FCSC: Building employs security guards. Records are maintained in locked room accessible only to authorized FCSC personnel. At GSA: In computer files, under control by GSA in accordance with Privacy Act of 1974.

Retention and disposal:

Records maintained under 5 U.S.C. 301. Disposal of records will be in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

System manager and address:

Executive Director, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. 20579. (Phone: 202-653-6156.)

Notification procedure:

Same as above.

Contesting record procedures:

Same as above.

Record source categories:

Claimant on whom the record is maintained.

[FR Doc.77-26385 Filed 9-9-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 1, Tuesday, September 27, 1977 from 1 p.m. to 5 p.m., Room 932, J. W. McCormack Post Office and Courthouse, Post Office Square, Boston, Mass. 02109.

The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the following project:

"Building Modernization and Additional Courtroom A/C," Federal Building and U.S. Courthouse, Providence, R.I.

The meeting will be open to the public.

ALBERT A. GAMMAL, Jr.,
Regional Administrator.

SEPTEMBER 7, 1977.

[FR Doc.77-26618 Filed 9-9-77;10:27 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 1; Tuesday, September 27, 1977 from 8:30 a.m. to noon, Room 932, J. W. McCormack Post Office and Courthouse, Post Office Square, Boston, Mass. 02109.

The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the following project:

Building Modernization, U.S. Appraisers Stores, Boston, Mass.

The meeting will be open to the public.

ALBERT A. GAMMAL, Jr.,
Regional Administrator.

SEPTEMBER 7, 1977.

[FR Doc.77-26619 Filed 9-9-77;10:27 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

1977 Report (Section I)

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of 1977 report (section I).

SUMMARY: This notice announces the availability of the 1977 report (section I) of the National Advisory Council on Adult Education. Notice of the availability of this report is required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463). The report includes:

1. A review of the Council's activities.
2. Report from the Executive Director.
3. Council studies.
(a) Futures and amendment meetings.
(b) Survey of state support of adult education.
4. Program visitations.
5. Meeting dates, sites, and content.
6. Chronology of the Adult Education Act.
7. Council membership.
8. Committee structure.

ADDRESS: Requests for the report and further information may be directed to Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th Street NW., Washington, D.C. 20004 (202-376-8892).

Signed at Washington, D.C., on September 1, 1977.

GARY A. EYRE,
Executive Director, National Advisory Council on Adult Education.

[FR Doc.77-26422 Filed 9-9-77;8:45 am]

National Institute of Education

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Meeting

The National Council on Educational Research hereby announces a time and agenda change for the meeting of September 16, 1977, at the NIE Offices (Room 823, 1200 19th Street NW., Washington, D.C.). The meeting was previously announced in the FEDERAL REGISTER on August 9, 1977.

The meeting will convene at 8:30 a.m. and adjourn at 11:30 a.m. The tentative agenda is as follows:

8:30—Convene.
8:30-8:35—Approve minutes.
8:35-8:45—Adjustments of future calendar and agendas.
8:45-9:15—Director's remarks.
9:15-10:15—Action on proposed policy for fundamental research.
10:15-10:45—Report of review and reports committee: Review and oversight function; plans for fourth annual report; implementation of resolution No. 18; policy on participation of women and minority group members in education R. & D.
10:45-11:30—Status report on FY 1978 budget, FY 1979 budget and alternatives for any necessary replanning; and initial discussion of long-range planning for FY 1980.
11:30—Adjournment.

This meeting will still be open to the public. Further information regarding the meeting and/or seating arrangements can be obtained by contacting Mrs. Ella L. Jones, Administrative Coordinator, at the address or telephone number below:

National Council on Educational Research, National Institute of Education, Washington, D.C. 20208; Telephone 202-254-7900.

Dated: September 6, 1977.

PETER H. GERBER,
Chief, Policy and Administrative Coordination, National Council on Educational Research.

[FR Doc.77-26417 Filed 9-9-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-77-796]

FEDERAL MOBILE HOME PROGRAM

Issuance of Bulletins

AGENCY: Department of Housing and Urban Development.

ACTION: Notice and index of previously issued bulletins.

SUMMARY: The Department issues various interpretations and other bulletins both by publication in the FEDERAL REGISTER and by distributing General Notices that are not published in the FEDERAL REGISTER. When these bulletins are not issued for publication in the FEDERAL REGISTER, the Department, approximately once each calendar quarter, publishes in the FEDERAL REGISTER a notice of their issuance and an index of the subjects. This is an index of all such bulletins issued since January 1, 1977.

DATES: The enforcement dates for these bulletins vary. Anyone who is interested should request a copy of the particular bulletin from the Department.

FOR FURTHER INFORMATION CONTACT:

Russell H. Dawson, Director, Mobile Home Standards Division, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4228, Washington, D.C. 20410 (202-755-5595).

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INDEX.—*The following bulletins have been issued as notices since Jan. 1, 1977*

Subject	Section(s)
A. Interpretations of the Federal Mobile Home Construction and Safety Standards, 24 CFR Pt. 280	
Interpretative bulletins:	
A-1-77.—Identification of manufacturer and State of manufacture in the mobile home serial number.	280.6.
A-2-77.—Durability of information on data plate	280.5(a).
C-1-77.—Smoke detector standard—waiver	280.208(c).
F-1-77.—Air infiltration at wall-to-wall, wall-to-ceiling, and wall-to-floor connections.	280.505(a)(2).
G-1-77.—Plastic drain line fittings	280.610(g) (2) and (3).
G-2-77.—Accessibility to plumbing fixtures	280.607(c)(1).
H-1-77.—Clothes dryer/rough-in of moisture lint exhaust duct system	280.708 (b)(3) and (e).
H-2-77.—Undercutting of bathroom doors	280.715(b) (1) and (4).
H-3-77.—Location of shutoff valves for gas appliances	280.705(i)(3).
I-1-77.—Location and type of outdoor receptacle outlet	280.806(d)(6).
I-2-77.—External heating or airconditioning wiring protection—waiver.	280.808(k).
B. Interpretations of the Mobile Home Procedural and Enforcement Regulations, 24 CFR Pt. 3282	
Enforcement interpretative bulletins:	
H-1-77.—PIA responsibility for documents required to be provided with mobile home.	3282.361 (a) and (c).
H-2-77.—PIA responsibility for application of serial No	3282.362 (e).
C. Bulletins clarifying the application of the Mobile Home Procedural and Enforcement Regulations, 24 CFR Pt. 3282	
Informational bulletins:	
1-77.—Applicability of Federal regulations to add-ons	3282.7(b), 3282.8(i).
2-77.—Labeling and assignment of serial Nos. to mobile homes damaged in transit.	3282.414(a), 3282.252(a), 3282.362(c)(2)(g).
D. Bulletins concerning the enforcement of Mobile Home Construction and Safety Standards, 24 CFR Pt. 280	
Enforcement bulletins: 77-1.—Swingting exterior passage wood doors	280.405(d)(1).

Issued at Washington, D.C., August 29, 1977.

GENO C. BARONI,
Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc.77-26276 Filed 9-9-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[SAC 079877]

CALIFORNIA

Partial Cancellation of Partial Termination of Proposed Withdrawal and Reservation of Lands, Correction

SEPTEMBER 2, 1977.

In FR Doc. No. 77-9486, appearing on page 16859 of the Wednesday issue of March 30, 1977, the tenth line of the first paragraph reading the "SE¼SE¼" is corrected to read the "SE¼SW¼".

JOAN B. RUSSELL,
Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc.77-26412 Filed 9-9-77;8:45 am]

[NM 31516]

NEW MEXICO

Application

SEPTEMBER 2, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 9 W.,
Sec. 31, lot 13;
Sec. 32, lots 2 and 3.

This pipeline will convey natural gas across 0.497 mile of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Land and Minerals Operations.

[FR Doc.77-26398 Filed 9-9-77;8:45 am]

[NM 31484, 31511, 31512 and 31514]

NEW MEXICO

Applications

SEPTEMBER 1, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for four 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 10 W.,
Sec. 22, lot 1.
T. 32 N., R. 10 W.,
Sec. 28, lot 1.
T. 32 N., R. 11 W.,
Sec. 18, SE¼NW¼.
T. 25 N., R. 12 W.,
Sec. 14, NW¼NW¼;
Sec. 15, N½N½.

These pipelines will convey natural gas across 1.667 miles of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-26413 Filed 9-9-77;8:45 am]

[ES 17763, Survey Group 101]

WISCONSIN

Filing of Plats of Survey

AUGUST 30, 1977.

On July 7, 1977, two plats of dependent resurvey and survey of omitted lands in Sections 17 and 22, T. 33 N., R. 2 E., Fourth Principal Meridian, Wis., were accepted. They will be officially filed in the Eastern States Office, Silver Spring, Md., as of 10 a.m. on October 12, 1977.

For both Sections 17 and 22, the plats represent retracements of the boundaries of the sections and reestablishment of portions of the record meander lines. In order to determine the extent of lands omitted from the original surveys, the plat of Section 17 also represents the survey of the present meander lines of Kettle Lake, and the plat of Section 22 represents the survey of the present meander lines of Kennedy Lake.

The new acreages and lottings, which are shown below, describe lands omitted from the original surveys. They encompass the areas between the reestablished original meander lines, which are now recognized as fixed boundary lines, and the present meander lines of Kettle and Kennedy Lakes. They are described as follows:

FOURTH PRINCIPAL MERIDIAN, WIS.

T. 33 N., R. 2 E.,
Sec. 17; lot 6 (22.87 acres), lot 7 (26.50 acres), lot 8 (25.79 acres);
Sec. 22; lot 7 (20.30 acres), lot 8 (41.90 acres).

The area described aggregates 137.36 acres, more or less.

Lots 6, 7, and 8, Section 17, are hilly with a large second-growth timber consisting of hemlock, ash, aspen, maple, and basswood. Birch and spruce are found in the lower and poorly drained areas. The soil is primarily gravelly clay loam in the uplands and boggy along portions of the shore of Kettle Lake.

Lots 7 and 8, Section 22, are of a rolling nature. Most of Section 22 has vegetation comprised of second growth timber consisting of ash, aspen, balsam, basswood, birch, cedar, maple, spruce, and tamarack. The soil content of Lot 7 is gravelly clay loam, while that of Lot 8 is muskeg.

Lots 6, 7, and 8, Section 17, and Lot 7, Section 22, were determined to be over 50 percent upland in character within the meaning of the Swamplands Act of September 28, 1850. They are, therefore, held to be public land.

For a period of 90 days from October 12, 1977, claimants under the Act of February 27, 1925 (43 Stat. 1013; 43 U.S.C. 994), have a preferred right of application to Lots 6, 7, and 8, Section 17, and Lot 7, Section 22. Claimants under the Act of August 24, 1954 (68 Stat. 789; 43 U.S.C. 1221-1223) have one year from October 12, 1977, to apply for the subject lots. Except for valid existing rights, these lots will not be subject to application, petition, selection, or to any other type of appropriation under any other public land laws, including the mining and mineral leasing laws, until a further order is issued.

Lot 8, Section 22, has been determined to be more than 50 percent swamp in character within the purview of the Swamplands Act of September 28, 1850. Title to this lot inured to the State of Wisconsin as of that date. Therefore, Lot 8 is open only to selection by the State under that Act.

All inquiries relating to these lands should be sent to the Director, Eastern States, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Md. 20910.

LOWELL J. UDY,
Director, Eastern States.

[FR Doc.77-26399 Filed 9-9-77;8:45 am]

Geological Survey

COAL LAND CLASSIFICATION ORDER UTAH NO. 120

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

SALT LAKE MERIDIAN, UTAH

COAL LANDS

T. 33 S., R. 1 E., unsurveyed,
Sec. 22;
Sec. 23, W½, SE¼;
Sec. 25, W½, SE¼;
Secs. 26 and 27;
Sec. 28, E½;
Secs. 33 to 36, inclusive.
T. 33 S., R. 2 E., unsurveyed,
Sec. 31, W½, SE¼.
T. 34 S., R. 1 E., unsurveyed,
Secs. 1 to 4, inclusive;
Sec. 5, E½E½;
Sec. 8, NE¼, E½NW¼, SW¼NW¼, S½;
Secs. 9 to 17, inclusive;
Sec. 18, E½NE¼, SW¼NE¼, SE¼NW¼, S½;
Secs. 19 to 34, inclusive;
Sec. 35, N½, SW¼;
HES. 58, 107, 113, 122, and 170.

COAL LAND CLASSIFICATION ORDER UTAH NO. 120

T. 34 S., R. 2 E., unsurveyed,
Sec. 5, SW¼;
Secs. 6 and 7;
Sec. 8, W½, SE¼;
Sec. 9, SW¼;
Sec. 16, S½NE¼, W½, N½SE¼;
Secs. 17 and 18;
Sec. 19, N½, SE¼;
Sec. 20;
Sec. 21, W½;
Sec. 28, N½NW¼;
Sec. 29, N½NE¼, NW¼.
T. 35 S., R. 2 W., partly unsurveyed,
Secs. 9 to 11, inclusive;
Sec. 12, lot 3;
Sec. 13, lots 2 to 4, inclusive, W½NW¼, N½SW¼, N½NW¼SW¼SW¼, NE¼SW¼SW¼, SE¼SW¼;
Secs. 14 to 16, inclusive;
Secs. 21 to 23, inclusive;
Sec. 24, lots 1 to 4, inclusive, SW¼, W½SE¼;
Sec. 25, W½NE¼, W½, W½SE¼, SE¼SE¼;
Secs. 26 to 29, inclusive;
Secs. 32 to 36, inclusive;
HES. 85 in secs. 10 and 11, HES. 89 in sec. 11, HES. 91, HES. 111 in sec. 11 and that part in W½SW¼ of sec. 12, HES. 112, and HES. 134 in sec. 10.
T. 35 S., R. 1 E.,
Sec. 2, lots 3 and 4, SW¼NW¼;
Secs. 3 to 5, inclusive;
Sec. 6, lots 1 to 3, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, NE¼, E½SE¼;
Secs. 8 to 10, inclusive;
Sec. 11, S½NE¼, NW¼NW¼, S½NW¼, S½;
Sec. 12, S½N½, S½;
Sec. 13, N½N½;
Sec. 14, N½, N½S½;
Sec. 15, N½, N½SW¼, SW¼SW¼, N½SE¼;
Secs. 16 and 17;
Sec. 20, NE¼, E½NW¼, N½SE¼, SE¼SE¼;
Sec. 21;
Sec. 22, W½W½;
Sec. 27, lot 4, W½NW¼, NW¼SW¼;
Sec. 28;
Sec. 29, E½NE¼, NE¼SE¼;
Sec. 33;
Sec. 34, W½NW¼, SW¼, W½SE¼, SE¼SE¼;
HES. 58 in secs. 4 and 5, and HES. 90.
T. 35 S., R. 2 E.,
Sec. 15, SW¼SW¼;
Sec. 16, SE¼SW¼, S½SE¼;
Sec. 20, SE¼NE¼, SE¼;
Secs. 21 and 22;
Sec. 23, SW¼SW¼;
Sec. 25, W½SW¼;
Sec. 26, S½NE¼, W½, SE¼;
Secs. 27 and 28;
Sec. 29, E½, E½W½;
Sec. 31, E½, E½W½;
Secs. 32 to 35, inclusive;
Sec. 36, S½NE¼, W½, SE¼.
T. 36 S., R. 3 W., partly unsurveyed,
Sec. 1;
Sec. 2, lots 1, 2, and 5 to 9, inclusive, SE¼NE¼, SE¼NW¼, NE¼SW¼;
Sec. 11, lots 1 to 4 inclusive, E½E½;
Sec. 12, N½NE¼, SW¼NE¼, W½, SW¼SE¼;
Sec. 13, W½NE¼, NW¼, W½SE¼;
Sec. 14, lots 1 and 2, SW¼NE¼.
T. 36 S., R. 2 W., partly surveyed,
Secs. 1 to 6, inclusive;
Sec. 7, W½NE¼, NW¼;
Sec. 8, NE¼, N½NW¼;
Secs. 9 to 14, inclusive;
Sec. 15, N½, N½SW¼, SE¼;
Sec. 16, N½NE¼, SE¼NE¼, NE¼NW¼, NE¼SE¼;
Sec. 22, NE¼;
Secs. 23 to 25, inclusive;
Sec. 26, lots 1 and 2, S½NE¼, SE¼NW¼, S½;
Sec. 35, N½NE¼, SW¼NE¼;
Sec. 36, NE¼, N½SE¼.
T. 36 S., R. 1 W., partly surveyed,
Sec. 5, SW¼SW¼;
Sec. 6, W½, SE¼;
Sec. 7;
Sec. 8, W½NW¼;
Sec. 17, W½, S½SE¼;
Secs. 18 to 20, inclusive;
Sec. 21, S½NE¼, W½, SE¼;
Sec. 22, SW¼, S½SE¼;
Sec. 25, W½SW¼;
Sec. 26, W½NE¼, W½, SE¼;
Secs. 27 to 35, inclusive;
Sec. 36, W½W½.
T. 36 S., R. 1 E., partly surveyed,
Sec. 1, E½, SE¼SW¼;
Sec. 2, W½SW¼;
Sec. 3;
Sec. 4, lots 1 to 3, inclusive, S½NE¼, SE¼NW¼, NE¼SW¼, SE¼;
Sec. 9, N½NE¼, SE¼NE¼, NE¼SE¼;
Sec. 10;
Sec. 11, W½W½;
Sec. 12, NE¼, NE¼NW¼, S½SW¼, SE¼;
Sec. 13, N½, SW¼, N¼SE¼;
Sec. 14, NW¼NW¼, S½N½, S½;
Sec. 15, E½, E½W½;
Sec. 22, NE¼, NE¼NW¼, E½SE¼;
Sec. 23;
Sec. 24, N½NW¼, SW¼NW¼, NW¼SW¼;
Secs. 25 and 26;
Sec. 27, E½NE¼, NE¼SE¼;
Sec. 35, E½, E½W½, NW¼NW¼;
Sec. 36;
HES. 183, 198, and HES. 184 in W½NW¼ sec. 15.
T. 37 S., R. 1 W., partly surveyed,
Sec. 1, W½NW¼, SW¼;
Secs. 2 to 5, inclusive;
Sec. 6, N½, SE¼;
Sec. 8, N½, N½SW¼, SE¼;
Secs. 9 to 11, inclusive;
Sec. 12, W½, W½SE¼;
Secs. 13 to 16, inclusive;
Sec. 17, NE¼, S½;
Sec. 20, NE¼, E½NW¼, SE¼;
Secs. 21 to 28, inclusive;
Sec. 29, N½NE¼, SE¼NE¼;
Sec. 33, NE¼, NE¼NW¼, N½SE¼, SE¼SE¼;
Secs. 34 to 36, inclusive.
T. 37 S., R. 1 E.,
Sec. 1;
Sec. 2, lots 1 to 3, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 11, E½, E½W½;
Secs. 12 and 13;
Sec. 14, E½, NE¼NW¼;
Sec. 18, lots 2 to 4, inclusive;
Sec. 19;
Sec. 23, E½NE¼, SE¼;
Secs. 24 and 25;
Sec. 26, SW¼, W½SE¼;
Sec. 27, S½SE¼;
Secs. 30 and 31;
Sec. 34, E½;
Secs. 35 and 36.

V 42 I 176 SEP 12 77 S UMI

T. 37 S., R. 4 E., partly unsurveyed,
Sec. 19, S½;
Secs. 30 and 31;
Sec. 32, W½.
T. 38 S., R. 1 W.,
Sec. 1, lots 1 to 4, inclusive, S½N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 2;
Sec. 3, lots 1 to 4, inclusive, S½N½, E½SW¼, SE¼;
Sec. 10, N½NE¼, SE¼NE¼, NE¼NW¼;
Sec. 11, N½N½, SW¼NW¼;
Sec. 12, NW¼NW¼.
T. 38 S., R. 1 E., partly surveyed,
Secs. 1 and 2;
Sec. 5, W½;
Sec. 6;
Sec. 7, N½N½;
Sec. 8, N½NW¼;
Secs. 11 to 14, inclusive;
Sec. 23, E½;
Secs. 24 and 25;
Sec. 36, E½.
T. 38 S., R. 2 E., partly surveyed.
T. 38 S., R. 3 E.
T. 38 S., R. 4 E.,
Sec. 4, S½;
Secs. 5 to 9, inclusive;
Sec. 15, SW¼;
Secs. 16 to 22, inclusive;
Sec. 23, S½;
Sec. 25, W½, SE¼;
Secs. 26 to 36, inclusive.
T. 38 S., R. 5 E.,
Sec. 31, lots 3 and 4, E½SW¼.
T. 39 S., R. 1 E., partly surveyed,
Sec. 1, lots 1 and 2, S½NE¼, SE¼;
Sec. 5, lots 1 and 2, S½NE¼, SE¼.
T. 39 S., R. 2 E., partly surveyed,
Secs. 1 to 18, inclusive;
Sec. 19, E½;
Secs. 20 to 29, inclusive;
Sec. 30, E½;
Sec. 31, E½;
Secs. 32 to 36, inclusive.
T. 39 S., R. 3 E.
T. 39 S., R. 4 E.
T. 39 S., R. 5 E.,
Sec. 5, S½SW¼;
Secs. 6 and 7;
Sec. 8, W½, SE¼;
Sec. 9, S½;
Sec. 15, W½;
Secs. 16 to 22, inclusive;
Sec. 23, SW¼;
Sec. 26, W½, SE¼;
Secs. 27 to 35, inclusive;
Sec. 36, W½, SE¼.
T. 40 S., R. 2 E., partly surveyed,
Secs. 1 to 5, inclusive;
Sec. 6, E½;
Sec. 7, E½;
Secs. 8 to 17, inclusive;
Sec. 18, E½;
Secs. 20 to 29, inclusive;
Sec. 32, E½;
Secs. 33 to 36, inclusive.
T. 40 S., R. 3 E.
T. 40 S., R. 4 E., partly surveyed.
T. 40 S., R. 5 E.,
Secs. 1 to 23, inclusive;
Sec. 24, N½, SW¼;
Sec. 25, N½NW¼, SW¼NW¼, W½SW¼;
Secs. 26 to 33, inclusive;
Sec. 34, W½.
T. 40 S., R. 6 E., partly surveyed,
Sec. 7, W½;
Sec. 18, W½;
Sec. 19, NW¼.
T. 41 S., R. 2 E., partly surveyed,
Secs. 1 to 4, inclusive;
Sec. 9, E½;
Secs. 10 to 12, inclusive;
Sec. 13, N½N½;
Sec. 14, N½N½;
Sec. 15, N½N½.
T. 41 S., R. 3 E.,
Secs. 1 to 12, inclusive;
Sec. 13, N½N½;
Sec. 14, N½N½;
Sec. 15, N½N½;
Sec. 16, N½N½;
Sec. 17, N½N½;
Sec. 18, N½N½.
T. 41 S., R. 4 E., partly surveyed,
Secs. 1 to 12, inclusive.
T. 41 S., R. 5 E., partly surveyed,
Sec. 3, W½NE¼, W½, W½SE¼;
Secs. 4 to 10, inclusive;
Sec. 11, W½SW¼.

The area described aggregates 389,851 acres, more or less, of which all is classified coal.

Dated: September 2, 1977.

W. A. RADLINSKI,
Acting Director.

[FR Doc.77-26400 Filed 9-9-77;8:45 am]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE ADVISORY COMMITTEE

Meeting

Notice is hereby given that the Advisory Committee of the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, will meet on October 6, 1977, from 9 a.m. to 5 p.m. at the Hospitality House Motor Inn, U.S. 1, Jefferson Davis Highway, Arlington, Va., and on October 7, 1977, from 9 a.m. to 12 p.m. at the National Academy of Sciences, 2101 Constitution Avenue NW., Washington, D.C.

The major topics of discussion on October 6, 1977, will concern long term and program planning activities of the Institute, and the activities of the Institute's Office of Technology Transfer. The major agenda item on October 7 will be a discussion of the Report of the Committee on Research on Law Enforcement and Criminal Justice of the National Academy of Sciences.

Both meetings are open to the public.

For further information, please contact Blair G. Ewing, National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, 633 Indiana Avenue NW., Washington, D.C. 20531 (202-376-3606).

JAY BROZOST,
Attorney-Advisor,
Office of General Counsel.

[FR Doc.77-26403 Filed 9-9-77;8:45 am]

NATIONAL MINORITY ADVISORY COUNCIL ON CRIMINAL JUSTICE

Meeting

This is to provide notice of meeting of the National Minority Advisory Council on Criminal Justice (NMACCJ).

The National Minority Advisory Council will meet on September 23 and 24, 1977. The meeting will be held at the Law Enforcement Assistance Administration, 13th Floor Conference Room, 633 Indiana Avenue NW., Washington, D.C. The meeting is scheduled to run from 12:00 noon on Friday the 23d and from 10:00 a.m. until 5:00 p.m. on Saturday the 24th. The Friday session will be utilized as a quarterly meeting; dealing with Council business only and the Saturday session will be a public hearing with discussion centering on the methodology to be utilized in accomplishing the national needs assessment of minorities and their relationship with the criminal justice system.

Anyone wishing to provide the Council with information or to participate as an observer should contact Mr. Lewis W. Taylor, Special Assistant to the Administrator for Minorities and Women, 633 Indiana Avenue NW., Washington, D.C. 20531, telephone No. 202-376-3936.

JAY A. BROZOST,
Attorney-Advisor,
Office of General Counsel.

[FR Doc.77-26401 Filed 9-9-77;8:45 am]

NATIONAL MINORITY ADVISORY COUNCIL ON CRIMINAL JUSTICE

Meeting

This is to provide notice of meeting of the National Minority Advisory Council on Criminal Justice (NMACCJ).

The National Minority Advisory Council will meet on September 21 and 22, 1977. The meeting will be held at the Hyatt Regency-Chicago, 151 East Wacker Drive, Chicago, Ill. 60601. The meeting is scheduled to run from 6:00 p.m. until 10:00 p.m. on Wednesday the 21st and from 9:00 a.m. until 5:00 p.m. on Thursday the 22d. The meeting will be a public hearing and discussion will center on the methodology to be utilized in accomplishing the national needs assessment of minorities and their relationship with the criminal justice system.

Anyone wishing to provide the Council with information or to participate as an observer should contact Mr. Lewis Taylor, Special Assistant to the Administrator for Minorities and Women, 633 Indiana Avenue NW., Washington, D.C. 20531, telephone No.: 202-376-3936.

JAY A. BROZOST,
Attorney-Advisor,
Office of General Counsel.

[FR Doc.77-26402 Filed 9-9-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP NO. 5 OF THE SUBCOMMITTEE ON REACTOR SAFETY RESEARCH

Change of Time

The September 20, 1977 meeting of Working Group No. 5 of the ACRS Subcommittee on Reactor Safety Research has been rescheduled to start at 10 a.m. instead of 8:30 a.m. as announced in the

FEDERAL REGISTER on September 1, 1977, page 44042.

All other matters pertaining to this meeting remain the same.

Dated: September 6, 1977.

JOHN C. HOYLE,
Advisory Committee
Management Officer.

[FR Doc.77-26379 Filed 9-9-77;8:45 am]

[Docket No. 50-309]

MAINE YANKEE ATOMIC POWER CO., MAINE YANKEE ATOMIC POWER STATION

Order for Modification of License

I

The Maine Yankee Atomic Power Co. (the licensee) is the holder of Facility Operating License No. DPR-36 which authorizes the operation of a nuclear power reactor known as Maine Yankee Atomic Power Station (the facility) at steady state reactor power levels not in excess of 2,440 megawatts thermal (rated power). The facility is a pressurized water reactor (PWR) located at the licensee's site in Lincoln County, Maine.

II

The licensee submitted an Emergency Core Cooling System (ECCS) performance analysis on January 12, 1977, as part of the Cycle 3 reload application. The analysis included a spectrum of seven large breaks performed for the low density fuel operating at a peak linear heat generation rate (PLHGR) of 12.8 kw/ft and eight large breaks for the high density fuel at 16.5 kw/ft. To conservatively account for the fact that the operating coolant inlet temperature is lower than that assumed in the analysis, the Technical Specifications issued May 27, 1977, for the facility limited the PLHGR to 12.4 kw/ft for low density fuel and 16.3 kw/ft for high density fuel.

The ECCS performance evaluation submitted by the licensee was based upon a previously approved ECCS evaluation model developed by Combustion Engineering, Inc. (CE), the designer of the facility, to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50, § 50.46, and Appendix K. The evaluation indicated that with peak linear heat generation rate limited as set forth above, and with the other limits set forth in the facility's Technical Specifications, the ECCS cooling performance for the facility would conform to the criteria contained in 10 CFR § 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry, and long term cooling.

The licensee referenced an October 1, 1974, analysis and a generic analysis by CE, CENPD-137, that demonstrated that smaller breaks are not limiting, and therefore the licensee did not reanalyze the small breaks. The small break analysis assumed that the initial PLHGR was 13.43 kw/ft for break areas of 0.1 and 0.5 ft² and 13.14 kw/ft for a break area of 1.0 ft².

In light of the recent action taken by the Commission with regard to the Millstone Nuclear Power Station Unit No. 2 (42 FR 39511, dated August 4, 1977), concerning that facility's small break loss of coolant accident (LOCA) analysis, the NRC staff has instructed the licensee to provide a revised LOCA analysis for the high density fuel at the cycle 3 PLHGR for a spectrum of small breaks. The licensee has stated that a preliminary evaluation by CE indicates that the peak clad temperature for a break area of 0.1 ft² will be increased about 130° F for the increase in PLHGR of about 3 kw/ft. This results in a peak clad temperature which is below 1,200° F. Based on the results of this evaluation, the staff expects that when final revised calculations for the facility are submitted using the revised plant specific model input data they will demonstrate that operation with a peak linear heat generation rate of 16.3 kw/ft will fully conform to the criteria of 10 CFR § 50.46 (b) and remain non-limiting. Such revised calculations, fully conforming to the requirements of 10 CFR § 50.46, are to be provided for the facility as soon as possible.

Upon notification by the NRC staff on July 21, 1977, the licensee promptly confirmed the conservatism of existing operating limits for the facility and committed by letter dated July 25, 1977, to provide a reanalysis of the small breaks at the increased PLHGR. The NRC staff believes that the licensee's action, under the circumstances, is appropriate and that this action should be confirmed by NRC Order.

Copies of the following documents are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and are being placed in the Commission's Local Public Document Room, the Wiscasset Public Library Association, High Street, Wiscasset, Maine: (1) Letter dated July 25, 1977, from Maine Yankee Atomic Power Co. to the Office of Nuclear Reactor Regulation, and (2) This Order for Modification of License, In the Matter of Maine Yankee Atomic Power Co. (Maine Yankee Atomic Power Station), Docket No. 50-309.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, *It is ordered*, That Facility Operating License No. DPR-36 is hereby amended by adding the following new provision:

As soon as practicable, but no later than October 31, 1977, the licensee shall submit a reevaluation of ECCS cooling performance calculated in accordance with Combustion Engineering Co.'s Evaluation Model approved by the NRC staff encompassing the peak linear heat generation rate described herein.

Dated In Bethesda, Md., this 29th day of August 1977.

For the Nuclear Regulatory Commission.

EDSON G. CASE,
Acting Director, Office of
Nuclear Reactor Regulation.

[FR Doc.77-26384 Filed 9-9-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 4.11, Revision 1, "Terrestrial Environmental Studies for Nuclear Power Stations," provides technical information for the design and execution of terrestrial environmental studies for nuclear power stations. The information resulting from these studies will be appropriate for inclusion in an applicant's environmental report, thereby reducing the time required to prepare and review individual license applications. This guide was revised to reflect public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 1st day of September 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of
Standards Development.

[FR Doc.77-26383 Filed 9-9-77;8:45 am]

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[Docket No. STN 50-485]

ROCHESTER GAS & ELECTRIC CORP., ET AL.

Issuance of Construction Permit

Notice is hereby given that, pursuant to the Initial Decision of the Atomic Safety and Licensing Board, dated August 26, 1977, the Nuclear Regulatory Commission (the Commission) has issued Construction Permit No. CPPR-156 to the Rochester Gas & Electric Corp., Orange & Rockland Utilities, Inc., Central Hudson Gas & Electric Corp., and Niagara Mohawk Power Corp. for construction of a pressuried water nuclear reactor at the applicants' site in Cayuga County, N.Y. The proposed reactor, known as the Sterling Power Project Nuclear Unit No. 1 is designed for a rated power of 3,411 megawatts thermal with a net electric output of 1,150 megawatts.

The Initial Decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Decision may be reviewed by the Commission.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the construction permit. The application for the construction permit complies with the standards and requirements of the Act and the Commission's rules and regulations.

The construction permit is effective as of its date of issuance. The earliest date for the completion of the facility is April 1, 1984, and the latest date for completion is April 1, 1986. The permit shall expire on the latest date for completion of the facility.

A copy of (1) the Initial Decision, dated August 26, 1977; (2) Construction Permit No. CPPR-156; (3) the report of the Advisory Committee on Reactor Safeguards, dated October 16, 1975; (4) the Office of Nuclear Reactor Regulation's Safety Evaluation, dated September 5, 1975, and Supplement Nos. 1 and 2 thereto, dated April 14, 1976, and December 1, 1976, respectively; (5) the Preliminary Safety Analysis Report and amendments thereto; (6) the applicants' Environmental Report, dated December 16, 1974, and supplements thereto; (7) the Draft Environmental Statement, dated December 1975; and (8) the Final Environmental Statement, dated June 1976, are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555, and at the Oswego City Library, 120 Second Street, Oswego, N.Y. 13126. A copy of the construction permit may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Copies of the Safety Evaluation (Document No. NUREG-75/082) and its supplements (Document Nos. NUREG-76/0052 for Supplement No. 1 and NUREG-0052 for Supplement No. 2) and the Final Environmental Statement (Document No. NUREG-0075), may be purchased at current rates from the National Technical Information Service, Springfield, Va. 22161.

Dated at Bethesda, Md., this 1st day of September, 1977.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc.77-26380 Filed 9-9-77;8:45 am]

[Dockets Nos. 50-266 and 50-301]

WISCONSIN ELECTRIC POWER CO., AND WISCONSIN MICHIGAN POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 26 and 31 to Facility Operating Licenses Nos. DPR-24 and DPR-27 issued to Wisconsin Electric Power Co. and Wisconsin Michigan Power Co., which revised Technical Specifications for operation of the Point Beach Nuclear Plant Units Nos. 1 and 2, located in the town of Two Creeks, Manitowoc County, Wis. The amendments are effective as of the date of issuance.

These amendments consist of changes to the Technical Specifications that will (1) allow one of the operable auxiliary feedwater pumps to be out of service provided a pump is restored to operable status within 24 hours; (2) revise the wording of the basis for Specification 15.3.7; (3) correct the peak clad temperature noted in the basis of Specification 15.3.10; (4) provide for the use of an optional gamma isotopic analysis of secondary coolant samples in place of a gross beta-gamma activity analysis; (5) involve the necessary approvals for temporary changes to procedures; and (6) revise Section 16.6 of Appendix B.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendment dated May 31, 1977, (2) Amendment No. 26 to License No. DPR-24, (3) Amendment No. 31 to License No. DPR-27, and (4) the Commission's related Safety Evaluaion. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the University of Wisconsin—Stevens Point Library, Attn: Mr. Arthur M. Fish, Stevens Point, Wis. 54481. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md. this 1st day of September 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-26201 Filed 9-9-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON THE FLOATING NUCLEAR PLANT

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Subcommittee on the Floating Nuclear Plant will hold an open meeting on September 29, 1977, at the Sheraton Inn, 3535 Quebec Street, Denver, Colo. 80207. The purpose of this meeting is to continue its review of the generic liquid pathway study. The Offshore Power System (OPS) Liquid Pathway Generic Study, Topical Report No. 22A60, dated June 1977, will be the major topic of discussion at this meeting.

The agenda for subject meeting shall be as follows:

THURSDAY, SEPTEMBER 29, 1977

8:30 A.M UNTIL CONCLUSION OF BUSINESS

The Subcommittee, with any of its consultants who may be present, will meet in Executive Session to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will meet to hear presentations by representatives of the NRC Staff, the Offshore Power Systems, and their consultants, and will hold discussions with these groups pertinent to the review.

At the conclusion of these sessions, the Subcommittee may caucaus to determine whether the matters identified in the initial session have been adequately covered.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 copies to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy to Mr. Gary R. Quittschreiber, ACRS, NRC, Washington, D.C. 20555. Comments postmarked no later than September 22, 1977, will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in OPS Topical Report No. 22A60 available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555; at the Jacksonville Public Library, 122 North Ocean Street, Jacksonville, Fla. 32204; at the New Orleans Public Library, Business and Science Division, 219 Loyola Avenue, New Orleans, La. 70240; and at the Stockton State College Library, Pomona, N.J. 08240.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on September 28, 1977, to the Office of the Executive Director of the Committee, telephone 202-634-1374, Atten.: Mr. Gary R. Quittschreiber, between 8:15 a.m. and 5 p.m., e.d.t.

(d) Questions may be asked only by members of the Subcommittee, its consultants, and the Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc., being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript and a copy of the minutes of the meeting will be available for inspection on or after October 6 and December 29, 1977, respectively, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555; at the Jacksonville Public Library, 122 North Ocean Street, Jacksonville, Fla. 32204; at the New Orleans Public Library, Business and Science Division, 219 Loyola Avenue, New Orleans, La. 70140; and at the Stockton State College Library, Pomona, N.J. 08240.

Copies may be obtained upon payment of appropriate charges.

Dated: September 7, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc 77-26516 Filed 9-9-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, WORKING GROUP NO. 4 OF THE SUBCOMMITTEE ON REACTOR SAFETY RESEARCH

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), Working Group No. 4 of the ACRS Subcommittee on Reactor Safety Research will hold a meeting on September 28-29, 1977 in Room 1046, 1717 H Street NW., Washington, D.C. 20555. The purpose of this meeting is to review the NRC sponsored research on advanced reactor technology.

The agenda for the subject meeting shall be as follows:

WEDNESDAY, SEPTEMBER 28, AND THURSDAY, SEPTEMBER 29, 1977

8:30 A.M. UNTIL CONCLUSION OF BUSINESS EACH DAY

The Working Group may meet in open Executive Session, with any of its consultants who may be present, to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Working Group will meet in open session to hear presentations by and to hold discussions with representatives of the NRC Staff, their consultants, and with representatives of other organizations participating in research on advanced reactor technology.

At the conclusion of these sessions, the Working Group may caucus in an open session to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Working Group to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Committe's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy adressed to Dr. Richard P. Savio, ACRS, NRC, Washington, D.C. 20555. Comments postmarked no

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later than September 21, 1977, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the beginning of the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on September 27, 1977, to the Office of the Executive Director of the Committee, telephone 202–634–1394, Attn.: Dr. Richard P. Savio, between 8:15 a.m. and 5 p.m. e.d.t.

(d) Questions may be asked only by members of the Working Group, its consultants, and the Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc., being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. John C. McKinley, of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after October 6, and December 29, 1977, respectively, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: September 7, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-26517 Filed 9-9-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, WORKING GROUP NO. 2 OF THE SUBCOMMITTEE ON REACTOR SAFETY RESEARCH AND THE REACTOR FUEL SUBCOMMITTEE

Meeting Change

The location of the two-day meeting of Working Group No. 2 of the Reactor Safety Research Subcommittee and the Reactor Fuel Subcommittee has been changed as follows:

September 22, 1977: The meeting will be held at the Le Baron Hotel, 1350 North First Street, San Jose, Calif. 95112.

September 23, 1977: The meeting will be held at the Electric Power Research Institute, 3460 West Bayshore Drive, Palo Alto, Calif. 94303.

The agenda for both days remains the same as announced in the FEDERAL REGISTER on September 1, 1977, page 44041.

All other matters pertaining to this meeting also remain the same.

Dated: September 8, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-26608 Filed 9-9-77;9:43 am]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

EARTHQUAKE HAZARDS REDUCTION ADVISORY GROUP

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the Office of Science and Technology Policy announces the following meeting:

NAME: Earthquake Hazards Reduction Advisory Group.

DATE: September 28, 1977.

TIME: 9 a.m to 4 p.m

PLACE: Room 3104, New Executive Office Building, 17th and Pennsylvania Avenue NW., Washington, D.C.

TYPE OF MEETING: Open.

CONTACT PERSON:

Mr. William Montgomery, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500, telephone 202–395–4692.

SUMMARY MINUTES: May be obtained from the Office of Science and Technology Policy, Washington, D.C. 20500.

PURPOSE OF ADVISORY COMMITTEE: The Office of Science and Technology Policy, in accordance with the statutory mandate to analyze and interpret significant developments and trends in science and technology and relate these to their impact on the achievement of national goals and objectives, is reviewing the activities and plans appropriate to the Federal, State, local governmental units, and the private sector for the implementation of actions derived from a comprehensive program of research in earthquake prediction, earthquake hazards assessment and earthquake disaster mitigation.

AGENDA: 9 a.m. to 4 p.m.—a discussion of draft materials prepared as part of the policy review process for the President.

WILLIAM MONTGOMERY,
Executive Officer.

[FR Doc.77-26493 Filed 9-9-77;8:45 am]

WORKING GROUP ON BASIC RESEARCH IN THE DEPARTMENT OF DEFENSE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the Office of Science and Technology Policy announces the following meeting:

NAME: Working Group on Basic Research in the Department of Defense.

DATE: December 5 and 6, 1977.

TIME: 9 a.m. to 4 p.m.

PLACE: Room 3104, New Executive Office Building, 17th and Pennsylvania Avenue NW., Washington, D.C. 20500.

TYPE OF MEETING: Open.

CONTACT PERSON:

Dr. William P. Raney, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500, telephone 202–395–3934.

SUMMARY MINUTES: May be obtained from the Office of Science and Technology Policy, Washington, D.C. 20500.

PURPOSE OF ADVISORY COMMITTEE: The Office of Science and Technology Policy is conducting a study which will lead to the formulation of policy governing the performance of basic research by or for the mission agencies. Under the guidance of the Steering Committee on Basic Research in the DOD is to examine the policies and procedures and research programs of that agency for adequacy and balance between near-term and long-term technical objectives.

AGENDA: 9 a.m. to 4 p.m. Planning meeting to discuss detailed objectives of the study, methods of approach, and work schedule and assignments.

WILLIAM MONTGOMERY,
Executive Officer.

[FR Doc.77-26494 Filed 9-9-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIRPORTS DISTRICT OFFICE AT DENVER, COLO.

Closing

Notice is hereby given that on or about September 16, 1977, the Airports District Office at Denver, Colo., will be closed. Service to the aviation public of Colorado and Wyoming, formerly provided by the office will be provided by the Regional Office in Aurora, Colo. This information will be reflected in the FAA Organization Statement the next time it is reissued.

Issued in Aurora, Colo., on August 30, 1977.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.77-26378 Filed 9-9-77;8:45 am]

AIRPORTS DISTRICT OFFICE AT PIERRE, S. DAK.

Closing

Notice is hereby given that on or about September 16, 1977, the Airports District Office at Pierre, S. Dak., will be closed. Service to the aviation public of South Dakota, formerly provided by this office, will be provided by the Regional Office in Aurora, Colo. This information will be reflected in the FAA Organization Statement the next time it is reissued.

Issued in Aurora, Colo., on August 30, 1977.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.77-26376 Filed 9-9-77;8:45 am]

AIRPORTS DISTRICT OFFICE AT SALT LAKE CITY, UTAH

Closing

Notice is hereby given that on or about September 16, 1977, the Airports District Office at Salt Lake City, Utah, will be closed. Service to the aviation public of Utah, formerly provided by this office, will be provided by the Regional Office in Aurora, Colo. This information will be reflected in the FAA Organization Statement the next time it is reissued.

Issued in Aurora, Colo., on August 30, 1977.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.77-26377 Filed 9-9-77;8:45 am]

Federal Railroad Administration

[FRA Waiver Petition No. HS–77–13]

GOODWIN RAILROAD CO.

Petition for Exemption From the Hours of Service Act

The Goodwin Railroad has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, as amended, 45 U.S.C. 61–64(b).

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS–77–13, Room 5101, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before October 15, 1977, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

Issued in Washington, D.C., on September 1, 1977.

ROBERT H. WRIGHT,
Acting Chairman, Railroad Safety Board.

[FR Doc.77-26420 Filed 9-9-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[TMK-2-R:E:R]

BOHN REX–ROTARY

Application for Recordation of Trade Name

Application has been filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), for recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name Bohn Rex-Rotary used by Bohn Rex-Rotary Division of Sheller-Globe Corp., a corporation organized under the laws of the State of Ohio, located at 1505 Jefferson Avenue, P.O. Box 962, Toledo, Ohio 43697.

The application states that the trade name is applied to mimeostencil duplicators, electrostatic copiers, offset duplicators, electrostatic and aluminum offset plate makers, electric stencil cutters for mimeo duplicators and spirit duplicators, manufactured in Denmark. The application states further that no foreign person, partnership, association or corporation is authorized to use the trade name sought to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received not later than October 12, 1977.

Notice of the action taken on the application for recordation of the trade name will be published in the FEDERAL REGISTER.

DONALD W. LEWIS,
Acting Assistant Commissioner, Regulations and Rulings.

SEPTEMBER 6, 1977.

[FR Doc.77-26421 Filed 9-9-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 478]

ASSIGNMENT OF HEARINGS

SEPTEMBER 7, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancelation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 15651 (Sub-No. 29), Kaney Transportation, Inc., now being assigned November 29, 1977 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 107515 (Sub-No. 1064), Refrigerated Transport Co., Inc., now being assigned December 1, 1977 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 140134 (Sub-No. 7), Caldarulo Trading Co., Inc., now being assigned December 5, 1977 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 106674 (Sub-No. 226), Schilli Motor Lines, Inc., now being assigned December 7, 1977 (3 days), at Chicago, Ill., in a hearing room to be later designated.

MC 135236 (Sub-No. 17), Logan Trucking, Inc., now assigned October 3, 1977, at New York, N.Y., is postponed indefinitely.

MC 113651 (Sub-No. 217), Indiana Refrigerator Lines, Inc., now assigned October 18, 1977, at New York, N.Y., is postponed indefinitely.

MC 133095 (Sub 130), Texas-Continental Express, Inc., now assigned September 12, 1977, at Dallas, Tex., is cancelled, application dismissed.

MC 143305 John H. Schuffer and Robert W. Hanna, d.b.a. John & Bob's Auto Service, now being assigned October 18, 1977 (2 days), at New York, N.Y., in a hearing room to be later designated.

MO 140054 (Sub-No. 1), Z & S Construction Co., Inc., now assigned September 12, 1977, at Denver, Colo., is canceled and application dismissed.

MC–C–9754, *Carolina Coach Co., Inc.* v. *Hopkins Motor Coach, Inc.*, now being assigned November 15, 1977 (3 days), at Salisbury, Md., in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-26496 Filed 9-9-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 7, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice

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(49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43428—*Joint Rail-Water Container Rates—Baltic Shipping Co.* Filed by Baltic Shipping Co., (No. 105), for itself and interested rail carriers. Rates on general commodities, betwen railroad terminals at U.S. Pacific Coast ports, and ports in Continental Europe, United Kingdom, Black Sea, Scandinavia, Denmark, the U.S.S.R., and the Middle East (Westbound only).

Grounds for relief—Water competition.

Tariffs—Baltic Shipping Co. tariffs Nos. 4, 5, and 6, I.C.C. Nos. 4, 5, and 6, F.M.C. Nos. 34, 33, and 38, respectively. Rates are published to become effective on October 2, 1977.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 77-26498 Filed 9-9-77; 8:45 am]

[Notice No. 111TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 5, 1977.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 41404 (Sub-No. 129TA), filed August 12, 1977. Applicant: ARGO-COLLIER TRUCK LINES CORP., P.O. Box 440, Fulton Highway, Martin, Tenn. 38237. Applicant's representative: Mark L. Horne, P.O. Box 440, Fulton Highway, Martin, Tenn. 38237. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food products, and food ingredients* (except oleomargarine, shortening, and salad oils, and commodities in bulk), in vehicles equipped with mechanical refrigeration, from the plant and storage facilities of Archer Daniels Midland Co. at Decatur, Ill., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Archer Daniels Midland Co., P.O. Box 1470, Decatur, Ill. 62525. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, Tenn. 38103.

No. MC 51146 (Sub-No. 518TA), filed August 11, 1977. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from Plover, Wis., to points in Indiana, for 120 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Great American Basic Commodities, Inc., 1001 Hoover Road, Plover, Wis. 54467 (Dean W. Bledsoe). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 82079 (Sub-No. 51TA), filed August 11, 1977. Applicant: KELLER TRANSFER LINE, INC., 5635 Clay SW., Grand Rapids, Mich. 49508. Applicant's representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, Mich. 49503. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen food products in mechanically refrigerated vehicles*, except in bulk, from the plantsites and warehouse facilities of Ore-Ida Foods, Inc., in Greenville, Mich., to points in Ohio, Indiana, and Illinois, restricted to traffic originating at Greenville, Mich., and destined to points in the named states, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ore-Ida Foods, Inc., Boise, Idaho 83707. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 99427 (Sub-No. 37TA), filed August 11, 1977. Applicant: ARIZONA TANK LINES, INC., 666 Grand Avenue, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alkaline copper solution*, liquid, in bulk, in tank vehicles, from Pima County, Ariz., to Luna County, N. Mex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Allied Precious Metals Recycling Co., P.O. Box 26726, Tucson, Ariz. 85726. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 106074 (Sub-No. 38TA), filed August 15, 1977. Applicant: B AND P MOTOR LINES, INC., Oakland Road, P.O. Box 727, Forest City, N.C. 28043. Applicant's representative: George W. Clapp, 109 Hartsville Street, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rough lumber, kiln dried and cut to size*, from Ashland, Oreg., to the plantsite of All Wood Products Mfg. Corp., at or near Hudson, N.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper(s): All Wood Products Mfg. Corp., P.O. Box 338, Hudson, N.C. 28638. Send protests to: Terrell Price, District Supervisor, Interstate Commerce Commission, 800 Briar Creek Road, Mart Office Bldg., Room CC-516, Charlotte, N.C. 28205.

No. MC 113024 (Sub-No. 152TA), filed August 16, 1977. Applicant: ARLINGTON J. WILLIAMS, INC., 1398 S. Du Pont Highway, Smyrna, Del. 19977. Applicant's representative: S. W. Earnshaw, 833 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Synthetic yarn*, from Front Royal, Va., to McCook and Alliance, Nebr.; (2) *steel wire*, from Mt. Joy, Pa., to Alliance, Nebr., and (3) *uncured rubber*, in cartons, from Elizabeth, N.J., to McCook, Nebr., under a continuing contract, or contracts, with Electric Hose & Rubber Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mr. Fred H. Evick, Distribution Director, Electric Hose & Rubber Co., P.O. Box 910, Wilmington, Del. 19899. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 114604 (Sub-No. 49TA), filed August 11, 1977. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer 1, Building 33 State Farmers Market, Forest Park, Ga. 30050. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used ,sold or dealt in by

wholesale, retail and chain grocery and food business houses, from points in Alabama, Texas, Ohio, Arkansas, Louisiana, Kentucky, Tennessee, Missouri, Georgia, Florida, West Virginia, Virginia, North Carolina, South Carolina, and District of Columbia, to the warehouses, storage and distribution facilities of Colonial Stores, Inc., at Atlanta, Ga., Thomasville, Ga.; Columbia, S.C.; Raleigh, N.C.; and Norfolk, Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Colonial Stores, Inc., 2251 N. Sylvan Road, Atlanta, Ga. 30302. Send protests to: Terrecia L. Standridge, Transportation Assistant, 1252 West Peachtree Street NW., Room 300, Atlanta, Ga. 30309.

No. MC 114604 (Sub-No. 50TA), filed August 12, 1977. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer 1, Building 33 State Farmers Market, Forest Park, Ga. 30050. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, canned or preserved* (except frozen), from the plantsite of Joan of Arc Co., Inc., at or near Turkey, N.C., to points in South Carolina, Florida, Georgia, Alabama, and Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Joan of Arc Co., Inc., 2231 W. Altorfer Drive, Peoria, Ill. 61614. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, Ga. 30309

No. MC 117439 (Sub-No. 53TA), filed August 11, 1977. Applicant: BULK TRANSPORT, INC., P.O. Box 1429, 5500 Florida Blvd., Baton Rouge, La. 70821. Applicant's representative: John Schwab, P.O. Box 3036, Baton Rouge, La. 70821. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt cake*, in bulk and in bags, from all points and places in La., to all points and places in Mississippi, Alabama, Arkansas and Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Morton Chemical, 110 North Wacker Drive, Chicago, Ill. 60606. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 701 Loyola Avenue, 9038 Federal Bldg., New Orleans, La. 70113.

No. MC 118989 (Sub-No. 163TA), filed August 15, 1977. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, Wis. 53221. Applicant's representative: Albert A. Andrin, 180 N. LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends*, from the plantsite of American Can Co. at Memphis, Tenn., to Nashua, N.H., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Can Co., 915 Harger Road, Oak Brook, Ill. 60521. (Wm. Frazier) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 119493 (Sub-No. 157TA), filed August 10, 1977. Applicant: MONKEM CO., INC., P.O. Box 1196, West 20th St., Joplin, Mo. 64801. Applicant's representative: Lawrence F. Kloeppel (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel, screws and fasteners, paint in containers*, (other than bulk in tank vehicles), from Chicago, Ill., and its commercial zone, East St. Louis, Ill., and its commercial zone, Mansfield, Ohio, Tulsa and Catoosa, Okla., to facilities of Neosho Products Co., Division of Sunbeam Corp. located at or near Neosho, Mo., for 180 days. Supporting shipper: Neosho Products Co., P.O. Box 622, Neosho, Mo. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 140029 (Sub-No. 7TA), filed August 17, 1977. Applicant: CLIFFORD H. HALL, INC., Pearl Street, Bliss, N.Y. 14024. Applicant's representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silage additives*, from Arcade (Wyoming County), N.Y., to points in West Virginia, Virginia and Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ruminant Nitrogen Products Co. Box 351, Arcade, N.Y. 14009. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 141914 (Sub-No. 17TA), filed August 19, 1977. Applicant: FRANKS AND SON, INC., Rt. 1, Box 108A, Big Cabin, Okla. 74332. Applicant's representative: Gary Brasel, Mezzanine Floor, Beacon Building, Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molded pulp articles, plastic plates, knives and spoons*, from Waterville, Maine to Alabama, Florida, Georgia, North Carolina and South Carolina, for 180 days. Supporting shipper(s): Keyes Fibre Co. College Avenue, Materville, 04901. Send protests to: Joe Green District Supervisor, Room 240, Old Post Office Bldg. 215 N.W. 3 Street, Oklahoma City, Okla. 73102.

No. MC 142126 (Sub-No. 3TA), filed August 19, 1977. Applicant: FOAM TRANSPORT, INC., Dundee Park, Andover, Me. 01810. Applicant's representative: David M. Marshall, Marshall and Marshall, 101 State Street, Suite 304, Springfield, Me. 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Urethane foam*, between the facilities of GSF Corp., located at or near Andover, Me., on the one hand, and, on the other, Landover, Md., under a continuing contract, or contracts, with GSF Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): GSF Corp. 44 Lowell Junction Road, Andover, Me. 01810. Send protests to: Max Gorenstein District Supervisor, Bureau of Operations, Interstate Commerce Commission, 150 Causeway Street, Boston, Mass. 02114.

No. MC 142346 (Sub-No. 3TA), filed August 17, 1977. Applicant: LARMER TRANSFER CO., 90129 Prairie Road, Box 706, Eugene, Oreg. 97401. Applicant's representative: Russell M Allen, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel plate, angle iron, bars, pipe and channel*, from the plantsite of Farwest Steel Corp. at Eugene, Oreg., to Boise, Idaho, under a continuing contract, or contracts, with Farwest Steel Corp. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Farwest Steel Corp., P.O. Box 889, Eugene, Oreg. 97401. Send protests to: A. E. Odoms District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 S. W. Yamhill Street, Portland, Oreg. 97204.

No. MC 143500 (Sub-No. 1TA) filed August 16, 1977. Applicant: R. B. CARRIERS, INC., 4425 Highway 31E, Jeffersonville, Ind. 47130. Applicant's representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, Md. 20760. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plumbing fixtures and fittings and related equipment*, from the plantsites and storage facilities of American Standard, Inc., at Tiffin, Ohio, and Louisville, Ky. to points in and west of Montana, Wyoming, Colorado and N. Mex., under a continuing contract, or contracts, with American Standard, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Standard Inc. P.O. Box 2003, New Brunswick, N.J. 08903. Send protests to: William S. Ennis District Supervisor, Interstate Commerce Commission, Federal Building & U. S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MC 143504 (Sub-No. 2TA), filed August 16, 1977. Applicant: VERNON CAMPBELL, d.b.a., CAMPBELL TRUCKING, P.O. Box 234, Preston, Iowa 52069. Applicant's representative: James M. Hodge, 1980 Financial

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Center, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural concrete products*, from Maquoketa, Iowa, to points in Illinois, restricted to transportation service provided under a continuing contract, or contracts, with F&W Sales, Inc., of Maquoketa, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 lays of operating authority. Supporting shipper(s): F & W Sales, Inc., P.O. Box 545, Salem, S. Dak. 57058. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 143547R (Sub-No. 1 TA), filed August 19, 1977. Applicant: GRADY WALKER, d.b.a. GRADY WALKER USED CARS, Northeast 28th Street, Fort Worth, Tex. 76117. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Used passenger automobiles*, from Boston, Mass.; Detroit, Mich.; and Chicago, Ill., to Dallas, Tex., under a continuing contract or contracts, with Texas Vehicle Management, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Texas Vehicle Management, Inc. 3504 Belt Line Road, Dallas, Tex. 75234. E. K. Arledge, Inc. 525 N. Interurban, Richardson (Dallas) Tex. 75080. Send protests to: Robert J. Kirspel District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 143582 (Sub-No. 1TA), filed August 17, 1977. Applicant: CHARLES McCULLOUGH, d.b.a. CHARLIE McCULLOUGH TRUCKING, Glenfield, N. Dak. 58102. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Knocked down steel farm storage structures and parts and accessories* for knocked down steel farm storage structures, from Morton and Taylorville, Ill., and Falls City, Nebr., to points in Barnes, Cass, Steele and Traill Counties, N. Dak., under a continuing contract, or contracts, with E.E.E., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): E.E.E., Inc., Page, N. Dak. 58064. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 143610TA, filed August 12, 1977. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, Ariz. 85301. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Belledeau and St. Francisville, La., and their respective commercial zones, to points in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyo., under a continuing contract, or contracts, with Joan of Arc Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Joan of Arc Co., 2231 West Altorfer Drive, Peoria, Ill. 61614. (Douglas H. Wiggins) Send protests to: Andrew V. Baylor District Supervisor, Interstate Commerce Commision, Room 2020, Federal Building, 230 North 1st Avenue, Phoenix, Ariz. 85025.

No. MC 143619TA, filed August 18, 1977. Applicant: PALS FARMS, INC., R.F.D., Alexander, Iowa 50420. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, from Rowan, Iowa, to points in Minn., on and south of U.S. Highway 212, restricted to transportation service, under a continuing contract, or contracts, with Cargill, Inc., of Rowan, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cargill, Inc. P.O. Box 178, Rowan, Iowa. 50470. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa. 50309.

PASSENGER APPLICATION

No. MC 143611TA, filed August 16, 1977. Applicant: CALVIN A. REINBOLD, d.b.a. SPORT TOURS, 1402 Liberty Avenue, Allentown, Pa. 18102. Applicant's representative: James W. Paterrson, 1200 Western Savings Bank Bldg., Philadelphia, Pa. 19107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, limited to the transportation of no more than fourteen (14) passengers in any one vehicle (excluding the driver and nonseated children under 10 years of age), in special and charter operations, between Allentown, Pa., and John F. Kennedy International Airport, Jamaica, N.Y., for 180 days. Supporting shipper(s): There are 16 statements attached to the application. They are available at the Philadelphia field office for inspection. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

By the Commission

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-26497 Filed 9-9-77;8:45 am]

[Notice No. 220]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed unde section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission by October 12, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77168, filed May 23, 1977. Transferee: SERV-U, INC., 6640 Quad Avenue, Baltimore, Md. 21237. Transferor: Red Line, Inc., 2310 Orange Avenue, P.O. Box 151, Roanoke, Va. 24002. Applicants' representative: Wilmer B. Hill, 666 11th Street NW., Washington, D.C. 20001; William O. Turney, 7101 Wisconsin Avenue, Washington, D.C. 20014; William J. Little, 10 East Baltimore Street, Suite 1212, Baltimore, Md. 21202. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 66571, issued June 26, 1941, as follows: *General commodities*, except those of unusual value, and except dangerous explosives, livestock, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, over regular routes, between Baltimore, Md., and Washington, D.C., as follows: From Baltimore over U.S. Highway 1 to Washington, D.C., and return over the same route. Service is authorized to and from all intermediate points on the above-specified route, and the off-route point of Annapolis, Md.; *general commodities*, except those of unusual value, and except dangerous explosives, livestock, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, over irregular routes, between Baltimore, Md., on the one hand, and, on the other, points and places in Maryland within ten miles of Baltimore. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

No. MC-FC-77263, filed August 14, 1977. Transferee: BOLLMAN CHARTER SERVICE, INC., R.D. No. 1, Route 1, Everett, Pa. 15537. Transferor: Stanley Bollman, doing business as Bollman Charter Service, R.D. No. 1, Route 1, Everett, Pa. 15537. Applicant's representative: William A. Gray, Esq., Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15129. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate Nos. MC 127120, MC 127120 (Sub-No. 1), and MC 127120 (Sub-No. 2) issued November 4, 1977, August 4, 1972, and January 27, 1977, respectively, as follows: *Passengers and their baggage*, in the same vehicle with passengers, in roundtrip charter operations, over irregular routes, beginning and ending at points in Bedford County, Pa., and extending to points in New York, Vermont, New Hampshire, Maine, Massachusetts, Connecticut, Rhode Island, New Jersey, Maryland, Virginia, West Virginia, Kentucky, Indiana, Ohio, the lower peninsula of Michigan, and the District of Columbia; *Passengers and their baggage*, in the same vehicle with passengers, in special operations, in roundtrip sightseeing and pleasure tours, over irregular routes, beginning and ending at Bedford and Everett, Pa., and extending to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, the Lower Peninsula of Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; *Passengers and their baggage*, in the same vehicle with passengers, in special operations, in roundtrip sightseeing and pleasure tours, over irregular routes, beginning and ending at points in Bedford County, Pa., and extending to points in Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77268, filed August 18, 1977. Transferee: ALL NEW ENGLAND VAN LINES, INC., 50 Hurley Circle, Marlboro, Mass. 01752. Transferor: Howard E. Bamforth and Richard Bamforth, a partnership, doing business as H. E. Bamforth & Son, 313 Brookline Avenue, Needham, Mass. 02192. Applicant's representatives: Frank J. Weiner, attorney for transferee, 15 Court Square, Boston, Mass. 02108; George C. O'Brien, attorney for transferor, 15 Court Square, Boston, Mass. 02108. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 94207, issued December 5, 1949, as follows: *Household goods*, as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, over irregular routes, between points and places in Massachusetts, on the one hand, and on the other, points and places in Maine, New Hampshire, Vermont, Rhode Island, Connecticut, and New York. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77269, filed August 18, 1977. Transferee: COLUMBIA TRUCKING, INC., 3333 Sheffield Avenue, Hammond, Ind. 46320. Transferor: B. T. Services, Inc., doing business as Columbia Trucking, Inc., 3333 Sheffield Avenue, Hammond, Ind. 46320. Applicant's representative: Richard A. Kerwin, Burke, Kerwin & Towle, 180 North La Salle Street, Chicago, Ill. 60601. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 118612 (Sub-No. 2), issued June 15, 1973, as follows: *Asphalt and tar*, in bulk, in tank vehicles, from Gary, Whiting, East Chicago, and Hammond, Ind., to points in Cook, Du Page, McHenry, Will, Winnebago, Kane, De Kalb, Kankakee, Kendall, and Grundy Counties, Ill.; and *crude coal tar*, in tank vehicles, from the plant site and storage facilities of Bethlehem Steel Corp, at Burns Harbor, Ind., to Cicero, Ill. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77279, filed August 23, 1977. Transferee: DICK IRVIN, INC., 218 12th Avenue North, Shelby, Mont. 59474. Transferor: Robert Schmidt Trucking, Ltd., Manning, Alberta, Canada. Applicant's representative: Charles R. Irvin, President, 218 12th Avenue North., Shelby, Mont. 59474. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 136242, issued July 16, 1973, as follows: *Used farm machinery and used road building equipment* from points in Montana to ports of entry on the United States-Canada boundary line located in Montana. Transferee is presently authorized to operate as common carrier under Certificate No. MC 119634 and subs thereafter. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77282, filed August 24, 1977. Transferee: R. L. C. TRUCKING, INC., 21 Edythe Lane, Peabody, Maine 01960. Transferor: H. E. Cohen, 21 Edythe Lane, Peabody, Maine 01960. Applicants' representative: Ronald I. Shapss, attorney at law, 450 Seventh Avenue, New York, N.Y. 10001. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 139552, issued December 4, 1974, as follows: *General commodities*, except those of unusual value, high explosives, household goods as defined by the Commission, and commodities requiring special equipment, between points in Bergen, Hudson, Passaic, Union, and Essex Counties, N.J., on the one hand, and, on the other, New York, N.Y. (except points in Nassau County, N.Y., within the New York, N.Y., Commercial Zone, as defined by the Commission). Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-26495 Filed 9-9-77;8:45 am]

[I.C.C. Order No. 37 Under Revised Service Order No. 1252]

REROUTING TRAFFIC

To all railroads:

In the opinion of Joel E. Burns, Agent, the Atchison, Topeka, and Santa Fe Railway Co. and the Chicago, Rock Island, and Pacific Railroad Co. are unable to transport traffic to and from Texas City, Tex., because of high water and flooding.

It is ordered, That:

(a) The Atchison, Topeka, and Santa Fe Railway Co., and the Chicago, Rock Island, and Pacific Railroad Co., being unable to transport traffic to and from Texas City, Tex., because of high water and flooding, these lines and their connections are authorized to reroute or divert such traffic via any available route. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shapper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided

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for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the division of rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 5 p.m., August 30, 1977.

(g) Expiration date: This order shall expire at 11:59 p.m., September 7, 1977, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 30, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-26499 Filed 9-9-77;8:45 am]

NOTICE TO INTERESTED PARTIES OF MODIFICATION OF THE PROCEDURE FOR CHANGING NAMES OF CARRIERS AND SHIPPERS IN OPERATING RIGHTS

At a general session of the Interstate Commerce Commission, held at its Office in Washington, D.C., on the 6th day of September 1977.

Pursuant to a recommendation of the Commission's Staff Task Force on Improving Motor Carrier Entry Regulation, the Commission has decided to modify the procedure through which changes in carriers' and shippers' names in operating rights are effected. In the past, requests for such changes have been disposed of through issuance of various types of formal orders. These new procedures will also apply to strictly legal changes in the identification of a carrier. In the interest of efficiency and to better serve the public, on September 6, 1977, the Commission approved the following informal procedure to be utilized in the disposition of such requests in administratively final proceedings.

(1) Requests for changes in carriers' or shippers' names in certificates, permits, or licenses must be accompanied by a letter (an original and one copy) explaining fully the circumstances and reasons for such requests. The letter requests need not be verified or notarized.

(2) Filing fees will be waived for changes sought in administratively final proceedings.

(3) Requests will be examined by the Office of Proceedings, which will either issue a modified certificate, permit, or license, or, if the requested change is unacceptable, will inform the person requesting the change by letter of the reason for its unacceptability.

The foregoing procedure for the processing of requests for changes of names of carriers and shippers shall become effective on October 1, 1977.

By the Commission (Commissioners Murphy and Christian not participating).

Dated: September 6, 1977.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-26500 Filed 9-9-77;8:45 am]

[No. MC-F-8531 and F.D. No. 22739]

CALIFORNIA PARLOR CAR TOURS COMPANY—PURCHASE—THE GREYHOUND CORPARATION ET AL.

AGENCY: Interstate Commerce Commission.

ACTION: Further consideration of certain related proceedings.

SUMMARY: The Commission is reopening the proceedings involving the Greyhound Corp. to re-evaluate whether the Greyhound Corp., a non-carrier holding company, should continue to be subject to the securities jurisdiction of the Commission.

DATES: Notices of intent to comment must be received on or before September 27, 1977; verified statements must be received on or before October 27, 1977; and replies thereto must be received on or before November 16, 1977.

ADDRESS: Notices of intent, verified statements and replies should refer to docket No. MC-F-8531 and F.D. No. 22739. An original and ten copies should be submitted to the Office of Proceedings, Room 5349, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

G. Marvin Bober, Esq., Acting Deputy Director, Section of Finance, Interstate Commerce Commission, Washington, D.C. 20423, (202-275-7564).

SUPPLEMENTARY INFORMATION: By order of the Commission served August 26, 1977, the proceeding in No. MC-F-8531, California Parlor Car Tours Co.—Purchase—The Greyhound Corp. and Finance Docket No. 22739, California Parlor Car Tours Co.—Assumption of Obligations, was reopened for further consideration to allow further comments concerning the extent to which the Commission should continue to subject the Greyhound Corp., a non-carrier holding company, to the jurisdiction of the Commission, as a motor carrier, with respect to securities issuances pursuant to the provisions of section 214 of the Interstate Commerce Act. The order presents three issues to which any interested person may comment on pursuant to the modified procedure schedule established herein. The three issues are:

(1) What criteria should be applied in determining whether a non-carrier holding company should be considered a carrier and subjected to the provisions of sections 20a and 214 of the Interstate Commerce Act?

(2) Do Greyhound Corp. and its subsidiaries occupy a *sui generis* position in the motor carrier bus industry?

(3) If it is found that Greyhound does occupy a *sui generis* position in the motor carrier bus industry, must the criteria applicable to other carriers be applied to the Greyhound Corp. and its subsidiaries in order to subject them to the provisions of sections 20a and 214 of the Interstate Commerce Act?

Any interested person, who is not already a party of record in this proceeding, must file with the Commission and Greyhound Corporation's representative (W. L. McCracken, Greyhound Tower, Phoenix, Ariz. 85077) a notice of intent to comment on the above-mentioned issues on or before September 27, 1977. (Certification of service upon Greyhound Corporation's representative must appear in the notice filed with the Commission.) Within 10 days thereafter the Commission shall supply all parties of record and parties who have filed the above-mentioned notice of intent with a copy of the service list. On or before October 27, 1977, all the parties of record and interested parties who filed notices as described above may file with the Commission verified statements in response to the three above-noted issues raised by the Commission. Copies of these statements should be sent to all parties, including those presently of record and those who subsequently file notices of intent to comment. On or before November 16, 1977, any of the participating parties which filed verified statements may file replies to the other parties initial verified statements. Copies of these replies should be sent to all the participating parties which filed opening verified statements as well as the Commission. Satisfaction of the aforesaid service requirements relating to verified statements shall be certified on the copy of each verified statement filed with the Commission.

All participating parties must comply with the applicable provisions of § 1100.-45(b), and § 1100.47-1100.54, inclusive of the Commission's General Rules of Practice relating to the modified procedure, except that the original and ten copies of any statement made pursuant to § 1100.-51 shall be filed with the Commission.

Except for good cause shown, preliminary motions and requests for cross-examination of witnesses or for other relief will not be acted upon prior to the date on or before which all verified statements are required to be filed.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-26504 Filed 9-9-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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CIVIL AERONAUTICS BOARD.

SEPTEMBER 6, 1977.

DELETION OF ITEM FROM THE SEPTEMBER 8, 1977, MEETING AGENDA

TIME AND DATE: 10 a.m., September 8, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 4. General Fare increase proposed by Eastern (BFR).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary 202-673-5068.

SUPPLEMENTARY INFORMATION: The Board has determined to delete this item from the September 8, 1977, agenda so that, consistent with its established policy, it may evaluate the proposed increases on the basis of June data which only recently became available. The following Members have voted that agency business requires the deletion of item 4 from the September 8, 1977, agenda and that no earlier announcement of this change was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

[S-1279-77 Filed 9-8-77;9:08 am]

2

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: September 15, 1977. 9:30 a.m.

LOCATION: 3rd Floor Hearing Room, 1111 18th St. N.W., Washington, D.C.

STATUS: Part open, part closed.

MATTERS TO BE CONSIDERED:

A. Open to the Public.

1. *Petition on Recall Cards AP 77-1.* In this petition, Paul Foldes, of Arlington, Va., has asked the Commission to require manufacturers and distributers to include pre-addressed, postage-paid "recall" cards with all consumer products.

2. *Final Regulations on Alternate Laundering Procedures for Children's Sleepwear Standards.* The staff has prepared a draft final regulation on alternate laundering procedures used to meet the laundering requirements of the children's sleepwear standards.

3. *Analysis of Possible Amendments to Children's Sleepwear Standards.* This staff analysis considers possible modifications to the two children's sleepwear standards which would maintain the level of protection afforded by the standards and at the same time address the problems resulting from the use of flame-retardant chemicals.

4. *Draft Labeling Rule for Clothing Containing Flame Retardants.* The Commission will consider a draft rule requiring clothing containing flame retardants to be labeled with the name of the chemical.

5. *Options on Upholstered Furniture Flammability.* The staff has prepared for Commission consideration a discussion paper relating to various options for Commission action on upholstered furniture flammability.

6. *California Upholstered Furniture Petition FP 77-2.)* The petitioner Howard C. Winslow, Chief of California Bureau of Home Furnishing, requests the Commission to adopt the California upholstered furniture regulations, as the national standard.

B. Closed to the Public.

7. *Freedom of Information Appeal, Aluminum Wiring.* The Commission will consider an appeal from a Freedom of Information request denial for information relating to a survey on aluminum wire in Montgomery County, Md., and solicitations relating to an additional survey.

8. *Recommended Prosecution, Prescription Drugs (OS Package No. 432).* The Commission will consider a possible prosecution for an alleged violation of the Poison Prevention Package Act.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th St. NW., Washington, D.C. 20207. Telephone: 202-634-7700.

[S-1273-77 Filed 9-7-77;12:11 pm]

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern Time), Wednesday, September 14, 1977.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: A part of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion open to the public:

Proposed work-sharing agreements between EEOC and the following five State or local agencies, for handling charges of discrimination:

1. Maryland Commission on Human Relations.
2. Baltimore (Maryland) Community Relations Commission.
3. Montgomery County (Maryland) Human Relations Commission.
4. Illinois Fair Employment Practices Commission.
5. Fort Worth (Texas) Human Relations Commission.

Portions closed to the public:

(1) Litigation Authorization; General Counsel Recommendations. Matters closed to the public under Sec. 1612.13 (a) of the Commission's regulations (42 FR 13830, March 14, 1977).

(2) Proposed time-phased plan for implementation of new compliance and litigation procedures in all EEOC field offices. This matter was originally announced for consideration at an open meeting scheduled for September 6, but postponed. A majority of the entire membership of the Commission determined by a recorded vote that the status of this portion of the meeting should be closed to the public. The vote was as follows:

In favor of change in status:

Eleanor Holmes Norton, Chair
Ethel Bent Walsh, Commissioner
Daniel E. Leach, Commissioner

Opposed: None.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This Notice Issued September 7, 1977.

[S-1281-77 Filed 9-8-77; 10:17 am]

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FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, at 2:10 p.m. on Tuesday, September 6, 1977, by telephone conference call.

The meeting was closed to public observation pursuant to subsections 552b (d)(4), (c)(4), (c)(8), (c)(9)(A)(ii), and (c)(10) of the "Government in the Sunshine Act" and on the basis of the Board's determination that the public interest did not require consideration of the matters in a meeting open to public observation, and that no earlier notice of the subject matter of the meeting was possible.

The Board considered the following matters:

Application of proposed bank for Federal deposit insurance coincident with conversion of a savings and loan association into a mutual savings bank: Capital Mutual Savings Bank, Olympia, Wash., for Federal deposit insurance.

Application for consent to establish branch: North New York Savings Bank, White Plains, N.Y., for consent to establish a branch at 120 North Village Avenue, Village of Rockville Centre, N.Y.

Recommendations regarding the liquidation of assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,156-L—Reserves for Losses and Allotments for Insurance Expenses.

Case No. 43,165-L—Franklin National Bank, New York, N.Y.

Case No. 43,166-L—Northeast Bank of Houston, Houston, Tex.

Case No. 43,172-NR—United States National Bank, San Diego, Calif.

Case No. 43,180-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

Dated: September 6, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1271-77 Filed 9-7-77; 12:11 am]

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by vote of the Board of Directors, at 2 p.m. on Tuesday, September 6, 1977, by telephone conference call.

The meeting was closed to public observation by authority of sections 552b (d)(1), (c)(6), and (c)(9)(B) of the "Government in the Sunshine Act" and on the basis of the Board's determination that the public interest did not require consideration of the matters in a meeting open to public observation, and that no earlier notice of the subject matter of the meeting was possible.

The Board considered the following matters:

Recommendations regarding the liquidation of assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,167-L—International City Bank and Trust Co., New Orleans, La.

Case No. 43,169-L—First State Bank of Northern California, San Leandro, Calif.

Case No. 43,173-NR—United States National Bank, San Diego, Calif.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.: Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

Dated: September 6, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1272-77 Filed 9-7-77; 12:11 pm]

6

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 41213 (S-1103-77 Filed 8-11-77; 11:16 a.m.).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. to 3:30 p.m., September 16, 1977.

PLACE: Room 823, National Institute of Education, 1200 19th Street NW., Washington, D.C.

CHANGES IN THE MEETING:

TIME: 8:30 a.m. to 11:30 a.m.

MATTERS TO BE CONSIDERED:

1. Approve Minutes.
2. Adjustments of Future Calendar and Agendas.
3. Director's Remarks.
4. Action on Proposed Policy for Fundamental Research.
5. Report of Review and Reports Committee:
   Review and Oversight Function.
   Plans for Fourth Annual Report.
   Implementation of Resolution No. 18.
   Policy on Participation of Women and Minority Group Members in Education R&D.
6. Status Report on FY 1978 Budget, FY 1979 Budget and Alternatives for Any Necessary Replanning; and Initial Discussion of Long-Range Planning for FY 1980.

PERSON TO CONTACT FOR INFORMATION:

Ella L. Jones, Administrative Coordinator. Telephone 202-254-7900.

PETER H. GERBER,
Chief, Policy and Administrative Coordination, National Council on Educational Research.

[S-1275-77 Filed 9-7-77; 2:17 pm]

7

NATIONAL SCIENCE BOARD.

TIME AND DATE: 9 a.m., September 15, 1977. 9 a.m., September 16, 1977.

PLACE: Room 540, 1800 G Street NW., Washington, D.C. 20550.

STATUS: As previously announced part of this meeting will be open to the public. One additional item will be included in the open session.

MATTER TO BE CONSIDERED:

1. Presentation by Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

CONTACT PERSON FOR MORE INFORMATION:

Miss Vernice Anderson, Executive Secretary, 202-632-5840.

[S-1280-77 Filed 9-8-77; 9:08 am]

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: 11:05 a.m. (Approx.), Wednesday, September 7, 1977.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Briefing on Physical Search Requirements (Follow-on to September 1 briefing).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: September 6, 1977.

WALTER MAGEE,
Office of the Secretary.

[S-1263-77 Filed 9-7-77; 10:46 am]

9

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of September 12.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Some of these meetings will be open to the public; others will be closed to the public.

MATTERS TO BE CONSIDERED:

TUESDAY, SEPTEMBER 13

10 a.m.—Discussion of Draft Administration Bill for Nuclear Plant Licensing Reform. (Approx. 2 hrs.). (Closed—Exemption 9.)

2 p.m.—Discussion of Draft Administration Bill for Nuclear Plant Licensing Reform. (Approx. 2 hrs.). (Closed—Exemption 9), or Discussion of Proposed Testimony on Export Legislation. (Approx. 2 hrs.). (Closed—Exemption 9.)

WEDNESDAY, SEPTEMBER 14

1:30 p.m.—Discussion of Draft Administration Bill for Nuclear Plant Licensing Reform. (Approx. 2 hrs.). (Closed—Exemption 9.)

THURSDAY, SEPTEMBER 15

10 a.m.—Briefing on Response to NRDC Petition for Reconsideration of the Commission's Ruling Reopening the Hearing on the Uranium Fuel Cycle, and Reducing Procedural Cost Burdens for Participants in Commission Proceedings. (Approx. 1 hr.). (Public Meeting.)

2 p.m.—Petition for Review of ALAB-410 (in the Matter of Pacific Gas & Electric Co., Diablo Canyon Nuclear Power Plant, Units 1 and 2); and Review of ALAB-420 (in the Matter of Florida Power & Light Co.) (St. Lucie.) (Approx. 1½ hrs.). (Closed—Exemption 10.)

3:30 p.m.—Discussion of Draft Administration Bill for Nuclear Plant Licensing Reform. (Approx. 1 hr.). (Closed—Exemption 9.)

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: September 7, 1977.

WALTER MAGEE,
Chief, Operations Branch, Office of the Secretary.

[S-1282-77 Filed 9-8-77; 10:17 am]

10

RAILROAD RETIREMENT BOARD.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 45102, September 8, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., September 12, 1977.

CHANGES IN THE MEETING: Additional items to be considered at the portion of the meeting open to the public:

8. Board's National Meeting to be held in San Mateo, Calif., October 11-14, 1977.
9. Designation of a contact person to assist the U.S. Department of Justice to identify discrimination in policies and programs administered by the Board.
10. Audit of the Division of Disability Benefits in the Board's Bureau of Retirement Claims.

[S-1274-77 Filed 9-7-77; 12:36 pm]

11

RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, September 13, 1977, 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 9 are open to the public. Matters 10 and 11 are closed to the public. Status is not applicable to matters 12 and 13.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of meeting held September 7, 1977 and other Board meetings, if any.
2. Recommended Assignments OSC&E List No. 1883: (a) RCA Corp. Fiscal years ended December 31, 1971, 1972, 1973 and 1974.
   Consolidated with: RCA International Services Corp.; Operations and Maintenance Service, Inc.
   (b) RCA Limited, Canada. Fiscal years ended December 31, 1971, 1972, 1973 and 1974.
3. Application for Commercial Exemption—List No. 2998. (a) DoAll Co. Fiscal year ended May 31, 1975.
   (b) DoAll Co. Fiscal year ended May 31, 1976.
   (c) DeSoto, Inc. Fiscal year ended December 31, 1975.
4. Partial Mandatory Exemption for New Durable Productive Equipment: Libby Welding Co., Inc. Fiscal year ended June 30, 1974.
5. Partial Mandatory Exemption of New Durable Productive Equipment: Stadco Precision Fabricators, Inc. Fiscal year ended May 31, 1976.
6. Request for Permission to File Untimely Applications for Commercial Exemption. Motorola, Inc. Fiscal years ended December 31, 1971, 1972, 1973, 1974 and 1975.
7. Recommended Determination of Excessive Profits: U.S. Plastic Molding Corp. Fiscal year ended May 31, 1968.
8. Recommended Clearance Without Assignment: (a) Newport News Industrial Corp. Fiscal year ended December 31, 1973.
   (b) Newport News Reactor Service, Inc. Fiscal year ended December 31, 1973.
   (c) Qualitron Aero, Inc. Fiscal year ended December 31, 1973.
9. Recommended Clearance Without Assignment: Deutsche Marathon Petroleum GmbH. Fiscal years ended December 31, 1973 and 1974.
10. Withdrawal of Grant of Commercial Exemption: Shell Oil Co. Fiscal year ended December 31, 1973.
11. Determination of Clearance of Excessive Profits: (a) Shell Oil Co. Fiscal years ended December 31, 1971 and 1973.
   (b) International Lubricant Corp. Fiscal years ended December 31, 1971, 1972 and 1973.
   (c) Shell Oil Co., SII: Hollywood Plastics, Inc. Fiscal year ended December 31, 1971.
12. Approval of Agenda for meeting to be held October 26, 1977.
13. Approval of Agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 'M St. NW., Washington, D.C. 20446 (202-254-8277).

Dated: September 6, 1977.

GOODWIN CHASE,
Chairman.

[S-1276-77 Filed 9-7-77; 2:17 pm]

12

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42FR 44329, September 2, 1977.

PREVIOUS ANNOUNCED TIME AND DATE: 10 a.m., September 8, 1977.

CHANGES IN THE MEETING: Deletion of item on open meeting agenda. The following item, originally scheduled for the open meeting on Thursday, September 8, 1977, has been rescheduled for the open meeting on Wednesday, September 14, 1977:

Application filed by the Columbia Gas System, Inc. for an order to issue and sell short-term notes and commercial paper and request for hearing by the State of Ohio regarding this application.

Chairman Williams, and Commissioners Loomis, Evans and Pollack voted to approve the above change and determined that no earlier notice thereof was possible.

SEPTEMBER 7, 1977.

[S-1277-77 Filed 9-7-77; 2:17 pm]

13

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of September 12, 1977, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Monday, September 12, 1977, at 10:30 a.m. and on Wednesday, September 14, 1977, following the open meetings scheduled for 10 a.m. and 2:30 p.m. Open meetings will be held on Wednesday, September 14, 1977, at 10 a.m. and at 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered

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at the closed meetings may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b (c)(4)(8)(9)A and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Chairman Williams, Commissioners Loomis, Evans, and Pollack determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Monday, September 12, 1977 at 10 a.m. will be:

Formal orders of investigation.
Institution of injunctive actions.
Settlement of injunctive actions.
Settlement of administrative proceedings.
Simultaneous institution and settlement of injunctive actions.
Referral of investigative files to Federal, State, or Self-Regulatory authorities.
Interim and final allowances in proceeding.
Submission of applications of resignation.
Rule 2(e) proceedings.
Amendment of complaint.
Suspension of enforcement actions.
Freedom of Information Act Appeal.

The subject matter of the closed meeting scheduled for Wednesday, September 14, 1977, following the open meeting at 10 a.m., will be:

Institution of injunctive action.

The subject matter of the closed meeting scheduled for Wednesday, September 14, 1977, following the open meeting at 2:30 p.m., will be:

Post-oral argument discussion.

The subject matter of the open meeting scheduled for Wednesday, September 14, 1977, at 10 a.m. will be:

1. Consideration of an extension of time for Commission action on proposed changes to New York Stock Exchange Rule 405, the "Know Your Customer Rule".
2. Proposed Adoption of Rule 17a-4, which concerns the preservation of broker-dealer records prepared or maintained by outside service bureaus.
3. Proposed Rule 148 under the Securities Act of 1933, which would establish standards for the resale of securities that were either issued in bankruptcy proceedings by a debtor or were in the debtor's portfolio at the time such proceedings were commenced.
4. Consideration of soliciting comments on the re-examination of the Commission's Statement of Policy relating to the sales literature of investment companies.
5. Proposed interpretative release to provide guidance for directors of closed-end funds contemplating rights offerings below net asset value.
6. Application filed by The Columbia Gas System, Inc., for an order to issue and sell short-term notes and commercial paper and request for hearing by the State of Ohio regarding the application. (Rescheduled from September 8, 1977).
7. Consideration of rulemaking proposals which would: (1) exempt mineral resource assets in the oil and gas industry from the replacement cost rule and (2) require disclosure of information on the present value of estimated future net revenues from production of proved oil and gas reserves.

FOR FURTHER INFORMATION CONTACT:

Lawrence A. Horn at 202-376-8065.

SEPTEMBER 7, 1977.

[S-1278-77 Filed 9-7-77;12:17 pm]

federal register

MONDAY, SEPTEMBER 12, 1977

PART II



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

■

COMMUNITY DEVELOPMENT BLOCK GRANTS

Applications and Criteria for Discretionary Grants

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Title 24—Housing and Urban Development

CHAPTER V—OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No R-77-463]

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Applications and Criteria for Discretionary Grants

AGENCY: Department of Housing and Urban Development.

ACTION. Final rule.

SUMMARY: This rule changes the requirements for applications and criteria for Discretionary Grant selection by (1) eliminating references to filing periods no longer applicable. and eliminating specific fiscal year references from filing periods which are open all year. and (2) to bring A-95 requirements with regard to funds applied for by a community following a Federally recognized disaster in line with Departmental policy implementing OMB Circular A-95.

EFFECTIVE DATE: October 10. 1977.

FOR FURTHER INFORMATION CONTACT:

Neil H Stern, Program Standards Division. 202-755-6306.

SUPPLEMENTARY INFORMATION On February 27. 1976. the Department of Housing and Urban Development published in the FEDERAL REGISTER (41 FR 8612) rules governing applications and criteria for discretionary grants under the community development block grant program. The changes that are described below are of a technical nature which do not change the administration of the program but present the rule in a clearer. more cohesive manner. No public comment period is necessary since no new policies. procedures or requirements are being introduced.

As a result the following changes are being made.

1. Paragraph (c) of § 570.400 is deleted and the paragraph reserved. This paragraph contained information that is repeated in the sections on individual types of discretionary grants.

2. Paragraph (c)(1) of § 570.403 is revised to show that applications from new communities may be submitted at any time during the fiscal year

3. Paragraph (b) of § 570.405. regarding Guam. the Virgin Islands. American Samoa. and the Trust Territory of the Pacific Islands. is revised to eliminate the reference to Fiscal Year 1976.

4. Paragraph (b)(3) of § 570.406 is amended to provide that innovative grants made be made by HUD in either of two ways. First. proposals may be solicited by publication of a program announcement in the FEDERAL REGISTER. Second. HUD may fund proposals received at anytime during the fiscal year which are determined by HUD to offer a significant opportunity to provide innoyative approaches to urban problems.

5. Paragraph (c) of § 570.406 is revised by requiring submission of Innovative Applications to the Office of Community Planning and Development instead of the Office of Policy Development and Research. The necessary change to the delegation of Authority is being executed.

6 Paragraph (e) of § 570.407 regarding grants for disasters is revised to show that applications may be submitted at any time during the fiscal year.

7 Paragraph (e) of. § 570.407 is amended to add a new subparagraph (5) to make A-95 requirements for Federally recognized disasters consistent with Department-wide policies implementing OMB Circular No. A-95 as published in the FEDERAL REGISTER on September 23, 1976 at 41 FR 41874.

8 Paragraph (d) of § 570.408 is revised to show that applications for inequities grants may be submitted at any time during the fiscal year.

In connection with the environmental review of these amendments to the regulations. a Finding of Inapplicability has been made under HUD Handbook 1390.1 (38 FR 19182). A copy of the Finding is available for inspection in the Office of the Rules Docket Clerk. Office of the Secretary. Room 5218. 451 7th Street SW., Washington, D.C. 20410.

NOTE—It is hereby certified that the economic and inflationary impacts of these amendments have been carefully evaluated in accordance with OMB Circular A-107.

(Title I of the Housing and Community Development Act of 1974 (42 U.S.C 5301 et seq.) 7(d) Housing and Urban Development Act (42 U.S.C 3535(d)))

In consideration of the foregoing 24 CFR Part 570, Subpart E is amended as follows:

1. Section 570.400(c) is deleted and the paragraph reserved:

§ 570.400 General.

* * * * *

(c) [Reserved]

* * * * *

2. Section 570.403(c)(1) is amended by revising paragraph (c)(1) to read as follows:

§ 570.403 New Communities.

* * * * *

(c) *Application requirements.*—(1) *General.* The requirements set forth in this paragraph are designed to supplement application procedures and approval requirements of the new communities program under which substantial information will have already been provided to the Secretary. Applications for funds appropriated for a fiscal year will be accepted at any time during that fiscal year.

3. Section 570.405 is amended by revising paragraph (b) to read as follows:

§ 570.405 Guam, The Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

* * * * *

(b) *Criteria for funding.* Applicants may submit applications not later than 75 days prior to the end of the current program year for discretionary grants for the full range of eligible activities described in § 570.200. The Secretary will establish for each fiscal year an amount for which each eligible applicant may apply, taking into account any hold-harmless amounts as calculated pursuant to § 570.103(c) and the applicants' community development needs and local administrative capacity.

* * * * *

4. Section 570.406 is amended by revising paragraphs (b)(3) and (c) as follows:

§ 570.406 Innovative projects.

* * * * *

(b) *Criteria for selection.* * * *

(3) *Method of selection.* In view of the national scope of the Innovative Projects Program and the limitations on the amount of funds available during each fiscal year, innovative grants may be made at the discretion of HUD in response to:

(i) proposals received pursuant to a program announcement by Notice in the FEDERAL REGISTER which provides the following information:

(A) The areas of national significance which will be given priority consideration in the review of proposals;

(B) The specific selection criteria to be used in the review of proposals and the award of grants in addition to, or in lieu of, the criteria set forth in § 570.406 (b)(2); and

(C) The time periods for the submission of proposals or applications; or

(ii) Proposals received at any time during a fiscal year which, though not in response to a program announcement, nonetheless are determined by HUD to offer a significant opportunity to provide innovative approaches through individual demonstration projects to the solution of longstanding or widespread urban area problems in furtherance of the objectives of the Act.

(c) *Application requirements.* Applications shall be submitted to HUD's Office of Community Planning and Development in accordance with the specifications of a program announcement pursuant to § 570.406(b)(3)(i), or in response to an invitation from HUD for a proposal received pursuant to § 570.406 (b)(3)(ii). Applications shall be in a format approved by HUD and shall include the following:

* * * * *

5. Section 570.407 is amended by revising the first sentence of paragraph (e) and by adding a new paragraph (e)(5), as follows:

§ 570.407 Federally recognized disasters.

* * * * *

(e) *Application requirements.* An application may be submitted during any part of the fiscal year provided it is submitted to the appropriate HUD Area Office within 120 days after either the Presidential declaration or other Federal recognition that disaster or emergency assistance is required. Applications for grants under this section shall meet the

application requirements of § 570.303 with the following modifications:

* * * * *

(5) The applicant is exempt from the normal OMB Circular No. A-95 process. However. applicants are required to submit an information copy of their application to the appropriate State and area-wide clearinghouses at the same time the application is submitted to HUD.

* * * * *

6. Section 570.408(d) is amended to read as follows:

§ 570.408 Inequities funds.

* * * * *

(d) *Application requirements.* An application may be submitted at any time during the fiscal year. Applicants requesting funds under criterion (2) shall meet the application requirements of § 570.401(c). All other applicants shall meet all application requirements in § 570.303.

* * * * *

Issued at Washington, D.C., August 31, 1977.

ROBERT C. EMBRY, Jr.,
Assistan' Secretary for Community Planning and Development.

[FR Doc.77-26161 Filed 9-7-77;8:45 am]

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MONDAY, SEPTEMBER 12, 1977

PART III



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

■

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—FAIR MARKET RENTS AND CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

New Construction and Substantial Rehabilitation

V 42 176 SEP 12 77 UMI

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-77-311]

PART 888—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—FAIR MARKET RENTS AND CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

Fair Market Rents for New Construction and Substantial Rehabilitation

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final Rule.

SUMMARY: This rule amends fair market rents for the following market areas: Poughkeepsie, N.Y.; Fort Lauderdale, Fla.; Memphis, Jackson, and Union City, Tenn.; Council Bluffs, Iowa; Minot, N. Dak.; San Francisco, Fresno, Modesto, San Jose, and Oakland-Marin, Calif.; and Ontario, Portland, Bend, Coos Bay, and Medford, Oreg. The amended Fair Market Rents are intended to reflect the changes which have occurred in the general levels of market rents for recently completed or newly constructed dwelling units within each market area since their last annual or special (interim) revision.

EFFECTIVE DATE: September 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Henry F. P. Cassagne, Chief Appraiser, Office of Technical Support, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410 (202-472-4810).

SUPPLEMENTARY INFORMATION: Notice was given on April 25, 1977, at 42 FR 21206, that the Department of Housing and Urban Development (HUD) was proposing to amend Title 24 of the Code of Federal Regulations incorporating in Part 888, Subpart A, a revised Schedule A, "Fair Market Rents for New Construction and Substantial Rehabilitation (including Housing Finance and Development Agencies Program)" for all market areas.

On June 30, 1977, at 42 FR 33572, HUD published the fair market rents for all market areas in final form as initially proposed on April 25, 1977, effective retroactively as of April 1, 1977. HUD stated in the June 30, 1977, publication that comments received in response to the April 25, 1977, publication would be carefully considered and that additional amendments would be published at a later date as deemed warranted.

HUD received forty-nine comments in response to the April 25, 1977, publication. Most of these comments stated that the proposed Schedule A Fair Market Rents were too low for a specific market area or areas. All comments have been seriously considered, and as a result, the Schedule A rents for seventeen additional market areas are now being modified.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the office of the Rules Docket Clerk, Room 5216, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

It is hereby certified that the economic and inflationary impact of this regulation have been carefully evaluated in accordance with Executive Order 11821.

Accordingly, Schedule A of Part 888, Subpart A, is amended for certain market areas as set forth below (see 42 FR 33578, 33589, 33597, 33614, 33619, 33625, and 33629 for the rents prior to the effective date of this amendment).

(Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d).)

Issued on August 29, 1977.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

Market area	Structure type	Number of bedrooms				
		0	1	2	3	4 or more
Insuring office, Albany, N.Y., Region II—New York						
Poughkeepsie	Detached			436	508	546
	Semidetached/row		305	381	452	490
	Walkup	241	283	356	422	452
	Elevator	316	365	441		
Insuring office, Coral Gables, Fla., Region IV—Atlanta						
Fort Lauderdale	Detached			348	408	450
	Semidetached/row		255	320	402	430
	Walkup	217	240	320	402	425
	Elevator	232	245	328		
Insuring office Memphis, Tenn., Region IV—Atlanta						
Memphis	Detached			312	380	440
	Semidetached/row	232	258	285	335	367
	Walkup	191	222	259	291	331
	Elevator	253	290	346		
Jackson	Detached			260	299	340
	Semidetached/row	190	220	247	286	330
	Walkup	178	210	235	266	298
	Elevator	256	292	336		
Union City	Detached			260	299	340
	Semidetached/row	199	214	257	292	331
	Walkup	176	193	226	255	282
	Elevator	257	297	352		
Insuring office, Des Moines, Iowa, Region VII—Kansas City						
Council Bluffs	Detached			381	444	481
	Semidetached/row		274	334	390	450
	Walkup	184	217	278	336	367
	Elevator	278	320	381		
Insuring office, Fargo, N. Dak., Region VIII—Denver						
Minot	Detached			308	369	398
	Semidetached/row		218	280	332	373
	Walkup	169	207	267	312	353
	Elevator	217	261	309		
Area office, San Francisco, Calif., Region IX—San Francisco						
San Francisco	Detached			576	662	735
	Semidetached/row		385	451	559	648
	Walkup	312	326	414	497	557
	Elevator	349	459	554		
Fresno	Detached			346	369	408
	Semidetached/row		275	325	357	394
	Walkup	226	263	293	355	386
	Elevator	291	327	411		
Modesto	Detached			348	380	401
	Semidetached/row		262	327	341	374
	Walkup	240	252	302	325	367
	Elevator	277	320	411		
San Jose	Detached			472	495	519
	Semidetached/row		344	394	449	483
	Walkup	268	289	373	412	444
	Elevator	307	331	416		
Oakland-Marin	Detached			507	548	592
	Semidetached/row		396	459	504	534
	Walkup	258	277	357	429	449
	Elevator	315	352	432		

Market area	Structure type	Number of bedrooms				
		0	1	2	3	4 or more
Area office, Portland, Oreg., Region X—Seattle						
Ontario	Detached			305	346	367
	Semidetached/row		243	284	332	375
	Walkup	187	228	270	325	367
	Elevator	208	201	345		
Portland	Detached			261	355	392
	Semidetached/row	206	229	273	340	377
	Walkup	191	225	260	325	364
	Elevator	260	315	372		
Bend	Detached			273	315	357
	Semidetached/row		233	267	308	336
	Walkup	183	218	254	289	324
	Elevator	255	309	357		
Coos Bay	Detached			261	315	351
	Semidetached/row		233	267	308	336
	Walkup	183	218	254	286	324
	Elevator	255	309	357		
Medford	Detached			286	348	383
	Semidetached/row		239	273	333	368
	Walkup	191	225	260	307	342
	Elevator	261	317	365		

[FR Doc.77-26322 Filed 9-9-77;8:45 am]

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federal register

MONDAY, SEPTEMBER 12, 1977
PART IV



ENVIRONMENTAL PROTECTION AGENCY

BUSES

Noise Emission Standards for Transportation Equipment

V42-176 SEP 12 77 UMI

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 205]

[FRL 796-3]

BUSES

Noise Emission Standards for Transportation Equipment

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes interior and exterior noise emission standards for buses having a Gross Vehicle Weight Rating (GVWR) in excess of 10,000 pounds. This action is being taken pursuant to the Noise Control Act of 1972. Compliance with the proposed standards should on the average reduce the exterior noise generated by buses under maximum acceleration by 5 dBA and the noise inside buses under maximum acceleration by 7 dBA. The Agency assessed the health and welfare impact of bus noise control by evaluating three intrusive effects of bus noise, namely sleep awakening, sleep disturbance and speech interference. The lowering of exterior bus noise to the proposed levels will result in a 33-49 percent reduction of these intrusive noise effects. The health and welfare effects of the reduction of noise inside buses were assessed in terms of potential passenger and operator hearing loss risk and passenger speech interference. Compliance with the proposed standards for interior bus noise will result in a 43 percent decrease in passenger speech interference impacts and a substantial reduction in potential hearing loss risk for both bus passengers and bus operators.

DATES: The official docket (Docket Number ONAC 77-6) for the proposed Bus Noise Regulation will remain open for the submission of comments until 4:30 p.m. (90 days from date of publication). At that time all materials submitted for the record, including transcripts of all public hearings, will become part of the official record. Public hearings will be held on October 25, 1977, commencing at 9 a.m. in the Quality Inn Capitol Hill, 415 New Jersey Avenue NW., Washington, D.C. 20001, and on November 1, 1977, commencing at 9 a.m. in the St. Francis Hotel, 335 Powell Street, San Francisco, Calif. 94119.

ADDRESSES: Persons submitting written comments to the docket should write to: Director, Standards and Regulations Division, Office of Noise Abatement and Control (AW-471), Attn: Bus Noise Regulation Docket Number ONAC 77-6, U.S. Environmental Protection Agency, Washington, D.C. 20460.

It is requested that comments to the docket be submitted with five (5) copies, if practicable.

Persons wishing to present their views at either public hearing should also notify the Director, Standards and Regulations Division, at the above noted address, no later than October 17, 1977, of their intention to made a statement so that presentations may be scheduled. Concerning presentations at the hearings, it is requested that presentations be limited to 20 minutes in length to enable all pre-scheduled persons an opportunity to speak and to permit a question and answer period following each presentation. Persons who have not given notice of their intent to speak will be heard following the practicable, five (5) copies of their statement prior to the hearing date to the Director, Standards and Regulations Division.

All information received, which is not identified as company proprietary in nature, will be open to public inspection and copying during normal business hours at the U.S. Environmental Protection Agency Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION RELATED TO THE PROPOSED STANDARDS CONTACT:

Mr. Christopher A. Kouts, Project Officer—Buses, Standards and Regulations Division, Office of Noise Abatement and Control (AW-471), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (703-557-7666).

TO RECEIVE COPIES OF THE PROPOSED REGULATION, DRAFT ENVIRONMENTAL IMPACT STATEMENT OR THE BACKGROUND DOCUMENT FOR THE PROPOSED REGULATION CONTACT:

Mr. Charles Mooney, EPA Public Information Center (PM-215), Room 2194D, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202-755-0717).

SUPPLEMENTARY INFORMATION:

1.0 Introduction

Through the Noise Control Act of 1972, Pub. L. 92-574, 86 Stat. 1234 et seq., 42 U.S.C. 4901 et seq. (the "Act"), Congress established a National policy "to promote an environment for all Americans free from noise that jeopardizes their health and welfare." In pursuit of that policy, Congress stated, in section 2 of the Act, "that, while primary responsibility for control of noise rests with State and local governments, Federal action is essential to deal with major noise sources in commerce, control of which requires national uniformity of treatment."

As part of this Federal action, section 5(b)(1) of the Act requires the Administrator, after consultation with appropriate Federal Agencies, to publish a report or series of reports "identifying products (or classes of products) which in his judgment are major sources of noise." Pursuant to section 5(b)(1), the Administrator published in the FEDERAL REGISTER (40 FR 23105, May 28, 1975) a report which identified "buses" as major sources of noise.

Section 6 of the Act requires the Administrator to publish proposed regulations for each product which is identified or which is part of a product class identified as a major source of noise, where in his judgment noise standards are feasible. Such regulations are to include standards that set limits on the noise emissions from such an identified new product "requisite to protect the public health and welfare, taking into account the magnitude and conditions of use of such product (alone or in combination with other noise sources), the degree of noise reduction achievable through the application of the best available technology, and the cost of compliance."

Section 6(d)(1) of the Act specifies that the manufacturer of each new product shall warrant to the ultimate user and each subsequent purchaser that the product is designed, built and equipped so as to conform at the time of sale with the regulation.

Under section 6(e)(1), no State or political subdivision thereof may adopt or enforce any law or regulation which sets a limit on noise emissions from new products regulated by EPA, unless such law is identical to the applicable EPA regulation. The requirement to be "identical" applies to the standard and those elements of the measurement methodology which define the standard, these must be identical to those in the EPA regulation. However, other elements of the State or local law need not be identical. Such elements include the list of persons subject to the regulations, sanctions, enforcement procedures and correlatable or equivalent "short tests" used for enforcement purposes.

Section 6(e)(2) of the Act specifies that nothing in section 6 shall preclude or deny the right of any State or political subdivision thereof to establish and enforce controls on environmental noise and sources thereof through the licensing, regulation, or restriction of the use, operation, or movement of any product or combination of products. Such controls which are reserved to State and local authority under this section include, but are not limited to, the following:

(1) Controls on the time of day during which products may be operated.

(2) Controls on the places or zones in which products may be used.

(3) Controls on the noise emission level of products during use and operation that are enforceable against the consumer.

(4) Controls on the number of products which may be operated at the same time.

(5) Controls on noise emission level from the properties on which products are used.

(6) Controls on the licensing of products.

(7) Controls on the manner of operation of products.

State and local time-of-sale noise emission regulations applicable to products which are not covered by Federal regulation are in no way preempted by these regulations.

Section 10 of the Act establishes prohibited acts in relation to products for which section 6 regulations are applicable. Distribution in commerce of any new product manufactured after the effective date of regulations specified in section 6, is prohibited, unless it is in conformity with such regulations. Removal or rendering inoperative of any device or element of design incorporated into any product in compliance with section 6 regulations, other than for purposes of maintenance, repair, or replacement, prior to its sale or delivery to the ultimate purchaser or while it is in use or the use of the product after such device or element of design has been removed or rendered inoperative by any person is prohibited.

Section 11 of the Act specifies enforcement penalties for violation of any prohibited act under section 10(a), (1), (3), (5) and (6). Such penalties for first violations include a fine of not more than $25,000 per day of violation, or imprisonment for not more than one year, or both for knowing or willful violations. The penalties double for subsequent violation.

Section 13 of the Act provides the authority for the Administrator to require a manufacturer to establish and maintain records, make such reports, and provide such information as is necessary for him to determine compliance.

Section 15 of the Noise Control Act established a process by which the Federal Government will give preference in its purchasing to products where noise emissions are significantly below those required by the Federal noise emission standards promulgated pursuant to section 6 of the Act. Accordingly, the EPA has published procedures for Certification of Low-Noise-Emission-Products (40 CFR Part 203).

For buses the specific noise emission level criteria required for Low-Noise-Emission-Product (LNEP) determination are contained in § 205.102(g) of Subpart C of the proposed regulation.

Section 16(d) grants the Administrator the authority to issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents to assist him in collecting information to carry out the purposes of the Act.

2.0 The Proposed Regulation

The proposed noise emission standards and effective dates, presented in Table 1, apply to buses while operating at maximum noise emission conditions during a low speed pass-by operating mode. The proposed exterior standard specifies an average A-weighted sound pressure level measured at a distance of 15.2 meters (50 feet) perpendicular to the center line of bus travel. The proposed interior standard specifies an average A-weighted sound pressure level measured at a height of 1.25 meters (4 feet) beside the interior seat location closest to the main body of the engine. The standard measurement procedures used to obtain the data are presented in detail in § 205.104 of Subpart C.

TABLE 1.—*Proposed regulatory noise emission standards*

	Average A-weighted sound pressure level (dBA)
Exterior Bus Noise	
Effective dates	
Jan. 1, 1979	83
Jan. 1, 1983	80
Jan. 1, 1985	77
Interior Bus Noise	
Jan. 1, 1979	86
Jan. 1, 1983	83
Jan. 1, 1985	80

The Agency believes that the estimated health and welfare benefits from these proposed noise emission standards can be attained only if buses meet the not-to-exceed levels in Table 1 for a reasonable in-use period. At a minimum it means the standard must be met for an initial period of time and/or use, beginning on the date of the product's delivery to the ultimate purchaser. This period is described by the Agency as the Acoustical Assurance Period (AAP). It is defined as that period during which the product must meet the standard when the product is properly used and maintained. In the case of buses, the Acoustical Assurance Period is 2 years or 200,000 miles of use, whichever occurs first.

Concerning Agency enforcement of the AAP, a manufacturer must develop, pursuant to § 205.108-4 of subpart C, an anticipated increase in the noise level of its bus(es) during the AAP. A manufacturer must take this anticipated increase in noise level, expressed in terms of a Sound Level Degradation Factor (SLDF), into account when performing tests to show compliance with the applicable standard. That is, where an SLDF is anticipated, a manufacturer must show that his product meets a level defined by the applicable standard of Table 1 minus the SLDF value.

The Administrator has determined that the proposed standards are feasible and represent those levels of noise requisite to protect the public health and welfare, taking into account the magnitude and conditions of use of such product (alone and in combination with other noise sources), the degree of noise reduction achievable through the application of the best available technology and the cost of compliance, as required by section 6(c)(1) of the Act.

EPA is unaware at this time of any bus manufacturer who would be unable to produce buses meeting the proposed standards by the specified effective dates. However, the Agency solicits the submittal of such data or information during the public comment period as may refute or support this position.

The proposed regulation also incorporates an enforcement program which includes production verification, selective enforcement auditing procedures, warranty, compliance labeling and anti-tampering provisions.

The information gathered by the Agency concerning all aspects of this regulation may be found in the Background Document, the availability of which is explained in section 9.0.

3.0 Background Information

3.1 *General.* The proposed regulation is another in a series of transportation equipment noise regulations to be proposed under section 6 of the Act. In arriving at the proposed regulation, the Agency carried out detailed investigations of the potential environmental and health and welfare benefits associated with the application of various noise control measures; of bus design technology, including bus manufacturing and assembly processes and available bus noise control technology; of bus noise measurement methodologies; of costs attendant to bus noise control methods; of the cost to test machines for compliance; of the cost of record keeping; and of possible economic impacts.

To meet the requirements of the Act, in considering the best available technology "requisite to protect the public health and welfare" taking into account the cost of compliance, the Agency constructed definitions of the terms "best available technology" and "cost of compliance." In doing so, the Agency carefully considered the strict language of the Act, its legislative history, and other relevant data. Based thereon, the following definitions have been established by the Administrator for the purposes of these regulations.

"Best available technology" is defined as that noise abatement technology available which produces the greatest achievable, meaningful reduction in the noise produced by buses. EPA considers that the level "achievable through the application of the best available technology" is the lowest noise level, which can be reliably predicted based on engineering analysis of products subject to the standard that manufacturers will be able to meet by the effective date, through the application of currently known noise attenuation techniques and materials. In order to assess what can be achieved, EPA has: (1) Identified the sources of bus noise and the levels to which each of these sources can be reduced, using currently known techniques; (2) determined the level of overall bus noise that will result; (3) assured that such techniques may be applied to the general bus population; (4) assured that such techniques are adaptable to production line assembly; and (5) assured that sufficient time is allowed for the design and application of this technology by the effective dates of the standards.

"Cost of compliance" is defined as the cost of identifying what action must be taken to meet the specified noise emission level, the cost of taking that action, any additional cost of operation and maintenance caused by that action, and

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cost of noise testing and record keeping required by the regulation.

To determine what constitutes the best available technology and the cost of compliance, the Agency amassed information from a range of sources including: (1) Studies performed by Agency personnel; (2) studies performed under contract to the Agency; (3) submissions by other Federal agencies; (4) submissions by industry; and (5) data in the available literature.

Representatives of the Agency carried out extensive interviews with key members of firms in the bus industry to gain first-hand knowledge of the industry and its products and to obtain and verify technological and financial information. Similar interviews were conducted with key persons in intercity bus companies, transit authorities, school districts, and bus industry trade associations as well as officials of various Federal agencies including the U.S. Department of Transportation.

3.2 *Product Definition* The Agency recognizes that there are many different types of buses commonly operated for the transportation of people and property in the United States. As a result of study and analysis, the Agency has determined that a reasonable definition for "bus" applicable to this noise rulemaking would be bus type vehicles which have a Gross Vehicle Weight Rating (GVWR) of over 10,000 pounds.

The large majority of bus type vehicles under 10,000 pounds GVWR appear to be vehicles composed of a light vehicle chassis with specialized bus body applications. The technology and characteristics of such vehicles are more akin to light vehicle terminology and characteristics than to bus type vehicles over 10,000 pounds GVWR. Accordingly, buses have been defined by the Agency as any motor vehicle with a GVWR in excess of 10,000 pounds designed for the transportation of passengers on a street or highway and includes a partially or fully enclosed engine compartment and an enclosed passenger compartment. The principal types of buses that are within this definition are those commonly referred to as school buses, transit buses, and intercity buses. There are however, other buses that meet the criteria specified by the Agency and are not typically identified in the above three types of buses. These may include, airport buses and similar specialized application buses which are over 10,000 pounds GVWR. Such vehicles are also subject to these regulations. Details regarding the identification of the above vehicles for noise control regulation, their design features and functional characteristics are contained in the Background Document.

3.3 *Technology.* As explained in the Background Document, Noise level data for buses were collected by EPA from a number of sources including: (1) Submissions by manufacturers, (2) EPA sponsored testing programs at various sites throughout the United States and (3) data available in the open literature. The range of exterior bus noise levels under maximum acceleration conditions at a position 15.2 meters (50 feet) perpendicular to the center line of travel were found to be (1) school buses 75–89 dBA, (2) transit buses 78–86 dBA and (3) intercity buses 82–87 dBA. The range of interior noise levels under maximum acceleration conditions measured at a height above the bus floor of 1.25 meters (4 feet) beside the seat location closest to the engine were found to be (1) school buses 81–89 dBA, (2) transit buses 80–90 dBA and (3) intercity buses 77–84 dBA.

Diagnostic investigation showed that vehicle noise consisted of the noise radiated by the (1) engine cooling fan, (2) engine casing, (3) engine exhaust, (4) engine air intake, and (5) transmission system. Of these sources, noise radiated by the cooling fan, engine casing, and engine exhaust are the most dominant and therefore, require first attention in techniques to quiet bus noise.

The results of studies performed to assess noise control techniques applicable to bus noise indicate that some vehicle design changes may be necessary to control fan and engine related noise. These changes vary in amount and type when applied to the different types of buses over 10,000 pounds GVWR. On the average, it is estimated that improved fan shrouds, increased radiator-to-fan and fan-to-engine clearances, and the use of various fan configurations can reduce fan noise by as much as 7 to 9 dBA. It is also estimated that engine casing noise can be reduced by 6 to 8 dBA through the application of acoustically absorbent material to the interior surfaces of the engine compartment. Further redesign of the engine compartment to modify the engine enclosure and acoustically treat the surfaces of the enclosure will further reduce exterior noise emissions. Finally, substantial reduction of engine exhaust noise can be accomplished by the use of improved mufflers: Current estimates indicate reductions of between 8 and 14 dBA. For some buses, the addition of larger mufflers causes relocation concerns and in some cases the loss of rear seat space. When translated into overall vehicle noise reduction, that is, a reduction of noise from a bus during a maximum acceleration measurement test, it is estimated that reduction of 8–10 dBA for all types of buses (obtained by a logarithmic aggregation of reductions in all component source noise levels) can be achieved through the application of available technology.

Related to the reduction of exterior noise levels is the concurrent reduction of interior bus noise levels, which can be accomplished with the application of some additional technology to minimize the transmission of noise from the engine and the exhaust system to the interior compartment of the bus. The principal technologies for reducing interior noise relate to the reduction of vibration transmission along with the application of absorptive material to the interior surfaces of the bus. Where the addition of sound absorptive materials to the interior of the bus may be necessary to reduce the interior noise levels to the regulatory standard, the durability of the materials employed should be compatible with existing durability requirements already in effect for the same vehicle type. With the application of vibration isolation techniques and in some cases interior sound absorptive materials it appears to the Agency that an average reduction in interior bus noise levels of 4 to 10 dBA can be achieved across all bus types through the application of available technology.

Details describing the specific technology applications, their design features, and functional characteristics for each type of bus considered for regulation are presented in the Background Document.

3.4 *Measurement Methodology.* The Agency desires, whenever practicable, to utilize those measurement standards and techniques voluntarily developed and in general use. However, such standards frequently were developed for nonregulatory purposes and their application to Federal rulemaking necessitates certain modifications. The EPA exterior noise measurement methodology for buses is a modification of the Society of Automotive Engineers (SAE) J366b method currently employed by many bus and truck manufacturers. The Agency's purpose in modifying the SAE J366b procedure was to provide in particular for a measurement procedure which would encompass those buses which have automatic transmissions that cannot be normally locked into a specific gear. Besides requiring a modified SAE J366b acceleration sound level test procedure, the Agency is also requiring that buses equipped with engine brakes be tested according to a specified deceleration test procedure. The Agency is pursuing this course of action because it has reason to believe that certain buses equipped with engine brakes even when properly muffled can generate noise emissions substantially above the proposed standards.

In regard to the selection of the proposed interior sound level measurement procedure, with the utilization of the same bus operational procedure as the exterior measurement procedure, a single measurement point representing the noisiest location in the bus interior has been selected for determining compliance with the interior noise standards.

In arriving at the proposed exterior and interior measurement procedures, the Agency has endeavored to arrive at simple, low cost test methods that will provide the accurate data requisite for product verification at a manufacturer's plant and for compliance testing in the field.

The Agency recognizes that situations may exist or arise where other measurement methodologies, both for exterior and for interior noise, may be just as appropriate for obtaining the required data and, for that matter may have more utilitarian use. To this end, the Agency has provided for the inclusion of other measurement methodologies where information is furnished showing

to the satisfaction of the Administrator that the data from such methodologies correlate with the data from the prescribed procedures.

4.0 Rationale for Standards Selection

In arriving at the proposed regulation, the Agency assessed a number of classification schemes which addressed the usage of different types of buses which operate in different urban and suburban environments and the areas where the largest number of citizens are exposed to bus noise, both as bus riders and bystanders. The transit bus, used primarily in highly populated urban and suburban areas, is clearly one appropriate classification. The other classifications, school buses and intercity buses, operate in rual as well as in urban and suburban areas. The health and welfare benefits derived by reducing the noise generated by school and intercity buses result from their operation in land use areas where population densities are high as well as in areas of more sparse habitation. In concluding that all buses above 10,000 pounds GVWR should be regulated to the same level in the same time frame, the Agency looked at relationship among vehicle usage, population impact, noise levels, production cost, and quieting technologies.

Of particular concern to the Agency was the appropriateness of making the regulations applicable to school buses. The total relative cost to reduce school bus noise is high when compared to the health and welfare benefits resulting from noise control of the other principal types of buses covered by this proposed regulation. For the following reasons, however, EPA proposes to make the regulations applicable to school buses. Although intercity buses operate primarily on major arterial highways and transit buses operate mainly on primary urban/suburban roads, school buses not only travel along these roads but also on secondary streets in suburban residential areas. The only other truck type vehicle which is routinely encountered in these neighborhoods is the "garbage truck". (The "garbage" or "solid waste" compactor is presently the subject of a separate proposed noise emission regulation.) Accordingly, if not subject to these regulations the school bus may reasonably be expected over time, as all other major sources of urban transportation noise are reduced by regulation, to be the single loudest source of vehicular noise in the community.

An important point regarding the regulation of bus noise is the relationship between the technologies to reduce exterior and interior noise. Agency studies have shown that, without concomitant reductions in exterior bus noise, interior bus noise becomes more difficult to reduce. As a result, without the regulation of exterior school bus noise, the health and welfare benefits to be accrued from the regulation of interior school bus noise cannot be realized.

Requiring noise control regulation of school buses effects uniform treatment of noise control for all types of buses and prevents school buses from becoming the noisiest source of urban/suburban street vehicle noise. This may be even more important in the future in light of the potential for a future increase in the number of diesel vehicles in the school bus fleets of some school districts and the resulting noise increase which would likely occur in the absence of noise source regulation.

If noise control standards were not made applicable to school buses, a group of medium truck chassis vehicles might be allowed to exceed the standards already set forth for such vehicles. This is true because the school bus industry is highly cost competitive and, as a result, truck chassis manufacturers may not apply truck chassis noise abatement techniques to school bus chassis, since the increase in cost for quieter school buses would be a market disadvantage.

Public comment is particularly invited on the question as to whether these regulations should be applicable to school buses.

The Agency examined the health and welfare benefits that would accrue if bus noise levels were reduced to various selected study levels corresponding to (1) the approximate current average sound levels for each class of vehicle, (2) levels achievable with "off the shelf" noise abatement techniques, and (3) levels that the Agency believes attainable through the application of "best available technology." The benefits attendant to these levels were then assessed in terms of the number of people who are impacted by single event noise exposure from both exterior and interior bus noise emissions and the number of people who can be removed from such impact through regulation of bus noise.

In reviewing the noise control technology applicable to bus noise reduction, lower regulatory standards than those found in this proposed regulation (for both exterior and interior bus noise) were studied and were found technologically feasible. However, after assessing the additional costs for such technology and the additional benefits projected to be accrued from such standards, the Agency determined that the proposed standards were more reasonable to impose.

Estimates of the costs to quiet these vehicles were developed on an engineering cost basis, assuming that incremental reductions from present day average noise levels could be applied to each class of buses. The Agency also examined the potential economic impact that may result from imposition of the various levels of noise reduction technology. The Agency concluded that in order to take advantage of available technology and thus realize short term health and welfare effects, an incremental reduction in the noise levels of these vehicles was a better approach than specifying that all vehicles meet the lowest or most stringent levels in one step.

The attainment of the health and welfare benefits from the reduction of bus noise emissions is dependent on the continued compliance of these products with the Federal noise emission standards during actual use. To ensure that manufacturers develop and apply durable sound reduction measures to their products, the Agency believes it is necessary to establish a specific period of time or use during which newly manufactured products must, as a minimum requirement, comply with the Federal standard. It is the Agency's opinion that this time period should be of a duration that is commensurate with average major component repair, replacement or product overhaul time periods. The Agency believes that if a bus complies with the standard during this initial period, the Acoustical Assurance Period, it is unlikely that the noise emissions of the bus will degrade (increase) above the standard for the remainder of the expected life of the product: *Provided*, That the product is properly maintained and used. This places a burden on several parties. First, it requires the manufacturer to design and build the product so that, if it is properly maintained and operated, the product will be capable of performing at or below the requisite sound level, and second it relies on the owner/user to properly maintain and use the product. (The responsibility of the owner/user is discussed in other portions of this preamble; see discussion of anti-tampering infra.)

The Agency considers the concept of an Acoustical Assurance Period necessary because if the product is not built such that it is even minimally capable of meeting the standards while in use over this initial period when properly used and maintained, the standard itself becomes a nullity and the anticipated health and welfare benefits illusory.

The Agency considers the concept reasonable because in the information which is available to it, it finds that the noise levels of buses do not increase appreciably over the initial 2-years or 200,000 miles when the product is properly used and maintained. Furthermore, the Agency finds that the industry is technologically capable of designing these products to assure minimal degradation in the noise control features. This capability was considered within the technology, maintenance and cost assessments attendant to the standards proposed in this regulation.

In making the determination that the Acoustical Assurance Period for buses should be 2-years, or 200,000 miles, EPA took into account the magnitude and conditions of use of these products, the best maintenance attendant to noise control, and the cost of compliance. Among specific factors considered were:

1. The likelihood that acoustical degradation of noise control features and the resultant increase in noise level above the standard, would not occur during the Acoustical Assurance Period if the manufacturer used proper design and fabrication, quality materials and workmanship;
2. The low maintenance normally required on buses during their early years of use; and
3. The relative usage cycles of these products during their early years of use.

In assessing the noise control technology which is needed for compliance

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with the proposed bus standards, the Agency found no components which cannot be built to assure minimal or no degradation (increase) in the bus's sound level: *Provided*, That the bus is properly maintained and used. The Agency has also found in its studies of the bus industry that the industry, in general, strives to produce a long lasting, durable product by using component parts of high quality and bus designs which can withstand extensive use. As a result of the above studies, the Agency has concluded that the AAP requirement will not impose additional maintenance or equipment costs over those already estimated as attributable to the proposed regulation.

It is important to understand what AAP means to the manufacturer. The manufacturer will be held responsible for producing a product that is capable of meeting the standard. The proposed enforcement provisions of the AAP allow the product to be designed and built at the level of the standard assuming no degradation in noise control features with time, or built with noise levels somewhat below the standard to account for some degradation with time. But in neither event can the product exceed the standard during the Acoustical Assurance Period.

EPA is also proposing a procedure whereby the manufacturer must account for sound level degradation in his compliance testing and verification program by applying a Sound Level Degradation in his compliance testing and verification program by applying a Sound Level Degradation Factor (SLDF) to the noise emission standard. This may result in a manufacturer-specific production test level which is lower than that specified by the standard. For example, if a manufacturer estimates that the noise level of his product may increase 3 dBA during the AAP and SLDF would be 3 dBA. Then, for production verification (discussed below), the manufacturer would have to test his product at a level which is 3 dBA lower than that specified by the standard. If a product is not expected to degrade during the AAP, the SLDF will be zero. It is EPA's evaluation that in most cases the SLDF would be near or equal to zero.

Manufacturers would be subject to federal enforcement actions consistent with section 11 of the Noise Control Act if the noise emission level during the AAP exceeds the noise emission standard. It should be clearly understood that this concept does not impose any additional burden on the manufacturer for proper maintenance and use. That is, if the product is not properly maintained and used during the AAP, the manufacturer is relieved of subsequent resulting liability. In this regard, maintenance instructions from the manufacturer to the owner/user may include component part replacement during the AAP, provided that the scheduled replacement of those parts is necessary and reasonable. In the final analysis, the responsibility for properly maintaining and operating the product rests with the owner/user.

EPA solicits comments on the approach it has taken to attain the health and welfare benefits requisite to this regulatory action EPA also solicits comments on the length of the AAP together with the rationale and data to support the position taken.

5.0 Estimated Impact of Proposed Regulations

5.1 *Health and Welfare.* Approximately 93 million Americans are exposed to levels of urban traffic noise which may jeopardize their health and welfare. Buses are an integral component of the urban noise problem. Assessment of the intrusive nature of bus noise impact led the Agency to a single event passby noise exposure analysis for assessing the health and welfare impact of bus noise control for exterior noise exposure. Three indicators of intrusiveness (sleep awakening, sleep disturbance and speech interference) were used for the single event analysis. Compliance with the proposed standards for buses would result in a 39.5 percent reduction in potential sleep awakening impacts due to buses, a 33.4 percent reduction in potential sleep disturbance impacts due to buses and a 48.2 percent reduction in potential speech interference impacts due to bus noise exposure.

One of the problems which was not specifically addressed in the health and welfare analysis of exterior bus noise was the noise impact that certain population groups experience while residing or working in areas where buses frequently travel, where buses congregate in large numbers (such as near bus yards or bus depots) or where buses are the only surface transportation vehicle in the proximity (such as in bus malls). In these areas, buses can be a major contributor to the ambient environmental noise level as opposed to most other areas where bus noise does not greatly affect existing ambient environmental noise levels but can disrupt certain human activities. Although the health and welfare benefits of the proposed regulation were assessed on the basis of a nationwide average (thus, not addressing specific bus noise problems), the people impacted in these high bus noise impact areas will most likely receive substantial benefits from the proposed exterior standards.

The health and welfare impacts due to noise inside buses were assessed in terms of the reduction of speech disturbances inside buses and reduced potential hearing loss risk for bus passengers and operators. Hearing damage is generally brought about by noise exposure on a continuing, 24 hour, day-to-day-basis. As a result in order to ascertain the hearing loss effects due to interior bus noise on bus passengers and operators, the Agency assumed a reasonable range of three non-bus daily noise exposures (60, 70, 80 dBA) for all bus occupants in carrying out the hearing loss risk analysis. It should be noted that the impacts discussed for interior bus noise hearing loss risk assume many years of exposure to interior bus noise along with other noise exposures.

Compliance with the proposed standards for interior noise levels for buses would result in a 42.7 percent decrease in potential passenger speech interference impacts, a 92.4 percent decrease in potential hearing loss risk for passengers exposed to 80 dBA prior to bus transit, a decrease of 68.8 percent in potential hearing loss risk for passengers exposed to 70 dBA prior to bus transit, and a reduction of 2.6 percent in potential hearing loss risk for passengers exposed to an 80 dBA level prior to bus transit. Similar percentage impact reductions will occur for bus operators.

All of the foregoing reductions for both interior and exterior noise impact are percentages taken from present day impacts and projected to the year 2000.

If the number of bus vehicles rises significantly above the current population utilized in the health and welfare analysis, the actual number of bus noise exposures as compared to the current number of exposures may be more, but the relative benefits, when compared with projections utilizing an increased bus population with no regulation imposed, should remain the same.

For a detailed discussion of the noise impact techniques utilized in the health and welfare analyses, refer to the Background Document.

5.2 *Cost and Economic Impact.* Estimates of the costs to quiet buses can be expressed in terms of increased list price. It is estimated that list price increases will range from 1.8 to 8.8 percent, (depending on bus type and size) resulting in a weighted average list price increase of 3.2 percent for all bus vehicles. There are indications that several small firms in the bus industry, by virtue of their small market share, specialized product and other factors, could incur relatively higher manufacturing costs which may result in higher list price increases. The Agency is desirous of minimizing disruptive impacts that may result from these regulations and solicits data and information which would indicate whether such disruption could reasonably be expected to occur should these regulations be promulgated as proposed herein.

The total estimated increase in annualized cost to users through the year 2000 due to the implementation of both the proposed interior and exterior standards is estimated to be about $69 million.

For school buses, this results in a potential average annual increase cost per school district of $2,319 per year. The above cost per school district is based on the assumption that the percentage of diesel school buses produced will remain relatively constant at about 11 percent of total school production. If the percentage of diesel school buses increases significantly the costs incurred by school districts due to the proposed rule will be increased.

A portion of any cost increase resulting for transit buses will most probably be funded through Federal programs under the Urban Mass Transit Administration (UMTA). Present UMTA policy provides up to 80 percent funding on initial purchase of transit buses and up to 50 percent funding of local transit company operating costs. In trying to assess the maximum impact of the proposed regulation on transit and intercity bus fares, the Agency assumed that the increased total costs of the regulation would be financed almost entirely by fare increases. This is an extreme case since transit systems and intercity bus carriers typically try to absorb costs in order to forestall fare increases. Utilizing such a (worst case) assumption, the Agency projects a maximum of a 1.0 to 1.7 percent fare increase as a result of this regulation.

Various aspects of potential economic impact were assessed to evaluate changes which could occur due to promulgation of these proposed regulations. Since many effects are difficult to quantify, a qualitative summary follows:

1. *Impacts on Suppliers.* Some component suppliers may increase their sales depending on their ability to reduce the noise emissions of their product and thereby contribute to the reduction in overall vehicle noise. Furthermore, those suppliers specializing in the manufacture of sound dampening and sound absorbent materials and other products required for abatement would be expected to experience increased sales.

2. *Impacts on Exports.* Products manufactured for export only are not required under the Act to comply with the regulation. Accordingly, because the technology studied is essentially modular, vehicles for export can generally be produced without noise abatement equipment; therefore, the impact on U.S. exports should be minimal.

3. *Impacts on Foreign Trade.* The proposed regulations will apply to all imported buses. However, the percentage (approximately 2.5 percent) of buses imported when compared with overall domestic bus production in very small. There is no reason to believe that imports will be unable to competitively comply with the standards and thus the proposed regulation should have little to no effect on foreign trade.

4. *Employment Impacts.* Regulating the noise emissions of buses will probably have negligible overall effect on employment. The existing research and development (R&D) staffs of major firms and independent suppliers of these services would appear to be able to readily meet the bus industry's R&D requirements for noise abatement. There may, in fact, be a modest increase in manufacturing labor to design, build and install the necessary noise abatement materials. This potential increase may be offset by a corresponding decline in regular production personnel if decreases in demand for regulated buses result. This latter point is uncertain since it is also probable that firms will increase their sales efforts to counter any potential decline in demand in this highly competitive market.

5. *Effects on Gross National Product.* The proposed regulation is not expected to directly affect the Gross National Product (GNP). Since the Agency's best estimate of the price elasticity of demand for buses is −0.5, it is expected that marginal price increases of buses would probably be offset by equal percentage decreases in demand; the net result being an unchanged GNP as expressed in current dollars.

6.0 Enforcement

6.1 *General* The EPA enforcement strategy will place a major share of the responsibility on the manufacturers for pre-sale testing to determine the compliance of buses with these regulations and the interior and exterior noise emission standards at the time of sale. This approach leaves the manufacturers in control of many aspects of the compliance program and imposes a minimal burden on their business. The effectiveness of this strategy necessitates limited record-keeping and reporting by the manufacturer and monitoring by EPA personnel of the tests conducted and actions taken by the manufacturer in compliance with this regulation. Comments are solicited on this stratetgy and in particular the reporting requirements contained in the regulation.

The strategy proposed in this regulation for enforcement of both the interior and exterior standards consists of three parts: (1) Production Verification (PV), (2) Selective Enforcement Auditing (SEA), and (3) In-use Compliance.

The manufacturer who assembles the completed bus, as in the case of intercity and transit buses, is responsible for satisfying the PV, SEA and in-use requirements of this regulation for both the interior and exterior standards. In the case of vehicles which are assembled by two manufacturers, such as many Type I school buses, the chassis manufacturer must satisfy the PV, SEA and in-use provisions of this regulation with respect to the vehicle exterior noise emission standard. The body assembler/mounter of the Type I school bus is responsible for compliance with these provisions with respect to the vehicle interior standard. In addition, the body assembler is prohibited from causing the vehicle exterior noise emissions to exceed the standard and is subject to SEA provisions of the regulation for the exterior standard.

The following discussion of PV, SEA and in-use provisions applies to the enforcement of both the interior and exterior standards and is applicable to the appropriate manufacturer as discussed above.

6.2 *Production Verification* PV is the testing by a manufacturer of early production models of a category or configuration of the product, and submitting a report of the results to the EPA. This process, using the proposed methodologies, for both interior and exterior testing, gives the EPA some assurance that the manufacturer has the requisite noise control technology in hand and the capability to apply it to the production process. Models selected for testing must have been assembled using the manufacturer's normal assembly method and must be units assembled for sale.

PV does not involve any formal EPA approval or issuance of certificates subsequent to manufacturer testing. The proposed regulation would require that, prior to the distribution in commerce of any regulated product, a product must undergo production verification. Section 205.105–2(a) would allow a conditional and temporary waiver of this requirement under special circumstances. Responsibility for testing lies with the appropriate manufacturer as set out above and in section 205.105–1 of the regulation. The Administrator reserves the right to be present to monitor any test (including simulaneous testing with his equipment) or to require that a manufacturer ship products for testing to the EPA's Noise Enforcement Facility in Sandusky, Ohio or to any other site the Administrator may find appropriate.

The basic production unit selected for testing purposes is a product configuration, which is a set of vehicles grouped together on the basis of parameters proposed in § 205.105.3 The manufacturer would be required to verify each configuration. The regulations, however, also allow manufacturers to group configurations into categories based on the parameters proposed in § 205.105–2 and to verify by category. This is done by selecting the configuration in each category that the manufacturer determines will have the highest level of noise emissions at the end of its Acoustical Assurance Peroid (AAP) (based on tests or on engineering judgment). If when tested in accordance with the test procedure, that configuration does not exceed a sound level defined by the new product standard minus that configuration's expected noise degradation over the period of its AAP, the all configurations in that category are considered product verified. This applies to both the interior and exterior standards.

The Administrator also reserves the right to test vehicles at a manufacturer's test facility using either his own equipment or the manufacturer's equipment. This will provide the Administrator an opportunity to determine that the manufacturer's test facility and test equipment meet the specifications proposed in the regulations. If it is determined that the facility or equipment does not meet these specifications, the Administrator may disqualify it from further use for testing under this subpart.

Under proposed § 205.106(a)(1), the Administrator may require that manufacturers submit to him any vehicle, including those tested or scheduled to be tested pursuant to these regulations at such time and place as he may designate.

If a manufacturer proposes to add a new configuration to the product line or to change or deviate from an existing configuration with respect to any of the configurations, he must verify the new configuration either by testing a product and submitting data or by filing a report which demonstrates verification on the basis of previously submitted data. A manufacturer may production verify a configuration at any time during the model year or in advance of the model year if he so desires.

Production verification is an annual requirement. However, the Administra-

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tor, upon request by a manufacturer, may permit the use of data from previous production verification reports for specific configurations or categories.

Production verification performed on the early production models give some assurance that the manufacturer has in hand adequate technology to produce vehicles which conform to the applicable noise emission standard and limits the possibility that non-conforming products are distributed in commerce. Because the possibility still exists that subsequently produced vehicles may not conform, selective enforcement auditing testing is incorporated in these proposed regulations.

6.3 *Selective Enforcement Auditing.* Selective enforcement auditing (SEA) is the testing of a statistical sample of assembly line (production) vehicles from a specified vehicle configuration or category to determine whether these vehicles comply with the applicable noise emission standards. The Agency proposes to utilize this strategy to oversee compliance with both the interior and exterior standards.

SEA testing is initiated when a test request is issued to the manufacturer by the Assistant Administrator for Enforcement or his designated representative. The test request will require the manufacturer to test a batch of vehicles of a specified category or a configuration produced at a specified plant. An alternative category or configuration may be designated in the event that vehicles of the first category or configuration are not available for testing.

The SEA plan employs a technique known as inspection by attributes. The basic criterion for acceptance or rejection of a batch is the number of sample vehicles in the batch which meet the standard rather than the average noise level of the vehicles tested.

A sequential batch sampling inspection plan will be used for SEA testing. Sequential sampling differs from single sampling in that small test samples are drawn from sequential batches rather than one large sample being drawn from a single batch. It offers the advantage of keeping the number of vehicles tested to a minimum when the majority of such vehicles are meeting the standards.

A batch will be defined as the number of vehicles produced during a time period specified in the test request. This will allow the Administrator to select batch sizes small enough to keep the number of vehicles to be tested at a minimum and still draw statistically valid conclusions about the noise emission performance and/or interior noise levels of all vehicles in that category or configuration.

The sampling plans proposed in these regulations are arranged according to the size of the batch from which a sample is to be drawn. Each plan specifies the sample size and the acceptance and rejection number for the established acceptance quality level (AQL). This AQL is the maximum percentage of vehicles exceeding the applicable noise emission standard minus the appropriate Sound Level Degradation Factor that for purposes of sampling inspection can be considered satisfactory. An AQL of 10 percent was chosen for both the interior and exterior standard to take into account some test variability. The number of failing vehicles in a sample is compared to the acceptance and rejection numbers for the appropriate sampling plan. If the number of failures is less than or equal to the acceptance number, then there is a high probability that the percentage of non-complying vehicles in the batch is less than AQL and the batch is accepted. If the number of failing vehicles is greater than or equal to the rejection number, then there is a high probability that the percentage of non-complying vehicles in the batch is greater than the AQL and the batch fails.

Since the sampling strategy involves a multiple sampling plan, in some instances the number of failures in a test sample may not allow acceptance or rejection of a batch so that continued testing may be required until a decision can be made to either accept or reject a batch.

When a batch sequence is tested and accepted in response to a test request, the testing is terminated. When a batch sequence is tested and rejected and the manufacturer desires to continue production and introduction into commerce of the failed configuration (category), the Administrator may require 100 percent testing of the vehicles of that configuration or category produced at that plant. He may then distribute the individual vehicles that pass the test.

Regardless of whether a batch is accepted or rejected, failed vehicles would have to be repaired or adjusted and pass a retest before they can be distributed in commerce.

The manufacturer can request a hearing on the issue of non-compliance of the rejected category or configuration.

Because the number of vehicles tested in response to a test order may vary considerably, a fixed time limit cannot be placed on completing all testing. The proposed approach is to establish a limit on test time per vehicle. It is estimated that manufacturers when conducting vehicle exterior and/or interior noise measurements can test a minimum of five (5) vehicles per day. However, manufacturers are requested to present any data or information that may effect a revision of this estimate.

6.4 *Administrative orders.* Section 11 (d)(1) of the Act provides that:

> Whenever any person is in violation of section 10(a) of this Act, the Administrator may issue an order specifying such relief as he determines is necessary to protect the public health and welfare.

This provision grants the Administrator discretionary authority to issue remedial orders to supplement the criminal penalties of section 11(a). The proposed regulations provide for several types of orders in specified circumstances: (1) Recall orders for failure of vehicles to comply with regulations (§ 205.109); (2) cease to distribute orders for vehicles not properly production verified (§ 205.105–10); and (3) cease to distribute orders for failure to test (§ 205.-107–9).

In addition, 40 CFR 205.4(f) provides for cease to distribute orders for substantial infractions of regulations requiring entry to manufacturers' facilities and reasonable assistance. These provisions do not limit the Administrator's authority to issue orders, but give notice of cases where such orders would in his judgment be appropriate. In all such cases notice and opportunity for a hearing will be given.

6.5 *Compliance labeling.* The proposed regulation requires that buses be labeled to provide notice that the product complies with both the exterior and interior noise emission standards. As was stated above, the manufacturer who is required to conduct production verification testing for a particular standard must satisfy the labeling requirements applicable to that standard. The EPA is considering requiring that the actual not-to-exceed level of the standard be stated on the label. This would be intended to aid state and local officials in field testing and enforcement of complimentary in-use standards. Specific comments on the advantages and disadvantages of including the level of the standard on the compliance label are solicited from all concerned parties.

6.6 *In-use compliance.* In-use compliance provisions are included in §§ 205.-108–1, 105.108–2 and 205.108–3 to ensure that degradation of emitted noise levels is minimized: *Provided,* That the vehicles are properly maintained and used. These provisions include a requirement that the manufacturers provide a time of sale warranty to purchasers, assist the Administrator in defining those acts that constitute tampering, provide to purchasers notice that such acts are tampering, and provide purchasers with instructions specifying the maintenance and use required to minimize degradation during product use.

It should be noted that the warranty is a time-of-sale warranty. Section 6 of the Act requires that a manufacturer warrant to the ultimate purchaser and all subsequent purchasers that at the time-of-sale the product was designed, built, and equipped to comply with the regulations. A warranty claim can be made by a purchaser at any time throughout the actual life of the product so long as it relates back to a non-compliance at the time-of-sale.

6.7 *Acoustical assurance period (AAP) compliance.* The manufacturer must also design his product so that it will meet the noise standard for the period of time specified as the Acoustical Assurance Period beginning at the date of delivery to an ultimate purchaser.

EPA does not specify what testing or analysis a manufacturer must conduct to determine that his vehicles will meet the AAP requirement of these regulations. However, these regulations do require the manufacturer to make a determination regarding the expected degradation and maintain records of the test data or other information upon which the determination was based. This determination

may be based on information such as tests of critical noise producing or abatement components, rates of noise control deterioration, engineering judgments based on previous experience, and physical durability characteristics of the product or product subcomponents.

The mechanism used in these regulations to express the amount of expected degraduation, if any, is the sound level degradation factor (SLDF). The SLDF is the degradation (noise level increase in A-weighted decibels) which the manufacturer expects will occur on a configuration during the period of time specified as the AAP. The manufacturer must determine an SLDF for each of his vehicle configurations.

To ensure that the vehicles will meet the noise standard throughout the AAP, they must emit a time of sale sound level less than or equal to the new product sound emission standard minus the SLDF. In no case shall this noise level exceed the federal standard; i.e., a negative SLDF may not be used. Production verification and selective enforcement audit testing both embody this principle.

If the product's noise level is not expected to deteriorate during the AAP when properly used and maintained, the SLDF is 0. If a manufacturer determines that a vehicle configuration will become quieter during the acoustical assurance period, the configuration must still meet the standard at the time of sale and an SLDF of 0 must also be used for that configuration.

This strategy should impose little, if any, additional cost on the manufacturer. In fact a basic assumption in our economic analysis has been that the noise level of a product which is properly used and maintained will not degrade, at least not any appreciable amount. However, EPA is not dictating that a product's noise level cannot deteriorate during its AAP, but rather merely requiring that it not deteriorate above the standard. It may be that most of the data required to determine an SLDF will already be in the hands of the manufacturer since this information is typically used for general product development work. In any event, EPA is not now proposing to require long term durability tests to be run as a matter of course.

6.8 *Applicability of previously Promulgated regulations.* Manufactures who will be subject to these proposed regulations must also comply with the general provisions of 40 CFR Part 205 Subpart A. These include the requirements for inspection and monitoring of manufacturer's actions taken in compliance with these proposed regulations and the requirements for requesting and granting exemptions from these proposed regulations.

A more detailed description of the enforcement regulations may be found in the Background Document.

7.0 Future Intent

The Agency is pursuing a strategy through which major contributors to overall transportation noise will be identified and subsequently regulated. This coordinated approach is necessary because a number of different types of vehicles are operated at the same time on the highway system and the quieting of only one vehicle type will not in itself be sufficient to adequately reduce the noise from the transportation system to a level the Agency believes requisite to protect the public health and welfare with an adequate margin of safety.

The Agency intends to continue its investigations pursuant to noise regulatory actions for other transportation vehicles. Consequently, the levels specified for the standard in this proposed rulemaking are consistent with the Agency's objective to ultimately reduce the total noise emitted from all transportation vehicles including medium and heavy trucks, buses, automobiles and light duty vehicles and motorcycles.

8.0 Public Comment

The Agency is committed by statute and policy to public participation in the decision making process for its environmental regulations. That policy encourages and solicits communications and comments on all aspects of the proposed regulation, including EPA's determination that buses are a major source of noise (40 FR 23107, May 28, 1975). These contributions are desired from as many diverse views as possible. Such information, when submitted, is fully analyzed and where so indicated, necessary changes in proposed rule will be made, and explained in the final regulation.

9.0 Background Document

The document entitled "Draft Environmental Impact Statement, and Background Document for the Proposed Bus Noise Emission Regulation" may be obtained from:

U.S. Environmental Protection Agency, EPA Public Information Center (PM–215, Room M2194D, Waterside Mall, Washington, D.C. 20460.

This regulation is proposed under the authority of sections 6, 10, 11, 13; and 15 of the Noise Control Act (Pub. L. 92–574, 86 Stat. 1237, 1242, 1244, and 1245 (42 U.S.C. 4905, 4909, 4910, 4912, and 4914).

Dated: August 29, 1977.

Douglas M. Costle,
Administrator.

In consideration of the foregoing, it is proposed to amend Part 205 by adding Subpart C as follows:

Subpart C—Buses

Sec.	
205.100	Applicability.
205.101	Definitions.
205.102	Vehicle noise emission standards.
205.103	Maintenance of records: Submittal or information.
205.104	Test procedures.
205.104–1	Low speed exterior sound emission test procedures.
205.104–2	Low speed interior sound emission test procedures.
205.104–3	Sound data acquisition system.
205.106	Product verification.
205.106–1	General requirements.
205.106–2	Production verification of vehicles; compliance with standards.
205.105–3	Configuration identification.
205.105–4	Production verification report: Required data.
205.105–5	Test sample selection.
205.105–6	Test vehicle preparation.
205.105 7	Testing.
205.105–8	Addition of, changes to, and deviation from a vehicle configuration during the model year.
205.105–9	Production verification based on data from previous model years.
205.105–10	Cessation of distribution.
205.105–11	Labeling (interior/exterior standards)—compliance.
205.105–12	Labeling—Exterior [Reserved].
205.106	Testing by the Administrator.
205.107	Selective enforcement auditing requirements.
205.107–1	Test request.
205.107–2	Test vehicle sample selection.
205.107–3	Test vehicle preparation.
205.107–4	Testing procedures.
205.107–5	Reporting of the test results.
205.107–6	Acceptance and rejection of batches.
205.107–7	Acceptance and rejection of batch sequence.
205.107–8	Continued testing.
205.107–9	Prohibition of distribution in commerce; manufacturer's remedy.
205.108	In-use requirements.
205.108–1	Warranty.
205.108–2	Tampering.
205.108–3	Instructions for maintenance, use, and repair.
205.108–4	Sound level degradation factor (SLDF) and retention of durability data.
205.109	Recall of non-complying vehicles.

Appendix I

Authority: Sec. 6, Noise Control Act (42 U.S.C. 4905) and additional authority as specified.

Subpart C—Buses

§ 205.100 Applicability.

Except as otherwise provided, the provisions of this subpart apply to any bus or vehicle (as defined in § 205.101) which meets the definition of the term "new product" in the Act.

§ 205.101 Definitions.

(a) As used in this subpart, all terms not defined herein shall have the meaning given them in the Act or in other subparts of this part.

(1) "Acceptable quality level" means the maximum percentage of failing vehicles that, for purposes of sampling inspection, can be considered satisfactory as a process average.

(2) "Acceptance of a batch" means that the number of noncomplying vehicles in the batch sample is less than or equal to the acceptance number as determined by the appropriate sampling plan.

(3) "Acceptance of a batch sequence" means that the number of rejected batches in the sequence is less than or equal to the acceptance number as determined by the appropriate sampling plan.

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(4) "Acceptance of a vehicle" means that the noise emissions of the vehicle, when measured in accordance with the applicable procedure as delineated in this subpart, conform to the applicable standard minus the applicable SLDF.

(5) "Batch" means the collection of vehicles of the same category or configuration as designated by the Administrator in a test request, from which a batch sample is to be drawn and inspected to determine conformance with the acceptability criteria.

(6) "Batch sample" means the collection of vehicles of the same category or configuration which are drawn from a batch from which test samples are drawn.

(7) "Batch size" means the number as designated by the Administrator in the test request of vehicles of the same category or configuration in a batch.

(8) "Batch sample size" means the number of vehicles of the same category or configuration in a batch sample.

(9) "Bus" means any vehicle which has an enclosed passenger compartment.

(10) "Category" means a group of vehicle configurations which are identical in all material aspects with respect to the parameters listed in § 205.105–2.

(11) "Configuration" means the basic classification unit of a manufacturer's product line and is comprised of all vehicle designs, models or series which are identical in material aspects with respect to the parameters listed in § 205.105–3.

(12) "Designed for the transportation of passengers on a highway or a street" means that the vehicle:

(i) Is self propelled and is designed for the transportation of passengers;

(ii) Is capable of maintaining a maximum cruising speed of at least 25 mph over a level paved surface;

(iii) Is equipped or can readily be equipped with features customarily associated with practical street or highway use, such features including, but not being limited to, a reverse gear, a differential, and a fifth wheel; and,

(iv) Does not exhibit features which render its use on a street or highway impractical or highly unlikely, such features including, but not being limited to, tracked road means, an inordinate size or features ordinarily associated with combat or tactical vehicles.

(13) "Exhaust system" means the system comprised of a combination of components which provides for enclosed flow of exhaust gas from engine exhaust port to the atmosphere.

(14) "Failing vehicle" means that the noise emissions of the vehicle, when measured in accordance with the applicable procedure, exceed the standard minus the applicable, SLDF.

(15) "Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the loaded weight of a single vehicle.

(16) "Governed engine speed" means the maximum engine speed achieved under the regulation test conditions, where wide-open-throttle is maintained through the end point.

(17) "Inspection criteria" means the rejection and acceptance numbers asociated with a particular sampling plan.

(18) "Low noise emission product" means any product which emits noise in amounts significantly below the levels specified in noise emissions standards under the applicable regulation.

(19) "Maximum rated engine speed" means the maximum engine speed, as determined by the engine manufacturer beyond which the ungoverned engine should not be operated.

(20) "Model year" means the manufacturer's annual production period which includes January 1 of such calendar year: *Provided*, That if the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

(21) "Noise control system" includes any vehicle part, component, or system, the primary purpose of which is to control or cause the reduction of noise emitted from a vehicle.

(22) "Noise emission test" means a test conducted pursuant to the measurement methodology specified in this § 205.104.

(23) "Production verification vehicle" means any vehicle selected for testing, tested or verified pursuant to the production verification requirements of this subpart.

(24) "Rejection of a batch" means the number of noncomplying vehicles in the batch sample is greater than or equal to the rejection number as determined by the appropriate sampling plan.

(25) "Rejection of a batch sequence" means that the number of rejected batches in a sequence is equal to or greater than the rejection number as determined by the appropriate sampling plan.

(26) "Shift" means the regular production work period for one group of workers.

(27) "Sound Level Degradation Factor" (SLDF) means the increase in A-weighted sound level which the product configuration is projected to undergo during the Acoustical Assurance Period when properly maintained and used.

(28) "Tampering" means those acts prohibited by section 10(a)(2) of the Act.

(29) "Test sample" means the collection of vehicles from the same category or configuration which is drawn from the batch sample and which will receive noise emission tests.

(30) "Test sample size" means the number of vehicles of the same category or configuration in a test sample.

(31) "Test vehicle" means a vehicle in a test sample or a production verification vehicle.

(32) "Vehicle" means any motor vehicle, with a gross vehicle weight rating (GVWR) in excess of 10,000 lbs, designed for the transportation of passengers on a street or highway and includes a partially or fully enclosed engine compartment.

§ 205.102 Vehicle noise emission standards.

(a) *Low speed exterior noise emission standards.* Vehicles manufactured subsequent to the effective dates noted below shall be designed built, and equipped so that at the time of sale they will not produce exterior sound emissions in excess of the following levels when tested and evaluated as prescribed in this subpart:

Effective date:	Level (dBA)
(i) Jan. 1, 1979	83
(ii) Jan. 1, 1983	80
(iii) Jan. 1, 1985	77

(b) The standards set forth in paragraph (a) of this section refer to the sound emissions as measured in accordance with the procedures prescribed in § 205.104–1.

(c) *Low speed interior noise emission standards.* Buses manufactured subsequent to the effective dates noted below shall be designed, built, and equipped so that at the time of sale they will not produce interior sound emissions in excess of the following levels indicated when tested and evaluated as prescribed in this subpart:

Effective date:	Level (dBA)
(i) Jan. 1, 1979	86
(ii) Jan. 1, 1983	83
(iii) Jan. 1, 1985	80

(d) The standards set forth in paragraph (c) of this section refer to the sound emissions as measured in accordance with the procedures prescribed in § 205.104–2.

(e) Every manufacturer of a new bus or vehicle subject to the standards prescribed in this section shall comply with the other provisions of this subpart or Subpart A, as applicable, before distributing any new bus or vehicle into commerce.

(f) *In-use standard.* (1) Following the effective date of the standards prescribed in paragraphs (a) and (c) of this section, buses, when properly used and maintained, shall continue to meet the standards for an Acoustical Assurance Period (AAP) of two years or 200,000 miles, whichever occurs first, after sale to the ultimate purchaser.

(2) At the time of product verification (PV) testing in § 205.105 and selective enforcement auditing (SEA) testing in § 205.107, new vehicles must comply with the standards set forth in paragraphs (a) and (c) of this section minus the sound level degradation factor (SLDF) developed in accordance with § 205.108–4.

(g) *Low noise emission product.* For the purpose of Low-Noise-Emission-Product (LNEP) Certification pursuant to 40 CFR Part 203, buses subject to this subpart which are procured after the dates listed below shall not emit A-weighted sound pressure levels in excess of the indicated levels determined in accordance with the procedures prescribed in § 205.104. In order for any bus to qualify for LNEP Certification the bus must meet both the interior and exterior standards as indicated below:

Procurement date	Average A-weighted sound level	
	Exterior	Interior
Jan. 1, 1978	78	81
Jan. 1, 1982	75	78
Jan. 1, 1984	72	75

(Secs. 10, 12, Noise Control Act (42 U.S.C. 4909, 4911).)

§ 205.103 Maintenance of records: Submittal of information.

(a) Except as otherwise provided for in this regulation the manufacturer of any new vehicle subject to any of the standards or procedures prescribed in this subpart shall establish, maintain, and retain the following adequately organized and indexed records:

(1) *General records.* (i) Identification and description by category and configuration parameters of all vehicles composing the manufacturer's product line for which testing is required under this subpart and the identification and description of all devices incorporated into the vehicle for the purpose of noise control and attenuation.

(ii) A description of any procedures other than those contained in this regulation used to perform noise tests on any test vehicle.

(iii) A record of the calibration of the acoustical instrumentation as is required by § 205.104–3.

Individual records for test vehicles:

(i) A complete record of all noise emission tests performed for PV and SEA (except tests performed by EPA directly), including all individual worksheets and/or other documentation relating to each test, or exact copies thereof.

(ii) A record and description of all repairs, maintenance, and other serving performed on PV and SEA test vehicles, giving the date and time of the maintenance or service, the reason for it, the person authorizing it, and the names of supervisory personnel responsible for the conduct of the maintenance or service.

(3) A properly filed production verification report following the format prescribed by the Administrator in § 205.105–4 fulfills the requirements of paragraphs (a)(1) (i), (ii), (iii), and (a)(2) (i) of this section.

(4) All records required to be maintained under this part shall be retained by the manufacturer for a period of three (3) years from the production verification date. Records may be retained as hard copy or alternatively reduced to microfilm, punch cards, etc., depending on the record retention procedures of the manufacturer; however, all of the information contained in the hard copy shall be retained in the alternative method if this method is used.

(b) The manufacturer shall, pursuant to a request made by the Administrator, submit to the Administrator the following information with regard to new vehicle production:

(1) Number of vehicles, by category or configuration, scheduled for production for the time period designated in the request.

(2) Number of vehicles, by category or configuration, produced during the time period designated in the request.

(Sec. 13, Noise Control Act (42 U.S.C. 4912))

§ 205.104 Test procedures.

§ 205.104–1 Low speed exterior sound emission test procedures.

(a) *Instrumentation.* The following instrumentation shall be used, where applicable.

(1) A sound measurement system which meets the Type I requirements of ANSI SI.4–1971, Specification for Sound Level Meters or a sound level system with a magnetic tape recorder and/or a graphic level recorder or indicating meter my be used, providing the system meets the requirements § 205.104–3.

(2) A windscreen must be employed with the microphone during all sound measurements. The windscreen shall not affect the A-weighted sound levels from the vehicle in excess of ±0.5dB.

(3) A sound level calibrator shall be used which shall produce a sound pressure level, at the microphone diaphragm that is known to within an accuracy of ±0.5B. The Calibrator shall be checked annually to verify that its output has not changed.

(4) An engine-speed tachometer which is accurate within ±2 percent of the meter reading.

(5) An anemometer or other device for measurement of ambient wind speed accurate within + 10 percent at 19.3 km/hr (12 mph).

(6) A thermometer for measurement of ambient temperature accurate within ±1 C.

(7) A barometer for measurement of ambient pressure accurate within ±1 percent.

(b) *Test site requirements.* (1) The test site shall be such that the vehicle radiates sound into a free field over a reflecting plane. This condition may be considered fulfilled if the test site consists of an open space free of large reflecting surfaces, such as parked vehicles, signboards, buildings, or hillsides. located within 30.4 meters (100 feet) of either the vehicle path or the microphone.

(2) The microphone shall be located 15.2±0.1 meters (50 feet ±4 inches) from the centerline of vehicle travel and 1.2±0.1 meters (4 feet ±4 inches) above the ground plane. The microphone point is defined as the point of intersection of the vehicle path and the normal to the vehicle path drawn from the microphone. The microphone shall be oriented with respect to the source in a fixed position so as to minimize the deviation from the flattest frequency response over the frequency range 100 Hz to 10 KHz for a vehicle traversing through the end zone.

(3) (i) For vehicles with manual transmissions or for vehicles with automatic transmissions which can manually be held in gear, an acceleration point shall be established on the vehicle path 15.2 meters (50 feet) before the microphone point.

(ii) For vehicles with automatic transmission vehicles, which cannot be manually held in gear, a starting point shall be established as described in paragraph (c)(2)(ii) of this section.

(4) An end point shall be established on the vehicle path 30.5 meters (100 feet) from the acceleration point and 15.2 meters (50 feet) from the microphone point.

(5) The end zone is the last 12.2 meters (40 feet) of vehicle path prior to the end point.

(6) The measurement area shall be the triangular paved (concrete or sealed asphalt) area formed by the acceleration point, the end point, and the microphone location.

(7) The reference point on the vehicle, used to indicate when the vehicle is at any of the points on the vehicle path, shall be the front of the vehicle except as follows:

(i) If the engine is front mounted and the horizontal distance from the front of the vehicle to the exhaust outlet is more than 5.1 meters (200 inches) tests shall be run using both the front and rear of the vehicle as reference points.

(ii) If the main body of the engine is located rearward to the center of the chassis or at the approximate center (±1.5 meters, ±5 feet) of the chassis, the rear of the vehicle shall be used as the reference point.

(8) The plane containing the vehicle path and the microphone location (plane ABCDE) shall be flat within ±0.05 meter (±2 inches).

(9) Measurements shall not be made when either the road surface or the measurement surface area is wet, covered with snow, or during precipitation.

(10) Not more than one person, other than the observer reading the meter, shall be within 15.2 meters (50 feet) of the vehicle path or instrument and the person shall be directly behind the observer reading the meter, on a line through the microphone and observer. A cable should be used between the microphone and the sound level meter. No observer shall be located within 1 meter (3.3 feet) in any direction of the microphone location.

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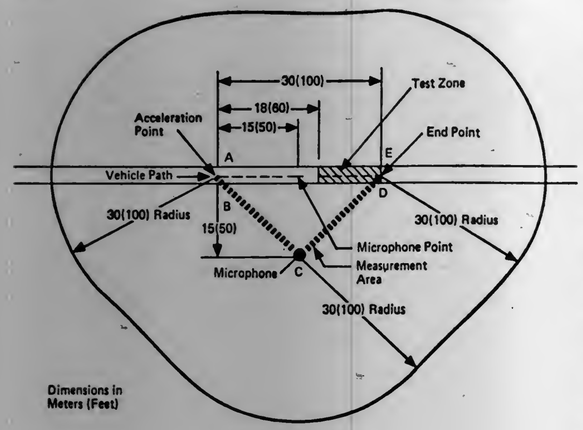


FIGURE 205.101

(11) The maximum A-weighted fast response sound level observed at the test site immediately before and after the test shall be at least 10 dB below the regulated level.

(12) The road surface within the test site upon which the vehicle travels, and at minimum, the measurement area shall be smooth concrete or smooth scaled asphalt, free of extraneous material such as gravel.

(13) Vehicles with diesel engines shall be tested using Number 1D or Number 2D diesel fuel possessing a cetane rating from 42 to 50 inclusive.

(14) Vehicles with gasoline engines shall use the grade of gasoline recommended by the manufacturer for use by the purchaser.

(15) Vehicles equipped with thermostatically controlled radiator fans (fan clutches) shall be tested with the fan engaged in a "lock up" mode such that the fan drive hub and the fan are turning at the same speed or as near the same speed as is possible within the design limits of the particular fan clutch design.

(c) *Procedure.*—(1) *Vehicle operation for vehicles equipped with manual (standard) transmissions or for vehicles with automatic transmissions which can be manually held in gear.* Full throttle acceleration and closed throttle deceleration tests shall be used. A beginning engine speed and proper gear ratio shall be determined for use during measurements. Closed throttle deceleration tests are required only for those vehicles equipped with an engine brake. In the procedure contained in paragraph (c) of this section, the phrase "governed engine speed" applies to vehicles which are equipped with engine speed governors, while the phrase "maximum rated engine speed" applies to vehicles which are not equipped with engine speed governors.

(i) Select the highest rear axle and/or transmission gear ("highest gear" is used in the usual sense; it is synonymous with the lowest numerical ratio) and an initial vehicle speed such that at wide-open throttle the vehicle will accelerate from the acceleration point.

(A) Starting at no more than two-thirds (66 percent) of maximum rated or of governed engine speed.

(B) Reaching maximum rated engine speed (if the vehicle is not equipped with an engine governor) or governed engine speed (if the vehicle is equipped with an engine governor) within the end zone.

(C) Without exceeding 56 km/hr (35 mph) before reaching the end point.

(*1*) Should maximum rated or governed rpm be attained before reaching the end zone, decrease the approach rpm in 100 rpm increments until maximum rated or governed rpm is attained within the end zone.

(*2*) Should maximum rated or governed rpm not be attained until beyond the end zone, select the next lower gear until maximum rated or governed rpm is attained within the end zone.

(*3*) Should be lowest gear still result in reaching maximum rated or governed rpm beyond the permissible end zone, unload the vehicle and/or increase the approach rpm in 100 rpm increments until the maximum rated or governed rpm is reached within the end zone.

(ii) For the acceleration test, approach the acceleration point using the engine speed and gear ratio selection in paragraph (c)(1)(i) of this section and at the acceleration point rapidly establish wide-open throttle. The vehicle reference shall be as indicated in paragraph (b)(7) of this section. Acceleration shall continue until maximum rated or governed engine speed is reached.

(A) Vehicles equipped with governed engines must be held at wide open throttle until the entire vehicle is out of the end zone.

(B) Vehicles equipped with ungoverned engines must not be allowed to drop more than 100 rpm below maximum rated engine speed until the vehicle is out of the end zone.

(iii) Wheel slip which affects maximum sound level must be avoided.

(iv) If the vehicle being tested is equipped with an engine brake, it must also be tested as follows: Approach the microphone point at maximum rated or governed engine speed in the gear selected for the acceleration test. When the vehicle reference point reaches the microphone point, close the throttle and immediately apply the engine brake fully and allow the vehicle to decelerate to one-half of maximum rated or of governed engine speed. The vehicle reference shall be as indicated in paragraph (b)(7) of this section. The engine brake must be full on during this test.

(*2*) *Vehicle operation for vehicles equipped with automatic transmissions which cannot be manually held in gear.* Full throttle acceleration tests and closed throttle deceleration tests are to be used. Closed throttle deceleration tests are required only for those vehicles equipped with an engine brake.

(i) Select the highest gear axle and/or transmission gear (higest gear is used in the usual sense; it is synonymous with the lowest numerical ratio) to accelerate the vehicle under wide open throttle from a stationary position.

(ii) A starting point along the test path at which the vehicle shall begin the acceleration test shall be determined by the following procedure:

(A) The vehicles' reference point shall be placed at the midpoint (±0.3 meters, ±1 feet) of the end zone with the front end of the vehicle facing back along the test path in the opposite direction of travel that is used for the sound measurement tests.

(B) The vehicle shall then be accelerated, as rapidly as possible to establish a wide open throttle, until the first transmission shift point is reached.

(C) The location along the test path at which the front end of the vehicle is passing when the first transmission shift occurs during the wide open throttle acceleration shall be the designated stationary starting point.

(D) The vehicle's direction of travel shall then be reversed for sound testing.

(iii) For the acceleration test, accelerate the vehicle from a standing position with the front of the vehicle at the selected stationary starting point, obtained by using paragraph (c)(2)(ii) of this section, as rapidly as possible to establish a wide open throttle. The acceleration shall continue until the entire vehicle has vacated the end zone.

(iv) Wheel slip which affects maximum sound level must be avoided.

(v) If the vehicle being tested is equipped with an engine brake, it must also be tested as follows: Approach the microphone point at maximum rated engine speed (if the vehicle is not equipped with an engine speed governor) or governed engine speed (if the vehicle is equipped with an engine speed governor) in the gear utilized for the acceleration test. When the vehicle's reference point reaches the microphone point, close the throttle, immediately apply the engine brake fully and allow the vehicle to decelerate to one-half of maximum rated or of governed engine speed. The vehicle reference shall be as indicated in paragraph (b)(7) of this section. The engine brake must be full on during the test.

(3) *Measurements.* (i) The meter shall be set for "fast response" and the A-weighted network.

(ii) The sound meter shall be observed during the period while the vehicle is accelerating. The applicable reading shall be the highest sound level obtained for the run. The test shall be rerun if unrelated peaks should occur due to extraneous ambient noises.

(iii) Sound level measurements shall be taken on both sides of the vehicle. The sound level associated with a side shall be the average of the first two pass-by measurements for that side, if they are within 2 dBA of each other. The average of the measurements on each side shall be computed separately. If the first two measurements for a given side differ by more than 2 dBA, two additional measurements shall be made on each side, and the average of the two highest measurements on each side, within 2 dBA of each other, shall be taken as the measured vehicle sound level for that side. The reported vehicle sound level shall be the higher of the two averages.

(d) *General requirements.* (1) Measurements shall be made only when wind speed is below 19.3 km/hr (12 mph).

(2) Proper usage of all test instrumentation is essential to obtain valid measurements. Operating manuals or other literature furnished by the instrument manufacturer shall be referred to for both recommended operation of the instument and precautions to be observed. Specific items to be adequately considered are:

(i) The effects of ambient weather conditions on the performance of the instruments (for example, temperature, humidity, and barometric pressure.)

(ii) Proper signal levels, terminated impedances, and cable lengths on multi-instrument measurement systems.

(iii) Proper acoustical calibration procedure, to include the influence of extension cables, etc. Field calibration shall be made immediately before and after each test sequence. Internal calibration means is acceptable for field use: *Provided,* That external calibration is accomplished immediately before or after field use.

(3) (i) A complete calibration of the instrumentation and external acoustical calibrator over the entire frequency range of interest shall be performed at least annually and as frequently as necessary during the yearly period to insure compliance with the standards cited in American National Standard S1.4–1971 "Specifications for Sound Level Meters" for a Type 1 instrument over the frequency range 100 Hz–10,000 Hz.

(ii) If calibration devices are utilized which are not independent of ambient pressure (e.g., a pistonphone) corrections shall be made for barometric or altimetric changes according to the recommendation of the instrument manufacturer.

(4) The vehicle shall be brought to a temperature within its normal operating range prior to commencement of testing. During testing appropriate caution shall be taken to maintain the engine at temperatures within the normal operating range.

(e) *Alternative procedures.* The Administrator may approve applications from manufacturers of buses for exterior noise level test procedures which differ from those contained in this part so long as the alternative procedures have been demonstrated to correlate with the prescribed procedure. To be acceptable, alternative testing procedures shall be such that the test result will identify all those test units which would not comply with the noise emission standard prescribed in § 205.102(a) when tested in accordance with the procedure contained in § 205.104–1. Tests conducted by manufacturers under approved alternative procedures may be accepted by the Administrator for all purposes including, but not limited to, production verification testing and selective enforcement audit testing.

§ 205.104–2 Low speed interior sound emission test procedures.

Interior sound levels shall be measured using the following measurement equipment and test site area, and vehicle operation as described in the procedure for measurement of exterior noise emissions § 205.104–1.

(a) *Instrumentation.* The following instrumentation shall be used, where applicable.

(1) A sound level system which meets the Type I requirements of ANSI SI–1971, Specification for Sound Level Meters, or a sound level system with a magnetic tape reader and/or a graphic level recorder or indicating meter may be used providing the system meets the requirements of § 205.104–3.

(2) A windscreen must be employed along with the microphone during all measurements. The windscreen shall not affect the A-weighted sound levels from the vehicle in excess of ±0.5 dB.

(3) A sound calibrator shall be used which shall produce a sound pressure level, at the microphone diaphragm, that is known to within an accuracy of ±0.5 dB. The calibrator shall be checked annually to verify that its output has not changed.

(4) An engine speed tachometer which is accurate to within ±2 percent of the meter reading.

(5) A thermometer for measurement of ambient temperature accurate within ±1 C.

(6) A barometer for measurement of ambient pressure accurate within ±1 percent.

(b) *Microphone placement.* (1) The test site shall be such that the bus radiates sound into a free field over a reflecting plane. This condition may be considered fulfilled if the test site consists of an open space free from reflecting surfaces, such as parked vehicles, signboards, buildings or hillsides, located within 30.4 meters (100 feet) of the vehicle path.

(2) For all buses other than those with a front mounted engine, the microphone shall be located next to the passenger seat location closest to the main body of the engine at a height of 1.25 meters (4.1 ft.) from the bus floor. In addition, the microphone shall be placed at least 0.5 meters (1.6 ft.) from the nearest vehicle wall.

(3) For front mounted engine buses the microphone shall be placed next to vehicle operator's seat at a height of 1.25 meters (4.1 ft.) from the floor and at least 0.5 meter (1.6 ft.) from the nearest vehicle wall.

(4) The microphone shall be tilted towards the front of the bus at an angle of 20–30 degrees from the vertical.

(c) *Procedure.*—(1) *Vehicle operation.* The bus shall be operated in the same manner as prescribed in § 205.104–1. The same axle ratios, gear ratios, along with the same procedure as modified by transmission type shall be utilized.

(2) All windows and doors shall be closed on the bus and all interior fan accessories (including air-conditioning fans and, or heating fans) turned on.

(d) *Measurements.* (1) The meter shall be set for "fast response" and an the A-weighted network.

(2) The meter shall be observed during the period while the bus is accelerating. The applicable reading shall be the highest sound level obtained during the run. The test shall be rerun if unrelated peaks should occur due to extraneous ambient noise.

(3) The average of the two highest levels within 2 dB of each other shall be reported as the interior sound level of the bus.

(e) *General requirements.* (1) Not more than one person, other than the observer reading the meter and the driver shall be in the bus at the time of measurement.

(2) The maximum A-weighted fast response sound level observed in the test bus immediately before and after the testing shall be at least 10 dB below the regulatory level.

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(3) Instrument manufacturer recommendations for operation of instrumentation shall be followed. (i) The effects of ambient weather conditions on the performance of the instruments (for example, temperature, humidity, and barometric pressure).

(ii) Proper signal levels, terminating impedances, and cable lengths on multi-instrument measurement systems.

(iii) Proper acoustical calibration procedure, to include the influence of extension cables, etc. Field calibration shall be made immediately before and after each test sequence. Internal calibration means is acceptable for field use, provided that external calibration is accomplished immediately before or after field use.

(4) (i) A complete calibration of the instrumentation and external acoustical calibrator over the entire frequency range of interest shall be performed at least annually and as frequently as necessary during the yearly period to insure compliance with the standards cited in American National Standard S1.4–1971 "Specifications for Sound Level Meters" for a Type 1 instrument over the frequency range 100 Hz–10,000 Hz.

(ii) If calibration devices are utilized which are not independent of ambient pressure (e.g., a pistonphone) corrections shall be made for barometric or altimetric changes according to the recommendation of the instrument manufacturer.

(5) The vehicle shall be brought to a temperature within its normal operating temperature range prior to the commencement of testing. During testing appropriate caution shall be taken to maintain the engine at temperatures within the normal operating range.

(f) *Alternative procedures.* The Administrator may approve applications from manufacturers of buses for interior noise level test procedures which differ from those contained in this part as long as the alternative procedures have been demonstrated to correlate with the prescribed procedure. To be acceptable, alternative testing procedures shall be such that the test results will identify all those test units which would not comply with the noise emission limit prescribed in § 205.102 (c) when tested in accordance with the procedure contained in § 205.104–2. Tests conducted by manufacturers under approved alternative procedures may be accepted by the Administrator for all purposes, including, but not limited to, production verification testing and selective enforcement audit testing.

§ 205.104–3 Sound data acquisition system.

(a) Systems employing tape recorders and graphic level recorders may be established as equivalent to a Type I—ANSI S1.4–1971 sound level meter for use in determining compliance with this regulation by meeting the requirements of this section (§ 205.104–3(b)). This sound data acquisition system qualification procedure is based primarily on ANSI S6.1–1973.

(1) *Performance requirements*—(i) *System Frequency response.* The overall steady-state frequency response of the data acquisition system shall be within the tolerances prescribed in Table 205.101 when measured in accordance with § 205.104–3. The tolerances in Table 205 101 are applicable to either flat or A-weighted response. (See paragraph (a)(3)(iii) of this section.)

(ii) *Detector response.* The difference between the level indicated for a 1000 Hz sinusoidal signal equivalent to a sound level of 86 dB (rms) and the level indicated for an octave band of random noise of equal energy as the sinusoidal signal centered at 1000 Hz shall be no greater than 0.5 dB. A true rms voltmeter shall be used to determine equivalence of two input signals.

(iii) *Indicating meter* If an indicating meter is used to obtain sound levels or band pressure levels, it shall meet the requirements of paragraphs (a)(2) and (a)(6)(ii) of this section and the following.

TABLE 205 101—*System response data*

Frequency (hertz)	A-weighted response (Re-100 Hz, decibel)	Tolerance (decibels) Plus	Minus
31.5	−39.4	1 5	1.5
40.0	−34.6	1 5	1 5
50.0	−30.2	1.0	1.0
63.0	−26.2	1 0	1 0
80.0	−22.5	1.0	1 0
100.0	−19.1	1.0	1 0
125.0	−16.1	1 0	1.0
160.0	−13.4	1.0	1 0
200.0	−10.9	1.0	1 0
250.0	−8.6	1.0	1 0
315.0	−6.6	1.0	1 0
400.0	−4.8	1.0	1 0
500.0	−3.2	1.0	1 0
630.0	−1.9	1.0	1 0
800.0	− 8	1.0	1.0
1,000.0	0	1 0	1 0
1,250.0	6	1 0	1 0
1,600.0	1 0	1 0	1 0
2,000.0	1 2	1 0	1 0
2,500.0	1 3	1 0	1 0
3,150.0	1.2	1 0	1 0
4,000.0	1 0	1 0	1 0
5,000.0	5	1 5	2.0
6,300.0	− 1	1.5	2.0
8,000.0	−1 1	1 5	3.0
10,000.0	−2.5	2.0	4.0
12,500.0	−4.3	3.0	6.0

(A) The scale shall be graduated in 1 dB steps.

(B) No scale indication shall be more that 0.2 dB different from the true value of the signal when an input signal equivalent to 86 dB sound level indicates correctly.

(C) Maximum indication for an input signal of 1000 Hz tone burst of 0.2 second duration shall be within the range of −2 to 0 dB with respect to the steady-state indication for a 1000 Hz tone equivalent to 86 dB sound level.

(iv) *Microphone.* If a microphone is used which has not been provided as a component of a precision sound level meter, it must be determined to meet the microphone characteristics described in IEC Publication 179, Precision Sound Level Meters.

(v) *Magnetic tape recorder.* No requirements are described in this document pertaining to tape recorders, except for frequency response. Generally, recorders of adequate quality to provide the frequency response performance required will also meet other minimum requirements for distortion, signal-to-noise ratio, etc.

(vi) *Graphic level recorder dynamic response.* When using a graphic level recorder, it is necessary to select pen response settings such that the readings obtained are statistically equivalent to those obtained by directly reading a meter which meets the "fast" dynamic requirement of a precision sound level meter indicating meter system for the range of vehicles to be tested. To ensure statistical equivalence, at least 30 comparative observations of real test data shall be made and the average of the absolute value of the differences observed shall be less than 0.5 dB. The settings described in paragraph (a)(6) of this section likely assure appropriate dynamic response; however, different settings may be selected on the basis of the above requirement.

(A) Use a pen writing speed of nominally 60–100 dB/sec. If adjustable, low frequency response shall be limited to about 20 Hz.

(B) Indicated overshoot for a suddenly applied 1000 Hz sinusoidal signal equivalent to 86 dB sound level shall be no more than 1 1 dB and no less than 0.1 dB.

(2) *Frequency response qualification procedure.* (i) Typical noise measurement and analysis configurations are shown in figures 205.102 through 205.104. The qualification procedure described herein duplicates these configurations, but with the microphone replaced by an electronic sinewave oscillator. Caution should be exercised when connecting an oscillator to the input of a sound level meter to ensure that the input is not overloaded (see § 205.104–3(a)(2(ii))).

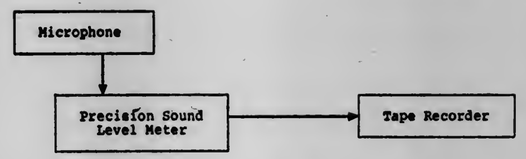


Figure 205.102 Data Recording

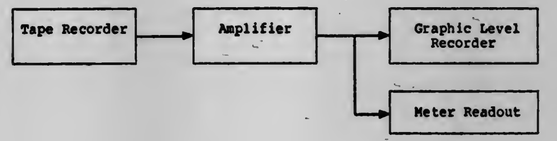


Figure 205.103 Data Analysis and Test Analysis



Figure 205.104 Test Recording

(ii) Calibrate the oscillator to be used by measuring its output relative to the voltage which is equivalent to 86 dB sound level at each of the 27 frequencies listed in Table 205.101 using an electronic voltmeter of known calibration. Record the result in voltage level in dB re voltage corresponding to 86 dB sound level at 1000 Hz. This shall describe the frequency response characteristics of the oscillator.

(iii) If a graphic level recorder is to be used, connect it to the oscillator output. If the oscillator and graphic level recorder can be synchronized, slowly sweep the frequency over the range of 31.5 to 12,500 Hz, recording the oscillator output. If they cannot be synchronized, record oscillator output for signals at the 27 frequencies given in Table 205.101. The differences between the combined response thus obtained and the oscillator describe the frequency response of the graphic level recorder.

(iv) If visual observation of an indicating meter is to be used for obtaining data, the oscillator shall be connected to the indicating meter input (such as the microphone input of a sound level meter) and the meter reading observed for a fixed oscillator output voltage setting for signals at the 27 frequencies given in Table 205.101.

(v) To check a tape recorder, connect the instruments as shown in Figure 205.104. Using a 1000 Hz tone, adjust the oscillator output level to obtain a reading 15 dB below maximum record level. If the synchronized oscillator graphic level recorder system is to be used for analysis, record an oscillator sweep over the range of 31.5 to 12,500 Hz, using an appropriate tape recorder input attenuator setting. Alternatively, tape-record frequency tones at the 27 frequencies given in Table 205.101. Replay the tape recordings using the setup shown in Figure 205.103. Record the data on a graphic level recorder or through visual observation of the indicating meter. Subtract the oscillator frequency response in paragraph (b)(2) of this section from the response obtained through the record-playback sequence to obtain the record reproduce frequency response of the system except for the microphone.

(vi) To obtain the overall system frequency response, add the manufacturer's microphone calibration data to the response just obtained. This may be the frequency response for the specific microphone to be used, including calibration tolerances. Alternatively, use the manufacturer's "typical" microphone response plus and minus the maximum deviation expected from "typical" including calibration tolerances. Use the microphone response curve which corresponds to the manner in which it is used in the field. It may be required to add a correction to the response curves provided to obtain field response; refer to the manufacturer's manual.

(3) *General comments.* (i) Tape recorders shall be calibrated using the brand and type used for actual data acquisition. Differences in tape can cause an appreciable variation in the recorder/reproduce frequency response characteristics of tape recorder.

(ii) It shall be ensured that the instrumentation used will perform within specifications and applicable tolerances over the temperature, humidity, and other environmental variation ranges which may be encountered in vehicle noise measurement works.

(iii) Qualification tests shall be performed using equipment (including cables) and recording and playback techniques identical with those used while recording vehicle noise. For example, if weighted sound level data are normally recorded use similar weighting and apply the tolerances of Table 205.101 to the weighting curve for comparison with record-playback curves. Precautions should also be taken to ensure that source and load impedances are appropriate to the device being tested. Other data acquisition systems may use any combination of microphones, sound level meters, amplifiers, tape recorders, graphic level recorders, or indicating meters. The same approach to qualifying such a system shall be taken as described in this document for the systems depicted in Figures 205.102, 205.103, and 205.104.

(b) Systems other than those specified in § 205.104–1(a) and § 205.104–3(c) may be used for establishing compliance with these regulations. In each case the system must yield sound levels which are equivalent to those produced by a sound level system Type 1 ANSI S1.4–1971. The manufacturer bears the burden of demonstrating such equivalence. The manufacturer shall notify the Administrator pursuant to §§ 205.105–4(b)(5) and 205.107–5(c)(4) of the use of such a sound data acquisition system.

§ 205.105 Production verification.

§ 205.105–1 General requirements.

(a) Every new vehicle manufactured for distribution in commerce in the United States which is subject to the standards prescribed in this subpart and not exempted in accordance with § 205.5:

(1) Shall be verified in accordance with the production verification procedures described in this subpart;

(2) Shall be represented in a product verification report, as required by § 205.105–4;

(3) Shall be labeled in accordance with the requirements of § 205.105–11; and

(4) Shall conform to the applicable exterior and/or interior noise emission standard established in § 205.102 of this regulation.

(b) The requirements of paragraph (a) of this section dealing with exterior noise standards apply to new products at the time they first conform to the definition of vehicles in these regula-

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tions. The responsibility for complying with the requirement of paragraph (a) of this section rests with the manufacturer of the new product at the time the product first conforms to the definition of vehicle in this regulation.

(c) The requirements of paragraph (a) of this section dealing with interior noise standards apply to new products at the time they meet the definition of bus in this regulation. The responsibility for complying with the requirements of paragraph (a) of this section rests with the manufacturer of the new product at the time it first conforms to the definition of bus in these regulations.

(d) Subsequent manufacturers of a new product which conforms to the definition of vehicle in these regulations when received by them from a prior manufacturer, need not fullfill the requirements of paragraph (a) (1), (2) or (3) of this section where such requirements have already been complied with by a prior manufacturer.

(e) The manufacturer who is required to conduct product verification testing, for a particular standard, shall satisfy all other provisions of this subpart applicable to that standard, including, but not limited to, record keeping, reporting, and in-use requirements.

(Secs. 10, 13 of the Noise Control Act (42 U.S.C. 4909, 4912).)

§ 205.105–2 Production verification of vehicles; compliance with exterior and interior standards.

(a) (1) Prior to distribution in commerce of vehicles of a specific configuration, the first manufacturer of such vehicles must verify such configurations in accordance with the requirements of this subpart. However, production verification of a configuration is automatically and conditionally waived by the Administrator without request by a manufacturer for a period of up to 45 consecutive days from the date of distribution in commerce by a manufacturer of the first vehicle of that configuration in order to enable a manufacturer to distribute vehicles in commerce and thus avoid disruption of the manufacturing process. To qualify for such waiver, a manufacturer must conduct any tests required in paragraphs (b) or (c) of this section as soon as weather conditions at a manufacturer's test facility permit after distribution in commerce of the first vehicle of a configuration. Such conditions must be documented by the manufacturer and provided to the Administrator on request. Failure to test on such first suitable day will result in automatic and retroactive recision of the waiver and will render the manufacturers liable for illegally distributing vehicles in commerce.

(2) At the completion of any 45 day period the conditional waiver granted under paragraph (a)(1) of this section is rescinded for that configuration unless the manufacturer has complied with the requirements of paragraph (b) or (c) of this section as appropriate; except that, upon application by a manufacturer and a showing that the weather conditions at the manufacturer's test facility or other conditions beyond the control of the manufacturer made it impossible to conduct the required testing and that documentation of such conditions is submitted by the manufacturer, the Administrator at his option, may extend for a specified period (not to exceed 45 days) conditional production verification for a configuration to enable the manufacturer to comply with the requirements of paragraph (b) or (c) of this section or he may require that the manufacturer ship the test vehicle to the EPA test facility for testing by the Administrator.

(b) The production verification requirements with regard to each vehicle configuration consist of:

(1) Testing in accordance with § 205.104 of a vehicle selected in accordance with § 205.105–5;

(2) Compliance of the test vehicle with a dBA level such that the arithmetic addition of the Sound Level Degradation Factor (SLDF, determined in accordance with § 205.108–4) to that dBA level does not exceed the applicable interior and, or exterior standards, when tested in accordance with § 205.104; and

(3) Submission of a production verification report pursuant to § 205.105–4.

(c) (1) In lieu of testing vehicles of every configuration as described in paragraph (b) of this section, the manufacturer may elect to verify the configuration based on representative testing, the requirements of which consist of:

(i) Grouping exterior and, or interior configurations into categories where each category will be determined by a separate combination of at least the following parameters (a manufacturer may use more parameters):

(A) Engine Type.
(1) Gasoline—2 stroke cycle.
(2) Gasoline—4 stroke cycle.
(3) Diesel—2 stroke cycle.
(4) Diesel—4 stroke cycle.
(5) Others.
(B) Engine Manufacturer.
(C) Engine Displacement.
(D) Engine Configuration (including, but not limited to V–6, L–6, etc.).
(E) Engine Location.
(1) Front.
(2) Midships.
(3) Rear.
(F) Body Style, including but not limited to:
(1) Flat Front End School Bus.
(2) Conventional School Bus.
(3) Intracity Transit Bus.
(4) Intercity Transport Bus.

(ii) (A) Identifying the configuration within each category which emits the highest sound level (dBA) at the end of its defined acoustical assurance period, based on his best technical judgment or emission test data or both;

(B) If two or more configurations would emit the same level described in paragraph (c)(1)(ii)(A) of this section, then identifying the configuration which emits the highest sound level when distributed into commerce;

(iii) Testing in accordance with the applicable exterior and/or interior test(s) in § 205.104 of a vehicle selected in accordance with § 205.105–5 which must be a vehicle of the configuration which is identified pursuant to subparagraph (1)(ii) of this paragraph as having the highest sound level (estimated or actual) within the category;

(iv) Compliance of the test vehicle with a dBA level such that the arithmetic addition of the SLDF to that dBA level does not exceed the applicable exterior and, or interior standards when tested in accordance with § 205.104; and

(v) Submission of a production verification report pursuant to § 205.105–4.

(2) Where the requirements of paragraph (c)(1) of this section are complied with, all those configurations contained within a category are considered to be represented by the tested vehicle and are considered to be production verified.

(3) Where all other requirements of paragraph (c)(1) of this section are complied with except that the manufacturer tests a configuration which does not have the highest sound level in a category (as identified in paragraph (c)(1)(ii) of this section), all those configurations in the category which have sound levels no greater than the tested vehicle are considered to be production verified; however, a manufacturer must production verify according to the requirements of paragraph (b)(1) and, or (c)(1) of this section any configurations in the subject category which have a higher sound level than the vehicle configuration tested.

(d) A manufacturer may elect to production verify using representative testing pursuant to paragraph (c) of this section, all or part of his product line.

(e) A manufacturer may, at his option, proceed with any of the following alternatives with respect to any vehicle determined not in compliance with applicable standards:

(1) Delete that configuration from the production verification report. Configurations so deleted may be included in a later report under § 205.105–4. However, in the case of representative testing a new test vehicle from another configuration must be selected and production verified according to the requirements of paragraph (c) of this section, in order to production verify the category represented by the non-compliant vehicle.

(2) Modify the test vehicle and demonstrate by testing that it meets applicable standards. All modifications and test results must be reported in the production verification report. The manufacturer must modify all production vehicles of the same configuration in the same manner as the test vehicle before distribution into commerce.

(f) Upon request by the Director, Noise Enforcement Division, the manufacturer shall notify such Director of any production verification testing scheduled by the manufacturer pursuant to this section so that EPA Enforcement Officers may be present and observe such testing or conduct the testing in lieu of the manufacturer.

(Sec. 13, Noise Control Act (42 U.S.C. 4912).)

§ 205.105–3 Configuration identification.

(a) *Exterior configuration parameters.* A separate vehicle configuration shall be determined by each combination of the following parameters:

(1) Exhaust system configuration:
(i) Single vertical.
(ii) Dual vertical.
(iii) Single horizontal.
(iv) Dual horizontal.
(2) Air induction system (engine):
(i) Natural.
(ii) Turbocharged.
(3) Cooling fan type:
(i) Axial.
(ii) Radial.
(4) Engine manufacturer's horsepower rating.
(5) Category parameters listed in § 205.105–2.

(b) *Interior configuration parameters.* (1) Accessories within the bus affecting noise absorption:
(i) Number of passenger seats.
(ii) Type of floor, wall, and passenger seat coverings.
(2) Design characteristics of the bus body affecting noise transmission through the bus walls and floor:
(i) Thickness and type of acoustic and thermal insulation beneath the floor and within the walls.
(3) Category parameters listed in § 205.105–2.

(Sec. 13, Noise Control Act (42 U.S.C. 4912))

§ 205.105–4 Production verification report: Required data.

(a) Prior to the distribution in commerce of any product to which this regulation applies, the manufacturer shall submit a production verification report to the Director, Noise Enforcement Division (EN–387), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. A manufacturer may choose to submit separate production verification reports for different parts of his product line.

(b) The report shall be signed by an authorized representative of the manufacturer and shall include the following:

(1) The name, location, and description of the manufacturer's noise emission test facilities which meet the specifications of § 205.104 and have been utilized to conduct testing pursuant to this subpart, except a test facility that has been described in a previous submission under this subpart need not again be described but must be identified as such.

(2) A description of normal predelivery maintenance procedure.

(3) A description of all vehicle configurations, as determined in accordance with § 205.105–3, to be distributed in commerce by the manufacturer, including the sound level degradation factor for each configuration and a list identifying or defining any device or element of design (including its location and method of operation) incorporated into vehicles for the purpose of noise control and attenuation both exterior and interior, including the following information for each configuration:

(i) Muffler (exhaust):
(A) Manufacturer name.
(B) Manufacturer part number.
(ii) Air induction system (engine):
(A) Manufacturer name.
(B) Manufacturer part number.
(iii) Cooling fan (radiator):
(A) Manufacturer name.
(B) Manufacturer part number.
(iv) Governed or maximum rated rpm.
(v) Any device which affects noise emissions from the vehicle and does not operate during the normal operating modes of the vehicle (e.g., over temperature protection).
(vi) Sound level degradation factor (see § 205.108–4).

The manufacturer may satisfy the vehicle configuration description requirements of this paragraph by submitting as part of the production verification report a copy of his sales literature that describes his product line including options: *Provided*, That this literature is supplemented with any additional information necessary to fulfill the requirements of this section. If a manufacturer elects to production verify pursuant to § 205.105–2(c), the configuration, within each category, which is estimated to have the highest sound level at the end of its Acoustical Assurance Period shall be identified. The manufacutrer may estimate the sound level based on his best technical judgment or data. The criteria used to estimate each sound level shall be stated with the estimates.

(4) The following information for each noise emission test conducted:

(i) The completed data sheet required by § 205.104 for all official tests conducted in accordance with § 205.105–7 including, for each invalid test, the reason for invalidation.

(ii) A complete description of any preparation, maintenance or testing which was performed on the test vehicle and which will not be performed on all other production vehicles.

(iii) The reason for replacement where a replacement vehicle was necessary, and test results, if any, for replaced vehicles.

(5) A complete description of the sound data acquisition system if other than those specified in §§ 205.104–1(a) and 205.104–2(a).

(6) The following statement and endorsement:

This report is submitted pursuant to Section 6 and Section 13 of the Noise Control Act of 1972. All testing for which data is reported herein is conducted in strict conformance with applicable regulations under 40 CFR Part 205 et seq. All the data reported herein is a true and accurate representation of such testing. All other information reported herein is, to the best of ------

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(Company name)

knowledge, true and accurate. I am aware of the penalties associated with violations of the Noise Control Act of 1972 and the regulations thereunder.

(Authorized representative)

(c) Where a manufacturer elects to submit separate production verification reports for portions of his product line as provided for in paragraph (a) of this section, information provided in previous reports need not be resubmitted. Except, that information necessary to update or make current previously submitted information must be submitted.

(d) Any change with respect to any information reported pursuant to this subpart shall be reported as soon as the information becomes available.

(Sec. 13, Noise Control Act (42 U.S.C. 4912).)

§ 205.105–5 Test vehicle sample selection.

(a) Test vehicles of a configuration for which production verification testing is required by § 205.105–2 shall be a vehicle of the subject configuration which which has been assembled using the manufacturer's normal production processes and will be sold or offered for sale in commerce.

(b) Should a situation arise in which the configuration to be tested consists of only vehicles with automatic transmissions, they shall be tested in accordance with § 205.104–1(c)(2).

(c) If the configuration to be tested consists of both automatic transmission and standard transmission vehicles, the test vehicle shall be a standard transmission vehicle unless the manufactuer has reason to believe that the automatic transmission vehicle emits a greater sound level.

(Secs. 10, 13, Noise Control Act (42 U.S.C. 4909, 4912).)

§ 205.105–6 Test vehicle preparation.

(a) Prior to the official test, the test vehicle selected in accordance with § 205.105–5 shall not be prepared, tested, modified, adjusted, or maintained in any manner unless such adjustments, preparation, modification, or tests are part of the manufacturer's prescribed manufacturing and inspection procedures, and documented in the manufacturer's internal vehicle assembly and inspection procedures or unless such adjustments or tests are required or permitted under this subpart or are approved in advance by the Administrator. The manufacturer may perform adjustments, preparations, modifications or tests normally performed at the port of entry by the manufacturer to prepare the vehicle for delivery to a dealer or a customer: *Provided*, That such adjustments, preparation, modification, or tests are documented in the production verification report.

(b) Equipment or fixtures necessary to conduct the test may be installed on the vehicle: *Provided*, That such equipment or fixtures shall have no effect on the noise emissions of the vehicle, as determined by the measurement methodology.

(c) In the event of a vehicle malfunction (i.e., failure to start, etc.) the manufacturer may perform the maintenance that is necessary to enable the vehicle to operate in a normal manner: *Provided*, That such maintenance is documented and reported in the final report and prepared and submitted in accordance with this subpart.

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(d) No quality control, testing, assembly, or selection procedures shall be used on the test vehicle or any portion thereof, including parts and subassemblies, that will not normally be used during the production and assembly of all other vehicles of the category which will be distributed in commerce, unless such procedures are required or permitted under this subpart or are approved in advance by the Administrator.

(Sec. 13, Noise Control Act (42 U.S.C. 4912).)

§ 205.105–7 Testing.

(a)(1) The manufacturer shall conduct one valid exterior and/or interior test in accordance with the test procedures specified in § 205.104 for each vehicle selected for verification testing.

(2) Where a manufacturer produces vehicles which are subject to both the exterior and interior noise standards he may conduct both exterior and interior tests simultaneously.

(b) No maintenance will be performed on the test vehicles except as provided for by § 205.105–6. In the event a vehicle is unable to complete either emission test, the manufacturer may replace the vehicle. Any replacement vehicle will be a production vehicle of the same configuration as the replaced vehicle or a noisier configuration and will be subject to all the provisions of these regulations. Any replacement shall be reported in the production verification report including the reason for the replacement.

(c) In the event a vehicle fails to comply with the standards of this subpart when tested in accordance with the procedures specified in paragraph (a) of this section, the manufacturer may proceed in accordance with § 205.105–2(e).

(Sec. 13, Noise Control Act (42 U.S.C. 4912).)

§ 205.105–8 Addition of, changes to, and deviation from a vehicle configuration during the model year.

(a) Any change to a configuration with respect to any of the parameters stated in § 205.105–3 shall constitute the addition of a new and separate configuration or category to the manufacturer's product line.

(b)(1) When a manufacturer introduces a new category or configuration to his product line, he shall proceed in accordance with § 205.105–2.

(2) If the configuration to be added can be grouped within a verified category and the new configuration is estimated to have a lower sound pressure level than a previously verified configuration within the same category, the configuration shall be considered verified: *Provided*, That the manufacturer submits a report pursuant to § 205.105–4 with respect to such configuration.

(Sec. 13, Noise Control Act (42 U.S.C. 4912).)

§ 205.105–9 Production verification based on data from previous model years.

(a) Production verification of each configuration will be required at the beginning of each model year except that in certain instances, the Administrator, upon request by the manufacturer, may permit the use of production verification data for specific configurations from previous production verification reports. Considerations relevant to his decision may include but are not limited to:

(1) The level of the standard in effect for the model year in question;

(2) Performance based on production verification data for previous model years;

(3) Performance based on data obtained from selective enforcement testing during previous model years; and

(4) The number and type of noise emission design changes incorporated in the new models that affect the noise emission level of that model.

(Sec. 13, Noise Control Act (42 U.S.C. 4912.)

§ 205.105–10 Cessation of distribution.

(a) If a category or configuration is found to be non-conforming to this subpart by reason of failure to be properly verified, as required by § 205.105–2, the Administrator may issue an order to the manufacturer to cease to distribute in commerce vehicles of that category or configuration. However, such an order shall not be issued if the manufacturer has made a good faith attempt to properly production verify the category or configuration. The burden of establishing such good faith shall rest with the manufacturer.

(b) Any such order shall be issued after notice and opportunity for a hearing.

(Sec. 11, Noise Control Act (42 U.S.C. 4912.)

§ 205.105–11 Labeling (interior/exterior standards)—compliance.

(a) The manufacturer who is required to satisfy the production verification requirements of these regulations for the interior and/or exterior standards must satisfy the requirements of this section.

(1) The manufacturer of any vehicle subject to the provisions of § 205.102 shall, at the time of manufacture, affix a permanent, legible label, of the type and in the manner described in paragraphs (a) (2), (3), and (4) of this section, containing the information specified in this section, to all such vehicles to be distributed in commerce. The labels shall be affixed in such a manner that they cannot be removed without destroying or defacing them, and shall not be affixed to any equipment which is easily detached from such vehicle.

(2) A label shall be permanently attached, in a readily visible position in the operator's compartment.

(3) The label regarding exterior vehicle noise emissions shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(i) The label heading:

Vehicle Exterior Noise Emission Control Information;

(ii) Full corporate name and trademark of manufacturer;

(iii) Date of manufacture;

(iv) The statement:

This vehicle Conforms to U.S EPA Regulations for Exterior Noise Emission Applicable to Buses

The following acts or the causing thereof by any person are prohibited by the Noise Control Act of 1972: (A) The removal or rendering inoperative, other than for purposes of maintenance, repair, or replacement, of any noise control device or element of design (listed in the owner's manual) incorporated into this vehicle in compliance with the Noise Control Act; (B) The Use of this vehicle after such device or element of design has been removed or rendered inoperative.

(v) Vehicles manufactured solely for use outside the United States shall be clearly labeled "For Export Only."

(4) The label regarding interior vehicle noise emissions shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(i) The label heading: Vehicle Interior Noise Emission Control Information;

(ii) Full corporate name and trademark of manufacturer;

(iii) Date of manufacture;

(iv) The statement:

This Vehicle Confroms to U.S EPA Regulations for Interior Noise Emission Applicable to Buses

The following acts or the causing thereof by any person are prohibited by the Noise Control Act of 1972: (A) The removal or rendering inoperative, other than for purposes of maintenance, repair or replacement, of any noise control device or element of design (listed in the owner's manual) incorporated into this vehicle in compliance with the Noise Control Act; (B) The use of this vehicle after such device or element of design has been removed or rendered inoperative.

(v) Vehicles manufactured solely for use outside of the United States shall be clearly labeled "For Export Only."

(Sec. 13, Noise Control Act (42 U.S.C. 4912).)

§ 205.105–2 Labeling—exterior. [Reserved]

§ 205.106 Testing by the Administrator.

(a)(1) The Administrator may require that any vehicle to be tested pursuant to these regulations or any untested vehicles be submitted to him, at such place and time as he may designate for the purpose of conducting test in accordance with the test procedures described in § 205.104 to determine whether such vehicles conform to applicable regulations.

(2) The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment of the type required by these regulations shall be made available by the manufacturer for test operations. The Administrator may conduct such tests with his own equipment, which shall equal or exceed the performance specifications of the instrumentation and equipment specified by the Administrator in these regulations.

(b) (1) If, based on tests conducted by EPA or on other relevant information, the Administrator determines that the test facility does not meet the requirements of § 205.104 (including any alternative procedures that may be approved thereunder), he will notify the manufacturer in writing of his determination and the reasons therefor.

(2) After any notification in paragraph (b)(1) of this section, no data derived from such test facility will be acceptable for purposes of this part and the Administrator may issue an order to the manufacturer, with respect to the vehicle category or configuration in question, to cease to distribute in commerce vehicles of such category or configuration: Except, that any such order shall be issued only after notice and opportunity for a hearing. Such notification may be included in any notifications under paragraph (b)(1) of this section. A manufacturer may request that the Administrator grant a hearing. Request shall be made not later than fifteen (15) days, or other such period as may be allowed by the Administrator, subsequent to notification of the Administrator's intent to issue an order to cease to distribute.

(3) The manufacturer may request in writing that the Administrator reconsider his determination in paragraph (b)(1) of this section based on data or information which indicates that changes have been made to the test facility and such changes have resolved the reasons for disqualification.

(4) The Administrator will notify the manufacturer of his determination with regard to the requalification of the test facility within 10 days of the manufacturer's request for reconsideration pursuant to paragraph (b)(3) of this section.

(Sec. 11, 13, Noise Control Act (42 U.S.C. 4910, 4912).)

§ 205.107 Selective enforcement auditing requirements.

§ 205.107–1 Test request.

(a) The Administrator will request all testing under this subpart by means of a test request addressed to the manufacturer.

(b) The test request will be signed by the Assistant Administrator for Enforcement or his designee. The test request will be delivered by an EPA Enforcement Officer to the plant manager or other responsible official as designated by the manufacturer.

(c) The test request will specify the vehicle category or configuration selected for testing, the batch selected for testing, the batch size, the manufacturer's plant or storage facility from which the vehicles must be selected, and the time at which a vehicle must be selected. The test request will also provide for situations in which the selected configuration or category is unavailable for testing. The test request may include an alternative category or configuration selected for testing in the event that vehicles of the first specified category or configuration are not available for testing because the vehicles are not being manufactured at the specified plant, are not being manufactured during the specified time, or are not being stored at the specified plant or storage facility.

(d) Any manufacturer shall, upon receipt of the test request: (1) If the manufacturer produces less than 4 of the specified category or configuration of vehicles per given period of time as specified in the test request, select and test every vehicle produced in two consecutive batches in accordance with these regulations and the conditions specified in the test request.

(i) If one or more of the vehicles in a test batch fails to meet the standard, the batch is rejected.

(ii) If one batch is rejected then the batch sequence determined under this paragraph is rejected.

(2) If the manufacturer produces 4 or more of the specified category or configuration of vehicle per given period of time as specified in the test request, select and test a batch sample of vehicles from consecutively produced batches of the vehicle category or configuration specified in the test request in accordance with these regulations and the conditions specified in the test request.

(e)(1) Any testing conducted by the manufacturer pursuant to a test request shall be initiated within such period as is specified within the test request. Such test initiation may be delayed for increments of 24 hours or one business day where ambient test site weather conditions in any 24-hour period do not permit testing: *Provided*, That the ambient test site weather conditions for that period are recorded.

(2) The manufacturer shall complete exterior noise emission and/or interior noise testing on a minimum of five vehicles per day unless otherwise provided for by the Administrator or unless ambient test site conditions only permit the testing of a lesser number: *Provided*, That ambient test site weather conditions for that period are recorded.

(3) The manufacturer shall be allowed 24 hours to ship vehicles from a batch sample from the assembly plant to the testing facility if the facility is not located at this plant or in close proximity to the plant: Except, that the Administrator may approve more time based upon a request by the manufacturer accompanied by a satisfactory justification.

(f) The Administrator may issue an order to the manufacturer to cease to distribute into commerce vehicles of a specified category or configuration being manufactured at a particular facility if:

(1) The manufacturer refuses to comply with the provisions of a test request issued by the Administrator pursuant to this section; or

(2) The manufacturer fails to comply with any of the requirement of this section.

(g) A cease-to-distribute order shall not be issued under paragraph (f) of this section if such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with the provisions of a test request or any other requirements of this section. Such conditions and circumstances shall include, but are not limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(h) Any such order shall be issued only after a notice and opportunity for a hearing.

(Secs. 11, 13, Noise Control Act (42 U.S.C. 4910, 4912).)

§ 205.107–2 Test vehicle sample selection.

(a) Vehicles comprising the batch sample which are required to be tested pursuant to a test request in accordance with this subpart will be selected in the manner specified in the test request from a batch of vehicles of the category or configuration specified in the test request. If the test request specifies that the vehicles comprising the batch sample must be selected randomly, the random sele tion will be achieved by sequentially numbering all of the vehicles in the batch and then using a table of random numbers to select the number of vehicles as specified in paragraph (c) of this section based on the batch size designated by the Administrator in the test request. An alternative random selection plan may be used by a manufacturer: *Provided*, That such a plan is approved by the Administrator. If the test request does not specify that test vehicles must be randomly selected, the manufacturer shall select test vehicles consecutively. The provisions of § 205.105–5 (b) and (c) shall also pertain to this section.

(b) The Acceptable Quality Level is 10 percent. The appropriate sampling plans associated with the designated AQL are contained in Table II of Appendix I to this subpart.

(c) The appropriate batch sample size will be determined by reference to Tables I and II of Appendix I to this subpart. A code letter is obtained from Table I based on the batch size designated by the Administrator in a test request. The batch sample size will be obtained from Table II. The batch sample size will be equal to the maximum cumulative sample size for the appropriate code letter obtained from Table I plus an additional 10 percent rounded off to the next highest number.

(d) If the test request specifies that vehicles comprising the batch sample must be selected randomly, individual vehicles comprising the test sample will be randomly selected from the batch sample using the same random selection plan as in paragraph (a) of this section. Test

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sample size will be determined by entering Table II.

(e) The test vehicles of the category or configuration selected for testing shall have been assembled by the manufacturer for distribution in commerce using the manufacturer's normal production process.

(f) Unless otherwise indicated in the test request, the manufacturer will select the batch sample from the production batch next scheduled after receipt of the test request, of the category or configuration specified in the test request.

(g) Unless otherwise indicated in the test request, the manufacturer shall select the vehicles designated in the test request for testing.

(h) At their discretion, EPA Enforcement Officers, rather than the manufacturer may select the vehicles designated in the test request.

(i) The manufacturer will keep on hand all vehicles in the batch sample until such time as the batch is accepted or rejected in accordance with § 205.107–6: Except, that vehicles actually tested and found to be in conformance with these regulations need not be kept.

(Sec. 13, Noise Control Act (42 U.S.C. 4912).)

§ 205.107–3 Test vehicle preparation.

Prior to the official test, the test vehicle selected in accordance with § 205.107–2 will be prepared in accordance with § 205.105–6.

(Sec. 13, Noise Control Act (42 U.S.C. 4912).)

§ 205.107–4 Testing procedures.

(a) The manufacturer shall conduct one valid test in accordance with the test procedures specified in § 205.104 for each vehicle selected for testing pursuant to this subpart.

(b) No maintenance will be performed on test vehicles except as provided for by § 205.107–3. In the event a vehicle is unable to complete the emission test, the manufacturer may replace the vehicle. Any replacement vehicle will be a production vehicle of the same configuration as the replaced vehicle. It will be randomly selected from the batch sample and will be subject to all the provisions of these regulations.

(Sec. 13, Noise Control Act (42 U.S.C. 4912).)

§ 205.107–5 Reporting of the test results.

(a)(1) The manufacturer shall submit a copy of the test report for all testing conducted pursuant to § 205.107 at the conclusion of each 24-hour period during which testing is done.

(2) For each test conducted the manufacturer will provide the following information:

(i) Configuration and category identification where applicable;

(ii) Sound Level Degradation Factor (SLDF)

(iii) Year, make, assembly date, and model of vehicle;

(iv) Vehicle serial number; and

(v) Test results by serial numbers.

(3) The first test report for each batch sample will contain a listing of all serial numbers in that batch.

(b) In the case where an EPA Enforcement Officer is present during testing required by this subpart, the written reports requested in paragraph (a) of this section may be given directly to the Enforcement Officer.

(c) Within 5 days after completion of testing of all vehicles in a batch sample, the maufacturer shall submit to the Administrator a final report which will include the information required by the test request in the format stipulated in the test request in addition to the following:

(1) The name, location, and description of the manufacturer's emission test facilities which meet the specifications of § 205.104 and were utilized to conduct testing reported pursuant to this section: Except, that a test facility that has been described in a previous submission under this subpart need not again be described but must be identified as such.

(2) A description of the random vehicle selection method used, referencing any tables of random numbers that were used, name of the person in charge of the random number selection, if the vehicle test request specifies a random vehicle selection.

(3) The following information for each interior/exterior noise emission test conducted,

(i) The completed data sheet required by § 205.104 for all noise emission tests including for each invalid test, the reason for invalidation.

(ii) A complete description of any modification, repair, preparation, maintenance, and/or testing which was performed on the test vehicle and will not be performed on all other production vehicles.

(iii) The reason for the replacement and the test reults for the replaced vehicles.

(4) A complete description of the sound data acquisition system if other than those specified in § 205.104.

(5) The following statement and endorsement:

This report is submitted pursuant to section 6 and section 13 of the Noise Control Act of 1972. All testing for which data is reported herein was conducted in strict conformance with applicable regulations under 40 CFR Part 205 et seq. All the data reported herein is a true and accurate representation of such testing. All other information reported herein is, to the best of

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knowledge, true and ac-

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curate. I am aware of the penalties associated with violations of the Noise Control Act of 1972 and the regulations thereunder.

(authorized representative)

(Sec. 13, Noise Control Act (42 U.S.C. 49–12).)

§ 205.107–6 Acceptance and rejection of batches.

(a) A failing product is one whose measured sound level is in excess of the sound level equal to the applicable noise emission standard set forth in § 205.102 minus the SLDF as determined in § 205.108–4 for the category or configuration being tested.

(b) The batch from which a batch sample is selected will be accepted or rejected based upon the number of failing vehicles in the batch sample. A sufficient number of test samples will be drawn from the batch sample until the cumulative number of failing vehicles is less than or equal to the acceptance number or greater than or equal to the rejection number appropriate for the cumulative number of vehicles tested. The acceptance and rejection numbers listed in Table II of Appendix I to this subpart at the appropriate code letter obtained according to § 205.107–2 will be used in determining whether the acceptance or rejection of a batch has occurred.

(c) Acceptance or rejection of a batch takes place when the decision that a vehicle is a failing vehicle is made on the last vehicle required to make a decision under paragraph (a) of this section.

(Sec. 13, Noise Control Act (42 U.S.C. 4912).)

§ 205.107–7 Acceptance and rejection of batch sequence.

(a) The manufacturer will continue to inspect consecutive batches until the batch sequence is accepted or rejected. The batch sequence will be accepted or rejected based upon the number of rejected batches. A sufficient number of consecutive batches will be inspected until the cumulative number of rejected batches is less than or equal to the sequence acceptance number or greater than or equal to the sequence rejection number appropriate for the cumulative number of batches inspected. The acceptance and rejection number listed in Table III of Appendix I to this subpart at the appropriate code letter obtained according to § 205.107–2 will be used in determining whether the acceptance or rejection of a batch sequence has occurred.

(a) Acceptance or rejection of a batch sequence takes place when the decision that a vehicle is a failing vehicle is made on the last vehicle required to make a decision under paragraph (a) of this section.

(c) If the batch sequence is accepted, the manufacturer will not be required to perform any additional testing on vehicles from subsequent batches pursuant to the initiating test request.

(d) The Administrator may terminate testing earlier than required in paragraph (b) based on a request by the manufacturer, accompanied by voluntary cessation of distribution in commerce, from all plants, of vehicles from the configuration in question: *Provided*, That once production is reinitiated the manufacturer must take the action described in § 205.107–9(a)(1) and (a)(2) prior to distribution in commerce of any vehicle from any plant of the vehicle category or configuration in question.

(Sec. 13, Noise Control Act (42 U.S.C. 4912).)

§ 205.107–8 Continued testing.

(a) If a batch sequence is rejected in accordance with paragraph (b) of § 205.107–7, the Administrator may require continued 100 percent testing with respect to all vehicles of that category or configuration produced at that plant.

(b) The Administrator will notify the manufacturer in writing of his intent to require any 100 percent testing of vehicles pursuant to paragraph (a) of this section.

(c) Any tested vehicle which demonstrates conformance with the applicable standards may be distributed into commerce.

(d) Any knowing distribution into commerce of a vehicle which does not comply with the applicable standards is a prohibited act.

(Sec. 13, Noise Control Act (42 U.S.C. 4912).)

§ 205.107–9 Prohibiton on distribution in commerce; manufacturer's remedy.

(a) The Administrator will permit the cessation of continuous testing under § 205.107–8 once the manufacturer has taken the following actions:

(1) Submits a written report to the Administrator which identifies the reason for the noncompliance of the products, describes the problem, and describes the proposed quality control and/or quality assurance remedies to be taken by the manufacturer to correct the problem or follows the requirements for an engineering change pursuant to § 205.105–9; and

(2) Demonstrates that the specified product, category or configuration has passed a retest conducted in accordance with § 205.107 and the condition specified in the initial test request.

(b) Any product failing the prescribed noise emission tests conducted pursuant to this Subpart C may not be distributed in commerce until necessary adjustments or repairs have been made and the product passes a retest.

(c) No products of a rejected batch which are still in the hands of the manufacturer may be distributed in commerce unless the manufacturer has demonstrated to the satisfaction of the Administrator that such products do in fact conform to the regulation: Except, that any product that has been tested and does, in fact, conform with this regulation may be distributed in commerce.

(Secs. 11, 13, Noise Control Act (42 U.S.C. 4910, 4912).)

§ 205.108 In-use requirements.

§ 205.108–1 Warranty.

(a) The vehicle maufacturer who is required to production verify the exterior noise emission standard under this part shall include in the owner's manual or in other information supplied to the ultimate purchaser the following statement:

EXTERIOR NOISE EMISSIONS WARRANTY

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warrants to the first

(name of mfr.)

person who purchases this vehicle for purposes other than resale and to each subsequent purchaser that this vehicle was designed, built and equipped to conform at the time of sale to such first purchaser with all applicable U.S. EPA Bus exterior noise control regulations.

This warranty is not limited to any particular part, component or system of the vehicle Defects in the design, assembly, or in any part, component, or system of the vehicle, which, at the time of sale to such first purchaser, caused exterior noise emission levels to exceed Federal standards are covered by this warranty for the actual life of the vehicle.

(b) The manufacturer who is required to production verify the interior noise level standard under this part shall include in the owner's manual or in other information supplied to the ultimate purchaser the following statement:

INTERIOR NOISE EMISSIONS WARRANTY

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warrants to the first

(name of mfr.)

person who purchases this vehicle for purposes other than resale and to each subsequent purchaser that the interior of this vehicle was designed, built and equipped to conform at the time of sale to such first purchaser with all applicable U.S. EPA Bus interior noise control regulations.

This warranty is not limited to any particular part, component or system of the interior of the vehicle. Defects in the design, assembly, or in any part, component, or system of the interior of the vehicle which, at the time of sale to such first purchaser, caused interior noise emission levels to exceed Federal standards are covered by this warranty for the actual life of the vehicle.

(c) Not later than the date of submission of the product verification report required by § 205.105–4, the manufacturer shall submit to the Administrator two (2) copies of the written noise emission warranty required by paragraph (a) of this section and two (2) copies of all other information provided to the ultimate purchaser which could reasonably be construed as impacting on the warranty.

(d) Not later than ten (10) days after dissemination, the manufacturer shall submit two (2) representative copies of all information of a general nature, or modifications thereto, which is provided to dealers, zone representatives, or other agents of the manufacturer regarding the administration and application of the noise emission warranty. Information regarding noise emission warranty claims which is provided to a dealer or representative in response to a particular warranty claim or dealer inquiry is not considered to be information of a general nature, if such information does not receive broad dissemination to dealers.

(e) All information required to be forwarded to the Administrator pursuant to this section shall be addressed to: Director, Noise Enforcement Division, (EN-387), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

(Sec. 13, Noise Control Act (42 U.S.C. 4912).)

§ 205.108–2 Tampering.

(a)(1) The following provisions are applicable as appropriate to the manufacturer who is required to conduct production verification for the exterior and/or interior standard.

(2) For each model year and for each configuration of vehicles covered by this part, the manufacturer shall submit to the Administrator a list of those acts which, in the manufacturer's estimation, might be done to the vehicle in use, on more than an occasional basis, and result in an increase in the interior and/or exterior noise emission levels above the standards prescribed in § 205.102. The manufacturer should indicate, wherever possible, the amount of this increase in noise emission level.

(b) The above information shall be submitted to the Administrator within adequate time prior to the introduction into commerce of each configuration to allow for the development and printing of tampering lists, as provided in paragraphs (c) and (d), of this section.

(c) On the basis of the above information, the Administrator will develop a list of acts which, in the Administrator's judgment, constitute the removal or rendering inoperative, totally or partially other than for purposes of maintenance, repair, or replacement, of noise control devices or elements of design of the vehicle. This list shall be provided to the manufacturer by the Administrator within 30 days of the date on which the information required in paragraph (a) of this section is submitted by the manufacturer and shall be included in the statement to the ultimate purchaser as required by paragraph (d)(2) of this section. If the list is not provided by the Administrator within 30 days of the date on which the information required in paragraph (a) of this section is submitted, the manufacturer shall include only the statement in paragraph (d)(1) of this section until such time as the list has been provided and the owner's manual is reprinted for other purposes.

(d) The appropriate manufacturer shall include in the owner's manual the following information:

(1) The statement:

TAMPERING WITH NOISE CONTROL SYSTEM PROHIBITED

Federal law prohibits the following acts or the causing thereof: (1) The removal or rendering inoperative by any person other than for purposes of maintenance, repair, or replacement, of any device or element of design incorporated into any new vehicle for the purpose of noise control prior to its sale or delivery to the ultimate purchaser or while it is in use, or (2) the use of the vehicle after such device or element of design has been removed or rendered inoperative by any person.

(2) The statement:

Among those acts presumed to constitute tampering are the acts listed below.

Immediately following this statement, the manufacturer shall include the list developed by the Administrator under paragraph (c) of this section.

(e) Any act included in the list prepared pursuant to paragraph (c) of this section is presumed to constitute tampering; however, in any case in which a proscribed act has been committed and it has been shown that such act resulted in no increase in the A-weighted sound level of the vehicle or that the

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vehicle still meets the noise emission standard of § 205 102. such act will not constitute tampering

·f· The provisions of this section are not intended to preclude any State or local jurisdiction from adopting and enforcing its own prohibitions against the removal or rendering inoperative of noise control systems on vehicles subject to this part.

·g· All information required by this section to be furnished to the Administrator shall be sent to the following address

Director Noise Enforcement Division ·EN 387· U S Environmental Protection Agency 401 M Street SW.. Washington, D C 20460

·Sec 10 13. Noise Control Act ·42 U.S.C 4909 4912· ·

§ 205.108–3 Instructions for maintenance, use and repair.

·a· ·1· The manufacturer responsible for the exterior and or the interior noise standards shall provide to the ultimate purchaser of each vehicle covered by this subpart written instructions for the proper maintenance. use and repair of the vehicle and or vehicle body in order to provide reasonable assurance of the elimination or minimization of noise emission degradation throughout the life of the vehicle.

·2· The purpose of the instructions is to inform purchasers and mechanics of those acts necessary to reasonably assure that the degradation of noise emission level is eliminated or minimized during the life of the vehicle Manufacturers shall prepare the instructions with this purpose in mind The instructions shall be clear and, to the extent practicable, written in non-technical language.

3· The instructions shall not be used to secure an unfair competitive advantage They shall not restrict replacement equipment to original equipment or service to dealer service unless such manufacturer makes public the performance specifications on such equipment.

·b· For the purpose of encouraging proper maintenance. the manufacturer shall provide a record or log book which shall contain a schedule for the performance of all required noise emission control maintenance Space shall be provided in this record book so that the purchaser can note what maintenance was done, by whom, where and when.

·c· Not later than the date of submission of the production verification report required by § 205 105–4. the manufacturer shall submit to the Administrator two ·2· copies of the maintenance instructions ·including the record book· required by paragraphs ·a· and ·b· of this section.

·d· The Administrator will require modifications to the instructions if they are not sufficient to fulfill the requirements of paragraph ·a· of this section.

·e· Information required to be submitted to the Administrator pursuant to this section shall be sent to the following address:

Director. Noise Enforcement Division (EN–387). U.S Environmental Protection Agency 401 M Street SW., Washington, D.C 20460

(Sec 13. Noise Control Act (42 U.S.C 4912).)

§ 205.108–4 Sound level degradation factor (SLDF) and retention of durability data.

·a· Each manufacturer responsible for compliance with the standards specified in § 205.102 shall develop a Sound Level Degradation Factor for each of his vehicle configurations utilizing the records compiled under paragraph ·b· of this section.

·b· ·1· The manufacturer shall establish and maintain records which demonstrate the increase in sound level which will occur for each vehicle configuration during the specified AAP.

·2· The records may include, but need not be limited to, the following:

·i· Durability data and actual noise testing on critical sound producing or attenuating components.

·ii· Sound level deterioration curves on the entire vehicle.

·iii· Data from products in actual use.

·c· The SLDF is to be used in all production Verification testing and Selective Enforcement Audit testing to determine compliance.

·d· If the manufacturer determines the vehicle sound level will not increase during the AAP when properly used and maintained, the SLDF is zero.

·e· If a manufacturer determines that a vehicle's sound level will not increase, but rather decreases with use, yielding a negative SLDF. he shall use zero as the SLDF in all testing under these regulations, but shall determine and record the actual SLDF.

(f) A separate SLDF shall be developed for both the exterior and the interior standards.

(Sec. 13, Noise Control Act (42 U.S.C. 4912).)

§ 205.109 Recall of noncomplying vehicles.

(a) Pursuant to section 11(d)(1) of the Act, the Administrator may issue an order to the manufacturer to recall and repair or modify any vehicles distributed in commerce which are not in compliance with this subpart.

(b) A recall order issued pursuant to this section shall be based upon a determination by the Administrator that vehicles of a specified category or configuration have been distributed in commerce which do not conform to the regulations. Such determination may be based on:

(1) A technical analysis of the noise emission characteristics of the category or configuration in question; or

(2) Any other relevant information, including test data.

(c) For the purposes of this section, noise emissions may be measured by any test prescribed in § 205.104 for testing prior to sale or any other test which has been demonstrated to correlate with the prescribed test procedure.

(d) Any order to recall shall be issued only after notice and an opportunity for a hearing.

(e) All costs, including labor and parts, associated with the recall and repair or modification of non-complying vehicles under this section shall be borne by the manufacturer.

(f) This section shall not limit the discretion of the Administrator to take any other actions which are authorized by the Act.

(Sec. 11, Noise Control Act (42 U.S.C. 4910).)

APPENDIX I

TABLE I.—*Sample size code letters*

Batch size:	Code letters
4 to 8	A
9 to 15	B
16 to 25	C
25 and larger	D

TABLE II.—*Sampling plans for inspecting batches*

Sample size code letter	Test sample	Test sample size	Cumulative test sample size	Batch inspection criteria: Acceptance No.	Batch inspection criteria: Rejection No.
A	1st	4	4	0	1
B	1st	2	2	0	1
C	1st	2	3	0	2
	2d	3	6	1	2
D	1st	2	2	(1)	2
	2d	2	4	(1)	2
	3d	2	6	0	2
	4th	2	8	0	3
	5th	2	10	1	3
	6th	2	12	1	3
	7th	2	14	2	3

[1] Batch acceptance not permitted at this sample size.

TABLE III.—*Batch sequence plans*

	Number of batches	Cumulative number of batches	Sequence inspection criteria: Acceptance No.	Sequence inspection criteria: Rejection No.
Sample size code letter:				
A	2	2	1	(1)
	2	4	2	4
	2	6	3	5
	2	8	4	5
B	2	2	0	(1)
	2	4	1	4
	2	6	2	5
	2	8	4	6
	2	10	5	6
	2	12		
C	2	2	(1)	2
	2	4	0	2
	2	6	0	3
	2	8	1	3
	2	10	2	4
	2	12	3	4
D	2	2	0	2
	2	4	1	3
	2	6	2	4
	2	8	3	4

[1] Batch sequence rejection not permitted for this number of batches.
[2] Batch sequence acceptance not permitted for this number of batches.

TABLE IV.—*Recommended format for vehicle noise data sheet*

Test report No. ____ Manufacturer ____
Vehicle:
Trade name ____ VIN ____
Model year ____ Other reference No. ____
Configuration identification ____ Category identification ____
Test site identification and location ____
Noise level degradation factor ____
Instrumentation:
Microphone manufacturer ____ Model No. ____ Serial No. ____
Sound level manufacturer ____ Model No. ____ Serial No. ____
Calibrator manufacturer ____ Model No. ____ Serial No. ____
Other and manufacturer ____ Model No. ____ Serial No. ____
Test data:
Approach gear ____ Date of test ____
Approach RPM ____ Temp. ____ Wind ____
Acceleration test ____

ACCELERATION TEST

Run No.	1	2	3	4	5
dBA:					
Left					
Right					

Highest RPM attained in end zone ____
Calculated sound pressure ____ dBA

INTERIOR TEST

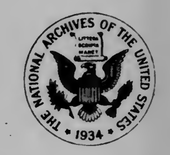
Microphone location ____
Level measured (dBA) ____
Run No.:
1 ____
2 ____
3 ____
4 ____

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federal register

MONDAY, SEPTEMBER 12, 1977
PART V



DEPARTMENT OF TRANSPORTATION

Office of the Secretary

■

CARGO SECURITY ADVISORY STANDARDS

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Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No 32, Notice No. 77-10]

PART 85—CARGO SECURITY ADVISORY STANDARDS

Cargo Loss Reporting System and Procedures; Adoption Report

AGENCY: Department of Transportation.

ACTION: Adoption of Advisory Standards.

SUMMARY: Cargo theft-related activities continue as a major problem in the transportation industry. Thus, on September 23, 1976, the Department solicited comments on a proposed cargo security advisory standard. This document reviews the comments received, incorporates some of the proposals and adopts the proposed standards. The standards adopted establish a loss reporting system to provide a carrier the means for prompt discovery of shipment discrepancies. The standards should lead to recovery of lost cargo and/or detection of a weak spot in a carrier's freight accountability system.

EFFECTIVE DATE September 12, 1977.

FOR FURTHER INFORMATION CONTACT:

James P. Fernan, Chief, Cargo Security Division, Office of Transportation Security, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1688.

SUPPLEMENTARY INFORMATION: The persons responsible for the drafting of this document are James Fernan and Lloyd Milburn, both of the Office of Transportation Security Booker T. Wade, Jr., of the Office of General Counsel, is responsible for its legal sufficiency.

Adoption Statement

Introduction. By notice published in the Federal Register of September 23, 1976 (see 41 FR 41716), the Department of Transportation proposed the issuance of its fourth Cargo Security Advisory Standard, entitled "Cargo Loss Reporting System and Procedures." Public comment was invited. Comments were received from the Pacific Merchant Shipping Association, the American Institute of Marine Underwriters; the American Trucking Association; Corkum Transportation Co.; Lykes Bros. Steamship Co.; the Association of American Railroads; the Shippers National Freight Claim Council, Inc.; and the Air Transport Association of America. After consideration of these comments, we have decided to make one substantive and several editorial changes.

General Concerns. Two concerns predominate many of the comments.

First, a number of commentators, particularly the American Trucking Association and the Association of American Railroads express strong concern that the standards may reflect Departmental regulatory policies and may be perceived as mandatory. The implication is that practical, if not legal, relationships could be affected. Since the establishment of this program (see 37 FR 2540, November 30, 1972) the Department has consistently emphasized the advisory nature of these standards. Indeed, the language of each standard clearly states that the standards are advisory, not mandatory, and that considerable latitude in application is anticipated.

The second concern is that compliance with the daily actions and report preparation standards would require significant amounts of manpower that would not be justified economically relative to losses sustained. The Department believes that these standards are proven management techniques and that substantial benefits will result from this application. Indeed, the Air Transport Association notes that the airline industry currently applies many of the techniques contained in the standards, albeit less frequently. More importantly, considering that compliance with the advisory standards is voluntary, managerial judgment and decision should and will be exercised in every application of the standards. Each carrier is free to determine the cost effectiveness of the system relative to their operations.

Specific Comments. The Pacific Merchant Shipping Association suggests the use of the "U.S. Customs Service Standards for Cargo Security" in lieu of the proposed advisory standards. We have reviewed Customs' service standards. Those standards give recommendations for physical security mechanisms (e.g., fencing, gates, lighting, locking devices) and procedural security mechanisms (e.g., personnel screening, identification cards, etc.). Although there is some minor overlap, those standards do not address the organization and operation of a cargo loss reporting system. We believe the Department's standards to be a complement to those of other agencies.

The American Institute of Marine Underwriters has reservations that providing employees with all the security data specified in section 85-4-15 (a) and (b) would be disadvantageous since pilferage is in large part based on inside information. As with the general intent of Customs Service General Recommendation on Security Education (see Service Standards, supra, p. 13), we believe a more informed employee enhances operations and relieves the chances for loss.

The Shippers National Freight Claims Council, Inc. suggests that the functions of tracing and clearing over, short and damaged cargo as specified in sections 85-4-27(d) be separated. The Department agrees. This paragraph has been rewritten to incorporate the suggestion.

In consideration of the foregoing, Part 85, title 49, Code of Federal Regulations, is amended by adding a new Part 85-4 to the appendix, as follows:

APPENDIX—CARGO SECURITY ADVISORY STANDARDS

PART 85-4—CARGO LOSS REPORTING SYSTEM AND PROCEDURES

Subpart A—General

Sec.
85-4.1 Purpose.
85-4.3 General.
85-4.5 Definitions.

Subpart B—Elements of The System

85-4.11 General.
85-4.13 Guidelines and Procedures.
85-4.15 Training.
85-4.17 Management Review and Analysis.

Subpart C—System Organization, Guidelines and Procedures

85-4.21 General.
85-4.23 Organization.
85-4.25 Guidelines.
85-4.27 Procedures.
85-4.29 Training.
85-4.31 Review and Analysis.

Subpart A—General

Sec. 85-4.1 *Purpose.* (a) The purpose of this part is to set forth minimum procedures and guidelines that should be observed in establishing a cargo loss reporting system.

(b) The provisions herein are general and each may not apply to every transportation mode. Adaptation may be necessary to suit mode peculiarities and individual carrier needs.

Sec. 85-4.3 *General.* The movement of cargo by carrier involves an inherent risk of loss from theft and other causes due mainly to its exposure in the transportation system. Thus, the transportation carrier with this inherent characteristic should establish a cargo loss reporting system which will provide information, safeguards, and practices to protect the cargo entrusted to him by the shipping public. The need for timely, accurate and definitive cargo loss information is essential to a successful cargo claims prevention program. Early identification of the cause of cargo losses through theft, hijack, pilferage, or other reasons is an essential step to prevention and cure.

Sec. 85-4.5 *Definitions.* As used in this part—

"Bill of lading" means the document by which a carrier acknowledges receipt of freight and contracts for its carriage. Also known as "ocean bill of lading" and "air bill of lading."

"Carrier" means a common or contract carrier, but does not mean a private carrier.

"C.O.D." means collect on delivery for invoice value of the goods.

"Connecting line" means another carrier with whom the original carrier interlines a shipment for thru movement from origin to destination. Also known as "interline."

"Consignee" means the designated receiver of merchandise.

"Consignor" means the shipper of merchandise.

"Damage" means impairment of cargo shipment or contents.

"Destination terminal" means the terminal from which carrier makes final delivery. Also known as "destination port."

"Exception" means a deviation from the condition or quantity as shipped.

"Forced billing" means an internal document used by carriers to cover movement of a shipment from one terminal to another, when there is no way bill to cover, and is also used as a delivery receipt until the proper paperwork is found or prepared.

"Free astray" means a form used by carriers to cover movement of an over-shipment from one terminal to another until it can be matched up with paperwork or other disposition made.

"Hijack" means stealing a cargo vehicle by force or threat of bodily harm.

"High-value cargo" means cargo handled at a facility, which because of its monetary value, utility, desirability, or history of frequent theft, requires greater protection than other commodities normally handled at the facility.

"Intermediate terminal" means a location through which a shipment moves at some point between origin and destination. It can also be a carrier's break-bulk terminal or rehandling location. Also known as "intermediate point" and "intermediate port."

"Loss" means disappearance of cargo under circumstances where the cause cannot be defined.

"Manifest" means tabulation of waybills on the loaded vehicle. Often used by checkers as a check sheet when loading and unloading to verify the count.

"Order notify" means a shipment is consigned to order of the shipper, with instructions to notify another party of the arrival of the freight who can claim the shipment by surrendering the original "bill of lading." Also known as "sight draft."

"Origin terminal" means the terminal at which the shipment begins its travel to destination. Also known as "origin port."

"O. S. & D." means over, short, and damaged cargo.

"Overage" means a cargo shipment that is not covered by a "bill of lading" or "waybill."

"Pilferage" means theft of cargo in small amounts.

"Proof of delivery" means a request by shipper or consignee for proof of delivery, requesting name, date and exceptions.

"Seal procedure" means an internal procedure detailing company practices in seal application and removal.

"Security" means human or mechanical protection for cargo shipments.

"Shortage" means a shipment that is incomplete as compared with its description on the "bill of lading" or "waybill."

"S.L. & C." means shipper's load and count.

"Theft" means larcency or unlawfully taking goods of another without force.

"Tracer" means an internal inquiry between terminals to determine location or status of a shipment.

"Traffic" means goods moved by a transportation carrier. Also known as "cargo" or "freight."

"Waybill means a document prepared from a "bill of lading" that accompanies shipment from origin to destination. Also known as "freight bill."

Subpart B—Elements of a System

Sec. 85-4.11 *General.* An effective cargo loss reporting system must contain certain elements for successful implementation by employees and management. This subpart sets forth the minimal elements of such a system.

Sec. 85-4.13 *Procedures.* Detailed procedures for identifying and handling over, short, and damage cargo should be prepared by each carrier's management office and placed in terminals for reference, guidance, and training of all personnel involved in the cargo movement.

Sec. 85-4.15 *Training.* (a) Employees should have knowledge of the operating authority and traffic patterns of the carrier. This includes terminal locations, points served, service restrictions and exceptions, and average service schedule to all points.

(b) Drivers, dock workers and others involved with the traffic should have knowledge of customer freight movements, commodities shipped and peculiarities of specific customers.

(c) Employees should have full knowledge of the loss reporting system and the company's claim prevention program.

(d) All supervisory and management personnel should be involved in the training and fully understand the loss reporting system, how it functions, its objectives, the mechanics thereof, and who to contact in making the system work.

Sec. 85-4.17 *Management Review and Analysis.* (a) Reports in appropriate detail from the Cargo Loss Reporting System should be reviewed by the following: (1) General Management, (2) Security Officers, (3) Claims Managers, (4) Directors of Operations, and (5) Terminal Managers.

(b) The cargo loss data should form the basis for reports on cargo claims which are or may be required by a regulatory agency.

(c) Reports should be analysed to pinpoint needed improvements in the claims prevention program.

Subpart C—System Organization, Guidelines and Procedures

Sec. 85-4.21 *General.* (a) The cargo loss reporting system is intended to be responsive to management in the claims prevention program.

(b) The system should provide the most effective means and times to report all discrepancies in shipments to minimize claims exposure, and to provide better service to the customer.

(c) The reports generated by the system will serve as information to the claims department for denial or approval of claims presented by customers.

Sec. 85-4.23 *Organization.* (a) A central office to serve as the clearinghouse for all reports of shipment discrepancies should be established preferably at the corporate or company headquarters.

(b) This central office should be the focal point for all reports of overages, shortages, and damages and is responsible for: (1) Clearing reports on discrepancies; (2) Matching overages and shortages; (3) Issuing disposition instructions to terminals; and (4) Developing advisory instructions for terminals with special problems.

(c) The central office should be in the claims department with direct communication with all terminals by means of teletype or telephone.

Sec. 85-4.25 *Guidelines.* (a) The loss reporting procedures should be implemented immediately upon discovery of an overage, shortage, or damage in shipment.

(b) The reports of an overage, shortage, or damage should include information defining who, what, when, where and how.

(c) Effectiveness of the procedures depends on detailed facts and prompt action.

(d) When a shortage is discovered at a terminal, usually one of the following errors has occurred:

(1) A billing error was made.

(2) Driver failed to pick up the entire shipment.

(3) A theft occurred from the pickup unit enroute to the terminal.

(4) The freight was loaded on the wrong unit at the shipper's dock.

(5) Another carrier picked up the freight in error.

(e) Action to be taken when such shortages are discovered:

(1) Check for billing or typographical error on bill of lading.

(2) Review with checker and crew that unloaded pickup unit.

(3) Check dock area for the missing freight.

(4) Interview the pickup driver promptly, by telephone if necessary, for his recollection of facts surrounding pick up and his count.

(5) Contact the shipper for possible error in his billing or have him recheck his dock for the missing freight. Obtain names of other carriers who made pick ups that day at his dock.

(6) Call other carriers and ask them to check for the missing freight.

(7) Check with the consignee to determine if he received the freight via another carrier.

(8) Advise the central clearing office and other terminals of the shortage with a full description.

(f) Other actions that should be taken:

(1) If shortage was part of a shipment, move the balance to destination with accompanying shortage report. Do not hold up the freight.

(2) If shortage is a complete shipment, a report should be prepared immediately for the central clearing office.

(3) If theft is indicated, notify all appropriate law enforcement authorities.

(4) Make a daily check for the missing freight with other terminals for the next five workdays.

(5) If the missing freight is located as a complete shipment, ship it promptly to destination on original waybill, free-astray bill or forced billing, depending on circumstances.

(6) If the recovered freight is a part shipment, and the balance of the shipment has already moved to destination, prepare a free-astray bill and move the freight to destination promptly for final delivery.

(7) If the shortage is from an interline carrier, a signed and dated exception should be noted by the checker on connecting carriers freight bill.

(8) If the shortage is noted at an intermediate terminal, it should be recorded by the checker who should notify his supervisor. The central clearing office should be notified as well as the origin and destination terminal.

(g) Copies of all over, short, and damage reports should be sent to the central clearing office where records and statistics should be compiled from each day's receipts, detailing all pertinent facts regarding each incident. Such facts should serve to furnish the carrier's management with facts and figures to formulate an improved claim prevention program.

(h) The central clearing office should maintain a daily follow-up with terminals on outstanding shortages and other omissions, thereby encouraging the terminals to intensify the search for facts to close out those files.

(i) When discrepancies are found and reported, immediate action should commence to correct the cause or causes.

(j) A daily schedule should be established for reporting all shortages and overages. Each carrier, based on experience, length of haul, and other factors should establish a timeframe within which discrepancies are reported to the central office and to other terminals to clear them and for a match-up. The report on losses should contain the following information:

(1) Name of Shipper;
(2) Name of Consignee;
(3) Waybill number;
(4) Date of shipment;
(5) Commodity;
(6) Weight;
(7) Type of shipment (container, truckload, pallet, etc.);
(8) Part missing (in shortage shipment);
(9) Part damaged;
(10) C.O.D. or order notify;
(11) Prepaid/collect;
(12) Where checked and by whom;
(13) How many times handled;
(14) Type loss (theft/hijack/pilferage/unknown) and
(15) Location where loss was detected.

(k) Any failure of the system in reporting losses should be investigated to determine and institute corrective measures.

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(l) Prompt investigation of distressed freight and immediate reporting to the central control is essential to curtail cargo loss claims. This enhances the opportunity for correction and recovery before the audit trail becomes obliterated.

(m) Liaison should be established with all law enforcement agencies for help as needed. All theft losses and break-ins or attempted break-ins of facilities should be reported to these agencies.

(n) Shipments found without identification should be segrégated and placed in the security cage while a search is made by an authorized person for packing slips or invoices to determine ownership. If identification is made, the freight should be recovered and proper markings should be applied to each shipping container for prompt movement to destination.

(o) Overages found in the carrier's terminals should be reported in the same manner as shortages, for an overage can well mean a shortage elsewhere.

(p) All damaged freight should be reported to the central office. Local terminals should recooper such freight promptly to prevent further damage. Dry freight containers (cartons, bags, etc.) should be securely recoopered with sealing tape, banding wire, or other material to prevent further loss of contents or further damage. Waybills should be marked to indicate that shipment has been damaged.

(q) Each carrier should have printed forms for all reports in a format best suited to its needs for recording all types of discrepancies. The data content of the form should be tailored to its loss reporting system so that information can be retrieved.

(r) The carrier should issue advisory bulletins as needed to all terminals on specific problems or situations that arise. Changes in the existing Loss Reporting System should be made as necessary.

Sec. 85-4.27 *Procedure.* (a) A comprehensive over, short, and damage manual should be prepared and maintained based on the guidelines in section 85-4.25 of this subpart.

(b) An employee at each terminal should be designated the O. S. & D. clerk. Such person should be experienced in freight, movement, company routes, customer identity, commodities shipped, all movements of specialized cargoes, and high-risk movements. The O. S. & D. clerk should also possess a knowledge of claims handling, cargo claims prevention procedures, cargo security, packaging required by tariffs, recoopering practices, customer service, tracing, and related activities. He should be able to detect and correct flaws in handling and checking procedures, security measures and identification of problems relating to cargo claims prevention.

(c) The O S. & D. clerk, who may be the terminal's Claims Prevention Manager, should be knowledgeable enough to judge when security has been breached and advise management, who in turn should call in law enforcement personnel.

(d) A daily inventory should be taken of freight docks to detect over and damaged freight. Such discoveries should be taken to recoop any damaged shipments, segregating those that are likely to damage other cargo, and to provide security for high-value cargo. The O. S. & D. Clerk and the Tracer Clerk should maintain close coordination to expedite delivery of overages.

(e) A centralized reporting procedure for O. S. & D.'s should be established for the central office to receive reports of all discrepancies from all locations, both verbal and written. This will enable that office, along with terminal help, to match up shortages, clear other discrepancies, and provide for disposition of O. S. & D. freight.

(f) The central office should have final authority in advising terminals on disposition of shipments involved in discrepancies and possible claims. This insures that all overages are promptly forwarded to proper destination with bills to cover until they can be matched up with proper billing at destination. Shortages should be given preferred attention, since they represent the single greatest dollar loss to a carrier.

(g) The central office should establish daily reports to account statistically for O. S. & D. activity and provide management with information to reflect error experience each day. High O. S. & D. activity is a sign of operational problems and a forerunner to severity in cargo loss claims.

(h) Daily written records of all events relating to O. S. & D.'s must be maintained and be part of the carrier's files and available for inspection by the claims department as needed.

(i) The central office should maintain a cross-reference file of O. S. & D.'s that is continually updated for accurate reference. It should be posted and purged daily. It is a source of reference for terminals seeking information on outstanding O. S. & D. items, for tracer information, and other O. S. & D. information. It also serves as the source for daily trends.

(j) The central office should compile discrepancy data on shippers, such as failure to mark shipments properly, and the use of poor quality containers. Such discrepancies should be called to the shipper's attention for correction.

(k) A daily conference call among terminals on the communications network should be established, preferably at an hour when telephone traffic is light and most of the inbound traffic is out for delivery. This provides the best opportunity to have a clear picture of the day's discrepancies. This call should be monitored by the central office since it provides information to and about all terminals.

(l) When teletype is used in lieu of telephone, messages should be short and meaningful, delivered on receipt to the O. S. & D. clerk and other addresses, and acted upon promptly.

Sec. 85-4.29 *Training.* (a) Training sessions should be held at each terminal location for all personnel in relation to their participation in the loss reporting procedures. Office, dock, and driving empoyees as well as management should participate in order to be acquainted fully with the carrier's practices involving O. S. & D.'s and reporting procedures.

(b) Personnel trained in the Loss Reporting System must of necessity be knowledgeable of the carriers' physical operations, routings, points served and terminal locations, as well as the care and handling of specialized cargo, hazardous materials, and high-risk cargo.

Sec. 85-4.31 *Review and Analysis.* (a) The Loss Reporting System's explicit purpose is loss prevention through intensified management of freight handling activities. Information developed in the Loss Reporting System will assist management in identifying problem areas within the system, and prompt corrective action.

(b) Periodic reports should indicate trends, problem areas, problem freight, problem customers, and problem employees and proposed corrective action. They will identify theft-prone areas and commodities.

(c) The report should advise management of the relationship of O. S. & D.'s to cargo claims filed, O. S. & D.'s to shortages never recovered, and O. S. & D.'s to claims never filed, billing errors, checker errors, and causes previously unknown or ignored.

(d) The report will also furnish data on other matters such as:

(1) Frequency of billing errors;

(2) Errors on SL&C trailers at shipper's dock, where drivers signing for loads do not count the freight; and

(3) Packaging problems on SL&C.

(e) The report should also:

(1) Identify geographic areas of loss such as large distribution centers, high-value cargo shippers and receivers, and dangerous and hazardous material shipment problems;

(2) Provide data on frequency of shipments picked up that lack proper or complete address which prevent delivery or seriously delay shipment and cost carrier time and money in determining the correct identification; and

(3) Identify shipments picked up lacking any markings which must be delayed until someone with proper authority opens cartons and checks for identification in the form of packing slips, invoices, or advertising.

(f) The report can provide data on shippers who should unitize their small carton shipments. Small containers are easily lost, stolen, or damaged when shipped loose. The multiple small pieces are costly to the carrier in extra labor as well as claims exposure. Unitizing can reduce carrier's handling cost and protect contents of shipment from loss and damage.

(g) A periodic review of the Loss Reporting System and its results should be done by management to determine:

(1) Its effectiveness, and

(2) Methods for improvement.

(Sec. 9, 80 Stat. 944 (49 U.S.C. 1657), Executive Order 11836, 3A CFR 123, Comp. (1975) and 49 CFR 85.3.)

Issued in Washington, D.C., on September 8, 1977.

DANIEL A. WARD,
Director of Transportation Security.

[FR Doc.77-26617 Filed 9-9-77;10:16 am]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[OST Docket No. 33; Notice No. 77-11]

[49 CFR Part 85]

CARGO SECURITY ADVISORY STANDARDS

High-Value or Sensitive Cargo Transit Procedures; Advised Standard Setting

AGENCY: Department of Transportation.

ACTION: Notice of Proposed Advisory Standards Setting.

SUMMARY: The Department proposes to issue the fifth in a series of Cargo Security Advisory Standards on High-Value or Sensitive Cargo Transit Procedures. A paramount problem in transportation is the theft of high value or sensitive cargo. To achieve a greater reduction in theft-related claims, the Department proposes special transit procedures relating to routes, communications, escorts, seals and other security mechanisms. Comments are requested.

DATES: Comments must be received on or before October 14, 1977.

ADDRESS: Comments should be sent to: Docket Clerk, TGC-10, Office of the General Counsel, Department of Transportation, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

James P. Fernan, Chief, Cargo Security Division, Office of Transportation Security, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1688).

SUPPLEMENTARY INFORMATION: The persons responsible for the drafting of this document are James Fernan and Lloyd Milburn, both of the Office of Transportation Security. Booker T. Wade, Jr., of the Office of the General Counsel is responsible for its legal sufficiency.

THE PROBLEM

The transportation industry faces many different problems in the day-to-day operation of moving cargo safely, efficiently and economically. A paramount problem is the susceptibility of high-value and sensitive cargo to theft or other criminal activities. The ability of the industry to solve this problem and meet their responsibilities is dependent upon many diverse factors. A dominant factor is the need for top management commitment to set policy and assure implementing procedures within each transportation mode that will ensure secure, safe, expeditious and economical transit of goods, particularly those commodities with a high monetary value or a sensitive nature that warrant special handling procedures.

Each transportation mode has singular and unique problems in connection with its operation. The thrust of this advisory standard is directed toward all transportation modes. Each carrier, shipper, warehouseman or freight forwarder should determine, based on operational loss experience, which high-value or sensitive shipments require special transit procedures. Commodities such as clothing, jewelry, alcohol, drugs, certain food items, firearms, ammunition, explosives, cigarettes and small electrical appliances are considered high-value cargo in all modes and most geographic areas. Nuclear or hazardous materials, because of their strategic value or potentially catastrophic nature, must be handled in accordance with designated handling procedures as specified in the appropriate Federal or state regulations.

DISCUSSION

An analysis of data on claims paid discloses that among the many commodities handled by the transportation industry, 20 account for the majority of theft-related losses. Nationally, these high-loss commodities comprise a small percentage of the total volume carried; yet, they account for a disproportionately large share of claims paid. To achieve a significant reduction in theft-related claims, attention should be directed to what is being stolen, where it is being stolen, when and how. Positive accountability of high-value or sensitive cargo while in transit is one of the best ways to control losses. The implementation of this DOT Cargo Security Advisory Standard and the standards on Seal Accountability, High-Value Commodity Storage and Internal Accountability Procedures can contribute toward achievement of an acceptable degree of positive accountability.

PROPOSAL

It is the firm conviction of the Department that if high-value or sensitive cargo is transported in adherence with known and tested safeguard procedures, it will benefit the carrier and shipper in a number of ways. First, the goods will arrive at the intended destination on time and intact. Second, the cost and effort involved in processing unnecessary claims will be eliminated. Third, customer goodwill, an intangible but critical element to every successful business, will be maintained. And finally, carriers and shippers who as a matter of top management policy endorse and promote good, safe and economical operational methods in cargo movement will realize greater profits.

The following subparts delineate definitive procedures that afford protection to high-value or sensitive cargo while in transit.

Compliance to this advisory standard is voluntary and not mandatory. This standard does not replace or modify any statutory requirement or regulatory authority vested in any Federal, state or local governmental body.

In consideration of the foregoing, the Department proposes to establish Part 85-5 of the Appendix to Part 85 of Title 49 of the Code of Federal Regulations, to read as follows:

APPENDIX—CARGO SECURITY ADVISORY STANDARDS

PART 85-5—HIGH VALUE OR SENSITIVE CARGO TRANSIT PROCEDURES

SUBPART A—GENERAL

Sec.
85-5.1 Purpose.
85-5.3 Application.
85-5.5 Definitions.

SUBPART B—ROUTING AND COMMUNICATION

85-5.11 General.
85-5.13 Communications.
85-5.15 Routes.
85-5.17 Escorts.

SUBPART C—OPERATING PROCEDURES

85-5.21 General.
85-5.23 Delivery.
85-5.25 Seals.
85-5.27 Physical Security.
85-5.29 Terminal Security.
85-5.31 Security Crib.
85-5.33 Supervisor Responsibilities.

SUBPART A—GENERAL

§ 85-5.1 *Purpose.*

(a) The purpose of this part is to set forth special transit procedures designed to protect high-value or sensitive cargo against theft and pilferage.

(b) The provisions herein are general and each may not apply to every transportation mode.

§ 85-5.3 *Application.*

The guidelines presented here in apply equally to high-value or sensitive cargo in full load trailers/containers/railcars moving in line haul and in less than full load shipments. Compliance with this advisory standard is voluntary and not mandatory. This standard does not repeal or modify any statutory requirement or regulatory authority vested in any Federal, state or local governmental body.

§ 85-5.5 *Definitions.*

As used in this part—

"High-value cargo" means cargo which because of it monetary value, utility, desirability, or history of frequent theft, require greater protection than other commodities normally handled in the transportation facility.

"Sensitive cargo" means cargo which because of its strategic value or potentially hazardous nature warrants greater security protection and care than other commodities normally handled in the transportation facility Such sensitive cargo, if lost, could constitute a risk to national security.

SUBPART B—ROUTING AND COMMUNICATION

§ 85-5.11 *General.*

Routing and communications should be carefully planned for high-value or sensitive shipments. Written instructions to drivers would eliminate the possibility of a breakdown in personal communications or misunderstandings.

§ 85-5.13 *Routes.*

(a) Whenever possible travel should be restricted to limited access highways, turnpikes, freeways, etc.

(b) Unnecessary stops should be avoided. The shipment is most vulnerable when stopped.

(c) Unattended trailers, containers or railcars should be locked and protective devices activated.

(d) Estimated arrival times and delays should be expeditiously communicated to destination stations.

§ 85-5.15 *Communication.*

(a) Where radios are available on local delivery vehicles, the route should be desig-

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nated, and scheduled radio contacts between the dispatcher and the vehicle should be maintained.

(b) For pickup or delivery vehicles without radio, the driver should telephone the dispatcher when leaving the shipper or arriving at the consignee, as appropriate. The dispatcher should notify the police if the driver does not contact him within the scheduled or reasonable time.

§ 85-5.17 *Escorts.*

In cases where extremely high-value or sensitive cargo is transported, an escort should be used especially in areas which are high-risk or shipment is highly vulnerable. The escort should have radio communication with a central station. Any use of armed escorts must be in conformity with laws governing the use of firearms and armed escorts.

SUBPART C—OPERATING PROCEDURES

§ 85-5.21 *General.*

The general details for high-value or sensitive cargo shipments should be standard operating procedures.

(a) To facilitate planning of necessary or special procedures, details of quantity, value, destination, etc., should be ascertained when initial pickup is arranged.

(b) High security padlocks should be provided on all pickup and delivery trucks.

(c) The dispatcher should know the identity of the shipper and consignee of each high-value or sensitive cargo and coordinate pickup and delivery with each.

§ 85-5.23 *Delivery.*

Every attempt should be made to have the load arrive at the local terminal for same-day delivery. This is extremely important in high-crime areas where cargo may be vulnerable in terminals or railyards.

§ 85-5.25 *Seals.*

(a) Seal Accountability and Procedures are covered in Part 85-1 of this Appendix.

(b) The serial number of a seal applied at the shipper's facility or the terminal should be recorded on the bill of lading and the manifest.

(c) The condition of the seal and its serial number should be checked upon entering and leaving each terminal or facility. The seal should also be checked by the driver after any other stops, and by railroad personnel on interchange of railcars.

§ 85-5.27 *Physical Security.*

(a) Trailers, containers and railcar door hasps should be secured with a lock, wire or cable to deter the casual pilferer and delay more persistent thieves. Cable or wire twisted and secured through the safety latch, to be cut at destination, have proven to be an effective preventive measure.

(b) Door bolts, especially those on the locking bar and latch, should be peened or welded.

(c) Motion alarms are available commercially. These can be attached to trailers, containers and railcars when parked to signals attempts at access or movement.

§ 85-5.29 *Terminal Security.*

(a) High value or sensitive cargo temporarily placed on the dock or spotted in a railyard should be located in a special area which affords good visibility from the terminal office and should be checked frequently.

(b) Kingpin-locked trailers can be parked door-to-door to block access to other high-value or sensitive cargo. In the absence of kingpin locks, security can be achieved by hooking the tractor to the trailer, removing the ignition key and locking the tractor.

(c) Unauthorized persons should not be allowed entry into the terminal area.

(d) When company identification badges are used, they should be worn at all times by employees.

(e) Procedures should be established to have the count certified by drivers and loaders. Any exceptions should be reported immediately to the supervisor.

§ 85-4.31 *Security Crib.*

(a) High-value or sensitive cargo which cannot be outloaded immediately should be placed in a security crib or cage. In accordance with Part 85-2 of this Appendix, "High-Value Commodity Storage."

(b) The following should be recorded:

(1) The count and the name of the person doing the counting;

(2) The condition of the shipment; and

(3) The fact that the shipment was intact when placed in the crib.

(c) Cargo should only be removed from the crib when scheduled for immediate placement in a delivery or line unit. The count and condition should be certified by a supervisor.

§ 85-5.33 *Supervisor Responsibilities.*

(a) An effective loss control program requires participation by all supervisory personnel.

(b) A supervisor should inspect all bills of lading from incoming pickups promptly to identify high-value or sensitive items and provide necessary security.

(c) A supervisor should verify the count and condition when cargo is stripped from pickup or interline unit and direct the movement into the line trailer, container or railcar.

(d) High-value or sensitive cargo should be loaded in the front end of the trailer, container or railcar. The supervisor should monitor the loading to ensure that the commodity is "buried" and to provide necessary documentation for accountability. Adherence to safe loading procedures is necessary to avoid overloading the front end or creation of unsafe conditions.

Prior to issuing the proposed advisory standard, the Department will consider the comments of all interested persons. Comments should identify the docket number (see above) and be submitted to the Docket Clerk, TGC-10, Office of the General Counsel, Department of Transportation, D.C. 20590. Comments received on or before October 14, 1977, will be considered before final action is taken. Comments received after that date will be considered if practicable. All comments will be available for public inspection and copying, both before and after the closing date for comments, in the Office of the Assistant General Counsel, Room 10100, Nassif Building, 400 Seventh Street SW., Washington, D.C., between 9 a.m. and 5:30 p.m., local time, Monday through Friday, except Federal holidays.

(Sec. 9(c)(1), Department of Transportation Act (80 Stat. 944, 49 U.S.C. 1657(e)(1)), Executive Order 11836 (3A CFR 123, Comp. (1975)), and Sec. 85.3 of the regulations of the Office of the Secretary of Transportation (49 CFR 85-3).)

Issued in Washington, D.C., on September 8, 1977.

DANIEL A. WARD,
Director of Transportation Security.

[FR Doc.77-26615 Filed 9-9-77;10:15 am]

federal register

MONDAY, SEPTEMBER 12, 1977

PART VI

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

ENVIRONMENTAL PROTECTION AGENCY

Pesticide Programs

REBUTTABLE PRESUMPTION AGAINST REGISTRATION AND CONTINUED REGISTRATION OF PESTICIDE PRODUCTS CONTAINING DIMETHOATE

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ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000 (FRL 787-6) 16]

PESTICIDE PROGRAMS

Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing Dimethoate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of rebuttable presumption.

SUMMARY: This notice provides public notification that dimethoate has been found to exceed certain risk criteria set forth in 40 CFR 162.11. The notice requests registrants and other interested persons to submit rebuttals and comments on the presumption and to submit any other data on the risks and benefits of dimethoate. This notice is the first of several which will give public notification of the Agency's progress in reviewing this chemical.

DATE: Comments must be received on or before November 7, 1977.

ADDRESS COMMENTS TO Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

W. T. Waugh, Office of Special Pesticide Reviews, Office of Pesticide Programs (WH-566), EPA (202-755-5851).

SUPPLEMENTARY INFORMATION: The Deputy Assistant Administrator, Office of Pesticide Programs, Environmental Protection Agency (EPA), has determined that a rebuttable presumption exists against registration and continued registration of all pesticide products containing dimethoate.[1]

I. Regulatory Provisions

A. *General.* Title 40, Part 162.11, of the Code of Federal Regulations for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136 et seq.), provides that a rebuttable presumption against registration shall arise if the Agency determines that a pesticide meets or exceeds any of the risk criteria relating to acute and chronic toxic effects set forth in section 162.11(a)(3). If it is determined that such a rebuttable presumption has arisen, the regulations require that the registrant be notified by certified mail and afforded an opportunity to submit evidence in rebuttal of the presumption. In addition, the Agency has determined that the public should also be given notice of the bases for the presumption to provide an opportunity for comment and to solicit additional information relevant to the presumption.

A notice of rebuttable presumption against registration is issued when the evidence related to risk meets the criteria set forth in section 162.11(a)(3). It is emphasized that a notice of rebuttable presumption against registration and continued registration of a pesticide is not a notice of intent to cancel the registration of a pesticide, and may or may not lead to cancellation. The notice of intent to cancel is issued only after the risks and benefits of a pesticide are carefully considered and it is determined that the pesticide may generally cause unreasonable adverse effects to the environment.

Accordingly, all registrants and applicants for registration are invited pursuant to 40 CFR 162.11(a)(4) to submit evidence in rebuttal of the presumptions listed in Part II of this notice and, in the case of oncogenicity, to submit information which relates to the assessment of oncogenic risks as set forth in the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens (May 25, 1976; 41 FR 21402). Registrants and othere interested parties may submit for consideration data on benefits which they believe would justify registration or continued registration. In addition, any registrant may petition the Agency to voluntarily cancel a current registration pursuant to Section 6(a)(1) of FIFRA.

This notice of rebuttable presumption against dimethoate also describes scientific studies which suggest that dimethoate may cause delayed neurotoxicity and synergism of dimethoate by other pesticides, especially by EPN. The Agency is soliciting information and comment on these questions, but is not now presuming against on the basis of these studies.

B. *Rebuttal Criteria.* Section 162.11(a)(4) provides that a registrant may rebut the presumption by sustaining the burden of proving:

(1) In the case of a pesticide presumed against pursuant to the acute toxicity or lack of emergency treatment criteria, "that when considered with the formulation, packaging, method of use, and proposed restrictions on the directions for use and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional, or national populations of nontarget organisms is not likely to result in any significant acute adverse effects" [40 CFR 162.11(a)(ii)];

(2) In the case of a pesticide presumed against pursuant to the Chronic toxicity criteria, "that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects" [40 CFR 162.11(a)(ii)]; or

(3) In either case, that "the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error."

C. *Benefits Information.* In addition to submitting evidence to rebut the presumption of risk, Section 162.11(a)(5)(iii) provides that a registrant "may submit evidence as to whether the economic, social, and environmental benefits of the use of the pesticide subject to the presumption outweigh the risk of use." If the risk presumptions are not rebutted, the benefit evidence submitted by the registrant,[2] applicants, and other interested persons will be considered by the Administrator in determining the appropriate regulatory action. Specifically Section 162.11(a)(5)(iii) provides that if the "benefits appear to outweigh the risks," the Administrator may (1) issue a notice of intent to hold a hearing pursuant to Section 6(b)(2) of FIFRA rather than a notice of intent to cancel or (2) deny registration pursuant to Section 6(b)(1) of FIFRA. Alternatively, if the "benefits do not appear to outweigh the risks, the Administrator shall issue a notice pursuant to Section 3(c)(6) or Section 6(b)(1) of the Act, as appropriate." Moreover, if at any time the Administrator determines that a pesticide poses an "imminent hazard" to humans or the environment, a notice of suspension may be issued pursuant to Section 6(c) of the Act.

Stated below are the Section 162.11(a)(3) risk criteria which the Agency has found to have been met or exceeded by registrations and applications for registration of pesticide products containing dimethoate. The Agency's basis for concluding that these risk criteria have been met or exceeded is set out in "Dimethoate: Position Document 1," which follows. Copies of attachments to the Position Document which are not published with this notice are available for public inspection (see Footnote 1). Information protected from disclosure pursuant to FIFRA Section 10 cannot be provided. Specific inquiries concerning the Position Document should be directed to Project Manager W. T. Waugh, Office of Special Pesticide Reviews (WH-566), EPA, Rm. 447, East Tower, 401 M St. SW., Washington, D.C. 20460 (202-755-5851).

[1] A position document, containing an appendix of references, background information, and other material pertinent to the issuance of this notice, has been prepared by the Agency Working Group on dimethoate and is also published with this notice. This position document and its attachments are available for public inspection in the Office of Special Pesticide Reviews (WH-566), Office of Pesticide Programs, Environmental Protection Agency, East Tower, Room 447, 401 M Street SW., Washington, D.C. 20460.

[2] Registrants or other interested persons who desire to submit benefit information should consider submitting information on the following subjects, along with any other relevant information they desire to submit:

1 Identification of the major uses of the pesticide, including estimated quantities used by crop or other application

2 Identification of the minor uses of the pesticide, including estimated quantities used by category such as lawn and garden uses and household uses

3 Identification of registered alternative products for the uses set forth in (1) and (2) above, including an estimate of their availability

4 Determination of the change in costs to the user of providing equivalent pesticide treatment with any available substitute products

5 Assessment of regulation impact upon user productivity (e.g., yield per acre and/or total output) from using available substitute pesticides or from using no other pesticides

6 If the impacts upon either user costs or productivity are significant, a qualitative assessment of the regulation's impact on production of major agricultural commodities and retail food prices of such commodities

II. Presumptions

A. *Oncogenicity.* 40 CFR 162.11(a)(3)(ii)(A) provides that a rebuttable presumption shall arise if a pesticide "[i]nduces oncogenic effects in experimental mammalian species or in man as a result of oral, inhallation or dermal exposure * * *." As a further clarification of the provision, the preamble to the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens (May 25, 1976; 41 FR 21402) states that "a substance will be considered a presumptive cancer risk when it causes a statistically significant excess incidence of benign or malignant tumors in humans or animals."

On the basis of scientific studies and information summarized in the Position Document, the Agency has concluded that this risk index has been exceeded by all registrations and applications for registration of pesticide products containing dimethoate, and that a rebuttable presumption against new or continued registration of such products has therefore arisen.

F. *Mutagenicity.* 40 CFR 162.11(a)(3)(ii)(A) also provides that a rebuttable presumption shall arise if a pesticide "* * * induces mutagenic effects, as determined by multi-test evidence." The Mutagenicity Testing Requirements Section of the FIFRA, Draft Section 3 Guidelines on Hazard Evaluation of Humans and Domestic Animals defines multi-test evidence as "evidence from at least two submammalian test systems in combination with evidence that the agent or its active metabolite(s) reaches the germinal tissue in mammals when administered by an appropriate route."

On the basis of scientific studies and information summarized in the Position Document, the Agency has concluded that this risk index has been exceeded by all registrations and applications for registration of pesticide products containing dimethoate, and that a rebuttable presumption against new or continued registration of such products has therefore arisen.

G. *Other Chronic or Delayed Toxic Effects.* 40 CFR 162.11(a)(3)(ii)(B) provides that a rebuttable presumption shall arise if a pesticide "[p]rodoces any other chronic or delayed toxic effect in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety * * *."

On the basis of scientific studies and information summarized in the Position Document, the Agency has concluded that dimethoate can cause reproductive and fetotoxic effects in mammalian species and that this risk index has been exceeded by all registrations and applications for registration of pesticide products containing dimethoate, and that a rebuttable presumption against new or continued registration of such products has therefore arisen.

III. Grounds for Pesticide Review in Addition to Rebuttable Presumption Criteria

A. *General.* In addition to the risk criteria set forth in 40 CFR 162.11(a)(3) which require the issuance of a notice of rebuttable presumption against registration or continued registration and a determination by the Administrator to register or cancel a pesticide, 40 CFR 162.11(a)(6) provides that the Administrator may determine that a pesticide should be cancelled or that a hearing should be held if the pesticide poses a substantial question of safety to man or the environment "based on toxicological data, epidemiological studies, use history, accident data, monitoring data, or such other evidence as is available to the Administrator."

A determination to cancel or deny registration of a pesticide or to hold a hearing based upon such data and a finding that a pesticide poses a substantial question of safety need not be preceded by public notice and opportunity for rebuttal prior to the administrative adjudicatory hearing procedure of Section 6(b) of the Act. However, where the Agency is using a notice of rebuttable presumption against registration or continued registration based on the risk criteria of 40 CFR 162.11(a)(3), it is in the public interest to include all evidence which may indicate additional grounds for determining that a pesticide causes unreasonable adverse effects on the environment. Accordingly, evidence derived from studies which suggest that dimethoate may produce delayed neurotoxic effects and synergism of dimethoate by other pesticides, especially EPN, has been included in this notice.

B. *Delayed Neurotoxicity.* The information concerning the delayed neurotoxic effects of dimethoate is summarized in the Position Document. Demyelination studies for dimethoate on white leghorn hens appeared to show no myelin degeneration. However, deficiencies in the study's protocol, listed in the Position Document, caused concern that the study results were not conclusive. The Agency is not presuming against dimethoate on this basis but requests any interested party possessing information relevant to the delayed neurotoxicity of dimethoate to submit such data to the Agency.

C. *Synergism.* The information concerning synergism of dimethoate is summarized in the Position Document. (Synergism is defined as the greater toxicity of two compounds together than would be anticipated from the sum of their individual effects.)

Studies have shown that EPN can cause synergistic toxicity of dimethoate in mammals. The Agency is not now presuming against dimethoate on this basis but requests registrants and any other interested party possessing information relevant to the use of EPN with dimethoate, or to the synergism of dimethoate by EPN or any other pesticide to submit such data to the Agency.

IV. Registrations and Products Subject to the Notice

All registrants and applicants for registration listed below are being notified by certified mail of the rebuttable presumption existing against registration and continued registration of their products.

The registrants and applicants for registration shall have 45 days from the date this notice is sent or until November 7, 1977, to submit evidence in rebuttal of the presumption. However, the Administrator may, for good cause shown, grant an additional 60 days during which such evidence may be submitted. Notice of such an extension, if granted, will appear in the Federal Register.

V. Duty to Submit Information on Adverse Effects

Registrants are required by law to submit to EPA any additional information regarding any adverse effects on man or the environment which comes to a registrant's attention at any time, pursuant to Section 6(a)(2) of FIFRA and 40 CFR 162.8(d). If any registrant of dimethoate products has any published or unpublished information, studies, reports, analyses, or reanalyses regarding any adverse effects in animal species or humans, residues, and claimed or verified accidents to humans, domestic animals, or wildlife, which have not been previously submitted to EPA, the material must be submitted immediately. When responding to this notice, each registrant shall submit a written certification to the Agency that all information regarding any adverse effects known to the registrant has been submitted. In addition, the registrants should notify EPA of any studies currently in progress, including the purpose of the study, the protocol, the approximate completion date, and a summary of all results observed to date.

VI. Public Comments

During the time allowed for submission of rebuttal evidence, comments on the presumptions set forth in this notice and on the material contained in the Position Document are solicited from the public. In particular, any documented episodes of adverse effects to humans, domestic animals, or wildlife, and information as to any laboratory studies in progress or completed, are requested to be submitted to EPA as soon as possible. Specifically, information on the fate and effects of dimethoate, its impurities, metabolities, and degradation products on flora and fauna, particularly animals with metabolism similar to man, is solicited. Similarly, any studies or comments on the benefits from the use of dimethoate are requested to be submitted. All comments information received, as well as any other relevant information and

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analysis thereof, which come to the attention of the Agency may serve as a basis for final determination pursuant to Section 162.11(a)(5).

All comments and information should be sent to

Federal Register Section, Technical Services Division (WH-569), Rm 401 East Tower, 401 M Street SW., Washington, D.C. 20460

Three copies of the comments or information should be submitted if possible to facilitate the work of the Agency and others interested in inspecting them. The comments and information should bear the identifying notation "OPP-30000 16." Comments and information received within the specified time limit shall be considered before it is determined whether a notice shall be issued in accordance with 40 CFR 162.11(a)(5)(ii).

Comments received after the specified time period will be considered only to the extent feasible, consistent with the time limits imposed by 40 CFR 162.11(a)(5)(ii). All written comments and information filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. during normal working days.

Interested persons are encouraged to take advantage of the opportunity to inspect Agency files during normal working hours since (1) all of the information received may serve as a basis for final determination pursuant to Section 161.11(a)(5), and (2) the Agency will not generally publish a summary of information received in the FEDERAL REGISTER at the close of the rebuttal period.

Your cooperation is solicited in identifying any errors or omissions which may have been made in the following computer listings. Corrections to the listings may not necessarily be published in the FEDERAL REGISTER, but rather handled by mail with affected parties. Omissions will be corrected by notice in the FEDERAL REGISTER.

Dated: September 2, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

DIMETHOATE POSITION DOCMENT 1

(DIMETHOATE WORKING GROUP, U.S. ENVIRONMENTAL PROTECTION AGENCY)

DIMETHOATE POSITION DOCUMENT 1

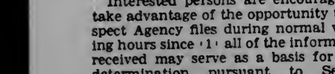
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DIMETHOATE: POSITION DOCUMENT 1

I. BACKGROUND

A. *Chemical Physical Characteristics* Dimethoate is an organophosphate insecticide. Its chemical name is O,O-Dimethyl S-(N-methyl-carbamoylmethyl) phosphorodithioate. Its structural formula is:



Dimethoate is a white, crystalline solid with a camphorlike odor. The technical grade material is a yellow-brown liquid. Dimethoate has a melting point of 51 to 52° C. It is most soluble in alcohols and ketones, as well as in organic solvents except saturated hydrocarbons. Its solubility in water is 2 to 3 percent (1, 2, 3). Dimethoate hydrolizes rapidly in alkaline solutions to a variety of products.[3] Dimethoate may be oxidized to a number of toxic products (cholinesterase inhibitors) by air, oxidative N-demethylation, and potassium permanganate.[4] An important metabolite is the toxic agent dimethoxon (the oxygen analog of dimethoate), formed when the sulfur in dimethoate is replaced by oxygen (1).

Dimethoate is a sulphur-containing organophosphorus insecticide which acts as an acetylcholinesterase inhibitor. The toxicity of dimethoate to animals depends, to a significant extent, on the conversion to the oxygen analog dimethoxon, [O,O-dimethyl-S-(N-methyl-carbamoylmethyl) phosphorothioate] (5).

Hassan et al. (6) indicated that dimethoxon is 75 to 100 times more potent than dimethoate in inhibiting rat brain acetylcholinesterase. Lucier and Menzer (5) found dimethoxon to be 10^5 times more potent than dimethoate in inhibiting housefly head cholinesterase or human plasma cholinesterase, although dimethoxon was only four times more acutely toxic than dimethoate to housefies in vivo.

The toxicity of dimethoate is related to purity. Very pure dimethoate contains little or no dimethoxon and is not as acutely toxic as technical dimethoate which contains more dimethoxon. Sanderson and Edson (7) found the acute oral LD_{50} of pure dimethoate to be 500 to 600 mg./kg. for the male rat. The LD_{50} for technical dimethoate was 180 to 325 mg./kg. for the male rat.

Since carcinogenic N-nitroso compounds may be produced by the reaction of nitrite with certain nitrogen compounds, the formation of N-nitroso derivatives as contaminants in pesticide formulations should be investigated whenever a potential nitrosatable substrate is involved. A literature search for work performed or work in progress yielded no data on potential N-nitroso dimethoate, and an Agency chemist concluded that "dimethoate would not be expected to give high yields of N-nitroso dimethoate" (51).

B. *Formulation and class.* Dimethoate is classed and used as a systemic insecticide/acaricide and is available in emulsifiable concentrates, soluble concentrates, ultra-low volume concentrates, wettable powders, and granules (1, 2). Formulations include a 5 percent granular, a 20 percent wettable powder, and 20 and 40 percent emulsifiable concentrates. It is especially effective against rasping and sucking pests.

C *Registered uses and production.* Dimethoate has been produced as a pesticide since 1963. Thirty-eight registrants hold Federal registrations and manufacture 66 registered products. Sixteen companies have state registrations and produce[5] 34 products.

Environmental Protection Agency (EPA) records indicate that a total of 2,007,553 pounds of dimethoate was used in the United States during 1974 (8). Of this total, 9,455 pounds were used in industry; 5,443 pounds in government; and 1,992,655 pounds were used in agriculture. Of the agriculture total, 405,399 pounds were used on fruits and nuts; 383,233 pounds on sorghum; 294,955 pounds on corn; 254,896 pounds on vegetables; 193,205 pounds on cotton; 177,863 pounds on miscellaneous field crops; 175,751 pounds on livestock; 59,237 pounds on hay and small grains; 47,859 pounds on ornamentals, and 257 pounds on tobacco. (Additional uses are listed in Reference 9.)

The National Soils Monitoring Program (10), conducted by EPA's Ecological Monitoring Branch, has collected data on the application of dimethoate to various representative cropland sampling sites. The data indicated a limited use (<1 percent) of dimethoate. In fiscal year (FY) 1969, 0.12 percent (or two sites of out 1,684) reported using dimethoate. Average total application was 3.21 pounds/acre. There was no reported use of dimethoate on the cropland sampling sites in FY 1972. In FY 1973, 0.4 percent (or 6 sites out of 1,402) reported using dimethoate. Average total application was 0.58 pounds/acre. In FY 1974, 0.4 percent (or 5 sites out of 1,185) reported using dimethoate. Average total application was 1.63 pounds/acre. Among the crops to which dimethoate was applied were wheat, peppers, cotton, tomatoes, field corn, sorghum, grapes, oranges, and string beans.

D. *Tolerances.* Tolerances for total residues of dimethoate in or on raw agricultural commodities are listed in 40 CFR 180.204 as follows: 2 parts per million (ppm) in or on alfalfa, apples, beans (dry, lima, snap), broccoli, cabbage, cauliflower, celery, collards, endive (escarole), grapefruit, kale, lemons, lettuce, mustard greens, oranges, pears, peas, peppers, soybean forage, soybean hay, spinach, Swiss chard, tangerines, tomatoes, turnips (roots and tops), and wheat (green fodder and straw); 1 ppm in or on corn fodder and forage, grapes, and melons; 0.2 ppm in or on potatoes and sorghum forage; 0.1 ppm in or on cottonseed, pecans, safflower seed, and sorghum grain; 0.1 ppm (negligible residue) in or on corn grain; 0.05 ppm (negligible residue) in or on soybeans; 0.04 ppm (negligible residue) in or on wheat grain; 0.02 ppm (negligible residue) in eggs and in meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep; and 0.002 ppm (negligible residue) in milk. Dimethoate is registered for agricultural and home use.

E. *Metabolism.* Lucier and Menzer (5) investigated the nature of the oxidative metabolites of dimethoate formed in rats and on bean plants using radio-labeled dimethoate. In rats hydrolysis products predominated over chloroform-extractable metabolites. The oxygen analog, dimethoxon, was the major organo-extractable metabolite, and most of it had been extracted 6 to 12 hours after administration. Dimethoxon represented 5.39 percent of the administered radioactivity from males and 5.46 percent from females. Dimethoate was rapidly degraded in rats with only small quantities being recovered six hours after treatment. In bean plants the half-life of dimethoate was 1.7 days. At harvest, dimethoxon was the major organo-extractable metabolite, reaching a level of 7.33 percent after 3 days.

(1) *Absorption.* Shah and Guthrie (11) studied the absorption of ^{14}C-labeled dimethoate after 80 minutes through separately prepared sections of the digestive tract (small intestine, colon, rectum) of 6-week-old mice. On average, 50.9 percent of the applied dose had been absorbed in the serosal fluid and 14.2 percent in the gut tissue of the small intestine; 66.9 and 10.8 percent had been absorbed in the serosal fluid and gut tissue, respectively, of the colon; and 65.4 and 12.4 percent had been absorbed in the serosal fluid and gut tissue, respectively, of the rectum. When mice of different ages were tested, dimethoate penetrated more rapidly through the tissues of unweaned mice. The average absorbed in isolated sections of the small intestine after 80 minutes was 61.1 and 11.9 percent in the serosal fluid and gut tissue, respectively, for 12-day-old mice; 50.9 and 14.2 percent in the serosal fluid and gut tissue, respectively, for 6-week-old mice; and 56.5 and 13.7 percent in the serosal fluid and gut tissue, respectively, for 12-week-old mice.

(2) *Distribution.* Kaplanis et al. (12) analyzed tissues from an orally treated calf and showed only very low levels (0.02 ppm) of organo-extractable radioactive compounds present in brain, liver, testes, and lungs.

Chamberlain et al. (13) studied the metabolism and associated residues following intramuscular (i.m.) injection and oral administration of P^{32}-dimethoate in sheep. Degradation was rapid and appeared not to be significantly affected by the route of administration. Only trace residues were found in tissues of sheep sacrificed 2 and 4 weeks after treatment. The thio-carboxy derivative was the predominant degradation product found in samples of urine and accounted for one-fourth to one-half of the administered dose for all animals. When dimethoate was given orally at two dosage levels, it was noted that at the lower level the organosoluble fraction in the blood accounted for less than 5 percent of the total radioactivity, whereas at the higher level this fraction was above 30 percent. The authors suggested that the mechanism of breakdown was overwhelmed by the larger dose, allowing more dimethoate and dimethoxon to accumulate in the blood.

Dedek and Schwarz (14), using in vivo tests of dimethoate in cattle, reported <5 ppm dimethoate in the blood at 6 hours following a 20 mg/kg i.m. dose, >3 ppm at 12 hours, and about 2 ppm at 18 hours. Blood concentrations following a 15 mg/kg dermally applied dose of 2 percent dimethoate in a mineral oil solution were about 1 ppm at 6 hours, and almost zero at 12 hours. With a 20 mg/kg dermal dose of a 5 percent dimethoate/fatty oil solution, blood concentrations were about 2.5 ppm at 6 hours, 1.5 ppm at 12 hours, and about 1 ppm at 18 hours.

(3) *Biotransformation.* Lucier and Menzer (4) investigated the metabolism of dimethoate in bean plants. The metabolism of dimethoate-^{32}P and dimethoate-carbonyl-^{14}C was studied using four modes of application. Degradation occurred most rapidly in excised leaves, followed by stem-injected plants, root-treated plants, and least rapidly in plants treated by foliar application. Eighteen metabolites of dimethoate, including 11 unknowns, were isolated. The oxygen analog (dimethoxon) was consistently present in moderate amounts in plants treated by all four modes of applicaton. Oxidation of dimethoate took place to a lesser degree than hydrolysis, although oxidation seemed more important in foliar-treated plants than in the other modes of application.

Kaplanis et al. (12) studied the metabolism of dimethoate in cattle. Ten mg/kg P_{32}- of dimethoate was administered orally and by intramuscular injection. Eighty to 90 percent of the oral dose was eliminated in the urine after 24 hours, and the same percentage of the intramuscular dose was excreted after 9 hours. The major metabolic products were dimethyl phosphate, dimethyl phosphorothioate, and several unknowns.

Krueger et al. (15) studied the persistence and metabolism of dimethoate, among other compounds, to determine their toxicity to the mouse, American cockroach, and housefly. The observed selectivity of dimethoate for insects as compared with mammals was attributed to a persistence of unaltered parent compound in the whole body. In the mouse, 89 percent of a 0.5 μg/g dose and 76 percent of a 30 μg/g dose appeared in chloroform inextractables within 0.5 hours after treatment. The oxygen analog levels were approximately three times greater in the cockroach than in the mouse. The authors concluded that the mouse degrades either the parent compound or the oxygen analog more readily than the insect does, and that selectivity is probably due to differences in ability to degrade.

Uchida and O'Brien (16) studied the degradation of dimethoate by homogenates of human liver. An average of 0.27 μg/g was degraded in a 30-minute period. Using this and other data available on dimethoate's acute toxicity, the authors suggested a probable acute oral LD_{50} to humans of approximately 30 mg/kg.

(4) *Excretion and degradation.* Kaplanis et al. (12) studied the metabolism of P^{32}-dimethoate in cattle following oral and i.m. administration of 10 mg/kg. About 87 to 90 percent of the oral dose was eliminated in the urine after 24 hours. The same percentage of the i.m. dose was excreted after 9 hours. Only 3.7 to 5 percent of the oral dose and about 1.1 percent of the i.m. dose were eliminated in the feces. The major metabolic products were dimethyl phosphate, dimethyl phosphorothioate, and several unknowns.

Brady and Arthur (17) studied the excretion of P^{32}-dimethoate in rats. Rats excreted about 45 percent of the orally administered dimethoate in the urine and only about 5.8 percent in the feces 72 hours after treatment. Rats treated dermally with dimethoate excreted 30.6 percent in the urine and 6.5 percent in the feces.

Rowlands (18) studied the metabolism of dimethoate by stored wheat and sorghum grains. Samples of both grains were treated with 2 or 10 ppm of dimethoate. Samples were analyzed after 1, 4, 7, 11, 14, and 21 days of storage. Dimethoate was rapidly degraded to anionic derivatives which the author considered nontoxic. Slight oxidation to dimethoxon occurred, but this was similarly degraded.

F. *Residues.*—(1) *Food.*—(a) *FDA commodity survey.* The Food and Drug Administration (FDA[6] has been collecting food and feed samples for a number of years, analyzing each sample to determine pesticide residue levels and frequency of occurrence (19). The following list indicates the commodities, the number of positives within the year, and the fiscal years (FY) when found contaminated. Figures include residues of both dimethoate and its oxygen analog for both domestic and imported products.

Commodity	Fiscal year 1974	1975	1976
Leaf and stem vegetables	4	3	32
Beans	19	8	26
Vine and ear vegetables	72	69	158
Large fruits	0	2	11
Small fruits	0	48	2
Root vegetables	0	1	0
Processed fruit products	0	11	2
Processed vegetable products	0	1	0
Total number occurrences	95	143	251

(b) *Other studies.* Dedek and Schwarz (14) reported residues in milk of dimethoate-treated cows. With a 20 mg/kg i.m. dose, dimethoate residues in milk were >3.5 ppm at 12 hours, <1 ppm at 24 hours, and <0.5 ppm at 36 hours. With a 15 mg/kg dermal dose of a 2 percent dimethoate/mineral oil solution, residues in milk were about 2.5 ppm after 1 to 2 hours, <1 ppm at 6 hours, and almost zero ahortly after 12 hours. With a 20 mg/kg demal dose of a 5 percent dimethoate/fatty oil solution, residues in milk were almost 2 ppm at about 10 hours, about 1.5 ppm at 12 hours, and <0.5 ppm at 24 hours. The approved tolerance for dimethoate residues in milk is 0.002 ppm.

Steller and Brand (20), using gas-liquid chromatography, analyzed field-treated grape samples harvested 28 days after the last application of dimethoate. The authors reported residue values of <0.05 ppm of what appeared to be de-N-methyl dimethoate (O,O-Dimethyl S-carbamoylmethyl phosphorodithioate), N-hydroxymethyl dimethoate, de-N-methyl dimethoxon, and N-hydroxymethyl dimethoxon. The authors concluded that residue values demonstrated

[3] These products include desmethyldimethoate, O,O,dimethyl dithiophosphoric acid, O,O-dimethyl thiophosphoric acid, and dimethoate acid (the carboxy derivative (1)

[4] These toxic products include O,O-dimethyl S-(N-methylcarbamoylmethyl) thiophosphate, the N-demethylated analogs of dimethoate and dimethoxon and the N-hydroxmethyl intermediates of each, and dimethoxon (1).

[5] Pesticide products currently registered under state pesticide registration laws and shipped or distributed for sale solely within intrastate commerce are subject to Federal pesticide regulations under 40 CFR section 162.17(a).

[6] The U.S. Department of Agriculture conducts a comparable residue study for domestic and imported meat products. In 1973 and 1974, standard screening tests for organophosphate pesticides were conducted, but no dimethoate residues were found. Screening for organophosphate pesticides was discontinued in 1974.

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degradation of dimethoate residues from a maximum of 18 ppm to approximately 0.5 ppm with no accumulation of dimethoxon (maximum of 0.3 to 0.4 ppm). The approved tolerance for dimethoate residues on grapes is 1 ppm.

(2) *Feed.* Beck et al. (21) studied the persistence of dimethoate residues on soybeans, corn, and coastal bermudagrass. Dimethoate was sprayed at rates of 4, 8, and 16 ounces (of a formulation containing 43.6 percent dimethoate) per acre. Residues degraded to the 0.1 ppm level about 7 and 16 days after treatment on soybeans and corn, respectively. The same level was not reached in 70 days with bermudagrass. (The authors suggested that lack of rainfall and the cool season of the year resulted in the extended persistence of residues on bermudagrass.) The approved tolerance levels for soybean and corn forage are 2 and 1 ppm, respectively.

(3) *Plants.* Dauterman et al. (22) analyzed surface and absorbed residues following foliar treatment of various crop plants with radioactive dimethoate in a solution equivalent to 0.5 pound of dimethoate per 100 gallons of water. Dimethoate was rapidly absorbed. It decomposed both on the surface and inside the foliage. Only trace amounts of dimethoate and dimethoxon were present, 32 days after treatment, in and on foliage of corn and peas. After 32 days, residues ranged from 16 to 39 ppm in and on foliage of four groups of potatoes, and 5 to 10 ppm in and on cotton.

(4) *Soil.* Bohn (23) studied the decomposition of dimethoate following the application (one pound actual per acre) of an emulsifiable concentrate to a cultivated sandy loam soil. Dimethoate disappeared rapidly, even when applied in amounts exceeding the recommended rate. Half of the insecticide in the top three inches of soil disappeared in four days under drought conditions and in 2.5 days after moderate rainfall. The rate of disappearance did not change with repeat applications.

Mishra and Gupta (24) studied the persistence of dimethoate in three types of soil: sandy, loam, and clay loam. Dimethoate was applied at 4 and 8 ppm. After treatment, soil samples were drawn at 0, 1, 3, 5, and 7 days and thereafter every week for 5 weeks. Samples were taken from depths of 0 to 2 inches, 2 to 4 inches, and 4 to 6 inches. Dimethoate had a half-life of 5 to 7 days in sandy soil and loam at both 4 and 8 ppm at depths of 0 to 2 inches, as well as in sandy soil at 4 ppm at the 2–to–4–inch depth. Dimethoate had a half-life of 7 to 14 days at 4 ppm in loam and clay soil at depths of 2 to 4 inches, and 0 to 2 inches, respectively; and at 8 ppm in sandy, loam, and clay soil at depths of 2 to 4 inches, 2 to 4 inches, and 0 to 2 inches, respectively. A half-life of 14 to 22 days was recorded only for clay at the 2–to–4–inch depth at both 4 and 8 ppm. On day 5, the highest residues were recorded for all 3 soils at the 4–to–6–inch depth.

Duff and Menzer (25) studied the persistence and degradation of ^{14}C-dimethoate in silty loam, loamy sand, and clay loam. No major difference in total applied radioactivity recovered was noted between the three soil types in two experiments. Soil moisture content promoted more rapid disappearance of the dimethoate-^{14}C-equivalents.

Getzin and Rosefield (26) measured dimethoate residues by gas-liquid chromatography two weeks after application to Chehalis clay loam. Dimethoate degraded at about the same rate in heat-sterilized and gamma-irradiated soil, 16 and 20 percent, respectively. About 77 percent of the dimethoate had degraded after 2 weeks in nonsterile soil.

Harris and Hitchon (27), in laboratory tests on the biological activity of several pesticides in soil, reported dimethoate to be "moderately persistent," i.e., its biological activity disappeared after 36 weeks.

There is apparently no substantial movement of dimethoate in soil. Bohn (23) reported that rainfall did not cause appreciable leaching into the 3-to-6-inch zone of soil. Mishra and Gupta (24) reported more leaching of dimethoate in sandy than in loam or clay-loam soils. Duff and Menzer (25) reported that downward movement of dimethoate was slightly more extensive in loamy sand than silty loam or clay loam, and that increased moisture content in soil promoted downward movement in silty loam, loamy sand, and clay loam.

Duff and Menzer (25) also reported that in moist soils the conversion of dimethoate to dimethoxon was faster, and the levels of dimethoxon were generally greater. The only hydrolytic metabolite of dimethoate they identified was dimethoate carboxylic acid.

Harris and Hitchon (27) studied the biological activity of several insecticides in soil. As already noted, dimethoate became inactive after 36 weeks. In dry sandy loam, 50 ppm was the lowest concentration at which dimethoate showed biological activity when applied as a soil treatment; in moist sandy loam the level was 10 ppm; and in muck the level was 100 ppm. The reported increase in toxicity (cholinesterase inhibition) of dimethoate in moist soil, as compared to dry soil, is probably due to the greater production of the toxic oxygen analog, dimethoxon, (see Duff and Menzer above). Dimethoate and its metabolites rapidly disappeared from highly saturated muck soil.

(5) *Air and water.* The National Air Monitoring Program (10), conducted by EPA's Ecological Monitoring Branch, does not have air data on dimethoate available since air samples are not being analyzed for this pesticide.

The National Estuarine Monitoring Program (10), also conducted by EPA's Ecological Monitoring Branch, does not have estuarine data on dimethoate.

(6) *Transport.* Graham-Bryce (28) studied the diffusion characteristics of dimethoate in silty loam soil. Diffusion rates varied little as the dimethoate concentration was increased; however, diffusion rates increased rapidly as the soil moisture increased. These findings agree with studies already cited in section I.F.(4) which showed little movement of dimethoate in soil, except under moist conditions (25, 27).

G. *Pesticide Episode Review System (PERS) Reports.* The Agency maintains a Pesticide Episode Review System, which collects reports of pesticide exposure affecting humans, domestic animals, livestock, and wildlife. For the period 1966 to June 1976, PERS data show a total of 50 episodes involving dimethoate (29). Thirty-five involved dimethoate alone, and 15 involved dimethoate in combination with other active ingredients.

Humans were affected in 38 of the 50 reported episodes, livestock in two, plants in one, fish in one, and environmental contamination in eight.

Site of occurrence was reported as agricultural operations in 28 of the 50 reported episodes, transportation in five, greenhouses in three, storage areas in two, homes in two, aerial application preparation sites in two, formulation plants in one, an unspecified urban worksite in one, and a disposal site in one. In addition, two episodes simultaneously involved both a residential area and a worksite. Three episode reports did not specify a site of occurrence.

For five of the 50 episodes, there was substantial evidence that dimethoate was directly involved; for 12 episodes, there was circumstantial evidence, for 31 episodes, there was insufficient evidence, and for two episodes, there was evidence which proved that dimethoate was not responsible for the episode.

For the 17 episodes in which there was either substantial or circumstantial evidence for dimethoate's involvement, 12 involved humans, two involved building contamination, and one each involved livestock, water contamination, and both water and soil contamination. Of the 12 human incidents, site of occurrence was reported as agricultural operations in four, homes in two, aerial application sites in two, and transportation, a greenhouse, a formulation plant, and a residential worksite area in one each. The two building contaminations occurred in a greenhouse and a storage area. The livestock incident involved an agricultural operation; the water contamination involved a storage area; and the water and soil contamination involved a disposal site.

II. REGULATORY HISTORY

Dimethoate has been the subject of several Federal regulatory actions since its original registration. All actions were initiated when the U.S. Department of Agriculture was responsible for the regulatory control of pesticides.

Pesticide Registration (PR) Notice 67–10 issued on November 6, 1967, extended certain "no residue" and "zero tolerance" registrations beyond December 31, 1967. Uses of dimethoate were extended until January 1, 1969. (This and all following PR Notices are cited in Reference 30.)

PR Notice 68–3 issued on January 10, 1968, classified certain chemical use patterns as nonfood uses. For dimethoate, this included the use on agricultural premises, except in dairy barns and poultry houses.

PR Notice 68–5 issued on January 30, 1968, extended certain "no residue" and "zero tolerance" registrations beyond December 31, 1967. For dimethoate, uses in dairy barns and poultry houses were extended until January 1, 1969.

PR Notice 68–17 issued on November 1, 1968, extended certain "no residue" and "zero tolerance" registrations beyond December 31, 1968. For dimethoate, uses on alfalfa, cotton, and safflower, and in dairy barns and poultry houses were extended until January 1, 1970.

PR Notice 69–2 issued on January 16, 1969, extended certain "no residue" and "zero tolerance" registrations beyond December 31, 1968. For dimethoate, uses on potatoes and watermelons were extended until January 1, 1970.

PR Notice 70–1 issued on January 19, 1970, extended certain "no residue" and "zero tolerance" registrations beyond December 31, 1969. For dimethoate, use on alfalfa was extended until January 1, 1971.

III. SUMMARY OF SCIENTIFIC EVIDENCE TO SUPPORT REBUTTABLE PRESUMPTION

The following adverse effects of dimethoate have been found to exceed the criteria for issuance of a rebuttable presumption.

A. *Chronic Toxicity.*—(1) *Oncogenic Effects in Test Animals.* 40 CFR Section 162.11 (a)(3)(ii)(A) provides that "a rebuttable presumption shall arise if a pesticide's ingredient(s) * * * (i)nduce(s) oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation, or dermal exposure * * *." Section 162.3 (bb) defines the term oncogenic as "the property of a substance or a mixture of substances to

produce or induce benign or malignant tumor formation in living animals."

The Office of Special Pesticide Reviews has conducted an exhaustive search of the open literature and has isolated two published research papers dealing with oncogenicity of dimethoate.

(a) *Studies Relevant to Rebuttable Presumption.* Gibel et al. (31) studied the effects of dimethoate on 10-week-old Wistar rats of both sexes. Forty animals per group were employed in the study. Fresh solutions of dimethoate were made at the time of administration to limit hydrolysis. The compound was given by gavage twice weekly at 5, 15, and 30 mg/kg dose levels. One group of animals was also given 15 mg/kg intramuscularly. The authors described technical dimethoate as a yellow-brown oil. Meister (2) described dimethoate as a white crystalline solid. The Working Group has requested a sample of the material used by Gibel et al.

Animals were weighed at regular intervals. Only the animals that lived 3 months in the study and showed no post mortem changes were examined histologically. Blood and bone marrow were also examined.

Treated animals showed strong hyperplasia of the blood forming parenchyma of the bone marrow involving erythropoesis, granulopoesis, and megakaryopoiesis. Nonbony myeloid metaplasia was seen primarily in the liver and spleen in 59 percent of the treated animals. In addition, granulocytosis was found in 22 percent of the animals.

Incidence of benign and malignant tumors shown in Table 1 indicates that there is a significant increase of malignant tumors among treated animals at the highest dose levels for both oral and intramuscular routes of administration.

TABLE 1.—*Incidence of tumors in rats treated with dimethoate*

Dose milligrams per kilogram	Route	Average survival (days)	Benign tumors	Malignant tumors	p values
0	Oral	473	2/36	0/36	
5	do	518	7/26	2/26	
15	do	511	5/25	3/25	
30	do	627	2/20	[1] 4/20	0.0132
0	1 im	711	4/35	0/35	
15	1 im	570	5/30	[2] 6/30	.0072

[1] 1 liver sarcoma, 1 malignant reticulosis, and 2 sarcomas of the spleen.
[2] 1 sarcoma of the spleen, 1 soft tissue sarcoma, 1 ovarian sarcoma, 1 reticulum cell sarcoma, 1 spleen sarcoma, and 1 liver sarcoma.

In addition, a significant linear trend ($p<0.01$) was found for the oral route. No significant difference was detected for benign tumors.

Gibel et al. (31) also studied the effects of dimethoate on mice. Percutaneous application of fresh solutions of dimethoate was given twice a week for six weeks on shaved back skin of AB mice of both sexes; the animals survived for only 270 days. Five animals out of 19 showed malignant tumors, of which there were four leukoses and one breast carcinoma. The spleen showed considerable metaplasia with often complete atrophy of white pulp. The follicles of the white pulp showed a loose, narrow lymphocytic mantle around the central arteries. The trabecular framework of the spleen was generally narrowed and reduced. The red pulp showed a partially localized, and diffuse myeloid proliferation with numerous immature cell forms which made it difficult to recognize the basic structure. The authors felt that mice also developed the myeloproliferative syndrome similar to that observed in rats.

The benign tumors observed in the control animals were exclusively fibroadenoma of the breast. The authors did not mention the incidence of malignant tumors in controls but implied that they did not find any malignant tumors in the control animals.

In 1977 the National Cancer Institute (NCI) completed a feeding study with dimethoate (32). Osborne-Mendel rats, 35 days old, were used as test animals. The compound was added to the diet at 250 and 125 ppm dose levels. After 19 days the doses were reduced to half and the treatment was continued for an additional 61 weeks. The animals were followed for 115 weeks. The treatment groups consisted of 50 animals of each sex, and the matched controls consisted of 10 animals. Matched controls for aldrin, chlordane, dichlorvos, dieldrin, and heptachlor were used for evaluation because these studies were carried out concurrently with the dimethoate feeding study. Complete histopathology was carried out on all the animals. Statistical analysis of tumor incidence by site and type indicated no excess incidence of any specific tumor type and also no increase in total tumor incidence. A summary of the survival data and number of tumor-bearing animals is shown in Table 2.

TABLE 2.—*Dimethoate chronic feeding study—number and survival of tumor-bearing rats*

Sex	Dosage group	Effective number [1]	Number TBA [2]	Percent	Percent surviving [3] (weeks) 52	78	[4] 115
Male	Pooled control	58	36	62	92	87	47
Do	Matched control	10	7	70	100	80	30
Do	Low	50	23	46	98	96	72
Do	High	49	24	49	92	82	58
Female	Pooled control	60	43	72	97	93	73
Do	Matched control	10	7	70	100	100	90
Do	Low	47	30	64	98	92	74
Do	High	45	21	47	88	67	51

[1] Total number of rats initially placed on test minus the number missing or autolyzed.
[2] Number of tumor-bearing rats.
[3] Denominator for survival percentages was the original number of animals minus those killed for diagnostic purposes. No animals were accidentally killed, and none were missing.
[4] Study terminated at 115 weeks.

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The pathological evaluation of this study was done at Gulf South Research Institute. EPA's Carcinogen Assessment Group (CAG) is interested in reviewing the slides of this study.

NCI (32) also studied the effects of dimethoate on B6C3F hybrid mice which were 35 days old. The compound was added to the diet at 250 and 500 ppm dose levels, and the feeding was continued for 60 and 60 weeks, respectively. Animals were observed for additional 24 and 34 weeks, respectively, before sacrifice. All the animals were necropsied and examined histopathologically. The data were statistically analyzed for each organ and tumor type. No dose-related increase in tumor incidence by site or total in either sex was found. The data for total tumor-bearing animals are summarized in Table 3.

TABLE 3.—*Dimethoate chronic feeding study—number and survival of tumor-bearing mice*

Sex	Dosage group	Effective number[1]	Number TBA[2]	Percent	Percent surviving[3] (weeks)		
					52	78	[4]90
Male	Pooled control	96	31	32	64	92	85
Do	Matched control	2	6	86	100	100	86
Do	Low	50	11	22	98	84	82
Do	High	50	11	22	96	96	92
Female	Pooled control	80	14	18	96	90	83
Do	Matched control	10	3	30	90	90	70
Do	Low	50	15	30	98	96	90
Do	High	49	12	24	94	94	90

[1] Total number of mice initially placed on test minus the number missing or autolyzed.
[2] Number of tumor-bearing mice.
[3] Denominator for survival percentages was the original number of animals minus those killed for diagnostic purposes. No animals were accidentally killed, and none were missing.
[4] Study terminated at 90 weeks.

The Working Group concludes that the Gibel study on rats supports the issuance of a rebuttable presumption on the basis of oncogenic effects for the following reasons. First, the studies on rats conducted by NCI and Gibel et al. were dissimilar in several ways. The test animal used by Gibel et al. was the Wistar rat, whereas NCI used the Osborne-Mendel rat. It is generally recognized (34) that different strains of test animals, for a variety of reasons, may demonstrate a varied response to a chemical. The method of application also varied in the two tests. NCI incorporated dimethoate in feed for the rat study whereas Gibel et al. administered dimethoate by intubation or intramuscular injection. Different methods of application may or may not result in a different response on the part of the test animal. Second, the purpose of the RPAR process is not to determine whether dimethoate is or is not an oncogen, but to determine whether there is sufficient information available to raise a question as to its safety in this regard. For these reasons the Working Group recommends that a rebuttable presumption be issued against dimethoate pursuant to 40 CFR Section 162.11 (a) (3) (ii) (A).

(b) *Studies On Which Further Information Is Sought.* Steiglitz et al. (35) studied the hematotoxic effects of dimethoate in rats. Dimethoate was administered to 10-week-old Wistar rats in doses of 5, 10, and 15 mg/kg body weight by oral intubation (p.o.). Another group was given an i.m. dose of 15 mg/kg. Each test group consisted of 40 animals with two control groups of 40 animals each. The most important hematological results included pronounced hyperplasia of the hematopoietic parenchyma in the bone marrow, and sometimes strong, extraosseous myeloid metaplasia. Hyperplasia in the bone marrow occurred at different levels in all three hematopoietic cell systems with preferential involvement of granulocytopoiesis. Leukocytosis of varying intensity in the peripheral blood was also found but mainly affected granulocytes. The highest value exceeded 50,000/ul.

The Agency is not now presuming against dimethoate on the basis of this study, but requests any interested party possessing information relevant to this or any other oncogenic effect due to dimethoate to submit such data to the Agency.

(2) *Mutagenic Effects.* 40 CFR Section 162.11(a)(3)(ii)(A) provides that "a rebuttable presumption shall arise if a pesticide's ingredient(s), metabolite(s), or degradation product(s) • • • induce mutagenic effects, as determined by multi-test evidence."

The Mutagenicity Testing Requirements Section of the FIFRA, Draft Section 3 Guidelines on Hazard Evaluation of Humans and Domestic Animals defines multi-test evidence as "evidence from at least two submammalian test systems in combination with evidence that the agent or its active metabolite(s) reaches the germinal tissue in mammals when administered by an appropriate route."

(a) *Studies on Dimethoate-Induced Mutations in Sub-Mammalian Test Systems.* Fahrig (36) treated cultures of *Saccharomyces cerevisiae*, with dimethoate at seven dosage levels (ranging from 40 mM to 100 mM). An induction of mitotic gene conversions was observed which demonstrated a significant dose-response relationship and a positive mutagenic effect.[7]

Hanna and Dyer (37) tested dimethoate in two bacterial systems by adding 5 to 10 ul of dimethoate to a layer of the bacterial strain. Positive results were observed in two strains of *Escherichia coli* (*E. coli* WP2 uvrA and *E. coli* WP 67). Negative results were seen in several other *E. coli* and *Salmonella typhimurium* strains.[7]

Mohn (38) studied the effect of dimethoate in *E. coli* K-12/galRs18. Dimethoate was shown to have mutagenic activity. A significant does-response relationship was obtained using five does levels (from 1 to 6×10^{-3} M).[7]

American Cyanamid Co. (39) investigated the mutagenic potential of Dimethoate using several strains of *S. typhimurium* and one strain of *E. coli*. Rat liver microsomal enzymes (S-9) were used for metabolic activation. No mutagenic effects were observed. Doses ranged from 20 to 100 ug/plate.

Shirasu et al. (40 studied the mutagenic effect of dimenthoate in the H17 Rec+ and R45- strains of *Bacillus subtilis*. No mutagenic activity was observed under the conditions of the study. The dose of dimethoate used was not given.[7]

Agarwal et al. (41) studied the effect of dimethoate on seed setting and germination in the bean (*Phaseolus vulgaris*). Dimethoate in concentrations of 0.1 and 0.5% by volume were used as foliar sprays on bean plants in four observation plots. The spraying was done at the time of bud initiation. Seeds were then collected and soaked for 48 hours at room temperature. Dimethoate reduced germination 23 to 28% below controls. Chromosomal abnormalities including fragments, stickiness, and anaphase bridge formation were seen in 12.8 to 27.5% of the treated series. No abnormalities were seen in the controls.

Amer and Farah (42) studied the cytological effects of dimethoate on cotton (*Gossypium barbadense*) and beans (*Vicia fada*). Bean seeds were treated at concentrations of 0.5, 0.25, 0.125, and 0.0625% using both pure and formulated (solution containing 40% active ingredient) dimethoate. Cotton seeds were treated with the formulated product at concentrations of 0.25, 0.125, and 0.0625% dimethoate. Both pure and formulated dimethoate greatly inhibited cell division in beans. The mitotic index for bean seeds treated with pure dimethoate ranged from 18.4 (0.5% dimethoate) to 62.6 (0.625% dimethoate) compared with a mitotic index of 94.1 for controls. The mitotic index for beans treated with formulated dimethoate ranged from 8.0 (0.25% dimethoate) to 42.0 (0.0625% dimethoate) compared with 56.4 for controls. Chromosomal abnormalities were also observed for all treated seeds. The percentage of abnormal mitoses in beans induced by formulated dimethoate was much higher than that induced by pure dimethoate.

(b) *Studies on Dimethoate-Induced Mutation In Mammalian Test Systems.* Gerstengarbe (43) investigated the ability of dimethoate to induce dominant-lethal mutations in the mouse (*Mus musculus*). Dimethoate was administered intraperitoneally to male mice of an inbred, AB Jena/Halle strain. One set of mice received a one-time dose of 80 mg/kg, while another group received 6.66 mg/kg daily for 30 days. The treated males were then paired with untreated females. The number of implantations, resorptions, and living and dead fetuses on the eighteenth day of gestation was determined. The living fetuses were weighed and separated according to sex. A significant increase in the resorption rate was detected, indicating damage during spermiogenesis. A significant increase was observed in the mutation index indicating that dimethoate, in the case of AB Jena/Halle mice, induces dominant-lethal mutations and is capable of reaching germinal tissue.

[7] The author(s) did not indicate whether a metabolic activation system had been included in the test procedures.

Bhunya and behera (44) injected adults of both sexes of the mouse (*Mus musculus*) with 1 cc/100 g body weight of dimethoate (0.5 and 1.0% solutions). Control animals were injected with distilled water, and standard cytological slides were prepared from bone marrow cells of animals sacrificed at 24, 48, and 72 hours after treatment. The authors stated that in the treated animals, in addition to other aberrations, centromeric fission and stretching were predominant. The number of chromosomes with breakage at the centromere ranged from 1 to 38 per cell. The frequency of aberrations was highest at 24 hours, moderate at 48 hours, and leagt after 72 hours for both doses tested. Aberration rates in control animals were not reported.

The Working Group concludes that the the Gerstengarbe (43) study demonstrates that dimethoate can, under certain conditions, reach germinal tissue in mammals. Based on this finding and the other positive mutation results in teste with fungi, bacteria, plants, and mice, the Working Group recommends that a rebuttable presumption be issued against dimethoate pursuant to 40 CFR Section 162.11(a)(3)(ii)(A).

B. *Reproductive and Fetotoxic Effects in Mammalian Species.* 40 CFR 162.11(a)(3)(ii)(B) provides that a rebuttable presumption shall arise if a pesticide "(p)roduces any other chronic or delayed toxic effect in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety." This section reflects concern that chronic exposure to chemicals may result, among other things, in injury to the reproductive system and/or the fetus and provides that a rebuttable presumption shall arise if chronic chemical exposure in test animals produces such results.

Budreau and Singh (45) studied the effect of dimethoate on the reproduction of Charles River CD-1 mice. The insecticide was added to drinking water at the rate of 60 ppm (½ the LD_{50}) for five generations. Reproductive performance was evaluated by mating success and reproduction time. Mating success was calculated as the proportion of the females mated that had litters, expressed in percentage. Reproduction time was the number of elapsed days from the first day when the females were presented to the male to the day of delivery. The authors stated that dimethoate treatment significantly reduced mating success and increased reproduction time.

Second litter mating success ranged from 33 to 61% ($p<0.01$) and treated females required significantly longer periods than controls ($p<0.01$) to produce first litters in all generations. Survival rate of total pups and litters was significantly reduced ($p<0.01$) in generations I, III, IV, and V. Histologic examination of the mammary glands of treated females with high newborn mortality showed the glands were well developed and contained milk. The growth rate of dimethoate-treated pups usually fell behind that of controls from day 12 after birth. On day 28, average weight was not always significantly different from controls, mainly because low-weight pups died.

In a dam-transfer experiment (45), a number of control young were transferred from an untreated to a treated, lactating mother. Increased mortality was noted in the young nursed by the treated mothers as compared with controls. This suggested that dimethoate or a toxic metabolite was passed to the young via milk.

Scheufler (46) administered a single 40 mg/kg dose of dimethoate, intraperitoneally, to female AB Jean/Halle mice on the day of conception. On the ninth day of pregnancy the author observed a significant increase in the number of dead embryos ($p<0.01$). When dimethoate was injected daily, at 40 mg/kg, during the first 14 days of pregnancy, four times as many implanted embryos died in comparison to controls. When 40 mg/kg of dimethoate was administered to female C57BL mice, the number of nonpregnant females was increased to 70% as compared to 20 to 30% for controls. When dimethoate was applied to DBA-mice, 50% of the mated females showed no embryos. The author suggested that dimethoate appears to hinder strongly the development of embryos prior to implantation.

The American Cyanamid Co. (47) conducted a three generation feeding study to determine whether dimethoate would interfere with reproduction or lactation. Albino mice of the CF1 strain were fed diets containing 5, 15, 50, and 0 (control) ppm of dimethoate. Animals were approximately one month old at the start of the test. Weaned pups were fed the same diets as their parents.

For mating purposes one male and two females were housed together. Females were housed alone while they cast and weaned their litters, after which parent animals were mated again. There were two mating periods. The report concluded that "reproduction and lactation performance was good for all groups."

An EPA scientist who reviewed this study agreed with the conclusion that no teratogenic effects were observed. The scientist identified the following data from this study relative to the effect of dimethoate on reproduction. This data, however, is not statistically significant.

Diet (parts per million)	Number of mothers died	Number of mothers with tremors or a litter which died
0	1	0
5	[1]2	0
50	2	4

[1] 1 had an abscessed uterus.

Mating record

	F_1 generation	F_2 generation
1st generation.	All conceived.	1 5 p/m did not conceive.
2d generation.	1 5 p/m did not conceive.	Do. 2 15 p/m did not conceive. 3 50 p/m did not conceive.

In order to determine whether a rebuttable presumption should be issued based on reproductive and fetotoxic effects pursuant to Section 162.11(a)(3)(ii)(B), the Working Group must determine whether an ample margin of safety exists between the levels of dimethoate which produce reproductive and fetotoxic effects and the levels to which humans can reasonably be anticipated to be exposed.

In order to determine whether an ample margin of safety exists, the Working Group must first determine how much dimethoate a woman could be exposed to through: (1) Oral exposure, (2) dermal exposure, or (3) inhalation exposure. For each of these analyses the Working Group assumes a woman to weigh 50 kg. The Working Group is aware that this is a conservative assumption.

(1) *Oral Exposure.* For purposes of this analysis the Working Group assumes dimethoate residues to be present at tolerance level (see Section I.D). The Working Group realizes, however, that residues found in or on raw agricultural commodities are typically lower than tolerance levels. The following calculations are based on the average values for the amount of food eaten per day (1.5 kg) as reported by Lehman (54).

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Food	Food factor (percent)	Tolerance (milligrams per kilogram) (40 CFR 180.204)	Contribution to daily intake (milligrams per kilogram)
Alfalfa	(1)		
Apples	1.81	2	0.0362
Beans (dry)	0.50	2	.0100
Beans (snap and lima)	.74	2	.0148
Broccoli	.19	2	.0038
Cabbage	.49	2	.0098
Cauliflower	.43	2	.0086
Celery	.76	2	.0152
Citrus (including grapes, lemons, oranges, tangerines)	3.66	2	.0732
Collards	(2)		
Endive (escarole)	(3)		
Grapefruit	(4)		
Kale	.14	2	.0028
Lemons	(4)		
Lettuce (including mustard greens, endive/escarole)	1.15	2	.0230
Oranges	(4)		
Pears	.32	2	.0064
Peas (dry)	.12	2	.0024
Peas (fresh)	.49	2	.0098
Peppers	.25	2	.0050
Soybean forage	(5)		
Soybean hay	(5)		
Spinach	.29	2	.0058
Swiss chard (as beets)	.44	2	.0088
Tangerines	(4)		
Tomatoes	3.34	2	.0668
Turnips (roots and tops)	(6)		
Wheat (green fodder and straw)	(1)		
Corn fodder	(1)		
Grapes	.32	1	.0032
Melons	1.98	1	.0198
Potatoes	7.00	0.2	.0140
Cotton safflower soybean (as edible oil and margarine)	1.43	.1	.0014
Pecans (as nuts)	.60	.1	.0006
Sorghum grain and forage	(1)		
Corn	1.19	.1	.0012
Corn (as flour/cereal starch)	.71	.1	.0007
Wheat grain (as flour)	8.05	.04	.0032
Wheat grain (as cereal)	.18	.04	.0001
Eggs	3.0	.02	.0006
Beef	4.60	.02	.0009
Hogs	2.89	.02	.0006
Horses	(4)		
Poultry	2.45	.02	.0005
Sheep	.28	.02	.0001
Milk	19.6	.002	.0004
Total			.35

[1] No food factor available. Exposure is reflected in part by meats and poultry.
[2] See kale
[3] See lettuce
[4] See citrus
[5] See kale/spinach
[6] Data not available.

The quantity of dimethoate in the average daily diet equals the average daily intake of dimethoate multiplied by the average daily food intake: 0.35 mg×1.5 kg=0.525 mg.

The theoretical exposure of an average woman equals the amount absorbed divided by the weight of the average woman: 0.525 mg/50kg=0.0105 mg/kg of body weight.

(2) *Dermal Exposure.* In order to conduct this analysis the Working Group must make certain assumptions concerning the amount of dimethoate which would come in contact with the skin and how much of this would be absorbed.

Sanderson and Edson (7) studied the dermal absorption characteristics of ^{32}P-labeled dimethoate on the rat. Three to four percent of an applied dose was absorbed after one hour, and 10 to 25% after four hours. On the basis of these results the authors conducted a series of tests involving skin application of a commercial-type ^{32}P-labeled dimethoate formulation using human subjects. The authors found that, after two hours of contact, almost all dimethoate was removed by washing with water. After 5½ hours, 5 to 13% of the dimethoate dose remained after washing with water; however, this was "largely removed" by vigorous washing with soap and water.

For purposes of this analysis, the Working Group will assume that 10% of the dimethoate coming in contact with the skin or clothing of the applicator will be absorbed even after washing.

The Working Group feels that more women of childbearing age would be exposed to dimethoate through application around the home than under any other situation. The Working Group has selected a product representative of a pesticide product containing dimethoate which can be used around the home. This product contains 23.4 percent dimethoate as formulated (equivalent to 2 pounds of dimethoate per gallon). For dermal exposure from spraying, the conservative assumption is made that no applicator would get more than one pint of dilute spray on herself during spraying. This would be enough to thoroughly wet the operator's clothing. The following calculations of exposure assume a dilution for spraying of 16 fluid ounces (or 0.25 pound) of formulated product per 24 pints of water.

Changing pounds to grams gives: 0.25 lb/24 pt×454 gr/lb=4.73 gr/pt. The Working Group has assumed 1 pint exposure and 10 percent absorption by a 50 kg female. To determine the amount absorbed, multiply the amount of dimethoate per pint by the amount absorbed: 4.73 gr×10 percent=0.473 gr=473 mg exposure.

The theoretical exposure of an average woman equals the amount absorbed divided by the weight of the average woman: 473 mg/50 kg=9.46 mg/kg of body weight.

(3) *Inhalation Exposure.* Inhalation exposure from spraying is estimated by assuming that some fraction of the spray enters the breathing zone of the applicator. With the course spray droplets resulting from a home garden spray nozzle, there is no substantial upward diffusion, and the spray droplets follow a mechanical trajectory to the ground. Since the sprayer is held roughly waist high, normally very little spray would enter the breathing zone. The applicator is thus exposed to substantially less dimethoate by respiration than by dermal contact. This reasoning is in agreement with Wolfe's (55) comment, "over 97 percent of the pesticide to which the body is subjected during most exposure situations, and especially to applicators of liquid sprays, is deposited on the skin." Thus even with the conservative assumption that all inhaled dimethoate would be retained in the lungs of the applicator, it appears that inhalation exposure would not make an important contribution to the total potential exposure.

Total theoretical exposure from dimethoate equals

0.0105 mg/kg (due to oral exposure)
9.4600 mg/kg (due to dermal exposure)
9.4705 mg/kg = total theoretical exposure.

The theoretical margin of safety for dimethoate-induced reproductive and fetotoxic effects equals the effect level divided by the total theoretical exposure level:

$$\frac{\text{20 mg/kg (Budreau \& Singh (45))}}{\text{9.4705 mg/kg (total theoretical exposure)}} = 2.11$$

It is generally recognized that humans vary in their susceptibility to a toxicant and that humans may, for a variety of reasons, be far more sensitive than laboratory animals. Therefore, and lacking information to the contrary, the Working Group feels that 2.11 does not constitute an adequate margin of safety and recommends that a rebuttable presumption be issued against dimethoate pursuant to 40 CFR 162(a)(3)(ii)(B).

Registrants and other interested persons can, during the course of the RPAR process, submit data and/or comments regarding the existence of an ample margin of safety for dimethoate-induced reproductive and fetotoxic effects, and any other comments and data concerning dimethoate-induced reproductive and fetotoxic effects.

IV. OTHER RELEVANT ADVERSE EFFECTS

This section addresses certain criteria for determination of unreasonable adverse effects which dimethoate may produce, but for which insufficient evidence exists to initiate a rebuttable presumption.

A. *Delayed Neurotoxicity.* American Cyanamid Co. (48) performed demyelination studies for dimethoate and its oxygen analog, dimethoxon, in white leghorn hens estimated to be 1 to 2 years of age. Although the results appear to show that these chemicals did not cause myelin degeneration, a closer examination of these reports indicates that the tests were inconclusive for the following reasons:

1. An LD_{50} for 24 hours, instead of 7 days, should have been used in the tests;

2. Since hens were given the chemicals in their feed, the dose received by each hen was not accurately known. Administration of the test substance should have been by intubation or gelatin capsule; and

3. Since maximum doses of only one-eighth LD_{50} were administered, delayed neurotoxic effects may not have developed.

The regimen of the study was such that it would not detect delayed neurotoxicity of some compounds that are known to cause this effect. Either much higher doses, i.e., the maximally tolerated dose using atropine, or sub-acute studies for longer periods of time should have been used.

The Agency is not now presuming against dimethoate on the basis of this study but requests any interested party possessing information relevant to this or any other chronic or delayed toxic effect due to dimethoate to submit such data to the Agency.

B. *Synergism.* Uchida et al. (49) have reported on synergism of dimethoate by EPN in mammals and insects. (Synergism is defined as the greater toxicity of two compounds together than would be anticipated from the sum of their individual effects.)

The authors found that one-half the LD_{50} of dimethoate (170 mg/kg) and one-half the LD_{50} of EPN (11 mg/kg) killed an average 90 percent of mice in two trials when given simultaneously. For guinea pigs, the authors found that one-half the LD_{50} of dimethoate, (390 mg/kg) and one-half the LD_{50} of EPN (14 mg/kg) killed an average of 24 percent ±5 in five trials when given simultaneously. The authors described this result as "moderate" synergism. The authors noted that EPN blocks liver degradation of dimethoate profoundly in the mouse and less so in the guinea pig and concluded this inhibition in metabolism or detoxification of dimethoate accounted for the synergistic activity in the mouse in the guinea pig.

In a study on the degradation of dimethoate by the human liver, Uchida and O'Brien (16) noted that mammalian amidase is very sensitive to EPN in vivo and that its inhibition should lead to synergistic toxicity in man.

The 1969 Report of the Secretary's Commission on Pesticides and Their Relationship to Environmental Health (Mrak Report) (50) discussed the synergistic activity of EPN on dimethoate and recommended that "[a]dditional studies should be conducted to evaluate the significance of aliesterase inhibition in man and especially liver aliesterase; and to study the relation between aliesterases and amidases." The report also stated, "In light of present knowledge, studies on the inhibition of plasma and liver aliesterase should be required on all anticholinesterase pesticides."

Although there are no registered products which contain both EPN and dimethoate, these chemicals do have certain use patterns in common. These include use on apples, beans, cotton, grapes, pears, pecans, and tomatoes. The Working Group does not know if it is common practice to mix dimethoate with EPN or to apply them together. The Agency is not now presuming against dimethoate on the basis of these studies but requests registrants and any other interested party possessing information relevant to the use of EPN with dimethoate, or to the synergism of dimethoate by EPN or any other pesticide to submit such data to the Agency.

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* References marked with an asterisk are protected from unauthorized duplication by copyright. A copy of the Position Document and all references are available for public inspection in the Office of Special Pesticide Reviews (WH-566), Office of Pesticide Programs, Environmental Protection Agency, East Tower, Room 447, 401 M Street SW., Washington, D.C. 20460.

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**** PRODUCT SEARCH LISTING ****

APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING DIMETHOATE

06/28/77

**** PRODUCT SEARCH LISTING ****

06/28/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING DIMET-DATE

REGISTRANT *NAME AND ADDRESS*
* 000148 THOMPSON-HAYWARD CHEMICAL COMPANY
P O BOX 2383
KANSAS CITY KS 66110

REGISTRANT PRODUCT NAME
*052074 CE-FEND 8 OLST
**C7496* CE-FEND E-267 SYSTEMIC INSECTICIDE
**C7497* DE-FEND E-267 SYSTEMIC INSECTICIDE

REGISTRANT *NAME AND ADDRESS*
* 000239 CHEVRON CHEMICAL COMPANY
ORTHO DIVISION 940 HENSLEY WAY
RICHMOND CA 94801

REGISTRANT PRODUCT NAME
**041639* CYGON 267
**041659* ORTHO CYGON 267

REGISTRANT *NAME AND ADDRESS*
* 000241 AMERICAN CYANAMID COMPANY
BOX 400
PRINCETON NJ 08540

REGISTRANT PRODUCT NAME
**038259* CYGON 2E SYSTEMIC INSECTICIDE
**C29839* CYGON 267 SYSTEMIC INSECTICIDE

REGISTRANT *NAME AND ADDRESS*
* 000829 SOUTHERN AGRI INSECT INC
PO BOX 218
DADE CITY FL 33525

REGISTRANT PRODUCT NAME
**C7559* CA-50 BRAND DIMET-CATE INSECTICIDE

REGISTRANT *NAME AND ADDRESS*
* 003468 SCHALL CHEMICAL INC
BOX 962
MONTEVISTA CO 81144

REGISTRANT PRODUCT NAME
**045618* DIMETHOATE -SULFUR WITH ZINC CARRIER
**045628* DIMETHOATE-SULFUR
**C4563* DIMETHOATE-PANEB-SULFUR

REGISTRANT *NAME AND ADDRESS*
* 005481 AMVAC CHEMICAL CORP
4100 EAST WASHINGTON BLVD
LOS ANGELES, CA 90023

REGISTRANT PRODUCT NAME
**038378* CURACRON 8 OLST
**075048* CURACRON CURACRON 2.57 SYSTEMIC INSECTICIDE
**075078* CURACRON CURACRON 25 WP SYSTEMIC INSECTICIDE

V 42 1176 SEP 12 77 UMI

**** PRODUCT SEARCH LISTING ****

06/28/77

**CONTINUE REGISTRANT 00*481

**07511* CURHAM DURAGEN 2.67 SYSTEMIC INSECTICIDE

REGISTRANT	*NAME AND ADDRESS*
* CC5965	HELENA CHEMICAL CO CLARK TOWER, 5100 POPLAR AVE, SUITE 2904 MEMPHIS TN 38137

********** PRODUCT NAME **********

**03086* DIMETHOATE 267 EC

**07663* DIMETHOATE 267 EC

**07947* HOOPER DUST

REGISTRANT	*NAME AND ADDRESS*
* CC7478	CHEM FAK COMPANY 10402 S. W. 185TH TERRACE SOUTH MIAMI FL 33157

********** PRODUCT NAME **********

**08027* CYGON 2E

REGISTRANT	*NAME AND ADDRESS*
* 005319	CUSTOM CHEMICALS, INC 476 HESTER STREET SAN LEANDRO, CA 94577

********** PRODUCT NAME **********

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**** PRODUCT SEARCH LISTING ****

06/28/77

**CONTINUE REGISTRANT 009*19

**04534* CIMATE 2E

REGISTRANT	*NAME AND ADDRESS*
* 010565	CALIFORNIA DEPT OF AGRICULTURE WEED & VERTEBRATE PEST CONTROL 1220 N ST SACRAMENTO CA 95814

********** PRODUCT NAME **********

**1C039* ANY APPROPRIATE PRODUCT

**1C040* ANY APPROPRIATE PRODUCT

**1C041* ANY APPROPRIATE PRODUCT

**1C042* ANY APPROPRIATE PRODUCT

**1C043* ANY APPROPRIATE PRODUCT

REGISTRANT	*NAME AND ADDRESS*
* 011369	BAKERSFIELD AG CHEM INC PO BOX 5062 OILDALE CA 93308

********** PRODUCT NAME **********

**CE758* EAC CYMATE 267

**CE774* EAC CYMATE 25W

**** PRODUCT SEARCH LISTING ****

06/28/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING DIMETHOATE

REGISTRANT	*NAME AND ADDRESS*
* 011656	WESTERN FARM SERVICE INC SHELL CHEM COMPANY 1025 CONNECTICUT AVE-STE 200 WASH DC 20036

********** PRODUCT NAME **********

**05906* DIMETHOATE TOXAPHENE .5-3 EC

REGISTRANT	*NAME AND ADDRESS*
* 021275	SPALDING INC 1921 5TH AVE S ST PETERSBURG FL 33733

********** PRODUCT NAME **********

**05540* X-CEL CYGON 2E

REGISTRANT	*NAME AND ADDRESS*
* 035222	SOUTHERN CHEMICALS, INC. 204 N. ELM AVE, BOX 1480 SANFORD, FL 32771

********** PRODUCT NAME **********

**07121* DIMETHOGON 267 EC

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**** PRODUCT SEARCH LISTING ****

06/28/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING DIMETHOATE

REGISTRANT	*NAME AND ADDRESS*
* 037843	UNIVERSITY OF HAWAII-CC-CP EXTENSION SERV-ENTOMOLOGY BRANCH HONOLULU, HI 96822

********** PRODUCT NAME **********

**08582* DIMETHOATE (L)

REGISTRANT	*NAME AND ADDRESS*
* 03E655	N.Y.S. COLLEGE OF AGRICULTURE & LIFE SCIENCES CORNELL UNIV. ITHACA, NY 14853

********** PRODUCT NAME **********

**10422* NYS-DEWEY-DIMETHOATE (CYGON)

**1C437* NYS-DEWEY-DIMETHOATE-II

**10465* NYS-DEWEY-DIMETHOATE

UMI

**** PRODUCT SEARCH LISTING ****

06/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING DIMETHOATE

REGISTRANT *NAME AND ADDRESS*

* 000070 RIGO COMPANY, INC.
1200 FORT WAYNE NAT'L BANK BLDG.
FORT WAYNE, IN 46802

********** PRODUCT NAME **********

**00113* KILL-KO CYGON 2-E SYSTEMIC INSECTICIDE

REGISTRANT *NAME AND ADDRESS*

* 000134 HESS AND CLARK DIV OF RHODIA INC
ASHLAND OH 44805
ASHLAND, OH 44805

********** PRODUCT NAME **********

**00057* HESS & CLARK RESIDUAL FLY SPRAY 2 EC

REGISTRANT *NAME AND ADDRESS*

* 000146 THOMPSON-HAYWARD CHEMICAL COMPANY
BOX 2383
KANSAS CITY KS 66110

********** PRODUCT NAME **********

**000865* DE-FEND E-267 DIMETHOATE SYSTEMIC INSECTICIDE
**000870* DIMETHOATE TECHNICAL
**000877* DE FEND E-200 DIMETHOATE SYSTEMIC INSECTICIDE
**000883* DE-FEND K-25 INSECTICIDE
**011131* DE-FEND-70X

**** PRODUCT SEARCH LISTING ****

06/28/77

**CONTINUE REGISTRANT 000148

**012222* DE-FEND TECHNICAL

REGISTRANT *NAME AND ADDRESS*

* 000239 CHEVRON CHEMICAL COMPANY
ORTHO DIVISION 940 HENSLEY WAY
RICHMOND CA 94801

********** PRODUCT NAME **********

**023225* ORTHO CYGON 267 SYSTEMIC INSECTICIDE,

REGISTRANT *NAME AND ADDRESS*

* 000241 AMERICAN CYANAMID COMPANY
BOX 400
PRINCETON NJ 08540

********** PRODUCT NAME **********

**000075* CYGON* TECHNICAL INSECTICIDE (FOR MANUFACTURING PURPOSE ONLY)
**000082* CYGON 2-E INSECTICIDE
**000054* CYGON 267 SYSTEMIC INSECTICIDE
**000175* CYGON SYSTEMIC 25 INSECTICIDE
**000210* CYGON V FLY SPRAY
**000218* CYGON SC-9 SYSTEMIC INSECTICIDE
**000231* CYGON CONCENTRATE SYSTEMIC INSECTICIDE FOR FORMULATION OF CYGON
**000233* CYGON 400 SYSTEMIC INSECTICIDE

**** PRODUCT SEARCH LISTING ****

06/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING DIMETHOATE

REGISTRANT *NAME AND ADDRESS*

* 000279 FMC CORP.
AGRICULTURAL CHEM DIV.
100 NIAGARA ST.
MIDDLE PORT NY 14105

********** PRODUCT NAME **********

**02821* NIAGARA DIMETHOATE 267 SYSTEMIC INSECTICIDE

REGISTRANT *NAME AND ADDRESS*

* 000523 ROBERTS LAB DIV HOPKINS AGR CHEM
4995 N MAIN ST
ROCKFORD IL 61101

********** PRODUCT NAME **********

**00054* CYGON 2-E SYSTEMIC INSECTICIDE
**000079* FLYGON 2-E SYSTEMIC INSECTICIDE

REGISTRANT *NAME AND ADDRESS*

* 000538 SCOTT O M & SONS COMPANY
MARYSVILLE OH 43040

********** PRODUCT NAME **********

**00135* STOP INSECTS BEFORE THEY START

**** PRODUCT SEARCH LISTING ****

06/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING DIMETHOATE

REGISTRANT *NAME AND ADDRESS*

* 000572 ROCKLAND CHEMICAL CO. INC.
P.O. BOX 509
CALDWELL, NJ 07006

********** PRODUCT NAME **********

**00224* I.B.A. RESIDUAL FLY SPRAY 8

REGISTRANT *NAME AND ADDRESS*

* 000602 RALSTON PURINA COMPANY
CHECKERBOARD SQUARE
ST LOUIS MO 63188

********** PRODUCT NAME **********

**001107* CYGON PURINA 2-E SYSTEMIC INSECTICIDE

REGISTRANT *NAME AND ADDRESS*

* 000635 E-Z FLO CHEMICAL CO.
DIV. OF GROWER SERVICE CORP.
P.O. BOX 808
LANSING, MI 48901

********** PRODUCT NAME **********

**00666* E-Z FLO DIMETHOATE EC

UMI

**** PRODUCT SEARCH LISTING ****

05/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING DIMETHOATE

REGISTRANT *NAME AND ADDRESS*

* CCC655 PRENTISS DRUG & CHEMICAL COMPANY INC
363 7TH AVE
NEW YORK NY 10001

********** PRODUCT NAME **********

**00445* PRENTOX DIMETHOATE TECHNICAL

REGISTRANT *NAME AND ADDRESS*

* CCC9C4 PRATT & G
DIV GABRIEL CHEM LTD 204 21ST AVE
PATERSON NJ 07505

********** PRODUCT NAME **********

**00179* PRATT CYGON 2-E SYSTEMIC INSECTICIDE

REGISTRANT *NAME AND ADDRESS*

* 001C29 AIDEX CORPORATION
P.O. BOX 7348
OMAHA, NB 68107

********** PRODUCT NAME **********

**00004* VAP-O-ATE

**0C1C8* CIMEX 267 SYSTEMIC INSECTICICE

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**** PRODUCT SEARCH LISTING ****

06/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING DIMETHOATE

REGISTRANT *NAME AND ADDRESS*

* 0C1366 UNIVERSAL COOPERATIVES INC
PO BOX 836
ALLIANCE OH 44601

********** PRODUCT NAME **********

**0C4469* CYGON 2-E

**00585* UNICO CYGONA FLY SPRAY

REGISTRANT *NAME AND ADDRESS*

* CC2217 PBI-GORDON CORPORATION
300 SO 3RD ST
KANSAS CITY KS 66118

********** PRODUCT NAME **********

**00495* CYGON 2-E FLY SPRAY SYSTEMIC INSECTICIDE

REGISTRANT *NAME AND ADDRESS*

* CC2342 KERR-MCGEE CHEMICAL CORP
MGR PKG & LABELING
KERR-MCGEE CENTER
OKLAHOMA CITY OK 73102

********** PRODUCT NAME **********

**CC1158* GRC-TONE CYGON

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**** PRODUCT SEARCH LISTING ****

06/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING DIMETHOATE

REGISTRANT *NAME AND ADDRESS*

* 002724 ZOECON INDUSTRIES, INC.
12206 DENTON DRIVE
DALLAS, TX 75234

********** PRODUCT NAME **********

**00138* STARBAR CINCX EMULSIFIABLE CONCENTRATE

**00140* STARBAR GOLDEN MALRIN LIQUID EMULSIFIABLE CONC.

REGISTRANT *NAME AND ADDRESS*

* CC2749 ACETO CHEMICAL COMPANY INC
126-02 NORTHERN BLVD
FLUSHING NY 11368

********** PRODUCT NAME **********

**00041* DIMETHOGEN 267 EC

**CC042* DIMETHOGEN 2E

**00045* DIMETHOATE TECHNICAL

**00134* DIMETHOGEN 25% WETTABLE POWDER SYSTEMIC INSECTICIDE

REGISTRANT *NAME AND ADDRESS*

* 002935 WILBUR ELLIS CO.
P. O. BOX 1286
FRESNO, CA 93715

********** PRODUCT NAME **********

**CC390* RED-TOP DIMETHOATE 2.67 SPRAY

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**** PRODUCT SEARCH LISTING ****

06/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING DIMETHOATE

REGISTRANT *NAME AND ADDRESS*

* 0C4691 PHILLIPS ROXANE INC
2621 N BELT HIGHWAY
ST JOSEPH MO 64502

********** PRODUCT NAME **********

**CCC90* DIMETHOATE BARN & PREMISE SPRAY

REGISTRANT *NAME AND ADDRESS*

* 0C54E1 AMVAC CHEMICAL CORP
4100 EAST WASHINGTON BLVD
LOS ANGELES, CA 90023

********** PRODUCT NAME **********

**CCC54* ALCO CYGON 2 E

**00102* DURHAM DURAGON 2.67 SYSTEMIC INSECTICIDE

**C0133* DURHAM DURAGON 25 WP SYSTEMIC INSECTICIDE

REGISTRANT *NAME AND ADDRESS*

* 005802 HUB STATES CORPORATION
2002 NORTH ILLINOIS STREET
INDIANAPOLIS IN 46202

********** PRODUCT NAME **********

**CCCE1* HUB STATES CYGON 2E

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**** PRODUCT SEARCH LISTING ****

06/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING DIMETHOATE

REGISTRANT	*NAME AND ADDRESS*
* 005905	HELENA CHEMICAL CO CLARK TOWER, 5100 POPLAR AVE, SUITE 2904 MEMPHIS TN 38137

********** PRODUCT NAME **********

**002C7* CYBROM - E.C.

**00212* HELENA ANIMAL HEALTH CYGON 2-E SYSTEMIC INSECTICIDE

REGISTRANT	*NAME AND ADDRESS*
* CC7C01	OCCIDENTAL CHEMICAL CC P O BOX 198 LATHROP, CA 95330

********** PRODUCT NAME **********

**00187* DIMETHOATE 2.67 EC

REGISTRANT	*NAME AND ADDRESS*
* CC7173	CHEMPAR CHEMICAL COMPANY INC 260 MADISON AVE NEW YORK NY 10016

********** PRODUCT NAME **********

**00087* CHEMPAR DIMETHOATE TECHNICAL (FORM MANUFACTURING PURPOSES ONLY)

**00115* CHEMPAR DIMETHOATE 2.67 EC

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**** PRODUCT SEARCH LISTING ****

06/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING DIMETHOATE

REGISTRANT	*NAME AND ADDRESS*
* 007273	CROWN CHEMICAL INCORPORATED 4955 NORTH MAIN STREET ROCKFORD IL 61101

********** PRODUCT NAME **********

**C0055* CROWN CYGON 2-E SYSTEMIC INSECTICIDE

**C0140* FLYBAN 2-E

REGISTRANT	*NAME AND ADDRESS*
* CC7401	VOLUNTARY PURCHASING GROUP INC PO BOX 450 BONHAM TX 75418

********** PRODUCT NAME **********

**00057* FERTI-LOME SYSTEMIC EVERGREEN SPRAY

**CC106* FERTI-LOME SPIDER MITE SPRAY

REGISTRANT	*NAME AND ADDRESS*
* 007969	BASF WYANDOTTE CORPORATION PO BOX 181 100 CHERRY HILL RD PARSIPPANY NJ 07054

********** PRODUCT NAME **********

**C0030* REBELATE SYSTEMIC INSECTICIDE

**00032* PERFEKTHION MANUFACTURERS' CONCENTRATE

**CC038* REBELATE 2E DIMETHOATE SYSTEMIC INSECTICIDE

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**** PRODUCT SEARCH LISTING ****

06/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING DIMETHOATE

REGISTRANT	*NAME AND ADDRESS*
* 008590	AGWAY INC CHEMICAL DIV BOX 1333 SYRACUSE NY 13201

********** PRODUCT NAME **********

**CC200* CYGON 2-E SYSTEMIC INSECTICIDE

REGISTRANT	*NAME AND ADDRESS*
* 009319	CLSTCM CHEMICALS, INC 476 HESTER STREET SAN LEANDRO, CA 94577

********** PRODUCT NAME **********

**00010* DIMATE 267 DIMETHOATE SYSTEMIC INSECTICIDE

REGISTRANT	*NAME AND ADDRESS*
* CC5779	RIVERSIDE CHEM COMPANY P.O. BOX 171199 955 RIDGE LAKE BLVD MEMPHIS TN 38117

********** PRODUCT NAME **********

**0C206* RIVERSIDE DIMATE 2.67

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**** PRODUCT SEARCH LISTING ****

06/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING DIMETHOATE

REGISTRANT	*NAME AND ADDRESS*
* 01C162	GOWAN COMPANY P.O. BOX 5696 YUMA, AZ 85364

********** PRODUCT NAME **********

**00055* PROKIL METHOATE W-25 INSECTICIDE

**0C056* PROKIL DIMETHOATE E-267

REGISTRANT	*NAME AND ADDRESS*
* 011EE5	CENTRAL SOYA COMPANY INC 1300 FORT WAYNE BANK BLDG FT WAYNE IN 46802

********** PRODUCT NAME **********

**0CC02* MASTER MIX CYGON 2-E

REGISTRANT	*NAME AND ADDRESS*
* 013801	REGISTRATION CONSULTING ASSOC. C/O CHARLES C. YEAGER 9 WEST KNOLL ROAD ANDOVER, MA 01810

********** PRODUCT NAME **********

**CCC01* DIMETHOATE TECHNICAL

18

**** PRODUCT SEARCH LISTING ****

06/28/77 FEDERALLY REGISTERED PRODUCTS CONTAINING DIMETHOATE

REGISTRANT *NAME AND ADDRESS*

* 022660 I PI CI S P A
VIA FRATTELLI BELTRAMI 11
NOVATE MILANESE, ITALY 00000

********** PRODUCT NAME **********

**000129 DIPETHOATE TECHNICAL

REGISTRANT *NAME AND ADDRESS*

* 026780 UNITED FARMERS BUYING SERVICE, INC.
ROUTE 1
DEFOREST, WI 53532

********** PRODUCT NAME **********

**000064 CIMETHOATE 267 E.C. SYSTEMIC INSECTICIDE

[FR Doc.77-26195 Filed 9-9-77;8:45 am]

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PART VII

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OFFICE OF MANAGEMENT AND BUDGET

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UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS-IN-AID TO STATE AND LOCAL GOVERNMENTS

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OFFICE OF MANAGEMENT AND BUDGET

[Circular No A 102 Revised]

UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS-IN-AID TO STATE AND LOCAL GOVERNMENTS

AUGUST 24, 1977

1. *Purpose.* This Circular promulgates standards for establishing consistency and uniformity among Federal agencies in the administration of grants to State, local, and federally recognized Indian tribal governments. Also included in the Circular are standards to insure the consistent implementation of sections 202, 203, and 204 of the Integrovemental Cooperation Act of 1968 (82 Stat. 1101).

2. *Supersession.* The President by Executive Order 11717 transferred the functions covered by OMB Circular No. A–102 dated October 19, 1971, from the Office of Management and Budget to the General Services Administration. OMB Circular No. A–102 was revised and issued as Federal Management Circular 74–7 dated September 13, 1974. On December 31, 1975, the President superseded this order by Executive Order 11893 and transferred the functions covered by this Circular back to the Office of Management and Budget. FMC 74–7 is revised and reissued under its original designation of OMB Circular No. A–102.

3. *Summary of significant changes.* The revised Circular contains changes that bring it into general agreement with the more recent Circular A–110 which covers grants to universities, hospitals, and nonprofit organizations.

The more significant changes include.

(a) An amendment to the basic Circular to make it clear that the provisions of the attachments shall be applied to subgrantees except where they are specifically excluded.

(b) A provision that Federal agencies may accept the bonding policies and requirements of the grantee for construction contracts over $100,000 provided that the Government's interest is adequately protected.

(c) A revision to the criterion for the valuation of donated real and personal property to provide that the value of such property shall be based on fair market value. The original Circular provided that property should be based on the cost of the property less depreciation or fair market value, whichever was less.

(d) A provision that grantee audits should be made in accordance with generally accepted auditing standards, including Standards for Audit of Governmental Organizations, Programs, Activities and Functions, published by the General Accounting Office.

(e) A provision to require Federal agencies to pay within 30 days after the receipt of billing when the reimbursement method is used.

(f) A revision to the criterion for issuance of a letter of credit from $250,000 to $120,000.

(g) Deletion of the requirements for grantees to obtain prior approvals for budget revisions to grants under $100,000.

(h) Provision that title to real property funded partly or wholly by the Federal Government shall vest in the recipient.

(i) A revision to the criteria governing when a grantee may keep nonexpendable property without reimbursement to the Federal Government when it is no longer needed for any Federal program.

4 *Background* The standards included in the attachments to this Circular replace the multitude of varying and oftentimes conflicting requirements in the same subject matter which have been burdensome to the State and local governments. Inherent in this standardization process is the concept of placing greater reliance on State and local governments. In addition, the Intergovernmental Cooperation Act of 1968 was passed, in part, for the purposes of: (a) Achieving the fullest cooperation and coordination of activities among levels of government, (b) improving the administration of grants-in-aid to the States, and (c) establishing coordinated intergovernmental policy and administration of Federal assistance program. This Act provided certain basic policies pertaining to administrative requirements to be imposed upon the States as a condition to receiving Federal grants. The implementing instructions of these policies were initially issued in Circular A–96. These instructions are modified herein in the interest of achieving further consistency in implementing that Act.

5 *Applicable provisions of the Intergovernmental Cooperation Act of 1968.* Federal agencies shall continue to follow the provisions of the Act, quoted below:

DEPOSIT OF GRANTS-IN-AID

Sec 202 No grant-in-aid to a State shall be required by Federal law or administrative regulation to be deposited in a separate bank account apart from other funds administered by the State All Federal grant-in-aid funds made available to the States shall be properly accounted for as Federal funds in the accounts of the State In each case the State agency concerned shall render regular authenticated reports to the appropriate Federal agency covering the status and the application of the funds, the liabilities and obligations on hand, and such other facts as may be required by said Federal agency The head of the Federal agency and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to the grant-in-aid received by the States.

SCHEDULING OF FEDERAL TRANSFERS TO THE STATES

Sec 203 Heads of Federal departments and agencies responsible for administering grant-in-aid programs shall schedule the transfer of grant-in-aid funds consistent with program purposes and applicable Treasury regulations, so as to minimize the time elapsing between the transfer of such funds from the United States Treasury and the disbursement thereof by a State, whether such disbursement occurs prior to or subsequent to such transfer of funds (Sic) States shall not be held accountable for interest earned on grant-in-aid funds, pending their disbursement for program purposes

ELIGIBLE STATE AGENCY

Sec 204 Notwithstanding any other Federal law which provides that a single State agency or multimember board or commission must be established or designated to administer or supervise the administration of any grant-in-aid program, the head of any Federal department or agency administering such program may upon request of the Governor or other appropriate executive or legislative authority of the State responsible for determining or revising the organizational structure of State government, waive the single State agency or multimember board or commission provision upon adequate showing that such provision prevents the establishment of the most effective and efficient organizational arrangements within the State government and approve other State administrative structure or arrangements *Provided*, That the head of the Federal department or agency determines that the objectives of the Federal statute authorizing the grant-in-aid program will not be endangered by the use of such other State structure or arrangements

Some of the above provisions require implementing instructions and they are provided in several of the attachments to this Circular which deal with the specific subject matter

6 *Applicability and scope.* The standards promulgated by this Circular apply to all Federal agencies responsible for administering programs that involve grants to State and local governments and federally recognized Indian tribal governments However, agencies are encouraged to apply the standards to loan and loan guarantee programs to the extent practicable If the enabling legislation for a specific grant program prescribes policies or requirements that differ from the standards provided herein, the provisions of the enabling legislation shall govern. Except where they are specifically excluded, the provisions of the attachments of this Circular shall be applied to subgrantees performing substantive work under grants that are passed through or awarded by the primary grantee if such subgrantees are States, local governments or federally recognized Indian tribal governments as defined in paragraph 7

7 *Definitions* For the purposes of this Circular:

(a) The term "grant" or "grant-in-aid" means money, or property in lieu of money, paid or furnished by the Federal Government to a State, local, or federally recognized Indian tribal government under programs that provide financial assistance through grant or contractual arrangements. The term does not include technical assistance programs which provide services instead of money or other assistance in the form of general revenue sharing, loans, loan guarantees, insurance, or contracts which are entered into and administered under procurement laws and regulations.

(b) The term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of State institutions of higher education and hospitals.

(c) The term "local government" means a local unit of government including specifically a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments, sponsor group representative organization (as defined in 7 CFR 620.2, 40 FR 12472, March 19, 1975) and other regional or interstate government entity, or any agency or instrumentality of a local government exclusive of institutions of higher education and hospitals.

(d) The term "federally recognized Indian tribal government" means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in Section 3 of the Alaska Native Claims Settlement Act, 85 Stat. 688) certified by the Secretary of the Interior as eligible for the special programs and services provided by him through the Bureau of Indian Affairs.

8. *Attachments.* The standards promulgated by this Circular are set forth in the attachments, which are:

Attachment A—Cash depositories.
Attachment B—Bonding and insurance.
Attachment C—Retention and custodial requirements for records.
Attachment D—Waiver of "single" State agency requirements.
Attachment E—Program income.
Attachment F—Matching share.
Attachment G—Standards for grantee financial management systems.
Attachment H—Financial reporting requirements.
Attachment I—Monitoring and reporting program performance.
Attachment J—Grant payment requirements.
Attachment K—Budget revision procedures.
Attachment L—Grant closeout procedures.
Attachment M—Standard forms for applying for Federal assistance.
Attachment N—Property management standards.
Attachment O—Procurement standards.

9. *Requests for exceptions.* The Office Management and Budget may grant exceptions from the requirements of this Circular when permissible under existing laws. However, in the interest of keeping uniformity to the maximum extent, deviations from the requirements of this Circular will be permitted only in exceptional cases.

10. *Exceptions for certain recipients.* Notwithstanding the provisions of paragraph 9 if an applicant/recipient has a history of poor performance, is not financially stable, or its management system does not meet the standards prescribed in the Circular, Federal agencies may impose additional requirements as needed provided that such applicant/recipient is notified in writing as to:

(a) Why the additional standards are being imposed;

(b) What corrective action is needed.

Copies of such notifications shall be sent to the Office of Management and Budget and other agencies funding that recipient at the same time the recipient is notified.

11. *Responsibilities.* Agencies responsible for administering programs that involve grants to State and local governments shall issue the appropriate regulations necessary to implement the provisions of this Circular. All portions of such regulations that involve recordkeeping and/or reporting requirements subject to the provisions of the Federal Reports Act and OMB Circular A–40 must be submitted to OMB for clearance before being used. Upon request all regulations and instructions implementing this Circular shall be furnished to the Office of Management and Budget. Agencies shall also designate an official to serve as the agency representative on matters relating to the implementation of this Circular. If the name and title were previously transmitted, notification to the Office of Management and Budget is required only when there is a change in the designated representative.

12. *Inquiries.* Further information concerning this Circular may be obtained by contacting the Financial Management Branch, Budget Review Division, Office of Management and Budget, Washington, D.C. 20503, telephone 395–4773.

BERT LANCE,
Director.

ATTACHMENT A—CIRCULAR NO. A–102

CASH DEPOSITORIES

1. This attachment sets forth standards governing the use of banks and other institutions as depositories of funds advanced under grants.

2. Except for situations described in paragraphs 3, 4, and 5, no grantor agency shall:

(a) Require physical segregation of cash depositories for funds which are provided to a grantee.

(b) Establish any eligibility requirements for cash depositories for funds which are provided to a grantee.

3. A separate bank account shall be required when applicable letter-of-credit agreements provide that drawdowns will be made when the grantee's checks are presented to the bank for payment.

4. Any moneys advanced to a grantee which are subject to the control or regulation of the United States or any of its officers, agents or employees (public moneys as defined in Treasury Circular No. 176, as amended) must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage and the balance exceeding the FDIC coverage must be collaterally secured.

5. Consistent with the national goal of expanding the opportunities for minority business enterprises, grantees and subgrantees shall be encouraged to use minority banks (a bank which is owned at least 50 percent by minority group members). A list of minority owned banks can be obtained from the Office of Minority Business Enterprise, Department of Commerce, Washington, D.C. 20230.

ATTACHMENT B—CIRCULAR NO. A–102

BONDING AND INSURANCE

1. This attachment sets forth bonding and insurance requirements for grants. No other bonding and insurance requirements shall be imposed other than those normally required by the grantee.

2. Except as otherwise required by law, a grant that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the grantee to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds $100,000. For those contracts or subcontracts exceeding $100,000, the Federal agency may accept the bonding policy and requirements of the grantee provided the Federal agency has made a determination that the Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(a) *A bid guarantee from each bidder equivalent to five percent of the bid price.* The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(b) *A performance bond on the part of the contractor for 100 percent of the contract price.* A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(c) *A payment bond on the part of the contractor for 100 percent of the contract price.* A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

3. Where the Federal Government guarantees or insures the repayment of money borrowed by the grantee, the Federal agency, as its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the grantee are not deemed adequate to protect the interest of the Federal Government.

4. Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties (31 CFR 223).

ATTACHMENT C—CIRCULAR NO. A–102

RETENTION AND CUSTODIAL REQUIREMENTS FOR RECORDS

1. This attachment sets forth record retention requirements for grants. Federal grantor agencies shall not impose any record retention requirements upon grantees other than those described below.

2. Financial records, supporting documents, statistical records, and all other records pertinent to a grant shall be re-

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tained for a period of three years, with the following qualifications:

a. If any litigation, claim or audit is started before the expiration of the 3-year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.

b. Records for nonexpendable property acquired with Federal funds shall be retained for 3 years after its final disposition.

c. When records are transferred to or maintained by the Federal sponsoring agency, the 3-year retention requirement is not applicable to the grantee.

3. The retention period starts from the date of the submission of the final expenditure report or, for grants that are renewed annually, from the date of the submission of the annual financial status report.

4. Grantees should be authorized by the Federal grantor agency, if they so desire, to substitute microfilm copies in lieu of original records.

5. The Federal grantor agency shall request transfer of certain records to its custody from grantees when it determines that the records posses long-term retention value. However, in order to avoid duplicate recordkeeping, a Federal grantor agency may make arrangements with grantees to retain any records that are continuously needed for joint use.

6. The head of the Federal grantor agency and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of grantees and subgrantees to make audits, examinations, excerpts and transcripts.

7. Unless otherwise required by law, no Federal grantor agency shall place restrictions on grantees that will limit public access to the records of grantees that are pertinent to a grant except when the agency can demonstrate that such records must be kept confidential and would have been excepted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to the grantor agency.

ATTACHMENT D—CIRCULAR NO. A–102

WAIVER OF "SINGLE" STATE AGENCY REQUIREMENTS

1. Requests to Federal grantor agencies from the Governors, or other duly constituted State authorities, for waiver of the "single" State agency requirements in accordance with section 204 of the Intergovernmental Cooperation Act of 1968 should be given expeditious handling and, whenever possible, an affirmative response should be made to such requests.

2. When it is necessary to refuse a request for waiver of the "single" State agency requirements under section 204, the Federal grantor agency handling such request will so advise the Office of Management and Budget prior to informing the State that the request cannot be granted. Such advice should indicate the reasons for the denial of the request.

3. Future legislative proposals embracing grant-in-aid programs should avoid inclusion of proposals for "single" State agencies in the absence of compelling reasons to do otherwise. In addition, existing "single" State agency requirements in present grant-in-aid programs should be reviewed and legislative proposals should be developed for the removal of these restrictive provisions.

ATTACHMENT E—CIRCULAR NO. A–102

PROGRAM INCOME

1. Federal grantor agencies shall apply the standards set forth in this Attachment in requiring grantees to account for program income related to projects financed in whole or in part with Federal grant funds. Program income means gross income earned by the grantee from grant-supported activities. Such earnings exclude interest earned on advances and may include, but will not be limited to, income from service fees, sale of commodities, usage or rental fees, and royalties on patents and copyrights.

2. Interest earned on advances of Federal funds shall be remitted to the Federal agency except for interest earned on advances to States or instrumentalities of a State as provided by the Intergovernmental Cooperation Act of 1968 (Pub. L. 90–577) and advances made to tribal organizations pursuant to section 102, 103, or 104 of the Indian Self Determination Act (Pub L. 93–638).

3. Proceeds from the sale of real and personal property, either provided by the Federal Government or purchased in whole or in part with Federal funds, shall be handled in accordance with Attachment N to this Circular pertaining to Property Management.

4. Unless the grant agrement provides otherwise, grantees shall have no obligation to the Federal Government with respect to royalties received as a result of copyrights or patents produced under the grant or other agreement. (See paragraph 7, Attachment N.)

5. All other program income earned during the grant period shall be retained by the grantee and, in accordance with the grant agreement, shall be:

(a) Added to funds committed to the project by the grantor and grantee and be used to further eligible program objectives.

(b) Used to finance the non-Federal share of the project when approved by the Federal Sponsoring agency; or

(c) Deducted from the total project costs for the purpose of determining the net costs on which the Federal share of costs will be based.

6. Federal grantor agencies shall require the grantees to record the receipt and expenditure of revenues (such as taxes, special assessments, levies, fines, etc.) as a part of grant project transactions when such revenues are specifically earmarked for a grant project in accordance with grant agreements.

ATTACHMENT F—CIRCULAR NO. A–102

MATCHING SHARE

1. This Attachment sets forth criteria and procedures for the allowability of cash and in-kind contributions made by grantees, subgrantees or third parties in satisfying cost sharing and matching requirements of Federal grantor agencies.

2. The following definitions apply for the purpose of this Attachment:

(a) *Project costs.* Project costs are all allowable costs as set forth in Federal Management Circular No. 74–4 incurred by a grantee and the value of the in-kind contribution made by the grantee or third parties in accomplishing the objectives of the grant during the project or program period.

(b) *Cost sharing and matching.* In general, cost sharing and matching represents that portion of project costs not borne by the Federal Government. Usally, a minimum percentage for matching share is prescribed by program legislation, and matching share requirements are included in the grant agreements.

(c) *Cash contributions.* Cash contributions represent the grantee's cash outlay, including the outlay of money contributed to the grantee by other public agencies and institutions, and private organizations and individuals. When authorized by Federal legislation, Federal funds received from other grants may be considered as grantees' cash contributions.

(d) *In-kind contributions.* In-kind contributions represent the value of noncash contributions provided by the grantee, and non-Federal parties. Only when authorized by Federal legislation may property purchased with Federal funds be considered as the grantee's in-kind contributions. In-kind contributions may be in the form of charges for real property and nonexpendable personal property and the value of goods and services directly benefiting and specifically identifiable to the project or program.

3. General guidelines for computing cost sharing or matching are as follows:

(a) Cost sharing or matching share may consist of:

(1) Charges incurred by the grantee as project costs. (Not all charges require cash outlays during the grant period by the grantee; examples are depreciation and use charges for buildings and equipment.)

(2) Project costs financed with cash contributed or donated to the grantee by other non-Federal public agencies and institutions, and private organizations and individuals.

(3) Project costs represented by services and real or personal property, or use thereof, donated by other public agencies and institutions, and private organizations and individuals.

(b) All contributions, both cash and in-kind, shall be accepted as part of the grantee's matching share when such contributions meet all of the following criteria:

(1) Are verifiable from the grantee's records;

(2) Are not included as contributions for any other federally-assisted program;

(3) Are necessary and reasonable for proper and efficient accomplishment of project objectives;

(4) Are types of charges that would be allowable under FMC 74–4.

(5) Are not paid by the Federal Government under another assistance agreement unless authorized under the other agreement and the laws and regulations it is subject to.

(6) Are provided for in the approved budget when required by the Federal agency; and

(7) Conform to other provisions of this Attachment.

4. Values for grantee in-kind contributions will be established at the grantee's actual cost in accordance with FMC 74–4.

5. Specific procedures for the grantees in establishing the value of in-kind contributions from non-Federal third parties are set forth below:

(a) *Valuation of volunteer services.* Volunteer services may be furnished by professional and technical personnel, consultants, and other skilled and unskilled labor. Volunteered service may be counted as cost sharing or matching if the service is an integral and necessary part of an approved program.

(1) *Rates for volunteer services.* Rates for volunteers should be consistent with those paid for similar work in other activities of the State or local government. In those instances in which the required skills are not found in the grantee organization, rates should be consistent with those paid for similar work in the labor market in which the grantee competes for the kind of services involved.

(2) *Volunteers employed by other organizations.* When an employer other than the grantee furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (exclusive of fringe benefits and overhead cost) provided these services are in the same skill for which the employee is normally paid.

(b) *Valuation of donated expendable personal property.* Donated expendable personal property includes such items as expendable equipment, office supplies, laboratory supplies, or workshop and classroom supplies. Values assessed to expendable personal property included in the cost or matching share should be reasonable and should not exceed the fair market value of the property at the time of the donation.

(c) *Valuation of donated nonexpendable personal property, buildings and land or use thereof.*

(1) The method used for charging matching share for donated nonexpendable personal property, buildings, and land may differ depending upon the purpose of the grant as follows:

(a) If the purpose of the grant is to furnish equipment, buildings, or land to the grantee or otherwise provided a facility, the total value of the donated property may be claimed as a matching share.

(b) If the purpose of the grant is to support activities that require the use of equipment, buildings, or land on a temporary or part-time basis, depreciation or use charges for equipment and buildings may be made. The full value of equipment or other capital assets and fair rental charges for land may be made provided that the grantor agency has approved the charges.

(2) The value of donated property will be determined in accordance with the usual accounting policies of the grantee with the following qualifications:

(a) *Land and buildings.* The value of donated land and buildings may not exceed its fair market value, at the time of donation to the grantee as established by an independent appraiser (e.g., certified real property appraiser or GSA representatives) and certified by a responsible official of the grantee.

(b) *Nonexpendable personal property.* The value of donated nonexpendable personal property shall not exceed the fair market value of equipment and property of the same age and condition at the time of donation.

(c) *Use of space.* The value of donated space shall not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately owned building in the same locality.

(d) *Loaned equipment.* The value of loaned equipment shall not exceed its fair rental value.

6. The following requirements pertain to the grantee's supporting records for in-kind contributions from non-Federal third parties.

(a) Volunteer services must be documented and, to the extent feasible, supported by the same methods used by the grantee for its employees.

(b) The basis for determining the valuation for personal services, material, equipment, buildings, and land must be documented.

ATTACHMENT G—CIRCULAR NO. A–102

STANDARDS FOR GRANTEE FINANCIAL MANAGEMENT SYSTEMS

1. This Attachment prescribes standards for financial management systems of grant-supported activities of State, local, and federally recognized Indian tribal governments. Federal grantor agencies shall not impose additional standards on grantees unless specifically provided for in other Attachments to this Circular. However, grantor agencies are encouraged to make suggestions and assist the grantees in establishing or improving financial management systems when such assistance is needed or requested.

2. Grantee financial management systems shall provide for:

(a) Accurate, current, and complete disclosure of the financial results of each grant program in accordance with reporting requirements set forth in Attachment H to this Circular. When a Federal grantor agency requires reporting on an accrual basis, the grantee shall not be required to establish an accrual accounting system but shall develop such accrual data on its reports on the basis of an analysis of the documentation on hand.

(b) Records that identify adequately the source and application of funds for grant-supported activities. These records shall contain information pertaining to Federal awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

(c) Effective control over and accountability for all funds, property, and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

(d) Comparison of actual outlays with budgeted amounts for each grant. Also, relation of financial information with performance or productivity data, including the production of unit cost information whenever appropriate and required by the grantor agency.

(e) Procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the grantee, whenever funds are advanced by the Federal Government. When advances are made by a letter-of-credit method, the grantee shall make drawdowns from the U.S. Treasury as close as possible to the time of making the disbursements. Advances made by primary recipient organizations (those which receive payments directly from the Federal Government) to secondary recipients shall conform substantially to the same standards of timing and amount as apply to advances by Federal agencies to primary recipient organizations.

(f) Procedures for determining reasonableness, allowability and allocability of costs in accordance with the provisions of Federal Maangement Circular 74–4.

(g) Accounting records that are supported by source documentation.

(h) Examinations in the form of audits or internal audits. Such audits shall be made by qualified individuals who are sufficiently independent of those who authorize the expenditure of Federal funds, to produce unbiased opinions, conclusions, or judgments. These examinations are intended to ascertain the effectiveness of the financial management systems and internal procedures that have been established to meet the terms and conditions of the grant. They should be made in accordance with generally accepted auditing standards including the standards published by the General Accounting Office, Standards for Audit of Governmental Organizations, Programs, Activities, and Functions. It is not intended that each grant awarded to the recipient be examined. Generally, examinations should be conducted on an organization-wide basis to test the fiscal integrity of financial transactions, as well as compliance with the terms and conditions of the Federal grants. Such tests would include an appropriate sampling of Federal grants. Examinations will be conducted with reasonable frequency, on a continuing basis or at scheduled intervals, usually annually, but not less frequently than every two years. The frequency of these examinations shall depend upon the na-

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ture, size, and the complexity of the activity. These examinations do not relieve Federal agencies of their audit responsibilities, but may affect the frequency and scope of such audits.

(i) A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

3. Primary grantees shall require subgrantees to adopt the standards in paragraph 2, above, except for the requirement in subparagraph 2(a), regarding reporting forms and frequencies prescribed in Attachment H to this Circular.

ATTACHMENT H—CIRCULAR No. A-102

FINANCIAL REPORTING REQUIREMENTS

1. This Attachment prescribes uniform reporting procedures for grantees to: summarize expenditures made and Federal funds unexpended for each award, report the status of Federal cash advanced, request advances and reimbursement when the letter-of-credit method is not used; and promulgates standard forms incident thereto. Grantees when obtaining financial information required by Federal agencies from subgrantees are not required to use the forms contained in this Attachment.

2. The following definitions apply for purposes of this Attachment:

(a) *Accrued expenditures.* Accrued expenditures are the charges incurred by the grantee during a given period requiring the provision of funds for: (1) goods and other tangible property received; (2) services performed by employees, contractors, subgrantees, and other payees; and (3) other amounts becoming owed under programs for which no current services or performance is required such as annuities, insurance claims, and other benefit payments.

(b) *Accrued income.* Accrued income is the sum of (1) earnings during a given period from (i) services performed by the grantee; and (ii) goods and other tangible property delivered to purchasers; and (2) amounts becoming owed to the grantee for which no current services or performance is required by the grantee.

(c) *Federal funds authorized.* Federal funds authorized are the total amount of Federal funds obligated by the Federal Government for use by the grantee. This amount may include any authorized carryover of unobligated funds from prior fiscal years when permitted by law or agency regulation.

(d) *In-kind contributions.* In-kind contributions are defined in Attachment F to this Circular.

(e) *Obligations.* Obligations are the amounts of orders placed, contracts and grants awarded, services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.

(f) *Outlays.* Outlays or expenditures represent charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expense charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to subgrantees. For reports prepared on an accrual basis, outlays are the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the grantee for goods and other property received, for services performed by employees, contractors, subgrantees and other payees and other amounts becoming owed under programs for which no current services or performance are required such as annuities, insurance claims, and other benefit payments.

(g) *Program income.* Program income is defined in Attachment E of this Circular. It may be reported on a cash or accrual basis, whichever is used for reporting outlays.

(h) *Unobligated balance.* The unobligated balance is the portion of the funds authorized by the Federal agency that has not been obligated by the grantee and is determined by deducting the cumulative obligations from the cumulative funds authorized.

(i) *Unliquidated obligations.* For reports prepared on a cash basis, unliquidated obligations represent the amount of obligations incurred by the grantee that has not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the grantee for which an outlay has not been recorded.

3. Only the following forms will be authorized for obtaining financial information from grantees.

(a) *Financial Status Report (Exhibit 1).* (1) Each Federal agency shall require grantees to use the standardized Financial Status Report to report the status of funds for all nonconstruction projects or programs. The Federal agencies may, however, have the option of not requiring the Financial Status Report when the Request for Advance or Reimbursement (paragraph 4(a)) or Report of Federal Cash Transactions (paragraph 3(b)) is determined to provide adequate information to meet their needs, except that a final Financial Status Report shall be required at the completion of the project when the Request for Advance or Reimbursement form is used only for advances.

(2) The Federal agency shall prescribe whether the report shall be on a cash or accrual basis. If the Federal agency requires accrual information and the grantee's accounting records are not normally kept on the accrual basis, the grantee shall not be required to convert its accounting system, but shall develop such accrual information through an analysis of the documentation on hand.

(3) The Federal agency shall determine the frequency of the Financial Status Report for each project or program considering the size and complexity of the particular project or program. However, the report shall not be required more frequently than quarterly or less frequently than annually except as provided in subparagraph 3(a)(1) above. A final report shall be required at the completion of the grant.

(4) Federal agencies shall require grantees to submit the Financial Status Report (original and no more than two copies) no later than 30 days after the end of each specified reporting period for quarterly and semi-annual reports, and 90 days for annual and final reports. Extensions to reporting due dates may be granted upon request of the recipient.

(b) *Report of Federal Cash Transactions (Exhibit 2).* (1) When funds are advanced to grantees through letters of credit or with direct Treasury checks, the Federal agencies shall require each grantee to submit a Report of Federal Cash Transactions. The Federal agencies shall use this report to assist them in monitoring advances to grantees and to obtain disbursement information for each agreement from the grantee. Grantees under the Regional Disbursing Office (RDO) system shall not be required to submit a Report of Federal Cash Transactions. For these grantees Federal agencies shall use information contained in the Request for Payment to monitor grantee cash balances and to get disbursement information.

(2) Federal agencies may require forecasts of Federal cash requirements in the "Remarks" section of the report.

(3) When practical and deemed necessary, the Federal agencies may require grantees to report in the "Remarks" section the amount of excess cash advances in the hands of subgrantees and to provide short narrative explanations of actions taken by the grantees to reduce the excess balances.

(4) Grantees shall be required to submit not more than the original and two copies of the Report of Federal Cash Transactions 15 working days following the end of each quarter. The Federal agencies may require a monthly report from those grantees receiving advances totaling $1 million or more per year.

(5) Federal agencies may waive the requirement for submission of the Report of Federal Cash Transactions when monthly advances do not exceed $10,000 per grantee, provided that such advances are monitored through other forms contained in this Attachment, or if, in the Federal agency's opinion, the grantee's accounting controls are adequate to minimize excessive Federal advances.

4. Except as noted below, only the following forms will be authorized for grantees in requesting advances and reimbursements.

(a) *Request for Advance or Reimbursement (Exhibit 3).* (1) Each Federal agency shall adopt the Request for Advance or Reimbursement as a standardized form for all nonconstruction programs when letters-of-credit or predetermined advance methods are not used. Federal agencies, however, have the option of using this form for construction programs in lieu of the Outlay Report and Request for Reimbursement for Construction Programs (subparagraph 4(b)).

(2) Grantees shall be authorized to submit requests for advances and reimbursements at least monthly when letters-of-credit are not used. Federal agencies shall not require the submission of more than the original and two copies of the Request for Advance or Reimbursement.

(b) *Outlay report and request for reimbursement for construction programs (Exhibit 4).* (1) Each Federal agency shall adopt the Outlay Report and Request for Reimbursement for Construction Programs as the standardized format to be used for requesting reimbursement for construction programs. The Federal agencies may, however, have the option of substituting the Request for Advance or Reimbursement Form (subparagraph 4(a)) when the Federal agencies determine that it provides adequate information to meet their needs.

(2) Grantees shall be authorized to submit requests for reimbursement at least monthly when letters-of-credit are not used Federal agencies shall not require more than the original and two copies of the Outlay Report and Request for Reimbursement for Construction Programs.

5. When the Federal agencies need additional information in using these forms or more frequent reports, the following shall be observed:

(a) When additional information is needed to comply with legislative requirements, Federal agencies shall issue instructions to require grantees to submit such information under the "Remarks" section of the reports.

(b) When a Federal agency has determined that a grantee's accounting system does not meet the standards for financial management contained in Attachment G to this Circular, additional pertinent information to further monitor grants and other agreements may be obtained upon written notice to the grantee until such time as the system is brought up to standard.

(c) The Federal agency, in obtaining information as in paragraphs a and b above, must comply with reports clearance requirements of the Office of Management and Budget Circular No. A-40, as revised.

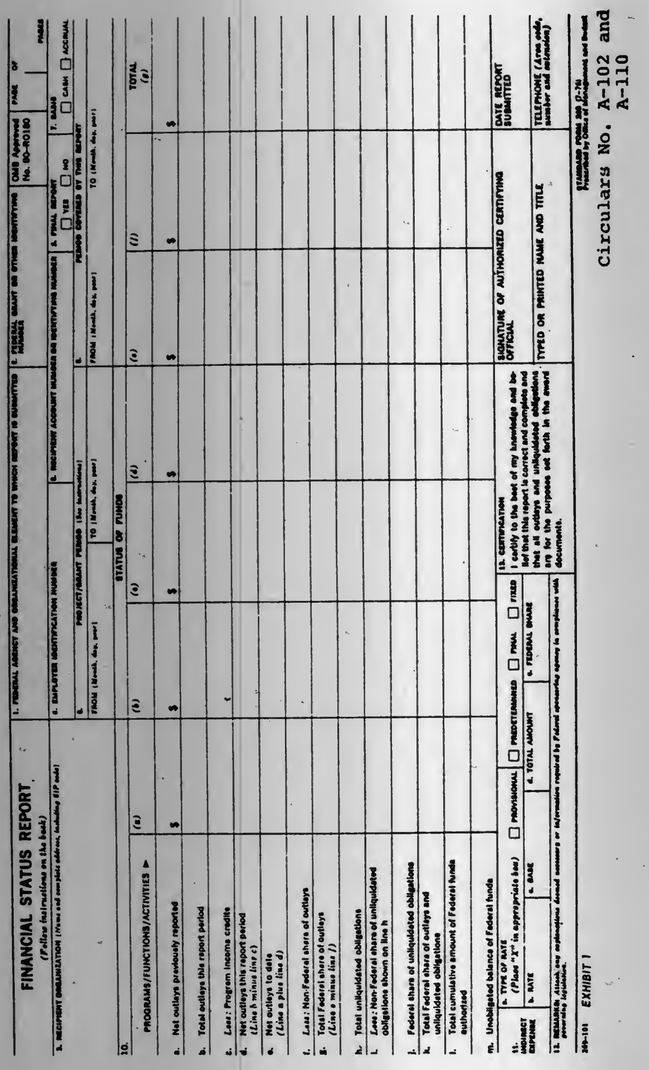
6. Federal agencies have the option of shading out any line item on any report that is unnecessary for decision-making purposes.

7. Federal agencies should accept the identical information from the grantees in machine usable format or computer printouts in lieu of prescribed formats.

8. Federal agencies may provide computer outputs to grantees when it will expedite or contribute to the accuracy of reporting.

9. The standard forms can be obtained from the General Services Administration.

V 42 176 SEP 12 77 UMI



FINANCIAL STATUS REPORT
(Follow instructions on the back)

1. FEDERAL AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH REPORT IS SUBMITTED
2. RECIPIENT ORGANIZATION (Name and complete address, including ZIP code)
3. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER
4. EMPLOYER IDENTIFICATION NUMBER
5. RECIPIENT ACCOUNT NUMBER OR IDENTIFYING NUMBER
6. FINAL REPORT ☐ YES ☐ NO
7. BASIS ☐ CASH ☐ ACCRUAL
8. PROJECT/GRANT PERIOD (See instructions) FROM (Month, day, year) TO (Month, day, year)
9. PERIOD COVERED BY THIS REPORT FROM (Month, day, year) TO (Month, day, year)
OMB Approval No. 80-R0180
PAGE OF PAGES

10. PROGRAMS/FUNCTIONS/ACTIVITIES ▶	(a)	(b)	(c)	(d)	(e)	(f)	TOTAL (g)
	STATUS OF FUNDS						
a. Net outlays previously reported	$	$	$	$	$	$	$
b. Total outlays this report period							
c. Less: Program income credits			(				
d. Net outlays to date (Line a plus line d)							
e. Less: Non-Federal share of outlays							
f. Total Federal share of outlays (Line e minus line f)							
g. Total unliquidated obligations							
h. Less: Non-Federal share of unliquidated obligations shown on line h							
i. Federal share of unliquidated obligations							
j. Total Federal share of outlays and unliquidated obligations							
k. Total cumulative amount of Federal funds authorized							
m. Unobligated balance of Federal funds							

12a. TYPE OF RATE (Place "X" in appropriate box) ☐ PROVISIONAL ☐ PREDETERMINED ☐ FINAL ☐ FIXED

11. INDIRECT EXPENSE	b. RATE	c. BASE	d. TOTAL AMOUNT	e. FEDERAL SHARE

12. REMARKS (Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation.

13. CERTIFICATION
I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL
DATE REPORT SUBMITTED
TYPED OR PRINTED NAME AND TITLE
TELEPHONE (Area code, number and extension)

FURNISH FOR AUDIT AS REQUIRED BY OMB Circulars A-102 and A-110

269-101 EXHIBIT 1

Circulars No. A-102 and A-110

INSTRUCTIONS

Please type or print legibly. Items 1, 2, 3, 6, 7, 9, 10d, 10e, 10g, 10i, 10l, 11a, and 12 are self-explanatory, specific instructions for other items are as follows:

Item	Entry
4	Enter the employer identification number assigned by the U.S. Internal Revenue Service or FICE (Institution) code, if required by the Federal sponsoring agency.
5	This space is reserved for an account number or other identifying numbers that may be assigned by the recipient.
8	Enter the month, day, and year of the beginning and ending of this project period. For formula grants that are not awarded on a project basis, show the grant period.
10	The purpose of vertical columns (a) through (f) is to provide financial data for each program, function, and activity in the budget as approved by the Federal sponsoring agency. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the totals of all programs, functions or activities should be shown in column (g) of the first page. For agreements pertaining to several Catalog of Federal Domestic Assistance programs that do not require a further functional or activity classification breakdown, enter under columns (a) through (f) the title of the program. For grants or other assistance agreements containing multiple programs where one or more programs require a further breakdown by function or activity, use a separate form for each program showing the applicable functions or activities in the separate columns. For grants or other assistance agreements containing several functions or activities which are funded from several programs, prepare a separate form for each activity or function when requested by the Federal sponsoring agency.
10a	Enter the net outlay. This amount should be the same as the amount reported in Line 10e of the last report. If there has been an adjustment to the amount shown previously, please attach explanation. Show zero if this is the initial report.
10b	Enter the total gross program outlays (less rebates, refunds, and other discounts) for this report period, including disbursements of cash realized as program income. For reports that are prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expense charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to contractors and subgrantees. For reports prepared on an accrued expenditure basis, outlays are the sum of actual cash disbursements, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received and for services performed by employees, contractors, subgrantees, and other payees.
10c	Enter the amount of all program income realized in this period that is required by the terms and conditions of the Federal award to be deducted from total project costs. For reports prepared on a cash basis, enter the amount of cash income received during the reporting period. For reports prepared on an accrual basis, enter the amount of income earned since the beginning of the reporting period. When the terms or conditions allow program income to be added to the total award, explain in remarks, the source, amount and disposition of the income.
10f	Enter amount pertaining to the non-Federal share of program outlays included in the amount on line e.
10h	Enter total amount of unliquidated obligations for this project or program, including unliquidated obligations to subgrantees and contractors. Unliquidated obligations are: Cash basis—obligations incurred but not paid; Accrued expenditure basis—obligations incurred but for which an outlay has not been recorded. Do not include any amounts that have been included on lines a through g. On the final report, line h should have a zero balance.
10j	Enter the Federal share of unliquidated obligations shown on line h. The amount shown on this line should be the difference between the amounts on lines h and i.
10k	Enter the sum of the amounts shown on lines g and j. If the report is final the report should not contain any unliquidated obligations.
10m	Enter the unobligated balance of Federal funds. This amount should be the difference between lines k and l.
11b	Enter rate in effect during the reporting period.
11c	Enter amount of the base to which the rate was applied.
11d	Enter total amount of indirect cost charged during the report period.
11e	Enter amount of the Federal share charged during the report period. If more than one rate was applied during the project period, include a separate schedule showing bases against which the indirect cost rates were applied, the respective indirect rates the month, day, and year the indirect rates were in effect, amounts of indirect expense charged to the project, and the Federal share of indirect expense charged to the project to date.

V 42 176 SEP 12 77 UMI

FEDERAL CASH TRANSACTIONS REPORT

(See instructions on the back. If report is for more than one grant or assistance agreement, attach completed Standard Form 272-A.)

Approved by Office of Management and Budget, No. 80-R0182

1. Federal sponsoring agency and organizational element to which this report is submitted

2. RECIPIENT ORGANIZATION

Name

Number and Street

City, State and ZIP Code:

3. FEDERAL EMPLOYER IDENTIFICATION NO.

4. Federal grant or other identification number

5. Recipient's account number or identifying number

6. Letter of credit number

7. Last payment voucher number

Give total number for this period

8. Payment Vouchers credited to your account

9. Treasury checks received (whether or not deposited)

10. PERIOD COVERED BY THIS REPORT

FROM (month, day, year)

TO (month, day year)

11. STATUS OF FEDERAL CASH *(See specific instructions on the back)*

a. Cash on hand beginning of reporting period	$
b. Letter of credit withdrawals	
c. Treasury check payments	
d. Total receipts (*Sum of lines b and c*)	
e. Total cash available (*Sum of lines a and d*)	
f. Gross disbursements	
g. Federal share of program income	
h. Net disbursements (*Line f minus line g*)	
i. Adjustments of prior periods	
j. Cash on hand end of period	$

12. THE AMOUNT SHOWN ON LINE 11J, ABOVE, REPRESENTS CASH REQUIREMENTS FOR THE ENSUING *Days*

13. OTHER INFORMATION

a. Interest income	$
b. Advances to subgrantees or subcontractors	$

14. REMARKS (*Attach additional sheets of plain paper, if more space is required*)

15. CERTIFICATION

I certify to the best of my knowledge and belief that this report is true in all respects and that all disbursements have been made for the purpose and conditions of the grant or agreement

AUTHORIZED CERTIFYING OFFICIAL

SIGNATURE

DATE REPORT SUBMITTED

TYPED OR PRINTED NAME AND TITLE

TELEPHONE (*Area Code*) (*Number*) (*Extension*)

THIS SPACE FOR AGENCY USE

272-101 *EXHIBIT 2*

STANDARD FORM 272 (7-76)
Prescribed by Office of Management and Budget

Circulars No. A-102 and A-110

INSTRUCTIONS

Please type or print legibly. Items 1, 2, 8, 9, 10, 11d, 11e, 11h, and 15 are self explanatory, specific instructions for other items are as follows:

Item	*Entry*
3	Enter employer identification number assigned by the U.S. Internal Revenue Service or the FICE (institution) code. If this report covers more than one grant or other agreement, leave items 4 and 5 blank and provide the information on Standard Form 272-A, Report of Federal Cash Transactions—Continued; otherwise;
4	Enter Federal grant number, agreement number, or other identifying numbers if requested by sponsoring agency.
5	This space reserved for an account number or other identifying number that may be assigned by the recipient.
6	Enter the letter of credit number that applies to this report. If all advances were made by Treasury check, enter "NA" for not applicable and leave items 7 and 8 blank.
7	Enter the voucher number of the last letter-of-credit payment voucher (Form TUS 5401) that was credited to your account.
11a	Enter the total amount of Federal cash on hand at the beginning of the reporting period including all of the Federal funds on deposit, imprest funds, and undeposited Treasury checks.
11b	Enter total amount of Federal funds received through payment vouchers (Form TUS 5401) that were credited to your account during the reporting period.
11c	Enter the total amount of all Federal funds received during the reporting period through Treasury checks, whether or not deposited.
11f	Enter the total Federal cash disbursements, made during the reporting period, including cash received as program income. Disbursements as used here also include the amount of advances and payments less refunds to subgrantees or contractors, the gross amount of direct salaries and wages, including the employee's share of benefits if treated as a direct cost, interdepartmental charges for supplies and services, and the amount to which the recipient is entitled for indirect costs.
11g	Enter the Federal share of program income that was required to be used on the project or program by the terms of the grant or agreement.
11i	Enter the amount of all adjustments pertaining to prior periods affecting the ending balance that have not been included in any lines above. Identify each grant or agreement for which adjustment was made, and enter an explanation for each adjustment under "Remarks." Use plain sheets of paper if additional space is required.
11j	Enter the total amount of Federal cash on hand at the end of the reporting period. This amount should include all funds on deposit, imprest funds, and undeposited funds (line e, less line h, plus or minus line i).
12	Enter the estimated number of days until the cash on hand, shown on line 11j, will be expended. If more than three days cash requirements are on hand, provide an explanation under "Remarks" as to why the drawdown was made prematurely, or other reasons for the excess cash. The requirement for the explanation does not apply to prescheduled or automatic advances.
13a	Enter the amount of interest earned on advances of Federal funds but not remitted to the Federal agency. If this includes any amount earned and not remitted to the Federal sponsoring agency for over 60 days, explain under "Remarks." Do not report interest earned on advances to States.
13b	Enter amount of advance to secondary recipients included in item 11h.
14	In addition to providing explanations as required above, give additional explanation deemed necessary by the recipient and for information required by the Federal sponsoring agency in compliance with governing legislation. Use plain sheets of paper if additional space is required.

STANDARD FORM 272 (BACK) (7-76)

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FEDERAL CASH TRANSACTIONS REPORT
CONTINUATION

(This form is completed and attached to Standard Form 272 only when reporting more than one grant or assistance agreement.)

Approved by Office of Management and Budget, No. 80-R0182

1. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED

2. RECIPIENT ORGANIZATION *(Give name only as shown in item 9, SF 272)*

3. PERIOD COVERED BY THIS REPORT *(As shown on SF 272)*

FROM *(Month, day, year)* | TO *(Month, day, year)*

4. List information below for each grant or other agreement covered by this report. Use additional forms if more space is required.

FEDERAL GRANT OR OTHER IDENTIFICATION *(Show a subdivision by other identifying numbers if required by the Federal Sponsoring Agency)*	RECIPIENT ACCOUNT NUMBER OR OTHER IDENTIFYING NUMBER	FEDERAL SHARE OF NET DISBURSEMENTS	
		NET DISBURSEMENTS (Gross disbursements less program income received) FOR REPORTING PERIOD	CUMULATIVE NET DISBURSEMENTS
(a)	(b)	(c)	(d)
		$	$
5. TOTALS *(Should correspond with amounts shown on SF 272 as follows: column (c) the same as line 11k; column (d) the sum of lines 11h and 11i, of this SF 272 and cumulative disbursements shown on last report. Attach explanation of any differences.)*		$	$

272-101

STANDARD FORM 272-A (7-76)
Prescribed by Office of Management and Budget
Circulars No. A-102 and A-110

REQUEST FOR ADVANCE OR REIMBURSEMENT

(See instructions on back)

Approved by Office of Management and Budget, No. 80-R0183

PAGE ___ OF ___ PAGES

1. TYPE OF PAYMENT REQUESTED
a. "X" one, or both boxes: ☐ ADVANCE ☐ REIMBURSEMENT
b. "X" the applicable box: ☐ FINAL ☐ PARTIAL

2. BASIS OF REQUEST: ☐ CASH ☐ ACCRUAL

3. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED

4. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER ASSIGNED BY FEDERAL AGENCY

5. PARTIAL PAYMENT REQUEST NUMBER FOR THIS REQUEST

6. EMPLOYER IDENTIFICATION NUMBER

7. RECIPIENT'S ACCOUNT NUMBER OR IDENTIFYING NUMBER

8. PERIOD COVERED BY THIS REQUEST
FROM (month, day, year) TO (month, day, year)

9. RECIPIENT ORGANIZATION
Name :
Number and Street :
City, State and ZIP Code :

10. PAYEE (If other than is to be sent to different than item 9)
Name :
Number and Street :
City, State and ZIP Code :

11. COMPUTATION OF AMOUNT OF REIMBURSEMENTS/ADVANCES REQUESTED

PROGRAMS/FUNCTIONS/ACTIVITIES ▶	(a)	(b)	(c)	TOTAL
a. Total program outlays to date (*As of date*)	$	$	$	$
b. *Less:* Cumulative program income				
c. Net program outlays (*Line a minus line b*)				
d. Estimated net cash outlays for advance period				
e. Total (*Sum of lines c & d*)				
f. Non-Federal share of amount on line e				
g. Federal share of amount on line e				
h. Federal payments previously requested				
i. Federal share now requested (*Line g minus line h*)				
j. Advances required by month, when requested by Federal grantor agency for use in making pre-scheduled advances — 1st month				
2nd month				
3rd month				

12. ALTERNATE COMPUTATION FOR ADVANCES ONLY

a. Estimated Federal cash outlays that will be made during period covered by the advance	$
b. *Less:* Estimated balance of Federal cash on hand as of beginning of advance period	
c. Amount requested (*Line a minus line b*)	$

13. CERTIFICATION

I certify that to the best of my knowledge and belief the data above are correct and that all outlays were made in accordance with the grant conditions or other agreement and that payment is due and has not been previously requested.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL | DATE REQUEST SUBMITTED

TYPED OR PRINTED NAME AND TITLE

TELEPHONE — Area Code — Number — Extension

This space for agency use

270-104 *EXHIBIT 3*

STANDARD FORM 270 (7-76)
Prescribed by Office of Management and Budget
Circulars No. A-102 and A-110

V 42 176 SEP 12 77 UMI

INSTRUCTIONS

Please type or print legibly. Items 1, 3, 5, 9, 10, 11c, 11e, 11f, 11g, 11i, 12 and 13 are self-explanatory; specific instructions for other items are as follows:

Item	Entry
2	Indicate whether request is prepared on cash or accrued expenditure basis. All requests for advances shall be prepared on a cash basis.
4	Enter the Federal grant number, or other identifying number assigned by the Federal sponsoring agency. If the advance or reimbursement is for more than one grant or other agreement, insert N/A; then, show the aggregate amounts. On a separate sheet, list each grant or agreement number and the Federal share of outlays made against the grant or agreement.
6	Enter the employer identification number assigned by the U.S. Internal Revenue Service, or the FICE (institution) code if requested by the Federal agency.
7	This space is reserved for an account number or other identifying number that may be assigned by the recipient.
8	Enter the month, day, and year for the beginning and ending of the period covered in this request. If the request is for an advance or for both an advance and reimbursement, show the period that the advance will cover. If the request is for reimbursement, show the period for which the reimbursement is requested.
Note:	The Federal sponsoring agencies have the option of requiring recipients to complete items 11 or 12, but not both. Item 12 should be used when only a minimum amount of information is needed to make an advance and outlay information contained in item 11 can be obtained in a timely manner from other reports.
11	The purpose of the vertical columns (a), (b), and (c), is to provide space for separate cost breakdowns when a project has been planned and budgeted by program, function, or activity. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the summary totals of all programs, functions, or activities should be shown in the "total" column on the first page.
11a	Enter in "as of date", the month, day, and year of the ending of the accounting period to which this amount applies. Enter program outlays to date (net of refunds, rebates, and discounts), in the appropriate columns. For requests prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expenses charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to subcontractors and subrecipients. For requests prepared on an accrued expenditure basis, outlays are the sum of the actual cash disbursements, the amount of indirect expenses incurred, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received and for services performed by employees, contracts, subgrantees and other payees.
11b	Enter the cumulative cash income received to date, if requests are prepared on a cash basis. For requests prepared on an accrued expenditure basis, enter the cumulative income earned to date. Under either basis, enter only the amount applicable to program income that was required to be used for the project or program by the terms of the grant or other agreement.
11d	Only when making requests for advance payments, enter the total estimated amount of cash outlays that will be made during the period covered by the advance.
13	Complete the certification before submitting this request.

OUTLAY REPORT AND REQUEST FOR REIMBURSEMENT FOR CONSTRUCTION PROGRAMS
(See instructions on back)

Approved by Office of Management and Budget, No. 80-R0181 — PAGE OF PAGES

1. TYPE OF REQUEST ☐ FINAL ☐ PARTIAL
2. BASIS OF REQUEST ☐ CASH ☐ ACCRUAL
3. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED
4. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER ASSIGNED BY FEDERAL AGENCY
5. PARTIAL PAYMENT REQUEST NO.
6. EMPLOYER IDENTIFICATION NUMBER
7. RECIPIENT ACCOUNT OR OTHER IDENTIFYING NUMBER
PERIOD COVERED BY THIS REPORT: FROM (Month, day, year) — TO (Month, day, year)
8. RECIPIENT ORGANIZATION
Name :
No. and Street :
City, State and ZIP Code :
10. PAYEE (Where check should be sent if different than item 8)
Name :
No. and Street :
City, State and ZIP Code :

11. STATUS OF FUNDS

CLASSIFICATION	PROGRAMS—FUNCTIONS—ACTIVITIES (a)	(b)	(c)	TOTAL
a. Administrative expense	$	$	$	$
b. Preliminary expense				
c. Land, structures, right-of-way				
d. Architectural engineering basic fees				
e. Other architectural engineering fees				
f. Project inspection fees				
g. Land development				
h. Relocation expense				
i. Relocation payments to individuals and businesses				
j. Demolition and removal				
k. Construction and project improvement cost				
l. Equipment				
m. Miscellaneous cost				
n. Total cumulative to date (sum of lines a thru m)				
o. Deductions for program income				
p. Net cumulative to date (Line n minus line o)				
q. Federal share to date				
r. Rehabilitation grants (100% reimbursement)				
s. Total Federal share (sum of lines q and r)				
t. Federal payments previously requested				
u. Amount requested for reimbursement	$	$	$	$
v. Percentage of physical completion of project	%	%	%	%

12. CERTIFICATION

I certify that to the best of my knowledge and belief the billed costs or disbursements are in accordance with the terms of the project and that the reimbursement represents the Federal share due which has not been previously requested and that an inspection has been performed and all work is in accordance with the terms of the award.

a. RECIPIENT — SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL — DATE REPORT SUBMITTED
TYPED OR PRINTED NAME AND TITLE — TELEPHONE (Area code, number and extension)

b. Representative certifying to Item 11v. — SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL — DATE SIGNED
TYPED OR PRINTED NAME AND TITLE — TELEPHONE (Area code, number and extension)

371-106 EXHIBIT 4

STANDARD FORM 271 (7-76)
Prescribed by Office of Management and Budget

Circulars No. A-102 and A-110

V 42 176
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INSTRUCTIONS

Please type or print legibly. Items 3, 4, 5, 8, 9, 10, 11s, and 11v are self-explanatory; specific instructions for other items are as follows:

Item	Entry
1	Mark the appropriate box. If the request is final, the amounts billed should represent the final cost of the project.
2	Show whether amounts are computed on an accrued expenditure or cash disbursement basis.
6	Enter the employer identification number assigned by the U.S. Internal Revenue Service [or FICE (institution) code if requested by the Federal agency].
7	This space is reserved for an account number or other identifying number that may be assigned by the recipient.
11	The purpose of vertical columns (a) through (c) is to provide space for separate cost breakdowns when a large project has been planned and budgeted by program, function or activity. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the summary totals of all programs, functions, or activities should be shown in the "total" column on the first page. All amounts are reported on a cumulative basis.
11a	Enter amounts expended for such items as travel, legal fees, rental, of vehicles and any other administrative expenses. Include the amount of interest expense when authorized by program legislation. Also show the amount of interest expense on a separate sheet.
11b	Enter amounts pertaining to the work of locating and designing, making surveys and maps, sinking test holes, and all other work required prior to actual construction.
11c	Enter all amounts directly associated with the acquisition of land, existing structures and related right-of-way.
11d	Enter basic fees for services of architectural engineers.
11e	Enter other architectural engineering services. Do not include any amounts shown on line d.
11f	Enter inspection and audit fees of construction and related programs.
11g	Enter all amounts associated with the development of land where the primary purpose of the grant is land improvement. The amount pertaining to land development normally associated with major construction should be excluded from this category and entered on line k.
11h	Enter the dollar amounts used to provide relocation advisory assistance and net costs of replacement housing (last resort). Do not include amounts needed for relocation administrative expenses; these amounts should be included in amounts shown on line a.
11i	Enter the amount of relocation payments made by the recipient to displaced persons, farms, business concerns, and nonprofit organizations.
11j	Enter gross salaries and wages of employees of the recipient and payments to third party contractors directly engaged in performing demolition or removal of structures from developed land. All proceeds from the sale of salvage or the removal of structures should be credited to this account; thereby reflecting net amounts if required by the Federal agency.
11k	Enter those amounts associated with the actual construction of, addition to, or restoration of a facility. Also, include in this category, the amounts for project improvements such as sewers, streets, landscaping, and lighting.
11l	Enter amounts for all equipment, both fixed and movable, exclusive of equipment used for construction. For example, permanently attached laboratory tables, built-in audio visual systems, movable desks, chairs, and laboratory equipment.
11m	Enter the amounts for all items not specifically mentioned above.
11n	Enter the total cumulative amount to date which should be the sum of lines a through m.
11o	Enter the total amount of program income applied to the grant or contract agreement except income included on line j. Identify on a separate sheet of paper the sources and types of the income.
11p	Enter the net cumulative amount to date which should be the amount shown on line n minus the amount on line o.
11q	Enter the Federal share of the amount shown on line p.
11r	Enter the amount of rehabilitation grant payments made to individuals when program legislation provides 100 percent payment by the Federal agency.
11t	Enter the total amount of Federal payments previously requested, if this form is used for requesting reimbursement.
11u	Enter the amount now being requested for reimbursement. This amount should be the difference between the amounts shown on lines s and t. If different, explain on a separate sheet.
12a	To be completed by the recipient official who is responsible for the operation of the program. The date should be the actual date the form is submitted to the Federal agency.
12b	To be completed by the official representative who is certifying to the percent of project completion as provided for in the terms of the grant or agreement.

ATTACHMENT I—CIRCULAR No. A-102

MONITORING AND REPORTING OF PROGRAM PERFORMANCE

1. This Attachment sets forth the procedures for monitoring and reporting program performance under Federal grants. These procedures are designed to place greater reliance on grantees to manage the day-to-day operations of the grant-supported activities.

2. Grantees shall constantly monitor the performance under grant-supported activities to assure that time schedules are being met, projected work units by time periods are being accomplished, and other performance goals are being achieved. This review shall be made for each program, function, or activity of each grant as set forth in the approved grant application or award document.

3. Grantees shall submit a performance report for each grant which briefly presents the following for each program, function, or activity involved as prescribed by the Federal agency:

(a) A comparison of actual accomplishments to the goals established for the period. Where the output of grant programs can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.

(b) Reasons why established goals were not met.

(c) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

4. Except as provided in a and b below, and in subparagraph 3a(1), of Attachment H, grantees shall submit the performance or technical reports to Federal agencies and the Financial Status Reports covering the same period in the frequency established by Attachment H of this Circular and, where appropriate, a final technical or performance report after completion of the project on a date specified by the Federal agency. The Federal agency shall prescribe the frequency with which the performance reports will be submitted with the request for advance or reimbursement when that form is used in lieu of the Financial Status Report. Except as provided for in paragraph 5 below, performance reports shall not be required more frequently than quarterly or less frequently than annually. Federal agencies may waive the requirement for grantees to submit performance reports with the financial reports under the following circumstances:

(a) When the grantee is required to submit a performance report with a continuation or renewal application.

(b) When the Federal agency determines that on-site technical inspections and certified completion data will be sufficient to evaluate construction projects.

(c) When the Federal agency requests annual financial reports on a fiscal year basis but it is necessary to get annual progress reports on a calendar year basis.

5. Between the required performance reporting dates, events may occur which have significant impact upon the project or program. In such cases, the grantee shall inform the grantor agency as soon as the following types of conditions become known:

(a) Problems, delays, or adverse conditions which will materially affect the ability to attain program objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any Federal assistance needed to resolve the situation.

(b) Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or producing more work units than originally projected.

6. If any performance review conducted by the grantee discloses the need for change in the budget estimates in accordance with the criteria established in Attachment K to this Circular, the grantee shall submit a request for budget revision.

7. The grantor agency shall make site visits as frequently as practicable to:

(a) Review program accomplishments and management control systems.

(b) Provide such technical assistance as may be required.

8. Federal agencies shall submit proposed technical and performance reports to the Office of Management and Budget for approval in accordance with the report clearance requirements of OMB Circular No. A-40 as revised.

ATTACHMENT J—CIRCULAR No. A-102

GRANT PAYMENT REQUIREMENTS

1. This Attachment establishes required methods of making payments to grantees. These methods will minimize the time elapsing between the disbursement by a grantee and the transfer of funds from the United States Treasury to the grantee, whether such disbursement occurs prior to or subsequent to the transfer of funds.

2. Grant payments are made to grantees through a letter of credit, an advance by Treasury check, or a reimbursement by Treasury check. The following definitions apply for the purpose of this Attachment:

(a) *Letter of credit.* A letter of credit is an instrument certified by an authorized official of a grantor agency which authorizes a grantee to draw funds needed for immediate disbursement in accordance with the provisions of Treasury Circular No. 1075.

(b) *Advance by Treasury check.* An advance by Treasury check is a payment made by a Treasury check to a grantee upon its request before cash outlays are made by the recipient or through the use of predetermined payment schedules before payments are made by the grantee.

(c) *Reimbursement by Treasury check.* A reimbursement by Treasury check is a payment made to a grantee with a Treasury check upon request for reimbursement from the grantee.

3. Except for construction grants for which optional payment methods are authorized, the letter-of-credit funding method shall be used by grantor agencies where all of the following conditions exist:

(a) When there is or will be a continuing relationship between a grantee and a Federal grantor agency for at least a 12-month period and the total amount of advances to be received within that period from the grantor agency is $120,000 or more.

(b) When the grantee has established or demonstrated to the grantor the willingness and ability to establish procedures that will minimize the time elapsing between the transfer of funds and their disbursement by the grantee.

(c) When the grantee's financial management system meets the standards for fund control and accountability prescribed in Attachment G to this Circular, "Standards for Grantee Financial Management Systems."

4. The method of advancing funds by Treasury check shall be used, in accordance with the provisions of Treasury Circular No. 1075, when the grantee meets all of the requirements specified in paragraph 3 above except those in 3.a.

5. The reimbursement by Treasury check method shall be the preferred method when the grantee does not meet the requirements specified in either or both of paragraphs 3.b. and 3.c. This method may also be used when the major portion of the program is accomplished through private market financing or Federal loans, and when the Federal grant assistance constitutes a minor portion of the program. When the reimbursement method is used the Federal agencies shall make payment within thirty days after receipt of the billing unless the billing is improper.

6. When the letter-of-credit procedure is used, the grantee shall be issued one consolidated letter-of-credit whenever possible to cover anticipated cash needs for all grants awarded by the Federal agency. Likewise, to the extent possible, when the advance by Treasury check method is used, advances should be consolidated (pooled) for all grants made by the Federal agency to the grantee.

7. Unless otherwise required by law, grantor agencies shall not withhold payments for proper charges made by State and local governments at any time during the grant period unless (a) a grantee has failed to comply with the program objectives, grant award conditions, or Federal reporting requirements, or (b) the grantee is indebted to the United States and collection of the indebtedness will not impair accomplishment of the objectives of any grant program sponsored by the United States. Under such conditions, the grantor may, upon reasonable notice, inform the grantee that payments will not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal government is liquidated.

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8. Attachment H of this Circular, "Financial Reporting," provides for the procedures and forms for requesting advances or reimbursements.

ATTACHMENT K—CIRCULAR NO. A–102

BUDGET REVISION PROCEDURES

1. This Attachment sets forth criteria and procedures to be followed by Federal grantor agencies in requiring grantees to report deviations from grant budgets and to request approvals for budget revisions.

2. The grant budget as used in this Attachment means the approved financial plan for both the Federal and non-Federal shares to carry out the purpose of the grant. This plan is the financial expression of the project or program as approved during the grant application and award process. It should be related to performance for program evaluation purposes whenever appropriate and required by the grantor agency.

3. For nonconstruction grants, grantees shall request prior approvals promptly from grantor agencies when there is reason to believe that a revision will be necessary for the following reasons:

(a) Changes in the scope or the objective of the grant-supported project or program.

(b) The need for additional Federal funding.

(c) The revisions involve the transfer of amounts budgeted for indirect costs to absorb increases in direct costs if approval is required by the Federal agency.

(d) The revisions pertain to the addition of items requiring approval in accordance with the provisions of Federal Management Circular 74–4.

(e) Recipients plan to transfer funds allotted for training allowances (direct payments to trainees) to other categories of expense.

4. For nonconstruction grants the Federal agency may also, at its option, restrict transfers of funds among direct cost categories for awards in which the Federal share exceeds $100,000 when the cumulative amount of such transfers exceeds or is expected to exceed five percent of the total budget. The same criteria shall apply to the cumulative amount of transfers among programs, functions, and activities when budgeted separately for an award, except that the Federal agency shall permit no transfer that would cause any Federal appropriation, or part thereof, to be used for purposes other than those intended.

5. All other changes to nonconstruction grant budgets, except for the changes described in paragraph 7, do not require approval. These changes include (a) the use of grantee funds in furtherance of program objectives over and above the grantee minimum share included in the approved grant budget, and (b) the transfer of amounts budgeted for direct costs to absorb authorized increases in indirect costs.

6. For construction grants, grantees shall request prior approvals promptly from grantor agencies for budget revisions whenever:

(a) The revision results from changes in the scope or the objective of the project or program.

(b) The revision increases the budgeted amounts of Federal funds needed to complete the project.

7. When a grantor agency awards a grant which provides support for both construction and nonconstruction work, the grantor agency may require the grantee to request prior approval from the grantor agency before making any fund or budget transfers between the two types of work supported.

8. For both construction and nonconstruction grants, grantor agencies shall require State and local governments to notify the grantor agency promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the grantee by more than $5,000 or 5 percent of the Federal grant, whichever is greater. This notification will not be required when applications for additional funding are submitted for continuing grants.

9. When requesting approval for budget revisions, grantees shall use the budget forms which were used in the grant application. However, grantees may request by letter the approval required by the provisions of Federal Management Circular 74–4.

10. Within 30 days from the date of receipt of the request for budget revisions, grantor agencies shall review the request and notify the grantee whether or not the budget revisions have been approved. If the revision is still under consideration at the end of 30 days, the grantor shall inform the grantee in writing as to when the grantee may expect the decision.

ATTACHMENT L—CIRCULAR NO. A–102

GRANT CLOSEOUT PROCEDURES

1. This Attachment prescribes uniform closeout procedures for grantees.

2. The following definitions shall apply for the purpose of this Attachment:

(a) *Grant closeout.* The closeout of a grant is the process by which a Federal grantor agency determines that all applicable administrative actions and all required work of the grant have been completed by the grantee and the grantor.

(b) *Date of completion.* The date when all work under a grant is completed or the date in the grant award document, or any supplement or amendment thereto, on which Federal assistance ends.

(c) *Termination.* The termination of a grant means the cancellation of Federal assistance, in whole or in part, under a grant at any time prior to the date of completion.

(d) *Suspension.* The suspension of a grant is an action by a Federal grantor agency which temporarily suspends Federal assistance under the grant pending corrective action by the grantee or pending a decision to terminate the grant by the grantor agency.

(e) *Disallowed costs.* Disallowed costs are those charges to a grant which the grantor agency or its representative determines to be unallowable. (See Federal Managerment Circular No. 74–4.)

3. All Federal grantor agencies shall establish grant closeout procedures which include the following requirements:

(a) Upon request, the Federal grantor agency shall make prompt payments to a grantee for allowable reimbursable costs under the grant being closed out.

(b) The grantee shall immediately refund to the grantor agency any balance of unobligated (unencumbered) cash advanced to the grantee that is not authorized to be retained by the grantee for use on other grants.

(c) The grantor agency shall obtain from the grantee within 90 days after the date of completion of the grant all financial, performance, and other reports required as a condition of the grant. The agency may grant extensions when requested by the grantee.

(d) When authorized by the grant the grantor agency shall make a settlement for any upward or downward adjustments for any upward or downward adjustments to the Federal share of costs after these reports are received.

(e) The grantee shall account for any property acquired with grant funds, or received from the Government in accordance with the provisions of Attachment N to this Circular.

(f) In the event a final audit has not been performed prior to the closeout of the grant, the grantor agency shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

4. All Federal grantor agencies shall provide procedures to be followed when a grantee has failed to comply with the grant award stipulations, standards, or conditions. When that occurs, the grantor agency may, on reasonable notice to the grantee, suspend the grant, and withhold further payments, or prohibit the grantee from incurring additional obligations of grant funds, pending corrective action by the grantee or a decision to terminate in accordance with paragraph 5.a. The grantor agency shall allow all necessary and proper costs which the grantee could not reasonably avoid during the period of suspension provided that they meet the provisions of Federal Management Circular No. 74–4.

5. Subject to the provisions of paragraph 5 of the basic Circular, of which this Attachment is a part, all Federal grantor agencies shall provide for the systematic settlement of terminated grants including the following:

(a) *Termination for cause.* The grantor agency may terminate any grant in whole, or in part, at any time before the date of completion, whenever it is determined that the grantee has failed to comply with the conditions of the grant. The grantor agency shall promptly notify the grantee in writing of the determination and the reasons for the termination, together with the effective date. Payments made to grantees or recoveries by the grantor agencies under grants terminated for cause shall be in accord with the legal rights and liabilities of the parties.

b. *Termination for convenience.* The grantor agency or grantee may terminate grants in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Federal agency shall allow full credit to the grantee for the Federal share of the noncancelable obligations, properly incurred by the grantee prior to termination.

ATTACHMENT M—CIRCULAR NO. A–102

STANDARD FORMS FOR APPLYING FOR FEDERAL ASSISTANCE

1. This Attachment promulgates standard forms to be used by State, local, and federally recognized Indian tribal governments in applying for all Federal grants except those Federal formula grant programs which do not require grantees to apply for Federal funds on a project basis. When applying for joint funded projects see OMB Circular No. A–111. The use of the standard forms by grantees in obtaining necessary information from subgrantees is optional.

2. The standard forms and their purposes are briefly described in the following paragraphs:

(a) *Preapplication for Federal Assistance (Exhibit 1).* Preapplication for Federal Assistance is used to: (1) Establish communication between the Federal grantor agency and the applicant; (2) determine the applicant's eligibility; (3) determine how well the project can compete with similar applications from others; and (4) eliminate any proposals which have little or no chance for Federal funding before applicants incur significant expenditures for preparing an application. Preapplication forms shall be required for all construction, land acquisitionn and land development projects or programs for which the need for Federal funding exceeds $100,000. The Federal grantor agency may require the use of the preapplication form for other types of grant programs or for those for which the Federal fund request is for $100,000 or less. In addition, Federal agencies shall establish procedures allowing State and local government applicants to submit, if they so desire, the preapplication form when mandatory requirements for preapplication do not exist.

(b) *Notice of Review Action (Exhibit 2).* The purpose of the Notice of Review Action is to inform the applicant of the results of the review of the preapplication forms which were submitted to Federal grantor agencies. The Federal grantor agency shall send a notice to the applicant within 45 days of the receipt of the preapplication form. When the review cannot be made within 45 days, the applicant shall be informed by letter as to when the review will be completed.

(c) *Federal Assistance Application for Nonconstruction Programs (Exhibit 3).* The Federal Assistance Application for Nonconstruction Programs form is designed to accommodate several programs and shall be used by the applicant for all actions covered by this Attachment except where the major purpose of the grant involves construction, land acquisition, or development or single-purpose and one-time grant applications for less than $10,000 which do not require clearinghouse approval, an environmental impact statement, or the relocation of persons, businesses, or farms.

(d) *Federal Assistance Application for Construction Programs (Exhibit 4).* The Federal Assistance Application for Construction Programs form shall be used for all grants where the major purpose of the program involves construction, land acquisition, and land development, except when the Application for Federal Assistance-Short Form (paragraph 2e) is used.

(e) *Application for Federal Assistance—Short Form (Exhibit 5).* The Application for Federal Assistance–Short Form shall be used for all grants for single-purpose and one-time grant applications for less than $10,000 not requiring clearinghouse approval, an environmental impact statement, or the relocation of persons, businesses, or farms. Federal grantor agencies may, at their discretion, authorize the use of this form for applications for larger amounts.

3. For all forms described herein all requests by grantees for changes, continuations, and supplementals to approved grants shall be submitted on the same form as the original application. For these purposes, only the required pages of the forms should be submitted.

4. Federal agencies may specify and describe the programs, functions, or activities which will be used to plan, budget, and evaluate the work under the grant programs.

5. When additional information is needed to comply with legislative requirements or to meet specific program needs Federal agencies must comply with the reports clearance requirements of Office and Management Budget Circular No. A–40 as revised.

6. Additional assurances shall not be added to the standard assurances contained in the Circular unless specifically required by law.

7. Federal agencies have the option of shading out any line item on any form that is unnecessary for decisionmaking purposes or for meeting the requirements of other circulars or laws except for the Standard Form 424. This form should not be altered. If an item is not applicable, write or overprint "NA" in the space provided for each item.

8. Grantees shall submit the original and two copies of the application.

9. Federal grantor agencies are authorized to reproduce these forms. The forms for reproduction purposes can be obtained from the Office of Management and Budget. The Standard Form 424 can be obtained from the General Services Administration.

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Attachment M

OMB Approval No. 80-R0190

FEDERAL ASSISTANCE

1. TYPE OF ACTION (Mark appropriate box)	☐ PREAPPLICATION ☐ APPLICATION ☐ NOTIFICATION OF INTENT (Opt.) ☐ REPORT OF FEDERAL ACTION	2. APPLICANT'S APPLICATION	a. NUMBER b. DATE Year month day 19
		3. STATE APPLICATION IDENTIFIER	a. NUMBER b. DATE ASSIGNED Year month day 19
		Leave blank	

SECTION I—APPLICANT/RECIPIENT DATA

4. LEGAL APPLICANT/RECIPIENT
a. Applicant Name :
b. Organization Unit :
c. Street/P.O. Box :
d. City : e. County :
f. State : g. ZIP Code:
h. Contact Person (Name & telephone No.) :

5. FEDERAL EMPLOYER IDENTIFICATION NO.

6. PROGRAM (From Federal Catalog)
a. NUMBER
b. TITLE

7. TITLE AND DESCRIPTION OF APPLICANT'S PROJECT

8. TYPE OF APPLICANT/RECIPIENT
A-State H-Community Action Agency
B-Interstate I-Higher Educational Institution
C-Substate District J-Indian Tribe
D-County K-Other (Specify):
E-City
F-Intsal District
G-Special Purpose District
Enter appropriate letter ☐

9. TYPE OF ASSISTANCE
A-Basic Grant D-Insurance
B-Supplemental Grant E-Other
C-Loan
Enter appropriate letter(s) ☐☐

10. AREA OF PROJECT IMPACT (Names of cities, counties, States, etc.)

11. ESTIMATED NUMBER OF PERSONS BENEFITING

12. TYPE OF APPLICATION
A-New C-Revision E-Augmentation
B-Renewal D-Continuation
Enter appropriate letter ☐

13. PROPOSED FUNDING

a. FEDERAL	$ .00
b. APPLICANT	.00
c. STATE	.00
d. LOCAL	.00
e. OTHER	.00
f. TOTAL	$ .00

14. CONGRESSIONAL DISTRICTS OF:
a. APPLICANT b. PROJECT

15. PROJECT START DATE Year month day 19

17. PROJECT DURATION Months

16. ESTIMATED DATE TO BE SUBMITTED TO FEDERAL AGENCY ▶ Year month day 19

18. TYPE OF CHANGE (For 15b or 15c)
A-Increase Dollars F-Other (Specify):
B-Decrease Dollars
C-Increase Duration
D-Decrease Duration
E-Cancellation
Enter appropriate letter(s) ☐☐☐

19. EXISTING FEDERAL IDENTIFICATION NUMBER

20. FEDERAL AGENCY TO RECEIVE REQUEST (Name, City, State, ZIP code)

21. REMARKS ADDED ☐ Yes ☐ No

SECTION II—CERTIFICATION

22. THE APPLICANT CERTIFIES THAT ▶
a. To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved.
b. If required by OMB Circular A-95 this application was submitted, pursuant to instructions therein, to appropriate clearinghouses and all responses are attached:

	No response	Response attached
(1)	☐	☐
(2)	☐	☐
(3)	☐	☐

23. CERTIFYING REPRESENTATIVE
a. TYPED NAME AND TITLE
b. SIGNATURE
c. DATE SIGNED Year month day 19

SECTION III—FEDERAL AGENCY ACTION

24. AGENCY NAME

25. APPLICATION RECEIVED Year month day 19

26. ORGANIZATIONAL UNIT

27. ADMINISTRATIVE OFFICE

28. FEDERAL APPLICATION IDENTIFICATION

29. ADDRESS

30. FEDERAL GRANT IDENTIFICATION

31. ACTION TAKEN
☐ a. AWARDED
☐ b. REJECTED
☐ c. RETURNED FOR AMENDMENT
☐ d. DEFERRED
☐ e. WITHDRAWN

32. FUNDING

a. FEDERAL	$ .00
b. APPLICANT	.00
c. STATE	.00
d. LOCAL	.00
e. OTHER	.00
f. TOTAL	$ .00

33. ACTION DATE ▶ Year month day 19

34. STARTING DATE Year month day 19

35. ENDING DATE Year month day 19

36. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)

37. REMARKS ADDED ☐ Yes ☐ No

38. FEDERAL AGENCY A-95 ACTION
a. In taking above action, any comments received from clearinghouses were considered. If agency response is due under provisions of Part 1, OMB Circular A-95, it has been or is being made.
b. FEDERAL AGENCY A-95 OFFICIAL (Name and telephone no.)

Prescribed by OMB Circular A-102

Exhibit M-1. Preapplication for Federal Assistance
(page 1 of 6)

Attachment M

SECTION IV—REMARKS (Please reference the proper item number from Sections I, II or III, if applicable)

STANDARD FORM 424 PAGE 2 (10-75)

Exhibit M-1. Preapplication for Federal Assistance
(page 2 of 6)

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Attachment M

GENERAL INSTRUCTIONS

This is a multi-purpose standard form. First, it will be used by applicants as a required facesheet for preapplications and applications submitted in accordance with OMB Circular A–102. Second, it will be used by Federal agencies to report to Clearinghouses on major actions taken on applications reviewed by clearinghouses in accordance with OMB Circular A–95. Third, it will be used by Federal agencies to notify States of grants-in-aid awarded in accordance with Treasury Circular 1082. Fourth, it may be used, on an optional basis, as a notification of intent from applicants to clearinghouses, as an early initial notice that Federal assistance is to be applied for (clearinghouse procedures will govern).

APPLICANT PROCEDURES FOR SECTION I

Applicant will complete all items in Section I. If an item is not applicable, write "NA". If additional space is needed, insert an asterisk "*", and use the remarks section on the back of the form. An explanation follows for each item:

Item

1. Mark appropriate box Pre–application and application guidance is in OMB Circular A–102 and Federal agency program instructions. Notification of intent guidance is in Circular A–95 and procedures from clearinghouse. Applicant will not use "Report of Federal Action" box.

2a. Applicant's own control number, if desired.

2b. Date Section I is prepared.

3a. Number assigned by State clearinghouse, or if delegated by State, by areawide clearinghouse. All requests to Federal agencies must contain this identifier if the program is covered by Circular A–95 and required by applicable State/areawide clearinghouse procedures. If in doubt, consult your clearinghouse.

3b. Date applicant notified of clearinghouse identifier.

4a–4h. Legal name of applicant/recipient, name of primary organizational unit which will undertake the assistance activity, complete address of applicant, and name and telephone number of person who can provide further information about this request.

5. Employer identification number of applicant as assigned by Internal Revenue Service.

6a. Use Catalog of Federal Domestic Assistance number assigned to program under which assistance is requested. If more than one program (e.g., joint-funding) write "multiple" and explain in remarks. If unknown, cite Public Law or U.S. Code.

6b. Program title from Federal Catalog. Abbreviate if necessary.

7. Brief title and appropriate description of project. For notification of intent, continue in remarks section if necessary to convey proper description.

8. Mostly self-explanatory. "City" includes town, township or other municipality.

9. Check the type(s) of assistance requested. The definitions of the terms are:
   A. Basic Grant. An original request for Federal funds. This would not include any contribution provided under a supplemental grant.
   B. Supplemental Grant. A request to increase a basic grant in certain cases where the eligible applicant cannot supply the required matching share of the basic Federal program (e.g., grants awarded by the Appalachian Regional Commission to provide the applicant a matching share).
   C. Loan. Self explanatory.
   D. Insurance. Self explanatory.
   E. Other. Explain on remarks page.

10. Governmental unit where significant and meaningful impact could be observed. List only largest unit or units affected, such as State, county, or city. If entire unit affected, list it rather than subunits.

11. Estimated number of persons directly benefiting from project.

12. Use appropriate code letter. Definitions are:
   A. New. A submittal for the first time for a new project.
   B. Renewal. An extension for an additional funding/budget period for a project having no projected completion date, but for which Federal support must be renewed each year.
   C. Revision. A modification to project nature or scope which may result in funding change (increase or decrease).
   D. Continuation. An extension for an additional funding/budget period for a project the agency initially agreed to fund for a definite number of years.
   E. Augmentation. A requirement for additional funds for a project previously awarded funds in the same funding/budget period. Project nature and scope unchanged.

13. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions will be included. If the action is a change in dollar amount of an existing grant (a revision or augmentation), indicate only the amount of the change. For decreases enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in remarks. For multiple program funding, use totals and show program breakouts in remarks. Item definitions: 13a, amount requested from Federal Government; 13b, amount applicant will contribute; 13c, amount from State, if applicant is not a State; 13d, amount from local government, if applicant is not a local government; 13e, amount from any other sources, explain in remarks.

14a. Self explanatory.

14b. The district(s) where most of actual work will be accomplished. If city-wide or State-wide, covering several districts, write "city-wide" or "State-wide."

15. Complete only for revisions (item 12c), or augmentations (item 12e).

STANDARD FORM 424 PAGE 3 (10–75)

Exhibit M-1. Preapplication for Federal Assistance
(page 3 of 6)

Attachment M

Item

16. Approximate date project expected to begin (usually associated with estimated date of availability of funding).

17. Estimated number of months to complete project after Federal funds are available.

18. Estimated date preapplication/application will be submitted to Federal agency if this project requires clearinghouse review. If review not required, this date would usually be same as date in Item 2b.

19. Existing Federal identification number if this is not a new request and directly relates to a previous Federal action. Otherwise write "NA".

20. Indicate Federal agency to which this request is addressed. Street address not required, but do use ZIP.

21. Check appropriate box as to whether Section IV of form contains remarks and/or additional remarks are attached.

APPLICANT PROCEDURES FOR SECTION II

Applicants will always complete items 23a, 23b, and 23c. If clearinghouse review is required, item 22b must be fully completed. An explanation follows for each item:

Item

22b. List clearinghouses to which submitted and show in appropriate blocks the status of their responses. For more than three clearinghouses, continue in remarks section. All written comments submitted by or through clearinghouses must be attached.

23a. Name and title of authorized representative of legal applicant.

23b. Self explanatory.

23c. Self explanatory.

Note: Applicant completes only Sections I and II. Section III is completed by Federal agencies.

FEDERAL AGENCY PROCEDURES FOR SECTION III

If applicant-supplied information in Sections I and II needs no updating or adjustment to fit the final Federal action, the Federal agency will complete Section III only. An explanation for each item follows:

Item

24. Executive department or independent agency having program administration responsibility.

25. Self explanatory.

26. Primary organizational unit below department level having direct program management responsibility.

27. Office directly monitoring the program.

28. Use to identify non-award actions where Federal grant identifier in item 30 is not applicable or will not suffice.

29. Complete address of administering office shown in item 26.

30. Use to identify award actions where different from Federal application identifier in item 28.

31. Self explanatory. Use remarks section to amplify where appropriate.

32. Amount to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions will be included. If the action is a change in dollar amount of an existing grant (a revision or augmentation), indicate only the amount of change. For decreases, enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in remarks. For multiple program funding, use totals and show program breakouts in remarks. Item definitions: 32a, amount awarded by Federal Government; 32b, amount applicant will contribute; 32c, amount from State, if applicant is not a State; 32d, amount from local government if applicant is not a local government; 32e, amount from any other sources, explain in remarks.

33. Date action was taken on this request.

34. Date funds will become available.

35. Name and telephone no. of agency person who can provide more information regarding this assistance.

36. Date after which funds will no longer be available.

37. Check appropriate box as to whether Section IV of form contains Federal remarks and/or attachment of additional remarks.

38. For use with A–95 action notices only. Name and telephone of person who can assure that appropriate A–95 action has been taken—If same as person shown in Item 35, write "same". If not applicable, write "NA".

Federal Agency Procedures—special considerations

A. *Treasury Circular 1082 compliance.* Federal agency will assure proper completion of Sections I and III. If Section I is being completed by Federal agency, all applicable items must be filled in. Addresses of State Information Reception Agencies (SCIRA's) are provided by Treasury Department to each agency. This form replaces SF 240, which will no longer be used.

B. *OMB Circular A–95 compliance.* Federal agency will assure proper completion of Sections I, II, and III. This form is required for notifying all reviewing clearinghouses of major actions on all programs reviewed under A–95. Addresses of State and areawide clearinghouses are provided by OMB to each agency. Substantive differences between applicant's request and/or clearinghouse recommendations, and the project as finally awarded will be explained in A–95 notifications to clearinghouses.

C. *Special note.* In most, but not all States, the A–95 State clearinghouse and the (TC 1082) SCIRA are the same office. In such cases, the A–95 award notice to the State clearinghouse will fulfill the TC 1082 award notice requirement to the State SCIRA. Duplicate notification should be avoided.

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Exhibit M-1. Preapplication for Federal Assistance
(page 4 of 6)

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Attachment M

OMB Approval No. 80-R0187

PREAPPLICATION FOR FEDERAL ASSISTANCE

PART II

1. Does this assistance request require State, local, regional or other priority rating? _____ Yes _____ No
2. Does this assistance require State or local advisory, educational or health clearance? _____ Yes _____ No
3. Does this assistance request require Clearinghouse review? _____ Yes _____ No
4. Does this assistance request require State, local, regional or other planning approval? _____ Yes _____ No
5. Is the proposed project covered by an approved comprehensive plan? _____ Yes _____ No
6. Will the assistance requested serve a Federal installation? _____ Yes _____ No
7. Will the assistance requested be on Federal land or installation? _____ Yes _____ No
8. Will the assistance requested have an effect on the environment? _____ Yes _____ No
9. Will the assistance requested cause the displacement of individuals, families, businesses, or farms? _____ Yes _____ No
10. Is there other related assistance for this project previous, pending, or anticipated? _____ Yes _____ No
11. Is the project in a designated flood hazard area? _____ Yes _____ No

PART III – PROJECT BUDGET

FEDERAL CATALOG NUMBER (a)	TYPE OF ASSISTANCE LOAN, GRANT, ETC. (b)	FIRST BUDGET PERIOD (c)	BALANCE OF PROJECT (d)	TOTAL (e)
1.				
2.				
3.				
4.				
5.				
6. Total Federal Contribution		$	$	$
7. State Contribution				
8. Applicant Contribution				
9. Other Contributions				
10. Totals		$	$	$

PART IV – PROGRAM NARRATIVE STATEMENT

(Attach per instruction)

Exhibit M-1. Preapplication for Federal Assistance
(Page 5 of 6)

Attachment M

INSTRUCTIONS

PART II

Negative answers will not require an explanation unless the Federal agency requests more information at a later date. Provide supplementary data for all "Yes" answers in the space provided in accordance with the following instructions:

Item 1 – Provide the name of the governing body establishing the priority system and the priority rating assigned to this project.

Item 2 – Provide the name of the agency or board which issued the clearance and attach the documentation of status or approval.

Item 3 – Attach the clearinghouse comments for the application in accordance with the instructions contained in Office of Management and Budget Circular No. A-95. If comments were submitted previously with a preapplication, do not submit them again but any additional comments received from the clearinghouse should be submitted with this application.

Item 4 – Furnish the name of the approving agency and the approval date.

Item 5 – Show whether the approved comprehensive plan is State, local or regional, or if none of these, explain the scope of the plan. Give the location where the approved plan is available for examination and state whether this project is in conformance with the plan.

Item 6 – Show the population residing or working on the Federal installation who will benefit from this project.

Item 7 – Show the percentage of the project work that will be conducted on federally-owned or leased land. Give the name of the Federal installation and its location.

Item 8 – Describe briefly the possible beneficial and harmful impact on the environment of the proposed project. If an adverse environmental impact is anticipated, explain what action will be taken to minimize the impact. Federal agencies will provide separate instructions if additional data is needed.

Item 9 – State the number of individuals, families, businesses, or farms this project will displace. Federal agencies will provide separate instructions if additional data is needed.

Item 10 – Show the Federal Domestic Assistance Catalog number, the program name, the type of assistance, the status and the amount of each project where there is related previous, pending or anticipated assistance. Use additional sheets, if needed.

Item 11 – Contact the Federal agency concerning the provisions of the Flood Disaster protection Act of 1973 (P.L. 93-234).

PART III

Complete: Lines 1-5 – Columns (a)-(e). Enter the catalog numbers shown in the Catalog of Federal Domestic Assistance in Column (a) and the type of assistance in Column (b). For each line entry in Columns (a) and (b), enter in Columns (c), (d), and (e), the estimated amounts of Federal funds needed to support the project. Columns (c) and (d) may be left blank, if not applicable.

Line 6 – Show the totals for Lines 1-5 for Columns (c), (d), and (e).

Line 7 – Enter the estimated amounts of State assistance, if any, including the value of in-kind contributions, in Columns (c), (d), and (e). Applicants which are States or State agencies should leave Line 7 blank.

Line 8 – Enter the estimated amounts of funds and value of in-kind contributions the applicant will provide to the program or project in Columns (c), (d), and (e).

Line 9 – Enter the amount of assistance including the value of in-kind contributions, expected from all other contributors in Columns (c), (d), and (e).

Line 10 – Enter the totals of Columns (c), (d), and (e).

PART IV

The program narrative statement should be brief and scribe the need, objectives, method of accomplishment, the geographical location of the project, and the benefits expected to be obtained from the assistance. The statement should be typed on a separate sheet of paper and submitted with the preapplication. Also attach any data that may be needed by the grantor agency to establish the applicant's eligibility for receiving assistance under the Federal program(s).

Exhibit M-1. Preapplication for Federal Assistance
(Page 6 of 6)

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Attachment M

NOTICE OF PREAPPLICATION REVIEW ACTION

From: _____
(Department, bureau, or establishment)

Agency Number

_____

Reference Your Preapplication

Number _____

Dated: _____

To:

1. We have reviewed your preapplication for Federal assistance under _____ and have determined that your proposal is:
   _____ eligible for funding by this agency and can compete with similar applications from other grantees.
   _____ eligible but does not have the priority necessary for further consideration at this time.
   _____ not eligible for funding by this agency.
2. Therefore, we suggest that you:
   _____ file a formal application with us by (date) _____.
   _____ file an application with _____ (Suggested Federal agency).
   _____ find other means of funding this project.
3. Based upon the funds available for this program over the last two fiscal years and the number of applications reviewed, or pending, we anticipate that funds for which you are competing will be available after (month, year) _____.
4. You requested $_____ Federal funding in your preapplication form, and we:
   _____ are agreeable to consideration of approximately this amount in the formal application.
   _____ will need to analyze the amount requested in more detail.
5. A preapplication conference will be _____ necessary _____ not necessary. We are recommending that it be held at _____, an _____, at _____ a.m./p.m. Please contact the undersigned for confirmation.
6. Enclosures: _____ Forms _____ Instructions _____ Other (Specify) _____
7. Other Remarks:

Signature	Title	Date
Organizational Unit	Administrative Office	Telephone Number
Address		

NOTE: This form will be used by Federal agencies to inform applicants of the results of a review of their preapplication request for Federal assistance. When the review cannot be performed within 45 days, the applicant shall be informed by letter as to when the review will be completed. When Federal agencies determine that the proposal is not eligible for Federal assistance, specific reasons should be provided in Item 7 Other Remarks.

Exhibit M-2. Notice of Preapplication Review Action

Attachment M

OMB Approval No. 80-R0190

FEDERAL ASSISTANCE

1. TYPE OF ACTION (Mark appropriate box) ☐ PREAPPLICATION ☐ APPLICATION ☐ NOTIFICATION OF INTENT (Opt.) ☐ REPORT OF FEDERAL ACTION
2. APPLICANT'S APPLICATION — a. NUMBER; b. DATE Year month day 19 — Leave Blank
3. STATE APPLICATION IDENTIFIER — a. NUMBER; b. DATE ASSIGNED Year month day 19
4. LEGAL APPLICANT/RECIPIENT — a. Applicant Name; b. Organization Unit; c. Street/P.O. Box; d. City; e. County; f. State; g. ZIP Code; h. Contact Person (Name & telephone No.)
5. FEDERAL EMPLOYER IDENTIFICATION NO.
6. PROGRAM (From Federal Catalog) — a. NUMBER; b. TITLE
7. TITLE AND DESCRIPTION OF APPLICANT'S PROJECT
8. TYPE OF APPLICANT/RECIPIENT — A-State; B-Interstate; C-Substate District; D-County; E-City; F-School District; G-Special Purpose District; H-Community Action Agency; I-Higher Educational Institution; J-Indian Tribe; K-Other (Specify): Enter appropriate letter
9. TYPE OF ASSISTANCE — A-Basic Grant; B-Supplemental Grant; C-Loan; D-Insurance; E-Other. Enter appropriate letter(s)
10. AREA OF PROJECT IMPACT (Names of cities, counties, States, etc.)
11. ESTIMATED NUMBER OF PERSONS BENEFITTING
12. TYPE OF APPLICATION — A-New; B-Renewal; C-Revision; D-Continuation; E-Augmentation. Enter appropriate letter
13. PROPOSED FUNDING

a. FEDERAL	$ .00
b. APPLICANT	.00
c. STATE	.00
d. LOCAL	.00
e. OTHER	.00
f. TOTAL	$ .00

14. CONGRESSIONAL DISTRICTS OF: a. APPLICANT; b. PROJECT
15. PROJECT START DATE Year month day 19
16. ESTIMATED DATE TO BE SUBMITTED TO FEDERAL AGENCY ▶ Year month day 19
17. PROJECT DURATION Months
18. TYPE OF CHANGE (For 16e or 16e) — A-Increase Dollars; B-Decrease Dollars; C-Increase Duration; D-Decrease Duration; E-Cancellation; F-Other (Specify): Enter appropriate letter(s)
19. EXISTING FEDERAL IDENTIFICATION NUMBER
20. FEDERAL AGENCY TO RECEIVE REQUEST (Name, City, State, ZIP code)
21. REMARKS ADDED ☐ Yes ☐ No

SECTION I—APPLICANT/RECIPIENT DATA

22. THE APPLICANT CERTIFIES THAT ▶ a. To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved. b. If required by OMB Circular A-95 this application was submitted, pursuant to instructions therein, to appropriate clearinghouses and all responses are attached: (1) (2) (3) — No response ☐ ☐ ☐; Response attached ☐ ☐ ☐
23. CERTIFYING REPRESENTATIVE — a. TYPED NAME AND TITLE; b. SIGNATURE; c. DATE SIGNED Year month day 19

SECTION II—CERTIFICATIONS

24. AGENCY NAME
25. APPLICATION RECEIVED Year month day 19
26. ORGANIZATIONAL UNIT
27. ADMINISTRATIVE OFFICE
28. FEDERAL APPLICATION IDENTIFICATION
29. ADDRESS
30. FEDERAL GRANT IDENTIFICATION
31. ACTION TAKEN — ☐ a. AWARDED; ☐ b. REJECTED; ☐ c. RETURNED FOR AMENDMENT; ☐ d. DEFERRED; ☐ e. WITHDRAWN
32. FUNDING

a. FEDERAL	$ .00
b. APPLICANT	.00
c. STATE	.00
d. LOCAL	.00
e. OTHER	.00
f. TOTAL	$ .00

33. ACTION DATE ▶ Year month day 19
34. STARTING DATE Year month day 19
35. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)
36. ENDING DATE Year month day 19
37. REMARKS ADDED ☐ Yes ☐ No
38. FEDERAL AGENCY A-95 ACTION — a. In taking above action, any comments received from clearinghouses were considered. If agency response is due under provisions of Part I, OMB Circular A-95, it has been or is being made.
39. FEDERAL AGENCY A-95 OFFICIAL (Name and telephone no.)

SECTION III—FEDERAL AGENCY ACTION

Prescribed by OMB Circular A-102

Exhibit M-3. Application for Federal Assistance (Nonconstruction Programs) (Page 1 of 13)

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Attachment M

SECTION IV—REMARKS *(Please reference the proper item number from Sections I, II or III, if applicable)*

Exhibit M-3. Application for Federal Assistance
(Nonconstruction Programs)
(Page 2 of 13)

Attachment M

GENERAL INSTRUCTIONS

This is a multi-purpose standard form. First, it will be used by applicants as a required facesheet for pre-applications and applications submitted in accordance with OMB Circular A-102. Second, it will be used by Federal agencies to report to Clearinghouses on major actions taken on applications reviewed by clearinghouses in accordance with OMB Circular A-95. Third, it will be used by Federal agencies to notify States of grants-in-aid awarded in accordance with Treasury Circular 1082. Fourth, it may be used, on an optional basis, as a notification of intent from applicants to clearinghouses, as an early initial notice that Federal assistance is to be applied for (clearinghouse procedures will govern).

APPLICANT PROCEDURES FOR SECTION I

Applicant will complete all items in Section I. If an item is not applicable, write "NA". If additional space is needed, insert an asterisk "*", and use the remarks section on the back of the form. An explanation follows for each item:

Item

1. Mark appropriate box Pre-application and application guidance is in OMB Circular A-102 and Federal agency program instructions. Notification of intent guidance is in Circular A-95 and procedures from clearinghouse. Applicant will not use "Report of Federal Action" box.
2a. Applicant's own control number, if desired.
2b. Date Section I is prepared.
3a. Number assigned by State clearinghouse, or if delegated by State, by areawide clearinghouse. All requests to Federal agencies must contain this identifier if the program is covered by Circular A-95 and required by applicable State/areawide clearinghouse procedures. If in doubt, consult your clearinghouse.
3b. Date applicant notified of clearinghouse identifier.
4a-4h. Legal name of applicant/recipient, name of primary organizational unit which will undertake the assistance activity, complete address of applicant, and name and telephone number of person who can provide further information about this request.
5. Employer Identification number of applicant as assigned by Internal Revenue Service.
6a. Use Catalog of Federal Domestic Assistance number assigned to program under which assistance is requested. If more than one program (e.g., joint-funding) write "multiple" and explain in remarks. If unknown, cite Public Law or U.S. Code.
6b. Program title from Federal Catalog. Abbreviate if necessary.
7. Brief title and appropriate description of project. For notification of intent, continue in remarks section if necessary to convey proper description.
8. Mostly self-explanatory. "City" includes town, township or other municipality.
9. Check the type(s) of assistance requested. The definitions of the terms are:
   A. Basic Grant. An original request for Federal funds. This would not include any contribution provided under a supplemental grant.
   B. Supplemental Grant. A request to increase a basic grant in certain cases where the eligible applicant cannot supply the required matching share of the basic Federal program (e.g., grants awarded by the Appalachian Regional Commission to provide the applicant a matching share).
   C. Loan. Self explanatory.

Item

   D. Insurance. Self explanatory.
   E. Other. Explain on remarks page.
10. Governmental unit where significant and meaningful impact could be observed. List only largest unit or units affected, such as State, county, or city. If entire unit affected, list it rather than subunits.
11. Estimated number of persons directly benefiting from project.
12. Use appropriate code letter. Definitions are:
   A. New. A submittal for the first time for a new project.
   B. Renewal. An extension for an additional funding/budget period for a project having no projected completion date, but for which Federal support must be renewed each year.
   C. Revision. A modification to project nature or scope which may result in funding change (increase or decrease).
   D. Continuation. An extension for an additional funding/budget period for a project the agency initially agreed to fund for a definite number of years.
   E. Augmentation. A requirement for additional funds for a project previously awarded funds in the same funding/budget period. Project nature and scope unchanged.
13. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions will be included. If the action is a change in dollar amount of an existing grant (a revision or augmentation), indicate only the amount of the change. For decreases enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in remarks. For multiple program funding, use totals and show program breakouts in remarks. Item definitions: 13a, amount requested from Federal Government; 13b, amount applicant will contribute; 13c, amount from State, if applicant is not a State; 13d, amount from local government, if applicant is not a local government; 13e, amount from any other sources, explain in remarks.
14a. Self explanatory.
14b. The district(s) where most of actual work will be accomplished. If city-wide or State-wide, covering several districts, write "city-wide" or "State-wide."
15. Complete only for revisions (item 12c), or augmentations (item 12e).

Exhibit M-3. Application for Federal Assistance
(Nonstruction Programs)
(Page 3 of 13)

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Attachment M

Item	
16.	Approximate date project expected to begin (usually associated with estimated date of availability of funding).
17.	Estimated number of months to complete project after Federal funds are available.
18.	Estimated date preapplication/application will be submitted to Federal agency if this project requires clearinghouse review. If review not required, this date would usually be same as date in item 2b.
19.	Existing Federal identification number if this is not a new request and directly relates to a previous Federal action. Otherwise write "NA".
20.	Indicate Federal agency to which this request is addressed. Street address not required, but do use ZIP.
21.	Check appropriate box as to whether Section IV of form contains remarks and/or additional remarks are attached.

APPLICANT PROCEDURES FOR SECTION II

Applicants will always complete items 23a, 23b, and 23c. If clearinghouse review is required, item 22b must be fully completed. An explanation follows for each item:

Item	
22b.	List clearinghouses to which submitted and show in appropriate blocks the status of their responses. For more than three clearinghouses, continue in remarks section. All written comments submitted by or through clearinghouses must be attached.
23a.	Name and title of authorized representative of legal applicant.
23b.	Self explanatory.
23c.	Self explanatory.
Note:	Applicant completes only Sections I and II. Section III is completed by Federal agencies.

FEDERAL AGENCY PROCEDURES FOR SECTION III

If applicant-supplied information in Sections I and II needs no updating or adjustment to fit the final Federal action, the Federal agency will complete Section III only. An explanation for each item follows:

Item	
24.	Executive department or independent agency having program administration responsibility.
25.	Self explanatory.
26.	Primary organizational unit below department level having direct program management responsibility.
27.	Office directly monitoring the program.
28.	Use to identify non-award actions where Federal grant identifier in item 30 is not applicable or will not suffice.
29.	Complete address of administering office shown in item 26.
30.	Use to identify award actions where different from Federal application identifier in item 28.
31.	Self explanatory. Use remarks section to amplify where appropriate.
32.	Amount to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions will be included. If the action is a change in dollar amount of an existing grant (a revision or augmentation), indicate only the amount of change. For decreases, enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in remarks. For multiple program funding, use totals and show program breakouts in remarks. Item definitions: 32a, amount awarded by Federal Government; 32b, amount applicant will contribute; 32c, amount from State, if applicant is not a State; 32d, amount from local government if applicant is not a local government; 32e, amount from any other sources, explain in remarks.
33.	Date action was taken on this request.
34.	Date funds will become available.
35.	Name and telephone no. of agency person who can provide more information regarding this assistance.
36.	Date after which funds will no longer be available.
37.	Check appropriate box as to whether Section IV of form contains Federal remarks and/or attachment of additional remarks.
38.	For use with A–95 action notices only. Name and telephone of person who can assure that appropriate A–95 action has been taken—If same as person shown in item 35, write "same". If not applicable, write "NA".

Federal Agency Procedures—special considerations

A. *Treasury Circular 1082 compliance.* Federal agency will assure proper completion of Sections I and III. If Section I is being completed by Federal agency, all applicable items must be filled in. Addresses of State Information Reception Agencies (SCIRA's) are provided by Treasury Department to each agency. This form replaces SF 240, which will no longer be used.

B. *OMB Circular A–95 compliance.* Federal agency will assure proper completion of Sections I, II, and III. This form is required for notifying all reviewing clearinghouses of major actions on all programs reviewed under A–95. Addresses of State and areawide clearinghouses are provided by OMB to each agency. Substantive differences between applicant's request and/or clearinghouse recommendations, and the project as finally awarded will be explained in A–95 notifications to clearinghouses.

C. *Special note.* In most, but not all States, the A–95 State clearinghouse and the (TC 1082) SCIRA are the same office. In such cases, the A–95 award notice to the State clearinghouse will fulfill the TC 1082 award notice requirement to the State SCIRA. Duplicate notification should be avoided.

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Exhibit M-3. Application for Federal Assistance (Nonconstruction Programs)
(Page 4 of 13)

Attachment M

OMB Approval No. 80-R0186

PART II

PROJECT APPROVAL INFORMATION

Item 1.
Does this assistance request require State, local, regional, or other priority rating?
_____ Yes _____ No
Name of Governing Body _____
Priority Rating _____

Item 2.
Does this assistance request require State, or local advisory, educational or health clearances?
_____ Yes _____ No
Name of Agency or Board _____
(Attach Documentation)

Item 3.
Does this assistance request require clearinghouse review in accordance with OMB Circular A-95?
_____ Yes _____ No
(Attach Comments)

Item 4.
Does this assistance request require State, local, regional or other planning approval?
_____ Yes _____ No
Name of Approving Agency _____
Date _____

Item 5.
Is the proposed project covered by an approved comprehensive plan?
_____ Yes _____ No
Check one: State ☐ Local ☐ Regional ☐
Location of Plan _____

Item 6.
Will the assistance requested serve a Federal installation?
_____ Yes _____ No
Name of Federal Installation _____
Federal Population benefiting from Project _____

Item 7.
Will the assistance requested be on Federal land or installation?
_____ Yes _____ No
Name of Federal Installation _____
Location of Federal Land _____
Percent of Project _____

Item 8.
Will the assistance requested have an impact or effect on the environment?
_____ Yes _____ No
See instructions for additional information to be provided.

Item 9.
Will the assistance requested cause the displacement of individuals, families, businesses, or farms?
_____ Yes _____ No
Number of:
Individuals _____
Families _____
Businesses _____
Farms _____

Item 10.
Is there other related assistance on this project previous, pending, or anticipated?
_____ Yes _____ No
See instructions for additional information to be provided.

Item 11.
Is the project in a designated flood hazard area?
_____ Yes _____ No
See instructions for additional information to be provided.

Exhibit M-3. Application for Federal Assistance (Nonconstruction Programs)
(Page 5 of 13)

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Attachment M

INSTRUCTIONS

PART II

Negative answers will not require an explanation unless the Federal agency requests more information at a later date. Provide supplementary data for all "Yes" answers in the space provided in accordance with the following instructions:

Item 1 — Provide the name of the governing body establishing the priority system and the priority rating assigned to this project.

Item 2 — Provide the name of the agency or board which issued the clearance and attach the documentation of status or approval.

Item 3 — Attach the clearinghouse comments for the application in accordance with the instructions contained in Office of Management and Budget Circular No. A-95. If comments were submitted previously with a preapplication, do not submit them again but any additional comments received from the clearinghouse should be submitted with this application.

Item 4 — Furnish the name of the approving agency and the approval date.

Item 5 — Show whether the approved comprehensive plan is State, local or regional, or if none of these, explain the scope of the plan. Give the location where the approved plan is available for examination and state whether this project is in conformance with the plan.

Item 6 — Show the population residing or working on the Federal installation who will benefit from this project.

Item 7 — Show the percentage of the project work that will be conducted on federally-owned or leased land. Give the name of the Federal installation and its location.

Item 8 — Describe briefly the possible beneficial and harmful impact on the environment of the proposed project. If an adverse environmental impact is anticipated, explain what action will be taken to minimize the impact. Federal agencies will provide separate instructions if additional data is needed.

Item 9 — State the number of individuals, families, businesses, or farms this project will displace. Federal agencies will provide separate instructions if additional data is needed.

Item 10 — Show the Federal Domestic Assistance Catalog number, the program name, the type of assistance, the status and the amount of each project where there is related previous, pending or anticipated assistance. Use additional sheets, if needed.

Exhibit M-3. Application for Federal Assistance (Nonconstruction Programs)
(Page 6 of 13)

Attachment M

OMB Approval No. 80-R0186

PART III - BUDGET INFORMATION

SECTION A - BUDGET SUMMARY

Grant Program, Function or Activity (a)	Federal Catalog No. (b)	Estimated Unobligated Funds		New or Revised Budget			
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	Grant Program, Function or Activity				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges					
j. Indirect Charges					
k. TOTALS	$	$	$	$	$
7. Program Income	$	$	$	$	$

Exhibit M-3. Application for Federal Assistance (Nonconstruction Programs)
(Page 7 of 13)

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Attachment M

INSTRUCTIONS

PART III

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may not require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b).

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to *multiple* programs where *none* of the programs *require* a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g).

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period *only* if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should *not* equal the sum of amounts in Columns (e) and (f).

Line 5 – Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets were prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-h – Show the estimated amount for each direct cost budget (object class) category for each column with program, function or activity heading.

Line 6i – Show the totals of Lines 6a to 6h in each column.

Line 6j – Show the amount of indirect cost. Refer to FMC 74-4.

Line 6k – Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5. When additional sheets were prepared, the last two sentences apply only to the first page with summary totals.

Line 7 – Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Exhibit M-3. Application for Federal Assistance (Nonconstruction Programs)
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SECTION C – NON-FEDERAL RESOURCES

(a) Grant Program	(b) APPLICANT	(c) STATE	(d) OTHER SOURCES	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS	$	$	$	$

SECTION D – FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL	$	$	$	$	$

SECTION E – BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (YEARS) (b) FIRST	(c) SECOND	(d) THIRD	(e) FOURTH
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS	$	$	$	$

SECTION F – OTHER BUDGET INFORMATION
(Attach additional Sheets If Necessary)

21. Direct Charges:

22. Indirect Charges:

23. Remarks:

PART IV PROGRAM NARRATIVE (Attach per instruction)

Exhibit M-3. Application for Federal Assistance (Nonconstruction Programs)
(Page 9 of 13)

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INSTRUCTIONS

PART III
(continued)

Section C. Source of Non-Federal Resources

Line 8-11 – Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet. (See Attachment F, Circular A–102.

Column (a) – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) – Enter the amount of cash and in-kind contributions to be made by the applicant as shown in Section A. (See also Attachment F, Circular A–102.

Column (c) – Enter the State contribution if the applicant is *not* a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) – Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) – Enter totals of Columns (b), (c), and (d).

Line 12 – Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 – Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 – Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 – Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16-19 – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuing grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This Section need not be completed for amendments, changes, or supplements to funds for the current year of existing grants.

If more than four lines are needed to list the program titles submit additional schedules as necessary.

Line 20 – Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F – Other Budget Information.

Line 21 – Use this space to explain amounts for individual direct object cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 – Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 – Provide any other explanations required herein or any other comments deemed necessary.

Exhibit M-3. Application for Federal Assistance (Nonconstruction Programs)
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Attachment M

INSTRUCTIONS

PART IV
PROGRAM NARRATIVE

Prepare the program narrative statement in accordance with the following instructions for all new assistance programs. Requests for continuation or refunding and changes on an approved project should respond to item 5b only. Requests for supplemental assistance should respond to question 5c only.

1. OBJECTIVES AND NEED FOR THIS ASSISTANCE.

Pinpoint any relevant physical, economic, social, financial, institutional, or other problems requiring a solution. Demonstrate the need for assistance and state the principal and subordinate objectives of the project. Supporting documentation or other testimonies from concerned interests other than the applicant may be used. Any relevant data based on planning studies should be included or footnoted.

2. RESULTS OR BENEFITS EXPECTED.

Identify results and benefits to be derived. For example, when applying for an award to establish a neighborhood health center provide a description of who will occupy the facility, how the facility will be used, and how the facility will benefit the general public.

3. APPROACH.

a. Outline a plan of action pertaining to the scope and detail of how the proposed work will be accomplished for assistance program, function or activity provided in the budget. Cite factors which might accelerate or decelerate the work and your reason for taking this approach as opposed to others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

b. Provide for each assistance program, function or activity, quantitative monthly or quarterly projections of the accomplishments to be achieved in such terms as the number of jobs created; the number of people served; and the number of patients treated. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

c. Identify the kinds of data to be collected and maintained and discuss the criteria to be used to evaluate the results and successes of the project. Explain the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified in item 2 are being achieved.

d. List organizations, cooperators, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

4. GEOGRAPHIC LOCATION.

Give a precise location of the project or area to be served by the proposed project. Maps or other graphic aids may be attached.

5. IF APPLICABLE, PROVIDE THE FOLLOWING INFORMATION:

a. For research or demonstration assistance requests, present a biographical sketch of the program director with the following information; name, address, phone number, background, and other qualifying experience for the project. Also, list the name, training and background for other key personnel engaged in the project.

b. Discuss accomplishments to date and list in chronological order a schedule of accomplishments, progress or milestones anticipated with the new funding request. If there have been significant changes in the project objectives, location approach, or time delays, explain and justify. For other requests for changes or amendments, explain the reason for the change(s). If the scope or objectives have changed or an extension of time is necessary, explain the circumstances and justify. If the total budget has been exceeded, or if individual budget items have changed more than the prescribed limits contained in Attachment K to Circular A–102, explain and justify the need for additional funding.

c. For supplemental assistance requests, explain the reason for the request and justify the need for additional funding.

Exhibit M-3. Application for Federal Assistance (Nonconstruction Programs)
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PART V

ASSURANCES

The Applicant hereby assures and certifies that he will comply with the regulations, policies, guidelines and requirements, including OMB Circulars No. A-95, A-102 and FMC 74-4, as they relate to the application, acceptance and use of Federal funds for this federally-assisted project. Also the Applicant assures and certifies to the grant that:

1. It possesses legal authority to apply for the grant; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
2. It will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and in accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement.
3. It will comply with Title VI of the Civil Rights Act of 1964 (42 USC 2000d) prohibiting employment discrimination where (1) the primary purpose of a grant is to provide employment or (2) discriminatory employment practices will result in unequal treatment of persons who are or should be benefiting from the grant-aided activity.
4. It will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs.
5. It will comply with the provisions of the Hatch Act which limit the political activity of employees.
6. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, as they apply to hospital and educational institution employees of State and local governments.
7. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
8. It will give the sponsoring agency or the Comptroller General through any authorized representative the access to and the right to examine all records, books, papers, or documents related to the grant.
9. It will comply with all requirements imposed by the Federal sponsoring agency concerning special requirements of law, program requirements, and other administrative requirements.

10. It will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

11. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976. Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards.

Exhibit M-3. Application for Federal Assistance (Nonconstruction Programs)

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Attachment M

PART V (Continued)

The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

12. It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.8) by the activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.

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Exhibit M-3. Application for Federal Assistance (Nonconstruction Programs)

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FEDERAL ASSISTANCE

1. TYPE OF ACTION (Mark appropriate box)	☐ PREAPPLICATION ☐ APPLICATION ☐ NOTIFICATION OF INTENT (Opt.) ☐ REPORT OF FEDERAL ACTION	2. APPLICANT'S APPLICATION	a. NUMBER b. DATE Year month day 19
		3. STATE APPLICATION IDENTIFIER	a. NUMBER b. DATE ASSIGNED Year month day 19

Leave Blank

SECTION I—APPLICANT/RECIPIENT DATA

4. LEGAL APPLICANT/RECIPIENT
a. Applicant Name :
b. Organization Unit :
c. Street/P.O. Box :
d. City :
e. County :
f. State :
g. ZIP Code:
h. Contact Person (Name & telephone No.) :

5. FEDERAL EMPLOYER IDENTIFICATION NO.

6. PROGRAM (From Federal Catalog)
a. NUMBER
b. TITLE

7. TITLE AND DESCRIPTION OF APPLICANT'S PROJECT

8. TYPE OF APPLICANT/RECIPIENT
A–State; B–Interstate; C–Substate District; D–County; E–City; F–School District; G–Special Purpose District; H–Community Action Agency; I–Higher Educational Institution; J–Indian Tribe; K–Other (Specify):
Enter appropriate letter ☐

9. TYPE OF ASSISTANCE
A–Basic Grant; B–Supplemental Grant; C–Loan; D–Insurance; E–Other
Enter appropriate letter(s) ☐☐

10. AREA OF PROJECT IMPACT (Names of cities, counties, States, etc.)

11. ESTIMATED NUMBER OF PERSONS BENEFITING

12. TYPE OF APPLICATION
A–New; B–Renewal; C–Revision; D–Continuation; E–Augmentation
Enter appropriate letter ☐

13. PROPOSED FUNDING

a. FEDERAL	$ .00
b. APPLICANT	.00
c. STATE	.00
d. LOCAL	.00
e. OTHER	.00
f. TOTAL	$ .00

14. CONGRESSIONAL DISTRICTS OF:
a. APPLICANT
b. PROJECT

15. TYPE OF CHANGE (For 15a or 15e)
A–Increase Dollars; B–Decrease Dollars; C–Increase Duration; D–Decrease Duration; E–Cancellation; F–Other (Specify):
Enter appropriate letter(s) ☐☐☐

16. PROJECT START DATE Year month day 19

17. PROJECT DURATION Months

18. ESTIMATED DATE TO BE SUBMITTED TO FEDERAL AGENCY ▶ Year month day 19

19. EXISTING FEDERAL IDENTIFICATION NUMBER

20. FEDERAL AGENCY TO RECEIVE REQUEST (Name, City, State, ZIP code)

21. REMARKS ADDED ☐ Yes ☐ No

SECTION II—CERTIFICATION

22. THE APPLICANT CERTIFIES THAT ▶
a. To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved.
b. If required by OMB Circular A-95 this application was submitted, pursuant to instructions thereto, to appropriate clearinghouses and all responses are attached:

	No response	Response attached
(1)	☐	☐
(2)	☐	☐
(3)	☐	☐

23. CERTIFYING REPRESENTATIVE
a. TYPED NAME AND TITLE
b. SIGNATURE
c. DATE SIGNED Year month day 19

SECTION III—FEDERAL AGENCY ACTION

24. AGENCY NAME

25. APPLICATION RECEIVED Year month day 19

26. ORGANIZATIONAL UNIT

27. ADMINISTRATIVE OFFICE

28. FEDERAL APPLICATION IDENTIFICATION

29. ADDRESS

30. FEDERAL GRANT IDENTIFICATION

31. ACTION TAKEN
☐ a. AWARDED
☐ b. REJECTED
☐ c. RETURNED FOR AMENDMENT
☐ d. DEFERRED
☐ e. WITHDRAWN

32. FUNDING

a. FEDERAL	$ .00
b. APPLICANT	.00
c. STATE	.00
d. LOCAL	.00
e. OTHER	.00
f. TOTAL	$ .00

33. ACTION DATE ▶ Year month day 19

34. STARTING DATE Year month day 19

35. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)

36. ENDING DATE Year month day 19

37. REMARKS ADDED ☐ Yes ☐ No

38. FEDERAL AGENCY A-95 ACTION
a. In taking above action, any comments received from clearinghouses were considered. If agency response is due under provisions of Part 1, OMB Circular A-95, it has been or is being made.
b. FEDERAL AGENCY A-95 OFFICIAL (Name and telephone no.)

Prescribed by OMB Circular A-102

Exhibit M-4. Application for Federal Assistance (For Construction Programs)
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Attachment M

SECTION IV—REMARKS (Please reference the proper item number from Sections I, II or III, if applicable)

STANDARD FORM 424 PAGE 2 (10–75)

Exhibit M-4. Application for Federal Assistance (For Construction Programs)
(Page 2 of 14)

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Attachment M

GENERAL INSTRUCTIONS

This is a multi-purpose standard form. First, it will be used by applicants as a required facesheet for pre-applications and applications submitted in accordance with OMB Circular A-102. Second, it will be used by Federal agencies to report to Clearinghouses on major actions taken on applications reviewed by clearinghouses in accordance with OMB Circular A-95. Third, it will be used by Federal agencies to notify States of grants-in-aid awarded in accordance with Treasury Circular 1082. Fourth, it may be used, on an optional basis, as a notification of intent from applicants to clearinghouses, as an early initial notice that Federal assistance is to be applied for (clearinghouse procedures will govern).

APPLICANT PROCEDURES FOR SECTION I

Applicant will complete all items in Section I. If an item is not applicable, write "NA". If additional space is needed, insert an asterisk "*", and use the remarks section on the back of the form. An explanation follows for each item:

Item

1. Mark appropriate box Pre-application and application guidance is in OMB Circular A-102 and Federal agency program instructions. Notification of intent guidance is in Circular A-95 and procedures from clearinghouse. Applicant will not use "Report of Federal Action" box.

2a. Applicant's own control number, if desired.

2b. Date Section I is prepared.

3a. Number assigned by State clearinghouse, or if delegated by State, by areawide clearinghouse. All requests to Federal agencies must contain this identifier if the program is covered by Circular A-95 and required by applicable State/areawide clearinghouse procedures. If in doubt, consult your clearinghouse.

3b. Date applicant notified of clearinghouse identifier.

4a-4h. Legal name of applicant/recipient, name of primary organizational unit which will undertake the assistance activity, complete address of applicant, and name and telephone number of person who can provide further information about this request.

5. Employer identification number of applicant as assigned by Internal Revenue Service.

6a. Use Catalog of Federal Domestic Assistance number assigned to program under which assistance is requested. If more than one program (e.g., joint-funding) write "multiple" and explain in remarks. If unknown, cite Public Law or U.S. Code.

6b. Program title from Federal Catalog. Abbreviate if necessary.

7. Brief title and appropriate description of project. For notification of intent, continue in remarks section if necessary to convey proper description.

8. Mostly self-explanatory. "City" includes town, township or other municipality.

9. Check the type(s) of assistance requested. The definitions of the terms are:

   A. Basic Grant. An original request for Federal funds. This would not include any contribution provided under a supplemental grant.

   B. Supplemental Grant. A request to increase a basic grant in certain cases where the eligible applicant cannot supply the required matching share of the basic Federal program (e.g., grants awarded by the Appalachian Regional Commission to provide the applicant a matching share).

   C. Loan. Self explanatory.

   D. Insurance. Self explanatory.

   E. Other. Explain on remarks page.

10. Governmental unit where significant and meaningful impact could be observed. List only largest unit or units affected, such as State, county, or city. If entire unit affected, list it rather than subunits.

11. Estimated number of persons directly benefiting from project.

12. Use appropriate code letter. Definitions are:

   A. New. A submittal for the first time for a new project.

   B. Renewal. An extension for an additional funding/budget period for a project having no projected completion date, but for which Federal support must be renewed each year.

   C. Revision. A modification to project nature or scope which may result in funding change (increase or decrease).

   D. Continuation. An extension for an additional funding/budget period for a project the agency initially agreed to fund for a definite number of years.

   E. Augmentation. A requirement for additional funds for a project previously awarded funds in the same funding/budget period. Project nature and scope unchanged.

13. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions will be included. If the action is a change in dollar amount of an existing grant (a revision or augmentation), indicate only the amount of the change. For decreases enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in remarks. For multiple program funding, use totals and show program breakouts in remarks. Item definitions: 13a, amount requested from Federal Government; 13b, amount applicant will contribute; 13c, amount from State, if applicant is not a State; 13d, amount from local government, if applicant is not a local government; 13e, amount from any other sources, explain in remarks.

14a. Self explanatory.

14b. The district(s) where most of actual work will be accomplished. If city-wide or State-wide, covering several districts, write "city-wide" or "State-wide."

15. Complete only for revisions (item 12c), or augmentations (item 12a).

STANDARD FORM 424 PAGE 3 (10-75)

Exhibit M-4. Application for Federal Assistance (For Construction Programs)
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Attachment M

Item

16. Approximate date project expected to begin (usually associated with estimated date of availability of funding).

17. Estimated number of months to complete project after Federal funds are available.

18. Estimated date preapplication/application will be submitted to Federal agency if this project requires clearinghouse review. If review not required, this date would usually be same as date in item 2b.

19. Existing Federal identification number if this is not a new request and directly relates to a previous Federal action. Otherwise write "NA".

20. Indicate Federal agency to which this request is addressed. Street address not required, but do use ZIP.

21. Check appropriate box as to whether Section IV of form contains remarks and/or additional remarks are attached.

APPLICANT PROCEDURES FOR SECTION II

Applicants will always complete items 23a, 23b, and 23c. If clearinghouse review is required, item 22b must be fully completed. An explanation follows for each item:

Item

22b. List clearinghouses to which submitted and show in appropriate blocks the status of their responses. For more than three clearinghouses, continue in remarks section. All written comments submitted by or through clearinghouses must be attached.

23a. Name and title of authorized representative of legal applicant.

23b. Self explanatory.

23c. Self explanatory.

Note: Applicant completes only Sections I and II. Section III is completed by Federal agencies.

FEDERAL AGENCY PROCEDURES FOR SECTION III

If applicant-supplied information in Sections I and II needs no updating or adjustment to fit the final Federal action, the Federal agency will complete Section III only. An explanation for each item follows:

Item

24. Executive department or independent agency having program administration responsibility.

25. Self explanatory.

26. Primary organizational unit below department level having direct program management responsibility.

27. Office directly monitoring the program.

28. Use to identify non-award actions where Federal grant identifier in item 30 is not applicable or will not suffice.

29. Complete address of administering office shown in item 26.

30. Use to identify award actions where different from Federal application identifier in item 28.

31. Self explanatory. Use remarks section to amplify where appropriate.

32. Amount to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions will be included. If the action is a change in dollar amount of an existing grant (a revision or augmentation), indicate only the amount of change. For decreases, enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in remarks. For multiple program funding, use totals and show program breakouts in remarks. Item definitions: 32a, amount awarded by Federal Government; 32b, amount applicant will contribute; 32c, amount from State, if applicant is not a State; 32d, amount from local government if applicant is not a local government; 32e, amount from any other sources, explain in remarks.

33. Date action was taken on this request.

34. Date funds will become available.

35. Name and telephone no. of agency person who can provide more information regarding this assistance.

36. Date after which funds will no longer be available.

37. Check appropriate box as to whether Section IV of form contains Federal remarks and/or attachment of additional remarks.

38. For use with A-95 action notices only. Name and telephone of person who can assure that appropriate A-95 action has been taken—if same as person shown in item 35, write "same". If not applicable, write "NA".

Federal Agency Procedures—special considerations

A. *Treasury Circular 1082 compliance.* Federal agency will assure proper completion of Sections I and III. If Section I is being completed by Federal agency, all applicable items must be filled in. Addresses of State Information Reception Agencies (SCIRA's) are provided by Treasury Department to each agency. This form replaces SF 240, which will no longer be used.

B. *OMB Circular A-95 compliance.* Federal agency will assure proper completion of Sections I, II, and III. This form is required for notifying all reviewing clearinghouses of major actions on all programs reviewed under A-95. Addresses of State and areawide clearinghouses are provided by OMB to each agency. Substantive differences between applicant's request and/or clearinghouse recommendations, and the project as finally awarded will be explained in A-95 notifications to clearinghouses.

C. *Special note.* In most, but not all States, the A-95 State clearinghouse and the (TC 1082) SCIRA are the same office. In such cases, the A-95 award notice to the State clearinghouse will fulfill the TC 1082 award notice requirement to the State SCIRA. Duplicate notification should be avoided.

STANDARD FORM 424 PAGE 4 (10-75)

Exhibit M-4. Application for Federal Assistance (For Construction Programs)
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Attachment M

OMB Approval No. 80-R0184

PART II

PROJECT APPROVAL INFORMATION
SECTION A

Item 1.
Does this assistance request require State, local, regional, or other priority rating?
_____Yes _____No
Name of Governing Body _____
Priority Rating _____

Item 2.
Does this assistance request require State, or local advisory, educational or health clearances?
_____Yes _____No (Attach Documentation)
Name of Agency or Board _____

Item 3.
Does this assistance request require clearinghouse review in accordance with OMB Circular A-95?
_____Yes _____No
(Attach Comments)

Item 4.
Does this assistance request require State, local, regional or other planning approval?
_____Yes _____No
Name of Approving Agency _____
Date _____

Item 5.
Is the proposed project covered by an approved comprehensive plan?
_____Yes _____No
Check one: State ☐ Local ☐ Regional ☐
Location of Plan _____

Item 6.
Will the assistance requested serve a Federal installation?
_____Yes _____No
Name of Federal Installation _____
Federal Population benefiting from Project _____

Item 7.
Will the assistance requested be on Federal land or installation?
_____Yes _____No
Name of Federal Installation _____
Location of Federal Land _____
Percent of Project _____

Item 8.
Will the assistance requested have an impact or effect on the environment?
_____Yes _____No
See instructions for additional information to be provided.

Item 9.
Will the assistance requested cause the displacement of individuals, families, businesses, or farms?
_____Yes _____No
Number of:
Individuals _____
Families _____
Businesses _____
Farms _____

Item 10.
Is there other related assistance on this project previous, pending, or anticipated?
_____Yes _____No
See instructions for additional information to be provided.

Item 11.
Is the project in a designated flood hazard area?
_____Yes _____No
See instructions for additional information to be provided.

Exhibit M-4. Application for Federal Assistance (for Construction Programs)

Attachment M

INSTRUCTIONS

PART II – SECTION A

Negative answers will not require an explanation unless the Federal agency requests more information at a later date. Provide supplementary data for all "Yes" answers in the space provided in accordance with the following instructions.

Item 1 – Provide the name of the governing body establishing the priority system and the priority rating assigned to this project.

Item 2 – Provide the name of the agency or board which issued the clearance and attach the documentation of status or approval.

Item 3 – Attach the clearinghouse comments for the application in accordance with the instructions contained in Office of Management and Budget Circular No. A-95. If comments were submitted previously with a preapplication, do not submit them again but any additional comments received from the clearinghouse should be submitted with this application.

Item 4 – Furnish the name of the approving agency and the approval date.

Item 5 – Show whether the approved comprehensive plan is State, local or regional, or if none of these, explain the scope of the plan. Give the location where the approved plan is available for examination and state whether this project is in conformance with the plan.

Item 6 – Show the Federal population residing or working on the federal installation who will benefit from this project.

Item 7 – Show the percentage of the project work that will be conducted on federally-owned or leased land. Give the name of the Federal installation and its location.

Item 8 – Briefly describe the possible beneficial and/or harmful impact on the environment because of the proposed project. If an adverse environmental impact is anticipated, explain what action will be taken to minimize the impact. Federal agencies will provide separate instructions if additional data is needed.

Item 9 – State the number of individuals, families, businesses, or farms this project will displace. Federal agencies will provide separate instructions if additional data is needed.

Item 10 – Show the Federal Domestic Assistance Catalog number, the program name, the type of assistance, the status and amount of each project where there is related previous, pending, or anticipated assistance. Use additional sheets, if needed.

Exhibit M-4. Application for Federal Assistance (for Construction Programs)

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Attachment M

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INSTRUCTION

PART II – SECTION B

11. SITES AND IMPROVEMENTS: _____ Not required, _____ Attached as exhibits Applicant intends to acquire the site through: _____ Eminent domain, _____ Negotiated purchase, _____ Other means (specify)
12. TITLE OR OTHER INTEREST IN THE SITE IS OR WILL BE VESTED IN: _____ Applicant, _____ Agency or institution operating the facility, _____ Other (specify)
13. INDICATE WHETHER APPLICANT/OPERATOR HAS: _____ Fee simple title, _____ Leasehold interest, _____ Other (specify)
14. IF APPLICANT/OPERATOR HAS LEASEHOLD INTEREST, GIVE THE FOLLOWING INFORMATION: a. Length of lease or other estate interest _____, and number of years to run _____ b. Is lease renewable? _____ Yes _____ No c. Current appraised value of land $ _____ d. Annual rental rate $ _____
15. ATTACH AN OPINION FROM ACCEPTABLE TITLE COUNSEL DESCRIBING THE INTEREST APPLICANT/OPERATOR HAS IN THE SITE AND CERTIFYING THAT THE ESTATE OR INTEREST IS LEGAL AND VALID.
16. WHERE APPLICABLE, ATTACH SITE SURVEY, SOIL INVESTIGATION REPORTS AND COPIES OF LAND APPRAISALS.
17. WHERE APPLICABLE, ATTACH CERTIFICATION FROM ARCHITECT ON THE FEASIBILITY OF IMPROVING EXISTING SITE TOPOGRAPHY.
18. ATTACH PLOT PLAN.
19. CONSTRUCTION SCHEDULE ESTIMATES: _____ Not required, _____ Being prepared, _____ Attached as exhibits Percentage of completion of drawings and specifications at application date: Schematics _____ % Preliminary _____ %. Final _____ %
20. TARGET DATES FOR: Bid Advertisement _____ Contract Award _____ Construction Completion _____ Occupancy _____
21. DESCRIPTION OF FACILITY: _____ Not required _____ Attached as exhibits Drawings – Attach any drawings which will assist in describing the project. Specifications – Attach copies of completed outline specifications. (If drawings and specifications have not been fully completed, please attach copies or working drawings that have been completed.)

NOTE: ITEMS ON THIS SHEET ARE SELF-EXPLANATORY; THEREFORE, NO INSTRUCTIONS ARE PROVIDED.

Exhibit M-4. Application for Federal Assistance (for Construction Programs)
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Attachment M

OMB Approval No. 80-R0184

PART III – BUDGET INFORMATION – CONSTRUCTION			
SECTION A – GENERAL			
1. Federal Domestic Assistance Catalog No. _____			
2. Functional or Other Breakout _____			
SECTION B – CALCULATION OF FEDERAL GRANT			
Cost Classification	Use only for revisions: Latest Approved Amount	Use only for revisions: Adjustment + or (–)	Total Amount Required
1. Administration expense	$	$	$
2. Preliminary expense			
3. Land, structures, right-of-way			
4. Architectural engineering basic fees			
5. Other architectural engineering fees			
6. Project inspection fees			
7. Land development			
8. Relocation Expenses			
9. Relocation payments to Individuals and Businesses			
10. Demolition and removal			
11. Construction and project improvement			
12. Equipment			
13. Miscellaneous			
14. Total (Lines 1 through 13)			
15. Estimated Income (if applicable)			
16. Net Project Amount (Line 14 minus 15)			
17. Less: Ineligible Exclusions			
18. Add: Contingencies			
19. Total Project Amt. (Excluding Rehabilitation Grants)			
20. Federal Share requested of Line 19			
21. Add Rehabilitation Grants Requested (100 Percent)			
22. Total Federal grant requested (Lines 20 & 21)			
23. Grantee share			
24. Other shares			
25. Total project (Lines 22, 23 & 24)	$	$	$

Exhibit M-4. Application for Federal Assistance (for Construction Programs)
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Attachment M

INSTRUCTIONS

PART III

Section A. General

1. Show the Federal Domestic Assistance Catalog Number from which the assistance is requested. When more than one program or Catalog Number is involved and the amount cannot be distributed to the Federal grant program or catalog number on an overall percentage basis, prepare a separate set of Part III forms for each program or Catalog Number. However, show the total amounts for all programs in Section B of the *basic* application form.
2. Show the functional or other categorical breakouts, if required by the Federal grantor agency. Prepare a separate set of Part III forms for each category.

Section B. Calculation of Federal Grant

When applying for a new grant, use the Total Amount Column only. When requesting revisions of previously awarded amounts, use all columns.

Line 1 – Enter amounts needed for administration expenses including such items as travel, legal fees, rental of vehicles and any other expense items expected to be incurred to administer the grant. Include the amount of interest expense when authorized by program legislation and also show this amount under Section E Remarks.

Line 2 – Enter amounts pertaining to the work of locating and designing, making surveys and maps, sinking test holes, and all other work required prior to actual construction.

Line 3 – Enter amounts directly associated with the acquisition of land, existing structures, and related right-of-way.

Line 4 – Enter basic fees for architectural engineering services.

Line 5 – Enter amounts for other architectural engineering services, such as surveys, tests, and borings.

Line 6 – Enter fees for inspection and audit of construction and related programs.

Line 7 – Enter amounts associated with the development of land where the primary purpose of the grant is land improvement. Site work normally associated with major construction should be excluded from this category and shown on Line 11.

Line 8 – Enter the dollar amounts needed to provide relocation advisory assistance, and the net amounts for replacement (last resort) housing. Do not include relocation administration expenses on this Line; include them on Line 1.

Line 9 – Enter the estimated amount of relocation payments to be made to displaced persons, business concerns and non-profit organizations for moving expenses and replacement housing.

Line 10 – Enter the gross salaries and wages of employees of the grantee who will be directly engaged in performing demolition or removal of structures from developed land. This line should show also the cost of demolition or removal of improvements on developed land under a third party contract. Reduce the costs on this line by the amount of expected proceeds from the sale of salvage, if so instructed by the Federal grantor agency. Otherwise, show the proceeds on Line 15.

Line 11 – Enter amounts for the actual construction of, addition to, or restoration of a facility. Also include in this category the amounts of project improvements such as sewers, streets, landscaping and lighting.

Line 12 – Enter amounts for equipment both fixed and movable exclusive of equipment used for construction. For example, include amounts for permanently attached laboratory tables, built-in audio visual systems, movable desks, chairs, and laboratory equipment.

Line 13 – Enter amounts for items not specifically mentioned above.

Line 14 – Enter the sum of Lines 1-13.

Line 15 – Enter the estimated amount of program income that will be earned during the grant period and applied to the program.

Line 16 – Enter the difference between the amount on Line 14 and the estimated income shown on Line 15.

Line 17 – Enter amounts for those items which are part of the project but not subject to Federal participation (See Section C, Line 26g, Column (1)).

Line 18 – Enter the estimated amount for contingencies. Compute this amount as follows. Subtract from the net project amount shown on Line 16 the ineligible project exclusions shown on Line 17 and the amount which is excluded from the contingency provisions shown in Section C, Line 26g, Column (2). Multiply the computed amount by the percentage factor allowed by the grantor agency in accordance with the Federal program guidance. For those grants which provide for a fixed dollar allowance in lieu of a percentage allowance, enter the dollar amount of this allowance.

Line 19 – Show the total amount of Lines 16, 17, and 18. (This is the amount to which the matching share ratio prescribed in program legislation is applied.)

Line 20 – Show the amount of Federal funds requested exclusive of funds for rehabilitation purposes.

Line 21 – Enter the estimated amounts needed for rehabilitation expense if rehabilitation grants to individuals are made for which grantees are reimbursed 100 percent by the Federal grantor agency in accordance with program legislation. If the grantee shares in part of this expense show the total amount on Line 13 instead of on Line 21 and explain in Section E.

Line 22 – Show the total amount of the Federal grant requested.

Line 23 – Show the amount from Section D, Line 27h.

Line 24 – Show the amount from Section D, Line 28c.

Line 25 – Self-explanatory.

Exhibit M-4. Application for Federal Assistance (for Construction Programs)

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Attachment M

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SECTION C – EXCLUSIONS

Classification	Ineligible for Participation (1)	Excluded from Contingency Provision (2)
26		
a.	$	$
b.		
c.		
d.		
e.		
f.		
g. Totals	$	$

SECTION D – PROPOSED METHOD OF FINANCING NON-FEDERAL SHARE

27. Grantee Share	$
a. Securities	
b. Mortgages	
c. Appropriations (By Applicant)	
d. Bonds	
e. Tax Levies	
f. Non Cash	
g. Other (Explain)	
h. TOTAL – Grantee share	
28. Other Shares	
a. State	
b. Other	
c. Total Other Shares	
29. TOTAL	$

SECTION E – REMARKS

PART IV PROGRAM NARRATIVE (Attach – See Instructions)

Exhibit M-4. Application for Federal Assistance (for Construction Programs)

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Attachment M

INSTRUCTIONS

PART III

Section C. Exclusions

Line 26 a-g – Identify and list those costs in Column (1) which are part of the project cost but are not subject to Federal participation because of program legislation or Federal grantor agency instructions. The total amount on Line g should agree with the amount shown on Line 17 of Section B. Show in Column (2) those project costs that are subject to Federal participation but are not eligible for inclusion in the amount used to compute contingency amounts as provided in the Federal grantor agency instructions.

Section D. Proposed Method of Financing Non-Federal Share

Line 27 a-g – Show the source of the grantee's share. If cash is not immediately available, specify the actions completed to date and those actions remaining to make cash available under Section E Remarks. Indicate also the period of time that will be required after execution of the grant agreement to obtain the funds. If there is a noncash contribution, explain what this contribution will consist of.

Line 27 h – Show the total of Lines 27 a-g. This amount must equal the amount shown in Section B, Line 23.

Line 28 a – Show the amount that will be contributed by a State or state agency, *only* if the applicant is *not* a State or state agency. If there is a noncash contribution, explain what the contribution will consist of under Section E Remarks.

Line 28 b – Show the amount that will be contributed from other sources. If there is a noncash contribution, explain what this contribution will consist of under Section E Remarks.

Line 28 c – Show the total of Lines 28a and 28b. This amount must be the same as the amount shown in Section B, line 24.

Line 29 – Enter the totals of Line 27h and Line 28c.

Section E. Other Remarks

Make any remarks pertinent to the project and provide any other information required by these instructions or the grantor agency. Attach additional sheets, if necessary.

Exhibit M-4. Application for Federal Assistance (for Construction Programs)

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Attachment M

11

PART IV

PROGRAM NARRATIVE

Prepare the program narrative statement in accordance with the following instructions for all new grant programs. Requests for supplemental assistance should be responsive to Item 5b only. Requests for continuation or refunding or other changes of an approved project should be responsive to Item 5c only.

1. OBJECTIVES AND NEED FOR THIS ASSISTANCE.

Pinpoint any relevant physical, economic, social, financial, institutional, or other problems requiring a solution. Demonstrate the need for assistance and state the principal and subordinate objectives of the project. Supporting documentation or other testimonies from concerned interests other than the applicant may be used. Any relevant data based on planning studies should be included or footnoted.

2. RESULTS OR BENEFITS EXPECTED.

Identify results and benefits to be derived. For example, include a description of who will occupy the facility and show how the facility will be used. For land acquisition or development projects, explain how the project will benefit the public.

3. APPROACH.

a. Outline a plan of action pertaining to the scope and detail of how the proposed work will be accomplished for each assistance program. Cite factors which might accelerate or decelerate the work and your reason for taking this approach as opposed to others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvements.

b. Provide for each assistance program monthly or quarterly quantitative projections of the accomplishments to be achieved, if possible. When accomplishments cannot be quantified, list the activities in chronological order to show the schedule of accomplishments and their target dates.

c. Identify the kinds of data to be collected and maintained, and discuss the criteria to be used to evaluate the results and success of the project. Explain the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified in Item 2 are being achieved.

d. List each organization, cooperator, consultant, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

4. GEOGRAPHIC LOCATION.

Give a precise location of the project and area to be served by the proposed project. Maps or other graphic aids may be attached.

5. IF APPLICABLE, PROVIDE THE FOLLOWING INFORMATION:

a. Describe the relationship between this project and other work planned, anticipated, or underway under the Federal Assistance listed under Part II, Section A, Item 10.

b. Explain the reason for all requests for supplemental assistance and justify the need for additional funding.

c. Discuss accomplishments to date and list in chronological order a schedule of accomplishments, progress or milestones anticipated with the new funding request. If there have been significant changes in the project objectives, location, approach or time delays, explain and justify. For other requests for changes or amendments, explain the reason for the change(s). If the scope or objectives have changed or an extension of time is necessary, explain the circumstances and justify. If the total budget has been exceeded or if individual budget items have changed more than the prescribed limits contained in Attachment K, OMB Circular A–102, explain and justify the change and its effect on the project.

Exhibit M-4. Application for Federal Assistance (for Construction Programs)

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Attachment M

PART V

ASSURANCES

The Applicant hereby assures and certifies that he will comply with the regulations, policies, guidelines and requirements, including OMB Circulars No. A-95, A-102 and FMC 74-4, as they relate to the application, acceptance and use of Federal funds for this federally-assisted project. Also, the Applicant gives assurance and certifies with respect to the grant that:

1. It possesses legal authority to apply for the grant, and to finance and construct the proposed facilities; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

2. It will comply with the provisions of: Executive Order 11296, relating to evaluation of flood hazards, and Executive Order 11288, relating to the prevention, control, and abatement of water pollution.

3. It will have sufficient funds available to meet the non-Federal share of the cost for construction projects. Sufficient funds will be available when construction is completed to assure effective operation and maintenance of the facility for the purposes constructed.

4. It will obtain approval by the appropriate Federal agency of the final working drawings and specifications before the project is advertised or placed on the market for bidding; that it will construct the project, or cause it to be constructed, to final completion in accordance with the application and approved plans and specifications; that it will submit to the appropriate Federal agency for prior approval changes that alter the costs of the project, use of space, or functional layout; that it will not enter into a construction contract(s) for the project or undertake other activities until the conditions of the construction grant program(s) have been met.

5. It will provide and maintain competent and adequate architectural engineering supervision and inspection at the construction site to insure that the completed work conforms with the approved plans and specifications; that it will furnish progress reports and such other information as the Federal grantor agency may require.

6. It will operate and maintain the facility in accordance with the minimum standards as may be required or prescribed by the applicable Federal, State and local agencies for the maintenance and operation of such facilities.

7. It will give the sponsoring agency and the Comptroller General through any authorized representative access to and the right to examine all records, books, papers, or documents related to the grant.

8. It will require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A117.1-1961, as modified (41 CFR 101-17.703). The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor.

9. It will cause work on the project to be commenced within a reasonable time after receipt of notification from the approving Federal agency that funds have been approved and that the project will be prosecuted to completion with reasonable diligence.

10. It will not dispose of or encumber its title or other interests in the site and facilities during the period of Federal interest or while the Government holds bonds, whichever is the longer.

11. It will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and in accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

12. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

13. It will comply with the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs.

14. It will comply with all requirements imposed by the Federal sponsoring agency concerning special requirements of law, program requirements, and other administrative requirements approved in accordance with Circular A-102.

15. It will comply with the provisions of the Hatch Act which limit the political activity of employees.

16. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, as they apply to hospital and educational institution employees of State and local governments.

Exhibit M-4. Application for Federal Assistance (for Construction Programs)

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Attachment M

PART V

ASSURANCES CONTINUED

17. It will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be utilized in the project is under consideration for listing by the EPA.

18. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976. Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

19. It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.8) by the activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.

Exhibit M-4. Application for Federal Assistance (for Construction Programs)

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Attachment M

OMB Approval No. 80-R0190

FEDERAL ASSISTANCE

1. TYPE OF ACTION (Mark appropriate box)	☐ PREAPPLICATION ☐ APPLICATION ☐ NOTIFICATION OF INTENT (Opt.) ☐ REPORT OF FEDERAL ACTION	2. APPLICANT'S APPLICATION	a. NUMBER b. DATE Year month day 19
		3. STATE APPLICATION IDENTIFIER	a. NUMBER b. DATE Year month day ASSIGNED 19

Leave Blank

SECTION I—APPLICANT/RECIPIENT DATA

4. LEGAL APPLICANT/RECIPIENT
a. Applicant Name :
b. Organization Unit :
c. Street/P.O. Box :
d. City :
e. County :
f. State :
g. ZIP Code:
h. Contact Person (Name & telephone No.) :

5. FEDERAL EMPLOYER IDENTIFICATION NO.

6. PROGRAM (From Federal Catalog)
a. NUMBER
b. TITLE

7. TITLE AND DESCRIPTION OF APPLICANT'S PROJECT

8. TYPE OF APPLICANT/RECIPIENT
A-State H-Community Action Agency
B-Interstate I-Higher Educational Institution
C-Substate District J-Indian Tribe
D-County K-Other (Specify):
E-City
F-School District
G-Special Purpose District
Enter appropriate letter ☐

9. TYPE OF ASSISTANCE
A-Basic Grant D-Insurance
B-Supplemental Grant E-Other
C-Loan
Enter appropriate letter(s) ☐☐

10. AREA OF PROJECT IMPACT (Names of cities, counties, States, etc.)

11. ESTIMATED NUMBER OF PERSONS BENEFITING

12. TYPE OF APPLICATION
A-New C-Revision E-Augmentation
B-Renewal D-Continuation
Enter appropriate letter ☐

13. PROPOSED FUNDING

a. FEDERAL	$ .00
b. APPLICANT	.00
c. STATE	.00
d. LOCAL	.00
e. OTHER	.00
f. TOTAL	$ .00

14. CONGRESSIONAL DISTRICTS OF:
a. APPLICANT
b. PROJECT

15. TYPE OF CHANGE (For 15a or 15e)
A-Increase Dollars F-Other (Specify):
B-Decrease Dollars
C-Increase Duration
D-Decrease Duration
E-Cancellation
Enter appropriate letter(s) ☐☐☐

16. PROJECT START DATE Year month day 19

17. PROJECT DURATION Months

18. ESTIMATED DATE TO BE SUBMITTED TO FEDERAL AGENCY ▶ Year month day 19

19. EXISTING FEDERAL IDENTIFICATION NUMBER

20. FEDERAL AGENCY TO RECEIVE REQUEST (Name, City, State, ZIP code)

21. REMARKS ADDED ☐ Yes ☐ No

SECTION II—CERTIFICATION

22. THE APPLICANT CERTIFIES THAT ▶ a. To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved.

b. If required by OMB Circular A-95 this application was submitted, pursuant to instructions therein, to appropriate clearinghouses and all responses are attached:

	No response	Response attached
(1)	☐	☐
(2)	☐	☐
(3)	☐	☐

23. CERTIFYING REPRESENTATIVE a. TYPED NAME AND TITLE b. SIGNATURE c. DATE SIGNED Year month day 19

SECTION III—FEDERAL AGENCY ACTION

24. AGENCY NAME

25. APPLICATION RECEIVED Year month day 19

26. ORGANIZATIONAL UNIT

27. ADMINISTRATIVE OFFICE

28. FEDERAL APPLICATION IDENTIFICATION

29. ADDRESS

30. FEDERAL GRANT IDENTIFICATION

31. ACTION TAKEN
☐ a. AWARDED
☐ b. REJECTED
☐ c. RETURNED FOR AMENDMENT
☐ d. DEFERRED
☐ e. WITHDRAWN

32. FUNDING

a. FEDERAL	$ .00
b. APPLICANT	.00
c. STATE	.00
d. LOCAL	.00
e. OTHER	.00
f. TOTAL	$ .00

33. ACTION DATE ▶ Year month day 19

34. STARTING DATE Year month day 19

35. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)

36. ENDING DATE Year month day 19

37. REMARKS ADDED ☐ Yes ☐ No

38. FEDERAL AGENCY A-95 ACTION
a. In taking above action, any comments received from clearinghouses were considered. If agency response is due under provisions of Part I, OMB Circular A-95, it has been or is being made.
b. FEDERAL AGENCY A-95 OFFICIAL (Name and telephone no.)

Prescribed by OMB Circular A-102

Exhibit M-5. Application for Federal Assistance (Short Form)
(Page 1 of 8)

Attachment M

SECTION IV—REMARKS (Please reference the proper item number from Sections I, II or III, if applicable)

STANDARD FORM 424 PAGE 2 (10-75)

Exhibit M-5. Application for Federal Assistance (Short Form)
(Page 2 of 8)

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Attachment M

GENERAL INSTRUCTIONS

This is a multi-purpose standard form. First, it will be used by applicants as a required facesheet for pre-applications and applications submitted in accordance with OMB Circular A-102. Second, it will be used by Federal agencies to report to Clearinghouses on major actions taken on applications reviewed by clearinghouses in accordance with OMB Circular A-95. Third, it will be used by Federal agencies to notify States of grants-in-aid awarded in accordance with Treasury Circular 1082. Fourth, it may be used, on an optional basis, as a notification of intent from applicants to clearinghouses, as an early initial notice that Federal assistance is to be applied for (clearinghouse procedures will govern).

APPLICANT PROCEDURES FOR SECTION I

Applicant will complete all items in Section I. If an item is not applicable, write "NA". If additional space is needed, insert an asterisk "*", and use the remarks section on the back of the form. An explanation follows for each item:

Item

1. Mark appropriate box Pre-application and application guidance is in OMB Circular A-102 and Federal agency program instructions. Notification of intent guidance is in Circular A-95 and procedures from clearinghouse. Applicant will not use "Report of Federal Action" box.

2a. Applicant's own control number, if desired.

2b. Date Section I is prepared.

3a. Number assigned by State clearinghouse, or if delegated by State, by areawide clearinghouse. All requests to Federal agencies must contain this identifier if the program is covered by Circular A-95 and required by applicable State/areawide clearinghouse procedures. If in doubt, consult your clearinghouse.

3b. Date applicant notified of clearinghouse identifier.

4a-4h. Legal name of applicant/recipient, name of primary organizational unit which will undertake the assistance activity, complete address of applicant, and name and telephone number of person who can provide further information about this request.

5. Employer identification number of applicant as assigned by Internal Revenue Service.

6a. Use Catalog of Federal Domestic Assistance number assigned to program under which assistance is requested. If more than one program (e.g., joint-funding) write "multiple" and explain in remarks. If unknown, cite Public Law or U.S. Code.

6b. Program title from Federal Catalog. Abbreviate if necessary.

7. Brief title and appropriate description of project. For notification of intent, continue in remarks section if necessary to convey proper description.

8. Mostly self-explanatory. "City" includes town, township or other municipality.

9. Check the type(s) of assistance requested. The definitions of the terms are:

   A. Basic Grant. An original request for Federal funds. This would not include any contribution provided under a supplemental grant.

   B. Supplemental Grant. A request to increase a basic grant in certain cases where the eligible applicant cannot supply the required matching share of the basic Federal program (e.g., grants awarded by the Appalachian Regional Commission to provide the applicant a matching share).

   C. Loan. Self explanatory.

   D. Insurance. Self explanatory.

   E. Other. Explain on remarks page.

10. Governmental unit where significant and meaningful impact could be observed. List only largest unit or units affected, such as State, county, or city. If entire unit affected, list it rather than subunits.

11. Estimated number of persons directly benefiting from project.

12. Use appropriate code letter. Definitions are:

   A. New. A submittal for the first time for a new project.

   B. Renewal. An extension for an additional funding/budget period for a project having no projected completion date, but for which Federal support must be renewed each year.

   C. Revision. A modification to project nature or scope which may result in funding change (increase or decrease).

   D. Continuation. An extension for an additional funding/budget period for a project the agency initially agreed to fund for a definite number of years.

   E. Augmentation. A requirement for additional funds for a project previously awarded funds in the same funding/budget period. Project nature and scope unchanged.

13. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions will be included. If the action is a change in dollar amount of an existing grant (a revision or augmentation), indicate only the amount of the change. For decreases enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in remarks. For multiple program funding, use totals and show program breakouts in remarks. Item definitions: 13a, amount requested from Federal Government; 13b, amount applicant will contribute; 13c, amount from State, if applicant is not a State; 13d, amount from local government, if applicant is not a local government; 13e, amount from any other sources, explain in remarks.

14a. Self explanatory.

14b. The district(s) where most of actual work will be accomplished. If city-wide or State-wide, covering several districts, write "city-wide" or "State-wide."

15. Complete only for revisions (item 12c), or augmentations (item 12a).

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Item

16. Approximate date project expected to begin (usually associated with estimated date of availability of funding).

17. Estimated number of months to complete project after Federal funds are available.

18. Estimated date preapplication/application will be submitted to Federal agency if this project requires clearinghouse review. If review not required, this date would usually be same as date in item 2b.

19. Existing Federal identification number if this is not a new request and directly relates to a previous Federal action. Otherwise write "NA".

20. Indicate Federal agency to which this request is addressed. Street address not required, but do use ZIP.

21. Check appropriate box as to whether Section IV of form contains remarks and/or additional remarks are attached.

APPLICANT PROCEDURES FOR SECTION II

Applicants will always complete items 23a, 23b, and 23c. If clearinghouse review is required, item 22b must be fully completed. An explanation follows for each item:

Item

22b. List clearinghouses to which submitted and show in appropriate blocks the status of their responses. For more than three clearinghouses, continue in remarks section. All written comments submitted by or through clearinghouses must be attached.

23a. Name and title of authorized representative of legal applicant.

23b. Self explanatory.

23c. Self explanatory.

Note: Applicant completes only Sections I and II. Section III is completed by Federal agencies.

FEDERAL AGENCY PROCEDURES FOR SECTION III

If applicant-supplied information in Sections I and II needs no updating or adjustment to fit the final Federal action, the Federal agency will complete Section III only. An explanation for each item follows:

Item

24. Executive department or independent agency having program administration responsibility.

25. Self explanatory.

26. Primary organizational unit below department level having direct program management responsibility.

27. Office directly monitoring the program.

28. Use to identify non-award actions where Federal grant identifier in item 30 is not applicable or will not suffice.

29. Complete address of administering office shown in item 26.

30. Use to identify award actions where different from Federal application identifier in item 28.

31. Self explanatory. Use remarks section to amplify where appropriate.

32. Amount to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions will be included. If the action is a change in dollar amount of an existing grant (a revision or augmentation), indicate only the amount of change. For decreases, enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in remarks. For multiple program funding, use totals and show program breakouts in remarks. Item definitions: 32a, amount awarded by Federal Government; 32b, amount applicant will contribute; 32c, amount from State, if applicant is not a State; 32d, amount from local government if applicant is not a local government; 32e, amount from any other sources, explain in remarks.

33. Date action was taken on this request.

34. Date funds will become available.

Item

35. Name and telephone no. of agency person who can provide more information regarding this assistance.

36. Date after which funds will no longer be available.

37. Check appropriate box as to whether Section IV of form contains Federal remarks and/or attachment of additional remarks.

38. For use with A-95 action notices only. Name and telephone of person who can assure that appropriate A-95 action has been taken—If same as person shown in item 35, write "same". If not applicable, write "NA".

Federal Agency Procedures—special considerations

A. *Treasury Circular 1082 compliance.* Federal agency will assure proper completion of Sections I and III. If Section I is being completed by Federal agency, all applicable items must be filled in. Addresses of State Information Reception Agencies (SCIRA's) are provided by Treasury Department to each agency. This form replaces SF 240, which will no longer be used.

B. *OMB Circular A-95 compliance.* Federal agency will assure proper completion of Sections I, II, and III. This form is required for notifying all reviewing clearinghouses of major actions on all programs reviewed under A-95. Addresses of State and areawide clearinghouses are provided by OMB to each agency. Substantive differences between applicant's request and/or clearinghouse recommendations, and the project as finally awarded will be explained in A-95 notifications to clearinghouses.

C. *Special note.* In most, but not all States, the A-95 State clearinghouse and the (TC 1082) SCIRA are the same office. In such cases, the A-95 award notice to the State clearinghouse will fulfill the TC 1082 award notice requirement to the State SCIRA. Duplicate notification should be avoided.

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OMB Approval No. 80-R0185

APPLICATION FOR FEDERAL ASSISTANCE (Short Form)

PART II – BUDGET DATA

Object Class Categories	Current Approved Budget (a)	Change Requested (b)	New or Revised Budget (c)
1. Personnel			
2. Fringe Benefits			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Construction			
8. Other			
9. Total Direct Charges			
10. Indirect Charges			
11. TOTAL			
12. Federal Share			
13. Non-Federal Share			
14. Program Income			

15. Detail on Indirect Costs:

Type of Rate (Mark one box) ☐ Provisional ☐ Predetermined ☐ Final ☐ Fixed

Rate _____ % Base $ _____ Total Amount $ _____

PART III

Program Narrative Statement
(Attach additional sheets, if necessary)

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INSTRUCTIONS

PART II

Items 1-11 – Enter on Lines 1-11 in Column (c) the total amounts needed for the project. If this is an application for *new grants*, leave Columns (a) and (b) blank. If this is an application for amendments, changes or supplements, show the current approved budget in Column (a); enter in Column (b) on the appropriate line(s) the amount of the change, amendment or supplement; add each line entry in Column (a) to the line entries in Column (b); and enter the total for each line in Column (c). The amounts shown in Column (c) represent the amount of the new or revised grant budget.

Item 12 – Enter the Federal share of the amount on Line 11.

Line 13 – Enter the non-Federal share of the amount on Line 11.

Item 14 – Enter the amount of estimated income, if any, which will be applied to the grant. Do not add or subtract this amount from the total project amount. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant award.

Item 15 – Enter the type of indirect cost rate (provisional, predetermined, final or fixed), the rate that will be in effect during the funding period, and the amount of the base to which the rate is applied.

INSTRUCTIONS

PART III

The program narrative statement should be brief, preferably one or two paragraphs which show the need, objectives, approach, the geographical location of the project and the benefits expected to be obtained from the assistance. Also attach any data that may be needed to establish the applicant's eligibility for receiving assistance under the Federal program.

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PART V

ASSURANCES

The Applicant hereby assures and certifies that he will comply with the regulations, policies, guidelines, and requirements including OMB Circulars No. A-95, A-102 and FMC 74-4, as they relate to the application, acceptance and use of Federal funds for this Federally assisted project. Also the Applicant assures and certifies with respect to the grant that :

1. It possesses legal authority to apply for the grant; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
2. It will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and in accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement.
3. It will comply with Title VI of the Civil Rights Act of 1964 (42 USC 2000d) prohibiting employment discrimination where (1) the primary purpose of a grant is to provide employment or (2) discriminatory employment practices will result in unequal treatment of persons who are or should be benefiting from the grant-aided activity.
4. It will comply with requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs.
5. It will comply with the provisions of the Hatch Act which limit the political activity of employees.
6. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, as they apply to hospital and educational institution employees of State and local governments.
7. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
8. It will give the grantor agency or the Comptroller General through any authorized representative the access to and the right to examine all records, books, papers, or documents related to the grant.
9. It will comply with all requirements imposed by the Federal grantor agency concerning special requirements of law, program requirements, and other administrative requirements approved in accordance with FMC A-102.
10. It will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.
11. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976. Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards.

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PART V (Continued)

The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

12. It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.0) by the activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.

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Exhibit M-5. Application for Federal Assistance (Short Form)

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ATTACHMENT N—CIRCULAR No. A–102

PROPERTY MANAGEMENT STANDARDS

1. This Attachment prescribes uniform standards governing the utilization and disposition of property furnished by the Federal Government or acquired in whole or in part with Federal funds or whose cost was charged to a project supported by a Federal grant. Federal grantor agencies shall require grantees to observe these standards under grants from the Federal Government and shall not impose additional requirements unless specifically required by Federal law. The grantees shall be authorized to use their own property management standards and procedures as long as the provisions of this Attachment are included.

2. The following definitions apply for the purpose of this Attachment:

(a) *Real property.* Real property means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

(b) *Personal property.* Personal property of any kind except real property. It may be tangible—having physical existance, or intangible—having no physical existence, such as patents, inventions, and copyrights.

(c) *Nonexpendable personal property.* Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. A grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above.

(d) *Expendable personal property.* Expendable personal property refers to all tangible personal property other than nonexpendable property.

(e) *Excess property.* Excess property means property under the control of any Federal agency which, as determined by the head thereof, is no longer required for its needs or discharge of its responsibilities.

(f) *Acquisition cost of purchased nonexpendable personal property.* Acquisition cost of an item of purchased nonexpendable personal property means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty, or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the grantee's regular accounting practices.

(g) *Exempt property.* Exempt property means tangible personal property acquired in whole or in part with Federal funds, and title to which is vested in the recipient without further obligation to the Federal Government except as provided in subparagraph 6a below. Such unconditional vesting of title will be pursuant to any Federal legislation that provides the Federal sponsoring agency with adequate authority.

3. *Real property.* Each Federal grantor agency shall prescribe requirements for grantees concerning the use and disposition of real property funded partly or wholly by the Federal Government. Unless otherwise provided by statute, such requirements, as a minimum, shall contain the following:

(a) Title to real property shall vest in the recipient subject to the condition that the grantee shall use the real property for the authorized purpose of the original grant as long as needed.

(b) The grantee shall obtain approval by the grantor agency for the use of the real property in other projects when the grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs, or programs that have purposes consistent with those authorized for support by the grantor.

(c) When the real property is no longer needed as provided in a and b above, the grantee shall request disposition instructions from the Federal agency or its successor Federal agency. The Federal agency shall observe the following rules in the disposition instructions:

(1) The grantee may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(2) The grantee may be directed to sell the property under guidelines provided by the Federal agency and pay the Federal Government an amount computed by applying the Federal percentage of participation in the cost of the original project to the proceeds from sale (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the grantee is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(3) The grantee may be directed to transfer title to the property to the Federal Government provided that in such cases the grantee shall be entitled to compensation computed by applying the grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

4. *Federally owned nonexpendable personal property.* Title to federally owned property remains vested in the Federal Government. Recipients shall submit annually an inventory listing of federally owned property in their custody to the Federal agency. Upon completion of the agreement or when the property is no longer needed; the grantee shall report the property to the Federal agency for further agency utilization.

If the Federal agency has no further need for the property, it shall be declared excess and reported to the General Services Administration. Appropriate disposition instructions will be issued to the recipient after completion of the Federal agency review.

5. *Exempt property.* When statutory authority exists title to nonexpendable personal property acquired with project funds shall be vested in the recipient upon acquisition unless it is determined that to do so is not in the furtherance of the objectives of the Federal sponsoring agency. When title is vested in the recipient the recipient shall have no other obligation or accountability to the Federal Government for its use or disposition except as provided in 6a below.

6. *Other nonexpendable property.* When other nonexpendable tangible property is acquired by a grantee with project funds title shall not be taken by the Federal Government but shall vest in the grantee subject to the following conditions:

(a) *Right to transfer title.* For items of nonexpendable personal property having a unit acquisition cost of $1,000 or more, the Federal agency may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such reservation shall be subject to the following standards:

(1) The property shall be appropriately identified in the grant or otherwise made known to the grantee in writing.

(2) The Federal agency shall issue disposition instructions within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the Federal agency fails to issue disposition instructions within the 120 calendar-day period, the grantee shall apply the standards of subparagraph 6(b) and 6(c) as appropriate.

(3) When the Federal agency exercises its right to take title, the personal property shall be subject to the provisions for federally-owned nonexpendable property discussed in paragraph 4, above.

(4) When title is transferred either to the Federal Government or to a third party, the provisions of subparagraph 6(c)(2)(b) should be followed.

(b) *Use of other tangible nonexpendable property for which the grantee has title.*

(1) The grantee shall use the property in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original project or program, the grantee shall use the property in connection with its other federally sponsored activities, in the following order of priority:

(a) Activities sponsored by the same Federal agency.

(b) Activities sponsored by other Federal agencies.

(2) *Shared use.* During the time that nonexpendable personal property is held for use on the project or program for which it was acquired, the grantee shall

make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the property was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by the Federal agency that financed the property; second preference shall be given to projects or programs sponosred by other Federal agencies. If the property is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by the Federal agency. User charges should be considered if appropriate.

(c) *Disposition of other nonexpendable property.* When the grantee no longer needs the property as provided in 6b above, the property may be used for other activities in accordance with the following standards:

(1) Nonexpendable property with a unit acquisition cost of less than $1,000. The grantee may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(2) Nonexpendable personal property with a unit acquisition cost of $1,000 or more. The grantee may retain the property for other uses provided that compensation is made to the original Federal agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the property. If the grantee has no need for the property and the property has further use value, the grantee shall request disposition instructions from the original grantor agency.

The Federal agency shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the property shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Federal agency to determine whether a requirement for the property exists in other Federal agencies. The Federal agency shall issue instructions to the grantee no later than 120 days after the grantee request and the following procedures shall govern:

(a) If so instructed or if disposition instructions are not issued within 120 calendar days after the grantee's request, the grantee shall sell the property and reimburse the Federal agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the grantee shall be permitted to deduct and retain from the Federal share $100 or ten percent of the proceeds, whichever is greater, for the grantee's selling and handling expenses.

(b) If the grantee is instructed to ship the property elsewhere the grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the grantee participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(c) If the grantee is instructed to otherwise dispose of the property, the grantee shall be reimbursed by the Federal agency for such costs incurred in its disposition.

(d) *Property management standards for nonexpendable property.* The grantee's property management standards for nonexpendable personal property shall include the following procedural requirements:

(1) Property records shall be maintained accurately and shall include:

(a) A description of the property.

(b) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(c) Source of the property including grant or other agreement number.

(d) Whether title vests in the grantee or the Federal Government.

(e) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.

(f) Percentage (at the end of the budget year) of Federal participation in the cost of the project or program for which the property was acquired. (Not applicable to property furnished by the Federal Government.)

(g) Location, use, and condition of the property and the date the information was reported.

(h) Unit acquisition cost.

(i) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a grantee compensates the Federal agency for its share.

(2) Property owned by the Federal Government must be marked to indicate Federal ownership.

(3) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The grantee shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented; if the property was owned by the Federal Government, the grantee shall promptly notify the Federal agency.

(5) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(6) Where the grantee is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.

7. *Expendable personal property.* Title to expendable personal property shall vest in the grantee upon acquisition. If there is a residual inventory of such property exceeding $1,000 in total aggregate fair market value, upon termination or completion of the grant and if the property is not needed for any other federally sponsored project or program, the grantee shall retain the property for use on nonfederally sponsored activities, or sell it, but must in either case, compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as nonexpendable personal property.

8. *Intangible property.*

(a) *Inventions and patents.* If any program produces patentable items, patent rights, processes, or inventions, in the course of work sponsored by the Federal Government, such fact shall be promptly and fully reported to the Federal agency. Unless there is a prior agreement between the grantee and the Federal agency on disposition of such items, the Federal agency shall determine whether protection on the invention or discovery shall be sought. The Federal agency will also determine how the rights in the invention or discovery, including rights under any patent issued thereon, shall be allocated and administrated in order to protect the public interest consistent with "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, August 23, 1971, and statement of Government Patent Policy as printed in 36 FR 16889).

(b) *Copyrights.* Except as otherwise provided in the terms and conditions of the agreement the author or the grantee organization is free to copyright any books, publications, or other copyrightable materials developed in the course of or under a Federal agreement, but the Federal agency shall reserve a royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for Government purposes.

9. *Excess personal property.* When title to excess property is vested in grantees such property shall be accounted for and disposed of in accordance with paragraphs 6(c) and 6(d) of this attachment.

ATTACHMENT O—CIRCULAR No. A–102

PROCUREMENT STANDARDS

1. This Attachment provides standards for use by grantees in establishing procedures for the procurement of supplies, equipment, construction, and other services with Federal grant funds. These standards are furnished to insure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal law and Executive orders. No additional requirements shall be imposed by the Federal agencies upon the grantees unless specifically required by Federal law or Executive orders.

2. The Standards contained in this Attachment do not relieve the grantee of the contractual responsibilities arising

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under its contracts. The grantee is the responsible authority, without recourse to the grantor agency regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into, in support of a grant. This includes but is not limited to: disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State, or Federal authority as may have proper jurisdiction.

3. Grantees may use their own procurement regulations which reflect applicable State and local law, rules and regulations provided that procurements made with Federal grant funds adhere to the standards set forth as follows:

(a) The grantee shall maintain a code or standards of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending Federal grant funds. Grantee's officers, employees, or agents, shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. To the extent permissible by State or local law, rules or regulations, such standards shall provide for penalties, sanctions, or other disciplinary actions to be applied for violations of such standards by either the grantee officers, employees, or agents, or by contractors or their agents.

(b) All procurement transactions regardless of whether negotiated or advertised and without regard to dollar value shall be conducted in a manner so as to provide maximum open and free competition. The grantee should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade.

(c) The grantee shall establish procurement procedures which provide for, as a minimum, the following procedural requirements:

(1) Proposed procurement actions shall be reviewed by grantee officials to avoid purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(2) Invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement, and when so used the specific features of the named brand which must be met by offerors should be clearly specified.

(3) Positive efforts shall be made by the grantees to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed utilizing Federal grant funds.

(4) The type of procuring instruments used (i.e., fixed price contracts, cost reimbursable contracts, purchase orders, incentive contracts, etc.), shall be appropriate for the particular procurement and for promoting the best interest of the grant program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(5) Formal advertising, with adequate purchase description, sealed bids, and public openings shall be the required method of procurement unless negotiation pursuant to paragraph (6) below is necessary to accomplish sound procurement. However, procurements of $10,000 or less need not be so advertised unless otherwise required by State or local law or regulations. Where such advertised bids are obtained the awards shall be made to the responsible bidder whose bid is responsive to the invitation and is most advantageous to the grantee, price and other factors considered. (Factors such as discounts, transportation costs, taxes may be considered in determining the lowest bid.) Invitations for bids shall clearly set forth all requirements which the bidder must fulfill in order for his bid to be evaluated by the grantee. Any or all bids may be rejected when it is in the grantee's interest to do so, and such rejections are in accordance with applicable State and local law, rules, and regulations.

(6) Procurements may be negotiated if it is impracticable and unfeasible to use formal advertising. Generally, procurements may be negotiated by the grantee if:

(a) The public exigency will not permit the delay incident to advertising;

(b) The material or service to be procured is available from only one person or firm; (All contemplated sole source procurements where the aggregate expenditure is expected to exceed $5,000 shall be referred to the grantor agency for prior approval.)

(c) The aggregate amount involved does not exceed $10,000;

(d) The contract is for personal or professional services, or for any service to be rendered by a university, college, or other educational institutions;

(e) The material or services are to be procured and used outside the limits of the United States and its possessions;

(f) No acceptable bids have been received after formal advertising;

(g) The purchases are for highly perishable materials or medical supplies, for material or services where the prices are established by law, for technical items or equipment requiring standardization and interchangeability of parts with existing, for experimental, developmental or research work, for supplies purchased for authorized resale, and for technical or specialized supplies requiring substantial initial investment for manufacture;

(h) Otherwise authorized by law, rules, or regulations.

Notwithstanding the existence of circumstances justifying negotiation, competition shall be obtained to the maximum extent practicable.

(7) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, or accessibility to other necessary resources.

(8) Procurement records or files for purchases in amounts in excess of $10,000 shall provide at least the following pertinent information: justification for the use of negotiation in lieu of advertising, contractor selection, and the basis for the cost or price negotiated.

(9) A system for contract administration shall be maintained to assure contractor conformance with terms, conditions, and specifications of the contract or order, and to assure adequate and timely followup of all purchases.

4. The grantee shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts and subgrants:

(a) Contracts shall contain such contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.

(b) All contracts, amounts for which are in excess of $10,000, shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(c) All contracts awarded by grantees and their contractors or subgrantees having a value of more than $10,000 shall contain a provision requiring compliance with Executive Order 11246, entitled, "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

(d) All contracts and subgrants for construction or repair shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The grantee shall report all suspected or reported violations to the grantor agency.

(e) When required by the Federal grant program legislation, all construction contracts awarded by grantees and subgrantees in excess of $2,000 shall include a provision for compliance with

the Davis-Bacon Act (40 U.S.C. 276a to a–7) and as supplemented by Department of Labor regulations (29 CFR, Part 5). Under this Act contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. The grantee shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The grantee shall report all suspected or reported violations to the grantor agency.

(f) Where applicable, all contracts awarded by grantees and subgrantees in excess of $2,000 for construction contracts and in excess of $2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(g) Contracts or agreements, the principal purpose of which is to create, develop, or improve products, processes or methods; or for exploration into fields which directly concern public health, safety, or welfare; or contracts in the field of science or technology in which there has been little significant experience outside of work funded by Federal assistance, shall contain a notice to the effect that matters regarding rights to inventions, and materials generated under the contract or agreement are subject to the regulations issued by the Federal grantor agency and the grantee. The contractor shall be advised as to the source of additional information regarding these matters.

(h) All negotiated contracts (except those of $10,000 or less) awarded by effect that the grantee, the Federal grantees shall include a provision to the grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts, and transcriptions.

(i) Contracts and subgrants of amounts in excess of $100,000 shall contain a provision which requires the recipient to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970. Violations shall be reported to the grantor agency and the Regional Office of the Environmental Protection Agency.

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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMISSION

PART 213—EXCEPTED SERVICE

Department of Defense

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: The position of Private Secretary to the Deputy Director of Policy Review is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 13, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3306(a)(93) is added as set out below:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* • • •

(93) One Private Secretary to the Deputy Director of Policy Review.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26625 Filed 9–12–77;8:45 am]

PART 213—EXCEPTED SERVICE

Federal Energy Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Staff Assistant to the Deputy Associate Administrator for Congressional and Intergovernmental Affairs/Director, Office of Congressional Affairs is excepted from the competitive service under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Willam Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3388(q)(4) is added as set out below:

§ 213.3388 Federal Energy Administration.

• • • • •

(q) *Office of the Associate Administrator for Congressional and Intergovernmental Affairs.* • • •

(4) One Staff Assistant to the Deputy Associate Administrator for Congressional and Intergovernmental Affairs/Director, Office of Congressional Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26626 Filed 9–12–77;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Regulation 571, Amendment 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period September 2–8, 1977. The amendment recognizes that demand for Valencia oranges has improved, since the regulation was issued. This action will increase the supply of oranges available to consumers.

DATES: Weekly regulation period September 2–8, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Valencia Orange Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of Valencia oranges as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the Valencia orange markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit orange handlers to ship a larger quantity of Valencia oranges to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 75,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information became available upon which this amendment is based and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Valencia oranges.

§ 908.871 [Amended]

(a) *Order, as amended.* The provisions in paragraph (b)(1) (i), and (ii) of § 908.871 Valencia Orange Regulation 571 (42 FR 43959) are hereby amended to read as follows:

"(i) District 1: 263,000 cartons;
"(ii) District 2: 412,000 cartons."

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: September 7, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-26556 Filed 9–12–77;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

PART 1901—PROGRAM RELATED INSTRUCTIONS

Subpart E—Civil Rights Compliance Requirements
FmHA Affirmative Action

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration is adopting regulations to implement the requirement that certain participants in FmHA rural housing programs submit a fair housing affirmative marketing plan or be a signatory to a voluntary fair housing affirmative marketing agreement approved by the Department of Housing and Urban Development. This regulation is intended to help ensure that individuals of similar

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income levels in a housing market area will have housing choices available regardless of their race, color, religion, sex, or national origin.

EFFECTIVE DATE: September 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. William A. Tippins, 202–447–2243.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration published at page 13116 of the FEDERAL REGISTER for March 9, 1977, a proposal to amend § 1901.203 of Subpart E of Part 1901, Title 7, Code of Federal Regulations.

Comments on this proposal were accepted through April 8, 1977, and have been received and considered. Several comments were received suggesting that FmHA develop its own marketing plan form. Upon careful review of form HUD 935.2(3–76), it was concluded that the form with certain editorial changes, could be utilized on an interim basis. A separate guide will be issued to clarify and expand certain paragraphs of the form to aid the participant in documenting information appropriate to an acceptable marketing plan for rural areas. It is anticipated that a new form will be developed to help document a complete fair housing affirmative marketing plan for rural areas.

Several comments were received suggesting a follow-up procedure to determine if the plan is being properly implemented and to require reports from participants regarding cumulative accomplishments under the plan. The rule contains provisions for follow-up on a "sample" basis in accordance with FmHA Operation's Review regulations. It was determined that the manpower necessary to check implementation progress on every marketing plan, or to review regular reports of activity under each plan is not, and would not, be available.

Certain comments received resulted in minor changes in administrative procedures, and other changes which are editorial in nature.

Other comments have been considered but relate to specific content of marketing plans. These comments will be utilized in the training of personnel responsible for reviewing and approving the marketing plans.

As amended, § 1901.203, paragraph (c) reads as follows:

§ 1901.203 Title VIII of the Civil Rights Act of 1968.

* * * * *

(c) *FmHA affirmative action.* (1) It is the policy of the Farmers Home Administration to administer its housing program affirmatively so individuals of similar income levels in the housing market area have housing choices available to them regardless of their race, color, religion, sex, or national origin. Each participant in FmHA housing program shall pursue affirmative fair housing marketing policies in soliciting buyers and tenants, in determining their eligibility and in concluding sales and rental transactions.

(2) Applicability. The affirmative fair housing marketing requirements shall apply as follows:

(i) Participants in FmHA housing programs who request approval for subdivision development involving five or more sites, multi-family projects with five or more units including self-help technical assistance grantees assisting five or more families or five or more conditional commitments for single family dwelling units during a 12-month period must submit an affirmative marketing plan.

(ii) Any real estate broker who agrees to list acquired rural housing properties on a term basis or who agrees to list 5 or more such properties on an individual listing basis (see § 1955.118 of this chapter) must sign a non-discrimination certification and submit an affirmative marketing plan. The Farmers Home Administration will develop, maintain, and operate an affirmative fair housing marketing plan for acquired properties managed and offered for sale in accordance with §§ 1955.63 and 1955.117 of this chapter.

(3) Affirmative fair housing marketing plans will be submitted on form HUD 935.2(3–76) or the participant must be a signatory to a voluntary affirmative marketing agreement approved by the Department of Housing and Urban Development. The plan, if submitted on form HUD 935.2(3–76) shall describe an affirmative program which will meet the following requirements:

(i) Reaching those prospective buyers or tenants, regardless of sex, of majority and minority groups in the marketing area who traditionally would not be expected to apply for such housing without special outreach efforts because of existing racial or socio-economic patterns.

(ii) Undertaking and/or maintaining a non-discriminatory hiring policy in recruiting from both majority and minority groups including both sexes, for staff engaged in the sale or rental of properties.

(iii) Training and instructing employees engaged in the sale or rental properties in the policy and application of nondiscrimination and fair housing.

(iv) Displaying in all sales and rental offices the "Fair Housing" poster.

(v) Posting in a conspicuous position on each property and FmHA construction site a sign displaying the equal opportunity logo or the following statement: "We are pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, or national origin."

(vi) Undertaking efforts to publicize the availability of housing opportunities to minority persons through the type of media customarily used by the applicant or participant, including minority publications and other minority outlets available in the housing market area. As part of these efforts all advertising must include either the equal housing opportunity logo or statement. When illustrations or persons are included they shall depict persons of both sexes and of majority and minority groups.

(4) The affirmative fair housing marketing plans or evidence that the participant is covered by an approved voluntary affirmative marketing agreement must be submitted as follows:

(i) For subdivisions with the preliminary submission of plans and specifications.

(ii) For multi-family projects, including rural rental housing, labor housing, cooperative housing, technical assistance grants and site development loans with the AD–621, "Preapplication for Federal Assistance," or with the letter of application. Subsequent loans or grants extended to the participant will necessitate a new or updated plan.

(iii) For conditional commitments for five or more individual dwelling units in a 12-month period with the application for the fifth conditional commitment.

(iv) For real estate brokers agreeing to list acquired rural housing properties at the time of execution of Form FmHA 1955C–2, "Nonexclusive Real Property Master Listing Agreement."

(v) For real estate brokers agreeing to list 5 or more acquired rural housing properties on an individual listing basis in any year at the time of execution of the fifth Form FmHA 1955–2, "Nonexclusive Real Property Master Listing Agreement."

(5) Affirmative fair housing marketing plans will cover the following time periods:

(i) For subdivision, from time of application until all lots are sold.

(ii) For multi-family projects from time of application until the loan is paid in full or for so long as the project is being used for the same or a similar purpose for which the funds were extended.

(iii) For conditional commitments involving individual dwelling units, one year or until all units built through conditional commitments issued within the one year period have been sold.

(iv) For real estate brokers who list acquired rural housing properties, one year.

(6) Affirmative fair housing marketing plans will be reviewed and approved by the official authorized to approve the assistance requested. The County Supervisor will review and submit with comments to the official authorized to approve the assistance requested, those fair housing marketing plans where the assistance requested exceeds his approval authority. Any participant covered by this section must have an approved affirmative fair housing marketing plan for any assistance approved 90 or more days after the issuance of these regulations.

(7) Approved affirmative fair housing marketing plans will be made available by the participant for public inspection at the participant's place of business and at each sales or rental office. Participants who fulfill the requirements of this section by filing a Form HUD 9352(3–76) will maintain records to reflect their efforts in fulfilling the affirmative fair housing marketing plan. These records will be made available for review by FmHA personnel. Affirmative fair housing marketing plans will be reviewed by FmHA personnel in accordance with section 2006–M of this chapter.

(8) Applicants failing to comply with these requirements will be liable to sanctions authorized by regulations, rules or policies governing the program in which they are participating including but not limited to denial of further participation in FmHA programs and referral to the Department of Justice for suit by the United States for injunctive or other appropriate relief.

(7 U.S.C. 1989 (42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301); Secretary 10 Pub. L. 93–357, 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70; delegations of authority by Director, OEO 29 FR 14764, 33 FR 9850.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: August 30, 1977.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc.77–26552 Filed 9–12–77;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Restrictions on Importation of Horses

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document will prohibit the importation into the United States of certain horses from England, Ireland, and France, and the importation into the United States of certain horses which have been in such countries within the 60 days immediately preceding their export to the United States, because of the existence of Equine Metritis–77, hereinafter referred to as EM–77. This action is necessary to protect the livestock of the United States from such disease. The effect of this action is to prohibit the entry of certain horses into the United States which would be likely to introduce or disseminate EM–77 into the United States.

EFFECTIVE DATE: The foregoing amendment shall become effective September 9, 1977, except for horses then in transit to the United States (i.e., loaded aboard a commercial carrier and en route to the United States).

FOR FURTHER INFORMATION CONTACT:

Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, Md. 20782 (301–436–8170).

SUPPLEMENTARY INFORMATION: EM–77, a contagious, infectious, and communicable disease of horses, is known to exist in England, Ireland, and France. EM–77 is a disease which is transmitted between horses generally at the time of breeding. There is no practical diagnostic test for EM–77 at the present time nor is there an effective treatment. Some pregnant mares are reported to be carriers of the disease following their treatment.

EM–77 is not known to exist in the United States at the present time. Therefore, in order to protect the livestock of the United States against the introduction and dissemination of EM–77, the importation of all horses, except geldings, from England, Ireland, or France, and the importation of all horses, except geldings, which have been in any such country during the 60 days immediately preceding their export to the United States is prohibited until further notice. Geldings are excluded from this restriction since they do not pose a threat of spreading this disease.

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended in the following respects:

In § 92.2, a new paragraph (i) is added to read:

§ 92.2 General prohibitions; exceptions.

* * * * *

(i) Notwithstanding the other provisions of this part concerning the importation of horses into the United States, the importation of all horses, except gelding, from the following listed countries and the importation of all horses, except geldings, which have been in any such country within the 60 days immediately preceding their export to the United States is prohibited because of the existence of EM–77 in such countries: England, Ireland, and France.

(Sec. 2, 32 Stat. 792, as amended; secs. 4 and 11, 76 Stat. 130, 132 (21 U.S.C. 111, 134c, and 134f); 37 FR 28464, 28477; 38 FR 19141.)

This amendment imposes additional restrictions on the importation of certain horses into the United States. The amendment is of an emergency nature and should be placed in effect immediately in order to protect the livestock of the United States from the introduction and dissemination of disease.

Therefore, for such good cause the Department finds that notice and other public procedure regarding this amendment are impracticable, unnecessary and contrary to the public interest and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 9th day of September 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

PIERRE A. CHALOUX,
Deputy Administrator, Veterinary Services.

[FR Doc.77–26704 Filed 9–12–77;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z: FC–0103 through FC–0105]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official staff interpretation(s).

SUMMARY: The Board is publishing the following official staff interpretations of Regulation Z, issued by a duly authorized official of the Division of Consumer Affairs.

EFFECTIVE DATE: September 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Attorney, Fair Credit Practices Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–2412).

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(2) Official staff interpretations may be reconsidered upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2). Every request for reconsideration should clearly identify the number of the official staff interpretation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

(3) 15 U.S.C. 1640(f).

[FC–0103]

§ 226.4(a) and § 226.7(a) Charges imposed in connection with checking accounts required to be established as a condition of an extension of open end or other than open end credit need not be included in finance charge (§ 226.4(a)) or disclosed as an "other charge" under § 226.7(a)(6).

§ 226.8(e) Where checking account must be opened as a condition of an extension of credit other than open end, a minimum checking account balance maintained in order to avoid imposition of service charges is not a required deposit balance.

AUGUST 24, 1977.

This is in response to your letter of * * *, in which you request an official staff inter-

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pretation of Regulation Z. You inquire as to the impact of Regulation Z on certain charges imposed and balances maintained in connection with checking accounts which are required to be established by customers as a condition of an extension of either open end credit or credit other than open end.

You first ask whether the checking account service charges should be included in the finance charge disclosure with regard to an extension of credit. In the case of open end credit, you also ask whether (assuming they are not to be included in the finance charge) the service charges should be identified as an "other charge" in accordance with § 226.7(a)(5). Third, you ask whether any minimum checking account balance required to be maintained in order to avoid the imposition of the checking account service charges is a required deposit balance as defined in § 226.8(e)(2) if the customer is required to establish a checking account as a condition of an extension of credit other than open end.

Section 226.4(a)(2) of Regulation Z requires that service, transaction, activity or carrying charges that are imposed by a creditor as a condition of an extension of credit must be included in the amount of the finance charge. As you indicate, however, footnote 2 to § 226.4(a)(2) provides that these charges include any such charges imposed in connection with a checking account but only "to the extent that such charges exceed any charges the customer is required to pay in connection with such an account when it is not being used to extend credit." Assuming, therefore, that the service charges assessed on a checking account established for the purpose of obtaining an extension of credit are not in excess of the charges normally assessed on a checking account which is not established for that purpose, staff is in agreement with your position that the service charges imposed on such a mandatory checking account need not be included in the amount of the finance charge for the related credit transaction.

Furthermore, in staff's view, the service charges do not come within the definition of an "other charge" to be disclosed in accordance with § 226.7(a)(5). In Public Information Letter 946 (a copy of which is enclosed for your convenient reference), staff concluded that: Where the overdraft is not treated as part of the credit plan and the fee assessed for honoring it is identical to the fee charged on an overdraft of a checking account without a credit feature, the fee would not seem to be an element of the credit plan, but rather would seem to be related to the basic checking account agreement.

Similarly, the service charges imposed on the checking account described herein appear to be assessed regardless of whether credit is extended.

Moreover, in those situations where a checking account must be opened as a condition of an extension of credit other than open end, staff does not consider a minimum checking account balance which is maintained in order to avoid the imposition of the service charges as constituting a required balance. Section 226.8(e)(2) defines a required deposit balance as including "(a)ny deposit balance. Section 226.8(e)(2) defines a required deposit balance as including "(a)ny deposit balance or investment which the creditor requires the customer to make, of credit * * *." Your client does not appear to require the customer to make, maintain, or increase a minimum balance in the checking account established in order to obtain an extension of credit. Rather, the customer is merely being given the option of maintaining a balance sufficient to avoid the imposition of the service charges. Since staff regards the maintenance of such a minimum checking account balance as a condition for obtaining a benefit of the checking account plan, rather than as "a condition to the extension of credit," staff does not consider such a minimum checking account balance to be a required deposit balance as defined by § 226.8(e)(2).

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation. It is limited solely to the facts and issues presented herein. I trust that it is responsive to your inquiry.

Sincerely,

JANET HART,
Director.

[FC-0104]

§ 226.808 Disclosure method set out in § 226.808 may be used where mortgage insurance premiums vary each year and are collected from customer annually rather than monthly.

AUGUST 25, 1977.

This is in reply to your letter of * * *, in which you request an official staff interpretation concerning the proper disclosure of the schedule of payments in a mortgage loan involving mortgage insurance. You inquire about a situation in which the lender pays the mortgage insurance premiums annually. The premiums decrease each year because they are computed on the basis of the unpaid principal balance of the loan. Consequently, the program is similar to the programs discussed in Official Staff Interpretations FC-0003, FC-0025, and FC-0030, except that the mortgage insurance premium is collected from the borrower annually, rather than monthly. All payments are for an equal amount of principal and interest, but the twelfth payment each year is larger than the other eleven by the amount of the annual mortgage insurance premium.

You wish to know whether Board Interpretation § 226.808, which provides a method of disclosing the schedule of payments when the payment amounts vary over the term of a credit transaction, is applicable in this situation. You believe that the disclosure method set out in § 226.808 and explained in the above-cited official staff interpretations is equally as understandable and informative in your program, in which the premiums decline in annual steps and are paid annually, as it is in those programs in which the premiums decline in annual steps but are paid monthly. You propose to disclose the payment schedule by indicating the constant amount of principal and interest which will be due monthly throughout the life of the loan and, further, by explaining that on a certain date of each year an additional amount is to be paid for the mortgage insurance premiums. In addition, you propose to disclose the amounts of the mortgage insurance premiums that would be included in the first and in the last of these varying payments, as well as disclosing the total amount (reflecting principal, interest, and mortgage insurance premiums) of the first and the last of such varying payments.

It is staff's opinion that the principles underlying Board Interpretation § 226.808 are applicable to the program you have described. Staff believes that the above-described method of disclosure sufficiently complies with the regulation, assuming, of course, that the total finance charge and the total of payments are also disclosed as called for in § 226.808. You may be interested to know, however, that the staff is currently considering recommending to the Board a revision of § 226.808 concerning the method of disclosing the payment schedule when the payment amounts vary. If the interpretation should be revised, you will need to reassess your method of disclosure in light of the changes at that time.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation, and it is limited to the facts as set out herein. I trust that it proves helpful to you.

Sincerely,

JANET HART,
Director.

[FC-0105]

§ 226.4(1), § 167 of Act, § 171 of Act—Discounts limited to only cash-paying customers may qualify for the special treatment afforded by §§ 167 and 171(c) of the Truth in Lending Act and § 226.4(1). of Regulation Z.

AUGUST 26, 1977.

This is in response to your letter of * * *, inquiring about the requirements of § 167 of the Truth in Lending Act. You ask whether a merchant wishing to offer a discount in accordance with that section may restrict the availability of the discount to those customers paying with cash only (i.e., the discount would not be available to customers tendering checks, nor to credit card purchasers). Section 167 is implemented by § 226.4(1) of Regulation Z, which has been recently amended. Enclosed you will find a copy of the amendments.

Staff believes that it is permissible for a merchant to offer discounts to only those customers paying for goods or services by cash, and that such a discount would qualify for the special treatment afforded by §§ 167 and 171(c) of the Act and § 226.4(1) of the regulation. Of course the amount of the discount, and manner in which the discount is offered, must comply with the provisions of § 226.4(1) in order for the discount to be exempted from treatment as a finance charge.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation, and limited in its application to the facts and issues discussed above. I trust it is responsive to your inquiry.

Sincerely,

JANET HART,
Director.

Board of Governors of the Federal Reserve System, September 7, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-26532 Filed 9-12-77;8:45 am]

[Reg. Z; Docket Nos. R-0093 and R-0087]

PART 226—TRUTH IN LENDING

Descriptions of Transactions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This rule postpones the date for full implementation of the regulation regarding descriptive billing of nonsale credit transactions, such as cash advance checks, on open end credit accounts (Reg. Z, § 226.7(k)(3)(ii)) until March 28, 1978. The action is taken in order to permit the full consideration of proposals to amend this section of the regulation, which are designed to facilitate compliance with the regulation by creditors and, at the same time, to retain the essential description requirements of the present regulation for the benefit of consumers.

EFFECTIVE DATE: August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Attorney, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2412).

SUPPLEMENTARY INFORMATION: By this document the Board of Governors of the Federal Reserve System ("Board" herein) postpones the date for full implementation of § 226.7(k)(3)(ii) of Regulation Z, which prescribes rules regarding descriptive billing of nonsale credit transactions reflected on open end credit periodic statements. That section of the regulation was scheduled to become fully effective on October 28, 1977. However, because of the pendency of Board consideration of proposals to amend the section, it is necessary to postpone the date until March 28, 1978, in order to have sufficient time to complete the consideration of the proposals and any rulemaking proceedings that become necessary. This postponement is also necessary in order to avoid the commitment of resources by creditors to comply with the requirements of the section as it is currently written until the Board has determined whether or not it should be changed, and to give creditors sufficient time to adjust their systems to comply with the requirements ultimately adopted.

It should be made clear that this suspension relates only to the requirements of § 226.7(k)(3)(ii) of Regulation Z regarding identifications of nonsale credit transactions, such as cash advance checks. The requirements of § 226.7(k) relating to other types of credit transactions are not affected hereby.

Pursuant to 5 U.S.C. 553 (1970) the Board finds that notice and public participation in this rulemaking are impractical and unnecessary since (1) time is of the essence in postponing the date for full implementation of the section, (2) the effective date is merely temporarily postponed, and (3) opportunity will be afforded for public comment on any changes in the substance of the subject regulation proposed by the Board.

In consideration of the foregoing and pursuant to the authority granted in 15 U.S.C. 1604 (1970) the Board hereby postpones the October 28, 1977, date for full implementation of § 226.7(k)(3)(ii) of Regulation Z, as affected in § 226.7(k)(7)(i), until March 28, 1978. During the period of the postponement a creditor may comply with the requirements for identifying nonsale credit transactions on or with open end credit periodic statements either by use of the methods prescribed in § 226.7(k)(3), by use of the alternatives prescribed in § 226.7(k)(4) or § 226.7(k)(7)(i), or by use of a combination of those methods.

By order of the Board of Governors of the Federal Reserve System, August 31, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-26633 Filed 9-12-77;8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regulations No. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Recovery of Excess Cost Resulting From Use of Accelerated Depreciation When Termination of Provider Agreement Results From Transaction Between Related Organizations

AGENCY: Health Care Financing Administration.

ACTION: Final rule.

SUMMARY: Current regulations require that when a provider who has used accelerated depreciation terminates participation in the health insurance program, depreciation claimed by the provider in excess of straight-line depreciation is to be recovered by the health insurance program. This regulation establishes new policy by providing that when the termination of the provider agreement is due to a change in provider ownership resulting from a transaction between related organizations, and certain other conditions are met, this recovery provision will not be applied.

EFFECTIVE DATE: This amendment shall be effective September 13, 1977, and may be applied to all cost reports subject to reopening.

FOR FURTHER INFORMATION CONTACT:

Virginia Gray, Division of Provider Reimbursement and Accounting Policy, Bureau of Health Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301-594-9690.

SUPPLEMENTARY INFORMATION: On October 20, 1976, this regulation was published in the FEDERAL REGISTER (41 FR 46321) with a Notice of Proposed Rulemaking as a proposed amendment to Subpart D of Regulations No. 5 (20 CFR Part 405) regarding recovery of excess cost resulting from the use of accelerated depreciation when termination of the provider results from a transaction between related organizations.

Current regulations require that when a provider who has used accelerated depreciation terminates participation in the health insurance program, depreciation claimed by the provider in excess of straight-line depreciation is to be recovered by the health insurance program. The intention of the current regulation is to insure that the health insurance program pay providers only the reasonable cost of services furnished to Medicare beneficiaries. Without the provision for the recovery of excess depreciation, a provider who had been allowed depreciation at an accelerated rate, and thus received disproportionately high depreciation payments from the health insurance program in its initial years of participation, would avoid rendering services at compensatingly low depreciation allowances in later years, if it terminated participation in the health insurance program.

However, when termination of the provider agreement results from a transaction between related organizations, and the successor provider remains in the health insurance program and its asset bases are the same as those of the terminated providers, health insurance program reimbursement is equitable to all parties. An amendment to the regulations is necessary, therefore, to provide that when termination of the provider agreement results from a transaction between related organizations, and certain other conditions are met, the recovery of accelerated depreciation will not be applied.

Section 5 U.S.C. 553(d) permits an immediate effective date when good cause exists. Because this amendment establishes new policy, which is a liberalization of an existing policy, and may be applicable to cost reports subject to reopening, good cause exists for not having a delayed effective date. Therefore, this amendment shall be effective upon publication in the FEDERAL REGISTER.

Interested parties were given 45 days from the date of publication of the Notice of Proposed Rulemaking in which to submit data, views, or arguments thereon. Only a few comments were received as a result of the Notice of Proposed Rulemaking. These comments essentially agreed with the purpose of the proposed regulation. The proposed amendment has been prepared for final publication with only clarifying editorial changes.

Accordingly, the amendments are adopted as revised and are set forth below.

Part 405 of Chapter III of Title 20 of the Code of Federal Regulations, is amended as follows:

In § 405.415, paragraph (d) is amended by adding headings for paragraphs (d)(1), (d)(2), and (d)(3), redesignating the material in the present paragraph (d)(3) as paragraph (d)(3)(i), adding a heading for such redesignated paragraph, and adding paragraph (d)(3)(ii). The added headings and paragraph (d)(3)(ii) read as follows:

§ 405.415 Depreciation: Allowance for depreciation based on asset costs.

* * * * *

(d) *Depreciation methods.* (1) *General.* * * *

(2) *Change in method.* * * *

(3) *Recovery of accelerated depreciation.* (i) *General.* * * *

(ii) *Transaction between related organizations.* (a) *General.* When the termination of the provider agreement is due to a change in provider ownership, as defined in §§ 405.625 and 405.626, resulting from a transaction between related organizations, as defined in § 405.427, and the criteria in paragraph (b) of this section are met, the excess of reimbursable cost, as determined in paragraph (d)(3)(i) of this section shall not be recovered if there is a continuation of participation by the facility in the health insurance program.

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(b) *Criteria.* The following criteria must be met if the recovery of excess reimbursable cost is not to be made:

(1) The termination of the provider agreement is due to a change in ownership of the provider resulting from a transaction between related organizations,

(2) The successor provider continues to participate in the health insurance program,

(3) Control and the extent of the financial interest of the owners of the provider before and after the termination remain the same; that is, the successor owners acquire the same percentage of control or financial investment as the transferors had, and

(4) All assets and liabilities of the terminated provider are transferred to the related successor participating provider.

(c) *Effect of transaction.* In transactions meeting the criteria specified in paragraph (d)(3)(ii)(b) of this section, the provision concerning recovery of excess reimbursable cost (§ 405.415(d)(3)(i)) is not applied, and the transaction is treated as follows:

(1) The successor provider must record the historical cost and accumulated depreciation and the method of depreciation recognized under the health insurance program, and these are considered as incurred by the successor provider for health insurance purposes;

(2) The health insurance program's utilization of the terminated provider is considered as having been incurred by the successor provider for health insurance program purposes; and

(3) The equity capital of the terminated provider as of the closing of its final cost reporting period must be wholly contained in the equity capital of the successor provider as of the beginning of its first cost reporting period.

* * * * *

(Secs. 1102, 1815, 1861(v)(1)(A), and 1871 of the Social Security Act, 49 Stat. 647, as amended, 79 Stat. 297, 79 Stat. 322, as amended, 79 Stat. 331; 42 U.S.C. 1302, 1395g, 1395x(v)(1)(A), and 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance.)

NOTE.—The Health Care Financing Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: August 2, 1977.

WILLIAM D. FULLERTON,
Acting Administrator, Health Care Financing Administration.

Approved: August 27, 1977.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

[FR Doc.77-26529 Filed 9-12-77;8:45 am]

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION

TEMPORARY EMPLOYMENT OF ALIENS ON GUAM

Labor Certification Process

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Employment and Training Administration is publishing rules for the labor certification process governing the temporary employment of aliens on Guam in occupations other than agriculture and logging. The purpose of the regulations is to implement the Department of Labor's new responsibilities under the regulations of the Immigration and Naturalization Service.

DATE: Effective date: September 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Aaron Bodin, Chief, Division of Labor Certification, United States Employment Service, Room 8410, 601 D Street NW., Washington, D.C. 20213, telephone 202-376-6295.

SUPPLEMENTARY INFORMATION:

IMMIGRATION AND NATURALIZATION SERVICE REGULATIONS

Section 214.2(h)(3)(i) of the Immigration and Naturalization Service Regulations (8 CFR 214.2(h)(3)(i)), issued under the Immigration and Nationality Act, requires, in support of a petition for the admission of an alien into the United States to perform certain temporary labor:

Either a certification from the Secretary of Labor or his designated representative stating that qualified persons in the United States are not available and that the employment of the beneficiary will not adversely affect the wages and working conditions of workers in the United States similarly employed, or a notice that such a certification cannot be made shall be attached to every non-immigrant visa petition to accord an alien a classification under Section 101(a)(15)(H)(ii) of the Act.

Until July of this year, however, the above cited regulation contained an exception whereby the Guam Employment Service, rather than the U.S. Department of Labor, performed the labor certification function for temporary employment of aliens on Guam. On July 25, 1977, however, at 42 FR 37795 the Immigration and Naturalization Service amended its regulations by deleting this exception.

NEED FOR REGULATIONS

The Employment and Training Administration currently has regulations for the temporary labor certification program at 20 CFR 602.10, 10a, 10b, and 10c (for agricultural and logging employment) and at 20 CFR Part 621 (for employment in other than logging and agriculture). The regulations at 20 CFR 602.10, 10a, 10b, and 10c are comprehensive regulations dealing with wages, housing, transportation, workers' compensation, allowable deductions from pay and other relevant matters. Consequently, the Employment and Training Administration will use those regulations for agricultural and any logging employment of aliens on Guam.

The regulations at 20 CFR Part 621, however, consist only of principles and procedures of the most general kind. The Department has concluded, for the reasons set forth below relating to the uniqueness of the Guam alien employment situation, that the general principles and procedures in Part 621 should be elaborated in a set of regulations applicable only to Guam. This document contains the regulations for Guam.

UNIQUENESS OF GUAM AND ITS ALIEN EMPLOYMENT SITUATION

The Territory of Guam is different from most of the United States. It is different in terms of history, culture, and economic and social structure. More specifically, the fact that a very large portion of its labor force is made up of non-immigrant aliens admitted for temporary employment in many different occupations is unique. Non-immigrant aliens comprise about one-fifth of the persons employed in wage and salary jobs on Guam.

Unemployment on Guam is a very serious problem. The unemployment rate of U.S. workers including immigrant aliens is significantly higher than the national average and has been a serious problem for many years. Unemployment is especially high among the native Chamorro population and among teenagers, causing many of the latter to emigrate to the continental United States.

Guam is particularly subject to widespread natural disasters. Typhoons Karen (1962) and Olive (1963) devastated the Island. Typhoon Pamela (1976) damaged up to 80 percent of all the buildings and facilities on the island. Repair work necessitated by Typhoon Pamela is still going on. As a result of these typhoons, because of increased tourism, and because of national defense needs, the construction industry is enormously significant to the Guam economy. There are, however, comparatively few resident Guamanians who have been trained for construction occupations. In most cases, therefore, alien workers have been admitted to perform construction jobs. In March 1975, for example, about 82 percent of construction jobs were held by non-immigrant aliens. The Department believes that the low wage rates paid aliens have adversely affected U.S. workers by discouraging U.S. workers from entering these low wage construction jobs or entering training for such jobs.

The Department has evidence, moreover, that the presence on Guam of so many non-immigrant alien workers has had other adverse effects upon the wages and working conditions of U.S. workers. Despite the high living cost on Guam, and continuing inflation, the wage rates in many occupations have not increased by appreciable amounts in recent years. This is in contrast, for example, with the situation on Hawaii where wage rates show appreciable increases. The Department believes that the presence of so many non-immigrant aliens in Guam on temporary visas, most of whom come from countries where they are accustomed to relatively low wages, contributes significantly to this situation.

It is not the Department's intention, in issuing these regulations, to stop the flow of non-immigrant alien workers into Guam. Such workers have contributed greatly to the growth of Guam's economy. They form an important and vital element in the island's economic structure. The Department, however, under the Immigration and Naturalization Service regulations, must take immediate steps to see that the wages and working conditions of U.S. workers are not adversely affected by the use of such aliens, and to see that qualified U.S. workers are not displaced by such aliens.

ADVERSE EFFECT RATES

The regulations contain adverse effect rates for occupations on Guam. The adverse effect rates are the rates which the Department requires employers to offer and pay so that the wages of similarly employed U.S. workers will not be adversely affected. The adverse effect rate is usually the prevailing wage rate. It may, however, be set at a higher level when the prevailing rates have been artificially depressed by the employment of non-immigrant alien workers.

The Department has concluded, in view of the circumstances set forth above, that the employment of non-immigrant aliens in the Guam construction industry has adversely affected U.S. workers by keeping the wage rates artificially low to the point that nearly all such work is being done by non-immigrant aliens. The Department, therefore, is publishing adverse effect rates for the Guam construction industry which are higher than the rates which are currently being paid to non-immigrant aliens. These adverse effect rates are based on the rates which have been found by a U.S. Navy Wage Board as applicable to construction craft workers on Guam. These rates are those which are prevailing for U.S. workers employed by the U.S. Government in construction trades on Guam and give the best indication as to what the Guam construction wage rates would be if they were not depressed by the use of non-immigrant aliens. The Department believes that it is necessary to use the Navy Wage Board rates to provide the necessary protections for U.S. workers on Guam.

Outside construction, the adverse effect rates are the prevailing rates in Guam paid to U.S. workers. Generally, these will be the rates which are paid by the Guam government or by the U.S. government in its nonappropriated fund activities. Although, on the basis of the situation in other occupations on Guam, the Department may in the future, set higher adverse effect rates for other occupations, the seriousness of the construction wage situation, and the necesssity for immediate rulemaking, mitigated in favor of the Department's decision to publish adverse effect rates at this time only for the construction industry.

Because the adverse effect rates are substantially above the present prevailing construction wage rates on Guam, the Department, in order to avoid disruption of the island's construction economy, has provided for a phasing-in of the higher adverse effect rates over a period of two years. Thus, most construction on Guam is by the U.S. Government and the amounts available annually is relatively fixed by the amount of appropriations by the Congress. Under these circumstances the greater the cost of the construction the less construction which can be performed with a resultant reduction in jobs. The two-year phase-in period is intended to provide a degree of protection for the number of jobs available while increasing the wage rates to their proper level. Starting September 1979, and thereafter it is intended that the construction rates will be based upon the then current wage Board rates.

In similar regard existing contracts on Guam were negotiated taking into consideration the present non-immigrant alien wage rates. In addition, construction home loans have been approved by the Small Business Administration to repair typhoon damage and Public Works Employment Act of 1977 grant funds have been committed for use on Guam for which construction contracts have not yet been executed. In order to prevent undue hardship to contractors with existing contracts, to the recipients of Small Business Administration loans, or to funded Public Works Employment Act of 1977 construction projects, the rates set forth in these regulations are not applicable to certifications for alien workers issued for work under those existing contracts, loans, and grants. This is similar to the practice of the Department of Labor under contracts affected by the Davis-Bacon and related Acts where the wage determination applicable at the time of the execution of the contract remains applicable to that contract until the completion of the contract notwithstanding subsequent determinations made in the same area.

REASON FOR FINAL RULEMAKING

With the change in the Immigration and Naturalization Service regulation at 8 CFR 214.2(h)(3)(i), the responsibility for administering the temporary labor certification process was placed upon the Department. The nature and scope and the seriousness of the temporary alien employment problem, as outlined above, make it clear to the Department that definitive interpretive and procedural guidelines in the form of regulations are an immediate necessity. The use of non-immigrant alien workers, moreover, in large numbers and for an extended period of time, has resulted in a cumulative adverse effect upon U.S. workers which makes definitive action in the form of regulations an immediate necessity. It is also important not to disrupt the Department of Defense's procurement process, the Small Business Administration's loan process, or extant Public Works Employment Act projects by adding the element of uncertainty which proposed rulemaking would entail. Therefore, the Department finds that it is in the public interest, especially in the public interest of U.S. workers on Guam, to publish final rules which are immediately effective. This finding is made pursuant to 5 U.S.C. 553(b).

In keeping with the spirit of the Administrative Procedure Act, and with the Department's general policy as set forth at 29 CFR 2.7, the Department invites comments on these rules until November 15, 1977. Comments should be in writing and should be addressed to: Mr. William B. Lewis, Administrator, United States Employment Service, Room 8000, 601 D Street NW., Washington, D.C. 20213. Copies of all comments should also be sent to: Mr. William Haltigan, Regional Administrator, Employment and Training Administration, Federal Building, P.O. Box 36084, 450 Golden Gate Avenue, San Francisco, Calif. 94102.

Accordingly, 20 CFR Chapter V is amended as follows:

PART 621—CERTIFICATION OF TEMPORARY FOREIGN LABOR FOR INDUSTRIES OTHER THAN AGRICULTURAL OR LOGGING

§ 621.1 [Amended]

1. In § 621.1 *Purpose.*, the following two sentences are added at the end:

* * * The temporary labor certification regulations governing job opportunities (other than in agriculture and logging) on Guam are found at Part 655, Subpart B, of this Chapter. Those regulations supplement this Part.

2. In § 621.11 *Purpose.*, the citation "(8 CFR 214.2(h)(ii))" is changed to "(8 CFR 214.2(h)(3)(i))."

PART 651—GENERAL PROVISIONS GOVERNING THE FEDERAL-STATE EMPLOYMENT SERVICE SYSTEM

§ 651.5 [Amended]

3. In § 651.5 *Format of the regulations for the employment service system.*, paragraph (e), the phrase "when published" is deleted.

§ 651.6 [Amended]

PART 655—LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

4. In § 651.6 *Consolidated table of contents for Parts 651-658.*, the following table of contents for Part 655 is inserted in its proper place:

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SUBPART A—TEMPORARY LABOR CERTIFICATION PROCESS FOR OCCUPATIONS OTHER THAN AGRICULTURE AND LOGGING

Sec.
655.1 Location of regulations.

SUBPART B—TEMPORARY LABOR CERTIFICATION PROCESS FOR OCCUPATION OF GUAM OTHER THAN AGRICULTURE AND LOGGING

Sec.
655.100 Scope and purpose of subpart.
655.101 Definitions of terms used in subpart.
655.102 Temporary labor certification applications (general).
655.103 Contents of job offers.
655.104 Assurances.
655.105 Action on temporary labor certification applications by the Guam employment service office.
655.106 Temporary labor certification determinations.
655.107 Adverse effect rates.
655.108 Temporary labor certification applications involving fraud or willful misrepresentation.
655.109 Temporary labor certification related records.
655.110 Nature of employment service job orders.

5. Part 655 is added to read as follows:

Subpart A—Temporary Labor Certification Process for Occupations Other Than Agriculture and Logging

Sec.
655.1 Location of regulations.

Subpart B—Temporary Labor Certification Process for Occupations on Guam Other Than Agriculture and Logging

Sec.
655.100 Scope and purpose of subpart.
655.101 Definitions of terms used in subpart.
655.102 Temporary labor certification applications (general).
655.103 Contents of job offers.
655.104 Assurances.
655.105 Action on temporary labor certifications applications by the Guam employment service office.
655.106 Temporary labor certification determinations.
655.107 Adverse effect rates.
655.108 Temporary labor certification applications involving fraud or willful misrepresentation.
655.109 Temporary labor certification related records.
655.110 Nature of employment service job orders.

Subpart A—Temporary Labor Certification Process for Occupations Other Than Agriculture and Logging

AUTHORITY: 8 CFR 214.2(h)(3)(i); Wagner-Peyser Act of 1933, as amended, 29 U.S.C. 49 et seq.; 5 U.S.C. 301.

§ 655.1 Location of regulations.

(a) The regulations governing the temporary labor certification process for occupations other than agriculture and logging are presently found at Part 621 of this Chapter. They will be codified in this subpart at a later date.

(b) For Guam, the regulations at Part 621 of this Chapter are supplemented by regulations which are found in subpart B of this Part.

Subpart B—Temporary Labor Certification Process for Occupations on Guam Other Than Agriculture and Logging

AUTHORITY: 8 CFR 214.2(h)(3)(i); Wagner-Peyser Act of 1933, as amended, 29 U.S.C. 49 et seq.; 5 U.S.C. 301.

§ 655.100 Scope and purpose of subpart.

(a) This subpart supplements the regulations presently found at Part 621 of this Chapter and provides for the temporary labor certification process on Guam for all occupations except agriculture and logging.

(b) The Immigration and Naturalization Service Regulations at 8 CFR 214.2(h)(3)(i), issued under the Immigration and Nationality Act, requires, in support of a petition for the admission of an alien into the United States to perform certain temporary labor:

Either a certification from the Secretary of Labor or his designated representative stating that qualified persons in the United States are not available and that the employment of the beneficiary will not adversely affect the wages and working conditions of workers in the United States similarly employed, or a notice that such a certification cannot be made shall be attached to every non-immigrant visa petition to accord an alien a classification under Section 101(a)(15)(H)(ii) of the Act.

(c) The temporary labor certification procedure is designed to prevent the use of foreign labor at the expense of the wages and working conditions of United States workers similarly employed. Temporary foreign workers may only be used to perform temporary services to meet shortages which occur in a particular occupation or industry.

§ 655.101 Definitions of terms used in subpart.

For purposes of this subpart:

"Administrator" means the chief official of the United States Employment Service or the Administrator's designee.

"Adverse effect rate" means the wage rate which the Administrator has determined must be offered and paid to foreign and U.S. workers for a particular occupation and/or area so that the wages of similarly employed U.S. workers will not be adversely affected. The prevailing wage rate in the area and/or occupation is the adverse effect rate, unless the Administrator has determined that a higher wage rate is necessary to prevent an adverse effect.

"Certifying Officer" means a U.S. Department of Labor official authorized to grant or deny temporary labor certification applications.

"Employment and Training Administration (ETA)" means the agency within the Department of Labor (DOL) which includes the United States Employment Service (USES).

"Employer" means a person, firm, corporation or other organization which currently has a location within the Territory of Guam to which U.S. workers may be referred for employment, or the authorized representative of such a person, firm, or corporation.

"Guam employment service office" means an office of the Guam Employment Service agency which serves the island of Guam.

"Job opportunity" means a job opening for employment on Guam to which U.S. workers can be referred.

"Offshore U.S. worker" means a United States worker whose domicile is in a State, Commonwealth, or territory of the U.S. other than Guam.

"Notice of Findings" means a notice which sets forth the bases upon which a Regional Administrator intends to deny a temporary labor certification unless the bases are satisfactorily rebutted.

"Regional Administrator, Employment and Training Administration (RA)" means the chief official of the Employment and Training Administration (ETA) in the Department of Labor (DOL) San Francisco regional office.

"Secretary" means the Secretary of Labor, of the U.S. Department of Labor, or the Secretary's designee.

"Temporary labor certification" means the determination by the Secretary of Labor, pursuant to 8 CFR 214.2(h)(3)(i), that (1) there are not sufficient U.S. workers who are qualified and available to perform the work and (2) the employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers.

"United States Employment Service (USES)" means the agency of the U.S. Department of Labor, established under the Wagner-Peyser Act of 1933, which is charged with administering the national system of public employment offices and carrying out the functions of the Secretary under the Immigration and Nationality Act.

"United States worker" means any worker who, whether U.S. citizen, national, or alien, is legally permitted to work permanently within the United States.

§ 655.102 Temporary labor certification applications (general).

(a) An employer which anticipates a labor shortage may request a temporary labor certification for temporary foreign workers by filing, or by having an agent file, a temporary labor certification application, signed by the employer, with the Guam employment service office. However, if the temporary labor certification application is filed by an agent, the agent may sign the application. If be accompanied by a letter from the employer, signed by the employer, which authorizes the agent to ployer, which authorizes the agent to act on the employer's behalf, which states whether, and to what extent the agent is authorized to make changes in the employer's job offer, and which states that the employer assumes full responsibility for the accuracy of the application, for all representations made by the agent on the employer's behalf, and for the fulfillment of all legal requirements arising from the temporary labor certification.

(b) Every temporary labor certification application shall include: (1) A copy of the job offer used by the employer in the recruitment efforts for both U.S. and foreign workers. The job offer shall state the number of workers needed by the employer, and shall be signed by the employer. The job offer shall comply with the requirements of § 655.103 of this subpart;

(2) The assurances required by § 655.104 of this part;

(3) Documentation showing in detail the employer's efforts to recruit U.S. workers; and

(4) Documentation identifying the construction contract or contracts, if any, for which the temporary labor certification is being requested.

(c) A temporary labor certification application shall be filed in sufficient time to allow the Guam employment service office to attempt to recruit local U.S. workers. If local workers are not available, the Guam employment service office shall recruit through the interstate clearance system if current information from the RA indicates that offshore U.S. workers may be available. A minimum of 60 calendar days should be allowed for the Guam employment service local and interstate recruitment process. This 60-day period shall be in addition to the time necessary for the employer to secure foreign workers by the date of need if the temporary labor certification is granted. The Department of Labor, however, may grant or deny the temporary labor certification prior to the end of the 60 calendar days if the Certifying Officer is able to make the necessary determination in a shorter period of time.

§ 655.103 Contents of job offers.

(a) The employer's job offer shall:

(1) Offer to U.S. workers at least the same amount of wages and other benefits and working conditions which the employer is offering to the non-immigrant aliens;

(2) Set forth all the material terms and conditions of the job, including wage rates, working conditions, frequency of pay, hours and days of work, applicable workers' compensation benefits, fringe benefits, proposed deductions from pay, etc;

(3) If housing is offered, contain a detailed description of such housing;

(4) If transportation is offered, describe the transportation benefits in detail;

(5) State that the employer will pay the worker the adverse effect rate pursuant to § 655.107 of this subpart; and

(6) State that the job offer, including all benefits therein, is open to all qualified U.S. workers, including offshore U.S. workers, without regard to race, color, national origin, age, sex, and to U.S. workers with handicaps who are qualified to perform the job.

§ 655.104 Assurances.

As part of the labor certification application the employer shall include assurances signed by the employer, that:

(a) The employer has not within the past year been found by a Court or by a Federal or State enforcement agency to have failed without good cause to comply with applicable Federal, State and local employment-related laws, incuding wage and hour, health and housing laws and temporary labor certification related requirements, or that, if the employer was so found, the employer has produced conclusive, documented evidence that the violation has been remedied, and assures that it will not violate the law or laws in the future;

(b) The job opportunity is not:

(1) Vacant because the former occupant is on strike or is being locked out in the course of a labor dispute, or

(2) At issue in a labor dispute;

(c) During the period in which foreign workers are scheduled to be employed under the terms of the temporary labor certification:

(1) The wages and working conditions which will be offered and afforded by the employer to any foreign worker will be identical to those offered and afforded to U.S. workers; and

(2) The employer will offer and provide employment to any U.S. worker who is qualified and willing to work in the job opportunity and will keep a standing job order on file with the Guam employment service office.

(d) The employer will provide each worker with a copy of the worker's employment contract, and, if the worker is not literate in English, the contract which is provided will be in a language in which the worker is literate;

(e) Reasonable efforts have been and will continue to be made by the employer to obtain U.S. workers at adverse affect rates and working conditions no less favorable than those offered to aliens;

(f) The employer will not reject any qualified U.S. worker on the grounds that the employer's supervisory personnel speak a language other than that of the U.S. worker, and will assure that it has supervisors who speak a language understood by potential U.S. workers;

(g) If a U.S. worker cannot be recruited on Guam, the employer will consider referrals of offshore U.S. workers from Hawaii and the continental United States;

(h) The employer will accept the assistance of the Employment Service system in finding workers and will cooperate with it fully.

§ 655.105 Action on temporary labor certification applications by the Guam employment service office.

(a) When a temporary labor certification application is filed with the Guam employment service office, the Guam employment service office shall make sure that the application is complete. If the application is not complete, or if it is unlawfully discriminatory or otherwise unacceptable under Employment Service regulations for use in preparing a job order, the Guam employment service office shall return it to the employer and shall advise the employer to re-file it when it is completed.

(b) If the application is complete, the Guam employment service office, using the information on the application, shall prepare and process an employment service job order and, if it anticipates a shortage of local workers, an interstate job order.

(c)(1) The Guam employment service office shall then use the job order to recruit U.S. workers locally and, if local U.S. workers are not available, and there is evidence that offshore U.S. workers may be available, through the interstate clearance system. Special efforts shall be made to recruit workers out of Job Corps, CETA, and other DOL funded programs.

(2) As part of this recruitment effort the employer shall pay for an advertisement placed in the newspaper with the largest circulation on Guam for a 5-day period, and, in instances in which the interstate clearance system is used, in the largest circulation newspaper in Hawaii for a 5-day period for specified occupations as determined by the Regional Administrator. The advertisement(s) must specify the wages and other terms of employment. The advertisement(s) shall direct interested applicants to apply at the appropriate employment service office. The Guam and Hawaii Employment Service offices and the employer shall maintain records on the persons who respond and the results of referrals.

(d) The Guam employment service agency, after the recruitment period, shall send the temporary labor certification application to the Certifying Officer of the Employment and Training Administration, together with:

(1) A statement indicating whether the Guam employment service agency believes the employer has met requirements of this subpart;

(2) A report of U.S. workers availability in the area;

(3) A description of the recruitment efforts undertaken by the employer;

(4) Any information which indicates that, during the prior year, the employer did not fulfill the wage or other representations made in connection with any prior temporary labor certifications and whether or not the Guam employment service agency took action against the employer pursuant to Part 658, Subpart F, of this Chapter; and

(5) Any other information requested by the Department of Labor.

§ 655.106 Temporary labor certification determinations.

(a) If the Certifying Officer has reason to believe that the employer's efforts to recruit U.S. workers has not been sufficient, that U.S. workers are available, that the employment of the nonimmigrant aliens will adversely affect the wages and working conditions of U.S. workers, or that the temporary labor certification should not be granted for other reasons, the Certifying Officer shall issue a Notice of Findings, and shall afford the employer a reasonable time to submit evidence to rebut the bases of the Notice of Findings.

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(b) The Certifying Officer shall then make a determination to grant or deny the temporary labor certification. No temporary labor certification shall be granted, however, if the Certifying Officer determines that the employer, during the prior year, did not fulfill the wage or other representations made in connection with any prior temporary labor certification, or if the Certifying Officer determines that, with respect to the present temporary labor certification application, the employer has not complied with the requirements of §§ 655.103–107 of this part.

(c) After the temporary labor certification determination has been made the Certifying Officer shall notify the employer in writing of the decision. If the temporary labor certification is denied, the notice shall state the reasons therefor and the appeal rights of the employer under the Immigration and Naturalization Service regulations.

(d) The granting or denial of a temporary labor certification application by the Certifying Officer shall be the final decision of the Secretary of Labor. Therefore, the employer may not make use of the complaint procedures set forth at Part 658, subpart E of this Chapter.

§ 655.107 Adverse effect rates.

(a) Except as provided in paragraph (b) of this section, the adverse effect rates for Guam shall be the prevailing rates for the occupations on Guam or, if the occupation is new to Guam, the prevailing rates for the most nearly comparable occupation on Guam.

(b) The following hourly adverse effect wage rates shall be paid to journeymen for jobs in the Guam construction industry. Trainees may be employed in Pay Levels III, IV, and V. Such trainees shall be paid at 80 percent of the journeyman wage rate for the first year and 90 percent for the second year. The construction adverse effect rates shall not be applicable to contracts which were executed prior to the effective date of the regulations in this subpart. Nor shall the construction adverse effect rates be applicable to temporary labor certification applications involving job opportunities which are financed by loans from the Small Business Administration or by funds received from Federal grants made under the Public Works Employment Act of 1977 prior to the effective date of the regulations in this subpart. The rates applicable to such a contract, Small Business Administration loan, or Federal agreement, shall be those which were applicable under the temporary labor certification process at the time of the execution of the contract, loan, or grant.

(1) Pay Level I:	
(i) Effective date of regulations	$3.00
(ii) March 1, 1978	3.65
(iii) September 1, 1978	4.30
(iv) March 1, 1979	5.00
(2) Pay Level II:	
(i) Effective date of regulations	3.25
(ii) March 1, 1978	4.00
(iii) September 1, 1978	4.75
(iv) March 1, 1979	5.50
(3) Pay Level III:	
(i) Effective date of regulations	3.75
(ii) March 1, 1978	4.50
(iii) September 1, 1978	5.25
(iv) March 1, 1979	6.00
(4) Pay Level IV:	
(i) Effective date of regulations	4.00
(ii) March 1, 1978	4.90
(iii) September 1, 1978	5.80
(iv) March 1, 1979	6.75
(5) Pay Level V:	
(i) Effective date of regulations	4.25
(ii) March 1, 1978	5.15
(iii) September 1, 1978	6.05
(iv) March 1, 1979	7.00

(c) Starting September 1, 1979, and thereafter the construction rates will be based upon the then current Wage Board rates.

(d) Pay Level I.—The principal occupations included here are Laborers and Unskilled Workers: Includes all other laborers and unskilled workers involved in the performance of simple duties that may be learned within a short period of time and that require the exercise of little or no independent judgment. Characteristically, such occupations do not require previous experience, although a familiarity with the occupational environment may be necessary or very desirable. The occupations in this group vary from those involving a minimum of physical exertion to those characterized by heavy physical work. Pay Level I shall include occupations such as:

(1) Hod carriers;

(2) Pile drivers; and

(3) All other laborer and unskilled worker occupations.

(e) Pay Level II.—The principal occupations included here are Helpers, Skilled Trades: Includes all helpers who assist one or more workers in the skilled trades, by performing a variety of duties, such as furnishing another worker with materials, tools, and supplies; cleaning work area, machines, and equipment; feeding of offbearing machines; holding materials or tools; and performing other routine duties. Pay Level II shall include occupations such as:

(1) Oilers, such as greaser and oilers, lubricators, and machine hostlers;

(2) Tile setter helpers;

(3) Cement mason helpers;

(4) Asphalt heater tenders;

(5) Asphalt mixing machine tenders;

(6) Asphalt rakers, including black top rakers;

(7) Finegraders, including slopers, etc.;

(8) Carpenter helpers;

(9) Floor sanding machine operators, including floor sanders, floor scrapers, floor finishers, etc.;

(10) Electrician helpers;

(11) Painter helpers;

(12) Paperhanger helpers;

(13) Plasterer helpers;

(14) Plumber and/or pipefitter helpers;

(15) Roofer helpers;

(16) Stone mason helpers;

(17) Terrazzo worker helpers; and

(18) All other helpers in the skilled trades, such as driller helpers and stucco mason helpers.

(f) Pay Level III.—The principal occupations included here are Operatives and Semiskilled Workers: Includes all operatives and semiskilled workers in occupations that are characterized by one, or a combination of the following requirements: The exercise of manipulative ability of a high order but limited to a fairly well-defined work routine; major reliance, not so much upon the worker's judgment or dexterity, but upon vigilance and alertness, in situations in which lapses in performance would cause extensive damage to product or equipment, and the exercise of independent judgment to meet variables in the work situation, which is not based on wide knowledge of work field and with the nature and extent of the judgments limited either (1) by application over a relatively narrow task situation; or (2) by having important decisions made by others. These occupations may require the performance of part of a craft or skilled occupation, but usually to a relatively limited extent. Occupations are considered semiskilled if the specific vocational preparation required to perform them involves training or other preparation of more than 30 days up to and including two years. Pay Level III shall include occupations such as:

(1) Chain surveyor helpers, rod surveyor helpers, and/or triangulation lightkeepers, including surveyor assistants, surveyor helpers, etc.;

(2) Automotive mechanics, including truck mechanics, industrial truck mechanics, etc., but excluding diesel mechanics and engineering equipment mechanics;

(3) Maintenance mechanics, but excluding millwrights;

(4) General utility maintenance workers;

(5) Truck operators, including concrete mixing truck drivers, dump truck drivers, etc. (but excluding delivery and route drivers) and industrial truck drivers, including fork lift operators, etc.;

(6) Concrete mixer operators, including batching and mixing plant operators, mixing machine operators, etc.;

(7) Concrete rubbers, including cement patchers, cement rubbers, concrete polishers, etc.;

(8) Concrete wall grinder operators, including concrete grinder operators, etc.;

(9) Dredge dipper tenders, including bucket operators, etc.;

(10) Dredge pipe installers;

(11) Dope pourers, masticers, etc., but excluding pipe paperhangers;

(12) Pipelaying fitters, including spacers, etc.;

(13) Pipecleaning and priming machine operators;

(14) Air hammer operators, including airbreaker operators, air gun operators, air tool operators, etc.;

(15) Asphalt plant drier operators;

(16) Asphalt plant operators;

(17) Construction blasters, including chargers, firers, powder workers, shooters, shot firers, etc.;

(18) Hook and chainers;

(19) Fence erectors, including ironworkers, wirefence erectors, wirefence builders, etc.;

(20) Form tamper operators and/or tamping machine operators, including road form tamping machine operators, etc.;

(21) Metal road form setters, including metal road form fitters, etc.;

(22) Reinforcing iron workers, including iron workers, reinforcing bar setters, reinforcing steel erectors, reinforcing rod tiers, etc.;

(23) Metal fabricators, including structural metal fabricators, etc., but excluding sheet metal workers;

(24) Structural steel workers, including bridgers, iron erectors, steel erectors, structural steel erectors, etc.;

(25) Millwrights, including machine erectors, etc., but excluding maintenance mechanics;

(26) Carpet cutters and/or carpet layers, but excluding floorlayers;

(27) Lathers, including metal lathers, rockboard lathers, etc., but excluding carpenters;

(28) Dry wall applicators, including dry wall nailers, sheetrockers, etc., but excluding carpenters;

(29) Tapers, including dry wall finishers, wall board and plasterboard finishers, sheetrock tapers, tapers and bedders, tapers and floaters, etc.;

(30) Glaziers, including glass setters, plate glass glaziers, etc.;

(31) Construction and maintenance painters, including structural steel painters, finish painters, etc.;

(32) Paperhangers, excluding pipe paperhangers;

(33) Plasterers, including finish plasterers, spray gun plasterers, etc., but excluding drywall applicators, lathers, stucco masons and tapers;

(34) Oil burner installers and servicers, including oil burner installers, oil burner servicers, etc., but excluding plumbers;

(35) All other operatives and semiskilled workers such as portable pump pumpers, pile driving jetters, steam cleaning machine operators, pipe paperhangers, etc.

(g) Pay Level IV—The occupations included here, and in Pay Level V, are Skilled Craftsmen: Includes all skilled craftsmen and kindred workers in occupations that predominately require a thorough and comprehensive knowledge of processes involved in the work, the exercise of considerable independent judgment, usually a high degree of manual dexterity, and in some instances, extensive responsibility for valuable product or equipment. Workers in these occupations usually become qualified by serving apprenticeships or completing extensive training periods. Occupations are considered skilled if the specific vocational preparation required to perform them involves training or other preparation of more than 2 years. Pay Level IV shall include skilled craft and kindred occupations such as:

(1) All mechanics and repairers not listed on other pay levels, such as dredge mechanics, etc.;

(2) Cement masons, including highway and street cement masons, etc.;

(3) Metal conduit layers, including duct layers, etc.;

(4) Dredge operators, including dredge pumpers, etc.;

(5) Pipelayers, including pipesetters, water pipelayers, cast iron pipelayers, etc.;

(6) Sewer tappers, but excluding plumbers and/or pipefitters;

(7) Fine trench trimmers, including trench trimmers, inverters, fine trimmers, etc.;

(8) Structural steel layout workers, including template layout workers, etc.;

(9) Asbestos and insulation workers, including blanket insulation workers, corkboard insulation workers, etc.;

(10) Bricklayers, including gypsum blo ksetters, cinder block masons, etc.;

(11) Carpenters, including hardwood floor layers, framing carpenters, combination carpenters, window installers, etc., but excluding cabinetmakers, floor layers other than hardwood floor layers, lathers, and drywall applicators;

(12) Ceiling tile installers and/or floor layers, including asphalt tile floor layers, cork tile floor layers, floor coverers, floor covering block layers, etc., but excluding carpenters, terrazzo workers, and carpet cutters or layers;

(13) Line maintainers, including high tension line maintainers, etc., but excluding electricians and wirers;

(14) Plumbers and/or pipefitters, including steamfitters, sprinkler installers, etc., but excluding oil burner installers and servicers, hot air furnace installers and repairers, and pipeline construction workers;

(15) Roofers, including aluminum shingle roofers, composition roofers, etc., but excluding metal roofers;

(16) Stone masons, including alberene stone setters, artificial stone setters, etc.;

(17) Terrazzo workers, including artificial marble workers, etc.;

(18) Tile setters, including tile fitters, tile masons, etc.;

(19) Hot air furnace installers and repairers, including furnace workers, hot air furnace installers, hot air furnace repairers, heating workers, etc., but excluding plumbers;

(20) Sheet metal workers, including coppersmiths, tinsmiths, special item fabricators, metal roofers, etc., but excluding metal fabricators;

(21) Welders and flamecutters, including arc welders, gas welders, spot welders, leadburners, resistance welders, solderers, etc.; and

(22) All other skilled craft and kindred occupations, such as instrument repairers, stucco masons, stationary engineers, etc.

(h) Pay Level V—The occupations included here, and in Pay Level IV, are Skilled Craftsmen: Includes all skilled craftsmen and kindred workers in occupations that predominately require a thorough and comprehensive knowledge of processes involved in the work, the exercise of considerable independent judgment, usually a high degree of manual dexterity, and in some instances, extensive responsibility for valuable product or equipment. Workers in these occupations usually become qualified by serving apprenticeships or completing extensive training periods. Occupations are considered skilled if the specific vocational preparation required to perform them involves training or other preparation of more than 2 years. Pay Level V shall include occupations such as:

(1) Diesel mechanics, excluding automotive mechanics and engineering equipment mechanics;

(2) Engineering equipment mechanics, including heavy equipment mechanics, etc., but excluding automotive mechanics and diesel mechanics;

(3) Refrigeration mechanics, including air conditioning attendants, air conditioning mechanics, refrigeration equipment erectors, etc.;

(4) Crane operators, derrick operators, and hoist operators, excluding heavy equipment operators and dredge operators;

(5) Boilermakers;

(6) Cabinetmakers, excluding carpenters;

(7) Electricians, including wirers, residential wirers, etc., but excluding line maintainers;

(8) Machinists, including maintenance machinists, etc.; and

(9) Heavy equipment operators, excluding dredge operators, crane operators, derrick operators, and hoist operators, but including:

(i) Asphalt paving machine operators;

(ii) Blade grader operators;

(iii) Bulldozer operators;

(iv) Concrete paver operators and/or concrete-paving machine operators;

(v) Dragline operators;

(vi) Drifters;

(vii) Water well drillers;

(viii) Earth boring machine operators;

(ix) Elevating grade operators;

(x) Form grader operators;

(xi) Foundation drill operators;

(xii) Heater planer operators;

(xiii) Horizontal earth boring machine operators;

(xiv) Motor grader operators;

(xv) Mucking machine operators;

(xvi) Pile driver operators;

(xvii) Power shovel operators;

(xviii) Road mixer operators;

(xix) Road roller operators;

(xx) Rock drill operators;

(xxi) Scraper operators;

(xxii) Sheet-pile-hammer operators;

(xxiii) Shield runners;

(xxiv) Subgrader operators;

(xxv) Sweeper operators;

(xxvi) Tower-excavator operators;

(xxvii) Trench-digging machine operators;

(xxviii) Utility tractor operators;

(xxix) Cable tool well-drill operators;

(xxx) Rotary drill well-drill operators;

(xxxi) Well-reactivator operators;

§ 655.108 Temporary labor certification applications involving fraud or willful misrepresentation.

(a) If possible fraud or willful misrepresentation involving a temporary labor certification application is discovered

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prior to a final temporary labor certification determination, or if it is learned that an application is the subject of a criminal indictment or information filed in a Court, the Certifying Officer shall refer the matter to the INS for investigation and shall notify the applicant in writing of this referral. The Certifying Officer shall continue to process the application and may issue a qualified temporary labor certification.

(b) If a Court finds an applicant innocent of fraud or willful misrepresentation, or if the Department of Justice decides not to prosecute an applicant, the Certifying Officer shall not deny the temporary labor certification application on the grounds of fraud or willful misrepresentation. The application, of course, may be denied for other reasons pursuant to this subpart.

(c) If a Court or the INS determines that there was fraud or willful misrepresentation involving a temporary labor certification application, the application shall be deemed invalidated, processing shall be terminated, and the application shall be returned to the applicant with the reason therefor stated in writing.

§ 655.109 Temporary labor certification related records.

Employers who have been granted temporary labor certifications shall maintain for at least three years all records, including payroll and other employment records, which are related to the employment of the non-immigrant alien workers. These records shall be made available by the Secretary or the Secretary's representatives.

§ 655.110 Nature of employment service job orders.

In view of the statutorily established basic function of the employment service as a no-fee labor exchange, that is, as a forum for bringing together employers and job seekers, neither the Department of Labor nor the Guam employment service are guarantors of the accuracy or truthfulness of information contained on job orders submitted by employers. Nor do such job orders represent an "offer to contract" to which the Employment Service is in any way a party.

Signed at Washington, D.C., this 6th day of September 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc.77-26599 Filed 9-8-77;3:53 pm]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Docket No. 75P-0370]

PART 101—FOOD LABELING

Type-Size Exemption for Certain Small Packaged Food Labels

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This amendment permits a $\frac{1}{16}$-inch type size to be used to print information required to appear on the labels of individual serving-size packages of foods if the food is for food service use, not intended for retail sale, and there is insufficient space on the package to print the information as required by existing regulations.

EFFECTIVE DATE: September 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-245-3092).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of August 12, 1976 (41 FR 34051) the Commissioner of Food and Drugs issued a proposal to amend § 1.8d (21 CFR 1.8d) in response to a petition received from the Smith-Kline Corp., Philadelphia, Pa. Section 1.8d was recodified as § 101.2 (21 CFR 101.2) in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302); hereafter, it will be referred to by its new designation, § 101.2. The effect of the proposal was to permit a $\frac{1}{32}$-inch type size to be used for printed information on the labels of individual serving-size packages of food that are for institutional food service use when there is insufficient space on the package to print the information as required by existing regulations.

In response to the proposal, 18 comments were received. There were 13 comments from consumers, 3 from industry, 1 from a local government agency, and 1 from a Federal government agency. The majority of the coments supported the proposal. Two comments were not directly applicable to the proposal.

DISCUSSION OF COMMENTS AND THE COMMISSIONER'S RESPONSE

1. Ten comments expressed general support for the proposal. One comment said, "The widespread use and popularity of individual single-service packaging benefits consumer and food service interests alike, permitting the sanitary and efficient distribution of prepared foods. The proposed $\frac{1}{32}$-inch type size exemption makes allowances for the proper labeling of food items so packaged."

The Commissioner agrees, and to this he adds that since there is no prohibition against serving foods from open unlabeled serving containers—a practice that prevails in some food service operations—much has been gained in food service cleanliness and sanitation by the use of individual single-service packaging. Changes in the regulations are being made because the area of the surface available for labeling is often too small to accommodate all the required information in the type size currently required by § 101.2 and because the Commissioner wishes to encourage the use of single-service packaging as opposed to unlabeled open serving containers.

2. Several comments said that consumers will benefit from the proposed amendment even though some may have difficulty reading information printed in $\frac{1}{32}$-inch type. These comments pointed out that a $\frac{1}{32}$-inch type will allow all required information to be readily available on the package at the point of usage, thereby enabling consumers to know the contents of the packaged food and to avoid ingredients to which they may be allergic.

The Commissioner recognizes that some consumers may have difficulty reading information printed in a $\frac{1}{32}$-inch type size. He agrees, however, that the benefits expected from this amendment outweigh this detriment.

The Commissioner emphasizes that only packages having insufficient space available to meet present labeling requirements are entitled to this exemption. Accordingly, packages that have sufficient area for printing the required information in a $\frac{1}{16}$-inch type size are required to do so.

3. Four comments said that the exemption should not be allowed because $\frac{1}{32}$-inch type is difficult to read and would make consumers suspicious of the ingredients in the food. And the comments contended that information printed in $\frac{1}{32}$-inch type is less likely to be read by the consumer, thereby defeating the purpose of placing the information on the package.

The Commissioner believes that for those food packages affected by this proposal it is appropriate to permit a $\frac{1}{32}$-inch type size to be used for the printed information required. Because of the package area limitation of 3 square inches, the regulation is principally applicable to condiments. The Commissioner understands the concerns of the consumers who oppose the use of a $\frac{1}{32}$-inch type size. It has been pointed out, however, that this exemption may serve to increase the availability of single-service packages of foods in food service operations. The increased availability of foods in single-service packaging will not only improve food sanitation, but will also provide the ultimate consumer with product information that may not otherwise be available to him.

4. One comment suggested, as an alternative to the proposed exemption, that manufacturers print the address where consumers can write for the information, which would then be supplied in a type size larger than $\frac{1}{32}$-inch in height.

The Commissioner finds that labeling information should, whenever possible, accompany the food. It would be unfair to consumers to withhold this information from the labels and unreasonable to expect consumers to mail a request for labeling information concerning food about to be eaten.

5. One comment suggested that manufacturers be required to change the packaging size to accommodate printed information in a larger type size.

The Commissioner concludes that requiring manufacturers to enlarge their packages solely to accommodate information printed in a type size larger than $\frac{1}{32}$ inch in height would result in some unreasonable and avoidable cost

increases and environmental impact associated with the production and destruction of the larger packages. In addition, the Commissioner does not wish to impede the development of single-service containers by undue regulation of the size or style of packages for the products covered by this exemption.

6. One comment requested that § 101.2 (c)(5)(i) of the proposal be revised to state the package size limit as "3 square inches or less" rather than the proposed "less than 3 square inches." This comment contends that this revision is more in accord with the Commissioner's intent to include packages having a surface area of 3 square inches.

The Commissioner concurs and is revising paragraph (c)(5)(i) accordingly.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047–1048 as amended, 1055 (21 U.S.C. 321, 343, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 101 is amended in § 101.2 by adding new paragraph (c)(5) to read as follows:

§ 101.2 Information panel of package form food.

• • • • • •

(c) • • •

(5) Individual serving-size packages of food served with meals in restaurants, institutions, and on board passenger carriers, and not intended for sale at retail, are exempt from type-size requirements of this paragraph, provided:

(i) The package has a total area of 3 square inches or less available to bear labeling;

(ii) There is insufficient area on the package available to print all required information in a type size of $\frac{1}{16}$ inch in height;

(iii) The label information includes a full list of ingredients in accordance with regulations in this part and the policy expressed in § 101.8 of this chapter; and

(iv) The information required by paragraph (b) of this section appears on the label in accordance with the provisions of this paragraph, except that the type size is not less than $\frac{1}{32}$ inch in height.

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Effective date: September 13, 1977.

(Secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047–1048 as amended, 1055 (21 U.S.C. 321, 343, 371(a)).)

Dated: September 7, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-26528 Filed 9-12-77;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Alaska; Certification of Completion of Developmental Steps

AGENCY: Occupational Safety and Health Administration.

ACTION: Certification of completion of developmental steps.

SUMMARY: This document certifies that the State of Alaska has completed all of the developmental steps specified in its occupational safety and health plan as approved on July 31, 1973 (38 FR 21628) and gives notice that commencing with this certification, operations under the plan will be subject to at least one year extensive evaluation to determine whether Federal occupational safety and health standards development and enforcement authority will be relinquished within the State of Alaska pursuant to section 18(e) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(e)).

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Veronica Allen, Project Officer, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-3608, Washington, D.C. 20210 (202-523-8031).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Subpart D of Part 1902 of Title 29, Code of Federal Regulations (40 FR 54780) sets out procedures under which the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) will make a determination under section 18(e) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) whether, on the basis of actual operations under a State plan, the criteria of section 18(c) of the Act are being applied under the plan. Such a determination may not be made until at least three years after commencement of operations under the plan and, in the case of a developmental plan, until the State has satisfactorily completed all developmental steps and the Assistant Secretary has had at least one additional year to evaluate the plan on the basis of actual operations. Upon making a determination under 18(e) that the 18(c) requirements are being applied, Federal enforcement of standards and Federal Standards (except with regard to ongoing cases) cease to apply in the State with respect to any occupational safety and health issue covered under the determination.

Section 1902.34 of Subpart D provides that the evaluation of a State's fully operational program, preparatory to an 18(e) determination, shall commence upon publication in the FEDERAL REGISTER of a certification that all developmental steps have been completed. Such certification must list the developmental steps, including approved amendments thereto, and the dates their approvals were published in the FEDERAL REGISTER; approved substantive changes in the State plan and dates published in the FEDERAL REGISTER; documentation that the State merit system has been approved and found acceptable; and a description of the occupational safety and health issues covered by the certification. If the Assistant Secretary finds that the State has completed all the developmental steps specified in the plan, he shall give notice of same by publishing the certification in the FEDERAL REGISTER and amend the appropriate subpart of Part 1952 of this chapter to reflect this finding.

On August 19, 1973, notice was published in the FEDERAL REGISTER (38 FR 21628) of the approval of the Alaska plan as a developmental plan and adoption of Subpart R of Part 1952 containing the decision and describing the plan. During the three year period ending October 1, 1976, following commencement of State operations (three years from date of State's first 23(g) grant award), Edmond N. Orbeck, Commissioner, Alaska Department of Labor, submitted documentation attesting to the completion of each State developmental commitment for review and approval as provided in 29 CFR Part 1953. Following Departmental review, opportunity for public comment and subsequent modification of the State's submissions, as deemed appropriate, the Assistant Secretary has approved the completion of all individual Alaska developmental steps.

NOTICE OF CERTIFICATION OF COMPLETION OF DEVELOPMENTAL STEPS UNDER THE ALASKA PLAN

In accordance with the provisions of 29 CFR 1902.34, notice is given that the Alaska occupational safety and health plan is hereby certified, effective September 9, 1977, as having completed all the developmental steps specified in the plan as approved July 31, 1973, on or before October 1, 1976 (see Subpart C of 29 CFR Part 1952) as follows:

A. All developmental steps specified in the plan and amendments thereto have been completed:

V 42 177 SEP 13 77 UMI

1. The Alaska Occupational Safety and Health Act (§§ 18.60.010 through 18.60.105, Alaska Statutes), effective July 24, 1973, was approved at time of plan approval July 31, 1973 (38 FR 21628, August 10, 1973). State-initiated amended legislation (House Bill No. 588) was signed by the Governor on June 29, 1976, became effective June 30, 1976, and was approved by the Assistant Secretary on August 29, 1977. (See FR Doc. 77-26347 appearing in the Notices section of this issue.)

2. Alaska standards comparable to Subparts D, G, H, I, N, O, and P of Part 1910 were promulgated prior to and approved with the State plan on July 31, 1973. All Federal standards promulgated subsequent to the date of plan approval have been in turn promulgated by the State and approved by the Regional Administrator for Occupational Safety and Health as follows:

(a) State standards identical to Federal standards comparable to Part 1910, Subpart S were approved on June 30, 1975 (40 FR 33291, August 7, 1975).

(b) State standards identical to Federal standards comparable to Part 1910, Subpart J were approved on August 12, 1975 (40 FR 43101, September 18, 1975).

(c) State standards identical to Federal standards comparable to Part 1910, Subparts E, M, and F were approved on September 15, 1975 (40 FR 50582, October 30, 1975).

(d) State standards at least as effective as Federal standards comparable to Part 1910, Subparts K and Q were approved on September 11, 1975 (40 FR 50582, October 30, 1975).

(e) State standards at least as effective as Federal standards comparable to Part 1910, Subpart L were approved on September 15, 1975 (40 FR 50582, October 30, 1975).

(f) State standards at least as effective as the Federal standards comparable to Subpart R, § 1910.261 were approved on July 22, 1976 (41 FR 39112, September 14, 1976).

(g) State standards identical to Federal standards comparable to Subpart R, §§ 1910.-262, 1910.263, and 1910.264 were approved on September 30, 1976 (41 FR 47613, October 29, 1976).

(h) In response to Federal program change, State standards identical to Federal standards comparable to Part 1910, Subpart Z were approved on October 29, 1976 (41 FR 52557, November 30, 1976).

(i) In response to a Federal program change, State standards identical to Federal standards comparable to § 1910.268, Telecommunications, were approved on October 29, 1976 (41 FR 52557, November 30, 1976).

(j) In response to a Federal program change, State standards identical to Federal standards comparable to Part 1928 were approved on October 29, 1976 (41 FR 52558, November 30, 1976).

(k) State standards at least as effective as the Federal standards comparable to Part 1926 were submitted to the Regional Administrator on September 24, 1976, and approved on October 29, 1976 (41 FR 53077, December 3, 1976).

(l) State standards identical to Federal standards comparable to Subpart R, §§ 1910.-265 and 1910.266 were submitted to the Regional Administrator on September 20 and 24, 1976, and approved on October 29, 1976 (41 FR 56409, December 28, 1976).

(m) Update of all State standards comparable to Federal standards in Part 1910, as republished January 11, 1977 (42 FR 2366) were approved on December 3, 1976 (42 FR 2366, January 11, 1977).

(n) In response to a Federal program change, State standards identical to Federal standards comparable to § 1910.1001(i)(1), Asbestos Recordkeeping—Exposure Records, were approved on March 9, 1977 (42 FR 25389, May 17, 1977).

3. The Alaska compliance manual which establishes procedures to be used by State enforcement personnel was developed by February 1, 1974, and was subsequently revised. Documentation on completion of this developmental step was submitted by the State on September 28, 1976, and approved by the Assistant Secretary on August 9, 1977 (42 FR 40195).

4. Alaska developed and implemented a manual Management Information System by October 1, 1974. This developmental step was approved by the Assistant Secretary on August 20, 1976 (41 FR 36206, August 27, 1976).

5. Alaska completed its interim training program by April 1, 1974, and has developed an extended training program by October 1, 1976. This developmental step was approved by the Assistant Secretary on August 20, 1976 (41 FR 36206, August 27, 1976).

6. Alaska submitted a change to its plan to reduce the number of industrial hygienists as outlined in the original plan. This reduction was approved by the Assistant Secretary on November 19, 1976 (41 FR 52556, November 30, 1976). Therefore, in accordance with § 1952.-243(e) Alaska completed hiring of its industrial health staff by October 1, 1976, which was approved by the Assistant Secretary on November 19, 1976 (41 FR 52556, November 30, 1976). Alaska has also provided for an Industrial Health Laboratory capacity which became fully operational on May 31, 1976, and which was approved by the Assistant Secretary on August 20, 1976 (41 FR 36206, August 27, 1976).

7. Alaska has promulgated the following administrative rules and regulations (Alaska Administrative Code) which were submitted on January 26, 1976, subsequently on April 14, May 13, 17, and 18, 1977, in response to Federal review and approved by the Assistant Secretary on August 9, 1977 (42 FR 40195).

(a) Regulation § 8 AAC 61.020 through .155: Inspections, Citations, and Proposed Penalties;

(b) Regulation § 8 AAC 61.225 through .295: Recording and Reporting Occupational Injuries and Illnesses;

(c) Regulation § 8 AAC 61.300 through .400: Variances;

(d) Regulation § 8 AAC 61.160 through .220: Occupational Safety and Health Review Board;

(e) Regulation § 8 AAC 61.410 through .420: Consulting and Training;

(f) Regulation § 8 AAC 61.430 through .460: General Provisions.

8. Alaska has developed a job safety poster applicable to both private and public employees which must be distributed to all workplaces in the State. The poster was approved by the Assistant Secretary on September 28, 1976 (41 FR 43405, October 1, 1976).

9. Alaska has submitted a revised plan. The revisions to the plan are editorial in nature: Clarifying and updating the original plan and eliminating duplications, conflicting time frames and extraneous information. This revision was approved by the Assistant Secretary on July 22, 1977 (42 FR 37607).

B. The personnel operations of the Alaska Department of Labor have been found to be in substantial conformity with the "Standards for a Merit System of Personnel Administration" by the U.S. Civil Service Commission by letter dated May 18, 1976. The merit system also incorporates an affirmative action plan.

C. This certification covers all occupational safety and health issues covered under the Federal program except for the longshoring and maritime standards found in 29 CFR Parts 1915, 1916, 1917, and 1918 (longshoring, ship repairing, shipbuilding, shipbreaking) which are excluded from coverage under the plan. This certification also covers the State program covering State and local government employees.

LOCATION OF THE PLAN AND ITS SUPPLEMENTS FOR INSPECTION AND COPYING

A copy of the plan and the supplements may be inspected and copied during normal business hours at the following locations: Office of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3608, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, 909 First Avenue, Seattle, Wash. 98174; and the Alaska Department of Labor, Juneau, Alaska 99801.

EFFECT OF CERTIFICATION

The operation of the Alaska occupational safety and health program will be monitored and evaluated for a period of not less than one year after publication of this certification, to determine whether the State program in operation is at least as effective as operations under the Federal program, in order to make a determination under section 18 (e) of the Act that Federal enforcement authority and standards should cease to apply in issues under the plan.

In accordance with 29 CFR 1902.35 Federal enforcement authority under sections 5(a) (2), 8, 9, 10, 13, and 17 of the Act (29 U.S.C. 654(a) (2), 657, 658, 659, 662, and 666) and Federal standards authority under section 6 (29 U.S.C. 655) of the Act will not be relinquished during this evaluation period. However, under the terms of the operational agreement entered into with Alaska effective January 6, 1977 (42 FR 37547) the exercise of this authority by the U.S. Department of Labor will continue to be limited to, among other things: Federal standards promulgated subsequent to the agreement where necessary to protect employees as in the case of temporary emergency standards promulgated under section 6(c) of the Act (29 U.S.C. 655 (c)) in the issues covered under the plan and agreement until such time as Alaska shall have adopted equivalent standards in accordance with Subpart C of 29 CFR Part 1953; complaints about violations of the discrimination provisions of section 11(c) of the Act (29 U.S.C. 660); Federal standards contained in the issues covered by Subpart B—Ship Repairing, Shipbuilding, Shipbreaking, and Longshoring, 29 CFR 1910.13 through 1910.16; and investigation and inspection for the purpose of evaluation of the Alaska plan under sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)).

In accordance with this certification 29 CFR 1952.244 is hereby amended to reflect successful completion of the developmental period by changing the title of the section and by adding a paragraph (h) as follows:

§ 1952.244 Completion of developmental steps and certification.

* * * * *

(h) In accordance with § 1902.34 of this chapter, the Alaska occupational safety and health plan was certified, effective September 9, 1977, as having completed on or before October 1, 1976, all developmental steps specified in the plan as approved on July 31, 1973.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Washington, D.C., this 29th day of August 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-26491 Filed 9-12-77;8:45 am]

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of Wyoming Plan Supplement

AGENCY: Occupational Safety and Health Administration.

ACTION: Final rule.

SUMMARY: The Wyoming Occupational Health and Safety Commission formally submitted to OSHA its Affirmative Action Plan fulfilling a commitment in the notice of plan approval for insuring equal employment opportunity. The plan has been approved by both OSHA and the U.S. Civil Service Commission as completion of a developmental aspect of the State's plan.

FOR FURTHER INFORMATION CONTACT:

Charles Boyd, Project Officer, Office of State Programs, Occupational Safety and Health Administration, Department of Labor, 200 Constitution Avenue, NW., Room N-3608, Washington, D.C. 20210 (202-523-8031).

EFFECTIVE DATE: September 9, 1977.

BACKGROUND

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18 (c) of the Act and 29 CFR Part 1902. On May 3, 1974, notice was published in the FEDERAL REGISTER (39 FR 15394) of the approval of the Wyoming plan and the adoption of Subpart BB to Part 1952 containing the decision and describing the plan. On June 24, 1977, Wyoming submitted a supplement to the plan involving implementation of its commitment to develop the basis for an ongoing affirmative action plan. The supplement was evaluated by the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) in conjunction with Regional Civil Service Commission officials.

DESCRIPTION OF THE SUPPLEMENT

Affirmative Action Plan: The Wyoming Occupational Health and Safety Commission has developed an Affirmative Action Plan outlining its policy of equal employment opportunity and establishing practice and procedures for the recruiting and hiring of minority and women employees, to assure its commitment to a program that provides equal employment opportunity to all persons on the basis of individual merit.

LOCATION OF THE PLAN AND ITS SUPPLEMENT FOR INSPECTION AND COPYING

A copy of the plan may be inspected and copied during normal business hours at the following locations: Office of the Director, Federal Compliance and State Programs, Room N-3608, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 15010, Federal Building, 1961 Stout Street, Denver, Colo. 80202; and, the Occupational Health and Safety Department, 200 East Eighth Avenue, Cheyenne, Wyo. 82001.

PUBLIC PARTICIPATION

Under § 1953.2(c) of this chapter, the Assistant Secretary for Occupational Safety and Health (hereinafter Assistant Secretary) may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Wyoming plan supplement described above is consistent at this time with commitments, contained in the approved plan, and previously made available for public comment, State of Wyoming personnel policies, and the overall goals of the State's occupational safety and health program. Accordingly, it is found that further public comment and notice is unnecessary.

DECISIONS

After careful consideration, the Wyoming plan change outlined herein is approved under Part 1953. In addition, 29 CFR 1952.344 is hereby amended to reflect the completion of the developmental step.

§ 1952.344 Completed developmental steps.

* * * * *

(d) The State plan has been amended to include an Affirmative Action Plan outlining the State's policy of equal employment opportunity.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Washington, D.C., this 29th day of August 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-26492 Filed 9-12-77;8:45 am]

CHAPTER XXV—EMPLOYEE BENEFITS SECURITY OFFICE, DEPARTMENT OF LABOR

PART 2550—RULES AND REGULATIONS FOR FIDUCIARY RESPONSIBILITY

Exemption for Loans to Employee Stock Ownership Plans

Correction

In FR Doc. 77-25695 appearing at page 44383 as a Part IV in the issue for Friday, September 2, 1977, make the following corrections:

(1) On page 44386, third column, in § 2550.408b-3(h)(2), in the 5th line from the bottom, the word "refining" should have read "refinancing".

(2) On page 44387, middle column, in § 2550.408b-3(j), in the 9th line from the bottom, the word "option" should have read "put option".

(3) On the same page, in the same section, third column, in the italicized heading for paragraph (o)(2) the date for 60 days after publication of the final regulations is November 1, 1977.

Title 32—Department of Defense

CHAPTER XII—DEFENSE LOGISTICS AGENCY

[DLAR 5400.21:RCS DD(A&AR) 1379]

PART 1286—PERSONAL PRIVACY AND RIGHTS OF INDIVIDUALS REGARDING THEIR PERSONAL RECORDS

Privacy Act of 1974

AGENCY: Defense Logistics Agency, DOD.

ACTION: Final rule.

SUMMARY: In FR Doc 77-21934 published in the FEDERAL REGISTER issue of July 26, 1977 (42 FR 37982), the Defense Logistics Agency published a proposed rule as a proposed amendment to 32 CFR Part 1286; amendment to Appendix C and modification of the reasons for exemption. No written comments, suggestions, or objections regarding the proposed rule were received. Accordingly, 32 CFR Part 1286 as set forth in 42 FR 37982 is formally adopted.

ADDRESS: Headquarters, Defense Logistics Agency, Attention: DLA-XA, Cameron Station, Alexandria, Va. 22314.

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FOR FURTHER INFORMATION CONTACT:

Mr. William A. Smith, 202-274-6234.

By Order of the Director:

WILLIAM A. SMITH,
Chief, Administrative Management Division, Office of Administration.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

SEPTEMBER 8, 1977.

PART 1286—PERSONAL PRIVACY AND RIGHTS OF INDIVIDUALS REGARDING THEIR PERSONAL RECORDS

Sec.
1286.1 Purpose and scope.
1286.2 Policy.
1286.3 Definitions.
1286.4 Responsibilities.
1286.5 Procedures.
1286.6 Forms and reports.

AUTHORITY: Pub. L. 93-579 (5 U.S.C. 552a).

§ 1286.1 Purpose and scope.

(a) This Part 1286 implements the Privacy Act of 1974 (hereinafter referred to as the Act) by prescribing:

(1) The procedures whereby an individual can be notified in response to his[1] request of any system of records named by the individual contains a record pertaining to him.

(2) The requirements for verifying the identity of an individual who requests his record or information pertaining to him before the record or information will be made available to him.

(3) The procedures for granting access to an individual upon his request of his record or information pertaining to him.

(4) The procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to him, for making a determination on the request, and for an appeal of an initial adverse determination.

(5) The procedures and policies governing the collection, safeguarding, maintenance, public notice, use, and dissemination of personal information.

(6) The conditions under which disclosure of personal information may be made and procedures for exempting systems of records from certain requirements of the Act.

(b) This Part 1286 is applicable to HQDLA and all DLA field activities.

§ 1286.2 Policy.

It is the policy of DLA:

(a) To preserve the personal privacy of individuals, permitting an individual to know what records pertaining to him are collected, maintained, used, or disseminated in DLA, and to have access to and have a comprehensible copy made of all or any portion of such records and to correct or amend such records.

(b) To collect, maintain, use, or disseminate any record of identifiable personal information in a manner that assures that such action is for necessary and lawful purpose; that the information is timely and accurate for its intended use; and that adequate safeguards are provided to prevent misuse of such information.

§ 1286.3 Definitions.

(a) *Individual.* A citizen of the United States or an alien lawfully admitted for permanent residence. A legal guardian or the parent of a minor have the same rights as the individual and may act on behalf of the individual.

(b) *Maintain.* (Records on individuals) collect, use, or disseminate.

(c) *Record.* Any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(d) *Routine Use.* The disclosure of a record, or the use of such record for a purpose which is compatible with the purpose for which it was collected. Routine use encompasses not only common or ordinary uses, but also all the proper and necessary uses of the record; even if such use occurs infrequently.

(e) *System Manager.* The official responsible for the policies and practices governing the system of records.

(f) *System of Records.* A group of records under the control of any system manager from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

§ 1286.4 Responsibilities.

(a) *HQ DLA*—(1) *The Chief, Administrative Management Division, Office of Administration (DLA-XA)* will:

(i) Formulate policy to provide comprehensive guidance necessary for uniform compliance with the Act by all elements of DLA.

(ii) Serve as the focal point on privacy matters for DLA in communication with the Defense Privacy Board and is designated the DLA Privacy Act Officer.

(iii) Supervise the preparation for publication in the FEDERAL REGISTER of all required information or systems of records affected by the Act.

(iv) Serve as the DLA representative on the Defense Privacy Board.

(v) Review for conformity with the Act, all procedures, including DLA and DD forms, which requires an individual to furnish information, and formulate corrective or supplementary provisions, as necessary.

(vi) Maintain this DLAR in a current status and review it annually.

(2) *The Chief, Publication Division, Office of Administration (DLA-XM)* will review DLA publications to assure that those which meet the criteria for publication in the FEDERAL REGISTER are prepared in proper form and transmitted promptly for publication in the FEDERAL REGISTER as required by DLAR 5025.19, Publication of Material in the FEDERAL REGISTER.

(3) *The Counsel (DLA-G)* will review policies, practices, and procedures to ensure conformity with the Act.

(4) *The Assistant Director, Plans, Programs and Systems (DLA-LS)* will provide policies and guidance to preclude unauthorized disclosure of protective information maintained in the automatic data processing facility.

(5) *The Chief, Training and Incentives Division, Office of Civilian Personnel (DLA-KT)* will, in conjunction with the DLA Privacy Board, ensure development of appropriate training program for all personnel where duties involve responsibilities for systems of records affected by the Act.

(6) *The Heads of HQ DLA Principal Staff Elements (PSEs)* will:

(i) Ensure that the collection, maintenance, use, or dissemination of record of identifiable personal information is in a manner that assures that such action is for a necessary and lawful purpose, that the information is timely and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information.

(ii) Ensure that internal operating procedures provide for effective compliance with the Act.

(iii) Establish procedures for the granting of confidentiality in regulations and procedures for investigations (e.g., law enforcement, suitability, etc.).

(iv) Prepare and submit reports in accordance with § 1286.6.

(7) *DLA Privacy Board.* Established under the chairmanship of the Chief, Administrative Management Division, Office of Administration (DLA-XA) with membership consisting of representatives from the Comptroller, DLA, Counsel, DLA, Staff Director, Civilian Personnel, DLA, Assistant Director, Plans, Programs, and Systems, DLA, Staff Director, Military Personnel, DLA, Command Security Officer, DLA, and the Executive Director, Industrial Security, HQ DLA CAS. The Board will cause to be reviewed for conformity with the Act, each category of information in a system of records for necessity and relevance; provide assistance in the development of DLA-wide Privacy training program; and review practices and procedures established by system managers to ensure they are in conformity with the Act.

(b) *The Heads of DLA Primary Level Field Activities (PLFAs)* will:

(1) Ensure that the collection, maintenance, use, or dissemination of record of identifiable personal information is in a manner that assures that such action is for a necessary and lawful purpose, that the information is timely and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information.

(2) Designate a Privacy Act officer to serve as the principal point of contact on privacy matters.

[1] For convenience in reading, standard pronoun gender usage will be followed in this DLAR. Where such pronouns as "he" or "him", etc., are used, it should be understood to include "she" or "hers", etc.

(3) Ensure that internal operating procedures provide for effective compliance with the Act.

(4) Establish a training program for those personnel whose duties involve responsibilities for systems of records affected by the Act.

§ 1286.5 Procedures.

(a) *Access to personal information.* (1) Upon request, an individual will be informed whether or not a system of records contains a record pertaining to him, and accompanied by a person of his own choosing, if he so desires, will be permitted to review his records, and to obtain a copy of such records in a form that is comprehensible to him at a reasonable cost, unless exempted in accordance with paragraph (o)(1)(v) of this section or paragraph (d) of this section. This Part 1286 does not require that a record be created or that an individual be given access to records which are not retrieved by name or other individual identifier. Only costs of reproduction, as set forth in DLAR 5400.14, Availability to the Public of Official Information, may be charged; however, if copying is the only means whereby the record can be made available to the individual, reproduction fees will not be assessed (i.e., when a copy must be made in order to delete information contained on the record pertaining to another individual).

(i) The granting of access to a record containing personal information will not be conditioned upon any requirement by the individual to state a reason or otherwise justify the need to gain access.

(ii) Prior to granting access to personal information, individuals may be required to provide reasonable verification of his identity.

(a) No verification of identity will be required of an individual seeking access to records which are otherwise available to any member of the public under DLAR 5400.14.

(b) For the individual who seeks access in person, verification of identity will normally be made by those documents which an individual is likely to have readily available, such as employee or military identification card, driver's license, or medical card.

(c) When access is requested by mail, verification of identity may consist of the individual providing certain minimum identifying data, such as name and date of birth or such other information deemed necessary by the system manager having custody of the record. If the sensitivity of the data warrants, a signed notarized statement of identity may be required.

(d) An individual will not be denied access to his record for refusing to disclose his social security number (SSN), unless disclosure of his SSN is required by Federal Statute or required for verification purposes under a system of records existing and operating before 1 January 1975, if such disclosure was required under statute or regulation adopted prior to such a date.

(e) Individuals may not be denied access to a record pertaining to themselves because those records are exempted from disclosure under the provisions of DLAR 5400.14.

(iii) Access to a record or a copy thereof will not be denied solely because the record's physical presence is not readily available (i.e., on magnetic tape), or because the context of the record may disclose sensitive information about another individual. To protect the personal privacy of other individuals who may be identified in a record, an extract will be prepared to delete only that information which would not be releasible to the requesting individual under DLAR 5400.14.

(iv) A medical record will be disclosed to the individual to whom it pertains unless, in the judgement of a physician, access to such record could have an adverse effect upon the individual's physical or mental health. When it has been determined that the disclosure of medical information could have an adverse effect upon the individual to whom it pertains, the information may be transmitted to a physician named by the requesting individual.

(v) This Part 1286 does not entitle an individual to have access to any information compiled in reasonable anticipation of a civil action or proceeding.

(vi) A system manager may require an individual who wishes to be accompanied by another person when receiving access to his records to furnish a written statement authorizing discussion of the records in the presence of the accompanying person.

(vii) Any requests from an individual for access to or copies of records maintained on him will be processed in accordance with this Part 1286 and not the Freedom of Information Act. Normally, requests for access to records will be acknowledged within 10 working days of receipt and access provided within 30 working days.

(viii) Copies of investigatory records compiled by any investigative organization, but in the temporary custody of an element requesting the record for purposes of adjudication or other personnel action, are the records of the originating investigative organization. Individuals seeking access to such records will be directed to the originating investigative organization and should be instructed to direct all requests submitted under the Act to that organization. Records concerning the adjudication, or other personnel actions based on the investigative records, originated by the organization using the investigation, are the records of the using organization which shall respond to all other requests under the Act concerning them.

(2) *Amendment of personal information.* (i) An individual will be given the opportunity to request, either in person or through the mail, that his record be amended. The system manager may, however, require that such requests be made in writing. Instructions for the preparation of a request and any forms employed should be as brief and as simple as possible. Requests should contain as a minimum, identifying information to locate the record, a description of the items to be amended and the reason amendment is being requested. A request will not be rejected or required to be resubmitted unless additional information is essential to process the request. Incomplete or inaccurate requests will not be rejected categorically; the individual will be asked to clarify the request as needed. Individuals will be required to provide verification of identity as paragraph (a)(1)(ii) of this section to assure that the requester is seeking to amend records pertaining to him and not, inadvertently or intentionally, the records of another individual.

(ii) A written acknowledgement of the receipt of a request for amendment of a record must be provided to the individual within 10 working days (excluding Saturdays, Sundays, and legal public holidays) after receipt by the system managers. The acknowledgement will clearly identify the request and advise the individual when he may expect to be advised of action taken on the request. Whenever practicable, the decision will be made within 30 working days. No separate acknowledgement of receipt is necessary if the request can be either approved or denied, and the individual advised within the 10-day period. For requests presented in person, written acknowledgement should be provided at the time the request is presented.

(iii) If the system manager agrees with any portion or all of the individual's request to amend a record, the system manager will promptly advise the individual and amend the record accordingly. If disclosure accounting has been made, the system manager will advise all previous recipients of the record that the amendment has been made and the substance of the correction.

(iv) If the system manager disagrees with all or any portion of a request to amend a record, the system manager will promptly:

(a) Advise the individual of his refusal and the reasons therefor.

(b) Inform the individual that he may request a further review by the designated reviewing official.

(c) Describe the procedures for requesting such a review including the name and address of the official to whom the request should be directed.

(v) A review of the initial refusal to amend a record will be made if requested by the individual.

(a) Heads of HQ DLA PSEs and Heads of PLFAs, as applicable, are designated reviewing officials and will make a review of the initial determination. The Deputy Director, DLA, or the Deputy Director, CAS, for HQ DLA CAS elements and Defense Contract Administration Services Regions, will be the reviewing official when one of the aforementioned officials is identified as a system manager

(b) If, after conducting the review, the reviewing official also refuses to amend the record in accordance with the individual's request, the individual will be notified:

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(1) Of the refusal and the reasons therefor.

(2) Of his right to file a concise statement of reasons for disagreeing with the decisions of DLA.

(3) Of the procedures for filing a statement of disagreement and such statement will be made available to anyone to whom the record is subsequently disclosed.

(4) That prior recipients of the disputed record will be provided a copy of the statement of disagreement to the extent that an accounting of disclosure is maintained.

(5) Of his right to seek judicial review of DLA's refusal to amend a record.

(c) If the reviewing official determines that the record should be amended in accordance with the request, the system manager will amend the record, advise the individual, and inform previous recipients where an accounting of disclosure has been maintained.

(d) A final determination on the individual's request for a review of an initial refusal to amend a record must be completed within 30 days after receipt by the proper office unless the reviewing official determines that a fair and equitable review cannot be completed in that time. If additional time is required, the individual will be informed, in writing, of the reasons for the delay and of the approximate date on which the review is expected to be completed.

(vi) When an individual files a statement of disagreement, the system manager will clearly annotate the record so that the dispute is apparent to anyone who may subsequently grant access to use or disclose the record. The notation itself will be integral to the record. Where an accounting of disclosure has been made, the system manager will advise previous recipients that the record has been disputed and will provide a copy of the individual's statement.

(e) The individual's statement of disagreement need not be filed as an integral part of the record to which it pertains. It will, however, be maintained in such a manner as to permit ready retrieval whenever the disputed portion of the record is to be disclosed. When information which is the subject of a statement of disagreement, is subsequently disclosed, the system manager will note which information is disputed and provide a copy of the individual's statement.

(f) The system manager may include a brief summary of its reasons for not making an amendment when disclosing disputed information. Summaries normally will be limited to the reasons stated to the individual. The system manager's summary will be treated as part of the individual's record; however, it will not be subject to the amendment procedures.

(b) *Disclosure to others.* (1) Except as prescribed in paragraph (a) of this section, this Part 1286 does not require disclosure of records to anyone other than the individual to whom the records pertain.

(2) No record contained in a system of records maintained within DLA will be disclosed by any means of communication to any person, or to any agency outside DLA, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be:

(i) To those officials and employees of the Department of Defense who have a need for the record in the performance of their official duties and the use is compatible with the purpose for which the record is maintained. This includes, for example, transfer of information between components when civilians or military personnel assigned or affiliated with one component are processed by an activity of another component such as Armed Forces Examination and Entrance Stations (AFEES), Air Terminals, or Defense Investigative Service (DIS).

(ii) Required to be disclosed to a member of the public by DLAR 5400.14. Some examples of personal information pertaining to military personnel which normally are released without an unwarranted invasion of privacy are: name, rank, date of rank, salary, present, and past duty assignments, future assignments which have been finalized, office phone number, source of commission, military and civilian educational level, and promotion sequence number. Disclosure of personal information pertaining to civilian employees shall be made in accordance with the Federal Personnel Manual.

(iii) For a routine use as defined in 1286.3 and decribed in section II H of Appendix A.

(iv) To the Bureau of the Census for purpose of planning or carrying out a census or survey or related activity authorized by law.

(v) To a recipient who has provided DLA with advance adequate written assurance that:

(a) The record will be used solely as a statistical research or reporting record.

(b) The record is to be transferred in a form that is not individually identifiable, (i.e., the identity of the individual cannot be determined by combining various statistical records).

(c) The record will not be used to make any decisions about the rights, benefits, or entitlements of an individual.

(vi) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services, or his designee to determine whether the record has such value. A record transferred to a Federal records center for safekeeping or storage does not fall within this category since Federal records center personnel act on behalf of DLA in this instance and the records remain under the control of DLA. No disclosure accounting record of the transfer of records to Federal records centers need be maintained.

(vii) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the Head of the agency or instrumentality has made a written request to a DLA element which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought. Blanket requests for all records pertaining to an individual will not be accepted. A record may also be disclosed to a law enforcement agency at the initiative of a DLA element which maintains the record when criminal conduct is suspected, provided that such disclosure has been established in advance as a "routine use".

(viii) To a person pursuant to a showing or compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of the individual to whom the record pertains.

(ix) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, or any joint committee. This does not authorize the disclosure of any record subject to this Part 1286 to members of Congress acting in their individual capacities or on behalf of their constituents.

(x) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office.

(xi) Pursuant to the order of a court of competent jurisdiction.

(a) When a record is disclosed under compulsory legal process and when the issuance of that order or subpoena is made public by the court which issued it, reasonable efforts will be made to notify the individual to whom the record pertains. This may be accomplished by notifying the individual by mail at his most recent address as contained in DLA records.

(b) Upon being served with an order to disclose a record, the system manager will endeavor to determine whether the issuance of the order is a matter of public record and, if it is not, seek to be advised when it becomes public. An accounting of the disclosure will be made at the time the system manager complies with the order or subpoena.

(3) Each system manager, with respect to each system of records under his control will:

(i) For all disclosures under paragraph (b)(2) of this section, except those under paragraphs (b)(2) (i) and (ii) of this section, keep an accurate accounting of the following:

(a) The date of the disclosure.

(b) The nature of the disclosure; that is what was disclosed and how; for example, oral disclosure by telephone of home address. Other examples of disclosure include visual review of the record, written, transfer of data through telecommunications network, etc.

(c) The purpose of this disclosure. Describe the condition of the disclosure as listed in paragraphs (b)(2) (iii) thru (xi) of this section. If disclosure is for a routine use published in a records systems notice, briefly describe the specific routine use.

(d) The name and address of the person or agency to whom the disclosure is made. A system manager need not make a notation on a single document of every particular record, provided he can construction from the system for the required accounting information.

(ii) Retain the accounting made under paragraph (b)(3)(i) of this section for at least 5 years after the last disclosure or the life of the record, whichever is longer. No record of the disclosure of this accounting need be maintained.

(iii) Upon request of the individual to whom the record pertains, make available to that individual all information in the accounting of disclosures except that pertaining to disclosures for law enforcement purposes pursuant to paragraph (b)(2)(vii) of this section, and systems that have been determined to be exempt from these provisions under subsections (j) and (k) of the Act.

(4) Names and Addresses. An individual's name and address may not be sold or rented by DLA unless such action is specifically authorized by law. Requests for home addresses may be referred to the last known address of the individual for reply at his discretion and the requester will be notified accordingly. This provision will not be construed to require the withholding of names and addresses otherwise permitted to be made public.

(c) *Collection of personal information from individuals.* (1) *Collection Directly from Individuals.* Personal information shall be collected to the greatest extent practicable directly from the individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The collection of information from third parties should be minimized. Exceptions to this policy may be made under certain circumstances, such as the following:

(i) There is need to ensure accuracy of information supplied by an individual by verifying with a third party, such as in the case of verifying information for a security clearance.

(ii) The nature of the information is such that it can only be obtained from a third party, such as an evaluation of employee's performance in a previous job or assignment.

(iii) Obtaining the information from the individual would present exceptional practical difficulties or would result in unreasonable costs.

(2) *Informing Individuals From Whom Information is Requested.* Each individual who is asked to supply personal information must be told of:

(i) The authority (statute or Executive Order) which authorizes its solicitation.

(ii) The principal purpose or purpose for which it is to be used.

(iii) The routine uses, to be made of it.

(iv) Whether furnishing such information is mandatory or voluntary and the effects on him, if any, of not providing it. This notice to the individual will be made on a separate form which can be retained by the individual. This advice must be given on all media used in requesting information whether it is a "form" in the usual sense (i.e., a preprinted document with a control number and an edition date) or a format, questionnaire, survey sheet, or report rendered on a blank sheet. Supplying personal information is when individuals personally complete the fill-in information about themselves on the form or when the individuals furnish the information about themselves verbally as in an interview or question and answer type of arrangement.

(3) *Collection Documents in Use Prior to 27 Sep 75.* These documents in use before 27 Sep 75 and which are to be used on and after that date, must meet the notice requirements by use of a separate statement to go along with each such document subject to the provisions of the Act. The statement will be assigned the identifying form number/RCS/OMB Appeal Number/Form Letter Number used in collecting the information and the suffix "Privacy Act Statement", as follows:

(i) For forms in regularly-issued, numbered series, the Privacy Act Statement will bear the same number and edition date as the form to which it pertains, except as provided in paragraph 2 of Appendix B Example: For DD Form 398, Statement of Personal History, the applicable notice to each individual asked to complete the form will be identified as "DD Form 398—Privacy Act Statement" in the lower left-hand corner.

(ii) For unnumbered formats, questionnaires, surveys, and reports which are not in the regularly-issued form number series, the Privacy Act Statement will bear the report control symbol or OMB Approval Number under the authority for which the information is collected, if applicable.

Example: For the Air Force Junior ROTC Survey for AFJRDTC Cadets (Format A), the applicable notice to each individual asked to complete the questionnaire will be identified as "OMB Approval No. 21-RO268—Privacy Act Statement". Same reports are assigned Reports Control Symbol (RCS) numbers or OMB Approval Numbers. If these reports are controlled in a regular numbered form series, then the Privacy Act Statement will bear the form number reference in lieu of the RCS or OMB Number.

(4) *Preparation of Privacy Act statements.* (i) The proponent (i.e., the initiator) has the final responsibility for determining whether a form, format, questionnaire, survey, or report requires a Privacy Act Statement. The proponent must consult his counsel, particularly for validation of the authority for asking for the information. Statements must be sufficiently complete and specific but, at the same time be concise and couched in easily understood language.

(ii) Forms and information management officers at all echelons must assure that Privacy Act Statements are available for issuance with new forms, when required.

(iii) No Department of Defense component may deny any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his SSN, unless such disclosure is:

(a) Required by Federal statute.

(b) To any component maintaining a system of records in existence and operating before 1 Jan 75, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual. Executive Order No. 9397, 22 Nov 43, authorizes components to use SSN as a system of numerical identification of individuals.

(iv) Any component which requests an individual to disclose his SSN must inform that individual:

(a) Whether that disclosure is mandatory or voluntary.

(b) By what statutory or other authority such number is solicited.

(c) What uses will be made of it.

(v) If disclosure of the SSN is not required by Federal statute or is not for a system of records in existence and operating prior to 1 Jan 75, proponents are nevertheless not precluded from requesting it from individuals concerned. However, the separate Privacy Act Statement for the SSN alone, or a merged Privacy Act Statement, covering not only the SSN but also other items of personal information, must make clear that the disclosure of the SSN is voluntary. If, in such instances, the individual refuses to disclose it, the proponent concerned must be prepared to identify him by alternate means.

(d) *Exemptions.* The Director, DLA will designate the DLA records which are to be exempted from certain provisions of the Act, and DLA-XA will publish in the FEDERAL REGISTER, information specifying the name of each designated system, the specific provisions of the Act from which each system is to be exempted, and the reasons for each exemption of the record system.

(1) *General Exemptions.* To qualify for a general exemption, as defined in the Act, the system of records must be maintained by a system manager who performs as his principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities. Such system of records must consist of:

(i) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and containing only identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole, and probation status.

(ii) Information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual.

(iii) Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

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(2) *Specific Exemption.* To qualify for a specific exemption, as defined by the Act the systems of records must be:

(i) Specifically authorized under criteria established by an Executive Order to be kept classified in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order.

(ii) Investigatory material compiled for law enforcement purposes other than material covered under a general exemption. However, an individual will not be denied access to information which has been used to deny him a right or privilege unless disclosure would reveal a source who furnished information to the Government under a promise that the identity of the source would be held in confidence. For investigations made after 27 Sep 75, the identity of the source may be treated as confidential only if based on the expressed guarantee that the identity would not be revealed.

(iii) Maintained in connection with providing protective services to the President of the United States or other individuals protected pursuant to 18 U.S.C. S3056.

(iv) Used only to generate aggregate statistical data or for other similarly evaluative or analytic purposes, and which are not used to make decisions on the rights, benefits, or entitlements of individuals except for the disclosure of a census record permitted by 13 U.S.C. S8.

(v) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Military Service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the source would be held in confidence, or prior to 27 Sep 75, under an implied promise that the identity of the source would be held in confidence.

(vi) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing of elimination process.

(vii) Evaluation material used to determine potential for promotion in the Armed Services, but only the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or prior to 27 Sep 75, under an implied promise that the identity of the source would be held in confidence. System managers will specify those categories of individuals for whom pledges of confidentiality may be made when obtaining information on an individual's suitability for promotion.

(e) *System of Records*—(1) *Content.* (i) Systems managers will maintain in its records systems only such information as is relevant and necessary to accomplish a purpose or mission required by statute or Executive Order of the President.

(ii) The proponent of each system of records will identify the specific provision of law, or Executive Order, which provides authority for the maintenance of information in each system of records.

(iii) Authority to establish and maintain a system of records does not convey unlimited authority to collect and maintain all information which may be useful or convenient to have. The proponent of each system of records will evaluate each category of information in a system for both necessity and relevance. In performing this evaluation the following points will be considered:

(a) Relationship of each item of information to the statutory or regulatory purpose for which the system is maintained.

(b) Specific adverse consequence of not colecting each category of information.

(c) Possibility of meeting the information requirement through use of information not individually identifiable or through sampling techniques.

(d) Length of time that the information is needed and, where appropriate, techniques for purging parts of the record.

(e) Financial cost of information maintenance compared to risk or adverse consequence of not maintaining it.

(f) Necessity and relevance of this information to all individuals included in the system.

(iv) Collection will be discontinued for each category or item of information which, after the above evaluation, does not appear to be fully justifiable. Moreover, such information will be withdrawn and destroyed, provided it can be economically segregated from necessary and relevant information.

(v) The evaluation prescribed above will be performed by each proponent of a system of records:

(a) During the design phase of a new system of records or a change in an existing system of records.

(b) Annually, prior to the republication of all system notices in the FEDERAL REGISTER.

(2) *Publication of record system notices*—(i) *General.* A notice of the existence of each system of records, as defined in § 1286.3(d) must be published in the FEDERAL REGISTER.

(ii) *Record System Notices.* System managers proposing new systems will prepare system notices according to Appendix A at least 60 days before the proposed system change may be legally implemented. Initial system notices will be submitted to DLA–XA.

(iii) *Change to Existing Systems Requiring Advanced Public Notice*

(a) The following proposed changes to an existing system must be published in the FEDERAL REGISTER for public comment at least 30 days before the changes are implemented:

(1) Those which expand the categories of individuals on whom records are maintained.

(2) Those which add new categories of records to the system.

(3) Those which add new categories of sources.

(4) New or changed routine uses which involve disclosure to a new category of recipient.

(5) Changes in procedures governing access.

(b) Notices of proposed changes to existing systems will be submitted to DLA–XA, in accordance with Appendix A.

(iv) *Changes to Existing Systems Not Requiring Advanced Public Notice.* Changes in records systems not stated in paragraph (e)(2)(iii) of this section do not require advance publication, but must be submitted for inclusion in the annual consolidated listing of records systems. Accordingly, each system manager will ensure that all such changes are forwarded to DLA–XA by 15 March of each year for annual publication in the FEDERAL REGISTER.

(v) *Reports Concerning New and Changed Systems.* Concurrently with paragraph (e)(2)(ii) and (iii) of this section, DLA–XA will provide OASD (C) advanced notice of proposals to establish new systems or to change routine uses of existing systems.

(vi) *DLA Issuances.* DLA–XA will ensure that information contained in each system notice, as published in the FEDERAL REGISTER, is incorporated and published in DLAR 5400.22, Privacy Act System of Records Notices, to ensure uniform system use and maintenance. All DLA activities will take immediate action to discontinue any system of records not contained in DLAR 5400.22.

(3) *Standards of accuracy.* (i) Records used by system managers in making determinations about an individual will be maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to ensure fairness to the individual in any determination.

(ii) Prior to disseminating any record about an individual to any person other than a Federal agency, unless the dissemination is made pursuant to DLAR 5400.14, reasonable efforts will be made to ensure that such records are accurate, complete, timely and relevant for DLA purposes.

(4) *Restriction on maintenance of certain records.* Maintenance of records describing how individuals exercise rights guaranteed by the First Amendment are prohibited unless expressly authorized by Federal statute or by the individual concerned, unless pertinent to and within the scope of an authorized law enforcement activity. The exercise of these rights includes, but is not limited to, religious and political beliefs, freedom of speech and the press, and the right of assembly, and to petition.

(5) *Rules of conduct.* Heads of HQ DLA PSEs and Heads of PLFAs will assure that persons including Government contractors or their employees, involved in the design, development, operation, or maintenance of any system of records, as defined in § 1286.3, are informed of all requirements to protect the privacy of

the individuals who are subjects of the records. The following sanctions will be emphasized to personnel:

(i) There are criminal penalties for knowingly and willfully disclosing a record about an individual without the written consent or the written request of that individual, or unless disclosure is for one of the reasons listed in paragraph (d) of this section.

(ii) DLA may be subject to civil suit due to failure to comply with the Act.

(6) *Safeguarding personal information in records systems.* (i) System managers will establish administrative and physical safeguards to protect information from unauthorized or unintentional access, disclosure, modification, or destruction. These safeguards will apply to systems of records, in whatever medium in which personal information is processed or stored. Such safeguards will be tailored to the requirements of each system of records. Where a greater degree of protection is not prescribed by other regulations, as a minimum, all records will be afforded the same degree of protection as "For Official Use Only" documents.

(ii) Access to personal information will be restricted to those persons whose official duties require access and the individual concerned in accordance with paragraph (b) of this section.

(iii) System managers will ensure that all persons whose official duties require access to or processing and maintenance of personal information are trained in the proper safeguarding and use of such information.

(iv) Personal records and documents will be stored so as to reasonably preclude unauthorized disclosure.

(v) Disposal of records containing personal information which are no longer required will be accomplished in such a manner that will prevent the contents from being disclosed (e.g., tearing or shredding the record into pieces or burial or in the case of magnetic tapes by degaussing).

§ 1286.6 Forms and reports.

(a) An annual report will be prepared by DLA–XA for the preceding calendar year on its implementation of the Privacy Act of 1974 as follows:

(1) *Summary.* A brief management summary of the status of actions taken to comply with the Act, the results of these efforts, any problems encountered and recommendations for any changes in legislation, policies, or procedures.

(2) *Accomplishments.* A summary of major accomplishments; i.e., improvements in agency information practices and safeguards.

(3) *Plans.* A summary of major plans for activities in the upcoming year, e.g., area of emphasis, additional securing of facilities planned.

(4) *Exemptions.* A list of systems which are exempted during this year from any of the operative provisions of this law permitted under the terms of subsections (j) and (k) of the Act, whether or not the exemption was obtained during the year, the number of records in each system exempted from each specific provision and reasons for invoking the exemption.

(5) *Number of systems.* A brief summary of changes to the total inventory of personal data systems subject to the provisions of the Act, including reasons for major changes; e.g., the extent to which review of the relevance of and necessity for records has resulted in elimination of all or portions of systems of records or any reduction in the number of individuals on whom records are maintained.

(6) *Operational experiences.* A general description of operational experiences including estimates of the number of individuals (in relation to the total number of records in the system) requesting information on the existence of records pertaining to them, refusing to provide information, requesting access to their records, appealing initial refusals to amend records, and seeking redress through the courts.

(7) *Any available data, or estimates, of the cost of administering the Act.*

(8) *Six copies of the annual report* will be furnished to the Assistant Secretary of Defense (Comptroller) on or before 31 March of each year for transmittal to the Office of Management and Budget.

(b) An annual feeder report on the actions of the preceding year will be prepared by Heads of PLFAs and Heads of HQ DLA PSEs for submission in duplicate to DLA–XA on or before 10 March of each year. The report will contain:

(1) *Summary.* A brief management summary of the status of actions taken to comply with the Act, the results of these efforts, any problems encountered and recommendations for any changes in legislation, policies or procedures.

(2) *Accomplishments.* A summary of major accomplishment; i.e., improvements in agency information practices and safeguards.

(3) *Plans.* A summary of major plans for activities in the upcoming year, e.g., area of emphasis, additional securing of facilities planned.

(4) *Exemptions.* A list of systems which are exempted during the year from any of the operative provisions of this law permitted under the terms of subsection (j) and (k) of the Act, whether or not the exemptions were obtained during the year, the number of records in each system exempted from each specific provision and reason for invoking the exemption.

(5) *Number of systems.* A brief summary of changes to the total inventory of personal data systems subject to the provisions of the Act, including reasons for major changes; e.g., the extent to which review of the relevance of and necessity for records has resulted in elimination of all or portions of systems of records or any reduction in the number of individuals on whom records are maintained.

(6) *Operational experiences.* A general description of operational experiences including estimates of the number of individuals (in relation to the total number of records in the system) requesting information on the existence of records pertaining to them, refusing to provide information, requesting access to their records, appealing initial refusals to amend records, and seeking redress through the courts.

(7) *Any available data, or estimates, of the costs of administering the Act.*

(c) Each PLFA will submit to HQ DLA, ATTN: DLA–XA during the last week in January, April, July, and October each year, a consolidated listing of those locally controlled and subordinate echelon forms affected by the Act. The listing will contain the form designation and number in numeric sequence, the edition date, and the complete title. Each group of forms will be identified by activity name. To provide the input for this consolidated listing, the forms management officer at all levels must prepare and maintain current, a listing of those forms for which they control and which are within the purview of the Act.

(d) The Reports Control Symbol for these reports will be RCS DD(A) 1379.

APPENDIX A

INSTRUCTIONS FOR PREPARATION OF RECORD SYSTEM NOTICES

SECTION I. GENERAL INSTRUCTIONS

A. For each system of records submit information in the sequence as shown in section II below. Show in this sequence even though an entry may not be required for all items.

B. Use keywords shown below (i.e., SYSNAME, RECORD-CATEGORY, etc.). Explanations of keywords are shown in parentheses, but do not use.

C. Do not use paragraph or subparagraph numbers or letters.

D. Do not underline any part of the text.

E. Do not use hyphenation at the end of a line or subdivide a word at the end of a line.

G. Each system of records notice will be typed double-spaced on a separate sheet(s) of paper, with the originating office symbol entered in the upper right corner.

H. Do not use military or Government terminology which may not be understood by the public. Authorized abbrevations may be used, provided they are first spelled out in each system notice, e.g., Defense Logistics Agency (DLA).

I. Refer to section III below for systems which may qualify for exemption.

J. Number the pages separately for each draft system notice.

K. New and revised system notices shall be prepared in accordance with instructions contained herein. All notices are to be submitted in full, i.e., no partial system notice shall be accepted).

L. For the purpose of identifying record systems and preparing system of records notices, there are five distinguished categories of record systems subject to the Act:

1. *Category 1.* Automated (ADP) systems of records identified by distinctive number and title and normally maintained according to ADP manuals. As a general rule, these systems are not individually or specifically identified by DLAM 5015.1. Files Maintenance and Disposition, although their output may be functionally identifiable through the manual. For preparation of systems notices, there are three recognizable types of ADP systems:

a. Class A and B systems managed by HQ DLA. Most of these systems are identified in the DoD Automated Data Systems Catalog LSPC 3–70–1.

b. Class C Systems. Individually designed, established, and maintained by DLA field activities.

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c. DLA field activities systems which are not yet approved are classified as Class C systems, i.e., unauthorized systems.

2 *Category 2.* Exclusive of ADP Systems, those systems of records established and maintained pursuant to and specifically prescribed by statute, executive order, or DLAR.

3 *Category 3.* Exclusive of ADP Systems, those systems of records established under a function authorized by statute, Executive Order or DLAR rather than specifically prescribed by the statute, Executive Order or DSAR, that are accumulated DLA-wide by offices with similar or identical functions. Normally, decentralized segments of such systems vary only in scope and volume and not in content, for example, name files which are established in processing requests under the Freedom of Information Act. In most instances, these systems are identified in DLAM 5015.1.

4 *Category 4.* Exclusive of ADP Systems, those systems of records established and maintained entirely in response to local needs. Although often difficult to describe, these systems have certain common characteristics which can be used in identifying them for preparation of systems notices:

a Normally, they are unique to the accumulating office.

b They are not accumulated DLA-wide in other elements or activities which perform like functions.

c They are seldom specifically identified in DLAM 5015.1.

5 *Category 5.* Those in the custody of DLA temporarily, which "belong" to other Federal agencies. For example, official civilian personnel files on DLA civilian employees belong to the U.S. Civil Service Commission. Most such systems are identified by DLAM 5015.1

M Responsibility for preparation of system of records notices.

1 For Category 1 (ADP) Systems of Records

a Managers of Class A and B systems of records are responsible for preparing system of record notices applicable to their automated data systems (ADS).

b Proponents of Categories 2, 3, 4, and 5 manual) systems of records are responsible for including in their systems of record notices all Class C and unauthorized ADP systems of records which, in effect, are automated segments of their systems of records.

c Managers are responsible for preparation and submission of system of record notices applicable to those Class C and unauthorized ADP system of records which are not automated segments of a manual system of records

2 For Category 2 and 3 system or records, the office having DLA-wide staff responsibility for the function or process involved is considered to be the system of records proponent. Such proponents are responsible for including in their system of record notices coverage of all decentralized segments of the particular system of records.

3 Proponents of Category 4 (local) systems of records are responsible for preparation and submission of system notices applicable to their systems.

4 For Category 5, the proponent is the Federal agency to which a system of records belongs. It is responsible for system of records notices applicable to its records that are temporarily in DLA custody. For example, the CSC will publish system of records notices applicable to all systems of records prescribed by the Federal Personnel Manual. CSC will not, however, be responsible for any modifications or additions to a CSC system of record. The DLA proponent of such modifications or additions is therefore responsible for preparing a system of records notice for the portion added by him. DSA proponents should contact the appropriate Federal agency for other systems of records temporarily in DSA custody to determine and fix responsibility for preparing applicable system of records notices. In instances where a Federal agency to which the records belong declines to cover a system of records temporarily in DLA custody, the DLA proponent will be responsible for preparing the applicable system of records notice.

SECTION II. SEQUENCE OF SUBMISSIONS AND INSTRUCTIONS

A. Manual or Automated. Indicate whether the system is manual or automated. An automated system would include records processed, maintained, or both, in a machine readable processing tapes and cards, etc. A manual system would include records processed, maintained, or both, in a human readable or vertical file cards, microfiche, roll microfilm, photographs, etc. A mechanized file which requires substantial human intervention for processing or maintenance is considered to be manual, rather than automated.

B. Sysname (System Name). Whenever applicable, identify the system by number and title prescribed in your files or records disposition manual. Use locally originated titles for files which are not described specifically and adequately in the manual or which are otherwise unique to the reporting office. If more than one system is covered by a file description, identify each system. If several files, separately described in DLAM 5015.1, are a part of a single system, identify the system only (see paragraph F below for identification of separate files which form a system). Provide system and file title in unclassified form. Do not use abbreviations, nicknames, or acronyms unless spelled out the first time used. Place acronyms in parentheses immediately following the title.

C. Security. Specify the Defense or other security classification for the system of records if classified pursuant to the provisions of DoD 5200.1-R, Information Security Program Regulation, DLAM 8205.1, Safeguarding of Classified Information, and implementing directives. Do not cite as a security classification For Official Use Only, Internal Working Paper, Eyes Only, or similar marking used for internal control or other handling purposes. If unclassified, including FOUO, state unclassified.

D. Location. If the system is maintained in a single location, provide the exact name of the office, organization, and correspondence or routine symbol. On the other hand, if it is geographically or organizationally decentralized, specify each type of organization or element that maintains a segment of the system. For example, if the system was comprised of clinical records, then medical centers and hospitals, and the National Personnel Records Center would be listed as locations. Where automated data systems encompass a central computer facility, with input/output terminals at several geographical locations, list by category, each location under this heading. In all instances where multiple locations are referred to by type of organization, state that official mailing addresses are in the Department of Defense directory in the appendix to the DLA system of record notices. However, in all cases, give the official mailing address if the office maintaining the system is not listed in the FEDERAL REGISTER. If the address is classified, so state. Be sure to list each type of organization maintaining a segment or duplicate of the system, since maintenance by a type of organization not reported herein will constitute a violation of the Act. When indicating domestic addresses, use the United States Postal Service two letter state abbreviation and the Zip Code.

E. Individual-Category (Categories of Individuals Covered by the System). The purpose of this requirement is to permit an individual to determine whether or not information on him might be in the system of records. Categories of individuals, therefore, should be stated in easily understood, nontechnical terms and include all categories of individuals on whom records are maintained. Avoid using broad general descriptions, such as "all civilian personnel" unless the system applies to all civilian personnel. For example, Civilian Individual Pay Record applies to all civilian employees of DLA, while a system of records of Individual Retirement Records would apply only to civilian employees covered by the Civil Service Retirement program. All categories of individuals included in the system must be listed, regardless of the frequency of inclusion or the number of records involved. All future changes to the system, which broaden or increase the categories of individuals covered, will require preparation and publication of a revised record system notice in the FEDERAL REGISTER.

F. Record Category (Categories of Records in the System). Briefly describe in nontechnical terms all types of records in the system. For example, under the Automatic Payroll Cost and Personnel System (APCAPS), the types would include, but not be limited to individual pay record, substantiating documents, such as certificates for deductions and retained leave and earning statements, records of travel payments, personnel actions, and time and attendance cards. For automated systems, do not list source documents unless they are retained and filed by name, SSN, or other individual identifier. Instead, list the categories of information stored in the system. Be sure to include all types of records in the system regardless of their frequency or volume of accumulation, since future additions of new types of records will require preparations and publication of revised public notices in the FEDERAL REGISTER.

G. Authority (Authority for Maintenance of the System). Cite the specific provision of a Federal statute or Executive Order of the President, including the title thereof which authorizes, or provides a legal basis for, maintenance of the system. Do not cite regulations. In this connection, authority for a system may be derived from a statute or Executive Order which:

1. Explicitly authorizes or directs the agency to maintain a system of records.

2. Authorizes or directs DLA to perform a function, the discharge or which requires maintenance of the system of records.

NOTE.—Check with the appropriate Counsel for assistance in determining the statutory or regulatory basis for the system.

H. Routine Uses (Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses)

1. Essentially, this requirement calls for the following information in nontechnical terms:

a. The purpose(s) for which information in the system is collected.

b. Each category of user.

c. The specific use(s) made of the information by each user.

2. Each category of user and each use must be reported. Any proposed new use or category of user, or change in an existing use, which has the effect of expanding the availability of the information in the system, will require publication of a revised notice in the FEDERAL REGISTER. Any such proposed change in a routine use must also be described in an advanced notice in the FEDERAL REGISTER to permit 30 days for public comment before it is implemented.

3. As defined by 5 U.S.C. 552a, the term "routine use" means with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

4. "Uses" can be distinguished from "purposes" in that "purposes" describe the objective for collecting or maintaining information. "Uses" are the specific ways or processes in which the information is employed, including the persons or organizations to whom the record may be disclosed. For example, the purposes for collecting information may be to evaluate an application for a veteran's benefit and to issue checks. "Uses" might include verification of certain information with the appropriate Military Service and release of check data to the Department of the Treasury. List under routine uses if contractors are engaged to perform a service, such as key punch, optical scan, or telecommunications in connection with the operation of an automated data system. List also Federal agencies to which personal-type information is disclosed, including automated system interfaces, and the purposes for which the disclosures are made.

5. Each proponent of a system (i.e., that office or organization proposing, directing, or otherwise responsible for the system) must prescribe the "routine" uses of the records. Routine use does not merely encompass the common and ordinary uses to which records are put, but also includes all of the proper and necessary uses regardless of frequency. For example, individual income tax returns are routinely used by the Internal Revenue Service to audit the amount of tax due and for assistance on collection of such tax by civil proceedings. They are used less often, however, for referral to the Department of Justice for possible criminal prosecution of fraud or tax evasion. Therefore, the "routine" use of such records would include referrals to the Department of Justice. In addition, description of "routine use" shall include the fact that any individual records in a system of records might be transferred to any component of the Department of Defense. It should be expected normally that "routine use" would include disclosure to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

I. Policy-practice (Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System). Describe how records in the system are managed during their life-cycle. When feasible, extract pertinent information from your files or DLAM 5015.1.

1. *Storage.* In describing records storage, specify the medium in which they are maintained, such as paper records in file folders, visible or vertical file cards, computer magnetic tapes, or disks, computer paper printouts, aperature cards, microfiche, roll microfilm, photographs, video-tape, etc.

2. *Retrievability.* Specify how information is accessed and retrieved, such as by name, SSN, Military Service number, or other identification number, classification or personal characteristics, such as fingerprint classification, voice print identifier, etc. Indicate further whether conventional or computerized indices are required to retrieve individual records from the system.

3. *Safeguards.* Describe what measures are taken to prevent unauthorized disclosure of the records and state the categories of individuals authorized access to the records. Specify system safeguards, such as safes, vaults, locked cabinets or rooms, guards, personnel screening, visitor registers, computer "fail-safe" systems software, etc.

NOTE.—Do not describe security safeguards in such detail as to increase the risk of unauthorized access to the records.

4. *Retention (Retention and Disposal).* State rules on how long the records are to be maintained; if and when they are moved to Federal Records Centers, or to the National Archives or other designated depository; and if, when and how they are destroyed, or otherwise disposed of. Changes in this item will not normally require immediate publication of a revised public notice unless they reflect an expansion in the availability of or access to the system of records.

J. Sysmanager (Title and Duty Address of the Agency Officials Responsible for the System). In all cases, enter the title of the official who is responsible for policies and procedures governing the system; i.e., Staff Director, Civilian Personnel, HQ DLA. If the title of the official is unknown or unknowable (such as for locally evolved systems), specify the Commander or the Head of the Office as the responsible official. In addition, for geographically or organizationally decentralized system, where individuals may deal directly with agency officials at each location to exercise their rights under the Act, give the position or duty title of each category of official responsible for the system, or a segment thereof. For example, in the case of individual accident case report records, the entries should be: Staff Director, Civilian Personnel, HQ DLA, and Safety Officers of PLFAs. Do not include the duty address if already listed in organizational directories metntioned in paragraph D above.

K. Notification (Procedure Whereby Individuals Can Be Notified at Their Request If the System Contains Records Pertaining to Them).

1. Indicate whether or not requests from individuals should be addressed to the above SYSMANAGER as in paragraph J above. If requests are to be addressed to any other officials, list them by duty or position titles.

2. Specify what information will be required from the requesting individual to determine whether or not the system contains a record about him, such as full name, military status, SSN or service number, resident or nonresident, etc.

3. List by specific name, or categories, those offices which the requester may visit to obtain information on whether the system contains records pertaining to him or her.

4. For personel visits, specify what data the requester must present as proof of identity, such as a combination of full name, date and place of birth, parent's name, driver's license, or medicare card, etc. Do not require verification of identity for records which are disclosable under the Freedom of Information Act.

L. Access (Procedures Whereby an Individual Can be Notified at His Request How He Can Gain Access to Any Record Pertaining to Himself contained in the system of records). Include the title or category of officials who can provide assistance, if those officials are other than the SYSMANAGER above. If the mailing addresses are listed in the organizational directory, state that official mailing addresses are in the Department of Defense directory in the appendix to the DLA systems notice. Specific locations and telephone numbers of offices may be indicated for unique or centralized systems.

M. Contest (Rules For Access and Contesting Contents of Records). To comply with this requirement, merely, state: "The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER".

N. Source (Categories of Sources of Records in the System). List by type each source of information in the system, e.g., previous employers, financial institutions, educational institutions, trade associations, automated system interfaces, etc. Specific individuals or institutions need not be identified by name. Again, be sure to include all types, since collection of information from types of sources other than listed will require publication of a revised public notice in the FEDERAL REGISTER before any information is collected from thoso sources.

SECTION III. SYSTEMS QUALIFIED AND PROPOSED FOR EXEMPTION

Generally, the following records may be exempted from the provisions of K, L, and N of section II above (subsection (e)(4) (G), (H), and (I) of the Act):

1. Records maintained by the Central Intelligenco Agency.

2. Records compiled to ensure protection of the President or other officials, classified records, records required by statute to be maintained and used solely as statistical records.

3. Investigatory records, compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Military Service, Federal contracts, or access to classified information, but only to the extent as outlined in subsection (k)(5) of the Act.

4. Certain testing and examination material.

5. Certain material used to evaluate potential for promotion in the Armed Services. (All items in section II, above will be completed for systems proposed for exemption, except for K, L, M, and N). Cite the system name and specific provisions of the Act, from which the system is to be exempted and the reasons therefor Consult with Counsel for detailed guidance for systems which may be eligible for exemption. Proponents of systems dealing with the above types of records should contact the appropriate records management staff for addition guidelines, if necessary, for preparing exemption notices for publication in the FEDERAL REGISTER (NOTE: No system of records is exempted from the public notice requirements of the Act). Failure to publish a notice constitutes a criminal violation.

APPENDIX B

DETAILED INSTRUCTIONS FOR FORMS AND INFORMATION REQUIREMENTS SUBJECT TO THE PRIVACY ACT OF 1974

1. Fill-in information on the preprinted blank Privacy Act Statement format will be completed by the *functional element* responsible for the form. It will be completed by typewriter, for use as camera copy to reproduce and distribute to users to the form to which the statement applies.

2. The forms management office will assign an edition date in the block provided, and when revised, a new edition date will be assigned. Edition dates assigned the Privacy Act Statements may differ from the date of the form described in the Statement since each may be revised without revision to the other. The same edition dates will be assigned to both form and related statement when processed simultaneously as new or revised actions. When Privacy Act Statements are revised, previous editions will always be obsoleted. A supersession notice obsoleting the previous edition will be shown in the bottom border of the statement in the same manner as shown on forms when superseding a previous edition. No form number is assigned to the blank Privacy Act Statement format since it may be confused with the applicable form number entered in the space provided in the lower left hand corner.

3. When referencing a specific approved Privacy Act Statement, it will be referred to by the related form number followed by the words "Privacy Act Statement". For example,

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if DLA Form 0000 is entered in the lower left corner of the Statement, the Statement will thereafter be referred to as DLA Form 0000-Privacy Act Statement. This will facilitate the requisitioning of supplies of the filled-in printed Statement and for making references in correspondence.

4. Strict attention is invited to item number 1 on the Statement, "Authority". This item, when completed, *must* be coordinated with Counsel for validation. The entry in the "Authority" block must be a "Statute" or "Executive Order". When a SSN is requested, in addition to other items of personal information, the authority for requesting the SSN, if different from the authority for the other items, will also be shown in this block. When a SSN is the only personal information requested, *only* item numbers 1, 3, and 4 of the Privacy Act Statement apply.

5. A supply of *blank* "Privacy Act Statements" will be maintained by the local forms management office for issuance on request from functional staff elements. PLFAs will locally reproduce future needs of the blank statement. HQ DLA and DASC staff elements will obtain additional supplies from DLA-XA.

6. *Completed* and officially approved statements applicable to DD, DLA, DLAH, and DSC forms will be processed for initial distribution in accordance with information contained in block 9 of DLA Form 1424, Request for Processing Privacy Act Statement. HQ DLA and DASC staff elements can obtain additional copies from DASC-PD. Completed statements applicable to DD and DLA forms will be initially distributed to PLFAs, who will redistribute needs to subordinate echelons. PLFAs will locally reproduce additional needs. PLFAs will develop local procedures for printing and distributing supplies of completed and approved Privacy Act Statements applicable to locally designated and controlled forms.

7. DLA Form 1424 will be prepared by functional elements responsible for each statement. It will serve as a source document for preparing a requisition for reproduction and distribution of the approved *completed* statement to all users of the form to which it is applicable. The forms management office will be the source of supply for blank copies of DLA Form 1424.

8. HQ DLA and PLFA forms management offices will maintain a file on each approved Privacy Act Statement along with a copy of the supporting DLA Form 1424, DD Form 843, Requisition for Printing and Binding Service, and DD Form 844, Requisition for Local Duplicating Service. The method of filing is left to the discretion of local forms management officers.

APPENDIX C

EXEMPTED RECORD SYSTEMS

All systems of records maintained by the Defense Logistics Agency shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(k)(1) to the extent that the system contains any information properly classified under Executive Order 11652, and which is required by the Executive Order to be kept secret in the interest of national defense or foreign policy. This exemption, which may be applicable to parts of all systems of records, is necessary because certain record systems not otherwise specifically designated for exemptions herein may contain isolated items of information which have been properly classified.

A. *ID:* S150.20 DLA-T (Specific Exemption)

System name:

Security Violation Files.

Exemption:

This system of records is exempted from the following provisions of the title 5, United States Code, section 552a: (c)(3); (d); and (e)(1).

Authority:

5 U.S.C. 552a(k)(2).

Reasons:

Granting individuals access to information relating to law enforcement could interfere with ongoing investigations and the orderly administration of justice, in that it could result in the concealment, alteration, destruction, or fabrication of information; could hamper the identification of offenders or alleged offenders and jeopardize the safety and well being of informants, witnesses and their families and investigative personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources and methods used by this component and could result in the invasion of privacy of individuals only incidentally related to an investigation. Investigatory material is exempt to the extent that the disclosure of such material would reveal the identity of a source who furnished the information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975 under an implied promise that the identity of the source would be held in confidence. This exemption will protect the identities of certain sources who would be otherwise unwilling to provide information to the Government. The exemption of the individual's right of access to his records and the reasons therefor necessitate the exemptions of this system of records from the requirements of the other cited provisions.

B. *ID:* § 153.01 DLA-T (Specific Exemption)

Sys Name:

Personnel Security Files.

Exemption:

This system of records is exempt from the following provisions of title 5, United States Code, section 552a subsection (d).

Authority:

5 U.S.C. 552a (k) (2) and (5).

Reasons:

Investigatory material is exempt to the extent that the disclosure of such material would reveal the identity of a source who furnished the information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975 under an implied promise that the identity of the source would be held in confidence. This exemption will protect the identities of certain sources who would be otherwise unwilling to provide information to the Government.

C. *ID* S160.50 DLA-T (Specific Exemption)

Sys name:

Criminal Incident/Investigations File.

Exemption:

This system of records is exempted from the following provisions of the title 5, United States Code, section 552a: (c)(3); (d); and (e)(1).

Authority:

5 U.S.C. 552a (k)(2).

Reasons:

Granting individuals access to information collected and maintained by this component relating to the enforcement of criminal laws could interfere with orderly investigations, with the orderly administration of justice, and possibly enable suspects to avoid detection or apprehension. Disclosure of this information could result in the concealment, destruction or fabrication of evidence and jeopardize the safety and well being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources and methods used by this component and could result in the invasion of the privacy of individuals only incidentally related to an investigation. Investigatory material is exempt to the extent that the disclosure of such material would reveal the identity of a source who furnished the information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975 under an implied promise that the identity of the source would be held in confidence. This exemption will protect the identities of certain sources who would be otherwise unwilling to provide information to the Government. The exemption of the individual's right to access to his records and the reason therefor necessitate the exemption of this system of records from the requirements of the other cited provisions.

D. *ID:* S155.53 DLA-NS (Specific Exemption)

Sys name:

Industrial Personnel Security Clearance File.

Exemption:

This system of records is exempt from the following provisions of title 5, United States Code, Section 552a; subsection (d).

Authority:

5 U.S.C. 552a(k)(5).

Reasons:

Investigatory material is exempt to the extent that the disclosure of such material would reveal the identity of a source who furnished the information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975 under an implied promise that the identity of the source would be held in confidence. This exemption will protect the identities of certain sources who would be otherwise unwilling to provide information to the Government.

[FR Doc.77-26596 Filed 9-12-77;8:45 am]

Title 37—Patents, Trademarks and Copyrights

CHAPTER II—COPYRIGHT OFFICE, LIBRARY OF CONGRESS

[Docket RM 76-1; Rules Doc. C]

PART 201—GENERAL PROVISIONS

Termination of Transfers and Licenses Covering Extended Renewal Term

AGENCY: Library of Congress, Copyright Office.

ACTION: Final regulation.

SUMMARY: This notice is issued to inform the public that the Copyright Office of the Library of Congress is adopting a new regulation pertaining to the termination of transfers and licenses covering the extended renewal term of copyright. The regulation is adopted to implement section 304(c) of the Act for General Revision of the Copyright Law. The effect of the regulation is to establish requirements governing the form, content, service, and recordation of the notices of termination identified in that section.

EFFECTIVE DATE: This regulation takes effect on October 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Jon Baumgarten, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559 (703-557-8731).

SUPPLEMENTARY INFORMATION: Under section 304(c) of Pub. L. 94-553 (90 Stat. 2541), the exclusive or nonexclusive grant of a transfer or license of a renewal copyright executed before January 1, 1978 is subject to termination in certain cases. Termination is effected by serving a notice of termination in writing upon the grantee or the grantee's successor in title under conditions specified in the law. Among other conditions, the notice of termination is to comply in form, content and manner of service "with requirements that the Register of Copyrights shall prescribe by regulation." A copy of the notice of termination shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

On November 15, 1976 we published in the FEDERAL REGISTER (41 FR 50300) a proposal to adopt a new regulation § 201.10 establishing requirements governing the form, content, service, and recordation of notices of termination. A number of comments were received in response to that proposal. On January 24, 1977 we published in the FEDERAL REGISTER (42 FR 4134) a notice extending the time to comment, specifically to "permit comment upon, reply to, or reconciliation of the comments already received * * *." Several additional comments were received under the extension of time: included among these were "Joint Reply Comments" submitted by several parties who, in their initial comments, had expressed substantially different views on certain aspects of our proposal.[1]

All comments filed in this proceeding have been well-reasoned and cogently presented. We particularly appreciate the efforts made by the signatories to the Joint Reply Comments, in their words, to "assist the Copyright Office in reconciling the positions taken by the parties in their opening comments." We have not, however, considered ourselves bound by any positions taken, or understandings among, the commenting parties. We have sought to evaluate and modify the proposed regulation in light of all comments received, and several of these comments have led us to make substantial changes from the proposed regulation. A discussion of the major substantive comments follows:

1. THE SERVICE OF NOTICES OF TERMINATION BEFORE JANUARY 1, 1978

The Preamble to our Notice of Proposed Rulemaking stated:

Section 304(c) expressly refers to the possibility of termination of grants during specified periods beginning on January 1, 1978, and requires the serving of notices "not less than two or more than ten years" before the effective date of termination. Thus, a reasonable interpretation would permit the serving of certain termination notices before January 1, 1978.

Several comments objected to this statement and argued that, under the Transitional and Supplementary provisions of the new Copyright Act, termination notices cannot be effectively served or recorded before January 1, 1978.

We recognize that there are arguments on both sides regarding the effectiveness of service or recordation of a termination notice before January 1, 1978. The statement in our Notice of Proposed Rulemaking, quoted above, was intended only to express our view that one reasonable interpretation of the Act would permit such service and recordation; we did not mean to imply that it was the only reasonable interpretation. The validity of pre-January 1, 1978 notices is one reasonable conclusion, and it must therefore be considered to be possible for a court to reach that result. Since section 304(c)(4)(A) of the Act requires termination notices to comply with Copyright Office regulations regarding form, content, and manner of service, our failure to issue these regulations and make them effective before January 1, 1978, could effectively prevent the question from ever coming before a court. We do not believe that our failure to issue regulations effective before January 1, 1978, should have the effect of preventing parties from serving and recording formally proper notices before that date and, if called upon, supporting their substantive validity before the courts.

We therefore adhere to the position just expressed. In making the termination notice regulation effective before January 1, 1978 it is our intent to permit compliance with certain sections of the statute by parties who believe they may serve and record termination notices before that date. The regulation does not purport to pass upon the validity or effectiveness of notices served or recorded before January 1, 1978.

2. IDENTIFICATION OF THE WORK IN WHICH RIGHTS ARE BEING TERMINATED

Our proposed regulation had required that a notice of termination identify the "title of each work covered by the grant being terminated, the name of at least one author of each such work, and, if possible and practicable, the renewal registration number for each such work." Several comments suggested that, since the period during which termination may be effected is measured from the date copyright was originally secured, the facts of original rather than renewal registration and the date copyright was originally secured would be preferable. We have accepted this suggestion and modified § 201.10(b)(ii) accordingly. However, a new paragraph (e)(2), discussed below, has been added to make clear that errors made in giving the date copyright was secured or the original registration number "made in good faith and without any intention to deceive, mislead, or conceal relevant information" will not affect the validity of the notice.

One comment suggested that, if the notice does not include the registration number, it must include a brief explanation of the absence of that information. However, the registration number is intended to serve only as a means of possible assistance to persons receiving a notice of termination in identifying the work to which the notice applies. It is not itself a substantive condition of termination and does not directly affect such matters as the adequacy of service or execution of the notice, or the time periods within which service may be made or termination effected. Under these circumstances, we do not believe it appropriate to burden the notice with an additional requirement which may ultimately become a source of confusion, error, or challenge.

One comment also suggested that, rather than requiring the name of "at least one author," as originally proposed, the regulations require the names of all authors of the work. We have not adopted this suggestion. The name of at least one author of the work will generally be sufficient for purposes of identifying the work. Under section 304(c) of the Act, the preparation of notice of termination will be occurring at a time far removed from the original creation and publication of a work and, in many cases, will involve successors of original authors having little, if any, knowledge of the details of original creation or publication. We do not believe it necessary to require the names of all authors in a provision directed only to identification of the work itself. Although it was asserted that the names of all authors are required for purposes other than identification of the work—namely, to "determine whether the proper parties have joined in the notice"—we do not agree. Under section 304(c) a notice terminating a grant made by more than one author may be effected as to any particular author's share in the work. There is no requirement of unanimity, majority interest, or the like, among granting co-authors. Another argument in favor of identifying all co-authors was that this information would be needed to determine whether the grantee might continue using the work on a non-exclusive basis under a grant from a non-terminating co-author. However helpful such information might be to those receiving termination of notices, this has nothing

[1] The Joint Reply Comments were submitted by the Authors League of America, Inc., the National Music Publishers Association, the American Guild of Authors and Composers, Columbia Pictures Industries, Inc., MCA Inc., Metro-Goldwyn-Mayer, Inc., Paramount Pictures Corp., United Artists Corp., Twentieth Century-Fox Film Corp., and Warner Bros., Inc. Other parties commenting in this proceeding were: M. William Krasilovsky, Esq., W. Michael Cleary, Esq., Association of American Publishers, Inc., Walt Disney Productions, Charles R. Brainard, Esq., Society of Authors Representatives, Inc., Commission on Federal Paperwork, and Music Publishers Assn., Inc.

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to do with the effectiveness of a termination notice served by those authors (or their successors), who do wish to terminate rights in a work to the extent of their share.

3 IDENTIFICATION OF THE GRANT BEING TERMINATED

Our proposed regulation required that a notice of termination state "the date of execution of the grant being terminated." Several objections were made by representatives of authors and composers to this proposal. It was noted that, since section 304(c) does not measure the period of permissible termination or service from the date of the grant, that date is not necessary to determine whether the notice can be served or whether the date of termination is correct. These representatives also pointed out that it will commonly be the case that the terminating author, or the terminating renewal claimant, widow, widower, children or grandchildren of a deceased author, will not have a copy of the grant or ready access to a copy. These objections are persuasive, and the final regulation does not require the date of grant.

For similar reasons, we have not adopted suggestions that the termination notice state the location of the grant document or include an offer to produce it, or that a copy of the grant be attached to the notice. Also, our original proposal that the notice identify "the names of persons who executed the grant" has been deleted from the identification of grant paragraph. (In particular cases, the names of some or all of the persons executing the grant may become necessary under other paragraphs of the regulation.)

Instead of the proposed and suggested date, name, location, and copy requirements just discussed, paragraph (b)(iii) of the final regulation requires that the notice include "a brief statement reasonably identifying the grant to which the notice of termination applies." This provision, supported in the Joint Reply Comments, also replaces our proposed requirement that the notice state "the nature of the grant and the rights covered by it". As pointed out in the original comments of the Authors League of America, the concepts of defining the "nature" of a grant and the "rights" conveyed can lead to unnecessary technical disputes, even among experts in the field. The requirement of "reasonable identification" in the final regulation is sufficient to meet our purpose and can be accommodated to varying factual and legal situations. Of course, there would be nothing to prevent a terminating party who wished to do so from including the date of execution, names of parties, or a copy of the contract in the notice under this paragraph.

4. ADDITIONAL INFORMATION

In our Notice of Proposed Rulemaking we stated that the proposed regulation "attempts to avoid the imposition of costly or burdensome requirements while, at the same time, giving the grantee and the public a reasonable opportunity to identify the affected grant and work from the information given in the notice." However, representatives of motion picture companies, who will frequently be in the position of receiving termination notices, argued that the notices should perform an additional function, namely, the providing of information necessary to give notice recipients some assurance that the conditions established in the Act for effective termination have been met. The Act does provide that (i) in the case of grants executed by persons other than the author, termination may only be effected by joint action of all surviving grantors; and (ii) in the case of grants executed by authors since deceased, termination must be effected by those of the author's surviving widow or widower, children and grandchildren who constitute more than one-half of that author's termination interest. Accordingly, the representatives of motion picture companies argued that the notice should include a complete listing of the original grantors (if other than the author) or of the surviving authors of the work and the widow or widower, children and grandchildren of deceased authors, together with an indication of those persons serving the notice who constitute more than one-half of the author's termination interest.

After careful consideration we concluded that, within limits, the providing of information related to compliance with these conditions is justified.[2] Moreover, since the Act itself requires the notice to be signed by or on behalf of all persons necessary to effect the termination, the providing of such information can reasonably be required under our authority to determine the "content" of the notice. At the same time, however, we remain convinced that the required contents of the notice must not become unduly burdensome to grantors, authors, or their successors, and must recognize that entirely legitimate reasons may exist for gaps in their knowledge and certainty.

In light of these considerations we have decided to require certain listings of grantors and author's successors in paragraph (b)(1)(v) of the final regulation. However, this "requirement" is subject to several important qualifications:

(a) We have not accepted the suggestion, implicit in language proposed by the motion picture companies, that when termination is sought of a grant executed by more than one author, the notice must include a list of all surviving authors and the widow or widower, children and grandchildren of any deceased author. As noted in paragraph 2 of this preamble, termination of a grant made by more than one author under section 304(c) may be effected by any of the granting authors, or that author's survivors, to the extent of that author's share. Additional information may be useful to recipients of termination notices but, when termination is sought as to one author's share, information as to other, non-terminating, surviving authors or the successors of other deceased authors is not related to compliance with the statutory conditions of termination. Accordingly, paragraph (b)(1)(v) of the final regulation requires a listing only of the statutory successors to that deceased author whose interest in the grant is being terminated.

(b) As an alternative to providing the listings, paragraph (b)(1)(v) will permit the notice to include both a statement of as much information as is currently available to terminating parties, with a brief explanation of why full information may be lacking, and an assertion that, to their best knowledge and belief, the notice has been signed by all required parties. Use of the word "currently," is intended to avoid any implication that this paragraph of the regulation itself requires that terminating parties first conduct an investigation.

(c) Under paragraph (e) of the final regulation, harmless or good-faith errors in providing the lists or giving the alternative explanation and assertion will not affect the validity of the notice.

The original comments of several motion picture companies also urged that we require the notice to include statements that the grant being terminated was not made by will and that the work was not made for hire. Although testamentary grants and works made for hire are excluded from section 304(c), we have not adopted this suggestion. There is no real reason to believe that recipients of termination notices will rely on such statements rather than on their own review of the nature of the work and grant. Moreover, in making such a review the relevant information may well be expected to be at least equally available to grantees as to original grantors, authors, or their successors. Under such circumstances, the requirement suggested in the comments would amount to a ritualistic formality serving no real purpose.

5. SIGNATURE

Following suggestions made in the Joint Reply Comments, paragraph (c) of § 202.10 has been revised to follow the language and intent of the statute as to the signatures required of a notice of termination. The alternative provision of paragraph (b)(1)(v), discussed above in item (4) of this preamble is not intended to affect these statutory requirements. Section 202.10(b)(1)(v) only provides an alternative to other requirements regarding the contents of the notice; whether the notice has been properly executed must be determined by the Act.

The final regulation also requires that the signature of an authorized agent clearly identify the person or person on whose behalf the agent is acting. One comment suggested that notices signed by agents be accompanied by an explanation of why the principal did not sign, and a statement of the agent's "source of authority"; another suggested that agents be required to certify their agency and authority under oath. Since the person on whose behalf an agent is acting must clearly be identified under paragraph (c)(3) of § 202.10 we consider these additional requirements unnecessary. The Act indicates no preference for a terminating party's own signature over that of an agent, nor does it suggest disfavor of an agent's participation in the decision to terminate.

To ensure clarity, paragraph (c)(4) of § 201.10 contains a new provision that the notice include a typewritten or legibly hand printed statement of the full names and addresses of the parties or agents signing the notice.

Paragraph (c)(2) requires that in certain cases where termination is exercised by the successors of a deceased author, the signature of those successors, or of their authorized agents, be accompanied by a "brief statement of their relationship or relationships to that author." This provision earlier appeared as § 201.10(b)(1)(v) of our proposed regulation. It is not intended to require any more than, for example, categorization as "widow", "widower", "child", or "grandchild" of the deceased author.

6. SERVICE; "SUCCESSORS IN TITLE"

A substantial number of comments revolved around the following portion of section 304(c)(3) of the Act: "The termination shall be effected by serving an advance notice in writing upon the grantee or the grantee's successor in title." The comments raised essentially two issues: (a) Who is a "successor in title" to a grantee; and (b) where there is a "successor in title", who must be served?

(a) "WHO IS A SUCCESSOR IN TITLE"?

The comment letters appear to offer two interpretations of the phrase "successor in title". Under one interpretation a "successor in title" to a grantee is only one who has acquired from that grantee all of the rights originally acquired by that grantee, for the identical duration as originally acquired and without qualification. Under another interpretation, one who acquires from a grantee any one or portion of the rights originally acquired by that grantee is a "successor in title" as to that right or portion.

The phrase "successor in title" is not defined in the new Copyright Act. However relevant it may be to judicial inquiry or legal advice, it is not appropriate for us to conclude in this proceeding that the phrase "successor in title" necessarily has or does not have a meaning related to the definitions of "copyright owner" or "transfer of copyright ownership" in section 101 of the Act, or to consider the meaning and significance of "successor in title" as used in other areas of law which may be analogous or relevant. This Office's actions in deciding whether or not to record a copy of a notice of termination, for example, will generally not involve an investigation as to whether the persons identified in the notice have been properly categorized. Accordingly, we have modified the proposed regulation only to substitute the statutory term "successor in title" where we had originally proposed the word "successor"; we have not adopted an interpretation of this phrase.

(b) WHERE THERE IS A "SUCCESSOR IN TITLE", WHO MUST BE SERVED?

Assuming there is a "successor in title" to a grantee, the comments indicated considerable uncertainty as to whether either one of or both of the "grantee" and "successor in title" must be served. Representatives of authors and composers, for example, pointed to the Act's use of the word "or" and expressed concern lest they be required to serve successors in title of whom they lacked knowledge in order to recapture the rights held by the successor. We agree that, whether or not the original grantee is still exploiting rights in a work, there are cases where author and composers are not aware of others holding rights in the work under a successorship to the original grantee. For example: the successor may not be actively exploiting the work; or no royalties may be owing to the author; or royalty statements may not separately identify sources of revenue; or the author's consent may not have been required for the successor's acquisition of rights; or a relevant document may not be recorded in the Copyright Office.

Representatives of producers and publishers, however, argued that use of the word "or" in the Act did not offer a complete option to parties serving termination notices and expressed concern over the possibility that their rights could be terminated by service of their predecessors in title and without their knowledge. We also agree that this does pose risks of liability and may generate an unfortunate lack of business certainty.

Section 201.10(d) of the final regulation attempts to deal with this problem. With considerable support in the comments from several parties who desired some guidance in this matter, paragraph (2) of this section provides that the service requirements of the Act are satisfied if a reasonable investigation is first made by the terminating parties and if: (i) The notice is served upon the grantee where the investigation does not give reason to believe there is a successor in title; or (ii) the notice is served upon the successor in title where the investigation does give reason to believe there is a particular successor in title. Paragraph (3) then defines certain elements to be included in a "reasonable investigation".

In order to avoid possible conflict with the literal language of the Act, paragraph (4) of § 201.10(d) contains an important qualification. This paragraph makes it clear that the regulations in paragraphs (2) and (3) of the section do not themselves impose an obligation on terminating parties to conduct a reasonable investigation, or to serve persons disclosed by such an investigation. If an investigation is not conducted, or if it does disclose (or would have disclosed) a successor in title who is not served, our regulations do not purport to question the validity of service. In cases where § 202.10(d)(2) or (3) have not been followed, any questions as to the validity of service are left solely to interpretation and application of 17 U.S.C. 304(c)(4) in other forums.

Two comments suggested that we require service by mail to be registered or certified. We have not accepted this suggestion. A requirement that service be effected by registered or certified mail might lead to totally inadvertant mistakes, and substantively insignificant grounds of avoiding or challenging termination. Moreover the provisions of the final regulation dealing with recordation provide a basis for making of a record of service. Although we recognize that this is not a complete answer, since recordation might occur considerably later than service, we are not persuaded that registered or certified mail should be made a requirement.

7. ERRORS

Paragraph (e)(1) of the final regulation is new. It adopts a suggestion made in the initial comments of the Authors League of America, Inc., and later endorsed in the Joint Reply Comments, that "harmless errors" in a notice of termination shall not render the notice invalid. Additionally, the final regulation requires specific items of information that, in some cases, were not in our proposal. We do not intend that the validity of notices of termination should be subject to disputes over whether errors concerning these specific items are "harmless." Accordingly, we have added a new paragraph (e)(2) to make clear that errors made in connection with this information will not affect the validity of the notice if they were made in good faith and without intent to deceive, mislead, or conceal information.

8. RECORDATION

Several comments suggested that the final regulations should provide some demonstration of the facts of service. As suggested in the Joint Reply Comments, we have added a new paragraph (ii) to § 201.10(f)(1) requiring that the copy of the notice submitted for recordation be accompanied "by a statement setting forth the date on which the notice was served and the manner of service, unless such information is contained in the notice."

This information need not appear in the notice itself, and inclusion is not a condition of a valid notice. However, the Copyright Office will not record a copy of a notice of termination unless a proper statement as required in this paragraph is submitted to accompany it. Changes have also been made in the provisions of the final regulation dealing with the fee and date of recordation, to reflect this requirement.

The Joint Reply Comments urged the Copyright Office to give "notice of recordation • • • to all parties named in the notice." Even if not considered a condition of effective termination or recordation, such a provision would impose upon

[2] The Joint Reply Comments would have us require such lists, but then provide that a failure to include them has no effect. This would render the provision nugatory and the "requirement" meaningless, and we have therefore not accepted this suggestion.

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the Copyright Office in an affirmative responsibility which was not contemplated by the Act and which we are not prepared or equipped to undertake. Of course, our records of recorded copies of termination notices will be fully open to public inspection. Moreover, the search services of the Office will be available to interested parties and our search personnel will extend full cooperation and assistance in responding to requests for periodic or other specially-structured search reports.

We have amended paragraph (f)(1)(i) of § 201.10 to make it clear that the copy submitted for recordation must "include the actual signature or signatures, or a reproduction of the actual signature or signatures, appearing" on the notice as served. This requirement was also contemplated by our original proposal, which provided that the copy be a "complete and exact duplicate of the notice as served." However, some question was raised on the point in one comment, and we have therefore decided to mention the signature requirement expressly. Although the comment suggested that the copy need not bear the signatures, the significance of signature under the Act has led us to conclude otherwise.

Paragraph (4) of § 201.10(f) is new, and reflects a point made in several comments. That the act of the Copyright Office in recording a copy of a notice of termination does not accord that notice any presumption of validity. Although this point is rather clear from the statute itself, sufficient concern was expressed to justify stating it expressly in the regulation.

One comment suggested that we add a new section to permit the filing of "notices of dispute of termination", containing specific information, by grantees or successors in title who challenge a notice of termination. As the statute does not specifically provide for such notices, or attach any consequences to their recordation, we have not adopted this suggestion.

Part 201 of 37 CFR Chapter II is amended by adding a new § 201.10 to read as follows:

§ 201.10 Notices of termination of transfers and licenses covering extended renewal term.

(a) *Form.* The Copyright Office does not provide printed forms for the use of persons serving notices of termination.

(b) *Contents.* (1) A notice of termination must include a clear identification of each of the following:

(i) The name of each grantee whose rights are being terminated, or the grantee's successor in title, and each address at which service of the notice is being made;

(ii) The title and the name of at least one author of, and the date copyright was originally secured in, each work to which the notice of termination applies; and, if possible and practicable, the original copyright registration number;

(iii) A brief statement reasonably identifying the grant to which the notice of termination applies;

(iv) The effective date of termination; and

(v) In the case of a termination of a grant executed by a person or persons other than the author, a listing of the surviving person or persons who executed the grant. In the case of a termination of a grant executed by one or more of the authors of the work where the termination is exercised by the successors of a deceased author, a listing of the names and relationships to that deceased author of all of the following, together with specific indication of the person or persons executing the notice who constitute more than one-half of that author's termination interest: That author's surviving widow or widower; and all of that author's surviving children; and, where any of that author's children are dead, all of the surviving children of any such deceased child of that author; however, instead of the information required by this subdivision (v), the notice may contain both of the following: (A) A statement of as much of such information as is currently available to the person or persons signing the notice, with a brief explanation of the reasons why full information is or may be lacking; together with (B) a statement that, to the best knowledge and belief of the person or persons signing the notice, the notice has been signed by all persons whose signature is necessary to terminate the grant under section 304(c) of title 17, U.S.C., or by their duly authorized agents.

(2) Clear identification of the information specified by paragraph (b)(1) of this section requires a complete and unambiguous statement of facts in the notice itself, without incorporation by reference of information in other documents or records.

(c) *Signature.* (1) In the case of a termination of a grant executed by a person or persons other than the author, the notice shall be signed by all of the surviving person or persons who executed the grant, or by their duly authorized agents.

(2) In the case of a termination of a grant executed by one or more of the authors of the work, the notice as to any one author's share shall be signed by that author or by his or her duly authorized agent. If that author is dead, the notice shall be signed by the number and proportion of the owners of that author's termination interest required under clauses (1) and (2) of section 304(c) of title 17, U.S.C., or by their duly authorized agents, and shall contain a brief statement of their relationship or relationships to that author.

(3) Where a signature is by a duly authorized agent, it shall clearly identify the person or persons on whose behalf the agent is acting.

(4) The handwritten signature of each person effecting the termination shall either be accompanied by a statement of the full name and address of that person, typewritten or printed legibly by hand, or shall clearly correspond to such a statement elsewhere in the notice.

(d) *Service.* (1) The notice of termination shall be served upon each grantee whose rights are being terminated, or the grantee's successor in title, by personal service, or by first-class mail sent to an address which, after a reasonable investigation, is found to be the last known address of the grantee or successor in title.

(2) The service provision of section 304(c)(4) of title 17, U.S.C., will be satisfied if, before the notice of termination is served, a reasonable investigation is made by the person or persons executing the notice as to the current ownership of the rights being terminated, and based on such investigation: (i) If there is no reason to believe that such rights have been transferred by the grantee to a successor in title, the notice is served on the grantee; or (ii) if there is reason to believe that such rights have been transferred by the grantee to a particular successor in title, the notice is served on such successor in title.

(3) For purposes of subparagraph (2) of this paragraph (d), a "reasonable investigation" includes, but is not limited to, a search of the records in the Copyright Office; in the case of a musical composition with respect to which performing rights are licensed by a performing rights society, as defined by section 116(e)(3) of title 17, U.S.C., a "reasonable investigation" also includes a report from that performing rights society identifying the person or persons claiming current ownership of the rights being terminated.

(4) Compliance with the provisions of clauses (2) and (3) of this paragraph (d) will satisfy the service requirements of section 304(c)(4) of title 17, U.S.C. However, as long as the statutory requirements have been met, the failure to comply with the regulatory provisions of subparagraph (2) or (3) of this paragraph (d) will not affect the validity of the service.

(e) *Harmless errors.* (1) Harmless errors in a notice that do not materially affect the adequacy of the information required to serve the purposes of section 304(c) of title 17, U.S.C., shall not render the notice invalid.

(2) Without prejudice to the general rule provided by subparagraph (1) of this paragraph (e), errors made in giving the date or registration number referred to in paragraph (b)(1)(ii) of this section, or in complying with the provisions of paragraph (b)(1)(v) of this section, or in describing the precise relationships under clause (2) of paragraph (c) of this section, shall not affect the validity of the notice if the errors were made in good faith and without any intention to deceive, mislead, or conceal relevant information.

(f) *Recordation.* (1) A copy of the notice of termination will be recorded in the Copyright Office upon payment of the fee prescribed by subparagraph (2) of this paragraph (f) and upon compliance with the following provisions:

(i) The copy submitted for recordation shall be a complete and exact duplicate of the notice of termination as served and shall include the actual signature or signatures, or a reproduction of the actual signature or signatures, appearing on the notice; where separate copies of the same notice were served on more than one grantee or successor in title, only one copy need be submitted for recordation; and

(ii) The copy submitted for recordation shall be accompanied by a statement setting forth the date on which the notice was served and the manner of service, unless such information is contained in the notice.

(2) For a document consisting of six pages or less, covering no more than one title, the basic recordation fee is $5 if recorded before January 1, 1978, and $10 if recorded after December 31, 1977; in either case an additional charge of 50 cents is made for each page over six and each title over one. The statement referred to in paragraph (f)(1)(ii) of this section will be considered a part of the document for this purpose.

(3) The date of recordation is the date when all of the elements required for recordation, including the prescribed fee and, if required, the statement referred to in paragraph (f)(1)(ii) of this section, have been received in the Copyright Office. After recordation the document, including any accompanying statement, is returned to the sender with a certificate of record.

(4) Recordation of a notice of termination by the Copyright Office is without prejudice to any party claiming that the legal and formal requirements for issuing a valid notice have not been met.

(17 U.S.C. 207, and under the following sections of Title 17 of the United States Code as amended by Pub. L. 94-553: Sections 304(c); 702; 708(11).)

Dated: September 7, 1977.

BARBARA RINGER,
Register of Copyrights.

Approved:

DONALD C. CURRAN,
Acting Librarian of Congress.

[FR Doc.77-26590 Filed 9-12-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 782-2]

PART 600—FUEL ECONOMY OF MOTOR VEHICLES

Fuel Economy Calculation and Test Procedure for 1978 and Later Model Year Automobiles

AGENCY: Environmental Protection Agency.

ACTION: Interim-Final Rulemaking.

SUMMARY: This Interim-Final Rulemaking establishes procedures for calculating a manufacturer's average fuel economy for nonpassenger automobiles effective in 1979 and later model years by extending previously published regulations on 1978 and later model year passenger automobiles to apply to nonpassenger automobiles. The term "nonpassenger automobiles" generally means light trucks and vans, and is defined by the Secretary of Transportation in a separate rulemaking. The value calculated in accordance with these procedures will be used by the Secretary of Transportation in enforcing the fuel economy standards established by the Secretary under authority granted in Title V, of the Motor Vehicle Information and Cost Savings Act, as amended.

DATE: October 13, 1977. Comments with respect to model year 1980 and later must be received no later than November 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Paula Machlin, Regulatory Management Staff, Office of Mobile Source Air Pollution Control, U.S. Environmental Protection Agency, Washington, D.C. 20460 (202-755-0596).

SUPPLEMENTARY INFORMATION: Title V of the Motor Vehicle Information and Cost Savings Act, as amended ("the Act", 15 U.S.C. 2001 et seq., mandates the establishment of a comprehensive program to promote the manufacture and purchase of increasingly fuel efficient automobiles. The responsibility for carrying out this program is divided among several Federal agencies.

Specifically, section 503 of the Act requires the Environmental Protection Agency to develop testing and calculation procedures by which the fuel economy averages of a manufacturer's passenger automobile (PA) and nonpassenger automobile (NPA) fleets will be determined each model year, beginning in model years 1978 and 1979, respectively. In addition, EPA is required to perform, or to cause to be performed, the fuel economy testing and calculation that is necessary for determining a manufacturer's fuel economy average and for fuel economy labeling pursuant to section 506.

The manufacturer's average fuel economy values (AFE) calculated by EPA will be used by the Secretary of Transportation for comparison with the applicable fuel economy standards, and in assessing penalties or credits, as appropriate, under sections 507 and 508 of the Act. Section 502 establishes average fuel economy standards for model years 1978-80 and 1985 PA's. That same section requires the Secretary to establish fuel economy standards for model years 1981-1984 PA's, and for model year 1979 and later NPA's, based on technical, economic, and energy-related considerations. Under section 501, the Secretary is also responsible for defining which vehicles are to be considered automobiles for the purposes of the Act and, of those vehicles, which are PA's and which are NPA's.

PUBLICATION WITHOUT FORMAL PUBLIC COMMENT PERIOD

Publication of this rule establishes interim-final procedures for the testing and calculation of a manufacturer's average fuel economy for model year 1979 and later nonpassenger automobiles. Comments are requested on this action and will be considered with respect to model year 1980 and later. A Notice of Proposed Rulemaking (NPRM) has not been previously issued.

Section 553 of Title 5 of the United States Code (pertaining to administrative procedure) provides for the promulgation of regulations without prior issuance of an NPRM, "When the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure are impracticable, unnecessary, or contrary to the public interest."

Section 503 of the Act requires that fuel economy testing and calculation regulations be published not less than 12 months prior to the model year to which such procedures apply. Thus the regulations for model year 1979 NPA's must be published no later than August, 1977, to the extent that such procedures apply to model year 1979. (EPA has previously found that, for the purpose of meeting the deadlines in section 503, a model year begins no earlier than August of the preceding calendar year (September 10, 1976, 41 FR 38674).) Thus, EPA finds that issuance of an NPRM and provision of a public comment period for this rulemaking prior to interim promulgation of these regulations would at this time be contrary to the public interest.

From the time that the Act was enacted on December 22, 1975, EPA has devoted considerable time and effort to developing regulations that prescribe fuel economy testing and calculation procedures for determining a manufacturer's average fuel economy for model year 1978 and later PA's, and to providing technical assistance to DOT in support of DOT's enforcement responsibilities under the Act. During this same period, regulations have been prepared to implement sections 506 (fuel economy labeling) and 511 (fuel economy retrofit devices) of the Act. The level of effort required to carry out these responsibilities, together with the deadline in the Act, have made it impossible to issue rules for 1979 nonpassenger automobiles with prior issuance of an NPRM.

In addition, it was apparent to EPA that it would be appropriate to pattern the NPA fleet average calculation scheme after that for PA's and that, therefore, development of NPA procedures would be greatly facilitated if EPA was able to capitalize on experience gained with PA's. As noted throughout this rule, many of the provisions of the passenger automobile AFE calculation regulations are extended by this rule to apply to nonpassenger automobiles.

In developing the testing and calculation scheme for PA's, EPA consulted with and provided drafts to interested parties including manufacturers and other interested agencies. The direction ultimately taken by EPA in formulating the PA testing and calculation scheme was significantly affected by these consultations, and the resulting rule has been favorably received by all parties. (Background information pertaining to public

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participation in developing the PA rules is available on the Public Docket.) Because the majority of the provisions for the testing and calculation of a manufacturer's nonpassenger automobile AFE contained in this rule are substantially the same as those established for PA's, EPA expects that these rules will be favorably received by all interested parties as well. Nevertheless, EPA has provided interested parties the opportunity to comment informally on drafts of this rule. The responses received were generally favorable.

Background: Fuel Economy Regulations Currently in Effect

To a large extent, the provisions of this regulation are based on previously published EPA regulations (September 10, 1976, 41 FR 38674). Those regulations establish fuel economy testing and calculation procedures to be used in generating fuel economy label values for all automobiles (i.e., PA's and NPA's) under section 506 of the Act, as well as a procedure for calculating the passenger automobile AFE value to be used by the DOT in enforcing the applicable PA fuel economy standards. (Additional provisions that pertain specifically to fuel economy labeling under section 506 are contained in the November 10, 1976 Federal Register (41 FR 49752).) A detailed discussion of the issues involved and the alternatives evaluated in developing the vehicle selection, testing, and calculation procedures established previously is contained in the preamble to the regulations.

In consultation with DOT, the EPA has determined that a majority of the provisions of the existing regulations can be extended to apply to the calculation of nonpassenger automobile average fuel economy, since the legal, technical, and administrative considerations are generally the same with respect to both classes of automobiles. In both cases, the statute requires that fuel economy testing be conducted in conjunction with emissions testing to the extent practicable and provides for a civil penalty of $5 per automobile for .1 mpg that the manufacturer's average fuel economy is below the standard. Thus the test vehicle selection scheme for both PA's and NPA's must permit average fuel economy calculations to be made with the same degree of accuracy, constrained by the same economic considerations such as the costs of testing (to both government and industry). Therefore, the provisions of the existing regulations on passenger automobile AFE calculation are extended by this rule to nonpassenger automobiles except where modifications were necessary to account for inherent differences between PA's and NPA's or to maintain consistency with actions taken by DOT pursuant to its responsibilities under the Act.

It should also be noted that this regulation provides for use of the same procedures for test vehicle selection, for the measurement of a test vehicle's fuel consumption, and for sales-weighting test results to yield a single value for a model type established for fuel economy labeling purposes (published in final on September 12, 1977). Although there is no explicit statutory requirement that EPA adopt the same procedures in calculating a manufacturer's nonpassenger automobile AFE as are used in labeling, it is clearly most reasonable to do so, since it minimizes cost to both industry and government without affecting the program adversely.

This regulation will require an increase in the number of fuel economy tests that must be performed by the industry over that required for labeling purposes early in the model year. For model year 1979, the increase will not be significant. EPA will reevaluate the impacts of the nonpassenger automobile vehicle selection and testing regulations in future model years in light of developments that affect the appropriateness of the rule.

In addition, there may be an increase in the number of fuel economy tests required to account for running changes during the model year. A running change is a design modification made by a manufacturer during the model year, usually to correct an unexpected problem occurring in the field, to optimize fuel economy or performance, or to save costs. The provisions that currently apply to running change testing of PA's for fuel economy purposes are extended by this regulation to NPA's, as noted previously. As discussed in the preamble to the passenger car regulations, exemptions from running change testing will be granted if the manufacturer's preliminary average fuel economy calculation exceeds the applicable fuel economy standard by a safety margin of an as yet unspecified amount. That amount will be of sufficient magnitude to ensure that the manufacturer remains in compliance during the model year irrespective of the effect of running changes.

Modifications to the PA Testing and Calculation Regulations That Are Established for NPA's in This Regulation

It was necessary to modify several aspects of the passenger automobile AFE calculation procedure in establishing a procedure for NPA's to account for inherent differences between PA's and NPA's as well as to maintain consistency with actions taken by DOT pursuant to its authority under the Act. Those modifications are discussed below:

1. *Test Vehicle Selection.* This regulation contains a provision granting the EPA Administrator authority to select additional test vehicles in those NPA base levels [1] for which he determines that the level of testing under the general vehicle selection rules (§ 600.207 and § 600.605) is not sufficiently representative of that base level. (In many cases, only one vehicle configuration is tested within a base level.) This could occur if the vehicle configurations comprising that NPA base level exhibit a wide range in magnitude for a specific parameter. It is expected that this authority will be evoked mainly to select additional vehicles based on the existence of a wide range of axle ratios among vehicle configurations in a NPA base level. EPA has determined that a range of axle ratio on the order of 0.75 (found in some PA base levels) can result in relatively high variability within a base level. In fact, EPA explored the possibility of including axle ratio as a determinant in the definition of base level during the development of the PA regulation, and found that it would yield very little benefit while incurring considerable cost to both the Agency and the industry.

It is expected that axle ratio ranges will be greater than 0.75 in about 25 percent of the NPA base levels. Consequently, it is desirable to permit the Administrator to isolate those cases where additional testing is needed to insure that the test fleet adequately represents the over-all fleet. EPA anticipates establishing guidelines to define where additional testing might be required (such as axle ratio bands).

2. *Two Categories of NPA's with Distinct Standards.* On March 14, 1977, DOT published a regulation under section 502 that established two categories of NPA's and a fuel economy standard applicable to each effective in model year 1979 (42 FR 13807). The two categories are entitled "jeep-type vehicles" and "all other NPA's", and the fuel economy standards are 15.8 mpg and 17.2 mpg, respectively. Moreover, in that rule the DOT provided that a manufacturer may determine compliance by either (1) comparing the AFE for his entire NPA fleet to the standard for the "all other NPA" category, or (2) comparing the AFE for each category of his NPA fleet to standards for their respective categories.

Accordingly, this regulation establishes a procedure for the separate calculation of AFE values for a manufacturer's jeep-type vehicles and for all other NPA's, and a procedure for calculating a single value for a manufacturer's entire NPA fleet. In the case where a manufacturer chooses to demonstrate compliance with the fuel economy standards on a separate basis for each NPA category, the value for each category will be calculated on a production-weighted model type basis. An AFE value will be calculated for the import portion of the vehicles in each category, and that value will be included in the respective calculations as if it were a model type value.

In the case where a manufacturer opts to demonstrate compliance with the "all other NPA" fuel economy standard on the basis of his entire NPA fleet, average fuel economy will also be calculated on a production-weighted model type basis. An AFE value will be calculated for the import portion of his entire NPA fleet, and that value will be included in the final calculation as if it were a model type AFE value.

In some cases, vehicles that are grouped in the same car line for labeling purposes will be grouped into different NPA categories. For example, the Ram Charger (a car line) is produced both with and without four-wheel drive. The four-wheel drive version of the Ram Charger is a jeep-type vehicle under the current DOT definition, but the two-wheel drive Ram Charger is not. For the purpose of calculating average fuel economy in the case of vehicles that fall into the same car line but different NPA categories, separate model type fuel economy values will be calculated for the vehicles in each category.

3. *Inclusion of Imports in the Calculation of NPA AFE.* The regulations on passenger automobile AFE calculation limit the volume of imports that may be included in the calculation for model years prior to 1980 and require that the fuel economy of the remaining portion of a manufacturer's import fleet be calculated on a separate basis. In 1980 and later model years, the entire imported PA fleet will be treated as if produced by a separate manufacturer. The Act specifically mandates this approach for passenger automobiles but does not provide similar guidance with respect to imported NPA's.

This regulation provides for the calculation of an AFE value for the import component of a manufacturer's NPA fleet. That import fuel economy value is then treated as a model type fuel economy value in the calculation of a manufacturer's average fuel economy. The approach is identical to that used for PA's in model year 1978 and 1979, except that the production-weighting factor of the import fuel economy value is not limited. The approach reflects the methodology used by DOT in establishing the NPA fuel economy standards as discussed in detail in the March 14, 1977, Federal Register (42 FR 13807). DOT is currently reviewing alternative approaches to the inclusion of imported NPA's in the AFE calculation for use in 1980 and later model years. EPA will modify the NPA calculation procedures with respect to inclusion of imports as necessary to reflect changes in DOT methodology.

Other Issues

The DOT published a regulation (July 28, 1977, 42 FR 38362) under section 501(d)(1) of the Act establishing which vehicles are to be considered automobiles for the purposes of the Act, and, of those vehicles, which are PA's and which are NPA's. The NPA class includes all vehicles currently certified by EPA as light-duty trucks for emissions purposes (Gross Vehicle Weight Rating of no greater than 6,000 lbs.), plus vehicles such as the Chevrolet El Camino and the Ford Ranchero. EPA tests the latter vehicles under the light-duty vehicle emissions testing procedures. The Chevrolet El Camino and Ford Ranchero are classified as light-duty vehicles by EPA for emissions purposes since those vehicles are derivatives of passenger cars and, as such, passenger car emission control technology may be applied. Under EPCA, vehicles must be classified based on design intent. The DOT has classified those vehicles as nonpassenger automobiles based on their similarity to pickup trucks in view of the open bed configurations.

As a result, the calculation of a manufacturer's AFE for NPA's will be based on data generated under different test procedures. The Agency has determined that this will not affect the validity of the calculation, since the fuel economy of the test vehicles are appropriately measured under the respective procedures and the classifications are appropriate with respect to statutory requirements.

It should also be noted that DOT published a regulation (July 28, 1977, 42 FR 38369) that assigns the responsibility for compliance with AFE standards to the incomplete vehicle manufacturer in the case of vehicles that are completed by a subsequent manufacturer. Incomplete vehicles will be treated as a model type in calculating AFE.

Request for Comments

Manufacturers and other interested parties may participate in this rulemaking for 1980 and later model years by submitting comments (in quadruplicate) to the Deputy Assistant Administrator, Environmental Protection Agency, Attention: Office of Mobile Source Air Pollution Control AW-455, 401 M Street SW., Washington, D.C. 20460, no later than November 25, 1977. The regulations established here are effective for model year 1979.

It is EPA's intention to assure all interested parties an opportunity to study all information which may become the basis for EPA's final action in this proceeding. Accordingly, the Agency will not consider in this rulemaking any material which cannot be made available to the public. Parties who wish to submit comments on this Interim-Final Rulemaking are cautioned that EPA will summarily return any comments which are claimed, in whole or in part, to be confidential.

Availability of Material

A copy of all public comments will be available for inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

Economic Impact

Note: The Environmental Protection Agency has determined that this document does not contain a major action requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: August 31, 1977.

Douglas M. Costle,
Administrator.

Part 600 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 600.002-79 is revised to read as follows:

§ 600.002-79 Definitions.

(a) The following definitions apply beginning with the 1979 model year. The definitions in § 600.002-78 remain effective except that definition number (14) is hereby superseded, definition numbers (41) and (42) are added. All terms used in this subpart that are not defined herein shall have the meaning given them in the Act.

(1) "Act" means Part I of Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.).

(2) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(3) "Secretary" means the Secretary of Transportation or his authorized representative.

(4) "Automobile" means any 4-wheeled vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, or highways (except any vehicle operated on a rail or rails) and which is rated at 6,000 lbs gross vehicle weight or less or is a type of vehicle which the Secretary determines is substantially used for the same purposes.

(5) "Passenger Automobile" means any automobile which the Secretary determines is manufactured primarily for use in the transportation of no more than 10 individuals.

(6) "Model Year" means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year. If a manufacturer has no annual production period, the term "model year" means the calendar year.

(7) "Federal Emission Test Procedure" refers to the dynamometer driving schedule, dynamometer procedure, and sampling and analytical procedures described in Part 86 for the respective model year, which are used to derive city fuel economy data.

(8) "Federal Highway Fuel Economy Test Procedure" refers to the dynamometer driving schedule, dynamometer procedure, and sampling and analytical procedures described in Subpart B of this part and which are used to derive highway fuel economy data.

(9) "Fuel" means gasoline and diesel fuel.

(10) "Fuel Economy" means the average number of miles traveled by an automobile or group of automobiles per gallon

[1] To facilitate test vehicle selection and the calculation of a manufacturer's average fuel economy, EPA has grouped vehicles into several categories and subcategories based on engineering parameters that are expected to significantly affect fuel economy. The categories are defined in the regulations in § 600.002 as follows:

(19) "Model Type" means a unique combination of car line, basic engine, and transmission class.

(23) "Base Level" means a unique combination of basic engine, inertia weight, and transmission class.

(24) "Vehicle Configuration" means a unique combination of basic engine, engine code, inertia weight, transmission configuration, and axle ratio within a base level.

A more detailed discussion of the rationale for those definitions is contained in the preamble to the September 10, 1976, Federal Register notice (41 FR 38674).

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of gasoline or diesel fuel consumed as computed in § 600.113 or § 600.207.

(11) "City Fuel Economy" means the fuel economy determined by operating a vehicle (or vehicles) over the driving schedule in the Federal Emission Test Procedure.

(12) "Highway Fuel Economy" means the fuel economy determined by operating a vehicle (or vehicles) over the driving schedule in the Federal Highway Fuel Economy Test Procedure.

(13) "Combined Fuel Economy" means the fuel economy value determined for a vehicle (or vehicles) by harmonically averaging the city and highway fuel economy values, weighted 0.55 and 0.45 respectively.

(14) "Average Fuel Economy" means the unique fuel economy value as compiled under § 600.510 for a specific class of automobiles produced by a manufacturer that are subject to average fuel economy standards.

(15) "Certification Vehicle" means a vehicle which is selected under § 86.077-24(b)(1) and used to determine compliance under § 86.077-30 for issuance of an original certificate of conformity.

(16) "Fuel Economy Data Vehicle" means a vehicle used for the purpose of determining fuel economy which is not a certification vehicle.

(17) "Label" means a sticker that contains fuel economy information and is affixed to new automobiles in accordance with Subpart D of this part.

(18) "Dealer" means a person who resides or is located in the United States, any territory of the United States or the District of Columbia and who is engaged in the sale or distribution of new automobiles to the ultimate purchaser.

(19) "Model Type" means a unique combination of car line, basic engine, and transmission class.

(20) "Car Line" means a name denoting a group of vehicles within a make or car division which has a degree of commonality in construction (e.g., body, chassis.) Car line does not consider any level of decor or opulence and is not generally distinguished by characteristics as roof line, number of doors, seats or windows except for station wagons or light-duty trucks. Station wagons and light-duty trucks are considered to be different car lines than passenger cars.

(21) "Basic Engine" means a unique combination of manufacturer, engine displacement, number of cylinders, fuel system (as distinguished by number of carburetor barrels or use of fuel injection), catalyst usage, and other engine and emission control system characteristics specified by the Administrator.

(22) "Transmission Class" means a group of transmissions having the following common features: Basic transmission type (manual, automatic, or semi-automatic), number of forward speeds (e.g., manual 4-speed, 3-speed automatic, 2-speed semi-automatic), and other characteristics determined to be significant by the Administrator (e.g., "creeper" first gear, over-drive final gear ratio, or overdrive unit) considering factors such as the manufacturer's recommendation for use and/or the numerical gear ratios.

(23) "Base Level" means a unique combination of basic engine, inertia weight, and transmission class.

(24) "Vehicle Configuration" means a unique combination of basic engine, engine code, inertia weight, transmission configuration, and axle ratio within a base level.

(25) "Engine Code" means a unique combination, within an engine-system combination (as defined in Part 86 of this Chapter), of displacement, carburetor (or fuel injection) calibration, distributor calibration, choke calibration, auxiliary emission control devices and other engine and emission control system components specified by the Administrator.

(26) "Inertia Weight" means the inertia weight class into which a vehicle is grouped based on its loaded vehicle weight in accordance with the provisions of Part 86 of this chapter.

(27) "Transmission Configuration" means a unique combination, within a transmission class, of the number of forward gears, and, if applicable, overdrive. The Administrator may further subdivide a transmission configuration (based on such criteria as gear ratios, torque converter multiplication ratio, stall speed, shift calibration, etc.) if he determines that significant fuel economy differences exist within that transmission configuration.

(28) "Axle Ratio" means the number of times the input shaft to the differential (or equivalent) turns for each turn of the drive wheels.

(29) "Auxiliary Emission Control Devices (AECD)" means an element of design as defined in Part 86.

(30) "Rounded" means a number shortened to the specific number of decimal places in accordance with the "Round Off Method" specified in ASTM E 29-67.

(31) "Calibration" means the set of specifications, including tolerances, unique to a particular design, version or application of a component or component assembly capable of functionally describing its operation over its working range.

(32) "Production Volume" means, for a domestic manufacturer, the number of vehicle units domestically produced in a particular model year but not exported, and for a foreign manufacturer, means the number of vehicle units of a particular model imported into the United States.

(33) "Body Style" means a level of commonality in vehicle configurations as defined by number of doors and roof treatment (e.g., sedan, convertible, fastback, hatchback) and number of seats (i.e. front seat, second, or third seat) requiring seat belts pursuant to National Highway Traffic Safety Administration safety regulations. Station wagons and light trucks are identified as car lines.

(34) "Hatchback" means a passenger automobile where the conventional luggage compartment, i.e., trunk, is replaced by a cargo area which is open to the passenger compartment and accessed vertically by a rear door which encompasses the rear window.

(35) "Pickup Truck" means a nonpassenger automobile which has a passenger compartment and an open cargo bed.

(36) "Station Wagon" means a passenger automobile with an extended roof line to increase cargo or passenger capacity, cargo compartment open to the passenger compartment, a tailgate and one or more rear seats readily removed or folded to facilitate cargo carrying.

(37) "Gross Vehicle Weight Rating" means the manufacturer's gross weight rating for the individual vehicle.

(38) "Ultimate Consumer" means the first person who purchases an automobile for purposes other than resale, or leases an automobile.

(39) "Van" means any nonpassenger automobile having an integral enclosure, fully enclosing the driver compartment and load-carrying device, and having no body sections protruding more than 30 inches ahead of the leading edge of the windshield.

(40) "Base Vehicle" means the lowest priced version of each body style that makes up a car line.

(41) "Nonpassenger automobile" means an automobile that is not a passenger automobile, as defined by the Secretary of Transportation at 42 CFR 523.5.

(42) "Jeep-type Vehicle" means a 4-wheel drive, general purpose automobile capable of off-highway operation that has a wheelbase not more than 110 inches and that has a jeep-type configuration, as defined by the Secretary of Transportation at 42 CFR 533.4.

2. Section 600.002-80 is amended by revising definition (14) and by adding new definitions (40) and (41), reading as follows:

§ 600.002-80 Definitions.

* * * * *

(14) "Average Fuel Economy" means the unique fuel economy value as compiled under § 600.510 for a specific class of automobiles produced by a manufacturer that are subject to average fuel economy standards.

* * * * *

(41) "Nonpassenger automobile" means an automobile that is not a passenger automobile, as defined by the Secretary of Transportation at 42 CFR 523.5.

(42) "Jeep-type Vehicle" means a 4-wheel drive, general purpose automobile capable of off-highway operation that has a wheelbase not more than 110 inches and that has a jeep-type configuration, as defined by the Secretary of Transportation at 42 CFR 533.4.

* * * * *

3. The title of Subpart F is revised to read as follows:

Subpart F—Fuel Economy Regulations for Model Year 1978 Passenger Automobiles and for 1979 and Later Model Year Automobiles (Nonpassenger and Passenger)—Procedures for Determining Manufacturer's Average Fuel Economy

4. A new § 600.501-79 is added reading as follows:

§ 600.501-79 General applicability.

The provisions of this subpart are applicable to 1979 and later model year automobiles (passenger and nonpassenger).

5. A new § 600.502-79 is added reading as follows:

§ 600.502-79 Definitions.

(a) The following definitions apply beginning with the 1979 model year. The definitions in § 600.502-78 remain effective except that provision (a)(2)(ii) is hereby superseded. The definitions in § 600.002 also apply to this subpart.

(1) "Declared value" of imported components shall be the value at which components are declared by the importer to the U.S. Customs Service at the date of entry into the customs territory of the United States, or, with respect to imports into Canada, the declared value of such components as if they were declared as imports into the United States at the date of entry into Canada.

(2) "Cost of production" of a car line shall mean the aggregate of the products of:

(i) The average U.S. dealer wholesale price for such car line as computed from each official dealer price list effective during the course of a model year, and

(ii) The number of automobiles within the car line produced during the part of the model year that the price list was in effect.

6. A new § 600.506-79 is added reading as follows:

§ 600.506-79 Preliminary determination of manufacturer's average fuel economy.

(a) The manufacturer shall submit, for approval by the Administrator, a determination of his preliminary average fuel economy value.

(1) The average must be submitted within 10 days after the date of the availability of the initial range of fuel economy values of comparable automobiles (ref. § 600.314(d)(1) or within 30 days after the date the manufacturer's first model type is initially offered for sale, whichever is later.

(2) The deadline for submission of the preliminary average may be waived upon petition by the manufacturer to the Administrator if the Administrator finds good cause. The Administrator will set a new reporting date if a waiver is granted.

(b) The preliminary average fuel economy value will be calculated according to the procedures in § 600.510 except that:

(1) Sales projections will be used for the calculations in place of the production values, and must be updated at the time of the preliminary calculation.

(2) The fuel economy data used in the calculation shall be that approved by the Administrator as of the date of the preliminary average calculation including:

(i) All fuel economy data from original certification vehicles and fuel economy data vehicles as required by § 600.207,

(ii) Fuel economy data from all vehicles tested for running changes approved under § 86.077-23,

(iii) Fuel economy data required by paragraph (d), and

(iv) Other fuel economy data accepted by the Administrator under Subpart A of this part.

(c) Minimum data requirements will be established under paragraph (d) of this section for each base level with a sales fraction of 0.0100 or greater (known as a significant base level).

(1) The sales to be used in this determination are those in paragraph (b)(1) of this section.

(2) For the purposes of this section, the sales fraction for a base level shall be the quotient (rounded to the nearest 0.0001) of projected sales of passenger automobiles (where projected sales are calculated according to § 600.511), nonpassenger automobiles, or category of nonpassenger automobiles, as appropriate, except that projected sales are used in place of production values.

(d) For each significant base level identified in paragraph (c) of this section the manufacturer shall submit prior to the submission of the preliminary calculation, fuel economy data for those vehicle configurations, taken in order of decreasing sales (according to the projection submitted in paragraph (b)(1) of this section, whose sales total a minimum of 90 percent of the sales of that base level. For all other base levels, the minimum data requirements of § 600.207(a)(3)(iii) must be met.

(e) All fuel economy data submitted under this subpart must:

(1) Be determined by the test procedures specified in Subpart B or an approved analytical method as permitted under § 600.006(e), and

(2) Be accepted by the Administrator under the requirements of Subpart A.

(f) *For nonpassenger automobiles*, the Administrator may require additional testing to be conducted in a nonpassenger automobile base level if he determines that the vehicle configurations comprising that base level can reasonably be expected to exhibit an unacceptably large range in combined fuel economy. The Administrator will make that determination based upon the data submitted at the time of the preliminary calculation.

7. A new § 600.510-79 is added following §600.510-78 which retains the provisions of § 600.510-78 except that the entire paragraphs (b) and (e) are hereby superseded and paragraphs (a)(3) and (d) are added reading as follows.

§ 600.510-79 Calculation of average fuel economy.

(a) Average fuel economy will be calculated to the nearest 0.1 mpg for the classes of automobiles identified herein, and the results of such calculations will be reported to the Secretary of Transportation for use in determining compliance with the applicable fuel economy standards.

(1) An average fuel economy calculation will be made for the category of passenger automobiles that are domestically manufactured plus the includable imports as defined in § 600.511(d)(1).

(2) An average fuel economy calculation will be made for the category of passenger automobiles that are not domestically manufactured as defined in § 600.511(d)(2).

(3) An average fuel economy calculation will be made either for all nonpassenger automobiles or for each category of nonpassenger automobile (jeep-type vehicles and all other nonpassenger automobiles) in accordance with the preference indicated by the manufacturer in § 600.512.

(b) For the purpose of calculating average fuel economy under paragraphs (c), (d), and (e) of this section:

(1) All fuel economy data submitted under § 600.512 must be used.

(2) Fuel economy will be calculated for each model type according to § 600.207 except that:

(i) Separate fuel economy values will be calculated for model types and base levels associated with car lines that are:

(A) Domestically produced and

(B) Non-domestically produced and imported;

(ii) Model year production data, as required by this subpart, will be used instead of sales projections;

(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline;

(iv) The fuel economy value will be rounded to the nearest 0.1 mpg;

(v) High altitude test data will be included; and

(vi) If a model type is comprised of vehicles that are jeep-type vehicles and vehicles that are not, as defined at 42 CFR 553.4 by the Secretary of Transportation, and if the manufacturer has indicated in § 600.512(c)(8) that average fuel economy will be calculated separately for jeep-type vehicles, then separate model type calculations will be made for those vehicles that are jeep-type vehicles and those that are not.

(3) The fuel economy value for each vehicle configuration is the combined fuel economy calculated according to § 600.206 except that:

(i) Separate fuel economy values will be calculated for vehicle configurations associated with car lines that are:

(A) Domestically produced and

(B) Non-domestically produced and imported;

(ii) Model year production data, as required by this subpart, will be used instead of sales projections; and

(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline.

(c) *For passenger automobiles*, average fuel economy will be calculated as follows:

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(1) For the category of passenger automobiles defined in § 600.511(d)(1), divide:

(i) The total domestic production volume plus the includable import volume, as determined in § 600.511, by

(ii) A sum of terms, where

(A) One term is a fraction determined by dividing the includable import volume by the average passenger automobile fuel economy value determined in paragraph (e) of this section, and

(B) Each of the remaining terms corresponds to a domestically produced model type and is a fraction determined by dividing the total production volume of that model type by the fuel economy value for that model type calculated in accordance with paragraph (b)(2) of this Section.

(2) The average fuel economy for the category of automobiles defined in § 600.511(d)(2) is the value calculated in accordance with paragraph (e) of this section.

(d) *For nonpassenger automobiles,* average fuel economy will be calculated as follows:

(1) In the case where a manufacturer elects to calculate a single average fuel economy for all nonpassenger automobiles, divide:

(i) The total number of domestically-produced nonpassenger automobiles plus the total number of nonpassenger automobiles which are not domestically produced and are imported, by

(ii) A sum of terms, where

(A) One term is a fraction determined by dividing the total number of nonpassenger automobiles which are not domestically produced and are imported, by the average nonpassenger automobile fuel economy determined in paragraph (e) of this section, and

(B) Each of the remaining terms corresponds to a domestically-produced model type and is a fraction determined by dividing the total production volume of that model type by the fuel economy value for that model type calculated in accordance with paragraph (b)(2) of this section.

(2) In the case where a manufacturer elects to calculate a separate average fuel economy for each category of nonpassenger automobile (jeep-type vehicles and all other nonpassenger automobiles), for each category divide:

(i) The total number of domestically-produced nonpassenger automobiles in that category plus the total number of nonpassenger automobiles in that category which are not domestically produced and are imported, by

(ii) A sum of terms, where

(A) One term is a fraction determined by dividing the total number of nonpassenger automobiles in that category which are not domestically produced and are imported, by the average fuel economy value for that category determined in paragraph (e) of this section, as applicable, and

(B) Each of the remaining terms corresponds to a domestically-produced model type in that category and is a fraction determined by dividing the total production volume of that model type by the fuel economy value for that model type calculated in accordance with paragraph (b)(2) of this section.

(e) An average fuel economy value will be calculated for the domestically-produced-but-not-imported component of each category of automobile identified in § 600.510(a) as specified below.

(1) Divide the total production volume of the automobiles which are not domestically-produced and are imported in each of the categories identified in paragraph (a) of this section, as appropriate, by

(2) A sum of terms, each of which corresponds to a model type that is not domestically produced and is imported and is a fraction determined by dividing:

(i) The number of automobiles of that model type imported by the manufacturer in the model year, by

(ii) The fuel economy calculated for that model type in accordance with paragraph (b)(2) of this section.

8. Section 600.510–80 is amended by revising paragraphs (a)(3), (b), (d) and (e) to read as follows:

§ 600.510–80 Calculation of average fuel economy.

* * * * *

(a) * * *

(3) An average fuel economy calculation will be made either for all nonpassenger automobiles or for each category of nonpassenger automobile (jeep-type vehicles and all other nonpassenger automobiles) in accordance with the preference indicated by the manufacturer in § 600.512.

(b) For the purpose of calculating average fuel economy under paragraphs (c), (d), and (e) of this section:

(1) All fuel economy data submitted under § 600.512 must be used.

(2) Fuel economy will be calculated for each model type according to § 600.207 except that:

(i) Separate fuel economy values will be calculated for model types and base levels associated with car lines that are:

(A) Domestically produced and

(B) Non-domestically produced and imported;

(ii) Model year production data, as required by this subpart, will be used instead of sales projections;

(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline;

(iv) The fuel economy value will be rounded to the nearest 0.1 mpg;

(v) High altitude test data will be included; and

(vi) If a model type is comprised of some vehicles that are jeep-type vehicles and some that are not, as defined at 42 CFR § 553.4 by the Secretary of Transportation, and if the manufacturer has indicated in § 600.512(c)(8) that average fuel economy will be calculated separately for jeep-type vehicles, then separate model type calculations will be made for those vehicles that are jeep-type vehicles and those that are not.

(3) The fuel economy value for each vehicle configuration is the combined fuel economy calculated according to § 600.206 except that:

(i) Separate fuel economy values will be calculated for vehicle configurations associated with car lines that are:

(A) Domestically produced and

(B) Non-domestically produced and imported;

(ii) Model year production data, as required by this subpart will be used instead of sales projections; and

(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline.

* * * * *

(d) *For nonpassenger automobiles,* average fuel economy will be calculated as follows:

(1) In the case where a manufacturer elects to calculate a single average fuel economy for all nonpassenger automobiles, divide:

(i) The total number of domestically-produced nonpassenger automobiles, plus the total number of nonpassenger automobiles that are not domestically imported, by

(ii) A sum of terms, where

(A) One term is a fraction determined by dividing the total number of nonpassenger automobiles which are not domestically produced and are imported, by the average nonpassenger automobile fuel economy determined in paragraph (e) of this section, and

(B) Each of the remaining terms corresponds to a domestically-produced model type and is a fraction determined by dividing the total production volume of that model type by the fuel economy value for that model type calculated in accordance with paragraph (b)(2) of this section.

(2) In the case where a manufacturer elects to calculate a separate average fuel economy for each category of nonpassenger automobile (jeep-type vehicles and all other nonpassenger automobiles), for each category divide

(i) The total number of domestically-produced nonpassenger automobiles in that category plus the total number of nonpassenger automobiles in that category which are imported, by

(ii) A sum of terms, where

(A) One term is a fraction determined by dividing the total number of nonpassenger automobiles in that category which are not domestically produced and are imported by the average fuel economy value for that category determined in paragraph (e) of this section, as applicable, and

(B) Each of the remaining terms corresponds to a domestically-produced model type of that category and is a fraction determined by dividing the total production volume of that model type by the fuel economy value for that model type calculated in accordance with paragraph (b)(2) of this section.

(e) An average fuel economy value will be calculated for the domestically-produced-but-not-imported component of each category of automobile identified in § 600.510(a) as specified below.

(1) Divide the total production volume of the automobiles which are not domestically produced and are imported in each of the categories identified in paragraph (a) of this section, as appropriate, by

(2) A sum of terms, each of which corresponds to a model type that is domestically-produced and is imported and is a fraction determined by dividing:

(i) The number of automobiles of that model type imported by the manufacturer in the model year, by

(ii) The fuel economy calculated for that model type in accordance with paragraph (b)(2) of this section.

9. A new § 600.512–79 is added following § 600.512–78 that retains the provisions of § 600.512–78 except that paragraphs (b)(3) and (c)(8) are added reading as follows:

§ 600.512–79 Model year report.

(a) For each model year, the manufacturer shall submit to the Administrator a report, known as the model year report, containing all information necessary for the calculation of the manufacturer's average fuel economy.

(b) (1) The model year shall be in writing, signed by the authorized representative of the manufacturer and shall be submitted no later than 60 days after the report required in § 86.078–37 for the final production quarter.

(2) The Administrator may waive the requirement that the model year report be submitted within 60 days after the final quarterly production report. Based upon a request by the manufacturer, if the Administrator determines that 60 days is insufficient time for the manufacturer to provide all additional data required as determined in either §§ 600.506, 600.507, or 600.508, the Administrator shall establish a date by which the model year report must be submitted.

(3) Separate reports shall be submitted for passenger automobiles and nonpassenger automobiles.

(c) The model year report must include the following information:

(1) All fuel economy data used in the preliminary calculation and subsequently required by the Administrator either under §§ 600.506, 600.507, or 600.508.

(2) All fuel economy data for certification vehicles, and for vehicles tested for running changes approved under paragraph 86.078–33.

(3) Any additional fuel economy data submitted by the manufacturer under § 600.509.

(4) A fuel economy value for each model type of the manufacturer's product line calculated according to § 600.510.

(5) The manufacturer's average fuel economy value calculated according to § 600.510.

(6) A listing of both domestically and non-domestically produced car lines as determined in § 600.511 and the cost information upon which the determination was made.

(7) Production data, the authenticity and accuracy of which shall be attested to by the corporation, and shall bear the signature of the Chief Executive Officer.

(8) A statement that indicates the manner in which jeep-type vehicles will be included in the average fuel economy calculation for nonpassenger automobiles in accordance with the options established by the Secretary of Transportation at 42 CFR 553.5.

(Sec. 301, Pub. L. 94–163, 89 Stat. 901 (15 U.S.C. 2001, 2003, 2005, 2006).)

[FR Doc.77–26373 Filed 9–12–77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 4—DEPARTMENT OF AGRICULTURE

PART 4–4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Office-Type Copying Machines

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule amends the Agriculture Procurement Regulations by revising the section covering acquisition of office equipment to include duplicating equipment and by making requisitioners responsible for obtaining required acquisition approval prior to submitting requisitions.

EFFECTIVE DATE: This rule is effective September 13, 1977.

FOR FURTHER INFORMATION CONTACT:

William B. Saltsgaver, Office of Operations, Transportation and Supply Management Staff, United States Department of Agriculture, Washington, D.C. 20250 (202–447–7557).

SUPPLEMENTARY INFORMATION: This amendment involves matters relating to agency management and contracting and, while not subject by law to the notice and public procedure requirements for rule making under 5 U.S.C. 553, is subject to the Secretary's Statement of Policy (36 FR 13804). The amendment corrects or clarifies existing policy. No useful purpose would be served by public participation, and it is found upon good cause, in accordance with the Secretary's Policy Statement, that notice and other public procedures with respect to the amendment are impracticable and unnecessary.

1. Section 4–4.5021 is revised to read as follows:

§ 4–4.5021 Office-type copying machines.

Proposed acquisitions of office-type copying and duplicating machines and related equipment to be located in the downtown Washington, D.C., complex and the Washington Metropolitan area (including all organizational activities in Beltsville and Hyattsville, Md., and Roslyn, Va., shall be accompanied by written approval from the Director, Office of Operations, or his designee. Requests for procurement action not supported by a written approval form the Office of Operations shall be returned to the requisitioner. It shall be the responsibility of the requisitioner to prepare the justification statement. A copy of the justification statement and written approval shall be attached to the agency's file copy of the purchase order. Proposed acquisitions for other locations shall be approved by an agency designee. (See § 104–25.302–50 of Agriculture Property Management Regulations.)

AUTHORITY: This amendment is made under the authority of 5 USC 301, 40 USC 486 (c).

Done at Washington, D.C., this 8th day of September, 1977.

E. ALVAREZ,
Director, Office of Operations.

[FR Doc.77–26604 Filed 9–12–77;8:45 am]

Title 43—Public Lands: Interior

CHAPTER I—BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

PART 423—1976–77 DROUGHT LOANS, GRANTS, AND DEFERMENTS

Rules for Emergency Loans, Grants, and Deferments Under Emergency Drought Act of 1977

AGENCY: Bureau of Reclamation, Interior.

ACTION: Final rules.

SUMMARY: This document provides rules consistent with Public Law 95–107, signed by President Carter on August 17, 1977. The new regulation provides additional time to perform certain action under the Bureau of Reclamation Emergency Drought Act of 1977 (Pub. L. 95–18, approved April 7, 1977) and releases funds from the water bank for other purposes.

DATES: These rules are effective on September 13, 1977, and expire on November 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Eugene Hinds, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240 (202–343–5104).

SUPPLEMENTARY INFORMATION: These amendments bring the rules into conformity with legislation enacted by the Congress and signed by President Carter on August 17, 1977. The new Pub. L. 95–107 amends the Bureau of Reclamation Emergency Drought Act of 1977, approved April 7, 1977, to accomplish the following:

(a) Extends the authorities of the Act from September 30, 1977, to November 30, 1977.

(b) Extends the time for accomplishment of construction activities under those authorities from November 30, 1977, to January 31, 1978.

(c) Releases any remaining funds in the water bank provision of the Act for all authorized uses except for fish and wildlife grants.

(d) Removes the limitation on nonreimbursable funds available to State water resource agencies during fiscal year 1977, if such programs are found to be compatible with the broad purposes of the Act.

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(e) Gives the Secretary the discretion to waive all, or a portion of, the repayment of loans upon the agreement of a recipient to undertake a program of water conservation and efficient management meeting standards established by the Secretary.[1]

Funds for non-Federal projects continue to be limited to 15 percent of the available funds, and not more than $1 million may be expended for any individual non-Federal contracting entities. Also, the limitation continues that funds not to exceed $10 million may be expended on a nonreimbursable basis to purchase or to acquire entitlement to water from any available source to mitigate damages to fish and wildlife resources caused by drought.

Although the authorities of the Act have been extended until November 30, 1977, the $100 million authorized to be appropriated to carry out the provisions of the Act have been appropriated only for fiscal year 1977. In the absence of further action by Congress, all funds to be used under that authority must be obligated by September 30, 1977.

Section 5 of the April 7, 1977, Act provides that actions taken pursuant thereto are in response to emergency conditions. To effect their prompt implementation, it has been decided not to publish the rules in proposed form for public comment. However, the public may submit comments for consideration in possible future revisions.

Section 5 further provides that such actions are not a major Federal action significantly affecting the quality of the human environment for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)).

NOTE.—This document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and Office of Management and Budget Circular A-107.

The primary author of this document is: Aldon D. Nielsen, Assistant Chief, Division of Water and Land, Bureau of Reclamation, Washington, D.C. 20240, telephone number 202-343-5104.

Under authority of Pub. L. 95-18, as amended by Pub. L. 95-107, it is proposed to amend Subtitle B, Chapter I, Title 43 of the Code of Federal Regulations by amending Part 423, Subpart A, as set forth below:

§ 423.9 [Amended]

1. Section 423.9(b) is amended by changing November 30, 1977, to January 31, 1978.

§ 423.14 [Amended]

2. Section 423.14 is amended by changing September 30, 1977, in the last sentence to November 30, 1977.

§ 423.22 [Amended]

3. Section 423.22(c) is amended by changing November 30, 1977, in the last sentence to January 31, 1978.

Dated: September 6, 1977.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc.77-26531 Filed 9-12-77;8:45 am]

[1] The Secretary does not intend to exercise this authority. Since a very short time remains before this authority expires, it has been determined that there is not sufficient time to promulgate the standards required for the exercise of this authority.

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Editorial Amendment Concerning Station Documents

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: The Federal Communications Commission is clarifying its rules to specify that only vessels subject to the Communications Act and Great Lakes Agreement are required to retain a copy of Part 83 of the Commission's rules on board. Barge and towing vessels operating on rivers are only subject to the Bridge-to-Bridge Radiotelephone Act. Since they are in regular communications with their home offices where an amended copy of the rules is retained, no useful purpose is served in requiring these vessels to retain a copy of Part 83 of the Commission's rules on board.

EFFECTIVE DATE: September 16, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Nicholas G. Bagnato, Safety and Special Radio Services Bureau (202-632-7197).

SUPPLEMENTARY INFORMATION:

In the Matter of Editorial amendment of § 83.367(b) of the Commission's Rules and Regulations.

ORDER

Adopted: August 31, 1977.

Released: September 7, 1977.

1. Pursuant to section 83.367 of the rules, vessels that are subject to compulsory radio requirements are required to have a copy of Part 83 aboard the vessel. When this requirement was placed in the rules compulsorily equipped vessels were for the most part large sea going vessels, i.e., those subject to the Safety Convention, Title III, Parts II and III of the Act and the Great Lakes Agreement. However, with the advent of the Bridge-to-Bridge Radiotelephone Act the number of vessels required to be fitted with radio increased greatly. For the most part, this new addition to the compulsorily equipped category was made up of tugs and other similar vessels operated solely on bays, sounds, port areas or rivers.

2. Many barge and towing companies operate numerous vessels subject to Bridge-to-Bridge. The requirement that each of these vessels carry Part 83 becomes an administrative burden that serves no useful purpose. In the past, the Commission has granted waivers to several barge and towing companies from this requirement provided a copy of Part 83 is retained in a suitable place on shore, a provision which is in the rules now for voluntarily equipped vessels. The American Waterways Operators, Inc., has now requested that a similar waiver be granted to all towing and barge companies.

3. The rule requirement does not serve any useful purpose when applied to vessels that are subject only to the compulsory requirements of the Bridge-to-Bridge Radiotelephone Act. These towing and barge vessels operating on the rivers are in communications with their home offices on a regular basis. A copy of the rules is retained at the home office and the information contained in the rules is available to the vessel at all times. Therefore, amendment of the rules to eliminate this requirement which was never intended to apply to this type of vessel is appropriate.

4. Since the amendment is editorial because it removes a requirement that was not intended to apply to the class of vessel discussed herein, the prior notice, procedures and effective date provisions of 5 USC 553 are not applicable.

5. It is ordered, That pursuant to authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 83 of the Commission's rules is amended effective September 16, 1977, as set forth below. Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended to read as follows; § 83.367(b) is amended to read as follows:

§ 83.367 **Station documents.**

* * * * * *

(b) Ship radiotelephone stations not subject to the Safety Convention shall be provided with the documents listed in subparagraphs (1), (2), (3), and (6) of paragraph (a) of this section: *Provided*, That, at the option of the licensee of a radiotelephone station not subject to the compulsory equipment requirements of the Communications Act or the Great Lakes Agreement, the required copy of Part 83 of the Commission's rules may be retained in a suitable place on shore in lieu of being provided aboard the vessel.

* * * * * *

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
RICHARD D. LICHTWARDT,
Executive Director.

[FR Doc.77-26602 Filed 9-12-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Chautauqua National Wildlife Refuge, Ill., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to migratory game bird hunting of Chautauqua National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 22, 1977, through December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard A. Lipke, Refuge Manager, Mark Twain National Wildlife Refuge, P.O. Box 225, Quincy, Ill. 62301. Telephone: 217-224-8580.

SUPPLEMENTARY INFORMATION:

§ 32.12 **Special regulations; migratory game bird hunting for individual wildlife refuge areas.**

Public hunting of migratory game birds is permitted on the Chautauqua National Wildlife Refuge, Ill., only on the areas designated by signs. These areas comprising 745 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Migratory game bird hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Blinds—No permanent structure, excluding wood or brush duck blinds, shall be permitted, no blinds shall be locked or otherwise sealed against public entry.

2. Steel shot ammunition is required when hunting ducks, geese, and coots with 12 gauge shotguns. Hunters taking waterfowl and coots with 12 gauge shotguns may not possess ammunition containing lead or other toxic shot. Only 12 gauge shotguns will be required to use steel shot during the 1977 waterfowl season. All other sizes of shotgun, including 10 gauge, are exempt from the steel shot requirements during this year's season.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 2, 1977.

JACK E. HEMPHILL,
Regional Director.

[FR Doc.77-26591 Filed 9-12-77;8:45 am]

PART 32—HUNTING

Opening of Certain National Wildlife Refuges to Hunting of Migratory Game Birds; Arizona, California, New Mexico, Oklahoma, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain national wildlife refuges in Arizona, California, New Mexico, Oklahoma, and Texas, is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. The name of each affected refuge and the special regulations for each refuge are set forth below.

EFFECTIVE DATES: See the dates listed for each refuge under Supplementary Information below.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, as listed for each refuge under Supplementary Information below.

SUPPLEMENTARY INFORMATION:

CIBOLA NATIONAL WILDLIFE REFUGE

DATES: September 1, 1977, through January 3, 1978.

FOR FURTHER INFORMATION CONTACT:

George M. Constantino, Refuge Manager, Cibola National Wildlife Refuge, Box AP, Blythe, Calif. 92225, telephone: 714-922-4433.

§ 32.12 **Special regulations; migratory game birds; for individual wildlife refuge areas.**

Public hunting of doves on the Cibola National Wildlife Refuge, Arizona and California, is permitted as follows: Arizona—mourning and white-winged doves, from September 1 through September 25, 1977; mourning doves only, from December 10, 1977, through January 3, 1978. California—mourning and white-winged doves, from September 1 through September 30, 1977, and from November 19 through December 4, 1977. Hunting is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 7,500 acres, are delineated on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all State and Federal regulations subject to the following special conditions:

1. Up to 2 dogs per hunter may be used for the purpose of hunting and retrieving.

2. Pits or permanent blinds are prohibited.

3. Hunting is prohibited within one-fourth mile of any occupied dwelling or 250 yards of any farm field worker.

4. Campfires will be permitted only in designated areas. All other open fires are prohibited.

5. Cibola Lake, located in Zone I, is closed to fishing from October 1 through March 1 during the waterfowl use period.

HAVASU NATIONAL WILDLIFE REFUGE

DATES: September 1, 1977, through January 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Tyrus W. Berry, Refuge Manager, Havasu National Wildlife Refuge, P.O. Box A, Needles, Calif. 92362, telephone: 714-326-3853.

§ 32.12 **Special regulations; migratory game birds; for individual wildlife refuge areas.**

Public hunting of doves on the Havasu National Wildlife Refuge, Arizona and California, is permitted only on the area designated by signs as open to hunting. This open area, comprising 23,200 acres, is delineated on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting seasons are as follows: Arizona—mourning doves, from September 1 through September 25, 1977, and from December 10, 1977, through January 3, 1978. White-winged doves, from September 1 through September 25, 1977. California—mourning and white-winged doves, from September 1 through September 30, 1977, and from November 19 through December 4, 1977. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of doves subject to the following special conditions:

1. Hunting is prohibited within one-fourth mile of any occupied dwelling or concession operation.

2. The Pintail Slough Management Unit will be open to hunting only on Saturdays, Sundays, and Wednesdays. This unit is comprised of all refuge land north of the north dike.

IMPERIAL NATIONAL WILDLIFE REFUGE

DATES: November 19, 1977, through January 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerald E. Duncan, Refuge Manager, Imperial National Wildlife Refuge, Box 2217, Martinez Lake, Ariz. 85364, telephone: 602-783-3400.

§ 32.12 **Special regulations; migratory game birds; for individual wildlife refuge areas.**

Public hunting of doves on the Imperial National Wildlife Refuge, Arizona

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and California, is permitted only on the area designated by signs as open to hunting. This open area, comprising 16,500 acres, is delineated on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting seasons are as follows: Arizona—mourning doves only, from December 10, 1977, to January 3, 1978; California—mourning and white-winged doves, from November 19 through December 4, 1977. Hunting shall be in accordance with all applicable State and Federal regulations.

BITTER LAKE NATIONAL WILDLIFE REFUGE

DATES: Mourning and white-winged doves: September 1 through December 23, 1977. Teal ducks: September 17 through September 25, 1977.

FOR FURTHER INFORMATION CONTACT:

LeMoyne B. Marlett, Refuge Manager, Bitter Lake National Wildlife Refuge, Box 7, Roswell, N. Mex. 88201, telephone: 505–622–6755.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

1. Public hunting of mourning and white-winged doves on the Bitter Lake National Wildlife Refuge is permitted from September 1 through September 30, 1977 and from November 24 through December 23, 1977, but only on the areas designated by signs as open to hunting. These areas consist of 1,600 acres on the North Refuge Unit (Area B) and 1,800 acres on the South Refuge Unit (Area C). Hunting areas are delineated on maps available at refuge headquarters, 13 miles northeast of Roswell, N. Mex., and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all State and Federal regulations subject to the following special condition:

a. Steel (iron) shot shotgun ammunition only may be used for the taking of doves on the South Refuge Unit (Area C) during the special teal hunting season (September 17 through September 25, 1977) and during the regular waterfowl hunting season when both seasons run concurrently. Steel (iron) shot shotgun ammunition is available from at least 2 commercial outlets in Roswell, N. Mex.

2. Public hunting of teal ducks on the Bitter Lake National Wildlife Refuge is permitted from September 17 through September 25, 1977, but only on the areas designated by signs as open to hunting. These areas consist of 1,600 acres on the North Refuge Unit (Area B) and 1,800 acres on the South Refuge Unit (Area C). Hunting areas are delineated on maps available at refuge headquarters, 13 miles northeast of Roswell, N. Mex., and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of teal ducks subject to the following special condition:

a. Steel (iron) shot shotgun ammunition only may be used for the taking of teal ducks on the South Refuge Unit (Area C) from September 17 through September 25, 1977. Steel (iron) shot shotgun ammunition is available from at least 2 commercial outlets in Roswell, N. Mex.

BOSQUE DEL APACHE NATIONAL WILDLIFE REFUGE

DATES: September 1 through December 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard W. Rigby, Refuge Manager Bosque del Apache National Wildlife Refuge, P.O. Box 278, San Antonio, N. Mex. 87832, telephone: 505–835–1828.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of mourning and white-winged doves on the Bosque del Apache National Wildlife Refuge is permitted from September 1 through September 30, 1977, and from November 24 through December 23, 1977, but only on the area designated by signs as open to hunting. This area, encompassing 9,275 acres, includes the area from the Bureau of Reclamation Low Flow Channel east generally to the western boundary of the Little San Pascual Wilderness Unit and from the A.T. & S.F. railroad tracks west to the Bureau of Reclamation power line. The open area is delineated on maps available at refuge headquarters, 8 miles south of San Antonio, N. Mex., and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all State and Federal regulations covering the hunting of doves subject to the following special conditions:

1. Vehicles are permitted only on established roads.

2. Hunters shall leave the refuge by one-half hour after sunset.

3. No camping or open fires are allowed.

SEVILLETA NATIONAL WILDLIFE REFUGE

DATES: September 1 through December 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard W. Rigby, Refuge Manager, Bosque del Apache National Wildlife Refuge, P.O. Box 278, San Antonio, N. Mex. 87832, telephone: 505–835–1828.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of doves and teal ducks on the Sevilleta National Wildlife Refuge, San Acacia, N. Mex., is permited only on the areas designated by signs as open to hunting. These open areas, comprising 1,992 acres, are delineated on maps available at refuge headquarters of the Bosque del Apache National Wildlife Refuge, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex 87103. Hunting seasons are as follows mourning and white-winged doves, from September 1 through September 30, 1977 and from November 24 through December 23, 1977; teal ducks, from September 17 through September 25, 1977 Hunting shall be in accordance with all State and Federal regulations covering the hunting of doves and teal ducks subject to the following special conditions:

1. No camping will be permitted on the area.

2. Parking will be limited to areas as posted and designated on hunt map.

3. Vehicle entry will be restricted to areas as posted and designated on hunt map.

4. There will be no entry to the hunt area earlier than 2 hours before sunrise

5. All hunters must be out of the hunt area by one-half hour after shooting hours.

6. Up to 2 dogs per hunter may be used for the purpose of hunting and retrieving.

7. Hunters may not enter closed areas to retrieve birds.

SEQUOYAH NATIONAL WILDLIFE REFUGE

DATES: September 1 through December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert H. Stratton, Jr., Refuge Manager, Sequoyah National Wildlife Refuge, Box 398, Sallisaw, Okla. 74955 telephone: 918–775–4931.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of doves and teal ducks on the Sequoyah National Wildlife Refuge is permitted on three areas designated by signs as open to hunting These open areas, comprising 10,500 acres, are delineated on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service P.O. Box 1306, Albuquerque, N. Mex 87103. Hunting seasons are as follows doves, from September 1 through September 30, 1977, and December 1 through December 30, 1977; teal ducks, from September 10 through September 18 1977. Hunting shall be in accordance with all State and Federal regulations covering the hunting of doves and teal ducks subject to the following special conditions:

1. Hunting weapons of any kind are prohibited in areas not posted as open to public hunting, except the Kerr-McClellan Navigation Channel where weapons must be cased or broken down

2. Only longbow and arrow or shotguns without slug ammunition are permitted.

3. Camping or possession of firearms on the refuge at night is prohibited

4. All vehicles must be parked in designated parking areas as shown on maps available at refuge headquarters and at leaflet boxes throughout the public hunting area.

TISHOMINGO NATIONAL WILDLIFE REFUGE

DATES: September 1 through September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Ernest S. Jemison, Refuge Manager, Tishomingo National Wildlife Refuge, Box 248, Tishomingo, Okla. 73460, telephone: 405–371–2402.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of doves and teal ducks on the Tishomingo National Wildlife Refuge is permitted only on the area designated by signs as open to hunting. This open area, comprising 3,170 acres, is delineated on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of doves and teal ducks subject to the following special conditions:

1. The open season for hunting mourning doves on the refuge extends from September 1 through September 30, 1977.

2. The open season for hunting teal ducks on the refuge extends from September 10 through September 18, 1977.

3. Up to 2 dogs per hunter may be used for the purpose of hunting and retrieving.

4. A Federal permit is not required to enter the public hunting area, but hunters, upon entering and leaving, shall report at designated checking stations as may be established for the regulation of the hunting activity and shall furnish information pertaining to their hunting, as requested.

BRAZORIA NATIONAL WILDLIFE REFUGE

DATES: September 10 through September 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Larry M. Ivy, Refuge Manager, Brazoria National Wildlife Refuge, Box 1088, Angleton, Tex. 77515, telephone: 713–849–6062.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of teal ducks on the Brazoria National Wildlife Refuge is permitted only on the area designated by signs as open to hunting. This open area, comprising 2,300 acres of Rattlesnake Island on the southeast side of the Intracoastal Waterway and adjacent to Bastrop, Christmas, and Drum Bays, is delineated on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of teal ducks subject to the following special conditions:

1. The open season for hunting of teal du..ks on the refuge extends from September 10 through September 18, 1977.

2. Access to the hunting area is entirely over public water routes. Travel across the refuge mainland to and from the area open to hunting is not permitted.

3. Only temporary blinds may be constructed or used on the hunting area. Natural materials may be used for blind construction.

4. Up to 2 dogs per hunter may be used for the purpose of hunting and retrieving.

HAGERMAN NATIONAL WILDLIFE REFUGE

DATES: September 1 through September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Bert E. Blair, Refuge Manager, Hagerman National Wildlife Refuge, Route 3, Box 123, Sherman, Tex. 75090, telephone: 214–786–2826.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of mourning doves on the Hagerman National Wildlife Refuge is permitted only on the area designated by signs as open to hunting. This open area, comprising 1,754 acres, is delineated on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Refuge, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State and Federal regulations subject to the following special condition:

1. The open season for hunting mourning doves on the refuge extends from September 1 through September 30, 1977.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact State under Executive Order 11949 and OMB Circular A–107.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

W. O. NELSON, JR.,
Regional Director,
Albuquerque, N. Mex.

AUGUST 31, 1977.

[FR Doc.77–26488 Filed 9–12–77;8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

[7 CFR Part 2852]

UNITED STATES STANDARDS FOR GRADES OF CANNED TOMATO PUREE (TOMATO PULP) [1]

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal is to amend the grading standards for canned tomato puree (tomato pulp). This action was initiated at the request of the industry. The effect of the change will be to provide for electronic color meters as an alternative method of evaluating the color of the product.

DATE: Comments, in duplicate, must be received on or before December 31, 1977.

ADDRESS: Send comments to: Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments will be available for public inspection at the same address during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Dale C. Dunham, Standardization Section, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202-447-4693).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the United States Department of Agriculture is considering an amendment to the United States Standards for Grades of Canned Tomato Puree (Tomato Pulp) (7 CFR 52.5081–52.5091) (to be recodified 7 CFR 2852.5081–2852.5091) issued pursuant to the authority contained in the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended, 7 U.S.C. 1924).

The current United States Standards for Grades of Canned Tomato Puree (Tomato Pulp) have been in effect since 1970.

During the last several years, the United States Department of Agriculture has conducted formal studies designed to accumulate data which would establish the relationships between visual and instrumental evaluations of the colors of tomato products. These studies were conducted during 1974, 1975, and 1976 in collaboration with the University of California at Davis and the Canners League of California.

As a result of these studies, it was established that certain approved electronic color meters (which had been properly calibrated and standardized) would give readouts that could be mathematically converted into numerical values of the colors of canned tomato puree (tomato pulp) that closely approximated the numerical value assigned when the same canned tomato puree (tomato pulp) was visually evaluated for color by members of an expert panel.

The accuracy and applicability of the methodology and conversion equations were verified during processing runs and confirmation tests conducted among packers of canned tomato puree (tomato pulp) during the 1975 and 1976 processing seasons.

Because of the apparent interchange between the two methods of accurately evaluating the color of canned tomato puree (tomato pulp), the Canners League of California has requested the United States Department of Agriculture to amend the United States Standards for Grades of Canned Tomato Puree (Tomato Pulp) to allow for the instrumental evaluation of the color of the product.

The Department, after careful consideration, concurs with the request. The reasons are as follows:

(1) The use of electronic color meters to determine color values provides objectivity when making such evaluations.

(2) The use of electronic color meters provides repeatability of results and helps to minimize human visual errors such as eye fatigue, poor color discrimination, and/or subjective evaluations.

(3) Either a visual or instrumental method of the evaluation of the color of canned tomato puree (tomato pulp) is permitted.

(4) Precise lighting conditions which are absolutely necessary for accurate visual color evaluations are eliminated; provided, of course, that the electronic color meter that is used is properly calibrated and standardized. This is essential when using electronic color meters.

The amendment proposed is:

In Part 2852, Subpart—United States Standards for Grades of Canned Tomato Puree (Tomato Pulp), Sec. 2852.5088 Color, is amended to read as follows:

§ 2852.5088 Color.

(a) *General.* The amount of red in tomato puree is determined by comparing the color of the product, diluted, if necessary, with water to between 8.0 percent and 8.6 percent, inclusive, of natural tomato soluble solids (N.T.S.S.) with that produced by spinning a combination of the following Munsell color discs:

Disc 1—Red (5R 2.6/13) (glossy finish).
Disc 2—Yellow (2.5YR 5/12) (glossy finish).
Disc 3—Black (N1) (glossy finish).
Disc 4—Grey (N4) (mat finish).

Such comparison is made under a diffused light source of approximately 250 foot-candle (candela) intensity and having a spectral quality approximating that of daylight under a moderately overcast sky, and a color temperature of 7,500 degree Kelvin ±200 degree. With the light source directly over the disc and product, observation is made at an angle of 45 degrees and at a distance of 12 or more inches from the product.

(b) *Availability of color reference.* The colors referred to in this section are available from the approved supplier under a license from the U.S. Department of Agriculture:

Munsell Color Co., 2441 North Calvert Street, Baltimore, Md. 21218.

(c) *Use of electronic color meters.*—(1) Values that may be used for conversion to a numerical score point color evaluation of the product may be determined by any electronic color meter system approved by the United States Department of Agriculture. Such values may be determined by electronic color meters only on tomato puree that has a concentration of, or may be diluted with water to, 8.5 percent (±0.1 percent) natural tomato soluble solids (N.T.S.S.).

(2) The values derived with the approved electronic color meter system shall be resolvable into a calculated numerical score point by use of any appropriate conversion formula that has been approved by the USDA.

(d) *Grade A classification.*—(1) Tomato puree that has a good color may be given a score of 45 to 50 points. "Good color" means a bright, typical, red tomato puree color. Such color, when the product of the proper concentration and observed as specified in this section, is as red as, or more red than, that produced by spinning the specified Munsell color discs in the following combinations or an equivalent of such composite color:

65 percent of the area of Disc 1;
21 percent of the area of Disc 2; and
14 percent of the area of either Disc 3 or Disc 4; or
7 percent of the area of Disc 3 and 7 percent of the area of Disc 4, whichever most nearly matches the appearance of the sample.

(2) Any calculated numerical score of 45 points, for a product of the proper concentration, shall be equivalent to a visually evaluated color score of 45 points produced under the conditions specified in paragraph (d) (1) of this section. Proportionately higher calculated numerical scores or visually assigned score points may be assigned to products of the proper concentration which show more redness.

(e) *Grade C classification.*—(1) Tomato puree that has at least a fairly good color may be given a score of 40 to 44 points. Tomato puree that falls into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). "Fairly good color" means a typical red tomato puree color which may be slightly dull or have a slight yellow, yellow-orange, or brownish cast. Such color, when the product is of the proper concentration and is observed as specified in this section, is as red as, or more red than, that produced by spinning the specified Munsell color discs in the following combinations or an equivalent of such composite color:

53 percent of the area of Disc 1;
28 percent of the area of Disc 2; and
19 percent of the area of either Disc 3 or Disc 4; or
9½ percent of the area of Disc 3 and 9½ percent of the area of Disc 4, whichever most nearly matches the appearance of the sample.

(2) Any calculated numerical score of 40 points, for a product of the proper concentration, shall be equivalent to a visually evaluated color score of 40 points produced under the conditions specified in paragraph (e) (1) of this section. Proportionately higher calculated numerical scores or visually assigned score points may be assigned to products of the proper concentration which show more redness.

(f) *Substandard classification.* Tomato puree that fails to meet the requirements of paragraph (e) of this section may be given a score of 0 to 39 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

NOTE.—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: September 7, 1977.

ROBERT ANGELOTTI,
Administrator.

[FR Doc. 77-26511 Filed 9-12-77;8:45 am]

[7 CFR Part 2852]

UNITED STATES STANDARDS FOR GRADES OF CANNED TOMATO JUICE [1]

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal is to amend the grading standards for canned tomato juice. This action was initiated at the request of the industry. The effect of the change will be to provide for electronic color meters as an alternative method of determining the color of the product.

DATE: Comments, in duplicate, must be received on or before December 31, 1977.

ADDRESS: Send comments to: Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments will be available for public inspection at the same address during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Dale C. Dunham, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250. Phone 202-447-4693.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the United States Department of Agriculture is considering an amendment to the United States Standards for Grades of Canned Tomato Juice (7 CFR 52.3621–52.3630) (to be recodified 7 CFR 2852.3621–2852.3630) pursuant to the authority contained in the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090 as amended, 7 U.S.C. 1624).

The current United States Standards for Grades of Canned Tomato Juice have been in effect since 1958.

During the last several years, the United States Department of Agriculture has conducted formal studies designed to accumulate data which would establish the relationships between visual and instrumental evaluations of the colors of tomato products. These studies were conducted in 1974, 1975, 1976 and 1977 in California at Davis and the Canners League of California.

As a result of these studies, it was established that certain approved electronic color meters (which had been properly calibrated and standardized) would give readouts that could be converted into numerical values of the colors of canned tomato juice that closely approximated the numerical values assigned when the same canned tomato juice was visually evaluated for color by members of an expert panel.

The accuracy and applicability of the methodology and conversion equations were verified during processing runs and confirmation tests conducted among packers of canned tomato juice during the 1976 processing season.

Because of the apparent interchange between the two methods of accurately evaluating the color of canned tomato juice, the Canners League of California has requested the United States Department of Agriculture to amend the United States Standards for Grades of Canned Tomato Juice to allow for the instrumental evaluation of the color of the product.

The Department, after careful consideration, concurs with the request. The reasons are as follows:

(1) The use of electronic color meters to determine color values provides objectivity when making evaluations.

(2) The use of electronic color meters provides repeatability of results and helps to minimize human visual errors such as eye fatigue, poor color discrimination, and subjective evaluations.

(3) Either a visual or instrumental method of the evaluation of the color of canned tomato juice is permitted.

(4) Precise lighting conditions which are absolutely necessary for accurate visual color evaluations are eliminated; provided, of course, that the electronic color meter that is used is properly calibrated and standardized. This is essential when using electronic color meters.

The amendment proposed is:

In Part 2852, Subpart—United States Standards of Grades of Canned Tomato Juice, Sec. 2852.3625 Color, is amended to read as follows:

§ 2852.3625 Color.

(a) *General.* The amount of red in canned tomato juice is determined by comparing the color of the product with that produced by spinning a combination of the following Munsell color discs:

Disc 1—Red (5R 2.6/13) (glossy finish).
Disc 2—Yellow (2.5 YR 5/12) (glossy finish).
Disc 3—Black (N1) (glossy finish).
Disc 4—Grey (N4) (mat finish).

Such comparison is made under a diffused light source of approximately 250 foot-candle intensity and having a spectral quality approximately that of daylight under a moderately overcast sky, and a color temperature of 7,500 degrees Kelvin ±200 degrees. With the light source directly over the disc and product, observation is made at an angle of 45 degrees and at a distance of 12 inches or more from the product.

(b) *Availability of color reference.* The colors referred to in this section are available from the approved supplier under a license from the U.S. Department of Agriculture:

Munsell Color Co., 2441 North Calvert Street, Baltimore, Md. 21218.

(c) *Use of electronic color meters.*

(1) Values that may be used for conversion to a numerical score point color evaluation of the product may be determined by any electronic color meter system approved by the United States Department of Agriculture.

(2) The values derived with the approved electronic color meter system shall be resolvable into a calculated numercial score point by use of any appropriate conversion formula that has been approved by the USDA.

(d) *Grade A classification.*

(1) Canned tomato juice that has a good color may be given a score of 26 to 30 points. "Good color" means a color that is typical of canned tomato juice, made from well ripened red tomatoes, which has been properly prepared and properly processed. Such color contains as much red as, or more red than, that produced by spinning the specified Munsell color discs in the following combinations or an equivalent of such composite color:

65 Percent of the area of Disc 1;
21 Percent of the area of Disc 2; and

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

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14 Percent of the area of either Disc 3 or Disc 4; or

7 Percent of the area of Disc 3 and 7 percent of the area of Disc 4, whichever most nearly matches the reflectance of the product.

(2) Any calculated numerical score of 26 points for the product shall be equivalent to a visually evaluated color score of 26 points produced under the conditions specified in paragraph (d)(1) of this section. Proportionally higher calculated numerical scores or visually assigned score points may be assigned to products which show more redness.

(e) *Grade C classification.*

(1) Canned tomato juice that has a fairly good color may be given a score of 23 to 25 points. Canned tomato juice that scores 23 or 24 points for color shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a partial-limiting rule). "Fairly good color" means a color that is typical of canned tomato juice. To score 25 points for color, the juice shall contain as much red as, or more red than, that produced by spinning the specified Munsell color discs in the following combinations or an equivalent of such composite color:

59 Percent of the area of Disc 1;
24¼ Percent of the area of Disc 2; and
16¼ Percent of the area of either Disc 3 or Disc 4; or
8¼ Percent of the area of Disc 3 and 8¼ percent of the area of Disc 4, whichever most nearly matches the reflectance of the product.

(2) Any calculated numerical score of 25 points for a product shall be equivalent to a visually evaluated color score produced under the conditions specified in paragraph (e)(1) of this section.

(3) To score 23 or 24 points for color the canned tomato juice shall contain as much red as, or more red than, that produced by spinning the specified Munsell color discs in the following combinations or an equivalent of such composite color:

53 Percent of the area of Disc 1;
28 Percent of the area of Disc 2; and
19 Percent of the area of either Disc 3 or Disc 4; or
9½ Percent of the area of Disc 3 and 9½ percent of the area of Disc 4, whichever most nearly matches the reflectance of the product.

(4) Any calculated numerical score of 23 points for a product shall be equivalent to a visually evaluated color score produced under the conditions specified in paragraph (e)(3) of this section. A proportionally higher calculated numerical score or visually assigned score may be assigned to products which show more redness.

(f) *Substandard classifications.* Canned tomato juice that fails to meet the requirements of paragraph (e) of this section may be given a score of 0 to 22 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

NOTE.—The Food and Quality Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: September 1, 1977.

ROBERT ANGELOTTI,
Administrator.

[FR Doc.77-26510 Filed 9-12-77;8:45 am]

Animal and Plant Health Inspection Service

[9 CFR Parts 1, 3]

MARINE MAMMALS

Proposed Regulations and Standards for the Humane Handling, Care, Treatment, and Transportation; Informal Public Hearing

AGENCY: Animal and Plant Health Inspection Service (APHIS), USDA.

ACTION: Notice of informal public hearings.

SUMMARY: On August 19, 1977, the Deputy Administrator, Veterinary Services, APHIS, published in the FEDERAL REGISTER proposed rulemaking under the authorities of the Animal Welfare Act (7 U.S.C. 2131) to provide for the humane handling, care, treatment, and transportation of marine mammals maintained in captivity. The notice gave all interested persons a period of 60 days for the filing of written comments concerning the proposed regulations and standards. Informal public hearings will be held to give interested persons a further opportunity to participate in the rulemaking proceeding through the submission of written comments with an opportunity for oral presentation.

DATES: The hearings will be held on Monday, September 26, 1977, at Los Angeles, Calif., and on Thursday, September 29, 1977, at Miami Springs, Fla., between the hours of 8:30 a.m. through 4:30 p.m.

ADDRESS: The informal public hearings will be held at the Century III Room, Quality Hotel—International Airport, 5249 West Century Boulevard, Los Angeles, Calif. 90045, telephone number 213–645–2200, and at the Buena Vista Room, Holiday Inn, 1111 South Royal Poinciana, Miami Springs, Fla. 33166, telephone number 305–885–1941.

FOR FURTHER INFORMATION CONTACT:

Dale F. Schwindaman, Senior Staff Veterinarian, Animal Care Staff, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782, telephone number 301–436–8271.

SUPPLEMENTARY INFORMATION: Dr. Dale F. Schwindaman will serve as chairman at the informal public hearings. The procedure to be followed will be informal and without a structured agenda. Individual presentations will not be scheduled in advance. A written copy of a speaker's comments must be given to the chairman prior to the speaker's oral presentation, but is not required to be read into the record. Individuals making presentations may verbally summarize or emphasize certain points of their written comments. Opportunity will be provided for the chairman or other persons at the hearing to ask questions relating to each presentation made. The time for oral presentations and questions may be limited in the discretion of the chairman in order to give all persons at the hearing an opportunity to be heard. Transcripts of the oral hearings will be made, and copies of the transcripts and any written comments submitted at the hearings, will be made a part of the record in this rulemaking proceeding and will be available for public inspection together with all other comments received in this proceeding in accordance with the notice dated August 19, 1977.

The American Association of Zoological Parks and Aquariums (AAZPA) is holding their 53rd Annual Conference in San Diego, Calif., from September 18 through 22, 1977. The agenda for such a conference calls for a post-conference field trip on September 23,1977, to the Los Angeles Zoo. The members of the AAZPA possess extensive experience, knowledge, and expertise in the handling, care, treatment, and transportation of marine mammals, which is involved in this rulemaking proceeding. The Department is hopeful that many members of the AAZPA in attendance at such conference will attend the informal public hearing in Los Angeles if it is conveniently scheduled in conjunction with their conference, and thereby provide this Department with invaluable information concerning its proposed regulations and standards covering marine mammals. Therefore, it is deemed reasonable to set the date for such informal public hearing at Los Angeles less than 15 days after publication of this notice in the FEDERAL REGISTER.

Done at Washington, D.C. this 9th day of September 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Deputy Administrator,
Veterinary Services.

[FR Doc.77-26705 Filed 9-12-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Definition of Small Business for Purpose of Government Procurement for Establishments Engaged in Architectural and/or Engineering Services

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The purpose of this rule is to eliminate the current separate definitions of small business for the purpose

of Government procurement for architectural and engineering services and to adopt a single $3.5 million standard for application to contracts for either or both. Confusion has existed among contracting officers and vendors as to which standard to apply when both architectural and engineering services are involved. Procurement for architectural services carried a size standard of $2 million, while engineering services is $7.5 million. This new definition is intended to eliminate the confusion while maintaining adequate competition by contractors qualified to meet Government requirements.

DATE: Written comments must be submitted by October 13, 1977.

ADDRESS: William L. Pellington, Director, Size Standards Division, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

John D. Whitmore, 202–653–6373.

SUPPLEMENTARY INFORMATION: This proposal was prompted by comments received from contracting officers, vendors, and professional associations concerning the dual size standards and also the present level.

The perplexity of deciding which standard to apply when the primary requirement of the procurement called for substantially equal proportions of both architectural and engineering services has bewildered both contracting officers and vendors alike. This situation has caused numerous protests to be lodged against the size standard applied in various procurements, causing delays in contract awards.

Additionally, commenters have indicated that the present size standard for engineering services is extremely high, so that very few firms are excluded, thus causing small firms to try and compete with the very large. It is their contention that the size standard for engineering services should be lowered to the point which would allow only those firms who, because of their size, have problems maintaining their competitive viability.

In this light, consideration has also been given to the issue of maintaining adequate competition among contractors qualified to meet Government requirements. Research shows that over 96 percent of the companies would fall under the $3.5 million standard. This puts to rest any fear of insufficient qualified contractors. Accordingly, we propose to adopt a $3.5 million annual receipts standard for both architectural and engineering services contracts.

More specifically, it is proposed to amend § 121.3–8 of Part 121, Chapter I, Title 13 of the Code of Federal Regulations, by revising § 121.3–8(e)(1) to read as follows:

§ 121.3–8 Definition of small business for Government procurement.

• • • • • •

(e) Services. • • •

(1) Any concern bidding on a contract for engineering services, architectural services, or architectural and engineering services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $3.5 million.

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Dated: August 31, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-26577 Filed 9-12-77;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

[32 CFR Part 286]

FREEDOM OF INFORMATION ACT (FOIA) PROGRAM

Procedures and Requirements; Extension of Comment Period

AGENCY: Office of the Secretary of Defense.

ACTION: Extension of comment period.

SUMMARY: In FR Doc. 77–23004 published in the FEDERAL REGISTER, August 10, 1977 (42 FR 40552), the Office of the Secretary of defense published a proposed rule revising 32 CFR Part 286. This action extends the comment period for the proposed rule.

DATE: Comments must be received on or before September 26, 1977.

ADDRESS: Directorate for Freedom of Information and Security Review, Office of the Assistant Secretary of Defense (Public Affairs), Department of Defense, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT:

Arthur E. Fajans, 202–697–1171.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

SEPTEMBER 8, 1977.

[FR Doc.77-26593 Filed 9-12-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 785–8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Maine Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Disapproval of a proposed Implementation Plan revision.

SUMMARY: A revision to the Maine Implementation Plan, which would have exempted municipal refuse conical incinerators from the particulate emission standards, is being disapproved on the basis of predicted violations of the National Ambient Air Quality Standards. Accordingly, these facilities must continue to comply with Regulation 100.4 of the Maine Air Pollution Control Regulations.

EFFECTIVE DATE: September 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Wallace Woo, Air Branch, EPA Region I, Room 2113, JFK Federal Building, Boston, Mass. 02203 (617–223–5609).

SUPPLEMENTARY INFORMATION: On May 31, 1972 (37 FR 10870) pursuant to Section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved, with exceptions, the Maine Implementation Plan for the attainment of National Ambient Air Quality Standards (NAAQS).

On June 13, 1977, there was published in the FEDERAL REGISTER (42 FR 30219) a proposal to exempt municipal refuse conical incinerators serving populations of 25,000 or less from the incinerator particulate emission standards contained in Regulation 100.4 of the Maine Air Pollution Control Regulations. The proposed revision to the State Implementation Plan (SIP) was submitted by the Maine Department of Environmental Protection (Maine DEP) on November 18, 1976, and was accompanied by an evaluation of the air quality impact of the revision.

The calculations performed by the Maine DEP showed that air quality levels exceeding the NAAQS for total suspended particulates (TSP) could occur in the vicinity of municipal refuse conical incinerators which are not subject to any emission limitations. Based on this analysis, the Regional Administrator indicated in the FEDERAL REGISTER proposal that he was considering disapproval of the proposed revision.

No comments were received during the 30-day comment period, nor was any additional technical information submitted.

After evaluation of the State's submittal, the Administrator has determined that the Maine revision does not meet the requirements of the Clean Air Act and 40 CFR Part 51. Therefore, this submittal is disapproved as a revision to the Maine Implementation Plan.

(Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 1857c–5(a).)

Dated: September 7, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-26546 Filed 9-12-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[41 CFR Part 24–1]

[Docket No. R–77–460]

PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Small Business Set-Asides; Correction

AGENCY: Office of Administration, HUD.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the telephone number of the person to be contacted for further information.

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SUPPLEMENTARY INFORMATION: The telephone number for William F. Grigg appearing at 42 FR 42234 (August 22, 1977) should be corrected to read 202–724–0034.

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d).)

Issued at Washington, D.C., August 31, 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc.77-26571 Filed 9-12-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 43]

[Docket No. 21385; RM-2765; FCC 77-603]

ANNUAL REPORTS FORMS

Amending Form M for Telephone Companies, Form O for Wire-Telegraph and Ocean-Cable Carriers, and Form R for Radiotelegraph Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Federal Communications Commission proposes to amend certain annual report forms used by telephone companies, wire-telegraph and ocean-cable carriers, and radiotelegraph carriers. The document would amend the reporting requirements for the compensation of employees other than officers and directors.

Comments are solicited from State Commissions and the general public on two major areas: (1) the adequacy of the compensation groups being proposed for aggregating employees other than officers and directors; and (2) which company officials shall be individually reported as officers in the revised schedules.

This proposal is in response to an original and an amended petition for rulemaking and will result in a reduction in respondent's reporting requirements.

DATES: Comments from the State Commissions and the general public should be submitted on or before November 1, 1977, and reply comments on or before December 1, 1977. The proposed effective date to amend Annual Report Forms M, O, and R is for the report for the year 1977.

ADDRESSES: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Gary R. Oddi, Accounting Branch, Accounting and Audits Division, Common Carrier Bureau, 202–632–3863.

In the Matter of Amendment of Annual Reports Form M for Telephone Companies, Form O for Wire-Telegraph and Ocean-Cable Carriers, and Form R for Radio-telegraph Carriers to amend the reporting requirements for compensation of employees other than officers and directors, (Docket No. 21385 (RM-2765)).

Adopted August 31, 1977.

Released: September 2, 1977.

1. On October 26, 1976, Public Notice was given that a Petition for Rulemaking in the above-entitled matter had been filed on October 6, 1976, by the American Telephone and Telegraph Company (AT&T). As a result of responses to its petition, AT&T amended its original petition on March 14, 1977.

2. Schedule 70B, "Compensation of Officers, Directors, Etc.," of Annual Report Form M requires each telephone company [1] to furnish names, positions, and compensations data with respect to (1) officers and directors, (2) all other persons having an annual salary of $40,000 or more, and (3) persons to whom the carrier paid $40,000 or more during the year as compensation for current or past services.[2]

3. In 1934, carriers were required to report the name, position, and amount of compensation paid to each officer and director in Annual Report Form M. In addition, the annual compensation of each employee not designated as an officer or director was required to be reported if the amount was $10,000 or more. In 1948, this amount was raised to $15,000 and in 1959, to $20,000. In 1965, the reporting compensation level for those carriers having annual operating revenues exceeding $25,000,000 was raised to $30,000. In 1973, the present requirements were adopted. The compensation level for reporting data on these employees has been raised over the years because of increasing salary scales.

4. In its October 6, 1976, petition, AT&T requested the Commission to eliminate from Annual Report Form M the requirement for reporting the names, positions, and compensation of employees as distinguished from officers and directors. In AT&T's amended petition, compensation of employees other than officers and directors would continue to be reported but it would be aggregated by reporting the number of such persons within designated compensation groups. A description of the general nature of the position included within each compensation group would also be reported. The names of individuals so aggregated would not be reported but such information would be maintained by the carriers for submittal to the Commission upon request. AT&T believes its amended proposal would ensure the privacy of individuals who are neither directors nor officers while at the same time continue to provide an overall picture of the compensation of top management. For purposes of preparing this schedule, AT&T proposes that directors are those individuals who comprise the Board of Directors and officers are those corporate officials who are elected or appointed by the Board of Directors.

5. GTE Domestic Telephone Operating Companies and the Western Union Telegraph Company filed comments in support of AT&T's original request. The telegraph company urged that an equivalent change be made to Schedule 3, "General Officers and Executives," of Annual Report Form O. Comments in opposition to AT&T's original request were filed by the State Corporation Commission of Kansas, the State of Michigan Department of Attorney General, and the National Telephone Cooperative Association (NTCA).[3] Each of these parties cited a regulatory or public interest need for compensation data of highly paid telephone company employees such as for (1) comparisons of executive and professional salaries among various telephone operating companies and between telephone and gas and electric utilities,[4] (2) recommending disallowances in establishing intrastate telephone rates or in reporting to local commissions by their staffs of excessive executive compensation, (3) surveys of management compensation practices, and (4) compilations of industry salary and benefit levels. AT&T's amended request is designed to continue to satisfy the needs of these parties and at the same time reduce the companies reporting burden and protect the privacy of employees who are not officers or directors.

6. We are aware that Schedule 70B of our Annual Report Form M in addition to serving this Commission also serves the needs of the state commissions [5] and the general public. Accordingly, we are proposing two alternative amendments to our annual forms which are similar to AT&T's request.[6] In addition we are inviting specific comments on two major areas. These comments shall be weighed heavily before reaching a final decision in this proceeding. These areas are (1) the adequacy of the compensation groups being proposed for the reporting of compensation of employees other than officers and directors and (2) which company officers shall be individually reported as officers in the revised schedule. Shall officers be limited to general officers or shall assistant officers [7] such as assistant vice presidents, assistant secretaries, assistant treasurers, etc., also be included? Comments are invited on the extent these officials engage in the establishment of company policies and the establishment of procedures to implement these policies as well as the right of members of the rate paying public to know the names and salaries of company officials whose decisions affect the public.

7. It is proposed, therefore, to amend Annual Report Form M, O, and R, effective in the report for the year 1977, as set forth below.

8. This Notice of Proposed Rulemaking is issued under authority of sections 4(i) and 219 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 219.

9. Pursuant to applicable procedures set forth in 47 CFR 1.415, interested persons may file comments on or before November 1, 1977, and reply comments on or before December 1, 1977. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

10. In accordance with the provisions of 47 CFR 1.419, an original and 5 copies of all statements or briefs shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Broadcast and Dockets Reference Room.

11. Although GAO clearance is not required, it should be noted that a reduction in respondents' reporting burden will be achieved under this proposal.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

I

Annual Report Forms M for Telephone Companies, O for Wire-Telegraph and Ocean-Cable Carriers, and R for Radiotelegraph Carriers are amended as follows: in Schedule 70B, Compensation of Officers, Directors, Etc., of Form M and in Schedule 3, General Officers and Executives, of Forms O and R, instruction 1 is amended to read as follows:

1 (a). Furnish the indicated data with respect to each officer and director, whether or not he received any compensation from the respondent at any time during the year for current or past services. For purposes of preparing this schedule, "directors" are those individuals who comprise the Board of Directors of the respondent, and "officers" are general officers as defined in Section 51.3 of Part 51 of Commission's rules and regulations.

(b). Furnish the indicated data with respect to all other persons having an annual salary rate of $20,000 or more ($40,000 or more if respondent's annual operating revenues exceeded $100,000,000) at any time during the year or to whom the respondent paid $20,000 or more ($40,000 or more if respondent's annual operating revenue exceeded $100,000,000) during the year as compensation for current or past services.

With respect to the information requested in 1(b), above: Respondents having annual operating revenues of $100,000,000 or less may aggregate by stating the number of such persons within the following compensation groups without naming them:

i. $20,000—$29,999
ii. $30,000—$39,999
iii. $40,000—

Respondents having annual operating revenues in excess of $100,000,000 may aggregate by stating the number of such persons within the following compensation groups without naming them:

i. $40,000—$59,999
ii. $60,000—$79,999
iii $80,000—$99,999
iv. $100,000—

Furnish in Column (a) the aggregate number of such persons by compensation group. Furnish in Column (c) the compensation groups as applicable. Furnish in Columns (d), (e), and (f) the aggregate amounts received by such persons included in each compensation group. A brief description of the general nature of the positions included within each compensation group shall be included in a footnote on the schedule.

(c). The respondent shall keep such records as are necessary to provide the Commission the individual data with respect to all columns of information for each of the persons aggregated, and will upon request of the Commission provide such individual data.

II

Annual Report Forms M for Telephone Companies, O for Wire-Telegraph and Ocean-Cable Carriers, and R for Radiotelegraph Carriers are amended as follows: in Schedule 70B, Compensation of Officers, Directors, Etc., of Form M and in Schedule 3, General Officers and Executives, of Forms O and R, instruction 1 is amended to read as follows:

1 (a). Furnish the indicated data with respect to each officer and director, whether or not he received any compensation from the respondent at any time during the year for current or past services. For purposes of preparing this schedule, "directors" are those individuals who comprise the Board of Directors of the respondent, and "officers" are general officers as defined in Section 51.3 of Part 51 of Commission's rules and regulations.

(b). Furnish the indicated data with respect to all other persons having an annual salary rate of $20,000 or more ($40,000 or more if respondent's annual operating revenues exceeded $100,000,000) at any time during the year or to whom the respondent paid $20,000 or more ($40,000 or more if respondent's annual operating revenue exceeded $100,000,000) during the year as compensation for current or past services.

With respect to the information requested in 1(b), above: Respondents having annual operating revenues of $100,000,000 or less may aggregate such persons according to their job title in the following compensation groups:

i. $20,000—$29,000
ii. $30,000—$39,000
iii. $40,000—

Respondents having annual operating revenues in excess of $100,000,000 may aggregate such persons according to their job title in the following compensation groups.

i. $40,000—$49,000
ii. $50,000—$59,000
iii. $60,000—$69,000
iv. $70,000—$79,000
v. $80,000—$89,000
vi. $90,000—

Data will be accumulated in a similar matrix format as Schedule 70C Furnish in column (a) the job titles of such persons to be aggregated. Under the column headings of the various compensation groups, furnish within the matrix the applicable number of persons associated with the job title under the applicable compensation group.

(c). The respondent shall keep such records as are necessary to provide the Commission the individual data with respect to all columns of information for each of the persons aggregated, and will upon request of the Commission provide such individual data.

[FR Doc.77-26569 Filed 9-12-77;8:45 am]

[47 CFR Part 67]

[Docket No. 21264]

COMMON CARRIERS BETWEEN UNITED STATES MAINLAND AND HAWAII, ALASKA, AND PUERTO RICO/VIRGIN ISLANDS

Integration of Rates and Services for Provision of Communications; Federal-State Joint Board

AGENCY: Federal Communications Commission.

ACTION: Supplemental Joint Board Notice.

SUMMARY: In this action the Commission accepts the nominations for State Commissioner representatives to this proceeding, appoints the Commission members to the Board, and schedules the first formal meeting of the Board.

DATES: The Joint Board will meet on September 22, 1977, at 9 a.m. in the Commission's Offices at 1919 M Street NW., Washington, D.C.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Francis L. Young, Common Carrier Bureau, 632-5550.

SUPPLEMENTARY INFORMATION:

FIRST SUPPLEMENTAL NOTICE

Adopted: September 2, 1977.

Released: September 7, 1977.

In the matter of integration of rates and services for the provision of com-

[1] Schedule 3, "General Officers and Executives," of Annual Report Forms O and R requires the same reporting for wire-telegraph, ocean-cable and radiotelegraph carriers.

[2] $20,000 or more is the reporting level if the carrier's annual operating revenue does not exceed $100 million.

[3] Late comments were filed by the Federation of Telephone Workers of Penn., but were not served upon AT&T and were not addressed in AT&T's reply comments. Because of these factors, such comments have not been considered.

[4] Similar compensation for gas and electric utilities are required by the Federal Power Commission.

[5] Annual Report Form M as modified for particular local needs serves as the reporting vehicle for state regulatory commissions.

[6] With an exception, officers to be reported in Schedule 70B shall be general officers as defined in Section 51.3 of Part 51 of the Commission's Rules and Regulations.

[7] See Section 51.32 of Part 51 of the Commission's Rules and Regulations.

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munications by authorized common carriers between the United States Mainland and Hawaii, Alaska, and Puerto Rico/Virgin Islands, Docket No. 21264.

1. In a "Notice of Inquiry, Proposed Rulemaking and Creation of Federal-State Joint Board," FCC 77-366, released June 7, 1977, we gave notice of the convening of a Federal-State Joint Board pursuant to section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. 410 (c) [1] This Joint Board was convened to prepare a recommended decision for the purpose of establishing the separations procedure(s) applicable to Puerto Rico and the Virgin Islands. Before us for consideration are the State Commissioner nominations submitted by the National Association of Regulatory Utility Commissioners (NARUC).

2. Pursuant to section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. 410(c), the following State Commission members of the Joint Board have been nominated by NARUC and submitted for our approval: Luis Berrios-Amadeo, Puerto Rico Public Service Commission; Gustav A. Danielson, Virgin Islands Public Services Commission; Alexander Kalinski, New Hampshire Public Utilities Commission; and Edward P. Larkin, New York Public Service Commission. We hereby accept these very competent State Commissioners as members of the Joint Board. They will be joined by Commissioners Richard E. Wiley, Robert E. Lee, and Joseph R. Fogarty of this Commission.[2]

3. It is the further purpose of this notice to organize and establish a meeting place and date so that the Board may determine at that time procedures appropriate to the stated purpose of the creation of this Board. It is anticipated that the initial meeting will explore a schedule for a notice and comment procedure so that all interested parties will have an adequate opportunity to develop a record supporting what modifications, if any, should be made to the existing Separations Manual in order that it would be applicable to Puerto Rico and the Virgin Islands. In addition, we anticipate that the Board will address the procedures under which the Board will operate including ex parte rules.

4. *Accordingly, it is ordered*, That Luis Berrios-Amadeo, Gustav A. Danielson, Alexander J. Kalinski, Edward P. Larkin, Richard E. Wiley, Robert E. Lee, and Joseph R. Fogarty are appointed to the Federal-State Joint Board mentioned herein and the first meeting of such board shall be held on September 22, 1977 at 9 a.m. in the offices of this Commission at 1919 M Street, NW., in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,[3]
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-26589 Filed 9-12-77;8:45 am]

[1] See 42 FR 30220, June 13, 1977.
[2] Commissioner Abbott M. Washburn is designated as an alternate to this Joint Board.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 299]

[Docket No. 77N-0115]

DRUGS; OFFICIAL NAMES

Proposed Amendment of Designation of Official Names

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the drug regulations by updating the list of official names of drugs to reflect changes in chemical structure and the addition of new official names. Pursuant to statutory authority, the Commissioner of Food and Drugs is revising the designation of official names for certain drugs for reasons of usefulness and simplicity.

DATE: Comments by November 14, 1977.

ADDRESSES: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Charles Kumkumian, Bureau of Drugs (HFD-102), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857. 301-443-4330.

SUPPLEMENTARY INFORMATION: The following changes are proposed:

1. Based on new chemical evidence concerning the composition of the drugs, and on adoption of the changes by the United States Adopted Names (USAN) Council, the official names "cisclomiphene" and "transclomiphene" are changed to "enclomiphene" and "zuclomiphene", respectively, and the chemical name of each is revised. Also based on new chemical evidence, the chemical name and molecular formula of "clorazepic acid" are revised and the spelling of the official name is corrected.

2. For the same reasons, the description of "colestipol" is revised.

3. The official name "dextran 40" is replaced with "dextran," and the official names "nonoxynol 4," "nonoxynol 9," "nonoxynol 15," and "nonoxynol 30" are replaced with "nonoxynol." The chemical descriptions are revised in keeping with currently accepted nomenclature. The changes reflect FDA policy that, with rare exceptions, only the parent name of a drug is listed even though various salts, molecular weights, ratios of components, etc., might be available; a footnote is added to the table to explain that this is the agency's policy.

4. Forty-one additional official names, all of which have been adopted by the USAN Council, are added, together with the chemical name or description of each and the molecular formula where appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 508, 76 Stat. 789 (21 U.S.C. 358)) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 299 by revising the table in § 299.20 by deleting the complete entries for "chlorazepic acid," "cisclomiphene," "transclomiphene," "dextran 40," "nonoxynol 4," "nonoxynol 9," "nonoxynol 15," and "nonoxynol 30;" revising the description of colestipol; adding an explanatory footnote; and alphabetically inserting new entries, as follows:

§ 299.20 Drugs; official names.

Official name [1]	Chemical name or description	Molecular formula
Amoxicillin	[2*S*[2α,5α,6β(*S**)]]-6-[[Amino(4-hydroxyphenyl)acetyl]amino]-3,3-dimethyl-7-oxo-4-thia-1-azabicyclo[3.2.0]heptane-2-carboxylic acid.	$C_{16}H_{19}N_3O_5S$
Beclomethasone	9-Chloro-11β,17,21-trihydroxy-16β-methylpregna-1,4-diene-3,20-dione.	$C_{22}H_{29}ClO_5$
Benzquinamide	2-(Acetyloxy)-*N*,*N*-diethyl-1,3,4,6,7,11b-hexahydro-9,10-dimethoxy-2*H*-benzo[*a*]quinolizine-3-carboxamide.	$C_{24}H_{32}N_2O_5$
Buptvacaine	1-Butyl-*N*-(2,6-dimethylphenyl)-2-piperidinecarboxamide.	$C_{18}H_{28}N_2O$
Calusterone	(7β,17β)-17-Hydroxy-7,17-dimethylandrost-4-en-3-one.	$C_{21}H_{32}O_2$
Carbidopa	(*S*)-α-Hydrazino-3,4-dihydroxy-α-methylbenzenepropanoic acid.	$C_{10}H_{14}N_2O_4$
Cephacetrile	(6*R*-*trans*)-3-[(Acetyloxy)methyl]-7-[(cyanoacetyl)amino]-8-oxo-5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid.	$C_{14}H_{13}N_3O_6S$
Chlorazepic acid	7-Chloro-2,3-dihydro-2-oxo-5-phenyl-1*H*-1,4-benzodiazepine-3-carboxylic acid.	$C_{16}H_{11}ClN_2O_3$
Clotrimazole	1-[(2-Chlorophenyl)diphenylmethyl]-1*H*-imidazole.	$C_{22}H_{17}ClN_2$
Colestipol	Copolymer of diethylenetriamine and 1-chloro-2,3-epoxypropane (with approximately 1 out of 5 amine nitrogens protonated).	
Dacarbazine	5-(3,3-Dimethyl-1-triazenyl)-1*H*-imidazole-4-carboxamide.	$C_6H_{10}N_6O$
Dantrolene	1-[[5-(4-Nitrophenyl)-2-furanyl]methylene]amino]-2,4-imidazolidinedione.	$C_{14}H_8N_4O_5$
Desonide	(11β,16α)-11,21-Dihydroxy-16,17-[(1-methylethylidene)bis(oxy)]pregna-1,4-diene-3,20-dione.	$C_{24}H_{32}O_6$
Dextran	A polysaccharide produced by the action of *Leuconostoc mesenteroides* on sucrose.	
Dinoprost	(5*Z*,9α,11α,13*E*,15*S*)-9,11,15-Trihydroxyprosta-5,13-dien-1-oic acid.	$C_{20}H_{34}O_5$
Doxorubicin	(8*S*-*cis*)-10-[(3-Amino-2,3,6-trideoxy-α-L-*lyxo*-hexopyranosyl)oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-8-(hydroxyacetyl)-1-methoxy-5,12-naphthacenedione.	$C_{27}H_{29}NO_{11}$
Enclomiphene	(*E*)-2-[4-(2-Chloro-1,2-diphenylethenyl)phenoxy]-*N*,*N*-diethylethanamine.	$C_{26}H_{28}ClNO$
Enflurane	2-Chloro-1-(difluoromethoxy)-1,1,2-trifluoroethane.	$C_3H_2ClF_5O$
Fenfluramine	*N*-Ethyl-α-methyl-3-(trifluoromethyl)benzeneethanamine.	$C_{12}H_{16}F_3N$
Fenoprofen	(±)-α-Methyl-3-phenoxybenzeneacetic acid.	$C_{15}H_{14}O_3$
Halcinonide	(11β,16α)-21-Chloro-9-fluoro-11-hydroxy-16,17-[(1-methylethylidene)bis(oxy)]pregn-4-ene-3,20-dione.	$C_{24}H_{32}ClFO_5$
Haloprogin	1,2,4-Trichloro-5-[(3-iodo-2-propynyl)oxy]benzene.	$C_9H_4Cl_3IO$
Hetastarch	A starch that is composed of more than 90 pct of amylopectin and that has been etherified to the extent that an average of 7 to 8 of the OH groups present in every 10 D-glucopyranose units of starch polymer have been converted into OCH_2CH_2OH groups.	
Lactulose	4-*O*-β-D-Galactopyranosyl-D-fructose.	$C_{12}H_{22}O_{11}$
Loxapine	2-Chloro-11-(4-methyl-1-piperazinyl)dibenz[*b*,*f*][1,4]oxazepine.	$C_{18}H_{18}ClN_3O$
Mazindol	5-(4-Chlorophenyl)-2,5-dihydro-3*H*-imidazo[2,1-*a*]isoindol-5-ol.	$C_{16}H_{13}ClN_2O$
Mebendazole	Methyl (5-benzoyl-1*H*-benzimidazol-2-yl)carbamate.	$C_{16}H_{13}N_3O_3$
Megestrol	17-Hydroxy-6-methylpregna-4,6-diene-3,20-dione.	$C_{22}H_{30}O_3$
Menotropins	Extract of postmenopausal urine of women containing primarily the follicle-stimulating hormone (FSH).	
Metaproterenol	5-[1-Hydroxy-2-[(1-methylethyl)amino]ethyl]-1,3-benzenediol.	$C_{11}H_{17}NO_3$
Metrizoic acid	3-(Acetylamino)-5-(acetylmethylamino)-2,4,6-triiodobenzoic acid.	$C_{11}H_9I_3N_2O_4$
Miconazole	1-[2-(2,4-Dichlorophenyl)-2-[(2,4-dichlorophenyl)methoxy]ethyl]-1*H*-imidazole.	$C_{18}H_{14}Cl_4N_2O$
Mitomycin	[1a*R*-(1aα,8β,8aα,8bα)]-6-Amino-8-[[(aminocarbonyl)oxy]methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methylazirino[2',3':3,4]pyrrolo[1,2-*a*]indole-4,7-dione.	$C_{15}H_{18}N_4O_5$
Naproxen	(+)-6-Methoxy-α-methyl-2-naphthaleneacetic acid.	$C_{14}H_{14}O_3$
Nonoxynol	α-(Nonylphenyl)-ω-hydroxypoly(oxy-1,2-ethanediyl).	$C_{15}H_{24}O(C_2H_4O)_n$
Oxolinic acid	5-Ethyl-5,8-dihydro-8-oxo-1,3-dioxolo[4,5-*g*]quinoline-7-carboxylic acid.	$C_{13}H_{11}NO_5$
Oxybutynin	4-(Diethylamino)-2-butynyl α-cyclohexyl-α-hydroxybenzeneacetate.	$C_{22}H_{31}NO_3$
Prazosin	1-(4-Amino-6,7-dimethoxy-2-quinazolinyl)-4-(2-furanylcarbonyl)piperazine.	$C_{19}H_{21}N_5O_4$
Probucol	4,4'-[(1-Methylethylidene)bis(thio)]bis[2,6-bis(1,1-dimethylethyl)phenol].	$C_{31}H_{48}O_2S_2$
Sulfacytine	4-Amino-*N*-(1-ethyl-1,2-dihydro-2-oxo-4-pyrimidinyl)benzenesulfonamide.	$C_{14}H_{16}N_4O_3S$
Terbutaline	5-[2-[(1,1-Dimethylethyl)amino]-1-hydroxyethyl]-1,3-benzenediol.	$C_{12}H_{19}NO_3$
Tobramycin	O-3-Amino-3-deoxy-α-D-glucopyranosyl-(1→6)-O-[2,6-diamino-2,3,6-trideoxy-α-D-*ribo*-hexopyranosyl-(1→4)]-2-deoxy-D-streptamine.	$C_{18}H_{37}N_5O_9$
Tolmetin	1-Methyl-5-(4-methylbenzoyl)-1*H*-pyrrole-2-acetic acid.	$C_{15}H_{15}NO_3$
Trimethoprim	5-[(3,4,5-Trimethoxyphenyl)methyl]-2,4-pyrimidinediamine.	$C_{14}H_{18}N_4O_3$
Zuclomiphene	(*Z*)-2-[4-(3-Chloro-1,2-diphenylethenyl)phenoxy]-*N*,*N*-diethylethanamine.	$C_{26}H_{28}ClNO$

[1] With rare exceptions, only the parent name is listed for a drug, even though various salts, molecular weights, or ratios of components may be available.

[3] Commissioner Joseph R. Fogarty absent.

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November 14, 1977, submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A–107.

Dated: August 16, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77–26572 Filed 9–12–77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other then rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Marketing Agreement 146]

PEANUTS; 1977 CROP

Outgoing Quality Regulation and Indemnification Amendment

Pursuant to the provisions of sections 32, 34, and 36 of the marketing agreement regulating the quality of domestically produced peanuts heretofore entered into between the Secretary of Agriculture nd various handlers of peanuts (30 FR 9402) and upon recommendation of the Peanut Administrative Committee established pursuant to such agreement and other information, it is hereby found that the amendments hereinafter set forth to the Outgoing Quality Regulation and Terms and Conditions of Indemnification Applicable to 1977 Crop Peanuts (42 FR 32278) will tend to effectuate the objectives of the Agricultural Marketing Agreement Act of 1937, as amended, and of such agreement.

Amendment of paragraph (g)(2) of the Outgoing Quality Regulation is necessary to provide that handlers may keep separate or commingle lots of loose shelled kernels, fall through, and pickouts. This proposal would change the restriction which requires pickouts to be kept separate and apart from loose shelled kernels and fall through and should facilitate movement of such peanuts to intended outlets.

Therefore, paragraph (g)(2) of the Outgoing Quality Regulation (42 FR 32278) is amended by deleting the second sentence and replaced by the following:

Such categories may be kept separate or be commingled in the same lot and shall be bagged in suitable new or clean, used bags or placed in bulk containers acceptable to the Committee.

Amendment of last paragraph of the Terms and Conditions of Indemnification is necessary to bring the indemnification values into conformity with determinations of the Committee. This proposed change would specify a specific indemnification price for the various indemnifiable categories of peanuts rather than basing such prices on the national average support price.

Therefore, the last paragraph of the Terms and Conditions of Indemnification (42 FR 32278) is amended by deleting the entire paragraph and replaced by the following:

The indemnification value for all categories of peanuts eligible for indemnification, except U.S. Virginia Extra-Large and all types of peanuts grading U.S. splits as noted hereinafter, shall be 31.4 cents per pound. The value for U.S. Virginia Extra-Large shall be 33.4 cents per pound. The value of U.S. splits of all types shall be 28.4 cents per pound.

The Peanut Administrative Committee has recommended that these amendments be issued as soon as possible so as to implement and effectuate the provisions of the marketing agreement dealing with the Outgoing Quality Regulation and Terms and Conditions of Indemnification. Marketing of the 1977 peanut crop is well underway and such regulations and terms and conditions for actual operations under the agreement should therefore be modified and made effective as soon as possible, i.e., on the effective date specified herein. Handlers of peanuts who will be affected by such amendments have signed the marketing agreement authorizing the issuance of such regulations, they are represented on the Committee which recommended such amendments and time does not permit prior notice of the proposed amendments to such handlers.

The foregoing amendments of the Outgoing Quality Regulations are hereby approved.

Dated: September 7, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division.

[FR Doc.77–26555 Filed 9–12–77;8:45 am]

Rural Electrification Administration

COOPERATIVE POWER ASSOCIATION

Negative Determination

Notice is hereby given that the Rural Electrification Administration (REA) has made a negative determination on the need for an environmental impact statement by REA in connection with a proposed loan guarantee commitment from the Rural Electrification Administration for Cooperative Power Association (CPA) of Minneapolis, Minn., to construct a combustion turbine in Minnesota. The proposed loan guarantee commitment will assist in obtaining financing to purchase a 50 MW combustion turbine to be located at the existing 115/69 kV substation in Waterford Township, Minn.

An on-site investigation on the proposed site was conducted by REA. REA has prepared an Environmental Assessment on the proposed action. CPA has prepared an Environmental Analysis of the proposed action in which REA had extensive input. The Environmental Analysis is in compliance with REA's environmental guidelines and numerous commitments have been made by CPA to satisfy Federal, State, and local requirements.

Installation permits have been obtained from the Minnesota Pollution Control Agency. Rare and endangered species, prime and unique farmlands, archaeological and historic sites, and other potential impacts of the project are adequately considered, and we do not anticipate any significant effects as a result of this project.

Our independent evaluation of the proposed project leads us to conclude that REA's proposed financial assistance for this project does not represent a major Federal action that would significantly affect the quality of the human environment.

Based on REA's independent evaluation, our Environmental Assessment, our review of the Environmental Analysis and REA experience with installations of this type and the subsequent environmental effects, a negative determination was made under Section 5K of REA Bulletin 20–21.

Copies of the Environmental Assessment and Environmental Analysis may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Final REA action with respect to this matter may be taken after September 28, 1977, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 6th day of September 1977.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc.77–26603 Filed 9–12–77;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUS

Summary Results

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on household relationship, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the Decennial Census.

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Summary results of special censuses are published semiannually in the Current Population Reports—Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since December 31, 1976, for which tabulations were completed between August 1, 1977, and August 31, 1977.

Dated: September 7, 1977.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

State/place or special area	County	Date of census	Population
Alabama: Rainbow City	Etowah	June 2, 1977	5,268
Arkansas:			
Manila City	Mississippi	June 28, 1977	2,402
Pleasant Plains City	Independence	June 30, 1977	285
Colorado: Archuleta County		June 14, 1977	3,504
Idaho:			
Blaine County		June 7, 1977	8,748
Eagle City	Ida	June 6, 1977	1,579
Montpelier City	Bear Lake	June 21, 1977	3,122
Illinois:			
Antioch village	Lake	June 14, 1977	4,194
Burnham village	Cook	May 17, 1977	3,953
Cambria village	Williamson	June 13, 1977	960
Clinton city	DeWitt	Apr. 26, 1977	7,604
Crete village	Will	June 20, 1977	5,012
DeSoto village	Jackson	do	1,324
Edwardsville city	Madison	June 9, 1977	11,982
Glen Ellyn village	DuPage	June 2, 1977	24,785
Inverness village	Cook	June 24, 1977	2,427
Northbrook village	do	June 23, 1977	30,067
Oswego village	Kendall	June 22, 1977	2,677
Salem city	Marion	May 24, 1977	7,183
Williamsville village	Sangamon	May 9, 1977	980
Indiana:			
Munster town	Lake	June 2, 1977	20,164
Union City	Randolph	June 27, 1977	3,944
Iowa:			
LeClaire city	Scott	June 28, 1977	2,619
Mitchellville city	Polk	June 6, 1977	1,430
Weldon city	Decatur	June 27, 1977	193
Minnesota: Eagan city	Dakota	June 8, 1977	19,276
Mississippi: Hancock County		June 17, 1977	19,360
Montana: Dawson County		May 6, 1977	11,387
Nebraska: Alliance city	Box Butte	June 8, 1977	7,987
North Carolina: Trent Woods town	Craven	May 16, 1977	1,110
North Dakota:			
Larimore city	Grand Forks	June 8, 1977	1,558
Oakes city	Dickey	June 6, 1977	2,017
Surrey city	Ward	July 12, 1977	990
Pennsylvania:			
Chester Heights borough	Delaware	July 5, 1977	1,059
Concord township	do	do	5,661
Derry township	Dauphin	June 21, 1977	17,306
Downingtown borough	Chester	Apr. 5, 1977	7,655
Lackawannock township	Mercer	June 6, 1977	2,489
Liberty township	Montour	July 11, 1977	1,224
Lower Pottsgrove township	Montgomery	June 20, 1977	6,666
Loyalsock township	Lycoming	May 31, 1977	10,943
Manor borough	Westmoreland	June 20, 1977	2,280
Upper Makefield township	Bucks	do	3,927
Wisconsin:			
Conover town	Vilas	June 6, 1977	888
Lincoln town	do	June 7, 1977	2,188
Mercer town	Iron	June 2, 1977	1,453
Plum Lake town	Vilas	July 13, 1977	581
Viola village	Richland and Vernon	July 6, 1977	666
Wyoming: South Superior town	Sweetwater	June 29, 1977	432

[FR Doc.77-26414 Filed 9-12-77;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session at the Naval Research Laboratory, 4555 Overlook Avenue SW., Building 208, Room 260A, Washington, D.C. 20375, on September 27, 1977.

The purpose of the Advisory Group is to provide the Director of the Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The microwave area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout. In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it is hereby determined that this meeting of the Advisory Group on Electron Devices concerns matters listed in section 552b (c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

SEPTEMBER 9, 1977.

[FR Doc.77-26645 Filed 9-12-77;8:45 am]

Office of the Secretary

NATIONAL COMMITTEE FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE

Open Meeting

Pursuant to the provisions of Section 10, Pub. L. 92-463, effective January 5, 1973, notice is hereby given that a meeting of the National Committee for Employer Support of the Guard and Reserve Executive Committee will take place on September 16, 1977, in the Pentagon Conference Area, 1E801, Room 7.

The purpose of the meeting is to determine new objectives of the National Committee and discuss methods by which it may continue in its solicitation of Employer Support for the Guard and Reserve.

A transcript will be available to anyone desiring information about the meeting.

Additional information concerning these meetings may be obtained by contacting the Assistant to the National Chairman, National Committee for Employer Support of the Guard and Reserve, 1117 North 19th Street, 9th Floor, Arlington, Va. 22209 (telephone 697-6966).

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD(C).

SEPTEMBER 8, 1977.

[FR Doc.77-26594 Filed 9-12-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 788-6]

CALIFORNIA STATE STANDARDS

Motor Vehicle Pollution Control; Public Hearing

On August 7, 1977, the Clean Air Act Amendments of 1977 (hereinafter "the Amendments") were enacted. Pub. L. 95-95, 91 Stat. 685. As explained below, the Amendments altered the findings that the Administrator must make before denying a State request for a waiver of Federal preemption under section 209 (b) of the Clean Air Act, as amended (hereinafter "the Act"). 42 U.S.C. 7543.[1]

The language of section 209(a), setting forth the general Federal preemption in this area, remains unchanged: "No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No State shall require certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment."

However, section 209(b), which sets forth the conditions under which the Environmental Protection Agency (EPA) Administrator may waive application of section 209(a), was completely revised by section 207 of the amendments (91 Stat. 755):

(b)(1) The Administrator shall, after notice and opportunity for public hearing, waive application of this section to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. No such waiver shall be granted if the Administrator finds that—

(A) the determination of the State is arbitrary and capricious,

(B) such State does not need such State standards to meet compelling and extraordinary conditions, or

(C) such State standards and accompanying enforcement procedures are not consistent with section 202(a) of this part.

(2) If each State standard is at least as stringent as the comparable applicable Federal standard, such State standards shall be deemed to be at least as protective of health and welfare as such Federal standards for purposes of paragraph (1).

(3) In the case of any new motor vehicle or new motor vehicle engine to which State standards apply pursuant to a waiver granted under paragraph (1), compliance with such State standards shall be treated as compliance with applicable Federal standards for purposes of this title.

The amended section 209(b) of the Act now requires a determination by California that its standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards, and now prohibits the Administrator from granting a California waiver request if he finds California's determination is arbitrary and capricious. Before the amendments, a waiver could only be granted for standards that were determined by the Administrator to be more stringent than applicable Federal standards.

The EPA has determined that the new amendments apply to all California waiver requests not acted upon by the Administrator prior to enactment of the amendments. The EPA will, therefore, review the following pending waiver requests in light of the amended Act:

(i) Compliance and inspection testing of 1977 and subsequent model year motor vehicles except 1977 and 1978 model year gasoline-powered passengers cars and light duty trucks under sections 2100 et seq., Title 13, California Administrative Code,

(ii) Assembly line test procedures for 1978 model year diesel-powered light duty trucks, and medium duty vehicles,

(iii) Exhaust emission standards and test procedures for 1979 and subsequent model year passenger cars, light duty trucks and medium duty vehicles,

(iv) Exhaust emission standards and test procedures for 1980 and subsequent model year passenger cars, light duty trucks and medium duty vehicles, including high altitude test requirements applicable to these classes of vehicles,

(v) Certification test procedures applicable to 1980 and subsequent model year passenger cars, light duty trucks and medium duty vehicles imposing a limitation on idle mixture adjustability,

(vi) Evaporative emission standard and test procedures (SHED test) for 1980 and subsequent model year gasoline-powered motor vehicles except motorcycles and, also, amendments to the SHED test procedures for 1978 and subsequent model year gasoline-powered motor vehicles except motorcycles,

(vii) Restrictions on allowable maintenance applicable to 1980 and subsequent model year gasoline-powered passenger cars and 1981 and subsequent model year gasoline-powered light duty trucks and medium duty vehicles adopted May 26, 1977,

(viii) The reconsideration of the October 1, 1977, motorcycle waiver decision and compliance testing and inspection of 1978 and subsequent model year motorcycles, and

(ix) Amendments to the California exhaust emission standards and test procedures for 1980 and subsequent model year passenger cars, light duty trucks, and medium duty vehicles pertaining to more stringent NO_x standards.

Notice is hereby given that:

(1) A public hearing will be convened to consider whether California's determinations pursuant to section 209(b)(1) are arbitrary and capricious,

(2) At that hearing, interested parties are invited to make further comments, limited to any information which has become available to the interested parties after the initial public hearings, on whether California needs such standards to meet compelling and extraordinary conditions or whether California's standards are not inconsistent with section 202(a)[2] of this part,

(3) A public hearing on these matters will be convened at the Federal Building & U.S. Courthouse, Room 13450, 450 Golden Gate Avenue, San Francisco, Calif., on Thursday, October 13, 1977, commencing at 9 a.m. Benjamin R. Jackson, Director, Mobile Source Enforcement Division, EPA, is designated as the Presiding Officer for this hearing.

Any person desiring to make a statement at the hearing or to submit material for the hearing record should file a notice of such intention along with ten copies of his or her proposed statement (and other relevant material) by October 11, 1977, with the Director, Mobile Source Enforcement Division (EN-340), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. The agenda will be determined by the order in which these notices are received. In addition, if feasible, twenty-five copies of such statement or material for the hearing record should be submitted to the Presiding Officer at the time of the public hearing.

The pertinent California standards and test procedures can be found in:

(i) Sections 2100 et seq., Title 13, California Administrative Code, "California New Vehicle Compliance Test Procedures," adopted on June 24, 1976, and "California New Motorcycle Test Procedures," adopted on June 30, 1977,

(ii) Sections 1955.1, 1955.5, 1959, Title 13, California Administrative Code and "California Exhaust Emission Standards and Test Procedures for 1975 Through 1978 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," adopted February 19, 1975, last amended June 8, 1977,

(iii) Section 1959.5, Title 13, California Administrative Code and "California Exhaust Emission Standards and Test Procedures for 1979 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," adopted June 8, 1977,

(iv) Section 1960, Title 13, California Administrative Code, and "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Truck, and Medium-Duty Vehicles," adopted November 23, 1976, last amended June 22, 1977,

(v) Section 1976(b), Title 13, California Administrative Code, and "California Evaporative Emission Standards and Test Procedures for 1978 and Subsequent Model Gasoline-Powered Motor Vehicles except Motorcycles," adopted April 16, 1975, last amended June 8, 1977.

(vi) Section 2056, Title 13, California Administrative Code, and "California Assembly-Line Test Procedures for 1978 Model-Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," adopted January 25, 1977, and

(vii) Section 1958, Title 13, California Administrative Code, and "California Exhaust Emission Standards and Test Procedures for 1978 and Subsequent Production Motorcycles," adopted July 15, 1975.

A copy of the above-described material is available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m.) at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460. Copies of the California standards and test procedures are available upon request from the California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, Calif. 95812.

Procedures. Since the public hearing is designed to give interested persons an opportunity to participate in this proceeding by the presentation of data, views, arguments, or other pertinent information concerning the Administrator's proposed action, there are no adversary parties as such. Statements by

[1] The U.S. Code classifications of the Clean Air Act were changed upon publication of the Amendments. The former classification of section 209 was 42 U.S.C. § 1857f-6a.

[2] 42 U.S.C. 7521(a), formerly 42 U.S.C. § 1857f-1; see note 1, supra.

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the participants will not be subject to cross-examination.

Presentations by the participants should be limited to the matters set forth in subparagraphs (1) and (2), above.

In order to assure full opportunity for the presentation of data, views, and arguments by participants, the Presiding Officer will, upon request of the participants, allow a reasonable time after the close of the hearing for the submission of written data, views, arguments, or other pertinent information to be included as part of the hearing record.

A verbatim record of the proceeding will be made. A copy of the transcript can be requested from the reporter during the hearing and will be made at the expense of the person so requesting.

The determination of the Administrator regarding the action to be taken with respect to the waiver of the prohibition of section 209(a) for the State of California is not required to be made solely on the record of the public hearing. Other scientific, engineering, and related pertinent information, not presented at the public hearing, may also be considered. This information will be available for public inspection prior to the Administrator's determination on this matter.

Dated: September 6, 1977.

RICHARD D. WILSON,
Acting Assistant Administrator for Enforcement.

[FR Doc.77-26507 Filed 9-12-77;8:45 am]

[FRL 789-4; OPP-60002]

FLORIDA PLAN

Application of Mirex in Coastal Counties; Solicitation of Public Views

On December 29, 1976 (41 FR 56694), the Administrator's Decision to Accept Plan of Mississippi Authority (the "Mississippi Plan") and Order Suspending Hearing for the Pesticide Chemical Mirex was published in the FEDERAL REGISTER. The Mississippi Plan provided that:

> States that desire relief from the current label restrictions against aerial Mirex application in coastal counties may develop a plan in accordance with the criteria contained herein and additional guidelines as found necessary, and may submit the plan to the Office of Pesticide Programs (EPA) for review and approval. Such plan must be submitted to EPA for approval at least 45 days prior to application. The Office of Pesticide Programs may, by approving the Plan in whole or in part, grant relief from the label prohibition against aerial Mirex application in any coastal county to the extent that such aerial application is performed consistently with the Plan and any conditions imposed by EPA Office of Pesticide Programs in conjunction with approving the Plan. The current coastal county restrictions shall remain in effect for each county for which an acceptable coastal zone plan is not submitted. (41 FR 56704)

EPA has not received a request from the Florida Department of Agriculture and Consumer Services, Division of Plant Industry that Florida be granted relief from the current label restrictions against aerial application of Mirex to control fire ants in certain coastal counties; in accordance with the December 29, 1976 publication in the FEDERAL REGISTER of the Administrator's Decision, it has developed a plan (the "Florida Plan").

In order to allow EPA to make the best informed decision regarding the Florida submission and to provide for public participation in that decision, EPA is making the Florida Plan available to the public for inspection and is soliciting comments on it. The Florida Plan may be inspected at the following locations:

Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Program, EPA, Room 401 East Tower, 401 M Street SW., Washington, D.C. 20460. Hours: 8:30 a.m. to 4 p.m.

Florida Department of Agriculture and Consumer Services, Division of Plant Industry, 1911 Southwest 34th Street, Gainesville, Fla. 32601. Hours: 7:45 a.m. to 4:30 p.m.

Comments should be addressed to the Federal Register Section at the address above and must be received on or before October 3, 1977. Any comments received will be available for inspection in the Office of the Federal Register Section during the hours mentioned above.

Dated: September 6, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc 77-26547 Filed 9-12-77;8:45 am]

[FRL 789-7; OPP-42021B]

NEW HAMPSHIRE

State Plan for Certification of Pesticide Applicators; Extension of Contingent Approval

In accordance with the provisions of section 4(a)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 86 Stat. 751; 7 U.S.C. 136 et seq.) and 40 CFR Part 171 (39 FR 36445 (October 9, 1974) and 40 FR 11698 (March 12, 1975)), the Honorable Meldrim Thomson, Jr., Governor of the State of New Hampshire, submitted a State Plan for Certification of Pesticide Applicators to the Environmental Protection Agency (EPA) for approval, contingent upon the promulgation of additional implementing regulations. On August 24, 1976, the Regional Administrator, EPA, Region I, approved the Plan on a contingency basis. Contingent approval was granted until August 23, 1977. Notice of the approval was published in the FEDERAL REGISTER on September 21, 1976 (41 FR 41154).

Subsequently, on August 9, 1977, the State of New Hampshire requested an extension of the period of the contingent approval in order to allow additional time to conduct a public hearing before promulgation of certain changes in regulations requested by EPA. The Agency finds that there is good cause for approving this request and as such has granted an extension until October 21, 1977.

Dated: August 23, 1977.

WILLIAM R. ADAMS, JR.,
Regional Administrator, Region I.

[FR Doc.77-26550 Filed 9-12-77;8:45 am]

[FRL 789-6; OPP-66033]

PESTICIDE PROGRAMS

Voluntary Cancellation of Registrations of Pesticide Products Containing Arsenic Trioxide

On November 24, 1976, the American Smelting and Refining Co. (ASARCO), 120 Broadway, New York, N.Y. 10005 requested that the Environmental Protection Agency (EPA) cancel its registrations of Arsenic trioxide 95 percent and arsenic trioxide 99 percent (EPA Registration Numbers 567-6 and 567-7). Both products were formulated for use as chemical intermediates (see 40 CFR 162.4(c)(6)), but could have been used after reformulation or repackaging as pesticides (40 CFR 162.4(b)(3)) by other registrants, who like ASARCO, utilize arsenic trioxide as a pesticide ingredient. ASARCO intends to continue the sale of arsenic trioxide to other pesticide registrants as a chemical intermediate only. Such sale is compatible with a non-registered status.

Cancellation of the registrations for these two products shall be effective October 13, 1977, unless the registrant, or an interested person with the concurrence of the registrant, requests that the registrations be continued in effect.

Further formulation of these two products as pesticides after October 13, 1977, is prohibited. While the Administrator may permit the continued sale and use of these products as pesticides, no request for such sale or use has been made by ASARCO; the continued sale or use of these two products as pesticides is, therefore, prohibited.

Comments concerning this action may be submitted in triplicate to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Any such submissions should bear a notation indicating both the subject and the OPP document control number (OPP-66033). Any comments or other documents filed regarding this notice of cancellation will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: August 3, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-26549 Filed 9-12-77;8:45 am]

[FRL 789-5; OPP-66036]

PESTICIDE PROGRAMS

Voluntary Withdrawal From the Heptachlor/Chlordane Hearings

The registrants and applicants listed have filed motions for leave to withdraw from the heptachlor/chlordane hearings now in progress. The reasons stated for the motions to withdraw include the fact that the registrant or applicant no longer desires to maintain the registrations involved or the applications for registrations and the registration in issue is no longer in dispute herein or does not exist.

As a result of the requests of withdrawal from these proceedings, pertinent registrations are cancelled and pertinent applications for registrations are withdrawn. Cancellation of the registration for these products and withdrawal of these applications were effective June 23, 1977.

Sale, distribution or use of products manufactured after July 29, 1975 is prohibited. Sale, distribution or use of existing stocks of these products beyond the effective date of cancellation constitutes an unlawful act under section 12(a)(2)(K) and is punishable under sections 13 and 14 of FIFRA.

Comments concerning this action may be submitted in triplicate to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Any submissions should bear a notation indicating both the subject and the OPP document control number "OPP-66036". Any comments or other documents filed regarding this notice of withdrawal will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: August 30, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

EPA Reg. No./file symbol	Product name	Registrant/applicant
15646-E	Able 46% Chlordane Concentrate	Able Pest Control Inc., 406 West McCreight Ave., Springfield, Ohio 45504.
702-30	Blitz 48 Chlordane Insecticide	Alfco Inc., P.O. Box 267, Marietta, Ohio 45750.
702-31	Blitz 72 Chlordane Insecticide	
413-19	Pioneer Brand 45% Chlordane E.C.	Bartels & Shores Chemical Co., 1400 St. Louis Ave., Kansas City, Mo. 64101.
413-41	Pioneer Brand 74% Chlordane Crab Grass Concentrate.	
2553-16	Zee-Tox 5% Chlordane Powdered Insect Killer	Buhl Chemical Co., 601 A Brookhaven Dr., Orlando, Fla. 32802.
2553-27	Zee-Tox 5% Chlordane Powdered Insect Spray	
6294-5	Comet Comodane No. 2	Comet Manufacturing Co., 1381 Dalon Dr. NE., Atlanta Ga. 30306.
6294-6	Comet "SLS" 20% Chlordane E.C.	
781-80	Di-Clorothan Residual Warehouse Insecticide	Consolidated Chemical Inc., 1470 South Vandeventer Ave., St. Louis, Mo. 63110.
13283-1	Professional Ant Control	Do-It-Yourself Pest Control Inc., 103 Citation Ct., Birmingham, Ala. 35209.
13283-2	Professional Outside Insect Control	
430-3	Durham's Ant Kill (With 10% Chlordane Powder).	Durham's Drug Products Co., Box 443, Comanche, Tex. 76442.
430-27	Durham's 73% Chlordane E.C.	
430-47	Durham's 40% Wettable Chlor-Kill Powder	
10638-L	Chlordane 40-W Wettable Powder	Farm & Ranch Supply Co., 7800 East 11th St., Tulsa, Okla. 74112.
3168-2	Schall Chlordane 10% Dust	Harold E. Schall Inc., P.O. Box 862, Monte Vista, Colo. 81144.
11016-R	Hornco Hornchlor 40 (Contains Chlordane)	HornKohl Laboratories Inc., P.O. Box 867, Bakersfield, Calif. 93302
21909-9	Spra-Gon Ant & Roach Killer	Knapp Chemical Co., 5227 East Pine Ave., Fresno, Calif. 93727.
7558-A	Royal 303 Fog Oil Spray Concentrate	Leon Supply Co., P.O. Box 562, Montgomery, Ala. 36101.
11081-R	Lloyd's Chlordane 72% (Emuls.)	Lloyd Pest Control, 935 Sherman, San Diego, Calif 92110.
368-17	Shur-Deth Brand Kills Roaches, Ants & Waterbugs With Patented Puffer.	Master Laboratories, Beaver Falls, Pa. 15010.
527-10	Midland Ware-O-Cide Super Strength Furniture Warehouse Insecticide.	Midland Labs, 210-220 Jones St., Dubuque, Iowa 52001
11101-R	Sherrick Mist-O-Dane 25	Mist-O-Dane Manufacturing Co., 1830 Hillside Dr., Glendale, Calif. 91208.
8550-3	Municide Concentrated Residual Insecticide	Oner II Inc., 875 Industrial Way, Sparks, Nev. 89431.
8550-31	Del-A-Clde Insecticide	
9803-10	Chlor-Mal 96 Concentrated Insecticide	
9803-13	Munichem Munl Fog Concentrated Insecticide	
2169-25	Chlordane 10% Dust	Patterson Chemical Co. Inc., 1400 Union Ave., Kansas City, Mo. 64101.
2169-77	Patterson's 45% Chlordane E.C.	
2169-99	Patterson's 40% Chlordane W.P.	
2169-129	Patterson's 5% Chlordane Dust	
2169-135	Patterson's 20% Chlordane Concentrate	
2169-177	Patterson's Stop Crab	
2169-209	Patterson's 10% Chlordane Granules	
8047-7	Poly Bug Kill	Poly Chem, Inc., P.O. Box 10026, New Orleans, La. 70121.
9349-1	S-488 Concentrated Insecticide	Precision Laboratories Inc., P.O. Box 127, Northbrook, Ill. 60062.
11157-E	Rose's 44% Chlordane	Rose Exterminator Co., 626 Potrero Ave., San Francisco, Calif. 94110.
2131-14	French's Shoo Flea Dry Bath For Dogs	R. T. French Co., 1 Mustard St., Rochester, N.Y. 14609.
11214-EN	Termigon-D For Control of Drywood Termites	Target Chemical Co., 17710 Studebaker Rd., Cerritos, Calif. 90701
1234-13	Ticksul For Control of Ticks-Fleas-Lice on Dogs	Vet Products Inc., 1524 Holmes St., Kansas City, Mo. 64108.
1234-22	Buckeye Brand Chlorosol	
99-86	Watkins Wats-Guard Ant & Roach Powder	Watkins Products Inc., 150 Liberty St., Winona, Minn. 55987.
5815-20	Triple XXX Three Way Lawn Food Crabgrass Control Insect Killer.	Wegro Inc., Box 82, Grand Rapids, Ohio 43522.
5815-24	Mr. Gro 4 Way Action Lawn Food With Iron Plus Crabgrass and Insect Control.	
5815-26	Lawn King Turf Food Plus Crabgrass & Insect Control.	
12956-R	Mihelich's Super Ant & Grub Control	William Mihelich & Son Nursery, 14300 Toepfer, Warren, Mich. 48089.
12956-E	Mihelich's Nursery Ant & Grub Control	

[FR Doc.77-26548 Filed 9-12-77;8:45 am]

[FRL 788-7]

PLANT CLOSINGS ATTRIBUTABLE TO ENVIRONMENTAL REGULATIONS

Request for Information

The U.S. Environmental Protection Agency (EPA) is attempting to identify all industrial plant closings that have resulted from Federal, State, or local pollution control regulations. The EPA promptly transmits this information to the U.S. Department of Labor so that adverse employment effects can be minimized. This interagency reporting system is known as the Economic Dislocation Early Warning System (EDEWS). The information generated by the EDEWS is also essential in evaluating the effects of pollution control regulations on specific industries.

EPA is aware that plant closings generally result from a combination of factors, one of which may be the requirement to comply with environmental regulations. Because of the complexity of the subject and the unique circumstances of each decision to close a plant, EPA is not attempting to set forth guidelines as to what, in its view, may constitute a plant closing attributable to regulations for environmental protection. EPA would like to be contacted by any firm which has closed or plans to close a facility where inability to meet pollution control regulations is a substantial factor. The EPA would also appreciate any information regarding such situations from sources other than the firms themselves.

Please mail or phone the firm's name and address to the EPA contact in the appropriate region listed below.

Dated: September 1, 1977.

WILLIAM DRAYTON, JR.,
Assistant Administrator for Planning and Management.

ECONOMIC DISLOCATION EARLY WARNING SYSTEM

EPA REGIONAL REPRESENTATIVES

Ms. Mary Vance, Enforcement Division, U.S. Environmental Protection Agency, Region I, Room 2103, John F. Kennedy Building, Boston, Mass. 02203 (617-223-3479).

Mr. Dan Kraft, Chief, Planning and Evaluation, Management Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, Room 1013, New York, N.Y. 10007 (212-264-3052).

Mr. Fred Knapp, Management Division, U.S. Environmental Protection Agency, Region III, Curtis Building (6th and Walnut Streets), Philadelphia, Pa. 19106 (215-597-9217).

Mr. Alan W. McCluney, Jr., Program Planning, Development and Evaluation, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308 (404-881-3776).

Ms. MaryLu Lageman, Program Development Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Ill. 60604 (312-353-2043).

Mr. Patrick Hudson, Enforcement Division, U.S. Environmental Protection Agency, 749-2142).
Region VI, First International Building, 1201 Elm Street, Dallas, Tex. 75270 (214-

Mr. Ray Hurley, Management Division, U.S. Environmental Protection Agency, Region VII, 1735 Baltimore Street, Kansas City, Mo. 64108 (816-758-5825).

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Mr. Duane Traylor, Management Division, U.S. Environmental Protection Agency, Region VIII, Suite 900, 1860 Lincoln Street, Denver, Colo. 80203 (303–837–2351).
Mr R. L. O'Connell, Enforcement Division, U.S. Environmental Protection Agency, Region IX, 100 California Street,[1] San Francisco, Calif. 94111 (415–556–0102).
Mr Dan Bodien, Permits Branch, Enforcement Division, U.S. Environmental Protection Agency, Region X, 1200 6th Avenue, Seattle, Wash 98101 (206–442–1270).

[FR Doc 77–26508 Filed 9–12–77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20122; FCC 77–602]

INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION CONVENTION ON SAFETY OF FISHING VESSELS

International Radiotelephone and Radiotelegraph Regulations for Fishing Vessels

Adopted: August 31, 1977.

Released: September 2, 1977.

Order—Proceeding Terminated. In the matter of international radiotelephone and radiotelegraph regulations for fishing vessels: Draft of (IMCO) Convention on Safety of Fishing Vessels.

1. The Commission has adopted several Notices of Inquiry in this Docket[1] concerning proposed radio regulations to be included in a new Inter-Governmental Maritime Consultative Organization (IMCO) Convention on Safety of Fishing Vessels.

2. The comments received in response to these inquiries were used to provide guidance information for use by the United States delegation to the IMCO Subcommittee on Radiocommunications. The Subcommittee was responsible for preparation of draft regulations concerning radio communication equipment to be mandatorily fitted on certain fishing vessels. Draft regulations pertaining to various aspects of the safety of fishing vessels were prepared by a number of IMCO Subcommittees and a draft convention was prepared.

3. An International Conference on Safety of Fishing Vessels was held in Torremolinos, Spain, from March 7, 1977, to April 2, 1977, to consider the draft convention which was approved by the Maritime Safety Committee at its thirty-fourth session. The United States and forty-five other countries were represented at the Conference. The convention was named "Torremolinos International Convention for the Safety of Fishing Vessels, 1977" and will be available for signature at the IMCO Headquarters from October 1, 1977, to June 13, 1978.

4. The final text adopted by the Conference was unacceptable to the United States in numerous areas including the regulations pertaining to radiocommunications. The United States does not at this time plan to become a signatory to this convention and, consequently, since no further purpose could be served in keeping this docket open, we are terminating this proceeding.

5. In view of the above, *It is ordered*, That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,[2]
VINCENT J. MULLINS,
Secretary.

[FR Doc.77–26588 Filed 9–12–77;8:45 am]

[1] After October 1, 1977, Region IX's address will be: 215 Fremont Street, San Francisco, Calif 94105.

[1] Notice of Inquiry, Docket 20122, adopted July 31, 1974 (39 FR 28457; FCC 74–819); Second Notice of Inquiry, Docket 20122, adopted November 27, 1974 (39 F.R. 4083; FCC 74–1283); Third Notice of Inquiry, Docket 20122, adopted June 10, 1975 (40 FR 27293; FCC 75–685).

[2] Commissioner Fogarty absent.

FEDERAL POWER COMMISSION

[Docket No. RP73–66 (PGA77–2)]

INTER-CITY MINNESOTA PIPELINES LTD., INC.

Proposed Changes in FPC Gas Tariff Under Purchased Gas Adjustment Clause Provisions

SEPTEMBER 2, 1977.

Take notice that Inter-City Minnesota Pipelines Ltd., Inc. on August 19, 1977, tendered for filing Ninth Revised Sheet No. 4 to its FPC Gas Tariff, Original Volume No. 1, proposed to be effective October 1, 1977.

Minnesota Pipelines states that this filing is submitted to reflect a Purchased Gas Cost adjustment based on an increase in the Canadian border rates effective September 21, 1977, and the consequent increase in the price which Minnesota Pipelines is required to pay its supplier ICG Transmission Limited.

Minnesota Pipelines also states that copies of this filing have been served upon all its customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 14, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–26581 Filed 9–12–77;8:45 am]

[Docket No. ER77–557]

KANSAS CITY POWER & LIGHT CO.

Filing of Service Schedule

SEPTEMBER 8, 1977.

Take notice that on August 15, 1977, Kansas City Power Co. (KCPL) tendered for filing Service Schedule SE for System Energy between KCPL and Associated Electric Cooperative, Inc. KCPL requests waiver of the Commission's notice requirements to allow for an effective date of July 10, 1977. KCPL indicates that the proposed Service Schedule SE adds "System Energy" to the Missouri Participation Agreement.

KCPL states that the proposed rates are KCPL's rates and charges for similar service under schedules previously filed by KCPL with the Federal Power Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8, and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 14, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are avaliable for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–26655 Filed 9–9–77;1:51 pm]

[Docket No. CP77–577]

MICHIGAN WISCONSIN PIPE LINE CO.

Pipeline Application

SEPTEMBER 6, 1977.

Take notice that on August 22, 1977, Michigan Wisconsin Pipe Line Co. (Applicant), One Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP77–577 an application pursuant to section 7(c) of the Natural Gas Act, as amended, for a certificate of public convenience and necessity authorizing the construction and operation of compressor facilities to maintain the receipt of natural gas supplies from two non-associated reservoirs within the Eugene Island Area Block 266 Field, Offshore Louisiana, which otherwise would not be deliverable to it, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application indicates that by Gas Sales Contracts between Applicant and Cities Service Oil Co. dated April 19, 1968, Atlantic Richfield Co. dated April 18, 1968, Getty Oil Co. dated April 17, 1968, and Continental Oil Co. (Conoco) dated April 19, 1968, Applicant acquired the right to purchase all of the recoverable gas reserves underlying the land and leaseholds down to the base of the FR Sand in Eugene Island Area Blocks 246, 266, 267, and 269 and South Marsh Island Area Blocks 95, 96, 108, and 109 (collectively hereinafter referred to as the Block 266 Field), all in Offshore Louisiana. All of the Gas Sales Contracts are substantially identical except for the name of the producer and the date of the contract, and dedicate an aggregate

of 500 Bcf of natural gas reserves to Applicant. Applicant states that Article IX of each of the Gas Sales Contracts provides that either Applicant or the producer may, but is not required to, install compressor facilities, and if neither the producer not Applicant elects to install the necessary compressor facilities to effectuate deliveries, then Applicant will release the reserves attributable to the contract.

Applicant states that it has been advised by Conoco, as operator of the Block 266 Field, that by the first quarter of 1978, the pressure attributable to the DG–2 (DG–B1) and DQ (DQ–B1) non-associated gas reservoirs located in South Marsh Island Area Block 108 will have declined to approximately 800 psia as a result of normal pressure decline caused by continuing production from such reservoirs. At a pressure of 800 psia, delivery of gas supplies from the affected non-associated reservoirs against the normal line pressure of Applicant's pipeline facility would be precluded. Accordingly, to obviate the loss of the supplies from such reservoirs, Applicant states that it has elected to install the necessary compressor facilities to enable it to maintain the receipt into its system of those recoverable gas reserves.

Applicant states that it requests authorization to cause to have installed and operated approximately 1,100 (1,160 ISO rated) horsepower of compression which will be located on the existing "D" production platform located in South Marsh Island Area Block 108. In accordance with a Construction and Operating Agreement between Applicant and Conoco dated March 10, 1977, the required compressor facilites including associated appurtenances will be wholly owned by Applicant but designed, installed, and operated by Conoco on Applicant's behalf. Applicant states that the agreement provides that the compressor is subject to its approval as to design, construction specifications, construction drawings, and equipment selections, and projects that the installation of the compression will increase the gas deliverability from the two non-associated reservoirs in Block 108 by over 70 Bcf.

Applicant estimates the total cost of the facilities proposed herein to be $910,150, which it states will be financed with funds on hand.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 26, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene if filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required, any further notice of such hearing will be duly given.

Under the procedure here in provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–26585 Filed 9–12–77;8:45 am]

[Docket No. RP74–100]

NATIONAL FUEL GAS SUPPLY CORP.

Order Rejecting Proposed Tariff Sheets

SEPTEMBER 2, 1977.

On August 4, 1977, National Fuel Gas Supply Corp. (National) tendered for filing tariff sheets to its FPC Gas Tariff, Original Volume No. 1.[1] These sheets propose to allow National to track future increases in the cost of coke oven gas purchased from Donner-Hanna Coke Corp. (Donner-Hanna) through National's PGA clause. For the reasons stated, the Commission shall reject the proposed tariff sheets.

National and Donner-Hanna entered a new contract, effective November 1, 1976, for the sale of coke oven gas to National. Under this contract the price of the gas will change semi-annually based on the average price of coal in the preceding six month period. The proposed tariff sheets would permit National to track the changes in the cost through its PGA clause. Under the Commission's applicable regulations coke oven gas may not be reflected in a pipeline's PGA clause without prior approval of the Commission.

The Commission finds that good cause has not been shown to permit coke oven gas purchases to be included in National's PGA clause. The Donner-Hanna coke oven gas constitutes only a small portion of National's total system supply. Data submitted by National in Docket No. RP76–96 indicates that coke oven gas accounts for less than three percent of National's total gas supply. The Commission also notes that National has filed four rate increase applications with the Commission pursuant to section 4 of the Natural Gas Act within the last two years[2] in addition to numerous PGA rate filings.[3] While the Commission does not seek to encourage additional rate filings, the frequency of National's filings suggests that any increases in the cost of coke oven gas will be adequately considered in Section 4 proceedings.

Based on the foregoing considerations the Commission finds that National's request to include coke oven gas in its tariff PGA Clause is not justified, and the proposed tariff sheets shall accordingly be rejected.

The Commission orders. (A) National's proposed tariff sheets, tendered for filing on August 4, 1977, are rejected.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–26582 Filed 9–12–77;8:45 am]

[Docket No. CP77–586]

NORTHERN NATURAL GAS CO.

Application

SEPTEMBER 6, 1977.

Take notice that on August 24, 1977, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP77–586 an application for a budget-type certificate of public convenience and necessity authorizing, pursuant to section 7(c) of the Natural Gas Act and § 157.7(c) of the regulations thereunder (18 CFR 157.7 (c)), unspecified miscellaneous branchline and town border station rearrangements during calendar year 1978 and permitting and approving, pursuant to section 7(b) of the Natural Gas Act and § 157.7(e) of the regulations thereunder (18 CFR 157.7(e)), abandonment of various minor direct sales facilities during the calendar year 1978, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of the instant budget-type application for miscellaneous rearrangements of facilities is to augment Applicant's ability to accommodate, among other things, highway construction work, commercial development, and relocation of minor water ways; which it will not result in any change in service rendered by means of the facilities involved.

Applicant states that the total cost of the proposed miscellaneous rearrangements will not exceed $300,000 for the calendar year and will be financed from cash on hand and funds generated through operations.

Applicant indicates that its application to abandon facilities is filed pursuant to

[1] Substitute Third Revised Sheet Nos. 35 and 36; First Revised Sheet No. 36A; Second Revised Sheet No. 37.

[2] Docket Nos. RP76–4, RP76–96, RP77–14, and RP77–57.

[3] National has filed seven PGA rate changes so far during the current fiscal year.

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§ 157.7(e) of the Commission's regulations, which is intended to augment Applicant's ability to act with reasonable dispatch in abandoning service and removing direct sales measuring, regulating, and related minor facilities during a 12-month period by providing for the filing of an abbreviated budget-type abandonment application when (1) deliveries to any one direct sale customer through any one of the sales measuring facilities proposed to be abandoned have not exceeded 100,000 Mcf of natural gas during the last year of service and (2) Applicant will not abandon any service unless it receives a written request or written permission from the customer to terminate service. If such request or permission cannot be obtained, a statement certifying that the customer has no further need of service must be filed with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that grant of the certificate and permission and approval for the proposed abandonments are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26586 Filed 9-12-77;8:45 am]

[Docket Nos. ER77-102 and ER77-277]

PENNSYLVANIA POWER CO.

Order Granting Motion To Dismiss and Terminate Proceeding, Denying Motion To Reject Filing, Granting Interventions, Establishing Price-Squeeze Procedures, Denying Reconsideration, and Setting Prehearing Conference Dates

SEPTEMBER 2, 1977.

On July 11, 1977, Pennsylvania Power Company (Company) tendered for filing [1] proposed rate schedules for jurisdictional sales to five of its customers [2] in Docket No. ER77-277. By order issued August 1, 1977, the Commission accepted the submittal for filing and suspended the rates and charges for one month, after which they are to become effective subject to refund.

The proposed rate schedules contain flat demand and energy charges. The schedules contain a fuel adjustment clause which conforms to Commission Order No. 517, a minimum bill, a high voltage discount, a 60 percent ratchet provision, and a tax clause. Any attempt to implement a tax adjustment clause requires full cost-of-service support as specified in § 35.13 of the Commission's regulations prior to implementation.

Notice of the proposed increase was issued April 8, 1977, with comments, protests, and/or petitions to intervene due on April 20, 1977. On April 20, the Boroughs of Ellwood City, Grove City, New Wilmington, Wampum, and Zelienople, Pennsylvania (Boroughs) filed motions to reject the filing and a petition to intervene in the proceeding.[3] The Boroughs own and operate their own electric distributing systems under the laws of the Commonwealth of Pennsylvania and receive their electrical power from the Company. The Boroughs request that the proposed filing be rejected for the following reasons:

(1) The Company's proposed filing represents an attempt to threaten the existence of Ellwood City as a public power entity and jeopardize its continuing ability to serve existing and prospective loads in that the company has sought to totally change a Commission-adopted formula or methodology for a discount high voltage service (Docket No. E-8159, Commission Order of August 20, 1975).

(2) Failure to comply with § 35.13 of the Commission's regulations.

The Company filed an answer to the motions of the Boroughs on May 11, 1977.

We reviewed these filings prior to our decision to accept for filing the Company's rate schedules in our prior order in this docket.

The Motions and Petitions of the Boroughs also contain price-squeeze allegations and the Boroughs expressly state that they do not waive their rights to full and complete discovery on the price-squeeze issue. Accordingly, we will direct the Administrative Law Judge to convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the petitioners' request for data necessary to present their prima-facie showing on the price-squeeze issue.

On August 8, 1977, the Boroughs filed a Petition for Rehearing, Reconsideration, and Expedited Action of the August 1 order.[4] The Petition requests a number of Commission actions: (1) Grant of a Motion to Reject the Company's filing in ER77-277 because its high-voltage discount formula differs from the formula adopted in the previous FPC rate proceeding between the parties; (2) A full five month suspension period in place of the one month suspension period mentioned in the August 1 order; (3) A grant of Request for Intervenor status; (4) Grant of request to delay effectiveness of rates pending the outcome of a final Commission determination of the justness and reasonableness of the rates.

The Commission notes the substantial interest of the Boroughs in this proceeding and has no difficulty in granting intervenor status to the Boroughs. We shall deny the Motion to Reject, however, because the contention that the rates are excessive is better left to resolution in public hearing which we shall hereinafter order. Nothing contained in the Borough's petition causes us to reconsider the length of suspension period previously established. The request that the Company be allowed to establish new rates only after final Commission resolution of the issues must be denied because the Commission lacks the authority to suspend a rate increase filing for more than five months.

In a related docket, ER77-102, the Company submitted for filing on December 8, 1976, an interim high voltage service rate for Ellwood City in purported compliance with the Commission's order issued August 20, 1975, in Docket No. E-8159. Analysis of the ER77-102 filing discloses that (1) the proposed high voltage discount is identical to the one developed in the E-8159 proceeding and (2) the supply of electric power and energy is restricted to one delivery point at either high or low voltage but not at both voltages. The Commission's order of January 28, 1977, in Docket No. ER77-102 accepted the proposed high voltage discount rate effective January 23, 1977, but suspended operation of the restrictive language until July 28, 1977. In addition, the Company was ordered to file its case-in-chief in support of the restrictive provision.

On April 7, 1977, the Company submitted its case-in-chief and stated its willingness to serve at dual voltage and dual delivery points. Thereafter, the Borough of Ellwood City indicated that in light of the change in position on the part of the Company it was no longer necessary to hold a hearing in Docket No. ER77-102 and Ellwood City would not object to a motion by Penn Power to dismiss the proceedings. Such motion was filed on May 9, 1977.

Since no parties object to termination of ER77-102, we will grant the Company's motion to dismiss and terminate the proceeding, provided that the Company files revised language within 30 days for its agreement with Ellwood City which is not restrictive as to delivery points and voltage levels. This revised filing is to be effective for the period beginning January 23, 1977.

The Commission finds: (1) Good cause exists to grant the Company's Motion to Dismiss and Terminate Proceeding in Docket No. ER77-102, as hereinafter ordered.

(2) Good cause exists to establish price-squeeze procedures in Docket No. ER77-277 to effectuate the Commission's policy announced in Order No. 563.

(3) Good cause does not exist to allow implementation of the tax clause in the Company's filing in Docket No. ER77-277, absent cost of service support prior to implementation.

(4) Good cause exists to accept the petition to intervene of the Boroughs.

(5) Good cause does not exist to reject the Company's filing in Docket No. ER77-277.

(6) Good cause does not exist to reconsider the length of the suspension period specified in the August 1, 1977 order.

(7) Good cause does not exist to require the delay of effectiveness of the proposed rates pending final Commission determination of the reasonableness of the rates.

The Commission orders: (A) The Company's motion to terminate the proceeding in Docket No. ER77-102 is hereby granted: *Provided, however,* That the Company files acceptable substitute language with respect to its agreement with Ellwood City which eliminates the issue of restrictions as to delivery points and delivery voltages. Said filing shall be made within 30 days from the date of issuance of this order and shall be effective as of January 23, 1977.

(B) In Docket No. ER77-277, the Administrative Law Judge shall convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the petitioners' request for data required to present their case, including a prima facie showing, on the price squeeze issue. Also, the Company shall be required to respond to the discovery requests authorized by the Administrative Law Judge within 30 days, and the petitioners shall file their case-in-chief on the price squeeze issue within 30 days after the Company's response.

(C) The tax adjustment clause contained in the Company's filing in ER77-277 shall remain inoperative pending cost of service support prior to its implementation.

(D) The Boroughs are hereby permitted to intervene in Docket No. ER77-277 subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; *And provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that they might be aggrieved because of any Commission order entered in this proceeding.

(E) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before November 10, 1977 (See Administrative Order No. 157).

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at an initial conference in this proceeding to be held on November 23, 1977, at 10 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions, (except petitions to intervene, motions to consolidate and sever and motions to dismiss), as provided for in the rules of practice and procedure.

(G) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.18 of the Commission's rules of practice and procedure.

(H) The Boroughs' motion to reject the Company's filing in Docket No. ER77-277 is hereby denied.

(I) The Boroughs' petition for reconsideration of the length of suspension period is hereby denied.

(J) The Boroughs' request to delay effectiveness of the proposed rates pending final Commission determinations of the reasonableness of the rates is hereby rejected.

(K) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26583 Filed 9-12-77;8:45 am]

[1] The filing was originally submitted on April 1, 1977. The Commission sent to Company a deficiency letter on April 26, 1977, and the Company responded on May 5, 1977. Another deficiency letter was sent on June 2, 1977, and the Company cured its filing on July 11, 1977.

[2] Boroughs of Ellwood City, Grove City, New Wilmington, Wampum, and Zelienople, Pennsylvania.

[3] On April 19, 1977 the Borough of New Wilmington, Pa., filed a letter of protest in this docket.

[4] Since our order of August 1, 1977, is interlocutory, no application for rehearing is permitted (§ 1.34 of the Commission's rules of practice and procedure). However, the Commission will treat the Application as a Motion for Reconsideration.

[Docket No. ER76-285]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE

Extension of Time

SEPTEMBER 2, 1977.

On August 3, 1977, the Commission issued an order modifying Opinion No. 790 to provide for the payment of refunds in the above-designated matter. On August 9, 1977, the Public Service Company of New Hampshire filed an application for rehearing and a motion for stay until 30 days after the date of issuance of the rehearing order for filing refunds pursuant to ordering paragraph (B) of the Commission's August 3, 1977, order.

Upon consideration, notice is hereby given that the time within which Public Service Company of New Hampshire shall make refunds pursuant to the August 3, 1977, order extended pending further order of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26584 Filed 9-12-77;8:45 am]

[Docket No. RP73-3 (PGA77-3)]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Accepting for Filing and Suspending Proposed PGA Rate Adjustment, Permitting Refiling of Adjusted PGA Rates, and Directing Submission of Additional Information

AUGUST 31, 1977.

On August 1, 1977, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing a proposed PGA rate increase of 5.1 cents per dekatherm (dth)[1] consisting of (1) an increase of 0.9 cents per dth, or $46,458,754 annually, in Transco's current cost of purchased gas and (2) a net increase of 4.2 cents per dth (from 0.8 to 5.0 cents per dth) in the surcharge to recover the balance in the deferred purchase gas cost account (FPC Account No. 191). The latter net increase results from an increase of 3.1 cents per dth due to the elimination of a negative deferred adjustment of the same amount pursuant to Transco's PGA tracking rate filing which became effective on March 1, 1977, and an increase of 1.1 cents per dth to recover the balance in the deferred account as of June 30, 1977, for gas purchase costs exclusive of amounts attributable to Commission Opinion No. 770-A. Transco proposes a September 1, 1977, effective date.

A review of Transco's filing indicates that it is predicated, in part, upon 60-day emergency purchases under § 2.68 of the Commission's general rules at rates in excess of those established in Opinion 770-A. Transco should be allowed to include in its purchased gas costs those rates for emergency purchases which a

[1] Second Substitute Third Revised Sheet No. 12 and Substitute Second Revised Sheet No. 15 to FPC Gas Tariff, Second Revised Volume No. 1.

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reasonably prudent pipeline would pay for gas under the same or similar circumstances. To assist the Commission in determining the reasonableness of the emergency purchases, Transco shall be required to submit certain additional information as specified in ordering paragraph (C) below.

In light of the foregoing the Commission finds that Transco's PGA rates should be accepted for filing, suspended for one day, and permitted to become effective on September 2, 1977, subject to refund and to the terms of this order. Transco shall be allowed to refile PGA rates to be made effective September 1, 1977, for those PGA rates excluding emergency purchases at rates in excess of those established in Opinion No. 770–A. This procedure would limit Transco's refund liability to those emergency purchases.

The Commission orders: (A) Transco's proposed PGA rates are accepted for filing and suspended for one day until September 2, 1977, when they shall be permitted to become effective subject to refund.

(B) Within 30 days of the date of this order, Transco shall be permitted to refile adjusted PGA rates to be made effective September 1, 1977, reflecting that portion of the proposed adjustment which includes costs other than those related to emergency purchases at rates in excess of those established in Opinion No. 770–A.

(C) Transco shall, within 30 days of the date of this order, file with the Commission and serve on all of its customers and interested state commissions the following information concerning its 60-day emergency purchases under § 2.68 of the Commission's general rules at rates in excess of those established in Opinion 770–A:

(1) The pipeline's need for the gas;
(2) The availability of other gas supplies;
(3) The amount of gas purchased under each 60-day transaction;
(4) A comparison of each emergency purchase price with appropriate market prices in the same or nearby areas; and
(5) The relationship between purchaser and seller.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26580 Filed 9-12-77;8:45 am]

FEDERAL RESERVE SYSTEM

[H. 2, 1977 No. 34]

ACTIONS OF THE BOARD

Applications and Reports Received During the Week Ending August 20, 1977

ACTIONS OF THE BOARD

Interpretation of Regulation Z simplifying procedures for credit card issuers which bill customers in full on a transaction-by-transaction basis and impose no finance charges (Docket No. R–0094).

Issuance of subordinated debentures by American Bank of Carlsbad, Carlsbad, N. Mex.

State Bank of Milan, Milan, Ind., proposed merger with First Bank & Trust Co. of Batesville, Batesville, Ind., report to the Federal Deposit Insurance Corporation on competitive factors.

NBM Corp., McAlester, Okla., extension of time to October 19, 1977, within which it may consummate the acquisition of The National Bank of McAlester, McAlester, Okla.[1]

Texas Commerce Bancshares, Inc., Houston, Tex., extension of time to November 16, 1977, to dispose of its indirect interest in Texas General Life Insurance Co., Austin, Tex., which was acquired on May 16, 1977, through the merger of Texas Commerce with the Bancapital Financial Corp., Austin, Tex.[1]

Termination as a registered lender for Mountain Bell Federal Credit Union, Colorado Springs, Colo.[1]

First Bank & Trust Co. of South Bend, South Bend, Ind., to make an investment in bank premises.[1]

American Security Bank, Mount Pleasant, Mich., extension of time to April 7, 1978, within which to establish a branch at 19976 North Winn Road, Beal City, Mich.[1]

Detroit Bank-Southfield, Southfield, Mich., extension of time to February 25, 1978, within which to establish a branch at the southeast corner of Southfield and Mount Vernon Roads, Southfield, Mich.[1]

United California Bank, Los Angeles, Calif., extension of time to February 21, 1978, within which to establish a branch in the vicinity of Stevens Creek Boulevard and Saich Way, Cupertino, Calif.[1]

Central Trust Co. of Mercer County, National Association, Celina, Ohio, proposed merger with First National Bank of Mercer County, Celina, Ohio, report to the Comptroller of the Currency on competitive factors.[1]

Moline State Bank, Moline, Mich., proposed merger with First National Bank of Grand Rapids, Mich.; report to the Comptroller of the Currency on competitive factors.[1]

National Stock Yards National Bank of National City, National City, Ill., proposed acquisition of a portion by Boatmen's National Bank of St. Louis, St. Louis, Mo.; report to the Comptroller of the Currency on competitive factors.[1]

National Stock Yards National Bank of National City, Ill., proposed acquisition of a portion by First National Bank of East St. Louis, East St. Louis, Ill.; report to the Comptroller of the Currency on competitive factors.[1]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

The Western Security Bank, Sandusky, Ohio. Branch to be established at the intersection of Route 250 and Hull Road, Perkins Township, Erie County.[2]

The Western Security Bank, Sandusky, Ohio. Branch to be established in the Sandusky Mall, Unit 350, State Route 250 and Hull Road, Perkins Township, Erie County.[2]

Bank of Florida in St. Petersburg, St. Petersburg, Fla. Branch to be established at the corner of Pasadena Avenue and Sunset Boulevard in St. Petersburg.[2]

First Bank & Trust Co. of South Bend, Sonth Bend, Ind. Branch to be established at 1302 Elwood Avenue (within Martin's Supermarket Inc.), South Bend, St. Joseph County.[2]

Citizens Bank, Hartford, Ky. Branch to be established at Spinks Shopping Center, Highway 231 (Main Street), Hartford, Ohio County.[2]

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To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

APPROVED

Keokuk County Bankshares, Inc., Sigourney, Iowa, for approval to acquire 80 percent or more of the voting shares of Keokuk County State Bank, Sigourney, Iowa.[2]

First of Grandfield Corp., Grandfield, Okla., for approval to acquire 100 percent (less directors' qualifying shares) of the voting shares of First State Bank, Grandfield, Okla.

Fort Worth Bancshares, Inc., Fort Worth, Tex., for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of Fort Worth Bank & Trust, Fort Worth, Tex.[2]

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

APPROVED

United Bank Corp. of New York, Albany, N.Y., for approval to acquire 100 percent of the voting shares of the successor by merger to Hempstead Bank, Hempstead, N.Y.[2]

Manchester Financial Corp., St. Louis, Mo., for approval to acquire 100 percent, of the voting shares (less directors' qualifying shares) of Manchester Bank West County, Maryland Heights, Mo., a proposed new branch.

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To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

WITHDRAWN

First National of Nebraska, Inc., Omaha, Nebr., notification of intent to engage in de novo activities (acting as an insurance agent for the sale of decreasing credit life insurance and credit accident and health insurance which coverages are directly related to extensions of credit by First of Omaha Savings Co.) at 4421 South 84th Street and 3022 North 90th Street, Omaha, Nebr., through a subsidiary, First of Omaha Savings Co. (8–17–77).[2]

United Bancorp, Roseburg, Oreg., notification of intent to engage in de novo activities (to provide bookkeeping or data processing services for the internal operations of the holding company and its subsidiaries; to store and process other banking, financial or related economic data such as performing payroll, accounts receivable or payable, or billing services) at S.E. Oak and Kane Streets, Roseburg, Oreg., through its subsidiary, United D. P. Co. (8–15–77).[2]

PERMITTED

Chemical New York Corp., New York, N.Y., notification of intent to engage in de novo activities (extending direct loan credit, purchasing sales finance contracts, and making such other extensions of credit as would be made or acquired by a consumer finance company operating under the South Carolina Consumer Protection Code;

[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

[2] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

and providing, at the election of debtors of said consumer finance company, group credit life and accident and health insurance, directly related to such extensions of credit) at CP&L Building, 2160 Hoffmeyer Road, Florence, S.C., through its subsidiary, Sun Finance Co.—1203, Inc. (8–15–77).[3]

Chemical New York Corp., New York, N.Y., notification of intent to engage in de novo activities (extending direct loan credit, purchasing sales finance contracts, and making such other extensions of credit as would be made or acquired by a consumer finance company operating under the Indiana Uniform Consumer Credit Code; providing, at election of debtors of said consumer finance company, group credit life and group accident and health insurance directly related to such extensions of credit) at Ayr-Way South Shopping Center, 3788 South East Street, Indianapolis, Ind., through its subsidiary, Sunamerica Financial Corp. (8–15–77).[3]

First Pennsylvania Corp., Philadelphia, Pa., notification of intent to relocate de novo activities (making, acquiring, and servicing consumer loans or other extensions of consumer credit including the sale of credit insurance which is directly related to such extensions of credit) from 203 East Main Street, Newark, Del. to 85 Brookside Shopping Center, Marrows Road, Newark, Del., through its subsidiary, Investors Loan Corp. (8–15–77).[3]

Colonial-American Bankshares Corp., Roanoke, Va., notification of intent to engage in de novo activities (making, acquiring and servicing, for its own account and for the account of others, leases of personal property and acting as agent, broker, or adviser in leasing such property to the extent permitted by law and the rules and regulations of the Federal Reserve Board) at 202 South Jefferson Street, Roanoke, Va., through its subsidiary, Colonial-American Leasing Corp. (8–19–77).[3]

South Carolina National Corp., Columbia, S.C., notification of intent to engage in de novo activities (financing of insurance premiums) at 132–146 South Moore Street, Sanford, N.C., through a subsidiary, Insurance Premium Discount Co. (8–19–77).[3]

Union Trust Bancorp, Baltimore, Md., notification of intent to engage in de novo activities (make secondary mortgage loans secured in whole or in part by mortgage deed of trust, security agreement, or other lien on real estate situated in the State of South Carolina which property may be subject to one or more prior encumbrances or other leasehold interests; and acting as agent in the sale of credit life insurance and credit accident and health insurance in connection with its extension of credit) at 4 Carriage Lane, Charleston, S.C., through its subsidiary, Union Home Loan Corp. (8–14–77).[3]

BankAmerica Corp., San Francisco, Calif., notification of intent to engage in de novo activities (making or acquiring, for its own account second mortgage loans and other extensions of credit such as would be made or acquired by a finance company and servicing second mortgage loans and other extensions of credit; such activities will include, but not be limited to, purchasing installment sales finance contracts, extending credit to small businesses, and making loans secured by second mortgages and personal property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit made or acquired by FinanceAmerica Corporation) at Park Plaza West, 10700 S.W. Beaverton-Hillsdale Highway, Beaverton, Oreg., through its indirect subsidiary, FinanceAmerica Corp. (an Oregon Corp.) (8–20–77).[3]

BankAmerica Corp., San Francisco, Calif., notification of intent to relocate de novo activities (making or acquiring, for its own account loans and other extensions of credit such as would be made or acquired by a finance company; such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, and making loans secured by real and personal property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance, and credit related property insurance in connection with extensions of credit made or acquired by FinanceAmerica Corp. of Ohio and FinanceAmerica Discount Co., of Ohio) from 238 Cleveland Avenue NW. to 3040 West Tuscarawas Street, Canton, Ohio, through its indirect subsidiaries, FinanceAmerica Corp. of Ohio and FinanceAmerica Discount Co. of Ohio (8–15–77).[3]

APPLICATIONS RECEIVED

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

The Community Bank, Napoleon, Ohio. Branch to be established at 1333 Woodlawn Avenue, Napoleon, Henry County.

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Thirty Day Notice by a Member Bank of Intention to Establish an additional Branch in a Foreign Country.

The First National Bank of Boston: Branch—Additional in Hamburg, West Germany.

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To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

Kanopolis Bankshares, Inc., Kanopolis, Kans., for approval to acquire 80 percent or more of the voting shares of The Kanopolis State Bank, Kanopolis, Kans.

White Cloud Bancshares, Kansas City, Mo., for approval to acquire 86.7 percent of the voting shares of First State Bank, White Cloud, Kans.

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To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

New Virginia Bancorporation, Springfield, Va., for approval to acquire 100 percent of the voting shares of the successor by merger to Bank of Warrenton, Warrenton, Va.

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

Industrial National Corp., Providence, R.I., notification of intent to engage in de novo activities (consumer finance and insurance agency for the sale of credit life and credit accident and health insurance sold in connection with extensions of credit) at 6208 South Tamiami Trail, Sarasota, Fla., through its existing subsidiaries, Southern Discount Co. (a Florida Corp.) and S.D.A. Corp. (a Florida Corp.) which are wholly owned by Industrial National Corp's subsidiary, Southern Discount Co. (a Rhode Island Corp.) (8–16–77).[3]

Chemical New York Corp., New York, N.Y., notification of intent to engage in de novo activities (leasing real and personal property and equipment on a non-operating, full payout basis and acting as agent, broker, and adviser with respect to such leases; financing real and personal property and equipment such as would be done by a commercial finance company; and servicing such extensions of credit) at 7 Corporate Park Drive, White Plains, N.Y., through its wholly owned subsidiary, ChemLease, Inc. (8–16–77).[3]

Citicorp, New York, N.Y., notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, commercial loans; and leasing personal or real property or acting as agent, broker, or adviser in leasing such property subject to all of the qualifications specified in 12 CFR 225.4(a)(6)(a) and where the leases serve as the functional equivalent of an extension of credit to the lessee of the property) at Three Girard Plaza, Philadelphia, Pa., through its wholly owned subsidiary, Citicorp Commercial, Inc. (8–15–77).[3]

Centran Corp., Cleveland, Ohio, notification of intent to engage in de novo activities (the making and acquiring of consumer finance loans for its own account or the account of others (including loans secured by first or second mortgages on real estate), the purchasing of installment sales contracts; and the selling as agent of credit life insurance to borrowers at their request in connection with extensions of credit) at 27589 Euclid Avenue, Euclid, Ohio, through its wholly owned subsidiary, Peoples Financial Corp., of Cleveland, Cleveland, Ohio, through its wholly owned subsidiary, Peoples Investment Co., Louisville, Ky. (8–15–77).[3]

Mercantile Bankshare Corp., Baltimore, Md., notification of intent to engage in de novo activities (making or acquiring, for its own account and for the account of others, loans and other extensions of credit such as would be made by a mortgage company) at Ritchie Highway and McKinsey Road, Severna Park, Md. and 2000 East Joppa Road, Parkville, Md., through its subsidiary, Mercantile Mortgage Corp. (8–19–77).[3]

Barnett Banks of Florida, Inc., Jacksonville, Fla., notification of intent to engage in de novo activities (performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company including activities of a fiduciary, agency or custodial nature in the manner authorized by Federal and State law: *Provided, however*, That loans and investments will be made and deposits accepted only in conformity with Regulations of the Board of Governors of the Federal Reserve System) at 1201 Brickell Avenue, Miami, Fla., through a subsidiary, Barnett Banks Trust Co., National Association (8–19–77).[3]

Southwest Florida Banks, Inc., Fort Myers, Fla., for approval to engage de novo through Southwest Financial Services, Inc., Fort Myers, Fla. in the activity of providing as agent, in connection with extensions of credit by applicant's subsidiary banks, insurance assuring repayment of such an extension of credit in the event of death or disability of the borrower.

Illinois Neighborhood Development Corp., Chicago, Ill., for approval to engage in de novo activities (projects designed to promote community welfare pursuant to the provisions of section 225.4(a)(7) of Regulation Y) through a subsidiary to be known as City Lands Corp., Chicago, Ill.

Illinois Neighborhood Development Corp., Chicago, Ill., for approval to engage in de novo activities (projects designed to promote community welfare pursuant to the provisions of section 225.4(a)(7) of Regulation Y) through a subsidiary to be known as The Neighborhood Institute, Chicago, Ill.

St. Joseph Bank & Trust Co. and St. Joseph Agency, Inc., both of South Bend, Ind., notification of intent to engage in de novo activities (origination, acquiring, selling

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and servicing of residential, commercial and industrial mortgage loans) in Kankakee, Ill., through a subsidiary of St. Joseph Agency, Inc. known as St. Joseph Mortgage Co., South Bend, Ind. (8-18-77).[3]

Omaha National Corp., Omaha, Neb., for approval to acquire the voting shares of Wyoming Trust & Management Co., Gillette, Wyo.

BankAmerica Corp., San Francisco, Calif., notification of intent to engage in de novo activities (making or acquiring, for their own account loans and other extensions of credit such as would be made or acquired by a finance company; FinanceAmerica Corp. will engage in making consumer installment loans, making loans and other extensions of credit to small businesses, purchasing installment sales finance contracts, and servicing loans and other extensions of credit; FinanceAmerica Loan & Investment Co. will engage in making consumer installment loans, making loans and other extensions of credit to small businesses, making loans secured by real or personal property, and servicing loans and other extensions of credit; both corporations will act as agent or broker for the sale of credit-related life and credit-related accident and disability insurance in connection with extensions of credit made or acquired by FinanceAmerica Corp. or FinanceAmerica Loan & Investment Co., at 1200B Smallhouse Road, Bowling Green, Ky., through its indirect subsidiaries, FinanceAmerica Corp. (a Kentucky corp.) and FinanceAmerica Loan & Investment Co. (8-18-77).[3]

BankAmerica Corp., San Francisco, Calif., notification of intent to engage in de novo activities (making or acquiring, for its own account loans and other extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit; such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, and making loans secured by real and personal property; acting as agent or broker for the sale of credit-related life and credit-related accident and disability insurance in connection with extensions of credit made or acquired by FinanceAmerica Consumer Discount Co.) at Hickory Plaza, 4461 W. Ridge Road, Erie, Pa., through its indirect subsidiary, FinanceAmerica Consumer Discount Co. (8-18-77).[3]

Old National Bancorporation, Spokane, Wash., notification of intent to relocate de novo activities (leasing of personal property and equipment and acting as agent, broker, or adviser in leasing personal property and equipment) from 1200 Westlake Avenue North, Seattle, Wash. to 425-106th Northeast, Bellevue, Wash. through its subsidiary, Old National Leasing Co. (8-15-77).[3]

Pacific Corp., Bakersfield, Calif., notification of intent to engage in de novo activities acting as agent with respect to the sale of credit-related life/accident and health insurance in connection with extension of credit made by its lending subsidiary, Community National Bank) at First and Main Street, Button willow; 10808 Main Street, Lamont; 600 James Street, Shafter; 6100 Highway 178, Lake Isabella; 27 Big Blue Road, Kernville; 567 Oller Street, Mendota; 215 S. Madera, Kerman; 2142 Blossom, Dos Palos; 529 Chester Avenue, Bakersfield; 3312 Niles Street, Bakersfield; 3831 Mount Vernon Avenue, Bakersfield; 1810 Chester Avenue, Bakersfield; 1400 Airport Drive, Bakersfield; 6020 Bellevue, Atwater; 234 Balsam, Ridgecrest; and 401 Finley Drive, Taft, all located in California (8-15-77).[3]

Security Pacific Corp., Los Angeles, Calif., notification of intent to relocate de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company; and acting as broker or agent for the sale of credit related life/accident and health insurance) from 117 East Fourth, Loveland, Colo. to 829 Main Street, Longmont, Colo., through its subsidiary, The Bankers Investment Co. (8-12-77).[3]

Security Pacific Corp., Los Angeles, Calif., notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance) at 1220 S.W. Morrison Street, Portland, Ore., through its subsidiary, Security Pacific Finance Corp. (8-15-77).[3]

Security Pacific Corp., Los Angeles, Calif., notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance) at 528 East Main Street, Santa Maria, Calif. through its subsidiary, Security Pacific Finance Corp. (8-15-77).[3]

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To expand a Bank Holding Company Pursuant to section 4(c)(12) of the Bank Holding Company Act of 1956.

Lumbermens Mutual Casualty Co., Long Grove, Ill., notification of intent to acquire indirectly, through its subsidiary, Kemper Corp., Long Grove, Ill., 50 percent of the outstanding common stock of Hearex Occupational Health Services, Tampa, Fla., which provides industrial multi-phasic medical surveillance to industrial plants (8-16-77).[3]

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For Certification Pursuant to the Bank Holding Company Tax Act of 1976.

Ector Shopping Center, Inc., Odessa, Tex., to divest shares of First National Bank of Olney, Olney, Tex. (Legal Division Docket TRC 76-146.)

Atlantic Insurance & Investment Co. and Southern Union Co., both of Savannah, Ga., to divest shares of Southern Bank & Trust Co., Savannah, Ga. (Legal Division Docket TCR 76-147.)

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

Capital Corp., Atlanta, Ga., to divest shares of First National Bank of Cape Canaveral, Cape Canaveral, Fla. (Legal Division Docket TCR 76-148.)

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REPORTS RECEIVED

None.

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PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, September 2, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26534 Filed 9-12-77;8:45 am]

AMERICAN NATIONAL BANCSHARES, INC.

Formation of Bank Holding Company

American National Bancshares, Inc., Midwest City, Okla., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of American National Bank of Midwest City, Okla. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 28, 1977.

Board of Governors of the Federal Reserve System, September 6, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26535 Filed 9-12-77;8:45 am]

CHICKASHA BANCSHARES, INC.

Formation of Bank Holding Company

Chickasha Bancshares, Inc., Chickasha, Okla., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Chickasha Bank & Trust Co., Chickasha, Okla. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 30, 1977.

Board of Governors of the Federal Reserve System, September 2, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26536 Filed 9-12-77;8:45 am]

COMANCHE LAND & CATTLE CO.

Request for Determination and Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(3)) ("the Act"), by Comanche Land & Cattle Co., Comanche, Tex. ("Comanche"), which has transferred 40.8 percent of the outstanding voting shares of First State Bank of Bangs, Bangs, Tex., to Messrs. James H. Weatherby, Charles Womack, Dub Slocum and W. J. Smelley ("Purchasers"), for a determination that Comanche is not nor will be capable of controlling Purchasers, notwithstanding the fact that Purchasers are directors of Comanche, and notwithstanding the fact that Mr. Dub Slocum is indebted to Comanche.

Section 2(g)(3) of the Act provides that shares transferred after January 1, 1966, by any bank holding company (or any company which but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor, unless the Board, after opportunity for hearing, determines that the transferor is not, in fact, capable of controlling the transferee.

Notice is hereby given, that, pursuant to section 2(g)(3) of the Act, an opportunity is provided for filing a request for oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than September 30, 1977. If a request for oral hearing is filed, each request should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony. The Board subsequently will designate a time and place for any hearing it orders, and will give notice of such hearing to the transferor, the transferee, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the application.

Board of Governors of the Federal Reserve System, September 2, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26537 Filed 9-12-77;8:45 am]

DETROITBANK CORP.

Order Approving Merger of Bank Holding Companies

DETROITBANK Corp., Detroit, Mich. ("DETROITBANK"), a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(5) of the Act (12 U.S.C. 1842(a)(5)) to acquire all of the voting shares of the successor by merger to Lake Shore Financial Corp., Muskegon, Mich., and thereby indirectly acquire shares of Hackley Union National Bank and Trust Co. of Muskegon, Muskegon, Mich. ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received including those of the United States Department of Justice and those of National Lumberman's Bank and Trust Co., Muskegon, Mich. ("Protestant"), in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

DETROITBANK controls six banks with aggregate deposits of $2.8 billion, representing 8.8 percent of the total deposits in commercial banks in Michigan, and is the third largest banking organization in the State.[1] Consummation of the proposed merger would increase Applicant's share of deposits in commercial banks in Michigan by 0.6 percent and would have no appreciable effect upon the concentration of banking resources in Michigan.

All but one of Applicant's subsidiary banks are located in the Detroit banking market, approximately 170 miles from Muskegon.[2] Approval of this application would not eliminate any significant amount of existing competition.

With respect to potential competition, the Department of Justice and Protestant have expressed the opinion that Applicant is a likely entrant into the market and that approval of the application would result in the elimination of potential competition and decrease the likelihood of the market becoming less concentrated in the future. While it appears that consummation of the proposal would result in some slight adverse effects on potential competition, for the reasons discussed below, the Board is unable to conclude that consummation of the proposal would result in a significant loss of potential competition.

Bank is the largest of six banking organizations in the Muskegon banking market.[3] Bank holds total deposits of $188 million, representing approximately 33.5 percent of the total deposits in commercial banks in the Muskegon market.

The Board has previously found that the Muskegon market, with the exception of the Norton Shores area, was not attractive for de novo entry.[4] Since that finding was made, an application for a charter for a de novo bank in Norton Shores has been filed with chartering authorities and, if that application is granted, the attractiveness of the Norton Shores area for de novo entry by others will be lessened.

Moreover, it appears that the overall Muskegon market continues to be generally unattractive for de novo entry. The deposits per banking office ratio for the Muskegon Standard Metropolitan Statistical Area is below the State average. Population of the Muskegon County portion of the market increased 0.2 percent between 1970 and 1975, ranking fifteenth in population growth among the 17 Michigan counties with population in excess of 100,000. It is anticipated that Muskegon County's population growth will continue to lag behind that of the other Michigan counties at least until 1980. In view of the apparent lack of attractiveness of the Muskegon area for de novo entry,[5] particularly vis a vis other areas in Michigan in which Applicant is not currently represented, the Board is unable to conclude that Applicant is one of the most likely de novo entrants into the Muskegon area.

Of the six banks currently represented in the Muskegon market, three are affiliated with multibank holding companies.[6] While "foothold" entry into the market would be preferable to Applicant's acquisition of the largest bank in the market, only two possibilities exist for Applicant to acquire an established bank as a means of entry into the market and neither of those appears feasible. The two banks that might be available for acquisition are Protestant, the second largest bank in Muskegon, and a bank located in the town of Coopersville that is prohibited by Michigan law from branching into the city of Muskegon and conducts its operations primarily in the Grand Rapids banking market. The former would not constitute a true "foothold" entry in view of its size and market share. Acquisition of the latter would

[1] Banking data are as of December 31, 1976.

[2] Applican recently entered western Michigan by acquiring Kentwood Bank located 40 miles from Muskegon in a suburb of Grand Rapids. The application under the Bank Holding Company Act to acquire that bank was approved under delegated authority by the Federal Reserve Bank of Chicago on July 7, 1977. Kentwood Bank is not located in the relevant market, but rather competes in the adjacent Grand Rapids market. Bank derives only a nominal amount of deposits and loans from the Grand Rapids market.

[3] The Muskegon banking market, the relevant market, is approximated by all of Muskegon County, except for Casnovia Township, plus Grand Haven, Spring Lake, and Crockery Townships in Ottawa County.

[4] See Board's Order of March 26, 1975, denying application of Old Kent Financial Corp., Grand Rapids, Mich., 61 Fed. Res. Bull. 247 (1975) and Board's Order of January 25, 1974, denying application of Old Kent Financial Corp., Grand Rapids, Mich., 60 Fed. Res. Bull. 133 (1974).

[5] Applicant's subsidiary banks are barred by Michigan's restrictive branching law (Mich. Stat. Ann. § 23.710(171)) from branching into Muskegon. However, Michigan law does not prohibit the formation of de novo banks by Applicant and it is this form of de novo entry referred to in the text.

[6] A pending de novo charter application, if approved, would enable a fourth multibank holding company, Old Kent Financial Corp., Grand Rapids, Mich., to enter this market and would thus increase the number of banking organizations in the market from six to seven.

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not be likely to produce any significant procompetitive benefit in the Muskegon market.

Considerations relating to the financial and managerial resources and future prospects of Bank, Applicant, and Applicant's subsidiaries are regarded as generally satisfactory. Although Applicant would incur some debt as a result of this acquisition, it appears that dividends from Bank would be sufficient to retire that debt.

Applicant has stated its intention to augment the services of Bank by providing equipment leasing, accounts receivable financing, international services, cash management services, money market services, and real estate trust services. Bank does not currently provide many of these services. In addition, affiliation with Applicant would increase bank's lending limits at a time when there appears to be an increasing demand by local industries for large loans. Thus, considerations relating to the convenience and needs of the community to be served lend weight toward approval of the application and outweigh any slight adverse competitive effects that may result from the proposal.

On the basis of the record,[1] the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[2] effective September 1, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26538 Filed 9-12-77;8:45 am]

FIRST PARK RIDGE CORP.

Formation of Bank Holding Company

First Park Ridge Corp., Chicago, Ill., has applied for the Board's approval under section 3(a) (1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First State Bank & Trust Co. of Park Ridge, Park Ridge, Ill. The factors that are considered in acting on the application are set forth in section 3(c) of not later than October 4, 1977.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later tha October 4, 1977.

Board of Governors of the Federal Reserve System, September 6, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26539 Filed 9-12-77;8:45 am]

OMAHA NATIONAL CORP.

Proposed Acquisition of Wyoming Trust & Management Co.

Omaha National Corporation, Omaha, Nebraska, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Wyoming Trust & Management Co., Gillette, Wyo. Notice of the application was published on July 21, 1977, in the "News Letter Journal", a newspaper circulated in Newcastle, Wyo., "The Sundance Times", a newspaper circulated in Sundance, Wyo., and "The Douglas Budget," a newspaper circulated in Converse County, Wyo. Notice of the application was also published on July 22, 1977, in the "Wyoming State Tribune," a newspaper circulated in Laramie County, Wyo., the "Casper Star-Tribune," a newspaper circulated in Casper, Wyo., the "News-Record," a newspaper circulated in Gillette, Wyo., and "The Sheridan Press," a newspaper circulated in Sheridan, Wyo.

Applicant states that the proposed subsidiary would engage in fiduciary, agency, and custodial activities that may be carried on by a trust company but will neither accept deposits nor make loans. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 30, 1977.

Board of Governors of the Federal Reserve System, September 2, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26540 Filed 9-12-77;8:45 am]

SOUTHWEST FLORIDA BANKS, INC.

Proposed Acquisition of Southwest Financial Services, Inc.

Southwest Florida Banks, Inc., Fort Myers, Fla., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Southwest Financial Services, Inc., Fort Myers, Fla. Notice of the application was published on June 10, 1977, in "Naples Daily News," a newspaper circulated in Naples, Fla., and on June 11, 1977, in "Fort Myers News-Press" and "Sarasota Herald-Tribune," newspapers circulated in Fort Myers, Florida, and Sarasota, Florida, respectively.

Applicant states that the proposed subsidiary would engage de novo in the activity of providing, as agent, credit life and credit accident and health insurance that is directly related to extensions of credit by Applicant's subsidiary banks. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 30, 1977.

Board of Governors of the Federal Reserve System, September 2, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26541 Filed 9-12-77;8:45 am]

SWORD FINANCIAL CORP.

Formation of Bank Holding Company

Sword Financial Corporation, Horicon, Wis., has applied for the Board's approval under section 3(a) (1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 82.65 percent of the voting shares of Horicon State Bank, Horicon, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 29, 1977.

Board of Governors of the Federal Reserve System, September 2, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26542 Filed 9-12-77;8:45 am]

[1] Dissenting Statement of Governor Wallich filed as part of the original document. Copies are available upon request to Board of Governors of the Federal Reserve System, Washington, D.C. 20551 or to the Federal Reserve Bank of Chicago.

[2] Voting for this action: Chairman Burns and Governors Coldwell, Partee and Lilly. Voting against this action: Governor Wallich. Absent and not voting: Governors Gardner and Jackson.

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following request for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on September 2, and September 6, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before October 3, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, U.S. General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

INTERSTATE COMMERCE COMMISSION

The ICC requests an extension without change clearance of Form ACC–42, Field Report of Highway Form A. This form collects information relating to the distribution of wage expenses to various types of carrier service and is reported by 216 intercity motor common carriers of general freight. Data are compiled and published to provide information to carriers for ratemaking processes. ICC estimates reporting burden to average 16 hours per annual response.

The ICC requests an extension without change clearance of Quarterly Report of Freight Loss and Damage Claims—Railroads, Form QLD–R, required to be filed by some 59 Class I linehaul railroads (except switching and terminal companies) with an average operating revenue of $10 million or more, pursuant to Section 20 of the Interstate Commerce Act. Data collected by Form QL&D–R are used for economic regulatory purposes. ICC estimates reporting burden for carriers to average 64 hours per report. Reports are mandatory and available for use by the public.

The ICC requests extension without change clearance of quarterly report forms as follows: Revenue Piggyback and Container Traffic Class I Railroads, Form PTR–R; Piggyback Traffic of Class I Motor Carriers of Property, Form PTR–M; and Piggyback Traffic Originated by Class A Freight Forwarders, Form PTR–FF. Form PTR–R is required to be filed by 59 Class I line-haul railroads, Form PTR–M by 1,014 Class I motor carriers of property, and Form PTR–FF by 143 Class A freight forwarders, pursuant to order of the Interstate Commerce Commission, 49 CFR 1252. Data are used for economic regulatory purposes. No change is made in the data requirements. ICC estimates that reporting burden for carriers to average 114 hours for railroads, 5 hours for motor carriers, and 15 hours for freight forwarders per report. Reports are not available for public inspection pursuant to the above order of the Commission.

The ICC requests clearance of a new form, Piggyback Traffic Terminated by Class A Water Carriers and Maritime Carriers, Form PTR–W. This form is required to be filed by 67 Class A Water carriers pursuant to order of the Interstate Commerce Commission 49 CFR 1252. Data collected by this form are used for economic regulatory purposes. ICC estimates that reporting burden for the 67 carriers will average 8 hours per response. Reports are not available for public inspection pursuant to above Commission order.

The ICC requests clearance without change of Quarterly Report of Freight Commodity Statistics (Railroads), Form QCS. This form is required to be filed by some 59 Class I line-haul railroads pursuant to Section 20 of the Interstate Commerce Act. Data are used for economic purposes. ICC estimates that reporting burden for carriers averages 217 hours per response. Reports are not available for public inspection pursuant to the above order of the Commission.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-26570 Filed 9-12-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Notice of Renewals

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces the renewal by the Secretary, Department of Health, Education, and Welfare, with the concurrence of the Office of Management and Budget Committee Management Secretariat, of the following advisory committees:

Clinical Projects Research Review Committee
Clinical Psychopharmacology Research Review Committee
Developmental Problems Research Review Committee
Experimental and Special Training Review Committee
Mental Health Small Grant Committee
Personality and Cognition Research Review Committee

Authority for these committees will expire December 31, 1977, unless the Secretary formally determines that continuance is in the public interest.

Dated: September 2, 1977.

DAVID F. KEFAUVER,
Acting Deputy Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-26404 Filed 9-12-77;8:45 am]

Food and Drug Administration

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees on the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Contraceptive and Other Vaginal Drug Products Panel.	Oct. 1 and 2, 9 a.m., Holiday Inn, 8120 Wisconsin Ave., Bethesda, Md.	Open public hearing Oct. 1, 9 a.m. to 10 a.m.; open committee discussion, Oct. 1, 10 a.m. to 4:30 p.m., Oct. 2, 9 a.m. to 4:30 p.m.; Armond M. Welch (EFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

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General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before September 28, 1977, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
2. Gastrointestinal Drugs Advisory Committee.	Oct. 3 and 4, 9 a.m., Conference room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Oct. 3, 9 a.m. to 10 a.m.; open committee discussion Oct. 3, 10 a.m. to 5 p.m., Oct. 4, 9 a.m. to 1 p.m.; Joan C. Standaert (HFD-110), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4730.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescriptional drugs for use in gastrointestinal diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion on Chenodeoxycholic Acid (IND 11,134) (Update—National Cooperative Gallstone Study); Metaclopramide Injectable (NDA 17-862, A. H. Robins); and the FDA action report on final guidelines for Fogarty International Symposium.

Committee name	Date, time, and place	Type of meeting and contact person
3. General Hospital and Personal Use Device Classification Panel.	Oct. 3 and 4, 9 a.m., room 425, 8757 Georgia Ave., Silver Spring, Md.	Open public hearing Oct. 3, 9 a.m. to 10 a.m.; open committee discussion Oc. 3, 10 a.m. to 5 p.m., Oct. 4, 9 a.m. to 5 p.m.; William C. Dierksheide, Ph. D. (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7234.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the classification of general hospital and personal use devices to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by September 26, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their presentation.

Open committee discussion. The panel will review classification recommendations for the following devices: Fiber absorbent; absorbent tipped applicator; neonatal invasive oxygen analyzer; newborn urine collection bag; ostomy drainage bag with adhesive; elastic bandage; emesis basin; AC-powered bed; hydraulic bed; manual bed; pediatric open bed; tiltable cradle bed; AC-powered water flotation bed; neonatal open bed with radiant heat; bedpan; abdominal binder; perineal binder; bed board; cardiopulmonary resuscitation board; hot/cold water bottle; vacuum collection bottle; aerator cabinet; nasal cannula; examination cape; intravascular catheter; umbilical artery catheter; blood-donor chair; geriatric chair; wheeled geriatric chair; examination and treatment chair; patient care reverse isolation chamber; recirculating filter room air cleaner; ultrasonic cleaner; adhesive strip skin closure; specimen collector; manual external cardiac compressor; powered external cardiac compressor; mattress cover; inflation cuff; ring cutter; tongue depressor; occlusion devices; dressing; infusion line filter; patient examination glove; sugrical glove; operating room gown; infant oxygen hood; neonatal incubator; neonatal transport incubator; biological sterilization indicator; physical/chemical sterilization indicator; (IR) heat lamp; operating room lamp; blood lancet; jet lavage; patient lift; overhead boom patient lift; aneroid blood pressure manometer; mercury blood pressure manometer; spinal pressure manometer; oxygen mask; venturi oxygen mask; alternating pressure air flotation mattress; heated water mattress; silicone mattress and chair cushions; invasive neonatal blood pressure monitor; ultrasonic/doppler neonatal blood pressure monitor; neonatal heart rate monitor; electronic gravity flow infusion line monitor; nursery respiratory/apnea monitor; all types hollow lumen needles; special lambs nipple; chemical cold pack; chemical hot pack; neonatal eye pad; electric heating pad; kelley pad, prophylactic (condom); skin pressure protector; infusion pump; manual cuff inflating air pump; U.V. air purifier; mechanical oxygen regulator; vacuum regulator; neonatal ventilator respirator; protective restraint; manual pulmonary resuscitator; patient rollers; AC-powered patient rollers; mechanical bedpan sanitizer; body weight scale; patient scale; sponge scale; general hospital scissors; intravascular administration set; sterile burn sheet; gas sterilizer; steam sterilizer; DC-powered stethoscope; mechanical stethoscope; elastic stocking; stopcock; hand carried stretcher; wheeled stretcher; scrotal support; piston syringe; AC-powered operating room table; manual operating room table; pediatric aerosol tent; clinical color change thermometer; clinical electronic thermometer; mercury/clinical thermometer; suction tip; feeding tube; levine tube; fluid delivery intravascular tubing; laminar airflow unit; surgical patient isolation unit; perfusion unit; sterilization wrap.

Committee name	Date, time, and place	Type of meeting and contact person
4. Biologic Effects of Ultrasound Subcommittee of the Obstetrical and Gynecological Device Classification Panel.	Oct. 4, 9 a.m., room 6821, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing/open committee discussion 9 a.m. to 4 p.m.; Lillian Yin, Ph. D. (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7555.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing/open committee discussion. Richard Asofsky, M.D., will discuss "Differentiation in the Immune System"; J. Donald Hare, M.D., and Edwin Carstenson, Ph. D., will discuss "Immunological Effects of Ultrasound"; Andrew A. Monjan, Ph. D., will discuss "Stress Induced Modulation of the Immune Response"; and Melvin Stratmeyer, Ph. D., Bureau of Radiological Health, will discuss "Possible Immune Effects in Mice Following Exposure to Diagnostic Levels of Ultrasound." Interested parties are encouraged to present information pertinent to the effect of ultrasound on immunological response to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by September 27, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their presentation.

Committee name	Date, time, and place	Type of meeting and contact person
5. Clinical Toxicology Device Classification Panel.	Oct. 6 and 7, 8 a.m., room 425, 8757 Georgia Ave., Silver Spring, Md.	Open public hearing Oct. 6, 8 a.m. to 9 a.m.; open committee discussion Oct. 6, 9 a.m. to 5 p.m., Oct. 7, 8 a.m. to 5 p.m.; Srikrishna Vadlamudi, Ph. D., D.V.M. (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7234.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to products listed below to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by September 29, 1977, and submit a brief statement of the general nature of the evidence or argumefits they wish to present, the names and addresses of proposed participants, references to any data to be relied on, an dalso an indication of the approximate time required to make their presentation.

Open committee discussion. The panel will review and comment on the reclassification petition under section 513(f)(2) of the Federal Food, Drug, and Cosmetic Act, by the following companies on their products: (1) Diagnostic Products Corp., Los Angeles, Calif. (Amikacin Kit); (2) Becton, Dickinson and Co., Washington, D.C. (Amisak); (3) P. L. Biochemicals, Inc., Milwaukee, Wis. (Quantitative Test for Gentamicin); and (4) the Syva Co., Palo Alto, Calif. (Emit: Theophylline and Lidocaine Assays). The panel will review classification results for consistency with the Medical Device Amendments of 1976. The panel will also review supplementary data sheets for all products classified at previous meetings.

Committee name	Date, time, and place	Type of meeting and contact person
6. Radiopharmaceutical Advisory Committee.	Oct. 6 and 7, 9 a.m., Conference room A, Parklwan Bldg., 5600 Fishers Lane, Rockville, Md.	Open committee discussion Oct. 6, 9 a.m. to 1 p.m.; open public hearing Oct. 6, 1 p.m. to 2 p.m.; open committee discussion Oct. 6, 2 p.m. to 4 p.m., Oct. 7, 9 a.m. to 1 p.m.; G. Richard Grove, Ph. D. (HFD-150), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4250.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of nuclear medicine.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the major responsibilities of the Bureau of Medical Devices; safety and effectiveness of pediatric use of Sodium Pertechnetate Tc99m; objectives of the AIF/NBS Standards Program for Radiopharmaceutical Drugs; and the status report of Adverse Reaction and Product Defect Reporting Program.

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Committee name	Date, time, and place	Type of meeting and contact person
7. Antimicrobial Panel	Oct. 8 and 9, 9 a.m., Holiday Inn, 8120 Wisconsin Ave., Bethesda, Md.	Open public hearing Oct. 8, 9 a.m. to 10 a.m.; open committee discussion Oct. 8, 10 a.m. to 4:30 p.m., Oct. 9, 9 a.m. to 4:30 p.m.; Arnond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before October 5, 1977, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
8. Neurologic Drugs Advisory Committee.	Oct. 12, 9 a.m., Conference room, G-H, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 6 p.m.; Charles Pretzlyman (HFD-120), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3980.

General function of the committee. Reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in neurologic diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Review of NDA for Sodium Valproate and treatment of multiple sclerosis with ACTH.

Committee name	Date, time, and place	Type of meeting and contact person
9. Orthotic Prosthetic Subcommittee of the Physical Medicine Device Classification Panel.	Oct. 13, 9 a.m., room 5160, HEW-N, 330 Independence Ave. SW., Washington, D.C.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4 p.m.; Johnnie W. Bailey (HFK-470), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to classification of devices on the Physical Medicine Device Classification Panel list to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by October 1, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their presentation.

Open committee discussion. The following devices will be reviewed for approval for the panel's final report to FDA of their classification results and recommendations: External limb prostheses and components; limb and truncal orthoses; mobility assist devices; prosthetic, orthotic and wheelchair accessories.

The following devices will be classified: Foot driving control; force measuring platform; and flotation cushion.

Committee name	Date, time and place	Type of meeting and contact person
10. National Advisory Food and Drug Committee.	October 13 and 14, 9 a.m., Conference Room J, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Oct. 13, 9 a.m. to 10 a.m.; open committee discussion Oct. 13, 10 a.m. to 4 p.m., Oct. 14, 9 a.m. to 1 p.m.; William V. Whitehorn, M.D. (HFG-1), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1547.

General function of the committee. Reviews and evaluates agency programs and advises on policy matters of national significance as they relate to the statutory mission of the Food and Drug Administration in the areas of food, drugs, cosmetics, medical devices, biological products, and electronic products. Reviews and makes recommendations on applications for grants-in-aid for research projects relevant to the mission of the Food and Drug Administration as required by law.

Agenda—Open public hearing/open committee discussion. Agenda items to be announced.

Committee name	Date, time and place	Type of meeting and contact person
11. Physical Medicine Device Classification Panel.	October 14, 9 a.m., Room 5160, HEW-N, 330 Independence Ave. SW., Washington, D.C.	Open public hearing 9 a.m. to 10 a.m., open committee discussion 10 a.m. to 4 p.m.; Johnnie W. Bailey (HFK-470), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to classification of devices on the Physical Medicine Device Classification Panel list to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by October 1, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their presentation.

Open committee discussion. Discussion of the panel's involvement under the premarket approval regulations—Dr. Keith Lusted, FDA/BMD.

The following devices will be classified: AC-powered exerciser, whole limb, active and active/passive.

The panel will review their final report to FDA of their classification results and recommendations.

Committee name	Date, time, and place	Type of meeting and contact person
12. Miscellaneous Internal Drug Products Panel.	Oct. 15, 16, and 17, 9 a.m., Holiday Inn, 8120 Wisconsin Ave., Bethesda, Md. (Oct. 15 and 16). Conference Room L, Parklawn Bldg., 5600 Fishers Lane Rockville, Md. (Oct. 17).	Open public hearing Oct. 15, 9 a.m. to 10 a.m.; open committee discussion Oct. 15, 10 a.m. to 4:30 p.m., Oct. 16 and 17, 9 a.m. to 4:30 p.m.; Arnond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before October 12, 1977, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
13. Cardiovascular and Renal Advisory Committee.	Oct. 17 and 18, 9 a.m., Conference room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Oct. 17, 9 a.m. to 10 a.m.; open committee discussion Oct. 17, 10 a.m. to 5 p.m., Oct. 18, 9 a.m. to 1 p.m.; Joan C. Standaert (HFC-110), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4730.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in cardiovascular and renal disorders.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of NDA 17-963 (Metoprolol (Ciba-Geigy)) and NDA 17-946 (Perhexiline (Merrell National)); FDA update on Talwin labeling (NDA 16-194); and the status of NDA 17-819 (AtroPen).

Committee name	Date, time, and place	Type of meeting and contact person
14. Subcommittee of the Obstetrics and Gynecology Advisory Committee.	Oct. 19, 9 a.m., Conference room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 5 p.m.; A. T. Oregoire, Ph. D. (HFD-130), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3510.

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General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of obstetrics and gynecology.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Preparation of draft guidelines for clinical evaluation of systemic contraceptives.

Committee name	Date, time, and place	Type of meeting and contact person
15. Psychopharmacological Agents Advisory Committee.	Oct. 17 and 18, 9 a.m., Conference room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Oct. 17, 9 a.m. to 10 a.m.; open committee discussion Oct. 17, 10 a.m. to 5 p.m., Oct. 18, 9 a.m. to 5 p.m.; Thomas A. Hayes, M.D. (HFD-120), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4020.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of psychiatry and related fields.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Action report on prior business; discussion of NDA 17-473, Orap (pimozide)—McNeil; NDA 18-021, Anamox (amoxapine)—Lederle; and NDA 9-519, Doriden (glutethimide)—USV.

Committee name	Date, time, and place	Type of meeting and contact person
16. Dentifrices and Dental Care Agents Panel.	Oct. 19 and 20, 9 a.m., Conference room K, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Oct. 19, 9 a.m. to 10 a.m.; open committee discussion Oct. 19, 10 a.m. to 4:30 p.m., Oct. 20, 9 a.m. to 4:30 p.m.; Michael D. Kennedy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before October 14, 1977, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
17. Anesthesiology Advisory Committee.	Oct. 20, 9 a.m., secs. F and G of Mardi Gras Ballroom, New Orleans Marriott Hotel, 555 Canal St., New Orleans, La.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4 p.m.; I. David Wolfson (HFD-160), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3500.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the field of anesthesiology.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Consideration of possible label revisions resulting from drug experience and information presented in the literature for lidocaine; discussion of safety considerations resulting from recent animal studies for NDA 10-496, Xylocaine 5% with Glucose 7.5% (Lidocaine 5% with glucose 7.5%); evaluation of clinical data from pediatric patients for the indication of hypotensive anesthesia for NDA 17-546, Nipride (sodium nitroprusside); and the consideration of the use of IND 12-870, Dantrium IV (dantrolene sodium IV) in the management of malignant hyperthermia.

Committee name	Date, time, and place	Type of meeting and contact person
18. Device Good Manufacturing Practice Advisory Committee.	Oct. 27 and 28, 9 a.m., room 5051, HEW-N, 330 Independence Ave. SW., Washington, D.C.	Open public hearing Oct. 27, 9 a.m. to 10 a.m.; open committee discussion Oct. 27, 10 a.m. to 5 p.m., Oct. 28, 9 a.m. to 5 p.m.; Leonard J. Stauffer (HFK-123), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-8120.

General function of the committee. Reviews proposed regulations regarding good manufacturing practices governing the methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of devices, and makes recommendations regarding feasibility and reasonableness of the proposed regulations.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to device good manufacturing practices to the executive secretary. Those desiring to make formal presentations should notify the executive secretary by October 13, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their presentation.

Open committee discussion. The committee will discuss the revised proposed good manufacturing practice regulations.

Committee name	Date, time, and place	Type of meeting and contact person
19. Miscellaneous External Drug Products Panel.	Oct. 30 and 31, 9 a.m., Holiday Inn, 8120 Wisconsin Ave., Bethesda, Md. (Oct. 30), Conference room C, Parklawn Bldg., Rockville, Md. (Oct. 31).	Open committee discussion Oct. 30, 9 a.m. to 4:30 p.m.; open public hearing Oct. 31, 9 a.m. to 10 a.m.; open committee discussion Oct. 31, 10 a.m. to 4:30 p.m.; Michael D. Kennedy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before October 19, 1977, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
20. Vitamin, Mineral, and Hematinic Panel.	Oct. 31 and Nov. 1, 9 a.m., Conference room K, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Oct. 31, 9 a.m. to 10 a.m.; open committee discussion Oct. 31, 10 a.m. to 4:30 p.m., Nov. 1, 9 a.m. to 4:30 p.m.; Thomas D. DeCillis (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before October 27, 1977, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather that a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner approves the scheduling of meetings at locations outside of the Washington, D.C. area on the basis of the criteria of 21 CFR 14.22 of FDA's regulations relating to public advisory committees.

Dated: September 8, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-26561 Filed 9-12-77;8:45 am]

Health Resources Administration

NATIONAL COUNCIL ON HEALTH PLANNING AND DEVELOPMENT

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to assemble during the month of September 1977:

NAME: National Council on Health Planning and Development.

DATE AND TIME: September 23-24, 1977, 9 a.m.

PLACE: 1st Floor Auditorium, South Portal Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

OPEN for entire meeting.

PURPOSE: The National Council on Health Planning and Development is responsible for advising and making recommendations with respect to: (1) the development of national guidelines under section 1501 of Pub. L. 93-641, (2) the implementation and administration of Title XV and XVI of Pub. L. 93-641, and (3) an evaluation of the implications of new medical technology for the organization, delivery, and equitable distribution of health care services. In addition, the Council advises and assists the Secretary in the preparation of general regulations to carry out the purposes of section 1122 of the Social Security Act and on policy matters arising out of the implementation of it, including the coordination of activities under that section with those under other parts of the Social Security Act or under other Federal or federally assisted health programs. The Council considers and advises the Secretary on proposals submitted by the Secretary under the provisions of section 1122(d)(2) that health care

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facilities or health maintenance organizations be reimbursed for expenses related to capital expenditures notwithstanding that under section 1122(d)(1) there would otherwise be exclusion of reimbursement for such expenses.

Agenda: This meeting of the Council will primarily be devoted to planning the future work schedule: Organization of the Council and Discussion of Election of a Chairperson; Report on Health Planning; Report on Health Technology Issues; Report of Section 1526 and 1533 (d); and Discussion of DOD and VA Health Programs.

The meeting is open to the public for observation. A portion of the meeting will be available for comments and public participation. Anyone wishing to participate, obtain a roster of members, minutes of meeting, or other relevant information should contact Mr. Daniel I. Zwick, Office of Planning, Evaluation and Legislation, Room 10–22, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301–436–7270.

Agenda items are subject to change as priorities dictate.

Dated: September 8, 1977.

NOTE.—Original notice of meeting, signed on August 23, 1977, was lost in the mail, thereby reducing time of public notice.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.77-26649 Filed 9-12-77;8:45 am]

National Institutes of Health

DIET AND CANCER SCIENTIFIC REVIEW COMMITTEE AND CANCER AND NUTRITION SCIENTIFIC REVIEW COMMITTEE

Meetings Cancelled

Notice is hereby given of the cancellation of meetings of the following committees:

Diet and Cancer Scientific Review Committee, September 21, 1977;
Cancer and Nutrition Scientific Review Committee, September 22, 1977;

National Cancer Institute, National Institutes of Health, which were published in the FEDERAL REGISTER on August 9, 1977 (42 FR 40256).

Dated: September 8, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-26651 Filed 9-12-77;8:45 am]

PRESIDENT'S CANCER PANEL

Amended Notice of Meeting

Notice is hereby given of a change in the meeting date of the President's Cancer Panel, National Cancer Institute, October 11, 1977, which was published in the FEDERAL REGISTER on August 30, 1977 (42 FR 43669).

The meeting was to have convened at 9:30 a.m. on October 11, 1977, but has been changed to 9:30 a.m., October 7, 1977, Building 31C, Conference Room 6, National Institutes of Health, Bethesda, Md. The meeting will be entirely open to the public.

Dated: September 8, 1977.

SUZANNE L. FREMEAU,
Committee Management Office, National Institutes of Health.

[FR Doc.77-26652 Filed 9-12-77;8:45 am]

Office of the Secretary

NATIONAL HEALTH INSURANCE

Public Hearing

President Carter has pledged his Administration to submit to the Congress a proposal for National Health Insurance. As Secretary of Health, Education, and Welfare, I must formulate recommendations to the President on the Administration's program. In order to develop the best possible proposal for the President's consideration, the Department has undertaken a wide-ranging process of consultation.

I have established an advisory committee on National Health Insurance issues, and I have solicited advice from all members of Congress, every Governor, and more than 2,000 organizations and individuals with special interest or expertise in health matters. HEW Regional Offices will soon be engaged in a vigorous effort to obtain the views of other individuals and organizations throughout the country to supplement the Department's activities in Washington. Materials and studies prepared by HEW staff will also be available for comment by interested parties.

To provide a further forum for analysis and discussion of the critical issues involved in National Health Insurance, I have decided to chair personally a public hearing so that concerned citizens can advise me of their views on the many issues involved. This hearing will be conducted as a legislative-type hearing, and will be held on Tuesday, October 4, 1977, at the HEW North Building Auditorium, 330 Independence Avenue SW., Washington, D.C. The hearing schedule will be from 8:30 a.m. to 1 p.m. and from 2 p.m. to 6 p.m. We will try to assure a fair opportunity for proponents of all positions to present their views.

Requests to testify will be accepted from public officials, representatives of civic, public interest, professional or trade organizations, and concerned citizens. Time allotments will be governed by the number of requests received, but will not exceed 10 minutes for each participant. If the requests exceed the available time, the Department will select witnesses to provide a broad range of views.

Any public official, representative of an organization, or other individual desiring to participate at the hearing should write directly to me on or before September 24, 1977, providing the following information:

1. Name.
2. Business address.
3. Telephone number during normal working hours.
4. Capacity in which presentation will be made (i.e., public official, organization representative, or citizen).
5. Principal issues to be addressed.
6. Time desired, which must be 10 minutes or less.
7. Text of presentation, if available, or summary of presentation.

In order to assure prompt handling of requests to testify, envelopes should be marked *National Health Insurance Hearing*, and should be addressed to Secretary of Health, Education, and Welfare, 200 Independence Avenue SW., Washington, D.C. 20201, or hand-delivered to Room 405F, Department of Health, Education, and Welfare, 200 Independence Avenue SW., Washington, D.C.

To aid in the process of identifying issues to be addressed, the Department will publish in the FEDERAL REGISTER, in the near future, a list of key issues and questions upon which comment and testimony might be based.

The public and press are invited to attend the hearing, which will be transcribed electronically. The transcription and all written submissions will become a part of the record in this proceeding.

Additionally, written statements may be offered by any person, including those who testified orally. Such statements should be submitted directly to me before November 1, 1977. They should be addressed to Secretary of Health, Education, and Welfare, National Health Insurance Statement, Room 405F, 200 Independence Avenue SW., Washington, D.C. 20201.

Dated: September 9, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

[FR Doc.77-26700 Filed 9-12-77;8:45 am]

PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

Meeting

The President's Committee on Mental Retardation was established by Executive Order to provide advice and assistance in the area of mental retardation to the President including evaluation of the adequacy of the national effort to combat mental retardation; coordination of activities of Federal agencies; provision of adequate liaison between foundations and other private organizations; and development of information designed for dissemination to the general public.

The Committee in cooperation with the Department of Special Education, Norfolk State College will meet on October 10, 11, and 12, 1977, 9 a.m. to 4 p.m., at Norfolk State College, Norfolk, Va. At the meeting the Committee and Norfolk State College will discuss the issues and necessary action to reduce the prevalence of mental retardation associated with social disadvantage to the lowest level possible by the end of this century.

These meetings are open to the public. Further information on the President's Committee on Mental Retardation may be obtained from Mr. Fred J. Krause, Executive Director, President's Committee on Mental Retardation, Room 2614, ROB No. 3, 7th and D Streets SW., Washington, D.C. 20201, telephone: area code 202–245–7634.

Dated: September 1, 1977.

FRED J. KRAUSE,
Executive Director, President's Committee on Mental Retardation.

[FR Doc.77-26595 Filed 9-12-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. D-77-493]

ACTING ASSISTANT SECRETARY FOR HOUSING—ACTING FEDERAL HOUSING COMMISSIONER

Designation

Section A.—Designation. The officials appointed to, or designated to serve as Acting during a vacancy in the following positions are hereby designated to serve as Acting Assistant Secretary for Housing—Acting Federal Housing Commissioner during the absence of the Assistant Secretary for Housing—Federal Housing Commissioner with all the powers, functions, and duties delegated or assigned to the Assistant Secretary for Housing—Federal Housing Commissioner: *Provided*, That no official is authorized to serve as Acting Assistant Secretary for Housing—Acting Federal Housing Commissioner unless all other officials whose appointed, or designated Acting, position titles precede his in this designation are unable to act by reason of absence:

1. Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.
2. Deputy Assistant Secretary for Insured and Direct Loan Programs.
3. Deputy Assistant Secretary for Assisted Housing.
4. Director, Office of Policy Development and Evaluation.
5. Director, Office of Management.

Section B.—Authorization. Each head of an organizational unit of Housing is authorized to designate an employee under his jurisdiction to serve as Acting during the absence of the head of the unit.

Section C.—Supersedure. This designation supersedes the designation of Acting Assistant Secretary for Housing—Acting Federal Housing Commissioner published at 41 FR 55243, December 17, 1976. (Secretary's delegation of authority to designate Acting officials, 36 FR 5004, March 16, 1971.)

Effective date. This designation to serve as Acting Assistant Secretary for Housing—Acting Federal Housing Commissioner is effective as of April 5, 1977.

Issued at Washington, D.C., September 1, 1977.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc.77-26557 Filed 9-12-77;8:45 am]

Office of Interstate Land Sales Registration

[Docket Nos. N-77-798, 77-119-IS]

LAKE SURF, LAKE SURF, INC., AND A. B. HARDEE

Hearing

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) Notice is hereby given that:

1. Lake Surf, Lake Surf, Inc., and A. B. Hardee, President, its officers and agents, hereinafter referred to as "Respondents", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing dated July 8, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR 1701.45(a)(1) and 1720.120 based on information obtained by the Office of Interstate Land Sales Registration showing that the Statement of Record and Property Report for Lake Surf, located in Moor County, N.C., contain untrue statements of material fact or omit to state material facts required to be stated herein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 28, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7143, Department of HUD, 451 Seventh Street SW., Washington, D.C., on Septmeber 28, 1977, at 10 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410, on or before September 7, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 12, 1977.

By the Secretary.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.77-26559 Filed 9-12-77;8:45 am]

[Docket Nos. N-77-797, 77-116-IS]

OAK MEADOWS, PARSEL II, OAK MEADOWS, INC., AND FLOYD A. MEGEE

Hearing

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b)

Notice is hereby given that:

1. Oak Meadows, Parcel II, Oak Meadows, Inc., and Floyd A. Megee, President, its officers and agents, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing dated July 7, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR 1701.45(a)(1) and 1720.120 based on information obtained by the Office of Interstate Land Sales Registration showing that the Statement of Record and Property Report for Sussex County, Del., contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 2, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained on the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7143, Department of HUD, 451 Seventh Street SW., Washington, D.C., on September 15, 1977, at 10 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410, on or before September 2, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement

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of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 12, 1977.

By the Secretary.

JAMES W. MAST,
Chief Administrative Law Judge.

[FR Doc.77-26558 Filed 9-12-77;8:45 am]

[Docket Nos. N-77-799, 77-98-IS]

VISTA GRANDE ESTATES I AND II, W. J. LOWELLS, AND BETTY LOWELLS

Hearing

Pursuant to 15 U.S.C. 1706(c) and 24 CFR 1720.165(b) Notice is hereby given that:

1. Vista Grande Estates I and II, W. J. Lowells, Owner and Betty Lowells, Owner authorized agents, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing dated June 16, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR 1710.45(a)(1) and 1720.120 based on information obtained by the Office of Interstate Land Sale Registration showing that the Statement of Record and Property for Vista Grande Estates I and II, located in Yavapai County, Ariz., contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 6, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7143, Department of HUD, 451 Seventh Street SW., Washington, D.C., on September 23, 1977, at 10 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410, on or before September 8, 1977.

Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forwith pursuant to 24 CFR 1720.440.

Dated: August 19, 1977.

By the Secretary.

JAMES W. MAST,
Chief Administrative Law Judge.

[FR Doc.77-26560 Filed 9-12-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

NEW YORK OUTER CONTINENTAL SHELF OFFICE

Change of Address

Notice is hereby given that, effective Monday, September 12, 1977, the new York Outer Continental Shelf Office will relocate its office in New York City. The new address is:

New York Outer Continental Shelf Office, Bureau of Land Management, Federal Building, Suite 32-120, 26 Federal Plaza, New York, N.Y. 10007.

The main telephone number for commercial and FTS calls remains the same (264-2960, Area Code 212).

FRANK A. EDWARDS,
Director, Bureau of Land Management.

SEPTEMBER 8, 1977.

[FR Doc.77-26522 Filed 9-12-77;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 2, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by September 23, 1977.

RONALD M. GREENBERG,
Acting Keeper of the National Register.

ALASKA

Kenai-Cook Inlet Division

Cooper Landing, *Cooper Landing Post Office (AHRS Site, SEW-146).*

CALIFORNIA

Fresno-Tulare County

Kings Canyon National Park, *Shorty Lovelace Historic District*, situated within Kings Canyon National Park.

Inyo County

Death Valley National Monument vicinity, *Death Valley Scotty Historic District (Scotty's Castle and Ranch; Death Valley Ranch)*, on W slope of Grapevine Mts. off Hwy. 72.

Mariposa County

El Portal, *Hetch Hetchy Railroad Engine No. 6 (Shay No. 6)*, off Yosemite All-Year Hwy.

El Portal, *Hetch Hetchy Railroad Track Bus No. 19 Rail-car No. 19; Rail Ambulance)*, off Yosemite All-Year Hwy.

Yosemite National Park, *Old Coulterville Road and Trail*, 2 road sections: 1) from near Hazel Green through Merced Grove; 2) from Little Nellie Falls to Wildcat Falls.

Yosemite National Park, *Yosemite Valley Bridges*, 7 bridges over Merced River.

Yosemite Valley, *Bridalveil Meadow Historic Site*, Yosemite National Park.

Tulare County

Three Rivers vicinity, *Giant Forest Lodge Historic District*, Camp Sierra, in Sequoia National Park.

Three Rivers vicinity, *Giant Forest Village/Camp Kaweah Historic District (Kaweah Village; Kaweah Area)*, in Sequoia National Park.

Tuolumne County

Mono Pass vicinity, *Golden Crown Mine, The*, in Yosemite National Park.

CONNECTICUT

Hartford County

Bristol, *Forestville Passenger Station*, 171 Central St.

Litchfield County

Sharon, *Gay, Ebenezer, House (Gay-Hoyt House*, Main St.

New Haven County

Waterbury, *Waterbury Union Station*, 389 Meadow St. HAER.

New London County

New London, *Williams Memorial Institute*, 110 Broad St.

DISTRICT OF COLUMBIA

United Brick Corporation Brick Complex (New York Avenue Brick Kilns), 2801 New York Ave., NE.

GUAM

Asan and vicinity, *Asan Invasion Beach*, Asan and vicinity to the N.

Yona vicinity, *South Pulantat Site (66-09-0037B)*, 2 mi. W of Yona.

KENTUCKY

Lincoln County

Stanford, *Baughman's Mill and Stanford Railroad Depot Historic District*, Depot and Mill Sts.

MINNESOTA

Hennepin County

Minneapolis, *Fredrika Bremer Intermediate School (Bremer School)*, 1214 Lowry Ave. North.

Houston County

Sheldon vicinity, *Schech's Mill*, 1 mi. SE of Sheldon in Beaver Creek Valley State Park.

Norman County

Twin Valley vicinity, *Faith Milling Company (Faith Flour Mill)*, 11 mi. E of Twin Valley in Faith Village.

Rice County

Northfield, *Laura Baker School*, 211 Oak St.

Winona County

Elba vicinity, *Marnach, Nicholas, House*, 2 mi. N of Elba.

Winona, *Anger's Block*, 116-120 Walnut St.

MISSISSIPPI

Grenada County

Grenada vicinity, *Evergreen Plantation (Old Mullin Place)*, 4 mi. N of Grenada on Hardy Rd.

Wilkinson County

Woodville, *Branch Banking House (Woodville Library)*, Bank St. (Courthouse Sq.)

MISSOURI

St. Louis County

Florissant, *Myers, John B., House and Barn*, 180 Dunn Rd.

NEBRASKA

Adams County

Hastings, *Burlington Station (AD64-1)*, 1st St. and St. Joseph's Ave.

Nemaha County

Brownville vicinity, *Captain Meriwether Lewis Dredge*, State recreation area adjacent to Missouri River, Missouri.

NEW MEXICO

Colfax County

Raton vicinity, *Catskill Charcoal Ovens*, 26 mi. W of Raton.

NEW YORK

Albany County

Albany, *Church of the Holy Innocents (Church of the Nativity of our Virgin Lady)*, 275 N. Pearl St.

New York County

New York, *Apthorp Apartments, The*, 2201-2219 Broadway Ave.

NORTH CAROLINA

Durham County

Durham, *Downtown Durham Historic District*, roughly bounded by Peabody, Morgan, Seminary, Cleveland, Parrish and Queen Sts.

OHIO

Warren County

Waynesville vicinity, *McKay, Moses, House*, NE of jct of New Burlington and Furnas Rds.

OREGON

Multnomah County

Portland, *Concord Building*, 208 SW. Stark St.

TENNESSEE

Greene County

Chuckey vicinity, *Maurts-Earnest Fort House (Earnest House)*, N of Nolichucky River on SR 3.

Robertson County

Springfield, *Mansfield-Cheatham House (Simmons House)*, 7th Ave. West.

Sumner County

Cottontown vicinity, *King Homestead (Greer House)*, W of Cottonwood on SR 1.

TEXAS

Jefferson County

Beaumont, *Beaumont Commercial District*, roughly bounded by Orleans, Bowie, Laurel, Willow, Broadway, Pearl, Main, and Gilbert Sts.

Beaumont, *Jefferson Theatre*, 345 Fannin St.

San Augustine County

San Augustine, *Mission Nuestra Senora de los Dolores de los Ais (Mission Hill)*, SE of city center.

VERMONT

Addison County

Ferrisburg, *Union Meeting House (Ferrisburg-Vergennes Baptist Church)*, U.S. 7.

Washington County

East Barre, *Nichols House (Nichols-Larson House)*, RR. 2.

Waterbury Center, *Green Mountain Seminary*, SE section of Waterbury Center.

[FR Doc.77-26127 Filed 9-12-77;8:45 am]

SOUTHWEST REGIONAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Southwest Regional Advisory Committee will be held at 8:30 a.m., C.D.T., September 27 and 28, 1977, at the Padre Island Beach Hotel at Padre Island National Seashore, Tex.

The Southwest Regional Advisory Committee was established pursuant to Pub. L. 91-383 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advise or other counsel from members of the public on programs and problems pertinent to the Southwest Region of the National Park Service.

The members of the Southwest Regional Advisory Committee are:

Dr. Nell Compton, Bentenville, Ark.
Mr. Ernie C. Deane, Fayetteville, Ark.
Mr. Perry A. Denton, Carlsbad, N. Mex.
Dr. Bertha P. Dutton, Santa Fe, N. Mex.
Mr. Sam R. Powell, Tulsa, Okla. (Chairman).
Mr. J. R. Singleton, Austin, Tex.
Mrs. Roulhac Toledano, New Orleans, La.
Mr. Elo J. Urbanovsky, Lubbock, Tex.

Designated Federal Officer to attend the meeting is John E. Cook, Regional Director, Southwest Region, National Park Service, or his designee.

The matters to be discussed at this meeting include:

1. The Barrier Beach Environment.
2. Management of National Seashores.
3. Water Safety in National Park Service Areas.

Tht meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may appear before the Committee or file with the Committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Frank Mentzer, Assistant to the Regional Director, P.O. Box 728, National Park Service, Southwest Regional Office, Santa Fe, N.Mex. 87501, telephone area code 505-988-6375. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Southwest Region.

Dated: August 30, 1977.

JOHN E. COOK,
Regional Director, Southwest Region, National Park Service.

[FR Doc.77-26737 Filed 9-12-77;9:03 am]

INTERNATIONAL TRADE COMMISSION

[AA 1921-168]

PRESSURE SENSITIVE PLASTIC TAPE FROM WEST GERMANY

Determination of No Injury or Likelihood Thereof

On June 14, 1977, the United States International Trade Commission received advice from the Department of the Treasury that pressure sensitive plastic tape of more than 1⅜ inches in width and not exceeding 4 mils in thickness from West Germany is being, or is likely to be, sold in the United States at less than fair value within the meaning of the antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on June 27, 1977, the Commission instituted investigation No. AA1921-168 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notices of the institution of the investigation and of the public hearing held in connection therewith were published in the FEDERAL REGISTER on July 5, 1977, and July 20, 1977 (42 FR 34385 and 42 FR 37258). On August 9, 1977, a hearing was held in Washington, D.C., at which all persons who requested the opportunity were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearings as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of its investigation, the Commission has unanimously determined that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of pressure sensitive plastic tape of more than 1⅜ inches in width and not

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exceeding 4 mils in thickness from West Germany that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS FOR THE NEGATIVE DETERMINATION OF VICE CHAIRMAN JOSEPH O. PARKER AND COMMISSIONERS GEORGE M. MOORE, CATHERINE BEDELL, AND ITALO H. ABLONDI

On June 14, 1977, the United States International Trade Commission received advice from the Department of the Treasury that pressure sensitive plastic tape more than 1⅜ inches in width and not exceeding 4 mils in thickness from West Germany is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on June 27, 1977, the Commission instituted investigation No. AA1921-168 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

In order to find in the affirmative in this investigation, the Commission must find that two conditions are satisfied. First, it must find that an industry in the United States is being or is likely to be injured or is prevented from being established.[1] Second, any injury or likelihood of injury must be by reason of the importation into the United States of the class or kind of foreign merchandise which Treasury has determined is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

DETERMINATION

On the basis of the information obtained in the investigation, we determine that an industry in the United States is not being and is not likely to be injured by reason of the importation of certain pressure sensitive plastic tape from West Germany which is being, or is likely to be, sold at LTFV.

THE IMPORTED ARTICLE AND THE DOMESTIC INDUSTRY

Pressure sensitive plastic tape more than 1⅜ inches in width and not exceeding 4 mils in thickness (PSP tape), the imported article which Treasury found to be sold at LTFV, is a plastic-film-backed tape with an adhesive on one side that remains permanently tacky at room temperature. The tape firmly adheres to a variety of surfaces upon mere contact, without the need of more than finger or hand pressure. No activation by water, solvent, or heat is required in order to obtain a strong adhesive holding force. PSP tape of the size and specifications which the Department of the Treasury determined is being or is likely to be sold at LTFV is used primarily in the sealing of corrugated boxes.

In making this determination we have considered the U.S. industry to consist of the facilities in the United States devoted to the production of PSP tape. There are nine known producers of such tape.

LTFV SALES

The Department of the Treasury examined sales of PSP tape from West Germany during the period February 1976 through August 1976. Three West German firms were found to have made sales at LTFV, but the weighted average LTFV margins found on sales by two of these firms were regarded by Treasury to be minimal (less than 1 percent). These two firms provided Treasury with assurances that further sales to the United States will be made at prices not less than fair value, and they were excluded from the Treasury determination. LTFV margins ranging from 1 to 13 percent were found on virtually all sales by the third West German firm. The weighted average margin of the LTFV sales was approximately 9 percent.

NO INJURY OR LIKELIHOOD OF INJURY BY REASON OF LTFV IMPORTS FROM WEST GERMANY

Notwithstanding our earlier decisions regarding injury or likelihood thereof to the domestic industry owing to LTFV imports of pressure sensitive plastic tape from Italy,[2] in the instant investigation we have made a negative determination because the second condition requisite for an affirmative determination has not been met. Specifically, we are unable to find that those sales caused any injury injury or likelihood thereof and LTFV imports from West Germany.

As noted above, only one West German manufacturer was found by Treasury to have made LTFV sales with sufficient margins to justify subjecting it to a LTFV determination. We cannot find that those sales caused any injury or threat thereof to the domestic industry within the meaning of the Antidumping Act, 1921, as amended. That firm's share of the U.S. market for pressure sensitive plastic tape declined by 25 percent from 1975 to 1976, the period in which Treasury found that the West German sales were made at LTFV. In January-May 1977, the company's market share dropped again by about 20 percent, compared with its share in the corresponding period in 1976.[3]

An analysis of prices for PSP tape in the U.S. market during 1975, 1976, and January-May 1977 showed that LTFV imports from West Germany were competitively priced, but were not a price leader.[4] Furthermore, the Commission could verify only one sale that a U.S. producer lost to tape imported from the West German supplier of LTFV imports.

CONCLUSION

The conditions mentioned above and the trends that they represent lead us to conclude that an industry in the United States is not being and is not likely to be injured by reason of the importation of pressure sensitive plastic tape more than 1⅜ inches in width and not exceeding 4 mils in thickness from West Germany which is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS OF NEGATIVE DETERMINATION OF CHAIRMAN DANIEL MINCHEW

On June 14, 1977, the United States International Trade Commission (Commission) received advice from the Department of Treasury (Treasury) that PSP tape from West Germany is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended. Accordingly, on June 27, 1977, the Commission instituted investigation No. AA1921-168 under section 201(a) of the Act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Before the Commission may find in the affirmative in these investigations, it is necessary that the following two conditions be met:

(1) An industry in the United States is being or is likely to be injured, or is prevented from being established,[5] and

(2) The requisite injury must be by reason of the importation into the United States of the merchandise which Treasury has determined is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

DETERMINATION

On the basis of information obtained in this investigation, I have determined that an industry in the United States is not being injured and is not likely to be injured, nor is it prevented from being established, by reason of the importation of pressure sensitive plastic tape more than 1⅜ inches in width and not exceeding 4 mils in thickness from West Germany which is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

[1] Prevention of establishment of an industry is not an issue in this investigation and will not be discussed further.

[2] See Pressure Sensitive Plastic Tape From Italy: Determination * * * in Investigation No. AA1921-167 * * *, USTIC Publication 830, 1977.

[3] Vice Chairman Parker and Commissioner Ablondi note that this is in marked contrast to LTFV imports of PSP tape from Italy, which more than doubled from 1975 to 1976 and continued to increase in 1977.

[4] Vice Chairman Parker and Commissioner Ablondi note that during the same period Italian producers emerged as the downside price leaders, as evidenced by the fact that imports of PSP tape from Italy were priced below its domestic counterpart.

[5] Prevention of the establishment of an industry is not an issue in the instant investigation and will not be discussed further.

THE U.S. INDUSTRY

Pressure sensitive plastic tape more than 1⅜ inches in width and not exceeding 4 mils in thickness is the article which is the subject of this investigation. It is a plastic-film-backed tape that firmly adheres to a variety of surfaces upon contact. Its major use is as corrugated-box-sealing tape, but can also be used for the manufacture of printed labels, for tabbing, for color coding, and for label protection.

In considering what makes the U.S. industry, I have determined that it consists of the facilities in the United States devoted to the production of plastic tape more than 1⅜ inches in width and not exceeding 4 mils in thickness. There are nine known producers of this tape in the United States.

NO INJURY BY REASON OF LTFV IMPORTS

On August 31, 1977, the Commission reported to the Secretary of the Treasury that a U.S. industry was being or was likely to be injured by reason of the importation of pressure sensitive plastic tape of more than 1⅜ inches in width and not exceeding 4 mils in thickness from Italy that was being, or was likely to be, sold at less than fair market value within the meaning of the Antidumping Act, 1921, as amended.[1]

Along with Commissioner Bedell, I dissented from that position determining that there was no injury or likelihood of injury to an industry in the United States by reason of the importation of that article. In so finding, I, along with Commissioner Bedell, stated that "in our opinion the information gathered during the investigation indicates that an industry in the United States is not being injured. Furthermore, if the requisite injury had been established, there would be no persuasive indication that such injury was caused by LTFV imports."[2]

Further, with regard to likelihood of injury, we found that "the strong growth trends evidenced by the domestic industry lead us to believe that LTFV imports as described by Treasury are not likely to injure the domestic industry."[3]

As the U.S. industry in question in this investigation is identical to the one in the case involving pressure sensitive tape from Italy, and I found no injury in that industry within the last few days, it would not seem necessary to further discuss the question of injury. And, even if it could be shown that there was some injury, the even lower level of LTFV import penetration in this case, about one-half of that attained by the Italian supplier in 1975 would indicate even less likelihood that causation could be established.[4]

CONCLUSION

For the reasons stated above, I have concluded that an industry in the United States is not being injured and is not likely to be injured by reason of LTFV imports of pressure sensitive plastic tape from West Germany.

Issued: September 7, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.77-26553 Filed 9-12-77;8:45 am]

[TA-201-23]

CERTAIN HEADWEAR

Report to the President

AUGUST 18, 1977.

To the President:

In accordance with section 201(d)(1) of the Trade Act of 1974, the United States International Trade Commission herein reports the results of an investigation relating to certain headwear.

The investigation (No. TA-201-23) was undertaken to determine whether headwear, knit or not knit, assembled from two or more cut pieces of fabric, of cotton, flax, or both, or of manmade fibers, provided for in items 702.06, 702.12, 702.14, 703.05, 703,10, and 703.15 of the Tariff Schedules of the United States (TSUS), and visors with straps, whether or not such straps are adjustable, designed to be worn on the head, knit or not knit, of cotton or of manmade fibers, provided for in TSUS items 382.00, 382.04, 382.06, 382.33, 382.78, and 382.81, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

The Commission instituted the investigation, under the authority of section 201(b)(1) of the Trade Act on February 22, 1977, following the receipt, on February 8, 1977, of a petition for import relief under section 201 of the Trade Act of 1974 (19 U.S.C. 2251) filed by the Empire State Cloth Hat and Cap Manufacturers Association and the United Hatters, Cap and Millinery Workers International Union.

The Commission held public hearings on this matter in New York City, on May 17, 1977, and in St. Louis, Mo., on May 26, 1977.

Notice of the institution of the investigation and of the scheduling of the public hearings was published in the FEDERAL REGISTER of February 28, 1977 (42 FR 11288). Notice of the amendment to the scope of the investigation was published in the FEDERAL REGISTER of March 21, 1977 (42 FR 15375).

The information for this report was obtained from field work and interviews by members of the Commission's staff, from other Federal agencies, from responses to the Commission's questionnaires, from information presented at the public hearings, from briefs submitted by interested parties, and from the Commission's files.

A transcript of the hearing and copies of briefs filed by interested parties in connection with the investigation are attached.[1]

DETERMINATION OF THE COMMISSION

On the basis of the investigation, the Commission (Vice Chairman Parker not participating) determines that headwear, knit or not knit, assembled from two or more cut pieces of fabric, of cotton, flax, or both, or of manmade fibers, provided for in items 702.06, 702.12, 702.14, 703.05, 703.10, and 703.15 of the Tariff Schedules of the United States (TSUS), and visors with straps, whether or not such straps are adjustable, designed to be worn on the head, knit or not knit, of cotton or of manmade fibers, provided for in TSUS items 382.00, 382.04, 382.06, 382.33, 382.78, and 382.81, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

VIEWS OF COMMISSIONERS GEORGE M. MOORE, CATHERINE BEDELL, AND ITALO H. ABLONDI

On February 8, 1977, the United States International Trade Commission received a petition filed by the Empire State Cloth Hat and Cap Manufacturers Association and the United Hatters, Cap and Millinery Workers International Union requesting an investigation under section 201(b)(1) of the Trade Act of 1974 with respect to certain headwear. The petition was amended by the petitioners on February 18, 1977. On February 22, 1977, the Commission instituted an investigation pursuant to section 201(b)(1) of the Trade Act to determine whether head-

[1] Pressure Sensitive Plastic Tape From Italy, USITC Publication 830, August 1977.

[2] Ibid. p. 10.

[3] Ibid. p. 12.

[4] The share of U.S. apparent consumption of all types of PSP tape supplied by Braas, the only West German manufacturer with substantial LTFV margins, declined by about one-quarter from 1975 to 1976 and continued to decline in January-May, 1977, as contrasted with the Italian suppliers of LTFV imports whose share of U.S. consumption doubled from 1975 to 1976 and continued to increase in January-May, 1976.

[1] Attached to the original report sent to the President, and available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.

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wear, knit or not knit, assembled from two or more cut pieces of fabric, of cotton, flax, or both, or of manmade fibers, provided for in items 702.06, 702.12, 702.14, 703.05, 703.10, and 703.15 of the Tariff Schedules of the United States (TSUS), and visors with straps, whether or not such straps are adjustable, designed to be worn on the head, knit or not knit, of cotton or of manmade fibers, provided for in TSUS items 382.00, 382.04, 382.06, 382.33, 382.78, and 382.81,[1] are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.[2]

Before making an affirmative determination under section 201(b)(1) of the Trade Act, the Commission must find that all three of the following criteria are met:

(1) Imports of an article into the United States are increasing (either actually or relative to domestic production);

(2) The domestic industry producing an article like or directly competitive with the imported article is being seriously injured or threatened with serious injury; and

(3) Increased imports are a substantial cause (i.e., an important cause and not less than any other cause) of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Because these criteria are cumulative, a finding that any one of them is not met requires a negative determination. In this case, we determine that the second criterion under section 201(b)(1) as set forth above has not been met, namely, the domestic industry producing articles like or directly competitive with the imported articles is not being seriously injured or threatened with serious injury.

THE DOMESTIC INDUSTRY

We have determined that the domestic industry in the present case consists of facilities in the United States devoted to the production of casual and sport headwear.

SERIOUS INJURY OR THREAT THEREOF

Examination of the performance of the producers of casual and sport headwear does not establish evidence of serious injury. In addition, the trends noted below demonstrate that despite increasing imports, there is no threat of serious injury at this time.

Domestic production of casual and sport headwear increased from 2.8 million dozen in 1972 to 5.6 million dozen in 1976. In terms of value of production, the industry realized an average annual average annual increase of 4.8 percent during the period 1972–76. By 1976 the value of production had reached $90.4 million, compared with $37.3 million in 1972.

In the aggregate, net sales of domestic producers providing usable profit-and-loss information to the Commission rose every year from 1972 to 1976. On the basis of figures supplied by the same firms, the ratio of net operating profit to net sales is also trending upward. In 1972 the ratio of net operating profit to net sales was 6.2 percent; by 1976, the ratio had climbed to 9.7 percent despite a decrease of less than 1 percent from the previous year when the ratio was 10.4 percent. Thus, the combined profit-and-loss statements of the producers reveal that even in 1976, when imports had achieved a 22-percent penetration of the market, these firms had higher combined net sales and operating profits than they did in 1972, when imports accounted for only 7.6 percent of the U.S. market.

The average number of persons employed in the production of casual and sport headwear has increased annually since 1972: The 1976 employment figure of 4,999 production workers is approximately 47 percent higher than the employment levels reported for 1972. Although there is evidence of a slight decline in the number of persons employed in the first quarter of 1977 as compared with the first quarter of 1976, the overall trend in employment is positive during years of increasing imports.

Price comparisons of casual and sport headwear must be qualified by the fact that there is extensive product differentiation in their lines. With this in mind, it is still apparent that there is no evidence of price depression or suppression. Average wholesale prices rose by 32 percent from 1972 to 1976, which is very healthy when compared with the 15 percent increase of prices in the apparel industry during the same period.

CONCLUSION

In view of the above, we have determined that the domestic casual and sport headwear industry is not being seriously injured or threatened with serious injury within the meaning of section 201(b)(1) of the Trade Act by increasing imports of the articles under investigation, and, therefore, we have made a negative determination.

VIEWS OF CHAIRMAN DANIEL MINCHEW

On February 22, 1977, the United States International Trade Commission (Commission) instituted an investigation under section 201 of the Trade Act of 1974 (Trade Act) to determine whether headwear, knit or not knit, assembled from two or more cut pieces of fabric, of cotton, flax, or both, or of manmade fibers, provided for in items 702.06, 702.12, 702.14, 703.05, 703.10, and 703.15 of the Tariff Schedules of the United States (TSUS), and visors with straps, whether or not such straps are adjustable, designed to be worn on the head, knit or not knit, of cotton or of manmade fibers, provided for in TSUS items 382.00, 382.04, 382.06, 382.33, 382.78, and 382.81, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, of the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

Section 201(b)(1) of the Trade Act requires that each of the following criteria is met before the Commission may recommend import relief:

(1) That imports of an article into the United States are increasing (either actually or relative to domestic production);

(2) That the domestic industry producing an article like or directly competitive with the imported article is being seriously injured or threatened with serious injury; and

(3) That increased imports are a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

The failure to satisfy any of these criteria, therefore, necessitates a negative determination.

THE DOMESTIC INDUSTRY

The "domestic industry," as defined in section 201(b)(1), consists of the domestic producers of "an article like or directly competitive with the imported article." Additionally, in considering what constitutes the domestic industry, section 201(b)(3) provides:

The Commission—

(A) May, in the case of a domestic producer which also imports, treat as part of such domestic industry only its domestic production,

(B) May, in the case of a domestic producer which produces more than one article, treat as part of such domestic industry only that portion or subdivision of the producer which produces the like or directly competitive article, and

(C) May, in the case of one or more domestic producers, who produce a like or directly competitive article in a major geographic area of the United States and whose production facilities in such area for such article constitute a substantial portion of the domestic industry in the United States and primarily serve the market in such area, treat as such domestic industry only that segment of the production located in such area.

It has been argued in this investigation that the Commission should consider the facilities devoted to the production of headwear, as noticed in the investigation, which are located in the New York or St. Louis/Kansas City areas, as geographic domestic industries as defined in section 201(b)(3)(C). In order to qualify as a "geographic" industry within the meaning of section 201(b)(3)(C), four specific conditions must exist:

1. One or more domestic producers must produce an article like or directly competitive with the imported articles under investigation in a major geographic area of the United States.

2. The production facilities of such domestic producers must constitute a substantial portion of the domestic industry.

3. Such domestic producers must primarily serve the market in such geographic area.

4. The subject imports must be concentrated in such geographic area.

The failure to satisfy any of these conditions rules out the consideration of an industry as being "geographic" under the statute.

Information obtained in the current investigation indicates that production facilities concentrated in two geographic areas—New York and St. Louis/Kansas City—supply the entire country with headwear. In addition, while imports enter the United States through several major ports, there is no evidence that the imports impact primarily in that area. Taking this information into account, I have concluded that the criteria for a "geographic" domestic industry have not been met.

I have concluded that the domestic industry consists of those facilities in the United States devoted to the production of headwear, as noticed in investigation TA–201–23.

DETERMINATION

Based on the information obtained in investigation TA–201–23, I have determined that headwear, knit or not knit, assembled from two or more cut pieces of fabric, of cotton, flax, or both, or of manmade fibers, provided for in items 702.06, 702.12, 702.14, 703.05, 703.10, and 703.15 of the Tariff Schedules of the United States, and visors with straps, whether or not such straps are adjustable, designed to be worn on the head, knit or not knit, of cotton or of manmade fibers, provided for in TSUS items 382.00, 382.04, 382.06, 382.33, 382.78, and 382.81, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

Specifically, I have determined that the second criteria for an affirmative determination, i.e., that of serious injury or the threat thereof, has not been met. As the failure of any single criteria necessitates a negative determination, I will limit my discussion to serious injury or the threat thereof.

SERIOUS INJURY OR THE THREAT THEREOF

In determining whether the domestic industry is seriously injured, the Commission is directed, under section 201(b)(2) of the Trade Act, to take into account—

All economic factors which it considers relevant, including (but not limited to)—

(A) * * * the significant idling of productive facilities in the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment within the industry.

In determining whether the domestic industry is being threatened with serious injury, the Commission considers, in addition to the factors of serious injury, the following factors found in section 201(b)(2)(B):

* * * a decline in sales, a higher and growing inventory and a downward trend in production, profits, wages, or employment (or increasing underemployment) in the domestic industry concerned.

The ensuing discussion will consider both serious injury and the threat of serious injury together when possible.

Total U.S. production of casual and sport headwear has followed a steady trend upward from 2.8 million dozen in 1972, to 5.6 million dozen in 1976. Broken down by type of headwear, the figures show an upward trend in caps, hats and visors; with production in hats and visors decreasing very slightly in 1976. Domestic production of caps increased from 1.9 million dozen in 1972, to 4.2 million dozen in 1976, for an average annual increase of 22 percent. Domestic production of hats increased from 804 thousand dozen in 1972, to 1,141 thousand dozen, in 1974, before decreasing slightly to 1,060 thousand dozen in 1976. Production of visors increased from about 101 thousand dozen in 1972 to 380 thousand dozen in 1975 before decreasing to about 321 thousand dozen in 1976. The trends show a clear increase in production over the past five years.

U.S. producers' shipments of casual and sport headwear increased from 2.8 million dozen at $37.3 million in 1972, to 5.6 million dozen valued at $90.4 million in 1976, an average annual increase in quantity shipped of 18.9 percent. During the same period, the average unit value of producers' shipments rose steadily at an average rate of 4.8 percent.

Inventories are not an important consideration in the headwear industry, as production is usually undertaken on a direct order basis, which eliminates the need to carry large inventories of finished goods.

Employment in establishments in which casual and sport headwear are manufactured rose from 5,125 in 1972, to 7,896 in 1976. There appears to have been a slight decline in employment in the first quarter of 1977. The number of production workers producing casual and sport headwear increased from 3,389 in 1972, to 4,999 in 1976, before declining slightly in the first quarter of 1977. However, despite a marginal decline in employment in the first quarter of 1977, the trend of employment has been upward.

There appears to have been little evidence of pricing advantages in imported headwear, or at least of advantages passed along to the consumer, and there appears to have been little evidence of price suppression. From 1972 to 1976 the average wholesale prices for domestic caps, hats, and visors increased by an average annual rate of 6.7 percent, 7 percent, and 8.1 percent, respectively.

Net sales of headwear by U.S. producers increased annually throughout the period 1972–76, increasing from $50.4 million in 1972, to $100.1 million in 1976. Net operating profits increased steadily from $3.1 million in 1972 to $9.7 million in 1976. The ratio of net operating profit to net sales generally followed the same trend as that of dollar operating profits, rising from 6.2 percent in 1972, to 10.4 percent in 1975, before falling slightly to 9.7 percent in 1976.

The information obtained by the Commission indicates that certain producers of headwear have not done nearly as well as the above figures indicate.[4] However, as I have been unable to find that there is a "geographic" domestic industry, I am compelled to look at the industry as a whole. The factors discussed above lead me to the conclusion that the "serious injury or threat thereof" criterion is not met.

CONCLUSION

As stated earlier, I have determined that the requirements of section 201(b)(1) of the Trade Act have not been met, and I must therefore determine in the negative.

By order of the Commission.

Issued: September 8, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-26554 Filed 9-12-77;8:45 am]

[1] The headwear and visors described above will hereinafter be referred to as casual and sport headwear.

[2] Commissioners Moore and Bedell observe that the Commission did not consider the existence of the Arrangement Regarding International Trade in Textiles (MFA) and the bilateral agreements negotiated by the United States pursuant thereto as a legal bar to the conduct by the Commission of an investigation pursuant to section 201 of the Trade Act of 1974 since the MFA does not purport to preempt or preclude other possible remedies respecting textiles which are consistent with the provisions of the General Agreement on Tariffs and Trade. However, Commissioners Moore and Bedell note the applicability of the MFA and the bilateral agreements negotiated by the United States under article 4 of the MFA to the articles which are the subject of the Commission's escape clause investigation.

[4] While the Commission has determined that the domestic industry is not eligible for import relief under section 201, a number of the individual firms and employees may qualify for relief under other sections of the Trade Act.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

ALMAR PHARMACY

Revocation of Registration

On August 16, 1976, the Administrator of the Drug Enforcement Administration (DEA) directed to Mr. Albert Marcovsky, as pharmacist and owner of Almar Pharmacy, an Order to Show Cause requesting the Respondent to show why his DEA Registration AA5944928 should not be revoked for the reason that on June 11, 1976, in the United State District Court for the Western District of Pennsylvania, Mr. Marcovsky had been convicted of seven counts of illegal distribution of controlled substances and with one related count of conspiracy to distribute controlled substances. On September 14, 1976, the Respondent through his attorney requested a hearing on the proposed revocation. At the conclusion of prehearing matters, a formal hearing was conducted on May 3, 1977, before Administrative Law Judge Francis L. Young.

Judge Young certified the entire record with his recommended findings of fact and conclusions of law and decision to the Administrator pursuant to 21 CFR 1316.65 on August 5, 1977. The Administrator, pursuant to 21 CFR 1316.66, hereby publishes his final order in this matter.

In reviewing Mr. Marcovsky's felony conviction relating to controlled substances, the Administrative Law Judge

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found that between January and June of 1975, Almar Pharmacy became accountable for approximately 85,000 dosage units of methaqualone, a Schedule II narcotic drug. The pharmacy, however, was unable to properly account for the distribution of approximately 24,000 of the 85,000 dosage units. Of the dosage units distributed and accounted for by the Respondent, 22,800 units of methaqualone had allegedly been distributed to two boarding homes for the elderly. Both the operators of the two boarding homes and the elderly residents, however, failed to indicate that they had received methaqualone in any amount close to the quantities represented by the Respondent's records.

The Respondent's records showed that the distribution of methaqualone to the two boarding homes was based on prescriptions signed by a Dr. Elias Yurek. The Administrative Law Judge found that Dr. Elias Yurek would usually come to the Respondent's pharmacy and while in the pharmacy prepare the prescriptions for the two boarding homes which were then filled one hundred percent of the time by the Respondent. Dr. Yurek's prescriptions for methaqualone were all prepared simultaneously at approximately the same time each month between January and June of 1975. The prescriptions were made out to everyone residing in the two boarding homes including the home operators and family members. Each months prescriptions were sequentially numbered with approximately 50 prescriptions going to each home with each prescription made out for 50 tablets of methaqualone. Faced with the felony conviction at the administrative hearing on this matter the Respondent indicated that he believed he had done nothing wrong with respect to his conspiratorial association with Dr. Elias Yurek and his illegal distribution of methaqualone.

The Respondent's felony conviction also centered around the sale of 300 methaqualone tablets for $350.000 to a confidential government informant. The sale occurred on three prescriptions, two of which were forged copies of an original. The Respondent was convicted of distributing 200 of the methaqualone tablets under the forged prescriptions At the time of this sale the legitimate price for methaqualone was approximately $15–$16 per hundred. After the Respondent filled the three prescriptions he gave the two copies back to the confidential informant. The Respondent testified at his hearing that when he received $350.-00 for the 300 methaqualone tablets the only thought which occurred to him was that the individual must have needed the pills badly.

In his recommended opinion the Administrative Law Judge finds that in light of the Respondent's past conduct he should not be permitted to dispense controlled substances in a pharmacy. Therefore, Judge Young recommends that the pharmacy registration be revoked.

The Administrator adopts the findings and recommendations of the Administrative Law Judge and upon consideration of the entire record in this matter and pursuant to the authority vested in the Attorney General and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that the registration issued to Almar Pharmacy, Albert Marcovsky, owner, under registration number AA59-44928 be revoked, effective immediately.

Dated: September 6, 1977.

PETER B. BENSINGER,
Administrator.

[FR Doc.77-26562 Filed 9-12-77;8:45 am]

[Docket No. 77-24]

ANDRES SANCHEZ SENDIN, M.D.

Hearing

Notice is hereby given that on August 9, 1977, the Drug Enforcement Administration, Department of Justice, issued to Andres Sanchez Sendin, M.D., San Francisco, Calif., an Order to Show Cause as to why the Drug Enforcement Administration should not deny the application for registration, executed by the Respondent on February 12, 1977, under 21 U.S.C. 823.

Thirty days having elapsed since the said Order to Show Cause was received by the Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m., or as soon thereafter as this matter can be reached on Thursday, October 20, 1977, in the U.S. Tax Court Courtroom, Room 8541 of the Federal Building, 300 North Los Angeles Street, Los Angeles, Calif.

Dated: September 2, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc.77-26503 Filed 9-12-77;8:45 am]

[Docket No. 77-22]

ROBERT C. BERWICK, M.D.

Hearing

Notice is hereby given that on June 13, 1977, the Drug Enforcement Administration, Department of Justice, issued to Robert C. Berwick, M.D., San Francisco, Calif., an Order to Show Cause as to why the Drug Enforcement Administration registration AB1348475 issued to the Respondent pursuant to 21 U.S.C. 823 should not be revoked.

Thirty days having elapsed since the said Order to Show Cause was received by the Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Tuesday, October 18, 1977, in the U.S. Tax Court Courtroom, Room 8541 of the Federal Building, 300 North Los Angeles Street, Los Angeles, Calif.

Dated: September 2, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc.77-26564 Filed 9-12-77;8:45 am]

[Docket No. 77-16]

AARON LAX, M.D.

Hearing

Notice is hereby given that on April 26, 1977, the Drug Enforcement Administration, Department of Justice, issued to Aaron Lax, M.D., Beverly Hills, Calif., an Order to Show Cause as to why the Drug Enforcement Administration registration AL1454052 issued to the Respondent pursuant to 21 U.S.C. 823 should not be revoked.

Thirty days having elapsed since the said Order to Show Cause was received by the Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m., or as soon thereafter as this matter can be reached, on Wednesday, October 19, 1977, in the U.S. Tax Court Courtroom, Room 8451 of the Federal Buildnig, 300 North Los Angeles Street, Los Angeles, Calif.

Dated: September 2, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc.77-26565 Filed 9-12-77;8:45 am]

Office of the Secretary

U.S. V. U.S. STEEL CORP.

Proposed Consent Decree In Action To Enjoin Discharge of Air Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on September 1, 1977, a proposed consent decree in *United States of America* v. *United States Steel Corp.*, was lodged with the District Court for the Northern District of Illinois, Eastern Division. The proposed decree would require defendant to bring a sinter plant at its integrated steel mill in Chicago into compliance with the particulate standard of the Illinois air pollution abatement implementation plant over a 32-month six-step time period through the addition of a wet electrostatic precipitator pollution control device. Liquidated damages are applicable if compliance is not achieved.

The Department of Justice will receive on or before October 13, 1977, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States of America* v. *United States Steel Corp.*, D.J. Ref. 90-5-2-3-806.

The proposed consent decree may be examined at the office of the United States Attorney, 219 South Dearborn Street, Chicago, Ill. 60604, at the Region V Office of the Environmental Protection Agency, Enforcement Division, 230 South Dearborn Street, Chicago, Ill. 60606 and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2629, Department of Justice Building, Ninth Street and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

JAMES W. MOORMAN,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc.77-26576 Filed 9-12-77;8:45 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON CONSUMER AND WHOLESALE PRICES

Meeting

The BRAC Committee on Consumer and Wholesale Prices will meet at 9:30 a.m., September 29, 1977, at the General Accounting Office Building, 441 G Street NW., Room 4454, Washington, D.C. The agenda for the meeting is as follows:

1. The new CPI weights for both the "W" and the "U" indexes. This material should include the technique used to move from 1972–73 survey data to the final weights.
2. The WPI revision.
3. Export and import prices.
4. A report on the reaction to the Committee's suggestions on the Family Budget series.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on (Area Code 202) 523–1559.

Signed at Washington, D.C. this 8th day of September 1977.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc.77-26597 Filed 9-12-77;8:45 am]

Office of Federal Contract Compliance Programs

HAHN & CLAY, MACHINE & BOILER WORKS, INC.

Debarment and Contract Compliance

Notice hereby is given that for violating Executive Order 11246, as amended, all existing United States Government contracts and subcontracts with Hahn & Clay, Machine & Boiler Works, Inc., Houston, Tex., are cancelled and the Company (its divisions and subsidiaries, and any and all purchasers, successors, assignees, and/or transferees), is declared ineligible for further contracts or subcontracts funded in whole or in part with Federal funds, and for extensions or other modifications of any such existing contracts or subcontracts until such time as the Company has satisfied the Director, Office of Federal Contract Compliance Programs, that it has established and will carry out employment policies and practices in compliance with Executive Order 11246, as amended, and the implementing rules and regulations of the Secretary of Labor. This action is predicated upon Hahn & Clay's violations of 41 CFR 60–1.32.

The debarment and contract cancellation also apply but are not limited to, the following Hahn & Clay division or subsidiary: Houston Column Co., Houston, Tex.

A copy of my Decision is enclosed for publication in the FEDERAL REGISTER.

Dated: August 31, 1977.

WELDON J. ROUGEAU,
Director, OFCCP.

UNITED STATES DEPARTMENT OF LABOR; OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

[Case No. OFCC–DSA]

DECISION BY THE DIRECTOR OF OFCCP

In the Matter of Hahn & Clay and Defense Supply Agency.

After a hearing in the above-captioned matter, Administrative Law Judge Burton S. Sternburg found that Hahn & Clay, Machine & Boiler Works, Inc., Houston, Tex., had violated its contractual obligations pursuant to 41 CFR Part 60–1.32 of the Secretary of Labor's regulations implementing Executive Order 11246, as amended, and recommended that with respect to Hahn & Clay, any and all existing United States Government contracts and subcontracts be cancelled and terminated, and further that Hahn & Clay be declared ineligible for further contracts and subcontracts with the United States Government. Subsequently, the Assistant Secretary of Defense for Manpower Reserve Affairs and Logistics forwarded a proposed cancellation and debarment order to the Director of the Office of Federal Contract Compliance Programs.

In accordance with the powers granted to the Director, Office of Federal Contract Compliance Programs by Title 41, Code of Federal Regulations Sections 60–1.26, 60–1.27 (1976) and 60–30.30(b), as amended January 18, 1977 (42 FR 3467) of the Secretary of Labor's regulations issued pursuant to Executive Order 11246, as amended, I hereby approve the debarment of Hahn & Clay, Machine & Boiler Works, Inc.; its divisions and subsidiaries and any and all purchasers, successors, assignees, and/or transferees, from the award of any contract or subcontract funded in whole or in part with Federal funds, and from extensions or other modifications of any such existing contracts or subcontracts. Further, all existing United States Government contracts and subcontracts with Hahn & Clay Machine & Boiler Works, Inc., and its divisions and subsidiaries are hereby cancelled and terminated.

The debarment will continue in effect until such time as Hahn & Clay has satisfied the Director, Office of Federal Contract Compliance Programs, that it has established and will carry out employment policies and practices in compliance with the equal opportunity clause of Executive Order 11246, as amended.

This debarment and contract and subcontract cancellation shall be effective as of this date and shall also apply, but is not limited to, the following Hahn & Clay division or subsidiary: Houston Column Co., Houston, Tex.

The company also is ordered to pay to the Office of Federal Contract Compliance Programs, for delivery to Lorenzo Garcia, back pay in the amount of $1,226.80 plus 6 percent interest.

Attached hereto and made a part hereof is the Recommended Decision and Order of Administrative Law Judge, Burton S. Sternburg.

Signed at Washington, D.C., this 31st day of August 1977.

WELDON J. ROUGEAU,
Director, OFCCP.

U.S. DEPARTMENT OF LABOR

OFFICE OF ADMINISTRATIVE LAW JUDGES

Washington, D.C.

[Case No. OFCC–DSA]

In the Matter of Hahn & Clay and Defense Supply Agency.

Karl E. Kraft, Esquire, Bobbitt & Kraft, 640 Capital National Bank Building, Houston, Tex. 77002, for Hahn & Clay.

Faith F. Emory, Esquire, Joseph O. Collins, Esquire, DCRT–L, DOASR, Dallas, 500 South Ervay, Dallas, Tex. 75201, for the Defense Supply Agency.

Before: Burton S. Sternburg, Administrative Law Judge.

RECOMMENDED DECISION AND ORDER

STATEMENT OF THE CASE

This is a proceeding under Executive Order 11246, as amended (hereinafter called the Order) and the applicable rules and regulations promulgated thereunder by the Secretary of Labor (41 CFR Chapter 60). Pursuant to 41 CFR 60–1.26(b), on July 12, 1976, the Defense Supply Agency notified Hahn & Clay that it was not in compliance with the Order and applicable rules and regulations because its Affirmative Action Program (AAP) was deficient in certain respects and because it had discriminatorily discharged employee Lorenzo Garcia for a filing a charge with the Equal Employment Opportunity Commission. On the basis of the foregoing, the Defense Supply Agency proposed cancellation of Hahn & Clay's contracts with the United States Government and debarment from any future such contracts.[1]

In accordance with the above-mentioned notice dated September 3, 1976, a hearing was held before the undersigned Administrative Law Judge on October 26 and 27, 1976, in Houston, Tex.[2] Evidence was received as to whether or not employee Lorenzo Garcia's action in filing an EEO complaint played any part in his subsequent discharge from Hahn & Clay.[3] All parties were represented by Counsel and were afforded full opportunity to be heard, to adduce evidence and to examine and cross-examine witnesses. Opportunity was also afforded the parties to argue orally at the hearing and to file briefs, proposed findings of fact, and conclusions of law on or before December 6, 1976.

Upon the basis of the entire record, including my observation of the witnesses and their

[1] Prior to the Notice of Violation and Proposed Action, the Defense Contract Administration Service Region, Dallas, had on July 10, 1975, issued a "show cause" letter to Hahn & Clay pointing out their deficiencies.

[2] The Hearing was conducted pursuant to, and in accordance with, 41 CFR 60–1.26(b) and Defense Supply Agency Regulation 5500–7 (32 CFR Part 1281).

[3] Although the complaint alleged certain deficiencies in Hahn & Clay's AAP, Government Counsel made it clear at the commencement of the Hearing that all alleged deficiencies with the exception of the Garcia matter had been corrected by Hahn & Clay prior to the hearing. Accordingly, the hearing was limited to the reasons for Mr. Garcia's discharge.

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demeanor, I make the following proposed findings of fact, conclusions and recommendations:

PROPOSED FINDINGS OF FACT

1. Hahn & Clay is a Houston, Tex., based contractor who performs two categories of work, (1) heavy industrial maintenance and repair, and (2) the manufacture of special products including a substantial amount of nuclear work. For 12 to 15 years, Hahn & Clay has performed as prime contractor on Government contracts, primarily for the Navy.

2. Hahn & Clay has agreed, pursuant to the Equal Opportunity Clause of its United States Government contracts, to comply with all provisions of Executive Order 11246, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor, appearing in 41 CFR Chapter 60.

3. The Defense Supply Agency, Defense Contract Administration Services Region, Dallas, is responsible for monitoring Hahn & Clay's compliance with Executive Order 11246, as amended, and the implementing rules and regulations promulgated thereunder.

4. Mr. Lorenzo Solis Garcia began working as welder for Hahn & Clay on June 29, 1973. Mr. Garcia received and was receiving top welder's wages at the time of the events underlying the instant dispute.

5. On or about December 10, 1974, Mr. Garcia requested overtime work for the following weekend. Upon failing to receive the specific overtime work requested Mr. Garcia told Assistant foreman McKaskle that he was quitting and left the premises. The next day Mr. Garcia went to the Equal Employment Opportunity Commission and filed a discrimination complaint against Hahn & Clay based on national origin discrimination in the areas of overtime and wages. Mr. Garcia returned to work on December 12, 1974, following a discussion with, and urging by, Mr. Woodruff, vice-president in charge of production. At this time Hahn & Clay was not aware of Mr. Garcia's action in filing an EEOC complaint.

6. About two weeks after the filing of the complaint by Mr. Garcia, a "Notice of Charge of Employment Discrimination" was served on Supervisory Job Foreman Brantley. Mr. Brantley informed Mr. Garcia that he had received the charge but could take no action until such time as Mr. Lewis, Hahn & Clay's Personnel Manager, returned from vacation.

7. Upon Mr. Lewis' return from vacation on January 2, 1975, a meeting was held between Mr. Garcia, Mr. Lewis and Mr. Brantley wherein Mr. Garcia's complaint with EEOC was discussed. Mr. Lewis took the position that Mr. Garcia's charges were false and that he, Mr. Garcia, should go back to EEOC and drop the charges or he would lose his job.

8. On January 3, 1975, Mr. Garcia, who was under the impression from the conversation of the day before that he was discharged unless he withdrew his pending complaint with the EEOC, again visited the EEOC office, related the conversation of January 2, 1975, and filed a second charge predicated upon reprisal and discharge.

9. On January 8, 1975, Mr. Garcia returned to Hahn & Clay to pick up a pay check. At that time he inquired of Mr. Brantley if he still had a job. Upon being asked if he had withdrawn the pending charges, Mr. Garcia handed Mr. Brantley a copy of the newly filed reprisal charge. Whereupon, Mr. Brantley escorted Mr. Garcia to Mr. Lewis' office. After reading the second charge, Mr. Lewis informed Mr. Garcia that he was discharged and that in order to come back to work he would have to drop both charges and bring evidence from the EEOC of such action.

10. Mr. Garcia subsequently secured work with the Hunt Tool Co. on January 15, where he remained through February 26, 1975. He was paid $5.50 per hour at the Hunt Tool Co., as opposed to the $5.80 he made at Hahn & Clay.

11. On February 26, 1975 Mr. Garcia, being dissatisfied with his current work, contacted Mr. Lewis by telephone and inquired whether or not he could come back to work if he withdrew the EEOC complaints. Following the conversation, Mr. Garcia withdrew the complaints, presented verification of same and was rehired back on February 27, 1975, at top pay ($6.05 per hour), but as a new employee with a loss of his accrued seniority. Mr. Garcia offered to withdraw his complaints and furnish verification of same only because he remembered the January 1975 exit conversation with Mr. Lewis.

12. Hahn & Clay's vacation policy grants two weeks paid vacation for employees completing two years of continuous service with the company. Mr. Garcia's two year anniversary date with Hahn & Clay would have occurred on June 29, 1975. But for the discharge, Mr. Garcia would have been entitled to two paid weeks vacation for 1975 and two weeks paid vacation for 1976. Mr. Garcia was paid for one week of vacation on his January 2, 1975, pay check. After his return to work, Mr. Garcia was considered a new employee and therefore received no more vacation pay in 1975. During the calendar year 1976, Mr. Garcia received only one week paid vacation.

13. Several conciliation meetings were held between Hahn & Clay personnel and Government personnel as required by 41 CFR 60–1.20 (a) and (b) and 41 CFR 60–2.2(c)(2). Defense Contract Administration Service Region, Dallas, made adequate efforts to secure Hahn & Clay's voluntary compliance with the requirements of the Order and applicable rules and regulations promulgated thereunder.

14. Hahn & Clay's Affirmative Action Programs for 1975 and 1976 do not contain action oriented programs covering the resolution of the Garcia incident as it relates to back pay and seniority. Otherwise, the 1975 and 1976 Affirmative Action Programs of Hahn & Clay are acceptable to the Government.

15. While Hahn & Clay might well have discharged Mr. Garcia for past indiscretions amounting to poor job performance, such indiscretions were overlooked prior to the filing of Mr. Garcia's first complaint with EEOC

PROPOSED CONCLUSIONS OF LAW

1. Jurisdiction over the parties and the subject matter is proper under the provisions of Executive Order 11246, as amended, and the implementing rules and regulations of the Secretary of Labor.

2. Under the Provisions of Part II, Section 201 of Executive Order 11246, as amended, the Secretary of Labor is directed and empowered to adopt "such rules and regulations and issue orders as he deems necessary and appropriate to achieve the purpose * * * of Parts II and III of the Order." Pursuant to such direction and authority the Secretary of Labor has adopted the Affirmative Action Program requirements contained in 41 CFR 60–1 and 60–2.

3. Under delegation of authority by the Office of Federal Contracts Compliance, the Defense Supply Agency, DCASR Dallas, has been charged with the responsibility of ensuring that Federal contractors and subcontractors comply with the equal opportunity provisions of Government contracts and subcontracts and the implementing rules and regulations of the Secretary of Labor.

4. In accordance with the equal opportunity provisions contained in Hahn & Clay's Government contracts, Hahn & Clay was required to develop and adopt for 1975 and 1976 written APPs which met the requirements of the provisions of 41 CFR 60–2.

5. Hahn & Clay's actions in the Gracia dismissal constituted a violation of 41 CFR 60–1.32.[4]

a. Regardless of Mr. Garcia's past job performance, Hahn & Clay took no action against Mr. Garcia until after he had filed his first complaint.

b. The filing of the first complaint was contributing cause to Hahn & Clay's dismissal of Mr. Garcia.[5]

c. The filing of the second complaint was a contributing cause to Hahn & Clay's refusal to allow Mr. Garcia's return to work on 8 January 1975.

d. Mr. Garcia was fired on 2 January 1975, effective beginning 3 January 1975, in that the effect of the 2 January meeting was to create the impression that Mr. Garcia had been discharged unless he withdraw his first complaint.

e. Mr. Garcia was lead to believe that the withdrawal of both complaints was a condition precedent to his returning to work for Hahn & Clay.

f. Hahn & Clay intimidated Mr. Garcia and interfered with his right to file an EEOC complaint. (See EEOC Decision No. 711151 (1971) 3 FEP 387.)

6. Under the provisions of 41 CFR 602.13 (f), Hahn & Clay's AAPs for 1975 and 1976 must contain action oriented programs designed to eliminate the results of the violation of 41 CFR 601.32.

7. In order to eliminate the effects of the discrimination against Mr. Garcia, the required action oriented programs must include the payment of back pay to Mr. Garcia and the restoration of Mr. Garcia's seniority rights.

8. Hahn & Clay's Affirmative Action Programs (AAP) for 1975 and 1976 do not contain adequate action oriented programs as required by 41 CFR 60–2.13(f) designed to correct the deficiencies created by Hahn & Clay's violation of 41 CFR 60–1.32.

9. Except for those deficiencies listed in paragraph 7 above, the 1975 and 1976 AAPs are acceptable to the Government.

10. The acceptable action oriented programs should include back pay in the amount of $1226.60 plus interest at 6 percent and restoration of Mr. Garcia's seniority.[6]

11. The Government has made reasonable efforts to secure Hahn & Clay's voluntary compliance with the Executive Order and the Rules and Regulations issued thereunder through conciliation and persuasion as required by 41 CFR 60–1.20(b) and 60–2.2(c)(2).

PROPOSED ORDER

Hahn & Clay having been found in noncompliance with Executive Order 11246, and its implementing rules and regulations, it is recommended that the following Order be entered:

Ordered, pursuant to Section 209 of Executive Order 11246, as amended, and 41 CFR 60–1.26(b), that, with respect to Hahn & Clay, any and all existing United States Government contracts and subcontracts are hereby cancelled and terminated and further, that Hahn & Clay is hereby declared ineligible for further contracts and subcontracts with the United States Government.

Dated: December 9, 1976, Washington, D.C.

BURTON S. STERNBURG,
Administrative Law Judge.

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[4] 41 CFR 601.32 provides that the sanctions and penalties contained in Subpart D of the Order may be exercised against any contractor who allows discrimination against an individual filing a complaint under the Order or any other Federal Law requiring equal employment opportunity.

[5] *Bradington v. IBM*, 360 F. Supp. 845, 853, Aff'd, without OP. (CA4 Md) 492 F. 2d 1240.

[6] Back pay computations are attached hereto as Appendix A.

Back pay: Hahn & Clay's total back pay liability arising out of the improper Garcia discharge is, based on a straight time 40 hour week.

Unemployed

Weekly Pay Period	40 hour week	Amount of Back Pay
3 Jan 75	8 hrs x $5.80 p/h	$ 46.40
6-10 Jan 75	40 hrs x $5.80 p/h	232.00
13-14 Jan 75	16 hrs x $5.80 p/h	92.80

Employed at Hunt Tools ($5.50 p/h)

Weekly Pay Period	40 hour week	Amount of Back Pay
15-17 Jan 75	Actual: 29 hrs x $5.50p/h=$159.00 Difference: 24 hrs x $ .30p/h=$ 7.20	$ 7.20
20-24 Jan 75	Actual: 39 hrs x $5.50p/h=$214.50 Difference: 39 hrs x $ .30p/h= 11.70 plus 1 hr x $5.80p/h=$ 5.80	$ 17.50
27-31 Jan 75	Actual: 24-1/2 hrs x $5.50p/h=$134.75 Difference: 24-1/2 hrs x $ .30p/h=$ 7.35 plus 15-1 hrs x $5.80p/h=$ 89.90	$ 97.25
3-7 Feb (3-4Feb) (5-7Feb) (5 Feb Cost of Living)	Actual: 41-1/2 hrs x $5.50p/h=$228.25 Difference: 16 hrs x $ .30p/h =$ 4.80 24 hrs x $ .55p/h =$ 13.20	$ 18.00
10-14 Feb	Actual: 28 hrs x $5.80p/h=$154.00 Difference: 28 hrs x $ .55p/h=$ 15.40 12 hrs x $6.05p/h=$ 72.60	$ 88.00
17-21 Feb 76	Actual: 39 hrs x $5.50p/h=$214.50 Difference: 39 hrs x $ .55p/h=$ 21.40 1 hr x $6.05p/h=$ 6.05	$ 27.45
24-26 Feb 76	Actual: 10 hrs x $5.50p/h=$55.00 Difference: 10 hrs x $ .55p/h=$ 5.50 14 hrs x $6.05p/h=$84.70	$ 90.20
	TOTAL-not including interest	$716.80

Restoration of all seniority rights including vacation pay as follows:

1975 Vacation - 40 hrs at $6.05 p/h	$242.00
1976 Vacation - 40 hrs at $6.75 p/h	270.00
TOTAL--not including interest	$512.00
GRAND TOTAL	$1228 80

[FR Doc.77-26598 Filed 9-12-77;8:45 am]

V 42 177 SEP 13 77 UMI

Employment and Training Administration

INDIAN AND NATIVE AMERICAN ECONOMIC STIMULUS PROGRAM

Plans for Allocating Fiscal Year 1978 Funds

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice provides the plans of the Employment and Training Administration for allocating funds for the Fiscal Year 1978 Native American Economic Stimulus Program (NAESP).

DATE: Proposals must be received in the manner indicated below, by 4:45 p.m. on October 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Alexander S. MacNabb, Director, Division of Indian and Native American Programs, Room 6402, 601 D Street NW., Washington, D.C. 20213.

SUPPLEMENTARY INFORMATION: Pursuant to the Economic Stimulus Appropriations Act of 1977, the Division of Indian and Native American Programs (DINAP) of the Department of Labor announced on Tuesday, July 26, 1977, at 42 FR 38022 a program of new initiatives to support efforts to improve the internal strengths of Indian communities. That announcement described the plans for use of $14,000,000 in Fiscal Year 1977 funds for the Native American Economic Stimulus Program (NAESP). An additional $17,000,000 has been made available for the NAESP in Fiscal Year 1978 funds, and this announcement describes the plans for Fiscal Year 1978 programs to be funded with this money.

Like the Fiscal Year 1977 funds, this additional $17,000,000 will be utilized to fund special employment and training projects that will assist in the process of economic development on Federal and State Indian reservations; in Indian communities in the State of Oklahoma; and in Alaska Native Villages and communities. Fifteen program categories have been selected for Fiscal Year 1978 and will be funded by competitive process. Eligible title VI prime sponsors will be mailed copies of the Solicitation for Grant Applications (SGA), which includes instructions for completion and submission of the grant application package, the fifteen individual Statements of Work, and the criteria by which proposals will be evaluated. The Statements of Work include the program objectives and a description of specific tasks to be performed. Governing regulations will be those contained in 29 CFR Part 97 Subpart D.

The fifteen categories, and the amounts tentatively set-aside for each, are as follows: Paramedical Training, $1,000,000; Paralegal Training, $1,000,000; Management Training, $1,000,000; Agriculture Training, $1,000,000; Aquaculture Training, $1,000,000; Industrial Park Management Training, $1,000,000; Road Construction Training, $1,000,000; Domestic Fuel Development Training, $1,000,000; Vietnam-Era Veterans Training, $1,000,000; Hotel/Motel Management Training, $1,000,000; Waste Disposal Training, $1,000,000; Emergency Vehicle Operation Training, $1,000,000; Apprenticeship Outreach, $3,000,000; Telecommunications Training, $1,000,000, and Electric Power Training, $1,000,000.

Eligible applicants will be those DINAP prime sponsors who are eligible for CETA title VI funds. Additionally, fully accredited nonprofit medical institutions may submit proposals for paramedical training funds, fully accredited nonprofit law schools may submit proposals for paralegal training funds, nonprofit management organizations may submit proposals for management training funds, fully accredited universities or colleges having degree programs in hotel/motel management may submit proposals for hotel/motel management training funds, and trade unions may submit proposals for apprenticeship outreach funds. Eligible nonprofit organizations may request in writing or by telephone that copies of the SGA be mailed to them. Telephone requests should be made to Herman Narcho on 202-376-6011.

The deadline for proposal receipt by DINAP in all fifteen program categories, including the five for which certain nonprofit organizations are eligible to apply, is 4:45 p.m. on October 17, 1977. Proposals will be evaluated on the basis of objective criteria, which is contained in the SGA, by a panel composed of one employment and training specialist from the Department of Labor, representatives from other appropriate Federal agencies, and nonprofit national Indian and Native American organizations.

Signed in Washington, D.C., this 29th day of August 1977.

LAMOND GODWIN,
Administrator,
Office of National Programs.

[FR Doc.77-26629 Filed 9-12-77;8:49 am]

Occupational Safety and Health Administration

ALASKA

Approval of Plan Supplement; Amended Legislation

AGENCY: Occupatinoal Safety and Health Administration.

ACTION: Notice of Approval of Alaska's Amended Legislation.

SUMMARY: This document gives notice of the approval of a State-initiated plan change necessitated by legislative amendments to the Alaska Occupational Safety and Health Act.

FOR FURTHER INFORMATION CONTACT:

Veronica Allen, Project Officer, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202-523-8031).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 677) (hereinafter referred to as the Act) for the review of changes and progress in States which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the FEDERAL REGISTER (38 FR 21628) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision and a description of the plan. On February 7, 1977, the State of Alaska submitted a supplement to the plan involving a State-initiated change to the Seattle Regional Office of the Occupational Safety and Health Administration. Following regional review, the supplment was forwarded to the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) for her determination as to whether it should be approved. The supplement is described below.

DESCRIPTION OF THE SUPPLEMENT

Pursuant to 29 CFR Part 1953, Subpart E, the State submitted amendments to its enabling legislation (§§ 18.60.010 through 18.60.105, Alaska Statutes). The amended legislation (House Bill No. 588) was signed by Governor Jay S. Hammond on June 29, 1976, and became effective June 30, 1976. The legislation provides for the following:

(1) Additional requirements on the Alaska Department of Labor to publicize promulgation of regulations and standards and granting of variances (§ 18.60.020(b));

(2) Additional considerations for qualifications for safety inspectors (§ 18.60.055);

(3) Reporting of fatalities and hospitalizations in the event of an employment accident and restrictions on moving materials related to the accident (§ 18.60.058);

(4) An employer general duty provision § 18.60.075(a) identical to that in the Federal Act except for its provision that the hazard "in the opinion of the Commissioner" could cause death or serious physical harm. This language would appear to be as broad as § 5(a)(1). We do not think that this imposes any additional substantive requirements; it merely reflects the fact that the establishment of any violation is a determination of the Commission. Subject to evaluation it is approved.

(5) Additional provisions for employee and employee representative confidentiality and anonymity (§§ 18.60.087 and 18.60.088(b)); and

(6) Procedures for judicial review which include appeal right to the Alaska Superior Court for the Alaska Department of Labor (§ 18.60.097).

LOCATION OF THE PLAN AND ITS SUPPLEMENT FOR INSPECTION AND COPYING

A copy of the State's plan and its supplement may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3112, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, Seattle, Washington 98174; and the Alaska Department of Labor, Juneau, Alaska 99801.

PUBLIC PARTICIPATION

Under § 1953.2(c) of this chapter the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Alaska supplement described above is consistent with commitments contained in the approved plan, which were previously made available for public comment. Accordingly, it is found that further public comment and notice is unnecessary.

DECISION

After careful consideration, the Alaska plan supplement described above is hereby approved under Subpart E of Part 1953 of this chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Washington, D.C., this 29th day of August 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-26347 Filed 9-12-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

STEERING COMMITTEE OF NSF ADVISORY COUNCIL

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Steering Committee of the NSF Advisory Council.

PLACE: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

DATE: September 30, 1977.

TIME: 9 a.m.

TYPE OF MEETING: Open.

CONTACT PERSON: Ms. Margaret L. Windus, Executive Secretary, NSF Advisory Council, National Science Foundation, Room 518, Washington, D.C. 20550. Telephone: 202-632-4384.

PURPOSE OF STEERING COMMITTEE: The purpose of the Steering Committee, composed of members of the NSF Advisory Council, is to assist the Chairperson and Foundation staff in planning Council activity and related matters not requiring the formation of a separate task group.

SUMMARY MINUTES: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

AGENDA: To review with cognizant NSF staff the issues being studied by the four task groups and other issues of general concern.

M. REBECCA WINKLER,
Acting Committee Management Officer.

SEPTEMBER 6, 1977.

[FR Doc.77-26551 Filed 9-12-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 6, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Center for Education Statistics, Vocational Education Data System, NCES 2404, 1 through 6, single time, local educational agencies, postsecondary institutions, present and former students, Laverne V. Collins, 395-5867.

Center for Disease Control, Revised Compendium of Materials for Noise Control, single time, manufacturers of noise control materials, Eliett, C. A., 395-5867.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration:
Application for Flood Insurance, Renewal Application, Change Endorsement and Cancellations, on occasion, residents and businesses in flood prone areas, housing, veterans and labor division, 395-3532.

Inspection and Estimate, Adjuster's Report, Worksheet, notice of loss, proof of loss, etc., on occasion, residents and businesses in flood prone areas, housing, veterans and labor divisions, 395-3532.

DEPARTMENT OF THE INTERIOR

Law Enforcement Assistance Administration, 1977 Census of Public and Private Juvenile Detention, Correctional and Shelter facilities, CJ-17, CJ-29, annually, public and private juvenile correctional facilities, Richard Eisinger, 395-6140.

DEPARTMENT OF THE INTERIOR

Bureau of Sport Fisheries and Wildlife, Recreation Use Survey: Arctic National Wildlife Range, single time, all recreationists 1977-78, Eliett, C. A. 395-5867.

REVISIONS

UNITED STATES INTERNATIONAL TRADE COMMISSION

Color Television Receivers and Subassemblies, (producers' survey), quarterly, U.S. producers of color TV receivers, C. Louis Kincannon, 395-3211.

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration, Regulations Under the Packers and Stockyards Act, on occasion, meat packers, market agencies, and dealers, Eliett, C. A., 395-5867.

Food and Nutrition Service, Monthly Report of the Special Supplemental Food Program for Women, Infants, FNS 187, monthly, State agencies, Caywood, D. P., 395-3443.

DEPARTMENT OF COMMERCE

Bureau of Census:
Metal Cans (Shipments), M-34D, monthly, can manufacturers, C. Louis Kincannon, 395-3211.

Selected Instruments and Related Products—Annual Report, MA-38B, annually, manufacturers of instruments, C. Louis Kincannon, 395-3211.

Converted Flexible Packaging Products—Quarterly Report, MQ-26F, quarterly, plants which convert flexible packaging materials, C. Louis Kincannon, 395-3211.

Plastic Bottles, Monthly Report, M30E, monthly, manufacturers of plastic bottles, C. Louis Kincannon, 395-3211.

Construction Machinery and Reference List, MA35-D, annually, manufacturing establishment of construction machinery, C. Louis Kincannon, 395-3211.

Pharmaceutical Preparations, Except Biologicals, MA-28G, annually, drug manufacturers, C. Louis Kincannon, 395-3211.

Plumbing Fixtures (Production, Shipments, and Stocks), MQ-34E, quarterly, manufacturers of plumbing fixtures, C. Louis Kincannon, 395-3211.

Radio Receivers and Television Sets, Phonographs and Record Players, Speakers and Related Equipment, MA-36M, annually, manufacturing establishment of consumer electronics, C. Louis Kincannon, 395-3211.

Mattresses, Foundations, and Dual Purpose Sleep Furniture, M-25E, monthly, manufacturers, C. Louis Kincannon, 395-3211.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Foreign Language Graduate Fellowship Forms (NDEA), OE7632, annually, institutions of higher education, Laverne V. Collins, 395-5867.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development:
Satisfaction of Conditional Approval, HUD 7015.14, single time, CDBG with grant conditions, budget review division, 395–4775.
Request for Release of Funds and Certification, HUD 7015.15, single time, CDBG grantees, budget review division, 395–4775.

DEPARTMENT OF LABOR

Employment Standards Administration, Application for Farm Labor Contractor Identification Card, WH–412, annually, migrant agricultural workers, Strasser, A. and Paul Planchon, 395–5867.
Employment and Training Administration, FSB and SUA—Monthly Activity Report, Characteristics of Claimants and Benefit Rights and Experience, MA5–141, MA5–142, and MA5–143, weekly, State employment security agencies, Lowry, R. L., 395–3772.

DEPARTMENT OF THE INTERIOR

Bureau of Mines, Talc, Soapstone, and Pyrophyllite (Production), 6–1290–A, annually, producers of talc, O. Louis Kincannon, 395–3211.

EXTENSIONS

ENVIRONMENTAL PROTECTION AGENCY

Labor Law Compliance Review, EPA–1900–18, other (see SF–83), business firms, Strasser, A. and Paul Planchon, 395–5867.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Services:
Sugarcane Inquiries, other (see SF–83), sugar mills, Ellett, C. A., 395–5867.
Retail Seed Price Inquiry, CE10–30, semi-annually, retail seed dealers, Ellett, C. A., 395–5867.
Packers and Stockyards Administration, Special Report, "Statement of Accounts Payable for Livestock," P&SA–135, on occasion, livestock market agencies dealers and meat packers, Ellett, C. A., 395–5867.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration, Methodology Study—Marine Recreational Fisheries Statistics, single time, sports fishermen, Ellett, C. A., 395–5867.

DEPARTMENT OF DEFENSE

Department of the Air Force, Cost Performance Report, monthly, defense contractors, Marsha Traynham, 395–4529.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration (Medicare), Statement of Support of Claim for Emergency Hospital Service, SSA–1771, on occasion, attending physicians in private and State hospitals, Richard Eisinger, 395–6140.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Services:
Application to File Declaration of Intention (Immigrants), N–300, on occasion, permanent resident alien over 18 years old, Warren Topelius, 395–5872.
Agreement by Transportation Line to Assume Responsibility for Removal of Aliens, I–259A, on occasion, transportation lines, Warren Topelius, 395–5872.
Application for Status as Permanent Resident—Cuba Refugee, I–485A, on occasion, Cuban refugee, Lowry, R. L., 395–3772.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–26631 Filed 9–12–77;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 7, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF LABOR

Labor Management and Service Administration:
ERISA Plan Administrators Attitudinal Questionnaire, LMSA–82T, single time, private pension plan sponsors, Strasser, A. and Lowry, R. L., 395–5867.
Holdings of Specific Common Stocks—Yearly, LMSA–80T, single time, money managers and pension plan administrators, Strasser, A. and Lowry, R. L., 395–5867.
ERISA-Annual Compositional Data; Funds Flow Data, LMSA–81T, single time, private pension plan sponsors, Strasser, A. and Lowry, R. L., 395–5867.
Quarterly Acquisition and Disposition of Specific Common Stocks, LMSA–78T, single time, banks and investment managers, Strasser, A. and Lowry, R. L., 395–5867.
ERSIA Quarterly Time Weighted Rate of Return for Plan Assets, LMSA–76T, single time, private pension plan administrators, Strasser, A. and Lowry, R. L., 395–5867.
Composition of Assets of Employee Benefit Plans, LMSA–77T, single time, pension plan money managers, Strasser, A. and Lowry, R. L., 395–5867.
ERISA-Money Managers Attitudinal Questionnaire, LMSA–79T, single time, banks and investment firms, Strasser, A. and Lowry, R. L., 395–5867.

REVISIONS

DEPARTMENT OF LABOR

Bureau of Labor Statistics, Monthly Report on Labor Turnover and Annual Industrial Classification Supplements, DL–1219, monthly, industrial establishments, Strasser, A., 395–5867.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–26632 Filed 9–12–77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1368]

CALIFORNIA

Declaration of Disaster Loan Area

The counties of Imperial and San Diego and adjacent counties within the State of California, constitute a disaster area because of physical damage resulting from high winds, heavy rains and flooding which occurred on August 15–16, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 31, 1977, and for economic injury until May 31, 1978, at:

Small Business Administration, District Office, 880 Front Street, Federal Building, Suite 4–S–33, San Diego, Calif. 92101.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 31, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77–26574 Filed 9–12–77;8:45 am]

DALLAS DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Dallas District Advisory Council will hold a public meeting at 10 a.m., Friday, September 30, 1977, in the Board of Directors' Room, Mezzanine Floor, Mercantile National Bank, 1704 Main Street, Dallas, Tex., 75201, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call Emly S. Atkinson, 1100 Commerce, Room 3C36, Dallas, Tex., 75242, (214–749–2706).

Dated: September 6, 1977.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc.77–26573 Filed 9–12–77;8:45 am]

[Declaration of Disaster Loan Area No. 1367]

MISSISSIPPI

Declaration of Disaster Loan Area

The Counties of Choctaw, Clay, Kemper, Lowndes, Noxubee, Oktibbeha and adjacent counties within the State of Mississippi, constitute a disaster area as a result of drought which caused severe crop losses during the 1976 crop year and continuing into the 1977 crop year. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on October 31, 1977, and for economic injury until the close of business on May 31, 1978, at:

Small Business Administration, District Office, Petroleum Building, Room 690, 200 East Pascagoula, Jackson, Miss. 39201.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Date, August 31, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77–26575 Filed 9–12–77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

NON-RUBBER FOOTWEAR FROM URUGUAY

Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: United States Customs Service, Treasury Department.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been initiated for the purpose of determining whether or not benefits are paid by the Government of Uruguay to manufacturers/exporters of non-rubber footwear which constitute the payment of a bounty or grant within the meaning of the U.S. Countervailing Duty Law.

A preliminary determination will be made not later than January 8, 1978, and a final determination no later than July 8, 1978.

EFFECTIVE DATE: On July 8, 1977, this investigation was initiated.

FOR FURTHER INFORMATION CONTACT:

Mr. Vincent P. Kane, Duty Assessment Division, Office of Operations U.S. Customs Service, Washington, D.C. 20229 (202–566–5492).

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on July 8, 1977, alleging that benefits conferred by the Government of Uruguay upon the manufacture, production or exportation of non-rubber footwear from Uruguay constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

The non-rubber footwear specified in the petition is classified under items 700.05 through 700.85 inclusive of the Tariff Schedules of the United States Annotated (TSUSA), except items 700.28, 700.51, 700.52, 700.53, 700.54 and 700.60.

Pursuant to section 303(a)(4), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within six months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within 12 months of the receipt of such petition. Therefore, a preliminary determination on this petition will be made no later than January 8, 1978, as to whether or not the alleged payments or bestowals conferred by the Government of Uruguay upon the manufacture, production, or exportation of the merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than July 8, 1978.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 14, July 1, 1977, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954 and § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

SEPTEMBER 1, 1977.

[FR Doc.77–26952 Filed 9–12–77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 479]

ASSIGNMENT OF HEARINGS

SEPTEMBER 8, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 53965 (Sub 129), Graves Truck Line, Inc. now assigned November 10, 1977 at Kansas City, Mo. is cancelled and transferred to Modified Procedure.
MC 11207 (Sub-No. 387), Deaton, Inc., now being assigned December 8, 1977, at Jacksonville, Fla. (1 day), in a hearing room to be later designated.
MC 143167, Seyforth Express, Inc., now being assigned December 7, 1977 (1 day), at Jacksonville, Fla. in a hearing room to be later designated.
MC 109397 (Sub-No. 350), Tri-State Motor Transit Co., now being assigned December 8, 1977 (2 days), at Jacksonville, Fla. in a hearing room to be later designated.
MC 115162 (Sub-No. 350), Poole Truck Line, Inc. and MC 142610 (Sub-No. 4), Action Motor Express, Inc., now being assigned December 12, 1977, at Jacksonville, Fla. (2 days), in a hearing room to be later designated.
MC 115215 (Sub-No. 24), New Truck Lines, Inc., now being assigned December 14, 1977, (3 days), at Jacksonville, Fla. in a hearing room to be later designated.
MC 143112 Western Kansas Express, Inc., now being assigned November 28, 1977 (2 weeks) at Wichita, Kans., in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secrtary.

[FR Doc. 77–26601 Filed 9–12–77; 8:45 am]

[Notice No. 36574]

DEMURRAGE CHARGES CAUSED BY SEVERE WINTER WEATHER

Petition of Railroads Seeking Authorization to Waive

SEPTEMBER 8, 1977.

In an order served August 12, 1977, the Commission granted specified rail carriers the right to waive a portion of demurrage charges caused by severe winter weather. (Published in the FEDERAL REGISTER, on August 19, 1977, 42 FR 41948.) In that order, the Commission stated that other carriers who want to participate in the proposal could, upon notifying the Commission in writing of their intent to do so. In letters filed August 23, 1977, by The Buffalo Terminal Railway Co., and August 29, 1977, by The South Buffalo Railway Co., these two carriers gave notice of their intent to participate in the approved proposal.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77–26600 Filed 9–12–77;8:45 am]

V 42 177 SEP 13 77 S UMI

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD.

[M–51]

SEPTEMBER 7, 1977.

TIME AND DATE: 10 a.m., September 12, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Docket 25908 et al., Transatlantic Route Proceeding (OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202–673–5068.

SUPPLEMENTARY INFORMATION: The President has requested that the Board submit its decision in the Transatlantic case to him in early October 1977. In order for the Board to have sufficient time to consider the matter and to be in a position to decide this case in a timely manner it is necessary that the Board meet on this matter on less than seven days' notice. Accordingly the following Members have voted that agency business requires that the Board meet on less than seven days' notice and that no earlier announcement was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

[S–1297–77 Filed 9–9–77;9:10 am]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., September 12, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Judicial matter canceled from September 7.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254–6314.

[S–1292–77 Filed 9–9–77;9:10 am]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., September 16, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254–6314.

[S–1293–77 Filed 9–9–77;9:10 am]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., September 14, 1977.

PLACE: 2033 K Street NW., Washington, D.C. 5th Floor Hearing Room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

CTA/CPO Regulations/Interim Status Report.
Regulation 1.61/Exchange Enforcement of CFTC Act.
Foreign Trader Policy Discussion.

Portions closed to the public:

Enforcement Mattter.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254–6314.

[S–1294–77 Filed 9–9–77;9:10 am]

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2:30 p.m., September 9, 1977.

PLACE: Telephone Conference Call.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

APPLICATION FOR CONSENT TO MERGE AND ESTABLISH BRANCHES

First Bank and Trust, Boynton Beach, Fla., an insured State nonmember bank, for consent to merge under its charter, and with the title "First Bank and Trust, Palm Beach County," with First Bank, Delray Beach, Fla., Delray Beach, Fla., and First Bank West, Palm Beach County (P.O. Lake Worth), Fla., also insured State nonmember banks, and to establish the two offices of First Bank, Delray Beach, Fla., and the sole office of First Bank West as branches of the resultant bank.

RECOMMENDATIONS WITH RESPECT TO THE INITIATION OF CEASE-AND-DESIST PROCEEDINGS AGAINST CERTAIN INSURED BANKS:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8), (c)(9)(A)(ii), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(10)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202–389–4446.

[S–1283–77 Filed 9–8–77;11:45 am]

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2:45 p.m., September 9, 1977.

PLACE: Telephone Conference Call.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Memorandum and resolution proposing the final adoption of an amendment to Part 343 of the Corporation's rules and regulations, entitled "Insured State Nonmember Banks Which Are Municipal Securities Dealers," to defer the effective date of the part from September 15, 1977 to October 31, 1977.

Resolution changing the title of the Division of Management Systems and Economic Analysis to the "Division of Management Systems and Financial Statistics" and amending the Manning Table of the Division of Management Systems and Financial Statistics and of the Division of Research.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202–389–4446.

[S–1284–77 Filed 9–8–77;11:45 am]

7

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Thursday, September 15, 1977, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

I. Future meetings.
II. Correction and approval of minutes.
III. Appropriations and budget—Budget Execution Report.
IV. Report from the Task Force on Independent Expenditures.
V. Code of Ethics—proposed amendments.
VI. Pending legislation.
VII. Presidential reorganization project.
VIII. Liaison with other Federal agencies.
IX. Pending litigation—status report.
X. Advisory opinions—status report.
XI. Routine administrative matters.

Portions closed to the public:

Executive session: compliance; audit reports; personnel.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, Press Officer, telephone: 202–523–4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S–1286–77 Filed 9–8–77;3:27 pm]

8

FEDERAL ELECTION COMMISSION

DATE AND TIME: Wednesday, September 14, 1977, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance matters.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, Press Officer, Telephone 202–523–4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S–1287–77 Filed 9–8–77;3:27 pm]

9

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, No. 171, page 44348, Friday, September 2, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., September 8, 1977.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202–376–3012.

CHANGES IN THE MEETING:

The following item has been withdrawn from the open agenda and will be taken up during the closed portion of the meeting:

Service Corporation Activity Application—HONOFED Corp., Honolulu, Hawaii, a wholly-owned Service Corporation of Honolulu FS&LA, Honolulu, Hawaii.

No. 68, September 8, 1977.

[S–1289–77 Filed 9–8–77;3:45 pm]

10

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., September 14, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202–376–3012.

MATTERS TO BE CONSIDERED:

Branch Office Application—Phenix Federal Savings and Loan Association, Phenix City, Ala.

Preliminary Application for Conversion to a Federal Charter—Winchester Building and Savings Association, Winchester, Ky.

RSU Application—Toledo Home Federal Savings and Loan Association, Toledo, Ohio.

Branch Office Applications Concurrently Submitted—First Federal Savings and Loan Association of Huntsville, Huntsville, Ala.; and Security Federal Savings and Loan Association of Huntsville, Huntsville, Ala.

No. 67, September 8, 1977.

Notice is being made at the earliest practicable time.

[S–1290–77 Filed 9–8–77;3:47 pm]

11

FEDERAL POWER COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 44867, September 7, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: September 8, 1977, continued September 9, 1977, continued September 9, 1977.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

G–69.—RP77–72, East Tennessee Natural Gas Co.; RP77–74; El Paso Natural Gas Co.; RP77–86, Tennessee Gas Pipeline Co.; RP77–87, Tennessee Natural Gas Lines, Inc.; RP77–89, Transcontinental Gas Pipe Line Corp.; RP77–92, United Gas Pipe Line Co.

[S–1291–77 Filed 9–8–77;3:47 pm]

12

FEDERAL RESERVE SYSTEM.

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 44868, September 7, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday, September 13, 1977.

CHANGES IN THE MEETING: Addition of the following closed item to the meeting:

Proposed statement to be presented to the House Committee on Banking, Finance and Urban Affairs regarding H.R. 7918, a bill to amend the Federal Financing Bank Act of 1973.

Previously announced closed items:

1. Proposed salary structure adjustments at the Federal Reserve Banks of Boston, Atlanta, and Kansas City.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202–452–3204.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

SEPTEMBER 8, 1977.

[S–1285–77 Filed 9–8–77;2:18 pm]

13

RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 45733, September 12, 1977.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Tuesday, September 13, 1977, 10 a.m.

CHANGES IN MEETING:

1. Date of previously announced meeting changed to: Wednesday, September 14, 1977, 10 a.m.
2. Items 14 and 15 are added.

MATTERS TO BE CONSIDERED: Board Meeting concerning:

14. AMF Inc. (formerly American Machine & Foundry Co.), consolidated

V 42 177 SEP 13 77 UMI

with: AMF Beaird, Inc.; W. J. Voit Rubber Corp., The Cuno Engineering Corp., fiscal year ended September 31, 1968.

15. Witnesses in Court of Claims cases.

STATUS: Item 14 is open to the public, Item 15 is closed to the public.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General-Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446 (202–254–8277).

Dated: September 7, 1977.

GOODWIN CHASE,
Chairman.

[S–1288–77 Filed 9–8–77;3:27 pm]

14

SECURITIES AND EXCHANGE COMMISSION.

TIME AND DATE: Thursday, September 1, 1977, 3:30 p.m.

STATUS: Closed meeting.

SUBJECT MATTER:

Consideration of regulatory matter.

Chairman Williams, Commissioners Loomis, Evans, and Pollack voted to close the meeting and determined that no earlier notice thereof was possible.

SEPTEMBER 1, 1977.

[S–1295–77 Filed 9–9–77;9:10 am]

15

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 44329, September 2, 1977.

PREVIOUS ANNOUNCED TIME AND DATE: September 8, 1977, 10 a.m.

CHANGES IN THE MEETING: Additional closed items to be considered after the open meeting at 10 a.m.

The following additional items will be considered on September 8, 1977, immediately following the open meeting:

Institution of injunctive action.

Authorization of staff member to testify.

Chairman Williams, Commissioners Loomis, Evans, and Pollack voted to approve the above changes and determined that no earlier notice thereof was possible.

SEPTEMBER 8, 1977.

[S–1296–77 Filed 9–9–77;9:10 am]

federal register

TUESDAY, SEPTEMBER 13, 1977

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determinations for Various Communities

V 42 177 SEP 13 77 UMI

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2952]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination, City of Cairo, Alexander County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Cairo, Alexander County, Ill. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Cairo, Alexander County, Ill.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Cairo, Alexander County, Ill. are available for review at the City Hall, 1501 Washington, Cairo.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Cairo, Alexander County, Ill.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Local runoff within the levee.	Flooding contained within an area of the city between 21st St. and 40th St. and between Washington Ave. and Commercial St. Includes parts of Highland Ave., Magnolia Dr., Park Ave., and St. Mary's Place West. Ponding conditions also exist in the extreme northeast corner, along with some local ponding near the southwest corner of the levee system.	312
Mississippi River	Interstate 57	334
	U.S. 60/62	330
Ohio River	Illinois Central R.R.	332
	U.S. 51/60/62	330

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25560 Filed 8-12-77;8:45 am]

[Docket No. FI-2890]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination, Town of Funkstown, Washington County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of Funkstown, Washington County, Md. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of Funkstown, Washington County, Md.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Funkstown, Washington County, Md., are available for review in the fire hall, Westside and Baltimore Streets, Funkstown.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Funkstown, Washington County, Md.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Antietam Creek	Interstate 70	459
	Downstream of Ridge Rd.	462
	Upstream of Baltimore St.	469

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25561 Filed 8-12-77;8:45 am]

[Docket No. FI-2416]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination, City of Fenton, St. Louis County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Fenton, St. Louis County, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Fenton, St. Louis County, Mo.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Fenton, St. Louis County, Mo., are available for review at the City Hall, 625 North Highway 141, Fenton, Mo.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Fenton, St. Louis County, Mo.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Meramec River	SE. corporate limits	422
	Gravois Rd.	423
	State Rd. 30	423
	Larkin Williams Rd.	423
	Fabricator Dr.	424
	Interstate Route 44	425
	Cassen's Dr. (extended).	428
	NW. corporate limits	430
Fenton Creek	SE. corporate limits	422
	Mound St.	422
	Ferry St.	422
	Gravois Rd.	428
Yarnell Creek	Larkin Williams Rd.	423
	Fabick Dr.	423
	Green Acres Lane	423
	Industrial Court Rd.	430
	Horan Dr.	433
	Gilstinn Dr.	448
	Bowles Ave.	459

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25562 Filed 9-12-77;8:45 am]

[Docket No. FI-2664]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination, Village of Briarcliff Manor, Westchester County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Village of Briarcliff Manor, Westchester County, N.Y.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Village of Briarcliff Manor, Westchester County, N.Y.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Briarcliff Manor, Westchester County, N.Y., are available for review at the Village office, 1111 Pleasantville Road, Briarcliff Manor, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Village of Briarcliff Manor, Westchester County, N.Y.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Pocantico River	South State Rd.	231
	State Route 9A/100	233
	Pleasantville Rd (upstream of bridge).	238
	State Route 9A (exit ramp).	241
	Upstream corporate limits.	273
Caney Brook	Pocantico Lake	230
	Long Hill Rd. (upstream of bridge).	236
	Sleepy Hollow Rd.	295

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25563 Filed 9-12-77;8:45 am]

[Docket No. FI-2778]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination, Village of East Randolph, Cattaraugus County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Village of East Randolph, Cattaraugus County, N.Y.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Village of East Randolph, Cattaraugus County, N.Y.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of East Randolph, Cattaraugus County, New York are available for review at the Village Hall, Main Street, East Randolph, N.Y.

V 42 177 SEP 13 77 UMI

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Village of East Randolph, Cattaraugus County, N.Y.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Elm Creek	Downstream corporate limits.	1,289
	Spring St.	1,311
	Main St.	1,330
	Upstream corporate limits.	1,340
Stillson Pond tributary.	Confluence with Elm Creek.	1,316
	Upstream corporate limits.	1,345

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–25564 Filed 9–12–77;8:45 am]

[Docket No. FI–2783]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination, Village of Fair Haven, Cayuga County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Village of Fair Haven, Cayuga County, N.Y.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Village of Fair Haven, Cayuga County, N.Y.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Fair Haven, Cayuga County, N.Y. are available for review at the Post Office, Fair Haven, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Village of Fair Haven, Cayuga County, N.Y.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Little Sodus Bay	Main St.	249
	Philips Lane (extended).	250
	Johns Rd. (extended).	250
	West Shore Rd. (extended).	250
	13th St. (extended)	252
	10th St. (extended)	252
	Ontario St. (extended).	262
	Cottage St. (extended).	250

(National Flood Insurance Act 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–25565 Filed 9–12–77;8:45 am]

[Docket No. FI–2804]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination, Village of Seacliff, Nassau County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Village of Seacliff, Nassau County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Village of Seacliff, Nassau County, New York.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Seacliff, Nassau County, N.Y., are available for review at the Village Hall, Seacliff and Summit Avenue, Seacliff, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872; Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administration gives notice of his final determinations of flood elevations for the Village of Seacliff, Nassau County, N.Y.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Public L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Hempstead Harbor	8th Ave. (extended)	13
	20th Ave. (extended)	13
	Laurel Ave. (extended).	13
	Littleworth Lane (extended).	13
	South corporate limits.	13

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–25566 Filed 9–12–77;8:45 am]

[Docket No. FI–2740]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination, Town of Hamlin, Monroe County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of Hamlin, Monroe County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of Hamlin, Monroe County, N.Y.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Hamlin, Monroe County, N.Y., are available for review at the Bulletin Board in the Town Hall, 1658 Lake Road, Hamlin.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Hamlin, Monroe County, N.Y.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Lake Ontario	Eastern corporate limits.	251
	Martin Rd.	251
	Eastern limits of Beach State Park.	251
	Western corporate limits.	251

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–25567 Filed 9–12–77;8:45 am]

[Docket No. FI–2734]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATION

Final Flood Elevation Determination; Town of Wilson, Niagara County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of Wilson, Niagara County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of Wilson, Niagara County, N.Y.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Wilson, Niagara County, N.Y., are available for review at the Town Hall, 375 Lake Street, Wilson.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Wilson, Niagara County, N.Y.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
East Branch Twelvemile Creek.	Mouth on Lake Ontario.	249
	Lake Rd.	256
	Youngstown Rd.	258
	Daniels Rd. (downstream crossing).	293
	Con Rail	310
	Daniels Rd. (upstream crossing).	322
	Footbridge 3,000 ft. upstream of Daniels Rd.	327
	Bailey Rd.	339
	Cambria-Wilson Rd. (downstream crossing).	354
	Cheetnut Rd.	362
	Willow Rd.	365
	Cambria-Wilson Rd. (upstream crossing).	368
East Branch Twelvemile Creek, tributary east.	Willow Rd.	366
	Irish Rd.	368
East Branch Twelvemile Creek, tributary south.	Willow Rd. and upstream.	366
Twelvemile Creek	Route 18	252
	Youngstown Rd.	251
	Fitch Rd.	291
	Tributary upstream of Fitch Rd.	297
	Corporate limits.	302

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–25568 Filed 9–12–77;8:45 am]

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[Docket No. FI-2887]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination, City of Lakewood, Cuyahoga County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Lakewood, Cuyahoga County, Ohio.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Lakewood, Cuyahoga County, Ohio.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Lakewood, Cuyahoga County, Ohio are available for review at the Bulletin Board in the City Hall, Lakewood, Ohio.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Lakewood, Cuyahoga County, Ohio.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Rocky River	Upstream corporate limits.	607
	Abandoned Ford Park Dr.	603
	Sewer at sewage treatment plant.	595
	Park Dr.	586
	Detroit Ave.	579
	Lake Rd.	576

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25569 Filed 9-12-77;8:45 am]

[Docket No. FI-2611]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination, Township of Lower Merion, Montgomery County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Township of Lower Merion, Montgomery County, Pa.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Township of Lower Merion, Montgomery County, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Township of Lower Merion, Montgomery County, Pa.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Lower Merion, Montgomery County, Pennsylvania are available for review at the Township Building, 75 East Lancaster Avenue, Ardmore, Pa.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Schuylkill River	East corporate limits.	38.0
	Reading RR bridge	44.0
	Belmont Ave.	47.0
	Flatrock Dam	55.0
	Young's Ford Rd. (extended).	58.0
	West corporate limits.	65.0
Mill Creek	River Rd.	56.0
	Rose Glen Rd.	67.0
	Conshohocken State Rd.	120.0
	Williamson Rd.	139.0
	Gulph Rd.	161.0
	Mill Creek Rd.	181.0
	Old Gulph Rd.	208.0
	Black Rock Rd.	229.0
	Morris Ave.	275.0
	Harriton Ave.	288.0
	Old Gulph Rd.	299.0
	Ivy Mont Rd.	351.0
	Montgomery Ave.	361.0

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968, effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

JAY JANIS,
Under Secretary.

[FR Doc.77-25570 Filed 9-12-77;8:45 am]

[Docket No. FI-2963]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination, Borough of Mifflin, Juniata County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Borough of Mifflin, Juniata County, Pa.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP.)

[Docket No. FI-2288]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination, Township of Springettsbury, York County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Township of Springettsbury, York County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Program for the Township of Springettsburg, York County, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Township of Springettsbury, York County, Pa.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Springettsbury, York County, Pa., are available for review at the lobby of the Municipal Building, 1501 Mount Zion Road, York, Pa.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Left	Right
Codorus Creek	Northeastern corporate limits of the township of Springettsbury.	298	(1)	70
	Sherman Street Bridge (LR 66020)	313	(1)	760
	Mundis Mill Road Bridge	350	(1)	100
	Con Rail bridge	360	(1)	120
	200 ft downstream from Route 30	362	(1)	1,150
	Loucks Mill Road Bridge	362	(1)	90
	Eberts Road Bridge	374	(1)	60
	Con Rail bridge	388	(1)	120
	Market Street Bridge	400	(1)	760
	Route 124 bridge	433	(1)	330
	Southern corporate limits of the township of Springettsbury.	457	(1)	40

(1) Corporation limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968) as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25572 Filed 9-12-77;8:45 am]

[Docket No. FI-2919]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination, Township of Wysox, Bradford County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Township of Wysox, Bradford County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Township of Wysox, Bradford County, Pa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Wysox, Bradford County, Pa. are available for review at the Council Meeting Room, Borough Building, 106 Tuscarora Street, Mifflin, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Borough of Mifflin, Juniata County, Pa.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Juniata River	South corporate limits.	443
	Main St.	446
	North corporate limits.	441
Tributary to Juniata River	Mower St.	444
	Summit St.	450
	North corporate limits.	450

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administration, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974.)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25571 Filed 9-12-77;8:45 am]

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flood-prone areas and the final elevations for the Township of Wysox, Bradford County, Pa., are available for review at the office of Mr. James W. Ward, Township Secretary of Wysox, Ward Building, Wysox, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Township of Wysox, Bradford County, Pa.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Susquehanna River.	Downstream corporate limits.	708
	Confluence with Wysox Creek.	710
	Arlium St	711
	U.S. Route 6	721
Laning Creek	Confluence with Susquehanna River.	712
	Masonic Rd	723

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25573 Filed 9-12-77;8:45 am]

[Docket No. FI-2686]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination, City of Brentwood, Williamson County, Tenn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Brentwood, Williamson County, Tenn. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Brentwood, Williamson County, Tenn.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Brentwood, Williamson County, Tenn., are available for review at the City Hall, 112 Pewitt Drive, Brentwood.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Brentwood, Williamson County, Tenn.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum 1929
Little Harpeth River.	Downstream corporate limit.	624.8
	Granny White Pike	637.0
	L&N RR	664.0
	Concord Rd	672.7
	Moores Lane	713.7

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25574 Filed 9-12-77;8:45 am]

[Docket No. FI-2770]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination, City of Longview, Gregg and Harrison Counties, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Longview, Gregg and Harrison Counties, Tex. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Longview, Gregg and Harrison Counties, Tex.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Longview, Gregg and Harrison Counties, Tex.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Longview, Gregg and Harrison Counties, Tex., are available for review at City Hall, 300 West Cotton Street, Longview, Tex.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Eastman Lake Creek.	Doyle St	356
	Loona St	351
	Marshall Ave	332
	Confluence with drain No. 1.	332
	Texas & Pacific R.R	328
	County boundary	320
	Cotton St	319
	Downstream corporate limits.	316
Drain No. 1	Upstream corporate limits.	337
	U.S. Highway 80	337
	Old RR alignment	335
Iron Bridge Creek	Level St	334
	Dean St	325
	Birdsong St	316
	Wells St	305
	Margo St	292
	Eldorville Rd	281
	Downstream corporate limits.	274
Grace Creek	Upstream corporate limits.	304
	Confluence with Drain No. 2.	297
	East Fairmont St	287
	U.S. Highway 259	273
	Missouri-Pacific RR	269
	Downstream corporate limits.	266
Wade Creek	Walk bridge	353
	Texas & Pacific RR	344
	Gulf, Colorado and Santa Fe RR.	335
	Cotton St	323
	Bonner St	314
	Electra St	308
	Green St	293
	High St	279
	Garfield Dr	269
	Confluence with Grace Creek.	268
Harris Creek	Lynnwood Lane	372
	Evergreen St	368
	Reel Rd	363
	Loop 281	314
	Lincoln Rd	310
	Marshall Ave	306
	Lake Lamond Rd	296
	Confluence with Grace Creek.	279
Drain No. 4	Scenic Dr	367
	Lane Wells Dr	347
	Loop 281	330
	Confluence with Harris Creek.	324
Guthrie Creek	Wood Place	328
	Confluence with Oakland Creek.	305
	Johnston St	297
	Glencrest Lane	289
	Spur 63	285
Johnston Creek	Loop 281	366
	Commander Dr	358
	Drake Blvd	351
	Hollybrook Dr	344
	Delwood Dr	337
	Eden Dr	310
	Confluence with Guthrie Creek.	305
Oakland Creek	Hollybrook Dr	332
	Delwood Dr	319
	Eden Dr	312
Coushatta Hills Creek.	Hollybrook Dr	379
	U.S. Highway 259	362
	Navajo Trail	337
	North 4th St	329
	Delwood Dr	319
	Confluence with Oakland Creek.	313
Gilmer Creek	Loop 281	345
	Dirt road over dam	327
	Oil Rd	294
	Confluence with Grace Creek.	288
Drain No. 2	McCann Rd	311
	Loop 281	303
School Branch Creek.	Upstream corporate limits.	333
	Oil Rd	304
Drain No. 3	U.S. corporate limits	337
	Confluence with School Branch Creek.	324
Ray Creek	Upstream corporate limits.	305
	Lafamo Creek	379
	Oil Rd	325
	Payne Rd	321
	Downstream corporate limits.	311

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25575 Filed 9-12-77;8:45 am]

[Docket No. FI-2760]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination, Town of Lumberton, Hardin County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of Lumberton, Hardin County, Tex. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of Lumberton, Hardin County, Tex.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Lumberton, Hardin County, Tex.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Lumberton, Hardin County, Tex., are available for review at the First State Bank, Lumberton, Tex.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Walton Creek	Welter Rd	50
	Walton Rd	36
	U.S. Highway 96	36
Village Creek	Downstream corporate limits.	36
Do	Upstream corporate limits.	37
Tributary No 1	Taft Rd	36
	Confluence with Village Creek.	36

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25576 Filed 9-12-77;8:45 am]

[Docket No. FI-2170]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination; Town of West Warwick, Kent County, R.I.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of West Warwick, Kent County, R.I. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of West Warwick, Kent County, R.I.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of West Warwick, Kent County, R.I., are available for review at the Town Hall, 1120 Main Street, West Warwick.

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FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of West Warwick, Kent County, R.I.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–48), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Pawtuxet River	Daisy St.	35
	East St.	35
	Providence St.	54
	Evergreen Ave.	55
	Cantara St.	56
North Branch Pawtuxet River.	Main St.	63
	Dam No. 155 (downstream side).	70
	Dam No. 155 (upstream side).	83
	Dam No. 156 (downstream side).	83
	Dam No. 156 (upstream side).	102
	Fairview Ave.	102
South Branch Pawtuxet River.	Providence St.	62
	Factory St.	87
	Hare St.	115
	Main St.	130
	Dale Ave.	131
	Pulaski St.	132
	Oriole Ave.	147
Lippitt Brook	Packard St.	85
	Ventura St.	87
	Wakefield St.	91
Baker Street Brook	West Warwick Ave.	130
	Baker St.	151
Hardig Brook	Quaker Lane	111
	Glenn Dr.	118
	Colt Ave.	132
	Beal St.	145
	Revere Ave.	164
Hawkinson Brook	Tiogue Ave.	147
	Campbell St.	151
	New London Turnpike.	158
Tributary to Maskerchugg River.	Quaker Lane	227
	I-95 exit ramp to south bound Quaker Lane.	252

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc'77–25577 Filed 9–12–77;8:45 am]

federal register

TUESDAY, SEPTEMBER 13, 1977

PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

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GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Organization, Practices and Procedures

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Statement of Organization, Practices, and Procedures

Pursuant to section 302 (f) (6) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), each Regional Fishery Management Council is responsible for determining its organization and prescribing its practices and procedures for carrying out its functions under the Act in accordance with such uniform standards as are prescribed by the Secretary of Commerce. Further, each Council must publish and make available to the public a statement of its organization, practices, and procedures. As required by the Act, the Gulf of Mexico Fishery Management Council has prepared and is hereby publishing its Statement of Organization, Practices, and Procedures.

Dated: September 2, 1977.

JOSEPH W. SLAVIN,
Acting Associate Director, National Marine Fisheries Service.

ORGANIZATION, PRACTICES, AND PROCEDURES OF THE GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

(1) *Name of Council:* Gulf of Mexico Fishery Management Council.

(2) *Location of Offices:* Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Fla. 33609.

(3) *Legal Authority:* Legal authority for the Council is found in the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265, Sec. 302 (a) (5) (16 U.S.C. 1852). The geographical area of authority of the Council includes the states of Texas, Louisiana, Mississippi, Alabama, and Florida, and has authority over the fisheries in the fishery conservation zone of the Gulf of Mexico seaward of such states.

(4) *Purposes:* (a) The Council shall prepare and submit to the Secretary of Commerce or his delegate (the "Secretary" hereinafter) a fishery management plan with respect to each fishery within its geographical area and, from time to time, such amendments to each plan as are necessary.

(b) The Council shall prepare comments on any application for foreign fishing transmitted to it under a governing international fishery agreement by the Secretary of State or his delegate under the terms of the Act.

(c) The Council shall prepare comments on any fishery management plan or amendments thereto prepared by the Secretary or his delegate which are transmitted to it under Section 304(c)(2) of the Act.

(d) The Council shall conduct public hearings at appropriate times and in appropriate locations in the Council's geographical area so as to allow all interested persons an opportunity to be heard in the development of fishery management plans and amendments thereto, and with respect to the administration and implementation of the provisions of the Act.

(e) The Council shall review on a continuing basis, and revise, as appropriate, the assessments and specifications contained in each fishery management plan for each fishery within its geographical area with regard to:

1. The present and probable future condition of the fishery;

2. The maximum sustainable yield from the fishery;

3. The optimum yield from the fishery;

4. The capacity and the extent to which fishery vessels of the United States will harvest the optimum yield on an annual basis;

5. The portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing.

(f) The Council shall submit to the Secretary or his delegate: (1) a report, before February 1 of each year, on the Council's activities during the preceding calendar year, (2) such periodic reports as the Council deems appropriate, and (3) any other relevant report which may be requested by the Secretary or his delegate.

(g) The Council may prepare any proposed regulations which it deems necessary to carry out any fishery management plan, or any amendment to a fishery management plan, which is prepared by it. Such proposed regulations shall be submitted to the Secretary or his delegate, together with such plan or amendment, for action by the Secretary or his delegate, pursuant to Sections 304 and 305 of the Act.

(h) The Council shall determine its organization and prescribe its practices and procedures for carrying out its functions in accordance with such uniform standards as the Secretary or his delegate may prescribe, and shall publish and make available to the public a statement of its organization, practices, and procedures.

(i) The Council shall conduct any other activities which are required by, or provided for in, the Act or which are necessary and appropriate to the foregoing functions.

(5) *Council Composition:* (a) The Gulf of Mexico Fishery Management Council shall have a total of 17 voting members, and four non-voting members, appointed pursuant to provisions of the Act.

(b) Eleven of the voting members (at least one of whom shall be appointed from each State) shall be appointed by the Secretary or his delegate, from a list of qualified individuals submitted by the Governor of each applicable constituent State.

(c) These eleven voting members shall be appointed for a term of three-years; except that, for initial appointments, the Secretary or his delegate shall designate up to one-third of the initial appointed members to serve for a term of one-year, up to one-third to serve for a term of two-years, and the remaining such members to serve for a term of three-years. Appointments thereafter shall be in the same manner as the original appointments. Vacancy appointments shall be for the remainder of the unexpired term of the vacancy.

(d) The six remaining voting Council members shall be:

1. The principal State official with marine fishery management responsibility and expertise in each of the five constituent States, as designated by the Governors of the States, so long as the official continues to hold such position, or the designee of such official; and

2. The Regional Director, Southeast Region, National Marine Fisheries Service, NOAA, for the Council's geographical area, or his designee.

(e) The Chairman shall be selected from among the voting members by majority vote of the voting members present and voting.

(f) Nonvoting members shall be:

1. The regional or area Director of the United States Fish and Wildlife Service for the Council's geographical area or his designee;

2. The Commander of the Eighth Coast Guard District or his designee;

3. The Executive Director of the Gulf States Marine Fisheries Commission;

4. One representative of the Department of State designated for such purpose by the Secretary of State, or his designee.

(6) *Officers and Terms of Office:* The Council elects during the first meeting after September each year, from among the voting members, a chairman and a vice chairman who serve for a one year term ending on September 30, until sooner replaced, or until their successors have been duly elected. Either the chairman or vice chairman may succeed themselves at the will of the Council.

(7) *Staff:* (a) The Council will determine needs and hire staff deemed necessary to carrying out the decisions and desires of the Council. The Council Executive Director has the responsibility to prepare lists of eligible candidates, as appropriate, for each position and to make recommendations accordingly to the Council. The Council may authorize the Executive Director to fill existing staff vacancies and to hire temporary personnel.

(b) Staff Functions:

1. Staff positions and functions are reported in Appendix I. Other positions may be authorized as deemed necessary by the Council. Experts, consultants and temporary personnel may be employed to provide additional Council staff support as required.

2. Temporary transfer of government employees. Authority is provided for temporary transfer of State, local, and Federal government employees to the Council staff. The Council may authorize requests for such personnel.

(c) Employment practices:

1. Nondiscrimination. All activities supported in whole or in part by Federal funds shall be operated under a policy of equal employment opportunity. Council staff positions shall be filled solely on the basis of merit, fitness, competence, and qualifications. Employment actions shall be free from discrimination based on race, religion, color, national origin, sex, age, or physical handicap.

2. Personnel Actions. Subject to these practices and procedures and according to personnel authority provided by the Secretary, the Council may establish positions, recruit, hire, compensate, and dismiss personnel. Involuntary separation shall be for cause alone, with reasonable advance notice given to the employee.

3. Salary and Wage Administrations. In setting rates of pay for Council staff, the principle of equal pay for substantially equal work shall be followed. Variations in basic rates of pay shall be in proportion to substantial differences in the difficulty and responsibilities of the work performed. The duties of any new position shall be contained in a brief description to be submitted to the National Oceanic and Atmospheric Administration Personnel Office servicing the National Marine Fisheries Service Regional Office assigned to the Council prior to the submission of a budget in which the salary of that position is requested. The Council will be provided a salary range appropriate to the position. The Council may fill the position at any salary level within that range, except that, unless recruitment of exceptionally qualified employees is hampered, the policy of hiring at the beginning rate shall be recognized. The annual pay for any staff position may not exceed the equivalent of the top step of GS-15 of the Federal General Schedule at any time. After a position has been filled, the employee may receive salary increases by annual step raises comparable to the Federal pay scale, and be recognized for superior performance within the specific salary ranges of the position. Such raises and salaries shall be subject to approval by the Council upon recommendation of the Executive Director.

(d) Duty Time: The usual work week is five, eight-hour days or 40 hours. This applies to all full-time, permanent employee. The hours worked by individual employees may vary depending on the needs and interests of the office and the individual. The Fair Labor Standards Act applies. The Council office will be open from 8 a.m. to 5:30 p.m. on official work days. An individual employee's workday may vary from the official office hours, but must be predetermined and approved by the individual's supervisor.

(e) Leave Policy: 1. Annual Leave.

a. Council full-time employees are granted paid leave annually in accordance with the following schedule or a share thereof prorated on the basis of days employed in a given calendar year.

Years of service:	Working days of leave per year
Under 3	13
3 to 15	20
15 and over	26

(Years of service refers to years of Council service except that up to 4 years of U.S. Federal military, state, or Federal government service may be applied to years of service in computing total years of creditable service for leave determination.)

b. New employees accrue annual leave from the beginning of the first full pay period of the employment period, but normally will not be granted leave until the completion of six months of service.

c. Earned annual leave may be taken in accordance with procedures and schedules approved by the Executive Director.

d. A maximum of 60 days of annual leave may be carried over into each new calendar year. All accumulated annual leave in excess of 60 days will be forfeited on the last pay period in effect at the end of each calendar year.

e. Upon termination of employment, an employee shall be compensated for unused annual leave at the hourly wage rate in effect at the time of termination.

a. Council full-time employees will be granted 13 days of paid sick leave, or a prorated share thereof, annually. Sick leave is accumulative throughout the Council tenure of the employee.

b. Earned sick leave may be used for illnesses, injury, temporary disability, other disabling or incapacitating disability, and for medical and dental appointments. Sick leave in excess of three consecutive days shall be supported by documentation of a medical doctor.

3. Compensatory Leave and Overtime Pay. Employees subject to the Fair Labor Standards Act (FLSA) shall receive overtime as specified therein. Exempt employees under FLSA may, at the discretion of the Executive Director of the Council, be granted one hour of compensatory leave for each overtime hour worked.

All overtime work must be authorized in advance by the employee's supervisor.

Travel time is not considered as overtime for pay or compensatory leave if it occurs during the normal work week (Monday through Friday).

Compensatory time must be used within a 30 day period or be forfeited.

4. The Council recognizes jury duty and military duty for training and shall compensate employees on a full wage rate basis for days absent from work in performance of such duty. Compensation for military leave for training shall not exceed 10 working days annually. Personnel on extended active duty in the armed forces shall be placed on leave without pay from the Council staff.

5. Holidays. The Council recognizes the following days as holidays and employees are granted the day off with pay when the holiday falls on a work day. If a holiday falls on either Saturday or Sunday, the respective Friday or Monday is recognized as a holiday.

New Year's Day, January 1.
Washington's Birthday, Third Monday in February.
Memorial Day, Last Monday in May.
Independence Day, July 4.
Labor Day, First Monday in September.
Columbus Day, Second Monday in October.
Veterans' Day, Fourth Monday in October.
Thanksgiving Day, Fourth Thursday in November.
Christmas Day, December 25.

(f) Administrative Leave: The Executive Director shall have authority to grant administrative leave in the event of emergency conditions affecting the office or well being of the staff.

(g) Employee Benefits: The Council provides medical insurance, life insurance, and retirement programs for full-time permanent employees. The Council pays the full costs of these programs within the budget limitations authorized by the Council. However, the retirement program which is provided by the Council may be supplemented by the employee. Details of each of these benefit programs are available in the Council's offices.

(h) Standards of Conduct: The Council is responsible for maintaining high standards of ethical conduct among themselves and their staff. Such standards include the following principles:

1. No employee of the Council shall use his or her official authority or influence derived from his or her position with the Council for the purpose of interfering with or affecting the result of an election to or a nomination for any national, State, county or municipal elective office.

2. No employee of the Council shall be deprived of employment, position, work, compensation, or benefit provided for or made possible by the Act on account of any political activity or lack of such activity in support of or in opposition to any candidate or any political party in any national, State, county, or municipal election or on account of his or her political affiliation.

3. No Council member or employee shall pay, or offer, or promise, or solicit, or receive from any person, firm, or corporation, either as a political contribution or a personal emolument any money, or anything of value in consideration of either support, or the use of influence, or the promise of support, or influence in obtaining for any person, any appointive office, place or employment under the Council.

4. No employee of the Council shall have a direct or indirect financial interest that conflicts with the fair and impartial conduct of his or her Council duties.

5. No Council member or employee of the Council shall use or allow the use, for other than official purposes, of information obtained through or in connection with his or her Council employment which has not been made available to the general public.

6. No Council member or employee of the Council shall engage in criminal, infamous, dishonest, notoriously immoral or disgraceful conduct prejudicial to the Council.

7. No Council member or employee of the Council shall use Council property for other than official business. Such property shall be protected and preserved from improper or deleterious operation or use.

(i) Personnel Files: A file for each Council member and employee containing appointment papers, security reports, biographical data and other official papers will be maintained in the Council's office under security and safeguard conditions required of files subject to the Privacy Act. Each member or employee may have access to his/her individual file; but files are otherwise available to others only pursuant to the Privacy Act and Freedom of Information Act in consultation with NOAA legal counsel.

(j) Security Investigations: It is necessary for some Council members, Scientific and Statistical Committee, Advisory Panel and Council staff to have access to classified information. Therefore, these individuals are provided security clearance as is necessary to the conduct of Council activities and in accordance with Federal standards. Security clearances are issued by the Office of Investigation and Security of the Department of Commerce.

(8) *Council Standing Committees:* (a) General.—The following listed committees, and other committees which the Council may appoint, are considered the standing committees of the Council:

ADMINISTRATIVE COMMITTEES

Budget Committee.
Personnel Committee.
Advisory Panel Selection Committee.
Scientific and Statistical Screening Committee.

MANAGEMENT COMMITTEES

ADVISORY COMMITTEE

Scientific and Statistical Committee.

(b) Committee Composition.—Copies of the Charters and lists of committee members are available in the Council office.

(c) Committee Functions.—Budget Committee: The Budget Committee, with the assistance of the Executive Director and Administrative Officer, develops budget and fiscal policy, prepares the Council budget, monitors budget and fiscal activities and as appropriate, makes recommendations to the Council.

Personnel Committee: The Personnel Committee, with the assistance of the Executive Director, develops personnel policy, reviews and determines staffing requirements, reviews eligible candidates for vacant staff positions and makes recommendations to the Council regarding personnel hiring, retention, separation, pay, benefits and other appropriate personnel matters.

Advisory Panel Selection Committee: The Advisory Panel Selection Committee determines the organizational structure, membership composition, functions, duties and responsibilities of advisory panels.

Scientific and Statistical Screening Committee: The Scientific and Statistical Screening Committee identifies, screens and recommends to the Council prospective individuals to serve as members of the Scientific and Statistical Committee.

Fishery Management Committees: Each Fishery Management Committee provides liaison between the respective fishery advisory panel and the Council; assists panels in assigned tasks; monitors work of each panel and monitors work of the contractors in the development and drafting of fishery management plans.

The Scientific and Statistical Committee: Provides expert scientific and technical advice to the Council on fishery management policies, fishery management plans, and the effectiveness of fishery management plans. The Committee aids the Council in identifying scientific resources available for the development of plans, in establishing goals and objectives, establishing criteria useful in evaluating the effectiveness of plans and in plans review.

(9) *Council Meetings:* (a) General.—The Council will meet at the call of the Chairman or upon request of a majority of its voting members. Meetings will ordinarily be held in plenary sessions, but may be in subgroups or in individual sessions. Advisory Panels and Council standing committees will meet with the approval of the Chairman or his designee.

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(b) Meeting notices.—A notice containing the time, location and purpose of each meeting will be published in the FEDERAL REGISTER in accordance with Federal regulations.

(c) Frequency and Duration.—The Council will meet in plenary session at least once each quarter. Ordinarily a meeting will be held each month. The duration of each meeting will vary according to need.

(d) Location.—Council meetings will ordinarily be held within the five state geographical area. However, when in the best interests of the work of the Council, meetings may be held outside of the five state area. Public access will be given primary consideration in meeting plans .

(e) Agendas.—A suggested agenda will be prepared for each Council meeting by the Executive Director with the approval of the Chairman. Agenda items may be recommended to the Executive Director by other Council members and by staff members.

(f) Rules of Procedure.—1. Meetings will be conducted in a manner to permit the greatest possible participation by all Council members and the public. Decisions by consensus are permitted except where the issue is Council approval of:

(1) A Fishery Management Plan, (2) an amendment to a Fishery Management Plan, (3) a proposed regulation, (4) comments for the Secretary on foreign fishing applications or (5) on Secretarial prepared management plans.

2. Meetings will be conducted in accordance with Roberts Rules of Order Newly Revised unless otherwise specified in these Standard Operating Procedures.

3. The presiding officer at any meeting or hearing will be the Council Chairman, Vice Chairman, or in their absence, the Council Chairman or Vice Chairman's designee from among the Council voting members.

(g) Meeting Minutes.—Detailed minutes will be kept of each meeting and made available to the public upon request, except for minutes of closed sessions.

(10) *Hearings:* (a) Public hearings will be held by the Council so as to provide maximum participation by the public in the development of Fishery Management Plans, amendments thereto and other aspects of administering the Act. All such hearings will be held in the geographical area of concern. Interested parties may appear in person and present their views or submit them in written form to the Council Chairman.

(b) Hearing notices will be prepared and issued in the same manner as meeting notices (9) (b) above. In addition, local media will be used to publicize meetings so as to maximize public awareness.

(c) When it is determined by the Council that a hearing is appropriate, the Chairman of the Council will designate at least one voting member of the Council to officiate. The designated official in charge will provide for maximum participation and expression of viewpoints by all those present. All meetings will be conducted in an orderly, business manner.

(d) Records of the participants and their views, whether in person or written, will be made available to the Council and retained as official Council records.

(11) *Advisory panels:* (a) The Council has established an Advisory Panel, and will form such sub-advisory panels as it deems necessary or appropriate to assist in carrying out assigned functions under the Act. An advisory sub-panel shall normally be established for each fishery management unit identified by the Council.

(b) The panel and sub-panels shall generally be composed of members who are residents of the five-state geographical area. Each sub-panel shall be selected so as to provide for geographical, commercial, recreational marketing or other interests in accordance with functions and purposes of the panel.

(c) A chairman and vice chairman shall be designated by the Council for each sub-panel. The chairman or vice chairman shall preside at each sub-panel meeting. The Council may designate one or more voting members to meet with each sub-panel.

(12) *Fishery Management Plan Organization and Development Procedure:* (a) The Council initiates a request for management plan through the Executive Director. The Council staff prepares detailed documentation on the information requirements of a management plan for each management unit and sets of optional, tentative goals and objectives which are submitted to the Scientific and Statistical Comittee and Advisory Panel for review and comment to the Council. The Scientific and Statistical Committee comments to the Council on the data requirements and makes recommendations on the agencies, institutions or other entities which have the expertise to develop the draft management plan. The Council reviews, revises and adopts a set of goals and objectives and selects the group who will develop the draft.

(b) The Council staff negotiates a contractual agreement with the group(s) selected to prepare the draft plan, subject to approval of the Council. In some fisheries, the Council staff may be utilized to prepare a draft plan. The contractor or staff develops a draft management plan according to the requirements of Pub. L. 94-265, accompanying regulations and the goals and objectives as approved by the Council. The contractor may schedule reviews of the completed drafts for one or more tasks by the Scientific and Statistical Committee and Advisory Panel in accordance with contractual provisions. Development of a set of proposed management regulations with optional alternatives may be requested by the Council as appropriate.

(c) The contractor, staff or group(s) completes the plan draft using the format required by the regulations and that for environmental impact statements, and forwards the document to the Council through the Executive Director. The Executive Director distributes copies to the Council Management Committee for each fishery plan, the Council technical staff, and the state liaison officers with the request for a critical review of the document. Copies are distributed to Council members.

(d) The reviewers are allowed three to four weeks for critical review of the document. The state liaison officers provide particular review emphasis on management applicability and omission of available technical data as well as a general critical review. Staff reviews applicability to requirements of Pub. L. 94-265 and the interim regulations as well as a general critical review of scientific content.

(e) Review comments are returned to Council staff who summarize them by reference page number and by source. Important omissions and possible errors noted are forwarded to the contractor (if any) for comment and clarification. The plan may be revised to include this omitted information and the correction of errors by Council staff. Summarized comments and copies of the plan are forwarded to Scientific and Statistical Committee members three weeks prior to their scheduled meeting. The summarized comments are intended as a time-saving device to aid Scientific and Statistical Committee members in their own review.

(f) Scientific and Statistical Committee reviews draft plan and provides comment to Council. Representatives from the appropriate Advisory Panel may be invited to participate in the meeting as requested by the staff, the Council, or the Scientific and Statistical Committee.

(g) The Council staff in cooperation with contractor, if any, the Scientific and Statistical Committee members and possibly specific consultants revise the plan considering Scientific and Statistical committee's comments. The revised document now contains the best available scientific knowledge and is transmitted to members of the respective advisory panel at least three weeks prior to their scheduled meeting along with summarized lists of comments and changes. Council Management Committee reviews document changes.

(h) Advisory Panel reviews document, as amended, and provides comments. Representatives from the Scientific and Statistical Committee may also be invited to participate in the meeting as requested by the staff, the Council or the Advisory Panel. Council Management Committee participates in discussion.

(i) Council staff prepares document for Council review and provides sets of alternative regulations, summarizes all comments and areas of disagreement on scientific or operational aspects and adds draft EIS, if necessary.

(j) Chairman of the Scientific and Statistical Committee and the Advisory Panel advise Council on their review of document content. Council reviews and adopts a revised document and adopts proposed regulations, if appropriate. Council staff revises the amended document according to the directives of the Council for public hearings. Appropriate distribution of the revised document will be made for the public hearings.

(k) Public hearings may be held at appropriate locations and times at the discretion of the Council. Management Committee members or other Council members designated by the Council Chairman chair these public hearings.

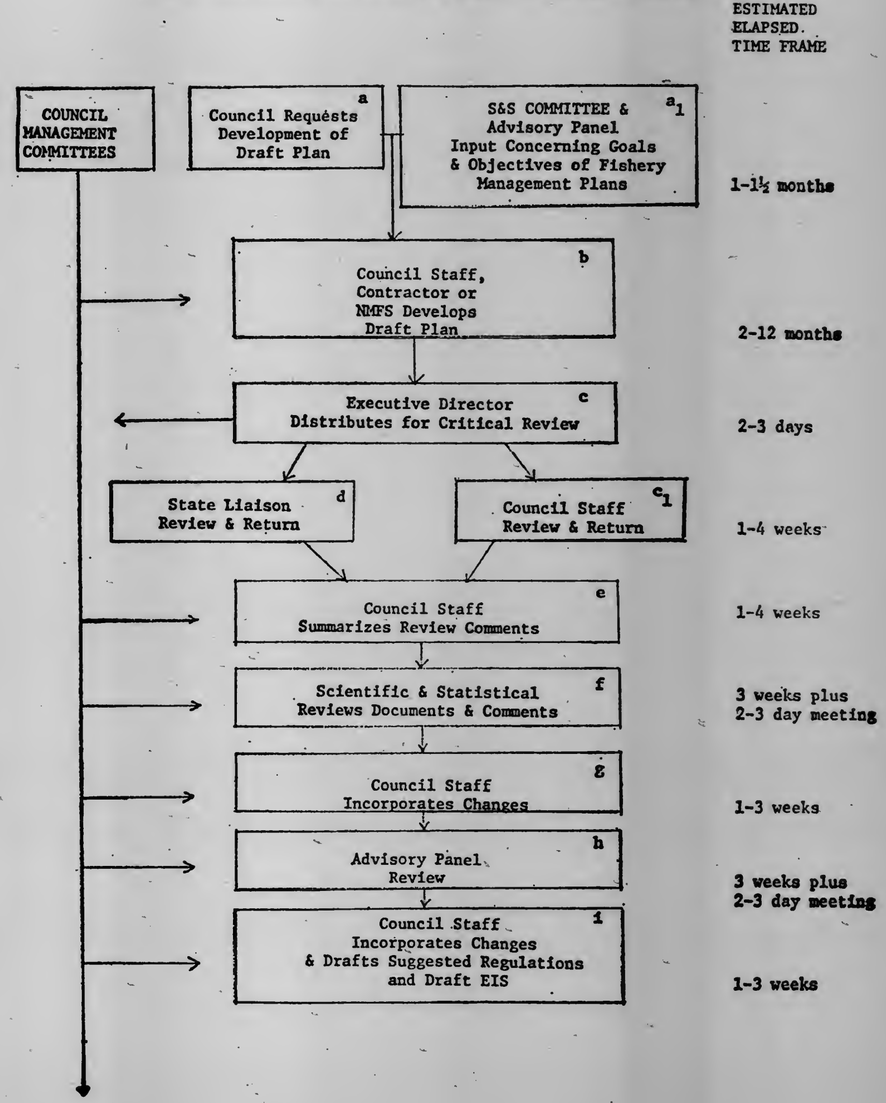
(l) Council staff forwards a summary of the public hearing results to Scientific and Statistical Committee and Advisory Panels and the Council three weeks prior to scheduled meetings. Copies are also provided to Management Committee members.

(m) The Scientific and Statistical Committee and the Advisory Panel meet jointly, in whole or in part, as directed by the Council Chairman to review public comments and recommend changes in plan or regulations.

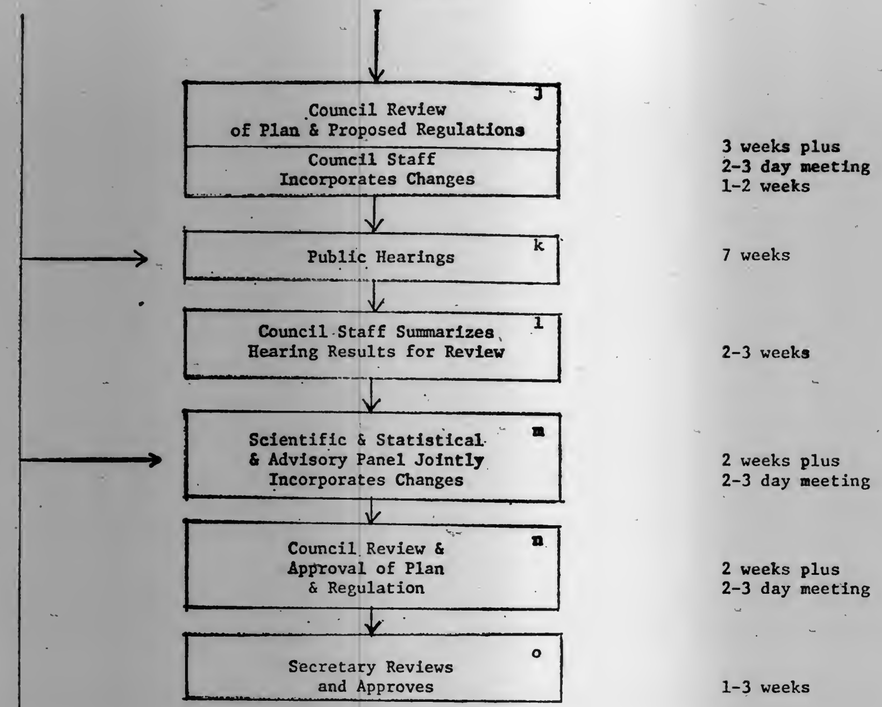
NOTE.—If the public hearing comments are such that a review and the development of recommendations by either or both of the Scientific and Statistical Committee and the Advisory Panel are not necessary, then the Council Chairman may direct that some or all members of these bodies meet with the Council and eliminate procedure step "m" in the attached flow chart.

(n) The Council reviews the public comments and recommendations by the Advisory Panel and Scientific and Statistical Committee and instructs staff in revision of the plan. The approved revised plan is transmitted to the Secretary by the staff on instruction by the Council along with proposed regulations, if any.

FISHERY MANAGEMENT PLAN ORGANIZATION AND DEVELOPMENT DIAGRAM



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FISHERY MANAGEMENT PLAN ORGANIZATION AND DEVELOPMENT PROCEDURE (PROVIDED SECRETARY DISAPPROVES PLAN)

(a) Because of the statutory time constraints of 45 days for Council revision of a plan which the Secretary disapproves, the Secretary should immediately notify Council staff so that they can advertise meeting dates and agenda in the FEDERAL REGISTER.

(b) Council staff checks with Council Chairman and Chairman of the Scientific and Statistical Committee and the Advisory Panel and sets meeting dates and agenda which is transmitted to the FEDERAL REGISTER for publication.

(c) Council staff distributes copies of the Secretary's comments to all Council members and members of the Scientific and Statistical Committee and Advisory Panel during the advertisement period for their review.

(d) The Scientific and Statistical Committee and the Advisory Panel meet to review the Secretary's comments and recommend changes to the Council. Council Management Committee participates in the discussion.

NOTE.—If the Secretary's comments are such that a review by either or both the Scientific and Statistical Committee and the Advisory Panel are not necessary, then the Council Chairman may direct that all or some members of these bodies meet with the Council and eliminate procedure steps "c", "d" and "e" in the attached flow chart.

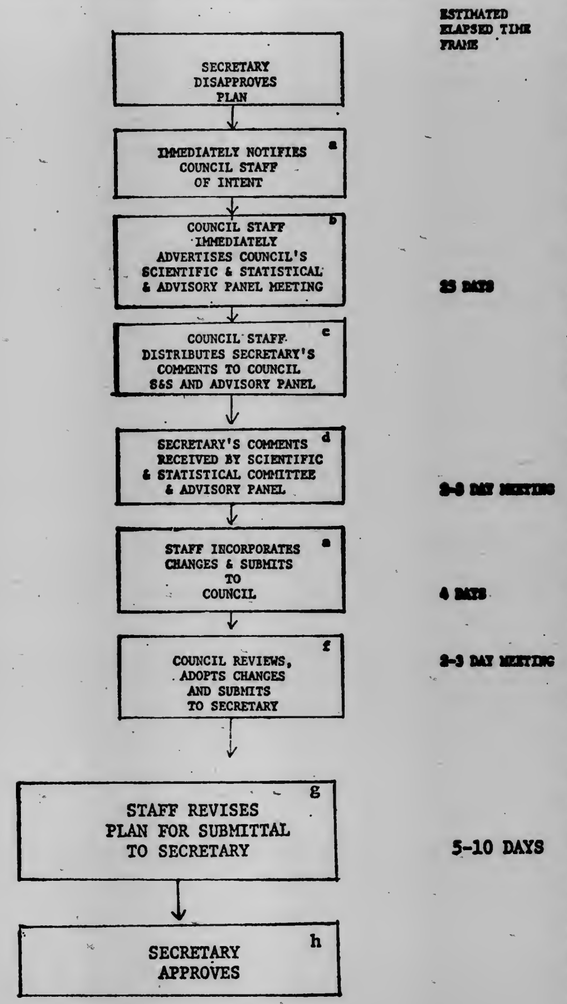
(e) Council staff summarizes the changes recommended by the Scientific and Statistical Committee and the Advisory Panel for presentation to Council.

(f) The Council meets and reviews the Secretary's comments and the recommendations of the Scientific and Statistical Committee and the Advisory Panel and revises the plan.

(g) The Council staff revises the management plan document according to the directives of the Council and submits to the Secretary.

(h) The Secretary approves the modified plan or disapproves it. If disapproved, the procedure steps return to item "a" in the attached flow chart and the process is repeated.

DIAGRAM OF PROCEDURE PROVIDED SECRETARY DISAPPROVES PLAN



(13) *Financial Management, Budget, Procurement and Property Management Procedures:* (a) Budget and Financial Manage ment System: The Budget and Financial Management System of the Gulf of Mexico Fishery Management Council provides procedures for and controls over the elements of: budget formulation and execution, fiscal management, procurement and property management. The management of this system is the responsibility of the Administrative Officer. The following describe the existing Budget and Financial Management System.

1. Budget Formulation and Execution:

a. Budget data shall be accumulated at various levels according to the breakdown in the chart of accounts, as well as by various accounting periods, to provide current and projected fund usage guidelines as needed.

b. Procedures will be implemented to make comparisons of actual obligations with budgeted amounts.

c. Whenever appropriate or required, budgeted fiscal information will be related to performance and unit cost data.

d. Budgets and work plans will be prepared in response to the budget call, about November–December each year or as required during the year. Justifications will be prepared to support any requests for increased funds made at this time.

e. Amendments to budgetary proposals will be made when necessary.

2. Fiscal Management: The financial management system will be maintained to conform with requirements of the Department of Commerce pursuant to the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), OMB Circular A-110, Treasury Department (IRS) regulations, and applicable local requirements (State, municipal, et cetera). The Council fiscal year shall be the same as that of the Federal Government.

a. A bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage will be used as the depository for all Council funds advanced under grants and other agreements. Cash controls will be maintained over funds whether received by grant allowance checks, drawdowns against letters of credit, or as contributions for special projects.

b. Adherence will be made, as a minimum, to the principles in the accounting system accepted by the Gulf of Mexico Fishery Management Council.

c. Fiscal controls will be accomplished through a source document-supported cash accounting system capable of providing modified accrued expenditures as needed.

d. Records maintained will provide accurate, current and complete disclosure of awards, authorizations, income, obligations, unobligated balances, outlays and assets. Effective contol will be maintained over all funds, property and other assets to assure their use solely for authorized purposes.

e. An accurate checkbook and files of source documents will be maintained to provide a necessary audit trail.

f. All checks issued will bear two authorizing signatures, these being the signatures of the Executive Director, and Administrative Officer or Technical Support Specialist.

g. Financial records, supporting documents, statistical records and all other records pertinent to an agreement shall be retained for a period of three years and or

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until they are either audited or approved for disposal under the authorities of the General Accounting Office, General Services Administration or the Department of Commerce.

h. A sequential numbering system will be used for the issuance of purchase orders. These documents will be maintained in a suspense file until service or merchandise is received and payment is made. Upon full liquidation of the obligation, purchase orders will be transferred to a completed documents file. Approval of purchase orders will be made by the Executive Director with delegated authority for approval to the Administrative Officer.

i. Travel authorizations will be issued prior to the performance of travel. These will be numbered sequentially and maintained in a file pending payment of the travel vouchers. Travel authorizations will be approved by the Executive Director with delegated authority for approval to the Administrative Officer. All travel as far as practicable, will be performed in accordance with government travel regulations.

j. Completed travel vouchers will be audited for conformance to current policies and compliance with existing travel allowances. Vouchers will be certified for payment by the Administrative Officer or the Executive Director.

k. Financial statements and reports shall be prepared as requested by the Council with at least one report submitted monthly, stating income and expenses and disclosing the cash balance. Other reports will be prepared as necessary to meet the requirements of other entities.

l. Payroll procedures will be established to assure prompt issuance of salary checks and to provide accurate and timely payroll information to employees and to Federal, State and local governments, as required. This will be accomplished by implementing the following:

Records of payroll compensation will be maintained in two categories: Council Members and Administrative Staff.

Pay records will indicate the number of hours worked, total earnings, deductions and net pay. Pay periods will be biweekly and pay records will be summarized each pay period.

Compensation checks will be issued from the Gulf of Mexico Fishery Management Council Office. They will be issued promptly to the members of the Administrative Staff at the close of each pay period, and promptly to Council members as valid salary-related data are received. A breakdown will be supplied with each salary check showing the hours and value of regular pay and premium pay earned, amounts for each of the deductions from gross pay, and the net pay. This information will be in a display of both biweekly and cumulative amounts.

m. Cash receipts and cash disbursements will be documented and kept current in a Cash Receipts and Disbursements Journal. Detailed transactions of income and expense and payroll summaries will be posted to these records. A running balance in the cash account will be maintained simultaneously.

When advances are made by a letter-of-credit method, the level of the cash on hand will be monitored to make drawdowns as close as possible to the time of making disbursements.

Detailed entries in the Journals will be summarized monthly by accounts as appearing in the Council's chart of accounts. This summary will provide the basic data for internal and external financial reporting.

An imprest fund will be maintained for small over-the-counter purchases up to $25.00.

Cash, currency, checks on hand, checkbooks, and other equally significant fiscal records and materials will be retained in a combination-lock type safe or security cabinet.

(b) Procurement: 1. Definitions.—a. *Business* means any corporation, partnership, joint stock company, joint venture, or any legal entity through which goods or services are provided.

b. *Change Order* means a written order signed by the Executive Director directing the contractor to make changes which the Changes clause of the contract authorizes the Executive Director to order without the consent of the contractor.

c. *Construction* means the erection, alteration, or repair of a building, structure, or other improvement to real property.

d. *Contract* means all types of agreements and orders for the procurement, or disposal, of supplies, services, construction, or any other item. It includes awards and notices of award; contracts of a fixed price, cost, cost-plus-a-fixed fee, or incentive types; letter contracts, and purchase orders. It also includes supplemental agreements with respect to any of the foregoing.

e. *Conspicuously* means written in such special or distinctive format, print, or manner that a reasonable person against whom it is to operate ought to have noticed it.

f. *Confidential Information* means any which is available to an employee only because of his status as an employee and is not a matter of public knowledge or available to the public on request.

g. *Contract Modification* means any written alteration on the specification, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract.

h. *Contractor* shall mean any person having a contract with the Council.

i. *Debarment* means the disqualification of a person to receive invitations to bid or requests for proposals, or the award of a contract by the Council for a specified period of time.

j. *Employee* includes any individual other than council members drawing a salary from the Council and any nonsalaried or governmental employee performing services for the Council.

k. *Financial interest* shall mean:

Ownership of any interest or involvement in any relationship from or as a result of which the owner has, within the past three years, received or is presently or in the future entitled to receive more than $500.00 per year, or

Ownership of more than a 1 percent interest in any business, or holding a position in a business such as an officer, director, trustee, partner, employee or the like or holding any position of management.

l. *Gratuity* means a payment, loan, subscription, advance, deposit of money, services, offer of employment, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

m. *Immediate Family* means a spouse, children, grandchildren, parents, and brothers, sisters, and in-laws.

n. *Person* means any business, individual, union, committee, club or other organization or group of people.

o. *Procurement* includes purchasing, renting, leasing, or otherwise obtaining supplies or services. It also includes all functions that pertain to the obtaining of such supplies, services, and items, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

p. *Purchase Request* means a document requesting that a contract be obtained for a described item.

q. *Subcontractor* means any business which holds an agreement or purchase order to perform any part of the work or to make or furnish any article or service required for the performance of a Council-funded contract, or subcontract thereunder.

r. *Suspension* means the disqualification of any person to receive invitations for bid or requests for proposals, or to be awarded a contract by the Council for a temporary period pending the completion of an investigation, and any legal proceedings that may ensue.

s. *Supplies* includes all property except land or interest in land.

2. *Competition*. All purchases and contracts except purchases from federal sources shall be made on a competitive basis to the maximum practicable extent. Purchases from nonfederal sources shall be made by formal advertising or by negotiation.

3. *Purchasing Procedures*. The following procedures shall be used by the Council for all procurements:

a. Procurements of $2,500 or more the Administrative Officer shall solicit a sufficient number of prospective bidders so as to elicit adequate competitive bids, open them simultaneously, and recommend award to the Executive Director of the responsible bidder whose bid is most advantageous to the Council, price and other factors considered.

b. Procurements ranging in value of less than $2,500 but of $500 or more, the Executive Director or his designee shall obtain quotations from at least two vendors and select the vendor whose quotation is most advantageous to the Council, price and other factors considered.

c. Procurements of less than $500 in value may be made directly by the Executive Director or his designee without quotations or bids.

d. A record of all formal and informal quotations on bids shall be maintained by the Executive Director.

4. *Sources of Supply*. Irrespective of whether the procurement of supplies or services from nonfederal sources is to be effected by formal advertising or negotiation, competitive proposals ("bids" in the case of procurement by formal advertising, "proposals" in the case of procurement by negotiation) shall be solicited from all such qualified sources as are deemed necessary by the Executive Director or his designee to assure such full and free competition as is consistent with procurement of types of supplies and services necessary to meet the requirements of the Council.

5. *Procurement from Government Sources*. Prior to the award of any contract for the purchase of supplies, federal sources which are available to the Council shall be considered and when such sources are most advantageous to the Council's needs, price and other factors considered, the procurement shall be made from federal supply sources. Competitive bids or letters are not required when the procurement list established by the Federal source is based upon a competitive bid procedure.

6. *Determination of Need*. When considering the necessity for a procurement (either goods or services), the Executive Director or his designee shall:

a. Validate the requirement with respect to need and extent.

b. Ensure that the procurement is not duplicating work already undertaken by another Council or governmental agency.

c. Be certain that the task cannot be accomplished by Council personnel.

7. *Lease v. Purchase*. Leasing will be used where it is in the Council's interest. The criteria to be considered in deciding to lease rather than purchase include the following:

a. The Council requirement is of a short duration, and purchase would be more costly than leasing.

b. The probability that the equipment will become obsolete and that replacement within a short period will be necessary; and

c. The equipment is special or technical, and the lessor will provide the equipment, as well as maintenance and repair services, at a lower cost than would otherwise be available to the Council.

Lease versus purchase decisions are based on an economic analysis and the Council's files are documented to support the final decision.

8. *Specifications*. The word "specification" means a clear and accurate description of the technical requirements for material, product, or service, including the procedure by which it will be determined that the requirements have been met. Specifications for items or materials contain also preservation, packing, and marking requirements.

a. Use of Federal Specifications. In all purchases of property by the Council, specifications promulgated by the General Services Administration or the United States Department of Commerce shall be used unless the Executive Director or his designee determines that such specifications are inappropriate for Council purposes.

b. Use of Council Specifications. In the purchase of services such as consultants or technical advice the Council shall devise specifications. Such specifications may be prepared by Council staff, advisory panels, committees, or other sources selected by the Council.

9. *Award*. Unless all bids are rejected, award may be made by the Executive Director or his designee by written notice, within the time for acceptance specified in the bid, to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Council, price and other factors considered. Award shall be made by mailing or otherwise furnishing to the successful bidder a properly executed award document or notice of award. All provisions of the invitations for bids, including any acceptable changes or additions made by the bidder in the bid, shall be clearly and accurately set forth in the award document.

10. *Non-Competitive Practices*. Non-competitive practices such as possible anti-trust violations and identical bids shall be reported by the Executive Director or his designee according to the procedures set out in Title 41 Code of Federal Regulations, Federal Procurement Regulations; Subpart 1–1.9 and 1–1.16.

11. *Use of Formal Advertising*. Contract for property and services are made by formal advertising in all cases in which the use of such method is feasible and practicable under the existing conditions and circumstances. Formal advertising is not required when government sources of supply are used, provided the procurement list established by the government source is based upon a competitive bid procedure.

12. *Formal Advertising Defined*. Formal advertising means procurement by competitive bids and award. It involves the following basic steps:

a. *Preparation of the Invitation for Bids*. Preparation of the invitation for bids, describing the requirements of the Council clearly, accurately, and completely, but avoiding unnecessarily restrictive specifications or requirements which might unduly limit the number of bidders. The term "invitation for bids" means the complete assembly of related documents furnished prospective bidders for the purpose of bidding.

b. *Publicizing the Invitation for Bids*. In procurement activities using formal advertising the Executive Director or his designee will select a means which will make information available to potential suppliers. Such means may include but is not limited to publication in local trade newspapers and journals and publications in the "Daily Journal of Commerce." When notice is given by publication, the Executive Director or his designee will publish the notice at least 30 days before the issuance of the invitation for bids or requests for proposals.

13. *Bid Processing*. a. *Receipt and Opening of Bids*.

Receipt. All bids received prior to the time set for opening shall be kept unopened in a locked receptacle. If a bid is opened by mistake, the person who opens the bid will immediately sign the envelope and deliver it to the Administrative Officer. The Administrative Officer shall immediately write on the envelope an explanation of the opening, the date and time opened, and sign the statement. No information shall be disclosed prior to the public bid opening.

Opening. The Administrative Officer shall decide when the set time for bid opening has arrived and shall so declare to those present. All bids received prior to the time set for opening shall then be publicly opened, recorded and when practicable, read aloud to the persons present. Bids may be examined by interested persons, but original bids may not be allowed to pass out of the hands of Council employees.

Awarding the Contract. After bids are publicly opened, they shall be tabulated and evaluated by the Executive Officer's designee and a recommendation shall be made to the Executive Director for award. Award shall be made to that responsible bidder whose bid conforms to the invitation for bids and will be most advantageous to the Council, price and other factors considered.

b. *Late Bids, Modification of Bids, or Withdrawal of Bids*.—Any bid received at the place designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and either:

It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for the receipt of bids or

It was sent by mail or telegram (if authorized) and it is determined by the Executive Director or his designee that the late receipt was due solely to mishandling by the Council staff.

c. *Mistakes in Bids*.—Mistakes in bids shall be handled according to the provisions of Title 41, Code of Federal Regulations; Federal Procurement Regulations; part 1–2 S 1–2.406.

d. *Rejection of Bids*.—Bids may be rejected by the Executive Director or his designee as follows:

Nonconforming Bids. Any bid which fails to conform to the essential requirements of the invitation for bids shall be rejected as non-responsive.

Debarred or Ineligible Bidders. Bids received from any person or concern debarred or ineligible shall be rejected.

Rejection of All Bids. The Executive Director or his designee may reject any and all bids. Each bidder shall be notified and the reason for rejection shall be stated.

e. *Content of Invitation for Bids*.—For supply and service contracts, invitations for bids shall contain the following information if applicable to the procurement involved:

Name and address of Council.

Date of Issuance.

Date, hour, and place of opening.

Number of pages.

A description of supplies or services to be furnished in sufficient detail to permit full and free competition.

The time of delivery or performance.

A statement in the invitation that "Bids must set forth full, accurate, and complete information as required by this Invitation for Bids (including attachments)."

Bid guarantee, performance and payment bond requirements, if any.

A requirement that all bids must allow a period for acceptance by the Executive Director or his designee of not less than a minimum period stipulated in the invitation for bids and that bids offering less than the minimum stipulated acceptance period will be rejected.

In the cases where bidders are required to have special technical qualifications due to the complexity of the equipment or service being procured, a statement of such qualification.

Directions for obtaining copies of any documents, such as plans, drawings, and specifications which have been incorporated by reference.

A statement of Council Policy regarding late bids, modification of bids, and withdrawal of bids.

f. *Basis of Selection*.—Records of formal advertised procurements will reflect the following as a basis of selection: Adequacy of Competition; Responsiveness of Bidder; Responsibility of Bidder.

g. *Adequacy of Competition*.—Two or more capable sources must be available to assure full and free competition. Two sources are not adequate when there are more sources fully qualified to compete in the area.

14. *Price Analysis*. When bids are received, the Executive Director's designee will conduct price analyses to determine the reasonableness of the bid price. The price analysis consists of an examination and evaluation of the prospective price without evaluating the separate cost elements such as labor, materials, overhead, et cetera, and proposed profit.

15. *Cost Principles and Procedures*. Title 41 Code of Federal Regulation; Federal Procurement Regulations; part 15, serve as a guide for contract cost principles and procedures.

16. *Preaward Surveys*. A preaward survey is an evaluation of a prospective contractor's performance capability under the terms of a proposed contract. Such evaluation is used by the Council staff as an aid in determining responsibility. The evaluation is accomplished by use of the following:

a. Data on hand,

b. Data from another purchaser such as state and federal agencies,

c. On site inspections of facilities to be used for performance of the proposed contract, or

d. Any other means deemed advisable by the Council staff.

17. *Review by Executive Director or his Designee:* When a procurement will be noncompetitive (i.e., sole source), the Executive Director or his designee shall review the proposed action for assurance that competitive procurement is not feasible. This action includes both examination of the reasons for the procurement being non-competitive and steps to foster competitive conditions for subsequent procurements.

18. *Factors*. Factors considered in approving a sole source procurement include but are not limited to:

a. What capability does the proposed contractor have that is important to the specific effort and makes him clearly unique in comparison to another contractor in the same general field?

b. What prior experience of a highly specialized nature does the proposed contractor have that is vital to the proposed effort?

c. What facilities and equipment does the proposed contractor have that is specialized and vital to the effort?

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d. Does the proposed contractor have a substantial investment of some kind that would have to be duplicated at the Council's expense by another source entering the field?

e. If schedules are involved, why are they critical and why can the proposed contractor best meet them?

f. If lack of drawings or specifications is a guiding factor, why is the proposed contractor best able to perform under those conditions? Why are drawings and specifications lacking? What is the leadtime required to get drawings and specifications suitable for completion?

g. Is the effort to be a continuation of a previous effort performed by the proposed contractor?

h. Is competition precluded because of the existence of patent rights, copyrights, or secret processes?

19. *Approval by NOAA.* Prior to the award of a sole source contract in excess of $5,000, the Executive Director or his designee shall forward this review and justification to the appropriate NOAA Grants Officer for approval as required by OMB Circular A–110.

20. *Responsiveness of Bidder.* To be responsive, a bid should comply in all material respects with the invitation for bids, both as to the method and timeliness of submission and as to the substance of any resulting contract.

21. *Responsible Bidder.* A determination will be made and documented prior to award as to the responsibility of the bidder. This will be included in the procurement file. A bidder is considered responsible when it has been established that he has the technical capability, financial capacity and manpower required to perform as he has bid. To be responsible an offeror should:

a. Have adequate financial resources, or the ability to obtain such resources as required during performance of the contract;

b. Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments;

c. Have a satisfactory record of performance;

d. Have a satisfactory record of integrity and business ethics;

e. Be otherwise qualified and eligible to receive an award under applicable public policy laws and regulations.

22. *Sources of Information Regarding Responsibility of Prospective Contractors:*

a. Lists of debarred, suspended, or ineligible concerns or individuals;

b. Information existing within the Council's organization, including records on file and knowledge of personnel within the organization;

c. Other sources such as suppliers, subcontractors, and customers of the prospective contractor; banks and financing institutions; commercial credit agencies; state and Federal Government agencies; purchasing and trade associations; better business bureaus and chambers of commerce; and

d. The conduct of a preaward survey;

e. Where it is considered necessary, the Council staff may require prospective contractors to submit statements concerning their ability to meet any of the minimum standards.

23. *This section lists and prescribes the types of contracts and contract policies which will be used by the Council.*

a. *Firm Fixed Price Contract.* The firm fixed price contract is the type of contract that results from either public advertised procurements with sealed bids or negotiated procurements which have had adequate competition or consideration for the work to be performed by the state or quasi-public agency. The fixed price contract is particularly suitable for construction and for procurements of standard commercial items, modified commercial items, or for items when specifications are reasonably definite. Price competition should exist, and costs should be predictable with reasonable certainty when this type of contract is used.

b. *Fixed Price Contract with Escalation.* When delivery or performance extends over a period of time, a contractor may seek to protect himself against unusual risk by listing a number of circumstances under which his offered price may need adjustment. This type of contract is used in the procurement of items that are directly affected by industry-wide wage rates for example.

c. *Fixed Price Incentive Contract.* An incentive contract is aimed at motivating the contractor to increase his efficiency and reduce his costs while producing the best possible item. A fixed price incentive contract will provide for establishment of the final contract price by application of an agreed upon formula relating profit to total actual contract costs. This type of contract should not be used where there is insufficient cost experience with the item or services being produced and where insufficient competition exists to ensure competitive pricing.

d. *Cost Contract.* This is the simplest of the cost reimbursement type of contract. Under this type of contract, the contractor receives no fee but the buyer agrees to reimburse the contractor for allowable costs. Cost contracts are usually entered into for work done by educational and other nonprofit institutions and would include established indirect costs as determined acceptable for other federal contracts for each such entity.

e. *Letter Contracts.* A letter contract is a written preliminary contractual instrument which authorizes immediate commencement of manufacture of supplies, or performance of service, including but not limited to, planning and the procurement of necessary materials. This type of contract is intended to service one essential purpose—to get the contractor started without delay, for in emergencies time may not permit negotiation of a definitive contract. To protect the buyer's interest, letter contracts normally include agreement:

That the contractor will commence work without delay;

As to the extent and method of payment in case of contract termination for convenience or default;

That the contractor will not incur monetary obligations in excess of the limit set for them in the letter contract;

As to the anticipated type of definitive contract to be entered into at a later date;

As to certain definitive contract clauses;

That the contractor will be obligated to provide price and cost information that can be reasonably expected by the buyer within one month; and

That the contractor will enter into negotiations promptly and in good faith to arrive at a definitive contract with the buyer.

f. *Purchase Orders.* Purchase orders are a simplified form of a definitive contract that normally contains preprinted contractual provisions. They are normally used when supplies or services are bought on a fixed-price basis, and the price does not exceed $2,500.

g. *Cost-Plus-Percent-Of-Cost Contracts.* The cost plus a percentage of cost contract is prohibited by federal law and will not be used by the Council.

24. *Responsibility.* Contract administration is the responsibility of the Executive Director. The Executive Director may act for the Council to award, amend or modify a contract or take any action to change a contractual commitment on behalf of the Council. The Executive Director and the Council staff see that administrative functions are performed to achieve the desired results and to protect the Council's interest. The Executive Director is also responsible for maintaining a complete file of documentation related to each contract. The Executive Director shall designate a member of the Council staff to act as Contract Monitor upon the award of a contract.

25. *Council Staff.* The Council staff is responsible for the technical and project managerial aspects of contract administration. They ensure compliance with the technical requirements of the contract, determine the degree and acceptability of progress by the contractor, and when appropriate, certify to such progress by the contractor. All correspondence between the contract monitor and the contractor should be coordinated with the Executive Director and a copy provided for the contract file. Duties of a staff member assigned to monitor a contract include:

a. Familiarization with the terms and conditions of the contract in order to assure compliance with the provisions thereof.

b. After award, the holding of discussions with the contractor to arrive at a common understanding of individual responsibilities and working arrangements. Such discussions should occur immediately after award and as required throughout the period of the contract performance. Such meetings are not meant to be negotiations of tasks to be performed. Tasks and their scope must be decided during formal contract negotiations prior to award.

c. The arrangement of a schedule of operation in accordance with the contract requirements and certification, when appropriate, of satisfactory accomplishment on the contractor's requests for progress and final payments. Performance reports should show work actually accomplished. The Executive Director should be promptly informed of delays in progress of work and of any problems encountered that may require contract amendment or other administrative action.

d. Recommending to the Executive Director any proposed changes in specifications, extra work extensions in contract time or any other technical matter arising under the contract.

e. The initiation and acquisition of approvals that may be necessary for changes in the statement of work requirements which would require a contract modification.

f. Monitoring to assure that no work authorizations or orders to the contract, either oral or written, are issued unless authorized according to Council policy.

g. The furnishing of Council material to the contractor as may be provided in the contract and authorized by the Executive Director.

h. Obtaining and evaluating all technical and progress reports from the contractor required by the contract.

i. Evaluating contractor progress.

j. Reviewing the contract at least 90 days prior to scheduled completion date to determine any need for modification or renewal of the contract or extension of performance time. The Executive Director should be notified at least 60 days prior to scheduled completion of a contract if any extension of the contract period will be required or if a need for additional work under the contract is anticipated. The Executive Director should also be notified upon satisfactory completion of work under a contract.

k. Recommending the disposition of any problems which might arise in the areas of rights in data, patents, Council property, and other subjects addressed in the contract provisions.

l. Representing the best interests of the Council in all dealings with contractor.

26. *Post-Award Orientation.* Before performance of the contract begins, the Contract Monitor designated by the Executive Director shall call a post-award conference to ensure that the contractor fully understands every contractual provision. Subjects discussed should include as appropriate:

a. The statement of work content to ensure proper interpretation.

b. The specifications, when applicable.

c. The contractor's plan for the conduct of the contract.

d. The contractor's performance reports, content, and dates of submittal.

e. The contract provisions which are germane, for example, the key personnel clause, progress payments, et cetera.

f. Council furnished property.

(In less complex contracts, a post-award letter may be sufficient. When used, the letter is to identify the Contract Monitor and call attention to the reporting requirements.)

27. *Contractor Performance Reports and Requests for Payment.* The Contract Monitor should evaluate the contractor's performance at each interval when progress payments or performance reports are due. If the performance has been poor, or the contractor non-responsive, the Contract Monitor should arrange a discussion, in detail, with the contractor concerning performance shortcomings and proposed corrective action. Where contract requirements are not adequately met, final payment should be withheld until corrective action has been taken to the satisfaction of the Executive Director.

28. *Acceptance of Contract DeliverabIes.* It is the Contract Monitor's responsibility to determine that the work is complete and conforms with the technical requirements of the contract. Once formal acceptance has been accomplished, the contractor is normally excused from further performance or correction of unsatisfactory work. The Contract Monitor should provide written notification to the Executive Director when the contract work has been judged complete and technically acceptable.

29. *Delinquencies.* When a delinquency appears imminent, prompt action must be taken to protect the Council's rights. In administering a delinquent contract, Council staff should do nothing that might waive the Council's rights to terminate for default. In the event of a delinquency not of a minor nature, the Executive Director may take one of the following actions:

a. Extend the contract delivery schedule.

b. Terminate the contract for default.

c. Terminate the contract for the convenience of the Council.

d. Terminate the contract on the basis of agreement for a no-cost settlement.

e. Obtain a written agreement from the Contractor that the Council's consent to continued performance will not operate as a waiver of either its rights to terminate for the existing default, or any other of its rights.

30. *Contract Modification.* A contract modification is considered to be any written alteration of contract provisions, i.e., work statement, specification, period of performance, time and rate of delivery, quantity, price, cost, fee, or other provisions of an existing contract whether accomplished in accordance with a contract provision or by mutual actions of the parties to the contract.

31. *Approval Authority.* Only the Executive Director has the authority to approve a contract modification.

32. *Processing Contract Modifications.* The Contract Monitor is responsible for monitoring the contract and recommending changes in existing contracts. In such capacity, he will generally be responsible for initiating the necessary documents involving technical changes. In preparing the documents, he shall review the statement of work and the applicable specifications and then delineate the proposed changes thereto. The Contract Monitor should also evaluate whether these proposed changes are within the general scope of the contract or are considered new procurement and set forth the rationale supporting his position. If the Contract Monitor believes the changes to be in the general scope, the proposed changes, recommendations, and rationale are forwarded to the Executive Director for concurrence. If the modification is adjudged to be "new work" then the minimum standards for competition must be met as set forth in these regulations. New work cannot be added on to existing contracts without the appropriate considerations of procuring through competitive means.

33. *Contract Termination.* a. Types.

Completion. Most contracts are in force until satisfactory completion, or in the case of cost reimbursement contracts, until other satisfactory results are achieved or the funds allocated for their performance have been exhausted.

Termination for Convenience. The Executive Director may terminate for the convenience of the Council at any time during performance even though the contractor is performing properly; the contractor assumes this risk under the contract terms whenever he does business with a federal grantee. When the Council makes use of this right, however, it compensates the contractor for his cost and earned fee or profit for his preparations and for any completed and accepted work that relates to the terminated part of the contract. Termination for convenience would be used in cases where the Council has a change in requirements or a change in funding priority of projects. Other examples would be loss of key contractor scientific or engineering personnel; unsatisfactory progress; or changes in emphasis by the Council.

Termination for Default. The Council may terminate for default when the contractor fails to perform his part of the bargain properly.

b. *Procedures.* Generally, the provisions of the contract will govern procedures to be followed in termination. It is the duty of the Contract Monitor to recommend the termination of a contract to the Executive Director. The Executive Director shall instruct the Contract Monitor in the settlement process with the contractor.

c. *Closing Contracts.* Upon completion of the contract work, the Council shall close out the contract as rapidly and as effectively as possible and make final payment to the contractor. To this end, the Executive Director shall ensure that all work is promptly inspected to the extent necessary to determine acceptability. The Executive Director should also call upon the Contract Monitor to determine that the work is complete and conforms with the technical requirements of the contract, and that all items contractually required have been submitted and are acceptable.

34. *Procedures for processing claims arising out of contracts entered into by the Council.*

a. *Authority of the Executive Director.* The Executive Director is authorized to settle, compromise, pay or otherwise adjust any claim by or against, or any controversy with, a contractor or bidder relating to a contract entered into by the Council, including a claim or controversy initiated after award of a contract, based on breach of contract, mistake, misrepresentation or other cause for contract modification or recision. In the event a settlement or compromise involves or could involve adjustments and/or payments aggregating $10,000 or more, then the Executive Director shall prepare written justification and obtain approval in advance, from the full Council and its legal advisor. When a claim cannot be resolved by mutual agreement, the Executive Director shall promptly issue a decision in writing. A copy of that decision shall be mailed or otherwise furnished to the contractor and shall state the reasons for the action taken on the claim, and shall inform the contractor of his right to administrative relief as provided in this section. The decision of the Executive Director is final and shall be conclusive unless fraudulent, or the contractor appeals to the Council. If the Executive Director does not issue a written decision within one hundred and twenty (120) days after receipt of a claim, or within such longer period as might be established by the parties to the contract in writing, then the contractor may proceed as if an adverse decision has been received.

b. *Authority of the Administrative Officer.* The Administrative Officer is authorized subject to the approval of the Executive Director of any settlement, to negotiate with contractors in order to settle any claim which may arise under a contract entered into by the Council.

c. *Appeal to the Council.* The Council has jurisdiction over each controversy arising under, or in connection with, the interpretation, performance or payment of a contract of the Council provided that:

The contractor has not instituted action over such controversy in court, and

The contractor has mailed notice to the Council of his election to appeal within 90 days of his receipt of the decision from the Executive Director, or at the contractor's election, within a reasonable time after the Executive Director fails or refuses to issue a decision.

d. *Hearing before Council.* The Council shall hold appeal hearings to the fullest extent possible in an informal, expeditious, and inexpensive manner and shall issue a decision in writing or take other appropriate action on each appeal submitted and shall provide a copy of the decision to the contractor and the Executive Director to be included in the contract file.

e. *Bid Protests.* The Council shall have authority to determine protests and other controversies of prospective bidders, bidders or contractors in connection with the solicitation or selection for award of a contract.

f. *Filing of Protest.* Any prospective bidder, bidder or contractor who is aggrieved in connection with the solicitation of selection for award of a contract may file a protest with the Council. The protest or notice of other controversy must be filed promptly and in any event within two calendar weeks after such aggrieved person knows or should have known of the facts giving rise thereto. All protests or notices of other controversy must be in writing.

g. *Decision.* The Council shall promptly issue a decision in writing and in no case more than thirty (30) calendar days after receipt of such protest or notice of other controversy, unless the parties agree in writing to a longer period. A copy of that decision shall be mailed or otherwise furnished to the aggrieved party and shall state the reasons for the action taken.

h. *Effect of Decision.* The decision by the Council shall be final and conclusive.

35. *It is the policy of the Council to purchase goods and services in a fair and impartial manner.* Employees and Council members shall discharge their duties and responsibilities in a manner which will inspire confidence in the integrity of the Council. Any effort to realize personal gain through Council activities or employment beyond remuneration provided by the Council, is a violation of a public trust, as is any conduct which would create a justifiable impression in the public that such trust is being violated.

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36. *Conflicts of Interests.* It shall be improper for any employee or Council member to participate directly or indirectly through decision, approval, disapproval, recommendations, preparation or any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or otherwise, in any:

a. Proceeding or application;

b. Request for ruling or other determination;

c. Claim or controversy; or

d. Other matter pertaining to any contracts, grant, subcontract, or subgrant, and any solicitation or proposal therefor, where to his knowledge there is a financial interest possessed by:

Himself or his immediate family;

A business other than a public agency in which he or a member of his immediate family serves as an officer, director, trustee, partner, or employee; or

Any person or business with whom he or a member of his immediate family is negotiating or has an arrangement concerning prospective employment. (Notice of this prohibition shall be conspicuously set forth in every contract, and solicitations therefor.)

37. *Any employee or council member who has or obtains any* benefit from any contract with a business in which the employee or Council member has a financial interest, shall report such benefit to the full Council. In the event that such employee or Council member knows or should have known of such benefit, and fails to report such benefit to the full Council, he shall be in violation of the ethical standards of this section. However, this provision shall not apply to a contract with a business where the employee's or Council's interest in the business has been placed in an independently managed trust.

(Notice of this prohibition shall be conspicuously set forth in every contract or solicitation therefor.)

38. *Gratuities.* It is improper for any person to offer, give or agree to any employee or Council member or for any employee or Council member to solicit, demand, accept or agree to accept from another person, anything of a pecuniary value for or because of:

a. An official action taken or to be taken, or which could be taken; or

b. A legal duty violated or to be violated, or which could be violated by such employee or former employee.

39. *Kickbacks.* It is improper for any payment, gratuity, or benefit to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

(The prohibition against gratuities and kickbacks shall be conspicuously set forth in every contract, and solicitations therefor.)

40. *Represenation of Contractor.* Every person, before being awarded a contract with this Council, shall represent that he has not retained a person to solicit or secure the contract with this Council upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting for bona fide employees or bona fide established commercial, selling agencies maintained by the person so representing for the purpose of securing business or an attorney rendering professional legal services, employed, consistent with applicable canons of ethics.

41. *Intentional Violation Unlaeful.* The intentional violation of the representation specified in Subsection 40 above is cause for termination of a contract.

(The representation prescribed in Subsection 40 shall be conspicuously set forth in all contracts, and solicitations therefore.)

42. *Restriction on Employment of Present and Former Council Employees.*

a. Contemporaneous Employment Prohibited. It shall be improper for any Council employee or member to become or be an employee of a party contracting with the Council, while in the service of the Council. Notice of this provision shall be conspicuously set forth in every contract, and solicitations therefor. This does not apply to nonprofit organizations such as State governmental agencies and educational institutions.

b. Permanent Disqualification of Former Employees. For a period of two years after Council employment, it shall be improper for a former employee to knowingly act as agent or attorney for anyone other than the Council in connection with any judicial or other proceeding, application, request for a ruling, or other determination, contract, grant, claim, controversy, charge, or other particular matter involving a contract, where the Council is a party or has a direct and substantial interest and in which he participated personally and substantially as an employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise while so employed.

c. Post-Employment Restriction on Representation. It shall be improper for a person having been an employee of the Council, within one year after his emploment has ceased, to appear personally before the Council or its committees or membership in connection with any proceeding, application, claim, request or other particular matter involving a contract where the Council is a party or directly and substantially interested and which was under his official responsibility as an employee, or member of the Council at any time within a period of one year prior to the termination of such responsibility.

The term "official responsibility" as used herein, means the direct administrative or operating authority whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Council actions.

d. Disqualification of Partners. It shall be unlawful for a person, being a partner of an employee, Council member, former employee or former Council member, to act as agent or attorney for anyone other than the Council, in connection with any judical or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, or other particular matter involving a contract where the Council is a part or has a direct and substantial interest and in which such employee or Council member participates or has participated personally and substantially as a Council employee or member through decision, approval, disaproval, recommendation, the rendering of advice, investigation or otherwise, or which is or was the subject of his official responsibility.

e. Use of Confidential Information. It shall be improper for any employee, Council member, former employee, or former Council member of this Council to use confidential information for his actual or anticipated personal gain, or the actual or anticipated personal gain of any other person.

43. *Procurements may be negotiated if it is impracticable and unfeasible to use formal advertising.* Generally, procurements may be negotiated by the Council through the Executive Director if:

a. The public exingency will not permit the delay incident to advertising;

b. The material or service to be procured is available from only one person or firm (sole-source);

c. The aggregate amount does not exceed $10,000;

d. The contract is for personal or professional services or for any service to be rendered by a state or quasi-public agency including a university, college, or other educational institution;

e. The material or services are to be procured and used outside the limts of the United States and its possessions;

f. No acceptable bids have been received after formal advertising;

g. The purchases are for highly perishable materials or medical supplies, for material or services where the prices are established by law, for technical items or equipment requiring standardization and interchangeability of parts with existing equipment, for experimental, developmental, or research work, for supplies purchased for authorized resale, or for technical or specialized supplies requiring substantial initial investment for manufacture; or

h. The procurements are otherwise authorized by law, rules, or regulations.

(Notwithstanding the existence of circumstances justifying negotiation, competition shall be obtained to the maximum extent practicable.)

44. *Property Management.* All durable or capitalized equipment will be accounted for by an inventory system.

a. A property number will be assigned to all capitalized equipment and property inventory cards maintained on all such equipment.

b. A physical inventory of all property and equipment will be made at least once every two years.

c. The leasing, renting and acquisition of all property and space will be done in a manner consistent with customary practices observed in contracts by public entities.

d. All requests for capital equipment will be transmitted to the NOAA Grants Office for review and approval before commitment of grant funds for this purpose.

e. Fire and theft insurance will be carried on all property, capitalized and non-capitalized, in an amount equal to at least the replacement value of the equipment.

Appendix I: Gulf of Mexico Fishery Management Council Staff Functions

Executive Director

The Executive Director's duties shall involve the implementation of the Council's business, policies, and determinations of fishery management activities as they directly affect the public.

While technical, scientific and statistical advice to the Council will be furnished through advisory committees, the Executive Director will manage all Council programs and technical teams authorized by the Council and will coordinate input to the Council from advisory, scientific, technical and other committees.

The Executive Director shall also direct an administrative support staff whose tasks will be that of assisting the Executive Director in carrying out functions.

The Executive Director will be responsible for accounting for and controlling resources allocated to the Council and at the direction of the Council. He/she shall be responsible for the financial management system of the Council, effective control over the accountability for all funds, property and other assets, and for complying with the provisions of OMB Circular A-110 for grants and grant proposals.

He/she will be responsible for developing agendas for public meetings; preparing reports; acting as official spokesperson for the Council, when delegated; establishing, maintaining and supervising the administrative support staff to carry out support functions; maintaining an understanding of the program and presenting that view to the public when necessary; carrying out decisions of the Council; and any other assignments received from the Council. As the principal full-time employee of the Council, the Executive Director will be the primary contact with the public and will have extensive responsibilities for preparation of news releases, in the name of the Chairman, on programs and achievements of the Council.

Administrative Officer

Assists the Executive Director in the formulation and development of policy, procedures and programs and in initiating actions and making and implementing decisions involved in the overall management of the Council's operations. Responsible for providing effective administrative services in support of the Council's program activities, involving planning, implementing, directing and evaluating all of the administrative service activities in coordination with the Executive Director.

Duties

1. Directs and coordinates the work of the administrative staff. Responsible for the development and implementation of policies, methods and procedures involving specialties and activities as follows:

a. *Budget and Finance.*—Development of budgets and justifications. Establishment and operation of accounting system, including appropriation and fund control, cost, accrued expenditure and business-type features as necessary to the needs of the Council.

b. *Personnel Management.*—All phases of personnel management, including position classification, wage administration, recruitment, placement, performance evaluation, employee development, employee management relations and services and personnel records.

c. *Property Management.*—The acquisition and disposition of all personal property and services of competitive bid contracting, negotiated contract and the procedures for the maintenance and care of personal property and records; the maintenance of property accountability records and development of cost and custody reports; the operation of a records management program, including creation and disposal; the acquisition and release of office space for office, and other purposes; the obtaining of transportation and communications services; and the provision of mail, messenger, filing and other general office services. Also included are safety activities.

d. *General.*—Serves as the principal assistant and advisor to the Executive Director on administrative management matters. Assists and advises him/her through positive recommendations in the executive implementation of Council-wide policies and guidelines; participates in conferences and meetings with the Council members, other Federal agencies, and State or other public and private organizations to explain, negotiate and defend administrative management policies and programs of the Council; and frequently represents the Executive Director with authority to make firm commitments on matters within the sphere of his/her responsibility, including tht employment and training or personnel, direction of travel and overtime, financial adjustments and contract awards. Contracts with State fishery agencies, educational institutions, and others. Aids in all phases of management plan development as directed by the Executive Director.

e. *Supervisory Responsibility.*—Directly supervises the Office Manager and one or more clerical personnel. Through the Office Manager, normally supervises all clerical personnel.

f. *Technical Monitoring.*—May be directed by the Executive Director to monitor progress of contractural agreements for the development of technical data and documents.

g. *Supervision Received.*—Under direct supervision of the Executive Director. In the absence of the Executive Director is under direct supervision of the Technical Support Specialist.

Technical Support Specialist

Is charged with formulation and development of fisheries management plans in coordination with the Executive Director. Is responsible for direct coordination of management plans development with the Council, Council Subcommittees, Scientific and Statistical Committee, Advisory Panels, Federal agencies, contractors and subcontractors, task groups and the Executive Director. Is in charge of drafting final management plans and environmental impact statements in the format required by the Secretary under P. L. 94-265 in coordination with the Executive Director and staff. Serves as staff officer in charge in the absence of the Executive Director.

Duties

1. Directs the development of management plans and the work of the staff in this development task under the supervision of the Executive Director.

a. Develops and maintains the mechanism for acquisition of the data base required for the management plans through the available sources, such as National Marine Fisheries Service laboratories, State and university laboratories, and other agencies of institutions.

b. Coordinates and directs the compilation of these data into a management plan format through staff assignments, use of contractors and subcontractors, task force groups, support by NMFS laboratories and other groups.

c. Coordinates all phases of plan development with the Scientific and Statistical Committee, the Advisory Panels, the Council and the Executive Director.

d. Attends public hearings on plan development to present scientific data.

e. Monitors management plan effectiveness and reports to the Executive Director with proposed modifications.

f. Determines the research needed to strengthen the management data base for each fishery and develops and presents research proposals in coordination with the Executive Director.

g. *General.*—Assists and advises the Executive Director on technical matters relating to management plan development and monitoring and on policy matters relating to Council operations, policies and guidelines; participates in conferences and meetings with Council members, State and Federal agencies, public and private organizations and associations; explains and defends programs of the Council; frequently represents the Executive Director with authority to make commitments. Directs and coordinates the work of the staff in developing management plans and compiling data.

h. *Supervisory Responsibility.*—Serves as staff officer in charge of all staff personnel in the absence of the Executive Director. Serves as immediate supervisor to the Assistant Technical Support Specialist and through him/her the Office Manager. Directly supervises one or more clerical personnel.

i. *Technical Monitoring.*—Monitors contractual agreements for the development of technical data and documents by contractors, subcontractors, task force groups and the progress of federal technical support groups in the development of such data and documents.

Assistant Technical Support Specialist

Assists the Technical Support Specialist in preparation, review and coordination of fisheries management plan development. Compiles and analyzes socio-economic and other technical data. Coordinates and reviews manuscript preparation. Meets with Scientific and Statistical Committee and Advisory Panels at direction of Technical Support Specialist. Monitors work and progress of contractors, subcontractors, task groups and National Marine Fisheries Service technical support groups in preparation of fisheries management plans.

Duties

1. Assists and advises Technical Support Specialist and Executive Director on fishery management plan development.

2. Physically compiles and analyzes socio-economic and other technical data for management plans according to directions of the Technical Support Specialist.

3. Confers with consultants, Advisory Panels, Scientific and Statistical Committee members, state, university and federal scientists on socio-economic and other aspects of plan development and summarizes their input for inclusion in the plans.

4. Supports all aspects of plan development, analysis, review and monitoring as directed.

5. General: Assists and advises the Technical Support Specialist and the Executive Director on socio-economic and technical matters relating to management plan development and monitoring. Serves as chief officer in charge of technical support in absence of Technical Support Specialist. Participates in meetings and conferences with Council members, State and Federal agencies, University groups, the public and fisheries associations at the direction of the Technical Support Specialist.

Supervisory Responsibility.—Serves as staff officer in charge of all staff personnel in the absence of the Executive Director, Technical Support Specialist and the Administrative Officer.

Administrative Assistant to Executive Director

Serves as secretary to the Executive Director and office assistant to the Administrative Officer. Ensures that clerical work and secretarial staff are organized to be responsive and provide efficient use of staff. Directs daily routines of clerical personnel and supervises purchase of office materials and supplies. Attends Council and committee meetings (when required) and prepares and transmits all pertinent documents to Council.

Duties

1. Performs accounting and bookkeeping duties as required and prepares pertinent accounting reports.

2. Receives supervisor's telephone and personal callers and screens those which in his/her judgment can be handled by the supervisor's subordinates or other offices and tactfully refers them as appropriate. Personally takes care of many matters and questions including answering substantive questions not requiring research or technical knowledge.

3. Keeps supervisor's calendar and makes necessary arrangements for conferences (including all travel arrangements). Assembles background material for supervisor. Attends the meetings and prepares reports of the proceedings.

4. Receives and reads incoming correspondence, reports, instructions, etc. Screens out those items which can be handled personally, forwarding the rest to supervisor or

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subordinates together with necessary background material.

5. Prepares replies personally for inquiries such as requests for instruction concerning the correct procedure in filing job applications or securing consideration of special cases when these are matters over which supervisor has control and when these are matters not involving controversial questions, drafts replies to general inquiries not requiring a technical knowledge of the program or programs under his/her supervisor's control.

6. Reviews outgoing correspondence which is being submitted to supervisor for signature or clearance for format, typographical accuracy, conformance with procedural instructions, to determine that all necessary background material is attached to the file, etc.

7. Maintains records of incoming and outgoing correspondence and action documents and follows up on work in process.

8. Assembles and summarizes information from files and documents in the office or other available soures for use of supervisor on the basis of general instructions as to the nature of the information wanted and its purpose. Obtains documents, files and background information for supervisor on the basis of general instructions as to the nature of the subject matter.

9. Procures supplies, equipment, repair and maintenance services and the like through agency channels.

10. Other duties as assigned.

Supervisory Responsibility.—Coordinates and directs clerical personnel under the supervision of the Administrative Officer and other executive offices.

SECRETARY

Serves as Secretary to the Administrative offices of Council staff. Relieves supervisor of routine administrative and miscellaneous clerical work. Based upon a good working knowledge of the organization, programs and services, resolves problems associated with the administrative and clerical work of the office.

Duties

1. Receives supervisor's calls and greets visitors and directs to supervisor's attention only those contacts needing his attention or action. Takes care of routine matters, and on the basis of knowledge of the programs and operations, refers other inquires to appropriate personnel. Personally responds to routine and non-technical requests for information such as status reports, suspense data for matters requiring compliance, travel order requests and similar information.

2. Maintains supervisor's calendar and schedules appointments.

3. Composes correspondence on administrative and clerical functions for the staff and routine correspondence on other subjects as requested by the supervisor. Reads outgoing correspondence for procedural and grammatical accuracy. Maintains suspense records on all correspondence and action documents and follows up to ensure timely reply or action.

4. Takes and transcribes dictation of correspondence, reports and telephone conversations involving both technical and specialized terminology.

5. Prepares in final form all types of documentation and forms incident to the staff and office management.

6. Reads directives and instructional material pertaining to administrative practices and clerical procedures in order to be aware of new, revised or amended procedures for such matters as preparation and processing of travel orders, forms, filing, mail procedures, security forms and procedures, etc. Provides guidance and assistance on applicable procedures, instructions and regulation to other clerical personnel assigned to the staff.

7. Other duties as assigned.

CLERK-TYPIST

1. Serves as office receptionist; greats visitors; answers telephone; transfers calls and takes messages.

2. Receives and reviews mail (except classified mail); distributes mail to appropriate party; handles outgoing mail for office.

3. Transcribes, from tapes, reports, correspondence, other as assigned involving both technical and specialized terminology. Types intermediate drafts when requested. Uses reference sources such as dictionaries, correspondence manuals, travel handbooks, etc.

4. Prepares travel orders, special travel orders, blanket travel orders for Council and staff. Assists in travel arrangements and accommodations. Assists in the preparation of travel vouchers; types all travel vouchers and xeroxes all pertinent data for records.

5. Maintains mailing lists: addresses, phone numbers and social security numbers (if required).

6. Assembles and prepares time and attendance cards; maintains general files.

7. Other duties as assigned.

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federal register

TUESDAY, SEPTEMBER 13, 1977

PART IV



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

MEDICAL DEVICES

Classification Procedures

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 16, 20, 860]

[Docket No. 77N-0155]

MEDICAL DEVICES

Classification Procedures

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This document proposes criteria and procedures for classifying devices intended for human use into classes of regulatory control sufficient to provide reasonable assurance of the safety and effectiveness of such devices. The proposal is made under provisions of sections 513 and 701(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c, 371(a)). The proposal would add a new Part 860 (21 CFR Part 860) to prescribe criteria and procedures for the classification of devices into classes of regulatory control, the consideration of evidence of safety and effectiveness of devices, and the submission and review of petitions for reclassification of devices. It also prescribes the circumstances under which information and data associated with the classification or reclassification of devices will be released to the public.

DATE: Comments by November 14, 1977. The Commissioner proposes that final regulations based on this proposal shall be effective on the date of their publication in the FEDERAL REGISTER.

ADDRESS: Written comments (preferably four copies) to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Joseph Sheehan, Bureau of Medical Devices (HFK-122), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, Md. 20910 (301-427-7114).

SUPPLEMENTARY INFORMATION: The Medical Device Amendments of 1976 (Pub. L. 94-295), amending the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040 et seq. (21 U.S.C. 201 et seq.)), hereinafter referred to as "the act," became law on May 28, 1976. Section 513(c) of the act (21 U.S.C. 360c(c)) requires the Secretary of Health, Education, and Welfare to prescribe, by regulation, procedures for review and recommendations by classification panels regarding the classification of medical devices into regulatory control classes.

As stated in an FDA notice (FEDERAL REGISTER of June 4, 1976 (41 FR 22620)), concerning the implementation of the amendments, authority under the act is vested in the Commissioner under § 5.1 (21 CFR 5.1). The notice also stated that among the proposed implementing regulations to be published in the future in the FEDERAL REGISTER would be proposed regulations concerning procedures for the classification of medical devices.

The agency has been following and will continue to follow the procedures for device classification contained in this proposal until final regulations are published. The agency will proceed with publication of proposed regulations classifying devices before promulgating the final classification procedures regulations. There is no requirement that the final classification procedures regulations be promulgated before the publication of panel recommendations and proposed regulations classifying devices, especially because the regulations proposed here essentially codify the procedures FDA has been following since enactment of the amendments.

PRE-ENACTMENT CLASSIFICATION RECOMMENDATIONS

Anticipating eventual enactment of medical device legislation, FDA initiated in 1973 a preliminary classification of medical devices. A list of approximately 8,000 devices had been compiled in 1971, and 13 classification panels, plus a Diagnostic Products Advisory Committee, had been established by 1975. The panels made recommendations for classifying medical devices into different classes of regulatory control using criteria contained in legislative proposals before Congress during this period. The procedures that finally evolved during this preliminary classification process were published in a FEDERAL REGISTER notice on May 19, 1975 (40 FR 21848).

The panels were organized according to the various fields of clinical medicine and fundamental sciences in which devices intended for human use are used. The panels were composed of experts of diverse backgrounds, skilled in the use of, or experienced in the development, manufacture, or use of, medical devices.

Under section 513(b) of the act, the Commissioner may either establish classification panels or use panels established before the date of enactment of the amendments. The Commissioner finds that the objectives of the 13 classification panels established before enactment satisfy the requirements of the amendments. He has, however, rechartered each panel and directed it to reconsider its previous recommendations in light of the statutory classification criteria and other requirements of the legislation. In determining what recommendation to make to the Commissioner with respect to the classification of a device, a panel may use information obtained, findings developed, and judgments reached before enactment of the amendments (Ref. 1, at p. 39).

As noted above, the Commissioner decided to retain the 13 medical device classification panels that were established before enactment of the amendments and rechartered them by a notice published in the FEDERAL REGISTER of August 25, 1976 (41 FR 35877). In addition, the six subcommittees of the Diagnostic Products Advisory Committee were chartered as separate classification panels (41 FR 35878, August 25, 1976). As a result, there are now 19 chartered classification panels. This number may be reduced in the future. The titles of the classification panels and names of members have been filed with and are available for review at the office of the Hearing Clerk (HFC-20), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

SUMMARY OF STATUTORY REQUIREMENTS

Section 513 of the act establishes three classes of regulatory control for medical devices and requires FDA to classify all devices intended for human use into one of those classes. They are: Class I, General Controls; class II, Performance Standards; and class III, Premarket Approval.

Section 513(a)(1)(A) of the act defines class I devices as those devices (1) for which there is sufficient information to determine that the provisions of the act with respect to adulteration; misbranding; registration; banning; defect notification; repair, replacement, or refund; records and reports; and good manufacturing practices (referred to as "general controls" hereafter) will provide reasonable assurance of the safety and effectiveness of the device or (2) for which there is insufficient information to determine that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device or to establish a performance standard to provide such assurance but which are not purported or represented to be for a use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health and do not present a potential unreasonable risk of illness or injury. Class I devices are to be regulated under the general controls provisions of the act.

Section 513(a)(1)(B) of the act defines class II devices as those devices for which general controls alone are insufficient to provide reasonable assurance of safety and effectiveness and for which there is sufficient information to establish a performance standard to provide such assurance. Class II devices will be subject to performance standards to be established under section 514 of the act. The policy that FDA intends to develop and apply with respect to performance standards was the subject of a FEDERAL REGISTER notice on August 12, 1976 (41 FR 34099). A proposed procedural regulation governing section 514 of the act will be published in the FEDERAL REGISTER in the near future.

Section 513(a)(1)(C) of the act defines class III devices as those devices for which there is insufficient information to determine that general controls will assure their safety and effectiveness and for which there is insufficient information to establish a performance standard to provide such assurance, and which are purported or represented to be for a use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health, or which present a potential unreasonable risk of illness or injury.

Class III devices are subject, under section 515 of the act, to premarket approval. The requirements of the act with respect to premarket approval procedures and requirements will be the subject of a proposed regulation, which will be published in the FEDERAL REGISTER in the future.

Under section 513(a)(2) of the act, the safety and effectiveness of a device are to be determined with respect to the persons for whose use the device is represented or intended; with respect to the conditions of use prescribed, recommended, or suggested in the labeling of the device; and weighing any probable benefit to health from the use of the device against any probable risk of illness or injury from such use. The effectiveness of a device is to be determined on the basis of well-controlled investigations, including clinical investigations where appropriate, by experts qualified by training and experience to evaluate the effectiveness of a device. The Commissioner may authorize the effectiveness of a device to be evaluated on the basis of other valid scientific evidence if he determines such evidence to be sufficient.

Section 513(b) of the act requires the Commissioner to establish panels of experts or use panels of experts already established to make recommendations with respect to the classification of devices. These panels must consist of persons who are qualified by training and experience to evaluate the safety and effectiveness of the devices and who, to the extent feasible, possess skill in the use of, or experience in the development, manufacture, or utilization of, the devices. Each panel must consist of members with adequately diversified expertise in clinical and administrative medicine, engineering, biological and physical sciences, and other related professions. Each panel must also include, as nonvoting members, a representative of consumer interests and a representative of interests of the device manufacturing industry.

Section 513(c)(1) of the act provides that the panels are to be organized according to the various fields of clinical medicine and fundamental sciences in which devices are used. The Commissioner must refer a device to the appropriate panel for its review and recommendation with respect to the classification of the device. In making their reviews, the panels are required to provide an opportunity, to the maximum extent practicable, for interested persons to submit data and views on the classification of devices.

Section 513(c)(2) of the act provides that a panel recommendation on the classification of a device must include a summary of the reasons for the recommendation; a summary of the data upon which the recommendation is based; an identification of the risks to health (if any) presented by the device; and, to the extent practicable, a recommendation for the assignment of a priority for the application to the device of the requirements of section 514 of the act, regarding performance standards, or section 515 of the act, regarding premarket approval, if recommended to be classified in class II or class III, respectively.

Further, section 513(c)(2) of the act provides that a panel recommendation for the classification of a device in class I must include a recommendation on whether the device should be exempted from one or more of the requirements of section 510 of the act (registration), section 519 of the act (records and reports), or section 520(f) of the act (good manufacturing practices). Under section 513(d) of the act, the Commissioner, when promulgating a regulation classifying a device in class I, must state which, if any, of these requirements will be made inapplicable and his reasons for making such requirement(s) inapplicable.

Section 513(c) of the act contains special provisions for panel recommendations on the classification of a device that is intended to be implanted in the human body or is purported or represented to be for a use in supporting or sustaining human life. The panel must recommend that such a device be classified in class III unless it determines that such classification is not necessary to assure the safety and effectiveness of the device, in which case it must set forth the reasons in its classification recommendation. Similarly, under section 513(d) of the act, the Commissioner is required to classify implants and life-supporting and life-sustaining devices in class III, unless he determines that such classification is not necessary to assure the safety and effectiveness of the device. A proposed regulation classifying such a device in a class other than class III must be accompanied by a full statement of the Commissioner's reasons for not classifying it in class III and an identification of the risks to health (if any) presented by the device.

Section 513(d) of the act requires the Commissioner to publish in the FEDERAL REGISTER panel recommendations and proposed classification regulations. After providing an opportunity for comment, the Commissioner must by final regulation classify the device. This subsection also authorizes the Commissioner, in his discretion, to establish priorities to be used in promulgating a performance standard or requiring premarket approval for class II and class III devices, respectively.

Section 513(e) of the act provides that, based upon new information relevant to the classification of a device, the Commissioner may, upon his own initiative or upon petition of any interested person, change the classification of a device and revoke any performance standard or premarket approval requirement with respect to the device. The Commissioner is authorized, but not required, to obtain classification panel review and recommendations with respect to a proposed change in classification under this subsection. If he does obtain panel review, the resulting panel recommendations must be published in the FEDERAL REGISTER. A regulation changing the classification of a device from class III to class II may provide that the classification will not take effect until the effective date of a performance standard for the device.

The classification procedures contained in section 513(b)—(d) of the act, and discussed above, apply to the initial classification of "old" devices, i.e., those which either were in commercial distribution before the date of enactment of the amendments or are substantially equivalent to devices in commercial distribution before that date. Section 513(f) of the act contains special provisions for the classification of "new" devices, i.e., those which were not in commercial distribution before the date of enactment and are not substantially equivalent to any which were in distribution. Such a device is automatically classified in class III unless it is substantially equivalent to another new device that has been reclassified to class I or II.

Section 513(f) of the act also contains provisions allowing the manufacturer or importer of a device classified by statute in class III to petition for reclassification in class I or class II. Within 30 days after the filing of such a petition, the Commissioner must notify the petitioner of any deficiencies in the petition that prevent him from making a decision on it. After it has been determined that the petition contains no such deficiency, the Commissioner must refer the petition to the appropriate classification panel for review. The panels must provide an opportunity for interested persons to submit data and views. A panel recommendation for the classification of a device in class I must include a recommendation whether the device should be exempted from any of the requirements of section 510, 519, or 520(f) of the act and, where appropriate and practicable, priorities for the application of sections 514 and 515 of the act to class II and class III devices, respectively. Under section 513(f) of the act, if a petitioner seeks the reclassification of a device that is intended to be implanted or is purported or represented to be for a life-supporting or life-sustaining use, the panel must recommend that the petition be denied unless the panel finds that classification in class III is not necessary to provide reasonable assurance of the safety and effectiveness of the device. The panel must make its recommendation to the Commissioner within 90 days of the date of referral of a petition to reclassify. Panel recommendations on petitions to reclassify under section 513(f) of the act must be published for comment in the FEDERAL REGISTER. Within 90 days after receipt of the panel recommendation, and no more than 210 days after the filing of the petition, the Commissioner must by order deny or approve the petition. If the Commissioner approves the petition, he must reclassify the device by order in class I or class II. An order under this section reclassifying a device in class I must state whether the devise is to be exempted from any of the requirements of section 510, 519 or 520(f) of the act. The Com-

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missioner must deny any petition for reclassification of a device that is intended to be implanted or is purported or represented to be for a use in supporting or sustaining human life, unless the Commissioner determines that classification in class III is not necessary to provide reasonable assurance of the safety and effectiveness of the device.

Section 513(g) of the act provides that any person seeking information respecting the class in which a device has been classified or the requirements applicable to a device under the act is entitled to receive a written statement of the information sought within 60 days of receipt by the Commissioner of a written request.

The regulations proposed herein also implement other sections of the act that affect classification, i.e., sections 514(b), 515(b) and 520(1) of the act. Section 514(b) of the act requires the Commissioner, when initiating a proceeding for the development of a performance standard for a class II device, to publish in the FEDERAL REGISTER a notice of an opportunity to request a change in classification of the device based on new information relevant to the classification of the device. Section 515(b) of the act requires that the same type of notice be included in a notice of proposed rulemaking initiating a proceeding to require premarket approval of a class III device. A request to change classification of a device in response to a notice issued pursuant to section 514(b) or 515(b) of the act must be filed within 15 days of publication of the notice. The Commissioner must then consult with the appropriate classification panel and, within 60 days of publication of the notice, by order published in the FEDERAL REGISTER, either deny the request or give notice of his intention to initiate a change in classification under section 513(e) of the act.

Section 520(1) provides that any device intended for human use that (1) had an approved or pending new drug application (NDA) on the date of enactment; (2) had in effect an investigational new drug exemption (IND) under section 505(i) of the act on the date of enactment; (3) is substantially equivalent to a device that had an approved or pending NDA or an effective IND; (4) had been declared by the Commissioner to be a new drug before the date of enactment; or (5) had legal actions pending with respect to it in a United States court on the date of enactment for an alleged violation of new drug requirements is automatically classified in class III. The manufacturer or importer of a device classified in class III by subsection 520(1) of the act may petition for reclassification of the device. Within 30 days after the filing of such a petition, the Commissioner must notify the petitioner of any deficiencies in the petition that prevent him from making a decision on it. After receipt of a petition adequate for review, the Commissioner must afford the petitioner an opportunity for an informal hearing and consult with the appropriate classification panel. Within 180 days after the filing of that petition, the Commissioner must, by order, either deny the petition or order the classification of the device in class I or class II.

ADMINISTRATIVE PRACTICES AND PROCEDURES REGULATIONS APPLICABLE TO CLASSIFICATION PANELS

In addition to the regulations proposed for Part 860, classification panels, as advisory committees, have been and will continue to be subject to the regulations at 21 CFR Part 14, which prescribe administrative practices and procedures for public advisory committees, including rules for conducting meetings and hearings before advisory committees. These regulations became final by publication in the FEDERAL REGISTER of November 26, 1976 (41 FR 52148), were recodified in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553), and, with the May 19, 1975 notice concerning interim classification, essentially satisfy the requirement in section 513(c) of the act for procedural regulations governing the review and recommendations made by device classification panels. As described above, the 19 existing classification panels have been chartered and are operating in accordance with these regulations and the applicable requirements of section 513 of the act and will so continue in carrying out their functions under the proposed Part 860.

CONFORMING CHANGES IN OTHER FDA REGULATIONS

The new procdures for classification proposed in Part 860 would require corresponding changes in other existing agency regulations in Title 21 of the Code of Federal Regulations. A brief summary of these changes follows.

Hearings under section 520(1) of the act. Section 16.1 (21 CFR 16.1) would be amended to provide that the opportunity for an informal hearing in connection with petitions for reclassification under § 860.136 would be conducted in accordance with the procedures governing regulatory hearings. The Commissioner believes that the regulatory hearing procedures in 21 CFR Part 16 are consistent with the intent of Congress that an informal hearing regarding medical devices belance differing needs (Ref. 1 at p. 53).

Public disclosure of data and information. Section 20.100(c) (21 CFR 20.100 (c)) would be amended to add a new sentence establishing the special rules of § 860.5 governing the disclosure and the use by the Commissioner of any data and information submitted either to him or to classification panels in connection with classification or reclassification of devices.

PROPOSED REGULATION

Scope. Proposed § 860.1 defines the scope of Part 860. Generally, Part 860 prescribes the criteria and procedures to be used by classification panels and the Commissioner in the classification and reclassification of devices under sections 513, 514(b), 515(b) and 520(1) of the act. In addition, it supplements Part 14 (21 CFR Part 14) by providing procedures for participation by interested persons in proceedings to classify and reclassify devices, prescribes the kinds of data acceptable for determining safety and effectiveness of devices, and prescribes rules governing use and release of information submitted to classification panels.

Definitions. Proposed § 860.3 defines terms used in Part 860. The proposed definitons of the three classes of regulatory control at proposed § 860.3(c) are adapted from section 513(a)(1) of the act. Consistent with the legislative history, the Commissioner considers the class definitions to be flexible guides permitting placement of a device in the class which provides controls adequate to reasonably assure safe and effective use of the device in actual practice (Ref. 1 at pp. 15–17, 34–36). In evaluating a device for safety and effectiveness for purposes of determining the appropriate class of regulatory control, classification panels and the Commissioner may consider the actual uses to which a device is put as well as those which are described in the labeling or promotional material for the device. Further, a device which has more than one use may be classified in one class for one of its uses and another for a second use. Although no device can be regulated adequately in Class I or class II unless there are adequate data and information establishing its safety and effectiveness, a device for which there are such data and information may nevertheless require regulation in class III because of the public health concerns posed by its use. In determining whether the controls provided by class I or class II are adequate to provide reasonable assurance of the safe and effective use of a device in actual practice, classification panels and the Commissioner may consider such practical matters as, for example, the degree of difficulty of enforcing general controls with respect to the particular device through judical action and the length of time required to develop and promulgate a performance standard for the particular device. Such practical matters are relevant to the determination of whether the controls provided by class I or class II are adequate in light of the particular health concerns posed by a particular device. Finally, if the manufacturer or importer of a class III device believes that the device can be regulated adequately by a performance standard, he may submit a proposed standard to FDA and petition for reclassification of the device to class II in accordance with proposed Subpart C of Part 860.

The proposed definition of "implant" provides that devices not intended to remain in the human body for 30 days or more will not be regarded as implants for purposes of the act's special provisions regarding implants, unless necessary to protect human health. This is consistent with the intent of Congress as expressed in the legislative history (Ref. 2, at p. 58).

The proposed definition of "life-supporting or life-sustaining device" was adapted from the legislative history (Ref. 2, at p. 58). Generally, a device must be used in the restoration or continuation

of a bodily function important to life to be a life-supporting or life-sustaining device.

In § 860.3(f), the Commissioner is also proposing a definition of "classification questionnaire." In the May 19, 1975 notice concerning classification, an 18-question classification logic system was included which has since been conformed to the classification provisions in the act as enacted. The classification questionnaire is intended only to assist in determining the proper device classification by facilitating the application of the criteria in proposed § 860.3(c).

Besides the 18-question classification questionnaire that will be used for most devices, a seperate six-question questionnaire has been developed for use in classifying in vita diagnostic products, which are a kind of device. This seperate questionnaire is desirable because of the different characteristics of invitro diagnostic products.

The current classification questionnaires read as follows:

GENERAL DEVICE CLASSIFICATION QUESTIONNAIRE

Question 1: Is the device custom made?

Answer: Yes—Go to question 2. No—Go to question 3.

Question 2: Although the device is custom made, can standards be applied?

Answer: Yes or No—Go to question 17.

Question 3: Is the device life-sustaining or life-supporting?

Answer: Yes—Go to question 5. No—Go to question 4.

Question 4: Is the device or diagnostic information derived from use of the device potentially hazardous to life or good health when properly used?

Answer: Yes—Go to question 5. No—Go to question 7. Do not know—Go to question 5.

Question 5: Is the device of such a nature that: (a) Sufficient scientific and medical data exist from which adequate standards governing the device safety and efficacy could not be established; and, (b) development and application of such a standard would be adequate to control the device?

Answer: Yes—Go to question 7. No—Go to question 6. Do not know—Go to question 6.

Question 6: Is the device currently in use and marketed in the United States?

Answer: Yes or No—Go to question 7.

Question 7: When the device is used, is it remote from the body? (Remote means no physical or energy connection to the body, nor is it used as a part of a delivery system for gases, fluids, or other materials to or from the body.)

Answer: Yes—Go to question 14. No—Go to question 8. (Device is not remote if it is: (1) Associated with the body through some form of energy transmission or conduction or used as a delivery system for gases, fluids or other materials to or from the body; (2) used on surface of the body; (3) used in contact with an internal body surface or cavity or used as a short-term implant; and/or (4) used as a long-term implant that is desgned to be inserted into the body and reside indefinitely within the body.) Do not know—Go to question 8.

Question 8: Is the device powered by a nonmanual external or internal source (such as electrical, pneumatic, nuclear, etc.)?

Answer: Yes—Go to question 9. No—Go to question 13.

Question 9: Will the use of the device or failure of power or device power source present a potential hazard to the patient?

Answer: Yes or No—Go to question 10. Do not know—Go to question 10.

Question 10: Does the device emit and/or inject any form of energy to or into the body?

Answer: Yes—Go to question 11. No—Go to question 13.

Question 11: Have the energy levels used been shown to be acceptable?

Answer: Yes or No—Go to question 12.

Question 12: Will malfunction of the device result in safe energy levels?

Answer: Yes or No—Go to question 13. Do not know—Go to question 13.

Question 13: Does the device use material for contact with the body which is generally acceptable or has known and acceptable properties which can be provided with no additional control requirements?

Answer: Yes or No—Go to question 14. Do not know—Go to question 14.

Question 14: Does the device have any known hazards, limitations, or shortcomings which can be avoided by promulgation of Federal regulations applicable to the device in question?

Answer: Yes or No—Go to question 15.

Question 15: If the device performs some measurement function, should the accuracy, reproducibility, or limitations of the information supplied be clearly indicated to the user by appropriate labeling, instructions, or precautions?

Answer: Yes—Go to question 16. Special labeling may be required to indicate the accuracy, reproducibility, or limitations of the information supplied by the device. No—Go to question 16.

Question 16: Does the device have performance characteristics which should be maintained at a satisfactory level, such level having general agreement among the user groups?

Answer: Yes or No—Go to question 17.

Question 17: Is the device used with other devices in such a way that the system in which it is used can be hazardous if the system is not assembled, used, or maintained in a satisfactory fashion?

Answer: Yes or do not know—Special labeling may be required to warn the user that the device may be hazardous if the system is not assembled, used, or maintained in a satisfactory fashion.

Question 18: Is the device potentially hazardous to the fetus or the gonads when properly used?

Answer: Yes or do not know—The device will be reviewed by the obstetrical and gynecological panel and the classifying panel jointly for further classification.

IN VITRO DIAGNOSTIC PRODUCT CLASSIFICATION QUESTIONNAIRE

Question 1: Is the in vitro diagnostic product or information derived from the use of the diagnostic product potentially hazardous to life, health, or well being when put to its intended use?

Answer: Yes or No—Go to question 2.

Question 2: Are general controls (class I), adequate to ensure the safe and effective use of the product?

Answer: Yes—Go to question 5. No—Go to question 3.

Question 3: Considering the nature and complexity of the product and available scientific and medical data, is it possible to develop a standard or set of standards to control the safety or effectiveness of the diagnostic product?

Answer: Yes—Go to question 5. No—Go to question 4.

Question 4: Can some components or characteristics of the product be adequately controlled by standards? Specify.

Answer: Yes or No—Go to question 5.

Question 5: Are there any special problems relating to the product that require special attention: (For example, special labeling requirements including areas such as warnings)? Identify the problem.

Answer: Yes—Go on to question 6.

Question 6: Does the product require some form of certification? Define.

The Commissioner is also proposing a definition of "supplemental data sheet." The supplemental data sheet has been prepared to gather together and report information relevant to the classification and reclassification of a device and is to be used by classification panels and may be used in petitions for reclassification to satisfy the requirements of proposed § 860.123(a)(3).

The classification questionnaire and supplemental data sheet may be changed from time to time as the agency gains experience in their use. Current copies may be obtained from the Classification Coordinator (HFK-400), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910.

The proposed definition of "generic type of device" is intended to identify those device products that are so similar that they can be considered the same type of device for purposes of applying the regulatory controls provided by the act. The definition of "generic type of device" is important for proposed Part 860 because actions taken on both classification and reclassification apply to all devices which are within the same generic type of device and which are substantially equivalent. This approach is necessary to enable the Commissioner to provide similar regulatory treatment for essentially identical products of different manufacturers or importers.

Confidentiality and use of data and information submitted in connection with classification and reclassification. Proposed § 860.5 governs the availability for public disclosure and the use by the Commissioner of any data and information submitted to the classification panels or the Commissioner in connection with the classification and reclassification of devices under proposed Part 860.

The policy expressed in § 860.5(c) concerning the availability for public disclosure of safety and effectiveness data submitted in connection with clasification codifies rules announced in the May 19, 1975, notice on interim medical device classification procedures and is consistent with the legislative history of the amendments (Ref. 1, at pp. 48–50).

Proposed § 860.5(d) governs the availability for public disclosure of the contents of reclassification petitions submitted under proposed Subpart C of Part 860. The general rule is that both the fact of its existence and the entire contents of any petition for reclassification are available for public disclosure upon filing. The exception to this general rule applies to the disclosure of the contents of reclassification petitions submitted under proposed § 860.134 or § 860.136. The contents of such petitions will not be available for public disclosure during the period following submission in which

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the petition is reviewed for deficiencies. At such time as such petiton is determined to contain no deficiencies which prevent the Commissioner from making a decision on it, the contents of the petition will become available for public disclosure without further notice to the petitioner. Because the Commissioner gives a narrow construction to the term "deficiency," it is expected that the contents of the great majority of petitions submitted under § 860.134 and § 860.136 will be available for disclosure promptly after submission. If deficiencies are found, the contents of the petiton nevertheless will become available for public disclosure 20 days following notice to petitoner of the deficiencies unless within that 20 days the petitoner satisfies the Commissioner that any or all of the petition's contents are exempt from disclosure under 21 CFR Part 20 or withdraws the petition from consideration.

The general rule that the contents of reclassification petitions are disclosable upon submission is based, in part, on the need to comply with the requirements for provision of opportunity for public comment deriving from several sources: (1) contained in section 513(f)(2)(B)(ii) and (C)(ii) of the act; (2) applicable to section 513(e) rulemaking proceedings by the Administrative Procedure Act; and (3) made applicable to section 520(1)(2) reclassification proceedings by virtue of the applicability of reclassification decisions to the entire generic type of device as well as the particular device for which a petitioner seeks reclassification. Further, the Commissioner has determined that a petitioner necessarily surrenders the confidentiality of any otherwise confidential data and information submitted in support of his argument that adequate information exists to regulate a current class III device by means of general controls or a performance standard. The exception to this general rule, which temporarily protects from public disclosure all data and information in petitons submitted under § 860.134 or § 860.136 while the petition is reviewed for deficiencies, is intended only to protect the otherwise confidential data and information of a petitioner whose petition is never considered on its merits due to deficiencies in it. As noted above, the entire contents of such petitions become available immediately upon a determination that the petition contains no deficiencies. For this reason, petitioners should not include in their petitions any data or information that is unnecessary to a decision on the petition, especially if it is information or data the petitioner would wish to keep confidential. An example of such information might be secret manufacturing methods when the method of manufacture is not relevant to the safety and effectiveness of the device.

Proposed § 860.5(e) sets forth the provision in section 520(c) of the act which prohibits the Commissioner from using as a basis for reclassification of a device from class III to class II information that is reported to or otherwise obtained by him under certain provisions of the act and falls within the exemption from public disclosure for trade secrets and other confidential commercial information contained in § 20.61 (21 CFR 20.61). Proposed § 860.5(e) also states the Commissioner's determination that a petitioner voluntarily surrenders the confidentiality of all data and information contained in any petition filed under § 860.130 and § 860.132 and in nondeficient petitions filed under § 860.134 and § 860.136 and that, therefore, the prohibition in section 520(c) of the act does not apply to such data and information.

Determination of safety and effectiveness. Proposed § 860.7 prescribes the rules to be followed by FDA and classification panels in reviewing evidence concerning the safety and effectiveness of devices in connection with classification and related activities. This section recognizes that rules in this area must be flexible because of the variety of devices.

Proposed § 860.7(b) requires determinations of the safety and effectiveness of devices to include consideration of certain factors: the persons who are to use a device, the conditions of use for the device, the probable benefits and probable risks from use of the device, and the reliability of the device. This paragraph implements section 513(a)(2) of the act, as explained in the legislative history (Ref. 1, at pp. 16–17).

Proposed § 860.7 (c) through (e) explains the evidence that FDA will regard as valid scientific evidence to show whether a device is safe and effective. These proposed requirements are stated in general terms because of the difficulty of prescribing specific rules that are appropriate for all devices. In appropriate cases, FDA may issue guidelines under § 10.90(b) (21 CFR 10.90(b)) to set forth principles to be followed in investigations of particular types of devices to provide reasonable assurance that a device is safe and effective. In the future, the product development protocol provisions of the act may also be used by FDA and product sponsors to identify with more particularity the types of investigations required to demonstrate safety or effectiveness.

Proposed § 860.7(f) would implement the requirement in section 513(a)(3)(A) of the act that the effectiveness of a device, for purposes of classification, performance standards, and premarket approval, is "to be determined, in accordance with regulations promulgated by the Secretary, on the basis of well-controlled investigations, including clinical investigations where appropriate, by experts qualified by training and experience to evaluate the effectiveness of the devices, from which investigations it can fairly and responsibly be concluded by qualified experts that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling of the device." The act authorizes the Commissioner to allow use of valid scientific evidence other than well-controlled investigations to establish effectiveness, a provision that is implemented in proposed § 860.7(e)(2). The principles of well-controlled investigations are adapted from regulations applicable to new drugs in 21 CFR 314.-111(a)(5)(ii), implementing section 505(d) of the act (21 U.S.C. 355(d)). The Commissioner recognizes that certain of these principles may not be applicable to many devices, such as the provisions concerning placebo control.

Proposed § 860.7(g) explains that it is the responsibility of device manufacturers and importers to assure that the panels and FDA have adequate information to provide reasonable assurance that their devices are safe and effective for their conditions of use. The failure of a manufacturer or importer of a device to present to FDA adequate valid scientific evidence to show there is reasonable assurance of the safety and effectiveness of the device, if regulated in class I or class II, may be supportive of a determination that the device should be classified in class III (Ref. 1, at p. 40).

Proposed § 860.7(g) would also enable the Commissioner to require that a manufacturer, importer, or distributor of a device make reports or provide other information bearing upon a device's classification and whether there is reasonable assurance of the safety and effectiveness of a device or whether it is adulterated or misbranded under the act. This provision is authorized by section 519 of the act, and any requirement under § 860.7(g) for a report or other information must be issued in accordance with the restrictions of that section. Thus, requests for submission of a report or other information concerning a device shall state the reason or purpose for the request, must identify to the fullest extent practicable the desired report or information, may not require identification of individual patients in most cases, and may not be directed to a person exempt from such a requirement under section 519(b) of the act.

The Commissioner does not believe that proposed § 860.7(g) imposes requirements unduly burdensome to device manufacturers, importers, or distributors taking into account the cost of complying with such requirements and the need for protection of the public health and the implementation of the act. The Commissioner intends to implement this provision on a selective basis and use it only when other sources of information do not permit him to make a sound decision on classification or otherwise to determine the safety or effectiveness of a device. In addition, section 519(a)(5) of the act places statutory restrictions on the application of reporting requiremennts to manufacturers, importers, and distributors of devices that have been classified in class I. The Commission advises that the classification regulations placing certain devices in class I may provide for a class I device to be exempt from some or all of the recordkeeping and reporting requirements. These are additional assurances that the authority in section 519 of the act, implemented in part in proposed § 860.7(g), is used fairly and in a manner that is not unduly burdensome.

Classification—Subpart B. Proposed Subpart B sets forth the procedures for classification of devices. Certain provisions of proposed Subpart B, i.e., § 860.93 regarding classifications of implants, life-saving or life-supporting devices and § 860.95 regarding exemptions from sections 510, 519, and 520(f) of the act, apply also to reclassification of devices.

Classification procedures for "old devices". Proposed § 860.84 explains the procedures and criteria to be applied in the original classification of "old devices" into one of the three classes of regulatory control (class I, class II, and class III). The procedures apply to the classification of devices that either were in commercial distribution before May 28, 1976, or are substantially equivalent to devices in commercial distribution before that date. Section 860.84 does not apply to devices classified by statute in class III because they are either "new" and not substantially equivalent to an old device or were regarded formerly as new drugs, in accordance with sections 513(f) and 520(1) of the act, respectively. The procedures in proposed § 860.84 are based on the provisions of section 513 (b) through (d) of the act, described above in this preamble. The Commissioner notes that final determinations on the classification of devices are for the Commissioner alone to make and advises that persons should not rely upon panel recommendations in determining their course of action with respect to particular devices in which they have an interest.

The panel recommendation includes all the information listed in proposed § 860.84(d)(1) through (6) and, when submitted to the Commissioner in final form, will be published in its entirety together with a proposed classification regulation. The summary of data to be included with the recommendation in accordance with proposed § 860.84(d)(2) need not be an exhaustive recitation of all the data considered by the panel, but shall include a brief statement of the most important facts justifying the recommendation. The summary is, however, to be accompanied by a list of references to sources containing the data considered by the panel and used as a basis for its recommendation.

Classification of implants, life-supporting or life-sustaining devices. Proposed § 860.93 sets forth special requirements with respect to the classification and reclassification of implants and life-supporting or life-sustaining devices. Section 513 of the act requires that such devices be classified or, in the case of a petition for reclassification, remain in class III unless it is specifically determined that such classification is not necessary to assure the safety and effectiveness of the device and that determination is documented by scientific evidence.

Exemptions from sections 510, 519, and 520(f) of the act. Proposed § 860.95 provides that a class I device may be exempted from the requirements of the act under section 510 (registration, product listing, and premarket notification) section 519 (records and reports), and section 520(f) (good manufacturing practice regulations) if such requirements are not necessary to provide reasonable assurance of the safety and effectiveness of the device, in accordance with section 513 of the act. A device may be exempted from these sections in whole or in part. Thus, a device may be subject to only part of the good manufacturing practices requirements or only to certain records and reports requirements; and, though a device may be exempted from the registration requirements, the manufacturing establishment nevertheless may be required to register if it manufactures another device that is not exempt from the registration requirements.

Reclassification—Subpart C. Proposed Subpart C sets forth requirements for the reclassification of devices in accordance with sections 513 (e) and (f), 514(b), and 520(1) of the act.

General. Proposed § 860.120 explains that proposed Subpart C sets forth procedures for the implementation of the reclassification provisions of the Act. It is important to note that the criteria for determining the proper class for a device are the same when considering reclassification of a device as when considering the initial classification under proposed § 860.84. These criteria are set forth in proposed § 860.3(c). It should be noted further that the reclassification of a particular device results in the reclassification of all substantially equivalent devices within that generic type, as defined in proposed § 860.3(l). This is to ensure that the devices that are of the same generic type which are also substantially equivalent will be subject to the same level of regulatory control and that no manufacturer will gain reclassification only of his device when there are no significant differences between his device and a competitor's device that relates to safety and effectiveness. The consideration of a reclassification petition may result in the creation of new generic types of devices.

Petitions for reclassification. Proposed § 860.123 prescribes the form and content of petitions for reclassification, including requests for change in classification submitted under sections 514(b) and 515(b) of the act. Petitions that are not in accordance with proposed § 860.123 may be considered by the Commissioner to be deficient and not acceptable for consideration. Petitioners will be provided opportunity to supplement a deficient petition. A petition will be considered deficient only in those unusual circumstances in which the Commissioner is unable to make any decision on it, as, for example, when one of the elements set forth in proposed § 860.123(a)(1)–(6) is inadvertently ommitted from the petition. The failure of a petitioner to provide acceptable valid scientific evidence establishing the safety and effectiveness of the device is not a reason to consider a petition deficient, but usually will be a reason for denying a petition. Petitions for reclassification are not considered to be citizen petitions and, thus, are not subject to the requirements applicable to such petitions contained in 21 CFR 10.30.

Reclassification petitions must include a completed classification questionnaire and supplemental data sheet. The Commissioner believes that the types of information required for these forms are necessary in considering the reclassification of a device. The information contained in these forms will be compared by a panel with the information contained in the completed forms that the panels used as a basis for the original classification recommendation, if the device was classified under a procedure requiring a panel recommendation.

Sections 513(e), 514(b), and 515(b) of the act require reclassification petitions to be based on new information. A petition filed under any of these sections of the act must clearly state the new information upon which the petition is based. It is intended that this requirement will isolate the issues raised by such petitions and will assure that the petition is based upon new information in accordance with the act. The petition must also be accompanied by copies of the source documents from which the new information is derived.

Consultation with panels. Proposed § 860.125 prescribes the methods by which the Commissioner may consult with a classification panel with respect to reclassification of a device. Though a preference is stated for having consultation occur in the context of discussion at a panel meeting, the Commissioner retains the prerogative to choose another method when he considers it appropriate under the circumstances. The more important and complex the subject matter, the more likely it will be that the Commissioner will choose to have consultation through discussion at a panel meeting.

General procedures under section 513(e) of the act. Proposed § 860.130 governs the procedures for reclassification under section 513(e) of the act. Petitions for reclassification under this section must be based upon new information respecting the classification of the device that suggests that some different level of regulatory control is required to provide reasonable assurance of the safety and effectiveness of the device. The Commissioner may initiate a reclassification proceeding under this section if he determines that the controls applicable to another regulatory class are more appropriate for a device and the device meets the classification criteria for that other class. Reclassification under proposed § 860.130 will be effected by regulation.

Procedures when the Commissioner initiates a performance standard or premarket approval proceeding under section 514(b) or 515(b) of the act. Proposed § 860.132 governs the procedures for requesting a change in classification after the Commissioner initiates a proceeding to develop a performance standard or to require premarket approval for a device under section 514(b) or 515(b) of the act. If the Commissioner grants the request, the proceeding to effect reclassification will be conducted in ac-

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cordance with proposed § 860.130, and reclassification will be effected by a regulation. A request for a change in classification under this section must meet the requirements of proposed § 860.123 with respect to form and content of petitions for reclassification. The Commissioner believes that the information required by that section is necessary to act on requests for change in classification in the short period of time allowed by the act.

Procedures for "new devices" under section 513(f) of the act. Proposed § 860.134 prescribes procedures for reclassification of devices classified in class III by statute in accordance with section 513(f) of the act, as described above in this preamble. The Commissioner stresses that the determination that a new device is or is not substantially equivalent to a pre-enactment device for purposes of the application of section 513(f) of the act and proposed § 860.134 is one left to FDA subjects to judicial review. The panel's review of devices for safety and effectiveness under proposed § 860.134 will follow the same procedures applicable to reviews under proposed § 860.84(c) for the original classification of "old" devices, including the preparation of a recommendation in accordance with proposed § 860.84(d). Reclassification under this proposed section is effected by order in the form of a letter to the petitioner. The Commissioner anticipates that reclassification effected by order under this section will be codified periodically by regulation to facilitate the public's access to the decision.

Procedures for transitional products under section 520(l) of the act. Proposed § 860.136 establishes procedures for the reclassification of devices that had been regarded as new drugs before the date of enactment and are considered to be automatically in class III under section (520(l) of the act. The informal hearing provided for in section 520(l)(2) of the act in connection with petitions for reclassification under this section will be conducted in accordance with the procedures governing regulatory hearings before the Food and Drug Administration (21 CFR Part 16). The Commissioner considers the procedures provided there to satisfy the procedural requirements for an informal hearing in section 201(y) of the act (21 U.S.C. 321(y)). Reclassification under this proposed section will be effected by order in the form of a letter to the petitioner. As with reclassifications effected by order under proposed § 860.134 for "new devices," the Commissioner anticipates that reclassifications effected by order under this section will be codified periodically by regulation to facilitate access by the public.

REFERENCES

Background data and information on which the Commissioner relies in proposing this regulation have been placed on file for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857. The following is a list of these documents:

1. House Report No. 94-853, Medical Device Amendments, February 20, 1976 (Committee on Interstate and Foreign Commerce).

2. House Report No. 94-1090, Medical Device Amendments, May 6, 1976 (Committee of Conference).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 514, 515, 519, 520, and 701(a), 52 Stat. 1055, 90 Stat. 540-559, 564-575 (21 U.S.C. 360c, 360d, 360e, 360i, 360j, and 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Parts 16 and 20 be amended and Part 860 be added, to read as follows:

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

1. Part 16 is amended in § 16.1 by redesignating paragraph (b)(26) as (b)(30) and adding new paragraph (b)(26), and designating paragraph (b)(27)-(29) "reserved," to read as follows:

§ 16.1 Scope.

* * * * * * *

(b) * * *

(26) Section 860.136, relating to petitions for reclassification of a medical device currently in class III by operation of section 520(l)(1) of the Federal Food, Drug, and Cosmetic Act.

(27)-(29) [Reserved]

(30) Any other provision in the regulations in this chapter under which a party who is adversely affected by regulatory action is entitled to an opportunity for a hearing, and no other procedural provisions in this part are by regulation applicable to such hearing.

PART 20—PUBLIC INFORMATION

2. Part 20 is amended in § 20.100 by adding new paragraph (c)(29), to read as follows:

§ 20.100 Applicability; cross-reference to other regulations.

* * * * * * *

(c) * * *

(29) Data and information submitted for medical device products, in § 860.5 of this chapter.

3. Part 860 is added to read as follows:

PART 860—MEDICAL DEVICE CLASSIFICATION PROCEDURES

Subpart A—General

Sec.
860.1 Scope.
860.3 Definitions.
860.5 Confidentiality and use of data and information submitted in connection with classification and reclassification.
860.7 Determination of safety and effectiveness.

Subpart B—Classification

860.84 Classification procedures for "old devices."
860.93 Classification of implants, life-supporting or life-sustaining devices.
860.95 Exemptions from sections 510, 519, and 520(f) of the act.

Subpart C—Reclassification

860.120 General.
860.123 Reclassification petition: content and form.
860.125 Consultation with panels.
860.130 General procedures under section 513(e) of the act.
860.132 Procedures when the Commissioner initiates a performance standard or premarket approval proceeding under section 514(b) or 515(b) of the act.
860.134 Procedures for "new devices" under section 513(f) of the act.
860.136 Procedures for transitional products under section 520(l) of the act.

AUTHORITY: Secs. 513, 514, 515, 519, 520, and 701(a), 52 Stat. 1055, 90 Stat. 540-559, 564-574 (21 U.S.C. 360c, 360d, 360e, 360i, 360j, and 371(a)) unless otherwise noted.

Subpart A—General

§ 860.1 Scope.

(a) This part implements sections 513, 514(b), 515(b), and 520(l) of the act with respect to the classification and reclassification of devices intended for human use.

(b) This part prescribes the criteria and procedures to be used by classification panels in making their recommendations and by the Commissioner in making his determinations regarding the class of regulatory control (class I, class II, or class III) appropriate for particular devices. This part also supplements the general Food and Drug Administration procedures concerning advisory committees (Part 14 of this chapter), providing procedures for manufacturers, importers, and other interested persons to participate in proceedings to classify and reclassify devices. This part also provides information with respect to the kind of data acceptable for determination of the safety and effectiveness of devices and prescribes the circumstances under which information submitted to classification panels and to the Commissioner in connection with classification and reclassification proceedings will be released to the public.

§ 860.3 Definitions.

§ 860.3 *Definitions.*

For the purposes of this part, the following definitions are set:

(a) "Act" means the Federal Food, Drug, and Cosmetic Act.

(b) "Commissioner" means the Commissioner of Food and Drugs, Food and Drug Administration, United States Department of Health, Education, and Welfare, or his designee.

(c) "Class" means one of the three categories of regulatory control for medical devices, defined below:

(1) "Class I" means the class for a device that is subject only to the general controls authorized by or under sections 501 (adulteration), 502 (misbranding), 510 (registration), 516 (banned devices), 518 (notification and other remedies), 519 (records and reports), and 520 (general provisions) of the act. A device is in class I if (i) general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device, or (ii) there is insufficient information to determine that the general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device or to establish a performance

standard to provide such assurance, but the device is not life-supporting or life-sustaining or for a use which is of substantial importance in preventing impairment of human health and does not present a potential unreasonable risk of illness or injury.

(2) "Class II" means the class for a device that is or will eventually be subject to the requirements of a performance standard promulgated in accordance with section 514 of the act. A device is in class II if the general controls by themselves are insufficient to provide reasonable assurance of its safety and effectiveness and there is sufficient information to establish a performance standard to provide such assurance.

(3) "Class III" means the class for a device for which premarket approval is or will be required in accordance with section 515 of the act. A device is in class III if insufficient information exists to determine that general controls are sufficient to provide reasonable assurance of its safety and effectiveness and if insufficient information exists to establish a performance standard to provide such assurance and, in addition, the device is life-supporting or life-sustaining, or for a use which is of substantial importance in preventing impairment of human health, or the device presents a potential unreasonable risk of illness or injury.

(d) "Implant" means a device that is placed into surgically or naturally formed cavities of the human body. Unless otherwise determined by the Commissioner on the basis of the need to protect human health, a device is regarded as an implant for the purpose of this part only if it is intended to remain implanted continuously for a period of 30 days or more.

(e) "Life-supporting or life-sustaining device" means a device that is intended to be used for restoration, maintenance, or continuation of a bodily function(s) important to the continuation of human life or yields information that is to be used for restoration, maintenance, or continuation of such function.

(f) "Classification questionnaire" means a specific series of questions prepared by the Commissioner for use by classification panels in preparing recommendations to the Commissioner regarding classification and by petitioners who submit petitions for reclassification. The questions relate to the safety and effectiveness characteristics of a device and the answers are intended to assist in determining the proper classification for a device.

(g) "Supplemental data sheet" means information which is compiled by classification panels and submitted in petitions for reclassification and which consists of:

(1) A summary of the reasons for the recommendation (or petition);

(2) A summary of the data upon which the recommendation (or petition) is based;

(3) An identification of the risks to health (if any) presented by the device;

(4) To the extent practicable, a recommendation for the assignment of a priority for the application of the performance standards or premarket approval provisions of the act to a class II or class III device;

(5) A recommendation whether the device should be exempted from any of the requirements of registration, recordkeeping and reporting, or good manufacturing practice regulations;

(6) In the case of an implant or life-supporting or life-sustaining device for which classification in class III is not recommended, a statement of the reasons for not recommending classification in Class III;

(7) Identification of any needed restrictions on the use of the device, e.g., whether the device requires special labeling, should be banned, or should be used only upon authorization of a physician; and

(8) Any existing standards applicable to the device, device subassemblies, or device materials.

(h) "Classification panel" means one of the several advisory committees established by the Commissioner under section 513 of the act and Part 14 of this chapter for the purpose of making recommendations to the Commissioner on the classification and reclassification of devices and for other purposes prescribed by the act or the Commissioner.

(i) "Generic type of device" means a grouping of devices that do not differ significantly in purpose, design, materials, energy source, function, or any other feature related to safety and effectiveness, and for which similar regulatory controls will be sufficient to provide reasonable assurance of safety and effectiveness.

§ 860.5 Confidentiality and use of data and information submitted in connection with classification and reclassification.

(a) This section governs the availability for public disclosure and the use by the Commissioner of data and information submitted to classification panels or to the Commissioner in connection with the classification or reclassification of devices under this part.

(b) In general, data and information submitted to classification panels in connection with the classification of devices under § 860.84 shall be available immediately for public disclosure upon request. However, except as provided by the special rules in paragraph (c) of this section, this provision does not apply to data and information exempt from public disclosure in accordance with Part 20 of this chapter which data and information shall only be available in accordance with Part 20.

(c) (1) Safety and effectiveness data submitted to classification panels or to the Commissioner in connection with the classification of a device under § 860.84 and not previously disclosed to the public, as defined in § 20.81 of this chapter, shall be regarded as confidential if the device is classified in class III. Because it is not known whether a device is classified in class III until publication of a final regulation under § 860.84, all such safety and effectiveness data that have not been previously disclosed are not available for public disclosure unless and until the device is classified in class I or II, in which case the procedure in paragraph (c)(2) of this section applies.

(2) Thirty days after publication of a final regulation under § 860.84 classifying a device is class I or class II, safety and effectiveness data submitted for that device that has been regarded as confidential under paragraph (c)(1) of this section will be available for public disclosure and placed on public display in the office of the Hearing Clerk, Food and Drug Administration unless, within that 30 day period, the person who submitted the data demonstrates that the data still fall within the exemption for trade secrets and confidential commercial information described in § 20.61 of this chapter. Safety and effectiveness data submitted for a device that has been classified in class III by regulation in accordance with § 860.84 shall remain confidential and unavailable for public disclosure, so long as such data have not been disclosed to the public as defined in § 20.81 of this chapter.

(3) Because device classification affects generic types of devices, the classification panels and the Commissioner may consider safety and effectiveness data developed concerning a particular device in making determinations under § 860.84 concerning the initial classification of any other device that is in the same generic type or that otherwise possesses similar characteristics, regardless of whether such data currently are regarded as confidential under paragraph (c)(1) of this section.

(d)(1) The fact of its existence and the contents of a petition for reclassification filed in accordance with § 860.130 or § 860.132 are available for public disclosure at the time the petition is filed.

(2) The fact of the existence of a petition for reclassification filed in accordance with § 860.134 or § 860.136 is available for public disclosure at the time the petition is filed. The contents of such a petition are not available for public disclosure for the period of time following receipt (not longer than 30 days) during which the petition is reviewed for any deficiencies that prevent the Commissioner from making a decision on it. When, within that 30 days, it is determined that the petition contains no deficiencies that prevent the Commissioner from making a decision on it, the entire contents of the petition will be available for public disclosure and subject to consideration by classification panels and by the Commissioner in making a decision on the petition. If during this 30-day period of time the petition is found to contain deficiencies that prevent the Commissioner from making a decision on it, the petitioner will be so notified and provided an opportunity to correct the deficiencies. The contents of the petition will become available for public disclosure 20 days after notice to the petitioner of deficiencies in the petition except to the extent the petitioner, within that 20 days, satisfies the Commissioner that any or all of the petition's contents are exempt from disclo-

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sure under Part 20 of this chapter. At such time as the deficiencies have been corrected by the petitioner, the entire contents of the petition will be available for public disclosure and subject to consideration by classification panels and by the Commissioner in making a decision on the petition.

(e) No information reported to or otherwise obtained by the Commissioner under sections 513, 514, 515, 516, 518, 519 520(f), 520(g), or 704 of the act that falls within the exemption described in § 20.61 of this chapter for trade secrets and confidential commercial information may be disclosed by the Commissioner or used as the basis for reclassification of a device from class III to class II. The exemption described in § 20.61 does not apply to any data or information contained in any petition for reclassification submitted in accordance with § 860.130 or § 860.132, or in a petition submitted in accordance with § 860.134 or § 860.136 that has been determined to contain no deficiencies that prevent the Commissioner from making a decision on it. Accordingly, all data and information contained in such petitions may be disclosed by the Commissioner and used as the basis for reclassification of a device from class III to class II.

(f) For purposes of this section, safety and effectiveness data include data and results derived from all studies and tests of a device on animals and humans and from all studies and tests of the device itself intended to establish or determine its safety and effectiveness.

§ 860.7 Determination of safety and effectiveness.

(a) Because of their great variety, there is no single standard of safety and effectiveness, or of evidence to show device safety or effectiveness, that is applicable to all devices. The classification panels, in reviewing evidence concerning the safety and effectiveness of a device and in preparing advice to the Commissioner, and the Commissioner, in making determinations concerning the safety and effectiveness of a device, shall apply the rules in this section.

(b) For purposes of classification, establishment of performance standards for a class II device, and premarket approval of a class III device, determination of the safety and effectiveness of a device shall include consideration of the following, among other relevant factors:

(1) The persons for whose use the device is represented or intended;

(2) The conditions of use for the device, including conditions of use prescribed, recommended, or suggested in the labeling of the device and other intended conditions of use, including those prescribed, recommended, or suggested in the advertising for the device;

(3) The probable benefit to health from the use of the device weighed against any probable injury or illness from such use; and

(4) The reliability of the device.

(c) (1) Although any form of evidence may be submitted to the Food and Drug Administration to show whether a device is safe and effective, the agency relies only on valid scientific evidence to determine that there is reasonable assurance that a device is safe and effective. The Commissioner, in his discretion, after considering the nature of the device and the rules in this section, shall determine whether particular evidence submitted or otherwise available to him is valid scientific evidence for the purpose of determining the safety or effectiveness of a particular device and whether available evidence taken as a whole is adequate to determine that there is reasonable assurance that a device is safe and effective for its conditions of use.

(2) Valid scientific evdence is evidence from which it can fairly and responsibly be concluded by qualified experts that there is reasonable assurance of the safety and effectiveness of a device under its conditions of use. The evidence required may vary according to the characteristics of the device, its conditions of use, the existence and adequacy of warnings and other restrictions, and the extent of experience with its use. Valid scientific evidence includes well-controlled investigations, partially controlled and uncontrolled studies, well-documented case histories by qualified experts, and, in some cases, reports of significant human experience of a marketed device. Isolated case reports, random experience, reports lacking the details to permit scientific evaluation, or unsubstantiated opinion are not regarded as valid scientific evidence to show safety or effectiveness, although such information may be considered if relevant to a determination that a device is not safe or effective.

(d) (1) There is reasonable assurance that a device is safe when it can be determined, based on valid scientific evidence, that the benefits from the use of the device for its intended uses and conditions of use, with adequate directions for use and warnings against unsafe use, outweigh the risks. The valid scientific evidence used to determine the safety of any device shall include adequate efforts to demonstrate the absence of unreasonable risk of illness or injury associated with the use of the device under its intended uses and conditions of use.

(2) Among the types of evidence that may be required, when appropriate, to determine that there is reasonable assurance that a device is safe are investigations using laboratory animals, other nonclinical investigations, including in vitro studies, and investigations involving human subjects.

(e) (1) There is reasonable assurance that a device is effective when it can be determined based on valid scientific evidence that, in a significant portion of the target population, the use of the device for its intended uses and conditions of use, with adequate directions for use and warnings against unsafe use, will provide clinically significant results.

(2) The valid scientific evidence used to determine the effectiveness of a device shall include well-controlled investigations, as defined in paragraph (f) of this section, unless the Food and Drug Administration determines that other valid scientific evidence exists that is sufficient to determine the effectiveness of a device and authorizes reliance on such other valid scientific evidence, without well-controlled investigations. The Commissioner may make such a determination where the requirement of well-controlled investigations in paragraph (f) of this section is not reasonably applicable to the device or essential to the validity of the evidence of effectiveness.

(f) The following principles have been developed over a period of years and are recognized by the scientific community as the essentials of well-controlled clinical investigations. They provide the basis for the determination whether there is reasonable assurance that a device is effective based on well-controlled investigations and are also useful in assessing the weight to be given to other valid scientific evidence permitted under this section.

(1) The plan or protocol for the study and the report of the results of a well-controlled investigation shall include the following:

(i) A clear statement of the objectives of the study.

(ii) A method of selection of the subjects that:

(a) Provides adequate assurance that the subjects are suitable for the purposes of the study, provides diagnostic criteria of the condition to be treated or diagnosed, provides confirmatory laboratory tests where appropriate, and, in the case of a device to prevent a disease or condition, provides evidence of susceptibility and exposure to the condition against which prophylaxis is desired.

(b) Assigns the subjects to test groups, if used, in such a way as to minimize bias.

(c) Assures comparability in test and any control groups of pertinent variables, such as sex, severity or duration of the disease, and use of therapy other than the test device.

(iii) An explanation of the methods of observation and recording of results, including the variables measured, quantitation, assessment of any subject's response, and steps taken to minimize bias regarding subjects and observers.

(iv) A comparison of the results of treatment or diagnosis with a control in such a fashion as to permit quantitative evaluation. The precise nature of the control must be stated and an explanation given of the methods used to minimize bias on the part of the observers and the analysts of the data. Level and methods of "blinding," if appropriate and used, are to be documented. Generally, four types of comparisons are recognized:

(a) *No treatment.* Where objective measurements of effectiveness are available and placebo effect is negligible, comparison of the objective results in comparable groups of treated and untreated patients.

(b) *Placebo control.* Where there may be a placebo effect with the use of a device, comparison of the results of use of the device with an ineffective device under conditions of use designed to resemble the conditions of use of the device under investigation as far as possible.

(c) *Ative treatment control.* An effective regimen of therapy may be used for comparison, e.g., where the condition treated is such that no treatment or use of a placebo would be inappropriate or contrary to the interest of the patient.

(d) *Historical control.* In certain circumstances, such as those involving diseases with high and predictable mortality, with signs and symptoms of predictable duration of severity, or in the case of prophylaxis, where morbidity is predictable, the results of use of the device may be compared quantitatively with prior experience historically derived from the adequately documented natural history of the disease or condition in comparable patients or populations with not treatment or with a regimen (therapeutic, diagnostic, prophylactic) the effectiveness of which is established.

(v) A summary of the methods of analysis and an evaluation of data derived from the study, including any appropriate statistical methods.

(2) A well-controlled investigation shall involve use of a test device that is standardized in its composition or design and performance, to give significance to the results of the investigation.

(g) (1) It is the responsibility of each manufacturer and importer of a device to assure that adequate information exists to provide reasonable assurance that the device is safe and effective for its intended uses and conditions of use. The failure of a manufacturer or importer of a device to present to the Food and Drug Administration adequate, valid, scientific evidence showing that there is reasonable assurance of the safety and effectiveness of the device, if regulated by general controls alone, or by general controls and performance standards, may be supportive of a determination that the device should be classified in class III.

(2) The Commissioner may require that a manufacturer, importer, or distributor make reports or provide other information bearing upon a device's classification and whether there is reasonable assurance of the safety and effectiveness of a device or whether it is adulterated or misbranded under the act.

(3) A requirement for a report or other information under this paragraph shall comply with section 519 of the act; shall state the reason or purpose for such request and identify to the fullest extent practicable the needed report or information; shall not be imposed on a manufacturer, importer, or distributor of a classified device that has been exempted from such a requirement in accordance with § 860.95; shall prescribe time for compliance with the requirement; may be issued in the form of a general regulation or notice published in the FEDERAL REGISTER or an order to a particular manufacturer, importer, or distributor; and may prescribe the form and manner in which the report or information is to be provided.

(4) Whenever required information has been previously submitted to the Food and Drug Administration, that information need not be resubmitted, but may be incorporated by reference.

Subpart B—Classification

§ 860.84 Classification procedures for "old devices."

(a) This subpart sets forth procedures for the original classification of a device that either was in commercial distribution before May 28, 1976, or is substantially equivalent to a device that was in commercial distribution before that date. Such device shall be classified by regulation in either class I (general controls), class II (performance standards), or class III (premarket approval), depending on the level of regulatory control required to provide reasonable assurance of the safety and effectiveness of the device (§ 860.3(c)). This subpart does not apply to a product that is classified in class III by statute under section 520(1) (1) through (3) of the act because it was previously regarded as a new drug, but does apply to any product subject to section 520(1)(4) of the act that was previously regarded as an antibiotic drug. The procedures for classification of a device under this section are described in paragraphs (b) through (f) below.

(b) The Commissioner refers the device to the appropriate classification panel organized and operated in accordance with section 513 (b) and (c) of the act and Part 14 of this chapter.

(c) In order to make recommendations to the Food and Drug Administration on the class of regulatory control (class I, class II, or class III) appropriate for the device, the panel reviews the device for safety and effectiveness. In so doing, the panel:

(1) Considers the factors described in § 860.7 relating to determinations of safety and effectiveness;

(2) Determines the safety and effectiveness of the device on the basis of the types of scientific evidence described in § 860.7;

(3) Answers the question in the classification questionnaire that are appropriate for the device;

(4) Completes a supplemental data sheet for the device;

(5) Provides, to the maximum extent practicable, an opportunity for interested persons to submit data and views on the classification of the device in accordance with Part 14 of this chapter.

(d) Based on its review for safety and effectiveness and applying the definitions for each class in § 860.3(c), the panel makes a recommendation regarding the classification of the device and submits it to the Commissioner. The recommendation includes:

(1) A summary of the reasons for the recommendation;

(2) A summary of the data upon which the recommendation is based, accompanied by references to sources containing such data;

(3) An identification of the risks to health (if any) presented by the device with respect to which the recommendation is made;

(4) In the case of a recommendation for classification in class I, a recommendation as to exemption of the device from the requirements of one or more of the following sections of the act: section 510 (registration, product listing, and premarket notification); section 519 (records and reports); and section 520(f) (good manufacturing practice regulations) in accordance with § 860.95;

(5) In the case of a recommendation for classification in class II or class III, to the extent practicable, a recommendation for the assignment of a priority to the device for the promulgation of a performance standard for, or application of a premarket approval requirement to, the device;

(6) In the case of a recommendation for classification of an implant or a life-supporting or life-sustaining device into class I or class II, a statement of why premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of the device, accompanied by references to supporting documentation and data that meet the requirements of § 860.7, and an identification of the risks to health, if any, presented by the device.

A panel recommendation is regarded as preliminary until the Food and Drug Administration has reviewed the proposed panel recommendation, discussed it with the panel if appropriate, and published a proposed regulation classifying the device. Preliminary panel recommendations are filed in the Hearing Clerk's office upon receipt and are available to the public upon request.

(e) The Commissioner publishes the panel's recommendation in the FEDERAL REGISTER, together with a proposed regulation classifying the device, and provides an opportunity for interested persons to submit comments on the recommendation and proposed regulation.

(f) The Commissioner reviews the comments and issues a final regulation classifying the device, which shall:

(1) If classifying the device in class I, prescribe which of the requirements of sections 510, 519, and 520(f) of the act shall not apply to the device and state the reasons for making the requirements inapplicable, in accordance with § 860.95;

(2) If classifying the device in class II or class III, at the discretion of the Commissioner, establish priorities to be used for the promulgation of a performance standard for, or application of a premarket approval requirement to, the device;

(3) If classifying an implant, or life-supporting or life-sustaining device, be in accordance with § 860.93(b).

§ 860.93 Classification of implants, life-supporting or life-sustaining devices.

(a) The classification panel shall recommend classification in class III of any implant or life-supporting or life-sustaining device unless the panel determines that classification in class III is not necessary to provide reasonable assurance of the safety and effectiveness

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of the device. If the panel recommends classification or reclassification of such a device in a class other than class III, it shall set forth in its recommendation the reasons for so doing together with references to supporting documentation and data that meet the requirements of § 860.7, and an identification of the risks to health, if any, presented by the device.

(b) The Commissioner shall classify any impant or life-supporting or life-sustaining device in class III unless he determines that such classification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. If the Commissioner proposes to classify or reclassify the device in a class other than class III, the regulation or order effecting such classification or reclassification shall be accompanied by a full statement of the reasons for not classifying or not retaining the device in class III, which may be in the form of concurrence with a panel's reasons for its recommendation, together with supporting documentation and data that meet the requirements of § 860.7, and an identification of the risks to health, if any, presented by the device.

§ 860.95 Exemptions from sections 510, 519, and 520(f) of the act.

(a) If a panel recommends that a device be classified or reclassified in class I, it shall recommend to the Commissioner whether the device should be exempted from the requirements of one or more of the following sections of the act: section 510 (registration, product listing, and premarket notification), section 519 (records and reports), and section 520(f) (good) manufacturing practice regulations).

(b) A regulation or an order classifying or reclassifying a device in class I shall state the requirements of sections 510, 519, and 520(f) of the act from which the device is to be exempted, if any, together with the reasons for granting such exemption.

(c) Exemptions will be granted under this section only upon a determination that the requirements from which the device is exempted are not necessary to provide reasonable assurance of the safety and effectiveness of the device.

Subpart C—Reclassification

§ 860.120 General.

Sections 513(e), 513(f), 514(b), 515(b), and 520(l) of the act provide for reclassification of a device and prescribe procedures for effecting reclassification. The purposes of Subpart C are to:

(a) Set forth the requirements as to form and content of petitions for reclassification;

(b) Describe the circumstances in which each of the five reclassification provisions apply; and

(c) Explain the procedures for reclassification prescribed in the five reclassification sections of the act.

The criteria for determining the proper class for a device are set forth in § 860.3(c). The reclassification of any specific device within a generic type of device causes the reclassification of all substantially equivalent devices within that generic type. Accordingly, a petition for the reclassification of any specific device shall be regarded as a petition for reclassification of all substantially equivalent devices within the same generic type.

§ 860.123 Reclassification petition: content and form.

(a) Unless otherwise provided in writing by the Commissioner, all petitions for reclassification of a device, regardless of the section of the act under which they are filed, shall include the following:

(1) A specification of the generic type of device for which reclassification is requested.

(2) A statement of the action requested by the petition, e.g., "it is requested that _____ device(s) be reclassified from class III to class II."

(3) A completed supplemental data sheet applicable to the device for which reclassification is requested.

(4) A completed classification questionnaire applicable to the device for which reclassification is requested.

(5) A statement of the basis for disagreement with the present classification status of the device.

(6) A full statement of the reasons and supporting data meeting the requirement of § 860.7 demonstrating why the device should not be classified in its present classification and how the proposed classification will provide reasonable assurance of the safety and effectiveness of the device.

(7) Representative data and information known to the petitioner which are unfavorable to the petitioner's position.

(8) If the petition is based on new information under section 513(e), 514(b), or 515(b) of the act, a summary of the new information upon which the petition is based.

(9) Copies of source documents from which new information used to support the petition have been obtained (attached as appendices to the petition).

(b) Each petition submitted pursuant to this section shall be:

(1) Addressed to the Food and Drug Administration, Bureau of Medical Devices, Document Control Center (HFK-20), 8757 Georgia Ave., Silver Spring, Md. 20910;

(2) Marked clearly with the section of the act under which the petition is being submitted, i.e., "513(e)," "513(f)," "514(b)," "515(b)," or "520(l) Petition";

(3) Bound into a volume or volumes, where necessary; and

(4) Submitted in quintuplicate.

§ 860.125 Consultation with panels.

(a) When the Commissioner is required to refer a reclassification petition to a classification panel for its recommendation under § 860.134, or is required or chooses to have consultation with a panel concerning a reclassification petition, such as under § 860.132 and § 860.136, the Food and Drug Administration shall distribute a copy of the petition to each panel member and shall consult with the panel in one of the following ways:

(1) Consultation by telephone with a majority of current voting panel members;

(2) Consultation by mail with a majority of current voting panel members;

(3) Discussion at a panel meeting with or without the issuance of a formal recommendation by the panel.

(b) The method of consultation chosen by the Commissioner will depend on the importance and complexity of the subject matter involved and the need for rapid action. When time and circumstances permit, the Commissioner will consult with a panel through discussion at a panel meeting.

(c) When a petition is submitted under § 860.134 for a "new device," the Commissioner's consultation with the panel shall include obtaining a recommendation that includes the information set forth in § 860.84(d).

§ 860.130 General procedures under section 513(e) of the act.

(a) Section 513(e) of the act applies to all reclassification proceedings under the act except those initiated by a manufacturer or importer for reclassification of a device currently in class III by operation of either section 513(f) or 520(l) of the act. See §§ 860.134 and 860.136, respectively.

(b) A proceeding to reclassify a device under section 513(e) may be initiated:

(1) On the initiative of the Commissioner alone;

(2) On the initiative of the Commissioner in response to a request for change in classification based on new information, under section 514(b) or 515(b) of the act (see § 860.132); or

(3) In response to the petition of an interested person, based on new information, filed in accordance with § 860.123.

(c) A proceeding to reclassify a device under section 513(e) shall be conducted in accordance with the rule making procedures in § 10.40 of this chapter, except that the Commissioner may secure a recommendation with respect to a proposed reclassification from the classification panel to which the device was last referred. If a proposed reclassification is submitted to a panel for its recommendation, the panel will consider it in accordance with the consultation procedures of § 860.125. Any recommendation submitted to the Commissioner by the panel shall be published in the FEDERAL REGISTER.

(d) If a device is reclassified under this section, the regulation effecting the reclassification may revoke any performance standard or premarket approval requirement that is no longer applicable to the device because of the change in classification.

(e) A regulation under this section changing the classification of a device from class III to class II may provide that such classification shall not take effect until the effective date of a performance standard established under section 514 of the act for the device.

§ 860.132 Procedures when the Commissioner initiates a performance standard or premarket approval proceeding under section 514(b) or 515(b) of the act.

(a) Sections 514(b) and 515(b) of the act require the Commissioner to provide, by notice in the FEDERAL REGISTER, the opportunity for interested parties to request a change in the classification of a device based on new information relevant to its classification when, for that device, the Commissioner initiates a proceeding either to develop a performance standard for a class II device or to promulgate a regulation requiring premarket approval for a class III device. In either case, if the Commissioner agrees that the new information warrants a change in classification, he will give notice of his intent to initiate a proceeding under section 513(e) of the act and § 860.130 to effect such a change.

(b) The procedures for effecting a change in classification under sections 514(b) and 515(b) of the act are as follows:

(1) Within 15 days after publication of the Commissioner's notice referred to in paragraph (a) of this section, a petition for reclassification is filed by an interested person in accordance with § 860.123.

(2) The Commissioner has consultation regarding the petition with the appropriate classification panel in accordance with § 860.125.

(3) Within 60 days after publication of the notice referred to in paragraph (a) of this section, the Commissioner, by order published in the FEDERAL REGISTER, either denies the petition or gives notice of his intent to initiate a change in classification in accordance with § 860.130.

§ 860.134 Procedures for "new devices" under section 513(f) of the act.

(a) Section 513(f)(2) of the act applies to reclassification proceedings initiated by a manufacturer or importer for reclassification of a device currently in class III by operation of section 513(f)(1) of the act. This category includes any device that was first introduced or delivered for introduction into interstate commerce for commercial distribution after May 28, 1976, unless:

(1) It is substantially equivalent to another device that was in commercial distribution before that date and had not been regulated before that date as a new drug; or

(2) It is substantially equivalent to another device that was not in commercial distribution before such date but has been classified in class I or class II; or,

(3) The Commissioner has classified the device in class I or class II in response to a petition for reclassification under this section.

The determination that a device is not "substantially equivalent" for purposes of the application of this section is made by the Food and Drug Administration. If the manufacturer or importer believes that a device is not "substantially equivalent" but that it should not be in class III under the criteria in § 860.3(c), it may petition for reclassification under this section. If the manufacturer or importer believes that a device is "substantially equivalent" and desires to proceed to market the device, the Food and Drug Administration will have an opportunity to determine whether the device is "substantially equivalent" on the basis of the premarket notification the manufacturer or importer is required to submit in accordance with Part 807 of this chapter.

(b) The procedures for effecting reclassification under section 513(f) of the act are as follows:

(1) The manufacturer or importer of the device petitions for the reclassification of the device in accordance with § 860.123.

(2) Within 30 days after the filing of a petition, the Commissioner notifies the petitioner of any deficiencies in the petition that prevent him from making a decision on it, allowing the petitioner to supplement a deficient petition. If the supplementary material or explanation of the petition is deemed sufficient to permit the Commissioner to make a decision on the petition, the petitioner is so notified.

(3) After determining that the petition has no deficiencies that preclude a decision on it, the Commissioner refers the petition to the appropriate classification panel for its review and recommendation respecting approval or denial of the petition.

(4) Within 90 days after the date of referral of the petition, the panel, after following the same review procedures set forth in § 860.84(c) for the original classification of an "old" device, submits its recommendation to the Commissioner containing the information set forth in § 860.84(d). A panel recommendation is regarded as preliminary until the Food and Drug Administration has reviewed the proposed panel recommendation, discussed it with the panel if appropriate, and developed a proposed reclassification order. Preliminary panel recommendations are filed in the Hearing Clerk's office upon receipt and are available to the public upon request.

(5) The panel recommendation is published in the FEDERAL REGISTER as soon as practicable and opportunity is provided for interested persons to provide comments on the recommendation.

(6) Within 90 days after receiving the panel's recommendation (and no more than 210 days after the date of filing of the petition), the Commissioner denies or approves the petition by order in the form of a letter to the petitioner. If the Commissioner approves the petition, the order will classify the device into class I or class II, as appropriate under the criteria set forth in § 860.3(c) and subject to the applicable requirements of § 860.93 relating to the classification of implants, life-supporting or life-sustaining devices and § 860.95 relating to exemptions from certain requirements of the act.

(7) Within a reasonable time after issuance of an order effecting reclassification under this section, the Commissioner announces the reclassification by notice published in the FEDERAL REGISTER.

§ 860.136 Procedures for transitional products under section 520(l) of the act.

(a) Section 520(l)(2) of the act applies to reclassification proceedings initiated by a manufacturer or importer for reclassification of a device currently in class III by operation of section 520(l)(1) of the act. This applies to any device that was regarded as a "new drug" before May 28, 1976.

(b) The procedures for effecting reclassification under section 520(l) are as follows:

(1) The manufacturer or importer of the device files a petition for the reclassification of the device in accordance with § 860.123.

(2) Within 30 days after the filing of the petition, the Commissioner notifies the petitioner of any deficiencies in the petition that prevent him from making a decision on it, allowing the petitioner to supplement a deficient petition. If the supplementary material or explanation of the petition is deemed acceptable, the petitioner is so notified.

(3) The Commissioner provides the petitioner an opportunity for an informal hearing conducted in accordance with Part 16 of this chapter.

(4) The Commissioner has consultation regarding the petition with the appropriate classification panel in accordance with § 860.125.

(5) Within 180 days after the filing of the petition (where the Commissioner has determined it to be adequate for review), the Commissioner by order in the form of a letter to the petitioner either denies the petition or classifies the device in class I or class II, in accordance with the criteria set forth in § 860.3(c).

(6) Within a reasonable time after issuance of an order effecting reclassification under this section, the Commissioner announces the reclassification by notice published in the FEDERAL REGISTER.

Interested persons may, on or before November 14, 1977, submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: September 1, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77–26388 Filed 9–12–77;8:45 am]

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federal register

TUESDAY, SEPTEMBER 13, 1977
PART V



COMMODITY FUTURES TRADING COMMISSION

■

MINIMUM FINANCIAL AND RELATED REPORTING REQUIREMENTS

Public Hearings

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COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 1]

MINIMUM FINANCIAL AND RELATED REPORTING REQUIREMENTS

Public Hearings

AGENCY: Commodity Futures Trading Commission.

ACTION: Public hearings.

SUMMARY: The Commodity Futures Trading Commission will hold public hearings on Wednesday, October 5, and Thursday, October 6, 1977, to receive oral statements on its proposed revisions to its minimum financial and related reporting requirements.

DATES: Hearings: 10 a.m. October 5, and 10 a.m. October 6, 1977.

ADDRESS: 5th Floor Hearing Room, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mrs. Jane Stuckey, Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581 (202–254–6126).

SUPPLEMENTARY INFORMATION: The Commission's proposed revisions to its minimum financial and related reporting requirements were publicly announced in the FEDERAL REGISTER on October 15, 1976 (41 FR 45706), May 26, 1977 (42 FR 27166), June 22, 1977 (42 FR 31740), and August 1, 1977 (42 FR 39036).

Persons who wish to appear at the hearings should forward an outline of their proposed statement to Mrs. Stuckey at the above address in time for it to be received by September 30, 1977.

Persons making statements before the Commission may be accompanied by persons of their own choosing, who may advise or assist the speaker in responding to questions or otherwise assure that full information is developed for the use of the Commission. Oral presentations will be limited to 15 minutes. During and subsequent to any person's oral presentation, questions may be asked either by members of the Commission or the Commission staff.

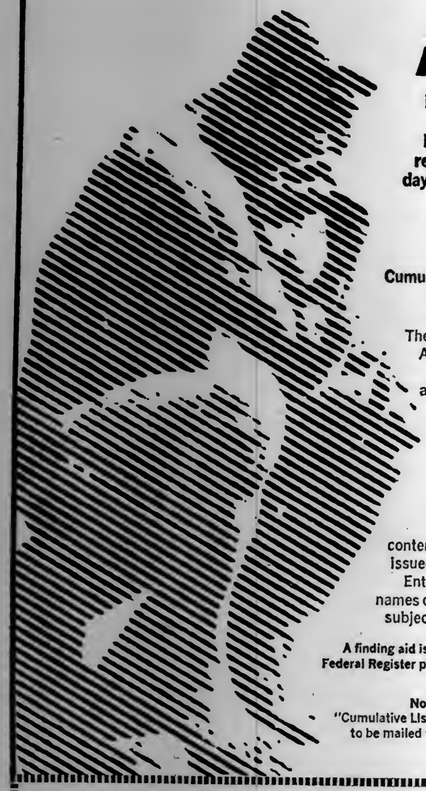
The Commission recognizes that members of the public may have questions. Therefore, provision will be made for persons having questions to submit those questions in an informal written form to a member of the Commission staff who will have discretion whether or not to pose those questions to the person making the presentation.

Issued in Washington, D.C., on September 7, 1977, by the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.77-26523 Filed 9-12-77;8:45 am]

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WEDNESDAY, SEPTEMBER 14, 1977

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Workshops include a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

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Saint Paul, Minn. 9–13, 9–14, 9–15
(Details: 42 FR 40999, 8–12–77)
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St. Louis, Mo. 9–28 and 9–29–77
(Details: 42 FR 42719, 8–24–77)
For reservations call: Delores O'Guin
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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Amdt. 2]

PART 967—CELERY GROWN IN FLORIDA

Subpart—Rules and Regulations

ELIGIBILITY REQUIREMENTS AND NOMINATION PROCEDURES FOR PUBLIC MEMBERS OF THE FLORIDA CELERY COMMITTEE

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: A recent amendment of the Florida Celery Marketing Order provides that a public member and alternate be added to the Florida Celery Committee, the local administrative agency for the program. This rule specifies the eligibility requirements of the persons to be nominated and procedures for nominating public members.

EFFECTIVE DATE: September 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Phone: 202–447–3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 149 and Order 967, both as amended, regulate the handling of celery grown in Florida. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Celery Committee established under the order is responsible for its local administration. The Secretary's Decision (42 FR 25872) specifies that the Secretary will issue rules or regulations which set forth the eligibility requirements for public member nominees and the nomination procedures to be followed.

Notice was published in the August 2 FEDERAL REGISTER (42 FR 39108) inviting written comment by August 16, 1977. None was received.

Findings. On the basis of all considerations it is believed that these rules will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice was given of the rules set forth in this section through publicity in the production area and by publication in the August 2 FEDERAL REGISTER, (2) prompt issuance of these rules will be beneficial to all interested persons because it should afford the committee additional time to publicise, seek candidates and select the public member and alternate nominees and (3) no useful purpose will be served by postponing such issuance.

The rules are as follows:

Amend Subpart—Rules and Regulations (7 CFR 967.100–967.166) by adding a new § 967.140 and § 967.141 to read as follows:

PUBLIC MEMBERS

§ 967.140 Eligibility requirements.

(a) Public members shall be neither producers nor handlers of celery and shall have no direct financial interest in the production or marketing of celery except as consumers of agricultural products.

(b) Public members should be able to devote sufficient time and express a willingness to attend committee activities regularly and to familiarize themselves with the background and economics of the industry.

(c) Public members must be residents of Florida.

(d) Public members shall be nominated by the Florida Celery Committee and shall serve a one-year term which coincides with the term of office of producer or handler members of the committee.

§ 967.141 Nomination procedures.

(a) Names of candidates together with evidence of qualification for public membership on the Florida Celery Committee shall be submitted to the committee at its business office, 4401 East Colonial Drive, or P.O. Box 20067, Orlando, Fla. 32814, no later than April 15.

(b) Questionnaires may be sent by the committee to those persons submitted as candidates, to determine their eligibility and interest in becoming a public member.

(c) The names of persons nominated for the public member and alternate positions shall be submitted by the incumbent committee to the Secretary by July 1 with such information as deemed pertinent by the committee or as requested by the Secretary.

(d) Nomination of the initial public member may be made later than July 1 but as soon as practical thereafter. Such member's term shall end July 31, 1978.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Dated: September 9, 1977, to become effective September 14, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-26702 Filed 9-13-77;8:45 am]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 236—EXCLUSION OF ALIENS

PART 299—IMMIGRATION FORMS

Redesignation of Title of Special Inquiry Officer to Immigration Judge

AGENCY: Immigration and Naturalization, Justice.

ACTION: Final rule.

SUMMARY: This is an amendment of the regulations of the Immigration and Naturalization Service which is intended only to substitute the title "Immigration Judge" for the title "Special Inquiry Officer" in the revision to the regulations set forth below. This amendment is necessary because the Service officers presently referred to as "Special Inquiry Officers" who conduct various hearings and proceedings under the immigration and nationality laws have been designated as immigration judges for over two years. The title reference will be changed in other sections of the regulations as they are amended for other reasons.

EFFECTIVE DATE: September 14, 1977.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536. Telephone: 202–376–8373.

1. Part 236 of Chapter I of Title 8 of the Code of Federal Regulations is hereby revised to read as follows:

Sec.
236.1 Authority of immigration judges.
236.2 Hearing.
236.3 Decision of the immigration judge; notice to the applicant.
236.4 Finality of order.
236.5 Appeals.
236.6 Fingerprinting of excluded aliens.

AUTHORITY: Secs. 103, 212, 234, 235, 236, 292, 66 Stat. 173, 182, as amended, 198, 200, 238; 8 U.S.C. 1103, 1182, 1224, 1225, 1226, 1362.

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§ 236.1 Authority of immigration judges.

In determining cases referred for further inquiry as provided in section 235 of the Act, immigration judges shall have the powers and authority conferred upon them by the Act and this chapter. Subject to any specific limitation prescribed by the Act and this chapter, immigration judges shall also exercise the discretion and authority conferred upon the Attorney General by the Act as is appropriate and necessary for the disposition of such cases.

§ 236.2 Hearing.

(a) *Opening.* Exclusion hearings shall be closed to the public, unless the alien at his own instance requests that the public, including the press, be permitted to attend; in that event, the hearing shall be open, provided that the alien states for the record that he is waiving the requirement in section 236 of the Act that the inquiry shall be kept separate and apart from the public. When the hearing is to be open, depending upon physical facilities, reasonable limitation may be placed upon the number in attendance at any one time, with priority being given to the press over the general public. The immigration judge shall ascertain whether the applicant for admission is the person to whom Form I–122 was previously delivered by the examining immigration officer as provided in Part 235 of this chapter; enter a copy of such form in evidence as an exhibit in the case; inform the applicant of the nature and purpose of the hearing; advise him of the privilege of being represented by an attorney or other representative qualified under Part 292 of this chapter, and request him to state then and there whether he desires representation; advise him that he will have a reasonable opportunity to present evidence in his own behalf, to examine and object to evidence against him, and to cross-examine witnesses presented by the Government; and place the applicant under oath.

(b) *Procedure.* The immigration judge shall receive and adduce material and relevant evidence, rule upon objections, and otherwise regulate the course of the hearing.

(c) *Trial attorney.* The district director shall assign a trial attorney to every case in which the appellant's nationality is in issue or in which the immigration judge requests such assignment. In his discretion the district director may assign a trial attorney to any case in which he deems such assignment necessary or advantageous. The duties of the trial attorney shall include, but are not limited to, the presentation of evidence and the interrogation, examination, and cross-examination of the applicant and other witnesses. Nothing contained herein shall be construed to diminish the authority conferred upon the immigration judge in conducting proceedings under this part.

(d) *Depositions.* The procedures specified in § 242.14(e) of this chapter shall apply.

(e) *Record.* The hearing before the immigration judge, including the testimony and exhibits, the immigration judge's decision, and all written orders, motions, appeals, and other papers filed in the proceeding shall constitute the record in the case. The hearing shall be recorded verbatim except for statements made off the record with the permission of the immigration judge.

§ 236.3 Decision of the immigration judge; notice to the applicant.

(a) *Contents.* The decision of the immigration judge may be oral or written. It shall include a discussion of the evidence and findings as to excludability; the formal enumeration of findings is not required. The decision shall be concluded with the order of the immigration judge.

(b) *Oral decision.* An oral decision shall be stated for the record by the immigration judge at the conclusion of the hearing and in the presence of the applicant. When entitled to appeal from an adverse decision of the immigration judge, the applicant shall be so advised and shall be required to state then and there whether he wishes to appeal. At his request, the applicant shall be furnished with a typewritten transcript of the oral decision of the immigration judge.

(c) *Written decision.* When the decision of the immigration judge is in writing, the district director shall serve a signed copy thereof on the applicant, together with the notice referred to in § 3.3 of this chapter.

(d) *Advice to alien ordered excluded.* An alien ordered excluded shall be furnished with Form I–296, Notice to Alien Ordered Excluded by Immigration Judge, at the time of an oral decision by the immigration judge or upon service of a written decision.

(e) *Holders of refugee travel documents.* Aliens who are the holders of valid unexpired refugee travel documents may be ordered excluded only if they are found to be inadmissible under section 212(a) (9), (10), (12), (23), (27), (28), (29), or (31) of the Act, and it is determined that on the basis of the acts for which they are inadmissible there are compelling reasons of national security or public order for their exclusion. If the immigration judge finds that the alien is inadmissible but determines that there are no compelling reasons of national security or public order for exclusion, the immigration judge shall remand the case to the district director for parole.

§ 236.4 Finality of order.

The order of the immigration judge shall be final except when a case has been certified as provided in Part 3 or Part 103 of this chapter, or when an appeal is taken to the Board of Immigration Appeals. An immigration judge shall have authority to certify his decision in any case to the Board of Immigration Appeals when it involves an unusually complex or novel question of law or fact. When the order of the immigration judge is to admit the applicant, the immigration judge shall place him on notice that the decision is subject to appeal by the district director as provided in § 236.5(c).

§ 236.5 Appeals.

(a) *In general.* Pursuant to Part 3 of this chapter, an appeal shall lie to the Board of Immigration Appeals from a decision of the immigration judge under this part, except as limited by section 236(d) of the Act.

(b) *By applicant.* When the applicant states that he wishes to appeal from the immigration judge's oral decision, he shall be required then and there to submit completed Form I–290A. At his request, the applicant shall be allowed 10 days from the date of the oral decision in which to file a brief. An appeal from the immigration judge's written decision shall be taken within 13 days after mailing.

(c) *By district director.* The district director may, within 5 days from date of decision, appeal from an order of the immigration judge to admit the applicant. The applicant shall be notified in writing when an appeal is taken by the district director and advised that he will be allowed 5 days from receipt of notification in which to submit written representations for transmittal to the Board with the record in the case.

§ 236.6 Fingerprinting of excluded aliens.

Every alien 14 years of age or older who is excluded from admission to the United States by an immigration judge shall be fingerprinted, unless during the preceding year he has been fingerprinted at an American consular office.

* * * * *

2. Part 299 of Chapter I of Title 8 of the Code of Federal Regulations is hereby revised to read as follows:

§ 299.1 is revised to read as follows:

§ 299.1 Prescribed forms.

* * * * *

Form No., title, and description
* * * * *
I–296 (3–15–76) Notice to Alien Ordered Excluded by Immigration Judge.
* * * * *

(Sec. 103; 66 Stat. 173; (8 U.S.C. 1103).)

The above amendments are issued pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93–502 (88 Stat. 1561) and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1. The title "immigration judge" is used in the above amendments in lieu of "special inquiry officer" pursuant to 8 CFR 1.1(l). Compliance with section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary in this instance because the amendments contained in this order are editorial in nature.

Effective date: The amendments prescribed in this order become effective on September 14, 1977.

Dated: September 7, 1977.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc.77-26624 Filed 9-13-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–5856, 34–13672, 35–20142, IC–9900]

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER

Disclosure of Management Remuneration

Correction

In FR Doc. 77–24805 appearing at page 43058 in the issue for Friday, August 26, 1977, the following correction should be made.

The effective date on page 43508 is not applicable, and should be deleted.

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 178a—INCENTIVE GRANTS FOR STATE STUDENT FINANCIAL ASSISTANCE TRAINING PROGRAM

AGENCY: Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: The Commissioner is issuing regulations to implement the State Student Financial Assistance Training Program. The regulations establish rules and procedures by which the Commissioner will make incentive grants available to States for the purpose of carrying out training programs, in consultation with Statewide financial aid administrator organizations, to increase the proficiency of financial aid administrators.

EFFECTIVE DATE: Pursuant to Section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), this regulation has been transmitted to the Congress concurrently with its publication in the FEDERAL REGISTER. That section provides that rules subject thereto shall become effective on the 45th day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Richard L. McVity, Director, State Student Incentive Grant Program, Regional Office Building 3, Room 3674, 7th and D Streets SW., Washington, D.C. Telephone 202–245–2201.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on April 8, 1977 (45 FR 18750–18752) proposing regulations governing the operation of the State Student Financial Assistance Training Program. The Commissioner invited interested persons to submit comments concerning the proposed regulations. Additionally, six public meetings were held from May 2–6, 1977, in various locations throughout the country for the purpose of soliciting public comment. The following is a summary of the comments received and the Office of Education's response.

DISCUSSION OF MAJOR COMMENTS

BENEFICIARIES OF TRAINING PROGRAMS

Comments. Several commenters suggested that institutional admissions and guidance staff, bank loan officers, high school guidance counselors, and students at institutions should be eligible for training through the program, in addition to "institutional and State financial aid administrators."

Response. The statute limits persons to be trained to institutional and State financial aid administrators. A definition of the term "institutional and State financial aid administrators" has been added in § 178a.2.

The Commissioner also points out that a State agency may consult with various groups in carrying out its program but that, if the expenditure of Federal program funds is involved, the consultation must be related to improving the proficiency of aid administrators.

RESPONSIBILITY FOR PROGRAM ADMINISTRATION

Comments. Several commenters made suggestions regarding the extent to which financial aid administrator organizations should participate in the administration of the program. Generally, institutional personnel and representatives of financial aid administrator organizations suggested that the Commissioner issue additional regulations to ensure their having a direct, participatory role in the program's administration. Commenters from State agencies felt there was no need to change significantly the regulation as it was proposed.

Response. The statute places in the State agencies the responsibility of administering the grants made under this part. Therefore, the State agencies have the final authority and responsibility for program administration. The Commissioner has, however, amended § 178a.4 to require agencies to consult the organizations on a regular basis and has included several means by which the consultation may be carried out.

PROGRAM SCOPE

Comments. Several commenters suggested that the scope of the training program should be expanded to include the conduct of programs.

Response. The statute authorizes the expenditure of funds for the purpose of designing and developing training programs. However, the Commissioner views "development" to include both the conduct and evaluation of the programs and components developed with funds under this part. Thus a State may develop a training program or component and carry out and evaluate that activity as part of the development process. It may not, however, take the money received under this part and use it simply to conduct an existing training program.

Comments. Several commenters suggested that the training program not be required to achieve all objectives listed in § 178a.4(c).

Response. The Commissioner believes that all the objectives must be attained in order to increase the proficiency of aid administrators, and that they should be achieved sequentially. If funds are inadequate to attain each objective during each award period, however, the agencies should select the objectives they believe they can achieve and plan their activities accordingly. The Commissioner emphasizes that the achievement by the States of all the objectives set forth in § 178a.4 (c) must also be a recurring process. For example, if a State has an adequate amount of funds during an award period, it must plan to perform activities to achieve all the objectives during that period. During the following period, if adequate funding is available, the State must perform activities to update, revise or expand:

(1) Its identification of needs, (2) its assessment of current strengths and weaknesses of other training programs, (3) its instructional design, and (4) the actual conduct of training developed with program funds.

It would then evaluate again the extent to which the activities that were most recently performed to achieve the four previous objectives were successful in increasing the proficiency of aid administrators. For States with limited funds, of course, performing activities to achieve the full sequence of objectives may have to occur over longer periods of time, e.g., 1½ to 2 years.

TRAINING PROGRAM COMPONENTS

Comments. Several commenters requested that the Commissioner not require that all components listed in § 178a.5 be included in each State's training program; they felt the program administrators should be allowed more flexibility in responding to identified needs in the States.

Response. The Commissioner agrees and has changed the introductory wording of that section to state that "the components may include, but are not limited to," those which appear in § 178a.5. Similar components have been included in § 178a.4(c)(2) to guide

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States in the conduct of a needs assessment.

GRANT RECIPIENTS

Comment. One commenter suggested that the Commissioner provide for the submission of applications for the program by combinations of States.

Response. The Commissioner has made no such provision in this regulation. The authorizing legislation specifies that the grants are to be made available to individual States—not to combinations of States. The regulations do not, however, prohibit a State from entering into a contract or an agreement with another State for the provision of services. Each State will, nonetheless, be responsible for applying for a grant and will be accountable for the expenditure of its own program funds.

INFLATIONARY IMPACT

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Number 13.582, State Financial Assistance Training Program.)

Dated: July 19, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: September 2, 1977.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

1. Chapter I of Title 45 of the Code of Federal Regulations is amended by adding a new Part 178a, which reads as follows:

Sec.
178a.1 Purpose.
178a.2 Definitions.
178a.3 Allotments.
178a.4 Student Financial Assistance Training Program requirements.
178a.5 Training program components.
178a.6 State applications.
178a.7 Review of State applications.
178a.8 State matching requirements.
178a.9 Use of funds.
178a.10 Reporting requirements.

AUTHORITY: Sec. 493C of Title IV of the Higher Education Act of 1965, as added by sec. 131(b) of Pub. L. 94-482, 90 Stat. 2149-2150 (20 U.S.C. 1088b-3), unless otherwise noted.

§ 178a.1 Purpose.

(a) The purpose of this part is to make incentive grants available to the States to be administered, in consultation with statewide financial aid administrator organizations, for the purpose of designing and developing programs to increase the proficiency of institutional and State financial aid administrators in all aspects of student financial aid.

(b) Assistance provided under this part is subject to the applicable provisions of Subchapter A of this chapter relating to fiscal, administrative and other matters (General Provisions for Office of Education Programs (45 CFR Part 100a)).

(20 U.S.C. 1088b-3.)

§ 178a.2 Definitions.

"Act" means the Higher Education Act of 1965, as amended.

"Award period" means the period of time beginning July 1 of one year and ending June 30 of the following year.

"Institution of postsecondary education" means an institution of higher education, as defined in section 1201(a) of the Act, a proprietary institution of higher education, as defined in section 491(b) of the Act, a vocational school as defined in section 435 of the Act, or an area vocational school, as defined in section 195(2) of the Vocational Education Act of 1963.

"Institutional and State financial aid administrators" means full- and part-time employees of institutions of postsecondary education and State governments who participate in the administration of student financial aid programs. The term may include, but is not limited to, student financial aid directors, officers and counselors, institutional loan collection staff and those business office personnel who deal with student financial aid programs.

"State" means, in addition to the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(20 U.S.C. 1141(b), 1088(a), and 1085.)

§ 178a.3 Allotments.

(a) Funds appropriated pursuant to section 493C(b) of the Act will be divided equally among States submitting approvable applications by the announced closing date.

(b) The Commissioner will transfer to each State which has been awarded a grant under this part amounts equal to .05 percent of the funds allotted to that State under each of the Supplemental Educational Opportunity Grant, College Work-Study, and National Direct Student Loan Programs, except that the amount transferred from each program may not exceed $10,000. This amount will be added to the amount received by each State under paragraph (a) of this section.

(20 U.S.C. 1088b-3.)

§ 178a.4 Student Financial Assistance Training Program requirements.

(a) Each State agency which administers the State Student Incentive Grant Program authorized by Title IV, Part A, Subpart 3 of the Act is responsible for the design and development, and to the extent related to development, for the conduct and evaluation of training programs under this part. If such an agency does not exist in any State, an agency or organization designated by the State will be responsible for the design and development of the program. States may subcontract some program activities to other organizations, including financial aid administrator organizations.

(b) The State agency must administer the programs in consultation with statewide financial aid administrator organizations. Consultation, that is, conferring with or seeking advice from statewide organizations, must occur on a regular basis. The State agency may consult with those organizations by:

(1) Involving organization representatives as consultants; or

(2) Working with advisory groups from organizations.

(c) The training programs under this part must, to the extent of available funds, perform activities to achieve sequentially the following objectives:

(1) The identification of:

(i) The current and future need for financial aid administrators at State agencies and institutions of postsecondary education throughout the State, and

(ii) The professional needs of those administrators in terms of such areas as those listed in § 178a.5;

(2) The assessment of the strengths and weaknesses, in light of the needs identified in paragraph (c)(1) of this section, of any current programs in the State which provide training in State and institutional financial aid policies and procedures;

(3) The design and development of training materials, methods and programs to meet the needs identified in paragraph (c)(1) of this section and to overcome the weaknesses identified in paragraph (c)(2) of this section;

(4) The provision of training to financial aid administrators based on the materials, methods and programs designed and developed under the requirements of paragraph (c)(3) of this section; and

(5) An evaluation of the effectiveness of the training materials, methods, and programs developed under this part.

(20 U.S.C. 1088b-3.)

§ 178a.5 Training program components.

Each training program developed under this part may include such components as the State determines necessary as a result of its identification of needs under § 178a.4(c)(1) and (2). The components may include, but are not limited to, the following areas:

(a) The principles upon which student financial aid is based;

(b) The theory, methodology, and forms of the principal systems of need analysis used for awarding student financial aid, such as the systems of the College Scholarship Service, the American College Testing Program, and the Basic Educational Opportunity Grant Program; the system used to determine eligibility for the receipt of a Guaranteed Student Loan; and the State needs analysis system;

(c) Methods of constructing student budgets;

(d) The statutes, regulations, handbooks, and any other applicable administrative materials pertaining to the student financial aid programs authorized under Title IV of the Act and to all student financial aid programs administered by that State;

(e) Strategies for packaging Federal, State, private, and institutional programs of student financial aid;

(f) Requirements for maintaining student records, State and institutional accounts, and disbursement systems;

(g) Student and institutional rights and responsibilities pertaining to financial aid programs;

(h) Management practices and procedures designed to eliminate institutional and student fraud and abuse in the operation of student financial aid programs;

(i) Instruction in the administration of Federal, State, institutional, and private programs of financial aid available to students in the State; and

(j) Any other subjects determined by the State agency to be necessary to carry out the purposes of this part.

(20 U.S.C. 1088b-3.)

§ 178a.6 State applications.

(a) Any State desiring to obtain a grant under this part shall annually file an application with the Commissioner, through the State agency administering its State Student Incentive Grant Program. If no such agency exists in the State, the application shall be filed through an agency or organization designated by the State for this purpose. The application shall include the name of the State agency administering the program, shall describe the activities to be undertaken, and shall contain sufficient information to enable the Commissioner to determine that the State program will meet the provisions of § 178a.4.

(b) As part of its application, each State must provide assurances that the Federal funds received under this part for any award period will be matched by an amount at least equal to the Federal funds reserved for that State under § 178a.3, or, if the State cannot make such an assurance, the amount of Federal funds that the State will match for that award period.

(c) The Commissioner will from time to time establish cut off dates for the filing of applications.

(20 U.S.C. 1088b-3.)

§ 178a.7 Review of State applications.

The Commissioner will review each State's application to insure that it meets the requirements of §§ 178a.4 and 178a.6. The Commissioner will not disapprove any State's application without giving the State agency an opportunity to remedy the deficiencies in its application within a reasonable time period.

(20 U.S.C. 1088b-3.)

§ 178a.8 State matching requirements.

The Federal funds expended under this part must be matched by an equal amount of State funds. In satisfying this matching requirement, the State is subject to §§ 100a.90 through 100a.94 of the Office of Education General Provisions (45 CFR 100a.90-100a.94). The matching must be from non-federal sources and may be cash or in kind. The State shall maintain supporting records to indicate the amount and sources of such matching.

(20 U.S.C. 1088b-3.)

§ 178a.9 Use of funds.

Funds received by a State under this part plus the matching State funds must be used to pay the costs of performing activities to meet the provisions of §§ 178a.4 and 178a.5 to increase the proficiency of institutional and State financial aid administrators.

178a.10 Reporting requirements.

At the end of each award period for which a State receives a grant under this part, the State must provide a report containing such information as the Commissioner determines necessary to insure that the State is adequately performing its responsibilities under this part.

(20 U.S.C. 1088b-3.)

[FR Doc.77-26323 Filed 9-13-77;8:45 am]

PART 192—STATE STUDENT INCENTIVE GRANT PROGRAM

AGENCY: Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: This document makes minor technical amendments to the regulations governing administration of the State Student Incentive Grant Program. These regulations provide rules and criteria governing the award of incentive grants to the States for grants to students with substantial financial need, to enable the students to attend postsecondary educational institutions.

EFFECTIVE DATE: Under section 431(d) of the General Provisions Act, as amended (20 U.S.C. 1232(d)), this regulation has been transmitted to the Congress concurrently with the publication in the FEDERAL REGISTER. Regulations subject to that section become effective on the forty-fifth day following the date of transmittal, subject to Congressional action or adjournment.

FOR FURTHER INFORMATION CONTACT:

Richard L. McVity, Director, State Student Incentive Grant Program, Regional Office Building 3, Room 3674, 7th and D Streets SW., Washington, D.C. Telephone: 202-245-2201.

SUPPLEMENTARY INFORMATION:

PARTIAL WAIVER OF PROPOSED RULEMAKING

On April 7, 1977, the Commissioner published a Notice of Proposed Rulemaking establishing special procedures for the allotment of Fiscal Year 1977 State Student Incentive Grant Program funds among the States (42 FR 18407). Similar allotment procedures were used in Fiscal Year 1975 and Fiscal Year 1976. No public comments were received on the proposed rule, the substance of which has been incorporated as sections 192.3 (f) and (g) of this final rule. Since the remainder of this final rule consists of purely technical amendments to the State Student Incentive Grant Program regulations, conforming it without elaboration to changes made by the Education Amendments of 1976 (Pub. L. 94-482), the Commissioner has determined that further resort to proposed rulemaking would be impracticable and contrary to the public interest (5 U.S.C. 553(b)). The Commissioner also wishes to note that, in the interest of assuring the clarity and understandability of the regulations governing the State Student Incentive Grant Program, he is republishing them in their entirety in this issue of the FEDERAL REGISTER with minor editorial corrections. The amendments noted above have been incorporated into the full text as indicated below.

CHANGES IN REGULATIONS REQUIRED UNDER THE EDUCATION AMENDMENTS OF 1976 (PUB. L. 94-482)

1. *§ 192.2 Definitions.* The statutory definition of "nonprofit institution" found in 20 U.S.C. 1141(c) has been added.

2. *§ 192.3 Allotment and reallotment.* (a) Funds appropriated in one year remain available until the end of the succeeding fiscal year (Sec. 415A(b)(3), HEA), (b) bonus payments are provided to States with guaranteed student loan programs in any year when the SSIG appropriation exceeds $75,000,000 (Sec. 415E, HEA).

3. *§ 192.4 State program requirements.* (a) All nonprofit institutions of higher education must be eligible to participate in the State program for any academic year that begins on or after October 1, 1978 (Sec. 415C(b)(4), HEA). (The Education Amendments of 1976 provided that this requirement would take effect on July 1, 1977. However, the Higher Education Technical Amendments (Pub. L. 95-43) postponed the effective date of this provision until October 1, 1978.) (b) The general provisions governing student eligibility for assistance under Title IV, HEA programs (satisfactory academic progress; not owing grant refunds; and not being in default on loans) are added to the SSIG regulations.

(Section 497, HEA, as added by Section 132 of Pub. L. 94-482, 20 U.S.C. 1088f(e).)

OTHER TECHNICAL ADJUSTMENTS TO STATE STUDENT INCENTIVE GRANT PROGRAM REGULATIONS

1. Editorial changes have been made throughout these regulations to simplify or clarify the language.

2. *§ 192.3 Allotment and reallotment.* Special procedures were established in FY 1975, FY 1976, and FY 1977, for allotment of lump sum appropriations for the SSIG Program. Since Congress has customarily appropriated a lump sum for the authorizations for initial and continuation student awards, these allotment procedures have been incorporated into program regulations. (These procedures, as they affect FY 1977 State allotments, were published as proposed rules in the FEDERAL REGISTER on April 7, 1977 (42 FR 18407).)

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3. § 192.5 *State applications.* This section has been simplified to avoid unnecessary duplication of information by States in their first and subsequent applications.

4. § 192.7 *State standards for determining substantial financial need.* The income tax method of need analysis has been adjusted to agree with that in use in other Federal student assistance programs (see, e.g., 45 CFR Part 176.-13(b)(ii), 41 F.R. 51978).

5. § 192.10 *Use of funds.* Blanket coverage under 45 CFR Part 100b (General Provisions Regulations), formerly in effect, no longer appears appropriate in the case of the State Student Incentive Grant Program; a specific citation to 45 CFR 100b.92 (State matching procedures) has been added to the regulation (Sec. 192.10(b)), however.

Based on these considerations, Title 45 of the Code of Federal Regulations is amended by adding a revised Part 192, to read as set forth below.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: July 7, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: September 3, 1977.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance Number 13.548; State Student Incentive Grant Program.)

1. Section 100b.10 of Title 45 of the Code of Federal Regulations is amended by deleting paragraph (1) to remove the reference to the State Student Incentive Grant Program.

2. Part 192 of Chapter I of Title 45 of the Code of Federal Regulations is amended to read as follows:

Sec.
192.1 Purpose.
192.2 Definitions.
192.3 Allotment and reallotment.
192.4 State program requirements.
192.5 State applications.
192.6 Student eligibility.
192.7 State standards for determining substantial financial need.
192.8 Approval of State criteria for determining expected family contribution.
192.9 Maintenance of effort.
192.10 Use of funds.
192.11 Disapproval of State applications.
192.12 Audit—record retention.

AUTHORITY: Section 415A-415E of Title IV of the Higher Education Act of 1965, as amended by section 123 of Pub. L. 94-482, 90 Stat. 2094, and by Pub. L. 95-40 (20 U.S.C. 1070c-1070c-4), unless otherwise noted.

§ 192.1 Purpose.

The purpose of this program is to make incentive grants available to the States to assist them in providing grants to eligible students with substantial financial need to enable them to attend institutions of higher education. States may develop new student grant programs or may expand existing ones by enlarging the class of eligible grant recipients or by increasing the size of the grants previously awarded.

(20 U.S.C. 1070c.)

§ 192.2 Definitions.

"Academic year" means a period of time, usually eight or nine months, during which a full-time student would normally be expected to complete the equivalent of two semesters, two trimesters, three quarters or 900 clock hours of instruction.

"Act" means Title IV, Part A, Subpart 3 of the Higher Education Act of 1965, as amended (20 U.S.C. 1070c–1070c–4).

"Clock hour" means a period of time which is the equivalent of either: (1) a 50 to 60 minute class, lecture, or recitation, or (2) a 50 to 60 minute period of faculty-supervised laboratory, shop training, or internship.

"Continuation award" means an award of funds to a student who previously received an award under this program.

"Cost of education" means the cost of education as defined by each State.

"Dependent student" is a student who does not qualify as an independent or self-supporting student as defined in § 192.2.

"Expected family contribution of a dependent student" means the sum of the amounts which reasonably may be expected from the student and the student's spouse to meet the student's cost of education and the amount which reasonable may be expected to be made available to him by his parents for this purpose.

"Expected family contribution of an independent or self-supporting student" means the amount which reasonably may be expected from the student and the student's spouse to meet the student's cost of education.

"Full-time student" means a student who is carrying a full-time academic workload other than by correspondence measured in terms of: (1) course work or other required activities as determined by the institution in which the student is enrolled, or by the State whose agency is administering the program authorized by the Act, which amounts to the equivalent of a minimum of 12 semester hours or 12 quarter hours per academic term for institutions utilizing trimesters, semesters, or quarter hour systems, or which consists of a program requiring a minimum of 24 clock hours per week for those institutions that do not utilize such systems, and (2) the tuition and fees customarily charged for full-time study by the institution.

(20 U.S.C. 1088(c)(2).)

"Half-time student" means a student who is carrying a half-time academic workload measured in terms of: (1) Course work or other required activities as determined by the institution in which the student is enrolled, or by the State whose agency is administering the program authorized by the Act, which amounts to a minimum of 6 semester hours or 6 quarter hours for institutions utilizing trimesters, semesters or quarters, or which consists of a program requiring a minimum of 12 clock hours per week for those institutions which do not utilize these systems and (2) the tuition and fees customarily charged for half-time study by the institution.

(20 U.S.C. 1088(c)(2).)

"Independent or self-supporting student" means an independent or self-supporting student as defined by each State.

"Initial award" means the student's first award made under this program.

"Institution of higher education" means an educational institution in any State which: (1) admits as regular students only: (i) persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, or (ii) persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution, (2) is legally authorized within the State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward the degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association or, if not so accredited (i) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of the agency or association within a reasonable time, or (ii) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. The term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provision of paragraphs (1), (2), (4), and (5) of this section unless the school is a public institution in which case it may also be accredited by the State agency in that State which has been listed by the Commissioner as a reliable authority as to the quality of public postsecondary vocational education in that State. For purposes of this part, a one-year program of training for institutions using a semester, trimester or quarter system means a program of at least 24 semester or trimester hours or 36 quarter hours. For institutions not using those academic terms, a one year program of training means a program of study in which a student will receive supervised training totalling at least 900 clock hours of instruction. The term also includes any proprietary institution of higher education, as defined in § 192.2, which has an agreement with the Commissioner containing the terms and conditions which the Commissioner determines to be necessary to insure that the availability of assistance to students at the school under this program has not resulted, and will not result, in an increase in tuition, fees, or other charges to students.

(20 U.S.C. 1087-1(b), 1141(a).)

"National of the United States" means (1) a citizen of the United States, or (2) a person who though not a citizen of the United States owes permanent allegiance to the United States.

(8 U.S.C. 1101(a)(22).)

"Nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which may lawfully inure to the benefit of any private shareholder or individual.

(20 U.S.C. 1141.)

"Parent" means the mother or father of the student, unless any other person, except the student's spouse, provides more than one-half of the student's support and claims or is eligible to claim the student as an exemption for Federal income tax purposes, in which case that person will be considered the parent.

"Proprietary institution of higher education" means a school (1) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) which admits as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of the certificate, (3) which is legally authorized by the State in which it is located to provide a program of education beyond secondary education, (4) which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose, (5) which is not a public or other nonprofit institution, and (6) which has been in existence for at least two years. For purposes of this part, a six-month program of training means for institutions using a semester, trimester or quarter system, a program of study of at least 16 semester or trimester hours, or 24 quarter hours. For institutions not using those systems a program of training means a program of study in which a student will receive supervised training totalling at least 600 clock hours of instruction.

(20 U.S.C. 1088(b)(3).)

"State" means, in addition to the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

"Undergraduate student" means a student who (1) is in attendance at an institution of higher education and (2) has not earned a first baccalaureate or professional degree. A student who has not earned a first baccalaureate or professional degree and who is enrolled in a program of study at the postsecondary level which is designed to extend for more than four academic years will not be considered an undergraduate student beyond the fourth academic year unless that program leads to a first degree and is designed to extend for a period of five academic years.

(20 U.S.C. 1070c–1070c–4, unless otherwise noted.)

§ 192.3 Allotment and reallotment.

(a) *Allotment of funds for initial awards.* From the sums appropriated under section 415A(b)(1) of the Act for any fiscal year, the Commissioner will allot to each State an amount which bears the same ratio to these sums as the number of students in attendance as at least half-time students at institutions of higher education in the State bears to the total number of students in attendance in all the States.

(b) *Reallotment of funds for initial awards.* The amount of any State's allotment for any fiscal year under paragraph (a) of this section which the Commissioner determines will not be required for that State's grant program for that fiscal year will be available for reallotment from time to time, on dates during the year which the Commissioner may fix, to other States in proportion to the original allotments to those States under paragraph (a) of this section. The proportionate amount for any of these States shall be reduced to the extent it exceeds the sum the Commissioner estimates the State needs and will be able to use for the year for carrying out the State plan. The total of the reductions will be similarly reallotted among the States whose proportionate amounts were not reduced.

(c) Any amount reallotted to a State under pargaraph (b) of this section during a year will be considered part of its allotment under paragraph (a) of this section for that year.

(d) For the purposes of this section, the number of students in attendance as at least half-time students at institutions of higher education in a State and in all the States will be determined by the Commissioner for the most recent year for which satisfactory data are available.

(e) *Allotment of funds for continuation awards.* The Commissioner will allot the sums appropriated for each fiscal year for continuation grants pursuant to § 415A(b)(2) of the Act among the States so that each State will receive the same percentage of its request for continuation grant funds for that fiscal year submitted in accordance with § 192.5(b).

(f) Notwithstanding paragraph (e) of this section, in any year when the Congress appropriates a single lump sum for both initial and continuation awards, funds will be allotted to the States on the basis of the formula used for initial awards set forth in paragraph (a) of this section and States will divide their allotments among initial and continuation awards according to their individual requirements, assuring that the needs of continuation students have priority.

(g) Each State receiving an allotment of funds under this program in a fiscal year will submit a report before September 1 of that year projecting any portion of the allotment that will not be needed to make awards. These unused funds may be redistributed among the other States in proportion to the original allotments to those States, but no States may receive more than its request.

(h) Whenever the sum appropriated for this program for any fiscal year exceeds $75,000,000, the Commissioner will allot one-third of the amount above $75,000,000 to those States currently operating State Student Loan Insurance programs under Section 428(b) of the higher Education Act of 1965, either through an agency of the State or through a nonprofit private institution or organization designated by the State. The one-third bonus will be apportioned among qualified States so that the amount which each State receives bears the same ratio to one-third of the excess funds over $75,000,000 as the number of students in attendance on at least a half-time basis in institutions of higher education in that State bears to the total number of students in attendance on at least a half-time basis in institutions of higher education in all of the States qualifying for the bonus.

(i) Sums appropriated for incentive grants to States for any fiscal year will remain available for payments to States for the award of student grants under this program until the end of the fiscal year succeeding that fiscal year.

(20 U.S.C. 1070c-1.)

§ 192.4 State program requirements.

A State may receive funds allotted to it under § 192.3 for any fiscal year only if funds will be expended under a State program which:

(a) Is administered by a single State agency;

(b) Awards grants only to students who meet the eligibility requirements of § 192.6;

(c) Provides for the selection of recipients of the grants on the basis of substantial financial need determined annually on the basis of criteria established by the State and approved by the Commissioner;

(d) Provides that no payment may be made to a student under this program unless the student (1) is maintaining satisfactory progress in a course of study, according to the standards and practices of the institution at which the student is enrolled, (2) does not owe a refund on a grant previously received at that institution under the Basic Educational Opportunity Grant, Supplemental Educa-

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tional Opportunity Grant, or State Student Incentive Grant programs, or (3) is not in default on a loan made, insured, or guaranteed under the National Direct Student Loan or Guaranteed Student Loan programs for attendance at the institution at which the student is enrolled;

(e) Provides that grants will be in amounts not in excess of $1,500 per academic year for attendance on a full-time basis at an institution of higher education;

(f) Provides that all nonprofit institutions of higher education in the State are eligible to participate in the State program, effective with respect to any academic year beginning on or after October 1, 1978;

(g) Provides for the payment of the non-Federal share of grants awarded under this program from funds supplied by the State;

(h) Meets the maintenance of effort requirement of § 192.9;

(i) Provides for fiscal control and fund accounting procedures necessary to assure proper disbursement of and accounting for Federal funds paid to the State under this program; and

(j) Provides for the reporting which is reasonably necessary to enable the Commissioner to perform his functions under this program.

(20 U.S.C. 1070c–2.)

§ 192.5 State applications.

(a) Any State wishing to obtain a payment under this program which has not previously received funds under the Act must file with the Commissioner, through the State agency administering its program of student grants, in a form specified by the Commissioner, an application containing the following information:

(1) A description of the applicable State grant program, including:

(i) The name of the State agency administering the program,

(ii) A certification by an appropriate State official that this State agency is the single State agency responsible for the administration of this grant program,

(iii) The maximum grant permitted under the program,

(iv) The program's definition of substantial financial need,

(v) The criteria and procedures used in determining financial need under Sec. 192.7, in selecting grant recipients, and in determining the amount of student grants,

(vi) The need analysis system used, if any,

(vii) The eligibility criteria for students to receive grants, and

(viii) The type of schools students receiving grants under the program may attend.

(2) The amount of funds to be spent by the State in the fiscal year for which funds are requested under this part for grants to all students attending institutions of higher education, including grants to undergraduate students awarded funds on the basis of substantial financial need;

(3) The number of undergraduate students who received need-based State grants and the number who were eligible for grants but did not receive them, during the current and the preceding academic year;

(4) An assurance that the State will match the amount of funds allotted or reallotted to it under § 192.3 for the fiscal year, or if the State cannot make this assurance, the amount of Federal funds that the State can match for that fiscal year;

(5) Assurance of compliance with State program requirements specified in Section 192.4;

(6) The amount of funds, if any, expended by the State for grants to all students attending institutions of higher education, including grants to undergraduate students awarded these funds on the basis of substantial financial need, during the second fiscal year preceding the fiscal year in which the State will first receive funds under this program.

(b) If a State has previously received funds under this act, it must file an application annually with the Commissioner, through the State agency administering its program of student grants, which includes any changes in the information provided in paragraphs (a) of this section, plus the following:

(1) The amount of funds requested for initial and continuation awards;

(2) The amounts of funds the State received for initial and continuation awards for the current academic year;

(3) The number of students who have previously received initial and continuation awards under this program who will be eligible to receive continuation awards during the next academic year;

(4) The average initial award and the average continuation award made under this program for the current academic year;

(5) If available, the projected attrition rate for students receiving assistance under this program for the current academic year.

(c) The Commissioner will from time to time establish cutoff dates for the filing of applications.

(20 U.S.C. 1070c–2.)

§ 192.6 Student Eligibility.

In order to receive a grant in this program, a student must (a) be a national of the United States, be in the United States for other than a temporary purpose and intend to become a permanent resident thereof, or be a permanent resident of the Trust Territory of the Pacific Islands; (b) be enrolled or accepted for enrollment as at least a half-time undergraduate student at an institution of higher education; and (c) have substantial financial need as determined annually in accordance with § 192.7.

(20 U.S.C. 1070c–2.)

§ 192.7 State standards for determining substantial financial need.

(a) A State program must define substantial financial need and establish standards for determining whether an applicant for a grant has such need. These standards may include, but are not limited to:

(1) A student's expected family contribution; or

(2) The student's relative need, defined as the difference between a student's cost of education and his expected family contribution; or

(3) The student's or, where relevant, the student's parents' income.

(b) A student will be considered by the Commissioner to have substantial financial need under a State program (1) which determines need by evaluating only the student's expected family contribution if that student's expected family contribution is not more than $2,800; or (2) which determines relative need by evaluating the difference between the studeint's cost of education and his expected family contribution if that difference is at least $90; or (3) which determines need by evaluating the student's and, where relevant, the student's parents' income, if the student's net income does not exceed $20,000, or where relevant, if the parents' net income does not exceed $20,000; or (4) which determines need in accordance with standards other than those specifically listed in paragraph (a) of this section if the amount of need determined in accordance with the standard is reasonably comparable to the amount of need that would be determined under the standards listed in paragraph (a).

(c) A State program which provides for the selection of recipients on the basis of criteria which do not qualify under the provisions of paragraph (b), may, nevertheless, be approved under section 415C (b) (4) of the Act, if the State demonstrates, to the satisfaction of the Commissioner, that the program provides for selecion of recipients on the basis of substantial financial need.

(20 U.S.C. 1070c–2.)

§ 192.8 Approval of State criteria for determining expected family contribution.

(a) *Dependent students.* The Commissioner will approve the criteria of a State program which uses an expected family contribution in determining whether a dependent student has substantial financial need if the State takes into consideration at least the following factors in determining the amount of income and net assets that should reasonably be made available to the student, the student's spouse and the student's parents for meeting the student's cost of education:

(1) Any serious family illness;

(2) The number of dependent children of the student's parents;

(3) The number of these dependent children attending institutions of higher education; and

(4) Other circumstances which may affect the ability of the student and the student's parents to contribute toward the cost of the student's education.

(b) *Independent or self-supporting student.* The Commissioner will approve the criteria of a State program which utilizes an expected family contribution in determining whether an independent or self-supporting student has substantial financial need if the State takes into consideration at least the following factors when calculating that portion of the income and net assets of the student and the student's spouse which should reasonably be made available for meeting the student's cost of education:

(1) Any serious illness in the student's family;

(2) The number of dependent children of the student;

(3) The number of those dependent children attending institutions of higher education; and

(4) Other circumstances which may affect the ability of the student or the student's spouse to contribute toward the cost of the student's education.

(c) The Commissioner has determined that the following need analysis systems or methods of calculation meet the criteria set forth in paragraphs (a) and (b) of this section:

(1) Systems of need analysis published by the American College Testing Program and the College Scholarship Service,

(2) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grant Program (45 CFR 190), or

(3) For dependent students only, the expected family contribution may be determined according to the Income Tax System. This is calculated as an amount equal to the sum of (i) the income tax paid by the parents of the student, (ii) 5 percent of the parent's net assets in excess of $12,500, or $25,000 if such assets include farm or business assets, except that no more than $12,500 may be deducted from non-farm and non-business assets, and (iii) any amount the student is reasonably able to contribute.

(d) The Commissioner will approve any other need analysis system or method of calculation which produces an expected family contribution reasonably comparable to a system described in paragraph (c) of this section.

(20 U.S.C. 1070c–2.)

§ 192.9 Maintenance of effort.

The amount of funds expended by the State for the non-Federal portion of awards made under this program for each fiscal year shall represent an additional expenditure for that year by that State over the amounts, if any, expended by the State for grants to all students attending institutions of higher education during the second fiscal year preceding the fiscal year in which the State initially received funds under this program.

(20 U.S.C. 1070c–2(b) (4).)

§ 192.10 Use of funds.

(a) Funds paid to a State under this program may be used by that State only to pay 50 percent of the amount of individual student grants made under this program.

(20 U.S.C. 1070c–2.)

(b) Matching funds may be made available by the State from State appropriations or from other non-Federal resources, including cash contributions permitted under 45 CFR 100b.92(a)(2).

§ 192.11 Disapproval of State applications.

The Commissioner will comply with the provisions of § 415D of the Act (regarding notice, opportunity for a hearing, and judicial review) before finally disapproving any application of a State.

(20 U.S.C. 1070c–3.)

§ 192.12 Audit—record retention.

Each State receiving funds under this program is subject to Section 100a.477 of the Office of Education General Provisions (45 CFR 100a.477) regarding audit and retention of records.

(20 U.S.C. 1070c–2.)

[FR Doc.77–26610 Filed 9–13–77;8:45 am]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

PART 1005—FREEDOM OF INFORMATION ACT REGULATIONS

FOIA Appeals Officer

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: This rule changes the official who determines Freedom of Information Act appeals for the Agency. The Assistant Director for Management was recently confirmed by the Senate and is taking over the management functions of the agency including those of the Associate Director for Administration whose position is now vacant. Thus, the Assistant Director for Management will make the final decision on all appeals of agency denials of requests for documents under the Freedom of Information Act.

EFFECTIVE DATE: September 14, 1977.

FOR FURTHER INFORMATION CONTACT:

John Meyer, Office of General Counsel, Community Services Administration, 1200 19th Street NW., Washington, D.C. 20506 (202–254–5690).

SUPPLEMENTARY INFORMATION: This rule is a rule of agency procedure not requiring an opportunity for public comment. Any appeals addressed to the Associate Director for Administration will be forwarded to the Assistant Director for Management and decided according to agency Freedom of Information Act procedures as set forth in this Part.

§ 1005.11 [Amended]

Accordingly, 45 Code of Federal Regulations, § 1005.11(b) is amended as set forth below: In lines 2 and 3 the words "Assistant Director for Management" are substituted for the words "Associate Director for Administration."

(5 U.S.C. 552, Freedom of Information Act.)

GRACIELA (GRACE) OLIVAREZ,
Director.

[FR Doc.77–26630 Filed 9–13–77;8:45 am]

PART 1069—GRANTEE PERSONNEL MANAGEMENT

Subpart—Prohibition of Salary Checkoff for Political Activities

AGENCY: Community Services Administration.

ACTION: Final rule—Interpretative rule.

SUMMARY: This is an interpretation of the CSA regulation prohibiting payroll deductions from grantee employees' salaries which extends this prohibition to national groups involved in political activity. The National Community Action Trust Fund is presently receiving contributions through payroll deductions from CSA grantees' employees' salaries on the basis of a letter from former CSA Director Martinez allowing this practice. This rule will eliminate the National Community Action Trust Fund or any similar organization from receiving these contributions through such payroll deductions.

EFFECTIVE DATE: This interpretation shall take effect November 5, 1977.

FOR FURTHER INFORMATION CONTACT:

John C. Meyer, Office of General Counsel, Community Services Administration, 1200 19th Street NW., Washington, D.C. 20506; phone 202–254–5690.

SUPPLEMENTARY INFORMATION: Shortly after 45 CFR § 1069.8–5(e) was issued, CSA received two letters dated May 20 and June 2, 1976, from the National Community Action Agency Executive Directors' Association expressing concern that payroll deduction contributions to the National Community Action Trust Fund would be considered in violation of this regulation. By letter of June 23, 1976, then Director Martinez assured them that contributions to the Trust Fund were not intended to be covered. Upon reconsideration of this question, CSA finds that the language of the regulation does clearly cover the Trust Fund and similar organizations. As CSA does not wish as a matter of policy to encourage even the indirect channelling of CSA grant funds to the Trust Fund or other such organizations, this interpretation is reversed.

Interpretative regulations do not require public comment and are normally effective immediately; however, in this

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instance, CSA is delaying the effective date until November 5, 1977, to give grantees time to adjust their systems to the reinterpretation of this regulation by terminating these payroll deductions.

Therefore, the following interpretation of 45 Code of Federal Regulations 1069.8-5(e) is adopted; the prohibition in that paragraph, "no contribution may be collected for any political activity through any deducation from the paycheck of any grantee, if that employee is paid with CSA funds", is hereby interpreted to prohibit the use of such deductions for voluntary contributions to the National Community Action Trust Fund or any other national entity which engages in such political activities.

(Sec. 602, 78 Stat. 530, 42 U.S.C. 2942.)

GRACIELA (GRACE) OLIVAREZ,
Director.

[FR Doc.77-26644 Filed 9-13-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20920; RM-2514]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Station in Columbia, Mo.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: This action assigns and reserves Channel *23+ at Columbia, Mo., for noncommercial educational use. This action, initiated by a petition for rulemaking by the New Wave Corp., would provide a first reserved channel to this sizable community.

EFFECTIVE DATE: October 17, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: September 2, 1977.

Released: September 9, 1977.

By the Acting Chief, Broadcast Bureau.

In the matter of Amendment of §73.-606(b), Table of Assignments, Television Broadcast Stations. (Columbia, Mo.). Report and Order (Proceeding terminated) (41 FR 41929).

1. The Commission has before it the Notice of Proposed Rule Making, adopted September 17, 1976, in response to a petition filed by the New Wave Corp., licensee of educational FM Station KOPN, Columbia, Mo., proposing to assign and reserve television Channel *23+ at Columbia, as a first noncommercial assignment. The only comments submitted were from the petitioner in support of the proposal. Although these comments were received late, no oppositions to the proposal were filed and it appears that no prejudice would result from acceptance of these comments.

2. Columbia (pop. 58,804) [1] is the seat of Boone County (pop. 80,935), and is located approximately 43 kilometers (27 miles) north of Jefferson City in the central portion of the state.

3. The notice indicated that the proposed assignment to Columbia would meet the Commission's minimum mileage separation requirements and other technical criteria. No other changes in the Television Table of Assignments would be required.

4. New Wave, in its comments, states that it supports the proposal and will apply for the channel if assigned to Columbia, Mo. The Commission finds that the public interest would be served by adopting the New Wave Corp. proposal to enable it to provide a first noncommercial educational television service to this sizable community which includes the University of Missouri.

5. Accordingly, *it is ordered*, That, effective October 17, 1977, the Television Table of Assignments (sec. 73.606(b) of the Commission's rules) is amended, with respect to the city listed below to read as follows:

City	*Channel No.*
Columbia, Mo.	8+, 17-, *23+.

6. Authority for the action taken herein is found in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and section 0.281 of the Commission's rules.

7. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
MARTIN I. LEVY,
Acting Chief, Broadcast Bureau.

[FR Doc.77-26680 Filed 9-13-77;8:45 am]

[Docket No. 21254; RM-2850]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Rice Lake, Wis.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: This action assigns FM Channel 249A to Rice Lake, Wis. The channel assignment provides for an FM station which would render a second local aural broadcast service to the community.

EFFECTIVE DATE: October 17, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Neslerak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: September 2, 1977.

Released: September 9, 1977.

By the Acting Chief, Broadcast Bureau:

In the matter of amendment of § 73.-202(b), Table of Assignments, FM Broadcast Stations (Rice Lake, Wis.). Report and order (Proceeding Terminated) (42 FR 27973).

1. The Commission has before it the Notice of Proposed Rule Making, adopted May 18, 1977, 42 FR 27973, proposing the assignment of Channel 249A to Rice Lake, Wis., as its second FM assignment. The proceeding was instituted on the basis of a petition filed by Red Cedar Broadcasting, Inc. ("petitioner"). Supporting comments were filed by petitioner. Opposing comments were filed by WJMC, Inc., licensee of Station WJMC and WJMC-FM, Rice Lake, Wis.

2. Rice Lake (pop. 7,278), in Barron County (pop. 33,955),[1] is located approximately 80 kilometees (50 miles) north of Eau Claire, Wis. It presently receives local service from full-time AM Station WJMC (Class IV) and Station WJMC-FM (Channel 242), both licensed to WJMC, Inc.

3. Petitioner states that, although the 1970 Census shows the population of Rice Lake to be 7,278, the current Chamber of Commerce figures is 7,900. It asserts that the community serves a prime retail trade area of more than 2,000 square miles. Petitioner adds that Rice Lake is the livestock auction and purchasing center of northwestern Wisconsin, in addition to being the location of various manufacturers.

4. Preclusion would occur only on the proposed co-channel. Three communities are located in the precluded area: Durand (pop. 2,103); Spooner (pop. 2,444); and Shell Lake (pop. 928). Durand and Shell Lake each has an FM station and Spooner, which is located about 10 kilometers (6 miles) from Shell Lake, has no aural broadcast service.

5. In opposing comments, WJMC argues that making the proposed assignment would be contrary to the Commission's general policy against intermixture of classes of FM channels. It notes that an exception to this policy will occasionally be made when petitioner is willing to apply for the proposed Class A channel in spite of the intermixture situation. However, it adds, that a clear showing by a petitioner of its intention to apply for such a channel is a prerequisite to the channel's being assigned. WJMC asserts that in this case petitioner has publicly stated that it intends to apply for an AM/FM combination, not merely for an FM station. It questions whether a person contemplating filing an application for an AM station may legitimately petition for an assignment of an FM channel in a rule making in which ultimate utilization of the channel may well depend upon successful prosecution of the AM facility. WJMC further contends that there is no need for an additional FM channel in Rice Lake since the area immediately surrounding Barron County has a number of radio stations which serve Barron County and the Rice Lake area.

6. In response, petitioner states it is well-established Commission policy that intermixture of classes of FM channels is permitted when no Class C channel is available and the petitioner is willing to apply for the proposed Class A channel in spite of the intermixture situation. Petitioner contends that WJMC's argument that the area immediately surrounding Barron County has a number of radio stations serving Barron County and Rice Lake rests upon unsupported speculation, for the only operating full-time stations are Class A FM stations at Hayward and Shell Lake and each of these two communities is more than 15 miles from Rice Lake. Petitioner argues that the important consideration here is that Rice Lake, a growing community, should be afforded an opportunity for a first choice of local service.

7. Upon careful consideration of the comments filed by petitioner and WJMC, Inc., we believe it would be in the public interest to assign Channel 249A to Rice Lake, Wis. Petitioner has reiterated its intention to apply for the proposed channel, if assigned, and build a station promptly if granted, regardless of the outcome of its seeking authority to operate another facility. It is true that the proposed assignment would contravene our usual policy by intermixing a Class A with a Class C channel at Rice Lake. However, we have deviated from this policy where there is no Class C channel available, where there is a demand for a Class A channel, and where there is someone willing to compete under such circumstances. Yakima, Wash., 42 F.C.C. 2d 548, 550 (1973). In this instance there is no Class C channel that could be assigned to Rice Lake. Moreover, petitioner has expressed a desire to apply for Channel 249A at Rice Lake in spite of the intermixture situation. We note that other aural services emanating from other communities is not determinative for only a Rice Lake station could be expected to meaningfully respond to the local needs of that community. The proposed assignment would provide a second local nighttime service and a first competitive outlet in a growing community.

8. The Canadian government has given its concurrence to the proposed assignment of Channel 249A to Rice Lake, Wis.

9. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.281 of the Commission's rules.

10. In view of the foregoing, *it is ordered*, That effective October 17, 1977, § 73.202(b) of the Commission's rules, the FM Table of Assignments, as regard Rice Lake, Wis., is amended to read as follows:

City	*Channel No.*
Rice Lake, Wis.	242,249A.

11. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
MARTIN I. LEVY,
Acting Chief, Broadcast Bureau.

[FR Doc.77-26678 Filed 9-13-77;8:45 am]

[1] Population data is taken from the 1970 U.S. Census.

[1] Population figures are taken from the 1970 U.S. Census.

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1273]

PART 1033—CAR SERVICE

Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1273).

SUMMARY: Service Order No. 1273 authorizes the Chicago, Rock Island, and Pacific to substitute two smaller 40-ft. plain boxcars for each 50-ft. or larger boxcar ordered. The Rock Island has surplus 40-ft. boxcars stored while at the same time it is encountering shortages of 50-ft. and larger plain boxcars.

DATES: Effective 12:01 a.m., September 12, 1977. Expires 11:59 p.m., October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840. Telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 8th day of September, 1977.

There is an acute shortage of plain boxcars in excess of 40-ft. 6-in., 110,000 lbs. capacity on the lines of the Chicago, Rock Island, and Pacific Railroad Co. (RI) for transportation of shipments subject to tariff provisions that require the use of plain boxcars having lengths in excess of 40-ft. 6-in.; or capacities of 4,000 cu. ft. or more, or in excess of 110,000 lbs. The RI has a surplus of 40-ft. 6-in., plain boxcars of 110,000 lbs. or less capacity, and of less than 4,000 cu. ft. capacity, that could be substituted for larger cars if minimum quantity tariff provisions permitted. The economic loss suffered by shippers dependent on the RI for their car supplies can be alleviated by the substitution of sufficient smaller cars for the larger cars ordered to transport the shipments offered.

In the opinion of the Commission, present regulations and practices with respect to the use and supply of boxcars are ineffective to overcome these shortages of boxcars and an emergency exists requiring immediate action. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1273 Distribution of freight cars.

(a) Subject to the concurrence of the shipper the Chicago, Rock Island, and Pacific Railroad Co. (RI) may substitute two plain boxcars listed in the Official Railway Equipment Register, ICC-RER No. 404, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM" or "XF" with inside length 40-ft. 6-in. or less, or with cubical capacity of less than 4,000 cu. ft., or with weight carrying capacity of 110,000 lbs. or less for each plain boxcar of greater capacity and of the same type ordered by a shipper. (See exceptions (b), (c), and (d).)

(b) *Exception.* This order shall not apply to shipments subject to tariff provisions requiring the use of twenty-five or more cars per shipment.

(c) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(d) *Exception.* Smaller cars of mechanical designation "XF" furnished for larger boxcars ordered may be used only to the extent authorized in Association of American Railroads Revised Car Service Directive No. 155 or revisions thereof, published on page 1109 of the Official Railway Equipment Register, ICC-RER No. 404.

(e) *Rates and Minimum Weights Applicable.* The rates to be applied and the minimum weights applicable to shipments for which cars smaller than those ordered have been furnished and loaded as authorized by Section (a) of this order shall be the rates and minimum weights applicable to the larger cars ordered.

(f) *Billing to be Endorsed.* The carrier substituting smaller cars for larger cars as authorized by Section (a) of this order shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

Car of (_____) in length, or of (_____) cu. ft. or of (_____) lbs. or greater capacity ordered. Smaller cars furnished authority ICC Service Order No. 1273.

(g) *Concurrence of Shipper Required.* Smaller cars shall not be furnished in

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lieu of cars of greater capacity without the consent of the shipper.

(h) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C., 20423. Requests for such exception must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(i) *Rules and Regulations Suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order.

(j) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(k) *Effective date.* This order shall become effective at 12:01 a.m., September 12, 1977.

(l) *Expiration date.* This order shall expire at 11:59 p.m., **October 31, 1977,** unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1, 12, 15 and 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-26701 Filed 9-13-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Ouray National Wildlife Refuge, Utah, to Migratory Game Bird Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to migratory game bird hunting of Ouray National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977 through January 1, 1978, inclusive.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Ouray National Wildlife Refuge, 447 East Main Street, Suite 4, Vernal, Utah 84078, telephone: 801-789-0351.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Migratory game bird hunting is permitted on the Ouray National Wildlife Refuge, Utah, only on the areas designated by signs as being open to hunting. These areas, comprising 1,375 acres, are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 10597 West 6th Avenue, P.O. Box 25486, Denver, Colo. 80215. Migratory game bird hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Ducks, mergansers, and coots only may be hunted. Goose hunting is not permitted.
2. Vehicle travel within the refuge will be restricted to designated routes and parking areas.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service had determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

HERBERT G. TROESTER,
Refuge Manager, Ouray National Wildlife Refuge, Vernal, Utah.

SEPTEMBER 6, 1977.

[FR Doc.77-26637 Filed 9-13-77;8:45 am]

PART 32—HUNTING

Opening of Ouray National Wildlife Refuge, Utah, to Upland Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Ouray National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 5, 1977, through December 4, 1977, inclusive.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Ouray National Wildlife Refuge, 447 East Main Street, Suite 4, Vernal, Utah 84078, telephone: 801-789-0351.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Upland game hunting is permitted on the Ouray National Wildlife Refuge, Utah, only on the areas designated by signs as being open to upland game hunting. These areas, comprising 7,500 acres, are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 10597 West 6th Avenue, P.O. Box 25486, Denver, Colo. 80215. Upland game hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Pheasants only may be hunted.

The provisions of this special regulation supplement the regulations which govern upland game hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

HERBERT G. TROESTER,
Refuge Manager, Ouray National Wildlife Refuge, Vernal, Utah.

SEPTEMBER 6, 1977.

[FR Doc.77-26638 Filed 9-13-77;8:45 am]

PART 32—HUNTING

Opening of Waterfowl Production Areas in Minnesota to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Hunting regulations.

SUMMARY: The Director has determined that hunting on Waterfowl Production Areas in Minnesota is compatible with the objectives for which the areas were established, will utilize a renewable resource, and provide added recreational opportunity to the public.

DATES: October 1, 1977 through November 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Norrel Wallace, Wetland Program Manager, P.O. Box 26A, Route 1, Fergus Falls, Minn. 56537, telephone number 218-739-2291.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks, geese, and coots on Waterfowl Production Areas in Minnesota is permitted only on areas designated as open to hunting. These areas are identified on maps available from WPA Management Headquarters in Benson, Ortonville, Fergus Falls, and Detroit Lakes and from the Regional Director, U.S. Fish and Wildlife Service, Department of the Interior, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Hunting shall be in accordance with state regulations subject to the following special regulations:

1. Steel shot ammunition will be required when hunting ducks, geese, and coots with 12 gauge shotguns in the following areas:

All waters within the boundaries of Federal Waterfowl Production Areas in Minnesota and within a 150-yard zone of land adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above are excluded from the steel shot requirement.

2. Hunters taking waterfowl and coots with 12 gauge shotguns may not possess ammunition containing lead or other toxic shot.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comment at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 OMB Circular A-107.

Dated: September 6, 1977.

CHARLES A. HUGHLETT,
Acting Regional Director.

[FR Doc.77-26674 Filed 9-13-77;8:45 am]

PART 32—HUNTING

Opening of Upper Souris National Wildlife Refuge, North Dakota to Deer Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to deer hunting of Upper Souris National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 11, 1977 through November 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Upper Souris National Wildlife Refuge, RR No. 1, Foxholm, N. Dak. 58738 (701-468-5634).

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Deer hunting is permitted on the Upper Souris National Wildlife Refuge, North Dakota, on all areas except those designated as closed. The open areas comprising 31,800 acres are delineated on maps available at headquarters, Foxholm, North Dakota and from the office of the Area Manager, U.S. Fish and Wildlife Service, P.O. Box 1897, Bismarck, N. Dak. 58501. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following conditions:

(1) Only bucks may be taken by a special National Wildlife Refuge deer gun permit through the first weekend; November 11, 12, and 13, 1977. The remainder of the season hunters with a valid III A2 permit may take deer of the sex specified in that permit.

(2) All hunters must exhibit their special National Wildlife Refuge permit hunting license, deer tag, and vehicle contents to Federal and State Officers upon request.

(3) The refuge shall be closed to all vehicular travel except the main public roads and refuge recreation area parking areas.

(4) Deer are the only species that may be taken. It is unlawful to carry firearms after the deer tag is used.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 6, 1977.

MAURICE B. WRIGHT,
Refuge Manager.

[FR Doc.77-26699 Filed 9-13-77;8:45 am]

Title 41—Public Contracts and Property Management Regulations

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

PART 101-7—FEDERAL TRAVEL REGULATIONS

Report on the Cost of Travel and the Operation of Privately Owned Vehicles

CROSS REFERENCE: For a document affecting the Federal Travel Regulations which are incorporated by reference in § 101-7.003, see FR Doc. 77-26942 in the Notices section of this issue.

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL HOME LOAN BANK BOARD

[12 CFR Parts 541, 545, and 563]

[No. 77-552]

TWO FAMILY DWELLINGS

Loans in Excess of 80 Percent of Value

SEPTEMBER 8, 1977.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The proposed amendments would (1) liberalize the Board's regulations regarding loans in excess of 80 percent of value by permitting such loans to be made on the security of two-family dwellings and (2) increase the percent of assets that a Federal association may hold in over-80-percent loans. The Board believes that these changes are needed to encourage home ownership, principally in inner-city areas where low and moderate income families may use the rental income from the second units to make their mortgage payments. The proposed amendments are intended to make home ownership available to such families who may be presently renting their dwelling units because they cannot afford to buy the property.

DATES: Comments must be received on or before: October 20, 1977.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 320 First Street NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board (202-376-3556) at the above address.

SUPPLEMENTARY INFORMATION: Present Rules and Regulations for the Federal Savings and Loan System permit over-80-percent-of-value loans on the security of single-family dwellings, subjet to certain conditions (§§ 545.6-1(a) (4) and (5); 12 CFR 545.6-1(a)(4) and (5)). The proposed amendments would, in part, define the term "two-family dwelling" and permit such loans on the security of two-family dwellings if the borrower is occupying, or in good faith intends to occupy, one unit of the property as his principal dwelling. The amount of such loans on the security of two-family dwellings could not exceed the maximum amounts allowable in or pursuant to section 207(c)(3) of the National Housing Act (12 U.S.C. 1713) regarding maximum values applicable to the Department of Housing and Urban Development's rental housing insurance. Also, the proposed amendments would, in part, increase from 30% to 50% the percent of assets that a Federal association may hold in over-80%-of-value loans and increase from 15% to 25% the percent of assets that a Federal association may hold in over-90%-of-value loans (as part of the limitation regarding over-80%-of-value loans). Conforming amendments are proposed to numerous sections of the regulations.

There have been no "Chapter E" associations for some time and the last Federal association operating under a "Charter K" recently converted to another form of Federal Charter. The Board therefore proposes the following amendments: § 545.6-2 (12 CFR 545.6-2) entitled "Lending powers under sections 11 and 12 of Charter E" is to be deleted; and § 545.6-1 (12 CFR 545.6-1) entitled "Lending powers under sections 13 and 14 of Charter K" and § 545.6-3 (12 CFR 545.6-3) entitled "Lending powers under other charter provisions" are to be revised by changing the headings, deleting the reference to "Charter K", and changing the reference therein to include the lending authority in all of §§ 545.6 through 545.6-26. Additional changes to simplify the regulations will be proposed later to take advantage of the fact that now there are only "Charter K (rev.)", "Charter N", and "Charter S" Federal savings and loan associations.

Accordingly, the Board proposes to amend Parts 541 and 545 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Parts 541 and 545) by adding a new § 541.10-5, deleting § 545.6-2, and revising the headings and the text prior to the lettered subdivisions of § 545.6-1 and § 545.6-3, subdivisions (i), (ii), (iv), (vii), and (viii) of § 545.6-1(a)(4), subdivisions (i), (ii), (iii), and (iv) of § 545.6-1(a)(5), § 545.6-1(b)(1)(iii), § 545.6-3(a), § 545.6-7(a)(1), §545.6-7(a)(3), § 545.6-7(b) § 545.6-7(c)(1)(iii)(a), § 545.6-7(c)(2)(ii), and § 545.6-7(c)(3)(ii)(a) to read as set forth below. The Board also proposes to amend Part 563 of the Rules and Regulations for Insurance of Accounts (12 CFR Part 563) by revising the text prior to the numbered subdivisions of § 563.9-7(a) and all of § 563.9-7(b) to read as set forth below.

PART 541—DEFINITIONS

§ 541.10-5 Two-family dwelling.

The term "two-family dwelling" means a structure designed for two dwelling units.

* * * * *

PART 545—OPERATIONS

§ 545.6-1 Lending powers.

Any Federal association may make the following types of loans on the security of first liens on improved real estate and the use by such an association of loan plans, practices, and procedures which comply with the applicable provisions of §§ 545.6 through 545.6-26 are hereby approved by the Board:

(a) *Homes or combination of homes and business property—*

(1) *Monthly installment loans; flexible payment loans.* Subject to the limitations of § 545.6-7, monthly installment loans and flexible payment loans may be made on homes or combination of homes and business property for an amount not in excess of 75 percent of the value thereof, repayable monthly within 30 years or, if an insured or guaranteed loan, within the period acceptable to the insuring or guaranteeing agency: *Provided*, That, when the members of such an association have authorized loans to be made for an amount exceeding 75 percent of the value, such loans may be made up to the percentage of value authorized by the members but not in excess of:

(i) 80 percent of the value, if the loan is not an insured or guaranteed loan;

* * * * * *

(4) *Loans in excess of 80 percent of value.* The limitation of 80 percent set forth in (a)(1)(i) of this section shall be 90 percent in the case of any monthly installment loan or flexible payment loan meeting the following requirements:

(i) The loan is made upon the security of a first lien upon a single-family or two-family dwelling; the amount by which such a loan exceeds 80 percent of the value of the improved real estate shall not be disbursed until construction has been completed, and, if such dwelling is being constructed for sale, until the property has been sold and titile has been conveyed to a purchaser who has executed an agreement with the association assuming and agreeing to pay the loan;

(ii) The amount of the loan does not exceed the lessor of: (a) with respect to single-family dwellings, $55,000 ($68,750 in Alaska, Guam and Hawaii) and, with respect to two-family dwellings, the amount allowable in or pursuant to section 207(c)(3) of the National Housing Act, (b) 90 percent of the value of the real estate securing the loan, or (c) 90 percent of the purchase price of such security property;

* * * * *

(iv) The borrower, including a purchaser who assumes the loan, has executed a certification in writing stating

(a) that no lien or charge upon such property, other than the lien of the association or liens or charges which will be discharged from the proceeds of the loan, has been given or executed by the borrower or has been contracted or agreed to be so given or executed, and (b) that the borrower is actually occupying at least one of the dwelling units of the property as the borrower's principal dwelling or that the borrower in good faith intends to do so;

* * * * *

(vii) The aggregate of the principal amount of any such loan and of the association's investment in the principal amount of all other loans under this subparagraph and subparagraph (5) of this paragraph (exclusive of loans with respect to which the unpaid principal balance has been reduced to an amount not in excess of 80 percent of the value or purchase price of the real estate, which is less, determined at the time the loans were made) does not exceed 50 percent of the association's assets; and

(viii) The aggregate of the principal amount of the association's investment in flexible payment loans under this subparagraph and paragraph (a)(5) of this section (exclusive of loans with respect to which the unpaid principal balance has been reduced to an amount not in excess of 80 percent of the value or purchase price of the real estate, whichever is less, determined at the time the loans were made) does not exceed 5 percent of the association's assets, which 5 percent shall be included in the 50 percent of assets limitation set forth in paragraph (a)(4)(vii) of this section; and

* * * * *

(5) *Loans in excess of 90 percent of value.* The limitation of 80 percent set forth in subdivision (i) of subparagraph (1) of this paragraph shall be 95 percent in the case of any loan meeting the requirements set forth in subdivisions (i), (iii), (iv), (v), (vi), and (viii) of subparagraph (4) of this paragraph and the following additional requirements:

(i) The amount of the loan does not exceed the lessor of: (a) with respect to single-family dwellings, $42,000 ($50,000 in Alaska, Guam and Hawaii) and, with respect to two-family dwellings, the amount allowable in or pursuant to section 207(c)(3) of the National Housing Act, (b) 95 percent of the value of the real estate securing the loan, or (c) 95 percent of the purchase price of such security property;

(ii) The aggregate of the principal amount of such loan and of the association's investment in the principal amount of all other loans made under this subparagraph (exclusive of loans with respect to which the unpaid principal balance has been reduced to an amount not in excess of 90 percent of the value or purchase price of the real estate, whichever is less, determined at the time the loans were made) does not exceed 25 percent of the association's assets;

(iii) The aggregate of the principal amount of any such loan and of the association's investment in the principal amount of all other loans under this subparagraph and subparagraph (4) of this paragraph (exclusive of loans with respect to which the unpaid principal balance has been reduced to an amount not in excess of 80 percent of the value or purchase price of the real estate, whichever is less, determined at the time the loans were made) does not exceed 50 percent of the association's assets;

(iv) The aggregate of the principal amount of the association's investment in flexible payment loans under this paragraph and paragraph (a)(4) of this section (exclusive of loans with respect to which the unpaid principal balance has been reduced to an amount not in excess of 80 percent of the value or purchase price of the real estate, whichever is less, determined at the time the loans were made) does not exceed 5 percent of the association's assets, which 5 percent shall be included in the 25 percent of assets limitation set forth in paragraph (a)(5)(ii) of this section and in the 50 percent of assets limitation set forth in paragraphs (a)(5)(iii) of this section; and

* * * * *

(b) *Other dwelling units; combination of dwelling units, including homes, and business property involving only minor or incidental business use;* (1) *Monthly installment loans.* * * *

(iii) the amounts authorized in paragraphs (a)(4) and (5) of this section, and the repayment periods authorized in those paragraphs, in the case of cooperative housing project loans where dwelling units equalling 90 percent of the value or purchase price of the project, whichever is greater, are presold to bona fide purchasers: *Provided*, That all the requirements of such paragraphs are met; and *Provided* further, that such cooperative housing projects shall be required to maintain at least such reserves as are required for comparable cooperative housing projects insured by the Federal Housing Administration. For purposes of compliance with this paragraph (b)(1)(iii), the term "single-family or two-family dwelling" in paragraph (a)(4)(i) of this section shall read "cooperative housing project"; the words "borrower is", in paragraph (a)(4)(iv)(b) of this section, shall read "members of the cooperative housing project are"; and the loan limits of $55,000, or $68,750 in Alaska, Guam and Hawaii, in paragraph (a)(4)(ii)(a) of this section, and $42,000 or $50,000 in Alaska, Guam and Hawaii in paragraph (a)(5)(i)(a) of this section shall read "$55,000, or $68,750 with respect to dwelling units in Alaska, Guam and Hawaii, multiplied by the number of dwelling units" and "$42,000, or $50,000 with respect to dwelling units in Alaska, Guam and Hawaii, multiplied by the number of dwelling units", respectively: *Provided*, That the amount of the loan to be applied to any one dwelling unit may not exceed the applicable limitation per dwelling unit.

* * * * *

§ 545.6-2 [Removed]

§ 545.6-3 Additional lending powers.

Except as otherwise provided in paragraph (c) of this section, any Federal association may, upon authorization by its Board of Directors and without further action by its members, make the following types of loans and the use by any such association of the applicable loan plans, practices, procedures, and maximum lending percentages is hereby approved by the Board;

(a) *General.* Any loan that a Federal association may make under § 545.6-1;

* * * * *

§ 545.6-7 Percentage limitations on real estate loan investments.

(a) *Loan investments not subject to percentage limitations.* The following investments by a Federal association in loans on the security of real estate shall not be subject to any percentage-of-assets or percentage-of-savings-accounts limitation:

(1) A loan on the security of a single-family or two-family dwelling, or on the security of a home or combination of home and business property except, however, any such loan which is:

(i) On the security of any such property located beyond the association's regular lending area;

(ii) in excess of $55,000 for any single-family dwelling;

(iii) in excess of the amount allowable in or pursuant to section 207(c)(3) of the National Housing Act for any dwelling unit in a home or combination of home and business property which is not a single-family dwelling;

(iv) a loan to facilitate trade-in or exchange of homes made under § 545.6-1(a)(3)(ii);

(v) a loan on a single-family or two-family dwelling made under § 545.6(a)(4) or (b), as long as such loan is in excess of 80 percent of the value or purchase price of the security property, whichever is less, determined at the time the loan was made;

* * * * *

(3) An insured loan which is purchased (without regard to the location of the security property) and which does not exceed (i) $55,000 on the security of a single-family dwelling, or (ii) the amount allowable in or pursuant to section 207(c)(3) of the National Housing Act for any dwelling unit in any home or combination of home and business property which is not a single-family dwelling;

* * * * *

(b) *Percentage limitations for specific types of loans.* Real estate loan investments made under the authority of sections which contain specific percentage limitations shall be subject to those limitations. Sections which contain specific limitations are: § 545.6-14 (land acquisition and development loans), § 545.6-16 (loans for housing for the aging), § 545.6-18 (urban renewal loans), § 545.6-20 Foreign Assistance Act loans), § 545.6-3(c) (developed building lot loans), § 545.6-1(a)(4) and (5) (loans

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on single-family or two-family dwellings in excess of 80 percent of value), § 545.6-1(a)(3)(ii) (loans to facilitate trade-in or exchange of homes), and § 545.6-26 (non-conforming secured loans). However, whenever the terms of a loan investment under §§ 545.6-16, 545.6-18, or 545.6-26 meet the requirements for a loan under § 545.6-1, the loan may be released from the percentage-limitation category in §§545.6-16, 545.6-18, or 545.6-26 and allocated within an applicable percentage-limitation category in paragraph (c) of this section or released from allocation to any percentage-limitation category if it is a loan specified under paragraph (a) of this section. A loan investment under § 545.6-1(a) (4) or (5 (a loan on a single-family or two-family dwelling in excess of 80 percent of value) within the association's regular lending area may be released from its percentage-limitation category when the loan balance has been reduced to not more than 80 percent of value.

A loan investment under § 545.6-1(b)(1)(iii) on a cooperative housing project may be released from the percentage-limitation categories of § 545.6-1(a) (4) or (5) when the loan balance has been reduced to not more than 80 percent of value, but shall at all times be included in an appropriate percentage-limitation category of paragraph (c) of this section.

(c) *Percentage limitations for other loans.* • • •

(1) *General 20-percent-of-assets category.* The following investments, not to exceed at any one time an amount equal to 20 percent of the association's assets, are allocable to this category:

• • • • •

(iii) Any loan on the security of a home or combination of home and business property if either—

(a) The amount of such loan exceeds, for any dwelling unit in any such security property which is not a single-family dwelling, an amount allowable in or pursuant to section 207(c)(3) of the National Housing Act; or

• • • • •

(2) *Special 20-percent-of-assets category.* The following investments, not to exceed at any one time an amount equal to 20 percent of the association's assets, are allocable to this category: any loan, or participation interest in a loan, on the security of other dwelling units or a combination of dwelling units, including homes, and business property involving only minor or incidental business use, if—

• • • • •

(ii) The amount of such loan does not exceed, for any dwelling unit therein, an amount allowable in or pursuant to section 207(c)(3) of the National Housing Act; and

• • • • •

(3) *Participation 20-percent-of-assets category.* The following investments, not to exceed at any one time an amount equal to 20 percent of the association's assets, are allocable to this category:

• • • • •

(iii) Any participation interest in a loan on the security of a home or combination of home and business property, if either—

(a) Such loan exceeds, for any dwelling unit in any such security property which is not a single-family dwelling, an amount allowable in or pursuant to section 207(c)(3) of the National Housing Act, or

• • • • •

PART 563—OPERATIONS

§ 563.9-7 Loans in excess of 90 percent of value.

(a) An insured institution which is authorized to make loans, other than insured loans or guaranteed loans, on the security of "single-family dwellings" (as defined in § 541.10 of this chapter) or a "two-family dwelling" (as defined in § 541.10-5) in excess of 90 percent of value of such real estate may do so only if:

• • • • •

(b) This section does not apply to single-family-dwelling or two-family dwelling loans to facilitate the sale of real estate owned described in § 561.15(d) of this subchapter.

• • • • •

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464, secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc.77-26703 Filed 9-13-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR 655]

[FHWA Docket No. 77-6]

NATIONAL STANDARDS FOR SPECIFIC INFORMATION SIGNS

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Highway Administration has existing standards for specific information signs on Interstate highways and freeways on the Primary Highway System. FHWA issues this notice of proposed rulemaking to solicit comments on suggested revision to these existing standards which will include standards for additional classes of highways as authorized by section 122(a) of the Federal-Aid Highway Act of 1976. Amendments to existing regulations were necessitated by passage of the Federal-Aid Highway Act of 1976.

DATES: Comments must be received on or before October 31, 1977.

ADDRESS: Comments should be addressed to: Federal Highway Administration, Room 4230, Docket No. 77-6, 400-7th Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. J. J. Crowley, Director, Office of Traffic Operations, 202-426-0372; or Mr. D. E. Timmons, Office of the Chief Counsel, 202-426-0800, 400-7th Street SW., Washington, D.C. 20590. Hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Existing Regulations appear as Subpart C, Part 655, Chapter I, Code of Federal Regulations and codify material contained in Volume 6, Chapter 8, Section 3, Subsection 8, of the Federal-Aid Highway Program Manual.

Section 122(a) of the Federal-Aid Highway Act of 1976, Pub. L. 94-280, May 5, 1976, 90 Stat. 425, amended section 131(f) of Title 23, United States Code. Section 131(f) previously had authorized the Secretary, in consultation with the States, to provide areas within the Interstate System rights-of-way on which specific information signs could be erected. The amendment extends this authorization to permit the erection of such signs within the rights-of-way of primary system highways as well.

Separate standards covering such items as location, composition, and size for specific information signs have been developed for public comment for Interstate highways and other freeways, expressways, and conventional primary highways.

Those desiring to comment on these suggested standards are asked to submit their views, data, and arguments in writing. Communications should identify the docket number (FHWA Docket No. 77-6). Comments will be available for public inspection both before and after the closing date at the above address. It is the intention of the Federal Highway Administration to issue regulations in this matter after the program under the suggested standards has been reviewed and comments received pursuant to this notice have been analyzed.

NOTE.—The Federal Highway Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A-107.

This Notice of Proposed Rulemaking is issued under the authority of 23 U.S.C. § 315 and 49 CFR 1.48(b).

Issued on: September 7, 1977.

KARL S. BOWERS,
Deputy Administrator.

Chapter I of Title 23 of the Code of Federal Regulations is amended by revising Subpart C, Part 655, to read as follows:

Subpart—National Standards for Specific Information Signs

Sec.
655.301 Purpose.
655.302 Definitions.
655.303 Location.
655.304 Criteria for specific information permitted.
655.305 Color, symbols, and reflectorization.
655.306 Special requirements for specific information signs on interstate highways and other freeways.
655.307 Special requirements for specific information signs on expressways.
655.308 Special requirements for specific information signs on conventional roads.
655.309 Procedures to be followed by the States.

AUTHORITY: 23 U.S.C. §§ 109(d), 131(f), 315, 402(a) and 49 CFR 1.48(b).

§ 655.301 Purpose.

To establish standards for signs, displays, and devices giving specific information in the interest of the traveling public to the erected within the rights-of-way of freeways, expressways, and conventional primary highways.

§ 655.302 Definitions.

Except as defined in this section, the terms used in this subpart shall be defined in accordance with the definitions and usage of the Manual on Uniform Traffic Control Devices, 1971 edition.[1]

(a) *Specific information sign.* A rectangular sign panel with:

(1) The words "Gas," "Food," "Lodging," or "Camping,"

(2) Directional information, and

(3) One or more business signs.

(b) *Business sign.* A separately attached sign mounted on the rectangular sign panel to show the brand, or trademark and name, or both, of a motorist service available on a crossroad at or near an interchange or an intersection.

(c) *Conventional primary highway.* A road other than a freeway or expressway which has been designated as a part of the system of highways included in the State's policy for specific information signing.

(d) *Freeway.* A divided highway with full control of access.

(e) *State.* Any one of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, or American Samoa.

§ 655.303 Location.

(a) *Intended for rural areas.* Specific information signs are intended for use in rural areas. They may be installed within suburban or urban areas only where the roadside development does not appear to the motorist to be urban in character.

(b) *Lateral Location.* The specific information signs should be located near the right-of-way line and shall be readable from the main traveled way. They should be located so as to take advantage of natural terrain, to have the least impact on the scenic environment, and to avoid visual conflict with other signs. Unprotected sign panel supports located less than 30 feet from the edge of the traveled way shall be of a breakaway type of design.

(c) *Relative location.* In the direction of traffic, successive specific information signs shall be those of "Camping," "Lodging," "Food," and "Gas" in that order.

§ 655.304 Criteria for specific information permitted.

(a) *Conformity with laws.* Each business identified on a specific information sign shall have given written assurance to the State of its conformity with all applicable laws concerning the provision of public accommodations without regard to race, religion, color, sex, or national origin, and shall not be in continuing breach of that assurance.

(b) *Distance to services.* The maximum distance that service facilities can be located from the main traveled way to qualify for a business sign shall be in accordance with State standards, but may not exceed 3 miles in either direction; except that, if within that 3-mile limit a service of the type being considered is not available, the limit of eligibility may be extended in 3-mile increments until one service of the type being considered, or 15 miles, is reached. Services beyond the 15-mile limit shall not qualify for signing.

(c) *Types of services permitted.* To qualify for display on a specific information sign:

(1) "Gas" shall include:

(i) Vehicle services such as fuel, oil, lubrication, tire repair, and water,

(ii) Restroom facilities and drinking water,

(iii) Continuous operations at least 16 hours per day, 7 days a week, and

(iv) Telephone.

(2) "Food" shall include:

(i) Licensing or approval, where required,

(ii) Continuous operation to serve three meals a day, 7 days a week, and

(iii) Telephone.

(3) "Lodging" shall include:

(i) Licensing or approval where required,

(ii) Adequate sleeping accommodations, and

(iii) Telephone.

(4) "Camping" shall include:

(i) Licensing or approval where required,

(ii) Adequate parking accommodations,

(iii) Modern sanitary facilities and drinking water, and,

(iv) Provisions for removal or covering of the business signs during off-seasons if operated on a seasonal basis.

§ 655.305 Colors, symbols and reflectorization.

(a) *Sign panels.* The background color of the sign panels shall be blue with a white reflectorized border. The panels may be illuminated.

(b) *Business signs.* The background color of the business signs shall be blue with a white legend and border. The principal legend shall be at least equal in height to the directional legend on the sign panel. Business identification symbols or trademarks may be used alone for a business sign, the border may be omitted, the symbol or trademark shall be reproduced in the colors and general shape consistent with customary use, and any integral legend shall be in proportionate size. Messages, symbols and trademarks which interfere with, imitate, or resemble any official control device are prohibited.

(c) *Legends.* The words "gas," "food," "lodging," and "camping," the exit number, and the exit direction messages shall be white reflectorized capital letters.

§ 655.306 Special requirements for specific information signs on interstate highways and other freeways.

(a) *Location.*—(1) *Separate sign panels.* Except as provided in § 655.306(b)(3), a separate sign panel shall be provided for each type of motorist service for which business signs are displayed.

(2) *Relationship to exit gore.* The specific information signs shall be erected between the previous interchange and ½ mile in advance of the theoretical gore for the approaching interchange. There shall be at least 1,000-foot spacing between the signs. Excessive spacing is not desirable.

(3) *Convenient re-entry required.* Specific information signs shall not be erected at an interchange where the motorist cannot conveniently re-enter the freeway and continue in the same direction of travel.

(4) *Exit ramp signs.* At single-exit interchanges where service facilities are not visible from a ramp terminal, ramp signs shall be installed along the ramp or at the ramp terminal, and may be provided along the crossroad. These signs shall be duplicates of the corresponding specific information signs, but reduced in size and with service information for visible facilities omitted. They shall include directional arrows in lieu of words and, where needed, the distances to the service installations. The minimum letter height shall be 4 inches except that any legend on a symbol shall be proportional to the size of the symbol. Ramp signing may be used on ramps and crossroads at double-exit interchanges.

(b) *Composition.*—(1) *Single-exit interchanges.* The name of the type of service followed by the legend next right (left) shall be displayed in one line above the business signs. At numbered interchanges, the directional legend shall be omitted and the exit number shall be displayed on a separate plaque at the top of the sign panel. The "GAS" specific information sign shall be limited to six business signs; the "food," "lodging," and "camping," specific information signs shall be limited to four business signs each.

(2) *Double-exit interchanges.* The specific information signs shall consist of two sections, one for each exit. The top section shall display the business sign for the first exit and the lower section shall display the business signs for the second exit. The name of the type of service followed by the exit number shall

[1] The Manual on Uniform Traffic Control Devices is available for inspection and copying as prescribed in 49 CFR 7, App. D. It may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Stock No. 5001-0021).

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be displayed in a line above the business signs in each section. At unnumbered interchanges, the legends next right (left) and second right (left) shall be substituted for the exit numbers. Where a type of motorist service is to be signed for at only one exit, one section of the specific information sign may be omitted. The number of business signs on the sign panel (total of both sections) shall be limited to six for "gas," and four each for "food," "lodging," and "camping."

(3) *Remote rural interchanges.* In remote rural areas, where not more than two qualified facilities are available for each of two or more types of services, business signs for two types of services may be displayed on the same sign panel. The name of each type of service shall be displayed above its respective business sign(s), and the exit number shall be displayed on a separate plaque at the top of the panel. At unnumbered interchanges, the legend next right (left) shall be displayed below the business signs. Not more than four business signs shall be displayed on a panel. Not more than two business signs for each type of service shall be displayed on each approach to the interchange. Business signs shall not be combined on a panel when it is anticipated that additional service facilities will become available in the near future. When it becomes necessary to display a third business sign of a type of service displayed in combination, the business signs involved shall then be displayed in compliance with paragraphs (b)(1) and (b)(2) of this section.

(c) *Size.*—(1) *Sign panels.* The maximum size for sign panels, including borders, shall be: (i) 16 feet wide and 10 feet high at single-exit interchanges; (ii) 15 feet wide and 12 feet high at double-exit interchanges; and (iii) 13 feet wide and 13 feet high at remote rural interchanges.

(2) *Business signs.* (i) The business signs displayed on the "gas" specific information sign shall be contained within a 48-inch wide and 36-inch rectangular background area, including border. (ii) The business signs on the "food," "lodging," and "camping" specific information signs shall be contained on a 60-inch wide and 36-inch high rectangular background area, including border.

(3) *Legends.* All letters used in the name of the type of service, the exit number, and the directional legend shall be 10-inch capital letters.

§ 655.307 Special requirements for specific information signs on expressways.

(a) *Location.*—(1) *Interchanges.* The location of specific information signs and exit ramp signs erected at interchanges shall be in accordance with the provisions of § 655.306(a).

(2) *Intersections.* The specific information signs shall be erected between the previous intersection and 300 feet in advance of the approaching intersection. There shall be at least 300 feet spacing between the signs and at least 200 feet spacing between any specific information sign and any other type of traffic control sign. Business signs shall not be displayed for a type of service for which a qualified facility is visible from a point on the traveled way 300 feet from the intersection.

(b) *Composition.*—(1) *Interchanges.* The composition of specific information signs and exit ramp signs erected for interchanges shall be in accordance with § 655.306(b), except that all signs shall be limited to a maximum of four business signs each.

(2) *Intersections.* Business signs for different types of services may be combined on the same sign panel. Not more than two business signs for each type of service shall be displayed along each approach to the intersection. Not more than four business signs shall be displayed on each sign panel. The name of each type of service shall be displayed above its respective business sign(s), and the legend next right (left) shall be displayed at the bottom of the panel below the business signs.

(c) *Size.*—(1) *Sign panels.* The maximum size for the sign panels, including border, shall be 8 feet wide and 9 feet high.

(2) *Business signs.* The business signs shall be contained within a 36-inch wide and 24-inch high rectangular background area, including border.

(3) *Legends.* All letters used in the name of the type of service, the exit number, and the directional legend shall be 6-inch capital letters.

§ 655.308 Special requirements for specific signs on conventional roads.

(a) *Location.* The location of the specific information signs shall be as specified in § 655.307(a)(2).

(b) *Composition.* The composition of the specific information signs shall be as specified in § 655.307(b)(2).

(c) *Size.*—(1) *Sign panels.* The maximum size for the sign panels, including border, shall be 5 feet wide and 6 feet high.

(2) *Business signs.* The business signs shall be contained within a 24-inch wide and 18-inch high rectangular background area, including border.

(3) *Legends.* All letters used in the name of the type of service and the directional legend shall be 4-inch capital letters.

§ 655.309 Procedures to be followed by the States.

(a) *State's prerogative.* Specific information signs may be erected at the option of the State. All signs erected pursuant to 23 U.S.C. 131(f) shall conform to the standards of this subpart.

(b) *State signing policy.* Prior to the installation of specific information signs, the State shall develop a policy for specific information signing. This policy, as a minimum, shall include criteria for:

(1) Distances to eligible service,

(2) Selection of eligible businesses,

(3) Determining the costs to businesses for initial permits, installation, annual maintenance, removal, etc. of business signs, and

(4) Designating conventional roads as "conventional primary highways for specific information signing purposes" when the State's policy permits this type of signing on conventional roads.

(c) *Eligibility of funds.* Federal-aid funds are eligible to participate in the cost and erection of these signs in the same manner that such funds are eligible for other highway traffic control devices on the Federal-aid highway systems except that Federal-aid funds are not eligible to participate in the cost of procuring and installing the business signs as defined in § 655.302(b).

(d) *Approvals.* The procedures for obtaining approval for programing, project authorizations, and other actions for Federal-aid projects which include these signs shall follow the same procedures as other Federal-aid projects. States desiring to erect these signs on Federal-aid highway systems without Federal-aid fund participation shall submit the plans to the Division Administrator for prior approval.

(e) *Consultation between the State and the Secretary.* The State's request and Division Administrator's approval of plans, specifications, and estimates in the case of a Federal-aid project, and approval of the plans in the case of a project without participating Federal-aid funds but on a Federal-aid highway system shall constitute the consultation between the State and the Secretary of Transportation as required by law.

[FR Doc.77-26727 Filed 9-13-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Total Distributions From Employee Retirement Plans (1970–1973); Withdrawal of Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The purpose of this document is to withdraw notices of proposed rulemaking relating to the tax treatment of total distributions from employee retirement plans made in 1970 through 1973. A notice of proposed rulemaking under sections 402(a)(5) and 403(a)(2)(C) of the Internal Revenue Code of 1954 appeared in the FEDERAL REGISTER on June 12, 1971 (36 FR 11442). A correction notice was published in the FEDERAL REGISTER on June 22, 1971 (36 FR 11864). A notice of proposed rulemaking under section 72(n)(4) of the Internal Revenue Code of 1954 appeared in the FEDERAL REGISTER on May 4, 1973 (38 FR 11087). All three notices are being withdrawn.

FOR FURTHER INFORMATION CONTACT:

Richard Johnson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, attention: CC:LR:T (202–566–3603).

SUPPLEMENTARY INFORMATION:

BACKGROUND

The notices of proposed rulemaking that are being withdrawn proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 72(n)(4), 402(a)(5), and 403(a)(2)(C), as added to the Internal Revenue Code of 1954 by section 515 of the Tax Reform Act of 1969 (83 Stat. 643). These three provisions were repealed by section 2005 of the Employee Retirement Income Security Act of 1974 (88 Stat. 987), which substantially changed the tax law relating to total (lump sum) distributions from employee retirement plans. The changes in the tax law made by the Employee Retirement Income Security Act of 1974 apply to lump sum distributions made in taxable years of the recipient beginning after December 31, 1973.

The Internal Revenue Service does not anticipate issuing a new notice of proposed rulemaking under the repealed sections. In the case of taxpayers who have prepared and filed returns on the basis of the withdrawn notices, the Internal Revenue Service will not assess a deficiency on the basis of a computational method different from the method in the withdrawn regulations.

WITHDRAWAL OF PROPOSED AMENDMENTS

Accordingly, the notices of proposed rulemaking relating to total distribution from employee retirement plans which were published in the FEDERAL REGISTER on June 12, 1971 (36 FR 11442), June 22, 1971 (36 FR 11864), and May 4, 1973 (38 FR 11087), are hereby withdrawn.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc.77-26606 Filed 9-13-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 221]

LIMITATIONS ON TIMBER REMOVAL

AGENCY: Forest Service, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Secretary of Agriculture plans to develop rules that would establish limitations on the sale of timber from each National Forest. The National Forest Management Act of 1976 requires the Secretary of Agriculture to limit the sale of timber from each national forest to a quantity which can be removed from such forest on a sustained-yield basis.

DATES: Comments should be received on or before October 31, 1977:

ADDRESS: Submit comments to: John R. McGuire, Chief, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: The National Forest Management Act of 1976 (Pub. L. 94–588) requires the Secretary of Agriculture to limit the sale of timber from each National Forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained yield basis. The Secretary may exceed the quantity limitation from time to time so long as the average sales of timber from each forest over any 10-year period do not exceed such limitation. In ases where a forest contains less than 200,000 acres of commercial forest land the Secretary may use two or more forests for purposes of determining the sustained yield. The Secretary would, however, not be prohibited from salvaging timber stands which are substantially damaged by fire, windthrow or other catastrophe.

The Secretary may, in order to meet overall multiple use objectives, establish an allowable sale quantity for any decade which departs from the projected long-term average sale quantity that would otherwise be established. Such planned departures must be consistent with the multiple use management objectives of the land management plan for such forest and must be made with public participation.

The provision of Pub. L. 94–588 involved follows:

Sec. 11. The Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding at the end thereof new sections 13 through 16 as follows:

"Sec. 13. Limitations on Timber Removal.—(a) The Secretary of Agriculture shall limit the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis: Provided, That, in order to meet overall multiple-use objectives, the Secretary may establish an allowable sale quantity for any decade which departs from the projected long-term average sale quantity that would otherwise be established, *Provided further,* That any such planned departure must be consistent with the multiple-use management objectives of the land management plan. Plans for variations in the allowable sale quantity must be made with public participation as required by section 6(d) of this Act. In addition, within any decade, the Secretary may sell a quantity in excess of the annual allowable sale quantity established pursuant to this section in the case of any national forest so long as the average sale quantities of timber from such national forest over the decade covered by the plan do not exceed such quantity limitation. In those cases where a forest has less than two hundred thousand acres of commercial forest land, the Secretary may use two or more forests for purposes of determining the sustained yield.

"(b) Nothing in subsection (a) of this section shall prohibit the Secretary from salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack. The Secretary may either substitute such timber for timber that would otherwise be sold under the plan or, if not feasible, sell such timber over and above the plan volume."

As an aid to drafting regulations covering the provision described above, comments are hereby solicited on its interpretation and as to the situations where, with public participation, the Secretary may depart from the projected long-term average sale quantity that would otherwise be established.

In order to be most helpful in the development of the regulation, comments should fully develop the rationale as to why proposed departures would meet overall multiple use objectives.

Following receipt and consideration of these comments, a proposed regulation will be drafted and published in the FEDERAL REGISTER. There will be an opportunity for comments on the resulting proposal.

Among the issues which may be addressed in drafting the regulation are:

1. What are the "overall multiple use objectives" referred to in the first proviso of Section 13? Do they concern only resource situations such as fire or insect damage, or do they also include socio-economic factors such as jobs, community stability, and local Government revenues?

2. How can we identify those situations where the interplay of two or more uses or resources will result in a departure?

3. How do we make the tradeoffs between timber and other resources in a way which is understandable and acceptable to managers and the public?

SEPTEMBER 8, 1977.

M. RUPERT CUTLER,
Assistant Secretary.

[FR Doc.77-26620 Filed 9-13-77;8:45 am]

COMMUNITY SERVICES ADMINISTRATION

[45 CFR Part 1068]

GRANTEE FINANCIAL MANAGEMENT

Grantee Payment of Professional Dues

AGENCY: Community Services Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule codifies a Community Services Administration policy on payment of dues to professional associations with grant funds. This amendment will require that CSA approve all professional organizations which receive such dues out of grant funds. This change is to control payments in excessive amounts and for purposes which would be contrary to CSA regulations if carried out directly by CSA grantees. This rule is intended to give CSA the authority to determine which professional organizations may benefit from such indirect CSA funding.

DATES: Comments on this proposed rule must be received on or before October 20, 1977. It is proposed to make the rule effective November 5, 1977.

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ADDRESS: Comments should be addressed to Ms. Faye Rattner, Chief, Policy Development and Review Division, Community Services Administration, Office of Community Action, 1200 19th Street NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Faye Rattner, phone 202-254-5670.

SUPPLEMENTARY INFORMATION: Previous to September 19, 1972, when Section 623 of the Economic Opportunity Act of 1964, as amended, was enacted, CSA (then OEO) was not required to publish its regulations in the FEDERAL REGISTER. OEO Instruction 6710-02 was promulgated in 1971 and includes a provision governing professional dues which is modified by this rule.

AUTHORITY: Sec. 602, 78 Stat 530, 42 U.S.C. 2942.

GRACIEL (GRACE) OLIVAREZ,
Director.

45 CFR 1068 is proposed to be amended by adding new sections 1068.30-1 and 1068.30-2 as follows, effective November 5, 1977:

Sec
1068.30-1 Applicability.
1068.30-2 Restrictions on charging professional dues to grant funds.

§ 1068.30-1 Applicability.

This subpart is applicable to all grantees receiving financial assistance from the Community Services Administration.

§ 1068.30-2 Restrictions on charging professional dues to grant funds.

Professional dues that may be charged to grant funds (including non-Federal share) are limited to a single membership for the grantee in any appropriate professional organizations; memberships may not be purchased for any individual or delegate agency. Such proposed expenditures of funds for professional memberships must be included as an attachment to the "other cost category" on the budget form in an application for funding or refunding. The attachment must identify the name of the professional organization, the amount of the proposed membership and include a brief description of the purpose of that organization.

[FR Doc.77-26643 Filed 9-13-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 64]

[Docket No. 20828]

COMPUTER INQUIRY

Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: In response to a motion for an extension of time, the Commission is extending the date for the filing of reply comments in the computer inquiry. (Docket No. 20828 published at 42 FR 34896, July 7, 1977.)

DATES: Reply comments must be received on or before October 17, 1977.

ADDRESSES: Send reply comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James K. Smith, Common Carrier Bureau (632-9342).

Adopted: September 2, 1977.

Released: September 6, 1977.

By the Chief, Common Carrier Bureau.

In the matter of amendment of § 64.702 of the Commission's rules and regulations (computer inquiry). Order (42 FR 34896).

1. On August 31, 1977, International Business Machines Corp. (BM) filed a request for an extension of time for the filing of reply comments in Docket No. 20828. IBM has requested that the date for filing reply comments be extended from September 12, 1977, to October 14, 1977, a period of 32 days.

2. IBM indicates that it intends to submit as an appendix to its reply comments in Docket No. 20828 an expert study on "the effects of public utility regulation in a competitive environment." It states, however, that it is not possible to complete the preparation of the study by the September 12 deadline for the filing of reply comments. Thus, IBM seeks to have the date for reply comments extended in order that it may file the completed study with its reply comments.

3. Extensions of time for the filings of comments and reply comments previously have been granted in this Docket to allow participants to this proceeding an adequate opportunity to present their views. In particular, we note that an extension of time for filing initial comments was granted previously to American Telephone and Telegraph Company (AT&T) in order to allow for the completion of a study that it was having prepared. In view of the latitude that has been extended in the past in granting requests for extension of time, and the complexity of the issues involved, it would be in the public interest to grant, in this instance, IBM's request for additional time to allow for the completion of its study. The additional time requested by IBM is relatively short in comparison with the overall length of this proceeding and the grant of the request will not prejudice other participants in this Inquiry. Due to the closeness of the existing deadline for filing reply comments in this proceeding, this action is being taken without waiting for responsive pleadings to be filed, pursuant to section 1.45(e) of the Commission's Rules and Regulations.

4. Accordingly, the motion for extension of time filed by IBM is granted. The time for all parties to file reply comments in Docket No. 20828 is hereby extended from September 12, 1977, to Monday, October 17, 1977.

5. This action is being taken under delegated authority pursuant to § 0.303 (c) of the Commission's rules and regulations.

PHILIP V. PERMUT,
Acting Deputy Chief,
Common Carrier Bureau.

[FR Doc.77-26676 Filed 9-13-77;8:45 am]

[47 CFR Part 73]

[Docket No. 21387; RM-2897]

TELEVISION BROADCAST STATION IN GALVESTON, TEX.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Federal Communications Commission proposes to substitute TV Channel 48 for the presently unoccupied and unapplied for TV Channel 47 assignment in Galveston, Tex. Petitioner has acquired the land, building, and tower site of a station that formerly operated on a Channel 16 assignment at Galveston. The proposed substitution would eliminate the short-spacing to a Houston Channel 39 assignment if the Galveston station were to operate on Channel 48.

DATES: Comments must be filed on or before October 18, 1977, reply comments on or before November 8, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Thomas L. McCrickard, Broadcast Bureau (202-632-9660).

SUPPLEMENTARY INFORMATION:

Adopted: September 2, 1977.

Released: September 9, 1977.

By the Acting Chief, Broadcast Bureau.

In the matter of amendment of § 73.606 (b), Table of Assignments, Television Broadcast Stations (Galveston, Tex.). Notice of proposed rule making.

1. The Commission, by the Chief, Broadcast Bureau, has for its consideration a petition for rule making filed by The Old Time Religion Hour, Inc. ("O.T.R.H., Inc."). This petition seeks amendment of the Television Table of Assignments (section 73.606(b) of the Commission's Rules and Regulations) by the substitution of Channel 48 for the presently unoccupied and unapplied for Channel 47 assignment in Galveston, Tex.

2. Galveston (pop. 61,809) is the seat of Galveston County (pop. 169,812) [1] Located on the Gulf of Mexico, Galveston is approximately 72 kilometers (45 miles) southeast of Houston, Tex.

[1] All population figures are taken from the 1970 U.S. Census.

3. Petitioner states that it has acquired the land, building, and tower site of a station that formerly operated on a Channel 16 assignment at Galveston. The Channel 16 station ceased operation in 1969, and the channel assignment was later moved to Corpus Christi, Tex. The Channel 16 assignment was replaced with Channel 47 in Galveston. To operate the Channel 47 assignment in Galveston at the former Channel 16 site would result in short-spacing to Channel 39, Station KHTV at Houston, Tex. Substitution of Channel 48 for Channel 47 would eliminate this short-spacing.

4. The Channel 48 assignment may be made in compliance with the Commission's distance separation requirements and other technical criteria, without requiring changes of assignments at other communities listed in the Table of Assignments. Petitioner states its intention to file an application for the use of Channel 48 should the Commission approve the channel substitution.

5. The Commission believes that the consideration of this channel substitution would be in the public interest since it could permit a more prompt commencement of commercial television service to the area than otherwise would be possible. Thus, based on petitioner's showing, the Commission is persuaded that a rule making proceeding should be instituted to obtain comments on the instant proposal, and therefore, we propose to consider the following revision in the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) with respect to the city listed below:

City	Channel No.	
	Present	Proposed
Galveston, Tex.	*22, 47+	*22, 48-

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are set forth below and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

7. Interested parties may file comments on or before October 18, 1977, and reply comments on or before November 8, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
MARTIN I. LEVY,
Acting Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.281 (b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, section 73.606(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may filed comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77-26677 Filed 9-13-77;8:45 am]

[47 CFR Part 73]

[Docket No. 21386; RM-2858]

TELEVISION BROADCAST STATION IN LOWRY, S. DAK.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Federal Communications Commission proposes to assign TV Channels 56, 62, and 68 to Lowry, S. Dak. This action would make it possible to establish translator stations to provide commercial television service from the three major networks to the residents of the counties of Campbell, Edmunds, McPherson, Potter, and Walworth, S. Dak. This action was initiated by a petition for rule making filed by South Dakota Five County Television Translator District.

DATES: Comments must be received on or before October 18, 1977, and reply comments on or before November 8, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Thomas L. McCrickard III, Broadcast Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: September 2, 1977.

Released: September 9, 1977.

In the matter of amendment of § 73.606 (b), Table of Assignments, Television Broadcast Stations (Lowry, S. Dak.). Notice of proposed rulemaking.

By the Acting Chief, Broadcast Bureau:

1. The Commission has under consideration a petition for rulemaking filed by South Dakota Five County Television Translator District ("South Dakota Five"). The petition seeks amendment of section 73.606(b) of the Commission's rules and regulations, the Television Table of Assignments, by the assignment of UHF television Channels 56, 62, and 68 to Lowry, S. Dak.

2. Lowry (pop. 35; Walworth County, pop. 7,842 [1]), is located in north central South Dakota, approximately 108 kilometers (67 miles) north of Pierre.

3. Petitioner indicates that its purpose is to apply for and construct television translator [2] stations on these channels to

[1] All population figures are taken from the 1970 U.S. Census.

[2] Section 74.732(b) of the Commission's rules states, "More than one television broadcast translator station may be licensed to the same applicant, whether or not such stations serve substantially the same area, upon an appropriate showing of need for such additional stations."

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bring commercial television service from the three major networks to the residents of the counties of Campbell (pop. 2,866), Edmunds (pop. 5,548), McPherson (pop. 5,022), Potter (pop. 4,449), and Walworth, S. Dak. The majority of these residents presently receive minimal television reception. The Commission notes that there are numerous other television channels available for assignment not only in Lowry, but also in the surrounding communities. Consequently, there appears to be no reason not to consider assigning three television channels to this small town.

4. The Channel 56, 62, and 68 assignments to Lowry, S. Dak., may be made in compliance with the Commission's mileage separation requirements and other technical criteria, without requiring changes at other communities listed in the Table of Assignments. The Commission feels that these channel assignments could be in the public interest by making possible better quality television reception in the area.

5. Consequently, the Commission is persuaded that a rulemaking proceeding should be instituted to obtain comments on the South Dakota Five proposal. We propose to consider the following revisions in the Television Table of Assignments (§ 73.606(b) of the Commission's rules) with respect to the city listed below:

City	Channel No.	
	Present	Proposed
Lowry, S. Dak.	*11—	*11—, 56, 62+, 68—

6. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are set forth below and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

7. Interested parties may file comments on or before October 18, 1977, and reply comments on or before November 8, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
MARTIN I LEVY,
Acting Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.281 (b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, section 73.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for the filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding, or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77-26679 Filed 9-13-77;8:45 am]

[47 CFR Part 73]

[Docket No. 21384; RM-2900]

FM BROADCAST STATION IN GORDONVILLE, MO.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a first Class A FM assignment to Gordonville, Mo. Petitioner, Rainbow Broadcasting Co., Inc., states that an FM station is needed in Gordonville in light of the present and planned growth in that community.

DATES: Comments must be received on or before October 18, 1977, and reply comments on or before November 8, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION

Adopted: September 2, 1977.

Released: September 9, 1977.

By the Acting Chief, Broadcast Bureau.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Gordonville, Mo.). Notice of proposed rule making.

1. *Petitioner, proposal and comments.* (a) Petition for rule making,[1] filed on May 16, 1977, by Rainbow Broadcasting Co., Inc. ("petitioner"), licensee of AM daytime-only Station KJAS, Jackson, Mo., proposing Channel 257A as a first FM assignment to Gordonville, Mo.

(b) The channnel could be assigned in conformity with the minimum distance separation requirements if the transmitter site were to be located 11 kilometers (7 miles) south of the community.

(c) Petitioner states that, if the channel is assigned, it will apply promptly for authorization to construct and operate a station.

2. *Community data.* (a) *Location.* Gordonville, situated in Cape Girardeau county, is located approximately 217 kilometers (135 miles) south-southeast of St. Louis, Mo., and 8 kilometers (5 miles) south of Jackson, Mo.

(b) *Population.* Gordonville—125; Cape Girardeau County—49,350.[2]

(c) *Local broadcast service.* There is no local broadcast service in Gordonville.

3. *Economic data.* Petitioner states that Gordonville is a community with a mayor-town board system of government. It notes that several major industries have located in Cape Girardeau County and Gordonville is located in the heart of this rapidly growing area. Petitioner adds that it is expected that Gordonville will increasingly become more and more of an integral part of the southeast Missouri industrial and residential complex. It claims that an FM station located in Gordonville is clearly needed in light of the present and planned growth in that community and surrounding area.

4. We believe that consideration of the proposed FM assignment in a rule making proceeding would be in the public interest. This will enable us to obtain the information necessary to determine whether a community of this size, which is acknowledged to be a residential location for people working in nearby Jackson and Cape Girardeau, has its own needs. Petitioner should respond with information more directed to the transmission needs of Gordonville itself.[3]

5. Accordingly, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to Gordonville, Mo., as follows:

City	Channel No.	
	Present	Proposed
Gordonville, Mo.		257A

6. Authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are set forth below, and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

7. Interested parties may file comments on or before October 18, 1977, and reply comments on or before November 8, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
MARTIN I. LEVY,
Acting Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commisson.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77-26681 Filed 9-13-77;8:45 am]

[47 CFR Part 73]

[Docket No. 20418; RM-2346; RM-2727]

ADDING NEW VHF STATIONS IN THE TOP 100 MARKETS

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: On the Commission's own motion, the time for filing comments, and reply comments in Docket 20418, published at 42 FR 40003, August 8, 1977, the VHF-Drop-In proceeding, has been extended. This will allow all parties to file comments on studies submitted by ITS relative to the Johnstown/Altoona and Knoxville markets.

DATES: Comments must be received on or before November 1, 1977, and reply comments on or before December 1, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Carol Fox Foelak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of petition for rulemaking to amend television table of assignments to add new VHF stations in the top 100 markets and to assure that the new stations maximize diversity of ownership, control and programming. Order extending time for filing comments and reply comments to the memorandum opinion and order and notice of proposed rule making (42 FR 40003).

Adopted: September 7, 1977.

Released: September 9, 1977.

By the Chief, Broadcast Bureau:

1. In the Memorandum Opinion and Order and Notice of Proposed Rule Making in Docket No. 20418, released March 18, 1977, at paragraph 146, the Commission stated: "We shall propose Channel 12 and Channel 8 as alternatives to serve the Johnstown-Altoona market. While awaiting comments in the rule making proceeding, we shall study with the help of ITS [Institute of Telecommunications Sciences] the terrain shielding effects on both channels. Materials developed in that study will be added to the docket and an opportunity for comment on them will be provided." ITS had already completed a similar study for Knoxville. Pursuant to subsequent orders, released May 13, 1977, and August 4, 1977, the times for filing comments and reply comments in this proceeding were extended to October 1, 1977, and November 1, 1977, respectively. Further, in the Order released May 13, 1977, the Commisson acknowledged that "at least 30 days is required after the ITS report [concerning the Johnstown-Altoona drop-in] is placed in the docket" for preparation of comments addressing that report.

2. In the course of reviewing the ITS Johnstown-Altoona report to ascertain its acceptability, the Commission determined that addenda for both the Johnstown-Altoona and Knoxville reports were needed. Specifically, it was found necessary to request supplemental showings regarding ITS' depiction of adjacent channel interference. These supplemental showings are now completed and all pertinent material developed by ITS has been inserted in the docket record in this proceeding.

3. In light of these developments, we find it to be appropriate to further extend the time for filing comments and reply comments in this proceeding to allow parties sufficient time to prepare comments relating to this new material. For administrative convenience, we will extend the time for all comments in this proceeding, whether or not specifically related to the ITS reports, so that all comments and reply comments will be due on the same dates.

4. Accordingly, *It is ordered*, That the time for filing comments to the notice of proposed rule making in Docket No.

[1] Public Notice of the filing of the petition was given on June 15, 1977, Rept. No. 1053.

[2] Population figures are taken from the 1970 U.S. Census.

[3] Alternatively, we could consider use of the channel at nearby Chaffee, Mo., population 2,793, if interest in such use were expressed.

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20418 is extended through November 1, 1977, and the time for filing reply comments is extended through December 1, 1977.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r) of the Communications Act of 1934, as amended, and section 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-26683 Filed 9-13-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 4]

COASTWISE TRANSPORTATION OF MERCHANDISE

Proposed Amendment to The Effect of Manufacturing or Processing at an Intermediate Port or Place

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Proposed rulemaking.

SUMMARY: Merchandise ordinarily may not be transported between coastwise points, either directly or via a foreign port, or for any part of the transportation, in a vessel not qualified for the coastwise trade. However, the Customs Service has ruled that if merchandise is laden at a coastwise point, transported to an intermediate port or place not subject to the coastwise laws for manufacturing or processing into a new or different product, and thereafter transported to a coastwise point, either leg (or both legs) of the transportation may be accomplished by a vessel not qualified for the coastwise trade. It is proposed to incorporate these principles into the Customs Regulations and to provide for interested parties to obtain advice as to whether a contemplated undertaking would result in a new and different product.

DATE: Comments must be received on or before October 14, 1977.

ADDRESS: Comments may be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Cusoms Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Charles W. Hart, Attorney, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), in general provides that no merchandise shall be transported between points embraced within the coastwise laws of the United States ("coastwise points"), directly or by way of a foreign port, or for any part of the transportation, except in a vessel built in the United States, owned by a citizen of the United States, and documented under the laws of the United States.

The Customs Service and the former Bureau of Marine Inspection and Navigation, its predecessor agency in the administration of the coastwise laws, have ruled since 1938 that if merchandise is transported from a coastwise point to a port or place not subject to the coastwise laws, such as a port or place in Canada or the Virgin Islands of the United States (to which the coastwise laws expressly do not apply—Executive Order No. 9170 of May 21, 1942), where it is manufactured or processed into a new and different product which thereafter is transported to a coastwise point, either segment (or both segments) of the overall transportation may be accomplished by vessels not qualified to engage in the coastwise trade. The rationale is that the continuity of the transportation is broken at the intermediate port or place and that the new and different product resulting from the manufacturing or processing is not the same as that laden at the initial coastwise point.

For example, in a ruling abstracted as Treasury Decision 56272(2), the Customs Service held that there was no violation of 46 U.S.C. 883 where partially-milled rice was transported by a foreign vessel from California to the Virgin Islands, where it was brushed, screened, coated, polished, and fortified, and then transported by foreign vessel to Puerto Rico.

Similarly, the Customs Service ruled that where oil was transported from the U.S. Gulf Coast to Aruba, Netherlands Antilles, for blending with oil of foreign origin to produce low-sulphur fuel oil, the initial transportation terminated in Aruba and the subsequent transportation of the finished product to East Coast United States ports was a separate transportation. The processing of the oil at Aruba was considered not as a mere commingling, but as a blending designed to produce an end product significantly different from any of the component oils in such characteristics as specific gravity, viscosity, pour and, especially, sulphur content.

The Customs Service has been asked to rule whether it would be a violation of the coastwise laws if crude oil were to be transported by foreign vessel from Valdez, Alaska, to the Virgin Islands for refining, and if the refined products, including gasoline and fuel oil, thereafter were transported to a coastwise point.

Because the Customs Regulations do not address this issue, it is proposed to insert a new § 4.80b (19 CFR 4.80b) to incorporate the principles outlined above and to establish a procedure, similar to that in § 4.80a (19 CFR 4.80a), applicable to the coastwise transportation of passengers by foreign vessels, by which interested parties may apply for a ruling as to whether a contemplated undertaking would result in a new different product.

COMMENTS

The Customs Service invites comments from all interested parties on the proposed amendment. While, as stated above, the proposed regulation would merely codify existing rulings, comments will also be entertained as to whether existing rulings should be modified in the light of recent legislative enactments or other changes in relevant circumstances. Comments submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, Room 2335, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

DRAFTING INFORMATION

The principal author of this document was Alfred G. Scholle, Attorney, U.S. Customs Service. However, other personnel in the Customs Service and in the Department of the Treasury participated in developing the document, both on matters of substance and style.

PROPOSED AMENDMENT TO THE CUSTOMS REGULATIONS

It is proposed to amend Part 4 of the Customs Regulations by inserting a new § 4.80b to read as follows:

§ 4.80b Coastwise transportation of merchandise.

(a) *Effect of manufacturing or processing at intermediate port or place.* A coastwise transportation of merchandise takes place, within the meaning of the coastwise laws, when merchandise laden at a point embraced within the coastwise laws ("coastwise point") is unladen at another coastwise point, regardless of the origin or ultimate destination of the merchandise. However, merchandise is not transported coastwise if at an intermediate port or place other than a coastwise point (that is, at a foreign port or place, or at a port or place in a territory or possession of the United States not subject to the coastwise laws), it is manufactured or processed into a new and different product, and the new and different product thereafter is transported to a coastwise point.

(b) *Request for ruling.* Interested parties may request an advisory ruling from Headquarters, United States Customs Service, Attention: Carriers, Drawback and Bonds Division, as to whether a specific action taken or to be taken with respect to merchandise at the intermediate port or place will result in its becoming a new and different product for purposes of this section. The request shall be filed in accordance with the provisions of Part 177 of this chapter.

(R.S. 251, as amended, sec. 27, 41 Stat. 998, as amended (5 U.S.C. 301, 19 U.S.C. 66, 46 U.S.C. 883).)

ROBERT E. CHASEN,
Commissioner of Customs.

Approved: September 9, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc.77-26925 Filed 9-13-77;9:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

OUACHITA TIMBER MANAGEMENT PLAN

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Ouachita Timber Management Plan, National Forest, USDA-FS-R8-DES (Adm.) 77-11.

This unit covers 1,575,291 acres of National Forest land located in Sebastian, Logan, Vell, Perry, Saline, Garland, Hot Spring, Pike, and Scott Counties in Arkansas, and in LeFlore and McCurtain Counties, Okla. Major actions proposed are the management of the timber resources enviromental protection, and coordination of timber management activities with other resources. This consists of harvesting, regenerating, thinning, construction, and reconstruction of roads. This draft environmental statement was transmiteed to CEQ September 2, 1977. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Rm. 3210, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, 1720 Peachtree Road NW., Rm. 804, Atlanta, Ga. 30309.
USDA, Forest Service, Ouachita National Forest, P.O. Box 1270, Federal Building, Hot Springs, Ark. 71901.

A limited number of single copies are available upon request to Forest Supervisor, Ouachita National Forest, P.O. Box 1270, Federal Building, Hot Springs, Ark. 71901.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Ouachita National Forest, P.O. Box 1270, Federal Building, Hot Springs, Ark. 71901. Comments must be received by November 1, 1977, in order to be considered in the preparation of the final environmental statement.

Dated: September 2, 1977.

GEORGE H. COOK,
Acting Regional Environmental Coordinator.

[FR Doc.77-26613 Filed 9-13-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 77-9-27; Dockets 30513, 30511, 30512, 30510, 30693, 30694, 30725, 30726, 30711, 30741]

AMOS E. HEACOCK ET AL.

Order on Reconsideration

Applications of Amos E. Heacock, d.b.a. Air Transport Associates; Richard D. Neumann, California Air Charter & Holiday Airways, d.b.a. Air United States; Shields B. Craft & N.Y. Craft, d.b.a. Standard Airways; Ralph W. E. Cox, Jr. d.b.a. U.S.O.A. for certificates of public convenience and necessity. Applications of Shields B. Craft and N.Y. Craft, d.b.a. Standard Airways; Richard D. Neumann, California Air Charter and Holiday Airways d.b.a. Air United States; Amos E. Heacock, d.b.a. Air Transport Associates; Ralph W. E. Cox, Jr. d.b.a. U.S.O.A.; U.S. Aircoach, Inc.; Virgin Islands Air Services, Inc. for exemptions from 401(d)(3) of the Act to perform Supplemental Air Transportation.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 8th day of September, 1977.

By Order 77-7-147, July 29, 1977, the Board denied petitions for stay filed by the applicants in the above-captioned dockets. The applicants had requested a stay, pending judicial review, of Board orders denying them waivers of filing fees. The Board denied their requests since they had failed to make the requisite showing, as determined by Board and court precedent, to entitle them to a stay. Petitioners were given 10 days to pay the required fees.

On August 11, 1977, the applicants filed a petition for reconsideration of Order 77-7-147. The petitioners do not dispute the criteria relied upon by the Board in denying their petitions, but contend that the Board did not properly apply these criteria. Generally the petitioners contend that their status as former supplemental air carriers entitles them to a stay of the Board's orders requiring payment of the fees. They allege that the Board, through past actions and now through its denial of their petitions for stay, has refused to recognize their grandfather rights as nonscheduled airlines.

The Board has had repeated opportunities in the past several months to consider the issue of filing fees, and, in particular, their application to former nonscheduled air carriers seeking to provide air transportation services which they have operated in the past.[1] We have consistently found that an applicant's status as a former nonscheduled air carrier does not entitle it to a waiver of the Board's filing fee regulations.[2] After careful consideration of this issue, in Order 77-7-147, we determined that the petitioners were unlikely to succeed on the merits of their appeal from the Board's orders requiring payment of the fees. We also found that payment of the required fees pending judicial review would not cause irreparable injury to the petitioners, and that the public interest would be best served by requiring their payment. Accordingly, the petitions for stay were denied.

Upon consideration of the petition for reconsideration, we see no reason to reverse the findings made in Order 77-7-147. Our decision, however, does not in any way reflect our opinion with respect to the merits of petitioners' applications. Upon payment of the required fees, these applications will receive complete and fair consideration.[3]

Accordingly, *it is ordered*, That the petition for reconsideration be denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-26708 Filed 9-13-77;8:45 am]

[Docket 31311]

CINCINNATI-CLEVELAND NONSTOP ROUTE PROCEEDING

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on September 27, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge William A. Kane.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements if issues; (2) proposed stipulations; (3) proposed requests for information and

[1] Orders 77-4-42, April 8, 1977; 77-5-20, May 4, 1977; 77-5-120, May 23, 1977; 77-5-145, May 26, 1977; 77-7-64, July 15, 1977.

[2] Id. See, in particular, Order 77-5-120 and Order 77-7-64.

[3] Petitioners also request that various investigations be conducted into alleged improper conduct and criminal action of several past Board officials. These matters are not properly raised in a petition for reconsideration of Order 77-7-147, and thus will not be considered in this order. The Board's staff, however, has given its attention to these matters. See letter to Richard D. Neumann from Chairman Kahn, August 24, 1977.

[4] All members concurred except Chairman Kahn and Member Bailey who did not participate.

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for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before September 12, 1977, and the other parties on or before September 19, 1977. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., September 6, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc 77-26706 Filed 9-13-77;8:45 am]

[Order 77-9-26; Dockets 30821, 30893, 30894]

BLATZ AIRLINES, INC., ET AL.

Application of Blatz Airlines, Inc. for an exemption from section 401(d)(3) of the Act to perform Supplemental Air Transportation. Application of Paramount Airlines for an exemption from section 401(d)(3) of the Act to perform Supplemental Air Transportation. Application of Central Air Transport, Inc. for an exemption from section 401(d)(3) of the Act to perform Supplemental Air Transportation.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 8th day of September, 1977.

Order Denying Motions for Stay

By Order 77-7-64, July 15, 1977, the Board affirmed decisions of the Managing Director denying the applicants in the above-captioned dockets waivers of filing fees. In accordance with the Board's rules, section 389.23(b), payment of the prescribed fees was to be made within 10 days of the Board's decision. In the absence of such payment, the rules provide that the applications are to be returned to the filing party, and are to be deemed to have been dismissed or withdrawn.

On August 4, 1977, Paramount Airlines and Central Air Transport filed Notices of Appeal and Petitions for Stay of Order 77-7-64 pending appeal. Blatz Airlines filed a similar petition on August 8, 1977.

We shall deny the petitions for stay. Petitioners have not made the requisite showing to entitle them to a stay of the Board's order. In fact, the petitions do not contain any allegations whatsoever, of fact or law, to support the requests for a stay.

As we indicated in Order 77-7-147, July 29, 1977, in ruling on similar requests for stay of Board orders requiring the payment of filing fees, the Board considers three factors:

(1) The probability of the movant's success on the merits upon judicial review; (2) irreparable injury to the movant, should the stay be denied, balanced against injury to other parties, should the stay be granted; and (3) the public interest.[1] Inasmuch as the petitioners have not even attempted to support their request for a stay in the present case, our ruling will be the same as in Order 77-7-147. Specifically, we find that there is little probability of petitioners' success on the merits, that there will be no irreparable injury to the petitioners should the stay be denied, and that it is not in the public interest to grant a stay of Order 77-7-64.

We will give petitioners 10 days from the date of service of this order to pay the required filing fees. In the absence of such payment, the subject applications will be returned in accordance with rule 389.23(b).

Accordingly, *it is ordered*, That:

1. The petitions for stay in Dockets 30821, 30893, and 30894 be denied; and
2. The petitioners be given 10 days from the service date of this order to pay the required fees.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[2]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc 77-26709 Filed 9-13-77;8:45 am]

[Order 77-9-25; Docket 30132]

NORTHWEST AIRLINES, INC.

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 8th day of September, 1977.

On November 30, 1976, Northwest Airlines filed an application in Docket 30132 for amendment of its certificate of public convenience and necessity for Route 3 so as to authorize it to perform one-stop single-plane service between Milwaukee, Wisconsin, on the one hand, and Los Angeles/Long Beach/Ontario and San Francisco/Oakland/San Jose Calif., on the other hand.[1] The application was accompanied by a motion for issuance of an order to show cause why the above request should not be granted without hearing.

In support of its motion, Northwest alleges, *inter alia*, that in 1969 it was awarded Twin Cities-Los Angeles and San Francisco authority;[2] that under ordinary circumstances the award of that authority would have permitted the tacking of Northwest's preexisting Milwaukee-Twin Cities authority so as to permit one-stop single-plane service between Milwaukee and the California cities; that a pretrial restriction in the *Twin Cities-California* case, however, prohibits the operation of this service; that removal of the restriction will still leave Northwest with Milwaukee-California authority inferior to the nonstop authority of United Air Lines and will not cause any significant diversion; and that the grant of the authority requested will permit Northwest to link preexisting flights so that the public would be benefited by improved service, while the carrier would be benefited by its ability to garner additional traffic without the incurrence of additional direct operating expenses. In support of the proposition that the use of show-cause procedures is appropriate in this instance, Northwest relies upon *Application of North Central Airlines*, Order 76-10-34, October 7, 1976, in which the Board invited North Central to file a motion for issuance of a show-cause order requesting modification of that carrier's single-plane restriction between Denver and Milwaukee to that of one-stop authority.

Answers in opposition to Northwest's motion were filed by North Central and United. In its pleading, North Central notes that the authority sought here by Northwest is identical to that which Northwest seeks as part of its realignment application in Docket 29449. Thus, North Central argues, the matter of Northwest's certificate restrictions in the Milwaukee-California markets is more properly addressed in Docket 29449 where it can be considered in the broader context of Northwest's total realignment proposal.

United, in its answer, asserts that it would suffer significant adverse competitive consequences should the Board grant the expanded authority which Northwest seeks. In light of the competitive implications of Northwest's request, United argues that show-cause procedures are inappropriate and that, if Northwest wishes to pursue its request further, a full evidentiary hearing is the proper vehicle.

Northwest filed a motion for leave to file an unauthorized document, accompanied by a reply directed solely to the answer of North Central.[3]

Subsequently, on June 3, 1977, Northwest filed a petition for expedited action. Asserting that its request for single-plane Milwaukee California authority

[1] See *Alaska Service Investigation*, Order 72-1-94, January 26, 1972; *Virginia Petroleum Jobbers Ass'n. v. F.P.C.*, 259 F. 2d 921 (D.C. Cir., 1958).

[2] All Members concurred except Chairman Kahn and Member Bailey who did not participate.

[1] Condition (12) of Northwest's certificate for route 3 currently provides: "The holder shall not provide single-plane service over segments 11 and 12 between Los Angeles-Ontario-Long Beach or San Francisco-Oakland-San Jose, Calif., on the one hand, and any point east of Minneapolis-St. Paul, Minn., on the other hand."

[2] *Twin Cities-California Service Investigation*, Order 69-8-14, August 4, 1969.

[3] We have decided to deny Northwest's motion. We are becoming increasingly concerned about the number of unauthorized replies which are filed by applicants merely because they want to have the last word. In this period of intensive route activity, these replies only increase the Board's workload and where, as here, adequate justification for receiving the reply has not been shown (for example, Northwest has not demonstrated that the answers contained new material which Northwest could not have anticipated), we will not accept it.

stands unopposed, Northwest contends that equity demands that it be accorded similar treatment to that given North Central by Order 77-3-13, March 2, 1977, in which the Board directed all interested persons to show cause why North Central's certificate should not be amended so as to authorize one-stop services between Milwaukee and Denver. The Rochester Area Chamber of Commerce filed a petition in support of Northwest's petition, likewise emphasizing the asserted fact that the Northwest's request stands unopposed.

United answered Northwest's petition. Noting that it had filed an answer in opposition to Northwest's motion for issuance of an order to show cause, United characterizes as "unfounded" Northwest's claim that its request is unopposed.

Finally, Northwest filed another motion for leave to file an unauthorized document, accompanied by a reply to United's answer.[4] Apparently conceding that United has contested its motion, Northwest continues to argue that the use of show-cause procedures is warranted.

We have decided to deny Northwest's motion for issuance of an order to show cause and its petition for expedited action. Although we agree with Northwest that its request is of the type which may be properly addressed by show-cause procedures, it appears that this application can be handled in a more orderly and efficient manner within the context of our consideration of Northwest's route realignment application, rather than on an individual basis.[5] The Board's treatment of North Central's request for removal of its single-plane restriction in the Milwaukee-Denver market is readily distinguishable. Our invitation to North Central to employ show-cause procedures to consider removal of its single-plane restriction was extended well after that carrier's realignment application had been finally determined by the Board.[6] Moreover, unlike Northwest's motion, North Central's was unopposed. We have, on occasion, considered individual requests for route authority through the use of show-cause procedures even when such requests properly fell within the scope of pending realignment applications.[7] However, we have not accelerated consideration of such particular requests in the face of opposition by other interested persons.

Accordingly, action will be deferred on the subject application with a view toward considering the relief requested in Northwest's realignment proceeding.

[4] We will grant the second motion of Northwest for leave to file an unauthorized document. This reply contains important new information in explanation of Northwest's previous assertion that its motion for issuance of an order to show cause had been unopposed.

[5] Applications of United Air Lines, Inc., and Trans World Airlines, Inc., Order 76-8-3, August 2, 1976.

[6] Application of North Central Airlines, Inc., Order 75-2-22, February 5, 1975.

[7] See, e.g., Application of Ozark Air Lines, Inc., Order 77-3-175, March 31, 1977.

Accordingly, *it is ordered*, That: 1. Action be deferred on the application of Northwest Airlines in Docket 30132 until further order of the Board;

2. The motion of Northwest Airlines for issuance of an order to show cause be denied;

3. The respective petitions for expedited action of Northwest Airlines and the Rochester Area Chamber of Commerce be denied;

4. The motion of Northwest Airlines for leave to file an unauthorized document, filed December 16, 1976, be denied; and

5. The motion of Northwest Airlines for leave to file an unauthorized document, filed July 7, 1977, be granted.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[8]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-26710 Filed 9-13-77;8:45 am]

[Order 77-9-21; Docket 29123; Agreement C.A.B. 26826 and 26847]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of September 1977.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreements, adopted by mail vote, have been assigned the above C.A.B. agreement numbers.

Agreement C.A.B. 26826 would revalidate the existing Board-approved South Pacific fare structure, currently due to expire September 30, 1977, through March 31, 1978, as well as adjust currency-related surcharges on fares sold in Australia and Canada for transportation over the Pacific. Agreement C.A.B. 26847 amends the resolution governing Japan-originating group 30/40 inclusive-tour fares to provide a special arbitrary from Okinawa.

We will approve the agreements. Revalidation of the South Pacific fare structure should provide stability in that market through March 1978, and the changes to the currency surcharges should bring fares sold in the local currencies involved more into line with fluctuating foreign exchange values

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find the following resolutions, incorporated in the agreements as indicated, to be adverse to the public interest or in violation of the Act, provided that approval is subject, where applicable, to conditions previously imposed by the Board:

Agreement CAB:	*IATA resolution*
26826	JT31(Mail 154)0021j.
26847	JT31(Mail 156)0044.

Accordingly, *it is ordered*, That:

Agreements C.A.B. 26826 and C.A.B. 26847 be approved subject, where applicable, to conditions previously imposed by the Board.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[9]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-26707 Filed 9-13-77;8:45 am]

[8] All members concurred.

[9] All Members concurred.

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

DEPUTY ASSISTANT SECRETARY FOR DOMESTIC COMMERCE

Delegation of Authority

Notwithstanding delegations contained in Domestic and International Business Administration Organization and Function Orders 46-1 and 46-2 (40 FR 59764, 59761; December 30, 1975) regarding delegations of authority to exercise and perform powers and functions provided by the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401 et seq.), and pursuant to Section 5.03 of Department Order 10-3, as amended (41 FR 24202, June 15, 1976; 41 FR 28334, July 9, 1976; 41 FR 52220, December 17, 1976; 42 FR 44829, September 7, 1977) authority is hereby delegated to the Deputy Assistant Secretary for Domestic Commerce to issue Export Administration Regulations regarding foreign boycotts under authority of the Export Administration Act of 1969, as amended.

Effective: September 8, 1977.

FRANK A. WEIL,
Assistant Secretary for Domestic and International Business.

[FR Doc.77-26616 Filed 9-13-77;8:45 am]

National Oceanic and Atmospheric Administration

MARINE FISHERIES ADVISORY COMMITTEE

Public Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., Appendix I, notice is hereby given of meetings of the Marine Fisheries Advisory Committee (MAFAC) and subcommittees. The committee meeting (MAFAC XVIII) will be held on Wednesday and Thursday, October 5 and 6, 1977, in Room 4830 of the Department of Commerce Building, 14th Street between E Street and Constitution Avenue NW., Washington, D.C., with meetings start-

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ing at 8:30 a.m. Adjournment is planned for noon Thursday.

Three subcommittees will meet Tuesday afternoon, October 4, 1977, in the Conference Room, 4th Floor, Page Building 2, 3300 Whitehaven Street NW., (NMFS headquarters); the Subcommittee on Joint Ventures at 1 p.m.; the Subcommittee on Consumer Affairs at 2:30 p.m.; and the Subcommittee on Recreational Fisheries at 4 p.m.

Agenda items include: Extended Jurisdiction Status Report (TALFF, Fees, Fishery Management Plans, and issues related to discard or retention of nonsurplus species); joint ventures; National Workshop on Limited Entry; fishery legislation; NMFS budget; implementation of the National Plan and the Eastland Survey; U.S. fishery development; and reports by the Subcommittees and the Regional Fishery Management Councils.

The Committee meeting and the subcommittee meetings are open to the public and there will be seating for approximately 20 public members available on a first come, first served basis. Members of the public having an interest in specific items for discussion are advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact:

Mr. Kess Cannon, Marine Fisheries Advisory Committee, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Washington, D.C. 20235, Telephone Area Code 202–634–7270.

At the discretion of the chairman, interested members of the public may be permitted to speak at times which allow an orderly conduct of committee business, and a reasonable time relationship between the committee's discussion of a given subject, and comments to that same subject by a member of the public.

Interested members of the public who wish to submit written comments should do so at the address noted above. To receive due consideration and facilitate their inclusion in the record of the meeting, written statements should be received within 10 days after the close of the committee meeting.

Dated: September 8, 1977.

JOSEPH W. SLAVIN,
Acting Associate Director, National Marine Fisheries Service.

[FR Doc.77-26650 Filed 9-13-77;8:45 am]

Office of the Secretary

NATIONAL PUBLIC ADVISORY COMMITTEE ON REGIONAL ECONOMIC DEVELOPMENT

Renewal of Charter

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I and Office of Management and Budget Circular A–63, revised, notice is hereby given of the renewal of the Charter for the National Public Advisory Committee on Regional Economic Development (NPAC). Rechartering has been approved until August 26, 1979.

The NPAC was established as directed by section 602 of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3202. The original purpose of NPAC was to make recommendations from time to time to the Secretary relative to the carrying out of his or her duties under the Act. This objective continues as a result of a large number of major economic and operational questions that require policy decisions. Many of these policy decisions result from extending the Economic Development Administration's authorization for the Agency's established programs, Title IX, funding of new business development tools, section 302 planning grants, and section 304 grants.

Since the last rechartering of NPAC on October 27, 1976, the Committee has completed deliberations on the following five topics:

(1) Establishment of a National Development Bank.

(2) Policies and programs dealing with the impact of environmental Standards on economically distressed areas.

(3) Conflicts in Federal subnational development programs.

(4) The relationship between Federal legislation and economic development districts.

(5) The impact of vocational and technical education on manpower and economic development.

The recommendations by NPAC on the above topics have been published and widely distributed to officials in the public and private sectors which are influential in economic development activities.

The Committee will continue as it was originally directed by statute with a balanced representation of 25 members from labor, management, agriculture, State and local governments and the public in general. The Secretary will maintain these requirements in filling any future vacancies to NPAC along with those imposed by applicable Civil Rights statutes and the provisions of the Federal Advisory Committee Act.

Copies of the Committee's revised charter will be filed with appropriate committees of the Congress and with the Library of Congress.

Inquiries or comments may be addressed to the National Public Advisory Committee for Regional Economic Development, Mr. Louis J. Phillips, Room 7812, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202–377–4615.

Dated: September 7, 1977.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc.77-26428 Filed 9-13-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

GAS-FIRED SPACE HEATERS

Decision

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of decision.

SUMMARY: This document sets forth Commission decisions relating to regulatory action to address possible hazards of gas-fired space heaters, both vented and unvented. Because voluntary standards on vented gas-fired space heaters aimed at mitigating and reducing risks of injury such as asphyxiation, contact burns and fabric ignition have been substantially upgraded, the Commission has decided, at this time, that it is not necessary to develop a mandatory safety standard addressed to those risks. The Commission will review this decision in May, 1978. In addition, the Commission believes that it may be necessary to ban unvented gas-fired space heaters because of hazards such as carbon monoxide poisoning and anoxia, and has directed its staff to prepare a briefing package to be used as a basis for proposing a ban of unvented gas-fired space heaters.

FOR FURTHER INFORMATION CONTACT:

George Anikis, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 (301–492–6453).

SUPPLEMENTARY INFORMATION: The Commission began to review possible hazards associated with space heaters as a result of a petition from the Missouri Public Interest Research Group (CP 74–10), filed on January 15, 1974, requesting the development of safety standards and labeling requirements regarding proper use of space heaters. The Commission examined possible hazards associated with several different types of space heaters, including space heaters fueled by wood, kerosene, electricity, and gas. Based on information then available, the Commission preliminarily concluded that only gas-fired space heaters presented unreasonable risks of injury to the public, such as the dangers of carbon monoxide poisoning and anoxia.

Therefore, on September 5, 1975, the Commission issued a partial denial of the petition as to space heaters fueled by energy sources other than gas (40 FR 41172). The Commission then directed its staff to develop technical information on gas-fired space heaters, and to develop draft documents to begin proceedings to develop a mandatory safety standard for gas-fired heaters. In addition, the Commission staff were also monitoring existing voluntary standards to determine how those standards addressed possible hazards of gas-fired space heaters such as asphyxiation, contact burns and fabric ignition. Analysis of the voluntary standards by the Commission's Division of Engineering as well as a technical report entitled, Investigation of Safety Standards for Flame-Fired Heaters by an independent contractor, Calspan, indicated that there had been significant improvements in the voluntary standards. The staff presented information on voluntary activity regarding these products for Commission consideration and also provided specific information on unvented gas-fired space heaters, such as a study of the possible

socio-economic effects of banning unvented gas-fired space heaters and a survey of states and municipalities which have regulated such heaters.

On May 19, 1977, the staff briefed the Commission on the extensive information developed on these matters. In addition, the staff stated that a review of the voluntary standards for vented wall heaters and wall furnaces (ANSI Z21.11.1, Z21.44, and Z21.49) indicated that most concerns of the Commission on vented gas heaters are dealt with in those standards. Provisions for reduced surface temperatures, prevention of fabric ignition, safe lighting of heaters, and minimizing the asphyxiation hazard, are included. In addition to these significant improvements the Commission also noted that conformance by manufacturers to voluntary standards is very high because certification by industry associations of gas appliances (such as heaters) installed in homes, is widely recognized in state and local building codes and safety regulations.

Therefore, the Commission concluded that a mandatory standard on vented gas-fired space heaters does not appear to be needed at this time. However, the Commission has directed the staff to closely monitor the current development phases of the voluntary standard and report back to it after 12 months on the progress toward completion and subsequent implementation by industry of the voluntary standards. The Commission is particularly interested in and encourages the developers of the voluntary standards to work toward progressively lower surface temperatures for vented gas-fired space heaters. The Commission will decide if further action is needed after staff reports on its 12-month monitoring effort of the voluntary standard and conformance to it by the affected industry.

In addition, based on materials reviewed at the meeting of May 19, 1977, the Commission expressed its concern as to the safety of unvented gas-fired space heaters. A majority of the Commission believe that the public can be protected from the hazards of asphyxiation associated with such heaters only by removing unvented gas-fired space heaters from the marketplace. Therefore, the Commission directed the staff to analyze information available to it and prepare for Commission review and decision a proposal to ban unvented gas-fired space heaters under section 8 of the CPSA (15 U.S.C. 2057). Accordingly, the matter of unvented gas-fired space heaters will be further discussed in a subsequent FEDERAL REGISTER notice.

The materials referred to in this notice may be seen in or obtained from the Office of the Secretary Consumer Product Safety Commission, 3rd floor, 1111 18th Street NW., Washington, D.C. 20207 (202–634–7700), during working hours Monday through Friday.

Dated: September 9, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-26690 Filed 9-13-77;8:45 am]

HOME INSULATION PETITION CP 77–1

Extension of Written Comment Period

In the FEDERAL REGISTER of July 28, 1977 (42 FR 38421), the Commission announced that it would hold a public meeting on August 22, 1977, to allow interested persons an opportunity to make oral presentations concerning a petition the Commission has received (CP 77–1) regarding certain home insulation products. The Commission also announced that interested persons could submit written comments on this matter by August 22, 1977. The purpose of this notice is to announce that the Commission has decided to extend the written comment period 60 days, until October 21, 1977. Written comments should be submitted by October 21, 1977, to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

The petition submitted by the Metropolitan Denver District Attorney's Consumer Office on October 20, 1976, requested the Commission to initiate proceedings to develop a mandatory consumer product safety standard under § 7 of the Consumer Product Safety Act, 15 U.S.C. 2056, for certain types of home insulation products.

The petition set forth the relevant facts which it is claimed establish that a mandatory standard is necessary to eliminate or reduce the following alleged risks of injury:

(1) The risk of injury from fires associated with cellulose home insulation.

(2) The risk of injury of cancer in the respiratory and gastrointestinal tracts due to the inhalation and ingestion of particles from fibrous glass home insulation.

(3) The risk of injury from fires associated with fibrous glass home insulation.

(4) The risk of injury from fires associated with plastic foam/resin home insulation (insulation made of polyurethane, polystyrene, or urea formaldehyde).

(5) The risk of injury of irritation and poisoning associated with the use of plastic foam/resin insulation by consumers during installation.

Persons submitting written comments should confine their comments to the issues raised by the petition in order to assist the Commission in determining whether or not the petition should be granted.

A copy of the petition and a package prepared by the staff evaluating and analyzing available information concerning the issues raised by the petition may be examined in the Commission's Office of the Secretary.

A copy of the transcript of the August 22, 1977, public meeting may also be examined in the Commission's Office of the Secretary.

Dated: September 9, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-26695 Filed 9-13-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Navy

ACADEMIC ADVISORY BOARD

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 1), notice is hereby given that the Academic Advisory Board to the Superintendent, United States Naval Academy, will meet on November 21, 1977. The meeting will commence at 8:00 a.m. in Room 301, Rickover Hall at the United States Naval Academy, Annapolis, Maryland.

The purpose of the meeting is to advise and assist the Superintendent of the Naval Academy concerning the education of midshipmen. To accomplish this objective, the Board will review academic policies and practices of the Naval Academy and will submit their proposals to the Superintendent to aid him in improving educational standards and in solving academy problems.

For further information concerning this meeting contact Lieutenant Commander M. Kazanowska, USN, Secretary to the Academic Advisory Board, Oceanography Department, United States Naval Academy, Annapolis, Md. 21402, telephone number 301–267–3561.

Dated: September 7, 1977.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy, Deputy Assistant, Judge Advocate, General (Administrative Law).

[FR Doc.77-26685 Filed 9-13-77;8:45 am]

SONATECH, INC.

Limited Exclusive Patent License Granted

Pursuant to the provisions of Part 746 of title 32, Code of Federal Regulations (41 FR 55711–55714, December 22, 1976), the Department of the Navy announces that on August 18, 1977, it granted to Sonatech, Inc., a corporation of the State of California, a revocable, nonassignable, limited exclusive license for a period of five years under Government-owned United States Patent Number 4,007,633, issued February 15, 1977, entitled "Method of Determining the Physical Characteristics of a Sea Floor," inventor, John R. Thompson.

Copies of the patent may be obtained for fifty cents ($0.50) from the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

For further information concerning this notice contact:

Dr. A. C. Williams, Staff Patent Adviser, Office of Naval Research (Code 302), Ballston Tower No. 1, 800 North Quincy Street, Arlington, Va. 22217. Telephone No. 202–692–4005.

Dated: September 7, 1977.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc.77-26684 Filed 9-13-77;8:45 am]

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Office of the Secretary

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

The DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, 9th Floor, New York, N.Y. 10014 on October 14, 1977.

The purpose of the Advisory Group is to provide the Director, Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of Electron Devices.

The meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The AGED will review programs on microwave devices, night vision devices, lasers, infrared systems and microelectronics. The review will include classified program details throughout.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

SEPTEMBER 9, 1977.

[FR Doc.77-26688 Filed 9-13-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 874]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

SEPTEMBER 6, 1977.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See § 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cutoff rule. [See § 1.227(b)(3) and 21.30(b) of the Commission's Rules.]

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE:

21950-CD-MP-77 Mobilfone Service, Inc. (KWU486). Modification of CP to replace transmitter, change antenna system and relocate facilities operating on 152.24 MHz located at 1100 Milam, Houston, TX.

22023-CD-P-77 Cambridge Radio Telephone Services, Inc. (new), C.P. for a new 1-way station to operate on 152.24 MHz to be located on State Route 209, 1.4 miles NE. of Bloomfield, OH.

22024-CD-P-77 Anser - Quik Enterprises, Inc. (KWU435), C.P. for additional facilities to operate on 454.300 MHz to be located at a new site described as Loc. No. 2: 704 Bridges Street, Morehead City, NC.

22025-CD-P-77 Beep Communications Systems, Inc. (KEA255), C.P. for additional facilities to operate on 152.03 MHz to be located at a new site described as Loc. No. 3: 270-10 Grand Central Parkway, Glen Oaks, NY.

22026-CD-P-77 Airsignal International, Inc. (KQB688), C.P. to change antenna system operating on 152.15 MHz at Loc. No. 1: Country Rd. No. 44, approx. 2.2 miles ENE. of Hinckley, OH.

22027-CD-TC-77 RAM Broadcasting of Nevada, Inc. (Air-Ground), Consent to Transfer of Control from RAM Broadcasting Corporation, Transferor to Paul A. Matschiner, Transferee. Station: KUC995, Las Vegas, NV.

22028-CD-P-(3)-77 Mobile Phone of Texas, Inc. (KLF556), C.P. for additional facilities to operate on 152.21 MHZ, base and 459.150 MHz, repeater at a new site described as Loc. No. 2: Twin Mountains, 7.3 miles WNW. of Huckabay, TX; and for additional facilities to operate on 454.150 MHz, control at a new site described as Loc. No. 3: 1000 NE. Ninth Street, Mineral Wells, TX.

22029-CD-MP-77 Summit Mobile Radio Company (KWU412). Modification of CP to change antenna system and relocate facilities operating on 152.24 MHz to be located at Park Avenue, Auburne, ME, Loc. No. 1; also delete facilities operating on 545.125 MHz, control at Loc. No. 2: 32 Cook Street, Auburne, ME.

22030-CD-P-77 Ralph Heng dba Tri-State Communications Company (KDT215), C.P. for additional facilities to operate on 152.-12 MHz to be located at a new site described as Loc. No. 2: West side of U.S. Hwy. 54 at East 8th Street, Liberal, TX.

22031-CD-P-77 St. John Cooperative Telephone and Telegraph Company (KRS675), CP for additional facilities to operate on 152.60 MHz to be located at a new site described as Loc. No. 2: Steptoe Butte, 3.3 miles NE. of Steptoe, WA.

22032-CD-MP-77 Empire Paging Corporation (KWU374) (Dispatch). Modification of CP to change antenna system and relocate facilities operating on 72.58 MHz, control to be located at 2 World Trade Center, New York City, NY.

22033-CD-MP-77 Marc Weber Tobias and Michael Charles Tobias dba MT Systems, Inc. (KDS660), C.P. to relocate facilities operating on 152.21 MHz to be located at North of Rt. 34, 1.3 miles West of Wessington Springs, SD.

22034-CD-P-77 RAM Broadcasting of Indiana, Inc. (KSD327), C.P. to change antenna system and relocate facilities operating on 152.09 MHz at Loc. No. 1 to be located at 1 Indiana Square, Indianapolis, IN.

22035-CD-P-(2)-77 The Offshore Telephone Company (New), C.P. for a new station to operate on 35.30 and 35.62 MHz to be located on Roof of Claridge Hotel, Corner Indiana and Boardwalk, Atlantic City, NJ.

22036-CD-P-77 Professional Communications, Inc. (New), C.P. for a new 1-way station to operate on 158.70 MHz to be located at 1.5 miles SW. of Meadville, PA.

22037-CD-AL-2-77 Radiofone of Georgia, Inc. Consent to Assignment of License from Radiofone of Georgia, Inc., Assignor to Mobilfone, Inc., Assignee. Stations: KJU807 and KUS411, Valdosta, GA.

22038-CD-AL-77 Shaw-Rose Communications, Inc. Consent to Assignment of License from Shaw-Rose Communications, Inc., Assignor to Empire Paging Corporation, Assignee. Station: KAA277, Greenbrook, New Jersey.

CORRECTIONS

21689-CD-P-(4)-77 Lubbock Radio Paging Service, Inc. (KKE970), Correct to add: C.P. to replace transmitter operating on 152.06 and 152.12 MHz at Loc. No. 2: 85 Street and Avenue I, Lubbock, Texas. All other particulars are to remain as reported on PN No. 866 dated July 11, 1977.

21976-CD-TC-77 RAM Broadcasting of Oregon, Inc. Correct to Consent to Transfer of Control from RAM Broadcasting Corporation, Transferor to Paul A. Matschiner, Transferee. Station KUC874, Portland, Oregon. PN No. 873 dated Aug. 29, 1977.

MAJOR AMENDMENT

21475-CD-P-77 Prospect Communications (new), Amend to change the location to 1000 feet west of Fall River and Marble Rds intersection, Lawrenceburg, TN. As amended, the application is considered to be a "Major Action" as defined by Section 1.1305 of the Commission's Rules.

RURAL RADIO SERVICE

60390-CR-P/L-77 Mobilefone Northwest (new), C.P. for a new rural subscriber station to operate on 158.61 and 158.64 MHz to be located at any temporary fixed location within the territory of the grantee.

60391-CR-P/L-77 Mobilefone Northwest (new), C.P. for a new rural subscriber station to operate on 158.61 MHz to be located at any temporary fixed location within the territory of the grantee.

60392-CR-P/L-77 The Offshore Telephone Company (new), C.P. for a new temporary fixed station to operate on 43.30 and 43.62 MHz to be located at any temporary fixed location within the territory of the grantee.

POINT TO POINT MICROWAVE RADIO SERVICE:

OR—3519-CF-P-77 Fossil Telephone Exchange (new res) between Main and Washington St. Fossil, Oregon. Lat. 45°00'01" N., Long. 120°12'47" W. C.P. for a new station on frequency 2122.4V MHz toward Bald Mtn. PR on azimuth 146.7° and from passive reflector to Condon on azimuth 341.9°.

IL 3542-CF-P-77 American Telephone and Telegraph Company (KSA36), Chicago No. 2, 85 West Congress Street, Chicago, Illinois. Lat. 41°52'32" N., Long. 87°37'49" W. C.P. to add frequency 3930 MHz toward Lemont.

GA 3581-CF-P-77 Southern Bell Telephone and Telegraph Company (KIP48), 304 Pine Avenue, Albany, Georgia. Lat. 31° 34'40" N., Long. 84°09'17" W. C.P. to add frequency 2178H MHz toward Piney Grove.

GA—3582-CF-P-77 Same (KJH67), Piney Grove 7.6 miles SSW. of Leslie, Georgia. Lat. 31°50'47" N., Long. 84°06'13" W. C.P. to add frequencies 2128V MHz toward Albany and to add a new point of communication on 2115.2V MHz toward Cordele.

GA—3583-CF-P-77 Same (new res), 216 Twelfth Avenue, E. Cordele, Georgia. Lat. 31°58'03" N., Long. 83°46'48" W. C.P. for a new station on frequency 2165.2V MHz toward Piney Grove on azimuth 246.4°.

SC—3584-CF-P-77 Same (KIY59), 1645 Hampton Street, Columbia, South Carolina. Lat. 34°00'29" N., Long. 81°01'42" W. C.P. to add frequency 4010V MHz toward Blaney.

SC—3585-CF-P-77 Same (KJB47), 2 Block SE. of U.S. Hwy. 1, Blaney, South Carolina. Lat. 34°10'0" N., Long. 80°48'15", W. C.P. to add frequencies 3970V MHz toward Columbia and 3970V MHz toward Camden.

SC—3586-CF-P-77 Same (KJA71), 1208 Broad Street, Camden, South Carolina. Lat. 34°14'57" N., Long. 80°36'26" W. C.P. to add frequencies 4010V MHz toward Blaney and 4010V MHz toward Hartsville.

SC—3587-CF-P-77 Same (KJH41), 7 miles West of Hartsville, South Carolina. Lat. 34° 21'15" N., Long. 80°12'03" W. C.P. to add frequency 3970V MHz toward Camden.

TX—3472-CF-P-77 Southern Pacific Communications Company (new), C.P. for a new station to operate station WCT949, Houston, Texas on frequencies within Band 38700-38750 MHz in area defined by coordinates. Lat. 29°43'00"/29°48'00", Long. 95°20'00"/95°25'00".

WI—3481-CF-P-77 The Western Union Telegraph Company (WDE99), 1.7 miles NE. of Lake Geneva, Wisconsin. (Lat. 42° 37'19" Long. 88°25'56"), C.P. to add 11625V towards Hartland, Illinois on azimuth 189.6 degrees.

WI—3482-CF-P-77 Same (WGF87), 5 miles SW. of Hebron, Illinois. (Lat. 42°24'40" N., Long. 88°28'50" W.), C.P. to add 19855V towards Lake Geneva, Wisconsin, 6123.1V and 6063.8V MHz towards Sylvan Lake, Illinois on azimuths 09.6° and 119.0° respectfully.

IL—3483-CF-P-77 Same (WGF86), 1.0 miles West of Sylvan Lake, Illinois. (Lat. 42° 14'17" N. Long. 88°03'42" W.) C.P. to add 6404.8V and 6345.5V MHz towards Hartland Illinois 6375.2V and 6315.9V towards Chicago Illinois on azimuths 299.2° and 138.2° respectfully.

IL—3484-CF-P-77 Same (KSG95) Board of Trade Building Chicago Illinois. (Lat. 41° 52'40" N. Long. 87°37'56" W.) C.P. to add 5974.8V and 6093.5V towards Sylvan Lake, Illinois on azimuth 318.5°.

ME—3498-CF-P-77 Yankee Microwave (new), Rocky Hill, Westbrook, Maine. (Lat. 43°41'48" N., Long. 70°21'46" W.), C.P. for NS, 6286.2H MHz toward Mt. Washington, New Hampshire, on azimuth 309.8°.

NH—3499-CF-P-77 Yankee Microwave (KYZ85), Mt. Washington, Sargents Purchase, New Hampshire. (Lat. 44°16'13" N., Long. 71°18'13" W.), C.P. to add 6390.0H MHz toward Moose Hill, Maine, on azimuth 75.4°.

ME—3500-CF-P-77 Yankee Microwave (KYZ86), Moose Hill, Livermore Falls, Maine. (Lat. 44°29'00" N., Long. 70°07'59" W.), C.P. to add 6137.0H MHz toward Rumford, Maine, on azimuth 277.8°.

PA—3511-CF-P-77 Garden State Micro-Relay, Inc. (new), Spectrum, Broad and Pattison Streets, Philadelphia, Pennsylvania. (Lat. 39°54'18" N, Long. 75°10'18" W.), C.P. for NS, 6019.3V MHz toward Clayton, New Jersey and 6019.3H MHz toward Springfield, Pennsylvania, via power split on azimuths 157.7° and 274.9°, respectively.

NJ—3512-CF-P-77 Garden State Micro-Relay, Inc. (new), Clayton, New Jersey (Lat. 39°39'05" N., Long. 75°02'01" W.), C.P. for NS, 6301.H MHz toward Milmay and Gloucester City, both in New Jersey and 6301.V MHz toward Jenkintown, Pennsylvania and Bridgeboro, New Jersey, all via power split, on azimuths 148.7°, 350.5° 354.4° and 11.6°, respectively.

NJ—3513-CF-P-77 Garden State Micro-Relay, Inc. (KEM56), 0.55 mile West of Milmay, New Jersey. (Lat. 39°26'20" N., Long. 74°52'03" W.), C.P. to add 5960.0H MHz toward Clayton, New Jersey, via power split, on azimuth 328.8°.

DC—3514-CF-P-77 The Western Union Telegraph Co. (new), L'Enfant Plaza, 475 L'Enfant Plaza West, Washington, D.C. (Lat. 38°53'03" N., Long. 77°01'37" W.), C.P. for NS, 11325V, 11405V, 11485V, 11445H and 11685H MHz toward Tenley, Washington, D.C. on azimuth 327.9°.

DC—3515-CF-P-77 The Western Union Telegraph Co. (new), Tenley, 41st Street and Wisconsin Ave., Washington, D.C. (Lat. 38°57'01" N., Long. 77°04'48" W.), C.P. to add 10715V, 10875V, 11035V, 10835H and 11155H MHz toward Bren Mar, Virginia and 10795H, 11075V and 10955H MHz toward L'Enfant Plaza, Washington, on azimuths 203.2° and 147.9°, respectively.

VA—3516-CF-P-77 The Western Union Telegraph Co. (new), Bren Mar, 5725 General Washington Drive, Alexandria, Virginia. (Lat. 38°47'40" N., Long. 77°09'55" W.), C.P. for NS, 11525V, 11605V and 11645H MHz toward Tenley, Washington, D.C. on azimuth 23.1°.

MI—3529-CF-P-77 American Microwave and Communications, Inc. (KYO50), 2 miles West of Harrison, Michigan. (Lat. 44°01'46" N., Long. 84°51'10" W.), Construction permit to replace transmitter and to change frequency and polarization, 6212H MHz toward Cadillac, Michigan, via power split, to replace transmitter, 6212V MHz toward Grayling, Michigan, via power split and to add 6182.4H, 6301.H and 6330.7V MHz toward Grayling, Michigan.

MI—3531-CF-P-77 American Microwave and Communications, Inc. (KYO50), 2 miles West of Harrison, Michigan. (Lat. 44°01'46" N., Long. 84°51'1" W.), Construction permit to add 6330.7H toward Cadillac, Michigan, via power split.

MI—3532-CF-P-77 American Microwave and Communications, Inc. (KQM44), 7 miles SW. of Grayling, Michigan. (Lat. 44°34'42" N., Long. 84°47'52" W.), Construction permit to add 6078.6H MHz toward Elmira and Mt. Tom, both in New Jersey, via power split.

MI—3533-CF-P-77 American Microwave and Communications, Inc. (KQM45), 1.5 mile SE. of Elmira, Michigan. (Lat. 45°02'-23" N., Long. 84°50'23" W.), C.P. to add 6301.0V MHz toward Boyne City and Gaylord, both in Michigan, via power split, and to change polarization to vertical on existing frequencies (6241.7V and 6360.3V MHz) toward same locations, via power split.

MI—3534-CF-P-77 American Microwave and Communications, Inc. (WAH628), Walker, 6.1 miles West of Grand Rapids, Michigan. (Lat. 42°58'31" N., Long. 85°47'-27" W.), C.P. to add 625.5V MHz toward Greenville, Michigan, via power split.

MI—3535-CF-P-77 American Microwave and Communications, Inc. (KQM45), 1.5 mile SE. of Elmira, Michigan. (Lat. 45°02'-23" N., Long. 85°50'23" W.), C.P. to add 6241.7V MHz toward Mancelona, Michigan, via power split, on azimuth 223.8°.

MN—3548-CF-P-77 American Television and Communications Corporation (KYC45), Beauty Lake, 3.8 miles South of Silica, Minnesota, (Lat. 47°12'55" N., Long. 93°03'25" W.), C.P. to add 6182.4V MHz toward Chisholm, Minnesota, via power split, on azimuth 24.1°.

NY—3435-CP-AL(1)-77 Ceracche & Company, Inc. Application for assignment of radio station construction permit (KEG51) from Ceracche & Company, Inc., Assignor, to American Television & Communications Corporation, Assignee. (Located in Connecticut Hill, New York.)

CORRECTION

2343-CF-P-77 Number One Radio, Inc. (new), Green Valley (Keystone Peak), Arizona, (Lat. 31°52'37.2" N., Long. 111°12'-52.2" W.), Station coordinate (Latitude) corrected to read as shown here. Other particulars unchanged (see Public Notice May 16, 1977).

[FR Doc.77-26671 Filed 9-13-77;8:45 am]

[Report No. I-385]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

SEPTEMBER 6, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules, Regulations and its Policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

MN—627-DSE-P/L-77 John Edmund Kiernat, d.b.a. Community Cable Co. Ortonville, MN; first appeared on report No. 381-of 8-22-77. This is the date for filing comments.

AMENDMENT

426-DSE-P-77 Community Television, Inc., Jacksonville, FL. Amended to change coordinates to: 30°18'27" N., 81°32'58" W.

WI—638-DSE-P/L-77 Midwest Video Electronics, Inc., Rhinelander, WI. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat.

V 42 I 178 SEP 14 77 S UMI

45°37'59" N., Long. 89°24'22" W. Emission 36000F9. With a 6 meter antenna. Rec. freq: 3700–4200 MHz.

GA—640–DSE–P/L–77 Waycross Cable Company, Waycross, GA. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 31°13'18" N. Long. 82°18'39" W. Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 5 meter antenna.

MO—642–DSE–P–77 Public Television 19, Inc., Kansas City, MO. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 39°04'56" N., Long. 98°28'49" W. Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 10 meter antenna.

TX—643–DSE–P/L–77 Liberty Communications, Inc., Port Neches, TX. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 29°58'45" N., Long. 93°55'50" W. Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 5 meter antenna.

FL—644–DSE–MP–77 Florida Central East Coast Educational Television, Incorporated, Jacksonville, FL. Modification of construction permit to change coordinates to: Lat. 28°33'54" N., Long. 81°12'46" W.

TX—645–DSE–ML–77 Midwest Video Corporation Division of Home Theaters, Inc. (KB60), Bryan, TX. Modification of license to permit the reception of signals of The Christian Broadcasting Network and station WYAH–TV, Channel 27, Portsmouth, Virginia.

TE—646–DSE–P–77 Memphis Community Television Foundation, Memphis, TE. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 35°06'17" N., Long. 89°55'39" W. Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 5 meter antenna.

ND—647–DSE–P/L–77 Cable Services, Inc., Jamestown, ND. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 46°54'36" N., Long. 98°42'42" W. Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 5 meter antenna.

CA—648–DSE–P/L–77 Redwood Empire Cablevision, Inc., Sea Ranch, CA. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 38°40'57" N., Long. 123°24'49" W. Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

GA—649–DSE–P/L–77 Alert Cable TV, Inc., Ft. Benning, GA. For authority to construct, own and operate a domestic communications satellite recive-only earth station at this location. Lat. 32°21'44" N., Long. 84°58'47" W. Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 5 meter antenna.

AK—650–DSE–MP–77 RCA Alaska Communications, Inc. (KE39), Cape Romanzof, AK. Modification of construction permit to change coordinates to: Lat. 61°47'09" N., Long. 166°00'17".

KS—651–DSE–P/L–77 Pittsburg Cable TV, Inc., Pittsburg, KS. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 37°21'00" N., Long. 94°42'45" W. Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

MO—SSA–13–77 Westport Television, Inc., Kansas City, MO. Request for extension of time for the Special Temporary Authorization issued this station, for a period of 90 days, but not after January 6, 1978.

MD—652–DSE–P–77 American Telephone & Telegraph Company, (Long Lines Department), Greenbelt, MD. For authority to construct a permanent satellite earth station at the Goddard Space Center, to provide a 56 kbps data service to the National Aeronautics and Space Administration. Lat. 38°59'57" N., Long. 76°50'21" W. Rec. freq: 3700–4200 MHz. Trans. freq: 6028–6062 MHz. Emission 3400F9Y. With a 10 meter antenna.

[FR Doc.77-26672 Filed 9-13-77;8:45 am]

[Docket No. 21372; File No. 21432-CD-P-75; FCC 77-592]

JERRY C. SHAFFER

Designating Application for Hearing on Stated Issues

For a Construction Permit to establish a new two-way station in the Domestic Public Land Mobile Radio Service on base station frequency 454.175 MHz at Warren, Ohio. *Memorandum Opinion and Order.*

Adopted: August 24, 1977.

Released: September 6, 1977.

By the Commission:

In the matter of:

1. Presently before the Commission is an application filed on April 9, 1975 by Jerry C. Shaffer, File No. 21432–CD–P–75, for a construction permit to establish a new two-way mobile radio station on frequency 454.175 MHz to be located at Warren, Ohio. Anserphone, Inc. (Anserphone), a radio common carrier operating in Youngstown, Ohio, filed a "Petition to Deny Application" on May 14, 1975 and responsive pleadings where filed thereto.

2. The following issues were raised for our consideration and are discussed herein:

(a) State Certification.
(b) Need.
(c) Duplication of Service.
(d) Financial Qualifications.

3. *State Certification.* Anserphone contends that if Shaffer is to offer interconnected service, he would need the requisite authority from the Ohio Public Utilities Commission (Ohio PUC). Shaffer has stated that he plans to offer non-interconnected service only, and we have no reason to believe that he would offer interconnected service without first obtaining approval from the Ohio PUC for interconnected service. Accordingly, Anserphone's arguments concerning the need for state certification are hereby rejected.

4. *Need.* Anserphone contends that Shaffer has failed to demonstrate public need for the proposed facilities. Shaffer claims that he has adequately shown that there are various Warren area concerns interested in mobile radio service. We cannot find that this list comports with the requirements of New York Telephone Company, 47 FCC 2d 488, recon. denied, 49 FCC 2d 264 (1974), aff'd sub nom., Pocketphone *Broadcast Service, Inc.* v. *FCC*, 538 F. 2d 447 (D.C. Cir. 1976), because Shaffer does not indicate (1) when the individuals were contacted, (2) the number of individuals in each category who expressed an interest in the service, (3) the type of service they were interested in and whether they were aware that Shaffer's proposed service would not be interconnected, (4) the approximate number of one-way and two-way units for which Shaffer is holding orders, and (5) whether the individuals were notified of the approximate cost of the service. Mere assertions that individuals are aware of mobile service or the cost of mobile services are inadequate to demonstrate that the individual is aware of the applicant's proposed rates.

5. Shaffer also presented a list of 14 individuals from the Warren area who are not satisfied with radio service currently available but who would be interested in Shaffer's proposed service. Anserphone challenged the accuracy of this list, including letters from six individuals. Shaffer responded by reporting the results of his investigation of Anserphone's contentions. Of the 14 original individuals, seven are not currently interested in service from Shaffer and one was unavailable for comment. Of the remaining six, Shaffer submitted letters from five of these individuals. One letter was too vague to indicate interest in Shaffer's proposed service. Another individual had previously signed a letter submitted by Anserphone indicating that he was not dissatisfied with Anserphone's service. We are thus unable to ascertain where this individual stands. We are therefore left with three signed letters by individuals who are interested in Shaffer's service and assertions by Shaffer that a fourth person told Shaffer that he is interested in his service. Even for these four individuals we do not know (1) the type of service they are interested in and whether they are aware that Shaffer's proposed service would not be interconnected, (2) the approximate number of one-way and two-way units each would be interested in using, and (3) whether the individuals were notified of the approximate cost of the service.

6. Accordingly, we cannot find that Shaffer has demonstrated public need for the proposed facilities. It is thus necessary to designate this issue for a hearing.

7. *Duplication of Service.* Anserphone contends that there does not exist a need for the proposed facilities because existing common carriers in the area can accommodate the anticipated future need for service. Anserphone further argues that introduction of Shaffer into the Warren area market will fragment the market and thus jeopardize the economic base of existing carriers. Anserphone contends that this will cause a degradation of service to the public. We cannot agree with Anserphone. If Shaffer can demonstrate a public need for the proposed facilities, as required by New York Telephone, and absent a showing of adverse economic impact that is detrimental to the public interest, the Commission will not deny an application on the grounds that an applicant may duplicate services provided by another facility. Commonwealth Telephone Co., 61 FCC 2d 247 (1976); see also New York Telephone Company, 47 FCC 2d 488 (1974). We also point out that Anserphone's mere general allegations of adverse economic impact are insufficient to warrant the designation of this issue for a hearing. Cf. *WLVA, Inc.* v. *FCC*, 459 F. 2d 1286 (D.C. Cir. 1972).

8. *Financial Qualifications.* Anserphone contends that Shaffer does not have the financial ability to construct and operate the proposed facilities. In his letter amendments, Shaffer stated that he had on hand a base station, 17 UHF two-way mobile radios, and 37 paging units. He also indicated that the initial cash outlay would be only $1,025.00, and that the current portion of his long term debt is $9,777.76. The $11,400 cash on hand shown in Shaffer's June 30, 1976 balance sheeet adequately covers his construction costs and his current liabilities. Nevertheless, we cannot find that Shaffer has demonstrated that he is financially qualified to construct and operate the proposed facilities for one year, as required by Arlington Telephone Co., 27 FCC 2d 1 (1971), because his operating expenses must also be considered. Because we cannot find that Shaffer has demonstrated public need for the proposed facilities, see paragraphs 4–6 *supra*, we have no assurance that there will be sufficient revenues from enough subscribers to cover operating costs. Accordingly, we find that it is necessary to designate for a hearing the issue of whether Shaffer is financially qualified to construct and operate the proposed facilities.

9. Except as raised in the issues specified below, we find Shaffer to be legally, technically, and otherwise qualified to construct and operate the proposed facilities.

10. In view of the foregoing, *it is ordered*, That, pursuant to Section 309 of the Communications Act of 1934, as amended, the above-captioned application of Jerry C. Shaffer is designated for hearing upon the following issues:

(a) To determine whether Shaffer has demonstrated public need for the proposed non-interconnected facilities;

(b) To determine whether Shaffer is financially qualified to construct and operate the proposed facilities; and

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether a grant of the above-captioned application would serve the public interest, convenience and necessity.

12. *It is further ordered*, That the burden of introduction of evidence and the burden of proof is placed upon Jerry C. Shaffer.

13. *It is further ordered*, That the hearing shall be held at the Commission offices in Washington, D.C. at a time and place and before an Administrative Law Judge to be specified in a subsequent order.

14. *It is further ordered*, That Anserphone, Inc. is made a party to the proceeding.

15. *It is further ordered*, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

16. *It is further ordered*, That parties may avail themselves of an opportunity to be heard by filing with the Commission pursuant to Section 1.221 of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear.

FEDERAL COMMUNICATIONS COMMISSION
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-26673 Filed 9-13-77;8:45 am]

FEDERAL ELECTION COMMISSION

[Notice 1977-47, AOR 1977-41]

ADVISORY OPINION REQUESTS

Pursuant to 2 U.S.C. § 437f(c) and the procedures reflected in Part 112 of the Commission's regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Request 1977–41 has been made public at the Commission. Copies of AOR 1977–41 were made available on September 9, 1977. These copies of the advisory opinion request were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street NW., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request within ten days after the date the request was made public at the Commission. These comments should be directed to the Office of the General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A description of the request recently made public as well as the identification of the requesting party follows hereafter:

AOR 1977–41: May surplus campaign funds received before the 1976 general election be used to repay a bank loan obtained and expended to retire debts from a 1969 special election campaign where the 1976 surplus was accumulated on behalf of the same individual who was a candidate in both 1969 and 1976?

Requested by Samuel H. Young, Young for Congress Committee—76, Skokie, Ill.

Dated: September 9, 1977.

THOMAS E. HARRIS,
Chairman for the Federal Election Commission.

[FR Doc.77-26675 Filed 9-13-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Meeting

In accordance with Section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94–136) notice is hereby provided of a meeting of Subcommittee A of the Industry Advisory Board to the International Energy Agency (IEA) to be held on September 22 and 23, 1977, at the offices of Exxon Corp., 1251 Avenue of the Americas, New York, N.Y., beginning at 9:30 a.m. on September 22. The agenda is as follows:

AGENDA

1. Opening remarks by Chairman: Report on communications to and from IEA; Report on the meeting of the Standing Group on Emergency Questions (SEQ) on July 12; Report by IEA Secretariat on Governing Board meeting of September 19 and 20, 1977.

2. Matters arising from record note of IAB meeting on June 21, 1977.

3. Position of Reporting Companies under:
(A) EEC competition regulations.
(B) U.S. Voluntary Plan.

4. Report by IEA Secretariat on:
(A) Status of National Emergency Sharing Organizations (NESOs).
(B) Participating governments briefing meeting on September 9, 1977.

5. Report on and discussion of work of Subcommittee A including:
(A) October–November 1977 Emergency Data Systems Test; including report on Reporting Company briefing meeting on September 8, 1977.
(B) Spring 1978 Allocation Systems Test including:
I. Data base to be used for test with particular reference to necessary governmental and other legal/clearances.
II. Work of Design Group to date.
III. Future work program.
(C) Emergency Management Manual.
(D) Comments on Progress Report by Chairman of the SEQ Working Group on demand restraint.

6. Report on and discussion of work of Subcommittee C including:
(A) Extraordinary and additional costs.
(B) Settlement of Disputes.
(C) Pricing in an emergency.

7. Report on Industry Supply Advisory Group (ISAG).

8. Dates and venues of future meetings of IAB and Subcommittees.

As povided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Issued in Washington, D.C., September 8, 1977.

ERIC J. FYGI,
Acting General Counsel, Federal Energy Administration.

[FR Doc.77-26609 Filed 9-13-77;8:45 am]

CUMULATIVE PRODUCTION/CONSUMPTION EFFECTS OF CRUDE OIL PRICE INCENTIVES

Availability of Draft Programmatic Environmental Impact Statement (DES 77–7)

AGENCY: Federal Energy Administration.

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ACTION: Notice of availability.

SUMMARY: The Federal Energy Administration (FEA) has made available for public comment a draft programmatic environmental impact statement concerning the cumulative production/consumption effects of proposed crude oil price incentives.

DATE: Comments by October 25, 1977.

ADDRESS: Written comments to: Executive Communications, Box PF, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (FEA Reading Room), 12th and Pennsylvania Avenue, N.W., Room 2107, Washington, D.C. 20461 ((202) 566–9161).

Eugene Glass (Office of Price Regulation), 2000 M Street, N.W., Room 2310, Washington, D.C. 20461 ((202) 254–7477).

Robert Stern (Office of Environmental Policy), 12th and Pennsylvania Avenue, N.W., Room 7119, Washington, D.C. 20461 ((202) 566–9760).

J. Thomas Wolfe (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 7146, Washington, D.C. 20461, (202–566–9750).

SUPPLEMENTARY INFORMATION:

A. BACKGROUND

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C), the Federal Energy Administration (FEA) has made available for public comment a draft programmatic environment impact statement (DEIS) concerning the cumulative production/consumption effects of crude oil price incentives.

The DEIS was prepared in support of the 40 month crude oil pricing program mandated by EPCA, which provides for upward adjustments in the statutory composite price of crude oil to take into account the effects of inflation and to provide incentives both for sustaining production from existing properties and for encouraging production from new properties.

The DEIS evaluates the effects on production of seven different price control options. These include alternate ways of dividing the allowable price increase between upper and lower price controlled tiers of tertiary oil, California low gravity oil and oil from low production offshore wells. For each pricing scenario, the volumes of domestic crude oil production for the years 1979 and 1985 are projected. These projections are further broken down by region and by type of technology employed (e.g., in-situ combustion, steam injection, etc.). These values were then used to derive national and regional changes in environmental residuals.

Single copies of the DEIS may be obtained from the National Energy Information Center, Room 1404, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461. Copies of the draft statement will also be available for public review in the FEA Freedom of Information Library, Room 2107, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

B. COMMENT PROCEDURE

Interested persons are invited to submit written comments to Executive Communications, FEA, Room 3309, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, Box PF. Comments should be identified on the outside of the envelope and on the document submitted to FEA with the designation "Comments on Draft Crude Oil Price Incentive Programmatic EIS". Ten copies should be submitted. All comments and related information should be received by October 25, 1977, in order to ensure consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., September 9, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-26711 Filed 9-13-77;8:45 am]

STATE ENERGY CONSERVATION PLANS

Negative Determination of Environmental Impact re the Nevada Energy Conservation Plan

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the State of Nevada, of its State Energy Conservation Plan. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321, et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of this plan the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration has determined that an environmental impact statement is not required for this plan.

Single copies of the environmental assessment of the State Plan for Nevada are available upon request from the FEA National Energy Information Center, Room 1406, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the environmental assessment will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

A copy of the State Plan is available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views or arguments with respect to the environmental assessment to Executive Communications, Box PI, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—Nevada Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by 4:30 p.m. e.d.s.t., September 21, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., September 9, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-26712 Filed 9-13-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ANTHRACITE COAL CONFERENCE

Postponement and Notice of Hearing

Notice is hereby given that the fourth Anthracite Coal Conference will be held on Thursday, October 6, 1977, at 10 a.m., Room 3000A, FEA Headquarters, 12th and Pennsylvania Avenue NW., Washington, D.C. This meeting is a postponement of the Anthracite Coal Conference originally scheduled for September 15, 1977, as published on September 2, 1977. This postponement results from the necessity of providing the conference participants with sufficient time to fully develop and assess their preliminary recommendations on the enhancement of anthracite coal production, and will allow the public additional time to arrange to attend this meeting.

The objectives of the Anthracite Coal Conference are to make recommendations to the FEA with respect to the increased utilization of anthracite coal as a readily-available energy source and the maintenance of fair and reasonable consumer prices for such supplies.

The importance of convening this conference stems from a priority commitment made by the President to find ways of improving coal production and utilization, without endangering the public health or degrading the environment. In support of this commitment the FEA was charged with the responsibility for studying methods to increase the production of anthracite coal. Analysis and development of policy recommendations to this end must be completed by the end of October.

Notice is also given that the subgroups to the conference, appointed at the first conference held on June 28, 1977, will hold meetings prior to the fourth conference.

The schedule and agenda of subgroup meetings is as follows:

UTILIZATION SUBGROUP

September 30, 1977—10 a.m., Pennsylvania Power & Light Co. Bldg., Two North Ninth Street, Allentown, Pa. Agenda: Preparation of final subgroup report.

MARKETING (TRANSPORTATION) SUBGROUP

October 5, 1977—10 a.m., ConRail, 1742 Six Penn Center Plaza, Philadelphia, Pa. Agenda: Identification of final recommendations and preparation of final subgroup report.

PRODUCTION SUBGROUP

September 30, 1977—1 p.m., Main Capital, South Office Building, Fourth Office Building, Harrisburg, Pa. Agenda: Discussion of draft decision papers and preparation of final subgroup report.

ENVIRONMENTAL SUBGROUP

October 3, 1977—10:30 a.m., Governor's Conference Room, State Office Building, Broad and Spring Garden Streets, Philadelphia, Pa. Agenda: Discussion of decision papers and preparation of final subgroup report.

TECHNOLOGY SUBGROUP

September 29, 1977—1 p.m., FEA Headquarters, Room 3000B, 12th and Pennsylvania Avenue NW., Washington, D.C. Agenda: Discussion of decision papers and preparation of final subgroup report.

The agenda for the October 6 conference will be a discussion of the issue options followed by a vote on these options to determine the consensus recommendations of the full conference. The final subgroup reports will be submitted at this time, and incorporated as supporting documentation for the final briefing to Secretary Schlesinger.

These meetings will be open to the public. The Chairman is empowered to conduct these meetings in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement will be permitted to do so, either before or after the meeting.

Further information concerning these meetings may be obtained from Beth Nelson, Room 3502, FEA Headquarters, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202–566–6230).

A Transcript of the conference and minutes of the subgroup meetings will be available for public review and copying at the Freedom of Information Public Reading Room; Room 2107, FEA Headquarters, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on September 12, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-26937 Filed 9-13-77;8:45 am]

FEDERAL MARITIME COMMISSION

ALBANY PORT DISTRICT COMMISSION AND UNITED BRANDS CO.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 4, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement filed by:

Mr. Francis D. Barrett, Curry and Dolan, Southern Building, Washington, D.C. 20005.

Agreement No. T–2590–5, between the Albany Port District Commission (Port) and United Brands Company (UBC), modifies the parties' basic agreement providing for the use of certain office space and the preferential use of certain storage space at Transit Shed No. 2, Albany, New York. The purpose of the modification is to exercise the fourth option to renew the initial term of the agreement by: (1) Extending the term from December 1, 1977, to November 30, 1978; and (2) increasing the amount of compensation paid to the Port from $22,000 to $25,000.

Although this agreement may not be subject to section 15 of the Shipping Act, 1916, interested parties are given an opportunity to comment thereon if they so desire.

By Order of the Federal Maritime Commission.

Dated: September 9, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-26696 Filed 9-13-77;8:45 am]

SOUTH CAROLINA STATE PORTS AUTHORITY AND PUERTO RICO MARITIME SHIPPING AUTHORITY

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 4, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Marion S. Moore, Jr., South Carolina State Ports Authority, P.O. Box 817, Charleston, South Carolina 29402.

Agreement No. T–3059–1, between South Carolina State Ports Authority (Authority) and Puerto Rico Maritime Shipping Authority (PRMSA), modifies the basic agreement which provides for the five-year lease of certain land area and preferential use of certain berths and cranes located at Authority's Columbus Street Terminal, Charleston, South Carolina. The purpose of the modification is to eliminate PRMSA's preferential use of Berth No. 1 and the container crane and grant to PRMSA the preferential use of Berth No. 2 and the Diamond crane.

By Order of the Federal Maritime Commission.

Dated: September 7, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-26697 Filed 9-13-77;8:45 am]

[Independent Ocean Freight Forwarder License No. 505–R]

AMCO CUSTOM BROKERAGE

Reinstatement of License

By Federal Maritime Commission Order served and published in the FED-

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ERAL REGISTER, Amco Custom Brokerage's Independent Ocean Freight Forwarder License No. 505–R was revoked, effective May 21, 1977, for failure to maintain a valid surety bond on file with the Commission. The Order of Revocation was published on June 1, 1977 in 42 FR 27986.

An appropriate surety bond has been received in favor of Amco Custom Brokerage and compliance pursuant to Section 44, Shipping Act, 1916 and, Section 510.9 of the General Order 4 has been achieved.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised) Section 7.04(a), dated September 15, 1973, Independent Ocean Freight Forwarder No. 505–R shall be reissued to Amco Custom Brokerage effective August 22, 1977. A copy of this Notice of Reinstatement shall be published in the FEDERAL REGISTER and served upon Amco Custom Brokerage.

LEROY F. FULLER,
Director, Bureau of Certification and Licensing.

[FR Doc.77–26698 Filed 9–13–77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CI77–758]

AMERADA HESS CORP.

Limited-Term Application

SEPTEMBER 7, 1977.

Take notice that on August 25, 1977, Amerada Hess Corporation (Applicant), 1200 Milam, 6th Floor, Houston, Tex. 77002, filed in Docket No. CI77–758 an application for a limited-term certificate of public convenience and necessity with pregranted abandonment authorizing it to engage in the sale of emergency gas.

Applicant seeks a limited-term certificate with pregranted abandonment to make a sale of emergency gas to Transcontinental Gas Pipe Line Corp. (Transco) for a two-year period commencing on the expiration of the 60-day emergency sale which was started on August 1, 1977, pursuant to Section 157.29 of the Regulations under the Natural Gas Act. The No. 1 Board of Supervisors Well was drilled as an exploratory well. The No. 1 Tolar Unit Well (15–6) was the second well drilled. Applicant is the owner of other oil and gas leases in the Greens Creek Field, Jefferson Davis and Marion Counties, Miss., adjoining the properties upon which the above designated wells are situated. Applicant and Transco have agreed to a two-year limited term contract in order to permit Applicant to determine and implement a plan of evaluation and development of the reservoir or reservoirs underlying its oil and gas leases in the Greens Creek Field. It is not known at this time whether or not the reservoir producing in the No. 1 Board of Supervisors Well and in which the No. 1 Tolar Unit Well (15–6) is completed underlies the lands covered by Applicant's other adjoining leases. During this two-year period Applicant proposes to evaluate the reserves and the reservoirs to determine whether additional development is justified on Applicant's other oil and gas leases in the field. Applicant states that until the above designated wells have been produced for a sufficient period of time an evaluation of the reservoirs and the reserves cannot be properly made, nor can Applicant make a determination on long-range marketing of such gas.

Applicant states it has received offers to sell the gas produced from the No. 1 Board of Supervisors Well and the No. 1 Tolar Unit Well (15–6) at prices in excess of the price proposed to be paid by Transco for gas sold under the two-year limited term contract. In addition, Applicant states that such price is the equivalent of the highest tier oil price being paid for oil produced in the area, converted into price per Mcf of gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–26658 Filed 9–13–77;8:45 am]

[Docket No. E–9603]

CAROLINA POWER & LIGHT CO.

Application

SEPTEMBER 6, 1977.

Take notice that Carolina Power and Light Co. (CP&L), on August 25, 1977, filed an application seeking an order pursuant to Section 203 of the Federal Power Act authorizing it to sell to the City of Fayetteville certain transmission substation facilities.

CP&L indicates that it is incorporated under the laws of the State of North Carolina with its principal business office at Raleigh, N.C. and is engaged in the electric utility business in parts of North Carolina and South Carolina.

CP&L also indicates that the City of Fayetteville, through the Public Works Commission (PWC), owns and operates electric transmission and distribution facilities within Cumberland County, N.C. for the purpose of supplying electric power and energy to its customers.

CP&L proposes, subject to regulatory approval, to perform its Agreement of June 13, 1977, with the PWC by selling to PWC certain substation transmission facilities located in CP&L's Owen Drive 230 KV Substation. CP&L states that the purchase of these facilities will allow PWC to receive totalized metering for two points of delivery under CP&L's applicable resale service schedule as amended by Agreement dated June 30, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–26656 Filed 9–13–77;8:45 am]

[Docket No. RM77–14]

GAS RESEARCH INSTITUTE

Conference

SEPTEMBER 7, 1977.

Take notice that on September 14, 1977, at 10 a.m., a conference of all interested persons will be convened in this proceeding. The conference will be held at the offices of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. This conference is a continuation of the conference held on August 17, 1977, pursuant to Commission order issued July 29, 1977, in this docket.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–26659 Filed 9–13–77;8:45 am]

[Docket No. CI77–721]

HARKINS & COMPANY

Limited-Term Application

SEPTEMBER 7, 1977.

Take notice that on August 11, 1977, Harkins & Company (Applicant), P.O. Box 1940, Alice, Tex. 78332, filed in Docket No. CI77–721 for itself and as operator for Amerada Hess Corp., First Mississippi Corp., and St. Joe Petroleum (U.S.) Corp., pursuant to Section 157.23, as amended, of the Commission's Regulations under the Natural Gas Act and Section 2.70 of the Commission's General Policy and Interpretations, for a limited-term certificate of public convenience and necessity with pregranted abandonment authorizing it to engage in the sale of emergency gas.

Applicant seeks a limited-term certificate with pregranted abandonment to make a sale of emergency gas to Transco for a two-year period commencing on the expiration of the 60-day emergency sale which was started on August 1, 1977, pursuant to Section 157.29 of the Regulations under the Natural Gas Act. The No. 1 Board of Supervisors Well was drilled as an exploratory well. The No. 1 Tolar Unit Well (15–6) was the second well drilled. Applicant is the owner of other oil and gas leases in the Greens Creek Field, Jefferson Davis and Marion Counties, Miss., adjoining the properties upon which the above designated wells are situated. Applicant and Transco have agreed to a two-year limited term contract in order to permit Applicant to determine and implement a plan of evaluation and development of the reservoir or reservoirs underlying its oil and gas leases in the Greens Creek Field. It is not known at this time whether or not the reservoir producing in the No. 1 Board of Supervisors Well and in which the No. 1 Tolar Unit Well (15–6) is completed underlies the lands covered by Applicant's other adjoining leases. During this two-year period Applicant will evaluate the reserves and the reservoirs to determine whether additional development is justified on Applicant's other oil and gas leases in the field. Until the above designated wells have been produced for a sufficient period of time an evaluation of the reservoirs and the reserves cannot be properly made, nor can Applicant make a determination on long-range marketing of such gas.

Applicant has received offers to sell the gas produced from the No. 1 Board of Supervisors Well and the No. 1 Tolar Unit Well (15–6) at prices in excess of the price to be paid by Transco for gas sold under the two-year limited-term contract. In addition, the price to be paid by Transco hereunder is the equivalent of the highest tier oil price being paid for oil produced in the area, converted into price per Mcf of gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 16, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–26660 Filed 9–13–77;8:45 am]

[Docket Nos. CS69–102, et al.]

HOLLY CORP., ET AL.

Applications for "Small Producer" Certificates; Correction

AUGUST 30, 1977.

In FR Doc. 77–25449, issued on August 23, 1977 and published at 42 FR 44034, Thursday, September 1, 1977, in tabulation opposite Docket No. CS69–102, change "Aug. 9, 1977" to "Feb. 28, 1969".

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–26667 Filed 9–13–77;8:45 am]

[Docket Nos. ER77–411, ER77–412, ER77–413, ER77–414, ER77–415 and ER77–416]

ILLINOIS POWER CO.

Order Waiving Notice Provisions, Accepting for Filing and Suspending Proposed Increased Rates; Correction

AUGUST 31, 1977.

In FR Doc.77–22253, issued on July 26, 1977 and published at 42 FR 39468, Thursday, August 4, 1977, in Attachment A, change the "Effective" provision from "August 1, 1977, subject to refund" to "July 2, 1977, subject to refund".

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–26669 Filed 9–13–77;8:45 am]

[Project No. 2593]

LATEX FIBER INDUSTRIES, INC., AND BEAVER FALLS POWER CO.

Application for Transfer of Minor License

SEPTEMBER 7, 1977.

Public notice is hereby given that an application was filed on June 6, 1977, under the Federal Power Act, 16 U.S.C. 791a–825r, by Latex Fiber Industries, Inc. (Licensee) and Beaver Falls Power Co. (Transferee) (Correspondence to: Mr. John P. Borgwardt, Assistant Secretary, Boise Cascade Corp., P.O. Box 1414, Portland, Oreg. 97207) for transfer of its minor license of the Beaver River Project, FPC No. 2593, located on the Beaver River in the towns of Croghan and New Bremen and the Village of Beaver Falls, Lewis County, N.Y.

According to the application, Latex Fiber Industries, Inc., has been sold to the Boise Cascade Corp., which wants to operate the Beaver Falls Project through its subsidiary, Beaver Falls Power Co.

The Beaver River Project consists of: (1) A reservoir which at normal headwater level has a surface area of approximately 48 acres; (2) a concrete gravity spillway dam with an overall length of 400 feet and a maximum height of 25 feet to spillway crest elevation 799.0 feet (U.S.G.S. datum); (3) a concrete and block powerhouse with an installed capacity of 1,500 kw; and (4) appurtenant facilities.

All of the power developed by this project is transmitted directly to the Licensee's paperboard mill for purposes of manufacturing.

Any person desiring to be heard or to make protest with reference to said application should, on or before October 25, 1977, file with the Federal Power Commission, 825 N. Capitol St. NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77 26661 Filed 9–13–77;8:45 am]

[Project No. 632]

MONROE CITY CORP.

Application for Minor License for Hydroelectric Project

SEPTEMBER 7, 1977.

Public notice is hereby given that an application for a new minor license has been filed under the Federal Power Act, 16 U.S.C. 791a–825r, by Monroe City Corp. (Correspondence to: Mr. Norris Jensen, Mayor, Monroe City Corporation, Monroe, Utah 84745) for its constructed Lower Monroe Hydroelectric Project, FPC Project No. 632. The project is located on Monroe Creek in Fish Lake National Forest in Sevier County, Utah.

The existing project consists of: (1) A 3-foot-high and 13-foot-long concrete overflow-type diversion dam topped with 3-foot-high flashboards; (2) a concrete intake structure with a trash rack and a 21-inch-diameter cast iron pipeline 100 feet long; (3) a 4,405-foot-long welded steel penstock of which 24 feet is 20-inch-diameter pipe and 4,381 feet is 16-inch-diameter pipe; (4) a powerhouse containing a Pelton wheel connected to a generator rated at 100 kW; (5) a 2.4 kV 3-phase transmission line 3,420 feet

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long; and (6) appurtenant facilities.

All power produced by the project is delivered to Applicant's interconnected system.

Any person desiring to be heard or to make protest with reference to said application should, on or before November 7, 1977, file with the Federal Power Commission, 825 N. Capitol St. NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26662 Filed 9-13-77;8:45 am]

[Docket No. ER77-566]

NEW ENGLAND POWER CO.

Proposed Supplements

SEPTEMBER 6, 1977.

Take notice that New England Power Co. (NEPC), on August 26, 1977, tendered for filing proposed supplements to its FPC Electric Service Tariff Number 3. NEPC indicates that the proposed tariff provisions provide the terms and conditions for continuation of contract demand (CD) service after October 31, 1981. NEPC states that the present CD tariff provisions expire by their own terms on October 31, 1981. An effective date of September 26, 1977 is requested.

According to NEPC copies of the filing were served on the NEPC's jurisdictional customers and on the State regulatory commissions of Massachusetts, New Hampshire, and Rhode Island.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-26657 Filed 9-13-77;8:45 am]

[Docket No. CP77-595]

NORTHERN NATURAL GAS CO.

Application

SEPTEMBER 7, 1977.

Take notice that on August 29, 1977, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP77-595 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the delivery of raw natural gas on a firm basis to Warren Petroleum Co. (Warren), and the receipt of residue gas therefrom, all in Lea County, N. Mex., pursuant to a Eunice Gas Processing Agreement (Eunice Agreement) dated January 12, 1977, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to a Gas Purchase and Sales Agreement dated January 31, 1973, between it and El Paso Natural Gas Co. (El Paso), Applicant sells raw gas to El Paso which gas is delivered by Applicant to Warren for El Paso's account. It is said that Warren then processes the raw gas in its Eunice Gas Processing Plant for El Paso which in turn sells and delivers to Applicant the residue gas. Such arrangement with El Paso is on a best-effort basis, and is certificated through October 26, 1978, it is said.

Pursuant to the Eunice Agreement, Applicant would deliver to Warren raw natural gas for processing on a firm basis an average of 5,000 Mcf per day through March 31, 1979, and on a best efforts basis, additional raw natural gas at a rate of up to 10,000 Mcf per day during the period, November 1, 1977, through March 31, 1978, and up to 5,000 Mcf per day during the period, November 1, 1978, through March 31, 1979. Applicant further indicates that the Eunice Agreement will continue in effect after the primary term, which ends March 31, 1979, subject to termination by either party upon appropriate notification.

It is asserted that Applicant will pay initially 30 cents per Mcf of raw gas delivered to Warren by Applicant for processing during the first contract year and that 50 percent of the ethane extracted during the processing will be owned by Warren. The balance of the ethane along with all other liquid hydrocarbons extracted would be owned by Applicant.

Applicant states that granting the requested authorization will assure it that the necessary capacity will be available at Warren's Eunice plant to treat, dehydrate and process raw gas through March 31, 1979, and will provide for the continuation of the service thereafter if Applicant has such need.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 29, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed or if the Commission on its own motion, believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26663 Filed 9-13-77;8:45 am]

[Docket No. ER76-739]

PUBLIC SERVICE COMPANY OF INDIANA, INC.

Order Accepting Notice of Termination of Pooling Agreement for Filing, Granting Waiver of Notice Requirements, Instituting Investigation, Denying Motion to Suspend or to Reject and Granting Interventions; Correction

AUGUST 31, 1977.

In FR Doc. 77-22582, issued on August 1, 1977 and published at 42 FR 39714, Friday, August 5, 1977, in the third column, third paragraph, change:

The KIP Companies further state that since PSCI's action affects only contractual planning functions, not rate schedules or rates and services thereunder, and since physical interconnections among the KIP Companies will remain intact, coincident with the fact that preexisting Interconnection and Pooling Agreements suspended during the effectiveness of KIP, will be reactivated upon its termination, Municipal Intervenor's action in the proceeding" as required by 18 CFR 1.8(b)(2).

to:

The KIP Companies further state that since PSCI's action affects only contractual planning functions, not rate schedules or rate and services thereunder, and since physical interconnections among the KIP Companies will remain intact, coincident with the fact that preexisting Interconnection and Pooling Agreements suspended during the effectiveness of KIP, will be reactivated upon its termination, Municipal Intervenors have not shown that they "may be bound by the Commission's action in the proceeding" as required by 18 CFR 1.8(b)(2).

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26670 Filed 9-13-77;8:45 am]

[Docket Nos. RI77-43, RI77-61]

T. E. L. OIL & GAS, ET AL.

Amended Petition for Special Relief

SEPTEMBER 7, 1977.

Take notice that on August 2, 1977 T. E. L. Oil and Gas Corp., et al. (Petitioner), P.O. Box 292, Guymon, Okla., amended its petition for special relief in the above-captioned dockets filed April 15, 1977, pursuant to section 2.76 of the Commission's rules of practice and procedure. By this amendment petitioner seeks a total rate of approximately 75.65 cents per Mcf for the sale of gas produced from the Hamby Gas Well Unit and the Guymon Townsite Gas Unit located in Guymon, Texas County, Okla. Petitioner in its filings of April 15, 1977, was seeking a total rate of 78.188 cents per Mcf.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 19, 1977, file a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26664 Filed 9-13-77;8:45 am]

[Docket No. CP76-107]

TRANSWESTERN PIPELINE CO.

Petition To Amend; Correction

AUGUST 31, 1977.

In FR Doc. 77-23661, issued on August 9, 1977 and published at 42 FR 41459, Wednesday, August 17, 1977, in the bracket in the heading change "CP77-107" to read "CP76-107", and in the fourth line of the first paragraph and in the third line of the second paragraph, change "CP77-107" to read "CP76-107".

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26668 Filed 9-13-77;8:45 am]

[Docket No. ER77-311]

UTAH POWER & LIGHT CO.

Order Permitting Late Intervention

SEPTEMBER 7, 1977.

On April 26, 1977, Utah Power & Light Co. (Utah) submitted for filing proposed rate schedule changes to its FPC Electric Tariff. Notice of this filing was issued on April 29, 1977, with responses due on or before May 11, 1977.

On May 6, 1977, Lincoln Service Corp. (Lincoln), filed a request for an extension of time until June 6, 1977, within which to file a protest and/or petition to intervene. On June 6, 1977, Lincoln asked for further extension until July 6, 1977, and by notice of June 7, 1977 the Secretary granted such extension.

On July 21, 1977, Lincoln filed an untimely Protest and Petition to Intervene. Lincoln asserts that it is a jurisdictional customer of Utah and serves approximately 4,000 customers in Western Wyoming. Lincoln asserts that a timely intervention petition was not filed because Lincoln erroneously believed all matters of dispute would be settled and such settlement now appears unlikely.

The Commission finds: (1) Participation by Lincoln in this proceeding may be in the public interest.

The Commission orders: (A) Lincoln Service Corporation is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenor shall be limited to the matters affecting asserted rights and interests specifically set forth in the petition to intervene; and, *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order entered in this proceeding.

(B) The grant of late intervention will not be the basis for any change in procedural dates established by the Commission Order issued June 23, 1977, in this proceeding.

(C) The Secretary of the Federal Power Commission shall cause prompt publication of this Order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26665 Filed 9-13-77;8:45 am]

[Docket No. ER77-311]

UTAH POWER & LIGHT CO.

Compliance Filing

SEPTEMBER 8, 1977.

Take notice that Utah Power and Light Co. (UP&L) on July 22, 1977, tendered for filing:

Revised sheets in UP&L's FPC Electric Tariff:
(a) Nineteenth Revised Sheet No. 1
(b) Sixth Revised Sheets Nos. 4.1 and 4.2
(c) Sixth Revised Sheets Nos. 5.1 and 5.2
(d) Fifth Revised Sheets Nos. 5A.1 and 5A.2.
(2) Supplemental testimony of Orrin T. Colby.
(3) Supplemental testimony of A. R. Dunn.
(4) Supplemental testimony of Frank N. Davis.

UP&L states that this filing is made solely for the purpose of complying with the Commission Order issued June 23, 1977, in the above noted docket.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before September 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26666 Filed 9-13-77;8:45 am]

[Docket No. CP74-33]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Petition To Amend

SEPTEMBER 6, 1977.

Take notice that on July 27, 1977, Transcontinental Gas Pipe Line Corp. (Petitioner), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP74-33, a petition to amend the Commission's order of February 26, 1975 (53 FPC ____), as amended August 31, 1976 (54 FPC ____) and May 27, 1977 (57 FPC ____), issued in the instant docket pursuant to Section 7 of the Natural Gas Act by authorizing Petitioner to complete the development of the Washington Storage Field, St. Landry Parish, La. and to render additional storage service, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is indicated that in the order of February 26, 1975, Petitioner was authorized to develop the Washington Field to an initial level of 30,000,000 dt equivalent of natural gas top storage, in three stages, reaching the full 30,000,000 dt withdrawal capability by the 1978-79 winter season. Of the total initial 30,000,000 dt level of top storage capacity, Petitioner had commitments for utilization of 26,130,000 dt from its customers, it is said. It is stated that the top storage potential of the Washington Field is rated at 60,000,000 dt, which assumes gas with a heating value of 1,000 Btu's per cubic foot.

It is indicated that in the order of August 31, 1976, Petitioner was authorized to render additional storage service up to the level of 30,000,000 dt of top storage

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capacity, and to install additional compression and to modify field piping. By the order of May 27, 1977, Petitioner was authorized to increase the top storage capacity of the Washington Field to 40,000,000 dt, to install an additional dehydration unit, and to render an additional 9,371,500 dt of storage service to its customers for the 1977–78 winter season.

Petitioner asserts that one customer who had requested an increment of storage service beginning with the 1977–78 season has reduced its request and another customer has withdrawn its request for storage service (see attached appendix). Reflecting these changes, the present total of the allocated quantities of the available top storage in the Washington Field is 38,380,820 dt, it is indicated.

It is stated that Petitioner's customers have requested additional storage service for increased protection for their high priority requirements, beginning with the 1978–79 winter season. To fulfill these requests, Petitioner proposes in the instant petition to expand the top storage capability of the Washington Storage Field to 60,000,000 dt.

Petitioner submitted the table below which summarizes the present status of the allocations and commitments for future service from the Washington Storage Field:

	In dt
Present allocations for the 1977–78 season	38,380,820
Commitments for future seasons:	
1978 to 1979	9,459,245
1979 to 1980	750,000
1980 to 1981	5,000,000
Total allocations and commitments	53,590,065
Unallocated	6,409,935
Total top storage capacity	60,000,000

With the installation of the additional facilities, the estimated total investment in the Washington Storage Field will be $93,725,000.

Petitioner requests authorization to install and operate an additional 11,000 horsepower compressor unit in Station 54 in the field and to construct and operate 3.45 miles of 12-inch and 16-inch field lines. Also, 4,800,000 Mcf of additional base gas would be required to be injected in the field to attain the proposed level of expanded top storage capacity, it is said. Petitioner estimates that the cost of the proposed facilities and the additional base gas is $14,440,000.

It is indicated that of the additional 20,000,000 dt of top storage capacity that would become available in the Washington Field with the additional proposed facilities, Petitioner's customers, so far, have subscribed for 9,459,245 dt of increased storage service beginning with the 1978–79 winter season. Additional increments of storage service have been subscribed for the 1979–80 and 1980–81 seasons bringing total commitments to 53,590,065 dt, it is said.

It is stated that the facilities proposed, and the cost of the additional injected base gas, would be financed initially from short-term loans and available cash and that permanent financing would be undertaken as a part of an overall financing program at a later date.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Precedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

APPENDIX.—*Transcontinintal Gas Pipe Line Corp.; Washington Storage Service*

[In dekatherms (dt)]

Customer	Present Allocated Quantities	Proposed Incremental quantities			Revised total allocated quantities
	1977–78	1978–79	1979–80	1980–81	
Atlantic Gas Light Co	2,222,600	777,40			3,000,000
The Brooklyn Union Gas Co	11,493,540	370,000			11,863,540
Carolina Pipeline Co	1,000,000	250,000			1,250,000
Clinton-Newberry Natural Gas Authority	400,000				400,000
Consolidated Edison Co of New York, Inc	4,171,405	828,595			5,000,000
City of Danville, Va	133,795	50,000	50,000		233,795
Delmarva Power & Light Co	1,113,345				1,113,345
Eastern Shore Natural Gas Co	70,000	200,000			270,000
Elizabethtown Gas Co	1,807,235	500,000	500,000		2,807,235
Fort Hill Natural Gas Authority		120,000			120,000
City of Greenwood, S. C		40,000			40,000
City of Laurens, S. C	41,200	45,000			86,200
Long Island Lighting Co	1,308,425			3,000,000	4,308,425
North Carolina Gas Service	250,000				250,000
North Carolina Natural Gas Corp	2,141,720	1,000,000			3,141,720
Owens-Corning Fiberglas Corp	750,000				750,000
Philadelphia Electric Co	2,144,000				2,144,000
Philadelphia Gas Works	440,355	982,745			1,423,100
Piedmont Natural Gas Co., Inc	2,424,550	1,000,000			4,424,550
Public Service Co. of North Carolina, Inc	1,713,235	786,765	300,000		2,700,000
Public Service Electric & Gas Co				2,000,000	2,000,000
City of Shelby, N.C	11,000	4,000			15,000
South Jersey Gas Co	1,267,135	2,000,000			3,267,135
UGI Corp	125,000				125,000
City of Union, S.C		26,000			26,000
Union Gas Co	300,000				300,000
United Cities Gas Co.—Georgia Division	216,755	50,000			266,755
United Cities Gas Co.—North Carolina and South Carolina Division	220,485	50,000			270,485
Virginia Lipe Line Co	120,000				120,000
Washington Gas Light Co	1,485,040	378,740			1,863,780
Total	[1] 38,380,820	9,459,245	750,000	5,000,000	53,590,065
Cumulative total allocations		47,840,065	48,590,065	53,590,065	

[1] In the order of May 27, 1977, amending the certificate in Docket No. CP74-33, Transco was authorized to render 9,370,520dt of additional storage service, on a total of 30,371,500 dt of storage service, from the Washington storage field beginning with the 1977–78 season. (Exhibit I, petition to further amend, filed Mar. 1, 1977; order issued: May 27, 1977, Mimeo. p. 2). Owens-Corning Fiberglas corp. reduced its request shown in the petition to further amend from 1,020,660 dt to 750,000 dt for the 1977–78 season and Pennsylvania Gas and Water Co. has withdrawn its request for 720,000 dt of storage service for the 1977–78 season. The revised total of present allocations of top storage capacity in the field, reflecting these 2 changes, is 38,380,820 dt.

[FR Doc.77-26587 Filed 9-13-77;8:45 am]

FEDERAL RESERVE SYSTEM

JEFFERSON COUNTY AGENCY, INC.

Formation of Bank Holding Company

Jefferson County Agency, Inc., Daykin, Nebr., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Jefferson County Bank, Daykin, Nebr. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 28, 1977.

Board of Governors of the Federal Reserve System, September 8, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26640 Filed 9-13-77;8:45 am]

REPUBLIC OF TEXAS CORP.

Order Approving Acquisition of Bank

Republic of Texas Corporation, Dallas, Tex., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of the successor by merger to First Bank & Trust, Carrollton, Tex. ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is the fourth largest banking organization in Texas and controls 11 banking subsidiaries, with aggregate deposits of approximately $3.2 billion, representing 6.1 percent of total commercial bank deposits in the State.[1] Acquisition of Bank ($14.9 million in deposits) would increase Applicant's share of commercial bank deposits in Texas by 0.03 percent but would not alter Applicant's ranking in the State.

By order dated October 25, 1973, the Board approved the application of Applicant to become a bank holding company through the direct acquisition of Republic National Bank of Dallas ("Republic Bank") and the indirect acquisition of 29.9 percent of the voting shares of Oak Cliff Bank & Trust Co., Dallas, Tex. In addition to its interest in Bank, Republic Bank at the time also owned indirectly between 5 and 24.99 percent of the eshares of twenty other banks, seventeen of which were in the Dallas banking market.[2] Applicant represented to the Board that it would file separate applications for prior approval by the Board for acquisition of additional shares in each of certain of those banks, and would divest completely its interests in others. In its Order the Board stated that each such application filed by Applicant would be considered on its own merits in light of the statutory standards set forth in § 3 of the Act. Since that time Applicant has divested its interest in eight of the Dallas-area banks, and has applied to acquire additional shares in five of the Dallas-area banks.[3]

Bank is the 67th largest banking organization in the Dallas banking market and controls 0.15 percent of the total deposits held by commercial banks in the market. Applicant is already a significant competitor in the Dallas banking market. The recent addition of First National Bank in Garland, Garland, Tex., Dallas National Bank in Dallas, Dallas, Tex., and Midway National Bank of Grand Prairie, Grand Prairie, Tex., as subsidiaries increased Applicant's share of the deposits to 25.7 percent, and at the present time Applicant controls the first and eighth largest banks in the market plus three smaller banks. In addition, the seven banks in the Dallas market (including Bank) in which Applicant presently holds minority interests have aggregate deposits of $513.7 million, representing 5.2 percent of market deposits.

While consummation of the proposal would appear to eliminate some existing competition inasmuch as Applicant and Bank operate in the same market, the Board notes that Applicant, or its predecessor in interest, Republic Bank, has held 20 percent or more of the shares of Bank since its formation in 1963, and that the nature of this relationship is such that little, if any, meaningful competition presently exists between Bank and Applicant's subsidiary banks in the Dallas market. But for the history of the established relationship between Applicant and Bank, the effects on existing competition would be viewed as more serious, but viewed in light of that relationship the effects are only slight. Moreover, while Applicant is the largest organization in the banking market, in view of the facts presented in the record of this application, the Board does not regard the slight increase in concentration of market deposits as significant. Accordingly, the Board concludes that the proposed acquisition of Bank by Applicant would not have significant adverse effects on competition.

The financial and managerial resources of Applicant, its subsidiaries, and Bank are regarded as generally satisfactory and consistent with approval of the application. Considerations relating to banking factors are also consistent with approval of the application. Following consummation of the transaction, Applicant intends to assist Bank in expanding its residential real estate lending activities and its commercial loan and deposit services as well as expanding Bank's drive-in facilities. These considerations relating to convenience and needs of the community to be served while not substantial, lend some weight toward approval of the application, and in the Board's view, outweigh any slightly adverse competitive effects that might result from consummation of this proposal. Accordingly, it is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

[1] All banking data are as of December 31, 1976, and reflect bank holding company formations and acquisitions approved as of July 1, 1977.

[2] The Dallas banking market is approximated by the Dallas RMA.

[3] By order dated June 20, 1977 (42 FR 32587), the Board denied Applicant's proposal to acquire Preston State Bank, Dallas, Tex.

By order of the Board of Governors,[4] effective September 7, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26641 Filed 9-13-77;8:45 am]

UNITED BANCORP

Proposed Acquisition of Family Finance Corporation

United Bancorp, Roseburg, Oreg., has applied, pursuant to Section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Family Finance Corp., Roseburg, Oreg. Notice of the application was published on August 17, 1977, in The News-Review, a newspaper circulated in Roseburg, Oreg.

Applicant states that the proposed subsidiary would engage in the activities of operating as a consumer finance company and acting as insurance agent for credit life and health insurance in connection with extensions of credit by Family Finance Corp. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 6, 1977.

Board of Governors of the Federal Reserve System, September 8, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26648 Filed 9-13-77;8:45 am]

[4] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, and Jackson. Absent and not voting: Chairman Burns and Governors Partee and Lilly.

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GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on September 6, 1977 (ICC), and September 7, 1977 (FMC and FTC). See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FMC, FTC and ICC requests are invited from all interested persons, organizations, public interest groups, and affected business. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before October 3, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

INTERSTATE COMMERCE COMMISSION

The ICC requests an extension without change clearance of Form ACC–42, Application for Annual or Basic Valuation. All pipeline companies subject to Part 1(b) of the Interstate Commerce Act requesting a basic or annual updated valuation, under Section 19a, must submit the request on this application form. ICC estimates about 100 pipeline companies are subject to Section 19a of the Interstate Commerce Act and about 90 applications are received each year and that reporting burden averages one hour per response.

FEDERAL TRADE COMMISSION

The FTC requests clearance of a new voluntary single-time Pre-Sale Availability Questionnaire, pursuant to the authority granted in the Magnuson-Moss Warranty Act—Federal Trade Commission Improvement Act (15 U.S.C. 2301 et seq.). The FTC's Washington Regional Office will mail the questionnaire to approximately 200 retailers within the Pennsylvania, Maryland, Delaware, West Virginia, Virginia and Washington, D.C. area. This survey will identify those retailers who are either unaware of the FTC's Rule on the Pre-sale Availability of Written Warranty Terms or are knowingly not complying with the rule. FTC estimates respondent burden to average 1.5 hours per response.

FEDERAL MARITIME COMMISSION

The FMC requests clearance of a revision to 46 CFR 531, Filing of Freight and Passenger Rates, Fares, and Charges, in the Domestic Offshore Trade, Publication and Posting. The existing part 531 will be replaced in its entirety by 46 CFR 531, Publishing, Filing and Posting Common Carrier Tariffs in the Domestic Offshore Commerce. The new part 531 sets forth revised standards concerning the construction and manner of filing tariffs in the Domestic Offshore Commerce. FMC estimates that initial compliance with these rules will impose an additional one-time burden of 94 hours per respondent and that the annual burden will average approximately 98 hours per respondent.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-26715 Filed 9-13-77;8:45 am]

REGULATORY REPORTS REVIEW

Receipt and Approval of a Proposed Report

A request for clearance of a revision to a proposed report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on August 24, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice is to inform the public of such receipt and the action take by GAO.

FEDERAL COMMUNICATIONS COMMISSION

FCC requested emergency clearance of its revised Equal Employment Opportunity Program reporting requirement set forth in the Commission's Report and Order (Docket 20550, Nondiscrimination in the Employment Policies and Practices of Broadcast Licensee, adopted August 19, 1977). This revised reporting requirement is prescribed in the Commission's Rules and Regulations (§§ 73.125, 73.301, 73.599, 73.680, and 73.793). Applicants for a construction permit for a new facility, for assignment of license or construction permit or for transfer of control (other than pro forma or involuntary assignments and transfers), and applicants for renewal of license who have not previously done so, shall file with the Commission programs designed to provide equal employment opportunities for Negroes, Orientals, American Indians, Spanish-surnamed Americans, and women, or amendments to such programs. Guidelines for the preparation of such programs are set forth in the Commission's Report and Order, 60 FCC 2d 618 (1976). A program need not be filed by any station having less than five full-time employees or with respect to any minority group which is represented in such insignificant numbers in the area that a program would not be meaningful. In the latter situation, a statement of explanation should be filed.

The revised reporting requirement will be filed with the following FCC Forms: 301, 303, 303–R, 309, 311, 314, 315, 340, and 342. The Federal Communications Commission estimates the respondent burden to be 7½ hours by response with approximately 7,208 respondents.

The GAO reviewed the submission and determined that the revised reporting requirement was the direct result of a decision of the U.S. Court of Appeals for the Second Circuit, decided August 5, 1977. In as much as the Court ordered FCC to collect information from licensees employing five or more full-time employees rather than their current requirement which required licensees with more than ten full-time employees to report, GAO cleared the new reporting requirement. The GAO clearance was provided under B–180227 (R0417).

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77–26714 Filed 9–13–77;8:45 am]

REGULATORY REPORTS REVIEW

Receipt and Approval of Proposed Reports

A request for reinstatement of proposed reports intended for use in collecting information from the public were accepted by the Regulatory Reports Review Staff, GAO on August 31, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice is to inform the public of such receipt and the action taken by GAO.

FEDERAL ENERGY ADMINISTRATION

The Federal Energy Administration requested reinstatement of four clearances used in the FEA Coal Utilization Program; FEA Form C602–S–1, Major Fuel Burning Installation Coal Conversion Report; FEA Form C603–S–0, Powerplants in the Early Planning Process Indentification Report; FEA Form C607–S–0, Major Fuel Burning Installation Early Planning Process Identification Report, Schedules A–1 and A–2; and FEA Form C607–S–0, Major Fuel Burning Installation Early Planning Process Identification Report, Schedule A–3. All data elements and requirements for these forms remain the same as initially approved by GAO.

The last time these forms were submitted for clearance, they were subjected to a public comment period during the GAO review. (41 FR 19161 dated May 10, 1976; 41 FR 29041 dated July 14, 1976; 41 FR 51469 dated November 22, 1976; and 41 FR 55239 dated December 17, 1976.) When GAO cleared the forms, the expiration of the clearances were set to coincide with the life of the program, which was to end June 30, 1977, rather than a full three-year period. Since the life of the program has now been extended until December 31, 1978, by the Federal Energy Administration Authorization Act of 1977, GAO has approved the reinstatement of the clearances until December 31, 1978. The new expiration date closely approximates the date which GAO would have given the last time had the program life been at least three years. The GAO clearance was effective September 9, 1977, and the clearance numbers are B–181254 (RO370) for Form FEA–C602–S–1, B–181254 (RO196) for Form FEA–C603–S–0, B–181254 (RO424) for Schedules A–1 and A–2 of Form FEA–C607–S–0, and B–181254 (RO431) for Schedule A–3 of Form FEA–C607–S–0.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77–26713 Filed 9–13–77;8:45 am]

GENERAL SERVICES ADMINISTRATION

COST OF TRAVEL AND OPERATION OF PRIVATELY OWNED VEHICLES

Report

The Travel Expense Amendments Act of 1975 (Pub. L. 94–22) requires the periodic investigation of the cost to employees of travel and of operating privately owned automobiles, motorcycles, and airplanes while engaged on official business. Further, the Act requires that the results of these investigations be reported to Congress and published in the FEDERAL REGISTER upon final determination of the average actual cost.

Publication of the following report is in compliance with the requirements of the Act.

Dated: August 23, 1977.

JOEL W. SOLOMON,
Administrator, General Services Administration.

REPORT TO CONGRESS

The General Services Administration has concluded the investigations of the cost of travel and the cost of operating privately owned automobiles, airplanes, and motorcycles. Based on the results of the investigations, I am reporting our determination that the average cost per mile for the operation of a privately owned vehicle is 17 cents for a standard size automobile, 15 cents for motorcycles, and 36 cents for airplanes. Inasmuch as the statutory limitation for the above is 20 cents for automobiles, 11 cents for motorcycles, and 24 cents for airplanes, the governing regulations will be amended to reflect the 17 cent rate for automobiles. Since the allowances for airplanes and motorcycles are already at the statutory maximum levels, they cannot be increased administratively.

Our investigations have also concluded that a significant savings will accrue to the Government by revising the method of reimbursement to permit establishment of a flat daily amount as reimbursement for the fixed costs of operating privately owned vehicles, plus an amount per mile (per hour for airplanes) for the variable costs of operating privately owned vehicles. Since this method of reimbursement is more compatible with the way in which costs are incurred, it will neither reward nor penalize Government travelers. Currently, the allowable amounts would be $3.18 per day and 7 cents per mile for automobiles, $15.98 per day and $11.28 per hour for airplanes, and $1.12 per day and 6 cents per mile for motorcycles. Since implementation of this concept requires a change in the authorizing legislation, which prescribes payment of only a mileage allowance, it is my intention to discuss with the Office of Management and Budget this proposal as part of the inclusion of our legislative program.

However, we plan to take some interim actions to restructure the automobile reimbursement allowance. While the mileage allowance for automobiles has traditionally reflected the costs of operating standard size sedans, we believe that the mileage allowance should vary with the size of the automobile or alternatively should reflect the weighted average cost of operating standard, compact and subcompact sedans.

If different rates were established for different sizes of automobiles, the mileage allowances would be 17 cents for standard (8 cylinder) sedans, 13 cents for compact (6 cylinder) sedans, and 10.5 cents for subcompact (4 cylinder) sedans. If, however, the mileage allowance were established to reflect the mix of automobiles, the composite, or weighted average rate of reimbursement would be 15 cents a mile. Following rulemaking procedures, we will seek to determine whether the Federal executive agencies favor a single weighted average mileage allowance or separate rates of reimbursement for standard, compact, and subcompact automobiles. The resulting method would be used as an interim measure until legislation is enacted to reimburse on a per day/per mile basis, or permanently if legislation is not enacted.

With respect to the cost of official travel, we have determined that the statutory maximum per diem allowance ($35) is adequate for 92 percent of the travel. The adequacy of the allowance would be improved somewhat if the cities shown in the attachment to this report were designated as high rate geographic areas under the provisions of 5 U.S.C. 5702(c). While I will issue the regulations necessary to designate these cities as high rate geographic areas, and to change the amounts allowed in three existing high rate geographic areas, this will not protect the adequacy of the existing per diem allowance against future increases in the cost of lodgings and meals. Our investigations have also concluded that the maximum $50 amount for reimbursement of actual subsistence expenses for travel under unusual circumstances or to high rate geographic areas may soon be inadequate. Allowable amounts for Washington, D.C., and New York, N.Y., are already at the statutory maximum allowance. If action to increase these allowances is deferred until future investigations can document higher costs, the subsequent delay in legislation would force employees to absorb the difference between the maximum amount of reimbursement with the higher actual costs. Accordingly, I will also discuss with the Office of Management and Budget the propriety of submitting as part of our legislative program, a proposal to increase the statutory per diem allowance from $35 to $50, and the subsistence allowance from $50 to $75. Although, initially, reimbursement would be much less, these higher statutory maximum amounts would enable GSA to adjust the rates administratively as the costs of commercial lodgings and meals change in the future.

The regulations prescribing these travel allowances will be amended within 30 days.

HIGH RATE GEOGRAPHICAL AREA (HRGA) SUBSISTANCE RATES[1]

City (HRGA)	Current Reimbursable Rate	Proposed Rate	Statutory Maximum Rate
Albany, NY	$35.00	$39.00	$50.00
Baltimore, MD	35.00	41.00	50.00
Bridgeport, CT	35.00	40.00	50.00
Chicago, IL	43.00	45.00	50.00
Charleston, WV	35.00	39.00	50.00
Dallas, TX	35.00	39.00	50.00
Detroit, MI	35.00	42.00	50.00
Hartford, CT	35.00	39.00	50.00
Houston, TX	35.00	41.00	50.00
Las Vegas, NV	35.00	48.00	50.00
Miami, FL	35.00	43.00	50.00
Milwaukee, WI	35.00	39.00	50.00
Minneapolis, MN	35.00	41.00	50.00
Newark, NJ	42.00	45.00	50.00
New Orleans, LA	35.00	44.00	50.00
Providence, RI	35.00	40.00	50.00
San Francisco, CA	41.00	45.00	50.00

[1] This table includes three cities which are already designated as HRGA's; these are Chicago, IL; Newark, NJ; and San Francisco, CA.

ADDENDUM TO THE REPORT ON THE COST OF TRAVEL AND THE OPERATION OF PRIVATELY OWNED VEHICLES

1. The changes to mileage and travel allowances reflected in the preceeding report are effective for travel beginning on or after September 18, 1977. The Federal Travel Regulations (FPMR 101–7) as amended by FPMR Temporary Regulation A–11, Supplement 4, dated April 29, 1977, are further amended as follows:

(a) In paragraphs 1–4.2a(2) and 1–4.2c (1) and (2), the mileage allowance for use of a privately owned automobile is increased to 17 cents per mile.

(b) In paragraph 1–8.6.

(1) The prescribed maximum daily rates for the currently designated high rate geographical areas of Chicago, Ill.; Newark, N.J.;

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and San Francisco, Calif., are increased to $45.

(2) The boundary of the currently designated high rate area of Los Angeles, Calif., is redefined as "all locations within the county of Los Angeles," and

(3) The following newly designated high rate geographical areas are added:

Designated high rate geographical areas:	Prescribed maximum daily rates (dollars)
Albany, N.Y. (all locations within the corporate limits thereof)	39
Baltimore, Md. (all locations within the corporate limits thereof)	41
Bridgeport, Conn. (all locations within the corporate limits thereof)	40
Charleston, W. Va. (all locations within the corporate limits thereof)	39
Dallas, Tex. (all locations within the corporate limits thereof)	39
Detroit, Mich. (all locations within the corporate limits thereof)	42
Hartford, Conn. (all locations within the corporate limits thereof)	39
Houston, Tex. (all locations within the corporate limits thereof)	41
Las Vegas, Nev. (all locations within the corporate limits thereof)	48
Miami, Fla. (all locations within the corporate limits thereof)	43
Milwaukee, Wis. (all locations within the corporate limits thereof)	39
Minneapolis, Minn. (all locations within the corporate limits of Minneapolis-St. Paul, Minn.)	41
New Orleans, La. (all locations within the county of Orleans, La.)	44
Providence, R.I. (all locations within the corporate limits thereof)	49

2. No further supplements to FPMR Temporary Regulation A-11 will be issued. The changes explained above will be incorporated in a revised edition of the Federal Travel Regulations.

Dated: September 12, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77-26942 Filed 9-13-77;10:20 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONALLY RECOGNIZED ACCREDITING AGENCIES AND ASSOCIATIONS

Revisions to List

For purposes of determining eligibility for Federal assistance, pursuant to 20 U.S.C. 1141(a) and other legislation, beginning with the Veterans Readjustment Assistance Act of 1952, the U.S. Commissioner of Education hereby publishes revisions to the list of nationally recognized accrediting agencies and associations which he determines to be reliable authorities as to the quality of training offered by educational institutions either in a geographical area or in a specialized field, and the general scope of recognition granted to the accrediting bodies.

These revisions may be added to the list previously promulgated by the Commissioner of Education on April 20, 1977, 42 FR 20507-20510, and to the revisions previously promulgated by the Commissioner on July 15, 1977, 42 FR 36559.

NATIONAL INSTITUTIONAL AND SPECIALIZED ACCREDITING AGENCIES AND ASSOCIATIONS

ADDITIONS

Physical Therapy

American Medical Association, Committee on Allied Health Education and Accreditation (programs for the physical therapist).

American Physical Therapy Association, Committee on Accreditation in Education (programs for the physical therapist and programs for the physical therapist assistant).

AGENCIES WITHDRAWN FROM LIST

Physical Therapy

Council on Medical Education, American Medical Association, in cooperation with the Committee on Accreditation in Education, American Physical Therapy Association (professional programs) (withdrawn due to discontinuance of program).

TRANSFER OF RECOGNITION

Recognition is transferred from the Council on Medical Education, American Medical Association, to the Committee on Allied Health Education and Accreditation, American Medical Association. Transfer of recognition applies to the fields of blood bank technology, cytotechnology, histologic technology, laboratory assistant education, medical assistant education, medical laboratory technician education, medical record education, medical technology, nuclear medicine technology, occupational therapy, physician's assistant education, radiologic technology, and respiratory therapy.

NATIONAL ACCREDITING AGENCIES AND ASSOCIATIONS RECOGNIZED FOR PREACCREDITATION CATEGORIES

CHANGE IN SCOPE OF RECOGNITION

Council on Education for Public Health: Preaccreditation.

STATE AGENCIES RECOGNIZED FOR THE APPROVAL OF PUBLIC POSTSECONDARY VOCATIONAL EDUCATION

REVISIONS TO LIST

For purposes of determining eligibility for Federal assistance, pursuant to 20 U.S.C. 1087-1(b), the U.S. Commissioner of Education hereby publishes revisions to the list of State agencies which he determines to be reliable authorities as to the quality of public postsecondary vocational education in their respective States.

These revisions may be added to the list previously promulgated by the Commissioner of Education on April 20, 1977, 42 FR 20507-20510.

AGENCIES WITHDRAWN FROM LIST

Montana Board of Public Education (by request).

South Dakota State Board of Vocational-Technical Education (by request).

Dated: September 2, 1977.

JOHN ELLIS,
Acting U.S. Commissioner of Education.

[FR Doc. 77-26642 Filed 9-13-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 31258]

NEW MEXICO

Application

SEPTEMBER 6, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Roger C. Hanks has applied for one 4-inch and 6-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 24 E.,
Sec. 12, SE¼SW¼;
Sec. 13, W½NE¼.

This pipeline will convey natural gas across 0.328 of a mile of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-26622 Filed 9-13-77;8:45]

[NM 31513 and 31515]

NEW MEXICO

Application

SEPTEMBER 6, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 9 W.,
Sec. 33, lot 6.
T. 31 N., R. 10 W.,
Sec. 29, lot 10.

These pipelines will convey natural gas across 0.065 of a mile of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-26623 Filed 9-13-77;8:45 am]

Bureau of Land Management

[M 141]

MONTANA

Transfer of Submarginal Lands, Fort Belknap Indian Reservation: Correction

SEPTEMBER 2, 1977.

In FR Document 77-16319, appearing on page 29566 of the issue of Thursday, June 9, 1977, the following correction should be made:

1. Instead of "Fort Peck-Indian Reservation" on line 11 of the second column, the entry should have read, "Fort Belknap Indian Reservation."

ROLAND F. LEE,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-26686 Filed 9-13-77;8:45 am]

[Wyoming 60719]

WYOMING

Application

SEPTEMBER 1, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Company of Salt Lake City, Utah filed an application for right-of-way to construct a 10¾" O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 24 N., R. 111 W.,
Sec. 4, NE¼SE¼, W½SE¼
Sec. 9, W½NE¼, SE¼NW¼, NE¼SW¼.

The pipeline will tie into a gathering system within T. 24 N. R., 111 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

LARRY L. STEWARD,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-26687 Filed 9-13-77;8:45 am]

DEPARTMENT OF JUSTICE

Attorney General

OWENS-CORNING FIBERGLAS CORP.

Proposed Consent Judgment in Action To Enjoin Discharge of Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on or about August 22, 1977, a proposed consent order in *United States of America* v. *Owens-Corning Fiberglas Corp.*, No. 77-0621-CV-W-4 (W.D. Mo., W. Div.), was lodged with the U.S. District Court for the Western District of Missouri, Western Division, in Kansas City, Mo. The proposed consent order requires Owens-Corning Fiberglas Corp. to install emission control equipment adequate to bring its asphalt roofing plant at 825 Armour Road in North Kansas City, Mo., into compliance with Regulation V of the Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area—Restriction of Emission of Visible Air Contaminants—10 C.S.R. 10-2.060 (hereinafter "Regulation V"), and thereby to achieve compliance with Regulation V by January 30, 1978.

The Department of Justice will receive written comments relating to the proposed consent order for October 14, 1977. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *Owens-Corning Fiberglas Corp.*, D. J. Ref. 90-5-2-1-45.

The proposed consent order may be examined at the office of the U.S. Attorney, 549 U.S. Courthouse, 811 Grand Avenue, Kansas City, Mo.; at the office of the Clerk of the District Court, Western District of Missouri, Western Division, 445 U.S. Courthouse, 811 Grand Avenue, Kansas City, Mo.; at the office of the Environmental Protection Agency, Region VII, Enforcement Division, 1735 Baltimore Avenue, Kansas City, Mo.; and at the Office of the Pollution Control Section, Land and Natural Resources Division, Room 2625, Department of Justice Building, Ninth Street and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the consent order may be obtained in person or by mail from the Pollution Control Section.

SANFORD SAGALKIN,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc.77-26636 Filed 9-13-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 8, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

SMALL BUSINESS ADMINISTRATION

Women Pre-Business Workshop Evaluation, Women in Business Seminar Evaluation, single-time, Potential businesses, Caywood, D.P. 395-3443.

TENNESSEE VALLEY AUTHORITY

Wood Heating Demonstration Experience Record, single-time, homeowner, Strasser, A., 395-5867.

U.S. CIVIL SERVICE COMMISSION

Nomination Form Presidential Management Intern program, CSC-1301, annually, college/university deans, Strasser, A., 395-5867.

Application Form Presidential Management Intern Program, CSC-1300, annually, graduate students, Strasser, A., 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development, Evaluation of the Process of Mainstreaming Handicapped Children into Head Start, single-time, teachers and parents, human resources division Reese, B. F. 395-3532.

REVISIONS

ENVIRONMENT PROTECTION AGENCY

President's Environmental Youth Awards, EPA-1540, 4 through 7, annually, School students K-12, campers, youth groups, Elett, C. A., 395-5867.

DEPARTMENT OF COMMERCE

Domestic and International Business Administration, Copper Controlled Materials, DIB-9008, Quarterly, copper controlled materials producers, C. Louis Kincannon, 395-3211.

EXTENSIONS

EVIRONMENTAL PROTECTION AGENCY

Hazardous Waste Survey, single-time, facilities generating or receiving hazardous wastes, Ellett, C. A., 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, States Report of Adjustments, OAR-S4, on occasion, all States, VI, PR and interstate instrumentalities, Human Resources Division, 395-3532.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-26771 Filed 9-13-77;8:45 am]

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-7/108]

ADVISORY PANEL ON MUSIC

Meeting

Pursuant to Pub. L. 92463, the Federal Advisory Committee Act, notice is hereby given that the Advisory Panel on Music has scheduled a two day meeting to be

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held on Tuesday, October 4, and Wednesday, October 5, 1977, in Room 507 at the Department of State, Annex 2, 515 22nd Street NW., Washington, D.C. The meeting hours will be from 9:45 a.m. to 12:30 p.m. and from 2 p.m. to 5 p.m. on both days.

The sessions will be open to the public. The agenda is:

(1) Review of program policies and guidelines;

(2) Review of recent overseas tours in the music field sponsored by the Department of State;

(3) Evaluation of tapes and records of performing arts groups which are planning tours abroad, and other music groups which wish to be considered as candidates for grants sponsorship or other assistance in connection with overseas tours.

Members of the public in attendance who wish to comment on the agenda items may do so, subject to restrictions of time and direction of the Chair.

For the purpose of fulfilling building security requirements, it is requested that persons wishing to attend this open session advise the Executive Secretary, Beverly Gerstein, by telephone before October 3; the telephone number is area code 202–632–2846.

The meeting room has a seating capacity of 30, so the public will be admitted on a first-come, first-served basis.

Dated: September 2, 1977.

PAUL E. WHEELER,
Director, Office of International Arts Affairs.

[FR Doc.77-26653 Filed 9-13-77;8:45 am]

[Public Notice CM-7/107]

SECRETARY OF STATE'S ADVISORY COMMITTEE ON PRIVATE INTERNATIONAL LAW, STUDY GROUP ON HOTELKEEPERS' LIABILITY

Meeting

A meeting of the Study Group on Hotelkeepers' Liability, a subgroup of the Secretary of State's Advisory Committee on Private International Law, will be held at 10 a.m. on Tuesday, October 11, 1977, in room 5519 of the Department of State. Members of the general public may attend up to the limits of the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman.

The Study Group will discuss the report of the United States delegation to the first meeting of the committee of government experts for the examination of the preliminary Draft Convention on the Hotelkeeper's Contract, the report of the Secretariat of UNIDROIT on the first session of the committee and the agenda items for the second session of the committee to be held in Rome, December 12–16, 1977.

Entrance to the Department of State building is controlled, and members of the general public should use the C Street entrance. Entry will be facilitated if arrangements are made in advance, and it is requested that members of the general public who plan to attend the meeting inform their name, affiliation, and address to Miss Dorothy Fagan, Office of the Legal Adviser, Department of State, prior to October 11, 1977. The telephone number is area code 202–632–8134.

Dated: September 6, 1977.

RICHARD D. KEARNEY,
Chairman.

[FR Doc.77-26654 Filed 9-13-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Waiver Petition No. HS-77-14]

PORTLAND TRACTION

Petition for Exemption From the Hours of Service Act

The Portland Traction Co. has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, as amended, 45 U.S.C. 61–64(b).

Interested persons are invited to participate in this proceeding by submitting written data, views, or comemnts. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition HS–77–14, Room 5101, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before October 28, 1977, will be considered before final action is taken on this petition. All commenst received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

Issued in Washington, D.C., on September 6, 1977.

DONALD W. BENNETT,
Chairman,
Railroad Safety Board.

[FR Doc.77-26639 Filed 9-13-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 113, Rev. 4]

ASSISTANT REGIONAL COMMISSIONER (EMPLOYEE PLANS AND EXEMPT ORGANIZATIONS)

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The authority of the Commissioner of Internal Revenue to make final adverse determinations regarding certain matters is being delegated to the Assistant Regional Commissioner (Employee Plans and Exempt Organizations). The text of the delegation order appears below.

EFFECTIVE DATE: September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. B. Larson, E:EO:O, 1111 Constitution Avenue NW., Room 2215, Washington, D.C. 20224 (202–566–6489, not toll free).

JOHN J. MONACO,
Acting Chief, Exempt Organizations Operations Branch.

AUTHORITY TO ISSUE EXEMPT ORGANIZATION DETERMINATION LETTERS

SEPTEMBER 12, 1977.

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150–37, authority with respect to issuance of determination letters pertaining to the exempt status of organizations under section 501(a) and related matters is delegated as follows:

1. The District Director of each Employee Plans and Exempt Organizations key district is authorized to:

(a) Issue determination letters, except as noted in section 2, below, with respect to exemption from Federal income tax under sections 501 and 521; status under IRC 120, 170(c)(2), 507, 508, 509, 4942(j)(3), 4947, 4948, and 6033; imposition of tax under IRC 11, 511 through 514, 527(f), 641, 1381, and Chapters 41 and 42; provided the requests present questions the answers to which are clear from an application of the provisions of the statute, Treasury decisions or regulations, or by ruling, opinion, or court decision published in the Internal Revenue Bulletin, and

(b) Issue modifications or revocations of rulings or determination letters described above in accordance with currently applicable appeal procedures, and

(c) Redelegate this authority but not below Exempt Organizations Specialist, Grade GS–12 (other than the originator) and not below Chief, Employee Plans and Exempt Organizations Division with respect to adverse modifications or revocations of such letters.

2. In each region, the Assistant Regional Commissioner (Employee Plans and Exempt Organizations) and the Executive Assistant to each such Assistant Regional Commissioner are authorized to:

(a) Issue by certified or registered mail, final adverse determinations on issues described in IRC 7428(a)(1), and

(b) Issue decisions on appeals from determinations, modifications, and revocations issued by key district offices under this delegation, and

(c) Redelegate the authority to issue final adverse determinations on issues described in IRC 7428(a)(1), but not lower than to Regional Analyst, Grade GS-13. The authority to issue decisions on appeals from adverse determinations, modifications, and revocations may not be redelegated.

3. The Assistant Commissioner (Employee Plans and Exempt Organizations), with the concurrence of the Chief Counsel, is authorized to require pre-issuance review of specific types of final adverse determinations of issues described in IRC 7428(a)(1).

4. To the extent any action taken between October 4, 1976 (the effective date of the Tax Reform Act of 1976), and the effective date of this Order by officials described or their delegates consistent with the delegation of authority in Delegation Order 113 (Rev. 3) may require ratification, such action is hereby affirmed and ratified.

This order supersedes Delegation Order No. 113 (Rev. 3) isued April 10, 1975.

JEROME KURTZ,
Commissioner.

AUGUST 29, 1977.

[FR Doc.77-26607 Filed 9-13-77;8:45 am]

Office of the Secretary

SACCHARIN FROM THE REPUBLIC OF KOREA

Antidumping Determination of Sales at Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Determination of sales at less than fair value.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a determination that saccharin from the Republic of Korea is being sold at less than fair value under the Antidumping Act, 1921. Sales at less than fair value generally occur when the price of merchandise for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. This case is being referred to the U.S. International Trade Commission for a determination concerning possible injury to an industry in the United States.

EFFECTIVE DATE: September 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Anthony L. Russo, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202–566–5492.

SUPPLEMENTARY INFORMATION: Information was received in proper form on October 20, 1976, from counsel acting on behalf of Sherwin-Williams Co. of Cleveland, Ohio, alleging that saccharin from the Republic of Korea was being sold in the United States at less than fair value, thereby causing injury to, or the likelihood of injury to, or the prevention of establishment of an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of November 29, 1976 (41 FR 52352).

A "Withholding of Appraisement Notice" was published in the FEDERAL REGISTER of June 8, 1977 (42 FR 29356).

For purposes of this notice, the term "saccharin" means sodium saccharin in soluble granular and soluble powder forms.

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

I hereby determine that, for the reasons stated below, saccharin from the Republic of Korea is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above determination are as follows:

(a) *Scope of the investigation.* Over 90 percent of the imports of the subject merchandise from the Republic of Korea were manufactured by Kumbuk Chemical Industries Co., Ltd., Choheung Chemical Industrial Co., and Jeil Moolsan Co., Inc. Therefore, the investigation was limited to these manufacturers.

(b) *Basis of comparison.* For the purpose of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between purchase price and the home market price of such or similar merchandise. Purchase price, defined in section 203 of the Act (19 U.S.C. 162), was used since all export sales were made to unrelated importers in the United States. Home market price, as defined in section 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise was sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

In accordance with section 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning imports and home market sales of saccharin from the Republic of Korea during the 6-month period July 1 through December 31, 1976.

(c) *Purchase price.* For the purposes of this determination of sales at less than fair value, since all of the merchandise was purchased or agreed to be purchased, prior to the time of exportation, by the persons by whom or for whose account it was imported, within the meaning of section 203 of the Act, the purchase price has been calculated on the basis of the c.i.f. price to U.S. importers with deductions for ocean freight, marine insurance, shipping charges, banking charges, and inland freight, as appropriate.

Additions were made, where appropriate, for the amount of the commodity, defense and sales taxes incurred with respect to home market sales but not collected, or rebated upon exportation. Additionally, Korean defense tax and customs duty on imported raw materials rebated at the time of exportation, were added.

The costs saved under the Korean Government's import deposit requirements by reason of the exportation of the merchandise were treated as indirect taxes and were added in accordance with the Act.

The deductions were based on actual costs incurred in transporting or selling the merchandise in accordance with section 203 of the Act. The addition for taxes and duties which were refunded or not collected by reason of the exportation of the merchandise relate to the refund of duties on raw materials and the non-collection of certain taxes. The addition for the cost savings under the import deposit program relates to monies which are usually deposited with the central bank for a fixed period of time when goods are imported. This deposit requirement is reduced by amount and time of deposit when materials are imported pursuant to export orders for a final product. The deposit requirement has the same effect as a duty and the interest savings on the exported merchandise has been added in accordance with the Act.

(d) *Home market price.* For the purposes of this determination of sales at less than fair value, the home market price has been calculated on the basis of the weighted average, packed, delivered price to wholesale purchasers. Adjustments have been made for transportation, interest expenses, rebates to a distributor, differences in packing expenses, and differences in the merchandise.

Adjustments for interst expenses, rebates and for differences in packing expenses were made in accordance with section 153.10, Customs Regulations (19 CFR 153.10). Adjustments for differences in merchandise sold in the Republic of Korea and the United States were made based upon the cost of manufacture in accordance with section 153.11, Customs Regulations (19 CFR 153.11).

Adjustments claimed for the following were not allowed: general selling and advertising expenses; and profit derived from selling import rights which are based upon export sales.

General selling and advertising expenses and profit from selling import rights were not allowed because they were determined to be not directly related to the sales under consideration, in accordance with section 153.10, Customs Regulations (19 CFR 153.10).

(d) *Result of fair value comparisons.* Using the above criteria, the purchase price was found to be lower than the home market price of such or similar merchandise. Comparisons were made on about 71 percent of the saccharin sold to the United States by the manufacturers during the period of investigation. Margins were found ranging from 24 percent to 26 percent on 100 percent of the sales compared. The weighted-average margin is 25 percent.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to section 153.40, Customs Regulations (19 CFR 153.40).

The U.S. International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

Dated: September 8, 1977.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc.77-26633 Filed 9-13-77;8:45 am]

SACCHARIN FROM JAPAN

Withholding of Appraisement Notice and Determination of Sales at Less Than Fair Value

AGENCY: United States Treasury Department.

ACTION: Withholding of Appraisement and Determination of Sales at Less Than Fair Value.

SUMMARY: This notice is to advise the public that an antidumping investigation

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has been completed and that it has been determined that saccharin from Japan is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended, with the exception of saccharin produced by Aisan Chemical Co. Ltd. Sales at less than fair value generally occur when the price of the merchandise sold for exportation to the United States is less than the price in the home market. This case is being referred to the United States International Trade Commission for determining whether an industry in the United States is being injured. Simultaneously, appraisements of entries of this merchandise will be withheld for 3 months, pending an injury determination by the International Trade Commission.

EFFECTIVE DATE: September 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Anthony L. Russo, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: Information was received in proper form on October 20, 1976, from counsel acting on behalf of Sherwin-Williams Company of Cleveland, Ohio, alleging that saccharin from Japan was being sold in the United States at less than fair value, thereby causing injury to, or the likelihood of injury to, or the prevention of the establishment of, an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of November 29, 1976 (41 FR 52352).

A "Notice of Tentative Determination of Sales at Not Less Than Fair Value" was published in the FEDERAL REGISTER of June 8, 1977 (42 FR 29355).

For purposes of this notice, the term "saccharin" means sodium saccharin in soluble granular and soluble powder forms.

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

I hereby determine that, for the reasons stated below, saccharin from Japan is being, or is likely to be, sold at less than fair value, with the exception of saccharin produced by Aisan Chemical Co. Ltd., within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above determination are as follows:

a. *Scope of the Investigation.* Over 60 percent of the imports of the subject merchandise from Japan were manufactured by Aisan Chemical Industrial Co., Ltd., and Daito Chemical Industrial Co. Therefore, the investigation was limited to these manufacturers.

b. *Basis of Comparison.* For the purpose of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between purchase price and the home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since the export sales compared were made to unrelated purchasers in the United States or to unrelated trading companies in the home market, which then sell the merchandise to unrelated firms in the United States. Home market price, as defined in section 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise was sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

In accordance with section 153.31(b), Customs Regulations (19 CFR 153.31 (b)), pricing information was obtained concerning imports and home market sales of saccharin from Japan during the period June 1 through December 31, 1976.

c. *Purchase Price.* For purposes of this determination of sales at less than fair value, since all merchandise was purchased prior to the time of exportation by the persons by whom or for whose account it was imported, within the meaning of section 203 of the Act, purchase price has been calculated on the basis of the c.i.f. packed price, to the United States, or the f.o.b. packed price to the unrelated trading companies, with deductions for inland freight, ocean freight, insurance, shipping charges, banking fees and commissions, as appropriate.

d. *Home Market Price.* For purposes of this determination of sales at less than fair value, the home market price was calculated on the basis of the f.o.b. delivered price to wholesale purchasers. Adjustments were made for inland freight, discounts (taken into consideration in arriving at a weighted-average price), differences in packing and interest and for selling expenses up to the amount deucted for commissions in the calculation of purchase price, as appropriate.

Adjustments for interest expenses and packing expenses relate to the difference in those costs between home market sales and sales for export to the United States.

Adjustments were claimed for differences in cirumstances of sale in accordance with section 153.10, Customs Regulations (19 CFR 153.10), for general selling expenses. Adjustments for these expenses have been disallowed. Adjustments to the home market price for selling expenses, in purchase price situations, are allowed only for cirumstances of sale which bear a direct relationship to the sales under consideration. Since general selling expenses must be borne regardless of whether particular sales are made, they are not directly related to the sales under consideration. With regard to sales by Daito, although originally allowed, an adjustment for differences in raw material cost is now rejected because further investigation did not support Daito's claim in this regard.

e. *Result of Fair Value Comparisons.* Using the above criteria, purchase price was found to be less than the home market price of such or similar merchandise. Comparisons were made on approximately 90 percent of the saccharin sold to the United States by the manufacturers during the period of investigation. No margins were found on 100 percent of the sales made by Aisan Chemical Co., Ltd. Margins were found ranging from 9 to 11 percent on the sales compared made by Daito Chemical Industrial Co. The weighted-average margin on sales by Daito amounted to 9.4 percent.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to section 153.40, Customs Regulations (19 CFR 153.40).

Further, and based on the reasons noted above, Customs officers are being directed to withhold appraisement of saccharin from Japan, except that produced by Aisan Chemical Industrial Co., Ltd., in accordance with section 153.48, Customs Regulations (19 CFR 153.48).

This withholding of appraisement notice is published pursuant to section 153.35(a), Customs Regulations (19 CFR 153.35(a)), and shall become effective upon publication in the FEDERAL REGISTER. Such action shall cease to be effective at the expiration of three months from the date of this publication unless previously revoked.

The United States International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

Dated: September 8, 1977.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc.77-26634 Filed 9-13-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 221]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 14, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77300. By application filed September 6, 1977, CARLTON ENTERPRISES, INC., 4588 State Route 82, Mantua, Ohio 44255, seeks temporary authority to transfer the operating rights of Scott Trucking, Inc., Post Office Box 128, 502 Standard Avenue, Masury, Ohio 44438, under Section 210a(b). The transfer to Carlton Enterprises, Inc., of the operating rights of Scott Trucking, Inc., is presently pending.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-26692 Filed 9-13-77;8:45 am]

[I.C.C. Order No. 37-A under revised service Order No. 1252]

ATCHISON, TOPEKA AND SANTA FE RAILWAY CO. AND CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO.

Rerouting Traffic

To All Railroads: Upon further consideration of I.C.C. Order No. 37 (The Atchison, Topeka and Santa Fe Railway Co. and the Chicago, Rock Island and Pacific Railroad Co.) and good cause appearing therefore:

It is ordered, That: I.C.C. Order No. 37 be, and it is hereby, vacated and set aside.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 2, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-26693 Filed 9-13-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 9, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before September 29, 1977.

FSA No. 43429.—*Joint Water-Rail Container Rates—Orient Overseas Container Line, Inc.* Filed by Orient Overseas Container Line, Inc., (No. 6), for itself and interested rail carriers. Rates on general commodities, betwen ports in Hong Kong, Taiwan, Japan, Korea, Philippines, Singapore, Thailand, and Malaysia, and rail carriers terminals on the United States Atlantic and Gulf Coast.

Grounds for relief.—Water competition.

Tariffs.—The Trans-Pacific Freight Conference of Japan/Korea Eastbound tariff No. 1, I.C.C. No. 1, and Orient Overseas Container Line, Inc., tariffs Nos. 1, 2, 4, and 7, I.C.C. Nos. 1, 2, 3, and 7, F.M.C. Nos. 11, 29, 37, and 48, respectively. Rates are published to become effective on October 1, 1977.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-26694 Filed 9-13-77;8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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CIVIL AERONAUTICS BOARD.

[MA-33 amending M-51 9-8-77]

ADDITION OF ITEM TO THE SEPTEMBER 12, 1977 MEETING AGENDA

TIME AND DATE: 10 a.m., September 12, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 1. Docket 30576, Third-party complaint of *Gordon W. Winks and Katherine O'B. Winks* v. *Lufthansa German Airlines*, Bureau of Enforcement dismissal of complaint (Memo No. 7401, (OGC)).

STATUS: Open.

PERSON TO CONTACT:
Phyllis T. Kaylor,
The Secretary,
(202-673-5068).

SUPPLEMENTARY INFORMATION: Agency business requires the addition to the Calendar for September 12 of the third-party complaint of *Gordon W. Winks and Katherine O'B. Winks* v. *Lufthansa German Airlines*, Docket 30576, as the Board must make its determination before September 14 on whether or not to review the decision of the Bureau of Enforcement not to institute an enforcement proceeding or, under Rule 205 of the Procedural Regulations, the BOE decision will become that of the Board on September 14. Accordingly the following Members have voted that agency business requires the addition of this item to the agenda of September 12, 1977 on less than seven days' notice and that no earlier announcement of this addition was possible:

Chairman Alfred E. Kahn
Member G. Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

[S-1305-77 Filed 9-12-77;8:52 am]

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: Follows 9:30 a.m. Open Meeting, Thursday, September 15, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Applications for review, filed by Melvin Pulley and by the Broadcast Bureau in the Quitman, Mississippi FM proceeding (Docket Nos. 20196 and 20197).

General—1—Consideration of Commission responses to questions posed by Order of the United States Court of Appeals of the District of Columbia Circuit regarding Commission's EEO policies.

Complaints and Compliance—1—Field investigation into the operation of Radio Station KDRG, Deer Lodge, Montana, licensed to Deer Lodge Broadcasting, Inc.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: September 8, 1977.

[S-1298-77 Filed 9-9-77;2:35 pm]

3

FEDERAL MARITIME COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: September 9, 1977, 42 FR 45434.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: September 14, 1977, 10 a.m.

CHANGES IN THE MEETING: Addition of the following item to the closed session:

1. Docket No. 77-22, Actions to Adjust or Meet Conditions Unfavorable to Shipping in the Foreign Trade of the United States (Guatemalan Decree No. 41-71); Consideration of Comments on Proposed Rule.

[S-1303-77 Filed 9-9-77;3:59 pm]

4

FEDERAL POWER COMMISSION.

SEPTEMBER 9, 1977.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. § 552B:

TIME AND DATE: September 16, 1977, 10 a.m.

PLACE: 825 North Capitol Street.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda) *NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, room 1000.

POWER AGENDA—7673RD MEETING, SEPTEMBER 16, 1977—REGULAR MEETING (10 A.M.)

P-1—Docket No. E-9104, Nevada Power Company.
P-2—Docket No. ER76-709, Cincinnati Gas and Electric Company.
P-3—Docket No. ER77-533, Louisiana Power & Light Company.
P-4—Docket Nos. ER76-149 and E-9537, Public Service of Indiana, Inc.
P-5—Docket No. ER77-1, Mississippi Power Company.
P-6—Docket No. ER76-40, Nevada Power Company.
P-7—Docket No. ER77-411, et al., Illinois Power Company.
P-8—Docket No. E-9592, *Roscoe E. Dean, Jr. and William D. Lovin, Complainants* v. *Georgia Power Company, Defendant.*
P-9—Project No. 1862, City of Tacoma, Washington Docket No. E-6454, City of Centralia, Washington.
CP-1—Docket No. ER77-486, Pennsylvania-New Jersey-Maryland Interconnection.
CP-2—Docket No. ER77-496, Ohio Power Company.
CP-3—Docket No. ES77-53, Pacific Power & Light Company.
CP-4—Docket No. ES77-40, Gulf States Utilities Company.
CP-5—Project Nos. 1759, 1980, 2072, 2073, 2074, 2131, 2357, 2394, 2431, 2471, 2486, 2523, 2550, Wisconsin Michigan Power Company and Wisconsin Electric Power Company.
CP-6—Docket No. ER77-534, Missouri Utilities Company.
CP-7—Docket No. E-9563, U.S. Department of the Interior, Bonneville Power Administration.

MISCELLANEOUS AGENDA—7673RD MEETING, SEPTEMBER 16, 1977—REGULAR MEETING

M-1—Docket No. RM76-15, Regulation of Small Producers.
M-2—Docket No. RM77-20, Associated Gas Distributors.

MISCELLANEOUS AGENDA—7673RD MEETING, SEPTEMBER 16, 1977—REGULAR MEETING

CM-1—1975 Edition of Hydroelectric Plant Construction Cost and Annual Production Expenses.
CM-2—Upper Peninsula Generating Company.

GAS AGENDA—7673RD MEETING, SEPTEMBER 16, 1977—REGULAR MEETING

G-1—Docket No. RP75-102, Panhandle Eastern Pipe Line Company.
G-2—Docket No. RP77-3, Northern Natural Gas Company.
G-3—Docket No. RP74-25, Texas Gas Transmission Corporation.
G-4—Docket No. RP75-79, *Lehigh Portland Cement Company* v. *Florida Gas Transmission Company.*
G-5—Docket Nos. AR61-2 and AR69-1, et al., Area Rate Proceeding, et al. (Southern Louisiana Area).
G-6—Docket No. RI77-20, Dorfman Production Company, Operator.
G-7—Docket No. RI77-34, Maurice L. Brown Company.
G-8—*Pennzoil Producing Co.* v. *FPC*, 533 F. 2d 485 (5th Cir. 1977), and *Mobil Oil Corp.* v. *Lightcap*, 221 Kan. 448, 562 p. 2d 1 (1977).
G-9—Docket No. CI75-45, et al., Tenneco Oil Company, et al.
G-10—Docket No. CI77-500, Hunt Oil Company.
G-11—Docket No. CI76-597, Producer's Gas Company.
G-12—Docket No. CP76-424, Kentucky West Virginia Gas Company.
G-13—Docket No. CP74-314, El Paso Natural Gas Company; Docket No. CP76-327, Northwest Pipeline Corporation; Docket No. CI77-526, Sun Oil Company, et al.
G-14—Docket No. CP74-299, Kansas-Nebraska Natural Gas Company, Inc.
G-15—Docket No. CP77-417, Transcontinental Gas Pipe Line Corporation.
G-16—Docket No. CP77-368, Lone Star Gas Company (a division of Enserch Corporation).
G-17—Docket No. CP73-30, Lone Star Gas Company, a division of Enserch Corporation.
G-18—Docket No. CP77-425, Algonquin Gas Transmission Company.
G-19—Docket No. CP77-524, Florida Gas Transmission Company, United Gas Pipe Line Company.
G-20—Docket No. CS73-208, H&L Operating Company; Docket No. CS71-866, Douglas R. Cummings; Docket No. CS76-556, Tacklon, Inc., et al.; Docket No. CS72-365, Jerome P. McHugh & Associates; Docket No. CS76-930, Clemco, Inc.; Docket No. CS71-179, Herman George Kaiser.
CG-1—Docket No. RP73-23 (PGA77-6(a)). Lawrenceburg Gas Transmission Corporation.
CG-2—Docket No. RP71-107, (PGA76-1). Northern Natural Gas Company.
CG-3—Docket Nos. CI76-758 and CI77-15, Getty Oil Company; Docket No. CI77-616, Cities Service Company.
CG-4—Docket No. CP75-127, Texas Eastern Transmission Corporation and Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.; Docket No. CP77-401, Texas Eastern Transmission Corporation; Docket No. CP77-521, Columbia Gulf Transmission Corporation.
CG-5—Docket No. CP77-386, Michigan Wisconsin Pipe Line Company.
CG-6—Docket No. CP77-492, Western Gas Interstate Company.
CG-7—Docket No. CP77-326, Columbia Gulf Transmission Company; Docket No. CP77-348, Columbia Gulf Transmission Company, Northern Natural Gas Company and Tennessee Gas Pipeline Company, a division of Tenneco Inc.; Docket No. CP77-365, Sea Robin Pipeline Company, Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company.

KENNETH F. PLUMB, *Secretary.*

[S-1304-77 Filed 9-9-77;3:59 pm]

5

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., September 21, 1977.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open to the Public.

Docket 182, *Fort Sill Apache.*
Docket 229, *Navajo.*
Docket 356, *Pueblo of Santa Clara.*

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street, NW., Washington, D.C. 20006, telephone 202-653-6184.

[S-1306-77 Filed 9-12-77;10:27 am]

6

INDIAN CLAIMS COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 45435, September 9, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE: 10:15 a.m., September 14, 1977.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the Public.

CHANGE IN THE MEETING: The following item has been added:

Docket 363, *Sioux.*

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, Telephone 202-653-6184.

[S-1307-77 Filed 9-12-77;10:27 am]

7

NATIONAL TRANSPORTATION SAFETY BOARD.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENTS: 42 FR 44110, September 1, 1977; 42 FR 44869, September 7, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING:

September 8, 1977, 9:30 a.m. [NM-77-27].

CHANGE IN THE MEETING: The meeting is postponed until Friday, September 16, 1977. A majority of the Board has determined by recorded vote that the business of the Board requires this change and that no earlier announcement was possible.

[S-1300-77 Filed 9-9-77;3:59 pm]

8

NATIONAL TRANSPORTATION SAFETY BOARD.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 45101, September 8, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Friday, September 16, 1977, 9:30 a.m. [NM-77-28].

CHANGES IN THE MEETING: In view of the postponement of meeting No. NM-77-27, the agenda item originally scheduled to be discussed in open session at 9:30 a.m. on September 8, 1977, has been included in the agenda for meeting No. NM-77-28. For convenience of the public, a revised agenda for meeting No. NM-77-28 is set forth below. The two items which were to have been discussed in closed session on September 8 have been rescheduled for a separate meeting, No. NM-77-29, at 2:30 p.m. on September 16. Agenda Item 6 of meeting No. NM-77-28 has been redesignated as Items 6 and 7, below.

1. *Aircraft Accident Report.*—Ruel Insurance Corporation, Cessna 414, N8PR, and USAF F-4E, 67-0255, near Brigton, Florida, September 13, 1976.

2. *Recommendation* to Federal Aviation Administration re timely dissemination by air traffic controllers of all available weather information to flightcrews in the terminal area.

3. *Recommendation* to Federal Aviation Administration re implementation of an aviation subsystem for air traffic control environment.

4. *Proposed Special Study* on Alcohol—Alternatives I and II, Proposals for Phases II and III.

5. *Recommendations* to American Gas Association and Connecticut Natural Gas Corporation re pipeline accident in Greenwich, Connecticut, May 25, 1977.

6. *Recommendation* to Federal Aviation Administration re improvements in method of dissemination and description of severe weather information to flightcrews.

7. *Recommendation* to Federal Aviation Administration re depiction of additional airports on air traffic control radar displays.

8. *Discussion of Closeout* of Safety Recommendations A-72-3, A-75-80, A-77-7, and R-73-11.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming (202-755-4930).

[S-1301-77 Filed 9-9-77;3:59 pm]

9

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 2:30 p.m., Friday, September 16, 1977 [NM-77-29].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594.

STATUS: Closed.

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MATTERS TO BE CONSIDERED:

1. *Discussion.*—Staff processing of safety recommendations following a major accident.

2. *Discussion.*—Proposed organization redesignation in the Bureau of Accident Investigation.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming (202–755–4930).

[S–1302–77 Filed 9–9–77;3:59 pm]

10

OVERSEAS PRIVATE INVESTMENT CORPORATION

Meeting of the Board of Directors.

TIME AND DATE: Meeting of the OPIC Board of Directors: Tuesday September 20, 1977 at 9:00 a.m. (Closed Portion) and 11:00 a.m. (Open Portion).

PLACE: Offices of the Corporation, 7th Floor Board Room, 1129 20th Street NW., Washington, D.C.

STATUS: The first part of the meeting from 9:00 a.m. to 11:00 a.m. will be closed to the public. The open portion of the meeting will start at 11:00 a.m.

MATTERS TO BE CONSIDERED:
(Closed to the Public: 9:00 a.m. to 11:00 a.m.)

1. Country Eligibility: OPIC Programs.
2. Private Participation Negotiations.
3. OPIC Procedures.
4. Finance Project in Caribbean.
5. Insurance Project in Caribbean.
6. Insurance Project in East Asia.
7. Reinsurance Proposal.
8. Claims Reports.
9. Information Reports.

FURTHER MATTERS TO BE CONSIDERED:

(Open to the Public: 11:00 a.m.)

1. Approval of Minutes of Previous Meetings.
2. Reconfirmation of Scheduled Board Meeting.
3. Personnel: Testimonials.
4. OPIC Minerals Policy.
5. Revision of War Risk Coverage.
6. Investment Promotion Program.
7. Allocation of Reserves.
8. Financial Statement.
9. Information Reports.

CONTACT PERSON FOR INFORMATION:

Information with regard to this meeting may be obtained from the Secretary of the Corporation at (202–632–1839).

ELIZABETH A. BURTON,
Corporate Secretary.

SEPTEMBER 12, 1977.

[S–1308–77 Filed 9–12–77;11:21 am]

11

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, September 15, 1977.

PLACE: Room 856, 1919 M Street, NW., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Petition by the Council for UHF Broadcasting (CUB) to amend Section 2.106 and Part 74 of the Commission's Rules to restore UHF channels 70–83 for additional assignments to television broadcast translators on a secondary basis (RM–2764).

Safety and Special Radio Services—1—Petition filed by Forest Industries Telecommunication for amendment of Parts 91 and 93 of the Rules to permit interservice geographic sharing of certain 150 and 450 MHz band taxicab Radio Service channels by the Forest Products Radio Service licensees (RM–2702).

Common Carrier—1—Formal complaint of Offshore Telephone Company against South Central Bell Telephone Company and American Telephone and Telegraph Company (File No. TS–2–77).

Common Carrier—2—Petition for suspension and investigation of Southern Pacific Communications Company's tariff revisions for its Satellite Transmission Service under Transmittal No. 98 filed by American Satellite Corporation.

Cable Television—1—Petition for immediate reconsideration and withdrawal of authorization, or stay of Lakeland Cablevision, Inc. (Detroit Lakes, Minnesota), Mimeo No. 85306 (June 15, 1977), filed on behalf of Spokane Television, Inc., licensee of Station KTHI–TV (ABC, Channel 11) Fargo, North Dakota.

Cable Television—2—Applications for certificates of compliance (CAC–7174, 7175) filed by Coldwater Cablevision, Inc., to serve Batavia and Girard Townships, Michigan, and request for special relief to carry three inconsistent television broadcast stations; and opposition filed by West Michigan Telecasters, Inc., licensee of Station WZZM–TV, Grand Rapids, Michigan.

Cable Television—3—Petition for reconsideration of a Commission Order concerning Section 76.92(d) of the Rules, FCC 77–178, released March 22, 1977, filed by Spartan Radiocasting Co., licensee of Station WSPA–TV, Spartanburg, South Carolina.

Cable Television—4—Petition for special relief (CSR–1151) filed by Cable-Vision, a division of American Television and Communications Corporation; and petition for special relief (CSR–1164) filed by Miami Valley Broadcasting Corporaton, licensee of Station KTVU, Oakland, California, and KQED, Inc., licensee of Station KQEC, San Francisco, California.

Cable Television—5—Petition for special relief filed by Warner Cable of Akron, operator of an integrated cable television system serving Akron, Tallmadge, Barberton, Fairlawn, Stow and Cuyahoga Falls, Ohio.

Cable Television—6—Request for order to show cause filed by Southern Tier Educational Television Association, Inc., licensee of Television Broadcast Station WSKG, Binghamton, New York.

Assignment of License and Transfer of Control—1—Application for the voluntary assignment of license of standard broadcast station KPSC, Denver, Colorado, from the First National Bank of Denver, Successor Personal Representative of the Estate of Paco Sanchez, Deceased, to Latino Broadcasting Corporation (BAL–8739); and petition to deny and motion for dismissal of the subject application filed by Francisco J. Sanchez, Jr.

Assignment of License and Transfer of Control—2—Application for consent to voluntary transfer of control of Westport Television, Inc., licensee of UHF station KBMA–TV, Kansas City, Missouri, from Benno C. Schmidt and BMA Properties, Inc. to Scripps-Howard Broadcasting Company (BTC–8303).

Assignment of License and Transfer of Control—3—Voluntary assignment of license of Stations KUAM AM–FM–TV, Agana, Guam, from Pacific Broadcasting Corporation to Pacific Telestations, Inc. (BAL–9967, BALH–2395, BALCT–617); petitions to deny filed by Magof, Inc., Licensee of Station KATB, Agana, Guam, and by Guam Media Company; request for waiver of "one-to-a-market" provisions of the multiple ownership rules.

Renewal—1—Indianapolis Black Media Coalition's petition to deny renewal application of Station WSMJ(FM), Greenfield, Indiana.

Renewal—2—Application for renewal of license for Station KLFB, Lubbock, Texas (BR–4555).

Renewal—3—Indianapolis Black Media Coalition's petition to deny renewal application of Stations WNDE/WFBQ(FM), Indianapolis, Indiana.

Aural—1—Application (BPFT–347) of Ponce Broadcasting Corp. (WZAR–FM, Ponce, Puerto Rico) for CP for new FM translator to serve Mayaguez, Puerto Rico; and petition to deny filed by Radio Americas Corporation (WORA–FM).

Television—1—Application for a new commercial TV station to operate on Channel 33, Phoenix, Arizona, filed by Legend of Cibola Television Company (BPCT–4926).

Broadcast—1—Petition from the Broadcast Equipment Section of the Industrial Electronics Division, Electronics Industries (EIA) that requests amendment of Part 73 relating to the maximum permissible effective radiated power above the horizontal for Television Broadcasting Stations (RM–1701).

Complaints and Compliance—1—Request by the United States Postal Service for a ruling that its spot announcements qualify for the use of the abbreviated sponsorship identification provided by Section 73.1212 (f) of the Rules; and requests by the U.S. Postal Service and the U.S. Department of Defense for waiver of the requirements of Section 317(a)(1) of the Communications Act of 1934, as amended, and Section 73.1212(a) of the Rules.

Complaints and Compliance—2—Application for review of the Broadcast Bureau's March 1, 1977 ruling denying the fairness doctrine complaint of the Grocery Manufacturers of America and the American Meat Institute against NBC.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202–632–7260.

Issued: September 8, 1977.

[S–1299–77 Filed 9–9–77;2:35 pm]

12

SECURITIES AND EXCHANGE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 45733.

PREVIOUS ANNOUNCED TIME AND DATE:

September 14, 1977, 10 a.m.

CHANGE IN THE MEETING: Deletion of item on open meeting agenda.

The following item originally scheduled for the open meeting on Wednesday, September 14, 1977, has been rescheduled for the open meeting on Monday, September 19, 1977:

Application filed by The Columbia Gas System, Inc. for an order to issue and sell short-term notes and commercial paper and request for hearing by the State of Ohio regarding the application (Rescheduled from September 8, 1977).

Chairman Williams, and Commissioners Loomis, Evans and Pollack voted to approve the above change and determined that no earlier notice thereof was possible.

SEPTEMBER 12, 1977.

[S–1322–77 Filed 9–13–77;9:45 am]

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federal register

WEDNESDAY, SEPTEMBER 14, 1977
PART II

FEDERAL ENERGY ADMINISTRATION

ENERGY CONSERVATION PROGRAM

Electric Refrigerators, Refrigerator-Freezers, Freezers, Clothes Dryers, and Television Sets; Test Procedures

V 42 178 SEP 14 77 UMI

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 430—ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Test Procedures for Electric Refrigerators and Electric Refrigerator-Freezers, and Freezers

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: This rule prescribes final test procedures for electric refrigerators, electric refrigerator-freezers, and freezers. Appliance test procedures are one element of the appliance energy efficiency program required by the Energy Policy and Conservation Act.

FOR FURTHER INFORMATION CONTACT:

James A. Smith (Office of Conservation), Room 307, Old Post Office Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202–566–4635).

Jim Merna (Media Relations, Room 3104, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202–566–9833).

William J. Dennison (Office of General Counsel), Room 7148, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202–566–9750).

SUPPLEMENTARY INFORMATION:

A. BACKGROUND

The Federal Energy Administration (FEA) hereby amends Part 430, Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for electric refrigerators, electric refrigerator-freezers, and freezers, pursuant to section 323 (42 U.S.C. 6293) of the Energy Policy and Conservation Act (Act) (Pub. L. 94–163). These test procedures were proposed by notice issued April 21, 1977 (42 FR 21584, April 17, 1977), and a public hearing on the proposed test procedures was held on June 14, 1977. The definitions of "refrigerator," "refrigerator-freezer," and "freezer" were proposed at 41 FR 19980, May 14, 1976, but these definitions have been revised in response to public comments, as discussed below.

By notice issued May 24, 1977 (42 FR 27896, June 1, 1977), FEA established Subparts A and B of Part 430, Chapter II of Title 10, Code of Federal Regulations. Certain definitions and general provisions applicable to the Energy Conservation Program For Appliances have been promulgated in Subpart A. Final test procedures for room air conditioners and dishwashers have been prescribed in Subpart B. In addition to the test procedures for electric refrigerators, electric refrigerator-freezers, and freezers prescribed today, the final test procedures for clothes dryers and television sets are also being prescribed by separate notices. Several other test procedures have been proposed for inclusion in Subpart B. FEA has also proposed a Subpart C for appliance energy efficiency improvement targets. An outline of the provisions of Part 430 which have so far been established, including provisions in today's notices, is as follows:

SUBPART A—GENERAL PROVISIONS

Sec.
430.1 Purpose and Scope.
430.2 Definitions.

SUBPART B—TEST PROCEDURES

430.21 Purpose and Scope.
430.22 Test Procedures for Measures of Energy Consumption:
(a) Refrigerators and refrigerator-freezers
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
. . . . .
(f) Room air conditioners
. . . . .
(h) Television sets.
430.23 Units to be Tested [Reserved]
430.24 Representations Regarding Measures of Energy Consumption
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
. . . . .
(f) Room air conditioners.
. . . . .
(h) Television sets.

APPENDICES TO SUBPART B

Appendix A1—Uniform Test Method for Measuring the Energy Consumption of Electric Refrigerators and Electric Refrigerator-Freezers.
. . . . .
Appendix B—Uniform Test Method for Measuring the Energy Consumption of Freezers.
Appendix C—Uniform Test Method for Measuring the Energy Consumption of Dishwashers.
Appendix D—Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers.
. . . . .
Appendix F—Uniform Test Method for Measuring the Energy Consumption of Room Air Conditioners.
. . . . .
Appendix H—Uniform Test Method for Measuring the Energy Consumption of Television Sets.

B. DISCUSSION OF COMMENTS

Comments were received from industry a trade association, and a state government. The major issues raised by the comments are discussed below.

1. TYPE OF ENERGY INPUT

Comments were received which pointed out that the proposed definition of "basic model" for refrigerators and refrigerator-freezers referred to "electrical characteristics" of covered products. These comments questioned whether units using a non-electrical energy input were intended to be covered by the proposed test procedures.

At the time of publication of the proposed test procedures, FEA believed that refrigerators and refrigerators-freezers using an energy source other than electricity were not to any significant extent distributed in commerce. Subsequently FEA has learned that a significant number of gas refrigeration products are manufactured, primarily for use in mobile homes and recreational vehicles, and therefore it is asking NBS to develop test procedures for these covered products.

The test procedures prescribed today for electric refrigerators and electric refrigerator-freezers reflect minor editorial and definitional changes which were necessary to clarify that these procedures apply only to electric refrigerators and electric refrigerator-freezers. This entailed redefining "refrigerator" and "refrigerator-freezer" and modifying the proposed definitions to apply only to the class of electric refrigerators and electric refrigerator-freezers. Section 323 of the Act authorizes the development of test procedures for classes of a covered product type. Test procedures for the class of gas refrigerators and gas refrigerator-freezers will be proposed as soon as practicable, in keeping with the notice issued July 22, 1976 (41 FR 31237, July 27, 1976) which delayed the proposal of test procedures for refrigerators and refrigerator-freezers beyond the date contemplated by the Act.

Because FEA is unaware of any freezers intended for personal use or consumption which use an energy source other than electricity, it has not asked NBS to develop any additional test procedures for freezers. The test procedures prescribed today for freezers, however, do reflect a minor definitional change to indicate that only electric freezers are presently intended to be covered by these test procedures.

2. ANNUAL OPERATING COST

Several comments suggested that a 50-percent use credit for an antisweat heater switch, such as the credit allowed in the energy factor calculations, also be allowed in the estimated annual operating cost calculations. FEA agrees that such an adjustment of the estimated annual operating cost calculations is necessary if the estimated annual operating cost figure is to be logically consistent with the energy factor. Without the adjustment, two products which are identical except for an antisweat heater switch on one would have the same annual operating cost figure, but the unit with the antisweat heater switch would have a lower energy factor. This would be confusing to consumers. Therefore, the estimated annual operating cost for electric refrigerators, electric refrigerator-freezers, and freezers has been amended in §§ 430.22(a)(1) and 430.22(b)(1) to reflect these changes.

One comment stated that no credit should be applied either to the energy factor or to the cost of operation, because such a credit would be a disincentive for manufacturers to remove the need for antisweat heaters (e.g., by improving the insulation of their products). However, NBS has verified that the antisweat heater switch is indeed used when available in refrigeration products, and that such products therefore use less energy than similar units without the switch. For these reasons, FEA has determined that a use credit for an antisweat heater switch is appropriate both for the annual operating cost and for the energy factor calculations.

Several comments suggested that the use credit should be a figure other than 50 percent, but no supporting information was supplied which was not previously considered in arriving at the 50 percent credit recommended by NBS and adopted by FEA as best reflecting actual consumer use of antisweat heaters.

One comment suggested that monthly operating cost be included as another measure of energy consumption. FEA does not believe that a measure of monthly operating cost would significantly add to the information conveyed by the estimated annual operating cost, the inclusion of which is mandated by the Act.

3. ENERGY FACTOR FOR FREEZERS

Some comments suggested that calculation of an unadjusted energy factor for freezers would lead consumers to believe that freezers are less efficient than electric refrigerators and electric refrigerator-freezers. These comments noted that the energy factor for electric refrigerators having a 15° F. freezer compartment is adjusted by a factor of 1.44, and that the energy factor for electric refrigerator-freezers having a 5° F. freezer compartment is adjusted by a factor of 1.63 FEA has determined that consistency requires that the calculation of the energy factor for freezers include an adjustment factor of 1.73, in order to compensate for the lower working temperature of freezers. The energy factor for freezers has been amended in § 430.22(b)(4) to reflect this change.

Because neither the energy factor nor the adjusted volume is used in the determination of the estimated annual operating cost, this adjustment factor will not affect those calculations. The 1972 baseline efficiency on which the proposed energy efficiency improvement target for freezers (42 FR 36648, July 15, 1977) was based, will be affected, however. As a result, appropriate changes will be made in the energy factors associated with the target for freezers.

4. ADJUSTING THE ENERGY FACTOR

One commenter suggested that the concepts of an adjusted refrigerated volume and an energy factor be abandoned on the grounds that they compromise manufacturers' incentive to add extra insulation to freezer compartments and so discourage the use of optimal insulation thicknesses. While the concept of the energy factor as proposed is imperfect, FEA believes that the alternative of allowing no compensation for the lower operating temperatures of freezing compartments places at an unreasonable disadvantage those units with higher ratios of freezer volume to refrigerator volume.

In theory, a 63-percent increase in freezer compartment insulation would obviate the need for an adjustment factor. In practice, however, the conductance of the freezer compartment insulation of most currently available refrigerator-freezers is within 25 percent of the conductance of the refrigerator compartment insulation. For this reason, FEA believes that the concept of an adjusted energy factor is appropriate as a measure of energy consumption which will assist consumers in making purchasing decisions, as required by the Act. As noted above, FEA has decided not only to retain an adjusted energy factor for electric refrigerators and electric refrigerator-freezers, but also to extend this concept to freezers.

The same commenter also suggested that the energy factor favors larger units because the major heat transfer mechanisms are more dependent upon area than volume. However, the utility of a refrigeration product is a reflection of its volume and not its surface area, and the measure of efficiency should reflect this utility. For example, the energy factor correctly indicates that one large unit is preferable to two smaller units with the same total volume.

5. CREDIT FOR OTHER ENERGY SAVING DEVICES

FEA and NBS are currently studying the advisability of a credit for a switch to interrupt operation of a unit's evaporator fan when the unit's door is open. Special credit may be appropriate because the test procedures prescribed today involve a cycle type with doors remaining closed, so that any advantages of such a device would not be reflected.

FEA is prepared to amend these test procedures if further developments indicate that energy saving devices are given inappropriate credit due to differences between the test procedures and actual consumer use.

6. TEST VOLTAGE

Several comments were directed to proposed § 430.23 (a)(3) and (b)(3), which required basic models having a dual voltage rating to be tested at each design voltage. All household electric refrigerators, electric refrigerator-freezers, and freezers in the United States are designed to operate at a nominal 115 volt, 60 HZ circuit, and any other nameplate voltage rating is included solely for use outside the United States. Because FEA does not intend to require testing under conditions not found in the United States, this requirement is determined to be unduly burdensome and has been deleted.

7. NUMBER OF UNITS TO BE TESTED

Some comments expressed objections to the sampling provision for electric refrigerators, electric refrigerator-freezers, and freezers. Proposed § 430.23 (a) and (b) provided for sampling of each basic model to be tested when testing of electric refrigerators, electric refrigerator-freezers or freezers is required by the Act or by program regulations of agencies responsible for administering the Act. This provision was intended both to provide an acceptable level of assurance that test results are applicable to any entire basic model for which testing is required and to minimize the testing burden on manufacturers.

Test procedures prescribed under section 323 of the Act are intended ultimately to be used, for example, for labeling under section 324, for monitoring the progress of manufacturers toward accomplishing the energy efficiency improvement targets under section 325, and for enforcement testing under section 326. These aspects of the appliance program have not, however, been implemented. It is quite possible that the objectives of appliance testing under each of these parts of the program, as well as the instructions as to how a test procedure should be applied (e.g., sampling of production units), may differ. FEA, NBS, and FTC are continuing to evaluate the appropriate method or methods for sampling the units to be tested in order to comply with the statute and satisfy all of the different elements of the appliance program.

While the various parts of the appliance program identified above are not in effect at this time, section 323(c) of the Act provides:

> Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer or private labeler may make any representation—
> (1) In writing including a representation on a label, or
> (2) In any broadcast advertisement, respecting the energy consumption of such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

In order to eliminate the problems discussed above associated with a general sampling provision, § 430.23 has been reserved in the final test procedures, and sampling requirements which apply only for purposes of advertising have been reorganized into § 430.24 (a) and (b) of the final test procedures. Sections 430.24 (a) and (b) are similar to proposed § 430.23 (a) and (b), but contain several revisions. Most notably, the units tested are required to be representative of production units or actual production units. This change is intended to reduce the burden which might be caused by requiring post-production rating of basic models in every instance of testing pursuant to section 323(c) of the Act.

Until a labeling rule has been implemented pursuant to section 324, manufacturers are not required to test unless they choose to make representations regarding a measure of energy consumption identified in or based upon section 430.22 (a) and (b). It should also be emphasized that the test procedures prescribed today apply only to the initial rating of a basic model.

In addition, certain technical changes have been made in sampling language. Specifically, there is to be 95 percent confidence that the true mean of any measure of the basic model lies within

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±10 percent of the mean of such measure of the sample. Comments pertaining to several proposed test procedures criticized the language of the proposed sampling provisions. These comments suggested that a sampling provision should refer to the estimate of the mean rather than to the true mean. FEA has considered this suggestion and has determined that the language prescribed today is more technically correct because the statistical measures "estimate of the mean" and "mean of the sample" are generally considered to be identical. The final test procedures for room air conditioners and dishwashers used both these terms in a manner that could be confusing, and the language prescribed today is intended to eliminate this possibility of confusion.

9. PRODUCTS COVERED BY THE FINAL TEST PROCEDURES

Some comments suggested that a few products cannot be tested satisfactorily using the proposed test procedures. FEA is prepared to amend the test procedures as new products or new design features may require. No specific details have been provided, however, to justify any such amendments of the proposed test procedures at this time.

One commenter specifically stated that compact refrigerators could not be tested accurately using the proposed test procedures. No particular feature of compact refrigerators was cited, however, which would render the test procedures inappropriate for testing these units.

9. AMBIENT TEMPERATURES

It was suggested that the test procedures be amended to specify that tests be conducted at an ambient temperature of 104° F. Although such a test would provide a useful performance criterion, the change from the currently specified ambient temperature of 90° F. would not more accurately reflect energy efficiency. Therefore, this suggestion was not adopted.

10. NORMAL CYCLE

Several comments suggested that the use of the word "normal" in the term "normal cycle" implied that that cycle was the usual cycle or the cycle expected to be used most often. Commenters therefore took exception to the definition of "normal cycle" which stated that any anti-sweat heater switch would be in the highest energy consuming position during this cycle. The term "standard cycle" was offered as a substitute. FEA has adopted this change.

Suggestions were also made to specify a "standard cycle-maximum" and a "standard cycle-minimum." FEA wishes to encourage maximum use of energy-saving devices such as anti-sweat heaters. Evidence was elicited during the public comment period which indicated that anti-sweat heater switches tend to remain in the position set at the factory. In order to encourage manufacturers to ship refrigeration products with the anti-sweat heater switch in the lowest energy consuming position, FEA has determined that a cycle in which the switch is in the same position as set at the factory is preferable to a "standard cycle-minimum."

A suggestion that FEA more clearly specify the duration of test cycles has been adopted. A "cycle" refers to continuous operation of a unit for a period of 24 hours. However, test data may be based on test periods of less than 24 hours if corrected to correspond to a 24-hour period as specified in HRF-2-ECFT-1975.

11. CORRELATIVE TEST PROCEDURES

Several comments indicated that correlative methods have been developed by manufacturers of refrigeration products which yield virtually the same results as those obtained through the test procedures prescribed today. At this time FEA has not made a decision on the feasibility of allowing correlative testing. If additional data are submitted by individual manufacturers, FEA will examine the possibility of using correlative testing and will determine whether the Act would permit such methods to be used in lieu of the prescribed test procedures.

12. MISCELLANEOUS

After careful consideration of all the comments and further consultation with NBS and FTC, FEA has incorporated in the final rule some minor changes that were not discussed above.

C. REGULATIONS PRESCRIBED

1. TEST PROCEDURES

The test procedures for electric refrigerators, electric refrigerator-freezers, and freezers prescribed today are included in Subpart B and are substantially the same as those proposed, with the exception of the changes discussed above. As with the proposal procedures, the test methodology incorporates the approach contained in the Association of Home Appliance Manufacturers (AHAM) Standard HRF-2-ECFT-1975 for measuring average energy consumption per cycle type, and the American National Standard (ANS) B38.1-1970 for measuring net refrigerated volume. For purposes of FEA's program, the incorporated standards remain applicable as presently written regardless of any subsequent amendment of the ANS or AHAM Standard, until further amendment by FEA.

Under the requirements of section 32(c) of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 et. seq.) as amended by section 9 of the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95-70), the Administrator of FEA is to consult with the Attorney General and the Chairman of the Federal Trade Commission concerning the impact on competition of any rules prescribed by FEA which utilize or incorporate any commercial standards.

The Administrator has transmitted copies of the test procedures for electric refrigerators, electric refrigerator-freezers, and freezers, which incorporate the above-mentioned commercial standards, to the Attorney General and the Chairman of the Federal Trade Commission for their comments concerning the impact of such standards on competition, in accordance with section 32(c). Neither official has any comments, nor do they recommend against the incorporation or use of these commercial standards in the final test procedures for electric refrigerators, electric refrigerator-freezers, and freezers.

2. GENERAL PROVISIONS

Also prescribed today are definitions of "electric refrigerator," "electric refrigerator-freezer," "freezer," "refrigerator," and "refrigerator-freezer." The definition of the term "basic model" for refrigerators and refrigerator-freezers, and for freezers, has been added. Some of these definitions were previously proposed in Subpart A (41 FR 19980, May 14, 1976; 42 FR 21588, April 27, 1977). Comments which were received regarding these definitions, and the issues which they raised, have been discussed earlier in this notice.

3. APPLICATION OF TEST PROCEDURES

As discussed previously, the final test procedures prescribed today must be applied before representations regarding a measure of energy consumption can be made. Because the purposes and needs of the different elements of the appliance program (e.g., labeling, targets) vary, application of the standard test methodology prescribed today may differ in some respects for each program element. It is expected that instructions on how to apply the standard test methodology to these other elements of the appliance program will be proposed for comment in the near future.

The requirements of § 430.24 (a) and (b) of the final regulations apply until such time as final labeling requirements for a particular measure of energy consumption and the associated test procedure application provision are prescribed. After that time, all representations regarding a measure of energy consumption covered by a labeling rule must be the same as represented on the label.

D. UNIT COSTS OF ENERGY

Under section 323(b)(2) of the Act, FEA is to provide manufacturers information as to the representative average unit costs of energy. This information was provided by notice issued July 11, 1977 (42 FR 36549, July 15, 1977).

E. PREEMPTION

Today's rulemaking prescribing final test procedures for electric refrigerators, electric refrigerator-freezers, and freezers supersedes any State regulation to the extent required by section 327 of the Act. Pursuant to section 327, all State regulations which provide for the disclosure of information with respect to any measure of energy consumption of electric refrigerators, electric refrigerator-freezers, or freezers, or which provide for any energy efficiency standard or similar requirement with respect to energy efficiency or energy use of electric refrigerators, electric refrigerator-freezers, or freezers, must now employ

test procedures identical to those specified in today's final rule.

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; E.O. 11790, 39 FR 23185)

In consideration of the foregoing, Part 430 of Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below, effective October 17, 1977.

Issued in Washington, D.C., September 8, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 430.2 is amended by adding subparagraphs (1) and (2) as part of the definition of "Basic model," and by adding in appropriate alphabetical order definitions of "electric refrigerator," "electric refrigerator-freezer," "freezer," "refrigerator," and "refrigerator-freezer" to read as follows:

§ 430.2 Definitions.

. . . . . .

"Basic model" means all units of a given type of covered product (or class thereof) manufactured by one manufacturer and—

(1) With respect to refrigerators and refrigerator-freezers, which have the same primary energy source, which have electrical characteristics that are essentially identical, and which do not have any differing physical or functional characteristics that affect energy consumption.

(2) With respect to freezers, which have the same primary energy source, which have electrical characteristics that are essentially identical, and which do not have any differing physical or functional characteristics that affect energy consumption.

. . . . . .

"Electric refrigerator" means a cabinet designed for the refrigerated storage of food at temperatures above 32° F., and having a source of refrigeration requiring an electrical energy input only. It may include a compartment for the freezing and storage of food at temperatures below 32° F. but does not provide a separate low temperature compartment designed for the freezing of and the long term storage of food at temperatures below 8° F. It has only one exterior door, but it may have interior doors on compartments.

. . . . . .

"Electric refrigerator-freezer" means a cabinet which consists of two or more compartments with at least one of the compartments designed for the refrigerated storage of foods at temperatures above 32° F. and with at least one of the compartments designed for the freezing of and the storage of frozen foods at temperatures of 8° F. or below and may be capable of being adjusted by the user to a temperature of 0° F. or below. The source of refrigeration requires an electrical energy input only.

. . . . . .

"Freezer" means a cabinet designed as a unit for the storage of food at temperatures of 0° F. or below, having the ability to freeze food, and having a source of refrigeration requiring an electrical energy input only.

"Refrigerator" means an electric refrigerator or a gas refrigerator.

. . . . . .

"Refrigerator-freezer" means an electric refrigerator-freezer or a gas refrigerator-freezer.

. . . . . .

2. Section 430.22 is amended by adding paragraph (a) and (b), to read as follows:

§ 430.22 Test procedures for measures of energy consumption.

(a) *Refrigerators and refrigerator-freezers.* (1) The estimated annual operating cost for electric refrigerators and electric refrigerator-freezers without an anti-sweat heater switch shall be the product of the following three factors: (i) The representative average-use cycle of 365 cycles per year, (ii) the average per-cycle energy consumption for the standard cycle in kilowatt-hours per cycle, determined according to 4.1 of Appendix A1 of this subpart, and (iii) the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year.

(2) The estimated annual operating cost for electric refrigerators and electric refrigerator-freezers with an anti-sweat heater switch shall be the product of the following three factors: (i) The representative average-use cycle of 365 cycles per year, (ii) half the sum of the average per-cycle energy consumption for the standard cycle and the average per-cycle energy consumption for a test cycle type with the anti-sweat heater switch in the position set at the factory, each in kilowatt-hours per cycle, determined according to 4.1 of Appendix A1 of this subpart, and (iii) the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year.

(3) The estimated annual operating cost for any other specified cycle type for electric refrigerators and electric refrigerator-freezers shall be the product of the following three factors: (i) The representative average-use cycle of 365 cycles per year, (ii) the average per-cycle energy consumption for the specified cycle type, determined according to 4.1 of Appendix A1 to this subpart, and (iii) the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year.

(4) The energy factor for electric refrigerators and electric refrigerator-freezers, expressed in cubic feet per kilowatt-hour per cycle, shall be—

(i) For electric refrigerators and electric refrigerator-freezers not having an anti-sweat heater switch, the quotient of (A) the adjusted total volume in cubic feet, determined according to 4.2 of Appendix A1 of this subpart, divided by (B) the average per-cycle energy consumption for the standard cycle in kilowatt-hours per cycle, determined according to 4.1 of Appendix A1 of this subpart, the resulting quotient then being rounded off to the second decimal place, and

(ii) For electric refrigerators and electric refrigerator-freezers having an anti-sweat heater switch, the quotient of (A) the adjusted total volume in cubic feet, determined according to 4.2 of Appendix A1 of this subpart, divided by (B) half the sum of the average per-cycle energy consumption for the standard cycle and the average per-cycle energy consumption for a test cycle type with the anti-sweat heater switch in the position set at the factory, each in kilowatt-hours per cycle, determined according to 4.1 of Appendix A1 of this subpart, the resulting quotient then being rounded off to the second decimal place.

(5) Other useful measures of energy consumption for electric refrigerators and electric refrigerator-freezers shall be those measures of energy consumption for electric refrigerators and electric refrigerator-freezers which the Administrator determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix A1 of this subpart.

(b) *Freezers.* (1) The estimated annual operating cost for freezers without an anti-sweat heater switch shall be the product of the following three factors: (i) The representative average-use cycle of 365 cycles per year, (ii) the average per-cycle energy consumption for the standard cycle in kilowatt-hours per cycle, determined according to 4.1 of Appendix B of this subpart, and (iii) the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year.

(2) The estimated annual operating cost for freezers with an anti-sweat heater switch shall be the product of the following three factors: (i) The representative average-use cycle of 365 cyles per year, (ii) half the sum of the average per-cycle energy consumption for the standard cycle and the average per-cycle energy consumption for a test cycle type with the anti-sweat heater switch in the position set at the factory, each in kilowatt-hours per cycle, determined according to 4.1 of Appendix B of this subpart, and (iii) the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year.

(3) The estimated annual operating cost for any other specified cycle type for freezers shall be the product of the following three factors: (i) The representative average-use cycle of 365 cycles per year, (ii) the average per-cycle energy consumption for the specified cycle type, determined according to 4.1 of Appendix B of this subpart, and (iii) the

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representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year.

(4) The energy factor for freezers, expressed in cubic feet per kilowatt-hour per cycle, shall be—

(i) For freezers not having an anti-sweat heater switch, the quotient of (A) the adjusted net refrigerated volume in cubic feet, determined according to 4.2 of Appendix B of this subpart, divided by (B) the average per-cycle energy consumption for the standard cycle in kilowatt-hours per cycle, determined according to 4.1 of Appendix B of this subpart, the resulting quotient then being rounded off to the second decimal place, and

(ii) For freezers having an anti-sweat heater switch, the quotient of (A) the adjusted net refrigerated volume in cubic feet, determined according to 4.2 of Appendix B of this subpart, divided by (B) half the sum of the average per-cycle energy consumption for the standard cycle and the average per-cycle energy consumption for a test cycle type with the anti-sweat switch in the position set at the factory, each in kilowatt-hours per cycle, determined according to 4.1 of Appendix B of this subpart, the resulting quotient then being rounded off to the second decimal place.

(5) Other useful measures of energy consumption for freezers shall be those measures of energy consumption for freezers which the Administrator determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix B of this subpart.

* * * * *

3. Section 430.24 is amended by adding paragraphs (a) and (b), to read as follows:

§ 430.24 Representations regarding measures of energy consumption.

(a) *Refrigerators and refrigerator-freezers.* (1) Except as provided in paragraph (a)(3) of this section, no manufacturer, distributor, retailer, or private labeler of electric refrigerators or electric refrigerator-freezers may make any representation with respect to or based upon a measure or measures of energy consumption described in § 430.22(a) unless a sample of sufficient size of each basic model for which such representation is made has been tested in accordance with applicable provisions of this subpart such that, for each such measure of energy consumption, there is 95 percent confidence that the true mean of such measures of the basic model lies within ±10 percent of the mean of such measures of the sample.

(2) The sample selected for paragraph (a)(1) of this section shall be comprised of units which are production units, or are representative of production units, of the basic model being tested.

(3) Whenever a rule applicable to electric refrigerators or electric refrigerator-freezers is prescribed under section 324 of the Act, this paragraph shall not apply to any label covered by such rule, and all representations of any measure of energy consumption covered by such rule shall be identical to the measure of energy consumption on the label.

(b) *Freezers.* (1) Except as provided in paragraph (b)(3) of this section, no manufacturer, distributor, retailer, or private labeler of freezers may make any representation with respect to or based upon a measure or measures of energy consumption described in § 430.22(b) unless a sample of sufficient size of each basic model for which such representation is made has been tested in accordance with applicable provisions of this subpart such that, for each such measure of energy consumption there is 95 percent confidence that the true mean of such measures of the basic model lies within ±10 percent of the mean of such measures of the sample.

(2) The sample selected for paragraph (b)(1) of this section shall be comprised of units which are production units, or are representative of production units, of the basic model being tested.

(3) Whenever a rule applicable to freezers is prescribed under section 324 of the Act, this paragraph shall not apply to any label covered by such rule, and all representations of any measure of energy consumption covered by such rule shall be identical to the measure of energy consumption on the label.

* * * * *

4. Subpart B of Part 430 is amended to add an Appendix A1, to read as follows:

APPENDIX A1—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF ELECTRIC REFRIGERATORS AND ELECTRIC-REFRIGERATOR-FREEZERS

1. DEFINITIONS

1.1 "Adjusted total volume" means the sum of (i) the net general refrigerated volume as defined in ANS B38.1–1970 in cubic feet, and (ii) the product of an adjustment factor and the net freezer refrigerated volume as defined in ANS B38.1–1970, in cubic feet.

1.2 "Anti-sweat heater" means a device incorporated into the design of a refrigerator or refrigerator-freezer to prevent the accumulation of moisture on exterior surfaces of the cabinet under conditions of high

1.3 "Cycle" means the operation of an electric refrigerator or electric refrigerator-freezer for a continuous period of 24 hours with the consumer-activated controls set so that the test conditions specified in HRF–2–ECFT–1975 are maintained.

1.4 "Cycle type" means the operation of an electric refrigerator or electric refrigerator-freezer for a continuous period of 24 hours, with the consumer-activated controls set to establish various operating characteristics.

1.5 "Standard cycle" means the cycle type in which the anti-sweat heater switch, when provided, is set in the highest energy consuming position.

2. TESTING CONDITIONS

2.1 *Operational conditions.* Install the electric refrigerator or electric refrigerator-freezer and maintain the operating conditions in accordance with the Association of Home Appliance Manufacturers (AHAM) Standard HRF–2–ECFT–1975. All references in HRF–2–ECFT–1975 to American National Standard (ANS) B38.1 shall be interpreted as references to ANS B38.1–1970.

3. TEST CYCLE AND MEASUREMENTS

3.1 *Test cycle.* Perform a test cycle type by establishing the testing conditions set forth in 2, testing the electric refrigerator or electric refrigerator-freezer in accordance with the AHAM Standard HRF–2–ECFT–1975. Test data may be based on test periods of less than 24 hours if corrected to correspond to a 24-hour test period as specified in HRF–2–ECFT–1975.

3.2 *Test measurements.* Measure electric refrigerator or electric refrigerator-freezer net refrigerated volume, V_n, expressed in cubic feet and defined, in accordance with ANS B38.1–1970, section 3.2 as:

$$V_n = V_f + V_g$$

where

V_f = net freezer refrigerated volume, in cubic feet

V_g = net general refrigerated volume, in cubic feet

3.3 *Reported values.* State the reported values of energy consumption in kilowatt-hours as determined in accordance with AHAM Standard HRF–2–ECFT–1975, and the net freezer refrigerated volume, net general refrigerated volume, and the net refrigerated volume (as defined in HRF–2–ECFT–1976), all in cubic feet, as determined in accordance with ANS B38.1–1970, Section 3.2.

4. CALCULATION OF DERIVED RESULTS FROM TEST MEASUREMENTS

4.1 *Average per-cycle energy consumption.* Calculate for the cycle type under test the average per-cycle energy consumption of electric refrigerators and electric refrigerator-freezers, expressed in kilowatt-hours per cycle, in accordance with AHAM Standard HRF–2–ECFT–1975.

4.2 *Adjusted total volume.*

4.2.1 *Electric refrigerators.* Calculate for electric refrigerators under test the adjusted total volume, V_{rr}, expressed in cubic feet and defined as:

$$V_{rr} = (V_f \times C_r) + V_g$$

where

V_f and V_g are defined in 3.2, and

C_r = adjustment factor of 1.44, dimensionless

4.2.2 *Electric refrigerator-freezers.* Calculate for electric refrigerator-freezers under test the adjusted total refrigerated volume, V_{rf}, expressed in cubic feet and defined as:

$$V_{rf} = (V_f \times C_{rf}) + V_g$$

where

V_f and V_g are defined in 3.2, and

C_{rf} = adjustment factor of 1.63, dimensionless

5. Subpart B of Part 430 is amended to add an Appendix B, to read as follows:

APPENDIX B—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF FREEZERS

1. DEFINITIONS

1.1 "Anti-sweat heater" means a device incorporated into the design of a freezer to prevent the accumulation of moisture on exterior surfaces of the cabinet under conditions of high ambient humidity.

1.2 "Cycle" means the operation of a freezer for a continuous period of 24 hours with the consumer-activated controls preset so that the test conditions specified in HRF–2–ECFT–1975 are maintained.

1.3 "Cycle type" means the operation of a freezer for a continuous period of 24 hours with the consumer-activated controls set to establish various operating characteristics.

1.4 "Standard cycle" means the cycle type in which the anti-sweat heater switch, when provided, is set in the highest energy consuming position.

2. TESTING CONDITIONS

2.1 *Operational conditions.* Install the freezer and maintain the operating conditions in accordance with the Association of Home Appliance Manufacturers (AHAM) Standard HRF–2–ECFT–1975. All references in HRF–2–ECFT–1975 to American National Standard (ANS) B38.1 shall be interpreted as references to ANS B38.1–1970.

3. TEST CYCLE AND MEASUREMENTS

3.1 *Test cycle.* Perform a test cycle type by establishing the testing conditions set forth in 2, testing the freezers in accordance with the AHAM Standard HRF–2–ECFT–1975. Test data may be based on test periods of less than 24 hours if corrected to correspond to a 24-hour test period as specified in HRF–2–ECFT–1975.

3.2 *Test measurements.* Measure the net freezer refrigerated volume, in cubic feet, in accordance with ANS B38.1–1970, section 4.2.

3.3 *Reported values.* State the reported values of energy consumption, E_t, expressed in kilowatt-hours, as determined in accordance with AHAM Standard HRF–2–ECFT–1975 and the net freezer refrigerated volume, in cubic feet, as determined in accordance with ANS B38.1–1970, section 4.2.

4. CALCULATION OF DERIVED RESULTS FROM TEST MEASUREMENTS

4.1 *Average per-cycle energy consumption.*

4.1.1 *Chest freezers.* Calculate for chest freezers under test the average per-cycle energy consumption, E_c, expressed in kilowatt-hours per cycle, and defined as:

$$E_c = E_t \times C_c$$

where

E_t is defined in 3.3, and

C_c = correction factor of 0.7, dimensionless

4.1.2 *Upright freezers.* Calculate for upright freezers under test the average per-cycle energy consumption, E_u, expressed in kilowatt-hours per cycle and defined as:

$$E_u = E_t \times C_u$$

where

E_t is defined in 3.3, and

C_u = correction factor of 0.85, dimensionless

4.2 *Adjusted net refrigerated volume.*

4.2.1 *Freezers.* Calculate for freezers under test, the adjusted net freezer refrigerated volume, V_{ff}, expressed in cubic feet and defined as:

$$V_{ff} = V_f \times C_f.$$

where

V_f = net freezer refrigerated volume from 3.2, and

C_f = adjustment factor of 1.73, dimensionless.

[FR Doc.77–26724 Filed 9–13–77;8:45 am]

PART 430—ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Test Procedures for Clothes Dryers

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: This rule prescribes final test procedures for clothes dryers. Appliance test procedures are one element of the appliance energy efficiency program required by the Energy Policy and Conservation Act.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

A. BACKGROUND

The Federal Energy Administration (FEA) hereby amends Part 430, Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for clothes dryers pursuant to section 323 (42 U.S.C. 6293) of the Energy Policy and Conservation Act (Act) (Pub. L. 94–163). Clothes dryer test procedures were proposed by notice issued April 21, 1977 (42 FR 21589, April 27, 1977), which solicited oral and written comments from interested persons, and a public hearing on the proposed test procedures was held on June 13, 1977. The definitions of "electric clothes dryer" and "gas clothes dryer" were proposed at 41 FR 19980, May 14, 1976.

By notice issued May 24, 1977 (42 FR 27896, June 1, 1977), FEA established Subparts A and B of Part 430, Chapter II of Title 10, Code of Federal Regulations. Certain definitions and general provisions applicable to the energy conservation program for appliances have been promulgated in Subpart A. Final test procedures for room air conditioners and dishwashers have been prescribed in Subpart B. In addition to the test procedures for clothes dryers prescribed today, the final test procedures for television sets, electric refrigerators, electric refrigerator-freezers, and freezers are also being prescribed by separate notices. Several other test procedures have been proposed for inclusion in Subpart B. FEA has also proposed a Subpart C for appliance energy efficiency improvement targets. An outline of the provisions of Part 430 which have so far been established, including provisions in today's notices, is as follows:

SUBPART A—GENERAL PROVISIONS

Sec.
430.1 Purpose and Scope.
430.2 Definitions.

SUBPART B—TEST PROCEDURES

430.21 Purpose and Scope.
430.22 Test Procedures for Measures of Energy Consumption:
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
* * * * *
(f) Room air conditioners.
* * * * *
(h) Television sets.
430.23 Units to be tested [Reserved].
430.24 Representations Regarding Measures of Energy Consumption.
(a) Refrigerators and Refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
* * * * *
(f) Room air conditioners.
* * * * *
(h) Television sets.

APPENDICES TO SUBPART B

APPENDIX A1—Uniform Test Method for Measuring Energy Consumption of Electric Refrigerators and Electric Refrigerator-freezers.

* * * * *

APPENDIX B—Uniform Test Method for Measuring the Energy Consumption of Freezers.

APPENDIX C—Uniform Test Method for Measuring the Energy Consumption of Dishwashers.

APPENDIX D—Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers.

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APPENDIX F—Uniform Test Method for Measuring the Energy Consumption of Room Air Conditioners.

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APPENDIX H—Uniform Test Method for Measuring the Energy Consumption of Television Sets.

B. DISCUSSION OF COMMENTS

Comments were received from industry, consumers, and a federal agency. Most of the comments were directed toward technical areas of the proposed test procedures, although some of the comments were specifically directed toward the information that was to be placed on the label. The comments which were directly concerned with the content of the label were more applicable to the labeling program under section 324 of the Act, rather than to the prescription of final test procedures, and were therefore forwarded to the Federal Trade Commission for consideration in developing labeling rules applicable to clothes dryers. The major issues raised by the comments on the proposed test procedures are discussed below.

1. BASIC MODEL DEFINITION

One manufacturer commented on the proposed definition for the "basic model" of clothes dryers in § 430.2 and suggested that the definition be broadened to provide that all similar models which consume an equivalent amount of energy when tested according to the proposed test procedures constitute the same basic model. In particular, it was recommended that the definition incorporate the idea that "styling differences, convenience features, components and functions which do not alter energy usage, do not constitute additional 'basic models' and require testing thereof."

In response to this comment FEA has modified the proposed definition for the "basic model" of clothes dryers to clarify that a single basic model includes units with any variety of different physical or

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functional characteristics if these characteristics do not have any effect on the energy consumption of the particular clothes dryer model being tested. For example, these characteristics may include automatic termination systems, drum lights, features which provide for an extended tumble after cooldown, thermostats, cooldown variations, and end-of-cycle signals—if the existence of these features does not affect the energy consumption of the clothes dryer as measured by the prescribed test procedures.

The manufacturer also suggested that units with console lights or other lighting systems that do not consume more than 10 watt-hours of energy during the test cycle should not constitute additional basic models. FEA has responded to this suggestion by revising the installation instructions for the test procedures in 2.1 of Appendix D to permit the manufacturer before testing the clothes dryer to disconnect all console lights or other lighting systems which do not consume more than 10 watts during the clothes dryer test cycle.

2. TEST LOAD

One comment proposed altering the test procedures to provide that two test cycles be conducted on each unit tested using two different loads one consisting entirely of cotton energy test cloths and the other consisting of synthetic energy test cloths. The proposed test procedures required that one test cycle be conducted using a test load of energy test cloths that were a mixture of 50 percent cotton and 50 percent polyester. The commenter felt, however, that this mixture would not produce results that would be representative of actual clothes drying time by consumers. This conclusion was based on the commenter's opinion that most consumers dry synthetics and cotton clothes separately. Therefore, since synthetic material dries more rapidly than cotton due to its low moisture holding ability, the 50–50 test load material as proposed would probably require a longer time to dry due to the presence of the cotton and, therefore, unrealistic differences in the energy measurements between units might occur.

No consumer usage data was provided, however, to support the proposition that most families dry their synthetic clothes separately from their cotton clothes. A Proctor and Gamble field survey conducted for clothes washers provides 1972 consumer usage data which indicates that the composition of wash loads by type of fabric was: 60 percent plain cotton; 20 pecent cotton/synthetic; and 20 percent synthetics. Also, at a public hearing held by FEA in Washington, D.C., on June 2, 1976, concerning the proposed appliance energy efficiency improvement targets for clothes washers, General Electric Company estimated that in an average washer load the ratio of natural fiber to synthetic fiber was approximately 50 percent. Based on these factors and NBS' recommendation, FEA has decided to use a test cloth made of a blend of equal portions of synthetic and cotton material as the appropriate test load. This choice also reflects the trend toward the use of an increasing amount of synthetic materials in a typical consumer wash load and, therefore, is more representative of the type of materials being dried by consumers in a normal dryer load.

The industry and other interested persons are encouraged, however, to provide any additional reliable data as it becomes available concerning consumer clothes drying patterns which would indicate the type and composition of materials actually being dried in a normal load. This data would be considered by FEA in deciding whether or not to alter the present composition of the test cloth material used as the test load.

Another comment with respect to the use of energy test cloths as the test load suggested that the test procedures limit the use of the same energy test cloths to a maximum of 25 test cycles, since the composition of the cloth begins to change after this point and resultant changes in clothes dryer's energy consumption could occur. NBS agrees that this proposed change would reduce potential variability in the test results that may occur from any change in the cotton/polyester composition of the test cloth material caused by the loss of cotton fibers due to continued drying of the same test cloth. Therefore, NBS recommends and FEA concurs that 2.6.1 and 2.6.2 of Appendix D be modified to limit the number of test runs with the same energy test cloth and energy stuffer cloths to 25 runs.

3. FIELD USE FACTOR

Several comments questioned the use of 1.2 for the field use factor as the appropriate multiplier to provide laboratory test results that are representative of actual consumer usage. The comments suggested that this figure should be closer to 1.1. After the comments were received, FEA, in conjunction with NBS, re-evaluated the use of 1.2 as the proper multiplying factor.

A survey conducted by Oklahoma Gas and Electric Company of 64 homes demonstrated that in drying 33,000 loads of clothes, an average of 2.5 kilowatt-hours (kWh's) of electricity was used per cycle. Association of Home Appliance Manufacturers (AHAM) reported data that represented the energy consumption in 1972 of 2,983,200 production units of clothes dryers, consisting of approximately 93 percent standard-size electric dryers and 7 percent compact-size electric dryers, as 5,736,900 kWh's of electricity for one cycle of each unit. This energy consumption was determined by conducting tests in accordance with the procedures described in AHAM's standard HLD–1 and HLD–2EC. Based on this 1972 baseline data, the per-cycle clothes dryer energy consumption for a test conducted pursuant to HLD–2EC which requires a 60 percent reduction in the moisture content of the test load (65 percent to 5 percent) is 1.923 kWh per cycle (5,736,900 KWh's per-cycle divided by 2,983,000 units). Since the reduction in the moisture content of the test load required in the proposed test procedures for clothes dryers is 66 percent (70 percent to 4 percent), the proposed test procedures will result in 10 percent more moisture reduction and therefore 10 percent more energy consumption than the test specified in HLD–2EC.

Therefore, the energy consumed per cycle, 1.923 kWh, by the 1972 production units must be corrected by a factor of 10 percent to arrive at an equivalent per-cycle energy consumption figure that would have resulted had FEA proposed test procedures been used to test the 1972 units. This figure would be 2.12 (1.10 x 1.923 kWh) or 10 percent greater than the figure achieved by the use of the test procedures in HLD–2EC.

The field use factor prescribed in the final test procedures for clothes dryers was derived by dividing the 2.5 kWh per cycle from the Oklahoma Gas and Electric Survey by 2.12 kWh per cycle, which is the adjusted energy consumption to reflect use of the proposed test procedures and a 66 percent reduction in the moisture content of the test load. The resultant field use factor is 1.18. NBS has determined that this value, 1.18, is more accurate than the 1.2 originally proposed and determined on the basis of limited NBS testing, since the 1.18 multiplying factor is derived from data that is production weighted.

Based on NBS's recommendation, FEA has concluded that a field usage factor of 1.18 would more accurately account for any differences between the values derived from the laboratory test procedures and those obtained from actual consumer use. Accordingly, the definition of the field use factor, FU, stated in 4.1 of Appendix D has been changed to 1.18.

4. CLOTHES DRYER CATEGORIES

The majority of the comments recommended that the test procedures provide for four categories of clothes dryers rather than the two categories, standard and compact, as originally proposed. The reason proffered for the further categorization of clothes dryers is to better assist the consumer when purchasing a particular size dryer for particular needs.

Presently, standard clothes dryers include those with drum capacities of 4.4 cubic feet or greater and compact clothes dryers consist of those with drum capacities of less than 4.4 cubic feet. The comments suggested that both of these two categories be further subdivided thereby creating four categories to be determined according to the following drum capacity measurements: 0–3.0 cu. ft., 3.0–4.4 cu. ft., 4.4–6.1 cu. ft., and greater than 6.1 cu. ft. Even with the further categorization, the comments still recommended that the same test loads be used: 3.0 pounds for those clothes dryers with less than a 4.4 cu. ft. drum capacity and 7.0 pounds for those clothes dryers with a 4.4 cu. ft. or greater drum capacity.

One manufacturer, however, fully supported FEA's choice of two clothes dryer categories as being representative of the reality that exists in the marketplace today. This manufacturer also felt that since the test procedures are intended to provide results that are representative of average use conditions, further categorization could confuse and possibly mislead the public.

After consultation with NBS and FTC, FEA has determined that further categorization would not provide a more representative or accurate test procedure for measuring the energy consumption of different size clothes dryers. Therefore, the final test procedures retain the two categories for clothes dryers, standard and compact, as originally proposed.

5. ENERGY FACTOR

Several comments suggested that the energy factor as proposed be changed in order to maintain consistency with the industry practice of defining clothes dryer efficiency as pounds of water removed per kilowatt-hour.

The proposed energy factor for clothes dryers in § 430.22(d)(2) is an additional measure of energy consumption which will be useful to the consumer in making purchasing decisions. Based on NBS' recommendation, FEA has expressed the energy factor in terms of number of pounds of clothes in the test load per kilowatt-hour consumed by the clothes dryer, rather than the amount of water removed per kilowatt-hour. FEA believes that an energy factor determined in this manner will be more meaningful to consumers and easier to relate to than pounds of water removed during a drying cycle and, therefore, is more likely to assist the consumer in making purchasing decisions. The language of § 430.22(d)(2) has been revised accordingly.

6. CONTINUOUSLY BURNING PILOT LIGHT

One manufacturer commented that the calculations provided in the proposed test procedures for determining the estimated annual operating cost for gas clothes dryers in § 430.22(d)(1)(ii) double counts the amount of energy consumed by the continuously burning pilot light while the clothes dryer is in operation.

The total amount of energy consumed by a gas clothes dryer per year is equal to the amount of energy consumed by the dryer during its operation during a year (which includes the energy consumed by the continuously burning pilot light) plus the energy consumed by the pilot light for rest of the time during the year that the dryer is not in operation. NBS conducted a series of tests according to the proposed test procedures using a standard size gas clothes dryer with a 7 pound bone-dry test load. The test resulted in drying times between 15 and 20 minutes to achieve the required 66 percent reduction in the moisture content. Therefore, during the representative average use cycle of 416 cycles per year the clothes dryer operates 138.6 hours (20 minutes per cycle/60 min. per hour times 416 cycles per year) or approximately 140 hours per year. Since the continuously burning pilot light is on year round and there are 8,760 hours in a year, the pilot light burns for 8,620 hours per year (8,760 (hours minus 140 hours) while the clothes dryer is not in operation. FEA has, accordingly, changed 404 of Appendix D to use the more accurate figure of 8,620 hours for determining the per-cycle energy consumption of the continuously burning pilot light in order to prevent a double counting of the energy consumed by the pilot light during the operation of the clothes dryer.

Several comments also addressed the 2 percent tolerance in the hourly Btu rating of the gas burner specified in 2.3.2.1 and 2.3.2.2 as being too restrictive. NBS has determined that a 5 percent tolerance on the hourly Btu rating of the burner will have only a minimal effect on the accuracy of the test measurements for clothes dryers and will make the test procedures less burdensome on the industry to conduct. Based on NBS' recommendation, FEA has changed 2.3.2.1 and 2.3.2.2 of Appendix D to permit a tolerance of 5 percent in the hourly Btu rating of the gas burner.

7. ELECTRICAL SUPPLY VOLTAGE

A number of comments questioned the use of the nameplate voltage as the electrical supply voltage required by the test procedures to be maintained during the testing of all clothes dryers. These comments suggested that a specific test voltage be indicated, and that since dryers are designed for three electrical systems, depending upon the dryer's particular terminal block wiring, the test voltage specified should be the same for all clothes dryers in the same voltage category.

FEA agrees with the NBS recommendation to adopt this change, since stating a specific test voltage rather than requiring the manufacturer to conduct the test at the stated nameplate voltage would reduce the variability of measurements between manufacturers. 2.3.1 of Appendix D has been changed accordingly.

8. NUMBER OF TEST RUNS ON EACH UNIT

In order to reduce variability in the test results, one manufacturer felt that five cycles or runs should be conducted on each unit and the results averaged to arrive at a single energy consumption figure for each individual unit. FEA is interested in obtaining test results that are representative of the majority of the individual units that make up each basic model. This can be more easily achieved by testing more units of the same basic model rather than conducting repeated tests on the same unit.

Therefore, FEA has determined that requiring five tests on each unit would be unnecessarily burdensome on the industry in relation to the potential reduction in variability of the test results that may be achieved. Accordingly, no change has been made in the final test procedures in response to this suggestion.

9. RELATIVE HUMIDITY

It was suggested that the tolerance of 45 percent to 55 percent relative humidity required by the proposed test procedures for the relative humidity of the test room was too stringent and should be relaxed to permit a range of 40 percent to 60 percent relative humidity. Some manufacturers stated that special test rooms would have to be built in order to control the relative humidity within the proposed levels.

NBS conducted tests on clothes dryers at the suggested tolerance of 40 percent to 60 percent relative humidity and found that there was an insignificant variation in the test results while also maintaining an ambient room air temperature of 72° to 78° F, as required by the test procedures. In light of the NBS test results and based on NBS' recommendation FEA has modified 2.2 of Appendix D to permit a range of 40 percent to 60 percent relative humidity in the room during the test. This will make the test less burdensome on the industry to conduct without having any significant affect on the accuracy of the test measurements.

10. ENERGY SAVING FEATURES

In the proposed test procedures for clothes dryers the test cycle is run with the clothes dryer being operated at the maximum temperature setting and the maximum time setting, where applicable, until the wet test load is dried to a specified level of moisture content. No specific provision is made in the test procedures to distinguish the testing of clothes dryers with automatic sensing control systems activated by temperature or moisture, as opposed to dryers that are time controlled by the user.

One manufacturer commented that clothes dryer features or options which would save energy, such as temperature sensing and moisture sensing control systems, should be credited by the test procedures. The commenter did provide some frequency of use data based on limited testing of these automatic control systems versus time control systems when both existed on the same model, which indicated that the moisture sensing and temperature sensing features may be used more frequently if they were available on a particular model. The commenter, however, did not supply—and FEA does not have available at this time—any data based on actual testing, or otherwise, that would indicate an actual energy savings from the use of these automatic control systems. FEA agrees with the NBS recommendation that until such time as complete and reliable consumer usage and energy savings data are available for these automatic sensing control systems, the final test procedures for clothes dryers should not make allowance for these features.

FEA agrees with NBS, however, that the final test procedures prescribed today will produce test results from which an accurate and representative estimated annual cost can be calculated.

The industry and other interested persons are encouraged to provide any reliable data to FEA as it becomes available concerning any actual energy savings design features or options on clothes dryers and the consumer usage of these fea-

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tures. This data would be considered by FEA in deciding whether or not an energy credit for these features should be incorporated into the test procedures.

Also with respect to energy consumption or energy savings features, the Office of Consumer Affairs for the Department of Health, Education and Welfare (HEW), suggested that all energy inputs used by a clothes dryer to perform its function should be considered when evaluating the amount of energy consumed by that appliance. Specifically HEW felt that it was necessary to consider the loss of the heated or cooled air which is used by the dryer during its normal operation and the resultant energy cost to re-heat or re-cool the replacement air.

HEW also commented on and one consumer provided some data on the total energy savings to the consumer that could occur from the use of devices on clothes dryers such as exhaust diverters which attempt to save the heat generated by the clothes dryer in the winter by venting the exhaust of the clothes dryer back into the interior of the home. HEW suggested that the amount of energy that could be saved and the resultant dollar savings to the consumer by the use of a device such as an exhaust diverter should be placed on the label.

Clothes dryers are generally placed inside the home and utilize the interior air for drying clothes by drawing it into the clothes dryer and then exhausting it through a vent to the outside of the home. Therefore, a potentially significant quantity of the internal pre-conditioned air in the home is lost to the outdoors by the normal operation of a clothes dryer and replacement air must then be heated or cooled. Thus, the energy consumed by a clothes dryer consists, in part, of the amount of additional energy needed to maintain the desired ambient air temperature in the home.

In providing for the determination of the estimated annual operating cost for clothes dryers, the final test procedures do not account for the added energy costs to the heating or cooling units in the home to recondition the air lost during the operation of the clothes dryer. The final test procedures also do not provide a method for crediting any potential energy savings that could be achieved from design changes on clothes dryers that would avoid or diminish those added energy costs by altering the normal intake and exhaust venting arrangements of a clothes dryer.

While the test procedures prescribed today are final, FEA believes that the added energy losses caused by the normal clothes dryer exhaust system and the potential energy savings to be achieved from certain venting design options merit further study. FEA has therefore directed NBS to evaluate and study this problem and to provide FEA with reliable data on the amount and significance of any energy and cost savings that could be achieved by the different types of clothes dryers used in the home in conjunction with different heating and cooling units, and to what extent today's prescribed test procedures would have to be changed to account for these potential energy losses and energy savings. NBS has also been requested to evaluate any burden on the industry that would be caused by a modification of these test procedures. If after review of the NBS study FEA determines that the issue merits further consideration, FEA will publish the NBS study in the FEDERAL REGISTER and afford interested persons an opportunity to comment. In no event will the final test procedures for clothes dryers prescribed today be amended with respect to this issue without providing interested persons an opportunity to present oral and written data, views, and arguments.

11. NUMBER OF UNITS TO BE TESTED

Proposed § 430.23(d) provided for sampling of each basic model to be tested when testing of clothes dryers is required by the Act or by program regulations of agencies responsible for administering the Act. This provision was intended both to provide an acceptable level of assurance that test results are applicable to any entire basic model for which testing is required and to minimize the testing burden on manufacturers.

The comments expressed some objections to the sampling provision for clothes dryers similar in substance to the objections raised to the sampling plan proposed for room air conditioners by notices issued July 22, 1976 (41 FR 31237, July 27, 1976) and March 24, 1977 (42 FR 16811, March 30, 1977). One manufacturer also requested that some provision in the test procedures be same for a resampling within a short period of time if the mean of the selected sample does not fall within the specified limits.

Test procedures prescribed under section 323 of the Act are intended to be used, for example, for labeling under section 324, in monitoring the progress of manufacturers toward accomplishing the energy efficiency improvement targets under section 325, and in enforcement testing under section 326. These aspects of the appliance program have not, however, been implemented. It is quite possible that the objectives of appliance testing under each of these parts of the program, as well as the instructions on how a test procedure should be applied (e.g., sampling of production units), may differ. FEA, NBS, and FTC are continuing to evaluate the appropriate method or methods for applying the test procedures in order to comply with the statute and satisfy all of the different elements of the appliance program.

While the various parts of the appliance program identified above are not in effect at this time, section 323(c) of the Act provides:

> Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer or private labeler may make any representation—
>
> (1) In writing (including a representation on a label), or
>
> (2) In any broadcast advertisement, respecting the energy consumption of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

In order to eliminate the problems discussed above associated with a general sampling provision, proposed § 430.23(d) has been limited in the final test procedures to testing which section 323(c) of the Act requires regarding the advertising of clothes dryers. The sampling requirements which apply only for purposes of advertising have been reorganized into § 430.24(d) of the final test procedures. Section 430.24(d) is similar to proposed § 430.23(d), but with several revisions. Most notably, the units tested are required to be representative of production units or actual production units. This change is intended to reduce the burden which might be caused by requiring post-production rating of basic models in every instance of testing pursuant to section 323(c) of the Act.

In addition, certain technical changes have been made in the sampling language. Specifically, there is to be 95 percent confidence that the true mean of any measure of the basic model lies within 5 percent of the mean of such measure of the sample. Comments pertaining to several proposed test procedures, including clothes dryers, criticized the language of the proposed sampling provisions. These comments suggested that a sampling provision should refer to the estimate of the mean rather than to the true mean. FEA has considered this suggestion and has determined that the language prescribed today is more technically correct because the statistical measures "estimate of the mean" and "mean of the sample" are generally considered to be identical. The test procedures for room air conditioners and dishwashers used both these terms in a manner that could be confusing, and the language prescribed today is intended to eliminate this potential confusion.

Until a labeling rule has been implemented pursuant to section 324, manufacturers are not required to test unless they choose to make a representation regarding a measure of energy consumption identified in or based upon § 430.22 (d). It should also be emphasized that the test procedures prescribed today apply only to the initial rating of a basic model.

12. MISCELLANEOUS

After careful consideration of all of the comments and further consultation with NBS and FTC, FEA has incorporated some minor editorial and technical changes in the proposed test procedures in the final rule that were not discussed above.

C. REGULATIONS PRESCRIBED

1. TEST PROCEDURES

The test procedures for clothes dryers prescribed today are included in Subpart B and are substantially the same as those proposed, with the exception of the changes discussed above. As with the proposed procedures, the test methodology incorporates the approach contained in the Association of Home Appliance Manufacturers (AHAM) Standard HLD-2EC for measuring the energy consumption clothes dryers. For purposes of FEA's program, the incorporated approach remains applicable as presently written, regardless of any subsequent amendment by the standard setting organization, until further amendment by FEA.

Under the requirements of section 32 (c) of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.) as amended by section 9 of the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95–70), the Administrator of FEA is to consult with the Attorney General and the Chairman of the Federal Trade Commission concerning the impact on competition of any rules prescribed by FEA which utilize or incorporate any commercial standards.

The Administrator has transmitted copies of the test procedures for clothes dryers, which incorporate the above mentioned commercial standards, to the Attorney General and the Chairman of the Federal Trade Commission for their comments concerning the impact of such standards on competition in accordance with section 32(c). Neither official has any comments nor do they recommend against the incorporation or use of these commercial standards in the final test procedures for clothes dryers.

2. GENERAL PROVISIONS

Prescribed today are definitions of "electric clothes dryer" and "gas clothes dryer." These definitions were previously proposed in Subpart A (41 FR 19977, May 14, 1976). The definition of the term "basic model" for clothes dryers prescribed today as substantially the same as the definition previously proposed in Subpart A (42 FR 21589, April 27, 1977). Comments which were received regarding the definition of "basic model" have been discussed earlier in this notice.

3. APPLICATION OF TEST PROCEDURES

As discussed previously, the final clothes dryer test procedures prescribed today must be applied before representations regarding a measure of energy consumption can be made. Because the purposes and needs of the different elements of the appliance program (e.g., labeling, targets) vary, application of the standard test methodology prescribed today may differ in some respects for each program element. It is expected that instructions on how to apply the standard test methodology to these other elements of the appliance program will be proposed for comment in the near future.

The requirements of § 430.24(d) of the final regulations apply until such time as final labeling requirements for a particular measure of energy consumption and the associated test procedures' application provision are prescribed. After that time, any representation regarding a measure of energy consumption covered by a labeling rule must be the same as the measure of energy consumption specified on the label.

D. UNIT COSTS OF ENERGY

Under section 323(b)(2) of the Act, FEA is to provide manufacturers information as to the representative average unit costs of energy. This information was provided by notice issued July 11, 1977 (42 FR 36549, July 15, 1977).

E. PREEMPTION

Today's rulemaking prescribing final test procedures for clothes dryers supersedes any State regulation to the extent required by section 327 of the Act. Pursuant to section 327, all State regulations which provide for the disclosure of information with respect to any measure of energy consumption of clothes dryers or which provide for any energy efficiency standard or similar requirement with respect to energy efficiency or energy use of clothes dryers must now employ test procedures identical to those specified in today's final rule.

(Energy Policy and Conservation Act, Pub. L. 94–163, as amended by Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended by Pub. L. 94–385; E.O. 11790, 39 FR 23185)

In consideration of the foregoing, Part 430 of Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below, effective October 17, 1977.

Issued in Washington, D.C., September 8, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 430.2 is amended by adding paragraph (4) as part of the definition of "basic model," and by adding in the appropriate alphabetical order definitions of "electric clothes dryer" and "gas clothes dryer" to read as follows:

§ 430.2 Definitions.

* * * * *

"Basic model" means all units of a given type of covered product (or class thereof) manufactured by one manufacturer and—

* * * * *

(4) With respect to clothes dryers, which have the same primary energy source, which have electrical characteristics that are essentially identical, and which do not have any differing physical or functional characteristics that affect energy consumption.

* * * * *

"Electric clothes dryer" means a cabinet-like appliance designed to dry fabrics in a tumble-type drum with forced air circulation. The heat source is electricity and the drum and blower(s) are driven by an electric motor(s).

* * * * *

"Gas clothes dryer" means a cabinet-like appliance designed to dry fabrics in a tumble-type drum with forced air circulation. The heat source is gas and the drum and blower(s) are driven by an electric motor(s).

* * * * *

2. Section 430.22 is amended by adding a paragraph (d), to read as follows:

§ 430.22 Test procedures for measures of energy consumption.

* * * * *

(d) *Clothes dryers.* (1) The estimated annual operating cost for clothes dryers shall be—

(i) For an electric clothes dryer, the product of the following three factors: (A) The representative average-use cycle of 416 cycles per year, (B) the total per-cycle energy consumption in kilowatt-hours per-cycle, determined according to 4.1 of Appendix D to this subpart, and (C) the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year, and

(ii) For a gas clothes dryer, the product of the representative average-use cycle of 416 cycles per year times the sum of (A) the product of the gas dryer electric per-cycle energy consumption in kilowatt-hours per cycle, determined according to 4.2 of Appendix D to this subpart, times the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator plus (B) the product of the total gas dryer gas energy consumption per cycle, in Btu's per cycle, determined according to 4.5 of Appendix D of this subpart, times the representative average unit cost in dollars per Btu as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year.

(2) The energy factor, expressed in pounds of clothes per kilowatt-hour, for clothes dryers shall be either the quotient of a 3-pound bone-dry test load for compact dryers, as defined by 2.6.1 of Appendix D to this subpart or the quotient of a 7 pound bone-dry test load for standard dryers, as defined by 2.6.2 of Appendix D to this subpart, as applicable, divided by the clothes dryer energy consumption per cycle, as determined according to 4.1 for electric clothes dryers and 4.6 for gas clothes dryers of Appendix D to this subpart, the resulting quotient then being rounded off to the nearest hundredth (.01).

(3) Other useful measures of energy consumption for clothes dryers shall be those measures of energy consumption for clothes dryers which the Administrator determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix D to this subpart.

* * * * *

3. Section 430.24 is amended by adding a paragraph (d), to read as follows:

§ 430.24 Representations regarding measures of energy consumption.

* * * * *

(d) *Clothes dryers.* (1) Except as provided in paragraph (d)(4) of this section, no manufacturer, distributor, retailer, or private labeler of clothes dryers may make any representation with re-

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spect to or based upon a measure or measures of energy consumption described in § 430.22(d) unless a sample of sufficient size of each basic model for which such representation is made has been tested in accordance with applicable provisions of this subpart such that, for each such measure of energy consumption, there is 95 percent confidence that the true mean of such measures of the basic model lies within ±5 percent of the mean of such measures of the sample.

(2) The sample selected for paragraph (d)(1) of this section shall be comprised of units which are production units, or are representative of production units, of the basic model being tested.

(3) A basic model having dual voltage ratings shall be separately tested at each design voltage such that the requirements of paragraph (d)(1) of this section are satisfied at each rating.

(4) Whenever a rule applicable to clothes dryers is prescribed under section 324 of the Act, this paragraph shall not apply to any label covered by such rule, and all representations of any measure of energy consumption covered by su h rule shall be identical to the measure of energy consumption on the label.

4. Subpart B of Part 430 is amended to add an Appendix D, to read as follows:

APPENDIX D—UNIFORM TEST METHOD FOR MEASUSING THE ENERGY CONSUMPTION OF CLOTHES DRYERS

1 DEFINITIONS

1.1 "AHAM" means the Association of Home Appliance Manufacturers.

1.2 "Bone-dry" means a condition of a load of test cloth which has been dried in a dryer at maximum temperature for a minimum of 10 minutes, removed and weighed before cool down, and then dried again for 10 minute periods until the final weight change of the load is 1 percent or less.

1.3 "Compact" means a clothes dryer with a drum capacity of less than 4.4 cubic feet.

1.4 "Cool down" means that portion of the clothes drying cycle when the added gas or electric heat is terminated and the clothes continue to tumble and dry within the drum.

1.5 "Cycle" means a sequence of operation of a clothes dryer which performs a clothes drying operation, and may include variations or combinations of the functions of heating, tumbling and drying.

1.6 "Drum capacity" means the volume of the drying drum in cubic feet.

1.7 "HLD–1" means the test standard promulgated by AHAM and titled "AHAM Performance Evaluation Procedure for Household Tumble Type Clothes Dryers", June, 1974, and designated as HLD–1.

1.8 "HLD–2EC" means the test standard promulgated by AHAM and titled "Test Method for Measuring Energy Consumption of Household Tumble Type Clothes Dryers," December. 1975. and designated as HLD–2EC

1.9 "Standard size" means a clothes dryer with a drum capacity of 4.4 cubic feet or greater

1.10 "Moisture content" means the ratio of the weight of water contained by the test load to the bone-dry weight of the test load, expressed as a percent.

2. TESTING CONDITIONS

2.1 *Installation.* Install the clothes dryer in accordance with manufacturer's instructions. The dryer exhaust shall be restricted by adding the AHAM exhaust simulator described in 3.3.5 of HLD–1. All external joints should be taped to avoid air leakage. Disconnect all console lights or other lighting systems on the clothes dryer which do not consume more than 10 watts during the clothes dryer test cycle.

2.2 *Ambient temperature and humidity.* Maintain the room ambient air temperature between 72°F and 78°F and the room relative humidity at 40 percent to 60 percent relative humidity.

2.3 *Energy supply.*

2.3.1 *Electrical supply.* Maintain the electrical supply at the clothes dryer terminal block within 1 percent of 120/240 or 120/208Y or 120 volts as applicable to the particular terminal block wiring system and within 1 percent of the nameplate frequency as specified by the manufacturer.

2.3.2 *Gas supply.*

2.3.2.1 *Natural gas.* Maintain the gas supply to the clothes dryer at a normal inlet test pressure immediately ahead of all controls at 7 to 10 inches of water column. If the clothes dryer is equipped with a gas appliance pressure regulator, the regulator outlet pressure at the normal test pressure shall be approximately that recommended by the manufacturer. The hourly Btu rating of the burner shall be maintained within ±5 percent of the rating specified by the manufacturer. The natural gas supplied should have a heating value of approximately 1,025 Btu's per standard cubic foot. The actual heating value, H_n, in Btu's per standard cubic foot, for the natural gas to be used in the test shall be obtained either from measurements made by the manufacturer conducting the test using a standard continuous flow calorimeter as described in 2.4.6 or by the purchase of bottled natural gas whose Btu rating is certified to be at least as accurate a rating as could be obtained from measurements with a standard continuous flow calorimeter as described in 2.4.6.

2.3.2.2 *Propane gas.* Maintain the gas supply to the clothes dryer at a normal inlet test pressure immediately ahead of all controls at 11 to 13 inches of water column. If the clothes dryer is equipped with a gas appliance pressure regulator, the regulator outlet pressure at the normal test pressure shall be approximately that recommended by the manufacturer. The hourly Btu rating of the burner shall be maintained within ±5 percent of the rating specified by the manufacturer. The propane gas supplied should have a heating value of approximately 2,500 Btu's per standard cubic foot. The actual heating value, H_p, in Btu's per standard cubic foot, for the propane gas to be used in the test shall be obtained either from measurements made by the manufacturer conducting the test using a standard continuous flow calorimeter as described in 2.4.6 or by the purchase of bottled gas whose Btu rating is certified to be at least as accurate a rating as could be obtained from measurements with a standard continuous calorimeter as described in 2.4.6.

2.4 *Instrumentation.* Perform all test measurements using the following instruments, as appropriate:

2.4.1 *Weighing scales.*

2.4.1 *Weighing scale for test cloth.* The scale shall have a range of 0 to a maximum of 30 pounds with a resolution of at least 0.2 ounces and a maximum error no greater than 0.3 percent of any measured value within the range of 3 to 15 pounds.

2.4.1.2 *Weighting scale for drum capacity measurements.* The scale should have a range of 0 to a maximum of 500 pounds with a resolution of 0.50 pounds and a maximum error no greater than 0.5 percent of the measured value.

2.4.2 *Kilowatt-hour meter.* The kilowatt-hour meter shall have a resolution of 0.001 kilowatt-hours and a maximum error no greater than 0.5 percent of the measured value for any demand greater than 0.16 kilowatt-hours per hour.

2.4.3 *Gas meter.* The gas meter shall have a resolution of 0.001 cubic feet and a maximum error no greater than 0.5 percent of the measured value for any demand greater than 0.2 cubic feet per hour.

2.4.4 *Dry and wet bulb psychrometer.* The dry and wet bulb psychrometer shall have an error no greater than ±1° F over the range of 32° to 100° F.

2.4.5 *Thermometer.* The thermometer shall have an error no greater than ±1° F over the range of 32° to 100° F.

2.4.6 *Standard Continuous Flow Calorimeter.* The calorimeter shall have an operating range of 750 to 3,500 Btu per cubic feet. The maximum error of the basic calorimeter shall be no greater than 0.2 percent of the actual heating value of the gas used in the test. The indicator readout shall have a maximum error no greater than 0.5 percent of the measured value within the operating range and a resolution of 0.2 percent of the full scale reading of the indicator instrument.

2.5 *Lint trap.* Clean the lint trap thoroughly before each test run.

2.6 *Test cloths.*

2.6.1 *Energy test cloth.* The energy test cloth shall be clean and consist of the following:

(a) Pure finished bleached cloth, made with a momie or granite weave, which is 50 percent cotton and 50 percent polyester and weighs 5.75 ounces per square yard and has 65 ends on the warp and 57 picks on the fill.

(b) Cloth material that is 24 inches by 36 inches and has been hemmed to 22 inches by 34 inches before washing. The maximum shrinkage after five washes shall not be more than four percent on the length and width.

(c) The number of test runs on the same energy test cloth shall not exceed 25 runs.

2.6.2 *Energy stuffer cloths.* The energy stuffer cloths shall be made from energy test cloth material and shall consist of pieces of material that are 12 inches by 12 inches and have been hemmed to 10 inches by 10 inches before washing. The maximum shrinkage after five washes shall not be more than four percent on the length and width. The number of test runs on the same energy stuffer cloth shall not exceed 25 runs.

2.7 *Test loads.*

2.7.1 *Compact size dryer load.* Prepare a bone-dry test load of energy cloths which weighs 3.00 pounds ± .03 pounds. Adjustments to the test load to achieve the proper weight can be made by the use of energy stuffer cloths. Dampen the load by agitating it in water whose temperature is 100°±5° F and consists of 0 to 17 parts per million hardness for approximately two minutes in order to saturate the fabric. Then, extract water from the wet test load by spinning the load until the moisture content of the load is between 66.5 percent to 73.5 percent of the bone-dry weight of the test load.

2.7.2 *Standard size dryer load.* Prepare a bone-dry test load of energy cloths which weighs 7.00 pounds ± .07 pounds. Adjustments to the test load to achieve the proper weight can be made by the use of energy stuffer cloths. Dampen the load by agitating it in water whose temperature is 100°±5° F and consists of 0 to 17 parts per million hardness for approximately two minutes in order to saturate the fabric. Then, extract water from the wet test load by spinning the load until the moisture content of the load is between 66.5 percent to 73.5 percent of the bone-dry weight of the test load.

2.7.3 *Method of loading.* Load the energy test cloths by grasping them in the center, shaking them to hang loosely and then dropping them in the dryer at random.

3. TEST PROCEDURES AND MEASUREMENTS

3.1 *Drum capacity.* Measure the drum capacity by sealing all openings in the drum except the loading port with a plastic bag, and ensure that all corners and depressions are filled and that there are no extrusions of the plastic bag through the opening in the drum. Support the dryer's rear drum surface on a platform scale to prevent deflection of the dryer, and record the weight of the empty dryer. Fill the drum with water to a level determined by the intersection of the door plane and the loading port. Record the temperature of the water and then the weight of the dryer with the added water and then determine the mass of the water in pounds. Add or subtract the appropriate volume depending on whether or not the plastic bag protrudes into the drum interior. The drum capacity is calculated as follows:

$$C = \frac{w}{d}$$

C=capacity in cubic feet.
w=mass of water in pounds.
d=density of water at the measured temperature in pounds per cubic feet.

3.2 *Dryer loading.* Load the dryer as specified in 2.6.

3.3 *Test Cycle.* Operate the clothes dryer at the maximum temperature setting and, if equipped with a timer, at the maximum time setting and dry the test load until the moisture content of the test load is between 2.5 percent to 5.0 percent of the bone-dry weight of the test load, but do not permit the dryer to advance into cool down. If required, reset the timer or automatic dry control.

3.4 *Data recording.* Record for each test cycle:

3.4.1 Bone-dry weight of the test load described in 2.6.

3.4.2 Moisture content of the wet test load before the test described in 2.6.

3.4.3 Moisture content of the dry test load obtained after the test described in 3.3.

3.4.4 Test room conditions, temperature and percent relative humidity described in 2.2.

3.4.5 For electric dryers—the total kilowatt-hours of electric energy, E_t, consumed during the test described in 3.3.

3.4.6 For gas dryers:

3.4.6.1 Total kilowatt-hours of electrical energy, E_{te}, consumed during the test described in 3.3.

3.4.6.2 Cubic feet of gas per cycle, E_{tg}, consumed during the test described in 3.3.

3.4.6.3 On gas dryers using a continuously burning pilot light—the cubic feet of gas, E_{pg}, consumed by the gas pilot light in one hour.

3.4.6.4 Correct the gas heating value, GEF, as measured in 2.3.2.1 and 2.3.2.2, to standard pressure and temperature conditions in accordance with U.S. Bureau of Standards, Circular C417, 1938. A sample calculation is illustrated in Appendix E of HLD–1.

4. CALCULATION OF DERIVED RESULTS FROM TEST MEASUREMENTS

4.1 *Total per-cycle electric dryer energy consumption.* Calculate the total electric dryer energy consumption per cycle, E_{te}, expressed in kilowatt-hours per cycle and defined as:

$$E_{te} = \frac{66}{(W_w - W_d)} \times E_t \times FU$$

E_t=the energy recorded in 3.4.5
66=an experimentally established value for the percent reduction in the moisture content of the test load during a laboratory test cycle
FU=Field use factor=1.18
W_w=the moisture content of the wet test load as recorded in 3.4.2
W_d=the moisture content of the dry test load as recorded in 3.4.3

4.2 *Per-cycle gas dryer electrical energy consumption.* Calculate the gas dryer electrical energy consumption per cycle, E_{te}, expressed in kilowatt-hours per cycle and defined as:

$$E_{te} = \frac{66}{(W_w - W_d)} \times E_{te} \times FU$$

E_{te}=the energy recorded in 2.4.6.1
FU, 66, W_w, W_d as defined in 4.1

4.3 *Per-cycle gas dryer gas energy consumption.* Calculate the gas dryer gas energy consumption per cycle, E_{tg}, expressed in Btu's per cycle as defined as:

$$E_{tg} = \frac{66}{(W_w - W_d)} \times E_{tg} \times FU \times GEF$$

E_{tg}=the energy recorded in 3.4.6.2
GEF=corrected gas heat value (Btu per cubic feet) as defined in 3.4.6.4
FU, 66, W_w, W_d as defined in 4.1

4.4 *Per-cycle gas dryer continuously burning pilot light gas energy consumption.* Calculate the gas dryer continuously burning pilot light gas energy consumption per cycle, E_{cp}, expressed in Btu's per cycle and defined as:

$$E_{cp} = E_{pg} \times \left(\frac{8760 - 140}{416}\right) \times GEF$$

E_{pg}=the energy recorded in 3.4.6.3
8760=number of hours in a year
416=representative average number of clothes dryer cycles in a year
140=estimated number of hours that the continuously burning pilot light is on during the operation of the clothes dryer for the representative average use cycle for clothes dryers (416 cycles per year)
GEF as defined in 4.3

4.5 *Total per-cycle gas dryer energy consumption expressed in Btu's.* Calculate the total gas dryer energy consumption per cycle, E_g, expressed in Btu's per cycle and defined as:

$$E_g = E_{tg} + E_{cp}$$

E_{tg} as defined in 4.3
E_{cp} as defined in 4.4

4.6 *Total per-cycle gas dryer energy consumption expressed in kilowatt-hours.* Calculate the total gas dryer energy consumption per cycle, E_{cg}, expressed in kilowatt-hours per cycle and defined as:

$$E_{cg} = E_{te} + \frac{E_g}{3412 \text{ Btu/kWh}}$$

E_{te} as defined in 4.2
E_g as defined in 4.5

[FR Doc.77–26725 Filed 9–13–77;8:45 am]

PART 430—ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Test Procedures for Television Sets

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: This rule prescribes final test procedures for television sets. Appliance test procedures are one element of the appliance energy efficiency program required by the Energy Policy and Conservation Act.

FOR FURTHER INFORMATION CONTACT:

James A. Smith (Program Office), Room 307, Old Post Office Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202–566–4635).

Charles E. Vilade (Media Relations), Room 3104, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202–566–9833).

Elliott D. Light (Office of General Counsel), Room 7150, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202–566–9750).

SUPPLEMENTARY INFORMATION:

A. BACKGROUND

The Federal Energy Administration (FEA) hereby amends Part 430, Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for television sets pursuant to section 323 (42 U.S.C. 6293) of the Energy Policy and Conservation Act (Act) (Pub. L. 94–163). Television receiver test procedures were proposed by notice issued April 21, 1977 (42 FR 21580, April 27, 1977). No requests to make oral presentations concerning the proposed test procedures were filed and, as a result, the public hearing scheduled for June 14 was canceled. The definitions of "color television receiver" and "monochrome television receiver" were proposed at 41 FR 18890, May 14, 1976. The phrase "television receiver" has been changed to "television set" in the final test procedures and the above definitions have been changed in the final test procedures in order to be consistent with the language of section 322(a)(8) of the Act.

By notice issued May, 24, 1977 (42 FR 27896, June 1, 1977), FEA established Subparts A and B of Part 430, Chapter II of Title 10, Code of Federal Regulations. Certain definitions and general provisions applicable to the energy conservation program for appliances have been promulgated in Subpart A. Final test procedures for room air conditioners and dishwashers have been prescribed in Suppart B. In addition to the test procedures for television sets prescribed today, the final test procedures for clothes dryers, electric refrigerators, electric refrigerator-freezers, and freezers are also being prescribed by separate notices. Other test procedures have been proposed for inclusion in Subpart B. FEA has also proposed a Subpart C for appliance energy efficiency improvement targets. An outline of the provisions of Part 430 which have so far been established, including provisions in today's notices, is as follows:

SUBPART A—GENERAL PROVISIONS

Sec.
430.1 Purpose and Scope.
430.2 Definitions.

SUBPART B—TEST PROCEDURES

430.21 Purpose and Scope.
430.22 Test Procedures for Measures of Energy Consumption:
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.

• • • • •

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(f) Room air conditioners.

• • • • •

(h) Television sets.

430.23 Units to be Tested [Reserved].

430.24 Representative Regarding Measures of Energy Consumption

(a) Refrigerators and refrigerator-freezers

(b) Freezers

(c) Dishwashers

(d) Clothes dryers

• • • • •

(f) Room air conditioners

• • • • •

(h) Television sets

APPENDICES TO SUBPART B

Appendix A1—Uniform Test Method for Measuring the Energy Consumption of Electric Refrigerators and Electric Refrigerator-Freezers.

• • • • •

Appendix B—Uniform Test Method for Measuring the Energy Consumption of Freezers.

Appendix C—Uniform Test Method of Measuring the Energy Consumption of Dishwashers.

Appendix D—Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers.

• • • • •

Appendix F—Uniform Test Method for Measuring the Energy Consumption of Room Air Conditioners.

• • • • •

Appendix H—Uniform Test Method for Measuring the Energy Consumption of Television Sets.

B. DISCUSSION OF COMMENTS

Only comments from industry were received in response to the request for public comments. All comments were directed toward technical areas of the proposed test procedures. The major issues raised by the comments are discussed below.

1. ENERGY SAVING FEATURES

It was suggested that many units with a remote control have a remote control defeat switch which when used permits the consumer to turn off all standby power to the remote control circuits. It was suggested that television sets which incorporate a remote control defeat switch should receive the same 50 percent credit given to units having a vacation switch and that the credit could be applied by reducing by 50 percent the contribution of remote control circuits to the standby power. FEA agrees that these switches have the potential to save energy and should be classified as energy saving features. For this reason the suggestion has been adopted.

Revisions have also been made to incorporate the 50 percent energy credit for energy saving devices into the estimated annual operating cost. This change obviates the need to distinguish the standard and vacation operating modes for purposes of the estimated annual operating cost. Thus, the estimated annual operating cost for the vacation mode has been deleted from the final regulation.

2. NUMBER OF UNITS TO BE TESTED

One comment was concerned about the requirement that units to be tested come from the production stream. It was felt that this could delay advertising if tests could not be run on preproduction models. While no comments adressed the number of units to be tested or the 5 percent tolerance required on any measure of energy consumption, FEA has reviewed the actual use of test procedures in the context of other covered products. Test procedures prescribed under section 323 of the Act are intended to be used, for example for labeling under section 324, in monitoring of the program of manufacturers toward accomplishing the energy efficiency improvement targets under section 325, and in enforcement testing under section 326. These aspects of the appliance program have not, however, been implemented. It is quite possible that the objectives of appliance testing under each of these parts of the program as well as the instructions as to how a test procedure should be applied (e.g., sampling of production units), may differ. FEA, NBS, and FTC are continuing to evaluate the appropriate method or methods for applying test procedures in order to comply with the statute and satisfy all of the different elements of the appliance program.

While the various parts of the appliance program identified above are not in effect at this time, section 323(c) of the Act provides:

Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer, or private labeler may make any representation—

(1) In writing (including a representation on a label) or,

(2) In any broadcast advertisement, respecting the energy consumption of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

The sampling requirements which apply only for purposes of advertising have been reorganized into § 430.24(h) of the final test procedures. Section 430.24(h) is similar to proposed § 430.23(h) but with several revisions. Most notably, the units tested are required to be representative of production units or actual production units. This change is intended to reduce the burden which might be caused by requiring post-production rating of basic models in every instance of testing pursuant to section 323(c) of the Act.

In addition, certain technical changes have been made in the sampling language. Specifically, there is to be 95 percent confidence that the true mean or any measure of the basic model lies within 5 percent of the mean of such measure of the sample. Comments pertaining to several proposed test procedures criticized the language of the proposed sampling provisions. These comments suggested that a sampling provision should refer to the estimate of the mean rather than to the true mean. FEA has considered this suggestion and has determined that the language prescribed today is more technically correct because the statistical measures "estimate of the mean" and "mean of the sample" are generally considered to be identical. The test procedures for room air conditioners and dishwashers used both these terms in a manner that could be confusing, and the language prescribed today is intended to eliminate this potential confusion.

Until a labeling rule has been implemented pursuant to section 324, manufacturers are not required to test unless they choose to make a representation regarding a measure of energy consumption identified in or based upon § 430.22 (h). It should also be emphasized that the test procedures prescribed today apply only to the initial rating of a basic model.

3. REPRESENTATIVE AVERAGE-USE CYCLE

One comment received stated that the television set in a home entertainment center is not used as many hours as a television set alone. No supporting data to this claim was submitted. The average-use cycle was obtained by using a weighted average of the hours of operation of a television receiver. The number of home entertainment centers sold containing television sets is small when compared to television sets sold alone. Thus, the weighted effect in the representative average-use cycle of any difference in the hours of television set operation included in home entertainment centers is negligible. For these reasons, no changes have been made to the proposed average-use cycle for home entertainment centers.

4. MISCELLANEOUS

After careful consideration of all of the comments and further consultation with NBS and FTC, FEA has incorporated some minor changes in the proposed test procedures in the final rule that were not discussed above.

C. REGULATIONS PRESCRIBED

1. TEST PROCEDURES

The test procedures for television sets prescribed today are included in Subpart B and are substantially the same as those proposed, with the addition of the changes discussed above. As with the proposed procedures, the test methodology incorporates American National Standard C 16.13–1961, Method of Testing Monochrome Television Broadcast Receivers for calculation of available power. Also incorporated into the test methodology are the National Television System Committee composite video signal and the Institute of Radio Engineers unit flat field. For purposes of FEA's program, the incorporated standards remain applicable as presently written, regardless of any subsequent amendment by the standard setting organization, until further amendment by FEA.

Under the requirements of section 32 (c) of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.) as amended by section 9 of the Federal Energy Authorization Act of 1977 (Pub. L. 95–70), the Administrator of FEA is to consult with the Attorney General and the Chairman of the Federal Trade Commission concerning the impact on competition of any rules prescribed by FEA which utilize or incorporate any commercial standards.

The Administrator has transmitted copies of the test procedures for television sets, which incorporate the above mentioned commercial standards, to the Attorney General and the Chairman of the Federal Trade Commission for their comments concerning the impact of such standards on competition in accordance with section 32(c). Neither official has any comments nor do they recommend against the incorporation or use of these commercial standards in the final test procedures for television sets.

2. GENERAL PROVISIONS

Also prescribed today are certain definitions for "television set," "color television set," and "monochrome television set." The definitions of color television set and monochrome television set were previously proposed in Subpart A (41 FR 19977, May 14, 1976). (As originally proposed, the word "receiver" was used instead of "sets." The definition of "basic model" for television sets, proposed at 42 FR 21583, has also been added. A definition of "television set" has been added for the purposes of clarification.

3. APPLICATION OF TEST PROCEDURES

As discussed previously, the final test procedures prescribed today must be applied before any representation regarding a measure of energy consumption can be made. Because the purposes and needs of the different elements of the appliance program (e.g., labeling, targets) vary, application of the standard test methodology prescribed today may differ in some respects for each program element. It is expected that instructions on how to apply the standard test methodology to these other elements of the appliance program will be proposed for comment in the near future.

The requirements of § 430.24(h) of the final regulations apply until such time as final labeling requirements for a particular measure of energy consumption and the associated test procedure application provision are prescribed. After that time, representations regarding a measure of energy consumption covered by a labeling rule must be the same as represented on the label.

D. UNIT COSTS OF ENERGY

Under section 323(b)(2) of the Act, FEA is to provide manufacturers information as to the representative average unit costs of energy. This information was provided by notice issued July 11, 1977 (42 FR 36549, July 15, 1977).

E. PREEMPTION

Today's rulemaking prescribing final test procedures for television sets supersedes any State regulation to the extent required by section 327 of the Act. Pursuant to section 327, all State regulations which provide for the disclosure of information with respect to any measure of energy consumption of television sets or which provide for any energy efficiency standard or similar requirement with respect to energy efficiency or energy use of television sets must now employ test procedures identical to those specified in today's final rule.

(Energy Policy and Conservation Act, Pub. L. 94–163, as amended by Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended by Pub. L. 94–385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 430 of Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below, effective October 17, 1977.

Issued in Washington, D.C., September 8, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 430.2 is amended by adding subparagraph (8) as part of the definition of "basic model" and by adding in appropriate alphabetical order definitions of "color television set," "monochrome television set," and "television set" to read as follows:

§ 430.2 Definitions.

• • • • •

"Basic model" means all units of a given type of covered product (or class thereof) manufactured by one manufacturer and—

• • • • •

(8) With respect to television sets, which have identical screen size, which have electrical characteristics that are essentially identical, and which do not have any differing physical or functional characteristics that affect energy consumption.

• • • • •

"Color television set" means an electrical device designed to convert incoming broadcast signals into color television pictures and associated sound.

• • • • •

"Monochrome television set" means an electrical device designed to convert incoming broadcast signals into monochrome television pictures and associated sound.

• • • • •

"Television set" means a color television set or a monochrome television set.

• • • • •

2. Section 430.22 is amended by adding paragraph (h) to read as follows:

§ 430.22 Test procedure for measures of energy consumption.

• • • • •

(h) *Television sets.* (1) The estimated average annual operating cost for television sets shall be the product of:

(i) The average annual energy consumed by the television set in kilowatt-hours per year, determined according to 3.0 of Appendix H of this subpart, and

(ii) The representative average unit cost of energy in dollars per kilowatt-hour as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year.

(2) The receiver energy efficiency factor for television sets shall be:

(i) For color television sets, the product of the estimated minimum power requirement (.130 kilowatts) and the average annual hours of use (2,200 hr/yr.), divided by the average annual energy consumed by the television set in kilowatt-hours per year, determined according to 3.0 of Appendix H to this subpart. The resultant is then multiplied by 100 and expressed as a percent,

(ii) For monochrome television sets, the product of the estimated minimum power requirement (.040 kilowatts) and the average annual hours of use (2,200 hr/yr.), divided by the average annual energy consumed by the television set in kilowatt-hours per year determined according to 3.0 of Appendix H of this subpart. The result is then multiplied by 100 and expressed as a percent.

(3) Other useful measures of energy consumption for television sets shall be those measures of energy consumption for television sets which the Administrator determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix H of this subpart.

• • • • •

3. Section 430.24 is amended by adding paragraph (h), to read as follows:

§ 430.24 Representations regarding measures of energy consumption.

• • • • •

(h) *Television sets.* (1) Except as provided in paragraph (h)(3) of this section, no manufacturer, distributor, retailer, or private labeler of television sets may make any representation with respect to or based upon a measure or measures of energy consumption described in § 430.22(h) unless a sample of sufficient size of each basic model for which such representation is made has been tested in accordance with applicable provisions of this subpart such that, for each such measure of energy consumption, there is at least 95 percent confidence that the true mean of such measures of the basic model is within ±5 percent of the mean of such measures of the sample.

(2) The sample selected for paragraph (h)(1) of this section shall be comprised of units which are production units, or are representative of production units, of the basic model being tested.

(3) Whenever a rule applicable to television sets is prescribed under section 324 of the Act, this paragraph shall not apply to any label covered by such rule, and all representations of any measure of energy consumption covered by such rule shall be identical to the measure of energy consumption on the label.

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4. Subpart B of Part 430 is amended to add an Appendix H, to read as follows:

• • • • •

APPENDIX H—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF TELEVISION SETS

1. DEFINITIONS

1.1 "IRE-unit flat field" means a specific video electrical signal which results in a particular level of brightness of the television screen as established by the Institute of Radio Engineers.

1.2 "Filament keep-warm" means a feature that provides a voltage to keep vacuum tube and or picture tube filaments warm for the purpose of allowing almost instantaneous response to the power control switch.

1.3 "Operating time" (t_o) means the hours per year during which the television set is operating with power control turned on.

1.4 "Remote control" means an optional feature which allows the user to control the television set from more than one location by a hand held device.

1.5 "Standby power consumption" (P_s) means the minimum amount of energy consumed with the power control switch turned off.

1.6 "Standby time" (t_s) means the hours per year during which the television set is connected to a power outlet with the power control switch turned off.

1.7 "Vacation switch or master on-off switch" means an optional energy saving feature incorporated into the design of a television set that permits the user to disconnect the filament keep-warm circuit(s).

1.8 "Remote control defeat switch" means a switch which permits the user to disconnect all standby power to a television set.

2. TESTING CONDITIONS AND MEASUREMNTS

2.1 *Test equipment and test signals.* The following equipment and test signals shall be used for testing of television sets.

2.1.1 Regulated power source capable of supplying 120 volts (±1.2 volts) alternating current.

2.1.2 Signal generator capable of producing radio frequency (RF) television test signals, at a convenient very high frequency (VHF) channel, modulated with, National Television System Committee composite video as follows:

2.1.2.1 Standard White Pattern, RF signal modulated to 87 percent with a 100 IRE-unit flat field.

2.1.2.2 Standard Black Pattern, all adjustments as for 2.1.2.1 except modulated with a zero IRE-unit flat field.

2.1.2.3 The test signals in 2.1.2.1 and 2.1.2.2, supplied by a source whose impedance equals the design antenna impedance of the television set under test, shall be adjusted to a level of 70 decibels (dB) ±3dB, referrred to a zero dB level of one femtowatt (1×10^{-15} watt) available power. (For a 300 ohm source, 70 dB referred to one femtowatt corresponds to an open-circuit voltage of 3.5 millivolts. For the calculation of "available power" use American National Standard C.16.13–1961, Method of Testing Monochrome Television Broadcast Receivers.)

2.1.3 Wattmeter capable of measuring the average power consumption of the television set under test. The wattmeter shall be accurate to within 1 percent of the full scale value. All measurements shall be made on the upper half of the scale of the wattmeter.

2.2 INITIAL SET-UP OF TELEVISION SET

2.2.1 Remove all batteries from television sets designed for both battery and alternating current operation. Deactivate all present or automatic controls affecting brightness which are customer options. Adjust all non-customer controls according to the manufacturer's service procedure.

2.2.2 Apply power to the television set under test from the power source specified in 2.1.1 through the wattmeter specified in 2.1.3. Adjust the volume control to the lowest possible setting.

2.2.3 Connect the output of the signal generator as specified in 2.1.2 to the VHF antenna terminals of the television set. Tune the television set to the channel of the RF signal.

2.3 MEASUREMENT OF OPERATING POWER CONSUMPTION (P_o)

2.3.1 Turn on the television set and allow at least five minutes warm-up time. With the synchronization controls adjusted for a stable test pattern, apply the standard white pattern specified in 2.1.2.1 to the television set. Adjust any customer controls other than the volume or synchronization controls for maximum power consumption as indicated by the wattmeter specified in 2.1.3. Illuminate any room illuminance sensor which has not been deactivated, to produce maximum power consumption. Record the white pattern consumption (P_w) as indicated by the wattmeter in watts.

2.3.2 Change the signal source to the standard black pattern specified in 2.1.2.2. Adjust any customer controls, other than the volume or synchronization controls, for the minimum power consumption as indicated by the wattmeter. Cover any room illuminance sensor which has not been deactivated. Record the black pattern power consumption (P_b) as indicated by the wattmeter in watts.

2.3.3 Compute the operating power consumption (P_o) as follows:

$$P_o = \frac{P_w + P_b}{2}$$

where
P_o=operating power consumption in watts
P_w=as determined from 2.3.1
P_b=as determined from 2.3.2

2.4 MEASUREMENT OF STANDBY POWER CONSUMPTION (P_s)

2.4.1 For television sets without either a vacation switch or a remote control defeat switch, turn the power switch off and after two minutes measure the standby power consumption (P_s).

2.4.2 For a television set equipped with a remote control defeat switch, a vacation switch or both, turn the power switch, any vacation switch, and any remote control defeat switch to the lowest energy consuming position. Measure the minimum power consumption (P_{min}). Turn any vacation switch and any remote control defeat switch to the highest energy consuming position and measure the maximum power consumptions, (P_{max}). The standby power is then calculated from the equation:

$$P_s = \frac{(P_{max} - P_{min})}{2} + P_{min}$$

where
P_s=standby power consumption in watts
P_{max}=power consumption, in watts, measured with the television set power switch off and the vacation switch and remote control defeat switch in the highest energy consuming position
P_{min}=power consumption, in watts, measured with the television set power switch off and the vaction switch and remote control defeat switch in the lowest energy consuming position

3.0 *Average Annual Energy Consumption*

$$E = \frac{P_o t_o}{1{,}000} + \frac{P_s t_s}{1{,}000} = 2.2P_o + 6.56P_s$$

where
E=total average annual energy consumed by the television set (kilowatt-hour per year)
P_o=operating power consumption as computed in 2.3.3
t_o=operating time, 2,200 h/yr
P_s=standby power consumption computed in 2.4
t_s=standby time, 6,560 h/yr

[FR Doc.77-26726 Filed 9-13-77;8:45 am]

federal register

WEDNESDAY, SEPTEMBER 14, 1977

PART III



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

NATIONAL FLOOD INSURANCE PROGRAM

Special Hazard Areas and Final Flood Elevation Determinations

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Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-3334]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is the identification of communities with areas of special flood or mudslide or erosion hazards as authorized by the National Flood Insurance program. The identification of such areas is to provide guidance so that communities may mitigate hazards and reduce property losses by adopting appropriate flood plain management or other measures to minimize damage caused by floods or other hazards. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

DATE: The effective date of identification is the date listed in the eighth column of the table or 30 days after the date of this FEDERAL REGISTER publication, whichever is later.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in an identified plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that; after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply to loans by Federally regulated, insured, supervised, or approved lending institutions: (1) To finance the acquisition of a residential dwelling occupied as a residence prior to March 1, 1976, or one year following identification of the area within which such dwelling is located as an area containing special flood hazards, whichever is later, or made to extend, renew, or increase the financing or refinancing in connection with such a dwelling, (2) to finance the acquisition of a building or structure completed and occupied by a small business concern, as defined by the Secretary, prior to January 1, 1976, (3) any loan or loans, which in the aggregate do not exceed $5,000, to finance improvements to or rehabilitation of a building or structure occupied as a residence prior to January 1, 1976, or (4) any loan or loans, which in the aggregate do not exceed an amount prescribed by the Secretary, to finance nonresidential additions or improvements to be used solely for agricultural purposes on a farm.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 1915 of Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001-4128).

Accordingly, § 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

1915.3 List of Communities with special hazard areas (FHBMS in effect).

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	L=LAND OR C=COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
FL	Seminole	City of Lake Mary 0001A	120416	E - 5	I	F	July 8, 1977	July 8, 1977	Walter A. Sorensen, Mayor P.O. Box 725 Lake Mary, FL 32746 Phone: 305-323-7910
FL	Flagler	City of Marineland 0001A	120570	N - 5	C	F	July 8, 1977	July 8, 1977	William Huck, Mayor R. 1, Box 122 St. Augustine, FL 32084 Phone: 904-829-5607
GA	Heard	Town of Centralhatchee 0001A	130257	N - 5	I	F	July 8, 1977	July 8, 1977	T.E. Chamber, Mayor Route 2 Franklin, GA 30217 Phone: 404-854-4502
GA	Heard Coweta	Town of Corinth 0001A	130341	N - 5	I	F	July 8, 1977	July 8, 1977	James Webb, Mayor Route 2 Corinth, GA 30230 Phone: 404-837-4668
IL	Pope	Pope County (Unincs. Areas) 01-33	170904A	E - 5	I	F	July 8, 1977	July 8, 1977	Norman Hans, Chairman County Commission Box K Golconda, IL Phone: 618-683-8101

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STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
IN	DeKalb	DeKalb County (Uninc. Areas) 0001A-0006A	180044	E - 10,11, 12,14	I	F	Dec. 6, 1974	July 8, 1977	James Habig, Chairman County Commissioners County Courthouse Auburn, IN 46706 Phone: 219-925-2422
IN	Switzerland	Town of PATRIOT 01	180309A	N - 5	I	F	July 8, 1977	July 8, 1977	Glen Wells, President Town Board Box 176 Patroit, IN 47038 Phone: 812-594-2648
KY	Bell	Bell County (Uninc. Areas) 0001A-0014A	210010	E - 10,11, 12,14	I	F	Dec. 6, 1974	July 8, 1977	Willie Henderson, Co. Judg County Courthouse Pineville, KY 40977 Phone: 606-337-3076
KY	Butler	Butler County (Uninc. Areas) 0001A-0007A	210029	E - 5	I	F	July 8, 1977	July 8, 1977	H. Clay Keith, Co. Judge County Courthouse Morgantown, KY 42261 Phone: 502-526-3433
KY	Hart	Hart County (Uninc. Areas) 0001A-0007A	210257	N - 5	I	F	July 3, 1977	July 8, 1977	Harold Atwell, Co. Judge County Courthouse Munfordville, KY 42765 Phone: 502-524-2591
MI	Antrim	Township of Milton 0001A-0004A	260637	E - 5	I	F	July 8, 1977	July 8, 1977	Calvin L. Bargy, Supr. R. 1, Box 342 Kewadin, MI 49648

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
NJ	Hunterdon	Town of Readington 0001A-0004A	340514	E - 10,11, 12,14	I	F	June 28, 1974	July 8, 1977	Eugene Pifester, Mayor Route 523 White House Station, NJ Phone: 201-534-4051
NY	Orange	Town of Greenville 0001A-0003A	360615	E - 5	I	F	July 8, 1977	July 8, 1977	Harry Gorman, Town Supr. R.D. 2, Box 608 Port Jervis, NY 12771 Phone: 914-856-5169
NY	Ulster	Town of Rochester 0001A-0008A	360861	E - 10,11, 12,14	I	F	June 21, 1974	July 8, 1977	Vincent Dunn, Supr. P.O. Box 65 Accord, NY 12404 Phone: 912-626-8212
NY	Ontario	Town of Victor 0001B-0002B	361249	E - 11,12, 14	I	F	Oct. 25, 1974 June 18, 1976	July 8, 1977	Malcolm Strong, Supr. 85 East Main Street Victor, NY 14564 Phone: 716-924-7141

*Appealed map, no revision necessary, Identification date is still valid.

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STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
NC	Beaufort	Town of Bath 0001A	370288	N - 5	I	F	July 8, 1977	July 8, 1977	Ray S. Brooks, Mayor P.O. Box 6 Harding Street Bath, NC 27808 Phone: 919-923-3971
* (See Below)									
OH	Mercer	Mercer County (Uninc. Areas) 0001A-0006A	390392	N - 10,11, 12,14	I	F	Feb. 14, 1975	July 8, 1977	Ralph Klosterman, Chairman County Commissioners County Courthouse Celina, OH 45822 Phone: 419-586-3178
OH	Ashland	Village of Mifflin 01	390799A	N - 5	I	F	July 8, 1977	July 8, 1977	Richard Neely, Mayor R.D. 4, Box 267 Ashland, OH 44805 Phone: 419-368-7043
PA	Lycoming	Township of Gamble 0001A-0006A	420974	E - 10,11, 12,14	I	F	Feb. 22, 1974	July 8, 1977	Eugene Sellers, Twp. Chair Star Route Trout Run, PA 17771 Phone: 717-998-2260
PA	Indiana	Township of Green 0001A-0005A	421718	E - 5	I	F	July 8, 1977	July 8, 1977	Fred Westover, Twp. Chair R.D. 2 Barnesboro, PA 15714 Phone: 814-948-8756
* NC	Haywood	Town of Maggie Valley 01-03	370389A	N - 5	I	F	July 8, 1977	July 8, 1977	Woody Fowler, Mayor P.O. Box 359 Maggie Valley, NC 28751 Phone: 704-926-0866

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PA	Dauphin	Township of Londonderry 0001B-0002B	420383	E - 11,12, 14	I	F	Oct. 12, 1973 Aug. 20, 1976	July 8, 1977	James Helsel, Chairman Planning Commission Township Building, R.D. 1 Geyers Church Road Middletown, PA 17057 Phone: 717-944-1086
PA	Armstrong	Township of Mahoning 0001A-0004A	422633	E - 5	I	F	July 8, 1977	July 8, 1977	William W. Olinger, Twp. Chair R.D. 1 New Bethlehem, PA 16242 Phone: 814-275-1836
PA	Cumberland	Borough of Mechanicsburg 01-03	420362B	E - 11,12, 14	I	F	Jan. 14, 1977	July 8, 1977	Ronald Raffensperger, Engr. & Surveyors 429 South 18th Street Camp Hill, PA 17011 Phone: 717-737-6641
PA	HUNTINGDON	Township of Todd 0001A-0007A	421703	E - 5	I	F	July 8, 1977	July 8, 1977	Dayton Hess, Twp. Chairman Rural Route Cassville, PA 16623
TN	Bradley	Bradley County (Unine. Areas) 0001A-0006A	470357	N - 5	I	F	July 8, 1977	July 8, 1977	Carl E. Colloms, Co. Judg County Courthouse P.O. Box 1167 Cleveland, TN 37311 Phone: 615-472-5478
TN	Sullivan	City of Bristol 01-12	470182A	E - 10,11, 12,14	I	F	March 8, 1974	July 8, 1977	Earl C. McCormac, Mayor P.O. Drawer 417 Bristol, TN 37620 Phone: 615-968-9141

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TN	Monroe	Monroe County (Uninc. Areas) 0001A-0011A	470233	N - 5	I	F	July 8, 1977	July 8, 1977	J.P. Kennedy, Co. Judge County Courthouse Madisonville, TN Phone: 615-442-2931
WV	Brooke	Brooke County (Uninc. Areas) 0001A-0002A	540011	E - 10, 11, 12, 14	I	F	Nov. 22, 1974	July 8, 1977	Alfred D'Angelus, Pres. Co. Court of Commission P.O.Box 22 Wellsburg, WV 26070 Phone: 304-737-3562
WI	Washburn	Village of Birchwood 01	550574A	E - 5	I	E	July 8, 1977	July 8, 1977	Edward Weiss, Vil. Pres. Box 123 Birchwood, WI 54817 Phone: 715-354-3353

* Appealed map, no revision necessary, Identification dates are still valid.

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AR	Uninc. Area	Izard County (0001-0008)	050439 A	N-5	I	F	12 JLY 77	12 JLY 77	Honorable Lloyd Garner - County Judge - Office of the County Judge - County Courthouse - Melbourne, AR 72556 (501) 368-4328
CA	Orange	City of Irvine (01-15)	060222 C	E-11,12,14	I	F	21 JUN 74 19 SEP 75	12 JLY 77	Mr. Tom Miner - Associate Planner Irvine Community Development - P.O. Box 19575 - Irvine, CA 92713 (714) 833-3840
CA	Santa Clara	City of Milpitas (01-04)	060344 B	E-8,11,12,14	I	F	22 MAR 74 28 MAR 75	12 JLY 77	Mr. Wesley D. Smith - City Engineer - 455 East Calaveras Boulevard - Milpitas, CA 95035 (408) 262-2310
CA	Uninc. Area	Placer County (05-08,10-18,21-28,30-32, 34-37,39-65)	060239 A	N-5	I	F	12 JLY 77	12 JLY 77	Mr. James Henry - Chairman - Board of County Supervisors - County Courthouse - Auburn, CA 95603 (916) 823-4331
CO	Uninc. Area	Prowers County (0001-0020)	080272 A	E-5	I	F	12 JLY 77	12 JLY 77	Mr. Bob Temple - Chairman - Board of County Commissioners - County Courthouse - Lamar, CO 81052 (303) 336-9701

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STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX		PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
KS	Uninc. Area	Kearny County (0001-0011)	200588	A	N-5	I	F	12 JLY 77	12 JLY 77	Mr. J. M. Rice - Chairman - Board of County Commissioners - County Courthouse - Lakin, KS 67860 (316) 355-6435
LA	Uninc. Area	Livingston Parish (01-49)	220113	A	N-5	I	F	12 JLY 77	12 JLY 77	Mr. Clarence O'Neal, Jr. - President - Office of the Police Jury - Parish Courthouse - Livingston, LA 70754 (504) 686-2266
ME	Androscoggin	Town of Livermore (0001-0004)	230173	A	E-10,11,12	I	F	8 NOV 74	12 JLY 77	Mr. Vuno J. Pulkkinen - Selectman RFD #2 - Livermore Falls, ME 04254 (207) 897-4885
MA	Hampden	City of Holyoke (01,03-09)	250142	A	E-10,11,12	I	F	12 APR 74	12 JLY 77	Honorable William Taupier - Mayor - City Hall - Holyoke, MA 01040 (413) 532-2602
SD	Pennington	Town of Keystone (01-03)	460231	A	E-11,12,14	I	F	7 JAN 77	12 JLY 77	Mr. Louis Rohde - President - Town Hall - Keystone, SD 57751 (605) 666-4827
TX	Jefferson	City of Nome (0001)	481297	A	N-5	I	F	12 JLY 77	12 JLY 77	Honorable Hugh Ferguson - Mayor - City Hall - P.O. Box 198 - Nome, TX (713) 253-2128

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TX	Rockwall	City of Rockwall (01-09)	480547	A	E-5	I	F	12 JLY 77	12 JLY 77	Mr. John Sellon - City Administrator - 102 East Washington - Rockwall, TX 75087 (214) 722-3290
TX	Orange	City of Rose City (01-02)	481061	A	N-5	I	F	12 JLY 77	12 JLY 77	Honorable Leon Payne - Mayor - 755 Brick Lane - Vidar, TX 77662 (713) 769-2994
UT	Emery	Town of Cleveland (01-02)	490196	A	N-5	I	F	12 JLY 77	12 JLY 77	Honorable DeLyle Larson - Mayor - Town Hall - Cleveland, UT 84518 (801) 653-2214
UT	Washington	City of Hurricane (0001)	490172	A	E-5	I	F	12 JLY 77	12 JLY 77	Honorable Lyndon Bradshaw - Mayor - City Hall - Hurricane, UT 84737 (801) 635-2811
UT	Millard	Town of Scipio (0001)	490091	A	N-5	I	F	12 JLY 77	12 JLY 77	Mr. William C. Thompson - Town President - Town Hall - Scipio, UT 84656 (801) 758-2401
VT	Orleans	Town of Glover (0001-0004)	500251	A	N-10,11,12	1	F	20 DEC 74	12 JLY 77	Honorable Dean Bailey - Mayor - Town Hall - Glover, VT 05839 (802) 525-3760

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AL	Marion	Town of Brilliant 0001A	010342	N - 5	I	F	July 15, 1977	July 15, 1977	Haddon Gann, Mayor Town Hall, Box 212 Brilliant, AL 35548 Phone: 205-465-2254

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IL	Randolph	Randolph County (Uninc. Areas) 0001A-0011A	170575	E - 10,11, 12,14	I	F	Dec. 20, 1974	July 15, 1977	Leonard G. Ernsting, Chairm County Board County Courthouse Chester, IL 62233 Phone: 618-774-2270
KY	Breathitt	Breathitt County (Uninc. Areas) 0001A-0008A	210023	N - 10,11, 12,14	I	F	Jan. 3, 1975	July 15, 1977	Nim Henson, Co. Judge County Courthouse Jackson, KY 41339 Phone: 606-666-5472
KY	Clay	Clay County (Uninc. Areas) 0001-0007A	210057	N - 10,11, 12,14	I	F	Dec. 27, 1974	July 15, 1977	Herman Lewis, County Judg County Courthouse Manchester, KY 40962 Phone: 606-598-2071
KY	Clinton	Clinton County (Uninc. Areas) 0001A-0004A	210327	N - 5	I	F	July 15, 1977	July 15, 1977	Delmer W. Marcum, Co. Ju County Courthouse Albany, KY 42602 Phone: 606-387-5234
KY	Lee	Lee County (Uninc. Areas) 0001A-0006A	210135	E - 10,11, 12,14	I	F	Oct. 18, 1974	July 15, 1977	Douglas Brandenburg, Co. J Box G Beattyville, KY 41311 Phone: 606-464-8365
KY	Campbell	City of Mentor 01	210275A	E - 11,12, 14	I	F	July 18, 1975	July 15, 1977	J.V. Goebel, Box 102, City Hall Mentor, KY 41060 Phone: 606-635-5391

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KY	Nelson	Nelson County (Uninc. 0001A-0008A Areas)	210177	N - 10,11, 12,14	I	F	Oct. 18, 1974	July 15, 1977	Charles Roberts, Co. Judge County Courthouse Bardstown, KY 40004 Phone: 502-348-5919
KY	Oldham	Oldham County (Uninc. 0001A-0006A Areas)	210185	E - 10,11, 12,14	I	F	Dec. 6, 1974	July 15, 1977	Wendall Moore, Co. Judge County Courthouse LaGrange, KY 40031 Phone: 502-555-9357
KY	Russell	Russell County (Uninc. 0001A-0005A Areas)	210205	N - 5	I	F	July 15, 1977	July 15, 1977	Terrel Flanagan, Co. Judge County Courthouse Jamestown, KY 42629 Phone: 502-343-4277
KY	Shelby	Shelby County (Uninc. 0001A-0008A Areas)	210209	N - 10,11, 12,14	I	F	Oct. 18, 1974	July 15, 1977	Fred W. Bond, Co. Judge County Courthouse 501 Main Street Shelbyville, KY 40065 Phone: 502-633-4736
KY	Warren	Warren County (Uninc. 0001A-0008A Areas)	210312	E - 5	I	F	July 15, 1977	July 15, 1977	Basil Griffin, Co. Judge 429 East Tenth Ave. Bowling Green, KY 42102 Phone: 5-2=842-9416
MD	Calvert	Calvert County (Uninc. 0001A-0005A Areas)	240011	E - 10,11, 12,14	I & C	F	Oct. 18, 1974	July 15, 1977	C. Bernard Fowler, Pres. County Commissioners County Courthouse Prince Frederick, MD 20678 Phone: 301-535-1600

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MD	Garrett	Garrett County (Uninc. 0001A-0009A Areas)	240034	E - 5	I	F	July 15, 1977	July 15, 1977	George C. Edwards, Chairma County Commissioners P.O. Box 72 Oakland, MD 21550 Phone: 301-334-3917
MI	Calhoun	Township of Burlington 0001A-0002A	260651	E - 5	I	F	July 15, 1977	July 15, 1977	Ronald Vincent, Twp. Supr. 135 Elm Street Township Hall Burlington, MI 49029 Phone: 517-765-2138
MI	Alger	Village of Chatham 01	260343A	E - 11,12, 14	I	F	April 25, 1975	July 15, 1977	Mrs. Shirley Lammi, Vil. Cl Village Hall Chatham, MI 49816 Phone: 906-439-5164
MI	Calhoun	Township of Lee 0001A-0002A	260668	E - 5	I	F	July 15, 1977	July 15, 1977	Richard Hare, Twp. Supr. Route 1, Box 23182 - 21 Mil Olivet, MI Phone: 517-857-3271
MI	Calhoun	Township of LeRoy 0001A-0002A	260655	E - 5	I	F	July 15, 1977	July 15, 1977	Frank Belote, Twp. Supr. Route 1 Climax, MI 49034 Phone: None
MN	Washington	City of Dellwood 0001A	270694	N - 5	I	F	July 15, 1977	July 15, 1977	Heibert Galloway, Mayor 38 Evergreen Road White Bear Lake, MN 55110 Phone: 612-426-2753

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MN	Chippewa	City of Milan 0001A	270589	N - 5	I	F	July 15, 1977	July 15, 1977	Leland Dalen, Mayor City Hall Milan, MN 56262 Phone: 612-734-4867
NJ	Gloucester	Township of West Deptford 0001A-0002A	340214	E - 10,11, 12,14	I	F	March 8, 1974	July 15, 1977	Robert Reed, Mayor Township Hall Crown Point Grove Road Thorofare, NJ 08086 Phone: 609-845-4004
NY	Montgomery	Village of Ames 01	360439A	E - 5	I	F	July 15, 1977	July 15, 1977	Fred Gordon, Mayor Village Hall Ames, NY 13317 Phone: 518-673-3191

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NY	Ontario	Town of Seneca 0001A-0003A	361248	E - 10,11, 12,14	I	F	Dec. 20, 1974	July 15, 1977	John T. Hicks, Town Supr. Box 142 Seneca Castle, NY Phone: 315-596-5892
NY	Onondaga	City of Syracuse 0001C-0004C	360595	E - 11	I	F	April 12, 1974 Dec. 26, 1975 May 14, 1976	July 15, 1977	Leslie G. Monostory 1100 Civic Center 421 Montgomery Street Syracuse, NY 13202 Phone: 315-425-6211
NC	Anson	Anson County (Uninc. Areas) 0001A-0009A	370284	N - 5	I	F	July 15, 1977	July 15, 1977	Chesley Greene, Chairman County Commissioners Wadesboro, NC 28170 Phone: 704-694-2796
NC	Brunswick	Town of Caswell Beach 0001A	370391	E - 5	C	F	July 15, 1977	July 15, 1977	Robert L. Jones, Mayor 717 Caswell Beach Road Caswell Beach, NC 28461 Phone: 919-278-5471

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NC	Wayne	Town of Seven Springs 01	370392A	N - 5	I	F	July 15, 1977	July 15, 1977	Mrs. Ora Sutton, Mayor P.O. Box 198 Seven Springs, NC 28578 Phone: 919-659-5241
OH	Allen	Village of Cairo 01	390801A	N - 5	I	F	July 15, 1977	July 15, 1977	Norman Foltz, Mayor 702 West Main Cairo, OH 45820 Phone: 419-641-4092
OH	Darke	Village of Castine 01	390685A	N - 5	I	F	July 15, 1977	July 15, 1977	Walter Holsapple, Mayor Box 154 Castine, OH 45313 Phone: 513-678-7010
PA	Bradford	Township of Armenia 0001A-0002A	421396	N - 5	I	F	July 15, 1977	July 15, 1977	Robert Hall, Chairman Township Supr. R.D. 1 Troy, PA 16947 Phone: 717-297-4020
PA	Indiana	Township of East Wheatfield 0001A-0004A	421716	N - 11,12, 14	I	F	Jan. 24, 1975	July 15, 1977	Mrs. Mary A. Tomb, Box 76 Armagh, PA 15920 Phone: 814-446-6311

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PA	York	Township of Paradise 0001A-0002A	420934	E - 10,11, 12,14	I	F	Sept. 14, 1973	July 15, 1977	Dean Bentzel, Chairman Township Supervisors R.D. 1 Thomasville, PA 17364 Phone: 717-225-4187
TN	Carter	Carter County (Uninc. 0001A-0006A . Areas)	470024	N - 5	I	F	July 15, 1977	July 15, 1977	DonLewis, County Judge County Courthouse Elizabethton, TN 37643 Phone: 615-542-4432
TN	Sumner	City of Hendersonville 0001A-0004A	470186	E - 10,11, 12,14	I	F	June 21, 1974	July 15, 1977	Charles Kimbrough, Mayor P.O. Box 1006 530 West Main Street Hendersonville, TN 37075 Phone: 615-824-2818
WV	Hardy	Town of Moorefield 0001B	540052	E - 6,11, 12,14	I	F	May 31, 1974	July 15, 1977	Paul V. Williams, Mayor Town Hall Moorefield, WV 26836 Phone: 204-538-6457

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STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
CA	Humboldt	City of Fortuna (01,03-04)	060063 A	N-5,15	I	F	19 JLY 77	19 JLY 77	Mr. Tom McWhorter - Director of Public Works - P.O. Box 545 - Fortuna, CA 95540 (707) 725-3308
CA	Uninc. Area	San Diego County (21,38-39, 55-56,58-59,71-72,74-75,86, 89,101-102,104,116-117,130-132,144-145,158,162-163,172-173,175-177,186,189-191,200-201,203-205,214-215,217-218, 228-230,241-243,253)	060284 A	E-5,15	C	F	19 JLY 77	19 JLY 77	Mr. James Magee - Senior Engine County of San Diego - Departmen of Sanitation and Flood Control County Operations Center - 5555 Overland Avenue - San Diego, CA 92123 (714) 565-5832
CA	San BERNARDINO	City of Upland (01-05)	065067 A	E-10,11,12, 14,15	I	F	28 JUN 74	19 JLY 77	Fred C. Blanchard - City Engine City Hall - 460 N. Euclid Avenu Upland CA 91786
CT	Middlesex	TOWN of East Hampton (02,05-15)	090064 A	E-10,11,12, 14	I	F	10 MAY 74	19 JLY 77	Mr. Eaton E. Smith - Selectman City Hall - East Hampton, CT 06424 (203) 267-2783
CT	Hartford	Town of East Hartford (01-06)	090026 A	E-10,11,12, 14	C	F	28 DEC 73	19 JLY 77	Honorable Richard Blackstone - Mayor - Town Hall - 740 Main St Hartford, CT 06108 (203) 289-2781

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CT	Litchfield	Town of Sharon (01-18)	090053 A	E-10,11,12, 14	I	F	2 AUG 74	19 JLY 77	William Wilbur - Selectman - Town Hall - P.O. Box 224 - Sharon, CT 06069 (203) 364-5224
ID	Canyon	City of Nampa (01-02,04)	160038 B	E-12,14	I	F	31 MAY 74 13 AUG 76	19 JLY 77	Honorable Ernest E. Starr - Mayor 203 12th Avenue, South - Nampa, 83651 (208) 466-9221
IA	Audubon	City of Gray (01)	190318 A	N-5	I	F	19 JLY 77	19 JLY 77	Honorable George Campbell - Mayor City Hall - Gray, IA 50110 (712) 653-2713
KS	Uninc. Area	Cowley County (0001-0012)	200563 A	N-5	I	F	19 JLY 77	19 JLY 77	Ms. Marilyn J. Johnson - Chairma Board of County Commissioners - Courthouse - Winfield, KS 6715 (216) 221-4066
ME	Cumberland	Town of Scarborough (0001-0004)	230052 B	E-11,12,14	C	F	17 MAY 74	19 JLY 77	Mr. Charles J. Anderson - Town Planner/Engineer - P.O. Box 327 Scarborough, ME 04074
ME	Oxford	Town of Sumner (02-16)	230187 A	E-10,11,12, 14	I	F	1 NOV 74	19 JLY 77	Honorable Chester Andrews - Mayor Town Hall - Sumner, ME 04292 (207) 388-2755

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MA	Dukes	Town of Oak Bluffs (0001)	250072 A	E-5	C	F	19 JLY 77	19 JLY 77	Mr. Joseph Sollitto - Selectman - Town Hall - Oak Bluffs, MA 02557 (617) 693-0320
MT	Uninc. Area	Stillwater County (02-04,07-11,14-17,21-45, 48-53,56-63,65-70,72-78, 80-85,87-89,92-93,96)	300078 A	E-11,12,14	I	F	16 AUG 74	19 JLY 77	Mr. Tom Kelly - Planner - Stillwater County Courthouse - Columbus MT 59019 (406) 322-5328
NH	Coos	Town of Jefferson (01,04,07-08,10-12,14)	330033 B	N-12	I	F	21 FEB 75	19 JLY 77	Mr. Earl J. Ellingwood - Selectman Town Hall - Jefferson, NH 03583 (603) 788-4641
ND	Mountrail	City of Stanley (01)	380318 A	N-5	I	F	19 JLY 77	19 JLY 77	Honorable Stanley Wright - Mayor City Hall - P.O. Box 305 - Stanley, ND 58784 (701) 628-2225
OK	Tulsa	Town of Bixby(02-08,10-15,17)	400207 A	E-8,10,11,12 14	I	F	28 JUN 74	19 JLY 77	Mr. Fred Keyes - City Manager - Town Hall - 112 North Armstrong Bixby, OK 74008 (918) 581-5531
OK	Canadian & Kingfisher	Town of Piedmont (0001-0004)	400027 A	N-5	I	F	19 JLY 77	19 JLY 77	Mr. Jerry Anduss - President - Town Hall - P.O. Box 144 - Piedmont, OK 73078 (405) 373-2621
OK	Jefferson	City of Waurika (01-05)	400076 B	E-11,12,14	I	F	28 JUN 74 26 DEC 75	19 JLY 77	Honorable Jack Danks - Mayor - 107 West E. Avenue - City Hall Waurika, OK 73573 (405) 228-2713

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OR	Uninc. Area	Morrow County (02-08,10-13, 17-18,20-26,28-39,41-51,53-101,103-106,109-111,115-116, 119-120)	410173 A	E-10,11,12, 14	I	F	24 JAN 75	19 JLY 77	Mr. Paul W. Jones - Chairman - Board of County Commissioners - County Courthouse - Heppner, OR 97836 (503) 676-9915
OR	Uninc. Area	Yamhill County (01-04,06-23, 26-31,33-47)	410249 A	E-10,11,12, 14	I	F	27 DEC 74	19 JLY 77	Mr. Colin Armstrong - Chairman - Board of County Commissioners - County Courthouse - McMinnville, OR 97128 (503) 472-9371
SD	Uninc. Area	Brown County (01-06,08-30, 32-98)	460006 A	E-10,11,12, 14	I	F	20 DEC 74	19 JLY 77	Mr. Orville Dinger, Chairman - Board of County Commissioners - c/o Auditor's Office - Aberdeen, SD 57401 (605) 994-2031
SD	Lyman	City of Presho (0001)	460297 A	N-5	I	F	19 JLY 77	19 JLY 77	Honorable Mike Sweeney - Mayor - City Hall - Presho, SD 57568 (605) 895-2386
TX	Uninc. Area	El Paso County (0001-0008, 0010-0015)	480212 A	E-10,11,12	I	F	13 SEP 74	19 JLY 77	Honorable T. Udell Moore - County Judge - Office of the County Judge - County Courthouse - El Paso TX 79951 (915) 543-2818
TX	Uninc. Area	Walker County (0001-0012)	481042 A	N-5	I	F	19 JLY 77	19 JLY 77	Honorable Ralph Davis, Jr. - County Judge - Office of the County Judge - County Courthouse Huntsville, TX 77340 (713) 295-5787

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TX	Wharton	City of Wharton (0001)	480654 A	E-8,11,12,14	I	F	31 DEC 76.	19 JLY 77	Mr. Neil H. Haman - City Manager P.O. Box 1026 - Wharton, TX 77488 (713) 532-2491
WA	Uninc. Area	Lincoln County (0001-0029)	530106 A	E-5	I	F	19 HLY 77	19 JLY 77	Mr. Loren C. Moos - Chairman - Board of County Commissioners - County Courthouse - Davenport, WA 99122 (509) 725-1401
WY	Uninc. Area	Goshen County (02-03,05-06, 08-10,12,14-17,20-29,31,33-38,40,42-46,48-52,54-58,60-76,78-96,99-102,104-108,110-126)	560022 A	N-5	I	F	19 JLY 77	19 JLY 77	Mr. Donald Horton - c/o K & H Engineering - P.O. Box 147 - Torrington, WY 82240 (307) 532-3811
WY	Big Horn	Town of Greybull (01)	560005 B	N-8,11,12	I	F	21 JUN 74	19 JLY 77	J. Newell Sorensen - Director of Planning - Regional Planning Off- County Courthouse - P.O. Box 223 Basin, WY 82410 (307) 568-2566

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AL	Chambers	Chambers County (Unino. 01-40 Areas)	010026A	E - 10,11, 12,14	I	P	Jan. 17, 1975	July 22, 1977	O.D. Alsobrook, Probate Judg County Courthouse LaFayette, AL 36862 Phone: 205-864-2121
DE	Kent	City of Dover 0001B-0004B	100006	E - 8,11, 12,14	I	P	May 31, 1974 Jan. 2, 1976	July 22, 1977	F.J. O'Neil, City Engineer P.O. Box 475 Dover, DE 19901 Phone: 302-674-1000
FL	Levy	City of Cedar Key 01	120373A	E - 5	C	P	July 22, 1977	July 22, 1977	L. Harold Turner, Mayor P.O. Box 838 Cedar Keys, FL 32625 Phone: 904-543-5132
FL	Marion	Marion County (Uninc. 0001A-0019A Areas)	120160	E - 10,11, 12,14	I	P	Dec. 27, 1974	July 22, 1977	George Rou, Jr., Chairman P.O. Box 1030 Ocala, FL 32670 Phone: 904-732-5321

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IL	Alexander	Alexander County (Uninc. Areas) 01-29	170811A	E - 10,11, 12,14	I	F	Dec. 27, 1974	July 22, 1977	C.E. Ferris, Chairman County Board 2000 Washington Cairo, IL 62914
IL	Jefferson	Village of Bluford 0001A	170920	N - 5	I	F	July 22, 1977	July 22, 1977	Bryron Vance, Vil. Pres. Village Hall Box 98 Bluford, IL 62814 Phone: 618-732-8773
IL	Alexander	Village of East Cape Girardeau 01	170916A	N - 5	I	F	July 22, 1977	July 22, 1977	James G. Bartleson, Vil. Pre Route 1 McClure, IL 62957 Phone: 618-394-5554
KY	Carlisle	Carlisle County (Uninc. Areas) 0001A-0004A	210042	N - 10,11 12,14	I	F	Oct. 18, 1974	July 22, 1977	Ronald Owens, County Judge County Courthouse Bardwell, KY 42023 Phone: 502-628-5424
KY	Owen	City of Gratz 0001A	210321	E - 5	I	F	July 22, 1977	July 22, 1977	J.T. Hayden, Mayor City Hall Gratz, KY 40327

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KY	Hardin	Hardin County (Uninc. Areas) 0001A-0011A	210094	N - 10,11, 12,14	I	F	Oct. 18, 1974	July 22, 1977	R.R. Thomas, County Judge P.O. Box 568 Elizabethtown, KY 42701 Phone: 502-765-2350
KY	Pulaski	Pulaski County (Uninc. Areas) 0001A-0013A	210197	N - 5	I	F	July 22, 1977	July 22, 1977	Jacob Garner, County Judge P.O. Box 712 County Courthouse Somerset, KY 42501 Phone: 606-678-4853
MI	Calhoun	Township of Eckford 0001A-0002A	260653	E - 5	I	F	July 22, 1977	July 22, 1977	Athol Hazen, Twp. Supr. 9890 - 22 Mile Road Marshall, MI 49068 Phone: 616-781-5204
MI	Livingston	Township of Putnam 0001A-0004A	260442	N - 5	I	F	July 22, 1977	July 22, 1977	Donald E. Fry, Supr. 11157 Hillside Drive Pinckney, MI 48169
MN	Faribault	Faribault County (Uninc. Areas) 01-42	270669A	E - 5	I	F	July 22, 1977	July 22, 1977	John Paschke, Chairman County Commissioners County Courthouse Blue Earth, MN 56013 Phone: 507-526-5817

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MN	LeSueur	City of Heidel Sue 01	270701A	N - 5	I	F	July 22, 1977	July 22, 1977	Gerald Odenghal, Mayor Rt. 1, Box 19913 New Praque, MN 56071 Phone: 612-364-9889
MN	Washington	City of Pine Springs 01	270697A	N - 5	I	F	July 22, 1977	July 22, 1977	P.A. Linnerooth, Mayor 3532 Long Lake Road Pine Springs, MN 55109 Phone: 612-777-9778
MS	Greene	Greene County (Uninc. Areas) 01-45	280271A	E - 5	I	F	July 22, 1977	July 22, 1977	Bill Robertson, President Bd. of Supervisors County Courthouse Leakesville, MS 39451 Phone: 601-394-5362
NJ	Cumberland	City of Vineland 0001A-0005A	340176	E - 10,11,12,14	I	F	May 4, 1973	July 22, 1977	Pat Fiorilla, Mayor Seventh and Wood Streets Vineland, NJ 08360 Phone: 609-691-3000
NJ	Sussex	Township of Walpack 0001A-0003A	340458	N - 5	I	F	July 22, 1977	July 22, 1977	Raymond Fuller, Mayor P.O. Columbia, NJ 07832 Phone: 201-581-2247

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NC	Beaufort	Beaufort County (Uninc. Areas) 01-71	370013A	E - 5	I	F	July 22, 1977	July 22, 1977	Mrs Arthur Lee Moore, Cha County Board of Comm. County Courthouse Washington, NC 27889 Phone: 919-946-5020
NC	Madison	Madison County (Uninc. Areas) 0001A-0003A	370152	E - 5	I	F	July 22, 1977	July 22, 1977	Virginia Anderson, Chairman Co. Commissioners P.O. Box 237 Marshall, NC 28753 Phone: 704-649-2300
NC	Tyrrell	Tyrrell County (Uninc. Areas) 0001A-0010A	370232	E - 10,11,12,14	I	F	Dec. 27, 1974	July 22, 1977	Joe Landino, Chairman County Commissioners Route 1 Columbia, NC 27925 Phone: 919-796-2741
PA	Lycoming	Township of Armstrong 0001A-0003A	420635	E - 10,11,12,14	I	F	Feb. 22, 1974	July 22, 1977	Robert S. Winters, Chairman R.D. 3, Box 16 Williamsport, PA 17701
PA	Tioga	Township of Elk 0001A-0006A	421154	E - 5	I	F	July 22, 1977	July 22, 1977	Hugh Clark, Chairman Twp. Supr. R.D. 1 Gaines, PA 16921 Phone: 814-435-6735

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PA	Wyoming	Borough of Meshoppen 01-02	420914A	E - 10,12, 14	I	F	Jan. 9, 1974	July 22, 1977	Jacob Kitner, Mayor Borough Hall Meshoppen, PA 18630 Phone: 717-833-9547
PA	Pike	Township of Milford 0001A-0002A	422642	E - 5	I	F	July 22, 1977	July 22, 1977	Julio H. Santos, Twp. Chai P.O. Box 62 Milford, PA 18337 Phone: 717-296-7043
PA	Snyder	Township of Penn 0001A-0002A	421024	E - 5	I	F	July 22, 1977	July 22, 1977	Charles Mull, Chairman Twp. Supervisors R.D. 1 Selinsgrove, PA 17870 Phone: 717-374-8646
PA	Fayette	Borough of Perryopolis 0001A	421616A	E - 5	I	F	July 22, 1977	July 22, 1977	Joseph Lipouski, Mayor R.D. 1, Box 10 Perryopolis, PA 15473 Phone: 412-736-2254
SC	Lexington	Town of Lexington 0001B	450134	E - 8,11, 12,14	I	F	June 7, 1974 Dec. 10, 1976	July 22, 1977	Maureen Macalay, Clerk P.O. Box 397 Lexington, SC 29072 Phone: 803-359-4164

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TN	Rhea	Rhea County (Unino. Areas) 0001A-0006A	470151	N - 5	I	F	July 22, 1977	July 22, 1977	Don Wade, County Judge County Courthouse Dayton, TN Phone: 6150775-0187
VA	Caroline	Town of Port Royal 01	510332A	N - 5	I	F	July 22, 1977	July 22, 1977	John L. Moltey, Jr., Mayo Town Hall Port Royal, VA 22535 Phone: 804-742-3787
VA	Independent City	City of Salem 0001B-0002B	510141	E - 11,12, 14	I	F	April 12, 1974 June 18, 1976	July 22, 1977	William Paxton, City Mana Box 869 Salem, VA 24153 Phone: 703-389-8601
WV	Hancock	Hancock County (Unino. Areas 0001A-0002A	540047	E - 10,11, 12,14	I	F	Aug. 2, 1974	July 22, 1977	Edward Nogay, President County Commissioners County Courthouse New Cumberland, WV Phone: 304-564-3311

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CA	Kern	City of Tehachapi (02)	060084 A	E-11,12,14	I	F	30 JLY 76	26 JLY 77	Mr. Lawrence M. Cook - City Administrator - 129 East "F" Street - Tehachapi, CA 93561 (805) 822-3264
CT	Windham	Town of Thompson (0001-0004)	090117 A	E-10,11,12, 14	I	F	17 MAY 74	26 JLY 77	Honorable Adelard Hamel - Mayor - Town Hall - Route 12-North Grosvenor Dale - Thompson, CT 06255 (203) 923-9561
IA	Dallas	City of DeSoto (01)	190359 A	N-12	I	F	26 SEP 75	26 JLY 77	Honorable Fletcher Crow - Mayor - 120 Locust Street - DeSoto, IA 50069 (515) 834-2321
IA	Sioux	City of Hawarden (01-02)	190252 B	E-11,12,14	I	F	24 MAY 74 30 JLY 76	26 JLY 77	Mr. Don A. Leafstedt - City Clerk Hawarden, IA 51023 (712) 552-2732
IA	Sac	City of Odebolt (01)	190633 A	E-11,12,14	I	F	29 AUG 75	26 JLY 77	Honorable George Hilburn - Mayor City Hall - Odebolt, IA 51458 (712) 668-2231
IA	Uninc. Area	Winnebago County (0001-0004)	190915 A	N-5	I	F	26 JLY 77	26 JLY 77	Mr. Merle Severson - Chairman - Board of Supervisors - Winnebago County Courthouse - Forest City, IA (515) 567-3725

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LA	Uninc. Area	Vernon Parish (0001-0016)	220228 A	N-5	I	F	26 JLY 77	26 JLY 77	Mr. M. O. Poston - President - Office of the Police Jury - Par Courthouse - Leesville, LA 71446 (318) 239-2311
ME	Hancock	Town of Otis (01-05,07-08)	230289 A	N-11,12	I	F	18 APR 75	26 JLY 77	Mr. Robert Cote - First Selectm Town Office - Rd #4 - Elsworth, ME 04605 (207) 667-8051
MA	Essex	Town of Boxford (01-10)	250078 B	E-11,12,14	I	F	30 AUG 74 15 OCT 76	26 JLY 77	Mr. Phil Briggs - Chairman - Planning Board - Boxford, MA 01921 (617) 661-0155
MA	Hampden	Town of Ludlow (01-12)	250144 A	E-8,10,11, 12,14	I	F	26 JLY 74	26 JLY 77	Mr. William D. Mullins - Select 488 Chapin Street - Ludlow, MA 01056 (413) 589-5551
MO	Camden & Miller	City of Lake Ozark (0001)	290698 A	N-5	I	F	26 JLY 77	26 JLY 77	Honorable Ray A. Denney - Mayor City Hall - Lake Ozark, MO 65049 (314) 365-5378

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NB	Uninc. Area	Colfax County (0001-0006)	310426 A	N-5	I	F	26 JLY 77	26 JLY 77	Mr. Leonard M. Bauman - Chairma Board of County Commissioners - County Courthouse - Schuyler, N 68661 (402) 352-3434
NH	Carroll	Town of Bartlett (03-04,07-09,11-14,17)	330010 A	E-8,10,11, 12,14	I	F	28 JUN 74	26 JLY 77	Mr. Gene Chandler - Selectman - Town Hall - Bartlett, NH 03812 (603) 356-2300
NH	Groffton	Town of Orford (0001-0004)	330070 A	N-5	I	F	26 JLY 77	26 JLY 77	Mr. George L. Tullar - Chairman Town Hall - Orford, NH 03777 (603) 353-4537
NM	McKinley	City of Gallup (0001-0002)	350042 A	E-8,10,11, 12,14	I	F	1 MAR 74	26 JLY 77	Honorable Sam D. Ray - Mayor - City Hall - Second & Aztec - P.O. Box 1270 - Gallup, NM 87301 (505) 863-6371
NM	Uninc. Area	Los Alamos County (0001-0002,0004)	350035 A	E-11,12,14	I	F	25 OCT 74	26 JLY 77	Mr. Richard W. Getzinger - Cha Los Alamos County Council - 23 Trinity Drive - P.O. Box 30 - Los Alamos, NM 87544 (505) 662-4122
OR	Uninc. Area	Jefferson County (01-05,08-15,17-22,24,26, 28-31,33,35,37-45,48-53, 60,62-73,75,77,80-84)	410101 A	E-5	I	F	26 JLY 77	26 JLY 77	Mr. Herschel Read - Chairman - Board of County Commissioners County Courthouse - Madras, OR 97741 (503) 475-2449

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VT	Caledonia	Village of Hardwick (01)	500187 B	N-11,12	I	F	20 DEC 74 24 DEC 76	26 JLY 77	Mr. Alfred Lanphear - Town Man Hardwick, VT 05843 (802) 472-5971
VT	Bennington	Town of Rupert (01-04,06-08,10-11)	500018 A	E-8,10,11, 12,14	I	F	9 AUG 74	26 JLY 77	Mr. Howard Leach - Chairman - Board of Selectmen - Town Hall Rupert, VT 05768 (802) 394-7722
WA	Uninc. Area	Adams County (0001-0020)	530001 A	N-5	I	F	26 JLY 77	26 JLY 77	Mr. Ralph Danekas - Chairman - Board of County Commissioners County Courthouse - Ritzville 99169 (509) 659-0110

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FL	Martin	Martin County (Uninc. Areas) 0001A-0011A	120161	E - S	I & C	F	July 29, 1977	July 29, 1977	Jack Noble, Co. Administ County Courthouse Stuart, FL 33494 Phone: 305-283-6760
IN	Howard	Howard County (Uninc. 0001A-0008A Areas)	180414	E - S	1	F	July 29, 1977	July 29, 1977	Robert Dailey, Chairman County Commissioners Room 200 County Courthouse Kokomo, IN 46901 Phone: 317-457-8169
KY	Greenup	Greenup County (Uninc. 0001A-0006A Areas)	210284	E - S	I	F	July 29, 1977	July 29, 1977	Richard Ousley, County J County Courthouse Greenup, KY 41144 Phone: 606-473-3741
KY	Leslie	Leslie County (Uninc. 0001A-0006A Areas)	210324	N - S	I	F	July 29, 1977	July 29, 1977	Allen Muncie, County Juc County Courthouse Box 252 Hyden, KY 41749 Phone: 606-672-2198
KY	Woodford	City of Versailles 0001A	210231	N - S	I	F	July 29, 1977	July 29, 1977	Scott Miller, Mayor 196 South Main Versailles, KY 40383 Phone: 606-873-5436
MI	Barry	Township of Baltimore 0001A-0002A	260666	E - S	I	F	July 29, 1977	July 29, 1977	Dale Miller, Twp. Supr. 1939 Cloverdale Rd. Hastings, MI 49058 Phone: 616-945-5576

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MI	Genesee	Village of Goodrich 01	260397A	E - S	I	F	July 29, 1977	July 29, 1977	Douglas Pierson, Presid 10237 Hegel Road Goodrich, MI 48438 Phone: 313-636-2570
MI	Mackinac	Township of St. Ignace 0001A-0002A	260444	N - S	I & C	F	July 29, 1977	July 29, 1977	Bessie Matson, Supr. R. 1 St. Ignace, MI 49781 Phone: 906-643-8935
									Kerkhoven, MN 56252 Phone: 612-264-3901
MN	Meeker	Meeker County (Uninc. 0001A-0011A Areas)	270280	E - S	I	F	July 29, 1977	July 29, 1977	George Rice, Chairman Co. Bd. of Commissioner County Courthouse Litchfield, MN 55355 Phone: 612-693-2887

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MN	Kandiyohi	City of Willmar 0001A	270703	N - 5	I	F	July 29, 1977	July 29, 1977	William Ferguson, Mayor 333 Southwest Sixth Street Willmar, MN 56201 Phone: 612-235-4913
MS	Attala	Attala County (Uninc. Areas) 01-46	280001A	N - 5	I	F	July 29, 1977	July 29, 1977	Alvin McCrory, Pres. Board of Supervisors County Courthouse Kosciusko, MS 39090 Phone: 601-472-2610
MS	Union	City of Myrtle 01	280295A	N - 5	I	F	July 29, 1977	July 29, 1977	Mrs. Hugh Craig, Mayor P.O. Box 9 Myrtle, MS 38650 Phone: 601-988-2235
NJ	Monmouth	Township of Upper Freehold 0001B-0005B	340332	E - 8,11, 12,14	I	F	March 22, 1974 Aug. 20, 1976	July 29, 1977	Thomas Birdsall, Twp. Engr P.O. Box 1429, 2807 Hurley Pond Rd. Wall, NJ 07719 Phone: 201-681-2400
NY	Allegany	Town of Almond 0001A-0002A	360968	E - 10,11, 12,14	I	F	April 12, 1974	July 29, 1977	Gary T. Frazer, Supr. R.D. 1 Almond, NY 14804 Phone: 607-276-6355

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NY	Chenango	Town of German 0001A-0002A	361587	N - 5	I	F	July 29, 1977	July 29, 1977	Franklin White, Town Supr. R.D. 2 McDonough, NY 13801 Phone: None
NY	Wayne	Village of Palmyra 0001A	360896	N - 5	I	F	July 29, 1977	July 29, 1977	M. Katherine Davin, Mayor 144 East Main Palmyra, NY 14522 Phone: 315-597-4849
NY	Cayuga	Village of Port Byron 01	360121B	E - 11,12, 14	I	F	May 3, 1974 June 11, 1976	July 29, 1977	Richard Burke, Mayor 112 Rochester Street Port Byron, NY 13140 Phone: 315-967-4570
NC	Henderson	Henderson County (Uninc. Areas) 0001A-0006A	370125	E - 10,11, 12,14	I	F	Jan. 10, 1975	July 29, 1977	Edward Todd, Chairman Co. Bd. of Commissioners 244 Second Ave., East Hendersonville, NC 28739
NC	Henderson	City of Hendersonville 0001A	370128	E - 5	I	F	July 29, 1977	July 29, 1977	Boyce Whitmore, Mayor 145 - Fifth Avenue, East Hendersonville, NC 28739 Phone: 704-693-6322

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OH	Gallia	City of Gallipolis 0001B	390188	E - 11, 12, 14	I	F	Sept. 17, 1976	July 29, 1977	Richard T. Mills, Manager 518 Second Avenue Gallipolis, OH 45631 Phone: 614-446-1424
OH	Lake	Village of Kirtland Hills 0001A	390810	E - 5	I	F	July 29, 1977	July 29, 1977	Westley Phillips, Mayor 9122 Chillocothe Road Kirtland, OH 44094 Phone: 216-256-3332
OH	Trumbull	Village of Yankee Lake 0001A	390798	N - 5	I	F	July 29, 1977	July 29, 1977	Paul Jurko, Sr., Mayor Village Hall Brookfield, OH 44403 Phone: 216-448-8361

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PA	Westmoreland	Township of Penn 0001A-0004A	422183	E - 5	I	F	July 29, 1977	July 29, 1977	Bruno Cinti, President Township Commissioners Box 195 Claridge, PA 15623 Phone: 412-744-3669
SC	Richland	Richland County (Uninc. Areas) 0001A-0011A	450170	E - 5	I	F	July 29, 1977	July 29, 1977	Robert Mauney, County Administrator County Courthouse Columbia, SC Phone: 803-252-9507

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AR	Uninc. Area	Columbia County (01-50)	050425 A	N-5	I	F	2 AUG 77	2 AUG 77	Honorable Robert Henderson - County Judge - Office of the County Judge - County Courthouse Magnolia, AR 71753 (501) 234-2542
AR	Uninc. Area	Garland County (04-05,08-10,13-16,19-23, 25-30,32-37,39-43,45-48)	050433 A	N-5	I	F	2 AUG 77	2 AUG 77	Honorable Bill McCuke - County Judge - Office of the County Judge - County Courthouse - Hot Springs, AR 71901 (501) 321-2819
AR	Uninc. Area	Johnson County (0005-0007,0009-0012)	050441 A	N-5	I	F	2 AUG 77	2 AUG 77	Honorable C. O. Blackard - County Judge - Office of the County Judge - County Courthouse Clarksville, AR 72830 (501) 754-2176
CO	Uninc. Area	El Paso County (02-11,13-22,25-33,36-44, 47-55,57-66,69-77,79-87, 89-106,108-116,120-125)	080059 A	E-10,11,12, 14	I	F	27 DEC 74	2 AUG 77	Mr. John B. Waeth - Chairman - Board of County Commissioners - County Courthouse - Colorado Springs, CO 80501 (303) 471-5711
CT	New Haven	City of Milford (01-10)	090082 A	E-10,11,12, 14,15	I	F	2 AUG 77	2 AUG 77	Honorable Joel R. Baldwin - Mayor City Hall - River Street - Milford, CT 06460 (203) 878-1731

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ID	Uninc. Area	Bonneville County (0001-0006,0009-0024)	160027 A	E-10,11,12, 14	I	F	18 OCT 74	2 AUG 77	Mr. Leo Clawson - Chairman - Board of County Commissioners - County Courthouse - Idaho Falls ID 83401 (208) 523-1120
ID	Uninc. Area	Boundary County (0001-0004)	160207 A	N-5	I	F	2 AUG 77	2 AUG 77	Mr. Walter Worley - Chairman - Board of County Commissioners - County Courthouse - Bonners Ferr ID 83805 (208) 257-2242
IA	Uninc. Area	Webster County (0002-0010)	190831 A	N-5	I	F	2 AUG 77	2 AUG 77	Mr. Leonard Sheker - Chairman - Board of Supervisors - County Courthouse - Fort Dodge, IA 50501 (515) 576-2401
IA	Clinton	City of Welton (01)	190089 A	N-5	I	F	2 AUG 77	2 AUG 77	Honorable Lawrence Berner - Mayor City Hall - Welton IA 52774 (319) 652-2411
IA	Uninc. Area	Woodbury County (03-08,11-17,19-56)	190536 A	E-5	I	F	2 AUG 77	2 AUG 77	Mr. Jerry O'Sullivan - Chairman Board of County Supervisors - County Courthouse - Sioux City, IA 51102 (712) 279-6500
KS	Butler	City of Andover (01-03)	200383 A	E M-8,11,12	I	F	6 AUG 76	2 AUG 77	Ms. Patricia M. Stuenkel - City Clerk/Administrator - P.O. Box 295 - Andover, KS 67002

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KS	Uninc. Area	Barton County (0001-0012)	200016 A	N-5	I	F	2 AUG 77	2 AUG 77	Mr. Elmer E. Bitter - Chairman - Board of County Commissioners - County Courthouse - Great Bend, KS 67530 (316) 792-4721
LA	Uninc. Area	East Carroll Parish (01-41)	220062 A	E-5	I	F	2 AUG 77	2 AUG 77	Mr. J. Harry Barrett, Sr. - President - Police Jury - Court-House - Lake Providence, LA 71254 (318) 559-2236
LA	Uninc. Area	Avoyelle Parish (01-58)	220019 A	E-10,11,12, 14	I	F	10 JAN 75	2 AUG 77	Mr. Marion Roy - President - Police Jury - Marksville, LA 71351 (318) 253-9203
ME	Aroostook	Town of Easton (01-05,11-12)	230017 B	E-11,12,14	I	F	18 OCT 74 25 JUN 76	2 AUG 77	Mr. Alphonse R. Dixon - Town Manager - P.O. Box 127 - Easton, ME 04740 (207) 488-6662
MA	Hampden	Town of Wilbraham (0001-0002)	250154 A	E-10,11,12, 14	I	F	17 MAY 74	2 AUG 77	Mr. Stanley J. Koziol - Building Inspector - Town Hall - Wilbraham MA 01095 (413) 596-3816
NB	Uninc. Area	Douglas County (01-16,18-23)	310073 A	E-10,11,12, 14	I	F	26 JLY 74	2 AUG 77	Mr. Michael Albert - Chairman - Board of County Commissioners - County Courthouse - Omaha, NB 68101 (402) 444-7025
NM	Uninc. Area	San Juan County (0001-0030)	350064 A	E-10,11,12, 14	I	F	13 SEP 74	2 AUG 77	Mr. Jim T. Dunlap - County Administrator - County Courthouse Aztec, NM (505) 334-9461

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OK	Uninc. Area	Logan County (0001-0010)	400096 A	N-10,11,12	I	F	27 DEC 74	2 AUG 77	T. P. Hayes - Chairman - Board of County Commissioners - County Courthouse - Guthrie, OK (405) 282-2124
OR	Baker	City of Sumpter (01-42)	410007 A	N-12	I	F	24 DEC 76	2 AUG 77	Ms. Venita Cullum - City Recorder P.O. Box 518 - Sumpter, OR 97877 (503) 894-2328
RI	Providence	Town of Burrillville (01-03,05-16)	440013 A	E-10,11,12, 14	I	F	13 SEP 74	2 AUG 77	Mr. Ed Gingell - Building Inspector - Town Hall - 70 Main Street Harrisville, RI 02830 (401) 568-6908
TX	Montague	City of Bowie (02)	480481 B	R-2,14	I	F	3 MAY 74 3 OCT 75	2 AUG 77	
TX	Uninc. Area	Bosque County (01-64)	480051 A	E-10,11,12, 14	I	F	27 DEC 74	2 AUG 77	Honorable Charles K. Wood, Jr. County Judge - Office of the County Judge - County Courthouse Meridian, TX 76665 (817) 435-2282

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WA	Uninc. Area	Columbia County (01-13,15-35,37-40,43-44, 47,51)	530029 A	N-5	I	F	2 AUG 77	2 AUG 77	Mr. Vernon Marill - Chairman - Board of County Commissioners - County Courthouse - Dayton, WA 99328 (509) 382-4542
WY	Uninc. Area	Big Horn County (0001-0003,0005-0007, 0009-0012,0014-0018, 0020-0024,0027-0037, 0039)	560004 A	N-5	I	F	2 AUG 77	2 AUG 77	Mr. Ray Webber - Chairman - Board of County Commissioners - County Courthouse - Basin, WY 82410 (307) 568-2357

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FL	Highlands	Highlands County (Uninc. 0001A-0012A Areas)	120111	E - 10,11, 12,14	I	F	Dec. 20, 1974	Aug. 5, 1977	Robert Skipper, Chairman County Commissioners County Courthouse Sebring, FL 33870 Phone: 813-385-2581
FL	Flagler	Town of Painters Hill 01	120571A	N - 5	C	F	August 5, 1977	Aug. 5, 1977	Margaret Frazer, Mayor P.O. Box 234 Flagler Beach, FL Phone: None
GA	Baldwin	City of Milledgeville 0001B	130006	E - 8,11, 12,14	I	F	May 31, 1974 April 30, 1976.	Aug. 5, 1977	Mrs. Smith, Dept. Clerk P.O. Box E Milledgeville, GA 31061 Phone: 912-452-4313
GA	Tattnall	City of Reidsville 01-04	130394 ~~130239A~~	E - 5	I	F	August 5, 1977	Aug. 5, 1977	W.S. Smith, Mayor P.O. Box 830 Reidsville, GA 30453 Phone: 912-557-3333
IN	Harrison	Town of Lanesville 01	180420A	E - 5	I	F	August 5, 1977	Aug. 5, 1977	William Hussung, Pres. Town Board R.D.1 Lanesville, IN 47135 Phone: 812-952-2549

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IN	Gibson	City of Princeton 01	180073C	E - 11,12 14	I	F	May 31, 1974 March 5, 1976 Dec. 31, 1976	Aug. 5, 1977	Frank Dasch, Mayor Box 15 Princeton, IN 47670 Phone: 812-385-4423
IN	Switzerland	Switzerland County (Uninc. Areas) 0001A-0004A	180251	E - 10,11, 12,14	I	F	Feb. 1, 1974	Aug. 5, 1977	William Duvall, Chairman County Commissioners County Courthouse Vevay, IN 47043 Phone: 812-427-3885
KY	Campbell	Campbell County (Uninc. Areas) 0001A-0007A	210034	E - 10,11, 12,14	I	F	Dec. 27, 1974	Aug. 5, 1977	Lambert Hehl, County Jud County Courthouse, Room Newport, KY 41072 Phone: 606-292-3865
KY	Clark	Clark County (Uninc. Areas) 0001A-0005A	210278	E - 5	I	F	August 5, 1977	Aug. 5, 1977	Dorsey P. Curtis, Co. Ju County Courthouse P.O. Box 5 Winchester, KY 40391 Phone: 606-744-3189
KY	Simpson	Simpson County (Uninc. Areas) 0001A-0004A	210316	E - 5	I	F	August 5, 1977	Aug. 5, 1977	Joe E. James, Co. Judge County Courthouse Franklin, KY 42134 Phone: 502-586-5125
MI	Bay	Township of Beaver 0001A-0002A	260357	N - 5	I	F	August 5, 1977	Aug. 5, 1977	Paul Megger, Twp. Supr. 2518 South 11 Mile Road Auburn, MI 48611 Phone: 517-662-4202

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MI	Kalkaska	Township of Boardman 0001A	260430	N - 5	I	F	August 5, 1977	Aug. 5, 1977	Elmond Nolff, Twp. Supr Box 16 South Boardman, MI 496 Phone: 616-369-2826
MI	Huron	Village of Caseville 0001A	260677	N - 5	I	F	August 5, 1977	Aug. 5, 1977	Harold Baker, Village Pre 6682 Main Street Caseville, MI 48725 Phone: 517-856-2650
MI	Barry	Township of Castleton 0001A-0002A	260641	E - 5	I	F	August 5, 1977	Aug. 5, 1977	Justin W. Cooley, Twp. 512 North Main Street Nashville, MI 49073 Phone: 517-852-9106
MI	Genesee	City of Clio 0001A	260667	N - 5	I	F	August 5, 1977	Aug. 5, 1977	Samuel Geddes, Mayor 200 Griffes Street Clio, MI 48420 Phone: 313-686-1994
MN	Kittson	City of St. Vincent 01	270232P	E - 11	I	F	Aug. 9, 1974 July 9, 1976	Aug. 5, 1977	W.A. Clow, Mayor City Hall St. Vincent, MN 56755 Phone: 218-823-6521

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NY	Clinton	Town of Chazy 0001A-0005A	361310	N - S	I	F	August 5, 1977	Aug. 5, 1977	Herold E. Jubert, Town Sc Town Hall West Chazy, NY Phone: 518-493-4835
NY	Livingston	Village of Mt. Morris 01-02	360969B	E - 9	I	F	Nov. 16, 1973 April 30, 1976	Aug. 5, 1977	Lawrence Patzwald, Mayo 103 Main Street Mt. Morris, NY 14510 Phone: 716-658-4160
NC	Avery	Town of Crossnore 0001A	370287	N - S	I	F	August 5, 1977	Aug. 5, 1977	Harold Moldenhaver, Ma Box 128 Crossnore, NC 28616 Phone: 704-733-2233
OH	Brown	Village of Fayetteville 01	390788A	N - S	I	F	August 5, 1977	Aug. 5, 1977	John T. Aubry, Mayor Village Hall Fayetteville, OH 45118 Phone: 513-875-2052
OH	Marion	Village of La Rue 01	390375B	E - 11, 12, 14	I	F	Nov. 23, 1973 May 28, 1976	Aug. 5, 1977	Paul Clewell, Councilma 81 S. Chestnut Street La Rue, OH 43332 Phone: 614-499-3659

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PA	Northumberland	Township of Delaware 01-13	421010A	E - S	I	F	August 5, 1977	Aug. 5, 1977	James C. Young, Twp. S Township Hall Devart, PA 17730 Phone: 717-538-1620
PA	Potter	Township of Homer 0001A-0002A	422501	E - S	I	F	August 5, 1977	Aug. 5, 1977	Richard W. Russell, Twp R.D. 3 Coudersport, PA 16915 Phone: 717-274-8239
PA	Wyoming	Township of Forkston 0001A-0004A	422199	E - 11, 12, 14	I	F	Nov. 29, 1974	Aug. 5, 1977	Mrs. Madge Severcook, R.D. 1, Box 118 Mehoopany, PA 18629 Phone: 717-833-5625
PA	Lycoming	Township of Lewis 01-06	420643B	E - 11, 12, 14	I	F	May 24, 1974	Aug. 5, 1977	Donald Chute, Supr. Township Building Trout Run, PA 17771 Phone: 717-998-2424
PA	Bradford	Township of Monroe 01-12	421083B	E - 11, 12, 14	I	F	Sept. 13, 1974 Sept. 24, 1976	Aug. 5, 1977	Doyle M. Lingle, Supr. R.D. 1 Monroeton, PA 18832 Phone: 717-265-9345
PA	Columbia	Township of Pine 0001A-0005A	421556	E - S	I	F	August 5, 1977	Aug. 5, 1977	Gordon E. Brown, Chairm Twp. Supr. R.D. 1 Millville, PA 17846 Phone: 717-458-5723

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TN	Coffee	Coffee County (Uninc.Areas) 0001A-0007A	470355	N - 5	I	F	August 5, 1977	Aug. 5, 1977	J.W. Ray, Co. Judge County Courthouse Manchester, TN 37355 Phone: 615-728-3024
TN	Decatur	Decatur County (Uninc. 0001A-0006A Areas)	470041	N - 5	I	F	August 5, 1977	Aug. 5, 1977	Herdin Smith, Co. Judge County Courthouse Decaturville, TN 38329 Phone: 901-852-3691
WV	Mingo	Mingo County (Uninc. Areas) 0001A-0009A	540133	E - 10,11, 12,14	I	F	Dec. 20, 1974	Aug. 5, 1977	Rastie Runyon, President County Commissioners Box 1197 Williamson, WV 25661 Phone: 304-235-5060
WV	Lewis	City of Weston 01	540087B	E - 11,12, 14	I	F	Oct. 31, 1975 April 5, 1974	Aug. 5, 1977	Mrs. Jean Bennett, City C 118 Main Ave. Weston, WV 26452 Phone: 304-269-3422

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AK	Nome	City of Nome (01-03)	020069 A	E-10,11,12, 14	C	F	28 JUN 74	9 AUG 77	Honorable Robert Renshaw - Mayor City Hall - P.O. Box 281 - Nome, AK 99762 (907) 443-5242
AR	Uninc. Area	Nevada County (01-44)	050454 A	N-5	I	F	9 AUG 77	9 AUG 77	Honorable Fred C. Ridling, Jr. - County Judge - Office of the County Judge - County Courthouse - Prescott, AR 71857 (501) 887-2710
AR	Uninc. Area	Phillips County (0001-0011)	050166 A	N-5	I	F	9 AUG 77	9 AUG 77	Honorable A. Y. Jordon - County Judge - Office of the County Judge - County Courthouse - Helena, AR 72342 (501) 338-8691
AR	Uninc. Area	Randolph County (0001-0008)	050460 A	N-5	I	F	9 AUG 77	9 AUG 77	Honorable Mr. Wooldridge - County Judge - Office of the County Judge - County Courthouse - Pocahontas, AR 72455 (501) 892-5264
AR	Uninc. Area	Saline County (0001-0012)	050191 A	N-5	I	F	9 AUG 77	9 AUG 77	Honorable Wayne Bishop - County Judge - Office of the County Judge - County Courthouse - Benton AR 72015 (501) 778-2667
CO	Uninc. Area	Gunnison County (0002,0005,0010,0012,0018-0020,0023-0024,0027-0031, 0033-0034,0037-0038)	080078 A	E-10-11,12, 14	I	F	3 JAN 75	9 AUG 77	Mr. Kenneth Watters - Chairman - Board of County Commissioners - County Courthouse - Gunnison, CO 81230 (303) 641-0070

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CT	New London	Town of Stonington (01,03-14)	090106 A	E-10,11,12, 14	C	F	18 OCT 74	9 AUG 77	Mr. James Spellman - First Select man - Town Hall - P.O. Box 191 - Stonington, CT 06378 (203) 535-0182
IA	Uninc. Area	Clinton County (01-16,18-24,26-32)	190859 A	E-5	I	F	9 AUG 77	9 AUG 77	Mr. Clarence Smith - Chairman - Board of Supervisors - County Courthouse - Clinton, IA 52732 (319) 243-6210
KS	Uninc. Area	Osage County (0001-0008)	200601 A	N-5	I	F	9 AUG 77	9 AUG 77	Mr. Melvin Clatham - Chairman - Board of County Commissioners - County Courthouse - Lyndon, KS 66451 (913) 828-4812
MA	Middlesex	Town of Burlington (0001-0006)	250185 A	E-10,11,12, 14	I	F	20 DEC 74	9 AUG 77	Mr. Wilfrid Nadeau - City Enginee Town Hall - Engineering Departmen Burlington, MA 01803 (617) 272-6700
NB	Uninc. Area	Gage County (0001-0008)	310088 A	N-5	I	F	9 AUG 77	9 AUG 77	Mr. William R. Boyce - Chairman - Board of County Commissioners - County Courthouse - Beatrice, NB 68310 (402) 228-3371
NM	Uninc. Area	Grant County (0001-0017, 0019-0029,0031-0038,0040)	350121 A	N-5	I	F	9 AUG 77	9 AUG 77	Richard Johnson - Chairman - Boar of County Commissioners - County Courthouse - Silver City, NM 88061 (505) 538-3338

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NM	Uninc. Area	Mora County (0001-0012,0014-0024)	350043 A	E-10,11,12, 14	I	F	9 AUG 74	9 AUG 77	Mr. George Maes - County Administ-rator - Office of the County Administrator - County Courthouse Mora, NM 87732 (505) 387-2448
OK	Uninc. Area	Hughes County (0001-0010)	400467 A	N-5	I	F	9 AUG 77	9 AUG 77	Mr. E. E. Martin - Chairman - Board of County Commissioners - County Courthouse - Holdenville, OK 74848 (405) 379-2746
OK	Tulsa + Rogers	City of Owasso (01-03,07-08,10-16)	400210 B	E-8,11,12,14	I	F	16 JAN 74 14 JAN 77	9 AUG 77	Mr. Bill Peress - City Manager - 207 South Cedar Avenue - Owasso, OK 74055 (918) 272-2251
OK	Osage & Tulsa	Town of Skiatook (0001-0008)	400212 B	E-11,12,14	I	F	7 JUN 74 4 JUN 76	9 AUG 77	Mr. Bob Kehler - President - Town Board of Trustees - Skiatook, OK 74070 (918) 396-2797
OR	Uninc. Area	Lincoln County (01-06,08-09,12-13,15-27, 29-40,42-45,48-50,54-65)	410129 A	E-10,11,12, 14	C	F	17 JAN 75	9 AUG 77	Mr. Paul Brookhyser - Zoning Administrator - Planning Departme Lincoln County Courthouse - Newport, OR 97365 (503) 265-5341
TX	Uninc. Area	Bastrop County (0001-0012)	481193 A	N-5	I	F	9 AUG 77	9 AUG 77	Honorable Jack Griesenbeck - Coun Judge - Office of the County Judg County Courthouse - Bastrop, TX 78602 (512) 321-2579

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TX	Uninc. Area	Hill County (0001-0004)	480857 A	N-5	I	F	9 AUG 77	9 AUG 77	Honorable Gordon R. Eubank - County Judge - Office of the County Judge - County Courthouse - Hillsboro, TX 76645 (817) 582-5372
TX	Uninc. Area	Morris County (0001-0004	480943 A	N-5	I	F	9 AUG 77	9 AUG 77	Honorable Peyton C. Evans - County Judge - Office of the County Judge County Courthouse - Daingerfield, TX 75638 (214) 645-3691
TX	Bexar	City of Somerset (01)	481264 A	N-5	I	F	9 AUG 77	9 AUG 77	Honorable C. J. Kuenstler - Mayor City Hall - Somerset, TX 78069 (512) 429-3639
WA	Uninc. Area	Benton County (03,10-12,15-19,21-34, 36-38,41-43,45-47,52-56,59,61-84)	530237 A	E-5	I	F	9 AUG 77	9 AUG 77	Mr. Wes P. Brown - Chairman - Board of County Commissioners - Benton County Courthouse - Prosser, WA 99350 (509) 786-2262
WA	Uninc. Area	Mason County (0001-0010)	530115 A	E-5	I	F	9 AUG 77	9 AUG 77	Mr. Martin Auseth - Chairman - Board of County Commissioners - County Courthouse - Shelton, WA 98584 (206) 426-3222
WA	Uninc. Area	Yakima County (03,05,07,09-12,15-18, 20-24,28,30-34,36-37, 40,42-44,46,49-55,61-72,74-76,80-81,85-87, 89-91,93-97,102-103, 108-109)	530217 A	E-11,12,14	I	F	27 DEC 74	9 AUG 77	Mr. Don Shone - Assistant Planner - Yakima County Planning Department - Room 417, Courthouse - Yakima, WA 98901 (509) 248-2521

ATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
FL	Bay	Bay County (Uninc. Areas) 0001A-0010A	120004	E - 10,11, 12,14	I & C	F	Jan. 17, 1975	Aug. 12, 1977	John Mullens, Chairman Co. Commissioners P.O. Box 2269 Panama City, FL 32401 Phone: 904-763-2783
FL	Osceola	Osceola County (Uninc. Areas) 0001A-0018A	120189	E - 10,11, 12,14	I & C	F	Jan. 31, 1975	Aug. 12, 1977	Mack McClane, Chairman Co. Commissioners P.O. Box 520 County Courthouse Kissimmee, FL 32741 Phone: 305-847-5101
KY	Kenton	City of Lakeview 01	210249A	E - 8,11, 12,14	I	F	Jan. 17, 1976	Aug. 12, 1977	E.J. Rizzo, Mayor P.O. Box 393 Fort Michell, KY 41017 Phone: 606-331-0388
MI	Ottawa	Township of Holland 0001A-0002A	260492	E - 5	I	F	Aug. 12, 1977	Aug. 12, 1977	Jacob Jongekrijg, Twp. Sup. 353 N. 120th Avenue Holland, MI 49432 Phone: 616-396-2345
MI	Emmet Cheboygan	Village of Mackinaw City 0001A	260675	N - 5	C	F	Aug. 12, 1977	Aug. 12, 1977	Ford E. Martin, Pres. 102 South Huron Ave. Mackinaw City, MI 49701 Phone: 616-436-5351

ATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD P/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
MI	Bay	Township of Monitor 0001A-0004A	260358	N - 8,11, 12,14	I	P	July 25, 1975	Aug. 12, 1977	Willis Willy, Supr. Township Hall 2483 East Midland Road Bay City, MI 48706 Phone: 517-684-2453
MI	Houghton	Township of Torch Lake 0001A-0003A	260708	E - 5	I	P	Aug. 12, 1977	Aug. 12, 1977	Eugene Pini, Supr. Route 1 Lake Linden, MI 49945 Phone: 906-296-7397
MN	Dakota	Dakota County (Uninc. 0001A-0008A Areas)	270101	E - 10,11, 12,14	I	P	Oct. 18, 1974	Aug. 12, 1977	Ernest Ahlberg, Chairman County Commissioners Government Center Hastings, MN 55033 Phone: 612-437-3191
NY	Schoherie	Town of Jefferson 0001A-0004A	361196	N - 15	I	P	Aug. 12, 1977	Aug. 12, 1977	Charles N. Buck, Tn. Supr R.D. 1 Jefferson, NY 12093 Phone: 607-652-7749
NY	Tompkins	Town of Lansing 0001B-0005B	360852	E - 11,12, 14	I	P	Sept. 20, 1974 July 2, 1976	Aug. 12, 1977	Wesley McDermott, Supr. Town Hall Lansing, NY Phone: 607-273-8410

ATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	OR COASTAL	HAZARD P/M/E	DATE (S)	ACTION	
OH	Putnam	Putnam County (Uninc. 0001A-0006A Areas)	390465	N - 5	I	P	Aug. 12, 1977	Aug. 12, 1977	Vincent Niese, Pres. County Commissioners County Courthouse Ottawa, OH 45875 Phone: 419-523-3656
OH	Hamilton	Village of Terrace Park 01	390633B	E - 8,11, 12,14	I	P	Feb. 8, 1974 Oct. 8, 1976	Aug. 12, 1977	Ray Cadwallader, Mayor 616 Marietta Terrace Park, OH 45174 Phone: 513-831-2178
PA	Fulton	Township of Bethel 0001A-0004A	422429	E - 15	I	P	Aug. 12, 1977	Aug. 12, 1977	Paul Hendershot, Twp. Twp. Hall Chairma Warfordsburg, PA 15267 Phone: 717-294-3160
PA	Washington	Township of East Bethlehem 0001A	422140	E - 5	I	P	Aug. 12, 1977	Aug. 12, 1977	George Smoggle, Jr., Pre. Twp. Commissioners Clarksville, PA 15322 Phone: 412-377-0505
PA	Carbon	Township of Penn Forest 0001A-0008A	421457	N - 5	I	P	Aug. 12, 1977	Aug. 12, 1977	Josiah Behrens, Twp. Star Route Chairm Jim Thorpe, PA 18229 Phone: 717-325-2017

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SC	Marlboro	Town of ~~Blenheim~~ BLENHEIM 01	450148A	N - 5	I	F	Aug. 12, 1977	Aug. 12, 1977	Tyrone, PA 16686 Phone: 814-684-1048 P.N. Thomas, Mayor P.O. Box 38 Blenheim, SC 29516 Phone: 803-528-4211
WI	Sheboygan	Village of Random Lake 0001P	550429	E - 8,11, 12,14	I	F	June 28, 1974 Aug. 6, 1976	Aug. 12, 1977	Wallace Ney, V. Pres. 665 Western Ave. Random Lake, WI 53075 Phone: 414-994-4840
WI	Washington	Washington County (Unino. 0001A-0009A Areas)	550471	E - S	I & C	F	Aug. 12, 1977	Aug. 12, 1977	Ted Werner, Chairman County Commissioners 515 East Washington West Bend, WI 53095 Phone: 414-674-3491

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AR	Uninc. Area	Arkansas County (0001-0016)	050418 A	N-5	I	F	16 AUG 77	16 AUG 77	Honorable Dale Shelton - Count Judge - Office of the County Judge - County Courthouse - Stuttgart, AR 72160 (501) 673-7311
AR	Uninc. Area	Clay County (0001-0009)	050423 A	N-5	I	F	16 AUG 77	16 AUG 77	Honorable Boyce McLeskey - County Judge - Office of the County Judge - County Courtho. Piggott, AR 72454 (501) 598-2667
AR	Uninc. Area	Lonoke County (0001-0011)	050448 A	N-5	I	F	16 AUG 77	16 AUG 77	Honorable Con Spence - County Judge - Office of the County Judge - County Courthouse - Lonoke, AR 72086 (501) 676-6403
CA	UNINC AREA	SAN BENITO CO.	060267 A	N-5	I	F	2 AUG 77	2-AUG-77	
CT	New Haven	City of Meriden (01,04-11)	090081 A	E-5	I	F	16 AUG 77	16 AUG 77	Mr. Harry S. Eberhart, Jr. - Planning Director - City Hal Room 30 - Meriden, CT 06450 (203) 634-3953

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ID	Uninc. Area	Cassia County (0001-0022,0024-0028)	160041 A	N-5	I	F	16 AUG 77	16 AUG 77	Mr. John A. Clark - Chairman - Board of County Commissioners - County Courthouse - Burley, ID 83318 (208) 678-8240
IA	Uninc. Area	Cass County (0001-0004)	190852 A	E-5	I	F	16 AUG 77	16 AUG 77	Mr. Don Wilkinson - Chairman - Board of Supervisors - County Courthouse - Atlantic, IA 50022 (712) 243-2105
IA	Woodbury	City of Correctionville (01)	190288 B	E-12,14	I	F	22 FEB 74	16 AUG 77	Honorable Gloria Hink - Mayor - City Hall -Correctionville, IA 61016 (712) 372-4208
IA	Uninc. Area	Fayette County (0002-0007)	190866 A	N-5	I	F	16 AUG 77	16 AUG 77	Mr. Robert Haas - Chairman - Board of County Supervisors - County Courthouse - West Union, IA 52175 (319) 422-3145
IA	Uninc. Area	Iowa County (0001-0006)	190878 A	N-5	I	F	16 AUG 77	16 AUG 77	Mr. Edward Shima - Chairman - Board of County Supervisors - County Courthouse - Marengo, IA 52301 (319) 642-3041
KS	Uninc. Area	Franklin County (0001-0006)	200565 A	N-5	I	F	16 AUG 77	16 AUG 77	Mr. Jack Davis - Chairman - Board of County Commissioners - County Courthouse - Ottawa, KS 66067 (913) 242-1471
KS	Uninc. Area	Jefferson County (0001-0006)	200147 A	N-5	I	F	16 AUG 77	16 AUG 77	Mr. Max Engle - Chairman - Board of County Commissioners - County Courthouse - Oskaloosa, KS 66066 (913) 863-2272

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KS	Uninc. Area	Reno County (0001-0016)	200567 A	N-5	I	F	16 AUG 77	16 AUG 77	Mrs. Baughman - Chairwoman - Board of County Commissioners - County Courthouse - Hutchinson, KS 67501 (316) 662-4311
ME	Lincoln	Town of Boothbay Harbor (0001)	230213 A	E-11,12,14	C	F	14 FEB 75	16 AUG 77	Mr. Moe Pukulis - Town Manager Town Hall - Boothbay Harbor, ME 04538 (207) 633-3671
ME	Cumberland	Town of New Gloucester (01-04,06-09,11-15)	230201 A	E-11,12,14	I	F	21 MAR 75	16 AUG 77	A. Wayne Cobb - Town Clerk - Box 82 - New Gloucester, ME 04260 (207) 926-4405
ME	Hancock	Town of Stonington (0001-0004)	230294 B	N-12	C	F	21 FEB 75 4 JUN 76	16 AUG 77	Mr. John H. McGuire - Town Man: Town Office - Stonington, ME 04681 (207) 367-2351
MO	Montgomery	Village of Rhineland (01)	290243 B	N-11,12	I	F	21 JAN 77	16 AUG 77	Honorable Harold Witte - Mayor P.O. Box 385 - Rhineland, MO 65069 (314) 236-4317
NB	Uninc. Area	Cuming County (0001-0006)	310427 A	N-5	I	F	16 AUG 77	16 AUG 77	Mr. Norris Maack - Chairman - Board of County Commissioners County Courthouse - West Point NB 68788 (402) 372-2144
NB	Uninc. Area	Dodge County (0001-0007)	310068 A	E-5	I	F	16 AUG 77	16 AUG 77	Mr. Chester Marquardt - Chairm Board of County Commissioners County Courthouse - Fremont, 68025 (402) 721-3494

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NB	Uninc. Area	Phelps County (0001-0006)	310465 A	N-5	I	F	16 AUG 77	16 AUG 77	Mr. Willard Peterson - Chairman Board of Supervisors - County Courthouse - Holdrege, NB 68949 (308) 995-4469
NB	Uninc. Area	Platte County (0001-0010)	310467 A	N-5	I	F	16 AUG 77	16 AUG 77	Mr. Arne Buhl - Chairman - Boar of County Commissioners - Count Courthouse - Columbus, NB 68601 (402) 564-0593
NB	Uninc. Area	Wayne County (0001-0006)	310484 A	N-5	I	F	16 AUG 77	16 AUG 77	Mr. Merlin Beiermann - Chairman Board of County Commissioners - County Courthouse - Wayne, NB (402) 375-3233
NM	Uninc. Area	San Miguel County (0001-0008, 0010-0049,0051-0052)	350132 A	N-5	I	F	16 AUG 77	16 AUG 77	Mr. Ernesto Roybal - Chairman - Board of County Commissioners - County Courthouse - Las Vegas, 87701 (505) 425-6229
OK	Delaware	Town of Grove (01-05)	400385 A	E-12,14	I	F	~~20~~ 29 OCT 76	16 AUG 77	Mr. Richard Carter - Building Inspector - Grove, OK 74344 (918) 786-2278
OR	Uninc. Area	Crook County (0002-0017, 0019-0020)	410050 A	E-5	I	F	16 AUG 77	16 AUG 77	Mr. Dick Hoppes - Chairman - Board of County Commissioners - County Courthouse - Prineville, OR 97754 (503) 447-6555
OR	Douglas	City of Elkton (01)	410062 B	E-12,14	I	F	13 SEP 74 5 DEC 75	16 AUG 77	Mr. Cecil Beal - City Recorder Elkton, OR 97436 (503) 584-2547

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
OR	Uninc. Area	Josephine County (0001-0006,0008-0016)	415590 A	E-5	I	F	16 AUG 77	16 AUG 77	Mr. George Calvert - Chairman - Board of County Commissioners - County Courthouse - Grants Pass OR 97526 (503) 476-3831
OR	Uninc. Area	Lane County (0002-0005,0007-0033)	415591 A	E-5	I	F	16 AUG 77	16 AUG 77	Mr. Robert E. Wood - Chairman - Board of County Commissioners - County Courthouse - Eugene, OR 97401 (503) 687-4203
SD	Uninc. Area	Hanson County (0001-0006)	460270 A	N-5	I	F	16 AUG 77	16 AUG 77	Mr. S. H. Naser - Chairman - Board of County Commissioners - County Courthouse - Alexandria, SD 75311 (605) 239-4445
SD	Uninc. Area	Yankton County (01-10,13-15, 17-20,23-25,28-36)	460088 A	E N-5	I	F	16 AUG 77	16 AUG 77	Mr. George Mueller - Chairman - Board of County Commissioners - 3rd & Broadway - Yankton, SD 57078 (605) 665-2143
TX	Uninc. Area	Bee County (01-26,28-53,55-58,60-65)	480026 A	E-10,11,12, 14	I	F	18 OCT 74	16 AUG 77	Honorable J. C. Knight - County Judge - Office of the County Judge - County Courthouse - Beeville, TX 78102 (512) 358-1354
TX	Uninc. Area	DeWitt County (0001-0011)	481171 A	N-5	I	F	16 AUG 77	16 AUG 77	Honorable Robert Sheppard - Co Judge - Office of the County Judge - County Courthouse - Cuero, TX 77954 (512) 275-5312

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
TX	Uninc. Area	Ellis County (0001-0012)	480798 A	N-5	I	F	16 AUG 77	16 AUG 77	Honorable Joe Grubbs - County Judge - Office of the County Judge - County Courthouse - Waxahachie, TX 75165 (214) 937-1801
TX	Uninc. Area	Willacy County (0001-0011)	480664 A	E-5	I	F	16 AUG 77	16 AUG 77	Honorable Bill Rapp - County Judge - Office of the County Judge - County Courthouse - Raymondville, TX 78580 (512) 689-3393
UT	Weber	City of Ogden (0001-0002)	490189 A	E-10,11,12, 14	I	F	21 JUN 74	16 AUG 77	Honorable A. Stephen Dirks - Mayor - City Hall - Ogden, UT 04402 (801) 399-8233
VT	Addison	Town of Salisbury (0001-0004)	500170 A	E-11,12,14	I	F	20 DEC 74	16 AUG 77	Mr. Mike Preziose - Planning & Development Commission - Middlebury, VT 05753 (802) 388-4334
WA	Uninc. Area	Ferry County (0001-0007,0009-0011)	530041 A	E-5	I	F	16 AUG 77	16 AUG 77	Mr. Ira Merit - Chairman - Board of County Commissioners - County Courthouse - Republic, WA 99166 (509) 775-3705
WA	Uninc. Area	Whitman County (01-93,96-133,135-136)	530205 A	E-10,11,12, 14	I	F	27 DEC 74	16 AUG 77	Mr. Fred McNeilly - Chairman - Board of County Commissioners - County Courthouse - Colfax, WA 99111
WY	Natrona	Town of Mills (01)	560076 A	N-5	I	F	16 AUG 77	16 AUG 77	Honorable L. A. Wilcox - Mayor Drawer #789 - Mills, WY 82644 (307) 234-6679
WY	Uninc. Area	Uinta County (000T-0025)	560053 A	E-11,12,14	I	F	27 DEC 74	16 AUG 77	Mr. Glenn Payne - Planning Director - Planning and Zoning Board Evanston, WY 82930

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GA	Fulton	City of Fairburn 0001A	130314	E - 5	I	F	Aug. 19, 1977	Aug. 19, 1977	A.J. Green, Mayor 19 West Campbellton Str Fairburn, GA 30213 Phone: 404-964-7763
GA	Oconee	City of North High Shoals 0001A	130368	N - 5	I	F	Aug. 19, 1977	Aug. 19, 1977	Harry Bradbury, Mayor City Hall North High Shoals, GA Phone: 404-769-6125
KY	Barren	Barren County (Uninc. Areas) 0001A-0007A	210334A	N - 5	I	F	Aug. 19, 1977	Aug. 19, 1977	Dale Burchett, Co. Judg County Courthouse, 2nd Glasgow, KY 42141 Phone: 502-651-3131
KY	Boyle	Boyle County (Uninc. Areas) 0001A-0004A	210322	E - 5	I	F	Aug. 19, 1977	Aug. 19, 1977	June White, County Judg County Courthouse Danville, KY 40422 Phone: 606-236-2306

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MD	Wicomico	Wicomico County (Uninc. Areas) 0001A-0007A	240078	E - 5	I	F	Aug. 19, 1977	Aug. 19, 1977	Mathew Creamer, Co. Adm Box 870 Salisbury, MD Phone: 301-749-5127
MI	Muskegon	Township of Egelston 0001A-0002A	260680	E - 5	C	F	Aug. 19, 1977	Aug. 19, 1977	Tom J.F. Bolt, Twp. Supr 5382 East Apple Avenue Muskegon, MI 49442 Phone: 616-853-6557
MI	Genesee	Township of Grand Blanc 0001A-0002A	260079	E - 5	I	F	Aug. 19, 1977	Aug. 19, 1977	William Delancey, Twp. Box 1833 5371 S. Saginaw Street Grand Blanc, MI 48439 Phone: 313-694-5300
MI	Barry	Township of Maple Grove 0001A-0002A	260644	E - 5	I	F	Aug. 19, 1977	Aug. 19, 1977	Theodore McKelvey, Twp R. # 3 Nashville, MI 49073 Phone: 517-852-1951
MI	Livingston	Village of Pinckney 01	260704A	N - 5	I	F	Aug. 19, 1977	Aug. 19, 1977	Paul E. Bell, Pres. Village Council 132 West Main Street Pinckney, MI 48169 Phone: 313-878-6206

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MN	Wadena	Wadena County (Uninc. Areas) 0001A-0016A	270637	E - 5	I	F	Aug. 19, 1977	Aug. 19, 1977	Benjamin Walz, Chairman County Commissioners County Courthouse Wadena, MN 56092 Phone: 218-631-3158
MN	Yellow Medicine	Yellow Medicine County (Uninc. Areas) 0001A-0014A	270544	E - 5	I	F	Aug. 19, 1977	Aug. 19, 1977	Laverne Grinager, Chairma Co. Bd. of Commissioners County Courthouse Granite Falls, MN 56241 Phone: 612-564-3132
MS	Tate	Tate County (Uninc. Areas) 0001A-0010A	280235	E - 10, 11, 12, 14	I	F	Nov. 29, 1974	Aug. 19, 1977	E.F. Hale, Jr., Pres. Board of Supervisors County Courthouse Senatobia, MS 38668 Phone: 601-562-7911
NY	Sullivan	Town of Mamakating 0001B-0006B	360826	E - 8, 11, 12, 14	I	F	Nov. 26, 1976	Aug. 19, 1977	Margaret C. Norton, sec. Mamakating Planning Boen Wurtsboro, NY 12790 Phone: 914-888-2711
NC	Burke	Burke County (Uninc. Areas) 0001A-0008A	370034	E - 5	I	F	Aug. 19, 1977	Aug. 19, 1977	Sam Brinkley, Chairman County Commissioners P.O. Box 219 Morganton, NC 28655 Phone: 704-874-2287

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PA	Lebanon	Township of Swatara 0001A-0002A	420582	E - 10, 11, 12, 14	I	F	Feb. 1, 1974	Aug. 19, 1977	Donald Strauss, Chairma R.D. 1 Jonestown, PA 17038 Phone: 717-865-4803
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TN	Benton	Benton County (Uninc. Areas) 0001A-0007A	470218	N - 10, 11, 12, 14	I	F	Jan. 10, 1975	Aug. 19, 1977	J.E. Wright Jr., Co. Ju P.O. Box 298 Camden, TN 38320 Phone: 901-584-6011
TN	Hancock	Hancock County (Uninc. Areas) 0001A-0005A	470226	E - 15	I	F	Aug. 19, 1977	Aug. 19, 1977	Jim Roberts, Co. Judge County Courthouse Sneedville, TN 37869 Phone: 615-733-4341
TN	Houston	Houston County (Uninc. Areas) 0001A-0005A	470347	N - 5	I	F	Aug. 19, 1977	Aug. 19, 1977	Vernon Knight, Co. Judge P.O. Box 366 Erin, TN 37061 Phone: 615-289-3633
WI	Dane	City of Madison 0001B-0006B	550083	E - 8, 11, 12, 14	I	F	March 8, 1974 Sept. 5, 1975	Aug. 19, 1977	Arnold E. Milke, City En Room 115, City-County E Madison, WI 53709 Phone: 608-266-4751

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, Jan. 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26338 Filed 9-13-77;8:45 am]

[Docket No. FI-3324]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

Withdrawal of Flood Insurance Maps

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to list communities where Flood Insurance Rate Maps or Flood Hazard Boundary Maps published by the Federal Insurance Administration have been temporarily withdrawn. The list also includes the date each map was withdrawn, and the effective date of its republication if the map has in fact been republished. During the period that the map is withdrawn, the insurance purchase requirement of the National Flood Insurance Program (as described below) was suspended.

DATE: The effective date of withdrawal is the date that appears in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234) requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program. The denial of such financial assistance has no application outside of the identified special flood hazard areas of such flood-prone communities.

One year after the identification of the community as flood prone, the requirement applies to all identified special hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program.

The prohibition, however, does not apply to loans by Federally regulated, insured, supervised or approved lending institutions: (1) To finance the acquisition of a residential dwelling occupied as a residence prior to March 1, 1976, or one year following identification of the area within which such dwelling is located as an area containing special flood hazards, whichever is later, or made to extend, renew, or increase the financing or refinancing in connection with such a dwelling, (2) to finance the acquisition of a building or structure completed and occupied by a small business concern, as defined by the Secretary, prior to January 1, 1976, (3) any loan or loans, which in the aggregate do not exceed $5,000, to finance improvements to or rehabilitation of a building or structure occupied as a residence prior to January 1, 1976, or (4) any loan or loans, which in the aggregate do not exceed an amount prescribed by the Secretary, to finance nonresidential additions or improvements to be used solely for agriculture purposes on a farm.

Prior to July 1, 1975, the statutory requirement for the purchase of flood insurance did not apply until and unless the community entered the program and the special flood hazard areas were identified by the issuance of a flood insurance map. However, after July 1, 1975, or one year after identification, whichever is later, the requirement applies to all communities in the United States that are identified as having special flood hazard areas within their community boundaries, so that, no such financial assistance can legally be provided for buildings in these areas unless the community has entered the program.

The insurance purchase requirement with respect to a particular community may be altered by the issuance or withdrawal of the Federal Insurance Administration's (FIA's) official flood maps, the Flood Insurance Rate Map (FIRM) or the Flood Hazard Boundary Map (FHBM). A FHBM is usually designated by the letter "H" preceding the map number and a FIRM by the letter "I" preceding the map number. If the FIA withdraws a FHBM for any reason the insurance purchase requirement is suspended during the period of withdrawal. However, if the community is in the Regular Program and only the FIRM is withdrawn but a FHBM remains in effect, then flood insurance is still required for properties located in identified special flood hazard areas, but the maximum amount of insurance available for new applications or renewal is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn. (For definitions see 24 CFR Part 1909 et seq.)

As the purpose of this revision is the convenience of the public, notices and public procedure are unnecessary, and cause exists to make this amendment effective upon publication. Accordingly, Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended as follows:

1. Present § 1915.6 is revised to read as follows:

§ 1915.6 Administrative withdrawal of maps.

(a) *Flood Hazard Boundary Maps (FHBM's).* The following is a cumulative list of withdrawals pursuant to this part:

40 FR 5149
40 FR 17015
40 FR 20798
40 FR 46102
40 FR 53579
40 FR 56672
41 FR 1478
41 FR 50990
41 FR 13352
41 FR 17726
42 FR 8895
42 FR 29433
42 FR 46227

(b) *Flood Insurance Rate Maps (FIRM's).* The following is a cumulative list of withdrawals pursuant to this part:

40 FR 17015
41 FR 1478

2. The following additional entries (which will not appear in the Code of Federal Regulations) are made pursuant to § 1915.6:

V 42 178 SEP 14 77 UMI

State	County	Location	Map Number and Federal Register Citation	Effective Date of Withdrawal	Effective Date of Republication
Alaska.		Skagway, City of (1).	H 025011 01; 39 FR 28240.	2-28-77	3-1-77
California.	Colusa.	Colusa, City of (1A).	H 06 011 0800 01; 38 FR 31009.	2-16-77	
Colorado.	Jefferson.	Mountain View, Town of (1).	H 080254 01; 41 FR 7761.	2-16-77	
Florida.	Volusia.	Deland, City of (1).	H 120307A 01-07; 42 FR 8881.	3-14-77	
Do.	Palm Beach.	Golf, Village of (1).	H 120201A 01; 40 FR 33821.	2-10-77	
Do.	-do-	Green Acres, Town of (1).	H 120203A 01-02; 41 FR 13340.	-do-	
Do.	-do-	Haverhill, Town of (1).	H 120205A 01; 41 FR 23188.	-do-	
Do.	Seminole.	Longwood, City of (4).	H 120292A 01-03; 42 FR 8110.	12-31-76	1-23-74 9-17-76
Do.	Palm Beach.	Royal Palm Beach, Village of (1).	H 120225A 01-03; 41 FR 21327.	2-10-77	
Do.	-do-	South Bay, City of (1).	H 120226A 01; 41 FR 8184.	2-10-77	
Georgia.	Bleckley.	Cochran, City of (1).	H 130279A 01-02; 41 FR 38499.	-do-	
Do.	Tattnal.	Reidsville, City of (2).	H 130399 01-04; 40 FR 12644.	2-2-77	

State	County	Location	Map Number and Federal Register Citation	Effective Date of Withdrawal	Effective Date of Republication
Idaho.	Ouyhee.	Marsing, City of (1).	H 160178 01; 40 FR 20801.	2-16-77	
Do.	Latah.	Potlatch, City of (1).	H 160185 01; 40 FR 20809.	3-7-77	
Do.	Bonneville.	Ucon, City of (1).	H 160194 01; 41 FR 29833.	2-14-77	
Do.	Gooding.	Wendell, City of (1).	H 160195 01; 40 FR 20809.	5-10-77	
Illinois.	Mercer.	Aledo, City of (4).	H 170507A 01; 41 FR 8184.	8-26-76	8-27-76
Do.	Cook.	Park Ridge, City of (1).	H 170146A 01-03; 39 FR 43080.	3-11-77	
Do.	-do-	Wheeling, Village of (4).	H 170173A 01-02. 38 FR 12916.	8-26-76	8-27-76
Indiana.	Elkhart.	Bristol, City of (4).	H 180060A 01; 38 FR 31972.	11-18-76	11-19-76
Do.	Wayne.	Cambridge City, Town of (4).	H 180281B 01; 42 FR 19608.	3-11-77	6-11-76
Do.	Owen.	Gosport, Town of (1).	H 180325A 01; 41 FR 12887.	2-17-77	
Do.	Shelby.	Morristown, Town of (1).	H 180393 01; 40 FR 10972.	-do-	
Do.	Vigo.	West Terre Haute, Town of (1).	H 180265 01; 39 FR 43080.	6-27-77	
Iowa.	Fremont.	Farragut, City of (1).	H 190390 01; 40 FR 33670.	6-17-77	

State	County	Location	Map Number and Federal Register Citation	Effective Date of Withdrawal	Effective Date of Republication
Do.	Decatur.	Garden Grove, Town of (1).	H 190731 01; 40 FR 31218.	2-2-77	
Do.	Cass.	Lewis, City of (1).	H 190347 01; 40 FR 27003.	2-14-77	
Do.	Page.	Northboro, City of (1).	H 190473 01; 41 FR 20550.	5-10-77	
Kansas.	Kingman.	Cunningham, City of (1).	H 200401 01; 41 FR 7764.	6-17-77	
Do.	Harvey.	Walton, City of (1).	H 200374 01; 40 FR 3986.	3-14-77	
Kentucky.	Marshall.	Hardin, Town of (4).	H 210165 01; 39 FR 15104.	6-13-74	8-13-76 (Hardin, City).
Do.	Jefferson.	Louisville, City of (4).	H 210122A 01-14; 39 FR 28255.	10-14-76.	10-15-76
Massachusetts.	Franklin.	Bernardston, Town of (4).	H 250110 01-06; 39 FR 28256.	12-9-76	12-10-76
Do.	Worcester.	West Boylston, Town of (2).	H 240345 01-07; 39 FR 28427.	5-30-77	
Michigan.	Genesee.	Grand Blanc, Township of (2).	H 260255 01-12; 40 FR 20810.	3-7-77	
Do.	Houghton.	Houghton, City of (2).	H 260566 01 40 FR 41511.	2-2-77	
Do.	Berrien.	Watervliet, Township of (4).	H 260048 01-06; 39 FR 28259.	11-11-76	11-12-76
Minnesota.	Renville.	Danube, City of (1).	H 270395 01; 39 FR 35162.	2-16-77	

State	County	Location	Map Number and Federal Register Citation	Effective Date of Withdrawal	Effective Date of Republication
Missouri.	Jefferson.	Festus, City of (4).	H 290191A 01; 41 FR 8185.	2-13-76	2-14-76
Do.	Miller.	Iberia, City of (1).	H 290719 01-02; 41 FR 14752.	2-16-77	
Do.	Holt.	Maitland, City of (1).	H 290564 01; 41 FR 11488.	5-10-77	
Do.	Ralls.	New London, City of (1).	H 290693 01; 41 FR 17916.	-do-	
Do.	Platte.	Weatherly Lake, City of (1).	H 290650 01-02; 41 FR 29836.	6-14-77	
Nebraska.	Dundy.	Benkelman, City of (1).	H 310349 01; 40 FR 24724.	6-17-77	
Do.	Cass.	Eagle, Village of (1).	H 310274 01; 40 FR 24724.	2-14-77	
Do.	Furnas & Harlan.	Oxford, Village of (1).	H 310396 01; 40 FR 17990.	2-2-77	
New Jersey.	Bergen.	Carlstadt, Borough of (1).	H 340022 01-03; 39 FR 13643.	-do-	
Do.	Camden.	Haddon Heights, Borough of (1)	H 340136A 01-03; 41 FR 8181.	3-14-77	
New York.	Yates.	Barrington, Town of (4).	H 360953B 01-10; 41 FR 20566.	10-21-76	10-22-76
Do.	Clinton.	Dannemora, Town of (1).	H 361381 01-05; 40 FR 6961.	6-24-77	
Do.	Saratoga.	Galway, Village of (1).	H 361561 01; 40 FR 5154.	-do-	

State	County	Location	Map Number and Federal Register Citation	Effective Date of Withdrawal	Effective Date of Republication
Do.	Madison.	Wampsville, Village of (1).	H 361485A 01; 42 FR 19608.	-do-	
Do.	Allegany.	Ward, Town of (1).	H 361364 01-03; 40 FR 3777.	-do-	
Do.	-do-	Wirt, Town of (1).	H 361103 01-04; 40 FR 14309.	-do-	
N. Carolina.	Pamlico.	Bayboro, Town of (4).	H 370183 01; 39 FR 28265.	7-29-76	7-30-76
N. Dakota.	Traill.	Buxton, City of (1).	H 380161 01; 41 FR 8181.	2-16-77	
Do.	Grand Forks.	Gilby, City of (1).	H 380035 01; 39 FR 43083.	5-10-77	
Oklahoma.	Lincoln.	Praque, City of (2).	H 400435 01-02; 41 FR 8187.	6-8-77	
Do.	Dewey.	Taloga, Town of (1).	H 400059 01; 39 FR 43083.	4-12-77	
Pennsylvania.	Montgomery.	Bridgeport, Borough of (4).	H 420948A 01-02; 42 FR 8110.	12-31-76	10-15-76
Texas.	Lubbock.	Shallowwater, Town of (1).	H 480917 01; 41 FR 35711.	6-17-77	
Vermont.	Caledonia.	Waterford, Town of (4).	H 500200 01-03; 39 FR 28432.	12-16-76	12-17-76
Virginia.	Hanover.	Ashland, Town of (1).	H 510075A 01; 39 FR 19467.	3-10-77	
Washington.	Thurston.	Rainier, Town of (1A).	H 530260 01; 41 FR 38502.	3-8-77	

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969.)

Issued: July 18, 1977.

JAY JANIS,
Under Secretary.

State	County	Location	Map Number and Federal Register Citation	Effective Date of Withdrawal	Effective Date of Republication
Wisconsin.	Green Lake.	Green Lake, City of (4).	H 550165 01; 39 FR 33470.	10-21-76	10-22-76
Wyoming.	Carbon.	Encampment, Town of (1).	H 560061 01; 40 FR 33674.	3-11-77	

REASONS FOR RESCINDMENT

1. The Community appealed its flood-prone designation and FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.

1A. FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.

2. The Flood Hazard Boundary Map (FHBM) contained printing errors or was improperly distributed. A new FHBM will be prepared and distributed.

4. A more accurate FIA map is the effective map for this community.

[FR Doc.77-26357 Filed 9-13-77;8:45 am]

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[Docket No. FI-2706]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for Town of East Haven, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of East Haven, Conn. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of East Haven, Conn.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of East Haven, Connecticut are available for review at Town Hall, 250 Main Street, East Haven, Conn.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of East Haven, Conn.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tuttle Brook	Route 95	17
	Main St	16
	School ground	15
	Burr St	14
	Forest St	12
	Dodge Ave	12
	Uriah St	1
Morris Creek, Tuttle Brook.	Route 142	12
Maloney Brook	Route 80	73
	Abandoned railroad	53
	Route 100	36
Farm River	Dam at aqueduct	43
	River Rd	43
	Maple St	39
	Corbin Rd	35
	Hellstorm Rd. (north).	30
	Hellstorm Rd. (south).	28
	Willow Rd	28
	Private road (gunnery range)	30
	Route 95	22
	Railroad	20
	Route 1	17
	Hemingway Ave	15
	Main St	14
	Trolley museum, railroad.	12
	Tidegate	12
	Route 142	12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 20, 1977.

JAY JANIS,
Under Secretary.

[FR Doc.77-26358 Filed 9-13-77;8:45 am]

[Docket No. FI-2759]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for Town of Agawam, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of Agawam, Mass. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of Agawam, Mass.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Agawam.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Agawam are available for review at 36 Main Street, Agawam, Mass.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River	Southend Bridge (Route 57).	59
Westfield River	Mittenegue Bridge	69
	Suffield St	62
	Agawam-West Springfield Bridge.	60
Still Brook	Pine St	170

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 24, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-26359 Filed 9-13-77;8:45 am]

[Docket No. FI-2700]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for City of Dayton, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Dayton, Minn. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Dayton, Minn.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Dayton.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Dayton are available for review at City Hall, 12040 Noon Drive, Anoka, Minn.

The final 100-year flood elevations for selected locations are:

Source of flooding [1]	Location	Elevation in feet, national geodetic vertical datum
Crow River	County Highway 36, Robinson St.	857
Elm Creek	Pineview Lane	869
	Elm Creek Rd	902
Rush Creek	Minnesota Highway 152	907

[1] Mississippi River.—No road crossing available. Elevations along the river from river mile 873.6 to 879.6, vary from 817 to 857 ft.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26360 Filed 9-13-77;8:45 am]

[Docket No. FI-2558]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for City of Aberdeen, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Aberdeen, Miss. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Aberdeen, Miss.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Aberdeen are available for review at City Hall, Box 31, Aberdeen, Miss. 39730.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Aberdeen.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tombigbee River	U.S. Highway 45	200
	St. Louis-San Francisco RR.	201
Mattubby Creek	Meridian St	202
City ditch	Illinois Central Gulf RR.[1]	203
	....do[2]	204
	Polar St	206
	Chestnut St	209
	Locust St	210
	Meridian St	211
	Hickory St	212
	James St	212
	Madison St	212
	Jefferson St	214
	Long St	215
James Creek, tributary No. 1.	Thayer Ave	210
	Highway No. 25 North[2].	221
	Old G.M. & O. Rd.[2]	225
	High St	225
	Glendale Circle	225
	West Parkway	228
	Central St	233
James Creek, tributary No. 2.	Illinois Central Gulf RR.	203
	Junction Meridian and Evergreen Sts[2].	213
	Hamilton St	216

[1] Downstream side.
[2] Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26361 Filed 9-13-77;8:45 am]

V 42 178 SEP 14 77 UMI

federal register

WEDNESDAY, SEPTEMBER 14, 1977
PART IV

INTERSTATE COMMERCE COMMISSION

ABANDONMENT OF RAILROAD SERVICES

System Diagram Map; Atchison, Topeka & Santa Fe Railroad Co.

V 42 178 SEP 14 77 UMI

INTERSTATE COMMERCE COMMISSION

[AB-52 (SDM)]

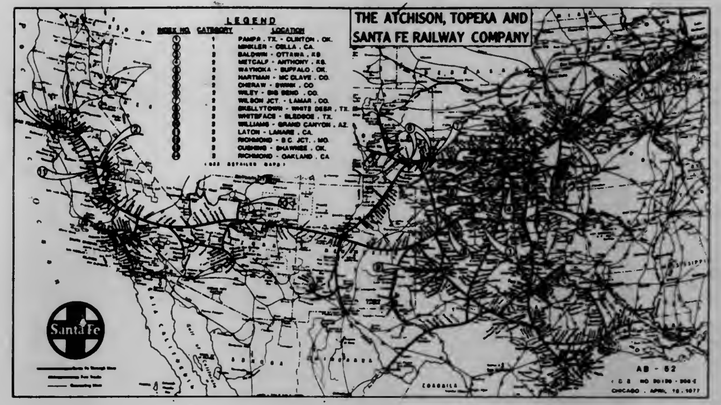
ATCHISON, TOPEKA & SANTA FE RAILWAY CO.

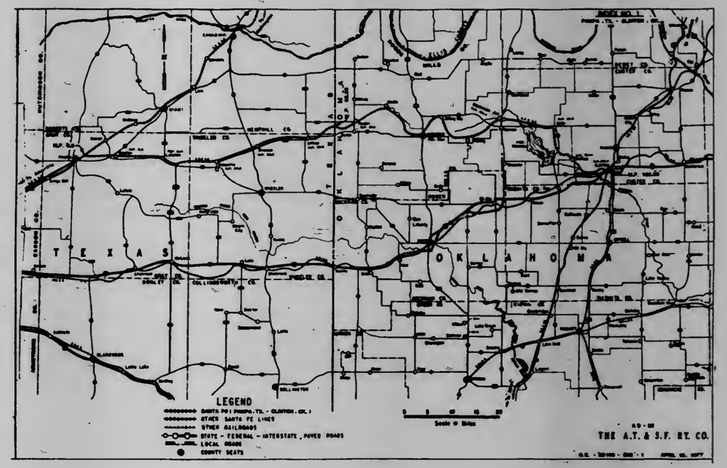
System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Atchison, Topeka & Santa Fe Railway Co., has filed with the Commission its color-coded system diagram map in docket No. AB-52 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on September 2, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

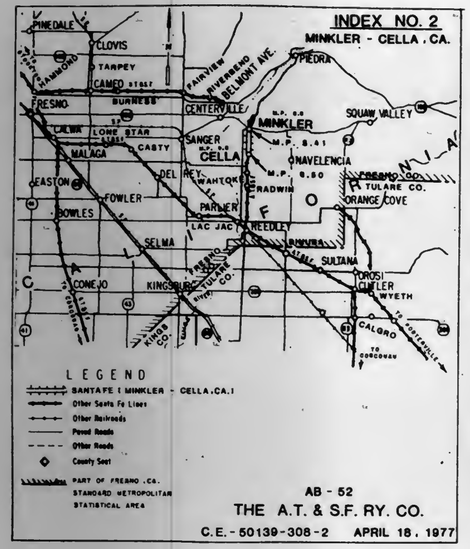
Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 52 (SDM).

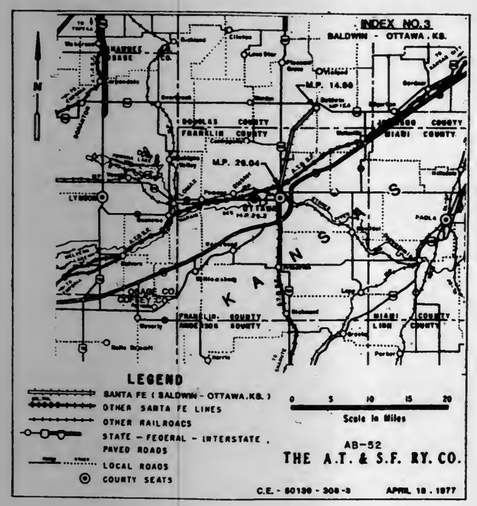
H. G. HOMME,
Acting Secretary.

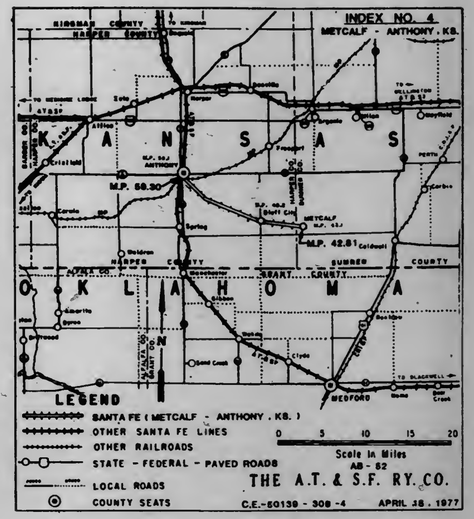


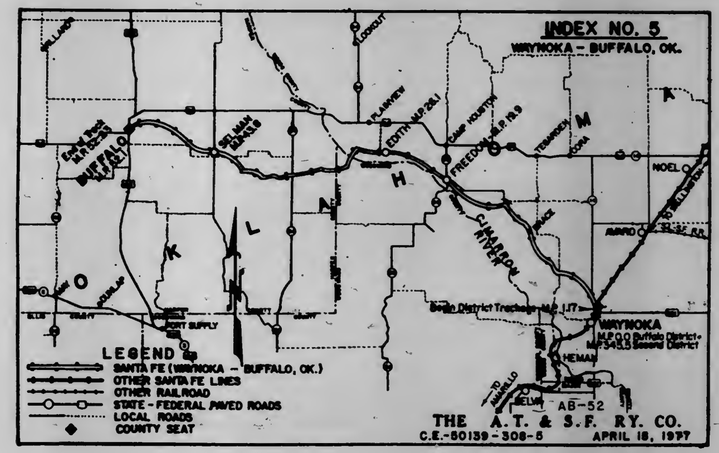


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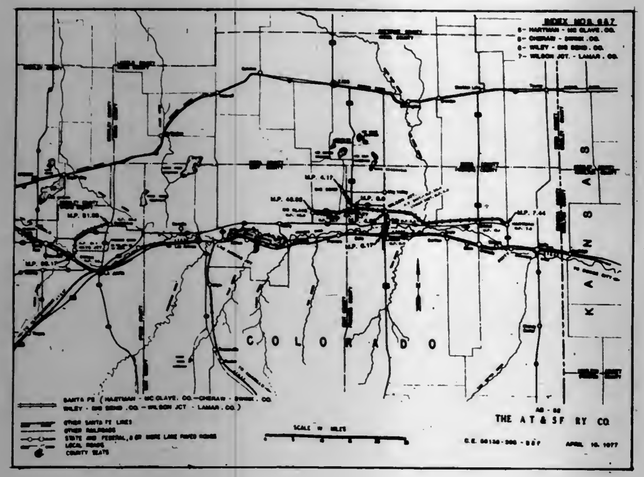


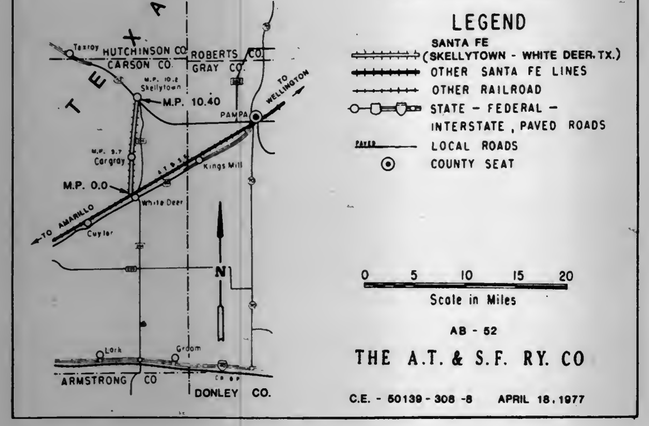


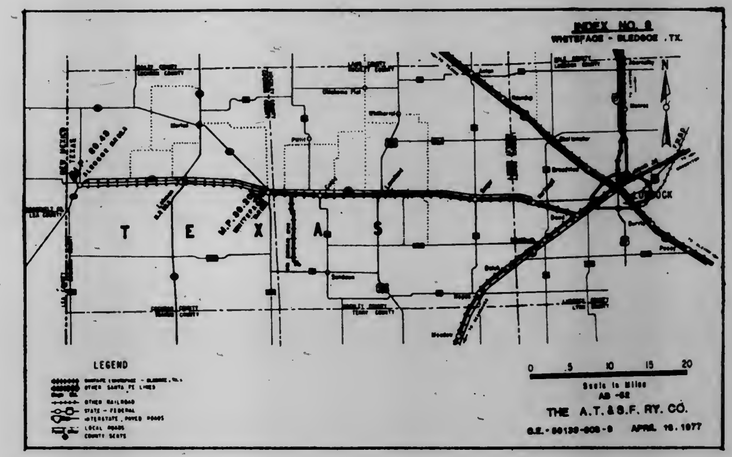


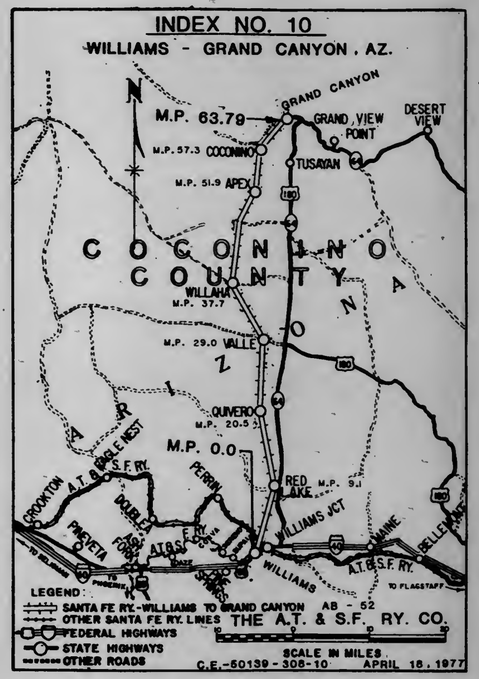


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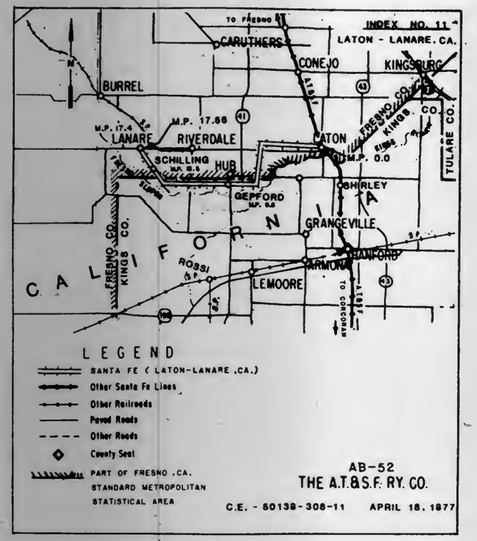


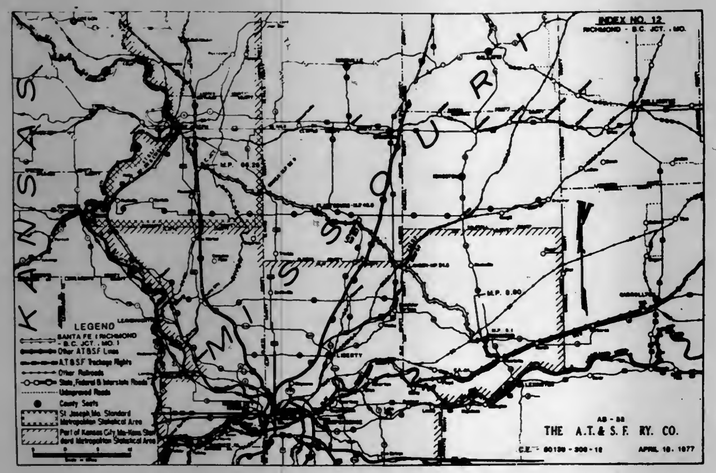


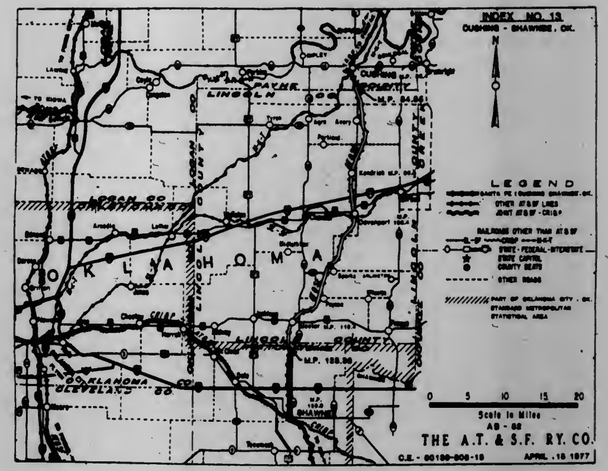


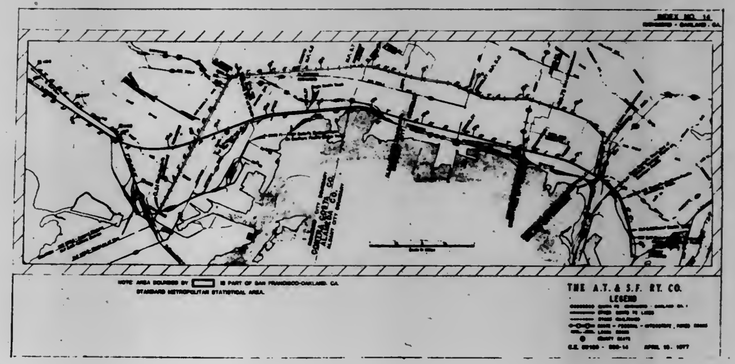


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THE ATCHISON, TOPEKA & SANTA FE RAILWAY CO.

DESCRIPTION OF LINES TO ACCOMPANY THE SYSTEM DIAGRAM MAP

Category (1). All lines or portions of lines which the carrier anticipates will be the subject of an abandonment or discontinuance application to be filed within the three year period following the date upon which the diagram, or any amended diagram, is filed with the Commission.

Map Code (Index No. 1)—Texas/Oklahoma

(a) Pampa, Tex., to Clinton, Okla., entire Clinton District 136.69 miles.
(b) Located in the States of Texas and Oklahoma. Milespost at State line 56.62.
(c) Located in Custer and Roger Mills County, Okla.; Hemphill, Wheeler, and Gray County, Tex.
(d) Milepost 0.0 to 136.69.
(e) Agency stations at Pampa, Tex. (Milepost 0.0); Cheyenne, Okla. (Milepost 80.0); Butler, Okla. (Milepost 116.6); Clinton, Okla. (Milepost 136.4).

Map Code (Index No. 2)—California

(a) Minkler to Celia; a 1.91 mile segment of the Wahtoke District.
(b) Located entirely in the State of California.
(c) Located entirely in Fresno County.
(d) Milepost 8.41 to 6.50.
(e) No agency staitons on segment. Segment service by agent at Reedley (Milepost 0.0).

Category (2). All lines or portions of lines potentially subject to abandonment which the carrier has under study and believes may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenues.

Map Code (Index No. 3)—Kansas

(a) Baldwin to Ottawa; entire Baldwin District 11.05 miles.
(b) Located entirely in the State of Kansas.
(c) Located in Douglas and Franklin County, Kans.
(d) Milepost 14.95 to 26.04.
(e) Agency station at Ottawa (Milepost 26.2).

Map Code (Index No. 4)—Kansas

(a) Metcalf to Anthony; entire Anthony District 16.49 miles.
(b) Located entirely in the State of Kansas.
(c) Located in Sumner and Harper County.
(d) Milepost 42.81 to 59.30.
(e) Agency stations at Bluff City (Milepost 48.2) and Anthony (Milepost 59.1).

Map Code (Index No. 5)—Oklahoma

(a) Waynoka to Buffalo; entire Buffalo District 51.37 miles.
(b) Located entirely in the State of Oklahoma.
(c) Located in Woods, Woodward, and Harper Counties.
(d) Milepost 1.17 to 52.23.
(e) Agency stations at Waynoka (Milepost 0.0) and Buffalo (Milepost 52.1).

Map Code (Index No. 6)—Colorado

(a) Hartman to McClave, a 36.48 mile segment; Cheraw to Swink, a 11.49 mile segment; Wiley to Big Bend, a 4.17 mile industrial spur. These three segments make up the entire Arkansas Valley District.
(b) Located entirely in the State of Colorado.
(c) Segment Hartman to McClave is located in Prowers and Bent Counties; segment Cheraw to Swink is located entirely in Otero County; segment Wiley to Big Bend is located in Prowers and Bent Counties.
(d) Segment Hartman to McClave, Milepost 7.44 to 43.92; segment Cheraw to Swink, Milepost 81.68 to 93.17; segment Wiley to Big Bend, a 4.17 mile spur connecting at Wiley, Milepost 36.48.
(e) Agency stations at Hartman (Milepost 7.83, Bristol (Milepost 13.1), Wiley (Milepost 36.3 and McClave (Milepost 43.6).

Map Code (Index No. 7)—Colorado

(a) Wilson Jct. to Lamar; entire Lamar District, consisting of a connecting track between Santa Fe main line at Lamar across the Arkansas River to the A. V. District, 4.36 miles.
(b) Located entirely in the State of Colorado.
(c) Located entirely in Prowers County.
(d) Milepost 4.53 to 0.17.
(e) Agency station at Lamar (Milepost 0.0).

Map Code (Index No. 8)—Texas

(a) Skellytown to White Deer, a 10.4 mile industrial spur on the Second District, also referred to as the Skellytown spur.
(b) Located entirely in the State of Texas.
(c) Located entirely in Carson County.
(d) Skellytown spur connecting at White Deer, Main Line Milepost 512.8.
(e) Agency station at White Deer (Main line Milepost 512.8).

Map Code (Index No. 9)—Texas

(a) Whiteface to Bledsoe; a 24.23 mile segment of the Lehman District.
(b) Located entirely in the State of Texas.
(c) Located entirely in Cochran County.
(d) Milepost 39.20 to 63.43.
(e) Agency stations at Whiteface (Milepost 39.2) and Lehman (Milepost 50.5).

Mape Code (Index No. 10)—Arizona

(a) Williams to Grand Canyon; entire Grand Canyon District 63.79 miles.
(b) Located entirely in the State of Arizona.
(c) Located entirely in Coconino County.
(d) Milepost 0.0 to 63.79.
(e) No agency stations on segment.

Map Code (Index No. 11)—California

(a) Laton on Lanare; entire Laton District 17.56 miles.
(b) Located entirely in the State of California.
(c) Located in Fresno and Kings Counties.
(d) Milepost 0.0 to 17.56.
(e) No agency stations on segment.

Category (3). All lines or portions of lines for which an abandonment or discontinuance application is pending before the Commission on the date upon which the diagram, or any amended diagram, is filed with the Commission.

Map Code (Index No. 12)—Missouri

(a) Richmond to B. C. Junction, a 59.65 mile segment of the St. Joseph District.
(b) Located entirely in the State of Missouri.
(c) Located in Ray, Clay, Clinton, and Buchanan Counties.
(d) Milepost 5.60 to 65.25.
(e) Agency station at Plattsburg (Milepost 43.8).

Map Code (Index No. 13)—Oklahoma

(a) Cushing to Shawnee, a 38.53 mile segment of the Cushing District.
(b) Located entirely in the State of Oklahoma.
(c) Located in Payne, Lincoln, and Pottowatomie Counties.
(d) Milepost 84.85 to 123.38.
(e) Agency stations at Cushing (Milepost 82.4) and Shawnee (Milepost 132.0).

Map Code (Index No. 13)—Oklahoma

(a) Richmond to Oakland, a 9.24 mile segment of the Oakland District.
(b) Located entirely in the State of California.
(c) Located in Contra Costa and Alameda Counties.
(d) Milepost 0.51 to 9.75.
(e) Agency stations at Richmond (Milepost 0.0) and Oakland (Milepost 10.9).

[FR Doc.77-26501 Filed 9-13-77;8:45 am]

federal register

WEDNESDAY, SEPTEMBER 14, 1977
PART V

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

OFFICE OF MANAGEMENT AND BUDGET

CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS

September 1977

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OFFICE OF MANAGEMENT AND BUDGET

CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS

September 1977

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all current year budget authority with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of September 1, 1977, of the 20 rescissions and 64 deferrals contained in the first eighteen special messages transmitted to the Congress for fiscal year 1977. These messages were transmitted to the Congress on July 29, September 22, October 1, November 5, December 3, 1976, January 7 and 17, March 9 and 24, April 4 and 28, May 18, July 7, 19 (both the fourteenth and fifteenth messages), and July 26 (both the sixteenth and seventeenth messages), and August 16, 1977.

RESCISSIONS (TABLE A AND ATTACHMENT A)

Six rescissions totaling $665.3 million in FY 1977 budget authority are presently before the Congress. Table A summarizes the status of rescissions proposed as of September 1, 1977. Attachment A shows the history and status of each rescission proposed for fiscal year 1977.

DEFERRALS (TABLE B AND ATTACHMENT B)

As of September 1, 1977, $4,367.9 million in 1977 budget authority was being deferred from obligation and another $4.6 million in 1977 obligations was being deferred from expenditure. Table B summarizes the status of existing deferrals. Attachment B shows the history and status of each deferral proposed during fiscal year 1977.

INFORMATION FROM SPECIAL MESSAGES

The special messages containing information on each of the rescissions and deferrals covered by the cumulative report are contained in the Federal Registers of:

Tuesday, August 3, 1976 (Vol. 41, No. 150, Part VI)
Monday, September 27, 1976 (Vol. 41, No. 188, Part III)
Thursday, October 7, 1976 (Vol. 41, No. 196, Part IV)
Wednesday, November 10, 1976 (Vol. 41, No. 218, Part VII)
Wednesday, December 8, 1976 (Vol. 41, No. 237, Part II)
Thursday, January 13, 1977 (Vol. 42, No. 9, Part X)
Monday, January 24, 1977 (Vol. 42, No. 15, Part VIII)
Wednesday, March 16, 1977 (Vol. 42, No. 51, Part IV)
Wednesday, March 30, 1977 (Vol. 42, No. 61, Part VI)
Friday, April 8, 1977 (Vol. 42, No. 68, Part VI)
Wednesday, May 4, 1977 (Vol. 42, No. 86, Part VI)
Monday, May 23, 1977 (Vol. 42, No. 99, Part IX)
Wednesday, July 13, 1977 (Vol. 42, No. 134, Part VIII)
Friday, July 22, 1977 (Vol. 42, No. 141, Part V) both the fourteenth and fifteenth messages)
Friday, July 29, 1977 (Vol. 42, No. 146, Part VIII) (both the sixteenth and seventeenth messages)
Friday, August 19, 1977 (Vol. 42, No. 161, Part VII)

BERT LANCE,
Director.

TABLE A

STATUS OF 1977 RESCISSION PROPOSALS

	Amount (In millions of dollars)
Proposed rescissions	1,926.9
Withdrawn (R77-4A, Special Message No. 4, R77-13A, Special Message No. 8)	-95.0
Accepted by the Congress (R77-3, R77-5, R77-8, R77-9, R77-10, R77-11)	-711.6
Rejected by the Congress	-186.6
Adjustments	-268.4 1/
Pending before the Congress	665.3

* *

TABLE B

STATUS OF 1977 DEFERRALS

	Amount (In millions of dollars)
Proposed deferrals	7,484.4
Routine Executive releases (-2,619.6M) and adjustments (-466.7M) 2/ through September 1, 1977	-3,086.3
Overturned by the Congress	-25.6
Currently before the Congress	4,372.5 3/

1/ This amount is the difference between $721.0 million in Navy shipbuilding and conversion funds originally proposed for rescission and $452.6 million rescinded. When the rescission was proposed, these funds were already obligated for supply contracts. In testimony before the House Appropriations Committee, the Secretary of Defense concurred in the opinion that these contracts should not be terminated.

2/ An amount equal to $1,845.0 million included in the "Adjustments" column of Attachment B to this report represents superseded deferrals. This amount is not included in the "Adjustments" entry above because superseded deferrals are netted out in calculating the amount shown on the line "Deferrals proposed by the President" to avoid double counting.

3/ Includes $4.6 million of outlays in one Treasury deferral, D77-27A.

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STATUS OF RESCISSIONS

ATTACHMENT A

FISCAL YEAR 1977
(Amounts in thousands of dollars)

As of September 1, 1977

A-1

Agency/Bureau/Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Funds Appropriated to the President							
International Security Assistance:							
Foreign military credit sales.....	R77-5	[41,500] 1/	01-17-77	41,500 2/	03-25-77		
Foreign military credit sales.....	R77-16	21,090 1/	07-19-77				
Department of Commerce							
U.S. Travel Service:							
Salaries and expenses.	R77-6	[525]	01-17-77			525	03-15-77
National Oceanic and Atmospheric Administration:							
Operations, research, and facilities.....	R77-7	[1,500]	01-17-77			1,500	03-15-77
Department of Defense-Military							
Retired pay, Defense....	R77-8	[141,600]	01-17-77	141,600 2/	03-25-77		
Shipbuilding and conversion, Navy.....	R77-9	[721,000] 3/	01-17-77	452,600 2/	01-25-77		
Shipbuilding and conversion, Navy.....	R77-14	[126,212]	05-18-77			126,212	07-22-77
Aircraft procurement, Air Force.....	R77-18	462,000	07-19-77				
Missile procurement, Air Force.....	R77-19	1,400	07-19-77				
Missile procurement, Air Force.....	R77-20	105,000	07-26-77				
Other procurement, Air Force.....	R77-10	[14,350]	01-17-77	14,350 2/	03-25-77		

A-2

Agency/Bureau/Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Department of Defense-Civil							
Corps of Engineers-Civil:							
Revolving fund.....	R77-2	[6,600]	09-22-76			6,600	03-02-77
Department of the Interior							
Bureau of Mines:							
Helium fund.....	R77-3	[47,500]	09-22-76	47,500 4/	03-10-77		
Department of State							
Contributions for international peacekeeping activities.....	R77-11	[12,000]	01-17-77	12,000 2/	03-25-77		
Department of Transportation							
Federal Highway Administration:							
Highway crossing Federal projects.....	R77-4	[35,000]	09-22-76				
	R77-4A	0	11-05-76			35,000 5/	10-01-76
Coast Guard:							
Retired pay.....	R77-12	[6,803]	01-17-77			6,803	03-15-77
General Services Administration:							
Federal Buildings Fund.....	R77-17	75,000	07-19-77				
Other Independent Agencies							
Legal Services Corporation:							
Payment to the Legal Services Corporation.	R77-1	[45,000] 6/	07-29-76		45,000 6/		10-01-76
National Transportation Safety Board:							
Salaries and expenses.	R77-15	850	07-07-77				

A-3

Agency/Bureau/Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Small Business Administration:							
Business loan and investment fund.....	R77-13	160,000]	01-17-77				
	R77-13A	0	01-09-77			60,000 7/	10-01-76 7/
TOTAL:		665,340		711,550		281,640	

1/ This amount was included in a deferral (D77-38) that was transmitted to the Congress on 12-03-76.
2/ P.L. 95-15.
3/ Of the $721,000,000 proposed for rescission, $452,600,000 was rescinded because the difference, totaling $268,400,000, was previously obligated. The $452,600,000 was assumed to be included in a deferral (D77-34) transmitted to the Congress on 11-05-76.
4/ P.L. 95-10.
5/ A supplementary report withdrawing the proposed rescission was transmitted to the Congress on November 5, 1976. These funds were not withheld during the 45-day Congressional consideration period.
6/ A supplementary report withdrawing the proposed rescission was transmitted to the Congress on March 9, 1977. These funds were not withheld during the 45-day Congressional consideration period.

STATUS OF DEFERRALS

ATTACHMENT B

FISCAL YEAR 1977
(Amounts in thousands of dollars)

B-1

Agency: Funds Appropriated to the President

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 09-01-77
Emergency Refugee and Migration Assistance Fund.....	D77-1		8,640	10-01-76					
				10-28-76	-1,000				
				11-12-76	-1,200				
				12-29-76	-2,000				
				01-10-77	-1,000				
				01-31-77	-2,100				
				05-25-77				+3,660	5,000
International Security Assistance									
Military assistance, 1977.....	D77-37	[73,000]		12-03-76				-73,000 1/	
			79,000	07-07-77					79,000
				07-07-77					
Foreign military credit sales.....	D77-38		740,000	12-03-76				-41,500 2/	
				01-10-77	-23,627				
				01-25-77	-585,533				
				05-06-77	-27,500				
				05-20-77				+12,258	
				07-07-77	-3,500			-21,090 3/	
				07-20-77	-7,500				
				08-09-77	-1,700				
				08-15-77	-5,840				
				08-24-77	-10,000				24,468
TOTAL:		73,000	827,640		-672,500			-119,672	108,468

1/ Subsequently incorporated in a supplementary report.
2/ This amount was proposed for reaclassion (R77-5). The proposal was accepted by the Congress in P.L. 95-15.
3/ This amount was proposed for reaclassion (R77-16).

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B-2

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Agriculture

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 09-01-77
Foreign Agricultural Service									
Salaries and expenses: (Special foreign currency program).....	D77-2	[1,610]		10-01-76 01-17-77				-1,610 1/	
	D77-2A		1,743	01-17-77					1,743
Agricultural Stabilization and Conservation Service									
Commodity credit corporation administrative expenses.....	D77-3		2,919	10-01-76 12-30-76 03-25-77 05-19-77 07-14-77	-2,629 -84 -140 -66				0
Forest Service									
Expenses, brush disposal.	D77-4		22,321	10-01-76					22,321
Licensee programs.....	D77-5	[146]		10-01-76 01-17-77				-146 1/	
	D77-5A		239	01-17-77					239
TOTAL:		1,756	27,222		-2,919			-1,756	24,303

1/ Subsequently incorporated in a supplementary report.

B-3

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Commerce

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 09-01-77
General Administration									
Special foreign currency program.....	D77-45		654	01-17-77					654
Economic Development Administration									
Local public works program.....	D77-63		11,000	07-26-77					11,000
National Oceanic and Atmospheric Administration									
Operations, research, and facilities.....	D77-46	[7,500]		01-17-77 03-28-77 04-28-77	-1,200			-6,300 1/	
	D77-46A		6,300	04-28-77					6,300
Promote and develop fishery products and research pertaining to American fisheries.....	D77-6	[1,771]		10-01-76 01-07-77				-1,771 1/	
	D77-6A		1,772	01-07-77 03-08-77 08-08-77	-600			+343	1,515
Fisheries loan fund.....	D77-7		5,799	10-01-76					5,799
Offshore shrimp fisheries fund.....	D77-8		59	10-01-76 05-06-77	-58				1
Fisherman's guaranty fund.....	D77-9	[356]		10-01-76 01-07-77				-356 1/	
	D77-9A		544	01-07-77					544

B-4

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Commerce (continued)

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 09-01-77
Maritime Administration									
Ship construction.....	D77-47	[200,900]		01-17-77 04-04-77				-200,900 1/	
	D77-47A		200,900	04-04-77 05-18-77	-102,900				98,000
TOTAL:		210,527	227,028		-104,758			-209,327	123,470

1/ Subsequently incorporated in a supplementary report.

B-5

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Defense, Military

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 09-01-77
Military personnel and operation and maintenance.....	D77-62		12,465	07-19-77					12,465
Shipbuilding and conversion, Navy.....	D77-34		929,250	11-05-76 01-17-77				-452,600 1/	476,650
Military construction, all services.....	D77-10	[76,483]		10-01-76 12-03-76				-76,483 2/	
	D77-10A	[335,883]		12-03-76 01-17-77				-335,883 2/	
	D77-10B	[387,652]		01-17-77 03-09-77				-387,652 2/	
	D77-10C		424,240	03-09-77 03-25-77 03-28-77 03-30-77 04-12-77 04-14-77 05-23-77 06-08-77 07-22-77 08-04-77 08-11-77 08-18-77 08-19-77 08-24-77 08-31-77	-12,960 -18,527 -34,011 -8,210 -5,425 -24,253 -29,931 -22,981		+12,710 +2,796	231,625
TOTAL:		800,018	1,365,955		-208,121			-1,237,112	720,740

1/ This amount was included in a rescission proposal (R77-9). The proposal was accepted by the Congress in P.L. 95-15.
2/ Subsequently incorporated in a supplementary report.

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B-6

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Defense, Civil

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 09-01-77
Corps of Engineers-Civil									
Construction, general...	D77-53	[7,760]		03-24-77					
				03-14-77	-5,095				
				05-18-77				-2,665 1/	
	D77-53A		2,665	05-18-77					
				08-18-77				-2,665 2/	0
Panama Canal									
Canal Zone Government: Capital outlay.....	D77-11		146	10-01-76					146
Miscellaneous Accounts									
Wildlife conservation, etc., military reservations.....	D77-12	[361]		10-01-76					
				03-09-77				-363 1/	
	D77-12A		515	03-09-77					515
TOTAL:		8,121	3,326		-5,095			-5,693	661

1/ Subsequently incorporated in a supplementary report.
2/ This amount was rescinded in Public Law 95-96 on 08-07-77.

B-7

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Health, Education, and Welfare

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 09-01-77
Office of the Assistant Secretary for Health									
Scientific activities overseas (Special foreign currency program).....	D77-13	[1,113]		10-01-76					
				01-07-77				-1,113 1/	
	D77-13A		2,113	01-07-77					2,113
Office of Education									
Higher education.....	D77-14	[31,702]		10-01-76					
				11-05-76				-31,702 1/	
	D77-14A		303,862	11-05-76					
				02-28-77	-23,082				
				08-16-77	-27,081				253,699
Social Security Administration									
Limitation on construction.....	D77-15	[17,272]		10-01-76					
				11-05-76				-17,272 1/	
	D77-15A		18,673	11-05-76					18,673
Special Institutions									
Howard University.....	D77-35		500	11-05-76					500
TOTAL:		50,087	325,148		-50,163			-50,087	274,985

1/ Subsequently incorporated in a supplementary report.

B-8

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of the Interior

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 09-01-77
Bureau of Land Management									
Oregon and California grant lands.....	D77-16	[5,426]		10-01-76					
				05-18-77				-5,426 1/	
	D77-16A		7,615	05-18-77					7,615
Bureau of Reclamation									
Colorado River Basin Project.....	D77-54		4,790	03-24-77					
				03-15-77	-4,790				0
Bureau of Outdoor Recreation									
Land and water conservation fund.....	D77-17		30,000	10-01-76					30,000
National Park Service									
Road construction.....	D77-18		3,245	10-01-76					
				10-01-76	-3,245				0
Geological Survey									
Payment from proceeds, sale of water.....	D77-19		30	10-01-76					30
Bureau of Mines									
Drainage of anthracite mines.....	D77-20		3,525	10-01-76					3,525
TOTAL:		5,426	49,205		-8,035			-5,426	41,170

1/ Subsequently incorporated in a supplementary report.

B-9

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Justice

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 09-01-77
Federal Prison System									
Buildings and facilities.	D77-21		1,900	10-01-76				-1,900 1/	0
TOTAL:			1,900					-1,900	0

1/ This deferral resulted from anticipated savings attributable to a plan for leasing a New York State correctional facility. The lease proposal on which the deferral was based was not accepted by New York and the funds are needed to construct the facility as originally planned. Funds related to this deferral were not withheld.

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B-10

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Labor

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 09-01-77
Employment and Training Administration									
Advances to the unemployment trust fund and other funds	D77-19		2,919,000	12-03-76					
				12-28-76	-1,119,000				1,800,000
TOTAL:			2,919,000		-1,119,000				1,800,000

B-11

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of State

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 09-01-77
Administration of Foreign Affairs									
Acquisition, operation, and maintenance of buildings abroad	D77-22		14,225	10-01-76					14,225
Acquisition, operation, and maintenance of buildings abroad (special foreign currency program)	D77-53		18,000	07-07-77					18,000
TOTAL:			32,225						32,225

B-12

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Transportation

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 09-01-77
Coast Guard									
Acquisition, construction and improvements	D77-23		22,581	10-01-76					22,581
Federal Aviation Administration									
Construction, Metropolitan Washington Airports	D77-61		2,100	07-07-77					2,100
Civil supersonic aircraft development termination	D77-24	[464]		10-01-76					
				01-17-77				-464 1/	
	D77-24A		8,080	01-17-77					8,080
Facilities and equipment (Airport and airway trust fund)	D77-25	[276,101]		10-01-76					
				01-17-77				-276,101 1/	
	D77-25A	[287,095]		01-17-77					
				03-09-77				-287,095 1/	
	D77-25B		278,095	03-09-77					278,095
Federal Highway Administration									
Trust fund share of other highway programs	D77-45		31,250	01-17-77					31,250
TOTAL:		563,660	342,106					-563,660	342,106

1/ Subsequently incorporated in a supplementary report.

B-13

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of the Treasury

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 09-01-77
Office of the Secretary									
Antirecession financial assistance fund	D77-57	[6,030]		04-28-77					
				05-01-77	-938				
				05-31-77				+359	
				06-30-77				+280	
				08-16-77				-5,731 3/	
	D77-57A		8,453	08-16-77					8,453
Antirecession financial assistance fund	D77-60		150,000	07-07-77					
				07-05-77	-5,451 1/				144,549
State and local government fiscal assistance trust fund	D77-26		113,732 2/	10-01-76					
				11-01-76	-28,433 2/				
				01-31-77	-28,433 2/				
				05-01-77	-28,433 2/				
				07-08-77	-28,433 2/				0
State and local government fiscal assistance trust fund	D77-27	[10,000] 2/		10-01-76					
				12-03-76				-10,000 2/3/	
	D77-27A		21,075 2/	12-03-76					
				12-31-76	-16,893 2/				
				01-31-77	-1,590 2/				
				05-01-77				+12,860 2/	
				06-01-77	-5,835 2/				
				08-01-77	-5,045 2/				4,572 2/

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SAFETY FILM KODAK

B-14

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of the Treasury (continued)

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 09-01-77
State and local government fiscal assistance trust fund	D77-28	[81,500]		10-01-76					
				11-01-76	-226				
				12-01-76	-186				
				12-31-76	-7,888				
				03-01-77	-317				
				04-01-77	-4				
				05-01-77				48,268	
				07-01-77	-384				
				07-11-77				-80,763 3/	
	D77-28A		97,680	07-11-77					
				08-01-77	-230				
				08-31-77	-2				97,448
Loans to the District of Columbia for capital outlay	D77-36		51,002	11-05-76					51,002
TOTAL:		87,530	307,135BA		-15,626BA			-77,587BA	301,452BA
		10,000	134,807O		-143,095O			+2,860O	4,572O

1/ This amount was released before the special message containing the deferral was transmitted to Congress.
2/ Outlays only.
3/ Subsequently incorporated in a supplementary report.

B-15

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Energy Research and Development Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 09-01-77
Operating expenses (Energy extension service)	D77-49		7,500	01-17-77					
				02-22-77				-7,500 1/	0
Operating expenses (Magnetic fusion energy)	D77-50		12,000	01-17-77		-12,000 2/			0
Operating expenses (Program support-community operations)	D77-51		5,400	01-17-77		-5,400 3/			0
Operating expenses (Biomedical and environmental research)	D77-52		8,200	01-17-77		-8,200 4/			0
Operating expenses	D77-55		80,500	04-04-77					
				06-29-77	-24,710				55,790
Operating expenses (Clinch River Breeder Reactor Plant project)	D77-58	[31,800]		05-18-77					
				07-26-77				-31,800 5/	
	D77-58A		37,400	07-26-77					37,400
Plant and capital equipment	D77-56		46,660	04-04-77					46,660

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STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Energy Research and Development Administration (continued)

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 09-01-77
Plant and capital equipment	D77-64		11,100	08-16-77					11,300
TOTAL:		31,800	208,960		-24,710	-25,600		-39,300	151,150

1/ This adjustment reflects the impact of P.L. 95-3 which makes the source of ERDA's funding their regular 1977 appropriations, rather than the continuing resolution (P.L. 94-473), without need for enactment of authorizing legislation.
2/ Impoundment resolution H. Res. 305 passed the House on March 3, 1977, rejecting this deferral.
3/ Impoundment resolution H. Res. 306 passed the House on March 3, 1977, rejecting this deferral.
4/ Impoundment resolution H. Res. 307 passed the House on March 3, 1977, rejecting this deferral.
5/ Subsequently incorporated in a supplementary report.

B-17

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: General Services Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 09-01-77
Rare Silver Dollar Program	D77-29	[1,709]		10-01-76					
				01-07-77				-1,709 1/	
	D77-29A		1,797	01-07-77					1,797
TOTAL:		1,709	1,797					-1,709	1,797

1/ Subsequently incorporated in a supplementary report.

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B-18

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Other Independent Agencies

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	Releases Resulting From Subsequent Actions Taken by: House	Releases Resulting From Subsequent Actions Taken by: Senate	Adjustments	Amount Deferred as of 09-01-77
Action									
Operating expenses, international and domestic programs	D77-40		550	12-03-76					
				12-31-76	-15				
				06-03-77	-360				
				07-11-77	-175				0
Foreign Claims Settlement Commission									
Payment of Vietnam prisoner of war claims	D77-30		10,833	10-01-76					10,833
American Revolution Bicentennial Administration									
Commemorative activities fund	D77-31	[1,346]		10-01-76					
				01-07-77				-1,346 1/	
	D77-31A		198	01-07-77					198
Interstate Commerce Commission									
Payment for directed rail service	D77-32		13,700	10-01-76					13,700
National Commission on the Observance of International Women's Year									
Salaries and expenses	D77-33		680	10-01-76					680
U.S. Information Agency									
Salaries and expenses (special foreign currency program)	D77-41		2,437	01-07-77					2,437
Special international exhibitions	D77-42		1,716	01-07-77					1,716

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STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Other Independent Agencies (continued)

Bureau Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	Releases Resulting From Subsequent Actions Taken by: House	Releases Resulting From Subsequent Actions Taken by: Senate	Adjustments	Amount Deferred as of 09-01-77
Special international exhibitions (special - foreign currency program	D77-43		112	01-07-77					112
U.S. Railway Association									
Payments for the purchase of Conrail securities	D77-44		680,700	01-07-77					
				01-27-77	-162,000				
				06-27-77	-103,000				415,700
TOTAL:		1,346	710,926		-265,550			-1,346	445,376
TOTAL, ALL DEFERRALS:		1,834,982BA 10,0000	7,349,573BA 134,8070		-2,476,477BA -143,0950	-25,600BA		-2,314,575BA +2,8600	4,367,903BA 4,5720

1/ Subsequently incorporated in a supplementary report.

[FR Doc.77-26770 Filed 9-12-77;11:26 am]

federal register

WEDNESDAY, SEPTEMBER 14, 1977
PART VI



CANAL ZONE GOVERNMENT—PANAMA CANAL COMPANY

PRIVACY ACT OF 1974

Proposed System of Records

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CANAL ZONE GOVERNMENT—PANAMA CANAL COMPANY

PRIVACY ACT OF 1974

System of Records

The Canal Zone Government and the Panama Canal Company maintain a system of records called "Canal Protection Division Activity Report Files." A description of the system is published below.

These agencies filed a report on the system with the Office of Management and Budget, the Senate, the House of Representatives and the Privacy Protection Study Commission on August 29, 1977. The system came into existence in May 1975, but, through administrative oversight, notice of its existence and character has not been given to date. Since suspension of the system would adversely affect the security of the locks, dams, and other vital installations, these agencies have requested a waiver of the 60-day notice period required before implementation of a system by OMB Circular A-108, Transmittal Memoranda 1 (September 30, 1975) and 3 (May 17, 1976).

These agencies invite the submission of written data, views or arguments on any aspect of this system by any member of the public. To be considered, comments must be received on or before October 14, 1977.

Send comments to:
Joseph J. Wood
Agency Records Officer
(Chief, Administrative Services Division)
Panama Canal Company
Box M
Balboa Heights, Canal Zone
Mark all comments: "CACP—2."

Thomas M. Constant,
Assistant to the Governor of the Canal Zone
Secretary, Panama Canal Company.

PCC—CZG/CACP—2

System name: Canal Protection Division Activity Report Files, PCC—CZG/CACP—2

System location: Canal Protection Division Pacific and Atlantic Area Commanders' Offices, at Paraiso, and Cristobal, Canal Zone, respectively.

Categories of individuals covered by the system: Persons who are or have been subjects of investigation by Canal Protection Division personnel, including those arrested and those who have committed, or are alleged to have committed, violations of laws or regulations in areas protected by the Canal Protection Division.

Categories of records in the system: Activity reports, index cards and logbooks containing information such as subject's name, identification number, occupation and employing unit and, when a subject has been barred from vital areas, a notation to that effect; date and time of incident and report; name of person making the report; information concerning the incident or arrest; and witnesses' or victims' names, identification numbers and employing units.

Authority for maintenance of the system: 2 C.Z.C. 31, 76A Stat. 7; 50 U.S.C. 191; and E. O. 10226 of March 23, 1951 (now appearing as 35 CFR Part 129).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See general routine use paragraphs in 35 CFR Part 10, Appendix A. Information in connection with actual or potential violations of the security of areas guarded by the Canal Protection Division may also be disclosed to intelligence units or agencies of the United States Government including the State Department and the Department of Defense.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Printed forms 8-1/2 by 11 inches and index cards.

Retrievability: Alphabetical card file of names of subjects gives cross-reference to activity reports filed in numerical order.

Safeguards: Active files maintained in file cabinets in Area Commanders' offices. File cabinets and offices locked when not in use. Inactive files maintained at Agency Records Center, a building locked when not in use. Access to files and filing areas restricted to authorized personnel.

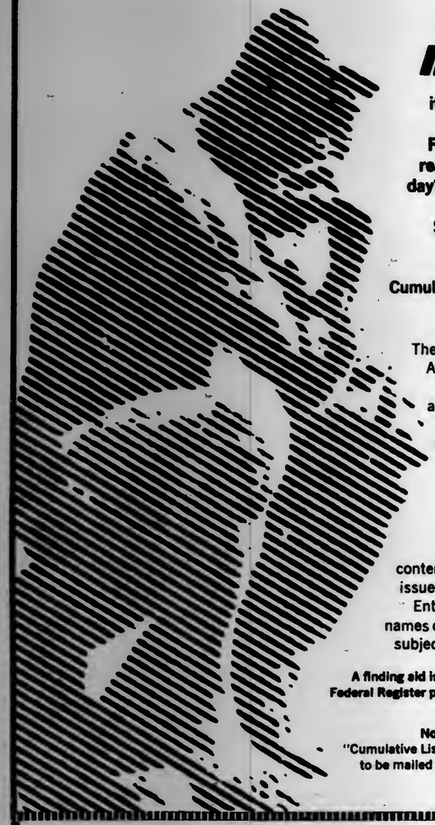
Retention and disposal: Activity reports retained at Area Commanders' offices for two years, subsequently held at Agency Records Center for three or more years, then destroyed. Index cards retained for up to ten years after date of last entry.

System manager(s) and address: Chief, Canal Protection Division, Box M, Balboa Heights, Canal Zone.

Systems exempted from certain provisions of the act: All information in this system is exempt from certain subsections of the Privacy Act of 1974, 5 U.S.C. 552a, and from the procedures for access and contest set forth in the agency's regulations. See 35 CFR 10.13 and 10.14.

[FR Doc.77-26486 Filed 9-13-77;8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

presidential documents

Title 3—The President

PROCLAMATION 4519

Veterans Day, 1977

By the President of the United States of America

A Proclamation

The blessings of liberty which our ancestors secured for us are today, as they have always been, the birthright of every American. They have remained so because in each generation there have been men and women who have been willing to suffer the hardships and sacrifices necessary to preserve our rights for future generations.

No act of citizenship is more worthy of our respect than a willingness to serve in our armed forces and to protect and defend our ideals. There are nearly thirty million of our fellow citizens among us today who have earned that respect by their loyal and honorable service.

In recognition of the contributions our veterans have made to the cause of peace and freedom, the Congress has determined (5 U.S.C. 6103(a)) that one day each year should be set aside as a national holiday in order that all Americans may be able to take part in activities designed to show our respect for their dedication to their country.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, ask all Americans to observe Monday, October 24, 1977, as Veterans Day in a manner that will let our Nation's veterans know that their sacrifices are and always will be recognized and appreciated.

I urge the conduct of public ceremonies, the visible tribute of members of the business community, and the personal participation of all Americans of all ages in honoring our Nation's veterans.

I especially encourage remembrance to those men and women who are sick and disabled and to those who are patients in our hospitals.

I call upon Federa, State and local government officials to mark Veterans Day by displaying the flag of the United States and by supporting and encouraging public involvement in appropriate exercises and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of September, in the year of our Lord nineteen hundred and seventy-seven, and of the Independence of the United States of America the two hundred and second.

Jimmy Carter

[FR Doc.77-27026 Filed 9-13-77;3:36 pm]

V 42 179 SEP 15 77 UMI

Executive Order 12009 • September 13, 1977

Providing for the Effectuation of the Department of Energy Organization Act

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Department of Energy Organization Act (Public Law 95–91; 91 Stat. 565), and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Pursuant to Section 901 of the Department of Energy Organization Act, I hereby prescribe October 1, 1977, as the effective date of that Act.

SEC. 2. The Director of the Office of Management and Budget, in consultation with the Secretary of Energy and the Federal Energy Regulatory Commission, as appropriate, shall take all steps necessary or appropriate to ensure or effectuate the transfer of functions provided for in the Department of Energy Organization Act, to the extent required or permitted by law, including transfers of funds, personnel and positions, assets, liabilities, contracts, property, records and other items related to the transfer of functions, programs, or authorities.

SEC. 3. As required by Section 901 of the Department of Energy Organization Act, this Order shall be published in the FEDERAL REGISTER.

Jimmy Carter

THE WHITE HOUSE,
September 13, 1977.

[FR Doc.77-27068 Filed 9-14-77;10:01 am]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 573]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period Sept. 16–22, 1977. This regulation is needed to provide for orderly marketing of fresh Valencia oranges for the regulation period because of the production and marketing situation confronting the orange industry.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: *Findings.* (1) pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of Valencia oranges, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantities of Valencia oranges that may be marketed from District 1, District 2, or District 3 during the specified week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation for the quantities of Valencia oranges that should be marketed during the specified week. The recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors covered in the order. The committee further reports the fresh market demand for Valencia oranges continues good.

Average f.o.b. price was $4.51 per carton on 532 cars for the week ended September 8, as compared with $4.47 per carton on 531 cars the previous week. Track and rolling supplies at 288 cars were up 24 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantities of Valencia oranges which may be handled should be established as provided in this regulation.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information become available upon which this regulation is based and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted for preparation for such effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for Valencia oranges and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning such provisions and effective time has been provided to handlers of Valencia oranges. It is necessary, to effectuate the declared policy of the act, to make this regulation effective during the period specified. The committee meeting was held on September 13, 1977.

§ 908.873 Valencia Orange Regulation 573.

(a) Order. (1) The quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period September 16, 1977, through Sept. 22, 1977, are hereby fixed as follows:

(i) District 1: 290,000 cartons;

(ii) District 2: 435,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: September 14, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-27088 Filed 9-14-77;11:57 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

[FmHA Instruction 440.3]

PART 1888—SPECIAL ASSISTANCE TO DROUGHT STRICKEN AREAS

Amendment

AGENCY: Farmers Home Administration, USDA

ACTION: Final rule.

SUMMARY: The Farmers Home Administration issues amended regulations to provide that loan funds may be used to pay initial operating and maintenance expenses attributable to short term measures necessary to augment community water supplies; all users being served by the project, regardless of meter size, may be considered in determining the amount of the grant; and, that the reasonable user rate provision of § 1823.472 (b), (b)(1), and (b)(2), will not be applicable when determining the amount of eligible grant assistance for drought projects. This action is brought about by the need for emergency assistance through grants and/or loans and the intended effect is to ameliorate the impact of the drought conditions.

EFFECTIVE DATE: September 15, 1977. Comments must be received on or before October 17, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles B. Hart (202–447–5717).

SUPPLEMENTARY INFORMATION: Section 1888.13 of Part 1888 of Chapter XVIII, Title 7, Subchapter G, "Miscellaneous Regulations," in the Code of

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Federal Regulations, (42 FR 19322; 42 FR 23158; 42 FR43965) is amended. The text of paragraph (c) of this section is amended to provide that loan funds may be used to pay initial operating and maintenance expenses attributable to short term measures necessary to augment community water supplies. The text of paragraph (d) of this section is amended to further explain methods for determining grant assistance to eligible recipients and project users suffering from drought, as set forth in the amended § 1888.13(d). It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemptions in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since any delay in administering this currently needed asssistance would be contrary to the public interest. However, comments will be accepted and material thus submitted will be evaluated and acted upon in the same manner as if the document were a proposal. However, this addition will remain effective until amended in order to permit the public business to proceed expeditiously. Accordingly, the text of paragraphs (c) and (d) of § 1888.13 are amended to read as follows:

§ 1888.13 Loans and grants to rural communities for water supply assistance.

* * * * *

(c) For those projects determined to meet the requirements of paragraph (b) of this section, assistance may be provided to the extent necessary for the construction, enlargement, extension, improvement, or any other appropriate community water facility purpose for ameliorating drought caused problems. Such assistance may include, but not be limited to, deepening an existing well, developing a new water source by digging a new well, or extending water supply lines to other water sources. Additionally, assistance may be provided for short term measures necessary to augment community water supplies where there are severe problems resulting from water shortages due to the drought, including the use of loan funds for initial operation and maintenance expenses attributable to such measures. However, increased operation and maintenance expenses on existing facilities attributable to the drought are not items for which assistance may be provided. Eligibility is limited to those project measures which can be completed by April 30, 1978. Under special circumstances or hardship an extension of completion time may be granted by the FmHA Administrator.

(d) The provisions of paragraph (b), (b)(1), and (b)(2) of § 1823.472 of this Chapter as they pertain to the use of grant funds to achieve a reasonable user cost and to those users that may be considered eligible recipients of grant benefits will not apply. All users being served by the project, regardless of meter size, may be considered in determining the amount of grant, except that projects must primarily serve rural residents. Grant assistance will be determined as follows:

* * * * *

(7 U.S.C. 1989; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: September 8, 1977.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc.77-26936 Filed 9-14-77;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

Amendments to Chapter to Revoke or Revise Certain Reporting Requirements

Correction

In FR Doc. 77-25074 appearing on page 43965 in the issue for Thursday, September 1, 1977, the amendment to § 20.403 should read as follows: "2. Paragraph (a)(4) of § 20.403 is amended by deleting '$100,000' and substituting therefor '$200,000'."

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

1977 PRICE AND ALLOCATION INTERPRETATIONS

AGENCY: Federal Energy Administration.

ACTION: Notice of interpretations.

SUMMARY: Attached are the interpretations issued by the General Counsel of the Federal Energy Administration (FEA) during the period August 5 through August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Kathleen Williams, Federal Energy Administration, 12th & Pennsylvania Avenue NW., Room 7132, Washington, D.C. 20461 (202-566-2454).

SUPPLEMENTARY INFORMATION: FEA interpretations issued pursuant to 10 CFR Part 205, Subpart F, are published in the FEDERAL REGISTER from time to time in accordance with editorial and classification criteria set forth in 42 FR 7923, February 8, 1977.

In 42 FR 7923, FEA stated as follows:

The Interpretations published today are altered from the form in which they were originally issued only in the following respects:

(1) Material which is arguably confidential under 18 U.S.C. 1905 (chiefly specific price or supply data relating to the requesting firm's business operations) has been deleted and replaced by x's;

(2) The inside address, subject line and salutation have been deleted and replaced by the following uniform data identification headings:

To: (Firm which submitted request for interpretation or on whose behalf request for interpretation was submitted);

Date: (Date Interpretation was issued);

Rules Interpreted: List of regulations, rulings or statutory provisions construed in the Interpretation);

Code: (Information indicating (i) whether the Interpretation was issued by General Counsel/Washington ("GCW") or Regional Counsel, and the FEA Region concerned (e.g., "GCR(IV)"), (ii) whether the Interpretation is a Price Interpretation ("PI") or Allocation Interpretation ("AI"), or both, and (iii) the generic subject or subjects (e.g., "Class of Purchaser," "December 1 Rule") discussed in the Interpretation); and

(3) Nonsubstantive information included as a matter of course at the end of every Interpretation (indicating, for example, by whom and to what extent the Interpretation may be relied upon, the procedure for appeal of the Interpretation, and to whom copies of the Interpretation have been sent) has also been omitted.

These alterations were predicated on the issuance of Interpretations in letter format, and all Interpretations through Interpretation 1977-27 were in fact issued as letters. Beginning with Interpretation 1977-28 (the first Interpretation appended hereto) FEA has issued Interpretations under a new format in which the Interpretation is an attachment to a brief cover letter. This style permits FEA to group in the cover letter all nonInterpretive remarks which used to be found in the introductory and concluding paragraphs of Interpretations and which need not be published in the FEDERAL REGISTER. This format also permits FEA to structure the interpretation proper—the attachment to the cover letter—in a manner appropriate for publication in the FEDERAL REGISTER without the need for alteration or other preparation (except for the deletion of any confidential material).

Thus, subject to the single exception just noted, the Interpretations published today, including the interpretation numbers and data identification headings, are published exactly in the form issued. Because the non-interpretive introductory paragraph or paragraphs usually beginning "This is in response to your request * * *" are now found in the cover letter, the text of Interpretations as published in the REGISTER will no longer begin with such paragraphs but will consist entirely of portions labelled "Facts," "Issue," and "Interpretation."

Except as indicated above, the editorial and classification standards noted in 42 FR 7923 with respect to publication of Interpretations remain unaltered.

FEA Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the Interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom Interpretations are addressed and other persons upon whom Interpretations are served are entitled to rely on them (§ 205.85(c)). An Interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the Interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). In addition, Interpretations are subject to appeal. The Interpretations appended hereto are published today only for general guidance in accordance with the reasons set forth in the FEA notice cited above.

Issued in Washington, D.C., September 10, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX

No.	To	Date	Category
1977-28	Mobil Oil Corp.	Aug. 5	Allocation.
1977-29	Pearlen Distributing Co.	Aug. 9	Price.
1977-30	Atlantic Richfield Co.	Aug. 10	Allocation and price.
1977-31	Mobil Oil Corp.	Aug. 12	Allocation.
1977-32	Cook & Cooley, Inc.	Aug. 29	Do.
1977-33	C. R. England Oil & Gas Properties.	Aug. 31	Price.

INTERPRETATION 1977-28

To: Mobil Oil Corporation.

Date: August 5, 1977.

Rules Interpreted: §§ 205.2, 205.33(a), 211.12 (e), 211.13 (c) and (f).

Code: GCW—AI—"New" Wholesale Purchaser-Reseller; Base Period Use, Adjustments to; Procedural Requirements.

FACTS

Mobile Oil Corp. ("Mobile") is the prime supplier of motor gasoline for Ace Oil Co. ("Ace"), a distributor in Chattanooga, Tenn. (a wholesale purchaser-reseller under the Mandatory Petroleum Allocation Regulations). Ace entered into an agreement with the Atlantic Richfield Co. ("ARCO") to assume ARCO's FEA-mandated supply obligations for twelve retail motor gasoline sales outlets (also classified as wholesale purchaser-resellers under FEA regulations). "Three-party agreements" executed by Ace, ARCO and each of the twelve purchasers were submitted to the FEA's Region IV Office for approval. The agreements requested termination of the base period supplier/purchaser relationship between ARCO and the individual purchasers and the substitution by an assignment of Ace as the new base period supplier for the twelve accounts. The FEA granted approval of the three-party agreements by letters sent to each of the twelve purchasers over the period of February 17 through May 19, 1976. Each letter indicated that ARCO had voluntarily relinquished its supply obligation for the individual purchaser and that Ace had assumed the base period supply obligation for that purchaser.

On June 1, 1976, Ace certified to Mobil pursuant to 10 CFR 211.13(f) for an adjustment to its base period use to reflect the additional supply obligation arising out of Ace's agreement to supply the twelve former ARCO accounts. By letter dated June 14, 1976, Mobil agreed to make the increased allocation of gasoline available to Ace without waiving any of its rights.

ISSUE

The issue presented for interpretation is: (1) Whether a wholesale purchaser-reseller which receives FEA approval of termination of its base period supply relationship (in the context of a three-party agreement approved by FEA) is a "new wholesale purchaser" under 10 CFR 211.12(e); and, (2) whether a supplier who accepts the supply obligation to supply a "new wholesale purchaser" can certify to its supplier for an upward adjustment of its base period use as provided in 10 CFR 211.13(c)(1).

INTERPRETATION

For the reasons set forth below, it has been concluded that a wholesale purchaser-reseller which receives FEA approval of termination of its base period supply relationship in the context of an FEA approved three-party agreement as described hereinabove is a "new wholesale purchaser" under 10 CFR 211.12(e). In addition, the new supplier for that "new wholesale purchaser-reseller" can then certify to its supplier for an upward adjustment of its base period use as provided in 10 CFR 211.13(c)(1) to reflect the assumption of an additional allocation obligation.[1]

FEA approval of the termination for the base period supply relationships between ARCO and the twelve retail gasoline sales outlets was required by 10 CFR 211.9(2)(i). That section provides:

Unless otherwise provided in this part or directed by FEO, the supplier/wholesale purchaser-reseller relationships defined by specific dates or base periods or otherwise imposed pursuant to this part shall be maintained for the duration of the Mandatory Petroleum Allocation Program and may not be waived or otherwise terminated without the express written approval of FEO.

By requesting and receiving FEA approval of the termination, ARCO was relieved of the supply obligation of the twelve purchasers and the purchasers then had no base period supplier and were therefore "new wholesale purchasers" under the express language of 10 CFR 211.12(e). That section provides, in relevant part, as follows:

(e) *New wholesale purchasers.* Wholesale purchasers which do no have base period suppliers and wholesale purchasers whose base period suppliers are unable to supply them with sufficient amounts of an allocated product shall be supplied as provided in this paragraph.

Such "new wholesale purchasers" may obtain FEA approval, in the form of an assignment, for the establishment of a new supplier/purchaser relationship with a different supplier, as provided in 10 CFR 211.12(e)(2)(ii):

Wholesale purchaser-resellers without a base period supplier or a new supplier as provided in § 211.10(e)(1) must apply to FEA for an assignment to a supplier and for assignment of base period volume in accordance with Subpart C of Part 205 of this chapter.

Submission of the so-called three-party agreements was the vehicle in this case by which the twelve wholesale purchaser-resellers, having simultaneously terminated their relationship with ARCO, sought under § 211.12(e)(2)(ii) to obtain assignment to Ace. When FEA approved the three-party agreement, Ace became the supplier for the twelve wholesale purchaser-resellers.

In light of its new and increased supply responsibilities to the twelve wholesale purchasers, Ace sought an increase of supply from Mobil. Pursuant to the provisions of 10 CFR 211.13(c)(1), a wholesale purchaser-reseller, such as Ace is entitled to an automatic adjustment to its base period use level "whenever (1) it is notified pursuant to § 205.36(d) of an assignment to supply a new wholesale purchaser * * *." That section further provides that the amount of the adjustment shall be "equal to the increase in the allocation entitlements which the wholesale purchaser-reseller is to supply." Mobil is Ace's base period supplier Therefore, Mobil is obligated under the provisions of 10 CFR 211.13(c)(1) to supply Ace with additional motor gasoline in a volume which is equal to the aggregate amount which Ace is obligated to supply to the twelve wholesale purchasers acquired under the three party agreements approved by FEA.

You have also contended in your request that Mobil is an aggrieved party as defined in 10 CFR 205.2 with regard to FEA's approval of the three party agreements and assignment of Ace as the base period supplier for the twelve accounts. As an aggrieved party within the contemplation of FEA procedural regulations you contend that FEA's approval of the three party agreements described hereinabove was not in conformance with the notice requirements specified in 10 CFR 205.33(a). In connection with assignments of new purchasers, that section provides:

The FEA shall serve notice on any person readily identifiable by the FEA as one who will be aggrieved by the FEA action and may serve notice on any other person that written comments regarding the application for assignment will be accepted if filed within 10 days of service of the notice; or may determine that notice should be published in the FEDERAL REGISTER.

For the purposes of FEA administrative proceedings, the term "aggrieved" is defined in 10 CFR 205.2 as "a person with an interest thought to be protected under the FEAA, EPAA or Proclamation No. 3279, as amended, who is adversely affected by an order or interpretation issued by the FEA or a State Office."

Mobil is within the scope of the definition of the term "aggrieved" with respect to the orders issued by FEA Region IV assigning Ace as the base period supplier of the twelve accounts. This assignment as has been described hereinabove has the ultimate effect of increasing Mobil's supply obligations to Ace. As pointed out in your request, increases in Mobil's supply obligations could cause a disruption in the company's supply and distribution system to the detriment of all of Mobil's accounts and could adversely affect Mobil's position as a marketer in the petroleum industry. Therefore, Mobil is a party with interests sought to be protected under Section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 as amended.

Mobil was also "readily identifiable" by the FEA as a party which would be aggrieved by the transfer of supply obligations because Ace was identified as a Mobil distributor in the three party agreements submitted to FEA. Accordingly, Mobil should have been treated as an aggrieved party and given notice of the action.

In general when FEA fails to comply with the notice requirements in issuing an assignment order and the failure to do so is raised in a timely and proper manner on appeal, the order will be reversed and vacated. *See Texaco, Inc.*, 3 FEA § 80,664 (June 29, 1976). However, it appears from the facts contained in your submission and set forth below that Mobil, having received actual notice of the FEA orders discussed herein, failed to appeal these orders.

As indicated in your submission, Mobil requested clarification of 10 CFR 211.13(c) from Region IV with regard to the three party agreements hereinabove described on March 2, 1976, and Mobil received a reply from the FEA Regional Office on March 24, 1976. In addition, Ace certified to Mobil for an increase in its base period volume reflecting all of the newly acquired accounts on June

[1] FEA Interpretation 1976-50, issued January 3, 1975, is not dispositive of the issue in this case because 10 CFR 211.13(c) in its present form was not in existence at the time of the issuance of that interpretation.

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1, 1976. It is evident that Mobil had actual notice both of the submission of the three party agreements and the subsequent approval of them by FEA as early as March 1976, but failed to appeal the orders within the thirty day period provided for in 10 CFR 205.38.

In the event the application of 10 CFR 211.13 consistent with this interpretation may result in serious hardship or gross inequity, Mobil may file an "Application for Exception" in accordance with the procedures set forth in Subpart D of 10 CFR Part 205.

INTERPRETATION 1977-29

To: Peerless Distributing Company.
Date: August 9, 1977.
Rules Interpreted: §§ 212.31, 212.81, 212.91.
Code: CCR(V)—PI—Firm, def.; Refiner, def.; Reseller, def.

FACTS

Peerless Distributing Company ("Peerless") is a Michigan company engaged in the purchase and resale of various petroleum products. It is owned 100 percent by members of the Fleischman family (the family consisting of the father, mother, son, two daughters, and son-in-law). Members of the same family also own 100 percent of a second firm engaged in reselling petroleum products, Petroleum Specialties, Incorporated ("Petroleum Specialties") and two refineries, Lakeside Refining Company ("Lakeside") and Crystal Refining Company ("Crystal").

Peerless is both a purchaser from and supplier to the other Fleischman-owned companies. Peerless purchases approximately 30 percent of its product from Crystal and Lakeside. Peerless files its own federal and state income tax returns, and claims that it has traditionally operated as a completely independent entity. Peerless also maintains its own inventories and claims to establish prices separately from the other family held companies.

ISSUE

May Peerless be treated as a separate entity under the Mandatory Petroleum Price Regulations ("Price Regulations"), or must it be considered as part of an integrated "firm" along with Petroleum Specialties, Lakeside, and Crystal? If it must be treated as part of an integrated "firm", must the regulations for refiners, 10 CFR 212.81, et seq., be applied to its business activities?

INTERPRETATION

The definition of "firm" in 10 CFR 212.31 provides that the Federal Energy Administration ("FEA") "may, in regulations and forms issued under this part (212), treat as a firm: (1) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (2) a parent and its consolidated entities, (3) an unconsolidated entity, or (4) any part of a firm."

FEA regulations provide that with regard to both refiners and resellers, a "firm" will include any consolidated or unconsolidated entities which it directly or indirectly controls. For refiners, under Subpart E of Part 212, 10 CFR, "firm" is defined in § 212.32, as "a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls." As for resellers under Subpart F of 10 CFR, Part 212, FEA in an amendment to § 212.92, effective May 1, 1976, expressly defined "seller" as "a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls." In issuing this amendment FEA pointed out that this express definition "conforms to prior interpretations that 'seller' as used in Subpart F, is the same as 'firm' as defined in Subpart E of Part 212, i.e., a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls." (41 FR 19110, May 10, 1976).

One of the purposes of defining a firm in this manner is to guard against the possibility of a firm improperly magnifying allowable costs through intracorporate sales or transfers of products at prices reflecting a margin of profit added to each sale or transfer within the firm. Using the "control" concept, the costs which can be passed through are the costs to the "firm," assuring only a dollar-for-dollar passthrough of actual costs incurred by the "firm" concerned.

If direct or indirect control exists between entities, they must be included in the "firm." Peerless argues that it operates on a completely independent basis from the other family-owned companies and therefore no "control" exists. But in FEA Interpretation 1975-32 (42 FR 29722, May 10, 1977), FEA made clear that control is determined by possession of the power to control and not the actual exercise of that power. FEA explained that the issue of control must be decided on objective as well as established criteria. A decision as to the issues of control "which would depend upon a judgment by FEA regarding the degree of • • • actual supervision of • • • day to day operations and which might be subject to review according to the changing circumstances of managerial intervention • • • would be both administratively unfeasible and too arbitrary and indefinite to permit coherent application of the price and allocation regulations • • •"

Power to control a company must be inferred from 100-percent ownership and the power to control all of the companies must be interpreted from the common ownership within the same family. Cost of Living Council ("CLC") Phase IV and FEA regulations include the definitions of "parent and its consolidated entities" and "unconsolidated entity" the qualification that an individual "shall be deemed to control a firm which is directly or indirectly controlled by him or by his father, mother, spouse, children or grandchildren." 6 CFR 150.31 and 10 CFR 212.31.

The ownership and thus the power to control all four of the Fleischman-owned companies lies within the members of the same family. Peerless states in its request that it "is controlled by persons who also own Lakeside, Crystal, and Petroleum Specialties." FEA must treat all four companies as one "firm."

Which Subpart of Part 212 should be applicable to the "firm," which is engaged in both refining and reselling operations? Section 212.81, under Subpart E, the refiner regulations, states that:

"This subpart applies to each sale of a covered product which is purchased or refined by a refiner, except as provided in Subparts F and K."

Section 212.91, under Subpart F, the reseller and retailer regulations, states that:

"• • • For purposes of this subpart, "reseller" includes any entity of a refiner (other than an entity that operates in Puerto Rico) that is engaged in the business of purchasing and reselling covered products: *Provided*, That the entity does not purchase more than 5 percent of such covered products from the refiner including any entities that it directly or indirectly controls: *And provided further*, That the entity has consistently and historically exercised the exclusive price authority with respect to sales by the entity."

FEA Interpretation 1977-6 (42 FR 17100, March 31, 1977) explained that:

"• • • the regulations make it clear that Subpart B applies to all sales of a "refiner" except as provided in Subpart F, and the only exceptions under Subpart F are: (1) Refiner resales of crude oil • • • and (2) an entity of a refiner that is engaged in purchasing and reselling covered products • • • only if that entity (a) purchases no more than five percent of such covered products from the refiner ("including any entities that it directly or indirectly controls"), and (b) has consistently and historically exercised exclusive price authority with respect to its own sales."

Peerless admits that it purchases approximately 30 percent of its product volume from Crystal and Lakeside. It therefore fails to qualify for treatment as a reseller under the "5 percent rule" of § 212.91. Since under § 212.81 all refiner activities are regulated under Subpart B, except with respect to that part of a refiner, if any, which meets the exceptions outlined in § 212.91, the family owned "firm" must be treated as a refiner under Subpart E of the Price Regulations.

Peerless also claims that FEA has allowed "companies, which otherwise meet the regulations definitions of one firm, to continue to operate as separate entities for the purpose of calculating the maximum permissible selling price for each." FEA's Office of Exceptions and Appeals, has under certain circumstances, allowed such separate treatment. A request for interpretation is not the proper forum for Peerless to seek such relief. An exception from the requirements of the Price Regulations would have to be sought under the procedures of Subpart D of 10 CFR Part 205.

INTERPRETATION 1977-30

To: Atlantic Richfield Company.
Date: August 10, 1977.
Rules Interpreted: §§ 211.67(d)(2), 212.53(c).
Code: GCW—AI, PI—Export Sales Deduction.

FACTS

Atlantic Richfield Company ("ARCO") is a refiner subject to the Mandatory Petroleum Price and Allocation Regulations, 10 CFR Part 211 and 10 CFR Part 212.

ARCO produces non-bonded aviation jet fuel and then sells volumes of such fuel to a domestic purchaser intending to uplift it on international flights departing from the United States. The purchaser certifies to ARCO that certain of such volumes are for export.

ISSUE

All sales of non-bonded aviation fuel to be consumed on international flights departing from the United States export sales for purposes of the export sales deduction set forth in § 211.67(d)(2), when the purchaser certifies that the volumes sold are for export?

INTERPRETATION

Section 211.67(d)(2) states:

The volume of a refiner's crude oil runs to stills in a particular month for purposes of the calculations in paragraph (a)(1) of this section and the calculations for the national domestic crude oil supply ratio shall be reduced by that refiner's volume of export sales under § 212.53 of Part 212 of this chapter in that month of refined petroleum products (including aviation fuels as defined in § 211.142 of this part, but excluding refined lubricating oils) and residual fuel oil, *including sales to a domestic purchaser which certifies the product is for export;* • • • (Emphasis added.)

Section 211.67(d)(2) expressly refers to the provisions of § 212.53 to define the scope of those export sales which are required to be deducted from ARCO's crude oil runs to stills. Section 212.53(c) specifically deals with the question of non-bonded aviation fuel by providing that:

Non-bonded aviation fuel uplifted in the United States for international flights departing from the United States shall not be considered as export for purposes of this part.

Therefore, a purchaser's certification to the contrary notwithstanding, sales of non-bonded aviation fuel uplifted in the United States for international flights departing from the United States are not export sales, and consequently should be included in ARCO's crude oil runs to stills for purposes of the export sales deduction set forth in § 211.67(d)(2).

INTERPRETATION 1977-31

To: Mobil Oil Corporation.
Date: August 12, 1977.
Rules Interpreted: §§ 211.51, 211.67.
Code: GCW—AI—Crude Oil, def.; Entitlements Program.

FACTS

Mobil Oil Corporation ("Mobil") is planning to import liquid hydrocarbons ("liquids") produced at the Arun field in Indonesia. Facilities designed to produce, treat and liquify natural gas are currently under construction at the field. Upon completion of the plant facilities 600 MM SCF per day of liquified natural gas ("LNG") will be produced and a substantial volume of liquids will be available at the plant.

The facilities being constructed at Arun are designed to become operational in stages. Liquids will be recovered from the production facilities in an interim operation and will be available for loading for export in September of 1977. The Arun gas plant is to become operational in mid-1978.

The liquids produced at Arun in the interim operation will be derived from wellhead condensation which has been reduced to ambient conditions through retrograde condensation (the formation of liquids from gas through reduction of pressure). The Arun wellhead conditions are such that the gas produced is at high pressure and temperature (5,000 p.s.i.; 340 F) and contains a significant volume of liquid. Due to the high pressure of the gas and in order to obtain complete recovery of the liquids, four stages of separation by retrograde condensation or "flashing" (separation of liquids from gas by reduction of pressure) will be used. The liquids are first separated at 1150 pounds per square inch ("p.s.i.") and then pumped 20 miles to liquid recovery facilities near the marine loading terminal. Two additional flash stages will then be employed to reduce the pressure to 200 p.s.i. and 60 p.s.i. respectively. The vapor phase from these stages will be utilized as fuel and the excess flared.

After these two flash stages, the stream is discharged at 41° F because of the thermodynamic cooling effects of the condensation. The stream is then passed through a steam exchanger to heat the liquid to 174° F and reflashed at atmospheric pressure. The final flash step further reduces the volume of recovered liquid and results in stable liquids at ambient conditions.

ISSUE

Are the liquids recovered from gas production at the Arun field in Indonesia through separation by retrograde condensation at an interim facility and imported to the United States by Mobil for use as feedstock in domestic Refineries "lease condensate" and thus within the definition of crude oil in 10 CFR 211.51 and eligible for inclusion in the volume of crude oil runs to stills for purposes of the entitlements program set forth 10 CFR 211.67?

INTERPRETATION

For the reasons set forth below, it has been concluded that the liquids recovered from the gas production at the Arun field in Indonesia through an interim operation pending completion of a gas processing plant by means of retrograde condensation and imported to the United States by Mobil qualify as "lease condensate" and are thus within the definition of crude oil in 10 CFR 211.51 and eligible for inclusion in the entitlements program, 10 CFR 211.67.

Crude oil is defined in 10 CFR 211.51 as follows: • • • a mixture of liquid hydrocarbons *including lease condensate* that exists in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. (Emphasis added.)

The term "lease condensate" does not have a uniform definition in the petroleum industry. Generally, condensate refers to the heavier liquid hydrocarbon portion of natural gas in the underground reservoir which is mechanically separated from natural gas as a liquid through a process of retrograde condensation, involving pressure reduction, and sometimes accompanied by a reduction in temperature as well. Condensate separated from natural gas by conventional lease separation facilities ("surface separators" (at the wellhead, or by a single mechanical separator ("field facility"), located centrally and servicing two or more wells, is typically referred to as "lease condensate." Condensate which is separated from natural gas at gas processing plants, for example, at the inlet side of a gas processing plant, is referred to as "plant condensate." For the purposes of FEA's price regulations (10 CFR, Part 212, Subpart D), condensate, wherever recovered (lease, field or plant) is considered as crude oil and priced accordingly. (See 40 FR 40819, September 4, 1975). However, for the purposes of the allocation regulations (10 CFR Part 211) only lease condensate is included in the definition of crude oil.

The liquids recovered from the Arun field are lease condensate because they are recovered by mechancial separation after retrograde condensation in a process comparable to recovery at the lease or at field facilities. Additionally, they remain liquid at normal atmospheric pressure and thus fall within the definition of crude oil in 10 CFR 211.51.

As Mobile pointed out in its request, the condensate recovery process does differ from the general method of recovery of lease condensate in two ways. First, the condensate facilities span an area of twenty miles and second, the liquids are reheated in the final stage prior to marine shipment.

The fact that the condensate facilities span an area of twenty miles does not alter the conclusion that the basic method of recovery in this case is comparable to the domestic recovery of lease condensate. After the first separation, the liquids are transported twenty miles so that further recovery can take place near the marine loading terminal. As you indicated, stabilizing the liquid at a location near the loading port offers the efficiency of being able to use the low pressure off-gas as fuel. Carrying the flash stages out at the lease would require flaring of this low pressure gas. The completion of the condensate recovery at the loading port does not change the basic method of recovery of the liquids. Furthermore, the condensate recovery during the interim operation is not associated with a gas processing plant. Therefore, the distance involved in the Arun interim operation is not a distinguishing factor.

The second difference, the fact that, unlike the normal processing of lease condensate, the liquids at the Arun interim operation are reheated in the final stage prior to marine shipment, does not detract from the classification of this material as lease condensate. The reheating does not affect the composition of the condensate, but only, as pointed out in Mobil's submission, enhances the separation of the liquids and substantially reduces the volume of the material recovered. This heating process is not equivalent to a fractionation process.

Finally, classification of the Arun condensate as lease condensate and therefore crude oil under the definition of that term in 10 CFR Part 211 will allow the condensate to be included in Mobil's crude oil receipts as imported crude oil for the purposes of the entitlements program. That program seeks to reduce to a competitive range disparities in refiner's feedstock costs resulting from the fact that some refiners have greater access to price controlled domestic crude oil whereas other refiners are more dependent on higher priced imported crude oil. The Arun liquids are in all respects the equivalent to foreign crude oil, they are obtained at a price equivalent to foreign crude oil and will be used as refinery feedstock in Mobil's domestic refineries.

INTERPRETATION 1977-32

To: Cook & Cooley, Inc.
Date: August 29, 1977.
Rules Interpreted: § 211.13(c).
Code: GC(IX)—AI—Adjustments to Base Period Use.

FACTS

Cook & Cooley, Inc., ("Cook & Cooley") is a distributor of Texaco branded motor gasoline for independently operated Texaco retail sales outlets in the Los Angeles basin area, and is a wholesale purchaser-reseller within the contemplation of FEA regulations. Cook & Cooley did not begin to supply several of these retail outlets until the latter part of 1972, after the operators had terminated supply relationships with other distributors. Therefore, the base period responsibility to supply these retail outlets, under FEA allocation regulations, was with Cook & Cooley for the latter months of 1972 and with other suppliers for the preceding months of 1972.

Prior to March 1, 1976, Cook & Cooley received notification from two of these retail outlets that they had elected to designate Cook & Cooley as their sole base period supplier in accordance with the provisions of 10 CFR 211.105. The election by these retail outlets placed an additional supply obligation of approximately 1.67 million gallons of gasoline annually on Cook & Cooley, Inc.

ISSUE

The issue presented for interpretation is whether Cook & Cooley, as a wholesale purchaser-reseller, is entitled to an automatic adjustment to its base period use under 10 CFR 211.13(c) to reflect the increased supply obligation resulting from the designation of Cook & Cooley as the sole base period supplier to certain of its purchasers pursuant to 10 CFR 211.105.

INTERPRETATION

For the reasons set forth below, it has been concluded that Cook & Cooley, as a wholesale purchaser-reseller, is not entitled to an automatic adjustment to its base period use under the provisions of 10 CFR 211.13(c) for increased supply obligations resulting from the designation of Cook & Cooley as the sole base period supplier pursuant to 10 CFR 211.105.

When initially promulgated on January 15, 1974, the general provisions of 10 CFR Part 211, Subpart A, required each supplier to supply all retail outlets which purchased or obtained allocated product from that supplier during the base period. The supplier/purchaser relationship so established could not be waived or otherwise terminated without the express written approval of the FEA. On October 3, 1975, 10 CFR 211.105 was amended

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(40 FR 47477, October 9, 1975) to permit a branded independent marketer with two or more base period suppliers during a calendar year corresponding to a base period to designate its supplier as of December 1972 as its sole supplier for the entire base period. The relevant part of the amended regulation (§ 211.105 (b) and (c)) establishes that:

(b) * * * A wholesale purchaser-reseller of motor gasoline which terminates a supplier/purchaser relationship pursuant to this paragraph may by no later than February 29, 1976, designate its supplier as of December 1972 as the base period supplier for all periods during a calendar year which corresponds to base periods and during which the purchaser was entitled to an allocation from the terminated base period supplier(s). This designation may be made once and shall be for the duration of the Mandatory Petroleum Allocation Program unless otherwise ordered by FEA pursuant to Part 205 of this chapter.

(c) A wholesale purchaser-reseller of motor gasoline which designates a base period supplier pursuant to paragraph (b) of this section shall provide written notice to the terminated base period supplier(s) and to the designated supplier at least twenty (20) days prior to the beginning of the first period corresponding to a base period affected by the termination * * * The designated base period supplier shall begin deliveries reflecting its increased supply obligation, if any, to the wholesale purchaser-reseller pursuant to paragraph (d) of this section starting with the first period corresponding to a base period after receiving the notice from the wholesale purchaser-reseller required by this paragraph (c).

The change to a single designated base period supplier did not require formal action or issuance of orders by the FEA. As indicated above, the only affirmative action required to effectuate the change was the wholesale purchaser's notification in accordance with the regulatory provisions within the prescribed time period. Subsequent to February 29, 1976, this option is no longer available.

The preamble to 10 CFR 211.105, as amended, stated with reference to the increased obligations of designated suppliers that:

The provisions of Part 205 with respect to assignments, adjustments and exceptions should provide adequate means of relief in those few instances where designated suppliers need to obtain additional suppliers of motor gasoline to meet their requirements.

It is also significant to note that 10 CFR 211.13(c)(1), which was last amended on October 3, 1975 subsequent to the October 3, 1975 amendment to 10 CFR 211.105, specifically limits adjustments to a wholesale purchaser-reseller's base period use to those situations in which it has been:

* * * notified pursuant to § 205.36(d) of an assignment to supply a new wholesale purchaser; or * * * notified pursuant to § 205.26 (c) of an adjustment granted pursuant to § 211.12(h), § 211.13(e), § 211.125(b) or § 211.145(b) to the base period use of a wholesale purchaser entitled to receive an allocation from that wholesale purchaser-reseller * * *.

Thus, no provision was made in the FEA allocation regulations to permit automatic upward base period use adjustments for a supplier to reflect the increased supply obligations resulting from a wholesale purchaser's exercise of the option to designate a sole base period supplier pursuant to 10 CFR 211.105.

INTERPRETATION 1977-33

To: C. R. England Oil & Gas Properties.
Date: August 31, 1977.
Rules Interpreted: §§ 212.72, 212.131.
Code: GCW-PI—Certification.

FACTS

1. C. R. England Oil & Gas Properties ("C. R. England") is a producer of domestic crude oil subject to the Mandatory Petroleum Price Regulations of 10 CFR Part 212.

2. Triton Oil & Gas Corporation assigned to C. R. England, effective May 31, 1973, oil and gas leases to Lots 20, 21 and 22 in the Saratoga Field, Hardin County, Texas. As assignee, C. R. England is the sole producer of crude oil from those lots. For the purposes of this interpretation, each of Lots 20, 21 and 22 shall be considered a "property" as that term is used in 10 CFR 212.72 and 212.131.

3. Producers Monthly Report Forms P-1, filed by Triton Oil & Gas Corporation and by C. R. England with the Railroad Commission of Texas, show that the crude oil produced and sold from Lots 20, 21 and 22 for the period June 1, 1973 through June 30, 1975 exceeded the base production control level ("BPCL") for each property.

4. C. R. England did not make a certification pursuant to FEA regulations of crude oil produced and sold from these properties during this period.

5. On November 24, 1975, Sun Oil Company ("Sun") paid C. R. England for crude oil Sun had purchased from the three lots during 1973 and 1974. That payment reflected, for Lots 21 and 22, the "old crude oil" price. According to C. R. England, Sun advised C. R. England at that time that the "new crude oil" price could not be paid on Lots 21 and 22 because the necessary certifications as to 1972 production had not been filed in 1973. In addition, C. R. England alleges that Sun asserted that it was precluded from paying the "new crude oil" price to C. R. England because such a payment might be a "retroactive price increase" barred under 10 CFR 212.1(c)(1) of FEA regulations.

6. C. R. England takes the position that it should be relieved of its burden of compliance with respect to certification under 10 CFR 212.131. It points out that it made a "timely and diligent" inquiry of Sun in October 1973, regarding Sun's failure to send to C. R. England the proper certification forms, and that, in response, Sun employees made verbal statements to C. R. England claiming it was unnecessary to provide any certification forms at that time because the proceeds of crude oil produced and sold from these lots were being held in suspense pending resolution of certain title problems connected with lands covered by the oil and gas leases to Lots 20, 21 and 22.

7. C. R. England urges that the burden of compliance with certification procedures was shared by Sun. C. R. England alleges that, in any event it could not have issued written certification because it did not receive from Sun the correct forms for Lots 20, 21 and 22.

ISSUE

The issue presented for consideration is whether a producer may sell volumes of crude oil as "new crude oil" as defined in 10 CFR 212.72 when that producer failed to certify that such volumes qualify as "new crude oil" as required in 10 CFR 212.131(a)(2)(i).

INTERPRETATION

For the reasons set forth below, it has been concluded that a producer that fails to certify crude oil as "new crude oil" as required in 10 CFR 212.131(a)(2)(i) within the consecutive two-month period immediately succeeding the month in which the crude oil is produced and sold cannot charge the "new crude oil" price for such crude oil because the crude oil does not qualify as "new crude oil" pursuant to the definition in 10 CFR 212.72.

With reference to "new crude oil," 10 CFR 212.72 provides in pertinent part that it:

(3) shall not * * * include any number of barrels not certified as new crude oil pursuant to the provisions of § 212.131(a)(1) within the consecutive two-month period immediately succeeding the month in which the crude oil is produced and sold, except where such recertification is explicitly required or permitted by FEA order, interpretation, or ruling.[2]

10 CFR 212.131(a)(2)(i) provides that:

(i) With respect to each sale of crude oil from a property which has not qualified as a stripper well property, the producer shall certify in writing to the purchaser the number of barrels of new crude oil and the number of barrels of old crude oil * * *.

10 CFR 212.131 clearly states that a producer shall certify, and that the certification shall contain certain information. This section does not say a producer "ought to" or "shall, when practicable" certify. FEA believes that its certification requirements must be strictly construed in order to insure price reliability and stability and to minimize disputes between producers and purchasers with respect to prices charged for crude oil sold.

The certification requirements have evolved from the rule originally adopted by the Cost of Living Council on August 17, 1973 which required producers which charged a price in excess of the ceiling price to certify in writing to the purchaser in each sale: (1) The ceiling price of the crude oil; (2) the amount of new crude oil; and (3) the base production control level (6 CFR 150.354, 38 FR 22536, August 22, 1973). The requirements were substantially continued by FEO in 10 CFR 212.74(c) (39 FR 1924, January 15, 1974). In a rulemaking issued on August 29, 1974 (39 FR 31622, August 30, 1974), the certification requirements of 10 CFR 212.74(c) were redesignated as 10 CFR 212.131, and amended to require each producer and each seller of domestic crude oil to certify in writing to the purchaser, with respect to each sale: (1) The ceiling price (in first sales); (2) the amount of stripper well lease crude oil; (3) the amount of new crude o'l; (4) the amount of released crude oil; and (5) the amount of old crude oil. On November 29, 1974, 10 CFR 212.131 was amended to provide that the certification requirements as to a first sale of domestic crude oil may be satisfied by a one-time certification as to the BPCL for each month of 1972 for the particular property (39 FR 42246, December 4, 1974).

Effective March 23, 1975 (40 FR 28647, July 7, 1975), FEA amended the definitions of "new crude petroleum" and "released crude petroleum" in 10 CFR 212.72 to exclude the volumes that were not certified as new and released crude petroleum within the two month period immediately following the month in which the petroleum was first produced and sold. The July preamble made it clear that volumes of crude oil, other than stripper well crude oil, produced and sold prior to January 1975 could be certified as new or released only until March 23, 1975. All volumes of crude oil produced and sold in January 1975 or thereafter are clearly subject to the two month restriction in order to qualify as "new" or "released" domestic crude petroleum. 10 CFR 212.131 was subsequently amended to require new certifications for first sales of all domestic crude oil

[2] Although the definition of "new crude oil" only refers to 10 CFR 212.131(a)(1), it is intended to encompass the certification requirements of 10 CFR 212.131(a)(2) as well. The definition was inadvertently not changed to conform to subsequent amendments to the certification requirements, but will be revised by technical amendment to reflect those changes.

within the two month period following the month of production and sale (41 FR 37309, September 3, 1976).

Thus, prior to March 23, 1975, FEA price regulations contained no explicit time restrictions on the certification of first sales of domestic crude oil. Sun was therefore correct in its assertion to C. R. England in October of 1973 that certification of the 1972 production was not necessary at that time. However, for crude oil produced and sold in January 1975 or thereafter, certification within the two-month period following the month in which such volumes were produced and sold is necessary in order for such crude oil to qualify as "new crude oil." It is an established principle of law that a firm's ignorance of its obligations under federal law does not constitute a justification for nonconformance with such laws. C. R. England has an affirmative obligation to be cognizant of, and conform to, the requirements of FEA regulations. See Carlos R. Leffler, 2 FEA § 80,640 (July 18, 1975); Belco Petroleum Corp., 3 FEA § 83,136 (May 12, 1976). Since C. R. England failed to certify the volumes of crude oil produced and sold within the two-month period specified in the regulations, the crude oil does not qualify as "new crude oil."

The definition of "new crude oil" (10 CFR 212.72) does permit, as noted above, the recertification as new and released crude oil of volumes of crude oil initially certified as old crude oil, where such recertification is required or permitted by FEA order, interpretation or ruling. This provision is intended to provide for the possibility that certain volumes of crude oil treated as old oil may subsequently become eligible for treatment as new or released crude oil by virtue of later administrative action. This provision is not applicable in the circumstances presented here because the classification of the crude oil as "old crude oil" is the result of the failure of C. R. England to certify the crude oil in a timely manner and not the result of administrative action.

C. R. England contends in its request that the reason for its failure to file the certification of the amount of base production control level crude oil production is because Sun, the purchaser of the crude oil, did not request the certification. The regulations, however, explicitly require certification by the producer. The following passage from the preamble of the August 26, 1976 "Clarifications to Mandatory Petroleum Price Regulations Applicable to Domestic Crude Oil" (41 FR 36171) emphasizes that the duty to file certification forms in accordance with FEA regulations attaches to the producer, not to the purchaser.

* * * [I]t should be noted that it has been the practice among many purchasers and producers for the purchaser to prepare the certification and send it to the producer for completion and authentication and return to the purchaser. FEA has no objections to this practice to the extent that it permits any large purchaser to help to relieve the certification burdens on a small producer. *However, the certification responsibility must in every case rest ultimately with the producer.* (*Id.* at 36183, emphasis added.)

In addition, 10 CFR 212.31(d) expressly provides that "[n]o firm may sell domestic crude oil unless it provides the certification required by this section." In this regard, FEA stated in the August 26 rulemaking that "[t]o ensure compliance with the requirements of this section, a purchaser may refuse to recognize a sale of crude oil at other than lower tier prices until the necessary certification has been made." Thus, it was consistent with FEA regulations and stated policy for Sun to pay the "old crude oil" price where C. R. England failed to timely certify that the volumes of crude oil qualified as "new crude oil."

[FR Doc.77-26858 Filed 9-14-77;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Regs. G, T, U, and X]

PART 207—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS OR DEALERS

PART 220—CREDIT BY BROKERS AND DEALERS

PART 221—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS

PART 224—RULES GOVERNING BORROWERS WHO OBTAIN SECURITIES CREDIT

List of OTC Margin Stocks; Corrections

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Correction of List of OTC Margin Stocks.

SUMMARY: This document corrects the List of OTC Margin Stocks published in the FEDERAL REGISTER on August 18, 1977, at page 41604.

EFFECTIVE DATE: The List of OTC Margin Stocks was effective on August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Jamie Lenoci, Financial Analyst, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2781).

SUPPLEMENTARY INFORMATION: In the List of OTC Margin Stocks, FR Doc. 77-23790, appearing at page 41604 in the FEDERAL REGISTER of August 18, 1977, the following corrections are made:

1. The description of the stocks of CHICAGO & NORTH WESTERN TRANSPORTATION COMPANY found at page 41608, the third column, is corrected to read: "Class A, $.83⅓ par common."

2. The description of the stocks of Krueger, W. A. Company found at page 41614, the second column, is corrected to read: "$2.50 par common."

Dated: September 9, 1977.

THEODORE E. ALLISION,
Secretary of the Board.

[FR Doc.77-26780 Filed 9-14-77;8:45 am]

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 343—INSURED STATE NONMEMBER BANKS WHICH ARE MUNICIPAL SECURITIES DEALERS

Postponement of Effective Date

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Change in Effective Date of Part 343 of FDIC's Regulations.

SUMMARY: On August 8, 1977 FDIC's Board of Directors adopted a new Part 343 of FDIC's Rules and Regulations. The new part, appearing at 42 FR 40891 (1977), Friday, August 12, 1977, concerned insured State nonmember banks which are municipal securities dealers and contained an effective date of September 15, 1977. For administrative convenience and in the interest of coordinating with the Board of Governors of the Federal Reserve System and the Comptroller of the Currency, the effective date of the Regulation will be postponed until October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Judith E. Minsker, Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, D.C. 20429 (202-389-4422).

By order of the Board of Directors, September 9, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION.
ALAN R. MILLER,
Executive Secretary.

[FR Doc.77-26779 Filed 9-14-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-GL-3; Amdt. 39-3033]

PART 39—AIRWORTHINESS DIRECTIVES

McCauley Model D2A34C58-(), F2A34-C58-(), and D2A34C98-(), Series Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires periodic inspection of the McCauley D2A34C58-(), F2A34C58-(), and D2A34C98-() series propellers. The AD is needed to detect cracks and prevent failures of hubs which could result in separation of the blade(s). Since this condition is likely to exist or develop in other propellers of the same design, the Airworthiness Directive requires periodic inspection of the propeller hubs for fatigue cracking, until replaced by McCauley oil-filled hubs containing a dyed oil crack detection system.

DATES: Effective, September 16, 1977. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: Information relating to the service documents referenced in the body of the AD may be obtained from McCauley Accessory Division, Cessna Aircraft Company, Box 7, Roosevelt Station, Dayton, Ohio 45417.

Copies of the service information incorporated in this AD are contained in the Rules Docket, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois 60018; and at FAA Headquarters, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

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FOR FURTHER INFORMATION CONTACT:

Henry L. Weiss, Engineering and Manufacturing Branch, Flight Standards Division, AGL-214, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018. Telephone 312-694-4500, extension 308.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of Federal Aviation Regulations by adding an Airworthiness Directive applicable to the McCauley D2A34C58-( ), F2A34C58-( ), and D2A34C98-( ) series propellers was published in the FEDERAL REGISTER (42 FR 7159), February 7, 1977. The proposal, which requires periodic inspection of the affected propeller hubs, was issued in conjunction with the National Transportation Safety Board's (NTSB) Safety Recommendations of September 21, 1976. These recommendations were based in part on NTSB's Metallurgical Laboratory examination of several failed hubs each of which was a different model having certain design improvements intended to decrease fatigue type failures. Periodic inspections of the affected propellers are no longer required when the hubs are replaced by McCauley oil-filled series hubs containing a dyed oil crack detection system. Although no comments have been received about the proposal to date, some minor changes were adopted in the new Airworthiness Directive. Namely, the applicability statement was amended to include the phrase, "but not limited to," in order to ensure that any aircraft other than those which were initially cited in the proposal, which are equipped with such propellers, comply with the Directive. Also, the phrase "Federal Aviation Administration approved revisions," was added following the references to McCauley Service Bulletins and Manuals.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

In accordance with Departmental Regulatory Reform, dated March 23, 1976, we have determined that the expected impact of this final regulation is so minimal that it does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are H. L. Weiss, Flight Standards Division, Great Lakes Region, and J. T. Brennan, Office of the Regional Counsel, Great Lakes Region.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

MCCAULEY PROPELLERS. Applies to the following Model D2A34C58-( ), F2A34C58-( ), and D2A34C98-( ) series propellers installed on but not limited to Cessna A188, A188A, and A188B "Agwagon," and Transavia PL-12 "Air Truck" aircraft.

D2A34C58	F2A34C58-N
D2A34C58-A	D2A34C98-BM or -BMN
D2A34C58-B, -BM, or -BMN	D2A34C98-CM or -CMN
D2A34C58-C, -CM, or -CMN	D2A34C98-JM or -JMN
D2A34C58-J, -JM, or -JMN	D2A34C98-KM or -KMN
D2A34C58-K, -KM, or -KMN	D2A34C98-LM or -LMN
D2A34C58-L, -LM, or -LMN	D2A34C98-M or -MN
D2A34C58-M or -MN	D2A34C98-N
D2A34C58-N	

Compliance required as indicated, unless already accomplished. To detect propeller hub cracks and prevent possible failure, accomplish the following:

(a) All Models and Series listed above.

(1) Propeller hubs with less than 500 hours time in service, inspect in accordance with paragraph (d)(2) within 525 hours total time and reinspect in accordance with paragraph (d)(2) every 100 hours time in service from last inspection.

(2) Propeller hubs with 500 or more but less than 1,200 hours time in service, inspect in accordance with paragraph (d)(2) within the next 25 hours time in service after the effective date of this AD, and reinspect in accordance with paragraph (d)(2) every 100 hours time in service from last inspection.

(b) Model D2A34C58 and D2A34C58-A only. Propeller hubs with 1,200 or more total hours in service, or whose total time in service is unknown, remove from service and replace in accordance with paragraph (d)(1) within the next 25 hours in service after the effective date of this AD.

(c) All Models and Series listed above except D2A34C58 and D2A34C58-A. Propeller hubs with 1,200 or more hours time in service, or whose total time in service is unknown, inspect in accordance with paragraph (d)(3) within the next 25 hours time in service after the effective date of this AD, unless already accomplished within the last 300 hours time in service and reinspect in accordance with paragraph (d)(3) every 300 hours time in service from the last inspection.

(d) Required Action. (1) Remove propeller from the aircraft, disassemble, inspect components and replace hub with a Model D2A34C58-BMNO, -CMNO, -JMNO, -KMNO, -LMNO, -MNO, -NO, -O; F2A34C58-NO, -O, or D2A34C98-BMNO, -CMNO, -JMNO, -LMNO, -MNO, -NO, or -O oil-filled series hub as applicable in accordance with McCauley Service Bulletin No. 122 dated February 15, 1977, and Service Manual No. 720415, or later Federal Aviation Administration approved revisions.

(2) Inspect all external surfaces of propeller hub for cracks by dye penetrant method. Replace before further flight any cracked hub with a McCauley oil-filled series hub as in paragraph (d)(1).

(3) Remove propeller from aircraft and disassemble. Inspect all internal and external hub surfaces for cracks by dye penetrant method in accordance with McCauley Service Letter 1974-3 dated March 29, 1974, or later Federal Aviation Administration approved revisions. Replace before further flight any cracked hub with a McCauley oil-filled series hub as in paragraph (d)(1).

(e) Exemption. The foregoing inspections may be discontinued after replacement of Model D2A34C58-( ), F2A34C58-( ), or D2A34C98-( ) series propeller hubs with McCauley oil-filled hubs as in paragraph (d)

(McCauley Service Bulletin No. 88 and Cessna Service Letters SE77-4 and SE77-12 also pertain to this subject.)

The manufacturer's specifications and procedures identified in this Directive are incorporated herein and made part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by the Directive who have not already received these documents from the manufacturer, may obtain copies upon request to McCauley Accessory Division, Cessna Aircraft Co., Box 7, Roosevelt Station, Dayton, Ohio 45417. These documents may also be examined at the Great Lakes Regional Office, 2300 East Devon Avenue, Des Plaines, Ill. 60018, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591. A historical file on this Airworthiness Directive which includes incorporated material in full is maintained by the FAA at the headquarters in Washington, D.C., and the Great Lakes Region.

This amendment becomes effective: September 16, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on August 31, 1977.

LEON C. DAUGHERTY,
Acting Director,
Great Lakes Region.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the FEDERAL REGISTER on June 19, 1967.

[FR Doc.77-25543 Filed 9-14-77;8:45 am]

[Airspace Doc. No. 77-CE-3]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area—Moberly, Missouri

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to realign and redesignate the existing transition area at Moberly, Missouri, to provide controlled airspace for aircraft executing instrument approach procedures to Omar N. Bradley Airport which are based on a Non-Directional Radio Beacon (NDB) navigational aid being installed at the airport.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: The City of Moberly, Missouri, is installing a Non-Directional Radio Beacon (NDB) on Omar N. Bradley Airport. This navigation aid will provide additional guidance for aircraft utilizing this airport. The establishment of instrument approach procedures based on the navigation aid entails alteration of the Moberly, Missouri, transition area at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to insure adequate controlled airspace for aircraft executing the new instrument approach procedures.

DRAFTING INFORMATION

The principal authors of this document are Dwaine E. Hiland, Operations, Procedures and Airspace Branch, Air Traffic Division and John L. Fitzgerald, Jr., Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On pages 13303 and 13304 of the FEDERAL REGISTER dated March 10, 1977, the Federal Aviation Administration published a notice of proposed rulemaking which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Moberly, Missouri. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1977 (42 FR 440), is amended, effective 0901 G.m.t. December 1, 1977, by amending the following transition area to read:

MOBERLY, MISSOURI

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Omar N. Bradley Airport (Latitude 39°27'50" N., Longitude 92°25'35" W.); and 3 miles either side of the 315° bearing from the airport extending from the 6.5 mile radius to 8 miles northwest of the airport; and 3 miles either side of the 126° bearing from the airport extending from the 6.5 mile radius to 8 miles southeast of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Missouri, on September 6, 1977.

C. R. MELUGIN, JR.,
Director, Central Region.

[FR Doc.77-26875 Filed 9-14-77;8:45 am]

[Airspace Docket No. 77-WE-25]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area, Montague, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Montague, Calif., transition area by changing the bearing reference from the Montague RBN by 4° from 360° to 356°. This change is necessary in order to provide controlled airspace protection for aircraft executing the revised NDB-A instrument approach procedure to the Siskiyou County Airport.

EFFECTIVE DATE: December 1, 1977.

ADDRESSES: Copies of this final rule may be obtained from:

Federal Aviation Administration, Air Traffic Division, Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261. Telephone: 213-536-6182.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of the Montague, Calif. transition area to provide controlled airspace for the revised NDB-A instrument approach procedure to the Siskiyou County Airport, Montague, Calif.

The change in bearing reference of 4° is so minimal as to impose no additional burden on any person and thus notice and public procedure hereon are unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division, and DeWitte T. Lawson, Jr., Esquire, Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., December 1, 1977, as hereinafter set forth.

In Subpart G § 71.181 (42 FR 440) the Montague, Calif. transition area is amended so as to delete the reference to the 360° bearing and insert in lieu thereof "356° bearing."

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on September 6, 1977.

HERMAN C. BLISS,
Acting Deputy Director,
Western Region.

[FR Doc.77-26872 Filed 9-14-77;8:45 am]

[Airspace Docket No. 77-WE-15]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LAW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area: Ukiah, California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Ukiah, California Transition Area by establishing additional controlled airspace west of V-27 and east of V-27W between Ukiah and Fortuna, California VORTAC's. This additional airspace will be used for radar vectoring of aircraft between the main and alternate airways.

EFFECTIVE DATE: December 1, 1977.

ADDRESS: Copies of this final rule may be obtained from: Federal Aviation Administration, Air Traffic Division, Chief, Airspace and Procedures Branch, 15000 Aviation Boulevard, Lawndale, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261. Telephone 213-536-6182.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the transition area at Ukiah, Calif.

On July 21, 1977, a Notice of Proposed Rulemaking (NPRM) was published in the FEDERAL REGISTER (42 FR 37415) stating that the Federal Aviation Administration proposed to alter the transition area at Ukiah, Calif., to provide controlled airspace for aircraft transiting between V-27 and V-27W northwest of Ukiah, Calif.

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Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division, and DeWitte T. Lawson, Jr., Esquire, Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, December 1, 1977, as hereinafter set forth.

§ 71.181 [Amended]

UKIAH, CALIFORNIA

Following "• • • Fortuna VORTAC 110° radials." Add: • • • "and that airspace extending upward from 5,300 feet MSL bounded on the east by the southwest edge of V–27 and on the west by the east/southeast edge of V–27W."

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Los Angeles, California on September 1, 1977.

HERMAN C. BLISS,
Acting Deputy Director,
Western Region.

[FR Doc.77–26544 Filed 9–14–77;8:45 am]

[Airspace Doc. No. 77–CE–8]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area—Clarion, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate a transition area at Clarion, Iowa to provide controlled airspace for aircraft executing instrument approach procedures to the Clarion Municipal Airport which are based on a Non-Directional Radio Beacon (NDB) navigational aid being installed at the airport.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–537, FAA, Central Region, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816–374–3408.

SUPPLEMENTARY INFORMATION: The City of Clarion, Iowa is installing a Non-Directional Radio Beacon (NDB) on the Clarion Municipal Airport. This navigational aid will provide new navigational guidance for aircraft utilizing this airport. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure adequate controlled airspace for aircraft executing the new instrument approach procedures at the Clarion Municipal Airport.

DRAFTING INFORMATION

The principal authors of this document are Dwaine E. Hiland, Operations, Procedures and Airspace Branch, Air Traffic Division and John L. Fitzgerald, Jr., Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On pages 20834 and 20335 of the FEDERAL REGISTER dated April 21, 1977, as extended in the FEDERAL REGISTER of May 31, 1977, at page 27603, the Federal Aviation Administration published a notice of proposed rulemaking which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Clarion, Iowa. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1977 (42 FR 440), is amended, effective 0901 G.m.t. December 1, 1977, by adding the following new transition area:

CLARION, IOWA

That airspace extending upward from 700' above the surface within a 5 mile radius of the Clarion Municipal Airport (latitude 42°44'30" N., longitude 93°45'30" W.) and within 3 miles each side of the 311° bearing from the Clarion Municipal Airport, extending from the 5 mile radius to 8.5 miles northwest of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Kansas City, Missouri, on September 6, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.77–26876 Filed 9–14–77;8:45 am]

[Docket No. 12537; Amdt. No. 65–22]

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

Inspection Authorization

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY. This amendment is being issued to clarify current rules, and to adopt additional rules, applicable to applicants for, and holders of, an inspection authorization (I.A.). This action is necessary since the current rules have been the subject of considerable misunderstanding.

EFFECTIVE DATE: October 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Ramakis, Regulatory Projects Branch (AFS–940), Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone: (202) 755–8716.

SUPPLEMENTARY INFORMATION: Interested persons have been afforded an opportunity to participate in the making of this amendment by a notice of proposed rule making (Notice No. 73–4) issued on January 29, 1973, and published in the FEDERAL REGISTER on February 6, 1973 (38 F.R. 3410). Due consideration has been given to all comments received in response to the notice. Except as otherwise discussed in this amendment, the amendment and the reasons for it are identical to the proposal and the reasons set forth in the proposal.

Many of the three hundred and seventy-six comments received in response to the notice expressed disagreement with proposed § 65.91(c)(2). That section would have required the applicant for an inspection authorization to have had diversified practical experience performing aircraft and aircraft engine maintenance during at least the two-year period before applying. Nearly all of the commentators in disagreement with this proposal objected to the use of the word "diversified" as being confusing, vague, or undefined. The FAA agrees that the words "diversified practical experience", as used in proposed § 65.91(c)(2), need further clarification and, accordingly, withdraws this proposal.

In addition, many commentators disagreed with proposed § 65.95 (c) and (d). Paragraph (c) would have precluded the holder of an I.A. from exercising the privileges of his authorization outside of the area of jurisdiction of the local FAA District Office in which his fixed base of operation is located. Under paragraph (d), the holder of an I.A. changing the location of, or terminating inspection activity at, his fixed base of operation would have had to surrender the authorization to the local FAA District Office. Most of those opposing these proposals stated, in essence, that a mere change of geographical location has no effect on qualifications to exercise the privileges of an I.A. Others stated that the inability to use an I.A. outside the fixed base of operation would cause economic hardship.

After consideration of these comments, the FAA has determined that the holder of an I.A. should not be denied the use of his authorization when going outside the jurisdiction of his local FAA District Office or terminating inspection activity at, or changing the location of, his fixed base of operation, as provided in proposed § 65.95 (c) and (d). Accordingly, these proposals are withdrawn.

Proposed § 65.94 would have required the holder of an I.A. to keep, and make available for inspection by the Administrator, a current record of inspections performed by him under § 65.95(a). While a preponderance of commentators favored this proposal, some contended that such a requirement would impose an undue economic burden and others felt that it would not be beneficial to anyone. In light of the economic burden that this recordkeeping provision may impose, the FAA has decided to further evaluate the impact of proposed § 65.94. Accordingly, that proposed section is also withdrawn.

Proposed § 65.91(c)(1) was intended to clarify the current section by providing that an applicant for an I.A. would have to hold a currently effective mechanic certificate with both an airframe rating and a powerplant rating, each of which has been in effect for not less than three years. Moreover, under proposed § 65.92(a), the holder of an I.A. could exercise the privileges of the authorization only while he holds a currently effective certificate and ratings. While those proposed sections specified that the applicant for, or holder of, an I.A. must have a currently effective mechanic certificate, they did not expressly provide that the airframe and powerplant ratings held must also be current. Sections 65.91(c)(1) and 65.92(a), as adopted, make this clear. These requirements will ensure that the applicant for an I.A. is qualified to exercise the privileges of the authorization and remains qualified while he holds the authorization.

Paragraph (d) of current § 65.91 provides that an inspection authorization expires on March 31 of each year. That paragraph is revoked by this amendment since the provision contained therein is included in new § 65.92(a).

A review of comments received in response to the notice indicates that proposed § 65.93 appears to have been misinterpreted by several commentators. The purpose of that proposal was merely to require that a person desiring to renew his I.A. must present the evidence currently required by that section at the local FAA District Office having jurisdiction over the area in which his fixed base of operation is located. The proposal was designed to relax the current requirement to submit that evidence at a more distant General Aviation District Office or International Filed Office. However, as part of its Operations Review Program, the FAA is considering extensive revisions to current § 65.93, including a revision similar to that set forth in Notice 73–4. In light of this, the FAA concludes that it would be appropriate to consider all revisions to that section during the Operations Review, rather than implementing a single revision at the present time.

The FAA has conducted a preliminary evaluation of the impacts of the provisions adopted in this amendment. Based on that evaluation, it has been determined that the impacts of those provisions will be minimal and that an in-depth evaluation under the policy of the Secretary of Transportation and the Administrator (41 FR 16200; April 16, 1976) is not required.

The principal authors of this document are Irving Birnbaum, Flight Standards Service, and Danvers E. Long, Office of the Chief Counsel.

Accordingly, Part 65 of the Federal Aviation Regulations is amended, effective October 17, 1977, as follows:

1. By amending § 65.91 by revising paragraph (c)(1), and by revoking and reserving paragraph (d) as follows:

§ 65.91 Inspection authorization.

• • • • • •

(c) To be eligible for an inspection authorization, an applicant must:

(1) Hold a currently effective mechanic certificate with both an airframe rating and a powerplant rating, each of which is currently effective and has been continuously in effect for not less than the three year period immediately before the date of application;

• • • • • •

(d) [Reserved]

2. By adding a new § 65.92 to read as follows:

§ 65.92 Inspection authorization: Duration.

Each inspection authorization expires on March 31 of each year. However, the holder may exercise the privileges of that authorization only while he holds a currently effective mechanic certificate with both a currently effective airframe rating and a currently effective powerplant rating.

(b) An inspection authorization ceases to be effective whenever any of the following occurs:

(1) The authorization is surrendered, suspended, or revoked.

(2) The holder no longer has a fixed base of operation.

(3) The holder no longer has the equipment, facilities, and inspection data required by § 65.91(c) (3) and (4) for issuance of his authorization.

(c) The holder of an inspection authorization that is suspended or revoked shall, upon the Administrator's request, return it to the Administrator.

(Secs. 313(a) and 601, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a) and 1421); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C. on September 9, 1977.

LANGHORNE BOND,
Administrator.

[FR Doc.77–26941 Filed 9–14–77;8:45 am]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 17137; Amdt. No. 95–274]

PART 95—IFR ALTITUDES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS–730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202–426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribe new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provides for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and im-

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mediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective: October 6, 1977.

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354 (a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 6489 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on September 6, 1977.

JAMES M. VINES,
Chief, Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

§95.627 BLUE FEDERAL AIRWAY Z7
is amended by adding:

FROM	TO	MEA
Oscarville, Ala. NDB	St. Marys, Ala. NDB	3000
St. Marys, Ala. NDB	Fort Davis, Ala. NDB	3000

§95.627 BLUE FEDERAL AIRWAY Z7
is amended to delete:

FROM	TO	MEA
Oscarville, Ala. LF/RBN	Ft. Davis, Ala. LF/RBN	4000

§95.1001 DIRECT ROUTES—U.S.
is amended by adding:

FROM	TO	MEA
Laughlin, Tex. VOR	San Antonio, Tex. VOR	*5000
*2000—MOCA		
Lawton, Okla. VOR	McAlester, Okla. VOR	*6000
Via LAW 071/MLC 254		MAA—24000
*2700—MOCA		
*Kachemak, Ala. LF/RBN	Solid INT, Ala. Via Control 1218	7500
*5000—MCA Kachemak LF/RBN, SE-bound		
Wessels, Ala. LF/RBN	Scout INT, Ala.	*3000
*2000—MOCA	Via Control 1310	
Cape Girardeau, Mo. VOR	INT. 349 M RAD Cape Girardeau VOR & 221 M RAD Cunningham VOR	2000 MAA—12000

§95.1001 DIRECT ROUTES—U.S.
is amended to delete:

FROM	TO	MEA
Springfield, Mo. VORTAC	Nashville, Tenn. VORTAC	18000 MAA—41000

§95.1001 DIRECT ROUTES—U.S.
is amended to delete:

FROM	TO	MEA
Fin INT, Alas.	Juniper INT, Alas.	*3000
*2300—MOCA		
Fort Randall, Alas. LF/RBN	Nikolski, Alas. VOR	11500
Fort Randall, Alas. LF/RBN	Port Heller, Alas. LF/RBN	10500
Fort Randall, Alas. LF/RBN	Raven INT, Alas.	2500
*Kachemak, Alas. LF/RBN	Granite INT, Alas. Via Control 1218	7500
*5000—MCA Kachemak LF/RBN, SE-bound		
King Salmon, Alas. LFR	Cape Newenham, Alas. LF/RBN	4500
Naknek River, Alas. LF/RBN	Herry INT, Alas. Via Control 1401	3000
Naknek River, Alas. LF/RBN	Gerri INT, Alas. Via Control 1400	2000
Nenana, Alas. VOR	Chandalar Lake, Alas. LF/RBN COP 113 ENN	*14500
*8000—MOCA		
Nikolski, Alas. LF/RBN	Cape Sarichef, Alas. LF/RBN	9000
Saguwa, Alas. LF/RBN	Fin INT, Alas.	3000
Wessels, Alas. LF/RBN	Pergine INT, Alas. Via Control 1310	*3000
*2000—MOCA		

§95.5000 HIGH ALTITUDE RNAV ROUTES

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION		TRACK ANGLE	MEA	MAA
J863R is amended to read in part:						
Galax, Va. W/P	200	50.0	Galax	234/054 to COP	18000	45000
Macey, Ga. W/P				232/052 to Macey		
J879R is amended to read in part:						
Roder, Tenn. W/P	113.0			200/020 to COP	18000	45000
Macey, Ga. W/P				201/021 to Macey		
J881R is amended to read in part:						
Miner, Ky. W/P	263.0	142.0	Miner	175/355 to COP	18000	45000
Macey, Ga. W/P				180/360 to Macey		

§95.5500 HIGH ALTITUDE RNAV ROUTES

J907R is amended to read in part:						
Humble, Tex. W/P	124	62	Humble	274/094 to COP	18000	45000
Austin, Tex. W/P				270/090 to Austin		
J916R is amended to read in part:						
San Antonio, Tex. W/P	164	82	San Antonio	074/254 to COP	18000	45000
Humble, Tex. W/P				074/254 to Humble		

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION		TRACK ANGLE	MEA	MAA
J946 is amended by adding:						
Rosin, Calif. W/P	60.8				28000	45000
Ficky, Calif. W/P				226/056 to Ficky		
J948R is amended to delete:						
Ceres, Calif. W/P	173			067/247 to Perch	18000	45000
Perch, Calif. W/P						
J948R is amended by adding:						
Dinty, Calif. W/P	173			067/247 to Perch	18000	45000
Perch, Calif. W/P						
J951R is amended to delete:	153.2				18000	45000
Ceres, Calif. W/P				051/231 to Santa Barbara		
Santa Barbara, Calif. VORTAC						
J951R is amended by adding:	153.2				18000	45000
Dinty, Calif. W/P				051/231 to Santa Barbara		
Santa Barbara, Calif. VORTAC						
J962R is amended to delete:	184.0				28000	45000
Yucon, Calif. W/P				040/220 to Santa Catalina		
Santa Catalina, Calif. VORTAC						
J962R is amended by adding:	184.0				28000	45000
Ficky, Calif. W/P				040/220 to Santa Catalina		
Santa Catalina, Calif. VORTAC						
J964R is amended to delete:	122				29000	45000
Merlo, Calif. W/P				216/036 to Fruit		
Fruit, Calif. W/P						
J964R is amended by adding:	122				29000	45000
Merlo, Calif. W/P				216/036 to Clokk		
Clokk, Calif. W/P						
J965R is amended to delete:	112				28000	45000
Palis, Calif. W/P				260/080 to Leefs		
Leefs, Calif. W/P						
J965R is amended by adding:	112				28000	45000
Palis, Calif. W/P				260/080 to Alcoa		
Alcoa, Calif. W/P						
J966R is amended to delete:					28000	45000
Rosin, Calif. W/P	60.8			060/240 to Palis		
Yucon, Calif. W/P						

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION		TRACK ANGLE	MEA	MAA
J918R is amended to read in part:						
Humble, Tex. W/P	149	75	Humble	082/262 to COP	18000	45000
Guest, La. W/P				082/262 to Guest		
J929R is amended to read in part:						
Burke, La. W/P	111	56	Burke	239/059 to COP	18000	45000
Humble, Tex. W/P				240/060 to Humble		
J952R is amended to read in part:						
Burke, La. W/P	111	56	Burke	239/059 to COP	18000	45000
Humble, Tex. W/P				240/060 to Humble		
J984 is amended to read in part:						
Humble, Tex. W/P	278	139	Humble	092/272 to COP	18000	45000
Leeville, La. VORTAC				095/275 to Leeville		
J937R is amended to delete:	139				28000	45000
Leefs, Calif. W/P				053/233 to Sewed		
Sewed, Calif. W/P						
J937R is amended by adding:	139				28000	45000
Alcoa, Calif. W/P				053/233 to Sewed		
Sewed, Calif. W/P						
J938R is amended to delete:	112				28000	45000
Palis, Calif. W/P				260/080 to Leefs		
Leefs, Calif. W/P						
J938R is amended by adding:	112				28000	45000
Palis, Calif. W/P				260/080 to Alcoa		
Alcoa, Calif. W/P						
J944R is amended to read:	97			249/069 to COP	18000	45000
Morro, Calif. W/P				246/066 to Perch		
Perch, Calif. W/P	173				18000	45000
Dinty, Calif. W/P				247/067 to Dinty		
J945 is amended to delete:	153.2				18000	45000
Santa Barbara, Calif. VORTAC				231/051 to Ceres		
Ceres, Calif. W/P						
J945R is amended by adding:	153.2				18000	45000
Santa Barbara, Calif VORTAC				231/051 to Dinty		
Dinty, Calif. W/P						
J946R is amended to delete:	60.8				28000	45000
Rosin, Calif. W/P				226/056 to Yucon		
Yucon, Calif. W/P						

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FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION	TRACK ANGLE	MEA	MAA
J966R is amended by adding:					
Alcoa, Calif. W/P	112			28000	45000
Palis, Calif. W/P			080/260 to Palis		
J967R is amended to delete:					
Fruit, Calif. W/P	122			29000	45000
Merle, Calif. W/P			036/216 to Merle		
J967R is amended by adding:					
Clukk, Calif. W/P	122			29000	45000
Merle, Calif. W/P			036/216 to Merle		

§95.6003 VOR FEDERAL AIRWAY 3 is amended to read in part:

FROM	TO	MEA
Brunswick, Ga. VOR *3000—MRA	*Faded INT, Ga.	1500
Faded INT, Ga. *3800—MRA	*Herps INT, Ga.	1500
Herps INT, Ga.	Savannah, Ga. VOR	2000

§95.6006 VOR FEDERAL AIRWAY 6 is amended to read in part.

FROM	TO	MEA
Morton INT, Wyo. *10500—MCA Lisor INT, W-bound **9500—MOCA	*Lisor INT, Wyo.	**10500
Lisor INT, Wyo. *7800—MOCA	Alkin INT, Wyo	*9500

§95.6007 VOR FEDERAL AIRWAY 7 is amended to read in part:

FROM	TO	MEA
Terre Haute, Ind. VOR *1900—MOCA	Wings INT, Ind.	*2600
Wings INT, Ind. *6000—MRA	*Pates INT, Ind.	2500
Pates INT, Ind.	Lafayette, Ind. VOR	2500

§95.6012 VOR FEDERAL AIRWAY 12 is amended by adding:

Santa Barbara, Calif. VOR	Palmdale, Calif. VOR	9000
Santa Barbara, Calif. VOR Via S alter. *6100—MCA Fillmore VOR, W-bound	*Fillmore, Calif. VOR Via S alter.	8000
Fillmore, Calif. VOR Via S alter. *6300—MCA Saugus INT, NE-bound	*Saugus INT, Calif. Via S alter.	6000
Saugus INT, Calif. Via S alter. *6300—MCA Palmdale VOR, SW-bound	*Palmdale, Calif. VOR Via S alter.	7000

§95.6012 VOR FEDERAL AIRWAY 12 is amended to delete:

FROM	TO	MEA
Santa Barbara, Calif. VOR *5600—MCA Henderson INT, W-bound	*Henderson INT, Calif.	7000
*Henderson INT, Calif. *5600—MCA Henderson INT, W-bound **5500—MCA Fillmore VOR, W-bound	**Fillmore, Calif. VOR	6000
Fillmore, Calif. VOR *Saugus INT, Calif. *8300—MCA Saugus INT, NE-bound **6300—MCA Palmdale VOR, SW-bound	Saugus INT, Calif. **Palmdale, Calif. VOR	6000 7000

§95.6013 VOR FEDERAL AIRWAY 13 is amended to read in part:

FROM	TO	MEA
*Chase INT, Ark. *4500—MRA	Waste Dme Fix, Ark	3500

§95.6015 VOR FEDERAL AIRWAY 15 is amended to read in part:

FROM	TO	MEA
Hobby, Tex. VOR Via W alter. *1600—MOCA	Scaly INT, Tex Via W alter	*2000

§95.6020 VOR FEDERAL AIRWAY 20 is amended to read in part:

FROM	TO	MEA
Palacios, Tex. VOR *2000—MCA Arcola INT, NE-bound **1600—MOCA	*Arcola INT, Tex.	**1800
Arcola INT, Tex. Hobby, Tex. VOR *1600—MOCA	Hobby, Tex. VOR Beaumont, Tex VOR	2500 *1800

§95.6025 VOR FEDERAL AIRWAY 25 is amended to read in part

FROM	TO	MEA
Ventura, Calif. VOR	Santa Barbara, Calif VOR	6000

§95.6026 VOR FEDERAL AIRWAY 26 is amended to read in part

FROM	TO	MEA
Casper, Wyo. VOR	Sand Creek INT, Wyo	8000

§95.6027 VOR FEDERAL AIRWAY 27 is amended to read in part

FROM	TO	MEA
Ventura Calif. VOR	Hasar INT, Calif.	5000
Hasar INT, Calif.	Chany INT, Calif.	6000
Chany INT, Calif.	Galar INT, Calif	5000
Galar INT, Calif.	Gorman, Ca. VOR	6000

§95.6037 VOR FEDERAL AIRWAY 37 is amended to read in part

FROM	TO	MEA
Brunswick, Ga. VOR *3000—MRA	*Faded INT, Ga	1500
*Faded INT, Ga. *3000—MRA **3800—MRA	**Herps INT, Ga.	1500
Herps INT, Ga.	Savannah, Ga. VOR	2000
Zenith INT, W Va. *8000—MRA **6600—MOCA	*Hawks INT, W Va	**8000
Hawks INT, W. Va.	Elkins, W Va VOR	6000

§95.6038 VOR FEDERAL AIRWAY 38 is amended to read in part.

FROM	TO	MEA
Elkins, W. Va. VOR *8000—MRA	*Bugel INT, W Va.	6400
Bugel INT, W Va. *6900—MOCA	Crawford INT, Va.	*8000

§95.6053 VOR FEDERAL AIRWAY 53 is amended to read in part

FROM	TO	MEA
Indianapolis, Ind. VOR	Jakks INT Ind.	2700
Jakks INT, Ind.	Lafayette, Ind. VOR	2600

§95.6066 VOR FEDERAL AIRWAY 66 is amended to read in part

FROM	TO	MEA
Athens, Ga. VOR	Ivans INT S C	2600
Ivans INT, S C. *2500—MOCA	Union INT S C	*6000

§95.6076 VOR FEDERAL AIRWAY 76 is amended to read in part

FROM	TO	MEA
Scaly INT, Tex *1600 MOCA	Hobby, Tex VOR	*2000

§95.6085 VOR FEDERAL AIRWAY 85 is amended to read in part:

FROM	TO	MEA
Medicine Bow, Wyo. VOR Via W Alter. *9700—MRA	*Alcova INT, Wyo. Via W alter.	9900

§95.6089 VOR FEDERAL AIRWAY 89 is amended to read in part:

FROM	TO	MEA
Lisor INT, Wyo. *7500—MOCA	Chadron, Neb. VOR	*7800

§95.6095 VOR FEDERAL AIRWAY 95 is amended by adding:

FROM	TO	MEA
Farmington, N.M. VOR *9100—MCA Durango VOR, S-bound	*Durango, Colo. VOR	9600
*Durango, Colo. VOR **12200—MCA Durango VOR, N-bound **12500—MCA Gunnison VOR, S-bound **13000—MCA Gunnison VOR, NE-bound	**Gunnison, Colo. VOR	16300

§95.6103 VOR FEDERAL AIRWAY 103 is amended to read in part:

FROM	TO	MEA
*Natural Wells INT, Va. Volli INT, W. Va. *6000—MRA **6400—MOCA	Volli INT, W. Va. Elkins, W. Va. VOR	7000 *7000

§95.6128 VOR FEDERAL AIRWAY 128 is amended to read in part:

FROM	TO	MEA
Bates INT, W. Va. *8000—MRA **7000—MOCA	*Hawki INT, W. Va.	**10000
Hawki INT, W. Va. *7000—MOCA	Luray INT, Va.	*10000
*Pates INT, Ind. *6000—MRA **2200—MOCA	Jakks INT, Ind.	**6000
Jakks INT, Ind.	Indianapolis, Ind. VOR	2700

§95.6139 VOR FEDERAL AIRWAY 139 is amended to read in part:

FROM	TO	MEA
Wacky INT, R.I. *1700—MOCA	Luley INT, R.I.	*2300
Luley INT, R.I. *1800—MOCA	Providence, R.I. VOR	*2300

§95.6142 VOR FEDERAL AIRWAY is deleted:

§95.6157 VOR FEDERAL AIRWAY 157 is amended to read in part:

FROM	TO	MEA
*Vapie INT, Fla. Via W alter. *3100—MRA **1500—MOCA	*Serpe INT, Fla. Via W alter.	**3100
Serpe INT, Fla. Via W alter. *1200—MOCA	Sevgs INT, Fla. Via W alter.	*2000

§95.6162 VOR FEDERAL AIRWAY 162 is amended to read in part:

FROM	TO	MEA
Doris INT, W. Va. Emmit INT, W. Va.	Emmit INT, W. Va. Clarksburg, W. Va. VOR	6000 4000

§95.6257 VOR FEDERAL AIRWAY 257 is amended to read in part:

FROM	TO	MEA
*Grand Canyon, Ariz. VOR *12100—MCA Grand Canyon VOR, N-bound **11100—MOCA	Kacie INT, Ariz.	**13000
Kacie INT, Ariz.	Bryce Canyon, Utah VOR	11600

§95.6286 VOR FEDERAL AIRWAY 286 is amended to read in part:

FROM	TO	MEA
Elkins, W. Va. VOR Doris INT, W. Va. *6000—MOCA	Doris INT, W. Va. Canaan, Va. VOR	6000 *6600

§95.6296 VOR FEDERAL AIRWAY 296 is amended to read in part:

FROM	TO	MEA
Fayetteville, N.C. VOR *3000—MRA	*Currie INT, N.C.	1900
Currie INT, N.C.	Wilmington, N.C. VOR	1900

§95.6298 VOR FEDERAL AIRWAY 298 is amended to read in part:

FROM	TO	MEA
McCall, Ida. VOR *9000—MCA Dubois VOR, W-bound **16000—MOCA	*Dubois, Ida. VOR	**16000

§95.6166 VOR FEDERAL AIRWAY 166 is amended to read in part:

FROM	TO	MEA
Tyger INT, W. Va. Teska INT, W. Va.	Teska INT, W. Va. Kessel, W. Va. VOR	4900 6000

§95.6172 VOR FEDERAL AIRWAY 172 is amended by adding:

FROM	TO	MEA
Wolbach, Neb. VOR *2200—MOCA	Columbus, Neb. VOR	*3000
Columbus, Neb. VOR *3000—MOCA	Neola, Iowa VOR	*3400

§95.6172 VOR FEDERAL AIRWAY 172 is amended to delete:

FROM	TO	MEA
Wolbach, Neb. VOR *3000—MOCA	Bellwood INT, Neb.	*4000
Bellwood INT, Neb. *2800—MOCA	Kennard INT, Neb.	*4000
Kennard INT, Neb.	Neola, Iowa VOR	2000

§95.6174 VOR FEDERAL AIRWAY 174 is amended to read in part:

FROM	TO	MEA
Elkins, W. Va. VOR Kenzi INT, W. Va.	Kenzi INT, W. Va. Front Royal, Va. VOR	6000 6000

§95.6186 VOR FEDERAL AIRWAY 186 is amended by adding:

FROM	TO	MEA
Santa Barbara, Calif. VOR	Fillmore, Calif. VOR	6000

§95.6194 VOR FEDERAL AIRWAY 194 is amended to read in part:

FROM	TO	MEA
Rocky Mount, N.C. VOR	Enfield, N.C. VOR	1000

§95.6198 VOR FEDERAL AIR 198 is amended to read in part:

FROM	TO	MEA
Hobby, Tex. VOR *1500—MOCA	Smith INT, Tex.	*1000
Smith INT, Tex. *1300—MOCA	Sabine Pass, Tex. VOR	*1000

§95.6216 VOR FEDERAL AIRWAY 216 is amended to read in part:

FROM	TO	MEA
Lacon INT, Ill.	Doris INT, Ill.	2000

§95.6221 VOR FEDERAL AIRWAY 221 is amended to read in part:

FROM	TO	MEA
Bible Grove, Ill. VOR *2100—MOCA	Carlisle INT, Ind.	*3700
Shelbyville, Ind. VOR	Muncie, Ind. VOR	2000

§95.6232 VOR FEDERAL AIRWAY 232 is amended to read in part:

FROM	TO	MEA
Milton, Pa. VOR Boers INT, Pa. *5200—MOCA	Boers INT, Pa. Penns INT, N.J.	4000 *4000

§95.6306 VOR FEDERAL AIRWAY 306 is amended to read in part:

FROM	TO	MEA
Navasota, Tex. VOR *1700—MOCA	Montgomery INT, Tex.	*2000
Montgomery INT, Tex. *1700—MOCA	Cleveland INT, Tex.	*5000

§95.6348 VOR FEDERAL AIRWAY 348 is amended to read in part:

FROM	TO	MEA
Thunder Bay, Ont. VOR	Sault Ste. Marie, Mich. VOR	#2300

#For that airspace over U.S. Territory.

§95.6461 VOR FEDERAL AIRWAY 461 is amended by adding:

FROM	TO	MEA
Melbourne, Fla. VOR	Lakeland, Fla. VOR	2000
Lakeland, Fla. VOR	St. Petersburg, Fla. VOR	2000

§95.6485 VOR FEDERAL AIRWAY 485 is amended to read in part:

FROM	TO	MEA
Ventura, Calif. VOR *6200—MCA Hasar INT, NW-bound	*Hasar INT, Calif.	5000
Hasar INT, Calif. *8300—MOCA	Fellows, Calif. VOR	*9000

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§95.7079 JET ROUTE NO. 79 is amended to read in part:

FROM	TO	MEA	MAA
Norfolk, Va. VORTAC	Int. 030 M rad Norfolk VORTAC & 219 M rad Snow Hill VORTAC	18000	40000
Int 030 M rad Norfolk VORTAC & 219 M rad Snow Hill VORTAC	Coyle, N.J. VORTAC	18000	45000

By amending Sub-part D as follows:

§95.8003 VOR FEDERAL AIRWAY CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINTS DISTANCE FROM
V-306 is amended by adding:		
Daisetta, Tex. VOR	Lake Charles, La. VOR	30 Daisetta
V-444 is amended by adding:		
Barrow, Alas. VOR	Evansville, Alas. NDB	105 Barrow

[FR Doc.77-26874 Filed 9-14-77;8:45 am]

[Docket No. 17215; Amdt. No. 1090]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed weekly, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The current annual subscription price is $150.00; add $30.00 for each additional copy mailed to the same address.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 9) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * *Effective November 3, 1977.*

Kailua-Kona, HI—Ke-ahole, VOR/DME Rwy 17 (TAC) Orig.

Kailua-Kona, HI—Ke-ahole, VORTAC Rwy 17, Amdt. 3, canceled

Holland, MI—Tulip City, VOR-A, Amdt. 5

Holland, MI—Park Township, VOR-C, Amdt. 4

Belmar-Farmingdale, NJ—Monmouth County, VOR-A, Amdt. 9

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * *Effective September 22, 1977.*

Augusta, ME—Augusta State, LOC Rwy 17, Original

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * *Effective November 3, 1977.*

Holland, MI—Park Township, NDB-B, Amdt. 3

* * * *Effective October 6, 1977.*

Selma, AL—Selfield, NDB Rwy 30, Amdt. 1

Anahuac, TX—Chambers County, NDB Rwy 30, Amdt. 1

NOTE.—The FAA published an amendment in Docket No. 17063, Amdt. No. 1084 to Part 97 of the Federal Aviation Regulations (42 FR 39381; August 4, 1977) under section 97.27 effective October 8, 1977, which is hereby amended as follows:

Minchumina, AK—Minchumina, NDB Rwy 2, Amdt. 1 is effective October 6, 1977.

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * *Effective September 1, 1977.*

Tulsa, OK—Tulsa International, ILS Rwy 35R, Amdt. 24

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354 (a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 24 FR 5662 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on September 9, 1977.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.77-26873 Filed 9-14-77;8:45 am]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1401—SELF PRESSURIZED CONSUMER PRODUCTS CONTAINING CHLOROFLUOROCARBONS: REQUIREMENTS TO PROVIDE THE COMMISSION WITH PERFORMANCE AND TECHNICAL DATA; REQUIREMENTS TO NOTIFY CONSUMERS AT POINT OF PURCHASE OF PERFORMANCE AND TECHNICAL DATA

Self-Pressurized Consumer Products Containing Chlorofluorocarbon Propellants: Labeling and Data Submission Requirements

Correction

In FR Doc. 77-24502 appearing at page 42780 in the issue for Wednesday, August 24, 1977, the date given as "February 20, 1978" should be changed to "February 19, 1978" in the following paragraphs:

(1) On page 42781, first column, in the last line of the first full paragraph;

(2) On page 42784, middle column, in the 7th line of § 1401.4(a);

(3) Also on page 42784, third column, in the 7th line of § 1401.5(a).

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7496 (CC:LR-1614)]

PART 53—FOUNDATION EXCISE TAXES

Taxes on Excess Business Holdings

AGENCY: Internal Revenue Service, Treasury.

ACTION: Publication of full text of final regulations.

SUMMARY: This document sets forth the full text of previously adopted final regulations (42 FR 34499, July 6, 1977) related to taxes on the excess business holdings of private foundations.

EFFECTIVE DATE: The regulations are effective for taxable years beginning after December 31, 1969.

FOR FURTHER INFORMATION CONTACT:

Larry E. Smith of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3909, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On January 3, 1973, the FEDERAL REGISTER published a notice of proposed rulemaking containing proposed amendments to the Foundation Excise Tax Regulations (26 CFR Part 53) under section 4943 of the Internal Revenue Code of 1954, 38 FR 32. The amendments were proposed to conform the regulations to section 101(b) of the Tax Reform Act of 1969 (83 Stat. 507). A public hearing was held on March 29, 1973. After consideration of all comments regarding the proposed amendments, those amendments were adopted, as revised, by T.D. 7496, published in the FEDERAL REGISTER for July 6, 1977 (42 FR 34499). In addition, T.D. 7496 superseded § 143.6 of the Temporary Excise Tax Regulations under the Tax Reform Act of 1969 (26 CFR Part 143). However, T.D. 7496 as published in the FEDERAL REGISTER contained only the changes to the notice of proposed rulemaking published on January 3, 1973, rather than the full text of the final regulations. This document sets forth the full text of the final regulations.

Accordingly, the full text of the final regulations adopted by T.D. 7496 is as follows.

ROBERT A. BLEY,
Director, Legislation and Regulations Division.

Subpart D of 26 CFR Part 53 is inserted in its appropriate place to read as follows:

§ 53.4943-1 General rule; purpose

Generaly, under section 4943, the combined holdings of a private foundation and all disqualified persons (as defined in section 4946(a)) in any corporation conducting a business which is not substantially related (aside from the need of the foundation for income or funds or the use it makes of the profits derived) to the exempt purposes of the foundation are limited to 20 percent of the voting stock in such corporation. In addition, the combined holdings of a private foundation and all disqualified persons in any unincorporated business (other than a sole proprietorship) which is not substantially related (aside from the need of the foundation for income or funds or the use it makes of the profits derived) to the exempt purposes of such foundation are limited to 20 percent of the beneficial or profits interest in such business. In the case of a sole proprietorship which is not substantially related (within the meaning of the preceding sentence), section 4943 provides that a private foundation shall have no permitted holdings. These general provisions are subject to a number of exceptions and special provisions which will be described in following sections.

§ 53.4943-2 Imposition of tax on excess business holdings of private foundations.

(a) *Imposition of initial tax*—(1) *In general.*—(i) *Initial tax.* Section 4943(a)(1) imposes an initial excise tax (the "initial tax") on the excess business holdings of a private foundation for each taxable year of the foundation which ends during the taxable period defined in section 4943(d)(2). The amount of such tax is equal to 5 percent of the total value of all the private foundation's excess business holdings in each of its business enterprises. In determining the value of the excess business holdings of the foundation subject to tax under section 4943, the rules set forth in §§ 20.-2031-1 through 20.2031-3 of this chapter (Estate Tax Regulations) shall apply.

(ii) *Disposition of certain excess business holdings within ninety days.* In any case in which a private foundation acquires excess business holdings, other than as a result of a purchase by the foundation, the foundation shall not be subject to the taxes imposed by section 4943, but only if it disposes of an amount of its holdings so that it no longer has such excess business holdings within 90 days from the date on which it knows, or has reason to know, of the event which caused it to have such excess business holdings. Similarly, a private foundation shall not be subject to the taxes imposed by section 4943 because of its purchase of holdings where it did not know, or have reason to know of prior acquisitions by disqualified persons, but only if the foundation disposes of its excess holdings within the 90-day period described previously, and its purchase would not have created excess business holding but for such prior acquisitions by disqualified persons. In determining whether for purposes of this (ii), the foundation has disposed of such excess business holdings during such 90-day period, any disposition of holdings by a disqualified person during such period shall be disregarded.

(iii) *Extension of ninety day period.* The period described in paragraph (a)(1)(ii) of this section, during which no tax shall be imposed under section 4943, shall be extended to include the period during which a foundation is prevented by federal or state securities laws from disposing of such excess business holdings.

(iv) *Effect of disposition subject to material restrictions.* If a private foundation disposes of an interest in a business enterprise but imposes any material restrictions or conditions that prevent the transferee from freely and effectively using or disposing of the transferred interest, then the transferor foundation will be treated as owning such interest until all such restrictions or conditions

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are eliminated (regardless of whether the transferee is treated for other purposes of the Code as owning such interest from the date of the transfer). However, a restriction or condition imposed in compliance with federal or state securities laws, or in accordance with the terms or conditions of the gift or bequest through which such interest was acquired by the foundation, shall not be considered a material restriction or condition imposed by a private foundation.

(v) *Foundation knowledge of acquisitions made by disqualified persons.* (A) For purposes of paragraph (a)(1)(ii) of this section, whether a private foundation will be treated as knowing, or having reason to know, of the acquisition of holdings by a disqualified person will depend on the facts and circumstances of each case. Factors which will be considered relevant to a determination that a private foundation did not know or had no reason to know of an acquisition are: the fact that it did not discover acquisitions made by disqualified persons through the use of procedures reasonably calculated to discover such holdings; the diversity of foundation holdings; and the existence of large numbers of disqualified persons who have little or no contact with the foundation or its managers.

(B) The provisions of paragraph (a)(1)(v)(A) of this section may be illustrated by the following example:

Example. By the fifteenth day of the fifth month after the close of each taxable year, the F Foundation sends to each foundation manager, substantial contributor, person holding more than a 20% interest (as described in section 4946(a)(1)(C)) in a substantial contributor, and foundation described in section 4946(a)(1)(H), a questionnaire asking such persons to list all holdings, actual or constructive, in each business enterprise in which F had holdings during the taxable year in excess of those permitted by the 2 percent de minimis rule of section 4943(c)(2)(C). In preparing the list of such enterprises, F takes into account its constructive holdings only if, during the taxable year, F (along with all related foundations described in section 4946(a)(1)(H)) owned over 2% of the voting stock, profits interest or beneficial interest in the entity actually owning the holdings constructively held by F. The questionnaire asks each such person to list the holdings in such enterprises of any persons who, because of their relationship to such disqualified person, were themselves disqualified persons (i.e., members of the family (as defined in section 4946(d)), and any corporations, partnerships, trusts and estates described in section 4946(a)(1)(E) through (G) in which such person, or members of his family, had an interest). The questionnaire asks that constructive holdings be listed only if, during the taxable year, the disqualified person owned over 2% of the voting stock, profits interest or beneficial interest in the entity actually owning the holdings constructively held by such person. (Thus a disqualified person owning less than 2% of a mutual fund is not required to list his attributed share of all the securities in the portfolio of the fund.) If no response to the questionnaire is received, the foundation seeks the information requested by the questionnaire by mailing a second (but not a third) questionnaire. If a questionnaire which is returned to the foundation indicates that certain information was unavailable to the person completing the questionnaire, the foundation seeks that information directly. For example, if a disqualified person indicates that he could not find out whether a corporation described in section 4946(a)(1)(E) had holdings in the enterprise listed in the questionnaire, the foundation seeks to obtain this information directly from the corporation by mailing it a questionnaire. In such a case, F may be found not to have reason to know of the acquisition of holdings by a disqualified person.

(vi) *Holdings acquired other than by purchase.* See section 4943(c)(6) and § 53.4943–6 for rules relating to the acquisition of certain holdings other than by purchase by the foundation or a disqualified person.

(2) *Special rules.* In applying subparagraph (1) of this paragraph, the tax imposed by section 4943(a)(1)—

(i) Shall be imposed on the last day of the private foundation's taxable year, but

(ii) The amount of such tax and the value of the excess business holdings subject to such tax shall be determined with respect to the foundation's holdings (based upon voting power, profits or beneficial interest, or value, whichever is applicable) in any business enterprise as of that day during the foundation's taxable year when the foundation's excess holdings in such enterprise were the greatest.

In applying subdivision (ii) of this subparagraph, if a foundation's excess business holdings in a business enterprise which constitute such foundation's greatest excess holdings in such enterprise for any taxable year are maintained for 2 or more days during such taxable year, the value of such excess holdings which is subject to tax under section 4943(a)(1) shall be the greatest value of such excess holdings in such enterprise as of any day on which such greatest excess holdings are maintained during such taxable year.

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). Y is a private foundation reporting on a calendar year basis. On January 1, 1973, Y has 20 shares of common stock in corporation N, of which five shares constitute excess business holdings. On June 1, 1973, Y disposes of such five shares; however, because of additional acquisitions of N common stock on such date by disqualified persons with respect to Y, the remaining 15 shares of N common stock held by Y now constitute excess business holdings. There are no further acquisitions or dispositions of N common stock during 1973 by Y or its disqualified persons. Although Y's greatest holdings in N during 1973 are held between January 1, 1973, and May 31, 1973, Y's greatest excess holdings in N during 1973 are held between June 1, 1973, and December 31, 1973. Therefore, the tax specified in section 4943(a)(1) shall be computed on the basis of the greatest value of such greatest excess holdings as of any day between June 1 and December 31, 1973.

Example (2). X is a private foundation reporting on a calendar year basis. On January 1, 1972, X has 100 shares of common stock in M corporation which are excess business holdings. On such date each share of M common stock has a fair market value of $100. On February 28, 1972, in an effort to dispose of such excess business holdings, X sells 70 shares of M common stock for $120 per share (the fair market value of each share on such date) to A, an individual who is not a disqualified person within the meaning of section 4946(a). The value of $120 per share is the highest fair market value between January 1 and February 28, 1972. X disposes of no more stock in M for the remainder of calendar year 1972. On December 31, 1972, the fair market value of each share of M common stock is $80. X calculates its tax on its excess business holdings in M for 1972 as follows:

100 shares of M common stock times $120 fair market value per share as of Feb. 28, 1972	$12,000
$12,000 multiplied by rate of tax (percent)	5
Amount of tax on X foundation's excess business holdings for 1972	$600

Example (3). Assume the same facts as in Example (2) except that the sale of X to A occurs on January 7, 1973, when the fair market value of each share of M corporation common stock equals $70. A value of $100 per share is the highest fair market value of the M common stock between January 1 and January 7, 1973. On May 9, 1973, X for the first time has excess business holdings in N corporation in the form of 200 shares of N common stock. The value per share of N common stock on May 9, 1973, equals $200. X makes no disposition of the N common stock during 1973, and the value of each share of N common stock as of December 31, 1973 equals $250 (the highest value of N common stock during 1973). X calculates its tax on its excess business holdings in both M and N for 1973 as follows:

100 shares of M common stock times $100 fair market value per share	$10,000
$250 fair market value per share	$50,000
Total	$60,000
Total	$60,000
$60,000 multiplied by rate of tax (percent)	5
Amount of tax on X foundation's excess business holdings for 1973	$3,000

(b) *Additional tax.* In any case in which the initial tax is imposed under section 4943(a) with respect to the holdings of a private foundation in any business enterprise, if, at the close of the correction period (as defined in section 4943(d)(3) and § 53.4943–9) with respect to such holdings the foundation still has excess business holdings in such enterprise, there is imposed a tax under section 4943(b) equal to 200 percent of the value of such excess holdings as of the last day of such correction period (determined without regard to extensions).

§ 53.4943–3 Determination of excess business holdings.

(a) *Excess business holdings.*—(1) *In general.* For purposes of section 4943, the term "excess business holdings" means, with respect to the holdings of any private foundation in any business enterprise (as described in section 4943(d)(4)), the amount of stock or other interest in the enterprise which, except as provided in § 53.4943–2(a)(1), the foundation, or a disqualified person, would have to dispose of, or cause the disposition of, to a person other than a disqualified person (as defined in section 4946(a)) in order for the remaining holdings of the foundation in such enterprise to be permitted holdings (as defined in paragraphs (b) and (c) of this section). If a private foundation is required by section 4943 and the regulations thereunder to dispose of certain shares of a class of stock in a particular period of time and other shares of the same class of stock in a shorter period of time, any stock disposed of shall be charged first against those dispositions which must be made in such shorter period.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. Corporation X has outstanding 100 shares of voting stock, with each share entitling the holder thereof to one vote. F, a private foundation, possesses 20 shares of X voting stock representing 20 percent of the voting power in X. Assume that the permitted holdings of F in X under paragraph (b)(1) of this section are 11 percent of the voting stock in X. F, therefore, possesses voting stock in X representing a percentage of voting stock in excess of the percentage permitted by such paragraph. Such excess percentage is 9 percent of the voting stock in X, determined by subtracting the percentage of voting stock representing the permitted holdings of F in X (i.e., 11 percent) from the percentage of voting stock held by F in X (i.e., 20 percent). (20% − 11% = 9%). The excess business holdings of F in X are an amount of voting stock representing such excess percentage, or 9 shares of X voting stock (9 percent of 100).

(b) *Permitted holdings in an incorporated business enterprise*—(1) *In general.*—(i) *Permitted holdings defined.* Except as otherwise provided in section 4943(c)(2) and (4), the permitted holdings of any private foundation in an incorporated business enterprise (including a real estate investment trust, as defined in section 856) are—

(A) 20 percent of the voting stock in such enterprise reduced (but not below zero) by

(B) The percentage of voting stock in such enterprise actually or constructively owned by all disqualified persons.

(ii) *Voting stock.* For purposes of this section, the percentage of voting stock held by any person in a corporation is normally determined by reference to the power of stock to vote for the election of directors, with treasury stock and stock which is authorized but unissued being disregarded. Thus, for example, if a private foundation holds 20 percent of the shares of one class of stock in a corporation, which class is entitled to elect three directors, and such foundation holds no stock in the other class of stock, which is entitled to elect five directors, such foundation shall be treated as holding 7.5 percent of the voting stock because the class of stock it holds has 37.5 percent of such voting power, by reason of being able to elect three of the eight directors, and the foundation holds one-fifth of the shares of such class (20 percent of 37.5 percent is 7.5 percent). The fact that extraordinary corporate action (e.g., charter or by-law amendments) by a corporation may require the favorable vote of more than a majority of the directors, or of the outstanding voting stock, of such corporation shall not alter the determination of voting power of stock in such corporation in accordance with the two preceding sentences.

(2) *Nonvoting stock as permitted holdings*—(i) *In general.* In addition to those holdings permitted by paragraph (b)(1) of this section, the permitted holdings of a private foundation in an incorporated business enterprise shall include any share of nonvoting stock in such enterprise held by the foundation in any case in which all disqualified persons hold, actually or constructively, no more than 20 percent (35 percent where third persons have effective control as defined in paragraph (b)(3)(ii) of this section) of the voting stock in such enterprise. All equity interests which do not have voting power attributable to them shall, for purposes of section 4943, be classified as nonvoting stock. For this purpose, evidences of indebtedness (including convertible indebtedness), and warrants and other options or rights to acquire stock shall not be considered equity interests.

(ii) *Stock with contingent voting rights and convertible nonvoting stock.* Stock carrying voting rights which will vest only when conditions, the occurrence of which are indeterminate, have been met, such as preferred stock which gains such voting rights only if no dividends are paid thereon, will be treated as nonvoting stock until the conditions have occurred which cause the voting rights to vest. When such rights vest, the stock will be treated as voting stock that was acquired other than by purchase, but only if the private foundation or disqualified persons had no control over whether the conditions would occur. Similarly, nonvoting stock which may be converted into voting stock will not be treated as voting stock until such conversion occurs. For special rules where stock is acquired other than by purchase, see section 4943(c)(6) and the regulations thereunder.

(iii) *Example.* The provisions of this paragraph (2) may be illustrated by the following example:

Example. Assume that F, a private foundation, holds 10 percent of the single class of voting stock of corporation X, and owns 20 shares of nonvoting stock in X. Assume further that A and B, the only disqualified persons with respect to F, hold 10 percent of the voting stock of X. Under the provisions of paragraph (b)(1) of this section, the 10 percent of X voting stock held by F will be classified as permitted holdings of F in X since 20 percent less the percentage of voting stock held by A and B in X is 10 percent. In addition, under the provisions of this (2), the 20 shares of X nonvoting stock will qualify as permitted holdings of F in X since the percentage of voting stock held by A and B in X is no greater than 20 percent.

(3) *Thirty-five-percent rule where third person has effective control of enterprise*—(i) *In general.* Except as provided in section 4943(c)(4), paragraph (b)(1) of this section shall be applied by substituting 35 percent for 20 percent if—

(A) The private foundation and all disqualified persons together do not hold, actually or constructively, more than 35 percent of the voting stock in the business enterprise, and

(B) The foundation establishes to the satisfaction of the Commissioner that effective control (as defined in paragraph (b)(3)(ii) of this section) of the business enterprise is in one or more persons (other than the foundation itself) who are not disqualified persons.

(ii) *"Effective control" defined.* For purposes of this subparagraph, the term "effective control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a business enterprise, whether through the ownership of voting stock, the use of voting trusts, or contractual arrangements, or otherwise. It is the reality of control which is decisive and not its form or the means by which it is exercisable. Thus, where a minority interest held by individuals who are not disqualified persons has historically elected the majority of a corporation's directors, effective control is in the hands of those individuals.

(4) *Two percent de minimis rule*—(i) *In general.* Under section 4943(c)(2)(C), a private foundation is not treated as having excess business holdings in any incorporated business enterprise in which it (together with all other private foundations (including trusts described in section 4947(a)(2)) which are described in section 4946(a)(1)(H)) actually or constructively owns not more than 2 percent of the voting stock and not more than 2 percent in value of all outstanding shares of all classes of stock. If, however, the private foundation, together with all other private foundations which are described in section 4946(a)(1)(H), actually or constructively owns more than 2 percent of either the voting stock or the value of the outstanding shares of all classes of stock in any incorporated business enterprise, all the stock in such business enterprise classified as excess business holding under section 4943 is treated as excess business holdings. For purposes of this paragraph, any stock owned by a private foundation which is treated as held by a disqualified person under section 4943(c)(4)(B), (5), or (6) shall be treated as actually owned by the private foundation. See paragraph (b)(1) of § 53.4941(d)–4 for the determination of excess business holdings without regard to section 4943(c)(2)(C) for purposes of applying section 101(C)(2)(B) of the Tax Reform Act of 1969 (83 Stat. 533).

(ii) *Examples.* The provisions of this subparagraph may be illustrated by the following examples:

Example (1). F, a private foundation, owns 1 percent of the single class of voting stock and 1 percent in value of all the outstanding shares of all classes of stock in X corporation. No other private foundation described in section 4946(a)(1)(H) owns any stock in X. All of the stock owned by F in X would be excess business holdings under section 4943(c)(1) if section 4943(c)(2)(C) were inapplicable. F owns no other shares of stock in X. Since F owns no more than 2 percent of the voting stock and no more than 2 percent in value of all outstanding shares of all classes of stock in X, under section 4943(c)

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(2)(C) none of the stock in X owned by F is treated as excess business holdings.

Example (2). Assume the facts as stated in Example (1), except that F and T, a controlled private foundation under section 4946(a)(1)(H), together own 1 percent of all the voting stock and 1 percent in value of all the outstanding shares of all classes of stock in X. All of the stock in X owned by F and T would be excess business holdings under section 4943(c)(1) if section 4943(c)(2)(C) were inapplicable. Since F and T together own no more than 2 percent of the voting stock and no more than 2 percent in value of all outstanding shares of all classes of stock in X, under section 4943(c)(2)(C) none of the stock in X owned by either F or T is treated as excess business holdings.

Example (3). Assume the facts as stated in Example (1), except that F owns 3 percent of the voting stock in X, 2 percent of which is treated as held by P, a disqualified person of F, under section 4943(c)(4)(B). Under subdivision (i) of this subparagraph, the 2 percent of the stock in X owned by F which is treated as held by P under section 4943(c)(4)(B) is treated as actually owned by F for purposes of section 4943(c)(2)(C). Consequently, all of the X stock owned by F is treated as excess business holdings under section 4943(c)(2)(C). However, only 1 percent of the stock in X is subject to tax under section 4943(a), since the other 2 percent is treated as owned by a disqualified person under section 4943(c)(4)(B) for purposes of determining the tax upon F under section 4943(a).

(c) *Permitted holdings in an unincorporated business enterprise*—(1) *In general.* The permitted holdings of a private foundation in any business enterprise which is not incorporated shall, subject to the provisions of subparagraphs (2), (3), and (4) of this paragraph, be determined under the principles of paragraph (b) of this section.

(2) *Partnership or joint venture.* In the case of a partnership (including a limited partnership) or joint venture, the terms "profits interest" and "capital interest" shall be substituted for "voting stock" and "nonvoting stock," respectively, wherever those terms appear in paragraph (b) of this section. The interest in profits of such foundation (or such disqualified person) shall be determined in the same manner as its distributive share of partnership taxable income. See section 704(b) (relating to the determination of the distributive share by the income or loss ratio) and the regulations thereunder. In the absence of a provision in the partnership agreement, the capital interest of such foundation (or such disqualified person) in a partnership shall be determined on the basis of its interest in the assets of the partnership which would be distributable to such foundation (or such disqualified person) upon its withdrawal from the partnership, or upon liquidation of the partnership, whichever is the greater.

(3) *Sole proprietorship.* For purposes of section 4943, a private foundation shall have no permitted holdings in a sole proprietorship. In the case of a transfer by a private foundation of a portion of a sole proprietorship, see paragraph (c)(2) of this section (relating to permitted holdings in partnerships). For the treatment of a private foundation's ownership of a sole proprietorship prior to May 26, 1969, see § 53.4943–4.

(4) *Trusts and other unincorporated business enterprises*—(i) *In general.* In the case of any unincorporated business enterprise which is not described in paragraph (c)(2) or (3) of this section, the term "beneficial interest" shall be substituted for "voting stock" wherever the term appears in paragraph (b) of this section. Any and all references to novoting stock in paragraph (b) of this section shall be inapplicable with respect to any unincorporated business enterprise described in this subparagraph.

(ii) *Trusts.* For purposes of section 4943, the beneficial interest of a private foundation or any disqualified person in a trust shall be the beneficial remainder interest of such foundation or person determined as provided in paragraph (b) of § 53.4943–8.

(iii) *Other unincorporated business enterprises.* For purposes of section 4943, the beneficial interest of a private foundation or any disqualified person in an unincorporated business enterprise (other than a trust or an enterprise described in paragraph (c)(2) or (3) of this section) includes any right to receive a portion of distributions of profits of such enterprise, and, if the portion of distributions is not fixed by an agreement among the participants, any right to receive a portion of the assets (if any) upon liquidation of the enterprise, except as a creditor or employee. For purposes of this subparagraph, a right to receive distributions of profits includes a right to receive any amount from such profits (other than as a creditor or employee), whether as a sum certain or as a portion of profits realized by the enterprise. Where there is no agreement fixing the rights of the participants in such enterprise, the interest of such foundation (or such disqualified person) in such enterprise shall be determined by dividing the amount of all equity investments or contributions to the capital of the enterprise made or obligated to be made by such foundation (or such disqualified person) by the amount of all equity investments or contributions to capital made or obligated to be made by all participants in the enterprise.

(d) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). Corporation X has outstanding 100 shares of voting stock, with each share entitling the holder thereof to one vote. Assume that F, a private foundation, possesses 30 shares of X voting stock, and that A and B, the only disqualified persons with respect to F, together own 10 shares of X voting stock. The excess business holdings of F in X are 20 shares of X voting stock, determined as follows:

(i) Determination of voting stock percentages:	
(a) Total number of outstanding votes in X	100
(b) Total number of votes in X held by F	30
(c) Total number of votes in X held by A and B	10
(d) Percentage of voting stock in X held by F (item (b) divided by item (a)) (percent)	30
(e) Percentage of voting stock in X held by A and B item (c) divided by item (a)) (percent)	10
(ii) Determination of permitted holdings of voting stock:	
(a) Percentage of voting stock in X held by A and B (percent)	10
(b) Permitted holdings of voting stock by F in X (20 pct less item (a)) (percent)	10
(iii) Determination of excess business holdings:	
(a) Percentage of voting stock in X held by F (percent)	30
(b) Permitted holdings of voting stock by F in X (percent)	10
(c) Item (a) less item (b) (percent)	20
(d) Excess business holdings of F in X (i.e., an amount of X voting stock representing a percentage of voting stock equivalent to that in item (c)) (shares)	20

Example (2). F, a private foundation, is a partner in P partnership. In addition, A and B, the only disqualified persons with respect to F, are partners in P. The partnership agreement of P contains no provisions regarding the sharing of profits by, and the respective capital interests of, the partners.

(i) Assume that, under section 704(b), F's distributive share of P taxable income is determined to be 20 percent. In addition, assume that under such section, A and B are determined to have a 4-percent distributive share each of P taxable income. Accordingly, F holds a 20-percent profits interest in P, and A and B hold an 8-percent profits interest in P. Assuming that the provisions of section 4943(c)(2)(B) do not apply, the permitted holdings of F in P are 12 percent of the profits interest in P, determined by subtracting the precentage of the profits interest held by A and B in P (i.e., 8 percent) from 20 percent. (20 percent−8 percent=12 percent.) F, therefore, holds a percentage of the profits interest in P in excess of the percentage permitted by § 53.4943–3(b)(1). The excess business holdings of F in P are a percentage of the profits interest in P equivalent to such excess percentage, or 8 percent of the profits interest in F, determined by subtracting the permitted holdings of F in P (i.e., 12 percent) from the percentage of the profit interest held by F in P (i.e., 20 percent) (20 percent−12 percent=8 percent.)

(ii) Assume that, under the partnership agreement, F would be entitled to a distribution of 20 percent of P's assets upon F's withdrawal from P and to a distribution of 30 percent of P's assets upon the liquidation profits interest held by F in P (i.e., 20 percent) (20 percent−12 percent=8 percent), of P. F, therefore, holds a 30-percent capital centage of the assets of P distributable to F upon F's withdrawal from P, or the percentage of such assets distributable to F upon the liquidation of P. Since the percentage of the profits interest held by A and B in P is less than 20 percent, such 30-percent capital interest will be included in the permitted holdings of F in P.

§ 53.4943–4 Present holdings.

(a) *Introduction*—(1) *Section 4943(c)(4) in general.* (i) Paragraph (4) of section 4943(c) prescribes transition rules for a private foundation which, but for such paragraph, would have excess business holdings on May 26, 1969. Section 4943(c)(4) provides such a foundation with protection from the initial tax on excess business holdings in two ways. First, the entire interest of such a foundation in any business enterprise in which such a foundation, but for section 4943(c)(4), would have had excess business holdings on May 26, 1969, is treated under section 4943(c)(4)(B) as held by disqualified persons for a certain period of time (the "first phase"). The effect of such treatment is to prevent a private foundation from being subject to the initial tax with respect to its May 26, 1969, interest during the first phase holding period and also to prevent the foundation from purchasing any additional business holdings in such business enterprise during such period (unless the combined holdings of the foundation and all disqualified persons fall below the 20 percent (or 35 percent, if applicable) figure prescribed by section 4943(c)(2)). Second, section 4943(c)(4)(A)(i) initially increases the percentage of permitted holdings of such a foundation to a percentage equal to the difference between—

(A) The percentage of combined holdings of the foundation and all disqualified persons in such business enterprise on May 26, 1969 (subject to a 50 percent maximum), and

(B) The percentage of holdings of all disqualified persons.

The percentage referred to in paragraph (a)(1)(i)(A) of this section is referred to in this section as the "substituted level". This "substituted level" is then reduced by the "downward ratchet rule" prescribed by section 4943(c)(4)(A)(ii) and paragraph (d)(3) of this section for certain dispositions by such foundation or by disqualified persons. The primary purpose of the substituted level is to indicate what the permitted holdings in such business enterprise will be immediately after the expiration of the first phase holding period. Thereafter, the permitted holdings of a private foundation itself are further limited to a maximum 25 percent interest in such business enterprise by section 4943(c)(4)(D) as soon as the combined holdings of all disqualified persons in such business enterprise exceed 2 percent (of the voting stock). If the combined holdings of all disqualified persons at no time exceed 2 percent (of the voting stock) during the 15 years following the first phase (the "second phase"), then the substituted level is reduced to a 35 percent maximum after the second phase.

(ii) Paragraph (a)(1)(i) of this section may be illustrated by the following example:

Example. On May 26, 1969, private foundation P held a 5 percent interest in corporation X (voting stock and value). On such date disqualified persons held a 16 percent interest in X (voting stock and value). Assume that except for section 4943(c)(4), P would have had a 1 percent interest in X which would have constituted excess business holdings. Therefore, section 4943(c)(4)(B) applies and P's 5 percent interest in X is treated as held by a disqualified person during the 10-year period beginning May 26, 1969. Since the entire 21 percent held by P and disqualified persons is now treated as held by disqualified persons, P's substituted level is 21 percent and its permitted holdings are zero (21%—21%). However, P has no excess business holdings in X, because during the 10-year period P is not treated as holding such interest. The only change in the interest in X occurs on January 2, 1972, when P disposes of 2 percent of its interest in X to A, an unrelated person. Since the interest held by P and all disqualified persons (21%—2%=19%) has decreased below 20 percent, P's substituted level is reduced to 20 percent and its permitted holdings are 1 percent (20%—19%) on such date. Therefore, if the other interests in X do not change, P will not have excess business holdings if P purchases no more than an additional 1 percent interest in X.

(2) *Interaction of provisions of section 4943(c)(4), (5), and (6).* During the first phase, a private foundation may acquire additional interests in a business enterprise, other than by purchase, which are entitled to be treated as held by disqualified persons for varying holding periods under section 4943(c)(5) or (6) (relating respectively to certain holdings acquired pursuant to the terms of a trust or will in effect on May 26, 1969, and to the 5-year period to dispose of certain gifts, bequests, etc.). In any case, holdings which the private foundation disposes of shall be charged first against those holdings which it must dispose of in the shortest period in order to avoid the initial tax thereon. Further, acquisitions of a private foundation under a pre-May 27, 1969, will or trust described in section 4943(c)(5) are treated in a manner similar to the treatment of interests actually held by a private foundation on May 26, 1969. See §§ 53.4943–5 and 53.4943–6.

(b) *Present holdings in general.* (1) Section 4943(c)(4)(B) provides that any interest in a business enterprise held by a private foundation on May 26, 1969, if the foundation on such date has excess business holdings (determined without regard to section 4943(c)(4)), shall (while held by the foundation) be treated as held by a disqualified person during a first phase. Therefore, no interest of a private foundation shall be treated as held by a disqualified person under section 4943(c)(4)(B) and this section unless:

(i) The private foundation was an entity (not including a revocable trust) in existence on May 26, 1969, even though it was not then treated as a private foundation under section 509 or section 4947;

(ii) Such interest was actually or constructively owned by such entity on such date; and

(iii) Without regard to section 4943(c)(4) such entity had on such date an interest (considered in connection with the interests actually or constructively owned by all disqualified persons with respect to such entity on that date in the same business enterprise, determined as if the entity were then a private foundation) which exceeded the permitted holdings prescribed by section 4943(c)(2) or (3).

(See, however, section 4943(c)(5) and § 53.4943–5 for similar treatment for certain interests acquired by a private foundation under the terms of a trust or a will which were in effect on May 26, 1969.) If a private foundation owns an interest described by section 4943(c)(4)(B), then the length of the first phase for such an interest is prescribed by paragraph (c) of this section and shall not be affected by any interest acquired by the private foundation or any disqualified person in such business enterprise after May 26, 1969. In addition, the amount of permitted holdings in such business enterprise is prescribed by paragraph (d) of this section. An interest constructively held by a private foundation (or a disqualified person) on May 26, 1969, shall not cease to be an interest to which section 4943(c)(4) applies merely because it is later distributed to such foundation (or to such disqualified person). Nor shall an interest directly held by a private foundation (or disqualified person) on May 26, 1969, cease to be treated as an interest to which section 4943(c)(4) applies to the extent it remains actually or constructively held by such foundation (or such disqualified person) upon transfer of such interest, such as upon the incorporation of a sole proprietorship.

(2) The provisions of this paragraph may be illustrated by the following example:

Example. A, a nonprofit research organization described in section 501(c)(3), was organized in 1966. On May 26, 1969, A held 50 percent of the stock of corporation B. For its taxable years 1970, 1971, and 1972, A is classified as an organization described in section 509(a)(2). However, for 1973 and subsequent years, A fails to satisfy the gross investment income limitation of section 509(a)(2)(B), and is thus classified as a private foundation. In such a case, section 4943(c)(4) applies, and a disqualified person shall be treated as holding A's stock in B during a first phase that begins on May 26, 1969.

(c) *First phase holding periods*—(1) *In general.* If, on May 26, 1969, a private foundation has excess business holdings in any business enterprise (determined with regard to the 20 or 35 percent permitted holdings of section 4943(c)(2)), then all interests which such foundation holds, actually or constructively, in such enterprise on May 26, 1969, shall (while held by such foundation) be deemed held by a disqualified person during the following periods:

(i) The 20-year period beginning on May 26, 1969, if the private foundation holds, actually or constructively, more than 95 percent of the voting stock (or more than a 95 percent profits or beneficial interest in the case of an unincorporated enterprise) in such enterprise on such date;

(ii) Except as provided in paragraph (c)(1)(i) of this section, the 15-year period beginning on May 26, 1969, if the private foundation and all disqualified persons hold, actually or constructively

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on such date, more than 75 percent of the voting stock (or more than a 75 percent profits or beneficial interest in the case of any unincorporated enterprise) or 75 percent of the value of all outstanding shares of all classes of stock in such enterprise (or more than a 75 percent profits and capital interest in the case of a partnership or joint venture); or

(iii) The 10-year period beginning on May 26, 1969, in any case not described in paragraph (c)(1)(i) or (ii) of this section.

The 20-year, 15-year, or 10-year period described in this subdivision (whichever applies) shall, for purposes of section 4943 and this section, be known as the "first phase".

(2) *Sole proprietorships.* The 20-year period described in paragraph (c)(1) of this section shall apply with respect to any interest which a private foundation holds in a sole proprietorship on May 26, 1969. See paragraph (b) of this section for the effect of converting such an enterprise to a corporate, partnership, or other form.

(3) *Suspension of first-phase periods.* The 20-year, 15-year, or 10-year period described in paragraph (c)(1) of this section shall be suspended during the pendency of any judicial proceeding which is brought and diligently litigated by the private foundation and which is necessary to reform, or to excuse the foundation from compliance with, its governing instrument or any other instrument (as in effect on May 26, 1969) in order to allow disposition of any excess business holdings held by the foundation on May 26, 1969.

(4) *Election to shorten the period during which certain holdings of private foundations are treated as held by disqualified persons.* If, on May 26, 1969, the combined holdings of a private foundation and all disqualified persons in any one business enterprise are such as to make applicable the 15-year period referred to in paragraph (c)(1)(ii) of this section, and if, on such date, the foundation's holdings do not exceed 95 percent of the voting stock in such enterprise, then such 15-year period is shortened to the 10-year period referred to in paragraph (c)(1)(iii), if at any time before January 1, 1971, one or more individuals—

(i) Who are substantial contributors (as described in section 507(d)(2)), or members of the family within the meaning of section 4946(d) of one or more substantial contributors, to such private foundation, and

(ii) Who on May 26, 1969, held in the aggregate more than 15 percent of the voting stock in the enterprise,

made an election in the manner described in 26 CFR 143.6 (rev. as of Apr. 1, 1974).

(5) *Examples.* The provisions of this paragraph (c) may be illustrated by the following examples:

Example (1). Assume that F, a private foundation, owns, on May 26, 1969, 50 shares of voting stock in corporation X representing 50 percent of the voting power in X and 25 percent of the value of all outstanding shares of all classes of stock in X. Assume further that A and B, the only disqualified persons with respect to F, own five shares each of voting stock in X on such date. The 10 shares of voting stock in X owned by A and B together represent 10 percent of the voting power in X and 5 percent of the value of all outstanding shares of all classes of stock in X. Under the provisions of § 53.4943-3, the excess business holdings of F in X (determined without regard to section 4943(c)(4)) as of such date are, therefore, 40 percent of X voting stock. Accordingly, since the combined holdings of F, A, and B in X are, on such date, less than 75 percent of the voting stock in X and less than 75 percent of the value of all outstanding shares of all classes of stock in X, under the provisions of section 4943(c)(4)(B)(iii), all holdings of F in X (i.e., 50 percent of X voting stock) will be treated as held by a disqualified person through May 25, 1979.

Example (2). Assume the facts as stated in Example (1), except that F, on December 15, 1969, purchases an additional 10 shares of voting stock in X representing 10 percent of X voting power. Assume, further, that there were no other transactions in the stock in X during 1969. While the 50 percent of X voting stock held by F on May 26, 1969, will be deemed held by a disqualified person through May 25, 1979, the additional 10 shares of X voting stock acquired by purchase by F on December 15, 1969, will not be deemed to be so held. Accordingly, since, under the provisions of § 53.4943-3, such 10 shares represent excess business holding of F in X, such 10 shares will be subject to the imposition of tax under the provisions of section 4943(a).

Example (3). Assume the facts as stated in Example (1), except that F, on December 15, 1971, acquires an additional 10 shares of voting stock in X (representing 10 percent of X voting power) under the terms of a will which was executed before May 26, 1969, to which section 4943(c)(5) applies. While the 50 percent of X voting stock held by F on May 26, 1969, will be deemed held by a disqualified person through May 25, 1979, the additional 10 percent of X voting stock acquired by F on December 15, 1971, will, under the provisions of section 4943(c)(5), be deemed held by a disqualified person through December 14, 1981. See § 53.4943-5.

Example (4). Assume that F, a private foundation, owns on May 26, 1969, 50 shares of voting stock in corporation Y representing 50 percent of the voting power in Y. Assume further that C and D, the only disqualified persons with respect to F, own on such date 15 shares each of Y voting stock and that the 30 shares of Y voting stock owned by C and D together represent 30 percent of the voting power in Y. Under the provisions of § 53.4943-3 the excess business holdings of F in Y (determined without regard to section 4943(c)(4)) as of such date are, therefore, 50 percent of Y voting stock. Accordingly, since the combined holdings of F, C, and D in Y represent, on such date, more than 75 percent of the voting stock in Y, under the provisions of section 4943(c)(4)(B)(ii), all holdings of F in Y (i.e., 50 percent of Y voting stock) will be treated as held by a disqualified person through May 25, 1984.

Example (5). M, a private foundation, owns on May 26, 1969, sole proprietorship S. Since, under the provisions of § 52.5954-3, M's ownership of S constitutes excess business holdings (determined without regard to section 4943(c)(4) as of May 26, 1969, and since M's interest in S is greater than 95 percent on such date, under the provisions of this paragraph a disqualified person will be treated as the owner of S for the 20-year period beginning on such date. If S is later incorporated, that percentage of the interest in S retained by M, even though less than a 95-percent interest, shall continue to be treated as held by a disqualified person through May 25, 1989.

Example (6). A and B, individuals, together own on May 26, 1969, 40 shares of voting stock in corporation X representing 40 percent of the voting power in X and 20 percent of the value of all outstanding shares of all classes of stock in X. A and B are both disqualified persons with respect to F, a private foundation, which owns no stock in X on May 26, 1969. On January 1, 1973, A and B donate the 40 shares of X voting stock held by them to F. Since F had no excess business holdings on May 26, 1969, section 4943(c)(4) does not apply. See however, section 4943(c)(6) and § 53.4943-6.

Example (7). Assume the facts as stated in Example (6), except that F, on May 26, 1969, owns 50 shares of voting stock in X, representing 50 percent of the voting power in X and 25 percent of the value of all outstanding shares of all classes of stock in X. Under the provisions of this paragraph, the 50 shares of X voting stock held by F on May 26, 1969 shall be treated in accordance with the provisions of section 4943(c)(4), while the 40 shares of X voting stock acquired by F on January 1, 1973 shall be treated in accordance with the provisions of section 4943(c)(6). See § 53.4943-6.

(d) *Permitted holdings under section 4943(c)(4)—(1) In general.* The permitted holdings of a private foundation to which section 4943(c)(4) applies in a business enterprise shall be as follows:

(i) The excess of the substituted combined voting level over the disqualified person voting level, and separately,

(ii) The excess of the substituted combined value level over the disqualified person value level.

(2) *Definitions.* For purposes of paragraph (d) of this section—

(i) The term "disqualified person voting level" on any given date means the percentage of voting stock held by all disqualified persons together on such date (including stock deemed held by such a person by reason of section 4943(c)(4), (5), or (6)).

(ii) The term "disqualified person value level" on any given date means the percentage of the total value of all outstanding shares of all classes of stock in a business enterprise held by all disqualified persons together on such date (including stock deemed held by such a person by reason of section 4943(c)(4), (5), or (6)).

(iii) The term "foundation voting level" prior to the second phase is equal to zero. After the first phase, such term on any given date means the lowest percentage of voting stock held by a private foundation (without regard to section 4943(c)(4)(B)) in a business enterprise on May 26, 1969, and at all times thereafter up to such date. See section 4943(c)(5) and § 53.4943-5 for the effect of interests acquired pursuant to the terms of certain wills or trusts in effect on May 26, 1969.

(iv) The term "foundation value level" prior to the second phase is equal to zero. After the first phase, such term on any given date means the lowest percentage of the total value of all outstanding shares of all classes of stock held by a private foundation (without

regard to section 4943(c)(4)(B)) in a business enterprise on May 26, 1969, and at all times thereafter up to such date. See section 4943(c)(5) and § 53.4943-5 for the effect of interests acquired pursuant to the terms of certain wills or trusts in effect on May 26, 1969.

(v) The term "substituted combined voting level" means the lowest percentage to which the sum of the foundation voting level plus the disqualified person voting level has been reduced since May 26, 1969, by paragraph (d)(4) of this section (the "downward ratchet rule"), subject to the following modifications:

(A) In no event shall such substituted level exceed 50 percent; and

(B) Such substituted level shall be increased (but not above 50 percent) in accordance with section 4943(c)(5) and § 53.4943-5 for certain interests acquired by such foundation pursuant to the terms of a will or trust in effect on May 26, 1969.

(vi) The term "substituted combined value level" means the lowest percentage to which the sum of the foundation value level plus the disqualified person value level has been reduced since May 26, 1969, by paragraph (d)(4) of this section (the "downward ratchet rule"), subject to the following modifications:

(A) In no event shall such substituted level exceed 50 percent; and

(B) Such substituted level shall be increased (but not above 50 percent) in accordance with section 4943(c)(5) and § 53.4943-5 for certain interests acquired by such foundation pursuant to the terms of a will or trust in effect on May 26, 1969.

(vii) In the case of an interest in a partnership or joint venture, definitions (i) through (iv) of this subparagraph shall be applied by substituting "profit interests" for "voting stock" and "all partnership interests" for "all outstanding shares of all classes of stock."

(viii) In the case of an interest in a business enterprise other than a corporation, partnership or joint venture, definitions (i) through (iv) of this subparagraph shall be applied by substituting "beneficial remainder interests" for "voting stock" and "all beneficial remainder interests" for "all outstanding shares of all classes of stock."

(ix) Each level defined in paragraph (d)(2)(iii), (iv), (v) and (vi) as of any date shall be carried over to the subsequent date subject to any adjustments prescribed for such level.

(3) *Permitted holdings—First phase.* Since during the first phase the substituted combined voting level generally does not exceed the disqualified person voting level, and the substituted combined value level generally does not exceed the disqualified person value level, the permitted holdings during the first phase are generally equal to zero. The permitted holdings during the first phase exceed zero only where the 20 percent (or 35 percent) limitation on the downward ratchet rule contained in paragraph (d)(4)(ii)(B) of this section applies.

(4) *Downward ratchet rule—(i) In general.* Except as provided in paragraph (d)(4)(ii) of this section and section 4943(c)(5)—

(A) *Scope of rule.* In general, when the percentage of the holdings in a business enterprise held by a private foundation and all disqualified persons together to which section 4943(c)(4) applies decreases, or when the percentage of the holdings of the private foundation alone in such business enterprise decreases, such holdings may not be increased (except as provided under section 4943(c)(5) or (6)). This so-called "downward ratchet rule" is designed to prevent the private foundation from purchasing additional holdings in the business enterprise until the substituted combined voting level reduced to the 20-percent (or 35 percent) figure prescribed by section 4943(c)(2).

(B) *Levels affected.* Under the downward ratchet rule any decrease after May 26, 1969, in the percentage of holdings comprising either the substituted combined voting level, the substituted combined value level, the foundation voting level or the foundation value level shall cause the respective level to be decreased to such decreased percentage for purposes of determining the foundation's permitted holdings.

(C) *Implementation of reductions.* Thus, if at any time the sum of the foundation voting level and the disqualified person voting level is less than the immediately preceding substituted combined voting level, the substituted level shall be decreased so that it equals such sum. For example, if on May 26, 1969, a foundation and all disqualified persons together have holdings in a business enterprise equal to 50 percent, on such date the substituted combined voting level and the disqualified person voting level equal 50 percent (since such holdings of the foundation are treated as held by a disqualified person). If the private foundation or a disqualified person on May 27, 1969, sold 2 percent of such holdings to a nondisqualified person, the disqualified person voting level would be decreased to 48 percent (50%—2%), causing the substituted combined voting level to be decreased to 48 percent. As a further example, assume that on May 26, 1969, a foundation and all disqualified persons together have holdings in a business enterprise equal to 50 percent, and when the first phase expires on May 26, 1979, the substituted combined voting level is still 50 percent, the foundation voting level is 10 percent, and the disqualified person voting level is 40 percent. If a disqualified person thereafter sells 2 percent to a nondisqualified person so that the sum of the disqualified person voting level (40%—2%=38%) and the foundation voting level (10%) equals 48 percent (38%+10%), then the substituted combined voting level is decreased to 48 percent. Similarly, if at any time the sum of the foundation value level and the disqualified person value level is less than the immediately preceding substituted combined value level, the substituted combined value level shall be decreased so that it equals such sum.

(D) *Restrictions on increases in levels.* In addition, none of the four levels referred to in paragraph (d)(4)(i)(B) of this section may be adjusted upward to reflect any increase in the holdings comprising such level, except as provided in section 4943(c)(5) and § 53.4943-5. As a result, any transfer of May 26, 1969, holdings from a disqualified person to a private foundation shall not increase the foundation voting level or the foundation value level (unless the transfer qualifies under section 4943(c)(5)), and thus may reduce the substituted combined value level (and, where appropriate, the substituted combined voting level). Thus, in the last preceding example, if the disqualified person, instead of selling the 2 percent interest to a nondisqualified person, had sold such interest to the foundation, the substituted combined voting level would still be reduced to 48 percent, since the disqualified person voting level would be reduced by 2 percent (to 38%) but the foundation voting level would not be increased by 2 percent (remaining at 10%). However, any transfer of May 26, 1969, holdings from a private foundation to a disqualified person under section 101(l)(2)(B) of the Tax Reform Act of 1969, shall reduce the foundation value level (and, where appropriate, the foundation voting level), but will not reduce the substituted combined value level or the substituted combined voting level. The disqualified person voting level and disqualified person value level are correspondingly increased, not being limited to interests held since May 26, 1969. In addition, a transfer of May 26, 1969, holdings from one disqualified person to another, for example, by bequest, shall not reduce the substituted combined voting level nor the substituted combined value level.

(ii) *Exceptions—(A) One percent de minimus rule.* If after May 26, 1969, there are one or more decreases in the holdings comprising any of the four levels referred to in paragraph (d)(4)(i)(B) of this section during any taxable year of a private foundation, and if such decreases are attributable to issuances of stock (or such issuances coupled with redemptions), then, unless the aggregate of such decreases equals or exceeds 1 percent, the determination of whether there is a decrease in such level for purposes of this paragraph (d)(4) shall be made only at the close of such taxable year. If, however, the aggregate of such decreases equals or exceeds 1 percent, such level shall be decreased at that time as if the previous sentence had never applied.

(B) *Twenty percent (or 35 percent) floor.* In no event shall the downward rachet rule contained in paragraph (d)(4)(i) of this section decrease the substituted combined voting level or the substituted combined value level below 20 percent, or, for purposes of section 4943(c)(2)(B), below 35 percent.

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(iii) *Special rules*—(A) *Change of foundation managers.* In the case of a foundation manager (as defined in section 4946(b)) who on May 26, 1969, owns holdings in a business enterprise and who is replaced by another foundation manager, the decrease in the substituted combined voting or value levels shall be limited to the excess, if any, of the departing foundation manager's holdings over his successor's holdings.

(B) *Termination of private foundation status under section 507.* If an organization gives the notification described in section 507(b)(1)(B)(ii) of the commencement of a 60-month termination period and fails to meet the requirements of section 509(a) (1), (2) or (3) for the entire period, then such organization will be treated as a private foundation during the entire 60-month period for purposes of this paragraph (d)(4) and section 4946(a)(1)(H). For example, X, a private foundation gives notification of the commencement of a 60-month termination commencing on January 1, 1972. X and Y, another private foundation, are effectively controlled by the same persons within the meaning of section 4946(a)(1)(H). X and Y hold 25 percent each of the voting stock of Z corporation on May 26, 1969, so that the substituted combined voting level for X or Y is 50 percent on such date. If X meets the requirements of section 509(a) (1), (2), or (3) for the entire 60-month period, section 4946(a)(1)(H) is inapplicable to X, and, under the downward ratchet rule, the substituted combined voting level for Y is decreased by 25 percent. On the other hand, if X meets the requirements of section 509(a)(2) for its taxable years 1972 and 1973, but fails to meet the requirements of section 509(a) (1), (2), or (3) in 1974, 1975, and 1976, then solely for purposes of section 4943(c)(4)(A)(ii) and this paragraph (d)(4), X will be treated as a disqualified person with respect to Y, and Y will be treated as a disqualified person with respect to X, for taxable years 1972 through 1976 pursuant to section 4946(a)(1)(H). Thus, for purposes of section 4943(c)(4)(A)(ii), the substituted combined voting level for X or Y will not be decreased by reason of the fact that X was attempting to terminate under section 507(b)(1)(B), and assuming no other transactions, such level will remain at 50 percent.

(iv) *Examples.* The provisions of this paragraph (d) (4) may be illustrated by the following examples:

Example (1). F, a private foundation, owns on May 26, 1969, 50 shares of voting stock in corporation X representing 50 percent of the voting stock in X and 25 percent of the value of all outstanding shares of all classes of stock in X. A and B, the only disqualified persons with respect to F, together own, on such date, 2 shares of voting stock in X representing 2 percent of the voting stock in X and 1 percent of the value of all outstanding shares of all classes of stock in X. In addition, on such date, F owns 30 shares of nonvoting stock in X, representing 30 percent of the value of all outstanding shares of all classes of stock in X, and A and B together own 15 shares of nonvoting stock in X representing 15 percent of the value of all outstanding shares of all classes of stock in X. The provisions of section 4943(c)(4)(B)(iii) apply and during the 10-year period beginning on May 26, 1969, a disqualified person is deemed to hold all interests of F in X. Assume that on February 1, 1972, F sells to C, an unrelated individual, 12 shares of voting stock in X representing 12 percent of the voting stock in X and 6 percent of the value of all outstanding shares of all classes of stock in X.

(I) Beginning on May 26, 1969, the disqualified person voting level is 52 percent, the foundation voting level is zero, and the substituted combined voting level is 50 percent; the disqualified person value level is 71 percent, the foundation value level is zero, and the substituted combined value level is 50 percent.

(II) Beginning on February 1, 1972, the disqualified person voting level is 40 percent (52%−12%), the foundation voting level is zero, and the substituted combined voting level is 40 percent; the disqualified person value level is 65 percent (71%−6%), the foundation value level is zero and the substituted combined value level is 50 percent.

Example (2). F, a private foundation on the calendar year basis, holds, on May 26, 1969, 30 percent of the voting stock in corporation Y. C and D, the only disqualified persons with respect to F, together hold, on such date, 10 percent of the voting stock in Y. The provisions of section 4943(c)(4)(B)(iii) apply with respect to F, and disqualified persons are deemed to hold all interests of F in Y for the 10-year period beginning on May 26, 1969, so that the substituted combined voting level as of such date is 40 percent. On February 1, 1973, a stock issuance by Y causes the combined holdings of voting power by F, C, and D in Y to decrease by 0.3 percent. On June 1, 1973, another such issuance causes such combined holdings to decrease by 0.5 percent. In September 1, 1973, an unrelated stock redemption by Y causes such combined holdings to increase by 0.4 percent. Under this paragraph the determination whether there is a decrease in the substituted combined voting level for purposes of the downward ratchet rule shall not be made before January 1, 1974, since the aggregate of the decreases occurring on February 1 and June 1 of 1973 is less than 1 percent (0.3%+0.5%). Therefore, the substituted combined voting level as of January 1, 1974, is 39.6 percent (40%−[(0.3%+0.5%)−0.4%].)

Example (3). Assume the facts as stated in Example (2), except that, on October 1, 1973, a stock issuance by Y causes the combined holdings of voting power by F, C, and D in Y to decrease by 0.3 percent. Since the aggregate of the decreases occurring on February 1, June 1, and October 1, of 1973 exceeds 1 percent, the determination whether there is a decrease in the substituted combined voting level shall be made as of October 1, 1973. At that time the substituted combined voting level shall be reduced to 39.2 percent (40%−0.3%−0.5%), the lowest actual combined holdings during the period that the de minimis rule was in effect.

(5) *Permitted holdings—Second phase*—(i) *In general.*—For purposes of section 4943 and this section, the term "second phase" means the 15-year period immediately following the first phase. Upon the expiration of the first phase with respect to an interest to which section 4943(c)(4) applies, such interest shall no longer be treated as held by a disqualified person under section 4943(c)(4)(B). During the second phase, the manner of determining the permitted holdings of a private foundation to which section 4943(c)(4) applies shall be the same as applicable to the first phase, except that a 25 percent maximum shall apply under certain conditions specified in paragraph (d)(5)(ii) of this section. For these purposes the substituted combined voting level and the substituted combined value level in effect for the foundation at the end of the first phase shall be carried over to the second phase. The substituted levels are carried over because although there is a decrease in the disqualified person levels (since holding are no longer treated as held by disqualified persons under section 4943(c)(4)(B)), a corresponding increase in the foundation levels occurs. For example, if a private foundation on May 26, 1969, held 10 percent of the voting stock in a corporation and disqualified persons held 40 percent of the voting stock, both the disqualified person voting level and the substituted combined voting level equal 50 percent (10%+40%). Assuming no transactions during the first phase, on May 26, 1979, the disqualified person voting level would be decreased to 40 percent (50%−10%), but the foundation voting level would be increased to 10 percent so that the substituted combined voting level would remain at 50 percent. In addition, the downward ratchet rule of paragraph (d)(4) of this section shall continue to apply, to prevent the foundation and disqualified persons from purchasing any additional interest in the same enterprise until the substituted combined voting level decreases below 20 percent.

(ii) *25 percent maximum on foundation holdings.* If, or as soon as, the disqualified person voting level exceeds 2 percent after the expiration of the first phase, the permitted holdings shall not thereafter exceed 25 percent of the voting stock or 25 percent of the value of all outstanding shares of all classes of stock, even though the holdings of the foundation and all disqualified persons combined do not exceed the substituted level. Solely for purposes of determining whether the 25 percent limitation of this subdivision (ii) applies, the disqualified person voting level shall not be treated as exceeding 2 percent solely as a result of the holdings of a private foundation which are treated as held by a disqualified person by reason of section 4943(c)(5) or (6). For example, where under the constructive ownership rules for trusts in § 53.4943–8(b), a private foundation is deemed to own more than 2 percent of the voting stock of a business enterprise but such stock is treated as held by a disqualified person under section 4943(c)(5), the determination of the substituted percentage for permitted holdings in the second phase will be as if the foundation owned the stock held by the trust. Similarly, where a private foundation is the only remainder beneficiary of a trust that is a disqualified person under section 4946(a)(1)(H), the disqualified person voting level shall not be treated as exceeding 2 percent solely as a result of the holdings of such a trust.

(6) *Permitted holdings—Third phase.* For purposes of section 4943 and this section, the term "third phase" means the entire period following the second phase. During the third phase the manner of determining the permitted holdings of a private foundation to which section 4943(c)(4) applies shall be the same as applicable to the second phase under paragraph (d)(5) of this section (including the carryover of levels from the earlier phase). However, if the 25 percent limit of paragraph (d)(5)(ii) of this section never applied during the second phase, the substituted combined voting level and the substituted combined value level each shall not exceed 35 percent during the third phase.

(7) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). F, a private foundation, owns, on May 26, 1969, 30 shares of voting stock in corporation Z representing 30 percent of the voting power in Z and 15 percent of the value of all outstanding shares of all classes of stock in Z, and owns, on such date, 10 shares of nonvoting stock in Z representing 10 percent of the value of all outstanding shares of all classes of stock in Z. E and G, the only disqualified persons with respect to F, own, on such date, 5 shares each of nonvoting stock in Z. The 10 shares of nonvoting stock in Z owned by E and G together represent 10 percent of the value of all outstanding shares of all classes of stock in Z. Assume further that F cannot meet the requirements for the 35 percent test of section 4943(c)(2)(B). For purposes of applying section 4943(c)(4)(B) and this paragraph, F has excess business holdings in Z (determined without regard to section 4943(c)(4)), because under section 4943(c)(2)(A) F's permitted holdings are 20 percent (20%−0%) of the voting stock since disqualified persons have no holdings of voting stock. Therefore, section 4943(c)(4)(B) and this paragraph apply, and a disqualified person is treated as holding F's shares of both voting and nonvoting stock in Z for the 10-year period through May 25, 1979. Thus, since all holdings by F in Z are treated as held by a disqualified person during the first phase, F cannot be subject to tax under section 4943(a) on its May 26, 1969, holdings prior to the termination of the first phase, regardless of whether or not disqualified persons purchase additional shares of Z during the first phase.

Example (2). Assume the same facts as in Example (1), and further assume that there were no transactions in the stock of Z during the first phase (May 26, 1969 through May 25, 1979). During the first phase the permitted holdings by F in Z for both the voting stock and the value is zero. The disqualified person voting level and the substituted combined voting level are each 30 percent, and the disqualified person value level and the substituted combined value level are each 35 percent (15%+10%+10%). The substituted levels are carried over into the second phase. The disqualified person voting level on May 26, 1979, the beginning of the second phase, is zero, because the voting shares held by F are no longer treated as held by a disqualified person. Therefore, F's permitted holdings on such date are 30 percent of the voting stock, because such percentage is equal to the excess of the substituted combined voting level (30%) over the disqualified person voting level (0%). The disqualified person value level on May 26, 1979, is 10 percent, because the voting and nonvoting shares held by F are no longer treated as held by a disqualified person. Therefore, F's permitted holdings on such date are 25 percent of the value of Z stock, because such percentage is equal to the excess of the substituted combined value level (35%) over the disqualified person value level (10%) as of such date.

Example (3). Assume the facts as stated in Example (2), except that E and G acquire, on February 1, 1970, 10 shares of Z voting stock representing 10 percent of the voting power in Z and 5 percent of the value of all outstanding shares of all classes of stock in Z. During the first phase such permitted holdings remain zero, and prior to May 25, 1979, the substituted combined voting level and substituted combined value level remain 30 and 35 percent, respectively, because such levels may not be increased by acquisitions by disqualified persons. However, the disqualified person voting level and the disqualified person value level are each increased to 40 percent (30%+10%) and 40 percent (35%+5%) respectively. During the first phase the excess of the disqualified person voting level over the substituted combined voting level (40%−30%) and the excess of the disqualified person value level over the substituted combined value level (40%−35%) indicate how much stock F must dispose of during the first phase to avoid the initial tax when it expires. On May 25, 1979, the last day of the first phase, F disposes of 12 shares of Z voting stock, representing 12 percent of the voting power in Z and 6 percent of the value of all such outstanding shares. The disposition by F reduces the interest F owns to 18 percent (30%−12%) of the voting power, and 19 percent (25%−6%) of the value of all outstanding shares of all classes of stock, in Z. Since the disqualified person voting level decreases to 28 percent (40%−12%), the substituted combined voting level as of May 25, 1979, accordingly is decreased to 28 percent under the downward ratchet rule. Similarly, the substituted combined value level is decreased to 34 percent, as the disqualified person value level as of such date is 34 percent (40%−6%). On May 26, 1979, the disqualified person voting level is 10 percent (28%−18%), and the disqualified person value level is 15 percent (34%−19%), since the shares owned by F are no longer treated as held by a disqualified person as of such date. Accordingly, on May 26, 1979, the permitted holdings by F and Z are 18 percent of the voting power in Z, because such percentage is equal to the excess of the substituted combined voting level (28%) over the disqualified person voting level (10%) as of such date. Similarly, the permitted holdings of F in Z by value are 19 percent (34%−15%). If F had not disposed of the 12 shares, then on May 26, 1979, F's permitted holdings in voting power and value would be 20 percent (30%−10%) and 20 percent (35%−15%), respectively.

Example (4). F, a private foundation, owns on May 26, 1969, 35 shares of voting stock in corporation Y representing 35 percent of the voting stock in Y and 17.5 percent of the value of all classes of stock in Y, and owns on such date 45 shares of nonvoting stock representing 22.5 percent of the value of all outstanding shares of all classes of stock in Y. No disqualified person with respect to F owns, on such date, any stock in Y. Assume further that Y cannot meet the requirements of the 35 percent test of section 4943(c)(2)(B). For purposes of applying section 4943(c)(4)(B) and this paragraph, F has excess business holdings in Y (determined without regard to section 4943(c)(4)), because under section 4943(c)(2)(A) F's permitted holdings are 20 percent (20%−0%) of the voting stock since disqualified persons have no holdings of voting stock. Therefore, section 4943(c)(4)(B) and this paragraph apply, and a disqualified person is treated as holding F's shares of both voting and nonvoting stock in Y for the 10-year period through May 25, 1979. During the first phase the permitted holdings by F in Y of both the voting stock and of value are zero. The disqualified person voting level and the substituted combined value level are each 35 percent, and the disqualified person value level and the substituted combined value level are each 40 percent (17.5%+22.5%). The substituted levels are carried over into the second phase. The disqualified person voting level and value level on May 26, 1979, are both zero, because the shares held by F are no longer treated as held by a disqualified person. Therefore, F's permitted holdings on such date are 35 percent of the voting power (35%−0%) and 40 percent of the value (40%−0%). Assume that on February 1, 1981, A, a disqualified person, acquires 6 percent of the voting stock in Y representing 3 percent of the value of all outstanding shares of all classes of stock in Y. The permitted holdings by F in Z on February 1, 1981, are thus reduced to 25 percent of the voting stock (the lesser of the separate 25% second phase limitation or 29% (35% substituted combined voting level minus 6% disqualified person voting level)) and 25 percent of the value (the lesser of the separate 25% second phase limitation or 37% (40% substituted combined value level minus 3% disqualified person value level)). But see paragraph (d)(8) of this section for limitations on restrictions with respect to nonvoting stock.

Example (5). Assume the same facts as in Example (4) except that A does not acquire the 6 shares of voting stock until February 1, 1996 (in the third phase), rather than on February 1, 1981. Thus, F's permitted holdings in Y would remain at 35 percent of the voting stock and 40 percent of the value during the second phase, which expired on May 25, 1994. Assume that on May 25, 1994, the last day of the second phase, F disposes of 10 shares of nonvoting stock representing 5 percent of the value of all outstanding shares in Y to meet the 35 percent third phase limit. In accordance with the downward ratchet rule, the substituted combined value level and F's permitted holdings in Y would be reduced to 35 Percent of value. On February 1, 1996, F's permitted holdings in Y would be reduced to 25 percent of the voting stock (the lesser of the separate 25% third phase limitation or 29% (35% substituted combined voting level minus 6% disqualified person level)) and 25 percent of the value (the lesser of the separate 25% third phase limitation or 32% (35% substituted combined value level minus 3% disqualified person value level)). But see paragraph (d)(8) of this section for limitations on restrictions with respect to nonvoting stock.

(8) *Special rule where all holdings are permitted under section 4943(c)(2).* (i) Since section 4943(c)(4) and this paragraph provide transitional rules for foundations which would otherwise have had excess business holdings on May 26, 1969, no holdings shall cease to be permitted holdings under this paragraph where such holdings would be permitted holdings under section 4943(c)(2) and § 53.4943–3. Thus, for example, where the substituted combined voting level has been reduced to 20 percent, the provisions of § 53.4943–3(b)(2) concerning nonvoting stock as permitted holdings generally apply.

(ii) The provisions of this paragraph (d)(8) may be illustrated by the following example:

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Example. (A) F, a private foundation, owns, on May 26, 1969, 40 shares of voting stock in corporation X representing 40 percent of the voting stock in X and 20 percent of the value of all outstanding shares of all classes of stock in X, and owns, on such date, 60 shares of nonvoting stock in X, representing 30 percent of the value of all outstanding shares of all classes of stock in X. A, the only disqualified person with respect to F, owns, on such date, 10 shares of voting stock in X, representing 10 percent of the voting stock in X and 5 percent of the value of all outstanding shares of all classes of stock in X. Under section 4943(c)(4)(B)(iii), a disqualified person is deemed the owner of all holdings by F in X for the 10-year period beginning on May 26, 1969.

(B) Assume that the only transaction in X stock during the first phase is the disposition of 30 shares of voting stock by F on May 1, 1975. The voting stock held by F is permitted holdings under § 53.4943-3 and under such section since all disqualified persons together do not own more than 20 percent of the voting stock in X, all nonvoting stock held by F shall also be treated as permitted holdings. Therefore, all the stock held by F is permitted holdings.

(C) Assume that on May 1, 1975, F had disposed of only 15 shares of voting stock and also had disposed of 35 shares of nonvoting stock. On May 26, 1979, at the beginning of the second phase, this paragraph (d)(8) would not apply since F would have excess business holdings under § 53.4943-3. Under the provisions of this section, the permitted holdings by F in X on such date are 25 percent of the voting stock (35% substituted combined voting level minus 10% disqualified person voting level) and 25 percent of the value (30% substituted combined value level minus 5% disqualified person value level)).

(9) *Special rule for certain private foundations.* In the case of a private foundation—

(i) Which was incorporated before January 1, 1951,

(ii) Substantially all of the assets of which on May 26, 1969, consisted of more than 90 percent of the stock of an incorporated business enterprise which is licensed and regulated, the sales or contracts of which are regulated, and the professional representatives of which are licensed, by State regulatory agencies in at least 10 States;

(iii) Which acquired such stock solely by gift, devise, or bequest;

(iv) Which does not purchase any stock or other interest in such enterprise after May 26, 1969, and does not acquire any stock or other interest in any other business enterprise which constitutes excess business holdings under § 53.4943-3; and

(v) Which, in the last 5 taxable years ending on or before December 31, 1970, expended substantially all of its adjusted net income (as defined in section 4942(f)) for the purpose or function for which it is organized and operated;

paragraph (d)(1) through (5) of this section (permitted holdings during the first and second phase) shall be applied with respect to the holdings of such foundation in such incorporated business enterprise by substituting "51 percent" for "50 percent," and section 4943(c)(4)(D) (third phase) shall not apply with respect to such holdings. For purposes of the preceding sentence, stock of such enterprise in a trust created before May 27, 1969, of which the foundation is the remainder beneficiary shall be deemed to be held by such foundation on May 26, 1969, if such foundation held (without reagrd to such trust) more than 20 percent of the stock of such enterprise on May 26, 1969.

§ 53.4943-5 Present holdings acquired by trust or a will.

(a) *Interests to which section 4943(c)(5) applies*—(1) *In general.* Section 4943(c)(5) provides that section 4943(c)(4) (other than the 20-year first phase holding period) applies to an interest in a business enterprise acquired after May 26, 1969 by a private foundation under the terms of a trust which was irrevocable on May 26, 1969, or under the terms of a will executed on or before May 26, 1969, which were in effect on May 26, 1969, and at all times thereafter, as if such interest were held on May 26, 1969. However the first phase holding period prescribed by § 53.4943-4(c)(1)(ii) or (iii) shall commence for such an interest on the date of distribution to the foundation. Unlike section 4943(c)(4) and § 53.4943-4, section 4943(c)(5) and this section treat only the interest so acquired (and not the entire interest held by the foundation in such enterprise on the date of distribution) as held by a disqualified person during a first phase holding period. (See, however, section 4943(c)(6) and paragraph (b)(2) of § 53.4943-6 for the treatment of other holdings of the foundation in the same enterprise if an interest to which section 4943(c)(5) applies is acquired from a person who was not a disqualified person prior to the acquisition.) In addition, section 4943(c)(5) and this section shall not apply if after the acquisition of such an interest the foundation would not have excess business holdings (determined without regard to section 4943(c)(4), (5), or (6)).

(2) *After-acquired interests.* Section 4943(c)(5) and this section shall not apply to any interest acquired after May 26, 1969, by an estate or trust, other than by reason of the death of the decedent. For example, where a foundation is a residuary beneficiary under the terms of a will executed before May 26, 1969, and the residue of the estate consists of cash, then stock subsequently purchased with this cash for distribution to the foundation will not be treated as an interest acquired under the terms of a will executed on or before May 26, 1969.

(3) *Certain revocable trusts.* If an interest in a business enterprise actually passes to a private foundation under a trust which would have met the tests referred to in paragraph (a)(1) of this section but for the fact that the trust was revocable (even though it was not in fact revoked) and such interest would have passed to such foundation under a will that meets those tests but for the fact that the grantor died without having revoked the trust, then for purposes of section 4943(c)(5) and this section, such an interest shall be treated as having been acquired by the foundation under the will.

(4) *Modification of will*—(i) *In general.* For purposes of section 4943(c)(5) and this section, an amendment or republication of a will which was executed on or before May 26, 1969, does not prevent any interest in a business enterprise which was to pass under the terms (which were in effect on May 26, 1969, and at all times thereafter) of such will from being treated as a present holding under section 4943(c)(4) or (5)—

(A) Solely because there is a reduction in the interest in the business enterprise which the foundation was to receive under the terms of the will (for example, if the foundation is to receive the residuary estate, and if one class of stock is disposed of by the decedent during his lifetime or by a subsequent codicil);

(B) Solely because such amendment or republication is necessary in order to comply with section 508(e) and the regulations thereunder;

(C) Solely because there is a change in the executor of the will; or

(D) Solely because of any other change which does not otherwise change the rights of the foundation with respect to such interest in the business enterprise.

However, if under such amendment or republication there is an increase in the interest in the business enterprise which the foundation was to receive under the terms of the will in effect on May 26, 1969, such increase shall not be treated as present holdings under section 4943(c)(4) or (5). Under such circumstances the interest which would have been acquired before such increase shall remain present holdings. See section 4943(c)(6) and § 53.4943-6 with respect to the treatment of such increase in holdings of a private foundation.

(ii) *Examples.* The provisions of this paragraph (a)(4) may be illustrated by the following examples:

Example (1). On May 9, 1985, A modifies by codicil his will which was in effect on May 26, 1969, and was unchanged until such modification. The purpose of the codicil was, in the event of A's death, to increase the number of shares in X Corporation that would pass to the W foundation from 70 percent of all the voting power and value to 80 percent. Under these facts, if A dies without further modifying the terms of the will which apply to W's interest in X, section 4943(c)(5) will apply to 70 percent of the X voting power and value and section 4943(c)(6) will apply to 10 percent of the X voting power and value, since 10 percent of the X voting power and value would not pass under a provision of the will which was in effect on May 26, 1969, and at all times thereafter. Accordingly, if the stock is distributed to W on July 6, 1988, then, assuming that on May 26, 1969, W and all disqualified persons owned less than 75% of the voting stock in X, an amount of such stock representing 70 percent of X voting power and value shall be treated as held by a disqualified person through July 5, 1998, and an amount of such stock representing 10 percent of X voting power and value shall be treated as held by a disqualified person through July 5, 1998.

Example (2). Assume the facts as stated in Example (1), except that the sole purpose of the codicil was to change the executor of the will. Under paragraph (a)(4)(i) of this section, such codicil will not prevent the X voting stock which was bequeathed to W from being treated as held by a disqualified person through July 5, 1998.

(b) *Holding periods*—(1) *In general.* An interest to which section 4943(c)(5) applies shall be entitled to a 15-year holding period starting on the date of distribution only if the interests actually or constructively owned by a private foundation and all disqualified persons on May 26, 1969, in a business enterprise exceed 75 percent of the voting stock (or of the profits or beneficial interest) or 75 percent of the value of all outstanding shares of all classes of stock (or of the profits and capital interest) in such enterprise. For purposes of the preceding sentence, interests held by the foundation on May 26, 1969, shall be deemed to include an interest to which section 4943(c)(5) applies and which has been acquired (on or before the date of distribution for the interest in question) from a person who was not a disqualified person on May 26, 1969. Therefore, if under the terms of a will in effect on May 26, 1969, and at all times thereafter, a private foundation is created on July 1, 1975, and receives 76 percent of the voting stock of a business enterprise on that date, such stock shall be treated as held by a disqualified person until June 30, 1990. Any interest to which section 4943(c)(5) applies but which is not entitled to a 15-year holding period shall be entitled to a 10-year holding period starting on the date of distribution. For purposes of this paragraph the date of distribution shall be deemed to occur no later than the date on which the trust or estate is considered to be terminated under § 1.641(b)-(3) of this chapter (Income Tax Regulations).

(2) *Constructive ownership prior to date of distribution.* To the extent that an interest to which section 4943(c)(5) applies is constructively held by a private foundation under section 4943(d)(1) and § 53.4943-8 prior to the date of distribution, it shall be treated as held by a disqualified person prior to such date by reason of section 4943(c)(5). In addition, in the case of a foundation's interest in a trust which was irrevocable on May 26, 1969, and to which both sections 4943(c)(4) and (c)(5) apply, the first phase holding period for such interest shall end with whichever such period under section 4943(c)(4) or (5) ends later. For example, if under the terms of such a trust, 96 percent of the voting stock in a business enterprise was constructively held by a private foundation on May 26, 1969, and was distributed to such foundation on June 30, 1970, such interest is entitled to a 20-year holding period beginning on May 26, 1969.

(c) *Permitted holdings*—(1) *In general.* The permitted holdings of a private foundation which has an interest in a business enterprise to which section 4943(c)(5) applies shall be determined in accordance with the rules of paragraph (d) of § 53.4943-4. The levels referred to in such paragraph shall be adjusted to take into account the acquisition of such an interest as if it were treated as held by a disqualified person from May 26, 1969, until the date of acquisition. See also § 53.4943-6(b)(2) for the special rule for interests held by a private foundation at the time it acquires a section 4943(c)(5) interest from a nondisqualified person. Thus, for example, if on June 30, 1975, the disqualified person voting level and the substituted combined voting level in corporation X with respect to foundation F are 45 percent, and a nondisqualified person's 10 percent voting interest in X is acquired by F on July 1, 1975, in a transaction to which section 4943(c)(5) applies, the above-mentioned levels shall be increased to 55 and 50 percent respectively, on July 1, 1975. However, if such interest had been acquired from a person who was a disqualified person on May 26, 1969, rather than from a nondisqualified person, no adjustments in such levels would have taken place on July 1, 1975. In such a case, though, at the beginning of the second phase on July 1, 1985, the foundation voting level would be increased by 10 percent, and the disqualified person voting level decreased by 10 percent (assuming that none of the acquired stock had been disposed of prior to such date).

(2) *Separate phases.* The phases for each interest to which section 4943(c)(5) applies start independently from those for any other interest of the foundation in the same enterprise to which section 4943(c)(4) or (5) applies. Therefore, until an interest enters its own second phase, the 25 percent limit described in paragraph (d)(5) of § 53.4943-4 shall not apply to such interest since such interest (and any subsequently acquired section 4943(c)(5) interest in the first phase) is still treated as held by a disqualified person for purposes of that 25 percent limit. In addition, if such an interest enters its second phase and at such time all disqualified persons together do not have holdings in excess of 2 percent of the voting stock in the same business enterprise, then the 25 percent limit of section 4943(c)(4)(D)(i) shall not then apply to such interest, even though such limit may have been applicable to an interest with an earlier second phase. Moreover, the 35 percent limit of section 4943(c)(4)(D)(ii) shall cause only interests which have entered the third phase to become excess business holdings, taking into account, however, interests in prior phases in determining the holdings subject to such limit.

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples: (After each example is a chart setting forth the chronological changes in the various levels referred to in paragraph (d) of § 53.4943-4.)

Example (1). On May 26, 1969, F, a private foundation, owns no stock in M Corporation, and A, a disqualified person owns 40 percent of the voting stock (voting power and value) in M. A dies on May 1, 1971, leaving 30 percent of the voting stock in M to F and leaving the other 10 percent to a disqualified person. Distribution is made on June 1, 1972, and assume that section 4943(c)(5) applies. No transactions in the stock of M, other than those described in this example, occur. On May 26, 1969, the substituted combined voting level is 40 percent, the disqualified person voting level is deemed to be 40 percent, and the permitted holdings by F in M is deemed to be 0 percent (40%—40%). On May 1, 1971 (the date that F acquired the M stock by reason of its constructive ownership of A's estate), the various levels remain unchanged. On May 1, 1971, the 30 percent interest is treated as held by a disqualified person for a period extending through May 31, 1982. On June 1, 1981, F disposes of 6 percent of the voting stock to a nondisqualified person. The substituted combined voting level and the disqualified person voting level thereby are reduced to 34 percent (40%—6%) each. On June 1, 1982, at the beginning of the second phase, the foundation voting level increases to 24 percent (30%—6%) and the disqualified person voting level is reduced to 10 percent (34%—10%). The substituted combined voting level as of June 1, 1982, remains at 34 percent. The permitted holdings as of such date are 24 percent (34%—10%). If F had not disposed of any holdings prior to June 1, 1982, F's permitted holdings would have been 25 percent, the lesser of 25 percent (the limitation of section 4943(c)(4)(D)(i)), or 30 percent (40%—10%). Since on such date the 30 percent interest would no longer have been treated as held by a disqualified person, F would have had excess business holdings of 5 percent (30%—25%).

Date	F owns (percent)	Interest treated as held by disqualified person (percent)	Disqualified persons own (percent)	Foundation voting level (percent)	Substituted combined voting level (percent)	Disqualified person voting level (percent)	Permitted holdings (percent)	Comments
May 26, 1969	0	0	40	0	40	40	0	
May 1, 1971	+30	+30	−30					A dies.
Do	30	30	10	0	40	40	0	
June 1, 1972	30	30	10	0	40	40	0	Distribution
June 1, 1981	−6	−6			−6	−6		F sells 6 pct.
Do	24	24	10	0	34	34	0	
June 1, 1982		−24		+24		−24	+24	2d phase begins.
Do	24	0	10	24	34	10	24	

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Example (2). (i) On May 26, 1969, F, a private foundation, owns 30 percent of the voting stock of N Corporation (voting power and value) and disqualified persons own 20 percent of the voting stock of N Corporation. On May 1, 1971, B, a disqualified person, dies leaving 15 percent of the voting stock to F. Assume that distribution was made on June 1, 1972, and that section 4943(c)(5) applies. On May 26, 1969, the substituted combined voting level and the disqualified person voting levels are each 50 percent and the permitted holdings are 0 percent (50%−50%). On May 1, 1971, and June 1, 1972, these levels remain unchanged. On May 1, 1971, the 15 percent interest is treated as held by a disqualified person for a period extending through May 31, 1982.

(ii) On July 1, 1978, F sells 6 percent of the F stock to a nondisqualified person, thereby reducing the disqualified person voting level and the substituted combined voting level to 44 percent (50%−6%). On May 26, 1979, at the beginning of the second phase for F's 1969 holdings, the foundation voting level is 24 percent (30%−6%), the substituted combined voting level is still 44 percent, and the disqualified person voting level is 20 percent (44%−24%). The permitted holdings are 24 percent (44%−20%). In addition F's 24 percent holdings do not exceed the 25 percent limitation of section 4943(c)(4)(D)(1) and paragraph (d)(5)(ii) of § 53.4943-4.

(iii) On August 1, 1981, F sells 16 percent of the N stock to a nondisqualified person, thereby reducing the foundation voting level to 8 percent (24%−16%), and reducing the substituted combined voting level to 28 percent (44%−18%). The disqualified person voting level remains at 20 percent. On June 1, 1982, at the beginning of the second phase for F's holdings acquired by will, the substituted combined voting level is still 28 percent, the foundation voting level is 23 percent (8%+15%), the disqualified person voting level is 5 percent (20%−15%), and the permitted holdings are 23 percent (28%−5%).

(iv) If F had not disposed of the 6 percent on July 1, 1978, then on May 26, 1979, at the beginning of the second phase for F's 1969 holdings, F's permitted holdings would have been 25 percent, the lesser of 25 percent (the limitation of section 4943(c)(4)(D)(1)), or 30 percent (50%−20%). Since F's 30 percent interest would no longer have been treated as held by a disqualified person on May 26, 1979, F would have had excess business holdings of 5 percent (30%−25%). Similarly, if F had not disposed of the 16 percent interest on August 1, 1981 (but had disposed of the 6 percent interest), on July 1, 1982, at the beginning of the second phase for F's holdings acquired by will, F's permitted holdings would have been 25 percent, the lesser of 25 percent (under section 4943(c)(4)(D)(1)), or 39 percent (44%−5%). Since as of such date F's entire holdings of 39 percent would no longer have been treated as held by a disqualified person, F would have had excess business holdings of 14 percent (39%−25%).

Date	F owns (percent)	F's interest 1969 (percent)	F's interest 1971 (percent)	Interest treated as held by disqualified person (percent)	Disqualified persons own (percent)	Foundation voting level (percent)	Substituted combined voting level (percent)	Disqualified person voting level (percent)	Permitted holdings (percent)	Comments
May 26, 1969	30	30		30	20	0	50	50	0	
May 1, 1971	+15		+15	+15	−15					B dies.
Do	45	30	15	45	5	0	50	50	0	
June 1, 1972	45	30	15	45	5	0	50	50	0	Distribution
July 1, 1978	−6	−6		−6			−6	−6		F sells 6 pct.
Do	39	24	15	39	5	0	44	44	0	
May 26, 1979				−24		+24		−24	+24	2d phase for 24 pct.
Do	39	24	15	15	5	24	44	20	24	
Aug. 1, 1981	−16	−16				−16	−16		−16	F sells 16 pct
Do	23	8	15	15	5	8	28	20	8	
July 1, 1982				−15		+15		−15	+15	All in 2d phase
Do	23	8	15	0	5	23	28	5	23	

Example (3). (i) On May 26, 1969, F, a private foundation owns 5 percent of the voting stock of O Corporation (voting power and value), and disqualified persons own 45 percent of the voting stock. C, a disqualified person, dies on May 1, 1971, and leaves 41 percent of the voting stock of O to F. Assume that distribution is made on June 1, 1972, and that section 4943(c)(5) applies. On May 26, 1969, the substituted combined voting level and the disqualified person voting level are 50 percent and the permitted holdings are 0 percent (50%−50%). On May 1, 1971, and June 1, 1972, the various levels remain unchanged. On May 1, 1971, the 41 percent interest is treated as held by a disqualified person for a period extending through May 31, 1982. On May 26, 1979, at the beginning of the second phase for F's 1969 holdings of 5 percent, the 5 percent is no longer treated as held by a disqualified person, the foundation voting level is 5 percent, the disqualified person voting level is reduced to 45 percent (50%−5%), and the substituted combined voting level remains at 50 percent. On such date F's permitted holdings are 5 percent (50%−45%). Since the 41 percent interest is treated as held by a disqualified person, the interest treated as held by F (5%) does not exceed the 25 percent limitation of section 4943(c)(4)(D)(1).

(ii) On August 1, 1981, F sells 22 percent of the O stock to a nondisqualified person, thereby reducing the foundation voting level to 0 percent. Since the reductions are first applied to the 1969 holdings of 5 percent, 17 percent (22%−5%) applies to the 41 percent interest, reducing such interest to 24 percent (41%−17%), and reducing the disqualified person voting level to 28 percent (45%−17%). The substituted combined voting level is reduced to 28 percent (0%+28%). On June 1, 1982, at the beginning of the second phase for F's holdings acquired by will, the substituted combined voting level remains at 28 percent, the foundation voting level is 24 percent, the disqualified person voting level is reduced to 4 percent (28%−4%).

(iii) If F had not disposed of the 22 percent interest prior to June 1, 1982, F's permitted holdings would have been 25 percent, the lesser of 25 percent (under section 4943(c)(4)(D)(1)), or 46 percent (50%−4%). Since as of such date, F's entire holdings of 46 percent would no longer have been treated as held by a disqualified person, F would have had excess business holdings of 21 percent (46%−25%).

Date	F owns (percent)	F's interest 1969 (percent)	F's interest 1971 (percent)	Interest treated as held by disqualified person (percent)	Disqualified persons own (percent)	Foundation voting level (percent)	Substituted combined voting level (percent)	Disqualified person voting level (percent)	Permitted holdings (percent)	Comments
May 26, 1969	5	5		5	45	0	50	50	0	
May 1, 1971	+41		+41	+41	−41					C dies.
Do	46	5	41	46	4	0	50	50	0	
June 1, 1972	46	5	41	46	4	0	50	50	0	Distribution
May 26, 1979				−6		+6		−6	+6	2d phase for 5 pct.
Do	46	5	41	41	4	5	50	45	5	
Aug. 1, 1981	−22	−5	−17	−17		−5	−22	−17	−5	F sells 22 pct
Do	24	0	24	24	4	0	28	28	0	
June 1, 1982				−24		+24		−24	+24	2d phase for 24 pct.
Do	24	0	24	0	4	24	28	4	24	

Example (4). (i) On May 26, 1969, F, a private foundation, owns 30 percent of the voting stock in F Corporation (voting power and value), and disqualified persons own 20 percent. On May 1, 1971, D, a disqualified person, dies leaving 18 percent of the voting stock to F. Assume that distribution was made on June 1, 1972, and that section 4943(c)(5) applies. On May 26, 1969, the substituted combined voting level and the disqualified person voting level are each 50 percent and the permitted holdings are 0 percent (50%−50%). On May 1, 1971, and June 1, 1972, these levels remain unchanged. On May 1, 1971, the 18 percent interest is treated as held by a disqualified person for a period extending through May 31, 1982. On May 26, 1979, the foundation voting level increases to 30 percent, the disqualified person voting level decreases to 20 percent (50%−30%), and the permitted holdings are 30 percent (50%−20%). On June 1, 1982, the foundation voting level increases to 48 percent, the disqualified person voting level decreases to 2 percent and the permitted holdings are 48 percent (50%−2%). Since at no time during the second phase for F's 1969 holdings did all disqualified persons together have holdings in excess of 2 percent of the voting stock of P, the 25 percent limitation of section 4943(c)(4)(D)(1) did not apply to F's 1969 holdings.

(ii) On July 1, 1993, F disposes of 16 percent of the stock in P, thereby reducing the substituted combined voting level to 34 percent (50%−16%), and reducing the permitted holdings to 32 percent (34%−2%). If F had not disposed of the 16 percent of the stock of P prior to May 26, 1994, on such date, under section 4943(c)(4)(D)(ii), F's substituted combined voting level for its 1969 holdings would have been 35 percent, and the permitted holdings would have been 33 percent (35%−2%). Since none of F's holdings of 48 percent would have been treated as held by a disqualified person on such date (the beginning of the third phase for F's 1969 holdings), F would have had excess business holdings of 15 percent, the lesser of 30 percent (F's 1969 holdings in the third phase), or 15 percent (the excess of F's 48 percent holdings over the permitted holdings of 33 percent).

Date	F owns (percent)	1969 F's interest (percent)	1971 F's interest (percent)	Interest treated as held by disqualified person (percent)	Disqualified persons own (percent)	Foundation voting level (percent)	Substituted combined voting level (percent)	Disqualified person voting level (percent)	Permitted holdings (percent)	Comments
May 26, 1969	30	30		30	20	0	50	50	0	
May 1, 1971	+18		+18	+18	−18					D dies.
Do	48	30	18	48	2	0	50	50	0	
June 1, 1972	48	30	18	48	2	0	50	50	0	Distribution
May 26, 1979				−30		+30		−30	+30	2d phase for 30 pct.
Do	48	30	18	18	2	30	50	20	30	
June 1, 1982				−18		+18		−18	+18	2d phase for 18 pct.
Do	48	30	18	0	2	48	50	2	48	
July 1, 1993	−16	−16				−16	−16		−16	F disposes of 16 pct.
Do	32	14	18	0	2	32	34	2	32	
May 26, 1994	32	14	18	0	2	32	34	2	32	3d phase for 14 pct.
June 1, 1997	32	14	18	0	2	32	34	2	32	3d phase for 18 pct.

Example (5). (i) On May 26, 1969, F, a private foundation, owns 5 percent of the voting stock in Q Corporation (voting power and value), and disqualified persons own 45 percent. On May 1, 1971, E, a disqualified person, dies leaving 43 percent of the voting stock to F. Assume that distribution was made on June 1, 1972, and that section 4943(c)(5) applies. On May 26, 1969, the substituted combined voting level and the disqualified person voting level are each 50 percent and the permitted holdings are 0 percent (50%−50%). On May 1, 1971, and June 1, 1972, these levels remain unchanged. On May 1, 1971, the 43 percent interest is treated as held by a disqualified person for a period extending through May 31, 1982. On May 26, 1979, the foundation voting level increases to 5 percent, the disqualified person voting level decreases to 45 percent, and the permitted holdings are 5 percent (50%−45%). On June 1, 1982, the foundation voting level increases to 48 percent, the disqualified person voting level decreases to 2 percent, and the permitted holdings are 48 percent (50%−2%). At no time during the second phase for F's 1969 holdings did all disqualified persons together have holdings in excess of 2 percent of the voting stock of Q. Therefore, the 25 percent limitation of section 4943(c)(4)(D)(i) did not apply.

(ii) On July 1, 1993, F sells 6 percent of the stock in Q to a nondisqualified person. This reduces the substituted combined voting level to 44 percent and reduces the permitted holdings to 42 percent (44%−2%). If F had

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not disposed of the 6 percent of the stock in 1993, on May 26, 1994, at the beginning of the third phase for F's 1969 holdings, F would have had 5 percent excess business holdings. The excess business holdings are 5 percent because although the excess business holdings computed for the third phase are 15 percent (the excess of F's actual holdings (48%) over the permitted holdings of 33 percent (35%−2%)), only 5 percent of the holdings are in this phase and subject to the 35 percent combined holdings limitation.

(iii) On July 1, 1995, F sells 10 percent of the stock in Q, thereby reducing the substituted combined voting level to 34 percent and reducing the permitted holdings to 32 percent (34%−2%). If F had not disposed of the 10 percent of the stock, on June 1, 1997, at the beginning of the third phase for F's acquired holdings, F would have had 9 percent excess business holdings (the excess of F's total holdings in the third phase (42%) over the permitted holdings of 33 percent (35%−2%)).

Date	F owns (percent)	F's interest 1969 (percent)	F's interest 1971 (percent)	Interest treated as held by disqualified person (percent)	Disqualified persons own (percent)	Foundation voting level (percent)	Substituted combined voting level (percent)	Disqualified person voting level (percent)	Permitted holdings (percent)	Comments
May 26, 1969	5	5		5	45	0	50	50	0	
May 1, 1971	+43		+43	+43	−43					E dies.
Do	48	5	43	48	2	0	50	50	0	
June 1, 1972	48	5	43	48	2	0	50	50	0	Distribution
May 26, 1979				−6		+6		−6	+6	2d phase for 5 pct.
Do	48	5	43	43	2	5	50	45	5	
June 1, 1982				−43		+43		−43	+43	2d phase for 43 pct
Do	48	5	43	0	2	48	50	2	48	
July 1, 1993	−6	−5	−1			−6	−6		−6	F sells 6 pct
Do	42	0	42	0	2	42	44	2	42	
July 1, 1995	−10		−10			−10	−10		−10	F sells 10 pct
Do	32	0	32	0	2	32	34	2	32	
June 1, 1997	32	0	32	0	2	32	34	2	32	3d phase for 32 pct.

Example (6). (i) On May 26, 1969, F, a private foundation, owns 30 percent of the voting stock in R Corporation (voting power and value), and disqualified persons own 20 percent. On August 1, 1978, F disposes of 6 percent of the stock to a nondisqualified person. On May 1, 1981, G, a disqualified person, dies leaving 15 percent of the voting stock to P. Assume that distribution was made one June 1, 1982, and that section 4943(c)(5) applies. On May 26, 1969, the substituted combined voting level and the disqualified person voting level are each 50 percent, and the permitted holdings are 0 percent (50%−50%). On August 1, 1978, these levels decrease to 44 percent (50%−6%). On May 26, 1979, the foundation voting level increases to 24 percent (30%−6%), the disqualified person voting level decreases to 20 percent (44%−24%), and the permitted holdings are 24 percent (44%−20%). If F had not disposed of the 6 percent of the stock prior to May 26, 1979, on May 26, 1979, the beginning of the second phase for F's 1969 holdings, F's permitted holdings would have been 25 percent, the lesser of 25 percent (under section 4943(c)(4)(D)(i)) or 30 percent (50%−20%). Since the 30 percent interest would no longer have been treated as held by a disqualified person on such date, F would have had excess business holdings of 5 percent (30%−25%).

(ii) On May 1, 1981, and June 1, 1982 (assuming F had disposed of the 6 percent holdings), the foundation voting level, the disqualified person voting level, the substituted combined voting level and permitted holdings remain respectively 24 percent, 20 percent, 44 percent and 24 percent. On May 1, 1981, the 15 percent interest is treated as held by a disqualified person for a period extending through May 31, 1992. On July 1, 1991, F sells 16 percent of the voting stock in R to a nondisqualified person, thereby reducing the substituted combined voting level to 26 percent (44%−16%), and reducing the foundation voting level to 8 percent (24%−16%). The disqualified person voting level remains at 20 percent. On June 1, 1992, at the beginning of the second phase for F's holdings acquired by will, the substituted combined voting level remains at 26 percent, the foundation voting level increases to 23 percent (8%+15%) and the disqualified person voting level decreases to 5 percent (20%−15%). The permitted holdings on such date are 23 percent (28%−5%). If F had not disposed of the 16 percent interest prior to June 1, 1992, F's permitted holdings would have been 25 percent, the lesser of 25 percent (under section 4943(c)(4)(D)(i)) or 39 percent (44%−5%). Since as of such date, F's entire holdings of 39 percent would no longer have been treated as held by a disqualified person, F would have had excess business holdings of 14 percent (39%−25%).

Date	F owns (percent)	1969 F's interest (percent)	1981 F's interest (percent)	Interest treated as held by disqualified person (percent)	Disqualified persons own (percent)	Foundation voting level (percent)	Substituted combined voting level (percent)	Disqualified person voting level (percent)	Permitted holdings (percent)	Comments
May 26, 1969	30	30		30	20	0	50	50	0	
Aug. 1, 1978	−6	−6		−6			−6	−6		F disposes of 6 pct.
Do	24	24		24	20	0	44	44	0	
May 26, 1979				−24		+24		−24	+24	2d phase for 24 pct.
Do	24	24		0	20	24	44	20	24	
May 1, 1981	+15		+15	+15	−15					G dies
Do	39	24	15	15	5	24	44	20	24	
June 1, 1982	39	24	15	15	5	24	44	20	24	Distribution
July 1, 1991	−16	−16				−16	−16		−16	F disposes of 16 pct.
Do	23	8	15	15	5	8	28	20	8	
June 1, 1992				−15		+15		−15	+15	2d phase for 15 pct
Do	23	8	15	0	5	23	28	5	23	

Example (7). On May 26, 1969, F, a private foundation, owns 5 percent of the voting stock in S Corporation (voting power and value), and disqualified persons own 45 percent. On May 1, 1980, H, a disqualified person, dies leaving 41 percent of the voting stock to F. Assume that distribution is made on June 1, 1981, and that section 4943(c)(5) applies. On May 26, 1969, the substituted combined voting level and disqualified person voting levels are each 50 percent. On May 26, 1979, the disqualified person voting level decreases to 45 percent, the foundation voting level increases to 5 percent, and the permitted holdings are 5 percent (50%−45%). On May 1, 1980, and June 1, 1981, the levels remain the same. Since the 41 percent holdings are treated as held by a disqualified person for the period beginning on May 1, 1980, and extending through May 31, 1991, F's remaining holdings of 5 percent do not exceed the 25 percent limitation of section 4943(c)(4)(D)(i).

(ii) On August 1, 1990, F sells 22 percent of the voting stock of S to a nondisqualified person, reducing the 5 percent foundation voting level to zero, leaving 17 percent (22%−5%) to reduce the disqualified person voting level to 28 percent (45%−17%) so that the substituted combined voting level equals 23 percent (50%−22%). On June 1, 1991, the beginning of the second phase for the remaining 24 percent (41%−17%) of F's holdings acquired by will, the foundation voting level increases from zero to 24 percent, the disqualified person voting level decreases to 4 percent (28%−24%), the substituted combined voting level remains at 28 percent, and the permitted holdings equal 24 percent (28%−4%).

(iii) If F had not disposed of the 22 percent holdings prior to June 1, 1991, F's permitted holdings would have been 25 percent, the lesser of 25 percent (under section 4943(c)(4)(D)(i)) or 46 percent (50%−4%). Since as of such date, F's entire holdings of 46 percent would no longer have been treated as held by a disqualified person, F would have had excess business holdings of 21 percent (46%−25%).

Date	F owns (percent)	1969 F's interest (percent)	1980 F's interest (percent)	Interest treated as held by disqualified person (percent)	Disqualified persons own (percent)	Foundation voting level (percent)	Substituted combined voting level (percent)	Disqualified person voting level (percent)	Permitted holdings (percent)	Comments
May 26, 1969	5	5		5	45	0	50	50	0	
Do				−5		+5		−5	+5	2d phase for 5 pct
Do	5	5		0	45	5	50	45	5	
May 1, 1980	+41		+41	+41	−41					H dies
Do	46	5	41	41	4	5	50	45	5	
June 1, 1981	46	5	41	41	4	5	50	45	5	Distribution.
Aug. 1, 1990	−22	−5	−17	−17		−5	−22	−17	−5	F disposes of 22 pct.
Do	24	0	24	24	4	0	28	28	0	
June 1, 1991				−24		+24		−24	+24	2d phase for 24 pct.
Do	24	0	24	0	4	24	28	4	24	

§ 53.4943–6 Five-year period to dispose of gifts, bequests, etc.

(a) *In general*—(1) *Application.* (i) Paragraph (6) of section 4943(c) prescribes transition rules for a private foundation, which, but for such paragraph, would have excess business holdings as a result of a change in the holdings in a business enterprise after May 26, 1969 (other than by purchase by such private foundation or by a disqualified person) to the extent that section 4943(c)(5) (relating to certain holdings acquired under a pre-May 27, 1969, will or trust) does not apply.

(ii) Subparagraph (A) of section 4943(c)(6) applies where, immediately prior to a change in holdings described in paragraph (a)(1)(i) of this section, the foundation has no excess business holdings in such enterprise (determined without regard to section 4943(c)(4), (5), or (6)). In such a case, the entire interest of the foundation in such enterprise (immediately after such change) shall (while held by the foundation) be treated as held by a disqualified person (rather than by the foundation) during the five-year period beginning on the date of such change.

(iii) Subparagraph (B) of section 4943(c)(6) applies where the foundation has excess business holdings in such enterprise (determined without regard to section 4943(c)(4), (5), or (6)) immediately prior to a change in holdings described in paragraph (a)(1)(i) of this section. In such a case, the interest of the foundation in such enterprise (immediately after such change) shall (while held by the foundation) be treated as held by a disqualified person (rather than the foundation) during the five-year period beginning on the date of such change, except that if and as soon as any holdings in such enterprise become excess business holdings during such period (determined without regard to such change (and the resulting application of section 4943(c)(6) to the foundation's interest in such enterprise)), such holdings shall no longer be treated as held by a disqualified person under this section, but shall constitute excess business holdings subject to the initial tax. In applying the preceding sentence, if holdings of the foundation which (but for such change in holdings (and the resulting application of section 4943(c)(6) to the foundation's interest in such enterprise)) would be subject to the 25 percent limit prescribed by section 4943(c)(4)(D) after the expiration of the first phase, such holdings shall be treated as subject to such percentage limitation for purposes of determining excess business holdings. For example, if a private foundation in 1978 has present holdings of 28 percent in a business enterprise to which section 4943(c)(4) applies, and such holdings would exceed the 25 percent limit of section 4943(c)(4)(D)(i) on May 26, 1979, a gift of 5 percent to the foundation in 1978 of an interest in such enterprise shall not prevent the 3 percent (28%−25%) excess over the 25 percent limit from constituting excess business holdings on May 26, 1979, if on such date disqualified persons hold more than a 2 percent interest in such enterprise (and no other transaction has taken place).

(2) *"Purchase" defined.* [Reserved]

(3) *Examples.* The provisions of paragraph (a) of this section may be illustrated by the following examples:

Example (1). On January 4, 1985, A, an individual, makes a contribution to F, a private foundation, of 200 shares of X Corporation common stock. Assume that F had no X stock before January 4, 1985, and under section 4943(c)(1) the receipt of the X stock by F would cause some or all of the 200 shares of the X stock to be classified as excess business holdings. Under the provisions of section 4943(c)(6)(A) and this paragraph (a), since the contribution of the X stock to F is a gift and not a purchase, the X stock in F's hands is treated as held by disqualified persons and not by F through January 3, 1990.

Example (2). Assume the facts as stated in Example (1) except that F receives the X stock as a bequest pursuant to the terms of A's will executed on April 1, 1980. A dies on June 3, 1984, and the stock is distributed to F on February 16, 1985. As in Example (1), the bequest of X to F is not a purchase under this paragraph (a). Consequently, the X stock in F's hands is treated as held by disqualified persons and not by F through February 15, 1990.

Example (3). On February 1, 1980, F, a private foundation, owns 15 percent of the voting stock of X Corporation, and disqualified persons own 4 percent of the voting stock of X Corporation. On February 2, 1980, B, a nondisqualified person, contributes 8 percent of the voting stock of X to F in a transaction to which section 4943(c)(5) does not apply. Assuming that the 35 percent limit of section 4943(c)(2)(B) does not apply, under the provisions of section 4943(c)(6)(A) and paragraph (a) of this section the 23 percent voting stock owned by F on such date is treated as held by a disqualified person through February 1, 1985, since F would have had excess business holdings of 7 percent as a result of the contribution (23% actual holdings less 16% (20%−4%) permitted holdings). On March 1, 1984, C, another nondisqualified person, contributes 6 percent of the voting stock of X Corporation to F. But for this second contribution and the resulting application of section 4943(c)(6) to F's interest in X, F would have excess business holdings of 7 percent (23%−16%) within the five-year period beginning on the date of such contribution. Accordingly, under section 4943(c)(6)(B) and paragraph (a) of this section, all 29 percent (6%+23%) of the stock held by F on March 1, 1984, will be treated as held by a disqualified person until March 1, 1989, except that 7 percent will cease to be so treated on February 2, 1985. If prior to February 2, 1985, no further transactions occurred in the stock of X, F would have excess business holdings of 7 percent subject to the initial tax, since the amount still treated as held by disqualified persons (29%−7%) plus the amount actually held by disqualified persons (4%) already exceed 20 percent.

(b) *Special rules for acquisitions by will or trust*—(1) *In general.* In the case of an acquisition of holdings in a business enterprise by a private foundation pursuant to the terms of a will or trust,

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the five-year period described in section 4943(c)(6) in this section shall not commence until the date on which the distribution of such holdings from the estate or trust to the foundation occurs. See § 53.4943–5(b)(1) for rules relating to the determination of the date of distribution under the terms of a will or trust. To the extent that an interest to which 4943(c)(6) applies is constructively held by a private foundation under section 4943(d)(1) and § 53.4943–8 prior to the date of distribution, it shall be treated as held by a disqualified person prior to such date by reason of section 4943(c)(6). See § 53.4943–8 for rules relating to constructive ownership by a private foundation of business holdings held in an estate or trust for the benefit of the foundation.

(2) *Special rule for section 4943(c)(5) interests acquired from a nondisqualified person.* (i) In the case of holdings of a private foundation in a business enterprise to which section 4943(c)(5) (relating to certain holdings acquired under a pre-May 27, 1969, will or trust) applies which are acquired from a nondisqualified person, the interest of the foundation in such enterprise (immediately after such acquisition) shall (while held by the foundation) be treated as held by a disqualified person (rather than the foundation) under section 4943(c)(6)(B) and paragraph (a)(1)(iii) of this section from the date of acquisition until the end of the fifth year following the date of distribution of such holdings. Thereafter, only the holdings to which section 4943(c)(5) and § 53.4943–5(a)(1) apply shall continue to be treated as held by a disqualified person until the end of the first phase with respect thereto.

(ii) The provisions of paragraph (b)(2)(i) of this section may be illustrated by the following examples:

Example (1). On May 26, 1969, F, a private foundation, owns 5 percent of the voting stock of Corporation X and no disqualified persons own any stock in X. On June 30, 1977, a nondisqualified person bequeaths to F 33 percent of the voting stock in X to which section 4943(c)(5) applies. This 33 percent interest is distributed to F on August 17, 1978. Under section 4943(c)(6)(A) the entire 38 percent (5%+33%) of the X voting stock shall be treated as held by a disqualified person from June 30, 1977 (the date the 33 percent interest is constructively acquired by F) until August 17, 1983 (five years after the date of distribution of the 33 percent interest to F). However, assuming that the 35 percent limit of section 4943(c)(2)(B) does not apply, the substituted combined voting level on June 30, 1977 is only 33 percent because there was no interest to which section 4943(c)(4) or (5) applied immediately before that date and thus there was no substituted combined voting level at that time. In that case, since the 3-phase holding period is only available for the interest acquired by will (33%) under section 4943(c)(5), the substituted combined voting level on June 30, 1977 is only 33 percent, not 38 percent. Assuming that the substituted combined voting level remains 33 percent at all relevant times, and prior to August 17, 1983, no further transactions occur in the stock of X, F on that date would have excess business holdings of 5 percent subject to the initial tax. The amount treated as held by disqualified persons at that time (33%) would equal the substituted combined voting level at that time (33%), and thus permitted holdings would be zero. Under section 4943(c)(5) the 33 percent interest will continue to be treated as held by a disqualified person until August 17, 1988 (10 years after the date of distribution).

Example (2). On May 26, 1969, F, a private foundation, owns 29 percent of the stock (voting power and value) of Corporation X, and on June 30, 1977, a nondisqualified person bequeaths to F 23 percent of the stock (voting power and value) in X to which section 4943(c)(5) does apply. This 23 percent interest is distributed to F on August 17, 1978. Disqualified persons hold no stock of X. Although the substituted combined voting and value levels cannot exceed 50 percent on May 26, 1979 (at the start of the second phase with respect to the 29 percent interest), under section 4943(c)(6)(B) the entire 52 percent (29%+23%) of the X voting stock shall be treated as held by a disqualified person from June 30, 1977 (the date the 23% interest is constructively acquired by F) until August 17, 1983 (five years after the date of distribution of the 23% interest to F). On June 1, 1980, during such second phase, D, a disqualified person, purchases 3 percent of the X stock (voting power and value). On such date, but for the acquisition by F of the 23 percent interest, F would have had excess business holdings of 4 percent. The purchase by D of more than 2 percent of the voting stock of X causes the 25 percent limit of section 4943(c)(4)(D)(i) to apply to the 29 percent interest (29%−25%=4%). Thus, on June 1, 1980, 4 percent of the X voting stock held by F since May 27, 1969, shall cease to be treated as held by a disqualified person under section 4943(c)(6)(B) and become excess business holdings subject to the initial tax. See § 53.4943–2(a)(1)(ii) for the 90-day period in which to dispose of these excess business holdings resulting from the purchase by the disqualified person.

(c) *Exceptions.* (1) Section 4943(c)(6) and this section shall not apply to any transfer of holdings in a business enterprise by one private foundation to another private foundation which is related to the first foundation within the meaning of section 4946(a)(1)(H).

(2) Section 4943(c)(6) and this section shall not apply to an increase in the holdings of a private foundation in a business enterprise that is part of a plan whereby disqualified persons will purchase additional holdings in the same enterprise during the five-year period beginning on the date of such change, e.g., to maintain control of such enterprise, since such increase shall be treated as caused in part by the purchase of such additional holdings.

(3) The purchase of holdings by an entity whose holdings are treated as constructively owned by a foundation or a disqualified person under section 4943(d)(1) shall be treated as purchased by such foundation or disqualified person. Thus, if a foundation receives a specific bequest of 40 percent of the voting stock of a corporation and $20,000 in cash, and the estate uses the cash to purchase additional voting stock of the same corporation, the provisions of this section shall only apply to the 40 percent originally held by the estate, and the additional stock will be treated as if purchased by the foundation.

§ 53.4943–7 Special rules for corporate organizations, reorganizations, redemptions, and distributions. [Reserved]

§ 53.4943–8 Business holdings; constructive ownership.

(a) *Constructive ownership*—(1) *In general.* For purposes of section 4943, in computing the holdings in a business enterprise of a private foundation, or a disqualified person (as defined in section 4946), any stock or other interest owned, directly or indirectly, by or for a corporation, partnership, estate or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries except as otherwise provided in paragraphs (b), (c) and (d) of this section. Any interest in a business enterprise actually or constructively owned by a shareholder of a corporation, a partner of a partnership, or a beneficiary of an estate or trust shall not be considered as constructively held by the corporation, partnership, trust or estate. Further, if any corporation, partnership, estate or trust has a warrant or other option to acquire an interest in a business enterprise, such interest is not deemed to be constructively owned by such entity until the option is exercised. (See paragraph (b)(2) of § 53.4943–3 for rules that options are not stock for purposes of determining excess business holdings.)

(2) *Powers of appointment.* Any interest in business enterprise over which a foundation or a disqualified person has a power of appointment exercisable in favor of the foundation or a disqualified person shall be considered owned by the foundation or disqualified person holding such power of appointment.

(b) *Estates and trusts*—(1) *In general.* Any interest actually or constructively owned by an estate or trust is deemed constructively owned, in the case of an estate, by its beneficiaries or, in the case of a trust, by its remainder beneficiaries except as provided in paragraphs (b)(2), (3) and (4) of this section (relating to certain split-interest trusts described in section 4947(a)(2), to trusts of qualified pension, profit-sharing, and stock bonus plans described in section 401(a) and to revocable trusts). Thus, if a trust owns 100 percent of the stock of a corporation A, and if, on an actuarial basis, W's life interest in the trust is 15 percent, Y's life interest is 25 percent, and Z's remainder interest is 60 percent, under this paragraph (b), Z will be considered to be the owner of 100 percent of the stock of corporation A. See § 53.4943–4, § 53.4943–5 and § 53.4943–6 for rules relating to certain actual or constructive holdings of a foundation being treated as held by a disqualified person. For the treatment of certain property acquired by an estate or trust after May 26, 1969, see paragraph (a)(2) of § 53.4943–5.

(2) *Split-interest trusts*—(i) *Amounts transferred in trust after May 26, 1969.* In the case of an interest in a business enterprise which was transferred to a trust described in section 4947(a)(2) after May 26, 1969, for the benefit of a private foundation, no portion of such interest shall be considered as owned by the private foundation—

(A) If the foundation holds only an income interest in the trust, or

(B) If the foundation holds only a remainder interest in the trust (unless the foundation can exercise primary investment discretion with respect to such interest)

until such trust ceases to be so described. See section 4947(a)(2) and (b)(3) and the regulations thereunder for rules relating to such trusts. See also sections 4946(a)(1)(G) and (H) and the regulations thereunder for rules relating to when a trust described in this paragraph (b)(2) is itself a disqualified person.

(ii) *Amounts transferred in trust on or before May 26, 1969.* In the case of an interest in a business enterprise which was transferred to a trust described in section 4947(a)(2) (without regard to section 4947(a)(2)(C)) on or before May 26, 1969, for the benefit of a private foundation, no portion of such interest shall be considered as owned by the foundation until it is actually distributed to the foundation or until the trust ceases to be so described. See section 4943(c)(5) and § 53.4943–5 for rules relating to certain trusts which were irrevocable on May 26, 1969.

(3) *Employee benefit trusts.* An interest in a business enterprise owned by a trust described in section 401(a) (pension and profit-sharing plans) shall not be considered as owned by its beneficiaries, unless disqualified persons (within the meaning of section 4946) control the investment of the trust assets.

(4) *Revocable trusts.* An interest in a business enterprise owned by a revocable trust shall be treated as owned by the grantor of such trust.

(5) *Estates.* For purposes of applying section 4943(d)(1) to estates, the term "beneficiary" includes any person (including a private foundation) entitled to receive property of a decedent pursuant to a will or pursuant to laws of descent and distribution. However, a person shall no longer be considered a beneficiary of an estate when all the property to which he is entitled has been received by him, when he no longer has a claim against the estate and when there is only a remote possibility that it will be necessary for the estate to seek the return of property or to seek payment from him by contribution or otherwise to satisfy claims against the estate or expenses of administration. When pursuant to the preceding sentence, a person (including a private foundation) ceases to be a beneficiary, stock or another interest in a business enterprise owned by the estate shall not thereafter be considered owned by such person. If any person is the constructive owner of an interest in a business enterprise actually held by an estate, the date of death of the testator or decedent intestate shall be the first day on which such person shall be considered a constructive owner of such interest. See § 53.4943–5 for rules relating to wills executed on or before May 26, 1969.

(c) *Corporation actively engaged in a trade or business.* [Reserved]

(d) *Partnerships.* [Reserved]

(e) *Examples.* [Reserved]

§ 53.4943–9 Business holdings; certain periods.

(a) *Taxable period*—(1) *In general.* For purposes of section 4943, the term "taxable period" means, with respect to any excess business holdings of a private foundation in a business enterprise, the period beginning with the first day on which there are such excess business holdings and ending on whichever of the following is the earlier:

(i) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed on such holdings by section 4943(a); or

(ii) The date on which such excess is eliminated.

For example, M, a private foundation, first has excess business holdings in X, a corporation, on February 5, 1972. A notice of deficiency is mailed under section 6212 to M on June 1, 1974. With respect to M's excess business holdings in X, the taxable period begins on February 5, 1972, and ends on June 1, 1974.

(2) *Special rule.* Where a notice of deficiency referred to in subparagraph (1)(i) of this paragraph is not mailed because there is a waiver of the restrictions on assessment and collection of a deficiency, or because the deficiency is paid, the date of filing of the waiver or the date of such payment, respectively, shall be treated as the end of the taxable period.

(3) *Suspension of taxable period for 90 days.* In any case in which a private foundation has excess business holdings solely because of the acquisition of an interest in a business enterprise to which paragraph (a)(1)(ii) or (iii) of § 53.4943–2 applies, the taxable period described in paragraph (a) of this section shall be suspended for the 90-day period (as extended) starting with the date on which the foundation knows or has reason to know of the acquisition, provided that at the end of such period the foundation has disposed of such excess holdings.

(b) *Correction period*—(1) *In general.* For purposes of section 4943, the correction period shall begin with the first day on which the private foundation has excess business holdings in a business enterprise and end 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by section 4943(b).

(2) *Extensions of correction period.* (i) The correction period referred to in subparagraph (1) of this paragraph shall be extended by any period in which a deficiency cannot be assessed under section 6213(a). In addition, the correction period shall be extended in accordance with subdivisions (ii), (iii), and (iv) of this subparagraph, except that such subdivision (iii) or (iv) shall not operate to extend a correction period with respect to which a taxpayer has filed a petition with the Tax Court for redetermination of a deficiency within the time prescribed by section 6213(a).

(ii) The correction period referred to in subparagraph (1) of this paragraph may be extended by any period which the Commissioner determines is reasonable and necessary to permit orderly disposition of excess business holdings. The Commissioner ordinarily will not extend the correction period pursuant to this subdivision unless the following factors are present:

(a) The foundation or an appropriate State officer (as defined in section 6104(c)(2)) is actively in good faith seeking to dispose of such holdings;

(b) Orderly disposition of such holdings cannot reasonably be expected to result during the unextended correction period; and

(c) The failure to divest appears to have been an isolated occurrence which is unlikely to recur in the future.

(iii) If, within the unextended correction period, the tax imposed by section 4943(a) is paid and is accompanied by a statement of the taxpayer's intent to file a claim for refund with respect to such tax, then the Commissioner shall extend the correction period to the later of—

(a) A period of 90 days after the payment of such tax, or

(b) The period determined without regard to this subdivision.

(iv) If prior to the expiration of the correction period (including extensions) a claim for refund with respect to a tax imposed by section 4943(a) is filed, the Commissioner shall extend the correction period during the pendency of the claim plus an additional 90 days. If within such time, a suit or proceeding referred to in section 7422(b) with respect to such claim is filed, the Commissioner shall extend the correction period during the pendency of such suit or proceeding. (See § 301.7422–1(d) of this chapter (Regulations on Procedure and Administration) for rules relating to pendency of such suit or proceeding.)

(c) *Correction.* For purposes of section 4943, correction shall be considered as made when no interest in the enterprise held by the foundation is classified as an excess business holding under section 4943(c)(1). In any case where the private foundation has excess business holdings which are constructively held for it under section 4943(c)(1), correction shall be considered made when either a corporation, partnership, estate, or trust in which holdings in such enterprise are constructively held for the foundation or a disqualified person; the foundation itself; or a disqualified person disposes of a sufficient interest in the enterprise so that no interest in the enterprise held by the foundation is classified as excess business holdings under section 4943(c)(1).

§ 53.4943–10 Business enterprise; definition.

(a) *In general.* (1) Except as provided in paragraph (b) or (c) of this section, under section 4943(d)(4) the term "busi-

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ness enterprise" includes the active conduct of a trade or business, including any activity which is regularly carried on for the production of income from the sale of goods or the performance of services and which constitutes an unrelated trade or business under section 513. For purposes of the preceding sentence, where an activity carried on for profit constitutes an unrelated trade or business, no part of such trade or business shall be excluded from the classification of a business enterprise merely because it does not result in a profit.

(2) Notwithstanding paragraph (a)(1) of this section, a bond or other evidence of indebtedness does not constitute a holding in a business enterprise unless such bond or evidence of indebtedness is otherwise determined to be an equitable interest in such enterprise. Similarly, a lease-hold interest in real property does not constitute an interest in a business enterprise, even though rent payable under such lease is dependent, in whole or in part, upon the income or profits derived by another from such property, unless such leasehold interest constitutes an interest in the income or profits of an unrelated trade or business under section 513.

(b) *Certain program-related activities.* For purposes of section 4943(d)(4) the term "business enterprise" does not include a functionally related business as defined in section 4942(j)(5). See § 53.4942(a)-2(c)(3)(iii). In addition, business holdings do not include program-related investments (such as investments in small businesses in central cities or in corporations to assist in neighborhood renovation) as defined in section 4944(c) and the regulations thereunder.

(c) *Income derived from passive sources.*—(1) *In general.* For purposes of section 4943(d)(4), the term "business enterprise" does not include a trade or business at least 95 percent of the gross income of which is derived from passive sources; except that if in the taxable year in question less than 95 percent of the income of a trade or business is from passive sources, the foundation may, in applying this 95 percent test, substitute for the passive source gross income in such taxable year the average gross income from passive sources for the 10 taxable years immediately preceding the taxable year in question (or for such shorter period as the entity has been in existence). Thus, stock in a passive holding company is not to be considered a holding in a business enterprise even if the company is controlled by the foundation. Instead, the foundation is treated as owning its proportionate share of any interests in a business enterprise held by such company under section 4943(d)(1).

(2) *Gross income from passive sources.* Gross income from passive sources, for purposes of this paragraph, includes the items excluded by section 512(b)(1) (relating to dividends, interest, and annuities), 512(b)(2) relating to royalties), 512(b)(3) (relating to rent) and 512(b)(5) (relating to gains or losses from the disposition of certain property). Any income classified as passive under this paragraph does not lose its character merely because section 512(b)(4) or 514 (relating to unrelated debt-financed income) applies to such income. In addition, income from passive sources includes income from the sale of goods (including charges or costs passed on at cost to purchasers of such goods or income received in settlement of a dispute concerning or in lieu of the exercise of the right to sell such goods) if the seller does not manufacture, produce, physically receive or deliver, negotiate sales of, or maintain inventories in such goods. Thus, for example, where a corporation purchases a product under a contract with the manufacturer, resells it under contract at a uniform markup in price, and does not physically handle the product, the income derived from that markup meets the definition of passive income for purposes of this paragraph. On the other hand, income from individually negotiated sales, such as those made by a broker, would not meet such definition even if the broker did not physically handle the goods.

(d) *Application of section 4943(c)(6).*—(1) *Program related activities.* If a private foundation holds an interest which is not an interest in a business enterprise because of paragraph (b) of this section (relating to program related activities), and such interest later becomes an interest in a business enterprise solely by reason of failing to meet the requirements of such paragraph (b), such interest will then be subject to section 4943(c)(6) (regardless of when it was originally acquired) and will be treated as having been acquired other than by purchase for purposes of section 4943(c)(6).

(2) *Holding companies.* [Reserved]

(e) *Sole proprietorship.* For purposes of section 4943 and the regulations thereunder, the term "sole proprietorship" means any business enterprise (as defined in paragraphs (a), (b), and (c) of this section—

(1) Which is actually and directly owned by a private foundation,

(2) In which the foundation has a 100 percent equity interest, and

(3) Which is not held by a corporation, trust, or other business entity for such foundation.

A foundation may be considered to own a sole proprietorship even though the foundation is itself a corporation or a trust. However, a sole proprietorship which is owned by a foundation shall cease to be treated as a sole proprietorship when the foundation no longer has a 100-percent interest in the equity of the business enterprise. Thus, if and when a foundation sells a 10-percent interest in a sole proprietorship, such business enterprise shall be treated as a partnership under section 4943 and the regulations thereunder.

§ 53.4943–11 Effective date.

(a) *In general.* Section 4943 and §§ 53.4943–1 through 53.4943–11 shall take effect for taxable years beginning after December 31, 1969, except as otherwise provided by such sections.

(b) *Special transitional rule.* In the case of any acquisition of excess holdings prior to February 2, 1973, section 4943(a)(1) shall not apply if correction occurs (within the meaning of paragraph (c) of § 53.4943–9) within a period ending 90 days after July 5, 1977 extended (prior to the expiration of the original period) by any period which the Commissioner determines is reasonable and necessary (within the meaning of paragraph (b) of § 53.4943–9) to bring about such correction.

[FR Doc.77-26856 Filed 9-14-77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER 1—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76–139a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Dodge Island, Fla.

AGENCY: Coast Guard, DOT.

ACTION: Correction.

SUMMARY: In FR Doc. 77–16705 appearing at page 30178 of the June 13, 1977, issue of the FEDERAL REGISTER, the heading of § 117.446f is corrected by adding the words, "AIWW mile 1089.4, Miami, Florida", after the words, "Dodge Island bridges".

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G–WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–0942).

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5))

Dated: September 1, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77-26515 Filed 9-14-77;8:45 am]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 17—CONVEYANCE OF FREEHOLD AND LEASEHOLD INTERESTS ON LANDS OF THE NATIONAL PARK SYSTEM

AGENCY: National Park Service.

ACTION: Final rule.

SUMMARY: This is to establish regulations governing the criteria for conveyance of freehold or leasehold interests in lands within units of the National Park System to private parties and the procedures under which such conveyances would be made.

EFFECTIVE DATE: September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

C. Allen Harpine (202–523–5252).

SUPPLEMENTARY INFORMATION: On January 4, 1977 there was published

in the FEDERAL REGISTER (42 FR 814–815) a notice of proposed rulemaking setting forth the proposed regulations. Interested parties were given the opportunity to submit written comments, suggestions, or objections, on or before February 3, 1977. This date was later extended to April 3, 1977.

As a result of comments received there has been an addition in §§ 17.3 and 17.8 to assure that no conveyance is made without first complying with the requirements of Executive Order 11593, Section 2(b), and assuring that such land is surveyed for National Register properties and appropriate action taken.

Therefore, title 36 of the Code of Federal Regulations, Chapter I is amended by adding a new Part 17 to read as set forth below.

WILLIAM J. WHALEN,
Director, National
Park Service.

SEPTEMBER 2, 1977.

Sec.
17.1 Authority.
17.2 Definitions.
17.3 Lands subject to disposition.
17.4 Notice.
17.5 Bids.
17.6 Action at close of bidding.
17.7 Preference rights.
17.8 Conveyance.

AUTHORITY: Sec. 5(a) of the Act of July 15, 1968, 82 Stat. 354, 16 U.S.C. 4601–22(a).

§ 17.1 Authority.

Section 5(a) of the Act of July 15, 1968, 82 Stat. 354, 16 U.S.C. 4601–22(a), authorizes the Secretary of the Interior, under specified conditions, to convey a leasehold or freehold interest on Federally owned real property acquired by the Secretary from non-federal sources within any unit of the National Park System except national parks and those national monuments of scientific significance. This legislation is referred to as "the act" in regulations in this part.

§ 17.2 Definitions.

As used in the regulations in this part:

(a) "Secretary" shall mean Secretary of the Interior and his authorized representatives.

(b) "Authorized officer" shall mean an officer or employee of the National Park Service designated to conduct the sale or lease and delegated authority to execute all necessary documents, including deeds and leases.

(c) The term "unit" of the National Park System means any area of land or water administered by the Secretary of the Interior through the National Park Service for park, monument, historic, parkway, recreational, or other purposes.

(d) The term "national park" means any unit of the National Park System the organic act of which declares it to be a "national park."

(e) The term "national monument of scientific significance" means a unit of the National Park System designated as a national monument by statute or proclamation for the purpose of preserving landmarks, structures, or objects of scientific interest.

(f) The term "person" includes but is not necessarily limited to an individual, partnership, corporation, or association.

(g) The term "freehold interest" means an estate in real property of permanent or of indefinite duration.

(h) The term "leasehold interest" means an estate in real property for a fixed term of years or an estate from month-to-month or from year-to-year.

(i) The term "fair market value" means the appraised value as set forth in an approved appraisal made for the Secretary for the interest to be sold or leased.

§ 17.3 Lands subject to disposition.

The Act is applicable to any Federally owned real property acquired by the Secretary from non-federal sources within any unit of the National Park System other than national parks and those national monuments of scientific significance. No leasehold or freehold conveyance shall be made except as to lands which the General Management Plan for the particular unit of the National Park System has designated as a Special Use Zone for the uses that are permitted by the freehold or leasehold conveyance. No leasehold or freehold conveyance shall be made unless the lands have been surveyed for natural, historical, and cultural values and a determination made by the Secretary that such leasehold or freehold conveyance will not be inconsistent with any natural, historical, or cultural values found on the land.

§ 17.4 Notice.

(a) When the Secretary has determined in accordance with these regulations that a freehold or leasehold interest will be offered, he will have a notice published in the FEDERAL REGISTER and, subsequently, once weekly for five consecutive weeks in a newspaper of general circulation in the vicinity of the property. Publication of the notice shall be completed not less than 30 nor more than 120 days of the date for bid opening. The notice shall contain, at a minimum, (1) a legal description of the land by public lands subdivisions, metes-and-bounds, or other suitable method, (2) a statement of the interest to be conveyed, including restrictions to be placed on the use of the property, (3) a statement of the fair market value of the interest as determined by the Secretary below which the interest will not be conveyed, together with information as to where the Government's appraisal may be inspected, (4) information as to any preference rights of former owners to acquire the interest upon matching the highest bid, (5) an outline of bid procedure and a designation of the time and place for submitting bids, and (6) an outline of conveyance procedures, requirements, and time schedule.

(b) If the property has been in Federal ownership for less than two years, the last owner or owners of record shall be sent a notice by certified mail to their present or last known address providing the information in the published notice and advising them of their right under section 5(a) of the act to acquire the interest upon payment or agreement to pay an amount equal to the highest bid price.

§ 17.5 Bids.

Bids may be made by the principal or his agent, either personally or by mail. Bids will be considered only if received at the place and prior to the hour fixed in the notice. No particular form is specified for bids. However, a bid must be in writing, clearly identify the bidder, be signed by the bidder or his designated agent, state the amount of the bid, and refer to the notice. Bids conditioned in ways not provided for by the notice will not be considered. Bids must be accompanied by certified checks, post office money orders, bank drafts, or cashier's checks made payable to the United States of America for the amount of the bid in case of a freehold interest or for the amount of the first year's rent in the case of leasehold interest. This payment will be refunded to unsuccessful bidders. A separate nonrefundable payment of $100 to cover costs of publication and of processing of bids will also be included with the bid. The bid and payments must be enclosed in a sealed envelope upon which the prospective bidder shall write (a) bid on interest in land of the National Park System, and (b) the scheduled date the bids are to be opened. In the event two or more valid bids are received in the same amount, the determination of which is the highest will be by drawing. Bids will be opened at the time and place specified in the notice. Bidders, their agents or representatives, and any other persons may attend the bid opening. No bid in an amount less than the fair market value, as herein defined, shall be considered.

§ 17.6 Action at close of bidding.

The person who is declared by the authorized officer to be the high bidder shall be bound by his bid and the regulations in this part to complete the purchase in accordance therewith unless his bid is rejected or he is released therefrom by the authorized officer. The declared high bid on property for which a preference right exists will be conditionally accepted, subject to the exercise of the preference as described below.

§ 17.7 Preference rights.

On any property which has been in Federal ownership less than two years, the Secretary, in addition to the notice specified in § 17.4, shall inform the last owner or owners of record by certified mail at their present or last known address of the highest bid on the interest and advise them of their right to acquire the interest for an amount equal to the highest bid if within 30 days they notify the Secretary of their desire to do so and make payment or agree to make payment of an amount equal to that specified in § 17.5.

If within 30 days of mailing of such notification, the former owner or owners do not indicate a desire to acquire

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the interest and make payment or agree to make payment for such interest in an amount equal to the declared high bid, or, if they do indicate such a desire but fail to consummate the transaction within the time period established for the conveyance, then the bid of the declared high bidder will be accepted. In the event that a former owner who indicates a desire to repurchase pursuant to this procedure fails to consummate the transaction within the established time period the declared high bidder shall be permitted, but not required, to consummate the transaction. If the declared high bidder does not choose to consummate the transaction in this circumstance, the entire transaction will be cancelled, and, if appropriate, a new bidding procedure instituted.

§ 17.8 Conveyance.

Conveyance of a leasehold or freehold interest shall be by lease or deed, as appropriate, at the highest bid price, but not less than fair market value. All conveyance of leasehold or freehold interests shall contain such terms and conditions as the Secretary deems necessary to assure use of the property in a manner consistent with the purpose for which the area was authorized by Congress. The conveyancing or leasing document shall contain such provisions and restrictions as may be determined by the Secretary to be necessary to protect the natural, historic, cultural or other values present on the lands. All conveyances shall be without warranty.

[FR Doc.77-26775 Filed 9-14-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 790-4]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Delegation of Authority to State of Wyoming

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule will change the address to which reports and applications must be sent by owners and operators of new and modified sources in the State of Wyoming. The address change is the result of delegation of authority to the State of Wyoming for New Source Performance Standards (40 CFR Part 60).

ADDRESS: Any questions or comments should be sent to Director, Enforcement Division, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colo. 80295.

FOR FURTHER INFORMATION CONTACT:

Mr. Irwin L. Dickstein, 303-837-3868.

SUPPLEMENTARY INFORMATION: The amendments below institute certain address changes for reports and applications required from operators of new and modified sources. EPA has delegated to the State of Wyoming authority to review new and modified sources. The delegated authority includes the review under 40 CFR Part 60 for the standards of performance for new stationary sources.

A notice announcing the delegation of authority is published today in the FEDERAL REGISTER (Notices Section). The amendments now provide that all reports, requests, applications, submittals, and communications previously required for the delegated reviews will now be sent to the Air Quality Division of the Wyoming Department of Environmental Quality instead of EPA's Region VIII.

The Regional Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on August 2, 1977, and it serves no purpose to delay the technical change of this addition of the State address to the Code of Federal Regulations.

(Sec. 111, Clean Air Act, as amended (42 U.S.C. 1857, 1857c-5, 6, 7, 1857g).

Dated: August 25, 1977.

JOHN A. GREEN,
Regional Administrator.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 60.4 paragraph (b) is amended by revising subparagraph (ZZ) to read as follows:

§ 60.4 Address.

* * * * * * *

(b) * * *

(ZZ) State of Wyoming, Air Quality Division of the Department of Environmental Quality, Hathaway Building, Cheyenne, Wyo. 82002.

* * * * * * *

[FR Doc.77-26905 Filed 9-14-77;8:45 am]

SUBCHAPTER E—PESTICIDE PROGRAMS

[OPP-260023A; FRL 790-6]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Naled

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule (1) corrects an error in the naled regulation, (2) updates the regulation, and (3) editorially revises the format. The amendment was proposed by the Agency. This rule will provide the public with more accurate information in an easier to read style.

EFFECTIVE DATE: September 15, 1977.

FOR FURTHER INFORMATION, CONTACT:

Mr. Edward Gross, Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. (202-755-4854).

SUPPLEMENTARY INFORMATION: On July 8, 1977, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (42 FR 35172) proposing that (1) section 180.215 be reformatted, (2) section 180.319 be amended to delete all interim tolerances for naled and (3) section 180.215 be amended to update and clarify the tolerances and to eliminate a contradiction in the tolerances. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendments to 46 CFR 180.215 and 180.319 should be adopted without change, and it has been determined that these regulations will protect the public health.

Any person adversely affected by these regulations may, on or before October 17, 1977, file written objections with the Hearing Clerk, EPA, Room 1019, East Tower, 401 M St. SW., Washington D.C. 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulations deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective September 15, 1977, Part 180, Subpart C, §§ 180.215 and 180.319 are amended as set forth below.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Dated: September 8, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Section 180.215 is amended by revising the entire section to read as follows:

§ 180.215 Naled; tolerances for residues.

Tolerances are established for residues of the insecticide naled (1,2-dibromo-2, 2-dichloroethyl dimethyl phosphate) and its conversion product 2,2-dichlorovinyl dimethyl phosphate, expressed as naled, resulting from the application of the pesticide to growing crops or from direct application to livestock and poultry, in or on the following raw agricultural commodities:

Commodity:	Parts per million
Almonds (hulls)	0.5
Almonds (nuts)	0.5
Beans (dry)	0.5
Beans (succulent)	0.5
Beets, sugar, roots	0.5
Beets, sugar, tops	0.5

Commodity:	Parts per million
Broccoli	1
Brussels sprouts	1
Cabbage	1
Cattle, fat	0.05
Cattle, mbyp	0.05
Cattle, meat	0.05
Cauliflower	1
Celery	3
Collards	3
Cottonseed	0.5
Cucumbers	0.5
Eggplant	0.5
Eggs	0.05
Goats, fat	0.05
Goats, mbyp	0.05
Goats, meat	0.05
Grapefruit	3
Grapes	0.5
Grasses, forage	10
Hogs, fat	0.05
Hogs, mbyp	0.05
Hogs, meat	0.05
Hops	0.5
Horses, fat	0.05
Horses, mbyp	0.05
Horses, meat	0.05
Kale	3
Legumes, forage	10
Lemons	3
Lettuce	1
Melons	0.5
Milk	0.05
Mushrooms	0.5
Oranges	3
Peaches	0.5
Pears (succulent)	0.5
Peppers	0.5
Poultry, fat	0.05
Poultry, mbyp	0.05
Poultry, meat	0.05
Pumpkins	0.5
Rice	0.5
Safflower, seed	0.5
Sheep, fat	0.05
Sheep, mbyp	0.05
Sheep, meat	0.05
Spinach	3
Squash, summer	0.5
Squash, winter	0.5
Strawberries	1
Swiss chard	3
Tangerines	3
Tomatoes	0.5
Turnips, tops	3
Walnuts	0.5

A tolerance of 0.5 part per million is established for the pesticide naled in or on all raw agricultural commodities, except those otherwise listed in this section, from use of the pesticide for area pest (mosquito and fly) control.

§ 180.319 [Amended]

Section 180.319 is amended by deleting the substance naled and corresponding tabular material from the regulation.

[FR Doc.77-26729 Filed 9-14-77;8:45 am]

[PP 6F1778/R124A; FRL 790-7]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Norflurazon; Correction

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

SUMMARY: This document corrects a final rule that appeared at page 40909 in the FEDERAL REGISTER of Friday, August 12, 1977 (FR Doc. 77-23352).

EFFECTIVE DATE: September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Henry Jacoby, Product Manager (PM) 24, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460 (202-755-2196).

SUPPLEMENTARY INFORMATION: In FR Doc. 77-23352, appearing at page 40909 in the issue of Friday, August 12, 1977, the section number in the third column on page 40910 is changed from "§ 180.66" to "§ 180.356".

Dated: September 8, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-26730 Filed 9-14-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER H—UTILIZATION AND DISPOSAL

[FPMR Amdt. H-104]

PART 101-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Subpart 101-47.3—Surplus Real Property Disposal

PROPERTY FOR PUBLIC AIRPORTS

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This rule sets forth the basis for approval of disposals of surplus real property for public airports. The basis has not previously been published. Publication is intended to clarify the basis for approval.

EFFECTIVE DATE: This rule is effective on September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

James R. Bergdahl, Office of Real Property, Public Buildings Service, General Services Administration, Washington, D.C. 20405 (202-566-1339).

Section 101-47.308-2(e) is revised as follows:

§ 101-47.308-2 Property for public airports.

* * * * * *

(e) Upon receipt of such recommendation, the disposal agency may, with the approval of the head of the disposal agency or his designee, convey property recommended by the Federal Aviation Administration for disposal for a public airport to the eligible public agency, subject to the provisions of the Surplus Property Act of 1944, as amended. Approval for aviation areas shall be based on established FAA guidelines, criteria, and requirements for such areas. Approval for nonaviation revenue-producing areas shall be given only for such areas as are anticipated to generate net proceeds which do not exceed expected deficits for operation of the aviation areas applied for at the airport.

* * * * * *

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: September 1, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77-26757 Filed 9-14-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20878; RM-2680]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations in Burlington, Fort Madison, Keokuk, Keosauqua, Rock Rapids, and Sibley, Iowa, and in Winona, Minn.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: In response to a petition for rule making filed by the State Educational Radio and Television Facility Board of the State of Iowa, the Federal Communications Commission assigns five UHF TV channels to be used on a reserved basis for noncommercial educational purposes at the communities of Fort Madison, Keokuk, Keosauqua, Rock Rapids, and Sibley, Iowa. This action will enable the Board to obtain TV translator stations to provide these communities and the area surrounding them with television coverage.

EFFECTIVE DATE: October 20, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Thomas L. McCrickard III, Broadcast Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.606 (b), Table of Assignments, Television Broadcast Stations (Fort Madison, Keokuk, Keosauqua, Rock Rapids, Sibley, Iowa), Docket No. 20878, RM-2680, report and order.

Adopted: September 6, 1977.

Released: September 8, 1977.

1. The Commission herein considers the Notice of Proposed Rule Making, adopted July 1, 1976 (41 FR 29869, July 20, 1976), in the above-captioned proceeding instituted in response to a petition filed by the State Educational Radio and Television Facility Board of the State of Iowa ("Board"). The petition proposed the

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amendment of Section 73.606(b) of the Commission's Rules, the Television Table of Assignments, by assigning and reserving for noncommercial educational use Channel *38 at Fort Madison, Iowa; Channel *44 at Keokuk, Iowa Channel *54 at Keosauqua, Iowa Channel *25 at Rock Rapids, Iowa and Channel *33 at Sibley, Iowa. Further, it was proposed that Channel *57 be assigned and the unoccupied and unapplied for Channel *58 be deleted at Burlington, Iowa, in order that the requested assignment at Keokuk can be made. Also, the assignment of Channel 44 to Keokuk would require a change in the offset designation of the unoccupied co-channel Winona, Minn., assignment (from plus to minus).

2. The Board is presently the licensee of four noncommercial educational television stations in Iowa,[1] and the permittee of four others,[2] all of which form the Iowa Educational Broadcasting Network. The proposed assignments were requested to enable the Board to extend noncommercial educational television service, by means of translators, to persons residing in and around the specified communities. The only comment received in response to the Notice was a reiteration of intentions by petitioner to submit applications for authority to construct television translator stations on these channels, and when such authority is granted, construct these stations.

3. The Notice indicated that the proposed assignments meet the Commission's separation requirements and other technical criteria. In view of the above, and the fact that it would make possible providing an educational TV service to significant populations not now having such service, the Commission believes that the public interest would be served by adopting the amendments proposed.

4. Accordingly, *It is ordered*, That effective October 20, 1977, the Television Table of Assignments (Section 73.606(b) of the Commission's Rules) is amended with regard to the following communities:

City	Channel No.
Burlington, Iowa	26—, *57—
Fort Madison, Iowa	*38+
Keokuk, Iowa	*44+
Keosauqua, Iowa	*54+
Rock Rapids, Iowa	*25+
Sibley, Iowa	*33
Winona, Minn	*35+, 44—

5. Authority for the action taken herein is found in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

6. *It is further ordered*, That this proceeding is terminated.

[1] KDIN-TV, Des Moines, Iowa; KIIN-TV, Iowa City, Iowa; KRIN, Waterloo, Iowa; and KSIN, Sioux City, Iowa.

[2] KHIN, Red Oak, Iowa KBIN, Council Bluffs, Iowa; KTIN, Fort Dodge, Iowa; and KYIN-TV, Mason City, Iowa.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
MARTIN I. LEVY,
Acting Chief, Broadcast Bureau.

[FR Doc.77-26745 Filed 9-14-77;8:45 am]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdts. 1-127, 1-128]

PART 1—ORGANIZATION AND DELEGATIONS OF POWERS AND DUTIES

Delegations to the Commandant of the U.S. Coast Guard

AGENCY: Department of Transportation.

ACTION: Delegations of Authority; Correction.

SUMMARY: This document corrects the delegation of authority to the Commandant of the U.S. Coast Guard which appeared in the FEDERAL REGISTER on May 3, 1977, page 22366.

EFFECTIVE DATE: September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

B. T. Wade, Jr., Attorney-Adviser, Office of the General Counsel, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-4723).

On March 3, 1977, the Secretary of Transportation delegated to the Commandant of the U.S. Coast Guard the authority vested in the Secretary by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (see 42 FR 12176). On May 3, 1977, the Secretary of Transportation also delegated to the Commandant of the United States Coast Guard the authority to develop, coordinate and issue wage schedules under the Federal Wage System. Both of the described delegations were published as 49 CFR 1.46(v). The latter delegation should have been published as 49 CFR 1.46(w). This document is to correct that error.

Since this amendment relates to Departmental management, procedures and practices, notice and public procedure thereon are unnecessary and it may be made effective immediately.

In consideration of the foregoing, § 1.46 of Part 1 of the Code of Federal Regulations is amended by sustituting paragraph "(w)", for paragraph "(v)" as it appeared in the May 3, 1977 issue of the FEDERAL REGISTER.

(49 U.S.C. 1657(e))

Issued in Washington, D.C., on Septemper 9, 1977.

WILLIAM J. DRISCOLL,
Assistant General Counsel for Operations and Legal Counsel.

[FR Doc.77-26789 Filed 9-14-77;8:45 am]

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-144; Amdt. Nos. 173-108, 179-19]

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

PART 179—SPECIFICATIONS FOR TANK CARS

Shippers; Specification for Pressure Tank Car Tanks

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Final rule.

SUMMARY: As a result of a series of serious railroad accidents involving certain uninsulated pressure tank cars transporting hazardous materials these amendments are issued in the interest of safety.

1. Existing and newly built specification 112 and 114 tank cars used to transport flammable gases such as propane, vinyl chloride and butane are required to have both thermal and tank head protection. Newly built cars are to be so equipped starting on January 1, 1978, while existing cars are to be retrofitted over a four-year period ending on December 31, 1981.

2. Existing and newly built specification 112 and 114 tank cars used to transport anhydrous ammonia are required to have tank head protection (such as a head shield) installed. Cars built after December 31, 1977, must be so equipped. Previously built cars are to be retrofitted with tank head protection over a four-year period ending on December 31, 1981.

3. All specification 112 and 114 tank cars, regardless of the hazardous lading being transported, are to be equipped with special couplers designed to resist coupler vertical disengagements. These couplers are to be installed on cars built after December 31, 1977 and retrofitted on all previously built cars by July 1, 1979.

EFFECTIVE DATE: These regulations become effective on October 19, 1977.

ADDRESS: All written comments received in this proceeding are available for examination during regular business hours in room 6500, Transpoint Building, 2100 Second Street, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

William F. Black, Office of Safety, Federal Railroad Administration (202-426-2748).

SUPPLEMENTARY INFORMATION: These amendments are the result of the joint efforts of the Federal Railroad Administration (FRA) and the Materials Transportation Bureau (the Bureau). In accordance with internal DOT procedures, the FRA has developed the substantive provisions of these amendments

for review and issuance by the Bureau. Accordingly, further information concerning substantive provisions of these amendments may be obtained from the above contact.

BACKGROUND INFORMATION

On November 19, 1976, as a result of a series of serious railroad accidents involving uninsulated pressure tank cars (built to specifications 112 and 114) transporting hazardous materials, the Materials Transportation Bureau issued a Notice of Proposed Rulemaking, Docket No. HM-144; Notice No. 76-12 (41 FR 52324). The purpose of that Notice was to elicit public comment on a proposed rule to improve the design and construction of new and existing 112 and 114 tank cars. Specifically, the Notice proposed that a new Section 179.105 entitled "Special Requirements for Specification 112 and 114 Tank Cars" be added to Part 179 of the regulations. This section would prescribe new specifications for improving the safety of these cars. The Notice would have required that all newly built 112 and 114 tank cars, be equipped with "shelf couplers," a tank head puncture resistance system, a thermal protection system and a safety relief valve of adequate capacity to protect each thermally insulated tank.

Also, the Notice proposed that existing 112 and 114 tank cars be retrofitted according to the following schedule:

1. Either shelf couplers or a tank head puncture resistance system be installed within one year after the effective date of the rule;

2. Notwithstanding "1," shelf couplers be installed within two years after the effective date of the rule; and

3. Thermal protection and tank head puncture resistance systems with adequate safety relief valve capacity be installed within fours years after the effective date of the rule.

In order to assure compliance with the requirements for thermal protection and tank head puncture resistance within the four-year period, an annual completion schedule was also proposed.

The reasons for these proposals were discussed in considerable detail in the Notice. Interested persons were invited to participate in the rulemaking proceeding through the submission of written comments. Fifty-three submissions were received and have been fully considered by the Bureau in the development of this final rule.

Subsequent to the issuance of the Notice, three serious railroad accidents occurred involving 112 and 114 tank cars.

On November 26, 1976, at Belt, Montana, the Burlington Northern, Inc., had a train derailment. Two persons were killed, six persons were seriously injured and fifteen others were treated for injuries when twenty-four freight cars derailed. One of the derailed cars was CGTX 64226, a 112A tank car, loaded with approximately 31,000 gallons of propane. The tank sustained a tank head puncture, began to release its contents and subsequently ruptured. A second 112A tank car, CGTX 64141, loaded with butane was subjected to the fire environment. Approximately two hours after the accident this tank car ruptured from the heat exposure.

On February 20, 1977, in Dallas, Tex., an Atchison, Topeka and Santa Fe Railway freight train derailed. In the derailment, UTLX 38355, a 112A tank car loaded with 32,437 gallons of propane, sustained a tank head puncture near the base of the head. The escaping propane ignited and the resulting torching flame impinged upon and heated GATX 97359, another 112A tank car, which contained 30,321 gallons of isobutane. After about forty minutes of fire impingement, GATX 97359 exploded violently. The tank separated into three major parts. Fortunately, no injuries resulted from this accident, but the estimated third-party damage has been set at $3,500,000.

On March 16, 1977, at Love, Ariz., an Atchison, Topeka and Santa Fe Railway train derailed. Eight propane laden tank cars were involved:

ACFX 17359—112A340W.
ACFX 17355—112A340W.
RTMX 3515—105A300W.
ACFX 17358—112A340W.
RTMX 3487—105A300W.
RTMX 3526—105A300W.
RTMX 3532—105A300W.
RTMX 3492—105A300W.

All RTMX tank cars had ½-inch jacket heads and insulation.

ACFX 17359 sustained a puncture in the "belly" of the tank. The spilled contents burned. ACFX 17355 ruptured as a result of flame impingement. RTMX 3515 sustained a tank head puncture caused by a wheel cutting through the jacket head and the tank head. The contents ignited and burned. ACFX 17358 sustained a small head puncture. The contents spilled out through this hole and burned; also burning of contents occurred at the safety relief valves. RTMX 3487 which was exposed to fire impingement burned its contents at the safety relief valve. The tank did not rupture; the contents were released through the safety relief valve. The remaining three tank cars, RTMX 3526, 3532 and 3492, sustained no appreciable fire damage.

In the opinion of the Bureau, the tank head punctures sustained by CGTX 64226 at Belt, Montana, and UTLX 38355 at Dallas, Tex., would have been prevented had these cars been equipped with a tank head puncture resistance system. If neither tank car tank head had been punctured, there would have been no spill of product, no fire, and no resulting tank ruptures. No loss of life, nor serious injury would have occurred at Belt, Mont., and very little third-party property damage would have ensued at Dallas, Tex.

The Love, Ariz., accident is more difficult to analyze. The estimated speed at the time of the derailment was 48 miles per hour. The tank tear in ACFX 17359 occurred in the tank shell; tank head protection would not have prevented this tank puncture. ACFX 17355 ruptured due to heat exposure while RTMX 3487 did not rupture. It released its contents through its safety relief valve. Insulation appears to have assisted RTMX 3487 in resisting the adverse affects of fire exposure. Although RTMX 3515 was equipped with a ½-inch jacket head, it sustained a tank head puncture. The high derailing speed of 48 miles per hour appears to have given sufficient energy to a car wheel so that it could puncture both the ½-inch jacket head and the tank head. However, since much of the wheel's energy was dissipated in penetrating the jacket head, it is the Bureau's opinion that the ½-inch steel jacket kept the tank head hole to a minimum. This reduced the amount of fire in the area of this car.

As a result of analyzing comments received, two significant changes have been made in the final rule.

1. Specification 112 and 114 tank cars used to transport hazardous liquids (such as flammable or poisonous liquids) and nonflammable gases other than anhydrous ammonia (such as "fluorocarbon" gases), need only be equipped with shelf couplers. Such cars will continue to be designated as 112A/114A tank cars.

2. Specification 112 and 114 tank cars used to transport anhydrous ammonia need only be equipped (or retrofitted) with a tank head puncture resistance system and shelf couplers; thermal protection is not required. Such cars will be designated as 112S/114S tank cars. Several other changes have been made in the final rule. These changes and comments are discussed in the "Section by Section Analysis" which follows.

SECTION BY SECTION ANALYSIS

SECTION 173.31 QUALIFICATION, MAINTENANCE, AND USE OF TANK CARS

The purpose of amending paragraph (a)(3) is to authorize the use of classes DOT-112T and 112J tank cars having equal or higher marked test pressure when classes DOT-112A and 112S are prescribed, and similarly to authorize the use of classes DOT-114T and 114J tank cars having equal or higher marked test pressures when classes DOT-114A and 114S are prescribed. No specific comments on this change were received; the amendment is being adopted as proposed.

In the notice of proposed rulemaking, §§ 179.105-2(a) (4) and 179.105-3(a) (1) and (2) would require that each newly built 112 and 114 tank car be equipped and each previously built 112 and 114 be retrofitted, with a coupler restraint system. Furthermore, the Notice proposed that such a system be retrofitted within one year on cars not equipped with tank head puncture resistance systems and within two years on all other 112 and 114 cars. The requirement for retrofitting existing cars has been placed in a new paragraph (a)(5) of § 173.31 so as to clearly indicate that it applies to all 112 and 114 tank cars no matter how used, while newly built tank car requirements remain in § 179.105-2(a)(4).

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Several comments were received indicating that it appeared that under the proposal most 112 and 114 tank cars would have to be retrofitted with a coupler retraint system within one year and that it was doubtful that the application of approximately 40,000 shelf couplers (two per tank car) could be accomplished in one year. The Bureau agrees and the retrofit period has been extended to June 30, 1979.

SECTION 173.314 REQUIREMENTS FOR COMPRESSED GASES IN TANK CARS

Currently, note 23 to the table in paragraph (c) states:

Specification 112A or 114A tank cars used for transportation of compressed gases must be equipped with protective head shields after December 31, 1977. See § 179.100–23 for head shield specification.

Note 23 appears in the Table after specifications 112 and 114 for anhydrous ammonia and flammable gases (such as butadiene, LPG, vinyl chloride, etc.). The notice proposed to change this requirement to:

* * * either protective head shields or shelf couplers after (one year after effective date), shelf couplers after (two years after effective date); and thermal protection and tank head puncture resistance systems after (four years after effective date) * * *

The final rule separates the requirements for 112 and 114 tank cars used to transport flammable compressed gases from those used to transport anhydrous ammonia. These requirements are being placed in two notes. Note 23 requires specification 112 and 114 tank cars used for the transportation of flammable compressed gases to be equipped with thermal protection and tank head puncture resistance systems by January 1, 1982.

Note 24 covers anhydrous ammonia cars. Many commenters indicated thermal protection did not appear to be necessary to improve safety on 112 and 114 tank cars transporting nonflammable compressed gases such as "fluorocarbons" and anhydrous ammonia. The Bureau concurs, particularly since accident records maintained by the Federal Railroad Administration show no incidents of thermal rupture of a 112/114 tank car when transporting nonflammable compressed gases. However, due to the toxicity of anhydrous ammonia and the fact that FRA accident records show deaths and injuries caused by the tank head puncture of 112/114 tank cars transporting anhydrous ammonia, new Note 24 requires installation of tank head puncture resistance systems (such as headshields) by January 1, 1982, for 112/114 tank cars transporting anhydrous ammonia. However, tank head puncture resistance systems are not required on cars used to transport other nonflammable compressed gases.

SECTION 179.105 SPECIAL REQUIREMENTS FOR SPECIFICATION 112 AND 114 TANK CARS

This new section sets forth the new requirements for newly built and for retrofitting previously built 112 and 114 tank cars.

SECTION 179.105–1 GENERAL

This new section sets forth three requirements:

1. Tanks built under specification 112 and 114 must meet the requirements of §§ 179.100, 179.101 and when applicable §§ 179.102 and 179.103.

2. AAR approval is not required for changes in nor additions to specifications 112 and 114 tank cars necessary to comply with § 179.105.

3. 112 and 114 tank cars built to specifications promulgated by the Canadian Transport Commission that are not equipped as described in § 179.105 may not be used to transport compressed gases in the United States after December 31, 1981.

No comments were received pertaining to "1" or "3," but many comments were received regarding deletion of "AAR Approval ("2")."

Commenters requested that approval by the AAR Committee on Tank Cars be required for changes in or additions to 112/114 tank cars necessary to comply with § 179.105. It was stated that the railroad "Interchange Rules" require a "Certificate of Construction" before a tank car may move in interchange service. Modifications and additions would still be required to be approved by the Committee. In addition, many commenters expressed belief that the Committee's expertise is essential to assure that modifications to these tank cars are performed properly.

The Bureau recognizes that the existing car owner/rail carrier approval system which is set forth in the AAR "Interchange Rules" may be continued by the AAR Tank Car Committee and that its approval for interchange may, therefore, be required by industry for all additions, modifications and repairs performed to comply with § 179.105. However, the Bureau does not believe that this approval need be imposed by regulation. These standards adopted for improved tank car safety are augmented by specific design criteria (such as specified couplers, head shield designs and thermal protection system), thereby affording tank car owners sufficient guidance to perform the modifications and additions required by this rule. For these reasons, the Bureau has deleted the requirement for AAR Tank Car Committee approval in this rule.

SECTION 179.105–2 NEW CARS

The notice proposed that all 12 and 114 tank cars built after six months after the effective date be equipped with:

1. A thermal protection system (§ 179.105–4);

2. A tank head puncture resistance system § 179.105–5);

3. A safety relief valve meeting the requirements of § 179.105–7; and

4. A coupler restraint system (§ 179.105–6).

Based upon comments received, the Bureau has decided to establish three types of 112 and 114 tank cars. This decision has been alluded to earlier in this preamble. Accordingly, § 179.105–2 has been revised as follows:

1. Newly built 112A and 114A tank cars are authorized to transport hazardous liquids and nonflammable compressed gases, other than anhydrous ammonia. Each is required to be equipped with a coupler restraint system that meets the requirements of § 179.105–6.

2. Newly built 112S and 114S tank cars are authorized to transport anhydrous ammonia as well as commodities authorized to be transported in 112A/114A tank cars. Each is required to be equipped with a tank head puncture resistance system that meets the requirements of § 179.105–5 as well as a coupler restraint system that meets the requirements of § 179.105–6.

3. Newly built 112T, 112J, 114T and 114J tank cars are authorized to transport flammable and non-flammable compressed gases, including anhydrous ammonia, and hazardous liquids. Each is required to be equipped with all four safety measures: Thermal protective system (§ 179.105–4), tank head puncture resistance system (§ 179.105–5), coupler restraint system (§ 179.105–6) and a safety relief valve that meets the requirements of § 179.105–7.

Several commenters suggested that the use of a coupler restraint system such as "shelf couplers" and the perpetuation of FRA Emergency Order No. Five would obviate the need for installation of a tank head puncture resistance system FRA Emergency Order No. Five orders railroad carriers to handle 112 and 114 tank cars not equipped with head shields which are transporting flammable compressed gases in switch yards by "shoving to rest." It was issued as a result of three serious rail switching accidents in which tank cars not equipped with head shields sustained tank head punctures as a result of overspeed impacts. Release of the flammable gas lading and subsequent ignition caused deaths, injuries and substantial property damage. The intent of the Emergency Order was to provide an interim safety measure until all 112 and 114 tank cars transporting flammable gases were equipped with tank head shields (January 1, 1978), and not be applied permanently.

As a result of testing performed at the Transportation Test Center, Pueblo, Colo., it has been demonstrated that for some overspeed switching impacts, shelf couplers will prevent some tank head punctures. For other impacts under differing conditions, shelf couplers were not effective in preventing tank head puncture, but head shields were effective and did prevent punctures. And, under certain test impact conditions involving more than one tank car, a combination of both shelf couplers and head shields were needed to prevent tank head puncture. These test results were summarized at the FRA public briefing held on December 8, 1976.

Tank head punctures occur in train derailments as well as in switching mishaps. Emergency Order No. Five has no effect on train derailment conditions. Therefore, the Bureau has concluded that for tank cars carrying anhydrous ammonia and flammable gases, both a coupler restraint system and a tank head puncture resistance system are necessary to prevent tank puncture in derailments as well as in switch yard accidents. However, for tank cars carrying products having less volatility such as hazardous liquids, and gaseous products having non-toxic, nonflammable properties, the consequence of puncture and product release is not as serious. Therefore, the application of a coupler restraint system will afford adequate public safety. When both a tank head puncture resistance system and a coupler restraint system are applied to all 112 and 114 tank cars used to transport flammable gases, the need for Emergency Order No. Five will end.

179.105–3 PREVIOUSLY BUILT CARS

In the notice of proposed rulemaking, the Bureau proposed that previously built (existing) 112 and 114 tank cars be retrofitted in a four-year time period with a thermal protective system and a tank head puncture resistance system.

Based upon comments received, the Bureau has modified this requirement. The rule requires a tank head puncture resistance system to be retrofit installed on 112S, 112T, 112J, 114S, 114T and 114J tanks cars, but this system is not required on 112A and 114A tank cars. Likewise, thermal protection must be retrofit installed on 112T, 112J, 114T and 114J tank cars, but it is not required on 112A, 112S, 114A and 114S tank cars.

As proposed in the Notice, a coupler restraint system is required to be retrofit installed on all 112 and 114 tank cars by July 1, 1979; for clarity this requirement is stated in § 173.31(a)(5) as well as § 179.105–3(a).

Each car owner is required to install thermal protection and tank head puncture resistance systems in conformance to the following schedule:

1. "Lead time" until January 1, 1978.
2. Twenty percent of cars owned by January 1, 1979.
3. Fifty percent of cars owned by January 1, 1980.
4. Eighty percent of cars owned by January 1, 1981.
5. All cars owned by January 1, 1982.

Many commenters said that they believed that this schedule did not provide adequate time to perform a retrofit installation program of this magnitude. Several requested a six-month "lead time;" essentially this has been granted. Several requested a retrofit schedule of a five, or six-year time period, in lieu of the proposed four-year period. This extended retrofit time period was carefully considered by the Bureau. However, due to the serious catastrophic consequences which can result from a single accident involving uninsulated, nonhead shielded tank cars transporting flammable compressed gases, or involving non-head shielded tank cars transporting anhydrous ammonia, the Bureau believes that it is imperative to have retrofit installation completed as soon as is practicable.

Other factors evaluated by the Bureau in making this decision were:

1. Current regulations contained in § 173.314(c) require head shield installation by January 1, 1978. This requirement is now being phased in over an additional 4-year period.

2. Anhydrous ammonia cars (112S and 114S) will not require thermal protection, thus reducing the magnitude of the retrofit program.

3. Cars for "fluorocarbon gases" and hazardous liquids (112A and 114A) will not require thermal protection nor tank head protection, thus likewise reducing the magnitude of the retrofit program.

For these reasons, the 4-year schedule has been retained.

SECTION 179.105–4 THERMAL PROTECTION

The purpose of this section is to establish performance standards and also testing procedures to verify compliance with these performance standards for thermal protection systems to be applied to 112T, 112J, 114T and 114J tank cars. This section contains six paragraphs:

(a) Performance standard;
(b) Test verification;
(c) Simulated pool fire test;
(d) Simulated torch fire test;
(e) Analysis; and
(f) Exterior tank color.

Paragraph (a) in the Notice proposed a requirement that:

Each specification 112 and 114 tank car shall be equipped with a thermal protection system that prevents the release of any of the car's contents (except release through the safety relief valve) when subjected to:
(1) A pool fire for 100 minutes, and
(2) A torch fire for 30 minutes.

Several commenters suggested that the "performance standards" be replaced by "test requirements" or "qualification tests," or supplemented by "design specifications." These comments pertained not only to thermal protection but also to tank head puncture resistance (§ 179.105–5) and, to a lesser extent, to "coupler restraint" (§ 179.105–6). The Bureau has considered those options but still believes that the performance standards are the best approach because they provide incentives for innovation. Also, the requirement that tank cars covered by these specifications retain the level of protection specified throughout their service life, eliminates the need for detailed maintenance procedures.

The performance standards prescribed are individual requirements which must be demonstrated under simulated pool and torch fire environments. It is not intended that an undamaged tank car be capable of withstanding a 100-minute pool fire and a 30-minute torch fire; and, to satisfy these requirements, one insulated test plate need not be subjected to both tests. Compliance may be achieved by subjecting an insulated test plate to the pool fire test and a similar test plate equipped with the same thermal protection system to the torch fire test. A tank car having an acceptable thermal system which is involved in a severe accident in which the tank and the system sustain considerable physical damage may not be capable of surviving a 100-minute pool fire and a 30-minute torch fire. The thermal protection system may not eliminate all tank car ruptures, but when properly maintained most thermal ruptures will be prevented. Damaged or deteriorated systems must be repaired or replaced before the cars is again used.

Several commenters recommended that additional fire testing and in-service testing of thermal protection systems be conducted before final rulemaking. The Bureau recognizes that additional testing can always be said to provide additional data, but it does not concur in the need for additional testing in this case. The Bureau believes that the extensive series of fire tests conducted by FRA and RPI/AAR demonstrate not only the utility and practicality of a thermal shield system, but also provide sufficient data for reliable cost projections. Furthermore, the Bureau believes that the successful in-service use of thermal shields to protect aerospace hardware and stationary compressed gas tanks, in addition to considerable railroad tank car experience, demonstrate the reliability of several competitive types of thermal shields. The Accelerated Life Test (ALT) program, being conducted by FRA, RUI/AAR, and several shippers, has provided adequate evidence that at least four reliable thermal shield systems are readily available (see discussion below). The Bureau has sought to achieve a condition of adequate protection at minimum cost and sees no reason why additional thermal shield systems cannot be developed.

Most commenters indicated that the extensive testing programs conducted by FRA with the assistance of the RPI/AAR were beneficial in analyzing the problems encountered with uninsulated pressure tank cars and developing solutions to these problems. However, one commenter offered the opinion that DOT sponsored tank car tests were not run to gather information regarding a wreck environment, but were designed to make the tank car look bad in support of some preconceived theories. This commenter used as an example the White Sands Missile Range fire tests which were purported to be "about as far from a wreck environment as could be devised." The Bureau does not agree with this assessment and believes that the tests conducted were reasonable (although not necessarily conservative) simulations of tank car accident scenarios. It should be noted that the time to rupture of an uninsulated tank car in a White Sands test was 24 minutes, whereas in analyzing rail accidents, the RPI/AAR has found that in at least twenty-three instances, the times required to rupture tank cars engulfed in accidental fire were less than 24 minutes. The Bureau, therefore, feels that these fire tests were reasonable simulations of wreck environments.

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A similar comment was that the two full-scale fire tests conducted at White Sands were run under controlled conditions and yet variables were not controlled. Several instances were cited. The commenter stated that in the non-insulated test the car contained 3,200 gallons more propane than the car in the thermally coated test and that the initial propane temperature was lower in the thermally coated test than in the uninsulated test. The Bureau has analyzed these differences and has concluded that they did not significantly affect the test results and that the differences were partially compensating. For example, a greater initial volume of propane in the thermally coated test would have increased the time to rupture and conversely, a higher initial propane temperature would have decreased the time to rupture. The commenter noted that the propane composition was not reported for the thermally coated test. On the basis of the temperature-pressure data at the start of each test, the Bureau has concluded that there was no significant difference in the propane used in the two tests. Also, the "commercial propane" used in both tests was supplied from the same source. The commenter noted that in the uninsulated test, the temperatures and pressures reported do not match the temperatures and pressures expected. The Bureau has reviewed the temperature-pressure data from the uninsulated test and has concluded that the experimental pressure-temperature data correlate reasonably well with theoretical data. The commenter mentioned that in both tests pure propane temperature-pressure relationships were used to estimate missing data ignoring important factors of superheat, supercooling, compressibility, and the influence of impurities. The Bureau has reviewed the effects mentioned and has concluded that the procedures used in both tests were adequate.

One commenter criticized the quality of some of the reports listed in Appendix A of Notice No. HM-144. To support his position, the commenter used several quotes from "Reference 9" of the Notice. The Bureau does not concur with the assessment of this commenter and believes that the quotes used are taken out of context. For example, the commenter used the following quote from "Reference 9," page 39, first paragraph under B: "Unfortunately, no useful liquid level data were recorded." This quote only referred to direct liquid level measurements. This report also described an indirect method that was used to measure liquid level. Another misleading quote was from "Reference 9," page 39, third paragraph under VI.A: "One or more sign reversals occurred in the recorded emf values during the test, indicating that the data recorded are not reliable." This latter quote was only in reference to a particular, small group of thermocouples. The majority of thermocouples did not experience any sign reversals and were reliable.

Paragraph (b) in the Notice established the method of verifying by testing that the thermal protection system meets the performance standard. Several commenters noted that the Bureau did not identify thermal systems which are deemed acceptable and do not require further testing. The commenters recommended that either a list of approved thermal systems be presented or sufficient time be allowed for the testing of new systems. The Bureau believes there is merit to these comments. Accordingly, the following list specifies thermal protection systems that do not require test verifications under § 179.105-4(b) based upon successful simulation testing conducted by FRA. This list is not intended to be all inclusive, and systems that may be submitted to the Bureau in the future and which are shown to meet the test specifications in § 179.105-4 will also be excepted from the test verification. Information concerning the systems listed below as well as any which may be excepted from verification in the future, is available for inspection in the Docket Section, Room 6500, Transpoint Building, 2100 Second Street, SW., Washington, D.C. 20590.

1. One inch minimum thickness Deltaboard (12 pounds per cubic foot, 15 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer, (Deltaboard) Rockwell Manufacturing Company, Leeds, Alabama.

2. The tank car external surface is prepared by sandblasting to remove all existing paint, primer, grease and loose material. 2 mils (dry) of Thermolag primer-351 are applied to the clean surface. 165 mils (dry) of Thermolag 330-1 subliming compound is next applied to the primed surface. 5 mils (dry) of Thermolag topcoat 350 is applied to the subliming coating. Manufacturer TSI-Inc., St. Louis, Missouri.

3. The tank car external surface is prepared by sandblasting to remove all existing paint, primer, oil, grease, and loose materials. 3 mils (dry) of primer (Military Standard MIL-P-52192B) are applied to the clean surface. Chicken wire (1" hexagonal, 22 gauge) is next attached to the primed surface. 180 mils (dry) of Chartek 59 thermal coating is then applied. 3 mils (dry) of a topcoat (AMBERCOAT 75) is then applied. Manufacturer (Topcoat)-Ameron, Brea, California. Manufacturer (Chartek 59), Avco, Lowell, Massachusetts.

4. The tank car external surface is prepared by sandblasting to remove all existing paint, primer, grease and loose material. .7 mils (dry) of primer (a 1:1 ratio by volume of 513-003 base component and 9110x350 activator component) is applied to the clean surface. 235 mils (dry) of thermal shield coating (a nominal 5:1 ratio by volume of 821x359 base component and 9110x407 activator component) is next applied to the primed surface. 2 mils (dry) of topcoat (a 2:1 ratio by volume of 821x317 base component and 9110x376 activator component) is applied to the thermal shield material. Manufacturer, De Soto, Inc., Des Plaines, Illinois.

Paragraph (c) proposed a testing simulation for the "pool fire" performance standard. This paragraph prescribed in detail the pool fire test environment and the method of testing the thermal protection system in that environment. In a similar manner, paragraph (d) proposed a testing simulation for the "torch fire" performance standard. The torch fire test environment and the method of testing in that environment were specified. Many comments were submitted about both proposals.

Several commenters have questioned the availability of facilities for conducting the thermal performance tests. It should be noted that the Transportation Test Center facility is available under stipulated user agreements for conducting any of the prescribed tests in § 179.105-4. Interested parties should contact the Transportation Test Center Director for information on use of the facility. The test facility is not unique; it uses standard components and technology. Thus, it is the Bureau's belief that the test facility and the test procedures themselves can be readily duplicated.

Some commenters requested a reduction in the pool fire time criteria on the basis that tank cars do not fail at 800° F. but fail at a higher temperature, e.g. 1050°F. In addition, some commenters contend that the 100-minute figure for pool fires is not theoretically consistent with the 30-minute requirement for the torch fire environment. In setting forth performance standards for thermal protection systems in terms of both pool fire and torch fire exposure criteria, the Bureau intended to ensure that the thermal protection system would retain the required thermal capacity with a safety factor over the range of exposures encountered. The pool fire environment, which involves interactive safety relief valve action and more extensive exposure of the tank car exterior, is considered the prime performance requirement. The 100-minute, 800° F. stipulations provide safety margins. Both full scale and simulated pool fire tests have shown that there are available thermal protection systems which can meet this pool fire criteria. Given the fundamental pool fire performance standards, the torch fire requirement is designed to ensure the adequacy of the thermal protection system in another commonly encountered, but not necessarily more severe fire environment. The Bureau does not feel that it is necessary to increase the torch resistance time in order to be theoretically consistent with the pool fire time specifications. The total performance standard is composed of the two fire environment elements and the Bureau is convinced that when viewed as a whole, the requirements not only adequately cover the scope of experienced exposures but can be met by several currently available products.

One commenter agreed with the 40 plus or minus 10 mph flame velocity requirement for the torch fire test for non-jacketed systems, but contended that it was not necessary for steel jacketed systems. The Bureau stipulated the torch fire criteria to include evaluation of erosive effects as the commenter rightfully concluded. The Bureau sees no reason

why it should prejudge how a jacketed and a nonjacketed system might differ, and accordingly the specifications treat all systems equally. Each must successfully withstand the same environment and be tested under identical conditions.

Several commenters have recommended that smaller plate sizes be allowed for testing thermal protection systems. One commenter also requested that small circular plates be allowed. The Bureau's intent in requiring large test specimens is to evaluate an entire thermal shield system, including attachments. By requiring these plates, the phenomena of edge effects, inhomogeneities, heat paths due to attachment requirements, etc., are minimized.

Paragraph (e) requires that the entire tank car surface be analyzed to assure that it will achieve the performance standards for thermal protection.

Some commenters requested a clarification of what analysis is required by this paragraph. Several commenters suggested that certain structures (e.g., ladders) be exempted from this requirement. One commenter requested that a maximum of 350 square inches be exempted from this requirement. The Bureau's intent in requiring this analysis is to ensure that those portions of the tank car shell that are not covered by the thermal protection system do not pose an unacceptable safety hazard. In other words, there must be equivalent thermal resistance in these areas. In calculating the thermal resistance in these areas, the structural strength of the tank and attachments may be used to demonstrate adequate thermal resistance.

One commenter recommended that the requirement in § 179.101-1(a), Note 4, for white paint on specifications 112 and 114 compressed gas tank cars be eliminated if thermal protection systems are installed. The Bureau agrees. Paragraph (g) has been added to § 179.105-4 and it states that 112 and 114 tank cars equipped with thermal protection need not be painted white.

SECTION 179.105-5 TANK HEAD PUNCTURE RESISTANCE

The purpose of this section is to establish performance criteria and testing standards to verify compliance with the performance criteria for tank head puncture resistance systems to be applied to 112S, 112T, 112J, 114S, 114T and 114J tank cars. The section consists of three paragraphs:

(a) Performance standard;
(b) Test verification; and
(c) Tank head puncture resistance test.

Paragraph (a) in the notice proposed a requirement that each tank car be capable of sustaining, without loss of contents, coupler-to-tank head impacts within the area of the tank head described in § 179.100-23 (approximately the lower half of the head) at relative car speeds of 18 miles per hour.

These test conditions were developed as a result of analyzing accident data compiled by the Federal Railroad Administration which was used in promulgating MTB Docket HM-109, Tank Head Shields. Also, data derived from coupler impact tests at the Transportation Test Center were used in verifying the specific test criteria.

Several commenters stated that they questioned the need for tank head protection on shelf coupler-equipped tank cars. The Bureau does not concur; its reasons have been set forth under the discussion of § 179.105-2.

Paragraph (b) requires test verification by full-scale testing to the performance standard or by use of the "alternate test procedures" set forth in (c). However, test verification is not required if the car owner elects to install:

1. Protective head shields (§ 179.100-23); or
2. Full tank head jackets of at least ½-inch steel.

One commenter discussed MTB Docket HM-109; notice 75-3, which proposed to permit a hand brake bracket to pass through a hole in the head shield so that the bracket could be mounted on the tank head rather than on the shield. The Bureau withdrew that notice on the basis of comments indicating that the requirement for adding a ⅜-inch thick steel pad on the tank head to support the bracket would be costly and the bracket reinforcement would locally rigidize the area. This could cause poor tank steel impact resistance. The Bureau has not re-opened this matter in this docket since it was disposed of in Docket HM-109.

Likewise, commenters suggested certain changes to the specific head shield specifications contained in § 179.100-23. The Bureau believes that these suggestions, which were raised in one form or another under proceedings in HM-109, were adequately handled in that docket.

Paragraph (c) describes the test protocol to be followed in verifying a tank head puncture resistance system. One commenter questioned the requirement that the coupler of the ram car be perpendicular to the impacted car upon impact. This commenter contended that in reality, the ram car coupler would usually be at a lesser angle and in most cases would strike the impacted car a glancing blow. The Bureau agrees that the ram car coupler will often be at a lesser angle to the impacted car in actual impacts. However, impacts can occur (and indeed have been observed in the FRA/RPI/AAR Switchyard Impact Program) in which the ram car coupler is perpendicular to the impacted car. Since the perpendicular impact is the most severe situation, the Bureau believes it should be used in the test procedure. Also, having the ram car coupler strike the impacted car at some other angle would unduly complicate both conducting the test and interpreting the data.

SECTION 179.105-6 COUPLER VERTICAL RESTRAINT SYSTEM

In the notice, § 179.105-6 proposed standards and specifications for coupler vertical restraint systems. The purpose of such systems is to resist vertical disengagement of coupled couplers so as to reduce tank head puncture. The section has been somewhat reorganized in this rule from the way that the paragraphs were published in the notice, but the basic content remains the same. These paragraphs are captioned:

(a) Performance standard;
(b) Test certification and approval (entitled test verification in the notice);
(c) Coupler vertical restraint tests (proposed as paragraph (d) in the notice); and
(d) Listing of approved couplers (proposed as paragraph (c) in the notice).

Most commenters endorsed the proposal to apply a coupler restraint system to 112 and 114 tank cars. Several suggested that § 179.14 entitled *Tank Car Couplers* be revised to include "E-shelf" and "F-shelf" couplers in the list of couplers approved by the Federal Railroad Administrator. Since the notice did not address couplers on all tank cars (§ 179.14) but rather was limited to couplers on 112 and 114 tank cars, this suggestion is not being adopted in this proceeding. However, it is being considered by the FRA and the Bureau and may be adopted in the future.

Some commenters questioned the use of buff loads in the required testing. They indicated that it is a less severe test of the coupler's ability to avert coupler disengagement than a test without buff loads. Some commenters have also questioned the extreme difficulty in conducting tests with the required buff loads in existing facilities. In requiring buff loads, it was the Bureau's intent to insure that introduction of potentially higher levels of vertical loads in combination with the range of feasible buff loads did not produce other undesirable failures. The 2,000-pound buff load was meant to provide full buff engagement of the couplers while the vertical strength was tested. The intent of the specified 725,000-pound buff application with vertical loading was to insure that the coupler would not fail as a result of the combination of stresses. The Bureau is satisfied that the lower level buff load will adequately test the vertical restraint system and sees no reason to enter into testing requirements of other portions of the coupler system in this specification, particularly in view of the difficulty in applying the higher levels of buff loading in conjunction with the vertical loads testing. Accordingly, paragraphs 179.105-6(a) and (c)(3) have been revised.

In accordance with information furnished by the AAR, F-top shelf couplers are designated SF70CHT and SF70CHTE in this amendment.

SECTION 179.105-7 SAFETY RELIEF VALVES

Section 179.105-7 in the notice proposed to require the relieving or discharge capacity of safety relief valves on thermally protected cars to be at least the same as on non-insulated tank cars. The effect of this proposal would have been to permit existing safety relief valves to be retained on cars retrofitted with thermal protection and to require

the same safety relief valve capacity on

sections of Part 179, for example, § 179.-

on tank car steels to representatives of

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the same safety relief valve capacity on newly built 112 and 114 thermally protected tank cars.

Several commenters recommended the development of a formula which takes into account the insulating effect of thermal protection. Other commenters either thought that the valve size could be reduced with increases in thermal protection or wanted an explanation of the Bureau's thinking to assist design engineers.

The Bureau, after a thorough reexamination, has confirmed that the proposed safety relief valve requirement is correct for the *minimum* thermal protection requirements of the specification. This safety relief valve requirement is consistent with the 100-minute, 800° F pool fire performance standard and other overall system considerations in protecting the tank car from premature rupture. In response to the commenter concerns, the Bureau is permitting a modified sizing equation to reflect the contribution of additional or higher thermal insulation properties of the cars covered under this specification. The application of a modifying factor to the established uninsulated tank equations, prescribed in section A8.01 of Appendix A of the "AAR Specifications for Tank Cars," supports the previously published result at the minimum required thermal insulation level, and further allows determination of appropriately reduced safety relief capacities at higher than minimum levels of thermal protection.

Thus, the rule permits a reduction in the safety relief valve capacity on a thermally insulated car in proportion to the total number of minutes the tank is protected in the pool-fire test as related to the 100-minute standard. However, owners may continue to use the current safety relief valves on retrofitted and on newly built cars if they so desire.

SECTION 179.105–8 STENCILING

Mandatory stenciling reflecting the installation of tank head puncture resistance and thermal protection systems is prescribed in § 179.105–8. The rule differs from the notice in that the provision is retained for 112S and 114S tank cars, e.g., 112 and 114 tank cars equipped with a tank head puncture resistance system, but not equipped with a thermal protection system.

Several commenters suggested that instead of using alternative letters in place of the "A" in the specification (in other words instead of using 112J in lieu of 112A to indicate a 112 car having jacketed thermal insulation), the Bureau use new specification numbers such as 122A and 124A. The Bureau has not adopted this suggestion. Since head shield equipped cars are required to be stenciled 112S and 114S, and over 600 cars have been so stenciled, the Bureau believes that continuation of this system to embrace thermal protection systems is logical. New specification numbers would necessitate additional regulatory wording in § 173.31 as well as in other sections of Part 179, for example, § 179.-100. The use of differing letters indicating specific applied systems will accomplish the same identification function in an easier manner.

Some commenters stated that the "A" is a "spacer" and persons do not expect to obtain information from this letter. Tank car specification 103 and proposed specification 113 use letters to denote information about the car design. For example, a DOT103CW tank car has a stainless steel tank and a proposed DOT113C120W tank car is designed to be capable of handling cold temperature product loadings such as encountered with liquefied natural gas.

For these reasons, the stenciling system proposed in the notice is being retained along with the current requirement for 112S and 114S stenciling.

DISCUSSION OF OTHER COMMENTS

SPECIFICATION 105 TANK CARS

Several commenters mentioned that many DOT specification 105 tank cars are used to transport the same products as are transported in 112 and 114 tank cars. The commenters believe that the 105 tank car may not have as good thermal and tank head puncture resistance protection as is being specified for the 112T/J and 114T/J cars. This matter is beyond the scope of this docket. Therefore, the Bureau will consider the matter of safety standards for specification 105 tank cars and may initiate rulemaking in the future.

TANK CAR STEEL

One commenter stated that a report by Dr. W. S. Pellini entitled, "Fracture Properties of Tank Car Steels—Characterization and Analysis" was not part of the references cited in the notice of proposed rulemaking. The report was not included because the report was not available to the Bureau at the time of the publication of the notice. However, the views of Dr. Pellini were known to the Bureau and were used in evaluating the overall tank car problem. On February 24, 1975, Dr. Pellini gave a presentation on tank car steels to representatives of DOT and industry. Also, on several occasions Dr. Pellini has discussed his views on tank car steels with DOT staff members. Based upon the work conducted by the National Bureau of Standards, the Battelle Columbus Laboratories, and Dr. Pellini, the Bureau concluded that existing tank car steels, are adequate. Accordingly, the Bureau did not propose any change to existing tank car steel specifications in this proceeding.

DOCKET HM–125

As was indicated in the notice, with the promulgation of standards and specifications upgrading existing specification 112 and 114 so as to improve design and construction, the Bureau will withdraw notice No. 75–4, under Docket HM–125.

ECONOMIC IMPACT

Several commenters took exception to the estimated cost projections stated in the notice. The principal objection was the use of minimum imposed costs rather than maximum possible costs. The use of minimum costs is considered to be the only practicable means for calculation of the economic impact of a rule. Any other calculations would of necessity be based on the anticipated decisions of car owners as to the options they choose to comply with the rule. However, the costs for protective head shields are included as suggested by several commenters even though they were required by an earlier rule (Amendment No. 179–15, 39 FR 27572, July 30, 1974). Also, updated information on the costs for couplers and the purging of cars has been used in the revised calculations. Adjustments have also been made to take into account that certain of the requirements proposed in the notice are not included in this rule.

The implementation of this rule will require a cash outlay of $107.9 million in 1976 dollars.

The following summarizes the per unit tank car investment costs of the rule and the number of tank cars thought to be affected.

Car type and utilization	Additional protection	Minimum cost	Number of tank cars
(112T/J, 114T/J) flammable gases, anhydrous ammonia, nonflammable gases, hazardous liquids.	Thermal, head, and couplers.	$6,900	15,300
(112S, 114S) anhydrous ammonia, nonflammable gases, hazardous liquids.	Head and couplers	1,900	2,700
(112A, 114A) nonflammable gases, hazardous liquids	Couplers	500	2,000

The Bureau believes that the foregoing costs will be offset not only by reductions in the number of accidents involving property loss and damage, but also by the magnitude of dollar losses sustained. This does not take into account the social benefits—and to the extent they can be quantified, the economic benefits—public safety that will be derived by significantly reducing the number of deaths, injuries and evacuations that have characterized the accident experience of 112 and 114 tank cars. Since 1969, more than 500 of these tank cars have been involved in derailments of which more than 170 of these cars lost some or all of their lading. These occurrences resulted in 20 deaths, 855 injuries, and 45 major evacuations involving more than 40,000 persons. Four of these accidents resulted in estimated losses of more than $100,-000,000.

The Bureau considers that the requirements set forth in this rule represent a cost-effective solution to the safety problems presented by 112 and 114 tank cars over the past several years.

In addition to the substantive matters discussed above, the Bureau has also made several editorial changes to certain

regulatory language proposed in the Notice for the purpose of clarity. These changes in language, unless discussed as part of a substantive provision, do not alter the requirements of any proposal made in the Notice and adopted herein.

Primary drafters of this document are William F. Black, Leavitt A. Peterson, Edward F. Conway, Jr. (Chief Counsel's Office) of the Federal Railroad Administration, Alan I. Roberts and Joseph S. Nalevanko of the Materials Transportation Bureau, and George W. Tenley, Jr. of the Office of the Assistant General Counsel for Materials Transportation Law.

In consideration of the foregoing, Parts 173 and 179 of Title 49 Code of Federal Regulations are amended as follows:

1. In § 173.31 paragraph (a)(3) is revised; paragraph (a)(5) is added to read as follows:

§ 173.31 Qualification, maintenance, and use of tank cars.

(a) • • •

(3) Unless otherwise specifically provided in this Part—

(i) When class DOT–105A, 105AL, 106A, 109A–AL, 110A, 111A, 112A, 112S, 112T, 112J, 114A, 114S, 114T, or 114J tank car tanks are prescribed, the same class tanks having higher marked test pressures than those prescribed may also be used.

(ii) When class DOT–111AW1 tank car tanks are prescribed, class 111AW3 tank car tanks may also be used.

(iii) When class DOT–112A tank car tanks are prescribed, classes DOT–112S, 112T, and 112J tanks having equal or higher marked test pressures than those prescribed may also be used.

(iv) When class DOT–112S tank car tanks are prescribed, classes DOT–112T and 112J tanks having equal or higher marked test pressures than those prescribed may also be used.

(v) When class DOT–114A tank car tanks are prescribed, classes DOT–114S, 114T, and 114J tanks having equal or higher marked test pressures than those prescribed may also be used.

(vi) When class DOT–114S tank car tanks are prescribed, classes DOT–114T, and 114J tanks having equal or higher marked test pressures than those prescribed may also be used.

• • • • • •

(5) After June 30, 1979, each specification 112 and 114 tank car built before January 1, 1978, must be equipped with shelf couplers in accordance with § 179.-105–6 of this subchapter.

• • • • • •

2. In § 173.314 paragraph (c) Table Note 23 is revised and reference thereto in Column 3 opposite Anhydrous ammonia is deleted; Note 24 is added and reference thereto is made in Column 3 opposite Anhydrous ammonia in the space provided by the deletion of Note 23 as follows:

§ 173.314 Requirements for compressed gases in tank cars.

• • • • • •

(c) • • •

Kind of gas	Maximum permitted filling density, note 1 (in percent)	Required tank car [1]
Anhydrous ammonia	50.0	DOT–106A500–X, note 7.
	57.0	DOT–105A300W.
	57.0	DOT–112A400–F, 112A340–W, 114A340–W, notes 15 and 24.
	58.8	DOT–112A400–F, 112A340–W, 114A340–W, notes 15 and 24.

[1] See sec. 173.31(a)(2) and (3).

• • • • • •

NOTE 23.—After Dec. 31, 1981, each specification 112 and 114 tank car built before Jan. 1, 1978, used for the transportation of flammable compressed gases must be equipped with thermal protection and tank head puncture resistance systems in accordance with sec. 179.105 of this subchapter.

NOTE 24.—After Dec. 31, 1981, each specification 112 and 114 tank car built before Jan. 1, 1978, used for the transportation of anhydrous ammonia must be equipped with a tank head puncture resistance system in accordance with sec. 179.105 of this subchapter.

• • • • • •

3. Section 179.105 is added immediately following § 179.104 to read as follows:

§ 179.105 Special requirements for Specifications 112 and 114 tank cars.

§ 179.105–1 General.

(a) In addition to the requirements of this section, each tank car built under specification 112 and 114 must meet the applicable requirements of §§ 179.100, 179.101, 179.102, and 179.103.

(b) Notwithstanding the provisions of §§ 179.3, 179.4, and 179.6, AAR approval is not required for changes in or additions to specifications 112 and 114 tank cars necessary to comply with this section.

(c) Notwithstanding the provisions of § 173.8 of this subchapter, after December 31, 1981, each specification 112 and 114 tank car manufactured to specifications promulgated by the Canadian Transport Commission that is not equipped as described in this section may not be used to transport compressed gases in the United States.

§ 179.105–2 New cars.

(a) Each specification 112A and 114A tank car built after December 31, 1977, shall be equipped with a coupler restraint system that meets the requirements of § 179.105–6.

(b) Each specification 112S and 114S tank car built after December 31, 1977, shall be equipped with:

(1) A coupler restraint system that meets the requirements of § 179.105–6; and

(2) A tank head puncture resistance system that meets the requirements of § 179.105–5.

(c) Each specification 112T, 112J, 114T, and 114J tank car built after December 31, 1977, shall be equipped with:

(1) A coupler restraint system that meets the requirements of § 179.105–6;

(2) A tank head puncture resistance system that meets the requirements of § 179.105–5;

(3) A thermal protection system that meets the requirements of § 179.105–4; and

(4) A safety relief valve that meets the requirements of § 179.105–7.

(d) Each specification 112 and 114 tank car shall be stenciled as prescribed in § 179.105–8.

§ 179.105–3 Previously built cars.

(a) After June 30, 1979, each specification 112 and 114 tank car built before January 1, 1978, shall be equipped with a coupler restraint system that meets the requirements of § 179.105–6.

(b) Each tank car built before January 1, 1978, required to meet specification 112S and 114S, shall be equipped with a tank head puncture resistance system in accordance with the requirements of paragraph (d) of this section and § 179.105–5, and he stenciled as prescribed in § 179.105–8.

(c) Each tank car built before January 1, 1978, required to meet specification 112J, 112T, 114J, and 114T, shall:

(1) Be equipped with a thermal protective system that meets the requirements of § 179.105–4;

(2) Be equipped with a tank head puncture resistance system that meets the requirements of § 179.105–5;

(3) Be equipped with a safety relief valve that meets the requirements of § 179.105–7; and

(4) Comply with paragraph (d) of this section.

(5) Be stenciled as prescribed in § 179.105–8.

(d) Each tank car owner shall equip its tank cars which are subject to paragraphs (b) and (c) of this section in accordance with the following schedule:

(1) At least 20 percent of those cars owned on January 1, 1979, must be so equipped by that date;

(2) At least 50 percent of those cars owned on January 1, 1980, must be so equipped by that date;

(3) At least 80 percent of those cars owned on January 1, 1981, must be so equipped by that date; and

(4) All of those cars owned on January 1, 1982, must be so equipped by that date.

§ 179.105–4 Thermal protection.

(a) *Performance standard.* Each specification 112T, 112J, 114T, and 114J tank car shall be equipped with a thermal protection system that prevents the release of any of the car's contents (except release through the safety relief valve) when subjected to:

(1) A pool fire for 100 minutes; and

(2) A torch fire for 30 minutes.

(b) *Test verification.* Except as provided in paragraph (c) of this section,

compliance with the requirements of [illegible]

car so that it is the leading location of a mating coupler (or simulated coupler) protection system shall have the letter "T" substituted for the "A" and "S" in

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compliance with the requirements of paragraph '(a)' of this section shall be verified by testing and analyzing the thermal protection system in accordance with paragraphs '(d)', '(e)', and '(f)' of this section. A complete record of each test verification shall be made, retained and, upon request, made available for inspection and copying by authorized representatives of the Department.

'(c)' *Excepted systems* The Department maintains a list of thermal protection systems which comply with the requirements of paragraphs '(d)' and '(e)' of this section and which are excepted from the test verification requirement of paragraph '(b)' of this section Information necessary to equip tank cars with one of these systems, is available in the Section of Dockets, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C 20590

'(d)' *Simulated pool fire test* '(1)' A pool fire environment shall be simulated in the following manner

'(i)' The source of the simulated pool fire shall be a hydrocarbon fuel. The flame temperature from the simulated pool fire shall be at 1,600° F plus-or-minus 100° F. throughout the duration of the test.

'(ii)' An uninsulated square steel plate with thermal properties equivalent to tank car steel shall be used. The plate dimensions shall be not less than one foot by one foot by nominal $^5/_8$-inch thick. The plate shall be instrumented with not less than nine thermocouples to record the thermal response of the plate The thermocouples shall be attached to the surface not exposed to the simulated pool fire, and shall be divided into nine equal squares with a thermocouple placed in the center of each square.

'(iii)' The pool fire simulator shall be constructed in a manner that results in total flame engulfment of the front surface of the bare plate. The apex of the flame shall be directed at the center of the plate.

'(iv)' The steel plate holder shall be constructed in such a manner that the only heat transfer to the back side of the plate is by heat conduction through the plate and not by other heat paths

'(v)' Before the plate is exposed to the simulation pool fire, none of the temperature recording devices shall indicate the plate temperature in excess of 100° F nor less than 32° F.

'(vi)' A minimum of two thermocouples devices shall indicate 800° F after not less than 12 minutes nor more than 14 minutes of simulated pool fire exposure.

'(2)' A thermal insulation system shall be tested in the simulated pool fire environment described in paragraph '(d)' '(1)' of this section in the following manner:

'(i)' The thermal insulation system shall cover one side of a steel plate identical to that used to simulate a pool fire under paragraph '(d)' '(1)' '(ii)' of this section.

'(ii)' The uninsulated side of the steel plate shall be instrumented with not less than nine thermocouples placed as described in paragraph '(d)' '(1)' '(ii)' of this section to record the thermal response of the steel plate.

'(iii)' Before exposure to the pool fire simulation, none of the thermocouples on the thermal insulation system steel plate configuration shall indicate a plate temperature in excess of 100° F nor less than 32° F

'(iv)' The entire insulated surface of the thermal insulation system shall be exposed to the simulated pool fire

'(v)' A pool fire simulation test shall run for a minimum of 100 minutes The thermal insulation system shall retard the heat flow to the steel plate so that none of the thermocouples on the uninsulated side of the steel plate indicates a plate temperature in excess of 800° F

'(vi)' A minimum of three consecutive successful simulation fire tests shall be performed for each thermal insulation system

'(e)' *Simulated torch fire test* '(1)' A torch fire environment shall be simulated in the following manner

'(i)' The source of the simulated torch shall be a hydrocarbon fuel. The flame temperature from the simulated torch shall be 2,200° F plus-or-minus 100° F throughout the duration of the test Torch velocities shall be 40 miles per hour plus-or-minus 10 miles per hour throughout the duration of the test.

'(ii)' An uninsulated square steel plate with thermal properties equivalent to tank car steel shall be used The plate dimensions shall be not less than four feet by four feet by nominal $^5/_8$-inch thick The plate shall be instrumented with not less than nine thermocouples to record the thermal response of the plate The thermocouples shall be attached to the surface not exposed to the simulated torch, and shall be divided into nine equal squares with a thermocouple placed in the center of each square.

'(iii)' The steel-plate holder shall be constructed in such a manner that the only heat transfer to the back side of the plate is by heat conduction through the plate and not by other heat paths The apex of the flame shall be directed at the center of the plate.

'(iv)' Before exposure to the simulated torch, none of the temperature recording devices shall indicate a plate temperature in excess of 100° F or less than 32° F

'(v)' A minimum of two thermocouples shall indicate 800° F in a time of 4.0 plus-or-minus 0.5 minutes of torch simulation exposure

'(2)' A thermal insulation system shall be tested in the simulated torch fire environment described in paragraph '(e)' '(1)' of this section in the following manner:

'(i)' The thermal insulation system shall cover one side of a steel plate identical to that used to simulate a torch fire under paragraph '(e)' '(1)' '(ii)' of this section.

'(ii)' The back of the steel plate shall be instrumented with not less than nine thermocouples placed as described in paragraph '(e)' '(1)' '(ii)' of this section to record the thermal response of the steel.

'(iii)' Before exposure to the simulated torch, none of the thermocouples on the thermal insulation system steel plate configuration shall indicate a plate temperature in excess of 100° F nor less than 32° F

'(iv)' The entire outside surface of the thermal insulation system shall be exposed to the simulated torch fire environment

'(v)' A torch simulation test shall be run for a minimum of 30 minutes The thermal insulation system shall retard the heat flow to the steel plate so that none of the thermocouples on the uninsulated side of the steel plate indicates a plate temperature in excess of 800° F

'(vi)' A minimum of two consecutive successful torch simulation tests shall be performed for each thermal insulation system

'(f)' *Analysis.* The analysis required by paragraph '(b)' of this section must verify that the entire surface of the tank car, including discontinuous structures '(e.g., stub sills, protective housings, etc.)', complies with the requirements of paragraph '(a)' of this section.

'(g)' *Exterior tank color* Notwithstanding the provisions of § 179.101-1 '(a)' Table. Note 4, each specification 112 and 114 tank car equipped with thermal protection that complies with the requirements of paragraph '(a)' of this section need not be painted white.

§ 179.105–5 Tank head puncture resistance.

'(a)' *Performance standard.* Each specification 112S, 112T, 112J, 114S, 114T, and 114J tank car shall be capable of sustaining, without loss of contents, coupler-to-tank head impacts within the area of the tank head described in § 179-100–23 at relative car speeds of 18 miles per hour when

'(1)' The weight of the impact car is at least 263,000 pounds,

'(2)' The impacted tank car is coupled to one or more "backup" cars which have a total weight of at least 480,000 pounds and the hand brakes are applied on the first car; and

'(3)' The impacted tank car is pressurized to at least 100 psi.

'(b)' *Test verification* Compliance with the requirements of paragraph '(a)' of this section shall be verified by full scale testing or by the alternate test procedures prescribed in paragraph '(c)' of this section. However, protective head shields that meet the requirements of § 179.100–23 or full tank head jackets that are at least $^1/_2$-inch thick and made from steels specified in § 179.100–23 '(a)' '(1)' need not be verified by testing

'(c)' *Tank head puncture resistance test* A tank head resistance system shall be tested under the following conditions

'(1)' The ram car used shall weigh at least 263,000 pounds, be equipped with a coupler, and duplicate the condition of a conventional draft sill including the draft yoke and draft gear. The coupler shall protrude from the end of the ram car so that it is the leading location of perpendicular contact with the standing tank car.

(2) The impacted test car shall be loaded with water at six percent outage with internal pressure of at least 100 psi and coupled to one or more "backup" cars which have a total weight of 480,000 pounds with hand brakes applied on the first car.

(3) At least two separate tests shall be conducted with the coupler on the vertical centerline of the ram car. One test shall be conducted with the coupler at a height of 21 inches, plus-or-minus one-inch, above the top of the sill; the other test shall be conducted with the coupler height at 31 inches, plus-or-minus one-inch above the top of the sill. If the combined thickness of the tank head and any additional shielding material at any position over the area described in § 179.100–23 is less than the combined thickness on the vertical centerline of the car, a third test shall be conducted with the coupler positioned so as to strike the thinnest point.

(4) One of the following test procedures shall be applied:

Minimum weight of ram car plus attached cars (in pounds):	Minimum velocity of impact (in miles per hour)	Restriction
263,000	18	1 ram car only.
343,000	16	1 ram car or 1 ram car plus 1 rigidly attached car.
686,000	14	1 ram car plus 1 or more rigidly attached cars.

(5) A test is successful if there is no visible leak from the standing tank car within one hour after impact.

§ 179.105–6 Coupler vertical restraint system.

(a) *Performance standard.* Each specification 112 and 114 tank car shall be equipped with couplers capable of sustaining, without disengagement or material failure, vertical loads of at least 200,000 pounds applied in upward and downward directions in combination with buff loads of 2,000 pounds, when coupled to cars equipped with couplers that do have this vertical restraint capability, and cars equipped with couplers that do not have this vertical restraint capability.

(b) *Test verification and approval.* Except as provided in paragraph (d) of this section, compliance with the requirements of paragraph (a) of this section shall be achieved by verification testing of the coupler vertical restraint system in accordance with paragraph (c) of this section, and approval of the Federal Railroad Administrator.

(c) *Coupler vertical restraint tests.* A coupler vertical restraint system shall be tested under the following conditions:

(1) The test coupler shall be tested with: A mating coupler (or simulated coupler) having only frictional vertical force resistance at the mating interface; a mating coupler (or simulated coupler) having the capabilities described in paragraph (a) of this section.

(2) The testing apparatus shall simulate the vertical coupler performance at the mating interface and may not interfere with coupler failure or otherwise inhibit failure due to force applications and reactions.

(3) The test shall be conducted as follows:

(i) A minimum of 200,000 pounds vertical downward load shall be applied continuously for at least five minutes to the test coupler head simultaneously with the application of a nominal 2,000-pound buff load;

(ii) The procedures prescribed in paragraph (c)(3)(i) of this section shall be repeated with a minimum vertical upward load of 200,000 pounds;

(iii) A minimum of three consecutive successful tests shall be performed for each load combination prescribed in paragraphs (c)(3)(i) and (c)(3)(ii) of this section. A test is successful when a vertical disengagement or material failure does not occur during any of the prescribed load combinations.

(d) *Listing of approved couplers.* The following classes of couplers have been approved by the Federal Railroad Administrator and need not be verified by the testing requirements of paragraph (c) of this section:

(1) E top and bottom shelf couplers designated by the Association of American Railroads' Catalog No. SE60CHT or SE60CHTE; or

(2) F top shelf couplers designated by the Association of American Railroads' Catalog No. SF70CHT or SF70-CHTE.

§ 179.105–7 Safety relief valves.

Notwithstanding the provisions of § 179.105–4, each 112 and 114 tank car shall be equipped with safety relief valves that meet the requirements of Appendix A of the AAR Specifications for Tank Cars. However, the relieving or discharge capacity shall be calculated in accordance with Section A8.01 of Appendix A for compressed gases in non-insulated tanks. If the thermal protection demonstrates that in a pool fire simulation the thermocouples on the back of the steel plate do not indicate a plate temperature in excess of 800°F. for a time period exceeding 100 minutes, the relieving or discharge capacity may be reduced in proportion to the total time in minutes of the steel plate required to exceed 800°F. by at least one thermocouple.

§ 179.105–8 Stenciling.

(a) Each 112 and 114 tank car that is equipped with a tank puncture resistance system as specified in § 179.105–5 shall have the letter "S" substituted for the "A" in the specification marking.

(b) Each 112 and 114 tank car that is equipped with a thermal protection system enclosed in a metal jacket shall have the letter "J" substituted for the "A" and "S" in the specification marking.

(c) Each 112 and 114 tank car that is equipped with a non-jacketed thermal protection system shall have the letter "T" substituted for the "A" and "S" in the specification marking.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e).)

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107 or an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

Issued in Washington, D.C., on September 9, 1977.

JOHN J. FEARNSIDES,
Acting Director,
Materials Transportation Bureau.

[FR Doc.77-26774 Filed 9-14-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Audubon National Wildlife Refuge, N. Dak., to Deer Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to deer hunting of Audubon National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 11, 1977, through November 20, 1977.

FOR FURTHER INFORMATION CONTACT:

David C. McGlauchlin, Refuge Manager, Aubudon National Wildlife Refuge, Coleharbor, N. Dak. 58531. Phone 701–442–5474.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas

Dear Gun Hunting is permitted on the Audubon National Wildlife Refuge, N. Dak., only on the areas designated by signs as being open to hunting. These areas comprising 13,387 acres are delineated on maps available at the refuge headquarters and from the office of the Area Manager, 1500 Capitol Avenue, Bismarck, N. Dak. 58501. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Hunting is permitted from 12 noon, C.S.T. November 11, 1977 to sunset that day, and from sunrise to sunset each day from November 12 through November 20, 1977.

(2) All hunters must exhibit their hunting license, deer tag, game, and vehicle contents to Federal and State officers upon request.

(3) Vehicular traffic, including the use of boats, is prohibited by hunters on the refuge during the deer season.

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The provisions of this special regu-

headquarters landing only. Use of the

DATES: December 7, 8, and 9, 1977.

are prohibited. Target practice during

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

DAVID C. MCGLAUCHLIN,
Refuge Manager, Audubon National Wildlife Refuge, Colebarbor, N. Dak.

SEPTEMBER 8, 1977.

[FR Doc.77-26765 Filed 9-14-77;8:45 am]

PART 32—HUNTING

Opening of DeSoto National Wildlife Refuge, Nebr., to Muzzleloader Deer Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to muzzleloader deer hunting of the DeSoto National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: December 17, 1977, through December 21, 1977, both dates inclusive.

FOR FURTHER INFORMATION CONTACT:

George Gage, Refuge Manager, DeSoto National Wildlife Refuge, R-1, Box 114, Missouri Valley, Iowa 51555. Telephone AC 712-642-4121.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Muzzleloader hunting of deer on the DeSoto National Wildlife Refuge, Nebr., is permitted only on the area designated by signs as being open to hunting. This area contains approximately 3,350 acres.

All hunting shall be accordance with applicable state regulations subject to the following conditions:

1. A total of 100 special permits will be issued for the hunt by the Nebraska Game and Parks Commission. Only those persons possessing a valid permit will be allowed to enter the open area;

2. Muzzleloader rifles are the only weapons allowed and deer are the only legal wildlife species that may be taken during the hunt;

3. Discharging firearms from or across all roads open to vehicle traffic, including adjacent rights-of-way, is prohibited;

4. Parking is restricted to designated parking areas and road shoulders of unpaved roads. Parking on shoulders of paved roads is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 7, 1977.

GEORGE E. GAGE,
Refuge Manager.

[FR Doc.77-26857 Filed 9-14-77;8:45 am]

PART 32—HUNTING

Opening of Flint Hills National Wildlife Refuge, Kans., to Sport Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport hunting of Flint Hills National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Hunting seasons as determined by applicable State and Federal laws.

FOR FURTHER INFORMATION CONTACT:

Michael J. Long, P.O. Box 128, Hartford, Kans. 66854. Telephone No. 316-364-8381.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of mourning doves, rails, woodcock, and Wilson's snipe, on the Flint Hills National Wildlife Refuge, Kans., is permitted only on the area designated by signs as open to hunting. This open area is delineated on maps available at refuge headquarters, Hartford, Kans., and from the Area Manager, U.S. Fish and Wildlife Service, Federal Building, Room 1748, 601 East 12th Street, Kansas City, Mo. 64106. Hunting seasons are in accordance with Kansas State regulations, and all applicable State and Federal hunting laws and regulations apply.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 8, 1977.

MICHAEL J. LONG,
Refuge Manager.

[FR Doc.77-26764 Filed 9-14-77;8:45 am]

PART 32—HUNTING

Opening of Loxahatchee National Wildlife Refuge, Boynton Beach, Fla., to Duck and Coot Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to public duck and coot hunting on Loxahatchee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: See State regulations.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Martin, Refuge Manager, South Florida Complex, Rt. 1, Box 278, Boynton Beach, Fla. 33437. Telephone 305-732-3684.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; big games; for individual wildlife refuge areas.

Public duck and coot hunting is permitted on Loxahatchee National Wildlife Refuge, Fla., only on the areas designated by signs as being open to public hunting. These areas comprising 29,000 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Duck and coot hunting shall be in accordance with all applicable State and Federal regulations subject to the following conditions:

1. Daily Bag Limits: See State regulations.

NOTE.—Only ducks and coots may be taken on the refuge.

2. Open Season: See State regulations.

3. Daily Shooting Hours: One-half hour before sunrise to sunset.

4. All hunters must possess a refuge permit to hunt on Loxahatchee National Wildlife Refuge. Apprehension for violation of any hunt regulations will result in revocation of this permit.

5. All air-thrust boat operators must possess a valid refuge permit for operating on Loxahatchee National Wildlife Refuge. This permit will be revoked upon apprehension for a violation of any hunt regulation.

6. Entry to Refuge: Hunters are required to enter and leave the refuge from the headquarters landing or the S-39 landing (Loxahatchee Recreation Area). Air-thrust boats may be launched at the

headquarters landing only. Use of the refuge is limited to the hours from one and one-half hours before sunrise to one hour after sunset. Hunters must use the designated routes of travel to and from the hunting area. These routes are those portions of Canal 40 and Canal 39 (Hillsboro Canal) immediately east and south of the hunting area. The refuge marsh near the headquarters and S-39 landing lying between the hunting area and said portions of the above canals may also be used for travel. No hunting is permitted in these canals or the marsh off-sets.

7. Firearms: Hunters must carry unloaded shotguns that are dismantled or cased over the routes stated under Item 6 in traveling to and from the hunting area.

8. Only steel shot ammunition may be used. The possession or use of shotgun shells with lead or other toxic shot is prohibited.

9. Hunting Dogs: Hunters are permitted to use dogs for the purpose of retrieving dead or wounded birds.

10. All Boats: For safety reasons all boats must display a light when traveling to and from the hunting area when traveling in darkness. All boats operating within the public hunting area are required to fly a flag 12" x 12" ten feet above the bottom of the boat.

11. Blinds: Only temporary blinds constructed of native vegetation are permitted.

12. Posted Areas: The public hunting area has been designated by red signs with black lettering. Other signs designated closed areas.

13. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Dated: September 8, 1977.

HAROLD W. BENSON,
Acting Regional Director.

[FR Doc.77-26766 Filed 9-14-77;8:45 am]

PART 32—HUNTING

Opening of Wassaw Island National Wildlife Refuge, Ga., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Wassaw Island National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: December 7, 8, and 9, 1977.

FOR FURTHER INFORMATION CONTACT:

John P. Davis, Refuge Manager, Savannah National Wildlife Refuge Complex, P.O. Box 4623, Savannah, Ga. 31402. Telephone 912-232-4321, ext. 415.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Hunting is permitted on the Wassaw Island National Wildlife Refuge, Ga., only on the areas designated as being open to hunting. These areas comprising 2,000 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, 17 Executive Park Drive, NE., Atlanta, Ga. 30329. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Entry on the refuge will not be permitted more than one day in advance of the opening date of the hunt period. Participants will be confined to the camping area until the morning of the first day of the hunt period, and must be off the Island the day following the last day of the hunt period.

2. All camping will be at designated areas only. Fires must be confined to the camping area.

3. Hunters must check in at the Wassaw Refuge Headquarters and leave their boats at the refuge dock.

4. Only antlerless deer may be taken the first hunt day. Deer of either sex may be taken on other hunt days. All State Regulations and bag limits will be enforced. A maximum of two deer may be taken.

5. Hunting hours are according to State regulations. During the periods from 7 a.m. until 9:30 a.m. and from 3 p.m. until 5:35 p.m. each day, hunters must be on their stands. No movement during these hours will be tolerated.

6. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

7. Blazing, driving spikes, painting, applying tape, or damaging or destroying trees and shrubbery in any manner is prohibited. Deer stands which will damage trees are not permitted.

8. All forms of litter should be placed in trash receptacles for proper disposal.

9. Transportation is not provided to and from the Islands or on the Islands. Any movement after reaching Wassaw Island must, of necessity, be by foot. You are not allowed to leave by boat to go to the other parts of Wassaw Island.

10. A Federal permit is required. Only hunt participants with proper licenses and permits will be permitted on the refuge to hunt and camp.

11. Only rifles and shotguns 20 gauge or larger using slugs may be used during the gun hunt. Handguns and buckshot are prohibited. Target practice during the gun hunt is prohibited. Weapons must be unloaded and cased except during the daily hunting periods.

12. Gun hunters must wear outer garments containing at least 500 square inches of daylight fluorescent orange colored material above the waistline.

14. The Wassaw Island National Wildlife Refuge will be closed to the general public December 6-9, 1977.

The provisions of this special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 8, 1977.

HAROLD W. BENSON,
Acting Regional Director.

[FR Doc.77-26767 Filed 9-14-77;8:45 am]

PART 32—HUNTING

Opening of Yazoo National Wildlife Refuge, Mississippi to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to big game hunting of Yazoo National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: White Tail Deer (Archery): November 1, 1977 through November 12, 1977 (Sundays excluded). White Tail Deer (Gun): December 26, 1977 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

James M. Dale, Refuge Manager, Route 1, Box 286, Hollandale, Mississippi 38748, telephone 601-839-2638.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Deer hunting is permitted on the Yazoo National Wildlife Refuge, Mississippi, in wooded areas only, including wooded areas not designated by signs as closed to hunting. The open areas comprising 7,800 acres are delineated on a map along with special regulation sheets and are available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329. Big game hunting shall be in accordance with all State regulations subject to the following conditions:

SEP 15 77 V 42 179 UMI

1. Bag limit: One deer of either sex during the archery hunt. One buck with antlers 4 inches or longer during the gun hunt.

2. Weapons: Archery, long bows only with broadhead arrows. Use or possession of drugged arrows is prohibited. Gun—Shotguns, 20 gauge and larger, and centerfire rifles .22 caliber or larger. No handguns are permitted.

3. A refuge deer hunting permit is required. Entry of hunting area without permit is prohibited. Submission of more than one application or applications containing false information is prohibited.

4. Firearms may not be discharged within 250 yards of residences or the refuge headquarters. Carrying of loaded firearms in vehicles and shooting from or across County or State roads are prohibited.

5. All deer killed must be checked out at refuge checking station.

6. Hunters may enter the hunting area no earlier than 1 hour before sunrise. Archery hunters must depart the hunting area immediately after sunset. Gun hunters must depart the hunting area no later than 1 hour after sunset.

7. Each hunter under age 18 must be under the close supervision of an adult bearing a permit. For safety reasons, the ratio should be one adult to one juvenile. In no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern big game hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 8, 1977.

HAROLD W. BENSON,
Acting Regional Director.

[FR Doc.77-26768 Filed 9-14-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 981]

HANDLING OF ALMONDS GROWN IN CALIFORNIA

Administrative Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule reduces the tolerance for inedible almonds to improve the quality of almonds entering the market. The rule also changes certain reporting requirements for handlers of California almonds by simplying procedures and adapting reports to current needs.

DATE: Written comments to this proposal must be received by September 30, 1977.

ADDRESS: Written comments should be submitted in duplicate to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: Notice is given to amend Subpart—Administrative Rules and Regulations (7 CFR 981.441-981.481; 42 FR 3159, 5341, 5677, 19371) by revising §§ 981.442, 981.473 and 981.474. The subpart is issued under the marketing agreement, as amended and Order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California. The marketing agreement and order are collectively referred to as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposals are based on a unanimous recommendation of the Almond Board of California.

Section 981.42 provides for each handler to cause to be determined, through the inspection agency, and at the handler's expense, the percent of inedible kernels in each variety of almonds received by him, and report this determination to the Board. The quantity of inedible kernels in each variety in excess of two percent of the kernel weight received, constitutes a weight obligation to be accumulated in the course of processing and shall be delivered to the Board, or Board accepted crushers, feed manufacturers, or feeders. Section 981.42 also authorizes the Board, with the approval of the Secretary, to change this percentage for any crop year, and to establish rules and regulations necessary and incidental to the administration of this provision, including, among other things, that the Board for good cause may waive portions of obligations for those handlers not generating inedible material from such sources as blanching or manufacturing. Section 981.442 implements § 981.42 and specifies the manner in which the inedible kernelweight of almonds is to be determined and methods by which a handler can satisfy his inedible kernelweight obligation. It also provides procedures for waiving a portion of the disposition obligations of those handlers not blanching almonds or manufacturing almond products.

Currently, § 981.442(a)(4) requires disposition of the weight of inedible kernels in excess of two percent of the kernel weight reported to the Board. As a means of further improving the quality of almonds entering trade channels, the Board recommended reduction of this percentage to one and one-half percent. Therefore, the proposal is to revise §§ 981.442 (a)(4) and (a)(6) by lowering the percentage prescribed in each subparagraph to one and one-half percent. Section 981.442(a)(6) deals with the partial waiver of a handler's disposition obligation.

Section 981.61 provides the basis by which volume and financial obligations of handlers are determined. This is known as the redetermination of kernelweight. This section prescribes when a handler must file redetermination reports and the method to be used in calculation of the redetermination of kernelweight.

Section 981.473 Redetermination reports, elaborates on the information required under § 981.61. Currently, § 981.473(f) requires a handler to report, as part of his redetermination report, his undelivered sales. This is a report of all amonds sold but not delivered, showing the weight of such almonds and whether they are unshelled or shelled. The Board indicated this information is unnecessary for the purposes of redetermination.

However, the Board needs information on deliveries of almonds to Board accepted crushers, feed manufacturers or feeders for the purpose of establishing assessment obligation. Thus, paragraph (f) would be revised to require a handler to report the weight of all almonds he must deliver to such outlets to meet his disposition obligation pursuant to § 981.42 (a). The revision would ease the burden on a handler in paying assessments which would subsequently be refunded. This occurs because § 981.442(a)(5) permits a handler to satisfy his disposition obligation no later than July 30 of the succeeding crop year in which the obligation has been incurred, but § 981.73 requires that handlers file redetermination reports by July 15. Thus, the proposal removes the need for the Board to readjust a handler's assessment obligation on the basis of his subsequent deliveries of almonds to exempt outlets. It would also enable the Board to determine its financial position at an early date after the end of the crop year.

Section 981.474 prescribes other reports the handler must file. These include reports of shipments, export sales and deliveries, and diversions, and intentions to divert reserve almonds to non-competitive outlets.

Section 981.474 would be revised to update these reports and make them more understandable to handlers. It would also give the Board ready access to information it needs. In order to describe the true nature of its contents, the proposal changes the title of that section from "report of shipments" to "report of shipments and commitments". Also, § 981.474(a) would be revised to require each handler to report his commitments (almonds not shipped but sold or otherwise obligated) to the Board on ABC Form 25. These commitments would be reported as domestic contract, export contract, and noncontract, and as inshell, shelled, or manufactured.

Section 981.474(b) pertains to the reporting of export sales. This information is necessary in those crop years when a handler is permitted to satisfy his reserve obligation by exporting almonds pursuant to § 981.67. Paragraph (b) would be revised so that it would not apply whenever export shipments are included with domestc shipments in the estimated trade demand for a crop year. In that event, handlers would still report export shipments, by countries of destination on ABC Form 25 pursuant to paragraph (a) of § 981.474.

The proposals to amend Subpart-Administrative Rules and Regulations are as follows:

1. Revise § 981.442(a) (4) and (6) to read as follows:

§ 981.442 Quality Control.

(a) • • •

(4) *Disposition obligation.* The weight of inedible kernels in excess of one and one-half percent of the kernel weight reported to the Board of any variety received by a handler shall constitute his disposition obligation. If a variety other

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than Peerless is used as bleaching stock, the weight so used may be reported to the Board and the disposition obligation for that variety reduced proportionately.

• • • • •

(6) *Partial waiver of obligations.* Any handler generating inedible kernels only in the form of pickouts after shelling, may petition the Board for a waiver of the difference between this inedible weight and his disposition obligation. The petition will be granted only if the handler certifies to the Secretary and the Board that (i) he did not engage in any blanching, cutting, chopping, or other processing of almond kernels during the crop year (ii) all almonds shelled by or for him were hand-picked on belts and the visibly inedible almonds removed, and (iii) that he did not place into trade channels any almonds with more than one and one-half percent inedibles. However, no waiver shall be granted for more than 30 percent of the handler's inedible disposition obligation.

• • • • •

2. Revise § 981.473(f) to read as follows:

§ 981.473 Redetermination reports.

• • • • •

(f) *Exempt outlet deliveries.* A report showing the quantity of almonds delivered by a handler to Board accepted crushers, feed manufacturers, or feeders, and—for the purpose of establishing the assessment obligation—the quantity of almonds the handler must deliver to the Board approved outlets to meet his disposition obligation pursuant to § 981.42(a).

3. Revise § 981.474 to read as follows:

§ 981.474 Report of shipments and commitments.

(a) Each handler shall report on ABC Form 25 the following: (1) All shipments of almonds, inshell and shelled and by classification (domestic, and export by countries of destination); and (2) all commitments (almonds not shipped, but sold or otherwise obligated) whether domestic contract, export contract, or noncontract. If the destination of any export is unknown to the handler, he shall have the broker/exporter furnish this information to the Board. In support of this report, the handler shall keep invoices on the shipments, or such other documentation as may be acceptable to the Board. The reports shall be filed with the Board within five business days after the close of each month of the crop year.

(b) At the time of each export sale, each handler shall report it to the Board on ABC Form 18 and upon delivery into export shall report this on ABC Form 19. If any export is not made directly by the handler, he shall send the ABC Form 19 to the broker-exporter and request him to make the report to the Board. These forms shall include the number and type of container, net weight, variety and whether inshelled or shelled, time of export and destination. In years of minimum export prices applicable to reserve almonds, ABC Form 19 shall include the grade and size, the inspection certificate number, the price and any terms defining the price. Whenever export shipments are included with domestic shipments in the estimated trade demand for a crop year, this paragraph shall not apply.

• • • • •

Dated: September 12, 1977.

CHARLES R. BRADER,
Deputy Director,
Fruit and Vegetable Division.

[FR Doc. 77-26934 Filed 9-14-77;8:45 am]

[7 CFR Part 989]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Proposed Addition of Australia to the List of Countries to Which Reserve Tonnage Raisins May Be Exported

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking invites written comments on making Australia eligible for sales of reserve tonnage raisins under the Federal marketing order for California raisins. This would provide raisin handlers with another available export outlet for reserve raisins, additional flexibility in selling such raisins overseas, and could facilitate exports of California raisins. The proposal was recommended by the Raisin Administrative Committee.

DATES: Comments must be received prior to September 30, 1977.

ADDRESSES: Comments should be addressed to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Two copies of all written comments should be submitted, and they will be available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: 202-447-3545.

SUPPLEMENTARY INFORMATION:

The proposal is to revise the list of countries to which raisin handlers may sell reserve raisins to permit sales to Australia. This list in contained in § 989.221 of Subpart—Supplementary Regulations (7 CFR 989.231). The Subpart is operative pursuant to the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989; 42 FR 37200), regulating the handling of raisins produced from grapes grown in California (hereinafter referred to collectively as the "order"). The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Currently, all countries outside of the Western Hemisphere except Australia are eligible outlets for reserve raisins. The Western Hemisphere is defined to exclude Greenland. Rather than preparing a list containing hundreds of countries, the countries are specified by hemisphere. Section 989.67(c) of the order requires the Committee to review the list of countries annually and recommend changes as conditions warrant. It recommended that Australia be made eligible for sales of reserve raisins to provide raisin handlers another available export outlet for reserve raisins, additional flexibility in selling such raisins overseas, and to facilitate exports of California raisins.

The proposal is to revise § 989.221 to read as follows:

§ 989.221 Countries to which sale in export of reserve raisins may be made by handlers.

The countries to which sale in export of reserve raisins may be made by handlers shall be all of those countries outside of the Western Hemisphere. For purposes of this section "Western Hemisphere" means the area east of the international dateline and west of 30 degrees W. longitude but excluding all of Greenland. All of the countries covered by this section to which sale in export of reserve raisins may be made shall be deemed listed in this section for the purposes of § 989.67(c).

Dated: September 12, 1977.

CHARLES R. BRADER,
Deputy Director,
Fruit and Vegetable Division.

[FR Doc.77-26935 Filed 9-14-77;8:45 am]

Farmers Home Administration

[7 CFR Part 1822]

[FmHA Instruction 444.5]

RENTAL ASSISTANCE FOR LOW INCOME TENANTS

Rural Rental Housing Loan and Grant Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration proposes to add a new Exhibit F-5A and Exhibits R, R-1, R-2, R-3, and R-4, and to revise Exhibit J-2 and Form FmHA 444-7, which will provide for a new Rental Assistance Program. This action is brought about by a need in rural communities for additional assistance to low income families and senior citizens who cannot pay the monthly rental rate with 25 percent of their income. The intended effect is to provide rental assistance for qualified individuals occupying eligible rural rental housing, rural cooperative housing, and labor housing projects.

DATES: Comments must be received on or before October 17, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives

Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above during regular business hours (8:15 a.m. to 4:45 p.m.).

FOR FURTHER INFORMATION CONTACT:

Mr. Paul R. Conn, Director, Multiple Family Housing Loan Division, 202-447-7207.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration proposes to add new Exhibits F-5A, R, R-1, R-2, R-3, and R-4 to Subpart D of Part 1822, Title 7, Code of Federal Regulations. Exhibit J-2 is revised to provide a Project Worksheet for computing tenants' rental rates and the amount of rental assistance. The benefits provided by Exhibit R will supplement the benefits available to tenants under the interest credit program which is outlined in Exhibit J to Subpart D. The objective of the rental assistance program is to reduce the rent paid by low income families.

As proposed, Exhibits F-5A, R, R-1, R-2, R-3, and R-4 are added to Subpart D of Part 1822 and Exhibit J-2 and Form FmHA 444-7 are revised and read as follows:

FmHA Instruction 444.5
Exhibit F-5A
Page 1

HOUSING ALLOWANCES FOR UTILITIES AND OTHER PUBLIC SERVICES

NAME OF BORROWER

LOCATION AND IDENTIPICATION OF PROJECT

PART I

UTILITY OR SERVICE	Monthly Dollar Allowances 0-BR	1-BR	2-BR	3-BR	4-BR	5-BR
HEATING						
a. Natural Gas						
b. Bottle Gas						
c. Oil						
d. Electric						
AIR CONDITIONING						
COOKING						
a. Natural Gas						
b. Electric						
c. Bottle Gas						
OTHER ELECTRIC LIGHTING, REFRIGERATION, ETC.						
WATER HEATING						
a. Natural Gas						
b. Electric						
c. Bottle Gas						
d. Oil						
WATER						
SEWER						
TRASH COLLECTION						
OTHER (Specify)						

PREPARED BY: Borrower or Agent — Title — Signature — Date

APPROVED BY FARMERS HOME ADMINISTRATION

Name — Title — Signature — Date

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FmHA Instruction 444.5
Exhibit F-5A
Page 2

HOUSING ALLOWANCES FOR UTILITIES AND OTHER SERVICES

PART II

BLOCK A	BLOCK B	
TO: _____ Name of Tenant	ALLOWANCE FOR UTILITIES AND SERVICES BILLED DIRECTLY TO AND PAID BY TENANT	Per Month
_____ Address of Tenant	Heating	$_____
No. of Bedrooms_____	Air Conditioning	_____
You will be billed direct for the utility and service charges as listed in this PART BLOCK B. The amount in total is the same amount as shown in your lease which is credited toward the total monthly rental rate for the unit you are occupying.	Cooking	_____
	Other Electric	_____
	Water Heating	_____
	Water	_____
	Sewer	_____
	Trash Collection	_____
	Other (Specify) _____	_____
_____ Signature of Borrower or Agent	TOTAL	$_____
_____ Date		

FmHA INSTRUCTION 444.5, EXHIBIT F-5A

INSTRUCTIONS FOR PREPARATION AND USE OF HOUSING ALLOWANCES FOR UTILITIES AND OTHER PUBLIC SERVICES

I. General. These are instructions for completing Exhibit F-5A for the establishment and use of approved utility allowances for tenants. All allowances established for the housing units shall be based on the average cost of utilities and services paid by occupants of similar size and type housing in the same locality. Allowances shall not be based on energy consumption or costs of above average or below average income families. The objective shall be to establish allowances at levels that will apply to the majority of the families assigned to the proper size unit.

II. Determining Allowances. A. In general, the borrower shall to the extent possible use local sources of information on the cost of utilities and services. The following local sources should be contacted:

1. Electric utility suppliers.
2. Natural gas utility suppliers.
3. Water and sewer suppliers.
4. Fuel oil and bottle gas suppliers.
5. Public service commissions.
6. Real estate and property management firms.
7. State and local agencies including public housing authorities.

B. Allowances approved by FmHA or HUD for nearby localities with essentially the same type of housing stock should also be examined and may be used if determined adequate. In most cases fuel or utility rates normally will not vary appreciably in neighboring communities, and where data is not available in small communities, approved allowances for larger nearby communities may be used.

Data from other housing projects in the area may be used, providing the housing units are of similar size and type and serve comparable size families.

C. Separate heating and cooling allowances shall be established for the various types of multiple family housing financed by FmHA in the locality for which there are significant differences in fuel costs for the same number of bedrooms. For example, separate allowances may be needed for duplexes, row or townhouses, garden and low and medium rise apartments. In addition to establishing different heating and cooling allowances for various types of structures, attention should be given to different allowances for water, depending on whether tenants will have responsibilities for lawn care.

D. The data to be solicited from the local sources shown in paragraph II A should be as close as possible in form and detail to the format of Exhibit F-5A. If possible, all consumption data should be obtained for each unit size and type. If data is available only for an average unit size (2.5 bedrooms), multiply the utilities costs for the average unit by the following factors:

Size of unit:	Factor
No bedroom	0.5
1 bedroom	.7
2 bedrooms	.9
3 bedrooms	1.1
4 bedrooms	1.4
5 bedrooms	1.6

Example: Natural gas heating cost for average sized unit is $18 per month. The allowance for a four-bedroom unit will be 1.4×$18=$25 (rounded to nearest dollar).

E. Allowances for air conditioning shall be established only for those projects which are cooled by a central air conditioning system and for projects that are equipped with wall or portable units as a part of the permanent equipment.

F. The cost of gas and electricity varies according to amounts consumed as shown on the appropriate rate schedules of the supplier. It is not possible to compute exactly the cost of electricity for any given function without knowing the total electrical usage for a unit. However, because neither the borrower nor the families know beforehand just what will be the combination of utilities for any unit rented, it will be necessary to approximate the allowances for each function (e.g., heating, cooking, etc.) as follows: for electricity the rates used for lighting, refrigeration and appliances should be from the top of the rate schedule or the higher unit costs. Allowances for electric cooling, water heating and space heating and cooling should be computed from the middle or lower steps in the rate schedules. Similarly, allowances for gas used for water heating and cooking should be computed using rates from the top of the rate schedule and for heating from the lower steps.

III. Preparation. A. Exhibit F-5A will be completed in the original and three copies for each different type of unit in a project in all instances when a "Statement of Budget, Income, and Expense" is required to be completed. This form will establish the allowances for all type and size units in the project. The allowances shall be adequate for all utilities and any authorized services which are or will be available to the tenants, except telephone and cable TV. The allowances for utilities as determined in Part I of this form will be the basis of the operating expenses used in budget preparation. The forms will be signed by the borrower. The original and two copies of the form will be submitted to FmHA. Backup data and necessary documentation should be included with the submission.

B. If FmHA finds the allowances acceptable, the approval portion of Part I will be completed on all copies and the original and one copy returned to the County Supervisor. The County Supervisor will keep a copy for the county office file and return the original to the borrower. The borrower will complete Part II of the form and provide copies to each tenant to be attached to and become a part of the lease entered into by the borrower and tenant. The form will provide the family with the amount of allowance for each of the utilities and services which are to be paid by the family. If all utilities and services are paid by the borrower, Part II Block B of the form will show "none".

IV. Submission of Supporting Data to Fm HA. The applicant will submit to FmHA adequate data to justify the utility allowance for the project. The data will include the following:

A. Completed Exhibit F-5A.

B. List of local sources contacted for information and copies of any data provided by such sources.

C. Any data on allowances already established for the area.

D. Complete narrative statement and computations on method used in arriving at the allowances.

WARNING
Section 1001 of Title 18, United States Code provides: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully . . . makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both".

FmHA Instruction 444.5
Exhibit J-2
Page 1

PROJECT WORKSHEET FOR INTEREST CREDIT AND RENTAL ASSISTANCE

PART I

Borrower Name (18)	
Case Number (19)	Location of Project (20)

Kind of Loan (Check appropriate block) (21)

☐ RRH ☐ RCH ☐ LH

Plan of Operation (Check appropriate block) (22)

☐ Profit ☐ Plan 1 ☐ Plan I S/8
☐ Plan II ☐ Plan II RA ☐ Plan RA

This report is for the month of _____, 19____

In accordance with Farmers Home Administration's formula and procedures, all rental units are occupied by families who have executed Form FmHA 444-8, "Tenant Certification" and are farmworkers if this is a labor housing project or if this is a rental housing project, have incomes within the limitations as set forth in FmHA regulations or the project has written permission from FmHA to rent to ineligible occupants on a temporary basis. The amount of payment, overage, surcharge, credit to the payment and/or request for payment for the loan(s) for this project is as follows:

1 Payment Amount	2 Loan Number	3 Overage or Surcharge	4 Total Payment	5 Rental Asst. Payment Due Borrower	6 No. Units Rec'ing Rent Asst
(23)	(24)	(25)	(26)	(27)	(28)
			(29)		

I certify that the statements made above and in Part II are true to the best of my knowledge and belief and are made in good faith.

(30) (Date)

(31) (Signature-Borrower or Borrower's Representative

County Office Schedule No. ☐☐☐ (32)

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FmHA Instruction 444.5
Exhibit J-2

(1) Name of Borrower _____ Page ___ of ___ (2) Reflects Data as of 1st Day of ___ (3) 19__

PART II		3	4	5	6	7	8	9	10	11	12
1	2					25% of Adjusted Monthly Income	Tenants' Monthly Rental Payment	Amount of Rental Assistance	Overage and/or Surcharges	Monthly Utility Allowance	Amt. Due Tenant To Cover Utilities
Apt. No.	Type	Leased To	No of Indiv in Unit	Basic Monthly Rent	Market Monthly Rent						
(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)

new RRH projects must also operate under Plan II in order to receive rental assistance. For a borrower to have an eligible project the loan must be:

(a) RRH insured or direct loan made to a broadly-based nonprofit organization, or State or local agency or

(b) RRH insured loan to an individual or organization who has or will execute a Loan Resolution or Loan Agreement agreeing to operate the housing on a limited profit basis as defined in Part 1822 Subpart D or

(c) RCH insured or direct loan or

(d) LH loan, or an LH loan and grant combination, made to a broad-based nonprofit organization or nonprofit organization of farmworkers or a State or local public Agency.

2. Projects with all or a part of the units under contract with the Department of Housing and Urban Development (HUD) developed under the Section 8 program for new construction or rehabilitation by either the dual or single track processing procedures will not be considered an eligible project. This exemption does not prohibit the borrower from utilizing HUD's Section 8 Housing Assistance Payments Program for existing housing and FmHA rental assistance for other eligible families in the same project.

E. Rental Assistance. Rental assistance, as used in this exhibit, is the difference between 25 percent of the family's adjusted monthly income and the approved monthly rate for the unit being occupied by the family and further defined as:

1. For projects operating on Interest Credit Plan II, it is the difference between 25 percent on the family's adjusted monthly income and the basic rent for the unit.

2. For all direct RRH loans, insured RRH loans approved prior to August 1, 1968, and all eligible LH loans, it is the difference between 25 percent of the family's adjusted monthly income and the approved market rental rate for the unit.

F. Approved Rental Rate. The rental rate (basic and/or market rent) determined by the budget for the project and approved by FmHA. Rental rates will be considered approved if the budget for the year has been approved in accordance with Part 1802 Subpart G and utility allowances have been determined and approved in accordance with paragraph VIII B of this exhibit. The rental rate includes the amortized principal and interest payments, operating and maintenance costs, required deposits to the reserved account and a return on the owner's initial investment when allowed by FmHA regulations. The allowance for all utilities, except telephone and cable TV, will be included or other public services in the operating and maintenance expenses to determine the approved rental rate regardless of whether the tenant or the owner pays utilities.

G. Utility Allowance. The allowance approved by FmHA to cover the cost of utilities which are payable directly by the families. In the case of a project where the families must pay directly for one or more utilities or public services, the amount allowed for these charges is deducted from the approved rental rate for all tenants. (See Exhibit F-5A.)

III. *Eligibility of Borrower.* All borrowers who meet the eligible project definition in II D of this exhibit are eligible and are encouraged to utilize the rental assistance program and receive rental assistance payments on behalf of low-income tenants as provided for in accordance with this exhibit. Generally, the borrower will initiate the processing of a rental assistance application. A borrower who does not request rental assistance may be petitioned by 20 percent or more of the families eligible for rental assistance in an eligible project to obtain rental assistance on their behalf. The petitions shall be in writing to the borrower and contain the signature of the head of the household of each family who is paying more than 25 percent of their adjusted monthly income for rental and desiring rental assistance. A copy of the petition will be submitted to the County Supervisor.

IV. *Eligibility of Tenants.* All tenants as defined in II C of this exhibit, are eligible to receive the benefits of rental assistance when occupying a rental unit in an eligible project providing the project owner has agreed to provide such assistance in accordance with this exhibit and there are RA units available.

V. *Priority of Rental Assistance Applications.* The National Officer may establish a State quota on the number of units that may receive rental assistance in any fiscal year. The State Director will limit the approval of rental assistance to no more than the number of units allocated to the State. Unless otherwise stated by the National Office, the State allocation will indicate the number of units for existing projects and the number of units to be used with the applications for loans. The priority in allocating units will be as follows:

A. Allocation to Projects Within a State. The State Director will distribute any units allocated to the State in accordance with any specific instructions from the National Office and approve requests for rental assistance to projects in accordance with the provisions of this exhibit. The number of units to be granted in any project will be based on the number of tenants in the project needing rental assistance up to the maximum allowed. The maximum number of units in a project to obtain rental assistance is limited to the following:

1. No limitation for eligible labor housing loan and grant projects. However, an eligible labor housing project with a loan only will be limited to not more than 20 percent (rounded to the nearest whole number) of the total number of units in the project.

2. No limitation for RRH, RCH or SCH projects designed and limited to housing for the elderly.

3. An RCH or RRH project designed and/or primarily occupied by low- and moderate-income families will be limited to not more than 20 percent of the total number of units in the project.

4. An RCH or RRH project planned and designed for a mix of senior citizen and low- and moderate-income families will be limited to not more than 20 percent of the total number of units designed for low- and moderate-income families and no limitations on the units designed for and occupied by senior citizens.

B. Granting Exceptions—1. *State Directors Authority.*—An exception to the 20 percent limitation indicated in V B 1, 3 and 4 of this exhibit may be granted by the State Director for up to 40 percent of the units in any particular project (rounded to the nearest whole number). However, the total number of units of rental assistance granted by the State Director including exceptions, cannot exceed the number of units allocated to that State. Exceptions will be granted only when units are or can be made available and the following conditions exist:

(a) When more than 20 percent of the units are occupied by families who are paying more than 25 percent of their adjusted income for rent, and such units are no larger than needed to meet the family's need, or

(b) The tenants in a project that is being assisted at the 20 percent level experience a hardship as a result of an income decrease or a rental increase and must obtain rental assistance to remain in the project, or

(c) The project is being developed in an area of extremely low income families and the majority of the proposed tenants will be paying in excess of 25 percent of their income for rent.

2. *National Office Authority.* If the project is being developed in an area of extremely low families and the majority of the tenants will be paying in excess of 25 percent of their income for rent, the National Office may authorize the State Director to grant approval for a greater number of units on a case-by-case basis for up to 100 percent of the units to receive rental assistance. Such requests will be submitted to the National Office prior to loan approval.

C. Processing Exception Requests.—1. A request for an exception to the 20 percent limitation will be submitted by the borrower to the County Supervisor. The County Supervisor will submit the request with supporting documentation and recommendations to the State Office by memorandum for approval. Included in the memorandum will be the number and percentage of units in excess of the 20 percent limit and justification for the approval. When National Office approval is required, the State Director will request this authorization by memorandum and will include (a) the borrowers case file, (b) complete data and documentation on the housing market situation, (c) the number of rental assistance units allocated to the State, (d) number of uncommitted units still available, and (e) recommendations. If the borrower requests authority to exceed the 40 percent limitation after the loan is approved, such requests will not be approved until the project is completed, and at least partially occupied and it is apparent that full rentup will not occur unless the 40 percent limitation is exceeded.

2. The State Director will maintain Form FmHA 444-28, "Record of Rental Assistance Agreements." The record will include the borrower's case number, fund code, loan number, number of units in the project, number of units for rental assistance authorized and the effective date of each agreement and amendment. This information will be obtained from Form FmHA 444-25, "Request for Rental Assistance Agreement", Form FmHA 444-26, "Request for Obligation of Rental Assistance", and Form FmHA 444-27, "Rental Assistance Agreement." Any changes which are made in the number of rental units assisted will be recorded in the Record of Rental Assistance Agreements. Exhibit R-3 may be used for keeping this record until Form FmHA 444-28 is available.

VI. Priority Among Eligible Families Within a Project Receiving Rental Assistance. The borrower will determine priority for RA among tenants living in a project and among families applying for occupancy in accordance with this paragraph.

A. In Existing Projects.—1. If the project is fully occupied at the time the rental assistance is granted, priority will be based on adjusted monthly income of the families occupying the units. The family having the lowest adjusted monthly income will receive the highest priority. However, no family eligible to occupy a unit in the project will be required to move from the project to allow a family applying for a unit who has a lower adjusted income to move in.

2. If the project has vacancies or vacancies occur and rental assistance is available, priority will be given to families already living in the project who are eligible for rental assistance before any new tenants are considered. Priority for new tenants will be based on the date of the family's application for occupancy. If more than one family applies for a unit on the same date, the applications will be time dated. If the family with the earliest date of application is unable or does not want to accept the rental assistance unit, the unit will be offered to the next earliest application. The application of a family who is unable for personal reasons or does not want to accept a rental assistance unit when notified, will be redated as of the current date if the family still wishes to be considered for occupancy.

3. If the project has vacancies or vacancies occur and rental assistance is not available, a family eligible for rental assistance may accept occupancy but cannot receive rental assistance. Such families will be considered for rental assistance in accordance with paragraph VI A 1. If such families elect not to accept occupancy because rental assistance is not available, their application for a unit will retain its original date for priority.

4. Tenants receiving the benefits of rental assistance shall continue receiving such benefits as long as they remain eligible tenants and there is a rental assistance agreement in effect.

B. In New Projects. Applications for occupancy should be accepted during the construction phase of the project. Priority will be given based on the date of the family's application for occupancy. If all or a percentage of the units are authorized to receive rental assistance, such units will not be rented to families whose adjusted annual income exceeds $10,000 without the written approval of the County Supervisor. The County Supervisor will not grant such approval until he has reviewed the borrower's method of advertising the units and has determined that families eligible for rental assistance are not available or do not desire occupancy.

VIII. Responsibilities of Borrower in Administering the Rental Assistance Program. Each borrower and management agent for each project that is to receive rental assistance should fully understand the responsibilities and requirements of carrying out the program. The borrower and management agent are the key to the successful operation of the program. The following guidelines will be followed:

A. Direct rental assistance payments will not be made to eligible tenants receiving rental assistance except in those instances when utilities are paid by the family and 25 percent of the family's monthly adjusted income is less than the allowance for utilities. In these cases, the borrower will pay the family that difference upon the family providing the borrower evidence that the utility bills are due or have been paid. (See paragraph VIII A, Payment of Utilities). The borrower will maintain an accurate accounting of each tenant's utility allowance and payments made to tenants.

B. The borrower must initially and annually submit Form FmHA 444-8, "Tenant Certification," or other certification form approved by FmHA for each tenant. The initial tenant certification will be submitted to the FmHA County Office with the next monthly payment following the date that the tenant occupies the unit. Subsequently, tenant certifications must be obtained during November and December and submitted to the county office not later than December 31 of each year. The borrower or management agent will establish an adequate recordkeeping system of tenant certifications to assure this responsibility is carried out.

C. The incomes reported by the tenants must be verified by the borrower. Such verifications may be obtained by:

1. The use of Form FmHA 410-5, "Request for Verification of Employment" or verification forms prepared by the borrower or other sources. Until the Form FmHA 410-5 is revised, it may be modified by deleting "Farmers Home Administration" in Part I 2. The borrower or management agent will insert the name and address to whom the form is to be returned. Also, in the first sentence of the applicant's statement in Part I Request, the words "applied for a Farmers Home Administration loan and" and in the last sentence the word "Loan" should be deleted.

2. In the case of the elderly or other persons whose income is not from wages or salary, by actually examining the income checks, check stubs or other reliable data the tenant possesses.

3. Until the Form FmHA 444-8 is revised, the borrower will make a notation on each tenant certification that "the tenant's income has been verified and found to be accurate". The notation will be dated and the name of the person making it will be shown.

D. Borrowers utilizing rental assistance must comply with FmHA Instruction 430.2, paragraph X. Rental assistance will be restricted to projects with operating budgets which have been approved by the FmHA State Office or the County Supervisor.

E. The borrower participating in the rental assistance program must have an FmHA approved lease with the assisted family.

1. Monthly or annual leases will be executed with each family occupying a rental unit. The State Director may issue State instructions covering any special conditions or local customs affecting leasing arrangements. The lease form for projects operating under rental assistance in addition to other statements outlining the conditions of the lease, should contain the following statements:

"I understand and agree that the total monthly rental payment will be $--------(the approved rental rate) per month. Of the total rent I will pay $-------- (25 percent of my adjusted monthly income) and the balance will be paid by FmHA as interest credit and/or rental assistance payments on my behalf. If I pay any or all utilities directly, (does not include telephone or cable TV), a utility allowance of $-------- will be deducted from the payment due for rent. If the utility allowance is in excess of 25 percent of my adjusted monthly income the lessor will pay me this excess.

I further agree to notify the lessor of any permanent increase in adjusted monthly income or change in the number of family members living in the household. I understand that should I receive rental assistance benefits to which I am not entitled that I may be required to make restitution and I agree to pay any amount of benefits received to which I was not entitled.

I also understand and agree that my monthly rental payment under this lease may be raised or lowered, based on changes in family income and changes in the number and age of family members living in my household. The rental payment will be the lesser of 25 percent of my adjusted monthly income or the approved rent established for the unit."

2. Lease clauses which fall within the classifications listed below shall not be included in any lease.

(a) *Confession of Judgment.* Prior consent by tenant to any lawsuit the landlord may bring against him in connection with the lease and to a judgment in favor of the landlord.

(b) *District for Rent or Other Charges.* Authorization to the landlord to take property of the tenant and hold it as a pledge until the tenant performs any obligation which the landlord has determined the tenant has failed to perform.

(c) *Exculpatory Clause.* Agreement by tenant not to hold the landlord or landlord's agents liable for any acts or omissions whether intentional or negligent on the part of the landlord or the landlord's authorized representative or agents.

(d) *Waiver of Legal Notice by Tenant Prior to Actions for Eviction or Money Judgments.* Agreement by tenant that the landlord may institute suit without any notice to the tenant that the suit has been filed.

(e) *Waiver of Legal Proceedings.* Authorization to the landlord to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or default has occurred, without notice to the tenant or any determination by a court of the rights and liabilities of the parties.

(f) *Waiver of Jury Trial.* Authorization to the landlord's lawyer to appear in court for the tenant and to waive the tenant's right to a trial by jury.

(g) *Waiver of Right to Appeal Judicial Error in Legal Proceedings.* Authorization to the landlord's lawyer to waive the tenants right to appeal on the ground of judicial error in any suit or the tenant's right to file a suit in equity to prevent the execution of a judgment.

(h) *Tenant Chargeable with Costs of Legal Actions Regardless of Outcome.* Agreement by the tenant to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though the court finds in favor of the tenant. (Omission of such clause does not mean that the tenant, as a part to a lawsuit, may not be obligated to pay attorney's fees or other costs if he loses the suit).

3. A copy of a completed Exhibit F-5A, "Housing Allowances for Utilities and Other Services," and a copy of the established rules and regulations for the project will be provided to the tenant as attachments to the lease.

VIII. *Handling Utility Allowances and Determining the Amount of Rent*—A. *Payment of Utilities.*—All units in projects to be constructed will be individually metered for utilities unless adequate justification is provided to show that it would be infeasible or excessively costly. In an existing project which is not individually metered, the project will be converted to individual meters if feasible and an energy savings can be achieved. In every case, the approved rents for the projects must include a utility allowance for all utilities (except telephone and charges for cable TV) whether paid by the tenant or the owner. In a project where the tenant is billed directly for the utilities, the tenant receiving the benefit of rental assistance will pay the owner as rent the difference between the established allowance for utilities which the tenant pays and 25 percent of the family's adjusted monthly income. If, however, the family's adjusted

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monthly income is less than the monthly allowance for utilities, the owner will pay the tenant that difference as prescribed in paragraph VII A. In a project where the owner pays all the utilities, the tenant will pay the owner the full 25 percent of his adjusted monthly income toward the approved rent for the unit being occupied. For those tenants not receiving RA that pay utilities directly, their rent shall be reduced by the amount allowable for such utilities.

B. *Determining the Allowance.*—The utility allowance will be determined and recorded by the use of Exhibit F-5A to Part 1822 Subpart D and submitted to FmHA for approval. The data will be analyzed by the FmHA State Office to determine the allowances that will be permitted. The utility allowance is to be approved on a project-by-project basis. If the allowances are reasonable for the project, the Exhibit F-5A will be approved. The allowable amounts will be indicated in each lease agreement between the owner and tenant.

C. *Changes in Allowances.*—The utility allowance will be changed to reflect changes in cost. Normally, allowances will be adjusted on an annual basis if necessary when the owner submits a new budget for approval.

IX. *Terms of the Rental Assistance Agreement*—A. *Effective Date.*—The effective date of the Agreement will be the 1st day of the month it is executed unless assistance is granted under appeal in accordance with paragraph XII of this Exhibit; then, the effective date will be retroactive to the first of the month in which assistance was denied.

B. *Term.*—1. *For New Construction.* The term of the agreement shall be for a period of twenty (20) years from the effective date of the agreement.

2. *For Existing.* The term of the agreement shall be for a period of five (5) years from the effective date of the agreement.

3. Prior to the termination date of any agreement a new Form FmHA 444-25, "Request for Rental Assistance," may be submitted. Exhibit R-1 will be used until the Form FmHA 444-25 is available.) If a new agreement is consummated, it will be made for a period not to exceed five (5) years.

X. *Processing of Rental Assistance Applications.*—All requests for rental assistance will be processed in accordance with this paragraph and may be approved by the State Director.

A. *Existing Projects.*—1. A borrower with an eligible project in which there are tenants paying in excess of 25 percent of their income for rent is encouraged to file Form FmHA 444-25, "Request for Rental Assistance," with the County Supervisor. A separate Form FmHA 444-25 will be submitted for each project. (Exhibit R-1, "Request for Rental Assistance," will be used until the Form FmHA 444-25 is available.) The borrower should include the following with each request.

(a) Form FmHA 444-29, "Project Worksheet for Interest Credit and Rental Assistance" with columns 1 through 12 completed for each tenant in the project. (Exhibit J-2 will be used until the Form FmHA is available).

(b) Approved or proposed budget for the year with Exhibit F-5A attached.

2. The County Supervisor will review the budget, Exhibit F-5A and Form FmHA 444-25 submitted by the borrower to assure that the items are complete and accurate. The County Supervisor will complete Form FmHA 444-25 and submit all data provided by the borrower to the State Director.

B. *Projects to be Funded.*—1. Applicants requesting funding under the RRH or LH programs planning to utilize the rental assistance program should submit a completed Form FmHA 444-25, "Request for Rental Assistance," to the County Supervisor when submitting a preapplication or application for funding.

2. The number of units of rental assistance requested should be based on the market data for the area, the proposed rental rates as reflected in a budget for the project, and the income levels of the prospective tenants.

C. *State Director Action on Requests for Rental Assistance.*—1. If the State Director determines that rental assistance can be granted, he will prepare Form FmHA 444-26, "Request for Obligation of Rental Assistance." Exhibit R-4 may be used until Form FmHA 444-26, "Request for Obligation of Rental Assistance," is available. Form FmHA 444-26 will be prepared and distributed in accordance with the Forms Manual Insert. *The Form FmHA 444-27, "Rental Assistance Agreement," will not be executed until the Request for Obligation of Rental Assistance has been returned from the Finance Office indicating that the requested number of units have been obligated for the project.*

2. Once rental assistance has been obligated by the Finance Office, the State Director will prepare an original and three copies of Form FmHA 444-7, "Interest Credit and Rental Assistance Agreement," and an original and two copies of Form FmHA 444-27. The State Director will keep one copy of the Forms in the State Office borrower file. The original and two copies of Form FmHA 444-7 and the original and one copy or Form FmHA 444-27 will be sent to the County Office with a covering memorandum authorizing the County Supervisor to execute the agreements. Both originals and copies will be executed by the borrower and County Supervisor. The County Supervisor will retain the original of Form FmHA 444-27 in the borrower file and the executed copy will be given to the borrower. The County Supervisor will send the original of Form FmHA 444-7 to the Finance Office, retain a copy in the borrowers file and an executed copy will be given to the borrower.

3. If rental assistance cannot be provided, the State Director will by letter, through the County Supervisor, inform the borrower in writing of the reasons.

XI. *Method of Payment of Rental Assistance to Borrower.*—The borrower will prepare a separate report for the project using Form FmHA 444-29. (Exhibit J-2 may be used until Form FmHA 444-29 is available). The worksheet will be prepared and distributed in accordance with the instructions for preparation or the Forms Manual Insert. This information will be used by the County Supervisor in preparation of Form FmHA 444-9, "Multiple Housing Certification and Payment Transmittal." The form must be completed in accordance with the FMI. The required payment will be transmitted with the form to the Finance Office. The rental assistance payment to the borrower will be made by the Finance Office within 15 working days of receipt of a properly completed Form FmHA 444-9. The payment will be sent to the County Supervisor for delivery to the borrower.

XII. *Rights for Appeal if Rental Assistance is not Granted by Farmers Home Administration*—A. Families who have requested rental assistance in writing but have been denied such assistance (whether in whole or in part) either by the borrower or County Supervisor are to be notified in writing of the specific reasons why they have been denied rental assistance. If a family has requested rental assistance directly to the borrower in writing, the borrower is responsible for notifying the family in writing of the reasons why rental assistance was not made available.

B. Borrowers who have requested rental assistance and are denied such assistance, in whole or in part by the Farmers Home Administration, will be notified in writing of the specific reasons why such assistance was denied. The letter informing the borrower of the denial will advise the borrower that it may appeal the decision by writing to the Administrator.

C. The letter informing the family or borrower of the denial of assistance and the reasons therefor must include:

1. In case the determination was made by the borrower, that the decision is subject to appeal to the FmHA County Supervisor giving name and address.

2. In case the decision was made by the County Supervisor, that an appeal may be made to the State Director giving name and address.

3. In case the decision was made by the State Director, that an appeal may be made to the Administrator giving name and address.

4. A statement that "any appeal must be filed within 45 days of the date of this notice of denial of assistance."

D. If the State Director denies an appeal for assistance, the borrower or family may appeal that decision to the Administrator, Farmers Home Administration, Washington, D.C. 20250. The Administrator upon review of the appeal shall either affirm or reverse the decision.

E. If at any time, it is determined that a borrower or a family was eligible to receive assistance and assistance could have been made available in accordance with this exhibit, the provision of the assistance will be retroactive to the first of the month in which assistance was initially denied.

F. All actions by FmHA officials must be within 30 days of receipt of an appeal.

XIII. *Forms and Exhibits*—Incorporated as a part of this regulation are exhibits R-1, R-2, R-4, F-5A, J-2, and Form FmHA 444-7, "Interest Credit and Rental Assistance Agreement."

WARNING

Section 1001 of Title 18, United States Code provides, "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully . . . makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both".

FmHA Instruction 444.3
Exhibit R-1
Page 1

REQUEST FOR RENTAL ASSISTANCE

1. Name of Borrower_____
2. Address_____
3. Location of Project_____
4. Total Number of Units in Project_____

Request is made for _____ units of rental assistance for the above project. I have determined that _____ families qualify for rental assistance as identified by the attached copies of Exhibit J-2, "Project Worksheet on Interest Credit and Rental Assistance." I/We therefore request rental assistance for _____ units which represents _____ percent of the units in the project. The rental assistance, if granted, will be provided as follows:

NUMBER FOR		Number, Size, and Monthly Rental Rate*					
		0BR	1BR	2BR	3BR	4BR	5BR
Senior Citizen Families _____	Number						
	Basic Rent						
	Mkt. Rent						
Low and Moderate Income Families _____	Number						
	Basic Rent						
	Mkt. Rent						

I/We certify that the above information and attachments are true and correct to the best of my/our knowledge and belief.

_____ Date

BORROWER:_____

by_____ SIGNATURE

_____ TITLE

*Monthly rental rates include utility allowances.

State_____
County_____
Case #_____
Type Loan_____

For FmHA Use Only

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SUBJECT: County Office Review of Request for Rental Assistance

TO: State Director

1. From the information submitted by the borrower and available from the files, it appears rental assistance ____ can ____ cannot be provided. (State reason if assistance cannot be provided)

2. The project is presently operating on a: (Check all that apply)

____ Direct loan basis

____ Profit basis. The loan was approved _____ (INSERT DATE)

____ Nonprofit basis

____ Limited Profit basis

____ Interest Credit Plan I

____ Interest Credit Plan II

____ Section 8 Rental Assistance Payments Program for new construction for _____ units.

____ Section 8 Rental Assistance Payments Program for existing housing with _____ families

3. I have discussed with the borrower that if rental assistance is granted that the project will be operated on a nonprofit or limited profit basis when applicable in accordance with existing instructions.

4. It is my determination that the budget has been approved and the rental rates are acceptable.

5. Other Comments:

_____ by _____
DATE SIGNATURE

_____
COUNTY SUPERVISOR

_____
FARMERS HOME ADMINISTRATION

Case No._____
Loan Code_____

RENTAL ASSISTANCE AGREEMENT

For: (Check appropriate block)
☐ New Construction project Term, 20 Years
☐ Existing project Term, 5 years

This Agreement effective on the 1st day of _____, 19____ between _____ (herein called "the borrower") and its successors and the United States of America acting through the Farmers Home Administration pursuant to Section 521 (a) (2) (A) of Title V of the Housing Act of 1949 as amended. (Herein called "the Government") Witnesseth:

In consideration of the Mutual Covenant hereinafter setforth, the parties hereto agree as follows:

Section 1 The Government agrees to provide rental assistance in accordance with its governing rules and regulations for _____ units of housing for the project located at _____ and known as _____ consisting of _____ units. The Government will pay the difference between 25 percent of the families' adjusted monthly income and the Government approved rents for the project.

Section 2 The borrower agrees to abide by the present and future regulations of the government in the administration of this program.

Section 3 Borrower agrees to use due diligence in the verification and certification of tenants incomes.

Section 4 In the event that any tenant suffers a hardship because rental assistance may not be available in the project because of the limitations set forth on the number of units in Section 1, borrower may make requests to the government for additional units. In the event additional units can be provided and are approved by the government, a rider shall be executed by the parties and attached to this agreement. The rider will be in the following form:

"Rider to Rental Assistance Agreement between _____ (Borrower), _____ (case number), _____ (loan code) and the United States of America acting through the Farmers Home Administration.

Section 1 of the above described agreement is amended to provide that _____ units may be assisted rather than _____.

The effective date of this change is _____, 19__

_____
(Borrower)

By:_____
(Signature)

_____
(Name and title)

_____
(Date)

FARMERS HOME ADMINISTRATION
By:_____

_____
(Name and title)

_____
(Date)

The rider shall be dated and signed by the borrower and the County Supervisor.

Section 5 Borrower will not permit any tenant to initially occupy a unit and receive rental assistance (or interest credit) if the number of authorized persons in the units is less or in excess of the following:

	Occupants Min.	Max.
0-bedroom	1	1
1-bedroom	1	2
2-bedroom	2	4
3-bedroom	4	6
4-bedroom	6	8
5-bedroom	8	10

Section 6. In the selection of tenants in the project that will receive rental assistance, the borrower agrees to comply with the Government priorities of selecting tenants. (See paragraph VI of Exhibit R to FmHA Instruction 444.5.)

Section 7. Provisions Applicable if Housing Owner is a Cooperative.—(a) As used in this agreement the term "tenant or occupant" may mean a member of a cooperative, and the term "rent" shall mean the charges under the occupancy agreement between the member and the cooperative.

(b) A member of a cooperative that obtains approval for rental assistance shall be required, as a condition of receiving such, to agree that upon a sale of such membership any equity increment accumulated through rent supplement payments will be turned over to the cooperative and will be remitted to the Government.

Section 8. Renegotiation, Modification, Termination.—If, at any time during the life of this agreement the Parties find that it would be to their best interests and to the best interests of the rental assistance program, the provisions of the agreement may be modified, amended, or the entire agreement be terminated, upon written agreement of the Parties.

Section 9. Term of the Agreement.—(a) *Definitions:*

(1) *New construction project* as used in this agreement is any project for which a request for obligation of rental assistance is made prior to completion of the project and any unit in the project occupied. The project will continue to be considered new construction for the complete term of the initial rental assistance agreement.

(2) *Existing project* as used in this agreement is any project in which units have been occupied.

(Seal)

Attest:

_____

(b) In the case of a new construction project this agreement is for a period of twenty (20) years from the effective date mentioned in this agreement. The term of any attached rider which changes the number of units will be for the period beginning on the effective date of the rider and ending twenty (20) years from the effective date of the initial agreement.

(c) In the case of an existing project this agreement is for a period of five (5) years from the effective date mentioned in this agreement. The term of any attached rider which changes the number of units will be for the period beginning on the effective date of the rider and ending five (5) years from the effective date of the initial agreement.

(d) This agreement is not renewable. If a need exists for rental assistance beyond the term of this agreement the borrower may, prior to the termination date of this agreement, submit a Form FmHA 444-25, "Request for Rental Assistance." If a new agreement is consummated it will be made for a period not to exceed five (5) years.

Section 10. Special Conditions.—The following special conditions shall be applicable to this Agreement:

_____
(Borrower)

By: _____
(Title)

_____
(Signature)

Date:_____

FARMERS HOME ADMINISTRATION

By: _____

_____

Date: _____

FmHA Instruction 444.5
Exhibit R-3

RECORD OF RENTAL ASSISTANCE AGREEMENTS

Number of units allocated for Fiscal Year 19 (1)	For Existing (2)		For New (3)								
Borrower name and case number	Fund and loan code	No. units in proj.	Number units of rental assistance				I or C	Date of obligation request	F/O obligation date	Effective date of Agreement
			RRH		LH					
			E	N	E	N.				
(4)	(5) (5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
Number of projects: (20)	Total	(15)	(16)	(17)	(18)	(19)	TOTAL: Existing (21)		New (22)	

FmHA Instruction 444.5
Exhibit R-4

REQUEST FOR OBLIGATION OF RENTAL ASSISTANCE

STATE CODE (1) 00

BORROWER NAME (2) | CASE NO. (3) | FUND CODE (4) | LOAN NO. (4)

LOAN TYPE (5)
LH ☐ RRH ☐ RRH-SC ☐ RCH ☐ RCH-SC ☐

REQUEST FOR OBLIGATION: (To be completed only for initial obligation)
NEW PROJECT (6) ☐ EXISTING PROJECT (6) ☐

NUMBER OF UNITS IN PROJECT (7)

NUMBER OF UNITS TO RECEIVE RENTAL ASSISTANCE (8)

ESTIMATED EFFECTIVE DATE OF RENTAL ASSISTANCE (9)

REQUEST FOR CHANGE OF OBLIGATION: (To be completed only for a change in obligation)

NUMBER OF UNIT PREVIOUSLY OBLIG (10)	CHANGE (11)	No. NOW TO RECEIVE RENTAL ASSISTANCE (12)	Existing Project / New Project (13)

DATE OF ORIGINAL OBLIGATION (14)

EFFECTIVE DATE (15) ESTIMATED EFFECTIVE DATE (16)

CERTIFICATION:

I have reviewed the borrower's request for rental assistance for the project and request obligation or change in obligation for the above units.

(17) APPROVAL DATE

(18) SIGNATURE OF REQUESTING OFFICIAL

(19) TITLE

FINANCE OFFICE USE:

(20) ☐ The above units have been obligated

☐ The above units were not obligated due to units not being available

DATE OF OBLIGATION (21)

INSTRUCTION FOR PREPARATION

Only an original copy need be maintained by the State Office. No signatures are required. The record will be maintained on a current basis to reflect data and status of requests. Each item should be completed as follows:

(1) Enter the fiscal year.

(2) Enter the number of existing units allocated to the state for use in the fiscal year indicated.

(3) Enter the number of new construction units allocated to the state for use in the fiscal year indicated.

(4) Enter borrowers name and case number.

(5) Enter fund and loan code, such as 84–01. Use loan number of initial loans only.

(6) Enter the total number of units in the project.

(7) Enter number of existing rental housing units to obtain rental assistance.

(8) Enter number of new rental housing units to obtain rental assistance.

(9) Enter number of existing labor housing units to obtain rental assistance.

(10) Enter number of new labor housing units to obtain rental assistance.

(11) Enter "I" to indicate the initial transmittal for rental assistance. Enter "C" to indicate a request for a change in the number of previously authorized.

(12) Enter the date that the Request for Obligation for Rental Assitance is prepared. The date should be the same as shown in item (17) of the FMI for Form FmHA 444–26.

(13) Enter the date of obligation of the units after the Finance Office has acted on and returned Form FmHA 444–26. The date shown must be the same date as in item (20) of the FMI for Form FmHA 444–26. At the same time, correct items (7), (8), (9), and (10) if previous entries differ.

(14) Enter effective date as shown on Form FmHA 444–27, "Rental Assistance Agreement."

(15), (16), (17), (18), and (19) Enter the sum for each column.

(20) Enter the number of projects granted rental assistance during the current fiscal year.

(21) Enter the number of existing units of rental assistance granted during the fiscal year. This is the sum of items (16) and (18).

(22) Enter the number of new construction units of rental assistance granted during the fiscal year. This is the sum of items (17) and (19).

TO: _____ (22)

_____

_____

As of this date, _____, this is notice to you that your application for financial assistance from the Farmers Home Administration has been approved as indicated on the reverse side of this form, subject to the availability of funds and other conditions required by the Farmers Home Administration.

UMI

INSTRUCTIONS FOR PREPARATION

PROCEDURE REFERENCE : FmHA Instruction 444.5

PREPARED BY : State Director

NUMBER OF COPIES : Original and three

SIGNATURES REQUIRED : State Director

DISTRIBUTION OF COPIES: Original and one copy to the Finance Office; copy to borrower at time of submission to the Finance Office; copy to be retained in the State Office pending receipt of the approved request from Finance.

(1) Enter the state office code.

(2) Insert the borrower's name as it appears on the promissory note.

(3) Enter the borrower's case number using the first two boxes for state code, the next three boxes for county code, and the last ten boxes for the borrower number. All the boxes should be completed.

Example: | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |

(4) Enter the correct loan code, such as 84-01. The loan code for the request should be the code for the initial loan of the project.

(5) Indicate the total number of units under each category for which rental assistance is being requested. The total number will include those previously obligated and the change being requested if applicable.

(6) Indicate whether the project is new (no unit in the project has been occupied) or existing (one or more units in the project has been occupied).

(7) Enter the total number of units in the project.

(8) Enter the number of units to receive rental assistance.

(9) Indicate the estimated date on which rental assistance will be effective.

(10) Enter the number of units to receive rental assistance shown on the last approved request.

(11) Indicate the difference (+ or -) in the number of units receiving rental assistance.

(12) Enter the number of units now to receive rental assistance.

(13) Indicate whether the project was reported as new or existing on the last approved request.

(14) Enter the date of obligation as shown on the last approved request.

(15) Indicate the effective date of the initial rental assistance agreement.

(16) Insert the estimated effective date that the increase or decrease in number of units will be effective.

(17) Show the date the form was signed.

(18) Signatures of the requesting officials.

(19) Title of the requesting official.

(20) The Finance Office will indicate whether or not the units were obligated for rental assistance.

(21) Finance will indicate the date the units were obligated for the project.

(22) The reverse side of the form is to be completed and mailed to borrower before or no later than the time the forms are sent to the Finance Office.

Forms Manual Insert
USDA-FmHA
Form FmHA 444-7
(Rev.)

State
(1a)

INTEREST CREDIT AND RENTAL ASSISTANCE AGREEMENT County
(1b)

(1e) RRH (1e) RCH (1e) LH Case Number

(1c)

Loan Code

(1d)

1. This Agreement to be effective on 1st day of _____, 19___ between the United States of America, acting through the Farmers Home Administration pursuant to Section 521 of the Housing Act of 1949, (herein called "the Government") and _____ (3) _____ (herein called "Borrower") supplements a promissory note in the principal amount of $ (4a), dated (4b) which was drawn in (5) a single advance (5) multiple advances.

2. Subject to the provisions of this agreement, the Government will compute interest on the Borrower's account at the rate specified for the plan of operation selected below:

(6) PLAN I. The effective interest rate is three (3) percent plus surcharge as determined by the Government formula or procedure based on the income of the family.

(6) PLAN I S 8. For a profit type operation with a HUD Section 8 Housing Assistance Payment Contract in effect on all or a part of the units in the project.
The effective interest rate is _____ percent as determined by the Government formula or procedure based on market and contract rental rates.

(6) PLAN II. For non-profit and limited profit type operation with or without a HUD Section 8 Housing Assistance Payments contract in effective on a part of the units in the project.
The effective interest rate is one (1) percent plus all rental income over basic rent as determined by the Government formula or procedure for the program.

(6) PLAN II RA, For nonprofit and limited profit type operations utilizing the Rental Assistance Payments Program.
The Government agrees to credit the account or make a cash payment to the borrower in accordance with Government formula and procedure for the program.

(6) RA. For labor housing loans, direct RRH loans and insured RRH loans approved propr to August 1, 1968, utilizing the Rental Assistance Payments Program.
The Government agrees to credit the account or make a cash payment to the borrower in accordance with Government formula and procedure for the program.

3. Borrower shall submit to the Government, as required by the Government in form prescribed or approved by it, proof of Borrower's income and expenses for the previous calendar year or other designated periods, and any information on the family size and income of the occupants of the housing financed with the loan evidenced by the note.

4. If the Government should determine that the Borrower has defaulted under any terms or conditions of this agreement, the note, Borrower's related Loan Resolution, and supplementary or related agreements, or any related security instrument, or violates any program regulations, at its option the Government may terminate this agreement as of any specified date following the default.

5. No credit to the Borrower's account provided for in paragraph 2 shall be made following any termination date specified pursuant to paragraph 4.

6. The Government shall credit annually or more often to Borrower's account, and/or pay the borrower in case of rental assistance so long as there is no default in any obligation of Borrower to the Government, amounts equal to the difference, determined in accordance with a formula and procedure prescribed by the

FORMS MANUAL INSERT FOR FORM FmHA 444-7

PROCEDURE REFERENCE : FmHA Instruction 444.4 and 444.5

PREPARED BY : County Supervisor except by State Director when Form FmHA 444-27, "Rental Assistance Agreement" is required for rental assistance.

NUMBER OF COPIES : Original and two except original and three for rental assistance.

SIGNATURES REQUIRED : All copies by Official authorized to sign for the organization and the person authorized to act as attesting official and also by the County Supervisor or other authorized FmHA official.

DISTRIBUTION OF COPIES : Original retained in County Office; Copy to borrower; Copy to Finance Office. Unsigned Copy retained in State Office when prepared for rental assistance.

INSTRUCTIONS FOR PREPARATION

(1) Insert (a) State and (b) County in which property is located, (c) borrower's case number, (d) borrower's loan code, and (e) check type of loan.

(2) Insert date the Agreement is effective which is the first day of the month of execution.

(3) Type name of borrower as it appears in the promissory note.

(4a) Insert amount of loan in figures as shown in the promissory note.

(4b) Insert the date of the promissory note.

(5) Check whichever is appropriate: single or multiple advances.

(6) Check appropriate block to indicate the Plan the borrower will follow. When "Plan II RA" or "RA" is checked indicating that rental assistance is available to the project, Form FmHA 444-27, "Rental Assistance Agreement", will be completed and attached to the borrower's and County Office copy of this form.

Government, between the payment that would be required in accordance with the terms of the note and the payment required under such formula and procedure.

7. No terms or conditions of the note or any related security or other instrument shall be affected by this agreement except as expressly set forth herein.

8. This agreement is subject to the present regulations of the Farmers Home Administration, and to its future regulations not inconsistent with the express provisions hereof.

9. Upon request, the borrower will permit representatives of FmHA (or other agencies of the Department of Agriculture authorized by the Department) to inspect and make copies of any records of borrower pertaining to FmHA loans and this agreement.

10. If the borrower has received any excessive credit or payment, in addition to any other rights of recovery, the Government may deduct the amount from any subsequent credit or payment.

(CORPORATE SEAL) (6)

(NAME OF BORROWERS)

(9) & (10)

(SIGNATURE & TITLE OF EXECUTIVE OFFICIAL)

(11) (13)

(SIGNATURE OF ATTESTING OFFICIAL) (P. O. BOX OR STREET ADDRESS)

(12) (14)

(TITLE OF ATTESTING OFFICIAL) (CITY, STATE, AND ZIP CODE)

UNITED STATES OF AMERICA

FARMERS HOME ADMINISTRATION

By (14)

(16) (15)

(DATE OF EXECUTION) (TITLE)

(7) Insert the effective interest rate which is applicable to the loan.

(a) For a project with all units under Section 8, the interest rate may be reduced by 1 or 2 percentage points below the note rate of interest in accordance with FmHA Instruction 444.5.

(b) For a mixed project operating for profit the interest rate may be reduced a proportionate part of 1 or 2 percentage points in accordance with FmHA Instruction 444.5. The proportionate amount of 1 or 2 percent (as appropriate) will be in direct ratio as the number of units under Section 8 are to the total units in the project.

(8) Same as (3).

(9) Signature of official of organization authorized to sign.

(10) Insert title of official signing the agreement.

(11) Signature of attesting official.

(12) Insert title of attesting official.

(13) Insert address of borrower.

(14) Signature of FmHA Official.

(15) Insert title of FmHA Official.

(16) Insert date the agreement is executed. If the borrower is to receive interest credit, this agreement should not be executed until the provisions of Exhibit J of FmHA Instruction 444.5 are met. In other cases the agreement will be executed at the same time Form FmHA 444-27 (Exhibit R-2) is executed.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: September 12, 1977.

JAMES E. THORNTON,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-26747 Filed 9-14-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77-NE-16]

AIRWORTHINESS DIRECTIVES

Sikorsky S-58 Model Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Airworthiness Directive 74-15-06, Amendment 39-1390, as amended, to require replacement of megesium tail rotor input and intermediate housings with aluminum housings by February 1, 1978, because strengthened housings are now in production and past inspections have not been completely successful in preventing failures.

DATES: Comments must be received on or before October 7, 1977.

ADDRESSES: Send comments on the proposals in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attention: Rules Docket No. 77-NE-16, 12 New England Executive Park, Burlington, Mass. 01803.

FOR FURTHER INFORMATION CONTACT:

Martin Buckman, Propulsion Section (ANE-214), Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Mass. 01803; telephone 617-273-7347.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. The proposals contained in this notice may be changed in the light of comments received. All communications will be available, both before and after the closing date for comments, in the rules docket, for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rule making will be filed in the public regulatory docket. Persons desiring copies of this NPRM should contact:

Docket Clerk, Office of the Regional Counsel (ANE-7), Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Mass. 01803.

AD 74-15-06, Amendment 39-2447 (40 FR 56883), appeared in the FEDERAL REGISTER on December 5, 1975, and became effective on December 10, 1975. The AD was issued to require one-time and repetitive inspections of housings in the tail rotor gearbox and its attaching hardware. At the time, the input and intermediate housings were being redesigned as aluminum castings with local reinforcement at a critically stressed area of the intermediate housing. As the strengthened housings are now in production, and since the inspections have not been completely successful in preventing failures, AD 74-15-06 is being revised to require removal of magnesium tail rotor input and intermediate housings and replacement with the new stronger aluminum housings.

In addition, a minor typographical error is also corrected. A reference paragraph D(3) has been changed to A(1).

DRAFTING INFORMATION

The principal authors of this document are Martin Buckman, Propulsion Section, Engineering and Manufacturing Branch, and George L. Thompson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), Amendment 39-2447 (40 FR 56883), AD 74-15-06 as follows:

1. Change second sentence of first paragraph by adding "equipped with magnesium input and/or intermediate housings" to read as follows:

"Applies to all S-58 model series helicopters equipped with magnesium input and/or intermediate housings."

2. Change compliance paragraph to include "magnesium" before "input and/or intermediate housings" to read as follows:

"Compliance required as indicated unless already accomplished. To preclude possible failure of the magnesium input and/or housings of the * * *:"

3. Change paragraph 4 to read "Section 2, paragraph A(1)" instead of "Section 2, paragraph D(3)."

4. Change existing paragraph No. 6 to 7.

5. Substitute a new paragraph 6:

6. Remove from service prior to February 1, 1978, magnesium input and intermediate housings, P/Ns S1635-64009-3N, S1635-64074, S1635-64009, S1635-64010, and replace with aluminum input and intermediate housings, S1635-64009-101 and S1635-64074-103 respectively.

NOTE.—Sikorsky Service Bulletin No. 58B35-25 covers this subject.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement

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under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Burlington, Mass., on August 31, 1977.

WILLIAM E. CROSBY,
Acting Director,
New England Region.

[FR Doc.77-26621 Filed 9-14-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-SW-38]

TRANSITION AREA

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to designate a transition area at Mexia, Tex., to provide controlled airspace for aircraft executing a proposed instrument approach procedure to the Mexia-Limestone County Airport,[1] using the newly established NDB located on the airport. Coincident with this action, the airport will be changed from VFR to IFR.

DATES: Comments must be received by October 17, 1977.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex. 76106.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G 71.181 (42 FR 440) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Designation of the transition area at Mexia, Tex., will necessitate an amendment to this subpart.

COMMENTS INVITED

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airpace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Mexia, Tex. The FAA believes this action will enhance IFR operations at the Mexia-Limestone County Airport by providing controlled airspace for aircraft executing a proposed instrument approach procedure using the newy established NDB on the airport. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 440).

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Airpace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) by adding the Mexia, Tex., transition area as follows:

MEXIA, TEX.

That airspace extending from 700 feet above the surface within a 6.5-mile radius of Mexia-Limestone County Airport (latitude 31°38'20" N., longitude 96°30'52" W.) and within 3.5 miles each side of the 155° bearing from the NDB (latitude 31°38'16" N., longitude 96°30'43" W.) extending from the 6.5 radius area to a point 12 miles southeast of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on September 1, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc.77-26611 Filed 9-14-77;8:45 am]

[14 CFR Part 91]

[Docket No. 13577; Reference Notice No. 74-8]

TWO-WAY RADIO COMMUNICATIONS FAILURE DURING IFR OPERATIONS

Withdrawal of Proposal for Pilots To Commence the Approach at the Expected Approach Clearance Time Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rule making.

SUMMARY: This notice withdraws Notice No. 74-8, that was published in the FEDERAL REGISTER on February 26, 1974 (39 FR 7431). That notice proposed amending the Federal Aviation Regulations (FARs) to provide that a pilot flying under Instrument Flight Rules (IFR), who loses two-way radio communications after receiving a holding instruction and an expected approach clearance time, must commence the approach at the expected approach clearance time received. This withdrawal is issued since the subject of two-way radio communications failure during IFR operations will be further handled under the Federal Aviation Administration's Part 91, Subpart B, Regulatory Review Program. All prior comments received will be considered during the Regulatory Review Program.

EFFECTIVE DATE: September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Cathy Carroll, Air Traffic Rules Branch (AAT-220), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-3128.

SUPPLEMENTARY INFORMATION: Section 91.127 of Part 91 prescribes the flight procedures that a pilot, flying under Instrument Flight Rules, should follow after his two-way radio communication with Air Traffic Control (ATC) has failed. Paragraph (c)(4) of that section provides, among other things, that, if a pilot's two-way radio communications fails after he has received holding instructions and an expected approach clearance time, he shall "leave the holding fix in order to arrive over the fix from which the approach begins as close as possible to the expected approach clearance time."

However, current ATC procedures provide that controllers shall issue an expected approach clearance time only where the holding fix is itself a designated initial, intermediate, or final approach fix for the approach in use. Thus, only one fix (i.e., a combined holding and approach fix) is involved in situations in which an expected approach clearance is given. (ATC issues an expect further clearance time where the holding fix is not one of the fixes designated as a part of the approach procedure in use.)

Because of this, the FAA issued Notice No. 74-8 proposing to amend the rule to provide that a pilot must commence the approach at the expect approach clearance time received. However, the FAA has since issued Notice No. 77-2, published in the FEDERAL REGISTER (41 FR 14) on January 21, 1977, announcing the initiation of its Part 91, Subpart B Regulatory Review Program (hereafter called 'program'). Although the notice invited the public to submit proposals for consideration in the program, it stated that FAA's earlier proposal, contained in Notice No. 74-8, concerning two-way radio communications failure during IFR operations, would be pursued to a conclusion or withdrawn outside the program. However, public response to Notice No. 77-2 included proposals concerning two-way radio communications failure, including issues presented in Notice No. 74-8.

Review of these public responses to Notice No. 77-2 indicates that the proposals contained in Notice No. 74-8 may be unnecessarily complex and that a more effective and simpler approach to the problem of two-way radio communications failure during IFR operations may be achieved in a manner reflected in the proposals submitted under the program.

Accordingly, the FAA intends to pursue the subject of two-way radio communications failure during IFR operations within the program. Thus, the subject and issues contained in Notice No. 74-8 are hereby consolidated with the program.

As announced in the FEDERAL REGISTER on July 28, 1977 (42 FR 38390), the FAA has scheduled a program conference for September 13-16, 1977. It will be held at the Sheraton National Motor Hotel, Columbia Pike and Washington Boulevard, Arlington, Va. On September 13, the conference hours will extend from 9 a.m. to 5 p.m. and, on all other days, from 8:30 to 5 p.m. There is no admission fee or other charge to participate in the conference. All conference sessions will be open on a space available basis, to all interested persons who register to attend.

DRAFTING INFORMATION

The principal authors of this document are Cathy Carroll, Air Traffic Rules Division, and Gloria J. Willingham, Office of the Chief Counsel.

THE WITHDRAWAL

For the reasons stated above, Notice No. 74-8, published in the FEDERAL REGISTER on February 26, 1974 (39 FR 7431) is hereby withdrawn, effective immediately.

(Secs. 307, 313(a) and 601, Federal Aviation Act of 1958, as amended (49 U.S.C. §§ 1348, 1354(a) and 1421); and sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655 (c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 7, 1977.

GLEN D. TIGNER,
Acting Director,
Air Traffic Service.

[FR Doc.77-26612 Filed 9-14-77;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 241]

[EDR-336; Docket No. 30240; Dated September 1, 1977]

AIRLINE LOBBYING COSTS

Accounting and Reporting Requirements

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Aviation Consumer Action Project (ACAP) has asked the Board to require the airlines to report the amount of money they spend on lobbying and institutional advertising, and not to permit the airlines to pass these costs on to their passengers. This notice proposes to amend the Board's accounting and reporting regulations to require the airlines to report all lobbying expenses in a separate nonoperating account, thus eliminating these expenses from the costs on which fares and rates are based. The ratemaking treatment of advertising expenses is the subject of a separate advance notice of proposed rulemaking, EDR-336/PSDR-50, Docket 31333.

DATES: Comments by October 14, 1977.

ADDRESSES: Comments should be sent to Docket 30240, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Richard Juhnke, Rates and Agreements Division, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202-673-5436).

SUPPLEMENTARY INFORMATION: ACAP represents that the certificated air carriers spend large sums for lobbying and institutional advertising both on their own and through their trade association, the Air Transport Association of America (ATA). While acknowledging that the ATA budget does not specify lobbying costs, ACAP states that ATA minutes filed with the CAB indicate that the majority of ATA's objectives for 1976 would require some changes in federal or state law, and concludes from this that the bulk of the $7.47 million in annual dues collected from the airlines is allocated to lobbying expenditures. ACAP concludes that the expenditures made by airlines in their individual lobbying efforts are substantial since, even under the standards of the 1946 Lobbying Act,[1] the carriers admit paying corporate officers, law firms and public relations consultants to lobby.

Section 1002(e)(2) of the Federal Aviation Act of 1958 provides that the Board, in exercising its ratemaking powers, shall consider among other factors "• • • (2) the need in the public interest of adequate and efficient transportation of persons and property by air carriers at the lowest cost consistent with the furnishing of such service." ACAP argues that, in accordance with this provision, expenditures for lobbying should not be included in the costs allowable for ratemaking purposes, but instead, should be classified as "nonoperating expenses." Part 241, Section 8(d), of the Board's Economic Regulations (14 CFR Part 241) distinguishes between operating and non-operating expenses as follows:

(2) *Operating Expenses.* (1) This primary classification shall include expenses of a character usually and ordinarily incurred in the performance of air transportation-related services • • •.

(3) *Nonoperating income and expense-net.* This primary classification (8100) shall include • • • other revenues and expenses attributable to financing or other activities which are extraneous to and not an integral part of air transportation or its incidental services • • •.

ACAP argues that lobbying is clearly extraneous to the provision of air transportation or any of its services. According to ACAP, expenditures in pursuit of such goals as "defeating proposals authorizing low cost charter service, capturing special corporate tax benefits and heading off regulatory reform"[2] further the interests of corporation officers and stockholders and afford no benefit whatsoever to airline customers. These expenditures should not be classified as operating expenses and thus included in the fares charged to passengers.

ACAP sees the Board's policy of excluding political contributions and certain legal expenses from operating accounts,[3] as well as statutes, regulations

[1] The 1946 Federal Regulation of Lobbying Act, 2 U.S.C. 266, requires persons who lobby Congress to register and file reports with the Secretary of the Senate and the Clerk of the House of Representatives. The Act has been interpreted to cover only direct communications with members of Congress by individuals or organizations whose principal purpose is lobbying. ACAP's view of the scope of lobbying activity is much broader.

[2] ACAP Petition, p. 5.

[3] ACAP Petition, p. 5, citing 14 CFR Part 241, Accounts 74, 80, 1830 and Orders 76-8-103, 76-3-146, and 75-5-102.

[1] Map filed as part of original.

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and practices of several states, the Federal Power Commission, and the Federal Communications Commission, as further support for its position.

The Federal Power Commission (FPC) segregates lobbying expenses and requires these expenses to be treated as nonoperating expenses in interstate ratemaking. The uniform system of accounts prescribed by the FPC has a classification Account 426.4 "Expenditures for Certain Civic, Political and Related Activities" which states:

> This account shall include expenditures for the purpose of influencing public opinion with respect to the election or appointment of public officials, referenda, legislation, or ordinances * * * or for the purpose of influencing the decisions of public officials, but shall not include such expenditures which are directly related to appearances before regulatory or other governmental bodies in connection with the reporting utility's existing or proposed operations.[4]

The Federal Communications Commission (FCC) recently required certain carriers under its jurisdiction to disclose lobbying expenditures for the purpose of influencing the public to support the Consumer Communications Reform Act. These expenditures are defined to include the costs of printed materials, postage, media advertising, consultants' fees and allocation of salaries and expenses of employees who routinely spend one hour or more per week on legislative activities.

ACAP requests that a new nonoperating account, "Lobbying and Legislative Public Relations," be defined in the Board's Uniform System of Accounts, and that the carriers be required to allocate expenses "for the purpose of influencing legislators or public opinion with respect to federal or state legislation"[5] to this account. ACAP suggests that this account be modeled after the FPC account 426.4 and that a report form formulated by the FCC and approved by GAO be used as a starting point for a full and precise definition of the costs related to legislative and lobbying activity.[6] In addition ACAP asserts that all dues paid to ATA (except that portion directly related to technical and traffic operations), the cost of administering political action committees, and all costs related to airline "federal affairs" offices should be considered lobbying expenses.

ATA has filed a response in opposition to ACAP's petition on its own behalf and that of certain member carriers.[7] ATA contends that the petition is untimely because Congress is actively reviewing the framework of air transportation regulation, and could soon undercut the regulatory assumptions of the proposed rulemaking proceeding. ATA further argues that lobbying, airline advertising in general, and joint advertising by ATA are ordinary and necessary business expenses for tax purposes, and the Board therefore must consider them "expenses of a character usually and ordinarily incurred" in providing air transportation under section 1002(e)(5) of the Act, i.e., operating expenses. Finally, according to ATA, there is no parallel to be drawn in this entire matter between public utility regulation and air transportation regulation.[8]

The Board is aware of the increasing public attention being focused on the amounts expended by various industries in attempts to influence legislation of interest to them. We have also noted the steps taken by other Federal regulatory bodies, particularly the Federal Power Commission, to require the disclosure of lobbying expenses. In light of this increasing public concern and in response to ACAP's petition for rulemaking requesting relief in this area, we have decided to propose an amendment to the Board's accounting and reporting requirements which would require the certificated air carriers to allocate all expenditures related to lobbying activity to a new nonoperating account, thus excluding these expenditures from the costs allowable for ratemaking purposes. We have decided to consider the issue of the ratemaking treatment of advertising expenses in a separate advance notice of proposed rulemaking.

The Board is of the tentative view that the costs of advancing corporate interests should be borne by stockholders and not by airline passengers and shippers. Although these expenses may in fact be ordinary and necessary business expenses, as ATA argues, the Board has no statutory mandate to allow all such expenses for ratemaking purposes. In the "Domestic Passenger Fare Investigation" the Board affirmed its right to establish ratemaking standards for determing the revenue needed for the provision of adequate and efficient service under section 1002(e). The application of these standards results in the disallowance of certain expenses incurred by the airlines in the course of conducting ordinary operations.

We propose to establish a new objective nonoperating Account 89.2 "Lobbying" to include all costs expended for the purpose of influencing legislators and/or public opinion with respect to the election or appointment of public officials, referenda, legislation, or ordinances (either with respect to the possible adoption of new or repeal or modification of existing referenda, legislation, or ordinances); or for the purpose of influencing the decisions of public officials, with the exception of costs directly related to appearances before regulatory or other governmental bodies in connection with the air carrier's existing or proposed operations. We are also proposing to amend the reporting instructions of Account 64 "Memberships" to exclude from this account that portion of membership dues and related special assessments defined as lobbying expenses.

At the present time, all certificated air carriers are required to file with the Board an annual Schedule G-43, "Compensation and Expenses of Persons and Firms (Other than Directors, Officers and Employees) Earning $20,000 or More During the Calendar Year," which requires that air carrier payments which exceed in aggregate $20,000 during the calendar year be reported on schedule G-43. A review of these filings desclosed that carriers have not been reporting trade association dues on schedule G-43. Nor have they been reporting on schedule G-43 memberships in other organizations, such as chambers of commerce, when the aggregate calendar year expenditures exceed $20,000. In order to close this gap we are proposing to amend the reporting instructions of schedule G-43 to clarify that all memberships charged to Account 64 "Memberships" and Account 89.2 "Lobbying" should be separtely reported on schedule G-43 when the aggregate calendar year expenditures exceed $20,000.

We agree with ACAP that the establishment of an account for lobbying expenses requires a clear definition of the specific activities which the terms lobbying and legislative activity encompass, as well as a precise definition of the costs related to these activities. A standard form which may be used for carrier analysis of these costs is attached as Appendix C. Carrier completion of this form for domestic operations for the calendar year 1976 will help the Board to refine the definitions before taking final action on the proposed rule. We recognize that there may be problems associated with allocating certain expenses between lobbying activities at the legislative level and activities at the regulatory level. However, we expect comments in response to this notice to suggest reasonable means for minimizing the administrative problems inherent in any allocation process. We also invite suggestions and discussions of feasible methods for allocating various lump sum payments, such as ATA membership dues, other ATA assessments, and outside counsel fees, between lobbying and other activities. The Board is particularly interested in developing a practicable mechanism for determining the proportions of carrier payments to ATA which are related to expenditures for lobbying activity, and should, therefore, be allocated to a nonoperating account.

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[4] Federal Power Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act, Account 426.4. (18 CFR Part 101.)

[5] ACAP Petition, p. 9.

[6] The form is attached as Appendix B.

[7] "Response by the Air Transport Association and Certain of Its Members to the Rulemaking Petition of the Aviation Consumer Action Project," authorized by Alaska Airlines, Inc., Allegheny Airlines, Inc., American Airlines, Inc., Braniff Airways, Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line, Inc., Frontier Airlines, Inc., North Central Airlines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Piedmont Aviation, Inc., Ozark Air Lines, Inc., Southern Airways, Inc., Texas International Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., and Wien Air Alaska, Inc.

[8] On February 4, 1977 ACAP filed a Motion for Leave to File an Otherwise Unauthorized Document, Reply by Aviation Consumer Action Project to Clarify the Record. ACAP argues that ATA distorted certain features of the rule requested by ACAP in its response to the ACAP petition for rulemaking, and that clarification is necessary to eliminate confusion. On its own behalf and that of certain member carriers ATA has filed a Motion for Leave to File an Otherwise Unauthorized Document, Opposition to ACAP Motion and the filing of the Reply on the grounds that the Reply neither clarifies nor adds anything new to pleadings already before the Board. We have decided to grant both motions to file otherwise unauthorized documents and have considered both ATA's Reply and ACAP's Opposition in deciding to issue a notice of proposed rulemaking.

PROPOSED RULE

It is proposed to amend Part 241 of the Economic Regulations (14 CFR Part 241) as follows:

1. Amend Section 7.—Chart of Profit and Loss Accounts, to read in pertinent part as follows:

SECTION 7.—*Chart of profit and loss accounts*

Objective classification of profit and loss elements		Functional or financial activity to which applicable (00)		
		Group I carriers	Group II carriers	Group III carriers
•	•	•	•	•
80	Other nonoperating income and expense—net:			
85.0	Income from nontransport ventures	81	81	81
88.1	Intercompany transaction adjustment—credit	81	81	81
88.2	Dividend income	81	81	81
88.3	Net unrealized gain or loss on marketable equity securities	81	81	81
88.4	Net realized gain or loss on marketable equity securities	81	81	81
88.5	Capital gains and losses—operating property	81	81	81
88.6	Capital gains and losses—other	81	81	81
88.7	Unapplied cash discounts	81	81	81
88.9	Other miscellaneous nonoperating credits	81	81	81
89.1	Intercompany transaction adjustment—debit	81	81	81
89.2	Lobbying	81	81	81
89.9	Other miscellaneous nonoperating debits	81	81	81

INCOME TAXES

• • • • •

Section 12 [Amended]

2. Amend Section 12—Objective Classification—Operating Revenues and Expenses, by revising account 64 to read as follows:

• • • • •

64 Memberships.

Record here the cost of membership dues in trade associations, chambers of commerce, or other business associations and organizations together with related special assessments. That portion of membership dues and related special assessments defined as lobbying expenses shall not be charged to this account but to nonoperating income and expense account 89.2 Lobbying.

• • • • •

Section 14 [Amended]

3. Amend Section 14—Objective Classification—Nonoperating Income and Expense to add a new subaccount for lobbying costs by revising account 89 to read as follows:

89. Miscellaneous Nonoperating Debits.

(a) Record here all debits of a nonoperating character not provided for otherwise, such as fines or penalties imposed by governmental authorities; costs related to property held for future use; donations for charitable, social or community welfare purposes; costs of lobbying; losses on reacquired and retired or resold debt securities of the air carrier; losses on uncollectible nonoperating receivables or accruals for uncollectible nonoperating receivables; and intercompany debt adjustments. This account shall be charged with amortization of amounts carried in balance sheet account 1870 Property Acquisition Adjustment, unless otherwise approved or directed by the Civil Aeronautics Board.

(b) This account shall be subdivided as follows by all air carrier groups:

89.1 *Intercompany Transaction Adjustment-Debit.* Record here all intercompany debits for any differences between amounts at which transactions between the air carrier and its nontransport divisions or associated companies are initially recorded and are to be settled as provided under section 2-18.

89.2 *Lobbying.* Record here all direct and indirect expenditures for the purpose of influencing legislators and/or public opinion with respect to the election or appointment of public officials, referenda, legislation, or ordinances (either with respect to the possible adoption of new or repeal or modification of existing referenda, legislation, or ordinances); or for the purpose of influencing the decisions of public officials; however, expenditures which are directly related to appearances before regulatory or other governmental bodies in connection with the air carrier's existing or proposed operations shall not be recorded in this account but shall be recorded in their respective objective accounts.

89.9 *Other.* Record here all other miscellaneous nonoperating debits not included in subaccounts 89.1 Intercompany Transaction Adjustment-Debit and 89.2 Lobbying.

• • • • •

Section 26 [Amended]

4. Amend Section 26—General Corporate Elements, by revising paragraph (d) of schedule G-43 to read as follows:

Schedule G-43—Compensation and Expenses of Persons and Firms (Other than Directors, Officers and Employees) Earning $20,000 or More During the Calendar Year.

• • • • •

(d) Compensation and expenses to be reported in this schedule shall include fees, retainers, gifts, commissions, contributions, allowances for expenses or any form of payments or accruals amounting in the aggregate to $20,000 or more during the year. In addition to expense reimbursements paid or to be paid directly to the recipients reflected in column 1, this schedule shall include expenses incurred by the persons or firms named in column 1 which have been paid or are to be paid directly to vendors by the air carrier. Expenses to be reported in this schedule shall encompass payments and accruals such as for legal, medical, engineering, memberships, lobbying, trade associations, advertising, accounting, statistical, educational, or charitable purposes, but shall exclude payments and accruals for services which both as to their nature and amount may reasonably be regarded as ordinarily connected with the routine physical operation or maintenance of an air carrier, such as payments and accruals for rent of buildings or property, for heat, light, power, telegraph and telephone or, as applicable, payments or amounts to be paid to other carriers for interchange of equipment or settlement of interline traffic balances.

• • • • •

Section 36 [Amended]

5. Amend Section 36—General Corporate Elements, by revising paragraph (d) of schedule G-43 to read as follows:

Schedule G-43—Compensation and Expenses of Persons and Firms (Other than Directors, Officers and Employees) Earning $20,000 or More During the Calendar Year.

• • • • •

(d) Compensation and expenses to be reported in this schedule shall include fees, retainers, gifts, commissions, contributions, allowances for expenses or any form of payments or accruals amounting in the aggregate to $20,000 or more during the year. In addition to expense reimbursements paid or to be paid directly to the recipients reflected in column 1, this schedule shall include expenses incurred by the persons or firms named in column 1 which have been paid or are to be paid directly to vendors by the air carrier. Expenses to be reported in this schedule shall encompass payments and accruals such as for legal, medical, engineering, memberships, lobbying, trade associations, advertising, accounting, statistical, educational, or charitable purposes, but shall exclude payments and accruals for services which both as to their nature and amount may reasonably be regarded as ordinarily connected with the routine physical operation or maintenance of an air carrier, such as payments and accruals for rent of buildings or property, for heat, light, power, telegraph and telephone or, as applicable, payments or amounts to be paid to other carriers for interchange of equipment or settlement of interline traffic balances.

• • • • •

6. Amend CAB Form 41 schedule P-3 to reflect the foregoing changes and attached hereto as Appendix A and made a part hereof.

REQUEST FOR COMMENTS

Interested persons may take part in this rulemaking by submitting 20 copies

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of written data, views, or arguments on the subjects discussed. All relevant material received by the dates shown at the beginning of this notice will be considered by the Board before taking final action on the proposed rules.

Individual members of the general public who wish to express their interest as consumers by informally taking part in this proceeding may do so by submitting comments in letter form to the Docket Section, without having to file additional copies.

(Secs. 204, 403, 404, 407 and 1002, Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, 760, 766, and 788, as amended (49 U.S.C. 1324, 1373, 1374, 1377, 1482; and 5 U.S.C. 552))

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

APPENDIX A

Item		Air Carrier _____ Operation _____ Period Ended _____ Quarter		Air Carrier _____ Operation _____ Period Ended _____ 12 Months to Date	
TRANSPORT REVENUES	1900			1900	
Passenger-first class	01.1			01.1	
Passenger-coach	01.2			01.2	
U. S. Mail-priority	05.1			05.1	
U. S. Mail-nonpriority	05.2			05.2	
Foreign mail	05.3			05.3	
Property-express	06.1			06.1	
Property-freight	06.2			06.2	
Property-excess passenger baggage	06.3			06.3	
Charter and special-passenger	07.1			07.1	
Charter and special-property	07.2			07.2	
Observations cancellation fees	19.1			19.1	
Miscellaneous operating revenues	19.9			19.9	
Total transport revenues (per Schedule P-1)	1999			1999	
DEPRECIATION AND AMORTIZATION	7099			7099	
Obs. and det. nonaccess. assets (per Sch. P-5)	72			72	
Amortization—developmental and prepa. exp.	74.1			74.1	
Amortization—other intangibles	74.2			74.2	
Depreciation—flight equip. (per Sched. P-5)	75.6			75.6	
Depreciation—maint. equip. and hangars	75.8			75.8	
Depreciation—general ground property	75.9			75.9	
Amortization—capitalized leases	76			76	
Total depr. and amortiz. (per Schedule P-1)	7099			7099	
NONOPERATING INCOME AND EXPENSE—NET	8100			8100	
Interest expense—long term debt	81.1			81.1	
Interest expense—capital leases	81.2			81.2	
Imputed interest capitalized-credit	82.1			82.1	
Imputed interest deferred-credit	82.2			82.2	
Imputed interest deferred-debit	82.3			82.3	
Interest capitalized-credit	82.4			82.4	
Capitalized interest (per Schedule P-1)	3189			3189	
Amortization of discount and expense on debt	84.1			84.1	
Amortization of premium on debt	84.2			84.2	
Amortization of debt discount, premium and expense (per Schedule P-1)	3184			3184	
Income from nontransport ventures	86.1			86.1	
Intercompany transaction adjustments-net	86.			86.	
Dividend income	88.2			88.2	
Net unrealized gain or loss on marketable equity securities	88.3			88.3	
Net realized gain or loss on marketable equity securities	88.4			88.4	
Capital gains and losses—operating property	88.5			88.5	
Capital gains and losses—other	88.6			88.6	
Unrealized cash discounts	89.1			89.1	
Other miscellaneous nonoperating credits	89.8			89.8	
Intercompany transaction adjustments-nonoperating	89.1			89.1	
Lobbying	89.2			89.2	
Other miscellaneous nonoperating debits	89.9			89.9	
Other income and expense-net (per Schedule P-1)	3189			3189	

*Denotes reverse amount in account 3100 denotes debit amount.

Schedule P-1

CAB Form 41
(Rev. 7-77)

Appendix B
Page 1 of 2 pages

PROCEDURES TO BE FOLLOWED IN REPORTING COSTS INCURRED IN SUPPORT OF THE PROPOSED CONSUMER COMMUNICATIONS REFORM ACT

All identifiable expenditures for the purpose of influencing the public to support the Consumer Communications Reform Act shall be charged to account 323, "Miscellaneous Income Charges," and shall be reported. Such expenditures include:

(a) Costs of preparing and printing statements or pamphlets addressing the Consumer Communications Reform Act urging shareowners, employees or customers to support the legislation.

(b) Postage or distribution costs when such material is mailed or otherwise distributed as communication to shareowners, employees or customers.

(c) Costs for media advertising, meetings, speeches or fees to consultants for promoting the Consumer Communications Reform Act.

(d) Salaries, travel and other expenses of employees who prepare, distribute or promulgate material to promote the Consumer Communications Reform Act through shareowners, employees, customers or the public in general.

(e) Salaries, travel and other expenses of employees who, while not assigned solely to this program, incur such expenses on behalf of it.

If portions of any published or printed material are devoted to the above activities, where such proportion is 10% or more of the content of the material, the appropriate share of the costs shall be identified and reported.

Salary costs shall be identified and accounted for in those cases where an average of one hour or more weekly is routinely devoted

Appendix B
Page 2 of 2 pages

to such efforts; or in the case of random activities, whenever any individual employee devotes as much as five hours in any bi-weekly period to such efforts. In the case of employee group meetings designed to promote the legislation, the salaries and/or wages of all employees shall be allocated where any such meeting is of 1/2 hour or more in duration.

The reports shall also include the costs of preparing testimony and testifying before legislative bodies in connection with the Consumer Communications Reform Act.

Items of a strictly informative character, such as reports of the status of the legislation, are not required to be reported.

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Appendix C
Page 1 of 2 pages

Analysis of Costs - Domestic Operations 1/
for the 12 months ended December 31, 1976

Form 41 Sch. No.	Objective Accounts Title	Lobbying Costs	CAB Regulatory Costs	Cost of ATA Related Activities		Remaining	Synopsis of types of items included in remaining balance	Total per Form 41
				Payments to ATA 2/	Others 3/	Receipts from Others 3/	Balance to Form 41 Account	

ATA has filed a response in opposition to ACAP's petition on its own behalf and that of certain member carriers.[4] ATA contends that the treatment afforded advertising expenses by state public utility commission is in no way relevant here since the airline industry, in contrast to public utility companies, is not guaranteed a rate of return and is characterized by intra-industry and intermodal competition.

We find that the concept of institutional advertising is not well developed in ACAP's petition, nor does ACAP's material indicate its regular use. We have particular difficulty with institutional advertising as defined by ACAP, insofar as this definition does not provide a clear set of criteria for distinguishing between institutional and informational advertising. The series of ATA advertisements which ACAP offers as an example of institutional advertising provides an excellent example of how difficult it can be to make this distinction. Some of these advertisements could reasonably be characterized as "modal." Since it appears that ACAP would characterize advertising which attempts to divert passengers from one air carrier to another as informational, it would follow that advertising which seeks to generate air traffic by diverting passengers from other modes should not be considered institutional advertising.

Formulation of a proposed rule would require a clear definition of institutional advertising. Carriers may complete the attached form for the analysis of advertising expenses, Appendix A, to assist the Board in this regard. The instructions for completing this form include definitions for informational, promotional and institutional advertising in order to insure comparability of data among carriers. These definitions are by no means final, however, and we expect the response to this advance notice to include suggestions for refinements.

As a practical matter, any regulation requiring the separate disclosure of expenditures for institutional advertising could be difficult to administer, since any classification of advertising expenses according to type would be somewhat judgmental, even if the various types of advertising are clearly defined. In light of this, we have decided to seek comments and additional information before taking any action to require the exclusion of institutional advertising expenses from the costs allowable for ratemaking purposes.

The Board also intends to consider a broader approach to the ratemaking treatment of advertising costs by exploring the desirability of establishing a ratemaking standard for these expenses.[5] The Board currently determines the reasonableness of the passenger fare level on the basis of costs which reflect the application of ratemaking standards such as the 55.0 percent load-factor standard and seating configuration standards. A ratemaking standard for advertising expense would be designed to ensure that the users of air transportation are not burdened by advertising costs in excess of what is required to inform airline customers of prices and services and to allow the carriers to operate effectively in a competitive environment. We invite comments on the desirability of establishing a ratemaking standard for advertising expenses as an alternative to requiring the disclosure of institutional advertising expenses in a nonoperating account.

In sum, the Board expects comments in response to this advance notice to: (1) Define institutional advertising and discuss the extent to which this type of advertising should be considered a lobbying activity; (2) discuss whether institutional advertising expense should be treated as a non-operating expense and thus excluded from costs for ratemaking purposes; (3) discuss the merits of establishing a ratemaking standard for advertising expenses; and (4) the problems involved in deciding how much advertising is desirable, particularly in light of the fact that advertising and promotion are necessary if there is to be effective competition and for the introduction of new routes and experimentation with new rates and fares.

Interested persons may take part in this rulemaking by submitting 20 copies of written data, views, or arguments on the subject discussed. All relevant material received by the dates shown at the beginning of this notice will be considered by the Board before taking final action on the proposed rules.

Individual members of the general public who wish to express their interest as consumers by informally taking part in this proceeding may do so by submitting comments in letter form in the Docket Section, without having to file additional copies.

(Secs. 204, 403, 404, 407, 1002, Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, 760, 766, 788, as amended (49 U.S.C. 1324, 1272, 1374, 1377, 1482; 5 U.S.C. 552).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[4] "Response by the Air Transport Association and Certain of Its Members to the Rulemaking Petition of the Aviation Consumer Action Project," authorized by Alaska Airlines, Inc., Allegheny Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., Frontier Airlines, Inc., Hawaiian Airlines, Inc., Hughes Airwest, National Airlines, Inc., North Central Airlines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Piedmont Aviation, Inc., Ozark Air Lines, Inc., Southern Airways, Inc., Texas International Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., and Wien Air Alaska, Inc.

[5] For example, advertising expenses allowable for ratemaking purposes could be limited to a standard percentage of revenues.

Appendix A
Page 1 of 2 pages

Analysis of Costs - Domestic Operations 1/
for the 12 months ended December 31, 1976

Form 41 Objective Accounts No.	Title	Advertising 2/ Institutional	Informational	Promotional	Remaining Balance in Form 41 Account	Synopsis of types of items included in remaining balance	Total per Form 41
	Totals						

Analysis of Advertising Costs by type of media used:
%
T.V.
Radio
Newspaper
Magazine
OAG
Telephone Directory
Other
Total

1/ When statistical sampling or estimating is used in the analysis of costs, a footnote describing the procedures and assumptions should be presented.
2/ For this report only, advertising costs should be categorized according to the definitions of institutional, informational and promotional advertising given on page 2, this Appendix. If you believe an advertisement fits more than one of the categories listed, include those costs in only one category, and indicate in a footnote the amount, in which category it is included and the elements of the advertisement that cause you to believe it fits in more than one category.

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Appendix A
Page 2 of 2 pages

Definition of Terms for Use Only on this Appendix

INSTITUTIONAL ADVERTISING – public communications of all kinds designed to create, enhance, or sustain an airline's corporate image or goodwill as viewed by the general public or its customers.

INFORMATIONAL ADVERTISING – public communications designed to inform passengers or shippers about flight times, prices, or other services offered by the airline.

PROMOTIONAL ADVERTISING – public communications designed to attract passengers or shippers from other air carriers or modes of travel to the advertising carrier.

Notes to Analysis of Costs

Cost to:

	Prepare this Report	Screen this data on a recurring basis
Direct Labor	$_____	$_____
Data Processing	$_____	$_____
Printing/Copying	$_____	$_____
Overhead	$_____	$_____

[FR Doc.77-26720 Filed 9-14-77;8:45 am]

TENNESSEE VALLEY AUTHORITY

[18 CFR Part 304]

STRUCTURES ON TENNESSEE RIVER SYSTEM

Amendments to Regulations Governing Approval of Construction and Regulation

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes changes in the existing regulations governing approval of construction and the regulation of structures which affect or would affect navigation, flood control or public lands or reservations along or in the Tennessee River or its tributaries. Most of the amendments are designed only to clarify or update the existing regulations in light of new circumstances, but several would result in changes in the scope or effect of the present regulations.

PROPOSED EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

John S. Rozek, Director of Property and Services, 109 West Cumberland Building, Knoxville, Tenn. 37902 (615-632-3151).

SUPPLEMENTARY INFORMATION: The first of the substantive changes occurs in § 304.101, under which the Board currently reserves to itself the determination of all applications for structures or activities which may result in any "discharge" into "navigable waters" of the United States, as those terms are defined in the Federal Water Pollution Control Act Amendments of 1972 (FWPCA). The only exceptions to this reservation are applications which involve marine toilets. Under the proposed § 304.101, authority to approve or disapprove all applications will be delegated to TVA's Director of Property and Services.

A second change is the addition of a new subsection (c) to § 304.103 in order to make it explicit that each flotation device subject to the regulations must be firmly affixed to the structure it supports with materials capable of withstanding prolonged exposure to wave wash and weather conditions. If this is not done, individual flotation devices will escape, causing a navigation hazard to vessels on TVA reservoirs.

Another alteration contained in the proposed amendments concerns § 304.108 (c), which currently provides that plans for fixed boathouses, piers, and docks will not be approved if they include toilets, living or sleeping quarters, or enclosed spaces with floor area in excess of 25 square feet. Floating boathouses are similarly restricted by the terms of § 304.204. In order to make coverage complete, the scope of this prohibition will be expanded to cover floats, rafts, and all other structures subject to approval under section 26a except those structures which are subject to section 26a only because they are located upon land subject to TVA flowage easements as provided in § 304.109. At the same time the present authority of the Director to modify these restrictions for piers and docks which are a part of public or commercial recreation facilities is to be expanded to any structure, not just piers and docks, and to any public or comercial facility, not just recreational ones.

In the course of reorganizing § 304.109 for greater clarity and simplicity, it was redrafted to apply to flowage easements on all TVA reservoirs instead of Fort Loudoun and Douglas Reservoirs only. Experience has shown that, although to a lesser extent, problems do occur on the flowage easements for the other reservoirs and this change will provide uniform application and facilitate a more complete implementation of TVA's policies of flood damage prevention and water pollution control. The special provision under which the Director could exempt certain structures from the effect of the section if he determined that they were not subject to serious damage from flooding has been deleted. The provision was of little benefit to applicants because in order to determine the potential for flood damage the Director needs nearly as much information from them as for a regular approval, and in addition there is the possibility that a structure could be immune to flood damage itself and yet hamper the effectiveness of the reservoir under emergency conditions.

The final major proposed alteration concerns the definition of navigable houseboats in § 304.201. Currently, a houseboat may qualify as navigable if it is on a boat hull, pontoons or "other comparable flotation devices," but there is no provision as to the alignment or the shape of the flotation devices. Yet, if they are placed crosswise to the direction of travel or are not shaped to facilitate movement through the water, they are likely to come loose and escape, endangering the craft being supported and creating navigation hazards for other vessels on the reservoir. These dangers are also increased when flotation is rendered by numerous small devices. Under the proposed regulations, therefore, flotation for a navigable houseboat may come from a boat hull or pontoons only, and a definition of "pontoon" has also been provided under which a flotation device must run fore and aft for the full length of the vessel and have a sloped or molded bow. Existing houseboats which have qualified as navigable under the current regulations, but would not under the proposed amendments, are to continue to be treated as navigable for all purposes except for being subject to the prohibition in § 304.230(d) against replacing or rebuilding nonnavigable houseboats.

These amendments are proposed pursuant to section 26a of the Tennesssee Valley Authority Act of 1933, as amended. Interested persons may submit written data, views, arguments, comments, or objections in regard to the proposed rulemaking, preferably in duplicate, to the Tennessee Valley Authority, Attention: Office of the General Counsel, 400 Commerce Avenue, Knoxville, Tenn. 37902.

All relevant material received not later than October 17, 1977, will be considered prior to the adoption of a final rule. Revisions may be made in the rule as finally adopted in the light of material received. Copies of all such material received will be available for public examination during regular business hours at the following locations:

TVA Technical Library, Room E2A1, 400 Commerce Avenue, Knoxville, Tenn.

TVA Technical Library, Room 100, 401 Building, Chattanooga, Tenn.

TVA Technical Library, Room 100, National Fertilizer Development Center, Muscle Shoals, Ala.

TVA Technical Library, Forestry Building, Norris, Tenn.

Accordingly 18 CFR Part 304 is proposed to be amended as follows:

1. The Table of Contents to Part 304 is amended to read:

TABLE OF CONTENTS

Section 26a of the TVA Act, as amended:

PART 304—APPROVAL OF CONSTRUCTION IN THE TENNESSEE RIVER SYSTEM AND REGULATION OF STRUCTURES

Subpart A—General Requirements

Sec.
304.1 Definitions.
304.2 Scope and intent.
304.3 Flotation devices and material.
304.4 Treatment of sewage.
304.5 Removal of unauthorized or unsafe structures.

Subpart B—Approval of Construction

304.100 Scope and intent.
304.101 Delegation of authority.
304.102 Application.
304.103 Contents of application.
304.104 Little Tennessee River; date of formal submission.
304.105 Determination of application.
304.106 Appeals.
304.107 Conduct of hearings.
304.108 Conditions of approval.
304.109 Habitable and certain other enclosed structures within the flowage easement areas of TVA reservoirs.

Subpart C—Regulation of Boathouses, Houseboats, Other Floating Structures, and Harbor Limits

304.200 Scope and intent.
304.201 Definitions.
304.202 Designation of harbor areas at commercial boat docks.
304.203 Houseboats.
304.204 Floating boathouses.
304.205 Approval of plans for floating boathouses and nonnavigable houseboats.
304.206 Numbering and transfer of approved facilities.

AUTHORITY.—16 U.S.C. secs. 831–831dd.

2. Section 304.1 is amended to read:

§ 304.1 Definitions.

Except as the context may otherwise require, the following words or terms, when used in this Part 304, have the meaning specified in this section.

Act means the Tennessee Valley Authority Act of 1933, as amended.

Applicant means the person, corporation, State, municipality, political subdivision or other entity making application.

Application means a written request for the approval of plans pursuant to section 26a of the Act and the regulations contained in this part.

Board means the Board of Directors of TVA.

Director means the Director of the Division of Property and Services of TVA.

TCA means the Tennessee Valley Authority.

3. Section 304.2 is amended to read:

§ 304.2 Scope and intent.

The Act among other things confers on TVA broad powers related to the unified conservation and development of the Tennessee River Valley and surrounding area and directs that property in TVA's custody be used to promote the Act's purposes. In particular, section 26a of the Act requires that TVA's approval be obtained prior to the construction, operation, or maintenance of any dam, appurtenant works, or other obstruction affecting navigation, flood control, or public lands or reservations along or in the Tennessee River or any of its tributaries. By way of example only, such obstructions include boat docks, piers, boathouses, rafts, buoys, floats, boat launching ramps, fills, and nonnavigable houseboats as defined in § 304.201. Any person considering constructing, operating or maintaining any such structure should carefully study these regulations before doing so. The regulations also apply to certain structures built upon land subject to TVA flowage easements. In the transfer or other disposition affecting shoreline lands within its custody, TVA has also retained land rights to carry out the Act's purposes including rights related to control of water pollution from the use of the land transferred. TVA uses and permits use of the lands and land rights in its custody alongside and subjacent to TVA reservoirs to carry out the purposes and policies of the Act. In addition, recent legislation, including the National Environmental Policy Act of 1969, as amended, (NEPA), 42 U.S.C. section 4321 et seq., and the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. section 1251 et seq., (FWPCA), have declared it to be congressional policy that agencies should administer their statutory authorities so as to restore, preserve and enhance the quality of the environment and should cooperate in the control of pollutiuon. Unless otherwise noted, all references in this title to these statutes shall be deemed to include any future amendments to them. It is the intent of the regulations prescribed in this Part 304 to carry out the purposes of the Act and other statutes relating to these purposes, and this part shall be interpreted and applied to that end.

4. Section 304.3 is amended by amending paragraph (b) and adding a new paragraph (c) to read:

§ 304.3 Flotation devices and material.

• • • • •

(b) The only metal drums permitted are those which have been filled with plastic foam or other solid flotation materials and welded, strapped, or otherwise firmly secured in place prior to July 1, 1972, on existing facilities, but replacement of any metal drum flotation permitted to be used by this subsection must be with some type of permanent flotation device or material, for example, pontoons, boat hulls or other buoyancy devices made of steel, aluminum, fiberglass or plastic foam, not including filled metal drums.

(c) Every flotation device employed in the Tennessee River system must be firmly and securely affixed to the structure it supports with materials capable of withstanding prolonged exposure to wave wash and weather conditions.

5. Section 304.4 is amended to read:

§ 304.4 Treatment of sewage.

No person operating a commercial boat dock on or over real property of the United States in the custody and control of TVA, or on or over real property subject to provisions for the control of water pollution in a deed, grant of easement, lease, license, permit or other instrument from or to the United States or TVA shall permit the mooring on or over such real property of any watercraft or floating structure equipped with a marine toilet unless such toilet is in compliance with all applicable statutes and regulations, including the FWPCA and regulations issued thereunder.

6. Section 304.5 is amended to read:

§ 304.5 Removal of unauthorized, unsafe, and derelict structures.

If, at any time, any dock, wharf, floating boathouse, nonnavigable houseboat, outfall, or other fixed or floating structure or facility anchored, installed, constructed, or moored under a license, permit, or approval from TVA is not constructed in accordance with plans approved by TVA, or is not maintained or operated so as to remain in accordance with such plans, or is not kept in a good state of repair and in good, safe, and substantial condition, and the owner or operator thereof fails to repair or remove such structure (or operate or maintain it in accordance with such plans) within ninety (90) days after written notice from TVA to do so, TVA may cancel such license, permit or approval and remove such structure, or cause it to be removed, from the Tennessee River system and/or lands in the custody or control of TVA. Such written notice may be given by mailing a copy thereof to the owner's address as listed on the license, permit, or approval or by posting a copy on the structure or facility. TVA will remove or cause to be removed any such structure or facility anchored, installed, constructed, or moored without such license, permit, or approval, whether such license or approval has once been obtained and subsequently canceled, or whether it has never been obtained.

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7. Section 304.100 is amended to read:

§ 304.100 Scope and intent.

Approval must be obtained with respect to each structure subject to section 26a of the Act prior to its construction, operation, or maintenance. This subpart prescribe procedures to be followed in any case where it is desired to obtain such approval.

8. Section 304.101 is amended to read:

§ 304.101 Delegation of authority.

The power to approve or disapprove applications under this part is delegated to the Director, subject to appeal to the Board as provided in § 304.105. In his discretion the Director may submit any application to the Board for its approval or disapproval. Administration of the handling of applications is delegated to the Division of Property and Services.

9. Section 304.102 is amended to read:

§ 304.102 Application.

Applications shall be addressed to Tennessee Valley Authority, Director of Property and Services, Knoxville, TN 37902.

10. Section 304.103 is amended to read:

§ 304.103 Contents of application.

(a) Each application must be accompanied by five (5) complete sets of plans for the construction, operation and maintenance of the proposed structure. The application shall be prepared according to "Instructions for Preparing An Application for An Approval of Plans for Proposed Structures Under Section 26a of the Tennessee Valley Authority Act." These instructions require that the application include, among other things: (1) Accurate maps showing the exact location where the structure is proposed to be built, moored, or installed, (2) plans, including layout, in scale, of the proposed structure, (3) statements of the plans formulated for the maintenance and operation of the structure when completed, (4) sufficient information to describe adequately all of the persons, corporations, organizations, agencies or others who propose to construct, own and operate such structure, and (5) a report of the anticipated environmental consequences resulting from the construction, operation, and maintenance of the proposed structure. This report of anticipated environmental consequences shall include a discussion of: (i) The probable impact of the proposed structure on the environment; (ii) any probably adverse environmental consequences which cannot be avoided; (iii) alternatives to the proposed structure; (iv) the relationship between the local short-term uses of the environment and the maintenance of long-term productivity which will result from the proposed structure; and (v) any irreversible or irretrievable commitments of resources which would be involved by virtue of the proposed structure.

(b) If construction, maintenance or operation of the proposed structure or any part thereof, or the conduct of the activity in connection with which approval is sought, may result in any discharge into navigable waters of the United States, applicant shall also submit with the application, in addition to the material required by paragraph (a) of this section, a certification from the State in which such discharge would originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge would originate, or from the Environmental Protection Agency, that such State or interstate agency or the Environmental Protection Agency has determined after public notice of applicant's proposal that there is reasonable assurance that applicant's proposed activity will be conducted in a manner which will not violate applicable water quality standards. If construction or operation of the proposed structure will affect water quality but is not subject to any applicable water quality standards, applicant shall submit a written statement to that effect by such State, interstate agency, or the Environmental Protection Agency. The applicant shall further submit such supplemental and additional information as TVA may deem necessary for the review of the application, including, without limitation, information concerning the amounts, chemical makeup, temperature differentials, type and quantity of suspended solids, and proposed treatment plans for any proposed discharges.

(c) Detailed information concerning contents of applications, kinds and amounts of information required to be submitted for specific structures, and instructions are available at the address specified in § 304.102 or from the Manager of Properties, Division of Property and Services, Tennessee Valley Authority, at one of the following district offices:

1. Western District, Post Office Box 280, Paris, Tenn. 38242 (office location: 202 West Blythe Street).
2. Southern District, 601 First Federal Building, Muscle Shoals, Ala. 35660 (office location: 102 South Court Street).
3. Central District, Post Office Box 606, Athens, Tenn. 37303 (office location: 110 Congress Parkway).
4. Eastern District, 2611 West Andrew Johnson Highway, Morristown, Tenn. 37814.

11. Section 304.105 is amended to read:

§ 304.105 Determination of application.

(a) The Division of Property and Services conducts preliminary investigations; coordinates the processing of applications within TVA; notifies the applicant if preparation and review of an environmental statemet are required under NEPA, and of what additional information must be submitted to TVA by applicant so that TVA may comply with the requirements of that statute and related legal requirements, and complete its review of the application; and arranges for notification to the Environmental Protection Agency of applications that request approval of plans for structures which may result in a discharge into navigable waters of the United States and are certified in accordance with the requirements of § 304.103(b).

(b) Hearings concerning approval of applications are conducted (in accordance with § 304.107). (1) when requested by the applicant, (2) when TVA deems that a hearing is necessary or appropriate in determining any issue presented by the application, or (3) when required under applicable provisions of the FWPCA.

(c) Upon completion of the investigation, coordination of the review of water quality aspects of the application under the FWPCA, completion of review under NEPA, if required, and hearing or hearings, if any, the Director approves or disapproves the application on the basis of the application and supporting documents, the report of investigation, the transcript of the hearing or hearings, if any be held, the recommendations of other agencies, the intent of this part, and the applicable provisions of the TVA Act, the FWPCA, NEPA, and other applicable laws or regulations. In his discretion the Director may refer any application and supporting materials to the Board for its approval or disapproval.

(d) Promptly following determination, the Director or the Board, as the case may be, furnishes a written copy of the decision to the applicant and to any parties of record pursuant to § 304.107. In the case of applications initially approved or disapproved by the Board, written requests for reconsideration may be made to the Board in the same manner as provided for appeals under § 304.106(a).

12. Section 304.106(a) and (b) are amended to read:

§ 304.106 Appeals.

(a) If the Director disapproves an application, the applicant may, by written request addressed to the Board of Directors, Tennessee Valley Authority, Knoxville, Tenn. 37902, and mailed within thirty (30) days after receipt of notification of such disapproval, obtain review by the Board of the determination of the Director disapproving the application.

(b) A party of record to any hearing before the Director who is aggrieved or adversely affected by any determination of the Director approving an application may obtain review by the Board of such determination by written request addressed and mailed as provided in paragraph (a) of this section.

* * * * *

13. Section 304.108 (b) and (c) are amended to read:

§ 304.108 Conditions of approvals.

* * * * *

(b) If an approval is granted under this subpart of a structure or facility with respect to which a certificate of compliance with applicable water quality standards has been obtained pursuant to the FWPCA and no additional or other Federal permit or license is required for operation of such structure or facility, the holder of the TVA approval shall, prior to initial operation of such structure or facility, provide an opportunity for the certifying state or, if appropriate, the interstate agency or the Environmental Protection Agency to review the manner in which the structure or facility will be operated or conducted, for the purpose of assuring that applicable water quality standards will not be violated.

(c) Except for plans which must be approved only because the proposed structure is to be built upon land subject to a TVA flowage easement, as provided in § 304.109, no plans will be approved for any structure, including by way of example only, boat docks, piers, fixed boathouses, floats, or rafts, if they provide for toilets, living or sleeping quarters, or any type of enclosed floor space in excess of 25 square feet, not including walkways around boat wells or mooring slips. Such walkways shall not exceed 4 feet in width unless, in the sole judgment of the Director, the size of the well or slip justifies a greater width. For the purposes of this subsection, floor space shall not be deemed *enclosed* solely because of plans providing for the use of wire mesh or similar screening which leaves the interior of the structure or facility open to the weather: *And, provided, further,* That nothing contained in this paragraph shall be construed as prohibiting enclosure of the boat well or mooring slip proper. In the case of applications for structures to be used as part of a public boat dock, marina, or other public or commercial facility, the requirements of this paragraph (c) may be waived or modified by the Director if he considers such waiver necessary or desirable for proper development of the facility.

14. Section 304.109 is amended to read:

§ 304.109 Habitable and certain other enclosed structures within the flowage easement areas of TVA reservoirs.

In addition to all other requirements of this part, any structure built upon land subject to a flowage easement held by TVA shall be deemed an obstruction affecting navigation, flood control or public lands or reservations within the meaning of section 26a of the Act if it:

(a) Is a fixed enclosed structure having a cost-in-place in excess of five thousand dollars; or

(b) Is designed or used for human habitation, regardless of cost; or

(c) Involves a discharge into the navigable waters of the United States.

Such obstructions shall be subject to all requirements of this subpart, but nothing contained in this section shall be construed to be in derogation of the rights of the United States or of TVA under any flowage easement held by TVA.

For purposes of this section "enclosed structure" shall mean a structure enclosed overhead and on all sides so as to keep out weather.

15. The heading of Subpart C is amended to read:

Subpart C—Regulation of Boathouses, Houseboats, Other Floating Structures, and Harbor Limits

16. Section 304.200 is amended to read:

§ 304.200 Scope and intent.

This subpart prescribes regulations governing designation of harbor areas at commercial boat docks and the approval of structures and facilities which may be moored or installed in such areas and in other areas in the Tennessee River and its tributaries, all in such a manner as to avoid obstruction of or interference with navigation and flood control, avoid or minimize adverse effects on public lands and reservations, prevent the preemption of public waters by houseboats moored in permanent or semipermanent locations outside such harbors and used as floating dwellings, attain the widest range of beneficial uses of land and land rights owned by the United States of America, enhance reasonable recreational use of TVA reservoirs by all segments of the general public, protect lands and land rights owned by the United States alongside and subjacent to TVA reservoirs from trespass and other unlawful or unreasonable uses, and maintain, protect, and enhance the quality of the human environment.

17. Section 304.201 is amended to read:

§ 304.201 Definitions.

For the purposes of this subpart, in addition to any definitions contained elsewhere in this part, the following words or terms shall have the meaning specified in this section, unless the context requires otherwise:

Existing as applied to floating boathouses or other structures, except houseboats, means those which were moored, anchored, or otherwise installed on, along, or in a TVA reservoir on or before July 1, 1972. *Existing* as applied to houseboats shall mean those which were moored, anchored, or otherwise installed on, along, or in a TVA reservoir on or before January 1, 1978.

Floating boathouse means a floating structure or facility, any portion of which is enclosed, capable of storing or mooring any houseboat or other vessel under cover.

Houseboat means any vessel which is equipped with enclosed or covered sleeping quarters.

Navigable houseboat means any self-propelled houseboat having maneuverability which is (a) built on a boat hull or on two or more pontoons; (b) equipped with motor and rudder controls located at a point on the houseboat from which there is forward visibility over a 180° range; and (c) in compliance with all applicable State and Federal requirements relating to watercraft; provided, however, that any existing houseboat which was deemed navigable under the provisions of the former § 304.201, which became effective November 21, 1971, shall continue to be deemed navigable for all purposes of this subpart, except that such houseboats shall be subject to the provisions of § 304.203(d).

New as applied to houseboats, floating boathouses, floats, or other structures means all houseboats, floating boathouses, floats, or other structures, other than existing ones.

Nonnavigable houseboat means a houseboat not in compliance with one or more of the criteria defining a navigable houseboat.

Pontoon means an elongated watertight box or cylinder extending fore and aft for the full length of a vessel and having a sloped or molded bow to facilitate movement through the water.

Vessel means any watercraft or other structure or contrivance used or capable of use as a means of water transportation, such as a boat, floatboat, or houseboat.

18. Section 304.203 is amended to read:

§ 304.203 Houseboats.

(a) No new nonnavigable houseboat shall be moored, anchored, or installed in any TVA reservoir.

(b) Existing nonnavigable houseboats may remain in TVA reservoirs subject to the provisions of paragraph (d) of this section, but only if (1) they have flotation devices complying with § 304.3; (2) they are approved and numbered pursuant to §§ 304.205 and 304.206; and (3) they are moored in compliance with paragraph (c) of this section.

(c) Existing nonnavigable houseboats shall be moored:

(1) To mooring facilities provided by a commercial dock operator within the designated harbor limits of his dock; or

(2) To the bank of the reservoir outside the designated harbor limits of commercial boat docks, if the houseboat owner is the owner or lessee of the abutting property at the mooring location (or the licensee of such owner or lessee) and has requested and obtained from TVA, pursuant to § 304.205, written approval authorizing mooring at such location.

(d) Ordinary maintenance and repair of existing nonnavigable houseboats permitted to be moored pursuant to this section may be continued, including replacement of metal drum flotation as required by § 304.3, but such houseboats may not be structurally modified or expanded, nor may they be replaced, rebuilt, or returned to the reservoir when they have been abandoned, destroyed, or removed from the reservoir or have deteriorated or been damaged so as to be unusable and unrepairable.

19. Section 304.204 is amended to read:

§ 304.204 Floating boathouses.

(a) Floating boathouses may be moored in TVA reservoirs only if (1)

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they have flotation devices complying with § 304.3; (2) they are approved and numbered pursuant to §§ 304.205 and 304.206; and (3) they are moored in compliance with paragraph (b) of this section.

(b) All floating boathouses shall be moored:

(1) To mooring facilities provided by a commercial dock operator within the designated harbor limits of his dock; or

(2) To the bank of the reservoir outside the designated harbor limits of a commercial boat dock, if the boathouse owner is the owner or lessee of the abutting property at the mooring location (or the licensee of such owner or lessee) and has requested and obtained from TVA, pursuant to § 304.205, written approval authorizing mooring at such location.

(c) Ordinary maintenance and repair of existing floating boathouses permitted to be moored pursuant to this section may be continued, including replacement of metal drum flotation as required by § 304.3, but such floating boathouses may not be structurally modified or expanded, or replaced, rebuilt, or returned to the reservoir when they have been abandoned, destroyed, or removed from the reservoir, or have deteriorated or been damaged so as to be unusable or unrepairable: *Provided, however,* That such floating boathouses may be so structurally modified or expanded; replaced, rebuilt, or so returned to the reservoir if they comply with all the requirements of § 304.205(d) and approval is obtained under that section as for a new floating boathouse.

20. Section 304.205(b), (c) (d), and (e) are amended to read:

§ 305.205 Approval of plans for floating boathouses and nonnavigable houseboats.

. . . . . .

(b) Persons proposing to moor new floating boathouses shall submit applications to TVA prior to commencement of construction or mooring thereof. Applications shall be accompanied by plans showing in reasonable detail the size and shape of the facility; the kind of flotation device; the proposed mooring locations thereof; whether a marine toilet is on the facility; and the name and mailing address of the owner. TVA shall be kept advised of any changes in the kind of flotation devices which may be made by the applicant after approval is granted. Plans described in this section shall be in lieu of the plans specified in § 304.103(a).

(c) If the proposed mooring location is outside the designated harbor limits of a commercial boad dock, the application and plans shall be accompanied by evidence satisfactory to TVA showing that the applicant is the owner or lessee of the abutting property at the proposed mooring location, or the licensee of such owner or lessee.

(d) Applications for new floating boathouses will be disapproved if the plans provide for toilets, living or sleeping quarters, or enclosed spaces with more than 25 square feet of floor space, not including walkways around boat wells or mooring slips. Such walkways shall not exceed 4 feet in width unless, in the sole judgment of the Director, the size of the well or slip justifies a greater width. A new floating boathouse or part thereof shall not be deemed enclosed solely because of plans providing for the use of wire mesh or similar screening which leaves the interior of the structure open to the weather, and nothing contained in this subsection shall be construed as prohibiting enclosure of the boat well or mooring slip proper. Plans for any new floating boathouses will also be disapproved if the proposed flotation device includes metal drums in any form.

(e) Applications for mooring outside designated harbor limits will be disapproved if TVA determines that such proposed mooring location will be contrary to the intent of this subpart, of § 304.2, or of any applicable law. Applications will also be disapproved if marine toilets not in compliance with § 304.4 are proposed.

. . . . . .

21. Section 304.206(a) is amended to read:

§ 304.206 Numbering and transfer of approved facilities.

(a) Upon approval of an application concerning a nonnavigable houseboat or floating boathouse, TVA will assign a number to such facility. The owner of the facility shall paint such number on, or attach a facsimile thereof to, a readily visible part of the outside of the facility in letters and figures not less than three (3) inches high. The placement of such number shall be consistent with the requirements of any State or Federal law or regulation concerning numbering of watercraft.

. . . . . .

(16 U.S.C. 831–831dd)

NOTE.—TVA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: September 6, 1977.

LYNN SEEBER,
General Manager.

[FR Doc.77-26777 Filed 9-14-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 177]

INDIAN COAL MINING REGULATIONS

Proposed Rulemaking

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Proposed rules.

SUMMARY: These proposed regulations implement the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95–87) insofar as it requires the Secretary of the Interior to incorporate certain of the Act's performance and reclamation standards in all existing and new coal mining leases on Indian lands. The intended effect of this proposed regulation is to bring surface coal mining activity on Indian land into compliance with the environmental safeguard and reclamation requirements imposed by the Act.

DATES: Written comments must be received on or before October 14, 1977. Public hearings dealing generally with proposed regulations designed to implement the Surface Mining Act will be held starting at 1 p.m. on September 20, 1977, and continuing, if necessary, at 9 a.m. on September 21 and 22, 1977. Public hearings will be held at the Department of the Interior Auditorium, 18th and C Streets NW., Washington, D.C.; Kiel Auditorium, 1416 Market Street, St. Louis, Mo.; Public Library Auditorium, 1347 Broadway, Denver, Colo.; and Morris Harvey College, Riggleman Hall, 2300 McCorkle Avenue, Charleston, W. Va. Additional public meetings dealing specifically with regulation of mining on Indian lands will be held on September 23, 1977, at the Phoenix, Ariz., Area Office; on September 26, 1977, at the Albuquerque, N. Mex., Area Office; and on September 28, 1977, at the Navajo Area Office in Window Rock, Ariz.

ADDRESSES: Comments should be sent to: Office of Trust Responsibilities, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

David C. Harrison, Office of Rights Protection, 202–343–8018.

SUPPLEMENTARY INFORMATION: The Surface Mining Control and Reclamation Act of 1977, Pub. L. 95–87, requires the Secretary of the Interior to publish environmental protection regulations that are applicable to all coal mining operations.

Proposed initial regulations governing coal mining on non-Indian lands were published in the FEDERAL REGISTER on September 7, 1977 (42 FR 44920). This proposal is designed to implement the Act insofar as it requires the Secretary of the Interior to incorporate certain of the Act's performance and reclamation standards in all existing and new coal mining leases on Indian lands.

On April 5, 1977, proposed rulemaking governing mining on Indian lands was published in the FEDERAL REGISTER (42 FR 18083). The proposal was designed to revise 25 CFR Parts 171, 177, and 183, and to issue a new Part 182. Proposed Subpart B of 25 CFR Part 177 was intended to provide performance and reclamation standards for coal operations on Indian lands. That Subpart B proposal was withdrawn on August 24, 1977 (42 FR 42695), in view of the enactment of the Surface Mining Act and the applicability of certain of its provisions to Indian lands. The following proposal is intended to be a substitute for the earlier Subpart B proposal.

Section 710(c) of the Surface Mining Act requires that by December 16, 1977, all surface coal mining operations on Indian lands shall comply with reclamation and performance requirements at least as stringent as those imposed by certain provisions in Section 515 of the Act. The following proposal is designed to implement that requirement.

The proposed performance standards set out below are nearly identical to the standards found in proposed 30 CFR Part 715 published in the FEDERAL REGISTER on September 7, 1977 (42 FR 44920). While the proposed Indian coal standards are little different from those applicable to non-Indian lands, their application recognizes specific procedures and considerations which apply only to Indian lands. The proposed performance standards for Indian lands do not include any of the provisions governing use of explosives found in proposed 30 CFR 715.19. However, this proposal does include the standards for steep-slope mining found in proposed 30 CFR 716.2.

Proposed §§ 177.12 through 177.14 set up enforcement procedures similar to those found in 30 CFR Parts 721–723. However, the enforcement procedures published here differ from those in 30 CFR in their provision for tribal involvement in the process and their preservation of tribal remedies in the enforcement scheme.

Section 710(a) of the Surface Mining Act directs the Secretary of the Interior to study the question of the regulation of surface mining on Indian lands which will achieve the purpose of the Act and recognize the special jurisdictional status of these lands. The study report shall include proposed legislation designed to provide a mechanism which will allow Indian tribes to elect to assume full regulatory authority over the administration and enforcement of regulation of surface coal mining on Indian lands.

Future Indian coal mining regulations promulgated pursuant to the provisions of this Act may be expected to follow and implement the directives of the study report required by section 710(a) of the Surface Mining Control and Reclamation Act.

DRAFTING INFORMATION

These proposed regulations were drafted by members of the Office of Surface Mining Task Force and the Office of the Solicitor, Department of the Interior. The principal authors are identified by name in the preamble to the proposed surface coal mining reclamation and enforcement regulations published on September 7, 1977 (42 FR 44920).

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB circular A–107.

Dated: September 9, 1977.

LEO M. KRULITZ,
Solicitor of the Interior.

PART 177—PLANS FOR PROSPECTING AND MINING ON INDIAN MINERAL LANDS: RECLAMATION OF NONMINERAL RESOURCES

Subpart B—Coal Operations

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AUTHORITY: Secs. 201, 501, Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201) (25 U.S.C. 396d).

Subpart B—Coal Operations

§ 177.100 Applicability.

(a) The performance standards in this subpart shall apply to all coal mining operations on Indian lands on or after December 16, 1977.

(b) The requirements of this subpart shall be incorporated in all existing and new contracts entered into for coal mining on Indian lands.

§ 177.101 Definitions.

As used throughout the regulations in this subpart, except where otherwise indicated—

Acid drainage means water with a pH of less than 6.0 discharged from active or abandoned mines and from areas affected by coal mining operations.

Acid-forming materials means earth materials that contain sulfide mineral or other materials which, if exposed to air, water, or weathering processes, will cause acids that may create acid drainage.

Act means the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95–87).

Alluvial valley floors means unconsolidated stream-laid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities but does not include upland areas which are generally overlain by a thin veneer of colluvial deposits composed chiefly of debris from sheet erosion, deposits by unconcentrated runoff or slope wash, together with talus, other mass movement accumulation and windblown deposits.

Approximate original contour means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or acceess roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all high walls and spoil piles eliminated; water impoundments may be permitted where the regulatory authority determines that they are in compliance with § 177.108.

Aquifer means a zone, stratum, or group of strata that can store and transmit water in sufficient quantities for a specific use.

Auger mining means a method of mining coal at a cliff or highwall by drilling holes laterally into an exposed coal seam from the highwall and transporting the coal along an auger bit to the surface.

Coal means combustible carbonaceous rock, classified as anthracite, bituminous, subbituminous, or lignite by A.S.T.M. designation 0–388–66.

Combustible material means organic material that is capable of burning either by fire or through a chemical process (oxidation) accompanied by the evolution of heat.

Compaction means the reduction of pore spaces among the particles of soil or rock, generally done by running heavy equipment over the earth materials.

Director means the Director, Office of Surface Mining Reclamation and Enforcement or his representatives.

Disturbed area means those lands that have been affected by surface coal mining and reclamation operations.

Diversion means a channel constructed for the purpose of transporting water from areas where it is in excess to areas where it can be usecd or disposed of safely.

Downslope means the land surface between a valley floor and the outcrop of the lowest coalbed being mined along each highwall.

Embankment means an artificial deposit of materials that is raised above the natural surface of the land and used to contain, divert, or store water, support roads or railways or for other similar purposes.

Ground water means subsurface water that fills available openings in rock or soil materials such that they may be considered water-saturated.

Highwall means the face of exposed overburden and coal in an open cut of a surface of underground coal mine.

Hydrologic balance means an accounting of the quality and quantity of inflow to, outflow from, and storage in a hydrologic unit such as a drainage basin, aquifer, soil zone, lake, or reservoir. It encompasses the relationship between precipitation, runoff, evaporation, and the change in ground and surface-water storage and is usually expressed by a hydrologic equation.

Hydrologic regime means the entire state of water movement in a given area. It is a function of the climate, and includes the phenomena by which water first occurs as atmospheric water vapor, passes into a liquid or solid form and falls as precipitation, moves thence along or into the ground surface, and returns to the atmosphere as vapor by means of evaporation and transpiration.

Imminent danger to the health and safety of the public means the existence of any conditions of practice, or any violation of permit or other requirement of

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the Act in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such conditions, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose himself to the danger during the time necessary for abatement.

Impoundment means a closed basin formed naturally or artifically built, which is dammed or excavated for the retention of water, sediment or waste.

Indian lands means all lands, including mineral interests, within the exterior boundaries of any Federal Indian reservation, notwithstanding the issuance of any patents, and including rights-of-way, and all lands including mineral interests held in trust for or supervised by an Indian tribe.

Indian Tribe means any Indian Tribe, band, group, or community having a governing body recognized by the Secretary.

Intermittent or perennial stream means a stream or part of a stream that flows continuously during all (perennial) or for at least one month (intermittent) of the calendar year as a result of ground-water discharge or surface runoff. The term does not include an ephemeral stream which is one that flows for less than one month of a calendar year and only in direct response to precipitation in the immediate watershed and whose channel bottom is always above the local water table.

Leachate means a liquid that has percolated through soil, rock, or waste and has extracted dissolved or suspended materials.

Office means the Office of Surface Mining Reclamation and Enforcement established under Title II of the Act.

Operator means any person, partnership, or corporation engaged in coal mining who removes, or intends to remove more than 250 tons of coal from the earth by coal mining within 12 consecutive calendar months in any one location.

Outslope means the exposed area sloping away from a bench or terrace being constructed as a part of a surface coal mining and reclamation operation.

Overburden means material of any nature, consolidated or unconsolidated, that overlies a coal deposit, excluding topsoil which overlies the coal to be mined.

Permit, except as used in references to permits during the initial regulatory program, means a permit issued by the Secretary to conduct surface coal mining and reclamation operations on Indian lands.

Person means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other business organization.

Premining land use means the highest and best use of the land, which could have been achieved, taking into account the locally accepted best land management practices, prior to any mining.

Productivity means the vegetative yield produced by a unit area for a unit of time.

Recharge capacity means the ability of the soils and underlying materials to allow precipitation and runoff to infiltrate and reach the zone of saturation.

Regulatory authority means the Secretary.

Recurrence interval means the precipitation event expected to occur, in the average, once in a specified interval. For example, the 25-year 24-hour precipitation event would be that 24-hour precipitation event expected to be exceeded on the average once in 25 years. Magnitude of such events are as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, and subsequent amendments or equivalent regional or rainfall probability information developed therefrom.

Roads means access and haul roads constructed, used, reconstructed, improved or maintained for use in surface coal mining and reclamation operations, including use by coal-hauling vehicles leading to transfer, processing or storage areas. The term includes any such road used and not graded to approximate original contour within 45 days of construction other than temporary roads used for topsoil removal and coal haulage roads within the pit area. Roads maintained with public funds such as all Federal, State, tribal, and county roads are excluded.

Runoff water means precipitation that flows along the land surface before it enters a defined stream channel and becomes concentrated streamflow.

Secretary means the Secretary of the Interior or his representative.

Sediment means undissolved organic and inorganic material transported or deposited by water.

Settling pond means any natural or artificial structure or depression used to remove sediment from water and store sediment or other debris.

Significant, imminent environmental harm to land, air, or water resources is determined as follows:

(i) An environmental harm is any adverse impact on land, air, or water resources, including plant and animal life.

(ii) An environmental harm is imminent if a condition or practice exists which is causing or may reasonably be expected to cause such environmental harm if the condition or practice is not abated within a reasonable time.

(iii) An environmental harm may be significant even if it is reparable. An environmental harm is significant if that harm is appreciable and not readily reparable.

Slope means average inclination of a surface, measured from the horizontal. Normally expressed as a unit of vertical distance to a given number of units of horizontal distance (eg., 1*v* to 5*h*=20 percent=11.6 degrees).

Soil horizons means a soil profile that consists of two or more layers lying one below the other and parallel to the land surface. The layers are known as horizons and are differentiated on the basis of field characteristics and laboratory data. The three major soil horizons are:

(1) *A horizon.* The uppermost layer in the soil profile often called the surface soil. It is the part of the soil in which organic matter is most abundant, and where leaching of soluble or suspended particles is the greatest.

(2) *B horizon.* The layer immediately beneath the A horizon and often called the subsoil. This middle layer commonly contains more clay, iron or aluminum than the A or C horizons.

(3) *C horizon.* The deepest layer of the soil profile. It consists of loose material of weathered rock that is relatively unaffected by biologic activity.

Spoil means overburden that has been removed during surface mining.

Stabilize means any method used to prevent movement of soil, spoil piles or areas of disturbed earth and includes increasing bearing capacity, increasing shear strength, draining, compacting or revegetating.

Surface Coal Mining Operations means: (a) Activities conducted on the surface of lands in connection with a surface coal mine or subject to the requirements of section 516 surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal for interstate commerce at or near the mine site: *Provided, however,* That such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ per centum of the tonnage of minerals removed for purposes of commercial use or sale or coal exploration subject to section 512 of the Act; and (b) the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land, the user of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities.

Surface coal mining and reclamation operations means surface coal mining operations and all activities necessary and incident to the reclamation of such operations. This term included the term "surface coal mining operations."

Surface water means water, either flowing or standing, on the surface of the earth.

Suspended solids means organic or inorganic materials carried or held in suspension in water what will remain on a 0.45 micron filter as differentiated from dissolved solids. Dissolved solids are solids that pass into solution.

Topsoil means the A soil horizon and underlying unconsolidated materials including those portions of the B and C soil horizons that have properties favorable for producing desirable vegetation.

Toxic-forming materials means earth materials or wastes which, if acted upon by air, water or weathering processes may produce chemical or physical conditions in soils or water that are detrimental to biota or uses of water.

Toxic-mine drainage means water that is discharged from active or abandoned mines and from other areas affected by coal mining operations and which contain a substance which through chemical action or physical effects is likely to kill, injure or impair an organism.

Watercourse means a natural stream course that heads in a given drainage basin and has a channel with a well defined bed between visible banks or through a definite depression in the land and has a permanent or periodic supply of water.

Water table means upper surface of a zone of saturation, where the body of ground water is not confined by an overlying impermeable zone.

§ 177.102 General obligations.

(a) *Authorizations to operate.* A copy of all current permits, licenses, approved plans or other authorizations to operate the mine shall be available for inspection at or near the mine site.

(b) *Mine Maps.* Any person conducting surface coal mining and reclamation operations on and after May 3, 1978, shall submit two copies of accurate maps of the mine and permit area at a scale not to exceed 1:1000, certified by a surveyor or engineer. The maps shall show as of May 3, 1978, the lands from which coal has not yet been removed, lands and structures which have been used or disturbed to facilitate mining. One copy of the mine map shall be submitted to the appropriate agency of the local governing Indian Tribe, and one copy shall be submitted to the Regional Director, OSM, before June 3, 1978.

§ 177.103 Signs and markers.

(a) *Specifications.* All signs required to be posted shall be of a standard design that can be seen and read easily from a distance of 100 feet and they shall be made of durable material. The signs and other markers required by paragraphs (b), (c), and (d) of this section shall be maintained during all operations and until release of all bonds for the permit area. All signs and markers shall be displayed conspicuously within the permit area and conform to local ordinances and codes.

(b) *Mine and permit identification signs.* Signs identifying the mine area shall be displayed at all points of access to the mine property from public highways. Signs shall show the name, business address, and telephone number of the permittee or operator and identification numbers of mining and reclamation permits or other authorizations to operate.

(c) *Perimeter markers.* The perimeter of the mine property shall be clearly marked by durable markers that extend at least 3 feet above the ground. Permit numbers must be permanently affixed to the markers. On mine areas of 10 acres or more, the markers shall be spaced a maximum of 400 feet apart; on mine areas of less than 10 acres, the markers shall be spaced a maximum of 200 feet apart. Within the perimeter of the mine property, identification markers shall be established showing the boundary of coal which has not been removed prior to May 3, 1978. Temporary markers may be used during coal removal operations but the boundary shall be reestablished by permanent markers after final surface configuration in an area is established.

(d) *Buffer zone markers.* Buffer zones as defined in § 177.108 shall be marked at not more than 200-foot intervals along the interior boundary of the buffer zone. The signs shall read "Buffer Zone—Limited Access" and be placed so as to be seen by all persons employed on the mine property.

(e) *Blasting signs.* If blasting is necessary to conduct surface coal mining operations, signs reading "Blasting Area" shall be displayed conspicuously at the edge of blasting areas along access and haul roads within the mine property. Signs reading "Blasting Area" and explaining the blasting warnings and all-clear signals shall be posted at all entrances to the mine property.

(f) *Topsoil markers.* Where topsoil or other vegetation supporting material is segregated and stockpiled according to § 177.107(c), the stockpiled material shall be marked with signs that read "Topsoil." These signs shall remain in place until the material is removed.

§ 177.104 Postmining use of land.

(a) *General.* All disturbed areas shall promptly be restored (1) to conditions that are capable of supporting the uses which they were capable of supporting before any mining, and (2) to higher or better uses approved under criteria and procedures of paragraph (d) of this section.

(b) *Criteria for establishing premining use of land.* Criteria for establishing the premining use of the land shall be those uses which the lands have previously supported or were capable of supporting within the mine property, areas surrounding the mine property, or areas located in similar terrain and climate within the region that have been managed using methods considered practicable for the region. The appropriateness of postmining land use plans shall not be judged on the basis of lands that (1) were previously mined and not reclaimed to meet the standards of this part, (2) were badly eroded or overgrazed so as to change the vegetation community to one unsuitable for grazing, or (3) are otherwise determined by the regulatory authority to have been poorly managed. However, if the lands within the mine property were previously mined and not reclaimed to the standards of this part, the postmining use of the land shall be evaluated against the highest possible use compatible with surrounding unmined lands. If the premining use of the land was changed within five years of the beginning of mining, the comparison of post mining use to premining use shall include a comparison to the historic use of the land as well as its use immediately preceding mining.

(c) *Land-use categories.* Proposed land uses will be considered subject to this section when they change from one to another of the land-use categories identified in this paragraph. The regulatory authority shall consider the following categories, at a minimum, to represent differing land uses. When an alternative postmining use is proposed the permittee or operator shall meet the requirements of paragraph (d) of this section and all other applicable environmental protection performance standards of this part.

(1) *Heavy industry.* Manufacturing facilities, powerplants, airports or similar facilities.

(2) *Light industry and commercial services.* Office buildings, stores, parking facilities, apartment houses, motels, hotels or similar facilities.

(3) *Public services.* Schools, hospitals, churches, libraries, water-treatment facilities, solid-waste disposal facilities, public parks and recreation facilities, major transmission lines, major pipelines, highways, roads, underground and surface utilities, and other servicing structures and appurtenances.

(4) *Residential.* Single- and multiple-family housing (other than apartment houses over three stories) with necessary support facilities. Support facilities may include commercial services incorporated in and comprising less than 5 percent of the total area of housing capacity, associated open space, and minor parking and recreation facilities supporting the housing.

(5) *Agricultural.*—(i) *Cropland.* Land used primarily for the production of cultivated crops for harvest. Land used for facilities in support of farming operations are included.

(ii) *Rangeland.* Land used for grazing by livestock and big game animals on which the climax (natural potential) plant community is dominated by grasses, grasslike plants, forbs and shrubs.

(iii) *Hayland or pasture.* Land used for meadow grasses which are cut and cured for livestock feed.

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(iv) *Forest.* Land used primarily for the production of adapted wood crops.

(6) *Fish and wildlife habitat.* Wetlands, fish and wildlife habitat, and areas managed primarily for fish and wildlife; may include impoundments that have a capacity of less than 20 acre-feet and a surface area at the high-water mark of less than 2 acres.

(7) *Combined uses.* Any appropriate combination of land uses where one land use is designated as the primary land use and one or more other land uses are designated as secondary land uses.

(d) *Criteria for approving alternative postmining use of land.* An alternative postmining land use may be approved by the regulatory authority, after consultation with the land owner or the surface management agency on Federal lands, if the following criteria are met.

(1) The proposed land use is compatible with adjacent land use and, where applicable, with land-use policies and plans. A written statement of the views of local Tribal authorities for land-use policies and plans shall accompany the request for approval.

(2) Available data on the long-term expected need and market show that the proposed land use can be achieved and maintained.

(3) Specific and feasible plans have been prepared which include a time schedule showing how the proposed land use will be achieved within a reasonable time after mining and how the achieved land use will be sustained. The regulatory authority may require appropriate demonstrations to show that the planned procedures are feasible, reasonable, and integrated with mining and reclamation, and that the plans will result in successful reclamation.

(4) Completion of the necessary public facilities is assured as evidenced by appropriate letters of commitment to provide them in a manner compatible with the operator's plans.

(5) Specific and feasible plans for financing attainment and maintenance of the postmining land use including letters of commitment if the financing is to be provided by someone other than the permittee or operator.

(6) The plans are designed by a registered professional engineer, or other professional, who is knowledgeable about the proposed land-use category and will ensure that the plans conform to nationally accepted standards to assure adequate land stability, drainage, and vegetation cover, and will provide an appropriate aesthetic design for the postmining use of the site.

(7) The proposed use or uses will not present actual or probable hazard to public health or safety nor will they pose any actual or probable threat of water flow diminution or pollution.

(8) The use or uses will not involve unreasonable delays in reclamation.

(9) Necessary approval of measures to prevent or mitigate adverse effects on fish and wildlife has been obtained from the regulatory authority and appropriate Tribal and Federal fish and wildlife management agencies.

(10) Proposals to change from premining land uses of rangeland, fish and wildlife habitat, hayland, or pasture to a postmining cropland use, where the cropland would require continuous maintenance such as seeding, plowing, cultivation, fertilization, or other similar practices to be practicable or to comply with applicable Federal and Tribal laws, shall be reviewed by the regulatory authority to assure that—

(i) There is a firm written commitment by the permittee or by the land owner or land manager to provide sufficient crop management after release of applicable performance bonds to assure that the proposed postmining cropland use remains practical and reasonable, and will not pose an actual or probable threat of water diminution or pollution;

(ii) There is sufficient water available and committed to maintain crop production;

(iii) The quality and quantity of topsoil has been shown to be sufficient to support the proposed use over a period of years;

(iv) The proposed cropland use will be maintained after release of applicable bonds and is not proposed only as a temporary alternative to re-establishing the premining use of the land.

(11) The regulatory authority has provided by public notice not less than 45 days nor more than 60 days for interested citizens and local, Tribal and Federal agencies to review and comment on the proposed land use.

§ 177.105 Backfilling and grading.

In order to achieve the approximate original contour, the permittee or operator shall, except as provided in paragraphs (d), (e), and (g) of this section, transport, backfill, compact unless otherwise approved by the regulatory authority, and grade all spoil material to eliminate all highwalls, spoil piles, and depressions. Cut-and-fill terraces may be used only in those situations expressly identified in this section. Land above the highwall may be disturbed only in the amount necessary to comply with this section and § 177.108. The postmining graded slope must be determined by the premining average of natural slopes in the area as defined in paragraph (a) of this section.

(a) *Slope measurements.* (1) To determine the average natural slope of the area before mining, 10 slopes, or more as specified by the regulatory authority in accordance with site conditions, must be surveyed, measured, and recorded. Each measurement shall consist of an angle of inclination along the prevailing slope extending 100 linear feet above and below the coal outcrop; or, where this is impractical, at locations specified by the regulatory authority. Where the area has been previously mined, the measurements shall extend at least 100 feet beyond the limits of mining disturbances as determined by the regulatory authority to be representative of the premining configuration of the land.

(2) After the disturbed area has been graded and the topsoil replaced, the final graded slopes shall be measured at the beginning and end of lines established on the prevailing slope at locations representative of premining slope conditions and approved by the regulatory authority. These measurements must not be made so as to allow unacceptably steep slopes to be constructed.

(b) *Moderate slopes.* Where natural slopes are determined according to paragraph (a) of this section to average less than 20 degrees, or such lesser slope as the regulatory authority requires, the final graded slopes shall not exceed either the average maximum natural slope or any lesser slope as specified by the regulatory authority based on consideration of soil, climate, or other characteristics of the surrounding area.

(c) *Steep slopes.* (1) While natural slopes are determined according to paragraph (a) of this section to average 20 degrees or more, or such lesser slope as the regulatory authority defines as "steep slope," the final graded slopes shall not exceed either the average maximum natural slope or any lesser slope as specified by the regulatory authority based on consideration of soil, climate, or other characteristics of the surrounding area.

(2) In order to conserve soil moisture and to control erosion on final graded slopes, cut-and-fill terraces along mine benches may be allowed if the terraces are compatible with the postmining land use approved under § 177.104, will prevent erosion, and are appropriate substitutes for construction of lower grades on the reclaimed lands. The terraces shall meet the following requirements:

(i) The width of the individual terrace bench shall not exceed 20 feet.

(ii) The vertical distance between terraces shall be as specified by the regulatory authority to prevent excessive erosion and to provide long-term stability.

(iii) The slope of the terrace face shall not exceed 1*v*:2*h* (50 percent).

(iv) The terrace shall have adequate slopes to divert drainage away from the face of the terrace and into drainage systems that are stabilized by vegetation or other stabilization methods that will require minimal maintenance after mining.

(v) Culverts and underground rock drains shall not be used on the terrace unless approved by the regulatory authority.

(3) All operations on natural slopes of 20 degrees or more as stated in paragraph (c)(1) of this section shall meet the provisions of § 177.111.

(d) *Mountaintop removal.* Where surface mining operations will remove entire coal seams in the upper part of a mountain, ridge, or hill by removing all of the overburden, final graded top plateau slopes on the mined area shall be less than 1*v*:5*h* so as to create a level plateau or gently rolling configuration and the outslopes of the plateau shall not exceed 1*v*:2*h*, except where engineering data substantiates and the regulatory authority finds that a minimum static safety factor 1.5 will be attained. Although the area need not be restored to approximate original contour, all highwalls, spoil piles, and depressions except as provided in paragraph (e) of this section shall be eliminated.

(e) *Depressions.* The requirement of this section to achieve approximate original contour does not prohibit construction of small depressions if they are approved by the regulatory authority to minimize erosion, conserve soil moisture or promote revegetation. However, the depressions shall be compatible with the approved postmining land use and shall not be inappropriate substitutes for construction of lower grades on the reclaimed lands. Depressions approved under this section shall have a holding capacity of less than 1 cubic yard of water or, if it is necessary that they be larger, shall not restrict normal access to the area.

(f) *Definition of thin and thick restored overburden.* The thin overburden provisions of paragraph (g) of this section apply where the final thickness is less than 0.8 of the initial thickness. The thick overburden provisions of paragraph (h) of this section apply where the final thickness is greater than 1.2 of the initial thickness. Initial thickness is the sum of the overburden thickness and coal thickness. Final thickness is the product of the overburden thickness times the bulking factor to be determined for each mine area.

(g) *Thin overburden.* In surface coal mining operations carried out continuously in the same limited pit area for more than 1 year from the day coal-removal operations begin and where the volume of all available spoil and suitable waste materials is demonstrated to be insufficient to achieve approximate original contour, surface coal mining operations shall be conducted to meet the following standards:

(1) Transport, backfill, and grade, using all available spoil and suitable waste materials from the entire mine area, to attain the lowest practicable grade, which may not exceed the angle of repose, and to provide adequate drainage and long-term stability of the regraded areas.

(2) Eliminate highwalls by reshaping to stable slopes not exceeding 1*v*:2*h* (50 percent), or such lesser slopes as the regulatory authority may specify to reduce erosion, maintain the hydrologic balance, or allow the approved postmining land use.

(3) Transport, backfill, grade, and revegetate to achieve an ecologically sound land use compatible with the prevailing land use in unmined areas surrounding the permit area.

(4) Transport, backfill and grade to ensure that impoundments are constructed only where it has been demonstrated to the regulatory authority's satisfaction that all requirements of § 177.108 have been met and that impoundments have been approved by the regulatory authority as meeting the requirements of this part and all other applicable Federal and Tribal regulations.

(h) *Thick overburden.* In surface coal mining operations where the volume of spoil is demonstrated to be more than sufficient to achieve the approximate original contour surface coal mining operations shall be conducted to meet the following standards:

(1) Transport, backfill, and grade all spoil and wastes not required in the surface mining areas to achieve approximate original contour to the lowest practicable grade.

(2) Deposit, backfill, and grade excess spoil and wastes only within the permit area and dispose of such materials in conformance with § 177.106.

(3) Transport, backfill, and grade excess spoil and wastes to maintain the hydrologic balances in accordance with § 177.108 and to provide long-term stability.

(4) Transport, backfill, grade, and revegetate wastes and excess spoil to achieve an ecologically sound land use compatible with the prevailing land uses in unmined areas surrounding the permit area.

(5) Eliminate all highwalls and depressions except as stated in paragraph (e) of this section by filling with spoil and suitable waste materials.

(i) *Regrading to remove rills and gullies.* When rills or gullies deeper than 6 inches form in areas that have been regraded and the topsoil replaced but vegetation has not yet been established, the permittee shall fill, compact, or otherwise stabilize the rills and gullies and reseed or replant the areas according to § 177.110.

(j) *Covering coal and acid-forming, toxic-forming, combustible, and other waste materials; stabilizing backfilled materials; and using waste material for fill.*—(1) *Cover.*—All undisturbed coal seams and any acid-forming, toxic-forming, combustible materials or any other waste materials as identified by the regulatory authority that are exposed, used, or produced during mining shall be treated to neutralize potential toxicity and permanently covered with a minimum of 5 feet of nontoxic and noncombustible material, in order to prevent water pollution, adverse effects on plant growth and land uses, and sustained combustion.

(2) *Stabilization.* Backfilled materials shall be compacted wherever necessary to prevent leaching of toxic materials into surface or subsurface waters in accordance with § 177.108(g) and whenever necessary to ensure the stability of the backfilled materials. The equipment to be used, the method of compacting material and the design specifications shall be approved by the regulatory authority before the toxic materials are covered.

(3) *Use of waste materials as fill.* Before waste materials from a coal preparation of conversion facility or from other activities conducted outside the permit area such as municipal wastes are used for fill material, it must be demonstrated to the regulatory authority by means of chemical and physical analyses that use of these materials will not adversely affect water quality, water flow, and vegetation; will not present hazards to public health and safety; and will not cause instability in the back-filled area.

(k) *Grading along the contour.* All final grading, preparation of overburden before replacement of topsoil, and placement of topsoil in accordance with § 177.107, shall be done along the contour to minimize subsequent erosion and instability. If grading along the contour would be hazardous to equipment operators, grading in a direction other than generally parallel to the contour may be approved by the regulatory authority.

§ 177.106 Disposal of spoil and waste material in areas other than the mine workings or excavations.

(a) *Disposal of spoil and wastes in other than valley or head-of-hollow fills.* Spoil and waste material not required to achieve the approximate original contour may be transported to and placed in a controlled (engineered) manner in disposal areas other than the mine workings or excavations only if all the following conditions, in addition to the other requirements of this part, are met:

(1) The disposal areas shall be within the permit area, and they must be approved by the regulatory authority.

(2) The disposal areas shall be located on the most moderate sloping and naturally stable areas available as approved by the regulatory authority.

(3) Where the slope in the disposal area exceeds 1*v*:5.5*h* (18 percent), or where otherwise required by the regulatory authority, structures such as keyway cuts (excavations to stable bedrock) or rock toe buttresses shall be used to stabilize the fill.

(4) The disposal area does not contain springs, natural water courses or wet weather seeps unless lateral drains are constructed from the wet areas to the main underdrains in such a manner that filtration of the water into the spoil pile will be prevented.

(5) The spoil and wastes shall be placed, compacted, covered, and graded to allow surface and subsurface drainage to be compatible with the natural surroundings, and to ensure long-term stability. The final configuration of the land must be suitable for land uses approved in accordance with § 177.104.

(6) The fill shall be designed using recognized professional standards and approved by a registered professional engineer.

(7) All organic material shall be removed from the disposal area and the topsoil must be removed and segregated before the surplus material is placed in the disposal area. However, if approved by the regulatory authority, organic material may be used as mulch or may be included in the topsoil.

(8) The fill shall not interrupt or encroach upon active drainage channels in a way that will impound water or cause an increase in suspended solids in the surface drainage outside the permit area over that existing before surface coal mining and reclamation operations.

(9) The fill shall be inspected for stability by a registered engineer or qualified professional specialist at least quarterly and during critical construction periods to assure removal of all organic material and topsoil, placement of underdrainage systems, and proper construction of terraces according to the

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approved plan. The registered engineer shall provide a certified report, after each inspection that the fill has been constructed as specified by the design approved by the regulatory authority.

(b) *Disposal of spoil in valley or head-of-hollow fills.* Waste material must not be disposed of in valley or head-of-hollow fills. Spoil to be disposed of in natural valleys must be placed in accordance with the following requirements.

(1) The disposal areas shall be within the permit area, and they must be approved by the regulatory authority and be appropriately bonded.

(2) The disposal site shall be near the ridge top of valley selected to increase the stability of the fill and to reduce the drainage area above the fill.

(3) A system of underdrains constructed of durable rock shall be installed along the natural drainageways of the disposal area. The drainage system shall extend from the toe to the head of the fill and contain lateral drains to each area of potential drainage or seepage. In constructing the underdrains, a maximum of 10 percent of the rock must be less than 12 inches in size; however, no rock can be larger than 25 percent of the width of the drain. The minimum size of the main underdrain shall be:

Total amount of fill material	Predominant type of fill material	Minimum size of drain in feet	
		Width	Height
Less than 1 million yd³	Sandstone	10	4
Do	Shale	16	8
More than 1 million yd³	Sandstone	16	8
Do	Shale	16	16

(3) Spoil shall be placed and compacted to designed densities in lifts that are less than 4 feet thick.

(4) Terraces shall be constructed to stabilize the face of the fill. The height of each terrace shall not exceed 50 feet and the width shall not be less than 20 feet.

(5) The tops of the fill and each terrace shall be graded no steeper than lv:20*h* (5 percent) to drain surface water to the sides of the fill where stabilized surface channels shall be established off the fill to carry drainage away from the fill. Drainage shall not be directed over the face of the fill unless approved by the regulatory authority.

(6) All surface drainage from the undisturbed area above the fill shall be diverted away from the fill area into protected channels.

(7) The outslope of the fill shall not exceed lv:2*h* (50 percent). The regulatory authority may require a flatter slope because of the physical, climatological, and other characteristics of the site.

(8) The fill shall be inspected for stability by a registered engineer or qualified professional specialist at least quarterly and during critical construction periods to assure removal of all organic material and topsoil, placement of underdrainage systems, and proper construction of terraces according to the approved plan. The registered engineer shall provide a certified report, after each inspection, that the fill has been constructed and maintained as specified by the design approved by the regulatory authority.

§ 177.107 Topsoil handling.

To prevent topsoil from being contaminated by spoil and waste materials, the permittee or operator shall remove the topsoil as a separate operation from areas to be mined. Topsoil shall be immediately redistributed according to the requirements of paragraph (b) of this section on areas graded to the approved postmining configuration. If sufficient graded areas are not immediately available because of climatic conditions or size of the area on which topsoil can be distributed, the topsoil shall be segregated, stockpiled, and protected from wind and water erosion or contanimants which lessen its capability to support vegetation.

(a) *Topsoil removal.* (1) All topsoil to be salvaged shall be removed before drilling for blasting, blasting, or mining to prevent loss and contamination of the topsoil with undesirable materials. All topsoil shall be removed unless otherwise approved by the regulatory authority to provide for use of alternative soil horizon or to avoid retention of excessive B horizon material. Where the removal of topsoil results in erosion that may cause air or water pollution, the regulatory authority shall limit the size of the area from which topsoil may be removed at any one time and specify methods of treatment to control erosion of exposed overburden.

(2) Where the A horizon of the topsoil is identified by surveys and soil core (or equivalent) analyses to be of sufficient depth to permit separate removal and to be of high quality in terms of plant-growth medium or native-seed source, the regulatory authority shall require that the entire A-horizon be removed separately and segregated from the other soil horizons and replaced as the surface soil layer.

(3) Overburden may be used instead of, or as a supplement to, topsoil only where the available topsoil is of inadequate quantity or quality to sustain vegetation, and if all the following requirements are met:

(i) The permittee demonstrates that the overburden is more suitable for vegetation by the results of chemical and physical analyses, which shall include determinations of pH, percent organic matter, nitrogen, phosphorous, potassium texture class, water holding capacity, potential acidity or other analyses as required by the regulatory authority, and by the results of any field-site trials or greenhouse results required by the regulatory authority.

(ii) The chemical and physical analyses and the field-site trials are accompanied by a certification from qualified soil scientist.

(iii) The alternative overburden is removed, segregated, stockpiled, and replaced in conformance with this section.

(b) *Topsoil redistribution.* (1) After final grading and before the topsoil is replaced, regraded land shall be scarified or otherwise treated to eliminate slippage surfaces.

(2) Topsoil shall be redistributed in a manner that: (i) Achieves a uniform thickness throughout the regraded area. (ii) Prevents excess compaction of the spoil and topsoil; and (iii) Protects the topsoil from wind and water erosion before it is seeded or planted.

(3) Water erosion shall be minimized by spreading soil or finishing grading of soil along the contour, unless this action would be hazardous to equipment operators. Grading in a direction other than generally parallel to the contour shall be approved by the regulatory authority before final grading.

(c) *Topsoil storage.* If the permit allows storage of topsoil, the stockpiled topsoil shall be placed within the permit area where it will not be disturbed or be exposed to excessive water, wind erosion or contaminants which lessen its capability to support vegetation before it can be redistributed on terrain graded to final contour. If stockpiles are to be in place for more than 30 days, they shall be selectively placed and protected from wind and water erosion, unnecessary compaction, and contamination by undesirable materials either by a vegetation cover as defined in § 177.110(g) or by other methods that have been demonstrated to provide equal protection such as snow fences, chemical binders, and mulching. The regulatory authority may require more stringent standards if a high potential exists for loss of topsoil through erosion, and shall prohibit moving the topsoil once it is placed in a storage area until it is moved to a regraded area for redistribution.

(d) *Nutrients and soil amendments.* Nutrients and soil amendments in the amounts and analyses as determined by soil tests shall be applied to the topsoil to produce soil that will support the reclamation requirements of § 177.110.

§ 177.108 Protection of the hydrologic system.

The permittee shall plan and conduct coal mining and reclamation operations to minimize disturbance of and to prevent long-term changes in the prevailing hydrologic balance, on or off site. Changes in water quality and quantity, in the depth to ground water, or in the location of surface-water drainage channels will be limited to changes that do not violate applicable Federal and Tribal regulations and do not adversely affect the post-mining use of the disturbed lands. The permittee shall conduct all operations in such a way as to minimize water pollution and, where necessary, use treatment methods to control water pollution. Practices that will minimize pollution include but are limited to stabilizing disturbed areas through shaping and grading, diverting runoff, achieving quick growing stands of temporary vegetation, lining drainage channels with rock or vegetation, mulching topsoil, sealing off acid-forming and toxic-forming materials, and selectively placing

waste materials in backfill areas. If pollution can be controlled only by treatment, the permittee shall operate and maintain the necessary water-treatment facilities. However, the permittee shall emphasize mining and reclamation practices that will prevent or minimize water pollution in preference to water-treatment facilities.

(a) *Water-quality standards and effluent limitations.* All drainage from the disturbed area, including areas revegetated and not released from bond, shall be discharged through a settling pond, or a series of settling ponds. The regulatory authority may grant exemptions from this requirement only when the disturbed drainage area within the disturbed area is small and settling ponds are not necessary to meet water-quality standards and effluent limitations. Discharges from the entire permit area must meet all applicable Federal and Tribal water-quality standards and the following numerical effluent limitations:

Effluent characteristic	Maximum allowable [1]	Average of daily values for 30 consecutive discharge days [1]
Iron, total	7.0	3.5
Manganese, total	4.0	2.0
Total suspended solids	70.0	35.0
Hydrogen-ion concentration	Within the range 6.0 to 9.0.	.....

[1] Based on a representative sampling schedule.

(1) Any overflow or other discharge of surface water from the permit area that would result from an event larger than a 25-year 24-hour frequency event will not be subject to these effluent standards.

(2) The permittee shall install, operate, and maintain adequate facilities to treat any water discharge that violates the standards and limitations of this paragraph or other applicable standards. If the pH of discharged waters normally is less than 6.0, and the mine normally produces more than 500 tons of coal per operating day, an automatic lime feeder or other neutralization device approved by the regulatory authority shall be installed, operated, and maintained.

(b) *Surface-water monitoring.* (1) Equipment necessary to measure the quality and quantity of surface-water discharges from the permit area and to identify the effects of surface mining and reclamation operations on the surface water shall be installed, maintained, and operated, and shall be removed when no longer required. Total iron, total manganese, total suspended solids, pH, and flow must be measured on a daily basis whenever a discharge occurs unless it can be demonstrated to the satisfaction of the regulatory authority that different analyses are required. The regulatory authority may require additional analyses.

(2) Daily samples shall, for all discharges that occur for more than 1 hour (continuous or intermittent flow), be comprised of at least four samples representative of actual conditions, composited for a daily analysis. Chemical analysis must be performed as specified in 40 CFR Part 136. The results of these measurements shall be submitted to the regulatory authority on a monthly basis, but within 60 days of collection. However, if the discharge is subject to regulation by a Federal permit issued in compliance with section 301 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1311), a copy of the completed reporting form supplied to meet the permit requirements may be submitted to the regulatory authority to satisfy the monitoring and reporting requirements of this paragraph, if the reported data meets the requirements of this paragraph. Violations of permit conditions must be reported to the regulatory authority immediately after receipt of analytical results by the permittee.

(c) *Diversion and conveyance of overland flow from disturbed areas.* In order to prevent acid and other toxic mine drainage from polluting surface and ground water and to minimize erosion, overland flow shall be diverted away from disturbed areas by means of temporary or permanent diversion structures, and the following requirements shall be met:

(1) Temporary diversion structures are those used during mining and reclamation. When no longer needed to protect disturbed areas, the structures shall be removed and the area reclaimed. They shall be constructed to safely pass the peak runoff from a precipitation event with a 10-year recurrence interval, or a larger event as specified by the regulatory authority.

(2) Permanent diversion structures are those remaining after mining and reclamation and approved for retention by the regulatory authority and other appropriate Tribal and Federal agencies. To protect fills and property and avoid danger to public health and safety, permanent diversion structures shall be constructed to safely pass the peak runoff from a precipitation event with a 100-year recurrence interval or a larger event as specified by the regulatory authority. Permanent diversions shall be constructed with gently sloping banks that are stabilized by vegetation. Asphalt, concrete, or other similar linings shall not be used unless specifically required to prevent seepage or to provide stability and are approved by the regulatory authority.

(3) Diversions shall be designed, constructed, and maintained in a manner that does not increase the total suspended solids leaving the permit area on a seasonal basis above those levels that existed before mining and in excess of requirements set by applicable Federal and Tribal law.

(4) Discharges from diversions that pass entirely through undisturbed areas shall meet applicable water-quality standards for the receiving streams. Discharges from diversions that pass through disturbed areas must comply with paragraph (a) of this section.

(5) Surface water shall not be diverted into underground mine workings unless it is demonstrated to the satisfaction of the regulatory authority that such diversion will abate water pollution or otherwise eliminate public hazards resulting from underground mining.

(d) *Stream channel diversions.* (1) Flow from perennial, intermittent, and ephemeral streams within the permit area may be diverted only when the diversions are approved by the regulatory authority and they are in compliance with Tribal and Federal law and approved regulations. When streamflow is allowed to be diverted, the new stream channel shall be designed and constructed to meet the following requirements:

(i) The average stream gradient shall be maintained and the channel designed to remain stable after mining and reclamation operations are completed.

(ii) Channel, bank, and flood-plain configurations shall be adequate to safely pass the peak runoff of a precipitation event with a 10-year recurrent interval for temporary diversions and a 100-year recurrence interval for permanent diversions; or larger events as specified by the regulatory authority.

(iii) Channel banks shall be protected from erosion by measures such as seeding, planting and applying riprap.

(iv) Fish and wildlife habitat and water and vegetation of significant value for wildlife food or shelter shall be protected in consultation with appropriate fish and wildlife management agencies.

(v) Diversions shall be designed, constructed, and maintained in a manner that does not increase the total suspended solids leaving the permit area on a seasonal basis above those levels that existed before mining. Applicable Tribal and Federal water quality standards shall be met.

(2) All temporary diversion structures shall be removed before release of applicable bonds unless the regulatory authority approves the retention of those structures.

(3) *Buffer zone.* No land shall be disturbed within 100 feet of an intermittent or perennial stream not approved for mining unless authorized by the regulatory authority. The area not to be disturbed shall be designated a buffer zone and marked with signs as specified in § 177.103.

(e) *Settling ponds.* Settling ponds shall be constructed in appropriate locations in each drainage area prior to any mining in that drainage area in order to control sedimentation or otherwise treat water in accordance with paragraph (a) of this section. These ponds may be used individually or in a series, and they shall meet the following criteria:

(1) The minimum storage volume shall equal the sum of: (i) The volume of runoff to be controlled from the drainage area above the settling pond that results from a 10-year 24-hour percipitation event;

(ii) 0.2 acre-feet of storage for each acre of disturbed area within the upstream drainage area; and

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(iii) Additional storage as necessary to meet the effluent standards of paragraph (a) of this section.

(2) An appropriate combination of principal and emergency spillways shall be provided to safely discharge the peak runoff from a precipitation event with a 25-year recurrence interval, or larger event as specified by the regulatory authority.

(3) All settling ponds shall be examined for structural weakness, erosion and other hazardous conditions in accordance with inspection requirements contained in 30 CFR 77.216.3.

(4) All settling ponds shall be removed and the disturbed areas regraded, revegetated, and stabilized before release of applicable bonds unless the regulatory authority approves retention of the ponds.

(5) Sediment shall be removed from settling ponds when the volume of sediment accumulates to 50 percent of the sediment storage volume required in paragraph (e)(1) of this section. The sediment shall be disposed of in a way that prevents it from entering surface water, contaminating subsurface water, and causing adverse effects due to its chemical and physical characteristics on infiltration, vegetation, or water quality. Sediment that has been removed from settling ponds and that meets the requirements for topsoil may be redistributed over graded areas in accordance with § 177.107.

(6) Discharges from settling ponds shall meet the water-quality and effluent requirements of paragraph (a) of this section.

(7) If a settling pond includes an embankment that is more than 20 feet in height, as measured from the upstream toe of the embankment to the crest of the emergency spillway, or has a storage volume of 20 acre-feet or more, the following additional requirements shall be met:

(i) An appropriate combination of principal and emergency spillways shall be provided to safely discharge the runoff from the design storm as specified by the regulatory authority. This design storm shall not have a recurrence frequency of less than 50 years.

(ii) Ponds shall be designed and constructed with a safety factor of at least 1.5 for embankment slope stability.

(iii) The minimum top width of the embankment shall not be less than the quotient of $\frac{H+35}{5}$ where H is the height of the embankment as measured from the upstream toe to the top of the embankment.

(iv) Ponds shall have appropriate barriers to control seepage along conduits that extend through the embankment.

(8) All ponds shall be designed and constructed under the supervision of, and inspected and certified after construction for compliance with design requirements, by a registered professional engineer.

(f) *Discharge structures.* Discharges from settling ponds and diversions shall be controlled using available technology, such as energy dissipators, surge ponds, and other devices to reduce erosion and prevent deepening and enlargement of stream channels.

(g) *Acid and toxic materials.* Drainage from acid forming and toxic forming mine materials into ground and surface water must be prevented by:

(1) Identifying and burying in the permit area spoil and waste materials that can be toxic or otherwise harmful to vegetation and can adversely affect water quality. The material shall be buried with a minimum of 5 feet of nontoxic material or using other procedures in accordance with § 177.105. Material shall not be buried or stored within 100 feet of any perennial or intermittent stream, or used in construction of dams, embankments or roads or where they will pollute surface and ground water.

(2) Burying all material within 30 days, or less if specified by the regulatory authority. If necessary to store the material, piles shall be stored on impermeable material and protected from erosion and contact with surface water.

(3) Casing, sealing, or otherwise managing boreholes, shafts, wells, and auger or other horizontal holes to prevent pollution of surface or ground water, and to prevent mixing of ground waters of significantly different quality (unless mixing is approved by the regulatory authority). All boreholes that are within the permit area but are outside the surface coal mining area or which extend beneath the coal to be mined and into aquifers, shall be plugged permanently in a manner approved by the regulatory authority.

(4) Taking such other actions as required by the regulatory authority.

(h) *Recharge capacity of reclaimed lands.* The disturbed area shall be reclaimed to restore approximate premining infiltration rates and to restore the ability of the reclaimed area to transmit water to the ground-water system. All available measures shall be used to ensure that the recharge capacity of the reclaimed land will support the approved postmining use of the land.

(i) *Restoration of ground-water systems.* Backfilled materials shall be selectively placed to reestablish ground-water systems to approximate premining conditions.

(j) *Alluvial valley floors west of the 100th meridian west longitude.* (1) Essential elements of the hydrologic functions of alluvial valley floors shall be preserved throughout the mining and reclamation process by maintaining or establishing:

(i) The gradient of streams;

(ii) Aquifers, aquicludes, capillary zones, and perched water zones;

(iii) Quantity and quality of surface and ground water;

(iv) Depth to, and seasonal fluctuations of, ground water where ground water supports a subirrigated vegetation system;

(v) Configuration and stability of the land surface in the flood plain as they allow or facilitate irrigation with flood waters and maintain erosional equilibrium; and

(vi) Soil profiles, including physical and chemical characteristics of the substrate (or plant-growth medium) which provide moisture holding capacity and thereby provide for sustained vegetation growth through the dry months.

(2) Surface mining and reclamation operations conducted in or adjacent to alluvial valley floors located west of the 100th meridian west longitude shall not interrupt, discontinue, or preclude farming on these alluvial valley floors unless the permining lands use of such alluvial valley floors has been undeveloped rangeland with no regular cropping of hay or unless the area of the affected alluvial valley floor is of small acreage and provides negligible support for one or more farmer's production. This subparagraph (2) does not apply to those surface coal mining operations that:

(i) Were in production in the year preceding August 3, 1977, were located in or adjacent to an alluvial valley floor, and produced coal in commercial quantities in the period identified in this paragraph; or

(ii) Had specific permit approval by the Bureau of Indian Affairs before August 3, 1977, to conduct surface coal mining operations for an area within the affected alluvial valley floor.

(3) Before new surface mining and reclamation operations which may be authorized under subparagraph (2) of this paragraph are commenced, the permittee shall submit and the regulatory authority shall approve detailed surveys and baseline data to establish standards against which the requirements of subparagraph (1) of this paragraph can be measured. The surveys and data shall include:

(i) A map at a scale determined by the regulatory authority showing the location of the alluvial valley floor.

(ii) Baseline data covering a full water year for each of the hydrologic elements identified in subparagraph (1) of this paragraph.

(iii) Such other data as the regulatory authority may require.

(k) *Ground-water monitoring.* Ground-water levels and quality of the ground water shall be monitored as approved by the regulatory authority, to determine the effects of surface coal mining operations on ground water. When mining is done below the water table, the water levels shall be monitored in representative ground-water wells within the area which may be influenced by the mining or in such other wells that can adequately reflect changes in water levels. Where existing wells are inadequate to measure long-term changes, the permittee may be required by the regulatory authority to drill and complete wells to measure water quantity and quality in the permit area. When determined necessary by the regulatory authority, the permittee also may be required to drill and complete wells to measure water levels on and off site subject to surface owner consent. These wells must monitor all aquifers that may be affected by mining.

(l) *Hydrologic impacts of roads.*—(1) *General.* Access and haul roads and associated bridges, culverts, ditches, and road rights-of-way shall be constructed, maintained and reclaimed so as to control diminution or degredation of water quantity and quality. The land over which roads are constructed for surface coal mining and reclamation operations shall be reclaimed in accordance with this part, unless retention of a road is approved under § 177.104, as being an integral and contributing part of the postmining use of the land.

(2) *Construction.* (i) All roads, insofar as possible, shall be located on benches, ridges, or flatter and more stable slopes to minimize erosion. Stream fords are prohibited unless they are specifically approved by the regulatory authority as temporary routes across dry streams unrelated to coal haulage. Roads shall not be located in stream beds; nor shall they be located within the 100-year flood plain of any stream unless it can be demonstrated that the roads will not restrict the flow of the base flood (a flood that has a 1 percent or greater chance of occurring in any year), nor increase erosion or cause significant sedimentation or flooding. However, nothing in this paragraph will be construed as prohibiting relocation of stream channels in accordance with paragraph (d) of this section.

(ii) In order to minimize erosion and subsequent hydrologic disturbances, roads shall be constructed in compliance with the following grade restrictions, or other grade determined by the regulatory authority to be necessary to control erosion:

(A) The overall sustained grade shall not exceed $1v{:}10h$ (10 percent).

(B) The maximum grade greater than 10 percent shall not exceed $1v{:}6.5h$ (15 percent) for more than 300 feet.

(C) There shall not be more than 300 feet of maximum grade within each 1,000 feet.

(iii) All access and haul roads shall be adequately drained using structures such as, but not limited to, ditches, water barriers, cross drains, and ditch-relief drains. For access and haul roads that are to be maintained for more than 1 year, water-control structures shall be designed with a discharge capacity capable of passing the peak flow from a 25-year 24-hour precipitation event. Drainage pipes and culverts shall be constructe to avoid plugging or collapse and erosion at inlets and outlets. Drainage ditches shall be provided at the toe of all cut slopes formed by the construction of roads. Trash racks and debris basins shall be installed in the drainage ditches wherever debris from the drainage area could impair the functions of the structures. Ditch relief and cross drains shall be spaced according to grade. Drainage from access and haul roads shall meet the water-quality requirements of this section.

(iv) Access and haul roads shall be surfaced with durable material. Toxic- or acid-forming substances shall not be used in the surface material. Vegetation may be cleared only for the essential width necessary for road and associated ditch construction and to serve traffic needs.

(3) *Maintenance.* (i) Access and haul roads shall be routinely maintained by measures such as, but not limited to, wetting, scraping, or surfacing.

(ii) Ditches, culverts, drains, trash racks, debris basins, and other structures serving to drain access and haul roads shall not be restricted or blocked in any manner that impedes drainage or adversely affects the intended purpose of the structure.

(m) *Hydrologic impacts of other transport facilities.* Railroad loops, spurs, siding or other transport facilities shall be constructed, maintained and reclaimed so as to control diminution or degradation of water quantity or quality.

§ 177.109 Dams constructed of refuse materials general.

(a) No mine or processing refuse materials shall be used in existing or new dams without the approval of the regulatory authority. The permittee or operator shall design, locate, construct, operate, maintain, modify, abandon, and remove all dams (used either temporarily or permanently) when constructed of mine refuse materials, tailings, coal processing wastes, or other liquid or solid wastes in accordance with the requirements of this section.

(b) *Definitions—Refuse materials.* Coal mine waste materials excavated or removed during surface coal mining and reclamation operations or separated from mined coal. The material may be a mixture of coal, slack coal, or waste coal; organic material; shale, claystone, sandstone, siltstone, or limestone, or related materials.

Sefety factor. The ratio of the available shear strength to the developed shear stress on a potential surface of sliding determined by accepted engineering practice.

(c) *Dams constructed of refuse materials.* (1) Refuse shall not be used in the construction of dams unless demonstrated to have no adverse effect on stability.

(2) Plans for dams or impoundments shall be approved by the regulatory authority before construction and shall contain the minimum plan requirements established by the Mining Enforcement and Safety Administration pursuant to 30 CFR 77.216.2.

(3) Dams and impoundments subject to this paragraph shall meet the following requirements:

(i) Design of impoundments shall be based on the flood from the probable maximum precipitation event unless the permittee shows that the failure of the impounding structure would not cause loss of life or severe property or environmental damage, in which case a design based on a minimum flood event of 100-year frequency may be approved by the regulatory authority. An intermediate-sized design flood may be required depending on site condition.

(ii) The design freeboard distance between the lowest point on an impounding structure and the maximum water elevation shall be at least 3 feet to avoid overtopping by wind and wave action.

(iii) Impounding structures shall have minimum stability factors as follows:

Case	Loading condition	Minimum safety factor
I	End of construction	1.2
II	Partial pool with steady seepage saturation.	1.5
III	Steady seepage from spillway or decant crest.	1.5
IV	Earthquake (cases II and III with seismic loading).	1.0

(iv) The dam, foundation, and abutments shall be stable under all conditions of construction and operation of the impoundment. Sufficient foundation investigations and laboratory testing shall be performed to determine the factors of safety of the dam for all loading conditions in subparagraph (3)(iii) of this paragraph and for all increments of construction.

(v) Seepage through the dam, foundation, and abutments shall be controlled to prevent excessive uplift pressures, internal erosion, sloughing, removal of material by solution, or erosion of material by loss into cracks, joints, and cavities. This may require the use of impervious blankets, pervious drainage zones or blankets, toe drains, or relief wells.

(vi) Allowances shall be made for settlement of the dams and the foundation so that the required freeboard will not be diminished.

(vii) Impoundments created by dams of refuse materials shall be subject to a minimum drawdown criteria that allows the facility to be evacuated by spillways or decants of 90 percent of the volume of water stored during the design precipitation event within 10 days.

(viii) Closed-circuit coal waste shall not be used in dams constructed of refuse materials unless demonstrated to maintain or enhance dam stability.

(ix) During construction of dams subject to this paragraph, the structures shall be periodically inspected by a registered professional engineer to ensure construction according to appropriate designs and upon completion of construction, the structure shall be certified as having been designed in accordance with accepted professional policies by a registered professional engineer.

(x) A permanent identification marker, at least 6 feet high and showing the dam number assigned pursuant to 30 CFR 77.215–1, and the name of the person operating or controlling the dam shall be located on or immediately adjacent to each dam within 30 days of certification of design pursuant to this section.

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(4) All dams shall be routinely inspected by a registered professional engineer in accordance with MESA regulations pursuant to 30 CFR 77.216–3.

(5) All dams shall be routinely maintained. Vegetative growth shall be cut where necessary to facilitate inspection and repairs, ditches and spillways cleaned, any combustible materials present on the surface removed, and any other appropriate maintenance procedures follows.

(6) All dams subject to this section shall be recertified annually as having been constructed and modified in accordance with current prevalent engineering practices to minimize the possibility of failures. Any changes in the geometry of the impounding structure shall be included in the annual recertification report. The certification will include a report on existing and required monitoring procedures and instrumentation, the average and maximum depths and elevations of any impounded waters over the past year, existing storage capacity of impounding structures, any fires occurring in the material over the past year, and any other aspects of the structures affecting their stability.

(7) Any enlargements, reductions in size, reconstruction or other modification of dams shall be approved by the regulatory authority.

(8) All refuse dams shall be removed and the disturbed areas regarded, revegetated, and stabilized prior to the release of bond unless the regulatory authority approves retention of such dams as being compatible with an approved postmining land use (§ 177.104).

§ 177.110 Revegetation.

(a) *General.* (1) The permittee shall establish on all land that has been disturbed, a diverse, effective, and permanent vegetative cover of species native to the area of disturbed land or species that will support the planned postmining uses of the land approved according to § 177.104.

(2) Revegetation shall be carried out in a manner that encourages a prompt vegetation cover and recovery of productivity levels compatible with approved land uses. The vegetation cover shall be capable of stabilizing the soil surface with respect to erosion. All disturbed lands shall, regardless of the approved postmining land use, be seeded or planted to achieve a vegetation cover of the same seasonal varieties when it consists of disturbed land. If both the pre- and postmining land use is intensive agriculture, planting of crops normally grown will meet the requirement. Vegetation cover will be considered of the same seasonal varieties when it consists of a mixture of species of equal or superior utility for the intended land use when compared with the utility of naturally occurring vegetation during each season of the year.

(b) *Use of introduced species.* Introduced species may be substituted for native species only if appropriate field trials have demonstrated that the introduced species will be of equal or superior utility for the approved postmining land use, or is necessary to achieve a quick, temporary and stabilizing cover. Introduced species shall meet applicable Tribal and Federal seed or introduced species statutes, and may not include poisonous or potentially toxic species incompatible with the approved postmining land use.

(c) *Timing of revegetation.* Seeding and planting of land that has been regraded and the topsoil replaced shall be conducted during the first normal period for favorable planting conditions after final grading. The normal period for favorable planting shall be that planting time generally accepted locally to meet specific site conditions and climate. Any disturbed areas, except water areas and surface areas of haul roads, which have been graded shall be planted with a temporary cover of small grains, grasses, or legumes at a commensurate level with that needed to establish adequate cover to control erosion. When rills or gullies, that would preclude the successful establishment of vegetation or the achievement of the postmining land use form in regraded topsoil and overburden materials as specified in § 177.105, additional regrading or other stabilization practices will be required before seeding and planting.

(d) *Mulching.* Mulch means vegetation residues or other suitable materials that aid in soil stabilization and soil moisture conservation, thus providing climate conditions suitable for germination and growth, and do not interfere with the postmining use of the land. Mulches shall be anchored to the soil surface where appropriate to ensure effective protection of the soil and vegetation. The minimum amounts of mulch to be applied per acre are: for straw or hay, 2,000 pounds; for wood fiber, 1,000 pounds; for bark materials, 30 cubic yards. If the permittee can demonstrate that other wood products, composted waste, or other materials are more suitable for achieving successful revegetation and erosion control, the regulatory authority may authorize substitution of such other materials. Mulch shall be used on all regraded and topsoiled areas to control erosion, to promote germination of seeds, and to increase the moisture retention of the soil. Annual grains such as oats, rye, and wheat may be used instead of mulch when it is shown to the satisfaction of the regulatory authority that the substituted grains will provide adequate stability and that they will later be replaced by species approved for the postmining land use.

(e) *Method of revegetation.* (1) The permittee shall use technical publications or the results of laboratory and field tests approved by the regulatory authority to determine the varieties, species, seeding rates, and soil amendment practices essential for establishment and self-regeneration of vegetation. The revegetation procedures shall be designed to require only that degree of fertilization and maintenance procedures required to meet the standards of this section for the approved postmining use of the land.

(2) Where hayland, pasture, or rangeland is to be the postmining land use, the land shall be revegetated to the satisfaction of the regulatory authority. The species of grasses, legumes, or forbs for seeding or planting shall be selected by the permittee to provide a diverse, effective, and permanent vegetation cover with the seasonal variety, succession, and regeneration capabilities native to the area. Livestock grazing will not be allowed on reclaimed land until the seedlings are established and can sustain managed grazing. The regulatory authority, in consultation with the surface owner and permittee, shall determine when the revegetated area is ready for livestock grazing. When hoofed wildlife populations are large enough to cause damage, grazing by such wildlife must be controlled by appropriate methods until the seedlings are well established and can sustain normal grazing. The regulatory authority shall determine when the revegetated area is ready for wildlife grazing.

(3) Where an agricultural use that will require using tillage equipment such as plows, cultivators, and tractors is to be the postmining land use, the permittee shall use adequate erosion and sediment control practices approved by the regulatory authority.

(4) Where forest is to be the postmining land use, the permittee shall plant trees adapted for local site conditions and climate in combination with an herbaceous cover of grains, grasses, legumes, or forbs that provide a diverse, effective, and perment vegetation cover with the seasonal variety, succession, and regeneration capabilities native to the area.

(5) Where wildlife habitat is to be included in the postmining land use, the permittee shall consult with appropriate Tribal and Federal wildlife management agencies and, upon the approval of the regulatory authority, shall select species to be seeded or planted. The permittee shall select those species that will fulfill the needs of wildlife, including food, water, cover, and space, and shall space and distribute plant groupings and water resources to fulfill the requirements of wildlife.

(6) Where development of residential, recreational, industrial, or public service uses is to be the postmining land use, the lands must be revegetated initially according to paragraph (a) of this section. Final revegetation requirements must be approved by the regulatory authority.

(f) *Standards for measuring success of revegetation.* (1) The revegetation standards in the following table are minimum requirements for revegetation of disturbed areas.

Standards for revegetation

[Herbaceous species=grass, legumes, and nonleguminous forbs; woody plants=woody shrubs, trees, and vines; ground cover=area covered by the combined aerial parts of plants and litter that are produced naturally on site, expressed as a percentage of the total area of measurement]

A. Areas planted only in herbaceous species (percent ground cover of herbaceous species at the end of the growing season)

Average annual precipitation, in inches	1 yr	5 yrs	10 yrs
Up to 10	6	8	10
10.1 to 16	10	20	30
16.1 to 26	20	30	40
More than 26	50	70	NA

B. Areas planted to mixtures of herbaceous and woody species (percent ground cover of herbaceous species and number of plants per acre of woody species at the end of the growing season)

Average annual precipitation, in inches	1 yr		5 yrs		10 yrs	
	Percent ground cover	Number of woody plants per acre	Percent ground cover	Number of woody plants per acre	Percent ground cover	Number of woody plants per acre
Up to 10	6	2,500	5	2,000	4	1,500
10.1 to 16	7	800	10	800	15	1,000
16.1 to 26	20	400	25	400	30	400
More than 26	40	600	50	1 400	NA	NA

1 On steep slopes, the minimum number of woody plants must be increased to 600 per acre.

(2) (i) When revegetation requirements are based on returning the permit lands to premining land uses of hayland, pasture, wildlife habitat, or rangeland, the regulatory authority may also require the permittee to set aside and fence exclosures of land not to be disturbed by mining activity or domestic livestock. These exclosures, which must be representative of geology, soils, slope, aspect, and vegetation in the permit area, will be used to estimate normal vegetation productivity, plant cover, species, plant succession, and plant self-regeneration. The regulatory agency shall approve the estimating techniques used to judge the degree of success achieved in the revegetated areas. These exclosures and estimations may be required before revegetation procedures are approved.

(ii) When exclosures are required, the degree of progress and success in revegetating shall, at a minimum, meet the standards in the following table. More stringent standards may be established by the regulatory authority based on natural conditions in the area. The permittee and the regulatory authority shall use those standards as guides to indicate potentials for ultimate revegetation success and to determine whether remedial measures are necessary to improve chances for success.

Standards for revegetation when exclosures are required

[Ground cover=area covered by the combined aerial parts of plants and litter that are produced naturally on site, expressed as a percentage of the total area of measurement; biomass yield=the total yield of living plants above ground in an area at the end of the growing season]

Average annual precipitation, in inches	End of growing season—		
	1 yr	5 yr	10 yr
A. Number of adapted species in revegetated areas			
Up to 10	3	12	15
10.1 to 16	6	14	20
16.1 to 26	6	20	25
More than 26	8	25	30
B. Ground cover of perennial plants expressed as a percent of the ground cover in the exclosures			
Up to 10	90	80	85
10.1 to 16	70	80	85
16.1 to 26	70	80	90
More than 26	80	90	NA
C. Biomass yield of perennial plants expressed as a percent of the biomass yield in the exclosures			
Up to 10	90	80	80
10.1 to 16	70	80	85
16.1 to 26	70	80	90
More than 26	80	90	NA

(g) *Seeding of stockpiled topsoil.* Topsoil stockpiled in compliance with § 177.107 must (if not to be redistributed within 30 days) be seeded or planted with an effective cover of nonnoxious, quick growing annual and/or perennial plans or protected by other approved measures as specified in § 177.107.

§ 177.111 Steep-slope mining.

(a) The permittee conducting surface coal mining and reclamation operations on natural slopes that exceed 20 degrees, or on lesser slopes that require measures to protect the area from disturbance, as determined by the regulatory authority after consideration of soils, climate, the method of operation, and other regional characteristics, shall meet the following performance standards. The standards of this section do not apply where mining is done on a flat or gently rolling terrain with an occasional steep slope through which the mining proceeds and leaves a plain or predominantely flat area; or where the mining removes entire coal seams running through the upper fraction of a mountain, ridge, or hill by removing all of the overburden and creating a lever plateau or gently rolling contour.

(1) Overburden or waste materials or debris, including that from clearing and grubbing, and abandoned or disabled equipment, shall not be placed or permitted to remain on the downslope. Material in excess of that required to meet the provisions of § 177.105 must be disposed of in accordance with the requirements of § 177.106.

(2) First-cut overburden shall be stored within the permit area. The storage piles must be designed and constructed to minimize erosion and to maximize stability. Any material temporarily stored for more than 30 days must be protected by an effective cover of nonnoxious, quick-growing annual and/or perennial plants or other approved means as specified in § 177.110.

(3) Where the backfilled slope is 50 feet or more in length, terraces when approvided by the regulatory authority, shall be sloped to safely and quickly discharge runoff water to stable drainage channels located off the fill area and must be constructed to meet the requirements of §§ 177.105(c) and 177.108.

(4) Woody materials that can cause instability must not be mixed into the backfill.

§ 177.112 Inspections.

(a) *Extent.* The authorized representatives of the Secretary shall conduct inspections of surface coal mining operations subject to regulations under the Act.

(1) On the basis of information provided by a Tribe or any person which gives rise to a reasonable belief that the provisions of the Act, regulations, or per-

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mit condition required by the Act are being violated, or that a condition or practice exists which creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources; and

(2) On a random basis of at least one complete inspection each 6 months. A complete inspection is an onsite review of the entire area disturbed or effected by mining.

(b) *Right of entry.* (1) Authorized representatives of the Secretary, without advance notice and upon presentation of appropriate credentials and without a search warrant, shall have the right of entry to, upon, or through any surface coal mining and reclamation operations or any premises in which any records to be maintained are located.

(2) The authorized representatives may at reasonable times, and without delay, have access to and copy any records, inspect any monitoring equipment or method of operation required under this Act, the regulations, or the permit.

(c) *Inspections based on citizen requests.*—(1) *Citizen reports.* (i) Any person who suspects or knows of a violation of the Act, regulations, or permit conditions required by the Act or of any imminent hazard may report this information in writing to the Office of Surface Mining Reclamation and Enforcement office nearest to the surface coal mining operation to which the information relates or to any other Office of Surface Mining Reclamation and Enforcement office. Written complaints must be signed and include a phone number where the complaining party can be contacted. The complaint or other information shall be considered as having a reasonable basis if it alleges facts which, if proven to be true, would be sufficient to show a violation of the Act, regulations, or permit. Unless the Office has reason to believe that the information is incorrect, or determines that even if true it would not constitute a violation, the Office shall conduct an inspection.

(ii) The identity of any person supplying information to the Office relating to possible violations or imminent hazards shall remain confidential within the Office unless the person supplying the information consents in writing to disclosure.

(2) *Right to accompany the authorized representative of the Secretary.* (i) If a Federal inspection is conducted as a result of information provided to the Office, the person who provided the information shall be notified when the inspection is to occur and the person will be allowed to accompany the authorized representative during the inspection.

(ii) Any person accompanying an authorized representative of the Secretary has a right of entry to, upon and through the mining and reclamation operations about which he supplied information only if he is in the presence of and is under the control, direction, and supervision of the authorized representative while on the mine property.

(3) *Notification of results of investigation.* Within 10 days of the inspection or, if no inspection, within 10 days of the compalint, the Office shall notify the person in writing of the following—

(i) The results of the investigation, including a description of any inspection which occurred and any enforcement action taken; copies of Federal inspection reports, notices of violation, and cessation orders may be forwarded to the person in satisfaction of this requirement.

(ii) If no inspection was conducted, an explanation of the reason for not inspecting.

(iii) A statement as to the person's right to informal review of the actions or inactions of the Office.

(iv) *Review of action of local offices.* A person who does not agree with the action taken by the Office on his report may request the Regional Director to review the complaint and actions taken. The Regional Director shall advise the person in writing of the results of the review.

(d) *Failure to give notice and lack of reasonable belief.* No notice of violation or cessation order may be vacated by reason of failure to give notice required by the Act prior to the inspection or by reason of a subsequent determination that prior to the inspection the Office did not have information sufficient to create a reasonable belief that a violation had occurred.

(e) *Tribal involvement.* (1) Whenever an authorized representative of the Secretary decides to conduct an inspection of any coal mining operation or any premises in which any records to be maintained are located, the appropriate representative of the local governing Indian Tribe shall be notified and invited to accompany the Secretary's representative on such an inspection.

(2) An Indian Tribe, or its authorized representatives, shall be entitled to all the protections of paragraph (c) of this section.

§ 177.113 Enforcement procedures.

(a) *Imminent hazards.* (1) If an authorized representative of the Secretary finds conditions, or practices, or violations of applicable performance standards, which create an imminent danger to the health or safety of the public the authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation.

(2) If an authorized representative of the Secretary finds conditions or practices, or violations of applicable performance standards, which can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation.

(3) An authorized representative of the Secretary shall impose affirmative obligations on an operator which the authorized representative deems necessary to abate the condition, practice or violation if:

(i) A cessation order is issued under subparagraph (1) or (2) of this paragraph; and

(ii) The cessation of mining or reclamation activities will not completely abate the imminent danger to public health or safety or the significant, imminent environmental harm or eliminate the practices or conditions that that contributed to the imminent danger or significant, imminent environmental harm.

(4) When imposing affirmative obligations under this subsection, the authorized representative shall require abatement of the danger or harm in the most expeditious manner physically possible. The affirmative obligation shall include a time by which abatement shall be accomplished and may include, among other things, the use of existing or additional personnel and equipment.

(5) An authorized representative of the Secretary may terminate a cessation order issued under subparagraph (1) or (2) of this paragraph by written order when the authorized representative of the Secretary determines that the conditions or practices or violations which caused the danger to life or the environment have been eliminated.

(b) *Non-imminent hazard violations.* (1) If an authorized representative of the Secretary finds a violation which is not an imminent hazard, the authorized representative shall issue a notice of violation fixing a reasonable time for abatement.

(2) An authorized representative may extend the time to abate a violation by written notice if the failure to abate within the time set was not caused by the permittee's or operator's lack of diligence.

(3) The total time for abatement as originally fixed and subsequently extended shall not exceed 90 days.

(c) *Failure to abate.* An authorized representative of the Secretary shall order cessation of surface coal mining and reclamation operations, or the portion relevant to the violation, when the authorized representative has issued a notice of violation under paragraph (b) of this section determines that the permittee or operator has failed to abate the violation within the time originally fixed or subsequently extended. In a cessation order issued under this subsection, the authorized representative shall impose affirmative obligations to abate the violation in the manner provided in paragraph (a) of this section.

(d) *Service of notice.* Notices and orders issued under this part shall be given to the permittee or operator or his designated agent. If no designated agent is at the mine site, service will be made upon any person who appears to be in charge of the mining or reclamation operation. The person receiving service shall be responsible for any immediate compliance actions required by the notice or order. Service is complete on delivery at the mine. However, a copy of each notice or order shall be mailed to the permittee or operator within 5 days.

(e) *Review of the minesite of cessation orders.* (1) Within 30 days after the permittee or operator has received any cessation order issued under this part, the District Manager or his delegate shall conduct an informal hearing at the minesite or within such reasonable proximity to the mine that it may be visited during the conduct of the hearing. No hearing will be required where the condition, practice or violation in question has been abated or the operator waives the hearing.

(2) Any request made to the Office of Surface Mining Reclamation and Enforcement for a substantial modification or vacation of a cessation order shall be deemed a request for an informal hearing under this section.

(3) Notice of the time, place and subject matter of the hearing shall be given to the operator or permittee, any citizen who filed a report which led to the cessation order to be reviewed, and appropriate officials of the local governing Indian Tribe. Notice of the hearing also shall be posted at the appropriate district or field office and at the mine site and, to the extent possible, shall be given by newspaper in the area of the mine.

(4) The requirements of section 554 of Title 5 of the United States Code shall not govern the conduct of the hearings required by this section. The District Manager or his delegate may accept oral or written arguments, presentations of evidence, or any other relevant information from any person attending.

(5) The District Manager or his delegate shall within 15 days of the close of the informal hearing affirm, modify or vacate the order. The decision shall be in writing and shall be sent to the permittee or operator, any citizen who filed a report which led to the cessation order reviewed and the appropriate agency of the local governing Indian Tribe.

(6) Informal review under this subsection shall not affect the rights of any person to request formal review as provided in section 525(a)(1) of the Act. A request for informal review shall not affect the 30 day time period for filing a request for formal review.

(f) *Inability to comply.* (1) Neither a notice of violation nor a cessation order issued under this part may be vacated because of inability to comply.

(2) A permittee or operator may not be deemed to have shown good cause for not suspending or revoking a permit by showing inability to comply.

(3) Unless caused by a lack of diligence, inability to comply may be considered in mitigation of the amount of a Civil penalty under § 177.114 and of the duration of the suspension of revocation of the permit under paragraph (g) of this section.

(g) *Pattern of violations.* (1) The regulations of this section set forth the procedures governing the suspension or revocation of permits based on a pattern of violations arising during Federal inspections during the initial regulatory program.

(2) *Definitions.* As used in this section:

(i) *"Violations of the same or related requirements of the Act, regulations or permit conditions"* means noncompliance with any single section of this part.

(ii) *"Violations of different requirements of the Act, regulations or permit conditions"* means noncompliance with different sections of this part.

(iii) *"Unwarranted failure to comply"* means the failure of a permittee to prevent the occurrence of any violation of his permit or any requirement of the Act or these regulations due to indifference, lack of diligence, lack of reasonable care, or the failure to abate any violation of such permit, the Act or regulations due to indifference, lack of diligence, or lack of reasonable care.

(iv) *"Willful violation"* means an intentional action or omission which violates the Act, regulations or permit conditions required under the Act.

(3) *Order to show cause.* (i) If a Regional Director of the Office determines that a pattern of violations exists or has existed and that such violations are caused by the unwarranted failure of the permittee or were willfully caused, the Regional Director shall issue an order to the permittee to show cause why the permit should not be suspended or revoked.

(ii) The Regional Director may determine that a pattern of violations exists, or has existed, after considering the circumstances, including:

(a) The number of willful violations or violations caused by unwarranted failure to comply with the same or related requirements of the Act, regulations or permit conditions during 2 or more Federal inspections.

(b) The number of willful violations or violations caused by unwarranted failure to comply with different requirements of the Act, regulations or permit conditions.

(c) The extent to which the violations were isolated departures from lawful conduct.

(iii) The Regional Director shall deem a pattern to exist if the number of willful violations or violations caused by unwarranted failure to comply with the Act, regulations or permit conditions is at a rate of 50 percent above the national norm during two months of any four month period. The national norm will be determined by comparing the number of willful and unwarranted violations issued per inspection day to permittees in the initial regulatory period. The norm will be determined semi-annually and the norm for the preceding half year will be utilized in determining whether a pattern exists. The national norm may be computed by a sampling or other statistically-valid method when the data exists for the computation.

(4) *Suspension or revocation of permit.* (i) The order to show cause shall be issued and a public hearing, if requested, shall be conducted under the procedures of 43 CFR Part 4.

(ii) If he Secretary finds that a pattern of violations exists or has existed, the permit shall be either suspended or revoked and the permittee directed to complete necessary reclamation operations.

(h) *Other remedies preserved.* No provision in this section shall be interpreted as replacing or superseding any other remedies of the Indian mineral owner as set forth in the contract or otherwise available at law.

§ 177.114 Civil penalties.

(a) *Scope.* This section covers the assessment of civil penalties for violations of a permit condition, or any provision of the regulations in this subpart. This section governs when a civil penalty is assessed and how the amount is determined and sets forth applicable procedures. This section applies to cessation orders and notices of violation issued to permittees or operators under § 177.113 during a Federal inspection.

(b) *When assessment made.* (1) The Office will review each notice of violation and cessation order issued in accordance with the assessment procedures described in this section to determine whether a civil penalty will be assessed, the amount of the penalty and whether each day of a continuing violation will be deemed a separate violation for purposes of the total penalty assessed.

(2) The Office shall assess a civil penalty for each violation contained in a cessation order. If a cessation order is issued for a condition or practice which is not a violation, no civil penalty shall be assessed.

(3) In determining whether to assess a civil penalty the Office shall consider:

(i. The permittee or operator's history of previous violations at the particular coal mining operation;

(ii) The seriousness of the violation;

(iii) Whether the permittee or operator is negligent; and

(iv) The demonstrated good faith of the permittee or operator in attempting to achieve rapid compliance after notification of the violation. The Office shall make this determination by use of a point system described in paragraph (c) of this section.

(c) *When to assess after a notice of violation.*—(1) *General.*—The Office determines whether to assess a penalty following the issuance of a notice of violation by a point system that takes into account the four criteria in paragraph (b)(3) of this section. Points are assigned based on each of the four criteria. If the total is more than 30 points, a penalty is assessed.

(2) *History of previous violations.* The Office shall assign one point for each past violation and five points for each past cessation order issued as a result of a violation up to a maximum of 30 points. Each violation which underlies a cessation order shall be counted separately from the cessation order itself. Violations and cessation orders which

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shall be counted are those, resulting from a Federal inspection, that have not been vacated or dismissed at the time of the assessment being computed and that occurred or were issued within the year preceding the violation under consideration. The Office shall count each violation without regard to whether it led to a civil penalty assessment.

(3) *Seriousness.* The Office shall assign up to 30 points based on the seriousness of the violation according to the following schedules.

(i) *Probability of occurrence.* The probability of the occurrence of the event against which a standard is directed may account for a maximum of 15 penalty points. The Office shall use the following definitions and schedules.

(A) Probability of occurrence:

	Points
None or insignificant	0–5
Unlikely	5–10
Likely	10–15
Occurred	15

(ii) *Extent of potential or actual damage.* The extent of the potential or actual damage in terms of area and impact on the public or environment may account for a maximum of 15 penalty points based on the following—

(A) If the damage or impact against which the standard violated is designed to protect would remain within the permit area (or in the case of a deep mine, the area of surface structures), the Office shall assign zero to seven points depending on the duration and extent of the damage or impact.

(B) If the damage or impact, against which the standard violated is designed to protect would extend outside the permit area (or in the case of a deep mine, the area of surface structures), the Office shall assign eight to fifteen points depending on the duration and extent of the damage or impact.

(C) The Office shall assign up to 15 points for seriousness for any failure to keep records, to give notice or to conduct any measuring or monitoring required by the regulations or a permit based upon the extent to which enforcement is obstructed. If the method of assigning points for seriousness under subdivision (i) and (ii) of this subparagraph produces more points, the higher points shall be assigned.

(4) *Negligence.* (i) The Office shall assign up to 25 points based on the negligence of the permittee or operator, either through act or omission, in causing or failing to correct the condition or practice which is a violation. A violation which occurs through no negligence shall not be assigned penalty points for negligence. A violation which is caused by negligence shall be assigned 12 points or less depending on the degree of negligence. A violation which occurs through a greater degree of fault than negligence shall be assigned 13 through 25 penalty points depending on the degree of fault.

(ii) In determining the degree of negligence involved in a violation and the number of penalty points to be assigned, the following definitions apply—

(A) *No negligence* means an inadvertent violation of the regulations or permit conditions which was unavoidable by the exercise or reasonable care.

(B) *Negligence* means the failure of a permittee or operator to prevent the occurrence of any violation of his permit or any requirement of the regulations due to indifference, lack of diligence, or lack of reasonable care, or the failure to correct any violation of such permit or the Act or the regulations due to indifference, lack of diligence or lack of reasonable care.

(C) Examples of greater degree of fault than negligence are reckless, knowing or intentional conduct.

(iii) In calculating points to be assigned for negligence, the actions of all persons working on the mine site shall be attributed to the permittee or operator.

(5) *Good faith in attempting to achieve compliance.* (i) The Office shall subtract or add points based on the degree of good faith of the permittee or operator in attempting to achieve rapid compliance after notification of the violation. The points shall be assigned according to the following schedule—

Degree Of Good Faith:	Points
Rapid	−10
Normal	0
Lack of good faith	10

(ii) In determining the permittee's or operator's degree of good faith in attempting to achieve rapid compliance, the following definitions apply—

(A) *Rapid compliance* means that the permittee or operator took extraordinary measures to abate the violation in the shortest possible time and that abatement was achieved more rapidly than reasonably required.

(B) *Normal compliance* means the permittee or operator abated the violation within the time given for abatement.

(C) *Lack of good faith* means the permittee or operator did not show diligence in attempting to abate the violation and the violation was not timely abated.

(iii) If the consideration of this criteria is impractical because the length of the abatement period, the assessment may be made without considering this criteria. Any such assessment may be reconsidered upon the permittee or operator's request after abatement is completed.

(d) *Determination of amount of penalty.* The Office shall determine the amount of any civil penalty by converting the total number of points assigned under paragraph (c) of this section to a dollar amount according to the following schedule:

25 and below—$500.	48—$2,800.
26—$600.	49—$2,900.
27—$700.	50—$3,000.
28—$800.	51—$3,100.
29—$900.	52—$3,200.
30—$1,000.	53—$3,300.
31—$1,100.	54—$3,400.
32—$1,200.	55—$3,500.
33—$1,300.	56—$3,600.
34—$1,400.	57—$3,700.
35—$1,500.	58—$3,800.
36—$1,600.	59—$3,900.
37—$1,700.	60—$4,000.
38—$1,800.	61—$4,100.
39—$1,900.	62—$4,200.
40—$2,000.	63—$4,300.
41—$2,100.	64—$4,400.
42—$2,200.	65—$4,500.
43—$2,300.	66—$4,600.
44—$2,400.	67—$4,700.
45—$2,500.	68—$4,800.
46—$2,600.	69—$4,900.
47—$2,700.	70 and above $5,000.

(e) *Assessment of separate violations for each day.* (1) If a cessation order is issued for failure to abate a violation within the time set in a prior notice of violation or cessation order, the Office shall assess separately each day the violation underlying the cessation order remains unabated. The daily penalty shall be the amount assessed for the violation or $750.00, whichever is greater. The daily assessment of a penalty shall not be made for any period that the obligation to abate is suspended.

(2) The Office may assess separately each day of any continuing violation. In making this determination, the Office shall consider the factors listed in paragraph (c) of this section and any economic benefit to the permittee or operator which resulted from a failure to comply.

(3) The Office shall separately assess a minimum of two days for any continuing violation which is assigned more than 70 points under subsection (c).

(f) *Procedures for assessment of civil penalties.* (1) Within 10 days of service of a notice or order, the permittee or operator may submit information in writing pertaining to the violation involved to the District Office with jurisdiction over the mine and to the inspector who issued the notice or order. The Office shall consider any information so submitted in determining the facts surrounding the violation and the amount of the penalty.

(2) The Office shall serve the permittee or operator, by certified mail return receipt requested, within 30 days of the issuance of the notice or order, with a copy of the proposed assessment and of the worksheets showing the computation.

(g) *Procedure for conference.* (1) If a written request from the permittee or operator is received within 15 days from receipt of a proposed assessment, the Office shall arrange for a conference to review the assessment. The permittee or operator may submit additional material for consideration during the conference. The Office may contact the permittee or operator to discuss the assessment prior to the conference if necessary to expedite the review.

(2) The Office shall consider all relevant information on the violation in question presented by the permittee or operator and may recalculate either up or down or vacate the proposed penalty. No information as to which the permittee or operator claims confidentiality shall be considered as a basis for reduction of a proposed assessment. When new facts warrant the imposition of a higher penalty, it shall be proposed in the manner provided in paragraph (f) of this section. Every change in a proposed assessment shall be fully documented in the file including a written explanation of the reason the penalty has changed.

(3) Notice of the time and place of the conference shall be posted at the Office of Surface Mining Reclamation and Enforcement field office with jurisdiction over the mine at least five days prior to the conference. Any person shall have a right to attend the conference.

(4), If the issues are resolved, the agreement shall be in writing and signed by both parties. If payment is not received within 10 days, the Office may—

(i) Enter the agreed upon amount as a final order of the Secretary; or

(ii) Rescind the agreement and reinstate the orginal proposed assessment.

(5) A reduction of a proposed civil penalty assessment of more than 25 percent and more than $500 agreed to during a conference shall be approved by the Regional Director or his designee before it is final and binding on the Secretary.

(h) *Request for hearing.* (1) Within 30 days from receipt of the proposed assessment, the permittee or operator may request a hearing before the Office of Hearings and Appeals by filing a petition and tendering full payment of the proposed assessment to be held in escrow.

(2) The timely filing of a request for a conference under paragraph (g) of this section suspends the running of the 30-day period for requesting a hearing. The suspension shall continue until the completion of the conference, which shall be held within 60 days from the date of the request for the conference. The permittee or operator shall have 15 days after completion of the conference to request a public hearing.

(3) The Office of Hearing and Appeals conducts the hearings and issues orders or otherwise terminates the petition pursuant to its procedures in 43 CFR Part 4. The Office of Hearings and Appeals may determine whether a violation occurred. When determining the amount of the penalty the Office of Hearings and Appeals shall use the point system and conversion table contained in this part.

(i) *Availability of records.* All records and files created or used in the assessment process under this part shall be available for public inspection.

(j) *Notice to tribe.* Appropriate officials of the local governing Indian tribe shall be notified of any hearings or conferences conducted pursuant to this section, and shall be invited to attend.

[FR Doc.77-26772 Filed 9-14-77;8:45 am]

Mining Enforcement and Safety Administration

[30 CFR Part 77]

SURFACE COAL MINES AND SURFACE WORK AREAS OF UNDERGROUND COAL MINES

Proposed Mandatory Safety Standards

Objections Filed and Hearing Requested

AGENCY: Department of the Interior, Mining Enforcement and Safety Administration.

ACTION: Notice of Objections Filed and Hearing Requested.

SUMMARY: This is a notice that objections have been filed and hearings requested for proposed amendments to 30 CFR Part 77, which would amend, revise and establish new mandatory safety standards for surface coal mines and surface work areas of underground coal mines. The Secretary of the Interior will issue notice at a later date that will advise interested persons of the date and place set for the public hearing.

FOR FURTHER INFORMATION CONTACT:

Joseph O. Cook, Assistant Administrator, Coal Mine Health and Safety, MESA, Room 814, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203, (703–235–1140) or Herschel H. Potter, Chief, Division of Safety, Coal Mine Health and Safety, MESA, Room 802, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703–235–1284).

The comments and objections which have been filed may be examined at, or copies obtained from, either of the above offices.

SUPPLEMENTARY INFORMATION: On January 13, 1977, there was published in the FEDERAL REGISTER (42 FR 2800) a Notice of Proposed Rulemaking containing proposed amendments to 30 CFR Part 77. These proposed amendments, amend and revise existing standards and will establish new mandatory safety standards for surface coal mines and surface work areas of underground coal mines.

Many comments, suggestions and objections were submitted to Assistant Administrator, Coal Mine Health and Safety, MESA concerning the proposed regulations. The comments and suggestions were varied and ranged from approval to disapproval of the proposed regulations. Hearings have been requested on all subparts of the proposed rules.

Notice is hereby given in accordance with section 101(f) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. § 811(f)), that objections have been timely filed as well as requested for a hearing.

Pursuant to section 101(g) of the Act, the Secretary of the Interior will, at a later date, publish notice of the times and places at which public hearings will be held for the purpose of receiving relevant evidence on the issues raised by the comments and objections which have been filed.

Dated: August 29, 1977.

JOAN M. DAVENPORT,
Assistant Secretary of the Interior.

[FR Doc.77-26778 Filed 9-14-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

[32 CFR Part 976]

COMMISSARIES

Resale Operations

AGENCY: Department of the Air Force, DOD.

ACTION: Proposed rule.

SUMMARY: The Department of the Air Force proposes to add regulations needed for commissary officers in the performance of their duties and in providing the best possible customer service in commissaries worldwide. The regulations are intended to keep customers and commissary employees better informed of resale procedures. These provisions were formerly contained in the Air Force Manual 145–1 and are being published now for public comment.

DATES: Comments must be received by October 17, 1977.

ADDRESS: Comments should be submitted to Mr. J. F. McGowan, Headquarters, Air Force Commissary Service (DOR), Kelly Air Force Base, Tex. 78241.

FOR FURTHER INFORMATION CONTACT:

Mr. J. F. McGowan, Air Force Commissary Service, Kelly Air Force Base, Tex. 78241, phone 512–925–6414, or Mr. Richard T. Dugger, Documentation Management Officer, Headquarters Air Force Engineering and Services Agency, Kelly Air Force Base, Tex. 78241, phone 512–925–7051.

SUPPLEMENTARY INFORMATION: This rule is issued under authority of 10 U.S.C. 8012.

This new part guides and directs commissary complex officers and commissary officers in the performance of their duties and in providing the best possible customer service. It applies to all Air Force Commissary Service (AFCOMS) operations worldwide. It also applies to all AFCOMS employees and base maintenance contractors and their employees operating AFCOMS commissaries.

Interested persons are invited to comment on this proposed rule. Comments and suggestions should be forwarded in writing.

V 42 1179 SEP 15 77 UMI

Title 32 of the Code of Federal Regulations is amended by adding to Chapter VII a new Subchapter R—Commissaries containing a new Part 976 to read as follows:

SUBCHAPTER R—COMMISSARIES

PART 976—RESALE OPERATIONS

Sec.

976.1 Purpose.
976.2 Store section.
976.3 Authorized/identified customers.
976.4 Service to customers.
976.5 Shelf stocking by vendors.
976.6 Control of tax free items.
976.7 Sales and returns.
976.8 Support of disabled commissary patrons.
976.9 Surcharge.
976.10 Methods of payment.
976.11 Dishonored checks.
976.12 Food stamp program.

AUTHORITY: 10 U.S.C. 8012.

§ 976.1 Purpose.

This part guides and directs commissary complex officers and commissary officers in the performance of their duties and in providing the best possible customer service. It applies to all Air Force Commissary Service (AFCOMS) operations worldwide. It also applies to all AFCOMS employees and base maintenance contractors and their employees operating AFCOMS commissaries.

§ 976.2 Store section.

(a) Vendor personnel may wait on commissary patrons in a fresh bakery outlet operated on a clerk service basis. Vendor personnel are limited to stocking and displaying merchandise, helping patrons with their selections, packaging and marking the price on purchases. Only commissary personnel will perform the functions of approving orders, receiving products, and supervising the bakery outlet. Customers will pay at the regular checkout area, not at the bakery section. Commissary officers will ensure procurement documents provide for credit or return to the vendor of unsold bakery products, except for special orders.

(b) A vendor operated meat department delicatessen is authorized to enhance customer service. The criteria in § 976.2(a) also apply to operation of the delicatessen.

(c) Commissary management must ensure bakery and delicatessen prices offer a significant savings over normal commercial store prices in the local area. Savings of at least 20 percent over local prices are considered significant.

§ 976.3 Authorized/identified customers.

(a) Although patron identification and control is the responsibility of the installation commander (32 CFR Part 823), the commissary officer will ensure all persons seeking to enter the store are authorized patrons before they are permitted in the store. Authorized commissary patrons are listed in (32 CFR Part 823). Military personnel abusing their commissary privileges ae subject to disciplinay action under the Uniform Code of Military Justice in addition to the loss of store privileges. Violations by authorized persons not subject to military law will provide a basis for suspension of store privileges.

(b) Authorized patrons assigned to remote locations may use a group shopping service when approved by the remote installation commander. This service permits an authorized agent (a person authorized commissary privileges) to purchase the combined shopping needs of the group. The person so appointed will have a letter of authorization signed by the remote installation commander or his representative. The appointment letter will list all principals by name, rank and serial number.

(c) Commissary employees authorized commissary privileges are subject to the following restrictions:

(1) Employees will shop only during normal store operating hours and only when off duty.

(2) Employees will remove all merchandise fom the commissary at time of purchase, including purchases made during lunch periods. Employees will not store or bring back into the commissary items in original pack or container.

(3) Checkers will not process purchases of a member of their family.

§ 976.4 Service to customers.

Commissary management will:

(a) Prepare a monthly calendar using AFCOMS Form 12, Customer Information Calendar, pointing out items of interest to the patron. Include hours of operation, special sales, paydays, family shopping night, etc.

(b) Ensure that customers are told of changes in store operations which affect them. Publicize closing for holidays. Post signs in a prominent place well in advance of the holiday.

(c) Place a suggestion box in a convenient location near the identification checker. Ensure AFCOMS Form 13, Customer Suggestion Form, is available for patron use. Review the suggestions and reply to them by letter or telephone. Customer satisfaction will be enhanced by outlining the suggestions placed into effect on the store bulletin board. Ensure that a record is kept on all suggestions answered by telephone. Record and sign the reply made on the reverse of suggestion form.

§ 976.5 Shelf stocking by vendors.

(a) The commissary officer is authorized to accept voluntary offers for shelf stocking service by vendors for the following product groups:

(1) Baby foods.
(2) Fresh bakery products.
(3) Blind made products
(4) Refrigerated dairy products.
(5) Spices, seasonings, extracts, herbs, food coloring, and dehydrated sauces.
(6) Soft drinks.
(7) Snack items (chips, nuts, crackers, cookies, and pretzels).
(8) Prepackaged luncheon meats.
(9) Light bulbs.
(10) Candy and gum.
(11) Frozen foods.
(12) Macaroni and pasta products (excluding prepared dinners).

(b) Stocking of store shelves by vendor stockers of categories listed above is authorized when the commissary officer determines that definite benefits will result and the service is offered voluntarily.

(c) The commissary officer will set up procedures to control vendors or their representatives who stock shelves at the commissary store. The store manager will prepare a time log on each vendor or representative who stocks at the store. Keep a separate entry for each company represented. Ensure that commissary personnel record the time in and out, and forward the time logs to the control section at the end of each month. Ensure only productive shelf stocking time is logged. The control section will total man-hours on a quarterly basis and report the vendor stocker man-hours on the AF Form 1011, Commissary Operating Statement, to the AFCOMS region.

(d) The commissary officer will ensure that the following conditions are met by vendors or their representative/vendor stockers:

(1) The vendor will furnish a letter to the store manager, prepared by the company representative and approved by the commissary officer, before stocking a product group.

(2) The store manager will log, number and issue all vendor stockers identification badges, which identifies them as authorized stockers. Store management will ensure that vendor stockers wear the badges while stocking the store.

(3) Commissary employees (civilian or military) or members of their immediate family are not authorized to stock shelves for the vendor for payment, wages, or any other form of remuneration.

(e) Any violations of the conditions listed below are a basis for revoking shelf stocking permits:

(1) Stocking a product other than those specifically authorized.

(2) Offering gratuitous gifts or items of value to commissary personnel.

(3) Moving or interfering in any way with competitive products.

(4) Pilferage or destruction of merchandise.

(5) Conduct deemed inappropriate for personnel working in a "customer service" function.

(6) Failure to provide service as agreed by the vendor and commissary officer.

(f) Commissary management will not discriminate against vendors who do not provide shelf stocking service.

(g) Commissary personnel will control all movement of stock, in or out of sales area. Do not allow vendor stockers to in-check or sign for commissary merchandise.

(h) Customer demand will continue to be the primary basis for item selection. The availability of shelf stocking service is not a factor in stockage determination. The commissary officer is responsible for adequate shelf stock replenishment of all merchandise, including vendor stocked items.

§ 976.6 Control of tax free items.

General policy for tax free cigarettes. Establish a quantity limit not to exceed four cartons per customer present at the time of sale. Grand total per family shall not exceed 10 cartons. All customers purchasing cigarettes or having them purchased on their behalf must be of legal age to make such purchases in the state where the commissary is located.

(a) Exceptions may be granted to the normal quantity limit in unusual circumstances, such as infrequent shopping, long distance to the commissary, etc. In these cases the maximum shall not exceed 10 cartons per customer present at time of sale or a grand total quantity of 15 cartons per family. The store manager or his representative may approve properly prepared AF Forms 183, Cigarette Purchase Certificate, § 976.13. Once initially approved, the form can be used for successive purchases without additional approval. File the AF Forms 183 alphabetically at the identification desk. Furnish patrons the forms upon request for presentation to the checkers. Checkers record the date of purchase and number of cartons bought on the reverse of the form, keep the forms and return them to the identification desk at close of business. Store management will review the forms to ensure tax free privileges are not abused.

(b) *Policy for tax free cigarettes with State limit.* In these cases, establish a two carton limit or the state limit, whichever is greater, per customer present at time of sale. Customers purchasing cigarettes or having them purchased on their behalf must be of legal age to make such purchases.

(c) *Policy for tax free cigarettes outside the United States.* Cigarette sales in commissaries located outside the United States are regulated by status of forces agreements.

§ 976.7 Sales and returns.

Individual customers will pay cash (includes checks) for all sales. Upon the correct payment for the sale, the merchandise becomes the property of the customer, who assumes full responsibility at that time. However, merchandise paid for and removed from the store may be returned. Such items may be exchanged for like items or a cash refund.

§ 976.8 Support of disabled commissary patrons.

(a) Authorized commissary patrons include retired personnel, hospitalized veterans, and totally disabled veterans. Many of these individuals are confined to wheelchairs or are blind. The commissary officer will ensure these patrons are accommodated with the least possible inconvenience or embarrassment.

(b) Commissary management will provide one or more checkout aisles wide enough to accommodate wheelchair patrons. In addition, these patrons will be afforded a convenient method of entering of exiting the store.

(c) Seeing eye dogs are permitted entry to the commissary sales store. Blind and severely disabled patrons may designate persons of their choice as agents to assist them in purchasing (see CFR 32 Part 823). This does not mean that agents must be authorized commissary patrons.

§ 976.9 Surcharge.

A four percent surcharge will be made on all sales and issues made from the grocery, meat, and produce departments with the exception of issues made to appropriated fund dining facilities and nonappropriated fund essential feeding facilities. Application of surcharge rates for these activities is outlined in Air Force Commissary Service Regulation 145-4.

§ 976.10 Methods of payment.

(a) Commissary stores will accept payment for commissary purchases by authorized individuals and activities only in the following forms: Cash (currency and coin); U.S. Treasury checks; certified checks, cashier's checks, and bank drafts; unicertified personal or nonappropriated fund payroll checks; traveler's checks; postal or bank money orders.

(b) The commissary will not accept personal second party checks, postdated checks, or cash checks as a matter of convenience.

(c) Inside the United States, the commissary will accept only checks drawn on U.S. banks located within the United States. In oversea areas, the commissary will accept U.S. Treasury checks and personal checks drawn on local banks or banks located in the United States. All checks accepted in oversea areas are payable in U.S. dollars.

(d) The store manager will ensure acceptance of vendor coupons. Commissary stores will accept unexpired coupons from customers for merchandise regularly stocked in the store. The commissary will accept coupons only for merchandise manufactured in the United States.

§ 976.11 Dishonored checks.

(a) Upon receipt of a dishonored check, the commissary officer will make two aggressive telephone demands for redemption of the check if required. If the drawer cannot be contacted by telephone, he will contact the drawer by certified mail with return receipt requested; a follow up letter will be sent two workdays after receipt of the first letter has been acknowledged. The commissary officer will not retain a dishonored check in his possession for more than 20 workdays.

(b) If returned checks are not redeemed after taking actions in § 976.11 (a) they will be forwarded to the AFO who will then process for collection against the drawer's pay through the appropriate commander, if drawer is on active duty. For further action on other cases, the AFO will process them through Air Force Accounting and Finance Center/PMFR, under Air Force Manual 177-102, Table 3-2.

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§ 976.12 Food stamp program.

(a) Commissary stores in the United States will participate in the Department of Agriculture Food Stamp Program by accepting food stamp coupons in exchange for eligible food items.

(b) Coupons will be accepted only for purchases of food or food products for human consumption, not for tobacco products, pet foods, nonfood items, or deposit on bottles or returnable food containers.

(c) The commissary store may make change with $1 uncancelled and unendorsed coupons which were previously accepted in payment for eligible foods. Commissary stores will not return cash as change in food stamp transactions. When the amount of change due is less than $1, it is the food stamp customer's option to:

(1) Accept a credit slip (Air Force Form 461) for 99 cents or less (indicating food stamp credit), or

(2) "Trade-out" for eligible foods, or

(3) Pay the store the difference in cash.

§ 976.13 Cigarette purchase certificate (Air Force Form 183).

CIGARETTE PURCHASE CERTIFICATE

(THIS FORM IS AFFECTED BY THE PRIVACY ACT OF 1974 - See Reverse)

THIS CERTIFICATE IS FOR THE PROTECTION OF THE PRIVILEGE TO PURCHASE STATE TAX FREE CIGARETTES AND IS PART OF A PERMANENT ACCUMULATIVE RECORD OF PURCHASES THAT IS SUBJECT TO INVESTIGATION BY OFFICE OF SPECIAL INVESTIGATION WHEN ABUSE IS INDICATED.

I certify that I am purchasing cigarettes for myself and authorized dependent. | NUMBER OF CARTONS

REASON FOR PURCHASING MORE THAN TEN CARTONS

NAME (Please Print) | CITY

ADDRESS | DATE

SIGNATURE OF PURCHASER | SIGNATURE OF AUTHORIZING INDIVIDUAL

FORM AF AUG 77 183 PREVIOUS EDITION IS OBSOLETE

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-26793 Filed 9-14-77;8:45 am]

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 7]

MINUTE MAN NATIONAL HISTORICAL PARK, MASS.

Drinking of Alcoholic Beverages and Maintenance of Vehicles

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The purpose of the regulations proposed is to control the consumption of alcoholic beverages within Minute Man National Historical Park which has proven to be deleterious to the experience of other visitors to the Park, and to eliminate nonconforming uses, such as, washing and repairing motor vehicles within the Park.

DATES: Written comments, suggestions, or objections regarding this proposal will be accepted until October 17, 1977.

ADDRESSES: Comments should be directed to: Superintendent, Minute Man National Historical Park, P.O. Box 160, Concord, Mass. 01742.

FOR FURTHER INFORMATION CONTACT:

Robert Nash, Superintendent: telephone 617-484-6156.

SUPPLEMENTARY INFORMATION: A limited amount of parking is available within the Park. During periods of agreeable weather, virtually all available parking spaces are occupied. It has been found that many persons entering the Park during such periods are doing so for purposes other than an interest in the historical values of the site. Specifically, the two activities which are prevalent, and which cause the greatest degree of interference with use of the Park as a location preserving an important historic site, are the consumption of alcoholic beverages and the maintenance of vehicles. The prevalence of the former activity is thought to be largely because of the laws of local towns prohibiting the consumption of alcohol in public places and the strict enforcement of these circumstances, Minute Man National Historical Park has become an attraction to many people simply because it is a place where drinking is not prohibited. Additionally, the use of alcohol leads, in many cases, to disruptive behavior which conflicts with other uses of the Park. The maintenance of vehicles activity is frequently associated with drinking and constitutes another widespread use of the park which is in no way related to the historic values of the Park.

It is felt that the implementation of regulations restricting these two activities will significantly reduce problems which have been associated with heavy use of Minute Man National Historical Park. This will have the effect of making the park more readily available for visitors studying its history and will maintain a more peaceful atmosphere in keeping with an area of great historical significance.

(16 U.S.C. 3, 410w, 462; 245 DM-1 (42 FR 12931); National Park Service Order No. 77 (38 FR 7478), as amended.)

IMPACT ANALYSIS

The National Park Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

The Regional Director for the North Atlantic Regional Office of the National Park Service has determined, pursuant to the National Environmental Policy Act of 1969 and pertinent guidelines, that the proposed regulations are not a major Federal action which will have significant effect on the quality of the human environment and, therefore, no environmental impact statement is required.

It is, therefore, proposed to amend 36 CFR Part 7 in the manner set forth below:

1. A new § 7.31 would be added as follows:

§ 7.31 Minute Man National Historical Park.

(a) *Alcoholic beverages.* The drinking of alcoholic beverages in any public place, except in the designated picnic area is prohibited, except with the written permission of the Superintendent.

(b) *Maintenance of Vehicles.* Washing, cleaning, waxing, or lubricating motor vehicles or repairing or performing any mechanical work upon motor vehicles, except in emergencies, in any public place is prohibited.

(c) *Definition.* As used in paragraphs (a) and (b) of this section, the term "public place" shall mean any place, building, road, picnic area, parking space, or other portion of Minute Man National Historical Park to which the public has access.

ROBERT NASH,
Superintendent, Minute Man National Historical Park.

SEPTEMBER 1, 1977.

[FR Doc.77-26748 Filed 9-14-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 790-2]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS—MASSACHUSETTS

Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of Comment Period.

SUMMARY: This notice extends the period for coments on the notice, published August 3, 1977 (42 FR 39235), proposing a change to the State Implementation Plan (SIP) which would increase the allowable sulfur content of fossil fuel burned by sources in the Berkshire Air Pollution Control District (geographic equivalent of the Berkshire Intrastate Air Quality Control Region). The comment period is being extended in order to provide sufficient time for affected sources and other interested parties to review EPA's evaluation of the air quality impact of the SIP revision and submission of comments and/or additonal technical information.

DATES: Comments must be received on or before October 2, 1977.

ADDRESSES: Comments should be submitted to the Regional Administrator, Region I, Environmental Protection Agency, Room 2203, JFK Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT:

Wallace D. Woo, Air Branch, EPA Region I, Room 2113, JFK Federal Building, Boston, Massachusetts 02203 (617-223-5609).

Dated: September 7, 1977.

WILLIAM R. ADAMS, JR.,
Regional Administrator.

[FR Doc.77-26728 Filed 9-14-77;8:45 am]

[40 CFR Part 52]

[FRL 790-5]

NEBRASKA

Proposed Revision to Air Quality Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On December 27, 1976, and April 4, 1977, the Governor of the State of Nebraska submitted proposed amendments to the Nebraska State Implementation Plan (SIP). These amendments will adopt as part of the SIP the local air pollution control ordinances for the City of Omaha, City of Lincoln, and Lancaster County. This notice is to advise the public of the receipt of the proposed changes and to request public comments.

DATES: Comments must be received before October 17, 1977.

ADDRESS: Comments should be sent to Dewayne E. Durst, Chief, Air Support Branch, Air and Hazardous Materials Division, Region VII, 1735 Baltimore, Kansas City, Missouri 64108.

FOR FURTHER INFORMATION CONTACT:

Karen M. Solari, telephone 816-374-3791.

SUPPLEMENTARY INFORMATION: The City of Omaha Air Quality Control Ordinance and the City of Lincoln Air Pollution Control Ordinance and Regulations and Standards were adopted as part of the SIP by the Nebraska Environmental Control Council at a public hearing on December 10, 1976. The Lancaster County Air Pollution Control Resolution was adopted by the council on March 18, 1977. With certain exceptions, the local air pollution control ordinances are consistent with the Nebraska Air Pollution Control Rules and Regulations.

The Omaha and Lincoln ordinances, which were included in the SIP submitted on January 20, 1972, will now incorporate the revisions made to the ordinances since that time. Sections of the Lincoln ordinance which were found inadequate according to § 52.1424 and § 52.1429 have been revised. These sections deal with the authority to require recordkeeping and reporting and provisions for periodic testing and inspection of sources.

Certain New Source Performance Standards have been adopted by reference in each of the three local ordinances. The Lincoln and Lancaster County ordinances also include prevention of significant deterioration regulations. Emission standards for inorganic fluoride compounds from brick manufacturing plants have been specified in the Lincoln and the Lancaster County ordinances.

These changes constitute a proposed revision to the Nebraska SIP, pursuant to § 51.8 of this chapter. Relevant comments concerning the proposed revision and compliance with the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51 will be considered by the Regional Administrator in her decision to approve or disapprove the plan revision.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations: Environmental Protection Agency, Region VII, 1735 Baltimore, Kansas City, Missouri 64108; Public Information Reference Unit, Library Systems Branch (PM-213) Environmental Protection Agency, Washington, D.C. 20460; and the Department of Environmental Control, 1424 P Street, Lincoln, Nebraska 68509.

(42 U.S.C. 1857c-5.)

Dated: September 2, 1977.

CHARLES V. WRIGHT,
Acting Regional Administrator.

[FR Doc.77-26731 Filed 9-14-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 61]

[Docket No. 21005]

INTERFACE OF THE INTERNATIONAL TELEX SERVICE WITH THE DOMESTIC TELEX AND TWX SERVICES

Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: This order extends at the request of RCA Global Communications, Inc., the deadline for filing Reply Comments in Docket No. 21005.

DATE: Reply Comments must be filed on or before September 19, 1977.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John F. Copes, International Program Staff, Common Carrier Bureau, 202-632-3214.

SUPPLEMENTARY INFORMATION:

Adopted: September 8, 1977.

Released: September 9, 1977.

In the matter of Interface of the International Telex Service with the Domestic Telex and TWX Services; (42 FR 43108).

1. By Order in this proceeding released August 23, 1977, we set September 12, 1977, as the date for filing reply comments herein. We have before us for consideration a Motion for Extension of Time filed by RCA Global Communications, Inc. (RCA) on September 2, 1977, in which RCA seeks extension of the time to file such replies until September 19, 1977. In support of its motion, RCA cites conflicting procedural dates in other Commission proceedings and the absence of key personnel. The motion was not opposed.

2. We believe that a grant of a one-week extension is reasonable and that it will not unduly delay resolution of this proceeding.

3. Accordingly, *it is ordered*, That the above-referenced Motion for Extension of Time of RCA Global Communications, Inc. is GRANTED.

4. *It is further ordered*, That the time for filing Reply Comments in this proceeding is extended until September 19, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALTER R. HINCHMAN,
Chief, Common Carrier Bureau.

[FR Doc.77-26922 Filed 9-14-77;8:45 am]

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[47 CFR Part 67]

[Docket No. 21263; FCC 77-615]

COMMUNICATIONS BY AUTHORIZED COMMON CARRIERS BETWEEN THE UNITED STATES, MAINLAND AND HAWAII, ALASKA, AND PUERTO RICO/ VIRGIN ISLANDS

Integration of Rates and Services; Nominations for State Commissioner Representatives; Notice of Board Meeting

AGENCY: Federal Communications Commission.

ACTION: Supplemental Joint Board Notice, Docket No. 21263.

SUMMARY: In this action the Commission accepts the nominations for State Commissioner representatives to this proceeding, appoints the Commission members to the Board, and schedules the first formal meeting of the Board. In addition the Commission denies the request of Hawaiian Telephone Company to clarify the original notice of inquiry.

DATE: The Joint Board will meet on September 22, 1977, at 9:00 a.m. in the Commission's Offices at 1919 M Street, NW., Washington, D.C.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Francis L. Young, Common Carrier Bureau, (632-5550).

SUPPLEMENTARY INFORMATION: In the matter of Integration of rates and services for the provision of Communications by authorized Common Carriers between the United States Mainland and Hawaii, Alaska, and Puerto Rico/ Virgin Islands, Do ket No. 21263, First Supplemental Notice.

Adopted: September 2, 1977.

Released: September 7, 1977.

1. In a *Notice of Inquiry, Proposed Rule Making and Creation of Federal-State Joint Board*, FCC-77-365, released June 7, 1977 (42 FR 30221, June 13, 1977), we gave notice of the convening of a Federal-State Joint Board pursuant to Section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 410(c). This Joint Board was convened to prepare a recommended decision for the purpose of establishing the separations procedure(s) applicable to Alaska and Hawaii. Before us for consideration are: (a) The State Commissioner nominations submitted by the National Association of Regulatory Utility Commissioners (NARUC); and (b) a Petition for Clarification, filed June 9, 1977, by Hawaiian Telephone Company.

2. Pursuant to Section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 410(c), the following State Commission members of the Joint Board have been nominated by NARUC and submitted for our approval: Edwin R. Lundborg, Colorado Public Utilities Commission; William Symons, Jr., California Public Utilities Commission; Albert Q. Y. Tom, Hawaii Public Utilities Commission; and Marvin R. Weatherly, Alaska Public Utilities Commission. We hereby accept these very competent State Commissioners as members of the Joint Board. They will be joined by Commissioners Richard E. Wiley, Robert E. Lee, and Joseph R. Fogarty of this Commission.[1]

3. The Hawaiian Telephone Company (HTC) notes that paragraphs 3 and 4 of the initial notice, supra, refers in part to settlements and that the purpose of the Joint Board is to prepare a recommended decision ". . . establishing the separations procedure(s) applicable to Hawaii and Alaska. . . ." HTC asserts that the references to settlements are thus unappropriate and should be deleted. While we concur that the scope of the Joint Board proceeding is limited to separations, we do not believe that the use of the term settlements in the context used is inappropriate. In our reconsideration Memorandum Opinion and Order concerning rate integration, FCC 77-364, released June 6, 1977, we noted that settlements must be related to an established separations procedure(s). Since further petitions on this order, FCC 77-364, have been filed it would be inappropriate to modify the Joint Board order at this time. The present order is consistent with other Commission orders, is clear as to the scope of this Joint Board proceeding, and is not prejudicial to HTC. Thus, we will deny the request for clarification.

4. It is the further purpose of this notice to organize and establish a meeting place and date so that the Board may determine at that time procedures appropriate to the stated purpose of the creation of this Board. It is anticipated that the initial meeting will explore a schedule for a notice and comment procedure so that all interested parties will have an adequate opportunity to develop a record supporting what modifications, if any, should be made to the existing Separations Manual in order that it would be applicable to Alaska and Hawaii. In addition, we anticipate that the Board will address the procedures under which the Board will operate including ex parte rules.

5. Accordingly, it is ordered, That Edwin R. Lundborg, William Symons, Jr., Albert Q. Y Tom, Marvin R. Weatherly, Richard E. Wiley, Robert E. Lee and Joseph R. Fogarty are appointed to the Federal-State Joint Board mentioned herein and the first meeting of such board shall be held on September 22, 1977, at 9:00 a.m. in the offices of this Commission at 1919 M Street, NW., in Washington, D.C.

6. It is further ordered, That the petition for clarification, filed June 9, 1977, by Hawaiian Telephone Company is denied.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-26746 Filed 9-14-77;8:45 am]

[1] Commissioner Abbott M. Washburn is designated as an alternate to this Joint Board.

[47 CFR Part 91]

[Docket No. 21342; RM-2792]

TRANSMISSION OF PULSED CARRIER EMISSIONS ON THE FREQUENCIES 154.570 AND 154.600 MHZ

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order extending time to file comments and reply comments.

SUMMARY: This order is in response to a motion for extension of time made by Ag Nav, Inc., to allow it to submit comments in the matter of amendment of section 91.554 (a) and (b) of the Commission's rules and regulations. (Docket No. 21342, RM-2792.)

An extension of time is needed by Ag Nav for filing comments from August 29, 1977, to September 16, 1977, and reply comments from September 9, 1977, to September 30, 1977, because the initial dates will not allow sufficient time for the preparation and submission of comments based on its field studies.

DATES: Comments must be received on or before September 16, 1977, and reply comments must be received on or before September 30, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. John Wood, Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau, 202-632-6497.

SUPPLEMENTARY INFORMATION:

Adopted: September 8, 1977.

Released: September 9, 1977.

In the matter of amendment of section 91.554 (a) and (b) of the Commission's rules and regulations to allow transmission of pulsed carrier emissions on the frequencies 154.570 and 154.600 MHz (42 FR 41143).

1. Ag Nav, Inc. has asked for an extension of the period for filing comments and reply comments in this proceeding from August 29, 1977, and September 9, 1977, respectively, to September 16, 1977, and September 30, 1977. Ag Nav cites the constraints imposed by the limited operational experience acquired thus far and indicates that it needs the additional period for the preparation of meaningful comments.

2. It appears that the additional period requested is reasonable. Accordingly, *it is ordered*, pursuant to the authority contained in sections 0.331 and 1.46 of the Commission's rules, that the time for filing comments in this proceeding is extended to September 16, 1977, and reply comments to September 30, 1977.

ARLAN K. VAN DOORN,
Deputy Chief, Safety and Special Radio Services Bureau.

[FR Doc.77-26926 Filed 9-14-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Part 175]

[Docket No. HM-152; Notice 77-6]

CARRIAGE BY AIRCRAFT

Carriage by Aircraft; Requirements for Radioactive Materials Extension of Time To File Comments

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Extension of time to file comments.

SUMMARY: Three commenters have requested a 60-day extension of time to file comments in this Docket (42 FR 37427, July 21, 1977) indicating that extra time is needed to properly assess and analyze data now being collected which will serve as the basis for their comments. We believe that additional time should be allowed for this purpose; therefore, the time for filing comments is extended as indicated.

DATE: The time for filing comments in Docket HM-152; Notice 77-6 is extended from September 20, 1977 to November 21, 1977.

ADDRESSES: Dockets Section, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Five copies should be submitted.

FOR FURTHER INFORMATION CONTACT:

Alan I. Roberts, 2100 Second St. SW., Washington, D.C. 20590 (202-426-0656).

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a)(4) of App. A to Part 102)

Issued in Washington, D.C., on September 8, 1977.

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Operations.

[FR Doc.77-26955 Filed 9-14-77;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

ALGAECIDE TREATMENT OF SNOW & QUEMADO LAKES

Notice of Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for Algaecide Treatment of Snow and Quemado Lakes in New Mexico, USDA–FS–R3 FES Adm 77–01.

The environmental statement considers probable environmental effects of the proposed project.

The final environmental statement was transmitted to CEQ on September 8, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, S. Agriculture Bldg., Rm. 3230, 14th and Independence Ave., SW., Washington D.C. 20250.
USDA, Forest Service, Southwestern Region, 517 Gold Avenue, SW., Albuquerque N. Mex. 87102.
Gila National Forest 2610 North Silver St., Silver City, N. Mex. 88061.

Single copies are available upon request to Forest Supervisor, Gila National Forest, 2610 North Silver Street, Silver City, New Mexico, 88061. Please refer to the name and number of the environmental statement when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

M. J. HASSELL,
Regional Forester, Region 3.

GARY E. CARGILL,
Acting Regional Forester, Region 3.

SEPTEMBER 8, 1977.

[FR Doc.77-26806 Filed 9-14-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 77-9-19; Docket 27573; Agreement C.A.B. 26867, R-1 through R-8]

JOINT TRAFFIC CONFERENCES OF THE INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement Relating to Specific Commodity

ORDER

SEPTEMBER 7, 1977.

An agreement has been filed by the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers, foreign air carriers and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names seven specific commodity rates under existing commodity descriptions and adds one rate with a new commodity description as set forth below, reflecting reductions from general cargo rates; and was adopted pursuant to unprotested notice to the carriers and promulgated in IATA letters between July 23 and July 27, 1977.

Agreement CAB	Specific commodity Item No.	Description and rate [1]
26867:		
R-1	1084	Turkey hatching eggs 96c/kg.,[2] minimum weight 500 kgs. New York to Bremen.
R-2	8550	Dental, surgical, measuring, testing and drawing instruments 378c/kg.,[2] minimum weight 100 kgs. 302c/kg.,[2] minimum weight 500 kgs. New York to Dubai.
R-3	0006	Foodstuffs, spices and beverages 110c/kg.,[2] minimum weight 500 kgs. Osaka to Honolulu.
R-4	0056	Chocolate manufactures 84c/kg.,[2] minimum weight 1,000 kgs. Honolulu to Tokyo. 89c/kg.,[2] minimum weight 1,000 kgs. Honolulu to Osaka.
R-5	1108	Floral and/or nursery stock, seeds and cut flowers—excluding bulbs and/or tubers, carnation cuttings, gladioli 129c/kg.,[2] minimum weight 100 kgs. Los Angeles to Papeete.
R-6	4266	Sporting boat parts and accessories 145c/kg.,[2] minimum weight 1,000 kgs. Melbourne to Los Angeles.
R-7	4706	Milking machines and accessories 114c/kg., minimum weight 500 kgs. Auckland to Los Angeles.
R-8	8100	Dental, medical and/or surgical instruments 190c/kg.,[3] minimum weight 1,000 kgs. Melbourne to New York.

[1] Subject to applicable currency conversion factors as shown in tariffs.
[2] Expires Dec. 31, 1977.
[3] Expires Sept. 30, 1978.
[4] New description.

Pursuant to authority delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions ordered.

Accordingly, it is ordered that: Agreement C.A.B. 26867, R–1 through R–8, is approved, provided that (a) approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-26896 Filed 9-14-77;8:45 am]

[Order 77-9-17; Docket 27573; Agreement C.A.B. 26815, R-1 through R-3; Docket 27573, Docket 29123; Agreement C.A.B. 26816, R-1 and R-2]

TRAFFIC CONFERENCES OF THE INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreements Relating to Passenger Fares, Cargo Rates and Currency Matters

ORDER

SEPTEMBER 7, 1977.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreements, adopted by mail vote, have been assigned the above C.A.B. agreement numbers.

Both agreements are of a technical nature. Agreement C.A.B. 26816 would indefinitely extend the preclusion of passenger and cargo services within the area comprised of Australia/Papua New Guinea/Djajapura/British Solomon Islands Protectorate from the application of IATA resolutions governing such services to/from that area. Agreement C.A.B. 26815 would amend the cargo rate currency conversion procedures pertaining to traffic destined for Japan from TC1 (Western Hemisphere), TC2 (Europe/Middle East/Africa) and TC3 (Asia/Pacific). In effect, Japanese currency payments for collect shipments would be reduced by about 3.8 percent from the levels provided by Agreement C.A.B. 26703, which was approved by Order 77–8–114 (August 23, 1977).

Since the agreements involve either rates from U.S. points, or rates and fares which are combinable with rates and fares to/from U.S. points, they have application in air transportation as defined by the Act, and will be approved. However, we caution the carriers that approval of Agreement C.A.B. 26815 is subject to the conditions imposed by Order 77–2–22 (February 3, 1977), whereby U.S. dollar rates for U.S.-originating collect shipments must be converted at the market rate of exchange when payment is made in another currency.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14:

1. It is not found that the following resolutions, which have direct application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act provided that approval is subject, where applicable, to conditions previously imposed by the Board:

Agreement CAB	IATA No.	Title [a]	Application
26815:			
R-1		022a TC3 Special Rules for Sales of Cargo Air Transportation (Amending).	3 (Asia/Pacific).
R-3		022p JT31 (North and Central Pacific) Special Rules for Sales of Cargo Air Transportation (Amending).	2/1;1/2/3.

2. It is not found that the following resolutions, which have indirect application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement CAB	IATA No.	Title	Application
26815:			
R-2		022b JT23/JT123 Special Rules for Sales of Cargo Air Transportation (Amending).	2/3;1/2/3.
26816:			
R-1		002 Standard Revalidation Resolution (Amending)	3 (Asia/Pacific).
R-2		004d Restriction of Applicability—Papua New Guinea (Readopting and Amending).	Do.

Accordingly, it is ordered that: Agreements C.A.B. 26815 and C.A.B. 26816, set forth in finding paragraphs 1 and 2 above, are approved.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-26897 Filed 9-14-77;8:45 am]

CIVIL RIGHTS COMMISSION

WASHINGTON

Public Hearing

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that a public hearing of the U.S. Commission on Civil Rights will commence on October 19, 1977, at the Federal Building, Courtroom 514, 915 Second Avenue, Seattle, Wash. An executive session, if appropriate, may be convened at any time before or during the hearing.

The purpose of the hearing is to collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning American Indians; to appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning American Indians; and to disseminate information with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning American Indians.

Dated at Washington, D.C., September 9, 1977.

ARTHUR S. FLEMMING,
Chairman.

[FR Doc.77-26791 Filed 9-14-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

FOREIGN EXCESS PROPERTY

Revision of General Determination No. 1 (Revised)

AGENCY: Domestic and International Business Administration.

ACTION: Amendment of General Determination No. 1 (Revised) (38 FR 20484 et seq.).

SUMMARY: This action amends Foreign Excess Property General Determination No. 1 (Revised) by broadening the scope of certain categories of property presently covered by general determination and by including new categories of property, the importation of which would relieve domestic shortages or otherwise be beneficial to the economy of this country.

DATE: This amendment shall become effective on September 15, 1977.

FOR ADDITIONAL INFORMATION CONTACT:

Mr. Frank Creel, who can be reached by telephone on 202–377–4913.

SUPPLEMENTARY INFORMATION: On August 5, 1977, there was published in the FEDERAL REGISTER (42 FR 39693 et seq.; corrected, August 10, 1977, 42 FR 40473) a notice in which the Deputy Assistant Secretary for Resources and Trade Assistance stated his intention to revise General Determination No. 1 (Revised) (38 FR 20484 et seq.) pursuant to Section 302.4 of the Department of Commerce Foreign Excess Property Regulations (15 CFR Part 302). Interested parties were invited to submit written comments concerning the proposed amendments on or before August 19, 1977. Five written comments were received, two of which expressed general approval of the proposal.

One party suggested that special equipment such as air compressors, boring machines and so forth which are mounted on vehicles subject to the General Determination also be included. This suggestion was adopted, but additional clarification was inserted to exclude discrete accessories which were not deemed to satisfy the conditions for inclusion on the General Determination. The same party suggested that the General Determination should also encompass track laying vehicles such as the M–4 and M–5 high-speed tractors. Further research indicated that such vehicles would not satisfy the conditions for inclusion and the suggestion was not adopted. Finally, this party thought that the provision for used parts and components for non-combat military motor vehicles should be broadened to include unused parts and components as well. While the Department agrees that many excess vehicles are obsolete and for that reason can be considered to be in short supply, it was determined that this is not always the case and that unused parts and components should, therefore, continue to be subjected to case-by-case review.

Another party suggested that the proposal include Bailey-type prefabricated steel bridge components and erection equipment. Upon consideration, it was determined that such bridges are current military procurement items and that certain components are available on order. The suggestion was, therefore, not adopted.

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Another party suggested that photographic film and paper be included. In considering this suggestion it was found that the photographic industry has a program for reclamation of the silver content of such materials, and the suggestion was adopted in modified form.

Other Federal agencies commenting informally on the proposal expressed general approval. The Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, noted that the citations for its statutory and regulatory authority had been superseded. Correct citations have been provided.

Accordingly, General Determination No. 1 (Revised) is hereby amended to read as follows:

GENERAL DETERMINATION NO. 1

Importation of foreign excess property consisting of the following items would relieve domestic shortages or would otherwise be beneficial to the economy of this country. Consequently, subject to the conditions of this general determination and to the requirements of § 302.4 of the Foreign Excess Property Regulations (15 CFR 302), foreign excess property specified below may be imported into the United States, unless otherwise prohibited by law.

(a) Used non-combat military motor vehicles. Used non-combat military motor vehicles, irrespective of rated capacity, including but not limited to general purpose trucks such as cargo, carryall, chassis, panel, pickup, dump, platform, prime mover and stake; special purpose trucks such as shop van, medical van, laboratory, fluid tank, wrecker, and ambulance; and jeeps. This provision does not include passenger cars or track laying vehicles.

(b) Used parts and components for non-combat military motor vehicles, except parts and components for vehicles not included in (a) above. Includes special equipment mounted on vehicles (wrecker assemblies, winches, air compressors, boring machines) but excludes discrete accessories such as tow chains, tire chains, carrier racks, and jacks.

(c) Combat military motor vehicles and parts and components thereof. Note: Military motor vehicles enumerated on the U.S. Munitions Import List are also subject to the import permit requirements of the Department of the Treasury pursuant to the Arms Export Control Act (Pub. L. 94–329, which supercedes the Mutual Security Act of 1954). See 27 CFR 47.

(d) Pneumatic tires and inner tubes, excluding passenger car tires and inner tubes. Unused tires subject to this General Determination shall prior to entry into the customs territory of the United States (i) be branded with the letters "N.F.C." (Not First Class) in one inch type on each sidewall of each tire so as to be clearly visible above the bead area, or (ii) be buffed so as to remove from each sidewall thereof the name of the manufacturer and trade name(s). Inner tubes must be stamped with indelible ink in one inch block type with the letters "N.F.C.".

(e) Used power transformers, 10001 kilovolt-amperes and above.

(f) Compressed gas cylinders.

(g) Metal scrap, ferrous and non-ferrous.

(h) Used ships, boats, floating equipment (including barges, dry docks and pontoons), and parts and components thereof. (Excludes battleships, cruisers, aircraft carriers, destroyers and submarines which are not subject to the provisions of the Federal Property and Administrative Services Act of 1949, as amended; 40 U.S.C. 472(d)(2).)

(i) Photofilm and photopaper which is being imported solely for reclamation of the silver content.

Any of the property described above may be entered into the economy of the United States on presentation of the original FEP Import Authorization to the District Director of Customs for his endorsement at the time of entry: *Provided*, the requirements in paragraph (d) above relating to the unused pneumatic tires and inner tubes are complied with to the satisfaction of the District Director of Customs at the port of entry.

Nothing in General Determination No. 1 shall be construed to exempt the importer from presentation of such other entry documents, or conforming with any procedures, required by the U.S. Customs Service.

Effective September 15, 1977, General Determination No. 1 as published in 38 FR 20484 (1973), is revoked.

General Determination No. 1 may be amended or withdrawn by the Deputy Assistant Secretary and notice of such amendment or withdrawal shall be published in the FEDERAL REGISTER (15 CFR 302.4.).

Effective Date: September 15, 1977.

ROBERT E. SHEPHERD,
Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc 77-26817 Filed 9-14-77;8:45 am]

Domestic and International Business Administration

DUTY FREE ENTRY OF ELECTRON MICROSCOPES

Consolidated Decision on Applications

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77–00176. Applicant: University of California, San Diego, Dept. of Neurosciences, School of Medicine, La Jolla, Calif. 92093. Article: Electron Microscope, Model JEM–100C with side entry goniometer and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article will be used to study the structure of biological cells and tissues which include nerve tissues and phenomena associated with neurological diseases; the supramolecular structure of excitable membranes; and serial sections of subcellular regions of neurons, suitable for computer reconstruction. All of the materials and phenomena will be biological in origin and in some instances derived from patients suffering from neuromuscular diseases. In addition, the article will be used in the course "Workshop in Electron Microscopy" in which students will be taught modern electron microscopic techniques in order that they may successfully be able to undertake relevant projects without further supervision. Application received by commissioner of customs: March 24, 1977. Advice submitted by the Department of Health, Education, and Welfare on: June 24, 1977. Article ordered: February 25, 1977.

Docket Number: 77–00186. Applicant: New York Medical College, Department of Anatomy, Basic Science Building, Valhalla, N.Y. 10595. Article: Electron Microscope, Model JEM 100C with side entry goniometer. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article will be used for electron microscopic examination of biological tissues from normal and experimental animals, such as pancreas, liver, muscle, and blood platelets. Blood platelets before and after exposure to thrombin will be examined to determine the intracellular translocation of calcium related to secretion. Studies of fine filaments will be made to relate these to morphologic changes in cell shape and, particularly, to the formation of long pseudopodia. Low magnification studies of undistorted, flat-field cells will be performed. These will be used for light microscopic—electron microscopic correlations which will permit visualization of the same cells by both instruments. The article will also be used in an electron microscopy course to train graduate and medical students in the use of electron microscopes as a tool for research and service in the field of diagnostic medicine. Application received by commissioner of customs: April 1, 1977. Advice submitted by the Department of Health, Education, and Welfare on: June 24, 1976. Article ordered: March 28, 1977.

Comments: No comments have been received in regard to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used was being manufactured in the United States at the time the articles were ordered.

Reasons: Each article provides a eucentric goniometer stage with ±60 degree tilt and a guaranteed resolution of 7 Angstroms point to point. The Department of Health, Education, and Welfare (HEW) advises in the respectively cited memoranda, that the features described above are pertinent to the purposes for which each of the foreign articles to which these applications relate is intended to be used. HEW also advises that it knows of no domestic instrument which provided the pertinent features of each article at the time of order.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc.77-26818 Filed 9-14-77;8:45 am]

DUTY-FREE ENTRY OF NUCLEAR MAGNETIC RESONANCE SPECTROMETERS

Consolidated Decision on Applications

The following is a consolidated decision on applications for duty-free entry of Nuclear Magnetic Resonance Spectrometers pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77–00159. Applicant: Northeastern University, Department of Chemistry, 360 Huntington Avenue, Boston, Mass. 02115. Article: High Resolution Fourier Transformation Multi-Nuclear Magnetic Resonance Spectrometer, Model JNM/FX60Q and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article will be used in the following research projects which involve the determination of NMR spectra of hydrogen, carbon-13, and fluorine nuclei:

(a) Inorganic and bioinorganic reaction mechanisms—solution kinetics.
(b) Separation methods, application of NMR to forensic chemistry and drug analysis.
(c) Structure of natural products derived from plants.
(d) NMR in analysis of drugs of abuse.
(e) Synthesis of natural products.
(f) Structural and synthetic medicinal chemistry of aporphines.
(g) Structure and chemistry of natural anti-tumor agents.
(h) Study of electronic structure of transition metal systems. Measurements of magnetic exchange using Knight shifts. Magnetic and structural properties of transition metal complexes containing fluorine.
(i) Thermal rearrangements of organic molecules.
(j) NMR applied to the study of pharmaceuticals.
(k) Chemistry of anti-plaque agents.
(l) Mechanism of reductive ring-enlargement from cyclopropenes to cyclobutenes.
(m) Paterno-Buchi photovalence isomerization as a means for storing solar energy.
(n) Binuclear bridging C_6H_5 complexes.
(o) ^{13}C labelling studies in the investigation of hydrocarbons pyrolysis mechanisms.
(p) Intermolecular interactions in clathrate complexes.
(q) Biochemical structure investigations.
(r) Structural determination of organic radiation-chemical products.
(s) Solution magnetic susceptibility studies using the Evans NMR method.
(t) Fluxionality—Stereochemical non-rigidity as a function of temperature.

The article will also be used in the course "Identification of Organic Compounds" (Chem. 12.253) to teach the application of various analytical techniques in determination of molecular structure and identification of unknown organic compounds. Application received by Commissioner of Customs: March 17, 1977. Advice submitted by the Department of Health, Education, and Welfare on July 4, 1977. Article ordered August 2, 1976.

Docket Number: 77–00172. Applicant: Frederick Cancer Research Center, P.O. Box B, Frederick, Md. 21701. Article: NMR Spectrometer, Model JNM/FX–60 and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article will be used for the following individual research activities which involve ^{13}C and ^{1}H NMR spectroscopy:

1. Structural studies of antibiotics isolated from fermentation broth, by ^{13}C and ^{1}H NMR spectroscopy.
2. Structural studies of antibiotics isolated in minute quantities (2 to 4 milligram) by ^{13}C and ^{1}H NMR Spectroscopy.
3. Structural studies of antibiotics isolated from plant materials by ^{13}C and ^{1}H NMR spectorscopy.
4. Stereo chemical assignments made on antibiotics by a combination of ^{13}C and ^{1}H NMR studies.
5. Structure elucidiation studies on biotransformed antibiotics by combination of ^{13}C and ^{1}H NMR studies.
6. Structure verification studies on derivatives of antibiotics by combination of ^{13}C and ^{1}H NMR studies.

Most of the materials to be studied will be antitumor compounds, hopefully candidates to cure cancer in clincs. Some of these materials are available in small quantities (2–4 miligrams) as isolated from limited resources and need to be studied by a microprobe system of an NMR instument. Application received by Commissioner of Customs: March 22, 1977. Advice submitted by the Department of Health, Education, and Welfare on July 11, 1977. Article ordered February 24, 1977.

Comments: No comments have been received in regard to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, was being manufactured in the United States at the time the articles were ordered.

Reasons: Each foreign article provides a dual frequency (for ^{13}carbon and proton), variable temperature, 10 millimeter sample probe. The Department of Health, Education, and Welfare (HEW), advises in its respectively cited memoranda that the specification of each article described above is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. HEW also advises that it knows of no domestic instrument which provided the pertinent specification at the time the articles were ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

RICHARD M. SEPPA,
Director, Special Import Programs Division.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc.77-26819 Filed 9-14-77;8:45 am]

NORTHWESTERN U. MED. SCH.

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 77–00206. Applicant: Northwestern University Medical School, Department of Pharmacology, 303 E. Chicago Avenue, Chicago, Ill. 60611. Article: Recording Oscilloscope Camera. Manufacturer: Nihon Kohden Kogyo Co., Ltd., Japan. Intended use of article: The article is intended to be used for studies of bioelectric potential changes from excitable tissues. Membrane potential and membrane current are recorded from nerve and muscle tissues displayed on an oscilloscope, and photographed on a film. Membrane electrical properties including ionic conductances are then measured from the recorded film.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides capabilities for continuous recording on 35 millimeter film in a lighted room. The Department of Health, Education, and Welfare (HEW) advises in its memoran-

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dum dated July 11, 1977, that the features of the article described above are pertinent to the applicant's intended purposes. HEW also advises that domestic instruments do not provide the pertinent features.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

RICHARD M. SEPPA,
Director, Special Import Programs Division.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc.77-26820 Filed 9-14-77;8:45 am]

RENSSELAER POLYTECHNIC INST.

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 77-00042. Applicant: Rensselaer Polytechnic Institute, Materials Engineering Department, Troy, New York 12181. Article: Electro Microscope, Model JEM 100S. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in research concerned with the investigation of the austenite variables of composition, defect structure, stacking fault energy, process history, and properties as coupled phenomena and the relationship of these variables to the structure, transformation kinetics, and properties of the resultant martensite. Studies will be carried out in the area of corrosion fatigue of aluminum alloys and copper alloys requiring extensive transmission electron microscopy to determine changes in deformation substructures which accompany corrosive reactions. It is also planned to study phase separation in glasses and the graphite layer structure at the surface of high performance graphite fibers. In addition, the article will be used as a teaching instrument to expose students to the fundamentals of transmission electron microscopy in the courses: Structure and Properties of Materials II, Chemical Instrumentation, Electron Bean Analysis Techniques. The article will also be used in the course Electron Microscopy of Crystalline Materials to instruct students in the use of the microscope and its accessories.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (December 17, 1974).

Reasons: The foreign article is equipped with a ±10 degree tilt stage having a guaranteed resolving power of 5 Angstroms. The most closely comparable domestic instrument available at the time the foreign article was ordered was the Model EMU-4C electron microscope manufactured by the Adam David Company. The Model EMU-4C can be equipped with a ±30 degree tilt stage but the guaranteed resolving power of this stage is 8 Angstroms. (The lower the numerical rating in terms of Angstroms units, the better the resolving power.) The National Bureau of Standards (NBS) advises in its memorandum dated July 12, 1977, that the guaranteed resolving power of the tilt stage of the foreign article is pertinent to the applicant's research studies.

We, therefore, find that the Model EMU-4C electron microscope was not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used at the time the article was ordered. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-26821 Filed 9-14-77;8:45 am]

UNIVERSITY OF SOUTHERN CALIFORNIA, ET AL.

Application for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6 (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act (15 CFR 301), prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 77-00323. Applicant: University of Southern California, University Park, Los Angeles, California 90007. Article: CO/CO_2 laser, type PL3 and components. Manufacturer: Edinburgh Instruments, United Kingdom. Intended use of article: The article is intended to be used for studies of vibrational circular dichroism in the infrared spectral region of chiral organic molecules with the aim of understanding of molecular structure. Application received by Commissioner of Customs: August 22, 1977.

Docket number: 77-00328. Applicant: National Institutes of Health, Building 36, Room 4B22, 9000 Rockville Pike, Bethesda, Maryland 20014. Article: Electron Microscope, Model EM 400 with high magnification goniometer electron microscope, single tilt holder and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of myelinated tracts or nerves obtained surgically. The main phenomena to be investigated includes the ultrastructure of myelin formation and maintenance as well as electron microscope features of experimentally altered or diseased myelin. Experiments to be conducted include the preparation of thin sections or freeze-fracture replicas of normal, experimentally altered and diseased myelin obtained surgically or by biochemical isolation techniques. Electron micrographs of these sections or replicas will be taken, processed and examined. The data obtained will be analyzed and published in research reports. Application received by Commissioner of Customs: August 9, 1977.

Docket number: 77-00329. Applicant: Stevens Institute of Technology, Castle Point Station, Hoboken, New Jersey 07030. Article: PLM-3 Platinum NMR Thermometer and Accessories. Manufacturer: Instruments for Technology, Finland. Intended use of article: The article is intended to be used for studying experimentally low temperature properties of helium-three with objective of furthering the conceptual understanding of the phenomenon of superfluidity. Application received by Commissioner of Customs: August 9, 1977.

Docket number: 77-00330. Applicant: Regents of the University of California, 405 Hilgard Avenue, Los Angeles, CA 90024. Article: Electron Microsope, Model JEM 100CX/SEG/SQH and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for investigations of crystalline and non-crystalline solids, including nickel-base alloys, titanium alloys, steels, glass-ceramics, oxides, sulphides and minerals. Experiments to be conducted involve characterization of defects in crystalline solids, determination of chemical composition of phases in minerals, glass-ceramics and alloys, and mechanisms of phase transformations in

the various materials mentioned above. In addition, the article will be used for educational purposes in the courses: Engr. 145-A. Introduction to Materials Characterization and Engr. 244. Transmission Electron Microscopy. Application received by Commissioner of Customs: August 9, 1977.

Docket number: 77-00331. Applicant: University of Utah, University of Utah Medical Center, Salt Lake City, Utah 84132. Article: Electron Microscope, Model JEM-100S with Sheet film camera. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to examine specimens of the nervous system suitably fixed, stained, embedded in plastic, thin sectioned and placed on formvar coated grids. Various fixation, embedding and staining procedures are used to reveal different structures in the nerve cells and glial cells in the intercellular matrix. The experiments are designed to reveal the cellular types and their three-dimensional architecture, including the intercellular relationships in the nervous system of fishes and frogs during development.

The article will be used by postdoctoral trainees, and will be part of their training. Application received by Commissioner of Customs: August 11, 1977.

Docket number: 77-00332. Applicant: Colorado State University, Fort Collins, CO 80523. Article: FX-100 NMR Spectrometer. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for a variety of studies of the molecular structure type, utilizing ^{13}C and ^{1}H nuclear magnetic resonance (NMR) in the fourier transform (FT) mode. Specific research will include studies of the following.

(1) Geometrical dependence of substituent effects on ^{13}C chemical shifts,
(2) ^{13}C signal intensities in hydrocarbons.
(3) The systhesis of complex organic systems,
(4) Structural charcterizations of natural products,
(5) Biosynthesis of toxic plant nitro compounds, and
(6) Polymer chemistry.

Application received by Commissioner of Customs: August 11, 1977.

Docket Number: 77-00333. Applicant: Regents of the University of California, 405 Hilgard Avenue, Los Angeles, Calif. 90024. Article: Electron Microscope, Model JEM-200 with High Resolution Universal Goniometer Double Tilting Stage, and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in the investigation of the microstructure of heavy-ion irradiated Ni-base alloys; deformation microstructure of ferrous and non-ferrous alloys and minerals such as quartz and olivine; and phase transformations in materials. Microstructural studies will be conducted in relation to mechanical and physical properties of metals, alloys, ceramics and minerals, and irradiation-induced swelling in alloys. The article will also be used for educational purposes in the courses: Engr. 145-A. Introduction to Materials Characterization, Engr. 244. Transmission Electron Microscopy, and in Individual Graduate Study courses. The objectives of these courses are to familiarize the students with the principles, operation, and applications of the techniques of TEM, SEM, STEM, and X-ray microanalysis. Application received by Commissioner of Customs: August 12, 1977.

Docket Number: 77-00334. Applicant: University of Southern California, Department of Chemistry, University Park, Los Angeles, Calif. 90007. Article: TEA CO_2 Laser, Model DD-250 and accessories. Manufacturer: Gen-Tec., Canada. Intended use of article: The article is intended to be used for the study of the interactions of molecules with intense, coherent infrared radiation. The article will also be used for the training of Chemistry post-doctorates in advanced research techniques in the courses: Chemistry 490L and Chemistry 790L. Application received by Commissioner of Customs: August 12, 1977.

Docket Number: 77-00335. Applicant: National Bureau of Standards, Route 270 and Quince Orchard Road, Gaithersburg, Md. 20760. Article: Complete gas-fired, 1-cubic meter furnace, and accessories. Manufacturer: Ove Larsen Engineering and Trading Co., Denmark. Intended use of article: The article is intended to be used to investigate the response of construction materials and assemblies when exposed to a prescribed standard temperature-time exposure simulating a fire. The properties to be measured on small scale specimens include integrity, such as the development of cracks or openings, excessive deformation, and the transmission of heat, hot gases, and smoke. Application received by Commissioner of Customs: August 12, 1977.

Docket Number: 77-00336. Applicant: Michigan State University, East Lansing, Mich. 48824. Article: Electron Microscope, Model EM 201 and Plate Camera Lot and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for instructional use by graduate students. However, research of these students as related to their M.S. or Ph. D. programs in biology, geology, metallurgy, biomedicine, etc. will be carried out. The article will be used in two courses: "Methods in Transmission Electron Microscopy" and "Special Problems in Electron Microscopy". These courses are intended to provide "hands on" experience so that future research activities can be carried out. Application received by Commissioner of Customs: August 12, 1977.

Docket Number: 77-00337. Applicant: University of California, San Francisco, 1438 Harbour Way South, Richmond, Calif. 94804. Article: Stereoscan 150 Scanning Electron Microscope and accessories. Manufacturer: Cambridge Imanco Instrument Co., United Kingdom. Intended use of article: The article is intended to be used in the investigation of surface changes in cells correlating with metabolic activity or malignancy. The experiments to be conducted will involve alteration of organs, tissue, and cells by processes which either accelerate or retard events within the cells, transforming normal cells to cancer cells, critical examination of the normal vs. diseased tissue from animals and humans. In addition, the article will be used for educational purposes in medical and pharmaceutical histology, the study of normal organs, tissues, and cells: Anatomy 102 and Anatomy 115. Specifically, the article will be used to provide by direct visualization the normal arrangement of substructure, both internally and externally, of cells and how these cells are arranged to form tissues and organs. Application received by Commissioner of Customs: August 12, 1977.

Docket Number: 77-00338. Applicant: University of California, Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: Image Converter Camera System with S-20 image tube. Manufacturer: Hadland Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used to photograph the behavior of a high velocity (up to 10^6 cm/sec) plasma stream emerging from a coaxial plasma gun. The phenomena to be studied will include the initial gas breakdown and subsequent behavior inside the gun (gun barrel phase) and the behavior of the plasma as it is injected into appropriate magnetic fields. Specific experiments to be conducted include the following:

A. Studies of the initial gas breakdown in the gun.
B. Study of the formation and subsequent behavior of the plasma stream in front of the gun nozzle.
C. The injection of this plasma into a magnetic field.
D. The measurement of the plasma properties such as axial velocity, transverse energy, temperature, impurity content, total energy.
E. Experiments to optimize gun parameters for production of thermonuclear plasmas.

Application received by Commissioner of Customs: August 12, 1977.

Docket Number: 77-00339. Applicant: HEW, PHS, Center for Disease Control, 255 East Paces Ferry Road NE., Atlanta, Ga. 30305. Article: Gammacell 220 High Dose Rate Laboratory Irradiator and Accessories. Manufacturer: Atomic Energy of Canada, Ltd., Canada. Intended use of article: The article is intended to be used to study live viruses; specifically, live hemorrhagic fever viruses will be studied in the hope that gamma irridiation will inactivate these and make useable for standard laboratory diagnostic procedures. Gamma irradiation of the viruses under study will permit transport to field operations area so that diagnosis can be done in the field. Various animal models will be given wholebody irradiation to permit studies in the immunological aspects of these hemorrhagic fever viruses. Dose response investigations will be conducted in order to determine what dosages of irradiation will inactivate the viruses. Application received by Commissioner of Customs: August 12, 1977.

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Docket Number: 77-00340. Applicant: University of California, Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: 2 (each) Image Converter Camera Systems, and Accessories. Manufacturer: Hadland Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used to photograph the motion of the high-temperature plasma column in the Scylla IV-P theta-pinch device which is part of the U.S. program to produce energy for peaceful purposes through controlled nuclear fusion. Specific experiments to be conducted include the following:

(a) Studies of the phenomena involved in the plasma heating processes (shock, heating, and adiabatic compression heating).

(b) Studies of the plasma end-loss phenomena and various methods of reducing both the particle end-loss and the heat loss by axial thermal conduction.

(c) Determination of the detailed plasma properties such as temperature, density, and confinement time.

(d) Study of the nuclear fusion reactions which occur in the hot plasma.

Application received by Commissioner of Customs: August 15, 1977.

Docket Number: 77-00341. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 85745. Article: Amplifier Module, Series 600A and Accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is an essential part of the research program in which a laser pulse amplification scheme has been developed which will make possible million-fold amplification via multiple optical passes in a single CO_2 amplifier unit. The article will be used to test these schemes for multi-pass light amplification on a reduced scale, with equipment matching as closely as possible the optical electronic and physical characteristics of the much larger amplifier systems in which these concepts will be implemented. Application received by Commissioner of Customs: August 22, 1977.

Docket Number: 77-00342. Applicant: University of Michigan, 1024 Chemistry, North University, Ann Arbor, Mich. 48109. Article: ASL A-7 fully automated AC Bridge. Manufacturer: Automated Systems Lab. Ltd., United Kingdom. Intended use of article: The article is intended to be used for the study and understanding of the energetic spectrum of matter; the chemical thermodynamic properties of matter including the entropy, enthalpy, tempered Gibbs energy function, etc.; the electronic, structural, as well as the molecular disordering and librational freedom of molecules are both immediate and indirect objectives. The materials to be studied include the following:

Actinide pnictides (e.g., $ThSb_2$), chalcogenides (e.g., UOS), halides (e.g., UCl_3).
Lanthanide trihydroxides (e.g., $Gd(OH)_3$).
Transition element pnicides (e.g., $Cu_{1.82}S$, djurleite).
Molecular crystals (e.g., paraterphenyl, thiourea, etc.).
Ionic crystals (e.g., PbF_2).
Vitreous materials (e.g., B_2O_3).

The article will also be used for educational purposes in the courses Post-doctoral Research, Doctoral Research in Chemistry, and Honors Research in Chemistry. Application received by Commissioner of Customs: August 22, 1977.

Docket Number: 77-00343. Applicant: Baylor College of Medicine, Department of Cell Biology—1200 Moursund Avenue, Houston, Tex. 77030. Article: Electron Microscope, Model JEM-100CX with side entry goniometer and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for high resolution transmission and scanning transmission electron microscopic studies of the cytoskeletal changes associated with neoplastic progression in fibroblastic tissue and mammary epithelial cells. Specifically, the article will be used in conjunction with an energy dispersive spectrophotometer to perform microanalysis of particulate material within the fibroblasts and mammary epithelial cells both in normal and pathological samples. Studies will be conducted regarding the effects of estrogen on the synthesis of plasma lipoprotein produced in the cockeral as studied in the liver. The article will also be used for the training of medical and graduate students, faculty and technical staff in electron microscopy. Application received by Commissioner of Customs: August 22, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-26823 Filed 9-14-77;8:45 am]

UNIVERSITY OF TEXAS SYSTEM CANCER CENTER

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 77-00194. Applicant: The University of Texas System Cancer Center, 6723 Bertner Avenue, Houston, Tex. 77030. Article: Impulscytophotometer, Model ICO-11. Manufacturer: Phywe Co., West Germany. Intended use of article: The article is intended to be used for high speed analysis of intracellular compounds by means of fluorescence. The material to be studied will be cultured human cells and biopsy material from patients with malignant diseases. The article will serve as a tool to assess the effect of physical and chemical agents on cell cycle progression of both cultured cells and human tumors in vivo. The objectives of such studies are to define the mechanism of action of new anti-tumor agents at the cellular level, to correlate cytokinetic with cytocidal effects, to utilize data on cell cycle progression as a potential predicator for in vivo tumor response, to develop combination chemo- and immuno-therapy protocols for patients with malignancies based on information provided in such studies.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (July 23, 1976). Reasons: The foreign article provides a flow system in which excitation is parallel to the sample flow minimizing cell geometry effects stable excitation and a band of ultraviolet wavelengths (390-400 nano meters) to allow optional choice of wavelengths excitation. The Department of Health, Education, and Welfare (HEW) advised in its memorandum dated July 11, 1977, that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended uses, and (2) it knows of no domestic instrument that provided the pertinent features at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-26822 Filed 9-14-77;8:45 am]

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 8-77]

PHILADELPHIA PORT CORP.

Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Philadelphia Port Corp., a Pennsylvania corporation, Philadelphia, Pa., requesting a grant of authority for the establishment of a foreign-trade zone in the City of Philadelphia, within the Philadelphia Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81), and the regulations of the Board (15 CFR Part 400). It was formally filed on August 26, 1977. The applicant is authorized to make this proposal under Pennsylvania State Act No. 126 (Pub. L. 291), approved June 16, 1935.

The proposal calls for the establishment of general-purpose foreign-trade zone sites at Pier 78 South, Pier 78 South-Annex Buildings 1, 2, and 3, and Pier 98 South-Annex, all located on the Delaware River waterfront within the City of Philadelphia. These sites have existing facilities not presently being used, which would be activated to serve firms requiring zone services. The facilities include a two-story pier shed, a three-story bulkhead shed, and 9,450 square feet of land space at Pier 78 South, three existing warehouse facilities totaling about 250,000 square feet at Pier 78 South-Annex, and a 23.7 acre open storage yard at Pier 98 South-Annex. The Philadelphia Port Corp. leases the sites and facilities from the City of Philadelphia for port development purposes. The Port, which will both sponsor and operate the zone sites, is coordinating the project with the area's economic development agencies. The initiation of zone services is specifically part of the City's waterfront development plan.

The application contains economic data and information concerning the need for providing zone services to various firms in the Philadelphia area. Several firms have indicated their intention to use the zone for warehousing, exhibition, manipulation, and distribution activities. Among the initial zone users are firms involved with machine tools, electronic computer equipment, camping and recreation equipment, wigs, alcoholic beverages, and scientific apparatus.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The Committee consists of:

Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, 14th and E Streets NW., Washington, D.C. 20230; John Noon, Director, Inspection and Control Division, U.S. Customs Region III, 40 S. Gay Street, Baltimore, Md. 21202; and Colonel Harry V. Dutchyhyn, District Engineer, U.S. Army Engineer District Philadelphia, U.S. Custom House, 2nd and Chestnut Street, Philadelphia, Pa. 19106.

In connection with its investigation of the proposal, the Examiners Committee will hold a public hearing on October 5, 1977, beginning at 9 a.m., in the Civil Service Conference Room, 3rd floor, Federal Building, 600 Arch Street, Philadelphia. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested persons or their representatives are invited to present their views at the hearing. Such persons should, by September 29, notify the Board's Executive Secretary, in writing at the address below, of their desire to be heard. In lieu of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the Examiners Committee, care of the Executive Secretary, at any time from the date of this notice through November 4, 1977. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Office of the Director, U.S. Department of Commerce District Office, Room 9448 Federal Building, 600 Arch Street, Philadelphia, Pa. 19106.
Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 6886-B, 14th and E Streets NW., Washington, D.C. 20230.

Dated: September 2, 1977.

JOHN J. DA PONTE, JR.,
Executive Secretary.

[FR Doc.77-26635 Filed 9-13-77;8:45 am]

National Oceanic and Atmospheric Administration

TIDAL DATUMS

Establishment of Gulf Coast Low Water Datum

AGENCY: National Oceanic and Atmospheric Administration, Commerce Department.

ACTION: Establishment of Gulf Coast Low Water Datum.

SUMMARY: In this document the National Ocean Survey, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, gives notice of the establishment of Gulf Coast Low Water Datum as Chart Datum for the Gulf Coast of the United States. This term will progressively replace the term Mean Low Water on all navigational products of the National Ocean Survey. The adoption of Gulf Coast Low Water Datum will provide one uniform low water datum name for the entire Gulf Coast and one continuous low water reference elevation based on the same tidal characteristics to eliminate vertical datum jumps and abrupt horizontal displacements of coastal boundaries.

ADDRESS: Director, National Ocean Survey, National Oceanic and Atmospheric Administration, 6001 Executive Boulevard, Rockville, Md. 20852.

FOR FURTHER INFORMATION CONTACT:

Steacy D. Hicks, Physical Oceanographer, National Ocean Survey, National Oceanic and Atmospheric Administration, 6001 Executive Boulevard, Rockville, Md. 20852. Telephone 301-443-8254.

Pursuant to the authority contained in section 883(a) of Title 33 of the United States Code, the National Ocean Survey, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, designates Gulf Coast Low Water Datum as Chart Datum for the coastal waters of the Gulf Coast of the United States. The designation will become effective sixty days after publication of this notice. Full implementation will take place over a period of approximately two years.

Gulf Coast Low Water Datum is defined as: Mean Lower Low Water when the type of tide is Mixed and Mean Low Water when the type of tide is Diurnal.

Gulf Coast Low Water Datum will be used:

(a) As the base from which depths and contours on nautical charts and bathymetric maps are referred;

(b) For determining the position of the low water line when depicted on large scale charts and maps;

(c) As the base from which tide-prediction heights are referred; and

(d) To fix those coastal boundaries that are formed by, based upon, or measured from (or points thereon) the low water line.

The demarcation between Chart Datum of the Atlantic Coast (Mean Low Water of the Semidiurnal type of tide) and Chart Datum of the Gulf Coast (Gulf Coast Low Water Datum) occurs at the boundary between the Semidiurnal tide of the Atlantic and the adjacent Mixed tide of the Gulf. The boundary from Mixed to Semidiurnal occurs where the value of the ratio of the principal Diurnal constituents of the tide of the principal Semidiurnal constituents becomes less than 0.25. The official boundary is represented by lines on the largest scale nautical charts of the National Ocean Survey extending:

(a) From the intersection of the most westerly segment of the southern border of Biscayne National Monument and the land (just south of Mangrove Point);

(b) Along the southwest segments of the southern border of the Monument to Old Rhodes Point on the southeast corner of Old Rhodes Key;

(c) Hence, from Old Rhodes Point to the northwest corner of the John Pennekamp Coral Reef State Park;

(d) Along the land of the northwestern border of the Park (with the exception of the coastal indentations of Largo Sound) to the southwest corner (just southwest of Rock Harbor); and

(e) Hence, from the southwest corner of the John Pennekamp Coral Reef State Park along its southwest border and continuing straight out to sea just south and beyond Molasses Reef.

Gulf Coast Low Water Datum extends from the demarcation outlined immediately above, around the southern extremity of Florida (including the Keys), hence along the coastal waters of the Gulf Coast to the border between the United States and Mexico.

The purpose for the adoption of Gulf Coast Low Water Datum is to provide:

(a) One uniform low water datum name for the entire Gulf Coast; and

(b) One continuous low water reference elevation based on the same tidal characteristics, in order to eliminate:

(1) Vertical datum jumps; and

(2) The resultant abrupt horizontal displacements of coastal boundaries.

This action does not eliminate the datums of Mean Low Water or Mean

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Lower Low Water along the Gulf Coast. Furthermore, it does not affect any mid or high water datums directly or by inference.

For navigational purposes, the designation of Gulf Coast Low Water Datum as Chart Datum constitutes a change in name only. Due to:

(a) Roundoff procedures in hydrographic surveying and chart compilation;

(b) Thickness of the demarcation depicting the low water line on nautical charts;

(c) Deposition and/or erosion of the bottom between surveys; and

(d) Accretion and/or erosion of the shore between surveys, there will be no change in content or accuracy of any navigational product of the National Ocean Survey. However, the term Mean Low Water will be progressively replaced by the term Gulf Coast Low Water Datum on all navigational products of the National Ocean Survey over a period of approximately two years.

In future low water surveys, significant discrepancies may be found by the surveyor in the transfer from Mean Low Water to Gulf Coast Low Water Datum when the type of tide is Mixed. It has been determined that the maximum difference will not exceed 0.6 feet vertically, with the corresponding horizontal displacement being a function of the varying shore slope. However, the vertical jumps and abrupt horizontal displacements will be eliminated in the transfer.

Private and other Federal, State, and local government agencies concerned with surveying, mapping, marine, legal, and engineering activities are encouraged to use Gulf Coast Low Water Datum as appropriate to their respective interests.

Inquiries and comments are welcome and should be sent to the address set out above.

T. P. GLEITER,
Assistant Administrator for Administration.

[FR Doc.77-26756 Filed 9-14-77;8:45 am]

COMMISSION OF FINE ARTS

MEETING

The Commission of Fine Arts will meet in open session on Tuesday, September 27, 1977, at 10:00 a.m. in the Commission offices at 708 Jackson Place NW., to discuss various projects affecting the appearance of Washington, D.C.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to: Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

This confirms notice of January 11, 1977, published at 42 FR 2337.

Dated in Washington, D.C. September 12, 1977.

CHARLES H. ATHERTON,
Secretary.

[FR Doc. 77-26868 Filed 9-14-77;8:45 am]

DEPARTMENT OF DEFENSE

Air Force Department

USAF SCIENTIFIC ADVISORY BOARD

Meeting

SEPTEMBER 9, 1977.

The USAF Scientific Advisory Board Science and Technology Advisory Group, Standing Committee on Research, Air Force Systems Command, will hold meetings on October 11, 1977, from 8:30 a.m. to 5:00 p.m. and October 12, 1977, from 7:30 a.m. to 3:00 p.m., at Air Force Armament Test Laboratory, Eglin AFB, FL, Room 204, Building 1, Andrews Hall.

The Committee will receive briefings and participate in discussions related to United States Air Force research and research needs which support weapons development for conventional warfare.

The meeting concerns matters listed in section 552(b)(5) of Title 5, United States Code and, therefore, the meeting will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-26749 Filed 9-14-77;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

SEPTEMBER 8, 1977.

The USAF Scientific Advisory Board Meeting of the ad hoc Committee on Cruise Missile Technology scheduled to be held on September 22, 1977, from 9:00 a.m. to 5:00 p.m. at Langley AFB, Va., has been changed to October 18, 1977. All other information is the same. This meeting was advertised in FR Vol. 42, No. 25119.

For further information contact the Scientific Advisory Board Secretariat at 202-697-4648.

FRANKIE S. ESTEP,
Air Force Federal Register, Liaison Officer, Directorate of Administration.

[FR Doc.77-26750 Filed 9-14-77;8:45 am]

Office of the Secretary of Defense

DEPARTMENT OF DEFENSE WAGE COMMITTEE

Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, November 1; Tuesday, November 8; Tuesday, November 15; Tuesday, November 22; and Tuesday, November 29, 1977, at 9:45 a.m. in Room 1E801, the Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 93-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by contacting the Chairman, Department of Defense Wage Committee, Room 3D281, the Pentagon, Washington, D.C.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

SEPTEMBER 12, 1977.

[FR Doc.77-26763 Filed 9-14-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

ADVISORY COMMITTEE ON GEOTHERMAL ENERGY, RESOURCE SUBCOMMITTEE

Meeting

SEPTEMBER 9, 1977.

In accordance with provisions of Pub. L. 92-463 (Federal Advisory Committee Act), the Resource Subcommittee of the Advisory Committee on Geothermal Energy will hold its second meeting Thursday and Friday, September 29-30, 1977. The meeting on Thursday will take place from 8:30 a.m. to 5 p.m., Room 1408, University Club Building, 136 East South Temple Street, Salt Lake City, Utah. On Friday, as supplement to deliberations, the Subcommittee will tour a local industrial facility. The meeting will be open to the public. The purpose of this meeting is: to review plans and activities of the Division of Geothermal Energy, U.S. Energy Research and Development Administration; in particular, to discuss and to provide advice on programs and approaches to effective government-industry cooperation with respect to geothermal resource assessment problems in the development of geothermal energy.

The tentative agenda for the meeting is as follows:

8:30 a.m., Introductory Remarks—Dr. C. William Berge, Chairman.
8:45 a.m., Progress in the Development of Hot Dry Rock—Dr. R. Brownlee, Los Alamos Scientific Laboratory.
10 a.m., Current and Future Availability of Rigs and Service Personnel—Mr. W. A. Glass.
11 a.m., Geothermal Well Logging: The Need for Equipment Development, Calibration Wells, and Interpretation Criteria Appropriate to Igneous Rocks—Mr. R. B. Hyde, Jr.
12 noon, Lunch.
1:15 p.m., Resource Assessment—Dr. J. B. Combs.
2 p.m., Review of ERDA Geothermal Resource Exploration and Assessment Program—Chairman and Members.
4 p.m., Overview of Geology of Roosevelt Cove Port, and Sulphurdale Area—Dr. Stanley Ward, University of Utah.
5 p.m., Adjourn.

Practical considerations may dictate alterations in the above agenda. This will be a working meeting and the Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements on agenda items may do so by mailing 12 copies thereof, postmarked no later than September 22, 1977, to the Director, Division of Geothermal Energy, U.S. Energy Research and Development Administration, 20 Massachusetts Avenue NW., Washington, D.C. 20545. Comment shall be directly relevant to the above agenda items. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on September 26, 1977, to the Division of Geothermal Energy, Energy Research and Development Administration, Helen Krupovich on 202-376-4904 between 8:30 a.m. and 5 p.m., E.S.T.

(c) Questions at the meeting may be propounded only by members of the Subcommittee and ERDA officials assigned to participate with the Subcommittee in its deliberations.

(d) Seating to the public will be made available on a first-come, first-served basis.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during the recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Copies of minutes will be made available for copying, following their certification by the Chairman in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue NW., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY L. PEEBLES,
Deputy Advisory Committee Management Officer.

[FR Doc.77-26751 Filed 9-14-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-42015B; FRL 791-8]

HAWAII

Extension of Contingency Approval of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136) and 40 CFR Part 171 (39 FR 36445 (October 9, 1974) and 40 FR 11698 (March 12, 1975)), the Honorable George R. Ariyoshi, Governor of the State of Hawaii, submitted a State Plan for Certification of Pesticide Applicators to the Environmental Protection Agency (EPA) contingent upon promulgation of implementing regulations. On June 9, 1976, the Regional Administrator, EPA, Region IX, approved the Plan on a contingency basis, allowing one year for promulgation of the regulations. Notice of the approval was published in the FEDERAL REGISTER on July 13, 1976 (41 FR 28841).

Subsequently, on July 8, 1977, the State of Hawaii requested an extension of the period of the contingent approval in order to allow additional time to promulgate the regulations required for full approval. The Agency finds that there is good cause for approving this request and as such has granted an extension until December 31, 1977.

Dated: September 7, 1977.

PAUL DE FALCO, JR.,
Regional Administrator, Region IX.

[FR Doc.77-26938 Filed 9-14-77;8:45 am]

[FRL 791-6]

HAZARDOUS WASTE MANAGEMENT

Public Meetings

The Environmental Protection Agency will hold three identical public meetings in October to review and discuss the provisions of Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (Pub. L. 94-580), of 1976.

Subtitle C of the Act creates a regulatory framework to control hazardous waste. Congress has found that such wastes present "special dangers to health and require(s) (sic) a greater degree of regulation than does nonhazardous solid waste" (Section 1002(b)(5)). Because of the seriousness of this solid waste management problem, Congress intended that the States develop programs to control it. In the event that States do not choose to operate this program, EPA is mandated to do so.

A series of seven guidelines and/or regulations is being developed under Subtitle C to implement the hazardous waste program. The principle subject areas are the following:

Section 3001—identification criteria for and lists of wastes which are hazardous.
Section 3002—standards applicable to generators of hazarodus waste.
Section 3003—standards applicable to transporters of hazardous waste.
Section 300—standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities.
Section 3005—regulations for issuing permits for treatment, storage, or disposal of hazardous waste.
Section 3006—guidelines to assist States in the development of State hazardous waste programs.
Section 3010—a program for notification by persons generating and/or transporting hazardous wastes, and/or owning or operating a facility for storage, treatment, and disposal of hazardous wastes.

Internal Agency working groups were constituted in February 1977 to develop these guidelines and/or regulations. The Agency has held a number of public meetings and workshops throughout the country to gain input for them. At this stage of the regulation development process, EPA would like to share the prospective outline of the draft guidelines and regulations for further public comment prior to formal proposal. Further Agency-wide deliberations will follow these meetings prior to proposal in the FEDERAL REGISTER. Therefore, the draft guidelines and regulations that will be discussed at these identical meetings, while reflecting the current Agency position, will be further analyzed by EPA based on the comments and reactions received at these meetings.

EPA Office of Solid Waste personnel will review and discuss the content of these draft guidelines and/or regulations at the three identical public meetings which will be held at the following locations:

October 11-12, 1977, Ramada Inn (Rosslyn), 1900 North Ft. Myer Dr., Arlington, Va. 22209—time: 8 a.m. (registration).
October 13-14, 1977, The Chase-Park Plaza Hotel, 212 North Kingshighway Blvd., St. Louis, Mo., 63108—time: 12 noon (registration).
October 17-18, 1977, Safari Hotel, 4611 North Scottsdale Rd., Scottsdale, Ariz. 85251—time: 12 noon (registration).

Summaries of the materials that will be reviewed at these meetings will be available after September 20, 1977, by contacting: Mrs. Geraldine Wyer, Public Participation Officer, Office of Solid Waste, WH-462, U.S. Environmental

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Protection Agency, Washington, D.C. 20460 (Phone: 202–755–9157).

Dated: September 7, 1977.

THOMAS C. JORLING,
Assistant Administrator, Water and Hazardous Materials.

[FR Doc.77-26940 Filed 9-14-77;8:45 am]

[FRL 791-5; OPP-180147]

IDAHO STATE DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Control Twospotted Spider Mite on Hop Crop

The Environmental Protection Agency (EPA) has granted a specific exemption to the Idaho State Department of Agriculture (hereafter referred to as the "Applicant") to use TEPP (tetraethyl pyrophosphate) for the control of twospotted spider mites which are threatening to destroy the commercial hop crop in Canyon County, Idaho. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St. SW., Room E–315, Washington, D.C. 20460.

According to the Applicant, the Twospotted Spider Mite (*Tetranychus urticae* Koch) has or is about to occur in hop yards in Idaho and no registered pesticide nor alternative method of control is available to suppress the mites.

Although several miticides are registered for use on hops, Idaho State University entomologists alleged that none of the registered miticides were viable options for one or more of various reasons: (1) The spider mites were resistant to the other miticides; (2) aerial applications were precluded because of ineffectiveness or labeling restrictions; and/or (3) the required pre-harvest interval excluded application at the time required. Ground pesticide applications were not feasible because of damage to hop foliage, lodged hops, and irrigation equipment. The Applicant stated that TEPP has prevented economic damage to the hop crop by this pest in previous years. The Applicant requested approval to treat the 1,500-acre commercial hop crop with two (2) pounds of actual TEPP per acre in a single aerial application to suppress populations of twospotted spider mite which are threatening this crop in Canyon County. The pesticide will be applied by State-licensed aerial applicators under the Applicant's supervision; the application will terminate no later than September 15, 1977. A three-day pre-harvest interval will be maintained.

The State of Idaho is producing 1,500 acres of the nation's early-maturing hop crop. The Applicant stated that the potential crop yield loss attributable to the mites in Idaho is valued at $700,000.

The applicant cited the following factors which contribute to a relatively low probability of exposure of man to harmful residues of TEPP from hops: (1) Raw hops are never consumed by humans and hops are kiln-dried following harvest; (2) one-fourth pound of hops is added to each thirty-one (31) gallons of beer, a 1:1,000 dilution by weight; and (3) fermentation in the brewing vats results in additional breakdown of pesticide residues. However, TEPP exhibits acute toxicity to fish and wildlife species, especially avian species. We have consulted with the Fish and Wildlife Service, U.S. Department of the Interior (USDI), and have been advised that two endangered species, the Arctic and American Peregrine Falcons, may be present in the Idaho counties where the pesticide is to be applied; however since neither species is known to frequent hop fields, no serious adverse effects on an endangered species and/or its habitat are expected to result from the use of TEPP. In order to minimize adverse effects on fish and wildlife resources we have required that liaison be established with the Idaho State Departments of Agriculture, and Fisheries and Game.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of twospotted spider mites has or is about to occur; (b) there is no pesticide presently registered and available for use to control the twospotted spider mites in Idaho; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the twospotted spider mites are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 15, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following restrictions:

(1) Aerial applications of TEPP are limited to one (1) at the rate of two (2.0) pounds of active ingredient per acre;

(2) Total acreage treated shall not exceed 1,500 acres;

(3) A maximum of 3,000 pounds of active TEPP will be applied;

(4) Treatment area is limited to Canyon County;

(5) A three-day pre-harvest interval will be observed;

(6) The Applicant is responsible for monitoring aerial applications of TEPP;

(7) Liaison shall be established with the Idaho State Departments of Agriculture, and Fisheries and Game to minimize any adverse effects on fish and wildlife resources;

(8) The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption;

(9) All applicable directions, restrictions and precautions on EPA-registered label will be observed;

(10) All precautions will be taken to avoid or minimize spray drift to nontarget areas; and

(11) Hops with residue levels not exceeding 0.1 ppm (part per million) may be offered in interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action.

Dated: September 8, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-26736 Filed 9-14-77;8:45 am]

[FRL 791-4; OPP-180149]

MINNESOTA DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Mesurol To Control Blackbirds on Wild Rice

The Environmental Protection Agency (EPA) has granted a specific exemption to the Minnesota Department of Agriculture (hereafter referred to as the "Applicant") to use Mesurol (3,5-dimethyl-4-(methylthio) phenyl methyl carbamate) to control blackbirds which are causing grain losses on commercial wild rice in thirteen counties in Minnesota. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460.

According to the Applicant, blackbirds attack cultivated wild rice paddies every year; if not controlled, blackbird damage may cause well over 50 percent of the wild rice grain to be lost prior to harvest, and as a result, economic losses of from 1.5 to 2.0 million dollars may occur. The areas to be treated cover approximately 25,000 to 30,000 acres of commercial wild rice located in the following counties: Aitkin, Beltrami, Cass, Clearwater, Crow Wing, East Polk, Hubbard, Itasca, Koochiching, Lake of the Woods, Pennington, Red Lake, and Wadena. The Applicant will apply Mesurol aerially at a dosage rate of 1.5 to 3.0 pounds active ingredient per acre. At the lower rate, two applications may be made. The 75 percent WP formulation of Mesurol will be used; a 14-day pre-harvest interval will be observed.

Mesurol is currently registered as a seed treatment on corn for repelling blackbirds. Tolerances for Mesurol have been established on cherries (25 ppm) and peaches (15 ppm), in addition to corn (0.03 ppm). EPA has determined that only trace residues (less than 0.1 ppm) will occur in the human food processed wild rice. Since neither the processed by-products (husks, debris) nor straw are used as animal feed items, there is no expectation of finite residues of Mesurol in meat, poultry, and eggs. Therefore, a 0.1 ppm residue level of this pesticide in or on processed wild rice grain will not constitute a human health hazard; in addition, wild rice constitutes a very small fraction of the human diet.

The Fish and Wildlife Service, U.S. Department of the Interior (USDI), has informed EPA that two endangered species, the Peregrine Falcon (*Falco peregrinus*) and the Wolf (*Canis lupus*), may be present in the Minnesota counties where the pesticide is to be applied; however, since neither species is known to frequent rice paddies, it is not believed that Mesurol will cause any adverse effects in this respect. Because of the large acreage involved, there is also a possibility that some mortality to non-target song-birds will occur. However, most of these birds would ingest only enough to induce the repellancy effect of this substance; this effect would discourage the birds from ingesting further amounts of treated grain which would induce death. Finally, both the USDI and EPA agree that Mesurol is acutely toxic to fish and aquatic invertebrates; accidental contamination of aquatic areas near these rice paddies will result in fish kills. Therefore, the utmost caution must be exercised by the applicators of this pesticide to avoid such contamination.

After reviewing the application and other available information, EPA has determined that (a) an emergency situation concerning blackbird damage to commercial wild rice crops has occurred; (b) there is no pesticide presently registered and available for this use to control blackbirds in Minnesota; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the blackbirds are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 15, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The Chemagro product, Mesurol 75% WP, is authorized;

2. The dosage rate shall be 1.5 to 3.0 pounds active ingredient per acre; two applications may be made at the 1.5 pound rate. Total amount applied per acre must not exceed 3.0 pounds active ingredient;

3. Up to 30,000 acres in the thirteen counties listed in this notice may be treated;

4. Only State-certified and licensed commercial applicators may apply Mesurol;

5. Aerial applications are authorized;

6. A residue level of Mesurol in or on processed wild rice grain not exceeding 0.1 ppm has been deemed adequate to protect the public health; the Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action. There will be a pre-harvest interval of 14 days;

7. Applicators must take careful measures to avoid contamination of adjacent aquatic areas or fish kills will occur;

8. The University of Minnesota should continue to monitor residue levels of Mesurol in soil and wild rice in cooperation with Chemagro. In addition, efficacy data should be collected so that a registration of this pesticide for use on wild rice may be obtained;

9. Any adverse effects of this pesticide in connection with this specific exemption must be reported to the EPA immediately. In particular, the Peregrine Falcon and the Wolf are endangered species that occur in north central Minnesota; utmost caution must be exercised to prevent contamination of areas frequented by these species. Mesurol is also toxic to bees. Drift to nontarget areas must be avoided;

10. Applications are limited to drained wild rice fields; and

11. A report summarizing the results of this program must be submitted to the EPA by the end of 1977.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) *et seq.*).)

Dated: September 8, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc 77 26735 Filed 9-14-77;8:45 am]

[FRL 791-2; OPP-180145]

MINNESOTA DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Malathion To Control Wild Rice Worm on Commercial Wild Rice Crop

The Environmental Protection Agency (EPA) has granted a specific exemption to the Minnesota Department of Agriculture (hereafter referred to as the "Applicant") to use malathion to control populations of the Wild Rice Worm (*Apamea apamiformis*) which are threatening the commercial wild rice crop in thirteen (13) counties in Minnesota. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M. St. SW., Room E–315, Washington, D.C. 20460.

According to the Applicant, approximately 30,000 acres of commercial wild rice require treatment with malathion to control damage caused by the wild rice worm. The rice crop to be treated is located in the following counties: Aitkin, Beltrami, Cass, Clearwater, Crow Wing, East Polk, Hubbard, Itasca, Koochiching, Lake of the Woods, Pennington, Red Lake, and Wadena. The wild rice worm appears to be a continuing pest of this food crop in Minnesota.

There appear to be no registered alternative pesticides nor alternative methods of control available to suppress this pest. The Applicant has previously submitted efficacy data which indicate that malathion is effective in controlling the wild rice worm. Application of malathion E.C. on grain crops, including rice, is a registered use pattern. The recommended dosage rate for control of several insects on grains is one pound of active ingredient malathion per acre, which is the application rate the Applicant will use. There will be a single aerial application, and a 10-day pre-harvest interval. Without this application, the Applicant estimated that wild rice growers could lose 50 to 75 percent of the 1977 commercial crop to wild rice worm damage; estimated value of the potential loss is $1,500,000 to $2,000,000.

EPA has determined that wild rice bearing residues not in excess of 8.0 parts per million (ppm) will not pose a hazard to human health. The Fish and Wildlife Service, U.S. Department of the Interior (USDI), has advised EPA that one endangered species, the Timber Wolf (*Canis lupus lycaon*), is found occasionally in the counties listed; in addition, two endangered migratory avian species, the Whooping Crane (*Grus americana*) and the Arctic Peregrine Falcon (*Falco peregrinus tundrius*), pass through the area. However, both species will be located north of Minnesota during the rice growing season.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of wild rice worm has occurred; (b) there is no pesticide presently registered and available for use to control the wild rice worm on the commercial wild rice crop in Minnesota; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the wild rice worm is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until August 31, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. A malathion E. C. product bearing labeling appropriate for aerial application will be used;

2. The dosage rate shall not exceed one pound of actual malathion per acre per application;

3. A single application may be made;

4. The counties to be treated are limited to the ones listed in this notice;

5. Applications of malathion are prohibited within ten days of harvest;

6. Wild rice with malathion residues not exceeding 8.0 ppm will not pose a hazard to the public health and may be offered in interstate commerce. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action;

7. All applicable directions, restrictions, and precautions on the EPA-registered label will be followed;

8. Every precaution shall be taken to avoid or minimize spray drift to non-target areas;

9. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption;

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10. EPA has been advised that one endangered species, the Timber Wolf, is found occasionally in the counties listed above; further, two endangered migratory avian species, the Whooping Crane and the Arctic Peregrine Falcon, pass through the area. Therefore, in order to prevent damage to these endangered species and their habitats, the Applicant must confer with the Endangered Species Program, Fish and Wildlife Service, USDI, prior to making applications of malathion to wild rice fields;

11. Treated water shall not be used to irrigate other crops or to water livestock;

12. Applications shall not be made to fish-bearing waters; and

13. A maximum of 30,000 pounds active malathion may be applied.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat 751; 7 U.S.C. 136(a) et seq.).)

Dated: September 8, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc 77-26732 Filed 9-14-77;8:45 am]

[FRL 790-3]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Delegation of Authority to State of Wyoming

On December 23, 1971 (36 FR 24876), and March 8, 1974 (39 FR 9808), and August 6, 1974 (39 FR 33152), and September 23, 1975 (40 FR 43850), and October 6, 1975 (40 FR 46250), and December 16, 1975 (40 FR 58416), and December 22, 1975 (40 FR 59204), and January 15, 1976 (41 FR 2232 and 2332), and January 26, 1976 (41 FR 3826), and May 4, 1976 (41 FR 18501), pursuant to section 111 of the Clean Air Act, as amended, the Administrator promulgated regulations establishing standards of performance for twenty-four (24) categories of new stationary sources (NSPS).

Section 111(c) directs the Administrator to delegate his authority to implement and enforce NSPS to any State which has submitted adequate procedures. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to the State.

On February 23, 1977, the Governor of the State of Wyoming submitted to the EPA Regional Office a request for delegation of authority. Included in that request were procedures for NSPS and information on available resources to implement such review. Included in that request were copies of the State of Wyoming regulations which incorporate the federal emission standards and testing procedures set forth in 40 CFR Part 60, with certain exceptions. After a thorough review of that request and applicable State statutes, the Regional Administrator has determined that for the source categories set forth in paragraph A of the following official letter to the Governor of the State of Wyoming, delegation is appropriate subject to the conditions set forth in paragraphs 1 through 14 of that letter:

HON. ED HERSCHLER,
Governor of Wyoming,
Wyoming Executive Department,
Cheyenne, Wyo. 82001

DEAR GOVERNOR HERSCHLER: This is in response to your letter of February 23, 1977, requesting delegation of authority for implementation and enforcement of New Source Performance Standards (NSPS) to the Air Quality Division of the Wyoming Department of Environmental Quality.

We have reviewed the pertinent laws of the State of Wyoming and the Air Quality Standards and Regulations of the Wyoming Department of Environmental Quality and have determined that they provide an adequate and effective procedure for implementation and enforcement of the NSPS by the State of Wyoming. We have reviewed the resources and capabilities of the State of Wyoming. Therefore, we hereby grant delegation of NSPS to the State as follows:

A. Authority for all sources located in the State of Wyoming subject to the request for delegation contained in your letter of February 23, 1977. The categories of new sources covered by the delegation are fossil fuel-fired steam generators; incinerators; portland cement plants; nitric acid plants; sulfuric acid plants; asphalt concrete plants; petroleum refineries; storage vessels for petroleum liquids; secondary lead smelters; secondary brass and bronze ingot production plants; iron and steel plants; sewage treatment plants; primary copper smelters; primary zinc smelters; primary lead smelters; primary aluminum reduction plants; coal preparation plants; ferroalloy production; steel plants with electric arc furnaces; and in the phosphate fertilizer industry—wet process phosphoric acid plants, superphosphoric acid plants, diammonium phosphate plants, triple superphosphate plants, and granular triple superphosphate storage facilities.

This delegation is subject to the following conditions:

1. Semiannual reports, which include information for sources which receive approval to construct or begin operations, will be submitted to the Environmental Protection Agency (EPA) by the Air Quality Division of the Department of Environmental Quality.

2. The Air Quality Division of the Department of Environmental Quality and EPA will develop a system of communication sufficient to guarantee that each office is always fully informed and current regarding compliance status of the subject sources and interpretation of the regulations.

3. Enforcement of the NSPS in the State of Wyoming will be the primary responsibility of the Air Quality Division of the Department of Environmental Quality. If the Air Quality Division determines that such enforcement is not feasible and so notifies EPA, or if the Air Quality Division acts in a manner inconsistent with the terms of this delegation, EPA may exercise its concurrent enforcement authority pursuant to section 113 of the Clean Air Act, as amended, with respect to sources within the State of Wyoming subject to the NSPS.

4. Acceptance of this delegation of presently promulgated NSPS does not commit the State of Wyoming to accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the State's Request of February 23, 1977.

5. Upon approval of the Regional Administrator of Region VIII, the Director of the Air Quality Division of the Department of Environmental Quality may subdelegate his authority to implement and enforce the NSPS to local air pollution control authorities in the State when such authorities have demonstrated that they have equivalent or more stringent programs in force.

6. The delegation to the State of Wyoming does not include the authority to implement and enforce NSPS for sources owned or operated by the United States which are located in the State. This condition in no way relieves any Federal facility from meeting the requirements of 40 CFR Part 60 or any State or local regulation.

7. The State of Wyoming will at no time grant a variance or waiver from compliance with NSPS regulations. Should the Air Quality Division of the Department of Environmental Quality grant such a variance or waiver, EPA wil consider the source receiving such relief to be in violation of the applicable federal regulation and may initiate enforcement action against the source pursuant to section 113 of the Clean Air Act. The granting of such relief by the Air Quality Division shall also constitute grounds for revocation of delegation by EPA. Except it is understood that Wyoming may, under State law, grant a variance from compliance with the applicable opacity standard. The granting of such a variance must comply with provisions 40 CFR 60.11(e)(1)-(4).

8. Actions in process at the time of delegation of authority shall be processed through to completion by the Regional Office. Subsequent enforcement requirements shall be performed by the delegatee.

9. If at any time there is a conflict between a State regulation and a Federal regulation (40 CFR Part 60), the Federal regulation must be applied if it is more stringent than that of the State. If the State does not have the authority to enforce the more stringent Federal regulation, this portion of the delegation may be revoked.

10. The Air Quality Division of the Department of Environmental Quality will utilize the methods specified in 40 CFR Part 60 in performing source tests pursuant to the regulations.

11. If the Regional Administrator determines that a State procedure for enforcing or implementing the NSPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Air Quality Division of the Department of Environmental Quality.

12. In implementing and enforcing the NSPS, the Air Quality Division of the Department of Environmental Quality will require quarterly reports under section 22(g)(3) to include the information specified in 40 CFR 60.7(c) (3) and (4).

13. Determinations of applicability such as those specified in 40 CFR 60.5 and 60.6 shall be consistent with those which already have been made by the EPA.

14. Waivers of performance and emission tests and the basis therefore shall be included in the semi-annual post delegation reports to EPA.

It is understood that although the Wyoming NSPS regulations do not contain provisions that are equivalent to 40 CFR 60.5 and 60.6, section 21 permit procedures allow owners and operators to obtain this information.

A Notice announcing this delegation will be published in the FEDERAL REGISTER in the near future. The Notice will state, among other things, that, effective immediately, all reports required pursuant to the Federal NSPS by sources located in the State of Wyoming should be submitted to the Air Quality Division of the Department of Environmental Quality Office, Hathaway Building, Cheyenne, Wyoming 82002. Any such reports which have been or may be received by EPA, Region VIII, will be promptly transmitted to the Air Quality Division.

Since this delegation is effective upon the date of this letter, there is no requirement that the State notify EPA of its acceptance. Unless EPA receives from the State written notice of objections within ten (10) days of the date of receipt of this letter, the State will be deemed to have accepted all of the terms of the delegation.

Best personal regards.

Sincerely yours,

JOHN A. GREEN,
Regional Administrator.

cc: RANDOLPH WOOD, *Administrator, Air Quality Division,*
Department of Environmental Quality,
Hathaway Building,
Cheyenne, Wyo. 82002.

Therefore, pursuant to the authority delegated to him by the Administrator, the Regional Administrator notified the Governor of the State of Wyoming on August 2, 1977, that authority to implement and enforce New Source Performance Standards (NSPS) was delegated to the State of Wyoming.

Copies of the request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region VIII Office, 1860 Lincoln Street, Denver, Col. 80295.

Effective immediately, all reports required pursuant to the delegated New Source Performance Standards (NSPS) should not be submitted to the EPA Region VIII Office but instead should be submitted to the State Agency at the following address: Air Quality Division of the Department of Environmental Quality, Hathaway Building, Cheyenne, Wyo. 82002.

Applications for new source review in process at the time of this delegation shall be processed through to completion by the EPA Region VIII Office.

This Notice is issued under the authority of section 111 of the Clean Air Act, as amended. 42 U.S.C. 1857, 1857c-5. 6, 7 and g.

Date: August 25, 1977.

JOHN A. GREEN,
Regional Administrator.

[FR Doc.77-26906 Filed 9-14-77;8:45 am]

[FRL 791-1; OPP-180142]

UNITED STATES ARMY

Issuance of a Specific Exemption To Use Paranitrophenol To Control Fungi Which Deteriorate Leather

The Environmental Protection Agency (EPA) has granted a specific exemption to the U.S. Army (hereafter referred to as the "Applicant") to use paranitrophenol (PNP) to treat approximately twenty different types of leather military articles in order to prevent the rapid deterioration of these articles by fungi under high humidity conditions. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, the Army has been treating various leather military articles, of which the most important were boots and shoes, for thirty years. However, this particular use of PNP—treating leather during manufacture for the end use protection of the product against fungal decay—has never been registered. The Applicant has formally applied for registration of PNP for the exclusive purpose of treating military leather articles; however, a registration for this purpose will probably not be issued in time for the current year contracts now up for bids. The Applicant was confronted with the problem of not having a registered product for use on leather and having a tight deadline for new contracts.

Without an efficient fungicide, the cost of replacing shoes would increase from 2.4 million dollars to 4.8 million dollars because of fungal decay, the Applicant estimated. In addition to replacement costs, the issuance of new shoes to recruits which amounts to 1.1 million dollars per month would also be delayed. Further delays in issuing contracts would thus progressively result in unsatisfied demands at the rate of 3.5 million dollars per month. This could result in the Applicant's inability to store sufficient stock to serve as protection against a national emergency (mobilization, etc.).

The Applicant will use paranitrophenol (PNP) at a dosage rate of 0.18 to 0.7 percent based on the dry weight of the leather. PNP will be applied during the tanning and/or fat liquoring of the leather or other operations of the tanners in preparing finished leather. PNP will be applied by personnel of the tanning company awarded a contract by the Applicant. The duration of application of PNP is not to exceed one year; either a formal registration of PNP for military use or an acceptable alternative registered fungicide is to be obtained.

At least thirteen genera of fungi are known to cause leather deterioration; damage from these fungi occurs not only in humid tropical regions but also in temperate or cold regions where the humidity is in excess of 65 percent. It is known that during the Korean War, leather shoes not treated with PNP lasted only 10 days in the field. While there are registered fungicide products for treating the surfaces of finished leather for mold/mildew prevention, the Applicant has stated that these products are not practical under field use. There appears to be no registered fungicide that (1) is applied during the manufacturing process, and (2) has a claim for preventing mold/mildew of the finished product. Many fungicides are applied to leather during the tanning process, but the intent is to protect the leather during this process and not for end use.

Paranitrophenol has been used by the Applicant for over thirty years. During this period, wear tests as well as skin patch tests were conducted on personnel and no adverse effects have so far been reported other than some irritation when treated leather was applied directly to the skin. There appear to be no significant health hazards associated with the use of PNP for this purpose. However, there is a potential human health hazard associated with mold/mildew on leather. One of the fungal genera, *Aspergillus*, is also capable of causing Aspergillosis, which is a disease of the lungs in humans.

After reviewing the application and other available information EPA has determined that (a) an emergency situation has occurred; (b) there is no pesticide presently registered and available for use to control these fungi during manufacture for end use protection; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic or potential health problems may result if the fungi are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until June 16, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Paranitrophenol (PNP) may be used at a dosage rate of from 0.18 to 0.7 percent active ingredient PNP based on the dry weight of the leather;

2. In addition to boots and shoes, the following leather items may be treated with PNP: Footwear counters, money bags, pocket ammunition magazines, policeman's club carriers, side arm shoulder straps, police security belts, handcuff cases, first aid dressing cases, flagstaff, slings, cartridge belt holders, parachute cases, suitcases, and dispatch cases. Any article intended for prolonged direct skin contact must not be treated with PNP;

3. The personnel of various leather manufacturers are authorized to apply PNP provided they are awarded contracts by the Applicant to provide the same with military leather articles;

4. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption;

5. The Applicant must either submit or initiate subacute and long term toxicity tests as well as teratology tests on PNP; and

6. This specific exemption will terminate either when the use of PNP becomes registered for use by the military or when a suitable alternative registered pesticide becomes available. In any event, this exemption will expire on June 16, 1978.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: September 8, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-26733 Filed 9-14-77;8:45 am]

V 42 179 SEP 15 77 UMI

[FRL 791-3; OPP 180144]

VIRGINIA DEPARTMENT OF AGRICULTURE AND COMMERCE

Issuance of a Specific Exemption To Use Botran 75W To Control Sclerotinia Blight of Peanuts

The Environmental Protection Agency (EPA) has granted a specific exemption to the Virginia Department of Agriculture and Commerce (hereafter referred to as the "Applicant") to use no more than 4 to 5 pounds of Botran 75W per acre for two treatments for the control of *Sclerotinia* Blight on peanuts in Virginia. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, the *Sclerotinia* Blight which is caused by the plant pathogen *Sclerontinia sclerotiorum* (syn. *S. minor*) is a relatively new disease on peanuts in the United States, being first reported in 1971.

S. sclerotiorum invades the tap root, lateral branches, and pegs at the soil line and eventually causes rotting of the peanut pods. Losses in yield in excess of 50 percent have been reported in North Carolina and Virginia due to this pathogen, the Applicant stated. In Virginia, the Applicant stated that nine (9) major peanut-growing counties located in the southeastern part of the State are likely to be subject to infection by this pest. The total acreage in these counties is 104,000; however, only 50 percent (52,000) of this acreage has been designated for treatment.

Several fungicides have been tested and shown to be effective for the control of *Sclerotinia* Blight on peanuts. Pentachloronitrobenzene (PCNB) when used at maximal label rates did control *S. sclerotiorum* in some instances, but not in others. Multiple applications of Benomyl also provided adequate control. Neither of these fungicides are registered although PCNB has a registration for peanut pod rot complex. For the control of this pest, Botran 75W was chosen by the Applicant because it was considered to be most efficacious for control of *S. sclerotiorum*. In addition, Botran 75W is registered for the control of *Sclerotinia* on several vegetable crops (beans, celery, cucumbers, lettuce, and onions).

The Applicant will use Botran 75W (EPA Reg. No. 1023-36), containing the active ingredient 2,6-dichloro-4-nitroaniline, at a dosage rate of 2 to 2.5 pounds of product per acre.

Two applications will me made at 10-14 day intervals. Total amount of Botran 75W will not exceed 4 to 5 pounds of product per acre. Applications of Botran will be made by peanut growers. A total of 52,000 acres in the following counties will be treated: Brunswick, Dinwiddie, Greenville, Isle of Wight, Prince George, Southampton, Suffolk City, Surry, and Sussex. The diagnosis of this plant pathogen must be made before Botran 75W is applied. The Virginia Cooperative Extension Service recommends the following procedure in the application of Botran 75W. The product should be applied in 25-50 gallons of water over the row using a flat type spray nozzle (floodjet-nozzle or equivalent) that produces large droplets rather than a mist and with a pressure high enough to drive the chemical to the soil surface. Thorough coverage of the peanut plant and soil is essential. Copies of this procedure will be furnished to dealers marketing Botran.

In 1976, the total gross farm income from peanuts in the counties listed was $65,026,000; the estimated income loss due to yield losses because of *S. sclerotiorum* was approximately 5 percent or $3,250,000, according to the Applicant. Similar or higher losses are expected to occur this year if this pathogen is not controlled.

This use of Botran 75W will not pose a threat to the public health, since the residue expected to occur on peanut meat and hulls (less than 0.1 part per million (ppm)) is insignificant. It is recommended that treated peanut vines or hay should not be used as livestock feed items.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of *Sclerotinia* Blight has or is about to occur in Virginia; (b) there is no pesticide presently registered and available for use to control this pest in Virginia; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 30, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Two applications of Botran 75W (EPA Reg. No. 1023-36) at a dosage rate of 2 to 2.5 pounds of product/acre made at 10-14 day intervals are authorized. The total amount of Botran 75W must not exceed 4 to 5 pounds of product (3-3.75 pounds active ingredient) per acre for the two treatments;

2. A total of 52,000 acres of peanuts in the counties previously listed may be treated;

3. Applications may be made by peanut growers;

4. The use of Botran 75W in conjunction with this specific exemption is authorized only when personnel of the Virginia Cooperative Extension Service determine the presence of *Sclerotinia* Blight in a given growing field;

5. The Virginia Cooperative Extension Service recommendations concerning application methods and equipment must be made available to growers;

6. A residue level of 2,6-dichloro-4-nitroaniline in or on peanut meat and hulls not exceeding 0.1 ppm has been deemed adequate to protect the public health. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare, has been advised of this action;

7. All label precautions must be followed; and

8. The EPA shall be immediately informed of any adverse effects as a result of the use of Botran 75W in conjunction with this exemption.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: September 8, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-26734 Filed 9-14-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. I-388]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

SEPTEMBER 12, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's rules, regulations and its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION.

VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

CORRECTIONS

442-DSE-P/L-77 Matrix Enterprises, Inc., Sugarlimb, Tenn. Coordinates should have been: Lat. 35°46'18" N., Long. 84°18'41" W.

586-DSE-P/L-77 West Texas Microwave Co., Midland, Tex. Coordinates should have been: Lat. 31°43'44" N., Long. 102°04'55" W.

631-DSE-MP-77 Southland Satellite Services, Inc., Merritt Island, Fla. The correct file number should have been: 631-DSE-P/L-77.

646-DSE-P-77 Memphis Community Television Foundation, Memphis, Tenn. The correct antenna size should have been: 10 meter antenna.

VA 654-DSE-P-77 Blue Ridge ETV Association, Roanoke, Va. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 37°14'54" N., Long. 79°58'36" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10-meter antenna.

IL 656-DSE-P-77 The Board of Trustees of the University of Illinois, Urbana, Ill. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 40°06'53" N., Long. 88°13'24" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10-meter antenna.

WI 656-DSE-P/L-77 WTMJ, Inc., d.b.a. Telitron Cable TV, Wausau, Wis. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 44°58'26" N., Long. 89°32'38" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5-meter antenna.

MO 626-DSE-ML-77 International Telemeter Corp. and Columbia Cablevision, d.b.a. Atco Missouri Earth Station, a joint enterprise, Columbia, Mo. Modification of license to permit the reception of signals of the Christian Broadcasting Network.

[FR Doc.77-26898 Filed 9-14-77;8:45 am]

[FCC 77-617; Docket No. 20981]

IMPACT OF CUSTOMER PROVISION OF TERMINAL EQUIPMENT ON JURISDICTIONAL SEPARATIONS

Second Supplemental Notice

Adopted: September 8, 1977.
Released: September 9, 1977.

1. Presently before the Commission for consideration are: (a) The nomination submitted by the National Association of Regulatory Utility Commissioners (NARUC) of a State Commission member for appointment to this Joint Board; (b) the appointment of a member of this Commission to the Joint Board; and (c) the request to schedule the second formal meeting of the Joint Board.

2. Pursuant to section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 410(c), NARUC has nominated Alexander Kalinski, New Hampshire Public Utilities Commission to fill the vacancy created by resignation of Peter A. Bradford from the Maine Public Utilities Commission. We hereby accept this very competent State Commissioner as a member of the Joint Board. Commissioner Joseph R. Fogarty of this Commission will join the Joint Board to replace Benjamin L. Hooks who has resigned from this Commisssion.[1]

3. Accordingly, *It is ordered*, That Alexander Kalinski and Joseph D. Fogarty are appointed to the Federal State Joint Board established in Docket No. 20981.

4. *It is further ordered*, That the second meeting of such Board shall be held on September 22, 1977, at 1:30 p.m. in the offices of this Commission at 1919 M Street NW., in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-26918 Filed 9-14-77;8:45 am]

[1] Commissioner Margita E. White is designated as an alternate to this Joint Board.

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of August 19 Through August 26, 1977

Notice is hereby given that during the week of August 19 through August 26, 1977, the appeals and applications for exception or other relief listed in the Appendix to this notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

ERIC J. FYGI,
Acting General Counsel.

SEPTEMBER 8, 1977.

[1] APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of Aug. 19 through Aug. 26, 1977*

Date	Name and location of applicant	Case No.	Type of submission
Aug. 19, 1977	First Chemical Corp., Washington, D.C. (If granted: First Chemical Corp. would receive a stay of the provisions under 10 CFR 211.10(g)(6)(ii).)	FES-0099	Request for Stay.
Do	Rayburn Garage, Columbia, Miss. (If granted: The Rayburn Garage would be supplied motor gasoline by C. C. Sullivan, a Chevron distributor, rather than its base period supplier, the Morris Oil Co.)	FEE-1653	Exception to change suppliers.
Aug. 22, 1977	Arkansas Louisiana Gas Co., Shreveport, La. (If granted: Arkansas Louisiana Gas Co. would receive an extension of the exception relief granted in the FEA's Feb. 18, 1977 decision and order and would be permitted to increase its prices to reflect nonproduct cost increases in excess of $.005 per gallon incurred in the production of natural gas liquid products at its Bistineau and Waskom plants.)	FXE-1733 FXE-1731	Extension of the relief granted in *Arkansas Louisiana Gas Co.*, Case Nos. FEE-3557 and FEE-3560 (decided Feb. 18, 1977) (unreported decision).
Do	Atlantic Richfield Co., Dallas, Tex. (If granted: Atlantic Richfield Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $.005 per gallon incurred in the production of natural gas liquid products at its Camargo, Crittendon, Grand Chenier, Indian Basin, and Refugio plants.)	FEE-4701— FEE-4705	Price exception (sec. 212.165).
Do	Atlantic Richfield Co., Dallas, Tex. (If granted: Atlantic Richfield Co. would receive an extension of the exception relief granted in the FEA's June 17, 1977, Mar. 31, 1977 and Feb. 22, 1977 decisions and orders and would be permitted to increase its prices to reflect nonproduct cost increases in excess of $.005 per gallon incurred in the production of natural gas liquid products at its Bayou Sale, Covington, Crane, Dayton, Drumright, Eldorado, Longview, Midland, North Dowden, Nueces River, Price, Seminole, Spivey, Stevens Caldon, and Swanson River plants.)	FXE-4686— FXE-4700	Extension of the relief granted in *Atlantic Richfield Co.*, Case No. FEE-4282 (decided June 17, 1977) (unreported decision). *Atlantic Richfield Co.*, Case Nos. FXE-3747 and FXE-3755 (decided Mar. 31, 1977) (unreported decision). *Atlantic Richfield Co.*, Case No. FEE-3599 (decided Feb. 22, 1977) (unreported decision).
Aug. 22, 1977	Champlin Petroleum Co., Fort Worth, Tex. (If granted: Champlin Petroleum Company would receive an extension of the relief granted in the FEA's March 21, 1977 decision and order and would be permitted to increase its prices to reflect nonproduct cost increases in excess of $.005 per gallon incurred in the production of natural gas liquid products at its Witcher plant.)	FXE-4664	Extension of the relief granted in *Champlin Petroleum Co.*, Case No. FXE - 3704 (decided March 21, 1977) (unreported decision).
Do	Cheyenne Airways, Inc., Cheyenne, Wyo. (If granted: Cheyenne Airways, Inc. would be classified as a fixed base operator and would be entitled to certain nonproduct cost increases.)	FEE-4657	Price exception (sec. 212.93).
Do	Crystal Oil Co., Washington, D.C. (If granted: The order issued by the office of regulatory programs on June 17, 1977 would be rescinded and Crystal Oil Co. would not be required to include the crude oil runs to stills at the Adobe Refinery in its calculations for the entitlements program.)	FEA-1438	Appeal of the order issued by Office of Regulatory Programs on June 17, 1977.
Do	Funding Systems Corp., Funding Systems Refining Corp., and Funding Systems Leasing Corp., Washington, D.C. (If granted; The Order issued by the Office of Regulatory Programs on June 17, 1977 would be rescinded and Funding Systems Corp., Funding Systems Refining Corp., and Funding Systems, Leasing Corp. would be classified as "refiners" as defined in 10 CFR 211.62 and would be permitted to include the crude oil runs to stills at the Adobe Refinery in its calculations for the entitlements program.	FEA-1439	Do.
Do	Charles E. Gould, Wichita, Kans. (If granted; Mr. Gould would receive a temporary stay of a remedial order issued by FEA Region VII on Aug. 8, 1977, pending a determination on his applications for stay and appeal.	FRT-0049	Temporary Stay of FEA Region VII's Remedial Order.
Do	Charles E. Gould, Wichita, Kans. (If granted; The remedial order issued by FEA Region VII on Aug. 8, 1977 would be rescinded and Mr. Gould would not be required to refund the overcharges made in sales of crude oil produced from the Lowe Jones property located in Lyon County, Kans.	FRA-1437 FRS-1437	Appeal of the remedial order issued by FEA Region VII on Aug. 8, 1977. Stay Request.

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APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of Aug. 19 through Aug. 26, 1977*—Continued

Date	Name and location of applicant	Case No.	Type of submission
Do	William Joseph Kott, Newport Beach, Calif. (If granted: The 2-fund line of credit established between Mr. William Kott and Lunday Oil Co. during the base period would be reinstated.)	FSG-0051	Petition for special redress.
Do	Lyon County Cooperative Oil Co., St. Paul, Minn. (If granted: Lyon County Cooperative Oil Co. would receive a stay of a remedial order issued to the firm by FEA Region V on July 25, 1977 pending a determination of its appeal.)	FRS-1126	Stay of the remedial order issued by FEA Region V on July 25, 1977.
Do	McAlester Fuel Co., Magnolia, Ark. (If granted, McAlester Fuel Co. would be permitted to sell the crude oil produced from the New Mexico Federal "A" Lease in Lea County, N. Mex.) at prices in excess of the lower tier ceiling price.)	FEE-1655	Price exception (sec. 212.73).
Do	M. J. Mitchell, Dalla., Tex. (If granted: M. J. Mitchell would receive an extension of the relief granted in the Feb. 25, 1977 decision and order and would be permitted to sell the crude oil produced from the Pickard Ranch Minnelusa Sand Unit in Campbell County, Wyo.) at upper tier ceiling prices.)	FXE 1656	Extension of the relief granted in *M. J. Mitchell*, 5 FEA par. 84,078 (Feb. 25, 1977).
Do	Mobil Oil Corp., New York, N.Y. (If granted: Mobil Oil Corp. would receive an extension of the relief granted in the FEA's Apr. 1, 1977 and Mar. 4, 1977 decisions and orders and would be permitted to increase its prices to reflect nonpublic cost increases in excess of $.005 per gallon incurred in the production of natural gas liquid products at its Burnell-North Pettus, Chriswood, Deerkamm, Dollarhide, Electra, Hickok, Kermit, Kettleman North Dome, Sneers, Pegasus, Phillips Bradley, Rio Bravo, Shelem Abelkein, Slaughter, and West Seminole plants.)	FXE 1713 - FXE 1727	Extension of the relief granted in *Mobil Oil Corp.*, Case No. FEE-2971 (decided Mar. 4, 1977) (unreported decision), *Mobil Oil Corp.*, Case Nos. FXE 3680 and FXE 3698 (decided Apr. 11, 1977) (unreported decision).
Do	Shell Oil Co., Houston, Tex. (If granted: Shell Oil Co. would be permitted to increase it prices to reflect nonproduct cost increases in excess of $.005 per gallon incurred in the production of natural gas liquid products at its Exville, Facing, Iowa Tet and Lafayette plants.)	FEE 1682 - FEE 1685.	Price exception (sec. 212.-165).
Do	Shell Oil Co., Houston, Tex. (If enacted: Shell Oil Co. would receive an extension of the relief granted in the FEA's June 17, 1977 and May 31, 1977 and Mar. 11, 1977 decisions and orders and would be permitted to increase its prices to reflect nonproduct cost increases in excess of $.005 per gallon incurred in the production of natural gas liquid products at its Bayou Gotila, Black Bayou, Bryans Mills, Carmaco, Chalkley, KNDU Lirette, Mermentau, O Keene, Prentice, Red Fish Bay, Seiling, Tallulah, TXI AVN, Weeks Island, and West Seminole plant.)	FXE 1665 - FXE 1681.	Extension of the relief granted in *Shell Oil Co.*, Case No. FEE-1228 (decided June 17, 1977) (unreported decision), *Shell Oil Co.*, Case Nos. FEE-3801, FEE-3807 through FEE-3810 (decided Mar. 11, 1977) (unreported decision), *Shell Oil Co.*, Case Nos. FXE 3780 through FXE-3809 (decided Mar. 21, 1977) (unreported decisions.
Do	Standard Oil Co. of Indiana, Chicago, Ill. (If granted Standard Oil Co. of Indiana would receive an extension of the relief granted in the FEA's Mar. 4, 1977 and Mar. 31, 1977 decisions and orders and would be permitted to increase its prices to reflect nonproduct cost increases in excess of $.005 per gallon incurred in the production of natural gas liquid products at its Beaver Creek, Kinsler, Mallard Farms, Peoria, and South Fullerton plants.)	FXE 1679— FXE 1693	Extension of the relief granted in *Standard Oil Co. (Indiana)*, case Nos. FXE-3659 (decided Mar. 4, 1977) (unreported decision) *Standard Oil Co. (Indiana)*, case Nos. FXE-3811 through FXE-3821 through FXE-3823 (decided Mar. 31, 1977) (unreported decision).
Do	John W. Yerby, El Paso, Tex. (If granted: The service station recently leased by Mr. Yerby would be supplied motor gasoline by Chevron Oil rather than through the previous lessee, Piggy Bank Stations, Inc.)	FEE 1651	Exception to change suppliers.
Aug. 23, 1977	Coastal States Gas Corp., Houston, Tex. (If granted, Coastal States Gas Corp. would receive an extension of the exception relief granted in the FEA's May 13, 1977 decision and order and would be permitted to increase its prices to reflect nonproduct cost increases in excess of $.005 per gallon incurred in the production of natural gas liquid products at its Hidalgo plant.)	FXE 1725	Extension of the relief granted in *Coastal States Gas Corp.*, Case No. FEE-3982 (decided May 13, 1977) (unreported decision).
Do	Robert E. Davis, Great Bend, Kans. (If granted: The remedial order issued by FEA Region VII on July 11, 1977 would be rescinded and Mr. Davis would not be required to refund overcharges made in sales of crude oil produced from the Garting lease located in Stafford County, Kans.)	FRA-1410 FRS-1410	Appeal of the remedial order issued by FEA Region VII on July 11, 1977. Stay request.
Do	Exxon International Co., New York, N.Y. (If granted: The FEA's information request denial issued on July 27, 1977 would be rescinded and Exxon International Co. would receive access to information on the purchase of commercial turbo fuel in 1976 by a number of air carriers.)	FFA 1411	Appeal of FEA's July 27, 1977 information request denial.
Do	Hank Martell Oil Co., Hamilton, Kans. (If granted; The Hank Martell Oil Co's Bennett Lease, located in Jackson County, Kans., would be classified as a stripper well property.)	FEE-4729	Price exception (sec. 212.73)
Do	Mountain West Aviation, Aspen, Colo. (If granted: Mountain West Aviation would be permitted to increase its prices for aviation gasoline and fuel above the maximum levels allowed the firm under the FEA Mandatory Petroleum Price Regulations.)	FEE-4728	Price exception (sec. 212.93).
Do	"STIX" Gas Co., Inc., Sinton, Tex. (If granted; "STIX" Gas Co., Inc. would be permitted to retroactively increase its prices for diesel fuel above the maximum levels allowed the firm under the FEA Mandatory Petroleum Price Regulations.)	FEE-4658	Do.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of Aug. 19 through Aug. 26, 1977*—Continued

Date	Name and location of applicant	Case No.	Type of submission
Do	Wel-Gas, Inc. of Texas, Dallas, Tex. (If granted: Wel-Gas, Inc. of Texas would receive an extension of the exception relief granted in the FEA's July 25, 1977 decision and order and would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon incurred in the production of natural gas liquid products at its Possum Kingdom Plant.)	FXE-1736	Extension of the relief granted in *Wel-Gas, Inc.*, Case No. FEE-4322 (decided July 25, 1977) (unreported decision).
Do	Wilson Oil Co., Wahasha, Minn. (If granted: The remedial order issued by FEA Region V on Aug. 10, 1977 would be rescinded and Wilson Oil Co would not be required to refund any overcharges made in its sales of motor gasoline and fuel oil.)	FRA-1442	Appeal of the remedial order issued by FEA Region V on Aug. 10, 1977.
Aug. 24, 1977	Champlin Petroleum Co., Fort Worth, Tex. (If granted: Champlin Petroleum Co would receive an exception from the provisions of 10 CFR 211 67 to permit the firm to receive on a one-time basis additional entitlements sufficient to offset the additional cost incurred by the firm as it increases its crude oil inventory as required by Champlin's expanded refinery facilities.)	FEE-1730	Exception to the entitlements program (sec. 211.67).
Do	Cities Service Oil Co., Boston, Mass. (If granted; The remedial order issued by FEA Region I on Aug. 5, 1977 would be rescinded and Cities Service Oil co. would not be required to maintain its supplier/wholesale purchaser relationship with Charles G. Marsland d.b.a. Muggsy and Chuck's Citgo.)	FRA-1443	Appeal of the remedial order issued by FEA Region I on Aug. 5, 1977.
Do	Leonard E. Belcher, Inc., Springfield, Mass. (If granted; The remedial order issued by FEA Region I on July 18, 1977 would be rescinded and Leonrd E. Belcher, Inc. would not be required to refund overcharges made in sales of No. 2 fuel oil.)	FRA-1414	Appeal of the remedial order issued by FEA Region I on July 18, 1977.
Do	Mobil Oil Corp., New York, N.Y. (If granted; Mobil Oil Corp. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $.005 per gallon for natural gas liquid products produced at its Cameron, Dewey County, Indian Basin, Shell-Selling, South Sarepta, Spivey, and Tenneco-Ames plants.)	FEE-4706— FEE-4712	Price exception (sec. 212.-165).
Do	Rancho Refining Co. of Texas, Houston, Tex. (If granted: Rancho Refining Co. would receive a stay of the firm's entitlements purchase obligations specified in the FEA Entitlements Notice published Aug. 24, 1977, pending corrective adjustments to be made by the Office of Regulatory Programs.)	FES-0104	Stay of the June entitlements notice published Aug. 24, 1977.
Do	Tenneco Oil Co., Houston, Tex. (If granted: Tenneco Oil Co. would receive an extension of the exception relief granted in the FEA's Feb. 25, 1977 decision and order and would be permitted to increase its prices to reflect nonproduct cost increases in excess of $.005 per gallon incurred in the production of natural gas liquid products at its Chesterville, Dover Hennessey, La Porte, Lake Boinf, Leake, Mayfield, Mermentau, Normanna, Nueces River, Sea Robin, South Fullerton, Stephens, and Ward Plants.	FXE-4736— FXE-4749	Extension of the relief granted in *Tenneco Oil Co.*, Case Nos. FEE-3600 through FEE-3614 (decided Feb. 25, 1977) (unreported decision).
Aug. 25, 1977	Cities Service Oil Co., Tulsa, Okla. (If granted: The remedial order issued by FEA Region I on Aug. 12, 1977 would be rescinded and Cities Service Oil Co. would not be required to maintain its supplier/wholesale purchaser relationships with Fred's Citgo, John Buckley's Garage and Ted's Service Station.)	FRA-1444	Appeal of the remedial order issued by FEA Region I on Aug. 12, 1977.
Do	Midway Petroleum, Inc., Dundalk, Md. (If granted: Midway Petroleum, Inc. would be assigned a new supplier of motor gasoline to replace its base period supplier, the Petroleum Marketing Corp.)	FEE-4731	Exception to change suppliers.
Do	O'Meara Bros., New Orleans, La. (If granted: O'Meara Bros. would be permitted to sell crude oil produced from the Vinton Production Co. Lease located in Calcasieu Parish, La. at prices in excess of the lower tier ceiling price.)	FEE-4732	Price exception (sec. 212.-73).
Do	O'Meara Bros., New Orleans, La. (If granted; The O'Meara Bros. would be permitted to sell the crude oil produced from the Louisiana State Lease 2192 at prices in excess of the lower tier ceiling prices.)	FEE-4750	Do.
Aug. 26, 1977.	U.S. Department of the Interior (Mariana Islands), Washington, D.C. (If granted: The provisions of a June 28, 1977 decision and order which permitted sales of residual fuel oil made by the Guam Oil & Refining Co. to the Government of the Northern Mariana Islands to be deemed to be sales made within the United States for purposes of 10 CFR 211.67(d)(2) [the old oil entitlements program] would be made retroactive to Apr. 1, 1976.	FXA-1445	Appeal of the decision and order in *U.S. Dept. of Interior for Government of Northern Mariana Islands*, 6 FEA par. 83,036 (June 28, 1977).

[FR Doc.77-26614 Filed 9-14-77;8:45 am]

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ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Issuance of Notice of Effectiveness to Make Effective Previously Issued Prohibition Order

Pursuant to Section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended, 15 U.S.C. 791 et seq., and 10 CFR 303.37(d), the Federal Energy Administration (FEA) hereby gives notice that on August 15, 1977, it issued a Notice of Effectiveness making effective the Prohibition Order previously issued on June 30, 1975 (40 FR 28430, July 3, 1975), to the below listed powerplants. The Notice of Effectiveness was issued under the authorities granted to FEA by Section 2 of the Energy Supply and Environmental Coordination Act of 1974, as amended, and pursuant to 10 CFR Parts 303 and 305.

Docket No.	Owner	Powerplant No.	Generating station	Location
OFU-022 FUO-023	Nebraska Public Power District	1 and 2	Sheldon	Columbus, Nebr.

The Prohibition Order issued by FEA on June 30, 1975, to the above listed powerplants prohibits the powerplants from burning natural gas or petroleum products as their primary energy source. In accordance with the requirements of 10 CFR Parts 303 and 305, however, the order provided it would not become effective until FEA had considered the environmental impact of the order and until FEA had served the affected powerplants with a Notice of Effectiveness.

Subsequent to issuance of the Prohibition Order, FEA performed an analysis pursuant to 10 CFR 305.9 and 208.3, of the environmental impact of the issuance of the Notice of Effectiveness, including an assessment of the EPA Notifications dated December 15, 1976, for Number 1 and May 19, 1976, for Number 2, pursuant to Section 119(d)(1)(B) of the Clean Air Act, that these powerplants could burn coal on September 22, 1976, and April 8, 1976, respectively, and comply with all applicable air pollution requirements. That analysis resulted in a determination that it is clear that issuance of the Notice of Effectiveness making this Prohibition Order effective is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of Section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C). Public notice of the negative determination and of the availability for inspection of this analysis was given in the FEDERAL REGISTER published May 23, 1977, in accordance with 10 CFR 208.4(c) and 208.15(a).

Upon completion of this environmental analysis, FEA issued a Notice of Effectiveness of the June 30, 1975, Prohibition Order to the above listed powerplants and served the Notice on the powerplants by registered mail on the same day. The Notice makes effective the Prohibition Order, prohibiting the powerplants from burning natural gas or petroleum products as their primary energy source.

Any person aggrieved by the now effective Prohibition Order may file an appeal with the FEA Office of Exceptions and Appeals in accordance with 10 CFR Part 303, Subpart H. The appeal shall be filed within 30 days after service of the Notice of Effectiveness. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of Part 303, and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Application may be made for modification or rescission of the Prohibition Order in accordance with the provisions of 10 CFR Part 303, Subpart J. An application for modification or rescission of a Prohibition Order based on "significantly changed circumstances," which circumstances occurred during the interval between issuance of the order and service of the Notice of Effectiveness, shall be filed within 30 days of service of such Notice. An application for modification or rescission of a Prohibition Order based on significantly changed circumstances occurring after that interval may be filed at any time after service of the Notice of Effectiveness.

All terms and conditions of the Prohibition Order and the Notice of Effectiveness may be the subject of either an appeal or an application for modification or rescission.

The Order made effective by the Notice of Effectiveness is effective against any persons that, as of the date of service of such Notice, own, lease, operate, or control the above listed powerplants and against any successors-in-interest or assignees of such persons.

The above listed powerplants have been served the Notice of Effectiveness by registered mail. In addition, copies of the document will be available for inspection by any interested members of the public at the FEA public docket room located in Room B-120, 2000 M Street N.W., Washington, D.C., from 1-5 p.m., Monday-Friday. Copies will also be available in the appropriate FEA regional office. The negative determination and environmental analyses are available upon request from the FEA National Energy Information Center, Room 1404, 12th Street and Pennsylvania Avenue N.W., Washington, D.C. 20461. Copies of the documents are also available for public review in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue N.W., Washington, D.C.

Any questions regarding this notice should be directed to the Director, Office of Coal Utilization, Federal Energy Administration, 12th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20461 (202-566-7941).

Issued in Washington, D.C., September 10, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-26784 Filed 9-14-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Issuance of Notice of Effectiveness To Make Effective Previously Issued Prohibition Order

Pursuant to Section 2 of the Energy Supply and Environmental Coordination Act of 1974, as amended, and pursuant to 10 CFR Parts 303 and 305.

Docket No.	Owner	Powerplant No.	Generating station	Location
OFU-061 OFU-062 OFU-063	Carolina Power & Light Co.	1, 2, and 3	Sutton	Wilmington, N.C.

The Prohibition Order issued by FEA on June 30, 1975, to the above listed powerplants prohibits the powerplants from burning natural gas or petroleum products as their primary energy source. In accordance with the requirements of 10 CFR Parts 303 and 305, however, the order provided it would not become effective until FEA had considered the environmental impact of the order and until FEA had served the affected powerplants with a Notice of Effectiveness.

Subsequent to issuance of the Prohibition Order, FEA performed an analysis pursuant to 10 CFR 305.9 and 208.3, of the environmental impact of the issuance of the Notice of Effectiveness, including an assessment of the EPA Notification dated August 25, 1976, and the EPA Certification dated December 17, 1976, pursuant to Section 119(d)(1)(B) of the Clean Air Act, that July 20, 1976, was the earliest date that powerplants Number 1 and 2 could burn coal and comply with all applicable air pollution requirements, and that February 1, 1977, was the earliest date that powerplant Number 3 could burn coal and comply with the applicable regional limitation. That analysis resulted in a determination that it is clear that issuance of the Notice of Effectiveness making this Prohibition Order effective is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of Section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C). Public notice of the negative determination and of the availability for inspection of this analysis was given in the FEDERAL REGISTER published July 1, 1977, in accordance with 10 CFR 208.4(c) and 208.15(a).

Upon completion of this environmental analysis, FEA issued a Notice of Effectiveness of the June 30, 1975, Prohibition Order to the above listed powerplants and served the Notice on the powerplants by registered mail on the same day. The Notice makes effective the Prohibition Order, prohibiting the powerplants from burning natural gas or petroleum products as their primary energy source.

Any person aggrieved by the now effective Prohibition Order may file an appeal with the FEA Office of Exceptions and Appeals in accordance with 10 CFR Part 303, Subpart H. The appeal shall be filed within 30 days after service of the Notice of Effectiveness. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of Part 303, and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Application may be made for modification or rescission of the Prohibition Order in accordance with the provisions of 10 CFR Part 303, Subpart J. An application for modification or rescission of a Prohibition Order based on "significantly changed circumstances," which circumstances occurred during the interval between issuance of the order and service of the Notice of Effectiveness, shall be filed within 30 days of service of such Notice. An application for modification or rescission of a Prohibition Order based on significantly changed circumstances occurring after that interval may be filed at any time after service of the Notice of Effectiveness.

All terms and conditions of the Prohibition Order and the Notice of Effectiveness may be the subject of either an appeal or an application for modification or rescission.

The order made effective by the Notice of Effectiveness is effective against any persons that, as of the date of service of such Notice, own, lease, operate, or control the above listed powerplants and against any successors-in-interest or assignees of such persons.

The above listed powerplants have been served the Notice of Effectiveness by registered mail. In addition, copies of the document will be available for inspection by any interested members of the public at the FEA public docket room located in Room B-120, 2000 M Street NW., Washington, D.C., from 1-5 p.m., Monday-Friday. Copies will also be available in the appropriate FEA regional office. The negative determination and environmental analyses are available upon request from the FEA National Energy Information Center, Room 1404, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the documents are also available for public review in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C.

Any questions regarding this notice should be directed to the Director, Office of Coal Utilization, Federal Energy Administration, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461, 202-566-7941.

Issued in Washington, D.C., September 10, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.28785 Filed 9-14-77;8:45 am]

PHILLIPS PETROLEUM CO.

Proposed Consent Order

I. INTRODUCTION

Pursuant to 10 CFR 205.197(c), the Federal Energy Administration (FEA) hereby gives Notice of a Consent Order which was executed between Phillips Petroleum Co. (Phillips) and the Federal Energy Administration (FEA) on August 5, 1977. In accordance with that Section, FEA will receive comments with respect to this Consent Order. Although FEA has signed and tentatively accepted this Consent Order, FEA may, after consideration of comments received, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

II. THE CONSENT ORDER

Phillips Petroleum Co., with its executive office located in Bartlesville, Okla., is an integrated refiner engaged in the production of crude oil and refining and marketing of petroleum products subject to FEA Regulations.

As a result of an audit conducted by FEA of Phillips' business practices in its sales of No. 2 heating oil and kerosene to Union Petroleum Corp. (Union), Revere, Mass. for the periods of January through May for the years 1974, 1975, and 1976, FEA advised Phillips that Phillips improperly removed Union from its rightful class of purchaser and placed Union in an improper class of purchaser resulting in Phillips charging prices to Union in excess of those permitted by and in violation of the price rule then contained in 10 CFR 212.82 (prior to its amendment on April 12, 1976), and that Phillips failed to deal with Union in accordance with "normal business practices," in violation of 10 CFR 210.62.

In resolution of the issues raised by the audit results, FEA and Phillips executed a Consent Order on August 5, 1977, the significant terms of which are as follows:

(1) Phillips, within 30 days of the effective date of the Consent Order, will refund to Union $977,890.54 plus interest.

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(2) The provisions of 10 CFR 205.197, including the publication of this Notice, are applicable to the Consent Order.

Further, FEA will issue an Ancillary Order to the Consent Order to Union requiring Union to recompute its increased product costs and redetermine its maximum allowable sales prices for No. 2 heating oil and kerosene by taking into account the refund it shall receive from Phillips as a reduction in cost ab initio. Union shall then make appropriate refunds to its customers.

III SUBMISSION OF WRITTEN COMMENTS

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to Mr. Wayne Gifford, Deputy Regional Administrator for Compliance, Region VI, Federal Energy Administration, P.O. Box 35228, Dallas, Tex. 75235. Copies of this Consent Order may be received free of charge by written request to this same address or by calling 214-749-7626.

Comments should be identified on the outside of the envelope and on documents submitted with the designation, "Comments on Phillips Consent Order". All comments received by 4:30 CDT, on or before October 17, 1977, will be considered by FEA in evaluating the Consent Order.

Any information or data which, in the opinion of the persons furnishing it, is confidential must be identified as such, and submitted in accordance with the procedures outlined in 10 CFR 205.9(f).

Issued in Washington, D.C. September 10, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.26788 Filed 9-14-77;8:45 am]

STATE ENERGY CONSERVATION PLANS

Negative Determination of Environmental Impact; Vermont, Maryland, Kentucky, South Carolina, Kansas and Nebraska Energy Conservation Plans

Pursuant to 10.CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the States of Vermont, Maryland, Kentucky, South Carolina, Kansas and Nebraska, of their State Energy Conservation Plans. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321, et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of these plans, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration has determined that an environmental impact statement is not required for these plans.

Single copies of the environmental assessments of the State Plans for Vermont, Maryland, Kentucky, South Carolina, Kansas and Nebraska are available upon request from the FEA National Energy Information Center, Room 1406, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the environmental assessments will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the State Plans are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views or arguments with respect to the environmental assessments to Executive Communications, Box PJ, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—(Name of State) Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by 4:30 p.m. e.d.s.t., September 26, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., September 10, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-26786 Filed 9-14-77;8:45 am]

STATE ENERGY CONSERVATION PLANS

Negative Determination of Environmental Impact; New Hampshire, Puerto Rico, Delaware, Alabama, Florida, Mississippi, and Missouri Energy Conservation Plans

Pursuant to 10 CFR 208.4, the Federal Energy Administration (FEA) hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the States of New Hampshire, Puerto Rico, Delaware, Alabama, Florida, Mississippi, and Missouri, of their State Energy Conservation Plans. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321, et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of these plans, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the FEA has determined that an environmental impact statement is not required for these plans.

Single copies of the environmental assessments of the State plans for New Hampshire, Puerto Rico, Delaware, Alabama, Florida, Mississippi, and Missouri are available upon request from the FEA National Energy Information Center, Room 1406, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the environmental assessments will also be available for public review in the FEA Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the State plans are available for public review in the Office of State and Local Programs, Room 6436, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views or arguments with respect to the environmental assessments to Executive Communications, Box PM, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—(Name of State) Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by 4:30 p.m. e.d.s.t., September 26, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., September 10, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-26787 Filed 9-14-77;8:45 am]

STRATEGIC PETROLEUM RESERVE

Notice of Availability of the Draft Environmental Impact Statement for the Texoma Group of Storage Sites

Pursuant to section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C), the Federal Energy Administration (FEA) has prepared a draft environmental impact statement (EIS) on the proposed storage of crude oil at the Texoma group of storage sites.

The Texoma group of storage sites has been proposed as a key element of the Strategic Petroleum Reserve. The Reserve mandated by Part B of Title I, Energy Policy and Conservation Act, 42 U.S.C. 6231-6246) will be created for the storage of crude oil and/or petroleum products for use in the event of a Presidential determination of a severe energy supply interruption or a requirement to meet the obligations of the United States under the International Energy Program.

Single copies of the Texoma draft EIS (DES 77-8) may be obtained from the National Energy Information Center, Room 1404, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of this draft EIS will also be available for public review in the FEA Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, between 8:00 a.m. and 4:30 p.m., Monday through Friday except Federal holidays.

Interested persons are invited to submit data, views, and arguments with respect to this EIS to Executive Communications, Box PN, Room 3317, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on the documents submitted to FEA Executive Communications with the designation "Texoma Draft EIS (DES77-8)." Fifteen copies should be submitted.

All comments should be received by FEA by October 31, 1977, in order to receive full consideration.

Any information or data, submitted in response to the Texoma draft EIS, considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., on September 12, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-26924 Filed 9-14-77;8:45 am]

FEDERAL MARITIME COMMISSION

STRAITS/NEW YORK CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Henry Noon & Co., Secretaries, Straits New York Conference, P.O. Box No. 247, Ocean Building (18th Floor), Collyerquay, Singapore 1.

Agreement No. 6010-21, entered into by the member lines of the Straits/New York Conference, modifies Article 15, entitled, "Nonconference Representation" whereby all references therein to "Port Swettenham" are changed to read "Port Kelang".

By Order of the Federal Maritime Commission.

Dated: September 9, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-26919 Filed 9-14-77;8:45 am]

UNITED STATES LINES, INC. AND OCEANIA LINE INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 5, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with paricularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Jos. J. Fanelli, Division Manager, Pricing and Conference Affairs, United States Lines, Inc., 1579 Middle Harbor Road, Oakland, Calif. 94607.

Agreement No. 10309, a cooperative working arrangement entered into between United States Lines, Inc., and Oceania Line, Inc., provides for the leasing of United States Lines' containers, chassis and other container equipment by Oceania Line, Inc., when performing interchanges at the Port of Guam, Mariana Islands. Such equipment shall be used by Oceania Line, Inc., in services between Guam, Marina Islands, and the Trust Territory areas of the Mariana and Caroline Islands, in accordance with the terms and conditions set forth in the agreement.

By Order of the Federal Maritime Commission.

Dated: September 9, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-26920 Filed 9-14-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RI77-120]

AMERICAN PETROFINA COMPANY OF TEXAS

Petition for Special Relief

SEPTEMBER 8, 1977.

Take notice that on August 29, 1977, American Petrofina Company of Texas (Petitioner), P.O. Box 2159, Dallas, Tex. 75221, in Docket No. RI77-120 filed a petition for special relief pursuant to section 2.76 of the Commission's General Policy and Interpretations (18 C.F.R. § 2.76). Petitioner requests an increase in rate from 28.7493 cents per Mcf to $1.619810 per Mcf at 14.73 psia for natural gas sales to Texas Gas Transmission Corp. from the Lake Palourde Field, St. Martin Parish, La. Petitioner proposes to undertake new investment in order to improve the recovery of gas from the subject well.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 30, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein,

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must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26834 Filed 9-14-77;8:45 am]

[Docket No. R177-115]

ART MACHIN & ASSOCIATES, INC.

Petition for Special Relief

SEPTEMBER 8, 1977.

Take notice that on July 18, 1977, as supplemented on August 19, 1977, Art Machin & Associates, Inc. (Petitioner), P.O. Box 1069, Longview, Tex. 75601, filed a petition for special relief seeking an increase in rate for natural gas sales to United Gas Pipe Line Co. from the G. A. Kelly Well No. 1, Willow Springs Field, Gregg County, Tex. Petitioner seeks an increase from the current rate of 41 cents per Mcf to a rate of 73.69 cents per Mcf. Petitioner states that the requested rate will provide adequate incentive to perform a work-over which would enhance production from the subject well.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 30, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26835 Filed 9-14-77;8:45 am]

[Docket No. ER76-556]

BOSTON EDISON CO.

Filing of Compliance Report and Supplement to Settlement Rate Schedule

SEPTEMBER 9, 1977

Take notice that Boston Edison Co. ("Edison"), on August 31, 1977, filed a refund compliance report as required by the Commission's order of July 20, 1977 in the captioned proceeding and a supplement to the settlement rate schedule approved by that Commission order. Edison indicates that the rate schedule supplement has the effect of applying certain provisions of the settlement to an additional transaction between the parties to the settlement, Edison and Braintree Electric Light Department, Mass.

Edison states that copies of the filing were served upon the parties to Docket No. ER76-556 including Braintree and the Massachusetts Department of Public Utilities. According to Edison, the filing was made with the consent and support of Braintree.

Any person desiring to be heard or to protest said application should file a protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before September 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this application are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26838 Filed 9-14-77;8:45 am]

[Docket No. ER77-574]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Proposed Tariff Change

SEPTEMBER 9, 1977.

Take notice that Central Vermont Public Service Corp. (Company) on August 31, 1977, tendered for filing proposed changes in its FPC Electric Service Rate Schedules Nos. 88 and 92. Company states that the proposed changes would increase revenues from jurisdictional sales and service by $8,004 for the 12-month period ending October 31, 1977.

Company indicates that the change is proposed in accordance with Article V of the Company's agreements with the Vermont Electric Cooperative, Inc., and the Lyndonville Electric Department which provides that charges will be updated annually to incorporate the Company's purchased power cost experience for the preceding twelve months ending April and the Company's capacity cost associated with the company-owned generating facilities for the preceding calendar year.

According to Company, copies of the filing were served upon the Company's affected jurisdictional customers and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26845 Filed 9-14-77;8:45 am]

[Docket No. ER77-575]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Proposed Tariff Change

SEPTEMBER 9, 1977.

Take notice that Central Vermont Public Service Corp. (Company) on August 31, 1977, tendered for filing proposed changes in its FPC Electric Service Rate Nos. 89 and 93. The Company indicates that the proposed changes would decrease revenues from jurisdictional sales and service by $2,279 for the 12-month period ending October 31, 1977.

The Company states that the change is proposed in accordance with the provisions of Article VIII, as amended, of the Company's transmission service agreements with the Vermont Electric Cooperative, Inc., and the Lyndonville Electric Department, which provides that charges will be updated annually to incorporate the Company's cost experience for the preceding calendar year.

According to the Company, copies of the filing were served upon the Company's affected jurisdictional customers and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26846 Filed 9-14-77;8:45 am]

[Project No. 2795]

CITY OF SEATTLE, WASH.

Notice Granting Intervention

SEPTEMBER 7, 1977.

The National Marine Fisheries Service (NMFS) and the Sauk-Suiattle Tribe, Upper Skagit Tribe, and Swinomish Tribal Community (Tribes), on August 1, 1977; the U.S. Department of the Interior (Interior) on August 2, 1977; and the State of Washington Departments of Fisheries and Game, on July 22, 1977; filed petitions to intervene respecting the application by the city of Seattle for a preliminary permit for the proposed Copper Creek Project, FPC No. 2795. The project would be located on the Skagit River, in Skagit and Whatcom Counties, Washington, about 10 miles below the applicant's existing Skagit River Project, FPC No. 553.

NMFS states that it is the department of the Federal Government entrusted with jurisdiction over food fish and marine recreational resources in and adjacent to the waters of the United States. It states further that the Skagit River System supports a major anadromous fishery resource providing substantial commercial and recreational benefits to citizens of the United States, and alleges the proposed Copper Creek Project will significantly affect this resource. NMFS requests that it be made a party to the proceeding so that it may participate in the determination of the impacts of the proposed project on the fishery resource and the programs necessary for protection, maintenance, and enhancement of this resource.

The Tribes state that they are federally recognized Indian Tribes holding adjudicated treaty rights to take anadromous fish throughout the Skagit River System and in Marine areas dependent on the Skagit System. They allege that construction of the project will cause serious impacts to the fishery at the site, and also downstream, causing irretrievable and irreplaceable losses of fish which constitute a direct violation of treaty rights. The tribes request intervention in order to protect these rights and interests.

Interior cites its statutory authority over the fish, shellfish, and wildlife resources of the Nation, its trust responsibility for Indians, and also its authority over the Ross Lake National Recreation Area within which the project would be located. Interior notes the impacts which the project may have upon these various resources and requests intervention to assist the Commission in conditioning the preliminary permit to avoid conflicts with the Wild and Scenic Rivers Act and to ensure that proper baseline studies are undertaken.

Fisheries and Game assert their respective jurisdiction over the food fish resources, and game fish and wildlife resources, of the State of Washington. Fisheries and Game allege that the construction and operation of the project would damage the above noted resources both at, and downstream from, the project site. Intervention is requested to participate in the planning and conduct of studies to identify the project's impacts and to assert claims for measures to avoid losses to the aforesaid resources and for mitigation and enhancement measures where losses are unavoidable.

The applicant filed an answer to all the petitions to intervene on August 16, 1977. Applicant notes the limited purpose of a preliminary permit and thusly states that the interventions do not appear necessary or appropriate, particularly because of its intention to consult with these agencies during the course of its studies. While not conceding any jurisdictional assertions made by the Tribes, Applicant further states that it will cooperate with them in the course of its preliminary studies and examinations.

Pursuant to section 3.5(a)(30) of the Commission's general rules as promulgated by Order No. 557 (issued December 10, 1976), the National Marine Fisheries Service, the Sauk-Suiattle Tribe, the Upper Skagit Tribe, the Swinomish Tribal Community, the U.S. Department of the Interior, and the State of Washington Departments of Fisheries and Game are hereby permitted to intervene in the above-referenced proceeeding subject to the rules and regulations of the Commission: *Provided, however,* That participation by the intervenors shall be limited to the matters affecting asserted rights and interests specifically set forth in the petition to intervene: *And provided further,* That the admission of such parties shall not be construed as recognition by the Commission that they might be aggrieved by any order entered in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26825 Filed 9-14-77;8:40 am]

[Docket No. CP77-599]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Application

SEPTEMBER 9, 1977.

Take notice that on September 1, 1977, Columbia Gas Transmission Corp. (Applicant), 1700 MacCorkle Avenue S.E., Charleston, W. Va. 25314, filed in Docket No. CP77-599 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 19.6 miles of 6-inch natural gas transmission pipeline extending from the outlet of a separation plant to a point on Applicant's existing transmission system near Clendenin Compressor Station, all located in Kanawha County, W. Va., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that the facilities proposed are part of a project to produce a high CO_2 (carbon dioxide) content gas from the Tuscarora Formation in the Indian Creek field located in Kanawha County, W. Va., and to separate the CO_2 from the gas stream to obtain commercially saleable gas having a heat content of approximately 900 Btu's per cubic foot.

It is said that the gas produced from the Tuscarora Formation will consist of approximately 65 percent carbon dioxide and 35 percent methane and that the project is estimated to consist of 53 wells, 57.3 miles of 2-inch through 8-inch well and gathering pipelines, a CO_2 separation plant, and the transmission line heretofore mentioned.

Applicant estimates that based upon the completion of five of the 53 wells planned to be drilled as part of this project, as well as other geologic, engineering and economic studies made for this project, that approximately 64,000,000 Mcf of 900 Btu gas, or the equivalent of 57,000,000 Mcf of 1000 Btu gas, can be made available to Applicant over the twenty-year life of the project. Applicant's cost of service estimates for this period of the four basic components of this project are as follows:

(1) The wellmouth facilities are estimated at approximately $62,856,500, or an average of approximately 109.9 cents per Mcf over the life of the property;

(2) The gathering facilities are estimated at approximately $10,561,700, or 18.5 cents per Mcf;

(3) The CO_2 separation plant is estimated at approximately $37,387,200, or 65.4 cents per Mcf; and

(4) The natural gas transmission pipeline, for which Columbia seeks certification herein, is estimated at approximately $5,380,300, or 9.4 cents per Mcf.

The total cost-of-service of this project for the twenty-year period is thus estimated at approximately $116,185,700, or 203.13 cents per Mcf, it is indicated.

Applicant states that it would include the total costs associated with this project in its future general rate filings and that the total wellmouth, gathering, and separation costs will be included in such future filings in the same manner as proposed in Applicant's pending proceeding in Docket No. RP75-106. While Applicant presently plans to vent the CO_2 which is removed from the gas stream, if it finds such CO_2 marketable, then Applicant would credit all net revenues received from its sale of CO_2 against its cost of service.

Applicant states that approximately 10,400 Mcf per day of gas would be produced from said project over the twenty-year period and that such gas is needed to offset the continuing decline in its supplies from existing sources. Applicant projects curtailments of 47.3 percent of its customers' Priority 2 requirements for the 1977 summer season and 54 percent curtailment for the 1977-78 winter season. It is stated that the gas is to be produced in the heart of Applicant's market area and can be quickly developed and made available and that said gas would be less expensive to produce than the average cost of production nationwide.

It is estimated that the cost of the construction of the proposed facilities is $1,852,000 to be financed from internally-generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to

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the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26847 Filed 9-14-77;8:45 am]

[Docket No. ER76-151]

DELMARVA POWER & LIGHT CO. AND SUBSIDIARIES

Notice of Compliance Filing

SEPTEMBER 7, 1977.

Take notice that Delmarva Power & Light Co., Delmarva Power & Light Co. of Maryland and Delmarva Power & Light Co. of Virginia (Delmarva), on August 29, 1977, tendered for filing a Delmarva System Power Pool Agreement, incorporating in one composite document changes in FPC Rate Schedule No. 33 of Delmarva Power & Light Co., FPC Rate Schedule No. 10 of Delmarva Power & Light Co. of Maryland, and FPC Rate Schedule No. 5 of Delmarva Power & Light Co. of Virginia, all in compliance with the Order Approving Settlement issued by the Commission on July 28, 1977 in the docket herein.

Delmarva states that copies of this filing were served upon the appropriate commissions of Delaware, Maryland, and Virginia and that there are no jurisdictional customers except for the Delmarva companies which are parties to the agreement. Delmarva requests waiver of notive in order that these compliance filings may be accepted for filing at the earliest possible date.

Any person desiring to be heard or to protest said application should file a protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with § 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.10). All such protests should be filed on or before September 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26828 Filed 9-14-77;8:45 am]

[Docket No. ER77-90]

HOLYOKE WATER POWER CO. AND HOLYOKE POWER & ELECTRIC CO.

Extension of Time

SEPTEMBER 7, 1977.

On August 31, 1977, Staff Counsel filed a motion to extend the time for filing comments on the settlement agreement tendered for filing by Holyoke Water Power Co. and Holyoke Power & Electric Co. on August 3, 1977, and noticed on August 15, 1977, in the above designated docket. The motion states that all parties have agreed to a three-week extension.

Upon consideration, notice is hereby given that the date for filing comments on the tendered settlement agreement is extended to and including September 21, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26827 Filed 9-14-77;8:45 am]

[Docket No. ER77-579]

KANSAS CITY POWER & LIGHT CO.

Proposed Change in Rate Schedule

SEPTEMBER 9, 1977.

Take notice that on September 6, 1977, Kansas City Power & Light Co. (KCPL) tendered for filing a proposed change in the General Participation Agreement in order to include Sunflower Electric Cooperative, Inc. as an additional Participant.

KCPL states that the following are presently Participants under the General Participation Agreement with the following FPC Rate Schedule Numbers:

Kansas City Power & Light Co., Rate Schedule FPC No. 32.
Missouri Public Service Co., Rate Schedule FPC No. 8.
The Empire District Electric Co., Rate Schedule FPC No. 73.
Kansas Gas & Electric Co., Rate Schedule FPC No. 94.
The Kansas Power & Light Co., Rate Schedule FPC No. 7.
Central Telephone & Utilities Corp., Rate Schedule FPC No. 53.
Central Kansas Power Co., Inc., Rate Schedule FPC No. 2.

KCPL states that the other Participants under the General Participation Agreement filed certificates of concurrence to the proposed change with KCPL's submittal.

Any person desiring to be heard or to protest said Application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 26, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26826 Filed 9-14-77;8:45 am]

[Docket No. ER77-578]

KANSAS GAS & ELECTRIC CO.

Proposed Tariff Change

SEPTEMBER 9, 1977.

Take notice that Kansas Gas & Electric Co. (Applicant) on September 6, 1977, tendered for filing proposed changes in its FPC Electric Service Tariffs Nos. 32, 45, 46, 47, 48, 49, 55, 72, 74, 87, 89, 98, 110, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 131, 132, 133, and 134. Applicant indicates that the proposed changes would increase revenues from Applicant's Rural Electric Cooperative and Municipal jurisdictional customers' sales and service by $5,298,060 based on the twelve month period ending June 30, 1978.

Applicant indicates that it is experiencing a number of major problems which necessitate requesting the proposed increase. The principal factor cited is the addition of the $134 million No. 2 generating unit at the La Cygne Station and its related facilities. Applicant also cites rising capital expenditures, inflation, attrition, and regulatory lag as having contributed to a general erosion in the return earned from jurisdictional customers.

According to Applicant copies of the filing were served upon the public utility's jurisdictional customers and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said Application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NW., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (19 CFR 1.8, 1.10). All such petitions protests should be filed on or before September 26, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26849 Filed 9-14-77;8:45 am]

[Docket No. CI77-713]

MISSISSIPPI RIVER TRANSMISSION CORP.

Complaint and Petition for Relief

SEPTEMBER 8, 1977.

Mississippi River Transmission Corp. v. *TIPCO Operating Co.* and *Bill R. Tipton.*

Take notice that on July 28, 1977, Mississippi River Transmission Corp. (MRTC), John B. Rudolph, Bendwell & Rudolph, 502 Madison Building, 1155 15th Street NW., Washington, D.C. 20005, filed a complaint and petition for relief pursuant to §§ 1.6 and 1.7 of the Rules of Practice and Procedure of the Federal Power Commission in Docket No. CI77-713 against TIPCO Operating Co. and Bill R. Tipton (TIPCO), P.O. Box 1315, Marshall, Tex. 75670, alleging that TIPCO is in violation of §§ 7(b) and 7(c) of the Natural Gas Act.

Specifically, MRTC complains of the alleged unauthorized termination of deliveries of natural gas by TIPCO from the Dolly Bell Key Gas Unit No. 1 well and the Connor-Key Gas Unit No. 1 well located in Woodlawn Field, Harrison and Marion Counties, Tex. Further, in the petition for relief, MRTC requests that TIPCO be ordered to cease all deliveries of natural gas produced from these two wells to parties other than MRTC; to resume immediately deliveries of natural gas produced from these two wells to MRTC; to pay back to MRTC the equivalent of all volumes of natural gas produced from these two wells which were dedicated to MRTC but were sold and delivered to purchasers other than MRTC.

Any person desiring to be heard or to mak any protest with reference to said petition should on or before October 7, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26836 Filed 9-14-77;8:45 am]

[Docket No. CP77-601]

NATURAL GAS PIPELINE CO. OF AMERICA

Notice of Application

SEPTEMBER 9, 1977.

Take notice that on September 1, 1977, Natural Gas Pipeline Co. of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP77-601 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of an additional 6,600 horsepower of compression facilities and 20.08 miles of 30-inch loop pipeline to increase the capacity of its Louisiana supply pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that its present certificated capacity of its Louisiana supply pipeline of 1,173,000 Mcf per day is insufficient to accommodate the deliveries of gas projected from existing and new sources of supply and that projected daily average gas deliverability for the peak month would reach approximately 1,421,000 Mcf per day in 1978 and 1,487,000 Mcf per day in 1979. It is stated that the increase in projected deliveries through the Louisiana supply pipeline results chiefly from acquisition of additional volumes of natural gas in the offshore areas of Texas and Louisiana through Applicant's advance payment and funding programs. These volumes are or would be transported and delivered onshore into Applicant's Louisiana supply pipeline through the offshore facilities of Applicant, the HIOS–UTOS offshore system, the Stingray Pipeline Co. offshore system and the Tidal Transmission Co. offshore system, it is said. Applicant indicates that additional volumes would also be delivered onshore through exchange and transportation arrangements with other pipeline companies.

Applicant states that the only practical way of transporting these increased volumes into its main transmission system is the further expansion of its Louisiana supply pipeline. Consequently, Applicant proposes to construct and operate 6,600 horsepower of additional compression facilities at Applicant's existing Compressor Station No. 343 in Liberty County, Tex., and approximately 20.08 miles of 30-inch loop pipeline in Montgomery, Harris, and Jefferson Counties, Tex., and Cameron Parish, La., together with appurtenant facilities, to enable Applicant to transport increased quantities of gas through its Louisiana supply pipeline. Applicant asserts that the proposed expansion would increase the capacity of Applicant's onshore Louisiana supply pipeline to 1,480,381 Mcf of gas per day which capacity would permit Applicant to transport the gas supplies committed to it from the offshore Louisiana and Texas areas.

The estimated cost to construct the proposed facilities is $18,456,000, which would be financed initially with bank credit, short-term borrowings from Applicant's parent, Peoples Gas Co., and/or by issuance of commercial paper.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26851 Filed 9-14-77;8:45 am]

[Docket Nos. CP73-289 and CP77-602]

NATURAL GAS PIPELINE CO. OF AMERICA

Petition To Amend and Application To Abandon

SEPTEMBER 9, 1977.

Take notice that on September 1, 1977, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP73-289 a petition to amend the Commission's order of August 27, 1975, issued in the instant docket (54 FPC ____) pursuant to Section 7(c) of the Natural Gas Act so as to delete therefrom authorization to exchange gas at the Polk County delivery point and in Docket No. CP77-602 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain facilities located in Polk and Trinity Counties, Texas, used in conjunction with the exchange, all as more fully set forth in the petition to amend and application to abandon which is on file with the Commission and open to public inspection.

Natural indicates that on December 10, 1973, it was authorized to construct and operate facilities to exchange gas with Texas Eastern Transmission Corporation (Texas Eastern) in accordance with an exchange agreement between Texas Eastern and Natural dated November 17, 1972, as amended. Natural further indicates that it was authorized by an amendment issued August 27, 1975, in Docket No. CP73-289 to add an additional exchange point in Polk County, Texas, to effectuate deliveries of gas from reserves Natural contracted to buy from Napeco Inc. (Napeco), a subsidiary of Natural, in the Trees (formerly Big Mama) Field, Polk and Trinity Counties,

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Texas. The sale of gas from Napeco to Natural was made pursuant to a gas purchase contract dated April 1, 1975, as authorized by the Commission, it is said. Natural indicates that Texas Eastern received authorization to construct facilities and operate the Polk County exchange point in Docket No. CP73–197.

Natural states that it constructed 10,085 feet of 4½-inch pipeline and a 3-inch measuring facility in Polk and Trinity Counties, Texas, to connect the Trees Field to the Polk County exchange point pursuant to its gas purchase facilities budget-type authorization in Docket No. CP75–161. Redelivery of equivalent volumes of gas to Natural by Texas Eastern was made at an existing interconnection in Brazoria County, Texas, it is indicated.

It is stated that production from the acreage dedicated under the several gas purchase contracts terminated in October 1975 when the one producing well watered out and that the sellers do not contemplate further development of the dedicated acreage because two other wells were drilled and both were dry holes. Natural indicates that it and Napeco have entered into a termination agreement dated January 28, 1977, terminating the April 1, 1975, gas purchase contract.

Natural proposes to delete the existing Polk County delivery point from its gas exchange agreement with Texas Eastern and to abandon the facilities constructed under the budget-type authorization in Docket No. CP75–161 to effectuate deliveries from the Trees Field to Texas Eastern. Natural states that it would remove all salvable above ground facilities and retain them in stock. All other facilities would be abandoned in place, it is said.

Any person desiring to be heard or to make any protest with reference to said application and petition to amend should on or before October 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application and petition to amend if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant petition to amend and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Natural to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26850 Filed 9-14-77;8:45 am]

[Docket No. ER77-576]

NEW ENGLAND POWER CO.

Notice of Proposed Tariff Change

SEPTEMBER 9, 1977.

Take notice that New England Power Company (NEPCO) on September 1, 1977, tendered for filing proposed changes in its FPC Electric Service Tariff No. 201. NEPCO indicates that the proposed changes would amend the REMVEC Agreement dated as of August 1, 1968. NEPCO further indicates that the REMVEC Agreement establishes REMVEC (the Rhode Island, Eastern Massachusetts, Vermont Energy Control) as a central dispatch and interchange office for electric transmission and generation facilities and acts as a satellite to the New England Power Pool.

NEPCO states that the Amendment proposed would delete the provisions for exchanges of economy power and make provision for entrance into REMVEC of additional members.

According to NEPCO, copies of the filing were served upon all signatories to the Amendment as well as to the Public Utility Commissions of Massachusetts, Rhode Island, and Vermont, and to the New England Power Pool Participants in the geographic area served by REMVEC which are not presently members of REMVEC.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26839 Filed 9-14-77;8:45 am]

[Docket No. CP77-587]

NORTHERN NATURAL GAS CO.

Notice of Application

SEPTEMBER 7, 1977.

Take notice that on August 24, 1977, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP77–587 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1978, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $12,000,000 and that the total cost of any single project would not exceed $1,500,000 except that any single offshore project would not exceed $2,500,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

FR Doc.77 26828 Filed 9-14-77;8:45 am]

[Docket No. CP76-130]

NORTHWEST PIPELINE CORP.

Petition To Amend

SEPTEMBER 9, 1977.

Take notice that on August 31, 1977, Northwest Pipeline Corporation (Petitioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP76–130 a petition to amend the Commission's order issued February 12, 1976, in the instant docket, pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations under the Act so as to increase the authorized single project cost limitation from $1,500,000 to that of the purported actual project cost of approximately $2,000,000 which resulted from the construction of the North Douglas Creek Gathering System, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner indicates that the February 12, 1976 order granted a budget-type certificate authorizing the construction, during the calendar year 1976, and operation of certain gas purchase facilities. Pursuant to such authorization Petitioner constructed the North Douglas Creek Gathering System, necessary to connect nine wells deyloped by Chandler and Associates (Chandler) on acreage dedicated to Petitioner pursuant to a gas purchase agreement dated December 28, 1975 between Chandler and Petitioner. It is said that the facilities installed for said connection consisted of approximately 10.3 miles of 12¾, 10¾, 8⅝ and 4½ inch pipe, one (1) 633 horsepower compressor station, and measuring facilities.

It is indicated that the February 12, 1976 order limited the expenditures for the facilities to be constructed during 1976 to a maximum total cost of $9,000,000, with no single project cost to exceed $1,500,000 and that prior to the initiation of construction, Petitioner estimated that the project cost would be approximately $1,456,000. It is indicated, however, that the actual costs now attributable to the project are approximately $2,000,000, with $1,906,319 recorded on Petitioner's books as of July 31, 1977 and an estimated $10,000 remaining to be booked.

Petitioner asserts that the actual construction costs exceeded the original estimate by approximately $500,000 primarily because of the higher costs attributable to a winter construction period (necessary due to delays in the testing procedures), an accelerated work schedule, and 8.7 miles of rock excavation rather than the expected 1.5 miles.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 4, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77 26840 Filed 9 14-77;8:45 am]

[Docket No. CP76-350]

NORTHWEST PIPELINE CORP.

Petition To Amend

SEPTEMBER 7, 1977.

Take notice that on August 26, 1977, Northwest Pipeline Corporation (Petitioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP76–350, a petition to amend the Commission's order issued February 15, 1977, in the instant docket, pursuant to Section 7(c) of the Natural Gas Act to authorize additional transportation, sale and exchange of natural gas in accordance with an agreement between Petitioner and Mountain Fuel Supply Company (Mountain Fuel) dated June 8, 1977, so that Petitioner may receive gas under a gas purchase contract between Petitioner and King Resources Company, et al. (King Resources) dated May 24, 1977, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by the Commission's order of February 15, 1977, it is authorized to transport, sell and exchange natural gas with Mountain Fuel pursuant to a Gas Purchase, Transportation and Exchange Agreement dated February 13, 1976 (which has been amended by aforementioned June 8, 1977, agreement) between Petitioner and Mountain Fuel which provides that Petitioner shall deliver to Mountain Fuel all natural gas purchased by Petitioner from Reserve Oil and Gas Company (Reserve) pursuant to a gas purchase contract dated October 7, 1975. Petitioner states that Mountain Fuel receives such volumes as are purchased by Petitioner from Reserve by Petitioner to Mountain Fuel and redelivers equivalent volumes, subject to Mountain Fuel's purchase of up to 25 percent of the volumes delivered for exchange, at an existing point of interconnection between the facilities of Petitioner and Mountain Fuel in Sweetwater County, Wyoming.

Petitioner asserts that its May 24, 1977, contract with King Resources dedicates acreage located in the proximity of the acreage covered under the February 13, 1976, agreement between Petitioner and Mountain Fuel and that Mountain Fuel has agreed to transport and exchange the volumes of natural gas which Petitioner will purchase from King Resources pursuant to the terms and conditions of the May 24, 1977, agreement.

Petitioner estimates that, initially, the volume of gas to be delivered to Mountain Fuel from the King Resources acreage will be approximately 550 Mcf per day and that the total volume of gas to be delivered to Mountain Fuel pursuant to the June 8, 1977, agreement will be approximately 1,150 Mcf per day.

Petitioner asserts that in order to purchase the natural gas from King Resources, it would construct pursuant to its authorization for budget-type gas purchase facilities approximately 7.4 miles of 4½-inch gathering line and a wellhead meter in order to gather the gas from the well to a connection on Northwest's existing gathering system which interconnects with the facilities of Mountain Fuel in Sweetwater County, Wyoming. Petitioner estimates that the cost of said facilities and well meter will be $166,000.

It is said that by letter dated February 1, 1977, Mountain Fuel has exercised the option of purchasing up to 25 percent of the volumes of natural gas delivered for exchange by Petitioner to it and that Mountain Fuel will pay Northwest, for the gas purchased, the equivalent of the cost Northwest pays the producer, inclusive of all allowable adjustments, plus a gathering charge of 5 cents per Mcf.

Petitioner indicates that granting the authorization requested will serve to provide additional volumes of natural gas for Petitioner to use in meeting its system requirements and to provide the subject volumes of natural gas to Petitioner at the least possible investment.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 29, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26829 Filed 9-14-77;8:45 am]

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[Docket No. ER77-465]

OKLAHOMA GAS AND ELECTRIC CO.

Order Denying Request for Withdrawal of Rate Filing

SEPTEMBER 7, 1977.

On June 21, 1977, Oklahoma Gas & Electric Company (OG&E) submitted for filing a proposed Transmission Agreement between itself and Western Farmers Electric Cooperative (Western) that provides for OG&E to wheel power and energy furnished by Western to its member cooperatives. OG&E requested waiver of the 30-day notice requirement to allow the Agreement to become effective on July 1, 1977.

Notice of the proposed Transmission Agreement was issued on July 7, 1977, with comments due on or before July 15, 1977. On July 15, 1977, Western, along with nine other cooperatives, petitioned to intervene in this proceeding.

The proposed Transmission Agreement with its requested effective date of July 1, 1977 was contemplated to replace service being rendered pursuant to a three party agreement (IPSA-356) between OG&E, Southwestern Power Administration (SPA), and Public Service Company of Oklahoma (PSCO), which was to terminate by its own terms on June 30, 1977. In Public Service Company of Oklahoma, Docket No. ER77-422, the Commission on June 30, 1977, ordered that the proposed termination be suspended for five months. The Commission's order, in effect, extended service under IPSA-356 through November 30, 1977.

The Commission's action in Docket No. ER77-422 raised questions concerning the effective date of the proposed Trasnmission Agreement in this docket, since IPSA-356 and the instant Agreement provide for essentially the same service. Consequently, on July 21, 1977, the Secretary of the Commission sent a Deficiency Letter to OG&E, requesting that it clear up the ambiguity surrounding the proposed effective date of the Agreement.

By letter dated August 3, 1977,[1] OG&E responded by requesting that it be allowed to withdraw its filing to permit further review of the objections and questions raised by the filing. OG&E did state in its response that service under the Agreement is not anticipated to commence for several months.

By letter dated August 9, 1977, Western and nine electric cooperatives objected to the withdrawal of the proposed Transmission Agreement, maintaining that any problems raised by the Agreement should be resolved in the context of an investigation in this docket. They state:

> OG&E clearly is obliged to file the Agreement with the Federal Power Commission. *Lansdale* v. *F.P.C.*, 494 F. 2d 1104 (D.C. Cir. 1975), and the Company has offered no reason why it would be in the public interest to withdraw the Agreement at this time.

[1] Filed with the Commission August 8, 1977.

The Commission finds good cause to deny OG&E's request for withdrawal of the proposed Agreement. Western, a signatory to the Agreement, did not consent to the withdrawal and has filed a Petition to Intervene in this proceeding along with nine other cooperatives.

OG&E's letter of August 3, 1977, indicates that service under the Agreement is not anticipated to commence for several months. However, that response does not cure the deficiency with respect to the identifying a specific proposed effective date as contemplated by the Commission Secretary's letter of July 21, 1977.

The Commission finds: Good cause exists to deny OG&E's request for withdrawal of its proposed Agreement with Western filed herein.

The Commission orders: (A) OG&E's request for withdrawal of its proposed Agreement filed in this docket is hereby denied.

(B) OG&E shall file with this Commission a specific proposed effective date for commencement of service under its contract with Western.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26830 Filed 9-14-77;8:45 am]

PHILADELPHIA ELECTRIC CO.

[Docket No. ER77-402]

Order Denying Petition for Reconsideration and Establishing Procedures

SEPTEMBER 8, 1977.

On August 9, 1977, the Borough of Lansdale, Pa., filed a Petition for Rehearing of the Commission's order of July 26, 1977, which accepted proposed rate schedules for filing, denied Lansdale's motion to reject, suspended the proposed rate schedule for one day, granted intervention of Lansdale, and established procedures. Since the order is interlocutory, no application for rehearing is permitted.[1] However, the Commission will treat the application as a Motion for Reconsideration of the order.

Lansdale asserts that (1) in the order of July 26, 1977, the Commission erred in failing to reject Philadelphia Electric Co.'s (PE) filing as patently defective under section 35.13 of the Commission's regulations, and, the Company's proposed auxillary service provision results in anticompetitive and discriminatory impact to Lansdale and so should be rejected or its effectiveness deferred pending a final Commission determination on the matter, pursuant to section 206 of the Federal Power Act. In the alternative Lansdale again seeks a full five month suspension period.

With regard to its claim that PE's filing is deficient, Lansdale basically repeats its arguments made in its Motion to Reject, Protest, and Petition to Intervene of July 1, 1977, and its Reply to Philadelphia Electric Co. Opposition to the Borough's Motion to Reject, Protest, and Petition of July 27, 1977.

Lansdale's plea for rejection of the filing must again fail. Pursuant to § 35.5 of the Commission's regulations, only that material which "patently fails to substantially comply with the applicable requirements set forth in this Part, or the Commission's rules of practice and procedure" should result in rejection. In our order of July 26, 1977, this Commission determined that PE's filing is not deficient on its face; we are not now convinced that that determination was in error.

Lansdale also repeats in this Motion its attack on PE's proposed auxiliary service provision, asserting that the provision will "limit and stifle any attempt by the Borough to * * * utilize self-generation from any other source * * * ". Petition for Rehearing, p. 4. The terms of the provision, Lansdale asserts, effectively make it economically unfeasible to purchase power from any source but PE; further, Lansdale claims there are no cost supports for the provision.

Lansdale's claim of anticompetitive effect and discrimination will be adjudicated in this proceeding, along with the other provisions of the proposed rate. The Commission finds that no justification exists to select out one provision of the filing as suggested by Lansdale and try that provision separately from other issues in the case. Further procedural dates will be enumerated below.

The Commission finds: (1) The Borough of Lansdale's Petition for Rehearing of August 9, 1977 should be denied.

The Commission orders: (A) Philadelphia Electric Co.'s Petition for Reconsideration is hereby denied.

(B) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before December 7, 1977. (See Administrative Order 157).

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose. (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at an initial hearing to be held within ten days of service of Staff top sheets in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever and motions to dismiss), as provided for in the rules of practice and procedure.

(D) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement

[1] See sec. 1.34 of the Commission's rules of practice and procedure, which requires a final decision or order before an application for rehearing can lie.

pursuant to section 1.18 of the Commission's rules of practice and procedure.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26844 Filed 9-14-77;8:45 am]

[Docket No. CP77-227]

SEA ROBIN PIPELINE CO.

Filing of Original and Revised Tariff Sheets

SEPTEMBER 9, 1977.

Take notice that on August 17, 1977, Sea Robin Pipeline Co. tendered for filing as a part of its FPC Gas Tariff, Original Volume No. 2:

RATE SCHEDULE X-1

Fourth Revised Sheet No. 5.
Original Sheet No. 5-A.
Original Sheet No. 5-B.
Sixth Revised Sheet No. 6.

RATE SCHEDULE X-2

Fifth Revised Sheet No. 20.
Original Sheet No. 20-A.
Sixth Revised Sheet No. 21.
Third Revised Sheet No. 22.
Original Sheet No. 22-A.

The purpose of this filing is to amend Sea Robin's existing Rate Schedules X-1 (Southern Natural Gas Co.) and X-2 (United Gas Pipe Line Co.) to provide for the transportation of gas purchased by Southern and United in Block 228, Vermilion Area, Offshore Louisiana, to Erath, La.

Sea Robin states that copies of these tariff sheets have been mailed to Southern Natural Gas Co. and United Gas Pipe Line Co.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 3, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-26841 Filed 9-14-77;8:45 a.m.]

[Docket No. ER76-87]

SIERRA PACIFIC POWER CO.

Extension of Time

SEPTEMBER 7, 1977.

On September 2, 1977, Mount Wheeler Power, Inc., filed a motion to extend the time for filing protests to the revised tariff sheets tendered for filing by Sierra Pacific Power Co., on July 25, 1977, and noticed on August 26, 1977, in the above designated docket. The revised tariff sheets were filed in compliance with the Commission Order approving settlement agreement, issued June 30, 1977.

Upon consideration, notice is hereby given that the date for filing protests to the compliance filing is extended to and including September 20, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-26831 Filed 9-14-77;8:45 am]

[Docket No. CP 77-591]

SOUTHERN NATURAL GAS CO.

Pipeline Application

SEPTEMBER 8, 1977.

Take notice that on August 26, 1977 Southern Natural Gas Co. (Applicant), P.O. Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP 77-591 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to construct, install, and operate facilities for the transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant currently purchases natural gas from Blocks 20, 21, and 32 Fields, Breton Sound Area, Plaquemines Parish, La., from Kerr-McGee Corp. (Kerr-McGee), and Phillips Petroleum Co. (Phillips) pursuant to a gas purchase contract dated February 26, 1957, which terminates on February 1, 1978. Applicant and Kerr-McGee and Phillips have negotiated renewal gas purchase contracts covering these fields and new gas purchase contracts providing for the sale and delivery to Applicant of certain gas reserves from Block 29, Breton Sound Area. Also, Applicant and Kerr-McGee have negotiated a new gas purchase contract providing for the sale and delivery of reserves from Block 37, Breton Sound Area. Applicant proposes to construct, install, and operate pipelines and compression and measurement facilities to connect its existing pipelines in the Breton Sound Area with the producers' facilities in order to receive the quantities of gas purchased pursuant to the aforesaid contracts. The installation of such facilities will immediately enable Southern to increase its purchases of gas from Kerr-McGee and Phillips from approximately 23,000 Mcf per day to approximately 68,000 Mcf per day.

Specifically, Applicant proposes the construction, installation, and operation of (1) approximately 7.492 miles of 14-inch pipeline to connect the production platform to be installed in Block 21, Breton Sound Area, by Kerr-McGee and Phillips with its existing 12-inch Breton Island pipeline in Block 45, Breton Sound Area, and a 3,000 H.P. compressor and measuring station on this platform; (2) approximately 1.451 miles of $10^{3}/_{4}$-inch pipeline to connect the production platform to be installed by Kerr-McGee and Phillips at their State Lease No. 2000, Well No. 44 in Block 29, Breton Sound Area, with the pipeline described in No. 1 above in Block 36, Breton Sound Area, and a measuring station on this platform; (3) approximately 1.820 miles of $6^{5}/_{8}$-inch pipeline to connect the production platform to be installed in Block 37, Breton Sound Area, by Kerr-McGee with the pipeline described in No. 1 above in Block 36, Breton Sound Area, and a measuring station on this platform; and (4) approximately 3.530 miles of $6^{5}/_{8}$-inch pipe line to connect the platform to be installed by Kerr-McGee and Phillips in Block 32, Breton Sound Area, with Applicant's existing $6^{5}/_{8}$-inch pipeline in Block 34, Breton Sound Area, and a measuring station on this platform.

The estimated cost of the facilities proposed herein is $7,175,455.00, which cost Applicant states will be financed initially by short term financing which will be repaid from cash from current operations and from permanent financing.

Any person desiring to be heard or to make any protect with reference to said application, on or before September 30, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without

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further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26837 Filed 9-14-77;8:45 am]

[Docket No. CP77-594]

TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO, INC.

Notice of Application

SEPTEMBER 9, 1977.

Take notice that on August 29, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed an application in Docket No. CP77-594 pursuant to Section 7(c) of the Natural Gas Act, as amended, and the Rules and Regulations of the Federal Power Commission thereunder, for a certificate of public convenience and necessity authorizing the rendition of a natural gas transportation service for Sea Robin Pipeline Company (Sea Robin). Tennessee also requests temporary authorization to render this service.

Applicant requests authorization to receive from Texaco, Inc. (Texaco), for the account of Sea Robin, daily volumes of natural gas, up to a maximum of 9,000 Mcf, at the existing interconnection of the facilities of Tennessee and Texaco located in Eugene Island (EI) Block 338 (338) and to transport and deliver such volumes to Sea Robin at an existing subsea interconnection between the facilities of Tennessee and Sea Robin located in EI 330. For such service, Sea Robin will pay Tennessee one cent (1¢) for each Mcf transported.

Applicant's ability to render presently authorized service to its customers will not be affected by its proposal.

Tennessee requests that this application be considered under the shortened procedure provided for in Section 1.32 (b) of the Commission's Rules of Practice and Procedure.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 3, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26842 Filed 9-14-77;8:45 am]

[Docket No. CP77-568]

TEXAS EASTERN TRANSMISSION CORP.

Joint Pipeline Application

SEPTEMBER 6, 1977.

Take notice that on August 15, 1977, Texas Eastern Transmission Corporation ("Texas Eastern"), Post Office Box 2521, Houston, Texas 77001 and Natural Gas Pipeline Company of America ("Natural"), 122 South Michigan Avenue, Chicago, Illinois 60603 ("Applicants"), filed an application pursuant to Section 7 of the Natural Gas Act in Docket No. CP77-568 for a certificate of public convenience and necessity authorizing operation of facilities for the transportation and exchange of natural gas. Texas Eastern shall receive, or cause to be received, up to 15,000 Mcf of natural gas per day tendered for delivery by Natural at the point of interconnection of Texas Eastern's Cameron Pipeline System with the pipeline facilities to be constructed and to transport such quantities of natural gas onshore for exchange with or delivery to Natural onshore. Natural shall receive, or cause to be received, up to 15,000 Mcf of natural gas per day tendered for delivery by Texas Eastern at the point of interconnection of Stingray's Offshore Louisiana pipeline system with the pipeline facilities to be constructed by Texas Eastern and Columbia Gulf from West Cameron Block 593, Offshore Louisiana (filed at Docket No. CP77-409) and to transport or cause the transportation of such quantities of natural gas onshore for exchange with or delivery to Texas Eastern onshore.

Thermally equivalent volumes of natural gas transported onshore each day by each of the Applicants will be deemed to have been exchanged onshore. Any volume of natural gas transported onshore on any day in excess thereof shall be redelivered onshore by the transporting Applicant to the other Applicant. Daily deliveries of any such excess quantities of natural gas shall be made at the Union of Texas Winnie Plant, Jefferson County, Texas or at the Exxon-Sarita plant, Kenedy County, or at other mutually agreeable authorized points of exchange between the two parties.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 26, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26824 Filed 9-14-77;8:45 am]

[Docket No. CP77-593]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

SEPTEMBER 7, 1977.

Take notice that on August 29, 1977, Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-593 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction during the 12-month period commencing October 22, 1977, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the system of other pipeline companies which may be authorized to transport gas for the account of or exchange with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $12,000,000 with no single onshore project to exceed a cost of $1,500,000 and no single offshore project to exceed a cost of $2,500,000. These costs will be financed initially from temporary bank loans and company funds, with permanent financing to be arranged as part of an overall financing program, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 29, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26843 Filed 9-14-77;8:45 am]

[Docket No. CP77-592]

TRUNKLINE GAS CO.

Notice of Application

SEPTEMBER 7, 1977.

Take notice that on August 26, 1977, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP77-592 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of 300 Mcf of natural gas per day on a firm basis for Transcontinental Gas Pipe Line Corporation (Transco) from an existing tap located in Iberia Parish, Louisiana, to a point in Vermilion Parish, Louisiana, where Applicant's and Transco's system are presently interconnected, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that said transportation would be pursuant to an agreement dated June 23, 1977, wherein Transco has agreed to pay Applicant a monthly transportation charge of $237 based upon a daily volume of 300 Mcf subject to increase if Applicant receives and redelivers more than 300 Mcf per day, or decrease if Applicant fails or is unable to take the amount of gas tendered by Transco up to 300 Mcf per day, by an amount equal to 2.60 cents per Mcf for those volumes delivered above or below 300 Mcf per day. It is said that the agreement provides for a term of 10 years from the date of first delivery and from year to year thereafter unless cancelled by either party by giving one year's written notice and that notwithstanding the foregoing, the agreement may be cancelled after the first three years of deliveries upon 30 days' written notice.

Applicant indicates that it has been advised by Transco that the gas to be transported is attributable to working interests owned by participants in a joint venture known as the Transmac Exploration and Development Program (Transmac) and gas owned by Transco. It is said that all of such participants are direct or indirect customers of Transco and all have been affected by Transco's curtailment of deliveries in recent years. Transco has advised that its estimated average curtailment of service for the 1977-78 winter period is projected to be approximately 49 percent and that transportation of such participants' gas to them for their use will help alleviate the effect on them of Transco's curtailment, it is said.

Applicant indicates that no new facilities are required to implement the instant proposal.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 29, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26833 Filed 9-14-77;8:45 am]

FEDERAL RESERVE SYSTEM

[H. 2, 1977 No. 35]

ACTIONS OF THE BOARD; APPLICATIONS AND REPORTS RECEIVED DURING THE WEEK ENDING AUGUST 27, 1977

ACTIONS OF THE BOARD

Goodlettsville Bancshares, Inc., Goodlettsville, Tenn., extension of time to November 27, 1977, within which to become a bank holding company through the acquisition of Bank of Goodlettsville.[1]

Potters Bank and Trust Co., East Liverpool, Ohio, to make an investment in bank premises.[1]

Bank of Christiansburg, Christiansburg, Va., extension of time within which to establish a branch at the intersection of South Main and Davis Streets, on U.S. Highway 460, Blacksburg, Va.[1]

Bank of Gassaway, Gassaway, W. Va., proposed merger with Community Investment Co., Inc., Gassaway, W. Va., report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Barnett Bank of St. Augustine, National Association, St. Augustine, Fla., proposed merger with Barnett Bank of Anastasia Island, St. Augustine, Fla., report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Bank of West Blocton, West Blocton, Ala., extension of time to November 1, 1977, within which to withdraw its membership from the Federal Reserve System.[1]

[1] Application processed on behalf of the Board of Governors under delegated authority.

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To establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

Union Trust Co. of Maryland, Baltimore, Md. Branch to be established at the intersection of U.S. Route 40 (Pulaski Highway) and Rossville Boulevard, Baltimore County.[3]

APPROVED

International Investments and Other Actions Pursuant to Sections 25 and 25 (a) of the Federal Reserve Act and Sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended.

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APPROVED

Bank of America: Investment—additional shares of Commercial & General Acceptance Ltd., Sydney, Australia.
Bank of America: For BA Finance Corp., Manila, Philippines, to continue to issue debt obligations.
U.S. Trust Co. International Corp.: Investment—additional shares of U.S. Trust International Advisory Co., S.A., Luxembourg.
Mellon International Finance Corp.: Investment—additional shares of Network Finance Ltd., Australia.
Walter E. Heller International Corp.: Investment—additional shares of Heller Factor Italia, S.P.A., Milan, Italy.
Walter E. Heller International Corp.: Investment—additional shares of H & H Factors Ltd., Croydon, England.

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CORRECTION FOR H. 2, 1977 NO. 33, PAGE 3

Philadelphia International Investment Corp.: to retain its 4.5 percent interest in Arburhnot Latham Holdings, Ltd., London, England, until October 10, 1977.

Thirty Day Notice by a Member Bank of Intention to Establish an Additional Branch in a Foreign Country.

APPROVED

The First National Bank of Boston: Branch—additional in Hamburg, West Germany.

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To Establish an Overseas Branch of a Member Bank Pursuant to Section 25 of the Federal Reserve Act.

APPROVED

Rainer National Bank: Branch—Manila, Philippines.
Security Pacific National Bank: Branch—Makati, Philippines.

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To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

APPROVED

Downs Bancshares, Inc., Downs, Kans., for approval to acquire 100 percent (less directors' qualifying shares) of the voting shares of The Downs National Bank, Downs, Kans.[3]

[3] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

First Guthrie BancShares, Inc., Guthrie, Okla., for approval to acquire 80 percent or more of the voting shares of The First National Bank of Guthrie, Guthrie, Okla.
Ottawa Bancshares, Inc., Ottawa, Kans., for approval to acquire 100 percent of the voting shares of The Kansas State Bank, Ottawa, Kans.

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

APPROVED

National City Corp., Cleveland, Ohio, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to National Union Bank, Columbiana, Ohio.
Ameribanc, Inc., St. Joseph, Mo., for approval to acquire 80 percerit or more of the voting shares of Morgan County Bank, Versailles, Mo.[2]

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To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

WITHDRAWN

BankAmerica Corp., San Francisco, Calif., notification of intent to engage in de novo activities (making or acquiring, for its own account loans and other extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit; such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, and making loans secured by real and personal property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit made or acquired by FinanceAmerica Corp.) at 37777 Paseo Padre Parkway, Fremont, Calif., through its indirect subsidiary, FinanceAmerica Corp. (a California corporation(2, 6, 77).[2]

DELAYED

Southern Bancorporation, Inc., Greenville, S.C., notification of intent to engage in de novo activities (acting as agent for the sale of credit related property and casualty insurance) at 112 Broad Street, Bennettsville, S.C. (d.b.a. World Finance of Bennettsville), and 811 Bay Street, Suite 4, Beaufort, S.C. (d.b.a. World Finance of Beaufort), through its indirect subsidiary, World Finance Corp. of South Carolina (a wholly-owned subsidiary of World Acceptance Corp.) (8/24/77).[2]
Jefferson Bankshares of Colorado, Inc., Denver, Colo., notification of intent to engage in de novo activities (the business of leasing personal property or acting as agent, broker, or adviser in leasing such property and leasing real property or acting as agent, broker, or adviser in leasing such property) at 7590 West Colfax Avenue at Wadsworth, Denver, Colo. (8/26/77).[2]

[2] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

Mountain Financial Services, Inc., Denver, Colo., notification of intent to engage in de novo activities (the business of servicing, brokering, making, or acquiring, for its own account or for the account of others, loans, mortgages, and other extensions of credit including first or second commercial real estate loans and mortgages; guaranteed Veterans Administration loans and mortgages; insured Federal Housing Administration loans and mortgages; and construction loans and mortgages) at 3600 South Yosemite, Denver, Colo. (8/26/77).[2]

PERMITTED

Horizon Bancorp, Morristown, N.J., notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit as would be made by a mortgage company; and servicing loans and other extensions of credit for any person) at 556 North Clearwater-Largo Road, Largo, Fla., through its subsidiary, Mortgage Investment Securities, Inc. (8/22/77).[2]
Mellon National Corp., Pittsburgh, Pa., notification of intent to engage in de novo activities (making or acquiring, for its own account secured and unsecured loans and other extensions of credit such as would be made by a finance company which activities include making direct consumer installment loans and purchasing consumer installment sales finance contracts; providing credit life and credit accident and health insurance in conjunction with the above lending activities, such insurance will be provided only in connection with extensions of credit by Local Loan Co. and its wholly-owned subsidiaries and will be available solely at the option of the borrower and the borrower is advised of this option in advance) at 9202 West Alameda, Lakewood, Colo., through its wholly-owned subsidiary, Local Loan Co., Chicago, Ill. (8/26/77).[2]
Mellon National Corp., Pittsburgh, Pa., notification of intent to engage in de novo activities (making or acquiring, for its own account secured and unsecured loans and other extensions of credit such as would be made by a finance company which activities include making direct consumer installment loans and purchasing consumer installment sales finance contracts; providing credit life and credit accident and health insurance in conjunction with the above lending activities; such insurance will be provided only in connection with extensions of credit by Local Loan Co. and its wholly-owned subsidiaries and will be available solely at the option of the borrower and the borrower is advised of this option in advance) at 25190 Mission Boulevard, Hayward, Calif., through its wholly-owned subsidiary, Local Loan Co., Chicago, Ill. (8/26/77).[2]
First Amtenn Corp., Nashville, Tenn., notification of intent to engage in de novo activities (making or acquiring, for its own account or the account of others, loans and other extensions of credit such as would be made by a finance company including secured and unsecured loans to individuals, discounting of installment sales contracts,

[2] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

and secured commercial financing such as dealer floor-plan financing and lease financing; and acting as agent or broker in selling the following types of insurance and property damage insurance on collateral supporting loans made by Atlantic Consumer Services of Tennessee, Inc.) at 2521 Nolensville Road, Nashville, Tenn., through a subsidiary, Atlantic Consumer Services of Tennessee, Inc. (8/27/77).[2]
First National of Nebraska, Inc., Omaha, Nebr., notification of intent to engage in de novo activities (operating an industrial loan and investment company pursuant to the laws of the State of Nebraska, including the issuance of paid-up certificates of indebtedness and making consumer loans and first and second mortgage loans on real estate) at 4421 South 84th Street and 3022 North 90th Street, Omaha, Nebr., through a subsidiary, First of Omaha Savings Co. (8/26/77).[2]
University Bancorp, Inc., Kansas City, Mo., notification of intent to continue to engage in de novo activities (leasing personal property, such personal property leasing activity will serve as the functional equivalent of credit to the lessee of the property; the property to be leased will be acquired specifically for the leasing transactions under consideration on a nonoperating basis and at the inception of the initial lease the effect of the transaction will yield a return that will compensate the lessor for not less than the lessor's full investment in the property over the term of the lease) at 531 Walnut, Kansas City, Mo. (8/25/77).[2]
U.S. National Bancshares, Inc., Galveston, Tex., to engage in microfiche services at 600 Jefferson Building, Suite 715, Houston, Tex., and 538 Highway 288 North, Clute, Tex., through a wholly-owned subsidiary, Bankers Data Services, Inc., Houston, Tex. (8/26/77).[2]
Security Pacific Corp., Los Angeles, Calif., notification of intent to relocate de novo activities (the financing of personal property and equipment and real property and the leasing of such property or the acting as agent, broker, or advisor in the leasing and/or financing of such property where at the inception of the initial lease the effect of the transaction (and, with respect to governmental entities only, reasonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease and the servicing of such financing and/or leases) from 505 Northern Boulevard, Great Neck, to 150 East 58th Street, New York, N.Y., through its subsidiary, Security Pacific Leasing Corp. (8/27/77).[2]
Selion, Inc., Toledo, Ohio, notification of intent to engage in de novo activities (leasing personal property and equipment or acting as agent, broker, adviser in leasing such property where at the inception of the initial lease the effect of the transaction and, with respect to governmental entities only, reasonably anticipated future transactions will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease) at 901-903 Sneath Lane, San Bruno, Calif., through its subsidiary, Bancorporation Leasing (8/25/77).[2]

APPROVED

First Guthrie BancShares, Inc., Guthrie, Okla., for approval to acquire a beneficial interest in First Guthrie Business Trust, Guthrie, Okla., which in turn will acquire First Guthrie Insurance Agency, Guthrie, Okla.
Ottawa Bancshares, Inc., Ottawa, Kans., for approval to acquire the assets of Credit Life Insurance Agency, Ottawa, Kans.

APPLICATIONS RECEIVED

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

Chemical Bank, New York, N.Y. Branch to be established at the intersection of Oscawana Lake Road and Peekskill Hollow Road, Oregon Corners, Putnam Valley, Putnam County.
The Commercial Trust & Savings Bank, Storm Lake, Iowa. Branch to be established at 1237 Lake Avenue, Storm Lake, Buena Vista County.
Liberty State Bank & Trust, Hamtramck, Mich. Branch to be established at 25719 Grand River Avenue, Redford Township, Wayne County.
Bank of Sturgeon Bay, Sturgeon Bay, Wis. Branch to be established in Egg Harbor, Village of Egg Harbor, Door County.
Bank of Sturgeon Bay, Sturgeon Bay, Wis. Branch to be established in the Village of Ellison Bay, Town of Liberty Grove, Door County.

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To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

Charter Techny Bancorporation, Inc., Northfield, Ill., for approval to acquire 80 percent or more of the voting shares of Charter Bank of Techny, Northbrook, Ill., a proposed new bank.
Sword Financial Corp., Horicon, Wis., for approval to acquire 82.85 percent of the voting shares of Horicon State Bank, Horicon, Wis.
American National Bancshares, Inc., Midwest City, Okla., for approval to acquire 80 percent or more of the voting shares of American National Bank of Midwest City, Midwest City, Okla.
Chickasha Bancshares, Inc., Chickasha, Okla., for approval to acquire 80 percent of the voting shares of Chickasha Bank & Trust Co., Chickasha, Okla.
First National Fairbury Corp., Lincoln, Nebr., for approval to acquire 100 percent of the voting shares of The First National Bank of Fairbury, Fairbury, Nebr.
Jefferson County Agency, Inc., Daykin, Nebr., for approval to acquire 100 percent of the voting shares of Jefferson County Bank, Daykin, Nebr.
Kremmling Holding Co., Kremmling, Colo., for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of Bank of Kremmling, Kremmling, Colo.
Commercial National Corp., Brady, Tex., for approval to acquire 81 percent or more of the voting shares of The Commercial National Bank of Brady, Brady, Tex.

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To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act 1956.

National City Corp., Cleveland, Ohio, for approval to acquire 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to The First National Bank, Dayton, Ohio, Dayton, Ohio.
Community Banks of Florida, Inc., Seminole, Fla., for approval to acquire 80 percent or more of the voting shares of The County Bank, Manatee County (P.O. Palmetto), Fla.
Detroitbank Corp., Detroit, Mich., for approval to acquire 100 percent of the voting shares of The Detroit Bank—Sterling, National Association, Detroit, Mich., a proposed new bank.

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

Industrial National Corp., Providence, R.I., notification of intent to engage in de novo activities (origination and sale of residential mortgages; consumer finance; servicing of residential mortgages; and issuance of credit life and credit accident and health insurance activities) at 522 seventh Street, Racine, Wis., through a subsidiary, Amortized Mortgages, Inc., a subsidiary of Mortgage Associates, Inc. (8/25/77).[2]
Manufacturers Hanover Corp., New York, N.Y., notification of intent to engage in de novo activities (arranging, making, or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made or acquired by a mortgage company and servicing such loans and other extensions of credit; acting as an investment adviser and manager to a real estate investment trust; providing bookkeeping or data processing services for Manufacturers Hanover Corp., its subsidiaries and affiliates and storing and processing other banking, financial or related economic data such as performing payroll, accounts receivable or billing services) at 150 East Mount Street, Columbus, Ohio, through its subsidiary, Citizen Mortgage Corp. (8/22/77).[2]
Philadelphia National Corp., Philadelphia, Pa., notification of intent to relocate de novo activities (making personal installment loans (and, through Signal Mortgage Corp., second mortgage installment loans) for personal, family, or household purposes; purchasing sales finance contracts executed in connection with the sale of personal, family, or household goods or services in connection with certain personal and second mortgage installment loans made and sales finance contracts purchased selling casualty insurance, credit life and credit accident and health insurance and reinsuring such credit life and credit accident and health insurance through Patrick Henry Insurance Co. and Patrick Henry Life Insurance Co., indirect subsidiaries of Philadelphia National Corp.) from Kamm's Plaza, 3766 Rocky River Drive, Cleveland, Ohio, to Olmstead Square, 27328 Lorain Road, North Olmstead, Ohio, through its subsidiary, Signal Finance of Ohio, Inc. and Signal Mortgage Corp. (8/18/77).[2]
Pittsburgh National Corp., Pittsburgh, Pa., notification of intent to engage in de novo activities (mortgage banking, including the making or acquiring and servicing for its own account or the accounts of others, loans and other extensions of credit) at Suite 100 and 101, 1250 Terminal Way, Reno, Nev., through its wholly-owned subsidiary, The Kissell Co., Springfield, Ohio (8/25/77).[2]
Southern Bancorporation, Inc., Greenville, S.C., notification of intent to engage in de novo activities (making extensions of credit as a licensed consumer finance lender under the Consumer Finance Act of South Carolina as supervised by the South Carolina Board of Financial Institutions, Consumer Finance Division; and acting as agent for the sale of credit related life/accident and disability insurance and credit related property and casualty insurance issued in connection with the above-mentioned extensions of credit) at 112 Broad

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Street, Bennettsville, S.C. (d.b.a. World Finance of Bennettsville), and 811 Bay Street, Suite 4, Beaufort, S.C. (d.b.a World Finance of Beaufort), through its indirect subsidiary, World Finance Corp. of South Carolina (a wholly-owned subsidiary of World Acceptance Corp.) (8/24/77).[2]

Barnett Banks of Florida, Inc., Jacksonville, Fla., notification of intent to engage in de novo activities (performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company including activities of a fiduciary, agency or custodial nature in the manner authorized by Federal and State law; provided however, that loans and investments will be made and deposits accepted only in conformity with Regulations of the Board of Governors of the Federal Reserve System) at 1201 Brickell Avenue, Miami, Fla., through a subsidiary, Barnett Banks Trust Company, N.A. (8/19/77).[2]

Kremmling Holding Co., Kremmling, Colo., for approval to engage de novo in the sale of credit life and credit accident and health insurance directly related to extensions of credit by Bank of Kremmling, Kremmling, Colo.

Security Pacific Corp., Los Angeles, Calif., notification of intent to relocate de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses, and other extensions of credit such as would be made by a factoring company or a consumer finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and casualty insurance) from 333 South Hope Street, Los Angeles, Calif., to 1100 Glendon Avenue, Los Angeles, Calif., through its subsidiary, Security Pacific Finance Corp. (8/22/77).[2]

Security Pacific Corp., Los Angeles, Calif., notification of intent to relocate de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses, and other extensions of credit such as would be made by a factoring company or a consumer finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and casualty insurance) from 16200 Ventura Boulevard to 17337 Ventura Boulevard, Encino, Calif., through its subsidiary, Security Pacific Finance Corp. (8/22/77).[2]

Security Pacific Corp., Los Angeles, Calif., notification of intent to engage in de novo activities (the origination and acquisition of mortgage loans, including development and construction loans on multi-family and commercial properties, for its own account or for the sale to others and the servicing of such loans for others) at 1226 North 23rd, Grand Junction, Colo., through its subsidiary, Security Pacific Mortgage Corp. (8/22/77).[2]

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REPORTS RECEIVED

None.

[2] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, September 8, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26783 Filed 9-14-77;8:45 am]

COMBANKS CORP.

Acquisition of Bank

Combanks Corp., Winter Park, Fla., has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire indirectly, through the acquisition of 22.5 percent of the voting shares of American Bancshares, Inc., North Miami, Fla., voting shares of the following banks: The Second National Bank of North Miami, North Miami, Fla.; The Seminole Bank of Tampa, Tampa, Fla.; First National Bank of Davie, Davie, Fla.; Second National Bank of North Miami Beach, North Miami Beach, Fla.; First National Bank of the Upper Keys, Tavernier, Fla.; Second National Bank of Clearwater, Clearwater, Fla.; University City Bank, Gainesville, Fla.; Executive Bank of Fort Lauderdale, Fort Lauderdale, Fla.; and Second National Bank of Homestead, Homestead, Fla. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Combanks Corp., Winter Park, Fla., has also applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire indirectly voting shares of American Bancshares Insurance Agency, Inc., North Miami, Fla., and American Bancshares Mortgage Co., Inc., North Miami, Fla., both subsidiaries of American Bancshares, Inc.

American Bancshares Insurance Agency, Inc., engages in the activities of acting as insurance agent or broker with respect to (i) credit life or accident and health insurance that is directly related to the extension of credit by a bank or bank related firm, and (ii) credit life or accident and health insurance that is directly related to the provision of other financial services by a bank or bank related firm. Such activities are conducted at all of the offices of the banking subsidiaries of American Bancshares, Inc., and notice of this application was published in newspapers of general circulation in each of the areas served.

American Bancshares Mortgage Co., Inc., engages in the activities of making or acquiring, for its own account or for the account of others, loans and other extensions of credit (including issuing letters of credit and accepting drafts) such as would be made by a mortgage company; servicing loans and other extensions of credit for any person; and acting as insurance agent with respect to insurance which is directly related to an extension of credit by said mortgage company. Such activities are conducted in North Miami, Fla., and notice of the application was published on June 21, 1977, in the Miami Review and Daily Record, a newspaper of general circulation in Dade County, Fla. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 7, 1977.

Board of Governors of the Federal Reserve System, September 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26781 Filed 9-14-77;8:45 am]

OLD KENT FINANCIAL CORP.

Acquisition of Bank

Old Kent Financial Corp., Grand Rapids, Mich., has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by consolidation to Peoples Bank and Trust, National Association, Trenton, Mich. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 7, 1977.

Board of Governors of the Federal Reserve System, September 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26782 Filed 9-14-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

BILINGUAL EDUCATION

Closing Date for Receipt of Applications for Basic Programs of Bilingual Education—Initial Awards

Pursuant to the authority contained in section 721 of the Bilingual Education Act, Title VII of the Elementary and Secondary Act, of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b-880b-13), the Commissioner of Education hereby gives notice that applications for initial awards of assistance for basic programs of bilingual education are being accepted from local educational agencies (including certain organizations of Indian tribes which operate schools for Indian children, and schools for Indian children on reservations which are operated or funded by the Department of Interior) and from institutions of higher education applying jointly with such agencies. Funds are available for grants to new applicants for basic programs.

Closing date. November 15, 1977.

A. *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403D, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, civil disturbances, etc., the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 1977 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before November 15, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

D. *Program information.* The amount of funds which is expected to be available in fiscal year 1978 for initial awards of assistance for basic programs of bilingual education is $22,500,000. The anticipated number of initial awards of assistance for basic programs of bilingual education is 136 with an expected average amount for the majority of initial awards at $166,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. *For further information contact.* The Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW., (Reporter's Building, Room 421), Washington, D.C. 20202 (202-245-2600).

F. *Applicable regulations.* Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' attention is directed in particular to Subpart B of 123—§§ 123.11-123.20 relating to Basic Programs of Bilingual Education.

(20 U.S.C. 880b-880b-13)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education.)

Dated: September 8, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc.77-26794 Filed 9-14-77;8:34 am]

BILINGUAL EDUCATION

Closing Date for Receipt of Applications for Basic Programs of Bilingual Education—Non-Competing Continuation Awards

Pursuant to the authority contained in section 721 of the Bilingual Education Act, Title VII of the Elementary and Secondary Act, of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b—880b-13), the Commissioner of Education hereby gives notice that applications for the noncompeting continuation of assistance for basic programs of bilingual education are being accepted from local educational agencies (including certain organizations of Indian tribes which operate schools for Indian children, and schools for Indian children on reservations which are operated or funded by the Department of Interior) and from institutions of higher education applying jointly with such agencies. Funds are available for grants to continue programs presently in operation pursuant to an approved project period in excess of one year.

Closing date. November 15, 1977.

A. *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403C, Washington, D.C. 20202. Applications should be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, civil disturbances, etc., the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail should be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before November 15, 1977, by either the Departemnt of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

D. *Program information.* The amount of funds which is expected to be available in fiscal year 1978 for the continuation of basic programs of bilingual education is $71,475,000. The anticipated number of noncompeting continuation awards for basic programs of bilingual education is 429 with an expected average amount for the majority of continuation awards at $166,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any par-

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ticular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. *For further information contact.* The Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW., (Reporter's Building, Room 421), Washington, D.C. 20202 (202–245–2600).

F. *Applicable regulations.* Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' attention is directed in particular to Subpart B of Part 123—§§ 123.11–123.20 relating to Basic Programs of Bilingual Education.

(20 U.S.C. 880b-880b–13.)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education.)

Dated: September 8, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc.77-26795 Filed 9-14-77;8:45 am]

BILINGUAL EDUCATION

Closing Date for Receipt of Applications for Training Programs—Initial Awards

Pursuant to the authority contained in Section 723 of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Public Law 93–380 (20 U.S.C. 880b–880b–13) the Commissioner of Education hereby gives notice that applications for initial awards of assistance for training programs are being accepted from one or more institutions of higher education which apply after consultation with, or jointly with, one or more local educational agencies; or one or more State educational agencies. Funds are available for grants to new applicants for training programs.

Closing date. November 15, 1977.

A. *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403E, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, civil disturbances, etc., the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before November 15, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

C. *Hand delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

D. *Program information.* The amount of funds which is expected to be available in Fiscal Year 1978 for initial awards of training programs is $6,800,000. The anticipated number of initial awards for training programs is 68, with an expected average amount for initial awards at $100,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act applicable regulations, and appropriation acts.

E. *For further information contact.* The Office of Bilingual Education, Office of Education, 400 Maryland Avenue, S.W. (Reporter's Building, Room 421), Washington, D.C. 20202 (202–245–2600).

F. *Applicable regulations:* Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the FEDERAL REGISTER on June 11, 1976 (41 F.R. 23862), and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' attention is directed in particular to Subpart D of Part 123—§§ 123.31–123.40 relating to Training Programs of Bilingual Education.

(20 U.S.C. 880b–880b–13.)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education.)

Dated: September 8, 1977.

ERNEST L. BOYER,
Commissioner of Education.

[FR Doc.7-26796 Filed 9-14-77;8:45 am]

BILINGUAL EDUCATION

Closing Date for Receipt of Applications for Training Programs—Non-Competing Continuation Awards

Pursuant to the authority contained in Section 723 of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Public Law 93–380 (20 U.S.C. 880b–880b–13), the Commissioner of Education hereby gives notice that applications for the non-competing continuation of training programs are being accepted from one or more institutions of higher education which apply after consultation with, or jointly with, one or more local educational agencies; or one or more State educational agencies. Funds are available for grants to continue programs presently in operation pursuant to an approved project period in excess of one year.

Closing date. November 15, 1977.

A. *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403E, Washington, D.C. 20202. Applications should be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, civil disturbances, etc., the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before November 15, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

C. *Hand delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except

Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

D. *Program information.* The amount of funds which is expected to be available in Fiscal Year 1978 for continuation of training programs is $4,200,000. The anticipated number of non-competing continuation awards for training programs is 42, with an expected average amounts of continuation awards at $100,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. *For further information contact.* The Office of Bilingual Education, Office of Education, 400 Maryland Avenue, S.W. (Reporter's Building, Room 421), Washington, D.C. 20202 (202–245–2600).

F. *Applicable Regulations.* Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' attention is directed in particular to Subpart D of Part 123—§§ 123.31–123.40 relating to Training Programs of Bilingual Education.

(20 U.S.C. 880b–880b–13.)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education.)

Dated September 8, 1977.

ERNEST L. BOYER,
Commissioner of Education.

[Filed Doc.77-26797 Filed 9-14-77;8:45 am]

BILINGUAL EDUCATION SUPPORT SERVICES

Closing Date for Receipt of Applications for Support Services for Programs of Bilingual Education—Initial Awards

Pursuant to the authority contained in the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Public Law 93–380, (20 U.S.C. 880b–13), the Commissioner of Education hereby gives notice that:

(1) Applications for initial awards of assistance for Training Resource Centers are being accepted from one or more local educational agencies; one or more institutions of higher education which apply after consultation with, or jointly with, one or more local educational agencies; or one or more State educational agencies.

(2) Applications for initial awards of assistance for Materials Development Centers are being accepted from one or more local educational agencies; or an institution of higher education which applies jointly with one or more local educational agencies.

(3) Applications for initial awards of assistance for Dissemination/Assessment Centers are being accepted from one or more local educational agencies; or an institution of higher education which applies jointly with one or more local educational agencies.

(4) Applicants considering a joint application are advised to follow all instructions to verify joint applicant status, as well as to complete Form OE 4561, "Certification Signatures for Bilingual Education Joint Application".

(5) Under § 123.22(d) of the program regulations, (45 CFR § 123.22(d)(1)), no more than one award for a training resource center, one award for a materials development center, and one award for a dissemination/assessment center will be made in a fiscal year in each service area designated under § 123.22 (a), (b), and (c), unless the Commissioner determines that additional awards are required to meet needs for such activities in a service area. Also, the Commissioner may award one or more specific projects without regard to the designated service area to meet the needs for such activities or to carry out the purposes of this subpart most effectively.

(6) Applicants that propose authorized activities without regard to the designated service area must set forth special justification of need for not following the service area designation.

(7) Potential applicants for initial awards, in order to assess their own chances for funding, should be aware of those service areas in which projects have already been approved in a prior fiscal year and will be reviewed for continuation on a non-competitive basis in FY 1978, in accordance with § 123.04 of the regulation (45 CFR § 123.04).

With respect to the training resource center activity, service areas 5 and 7, (45 CFR § 123.22(a)(1–8)), have training resource centers in operation which will be reviewed for refunding on a non-competitive basis.

With respect to the materials development center activity, service areas 1 and 7, (45 CFR § 123.22(b)(1–7)), have materials development centers in operation which will be reviewed for refunding on a non-competitive basis.

With respect to the dissemination/assessment center activity, service area 2 (45 CFR § 123.22(c)(1–3)), has a dissemination/assessment center in operation which will be reviewed for refunding on a non-competitive basis.

Closing date: November 15, 1977.

A. *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403G, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, civil disturbances, etc., the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 1977 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before November 15, 1977 by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

C. *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. *Program information.* The amount of funds which is expected to be available in Fiscal Year 1978 for initial awards of assistance for support services for programs of bilingual education is $14,600,000.

Funds expected to be available in FY 1978 for new competing awards for Resource Training Centers are estimated at $6,800,000. Funds expected to be available in FY 1978 for new competing awards for Materials Development Centers are estimated at $6,600,000. Funds expected to be available in FY 1978 for new competing awards for Dissemination/Assessment Centers are estimated at $1,200,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. *For further information contact:* The Office of Bilingual Education, Office of Education, 400 Maryland Avenue, SW., (Reporter's Building, Room 421), Washington, D.C. 20202 (202–245–2600).

F. *Applicable regulations:* Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and

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except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' attention is directed in particular to Subpart C of Part 123—§§ 123.21–123.30 relating to Support Services for Programs of Bilingual Education.

(20 U.S.C. 880b 880b–13.)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education.)

Dated: September 8, 1977.

ERNEST L. BOYER,
Commissioner of Education.

[FR Doc.77–26798 Filed 9–14–77;8:45 am]

BILINGUAL EDUCATION SUPPORT SERVICES

Closing Date for Receipt of Applications for Support Services for Programs of Bilingual Education—Non-Competing Continuation Awards

Pursuant to the authority contained in the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by P.L. 93–380 (20 U.S.C. 880b—880b–13) the Commissioner of Education hereby gives notice that:

(1) Applications for the non-competing continuation of training resource centers are being accepted from one or more local educational agencies; one or more institutions of higher education which apply after consultation with, or jointly with, one or more local educational agencies; or one or more State educational agencies, and

(2) Applications for the non-competing continuation of materials development centers and dissemination/assessment centers are being accepted from one or more local educational agencies; one or more institutions of higher education which apply jointly with one or more local educational agencies.

Funds are available for grants to continue centers presently in operation pursuant to an approved project period in excess of one year.

Closing date: November 15, 1977.

A. *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403G, Washington, D.C. 20202. Applications should be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, civil disturbances, etc., the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before November 15, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

C. *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. *Program information.* The amount of funds which is expected to be available in Fiscal Year 1978 for continuation awards for support services for programs of bilingual education is $3,400,000. The anticipated number of non-competing continuation awards for support services is six. Two resources training centers; three materials development centers; and one dissemination/assessment center.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. For further information contact the Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW., (Reporter's Building, Room 421), Washington, D.C. 20202 (202–245–2600).

F. *Applicable regulations.* Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' attention is directed in particular to Subpart C of 123—§§ 123.11–123.20 relating to Support Services for Programs of Bilingual Education.

(20 U.S.C. 880b—880b–13.)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education.)

Dated: September 8, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc.77–26799 Filed 9–14–77;8:45 am]

BILINGUAL EDUCATION

Closing Date for Receipt of New Requests for Participation in Fellowship Program

Pursuant to the authority contained in section 723(a)(2) in the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 93–380 (20 U.S.C. 880b—880b–13), the Commissioner of Education hereby gives notice that new requests for participation in the program of fellowships for trainers of bilingual education teachers are being accepted from institutions of higher education, after consultation with, or jointly with, one or more local educational agencies.

Closing date: November 15, 1977.

A. *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Request for participation sent by mail.* A request for participation sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Attention: 13.403F, Washington, D.C. 20202. A request for participation must be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, civil disturbances, etc., the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

A request for participation sent by mail will be considered to be received on time by the Application Control Center if:

(1) The request for participation was sent by registered or certified mail not later than November 10, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The request for participation is received on or before November 15, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

C. *Hand-delivered requests for participation.* A request for participation to be hand-delivered must be taken to the

U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered requests for participation will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. *Program information.* The amount of funds which is expected to be available in FY 1978 for new Bilingual Fellowship Programs is $1,650,000. It is anticipated that approximately 20 institutions of higher education will be approved for the Bilingual Education Fellowship Program. An estimated 246 fellowships to individuals may be awarded, with an average amount of $6,700 per fellowship awarded.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act applicable regulations, and appropriation acts.

E. *For further information contact* the Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW. (Reporter's Building, Room 421), Washington, D.C. 20202 (202–245–2600). Information required to be included in requests for participation is set out in the Bilingual Education Regulations at 45 CFR 123.42(a).

F. *Applicable regulations.* The Bilingual Education Fellowship Program will be subject to the regulations in 45 CFR Part 123—Subpart E, §§ 123.41–123.50—relating to Fellowships for Preparation of Teacher Training published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862).

(20 U.S.C. 880b–880b–13.)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education.)

Dated: September 8, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 77–26800 Filed 9–14–77;8:45 am]

BILINGUAL EDUCATION

Closing Date for Receipt of Requests for Continued Participation from Non-Competing Continuation Fellowship Programs

Pursuant to the authority contained in section 723(a)(2) in the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 93–380 (20 U.S.C. 880b—880b–13), the Commissioner of Education hereby gives notice that requests for participation for the non-competing continuation of fellowship programs for trainers of bilingual education teachers are being accepted from institutions of higher education, after consultation with, or jointly with, one or more local educational agencies.

Closing date: November 15, 1977.

A. *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Request for participation sent by mail.* A request for participation sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Attention: 13.403, Washington, D.C. 20202. A request for participation should be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, civil disturbances, etc., the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

A request for participation sent by mail will be considered to be received on time by the Application Control Center if:

(1) The request for participation was sent by registered or certified mail not later than November 10, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The request for participation is received on or before November 15, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

C. *Hand delivered requests for participation.* A request for participation to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered requests for participation will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. *Program information.* The amount of funds which is expected to be available in FY 1978 for the non-competing continuation Bilingual Education Fellowship Programs is $3,350,000. It is anticipated that 23 institutions of higher education will continue to participate in the Bilingual Education Fellowship Program. An estimated 500 fellowships to individuals may be awarded, with an average amount of $6,700 per fellowship award.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act applicable regulations, and appropriation acts.

E. For further information contact the Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW (Reporter's Building, Room 421), Washington, D.C. 20202 (202–245–2600). Information required to be included in requests for participation is set out in the Bilingual Education Regulations at 45 CFR 123.42(a).

F. Applicable regulations. The Bilingual Education Fellowship Program will be subject to the regulations in 45 CFR Part 123–Subpart E, §§ 123.41–123.50—relating to Fellowships for Preparation of Teacher Training published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862).

(20 U.S.C. 880b—880b–13.)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education.)

Dated: September 8, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 77–26801 Filed 9–14–77;8:45 a.m.]

BILINGUAL EDUCATION

Closing Date for Receipt of Applications for Non-Competing Assistance Contracts for Coordination of Technical Assistance by State Educational Agencies for Programs of Bilingual Education

Pursuant to the authority contained in section 721 of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 93–380 (20 U.S.C. 880b—880b–13), notice is hereby given that applications for noncompeting assistance contracts for the coordination of technical assistance are being accepted from State Educational Agencies in the State where programs of bilingual education assisted under the Bilingual Education Act operated during the fiscal year preceding the fiscal year for which assistance is sought.

Funds made available pursuant to this notice shall be used for the coordination of technical assistance to programs of bilingual education assisted under the Bilingual Education Act and operated by local educational agencies in the State of the applicant.

The amount paid to any State educational agency pursuant to this notice shall not exceed five percent of the aggregate of the amounts paid under Part A of the Bilingual Education Act to local educational agencies in the State of such agency in the fiscal year preceding the fiscal year for which assistance under this subpart is sought.

Closing date: November 15, 1977.

A. *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate that applications forms and programs information packers will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

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B. *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403H, Washington, D.C. 20202. Application should be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, civil disturbances, etc., the Office of Education suggets that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before November 15, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

C. *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. *Program information.* The amount of funds available in Fiscal Year 1978 for assistance contracts for coordination of technical assistance is $4,375,000. Awards are made annually on a noncompetitive basis as assistance contracts to State educational agencies in states where programs of bilingual education assisted under the Bilingual Education Act operated during the fiscal year preceding the fiscal year for which assistance is sought. Forty-six states are eligible for Fiscal Year 1978 funds. Awards shall not exceed five percent of the aggregate of the amounts under Part A of the Bilingual Education Act to local educational agencies in the State for Fiscal Year 1977.

This statement on the availability of funds is only an average and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. *For further information contact.* The Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW. (Reporter's Building, Room 421), Washington, D.C. 20202 (202-245-2600).

F. *Applicable regulations.* Assistance contracts awarded pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and except where inconsistent with Part 123, the Office of Education General Provisions Regulations in 45 CFR Part 100b. In preparing applications, applicants' attention is directed in particular to Subpart F of Part 123—§§123.51-123.60 relating to Coordination of Technical Assistance by State Educational Agencies.

(20 U.S.C. 880b-880b-13.)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education.)

Dated: September 8, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc.77-26802 Filed 9-14-77;8:45 am]

Health Care Financing Administration

CALIFORNIA PSRO AREA X: RESULTS OF NOTIFICATION

Notice to Physicians Regarding Agreement To Designate Professional Standards Review Organization

On July 20, 1977, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Stanislaus-Merced-Mariposa PSRO, Inc., designating it as the Professional Standards Review Organization for PSRO Area X of the State of California, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.7.

Such notice was also published in three consecutive issues of the *Merced Sun-Star, The Union Democrat*, and the *Modesto Bee* on July 20, 21, and 22, 1977. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and County medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area X of the State of California of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area X of the State of California who objects to the Secretary entering into an agreement with the Stanislaus-Merced-Mariposa PSRO, Inc., on the grounds that such organization is not representative of doctors in PSRO Area X of the State of California, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before August 19, 1977.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area X of the State of California, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area X of the State of California have expressed timely objection to the Secretary entering into an agreement with the Stanislaus-Merced-Mariposa PSRO, Inc. Therefore, the Secretary will proceed to enter into an agreement with the Stanislaus-Merced-Mariposa PSRO, Inc., designating it as the Professional Standards Review Organization for PSRO Area X of the State of California.

Dated: September 8, 1977.

ROBERT A. DERZON,
Administrator, Heath Care Financing Administration.

[FR Doc.77-26889 Filed 9-14-77;8:45 am]

COMMONWEALTH OF PUERTO RICO: RESULTS OF NOTIFICATION

Notice to Physicians Regarding Agreement To Designate Professional Standards Review Organization

On July 20, 1977, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Foundation for Medical Care of Puerto Rico designating it as the Professional Standards Review Organization for the Commonwealth of Puerto Rico, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.43.

Such notice was also published in three consecutive issues of *El Mundo, El Nuevo Dia*, and the *San Juan Star* on July 20, 21, and 22, 1977. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and County medical and specialty societies and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in the Commonwealth of Puerto Rico of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in the Commonwealth of Puerto Rico who objects to the Secretary entering into an agreement with the Foundation for Medical Care of Puerto Rico on the grounds that such organization is not representative of doctors in the Commonwealth of Puerto Rico, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before August 19, 1977.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in the Commonwealth of Puerto Rico, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in the Commonwealth of Puerto Rico have expressed

timely objection to the Secretary entering into an agreement with the Foundation for Medical Care of Puerto Rico. Therefore, the Secretary will proceed to enter into an agreement with the Foundation for Medical Care of Puerto Rico designating it as the Professional Standards Review Organization for the Commonwealth of Puerto Rico.

Dated: September 8, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

[FR Doc.77-26894 Filed 9-14-77;8:45 am]

INDIANA PSRO AREA I: RESULTS OF NOTIFICATION

Notice to Physicians Regarding Agreement to Designate Professional Standards Review Organization

On July 6, 1977, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Calumet Area Professional Review Organization designating it as the Professional Standards Review Organization for PSRO Area I of the State of Indiana, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.18.

Such notice was also published in three consecutive issues of the *Post-Tribune, Chicago Sun-Times, Times, Chicago Tribune*, and the *Chicago Daily News* on July 1, 2, and 4, 1977; and a correction notice was published on July 27, 28, and 29, 1977 in the same newspapers. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and County medical and specialty societies and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area I of the State of Indiana of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area I of the State of Indiana who objects to the Secretary entering into an agreement with the Calumet Area Professional Review Organization on the grounds that such organization is not representative of doctors in PSRO Area I of the State of Indiana, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before August 5, 1977.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area I of the State of Indiana, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area I of the State of Indiana have expressed timely objection to the Secretary entering into an agreement with the Calumet Area Professional Review Organization. Therefore, the Secretary will proceed to enter into an agreement with the Calumet Area Professional Review Organization designating it as the Professional Standards Review Organization for PSRO Area I of the State of Indiana.

Dated: September 8, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

[FR Doc.77-26890 Filed 9-14-77;8:45 am]

INDIANA PSRO AREA V: RESULTS OF NOTIFICATION

Notice to Physicians Regarding Agreement to Designate Professional Standards Review Organization

On July 6, 1977, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Indiana Area V PSRO designating it as the Professional Standards Review Organization for PSRO Area V of the State of Indiana, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.18.

Such notice was also published in three consecutive issues of *The Cincinnati Post, The Courier-Journal, The Louisville Times, Herald-Telephone*, and *The Indianapolis Star-News* on July 1, 2, and 4, 1977; and a correction notice was published on July 27, 28, and 29, 1977 in the same newspapers. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and County medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area V of the State of Indiana of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area V of the State of Indiana who objects to the Secretary entering into an agreement with the Indiana Area V PSRO on the grounds that such organization is not representative of doctors in PSRO Area V of the State of Indiana, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before August 5, 1977.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area V of the State of Indiana, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area V of the State of Indiana have expressed timely objection to the Secretary entering into an agreement with the Indiana Area V PSRO. Therefore, the Secretary will proceed to enter into an agreement with the Indiana Area V PSRO designating it as the Professional Standards Review Organization for PSRO Area V of the State of Indiana.

Dated: September 8, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

[FR Doc.77-26891 Filed 9-14-77;8:45 am]

STATE OF KANSAS: RESULTS OF NOTIFICATION

Notice to Physicians Regarding Agreement to Designate Professional Standards Review Organization

On July 6, 1977, the Secretary of Health, Education, and Welfare, published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Kansas Foundation for Medical Care, Inc., designating it as the Professional Standards Review Organization for the State of Kansas, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.20.

Such notice was also published in three consecutive issues of The Salina Journal, The Manhattan Mercury, The Kansas City Star, The Kansas City Times, The Topeka State Journal, The Garden City Telegram, The Lawrence Daily Journal-World, The Morning Sun, The Dodge City Daily Globe, The Hays Daily News, The Topeka Daily Capital, Beacon, Eagle and The Hutchinson News on July 1, 2, and 4, 1977; and a correction notice was published on July 27, 28, and 29, 1977, in the same newspapers. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in the State of Kansas of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in the State of Kansas who objects to the Secretary entering into an agreement with the Kansas Foundation for Medical Care, Inc., on the grounds that such organization is not representative of doctors in the State of Kansas, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, N.Y. 10022 on or before August 5, 1977.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in the State of Kansas, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in the State of Kansas have expressed timely objection to the Secretary enter-

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ing into an agreement with the Kansas Foundation for Medical Care, Inc. Therefore, the Secretary will proceed to enter into an agreement with the Kansas Foundation for Medical Care, Inc., designating it as the Professional Standards Review Organization for the State of Kansas.

Dated: September 8, 1977.

ROBERT A. DERZON,
Administrator,
Health Care Financing Administration.

[FR Doc.77-26892 Filed 9-14-77;8:45 am]

MICHIGAN PSRO AREA VIII: RESULTS OF NOTIFICATION

Notice to Physicians Regarding Agreement to Designate Professional Standards Review Organization

On July 20, 1977, the Secretary of Health, Education, and Welfare, published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Federation of Physicians in Southeastern Michigan designating it as the Professional Standards Review Organization for PSRO Area VIII of the State of Michigan, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.26.

Such notice was also published in three consecutive issues of the Detroit Free Press and the New Press of July 20, 21, and 22, 1977. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and County medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area VIII of the State of Michigan of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area VIII of the State of Michigan who objects to the Secretary entering into an agreement with the Federation of Physicians in Southeastern Michigan on the grounds that such organization is not representative of doctors in PSRO Area VIII of the State of Michigan, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, N.Y. 10022 on or before August 19, 1977.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area VIII of the State of Michigan, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area VIII of the State of Michigan have expressed timely objection to the Secretary entering into an agreement with the Federation of Physicians in Southeastern Michigan. Therefore, the Secretary will proceed to enter into an agreement with the Federation of Physicians in Southeastern Michigan designating it as the Professional Standards Review Organization for PSRO Area VIII of the State of Michigan.

Dated: September 8, 1977.

ROBERT A. DERZON,
Administrator,
Health Care Financing Administration.

[FR Doc.77-26893 Filed 9-14-77;8:45 am]

Social Security Administration

DIVISION OF SENSITIVE INQUIRIES, ET AL.

Redelegations of Authority To Make Various Findings of Fact, Decisions and Determinations on Cases Referred

Correction

In FR Doc. 77-25106 appearing on page 43671 in the issue of Tuesday, August 30, 1977, on page 43672, the 1st line, 1st paragraph should read as follows: "E. Pursuant to sections 402, 412 and . . .".

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-557; FDAA 3040-EM]

IDAHO

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This notice amends the notice of emergency declaration for the State of Idaho (FDAA-3040-EM), dated May 5, 1977.

DATED: August 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The notice of emergency for the State of Idaho dated May 5, 1977, and amended on June 1, 1977, June 2, 1977, June 3, 1977, June 14, 1977, and July 12, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of May 5, 1977:

The County of:

Caribou

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned affected area effective the date of this amended notice.

The Counties of:

Adams. Camas.

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected area effective the date of this amended notice.

The Counties of:

Mecosta Oceana

The purpose of this designation is to continue to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26932 Filed 9-14-77;8:45 am]

[Docket No. NFD-551; FDAA 3050 EM]

MONTANA

Notice of an Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of Montana (FDAA-3050-EM), dated August 22, 1977, and related determinations.

DATED: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development (Washington, D.C. 20410 (202-634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on August 22, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of Montana is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of Montana.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Donald G. Eddy, FDAA Region VIII, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following area to have been adversely affected by this declared emergency:

The County of Glacier.

The purpose of this designation is to provide emergency livestock feed and cattle transportation assistance only in the aforementioned area effective the date of this Notice.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

[FR Doc.77-26927 Filed 9-14-77;8:45 am]

[Docket No. NFD-552; FDAA 3049-EM]

NORTH CAROLINA

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of North Carolina (FDAA-3049-EM), dated August 11, 1977.

DATED: August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of North Carolina dated August 11, 1977, and amended on August 16, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of August 11, 1977:

The Counties of:

Caswell Stokes
Lincoln Wake

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26928 Filed 9-14-77;8:45 am]

[Docket No. NFD-553; FDAA-3049-EM]

NORTH CAROLINA

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of North Carolina (FDAA-3049-EM), dated August 11, 1977.

DATED: August 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of North Carolina dated August 11, 1977, and amended on August 16, 1977, and August 23, 1977, is hereby further amended to include the following county among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of August 11, 1977:

The County of: Catawba.

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned area effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26929 Filed 9-14-77;8:45 am]

[Docket No. NFD-554; FDAA 3052-EM]

WEST VIRGINIA

Notice of Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of West Virginia (FDAA-3052-EM), dated August 24, 1977, and related determinations.

DATED: August 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on August 24, 1977, the President declared an emergency as follows:

I have determined that the impact of severe storms, landslides, and flooding on the State of West Virginia is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288 for the purpose of providing mobile homes. I therefore declare that such an emergency exists in the State of West Virginia.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Arthur T. Doyle, FDAA Region III, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency.

The Counties of:

Boone Mingo
Logan

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26930 Filed 9-14-77;8:45 am]

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[Docket No. NFD-555; FDAA 3051-EM]

WEST VIRGINIA

Notice of Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of West Virginia (FDAA-3051-EM), dated August 24, 1977, and related determinations.

DATED: August 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on August 24, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of West Virginia is of sufficient severity and magnitude to warrant a declaration of an emergency under Pub. L. 93-288. I therefore declare that such an emergency exists in the State of West Virginia.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Arthur T. Doyle, FDAA Region III, to act as the Federal Coordinaing Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency.

The Counties of:

Grant	Monroe
Greenbrier	Pendleton
Hampshire	Pocahontas
Hardy	Summers
Mineral	

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26931 Filed 9-14-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA 2877]

CALIFORNIA

Opening of Land Subject to Section 24 of the Federal Power Act

SEPTEMBER 7, 1977.

Pursuant to the order of the Federal Power Commission DA-1127 issued June 17, 1977, and by virtue of the authority contained in Section 24 of the Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818) (1970), as amended, and in accordance with the authority redelegated to me by the State Director, California State Office, Bureau of Land Management, issued January 21, 1977 (42 FR 3901), as amended, it is ordered as follows:

1. The Commission finds that the value of the following described land, withdrawn in Power Site Classification No. 115, will not be injured or destroyed by conveyance subject to the provisions of Section 24 of the Federal Power Act.

HUMBOLT MERIDIAN

POWER SITE CLASSIFICATION 115

T. 8 N., R. 4 E.,
Sec. 25, Lot 25.

The area described aggregates 19.96 acres in Humbolt County.

2. The State of California has waived its preference right of application for highway rights-of-way on material sites afforded it by Section 24 of the Federal Power Act.

3. The land shall be made immediately available for a pending Indian Allotment CA 3933 subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable law, and subject to the provisions of Section 24 of the Federal Power Act, supra.

JOHN B. RUSSELL,
Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc.77-26807 Filed 9-14-77;8:45 am]

COLORADO

Closure to Motorized Vehicles

Notice is hereby given that under the authority of Executive Order 11644 as amended May 24, 1977, and the regulations in 43 CFR 6010, a four-wheel drive vehicle trail across the following described public lands under the administration of the Bureau of Land Management is closed to motorized vehicle use.

SIXTH PRINCIPAL MERIDIAN

T. 15 S., R. 77 W.,
Sec. 19, NW¼ and SE¼.
Sec. 20, SW¼SW¼.
Sec. 29, N½ and E½SE¼.
T. 15 S., R. 78 W.,
Sec. 13, E½SW¼.
Sec. 24, NE¼.

Vehicle closure signs are posted where this trail enters public lands. The trail extends from the vicinity of Ruby Mountain, near Nathrop, Colo., southeasterly approximately four miles to the San Isabel National Forest boundary. In the past this trail continued into the National Forest but that portion has been closed by the Forest Service. This trail passes through a portion of an area known as Browns' Canyon which was included in a proposed withdrawal to protect primitive values on August 16, 1976. In addition, Sec. 103 of the Federal Land Policy and Management Act of October 21, 1976 requires that such areas be reviewed to determine suitability for wilderness designation. The Act also requires that until such a determination is made such areas are to be managed so as not to impair suitability for preservation for wilderness. Closure of the above described trail is an interim management action to protect potential primitive and/or wilderness values.

This notice of closure shall become effective upon publication in the FEDERAL REGISTER.

Copies of a map showing the location of the trail as it crosses through the above described lands are posted in the Post Office at Nathrop, Colo., and in the Chaffee County Courthouse in Salida, Colo., and are available in the District Office, Bureau of Land Management, 3080 East Main Street, Canon City, Colo. 81212.

DALE R. ANDRUS,
State Director.

SEPTEMBER 7, 1977.

[FR Doc.77-26808 Filed 9-14-77;8:45 am]

CRAIG, MONTROSE, CANON CITY-GRAND JUNCTION TEAM LEADERS, BRANCH OF ADJUDICATION, DIVISION OF TECHNICAL SERVICES, COLORADO STATE OFFICE

Redelegation of Authority

SEPTEMBER 9, 1977.

1. Pursuant to the authority contained in redelegation of authority, published in FEDERAL REGISTER, 42 FR 41484, No. 159—Wednesday, August 17, 1977 (FR Doc. 77-23635 Filed 8-16-77; 8:45 a.m.), I hereby redelegate to the Leaders, Craig, Montrose and Canon City-Grand Junction Teams, Branch of Adjudication, in the Division of Technical Services, authority to take action on the following matters:

Sections 1.2 (b) and (e), 1.3(a), 1.5 (b) and (c), 1.6 (a) through (1), and 1.9 (a) through (f), (h) through (s), (u), (x), and (y) of Part I of the Bureau Order No. 701, of July 23, 1964, as amended.

2. Effective date: This redelegation will become effective October 1, 1977.

THOMAS N. HARDIN,
Chief, Branch of Adjudication.

[FR Doc.77-26773 Filed 9-14-77;8:45 am]

NELLIS AIR FORCE BOMBING AND GUNNERY RANGE WITHDRAWAL, SOUTHERN NEVADA

Draft Environmental Statement

In accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Air Force and the Bureau of Land Management (BLM) have begun preparation of a draft environmental statement on the proposed renewal of the Nellis Air Force Bombing and Gunnery Range Withdrawal. The Nellis Range, located in southeastern Nevada, includes portions of Clark, Lincoln, and Nye Counties.

The proposed action involves the continued use by the Department of the Air Force of about three million acres, most of which have been withdrawn land used primarily for training combat air crews and for testing experimental or improved weapons systems.

The draft statement will analyze the potential impacts of the proposed action and/or future Air Force activities on the human environment. The potential environmental effects to be assessed in the statement will primarily relate to: (a) The exclusion of possible alternative land uses within the areas involved; and (b) impacts to the land caused by continued use by the Air Force for weapons-related activities. (These types of activities have been occurring in the area since an original 1940 withdrawal.)

The draft environmental statement is being prepared by the Air Force's Environmental Planning Division, Langley Air Force Base, Va., with the assistance and review of the BLM. Anyone desiring more information, or wishing to comment on the project should contact William C. Calkins, Chief, Environmental Coordination Section, Bureau of Land Management, Room 3008, Federal Building, 300 Booth Street, Reno, Nev. 89509.

Dated: September 8, 1977.

E. I. ROWLAND,
State Director, Nevada.

[FR Doc.77-26816 Filed 9-14-77;8:45 am]

[NM 31524]

NEW MEXICO

Notice of Application

SEPTEMBER 8, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 8⅝-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.

T. 17 S., R. 29 E.,
Sec. 27, NE¼SW¼.

This pipeline will convey natural gas across 0.288 of a mile of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-26809 Filed 9-14-77;8:45 am]

[NM 31525]

NEW MEXICO

Notice of Application

SEPTEMBER, 8, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Co. has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.

T. 29 N., R. 9 W.,
Sec. 23, lot 16.
Sec. 25, lots 4, 5, 12 and 13.
Sec. 26, lot 1.

This pipeline will convey natural gas across 1.20 miles of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-26810 Filed 9-14-77;8:45 am]

[NM 31531]

NEW MEXICO

Notice of Application

SEPTEMBER 8, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Co. has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.

T. 20 S., R. 25 E.,
Sec. 7, lot 4, E½SW¼.
Sec. 18, lot 1.

This pipeline will convey natural gas across 0.62 of a mile of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-26811 Filed 9-14-77;8:45 am]

[NM 31521, 31522, and 31523]

NEW MEXICO

Notice of Applications

SEPTEMBER 8, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 6⅝-inch and two 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.

T. 24 N., R. 9 W.,
Sec. 22, E½NE¼.
Sec. 23, SW¼NW¼.
T. 31 N., R. 9 W.,
Sec. 32, lots 1, 2, and 4.
T. 32 N., R. 11 W.,
Sec. 13, NE¼NW¼.

These pipelines will convey natural gas across 0.921 mile of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-26812 Filed 9-14-77;8:45 am]

[NM 31510]

NEW MEXICO

Notice of Application

SEPTEMBER 6, 1977.

Notice is hereby given that, pursant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Western Gas Interstate Co. has applied for two sites and one 4-inch pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.

T. 20 S., R. 25 E.,
Sec. 25, W½SW¼ and SE¼SW¼.
Sec. 26, S½NW¼, NE¼SW¼ and SE¼.
Sec. 27, S½NW¼.
Sec. 28, N½N½.
Sec. 29, N½NE¼.

The sites and pipeline will be used in connection with natural gas operations and will cross 3.317 miles and 1.836 acres of public land in Eddy County, N. Mex.

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The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what term and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc 77-26813 Filed 9-14-77;8:45 am]

[Colorado 093629-A]

PIPELINE APPLICATION (CORRECTION)

In FR Doc. 77-18741, appearing on page 33383 in the issue for Thursday, June 30, 1977, the width for the gasoline products pipeline was incorrectly given as 45 inch o.d. The correct width dimension for the gasoline products pipeline is 4.5 anch o.d.

Dated: September 7, 1977.

THOMAS N. HARDIN,
Chief, Branch of Adjudication.

[FR Doc.77-26509 Filed 9-14-77;8:45 am]

[OR 17389]

OREGON

Reclassification of Public Land for Disposal by Exchange

SEPTEMBER 8, 1977.

Notice of classification, OR 1630, which was published in the FEDERAL REGISTER on November 29, 1967 (32 FR 16285-16287), as amended, classified the land described below, among other lands, for retention in federal ownership for multiple use management under the Act of September 19, 1964, 43 U.S.C. 1411-18 (1970).

It has been determined that the classification is no longer appropriate for the parcel described below and the segregative effect of the classification is hereby terminated. Accordingly, pursuant to 43 CFR 2400, notice is hereby given that this land is reclassified for disposal by exchange under the provisions of Section 206 of the Act of October 21, 1976 (90 Stat. 2743, 2756; 43 U.S.C. 1716).

WILLAMETTE MERIDIAN

T. 33 S., R. 18 E.,
Sec. 3, $S\frac{1}{2}S\frac{1}{2}SE\frac{1}{4}$.
Sec. 10, $N\frac{1}{2}NE\frac{1}{4}$.

The area described totals 120 acres in Lake County. In accordance with 43 CFR 2201.1 and 2202.1, no application for an exchange will be accepted until the land has been classified and the application is accompanied by a statement from the Lakeview District Manager, Bureau of Land Management, that the proposal is feasible.

No later than October 17, 1977, interested parties may submit comments to the Secretary of the Interior, LLM 320, Washington, D.C. 20240.

MURL W. STORMS,
State Director.

[FR Doc 77 26814 Filed 9-14-77;8:45 am]

[W-60227]

WYOMING

Notice of Proposed Withdrawal and Reservation of Lands

AUGUST 11, 1977.

The Fish and Wildlife Service, Department of the Interior, on July 19, 1977, filed application, Serial No. W-60227, for the withdrawal of approximately 11.21 acres of land from settlement, sale, location, or entry, under all of the general land laws, including the mining laws, but not the mineral leasing laws, subject to valid existing rights.

The Fish and Wildlife Service desires these lands for use as a district administrative headquarters site for Animal Damage Control activities.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyo. 82001, on or before September 21, 1977. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

For a period of two years from the date of publication of this notice in the FEDERAL REGISTER, the lands will be segregated from entry as specified above unless the application is rejected or the withdrawal is approved prior to that date. If the withdrawal is approved by the Secretary, it will be for a 20 year period, and the lands will remain segregated for the duration of the withdrawal.

The lands involved in the application are:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 19 N., R. 105 W.,
Sec. 22, lots 22 and 23, containing 11.21 acres.

All communications in connection with this withdrawal should be addressed to the Chief, Division of Technical Services, Bureau of Land Management, Department of the Interior, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyo. 82001.

HAROLD G. STINCHCOMB,
Acting Chief, Division of Technical Services.

[FR Doc.77-26815 Filed 9-14-77;8:45 am]

National Park Service

[Order No. 5]

ADMINISTRATIVE OFFICER, ET AL., INDEPENDENCE NATIONAL HISTORICAL PARK

Delegation of Authority

Section 1. *Administrative Officer.* The Administrative Officer may execute, approve, and administer contracts not in excess of $200,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised by the Administrative Officer in behalf of any area administered by Independence National Historical Park.

Section 2. *Procurement Agent.* The Procurement Agent may execute, approve, and administer contracts not in excess of $25,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised by the Procurement Agent in behalf of any area administered by Independence National Historical Park.

Section 3. *Revocation.* This order supersedes Order No. 4 dated March 13, 1975 and published in 40 FR 29309 on July 11, 1975.

(National Park Service Order No. 77 (38 FR 7478) as amended Mid-Atlantic Region Order No. 1 (39 FR 3694) as amended.)

Dated: May 11, 1977.

HOBART G. CAWOOD,
Superintendent, Independence National Historical Park.

[FR Doc.77-26743 Filed 9-14-77;8:45 am]

[Order No. 5]

ADMINISTRATIVE OFFICER, LAKE MEREDITH RECREATION AREA

Delegation of Authority Regarding Purchasing Authority

Sec. 1. (a) Administrative Officer. The Administrative Officer is authorized to execute, approve and administer contracts not in excess of $50,000 for supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

(b) Purchasing Agent. The Purchasing Agent may issue purchase orders not in excess of $500 for supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

Sec. 2. Revocation. This order supersedes Order No. 4, Lake Meredith Recreation Area, dated: June 10, 1975, and published July 18, 1975 (FR vol. 40, No. 139, July 18, 1975).

(National Park Service Order No. 77, 38 FR 7478, as amended, Southwest Region Order No. 5, 37 FR 7722 as amended.)

Dated: August 12, 1977.

WILLIAM E. DYER,
Superintendent, Lake Meredith Recreation Area.

[FR Doc.77-26739 Filed 9-14-77;8:45 am]

[Order No. 3]

ADMINISTRATIVE TECHNICIAN, PETERSBURG NATIONAL BATTLEFIELD

Delegation of Authority Regarding Purchase Orders for Supplies, Equipment, and Services

Section 1. Administrative Technician. The Administrative Technician of Petersburg National Battlefield may issue purchase orders not in excess of $10,000.00 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

Section 2. This order supersedes Petersburg National Battlefield Order No. 2, dated February 15, 1973 and published in 38 FR 8680 on April 5, 1973.

Dated: July 26, 1977.

WALLACE B. ELMS,
Superintendent.

[FR Doc.77-26744 Filed 9-14-77;8:45 am]

GRAND TETON NATIONAL PARK AND JOHN D. ROCKEFELLER, JR. MEMORIAL PARKWAY, WYO.

Concurrent Jurisdiction Accepted

Notice is hereby given that effective as of the 11th day of July, 1977, the United States has accepted concurrent jurisdiction over crimes and offenses under the laws of the State of Wyoming over and within all the territory dedicated to national park purposes included in tracts of land designated as Grand Teton National Park and John D. Rockefeller, Jr., Memorial Parkway. The acceptance of such jurisdiction was authorized by the Act of February 1, 1940 (54 Stat. 19, as amended; 40 U.S.C. 255).

Concurrent jurisdiction was ceded by the State of Wyoming subject to provisions contained in the act of the Forty-Fourth Legislature of the State of Wyoming, 1977 Session, as approved February 25, 1977 (Enrolled Act No. 41, Senate; Chapter No. 95; W.S. 5-4.4). This acceptance was effected by letter of July 8, 1977, from the Director of the National Park Service to the Governor of the State of Wyoming, receipt of which was acknowledged by the Governor on July 11, 1977.

The acquisition of this jurisdiction will enable the National Park Service to assume a more positive role in matters of public health and safety and to otherwise administer these areas more effectively. It will also relieve much of the burden heretofore placed on local authorities by the thousands of people who visit these Federal areas each year.

Done at the city of Washington, D.C., this 31 day of August, 1977.

WILLIAM J. WHALEN,
Director, National Park Service.

[FR Doc.77-26738 Filed 9-14-77;8:45 am]

MINING PLAN OF OPERATIONS AT DEATH VALLEY NATIONAL MONUMENT

Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of Section 9.17 of 36 CFR Part 9, G&S Incorporated has filed a Plan of Operations in support of proposed mining activities on lands embracing its Big Gypsum Mining Claim within the Death Valley National Monument. This plan is available for public inspection during normal business hours at the Death Valley National Monument Headquarters, Death Valley, Calif.

Dated: July 27, 1977.

DONALD M. SPALDING,
Superintendent, Death Valley National Monument.

Dated: August 16, 1977.

HOWARD H. CHAPMAN,
Regional Director, Western Region.

[FR Doc.77-26471 Filed 9-14-77;8:45 am]

SAN JUAN ISLAND NATIONAL HISTORICAL PARK

Public Workshop

Notice is hereby given that a public workshop will be held concerning the alternatives for the San Juan Island National Historical Park's General Management plan. The workshop will be conducted in the Grange Hall at Friday Harbor on San Juan Island from 2 p.m. to 5 p.m. on Wednesday, October 12, 1977.

Written comments may be submitted to the Superintendent, San Juan Island National Historical Park, Box 549, Friday Harbor, Washington 98250, until November 4, 1977.

RUSSELL E. DICKENSON,
Regional Director, Pacific Northwest Region.

SEPTEMBER 6, 1977.

[FR Doc.77-26740 Filed 9-14-77;8:45 am]

Office of the Secretary

PREVENTION OF SIGNIFICANT AIR QUALITY DETERIORATION WITHIN UNITS OF THE NATIONAL PARK SYSTEM

Termination of Class I PSD Redesignation Study

The Department of the Interior has discontinued studies to determine whether Capitol Reef National Park and Canyonlands National Park should be redesignated to Class I areas pursuant to EPA Prevention of Significant Air Quality Deterioration (PSD) Regulations (40 CFR § 52.21).

The Secretary of the Interior announced in the FEDERAL REGISTER on June 14, 1977, that these two national parks in Utah were being considered for redesignation to Class I, and that studies required for that purpose under regulations of the Environmental Protection Agency in effect at that time would be pursued. However, the Clean Air Act Amendments of 1977, enacted into law on August 8, 1977, automatically place Capitol Reef and Canyonlands National Parks in the Class I PSD category. This new legislation preempts the former EPA regulations and makes further redesignation study of the two parks unnecessary.

Dated: August 24, 1977.

DAVID F. HALES,
Acting Assistant Secretary of the Interior.

[FR Doc.77-26742 Filed 9-14-77;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

IMPORTATION OF CONTROLLED SUBSTANCES

Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schdule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore in accordance with section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on August 24, 1977, Research Technology Branch, Division of Research, National Institute on Drug Abuse, DHEW, 11400 Rockville Pike, Rockville, Md.

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20852, made application to the Drug Enforcement Administration to be registered as an importer of thebaine, a basic class controlled substance in schedule II, to be imported for research purposes only.

As to the basic class of controlled substance listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than October 20, 1977.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street NW., Washington, D.C. 20537.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in schedule I or II are and will continue to be required to demonstrate to the Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: September 8, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.77-26852 Filed 9-14-77;8:45 am]

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Section 303(a)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a)(1)) states:

"The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

Pursuant to Section 1301.43 of Title 21 of the Code of Federal Regulations (CFR), notice is hereby given that on July 25, 1977, Endo Laboratories, Inc., 1000 Stewart Avenue, Garden City, New York 11530, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances listed below:

Drug:	Schedule
Hydrocodone	II
Oxycodone	II
Oxymorphone	II

Pursuant to Section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with 21 CFR 1301.43 (a), notice is hereby given that the above firm has made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances indicated, and any other such person, and any existing registered bulk manufacturer of the above substances may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on the application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than October 20, 1977.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street NW., Washington, D.C. 20537.

Dated: September 8, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc 77-26853 Filed 9-14-77;8:45 am]

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Section 303(a)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a)(1)) states:

"The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

Pursuant to Section 1301.43 of Title 21 of the Code of Federal Regulations (CFR), notice is hereby given that on August 9, 1977, Fher Corporation Ltd., Carretera 132, KM 25.3, P.O. Box 4108 Ponce, Puerto Rico 00731, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of phenmetrazine, a basic class of controlled substance in schedule II.

Pursuant to Section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with 21 CFR 1301.43 (a), notice is hereby given that the above firm has made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substance indicated, and any other such person, and any existing registered bulk manufacturer of phenmetrazine, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on the application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than October 20, 1977.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203 1405 Eye Street NW., Washington, D.C. 20537.

Dated: September 8, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.77-26854 Filed 9-14-77;8:45 am]

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Section 303(a)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a)(1)) states:

"The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;"

Pursuant to Section 1301.43 of Title 21 of the Code of Federal Regulations (CFR), notice is hereby given that on July 29, 1977, Pharmaceuticals Division, Ciba-Geigy Corporation, 556 Morris Avenue, Summit, New Jersey 07901, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of methylphenidate, a basic class of controlled substance in schedule II.

Pursuant to Section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with 21 CFR 1301.43 (a), notice is hereby given that the above firm has made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substance indicated, and any other such person, and any existing registered bulk manufacturer of methylphenidate may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on the application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than October 20, 1977.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street NW., Washington, D.C. 20537.

Dated: September 8, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.77-26855 Filed 9-14-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

DANCE ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Dance Advisory Panel to the National Council on the Arts will be held on October 2–3, 1977 from 9:15 a.m. to 6:00 p.m., October 4, 1977 from 9:15 a.m. to 5:00 p.m. and October 5, 1977 from 9:15 a.m. to 6:00 p.m., in the fourth floor Board Room, Music Center Presentations, 135 North Grand Avenue, Los Angeles, California 90012.

A portion of this meeting will be open to the public on October 4, 1977 from 9:15 a.m. to 6:00 p.m. and October 5, 1977 from 9:15 a.m. to 3:00 p.m. The agenda for this session will include a discussion of guidelines, policy and a question and answer session.

The remaining sessions of this meeting on October 2–3, 1977 from 9:15 a.m. to 5:00 p.m. and October 5, 1977 from 3:00 p.m. to 6:00 p.m. are for the purpose

of Panel review, discussion, evaluation, and recomendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applications. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(B) of section 552(b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

SEPTEMBER 12, 1977.

[FR Doc.77-26803 Filed 9-14-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR MOLECULAR BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Molecular Biology, Sub-Panel B.

Date and Time: October 6 and 7, 1977—9 a.m. to 6 p.m.

Place: Room 643, National Science Foundation.

Type of Meeting: Closed.

Contact person: Dr. Frederick I. Isuji, Program Director for Biochemistry, Room 329, National Science Foundation, Washington, D.C., 20550, telephone 202–632–4260.

Purpose of panel: To provide advice and recommendations concerning support for research in molecular biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

SEPTEMBER, 12, 1977.

[FR Doc.77-26761 Filed 9-14-77;8:45 am]

ADVISORY PANEL FOR PSYCHOBIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Psychobiology.

Date and time: October 5 and 6, 1977—9 a.m. to 5 p.m. each day.

Place: National Science Foundation, 1800 G St. N.W., Washington, D.C. Room 321.

Type of meeting: Closed.

Contact person: Fred Stollnitz, Program Director for Psychobiology, Room 320, National Science Foundation, Washington, D.C. Telephone 202–632–4264.

Purpose of panel: To provide advice and recommendations concerning support for research in psychobiology.

Agenda: The panel will be reviewing and evaluating research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

SEPTEMBER 12, 1977.

[FR Doc.77-26760 Filed 9-14-77;8:45 am]

COMMITTEE MANAGEMENT

Establishments

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), I have determined that the establishment of the Advisory Committees listed below are necessary, appropriate, and in the public interest in connection with the performance of duties imposed upon the National Science Foundation (NSF) by the National Science Foundation Act of 1950, as amended, and other applicable law.

As a result of a recent reorganization of the Foundation's advisory group structure, these 14 new committees will replace 36 advisory panel's which will be terminated at the time the new charters are filed with Congress. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to Sect. 9(a)(2) of the Federal Advisory Committee Act and OMB Circular A-63, Revised.

ADVISORY COMMITTEE FOR ATMOSPHERIC SCIENCES

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the atmospheric sciences area.

Membership. The Advisory Committee will consist of approximately 30 persons selected

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from the scientific community in atmospheric sciences.

ADVISORY COMMITTEE FOR ASTRONOMICAL SCIENCES

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the astronomical sciences area.

Membership. The Advisory Committee will consist of approximately 30 persons selected from the scientific community in astronomy.

ADVISORY COMMITTEE FOR EARTH SCIENCES

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the earth sciences area.

Membership. The Advisory Committee will consist of approximately 25 persons selected from the scientific community in earth sciences.

ADVISORY COMMITTEE FOR OCEAN SCIENCES

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the ocean sciences area.

Membership. The Advisory Committee will consist of approximately 35 persons selected from the scientific community in ocean sciences.

ADVISORY COMMITTEE FOR POLAR PROGRAMS

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the polar regions area.

Membership. The Advisory Committee will consist of approximately 55 persons selected from the scientific community in polar research.

ADVISORY COMMITTEE FOR ENGINEERING

Purpose. To provide advice, recommendations, and oversight concerning activities in the following areas: civil, chemical, electrical, mechanical and engineering disciplines.

Membership. The Advisory Committee will consist of approximately 36 persons selected from the scientific community in engineering research.

ADVISORY COMMITTEE FOR MATHEMATICAL AND COMPUTER SCIENCES

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the mathematics and computer sciences area.

Membership. The Advisory Committee will consist of approximately 25 persons selected from the scientific community in mathematical and computer sciences.

ADVISORY COMMITTEE FOR MATERIALS

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the following areas: condensed matter physics and chemistry, metallurgy, ceramics and polymer science; the Materials Research Laboratory Program; and user facilities at the National Magnet Laboratory, the Wisconsin Synchrotron Radiation Center and the Stanford Synchrotron Radiation Project.

Membership. The Advisory Committee will consist of approximately 36 persons selected from the scientific community in materials research.

ADVISORY COMMITTEE FOR CHEMISTRY

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the chemistry area.

Membership. The Advisory Committee will consist of approximately 18 persons selected from the scientific community in chemistry.

ADVISORY COMMITTEE FOR PHYSICS

Purpose. To provide advice, recommendations, and oversight concerning support in the physics area.

Membership. The Advisory Committee will consist of approximately 30 persons selected from the scientific community in physics.

ADVISORY COMMITTEE FOR PHYSIOLOGY, CELLULAR, AND MOLECULAR BIOLOGY

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the following areas: developmental, genetic, cellular, regulatory, and metabolic biology, and biochemistry and biophysics.

Membership. The Advisory Committee will consist of approximately 77 persons selected from the scientific community in the biological sciences.

ADVISORY COMMITTEE FOR BEHAVIORAL AND NEURAL SCIENCES

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the following areas: anthropology, linguistics, neurobiology, psychobiology, sensory physiology and perception, and social and developmental psychology.

Membership. The Advisory Committee will consist of approximately 60 persons selected from the scientific community in behavioral and neural sciences.

ADVISORY COMMITTEE FOR SOCIAL SCIENCES

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the following areas: economics, human geography and regional science, law and social sciences, political sciences, sociology, history and philosophy of science, special projects and social indicators.

Membership. The Advisory Committee will consist of approximately 45 persons selected from the scientific community in social sciences.

ADVISORY COMMITTEE FOR ENVIRONMENTAL BIOLOGY

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the following areas: ecology, systematics, population biology and physiological ecology, and ecosystems.

Membership. The Advisory Committee will consist of approximately 30 persons selected from the scientific community in environmental biology.

Balanced Membership. The membership of the Advisory Committees will be fairly balanced in the terms of the points of view represented and the committees function. Members will be chosen so as to insure a balance of subspecialty competence, geographical distribution, and representation of women and minorities. There will be no discrimination of the basis of race, color, national origin, religion, or sex.

Establishment and Duration. The Advisory Committees are effective on the date the charter is filed with the Director, NSF, and the standing committees of Congress having legislative jurisdiction of the National Science Foundation. The Advisory Committees will continue for two calendar years from the date of this filing.

Advisory Committee Operation. The Advisory Committees will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463); Foundation policy and procedures; OMB Circular A-63, Revised; and other directives and instructions issued in implementation of the Act.

RICHARD C. ATKINSON,
Director.

SEPTEMBER 12, 1977.

[FR Doc.77 26762 Filed 9-14 77;8:45 am]

ERDA/NSF NUCLEAR SCIENCE ADVISORY COMMITTEE (NUSAC)

Notice of Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), it is hereby determined that the establishment of the ERDA/NSF Nuclear Science Advisory Committee is necessary, appropriate, and in the public interest in connection with the performance of the duties imposed upon the Director, National Science Foundation (NSF) by the National Science Foundation Act of 1950, as amended, and other applicable law. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to § 9(a)(2) of the Federal Advisory Committee Act and OMB Circular No. A-63, Revised.

1. Name of Committee: ERDA/NSF Nuclear Science Advisory Committee (NUSAC).

2. Purpose: To provide advice on a continuing basis to both ERDA and NSF on support for basic nuclear science in the United States.

3. Effective date of establishment and duration: The establishment of this Committee is effective upon filing the charter with the Director, NSF, and the standing committees of Congress having legislative jurisdiction of the NSF and ERDA. The Committee will continue for two calendar years from the date of establishment. Two-year renewals of this Committee will be alternately under the aegis of ERDA and NSF, *mutatis mutandis.*

4. Membership: Membership of the Committee shall be fairly balanced in the terms of the point of view represented and the Committee's functions. Membership will consist of approximately 11 persons chosen to ensure an appropriately balanced representation of the scientific community in basic nuclear science, taking into account (1) the various subareas within nuclear science; (2) the various types of institutions engaged in research into basic nuclear science; (3) appropriate geographic distribution. Because of the specialized subject matter of the Committee, it is not felt necessary to include a public interest or industrial representative per se. There will be no discrimination on the basis of race, color, national origin, religion, age or sex.

5. Operation: The Committee will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92-463); NSF policy and procedures, OMB Circular No. A-63 Revised, and other directives and instructions issued in implementation of the Act.

6. Waiver: The Committee plans to hold its first meeting in mid-October. Therefore, OMB has waived the requirement that the Notice of Establishment appear in the Federal Register 15 days before the charter can be filed with Congress. The charter will be filed on September 23, 1977.

RICHARD C. ATKINSON,
Director.

SEPTEMBER 12, 1977.

[FR Doc.77-26916 Filed 9-14-77;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 77-37]

SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

Aviation Safety Recommendations A-77-56 through 58.—The National Transportation Safety Board has become aware of a serious problem involving supplemental oxygen masks for general aviation aircraft—a problem which has potentially disastrous consequences and requires immediate action by the Federal Aviation Administration.

The problem was detected during investigation of an incident involving a Piper Aztec (PA-23) which was on a return trip of an air taxi flight on August 3, 1977, from Bozeman, Mont., to Salt Lake City, Utah. After the two pilots aboard donned their oxygen masks, the copilot began to choke because an object had lodged in his throat. He manager to dislodge and swallow the object with great difficulty. The pilot-in-command removed his mask and found a circular filter that had been partially dislodged. This diluter valve filter was missing from the copilot's mask and obviously was the object on which he had choked. Had this flight been a single-pilot operation, aircraft control might have been lost.

These oxygen masks were manufactured by the Scott Aviation Division of A-T-O, Inc., as "Sky Mask," Part No. 28314-17, and were supplied by Piper Aircraft Corp. as part of the aircraft oxygen system. This type of mask is used in all types of general aviation aircraft for pilot and passenger supplemental oxygen. Other masks manufactured with the same dilution valve filter as the filter involved in this incident are manufactured under Part Nos. 28314, 28315, and 28317.

Board inspection of the "Sky Mask" has revealed that the filter can be dislodged easily by squeezing the pliable face piece of the mask, as as when donning the mask or adjusting it to facial contours. The Board notes that there are no definitive requirements for oxygen masks in 14 CFR Part 23; thus, an FAA inspector would have no basis on which to approve a mask as part of an aircraft's installed oxygen system. FAA approval also is not required when the mask is bought and used by an individual aircraft operator. The Board believes that equipment so closely related to the safety of flight should be more closely controlled by appropriate technical standards. Accordingly, on September 9 the Safety Board recommended that FAA—

Issue an Airworthiness Directive to require that all Scott Aviation "Sky Masks" be modified so that the dilution valve filter is positively retained. (Class I—Urgent Followup) (A-77-56)

Issue a Telert Maintenance Bulletin to alert all operators of aircraft equipped with Scott Aviation "Sky Masks" to check visually the security of the dilution valve filter before each use of the mask until the mask is modified. (Class I—Urgent Followup) (A-77-57)

Develop a Technical Standard Order (TSO) for continuous flow oxygen masks. (Class II—Priority Followup) (A-77-58)

Pipeline Safety Recommendations P-77-21 through 23.—Three additional Class I—Urgent Followup recommendations were issued September 9 to Alyeska Pipeline Service Co. as the Safety Board continues its investigation into the explosion and fire which occurred on July 8 at Alyeska's Pump Station No. 8 on the Trans-Alaska pipeline. Two Class I recommendations, Nos. P-77-16 and 17, were issued to Alyeska on July 15. (See 42 FR 37459, July 21, 1977.)

Investigation has shown that the explosion occurred when crude oil was turned into Pump No. 1 while the workers were servicing the pump's strainer. The oil under a pressure of about 400 psig sprayed out of the open cover and rapidly filled the building with vaporized crude oil. The vapor was ignited by one of several possible sources and exploded.

Information obtained from personnel directly affected by the accident revealed that before removing and cleaning the No. 1 pump's strainer, the selector switch for the No. 1 pump suction valve's motor operator had been placed in the manual position to allow the men in the pump room to close this valve and then drain the crude oil out of the strainer. However, after the valve was closed the control for the valve operator was not "locked out" electrically to render the No. 1 pump suction valve inoperative as the Alyeska company procedures direct.

Because of the inability to control the valves or to shut down the pumps from the pump room, and because of the inability of personnel in the pump station control room to monitor operations visually in the pump room and turbine room, the Safety Board now recommends that Alyeska—

Install a control in the pump room to shut down the pumps from that location. (P-77-21)

Install a control in the pump room to operate the pump valves from that location at any time. (P-77-22)

Install a closed circuit-type video camera in the pump room and turbine room to allow the pump station control center to monitor visually all activities at these locations. (P-77-23)

Railroad Safety Recommendations R-77-26 and 27.—A head-on collision of two rapid transit trains of the Greater Cleveland Regional Transit Authority on the Shaker Heights Line near 92nd and Holton Streets on July 8 is now under investigation by the Safety Board. The collision resulted in 57 injuries.

The Safety Board notes that trains on this line are governed by signals of an automatic block signal system. The double-track line is signalled for train movement in only one direction on each track. At the time of the accident, trains were operating in both directions on the south track because track work was being performed on the north track. This single-track operation was confined to the area between Pennsy Crossing and Shaker Square, a distance of approximately 3 miles. The single-car trains collided on a curve, approximately 1,500 feet east of the Pennsy Crossing crossover. Preliminary investigation has revealed a serious deterioration in the effectiveness and maintenance of the signal system on this line.

Although the Safety Board has not yet determined the cause of the collision on the Shaker Heights Line, the condition of the block signal system should be immediately corrected. The Board therefore recommends that the Greater Cleveland Regional Transit Authority—

Immediately inspect and repair the block signal system and implement procedures for its maintenance to insure that it continues to function as intended. (Class I) (R-77-26)

Until such time that the block signal system is repaired, establish a well-defined operational procedure which will insure the safe movement of all trains on the Shaker Heights Line. (Class I) (R-77-27)

RESPONSES TO SAFETY RECOMMENDATIONS

Aviation: A-76-101 and 102.—Federal Aviation Administration's letter of August 30 informs the Safety Board that changes to the Air Traffic Control Handbook 2110.65 and AIM Part I have been completed and published, effective July 1, 1977. The FAA considers actions completed with regard to this recommendation, issued following Board investigation of the November 30, 1975, Scenic Airlines crash southwest of the Elko (Nev.) Airport. (See 41 FR 31625, June 29, 1976.) The recommendations asked that the Handbook be amended to include all aircraft, whether radar-identified or not, and to state that the "low altitude alert" be issued on the basis of pilots' verbal altitude reports as radar observations or automatic altitude reports; and to instruct the controller to issue a "safety advisory" to a nonradar-identified aircraft if a verbal altitude report or verbal position report reveals a situation which, in the controller's judgment, is likely to affect the safety of the aircraft.

Aviation: A-77-6 and A-77-8.—Federal Aviation Administration's letter of August 30 is a further response to recommendations regarding medical procedures for airmen. A-77-6 proposed that an issue of the *Federal Air Surgeon's Medical Bulletin* emphasize to the FAA-designated Aviation Medical Examiners the need for quality control and the need for adherence to the provisions of 14 CFR Part 67 and the *Guide for Aviation Medical Examiners*, and A-77-8 referred

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to the use of FAA Form 8500–15, Statement of Demonstrated Ability (SODA).

FAA's letter of last May 11 (42 FR 27076, May 26, 1977) indicated that a forthcoming issue of the *Federal Air Surgeon's Medical Bulletin* would contain information responsive to recommendation A–77–6. FAA also noted, re A–77–8, that an issue would address the need for adherence to instructions concerning SODA's contained in the *Guide for Aviation Medical Examiners*. FAA attached to its August 30 letter a copy of the *Federal Air Surgeon's Medical Bulletin*, No. 77–1, July 1977, containing the pertinent article, and stated that it has been mailed to all Aviation Medical Examiners.

Aviation: A–77–48.—Federal Aviation Administration's letter of August 25 is in response to the Safety Board's request that FAA standardize word and phrase contractions contained in FAA publications, and in publications approved by FAA, to assure that there are no authorized abbreviations with dual meanings, or different abbreviations with the same meanings, used for air traffic control, communications, or associated services. The recommendation was issued following Board investigation into the loss last February 28 of a twin engine airplane near Mt. Iliamna, Alaska. (See 42 FR 33392, June 30, 1977.)

FAA agrees that commonly used contractions should be standardized and should have precise meanings. FAA reports that the Air Traffic Service has initiated a total review of contractions being used in the air traffic control system and that the project will be coordinated with other agencies and the International Civil Aviation Organization. FAA anticipates completion of this project in about 18 months.

Marine: M–73–2 through 5.—U.S. Coast Guard's letter of August 24 concerns recommendations issued following investigation into the August 14, 1971, collision between the M/V JAMES L. HAMILTON, M/V LASALLE, and tow and motorboat OH–5421–MC.

The Safety Board in recommendation M–73–2 asked Coast Guard to include a cautionary note in *Rules of the Road; Western Rivers*, stating that even when bearings on an approaching vessel are changing, there can be a risk of collision with a long tow ahead of the towboat making the observations. In response, Coast Guard states that it does not favor the insertion of a cautionary note in the rules of the road as a specific item, believing that the rules generally are "designed for use by reasonable men when encountering reasonably expected situations." Coast Guard says that if the rules were to deal specifically with every conceivable situation they would become unnecessarily complex, unmanageable, and incomprehensible; such situations are dealt with in Rules 25 and 26, Western River Rules. Additionally, towing vessel operators are required to be licensed by the Coast Guard and must show competency and knowledge in towboat operations.

Coast Guard reports that regulations are being drafted for inland waters; the regulations will parallel the 1972 International Regulations for Preventing Collisions at Sea, which came into force July 15, 1977. The Western River rule in question will also be expanded and therefore will be more effective in providing guidance for the prevention of collisions, Coast Guard said. It is also planned that an article be published in the Proceedings of the Marine Safety Council relative to the risk of collision rules.

In answer to M–73–3, which recommended that Coast Guard require suitable side-light alignment and securing devices on the front of barge tows to insure that such light will comply with the alignment required by the Rules of the Road, Coast Guard reports publication of an artile concerning the subject Marine Board of Investigation in the Proceedings of the Marine Safety Council, Volume 30, No. 4 of April 1973; included in the article are the Safety Board findings and recommendations. Coast Guard says that the article received wide distribution within the marine field, including the towing vessel industry. The Coast Guard is currently undertaking revision of the rules of U.S. waters to conform with requirements of the 1972 International Regulations for Preventing Collisions at Sea.

Regarding M–73–4, which recommended that Coast Guard upgrade the reliability of the navigation lights on barge tows by requiring that the circuits for these lights be automatically monitored to give an alarm in case of light failure, and by requiring redundant lights, Coast Guard finds no evidence that the sidelights of barges are so unreliable as to necessitate extensive and expensive redundancies and control capabilities. Coast Guard agrees with the Board that such a requirement could be instituted but says that casualty statistics do not support the need for such equipment.

Recommendation M–73–5 asked Coast Guard to clarify the effect on responsibilities for initiating whistle signals in *Rules of the Road*, of the requirement that easily maneuverable vessels less than 65 feet shall not hamper large vessels or vessels with tows, and develop and publish authoritative interpretations of actions required in other frequently encountered operating situations in which the "shall not hamper" rule interacts with other rules. In response, Coast Guard provides findings from a special study conducted to evaluate whether the interpretation of the "shall not hamper" rule is causing marine safety problems. Coast Guard notes that due to legal considerations, it does not develop interpretative rules; these have traditionally come from the courts in decisions in admiralty cases.

Pipeline: P–77–16 and 17.—Alyeska Pipeline Service Company's letter of August 25 is in answer to the Safety Board's initial recommendations made while investigating the July 8 Trans-Alaska pipeline accident (see above).

Relative to recommendation P–77–16, Alyeska reports that a Pump Station Manager has been added at each of its active stations. These are experienced people charged with the overall responsibility for the safe operation of their pump station. Alyeska says that the Chief Pump Station technicians report directly to this manager, thus providing for continuity between crews. The position of Assistant Chief Technician has been instituted to provide one working leader during the second shift at each station. Alyeska further reports that a large personnel roster board is being prepared for each pump station to identify all on-site personnel as well as their reporting relationship within the station.

Re P–77–17, Alyeska has instituted a system for refresher, on-the-job, training classes at all pump stations. These classes will review the system control logic for the startup, operation and shutdown of mainline pumps, pump house isolation, pump station isolation as well as communications within the pump station and/or coordination with the OCC at the Valdez Terminal. Also, the Safety Department has held refresher classes at all pump stations to stress compliance with the existing work permit and system lockout procedures. Recognizing the need for refresher training sessions, Alyeska maintains a full-time training section to provide both new-hire training and refresher series.

NOTE.—The above notice consists of summaries of Safety Board recommendations made available, and recommendation responses received, during the week preceding publication of this notice in the FEDERAL REGISTER. The safety recommendation letters in their entirety are available to the general public; single copies are obtainable without charge. Copies of the full text of responses to recommendations may be obtained at a cost of $4 for service and 10 cents per page for reproduction. All requests must be in writing, identified by recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

SEPTEMBER 12, 1977.

[FR Doc.77–26895 Filed 9–14–77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–251]

FLORIDA POWER AND LIGHT CO.

Granting of Relief From ASME Section XI Inservice Inspection (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted interim relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Florida Power and Light Company, pending the Commission's completion of its detailed analysis of FPL's application for permanent relief. The relief relates to the inservice inspection (testing) program for the Turkey Point Generating Station Unit No. 4 (the facility) located in Dade County, Florida. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief consists of excepting certain valves and pumps from being exercized or tested due to their design and their physical location, arrangements, alignment and orientation in the system or pumps and valves whose access may be restricted due to high radiation areas.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief. Prior public notice of this action was not required since the granting of this relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the request for relief dated February 25, 1977, (2) the Commission's letter to the licensee dated September 7, 1977.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 7th day of September 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 77–26862 Filed 9–14–77;8:45 am]

[Docket No. 50–335]

FLORIDA POWER AND LIGHT CO.

Consideration of Proposed Modification to Facility Spent Fuel Storage Pool

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a modification to the spent fuel storage pool of St. Lucie Unit No. 1 (the facility) operated under Facility License No. DPR–67 issued to the Florida Power & Light Company (the licensee). The facility is a pressurized water reactor located in St. Lucie County, Florida, and currently authorized for operation at power levels up to 2560 MWt.

The proposed modification being considered involves replacement of the existing racks in the spent fuel storage pool of the facility with racks of design capable of accommodating up to 728 fuel assemblies in accordance with the licensee's request dated August 31, 1977. The existing racks have a capacity for storage of 310 fuel assemblies. The modification will require changes to the facility Technical Specifications and issuance of a license amendment.

Prior to approval of the proposed modification and license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By October 17, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the approval of the modification to the subject facility spent storage pool. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Robert Lowenstein, Esquire of the Office of Lowenstein, Newman, Reis & Axelrad, 1025 Connecticut Avenue NW., Washington, D.C. 20036, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the licensee's proposal dated August 31, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Indian River Junior College, 3209 Virginia Avenue, Ft. Pierce, Florida 33450.

Dated at Bethesda, Maryland, this ??

For the Nuclear Regulatory Commission.

MARSHALL GROTENHUIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77–26859 Filed 9–14–77;8:45 am]

[Docket Nos. 50–70 and 70–754]

GENERAL ELECTRIC CO.

Consideration of Applications for Renewal of Operating License and Special Nuclear Material License

The Nuclear Regulatory Commission (the Commission) is considering the application for renewal of Operating License No. TR–1 issued to the General Electric Company (the licensee) for operation of the General Electric Test Reactor (GETR) at the Vallecitos Nuclear Center located in Alameda County near Pleasanton, California (Docket No. 50–70). The renewal would extend the expiration date of Operating License No. TR–1 to October 1, 1995, in accordance with the licensee's application for renewal, dated October 21, 1975.

The Commission is also considering the application for renewal of Special Nuclear Material License No. SNM–960 issued to the General Electric Company for the Vallecitos Nuclear Center (Docket No. 70–754), as requested in the licensee's application dated August 20, 1971, with revisions dated May 13, 1977. The renewal would extend the expiration date of Special Nuclear Material License No. SNM–960 for a period of five years.

Each of the above license renewal considerations is a separate proceeding; however, the proceedings may be subject to consolidation pursuant to Section 2.716 of 10 CFR Part 2 of the Commission's Regulations.

Prior to a renewal decision of Operating License No. TR–1 and Special Nuclear Material License No. SNM–960, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By October 17, 1977, the licensee may file a request for a hearing; and, any person whose interest may be affected by these proceedings may file a request

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for a hearing in the form of a petition for leave to intervene with respect to the renewal application of the subject facility operating license and/or the special nuclear material license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations and should identify the specific docket number of the proceeding (or both) in which intervention is sought. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Edward A. Firestone, 175 Curtner Avenue, MC 822, San Jose, Calif. 95125, attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding(s) as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his/her interest and his/her contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he/she becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he/she may present evidence and examine and cross-examine witnesses.

For further details with respect to these actions, see the application for operating license renewal dated October 21, 1975, the licensee's letter dated June 10, 1977, together with 13 documents which constitute a partial submittal of technical information in support of the operating license renewal application; and the application for special nuclear material license renewal dated August 20, 1971, with revisions dated May 13, 1977, and the licensee's Environmental Information Report, 1975, all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Commission's local reading room, Office of Inspection and Enforcement, Region V, Suite 202, 1990 North California Boulevard, Walnut Creek, Calif. 94596.

Subsequent information relating to the license renewal applications will also be made available at these locations.

Dated at Bethesda, Md., this 2nd day of September 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

R. W. STAROSTECKI,
Fuel Reprocessing and Recycle Branch, Division of Fuel Cycle and Material Safety.

[FR Doc.77-26519 Filed 9-14-77;8:45 am]

[Docket No. 40-8647]

KERR-MCGEE NUCLEAR CORP. SOUTH POWDER RIVER BASIN MILL

Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, Kerr-McGee Nuclear Corporation has filed an environmental report in support of their application for a source material license for the proposed South Powder River Basin Mill, located in Converse County in east central Wyoming. The report, which discusses environmental considerations related to the proposed uranium mill, is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555. Copies of the report are also being made available at the State Clearinghouse, State Planning Coordinator, Office of the Governor, Capitol Building, Cheyenne, Wyoming 82001.

After the environmental report has been analyzed by the staff, a draft environmental statement will be prepared. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of federal agencies and state and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Silver Spring, Maryland, this 9th day of September, 1977.

For the Nuclear Regulatory Commission.

L. C. ROUSE,
Chief, Fuel Processing and Fabrication Branch, Division of Fuel Cycle and Material Safety.

[FR Doc.77-26863 Filed 9-14-77;8:45 am]

[Docket No. 50-309]

MAINE YANKEE ATOMIC POWER CO.

Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-36, issued to Maine Yankee Atomic Power Company (the licensee), for operation of the Maine Yankee Atomic Power Station, located in Lincoln County, Maine.

The amendment would revise the provisions in the Technical Specifications relating to an increase of the authorized maximum power level from 2440 MWt to 2630 MWt, a 7.8% increase, in accordance with the licensee's application for amendment dated August 1, 1977.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By October 17, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license.

Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to John A. Ritsher, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Mass. 02110, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he beomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated August 1, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine.

Dated at Bethesda, Md., this 2nd day of September 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-26381 Filed 9-14-77; 8:45 am]

[Docket No. 50-272]

PUBLIC SERVICE ELECTRIC AND GAS CO., ET AL.

Issuance of Amendment to Facility Operating License

In the matter of Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company, Atlantic City Electric Company. The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. DPR-70, issued to Public Service Electric and Gas Company, et al. (the licensee), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit No. 1, located in Salem County, New Jersey. The amendment is effective as of its date of issuance.

This amendment revised the provisions in the Technical Specifications related to the allowable pH levels for discharged effluents, the intake impingement monitoring program, and the circulating water entrainment monitoring program.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this Amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 6, 1977, as supplemented by letters dated May 25 and August 9, 1977, (2) Amendment No. to License No. DPR-70 and (3) the Commission's letter dated September 8, 1977. Both of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 8th day of September 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-26864 Filed 9-14-77;8:45 am]

[Docket No. P-558A]

SAN DIEGO GAS AND ELECTRIC CO., ET AL.

Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following additional advice from the Attorney General of the United States, dated September 2, 1977:

You have requested our further advice pursuant to Section 105c of the Atomic Energy Act of 1954, as amended, in regard to the above-captioned application. We understand the Cities of Anaheim, Glendale, Pasadena, and Riverside, Calif. and the California Department of Water Resources propose to participate with the San Diego Gas and Electric Co. in the Sundesert Nuclear Plant, Units 1 and 2. Our review of the information submitted for the proposed additional participants, as well as other relevant information, has disclosed no basis upon which to change our previous conclusion that no antitrust hearing will be required regarding this nuclear facility.

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's "Rules of Practice," 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by October 15, 1977, either (1) by delivery to the NRC Docketing and Service Section at 1717 H Street NW., Washington, D.C., or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Section.

For the Nuclear Regulatory Commission.

JEROME SALTZMAN,
Chief, Antitrust and Indemnity Group, Nuclear Reactor Regulation.

[FR Doc.77-26860 Filed 9-14-77;8:45 am]

[Docket Nos. 50-250, 50-260, and 50-296]

TENNESSEE VALLEY AUTHORITY

Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 32 to Facility Operating License No. DPR-33, Amendment No. 29 to Facility Operating License No. DPR-52, and Amendment No. 8 to Facility Operating License No. DPR-68 issued to Tennessee Valley Authority (the licensee), which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Unit Nos. 1, 2, and 3 (the facility), located in Limestone County, Ala. The amendments are effective as of the date of issuance.

The licenses were amended July 15, 1977, to allow an increase in the maximum discharge temperature from 86°F to 90°F through August 31, 1977. These amendments revise the Appendix B Technical Specifications to allow the 90°F discharge water temperature limit subsequent to August 31, 1977, pending decision by the Environmental Protection Agency (EPA) and the State of Alabama on TVA's request for relief from applicable thermal limits. The allowed increase conforms to the actions taken by EPA and the State of Alabama pending their decision.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an Environmental Impact Appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

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For further details with respect to this action, see (1) the application for amendments dated July 26, 1977, (2) Amendment No. 32 to License No. DPR–33, Amendment No. 29 to License No. DPR–52, and Amendment No. 8 to License No. DPR–68, and (3) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Ala. 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 31st day of August 1977.

For the Nuclear Regulatory Commission.

CHARLES M. TRAMMELL,
Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-26865 Filed 9-14-77;8:45 am]

[Docket No. 50-259]

TENNESSEE VALLEY AUTHORITY

Proposed Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendment to Facility Operating License No. DPR–33, issued to Tennessee Valley Authority (the licensee), for operation of the Browns Ferry Nuclear Plant, Unit No. 1 (the facility) located in Limestone County, Ala.

The amendment would authorize operation of Browns Ferry Unit 1 in Cycle 2 after refueling with 168 fuel assemblies, each containing an 8 x 8 array of fuel rods. The balance of the core consists of the 596 fuel assemblies, each containing a 7 x 7 array of fuel rods, which will remain in the core from Cycle 1 operation. The proposed amendment would also change the Technical Specifications for the facility to (1) increase the safety limit for minimum critical power ratio (MCPR) from 1.05 to 1.06, (2) add the exposure dependent operating limits for MCPR for both 8 x 8 and 7 x 7 fuel and the linear heat generation rate (LHGR) limits for 8 x 8 fuel, and (3) reduce the limit on average scram insertion time of all operable control rods from 5.0 seconds to 3.5 seconds and of the three fastest of the four control rods in a two-by-two array from 5.3 seconds to 3.8 seconds.

Prior to issuance of the proposed amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By October 17, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceedings, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B3C, Knoxville, Tenn. 37902, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated July 8, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Athens Public Library, South and Forrest, Athens, Ala. 35611.

Dated at Bethesda, Md., this 30th day of August 1977.

For the Nuclear Regulatory Commission.

CHARLES M. TRAMMELL,
Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-26518 Filed 9-14-77;8:45 am]

[Docket No. 50-346]

TOLEDO EDISON CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 6 to the Facility Operating License No. NPF–3, issued to the Toledo Edison Co. and the Cleveland Electric Illuminating Co., which revised Technical Specifications for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

This amendment removes a condition which stipulated the amount of time allowed from date of issuance of the operating license for completing the installation of the modified emergency diesel fuel oil storage and transfer system. This license is further amended by making the appropriate change to the Technical Specifications on page 3/4 8–1.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Amendment No. 6 to License No. NPF–3, (2) the Commission's related Safety Evaluation supporting Amendment No. 6 to License No. NPF–3. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio 43452. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director Division of Project Management.

Dated at Bethesda, Md., this 26th day of August 1977.

For the Nuclear Regulatory Commission.

JOHN STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc.77-26521 Filed 9-14-77;8:45 am]

[Docket Nos. 50-280 and 50-281]

VIRGINIA ELECTRIC & POWER CO.

Proposed Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR–32 and DPR–37 issued to Virginia Electric and Power Co. (the licensee), for operation of the Surry Power Station Units Nos. 1 and 2, located in Surry County, Va.

In accordance with the licensee's application for amendment dated August 9, as supplemented August 26, 1977, the amendments would revise the provisions in the Technical Specifications relating to the transient and accident analysis as affected by an increase in steam generator tube plugging levels from the current 20% to 25%.

Prior to issuance of the proposed license amendments, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By October 7, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendments to the subject facility operating licenses. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioners contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Michael W. Maupin, Esquire, Hunton, Williams, Gay, and Gibson, P.O. Box 1535, Richmond, Va. 23213, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated August 9, as supplemented August 26, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. at the Swem Library College of William and Mary, Williamsburg, Va.

Dated at Bethesda, Md., this 6th day of September 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-26861 Filed 9-14-77;8:45 am]

[Docket No. PRM-73-2]

WISCONSIN ELECTRIC POWER CO., ET AL.

Filing of Petition for Rulemaking

Notice is hereby given that Gerald Charnoff, Esquire, and Jay E. Silberg, Esquire have filed with the Commission on behalf of the Wisconsin Electric Power Co., Wisconsin Public Service Corp., and Baltimore Gas and Electric Co. a petition for rulemaking dated August 19, 1977.

The petitioners request the Commission to amend § 73.55(d)(1) of the Commission's regulation "Physical Protection of Plants and Materials," 10 CFR Part 73, to elimiate the requirement for "pat-down" physical searches of individuals entering a protected area.

The amendments proposed by the petitioners would modify 10 CFR 73.55 (d)(1) by deleting the bracketed words and adding the italized language as follows:

§ 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against industrial sabotage.

. . . . . .

(d) Access requirements. (1) The licensee shall control all points of personnel and vehicle access to a protected area. Identification and search of all individuals shall be made and authorization shall be checked at such points. *The licensee shall post signs at such points informing individuals that they may be subject to physical search prior to entering a protected area.* The search function for detection of firearms, explosives and incendiary devices shall be conducted [either by a physical search or] by use of equipment capable of detecting such devices, *to the extent such equipment is reasonably available. The licensee may conduct a physical search of an individual if deemed necessary or appropriate.* The individual responsible for the last access control function (controlling admission to the protected area) shall be isolated within a bullet-resisting structure as described in paragraph (c)(6) of this section to assure their ability to respond or to summon assistance.

. . . . . .

The petitioners state that a requirement for a "pat-down" physical search is unnecessary in view of the other protective measures which are required, the absence of such a requirement for other (and more sensitive) facilities, and the serious problems which the physical search requirement imposes. The petitioners state, however, that "pat-down" physical searches should be permitted in any case where security personnel are suspicious about an individual, and signs should be posted that individuals entering a protected area may be subject to physical search.

The Commission is assessing the implications of "pat-down" searches and their value as a part of a total physical protection system, considering their relation to other features of security systems required by the rule that affect access controls intended to protect with high confidence against insiders. It is endeavoring to identify alternatives that will achieve equivalent protection in the context of the total security system. Public comments are solicited specifically on such alternatives, and further opinions as to the value of searches as a contributing element of security systems.

A copy of the petition for rule making is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by October 17, 1977.

Dated at Washington, D.C., this 13th day of September 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-27053 Filed 9-14-77;8:45 am]

[Docket No. 50-266]

WISCONSIN ELECTRIC POWER CO., AND WISCONSIN MICHIGAN POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued

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Amendment No. 27 to Facility Operating License No. DPR–24 issued to Wisconsin Electric Power Company and Wisconsin Michigan Power Company, which revised Technical Specifications for operation of the Point Beach Nuclear Plant Unit No. 1, located in the town of Two Creeks, Manitowoc County, Wisconsin. This amendment is effective as of the date of issuance.

This amendment consists of changes to the Technical Specifications to allow a one-time waiver of the requirement for monthly functional tests of the Turbine Stop and Governor Valves for the month of September, 1977.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 26, 1977, (2) Amendment No. 27 to License No. DPR–24, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the University of Wisconsin—Stevens Point Library, Attn: Mr. Arthur M. Fish, Stevens Point, Wisconsin 54481. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 6th day of Septembr 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77–26520 Filed 9–14–77;8:45 am]

[Docket No. 50–29]

YANKEE ATOMIC ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Facility Operating License No. DPR–3, issued to Yankee Atomic Electric Co. (the licensee), which revised Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located in Rowe, Franklin County, Mass. The amendment is effective as of its date of issuance.

The amendment incorporates provisions in the Technical Specifications required for operating with the refueled Core XIII, with an active ECCS accumulator subsytem, and with modified ECCS piping, based on an ECCS performance analysis utilizing certain modeling changes. The amendment also includes provisions restricting operation with Cycle XIII to the 4-loop mode and to 225 effective full power days.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with changes to the Technical Specifications resulting from the Yankee-Rowe Core XIII reload analysis facility ECCS modifications, and a conceptual change to the ECCS analytical model was published in the FEDERAL REGISTER on June 6, 1977 (42 FR 28946). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action. Prior public notice of other items associated with this amendment was not required since they do not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 6, 1977, as supplemented March 11; April 13; May 2; June 30; July 7, 14 and 15; August 1, 4, 5, 8, 9, and 22, 1977, (2) Amendment No. 43 to License No. DPR–3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Greenfield Public Library, 422 Main Street, Greenfield, Mass. 01581. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 25th day of August 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77–26866 Filed 9–14–77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE SKAGIT NUCLEAR PROJECT

Notice of Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Subcommittee on the Skagit Nuclear Project will hold an open meeting on September 30, 1977 in Seattle, WA. The exact location of the meeting will be announced later. The purpose of this meeting is to review the application of the Puget Sound Power and Light Company for a permit to construct the Skagit Nuclear Plant.

The agenda for subject meeting shall be as follows:

FRIDAY, SEPTEMBER 30, 1977

8:30 A.M. UNTIL CONCLUSION OF BUSINESS

The Subcommittee, with any of its consultants who may be present, will meet in Executive Session to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will meet to hear presentations by representatives of the NRC Staff, the Puget Sound Power and Light Company, and their consultants, and will hold discussions with these groups pertinent to this review.

At the conclusion of this session, the Subcommittee may caucus to determine whether the matters identified in the initial session have been adequately covered.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 copies to the Subcommittee at the beginning of the meeting.

Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than September 23, 1977, addressed to Dr. Richard P. Savio, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Sedro Wooley Library, 802 Ball Avenue, Sedro Wooley, Wash. 98294.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on September 29, 1977 to the Office of the Executive Director of the Committee (telephone 202–634–1394, Attention: Dr. Richard P. Savio) between 8:15 a.m. and 5 p.m., EDT.

(d) Questions may be propounded only by members of the Subcommittee, its consultants, and Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

A copy of the transcript of the portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after October 7 and December 30, 1977, respectively, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Sedro-Woolley Library, 802 Ball Avenue, Sedro-Woolley, Wash. 98294.

Copies may be obtained upon payment of appropriate charges.

Dated: September 14, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77–27074 Filed 9–14–77;10:47 am]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

ADVISORY GROUP ON WHITE HOUSE INFORMATION SYSTEMS

Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 94–463, the Office of Science and Technology Policy announces the following meeting:

Name: Advisory Group on White House Information Systems.

Date: October 4 and 5, 1977.

Time: 9 a.m. to 4 p.m.

Place: Room 3104, New Executive Office Building, 726 Jackson Place NW., Washington, D.C.

Type of Meeting: Open, subject to space limitations. Those wishing to attend should call the Contact Person below, to assist us in making adequate preparations.

Contact Person: Dr. Joel A. Snow, Advisory Group Executive Secretary, Office of Science and Technology Policy, Executive Office of the President, Washington, D.C. 20500. Telephone 202–395–3153.

Summary Minutes: May be obtained from the Office of Science and Technology Policy.

Purpose of Advisory Group: The Office of Science and Technology Policy, in accordance with the statutory mandate to advise the President and to analyze and interpret significant developments and trends in science and technology, will be identifying the information systems needs and the impact of technological advances in information and data handling as these might support the decision processes of the White House and the Executive Office of the President. The work of the Advisory Group will be based upon inputs from the relevant departments and earlier work carried out by other organizations in the Executive Branch including the Reorganization Team.

Agenda: 9 a.m. to 4 p.m.—This second panel meeting will include further briefings on information needs by EOP staff members; a thorough review of documents describing present and postulated information systems needs in each EOP organizational unit; and discussion to define further objectives for the Advisory Group, an agenda for the next meeting, and additional staff research requirements.

WILLIAM J. MONTGOMERY,
Executive Officer.

[FR Doc.77–2687 Filed 9–14–77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 9917 (812–4163)]

AGEC SECURITY CORP.

Filing of Application Pursuant to Section 6(c) of the Act for an Order of Exemption From All Provisions of the Act

SEPTEMBER 2, 1977.

Notice is hereby given that AGEC Security Corp., 2200 Bow Valley Square 2, 205 Fifth Avenue SW., Calgary, Alberta, Canada T2P 2W4 ("Applicant"), a corportation organized under the laws of the State of Delaware on March 29, 1977, filed an application on July 22, 1977, and an amendment thereto on August 29, 1977, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicant is a wholly-owned subsidiary of The Alberta Gas Ethylene Co. Ltd. ("Alberta Gas Ethylene"), incorporated under the laws of the Province of Alberta, Canada. Alberta Gas Ethylene is, in turn, a wholly-owned subsidiary of The Alberta Gas Trunk Line Co. Ltd. ("Alberta Gas Trunk Line"), incorporated by Special Act of the Legislative Assembly of the Province of Alberta. Alberta Gas Trunk Line is a publicly owned corporation whose shares are listed and traded on the Toronto Stock Exchange. Applicant, a special purpose corporation, has been organized for the purpose of borrowing in the United States approximately 88 percent of the cost of construction of a 1.2 billion pound per year ethylene plant (the "Ethylene Plant") near Red Deer, Alberta, Canada, and approximately 95 miles of pipeline from Red Deer to Fort Saskatchewan, Alberta (the Ethylene Plant together with the pipeline being hereinafter referred to as the "Project"). The Project will be owned and operated by Alberta Gas Ethylene. Applicant does not intend to conduct any other business.

Applicant plans to issue debt securities in the form of secured notes due December 31, 1998 ("Notes") to approximately nine United States insurance companies in transactions exempt from the registration requirements of the Securities Act of 1933, as amended, by virtue of the provisions of Section 4(2) thereof. The Notes will be guaranteed as to principal, premium, if any, and interest by Alberta Gas Ethylene and, in all circumstances except where normal repayment is interrupted by war in Canada or expropriation of assets in Canada, by The Dow Chemical Co. ("Dow U.S.") a Delaware corporation. The guarantee by Alberta Gas Ethylene will be secured by a charge on substantially all its assets, including its interest in the Project and all Applicant's stock.

The net proceeds of the sale of the Notes will be approximately $325,000,000 (U.S.) or an amount not greater than 88 percent of the cost of the Project. In no event will such proceeds be increased or decreased in excess of 15 percent of $325,000,000. Upon receipt of any portion of the proceeds, such proceeds will be deposited in trust with a Canadian trust company ("Trustee") which will, at the direction of Alberta Gas Ethylene, deposit such proceeds with a group comprised of up to five of the leading Canadian chartered banks ("Banks"); the

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Banks will, in turn, issue certificates of deposit to the Applicant. The certificates of deposit will have identical terms as to interest rate, maturity and repayment schedule as the Notes to be issued by Applicant (except as provided below) and will thus provide Applicant with funds to repay the Notes.

On receipt of proceeds upon issuance of the certificates of deposit, the Banks will concurrently purchase from Alberta Gas Ethylene income debentures ("Income Debentures") in the same amount as the proceeds so deposited. The Income Debenture interest will be payable only out of the income of Alberta Gas Ethylene and will mature not later than December 31, 1987. Alberta Gas Ethylene will apply the proceeds of its Sale of Income Debentures to the Banks toward the construction and related costs of the Project, or temporarily invest such proceeds pending such use. Utilization of the Income Debentures will provide a lower rate of interest to Alberta Gas Ethylene because of favored Canadian tax treatment to the Banks on receipt of interest on the Income Debentures.

Concurrent with the maturity of the Income Debentures, Applicant will convert the certificates of deposit into cash and lend such cash to Alberta Gas Ethylene which, in turn, will use such cash for the payment of the Income Debentures. Such loan from Applicant to Alberta Gas Ethylene will be evidenced by a note due December 31, 1998, the same date Applicant's Notes become due. Such note ("A.G.E. Note") will have identical terms as to interest rate, maturity and repayment schedule as the remaining installments of the Notes. After maturity of the Income Debentures, the obligation of Alberta Gas Ethylene to repay the funds raised by Applicant for the remaining years of the life of the Notes will be evidenced by the A.G.E. Note. The balance of the cost of the Project will be arranged by Alberta Gas Ethylene in the form of equity or subordinated debt which will rank junior to the Notes with respect to the security for the Notes.

The Ethylene Plant will be engineered and constructed by Dow Chemical of Canada, Ltd. ("Dow Canada"), a Canadian corporation and a wholly-owned subsidiary of Dow U.S. Dow U.S. is a publicly held corporation with securities registered pursuant to Section 12 of the Securities Exchange Act of 1934, as amended. The Ethylene Plant will be owned and operated by Alberta Gas Ethylene. Alberta Gas Trunk Line will engineer and construct the pipeline which is a part of the Project and which will also be owned and operated by Alberta Gas Ethylene. Dow Canada has entered into an ethylene sales agreement to "take-or-pay" for all of the ethylene produced by the Project at a price which will be sufficient to cover all debt service requirements on the Notes. The obligations of Dow Canada under the ethylene sales agreement are unconditional and are not dependent upon whether or not the Project is completed or ethylene is produced therefrom. Dow U.S. will guarantee the performance by Dow Canada of its obligations under the ethylene sales agreement except where normal operation of the Project is interrupted by war in Canada or expropriation of assets in Canada.

Section 3(a)(1) of the Act defines the term "investment company" to include any issuer which "is * * * engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities." Section 3(a)(3) of the Act defines "investment company" to include any issuer which "is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of government securities and cash items) on an unconsolidated basis." Applicant states that its only significant assets will be, initially, the certificates of deposit issued by the Banks, and later, the A.G.E. Note. Consequently, Applicant will come within the definition of "investment company" contained in Section 3(a) of the Act.

Section 3(b)(3) of the Act, generally speaking, excepts from the definition of investment company any issuer, all the outstanding securities of which (other than short-term paper and directors' qualifying shares), are owned by a company primarily engaged in a business other than investing, reinvesting, owning, holding or trading in securities. Because all equity securities of Applicant will be owned at all times solely by Alberta Gas Ethylene, it is asserted that the purchase of Applicant's Notes will be substantially the equivalent of purchasing obligations of Alberta Gas Ethylene. The guarantees of the Notes will rank pari passu with all other indebtedness of Alberta Gas Ethylene, and upon liquidation of Alberta Gas Ethylene, would have a claim on the assets of Alberta Gas Ethylene equal to that of all other indebtedness of Albert Gas Ethylene. Applicant claims that it is now entitled to a Section 3(b)(3) exemption. In the future, all of the outstanding securities of Applicant, other than debt securities, will continue to be owned at all times by Alberta Gas Ethylene. Accordingly, a Section 3(b)(3) exemption would continue to be available to Applicant upon issuance of the Notes except for the fact that the Notes will be owned by insurance companies rather than by Alberta Gas Ethylene.

The sole purpose of Applicant is to raise funds in the United States for its parent, Alberta Gas Ethylene, to own, construct, and operate the Project. The payment of Applicant's debt securities will not depend on the investment policy of Applicant. Applicant contends that there can be no public purpose served for applying the provisions of the Act to Applicant simply because, for substantial business reasons, Alberta Gas Ethylene deemed it proper to form Applicant to raise U.S. financing for the Project. Such reasons included the requirement of the U.S. finance institutions purchasing the Notes that the issuer thereof be a corporation organized under the laws of one of the States of the United States of America for purposes of conforming with legal investment laws.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision or provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant has agreed, in the event that the Commission grants the application, to the insertion in the Commission's order of the following conditions:

(1) Commencing with the first fiscal year in which it issues and sells any debt securities, Applicant will file with the Commission within 120 days after the close of each fiscal year of Applicant: (a) the data required by Items 1.08 (except with respect to information relating to persons under common control with Applicant), 1.09, 1.10, and 1.11 of Form N-1R adopted by the Commission pursuant to Section 30(a) of the Act, and (b) an annual balance sheet, income and surplus statement and schedule of temporary investments.

(2) Applicant will not issue any additional debt securities following the issuance of the Notes unless Applicant shall first give written notice to the Commission describing the proposed issuance of such additional debt securities within 30 days prior to the date of such proposed issuance; subject, however, to the right of the Commission, upon request of Applicant, to decrease such number of days. If the Commission shall, after receipt of said written notice, determine that a substantial question shall exist as to whether or not the exemption granted by the Order requested should continue, it shall mail or otherwise give notice to that effect to Applicant at its offices, 2200 Bow Valley Square 2, 205 Fifth Avenue SW., Calgary, Alberta, Canada T2P 2W4 (or at such other address as Applicant may have previously specified in writing to the Commission) within 15 days after the receipt by the Commission of said written notice from Applicant. Applicant will not consummate the proposed issuance of such additional debt securities except in accordance with an appropriate order of the Commission.

Notice is further given that any interested person may, not later than September 25, 1977, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the

Rules and Regulation promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 77-26877 Filed 9-14-77;8:45 am]

[Release No. 13934 (SR-DTC-76-8, Amendment No. 1)]

DEPOSITORY TRUST CO.

Order Approving Rule Change Submitted by the Depository Trust Co. Relating to the Depository Interface With the Midwest Securities Trust Co.

SEPTEMBER 6, 1977.

On May 26, 1977, The Depository Trust Co., 55 Water Street, New York, N.Y. 10041, ("DTC") submitted, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), Amendment No. 1 to a proposed rule change, which would expand the depository interface between DTC and The Midwest Securities Trust Co. to enable book-entry settlement of securities transactions between participants of the two depositories even though one or both participants may not be a participant in both depositories.

In accordance with section 19(b) of the Act and Rule 19b-4 thereunder, notice of the amendment to the proposed rule change was published in the FEDERAL REGISTER (42 FR 30957, June 17, 1977), and the public was invited to comment thereon. Notice of the amendment to the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 34-13609, June 8, 1977. No letters of comment were received.

The Commission has reviewed Amendment No. 1 to the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change contained in Amendment No. 1 to File No. SR-DTC-76-8 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26878 Filed 9-14-77;8:45 am]

[File No. 500-1]

ISC FINANCIAL CORP.

Notice of Suspension of Trading

SEPTEMBER 1, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of ISC Financial Corp., being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors: *Therefore*, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 3:05 p.m. (EDT) on September 1, 1977 through September 10, 1977.

By the Commission.

GEORGE A. FITZSIMMMONS,
Secretary.

[FR Doc 77 26879 Filed 9-14-77;8:45 am]

[Rel. No. 20162 (70-6048)]

JERSEY CENTRAL POWER & LIGHT CO.

Proposals To Amend Articles of Incorporation to Reclassify Presently Outstanding Shares of Preferred Stock and Increase Authorized Preferred Stock, and To Issue and Sell Preferred Stock at Competitive Bidding

SEPTEMBER 8, 1977.

Notice is hereby given that Jersey Central Power & Light Co., Madison Avenue at Punch Bowl Road, Morristown, N.J. 07960 ("Jersey Central"), an electric utility subsidiary company of General Public Utilities Corp., a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 6(b), and 7 of the Act and rules 42(a) and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Jersey Central proposes to amend its articles of incorporation ("Articles") (1) to change each of its outstanding shares of preferred stock into a share without par value but with a stated value of $100 per share, and (2) to increase its authorized preferred stock, presently consisting of 2,000,000 shares, par value $100 per share, or an aggregate of $200,000,000 (of which 1,600,000 shares, or an aggregate of $160,000,000, are presently outstanding), to 15,600,000 shares without par value but with a maximum aggregate stated value of $300,000,000. It is stated that the proposed reclassification will not affect the dividend, liquidation, voting or other rights of the holders of outstanding shares of preferred stock, and will make it feasible for Jersey Central to issue additional series of preferred stock from time to time at a unit price (e.g., $25 per share) which appears to be most readily marketable. The proposed amendment to the Articles will provide that each share of preferred stock will have such voting rights as is proportionate to the ratio of (i) the stated value of such share to (ii) the stated value of all shares of Jersey Central preferred stock then outstanding. It is further provided in the proposed amendment that the stated value of each share shall be equal to the capital furnished to Jersey Central for such share, and will also be equal to such share's preferential claim in the event of Jersey Central's involuntary liquidation, dissolution, or winding up. It is further stated that the amendment of the Articles will require the favorable vote of the holder of Jersey Central's common stock, GPU, the holder of all the outstanding Jersey Central common stock, has advised Jersey Central that it intends to vote the outstanding common stock in favor of the proposed amendment.

Jersey Central also proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to 2,000,000 shares of Cumulative Preferred Stock, — percent Series H (the "New Preferred Stock"). The New Preferred Stock will be similar to Jersey Central's outstanding series of cumulative preferred stock (after the proposed amendment referred to above) except that (1) the New Preferred Stock will have a stated value of $25 per share, (2) the dividend rate and redemption prices of the New Preferred Stock will be determined as a result of competitive bidding, and (3) the New Preferred Stock will contain a provision which precludes Jersey Central from redeeming any such shares prior to October 1, 1982, if the funds for such redemption are obtained directly or indirectly from borrowings or the issuance of stock at a lower effective interest or dividend cost than the dividend cost of the New Preferred Stock.

The proceeds ($50,000,000, exclusive of underwriting commissions and expenses of the offering) of the New Preferred Stock are expected to be applied to the payment at or before maturity of all of Jersey Central's $40,000,000 principal amount of short-term bank loans expected to be outstanding at the date of sale of such stock, and the balance will be applied to finance Jersey Central's 1977 construction program. At August 26, 1977, Jersey Central had $33,000,000 of short-term bank loans outstanding. The estimated cost of Jersey Central's 1977 construction program is $220,000,000 (including allowance for funds used during construction).

The fees and expenses to be incurred by Jersey Central in connection with the proposed transactions are estimated at

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$140,000, including legal fees of $24,000. The fees and expenses of counsel for the underwriters, to be paid by the successful bidders, will be supplied by amendment. It is stated that the Board of Public Utility Commissioners of New Jersey has jurisdiction over the proposed amendments to the Articles and the proposed issuance and sale of the New Preferred Stock and that no other State commission, and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than October 3, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by such application-declaration which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26880 Filed 9-14-77;8:45 am]

[Rel. No. 9923 (811-2744)]

MAKOVER INVESTMENT CO., INC.

Filing of Application Pursuant to Section 8(f) of the Investment Company Act of 1940 for an Order Declaring That the Applicant Has Ceased To Be an Investment Company

SEPTEMBER 9, 1977.

Notice is hereby given that Makover Investment Co., Inc., (formerly "Shirley of Atlanta, Inc.") 3020 Nancy Creek Road NW., Atlanta, Ga. 30327 ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as a closed-end, nondiversified management investment company, filed an application on August 9, 1977, pursuant to section 8(f) of the Act, for an order of the Commission declaring that the Applicant has ceased to be an investment company as that term is defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Applicant, operating under the corporate name of Shirley of Atlanta, Inc., was incorporated under the laws of Georgia in January 1961, and until recently was engaged in the business of styling, manufacture, and sale of a comprehensive line of ladies' and girls' sportswear. The application states that on May 2, 1977, substantially all of the assets of the Applicant were sold to Shirley of Atlanta Corp. for $6,600,548 in cash. The sale of the assets of the Applicant and certain other transactions incident thereto were approved by the Applicant's shareholders at the Applicant's annual meeting of shareholders held on April 19, 1977. Upon consummation of the sale of assets of the Applicant the proceeds of that sale were held in cash or invested in government treasury bills, bank certificates of deposit and similar short-term, prime commercial paper. On May 5, 1977, after having amended its Articles of Incorporation to change its name to Makover Investment Co., Inc., and to change its business to that of an investment company, the Applicant filed a Notification of Registration on Form N-8A with the Commission, registering it as a close-end, nondiversified management investment company under the Act. At that time, the Applicant had a total of 305 holders of record of its issued and outstanding shares of $1.00 par value common stock ("Common Stock").

On May 10, 1977, the Applicant commenced an offer to repurchase its outstanding Common Stock for $8.50 cash per share. Through the close of business on August 5, 1977, purchases of the Common Stock effected pursuant to the offer to repurchase had reduced the number of record holders of the Common Stock to a total of 63 persons. Applicant represents that at the date of filing this application the outstanding securities (other than short-term paper) of the Applicant are beneficially owned by not more than 100 persons. In addition, it is represented that as of that date, no "company", as such term is defined in the Act, owned of record or was known by the Applicant to own beneficially, ten percent or more of the outstanding voting securities of the Applicant. The application also states that the Applicant is not making and does not presently propose to make a public offering of its securities.

On the basis of the above information the Applicant maintains that it is not presently an "investment company" as that term is defined in the Act.

Section 3(c)(1) of the Act provides, in pertinent part, that any issuer whose outstanding securities (other than short-term paper) are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities is not an investment company within the meaning of the Act.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than October 3, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26881 Filed 9-14-77;8:45 am]

[Release No. 13942; (SR-MSRB-76-9)]

MUNICIPAL SECURITIES RULEMAKING BOARD

Order Approving Proposed Rule Change

SEPTEMBER 9, 1977.

On August 9, 1976, the Municipal Securities Rulemaking Board, Suite 507 1150 Connecticut Avenue NW., Washington, D.C. 20036 (the "MSRB") filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act") and rule 19b-4 thereunder, a proposed rule change ("proposed rule G-15"). The purpose of the proposed rule change is to establish confirmation delivery and disclosure requirements for transactions in municipal securities.

Notice of the proposed rule change, together with its terms of substance, was given by publication of a Commission release (Securities Exchange Act Release No. 12698 (August 9, 1976)), and by publication in the FEDERAL REGISTER (41 FR 34712 (August 16, 1976)). The MSRB has filed several substantive amendments to the proposed rule change and notice of each has been given, together with the terms of each amendment, by publication in the FEDERAL REGISTER.[1] On August 26, 1977, the MSRB filed technical amendments to certain of the proposed rule changes.

The text of the proposed rule change is a follows:

RULE G-15 CUSTOMER CONFIRMATIONS

(a) At or before the completion of a transaction in municipal securities with or for the account of a customer, each broker, dealer or municipal securities dealer shall give or send to the customer a written confirmation of the transaction containing the following information:

(i) Name, address, and telephone number of the broker, dealer, or municipal securities dealer;

(ii) Name of customer;

(iii) Designation of whether the transaction was a purchase from or sale to the customer;

(iv) Par value of the securities;

(v) Description of the securities, including at a minimum the name of the issuer, interest rate, maturity date, and if the securities are limited tax, subject to redemption prior to maturity (callable), or revenue bonds, an indication to such effect, including in the case of revenue bonds the type of revenue, if necessary for a materially complete description of the securities and in the case of any securities, if necessary for a materially complete description of the securities, the name of any company or other person in addition to the issuer obligated, directly or indirectly, with respect to debt service or, if there is more than one such obligor, the statement "multiple obligors" may be shown;

(vi) Trade date and time of execution, or a statement that the time of execution will be furnished upon written request of the customer;

(vii) Settlement date;

(viii) Yield to maturity and resulting dollar price, except in the case of securities which are traded on the basis of dollar price or securities sold at par, in which event only dollar price need be shown (in cases in which securities are priced to call, this must be stated, and where a transaction is effected on a yield basis, the calculation of dollar price shall be to the lower of price to call or price to maturity);

(ix) Amount of accrued interest;

(x) Extended principal amount;

(xi) Total dollar amount of transaction;

(xii) The capacity in which the broker, dealer or municipal securities dealer effected the transaction, whether

(A) As principal for its own account,

(B) As an agent for the customer,

(C) As an agent for a person other than the customer, or

(D) As an agent for both the customer and another person; and

(xiii) Instructions, if available, regarding receipt or delivery of securities, and form of payment, if other than as usual and customary between the parties.

(b) If the broker, dealer or municipal securities dealer is effecting a transaction as agent for the customer or as agent for both the customer and another person, the confirmation shall set forth (i) either the name of the person from whom the securities were purchased or to whom the securities were sold for the customer or a statement that this information will be furnished upon written request of the customer, and (ii) the source and amount of any commission or other remuneration received or to be received by the broker, dealer or municipal securities dealer in connection with the transaction.

(C) In addition to the information required by paragraphs (a) and (b) above, each confirmation to a customer shall contain the following information, if applicable:

(i) The dated date if it affects the price or interest calculation, and the first interest payment date if other than semi-annual;

(ii) If the securities are "fully registered" or "registered as principal only," a designation to such effect;

(iii) If the securities are "called" or "prerefunded," a designation to such effect, the date of maturity which has been fixed by the call notice, and the amount of the call price;

(iv) Denominations of notes and, if other than the following, denominations of bonds:

(A) For bearer bonds, denominations of $1,000 or $5,000 par value, and

(B) For registered bonds, denominations which are multiples of $1,000 par value, up to $100,000 par value;

(v) Any special instructions or qualifications, or factors affecting payment of principal or interest, such as (A) "ex legal," or (B) if the securities are traded without interest, "flat," or (C) if the securities are in default as to the payment of interest or principal, "in default," and

(vi) Such other information as may be necessary to ensure that the parties agree to the details of the transaction.

(d) The initial confirmation for a "when, as and if issued" transaction shall not be required to contain the information specified in subparagraphs (vii), (ix), (x), (xi) and (xiii) of paragraph (a) or the resulting dollar price as specified in subparagraph (viii).

(e) Information requested pursuant to this rule shall be given or sent to the customer within five business days following the date of receipt of a request for such information; *Provided however*, That in the case of information relating to a transaction executed more than 30 calendar days prior to the date of receipt of a request, the information shall be given or sent to the customer within 15 business days following the date of receipt of the request.

(f) For purposes of this rule, the time of execution of a transaction shall be the time of execution reflected in the records of the broker, dealer or municipal securities dealer pursuant to rule G-8 of the Board or Rule 17a-3 of the Commission.

(g) For purposes of this rule, the term "customer" shall mean any person other than a broker, dealer or municipal securities dealer acting in its capacity as such.

(h) The requirements of this rule shall become effective on December 8, 1977.

* * * * *

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and in particular, the requirements of Section 15B and the rules and regulations thereunder.[2]

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 9, 1977.

[FR Doc.77-26882 Filed 9-14-77;8:45 am]

[File No. 500-1]

NETWORK ONE, INC.

Suspension of Trading

SEPTEMBER 1, 1977.

It appearing to the Securities and Exchange Commission that the Summary suspension of the trading in the securities of Network One, Inc., being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 2:50 p.m. (EDT) on September 1, 1977 through September 10, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26886 Filed 9-14-77;8:45 am]

[1] *See* Securities Exchange Act Release Nos. 12897 (Oct. 15, 1976), 41 FR 46657 (1976), 12966 (Nov. 11, 1976), 41 FR 50743 (1976) and 13718 (July 5 1977), 42 FR 35924 (1977). One commentator, the Public Securities Association (the "Association"), urged the Commission to disapprove one amendment to rule G-15 which would require disclosure of the time of execution of a transaction or of the fact that such information is available upon request (see paragraph (a)(vi) of rule G-15). The Association stated that such a disclosure requirement appeared to be inconsistent with Section 15B(b)(2)(C) of the Act, would entail "substantial" compliance costs and would not "result in increased investor protection." The Commission is unable, however, to agree with those conclusions. In adopting Securities Exchange Act Rule 10b-10, which includes a very similar confirmation disclosure requirement, the Commission stated, "With respect to transactions in debt securities, the Commission believes that the time of a transaction may on occasion be of sufficient materiality to warrant its disclosure upon request and, since the time of a transaction is required to be maintained under Commission and MSRB recordkeeping rules, there appears to be little burden created solely by advising customers that information on time is available on request." Securities Exchange Act Release No. 13508 (May 5, 1977), 42 FR 25318 (May 17, 1977) [footnotes deleted].

[2] Proposed rule G-15 currently does not require disclosure of mark-ups and mark-downs on "riskless principal" transactions or remuneration paid to dealers by persons other than the customer. Such requirements have been included in proposed amendments to Securities Exchange Act Rule 10b-10, which prescribes confirmation delivery and disclosure requirements for transactions in securities other than municipal securities. The MSRB has stated that it "intends to study these proposals and to elicit comment from the municipal securities industry." *See also* Securities Exchange Act Release No. 13661 (June 23, 1977), 42 FR 33348 (June 30, 1977).

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[Rel. No. 20161; (70-6049)]

OHIO POWER CO.

Proposed Issue and Sale of Notes to Banks and to a Dealer in Commercial Paper and Request for Exception From Competitive Bidding

SEPTEMBER 7, 1977.

Notice is hereby given that Ohio Power Company, 301 Cleveland Avenue SW., Canton, Ohio 44701 ("Ohio"), an electric utility subsidiary company of American Elcetric Power Company, Inc., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the Act and rules 50(a)(2) and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Ohio requests that, from the date of the granting of this application to December 31, 1978, the exemption from the provisions of section 6(a) of the Act afforded to it by the first sentence of section 6(b) of the Act, relating to the issue of short-term notes, be increased to the extent necessary to cover the issuance and sale of notes to banks, to dealers in commercial paper and demand notes to bank trust departments in an aggregate amount not to exceed $150,000,000 outstanding at any one time. In no event will the amount outstanding be in excess of the maximum amount allowable both under its Articles of Incorporation and the consent granted by its Cumulative Preferred stockholders permitting an increase in the amount of unsecured short-term debt that Ohio could incur. The notes are to be issued from time to time prior to December 31, 1978, as funds may be required, provided that none of the notes, commercial paper, and demand notes to bank trust departments will mature later than June 30, 1979. As of June 30, 1977, Ohio had short-term notes, including commercial paper and demand notes, outstanding in an aggregate amount of $77,007,000.

Each note payable to a bank to be issued by Ohio will mature not more than 270 days after the date of issuance or renewal thereof, will bear interest at an annual rate of interest not greater than the prime rate of commercial banks in effect at the time of issuance or in effect from time to time and will be prepayable at any time without premium or penalty. In the case of most of the banks from which Ohio proposes to borrow, sufficient bank balances to meet operating and financial needs are kept at such banks to satisfy any compensating balance requirements of such banks in connection with any borrowings. If the average of such bank balances were maintained solely in order to fulfill the prevailing compensating balance requirements of such banks, generally up to about 20%, the effective interest cost to Ohio of issuance and sale of such notes to such banks would be approximately 1.75% above the prevailing current prime commercial rate of 7%, or about 8.75%. In the case of those banks in which Ohio does not maintain bank balances for operating and financial needs, Ohio will be required to maintain compensating balances (or alternatively, pay a fee) equivalent generally to no more than 10% of the amount of credit made available by each bank and 10% of the amount of any borrowings. If the full amount were borrowed from these banks, the maximum effective interest cost to Ohio would be approximately 1.75% above the current prime commercial rate of 7%, or about 8.75%. Ohio states that it will file with the Commission, by Post-Effective Amendment, lists of other banks not previously identified in filings with the Commission in this proceeding to which it proposes to issue and sell notes, and no such notes will be issued and sold to such banks not previously identified prior to the issuance of a Supplemental Order by the Commission in connection therewith. Such Post-Effective Amendments will also indicate the compensating balance or fee requirements of such banks if they exceed the terms described above.

Ohio also proposes to issue commercial paper in the form of promissory notes in denominations of not less than $50,000 nor more than $5,000,000. Such notes will be of varying maturities with no maturity more than 270 days after the date of issue, and will not be prepayable prior to maturity. The commercial paper notes will be sold directly by Ohio to Lehman Commercial Paper Incorporated (the "Dealer"), at a discount rate not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper notes will be issued having a maturity of more than 90 days at an effective interest cost which exceeds the effective interest cost at which Ohio could borrow from banks. The Dealer will reoffer the commercial paper notes to not more than 200 of the Dealer's customers identified and designated in a nonpublic list prepared by the Dealer in advance. It is expected that such customers of the Dealer will hold the commercial paper notes to maturity, but, if any such customer wishes to resell such commercial paper prior to maturity, the Dealer, pursuant to a verbal repurchase agreement, will repurchase such commercial paper sold by it and reoffer it to other customers on its nonpublic list.

Ohio also proposes to issue and sell its demand notes to the trust departments of The Cleveland Trust Company, Cleveland, Ohio, and The Fidelity Bank, Philadelphia, Pennsylvania, in the maximum amounts of $10,000,000 and $20,000,000, respectively. It is stated that the bank trust departments have a flow of funds, as fiduciary for various accounts, which would be available for investment in such demand notes. These demand notes will be in the form of promissory notes in denominations of not less than $1,000 bearing an interest rate equivalent to not more than the sum of ¼% and the highest rate paid daily by General Motors Acceptance Corporation on its commercial paper with a maturity of less than 180 days. Notes issued from January 1 to June 30 will mature July 1 of the same year and those issued from July 1 to December 31 will mature on January 1 of the following year. The bank trust departments will have the right to demand payment at any time, and Ohio will have the right to repay, without penalty, all or any part of the principal amount of such demand notes outstanding.

On August 17, 1977, the highest rate paid by General Motor Acceptance Corporation on its commercial paper with a maturity of less than 180 days was 5¾%. This rate plus the ¼% referred to above was approximately 3½% less than the rate at which Ohio was then able to issue commercial paper of comparable maturities and approximately 2¾% below the effective rate for bank borrowings based on a prime rate of 7% and compensating balances, or equivalent fees, of 20%. It is stated that based on past experience, the rate on these demand notes will consistently be lower than the comparable rates for commercial paper and bank borrowings including the effect of compensating balances.

The proceeds from the issue and sale of the notes will be used by Ohio to reimburse its treasury for past expenditures made in connection with its construction program and to pay part of the cost of its future construction program. Such construction expenditures for the years 1977 and 1978 are estimated at approximately $184,000,000 and $203,000,000, respectively, exclusive of the cost of the construction program of Ohio's subsidiary, Ohio Electric Company. Estimates of this subsidiary's construction expenditures for the years 1977 and 1978 are approximately $11,000,000 and $10,000,000 respectively.

Ohio claims exception from the competitive bidding requirements of Rule 50 for the proposed issuance of notes to banks and demand notes to bank trust departments pursuant to paragraph (a)(2) thereof. Additionally, Ohio requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper pursuant to paragraph (a)(5) thereof on the grounds that it is not practicable to invite competitive bids for commercial paper.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $12,000. It is stated that no state commission and no federal commission other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than September 29, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26883 Filed 9-14-77;8:45 am]

[Rel. No. 20163; (70-6062)]

PENNSYLVANIA POWER CO.

Proposals to Increase Authorized Shares of Preferred Stock and to Issue and Sell Preferred Stock to an Insurance Company; Request for Exemption From Competitive Bidding

SEPTEMBER 8, 1977.

Notice is hereby given that Pennsylvania Power Company, 1 East Washington Street, New Castle, Pennsylvania 16103 ("Penn Power"), an electric utility subsidiary company of Ohio Edison Company, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designated Sections 6(b) and 12(c) of the Act and Rules 42 and 50(a)(5) promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application-declaration, which summarized below, for a complete statement of the proposed transactions.

Penn Power proposes to issue and sell up to 100,000 shares of its preferred stock, par value $100, of a new series ("New Preferred Stock") to The Prudential Insurance Company of America ("Prudential") for $100 per share in a direct private placement. No finder's or other fee, commission or remuneration is to be paid directly or indirectly in connection with the issue, sale or distribution of the New Preferred Stock. Penn Power will pay all of Prudential's reasonable out-of-pocket expenses arising in connection with the transaction, including the fees of Prudential's counsel.

The New Preferred Stock will be identical in all respects to the presently outstanding shares of Penn Power's preferred stock, except as to dividend rate and payment dates, terms of redemption and sinking fund requirements, which terms are being negotiated with Prudential and will be supplied by amendment. No shares of the New Preferred Stock may be redeemed prior to the fifth anniversary of its issuance if the funds for such redemption are obtained directly or indirectly from borrowings or the issuance of stock at a lower effective interest or dividend cost than the dividend cost of the New Preferred Stock.

Penn Power requests an exemption from the competitive bidding requirements of Rule 50 pursuant to Rule 50(a)(5) on the grounds that the sale will be made pursuant to a private placement without the involvement of any investment banking firm or other party to whom a commission would be paid and the terms of the New Preferred Stock will be based on prevailing market conditions.

The proceeds from the sale of the New Preferred Stock will be used to repay unsecured short-term debt (estimated to aggregate approximately $10,800,000 at the time of such issuance), and the balance, if any, will be applied to Penn Power's construction program, which is estimated at approximately $73,672,000 for 1977.

Penn Power also proposes to increase its authorized shares of preferred stock, par value $100, from 500,000 to 740,000 shares. Penn Power presently has 951 shares of authorized but unissued preferred stock. In addition to the 100,000 shares of New Preferred Stock proposed to be sold, it is contemplated that Penn Power will sell 60,000 shares of preferred stock in 1978 and 80,000 shares of preferred stock in 1979. It is stated that the proposed increase in authorized preferred shares requires the approval of the holder of Penn Power's common stock. Ohio Edison, the holder of all the outstanding Penn Power common stock, has indicated that it intends to approve the increase in authorized preferred shares.

The fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment. It is stated that the Pennsylvania Public Utility Commission has jurisdiction over the proposed issue and sale of the New Preferred Stock and that no other state commission and no federal commission, other than this commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested parson may, not later than October 5, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 77-26884 Filed 9-14-77;8:45 am]

[Rel. No. 20164; (70-6053)]

PENNSYLVANIA ELECTRIC CO.

Proposed Capital Contributions by Holding Company to Subsidiary

SEPTEMBER 8, 1977.

Notice is hereby given that Pennsylvania Electric Company, 1001 Broad Street, Johnstown, Pennsylvania 07054 ("Penelec"), an electric utility subsidiary company of General Public Utilities Corporation, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Penelec requests that it be authorized to make, from time to time during 1977, cash capital contributions to its subsidiary, Nineveh Water Company ("Nineveh"), of up to $200,000. It is stated that Penelec has made cash contributions of $27,000 to Nineveh through August 30, 1977, and anticipates making further capital contributions of up to $23,000 before September 30, 1977, such contributions being exempted from Commission approval pursuant to Rule 45(b)(4).

The $200,000 cash capital contributions will be utilized by Nineveh for the purpose of financing its business as a public utility, including the restoration of service and the repair of facilities damaged by the Johnstown, Pennsylvania flood which occurred in July 1977. The estimated damages suffered by Nineveh as a result of the flood, not covered by insurance, for which funds will be required during the balance of the year 1977 include $50,000 for the restoration of service and $100,000 for increased operating costs. Nineveh also requires $50,000 cash capital contributions during the year 1977 in connection within its normal operations, resulting in total capital cash

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contribution requirements of $200,000 during 1977.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $3,600, including legal fees of $1,500. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 29, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26885 Filed 9-14-77;8:45 am]

[Release No 34-13931; File No. SR-MSE-77-30]

SELF-REGULATORY ORGANIZATIONS

Proposed Rule Change By Midwest Stock Exchange, Incorporated

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78 s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 26, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change Midwest Stock Exchange's ("MSE's") statement of the Terms of Substance of the Proposed Rule Change.

A new rule is added to the Rules of the Exchange as follows: (additions italicized)

ARTICLE XX

SEMI-ANNUAL CONFIRMATION OF OPEN ORDERS

Rule 35. All open orders resting in the specialists' books will expire at the end of the semi-annual confirmation period unless reentered with the specialists after the close of business on the last business day of such period. Open orders shall be confirmed semi-annually and the dates on which the confirmation periods end shall be prescribed by the Exchange.

Specialists must remain on the Floor or have a representative thereon as long as necessary after the close of the last business day of each semi-annual confirmation period for the purpose of receiving renewals of open orders.

Open orders properly confirmed in the manner of their original entry, except as to partial execution or reduction in shares, are entitled to retain the same order of precedence on the specialists' books; and the specialists will be responsible for their proper entry. Open orders not so confirmed are automatically canceled. Specialists must inform the originating broker of an order's cancellation prior to the opening of business on the first business day of the new semi-annual confirmation period.

Open orders which have been canceled due to the absence of a proper reentry will be accepted as new orders with priority based on new time of receipt provided they are received no later than one hour after the opening of business on the first business day of the new semi-annual confirmation period.

MSE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed new rule is to establish within the framework of the Exchange Rule, a definitive procedure for the proper confirmation of open orders resting in specialists' books. This new rule changes the prior practice in that the specialist is no longer required to request confirmation prior to cancellation. The duty of the specialist under the proposed rule is now limited to notification to the originating floor broker after cancellation, but prior to the opening of business of the new semi-annual confirmation period.

As a result of setting up procedures for the confirmation of open orders, the proposed rule change prevents fraudulent and manipulative acts and practices; promotes just and equitable principles of trade; and removes impediments to the perfection of the mechanism of a free and open market.

This proposed rule change has been approved by the Committee on Floor Procedure. MSE states that no other comments have been solicited nor received.

The Midwest Stock Exchange, Incorporated, believes that no burdens have been placed on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 17, 1977.

For the Comission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 6, 1977.

[FR Doc.77-26903 Filed 9-14-77;8:45 am]

[Release No. 34-13980; File No. SR-NYSE-77-25]

SELF-REGULATORY ORGANIZATIONS

Proposed Rule Change By New York Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29 (June 4, 1975), notice is hereby given that on August 26, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS AND SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed changes to Exchange Rules 104.20 and 104.23 and the rescission of Rule 114 will reduce the capital and manpower requirements imposed upon members who currently are or wish to become registered as Exchange specialists. This will provide greater ease of entry into the specialist business, and enhance the potential for competition on the Floor of the Exchange. The proposed changes will also allow specialists to maintain a single "book" in a stock while competing as market-makers.

EXCHANGE STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed changes to Rule 104.20 are designed to eliminate a possible barrier to entry into the specialist business and thus further provide for a more competitive environment on the Trading Floor of the Exchange. At the same time the proposed changes are designed to insure the continued quality and financial capabilities of existing specialist organizations.

Proposed changes to Rule 104.20 would reduce the minimum capital requirement for specialists to the greater of $100,000 or 25 percent of position requirements from the greater of $500,000 or 25 percent of position requirements. Position requirements which specialists must be able to assume will remain at 5,000 shares in each common stock, 1,000 shares in each convertible preferred stock, 400 shares of each 100 share trading unit non-convertible preferred stock and 100 shares of each 10 share trading unit non-convertible preferred stock. Thus, the minimum capital requirement for a potential new specialist who wishes to register in only a small number of stocks would be $100,000 rather than $500,000. At the same time, the majority of existing Exchange specialists have total position requirements such that 25 percent of their position requirement exceeds $500,000. Thus, the proposed reduction in the capital requirement would leave the requirement for most existing specialists unchanged, while significantly reducing the amount of capital required for entry into the specialist business.

In connection with the proposed reduction in the capital requirement for specialists, it is also proposed that the current provision which allows withdrawals below the normal required amount of capital, and the current so-called maintenance capital requirement—which is 75 percent of the regular requirement, be eliminated for two reasons. First, elimination of these provisions would accurately reflect established Exchange policy in that withdrawals below required capital are allowed as long as the amount of capital remained above the maintenance requirement. Second, in view of the significant reduction in the minimum capital requirement which is proposed, it would be inappropriate to allow a specialist's capital to fall to an amount even lower than $100,000.

Current Rule 104.23 provides that full-time relief specialists (that is, members who are registered to act as relief specialist for an entire day) are subject to a $50,000 capital requirement if they are also registered as a regular specialist, but are subject to a $100,000 capital requirement if they are not otherwise registered as a regular specialist. In view of the fact that the capital requirement for regular specialists would be reduced to $100,000 and the fact that the current requirement discriminates against members who are not otherwise registered as regular specialists, the proposed change to Rule 104.23 would standardize the capital requirement for full-time relief specialists at $50,000.

The proposed rescission of Rule 114 would eliminate the current requirement that every specialist unit have a minimum of three active members registered and functioning as regular specialists. The purpose of this proposed change is to allow for one or two-man specialist organizations and thus eliminate a possible barrier to entry into the specialist business.

In addition, the rescission of Rule 114 would allow specialists to create so-called "combined books".

Elimination of this prohibition is designed to allow for greater competition among specialists by providing that two or more specialist organizations may maintain a single book in the stocks in which they are registered and at the same time compete as market-makers.

In connection with the proposed elimination of the "three-man" requirement and proposed rescission of the prohibition against combined books, it should be noted that existing Exchange Rule 104.15 requires, in part, that:

> Any member registered as a regular specialist must either (1) be associated with other members also registered as regular specialists in the same stocks, either through a partnership or a member corporation or a joint account, and arrange to be in attendance during the hours when the Exchange is open for business, or (2) arrange for the registration by at least one other member as relief specialist, who would always be available, in the regular specialist's absence, to take over the "book" and to service the market, so that there would be no interruption of the continuity of service during the hours when the Exchange is open for business.

Thus, members of one-man specialist organizations and participants in a combined book would not be permitted to "walk away" from the market and would be required to arrange for appropriate relief in their absence.

The overall purpose of the proposed rule changes is to eliminate possible barriers to entry into the specialist business and thus provide enhanced opportunities for competition on the Floor of the Exchange.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The proposed rule changes are designed to enhance opportunities for specialist competition on the Floor of the Exchange and to eliminate possible barriers to entry into the specialist business. They are, therefore, consistent with: Section 6(b)(5) of the Securities Exchange Act of 1934 which requires, in part, that the rules of an exchange be designed to remove impediments to and perfect the mechanism of a free and open market; Section 11(b) which provides for Exchange rules pertaining to members registered as specialists; and Section 11(a)(1)(C) which states that Congress finds that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition among brokers and dealers.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

The Exchange has not solicited comments on the proposed rule change nor have any written comments been received.

BURDEN ON COMPETITION

The proposed rule changes do not impose any burden on competition but, rather, allow for increased competition on the Floor of the Exchange.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 6, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 2, 1977.

PROPOSED CHANGES TO EXCHANGE RULES 104.20, 104.23 AND 114

Revised Rule 104.20 to read as follows:

CAPITAL REQUIREMENTS OF SPECIALISTS

.20 Regular specialists.—(1) A member registered as a regular specialist at an active post must be able to assume a position of 50 trading units in each common stock in which he is registered.

(2) A member registered as a regular specialist at an active post must be able to assume a position of 10 trading units in each convertible preferred stock, of 400 shares in each of the 100 share trading unit non-convertible preferred stocks and of 100 shares in each of the 10 share unit non-convertible preferred stocks in which he is registered.

(3) A member registered as a regular specialist at the inactive Post must have, at all times, net liquid assets of at least $50,000.

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(4) Notwithstanding .30 of this Rule, each member registered as a regular specialist at an active post must be able to establish that he acn meet, with his own net liquid assets, a minimum capital requirement which shall be the greater of $100,000 or 25 percent of the position requirements as set forth in Paragraphs (1) and (2) above, except as determined by the Exchange in unusual circumstances.

The Market Surveillance and Evaluation Division must be informed immediately by a specialist, in each instance, of his inability to comply with the provisions set forth in the above Paragraphs.

The term "net liquid assets" is defined as the excess of cash or readily marketable securities over liabilities for a specialist who neither carriers nor services customers' accounts and who does not business with others than members and member organizations. The term for all other specialists refers to excess net capital computed in accordance with the provisions of Rule 325 except that capital accounts of partners which are covered by agreements approved by The Exchange, providing for the inclusion of equities therein as partnership property and borrowings covered by subordination agreements approved by The Exchange under Rule 326.13 may be considered "proprietary accounts" and as such included in the computation of such excess net capital for purposes of this Rule, with "haircuts" restored in respect of long or excess short positions of securities for which he is registered as a specialist and for long positions of securities which he shall have deposited or pledged with a bank or member organization as collateral for funds borrowed to finance transactions or positions in such specialist securities.

In the event that two or more specialists are associated with each other and deal for the same specialist account, the above requirements shall apply to such specialists as one unit, rather than to each specialist individually.

Specialists must be able to meet the above requirements without taking into consideration the capital required to carry or finance investments accounts.

Revised Rule 104.23 to read as follows:

.23 Relief specialists.—(1) The requirements with respect to a member registered as a full-time relief specialist, i.e., one who may be called upon to act as a relief specialist for an entire business day, shall be, net liquid asset of $50,000 or a joint account with the regular specialist in the stock. Any joint account must be approved by Regulation & Surveillance.

(2) There is no requirement with respect to a member registered as a part-time relief specialist, i.e., one who may be called upon to act as a relief specialist for less than the entire business day, usually for lunch periods, etc. Dealings effected by a part-time relief specialist while relieving the regular specialist must be made for the account of the regular specialist whom he is relieving.

Specialists may meet the above requirements either with their own capital or by availing themselves of the financing privileges provided by § 220.04(g) of Regulation T or § 221.3(o) or Regulation U of the Board of Directors of the Federal Reserve System [¶ 8121, 8218] which are explained at .30, below.

Recission of Rule 114, which reads as follows:

MINIMUM SIZE OF A SPECIALIST UNIT

Rule 114. Every specialist unit, except for two-man units dealing primarily in 10 share unit inactive preferred issues, shall have a minimum of three active members registered and functioning as regular specialists. If the requirement of the foregoing provision of this Rule has not been met within a reasonable period of time, as the Exchange shall determine, the registrations of the remaining regular specialist or regular specialists of the unit shall thereupon by cancelled.

No specialist unit shall maintain with any other unit or units a single "book" in any security listed on the Exchange, and deal separately under normal circumstances in such security for its own account.

[FR Doc.77-26902 Filed 9-14-77;8:45 am]

[Release No. 34-13925; File No. SR-NYSE-77-20]

SELF-REGULATORY ORGANIZATION

Proposed Rule Changes by New York Stock Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 29, 1977, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

Proposed changes to Exchange Rules 390, 395, and 396, the off-Board trading rules, are, for the most part, housekeeping amendments to conform the Rules to the provisions of Rule 19c-1. The amendments to such rules include the deletion of the reporting requirement in Rule 390.

Proposed changes to the preface to the rules governing special block procedures would eliminate the "basic philosophy" language. Finally, the proposed changes to Rule 54, Dealings on Floor—Persons, would clarify the scope of the Rule. The text of the proposed rule changes are attached as Exhibit I.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes are as follows:

PURPOSE OF PROPOSED RULE CHANGES

The Commission in its review of Exchange rules conducted in accordance with section 31(b) of the Securities Acts Amendments of 1975 has cited the Exchange rules under discussion as being inconsistent with certain provisions of the Act.

RULES 390, 395, AND 396

Exchange Rules 390, 395, and 396, the "off-Board trading" rules, prevent members from effecting transactions in listed securities in the over-the-counter market either as principal or agent. An exception is provided for members to effect agency transactions in the OTC market with third market makers and non-member block positioners.

On January 3, 1977, the requirement in Rules 390 and 395 that members satisfy public limit orders on the specialist's book when executing over-the-counter agency transactions with third market-makers and non-member block positioners in NYSE listed securities expired. Similar provisions contained in Rule 396 also expired but only with respect to transactions in convertible bonds. The requirements that members satisfy public limit orders on the Exchange floor at prices equal to or better than an over-the-counter execution involving other bonds which are debt securities remained in effect.

The repeal of the "public limit order protection" provision was mandated by Rule 19c-1 which prohibits an exchange from having rules that directly or indirectly prohibit or condition the ability of any member acting as agent to effect transactions in the over-the-counter market with a third market-maker or non-member block positioner in exchange listed securities.

The NYSE had handled the matter by interpretation and did not ask the Board of Directors to approve housekeeping changes to Rules 390, 395, and 396 since it was not essential in view of the fact that the provisions of Rule 19c-1 override Exchange off-Board trading rules. This notwithstanding, the Board at its July 7, 1977, meeting amended these Rules to conform to the spirit as well as the letter of the Securities Acts Amendments of 1975.

Rule 390 also requires that members effecting off-Board transactions in a listed stock report such transactions to the Exchange. (There are no reporting requirements contained in Rules 395 and 396.) The purpose of requiring member organizations to report off-Board transactions in listed stocks to the Exchange was to have data on the trades done off the Floor under the Rule and to ensure that orders on the specialist's book at prices equal to or better than the OTC transaction price were satisfied in accordance with the requirements of the Rule. As noted above, on January 3, 1977, this "public limit order protection" requirement expired. In view of this, the reporting requirement is being eliminated.

PREFACE

The language of the preface to the rules governing special block procedures ("basic philosophy") is being eliminated since it may be viewed to condition or limit a member's ability to trade in the OTC market.

RULE 54

Exchange Rule 54 prohibits members, while on the Floor, from making a transaction in any listed security with anyone except another member—with certain exceptions.

The proposed changes would clarify the scope of the Rule which might be misconstrued to limit or condition a member's ability to initiate a trade in the over-the-counter market by transmitting an order from the NYSE Floor to the member's office. The portion of the Rule dealing with the establishment of loan rates on the Floor is no longer appropriate since it is obsolete and is being deleted—loan rates have not been established on the Floor for many years.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

As cited by the Commission in its review of Exchange rules conducted in accordance with section 31(b), the proposed rule changes relate to section 6(b)(8) and section 11A(a)(1)(C)(ii) of the Act, and item (v)(D) of Item 4 of Form 19b-4A. The proposed rule change to Rule 54 further relates to section 6(b)(5) of the Act.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGES

The Exchange has not solicited comments regarding the proposed changes to Rules 390, 395, 396, and 54 and the preface to the rules governing special block procedures and has received none.

BURDEN ON COMPETITION

The proposed rule changes will not impose any burden on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 17, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 2, 1977.

EXHIBIT I

The following constitutes the text of proposed changes to Rule 390, 395, 396, and 54 and the preface to the rules governing special block procedures:

MARKET RESPONSIBILITY RULE

Rule 390. (a) Except as otherwise provided by this Rule, no member, member organization, or other person who is a nonmember broker or dealer and who directly or indirectly, controls, is controlled by, or is under common control with, a member or member organization (any such other person being hereinafter referred to as an affiliated person) shall effect any transaction in any listed stock in the over-the-counter market, either as principal or agent.

(b) A member, member organization or affiliated person holding a customer's order for the purchase or sale of a listed stock (the Order) may execute the Order (or such portion thereof as may be so executed in accordance with this Rule) in the over-the-counter market with a third market maker or non-member block positioner.

(c) The provisions of this Rule shall not apply to any of the following transactions:

(i) Any transaction which is part of a primary distribution by an issuer, or a registered or unregistered secondary distribution, effected off the floor of the Exchange;

(ii) Any transaction made in reliance on section 4(2) of the Securities Act of 1933;

(iii) Any trade at a price unrelated to the current market for the security to correct an error or to enable the seller to make a gift;

(iv) Any transaction pursuant to a tender offer;

(v) Any purchase or sale of securities effected upon the exercise of an option pursuant to the terms thereof or the exercise of any other right to acquire securities at a pre-established consideration unrelated to the current market for such securities;

(vi) Any purchase or sale of any security trading in which has been suspended by the Exchange pending review of the listing status of such security;

(vii) The acquisition of securities by a member organization as principal in anticipation of making an immediate special offering or exchange distribution on the Exchange under Rule 391 or Rule 392;

(viii) Any purchaseor sale of any of the guaranteed or preferred stocks included within the listing of such stocks as may from time to time be issued by the Exchange, *Provided, however*, That every proposed transaction in any such security by a member, member organization or affiliated person should be reviewed in light of the factors involved, including the market on the floor of the Exchange, the price, and the size, so that whenever possible the transaction may be effected on the floor;

(ix) Any transaction for less than one unit of trading; and

(x) Any other purchase or sale of any security under extraordinary or emergency conditions which receives the prior approval of the Exchange.

(d)(1) The term "listed stock" as used in this Rule shall mean any security registered on the Exchange (other than subscription rights), the sale prices of transactions in which are reported on the consolidated tape provided for in the plan filed by the Exchange and others pursuant to Rule 17a-15 under the Securities Exchange Act of 1934 (the Act) and declared effective by the Securities and Exchange Commission;

(2) The term "nonmember broker or dealer" as used in subparagraph (a) of this Rule shall mean any broker or dealer registered in accordance with section 15(b) of the Act, which acts as a "market maker" as defined in the Act, or whose gross income is derived substantially from acting as a "broker" as defined in the Act, or both;

(3) The term "third market maker" as used in this Rules shall mean a "market maker" as defined in Rule 15c3-1(c)(8) under the Act, who makes markets over-the-counter in listed stocks and who maintains the minimum net capital required of a market maker by Rule 15c3-1 under the Act; and

(4) The term "nonmember block positioner" shall mean a "block positioner" as defined in Rule 17a-17 under the Act which is not a member of the Exchange.

(e) Notwithstanding the provisions of Rule 104, the specialist may buy for his own account on a plus or zero plus tick or sell for his own account in a minus or zero minus tick any or all of the stock which is to be sold or purchased over-the-counter pursuant to subparagraph (b) of this Rule.

* * * *Supplementary material:*

.10 Interpretations of the Market Responsibility Rule.—Notwithstanding the provisions of this Rule, a member, member organization or affiliated person: may trade as principal or as agent in any listed stock on any organized exchange in any foreign country at any time; and outside of Exchange trading hours, may trade as principal or agent in any listed stock in a foreign country over-the-counter.

.20 SEC. Rule 19c-1.—The Market Responsibility Rule has been adopted by the Board of Directors and approved by the Securities and Exchange Commission as contemplated by subparagraph (b) of Rule 19c-1 under the Securities Act of 1934. Rule 19c-1 reads in full as follows:

The rules of each national securities exchange shall provide, on and after March 31, 1976, as follows:

(a) Except as hereinafter provided by this rule, no rule, stated policy or practice of this exchange shall prohibit or condition, or be construed to prohibit, condition or otherwise limit, directly or indirectly, the ability of any member acting as agent to effect transactions on any other exchange or over-the-counter with a third market maker or non-member block positioner in any equity security which is listed on the exchange or to which unlisted trading privileges on the exchange have been extended ("exchange securities").

(b) Beginning March 31, 1976, and ending January 2, 1977, the provisions of paragraph (a) of this rule shall not apply to a rule of this exchange approved by the Securities and Exchange Commission pursuant to section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act") which assures that, either immediately before, simultaneously with or immediately after execution of a transaction in any exchange security over-the-counter with a third market maker or nonmember block positioner, public bids or offers entered on the specialist's book, or on any other limit order mechanism on such exchange, as limited price orders at prices equal to or better than the transaction price ("limit orders") are satisfied at the limit prices bid or offered: provided, however, that such limit orders may be required to be satisfied at the transaction price under circumstances consistent with the purposes of this rule, the public interest and the protection of investors.

(c) For purposes of this rule:

(1) The term "third market maker" shall mean a "market maker" as defined in Rule 15c3-1(c)(8) under the Act, who makes markets over-the-counter in exchange securities and who maintains the minimum net capital required of a market maker by Rule 15c3-1 under the Act.

(2) The term "nonmember block positioner" shall mean a "block positioner" as defined in Rule 17a-17 under the Act which is not a member of this exchange.

OFF-FLOOR TRANSACTIONS IN LISTED RIGHTS

Rule 395. (a) Except as otherwise provided by this Rule, no member, member organization, or other person who is a nonmember broker or dealer and who directly or indirectly, controls is controlled by, or is under common control with, a member or member

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organization (any such other person being hereinafter referred to as an affiliated person) shall effect any transaction in any subscription right admitted to dealings on the Exchange, in the over-the-counter market, either as principal or agent.

(b) A member, member organization or affiliated person holding a customer's order for the purchase or sale of a listed right (the Order) may execute the Order (or such portion thereof as may be so executed in accordance with this Rule) in the over-the-counter market with a third market maker or non-member block positioner.

(c) The provisions of this Rule shall not apply to any of the following transactions.

(i) Any trade at a price unrelated to the current market for the subscription right to correct an error.

(ii) Any transaction for less than one unit of trading;

(iii) Any principal transaction in rights to subscribe to bonds, effected with other members, non-member brokers and dealers, and institutions, provided the proviso of paragraph (b) above is complied with;

(iv) Any transaction in rights to subscribe to preferred stocks included on the Exchange's exempt list; or

(v) Any single transaction where the amount involved is less than $2.

(vi) In connection with rights to subscribe to preferred stocks, the Exchange may consider requests for exemptions to permit the purchase of rights over-the-counter in blocks of a size sufficient to subscribe to not less than $100,000 of the securities subject to the rights (and in respect of issues amounting to less than $7,500,000 the size of the wholesale lot might be proportionately reduced) provided the purchase is for the purpose of subscribing to the issue.

In addition, the Exchange may give consideration to requests for exemptions in respect of private negotiations for the purchase over-the-counter of large blocks to rights to preferred stocks or common stocks (A) in relation to the size of the issue, provided that the purchase is for the purpose of subscribing to the issue or (B) where because the size of certain blocks is so large that in the opinion of the Exchange the orderly process of the market might otherwise be disturbed, provided the purchase is for the purpose of subscribing to the issue.

In some instances, issuers of rights have made arrangements with a particular bank or trust company to handle orders of stockholders to buy or sell so-called "overage" rights. This involves buying:

(A) From a stockholder whose rights are insufficient to subscribe to one share, all of such rights; or

(B) From a stockholder who is subscribing to the offering, any excess rights insufficient to subscribe to one share,

or selling:

(A) To a stockholder who is subscribing to the offering but who has received from the issuing company rights in an amount insufficient to subscribe to one share. The minimum number of rights necessary to enable him to subscribe to one share; or

(B) To a stockholder who is subscribing to the offering but who has received from the issuing company rights in excess of a number exactly sufficient for subscription, the minimum number of rights necessary to enable him to subscribe to one additional share.

Daily, after balancing off purchases and sales of the "overage" rights, the bank or trust company may have a remaining "breakage". Member organizations may purchase from the bank or trust company in such cases, off the Floor of the Exchange, on a principal basis, the rights represented by such "breakage", provided any sale of rights so purchased is made on a national securities exchange.

(d) (1) The term "nonmember broker or dealer" as used in subparagraph (a) of this Rule shall mean any broker or dealer registered in accordance with section 15(b) of the Act, which acts as a "market maker" as defined in the Act, or whose gross income is derived substantially from acting as a "broker" as defined in the Act, or both;

(2) The term "third market maker" as used in this Rule shall mean a "market maker" as defined in Rule 15c3-1(c)(8) under the Act, who makes markets over-the-counter in listed stocks and who maintain the minimum net capital required of a market maker by Rule 15c3-1 under the Act; and

(3) The term "nonmember block positioner" shall mean a "block positioner" as defined in Rule 17a-17 under the Act which is not a member of the Exchange.

(e) Notwithstanding the provisions of Rule 104, the specialist may buy for his own account on a plus or zero plus tick or sell for his own account on a minus or zero minus tick any or all of the rights which are to be sold or purchased over-the-counter pursuant to subparagraph (b) of this Rule.

* * * Supplementary material:

.10 Notwithstanding the provisions of this Rule, a member, member organization or affiliated person; may trade as principal or as agent in any listed right on any organized exchange in any foreign country at any time; and outside of Exchange trading hours, may trade as principal or agent in any listed right in a foreign country over-the counter.

OFF-FLOOR TRANSACTIONS IN BONDS

Rule 396. (a) Except as otherwise provided by this Rule, no member, member organization, or other person who is a nonmember broker or dealer and who directly or indirectly, controls, is controlled by, or is under common control with, a member or member organization (any such other person being hereinafter referred to as an affiliated person) shall effect any transaction in any listed bond in the over-the-counter market, either as principal or agent.

(b) A member, member organization or affiliated person holding a customer's order for the purchase or sale of a listed bond (the Order) may execute the Order (or such portion thereof as may be so executed in accordance with this Rule) in the over-the-counter market with a third market maker; provided that if the Order involves a debt security, such member, member organization or affiliated person assures that all public bids or offers recorded on the Exchange Floor at the time of the over-the-counter execution, or, if inquiry is made immediately prior to the over-the-counter execution, all public bids or offers recorded on the Exchange Floor at the time of such inquiry, at prices which, insofar as the Order is concerned, are equal to or better than the price at which such portion of the Order is executed over-the-counter are satisfied at the price at which such portion of the Order is so executed.

(c) The provisions of this Rule shall not apply to any of the following transactions:

(i) Any order for the purchase or sale of ten bonds or more;

(ii) In the case of an agency transaction (including intra-office cross transactions), when the customer specifically directs that the particular order shall not be executed on the Floor; but no member or member organization shall solicit such instructions before sending the order to the Floor;

(iii) When the order calls for the purchase or sale of securities of the United States, Puerto Rico, the Philippine Islands, or States, Territories, or Municipalities therein, or of bonds which, pursuant to call or otherwise, are to be redeemed within twelve months;

(iv) Any transaction which is part of a primary distribution by an issuer, or a registered or unregistered secondary distribution, effected off the floor of the Exchange;

(v) Any transaction made in reliance on section 4(2) of the Securities Act of 1933;

(vi) Any trade at a price unrelated to the current market for the security to correct an error or to enable the seller to make a gift;

(vii) Any purchase or sale of any bond trading in which trading has been suspended by the Exchange pending review of the listing status of such bond;

(viii) The acquisition of bonds by a member organization as principal in anticipation of making an immediate special offering or exchange distribution on the Exchange under Rule 391 or Rule 392; and

(ix) Any transaction for less than one unit of trading;

(d) (1) The term "nonmember broker or dealer" as used in subparagraph (a) of this Rule shall mean any broker or dealer registered in accordance with section 15(b) of the Act, which acts as a "market maker" as defined in the Act, or whose gross income is derived substantially from acting as a "broker" as defined in the Act or both;

(2) The term "third market maker" as used in this Rule shall mean a "market maker" as defined in Rule 15c3-1(c)(8) under the Act, who makes markets over-the-counter in listed bonds and who maintains the minimum net capital required of a market maker by Rule 15c3-1 under the Act; and

(e) (1) The price at which a transaction is effected, whether on the Exchange or in the over-the-counter market, shall, for purposes of this Rule, mean the price of such transaction, exclusive of any commission, commission equivalent, differential, tax or other charge applicable thereto.

(2) Each limited price order recorded on the Exchange Floor shall, for purposes of this Rule, be considered a public bid or offer unless initiated by a member on the Floor of the Exchange for his own account or for any account in which he, his member organization, or any affiliated person of his member organization has an interest.

* * * Supplementary material:

10. Interpretations.—(1) Notwithstanding the provisions of this Rule, a member, member organization or affiliated person: may trade as principal or as agent in any listed bond on any organized exchange in any foreign country at any time; and outside of Exchange trading hours, may trade as principal or agent in any listed bond in a foreign country over-the-counter.

(2) Notwithstanding the provisons of this Rule, a member, member organization or affiliated person may execute a customer's order in the over-the-counter market with a third market maker or nonmember block positioner outside of Exchange trading hours without satisfying public bids or offers present on a limited order mechanism on the Exchange.

DEALINGS ON FLOOR—PERSONS

Rule 54. Only members shall be permitted to make or accept bids and offers, consummate transactions or otherwise transact business on the Floor in any security admitted to dealings on the Exchange, except that the provisions of this Rule shall not apply in the case of a person authorized to transact business on the Floor pursuant to section 14 or 15 of Article IX of the Constitution.

SPECIAL PROCEDURES REGARDING BLOCKS OF LISTED SECURITIES AND OFF-FLOOR TRANSACTIONS

BLOCKS NOT SUSCEPTIBLE OF NORMAL PROCESSING

Special procedures for handling blocks not susceptible of normal processing.—The following procedures are provided by the Exchange to facilitate the handling of blocks of listed securities which cannot be absorbed or supplied in the regular auction market within a reasonable time and at a reasonable price or prices: Exchange acquisitions; exchange distributions; special bids; special offerings; secondary distributions.

Applications and details in respect of these procedures are to be submitted to the Market Surveillance and Evaluation Division (623 6811 or 6812). A member or member organization may discuss any application for any of the above procedures with a Floor Director, as well as an application for an Off-Board transaction in rights, through 623-5000.

The following pages contain rules and information governing these special procedures.

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[Release No. 13939; (SR-MSRB-76-12)]

MUNICIPAL SECURITIES RULEMAKING BOARD

Order Approving Proposed Rule Change

SEPTEMBER 8, 1977.

On December 20, 1976, the Municipal Securities Rulemaking Board, Suite 507, 1150 Connecticut Avenue NW., Washington, D.C. 20036, (the "MSRB") filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), and Rule 19b-4 thereunder, copies of a proposed rule change. On June 17, 1977, the MSRB filed with the Commission an amended proposed rule change which made substantial changes in the rule proposal. In addition the MSRB filed technical amendments to the proposed rule change on June 29, 1977, and August 26, 1977. The proposed rule change, as amended, would codify uniform industry practices for the processing, clearance, and settlement of inter-dealer transactions in municipal securities and related matters.

Notice of the proposed rule change, as amended, together with the terms of substance of the proposed rule change was given by publication of Commission releases (Securities Exchange Act Release Nos. 13671 (June 24, 1977) and 13116 (December 28, 1976)) and by publication in the FEDERAL REGISTER (42 FR 34436 (July 5, 1977) and 42 FR 1086 (January 5, 1977)). The Commission received a number of comment letters on the proposed rule change, many of them with respect to the proposed rule's requirement that inter-dealer confirmations include CUSIP numbers. Several of the comment letters expressed reservations about the utility of CUSIP numbers, particularly for small municipal securities dealers. The Commission believes that the delayed effective date of this requirement will provide an opportunity for the development of low-cost means of providing the numbers to small dealers. In addition, while the use of CUSIP numbers may not produce economies to all municipal securities brokers and dealers, their general use in the municipal securities industry should facilitate the development of more efficient processing systems.

The text of the proposed rule change follows:

RULE G 12. UNIFORM PRACTICE

(i) All transactions in municipal securities between any broker, dealer or municipal securities dealer and any other broker, dealer or municipal securities dealer shall be subject to the provisions of this rule, except to the extent that such transactions are compared, cleared and settled through the facilities of a clearing agency registered with the Commission, in which event the rules of such clearing agency shall apply.

(ii) Failure to deliver securities sold or to pay for securities as delivered, on or after the settlement date, does not effect a cancellation of a transaction which is subject to the provisions of this rule, unless otherwise provided in this rule or agreed upon by the parties.

(iii) Unless otherwise specifically indicated, any "immediate" notice required by this rule or any notice required to be given "immediately" shall be given by telephone, telegraph or other means of communication having same day receipt capability and confirmed in writing within one business day.

(b) Settlement Dates.

(i) Definitions. For purposes of this rule, the following terms shall have the following meanings:

(A) Settlement Date. The term "settlement date" shall mean the day used in price and interest computations, which shall also be the day delivery is due unless otherwise agreed by the parties.

(B) Business Day. The term "business day" shall mean a day recognized by the National Association of Securities Dealers, Inc. as a day on which securities transactions may be settled.

(ii) Settlement Dates. Settlement dates shall be as follows:

(A) For "cash" transactions, the trade date;

(B) For "regular way" transactions, the fifth business day following the trade date;

(C) For "when, as and if issued" transactions, a date agreed upon by both parties, which date shall not be earlier than the fifth business day following the date the confirmation indicating the final settlement date is sent, or, with respect to transactions between the manager and members of a syndicate or account formed to purchase securities from an issuer, a date not earlier than the sixth business day following the date the confirmation indicating the final settlement date is sent; provided, however, that if the issuer gives notice of pending delivery within less than six business days before delivery, the settlement date for transactions between the manager and members of the syndicate or account with respect to such issue of securities may be accelerated as determined by the manager, and, in such event, all other "when, as and if issued" transactions with respect to such issue of securities may, but need not, be accelerated by each seller by not more than the number of days of acceleration by the syndicate manager; and

(D) For all other transactions, a date agreed upon by both parties.

(iii) Notice of Accelerated Delivery. In the event the issuer gives notice of pending delivery of securities within less than six business days before delivery, the manager of a syndicate or account formed to purchase the securities from the issuer shall, upon determination of the accelerated delivery date pursuant to subparagraph (b)(ii)(C) hereof, give immediate notice to the members of the syndicate or account of the settlement date for transactions between the manager and the members.

(c) Dealer Confirmations.

(i) Except as otherwise indicated in this section (c), each party to a transaction shall send a confirmation of the transaction to the other party within one business day following the trade date.

(ii) Confirmations of cash transactions shall be exchanged on the trade date, which may be accomplished by telephone with written confirmations sent within one business day following the trade date.

(iii) For transactions effected on a "when, as and if issued" basis, initial confirmations shall be sent within two business days following the trade date. Confirmations from a syndicate or account manager to the members of the syndicate or account may be in the form of a letter, covering all maturities of the issue, setting forth in information hereafter specified in this section (c). Confirmations indicating the final settlement date shall be sent by the seller at least five business days prior to the settlement date or, with respect to transactions between the manager and members of a syndicate or account formed to purchase securities from an issuer, at least six business days prior to the settlement date; provided, however, that if the settlement date is accelerated pursuant to subparagraph (b)(ii)(C) above, final confirmations shall be sent by each seller immediately upon determination by it of the settlement date.

(iv) For transactions in new issue securities having a settlement date more than six business days following the trade date for which only one confirmation is sent, such confirmation shall be sent within two business days following the trade date.

(v) Each confirmation shall contain the following information:

(A) Confirming party's name, address and telephone number;

(B) "Contra party" identification;

(C) Designation of purchase from or sale to;

(D) Par value of the securities;

(E) Description of the securities, including at a minimum the name of the issuer, interest rate, maturity date, and if the securities are limited tax, subject to redemption prior to maturity (callable), or revenue bonds, an indication to such effect, including in the case of revenue bonds the type of revenue, if necessary for a materially complete description of the securities, and in the case of any securities, if necessary for a materially complete description of the securities, the name of any company or other person in addition to the issuer obligated, directly or indirectly, with respect to debt service or, if there is more than one such obligor, the statement "multiple obligors" may be shown;

(F) CUSIP number, if any, assigned to the securities;

(G) Trade date;

(H) Settlement date;

(I) Yield to maturity and resulting dollar price, except in the case of securities which are traded on the basis of dollar price or securities sold at par, in which event only dollar price need be shown (in cases in which securities are priced to call, this must be stated, and where a transaction is effected on a yield basis, the calculation of dollar price shall be to the lower of price to call or price to maturity);

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(J) Amount of concession, if any, per $1,000 par value unless stated to be an aggregate figure;

(K) Amount of accrued interest;

(L) Extended principal amount;

(M) Total dollar amount of transaction; and

(N) Instructions, if available, regarding receipt or delivery of securities, and form of payment if other than as usual and customary between the parties.

The initial confirmation for a "when, as and if issued" transaction shall not be required to contain the information specified in subparagraphs (H), (K), (L), and (M) of this paragraph or the resulting dollar price as specified in subparagraph (I).

(VI) In addition to the information required by paragraph (v) above, each confirmation shall contain the following information, if applicable:

(A) Dated date if it affects the price or interest calculation, and first interest payment date, if other than semi-annual;

(B) If the securities are "fully registered" or "registered as to principal only," a designation to such effect;

(C) If the securities are "called" or "prerefunded," a designation to such effect, the date of maturity which has been fixed by the call notice, and the amount of the call price;

(D) Denominations of notes and, if other than those specified in paragraph (e) (iv) hereof, denominations of bonds;

(E) Any special instructions or qualifications, or factors affecting payment of principal or interest, such as (A) "ex legal," or (B) if the securities are traded without interest, "flat," or (C) if the securities are in default as to the payment of interest or principal, "in default"; and

(F) Such other information as may be necessary to ensure that the parties agree to the details of the transaction.

(d) Comparison and Verification of Confirmations; Unrecognized Transactions.

(i) Upon receipt of a confirmation, each party to a transaction shall compare and verify such confirmation to ascertain whether any discrepancies exist. If any discrepancies exist in the information as set forth in the two compared confirmations, the party discovering such discrepancies shall promptly communicate such discrepancies to the contra party and both parties shall promptly attempt to resolve the discrepancies. In the event the parties are able to resolve the discrepancies, the party in error shall, within one business day following such resolution, send a corrected confirmation to the contra party. Such confirmation shall indicate that it is a correction and the date of the corrected confirmation. In the event the parties are unable to resolve the discrepancies, each party shall promptly send to the contra party a written notice, return receipt requested, indicating nonrecognition of the transaction.

(ii) In the event a party receives a confirmation for a transaction which it does not recognize, it shall promptly seek to ascertain whether a trade occurred and the terms of the trade. In the event it determines that a trade occurred and the confirmation it received was correct, such party shall immediately notify the confirming party by telephone and, within one business day thereafter, send a written confirmation of the transaction to the confirming party. In the event a party cannot confirm the trade, such party shall immediately notify the confirming party by telephone and, within one business day thereafter send a written notice, return receipt requested, to the confirming party, indicating, nonrecognition of the transaction. Promptly upon receipt of such notice, the confirming party shall verify its records and, if it agrees with the nonconfirming party, promptly send a notice of cancellation of the transaction, return receipt requested, to the nonconfirming party.

(iii) In the event a party has sent a confirmation of a transaction, but fails to receive a confirmation from the contra party or a notice indicating nonrecognition of the transaction within four business days of the trade date, the confirming party shall promptly seek to ascertain whether a trade occurred. If, after such verification, such party believes that a trade occurred, it shall immediately notify the nonconfirming party by telephone to such effect and send, within one business day thereafter, a written notice, return receipt requested, to the nonconfirming party, indicating failure to confirm. Promptly following receipt of telephone notice from the confirming party, the nonconfirming party shall seek to ascertain whether a trade occurred and the terms of the trade. In the event the nonconfirming party determines that a trade occurred, it shall immediately notify the confirming party by telephone to such effect and, within one business day thereafter, send a written confirmation of the transaction to the confirming party. In the event a party cannot confirm the trade, such party shall promptly send a written notice, return receipt requested, to the confirming party, indicating nonrecognition of the transaction.

(iv) If procedures are initiated pursuant to paragraph (ii) of this section, the procedures required by paragraph (iii) need not be followed; and conversely, if procedures are initiated pursuant to paragraph (iii) of this section, the procedures required by paragraph (ii) need not be followed.

(v) In the event any material discrepancies or differences, basic to the transaction, remain unresolved by the close of the business day following receipt by a party of a written notice indicating nonrecognition, or by the close of the business day following the date the confirming party gives telephone notice of the transaction to the nonconfirming party pursuant to paragraph (iii) above, whichever first occurs, the transaction may be cancelled by the confirming party or, in the event there exists disagreement concerning the terms of the transaction, by either confirming party. Nothing herein contained shall be construed to affect whatever rights the confirming party or parties may otherwise have with respect to a transaction which is cancelled pursuant to this paragraph.

(vi) Nothing herein contained shall be construed to prevent the settlement of a transaction prior to completion of the procedures prescribed in this section (d); provided that each party to the transaction shall be responsible for sending to the other party, within one business day of such settlement, a confirmation evidencing the terms of the transaction.

(vii) The notices referred to in this section indicating nonrecognition of a transaction or failure to confirm a transaction shall contain sufficient information to identify the confirmation to which the notice relates including, at a minimum, the information set forth in subparagraphs (A) through (E), (G), and (H) of paragraph (c) (v). In addition, such notice shall identify the firm and person providing such notice and the date thereof. The requirements of this paragraph may be satisfied by providing a copy of the confirmation of an unrecognized transaction, marked "don't know," together with the name of the firm and person providing such notice and the date thereof.

(e) Delivery of Securities. The following provisions shall, unless otherwise agreed by the parties, govern the delivery of securities:

(i) Place and Time of Delivery. Delivery shall be made at the office of the purchaser, or its designated agent, between the hours established by rule or practice in the community in which such office is located. If the parties so agree, book entry delivery through a registered clearing agency or delivery by other means which do not involve the physical delivery of securities will constitute good delivery for purposes of this rule.

(ii) Delivery Ticket. A delivery ticket shall accompany the delivery of securities. Such ticket shall contain the information set forth in subparagraphs (A), (B), (D) through (H), (M), and (N) of paragraph (c)(v) and, to the extent applicable, the information set forth in subparagraphs (A), (B), (D), (E), and (F) of paragraph (c)(vi) and shall have attached to it an extra copy of the ticket which may be used to acknowledge receipt of the securities.

(iii) Partial Delivery. The purchaser shall not be required to accept a partial delivery with respect to a single trade in a single security. For purposes of this paragraph, a "single security" shall mean a security of the same issuer having the same maturity date, coupon rate and price.

(iv) Units of Delivery. Delivery of bonds shall be made in the following denominations:

(A) For bearer bonds, in denominations of $1,000 or $5,000 par value; and

(B) For registered bonds, in denominations which are multiples of $1,000 par value, up to $100,000 par value.

Delivery of notes shall be made in the denominations specified on the confirmation as required pursuant to paragraph (c)(vi) of this rule.

(v) Bearer and Registered Form. Delivery of securities which are issuable in both bearer and registered form shall be in bearer form unless otherwise agreed by the parties.

(vi) Mutilated Certificates. Delivery of a certificate which is damaged to the extent that any of the following is not ascertainable:

(A) Name of issuer;
(B) Par value;
(C) Signature;
(D) Coupon rate;
(E) Maturity date;
(F) Seal of the issuer; or
(G) Bond or note number

shall not constitute good delivery unless validated by the trustee, registrar, transfer agent, paying agent or issuer of the securities or by an authorized agent or official of the issuer.

(vii) Coupon Securities.

(A) Coupon securities shall have securely attached to the certificate in the correct sequence all appropriate coupons, including supplemental coupons if specified at the time of trade, which in the case of securities upon which interest is in default shall include all unpaid or partially paid coupons. All coupons attached to the certificate must have the same serial number as the certificate.

(B) Anything herein to the contrary notwithstanding, if securities are traded "and interest" and the settlement date is on or after the interest payment date, such securities shall be delivered without the coupon payable on such interest payment date.

(C) If delivery of securities is due within 30 calendar days prior to an interest payment date, the seller may deliver to the purchaser a draft or bank check of the seller or its agent, payable on the date delivery is made, in an amount equal to the interest due, in lieu of the coupon.

(viii) Mutilated or Cancelled Coupons. Delivery of a certificate which bears a coupon which is damaged to the extent that any one of the following cannot be ascertained from the coupon:

(A) Title of the issuer;
(B) Bond or note number;
(C) Coupon number or payment date (if either the coupon number or the payment date is ascertainable from the coupon, the coupon will not be considered mutilated); or
(D) The fact that there is a signature; or which coupon has been cancelled, shall not constitute good delivery unless the coupon is endorsed or guaranteed. In the case of damaged coupons, such endorsement or guarantee must be by the issuer or by a commercial bank. In the case of cancelled coupons, such endorsement or guarantee must be by the issuer or an authorized agent or official of the issuer, or by the trustee or paying agent.

(ix) Delivery of Certificates Called for Redemption. A certificate for which a notice of call has been published prior to the trade date shall not constitute good delivery unless the securities are identified as "called" at the time of trade.

(x) Delivery Without Legal Opinions or Other Documents. Delivery of certificates without legal opinions or other documents legally required to accompany the certificates shall not constitute good delivery unless identified as "ex legal" at the time of trade.

(xi) Insured Securities. Delivery of certificates for securities traded as insured securities shall be accompanied by evidence of such insurance, either on the face of the certificate or on a document attached to the certificate.

(xii) Endorsements for Banking or Insurance Requirements. A security bearing an endorsement indicating that it was deposited in accordance with legal requirements applicable to banking institutions or insurance companies shall not constitute good delivery unless it bears a release acknowledged before an officer authorized to take such acknowledgments and was designated as a released endorsed security at the time of trade.

(xiii) Delivery of Registered Securities.

(A) Assignments. Delivery of a certificate in registered form must be accompanied by an assignment on the certificate or on a detached assignment for such certificate, containing a signature which corresponds in every particular with the name written upon the certificate except that the following shall be interchangeable: "and" or "&"; "Company" or "Co."; "Incorporated" or "Inc."; and "Limited" or "Ltd."

(B) Detached Assignment Requirements. A detached assignment shall provide for the irrevocable appointment of an attorney, with power of substitution, a full description of the security, including the name of the issuer, the maturity date and interest rate, the bond or note number, and the par value (expressed in words and numerals).

(C) Power of Substitution. When the name of an individual or firm has been inserted in an assignment as attorney, a power of substitution shall be executed in blank by such individual or firm. When the name of an individual or firm has been inserted in a power of substitution as a substitute attorney, a new power of substitution shall be executed in blank by such substitute attorney.

(D) Guarantee. Each assignment, endorsement, alteration and erasure shall bear a guarantee acceptable to the transfer agent or registrar.

(E) Certification in Name of a Party Other Than a Natural Person. A certificate registered in the name of a party other than a natural person, or in a name with official designation, shall constitute a good delivery only if the statement "Proper papers for transfer filed by assignor" is placed on the assignment and signed by the transfer agent.

(F) Certificate in Name of Deceased Person, Trustee, Etc.

(1) A certificate shall not constitute good delivery if executed with a qualification, restriction or special designation or if delivered in the name of, or with an assignment or power of substitution executed by a person since deceased; a minor; a receiver in bankruptcy; an agent; an attorney; or, except as provided in subparagraph (2) below, a trustee or trustees (except for trustees acting in the capacity of a board of directors of a corporation or association in which case the requirements of subparagraph (E) above shall apply), a guardian, an executor, or an administrator.

(2) A certificate shall constitute good delivery with an assignment or a power of substitution executed by an individual executor or administrator; an individual trustee under an inter vivos or testamentary trust; a guardian (including committees, conservators and curators); or a custodian acting pursuant to the provisions of the Uniform Gifts to Minors Act.

(G) Payment of Interest. If a registered security is traded "and interest" and transfer of record ownership cannot be accomplished on or before the record date for the determination of registered holders for the payment of interest, delivery shall be accompanied by a draft or bank check of the seller or its agent, payable on the date delivery is made, for the amount of the interest.

(H) Registered Securities Traded "Flat". If a registered security is traded "flat" (i.e. is in default in the payment of interest) and transfer of record ownership cannot be accomplished on or before the record date for the determination of registered holders for the payment of interest, an interest payment date having been established on or after the trade date, delivery shall be accompanied by a draft or bank check of the seller or its agent, payable on the date delivery is made, for the amount of the payment to be made by the issuer, unless the security is traded "ex-interest."

(xiv) Expenses of shipment. Expenses of shipment of securities, including insurance, postage, draft, and collection charges, shall be paid by the seller.

(xv) Money Differences. The following money differences shall not be sufficient to cause rejection of delivery:

Par value:	*Maximum differences per transaction*
$1,000 to $24,999	$10.
$25,000 to $99,999	25
$100,000 to $249,999	60
$250,000 to $999,999	250
$1,000,000 and over	500

The calculations of the seller shall be utilized in determining the maximum permissible differences and amount of payment to be made upon delivery. The parties shall seek to reconcile any such money differences within ten business days following settlement.

(f) Payment.

(i) Calculation of Interest. Unless otherwise agreed by the parties, in the settlement of transactions in interest-paying securities there shall be added to the dollar price interest at the rate specified in the security, which shall be computed up to, but not including the settlement date.

(ii) Calculation of Price. Calculations to determine the price and yield to maturity of municipal securities shall be made in accordance with applicable rules of the Board, if any.

(g) Rejections and Reclamations.

(i) Definitions. For purposes of this section, the terms "rejection" and "reclamation" shall have the following meanings:

(A) "Rejection" shall mean refusal to accept securities which have been presented for delivery.

(2) Refusal to transfer or deregister by the transfer agent due to a lack of documentation required by paragraph (e)(xiii) of this rule.

(D) Reclamation by reason of the following may be made without any time limitation:

(1) The security delivered is reported missing, stolen, fraudulent or counterfeit; or

(2) Not good delivery because notice of call for the certificate was published prior to the trade date and this was not specified at the time of trade.

The running of any of the time periods specified in this paragraph shall not be deemed to foreclose a party's right to pursue its claim via other means, including arbitration.

(iv) Procedure for Rejection or Reclamation. If a party elects to reject or reclaim securities, rejection or reclamation shall be effected by sending a written notice which contains sufficient information to identify the delivery to which the notice relates, including a copy of the original delivery ticket or other proof of delivery and to the extent not set forth on such document, the following:

(A) The name of the party delivering the securities;

(B) The name of the party receiving the securities;

(C) A description of the securities;

(D) The date the securities were delivered;

(E) The date of rejection or reclamation;

(F) The par value of the securities which are being rejected or reclaimed;

(G) In the case of a reclamation, the amount of money the securities are reclaimed for;

(H) The reason for rejection or reclamation; and

(I) The name and telephone number of the person to contact concerning the rejection or reclamation.

(v) Acceptance or Delivery of Securities. Upon rejection or reclamation properly made pursuant to this rule, the securities rejected or reclaimed shall be accepted or delivered as required by the notice of rejection or reclamation and the exchange of correct monies of securities shall be made.

(vi) Effect of Rejection or Reclamation. Rejection or reclamation of securities shall not constitute a cancellation of the transaction.

(h) Close-Out. Transactions which have been confirmed or otherwise agreed upon by both parties but which have not been completed may be closed out in accordance with this section, or as otherwise agreed by the parties.

(i) Close-Out by Purchaser. With respect to a transaction which has not been completed by the seller according to its terms and the requirements of this rule, the purchaser may close out the transaction in accordance with the following procedures:

(A) Notice of Close-Out. If the purchaser elects to close out a transaction in accordance with this paragraph (i), the purchaser shall, not earlier than the fifth business day following the settlement date, notify the seller by telephone of the purchaser's intention to close out the transaction and immediately thereafter send, return receipt requested, a written notice of close-out to the seller. Such notice shall be accompanied by a copy of the seller's confirmation of the transaction to be closed out or other written evidence of the contract between the parties. The notice shall state that unless the transaction is completed by a specified date and time, which shall not be earlier than the close of the fifth business day following the date the telephonic notice is given, or as provided in subparagraph (C) below, the transaction may be closed out in accordance with this section.

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(B) Response. The seller shall respond to the notice of close-out in writing, or by telephone call promptly confirmed in writing, return receipt requested, within one business day following the date the telephonic notice required by subparagraph (A) is given, stating the seller's reasons for failing to complete the transaction. Any party receiving a notice of close-out may retransmit the notice to another party from whom the securities are due, provided that any retransmitted notice must be received by such other party not later than one business day preceding the date for close-out as specified on the original notice or as extended due to retransmittals. Each retransmittal subsequent to the initial retransmittal shall extend the date for close-out by one business day and the party retransmitting the notice shall attach to the notice a memorandum specifying the extended date for close-out resulting from such retransmittal and shall immediately notify the purchaser originating the close-out notice of the extended date. Any party receiving a retransmitted notice of close-out shall respond to the party retransmitting the notice within the time periods and according to the procedures provided herein for the seller's response.

(C) Time Periods. If by the close of the fifth business day following the date the close-out notice was given, the purchase has received no response or notice of retransmittal or has received a response which fails to provide an adequate explanation, as described below, for the seller's failure to complete the transaction, the purchaser may close out the transaction in accordance with the terms of the close-out notice. If the purchaser has received an adequate explanation of the seller's failure to complete the transaction, the purchaser may not close out the transaction before the close of the fifteenth business day following the date the close-out notice was given. For purposes of this subparagraph, a seller shall be deemed to have provided an adequate explanation for its failure to complete the transaction only if it has an offsetting fail to receive outstanding of the same security and so states or if the certificates, coupons or documentation required by this rule are in transit to the purchaser or the seller, have been sent for transfer, deregistration or validation, or have been lost or mutilated and replacements have been requested, and the seller so states. If the purchaser has received a notice of retransmittal extending the date for close-out, the transaction may not be closed out before the close of business on the latest extended date.

(D) Purchaser's Options. To close out a transaction as provided herein the purchaser may, at its option:

(1) Purchase ("buy-in") at the current market all or any part of the securities necessary to complete the transaction, for the account and liability of the seller;

(2) Cancel the transaction as to all or any part of the securities necessary to complete the transaction;

(3) Accept from the seller in satisfaction of the seller's obligation under the original contract (which shall be concurrently cancelled) the delivery of municipal securities which are comparable to those originally bought in quantity, quality, yield or price, and maturity, with any additional expenses or any additional cost of acquiring such substituted securities being borne by the seller; or

(4) Require the seller to repurchase the securities on terms which provide that the seller pay an amount which includes [equal to] accrued interest and bear the burden of any change in market price or yield.

A close-out will operate to close out all transactions covered under retransmitted notices. A buy-in may be executed from a long position in customers' accounts maintained with the party executing the buy-in or, with the agreement of the seller, from the purchaser's contra party. In all cases, the purchaser must be prepared to defend the price at which the close-out is executed relative to market conditions at the time of the execution.

(E) Close-Out Not Completed. A close-out procedure instituted pursuant to this rule (including any action by the purchaser pursuant to subparagraph (D) of this paragraph) must be completed not later than the thirtieth business day following the settlement date. If a close-out pursuant to a notice of close-out is not completed in accordance with the terms of the notice and the provisions of this rule, the notice shall expire. Additional close-out notices may be issued, provided that a close-out procedure initiated pursuant to this rule with respect to a transaction must be completed not later than the thirtieth business day following the settlement date, regardless of the number of close-out notices issued. Anything herein to the contrary notwithstanding, each time period specified in this subparagraph (E) shall be extended by one business day for each retransmittal of the notice of close-out subsequent to the initial retransmittal.

(F) "Cash" Transactions. The purchaser may close out transactions made for "cash" or made for or amended to include guaranteed delivery at the close of business on the day delivery is due.

(ii) Close-Out by Seller. If a seller makes good delivery according to the terms of the transaction and the requirements of this rule and the purchaser rejects delivery, the seller may close out the transaction in accordance with the following procedures:

(A) Notice of Close-Out. If the seller elects to close out a transaction in accordance with this paragraph (ii), the seller shall, not later than the close of business of the date of rejection of delivery, notify the purchaser by telephone of the seller's intention to close out the transaction and immediately thereafter send, return receipt requested, a written notice of close-out to the purchaser. Such notice shall be accompanied by a copy of the purchaser's confirmation of the transaction to be closed out or other written evidence of the contract between the parties. The notice shall state that unless the transaction is completed by a specified date and time, which shall not be earlier than the close of the [third] business day following the date the telephonic notice is given, the transaction may be closed out in accordance with this section.

(B) Execution of Close-Out. Not earlier than the close of the business day following the date telephonic notice of close-out is given to the purchaser, the seller may sell out the transaction at the current market for the account and liability of the purchaser.

(iii) Notice of Executed Close-Out. The party executing a close-out shall, immediately upon execution, notify via hand delivery or other written media having same-day receipt capabilities, the party for whose account and liability the transaction was closed-out, stating the means of closing out utilized and forwarding a copy of the confirmation of the executed transaction, if any.

(iv) Close-Out Under Special Rulings. Nothing herein contained shall be construed to prevent brokers, dealers or municipal securities dealers from closing out transactions as directed by a ruling of a national securities exchange, a registered securities association or an appropriate regulatory agency issued in connection with the liquidation of a broker, dealer or municipal securities dealer.

(v) Procedures Optional. Nothing herein contained shall be construed to require the parties to follow the close-out procedures herein specified if they otherwise agree.

(i) Good Faith Deposits. Good faith deposits shall be returned by the manager of a syndicate or similar account formed for the purchase of securities from an issuer, to the members of the syndicate or account within two business days following the date of settlement with the issuer, or, in the event the syndicate or account is not successful in purchasing the issue, within two business days following the return of the deposit from the issuer.

(j) Settlement of Syndicate or Similar Account. Final settlement of a syndicate or similar account formed for the purchase of securities shall be made within 60 days following the date all securities have been delivered by the syndicate or account manager to the syndicate or account members.

(k) Any credit designated by a customer in connection with the purchase of securities as due to a member of a syndicate or similar account shall be distributed to such member by the municipal securities broker or municipal securities dealer handling such order within 30 business days following delivery of the securities to the customer.

(l) Effective Date. The requirements of this rule shall become effective on December 7, 1977, with th exception of the requirements set forth in item (c)(v)(F), which shall become effective on January 1, 1979.

* * * * *

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is thereforbe ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 8, 1977.

[FR Doc.77-26899 Filed 9-14-77;8:45 am]

[Release No. 34-13937; File No. SR-PSE-77-23]

SELF-REGULATORY ORGANIZATIONS

Proposed Rule Change by Pacific Stock Exchange Incorporated

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 2, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Pacific Stock Exchange Incorporated ("PSE") hereby requests to amend Section 3(c) of Rule II of its Board of Governors as follows (brackets indicate deletions and italics indicate additions):

RULE II. SPECIALISTS

CONFIRMATION OF "GTC" ORDERS

Sec. 3(c).

[Monthly: Specialists shall upon the specific request of a Member or Floor Representative submit a list of "GTC" orders to such persons for confirmation at the close of business on the third Tuesday of each month.

Quarterly: Specialists shall submit a list of "GTC" orders to Members or Floor Representatives for confirmation at the close of business on the third Tuesday of the months of March, June, September and December. Members and Floor Representatives are required to check "GTC" orders with their order desks quarterly.

Note: When the third Tuesday is a holiday, such lists shall be submitted at the close of business on the preceding full business day.]

Specialists shall submit a list of "GTC" orders to Members for confirmation at the close of business on such day(s) of the month(s) as designated by the Floor Trading Committee.

PSE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as following:

The purpose of the proposed rule change is to give the PSE more flexibility regarding confirmation of "GTC" orders. Currently open "GTC" orders must be reported quarterly, but the proposed rule change would give flexibility of requiring more frequent reporting thus helping to reduce discrepancies, errors and delays, and enhance efficiency.

The basis for the proposed rule change is to enable the PSE to promote just and equitable principles of trade and carry out the purposes of the Act by requiring reporting of "GTC" orders on such day(s) of the month(s) as designated by the Floor Trading Committee.

PSE states that comments have neither been solicited nor received from members on the proposed rule change.

PSE believes the proposed rule change imposes no burden upon competiton.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 6, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 8, 1977.

[FR Doc.77-26901 Filed 9-14-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Cancelled Meeting

In Volume 42 FR 170, page 44061, September 1, 1977 A.I.D. announced a meeting of the Joint Committee on Agricultural Development of the Board for International Food and Agricultural Development to be held on September 20, 1977, from 9 a.m. to 5:30 p.m. at the Ramada Inn, Roslyn, 1900 Fort Myer Drive, Arlington, Va. The purpose of this notice is to indicate that said meeting has been cancelled.

Dated: September 13, 1977.

FLETCHER RIGGS,
A.I.D. Advisory Committee Representative Joint Committee on Agricultural Development, Board for International Food and Agricultural Development.

[FR Doc.77-27054 Filed 9-14-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 77-169]

CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Industry Advisory Committee's Subcommittee on Liquefied Gas Vessels to be held on October 4 and 5, 1977, beginning at 9:30 a.m., Room 7200, Nassif Building, 400 7th Street SW., Washington, D.C. 20590. The agenda for this meeting is as follows:

1. To discuss proposed amendments to the IMCO Gas Code in preparation for the upcoming meeting of IMCO's Subcommittee on Bulk Chemicals.

2. To discuss proposed Coast Guard regulations for inspection of gas ships.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Captain C. E. Mathieu, Commandant (G-MHM/83) U.S. Coast Guard, Washington, D.C. 20590 (202-426-2306). Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on September 7, 1977.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.77-26832 Filed 9-14-77;8:45 am]

Federal Aviation Administration

DISCONTINUANCE CRITERIA FOR AIRPORT TRAFFIC CONTROL TOWERS; POLICY FORMULATION

Public Hearings

The Federal Aviation Administration (FAA) will hold public hearings on its policy regarding cessation of service at airport traffic control towers. These hearings will afford interested persons the opportunity to present views, data, and arguments regarding the subjects and issues stated in a notice of policy formulation published in the FEDERAL REGISTER on September 1, 1977 (42 FR 44062). Evening as well as day hearings are scheduled to accommodate the general public.

THE HEARINGS

The hearings will be conducted at the following times and locations:

October 4, 1977—Los Angeles, California: Convening at 9:30 a.m. and 7:00 p.m. at Hyatt House Hotel, Los Angeles International Airport, 6225 West Century Boulevard, Los Angeles, California.

October 7, 1977—Kansas City, Missouri: Convening at 9:30 a.m. and 7:00 p.m. in Room 140, Federal Office Building, 601 East Twelfth Street, Kansas City, Missouri.

October 11, 1977—Washington, D.C.: Convening at 9:30 a.m. and 7:00 p.m. in Auditorium, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C.

HEARING PROCEDURE

The hearings will be informal in nature and will be conducted by a designated representative of the Administrator.

Since the hearings will not be evidentiary or judicial in nature, there will be no cross-examination or other adjudicatory procedure applied to the presentations. However, interested persons wishing to make rebuttal statements will be given the opportunity to do so at the conclusion of the presentations in the same order in which initial statements are made.

Interested persons are invited to attend the hearings and to participate by making oral or written statements concerning their respective topics, their sub-

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stance, and issues. Written statements should be submitted in duplicate and will be made a part of the record of proceedings. Persons wishing to make oral statements at the hearings should notify the FAA that they desire to be heard, indicate the amount of time requested for their initial statements, and indicate their preference for day or evening presentations. Presentations will be scheduled on a first-come-first-served basis, as time may permit.

Requests to be heard or to receive additional information should be made as follows:

For the hearings at Los Angeles, Calif., write or call:

Public Affairs Officer, Western Region (AWE-5), Federal Aviation Administration, P.O. Box 92007, World Way Postal Center, Los Angeles, Calif. 90009; or telephone 213-536-6431.

For the hearings at Kansas City, Mo., write or call:

Public Affairs Officer, Central Region (ACE-5), Federal Aviation Administration, Room 1548 Federal Office Building, 601 East Twelfth Street, Kansas City, Mo. 64106; or telephone 816-374-5440.

For the hearings at Washington, D.C., write or call:

Assistant Administrator for Public Affairs (APA-1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; or telephone 202-426-3883.

Written Comments Invited

In addition to materials presented at the hearing, persons not participating in the hearings are invited to submit written comments on the control tower discontinuance policy in accordance with the notice published in the FEDERAL REGISTER on September 1, 1977. Such communications should be addressed to:

Federal Aviation Administration, Director, Office of Aviation System Plans, ASP-1, 800 Independence Avenue SW., Washington, D.C. 20591. Attention: Tower Discontinuance Policy Proceedings.

The closing date for submitting written comments is October 15, 1977. All comments will be available for examination both before and after the closing date for comments.

Scope of Inquiry

The notice, regarding the FAA's policy formulation for tower discontinuance standards, identifies five potential options and their implications. Those policy options are as follows:

1. Continue Federal operation of all (425) existing towers.

2. Cease operation of 8 towers meeting existing discontinuance criteria.

3. Cease operation of all (73) towers at which there is a net operating loss.

4. Cease operation of a portion (35 to 40) of the towers identified in option number 3.

5. Continue Federal operation of all noneconomic towers until fiscal year 1980 to give state or local interests an opportunity to assume responsibility.

The notice presents anlayses of the respective options and contains the material that is the subject of these public hearings. While all comments are of interest, the FAA specifically invites statements or comments regarding the policy options in terms of the specific alternatives stated in the notice.

Before taking final action regarding its control tower policy, the FAA will consider the statements presented at the hearings and all written comments submitted.

Availability of Transcripts

Transcripts of each hearing will be made and anyone may purchase copies from the reporter. A transcript of each hearing will be available for examination in the office of the Director, Office of Aviation System Plans, Room 507C, 800 Independence Avenue SW., Washington, D.C.

Issued in Washington, D.C., on September 7, 1977.

DUANE W. FREER,
Associate Administrator for Policy Development and Review (Acting).

[FR Doc 77-26986 Filed 9-14-77;8:45 am]

Materials Transportation Bureau

EXEMPTION APPLICATIONS

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applications for exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations of the Materials Transportation Bureau has received the applications described herein.

DATES: Comments by October 17, 1977.

ADDRESSED TO: Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Complete copies of the applications are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of application
7822-N	Air Products & Chemicals Inc., Allentown, Pa.	49 CFR 173.315(a)(1)	To authorize shipment of pressurized liquid helium in non-DOT insulated portable tanks. (modes 1, 3)
7823-N	Allied Chemical Corp., Morristown, N.J.	49 CFR 178.61-5, 173.246.	To authorize shipment of iodine pentafluoride in non-DOT cylinders complying with DOT 4BW with certain exceptions. (modes 1, 2, 3)
7824-N	Petrolite Corp., St. Louis, Mo.	49 CFR 173.119(a)(26).	To authorize shipment of flammable liquids n.o.s. in a marine portable tank complying with 46 CFR Part 64. (modes 1, 3)
7825-N	Process Engineering Inc., Plaistow, N.H.	49 CFR 173.315	To authorize shipment of liquid carbon monoxide in non-DOT tank motor vehicle. (mode 1)
7826-N	Stanford Research Institute, Menlo Park, Calif.	49 CFR 173.328	To authorize a one-time shipment of a poison flammable gas in a ice packed glass flask/metal overpacked/wooden box overpackaging. (mode 1)
7827-N	Barnangeen AB, Stockholm, Sweden.	49 CFR 173.163	To authorize bulk shipment of sodium chlorate in a modified 18O freight container. (modes 1, 2, 3)
7828-N	Alaska International Air, Fairbanks, Alaska.	49 CFR 172.101, 175.3	To authorize shipment of up to 23,800 lbs of LPG in DOT 51 portable tanks by aircraft. (mode 4)
7829-N	Myers Drum Co., Los Angeles, Calif.	49 CFR 173.119(b), Part 173 subpt. F	To authorize the manufacture, marking, and selling of a non-DOT polyethylene pail for shipping flammable liquids and corrosive liquids. (Modes 1, 2, and 3.)
7830-N	Orval Tank Containers, Paris, France.	49 CFR Part 173, Subpts. D, E, F, and H.	To authorize shipment of IMCO class 2 commodities in non-DOT portable tanks. (Modes 1, 2, and 3.)
7831-N	Transcontinental Fertilizer Co., Philadelphia, Pa.	49 CFR 173.182, 176.410, 176.415.	To authorize bulk shipment of ammonium nitrate fertilizers in nonrigid woven polypropylene containers. (Modes 1, 2, and 3.)
7832-N	U.S. Energy Research & Development Administration, Washington, D.C.	49 CFR 173.315, 173.316.	To authorize shipment of liquid neon and deuterium in a modified cryogenic tank motor vehicle. (Mode 1.)
7833-N	Corning Glass Works, Corning, N.Y.	49 CFR 173.365(a)(2)	To authorize shipment of arsenic pentoxide, gross weight 580 lb., in drums built to DOT 37A requirements except for marking. (Mode 1.)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on September 7, 1977.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Operations.

[FR Doc.77-26578 Filed 9-14-77;8:45 am]

EXEMPTION APPLICATIONS

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of Applications for Renewal of Exemption or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations of the Materials Transportation Bureau has received the applications described herein. Normally, the modes of transportation would be identified and the nature of application would be described, as in past publications. However, this notice is abbreviated to expedite docketing and public notice. These applications have been separated from the new applications for exemptions to facilitate processing applications awaiting disposition.

DATES: Comments by September 30, 1977.

ADDRESSED TO: Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Complete copies of the applications are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

Application No.	Applicant	Renewal of special permit or exemption
7253-X	Lithium Corp. of America, Bessemer City, N.C.	7253
7270-X	Dow Chemical Co., Freeport, Tex.	7270
7285-X	Eginе Kuhlmann of America, Inc., Paramus, N.J.	7285
7404-X	Seaboard World Airlines, Jamaica, N.Y.	7404
7434-X	Dow Chemical Co., Midland, Mich.	7434
7444-X	Public Service Electric and Gas Co., Newark, N.J.	7444
7470-X	Cities Service Co., Tulsa, Okla.	7470
7470-X	Phelps Dodge Corp., New York, N.Y.	7470
7495-X	General American Transportation Corp., Sharon, Pa.	7495
7507-X	Witco Chemical Corp., Richmond, Calif.	7507
7512-X	Puerto Rico Maritime Shipping Authority, Elizabeth, N.J.	7512
7520-X	Puerto Rico Marine Management, Inc., Elizabeth, N.J.	7520
7504-X	Solchem Inc., New York, N.Y.	7504
7611-X	Richfood, Inc., Richmond, Va.	7611
7620-X	W. P. Butterfield (Engineers) Ltd. Stapley, West Yorkshire, England	7620
7714-X	Suttons International Ltd., London, England	7714
2587-P	Tampa Oxygen & Welding Supply, Inc., Tampa, Fla.	2587
2587-P	Gases & Arc Supply Co., Colorado Springs, Colo.	2587
3941-P	Kerr-McGee Chemical Corp., Oklahoma City, Okla.	3941
4453-P	Explosives Inc., Pittsfield, Ill.	4453
5243-P	IMC Chemical Group, Inc., Allentown, Pa.	5243
5994-P	Harvey Co., Greensburg, Pa.	5994
5719-P	Adex Corp., Omaha, Nebr.	5719
6016-P	Greco Welding Supplies, Inc., Parentum, Pa.	6016
6234-P	Bio-Lab, Conyers, Ga.	6234
6305-P	IMC Chemical Group, Inc., Allentown, Pa.	6305
6530-P	Mass Oxygen Equipment Co., Inc, Westborough, Mass.	6530
6607-P	Georgia-Pacific Corp., Montebello, Calif.	6607
6657-P	Gases & Arc Supply Co., Colorado Springs, Colo.	6657
6824-P	Georgia-Pacific Corp., Montebello, Calif.	6824
7266-P	Coastal Industries Inc., Carlstadt, N.J.	7266
7470-P	Kennecott Copper Corp., New York, N.Y.	7470
7777-P	Ozark-Mahoning Co., Tulsa, Okla.	7777

Application No	Applicant	Renewal of special permit or exemption
2805-X	Dow Chemical Co., Midland, Mich.	2805
3095-X	do	3095
4719-X	Dow Chemical Co., Freeport, Tex.	4719
5062-X	Dow Chemical Co., Plaquemine, La.	5062
5248-X	3M Co., St. Paul, Minn.	5248
5854-X	Sea-Land Service, Inc., Elizabeth, N.J.	5854
5876-X	FMC Corp., Philadelphia, Pa.	5876
6016-X	Livingston Oxygen Co., Inc., Modesto, Calif.	6016
6367-X	Bio-Lab., Inc., Conyers, Ga.	6367
6607-X	do	6607
6616-X	Fenwal Inc., Ashland, Mass.	6616
6671-X	Dow Chemical Co., Midland, Mich.	6671
6671-X	do	6671
6749-X	Bio-Lab, Inc., Conyers, Ga.	6749
6764-X	Hercules Inc., Wilmington, Del.	6764
6773-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	6773
6790-X	Dow Chemical Co., Freeport, Tex.	6790
6824-X	Bio-Lab, Conyers, Ga.	6824
6958-X	Dow Chemical Co., Findlay, Ohio.	6958
7011-X	Dow Chemical Co., Midland, Mich.	6958
7037-X	Air Transport Association of America, Washington, D.C.	7037
7082-X	Igloo Corp., Houston, Tex.	7082
7094-X	Dow Chemical Co., Freeport, Tex.	7094

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on September 7, 1977.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Operations.

[FR Doc.77-26579 Filed 9-14-77;8:45 am]

National Highway Traffic Safety Administration

FORD MUSTANG AND MERCURY COUGAR DEFECT INVESTIGATION

Public Proceeding Regarding Adequacy of Manufacturer's Notification Campaign on Seat Back Failures

Pursuant to Section 156 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1416) the Admin-

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istrator has granted the petitions of Austin F. Stevens of Redwood City, Calif., and Charles Arena of New York City, N.Y., for a hearing to determine whether Ford Motor Co., has reasonably met its obligations to notify owners of and remedy safety-related defects in driver bucket seats in 1968 and 1969 model Ford Mustangs and Mercury Cougars.

The defect exists in the inboard hinge pin of the driver seat. The driver seat back swivels around this pin when the seat back is tilted forward to permit access to the rear compartment of the vehicle. The defect manifests itself when the pin breaks, permitting the seat back to rotate rearwards in a clockwise direction. When this happens, the driver can fall into the rear compartment and lose visibility of the road ahead and control of the vehicle. Accidents and injuries can and have occurred as a result of seat pin failure.

In August 1975 the National Highway Traffic Safety Administration ordered Ford to recall the 1968 and 1969 Mustangs and Cougers. Ford refused, and the agency immediately sought enforcement of its order in Federal district court. On October 20, 1976, Judge George Hart, U.S. District Court for the District of Columbia, ordered Ford to notify owners of and remedy the defect in the Mustangs and Cougars. Ford then sought and obtained a stay of the District Court's order pending an appeal it filed with the U.S. Court of Appeals, District of Columbia Circuit.

After some initial proceedings in the Court of Appeals, Ford on March 21, 1977, decided to recall the cars pursuant to statutory requirements. On March 25, 1977, Ford notified the agency of its decision and in late April and early May commenced its campaign.

Since that time the agency has received a large number of consumer complaints alleging that adequate quantities of replacement parts designed for the campaign were unavailable at local dealerships. Other information received by the agency indicates that problems exist with respect to dealers requiring inspection of the defective seat prior to repair and owners of the affected vehicles being directed to dealerships many miles from their homes if they wish to obtain the required repairs.

The agency has queried Ford twice about these problems, and the manufacturer's responses have been unsatisfactory.

An initial public proceeding will be held at 10 a.m., October 4, 1977, in Room 4234, Department of Transportation Headquarters, 400 Seventh Street SW., Washington, D.C. 20590, at which any interested person (including the manufacturers) may make oral (as well as written) presentations of data, views, and arguments on the question of whether Ford has reasonably met its obligation to notify owners, purchasers, and dealers of a safety-related defect under 15 U.S.C. 1411, and to remedy such defect under 15 U.S.C. 1414. Interested persons are invited to participate through written or oral presentations. A transcript will be kept and exhibits may be accepted. There will be no cross examination of witnesses. Persons who wish to make oral presentations are required to notify Mrs. Nancy Martus, Office of Defects Investigation, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-426-2850) before the close of business on September 30, 1977.

(Sec. 9 Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); Sec. 102, Pub. L. 93-492 (Sec. 156), 88 Stat. 1470 (15 U.S.C. 1416); delegation of authority at 49 CFR 1.50.)

Issued on September 8, 1977.

JOAN CLAYBROOK,
Administrator.

[FR Doc.77-26605 Filed 9-9-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

COLUMBUS, NEW MEXICO, CUSTOMS PORT OF ENTRY

Change in Hours of Service

AGENCY: United States Customs Service, Department of the Treasury

ACTION: Notice of change in hours of service

SUMMARY: This notice announces a reduction in the hours of service at the Customs port of entry at Columbus, N. Mex., from the current 24 hours a day to 16 hours a day. The new hours of service will be from 8:00 a.m. to Midnight. This action is being taken because the traffic at the port between the hours of Midnight and 8 a.m. does not warrant providing service during those hours. The reduction in the hours of service will permit the more effective use of Customs manpower.

DATES: The new hours of service will become effective September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Schenarts, Operations Officer, Inspection and Control Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-8151).

SUPPLEMENTARY INFORMATION: Section 1.7 of the Customs Regulations (19 CFR 1.7) requires that each Customs office be open for business between the hours of 8:30 a.m. and 5 p.m. on all days of the year except Saturdays, Sundays, and national holidays. The regulations further provide that Customs services required to be performed outside a Customs office shall be furnished between the hours of 8:00 a.m. and 5:00 p.m. Many Customs ports of entry regularly provide service during hours in addition to those specified in the regulations.

The Customs port of entry at Columbus, N. Mex. (Region VI), has been open 24 hours a day. However, the Regional Commissioner of Customs for Customs Region VI has determined that the volume of traffic through that port between the hours of Midnight to 8 a.m. does not warrant providing regular service during those hours. Therefore, regular service during those hours will be discontinued effective September 30, 1977. Beginning on that date, the hours of service at the Customs port of entry at Columbus, N. Mex., will be from 8 a.m. to Midnight each day. The reduced hours of service will permit better utilization of Customs manpower and will reduce the cost of Customs operations at the port.

Dated: September 12, 1977.

ROBERT E. CHASEN,
Commissioner of Customs.

[FR Doc.77-26923 Filed 9-14-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 480]

ASSIGNMENT OF HEARINGS

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 22301 (Sub-No. 24), Sioux Transportation Co., Inc. now assigned September 8, 1977, at Omaha, Nebr., is canceled, application dismissed.

MC 4405 (Sub-No. 551), Dealers Transit, Inc., now assigned September 15, 1977, in Dallas, Tex. is cancelled, application dismissed.

MC-C 9684, Carl R. Rieber, Inc., Trans-Bridge Lines, Inc., now assigned October 17, 1977, at Philadelphia, Pa., will be held in U.S. Customs Court Room, 3d Floor, U.S. Custom House, Second and Chestnut Streets.

MC 142881 (Sub-No. 2), Rexford C. Greer, d.b.a. American Truck Stop now assigned October 18, 1977, at Philadelphia, Pa., will be held in U.S. Customs Court Room, 3d Floor, U.S. Custom House, Second and Chestnut Streets.

MC 142881 (Sub-No. 1), Rexford C. Greer, d.b.a. American Truck Stop, now assigned October 19, 1977, at Harrisburg, Pa., will be held in Room No. 392, Federal Building, 228 Walnut Street.

MC 143050, C&M Express, Inc., now assigned October 18, 1977, at Baltimore, Md., will be held in Room G-30, Federal Building, 31 Hopkins Plaza.

MC 143059 (Sub-No. 1), Mercer Water & Sewer Transportation Co., now being assigned September 21, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 4405 (Sub-No. 547), Dealers Transit, Inc., now assigned September 15, 1977, at Dallas, Tex., is canceled and application dismissed.

MC 142614, Van Rees Trucking, Inc., now assigned September 12, 1977, at Omaha, Nebr., is canceled, application dismissed.

MC-F-13140, Marty's Express, Inc.—Purchase—Kruse Trucking Co. and MC 39249 (Sub-No. 19), Marty's Express, Inc., now assigned October 3, 1977, at Philadelphia, Pa., will be held in the U.S. Customs Court Room, 3d Floor, U.S. Custom House, Second and Chestnut Street.

MC 141776 (Sub-No. 4), Foodtrain, Inc., now assigned October 4, 1977, at Philadelphia, Pa., will be held in the U.S. Customs Court Room, 3d Floor, U.S. Custom House, Second and Chestnut St.

MC 142785 (Sub-No. 1), Brotherly Love Express, Inc., now assigned October 5, 1977, at Philadelphia, Pa., will be held in the U.S. Customs Court Room, 3d Floor, U.S. Custom House, Second and Chestnut Street.

MC 142672 (Sub-No. 3), David Beneux Produce and Trucking, Inc., and MC 142672 (Sub-No. 4), David Beneux Produce and Trucking, Inc., now assigned October 6, 1977, at Philadelphia, Pa., will be held in the U.S. Customs Court Room, 3d Floor, U.S. Custom House, Second and Chestnut Street.

MC 117119 (Sub-No. 632), Willis Shaw Frozen Express, Inc., now assigned October 7, 1977, at Philadelphia, Pa., will be held in the U.S. Customs Court Room, 3d Floor, U.S. Custom House, Second and Chestnut Street.

MC 133566 (Sub-No. 89), Gangloff & Downham Trucking, Inc., now assigned October 7, 1977, at Philadelphia, Pa., will be held in the U.S. Customs Court Room, 3d Floor, U.S. Custom House, Second and Chestnut Street.

MC 142497 (Sub-No. 1), Atlantic Charter Bus Service, Inc., now assigned October 12, 1977, at Norfolk, Va., will be held in Grand Jury Room 421, U.S. District Courthouse, Federal Building.

MC 29910 (Sub-No. 174), Arkansas-Best Freight System, Inc., now assigned October 13, 1977, at New Orleans, La., is canceled.

MC 55898 (Sub-No. 53), Decato Bros., Inc., now assigned October 12, 1977, at Boston, Mass., and will be held on the Fifth Floor, 150 Causeway.

MC 143130, Ritchie Bus Lines, Inc., now assigned October 17, 1977, at Boston, Mass., and will be held on the Fifth Floor, 150 Causeway.

MC 60014 (Sub-No. 49), Aero Trucking, Inc., now being assigned November 2, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 111940 (Sub-No. 67), Smith's Truck Lines, now being assigned October 19, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 113855 (Sub-No. 380), International Transport, Inc., now being assigned December 8, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 119726 (Sub-No. 95), N.A.B. Trucking Co., Inc, now being assigned December 1, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 133689 (Sub-No. 129), Overland Express, Inc., now being assigned December 14, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

FD 27620, Maine Central Railroad Company v. Amoskeag Co., Frederick C. Dumaine and Dumaines and FD 27621, Amoskeag Co.—Control—Maine Central Railroad Company now being assigned November 15, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 59957 (Sub-No. 50), Motor Express, now assigned October 17, 1977, at Pittsburgh, Pa., is canceled and reassigned for October 17, 1977, at the Mount Vernon Motel, Route 40, Uniontown, Pa.

MC 2632 (Sub-No. 13), The Kelley Transit Co., Inc., now assigned October 12, 1977, at Hartford, Conn., is canceled and reassigned for October 12, 1977 (3 days), at the Red Bull Motor Inn, Schraffts Drive, Exit 25 off Route I-84, Waterbury, Conn.

MC-F 12367, Roadway Express, Inc.—Control and Merger—Western Gillette, Inc., MC-F 13156, Arkansas Best Freight System, Inc.—Purchase (Portion)—Western Gillette, Inc., MC-F 13157, Campbell Sixty-Six Express, Inc.—Purchase (Portion)—Western Gillette, Inc., MC-F 13158, The Chief Freight Lines Co.—Purchase (Portion)—Western Gillette, Inc., MC-F 13159, Churchill Truck Lines, Inc.—Purchase (Portion)—Western Gillette, Inc., MC-F 13160, Gordons Transport, Inc.—Purchase (Portion)—Western Gillette, Inc., MC-F 13161, Graves Truck Line, Inc.—Purchase (Portion)—Western Gillette, Inc. now assigned October 27, 1977, for prehearing conference at Washington, D.C., is being advanced to September 27, 1977, for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77 26914 Filed 9-14-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 12, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protest to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed by September 30, 1977.

FSA No. 43430.—*Joint Water-Rail Container Rates—Orient Overseas Container Line, Inc.* Filed by Orient Overseas Container Line, Inc. (No. 7), for itself and interested rail carriers. Rates on general commodities, between ports in Hong Kong, Taiwan, Japan, Korea, Philippines, Singapore, Thailand, and Malaysia, and rail carriers terminals on the United States Atlantic and Gulf Coast.

Grounds for relief—Water competition.

Tariffs.—The Trans-Pacific Freight Conference of Japan/Korea Eastbound tariff No. 1, I.C.C. No. 1, and Orient Overseas Container Line, Inc., tariffs Nos. 1, 2, 4, and 7, I.C.C. Nos. 1, 2, 3, and 7, F.M.C. Nos. 11, 29, 37, and 48, respectively. Rates are published to become effective on October 9, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc 77 26912 Filed 9-14-77;8:45 am]

[Notice No. 222]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission by October 17, 1977. Failure seasonably to file a protest will be construed as a waiver of oppostion and participation in the proceeding. A protest must be

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served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of proposed transfer.

No. MC-FC-77275 filed August 22, 1977. Transferee: PAUL YATES, INC., 6601 West Orangewood, Glendale, Ariz. 85301. Transferor: System Reefer Service, Inc., 4614 Lincoln Avenue, Cypress, Calif. 90630. Applicants' representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 133097 (Sub-No. 15), issued October 12, 1976, as follows: foodstuffs, related advertising media, materials, equipment, and supplies used in the preparation and serving of foods in restaurants or commissaries between Washington, D.C., on the one hand, and, on the other, points in New Mexico, Arizona, and California. The operations authorized are limited to a transportation service to be performed under a continuing contract, or contracts, with Fairfield Farm Kitchens, Washington, D.C. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77280 filed August 22, 1977. Transferee: WABASH VALLEY VAN & STORAGE COMPANY, INC., doing business as ACME VAN & STORAGE, 115 Shelby Street, Vincennes, Ind. 47591. Transferor: Robert O. Michels and Jerry D. Flynn, doing business as Acme Van & Storage Co., 2237 Locust Street, Terre Haute, Ind. 47807. Applicants' representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 47204. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 35436 issued October 1, 1975, as follows: household goods as defined by the Commission, between Terre Haute, Ind., and points within 15 miles thereof, on the one hand, and, on the other, points in Tennessee, and Wisconsin. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77281 filed August 25, 1977. Transferee: GARY J. WARNER, doing business as WARNER WAREHOUSING CO., 180 East Mill Street, Marion, Ohio 43302. Transferor: Merchants Tansfer and Storage Co. Address: Same as Transferee. Applicants' representative: Marin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, Mich. 48167. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 10797 issued March 20, 1951, as folows: Machinery parts, from Marion, Ohio to points in Indiana, those in the lower peninsula of Michigan, that part of Illinois east of U.S. Highway 67 and South of U.S. Highway 34, that part of Pennsylvania West of U.S. Highway 119 and South of U.S. Highway 422, and those in West Virginia West of U.S. Highway 19 and north of U.S. Highway 50, including points on the indicated portions of the highways specified; Fabricated steel, from Marion, Ohio, to Lawrenceburg, Ind., points in Campbell and Kenton Counties, Ky., and those in that part of Indiana, South of Indiana Highway 26, East of U.S. Highway 31, and North of U.S. Highway 40, including points on the indicated portions of the highways specified; and household goods, as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, between Marion, Ohio, on the one hand, and, on the other points in Pennsylvania, West Virginia, Indiana, Kentucky, and those in the lower peninsula of Michigan. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a (b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-26015 Filed 9-14-77;8:45 am]

[Notice No. 114TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 9, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 61403 (Sub-No. 246TA), filed August 26, 1977. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Hwy. 11W, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox, P.O. Box 969, Kingsport, Tenn. 37662. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude cottonseed oil*, in bulk, in tank vehicles, from Montgomery, Ala., to Cincinnati Milacron Chemicals, Inc., at or near Reading, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cincinnati Milacron Chemical Division, West Street, Cincinnati (Reading), Ohio 45215. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 61825 (Sub-No. 68TA), filed August 26, 1977. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: John D. Stone, P.O. Box 385, Collinsville, Va. 24078. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, except in bulk, from Akron, Ohio, and St. Clair, Mich., to points in North Carolina, South Carolina, and Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Diamond Crystal Salt Company, 916 South Riverside Avenue, St. Clair, Mich. 48079. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 108207 (Sub-No. 465TA), filed August 23, 1977. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: Mike Smith, P.O. Box 5888, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Photographic products*, in vehicles equipped with mechanical refrigeration, from Dallas, Tex. to Kansas City, Kans. and Kansas City, Mo., restricted to traffic originating at Dallas, Tex. and destined to the named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Agfa-Gevaert, Inc., 1780 Hurd Drive, Irving, Tex. 75062. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 108207 (Sub-No. 466TA), filed August 23, 1977. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: Mike Smith, P.O. Box 5888, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and articles distributed by meat packing plants* (except hides and commodities in bulk), from the plantsite and/or storage facilities of Geo. A. Hormel at or near Fort Dodge, Iowa, to Leachville, Ark., restricted to traffic originating at the named origins and destined to the named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Geo. A. Hormel & Co., P.O. Box 800, Austin, Minn. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 109724 (Sub-No. 3TA), filed August 18, 1977. Applicant: PAUL J. SCHMIT, d.b.a. PAUL J. SCHMIT TRUCKING, 17755 Bedford Drive, Brookfield, Wis. 53005. Applicant's representative: Wm. C. Dineen, 710 N. Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, in tank vehicles, from the unincorporated community of Klevenville, town of Springdale, Dane County, Wis., to points in Iowa and Minnesota, under a continuing contract or contracts, with George M. Pendergrat and Co., Inc., for 180 days. Supporting shipper(s): George M. Pendergast & Co., Inc., 515 W. Canal Street, Milwaukee, Wis. 53203. (Clyde R. Eithier) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East kee, Wis. 53202.

No. MC 111302 (Sub-No. 110TA), filed August 26, 1977. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, 1500 Amherst Road, Knoxville, Tenn. 37919. Applicant's representative: David A. Petersen, Sales and Traffic, P.O. Box 10470, 1500 Amherst Road, Knoxville, Tenn. 37919. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry sodium sulphate*, in bulk, in hopper-type vehicles, from the plantsite of International Salt (American Enka) in Lowland, Tenn. to the plantsites of Deering Milliken Company in Abbeville, S.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): International Salt Company, 1600 Tullie Circle, Suite 133, Atlanta, Ga. 30329. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37219.

No. MC 111729 (Sub-No. 715TA), filed August 18, 1977. Applicant: PUROLATOR COURI R CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile windows, windshields, metal strippings, rubber gaskets, and materials and supplies* used in the installation and mounting of same, restricted against the transportation of packages or articles weighing in excess of 100 pounds, between Memphis, Tenn. on the one hand and, on the other, points in Arkansas and points in and north of the following Mississippi Counties: Hinds, Lauderdale, Newton, Rankin, Scott, and Warren, for 180 days. Supporting shipper(s): Binswanger Glass Company, 322 S. Hollywood, Memphis, Tenn. 38111. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 112617 (Sub-No. 373TA), filed August 25, 1977. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polymer solution* (except liquid resins and liquid plastics), in bulk, in tank vehicles, from the plantsite of Inmont Corporation at Greenville, Ohio, to the plantsite of Inmont Corporation at Louisville, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mr. John A. Ganote, Assistant Plant Manager, Inmont Corporation, 2148 So. 41st Street, Louisville, Ky. 40211. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Bldg., Louisville, Ky. 40202.

No. MC 115821 (Sub-No. 30TA), filed August 19, 1977. Applicant: FRANK BEELMAN, d.b.a., BEELMAN TRUCK CO., St. Libory, Ill. 62282. Applicant's representative: Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, (1) from the minesite of Zeigler Coal Company near Johnston City, Ill., to Associated Electric Cooperative, Inc. near New Madrid, Mo., and (2) from the minesite of Peabody Coal Company near Freeburg, Ill., to the Lummus Company at or near Bruceton, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): William F. Erickson, District Manager, Zeigler Coal Company, 325 Meadowbrook Drive, Ballwin, Mo. 63011. Roy J. Ferro, Traffic Manager, Peabody Coal Company, 301 N. Memorial Drive, St. Louis, Mo. 63101. Send protests to: Harold C Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 116763 (Sub-No. 391TA), filed August 25, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the plantsites and warehouse facilities of McCain Foods, Inc. in Washburn, Easton, and Portland, Maine to points in New Jersey, New York, points in Pennsylvania east of U.S. Highway 15, Delaware, Maryland, Virginia and the District of Columbia, for 180 days. Supporting shipper(s): Brent S. Cronkite, Traffic Manager, McCain Foods, Inc., 5 Wade Road, Washburn, Maine. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 116880 (Sub-No. 6TA), filed August 11, 1977. Applicant: WALTER D. DAVIS, INC., Grove Street Extension, Houlton, Maine 04730. Applicant's representative: Peter L. Murray, 30 Exchange Street, Portland, Maine 04111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings, complete, knocked down or in sections, and component parts thereof, and equipment and materials* incidental to the erection of such buildings when transported in connection therewith, from Oakland, Maine to points in the States of Massachusetts, Pennsylvania, New Hampshire, Vermont, New York, Rhode Island, Connecticut, Ohio, Michigan, Florida, North Carolina, South Carolina, and Calif., and to points on the U.S.-Canadian Boundary line in New York, Vermont, New Hampshire, and Maine for products destined for the Canadian provinces of Nova Scotia, Ontario, Quebec, and New Brunswick, under a continuing contract, or contracts, with Katahdin Forest Products Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Katahdin Forest Products Company, Oakfield, Maine. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 307, 76 Pearl Street, Portland, Maine 04111.

No. MC 117686 (Sub-No. 179TA), filed August 18, 1977. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Blvd., P.O. Box 417, Sioux City, Iowa 51102. Applicant's representative: Robert A. Wicher (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass beads, glass spheres and thermo plastic marking material*, and (2) *equipment, materials and supplies* used in the application of the commodities named in (1) above (except commodities in bulk), from Jackson, Miss., to points in Arkansas, Illi-

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nois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, and South Dakota, for 180 days. Supporting shipper(s): B. J. Young, Controller, Cataphote Division of Ferro Corp., Box 2369, Jackson, Miss. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 123407 (Sub-No. 399 TA), filed August 25, 1977. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cedar lumber*, from the port of entry on the International Boundary between the United States and Canada near Oroville, Wash., to New Mexico and Texas, for 180 days. Supporting shipper(s): Morrill and Sturgeon, Ltd. Enderby, British Columbia, Canada. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 124608 (Sub-No. 4TA), filed August 11, 1977. Applicant: WILLIAM GILCHRIST, 105 North Keyser Avenue; Old Forge, Pa. 18518. Applicant's representative: Joseph F. Hoary, 121 South Main Street; Taylor, Pa. 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies, and products* used in or produced by the food processing industry (except commodities in bulk), from Erie and North East, Pa.; Dunkirk, Buffalo, Newark, and Westfield, N.Y., to Virginia, Tennessee, North Carolina, South Carolina, Alabama, Georgia, and Florida. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Welch Foods, Inc., of Westfield, N.Y., for 180 days. Supporting shipper(s): Welch Foods, Inc., Westfield, N.Y. 14787. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S.P.O. Bldg., Scranton, Pa. 18503.

No. MC 124679 (Sub-No. 81TA), filed August 22, 1977. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South Street, Salt Lake City, Utah 84119. Applicant's representative: D. Michael Jorgensen, of Nelson, Harding, Richards, 48 P.O. Place, P.O. Box 2465, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products*, from the plantsite of Superior Packing Co. at or near Ellensburg, Wash., to Boston and Worchester, Mass.; Baltimore and Landover, Md.; Canajoharie and New York City, N.Y.; Harrisburg and Philadelphia, Pa.; Norfolk and Williamsburg, Va.; Washington, D.C.; Bayonne, N.J.; Chicago, Ill., and its commercial zone, and Kansas City, Kans., and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Superior Packing Co., P.O. Box 277, Ellensburg, Wash. (D. E. Callahan, President). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 126276 (Sub-No. 183TA), filed August 4, 1977. Applicant: EAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: James C. Hardman, 33 North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers, container ends and closures, materials, equipment and supplies* used in the manufacture, sale or distribution of containers, ends, and closures (except commodities in bulk), from the plantsite of The Continental Group, Inc., at Racine, Wis., to Danville and Momence, Ill., under a continuing contract, or contracts, with The Continental Group, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Continental Group, Inc., James R. Jandora, Analyst, Traffic and Distribution, 5401 West 65th Street, Chicago, Ill. 60638. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 128555 (Sub-No. 19TA), filed August 19, 1977. Applicant: MEAT DISPATCH, INC., 2103 17th Street East, Palmetto, Fla. 33561. Applicant's representative: S. Michael Richards, 44 North Avenue, P.O. Box 225, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses (except commodities in bulk), from the plant site and/or warehouse facilities of the R. T. French Co. at Springfield, Mo., to the state of Florida, for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The R. T. French Co., 1 Mustard Street, Rochester, N.Y. 14609. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 NW. 53d Terrace, Miami, Fla. 33166.

No. MC 134755 (Sub-No. 110TA), filed August 10, 1977. Applicant: CHARTER EXPRESS, INC., 1959 East Turner Street, P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* (except frozen and except in bulk), from the plantsite of the Joan of Arc facilities at Belledeau and St. Francisville, La., to points in the states of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, for 180 days. Supporting shipper(s): Joan of Arc Co., Inc. 2231 West Altorfer Drive, Peoria, Ill. 61614. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 138328 (Sub-No. 39TA), filed August 5, 1977. Applicant: CLARENCE L. WERNER, d/b/a WERNER ENTERPRISES, I–80 and Highway 50, 14507 Frontier Road, P.O. Box 37308, Omaha, Nebr. 68137. Applicant's representative: Donna Ehrlich, 14507 Frontier Road, Omaha, Nebr. 68128. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcium propionate, sodium propionate and sodium diacetate* (except commodities in bulk), from Verona, Mo.; Dallas, Tex.; and Lodi, N.J.; to Atlanta, Ga.; Boston, Mass.; Charlotte and Valdese, N.C.; Cincinnati and Cleveland, Ohio; Detroit, Mich.; Franklin Park, Ill.; Los Angeles, Calif.; Miami, Fla.; and Williamsport, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Federated Mills, Inc., Evelyn Higgins, Director of Marketing, 110 Kennedy Drive, Smithtown, N.Y. 11787. Send protests to: Carroll Russell, District Supervisor, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 140033 (Sub-No. 29TA), filed August 18, 1977. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Tex. 75220. Applicant's representative: D. Paul Stafford, Winkle and Wells Exchange Park, Suite 1125, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Brownwood, Tex., to Montgomery, Ala., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Swift Fresh Meats Co., a Division of Swift and Co., 115 West Jackson Boulevard, Chicago, Ill. 60604. Send protests to: Opal M. Jones Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 141124 (Sub-No. 8TA), filed August 12, 1977. Applicant: EVANGELIST COMMERCIAL CORP., P.O. Box 1709, Wilmington, Del. 19899. Applicant's representative: Boyd B. Ferris, Muldoon, Pemberton, and Ferris, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood furniture stock, wood dimension stock, and wood fiberboard*, from the facilities of Allied International, Inc., at or near Hanover, South Boston, and Westfield, Mass., Norwich and Windsor Locks, Conn., to points in Arkansas, Indiana, Illinois, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, North Carolina, Ohio, Tennessee, Virginia and Wisconsin, for 180 days. Supporting shipper(s): Allied International, Inc. 490 Rear Rutherford Avenue, Charlestown, Maine. 02129. Send protests to: Monica A. Blodgett Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 141138 (Sub-No. 8TA), filed August 10, 1977. Applicant: STEVE SCHRANZ TRUCKING, INC., 350 Honeysuckle Lane, Belleville, Ill. 62221. Applicant's representative: Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed*, from Shelby County, Tenn., to Moulton, Town Creek, Athens, and Cullman, Ala., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Joe D. Dafflitto, Truck Operations Manager, International Multifoods Corp., 1200 Multifoods Corp., Minneapolis, Minn. 55402. Send protests to: Harold C. Joliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 142508 (Sub-No. 7TA), filed August 9, 1977. Applicant: NATIONAL TRANSPORTATION, INC., 14031 "L" Street, P.O. Box 37465, Omaha, Nebr. 68137. Applicant's representative: Joseph Winter, 33 North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in the Description case 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and facilities of Morgan Colorado Beef Co. at or near Fort Morgan, Colo., to Memphis, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Edward T. Hopkins, Manager of Transportation, Morgan Colorado Beef Co., P.O. Box 487, Fort Morgan, Colo. 80701. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-26913 Filed 9-14-77;8:45 am]

[No. 36602]

NEBRASKA INTRASTATE FREIGHT RATES AND CHARGES—1977

Petition for Investigation of Intrastate Freight Rates and Charges Within State of Nebraska

Present: Charles L. Clapp, Commissioner, to whom this matter has been assigned for action.

By joint petition authorized under section 13(3) of the Interstate Commerce Act, filed May 31, 1977, petitioners, five common carriers by railroad[1] subject to Part I of the Interstate Commerce Act, and also operating in intrastate commerce in the State of Nebraska, request that this Commission institute an investigation of their Nebraska intrastate freight rates and charges, under section 13 and 15a of the Interstate Commerce Act, wherein they will seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte No. 305–RE.

By tariff filed October 29, 1975, with the Nebraska Public Service Commission, petitioners sought to make the increases granted in Ex Parte No. 305–RE applicable on Nebraska intrastate traffic effective immediately. After hearing, the Commission, by order of April 26, 1976, denied the increases, and after further hearing again denied the increases by order of November 30, 1976, and finally denied further rehearing or reconsideration by order of February 8, 1977.

Petitioners contend that present intrastate freight rates from, to, and within Nebraska are just and reasonable and that the proposed intrastate rates will not exceed a just and reasonable level; that transportation conditions for the intrastate transportation of recyclables in Nebraska are not more favorable than for interstate traffic; that traffic moving under present Nebraska intrastate rail freight rates and charges fails to provide its fair share of earnings; and, that the present Nebraska intrastate rail freight rates and charges create undue and unreasonable advantage, preference, and prejudice between persons and localities in intrastate commerce within Nebraska and interstate and foreign commerce, and result in undue, unreasonable, and unjust discrimination against and an undue burden on interstate commerce in violation of section 13 and 15a of the Interstate Commerce Act, among others, to the extent that they do not include the increases authorized in Ex Parte No. 305–RE.

Under section 13 of the Interstate Commerce Act, this Commission may institute an investigation, into the lawfulness of intrastate rail freight rates and charges for the purpose of adjusting such rates and charges to those charged on similar traffic moving in interstate or foreign commerce. This Commission may act not withstanding the laws or constitution of any state.

Wherefore, and good cause appearing therefor:

It is ordered, that the petition be, and it is, hereby granted; and that an investigation, under sections 13 and 15a of the Interstate Commerce Act, be, and it is, hereby instituted to determine whether the Nebraska intrastate rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantage, preference, or prejudice as between interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 305–RE; and to determine if any rates or charges, or maximum or minimum charges, or both, shall be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

It is further ordered, that all common carriers by railroad operating in the State of Nebraska, subject to the jurisdiction of this Commission, be, and they are, hereby made respondents in this proceeding.

It is further ordered, that all persons who wish to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before 15 days from the FEDERAL REGISTER publication date. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. The Commission desires participation of only those who intend to take an active part in the proceeding.

It is further ordered, that as soon as practicable after the date of indicating a desire to participate in the proceeding has passed, the Commission will serve a list of names and addresses of all persons upon whom service of all pleadings must be made and that thereafter this proceeding will be assigned for oral hearing or handling under modified procedure.

And it is further ordered, that a copy of this order be served upon each of the petitioners and respondents herein; that the State of Nebraska be notified of the proceeding by sending copies of this order of the instant petition by certified mail to the Governor of the State of Nebraska and to the Nebraska Public Service Commission; and that further notice of this proceeding be given to the public by depositing a copy of this order in the Office of the Secretary of the Interstate Commerce Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

[1] Chicago and Northwestern Transportation Co.; Burlington Northern, Inc.; Chicago Rock Island & Pacific Railroad Co.; Missouri Pacific Railroad Co.; Union Pacific Railroad Co.

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This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 31st day of August 1977.

By the Commission, Commissioner Clapp.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc 77-26917 Filed 9-14-77;8:45 am]

[Volume No. 32]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Correction

In FR Doc. 77-25320 appearing at page 44079 in the issue of Thursday, September 1, 1977, the following changes should be made:

1. In the second column on page 44085, "No. MC 60687" should read "No. MC 60987".

2. In the third column on page 44087, "No. MC 94350" should read "No. MC 95540".

3. In the third column on page 44093, the first number reading "No. MC 11955" should read "No. MC 119550".

4. In the second column on page 44099, "No. MC 139369" should read "No. MC 139360".

[Volume No. 34]

PETITIONS FOR MODIFICATION, INTERPRETATION, OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

SEPTEMBER 9, 1977.

The following petitions seeks modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

The Commission has recently provided for easier identification of substantive petition matters and all documents should clearly specify the "docket", "sub", and "suffix" (e.g. M1, M2) numbers identified by the FEDERAL REGISTER notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission October 17, 1977. Such protest shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 133590 M1 (Notice of filing of petition to broaden territorial description) filed July 15, 1977. Petitioner: WESTERN CARRIERS, INC., 288 Franklin St., Worcester, Mass. 01604. Petitioner's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, Mass. 01103. Petitioner holds a motor *contract carrier* Permit in No. MC 133590 issued April 26, 1971, authorizing transportation, as pertinent, over irregular routes, of *Pork, pork products, and pork by-products* (except commodities in bulk and hides) (1) From the plantsite and storage facility of Western Pork Packers, Inc., a New York corporation, at Bronx, N.Y., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, Pennsylvania (except Pittsburgh), Rhode Island, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized; and (2) from the plantsite and storage facility of Western Pork Packers, Inc., a Massachusetts corporation, at Worcester, Mass., to points in Connecticut, Delaware, Maryland, New Jersey, New York, Pennsylvania (except Pittsburgh), Rhode Island, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized. Restriction: The operation authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Western Pork Packers, Inc., a New York corporation, at Bronx, N.Y., and Western Pork Packers, Inc., a Massachusetts corporation, at Worcester, Mass.,

By the instant petition, petitioner seeks to change the territorial description to: between the plantsite and storage facilities of Western Pork Packers, Inc., a New York corporation, at Bronx, N.Y., and Western Pork Packers, Inc., a Massachusetts corporation, at Worcester, Mass., on the one hand, and, on the other, points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana.

No. MC 136343 and (Sub-Nos. 5 and 33) M1 (notice of filing of petition to add an additional shipper) filed July 26, 1977. Petitioner: MILTON TRANSPORTATION, INC., R.D. No. 1, Box 355, Milton, Pa. 17847. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner holds motor *common carrier* Certificates in No. 136343 and (Sub-Nos. 5 and 33), issued November 10, 1975, May 21, 1976, and March 28, 1977, respectively, authorizing transportation (1) in No. MC 136343, as pertinent, over irregular routes, of: *Printing paper, gummed paper, gummed paper sealing tape* and *paper backed with aluminum foil*, from the plantsite of St. Regis Paper Co., located at Troy, Ohio, to points in Pennsylvania, New Jersey, New York, and Connecticut, restricted to the transportation of shipments originating at the specified origins and destined to the designated destinations; (2) in No. MC 136343 (Sub-No. 5) over irregular routes, of: *Printing paper and equipment and supplies* used or useful in the manufacture and sale of aluminum foil (except commodities in bulk), from points in New York, New Jersey, Connecticut, Massachusetts, Rhode Island, Pennsylvania, Maryland, Maine, and the District of Columbia, to the facilities of St. Regis Paper Co. located at Troy, Ohio, restricted to the transportation of shipments originating at the named origins and destined to the named destinations; (3) in No. MC 136343 (Sub-No. 33) over irregular routes, of: *Printing paper, gummed paper, paper backed with aluminum foil*, and *gummed paper sealing tape*, from the plantsite of St. Regis Paper Co., located at or near Troy, Ohio, to points in Massachusetts, Rhode Island, Maryland, Virginia, and the District of Columbia. By the instant petition, petitioner seeks to add Brown Bridge Mills, Inc., of Troy, Ohio as an additional shipper to the above authority.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission by October 17, 1977. Such pleading shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 118882 (Sub-No. 3) (Republication) (Notice of Filing of Petition for Declaratory Order) filed December 30, 1977, published in FEDERAL REGISTER issue of February 24, 1977, and republished this issue. Petitioner: JOEL LAMBERT, doing business as, JOE LAMBERT TRUCKING SERVICE, 715 Fox Avenue, Harrisville, W. Va. 26362. Petitioner's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, W. Va. 25526. An order of the Commission, Review Board Number 2, dated August 8, 1977, and served August 23, 1977, finds that the present and future public convenience and necessity require modification of petitioner's Certificate No. MC 118882 (Sub-No. 3), issued January 6, 1977, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *Coal*, in bulk, in dump vehicles, (1) from points in that part of West Virginia on, east, and north of a line beginning at the Pennsylvania-West Virginia State line and extending south along U.S. Highway 19 to Sutton, W. Va., thence along West Virginia Highway 4 to Clendenin, W. Va., thence along U.S. Highway 119 to junction U.S. Highway 60 at Charleston, W. Va. thence east along U.S. Highway 60 to the Virginia-West Virginia State line to (a) points in that part of Ohio on and bounded by a line beginning at Bellaire, Ohio, and extending west along Interstate Highway 70 to junction Interstate Highway 77, thence north along Interstate Highway 77 to junction U.S. Highway 36, thence west along U.S. Highway 36 to junction Ohio Highway 16, thence south along Ohio Highway 16 to junction Ohio Highway 60, thence south along Ohio Highway 60 to junction Interstate Highway 70, thence west along Interstate Highway 70 to junction U.S. Highway 36, thence west along U.S. Highway 36 to junction Ohio Highway 16, thence south along Ohio Highway 16 to junction Ohio Highway 60, thence south along Ohio Highway 60 to junction Interstate Highway 70, thence west along Interstate Highway 70 to junction U.S. Highway 23, thence south along U.S. Highway 23 to Portsmouth, Ohio, thence east along U.S. Highway 52 to junction Interstate Highway 64 at Huntington, W. Va., restricted to the transportation of traffic which originated at points in the origin territory in (1) above.

NOTE.—The purpose of the instant republication is to indicate the actual authority granted.

No. MC 134238 (Sub-No. 9) (Republication) filed May 27, 1975, published in the FEDERAL REGISTER issue of June 26, 1975, and republished this issue. Applicant: GENE'S, INC., 10115 Brookville-Salem Road, Clayton, Ohio 45315. Applicant's representative: Paul F. Berry, 8 East Broad Street, Ninth Floor, Columbus, Ohio 43215. An Order of the Commission, Division 1, Acting as an Appellate Division, dated August 24, 1977, and served September 1, 1977, finds on reconsideration, that operation by applicant in interstate or foreign commerce as a *contract carrier* by motor vehicle, over irregular routes of (1) *Ice cream, ice cream novelties*, and *water ices*, in vehicles equipped with mechanical refrigeration, (a) from the storage facilities of The Kroger Co., at or near Cincinnati, Ohio, to St. Louis, Mo., and Little Rock, Ark., and (b) from the warehouse of Home Dairy Co., at Berne, Ind., to St. Louis, Mo., Little Rock, Ark., Atlanta, Ga., Peoria, Ill., Louisville and Lexington, Ky., Detroit and Grand Rapids, Mich., Cleveland, Columbus, and Cincinnati, Ohio, Pittsburgh and Evans City, Pa., Nashville and Memphis, Tenn., Roanoke, Va., and Charleston, W. Va.; and (2) *returned shipments* of the commodities named in (1) above, in the reverse direction, under a continuing contract or contracts with The Kroger Co., of Cincinnati, Ohio, will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if not representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 1239 (Sub-No. 9), filed August 1, 1977. Applicant: PONY TRUCKING, INC., 501 State Route 7, Steubenville, Ohio 43952. Applicant's representative: Maxwell A. Howell, 1100 Investment Building 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over *irregular routes*, transporting *iron and steel, iron and steel products, titanium and titanium products*, between Midland, Pa., on the one hand, and, on the other, points in Connecticut, Illinois, Indiana, Michigan, Massachusetts, New Jersey, New York, Ohio and Wisconsin, under a continuing contract or contracts with Crucible, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Pittsburgh, Pa.

No. MC 2253 (Sub-No. 75), filed August 3, 1977. Applicant: CAROLINA FREIGHT CARRIERS CORPORATION, P.O. Box 697, Cherryville, N.C. 28021. Applicant's representative: Edward G. Villalon, Suite 1032, Pennsylvania Building, Pennsylvania Ave. and 13th St., NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Atlanta, Georgia and Knoxville, Tennessee, serving Knoxville and Chattanooga, Tennessee for purposes of joinder only: From Atlanta over Interstate Highway 75 to Knoxville, and return over the same route. From Atlanta over U.S. Highway 41 to junction U.S. Highway 411, thence over U.S. Highway 411 to junction U.S. Highway 129, thence over U.S. Highway 129 to Knoxville, and return over the same route. (2) Between Chattanooga, Tennessee and Chicago, Illinois, serving Chattanooga, Tennessee, Louisville, Kentucky, Indianapolis, Indiana and the junction of Interstate Highway 65 and U.S. Highway 30 for purposes of joinder only: From Chattanooga over Interstate Highway 24 to junction Interstate Highway 65, thence over Interstate Highway 65 to junction Interstate Highway 80, thence over Interstate Highway 80, to junction Interstate Highway 94, thence over Interstate Highway 94 to Chicago, and return over the same route.

(3) Between Knoxville, Tennessee and Cincinnati, Ohio, serving Knoxville, Tennessee, Lexington, Kentucky, and the junction of U.S. Highway 25E and Interstate Highway 75 for purposes of joinder only: From Knoxville over Interstate Highway 75 to junction Interstate Highway 71, thence over Interstate Highways 71 and 75 to Cincinnati, and return over the same route. (4) Between Lexington,

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Kentucky and Louisville, Kentucky, serving Lexington and Louisville, Kentucky for purposes of joinder only: From Lexington over Interstate Highway 64 to Louisville, and return over the same route. (5) Between Louisville, Kentucky and Cincinnati, Ohio, serving Louisville, Kentucky for purposes of joinder only: From Louisville over Interstate Highway 71 to junction Interstate Highway 75, thence over Interstate Highways 71 and 75 to Cincinnati, and return over the same route. (6) Between Mercer, Ohio and junction U.S. Highway 30 and Interstate Highway 65, serving the junction of U.S. Highway 30 and Interstate Highway 65 for purposes of joinder only: From Mercer over U.S. Highway 33 to junction U.S. Highway 30, thence over U.S. Highway 30 to junction Interstate Highway 65, and return over the same route. (7) Between Charleston, West Virginia and Indianapolis, Indiana, serving Indianapolis, Indiana for purposes of joinder only: From Charleston over Interstate Highway 64 to junction U.S. Highway 35, thence over U.S. Highway 35 to junction Interstate Highway 75, thence over Interstate Highway 75 to junction Interstate Highway 70, thence over Interstate Highway 70 to Indianapolis, and return over the same route. (8) Between Charleston, West Virginia and Parkersburg, West Virginia, serving junction Interstate Highway 77 and U.S. Highway 33 for purposes of joinder only: From Charleston over Interstate Highway 77 to Parkersburg, and return over the same route.

(9) Between Chillicothe, Ohio and Mercer, Ohio: From Chillicothe over U.S. Highway 23 to Columbus, Ohio, thence over U.S. Highway 33 to Mercer, and return over the same route. (10) Between Cincinnati, Ohio and Indianapolis, Indiana, serving Indianapolis, Indiana for purposes of joinder only: From Cincinnati over Interstate Highway 74 to Indianapolis, and return over the same route. (11) Between Winston-Salem, North Carolina and Charleston, West Virginia, serving the junction of Interstate Highways 81 and 77 for purposes of joinder only: From Winston-Salem over U.S. Highway 52 to junction Interstate Highway 81, thence over Interstate Highway 81 to junction Interstate Highway 77, thence over Interstate Highway 77 to Charleston, and return over the same route. (12) Between Greenville, South Carolina and Asheville, North Carolina: From Greenville over U.S. Highway 25 to Asheville, over the same route. (13) Between Spartanburg, South Carolina and junction Interstate Highways 26 and 40 near Asheville, North Carolina: From Spartanburg over U.S. Highway 29 to junction Interstate Highway 26, thence over Interstate Highway 26 to junction Interstate Highway 40 near Asheville, and reutrn over the same route. (14) Between Asheville, North Carolina and Knoxville, Tennessee, serving Knoxville, Tennessee and junction Interstate Highways 40 and 81 for purposes of joinder only: From Asheville over Interstate Highway 40 to Knoxville, and return over the same route. (15) Between Asheville, North Carolina and Winston-Salem, North Carolina: From Asheville over Interstate Highway 40 to Winston-Salem, and return over the same route.

(16) Between junction Interstate Highways 81 and 40 near Dandridge, Tennessee and junction Interstate Highways 81 and 77 near Wytheville, Virginia, serving junction Interstate Highways 81 and 40 near Dandridge, Tennessee, junction Interstate Highways 81 and 77 near Wytheville, Virginia, junction Interstate Highway 81 and U.S. Highway 25E, and junction Interstate Highway 81 and U.S. Highway 23 for purposes of joinder only: From junction Interstate Highways 81 and 40 near Dandridge, over Interstate Highway 81 to junction Interstate Highway 77 near Wytheville, and return over the same route. (17) Between Asheville, North Carolina and junction U.S. Highway 23 and Interstate Highway 81, serving junction U.S. Highway 23 and Interstate Highway 81 for purposes of joinder only: From Asheville over U.S. Highway 23 to junction Interstate Highway 81, and return over the same route. (18) Between Charlotte, North Carolina and junction Interstate Highways 77 and 81 at or near Wytheville, Virginia, serving junction Interstate Highways 77 and 81 at or near Wytheville, Virginia for purposes of joinder only: From Charlotte over Interstate Highway 77 to junction Interstate Highway 81 at or near Wytheville, and return over the same route. (19) Between junction U.S. Highway 25E and Interstate Highway 81 near Morristown, Tennessee and junction U.S. Highway 25E and Interstate Highway 75 near Corbin, Kentucky, serving junction U.S. Highway 25E and Interstate Hghwiay 81 near Morristown, Tennessee and junction U.S. Highway 25E and Interstate Highway 75 near Corbin, Kentucky for purposes of joinder only: From junction U.S. Highway 25E and Interstate Highway 81 near Morristown, over U.S. Highway 25E to junction Interstate Highway 75 near Corbin, and return over the same route. (20) Between Pittsburgh, Pennsylvania and Beckley, West Virginia, serving the junction of U.S. Highways 60 and 19 for purposes of joinder only: From Pittsburgh over U.S. Highway 19 to junction Interstate Highway 79, thence over Interstate Highway 79 to junction U.S. Highway 19 approximately 6 miles south of Sutton, West Virginia, thence over U.S. Highway 19 to junction U.S. Highway 60, thence over U.S. Highway 60 to junction U.S. Highway 21/West Virginia Highway 16, thence over U.S. Highway 21/West Virginia Highway 16 to Beckley, and return over the same route.

(21) Between Charleston, South Carolina and Winston-Salem, North Carolina: from Charleston over U.S. Highway 52 to junction U.S. Highway 1, thence over U.S. Highway 1 to junction U.S. Highway 220, thence over U.S. Highway 220 to Greensboro, North Carolina, thence over Interstate Highway 40 to Winston-Salem, and return over the same route. (22) Between Greensboro, North Carolina and junction Interstate Highway 76 and U.S. Highway 30 at or near Breezewood, Pennsylvania, serving Lynchburg, Virginia and junction Interstate Highway 76 and U.S. Highway 30 at or near Breezewood, Pennsylvania for purposes of joinder only: From Greensboro over U.S. Highway 29 to Culpeper, Virginia, thence over U.S. Highway 522 to junction Interstate Highway 70, thence over Interstate Highway 70 to junction Interstate Highway 76, thence over Interstate Highway 76 to junction U.S. Highway 30 at or near Breezewood, and reutrn over the same route. (23) Between Lynchburg, Virginia and Charleston, West Virginia, serving Lynchburg, Virginia and junction U.S. Highways 19 and 60 for purposes of joinder only: From Lynchburg over U.S. Highway 501 to junction U.S. Highway 60, thence over U.S. Highway 60 to Charleston, and return over the same route. (24) Between Rocky Mount, North Carolina and Lynchburg, Virginia, serving Lynchburg, Virginia for purposes of joinder only: From Rocky Mount over U.S. Highway 64 to junction North Carolina Highway 98, thence over North Carolina Highway 98 to Durham, North Carolina, thence over U.S. Highway 501 to Lynchburg, and return over the same route.

(25) Between junction U.S. Highway 33 and Interstate Highway 77 at or near Ripley, West Virginia and Columbus, Ohio, serving junction U.S. Highway 33 and Interstate Highway 77 at or near Ripley, West Virginia for purposes of joinder only: From junction U.S. Highway 33 and Interstate Highway 77 at or near Ripley over U.S. Highway 33 to Columbus, and return over the same route. (26) Between Durham, North Carolina and Greensboro, North Carolina: From Durham over Interstate Highway 85 to Greensboro, and return over the same route. In connection with routes (1)–(26), serving points in that part of Pennsylvania on and west of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 219 to junction U.S. Highway 6, thence along U.S. Highway 6 to Kane, Pennsylvania, thence along Pennsylvania Highway 321 to Wilcox, Pennsylvania, thence along U.S. Highway 219 to Somerset, Pennsylvania, thence along Pennsylvania Highway 31 to junction unnumbered highway, thence along unnumbered highway to Berlin, Pennsylvania, thence along U.S. Highway 219 to the Pennsylvania-Maryland State line and all of carrier's authorized service points in Alabama, Florida, Georgia, North Carolina, South Carolina, West Virginia, Ohio, Indiana, Illinois, and Wisconsin as either intermediate or off-route points. Restrictions: The authority sought in routes (1)–(26) is restricted as follows: (1) Restricted against the transportation of traffic both originating at and destined to points within a single state, except as otherwise authorized. (2) Restricted against the transportation of traffic between points in Florida, on the one hand, and, on the other, points in Georgia, except for purposes of joinder.

(3) Traffic transported between points in Georgia, on the one hand, and, on the other, points in North Carolina and South Carolina (except points within 35 miles of Clover, South Carolina) is restricted to movements to, from, or through points in North Carolina which are both within 30 miles of Charlotte, North Carolina and within 35 miles of Clover, South Carolina. (4) Transportation of traffic between North Carolina, on the one hand, and, on the other, South Carolina is restricted to movements to, from, or through any point in North Carolina which is both within 30 miles of Charlotte, North Carolina and within 35 miles of Clover, South Carolina (except those within 35 miles of Clover, South Carolina). (5) Restricted against the transportation of traffic between points in West Virginia, Ohio, Indiana, Illinois, Wisconsin, and points in Pennsylvania on and west of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 219 to junction U.S. Highway 6, thence along U.S. Highway 6 to Kane, Pennsylvania, thence along Pennsylvania Highway 321 to Wilcox, Pennsylvania, thence along Pennsylvania Highway 219 to Somerset, Pennsylvania, thence along Pennsylvania Highway 31 to junction unnumbered highway, thence along unnumbered highway to Berlin, Pennsylvania, thence along U.S. Highway 219 to the Pennsylvania-Maryland State line, except as otherwise authorized. (6) This authority shall not be construed as conferring more than one operating right and shall not be severable by sale or otherwise from the other authority contained in Docket No. MC 2253 and Subs thereto.

NOTE: Pursuant to the certificate of Public convenience and necessity issued in Docket No. MC 2253 and Subs thereto, applicant holds authority to serve all points and territories embraced in this application (i.e., no new service points or territories are sought). The purpose of this application is to remove the present requirement that traffic transported between authorized service points in Alabama, Florida, Georgia, North Carolina, and South Carolina, on the one hand, and, on the other, certificated points in Wisconsin, Illinois, Indiana, Ohio, West Virginia, and those in Pennsylvania on and west of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 219 to junction U.S. Highway 6, thence along U.S. Highway 6 to Kane, Pennsylvania, thence along Pennsylvania Highway 321 to Wilcox, Pennsylvania, thence along U.S. Highway 219 to Somerset, Pennsylvania, thence along Pennsylvania Highway 31 to junction unnumbered highway, thence along unnumbered highway to Berlin, Pennsylvania, thence along U.S. Highway 219 to the Pennsylvania-Maryland State line move via any point in North Carolina which is both within 30 miles of Charlotte, North Carolina and within 35 miles of Clover, South Carolina. Additionally, applicant seeks to negate its current restriction requiring traffic transported between points in Ohio, on the one hand, and, on the other, carrier's authorized service points in Alabama, Florida, Georgia, North Carolina, and South Carolina to move through Parkersburg, West Virginia. Thus applicant does not seek any new service points or territory, nor does it propose to diminish its presently authorized service territory. If a hearing is deemed necessary, the applicant requests it be held in Charlotte, North Carolina or Washington, D.C.

No. MC 2960 (Sub-No. 17), filed August 4, 1977. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, a corporation, 2301 McKinney Street, Houston, Tex. 77023. Applicant's representative: E. Larry Wells, P.O. Box 45538, Dallas, Texas 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *wooden pallets and raw materials including corrugated and mixed paper* utilized in the manufacture and processing of roofing materials: From points in Alabama, Louisiana, Mississippi, Texas, Oklahoma, Tennessee, and Kentucky to the plantsite of Elk Roofing Company at Stephens, Arkansas and Elk Roofing Company's storage facilities at East Camden, Arkansas.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas, Texas or Little Rock, Arkansas.

No. MC 11722 (Sub-No. 56), filed August 8, 1977. Applicant: BRADER HAULING SERVICE, INC., P.O. Box 655, Zillah, Washington 98953. Applicant's representative: Philip G. Skofstad, P.O. Box 594, Gresham, Oregon 97030. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Carbonated beverages*, in containers, from Yakima, Washington to points in Oregon and Idaho, and (b) *Empty bottles and cans*, from points in Idaho and Oregon to Yakima, Washington.

NOTE.—Applicant states that this application seeks to convert an existing contract permit to a common carrier Certificate of Public Convenience and Necessity in compliance with the Commission's order in MC 11722, (Sub-No. 52), dated June 2, 1977, to eliminate dual operations. If a hearing is deemed necessary, applicant requests that it be held at Portland, Oreg.

No. MC 13250 (Sub-No. 138), filed August 5, 1977. Applicant: J. H. ROSE TRUCK LINE, INC., P.O. Box 16190, Houston, Tex. 77022. Applicant's representative: James M. Doherty, 500 West Sixteenth Street, P.O. Box 1945, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from the facilities of Ivy Steel Company, Division of the Ivy Corporation, located at or near Jacksonville, Florida, to points in Florida, Alabama, Georgia, North Carolina, South Carolina, Virginia, Tennessee, Kentucky, Mississippi, Louisiana, Arkansas, Missouri, and Illinois.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Jacksonville, Florida, or Atlanta, Georgia.

No. MC 13845 (Sub-No. 7), filed August 1, 1977. Applicant: William Carl Russell and James Franklin Russell, doing business as, FRANK RUSSELL & SON, 401 S. Ida St., West Frankfort, Ill. 62896. Applicant's representative: William C. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heavy machinery*, and mining supplies and equipment therefor, between points in Illinois on and south of Interstate Highway 70, on the one hand, and, on the other, points in Colorado, Utah, and Wyoming.

NOTE.—Applicant has motor contract carrier authority pending in No. MC 134859 (Sub-No. 2) and other subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at St. Louis, Mo. or Springfield, Ill.

No. MC 26396 (Sub-No. 153), filed August 1, 1977. Applicant: POPELKA TRUCKING CO., d.b.a. the Waggoners, Box 990, Livingston, Mont. 59047. Applicant's representative: Beth Waggoner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fleshed brine cured hides*, from ports of entry on the international boundary line between the United States and Canada located in Montana, to points in Missouri, Mississippi, Texas, Illinois, Wisconsin, Colorado, and Pennsylvania, restricted to the transportation of traffic in foreign commerce having an immediate prior movement originating in Calgary, Alberta, and Lethbridge, Alberta, Canada.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Billings, Mont.

No. MC 26825 (Sub-No. 16), filed July 11, 1977. Applicant's name: ANDREWS VAN LINES, INC., Seventh and Park Avenue, P.O. Box 1609, Norfolk, Nebr. 68701. Applicant's representative: J. Max Harding, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty household goods shipping containers*, set up or knocked down, between points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Omaha, Nebr.

No. MC 27817 (Sub-No. 135), filed July 29, 1977. Applicant: H. C. GABLER, INC., R.D. No. 3, P.O. Box 220, Chambersgurg, Pa. 17201. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal roofing and siding, and fabricated metal building products*, from the plant site of the Billy Penn Corp., Division of Penn Supply and Metal Corp., Inc., at Philadelphia, Pa., to points in that part of West Virginia located on and north of U.S. Highway 33, restricted to traffic originating at and destined to the origin and destinations above-named.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 43269 (Sub-No. 66), filed August 4, 1977. Applicant: WELLS CARGO, INC., 1775 East 4th Street, Reno, Nev.

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89512. Applicant's representative: David N. Inwood, P.O. Box 1511, Reno, Nev. 89505. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except household goods, as defined by the Commission, commodities in bulk, and classes A and B explosives, between Carson City, Nev., and Ridgecrest, Calif., over U.S. Highway 395, serving all intermediate points. Restriction: Restricted against traffic originating at or interlined at points in Los Angeles County, Calif., and destined to points within 4 miles of the California-Nevada state line.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Reno or Carson City, Nev., or Bishop, Calif.

No. MC 44605 (Sub-No. 47), filed July 25, 1977. Applicant: MILNE TRUCK LINES, INC., 2500 West California Avenue, Salt Lake City, Utah 84104. Applicant's representative: Edward J. Hegarty, 100 Bush Street, 21st Floor, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) between Yucca, Ariz., and Kingman, Ariz., from Yucca over Interstate Highway 40 (U.S. Highway 66) to Kingman, and return over the same route, serving all intermediate points; and (2) between Wickenburg, Ariz., and Las Vegas, Nev., from Wickenburg over U.S. Highway 93 to Las Vegas, and return over the same route, serving all intermediate points in Arizona.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Kingman, Ariz., Las Vegas, Nev., or Phoenix, Ariz.

No. MC 47171 (Sub-No. 95), filed August 5, 1977. Applicant: COOPER MOTOR LINES, INC., P.O. Box 4259, Greenville, S.C. 29608. Applicant's representative: Harris G. Andrews, P.O. Box 4259, Greenville, S.C. 29608. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings, equipment and supplies* used in the installation, manufacture, and sale of floor coverings from Lyerly, Ga., to points in Connecticut, Delaware, Massachusetts, Maryland, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Virginia, and Washington, D.C.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Columbia, S.C., or Atlanta, Ga.

No. MC 51146 (Sub-No. 515), filed August 8, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wisc. 54306. Applicant's representative: Wayne Downing (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter, and materials, equipment, and supplies* used in the manufacture, sale, and distribution of printed matter (except commodities in bulk) between Hammond and Indianapolis, Ind.; Versailles and Lexington, Ky.; Taunton, Mass.; Chicago, Ill.; Ossining, N.Y.; and Nashville, Tenn., on the one hand, and, on the other points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 516), filed August 8, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wisc. 53406. Applicant's representative: Wayne Downing (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbing fixtures and fittings, and related equipment*, from Salem and Tiffin, Ohio, to Coldwater, Mich., and points in Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 53965 (Sub-No. 134), filed August 11, 1977. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio, Salina, Kans. 67401. Applicant's representative: Larry E. Gregg, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving the construction site and plant of the Phillips Petroleum Co. located 13 miles south of Guymon, Okla., in Hansford County, Tex., as an off-route point in connection with carriers presently authorized regular route operation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Dallas, Tex. Common control may be involved.

No. MC 56679 (Sub-No. 99), filed July 22, 1977. Applicant: BROWN TRANSPORT CORP., 352 University Avenue SW., Atlanta, Ga. 30315. Applicant's representative: John T. Coon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat products*, fresh or frozen, from Bartow, Fla., to points in Massachusetts, New York, New Jersey, Louisiana, Mississippi, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C. Common control may be involved.

No. MC 57697 (Sub-No. 9), filed July 29, 1977. Applicant: LESTER SMITH TRUCKING, INC., P. O. Box 16424, Denver, Colo. 80216. Applicant's representative: Howard C. Norton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and commodities* incidental to the installation thereof, from points in Pueblo and Las Animas Counties, Colo., to points in California, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Salt Lake City, Utah. Common control may be involved.

No. MC 59367 (Sub-No. 109), filed August 2, 1977. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, Fort Dodge, Iowa 50501. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polyethylene drums*, from Racine, Wis., to Lake View, Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held at Omaha, Nebr., or Chicago, Ill.

No. MC 60014 (Sub 53), filed August 5, 1977. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit or pipe, cement, containing asbestos fibre and fittings therefor*, from the plantsite of Cement Asbestos Products Co. (subsidiary of ASARCO, Inc.), at or near Ragland, Ala., to points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo.

No. MC 60014 (Sub.-No. 54), filed August 8, 1977. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cementitious wood fiber roof deck panels* from Elberton, Ga., to points in Connecticut, Delaware, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga., or Washington, D.C.

No. MC 71459 (Sub-No. 67), filed August 8, 1977. Applicant: O.N.C. FREIGHT SYSTEMS, Highway 36 West, St. Joseph, Mo. 64502. Applicant's representative: Kirk Wm. Horton, P.O. Box 10280, Palo Alto, Calif. 94303. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Altus, Okla., and Woodward, Okla., serving no intermediate points, from Altus over U.S. Highway 283 to the junction of Oklahoma Highway 34, thence over Oklahoma Highway 34 to Woodward and return over the same route.

NOTE.— Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at San Francisco, Calif., or Washington, D.C.

No. MC 72495 (Sub-No. 17), filed August 5, 1977. Applicant: DON SWART TRUCKING, INC., Box 49, Route 2, Wellsburg, W. Va. 26070. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Granulated slag*, in bulk in dump vehicles, from the plantsite of H. B. Reed & Co., Inc., located at or near Cresap, W. Va., to the plantsite of CertainTeed Corp. at or near Avery, Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 73165 (Sub-No. 412), filed August 5, 1977. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, Birmingham, Ala. 35202. Applicant's representative: John W. Cooper, Suite 200, Woodward Building, 1927 1st Avenue North, Birmingham, Ala. 35203. Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mining equipment*, (2) *attachments and parts of mining equipment*, and (3) *equipment, materials, and supplies used in the manufacture of mining equipment* between the facilities of Reading U.S., Inc., located at or near Orange Park, Fla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it to be held at either Birmingham, Ala., or Jacksonville, Fla.

No. MC 73165 (Sub-No. 414), filed August 9, 1977. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, Birmingham, Ala. 35202. Applicant's representative: John W. Cooper, Suite 200, Woodward Building, 1927 1st Avenue North, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from Darlington, S.C., to points in Tennessee, Wisconsin, Illinois, North Carolina, Michigan, Indiana, Kentucky, Georgia, Florida, Virginia, West Virginia, Ohio, Pennsylvania, Maryland, New York, New Jersey, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, Delaware, and, (2) *scrap metals* from named states to Darlington, S.C.

NOTE.—If a hearing is deemed necessary, applicant requests it to be held at either Atlanta, Ga., or Birmingham, Ala.

No. MC 82492 (Sub-No. 161), filed August 5, 1977. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk) in vehicles equipped with mechanical refrigeration, from the facilities of Kraft, Inc., located at or near Champaign, Ill., to points in Missouri and Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 82492 (Sub-No. 162), filed August 5, 1977. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionary and confectionary products* (except in bulk) *and advertising and display matter*, moving at the same time in the same vehicle with confectionary and confectionary products, from the plantsite and storage facilities of Charms Co., located at or near Covington, Tenn., to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin. Restricted to traffic originating at the named origins and destined to the named destination States.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 83539 (Sub-No. 463), filed August 26, 1977. Applicant: C & H TRANSPORTATION CO., INC., 1936-2010 West Commerce Street, P.O. Box 5976, Dallas, Tex. 75222. Applicants representative: Mr. Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregluar routes, transporting: (1) Mining machinery and equipment; and (2) attachments, parts and accessories, for the commodities named in (1) above, (a) from Monroe, N.C., to points in the United States including Alaska, but excluding Hawaii; and (b) from Monroe, N.C., to ports of entry on the International Boundary Line between the United States and Canada located at all ports of entry, restricted in (2)(b) above, to traffic destined to the Provinces of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland, Nova Scotia, Saskatchewan, and the Yukon, Canada; and (3) materials, supplies, and equipment (except commodities in bulk), used in the manufacture and distribution of commodities named in (1) and (2) above, from points in the United States (except Alaska and Hawaii) to Monroe, North Carolina.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be consolidated with similar applications, to be held at Washington, D.C.

No. MC 83835 (Sub-No. 145), filed August 8, 1977. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Tex. 75222. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Bldg., Dallas, Tex. 75224. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: Iron and steel articles from the facilities of Atlas Steel and Wire located at or near Harahan, La., to points in Alabama, Georgia, Kentucky, Mississippi, Oklahoma, Tennessee, and Texas. Restricted to shipments originating at the facilities of Atlas Steel and Wire located at or near Harahan, Louisiana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 87092 (Sub-No. 5), filed August 8, 1977. Applicant: JIM MITTEN TRUCKING, INC., 619 E. 6th, Oakley, Kans. 67748. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Bldg., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses, Liquid Feeds and Liquid Feed Supplements, in Bulk, in Tank Vehicles* from the facilities of Cargill, Inc., at Garden City, Kans., to points in Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 94350 (Sub-No. 399), filed August 1, 1977. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Trailers, designed to be drawn by passenger automobiles, in initial movements, and buildings, in sections, mounted on wheeled undercarriages, from points in Idaho to points on and west of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., and thence along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada.

NOTE.—Common control may be involved. If hearing is deemed necessary, applicant requests that it be held at Boise, Idaho.

MC 99427 (Sub-No. 36), filed August 8, 1977. Applicant: ARIZONA TANK LINES, INC., 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, Iowa 50304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from Pima County, Ariz. to points in New Mexico and Colorado.

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NOTE.—Common control may be involved. If a hearing is deemed necessary, it is requested that it be held in Phoenix, Arizona or Tucson, Arizona.

No. MC 100666 (Sub-No. 360), filed August 8, 1977. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 Northwest 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products, and materials and supplies* used in the installation and distribution thereof, from Marshall County, Kansas to points in Arkansas, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex. or Kansas City, Mo.

No. MC 102401 (Sub-No. 22), filed August 9, 1977. Applicant: TAYLOR HEAVY HAULING, INC., 20601 West Ireland Road, Chippewa Station, P.O. Box 2707, South Bend, Ind. 46614. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Processed aluminum*, from the facilities of Ireco Aluminum, Inc., at Plymouth, Ind., to points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Texas; (2) *Materials, equipment, and supplies* used in the processing of aluminum, from points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Texas, to the facilities of Ireco Aluminum, Inc., at Plymouth, Ind., restricted in (1) and (2) against the transportation of commodities, in bulk, in tank and dump vehicles.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Chicago, Ill., or Indianapolis, Ind.

No. MC 105375 (Sub-No. 71), filed June 20, 1977. Applicant: DAHLEN TRANSPORT, INC., 1680 Fourth Avenue, Newport, Minn. 55055. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Washington, D.C. 20423. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, (1) from Hastings, Minn., to points in Kentucky, Kansas, Missouri, Nebraska, and Ohio; (2) from Mankato, Minn., to points in Illinois, Indiana, Iowa, Missouri, Nebraska, North Dakota, South Dakota, Ohio, Michigan, and Wisconsin; and (3) from Rush City, Minn., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, Minn., St. Paul, Minn., or Chicago, Ill.

No. MC 106644 (Sub-No. 239), filed August 8, 1977. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, Ga. 30301. Applicant's representative: Frank Hall, 3384 Peachtree St. NE., Suite 713, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: *Air pollution, heating and cooling equipment*, and parts and accessories for such commodities, from the plantsite and facilities of the Fuller Co., located in Houston, Tex., to those points in that part of the United States in and east of Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, Arkansas, and Louisiana.

NOTE.—If an oral hearing is deemed necessary, we request it be held at either Houston, Tex. or Washington, D.C.

No. MC 106674 (Sub-No. 249), filed August 5, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Linda J. Sundy, P.O. Box 123, Remington, Ind. 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit or pipe, cement, containing asbestos fibre and fittings therefor*, from the plantsite of Cement Asbestos Products Co. (subsidiary of ASARCO Inc.), located at or near Ragland, Ala., to all points in the States of Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in either Chicago, Ill. or Indianapolis, Ind.

No. MC 107002 (Sub-No. 515), filed August 8, 1977. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representatives: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, Miss. 39204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Vicksburg, Mississippi to points in Arizona, California, Colorado, Idaho, Oregon and Washington.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 107295 (Sub-No. 858), filed August 4, 1977. Applicant: PRE-FAB TRANSIT CO., a corporation, Route 150, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, Ill. 62707. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Plywood* and *composition board*, from Jacksonville, Fla., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held in Jacksonville, Fla.

No. MC 107496 (Sub-No. 1099), filed August 5, 1977. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, Iowa 50304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum products*, in bulk, from Canton, Mo., to points in Illinois; and (2) *petroleum products*, from Casper, Wyo., to points in South Dakota, on, east and south of a line beginning at the North Dakota-South Dakota State line and extending along South Dakota Highway 45 to junction South Dakota Highway 44, thence along South Dakota Highway 44 to the Missouri River, and thence along the Missouri River to the South Dakota-Nebraska State line.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 107496 (Sub-No. 1100), filed August 5, 1977. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, Iowa 50304. Authority sought to operate as a common carrier, by motor vehicles, over irregular routes, transporting: (1) *Tallow*, in bulk, from Estherville, Iowa to points in Wisconsin; and (2) *Molasses, Liquid Feeds and Liquid Feed Supplements*, in bulk, in tank vehicles, from the facilities of Cargill, Inc. located at Garden City, Kans. to points in Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held in Chicago, Illinois or Minneapolis, Minnesota.

No. MC 107515 (Sub-No. 1097), filed August 1, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Georgia 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, Georgia 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *intravenous solutions, related drugs and medicines, and related medical supplies*, in vehicles equipped with mechanical refrigeration, from Cleveland, Mississippi and Memphis, Tennessee, to points in Arizona, California, Colorado, Florida, Illinois, Indiana, Iowa, Missouri, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New Mexico, New York, Ohio, Pennsylvania, Texas, Washington, and Wisconsin.

NOTE.—Applicant holds contract carrier authority in MC 126436 (Sub-No. 2), therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Chicago, Ill. or Washington, D.C.

No. MC 108313 (Sub-No. 14), filed August 8, 1977. Applicant: CALEDONIA

LINES, INC., P.O. Box 48, Caledonia, New York 14423. Applicant's representative: S. Michael Richards, 44 North Ave., Webster, New York 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Compressed gases and liquid chemicals, in bulk (except liquefied petroleum gases)*, from Houston, Tex., Moundsville, Charleston, and Natrium, W. Va., Lake Charles, Geismar, and Gramercy, La., Brunswick, Ga., Acme, N.C., Evans City, Ala., Louisville, Ky., Tampa, Fla., Charleston, Tenn., and Edgemoor, Del., to Charlotte, N.C., Festus, Mo., Reserve, La., Milford, Va., Mobile, Ala., St. Petersburg, Jacksonville, and Fort Lauderdale, Fla., and Edgemoor, Del., to Beechgrove and Hammond, Ind., Orrington, Maine, Wyandotte, Montague, Midland, and Ludington, Mich., Merrimack, N.H., Newark, Bayonne, and Linden, N.J., Niagara Falls, Syracuse, Buffalo, Warwick, Caledonia, Utica, Friendship, and Vestal, N.Y., Ashtabula, South Point, Barberton, and Columbiana, Ohio, and Erier, Pa.; and (2) *Chemicals, cleaners, detergents and waxes, in containers and empty containers for those commodities*, between Mobile and Evans City, Ala., Denver, Colo., Edgemoor, Del., St. Petersburg, Fort Lauderdale, Jacksonville, and Tampa, Fla., Augusta and Brunswick, Ga., Danville, Ill., Beechgrove and Hammond, Ind., Calvert City and Louisville, Ky., Lake Charles, Plaquemine, Gramercy, Geismar, Baton Rouge, Taft, and Reserve, La., Orrington, Maine, Curtis Bay, Md., Wyandotte, Montague, Midland, and Ludington, Mich., Festus, Mo., Merrimack, N.H. Newark, Bayonne, and Linden, N.J., Niagara Falls, Syracuse, Buffalo, Warwick, Caledonia, Utica, Friendship, and Vestal, N.Y., Charlotte and Acme, N.C., Ashtabula, South Point, Barberton, and Columbiana, Ohio, Erie, Pa., Charleston, Tenn., Houston, Tex., Milford, Hopewell and Norfolk, Va., Natrium, Moundsville and Charleston, W. Va., Hudson, Milwaukee, and Port Edwards, Wis., under a continuing contract or contracts with Jones Chemicals, Inc. of Caledonia, N.Y.

NOTE.—Applicant states it hold authority in No. MC 108313 (Sub-No. 1, 6, 7, 9, and 10) which partially duplicates the authority sought herein, but it does not seek duplicating authority and will accept usual conditions if authority sought is granted. If a hearing is deemed necessary, applicant requests that it be held at Buffalo or Syracuse, N.Y.

No. MC 108341 (Sub-No. 66), filed August 5, 1977. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 8409, Charlotte, N.C. 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Plywood, paneling, gypsumboard, composition board, moulding, and materials used in the manufacturing thereof (except commodities in bulk), between the facilities of the Pan American Gyro-Tex Company, located at or near Jacksonville, Florida, on the one hand, and, on the other, points in the United States in and east of Minnesota, Iowa, Nebraska, Colorado, and New Mexico.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 108676 (Sub-No. 108), filed August 8, 1977. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, Knoxville, Tennessee 37917. Applicant's representative: A. A. Metler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Tanks, pressure vessels, custom fabrications of stainless steel and high alloys, from the plantsite of Alloy Fabricators, Inc. located at Trenton, Georgia to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary applicant requests it be held at either Atlanta, Georgia or Washington, D.C.

No. MC 110420 (Sub-No. 771), filed August 8, 1977. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in bulk, in tank vehicles, from Brookfield, Wis., and North Baltimore, Ohio, to points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Texas, and Wisconsin; and (2) *Materials and supplies used in the manufacture of chemicals*, in bulk, in tank vehicles, from points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Texas, and Wisconsin, to Brookfield, Wis., and North Baltimore, Ohio.

NOTE.—Common Control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Illinois or Milwaukee, Wisconsin.

No. MC 110563 (Sub-No. 202), filed August 1, 1977. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, St. Route 29 North, Sidney, Ohio 45365. Applicant's representative: Joseph M. Scanlan, 111 West Washington St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Sioux City, Iowa to points in Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Sioux City, Iowa or Omaha, Nebr.

No. MC 112617 (Sub-No. 369), filed August 1, 1977. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Road, P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street, NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Whiskey and gin*, in bulk, in tank vehicles, between: Bardstown, Kentucky on the one hand, and, on the other, points in Atlanta, Georgia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky. or Washington, D.C. Common control may be involved.

No. MC 112617 (Sub-No. 371), filed August 5, 1977. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Road, P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street, NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles. From: Louisville, Kentucky to, port of entry on the United States-Canada Boundary Line at or near Blaine, Washington.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Louisville, Ky. or Washington, D.C.

No. MC 112713 (Sub-No. 204), filed August 5, 1977. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 72-70, 10990 Roe Avenue, Shawnee Mission, Kans. 66207. Applicant's representative: David B. Schneider (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and facilities of Hoosier Energy Div. of Indiana Statewide R.E.C., at or near Merom, Indiana, as an off-route point in conjunction with carrier's presently authorized operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Washington, D.C.

MC 113459 (Sub-No. 113), filed August 5, 1977. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: J. Michael Alexander, 136 Wynnewood Professional Bldg., Dallas, Texas 75224. Authority sought to operate as a *common carrier* motor vehicle, over irregular routes, transporting: *Cooling towers, cooling tower parts and accessories* from the facilities of E. D. Goodfellow Co., Inc., located at Tulsa, Oklahoma, to points in the United States (except Alaska and Hawaii).

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NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Dallas, Texas or Tulsa, Oklahoma.

No. MC 113459 (Sub-No. 114), filed August 9, 1977. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Bldg., Dallas, Texas 75224. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: Pre-cut log buildings, knocked down, and materials and supplies used in construction of such commodities from Claremore, Oklahoma to points in the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex. or Tulsa, Okla.

No. MC 113678 (Sub-No. 688) (Correction), filed June 29, 1977 and published in the FEDERAL REGISTER issue of August 18, 1977, and republished as corrected, this issue. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk), from Traverse City, Mich., to points in Arizona, California, Nevada, Idaho, Montana, and Utah, restricted to traffic originating at Traverse City, Mich.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich. or Chicago, Ill. The purpose of this republication is to delete the States of New Mexico, Oregon, and Washington, and to add the States of Idaho and Montana.

No. MC 113678 (Sub-No. 698), filed August 4, 1977. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80022. Applicant's representative Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products*, and articles distributed by meat packinghouses (except commodities in bulk in tank vehicles), from McCook, Nebraska, to points in the United States (except Alaska, Hawaii and Nebraska).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Denver, Colo. or Omaha, Nebr.

No. MC 113678 (Sub-No. 699), filed August 5, 1977. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner (same as Applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages including wines* (except commodities in bulk in tank vehicles), from Cincinnati, Ohio; Detroit, Michigan; and their respective commercial zones; and points in Illinois and Kentucky to Wichita, Kans.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Wichita, Kans., or Louisville, Ky.

No. MC 114211 (Sub-No. 313), filed August 8, 1977. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, 324 Manhard St., Waterloo, Iowa 50704. Applicant's representative: Mr. Daniel Sullivan, Suite 1600, 10 South La Salle, Chicago, Ill. 60603. Authority sought to operate as a *common carrier* over irregular routes, by motor vehicle, transporting: Such commodities as are dealt in, or used by, *agricultural equipment, industrial equipment, lawn and leisure product* dealers and manufacturers (except commodities in bulk) between Grand Island and Lexington, Nebraska and Vinton, Iowa on the one hand, and, on the other, points in Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, Washington, Oregon, Nevada, California and the Ports of Entry between the United States and Canada located in North Dakota, Montana, Idaho and Washington.

NOTE.—If a hearing is deemed necessary we request it be held at either Chicago, Illinois or Washington, D.C.

No. MC 114552 (Sub-No. 135), filed August 2, 1977. Applicant: SENN TRUCKING COMPANY, a corporation, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington Va. 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Roofing asphalt* (except in bulk), from Memphis, Tenn., to points in Alabama, Arkansas, Georgia, Illinois, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina and Texas, and (2) *items* utilized in the manufacture and distribution of roofing asphalt (except commodities in bulk), from points in Alabama, Arkansas, Georgia, Illinois, Kentucky, Louisiana, Mississippi, Missouri, North Carolina and Texas to Memphis, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Memphis, Tenn.

No. MC 115311 (Sub-No. 235), filed August 2, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Kim G. Meyer, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Composition board and such materials, equipment and supplies* as are used in the manufacture, distribution and installation thereof between the facilities of the United States Gypsum Company, located in Greenville, Mississippi, on the one hand, and, on the other, points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas. Restricted against the transportation of commodities in bulk, and further restricted to shipments originating at or destined to the facilities of the United States Gypsum Company, Greenville, Miss.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga., or Greenville, Miss.

No. MC 115496 (Sub-No. 59), filed August 9, 1977. Applicant: LUMBER TRANSPORT, INC., Post Office Box 111, Cochran, Ga. 31014. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Blvd., Post Office Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel, a Division of Nucor Corporation, at or near Darlington, S.C., to points in Alabama, Florida, Georgia, Kentucky, North Carolina, Ohio, Pennsylvania, Virginia, West Virginia, Tennessee and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbia, S.C.

No. MC 115654 (Sub-No. 67), filed August 9, 1977. Applicant: TENNESSEE CARTAGE COMPANY, INC., Candy Lane, P.O. Box 23193, Nashville, Tenn. 37202. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Bldg., Pennsylvania Ave. and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Confectionery and confectionery products* in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of M&M/Mars, a division of Mars, Inc., at or near Chicago, Ill., to points in Ohio and Kentucky.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Memphis, or Nashville, Tenn. or Washington, D.C.

No. MC 115841 (Sub-No. 546), filed August 2, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Dr., Suite 110, Bldg. 100, Knoxville, Tenn. 37919. Applicant's representative. E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Candy and confectionery*, from Boston and Woburn, Mass., to points in Arizona, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Mexico, Ohio and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass., or Washington, D.C. Common control may be involved.

No. MC 115904 (Sub-No. 79), filed August 5, 1977. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum poducts and building materials* (except in bulk) and such materials and supplies as are used in the manufacture, installation and distribution of the aforementioned commodities (except commodities in bulk) between the facilities of the United States Gypsum Company, located in Southard, Oklahoma, on the one hand, and, on the other, points in North Dakota, South Dakota, Nebraska, Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah, California, Oregon and Washington.

NOTE.—Common control may be involved. If a hearing is deemed necessary the applicant requests that it be held at Washington, D.C. or Chicago, Ill.

No. MC 116110 (Sub-No. 14), filed August 4, 1977. Applicant: P. C. WHITE TRUCK LINE, INC., P.O. Box 1488, Dothan, Ala. 36301. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd., N.E., Atlanta, Ga. 30336. Applicant seeks authority to operate as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *tobacco and tobacco products* from the plantsite and storage facilities of Bayuk Cigars, Inc. located at or near Dothan, Ala., to points in Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Rhode Island, Massachusetts, Ohio, Illinois, Missouri, Michigan, Indiana, and the District of Columbia, and materials, equipment or supplies used or useful in the manufacture or production of tobacco and tobacco products from points in the destination states named above to the plantsite and storage facilities of Bayuk Cigars, Inc. located at or near Dothan, Ala.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga. or Washington, D.C.

No. MC 116459 (Sub-No. 66), filed August 1, 1977. Applicant: RUSS TRANSPORT, INC., P.O. Box 4022, Chattanooga, Tenn. 37405. Applicant's representative: Leonard A. Jaskiewicz, Suite 501, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferric chloride*, in bulk, in tank vehicles, from Knoxville, Tenn., to points in Alabama, Georgia, Kentucky, Virginia, and Tennessee. Restricted to movements having a prior movement by rail.

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held at Chattanooga, Tenn., or Washington, D.C. Common control may be involved.

No. MC 116915 (Sub-No. 30), filed August 5, 1977. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate Street, P.O. Box 1365, Kokomo, Ind. 46901. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap nonferrous metals* between points in Texas on the one hand, and, on the other, points in Alabama, Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., or Washington, D.C.

No. MC 116915 (Sub-No. 33), filed August 8, 1977. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate Street, P.O. Box 1365, Kokomo, Ind. 46901. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *nonferrous scrap* between the facilities of Gulf Metal Industries, Inc. and Houston Junk Co., Inc. located at or near Houston, Tex., on the one hand, and, on the other, points in the United States (except Alaska or Hawaii) and (2) *nonferrous scrap and aluminum ingots* between the facilities of Texas Reduction Corp. located at or near Alvin, Tex., on the one hand, and, on the other, points in the United States (except Alaska or Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Austin or Houston, Tex.

No. MC 117119 (Sub-No. 647), filed August 8, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by retail discount stores* (except commodities in bulk), from Monroe, La., to Plainview, Tex.; McAlester and Ponca City, Okla.; Cynthiana and Corbin, Ky., restricted to traffic originating at and destined to facilities of Howard Bros. Discount Stores, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Little Rock, Ark., Memphis, Tenn., or New Orleans, La.

No. MC 117557 (Sub-No. 23), filed August 4, 1977. Applicant: MATSON, INC., P.O. Box 43, Cedar Rapids, Iowa 52406. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by vehicle, over irregular routes, transporting: (1) Such machinery and equipment as are generally used in construction, road building, mining, logging, farming, industrial, and commercial activities; (2) parts, attachments, and accessories of the commodities described in (1) above; and (3) materials, equipment, and supplies used in the manufacture, sales, and distribution of the commodities listed in (1) and (2) above (except commodities in bulk) between points in the United States (except Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held in Chicago, Ill.

No. MC 118130 (Sub-No. 79), filed August 2, 1977. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, Tex. 76115. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials, and returned empty malt beverage containers*, from Fort Worth, Tex., on the one hand, and, on the other, points in New Mexico and Colorado.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Fort Worth, Tex., or Denver Colo.

No. MC 118130 (Sub-No. 80), filed August 1, 1977. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, Tex. 76115. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automatic vehicle washing equipment and detergents, and liquid household laundry products*, from Fort Worth, Tex., to points in New Mexico, Kansas, Oklahoma, Colorado, Arizona, and California.

NOTE.—If hearings is deemed necessary, applicant requests that it be held at Fort Worth or Dallas, Tex.

No. MC 119789 (Sub-No. 363), filed August 5, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery* between Thibodaux, La., on the one hand, and, on the other, points in Alabama, North Carolina, Ohio, and Pennsylvania.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at New Orleans, La.

No. MC 119789 (Sub-No. 364), filed August 5, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs*, from the plantsite and warehouse facilities of Heinz U.S.A., division of H. J. Heinz Co. at Tracy and Stockton, Calif., to the Distribution Centers of Heinz U.S.A., Division of H. J. Heinz Co. located at Grand Prairie, Tex., and Iowa City, Iowa.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Pittsburgh, Pa., or Washington, D.C.

No. MC 120646 (Sub-No. 20), filed August 9, 1977. BRADLEY FREIGHT LINES, INC., 35 Garfield St., Asheville, N.C. 28803. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Bldg., Pennsylvania Ave. and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities used in the manufacture of new furniture* (except in bulk) and *new furniture*, from points in the United States in and east of Minnesota,

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Iowa, Missouri, Arkansas, and Louisiana, to the facilities of Drexel Heritage Furnishings located at or near Kingstree, S.C., and Drexel, Marion, Morganton, Hildebran, Shelby, Mocksville, High Point, Black Mountain, and Whittier, N.C.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Asheville, N.C.

No. MC 123407 (Sub-No. 375) (Amendment), filed May 10, 1977, published in the FEDERAL REGISTER issue of June 16, 1977, and republished as amended this issue. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* from Kansas City, Mo., to points in Minnesota, North Dakota, South Dakota, Iowa, and Nebraska.

NOTE.—*The purpose of this republication* is to amend the origin point in the territorial description. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 123407 (Sub-No. 394), filed August 2, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum products and lubricating oils in packages*, from the plantsite and warehouses of Mobil Oil Corp., located at or near Beaumont, Tex., to points in Arkansas, Louisiana, New Mexico, and Oklahoma; and (2) *return of empty containers*, from Arkansas, Louisiana, New Mexico, and Oklahoma, to Port Arthur, Tex.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Dallas, Tex.

No. MC 123407 (Sub-No. 395), filed August 2, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulating materials, expanded or foam plastic with backing, quilted fibers, batting and materials*, from North Kansas City, Mo., to points in the United States (except Alaska and Hawaii); and (2) *materials and supplies*, used in the manufacture and distribution in the above-named commodities from points in the United States (except Alaska and Hawaii) to North Kansas City, Mo.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Kansas City, Mo., or Chicago, Ill.

No. MC 123407 (Sub-No. 396), filed August 1, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and building materials*, from points in Pulaski County, Ark., to points in Kansas, Missouri, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Memphis, Tenn., or Chicago, Ill.

No. MC 123672 (Sub-No. 7), filed July 25, 1977. Applicant: B.C.D. TRUCKING, INC., R.D. 2, Center Road, Forestville, N.Y. 14062. Applicant's representative: Robert G. Gawley, P.O. Box 184, Buffalo, N.Y. 14221. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products* (except frozen bakery products), (1) between Buffalo, N.Y., on the one hand, and, on the other, Hagerstown, Md.; Harrisburg, Pa.; Williamsport, Pa.; Washington, D.C.; East Brunswick, N.J.; East Hartford, Conn.; Toledo, Ohio, and (2) between Utica, N.Y., and East Brunswick, N.J., under a continuing contract or contracts with ITT Continental Baking Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Buffalo, N.Y.

No. MC 123844 (Sub-No. 9), filed August 4, 1977. Applicant: P. SALDUTTI & SON, INC., 513 Raymond Boulevard, P.O. Box 389, Newark, N.J. 07105. Applicant's representative: Robert B. Pepper, The Forrest Park Building, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends thereof, fish oil and vegetable oil*, in bulk in tank vehicles, from the facilities of Archer Daniels Midland Co., Bayway, N.J., to points in Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Newark, N.J., or New York, N.Y.

No. MC 124062 (Sub-No. 12), filed August 2, 1977. Applicant: FRICK TRANSPORT, INC., Wawaka, Ind. 46794. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes transporting: *Liquid fertilizer solutions* in bulk, in tank vehicles, from Greenwood, Ind., to points in Ohio, Kentucky, Illinois, and Michigan.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 124078 (Sub-No. 742), filed August 5, 1977. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, Wis. 53215. Applicant's representative: James R. Ziperski, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground clay, floor sweepings and absorbents*, from the plantsite of Oil-Dri Corp., located at or near Ripley, Miss., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill. Common control may also be involved.

No. MC 124151 (Sub-No. 6), filed August 4, 1977. Applicant: VANGUARD TRANSPORTATION INC., foot of Lafayette Street, Carteret, N.J. 07008. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except petro-chemicals), in bulk, in tank vehicles, from the facilities of Mobil Oil Corp. located at or near Paulsboro, N.J., to points in Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, and Baltimore, Md., restricted to the transportation of traffic originating at the named origin and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 124306 (Sub-No. 31), filed July 29, 1977. Applicant: KENAN TRANSPORT CO., INC., P.O. Box 2729, Chapel Hill, N.C. 27514. Applicant's representative: Richard A. Mehley, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry synthetic plastic granules* and *pellets*, in bulk, in tank vehicles, between the plantsites of Fiber Industries, Inc. at or near Fiberton and Earl, N.C.; Greenville, S.C.; and Darlington, S.C.; and the plantsite of Celanese Corp. at or near Greer, S.C.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Washington, D.C. or Charlotte, N.C.

No. MC 124411 (Sub-No. 12), filed August 8, 1977. Applicant: SULLY TRANSPORT, INC., P.O. Box 185, Sully, Iowa 50251. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the pipeline terminals of Gulf Central Pipeline Co., located at or near Spencer and Holstein, Iowa, and David City, Nebr., to points in Iowa, Minnesota, Nebraska, North Dakota, and South Dakota.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held at Omaha, Nebr., or Des Moines, Iowa.

No. MC 124735 (Sub-No. 19), filed August 4, 1977. Applicant: R. C. KERCHEVAL, JR., 2214 Fourth Avenue South, Seattle, Wash. 98134. Applicant's representative: George R. LaBissoniere, 1100 Norton Building, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes transporting: *tires, tubes, wheels, and wheel attaching parts*, from points in Mississippi, Arkansas, Texas, Ohio, Alabama, Wisconsin, California, and Nevada, to points in Washington and Oregon under a continuing contract or contracts with Wesco Distributors, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash.

No. MC 124735 (Sub-No. 20), filed August 4, 1977. Applicant: R. C. KERCHEVAL, JR., 2214 Fourth Avenue South, Seattle, Wash. 98134. Applicant's representative: George R. LaBissoniere, 1100 Norton Building, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes transporting *foundry supplies and materials* (except commodities in bulk) from points in New York, Ohio, Indiana, Illinois, Pennsylvania, New Jersey, Michigan, and Missouri to points in Idaho, Oregon and Washington, under a continuing contract with R. A. Barnes, Inc. of Seattle, Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash.

No. MC 124947 (Sub-No. 66), filed August 9, 1977. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Road, Stroud, Okla. 74079. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Buildings*, complete, knocked down, or in sections, (2) *building sections and building panels;* (3) *parts and accessories* used in the installation and completion of commodities in (1) and (2) above and (4) *metal prefabricated structural components and panels and accessories* used in the installation and completion thereof, from the plantsite of Marathon Metallic Building Co., at Fort Collins, Colo., to points in Iowa, Kansas, Minnesota, Missouri Nebraska North Dakota and South Dakota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Salt Lake City, Utah, or Denver, Colo.

No. MC 125433 (Sub-No. 111), filed July 21, 1977. Applicant: F–B TRUCK LINE COMPANY, a Corporation, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *bentonite*, except in bulk, from (1) Lovell, Wyo., to points in California, Oklahoma, Texas, New Mexico, Arizona, Minnesota, Oregon, and Washington; (2) from Malta, Mont. to points in the United States (except Alaska and Hawaii); (3) from Gascoyne, N. Dak., to points in Louisiana, Oklahoma, Texas, New Mexico, and California.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Chicago, Ill. Common control may be involved.

No. MC 125433 (Sub-No. 113), filed August 8, 1977. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: David J. Lister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *fireplaces, dampers, air heaters, ventilators, stoves, broilers, grates, cookers, grills, and parts, accessories, and display material* for the above, and (2) *equipment, materials, and supplies* used in the manufacture of the above, (a) between the facilities of Whittier Steel & Manufacturing, Inc., located at or near Santa Fe Springs, Calif., on the one hand, and, on the other, points in the United States (excluding Alaska and Hawaii); and (b) between the facilities and shipping points of Whittier Steel & Manufacturing, Inc., located at or near Shelbyville, Ky. and Walled Lake, Mich., on the one hand, and, on the other, points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either San Francisco, Calif., or Salt Lake City, Utah. Common control may be involved.

No. MC 126276 (Sub-No. 182), filed August 8, 1977. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: James C. Hardman, 33 N. LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fibreboard containers and container ends*, from Ponca City, Okla., to Chicago, Ill., under a continuing contract or contracts with The Continental Group, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago,

No. MC 127101 (Sub-No. 4), filed August 3, 1977. Applicant: JOHN C. RICHEY, P.O. Box 535, Iowa, La. 70647. Applicant's representative: Drew Ranier, 1130 Pithon Street, Lake Charles, La. 70601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sand and gravel*, in bulk, in dump vehicles, from points in Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Parishes, La., to points in Hardin, Jasper, Jefferson, Newton, Orange, Sabine and Tyler Counties, Tex., under a continuing contract or contracts with Trinity Concrete Products Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Lake Charles, La.

No. MC 127303 (Sub-No. 26), filed August 5, 1977. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 996, Granville, Ill. 63126. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, and related materials, equipment and supplies*, from Milwaukee, Wis., and Peoria, Ill., to Omaha, Neb., and Council Bluffs, Iowa. *Empty containers* on return.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., or Washington, D.C.

No. MC 127550 (Sub-No. 5), filed August 1, 1977. Applicant: BOSCH TRUCKING COMPANY, INC., 5600 South Washington Street, Bartonville, Ill. 61607. Applicant's representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Furnace pipe, elbows, duct work, register boots, register boxes, wall stack, gutters and rain carrying accessories*, and *materials, equipment and supplies* used in the manufacture and distribution of the aforenamed commodities, between the facilities of Champion Furnace Pipe Co., located at Peoria, Ill., on the one hand, and, on the other, points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, West Virginia, and Wisconsin, under a continuing contract or contracts with Champion Furnace Pipe Co.

NOTE.—If a hearing is deemed necessary the applicant requests that it be held at Chicago, Ill.

No. MC 128007 (Sub-No. 104), filed July 28, 1977. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, Kans. 66762. Applicant's representative: Larry E. Gregg, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Smectitevermiculite*, from the facilities of Micro-Lite, Inc., located at or near Buffalo and Chanute, Kans., to points in Delaware, Maryland, and New Jersey.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 128007 (Sub-No. 106), filed August 8, 1977. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, Kans. 66762. Applicant's representative: Larry E. Gregg, 641 Harrison Street, Topeka, Kans., 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared animal, fish and poultry feed, dry (except in bulk)*, from the plantsite or storage facilities of Doane Products Co., in Jasper County, Mo., to points in Colorado, those points in Kansas on and west of U.S. Highway 81, and points in New Mexico, Oklahoma, and Texas.

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NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 128205 (Sub-No. 33), filed August 8, 1977. Applicant: BULKMATIC TRANSPORT COMPANY, a corporation, 12000 S. Doty Avenue, Chicago, Ill. 60628. Applicant's representative: Arnold L. Burke, 180 N. LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, from Manistee and St. Louis, Mich. to points in Ohio and Kentucky.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 128205 (Sub-No. 34), filed August 8, 1977. Applicant: BULKMATIC TRANSPORT COMPANY, a corporation, 12000 S. Doty Avenue, Chicago, Ill. 60628. Applicant's representative: Arnold L. Burke, 180 N. LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, from Toledo, Ohio, to Buffalo, N.Y., Pittsburgh and Philadelphia, Pa., Fair Lawn, N.J., Richmond, Va., and Atlanta, Ga.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 129455 (Sub-No. 22), filed August 8, 1977. Applicant: CARRETTA TRUCKING, INC., S 160, Route 17 North, Paramus, N.J. 07652. Applicant's representative: Charles J. Williams, 1815 Front Street, Scotch Plains, N.J. 07076. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Drugs, medicines*, and *toilet preparations* (except in bulk) from the facilities of Bristol-Meyers Products at Hillside, N.J., Franklin, Ky., and St. Louis, Mo., to points in Arizona, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Michigan, Ohio, Oregon, Tennessee, Texas, and Utah, and (2) materials, supplies and equipment used in the manufacture of the commodities named in (1) above, (except commodities in bulk) (a) from points in New Jersey to St. Louis, Mo., and Franklin, Ky., (b) from points in Missouri to Hillside, N.J., and Franklin, Ky., and (c) from points in Indiana, Iowa, Michigan, New York, North Carolina, Pennsylvania and Tennessee to St. Louis, Mo., Hillside, N.J., and Franklin, Ky., under a continuing contract or contracts with Bristol-Meyers Products located at Hillside, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Newark, N.J., or New York, N.Y.

No. MC 133565 (Sub-No. 11), filed August 2, 1977. Applicant: True Transport, Inc., 293 Wilson Avenue, Newark, N.J. 07101. Applicant's representative: Charles J. Williams, 1815 Front Street, Scotch Plains, N.J. 07076. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, *classes A and B explosives, household goods* as defined by the Commission, *commodities in bulk*, and those requiring special equipment), in containers or in trailers, having a prior to subsequent movement by water, between points in the New York, N.Y., commercial zone, on the one hand, and, on the other, points in that part of New York west and north of a line beginning at the New York-Pennsylvania State line at or near Lawrenceville, Pa., and extending along U.S. Highway 15 to Corning, N.Y., thence along New York Highway 17 to Horseheads, N.Y., thence along New York Highway 13 to Cortland, N.Y., thence along U.S. Highway 11 to Syracuse, N.Y., thence along U.S. Highway 5 to Schenectady, N.Y., thence along New York Highway 50 to Saratoga Springs, N.Y., thence along U.S. Highway 9, via Glens Falls, N.Y., to junction New York Highway 149, thence along New York Highway 149 to junction U.S. Highway 4, at or near Fort Ann, N.Y., thence along U.S. Highway 4 to the New York-Vermont State line at or near Fair Haven, Vt., (2) canned tuna fish and canned pet food, in containers or in trailers, having a prior or subsequent movement by water, from the New York, N.Y., commercial zone to Cleveland and Fostoria, Ohio, and (3) empty containers, trailers, and trailer chassis between points in Ohio, New Jersey and New York.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Buffalo, N.Y.

No. MC 133566 (Sub-No. 90), filed August 4, 1977. Applicant: GANGLOFF & DOWNHAM TRUCKING COMPANY, INC., P.O. Box 479, Logansport, Ind. 46947. Applicant's representative: Charles W. Beinhauer, Suite 4959, One World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts* and *articles* distributed by meat packinghouses, in vehicles equipped with mechanical refrigeration (except commodities in bulk), from the plantsite and storage facilities of Marhoefer Packing Co., Inc., located at or near Muncie, Ind., to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, Virginia. Restricted to traffic originating at the above named plantsite and destined to points in the named destination States.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 133590 (Sub-No. 11), filed August 8, 1977. Applicant: WESTERN CARRIERS, INC., 288 Franklin Street, Worcester, Mass. 01604. Applicant's representative: David M. Marshall, 101 State Street, Suite 304, Springfield, Mass. 01103. Authority sought to operate as a *contract carrier*, by motor vehicles, over irregular routes, transporting: *Ski bindings, skiing apparel, and equipment, and materials and supplies*, used in the manufacture and sale of such commodities (except in bulk, in tank vehicles), between Peabody, Boston, and Worcester, Mass.; New York, N.Y.; Houston, Tex.; San Francisco, Calif.; and ports of entry on the International Boundary Line between the United States and Canada, located in Vermont and New York, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii) under a continuing contract or contracts with Salomon North America, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass.; New York, N.Y.; or Washington, D.C.

No. MC 133841 (Sub-No. 3) (correction), filed May 10, 1977, published in the FEDERAL REGISTER issues of June 16, 1977, and August 4, 1977, and republished as corrected this issue. Applicant: DAN BARCLAY, INC., 362 Main St., Lincoln Park, N.J. 07035. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nuclear devices, machinery, engines, environmental and solar equipment and materials, equipment and supplies* used in the manufacture or sale of the foregoing commodities (except commodities in bulk), between the facilities of Curtiss Wright Corp., located at or near Woodridge, N.J., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to correct applicant's base origin point. If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Washington, D.C.

No. MC 134405 (Sub-No. 38), filed August 5, 1977. Applicant: BACON TRANSPORT COMPANY (a corporation), P.O. Box 1134, Ardmore, Okla. 73401. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *170 and 230 Asphalt*, from the facilities of Mobil Oil Corp., at or near Augusta, Kans., to points in McCurtain County, Okla.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Dallas, Tex.

No. MC 134405 (Sub-No. 39), filed August 8, 1977. Applicant: BACON TRANSPORT COMPANY (a corporation), P.O. Box 1134, Ardmore, Okla. 73401. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Fuel oil*, in bulk, in tank vehicles from Arkansas City, Kans. to Muskogee, Okla.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 134477 (Sub-186), filed August 1, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Printed matter and materials, equipment and supplies* used in the manufacture, sale and distribution of printed matter (except commodities in bulk), (1) from Taunton, Massachusetts, to points in California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Texas, Washington, and Wisconsin, (2) from Versailles and Lexington, Ky. and Hammond and Indianapolis, Ind., to points in California, Colorado, Connecticut, Delaware, Idaho, Illinois, Iowa, Kansas, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, New Jersey, New York, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, Washington, and Wisconsin, (3) from Ossining, N.Y., to Skokie, Ill., and Nashville, Tenn.; and (4) from Nashville, Tenn., to Skokie, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Minneapolis, Minn., or Chicago, Ill.

No. MC 134922 (Sub-No. 232), filed August 2, 1977. Applicant: B. J. MCADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastics and plastic materials* (except in bulk) from Mt. Vernon, Ind., to points in New Mexico, Arizona, Nevada, Utah, Idaho, California, Oregon, and Washington.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the Applicant requests it be held at Little Rock, Ark. or Evansville, Ind.

No. MC 135284 (Sub-No. 6) (correction), filed June 29, 1977, and published in the FEDERAL REGISTER issue of August 18, 1977, and republished, as corrected, this issue. Applicant: FLEETWOOD TRANSPORTATION CORP., 1030 Reeves Street, Dunmore, Pa. 18512. Applicant's representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J. 07006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between points in Franklin County, Ohio, on the one hand, and, on the other points in Indiana, Kentucky, Pennsylvania, and West Virginia, under a continuing contract or contracts with The Nestle Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y. Common control may be involved. The purpose of this republication is to add Kentucky as a destination point which was inadvertently omitted in the previous publication. Also, applicant's representative has a change of address.

No. MC 135325 (Sub-No. 4), filed August 8, 1977. Applicant: WEMCO, INC., 10111 Mercier, Dearborn, Mich. 48120. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, Mich. 48226. Authority sought to engage in operations as a *common carrier* by motor vehicle, over irregular routes, transporting: *Seacoal*, in bulk, in pneumatic vehicles, from Detroit, Mich., to points in Ohio and Indiana.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Detroit or Lansing, Mich., or Washington, D.C. Common control may be involved.

No. MC 136228 (Sub-No. 29), filed August 4, 1977. Applicant: LUISI TRUCK LINES, INC., P.O. Box H, Milton-Freewater, Oreg. 97862. Applicant's representative: Philip G. Skofstad, P.O. Box 594, Gresham, Oreg. 97030. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Hanging beef carcasses*, and (b) *fresh and frozen meat*, in boxes, from Spokane, Washington to Portland, Clackamas, Eugene, Medford and Sublimity, Oreg.; and (2) *Canned Vegetables*, between Milton-Freewater, Oreg. and Walla Walla, Wash.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Portland, Oreg. Applicant holds contract carrier authority in MC 136531 (Sub-No. 2) and other subs, therefore dual operations may be involved.

No. MC 13615* (Sub-No. 21), filed August 5, 1977. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, Miss. 39350. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *lumber, poles, piling, pallets, timbers, cross-ties and particleboard* between points in Alabama, Arkansas, Georgia, Louisiana, Mississippi, and Tennessee.

NOTE.—Applicant holds motor contract authority in No. MC 123905 (Sub-No. 1) and other subs, therefore, dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Jackson, Miss.

No. MC 136343 (Sub-No. 117), filed August 10, 1977. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper products, dispenser boxes, liquid soap and equipment, materials and supplies* used in the operation of paper mills (except commodities in bulk and commodities, the transportation of which, because of size and weight, require the use of special equipment), between the facilities of the Georgia-Pacific Corp. at Lyons Falls, N.Y., on the one hand, and, on the other, points in Pennsylvania, Maryland, Virginia, Ohio, Indiana, Michigan, Illinois, New Jersey, Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, Delaware, Kentucky, West Virginia, and the District of Columbia; (2) *paper products* and *equipment, materials, and supplies* used in the operation of paper mills (except commodities in bulk and commodities, the transportation of which, because of size and weight, require the use of special equipment), between the facilities of the Georgia-Pacific Corp. at Plattsburgh, N.Y., on the one hand, and, on the other, points in Pennsylvania, New Jersey, New York, Maryland, Virginia, Ohio, Indiana, Michigan, Illinois, Kentucky, Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, Delaware, and the District of Columbia; and (3) *printing paper* and *equipment, materials, and supplies* used in the operation of paper mills (except commodities in bulk and commodities, the transportation which, because of size and weight, require the use of special equipment), between the facilities of the Georgia-Pacific Corp. at Gilman, Vt., on the one hand, and, on the other, points in New York, Pennsylvania, Maryland, Virginia, Ohio, Indiana, Illinois, Michigan, Kentucky, Delaware, Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Boston, Mass., or Washington, D.C.

No. MC 136343 (Sub-No. 118), filed August 10, 1977. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Printing paper* and *equipment, materials, and supplies* used in the operation of paper mills (except commodities in bulk and commodities, the transportation of which, because of size and weight, require the use of special equipment), between the facilities of the Georgia-Pacific Corp. at Lyons Falls, N.Y., on the one hand, and, on the other, points in Pennsylvania, Maryland, Virginia, Ohio, Indiana, Michigan, Illinois, New Jersey, Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, Delaware, Kentucky, West Virginia, and the District of Columbia; (2) *paper products* and *equipment, materials, and supplies* used in the operation of paper mills (except commodities in bulk and commodities, the transportation of which, because of size and weight, require the use of special equipment), between the facilities of the Georgia-Pacific Corp. at Plattsburgh, N.Y., on the one hand, and, on the other, points in Pennsylvania, New Jersey, New York, Maryland, Virginia, Ohio, Indiana, Michigan, Illinois, Kentucky, Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, Delaware, and the District of Columbia; and (3) *printing paper* and *equipment, materials, and supplies* used in the operation of paper mills (except commodities in bulk and commodities, the transportation which, because of size and weight, require the use of special equipment), between the facilities of the Georgia-Pacific Corp. at Gilman, Vt., on the one hand, and, on the other, points in New York, Pennsylvania, Maryland, Virginia, Ohio, Indiana, Illinois, Michigan, Kentucky, Delaware, Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Boston, Mass., or Washington, D.C.

No. MC 136464 (Sub-No. 31), filed August 3, 1977. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961,

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Gastonia, N.C. Applicant's representative: Eric Meierhoefer, Suite 712, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Zippers, thread, binding, braid, lace, tape, webbing, ribbon, and sewing aids*, and (2) *materials and supplies used in the manufacture and sale of the commodities in (1) above (except in bulk)* from points in Connecticut and New Jersey to Charlotte, N.C., and Bennettsville, S.C.; restricted to a transportation service to be performed under a continuing contract, or contracts, with Talon Division of Textron, Inc., located at Meadville, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. Applicant holds common carrier authority in MC 138635 (Sub-No. 3) and other subs, therefore dual operations may be involved.

No. MC 136546 (Sub-No. 3), filed August 5, 1977. Applicant: PELTON BROS. TRANSPORT LTD., R.R. 3, Paris, Ontario, Canada. Applicant's representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rough or dressed lumber*, from ports of entry on the International Boundary line between the United States and Canada in Michigan and New York, to points in Michigan, Ohio, and Pennsylvania and returned shipments in the reverse direction. Restricted to traffic originating at the facilities of Normick-Perron Inc., J. H. Normick Inc., J. E. Therrien Inc., and Camille Richard, Inc., in the Province of Quebec, Canada.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 136553 (Sub-No. 50), filed August 2, 1977. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th Street, Dubuque, Iowa 52001. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-alcoholic beverages* (1) from Madison, Wis., and Minneapolis, Minn., to Dubuque and Decorah, Iowa, and (2) from Chicago, Ill., to Decorah, Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held at Chicago, Ill., or St. Paul, Minn.

No. MC 136837 (Sub-No. 3), filed August 2, 1977. Applicant: FLORIDA CONTINENTAL EXPRESS, INC., Route 1, Box 115-B, Urbana, Mo. 65767. Applicant's representative: Richard A. Kerwin, 180 North La Salle Street, Suite 3520, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used, dealt in, or distributed by retail and wholesale department, hardware, drug, and food stores *and equipment, material, and supplies*, used in the conduct of the businesses described above (except commodities in bulk) from Urbana, Ohio, and Franklin, Ky., to points in Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, and Washington.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Chicago, Ill., or Washington, D.C. Common control may be involved.

No. MC 138469 (Sub-No. 46), filed August 4, 1977. Applicant: DONCO CARRIERS, INC., 641 North Meridian, P.O. Box 75354, Oklahoma City, Okla. 73107. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, Ill., 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Candy, confectionery, and candy and confectionery packaging materials and supplies, except in bulk*, from the facilities of or utilized by Bunte Candies, Inc. located at or near Oklahoma City and Edmond, Okla., to points in the United States (except Alaska, Hawaii, and Oklahoma); and (2) *candy, confectionery, and commodities used or useful in the production and marketing of candy and confectionery* (except in bulk), from points in the United States (except Alaska, Hawaii, and Oklahoma), to the facilities of or utilized by Bunte Candies, Inc. located at or near Oklahoma City and Edmond, Okla., restricted in (1) above to the transportation of traffic originating at the named origins, and further restricted in (2) above to the transportation of traffic destined to the named destinations.

NOTE.—Applicant holds contract carrier authority in MC 136375 (Sub-No. 2) and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Oklahoma City, Okla., or Dallas, Tex.

No. MC 138635 (Sub-No. 43), filed August 5, 1977. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, N.C. 28052. Applicant's representative: Eric Meierhoefer, Suite 712, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulators, electric wire or wiring, pottery or pottery and iron combined, and parts thereof* from Sandersville, Ga., to points in New Mexico, Arizona, California, Oregon, Washington, Nevada, Utah, Idaho, Montana, Wyoming, Minnesota, and Wisconsin.

NOTE.—Applicant holds contract carrier authority in No. MC 136464 (Sub-No. 2) and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga., or Washington, D.C.

No. MC 139206 (Sub-No. 1), filed August 8, 1977. Applicant: F.M.S. TRANSPORTATION, INC., Box 1597, 2564 Harley Drive, Maryland Heights, Mo. 64043. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought by applicant to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Textiles and textile products, chemicals*, and *materials, equipment*, and *supplies* used in the sale, manufacture, processing, production, and distribution of textiles and textile products and chemicals (except commodities in bulk), between New Orleans and Houma, La., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Restriction: The authority granted herein is limited to a transportation service to be performed under a continuing contract or contracts with Chromalloy American Corp.

NOTE.—(1) Applicant states that it already holds contract carrier authority in No. MC 139206 to transport the identical commodities between Laredo, Brenham, Houston, and Arlington, Tex., Wellsville, Mo., and Johnson City, Tenn., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Applicant states that it is a commonly-controlled contract carrier for and on behalf of Chromalloy American Corp. and that the purpose of this application is to extend its operations for its commonly-controlled contracting shipper. (2) Common control may be involved. If a hearing is deemed necessary it is requested at St. Louis, Mo.

No. MC 139294 (Sub-No. 3), filed August 3, 1977. Applicant: H. T. L., INC., P.O. Box 122, Fairfield, Ala. 35064. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Treated materials and cross ties*, between points in Alabama, on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at either Birmingham, Ala., or Atlanta, Ga. Applicant holds contract carrier authority in MC 135867 (Sub-No. 1), therefore dual operations may be involved.

No. MC 139495 (Sub-No. 257), filed August 5, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by discount and variety stores* from the plantsite and storage facilities of McCrory Stores located at or near York, Pa., to Oregon and Washington.

NOTE.—Applicant states dual operations is no longer an issue because its contract carrier authority has been converted to common carrier authority by order of the Commission. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 140024 (Sub-No. 73), filed August 2, 1977. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Avenue, Commerce City, Colo. 80022. Applicant's representative: John F. De Cock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, (2) *pharmaceutical materials, supplies, and products*, (3) *chemicals*, (4) *alcoholic beverages*, (5) *tobacco products*, (6) *pet foods*, (7) *such commodities as are dealt in by distribution or consolidation warehouses* for the commodities described in (1) through (6) above, and (8) *exempt commodities* when moving with regulated commodities, (a) from Denver, Colo., to points in the United States in and west of Arkansas, Iowa, Louisiana, Minnesota, and Missouri; and (b) from points in the United States in and west of Arkansas, Iowa, Louisiana, Minnesota, and Missouri, to Denver, Colo., restricted in (1) through (7) above against the transportation of commodities in bulk.

NOTE.—Common control may be involved. Applicant states that it intends to tack the requested authority in (a) and (b) above at Denver, Colo. If a hearing is deemed necessary applicant requests it be held in a consolidated hearing with similar applications at Denver, Colo.

No. MC 140212 (Sub-No. 2), filed August 4, 1977. Applicant: CRANE RENTAL CO., INC., 205 Main Street, Tewksbury, Mass. 01876. Applicant's representative: James F. Martin, Jr., 69 Milliken Avenue, Franklin, Mass. 02038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes transporting: *Scrap metals*, from Madbury, N.H., and Tewksbury, Mass., to Providence, R.I., under continuing contracts with Madbury Metals, Inc. and Tewksbury Auto Parts.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass.

No. MC 141511 (Sub-No 6) (Correction) filed June 23, 1977, published in the FEDERAL REGISTER issue of August 11, 1977, and republished, as corrected, this issue. Applicant: ROBERT W. RETTIG, doing business as PROTEIN EXPRESS, Route 3, Hartford, Wis. 53207. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electrical equipment and appliances and materials, equipment, and supplies* used in the manufacture, installation, and sale thereof, from the facilities of Broan Manufacturing Co., Inc., located at or near Hartford, Wis., to Montebello, Calif.; Salt Lake City, Utah; Pasco, Wash.; Kansas City, Mo.; and Denver, Colo.; and (2) *microfilm machines and equipment, materials, and supplies* used in the sale of the foregoing, from the facilities of Micro Design, Division of Bell & Howell, Inc., located at or near Hartford, Wis., to points in Arizona, California, Nevada, Oregon, Utah, and Washington, restricted in (1) and (2) above to the transportation of shipments originating at the named origin and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Chicago, Ill. The purpose of this republication is to add the requested authority in (2) above, which was inadvertently omitted in the previous publication.

No. MC 141804 (Sub-No. 71), filed August 5, 1977. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Charles R. Parker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foam, cellular, expanded* or *sponge* and *equipment, parts*, and *supplies* used in the manufacture there (except commodities in bulk) from Lawrence, Mass.; Eddystone and Hazleton, Pa.; Lyndhurst, Paramus, East Rutherford, Middlesex, and Piscataway, N.J.; Coldwater and Midland, Mich.; Fort Wayne, Ind.; Newark, Del.; and Ironton, Ohio, to Torrence and Carson, Calif., restricted to the transportation of commodities originating at or destined to the plantsite or storage facilities utilized by Wilshire Foam Products, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif., or Nashville, Tenn.

No. MC 141914 (Sub-No. 16), filed August 8, 1977. Applicant: FRANK & SON, INC., Route 1, Box 108A, Big Cabin, Okla. 74332. Applicant's representative: Gary Brasel, Mezzanine Floor, Beacon Building, Tulsa, Okla. 74103. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting: *Residential heating and cooling units, their components, accessories, and equipment used in the manufacturing thereof*, from plant site of Rheem Manufacturing Co. at Milledgeville, Ga., to points in the United States in and east of Wisconsin, Illinois, Kentucky, Tennessee, and Mississippi.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at Little Rock, Ark.

No. MC 141924 (Sub-No. 3), filed August 8, 1977. Applicant: GOLDEN VALLEY TRANSPORTATION, INC., P.O. Box 208, Roberts, Idaho 83444. Applicant's representative: Mark K. Boyle, 345 S. State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*; by motor vehicle, over irregular routes, in the transportation of *meats, meat products, meat by-products, and articles distributed by meat packinghouses*, from the facilities of Golden Valley Packers located at or near Roberts, Idaho, to Chicago, Ill.; North Baltimore, Ohio; Folcroft, Pa.; Omaha, Nebraska; Butler, Wis.; Memphis, Tenn.; and Ogden, Utah, and points in their respective commercial zones, under a continuing contract or contracts with Golden Valley Packers, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Idaho Falls, Idaho, or Salt Lake City, Utah.

No. MC 142268 (Sub-No. 18), filed August 1, 1977. Applicant: GORSKI BULK TRANSPORT, INC., R.R. 4, Harrow, Ontario, Canada NOR1GO. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to engage in operations in interstate or foreign commerce as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *liquid corn syrup*, in bulk, in tank vehicles, from Chicago, Ill., to ports of entry on the International boundary line between the United States and Canada, located at points in Michigan and New York, for furtherance to points in Ontario and Quebec, Canada.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 142783 (Sub-No. 1), filed August 4, 1977. Applicant: BIRD MOTOR LINES, INC., 4301 B. Pleasantdale Road, Doraville, Ga. 30340. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs, food-treating compounds, spices, extracts, additives, candles, cards, and advertising paraphernalia, and materials, equipment, and supplies* used in the packaging, sale, and distribution of the foregoing commodities, in vehicles equipped with mechanical distribution; and (2) *Commodities*, the transportation of which is exempt or partially exempt from regulation under the provisions of Section 203b(6) of the Interstate Commerce Act, in mixed loads with the commodities described in (1) above, between Atlanta, Ga., on the one hand, and, on the other, Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, under a continuing contract, or contracts, with Nationwide Fund Raisers, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Atlanta, Ga.

No. MC 143035 (Sub-No. 1), filed: August 2, 1977. Applicant: GUNDY H. ROBERTS AND MARY T. ROBERTS, d.b.a. GUNDY'S TRANSFER & STORAGE, 301 Gundy's Lane, Enterprise, Ala. 36330. Applicant's representative: Alan F. Wohlstetter, 1700 K Street, NW. Washington, D. C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Barbour, Coffee, Covington, Dale, Henry, Houston, Geneva, and Pike Counties, Ala., restricted to the transportation of traffic having a prior or subsequent movement in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Enterprise, Ala.

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No. MC 143210 (Sub-No. 2), filed August 5, 1977. Applicant: W. C. HALL, Callao, Va. 22435. Applicant's representative: Calvin F. Major, 200 West Grace Street, Suite 415, Richmond, Va. 23220. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: agricultural limestone in bulk, from Texas, Maryland, to Village and Heathsville, Va.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held in Callao, Va., or Richmond, Va.

No. MC 143243 (Sub-No. 1), filed August 9, 1977. Applicant: CECIL LINTON, d.b.a. LINTON TRUCKING, 114 Ewing Street, Seymour, Ind. 47274. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting plastic beehives from Seymour and Columbus, Indiana to points in the United States, (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Indianapolis, Ind.

No. MC 143275 (Sub-No. 1) (Correction), filed June 16, 1977, published in the FEDERAL REGISTER issue of August 4, 1977, and republished, as corrected, this issue. Applicant: HILTON K. RAWLINS, P.O. Box 84, McRae, Ga. 31055. Applicant's representative: Wm. Addams, Suite 212–5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) lawn mower sub-assemblies and lawn mower parts, between McRae and Swainsboro, Ga.; Orangeburg, S.C.; Williamsburg, Ky., and Bradley, Ill., (2) material and supplies (except commodities in bulk) used in the manufacture of lawn mowers from points in South Carolina, Ohio, Alabama, and Indiana; Sardis, Miss.; Livingston, Tenn., and Jacksonville, Fla., to McRae, and Swainsboro, Ga.; Orangeburg, S.C.; Williamsburg, Ky. and Bradley, Ill., under a continuing contract or contracts with Roper Lawn Products of Savannah, Ga.

NOTE.—The purpose of this correction is to indicate the correct commodity and territory description in part (2). If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga.

No. MC 143276 (Sub-No. 3), filed August 5, 1977. Applicant: WEAVER TRANSPORTATION COMPANY, a corporation, 5452 Oakdale Road, Smyrna, Ga. 30080. Applicant's representative: James L. Brazee, Jr., 2310 Parklake Drive NE., Suite 190, Atlanta, Ga. 30345. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: roofing asphalt in barrels, drums and/or packages, in flat bed trailers with removable sides; from the plant site of Young Refining Corp., located at Huey Road, Douglasville, Douglas County, Ga., to points in North Carolina, South Carolina, Tennessee, and Alabama.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga. Applicant holds contract carrier authority in No. MC 135687 (Sub-No. 1) and other subs thereunder, therefore, dual operations may be involved.

No. MC 143317 (Sub-No. 2), filed August 8, 1977. Applicant: GEORGE CLARK TRANSIT CO., (a corporation), 2902 Calumet Avenue, Manitowoc, Wis. 54220. Applicant's representative: John L. Bruemmer, 121 W. Doty Street, Madison, Wis. 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Silica sand*, in bulk, from points in Green Lake County, Wis., to Minneapolis and St. Paul, Minn., under a continuing contract, or contracts with C. A. Chier Sand Co.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant reqests that it be held at Madison, Wis. or Chicago, Ill.

No. MC 143323 (Sub-No. 1), filed August 5, 1977. Applicant: C. P. YARBROUGH et al. d.b.a., Y & Z TRUCKING, Route 2, Westville, Fla. 32464. Applicant's representative: Kevin V. Canipelli, 1729 Gulf Life Tower, Jacksonville, Florida 32207. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* (except plywood and veneer) from points in Bay County, Florida to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee under a continuing contract or contracts with H. C. Hodges Lumber Company of West Bay, Inc.

NOTE.—If a hearing is deemed necessary applicant requests it be held at either Tallahassee or Jacksonville, Florida.

No. MC 143398 (Sub-No. 1), filed August 4, 1977. Applicant: C. C. ROBERTS CONCRETE CONSTRUCTION CO., INC., 3725 Gibbon Road, Charlotte, N.C. 28213. Applicant's representative: Ralph McDonald, Post Office Box 2246, Raleigh, N.C. 27602. Authority sought to operate as a *common carrier*; by motor vehicle, over irregular routes, transporting *dry animal and poultry feed ingredients*, in bulk, in dump vehicles: from Cumberland and Gaston counties, N.C., to Lexington, Orangeburg, Richland, and Sumter counties, S.C.

NOTE.—If a hearing is deemed necessary, Applicant requests that it be held at Charlotte, N.C., or Raleigh, N.C.

No. MC 143494 (Sub-No. 1), filed August 2, 1977. Applicant: MIKE FALCONE, JR. & SONS, INC., 9504 Ocala Street, Silver Spring, Md. 20901. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: Carpet, carpet padding, floor tile and materials, equipment and supplies used in the installation thereof, between the warehouse facilities of Shields Associates, Inc. located at Beltsville, Md. and points in Delaware, Georgia, Maryland, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Virginia, West Virginia, and the District of Columbia, as a non-radial movement, under a continuing contract or contracts with Shields Associates, Inc.

NOTE.—Applicant holds common carrier authority in No. MC-117762, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

MC 143531 (Sub No. 1), filed August 8, 1977. Applicant: POWDER RIVER MOTOR TRANSPORT CORP., 394 East 900 South, Provo, Utah 84601. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Applicant seeks authority to operate as a *contract carrier* by motor vehicle over irregular routes, transporting: (1) Livestock handling equipment, from the plantsite of Commercial Welding Co. located at or near Provo, Utah, to points in the United States (excluding Alaska and Hawaii); (2) materials and supplies used in the manufacturing of livestock handling equipment, from points in the United States (except Alaska and Hawaii), to the plantsite of Commercial Welding located at or near Provo, Utah; (3) Mineral feeders, from Hillsboro, Kans., to the plantsite of Commercial Welding Co. located at or near Provo, Utah; (4) cattle waterers from Hoskins, Nebr., to the plantsite of Commercial Welding Co., located at or near Provo, Utah; and (5) Livestock handling equipment, from the plantsite of Commercial Welding Co. located at or near Baker, Oreg., to the plant site of Commercial Welding located at or near Provo, Utah; (5) materials and supplies used in the manufacture of livestock handling equipment, from the plantsite of Commercial Welding Co. located at or near Provo, Utah, to the plant site of Commercial Welding Co. located at or near Baker, Oregon, under a continuing contract or contracts with Commercial Welding Co.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Salt Lake City, Utah.

No. MC 143552, filed August 2, 1977. Applicant: CLEWEND ASSOCIATES, INC., 1 Whitfield St., Caldwell, N.J. 07006. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, N.J. 07934. Authority sought to operate as a *contract carrier*, over irregular routes transporting: *Paper products*, (1) from Beacon, N.Y., and Marseilles, Ill., to Buena Park and Oakland, Calif.; Denver, Colo.; Atlanta, Ga.; Fair Lawn, N.J.; St. Louis, Mo.; Dayton, Ohio; Portland, Oreg.; Philadelphia and Pittsburgh, Pa.; Houston, Tex.; and Richmond, Va.; (2) from Beacon, N.Y., to Chicago and Naperville, Ill.; and (3) from Marseilles, Ill., to Buffalo and Niagara Falls, N.Y., under contract or contracts with Nabisco, Inc., at East Hanover, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 143558, filed August 4, 1977. Applicant: CARDINAL TRANSPORTATION CO., INC., 415 Fifth Avenue, South, Nashville, Tenn. 37210. Applicant's representative: A. O. Buck, 618 United American Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: General commodities (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Nashville, Tenn., and Utica, Ky.; from Nashville, over U.S. Highway 41 to junction U.S. Highway 431, thence over U.S. Highway 431 to Utica and return over the same route, serving all intermediate points north of the Russellville, Ky. commercial zone; (2) between Central City, Ky., and Beaver Dam, Ky.; from Central City over U.S. Highway 62 to Beaver Dam, and return over the same route, serving all intermediate points; (3) between South Carrollton, Ky., and Guffie, Ky.; from South Carrollton over Kentucky Highway 81 to its junction with Kentucky Highway 815, thence over Kentucky Highway 815 to Guffie, and return over the same route, serving all intermediate points; (4) between Guffie, Ky., and Utica, Ky.; from Guffie over Kentucky Highway 140 to Utica, and return over the same route, serving all intermediate points; (5) between Calhoun, Ky., and junction of Kentucky Highway 136 and U.S. Highway 431; from Calhoun over Kentucky Highway 136 to junction U.S. Highway 431, and return over the same route, serving all intermediate points. Serving all points in Muhlenburg, Ohio and McLean Counties, Kentucky, as off-route points in connection with the regular route operations described above. If a hearing is deemed necessary applicant requests that it be held at Nashville, Tenn. and Central City, Ky.

No. MC 14362, filed August 5, 1977. Applicant: Donald R. Ford, d.b.a. SERVICE TRANSPORT, P.O. Box 37, 204 Poplar Street, Burbank, Washington 99323. Applicant's representative: Boyd Hartman, attorney at law, Suite 210, Seattle Trust Building, 10655 N.E. Fourth St., P.O. Box 3641, Bellevue, Washington 98004. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting meats, meat products and meat by-products and articles distributed by meat packinghouses as described in Section A and C of Appendix I to the Report in Description in Motor Carrier Certificates, 61, M.C.C. 209 and 766. From the plant sites and/or storage facilities utilized by Columbia Foods, Inc., in Walla Walla County, Washington, to points in California, Idaho, Montana, Oregon and Washington, under a continuing contract, or contracts, with Columbia Foods, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Spokane, Wash., or Portland, Oreg.

No. MC 143566, filed August 8, 1977. Applicant: DYSART TRUCKING, INCORPORATED, 1005 Estelle Street, Dysart, Iowa 52224. Applicant's representative: Steven C. Schoenebaum, 1200 Register and Tribune Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *fabricated metal construction products or articles* (except commodities in bulk or in tank vehicles) between the facilities of Custom Metal Fabricators, Inc., at or near Dysart, Iowa, on the one hand, and, on the other, points in Nebraska, Missouri, Minnesota, Illinois, Wisconsin, and South Dakota; and *steel, iron, and aluminum materials and articles* (except commodities in bulk or in tank vehicles) used in the manufacture and distribution of fabricated metal construction products or articles between Chicago, Illinois; Sterling, Illinois; Norfolk, Nebraska; St. Louis, Missouri; Kansas City, Missouri; Gary, Indiana; East Chicago, Indiana; and Minneapolis, Minnesota, on the one hand, and, on the other, the facilities of Custom Metal Fabricators, Inc., at or near Dysart, Iowa, limited to a transportation service to be performed under a continuing contract, or contracts, with Custom Metal Fabricators, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Des Moines, Iowa; Chicago, Illinois; or St. Paul/Minneapolis, Minnesota.

No. MC 143567, filed August 8, 1977. Applicant: MIDEAST EXPRESS, INC., Suite 504, First National Bank Bldg., Johnstown, Pa. 15901. Applicant's representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, Pa. 19107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and by-products, articles distributed by and commodities used by meat packing houses*, (except commodities in bulk, hides, animal feed and animal feed ingredients), in vehicles equipped with mechanical refrigeration. Between Lancaster County, Nebraska, on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, West Virginia and the District of Columbia. Restricted to traffic originating at or destined to the facilities of Acme Markets, Inc. or its subsidiary, American Stores Packing Company, under continuing contract or contracts with Acme Markets, Inc. or American Stores Packing Company.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Philadelphia, Pa. or Washington, D.C.

No. MC 143570, filed August 8, 1977. Applicant: D & G TRUCKING INC. 4420 Overland, Meridian, Idaho 83642. Applicant's representative: David E. Wishney, P.O. Box 239, Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and aluminum, and paper and aluminum products*, for recycling and reuse, from points in Idaho south of the southern boundary of Idaho County, to points in California, Oregon and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Boise, Idaho.

No. MC 143572, filed August 5, 1977. Applicant: DAVENPORT TRANSFER CO., INC., 1150 10th Ave., Columbus, Ga. 31902. Applicant's representative: Henry C. Winters, 15 South Grady Way, Suite 235, Renton, Wash. 98055. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, of *used household goods*, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of picking and delivery service in connection with the packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic, between points in Muscogee, Chattahoochee, Harris, Troup, Meriwether, Marion, Talbot, Stewart, Webster, and Quitman Counties, Georgia, and Lee, Russell, Chambers, Barbour and Macon Counties, Alabama.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Columbus or Atlanta, Ga.

No. MC 143573, filed August 8, 1977. Applicant: Thomas S. Rahberg, d.b.a. RAHBERG TRUCKING, Rural Route No. 2, Clinton, Wis. 53525. Applicant's representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materialite*, in bulk, in dump vehicles, from Ottawa, Illinois to points in Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill. or Madison, Wis.

PASSENGERS

No. MC 1255 (Sub-No. 12), filed August 5, 1977. Applicant: McGinn Bus Company, Inc., 31 Milk St., Boston, Mass. 02109. Applicant's representative: Jeremy Kahn, Suite 733, Investment Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Passengers and their baggage*, in the same vehicle with passengers, in special operations, between Boston, Revere, Saugus, Lynn, Salem, and Danvers, Massachusetts, on the one hand, and, on the other, Atlantic City, New Jersey.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass.

No. MC 86505 (Sub-No. 5), (Correction), filed July 6, 1977, published in the FEDERAL REGISTER issue of August 18, 1977, and republished as corrected, this issue. Applicant: PEERLESS STAGES, INC., 2040 Castro St., Oakland, Calif. Applicant's representative: Irwin J. Borof, attorney at law, 111 Broadway, Oakland, Calif. 94607. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *passengers and their baggage*, in the same vehicle with passengers, in special or charter operations, in special or charter parties, in round-

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trip, sightseeing, or pleasure tours, beginning and ending at points in the counties of Alameda, Santa Clara, and Santa Cruz, California, and extending to points in and within the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Oakland or San Francisco, Calif. The purpose of this correction is to correct the territorial description.

No. MC 126667 (Sub-No. 3), filed August 5, 1977. Applicant: BRUSH HILL TRANSPORTATION COMPANY, 31 Milk St., Boston, Mass. 02109. Applicant's representative: Jeremy Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Passengers and their baggage*, in the same vehicle with passengers, in special operations, between Boston, Quincy, Milford, Brockton, and Plymouth, Massachusetts, on the one hand, and, on the other, Atlantic City, New Jersey.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass.

No. MC 143178 (Sub-No. 1), filed July 6, 1977. Applicant: GOLDEN STATE COACHES, INC., P.O. Drawer "G", Chico, Calif. 95927. Applicant's representative: Mike Soumbeniotis, P.O. Box 646, Carson City, Nev. 89701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in special and charter operations, from points in Butte, Lassen, Plumas and Tehama Counties, Calif., within an area bounded on the north and west by Dales, Calif., on the south by Paradise, Calif., and on the east by Westwood, Calif., to points in the United States, including Alaska, but excluding Hawaii, and return, restricted against service provided from points on U.S. Highway 99.

NOTE.—If a hearing is determined necessary, the Applicant requests that it be held at either Sacramento or San Francisco, Calif.

No. MC 143450 (Sub-No. 1), filed July 19, 1977. Applicant: AMBASSADOR COACH LINES, INC., Box 1129, Claremore, Okla. 74017. Applicant's representative: Michael R. Vanderburg, 5416 South Yale, Suite 402, Tulsa, Okla. 74135. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: Passengers, baggage, and express in the same vehicle with passengers, in charter operations, between Moran, Kans. and Tulsa, Okla., serving Parsons, Independence, and Coffeyville, Kans. as intermediate points: From Moran, Kans. over U.S. Highway 59 to Parsons, Kans, thence over U.S. Highway 160 (also portion U.S. Highway 169) to Independence, Kans., thence over an unnumbered State Highway to the junction with U.S. Highway 166, thence over U.S. Highway 166 to Coffeyville, Kans., thence over U.S. Highway 169 to Tulsa, Okla., and return over the same route.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Parsons, Coffeyville, Independence, Kans., or Tulsa, Okla.

FREIGHT FORWARDER

No. FF 500, filed August 5, 1977. Applicant: SURF-AIR, INC., P.O. Box 6542, Atlanta, Ga. 30315. Applicant's representative: Robert C. Dryden, P.O. Box 6944, Atlanta, Ga. 30315. Authority sought to engage in operation, in interstate commerce, as a *freight forwarder*, through use of the facility of *common carricrs* by rail, motor, water and express, in the transportation of General Commodities (except Classes A and B explosives, household goods as defined by the Commission, commodities which because of size or weight require use of special equipment, motor vehicles and unaccompanied baggage), between points in the United States, including Alaska and Hawaii, restricted to the transportation of shipments having an immediately prior or subsequent movement in the air forwarder service of Surf-Air, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Atlanta, Ga. or Washington, D.C.

WATER

No. W-16 (Sub-No. 11), filed August 8, 1977. Applicant: S. C. LOVELAND CO., INC., 320 Walnut St., Philadelphia, Pa. 19106. Applicant's representative: Donald MacLeay, 1625 K Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier* by water; by self-propelled vessels, in the transportation of articles exceeding 19 feet in height, or 12 feet in width, or 90 feet in length, or 100 net tons in weight, component parts thereof and related equipment: (a) Between Key West and Tampa, Florida, and New Orleans, Louisiana, on the one hand, and, on the other, ports and points along the Pacific coast and tributary waterways in California, Oregon and Washington. (b) Between ports and points on waterways tributary to the Gulf of Mexico, on the one hand, and, on the other, Key West and Tampa, Fla., and New Orleans, La. (restricted to traffic originating or destined to ports and points along the Atlantic or Pacific coasts).

NOTE.—The intention is to enlarge applicant's self-propelled vessel authority, and tack to applicant's present self-propelled vessel authority, in order to permit use of that type of equipment for transportation of the described commodities over routes and between ports and points co-extensive with applicant's present authority to provide such service by non-self-propelled vessels with the use of separate towing vessels. If a hearing is deemed necessary applicant requests that it be held at Washington, D.C.

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protests shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Buffalo, Rochester and Pittsburgh Railway Company (BR&P) and The Baltimore and Ohio Railroad Company (B&O), 2 North Charles Street, Baltimore, Maryland 21201, represented by Mr. Peter J. Shudtz, Assistant General Attorney, The Baltimore and Ohio Railroad Company, 2 North Charles Street, Baltimore, Maryland 21201, hereby give notice that on the 24th day of August, 1977, they filed with the Interstate Commerce Commission at Washington, D.C., an application under Section 1(18) of the Interstate Commerce Act for an order approving and authorizing the acquisition by the BR&P of a line of railroad from the trustees of the estate of the Erie Lackawanna Railway Company and operation over the line by the B&O, which application is assigned Finance Docket No. 28541.

The BR&P proposes to acquire a line of railroad from the trustees of the estate of the Erie Lackawanna Railway Company and the B&O proposes to operate over the line. The line extends generally from the Borough of Mount Jewett at J&B Junction to Johnsonburg at Clarion Junction and passes through Freeman, Hutchins, Midmont, Rasselas and Ketner, all in the Commonwealth of Pennsylvania. The total number of miles of main line track proposed to be acquired is 20.47 miles. Additionally, applicants will acquire 8.60 miles of side track. All of the above trackage is located between Valuation Stations 1659+57 and 2806+20.

In the opinion of the applicants, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 C.F.R. 1108.12) in Ex Parte No. 55 (Sub-No. 4), Implementation National Environment Policy Act, 1969, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation —National Environmental Policy Act, 1969, supra at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the

proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

BUFFALO, ROCHESTER AND PITTSBURGH RAILWAY COMPANY; THE BALTIMORE AND OHIO RAILROAD COMPANY

OPERATING RIGHTS APPLICIATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 247(d) of the Commission's General Rules of Practice (49 CFR 110.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 110325 (Sub-No. 74) (republication), filed May 21, 1976, published in the FEDERAL REGISTER issue of August 26, 1976, republished August 11, 1977, and further republished this issued to correct and clarify certain matters in the immediately prior publication. Applicant: TRANSCON LINES, 101 Continental Blvd., El Segundo, Calif. 90009. Applicant's representative: Wentworth E. Griffin, 1221 Baltimore Avenue, Kansas City, Mo. 64105. A report of the Commission, Review Board Number 5, decided April 25, 1977, and served June 8, 1977, authorized among other things, conversion of Certificates of Registration into a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, over regular and irregular routes, as a *common carrier*, of (1) *General commodities* (except used household goods, commodities in bulk, and Class A and B explosives), over regular routes, between Chattanooga, Tenn., and Knoxville, Tenn., serving no intermediate points: (a) Over U.S. Highway 11; and (b) over Interstate Highway 75 using such access routes as may be convenient between those portions of Interstate Highway 75 which are completed and U.S. Highway 11; and of (2) *General commodities* (except used household goods and commodities in bulk), over irregular routes: (a) Between points in Cumberland, White, and Van Buren Counties, Tenn.; and (b) between points in Putnam County, Tenn., restricted against service to those points located on or within one airline mile of Tennessee Highway 56 between the Putnam and DeKalb County Line and the junction of Tennessee Highways 56 and 24, and restricted against service to those points located on or within one airline mile of Tennessee Highway 24 between its junction with Tennessee Highway 56 and the Commercial Zone limits of Cookeville, Tenn.; the said authority granted herein to be used in conjunction with all of applicant's existing authority only. The purpose of this republication is to correct and clarify the notice of August 11, 1977, which gave notice of the conversion of Certificates of Registration in No. MC 28893 (Sub-Nos. 19 and 20), which were not included in the original FEDERAL REGISTER publication, since they were not acquired by Potter Freight Lines, Inc., until after the section 5 and section 207 applications were filed herein, to a Certificate of Public Convenience and Necessity. This is a matter directly related to MC-F-12843.

ABANDONMENT APPLICATIONS; NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A Certificate of Abandonment will be issued to the applicant carries 30 days after this FEDERAL REGISTER publication unless the instructions set forth in the notices are followed.

[Docket No. AB-1 (Sub-No. 50)]

CHICAGO & NORTH WESTERN TRANSPORTATION CO. ABANDONMENT BETWEEN SLEEPY EYE AND REDWOOD FALLS, MINN., ALL IN REDWOOD AND BROWN COUNTIES, MINN.

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on February 14, 1977, and the decision and order of the Commission, Division 3, served July 25, 1977, which affirmed and adopted the initial decision of the Administrative Law Judge entered on February 14, 1977, a finding, which is administratively final, was made stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Chicago & North Western Transportation Co. of the line of railroad beginning at milepost 1.5 near Sleepy Eye, Minn., and extending to the end of the line near milepost 26.3 at Redwood Falls, Minn., Redwood and Brown Counties, Minn. A certificate of abandonment will be issued to the Chicago & North Western Transportation Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued, and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such persons or entity to enter into a binding agreement, with the carrier seeking such abandomnet, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-6 (Sub-No. 40)]

BURLINGTON NORTHERN INC. ABANDONMENT BETWEEN BRINSMADE AND LEEDS IN BENSON COUNTY, N. DAK.

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on July 12, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set

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forth in said order, the present and future public convenience and necessity permit the abandonment by the Burlington Northern Inc. of its line of railroad between milepost 97.48 near Brinsmade and milepost 197.33 near Leeds in the northern half of Benson County, N. Dak., a distance of 9.85 miles in Benson County, N. Dak. A certificate of abandonment will be issued to the Burlington Northern Inc. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such as assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-6 (Sub-No. 45)]

BURLINGTON NORTHERN INC. ABANDONMENT BETWEEN STERLING AND NEW RAYMER IN LOGAN AND WELD COUNTIES, COLO.

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a((6)(a) that by an order entered on July 25, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Burlington Northern Inc. of its line of railroad extending from milepost 232.00 near Sterling to milepost 266.50 near New Raymer, a distance of 34.50 miles, in Logan and Weld Counties, Colo. A certificate of abandonment will be issued to the Burlington Northern Inc. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-7 (Sub-No. 27)]

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO. ABANDONMENT IN FOND DU LAC, COUNTY OF FOND DU LAC, WIS.

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on June 30, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and the applicable provisions of section 405 of the Rail Passenger Service Act, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. of a line of railroad about 1.95 miles in length together with about 0.45 miles of auxiliary tracts, a total distance of about 2.40 miles, including a line of about 741 feet in length and about 1,214 feet of auxiliary track which is jointly owned with the Chicago & North Western Transportation Co., extending between Engineer's Station 0–69 to 71+60 and 82+39 to 113+21, all in Fond du Lac, County of Fond du Lac, Wis. A certificate of abandonment will be issued to the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-9 (Sub-No. 8)]

ST. LOUIS-SAN FRANCISCO RAILWAY CO. ABANDONMENT BETWEEN BLYTHEVILLE AND MONETTE IN MISSISSIPPI AND CRAIGHEAD COUNTIES, ARK.

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on July 19, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B & Q. R. Co., Abandonment*, 257 I.C.C. 700, and the applicable provisions of section 405 of the Rail Passenger Service Act, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the St. Louis-San Francisco Railway Co. of that portion of its line extending from milepost TD 239.77 near Blytheville, Ark., in a westerly direction to milepost TD 268.00 near Monette, Ark., a distance of approximately 28.23 miles all in the counties of Mississippi, and Craighead, Ark. A certificate of abandonment will be issued to the St. Louis-San Francisco Railway Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-12 (Sub-No. 50)]

SOUTHERN PACIFIC TRANSPORTATION CO. ABANDONMENT BETWEEN BURRELL AND RIVERDALE IN FRESNO COUNTY, CALIF.

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on June 30, 1977, a finding which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and the applicable provisions of section 405 of the Rail Passenger Service Act, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Southern Pacific Transportation Co. of its line of railroad extending from milepost 208.73, beyond Burrell, in a southwesterly direction to the end of the branch at milepost 214.85 near Riverdale, a distance of 6.12 miles in Fresno County, Calif. A certificate of abandonment will be issued to the Southern Pacific Transportation Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-12 (Sub-No. 51)]

SOUTHERN PACIFIC TRANSPORTATION CO. ABANDONMENT BETWEEN CITRUS AND FAIR OAKS IN SACRAMENTO COUNTY, CALIF.

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interestate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on July 21, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Southern Pacific Transportation Company of a line of railroad extending from milepost 104.37, near Citrus, Calif., to milepost 106.36, near Fair Oaks, Calif., a distance of approximately 1.99 miles. A certificate of abandonment will be issued to the Southern Pacific Transportation Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER

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on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-43 (Sub-No. 16)]

ILLINOIS CENTRAL GULF RAILROAD CO.—ABANDONMENT BETWEEN ELCO AND MURPHYSBORO, IN ALEXANDER, UNION, AND JACKSON COUNTIES, ILL.

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on July 20, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and the applicable provisions of section 405 of the Rail Passenger Service Act, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Co. of the line of railroad from milepost 518 near Elco, Ill., in a northerly direction to milepost 455 near Murphysboro, Ill., a distance of 36 miles, in Alexander, Union, and Jackson Counties, Ill. A certificate of abandonment will be issued to the Illinois Central Gulf Railroad Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-57 (Sub-No. 2)]

SOO LINE RAILROAD CO. ABANDONMENT BETWEEN RACO JUNCTION AND RACO IN LUCE AND CHIPPEWA COUNTIES, MICH.

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an initial decision and order entered on June 3, 1977, a finding, which is administratively final, was made by the Administrative Law Judge, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Soo Line Railroad Co. of its branch line of railroad between milepost 46.69 at Raco Junction, Mich., and extending in an easterly direction to the end of the line at milepost 19.69 at Raco, Mich., all in Luce and Chippewa Counties, Mich., a distance of 27 miles. A certificate of abandonment will be issued to the Soo Line Railroad Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

MOTOR CARRIER ALTERNATE ROUTES DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4 (c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC 2202 (Deviation No. 163), ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, Ohio 44309, filed August 24, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Rison, Ark., over Arkansas Highway 35 to junction Arkansas Highway 114, thence over Arkansas Highway 114 to Star City, Ark., (2) from Denmark, Ark., over Arkansas Highway 87 to Bradford, Ark., and (3) from junction U.S. Highway 82 and Arkansas Highway 52, over Arkansas Highway 52 to North Crossett, Ark., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) from Rison, Ark., over U.S. Highway 79 to junction U.S. Highway 65, thence over U.S. Highway 65 to junction Arkansas Highway 81, thence over Arkansas Highway 81 to Star City, Ark., (2) from Denmark, Ark., over U.S. Highway 167 to junction U.S. Highway 67, thence over U.S. Highway 67 to Bradford, Ark., and (3) from junction U.S. Highway 82 and Arkansas Highway 82 over U.S. Highway 82 to Crossett, Ark., thence over Arkansas Highway 133 to North Crossett, Ark., and return over the same routes.

By the Commission

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-26691 Filed 9-14-77;8:45 am]

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC-85, 124 MCC 583 (1976).

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission by October 5, 1977. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence by October 17, 1977, subject to its tariff publication effective date.

P-16-77 (special certificate—waste products), filed August 10, 1977. Applicant: SOUTHERN INTERMODAL LOGISTICS, INC., P.O. Box 1375, Thomasville, Ga. 31792. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste products for reuse and recycling*, from points in Florida, to Prattville, Ala., in furtherance of the recognized pollution control program sponsored by the Union Camp Corp. of Prattville, Ala., for the purpose of recycling and reusing scrap and waste paper.

P-17-77 (special certificate—waste products), filed May 30, 1977. Applicant: TRANSENVIRONMENTAL CORP., P.O. Box 24030, Cincinnati, Ohio 45224. Applicant's representative: Jerry B. Sellman, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste products for recycling and reuse*, between points in the United States (except Alaska and Hawaii), in furtherance of the recognized pollution control programs sponsored by: (1) Chem-Dyne Corp. of Hamilton, Ohio; (2) KOI Petroleum, Inc., of Hamilton, Ohio; and (3) Spray-Dyne, Inc., of Hamilton, Ohio, for the purpose of recycling liquid waste materials, in bulk and in drums.

P-18-77 (special certificate—waste products), filed August 10, 1977. Applicant: WILLS TRUCKING, INC., 5755 Granger Road, Cleveland, Ohio 44131. Applicant's representative: Paul F. Beery, 275 East State Street, Columbus, Ohio 43215. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, and the transportation of: *Waste products for recycling and reuse* between all points in Illinois, Indiana, Ohio, Michigan, Kentucky, West Virginia, Pennsylvania, New York, North Carolina, Virginia, and Tennessee, in furtherance of a recognized pollution control program sponsored by (1) Bassichis Co., of Cleveland, Ohio, and (2) Brockway Glass Co. of Brockway, Pa., for the purpose of recycling various types of litter.

P-19-77 (special certificate—waste products), filed August 19, 1977. Applicant: TAJON, INC., R.D. 5, Mercer, Pa. 16137. Applicant's representative: Brian L. Troiano, 918 16th Street NW., Washington, D.C. 20006. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Glass cullet*, between points in Connecticut, Illinois, Indiana, Maryland, Minnesota, Missouri, New Jersey, Ohio, Pennsylvania, Rhode Island, Texas, and West Virginia, in furtherance of recognized pollution control programs sponsored by: (1) National Bottle Co. of Bala Cynwyd, Pa.; (2) PPG Industries, Inc., of Pittsburgh, Pa., for the purpose of recycling glass cullet.

P-20-77 (special certificate—waste products), filed June 23, 1977. Applicant: KENNEDY FREIGHT LINES, INC., P.O. Box 332, Lapel, Ind. 46051. Applicant's representative: Paul F. Berry, 275 East State Street, Columbus, Ohio 43215. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste products for recycling or reuse* between points in that part of the United States east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the international boundary line between the United States and Canada (except the plantsite of Questor, Inc., at Toledo, Ohio, and Grand Haven, Mich., the plantsite of Brockway Glass Co. at Lapel, Ind.; and the plantsite of Glass Container Corp. at Indianapolis, Ind.), in furtherance of a recognized pollution control program sponsored by (1) Scott Paper Co. of Philadelphia, Pa., for the purpose of recycling and reusing waste paper and paper scrap; and (2) Alton Box Board Co. of Alton, Ill., for the purpose of transporting and recycling waste paper.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-26911 Filed 9-14-77;8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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CIVIL AERONAUTICS BOARD.

TIME AND DATE: 1 p.m. September 9, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: Dockets 31232, 31234, 31235, 31246, 31247, 31285 and 31305 Complaints of National Air Carrier Association, Brendan Tours, Inc., Charter Travel Corporation, The Educational Cooperatives, and Laker Airways Limited against Tariffs of Pan American World Airways, Inc., Trans World Airlines, Inc., British Airways, and Air India Proposing Standby, Budget, and Super-Apex Fares over the North Atlantic; and Docket 29123, Agreement Adopted by the Tariffic Conferences of the International Air Transport Association Relating to North Atlantic Passenger Fares Agreement C.A.B. 26858, R–1 through R–5.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, (202–673–5068).

SUPPLEMENTARY INFORMATION: Any decision of the Board suspending these tariffs would have to be sent to the President by the statutory deadline of September 13, 1977. In order for the Board to reach its determination and instruct its staff, the following Members have voted that agency business requires that the Board meet on less than seven days' notice and that no earlier announcement of the meeting was possible:

Chairman Alfred E. Kahn
Member Lee R. West
Member Elizabeth E. Bailey

[S-1314-77 Filed 9-12-77;4:04 pm]

2

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 2 p.m. September 9, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Dockets 31232, 31234, 31235, 31246, 31247, 31285 and 31305. Complaints of National Air Carrier Association, Brendan Tours, Inc., Charter Travel Corporation, The Educational Cooperative, and Laker Airways Limited against Tariffs of Pan American World Airways, Inc., Trans World Airlines, Inc., British Airways, and Air Indian Proposing Stand-by, Budget, and Super-Apex Fares over the North Atlantic; and Docket 29123, Agreement Adopted by the Traffic Conferences of the International Air Transport Association Relating to North Atlantic Passenger Fares Agreement C.A.B. 26858, R–1 through R–5.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary (202–673–5068).

[S-1315-77 Filed 9-12-77;4:04 pm]

3

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., September 15, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT 1. Ratification of items adopted by notation.*

2. Docket 27436, Petition of Air New England Inc. (ANE) for approval of loan guarantee under section 410 (Memo No. 6942–B, BFR).

3. Docket 31239, Application of Braniff for emergency exemption to offer a refund to certain passengers who travelled between Denver and Miami on July 28 and 29 (Memo No. 7403, BFR).

4. Docket 31273, Complaint of the State of Maryland against Eastern's proposal to increase the discount applicable to its excursion fare in the Philadelphia-Florida market, (Memo No. 7342–A, BFR).

5. New door-to-door parcel express service proposed by Eastern Air Lines. Effective (posted) October 1, 1977 (BFR).

6. Consideration of anticipatory costs for ratemaking purposes (Memo No. 6709–B, BFR).

7. Docket 31338, Request for Continental to engage in discussion with JAL concerning Japan-Mimronesia fares (Memo No. 7411, BFR).

8. North Central Airlines—request for waiver of the two percent limitation on off-route charters (Memo No. 7405, BOR, OGC).

9. Airlift International—petition for review of staff denial of blanket waiver of off-route charter limitations (Memo No. 7407, BOR, OGC).

10. Docket 31036, Motion of Hearing on the matter of certification of a U.S. carrier to serve the Houston Dallas/Ft. Worth - Calgary/Edmonton-Anchorage, Fairbanks Route, filed by the Calgary Transportation Authority and the Edmonton Area Air Services Commission (the Canadian parties) (Memo No. 7396, BOR, BIA).

11. Docket 30356, *Transcontinental Low-Fare Route Proceeding* (Memo No. 5393–C, BOR, OGC, BLJ, BFR).

12. Docket 30387, TWA's application for San Diego-Kansas City/St. Louis nonstop authority (Memo No. 7374, BOR, OGC).

13. Docket 15020, Pan American's Application to Renew its Exemption Authority to Serve Four West African Points (Memo 4627–A, BOR, BIA).

14. Dockets 30969 and 28269, Temporary Suspension and Deletion of Eastern Air Lines Service over segment 7 of Route 10 (Memo 7287–A, BOR).

15. Dockets 30058; and 28110 and 28342, Rocky Mountain Airways' request to use Dash 7 aircraft in scheduled service in Colorado; Aspen Airways' and Rocky Mountain Airways' requests for Denver-Aspen certificate authority (Memo No. 4680–C, BOR, BLJ, OGC).

16. Docket 30879, *Florida-Atlanta Competitive Nonstop Service Case* (Memo No. 6739–A, BLJ, OGC).

17. Dockets 27838 and 30818, Consolidation of Enforcement Cases (Memo No. 7409, BLJ, OGC).

18. Rulemaking to amend Part 387 of the Board's Organization Regulations to be consistent with the National Emergencies Act, Pub. L. 94–412 (Memo No. 7399 OGC).

19. Changing name of Bureau of Economics to "Bureau of Fares and Rates," and creation of the Office of Economic Analysis (Memo No. 7402, OGC, BFR).

20. Docket 30778, Rulemaking petition filed by Reuben Robertson to grant authority to administrative law judges to consolidate enforcement proceedings (Memo No. 7395, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T Kaylor, the Secretary (202–673–5068).

NOTE: The ratification process provides an entry in the Board's Minutes of items already adopted by the Board through the written Notation process (memoranda circulated to the Members sequentially). A list of items ratified at this meeting will be available in the Board's Public Reference Room (Room 710, 1825 Connecticut Avenue NW., Washington, D.C. 20428) following the meeting.

[S-1313-77 Filed 9-12-77;4:03 pm]

4

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: September 14, 1977, 9:30 a.m.

LOCATION: 3rd Floor Hearing Room, 1111 18th St., NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED:

1. *Establishment Inventory Project:* A briefing by the Directorate of Field Operations on the need of both headquarters and field offices for a common, automated, CPSC-verified establishment inventory.

2. *Meeting with AAMA:* Representatives of the American Apparel Manufacturers Association will meet with the Commission to discuss issues related to the CPSC staff paper on Children's Sleepwear Standard Modification. AAMA requested the meeting.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th St. NW., Washington, D.C. 20207, telephone 202–634–7700.

[S-1312-77 Filed 9-12-77;2:06 pm]

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: September 19, 1977.

PLACE: Room 6135, FDIC Building, 550 17th Street, NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

APPLICATIONS FOR FEDERAL DEPOSIT INSURANCE

First Security Bank, to be located at 1240 Meighan Boulevard, Gadsden, Ala., for Federal deposit insurance.

First State Bank and Trust, to be located at 2511 25th Avenue (U.S. Highway 49), Gulfport, Miss., for Federal deposit insurance.

Aledo State Bank, to be located at Farm Road 5 North, Aledo, Tex., for Federal deposit insurance.

APPLICATIONS FOR CONSENT TO ESTABLISH BRANCHES

First American Bank of North Palm Beach, North Palm Beach, Florida, for consent to establish a branch at 140 North County Road, Palm Beach, Fla.

First Marine & Trust Company of the Palm Beaches, Riviera Beach, Florida, for consent to establish a branch at 1201 East Blue Heron Boulevard, Riviera Beach, Fla.

University State Bank, Tampa, Florida, for consent to establish a branch on the east side of 56th Street, less than 0.1 mile north of the intersection of 56th Street and Whiteway Drive, Temple Terrace, Fla.

North Conway Bank, North Conway, New Hampshire, for consent to establish a branch at Route 16, Bartlett (Glen), N.H.

APPLICATION FOR CONSENT TO MOVE A BRANCH

Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico, for consent to move a branch from the corner of Calle Patriota Pozo and Calle Juan Ramon Velez to the corner of Calle Patriota Pozo and Carretera #2, Manati, PR.

APPLICATION FOR CONSENT TO ACQUIRE ASSETS AND ASSUME LIABILITIES AND ESTABLISH TWO BRANCHES

Ocean State Bank, Santa Monica, California, an insured State nonmember bank, for consent to acquire the assets of and assume the liability to pay deposits made in the First Pacific Bank, Los Angeles (P.O. West Hollywood), Calif., also an insured State nonmember bank, and for consent to establish the two offices of First Pacific Bank as branches of the resulting bank.

APPLICATION FOR CONSENT TO MERGE

Carroll Bank, Hillsville, Virginia, an insured State nonmember bank in organization, for consent to merge under its charter with the Bank of Carroll, Hillsville, Va., also an insured State nonmember bank, with the title of "Bank of Carroll."

APPLICATION FOR CONSENT TO MERGE AND ESTABLISH BRANCHES

Southern Bank and Trust Company, Greenville, South Carolina, an insured State nonmember bank, for consent to merge under its charter and title with Morgan Bank and Trust, Spartanburg, South Carolina, also an insured State nonmember bank, and for consent to establish the two offices of Morgan Bank and Trust as branches of the resultant bank.

REQUEST FOR ASSISTANCE PURSUANT TO SECTION 13(C) OF THE FEDERAL DEPOSIT INSURANCE ACT (12 U.S.C. 1823(C))

Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)).

RECOMMENDATIONS REGARDING LIQUIDATION OF A BANK'S ASSETS ACQUIRED BY THE CORPORATION IN ITS CAPACITY AS RECEIVER, LIQUIDATOR, OR LIQUIDATING AGENT OF THOSE ASSETS

Case No. 43,171–SR—American Bank & Trust Company, New York, N.Y.
Case No. 43,175–NR—United States National Bank, San Diego, Calif.
Case No. 43,177–L—American City Bank & Trust Company, National Association, Milwaukee, Wis.
Case No. 43,176–SR—Sharpstown State Bank, Houston, Tex.
Case No. 43,188–SR—American Bank & Trust Company, New York, N.Y.
Case No. 43,193–L—Franklin National Bank New York, N.Y.
Case No. 43,200–NR—United States National Bank, San Diego, Calif.
Case No. 43,202–L—Northern Ohio Bank, Cleveland, Ohio.
Memorandum re: Skyline National Bank, Denver, Colo.

RECOMMENDATION WITH RESPECT TO PAYMENT FOR LEGAL SERVICES RENDERED AND EXPENSES INCURRED IN CONNECTION WITH RECEIVERSHIP AND LIQUIDATION ACTIVITIES

Pryon, Cashman, Sherman and Flynn, New York, N.Y., in connection with the receivership of American Bank & Trust Company, New York, N.Y.

RECOMMENDATIONS WITH RESPECT TO THE INITIATION OR TERMINATION OF CEASE-AND-DESIST PROCEEDINGS OR TERMINATION-OF-INSURANCE PROCEEDINGS AGAINST CERTAIN INSURED BANKS

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (3 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, (202–389–4446).

[S-1309-77 Filed 9-12-77;2:06 pm]

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2 p.m., September 19, 1977.

PLACE: Room 6135, FDIC Building, 550 17th Street, NW., Washington, D.C.

STATUS. Closed.

MATTERS TO BE CONSIDERED:

APPLICATIONS OR REQUESTS PURSUANT TO SECTION 19 OF THE FEDERAL DEPOSIT INSURANCE ACT OR THE CORPORATION'S CONSENT TO SERVICE OF A PERSON CONVICTED OF AN OFFENSE INVOLVING DISHONESTY OR A BREACH OF TRUST AS A DIRECTOR, OFFICER, OF EMPLOYEE OF AN INSURED BANK

Names of persons and of banks authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

RECOMMENDATIONS REGARDING LIQUIDATION OF A BANK'S ASSETS ACQUIRED BY THE CORPORATION IN ITS CAPACITY AS RECEIVER, LIQUIDATOR, OR LIQUIDATING AGENT OF THOSE ASSETS

Case No. 43,174–L—First State Bank of Northern California, San Leandro, Calif.
Case No. 43,176–SR—Sharpstown State Bank, Houston, Tex.
Case No. 43,181–L—American City Bank & Trust Company, National Association, Milwaukee, Wis.
Case No. 43,182–L—American City Bank & Trust Company, National Association, Milwaukee, Wis.
Case No. 43,183—Farmers Bank of the State of Delaware, Dover, Del.
Case No. 43,184–SR—The Peoples Bank of the Virgin Islands, Charlotte Amalie, St. Thomas, Virgin Islands.
Case No. 43,187–NR—San Francisco National Bank, San Francisco, Calif.
Case No. 43,189–SR—Citizens State Bank, Carrizo Springs, Tex.
Case No. 43,190–L—Tri-City Bank, Warren, Mich.
Case No. 43,191–L—Northeast Bank of Houston, Houston, Tex.
Case No. 43,201–SR—Sharpstown State Bank, Houston, Tex.

PERSONNEL ACTIONS REGARDING APPOINTMENTS, PROMOTIONS, ADMINISTRATIVE PAY INCREASES, REASSIGNMENTS, RETIREMENTS, SEPARATIONS, REMOVALS, ETC.:

V 42 179 SEP 15 77 UMI

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, (202–389–4446).

[S-1310-77 Filed 9-12-77;2:06 pm]

7

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2:30 p.m., September 19, 1977.

PLACE: Board Room, 6th floor, FDIC Building, 550–17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Disposition of minutes of previous meetings.

APPLICATIONS FOR FEDERAL DEPOSIT INSURANCE

Boundary Waters State Bank, to be located at 601 East Sheridan Street, Ely, Minn., for Federal deposit insurance.

Investors Fiduciary Trust Company, located at 114 West 11th Street, Kansas City., Mo., for Federal deposit insurance.

The Peoples Commercial Bank, to be located at 73 Troy Road, East Greenbush, N.Y., for Federal deposit insurance.

Brighton Bank, to be located at 7101 South 2000 East, Salt Lake City, Utah, for Federal deposit insurance.

Northern Hancock Bank & Trust Co., to be located at Third and Washington Streets, Newell, W. Va., for Federal deposit insurance.

Dollar Security Bank, located at 7th Avenue and D Street, South Charleston, W. Va., for Federal deposit insurance.

APPLICATION FOR CONSENT TO ESTABLISH BRANCHES

The Citizens Savings Bank, Ithaca, N.Y., for consent to establish branches with the Pyramid Mall, 40 Catherwood Road, Village of Lansing, Ithaca, N.Y., and within the East Hill Plaza Shopping Center, corner of Judd Falls Road and Ellis Hollow Road, Town of Ithaca, N.Y.

Richmond County Savings Bank, West New Brighton, N.Y., for consent to establish a branch at 132 Avenue U, southwest corner of West 6th Street, New York (Brooklyn), N.Y.

United American Bank in Knoxville, Knoxville, Tenn., for consent to establish a branch at 324 Cedar Bluff Road, Knoxville, Tenn.

REQUESTS FOR EXTENSIONS OF TIME IN WHICH TO ESTABLISH BRANCHES

The Arizona Bank, Phoenix, Arizona, for an extension of time to February 1, 1978 in which to establish a branch at Southern Avenue and Longmore Drive, Mesa, Ariz.

Bank of Mt. Juliet, Mount Juliet, Tennessee, for an extension of time to September 17, 1978 in which to establish a branch at the intersection of Route 3, South Mount Juliet Road and Interstate 40, Mount Juliet, Tennessee.

APPLICATION FOR CONSENT TO ESTABLISH THREE REMOTE SERVICE FACILITIES (ELECTRONIC BRANCHES)

Niagara County Savings Bank, Niagara Falls, New York, for consent to establish remote service facilities (electronic branches) in Super Duper Supermarkets at 3165 Southwester Boulevard (Unincorporated Area), Orchard Park, New York, and at 123 Grey Street, East Aurora, New York, and in Sample, Incorporated, at 1631 Herrel Avenue, Buffalo, N.Y.

RECOMMENDATIONS REGARDING LIQUIDATION OF A BANK'S ASSETS ACQUIRED BY THE CORPORATION IN ITS CAPACITY AS RECEIVER, LIQUIDATOR, OR LIQUIDATING AGENT OF THOSE ASSETS

Case No. 43,185–SR—The Bank of Pine Apple, Pine Apple, Ala.

Case No. 43,199–SR—American Bank & Trust Company, New York, N.Y.

Memorandum re: American Bank & Trust Company, New York, N.Y.

RECOMMENDATIONS WITH RESPECT TO PAYMENT FOR LEGAL SERVICES RENDERED AND EXPENSES INCURRED IN CONNECTION WITH RECEIVERSHIP AND LIQUIDATION ACTIVITIES

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of the United States National Bank, San Diego, Calif.

Schall, Boudreau & Gore, Inc., San Diego, California, in connection with the receivership of the United States National Bank, San Diego, Calif.

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the liquidation of the First State Bank of Northern California, San Leandro, Calif.

Powell, Goldstein, Frazer & Murphy, Atlanta, Georgia, in connection with the liquidation of The Hamilton Bank and Trust Company, Atlanta, Ga.

Sidley & Austin, Chicago, Illinois, in connection with the liquidation of the State Bank of Clearing, Chicago, Ill.

Mize, Thompson & Blass, Gulfport, Mississippi, in connection with the liquidation of the International City Bank & Trust Company, New Orleans, La.

Mize, Thompson & Blass, Gulfport, Mississippi, in connection with the liquidation of the International City Bank & Trust Company, New Orleans, La.

Sullivan & Worcester, Boston, Massachusetts, in connection with the receivership of the Surety Bank and Trust Company, Wakefield, Mass.

Patterson & Patterson, Whitfield, Manikoff and White, Bloomfield Hills, Michigan, in connection with the receivership of Birmingham Bloomfield Bank, Birmingham, Mich.

Mize, Thompson & Blass, Gulfport, Mississippi, in connection with the liquidation of Bank of Picayune, Pickayune, Miss.

Parsons, Canzona, Blair & Warren, Red Bank, New Jersey, in connection with the liquidation of The Bank of Bloomfield, Bloomfield, N.J.

Kaye, Scholer, Fierman, Rays & Handler, New York, New York, in connection with the receivership of the American Bank & Trust Company, New York, N.Y.

Hughes, Hubbard & Reed, New York, New York, in connection with the liquidation of Franklin National Bank, New Work, N.Y.

Kaye, Scholer, Fierman, Hays & Handler, New York, New York, in connection with the liquidation of the Franklin National Bank, New York, N.Y.

Miller, Martin, Hitching, Tipton, Lenihan & Waterhouse, Chattanooga, Tennessee, in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

Strasberg & Price, Dallas, Texas in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

RECOMMENDATION WITH RESPECT TO THE AMENDMENT OF CORPORATION RULES AND REGULATIONS

Memorandum and resolution proposing the final adoption of amendments to Part 303 of the Corporation's rules and regulations, entitled "Applications, Requests and Submittals," so as to include applications for mergers or assumption transactions within the current procedures applied to all other application proceedings.

Resolution winding up the affairs of the Deposit Insurance National Bank of the Virgin Islands, Charlotte Analie, St. Thomas, Virgin Islands.

Appeals, pursuant to the Freedom of Information Act, from the Corporation's earlier partial denial of requests for records.

REPORTS OF COMMITTEES AND OFFICERS

Minutes of the actions approved by the Committee on Liquidations, Loans, and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Report of the Executive Secretary regarding the transmittal of "no significant effect" competitive factor reports.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Division of Liquidation, for the period June 16, 1977–August 16, 1977, detailing all disbursements in excess of $10,000 and all sales of real estate properties in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tenn., pursuant to authority delegated by the Board of Directors.

Report of the Division of Liquidation with respect to the status of the Deposit Insurance National Bank of the Virgin Islands, Charlotte Amalie, St. Thomas, Virgin Islands, as of August 31, 1977.

Final report of the Chief, Accounting and Budget Branch, Office of the Controller, as of April 30, 1977, with respect to the receivership of the Brighton National Bank, Brighton, Colo.

Summary of liquidation and insurance expenses, estimated losses, and other fiscal data in connection with active liquidations as of June 30, 1977.

Reports of security transactions authorized by the Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary (202–389–4446).

[S-1311-77 Filed 9-12-77;2:06 pm]

8

FEDERAL POWER COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: September 14, 1977, 42 FR 46094.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., September 16, 1977.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

P–10.—E–8176, Southern California Edison Company.

P–11.—ER76–533, Central Vermont Public Service Corporation.

M–3.—RM74–16, Natural Gas Companies' Annual Report of Proved Domestic Gas Reserves: FPC Form No. 40.

G–0.—RP73–43 (PGA77–3). Mid Louisiana Gas Company.

G–00.—CP77–398, Columbia Gas Transmission Corporation.

G–000.—CP77–369 and CP77–370, Transcontinental Gas Pipe Line Corporation.

KENNETH F. PLUMB,
Secretary.

[S-1319-77 Filed 9-13-77;9:31 am]

9

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, September 20, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Nonadjudicative Matters:

(1) Approval of Minutes of Nonadjudicative Matters Considered at Meeting of September 12, 1977.

(2) Consideration of Marcor, et al. (Docket 9092): Motion by Respondent to Dismiss Complaint and Recommendation by Staff to Amend Complaint.

Adjudicative Matters Under Part 1 of the Rules of Practice:

The Commission has not yet scheduled any adjudicative items for discussion at this meeting.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information: 202–523–3830; Recorded Message: 202–523–3806.

[S-1323-77 Filed 9-13-77;10:26 am]

10

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, September 21, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Consideration of Proposed Trade Regulation Rule on Disclosure Requirements and Prohibitions Concerning Franchising, Previously Published in 39 FR 30360 (August 22, 1974).

(2) Report from General Counsel on Congressional Matters.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information: 202–523–3803; Recorded Message: 202–523–3806.

[S-1324-77 Filed 9-13-77;10:26 am]

11

INTERSTATE COMMERCE COMMISSION.

SEPTEMBER 12, 1977.

TIME AND DATE: 2:30 p.m., Monday, September 19, 1977.

PLACE: Room 5124, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Notice of open meeting.

MATTER TO BE CONSIDERED:

Division 3, Division Chairman Brown and Commissioners MacFarland and Christian voted unanimously to hold a meeting to consider the following agenda: 1. Review of present Division workload.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Hildred Hersman, Confidential Assistant to Commissioner Brown, Telephone 202–275–7535.

[S-1318-77 Filed 9-12-77;4:04 pm]

12

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Thursday, September 22, 1977 (NM–77–30).

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first two items on the agenda will be open to the public; the third item will be closed to the public.

MATTERS TO BE CONSIDERED:

1. *Proposed Letter* to Air Line Pilots Association in response to their letter of May 5, 1977, re communication problems in the air traffic control system.

2. *Aviation Recommendation Closeouts:* A–75–65, A–76–134, and A–76–135.

3. *Discussion* with Administrative Law Judges regarding aviation enforcement adjudication cases.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming 202–755–4930.

[S-1316-77 Filed 9-12-77;4:04 pm]

13

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 2:00 p.m., September 15, 1977.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: This meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudication process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Lottie Richardson, 202–634–Z7970.

Dated: September 12, 1977.

[S-1320-77 Filed 9-13-77;9:31 am]

14

THE RENEGOTIATION BOARD.

DATE AND TIME: 10 a.m., Friday, September 16, 1977.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTERS TO BE CONSIDERED: Classified.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446. 202–254–8277.

Dated: September 9, 1977.

GOODWIN CHASE,
Chairman.

[S-1317-77 Filed 9-12-77;4:04 pm]

15

UNITED STATES INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 44330 9/2/77.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., September 13, 1977.

CHANGES IN THE MEETING: Additional item added to the agenda as follows: 8. Treatment of CF Industries, Inc., petition re Investigation AA1921–127 (Elemental Sulphur from Canada) (previously circulated as action jacket ID–77–70).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary 202–523–0161.

[S-1321-77 Filed 9-13-77;9:31 am]

16

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: 11 a.m., Friday, September 16, 1977.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open.

V 42 179 SEP 15 77 UMI

MATTERS TO BE CONSIDERED: Meeting with State Public Service Commissioners (N.Y. and Ill.).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: September 14, 1977.

WALTER MAGEE,
Office of the Secretary.

[S-1342-77 Filed 9-14-77; 10:20 am]

17

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published in the issue of September 15, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Thursday, September 22, 1977 (NM-77-30).

CHANGE IN THE MEETING: The following item has been added for consideration as the first item on the agenda:

Aircraft Accident Report.—Jet Avia, Ltd., Learjet LR-24B, N12MK, Palm Springs, Calif., January 6, 1977.

[S-1346 Filed 9-14-77; 12:09 pm]

federal register

THURSDAY, SEPTEMBER 15, 1977

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

NATIONAL FLOOD INSURANCE PROGRAM

V 42 179
SEP 15 77
UMI

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 3328]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to list those communities where the sale of flood insurance is authorized under the National Flood Insurance Program.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the State.

DATES: The date that appears in the fourth column of the table is the effective date of authorization for the sale of flood insurance.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The addresses of the National Flood Insurers Association Servicing companies, where flood insurance policies can be obtained, are published at § 1912.7 (24 CFR Part 1912).

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
Kansas	Ellis	Victoria, city of	July 25, 1977, emergency	July 16, 1976	200592
Nebraska	Madison	Unincorporated areas	do	-	310455
Alabama	Jackson	Woodville, town of	July 26, 1977, emergency	June 25, 1976	010114
Texas	Fannin	Ladonia, city of	do	July 11, 1975	480811
California	Santa Barbara	Carpinteria, city of	July 18, 1977, suspension withdrawn	June 24, 1974	060332B
				Sept 26, 1975	
Florida	Bay	Panama City, city of	do	Sept 6, 1974	120012A
				July 16, 1976	
New Jersey	Essex	South Orange, village of	do	Nov 30, 1973	340194
New York	Cayuga	Cayuga, village of	do	Jan 9, 1974	360107A
Do	Erie	Cheektowaga, town of	do	Sept 7, 1973	360231A
				May 28, 1976	
Do	Tioga	Owego, town of	do	Nov 1, 1974	360839A
North Carolina	Bertie	Windsor, town of	do	Aug 6, 1976	370019A
				Sept 20, 1974	
Pennsylvania	Schuylkill	Blythe, township of	do	Aug 20, 1976	420767A
Do	Delaware	Clifton Heights, borough of	do	Aug 30, 1974	420407A
Do	Montour	Danville, borough of	do	Oct 12, 1973	420714
Do	Carbon	East Penn, township of	do	Mar 1, 1974	421013
Do	Allegheny	Elizabeth, township of	do	Jan 16, 1974	420933B
				Mar 9, 1974	
Do	Schuylkill	Gilberton, borough of	do	June 18, 1976	421007A
				Dec 28, 1973	
Do	Dauphin	Hummelstown, Borough of	do	Sept 24, 1976	420382A
Do	Berks	Kutztown, borough of	do	Nov 23, 1973	420136
Do	do	Leesport, borough of	do	Jan 9, 1974	420138A
				May 24, 1974	
Do	Lycoming	Loyalsock, township of	do	May 14, 1976	421040A
				June 28, 1974	
Do	Perry	Marysville, borough of	do	June 11, 1976	42751A
				June 22, 1973	
Do	Crawford	Meadville, city of	do	May 14, 1976	420351A
				Oct 12, 1973	
Do	York	North York, borough of	do	Apr 23, 1976	420933A
				Mar 1, 1974	
Do	Berks	Ontelaunee, township of	do	Mar 5, 1976	420966A
				June 28, 1974	
Do	Luzerne	Plains, township of	do	June 11, 1976	420621A
				July 20, 1973	
Do	Dauphin	South Hanover, township of	do	Sept 24, 1976	420395
Do	York	Spring Garden, township of	do	Oct 12, 1973	420937A
				May 10, 1974	
Do	Delaware	Swarthmore, borough of	do	Mar 5, 1976	420433
Do	do	Swoyersville, borough of	do	May 16, 1977	420627
Do	do	Upper Providence, township of	do	June 15, 1977	420411
				Feb 20, 1973	
Do	Chester	West Whiteland, township of	do	Apr 15, 1974	420295A
				July 26, 1974	
Do	Crawford	West Mead, township of	do	June 18, 1976	420356B
				Aug 31, 1973	
Do	York	York, city of	do	Mar 29, 1974	420945A
				Feb 1, 1974	
Tennessee	Anderson	Clinton, town of	do	Mar 26, 1976	470001A
				Nov 2, 1973	
Texas	Tarrant	Bedford, city of	do	Apr 23, 1976	480585
Washington	Okanogan	Twisp, town of	do	Dec 28, 1973	530124A
				June 28, 1974	
				Dec 26, 1975	
Kentucky	Pike	Unincorporated areas	July 20, 1977, emergency	-	210298
Ohio	Tuscarawas	Roswell, village of	July 28, 1977, emergency	-	390813 New
Pennsylvania	Luzerne	Plymouth, township of	Feb 2, 1973, emergency; Apr 15, 1977, regular; July 1, 1977, suspended; July 21, 1977, reinstated	Feb 8, 1974 July 2, 1976	420623B

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended (39 FR 2787, Jan. 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26392 Filed 9-14-77;8:45 am]

[Docket No. FI 3329]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to list those communities where the sale of flood insurance is authorized under the National Flood Insurance Program.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the State.

DATES: The date that appears in the fourth column of the table is the effective date of authorization for the sale of flood insurance.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The addresses of the National Flood Insurers Association servicing companies, where flood insurance policies can be obtained, are published at § 1912.5 (24 CFR Part 1912).

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
Arizona	Cochise	Tombstone, city of	August 1, 1977, emergency	Aug 15, 1975	040106
Oklahoma	Okfuskee	Okemah, city of	do	Aug. 13, 1976	400429
Wyoming	Uinta	Lyman, town of	do	Sept. 19, 1975	560075
Arizona	Pinal	Casa Grande, city of	May 5, 1972, emergency; Aug. 1, 1977, regular	Apr 5, 1974	040080-A
Kansas	Johnson	Lenexa, city of	June 12, 1975, emergency; Aug. 1, 1977, regular	Feb 8, 1974 July 11, 1975	200168-B
Maryland	Carroll	Union Bridge, town of	Apr 16, 1973, emergency; Aug. 1, 1977, regular	Nov 16, 1973	240017-B
Minnesota	Stearns	Cold Springs, city of	Jan. 19, 1973, emergency; Aug. 1, 1977, regular	Oct. 5, 1973 June 11, 1976	270444-B
Do	Hennepin	Robbinsdale, city of	May 9, 1974, emergency; Aug. 1, 1977, regular	Mar. 29, 1974 Feb. 13, 1976	270181-B
Missouri	Clay	Claycomo, village of	Sept. 6, 1974, emergency; Aug. 1, 1977, regular	Jan. 23, 1974 Feb. 20, 1976	290089-B
New Jersey	Bergen	Wyckoff, township of	Dec. 17, 1971, emergency; Aug. 1, 1977, regular	July 13, 1973	340064-A
Ohio	Trumbull	Warren, city of	Sept. 29, 1972, emergency; Aug. 1, 1977, regular	Oct. 26, 1973	390541-A
Pennsylvania	Schuylkill	Cresona, borough of	May 23, 1973, emergency; Aug. 1, 1977, regular	June 28, 1974	420769-B
Do	Delaware	Folcroft, borough of	Feb 2, 1973, emergency; Aug. 1, 1977, regular	Aug. 1, 1977 May 21, 1976	420415
Do	Northampton	Hanover, township of	Jan 1973, emergency; Aug. 1, 1977, regular	Nov. 23, 1973	420722-A
Do	Delaware	Radnor, township of	Feb. 25, 1972, emergency; Aug. 1, 1977, regular	Feb. 1, 1974 June 11, 1976	420428-B
Do	Westmoreland	Sutersville, borough of	Feb. 5, 1974, emergency; Aug. 1, 1977, regular	Jan. 23, 1974 May 21, 1976	420902-B
Do	Luzerne	White Haven, borough of	Apr. 4, 1973, emergency; Aug. 1, 1977, regular	Oct. 26, 1973	420930-A
Do	Bucks	Yardley, borough of	Dec. 10, 1971, emergency; Aug. 1, 1977, regular	Feb. 9, 1973 Sept. 12, 1975	420210-B
Colorado	Logan	Sterling, city of	Aug. 4, 1977, emergency	-	080294-New
Montana	Granite	Drummond, town of	do	Mar. 18, 1977	300033-A
Minnesota	Hennepin	Champlin, city of	Mar. 30, 1973, emergency; July 18, 1977, regular; July 18, 1977, suspended; July 22, 1977, reinstated.	Nov. 2, 1973	270153-A
Pennsylvania	Dauphin	Highspire, borough of	Nov. 10, 1977, emergency; Apr. 15, 1977, regular; July 1, 1977, suspended; July 27, 1977, reinstated.	Mar 23, 1973	420381-A
Do	Chester	Thornbury, township of	Feb. 18, 1972, emergency; Mar. 1, 1977, regular; July 1, 1977, suspended; July 27, 1977, reinstated.	Aug. 2, 1974 Aug. 13, 1976	420290-B
Colorado	La Plata	Ignacio, town of	Aug. 5, 1977, emergency	Mar. 22, 1974	080266-A
Florida	Jackson	Sneads, town of	do	Aug. 2, 1974 May 21, 1976	120130-A
Wisconsin	Pepin	Durand, city of	Apr. 13, 1973, emergency; June 1, 1977, regular; June 1, 1977, suspended; July 28, 1977, reinstated.	Oct. 12, 1973 Apr 2, 1976	550320-B

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended (39 FR 2787, Jan. 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26393 Filed 9-14-77;8:45 am]

V 42 I 179 SEP 15 77 UMI

[Docket No. FI-3325]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes in Special Flood Hazard Areas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Interim rule.

SUMMARY: The purpose of this rule is to list those communities where in the Federal Insurance Administrator, after consultation with the Chief Executive Officer of the community, has determined that modification of the Special Flood Hazard Areas (SFHAs) of some locations is appropriate.

Any persons who have knowledge of changed conditions or new scientific or technical data or who wish to comment on these changes should immediately notify the Chief Executive Officer at the address listed.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

DATES: These modified SFHAs are currently in effect and amend the Flood Insurance Rate Map (FIRM), in effect prior to this determination. A revised FIRM will be distributed in each community listed as soon as possible.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, these modified SFHAs may be changed.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance (202–755–5581 or Toll Free Line 800–424–8872), Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The numerous changes made in the SFHAs on the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified SFHAs contained on the map. However, this notice includes the address of the Chief Executive Officer of the community where the modified SFHAs determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, is amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

These SFHAs are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These SFHAs together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities.

These modified SFHAs shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The entry (entry not to be codified in CFR) reads as follows:

§ 1916.8 Changes in special flood hazard areas.

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community number
North Carolina	Carteret	Beaufort, town of	The Carteret County News Times, Aug 8, 1977, Aug 11, 1977	Hon. Eugene B. Pond, mayor, town of Beaufort, P.O. Box 390, Beaufort, N.C. 28516	Aug. 12, 1977	375346B
Texas	Victoria	Victoria, City of	Victoria Advocate, Aug 19, 1977, Aug 26, 1977	Hon. C. C. Carsher, Jr., mayor, city of Victoria, P.O. Box 2207, Victoria, Tex. 77901	do.	480638B
Wisconsin	Buffalo	Fountain City, City of	The Cochrane-Fountain City Recorder, July 27, 1977, Aug 3, 1977	Hon. James Scholmeier, mayor, city of Fountain City, 357 North St., Fountain City, Wis 54629	Aug. 5, 1977	555555B

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended (39 FR 2787, Jan. 24, 1974).)

Issued: July 18, 1977.

JAY JANIS,
Under Secretary.

[FR Doc. 77-26389 Filed 9-14-77; 8:45 am]

[Docket No. FI-3326]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes in Base Flood Elevations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator has published a notification of modification of the base (100-year) flood elevations for communities listed below, in the FEDERAL REGISTER. Since that publication, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of each community listed, has determined that no changes in the modified flood elevations are necessary.

The numerous changes made in the base flood elevations on the Flood Insurance Rate Map (FIRM) for each community make it administratively infeasible to publish in this notice all of the base flood elevation changes contained in the maps. However, this notice includes the address of the Chief Executive Officer where the modified base flood elevation determinations are available for inspection.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

DATES: These modified flood elevations are in effect as of the dates in the 6th Column of the attached list and amend the FIRM in effect for each listed community prior to this date.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: These base flood elevations are basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The entry (entry not to be codified in CFR) reads as follows:

§ 1916.8 Changes in base flood elevations.

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community number
Texas	Kleberg		Corpus Christi Caller, Jan. 10, 1977; Jan. 17, 1977.	Hon. W. C. McDaniel, county judge, county of Kleberg, Kingsville, Tex. 78363.	Dec. 17, 1976	480423A
Virginia	Arlington		The Journal Newspapers, Jan. 13, 1977; Jan. 20, 1977.	Mr. Robert D. Arnold, community programs administrator, Arlington County Department of Transportation, system planning and evaluation division, 1400 Court House Rd., Arlington, Va. 22201.	Dec. 21, 1976	515520A
Wisconsin	Wood	Port Edwards, village of.	The Wisconsin Rapids Daily Tribune, Mar 1, 1977; Mar 8, 1977.	Mr. Carl W. Guelcher, village president, village hall, 1170 1st St., Port Edwards, Wis. 54469	Feb. 25, 1977	555572A

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended (39 FR 2787, Jan. 24, 1974).)

Issued: July 18, 1977.

JAY JANIS,
Under Secretary.

[FR Doc.77-26390 Filed 9-14-77; 8:45 am]

[Docket No. FI-3327]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes in Base Flood Elevations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Interim rule.

SUMMARY: The purpose of this rule is to list those communities wherein the Federal Insurance Administrator, after consultation with the Chief Executive Officer of the community, has determined that modification of the base (100-year) flood elevations of some locations is appropriate.

The numerous changes made in the base flood elevations on the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base flood elevations contained on the map. However, this notice includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

Any persons who have knowledge of changed conditions or new scientific or technical data or who wish to comment on these changes should immediately notify the Chief Executive Officer at the address listed.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM), in effect prior to this determination. A revised FIRM will be distributed in each community listed as soon as possible.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, these modified elevations may be changed.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The entry (entry not to be codified in CFR) reads as follows:

V 42 179 SEP 15 77 UMI

§ 1916.8 Changes in base flood elevations.

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community number
California	San Bernardino	Victorville, city of	The Daily Press, Aug. 4, 1977; Aug. 5, 1977	Hon. Humberto Lugo, mayor, city of Victorville, city hall, 14343 Civic Dr., Victorville, Calif. 92392.	Aug. 5, 1977	065068A
Florida	Charlotte		The Daily Herald News, Aug. 4, 1977; Aug. 5, 1977.	Mr. John R. Printon, Charlote County administrator, courthouse annex, 2d floor, 116 West Olympia, Punta Gorda, Fla. 33950.	do	120061B
Missouri	Clay	Smithville, city of	The Democrat Herald, Aug. 4, 1977; Aug. 11, 1977	Hon. L. R. Laikon, mayor, city of Smithville, 108 North Bridge St., Smithville, Mo. 6089	Aug. 12, 1977	293271B

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended (39 FR 2787, Jan. 24, 1974).)

Issued: July 18, 1977.

JAY JANIS,
Under Secretary.

[FR Doc.77-26391 Filed 9-14-77;8:45 am]

federal register

THURSDAY, SEPTEMBER 15, 1977

PART III



CIVIL AERONAUTICS BOARD

■

CERTIFICATED AIR CARRIERS

Uniform System of Accounts and Reports; Transactions With Affiliates and Nontransport Divisions

V 42 179
SEP 15 77
UMI

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1022, Amdt. 29]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Amendment of CAB Form 41 Schedules Relating to Transactions With Affiliates and Nontransport Divisions

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This amendment modifies the Board's Uniform System of Accounts and Reports for Certificated Air Carriers by: (1) Combining a quarterly report schedule dealing with carrier accounts with associated companies and nontransport divisions and an annual schedule dealing with air carrier investments into a single schedule to be filed annually; (2) revising the format of another schedule which deals with the reporting of air carrier transactions with associated companies and nontransport divisions; (3) adding a requirement for carriers to disclose income tax allocation procedures used in filing consolidated returns; and (4) eliminating a requirement to establish a separate set of books for nontransport leasing operations. These changes were developed as part of the Board's on-going effort to reduce and improve air carrier reporting wherever possible.

DATES: Effective: December 5, 1977. Adopted: September 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5270).

SUPPLEMENTARY INFORMATION: During 1976, the Board conducted an extensive review of carrier reporting requirements designed to monitor transactions between air carriers and affiliated companies. The purpose of this review was three-fold: (1) To improve the effectiveness of these reports, (2) to correct deficiencies in the reporting requirements, and (3) to eliminate any unnecessary reports. Suggestions for improving these reporting requirements were received from several carriers during the review. As a result, the Board issued EDR-324 proposing to amend its CAB Form 41 reporting by: (1) Combining quarterly Schedule B-4(b), "Accounts with Subsidiaries, Other Associated Companies and Nontransport Divisions," with annual Schedule B-41, "Investments Held by, or for the Account of, Respondent" to make the resulting new schedule an annual filing; (2) modifying the format and reporting instructions for Schedule B-44, "Summary of Resources Exchanged with Affiliated Group Members and Other Associated Companies"; (3) adding a new accounting plan, CAB Form AP-16, to disclose income tax allocation procedures; and (4) eliminating the need to establish a separate accounting system for leasing operations as required in section 1-6 of Part 241.

Only two respondents—Pan American World Airways and Northwest Airlines—submitted comments in response to the rulemaking notice. Upon consideration of the comments, the Board has decided to adopt the amendments with modifications discussed below. Except to the extent modified, the tentative findings in the Explanatory Statement of EDR-324 are made final by this amendment.

In one of its comments, Pan American suggests that the title of the newly proposed Schedule B-41 be expanded to encompass the reporting of current account receivables and payables. We believe this comment is pertinent and has merit; therefore, we are revising the title of Schedule B-41 to read "Receivables, Payables and Investments Relating to Affiliates and Other Investment Data."

In another comment, Pan American points out that there are far more transaction categories in column (1) of the newly proposed Schedule B-44 than are in the current Schedule B-44. This expansion, Pan American asserts, would cause it additional work because of the need for more descriptive monitoring of transactions during the year Accordingly, Pan American recommends that the transaction categories appearing on the current Schedule B-44 be retained, and if any additional information should be required in the future, that it be requested on an exceptional basis.

It is true that the proposed Schedule B-44 does have more transaction categories in column (1) than the current Schedule B-44. From an evaluation standpoint, a major problem with the current format of Schedule B-44 has been that the few required categories are very broad in nature As a result, the commingling of the numerous items all summarized in one annual figure has been of little or no value to either the Board's staff or the air carriers as far as definitive identification of transactions is concerned.

Indeed, during the reviews at the carrier offices, the Board's staff found that there were deficiencies on all carrier submissions and that many of these deficiencies were directly attributable to a misunderstanding of what was called for by the rule.

In order to monitor transactions between the carrier and its affiliates, as required by ER-707,[1] it is necessary to obtain comparable figures on a periodic basis that are not commingled in this manner. In the design of the proposed Schedule B-44 and the identification of the nature of transactions in column (1), it was the Board's purpose to isolate specific types of transactions so that such transactions could be monitored within the intent of ER-707. To accomplish this greater specificity, we elected to define more narrowly what is to be included on each line item. Although this resulted in more transaction categories, we believe they are necessary to provide a clearer presentation.

In view of the foregoing, we will not accept Pan American's recommendation to retain the transaction categories that appear in column (1) on the current Schedule B-44.

Northwest pointed out what they believed was an oversight in the rulemaking notice on Schedule B-41, "Receivables, Payables and Investments relating to Affiliates and Other Investment Data." This schedule contains a parenthetical note which instructs carriers not to report data in certain columns in a section of that schedule captioned "Other Investments." Northwest stated that one of the columns used to report "Notes and Accounts Payable" may have been inadvertently deleted from the parenthetical note. The carrier pointed out that this information was not required on the B-41 schedule which will be superseded by this rule and that a considerable burden would be involved if carriers were required to report such data.

Northwest's assertion is correct. The information was not reported on the old Schedule B-41, and it was not our intention to now require it by this rule. Accordingly, the number of the column relating to "Notes and Accounts Payable" has been inserted in the parenthetical note and carriers will not be required to report these data in the "Other Investments" section of Schedule B-41.

This rule will become effective 80 days after FEDERAL REGISTER publication and shall be applicable to all reports coming due after that date. Moreover, the requirement for filing Schedule B-4(b) shall be terminated with the report covering the quarter ended June 30, 1977.

In consideration of the foregoing, the Civil Aeronautics Board amends Part 241 of its Economic Regulations effective December 5, 1977, as follows:

1. Amend section 03—Definitions for Purposes of This System of Accounts and Reports, so as to delete the definition "Subsidiary company" and have section 03 read in pertinent part:

Section 03 Definitions for Purposes of This System of Accounts and Reports.

* * * * * * *

Stops, technical—Aircraft landings made for purposes other than enplaning or deplaning traffic. For purposes of identifying reporting entities, landings made for stopover passengers are regarded as technical stops.

Tariff, published— * * *

* * * * * * *

2. Amend section 1—Introduction to System of Accounts and Reports, to specifically exclude leasing operations by having section 1-6, "Accounting entities," read in pertinent part:

[1] The Board established the need for monitoring transactions between the carrier and its affiliates in Regulation ER-707, adopted September 22, 1971.

Sec. 1-6 Accounting entities.

(a) Separate accounting records shall be maintained for each air transport entity for which separate reports to the Civil Aeronautics Board are required to be made by sections 21(j) or 32(h), as applicable, and for each separate corporate or organizational division of the air carrier. For purposes of this Uniform System of Accounts and Reports, each nontransport entity conducting an activity which is not related to the air carrier's transport activities and each transport-related activity or group of activities qualifying as a nontransport venture pursuant to paragraph (b) of this section, whether or not formally organized within a distinct organizational unit, shall be treated as a separately operated organizational division; except that the provisions of this paragraph and paragraph (b) shall not apply to leasing activities.

(b) As a general rule, * * *

* * * * * * *

3. Amend section 2—General Accounting Policies, as follows:

A. By amending section 2-1, "Basis of allocation between entities" by changing paragraph (c) so that section 2-1 reads in pertinent part as follows:

Sec. 2-1 Basis of allocation between entities.

* * * * * * *

(c) For purposes of this section, investments by the air carrier used in common by the regulated air carrier and those transport-related revenue services defined as separate nontransport ventures under section 1-6(b) shall not be allocated between such entities but shall be reflected in total in the appropriate accounts of the entity which predominantly uses those investments. Where the entity of predominant use is a nontransport venture, the air carrier shall reflect the investment in account 1520, "Advances to Associated Companies."

* * * * * * *

B. By amending section 2-18—Transactions between members of an affiliated group, to eliminate the word "incidental" from paragraph (c) so that section 2-18 reads in pertinent part as follows:

Sec. 2-18 Transactions between members of an affiliated group.

* * * * * * *

(c) The cost, less all associated valuation allowance accumulations, of services and assets sold by or transferred from the regulated activity of an air carrier to other activities of an affiliated group shall be charged by the air carrier to either applicable transport-related revenues or capital gain income accounts, as appropriate. Where such services and assets are reflected in tariffs filed with the Board or in price lists held out to the general public, the associated revenues shall be recorded at the rates, fares, or charges contained therein in the appropriate transport-related services, capital gains or air transport income accounts. Where no tariff or prevailing price list is applicable, the associated revenue shall be recorded at the higher of cost or estimated fair market value of the asset or service involved. Any difference between the revenue so recorded and the agreed consideration to the air carrier shall be recorded in subaccount 88.1 Intercompany Transaction Adjustment-Credit or subaccount 89.1 Intercompany Transaction Adjustment-Debit.

(d) Income taxes * * *

* * * * * * *

4. Amend section 5—Balance Sheet Account Groupings, so that paragraph (b) of section 5-2, "Investments and special funds" reads in pertinent part as follows:

Sec. 5-2 Investments and special funds.

* * * * * * *

(b) Investments in investor controlled companies shall be recorded at cost plus the equity in undistributed earnings or losses since acquisition, except as provided in paragraph (c) of this section. Investments in all other associated or nonassociated companies shall be recorded at cost, except as provided in paragraph (c).

(c) Permanent impairment * * *

* * * * * * *

Section 22 [Amended]

5. Amend section 22—General Reporting Instructions, as follows:

A. By revising the list of reporting schedules to eliminate Schedule B-4(b) and change the title of Schedules B-41 and B-44 so that the list reads in pertinent part as follows:

Schedule No.	Schedule title	Filing frequency
*	* * *	*
B-3	Statement of changes in stockholder's equity.	Quarterly
B-4	Allowance for uncollectible accounts.	Do.
B-5	Property and equipment.....	Do.
*	* * *	*
B-14	Summary of property obtained under long-term lease.	Quarterly.
B-41	Receivables, payables and investments relating to affiliates and other investment data.	Annually.
B-43	Inventory of airframes and aircraft engines.	Do.
B-44	Transactions between air carrier and affiliates—annual summary.	Do.
B-46	Long-term and short-term non-trade debt.	Do.
*	* * *	*

B. By revising paragraph (d) to include a new subparagraph (16) and other editorial changes so that paragraph (d) will read in pertinent part:

(d) Statements of accounting or statistical procedures required to be filed under this system of accounts and reports are recapitulated below. As a general rule these statements or revisions thereof shall be filed prior to the date on which the procedures are to become effective. However, in certain cases, where a change in procedure or the initial adoption of a new procedure is necessitated by events or transactions occurring for the first time or by new requirements of professional or regulatory bodies, air carriers are permitted to file new or amended statements within thirty days after the close of the first calendar quarter in which the procedures become effective. The procedures shall be regarded as accepted unless the carrier is notified of Board objections within ninety days after receipt. These statements shall be filed in triplicate on standard forms AP-1 through AP-16.

(1) Procedures for assigning or prorating profit and loss items between operating entities as described in section 2-1.

* * * * * * *

(10) Procedures for assigning or prorating expenses between transport operations and transport-related operations as prescribed by section 10-7100 or 11-7100.

* * * * * * *

(14) Procedures for accounting for investments in investor controlled and other associated companies, including change in status from associated to investor controlled company or vice versa and adjustments as prescribed in sections 6-1510.1 and 6-1510.2.

* * * * * * *

(16) Procedures for allocating income taxes among the transport entities of the air carrier, its nontransport divisions and members of an affiliated group in accordance with section 2-18(d).

* * * * * * *

Section 23 [Amended]

6. Amend section 23—Certification and Balance Sheet Elements, as follows:

A. By revising the reporting instructions applicable to Schedule B-4 to delete the portion of the instructions dealing with accounts with investor controlled companies, other associated companies and nontransport divisions, so that the new title and instructions for this schedule read, in their entirety, as follows:

Schedule B-4—Allowance for uncollectible accounts.

(a) This schedule shall be filed by all route air carriers.

(b) Each allowance for uncollectible accounts shall be separately identified in the indicated section of this schedule. Columns 1 and 2 shall reflect the account number and description of the asset against which each allowance is provided. The sum of the balances at the end of each quarter which are provided against each asset account shall agree with the corresponding amount reported on Schedule B-1 Balance Sheet.

B. By revising paragraph (c) to exclude the term "subsidiaries" from the instructions applicable to Schedule B-12 so that the instructions for Schedule B-12 read in pertinent part:

Schedule B-12—Statement of changes in financial position.

* * * * * * *

(c) In determining working capital generated by operations, net income as reported in item 9899 on Schedule P-1.1 or Schedule P-1.2 shall be increased by expenses not requiring working capital

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in the current period and shall be decreased by income not generating working capital in the current period such as gains on property retirements and undistributed earnings of investor controlled companies. • • •

• • • • •

C. By revising the instructions to Schedule B–41 so that the new title and reporting instructions for this schedule read, in their entirety, as follows:

Schedule B–41—Receivables, payables and investments relating to affiliates and other investment data.

(a) This schedule shall be filed by all route air carriers.

(b) The data shall be grouped and separately subtotaled according to: (1) investments in investor controlled companies (account 1510.1); (2) investments in other associated companies (account 1510.2); (3) investments in nontransport divisions and other investments; and (4) notes and accounts receivable due to the air carrier.

(c) Column 1 shall reflect the name of each associated company, and each other issuer of securities held by the air carrier. This column shall also reflect the name of each company from which notes and accounts receivable, both current and noncurrent, are due to the air carrier. Additionally, this column shall show the name of each nontransport division for which separate records and books of account are maintained.

(d) Column 2 shall reflect gross amounts due from associated companies which are settled currently.

(e) Column 3 shall reflect advances, loans, and other amounts not settled currently, due from associated companies. This column shall also reflect the net amount receivable from each nontransport division.

(f) Column 4 "Investments at Cost" shall reflect the cost to the air carrier at date of acquisition of investments in associated companies. The cost of investments in investor controlled companies plus the equity in undistributed earnings or losses since acquisition reflected in column 5 "Equity in Undistributed Earnings" shall agree in the aggregate with the corresponding amounts in balance sheet subaccount 1510:1 Investments in Investor Controlled Companies. The cost of investments in other associated companies shall agree with the corresponding amounts in balance sheet subaccount 1510.2 Investments in Other Associated Companies.

(g) Column 5 "Equity in Undistributed Earnings" shall reflect the equity in undistributed earnings or losses of investor controlled companies since acquisition.

(h) Column 6 "Other Investments and Receivables" shall reflect the amount of the investments and receivables of a noncurrent nature for those companies listed in column 1 under "Other Investments."

(i) Column 7 "Notes and Accounts Payable" shall reflect the gross amounts due on current notes and open accounts with associated companies.

(j) Column 8 "Advances" shall reflect, from accounts 2210, "Long-Term Debt" and 2240, "Advances from Associated Companies," the amounts due associated companies for notes, loans and advances which are not settled currently. Also, column 8 shall reflect the advances from Nontransport Divisions in account 2240.

(k) Column 9 shall reflect the amount of dividends received during the year on all securities held for companies reported in column 1, except those received from investor controlled companies. Also, column 9 shall reflect the amount of interest received during the year on all bonds, notes and other investments for companies reported in column 1.

(l) Column 10 shall reflect the type of security, such as stocks, bonds, notes, or accounts receivable (abbreviate "a/c rec.") with respect to investments and noncurrent receivables.

(m) Column 11 shall reflect the words "yes" for investments held in the name of the air carrier and "no" for investments held in the name of others for the account of the air carrier. If the answer is "no" carriers should supply the name and address of each person in whose name the interest is held at the bottom of the schedule.

(n) Column 12 "Number of Shares or Debt Principal Amount" shall reflect the number of shares of stock or the principal amount of bonds or notes held by the carrier.

(o) Column 13 "Percent of Total Issue Outstanding" shall reflect, for the associated companies listed in column 1, the percent of outstanding stock owned by the air carrier. Column 13 is not applicable for "Other Investments" or for "Nontransport Divisions" listed in column 1.

D. By revising the instructions to Schedule B–44 so that the new title and reporting instructions for this schedule read, in their entirety, as follows:

Schedule B–44—Transactions between air carrier and affiliates—annual summary.

(a) This schedule shall be filed by all route air carriers.

(b) The aggregate annual amounts of transactions exchanged between the carrier and any of its affiliates, including any of its nontransport divisions, shall be grouped on this schedule by line item under four major groupings: (1) increase in carrier's resources, (2) decrease in carrier's resources, (3) dividends, and (4) income tax transactions.

(c) For the purposes of this schedule the term "affiliate" means associated companies including investor controlled companies and organizational divisions as defined in section 1–6 and the term "resources" shall mean assets such as current, noncurrent other than fixed, and fixed assets; it includes cash, receivables, securities, investments, equipment, supplies, buildings and land; and operational services. Net income from investor controlled companies and organizational divisions, as defined in section 1–6, shall be reported as an increase in a resource and net loss incurred by investor controlled companies and organizational divisions as defined in section 1–6 shall be reported as a decrease in a resource. Authorized but unissued bonds or stock, estimated revenue not yet accrued or collected and contingent assets, shall not be considered resources for the purposes of reporting on Schedule B–44.

(d) Within the transaction groupings for resources, the term "operational services" shall include the providing of benefits to other parties by an expenditure of assets, labor, material, supplies, know-how, or any combination of these in the conduct of business operations; permission granted for rights of entry or rights under leases will not be considered operational services; however, the cash disbursed or cash received for those rights will be reported under the appropriate classification.

(e) Within the transaction grouping for resource increases, on the line entitled "Cash received by carrier from affiliate," carriers shall report both cash and checks. This includes for example: (1) Cash advanced by an affiliate, (2) cash remittances by an affiliate to the carrier for purchases or services procured from the carrier, (3) cash remittances to the carrier by an affiliate for repayment of advances or loans, (4) cash dividends paid by an affiliate to the carrier, (5) cash remittances by affiliate to carrier in settlement of income tax transactions, (6) cash remittances by affiliate to carrier in settlement of "current account" transactions, and (7) checks drawn by an affiliate payable to the carrier in exchange for cash or cash in kind. Within the transaction grouping for resource decreases, on the line entitled "Cash disbursed by carrier to affiliate" carriers shall report cash paid out by the carrier to an affiliate, whether in cash or by check; this includes, for example, (1) cash advanced to an affiliate, (2) cash disbursed by the carrier to an affiliate for purchases or services procured from an affiliate, (3) cash disbursed by the carrier to an affiliate for repayment of advances or loans, (4) cash dividends paid by the carrier to an affiliate, (5) cash disbursed by the carrier to an affiliate in settlement of income tax transactions, (6) cash disbursed by carrier in settlement of "current account" transactions, and (7) checks drawn by the carrier payable to an affiliate in exchange for cash or cash in kind.

(f) Within the transaction grouping for resource increases, on the line entitled "Contribution of capital by affiliate to carrier," carriers shall report any increase in assets without regard to the type of asset which results from the purchase of additional securities or any other contribution of capital. Within the transaction groupings for resource decreases, on the line entitled, "Contribution of capital by carrier to affiliate," carriers shall report increases in the investment accounts as the result of a purchase of additional securities or any other contribution of capital. Any transaction reported on the lines discussed in this paragraph (f) or in paragraph (g) below which exceeds one percent of the carrier's net stockholder equity reported on line 2995 of Schedule B–1, "Balance Sheet," shall be described as to the nature of the transaction and the amount involved on Schedule P–2, "Notes to Income Statement."

(g) Within the transaction grouping for resource increases, on the line entitled "Credit adjustments to affiliate's retained earnings," carriers shall report credit adjustments to the affiliate's capital accounts which do not flow through the income statement such as credit adjustments to the opening balance of retained earnings. Within the transaction grouping for resource decreases, on the line entitled "Debit adjustments to affiliate's retained earnings," carriers shall report debit adjustments to the affiliate's capital accounts which do not flow through the income statement such as debit adjustments to the opening balance of retained earnings.

(h) Within the transaction grouping for resource increases, on the line entitled "Net income of affiliate for year (Debit to Investment and Credit to Account 8100)," the carrier shall report its proportionate share of the net income of an investor controlled company accounted for under the equity method. Within the transaction grouping for resource decreases, on the line entitled "Net loss of affiliate for year (Debit to Account 8100 and Credit to Investment)," the carrier shall report its proportionate share of the net loss of an investor controlled company accounted for under the equity method.

(i) Within the transaction grouping for resource increases and the transaction grouping for resource decreases, on the lines entitled "Operational services performed by affiliate for carrier" and "Operational services performed by carrier for affiliate," carriers shall report the amount of operational services flowing to and from the air carrier, respectively.

(j) Within the transaction grouping for resource increases and resource decreases, on the lines entitled "Property, equipment, and other assets acquired by carrier from affiliate" and "Property, equipment, and other assets disposed of by carrier to affiliate," air carriers shall report assets acquired from affiliates and assets disposed of to affiliates, respectively. These lines shall not include contributions of capital or cash transactions which shall be reported as directed in paragraphs (e) and (f) above.

(k) Within the transaction grouping for resource increases and resource decreases, on the lines entitled "Resources pledged by affiliate in the interest of carrier" and "Resources pledged by the carrier in the interest of affiliate" carriers shall report the assets, including receivables which have been pledged for the benefit of the carrier by the affiliate or by carrier for the benefit of the affiliate such as collateral or security for loans.

(l) Within the transaction grouping for dividends, carriers shall report cash dividends and property dividends paid or received. Both cash and property dividends shall also be reported in the appropriate line item under the resource increase or resource decrease transaction grouping. The basis used in valuing property dividends (cost, market value, etc.) shall be footnoted and described in the space provided at the bottom of the form.

(m) In the transaction group for income tax transactions, on the first two lines carriers shall report the amount of income taxes billed by the carrier to the affiliate and by the affiliate to the carrier. These amounts shall not be reported in resource increase or resource decrease transaction groupings until remittances are made. On the second two lines, carriers shall report the amounts of investment tax credits transferred, if any, pursuant to any tax allocation agreement, formal or informal, used in the preparation of consolidated tax returns. The last two lines shall reflect the transfer, if any, of net operating losses pursuant to any tax allocation agreement, formal or informal, used in the preparation of consolidated tax returns. No amount reported in the last four lines of this section shall be reported in the resource increase or resource decrease transaction groupings.

(n) In the blank space provided under the word "Affiliate" at the top of columns 2 through 9, carriers shall insert the name of the affiliate with whom the transactions took place, using a separate column for each affiliate.

(o) Columns 2, 3, 4, 5, 6, 7, 8, and 9 shall be used, one column for each affiliated group member, to separately reflect the annual aggregate dollar amount of the transactions exchanged between the carrier and the affiliate for each line item indicated in column 1 under each of the four transaction groupings.

Section 32 [Amended]

7. Amend section 32—General Reporting Instructions, as follows:

A. By revising the list of reporting schedules to change the title of Schedules B–41 and B–44 so that the list reads in pertinent part as follows:

Schedule No.	Schedule title	Filing frequency
•	•	•
B–14	Summary of property obtained under long-term lease.	Do.
B–41	Receivables, payables and investments relating to affiliates and other investment data.	Annually.
B–43	Inventory of airframes and aircraft engines.	Do.
B–44	Transactions between air carrier and affiliates—annual summary.	Do.
B–46	Long-term and short-term nontrade debt.	Do.
•	•	•

B. By revising paragraph (d) to include a new subparagraph (15) and other editorial changes so that paragraph (d) will read in pertinent part:

(d) Statements of accounting or statistical procedures required to be filed under this system of accounts and reports are recapitulated below. As a general rule these statements or revisions thereof shall be filed prior to the date on which the procedures are to become effective. However, in certain cases, where a change in procedure or the initial adoption of a new procedure is necessitated by events or transactions occurring for the first time or by new requirements of professional or regulatory bodies, air carriers are permitted to file new or amended statements within thirty days after the close of the first calendar quarter in which the procedures become effective. The procedures shall be regarded as accepted unless the carrier is notified of Board objections within ninety days after receipt. These statements shall be filed in triplicate on standard forms AP–1 through AP–16.

(1) Procedures for assigning or prorating profit and loss items between operating entities as described in section 2–1.

• • • • • •

(13) Procedures for accounting for investments in investor controlled and other associated companies, including change in status from associated to investor controlled company or vice versa and adjustments as prescribed in sections 6–1510.1 and 6–1510.2.

• • • • • •

(15) Procedures for allocating income taxes among the transport entities of the air carrier, its nontransport divisions, and members of an affiliated group in accordance with section 2–18(d).

• • • • • •

Section 33 [Amended]

8. Amend section 33—Certification and Balance Sheet Elements, as follows:

A. By revising paragraph (b) to exclude the term subsidiaries from the instructions applicable to Schedule B–12 so that the instructions for Schedule B–12 read in pertinent part:

Schedule B–12—Statement of changes in financial position.

• • • • • •

(b) In determining working capital generated by operations, net income as reported in item 9899 on Schedule P–1.1 or Schedule P–1.2 shall be increased by expenses not requiring working capital in the current period and shall be decreased by income not generating working capital in the current period such as gains on property retirements and undistributed earnings of investor controlled companies. • • •

• • • • • •

B. By revising the instructions to Schedule B–41 so that the new title and reporting instructions for this schedule read, in their entirety, as follows:

Schedule B–41—Receivables, payables and investments to affiliates and other investment data.

(a) This schedule shall be filed by all supplemental air carriers.

(b) The data shall be grouped and separately subtotaled according to: (1) Investments in investor controlled companies (account 1510.1); (2) investments in other associated companies (account 1510.2); (3) investments in nontransport divisions and other investments; and (4) notes and accounts receivable due to the air carrier.

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(c) Column 1 shall reflect the name of each associated company, and each other issuer of securities held by the air carrier. This column shall also reflect the name of each company from which notes and accounts receivable, both current and noncurrent, are due to the air carrier. Additionally, this column shall show the name of each nontransport division for which separate records and books of account are maintained.

(d) Column 2 shall reflect gross amounts due from associated companies which are settled currently.

(e) Column 3 shall reflect advances, loans, and other amounts not settled currently, due from associated companies. This column shall also reflect the net amount receivable from each nontransport division.

(f) Column 4 "Investments at Cost" shall reflect the cost to the air carrier at date of acquisition of investments in associated companies. The cost of investments in investor controlled companies plus the equity in undistributed earnings or losses since acquisition reflected in column 5 "Equity in Undistributed Earnings" shall agree in the aggregate with the corresponding amounts in balance sheet subaccount 1510.1 Investments in Investor Controlled Companies. The cost of investments in other associated companies shall agree with the corresponding amounts in balance sheet subaccount 1510.2 Investments in Other Associated Companies.

(g) Column 5 "Equity in Undistributed Earnings" shall reflect the equity in undistributed earnings or losses of investor controlled companies since acquisition.

(h) Column 6 "Other Investments and Receivables" shall reflect the amount of the investments and receivables of a noncurrent nature for those companies listed in column 1 under "Other Investments."

(i) Column 7 "Notes and Accounts Payable" shall reflect the gross amounts due on current notes and open accounts with associated companies.

(j) Column 8 "Advances" shall reflect, from accounts 2210, "Long-Term Debt" and 2240, "Advances from Associated Companies," the amounts due associated companies for notes, loans and advances which are not settled currently. Also, column 8 shall reflect the advances from Nontransport Divisions in account 2240.

(k) Column 9 shall reflect the amount of dividends received during the year on all securities held for companies reported in column 1, except those received from investor controlled companies. Also, column 9 shall reflect the amount of interest received during the year on all bonds, notes, and other investments for companies reported in column 1.

(l) Column 10 shall reflect the type of security, such as stocks, bonds, notes, or accounts receivable (abbreviate "a/c rec.") with respect to investments and noncurrent receivables.

(m) Column 11 shall reflect the words "yes" for investments held in the name of the air carrier and "no" for investments held in the name of others for the account of the air carrier. If the answer is "no" carriers should supply the name and address of each person in whose name the interest is held at the bottom of the schedule.

(n) Column 12 "Number of Shares or Debt Principal Amount" shall reflect the number of shares of stock or the principal amount of bonds or notes held by the carrier.

(o) Column 13 "Percent of Total Issue Outstanding" shall reflect, for the associated companies listed in column 1, the percent of outstanding stock owned by the air carrier. Column 13 is not applicable for "Other Investments" nor for "Nontransport Divisions" listed in column 1.

C. By revising the instructions to Schedule B-44 so that the new title and reporting instructions for this schedule read, in their entirety, as follows:

Schedule B-44—Transactions between air carrier and affiliates—annual summary.

(a) This schedule shall be filed by all supplemental air carriers.

(b) The aggregate annual amounts of transactions exchanged between the carrier and any of its affiliates, including any of its nontransport divisions, shall be grouped on this schedule by line item under four major groupings: (1) increase in carrier's resources, (2) decrease in carrier's resources, (3) dividends, and (4) income tax transactions.

(c) For the purpose of this schedule the term "affiliate" means associated companies including investor controlled companies and organizational divisions as defined in section 1-6 and the term "resources" shall mean assets such as current, noncurrent other than fixed, and fixed assets; it includes cash, receivables, securities, investments, equipment, supplies, buildings and land, and operational services. Net income from investor controlled companies and organizational division, as defined in section 1-6, shall be reported as an increase in a resource and net loss incurred by investor controlled companies and organizational divisions as defined in section 1-6 shall be reported as a decrease in a resource. Authorized but unissued bonds or stock, estimated revenue not yet accrued or collected, and contingent assets, shall not be considered resources for the purpose of reporting on Schedule B-44.

(d) Within the transaction groupings for resources, the term "operational services" shall include the providing of benefits to other parties by an expenditure of assets, labor, material, supplies, know-how, or any combination of these in the conduct of business operations; permission granted for rights of entry or rights under leases will not be considered operational services; however, the cash disbursed or cash received for those rights will be reported under the appropriate classification.

(e) Within the transaction grouping for resource increases, on the line entitled "Cash received by carrier from affiliate," carriers shall report both cash and checks. This includes for example: (1) Cash advanced by an affiliate, (2) cash remittances by an affiliate to the carrier for purchases or services procured from the carrier, (3) cash remittances to the carrier by an affiliate for repayment of advances or loans, (4) cash dividends paid by an affiliate to the carrier, (5) cash remittances by affiliate to carrier in settlement of income tax transactions, (6) cash remittances by affiliate to carrier in settlement of "current account" transactions, and (7) checks drawn by an affiliate payable to the carrier in exchange for cash or cash in kind. Within the transaction grouping for resource decreases, on the line entitled "Cash disbursed by carrier to affiliate" carriers shall report cash paid out by the carrier to an affiliate, whether in cash or by check; this includes, for example, (1) cash advanced to an affiliate, (2) cash disbursed by the carrier to an affiliate for purchases or services procured from an affiliate, (3) cash disbursed by the carrier to an affiliate for repayment of advances or loans, (4) cash dividends paid by the carrier to an affiliate, (5) cash disbursed by the carrier to an affiliate in settlement of income tax transactions, (6) cash disbursed by carrier in settlement of "current account" transactions, and (7) checks drawn by the carrier payable to an affiliate in exchange for cash or cash in kind.

(f) Within the transaction grouping for resource increases, on the line entitled "Contribution of capital by affiliate to carrier," carriers shall report any increase in assets without regard to the type of asset which results from the purchase of additional securities or any other contribution of capital. Within the transaction groupings for resource decreases, on the line entitled, "Contribution of capital by carrier to affiliate," carriers shall report increases in the investment accounts as the result of a purchase of additional securities or any other contribution of capital. Any transaction reported on the lines discussed in this paragraph (f) or in paragraph (g) below which exceeds one percent of the carrier's net stockholder equity reported on line 2995 of Schedule B-1, "Balance Sheet," shall be described as to the nature of the transaction and the amount involved on Schedule P-2, "Notes to Income Statement."

(g) Within the transaction grouping for resource increases, on the line entitled "Credit adjustments to affiliate's retained earnings," carriers shall report credit adjustments to the affiliate's capital accounts which do not flow through the income statement such as credit adjustments to the opening balance of retained earnings. Within the transaction grouping for resource decreases, on the line entitled "Debit adjustments to affiliate's retained earnings," carriers shall report debit adjustments to the affiliate's capital accounts which do not flow through the income statement such as debit adjustments to the opening balance of retained earnings.

(h) Within the transaction grouping for resource increases, on the line entitled "Net income of affiliate for year

(Debit to Investment and Credit to Account 8100)," the carrier shall report its proportionate share of the net income of an investor controlled company accounted for under the equity method. Within the transaction grouping for resource decreases, on the line entitled "Net loss of affiliate for year (Debit to Account 8100 and Credit to Investment)," the carrier shall report its proportionate share of the net loss of an investor controlled company accounted for under the equity method.

(i) Within the transaction grouping for resource increases and the transaction grouping for resource decreases, on the lines entitled "Operational services performed by affiliate for carrier" and "Operational services performed by carrier for affiliate," carriers shall report the amount of operational services flowing to and from the air carrier, respectively.

(j) Within the transaction grouping for resource increases and resource decreases, on the lines entitled "Property, equipment, and other assets acquired by carrier from affiliate" and "Property, equipment, and other assets disposed of by carrier to affiliate," air carriers shall report assets acquired from affiliates and assets disposed of to affiliates, respectively. These lines shall not include contributions of capital or cash transactions which shall be reported as directed in paragraphs (e) and (f) above.

(k) Within the transaction grouping for resource increases and resource decreases, on the lines entitled "Resources pledged by affiliate in the interest of carrier" and "Resources pledged by carrier in the interest of affiliate," carriers shall report the assets, including receivables which have been pledged for the benefit of the carrier by the affiliate or by carrier for the benefit of the affiliate such as collateral or security for loans.

(l) Within the transaction grouping for dividends, carriers shall report cash dividends and property dividends paid or received. Both cash and property dividends shall also be reported in the appropriate line item under the resource increase or resource decrease transaction grouping. The basis used in valuing property dividends (cost, market value, etc.) shall be footnoted and described in the space provided at the bottom of the form.

(m) In the transaction group for income tax transactions, on the first two lines carriers shall report the amount of income taxes billed by the carrier to the affiliate and by the affiliate to the carrier. These amounts shall not be reported in resource increase or resource decrease transaction groupings until remittances are made. On the second two lines, carriers shall report the amounts of investment tax credits transferred, if any, pursuant to any tax allocation agreement, formal or informal, used in the preparation of consolidated tax returns. The last two lines shall reflect the transfer, if any, of net operating losses pursuant to any tax allocation agreement, formal or informal, used in the preparation of consolidated tax returns. No amount reported in the last four lines of this section shall be reported in the resource increase or resource decrease transaction groupings.

(n) In the blank space provided under the word "Affiliate" at the top of columns 2 through 9, carriers shall insert the name of the affiliate with whom the transactions took place, using a separate column for each affiliate.

(o) Columns 2, 3, 4, 5, 6, 7, 8, and 9 shall be used, one column for each affiliated group member, to separately reflect the annual aggregate dollar amount of the transactions exchanged between the carrier and the affiliate for each line item indicated in column 1 under each of the four transaction groupings.

9. Amend CAB Form 41 schedules to reflect the foregoing changes in accounting as shown in Exhibits A, B, and C, and add a new accounting plan form AP-16 as shown in Exhibit D.

(Secs. 204(a), 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743 and 766, (49 U.S.C. 1324, 1377).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

NOTE—The Civil Aeronautics Board is submitting this rule to the Comptroller General for such review as may be appropriate under the Federal Reports Act, 44 U.S.C. 3512. The effective date of this rule accordingly reflects the inclusion of the 45-day period which that statute allows for such review. 44 U.S.C. 3512(c)(2).

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RECEIVABLES, PAYABLES AND INVESTMENTS RELATING TO AFFILIATES AND OTHER INVESTMENT DATA

(PURSUANT TO SECTION 407(b) OF THE FEDERAL AVIATION ACT)

AIR CARRIER

As at December 31, 19____

EXHIBIT A

COMPANY OR DIVISION (1)	1200, 1270 Notes and Accounts Receivable (2)	1520 Advances (3)	1510 Investments at Cost (4)	1519 Equity in Undistributed Earnings (5)	1550 Other Investments and Receivables (6)	LIABILITY ACCOUNTS 2000, 2015, 2025 Notes & Accounts Payable (7)	LIABILITY ACCOUNTS 2210, 2240 Advances (8)	Amount of Dividend or Interest Income During Year (9)	OTHER DATA ON INVESTMENTS 1/ Type of Security (10)	OTHER DATA ON INVESTMENTS 1/ *Holder of Record (Yes or No) (11)	OTHER DATA ON INVESTMENTS 1/ Number of Shares or Debt - Principal Amount (12)	OTHER DATA ON INVESTMENTS 1/ Percent of Total Issue Outstanding (13)
ASSOCIATED COMPANIES (Grouped and separately subtotaled according to investor controlled companies and other associated companies.)												
OTHER INVESTMENTS (Columns 2, 3, 4, 5, 7, 8 and 13 are not applicable to this group)												
NONTRANSPORT DIVISIONS												

1/ In the event the answer to "no" in column 11, supply the name and address of each person in whose name the interest is held in the space provided below.

Schedule B-41

CAB Form 41 (Rev. 11-77)

EXHIBIT B

TRANSACTIONS BETWEEN AIR CARRIER AND AFFILIATES

ANNUAL SUMMARY

AIR CARRIER

12 months ended Dec. 31, 19____

List No.	NATURE OF TRANSACTION (1)	AGGREGATE ANNUAL AMOUNTS OF TRANSACTIONS WITH CARRIER: AFFILIATE (2)	AFFILIATE (3)	AFFILIATE (4)	AFFILIATE (5)	AFFILIATE (6)	AFFILIATE (7)	AFFILIATE (8)	AFFILIATE (9)
	INCREASE IN CARRIER'S RESOURCES								
1	Cash received by carrier from affiliate								
2	Contribution of capital by affiliate to carrier*								
3	Credit adjustments to affiliate's retained earnings*								
4	Net income of affiliate for year (Debit to Investment and Credit to Account 8100)								
5	Operational services performed by affiliate for carrier								
6	Property, equipment, and other assets acquired by carrier from affiliate								
7	Resources pledged by affiliate, in the interest of carrier								
	DECREASE IN CARRIER'S RESOURCES								
8	Cash disbursed by carrier to affiliate								
9	Contribution of capital by carrier to affiliate*								
10	Debit adjustments to affiliate's retained earnings*								
11	Net loss of affiliate for year (Debit to Account 8100 and Credit to Investment)								
12	Operational services performed by carrier for affiliate								
13	Property, equipment and other assets disposed of by carrier to affiliate								
14	Resources pledged by carrier, in the interest of affiliate								
	DIVIDENDS								
15a	Paid by affiliate to carrier from Investor Controlled Companies								
15b	Paid by affiliate to carrier from Other Affiliates								
16	Paid by carrier to affiliate								
	INCOME TAX TRANSACTIONS								
17	Income taxes billed by carrier to affiliate								
18	Income taxes billed by affiliate to carrier								
19	Investment tax credits transferred by carrier to affiliate								
20	Investment tax credits transferred by affiliate to carrier								
21	Net operating losses transferred by carrier to affiliate								
22	Net operating losses transferred by affiliate to carrier								

Explanation of basis used in valuing property dividends

Schedule B 44

*Any transaction reported on these lines which exceeds one percent of the carrier's net stockholder equity shall be described as to nature and amount on Schedule P-2 Notes to Income Statement

CAB Form 41 (Rev. 11-77)

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EXHIBIT C

STATUS OF ACCOUNTING PLANS REQUIRED TO BE FILED		Air Carrier _____ 12 Months Ended June 30, 19____			
				Latest Plan	
Statement No.	Subject (1)	Applicable Section (2)	Was Plan Revised This Period (Yes or No) (3)	Date Filed (4)	Effective Date (5)
1	Assigning or prorating profit and loss items between operating entities	2-1.			
2	Retroactive adjustments made to conform accounts with mail rate actions	2-4(d)			
3	[Reserved]				
4	Equalization reserves	2-13(d)			
5	Depreciation	2-14(b)			
6	Airframe and aircraft engine overhauls and airworthiness reserves	5-4(g)			
7	Amortization of developmental and preoperating costs and other intangibles	5-5(b) 6-1870(c) 6-1880			
8	Obsolescence and deterioration allowances — expendable parts	6-1311(d)			
9	Air traffic liability and physical verification procedures	6-2160(e)			
10	Assigning or prorating expenses between transport-related services and transport operations	10-7100 11-7100			
11	Application of maintenance burden	10-5300(c) 11-5300(c) 24-P-6(f)			
12	Computation of available seat-miles and available ton-miles	19-2(g) 35-T-3.1			
13	Accrued vacation liability	6-2120(c)			
14	Accounting for investments in investor controlled and other associated companies, including change in status from associated to investor controlled company, or vice versa, and adjustments in investment accounts.	6-1510.1 6-1510.2			
15	Accounting for pension plans	2-19 12-57			
16	Allocating income taxes	2-18(d)			

NOTE: If not applicable, use the abbreviation "NA"

SCHEDULE A-1

CAB Form 41
(Rev. 11-77)

EXHIBIT D
Page 1 of 2

Carrier _____

PROCEDURES FOR ALLOCATING INCOME TAXES AMONG TRANSPORT ENTITIES, AFFILIATES AND NONTRANSPORT DIVISIONS

Procedures to become effective on _____, 19____

Requirement for filing: Section 22(d) [ ] or 32(d) [ ] and Section 2-18(d) of the Uniform System of Accounts and Reports

PART A

Please check applicable box:

Carrier files Federal income tax returns as an independent company ☐

Income of carrier reported to Internal Revenue Service as a part of a consolidated tax return ☐

If carrier reports income as a part of a consolidated tax return, please list below the affiliated companies that are included in the consolidated tax return:

Describe allocation procedures used to allocate income taxes among the affiliated group: (In the event there is a written tax allocation agreement, the furnishing of a copy of such agreement will be considered response)

CERTIFICATION

I certify that this statement was prepared under my direction and that the procedures specified herein will be practiced on and after the effective date of the procedures.

SIGNED: _____

TITLE: _____

DATE: _____

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EXHIBIT D
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Carrier _____

PROCEDURES FOR ALLOCATING INCOME TAXES AMONG TRANSPORT ENTITIES, AFFILIATES AND NONTRANSPORT DIVISIONS

Procedures to become effective on _____, 19____

Requirement for filing: Section 22(d) [ ] or 32(d) [ ] and Section 2-18(d) of the Uniform System of Accounts and Reports

PART B

Describe allocation procedures used to allocate income taxes among the transport entities of the air carrier and its nontransport divisions in compliance with section 2-18(d).

CERTIFICATION

I certify that this statement was prepared under my direction and that the procedures specified herein will be practiced on and after the effective date of the procedures.

SIGNED: _____

TITLE: _____

DATE: _____

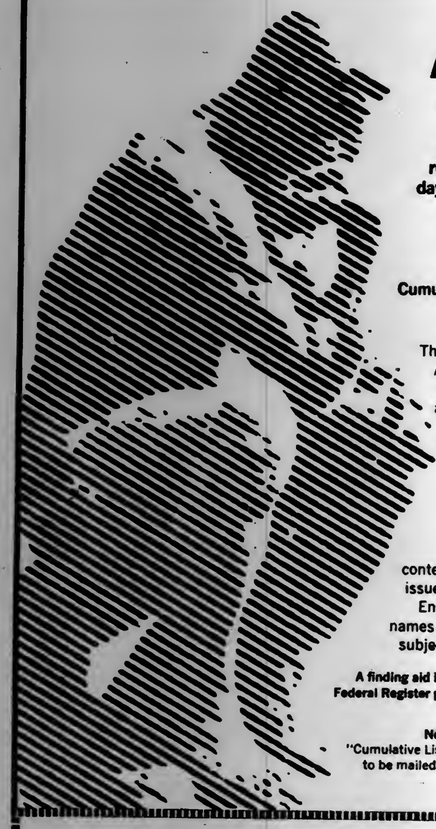
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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of State

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Secretary to the Director, Management Operations is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3304(a)(31) is added as set out below:

§ 213.3304 Department of State.

(a) *Office of the Secretary.* • • •

(31) One Secretary to the Director, Management Operations.

• • • • • •

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–26870 Filed 9–15–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) changes the title of Private Secretary and Administrative Assistant to the Executive Assistant to the Secretary to Private Secretary to the Executive Assistant to the Secretary; (2) excepts the following positions under Schedule C because they are confidential in nature: One position of Private Secretary to the Assistant Deputy Secretary, one position of Confidential Assistant to the Director of Agricultural Economics, and one position of Confidential Assistant to the Administrator (Food Safety and Quality Service).

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3313(a)(8), (n)(4), (v)(2) are amended, and (c)(15) is added as set out below:

§ 213.3313 Department of Agriculture.

(a) *Office of the Secretary.* • • •

(8) One Private Secretary to the Executive Assistant to the Secretary.

• • • • • •

(c) *Office of the Deputy Secretary.* • • •

(15) One Private Secretary to the Assistant Deputy Secretary.

• • • • • •

(n) *Agricultural Economics.* • • •

(4) Three Confidential Assistants to the Director.

• • • • • •

(v) *Food Safety and Quality Service.* • • •

(2) Three Confidential Assistants to the Administrator.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–26868 Filed 9–15–77;8:45 am]

PART 213—EXCEPTED SERVICE

Selective Service System

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This reestablishes the position previously entitled Confidential Assistant to the Director under Schedule C because it is confidential in nature; and changes the title of the position to Administrative Assistant to the Director, to more appropriately reflect the duties of the position.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3346(a) is added as set out below:

§ 213.3346 Selective Service System.

(a) One Administrative Assistant to the Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–26869 Filed 9–15–77;8:45 am]

PART 213—EXCEPTED SERVICE

Agency for International Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Confidential Assistant to the Assistant Administrator for Intergovernmental and International Affairs is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3368(k) is added as set out below:

§ 213.3368 Agency for International Development.

• • • • • •

(k) *Office of the Assistant Administrator for Intergovernmental and International Affairs.* (1) One Confidential Assistant to the Assistant Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–26871 Filed 9–15–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Defense

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C the following positions because they are confidential in nature: One position of Confidential Assistant to the Assistant Secretary (International Security Affairs), and one position of Staff Assistant to the Director, Defense Civil Preparedness Agency.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3306(a)(94) is added and (e)(5) is amended as set out below:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* • • •

(94) One Confidential Assistant to the Assistant Secretary (International Security Affairs).

• • • • • •

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(e) *Defense Civil Preparedness Agency.* • • •

(5) Three Staff Assistants to the Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Special Assistant to the Commissioners.

[FR Doc.77-26958 Filed 9-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Environmental Protection Agency

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Deputy Administrator is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3316(a) (6) is added as set out below:

§ 213.3318 Environmental Protection Agency.

(a) *Office of the Administrator.* • • •

(6) One Special Assistant to the Deputy Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26959 Filed 9-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Deputy Commissioner for Elementary and Secondary Education is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3316(c) (16) is added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

• • • • • •

(c) *Office of Education.* • • •

(16) One Special Assistant to the Deputy Commissioner for Elementary and Secondary Education.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26960 Filed 9-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Deputy Assistant Secretary for Policy Development and Program Evaluation is excepted from the competitive service under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3384(i) (10) is added as set out below:

§ 213.3384 Department of Housing and Urban Development.

• • • • • •

(i) *Office of the Assistant Secretary for Policy Development and Research.* • • •

(10) One Special Assistant to the Deputy Assistant Secretary for Policy Development and Program Evaluation.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26961 Filed 9-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C one position of Special Assistant to the Assistant Secretary for Fish and Wildlife and Parks because it is confidential in nature.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3312(a) (5) is amended as set out below.

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* • • •

(5) Six Special Assistants to the Assistant Secretary for Fish and Wildlife and Parks and one Confidential Assistant (Administrative Assistant) to each of the four Assistant Secretaries for Energy and Minerals, Land and Water Resources, Fish and Wildlife and Parks, and Congressional and Legislative Affairs.

(5 U.S.C. 3301, 3302, EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26962 Filed 9-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Small Business Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Associate Administrator for Minority Small Business, Small Business Administration because the position is confidential in nature.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION ON POSITION AUTHORITY CONTACT:

Dean Bollman, Civil Service Commission, 202–632–7676.

Joe Maas, Director of Personnel, Small Business Administration, 202–653–6780.

Accordingly, 5 CFR 213.3332(dd) is added as set out below:

§ 213.3332 Small Business Administration.

• • • • • •

(dd) Associate Administrator for Minority Small Business.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26956 Filed 9-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Transportation

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Secretary (Steno) to the Special Assistant to the Secretary is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3394(a) (48) is added as set out below:

§ 213.3394 Department of Transportation.

(a) *Office of the Secretary.* • • •

(48) One Secretary (Steno) to the Special Assistant to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26963 Filed 9-15-77;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 110]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period September 18–24, 1977. This regulation is needed to provide for orderly marketing of fresh lemons for the regulation period because of the production and marketing situation confronting the lemon industry.

EFFECTIVE DATE: September 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such lemons, as provided in this regulation, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the specified week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation for the quantity of lemons it considers advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for lemons has improved for this week. Average f.o.b. price was $6.99 per carton the week ended September 10, 1977, compared to $6.95 per carton the previous week. Track and rolling supplies at 120 cars were down 15 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for lemons and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of lemons. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified. The committee meeting was held on September 13, 1977.

§ 910.410 Lemon Regulation 110.

(a) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period September 18, 1977, through September 24, 1977, is established at 215,290 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated: September 15, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural and Marketing Division.

[FR Doc.77-27224 Filed 9-15-77;11:39 am]

[Bartlett Pear Reg. 12, Amdt. 1]

PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

Minimum Grade, Size and Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment continues through June 30, 1978, current minimum grade, size and container requirements applicable to shipments of fresh Bartlett pears grown in Oregon (except the Medford District) and Washington. Unless extended, the regulation would expire September 16, 1977. This action is necessary to assure that pears shipped will be of suitable quality and size in the interest of consumers and producers. Several containers and packs are authorized to reflect trade preferences and needs.

EFFECTIVE DATE: August 1, 1977, through June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: Notice was published in the August 19, 1977, issue of the FEDERAL REGISTER (42 FR 41866) that consideration was being given to a proposal by the Northwest Fresh Bartlett Pear Marketing Committee, established under the marketing agreement and Order No. 931 (7 CFR Part 931) regulating the handling of fresh Bartlett pears grown in Oregon and Washington. This is a regulatory program effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice provided that all written comments in connection with the proposal be submitted not later than September 5, 1977. None were received.

Bartlett Pear Regulation 12 is currently effective during the period August 1, 1977, through September 15, 1977. This regulation specifies grade and size requirements for fresh Bartlett pears grown in Oregon, except the Medford District, and Washington. The requirements are that Bartlett pears, other than Red Bartlett pears, when packed in any of the authorized containers except the western lug or containers of 14–15 pounds net weight, shall grade at least U.S. No. 1 and be not smaller than 165 size except such pears grading U.S. No. 2 may be shipped if they are 150 size or larger.

Red Bartlett pears shall grade at least U.S. No. 1 and be not smaller than 180 size except such pears grading U.S. No. 2 may be shipped if they are 165 size or larger.

Bartlett pears of any variety packed in the western lug must grade at least U.S. No. 2 and be not smaller than 2¼ inches in diameter, except that pears may be handled in such container which fail to meet the requirements of U.S. No. 2 grade only because of serious, but not very serious, damage caused by hail marks or frost, if the shape of the pear is such that it will cut at least one good half.

Bartlett pears of any variety packed in containers of 14–15 pounds net weight must grade at least U.S. No. 2 and be at least 2⅛ inches in diameter, except that pears may be handled in such con-

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tainers if they grade Washington C Grade and are not smaller than 2¾ inches in diameter. Several containers and packs are prescribed.

This action reflects the Department's appraisal of the crop and the need for regulation based on current and prospective market conditions. The extension of the effective period of Bartlett Pear Regulation 12 is designed to provide for orderly marketing in the interest of producers and consumers consistent with the objectives of the act. Committee reports indicate that fresh shipments of Washington-Oregon Bartlett pears will total about 2.4 million standard box equivalents in 1977, compared to 1.9 million standard box equivalents in 1976. The amendment is consistent with the quality and size combination of the estimated crop of Washington-Oregon Bartlett pears.

After consideration of all relevant material presented, including the proposal set forth in the notice, the recommendations submitted on July 8, 1977 by the Northwest Fresh Bartlett Pear Marketing Committee, established under the marketing agreement and order, and other available information, it is hereby found that regulation of Oregon-Washington Bartlett pears, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of Oregon-Washington Bartlett pears are currently in progress and the regulation should continue to be applicable to all such shipments in order to effectuate the declared policy of the act; (2) the provisions of the amendment are identical to those specified in the notice; and (3) compliance with this amended regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

The provisions of Bartlett Pear Regulation 12 (§ 931.312; 42 FR 38578) are revised to read as follows:

§ 931.312 Bartlett Pear Regulation 12.

(a) During the period August 1, 1977, through June 30, 1978, no handler shall handle any lot of Bartlett pears, except Bartlett pears grown in the Medford District, unless such pears meet the following applicable requirements or are handled in accordance with paragraphs (a) (4) or (5) of this section:

(1) *Minimum Grade and Size.* (i) Bartlett pears of varieties other than Red Bartletts, when packed in the standard western pear box, the "L.A. lug", or their carton equivalents, in halfcartons (containers with inside dimensions of 19¼ x 11½ x 5½ inches), in master containers containing overwrapped consumer packages of pears, or in "tight-filled" containers shall be of a size not smaller than 165 size and shall grade at least U.S. No. 1: *Provided*, That Bartlett pears of such varieties may be handled in such containers if they grade at least U.S. No. 2 and are of a size not smaller than 150 size. Red Bartlett variety pears, when packed in any of the containers specified in this subdivision, shall be of a size not smaller than 180 size and shall grade at least U.S. No. 1: *Provided*, That pears of such variety may be handled in such containers if they grade at least U.S. No. 2 and are of a size not smaller than 165 size;

(ii) Bartlett pears of any variety, when packed in the "western lug", shall grade at least U.S. No. 2 and be not less than 2¼ inches in diameter: *Provided*, That such pears of any variety which fail to meet the requirements of U.S. No. 2 grade only because of serious, but not very serious, damage caused by hail marks and/or frost may be shipped if the shape of the pear is such that it will cut at least one good half; and

(iii) Bartlett pears of any variety, when packed in containers containing at least 14 pounds but not more than 15 pounds net weight, shall grade at least U.S. No. 2 grade and measure not less than 2⅛ inches in diameter: *Provided*, That such pears may be handled in such containers if they meet the minimum requirements of Washington C Grade and are not less than 2⅜ inches in diameter.

(2) *Pack or Container Requirements.* Bartlett pears of any variety shall be packed in one of the following types of containers:

(i) "Standard western pear box" or "L.A. lug" or their carton equivalents;

(ii) "Western lug" or containers having a capacity equal to or greater than said lug;

(iii) "Half-carton" containers;

(iv) Containers of at least 14 pounds but not more than 15 pounds net weight;

(v) "Tight-filled" containers; or

(vi) Master containers containing overwrapped consumer packages.

(3) *Special inspection requirements for minimum quantities.* During the aforesaid period any handler may ship on any conveyance up to, but not in excess of, an amount equivalent to 200 "standard western pear boxes" of pears without regard to the inspection requirements of § 931.55 under the following conditions: (i) Each handler desiring to make shipment of pears pursuant to this subparagraph shall first apply to the committee on forms furnished by the committee for permission to make such shipments. The application form shall provide a certification by the shipper that all shipments made thereunder during the marketing season shall meet the marketing order requirements, that he agrees such shipments shall be subject to spot check inspection, and that he agrees to report such shipments at time of shipment to the committee on forms furnished by the committee, showing the car or truck number and destination; and (ii) on the basis of such individual reports, the committee shall require spot check inspection of such shipments.

(4) *Special purpose shipments.* Notwithstanding any other provision of this section, any shipment of pears in gift packages may be handled without regard to the provisions of this paragraph and of §§ 931.41 and 931.55.

(5) Notwithstanding any other provision of this section, any individual shipment of pears which meets each of the following requirements may be handled without regard to the provisions of this paragraph and of §§ 931.41 and 931.55:

(i) The shipment consists of pears sold for home use and not for resale;

(ii) The shipment does not, in the aggregate, exceed 500 pounds net weight of pears; and

(iii) Each container is stamped or marked with the handler's name and address and with the words "not for resale" on letters at least one-half inch in height.

(b) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; "U.S. No. 1", "U.S. No. 2", and "size" shall have the same meaning as when used in the United States Standards for Summer and Fall Pears (7 CFR 51.1260–51.1280); "150 size", "165 size", and "180 size" shall mean that the pears are of a size which pack, in accordance with the sizing and packing specifications of a standard pack, as specified in said United States Standards, 150, 165, or 180 pears, as the case may be, in a standard western pear box (inside dimensions 18 inches by 11½ by 8½ inches); the term "tight-filled" shall mean that the pears in any container shall have been well settled by vibration according to approved and recognized methods; the term "master container" shall mean those containers containing overwrapped consumer packages of pears; the term "very serious damage" shall mean any injury or defect which very seriously affects the appearance or the edible or shipping quality of the pears, "Washington C Grade" shall have the same meaning as when used in the State of Washington Department of Agriculture Permanent Order 103 (Effective November 10, 1966); the term "Western lug" shall mean a container with inside dimensions of 18 by 11½ by 7 inches and the term "L.A. lug" shall mean a container with inside dimensions of 16⅛ by 13½ by 5¾ inches.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 13, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-26985 Filed 9-15-77;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

LIMITED REVISION OF EXPORT LICENSE APPLICATION PROCESS

AGENCY: Office of Export Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: The Export Administration Regulations are amended to delete all requirements for the use of Form DIB–623P, Application Processing Card. This amendment will simplify the application process and reduce work required of the exporter in submitting applications.

EFFECTIVE DATE: September 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles C. Swanson, Director, Operations Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (202–377–4196).

SUPPLEMENTARY INFORMATION: This revision eliminates all requirements for use of Form DIB–623P, Application Processing Card, in order to simplify the application process and reduce work required of the exporter in submitting applications.

Accordingly, the Export Administration Regulations (15 CFR Part 368 et seq.) are amended as follows:

PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

1. In § 372.4, paragraph (a) is revised, paragraph (a) (5), excluding "Note", is deleted, and the second sentence of (b) is deleted. As revised, paragraph (a) reads as follows:

§ 372.4 How to apply for a validated license.

(a) *Form and Manner of Filing*—(1) *Application Form.* An application for a validated license must be submitted on Form DIB–622P, Application for Export License. Since January 1, 1976, only Forms DIB–622P revised March 1975 or later are acceptable. Earlier versions will be returned without action. An application that omits essential information, or is otherwise incomplete, will be returned without action to the applicant. (See § 370.12 for instructions on obtaining forms.)

* * * * * *

PART 373—SPECIAL LICENSING PROCEDURES

§ 373.2 [Amended]

2. Paragraph (c) (2) (i) of § 373.2 is deleted and reserved.

§ 373.3 [Amended]

3. Paragraphs (d) (2) (i) and (d) (3) (i) are deleted and reserved.

4. By revising § 373.5(d) (1) to read as follows:

§ 373.5 Periodic Requirements (PRL) License.

* * * * *

(d) *Application Procedure*—(1) *Application Form.* An application for a PRL Licensee shall be prepared and submitted on Form DIB–622P, Application for Export License, in accordance with instructions contained in § 372.4(a), except as modified below.

5. By revising § 373.6(b) (1) to read as follows:

§ 373.6 Time Limit (TL) License.

* * * * *

(b) *Preparation of a TL License Application*—(1) *Application form.* An application for a Time Limit License shall be prepared and submitted on an Application for Export License, Form DIB–622P, in accordance with instructions in § 372.4(a), except that the applicant shall: * * *

§ 373.7 [Amended]

6. By deleting and reserving §§ 373.7 (d) (1) (ii) (a) and 373.7(d) (1) (iv) (a).

PART 379—TECHNICAL DATA

§ 379.5 [Amended]

7. By amending § 379.5 as follows:

Section 379.5(a) (2) is deleted, and § 379.5(a) (3) is renumbered as § 379.5 (a) (2).

Section 379.5(c) is deleted and reserved.

(Sec. 4 Pub. L. 91–184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization order 10–3, dated Nov. 17, 1975, 40 FR 58876 (1975), as amended; and Domestic and International Business Administration Organization and Function Orders 46–1, dated November 17, 1975, 40 FR 59764 (1975), as amended and 46–2, dated November 17, 1975, 40 FR 59761 (1975) as amended.)

RAUER H. MEYER,
Director, Office of Export Administration.

[FR Doc.77-27027 Filed 9-13-77;3:39 pm]

Title 16—Commercial Practice

CHAPTER I—FEDERAL TRADE COMMISSION

PART 433—PRESERVATION OF CONSUMERS' CLAIMS AND DEFENSES

Two-Party Open End Consumer Credit Contracts

AGENCY: Federal Trade Commission.

ACTION: Modification of exemption from trade regulation rule; denial of proposed permanent exemption—Forty-five day extension of exemption.

SUMMARY: On April 14, 1977 the Commission issued a limited exemption from certain requirements of the Trade Regulation Rule concerning the Preservation of Consumers' Claims and Defenses (42 FR 19487), for two-party open end consumer credit contracts that were executed before August 1, 1977 and do not involve the use of negotiable instruments or waivers of claims and defenses. That exemption was subsequently extended for a period of 45 days beyond August 1, 1977 (42 FR 40426). The Commission when it issued the exemption also invited comment on the exemption issued and on a proposed, permanent exemption.

Based on its review of the comments received, the Commission has decided to modify the exemption so that the definitions make it clear that "30 day accounts", which do not allow the consumer the option of paying in installments, fall within the exemption issued. The Commission has also carefully reviewed the record and has decided that the arguments and data presented by commenters do not support the issuance of a permanent exemption. The Commission is however, further extending the limited exemption for another 45 days beyond September 14, 1977. Thus, the Rule will apply to all consumer credit contracts taken or received by sellers after October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Walter Diercks, Deputy Assistant Director, Division of Compliance, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202–254–9491).

DATES: The Rule will apply to all consumer credit contracts taken or received by sellers after October 31, 1977.

SUPPLEMENTARY INFORMATION: Section 433.2(a) of the Trade Regulation Rule on Preservation of Consumers' Claims and Defenses requires that a short Notice be included in all consumer credit contracts used by sellers. The required Notice expressly preserves the consumers' right to assert against any third party which subsequently acquires the contract any legally sufficient claims and defenses that the consumer may have against the seller.

On April 14, 1977 (42 FR 19847) the Commission issued a limited exemption from the Rule for two-party open end consumer credit contracts that were executed before August 1, 1977 and do not involve the use of negotiable instruments or waivers of claims and defenses. The Commission subsequently extended the exemption for a period of 45 days beyond August 1, 1977 (42 FR 40426). The Commission is further extending its limited exemption for an additional 45 day period. Thus, as of November 1, 1977 the Rule will apply to all consumer credit contracts taken or received by sellers.

The Commission also, in its April 14 1977 FEDERAL REGISTER Notice, invited interested parties to comment on the exemption, as issued, as well as a permanent exemption proposed in a petition filed by the National Retail Merchants Association (NRMA) and the American Retail Federation (ARF). The proposed exemption would have applied to two-party open end consumer credit contracts which do not involve the use of negotiable instruments or waivers of claims and defenses. Further, upon transfer of the contract, the Notice required by the Rule would become a term of the consumer credit contracts.

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Twenty-six comments were received by the Commission in response to its April 14, 1977 FEDERAL REGISTER Notice. Industry commenters basically argued that the Commission should issue the broader exemption proposed by the National Retail Merchants Association (NRMA) and the American Retail Federation (ARF) in their petitions for exemption. Industry commenters argued that because the proposed exemption is confined to contracts that are not negotiable and do not contain waiver provisions, and because they would agree to include the required Notice in the event of transfer, consumers would receive equivalent protections. The National Consumer Law Center objected to the issuance of any exemption for two-party credit contracts.

After analyzing the views, arguments and data, the Commission has decided that the exemption, as issued, should be slightly modified and, further, that the petitions submitted by NRMA and ARF should be denied.

In denying the NRMA/ARF petitions the Commission carefully weighed the costs of prospective compliance with the Rule against the potential for consumer injury that might result from exempting two-party open end consumer credit contracts from the Rule. Major compliance costs put forth by industry commenters were those costs associated with disposing of obsolete inventories of forms, typically a six-month supply, and reprinting new forms—a total of $3 million. The Commission decided that the costs of prospective compliance, especially in light of the extension of the exemption through October 31, 1977, would be substantially less than $3 million and further that these costs did not outweigh the potential for consumer injury that might result if the exemption were extended permanently. The potential for consumer injury stems mainly from the state laws that may operate to cut off consumers' claims and defenses despite non-negotiability and the absence of a waiver. Several commenters conceded that certain state laws may have such an effect. The Commission has further reviewed these state laws and determined that the uncertainties of the state laws of assignment suggests the desirability of denying the proposed permanent exemption.

In order to give all sellers an adequate opportunity to come into compliance with the Rule, the Commission is extending its limited exemption for an additional 45 days beyond September 14, 1977. Thus, the Rule will apply to all consumer credit contracts taken or received by sellers after October 31, 1977.

The Commission is also modifying 16 CFR 433.3(b)(3), the definition of "open end credit," to track the language of 202.2(w) of Federal Reserve Board Regulation B, as amended March 23, 1977 (12 CFR Part 202), to include so-called "30 day accounts," extensions of credit which do not allow the consumer the privilege of paying in installments, within the exemption, issued on April 14, 1977.

The primary purpose of the exemption, as issued, was to avoid costs involved in modifying existing two-party open end credit agreements. The Commission decided that there was no justification for distinguishing "30 day accounts" from other two-party open end credit contracts that are exempted through October 31, 1977.

Accordingly, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., the provisions of Part I, Subparts B and C of the Commission's Procedures and Rules of Practice, 16 CFR 1.7, et seq., and 553 of Subchapter II, Chapter 5, Title 5 of the U.S. Code (Administrative Procedures), the Commission hereby modifies §§ 433.3(a) and 433.3(b)(3) of 16 CFR Part 433:

§ 433.3 Exemption of sellers taking or receiving open end consumer credit contracts before November 1, 1977, from requirements of § 433.2(a).

(a) Any seller who has taken or received an open end consumer credit contract before November 1, 1977, shall be exempt from the requirements of 16 CFR Part 433 with respect to such contract: *Provided*, The contract does not cut off consumers' claims and defenses.

(b) Definitions. The following definitions apply to this exemption: * * *

(3) "Open end credit": Consumer credit extended pursuant to a plan under which a creditor may permit an applicant to make purchases or make loans from time to time directly from the creditor or indirectly by use of a credit card, check or other device as the plan may provide. The term does not include negotiated advances under an open end real estate mortgage or a letter of credit.

* * * * * *

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

SEPARATE STATEMENT OF COMMISSIONER CALVIN J. COLLIER

Commissioner Collier dissented from the Commission's decision to deny the permanent exemption, stating:

Although I agree with the Commission's decision to grant a further temporary exemption, I dissent from its decision to refuse a permanent (conditional) exemption from the "Holder-in-Due-Course Rule"[1] for open-end credit and 30-day accounts. I would grant such an exemption where:

The debt instrument is not a negotiable instrument;

It does not contain a waiver or limitation of consumer claims or defenses; and

It is not transferred, sold, pledged or assigned.

This exemption would require the addition of the notice prior to any subsequent assignment.

By its terms, the exemption would unquestionably provide the same measure of consumer protection as the rule itself. The rule has relevance only where obligations are assigned to third persons; and, among other things, the exemption would be unavailable if an assignment were made. The possibility for lesser consumer protection can therefore arise only if the exemption is exceeded and the rule is violated. Conversely, neither the rule nor the exemption is violation-proof, although the prospect of substantial civil penalties and litigation expenses, far in excess of the likely profit from violating the rule (with or without the exemption), should hold in check the risks of this behavior.

The central issue, in my view, is whether the exemption will make it significantly easier to both violate the law and get away with it. An affirmative answer, it seems to me, requires a showing that: (1) Detection of law violations will be more difficult; (2) the cutting off of consumer claims or defenses will be more likely; and (3) sellers and assignees will perceive these advantages as sufficiently attractive to offer a premium price for these consumer obligations. Some discussion on each of these conditions is required.

At the outset, however, it is important to note that the failure to grant an exemption will add to the costs of supplying credit. The costs in wasted forms alone are estimated to be between $0.5 million and $3 million, depending on various assumptions.[2] There are also the intangible costs of aggravation that invariably attend compliance with the latest government regulatory command. Finally, the exemption proposed would reduce the inevitable costs of consumer confusion that surely will result when a consumer applying for an open-end or 30-day account reads the required notice; inquires with a raised eyebrow whether the seller plans to assign his obligation to a third party; is told, "no"; asks then what the reason for the notice is; and is told that it serves no purpose except that it is required by law. The Commission can ill afford to incur unnecessary costs of this kind.

The staff has argued that violations of the rule will be more difficult to detect as a result of the exemption. The principal approach to policing compliance with the rule will apparently be subpoenas of credit agreements to assure that the required notice is included.[3] But policing compliance with the rule with the exemption could be just as easily achieved by demanding the credit agreements (to be sure that they contained either the required notice or the absence

[1] Trade Regulation Rule Concerning Preservation of Consumers Claims and Defenses, 16 CFR Part 433 (1977).

[2] The smaller estimates depend on the assumption that sellers have been depleting their inventories of old forms during the pendency of our deliberations. Moreover, today's action of the Commission to extend the temporary exemption will reduce these costs even further. These costs, like all other costs, must be passed through to consumers, no matter what the state of competition in the regulated industry. (Economic theory tells us that there would be a proportionately greater passing through of these costs the more competitive the industry.)

of waiver language) and by further demanding a list of those that had been assigned. The absence of the notice on the assigned agreements would, of course, indicate a violation of the rule.[4] In short, I do not see how the task of policing compliance with the rule would be rendered more costly by the exemption,[5] how detection would be made more difficult, or how sellers or assignees would perceive a more valuable temptation to violate the rule.

Neither do I believe that the exemption would increase the likelihood that consumers' claims and defenses would be cut off by the exemption. Sellers who are not deterred by the prospects of heavy civil penalties but who wish to cut off consumers' claims might just as well do so by ignoring the rule altogether.

The staff is concerned, however, about the situation where the seller (in excess of the exemption and thus in violation of the rule) assigns an open-end or 30-day account that is not on its face a negotiable instrument and that does not contain a waiver of defenses. Under the Uniform Commercial Code the consumer's claims and defenses against the seller could be asserted against the assignee.[6] But under some recently enacted state consumer protection statutes the consumer's rights are less clear. My research has disclosed eleven such statutes that could be interpreted to abrogate consumer rights. Of these, eight seem to be triggered by the presence of a waiver clause of the kind that the exemption would absolutely forbid.[7] Behind each of these statutes there seems to have been a clear attempt to expand consumer rights in the face of a purported waiver, not to restrict them in the absence of one. In three other states, the statutory language is more susceptible of a perverse interpretation that would limit, rather than expand the consumer rights granted by ordinary commercial law.[8] No court to my knowledge, or, apparently to the staff's, has ever interpreted any of these statutes to the feared effect. Should a court ever do so, I do not see why we could not cancel the exemption or limit its geographic application for that reason.

The staff also argues that open-end consumer obligations might be transferred to a bankruptcy trustee without the notice (again, in violation of the rule).[9] The trustee, it is thought, might retransfer, without adding the notice, to a third party. If these obligations did not bear a waiver of the kind that the exemption would forbid, I do not clearly see how consumer claims and defenses could be cut off. Nor do I see any reason why a bankrupt, bankruptcy judge or trustee[10] would fail to respect the legal obligation to include the notice at the time of assignment.

Each variety of potential consumer injury hypothesized by the staff requires conduct in excess of the exemption and in violation of the rule. Undoubtedly, rule violations will occur in spite of the prospect of civil penalties and some[11] consumers will suffer injury. But I fail to see how the proposed exemption will enlarge this class of violators or aggravate that injury. The prospects of detection are the same and the potential for incremental profit is remote.

Indeed, the information at hand indicates that the chances for consumer injury by cutting off consumer claims and defenses in the case of open-end or 30-day accounts is especially remote. These arrangements typically signal a continuing relationship between consumer and seller grounded in part on the seller's hope that the consumer will be a repeat, if not a regular, customer. This phenomenon is consistent with the information we have indicating that such accounts are seldom assigned (except to bill collectors against whom claims and defenses are available in any event). In contrast, the rule itself was principally directed at so-called fly-by-night sellers and sellers engaged in occasional, nonrepeat sales of big-ticket items. In short, there is no reason to suspect that the proposed exemption would aggravate such compliance problems as may otherwise arise.

Finally, we are urged to reject the exemption because the required notice may contribute to consumer education. The short answer to this question is that the rule is drafted in legal jargon[12] to serve a legal, not an educational, purpose.[13] For example, the rule does not advise consumers of their substantive rights, but only that they are preserved in an assignment, whatever they are. Moreover, if no assignment occurs, no educational purpose can possibly be served, and only confusion—as opposed to education—can result.

For these reasons, I believe that the Commission's action in failing to grant a conditional exemption for open-end credit will oblige consumers to pay more for credit with no added protection. I would grant an exemption conditioned along the lines suggested in the first part of my statement.

SEPARATE STATEMENT OF THE COMMISSION

The Commission in denying the petition issued the following statement:

The Commission has carefully reviewed the petitioners' request for a permanent exemption from the requirements of the Trade Regulation Rule Concerning Preservation of Consumers' Claims and Defenses (16 CFR Part 433) and has determined to deny it.

When promulgated the Rule was designed to ensure that consumers purchasing on credit would not, as a result of negotiation or assignment of their credit instruments, be deprived as to third party holders of those instruments of defenses which the consumers would have been able to assert against the original sellers. In fashioning the Rule the Commission determined that its requirements should apply to "consumer credit contracts" (as defined in the Rule), a category somewhat broader than negotiable instruments or contracts containing waiver of defenses clauses. One concern of the Commission in taking this approach was that certain State laws

[3] It is possible that some portion of law violators will compound their misconduct by failing to produce any noncomplying documents.

[4] Once again, and presumably to the same extent, a violator could compound his misconduct by falsifying his return. See previous footnote.

[5] Although efficiency of enforcement is an important consideration, we ought to strive to confine violations of our law to those situations in which consumers may be injured. Failing to grant the exemption when the vast bulk of open-end obligations are not assigned could divert resources to policing "technical" violations that have little possibility of ripening into actual consumer injury. We might in this way actually reduce, not increase, our enforcement efficiency.

[6] U.C.C. § 9-318(1) (1972 version). Claims and defenses arising from the contract are good against the assignee whether they accrue before or after assignment. U.C.C. § 9-318(1)(a) (1972 version). Consumers' claims not arising from the contract (such as a personal injury claim against the seller) are good against the assignee if they accrue before assignment. U.C.C. § 9-318(1)(b) (1972 version). In addition, it is extremely likely that an assignee of any debt instrument not bearing the required notice would be held to have taken the instrument with actual knowledge (implied by law) that the obligation is conditional on the seller's preference.

[7] In some of these eight states there is also an issue whether the relevant statutes apply at all to open-end. 2 Consumer Credit Guide (CCH) (Del.) ¶6012, 6042; 3 Consumer Credit Guide (Kans.) ¶5154; 3 Consumer Credit Guide (CCH) (Ohio) ¶6016; Id. (Pa.) ¶¶6225, 6275; Id. (S.C.) ¶5104; Id. (Tex.) ¶6023; Id. (W. Va.) ¶5032; Id. (Wisc.) ¶5107. Of these the Kansas statute is most troublesome.

[8] 1 Consumer Credit Guide (CCH) (Ariz.) ¶6152. Even here, however, most consumers will find a strong counter-argument in Id., ¶6151. See also 3 Consumer Credit Guide (CCH) (N.C.) ¶6325; 3 Consumer Credit Guide (CCH) (S.D.) ¶6185A.

[9] It is at least doubtful that those concerned with administering the bankrupt's estate would violate our rule and subject themselves to personal liability for civil penalties, all for the benefit of creditors. To be sure, the bankruptcy law may require that the consumer have a provable claim against the estate, but this would appear to be so whether the notice is included in the underlying agreement or not.

[10] In order for consumers to be injured (with or without the exemption) the following events must conjoin: (1) The consumer must have a valid claim against the seller. (2) The consumer must not be in a position to assert this claim against the seller prior to assignment. (3) There must be an assignment. (4) The seller and the assignee must both refuse to adjust the claim. (5) The buyer must be willing to litigate the claim (as such or as a defense). (6) There must be a violation of the rule. (7) Ordinary operation of law, in face of the violation, must cut off the claim on assignment.

Open-end is distinguishable from other forms of credit covered by the rule because of the greater infrequency of events (3) and (7), to say nothing of (1).

[11] The required notice has already achieved the dubious distinction of appearing in the Gobbledygook column of the Washington Star. Washington Star, July 1, 1976.

[12] Moreover, consumers would not have access to the notice when it is included in a master two-party credit card agreement, as would be permitted.

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might operate to limit or curtail defenses of consumers against assignees of "consumer credit contracts" even though such contracts might not be negotiable in form nor contain a waiver of defenses clause.

In seeking an exemption for open-end credit contracts, petitioners have not denied the possibility that in some states assignment of these contracts may result in that very loss of claims and defenses which the Rule is intended to prevent. While there is some dispute over the extent to which this may occur—and a precise evaluation is clearly not possible because of uncertainty over the interpretation of various state laws which, notwithstanding benign purposes may be construed to pernicious effect—it is conceded by both petitioners and Commissioner Collier in his dissent that consumers will be deprived of their claims. We believe that if the problem were indeed trivial or purely speculative that fact would and should have been documented in the petitions of those intimately involved in the extension of credit whose burden it is to justify the requested exemption.

In lieu of hard data, the petitions merely suggest that there is a better way than the Rule to prevent the possibility of loss of defenses as a result of assignment. Petitioners contend that rather than requiring inclusion of the Rule's prescribed notice in all open-end contracts it should only be required in such contracts at the time those contracts are assigned.[13]

The Commission determined when it promulgated the Trade Regulation Rule that the best way to prevent loss of consumer claims and defenses against third parties was to require the notice in all "consumer credit contracts." The instant petitions do not demonstrate that this original determination was incorrect. Our principal concern with the exemption proposed by petitioners is that it places the burden of compliance upon retailers at a time when they may be least likely to shoulder it or be detected if they do not. A requirement that the notice be placed in all consumer credit contracts is unambiguous, easily adhered to, and readily monitored. Compliance is likely to be widespread. Compliance with a requirement that the notice be incorporated into the contract only at the time of assignment is much more problematic. It is not apparent to us that a contract may be unilaterally modified by the creditor, and the process of contract modification upon assignment might, therefore, necessitate preassignment contact with the debtor. Diminishing the likelihood that this will occur is the fact that assignments often take place when the assignor is least concerned with the technical requirements of the law or least fearful of the scrutiny of the law enforcer, i.e., when its financial fortunes are in decline or when it faces bankruptcy.

A creditor required in the normal course of business to place the notice in all contracts will do so as a matter of routine procedure and face ready detection if it fails. A creditor making an occasional assignment, or making numerous assignments in the face of financial trauma or bankruptcy may not be aware of the requirement of a rule by which it has never before been affected, and if aware may be less apprehensive of detection. Indeed, its violations will be more difficult to detect. In light of these considerations and on the basis of the petitions before us, we find no reason to alter the Commission's earlier conclusion that requiring inclusion of the notice in all consumer credit contracts is more likely than alternative approaches to minimize the harm which the Rule is designed to prevent.

At the same time, the Commission recognizes that the issue is a difficult one and that some misunderstanding as to the scope of the Rule's provisions may have occurred. As a result, the Commission has made every effort to minimize or eliminate the costs attendant upon compliance with the Rule. In April 1977 the Commission granted a limited exemption for pre-existing open-end credit contracts and open-end contracts signed prior to August 1, 1977. Subsequently the Commission granted an additional extension of 45 days in order to minimize or eliminate the costs of compliance and has now authorized an additional 45 day period during which petitioners may bring themselves into compliance.[14]

Under these circumstances, the Commission believes, and has been given no reason to doubt, that the costs of adding the required notice to future form contracts will be insignificant, and do not justify dilution of the protections thereby afforded. Accordingly, the Commission has declined to grant the requested permanent exemption for two-party open-end credit contracts.

[FR Doc.77-27075 Filed 9-15-77;8:45 am]

[13] The Rule would still apply under petitioners' proposal to such open-end contracts as might be negotiable in form or contain a waiver of defenses clause.

[14] While Commissioner Dole concurs in the portion of the Commission's decision denying the permanent exemption, she continues to believe that the costs of immediate compliance have not been shown to outweigh the value of the protection to consumers that will be lost due to the extensions granted by the Commission.

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5863, 34-13938, 35-20166, AS-226]

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, AND INVESTMENT COMPANY ACT OF 1940

Marketable Securities and Other Security Investments

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission has adopted amendments to its rules regarding disclosures by commercial and industrial companies of investments in marketable securities and other security investments. Current economic conditions and events have indicated a need for more detailed information on material concentrations of investments in the securities. The requirements of the amended rules will result in improved disclosures of these concentrations of investments by commercial and industrial companies.

DATE: Effective for financial statements for fiscal years ending after December 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert R. Love, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-755-1773).

SUPPLEMENTARY INFORMATION:

Background

The Commission originally issued a proposal in Securities Act Release No. 5668 (34-11986, IC-9116) [41 FR 4833] on January 7, 1976, to require disclosure in a footnote to the financial statements of information regarding concentrations of investments in marketable securities and other investment securities. Basically, the proposal would have required footnote disclosure by all registrants of the investments in such securities of any issues for which the aggregate book value exceeded five percent of stockholders' equity. This proposal was issued at the time Accounting Series Release No. 188 [41 FR 4817] was issued which mandated certain special disclosures for registrants' holdings of New York City securities because of the unusual risks and uncertainties pertaining to them, and, as stated in that release, the proposal was part of a longer term and more generalized effort to deal with the fact that, because other issuers of securities may suffer financial difficulties severely affecting a registrant's holdings of such securities, material concentration of holdings of any security may warrant disclosure.

After consideration of the comments on the proposal, the Commission issued a revised proposal in Securities Act Release No. 5825 (34-13500, 35-20016) [42 FR 23853] on May 2, 1977. In the revised proposal major changes were made (1) to change the criterion for the required footnote disclosures to a basis of the investments in the securities of any issuer for which the aggregate market value exceeds one percent of total assets, and (2) to limit the applicability of the requirements to commercial and industrial companies which prepare financial statements in accordance with Article 5 of Regulation S-X [17 CFR Part 210].

Other technical revisions were made in the proposal, including amendments of the instructions to the schedule prescribed under Rule 12-02 [§ 210.12-02] of Regulation S-X, "Marketable securities—other security investments," to provide for segregation of the securities required to be listed by issuers in the schedule on the same basis as specified in the proposed footnote disclosure requirement. It was noted in the release that the information called for by the proposed footnote disclosure requirement might duplicate to some extent the disclosures required to be provided in the schedule under Rule 12-02. Comments were solicited regarding how to reduce or eliminate such duplication.

Comment on the Second Proposal

Comments on the proposal in Release No. 33-5825 have been carefully considered. Most commentators generally supported the concept embodied in the proposal of disclosure of concentrations of investments in the securities of particular issuers with the objective of providing better information for evaluating the risks of investments as between issuers. However, almost all stated that the criterion for disclosure of the concentrations, specified in the proposal as one percent of total assets, was too low and would result in disclosure in the notes to financial statements of considerable detailed information which is immaterial. It was suggested that, as a minimum, the basis for disclosure should be increased to two percent of total assets to conform to the criterion for grouping of securities by issuers presently specified in Rule 12-02, and in any event, footnote disclosures should not be required for investments in securities of the U.S. Government and its agencies because of their nearly risk-free nature.

It was also suggested that, if a requirement for footnote disclosure of material concentrations of investments is adopted by the Commission, the Rule 12-02 schedule requirement should be eliminated, inasmuch as the information included in the Rule 12-02 schedule on material investments and material concentrations would also be provided in the footnote, and therefore the disclosures in the Rule 12-02 schedule regarding such material investments and concentration would be duplicative and unnecessary.

Other commentators suggested that the proposed requirement for footnote disclosure of the concentrations of investments be withdrawn and instead the requirements for the schedule under Rule 12-02 be revised to insure that all disclosures called for in the proposed new rule will be included in the schedule. They reasoned that many of the securities and the concentrations thereof itemized in the schedule would involve no unusual risks or uncertainties, particularly securities of the U.S. Government and its agencies, and other requirements exist for specific discussions or disclosures in the financial statements regarding unusual risks or uncertainties relating to any material concentrations of investments in securities and accordingly a requirement for footnote disclosure of all such material concentrations is unnecessary.

Adoption of Amendments.

After consideration of the comments, the Commission has determined to withdraw the proposal contained in Release No. 33-5825 and instead amend Rule 12-02 and Rule 5-04 (17 CFR 210.5-04), which specifies when the schedule prescribed by Rule 12-02 shall be filed for disclosures of securities included under caption 2, Marketable securities, and caption 12, Other security investments, of a balance sheet, to require detailed disclosures in the Rule 12-02 schedule regarding each issue of securities of any issuer where the greater of the aggregate cost or market value of the securities of the issuer constitutes two percent or more of total assets, and to permit summarized disclosures of the other security holdings of the registrant in the marketable securities and other security investments accounts, the amounts of which, for any issuer, do not exceed two percent of total assets. The detailed disclosures required include a description of each security issue, the cost, the market value, and the amounts at which carried in the balance sheet.

The Commission is persuaded by the comments that inclusion in one schedule of these data regarding all of the securities held under these two accounts by a registrant will facilitate a better analysis of the securities holdings, particularly in the comparison of risk factors as between securities. Furthermore, generally accepted accounting principles presently require write-downs or accrual of provisions for losses on securities, as well as disclosure regarding other unquantified loss contingencies in the financial statements, and the Commission would require discussion, in "Management's Discussion and Analysis of Summary of the Earnings" included in reports filed with the Commission, of any unusual risks and uncertainties relating to any material investments or concentration of investments, as discussed and illustrated in Accounting Series Release No. 166 (40 FR 2678). Therefore, requirements beyond those specified above and in the revised Rule 12-02 schedule regarding material concentrations of investments are not considered necessary for commercial and industrial companies subject to Article 5 of Regulation S-X.

Other technical revisions are effected in Rule 5-02 (§ 210.5-02), captions 2 and 12; Rule 5-04 (§ 210.5-02), Schedule I; and the captions and instructions of Rule 12-02 (§ 210.12-02) to clarify the basis for valuation of securities including recognition of requirements under generally accepted accounting principles for determination of the carrying amounts of marketable equity securities on a portfolio basis; and, with regard to caption 2 of Rule 5-02, to clarify the exclusion of securities from the caption.

COMMISSION ACTION: The Commission hereby amends Part 210 of 17 CFR Chapter II, by revisions of (1) captions 2 and 12 of § 210.5-02, (2) Schedule I of § 210.5-04, and (3) the captions and instructions of § 210.12-02 to read as given below.

§ 210.5-02 Balance sheets.

* * * * *

2. *Marketable securities.* Include only securities having a ready market and which represent the investment of cash available for current operations; securities which are intended to be used for nonworking capital purposes shall be excluded. Securities of affiliates and of other persons the investments in which are accounted for by the equity method shall not be included here. State, parenthetically, or otherwise, the basis of determining the aggregate amounts shown in the balance sheet for the portfolio of equity securities and for all other securities, and for each category state the alternative of the aggregate cost or the aggregate market value at the balance sheet date. When the original cost of securities purchased on a yield basis has been properly adjusted to reflect amortization of premium or accumulation of discount since acquisition, the basis of determining their amount may be described "at cost."

* * * * *

12. *Other security investments.* State, parenthetically or otherwise, the basis of determining the aggregate amounts shown in the balance sheet for the portfolio of equity securities and for all other securities, and for each category state the alternate of the aggregate cost or the aggregate market value at the balance sheet date.

* * * * *

§ 210.5-04 What schedules are to be filed.

* * * * *

Schedule I—Marketable securities—other security investments. The schedule prescribed by § 210.12-02 shall be filed—

(1) In support of caption 2 of a balance sheet, if the greater of the aggregate cost or the aggregate market value of marketable securities as of the balance sheet date constitutes 10 percent or more of total assets.

(2) In support of caption 12 of a balance sheet, if the greater of the aggregate cost or the aggregate market value of other security investments as of the balance sheet date constitutes 10 percent or more of total assets.

(3) In support of captions 2 and 12 of a balance sheet, if the greater of the aggregate cost or aggregate market of other security investments plus the greater of the aggregate cost or the aggregate market value of marketable securities as of the balance sheet date constitutes 15 percent or more of total assets.

(4) In support of captions 2 and 12 of a balance sheet, if the greater of the aggregate cost or aggregate market value of the securities as of the balance sheet date of any issuer reported under either caption 2 or caption 12 constitutes two percent or more of total assets.

* * * * *

§ 210.12-02 Marketable securities—other security investments.

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Column A	Column B	Column C	Column D	Column E [1]
Name of issuer [2] and title of each issue.[3]	Number of shares or units—principal amount of bonds and notes.	Cost of each issue	Market value [4] of each issue at balance sheet date.	Amount at which each portfolio of equity security issues and each other security issue carried in the balance sheet.

[1] Column E shall to totaled to correspond to the respective balance sheet captions.
[2] For the purpose of this schedule, each of the following groups of entities shall be considered as one issuer: (a) The United States Government and its agencies; (b) any State of the United States and its agencies; (c) a political subdivision of a state of the United States and its agencies; (d) a foreign government and its agencies and political subdivisions; and (e) a corporation and its majority owned subsidiaries. If a security listed herein is guaranteed by or considered a moral obligation of another issuer named herein, provide, in a note keyed to each issuer, a brief description of the terms of such guarantee or obligation.
[3] (a) Each issue shall be stated separately, except that reasonable groupings, without enumeration, may be made of securities of any issuer for which the greater of the aggregate cost or aggregate market value is less than 2 pct. of total assets. (b) In the case of bank holding companies group separately (1) securities of banks and (2) other securities, and in column C show totals for each group.
[4] Market value shall be based on market quotations at the balance sheet date or, if such quotations are not available, on determinations of fair value made in good faith by the board of directors.

These amendments shall be effective for financial statements for fiscal years ending after December 24, 1977. The amendments are adopted pursuant to authority in Sections 6, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, and 77s) of the Securities Act of 1933; Sections 12, 13, 15(d) and 23(a) (15 U.S.C. 78l, 78m, 78o(d) and 78w) of the Securities Exchange Act of 1934; and Sections 5(b); 14 and 20(a) (15 U.S.C. 79e, 79n, and 79t) of the Public Utility Holding Company Act of 1935. Pursuant to Section 23(a)(2) of the Exchange Act, the Commission has considered the effect that the proposed amendments would have on competition and is not aware, at this time, of any burden that such amendments would impose on competition not necessary or appropriate in furtherance of the purposes of the Act.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 8, 1977.

[FR Doc.77-26984 Filed 9-15-77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 77C-0207]

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Guanine; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document confirms the effective date of August 23, 1977, of a regulation concerning the use of guanine in externally applied drugs and in cosmetics generally, including those drugs and cosmetics intended for use in the area of the eye.

DATE: Effective date confirmed, August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-472-5740).

SUPPLEMENTARY INFORMATION: A regulation published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37536) added §§ 73.1329 and 73.2329 to Subparts B and C, respectively, of Part 73 (21 CFR Part 73) to provide for the safe use of guanine in externally applied drugs and in cosmetics generally, including those drugs and cosmetics intended for use in the area of the eye. The regulation also amended § 81.1(g) (21 CFR 81.1(g)), by deleting guanine (pearl essence) from the provisionally listed colors.

Under the Federal Food, Drug, and Cosmetic Act (Sec. 706(b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), notice is given that no objections or requests for hearing were filed in response to the regulation of July 22, 1977. Accordingly, the amendments promulgated thereby became effective on August 23, 1977.

Dated: September 7, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-26627 Filed 9-15-77;8:45 am]

[Docket No. 77C-0210]

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Zinc Oxide; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document confirms the effective date of August 23, 1977, of a regulation concerning the use of zinc oxide in externally applied drugs and in cosmetics generally, including those drugs and cosmetics intended for use in the area of the eye.

DATE: Effective date confirmed, August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-472-5740).

SUPPLEMENTARY INFORMATION: A regulation published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37537) added §§ 73.1991 and 73.2991 to Subparts B and C, respectively, of Part 73 (21 CFR Part 73) to provide for the safe use of zinc oxide in externally applied drugs and in cosmetics generally, including those drugs and cosmetics intended for use in the area of the eye. The regulation also amended § 81.1(g) (21 CFR 81.1(g)) by deleting zinc oxide from the provisionally listed colors.

Under the Federal Food, Drug, and Cosmetic Act (sec. 708 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner (21 CFR 5.1), notice is given that no objections or requests for hearing were filed in response to the regulation of July 22, 1977. Accordingly, the amendments promulgated thereby became effective on August 23, 1977.

Dated: September 7, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-26628 Filed 9-15-77;8:45 am]

SUBCHAPTER G—COSMETICS

[Docket No. 76N-0153]

PART 701—COSMETIC LABELING

Ingredient Designation of Cosmetics Sold by Direct Mail

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document provides for off-package declaration of ingredients for cosmetics distributed to consumers by direct mail and prescribes the requirements for this alternative method of labeling. Petitioners had requested this labeling method.

EFFECTIVE DATE: October 17, 1977, except as to any provision that may be stayed by the filing of proper objections.

FOR FURTHER INFORMATION CONTACT:

Heinz J. Eiermann, Bureau of Foods (HFF-440), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington D.C. 20204 (202-245-1530).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of June 21, 1976 (41 FR 24899), the Commissioner of Food and Drugs issued a proposal to provide for off-package declaration of ingredients in the case of cosmetics distributed to consumers by direct mail. Petitioners requested this method of labeling as an alternative to the declaration of ingredients on a package label, as required in the cosmetic ingredient labeling regulations (21 CFR 701.3 (a) and (b)). Petitioners requested that distributors selling cosmetics by direct mail be permitted to list the ingredients of these cosmetics either in a descriptive catalog from which the consumer selects or orders products by mail, or, where cosmetics are mailed on consignment, in accompanying literature.

Five comments were received in response to the proposal. Four comments endorsed the proposal; namely, two explicitly and two by implication in that they proposed further amendments or other regulatory action. One comment expressed neither endorsement nor opposition. Summaries of the comments and the Commissioner's conclusions follow:

1. One comment endorsing the proposal to add a new paragraph (r) to § 701.3 expressed disappointment about the Commissioner's denial of a request for listing of ingredients in alphabetical order or listing of only "known allergens" as an alternative to the currently prescribed listing of ingredients in descending order of predominance. A second comment, which expressed preference for alphabetical ingredient listing, neither endorsed nor opposed the proposal.

The Commissioner advises that the issue of alphabetical listing of ingredients or declaration of only "known allergens" was fully discussed in the preambles to regulation published in the FEDERAL REGISTER of May 30, 1975 (40 FR 23458) and the proposal published in the FEDERAL REGISTER of June 21, 1976 (41 FR 24899). No data or other information were submitted during the comment period after the May 30, 1975, regulation, or at any time thereafter, in support of these alternate methods of declaration of ingredients. Accordingly, no rule making proceeding was initiated to change the existing requirement for listing ingredients in descending order of predominance.

2. One comment asked that cosmetics sold by direct mail and accompanied by labeling bearing ingredient declarations specifically relating to the cosmetics mailed should not be required to state that a copy of the ingredient declarations will be mailed to any person requesting it, as ordered in proposed § 701.3(r)(2)(ii). The comment argued that a copy of the brochure describing the cosmetics and listing the ingredients would likely be included in a cosmetic shipment, and the required mailing of additional brochures is burdensome, costly, and unjustified. The comment also said that this provision is more stringent than the requirement of § 701.3(k)(5), concerning certain cosmetics with off-package ingredient labeling that are sold at retail. Section 701.3(k)(5), it was noted, merely requires that the distributor "supply sufficient declarations of ingredients so that a purchaser may obtain a copy of the declaration with each purchase."

The Commissioner is not persuaded that the requirements of proposed § 701.3(r)(2)(ii), i.e., the statement on the mail order package and the mailing of an ingredient declaration to any person requesting it, are unjustified and exceed a similar requirement for cosmetics with off-package labeling that are sold at retail. There is always the chance that some cosmetic assortments may on occasion not contain the brochure with the ingredient information. The recipients of such mailings must be assured that ingredient declarations are available from the distributor on request. In addition, consumers who have lost or inadvertently discarded their brochures must be able to obtain new ingredient lists from the distributor when needed, and the ingredient information must also be available to other consumers sharing in the use of a cosmetic assortment.

The Commissioner points out that proposed § 701.3(r) only provides for an alternate method of ingredient labeling. Cosmetics distributed by direct mail may also bear the ingredient information on the package label, should this method be more convenient and economical. Furthermore, the distributor is not required to mail a costly brochure to a person requesting ingredient information. Ingredient declarations may be provided on leaflets or other plain labeling.

As regards § 701.3(k)(5), the comment disregarded the additional provision of § 701.3(k)(6), which requires that the firm whose name appears on the label of a "shaded" product, as defined in § 701.3(l)(2), that does not bear an ingredient declaration shall promptly mail a copy of the ingredient information to any person requesting it. Accordingly, the requirements of § 701.3(r) are not discriminatory or more stringent than those applicable to "shaded" cosmetics.

3. Two comments contended that off-package ingredient labeling as proposed for cosmetics sold by direct mail should also be permitted in the case of cosmetics distributed to consumers by means of "direct selling" or "door-to-door selling." This method of selling involves solicitation of sale of a cosmetic by an independent sales agent at the consumer's home and delivery of the purchased product by the salesperson to the consumer. Both comments held that the methods of distribution of cosmetics by direct selling and direct mail have much in common, with the pertinent difference between the two methods of selling being the manner of product delivery, i.e., delivery of a product to a consumer by a sales agent as opposed to delivery by postal service.

The Commissioner advises that proposed § 701.3(r) was published in response to a petition concerning only cosmetics sold by direct mail. The request did not refer to cosmetics distributed by means of direct selling. Moreover, the Commissioner disagrees with the contention that the two methods of distribution of cosmetics are sufficiently analogous also to permit off-package ingredient labeling for cosmetics distributed by means of direct selling. In fact, the Commissioner concludes that the two methods of distribution differ profoundly. In the case of distribution by direct mail, a cosmetic is shipped directly to the consumer and the distributor fully controls delivery to the consumer of the required ingredient information. Where a cosmetic is shipped to a sales agent for delivery or sale to a consumer, the delivery of ingredient information to the consumer cannot be controlled by a distributor in the case of off-package labeling. Direct selling, therefore, has in this regard much more in common with selling through retail outlets than selling by direct mail, and, with the exception of shaded cosmetics held for sale in tightly compartmented trays or racks, cosmetics sold through retail outlets are not permitted to declare ingredients by means of off-package labeling.

4. One comment requested clarification regarding the definition of the term "package" and placement on the package of the notice informing the consumer about the location of the declaration of ingredients and, specifically, whether the notice may be located on the face of the package platform surrounding and holding the assorted products.

The Commissioner advises that the term "package" as it applies to this regulation is defined in section 10(b) of the Fair Packaging and Labeling Act (15 U.S.C. 1459(b)) and in 21 CFR 1.20. Since a shipping container is not included in the definition of the term "package," the respective notice may not be placed on an "outer mailing container."

Placement of the notice on the face of the package platform surrounding and holding the assorted products is not considered contrary to the intent of § 701.3(r)(2). To clarify the meaning of this requirement, the Commissioner is amending its wording accordingly. Section 701.3(r)(2) now includes in the description of the location of the respective notice the additional phrase, "• • • on the face of the package platform surrounding and holding the product(s) • • •."

5. On April 27, 1976, the Commissioner received a request for extension of the effective dates of cosmetic ingredient labeling—May 31, 1976 for ordering labels with ingredient declarations and November 30, 1976, for labeling of cosmetics with ingredient declarations (Ref. 1). The petitioner sought the extension because no action had been taken to that date by FDA on the requested permission for off-package labeling of cosmetics sold by direct mail, and the requirement for ingredient labeling was about to become effective. In the FEDERAL REGISTER of June 21, 1976 (41 FR 24899), the Commissioner issued the proposal regarding off-package ingredient labeling of cosmetics sold by direct

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mail. On August 2, 1976, the petitioner was notified that the request for extension of the effective dates was denied, but because of the existing uncertainties and the petitioner's concern about full compliance with regulatory requirements, the agency notified the petitioner that it would not take regulatory action against cosmetics labeled in accordance with proposed § 701.3(r). The Commissioner advises that he will continue to abide by this commitment until the final rule becomes effective.

REFERENCES

1. Letter of April 27, 1976, by William F. Weigel, Counsel for Cosmetique Beauty Club, Inc., to the Hearing Clerk, Food and Drug Administration.

2. Letter of August 2, 1976, by the Associate Commissioner for Compliance, to William F. Weigel, Esq., Rogers, Hoge & Hills, New York, N.Y. 10016.

Therefore under the Federal Food, Drug, and Cosmetic Act (sec. 701(e), 70 Stat. 919 as amended (21 U.S.C. 371(e)), the Fair Packaging and Labeling Act (secs. 5(c), 6(a), 80 Stat. 1298, 1299 (15 U.S.C. 1454, 1455)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 701 is amended in § 701.3 by adding new paragraph (r), to read as follows:

§ 701.3 Designation of ingredients.

* * * * *

(r) In the case of cosmetics distributed to the consumers by direct mail, as an alternative to the declaration of ingredients on an information panel, the declaration of ingredients may appear in letters not less than 1/16 of an inch in height in labeling that accompanies and specifically relates to the cosmetic(s) mailed, or in labeling furnished to each consumer for his personal use and from which he orders cosmetics through the mail, e.g., a direct mail sales catalog or brochure, provided all of the following additional requirements met:

(1) The declarations of ingredients are conspicuous and presented in a way that permits the consumer to identify the declaration of ingredients applicable to each cosmetic.

(2) The package mailed to the consumer is accompanied by a notice located on, or affixed to, the top of the package or on top of the contents inside the package, or on the face of the package platform surrounding and holding the product(s), readily visible to the consumer on opening of the package, and provides the following information in letters not less than 3/16 of an inch in height:

(i) The location of the declarations of ingredients, e.g., in an accompanying brochure, or in a sales catalog used for ordering;

(ii) A statement that a copy of the declaration of ingredients will be mailed promptly to any person requesting it; and

(iii) The name and place of business of the mail order distributor.

(3) The mail order distributor promptly mails a copy of the declaration of ingredients to any person requesting it.

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 17, 1977, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a heading is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a heraing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m. Monday through Friday.

Effective date. This regulation shall become effective October 17, 1977, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Sec. 701(e), 70 Stat. 919, as amended (21 U.S.C. 371(e)); secs. 5(c), 6(a), 80 Stat. 1298, 1299 (15 U.S.C. 1454, 1455).)

Dated: September 9, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-26755 Filed 9-15-77;8:45 am]

SUBCHAPTER H—MEDICAL DEVICES

[Docket No. 76N-0355]

ESTABLISHMENT REGISTRATION AND PREMARKET NOTIFICATION PROCEDURES

Corrections

In FR Doc. 77-24147 appearing as Part III at page 42519 in the issue for Tuesday, August 23, 1977, the following corrections should be made.

1. On Page 42521, second column, line 19, the word, "modification", should read, "notification".

2. On page 42525, third column, 4th line from the bottom, the date, "October 25, 1977", should be changed to, "October 24, 1977".

3. On page 42526, first column, the dates on lines 7 and 12 of paragraph d., now reading, "October 21, 1977", should read, "October 24, 1977".

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

[Dept. Reg. 108.745]

PART 9A—CLASSIFICATION OF CERTAIN INFORMATION AND MATERIAL OBTAINED FROM ADVISORY BODIES CREATED TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Security Information Regulations Applicable to Certain International Energy Program, Related Material

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule establishes regulations for the classification and safeguarding of certain information and material obtained from advisory bodies created to implement the International Energy Program (TIAS 8278). EO 11932 directs the Department of State to promulgate such regulations which will provide for the protection of classified information taking into account the special circumstances under which such information is generated and utilized and will reflect the character of certain records which may be in the possession of the United States Government.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerald A. Rosen, Director, Office of Fuels and Energy, Bureau of Economic and Business Affairs, Department of State, Washington, D.C. 20520.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 17142, March 31, 1977) inviting interested persons to submit comments regarding the proposed regulation. Relevant comments have been considered and in order to clarify the regulations, a new § 9a.1 is added and the remaining section headings are renumbered.

Accordingly, Part 9a is adopted as set forth below.

Dated: September 6, 1977.

BEN H. READ,
Deputy Under Secretary for Management.

Sec.
9a.1 Security of certain information and material related to the International Energy Agency.
9a.2 General policy.
9a.3 Scope.
9a.4 Classification.
9a.5 Declassification and downgrading.
9a.6 Marking.
9a.7 Access.
9a.8 Physical protection.

AUTHORITY: E. O. 11932 (41 FR 32691), E. O. 11652 (37 FR 5209), National Security Council Directive of May 17, 1972 (37 FR 10053).

§ 9a.1 Security of certain information and material related to the International Energy Program.

These regulations implement Executive Order 11932 dated August 4, 1976 (41 FR 32691, August 5, 1976) entitled "Classification of Certain Information and Material Obtained from Advisory Bodies Created to Implement the International Energy Program."

§ 9a.2 General policy.

(a) The United States has entered into the Agreement on an International Energy Program of November 18, 1974, which created the International Energy Agency (IEA). This program is a substantial factor in the conduct of our foreign relations and an important element of our national security. The effectiveness of the Agreement depends significantly upon the provision and exchange of information and material by participants in advisory bodies created by the IEA. Confidentiality is essential to assure the free and open discussion necessary to accomplish the tasks assigned to those bodies.

(b) These regulations establish procedures for the classification, declassification, storage, access, and dissemination of certain information related to the International Energy Program.

§ 9a.3 Scope.

These regulations apply to all information and material classified by the United States under the provisions of E. O. 11932, dated August 4, 1976 entitled "Classification of Certain Information and Material Obtained From Advisory Bodies Created To Implement The International Energy Program."

§9a.4 Classification.

(a) Section 1 of E.O. 11932, August 4, 1976 directs that information and material obtained pursuant to the International Energy Program and which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States shall be classified pursuant to Executive Order 11652.

(b) Information and material, including transcripts, records, and communications, in the possession of the United States Government which has been obtained pursuant to (1) Section 252(c)(3), (d)(2) or (e)(3) of the Energy Policy and Conservation Act (89 Stat. 871, 42 U.S.C. 6272(c)(3), (d)(2), (e)(3)), or (2) The Voluntary Agreement and Program Relating to the International Energy Program (40 FR 16041, April 8, 1975), or (3) the Voluntary Agreement and Plan of Action to Implement the International Energy Program (41 FR 13998, April 1, 1976), or (4) Any similar Voluntary Agreement and Program entered into under the Energy Policy and Conservation Act shall be reviewed by an officer of the Department of State with classifying authority for the purpose of determining whether such information or material should be classified pursuant to E.O. 11652. If the officer determines that the information or material warrants classification, he shall assign it the appropriate classification. Such information or material may be exempted from the General Declassification Schedule established by Section 5 of Executive Order No. 11652 if it was obtained by the United States on the understanding that it be kept in confidence, or if it might otherwise be exempted under Section 5(B) of such Order.

(c) In classifying such information or material, officers of the Department of State shall follow the standards in E.O. 11652 and the provisions of 22 CFR 9.5–9.8.

§ 9a.5 Declassification and downgrading.

The provisions of E.O. 11652, 22 CFR 9.9–9.15, and 9a.4(b) shall govern declassification and downgrading of such information or material.

§ 9a.6 Marking.

(a) The provisions of 22 CFR 9.15–9.19 shall govern the marking of information or material classified under the provisions of these regulations, except that the following stamp shall be used as appropriate:

(Top Secret, Secret or Confidential)
Classified by:----------
Under Executive Order 11932
Exempt from General Declassification Schedule of E.O. 11652 Exemption Category § 5B (2), (3), or (4); or E.O. 11932
Automatically Declassified on----------
(effective date or event if any)

Exemption category "E.O. 11932" shall be used for information and material obtained by the United States on the understanding that it be kept in confidence and classified under E.O. 11932.

(b) If the information or material does not qualify for exemption from the General Declassification Schedule, ordinary stamps and marking may be used.

§ 9a.7 Access.

(a) Except as set forth in this section, access to information or material classified under the provisions of these regulations shall be governed by the provisions of 22 CFR 9.20–9.25.

(b) Classified information and material which was created by or in connection with an advisory body to the IEA may be made available to participants in such advisory body and their colleagues in accordance with the following subsections.

(c) Such information and material classified "Confidential" may be made available for review to participants in the meeting of the advisory body in which it was developed or discussed. Where participants are acting as representatives of companies or of the IEA Secretariat, such information and material may be made available for review to employees or other representatives of, or counsel for, such companies or Secretariat: *Provided*, That such person is determined by an appropriate officer of the Department to be trustworthy and to have a need for access to the particular classified information sought in connection with the performance of duties in furtherance of the purposes of the IEA, including the furnishing of legal advice to such participants.

(d) Such information and material classified "Confidential" may be left in the custody of such participants or other persons who may review it for reasonable periods of time: *Provided*, That an appropriate officer of the Department determines that it will be protected from unauthorized disclosure by adequate security safeguards. Such information or material may not be reproduced by those permitted to review it pursuant to this section without the written consent of an officer of the Department with classifying authority.

(e) Such information and material classified other than "Confidential" under E.O. 11652 may be made available for review only to participants in the meeting in which it was developed or discussed; it must be reviewed in the presence of an official of the United States Government with an appropriate security clearance granted by the Department, and may not be left in the custody of such participants.

§ 9a.8 Physical protection.

Except as provided in § 9a.7, the physical protection of information or material classified under this regulation shall be governed by the appropriate provisions of 22 CFR 9.45–9.49.

[FR Doc.77-27057 Filed 9-15-77;8:45 am]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—LAW AND ORDER

PART 11—LAW AND ORDER ON INDIAN RESERVATIONS

Training Requirements

SEPTEMBER 7, 1977.

AGENCY: Bureau of Indian Affairs, Interior Department.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is amending the regulations relating to training for Indian police and jailers. The amendments authorize certain non-BIA training and is designed to give trainees a greater choice of training programs and to permit the BIA to determine which training programs meet BIA requirements. The changes in the requirements for jailer training are necessary because only limited training for jailers is available at the Indian Police Academy. The changes in the action required to be taken when an officer fails to pass a required course are designed to minimize the adverse consequences to the maximum extent possible without undermining the training requirement.

EFFECTIVE DATE: This revision is effective October 17, 1977.

FOR FURTHER INFORMATION CONTACT:

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Eugene F. Suarez, Sr., Division of Law Enforcement Services, Bureau of Indian Affairs, Washington, D.C. 20245, telephone: 202–343–5786.

SUPPLEMENTARY INFORMATION: These amendments make several minor changes in the rules governing training for Indian police and jailers. Subparagraph (1) of § 11.304(g) is revised to authorize training in any program approved by the Commissioner of Indian Affairs. The old rule authorized only training given by the Indian Police Academy or the state where the officer is employed. Subparagraphs (2), (3), and (4) of § 11.304(g) are revised to authorize training prior to entry on new duties. The old rule limited the availability of training to those already performing those duties. Paragraph (n) of § 11.305 is revised to permit jailers to serve up to six months before completing training. The old rule required the jailer to be trained before entry on duty. This paragraph is also revised to include any training approved by the Commissioner. The old rule permitted training only by the Indian Police Academy or by the state where the jailer is employed. The rules have also been modified to include as one possible consequence of failure to pass a training program a lateral transfer. The old rule mandated dismissal or demotion.

This revision was published as a proposed rule in the March 22, 1977, FEDERAL REGISTER (42 FR 15429). No comment from the public objecting to the proposed rule or suggesting that it be changed was received. The only change from the proposed rule provides that non-BIA training must substantially meet or exceed the level of training provided by the Indian Police Academy in order to be approved. This change has been made to provide a standard to be used by the Commissioner in exercising approval authority.

This rule is published under the authority contained in 5 U.S.C. 301, 25 U.S.C. 2, and 25 U.S.C. 450k, and delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Sections 11.304 and 11.305 of Subchapter B, Chapter I, Title 25 of the Code of Federal Regulations are amended as follows:

1. By revising § 11.304(g) to read as follows:

§ 11.304 Minimum standards for police programs.

* * * * *

(g) (1) Newly employed patrol officers shall successfully complete within their first year of service the approved Basic Police Training Course conducted at the Indian Police Academy or a similar course substantially meeting or exceeding the level of training provided by the Indian Police Academy and approved by the Commissioner of Indian Affairs. An officer who fails to complete the training required by this subparagraph shall be discharged or transferred to a position not involving law enforcement duties. Transfer may result in demotion.

(2) Prior to, or within one year after, promotion or appointment to a supervisory enforcement position, an employee shall complete the approved Supervisory Enforcement Officer Training Course conducted at the Indian Police Academy or a similar course substantially meeting or exceeding the level of training provided by the Indian Police Academy and approved by the Commissioner of Indian Affairs. An officer who is serving in a supervisory position and fails to complete the training required in this subparagraph shall be transferred to a nonsupervisory position. Transfer may result in demotion.

(3) Prior to, or within one year after, promotion or appointment to a criminal-investigator position, an officer shall successfully complete the Criminal-Investigator Training Course conducted at the Indian Police Academy or a similar course substantially meeting or exceeding the level of training provided by the Indian Police Academy and approved by the Commissioner of Indian Affairs. An officer who is serving in a criminal-investigator position and fails to complete the training required in this subparagraph shall be transferred to a noncriminal-investigator position. Transfer may result in demotion.

(4) Prior to, or within one year after, promotion or appointment to a supervisory criminal-investigator position, an officer shall successfully complete the Executive Management Course of Training conducted at the Indian Police Academy or a similar course substantially meeting or exceeding the level of training provided by the Indian Police Academy approved by the Commissioner of Indian Affairs. An Officer who is serving in a supervisory criminal-investigator position and fails to complete the training required in this subparagraph shall be transferred to a nonsupervisory criminal-investigator position. Transfer may result in demotion.

2. By revising § 11.305(n) to read as follows:

§ 11.305 Minimum standards for detention programs.

* * * * *

(n) Prior to, or within six months after, promotion or appointment to a position involving detention/jail duties, an employee shall successfully complete a Detention/Jail Operations and Management Training Course approved by the Commissioner of Indian Affairs. An employee who is serving in a position involving detention/jail duties and fails to complete the training required by this paragraph shall be transferred to a position not involving detention/jail or law enforcement duties or discharged. Transfer may result in demotion.

(Catalog of Federal Domestic Assistance Program No. 15.131, Indian Law Enforcement Services.)

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.77-26996 Filed 9-15-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER H—INTERNAL REVENUE PRACTICE

PART 601—STATEMENT OF PROCEDURAL RULES

Miscellaneous Amendments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains miscellaneous amendments to the Statement of Procedural Rules. The Statement of Procedural Rules sets forth the procedural rules of the Internal Revenue Service for all taxes administered by the Service. These amendments are made necessary by statutory changes and miscellaneous changes of a technical nature.

DATE: The regulations are effective September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Waltuch of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, D.C. 20224 (Attention: CC: LR: T) (202–566–3328).

SUPPLEMENTARY INFORMATION:

BACKGROUND

A discussion of the most significant amendments follows:

Section 601.106 is amended to provide that the taxpayer or the taxpayer's representative should be advised when the Appellate Division raises a new issue, and should be offered an opportunity for discussion prior to the Service taking any formal action.

Paragraph (d)(2)(i) of section 601.106 is amended to provide that the Appellate Division may secure partial agreements when some of the issues can be resolved.

Paragraph (d)(2)(ii) of section 601.106 is amended to provide that in unagreed cases before the Appellate Division, the case and its administrative file will no longer be forwarded to the service center director or the district director for the issuance of the statutory notice of disallowance of a claim for refund or credit. This notice will be issued by the Appellate Division.

Paragraph (f)(5) of section 601.106 is amended to indicate that the jurisdiction of the Appellate Division includes cases involving termination of taxable year assessments and jeopardy assessments.

Paragraph (g)(1) of section 601.106 is amended to indicate that if the Appellate Division determines that there has been an overpayment of certain taxes in excess of $200,000, including excise taxes imposed upon private foundations or pension plans under chapter 42 or 43, the determination will be considered by the Joint Committee on Taxation.

Paragraph (a) of section 601.106 is amended to provide that no refund or credit of certain taxes in excess of $200,000 may be made until after the expiration of 30 days from the date a report is submitted to the Joint Committee on Taxation.

Paragraph (e)(19) of section 601.201 is amended to indicate that a taxpayer may protest an adverse ruling letter, or the terms and conditions contained in a ruling letter, issued under § 367 of the Code by sending or hand delivering a letter to the Service within certain time limits. Additionally, this amendment sets forth the procedure to be followed by the Assistant Commissioner (Technical) upon the timely receipt of the letter of protest.

Paragraph (c)(4) of section 601.202 is revised to provide that associate chiefs and conferee-special assistants of the appellate branch offices are no longer authorized to enter into and approve certain closing agreements.

Paragraph (c)(5) of section 601.202 is revised to provide that associate chiefs of the appellate branch offices are no longer authorized to enter into and approve certain other closing agreements. Further, this section is revised to provide that assistant regional commissioners (employee plans and exempt organizations) are authorized to enter into and approve closing agreements under their jurisdiction.

Paragraph (f)(3) of section 601.702 is amended to reflect an increase in the fees to be charged to the public for search and duplication services performed by the Internal Revenue Service.

DRAFTING INFORMATION

The principal author of these amendments to the Statement of Procedural Rules was Robert Waltuch of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service participated in developing the amendments, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE STATEMENT OF PROCEDURAL RULES

Accordingly, 26 CFR Part 601 is amended as follows:

Paragraph 1. Section 601.106 is amended as follows:

1. A new sentence is added to the end of paragraph (d)(1) as set forth below.

2. Paragraph (d)(2)(i) is revised as set forth below.

3. Paragraph (d)(2)(ii) is amended by deleting the fourth sentence and inserting in lieu thereof the sentences set forth below.

4. Paragraph (f)(5) is amended by revising the first sentence as set forth below.

5. Paragraph (f)(8) is amended by striking out "Tax Court of the United States" and inserting in lieu thereof "United States Tax Court" wherever it appears.

6. Paragraph (g)(1) is revised as set forth below.

§ 601.106 Appellate functions.

* * * * *

(d) *Disposition and settlement of cases before the Appellate Division*—(1) *In general.* * * * If the Appellate Division raises a new issue, the taxpayer or the taxpayer's representative should be so advised and offered an opportunity for discussion prior to the taking of any formal action, such as the issuance of a statutory notice of deficiency.

(2) *Cases not docketed in the Tax Court.* (i) If after consideration of the case by the Appellate Division of the region a satisfactory settlement of some or all the issues is reached with the taxpayer, he will be requested to sign Form 870–AD or other appropriate agreement form waiving restrictions on the assessment and collection of any deficiency and accepting any overassessment resulting from the agreed settlement. In addition, in partially unagreed cases, a statutory notice of deficiency will be prepared and issued in accordance with subdivision (ii) of this subparagraph with respect to the unagreed issue or issues.

(ii) * * * In addition, if a claim for refund is disallowed in full or in part by the Appellate Division and the taxpayer does not sign Form 2297, the Appellate Division will prepare the statutory notice of claim disallowance and send it to the taxpayer by certified mail (or registered mail if the taxpayer is outside the United States), with a carbon copy to the taxpayer's representative by regular mail, if appropriate. In any other unagreed case, the case and its administrative file will be forwarded to the service center director or returned to the district director with directions to take such action with respect to the tax liability determined in the Appellate Division as may be appropriate, such as the preparation of a notice of adjustment, or the collection of any addition tax in excise and employment tax cases or of the 100-percent penalty. * * *

* * * * *

(f) *Conference practice requirements.* * * *

(5) *Rule V.* In order to bring an unagreed income, estate, or gift tax case in prestatutory notice status, an unagreed employment or excise tax case, an offer in compromise, a termination of taxable year assessment case, or a jeopardy assessment case before the Appellate Division, the taxpayer or taxpayer's representative should first file with the district office, service center, or Office of International Operations a written protest setting forth specifically the reasons for the refusal to accept the findings. * * *

* * * * *

(g) *Limitations on the jurisdiction and function of the Appellate Division*—(1) *Overpayment of more than $200,000.* If the Appellate Division of a region determines that there is an overpayment of income, war profits, excess profits, estate, or gift taxes, or any tax imposed with respect to private foundations or pension plans under chapter 42 or 43, including penalties and interest, in excess of $200,000, such determination will be considered by the Joint Committee on Taxation. See § 601.108.

* * * * *

Par. 2. Section 601.108 is amended by revising the title of § 601.108 and the first sentence of paragraph (a) to read as set forth below.

§ 601.108 Review of overpayments exceeding $200,000.

(a) *General.* Section 6405(a) of the Code provides that no refund or credit of income, war profits, excess profits, estate, or gift taxes, or any tax imposed with respect to private foundations or pension plans under chapter 42 or 43, including penalties and interest, in excess of $200,000 may be made until after the expiration of 30 days from the date a report is made to the Joint Committee on Taxation. * * *

* * * * *

Par. 3. Section 601.201 is amended as follows:

1. The eighth and ninth sentences of paragraph (e)(2) are deleted and the sentences set forth below are inserted in lieu thereof.

2. Paragraph (e)(19) is revised to read as set forth below.

§ 601.201 Rulings and determination letters.

* * * * *

(e) *Instructions to taxpayers.* * * *

(2) * * * If the request for an advance ruling is under section 367 of the Code, see Revenue Procedure 68–23, 1968–1 C.B. 821 as amplified by Revenue Procedure 76–20, 1976–1 C.B. 560, and Revenue Procedure 77–5, 1977–5 I.R.B. 23. (Revenue Procedure 68–23 contains guidelines for taxpayers and their representatives in connection with issuing rulings under section 367. Revenue Procedure 76–20 explains the effect of Revenue Rule 75–561, 1975–2 C.B. 129, on transactions described in section 3.03 (1)(c) of Revenue Procedure 68–23. Revenue Procedure 77–5 sets forth procedures for submitting ruling requests under section 367, and the administrative remedies available to a taxpayer within the Service after such rulings have been issued.) * * *

* * * * *

(19) A taxpayer may protest an adverse ruling letter, or the terms and conditions contained in a ruling letter, issued after January 30, 1977, under section 367(a)(1) of the Code (including a ruling with respect to an exchange described in section 367(b) which begins before January 1, 1978) or section 1042(e)(2) of the Tax Reform Act of 1976, not later than 45 days after the date of the ruling letter. (For rulings issued under these sections prior to January 31, 1977, see section 4.01 of Revenue Procedure 77–5.) The Assistant Commissioner (Technical) will establish an ad hoc advisory board to consider

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each protest, whether or not a conference is requested. The taxpayer will be granted one conference upon request. Whether or not the request is made the board may request one or more conferences or written submissions. The taxpayer will be notified of the time, date, and place of the conference, and the names of the members of the board. The board will consider all materials submitted in writing by the taxpayer and oral arguments presented at the conference. Any oral agreements made at a conference by the taxpayer, which have not previously been submitted to the Service in writing, may be submitted to the Service in writing if postmarked not later than seven days after the day of the conference.

The Board will make its recommendation to the Assistant Commissioner (Technical) and the Assistant Commissioner will make the decision. The taxpayer will be informed of the decision of the Assistant Commissioner by certified or registered mail. The specific procedures to be used by a taxpayer in protesting an adverse ruling letter, or the terms and conditions contained in a ruling letter, under section 367 will be published from time to time in the Internal Revenue Bulletin (see, for example, Revenue Procedure 77-5).

• • • • •

Par. 4. Section 601.202 is amended by revising paragraphs (c) (4) and (c) (5) to read as set forth below.

§ 601.202 Closing agreements.

• • • • •

(c) *Approval.* • • •

(4) Regional commissioners, assistant regional commissioners (appellate), assistant regional commissioners (audit), district directors, the Director of International Operations, chiefs and assistant chiefs of appellate branch offices may enter into and approve closing agreements on cases under their jurisdiction (but excluding cases docketed before the U.S. Tax Court) for a taxable period or periods which end prior to the date of agreement and related specific items affecting other taxable periods.

(5) Regional commissioners, assistant regional commissioners (employee plans and exempt organizations) and (appellate), chiefs and assistant chiefs of appellate branch offices are authorized to enter into and approve closing agreements in cases under their jurisdiction docketed in the U.S. Tax Court but only in respect to related specific items affecting other taxable periods.

• • • • •

Par. 5. Section 601.702 is amended as follows:

1. Paragraph (f) (3) (i) is revised to read as set forth below.

2. Paragraph (f) (3) (ii) is amended by deleting "$3.50" and inserting in lieu thereof "$5.00".

3. Paragraph (f) (4) (i) is revised to read as set forth below.

§ 601.702 Publication and public inspection.

• • • • •

(f) *Fees for services.* • • •

(3) *Search services.* • • •

(i) Of personnel involved in locating records shall be $5.00 for each hour or fraction thereof, except that no charge shall be imposed for a search consuming less than one hour;

• • • • •

(4) *Duplication.* • • •

(i) Photocopies, per page up 8½" x 14", $0.10 each, except that no charge will be imposed for copying 10 pages or less when less than one hour is consumed in locating the records requested.

• • • • •

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 77-26943 Filed 9-15-77; 8:45 am]

Title 33—Navigation & Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 204—DANGER ZONE REGULATIONS

Bering Sea, Shemya Island Area, Alaska

AGENCY: Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: We are amending a regulation to allow for the relocation of a danger zone used by the U.S. Air Force near Shemya Island, Alaska, for meteorological rocket firing. Relocation of the danger zone will provide the U.S. Air Force more reliability in meeting firing schedules and an increased margin of safety for personnel.

DATE: Effective on October 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Ralph T. Eppard, 202-693-5070 or write: Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, ATTN: DAEN-CWO-N.

SUPPLEMENTARY INFORMATION: We published this revision in the notice of proposed rulemaking section of the FEDERAL REGISTER on July 18, 1977 with the comment period expiring on August 16, 1977. We received no comments and accordingly § 204.222b is amended as set forth below.

§ 204.222b In Bering Sea, Shemya Island Area, Alaska; meteorological rocket launching facility, Alaskan Air Command, U.S. Air Force.

(a) *The danger zone.* An arc of a circle with a 45-nautical-mile radius of the launch point centered at latitude 52°43'-30" N., longitude 174°06'05" E extending clockwise from 110° true bearing to 200° true bearing.

• • • • •

NOTE.—The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).)

Dated: September 2, 1977.

CHARLES R. FORD,
Acting Assistant Secretary of the Army (Civil Works).

[FR Doc.77-26977 Filed 9-15-77;8:45 am]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUCATIONAL IMPROVEMENT, AND SCHOLARSHIPS

Grants for Planning of Clinical Educational Programs

AGENCY: Public Health Service, HEW.

ACTION: Interim final regulations.

SUMMARY: These regulations prescribe requirements for grants for planning of clinical education programs pursuant to section 788(f) of the Public Health Service Act (hereinafter "the Act") (42 U.S.C. 295g-8(f), as amended by the Health Professions Education Assistance Act of 1976 (Pub. L. 94-484).

DATES: These regulations are effective September 16, 1977. As discussed below, comments on the regulations are invited. Comments must be received on or before November 15, 1977, in order to be considered.

ADDRESSES: Written comments, preferably in triplicate, should be addressed to the Director, Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Center Building, 4th Floor, Hyattsville, Md. 20782. All comments received will be available for public inspection and copying at the Office of Program Operations, Bureau of Health Manpower, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Daniel N. Masica, M.D., Deputy Director, Division of Medicine, Bureau of Health Manpower, Room 4-44 at the above address. Telephone: 301-436-6424.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, hereby deletes 42 CFR Part 57, Subpart A, entitled "Grants for Construction of Health Research Facilities (Including Mental Retardation Facilities)"[1] and substitutes therefor a new Subpart A, as set forth below, entitled "Grants for Planning of Clinical Education Programs."

A Notice of Intent to issue regulations for this program was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15433). Interested persons were invited to comment on the issues raised and several comments were received. The Department has taken these comments into consideration in developing these regulations.

The following is a brief summary of the major features of the regulations:

1. The regulations in this subpart require that the training programs for which planning is to be done be located in facilities which are other than the principal teaching facilities of the school and which are located in health manpower shortage areas. "Principal teaching facility" for purposes of this grant program, means facilities used by a school of medicine for training programs sponsored by more than one department of the school prior to application for funds under this grant program. This definition was chosen in order to further the Congressional purpose of assisting with costs incurred in developing educational sites in health manpower shortage areas in facilities which have not been previously utilized to a significant degree by departments of a school of medicine. (Section 57.2(f).)

2. The regulations in this subpart in accordance with statutory requirements specify that the planning project must have prior approval of the State legislature in which the proposed training program is to be located, and that the applicant must have received at least $100,000 in non-Federal funds to meet costs of the project. (Section 57.4(c) (2) and (3).)

3. The regulations require that projects plan for training programs to be located in health manpower shortage areas as designated under section 332 of the Act. However, it is anticipated that section 332 shortage area designations will not be available until early in fiscal year 1978 while grants under section 788(f) of the Act must be awarded prior to the close of fiscal year 1977 (i.e., prior to October 1, 1977). For these reasons applicants for grants under this subpart will be informed that although grants under section 788(f) may indeed be made prior to designation of shortage areas under section 332, expenditure of grant funds will be restricted to and contingent upon planning projects involving facilities in shortage areas as ultimately designated under section 332.

Prospective applicants were provided with the factors to be considered in making section 332 designations as well as a current list of shortage areas designated under section 329(b). They were informed that the list of section 329(b) areas served only as examples of possible areas in which projects could be planned, rather than an exclusive listing of all possible sites.

Because of the need for these regulations since grants under section 788(f) of the Act must be awarded prior to October 1, 1977, and in light of the public participation that has already taken place with respect to this program, the Secretary has determined pursuant to 5 U.S.C. 553 and Department policy that it would be impracticable and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations. Accordingly these regulations will be effective on September 16, 1977.

Notwithstanding the omission of proposed rulemaking procedures, interested persons are invited to submit written comments, data, views, and arguments relating to these regulations to the Director of the Bureau of Health Manpower at the address given above. All relevant materials received not later than November 15, 1977, will be considered, and following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of the regulations will be published within 90 days of the close of the comment period. Revisions thereto, although applicable to grants for planning of clinical education programs awarded after publication of these regulations, will be applicable only with respect to activities conducted under such grants on or after the date that the revisions become effective.

Accordingly, the existing Subpart A of 42 CFR Part 57 is deleted, and a new Subpart A is added to 42 CFR Part 57 and is adopted as set forth below.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: August 30, 1977.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: September 6, 1977.

HALE CHAMPION,
Acting Secretary.

Subpart A—Grants for Planning of Clinical Education Programs

Sec.
57.1 Applicability.
57.2 Definitions.
57.3 Eligibility.
57.4 Application.
57.5 Project requirements.
57.6 Grand award.
57.7 Grant payments.
57.8 Expenditure of grant funds.
57.9 Nondiscrimination.
57.10 Grantee accountability.
57.11 Publications and copyright.
57.12 Applicability of 45 CFR Part 74.
57.13 Additional conditions.

[1] Section 201(a) of Pub. L. 94-484 repealed the authority for making grants for construction of health research facilities (section 704, Public Health Service Act, 42 U.S.C. 292c). Therefore, the regulations governing the award of such grants are deleted from the Code of Federal Regulations.

AUTHORITY: Section 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. § 216); section 788(f) of the Public Health Service Act, 90 Stat. 2321 (42 U.S.C. 295g-8(f)).

Subpart A—Grants for Planning of Clinical Education Programs

§ 57.1 Applicability.

The regulations in this subpart are applicable to the award of grants under section 788(f) of the Public Health Service Act (42 U.S.C. 295g-8(f)) to schools of medicine to assist in meeting the planning costs of projects for the training of medical students, enrolled in the last two years of such school, in facilities which are other than the principal teaching facilities of the school and which are existing Federal health care facilities or other public or private health care facilities and which are located in health manpower shortage areas. Grants under this subpart will not be made for feasibility studies.

§ 57.2 Definitions.

For purposes of this subpart:

(a) "Act" means the Public Health Service Act, as amended.

(b) "Council" means the National Advisory Council on Health Professions Education established by section 702 of the Act.

(c) "Fiscal year" means the Federal fiscal year beginning October 1 and ending on the following September 30.

(d) "Health manpower shortage area" means an area designated under section 332 of the Act.

(e) "Nonprofit" as applies to any school means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures or may lawfully inure to the benefit of any shareholder or individual.

(f) "Principal teaching facilities" means facilities used by a school of medicine for training programs sponsored by more than one department of the school prior to application for funds under this subpart.

(g) "Project director" means an individual designated by the grantee in the grant application and approved by the Secretary to direct the project being supported under this subpart.

(h) "School of medicine" means a school which provides training leading to a degree of doctor of medicine and is accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education. A school which by reason of no, or an insufficient, period of operation is not eligible for such accreditation at the time it applies for a grant under this subpart will be considered accredited for purposes of this definition if the Commissioner of Education finds, after consultation with the appropriate accreditation body or bodies, there is reasonable assurance that the school will meet the accreditation standards of such body or bodies before the beginning of the academic year following the normal graduation date of students who are in their first year of in-

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struction at the school during the fiscal year in which the Secretary makes a final determination as to approval of the application.

(i) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(j) "State" includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 57.3 Eligibility.

Any public or nonprofit private school of medicine located in a State is eligible to apply for a grant under this subpart.

§ 57.4 Application.

(a) Each applicant desiring a grant under this subpart must submit an application at such time and in such form as the Secretary may prescribe.[2]

(b) The application must be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this subpart.

(c) In addition to such other pertinent information as the Secretary may require, an application for a grant under this subpart must contain:

(1) A full and adequate description of the proposed project meeting the requirements of section 788(f) of the Act including:

(i) A description of the planning and developmental activities which have been accomplished by the applicant.

(ii) A description of the objectives of the proposed project with a time-phased work program.

(iii) A detailed budget for the proposed project and a justification of the amount of funds requested.

(iv) A description of the qualifications of all professional personnel to be involved in the project, including their professional backgrounds, academic training, responsibilities and functions.

(v) The estimated number of medical students enrolled in the last two years of the school just preceding the award of the degree of doctor of medicine who are scheduled for participation in the training program and the manner in which their participation will be obtained, e.g., required or elective.

(vi) A description of any clinical departments which have been scheduled for participation in the training program.

(vii) A description of the projected faculty resources and approaches to be utilized to determine the adequacy of such resources.

(viii) A description of any proposed facilities which have been scheduled to be used in the proposed training program, including a description of the approach to be utilized to assure that such facilities are adequate to accommodate the training program without reduction in the quality or quantity of health services delivered in the facilities.

(ix) A description of the proposed method for evaluating student and faculty performance in the training program.

(2) Evidence that, before the fiscal year in which the grant may be expended, the project has received the approval of the State legislature or legislatures in which the proposed training program is to be located.

(3) Evidence that, before the fiscal year in which the grant may be expended, the applicant has received at least $100,000 in non-Federal funds to meet costs of the project.

(4) A description of all the current facilities being used by the school.

(5) A description of the current educational programs being conducted by any clinical departments scheduled for participation in the proposed training program.

(6) A description of the current and projected financial resources available to support the proposed training program and evidence that such funds will be sufficient to assure the operation of the training program.

(7) Evidence that the applicable requirements of section 1513(e) have been met.

§ 57.5 Project requirements.

A project supported under this subpart must be conducted in accordance with the following requirements:

(a) The project must be conducted in accordance with the requirements of section 788(f), this subpart and the terms and conditions of the grant award.

(b) The project must plan for a training program which meets the requirements of section 788(f) and this subpart, to be operational within 12 months from the date of the grant award.

(c) The project must be conducted under the direction of a Project Director who is a full time employee of the grantee.

(d) The proposed training program must represent either (1) a new type of training experience for the students at the school; or (2) an expansion of such training experience to include greater numbers of students.

§ 57.6 Grant award.

(a) Within the limits of funds available for such purpose, the Secretary, after consultation with the Council, may award grants to those applicants whose projects will, in his judgment, best promote the purposes of section 788(f) of the Act, taking into consideration, among other pertinent factors:

(1) The potential of the project to meet its stated objectives.

(2) The administrative and managerial capability of the applicant to carry out the project.

(3) The soundness of the fiscal plan for assuring effective utilization of grant funds.

(4) The extent to which the proposed training program will alleviate health manpower needs in health manpower shortage areas.

(5) The adequacy of the staff and faculty who will be available to carry out the training program.

(6) The potential of the training program to be implemented and continued on a self-sustaining basis.

(b) The Secretary will determine the amount of any award on the basis of his estimate of the sum necessary for all or a designated portion of the direct costs of the project plus an additional amount for indirect costs, if any, which the Secretary will calculate either (1) on the basis of his estimate of the actual indirect costs of the project, or (2) on the basis of a percentage of all or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limit of available funds) as well as downward adjustments to actual costs when the Secretary has determined the amount properly expended by the grantee for provisional items.

(c) All grant awards will be in writing and will set forth the amount of funds granted and the period for which such funds will be available for obligation by the grantee, which may not exceed one year.

§ 57.7 Grant payments.

The Secretary will from time to time make payments to the grantee of all or a portion of any grant award, either by way of reimbursement for expenses incurred, or in advance for expenses to be incurred, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project.

§ 57.8 Expenditure of grant funds.

(a) Any funds granted pursuant to this subpart may be expended solely for carrying out the approved project in accordance with section 788(f) of the Act, the regulations of this subpart, the terms and conditions of the award, and the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74.

(b) Grants funds may only be expended for costs directly related to the design and development of training programs which meet the requirements of section 788(f) and this subpart; including salaries of professional and support staff, recruitment of faculty and related staff, domestic travel and purchase of supplies and equipment.

§ 57.9 Nondiscrimination.

(a) Attention is called to the requirements of section 704 of the Act and 45 CFR Part 83 which together provide that the Secretary may not make a grant, loan guarantee, or interest subsidy payment under Title VII of the Act to, or for the benefit of, any entity unless he receives satisfactory assurances that the entity will not discriminate on the basis of sex in the admission of individuals to its training programs.

(b) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.) and in particular to section 601 of such act which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in or be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 80).

(c) Attention is called to the requirements of Title IX of the Education Amendments of 1972 and in particular to section 901 of such Act which provides that no person in the United States shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. A regulation implementing such Title IX, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 86).

(d) Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such section 504, which is applicable to grants made under this subpart, has been issued by the Secretary (45 CFR Part 74).

§ 57.10 Grantee accountability.

(a) *Accounting for grant award payments.*

The grantee must record all payments made by the Secretary in accounting records separate from the records of all other funds, including funds derived from other grant awards. With respect to each approved project the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart; *Provided*, That when the amount awarded for indirect costs was based on a predetermined fixed percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total or selected elements of the reimbursable direct costs incurred.

(b) *Accounting for copyright royalties.* Royalties received by grantees from copyrights on publications or other works developed under the grant must be accounted for as follows:

(1) Royalties received during the period of grant support may be retained by the grantee and, in accordance with the terms and conditions of the grant, used in either or both of the following ways:

(i) Used by the grantee for any purposes that further the objectives of section 788(f) of the Act.

(ii) Deducted from the total project costs for the purpose of determining the net costs on which the Federal share of costs will be based.

(2) Royalties received after the completion or termination of grant support may be retained by the grantee, unless the terms and conditions of the grant or a specific agreement negotiated between the Secretary and the grantee provide otherwise.

(c) *Grant closeout*—(1) *Date of final accounting.* The grantee must render, with respect to each approved project, a full account, as provided therein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* The grantee must pay to the Federal Government as final settlement with respect to each grant under this subpart the total sum of (i) any amount not accounted for pursuant to paragraphs (a) and (b) of this section; and (ii) any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74 and the terms and conditions of the grant award. Such total sum constitutes a debt owed by the grantee to the Federal Government and is recoverable from the grantee or its successors or assignees by setoff or other action as provided by law.

§ 57.11 Publications and copyright.

(a) *State and local governments.* Where the grantee is a State or local government, as those terms are defined in 45 CFR 74.3, the Department of Health, Education, and Welfare copyright requirement set forth in 45 CFR 74.140 shall apply with respect to any book or other copyrightable materials developed or resulting from a project supported by a grant under this subpart.

(b) *Grantees other than State and local governments.* Where the grantee is not a State or local government, as so defined, except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials developed or resulting from a project supported by a grant under this subpart, subject to a royalty-free, nonexclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate and dispose of such materials, and to authorize others to do so.

§ 57.12 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of Part 74. The relevant provisions of the following subparts of Part 74 also apply to all other grantee organizations under this subpart:

Subpart:
- A. General.
- B. Cash depositories.
- C. Bonding and insurance.
- D. Retention and custodial requirements for records.
- F. Grant-related income.
- K. Grant payment requirements.
- L. Budget revision procedures.
- M. Grant closeout, suspension, and termination.
- O. Property.
- Q. Cost principles.

§ 57.13 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc.77-26716 Filed 9-15-77;8:45 am]

PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUCATIONAL IMPROVEMENT AND SCHOLARSHIPS

Grants for Training in Emergency Medical Services

AGENCY: Public Health Service, HEW.

ACTION: Interim-Final Regulations.

SUMMARY: The regulations set forth below amend the requirements for grants to assist in meeting the costs of training programs in the techniques and methods of providing emergency medical services pursuant to section 789 of the Public Health Service Act (42 U.S.C. 295g9).

DATES: These regulations are effective September 16, 1977. As discussed below, comments on the regulations are invited. Comments must be received on or before November 15, 1977, in order to be considered.

ADDRESSES: Written comments, preferably in triplicate, should be addressed to the Director, Bureau of Health Manpower, Health Resources Administration, 3700 East West Highway, Center Building, 4th Floor, Hyattsville, Md. 20782. All comments received will be available for public inspection and copying at the Office of Program Operations, Bureau of Health Manpower, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Daniel N. Masica, M.D., Deputy Director, Division of Medicine, Bureau of Health Manpower, Room 4-44 at the above address, Telephone: 301-436-6424.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, De-

[2] Applications and instructions may be obtained from the Division of Medicine, Bureau of Health Manpower, Health Resources Administration, Room 4-44, 3700 East-West Highway, Center Building, Hyattsville, Md. 20782.

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partment of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, hereby amends Subpart V, "Grants for Training in Emergency Medical Services," of 42 CFR Part 57 in order to take into account the amendments made to the existing authority for training in emergency medical services in Title VII of the Public Health Service Act by the Emergency Medical Services Amendments of 1976 (Pub. L. 94-573), as well as to revise the requirements on the basis of an evaluation of the operation of the preceding program.[1]

A Notice of Intent to issue regulations for this grant program was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15433). Interested persons were invited to comment on the issues raised and several comments were received. The Department has taken these comments into consideration in developing the regulations.

Subsequent to the publication of the Notice of Intent to issue regulations, section 789 was amended by section 306(k) of Pub. L. 95-83, the Health Services Extension Act of 1977 (August 1, 1977), which amended paragraph (1) of section 789(a) to authorize traineeships and fellowships to students who plan to specialize or work as physicians in the practice of emergency medicine. The Department intends to develop separate regulations governing traineeships and fellowships under section 789 as amended to be published in the FEDERAL REGISTER as a notice of proposed rulemaking.

The following is a brief summary of the major features of the regulations:

(A) The regulations, in accordance with section 789 of the Act, specify that these grants are available to schools of medicine, dentistry, osteopathy, and nursing; training centers for allied health professions; hospitals; and other appropriate educational and public entities.

(B) The regulations require, in accordance with section 789(g)(2) of the Act, that a minimum of 30 percent of funds appropriated for grants will be used to assist in meeting the costs of training and the establishment of programs for the training of physicians in emergency medicine.

(C) In addition to general requirements applicable to all grants made under this subpart, specific project requirements relating to the content and standards of programs for training in emergency medical services for medical technicians, both ambulance and paramedic, physicians, and nurses are included.

(D) The regulations provide that preference will be given to projects which have the following features, as appropriate:

(1) Training programs which provide clinical experience in emergency medical services systems receiving assistance under Title XII of the Act;

(2) Training programs which provide substantial portions of the training in health manpower shortage areas;

(3) Training programs which emphasize interdisciplinary approaches to emergency care;

(4) In the case of projects for the training of paramedics, the project is sponsored by an educational entity which grants academic credit for the training; and

(5) In the case of projects for the training of emergency physicians, the project is developing general emergency physician training resources as evidenced by an affiliation with, or training based at, a school of medicine or osteopathy with an administrative unit which is responsible solely for educational programs in emergency medical education: undergraduate, graduate, or continuing education.

Because grants under section 789 must be awarded prior to October 1, 1977, and in light of the public participation that has already taken place with respect to this grant program, the Secretary has determined pursuant to 5 U.S.C. 553 and Departmental policy that it would be impracticable and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Notwithstanding the omission of the proposed rulemaking procedures, interested persons are invited to submit written comments, data, views, and arguments relating to these regulations to the Director of the Bureau of Health Manpower at the address given above. All relevant material received not later than November 15, 1977, will be considered, and following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of the regulations will be published within 90 days of the close of the comment period.

The regulations as set forth below will be applicable and effective upon September 16, 1977. Revisions thereto, although applicable to grants for training in emergency medical services awarded after publication of these regulations, will be applicable only with respect to activities conducted under such grants on or after the date that the revisions become effective.

Accordingly, Subpart V of 42 CFR Part 57 is amended to read as set forth below.

NOTE.—The Department of Health, Education, and Welfare, has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement Under Executive Order 11821 and OMB Circular A-107.

Dated: August 30, 1977.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: September 6, 1977.

HALE CHAMPION,
Acting Secretary.

[1] As amended by Pub. L. 94-573, the authority for emergency medical services training was section 776 of the Public Health Service Act. This section was renumbered section 789 by section 801(b) of the Health Professions Educational Assistance Act of 1976, Pub. L. 94-484.

Subpart V—Grants for Training in Emergency Medical Services

Sec.

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AUTHORITY: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended 63 Stat. 35 (42 U.S.C. 216); Sec. 789, Public Health Service Act, 90 Stat. 2243, as amended 90 Stat. 2709 (42 U.S.C. 295g-9).

§ 57.2101 Applicability.

The regulations in this subpart are applicable to the award of grants under section 789 of the Act (42 U.S.C. 295g-9) to schools of medicine, dentistry, osteopathy, and nursing; training centers for allied health professions; hospitals, and other appropriate educational and public entities to assist in meeting the cost of training programs in the techniques and methods of providing emergency medical services.

§ 57.2102 General policy.

Grant awards will be made under this subpart for the purpose of assisting eligible entities in the establishment, improvement, or expansion of training programs in the techniques and methods of providing emergency medical services, which will contribute to the establishment, operation, improvement, or expansion of emergency medical services systems.

§ 57.2103 Definitions.

(a) "Act" means the Public Health Service Act as amended.

(b) "Advanced Life Support Facility" or "ALS facility" means a hospital with facilities and services specifically designed for the care of critical illnesses and injuries such as trauma, including burns and spinal cord injuries, acute cardiac disorders, high risk infants, poisoning, and behavioral problems, including acute alcohol intoxication, drug overdose and psychiatric injuries.

(c) "Appropriate public entity" means a State, a unit of general local government, or any other public entity which:

(1) Has established an emergency medical services system; and

(2) Except with respect to the basic training of emergency medical technicians, has entered into an agreement with an appropriate education entity for a training program supported under this subpart.

(d) "Associate advanced life support facility" or "associate ALS facility" means a health care delivery facility that interrelates in terms of areawide advanced life support planning (includes educational planning) with a designated advanced life support facility.

(e) "Budget period" means the interval of time into which the project period is divided for budgetary and reporting purposes, as specified in the grant award document.

(f) "Clinical experience" means direct, supervised participation in patient care by observation, examination, and performance of procedures as are appropriate for the assigned role of the trainee on the health team.

(g) "Council" means the National Advisory Council on Health Professions Education established by section 702 of the Act.

(h) "Educational entity" means:

(1) A public or nonprofit private school of medicine, dentistry, or osteopathy as defined in section 701(4) of the Act, which is accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education. A school which by reason of no, or an insufficient, period of operation is not eligible for such accreditation at the time it applies for a grant under this subpart will be considered accredited for purposes of this definition if the Commissioner of Education finds, after consultation with the appropriate accrediting body or bodies, there is reasonable assurance that the school will meet the accreditation standards of such body or bodies before the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at the school during the fiscal year in which the Secretary makes a final determination as to approval of the application;

(2) A school of nursing as defined in section 853(2) of the Act;

(3) A training center for allied health professions, as defined in section 795(2) of the Act; or

(4) A public or nonprofit private organization which has the provision of educational programs as one of its major functions and which itself delivers emergency medical services or has a written agreement with an organization which delivers such services whereby such organization will provide the setting for the clinical experience required for the proposed training.

(i) "Emergency medical services" means the services utilized in responding to the perceived individual need for immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

(j) "Emergency medical services council" means a public agency or a formally established or recognized advisory body of a public agency responsible for review and evaluation of emergency medical services in the area of the project.

(k) "Emergency medical services system" means a system which provides for the arrangement of personnel, facilities, and equipment for effective and coordinated delivery of health care services in an appropriate geographical area under emergency conditions (occurring either as a result of the patient's condition or of natural disasters or similar situations) and which is administered by a public or nonprofit private entity which has the authority and the resources to provide effective administration of the system.

(l) "Emergency medical services systems director" means the designated person responsible for overall direction of the emergency medical services system in the geographic area of the system.

(m) "Emergency medical technicians — paramedic" means persons trained to provide advanced life support services including trauma and cardiac care, and other critical medical prehospital care for acutely ill or injured patients (i.e., treatment of shock, drug administration, and cardiac arrhythmia detection and control).

(n) "Emergency nursing" means the unscheduled nursing care of individuals with acute physical or emotional injuries and illnesses which require prompt intervention.

(o) "Emergency physician" means a licensed physician who is trained to and engages in:

(1) The immediate recognition, evaluation, and care of acutely ill or injured patients under emergency conditions;

(2) The administration, research, and teaching of all aspects of emergency medical services; and

(3) The direction of the patient to sources of follow-up care in or outside the hospital, as required.

(p) "Grant project director" means an individual designated by the grantee in the grant application and approved by the Secretary to direct the programs being supported by the grant, including the performance of the training program director's grant-supported activities.

(q) "Medical director" means an emergency physician who provides medical direction for the entire program of clinical instruction and evaluates students' clinical experience.

(r) "Nonprofit" as applied to any educational entity means one which is a corporation or association or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

(s) "Project period" means the total time for which support for a project has been approved, including any extensions thereof.

(t) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(u) "State" means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(v) "Training program director" means an individual designated to provide competent overall direction and coordination for the organization, administration, periodic review, continued development, and effectiveness of the educational program.

§ 57.2104 Eligibility.

Any educational entity, appropriate public entity, or public or nonprofit private hospital located in a State may apply for a grant under this subpart.

§ 57.2105 Application.

(a) Each eligible applicant desiring a grant under this subpart must submit an application at such time and in such form as the Secretary may prescribe.[2] For State and local governments, as those terms are defined in Subpart A of 45 CFR Part 74, attention is called to the forms required by Subpart N of 45 CFR Part 74.

(b) The application must be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations in this subpart.

(c) In addition to such other pertinent information as the Secretary may require, an application for a grant under this subpart must contain:

(1) A detailed description of the proposed project which meets the applicable requirements of § 57.2106 including:

(i) A description of the specific measurable objectives of the proposed project which are consistent with the purposes of section 789 of the Act, and a detailed plan for achieving those objectives;

(ii) A description of the administrative staff and faculty available for the conduct of the proposed project, including their professional background, qualifications, academic training, responsibilities, and functions;

(iii) A description of the facilities, equipment, and educational resources available for the conduct of the proposed project;

(iv) A description of any cooperative arrangements with other institutions, agencies, or organizations for carrying out the proposed project, including arrangements for the provision of clinical practice facilities;

(v) A detailed description of the curriculum for the training program;

(vi) A description of recruitment plans and criteria for the selection and admission of students, including the extent to which the program intends to emphasize the recruitment and necessary training of veterans of the Armed Forces with military training and experience in health care fields and of appropriate public safety personnel, which include policemen, fire fighters, and other public employees charged with maintaining public safety;

(vii) An estimate of the number of individuals to be trained in each training cycle;

(viii) A detailed budget for the proposed project and a justification of the amount of grant funds requested;

(ix) A description of the financial resources available to the applicant to

[2] Applications and instructions may be obtained from the Director, Division of Medicine, Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Center Building, 4th Floor, Hyattsville, Md. 20782.

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assure the sound establishment and maintenance of the proposed project, including a description of the extent to which funds have either been sought by or have been made available to the applicant from Federal programs authorized by statutes other than the Act for the support of the proposed project; and

(x) A description of the plans, if any, for continuing the proposed project beyond the project period.

(2) Evidence of the unavailability of educational programs necessary to supply and maintain sufficient numbers of emergency physicians, dentists, nurses, allied health personnel, and emergency medical technicians (ambulance and paramedic) needed to provide emergency health services on a 24-hour basis in the geographic area for which the applicant proposes to train such personnel.

(3) Evidence that the proposed project is coordinated with other programs (existing or planned) in the geographic area for which the applicant proposes to train emergency medical personnel.

(4) Evidence that all applicable requirements of section 1513(e) of the Act have been met.

(5) Evidence that the proposed project has been submitted for review to the emergency medical services system director, the emergency medical services council, if any, and any other entities responsible for review of emergency medical services in the geographic area for which the applicant proposes to train emergency medical personnel. Copies of any written comments received pursuant to such reviews must be submitted to the Secretary.

§ 57.2106 Project requirements.

(a) *General requirements.* A project supported under this subpart must be conducted in accordance with the following requirements:

(1) The project must be conducted in accordance with section 789 of the Act, the regulations of this subpart, the approved application, and the terms and conditions of the award.

(2) The project must provide a training program which meets relevant standards and guidelines established by appropriate:

(i) Accrediting bodies recognized by the Commissioner of Education,

(ii) Federal or State agencies, or

(iii) Professional associations;

unless the Secretary determines for demonstration purposes that the requirement of this paragraph should be waived on an application by application basis.

(3) The project must provide the training necessary to enable its graduates to meet any relevant laws or regulations governing employment standards or credentials for emergency medical personnel in the geographic area for which the applicant proposes to train such personnel.

(4) The project must have a systematic plan for evaluating the training program, including the performance of the students, the degree to which defined objectives are met, and the impact of the program on the delivery of emergency medical services in the geographic area for which the project proposes to train emergency medical personnel.

(5) The project must have an appropriate setting for the clinical experience required for the training which must be provided either by the grantee or through a written agreement with an organization delivering emergency medical services. The facility chosen for the clinical experience must have major emergency medical capabilities and adequate patient volume and must deliver a variety of emergency medical services.

(6) The project must have available adequate faculty, staff, facilities, and equipment for the conduct of the training program.

(7) The project must have a grant project director. The grant project director may also be a training program director. If the grant project director becomes unable to function in such capacity, the Secretary must be notified as soon as possible.

(8) The project must have a training program director who:

(i) Supervises (A) the processing of student applications and the selection of students, (B) the maintenance of a complete inventory of all training equipment available to the program, and (C) the scheduling of classes and assignment of instructors, insuring that the required equipment and materials are available at each class;

(ii) Assists in instruction, as appropriate, and in the coordination of the examination and evaluation of students, including the preparation of assessment materials;

(iii) Counsels students on an individual basis;

(iv) Serves as liaison between students, program staff, and the sponsoring institution and its affiliates; and

(v) Prepares the program budget.

(9) The project must establish and utilize uniform student selection criteria.

(10) The project must maintain a record of the participation in the program and the level of competence attained by each student.

(11) The grantee must provide the students with a statement of satisfactory completion of the course.

(b) *Specific requirements.* In addition to the requirements of paragraph (a) of this section, projects for the training of emergency medical technicians (ambulance and paramedic), emergency nursing personnel, or emergency physicians must also meet the following specific requirements, as appropriate:

(1) *Projects for the training of emergency medical technicians-ambulance.* The project must either: (i) Meet the guidelines prescribed by the Department of Transportation and set forth in DHEW Publication No. (HSA) 74-2027, (January 1974) which is hereby incorporated by reference and made a part hereof. Copies of this document may be obtained, free of charge, from the Public Health Service, Department of Health, Education, and Welfare, P.O. Box 911, Rockville, Maryland, 20853; or

(ii) demonstrate that at least 75 percent of the graduates of such program either pass the National Registry of Emergency Technicians examination within six months after graduation or meet applicable State requirements which are determined by the Secretary to equal or exceed Department of Transportation guidelines.

(2) *Projects for the Training of emergency medical technicians-paramedic.* (i) The training program must prepare students to meet the performance standards contained in Appendix A of the "National Training Course Guide for Emergency Medical Technician-Paramedic," hereinafter the "Course Guide," developed by the Department of Transportation's National Highway Traffic Safety Administration, which is hereby incorporated by reference and made a part hereof. Copies of this document may be obtained, free of charge, from the United States Department of Transportation, National Highway Traffic, Safety Administration, Washington, D.C. 20510.

(ii) The course goals by module and course content of the training program must conform to those outlined in Appendices B and C of the Course Guide.

(iii) The clinical experience must be based at a school of medicine or osteopathy, hospital or other health care delivery facility which can assure sufficient medical supervision and clinical experience as set forth in the Course Guide. A substantial portion of this experience must be in an ALS facility or in an associate ALS facility which has appropriate resources.

(iv) Only individuals who have a high school diploma or equivalent degree may be enrolled in the training program.

(v) The project must have a medical director. The medical director may be the training program director.

(vi) The project must provide for the continuing education of the faculty in content areas related to their educational responsibilities.

(3) *Projects for the training of emergency nursing personnel.* (i) The project must meet the "Standards of Emergency Nursing Practice" developed by the American Nurses' Association and the Emergency Department Nurses' Association (ANA Publication Code MS-S), or equivalent standards as determined by the Secretary. This document is hereby incorporated by reference and made a part hereof. Copies can be obtained, free of charge, from the Emergency Department Nurses' Association, P.O. Box 1566, East Lansing, Michigan 48823.

(ii) The training program director must be a registered nurse with at least one year of experience and education in emergency nursing patient care and experience in baccalaureate nursing education.

(iii) The project must have a medical advisor who is an emergency physician and will advise the training program director regarding medical control and supervision in the clinical environment.

(iv) Only individuals who are licensed registered nurses or are full-time students in a school of nursing and have completed courses in basic patient care, maternal and child health, mental health and medical-surgical nursing may be enrolled.

(4) *Projects for the residency training of emergency physicians.* (i) The training program must be a graduate medical education program in emergency medicine which is endorsed or provisionally endorsed by, or has a letter granting permission to recruit residents from, the Liaison Residency Endorsement Committee in emergency medicine.

(ii) The training program must provide training designed to familiarize the resident with:

(A) The functions of an emergency medical services system as listed in section 1206(b)(4)(C) of the Act;

(B) The interaction among the organizations and agencies which deliver emergency health services; and

(C) The management and organization of an emergency unit.

(iii) The grantee must sponsor at least two other types of approved graduate medical education programs (e.g., internal medicine, general surgery, family practice).

(iv) The training program may be up to three years in length, but no less than two years. In the case of a three-year program the first year must include general clinical experience. The last two years must include increased training and responsibilities in the emergency department with the resident assigned to other specialties to learn specific skills applicable to emergency care.

(v) The training program must be conducted in an emergency unit which is organized as a major service within an ALS or associate ALS facility.

(vi) The project must have a medical director who works full time in an emergency unit.

(vii) The project must have a training program director. The training program director may also be the medical director.

(viii) The project must provide for the continuing education of the faculty in content areas related to their educational responsibilities.

(5) *Projects for the continuing education of physicians.* (i) Only individuals who are emergency physicians or physicians actively involved in an emergency medical services system may be enrolled.

(ii) The project must fulfill requirements for Category I Continuing Medical Education credit as approved by the American College of Emergency Physicians and the University Association of Emergency Medicine.

§ 57.2107 Evaluation of applications.

(a) The Secretary will, after consultation with the Council, approve or disapprove all applications filed in accordance with § 57.2105, taking into consideration, among other pertinent factors:

(1) The degree to which the proposed project adequately provides for meeting the requirements in § 57.2106.

(2) The potential effectiveness of the proposed project in carrying out the training purposes of section 789 of the Act.

(3) The administrative and managerial capability of the applicant to carry out the proposed project.

(4) The local and national needs which the proposed project is designed to serve.

(5) The soundness of the fiscal plan for assuring effective utilization of grant funds.

(6) The potential of the project to continue on a self-sustaining basis after the project period.

(b) In determining the priority for funding of applications approved under paragraph (a) of this section, the Secretary will consider:

(1) The relative merit of the proposed project based upon the factors in paragraph (a) of this section; and

(2) The extent to which the proposed project contains any of the following elements:

(i) All training programs in the proposed project provide clinical experience in emergency medical services systems receiving assistance under Title XII of the Act.

(ii) Substantial portions of the training is conducted in health manpower shortage areas. For purposes of this paragraph, a health manpower shortage area is (A) an area designated under section 332 of the Act, or (B) prior to the designation of areas under section 332 of the Act, an area designated as a critical health manpower shortage area under sections 329(b) and 836 of the Act, as in effect on September 30, 1977.

(iii) All training programs in the proposed project emphasize interdisciplinary approaches to emergency medical services.

(iv) In the case of projects for the training of emergency medical technicians-paramedic, the proposed project is sponsored by an educational entity which grants academic credit for the training.

(v) In the case of projects for the training of emergency physicians, the project is designed to train emergency physicians while developing general emergency physician training resources. As evidence that the program is so designed, the applicant must:

(A) Be a school of medicine or osteopathy with an administrative unit which is responsible solely for educational programs in emergency medicine and involved in more than one of the following phases of emergency medical education: undergraduate, graduates or continuing education; or

(B) Be affiliated with a school of medicine or osteopathy described in paragraph (b)(2)(v)(A) of this section.

§ 57.2108 Grant award.

(a) *General.* (1) Within the limits of funds available for such purpose, the Secretary, may award grants to those applicants whose projects will, in his judgment, best promote the purposes of section 789 of the Act, as determined in accordance with § 57.2107.

(2) All grant awards will be in writing, and will set forth the amount of funds granted and the period for which such funds will be available for obligation by the grantee.

(3) Neither the approval of any project or the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved project or portion thereof. For continuation support, grantees must make separate application at such times and in such form as the Secretary may prescribe.

(b) *Determination of grant amount.* The Secretary will determine the amount of any award under this subpart on the basis of his estimate of the sum necessary for the direct costs of the project plus an additional amount for indirect costs, if any, which the Secretary will calculate either (1) on the basis of his estimate of the actual indirect costs of the project, or (2) on the basis of a percentage of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the Secretary has determined the amount properly expended the grantee for provisional items.

(c) *Noncompeting continuation awards.* If a grantee has filed an application for continuation support and within the limits of funds available for this purpose, the Secretary may make a grant award for an additional budget period for any previously approved project if, on the basis of such progress and accounting records as may be required, the Secretary finds that the project's activities during the current budget period justify continued support of the project for an additional budget period. If the Secretary decides to continue support, the amount of the grant award will be determined in accordance with paragraph (b) of this section. If the Secretary decides not to continue supporting a project for an additional budget period, he will notify the grantee in writing before the end of the current budget period. In addition, the Secretary may provide financial support for the orderly phase-out of the supported project, if he determines that such support is necessary.

§ 57.2109 Payments.

The Secretary will from time to time make payments to the grantee of all or a portion of any grant award, either by way of reimbursement for expenses incurred in the budget period, or in advance for expenses to be incurred, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project.

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§ 57.2110 Expenditure of grant funds.

(a) Any funds granted pursuant to this subpart may be expended solely for carrying out the approved project in accordance with section 789 of the Act, the regulations of this subpart, the terms and conditions of the award, and the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74.

(b) Any unobligated grant funds remaining in the grant account at the close of a budget period may be carried forward and be available for obligation during subsequent budget periods of the project period. The amount of a subsequent award will take into consideration the amount remaining in the grant account. At the end of the last budget period of the project period, any unobligated grant funds remaining in the grant account must be refunded to the Federal Government.

§ 57.2111 Nondiscrimination.

(a) Attention is called to the requirements of Section 704 of the Act and 45 CFR Part 83 which together provide that the Secretary may not make a grant, loan guarantee, or interest subsidy payment under Title VII of the Act to, or for the benefit of, any entity unless he receives satisfactory assurance that the entity will not discriminate on the basis of sex in the admission of individuals to its training programs.

(b) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.) and in particular to section 601 of such Act which provides that no person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 80).

(c) Attention is called to the requirements of Title IX of the Education Amendments of 1972 and in particular to section 901 of such Act which provides that no person in the United States shall on the basis of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. A regulation implementing such Title IX, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 86).

(d) Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such section 504, which is applicable to grants made under this subpart, has been issued by the Secretary (45 CFR Part 84).

(e) Grant funds used for alteration or renovation are subject to the condition that the grantee shall comply with the requirements of Executive Order 11246, 30 F.R. 12319 (Sept. 24, 1965), as amended, and with the applicable rules, regulations and procedures prescribed pursuant thereto.

(f) The grantee may not discriminate on the basis of religion in the admission of individuals to its training programs.

§ 57.2112 Grantee accountability.

(a) *Accounting for grant award payments.* The grantee must record all payments made by the Secretary in accounting records separate from the records of all other grant awards. With respect to each approved project the grantee must account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart; *Provided*, That when the amount awarded for indirect costs was based on a predetermined fixed percentage of estimated direct costs, the amount allowed for indirect costs will be computed on the basis of such predetermined fixed-percentage rates applied to the total or selected elements of the reimbursable direct costs incurred.

(b) *Accounting for copyright royalties.* Royalties received by grantees from copyrights on publications or other works developed under the grant must be accounted for as follows:

(1) Royalties received during the period of grant support may be retained by the grantee and, in accordance with the terms and conditions of the grant, used in either or both of the following ways:

(i) Used by the grantee for any purposes that further the objectives of section 789 of the Act.

(ii) Deducted from the total project costs for the purpose of determining the net costs on which the Federal share of costs will be based.

(2) Royalties received after the completion or termination of grant support may be retained by the grantee unless the terms and conditions of the grant or a specific agreement negotiated between the Secretary and the grantee provide otherwise except that any grantee that is a State or local government, as defined in 45 CFR § 74.3, which receives royalties in excess of $200 a year, must return the Federal share of the excess amount (computed by applying the percentage of Federal participation in the cost of the grant supported project to the excess amount) to the Federal Government, unless a specific agreement provides otherwise.

(c) *Grant closeout.* (1) *Date of final accounting.* A grantee must submit with respect to each approved project, a full account, as provided herein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* The grantee must pay to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) any amount not accounted for pursuant to paragraphs (a) and (b) of this section; and

(ii) any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74 and the terms and conditions of the grant award. Such total sum constitutes a debt owed by the grantee to the Federal Government and is recoverable from the grantee or its successors or assigns by setoff or other action is provided by law.

§ 57.2113 Publications and copyright.

(a) *State and local governments.* If the grantee is a State or local government, as those terms are defined in 45 CFR 74.3, the Department of Health, Education, and Welfare copyright requirement set forth in 45 CFR 74.140 applies with respect to any book or other copyrightable materials developed or resulting from a project supported by a grant under this subpart.

(b) *Grantees other than State and local governments.* If the grantee is not a State or local government, as so defined, except as may otherwise be provided under terms and conditions of the award, the grantee may copyright without prior approval any publication, films, or similar materials developed or resulting from a project supported by a grant under this subpart, subject to a royalty-free, nonexclusive and irrevocable license or right in the government to reproduce, translate, publish, use, disseminate and dispose of such materials, and to authorize others to do so.

§ 57.2114 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of Part 74. The relevant provisions of the following subparts of Part 74 also apply to all other grantee organizations under this subpart:

Subpart:

A. General.
B. Cash Depositories.
C. Bonding and Insurance.
D. Retention and Custodial Requirements for Records.
F. Grant-related Income.
G. Matching and Cost Sharing.
K. Grant Payment Requirements.
L. Budget Revision Procedures.
M. Grant Closeout, Suspension, and Termination.
O. Property.
Q. Cost Principles.

§ 57.2115 Records, audit, and inspection.

(a) *Records.* In addition to the applicable requirements of 45 CFR Part 74, the grantee must establish and maintain such records as the Secretary may by regulation or order require, including records which completely disclose the amount and disposition of the total amount of funds received by the grantee for the project, the total cost of the project for which a grant was received, the total amount of that portion of the total cost of the project received by or allocated to such grantee from other sources, and such other records as will facilitate an audit conducted in accordance with generally accepted auditing standards.

(b) *Audit.* The grantee is responsible for providing and paying for an annual financial audit of its books, accounts, financial records, files and other papers and property in accordance with the requirements of section 705(b) of the Act. The audit must be conducted by and certified to be accurate by an independent certified public accountant utilizing generally accepted auditing standards. A report of such audit must be filed with the Secretary at such time and in such manner as the Secretary may require.

(c) *Inspection.* The grantee must make available to the Secretary or the Comptroller General of the United States or any of their duly authorized representatives all such books, documents, papers, and records for examination, copying, or mechanical reproduction, on or off the premises of the grantee upon a reasonable request therefor.

§ 57.2116 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

NOTE.—The incorporation by reference provisions in this document were approved by the Director of the FEDERAL REGISTER on July 25, 1977 and are on file in the FEDERAL REGISTER library.

[FR Doc.77-26717 Filed 9-15-77;8:45 am]

PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUCATIONAL IMPROVEMENT AND SCHOLARSHIPS

Grants for Training United States Citizen Foreign Medical Students

AGENCY: Public Health Service, HEW.

ACTION: Interim final regulations.

SUMMARY: These regulations set forth pursuant to section 782 of the Public Health Service Act (hereinafter "the Act") (42 U.S.C. 295g-2), as amended by the Health Professions Education Act of 1976 (Public Law 94-484), requirements for grants to plan, develop, and operate training programs for U.S. citizens who were students in foreign medical schools before October 12, 1976, (1) to enable them to meet the requirements of enrolling in schools of medicine or osteopathy in the States as full-time students with advanced standing; or (2) to train such students who have transferred from foreign medical schools and have enrolled in schools of medicine or osteopathy in the States as full-time students with advanced standing.

DATES: These regulations are effective on September 16, 1977. As discussed below, comments on the regulations are invited. Comments must be received on or before November 15, 1977, in order to be considered.

ADDRESSES: Written comments, preferably in triplicate, should be addressed to the Director, Bureau of Health Manpower, Health Resources Administration, Center Building, 4th Floor, 3700 East-West Highway, Hyattsville, Md. 20782. All comments received will be available for public inspection and copying at the Office of Program Operations, Bureau of Health Manpower, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Daniel N. Masica, M.D., Deputy Director, Division of Medicine, Bureau of Health Manpower, Room 4-44 at the above address. Telephone: 301-436-6424.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, hereby adds a new subpart DD, "Grants for Training United States Citizen Foreign Medical Students," to 42 CFR Part 57.

A Notice of Intent to issue regulations for this grant program was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15433). Interested persons were invited to comment on the issues raised, and several comments were received. The Department has taken these comments into consideration in developing the proposed regulations set forth in tentative form below.

The regulations under this subpart, in accordance with section 782 of the Public Health Service Act, specify requirements for grants to plan, develop, and operate programs for United States citizens who were students in foreign medical schools before October 12, 1976, (1) to enable them to meet the requirements of enrolling in schools of medicine or osteopathy in the States as full-time students with advanced standing (hereinafter referred to as "Category I Training Program"); or (2) to train such students who have transferred from foreign medical schools and have enrolled in schools of medicine or osteopathy in the States as full-time students with advanced standing (hereinafter referred to as a "Category II Training Program"). With respect to this requirement, the regulations include definitions for the terms "advanced standing" (§ 57.2902(b)), "foreign medical school" (§ 57.2902(e)), "foreign medical student" (§ 57.2902(f)), "full-time student" (§ 57.2902(g)), "school of medicine or osteopathy" (§ 57.2902(l)), and "State" (§ 57.2902(m)).

The regulations require that both the Category I and II Training Programs have at least four United States citizen foreign medical student participants, and that each Program systematically evaluate and monitor the progress of its foreign medical student participants throughout their training.

In addition to the general requirements for Category I and II Training Programs, the regulations also delineate special requirements for these Programs reflecting the statutory differences between the two. Since the Category I Training Program will be conducted for those foreign medical students who have not transferred to a school of medicine or osteopathy in a State but are interested in making such a transfer, the regulations require a school of medicine or osteopathy awarded a grant under this subpart to plan, develop, and operate a Category I Training Program to (1) identify the deficiencies in the foreign medical school education of each foreign medical student participating in the training program, (2) assess by examination or other appropriate mechanisms each foreign medical student's medical knowledge and skills in the basic, clinical, and behavioral sciences and provide, where necessary, supplemental training in these subject areas, (3) provide each foreign medical student participant with an evaluation of his overall performance (including examination scores) upon completion of the training program, and (4) counsel the foreign medical students who have completed the training program with respect to gaining admission as full-time students with advanced standing to schools of medicine or osteopathy located in a State.

While the purpose of the Category I Training Program is to enable foreign medical students to enroll in schools of medicine or osteopathy as full-time students with advanced standing, the purpose of the Category II Training Program is to provide remedial instruction to foreign medical students who have been admitted to the applicant school of medicine or osteopathy. With respect to Category II Training Programs the regulations require a school of medicine or osteopathy receiving a grant under this subpart to plan, develop, and operate such a training program to (1) assess the medical knowledge and skills of the foreign medical students enrolled in the applicant school of medicine or osteopathy and compare the degree of their knowledge and skills with that possessed by students enrolled and trained in the applicant school of medicine or osteopathy at the same academic level as the foreign medical student, and (2) provide supplemental training to each foreign medical student whose medical knowledge and skills are not comparable to the degree of medical knowledge and skills possessed by students enrolled and trained in the

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applicant school of medicine or osteopathy at the same academic level as the foreign medical student in order to bring the foreign medical student to a degree of competency equal to such students.

Because grants under section 782 must be awarded prior to October 1, 1977, and in light of the public participation that has already taken place with respect to this grant program, the Secretary has determined pursuant to 5 U.S.C. 553 and Departmental policy that it would be impracticable and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Notwithstanding the omission of the proposed rulemaking procedures, interested persons are invited to submit written comments, data, views, and arguments relating to these regulations to the Director of the Bureau of Health Manpower at the address given above. All relevant materials received not later than November 15, 1977, will be considered, and following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of the regulations will be published within 90 days of the close of the comment period.

The regulations as set forth below will be applicable and effective upon September 16, 1977. Revisions thereto, although applicable to grants for training U.S. citizen foreign medical students awarded after publication of these regulations, will be applicable only with respect to activities conducted under such grants on or after the date that the revisions become effective.

Accordingly, a new Subpart DD is added to 42 CFR Part 57 and is adopted as set forth below.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement Under Executive Order 11821 and OMB Circular A-107.

Dated: August 30, 1977.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: September 6, 1977.

HALE CHAMPION,
Acting Secretary.

Subpart DD—Grants for Training United States Citizen Foreign Medical Students

Sec.
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57.2902 Definitions.
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57.2914 Records, audit, and inspection.
57.2915 Additional conditions.

AUTHORITY: Section 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. § 216); section 782 of the Public Health Service Act, 90 Stat. 2314 (42 U.S.C. 295g-2).

§ 57.2901 Applicability.

The regulations of this subpart are applicable to the award of grants under section 782 of the Public Health Service Act (42 U.S.C. 295g-2) to schools of medicine and osteopathy to plan, develop, and operate training programs for United States citizens, who were students in foreign medical schools before October 12, 1976, (1) to enable them to meet the requirements for enrolling in schools of medicine or osteopathy in the States as full-time students with advanced standing, or (2) to train such students who have transferred from foreign medical schools and have enrolled in schools of medicine and osteopathy in the States as full-time students with advanced standing.

§ 57.2902 Definitions.

As used in this subpart:

(a) "Act" means the Public Health Service Act, as amended.

(b) "Advanced standing" means the level of academic placement beyond the first year of training at a school of medicine or osteopathy in a State.

(c) "Budget period" means the interval of time into which the project period is divided for budgetary and reporting purposes, as specified in the grant award.

(d) "Council" means the National Advisory Council on Health Professions Education (established by section 702 of the Act).

(e) "Foreign medical school" means a school (1) which is not located in a State, (2) which provides a full course of study leading to a medical degree or a diploma, and (3) whose medical degree or diploma is accepted by the country in which such school is located as one of the necessary qualifications for official sanction or licensure to practice medicine in that country.

(f) "Foreign medical student" means a U.S. citizen who was a student in a foreign medical school before October 12, 1976, and who is either: (1) seeking to transfer to a school of medicine or osteopathy in a State as a full-time student with advanced standing, or (2) has enrolled in a school of medicine or osteopathy in a State as a full-time student with advanced standing.

(g) "Full-time student" means a student who is enrolled in a school in a State on a full-time basis, as determined by such school, and is pursuing a course of study leading to a degree specified in paragraph (1) of this section.

(h) "Nonprofit school" means a school owned and operated by one or more corporations or associations, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

(i) "Project director" means an individual designated by the grantee in the grant application and approved by the Secretary to direct the project being supported under this subpart.

(j) "Project period" means the total time for which support for a project has been approved, including any extensions thereof.

(k) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(l) "School of medicine or school of osteopathy" means a school which provides training leading to a degree of doctor of medicine or a degree of doctor of osteopathy and is accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education. A school which by reason of no, or an insufficient, period of operation is not eligible for such accreditation at the time it applies for a grant under this subpart will be considered accredited for purposes of this definition if the Commissioner of Education finds, after consultation with the appropriate accreditation body or bodies, there is reasonable assurance that the school will meet the accreditation standards of such body or bodies before the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at the school during the fiscal year in which the Secretary makes a final determination as to approval of the application.

(m) "State" means one one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 57.2903 Eligibility.

(a) *Eligible applicants.* Any public or private nonprofit school of medicine or osteopathy located in a State may apply for a grant under this subpart.

(b) *Eligible projects.* Grants under this subpart may be made to eligible applicants to meet the costs of planning, developing, and operating projects to carry out either one or both of the following purposes:

(1) To train United States citizens who were enrolled in foreign medical schools before October 12, 1976, to enable them to meet the requirements for enrolling in schools of medicine or osteopathy in the States as full-time students with advanced standing; or

(2) To train United States citizens who were enrolled in foreign medical schools before October 12, 1976, and who have transferred from foreign medical schools and have enrolled in schools of medicine or osteopathy in the States as full-time students with advanced standing.

§ 57.2904 Application.

(a) Each eligible applicant desiring a grant under this subpart shall submit an application in such form and at such

time as the Secretary may prescribe.[1] More than one school may join in the submission of an application for a grant under this subpart.

(b) The application may be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this subpart.

(c) In addition to such other pertinent information as the Secretary may require, an application for a grant under this subpart must contain the following:

(1) A description of the proposed project to carry out either one or both of the purposes specified in § 52.2903(b).

(2) A description of any previous similar training activities in which the applicant has engaged.

(3) A description of the resources available for the conduct of the proposed project, including faculty, staff, equipment, facilities, and where applicable, the clinical practice setting or settings.

(4) A description of the background and qualifications of the project staff and any proposed consultants.

(5) A description of the proposed recruitment plans and criteria for admission to the training program.

(6) An estimate of the number of students to be enrolled in the training program.

(7) A description of the proposed plan and methods of identifying the deficiencies in the foreign medical school education of the United States citizen foreign medical students participating in the training program as required by § 57.2905 of this subpart.

(8) A description of the proposed training program for correcting deficiencies including the proposed curriculum, the proposed number of hours for classroom instruction, and proposed laboratory demonstrations, lectures, and seminars.

(9) A description of the proposed plan to counsel foreign medical students who have completed a § 57.2903(b)(1) training program with respect to gaining admission as full-time students with advanced standing to schools of medicine or osteopathy located in the States.

(10) A detailed timetable for carrying out the activities of the proposed project.

(11) A detailed method for monitoring and evaluating the performance of the foreign medical student participants, and of the overall project.

(12) A detailed budget for the proposed project and a justification of the amount of grant funds requested.

§ 57.2905 Project requirements.

A project supported under this subpart must be conducted in accordance with the following requirements:

[1] Applications and instructions may be obtained from the Director, Division of Medicine, Bureau of Health Manpower, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782.

(a) The project must be conducted in accordance with section 782 of the Act, the regulations of this subpart, the terms and conditions of the award, and the approved application.

(b) The project must be conducted under the direction of a project director who must be on the full-time faculty of a school submitting an application under this subpart. If the project director becomes unable to function in such capacity, the Secretary must be notified as soon as possible.

(c) Each training program must have at least four foreign medical student participants.

(d) Each project must systematically evaluate and monitor the progress of the foreign medical student participants during their training.

(e) If the project is designed to carry out the purpose of training foreign medical students to enable them to meet the requirements of enrolling in a school of osteopathy or medicine in a State (§ 57.2903(b)(1)), the project must:

(1) Identify the deficiencies in the foreign medical school education of each foreign medical student, including those subject areas which are lacking because such subjects are not part of the foreign medical school curricula, are not taught within a time-frame comparable to the curricula of U.S. schools of medicine or osteopathy or do not correspond sufficiently to subject areas taught in such schools; and provide training to correct such deficiencies;

(2) Assess by examination or other appropriate mechanisms each foreign medical student's medical knowledge and skills in the basic, clinical, and behavioral sciences and provide, where necessary, supplemental training in these subject areas;

(3) Provide each foreign medical student with an evaluation of his overall performance, including examination scores, upon completion of the training program; and

(4) Counsel the foreign medical students who have completed the training program with respect to gaining admission as full-time students with advanced standing in schools of medicine or osteopathy located in the States.

(f) If the project is designed to carry out the purpose of training foreign medical students who have enrolled in a school of medicine or osteopathy in a State (§ 57.2903(b)(2)), the project must:

(1) Assess the medical knowledge and skills of the foreign medical students enrolled in the applicant school of medicine or osteopathy and compare the degree of their knowledge and skills with that possessed by students enrolled and trained in the applicant school of medicine or osteopathy at the same academic level as the foreign medical student; and

(2) Provide supplemental training to each foreign medical student whose medical knowledge and skills are not comparable to the degree of medical knowledge and skills possessed by students enrolled and trained in the applicant school of medicine or osteopathy at the same level as the foreign medical student in order to bring the foreign medical student to a degree of competency equal to such students.

§ 57.2906 Evaluation and grant award.

(a) Within the limits of funds available for such purpose, the Secretary, after consultation with the Council, may award grants to those applicants whose projects will in his judgment best promote the purposes of section 782(a) of the Act, taking into consideration among other pertinent factors:

(1) The potential effectiveness of the proposed project in carrying out the purposes of § 57.2903(b).

(2) The reasonableness of the criteria for selection and enrollment of participants into the training program.

(3) The adequacy of the plan for identifying deficiencies in the medical education of the foreign medical students as required by § 57.2905 of this subpart.

(4) The adequacy of the proposed curriculum designed to correct such deficiencies.

(5) The administrative and managerial capability of the applicant to carry out the proposed project.

(6) The availability and adequacy of the resources available to the applicant to carry out the proposed project, including faculty, staff, equipment, and facilities.

(7) The qualifications of the project director.

(8) The reasonableness of the proposed budget in relation to the proposed project.

(9) The adequacy of the methods for monitoring and evaluating the performance of the foreign medical student participants, and of the overall project.

(b) The amount of any award will be determined by the Secretary on the basis of his estimate of the sum necessary for all or a designated portion of the direct costs of the project plus an additional amount for indirect costs, if any, which will be calculated by the Secretary either (1) on the basis of his estimate of the actual indirect costs reasonably related to the project, or (2) on the basis of a percentage of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limit of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee for provisional items has been determined by the Secretary.

(c) All grant awards will be in writing and will set forth the amount of funds granted and the period for which such funds will be available for obligation by the grantee. The project period for any

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grant under this subpart may not exceed four years.

(d) Neither the approval of any project nor the award of any grant commits or obligates the United States in any way to make any additional supplemental, continuation, or other award with respect to any approved project or portion thereof. For continuation support grantees must make separate application at such times and in such form as the Secretary may prescribe.

(e) If a grantee has filed an application for continuation support, and within the limits of funds available for this purpose, the Secretary may make a grant award for an additional budget period for any previously approved project where the Secretary finds, on the basis of such progress and accounting reports as may be required, that the project's activities during the current budget period justify continued support for an additional budget period. If the Secretary determines to continue support, the amount of grant award will be determined in accordance with paragraph (b) of this section. If the Secretary determines not to continue a project for an additional budget period, the grantee will be notified in writing before the end of the current budget period. In addition, if he determines such support is necessary, the Secretary may provide financial support for the orderly phase-out of the project.

§ 57.2907 Grant payments.

The Secretary will from time to time make payments to the grantee of all or a portion of any grant award, either by way of reimbursement for expenses incurred in the budget period, or in advance for expenses to be incurred, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project.

§ 57.2908 Expenditure of grant funds.

(a) Funds granted pursuant to this subpart may be expended solely for carrying out the approved project in accordance with section 782 of the Act, the regulations of this subpart, the terms and conditions of the award, and the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74: *Provided*, That such funds may not be expended for sectarian instruction or for any religious purpose.

(b) Funds granted pursuant to this subpart may be used to, among other things, identify deficiencies in the foreign medical education of foreign medical students, develop materials and methodology for correcting such deficiencies, and develop specialized training to prepare foreign medical students for enrollment in schools of medicine or osteopathy in the States as full-time students with advanced standing.

(c) Any unobligated grant funds remaining in the grant account at the close of a budget period may be carried forward and be available for obligation during subsequent budget periods of the project period. The amount of a subsequent award will take into consideration the amount remaining in the grant account. At the end of the last budget period of the project period, any unobligated grant funds remaining in the grant account must be refunded to the Federal Government.

§ 57.2909 Nondiscrimination.

(a) Attention is called to the requirements of section 704 of the Act and 45 CFR Part 83, which together provide that the Secretary may not make a grant, loan guarantee, or interest subsidy payment under Title VII of the Act to, or for the benefit of, any entity unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the entity will not discriminate on the basis of sex in the admission of individuals to its training programs.

(b) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.) and in particular to section 601 of such Act which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 80).

(c) Attention is called to the requirements of Title IX of the Education Amendments of 1972 and in particular to section 901 of such Act which provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. A regulation implementing such Title IX, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (42 CFR Part 86).

(d) Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such section 504, which is applicable to grants under this subpart, has been issued by the Secretary (45 CFR Part 84).

(e) Grant funds used for alteration or renovation shall be subject to the condition that the grantee shall comply with the requirements of Executive Order 11246, 30 FR 12319 (Sept. 24, 1965) as amended, and with the applicable rules, regulations, and procedures prescribed pursuant thereto.

(f) The grantee may not discriminate on the basis of religion in the admission of individuals to its training programs.

§ 57.2910 Grantee accountability.

(a) *Accounting for grant award payments.* The grantee must record all payments made by the Secretary in accounting records separate from the records of all other funds, including funds derived from other grant awards. With respect to each approved project the grantee must account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart: *Provided*, That when the amount awarded for indirect costs was based on a predetermined fixed percentage of estimated direct costs, the amount allowed for indirect costs will be computed on the basis of such predetermined fixed-percentage rates applied to the total or selected elements of the reimbursable direct costs incurred.

(b) *Accounting for copyright royalties.* Royalties received by grantees from copyrights on publications or other works developed under the grant must be accounted for as follows:

(1) Royalties received during the period of grant support may be retained by the grantee and, in accordance with the terms and conditions of the grant, used in either or both of the following ways:

(i) Used by the grantee for any purposes that further the objectives of section 782 of the Act.

(ii) Deducted from the total project costs for the purpose of determining the net costs on which the Federal share of costs will be based.

(2) Royalties received after the completion or termination of grant support may be retained by the grantee unless the terms and conditions of the grant or a specific agreement negotiated between the Secretary and the grantee provide otherwise.

(c) *Grant closeout.* (1) *Date of final accounting.* A grantee must render, with respect to each approved project, a full account, as provided herein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* The grantee must pay to the Federal Government as final settlement with respect to the approved project the total sum of (i) any amount not accounted for pursuant to paragraphs (a) and (b) of this section; and (ii) any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74 and the terms and conditions of the grant award. Such total sum constitutes a debt owed by the grantee to the Federal Government and is recoverable from the grantee or its successors or assigns by set off or other action as provided by law.

§ 57.2911 Publications and copyright.

Except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials developed or resulting from a project supported by a grant under this subpart, subject to a royalty-free, nonexclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate, and dispose of such materials, and to authorize others to do so.

§ 57.2912 Reports.

In addition to such other reports as the Secretary may require, each school of medicine or osteopathy awarded a grant pursuant to this subpart during the fiscal year beginning October 1, 1977, and ending September 30, 1978, must submit to the Secretary before June 30, 1979, a report of any deficiencies identified in the foreign medical school education of foreign medical students who participated in the training project for which the grant was made. A draft copy of this report must be submitted to the Secretary by April 30, 1979.

§ 57.2913 Applicability of 45 CFR Part 74.

The relevant provisions of the following subparts of 45 CFR Part 74, establishing uniform administrative requirements and cost principles apply to all grants awarded pursuant to this subpart.

Subpart:
- A General.
- B Cash Depositories.
- C Bonding and Insurance.
- D Retention and Custodial Requirements for Records.
- F Grant-related Income.
- G Matching and Cost Sharing.
- K Grant Payment Requirements.
- L Budget Revision Procedures.
- M Grant Closeout, Suspension, and Termination.
- O Property.
- Q Cost Principles.

§ 57.2914 Records, audit and inspection.

(a) *Records.* In addition to the applicable requirements of 45 CFR Part 74, the grantee must establish and maintain such records as the Secretary may by regulation or order require, including records which completely disclose the amount and disposition of the total amount of funds received by the grantee for the project, the total cost of the project for which a grant was received, the total amount of that portion of the total cost of the project received by or allocated to such grantee from other sources, and such other records as will facilitate an audit conducted in accordance with generally accepted auditing standards.

(b) *Audit.* The grantee is responsible for providing and paying for an annual financial audit of its books, accounts, financial records, files and other papers and property in accordance with the requirements of section 705(b) of the Act. The audit must be conducted by and certified to be accurate by an independent certified public accountant utilizing generally accepted auditing standards. A report of such audit must be filed with the Secretary at such time and in such manner as the Secretary may require.

(c) *Inspection.* The grantee must make available to the Secretary or the Comptroller General of the United States or any of their duly authorized representatives all such books, documents, papers, and records for examination, copying, or mechanical reproduction, on or off the premises of the grantee upon a reasonable request therefor.

§ 57.2915 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc.77-26718 Filed 9-15-77;8:45 am]

PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUCATIONAL IMPROVEMENT AND SCHOLARSHIPS

Grants for Development of New Schools of Medicine Emphasizing Family Medicine

AGENCY: Public Health Service, HEW.

ACTION: Interim-final regulations.

SUMMARY: These regulations prescribe requirements for grants for the development of new schools of medicine emphasizing family medicine under section 788(g) of the Public Health Service, (hereinafter the Act), (42 USC 295g–8 (g)), as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94–484) to enable such schools to meet the eligibility requirements of section 788(a) of the Act (42 USC 295g–8(a)).

DATES: These regulations are effective September 16, 1977. As discussed below, comments on the regulations are invited. Comments must be received on or before November 15, 1977, in order to be considered.

ADDRESSES: Written comments, preferably in triplicate, should be addressed to the Director, Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Center Building, 4th Floor, Hyattsville, Md. 20782.

All comments received will be available for public inspection and copying at the Office of Program Operations, Bureau of Health Manpower, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Daniel N. Masica, M.D., Deputy Director, Division of Medicine, Bureau of Health Manpower, Room 4–44 at the above address. Telephone: 301–436–6424.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare hereby adds a new subpart EE, "Grants for Development of New Schools of Medicine Emphasizing Family Medicine," to 42 CFR Part 57.

A notice of intent to issue regulations for grants for development of new schools of medicine emphasizing family medicine was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15433). Interested persons were invited to comment on the issues raised, and several comments were received. The Department has taken these comments into consideration in developing the regulations set forth below.

The following is a brief summary of the major features of the regulations.

1. The regulations in this subpart require each applicant to plan a curriculum for its new school of medicine which will emphasize training in family medicine. To demonstrate this emphasis the applicant must establish an administrative unit devoted to family medicine at the graduate and undergraduate levels and require educational experiences in family medicine as a prerequisite of graduation for every undergraduate student. It is the Secretary's view that these requirements represent the minimum level of activity necessary to adequately demonstrate the commitment to family medicine required by the statute. The imposition of any additional requirements in this area would tend to restrict the applicant's flexibility in developing a school that best meets the needs of the school's community.

"Family medicine" for purposes of this grant program, means the field of medicine in which the physician:

(1) Serves as the physician of first contact with patients across a broad spectrum of ages and provides a means of entry into the health care system;

(2) Evaluates the patient's total health needs, provides personal medical care within one or more fields of medicine, and refers the patient, when indicated, to appropriate sources of care while preserving the continuity of his care;

(3) Assumes the responsibility for the patient's comprehensive and continuous health care and acts as a leader or coordinator of others providing health services to the patient; and

(4) Accepts responsibility for the patient's total health care within the context of his environment, including the community and the family or comparable social unit.

This definition was chosen in order to recognize the Congressional intent that the family medicine specialty be predicated upon the provision of continuing comprehensive care to all members of the family on a personal basis.

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2. The regulations under this subpart require that no grant award may exceed 50 percent of the total allowable direct costs necessary to accomplish the goals identified in the application. The types of costs considered allowable include the cost of personnel, supplies, equipment, consultant fees, and domestic travel of staff and consultants. The 50 percent limitation has been included to assure, as required by statute, that non-Federal financial resources will be used for the development of the applicant's school of medicine. In addition, the Secretary views an applicant's ability to obtain non-Federal resources as a critical indicator of the new school's viability.

3. In accordance with the statutory requirement that grants awarded under this subpart be used to enable a new school of medicine to meet the eligibility requirements of the Start-Up Grant Program under section 788(a) of the Act (42 USC 295g–8(a)), the regulations specify that the applicant assure that at least 24 students will be enrolled in the initial class of its school of medicine, and that it describe the tasks necessary to be accomplished in order for the new school to obtain a Letter of Reasonable Assurance from a recognized accrediting body approved by the Commissioner of Education.

Because grants under section 788(g) must be awarded prior to October 1, 1977, and in light of the public participation that has already taken place with respect to this grant program, the Secretary has determined pursuant to 5 USC 553 and Departmental policy that it would be impracticable and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Notwithstanding the omission of the proposed rulemaking procedures, interested persons are invited to submit written comments, data, views, and arguments relating to these regulations to the Director of the Bureau of Health Manpower at the address given above. All relevant material received not later than November 15, 1977, will be considered, and following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of the regulations will be published within 90 days of the close of the comment period.

The regulations as set forth below will be applicable and effective September 16, 1977. Revisions thereto, although applicable to grants for development of new schools of medicine emphasizing family medicine awarded after publication of these regulations, will be applicable only with respect to activities conducted under such grants on or after the date that the revisions become effective.

Accordingly, a new Subpart EE is added to 42 CFR Part 57 and is adopted as set forth below.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: August 30, 1977.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: September 6, 1977.

HALE CHAMPION,
Acting Secretary.

Subpart EE—Grants for Development of New Schools of Medicine Emphasizing Family Medicine

Sec.

57.3001 Applicability.
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57.3013 Applicability of 45 CFR Part 74.
57.3014 Additional conditions.

AUTHORITY: Section 215 of the Public Health Service Act, 58 Stat. 690, as amended 63 Stat. 35 (42 U.S.C. § 216); section 788(g) of the Public Health Service Act, 90 Stat. 2321 (42 U.S.C. 295g–8(g)).

§ 57.3001 Applicability.

The regulations of this subpart are applicable to the award of grants under section 788(g) of the Public Health Service Act (42 USC 295g–8(g)) to public and nonprofit private institutions of higher education and hospitals and other health care delivery facilities which are engaged in the development of new schools of medicine to assist in meeting the costs of initial operation, including employing faculty, acquiring equipment, and taking such other action necessary for such proposed school to meet the eligibility requirements for a grant under section 788(a) of the Public Health Service Act (42 U.S.C. 295g–8(a)).

§ 57.3002 Definitions.

As used in this subpart:

(a) "Act" means the Public Health Service Act, as amended.

(b) "Council" means the National Advisory Council on Health Professions Education (established by section 702 of the Act).

(c) "Family medicine" means the field of medicine in which the physician:

(1) Serves as the physician of first contact with patients across a broad spectrum of ages and provides a means of entry into the health care system;

(2) Evaluates the patient's total health needs, provides personal medical care within one or more fields of medicine, and refers the patient, when indicated, to appropriate sources of care while preserving the continuity of his care;

(3) Assumes the responsibility for the patient's comprehensive and continuous health care and acts as a leader or coordinator of others providing health services to the patient; and

(4) Accepts responsibility for the patient's total health care within the context of his environment, including the community and the family or comparable social unit.

(d) "Nonprofit" as applied to any school, agency, organization, or institution means one which is a corporation or association or is owned and operated by one or more corporations or associations no part of the net earnings of which enure or may lawfully enure to the benefit of any private shareholder or individual.

(e) "Health care delivery facilities" means facilities in which a principal use is the delivery of health services.

(f) "Project period" means the total time for which support for a project has been approved, including any extensions thereof.

(g) "Secretary" means the Secretary of Health, Education, and Welfare and any officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(h) "School of medicine" or "school" means a school which provides training leading to a degree of doctor of medicine and is accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education. A school which by reason of no, or an insufficient, period of operation is not eligible for such accreditation at the time it applies for a grant under this subpart will be considered accredited for purposes of this definition if the Commissioner of education finds, after consultation with the appropriate accreditation body or bodies, there is reasonable assurance that the school will meet the accreditation standards of such body or bodies before the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at the school during the fiscal year in which the Secretary makes a final determination as to approval of the application.

(i) "State" means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 57.3003 Eligibility.

Any public or nonprofit private institution of higher education, hospital, or other health care delivery facility engaged in the development of a new school of medicine located in a State may apply for a grant under this subpart.

§ 57.3004 Application.

(a) Each eligible applicant desiring a grant under this subpart must submit an application in such form and at such time as the Secretary may prescribe.[1]

[1] Applications and instructions may be obtained from the Director, Division of Medicine, Bureau of Health Manpower, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, and the Regional Health Administrator of the Regional Office of the Department of Health, Education, and Welfare for the region in which the applicant is located.

(b) The application must be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this subpart.

(c) In addition to such other pertinent information as the Secretary may require, an application for a grant under this subpart must set forth in detail:

(1) A description of the educational, service, and research goals of the proposed school including a discussion of the extent to which the proposed school will meet the identified area and national health service and manpower needs.

(2) A description of the overall administrative and academic structure of the proposed school and, insofar as possible, the proposed curriculum.

(3) An estimate of the number of students to be enrolled in the school.

(4) A description of the available resources to conduct the proposed project including the facilities, faculty, staff, equipment, clinical setting or settings, and the patient population available to the school.

(5) A description of a financial plan for the development and operation of the proposed school including a description of all projected sources of revenue (Federal and non-Federal) and a list of proposed project expenditures for the current fiscal year and the succeeding six fiscal years.

(6) Evidence that the applicant has submitted plans for the development of its new school to the appropriate accrediting body recognized by the Commissioner of Education prior to or at the time of filing an application under this subpart.

(7) A description of the tasks necessary to be accomplished in order for the school being developed by the applicant to meet the requirements for issuance of a Letter of Reasonable Assurance by the appropriate accrediting body recognized by the Commissioner of Education.

(8) A detailed timetable for carrying out the activities of the proposed project including development of the project through graduation of the first class.

(9) A description of the plan for collecting, analyzing, and reporting data related to the health care services available to residents in the geographic regions in which the clinical training program of the school will be located.

(10) Assurances satisfactory to the Secretary together with evidence supporting such assurances that:

(i) The receipt of a grant under this subpart will enable the applicant, to accelerate the date on which the school of medicine being developed by the applicant will be able to begin its teaching program, which must be within 24 months of the starting date of the grant award;

(ii) There is a reasonable indication of non-Federal financial resources for development and operation of such school;

(iii) The school of medicine will emphasize training programs in family medicine as provided in § 57.3005(b) of this subpart and will improve access to health care for the residents of the geographic regions in which such training programs are located, as provided in § 57.3005(c) of this subpart; and

(iv) At least 24 students will be enrolled in the first class.

(11) Evidence that the applicable requirements of section 1513(e) of the Act have been met.

§ 57.3005 Project requirements.

A project supported under this subpart must be conducted in accordance with the following requirements:

(a) The project must be carried out in accordance with the approved application.

(b) Each project must have a curriculum which will emphasize training programs in family medicine to include, among other things, (i) a proposed administrative unit devoted to family medicine, such as a Department or Division of Family Medicine, at the graduate and undergraduate levels, and (ii) educational experiences in family medicine as a prerequisite of graduation for every undergraduate student.

(c) Each project must evaluate the access to health care for residents of the geographic region in which the family medicine training programs of the school of medicine will be located and, where necessary, improve their access to such health care.

§ 57.3006 Evaluation and grant award.

(a) Within the limits of funds available for such purpose, the Secretary, after consultation with the Council and the appropriate accrediting body recognized by the Commissioner of Education, may award grants to those applicants whose projects will in his judgment best promote the purposes of section 788(g) of the Act, taking into consideration among other pertinent factors:

(1) The extent to which area and national health and manpower needs can be met by the development of the proposed school.

(2) The availability and adequacy of the facilities and resources available to the applicant to carry out the proposed project.

(3) The soundness of the fiscal plan for assuring effective utilization of grant funds.

(4) The adequacy of the new school's proposed administrative and academic structure.

(5) The adequacy of the description of the tasks necessary to be accomplished by the applicant in order to receive a grant under section 788(a) of the Act.

(6) The adequacy of the applicants proposed plan for meeting the assurances required by § 57.3004(c)(10).

(7) The qualifications of the dean or executive officer charged with the responsibility of developing the proposed school.

(b) The amount of any award will be determined by the Secretary on the basis of his estimate of the sum necessary for all or a designated portion of the direct costs of the project limited to the costs of personnel, supplies and equipment, consultants, and domestic travel of staff and consultants: *Provided*, That no grant award under this subpart may exceed 50 percent of the total allowable direct costs necessary to accomplish the goals set forth in the application.

(c) All grant awards will be in writing and will set forth the amount of funds granted and the period for which such funds will be available for obligation by the grantee which may not exceed 12 months. A grantee may receive only one grant award under this subpart. A grantee under this subpart may not receive a grant award under section 788(a) of the Act with a project period beginning before the end of the project period of the grant awarded under this subpart.

§ 57.3007 Grant payments.

The Secretary will from time to time make payments to the grantee of all or a portion of any grant award, either by way of reimbursement for expenses incurred in the budget period, or in advance for expenses to be incurred, to the extent he determines such payments necessary to promote initiation and advancement of the approved project.

§ 57.3008 Expenditure of grant funds.

(a) Any funds granted pursuant to this subpart must be expended solely for carrying out the approved project in accordance with section 788(g) of the Act, the regulations of this subpart, the terms and conditions of the award, and the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74: *Provided*, That such funds may not be expended for sectarian instruction or for any religious purpose.

§ 57.3009 Nondiscrimination.

(a) Attention is called to the requirements of section 704 of the Act and 45 CFR Part 83, which together provide that the Secretary may not make a grant, loan guarantee, or interest subsidy payment under Title VII of the Act to, or for the benefit of, any entity unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the entity will not discriminate on the basis of sex in the admission of individuals to its training programs.

(b) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.) and in particular to section 601 of such Act which provides that no person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 80).

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(c) Attention is called to the requirements of Title IX of the Education Amendments of 1972 and in particular to section 901 of such Act which provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. A regulation implementing such Title IX, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 86).

(d) Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such section 504, which is applicable to grants made under this subpart, has been issued by the Secretary (45 CFR Part 84).

(e) Grant funds for alteration or renovation shall be subject to the condition that the grantee shall comply with the requirements of Executive Order 11246, 30 FR 12319 (September 24, 1965) as amended, and with applicable rules, regulations, and procedures prescribed pursuant thereto.

(f) The grantee shall not discriminate on the basis of religion in the admission of individuals to its training programs.

§ 57.3010 Grantee accountability.

(a) *Accounting for grant award payments.* The grantee must record all payments made by the Secretary in accounting records separate from the records of all other funds, including funds derived from other grant awards. With respect to each approved project the grantee must account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart.

(b) *Accounting for copyright royalties.* Royalties received by grantees from copyrights on publications or other works developed under the grant must be accounted for as follows:

(1) Royalties received during the period of grant support may be retained by the grantee and, in accordance with the terms and conditions of the grant, used in either or both of the following ways:

(i) Used by the grantee for any purposes that further the objectives of section 788(g) of the Act.

(ii) Deducted from the total project costs for the purpose of determining the net costs on which the Federal share of costs will be based.

(2) Royalties received after the completion or termination of grant support may be retained by the grantee, unless the terms and conditions of the grant or a specific agreement negotiated between the Secretary and the grantee provide otherwise, except that any grantee that is a State or local government as defined in 45 CFR 74.3, which receives royalties in excess of $200 a year must return the Federal share of the excess amount (computed by applying the percentage of Federal participation in the cost of the grant supported project to the excess amount) to the Federal Government, unless a specific agreement provides otherwise.

(c) *Grant Closeout.*

(1) *Date of final accounting.* The grantee must render, with respect to each approved project, a full account, as provided herein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* The grantee must pay to the Federal Government as final settlement with respect to each grant under this subpart the total sum of (i) any amount not accounted for pursuant to paragraphs (a) and (b) of this section; and (ii) any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74 and the terms and conditions of the grant award. Such total sum constitutes a debt owed by the grantee to the Federal Government and is recoverable from the grantee or its successor or assigns by setoff or other action as provided by law.

§ 57.3011 Publications and copyright.

Except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials developed or resulting from a project supported by a grant under this subpart, subject to a royalty-free, nonexclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate, and dispose of such materials, and to authorize others to do so.

§ 57.3012 Reports.

In addition to such other reports as the Secretary may require, each applicant awarded a grant pursuant to this subpart must submit to the Secretary within four months of the graduation of its new school of medicine's second graduating class, a report concerning the extent to which the family medicine training programs of such school has affected the access of the residents in the geographical region in which the school is located to health care services.

§ 57.3013 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of Part 74. The relevant provisions of the following subparts of Part 75 also apply to all other grantee organizations under this subpart:

Subpart:
A. General.
B. Cash depositories.
C. Bonding and insurance.
D. Retention and custodial requirements for records.
F. Grant-related income.
G. Matching and cost sharing.
K. Grant payment requirements.
L. Budget revision procedures.
M. Grant closeout, suspension, and termination.
O. Property.
Q. Cost principles.

§ 57.3014 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc.77-26719 Filed 9-15-77;8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 250—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

Payment for Reserved Beds in Institutions

AGENCY: Health Care Financing Administration, HEW.

ACTION: Final rule.

SUMMARY: This rule amends current Medicaid regulations (title XIX, Social Security Act) on State payments for reserving beds during a recipient's temporary absence from an institution. In response to inquiries from State agencies, members of Congress, provider and recipient groups, and others, the previous restrictions on Federal matching of State payments (which were based on specific time limits for such absences) have been removed. States may pay for reserved beds without any limitations or may impose appropriate restrictions; Federal sharing will be available under whatever policy the State wishes to adopt.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles L. Gardner, 202-245-8821.

SUPPLEMENTARY INFORMATION: Current regulations (45 CFR 250.30(d)) now provide Federal matching for State payments in the cost of reserving a bed in a nursing home or other long-term care facility when a Medicaid recipient is temporarily absent. This may be for a period of hospitalization for an acute condition, not to exceed 15 days per any single hospital stay, or for a leave of absence, not to exceed 18 days in total during any 12-month period. The restrictions do not apply in the case of patients in institutions for the mentally retarded or persons with related conditions. The limits relate only to Federal matching; a State may pay for more absences at State expense.

The Department has received many comments that "limits" or absences under a bed reservation program, however

liberal, are inconsiderate of the patient's welfare, particularly where chronic care patients have an opportunity for a leave of absence to visit with family or friends. Correspondents point out that the 18-day allowance covers only the legal holidays and a weekend or two. Patients who are not seriously incapacitated can be away from the institution for additional periods from time to time—for example, for additional weekend home visits during the year.

Comment has also been received stating that the policy should not be based on the type of facility, but on the individual's condition for which therapeutic home visits are considered useful. Under present policy two people with virtually identical retardation diagnoses, one in an "institution for the mentally retarded," and the other in a facility not licensed by the State as such, cannot have the same number of leave days. One individual may be allowed more than eighteen days per annum in home visits, the other is limited to eighteen days of home visits (in cases where the State will not pay for leave days unless Federal matching funds are available).

Further, there has been considerable difficulty in interpreting that section of the regulation which permits "therapeutic leave" from the "chronic care part of a general hospital," inasmuch as there is no Federal definition of what constitutes the "chronic care part of a general hospital." It has also been pointed out that in current practice, the therapeutic pass is a modality used not only in most psychiatric hospitals but in the treatment of psychiatric patients in general hospitals as well. The therapeutic leave is considered an essential part of the treatment regimen and is important for assessing the patient's capacity to function outside the hospital.

In the light of these comments and questions, the Department has determined that removal of the time limitations is appropriate. This will enable each State to formulate, without Federal constraints, the policy considered most suitable to its own needs and those of Medicaid recipients in its long-term care facilities. Thus, the States can determine whether or not to pay for reserving beds and, if they do, whether any conditions or limitations are necessary. It should be noted that the Federal regulation does retain the requirement for authorization in the patient's plan of care for absences other than those for treatment of acute illness.

The Department finds that there is good cause to dispense with notice of proposed rulemaking since the removal of the previous restrictions responds to numerous comments received since the publication of final regulations on November 7, 1975. As noted above, the questions have been raised by State agencies, recipient groups, professional organizations, members of Congress, and other interested persons. Discussions indicate that a consensus exists for permitting States to establish policies on payment for reserved beds as they deem appropriate and for Federal matching of the payments without HEW-imposed time limitations. Since no one will be disadvantaged by the removal of Federal restrictions, additional comment is unnecessary and contrary to the public interest of allowing States to establish suitable policies without further delay. The regulations are being published in final, therefore, and are effective on September 16, 1977.

Section 250.30, Part 250, Chapter II, Title 45, Code of Federal Regulations, is amended by revising paragraph (d)(2) to read as follows:

§ 250.30 Reasonable charges.

* * * * *

(d) *Federal financial participation.*

* * * * *

(2) *Payments during recipient's absence from institution.* Federal financial participation is available in payments made to reserve a bed during a recipient's temporary absence from an inpatient facility. For purposes of this paragraph:

(i) The State plan must provide for such payments and must indicate any limitations placed on the reserved bed policy, and

(ii) The patient's plan of care must provide for absences other than for hospitalization.

* * * * *

(Section 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

* * * * *

NOTE.—The Health Care Financing Administration has determined that this document does not require preparation of an Inflationary Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: July 18, 1977.

R. A. DERZON,
Administrator, Health Care Financing Administration.

Approved: September 8, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc.77-26758 Filed 9-15-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-5]

PART 1003—LIST OF FORMS

Security for Protection of the Public; Revision of Bond Form

AGENCY: Interstate Commerce Commission.

ACTION: Revision of Bond Form.

SUMMARY: This order shows the revision date of the Broker's Surety Bond to be 1977. The Broker's Surety Bond limit was increased from $5,000 to $10,000. This increase was ordered in Ex Parte No. MC-96.

EFFECTIVE DATE: This order will be effective the same date as the order in Ex Parte No. MC-96 becomes applicable.

FOR FURTHER INFORMATION CONTACT:

Leonard J. Schloer, Chief, Section of Insurance, Interstate Commerce Commission, Washington, D.C. 20423 (202-275-7512).

NOTE.—The ICC will publish a subsequent order confirming the effective date of the revision to form B.M.C. 84 as ordered in Ex Parte No. MC-96.

This order corrects the list of forms in the code of federal regulations to show that the Broker Surety Bond, Form B.M.C. 84, has been revised in 1977. The revision in the form was necessary to increase the surety bond limit from $5,000 to $10,000. The increase was ordered in Ex Parte No. MC-96, Entry Control of Brokers. Copies of the revised form are available on request from the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

We Find: The correction in the list of forms is necessary to show the increase in limits of the brokers surety bond.

It is ordered: Part 1003 of Chapter X of Title 94 of the Code of Federal Regulations be amended as follows:

Section 1003.1 is amended as follows:

§ 1003.1 Motor Carrier and Broker Forms.

* * * * *

(b) Insurance and Surety Bond Forms

B.M.C. 84 (Rev. 1977)

This order shall be effective on the same date as the rules enacted in Ex Parte No. MC-96, Entry Control of Brokers, become applicable. This decision is not a major Federal action significantly affecting the human environment within the meaning of the National Environment Act of 1969.

By the Commission, Insurance Board, Members Burns, Turkington and Schloer, this 8th day of September 1977.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-26982 Filed 9-15-77;8:45 am]

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1274]

PART 1033—CAR SERVICE

Consolidated Rail Corp. Required To Deliver Cars and Waybills to Short Line Connections

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Service Order No. 1274).

SUMMARY: Service Order No. 1274 requires Consolidated Rail Corp. (ConRail) to deliver waybills with cars to its short line connections. Because of a dispute over the division of revenues between ConRail and certain of its short

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line connections, ConRail is delivering loaded cars to these short lines unaccompanied by waybills. This action prevents the short lines from assessing, collecting, and distributing interline freight revenues due from consignees. The delay in receipt of revenues caused by this action seriously depletes the working funds of the short lines and jeopardizes their ability to continue operations. Service Order No. 1274 directs the involved carriers to inform the Commission on or before November 30, 1977, whether or not they have agreed upon divisions. In the event no agreement has been reached, the Commission will establish divisions as authorized by the Interstate Commerce Act.

DATES: Effective 12:01 a.m., September 14, 1977. Expires 12:59 a.m., February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423. Telephone (202) 275–7840 Telex 89–2742

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a general session of the Interstate Commerce Commission, held in Washington, D.C., on the 13th day of September 1977.

The reorganization of the Northeastern Railroads affected by the Regional Rail Reorganization Act of 1973 has resulted in the formation of the Consolidated Rail Corp. (ConRail) as the successor to the primary lines of the bankrupt railroads in the Northeast and to the formation of numerous smaller railroads (short lines) to operate certain lines not transferred to ConRail. The formation of these short lines has required the establishment of new joint routes and divisions between points formerly served by a single line. In some instances, ConRail and certain short lines have been unable to agree upon a basis for the division of the rates on on such traffic. Section 1(4) of the Interstate Commerce Act requires railroads to establish through routes, joint rates and an equitable basis for the division of such rates. Section 15(6) of the Interstate Commerce Act authorizes the Commission either on its own initiative or upon petition of any carrier to establish just and equitable divisions of joint rates. No such petitions have been filed with the Commission.

Certain of the short lines have complained to the Commission that ConRail is retaining the waybills on cars routed for line-haul movement over these short lines. These waybills are used by Con Rail as the basis for the issuance of freight bills by it to receivers located on the short lines thus depriving the short lines of prompt receipt of freight revenues required for operating funds. In some instances, ConRail is assessing demurrage against shippers located on the short lines notwithstanding the fact that the cars involved are in the car hire accounts of the short lines who are thus responsible to the car owners for equipment rentals.

These actions of ConRail are seriously depleting the funds required by these short lines to enable them to continue service to shippers solely dependent upon them for railroad service.

Accordingly, the Commission finds that notice and public procedure herein are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1274 Service Order No. 1274.

(a) *Consolidated Rail Corp. required to deliver cars and waybills to short line connections.* The Consolidated Rail Corp. (ConRail) is hereby ordered to deliver to its short line connections named in paragraph (c) of the section herein waybills authorizing the movement of cars consigned to industries served by such short lines or routed via such short lines in intermediate line-haul service (See exception (d).) Such waybills shall accompany the cars, except that memorandum waybill may be used when the revenue waybill is not available at the time the car is delivered by ConRail to the short line connection. When memorandum waybill is furnished, the revenue waybill must be furnished by ConRail to its connecting short line at the earliest practical date not exceeding thirty (30) days after delivery of the car.

(b) Revenue waybills must be on waybill forms of the origin line-haul carrier and must include:

(1) Name and address of shipper.

(2) Name and address of consignee.

(3) Full routing as supplied by shipper or origin carrier together with appropriate notations showing authority for any changes in routing.

(4) Name of commodity.

(5) Weight or valid instructions to apply destination weight.

(6) Supplemental instructions necessary for movement, delivery of shipment, protection of the shipment and safety of railroad employees and of the public.

(c) List of Short Lines.

Maryland & Deleware Railroad, Middletown & Hummelstown Railroad Corp.

(d) *Exception.* This order shall not apply to cars routed by the shipper for delivery in switching services at industries located on the railroads named in paragraph (c) of this section herein when switching is authorized by tariffs lawfully on file with the Interstate Commerce Commission.

(e) *Divisions of Revenue.* (1) ConRail and the short lines named in paragraph (c) of this section shall interchange freight and provide necessary transportation services even though no contracts, agreements or arrangements now exist between them with reference to the divisions of revenues.

(2) ConRail and the Maryland & Delaware Railroad and ConRail and the Middletown & Hummelstown Railroad Corp. are directed to seek a voluntary resolution of their divisions of revenue disputes. During the interim between service of this order and November 30, 1977, ConRail and the short lines are to engage in bona fide negotiations as to future divisions arrangements.

(3) On or before November 30, 1977, ConRail and the Maryland & Delaware Railroad, jointly, and ConRail and the Middletown & Hummelstown Railroad Corp., jointly, shall submit to the Commission verified statements summarizing the negotiations.

(4) The regulations adopted by the Commission in Ex Parte No. 322, Expeditious Handling of Division of Revenue Cases, —— I.C.C. —— decided July 29, 1976, provide for a 6-month period of prior negotiations before a notice to file a complaint or a complaint relating to divisions of revenue may be filed. This requirement can be waived "by the Commission on motion of the complainant or prospective complainant if it can be shown that other parties to a divisional dispute have failed to meet and conduct meaningful negotiations with the complainant or prospective complainant." 49 C.F.R. 1109.5(a). Notice is hereby given that, should the negotiations not produce meaningful results by November 30, 1977, the Commission will entertain a motion to waive the 6-month rule.

(5) Should the divisions of revenue dispute not be resolved by November 30, 1977, and in the event that one of the parties to the disputes does not seek to file a notice of intent to file a complaint or a complaint, the Commission, as provided in Ex Parte No. 322, supra, will institute a divisions proceeding on its own motion and "special procedures will be promulgated at that time for use in this somewhat unique situation."

(f) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(g) *Effective date.* This order shall become effective at 12:01 a.m., September 14, 1977.

(h) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., February 15, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1, 12, 15, 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-27038 Filed 9-15-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Protection for Threatened Species of Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Emergency rulemaking.

SUMMARY: The Service issues an emergency rule to further protect threatened species of wildlife. Certain regulations currently prohibit the possession of illegally taken endangered species only, as well as their commercial transportation and sale or offer for sale in foreign or interstate commerce. These protective regulations will now also apply to threatened species for a 120-day period following publication of this emergency rule in the Federal Register. The Service will proceed with rulemaking procedures during this period with the intention of permanently adopting the provisions of the emergency rule. (See FR Doc. 27050 in the Proposed Rules Section of this Federal Register for a proposed rule on the same subject.)

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Marshall L. Stinnett, Special Agent in Charge, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, (202–343–9237).

SUPPLEMENTARY INFORMATION:

Background

On May 11, 1976, the Service amended 50 CFR Part 17 to incorporate the State Cooperative Agreement Program into the Service's endangered and threatened species regulations. In particular, an amendment adding a new subsection (5) to § 17.21(c) authorized certain designated State employees in States with cooperative agreements to take endangered species without a permit for conservation purposes. This exemption did not apply in the following four situations:

(5) Notwithstanding paragraph (c)(1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties take Endangered Species, for conservation programs in accordance with the Cooperative Agreement, provided that such taking is not reasonably anticipated to result in: (i) The death or permanent disabling of the specimen; (ii) the removal of the specimen from the State where the taking occurred; (iii) the introduction of the specimen so taken or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or (iv) the holding of the specimen in captivity for a period of more than 45 consecutive days.

If a proposed taking was to involve any one of those four situations, a regular endangered species permit would be required.

This amendment to § 17.21(c)(5) was similar to an already existing permit exemption for threatened species in § 17.31(b), which for the convenience of the reader is set forth below:

(b) In addition to any other provisions of this Part 17, any employee or agent of the Service, of the National Marine Fisheries Service, or of a State conservation agency which is operating a conservation program pursuant to the terms of a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take any threatened wildlife to carry out scientific research or conservation programs.

The major difference in treatment between endangered and threatened species under a cooperative agreement is that the four restrictions on the taking of an endangered species do not apply to threatened species under § 17.31(b).

The addition of § 17.21(c)(5), however, necessitated an amendment to § 17.31(a) which sets out the general prohibitions for activities involving threatened species. No prohibitions automatically cover threatened species under the Endangered Species Act of 1973, and the establishment of protective regulations is discretionary with the Service. The Service exercised this discretion in the original set of regulations implementing the 1973 Act and determined that as a general rule, all of the prohibitions applying to endangered species would apply to threatened species, unless otherwise provided for in a special rule. For the convenience of the reader, the original version of § 17.31(a) published at 40 FR 44412 is set forth below:

§ 17.31 Prohibitions.

(a) Except as provided in Subpart A of this part, or in a permit issued under this Subpart, all of the provisions in § 17.21 shall apply to threatened wildlife.

. . . . . .

Thus, as a general rule all of the prohibitions and provisions of § 17.21 for endangered species were adopted and transferred over for threatened species under § 17.31(a).

Such a transference of the provisions of § 17.21 would include the newly adopted § 17.21(c)(5) dealing with cooperative agreements and endangered species. It has already been pointed out that § 17.21(c)(5) was more restrictive in its authorization of cooperative agreement activities with endangered species, than was § 17.31(b)'s authorization of cooperative agreement activities with threatened species. To avoid this conflict, it was deemed necessary to exclude § 17.21(c)(5) from the general transference provisions of § 17.31(a). The original preamble for the May 11th final rulemaking stated the problem as follows:

The adoption of amendment number 4 requires a slight modification of § 17.31(a) dealing with the prohibitions applicable to Threatened Species. Section 17.31(a) presently states that with a few specific exceptions, all of the provisions of § 17.21, for Endangered Species, shall apply to Threatened Species. While it has been noted that a provision similar to amendment number 4 already exists in § 17.31(b) for Threatened Species, it is not identical because it does not require the State to get a permit in the four situations set forth for § 17.21(c)(5) in amendment number 4.

The present language of § 17.31(a), in stating that all of the provisions of § 17.21, including the newly adopted § 17.21(c)(5), apply to Threatened Species, creates confusion as to the circumstances under which a Threatened Species may be taken without a permit under a Cooperative Agreement. The transference of the provisions of § 17.21 to Threatened Species would include the four restrictions on taking without a permit, while the present language in § 17.31(b) does not.

The Service proposed in amendment number 5, below, to eliminate this confusion by expressly excluding the transference of the provisions of § 17.21(c)(5) in § 17.31(a). This reaffirms the intent of the present language of § 17.31(b) to provide the maximum State autonomy possible under a Cooperative Agreement for the conservation of Threatened Species.

Thus, it was the intention of the Service to amend § 17.31(a) so that all of the provisions of § 17.21 applied to threatened species except § 17.21(c)(5).

Because of an inadvertent omission, however, not only was § 17.21(c)(5) excluded from applicability to threatened species, but § 17.21 (d), (e) and (f) as well. Instead of § 17.31(a) reading "• • • all of the provisions in § 17.21 shall apply to threatened wildlife, except § 17.21(c)(5).", the May 11th final rulemaking amended § 17.31(a) to read "• • • all of the provisions in § 17.21 (a) through (c)(4) shall apply to threatened wildlife." The excluded subsections 17.21 (d), (e) and (f) set out the prohibitions dealing with the possession of illegally taken endangered species, as well as the commercial transportation or sale or offer for sale in interstate or foreign commerce of endangered species. It is the position of the Service that these prohibitions are clearly necessary for the conservation of threatened species of fish or wildlife. Furthermore, the Service contends that the absence of these protective regulations creates a significant risk to the well being of threatened species of fish or wildlife.

The primary author of this document is Marshall L. Stinnett, Division of Law Enforcement.

Note.—Based upon the procedural nature of the emergency final rulemaking, the Service has determined that this document is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. Accordingly, an environmental impact statement shall not be required.

Accordingly, based on the authority of section 4(f)(2)(B)(ii) of the Endangered Species Act of 1973, 16 U.S.C. 1533(f)(2)(B)(ii), as amended, the Director hereby issues an emergency rulemaking amending § 17.31(a) to read as follows:

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§ 17.31 Prohibitions.

(a) Except as provided in Subpart A of this part, or in a permit issued under this Subpart, all of the provisions in § 17.21 shall apply to threatened wildlife, except § 17.21(c)(5).

• • • • •

NOTE.—The Service has determined that this document does not contain a major rulemaking requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 9, 1977.

WALTER R. MCALLISTER,
Director, Fish and Wildlife Service.

[FR Doc.77-27057 Filed 9-15-77;8:45 am]

PART 32—HUNTING

Opening of Rice Lake National Wildlife Refuge, Minnesota, to Ruffed and Spruce Grouse Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of Ruffed and Spruce Grouse hunting on the Rice Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide recreational opportunity to the public.

DATES: September 17, 1977 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Rice Lake National Wildlife Refuge, Route 2, McGregor, Minnesota 55760, telephone 218-768-2402.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations: upland game; for individual wildlife refuge areas.

Public hunting of only Ruffed and Spruce Grouse on the Rice Lake National Wildlife Refuge in Aitkin County, Minnesota, is permitted from September 17 through December 31, 1977 only in the hunting area designated by (green) signs as open to hunting. The open area comprises about 2000 acres and is delineated on maps available at refuge headquarters, McGregor, Minnesota and from the Regional Director, Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in accordance with all applicable State regulations governing the hunting of upland game.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

LELAND A. THORNBLOOM,
Acting Refuge Manager.

SEPTEMBER 8, 1977.

[FR Doc.77-27052 Filed 9-15-77;8:45 am]

Title 29—Labor

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

Emergency Temporary Standard for Occupational Exposure to 1,2 Dibromo-3-chloropropane (DBCP); Corrections

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Corrections to Emergency Temporary Standard.

SUMMARY: This notice announces corrections to the emergency temporary standard for occupational exposure to DBCP.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Ms. Flo Ryer, Directorate of Health Standards Programs, Occupational Safety and Health Administration, Third Street and Constitution Avenue NW., Room N-3663, Washington, D.C. 20210, (202-523-7174).

A. The preamble to the emergency temporary standard for DBCP is hereby corrected as follows:

1. Page 45536, 2nd column, 1st paragraph under "I. Background", line 5 is corrected by changing "200C" to "20C";

2. Page 45537, 1st column, 2nd full paragraph, line 6 is corrected by adding the word "months" following "4-5" and before the end parenthesis;

3. Page 45537, 2nd column, 3rd paragraph, 12th line, the sentence beginning "None of the 14" is corrected to read "Nine of the 14";

4. Page 45538, 2nd column, 1st paragraph under "C. Other Toxic Effects", line 3 is corrected by changing "associatd ewith" to "associated with";

5. Page 45538, 3rd column, line 6 is corrected by changing "atoxia" to "ataxia";

6. Page 45540, 2nd column, 3rd paragraph under "6. Paragraph (g)—Respiratory protection." line 5 is corrected by adding the word "indicator" after "life" and before the comma;

7. Page 45542, 2nd column, 1st paragraph under "16. Paragraph (q)—Appendices." line 11 is corrected by adding the words "nor as" after "ETS," and before the word "negating";

8. Page 45542, 3rd column, item 1 under "17. References" is corrected by changing the word "cytoxic" to "cytotoxic";

9. Page 45544, 1st column, lines 2 and 3 are corrected by deleting the words "it is hereby proposed to amend", and line 4 is corrected by adding the words "is hereby amended" immediately following the word "Regulations".

B. The emergency temporary standard for DBCP, § 1910.1044, is hereby corrected as follows:

1. Line 7 of paragraph (e)(1) is corrected by replacing the word "section" with "paragraph";

2. Table 1 of paragraph (g) is corrected by:

(a) deleting the word "cartridge" from the 3rd selection under the 100 ppb category;

(b) replacing the word "fasepiece" with "facepiece" in the 2nd line of the 20,000 ppb category;

3. Lines 3 and 4 of paragraph (k)(2) are corrected by deleting the phrase "and whenever exposure to DBCP,";

4. Item II A(10) of Appendix B is corrected by replacing the word "ocmpliance" with "compliance" in the 1st line and the word "Cass" with "Class" in the 4th line; and

5. Page 45549, line 5, the name "Faldysh" should be corrected to read "Faydysh".

(Sec. 6, Pub. L. 91-596, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911; Secretary of Labor's Order No. 8-76 (41 FR 25059).)

Signed at Washington, D.C. this 14th day of September, 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-27209 Filed 9-15-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

CIVIL SERVICE COMMISSION

[5 CFR Part 713]

EQUAL OPPORTUNITY

Prohibition Against Discrimination Because of a Physical or Mental Handicap

AGENCY: Civil Service Commission.

ACTION: Proposed rulemaking.

SUMMARY: There is a growing concern on the part of the public, the courts, and Congress over the lack of effective remedies for Federal employees and applicants who have suffered discrimination because of a physical or mental handicap. Currently, there is no one review system for discrimination based on handicap. On any matter appealable to the Commission, an allegation of discrimination based on physical handicap will be reviewed in an appeal and, if supported by substantial evidence, is a basis for reversal. Discrimination based on matters not appealable to the Commission is reviewable under the agency administrative grievance procedures or alternately under negotiated procedures. This is in contrast to an individual's rights under the Equal Employment Opportunity Act for discrimination based on race, color, religion, sex, and national origin, and the Age Discrimination in Employment Act. The Civil Service Commission is proposing the establishment of an administrative complaints procedure under Part 713 of the Commission's regulations.

DATE: Comments must be received on or before October 31, 1977.

ADDRESS: submit comments to: Hedwig Oswald, Chief, Office of Selective Placement Program, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C., 20415.

FOR FURTHER INFORMATION CONTACT:

Lee Willis, 202-632-5687.

SUPPLEMENTARY INFORMATION: The proposed appeals system for the handicapped will follow the procedures provided for discrimination based on race, color, religion, sex, national origin, and age. Variations from these procedures are required in two areas because of limitations on the Commission's existing authority. These relate to backpay remedial relief for applicants, and court actions.

There presently exists no express statutory authority for backpay to persons who can establish that they were discriminated against because of a physical or mental handicap in Federal employment. However, there is generalized authority contained in the Back Pay Act to provide an employee with backpay relief when he or she is the subject of an unwarranted or improper personnel action. The Commission takes the position that discrimination because of a physical or mental handicap can give rise to a backpay award under the Back Pay Act (5 U.S.C. 5596) and the regulations implementing the Act (5 CFR Part 550). However, since the Act creates a backpay entitlement for employees only, the Commission has no authority under existing law to extend such relief to applicants for employment.

Sections 713.281-283 of Title 5 of the Code of Federal Regulations, relating to the filing of a civil action, is not applicable because there is no specific autory authority governing lawsuits involving discrimination because of a physical or mental handicap. Any such court actions would necessarily have to proceed under general jurisdictional statutes, without regard to the time limits set forth in section 717(c) of The Civil Rights Act.

Accordingly, 5 CFR Part 713, Subpart D is amended, and a new Subpart G is added as set forth below:

Subpart D—Equal Opportunity Without Regard to Politics or Marital Status

Sec.
713.401 Equal opportunity without regard to politics or marital status.

• • • • •

Subpart G—Prohibition Against Discrimination Because of a Physical or Mental Handicap

GENERAL PROVISIONS

713.701 Purpose and applicability.
713.702 Definitions.
713.703 General policy.

AGENCY REGULATIONS FOR PROCESSING COMPLAINTS OF DISCRIMINATION

713.704 General.
713.705 Coverage.
713.706 Exclusions.

AUTHORITY: Subpart G issued under 5 U.S.C. 7153; § 5.1 of the Civil Service Rules; 29 U.S.C. 791.

Subpart D—Equal Opportunity Without Regard to Politics or Marital Status

§ 713.401 Equal opportunity without regard to politics or marital status.

(a) *In appointments and position changes.* In determining the merit and fitness of a person for competitive appointments or appointment by noncompetitive action to a position in the competitive service, an appointing officer shall not discriminate on the basis of the person's political affiliations, except when required by statute, or marital status.

(b) *In adverse actions and termination of probationers.* An agency may not take an adverse action against an employee covered by Part 752 of this chapter, nor effect the termination of a probationer under Part 315 of this chapter (1) for political reasons, except when required by statute, or (2) that is based on discrimination because of marital status.

• • • • •

Subpart G—Prohibition Against Discrimination Because of a Physical or Mental Handicap

GENERAL PROVISIONS

§ 713.701 Purpose and applicability.

(a) *Purpose.* This subpart sets forth the policy under which on agency shall establish a continuing program to assure nondiscrimination on account of physical or mental handicap and the regulations under which an agency will process complaints of discrimination based on a physical or mental handicap.

(b) *Applicability.* (1) This subpart applies to Executive agencies as defined in section 105 of title 5 of United States Code and competitive service as defined in section 2102 of title 5 of United States Code. (2) This subpart applies to the United States Postal Service and Postal Rate Commission. (3) This subpart applies only to applicants or employees who have a physical or mental handicap.

§ 713.702 Definitions.

(a) "Handicap person" is defined for this subpart as one who: (1) Has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has record of such an impairment, or (3) is regarded as having such an impairment.

(b) "Physical or mental impairment" means (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular, reproductive, digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or (2) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(c) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(d) "Has a record of such an impairment" means has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.

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§ 713.703 General policy.

Agencies shall give full consideration to the hiring, placement, and advancement of qualified mentally and physically handicapped persons. An agency shall not discriminate against a qualified mentally or physically handicapped person on the basis of the handicap. An agency shall make reasonable accommodation for the known limitations of a qualified mentally or physically handicapped employee or applicant to enable that individual to perform the duties of a position efficiently and without endangering the health or safety of the individual or others.

AGENCY REGULATIONS FOR PROCESSING COMPLAINTS OF DISCRIMINATION

§ 713.704 General.

An agency shall provide regulations governing the acceptance and processing of complaints of discrimination based on a physical or mental handicap which subject to § 713.706, comply with principles and requirements in §§ 713.213 through 713.271 and §§ 713.601 through 713.614 and §§ 713.631 through 713.632.

§ 713.705 Coverage.

An agency shall provide in its regulations for the acceptance of a complaint from any aggrieved employee or applicant for employment who believes that he or she has been discriminated against because of a handicap as defined in § 713.702.

§ 713.706 Exclusions.

The remedies provided in § 713.271 shall apply to this subpart except that no backpay may be awarded to an applicant for employment.

NOTE.—The Civil Service Commission has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26867 Filed 9-15-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 722]

1978 EXTRA LONG STAPLE COTTON PROGRAM

Proposed Determinations Regarding National Marketing Quota, National Acreage Allotment, and Other Related Operating Provisions for 1978

AGENCY: Agricultural Stabilization and Conservation Service, USDA

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1978 crop of extra long staple cotton (referred to as "ELS cotton"): (1) National marketing quota. (2) National acreage allotment. (3) Apportionment of the national acreage allotment to States and counties. (4) Date or period for conducting the national marketing quota referendum.

The above determinations are required to be made by the Secretary in accordance with provisions of the Agricultural Adjustment Act of 1938, as amended. The effect of these determinations is to determine the national marketing quota and national acreage allotment, apportionment of the national allotment to States and counties and set the date or period for the referendum in which farmers vote on marketing quotas. This notice invites written comments on these proposed determinations.

DATES: Comments must be received on or before October 7, 1977.

ADDRESSES: Mail comments to Director, Production Adjustment Division, ASCS, U.S. Department of Agriculture, Room 3741 South Building, P.O. Box 2415, Washington, D.C. 20013.

Comments will be made available for public inspection at the office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

FOR FURTHER INFORMATION CONTACT:

Charles V. Cunningham (ASCS) (202–447–5953).

SUPPLEMENTARY INFORMATION: The following determinations with respect to the 1978 crop of ELS cotton are to be made pursuant to the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act") (52 Stat. 31, 7 U.S.C. 1281).

(a) *National marketing quota.* Section 347(b)(1) of the Act requires the Secretary to proclaim the amount of the national marketing quota for the 1978 crop of ELS cotton by October 15, 1977. Such marketing quota shall be the number of standard bales of ELS cotton equal to the sum of the estimated domestic consumption and estimated exports, less estimated imports, for the 1978–79 marketing year, which begins August 1, 1978, plus such additional number of bales, if any, as the Secretary determines necessary to assure adequate working stocks in trade channels until ELS cotton from the 1979 crop becomes readily available without resort to Commodity Credit Corporation stocks. The Secretary may reduce the quota so determined for the purpose of reducing surplus stocks, but not below the minimum quota of 82,481 standard bales prescribed under section 347(b)(2) of the Act.

(b) *National acreage allotment.* Pursuant to section 344(a), the national acreage allotment for the 1978 crop of ELS cotton shall be that acreage determined by multiplying the national marketing quota in bales by four hundred and eighty pounds (net weight of a standard bale) and dividing the result by the national average yield per acre of ELS cotton for the four calendar years 1973, 1974, 1975, and 1976.

(c) *Apportionment of the national acreage allotment to States and counties.* Sections 344(b) and (e) provide that the national acreage allotment for the 1978 crop of ELS cotton shall be apportioned to States and counties on the basis of the acreage planted to ELS cotton (including acreage regarded as having been planted) during the five calendar years 1972, 1973, 1974, 1975, and 1976, adjusted for abnormal weather conditions during such period. Section 344(e) further provides that the State committee may reserve not to exceed 10 percent of its State allotment to adjust county allotments for trends in acreage, for counties adversely affected by abnormal conditions affecting plantings, or for small or new farms, or to correct inequities in farm allotments and to prevent hardship.

(d) *Date or period for conducting the national marketing quota referendum.* Section 343 requires the Secretary to conduct a referendum by secret ballot of the farmers engaged in the production of ELS cotton during 1977, by December 15, 1977, to determine whether such farmers are in favor of or opposed to the quota. If more than one-third of the farmers voting in the referendum oppose the national marketing quota, such quota shall become ineffective upon proclamation of the results of the referendum. Section 343 further requires the Secretary to proclaim the results of the referendum within 30 days after the date of such referendum.

Signed at Washington, D.C., on September 8, 1977.

DONALD L. GILLIS,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-26846 Filed 9-15-77;8:45 am]

Rural Electrification Administration

[7 CFR Part 1701]

REA SPECIFICATIONS FOR RURAL DISTRIBUTION TRANSFORMERS (2:1 RATIO, 25 kV TO 15 kV CLASS)

Proposed REA Specification D–18

AGENCY: Rural Electrification Administration, USDA.

ACTION: Advance Notice of proposed rule.

SUMMARY: REA proposes to issue REA Specification D–18, "REA Specifications for Rural Distribution Transformers (2:1 Ratio, 25 kV to 15 kV Class)." There is presently no REA Specification covering these transformers although they are presently included in REA Bulletin 43–5, "List of Materials Acceptable for Use on Systems of REA Electrification Borrowers." The proposed specification is published below. On issuance of REA Specification D–18, Appendix A to Part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than October 17, 1977.

ADDRESS: Interested persons may submit written data, views, comments to the Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director, Power Supply and Engineering Standards Division, during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Rowland C. Hand, Sr., Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202–447–4413.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), the text of the proposed REA Specification D–18 is as follows:

REA SPECIFICATION D–18

SUBJECT: REA SPECIFICATIONS FOR RURAL DISTRIBUTION TRANSFORMERS (2:1 RATIO, 25 KV TO 15 KV CLASS)

I. *Scope.* These performance specifications cover distribution transformers intended for converting system voltage or connecting portions of a system which are at two different voltages. These transformers are to be suitable for both step-down and step-up service. The transformers shall be: (1) Overhead type (pole-type), (2) single phase, (3) 60 hertz, (4) 65°C rise, (5) oil-immersed, (6) self-cooled, and they shall have: (7) cover-mounted high voltage bushings, (8) cover-mounted low voltage bushings, and (9) all standard accessories as listed in ANSI C57.-12.20, (1974). These requirements apply to both autotransformers and two-winding transformers. They shall have an approximate ratio of 2:1, and be of the 25 kV to 15 kV Class.

II. *Rating.* A. Capacity: 167–1000 kVA. B. Voltage: 14.4–7.2 kV and 14.4–7.62 kV. C. Insulation Levels: BIL's shall be:

[In kilovolts]

	Voltage class	BIL
High voltage	25	150
Low voltage	15	110

III. *Testing.* Design and routine tests are required. All designs are to be tested to show compliance with the design requirements of ANSI C57.12.00(1973). All transformers are to be tested to show compliance with the routine requirements of ANSI C57.12.00 (1973).

IV. *Special provisions.* A. Autotransformers shall be designed to withstand a through-fault current of at least 25 times the rated full load current when tested with ANSI C57.12.90A (1977).

B. Two-winding transformers shall be self-protecting when tested in accordance with ANSI C57.12.90A (1977).

C. The kVA rating shall be legibly and durably marked on the tank in numerals not less than 2½ inches high. If not readily apparent, the high and low-voltage bushings shall be so marked.

D. Transformers shall have suitable provision for automatic pressure relief. The minimum nominal flow rate is 40 scfm @ 15 psig with a maximum minus tolerance of 5 scfm. When a valve is used, it shall be located above the 140°C top oil line.

E. The radio influence voltage shall not exceed 100 microvolts (average measurement) at 1000 kHz when measured at 100 percent of rated voltage in accordance with the methods outlined in ASA Publication C63.2 (1960), with the test circuit of Appendix A, Figure 5.

Dated: September 8, 1977.

RICHARD F. RICHTER,
Assistant Administrator-Electric.

[FR Doc.77-26790 Filed 9-15-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Parts 211, 214]

PROJECTED CRUDE OIL AND PETROLEUM PRODUCT SHORTAGES IN THE NORTHERN TIER OF THE UNITED STATES

Advance Notice of Proposed Rulemaking, Inquiry

AGENCY: Federal Energy Administration (FEA).

ACTION: Notice of inquiry (advance notice of proposed rulemaking).

SUMMARY: FEA is considering various proposals for alleviating the crude oil and petroleum product shortages projected for the Northern Tier beginning in early 1978. FEA seeks initial comments at this time, in advance of formal proposed rulemaking procedures, concerning the most appropriate regulatory measures to assist refineries serving areas of greatest potential product shortages in obtaining short-term crude oil supply supplements.

DATES: Comments by October 3, 1977, 4:30 p.m.

Hearing: September 29, 1977, 9:30 a.m., Northern Hotel, Town Manor Room, Billings, Mont; continued if necessary at 9:30 a.m. on September 30, 1977.

Requests to speak by: September 26, 1977, 4:30 p.m.

Address to: FEA Regional Administrator, P.O. Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colo. 80226.

ADDRESS: Send comments to Executive Communications, Room 3317, Federal Energy Administration, Box PO, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), 2000 M Street NW., Room 2214B, Washington, D.C. 20461 (202–254–5201).

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461 (202–566–9833).

Mario W. Cardullo, (Program Office), 2000 M Street NW., Room 6128P, Washington, D.C. 20461 (202–254–9707).

Samuel M. Bradley (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461 (202–566–9565).

SUPPLEMENTARY INFORMATION:

BACKGROUND

In June 1977, FEA submitted to the Congress a study entitled "Petroleum Supply Alternatives for the Northern Tier States Through 1980" which examines the crude oil and petroleum product supply and demand situation in the Northern Tier in light of the phase-out of Canadian exports of crude oil. As described below, copies of this study are available for use by persons commenting on the proposals set forth herein. On the basis of that study, FEA concluded that Montana and eastern Washington may experience petroleum product shortages of approximately 28.6 thousand barrels per day (MB/D) and 9.6 MB/D, respectively, in 1978. With respect to Montana, the product shortfall may increase to 31 MB/D in 1979 and 48.6 MB/D in 1980. FEA's analysis indicated that eastern Washington's product shortages may increase to 11.3 MB/D in 1979 and 13 MB/D in 1980. It appears that alternative crude oil and petroleum product delivery capabilities will enable the remaining Northern Tier areas (Michigan, Wisconsin, Minnesota, North Dakota, and western Washington) to meet normal petroleum product demand through 1980, although spot shortages may occur during periods of peak demand. FEA's study also indicated that certain refineries which are heavily dependent upon Canadian feedstocks may not be able to obtain sufficient supplies from alternative sources to remain economically viable. As indicated elsewhere in this notice, FEA invites comments on the accuracy of its projections of product shortfalls for Montana and eastern Washington.

For some time FEA has been engaged in extensive discussions with the Government of Canada regarding the expansion of crude oil exchanges and, in particular, exchanges of imported for Canadian crude oil via the Portland, Maine, to Montreal pipeline as a short-term supply supplement for Northern Tier refiners. In this connection, in May 1977 FEA held a public hearing and solicited public comments regarding the projected throughputs for and capacity of the mid-continent pipelines to enable the Agency to assess more accurately the extent to which mid-continent pipelines could support expanded crude oil exchanges with Canada. On the basis of the data presented in that proceeding, FEA's conclusion was that the mid-continent pipeline system is at or near capacity.

In early June 1977 FEA representatives met with Canadian officials to request Canada's approval of exchanges of foreign Canadian crude oil at Montreal. In July, the Government of Canada advised FEA that it would not approve crude oil exchanges that would reduce

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the throughput in the Sarnia-Montreal portion of Canada's Interprovincial Pipeline, thus precluding the possibility of exchanges of both domestic and imported crude oil for Canadian crude oil via the Portland, Maine, to Montreal pipeline.

In light of Canada's decision on exchanges of crude oil at Montreal, FEA is evaluating and requests public comment on a number of proposals for alleviating the petroleum product shortages projected for the Northern Tier beginning this winter. The following proposals are presented for comment in this notice and are discussed in more detail below: restricting crude oil exchanges with Canada to refineries which serve the areas of greatest potential petroleum product shortages or, alternatively, requiring any refiner that receives authorization for a crude oil exchange with a Canadian refiner to "share" a portion of the Canadian crude oil with a refinery serving Montana or eastern Washington; time-exchanges between U.S. and Canadian refiners; modification of the crude oil supplier/purchaser rule set forth in 10 CFR 211.63 to permit crude oil supplies indigenous to the Northern Tier to remain in the area; and modification of the restrictions on crude oil exchanges under the Canadian Allocation Program to permit first priority refineries to exchange Canadian heavy crude oil for non-Canadian crude oil.

Northern Tier Petroleum Action Plan

In addition to requesting comments on the above proposals, FEA is also requesting comments on a petroleum action plan for Montana and eastern Washington which the Agency is currently developing to assist it in monitoring and taking appropriate action on the projected petroleum product shortages in these areas. The action plan contemplates the following:

A petroleum product supply/demand analysis by month for the period 1978–1980, taking into account variations in weather conditions and in projected petroleum product demand.

A review of the present petroleum supply distribution network, including refineries, distributors, primary and secondary storage facilities, pipelines and other potential transportation capabilities.

A data system for identifying potential shortage areas to facilitate prompt action by the Agency.

In connection with the development of this plan, FEA requests comments on the following items:

(1) The accuracy of FEA's projections of petroleum product shortages in Montana and eastern Washington.

(2) The areas or regions in Montana and eastern Washington which are expected to experience the most severe petroleum product shortages and supply dislocations.

(3) FEA actions which would alleviate the projected petroleum product shortages.

(4) Actions currently being taken or planned by refiners, suppliers and other parties in Montana and eastern Washington to meet potential petroleum product shortages.

(5) Levels of petroleum product stocks available as of September 1, 1977, at: (a) Refineries and other primary storage facilities by type of product; and (b) distribution centers and other secondary storage facilities. This data is requested of all refiners, suppliers and distributors which serve Montana and eastern Washington including areas served by the following product pipelines:

(a) Yellowstone (from Billings, Mont.).

(b) Chevron (from Salt Lake City, Utah).

(c) Husky (from Cody, Wyo.).

(d) Continental (from Billings, Mont.).

(6) Data from refiners, suppliers, and distributors which serve eastern Washington as to potential levels of shipments and impediments to barge shipments via the Columbia River.

Specific Regulatory Proposals for Comment

Background on Crude Oil Exchanges Between United States and Canadian Refiners

Exchanges for crude oil above Canada's exportable surplus are covered by Section 232 of the Trade Expansion Act of 1962, which authorizes FEA to regulate imports, and the Energy Policy and Conservation Act (EPCA), pursuant to which the Department of Commerce authorizes exceptions from the mandatory prohibition on crude oil exports. Under an agreement with the Department of Commerce, FEA reviews applications for export licenses for crude oil exchanges with Canada in conjunction with its review of requests for approval of exchanges pursuant to 10 CFR 213.28(b)(1) of FEA's Oil Import Regulations. FEA then submits a recommendation to Commerce as to whether to issue an export license. FEA presently evaluates applications for exchange authorizations according to the following criteria: (1) Whether the proposed exchange meets the objective of supplying additional crude oil to Canadian-dependent refineries; (2) whether the domestic crude oil exported is being taken from a crude-deficient area where physical replacement would be difficult; and (3) whether there is any other feature of the exchange that would make it undesirable to grant an import license.

At the present time, refiners participating in the Canadian Allocation Program have authorizations for crude oil exchanges with Canada through the mid-continent pipelines for approximately 77 MB/D. Of this total, first priority refiners under the Canadian Allocation Program have exchange authorizations for 28 MB/D and second priority refiners for 49 MB/D. However, only 58.5 MB/D of crude oil are being exchanged due lack of capacity in the mid-continent pipeline system. The export licenses for these crude oil exchanges will expire on September 30, 1977. The following table shows the distribution of exchange authorizations by state:

[Thousands of barrels per day]

Michigan	Minnesota	Montana	N. Dakota	Western Washington	Wisconsin	New York
0	21	2	9	30	7	8

As is evident from the above table, Montana and eastern Washington, which are projected to have a potentially serious petroleum product shortfall this winter, are receiving a negligible amount of crude oil through exchanges with Canada, while other areas, such as western Washington, which have access to non-Canadian imported crude oil, are receiving the bulk of the exchange crude oil.

Proposal No. 1: Limiting Exchanges to Refineries Serving Areas of Projected Petroleum Product Shortages

FEA would accord priority status to certain refineries dependent upon Canadian crude oil with respect to eligibility for crude oil exchanges with Canada to ensure that such exchanges are used to the maximum extent possible to meet consumer demand for petroleum products in those areas which are expected to be the most severely affected by the decline in Canadian exports. Under the proposal, applications for exchange authorizations would be evaluated under the following criteria, in addition to the factors set forth above:

(a) Priority status of the applicant's refinery under the Canadian Allocation Program;

(b) Projected petroleum product shortages in the market served by the applicant's refinery during the period in which the exchange authorization would be in effect;

(c) Projected refinery capacity utilization during the period in which the exchange authorization would be in effect;

(d) Access of applicant's refinery to alternate crude oil supplies; and

(e) Applicant's ability to obtain pipeline space for the crude oil exchange.

FEA solicits comments on the above criteria and the feasibility of limiting crude oil exchanges to refineries serving areas of projected petroleum product shortages.

Alternate Proposal: Shared Exchanges

In light of the fact that the mid-continent pipeline system is operating at or near capacity, refineries that are granted exchange authorizations under the first proposal may not be able to secure pipeline space to implement their approved exchanges. Accordingly, FEA requests comments on an alternative proposal whereby any priority refiner under the Canadian Allocation Program that has a crude oil exchange agreement under the current exchange program would be required to sell to or exchange with a refinery serving Montana or eastern Washington up to fifty percent of the Canadian crude oil obtained via the exchange. Under this alternative proposal, it may be necessary to amend § 213.28 (b)(1) of the Oil Import Regulations to provide that any priority refiner requesting approval of a crude oil exchange with Canada would be required to enter into a shared exchange arrangement with a refinery serving Montana or eastern Washington as a condition of approval.

Proposal No. 2: Time Exchanges

The Government of Canada has indicated a willingness to consider crude oil "time exchanges" between U.S. and Canadian refiners if repayment of the exchange volumes is guaranteed. Time exchanges would permit U.S. refineries dependent upon Canadian feedstocks to receive more Canadian crude oil through exchanges than the mid-continent pipeline system can presently support since repayment of the exchange volumes could be deferred. Under the proposal, U.S. refiners would receive a specified volume of Canadian crude oil above Canada's exportable surplus from 1978 through 1980 and repayment by the U.S. refiners could begin in 1981.

FEA specifically requests comments on: (1) Whether, and under what conditions, refiners would be interested in time exchanges; (2) what would be an appropriate mechanism for guaranteeing commercial repayment of the exchange volumes; and (3) whether eligibility for time exchanges should be restricted as proposed under Proposal No. 1.

Proposal No. 3: Modification of Crude Oil Supplier/Purchaser Rule

Another regulatory action which may alleviate the crude oil supply problems of the Northern Tier refineries is the redistribution by FEA of indigenous crude oil produced in Michigan, Montana, North Dakota, and Wyoming to the refineries most in need of additional crude oil in the Northern Tier States. Although the crude oil reserves and production for these states, with the exception of Michigan, are projected to decline gradually over the years, there still should be sufficient crude oil in these reserves in 1978 and 1979 to reduce the impacts resulting from the Canadian export cutbacks, assuming transportation is available to reallocate the crude oil to those refineries which have no alternative means of supply.

The crude oil supplier/purchaser rule set forth in 10 CFR 211.63 generally requires that domestic crude oil production flow to purchasers which historically purchased the crude oil. To the extend that crude oil produced in the Northern Tier must be shipped to a refiner outside the Northern Tier or to a Northern Tier refiner which has access to alternate non-Canadian crude oil sources, consumers in the Northern Tier areas most severely affected by the decline in Canadian exports may experience hardship. Thus, it is possible that a modification to this regulation may be appropriate in certain circumstances. Accordingly, FEA requests comments as to whether the crude oil supplier/purchaser rule should be modified to permit refineries serving in Montana and eastern Washington to obtain additional volumes of crude oil from the following crude oil basins: Williston, Powder River, Big Horn, and Wind River.

FEA is specifically interested in receiving comments on other actions, such as pipeline reversals, that would have to be taken in conjunction with modification of the supplier/purchaser rule to assure that the refineries in question are able to receive the crude oil from the basins listed. In addition, FEA requests comments on whether regulatory action should be taken to compensate the purchasers of the crude oil that would be redirected as a result of modification of the crude oil supplier/purchaser rule.

On July 28, 1977 (42 FR 39395, August 4, 1977), FEA issued a notice of proposed rulemaking and public hearing to modify the crude oil supplier/purchaser rule to permit a supplier/purchaser relationship between a producer and reseller to be terminated with respect to crude oil being delivered to refiners other than small refiners, if the new reseller offers to continue to supply these refiners with such crude oil. FEA is interested in receiving comments as to whether the adoption of this amendment would have the effect of providing additional crude oil to refineries serving Montana and eastern Washington.

Proposal No. 4 Modification of Mandatory Canadian Crude Oil Allocation Regulations

Under the Mandatory Canadian Crude Oil Allocation Regulations, set forth in 10 CFR Part 214, first priority refiners are precluded from exchanging Canadian crude oil except for exchanges which involve only (directly or indirectly) Canadian crude oil and in which only quality and location differentials are given effect in the calculation of the exchange ratio. Under the curtailment schedule announced by the Government of Canada, heavy crude oil exports will not be reduced as rapidly as the light Canadian crude oils. Under the current regulations, first priority refiners may nominate for the heavy crude oil but cannot trade this crude oil for domestic light crude oil which may be available. Several refiners have recommended to FEA that 10 CFR 214.31(g)(1) be modified to allow barrel-for-barrel exchanges of Canadian heavy crude oil for U.S. domestic crude oil by first priority refiners, provided that this exchanged volume of crude oil is utilized in a designated first priority refinery.

Availability of FEA Study: "Petroleum Supply Alternatives for the Northern Tier States Through 1980"

Single copies of FEA's June 1977 study entitled "Petroleum Supply Alternatives for the Northern Tier States Through 1980" are available upon request from the National Energy Information Center, Room 1404, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the study will also be available for public review in the Northen Hotel, at the above address, during the public hearing and in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Procedures for Submission of Written Comments and Public Hearing

Written Comment Procedures

Interested persons are invited to participate in this proceeding by submitting data, views, or arguments with respect to the specific items for comments set forth in this notice to Executive Communications, Federal Energy Administration. Comments should be identified on the outside of the envelope and on documents submitted to FEA with the designation, "Northern Tier Public Inquiry," Box PO. Fifteen copies should be submitted. All written comments should be submitted by 4:30 p.m. on October 3, 1977. All comments received by FEA will be available for public inspection in the FEA Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW. between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Public Hearing

1. *Request procedure.* A public hearing to receive oral presentation of data, views, and arguments from interested persons will be held at the time and place indicated earlier in this notice.

Any person who has an interest in the subject matter of this notice, or who is a representative of a group or class of persons which has such an interest, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to FEA Regional Administrator, P.O. Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colo. 80226, and must be received before 4:30 p.m., September 26, 1977. A request should be labeled both on the document and on the envelope "Northern Tier Public Inquiry."

The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be reached through September 28, 1977.

Each person selected to be heard will be notified by FEA before 4:30 p.m., Sep-

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tember 27, 1977, and must submit 15 copies of his or her statement to FEA Regional Administrator, P.O. Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colo. 80026, by September 28, 1977.

2. *Conduct of hearings.* FEA reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. Each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing to the FEA Regional Administrator at the above address before 4:30 p.m., on the day prior to the hearing. Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question in writing to the presiding officer. FEA, or the presiding officer if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection in the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, D.C., September 14, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-27206 Filed 9-15-77;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 399]

[PSDR-49A; Docket No. 31290; Dated: September 13, 1977]

DOMESTIC PASSENGER-FARE LEVEL POLICIES AND STRUCTURE POLICIES

Advance Notice of Proposed Rulemaking; Denial of Request for Extension of Time for Comments

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental advance notice of proposed rulemaking.

SUMMARY: This notice announces the denial of a request for extending the filing dates for comments and reply comments in a rulemaking proceeding concerning modification of the Board's DPFI policies. The requested extension was filed by eight local service carriers.[1] DATES: As prescribed by PSDR-49, the filing dates continue to be:

Comments: September 21, 1977.
Reply comments: October 6, 1977.

ADDRESSES: Comments should be sent to: Docket 31290, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Norman D. Schwartz, Legal Division, Bureau of Fares and Rates, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5056).

SUPPLEMENTAL INFORMATION: By Advance Notice of Proposed Rulemaking PSDR-49, dated August 17, 1977 (42 FR 42229; August 22, 1977), the Board gave notice that it had decided to solicit public views on whether any of the Board's DPFI policies need to be modified to accommodate characteristics of the industry which appear to be changing as several new entrants seek certification to provide low price services and the existing carriers have begun to compete in their normal fares.

In a letter dated September 7, 1977, counsel for eight local service carriers requested an extension of 45 days for the filing of comments and 30 days for the filing of reply comments in response to PSDR-49. In support of the request, counsel stated that additional time is needed to consider adequately the issues raised in the Advance Notice.

Under other, more ordinary circumstances, the undersigned would be inclined to approve the requested extension. However, the Board has previously committed itself to a very tight deadline that does not permit extension of the dates for comments and reply comments to the Advance Notice. The Board in its Order on Reconsideration of the scope of the *Chicago-Midway Low-Fare Route Proceeding*, Docket 30277, Order 77-8-10, committed itself to reaching a decision within 12 months, or by August 1978, on the issues in that route proceeding. In that same order, the Board stated that rates issues relevant to the route proceeding could be dealt with in a rulemaking proceeding, instead of the route proceeding, and that the Board expected the rulemaking to move forward rapidly, and to be completed in advance of any decision in the route proceeding. That rulemaking was instituted by PSDR-49, which established the dates now sought to be extended.

The Advance Notice is a preliminary notice and will be followed by a notice of proposed rulemaking which will be the subject of comments by interested persons. All parties, therefore, will have another opportunity, in addition to that provided by the Advance Notice, for comments and reply comments, to express their views. The undersigned finds that good cause has not been shown for the granting of the requested extension.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR 385.20 (d), the request for extending the time for filing comments and the time for filing reply comments is denied.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324).)

SIMON J. EILENBERG,
Associate General Counsel, Rules Division.

[FR Doc.77-27049 Filed 9-15-77;8:45 am]

[1] Allegheny Airlines, Inc., Frontier Airlines, Inc., Hughes Airwest, North Central Airlines, Inc., Ozark Air Lines, Inc., Piedmont Airlines, Southern Airways, Inc., and Texas International Airlines, Inc.

FEDERAL TRADE COMMISSION

[16 CFR Part 705]

REASONABLE DUTIES UNDER A FULL WARRANTY

Extension of Time for Submission of Written Comments Concerning Proposed Rule

AGENCY: Federal Trade Commission.

ACTION: Extension of time for submission of written comments.

SUMMARY: On August 3, 1977, the Commission published in the FEDERAL REGISTER (42 FR 39223) a Notice of Inquiry and Proposed Rule Proceeding concerning Reasonable Duties Under A Full Warranty. The closing date of the submission of written comments is extended from September 15, 1977 to September 30, 1977.

DATE: Written comments must be received on or before September 30, 1977.

ADDRESS: Send written comments to John A. Gray, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

John A. Gray, 202-724-1169, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On August 3, 1977, the Commission published in the FEDERAL REGISTER (42 FR 39223) a Notice of Inquiry and Proposed Rule Proceeding concerning Reasonable Duties Under A Full Warranty. The Notice, under Section C, invited all interested persons to submit written data, views, or arguments on any issues of fact, law, or policy, which may have some bearing upon the proposed rule. The closing date set for the submission of these written comments was September 15, 1977.

The closing date for the submission of these written comments has been extended to September 30, 1977. All other information contained in the Commission's Notice remains the same.

Issued: September 14, 1977.

By the Commission.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc.77-27208 Filed 9-15-77;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H-004]

EXPOSURE TO LEAD

Proposed Standard; Additional Comment Period and Informal Public Hearing

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of additional comment period and scheduling of informal public hearing.

SUMMARY: This notice establishes an additional comment period for the submission of written data, views, and arguments solely on the issue of appropriate protections for workers transferred or removed from lead exposure under the proposed lead standard's medical surveillance provisions. The notice also schedules an informal public hearing to provide an opportunity to submit oral testimony on this issue.

DATES: Comments and Notices of Appearance concerning the proposed rule must be postmarked on or before October 17, 1977; all materials which will be introduced into the hearing record must be received by October 25, 1977; an informal hearing is scheduled to begin November 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. James Foster, Office of Public Affairs, Occupational Safety and Health Administration, Third Street and Constitution Avenue NW., Room N-3641, Washington, D.C. 20210 (Tel. No. 202-523-8151).

SUPPLEMENTARY INFORMATION: On October 3, 1975, notice of a proposed standard for occupational exposure to lead was published by the Occupational Safety and Health Administration (OSHA) in the FEDERAL REGISTER (40 FR 45934), pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1592, 1593, 1599; 29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 8-76 (41 FR 25059) and 29 CFR Part 1911. As a result of the proposed standard's invitation to interested parties to submit written comments, a considerable amount of relevant information and data was received. In addition, informal public hearings were held on the proposal in Washington, D.C., from March 15, 1977, through April 14, 1977, in St. Louis, Mo., from April 26 through April 28, 1977, and in San Francisco, Calif., from May 3 through May 6, 1977. Additional evidence and post-hearing briefs were submitted by participants in the hearings. Consequently, OSHA has collected a substantial body of information on issues it had previously identified as well as other issues involved in the proceedings.

One of the issues involved in this proceeding is whether, and to what extent, the standard should require employers to protect employees who submit to medical surveillance and as a result are removed from lead exposures in order to preserve the employees' health. This issue is inherent in the proposed standard's medical surveillance provisions and has been the subject of a considerable amount of testimony and discussion in the hearings and post-hearing submissions (see e.g. statement of OSHA representative Grover Wrenn). In order to provide the public with a clean understanding of OSHA's intended actions and supporting rationales, OSHA has decided to publish this notice discussing the problem and alternative courses of actions in detail. Written comments and the submission of evidence on this issue are invited. In addition, an informal public hearing will be held to receive testimony on this limited issue. The final lead standard will be based on the total record developed including the public comments, data and testimony received on the issue of medical transfer and removal protections.

INTRODUCTION

It is clear that the Act is intended to assure, to the extent possible, that no employee will suffer diminished health, functional capacity, or life expectancy as a result of his or her work experience. Consistent with this goal, the Secretary has been given broad-ranging authority to promulgate comprehensive health and safety standards and other implementing regulations. With respect to health standards, the Secretary is empowered to require employers to determine the extent of employee exposures; utilize engineering controls and suitable protective equipment to control employee exposures; prescribe medical examinations and other diagnostic tests to effectively determine whether the employee has been adversely affected by his or her exposures, and inform employees about workplace hazards including the symptoms, treatment and precautions needed to protect themselves (see Sec. 6(b)(7)). This integrated approach to employee protection is the cornerstone of the Act. A successful preventative occupational health program cannot succeed unless all of these elements accomplish their intended purposes.

A successful medical surveillance program is essential because it is the only method for the early detection of occupational disease. If occupational illnesses are diagnosed only after the employee exhibits overt symptoms, diminished health or life expectancy will frequently result. In addition, timely medical surveillance provides an opportunity to treat the occupational illness before it becomes irreversible. Continued exposures also increase the probability of material impairment to the employee's health. Early medical detection provides essential information for protective action to prevent these exposures. This is particularly important for lead exposures since the subtle effects of overexposure can be detected by current medical practice through the use of diagnostic tests. Positive results on these medical tests appear long before overt symptoms appear. As a result, an effective medical surveillance program can protect employees from further impairment of their health. Moreover, past effects may be reversed.

Recently, a great deal of attention has been focused upon the effectiveness of OSHA's medical surveillance provisions because employees are reluctant to participate in medical surveillance programs such as the one contained in the proposed lead standard. There is significant evidence that employees are unwilling to participate in medical screening and examinations programs because they fear that the discovery of an abnormal medical condition resulting from their occupational exposure may lead to the loss of employment or other adverse employment effects.

In the final standard for employee exposure to coke oven emissions, OSHA indicated that it was concerned about the plight of workers who must confront the dilemma of either taking the medical examination that could ultimately result in loss of employment, or alternatively refusing to take the medical examination and thus precluding the protections of early medical detection (41 FR 46780). More evidence on this very difficult issue was presented during the lead proceeding. Several employees indicated that they would be extremely reluctant to submit to medical examinations under these circumstances. In situations where blood lead levels determine removal from a job, employees testified that they had sought the use of extremely toxic drugs from nonmedical sources in order to reduce their blood lead levels. In addition, several expert witnesses testified that a medical surveillance program could not be successful under these circumstances (see e.g. statement of Andrea M. Hricko, M.P.H.). This problem has been recognized, in part, by some employers who currently provide protection to employees who are removed from lead exposure for medical reasons.

OSHA is seeking additional public input regarding a provision in the final lead standard which would protect employee participation in the lead medical surveillance program. This provision would extend employment protection to employees who participate in the medical surveillance program and are removed or transferred from their job because of occupational lead illness. The following

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discussion represents OSHA's current views on protected medical surveillance.

PROTECTING EMPLOYEE PARTICIPATIONS IN MEDICAL SURVEILLANCE

It appears that there are essentially three alternative approaches to overcoming the employee's reluctance to submit to the medical surveillance program. The alternatives are: (1) Mandatory medical examinations; (2) medical removal protection for employees who are removed from their jobs because further exposure to lead could result in material impairment of health; or (3) prohibition against removal of employees.

Mandatory medical surveillance would, in effect, require employers to discipline and ultimately discharge employees who refuse to submit to medical surveillance. Employers who fail to do so would be subject to citation and would have no choice but to discharge the employee. This approach intensifies the employee's dilemma in submitting to medical surveillance. Either the employee submits to medical examination and risks discharge for occupational lead illness; or, the employee refuses the medical examination and is automatically discharged. This is particularly difficult when the affected employee has been employed in the lead industry for a relatively long time and would find it extremely difficult to obtain a job in a different industry. As a result, the affected employees and their families would bear the primary financial responsibility for the preventive health measures mandated by the Act to control occupational disease. The result is inconsistent with the purposes of the Act. The Act assigns employers the primary responsibility to control workplace hazards and protect employees from occupational disease. This responsibility necessarily includes the costs to protect employees from occupational disease which will occur as a result of continued exposure. Moreover, a general requirement for mandatory medical examinations could inappropriately interfere with the employee's privacy.

The third alternative is to prohibit forced removal of employees from their jobs when medical surveillance indicates an excessive blood lead level. Obviously, this alternative would eliminate the employees' reluctance to participate in medical surveillance based on the fear of removal. However, this alternative would merely provide employees with information on their current medical status without any protection from working conditions which materially impair their health. Clearly, section 6(b)(7) of the Act anticipated that medical surveillance would be an effective component in a preventive health program directed at protecting employees from material impairment of their health.

The central purpose of the Act is to prevent illness and injury, not simply to identify it. Furthermore, prevention cannot be achieved when employees must choose between continued exposure to a toxic substance with protacted illness and the employees' means for supporting their families. This is intensified for the employees who are at the greatest risk because of long-term exposure to lead.

Based upon the foregoing, OSHA's present view is that the medical surveillance provision should afford significant employee protection from serious health hazards without a consequential loss for the exposed worker.

EXPOSURE LIMITATIONS, TRANSFERS AND REMOVAL

The medical surveillance provision of the proposed standard contemplates that employers will limit the exposure of employees who are at increased risk of material impairment of health. Improved engineering controls, work practices, hygiene practices, respirators, and administrative controls may be utilized to reduce employee exposures so that the employee is no longer at increased risk of material impairment of his or her health.

OSHA's primary goal is to assure that no employee suffers material impairment of health or functional capacity. The Agency does not favor transfer or removal as an alternative to controlling the level of a toxic substance in the workplace environment. Moreover, once full compliance with the permissible exposure level is achieved by engineering controls and work practices, the need to transfer or remove employees from exposure to lead should arise infrequently with only short term transfer or removal necessary.

However, it appears that some limitations on exposure such as transfer or removal from occupational exposure may, on occassion, be necessary to effectively protect employees from material impairment of health. For example, if an employee's blood lead level were only slightly elevated above acceptable levels, transfer ("removal") to a job where the lead exposures were considerably lower might be appropriate preventive action. Transfer to another job where lead exposures are considerably lower is a form of administrative control that would comply with the proposed standard under certain circumstances.

Of course, this transfer must be based upon a physician's written opinion. On the other hand, if this same employee's blood lead levels were substantially elevated above acceptable levels, removal from any occupational exposure to lead may be necessary in order to significantly reduce the blood lead level.

The present practice of many employers is to remove employees from all occupational exposure to lead when blood lead reaches a specific level. These employees are required to submit to periodic blood tests. However, their employers do not provide appropriate protection for employees who are transferred or removed. Therefore, when blood lead levels indicate that employee's exposure to lead has not been effectively controlled, employers tend to remove the employee from exposure completely because the employer incurs no substantial cost by taking this course of action. Thus, the exposed employee is penalized for participating in a medical surveillance program. (In fact, some employers have refused to certify that lead poisoning has resulted in layoffs so that their worker compensation premiums would not be affected.)

However, if the final lead standard contains a provision which protects employees who are removed, the employers' attention will be focused primarily upon preventative health action and only secondarily upon the economic implications. On the other hand, OSHA is concerned that respirators will be inappropriately issued when blood lead levels exceed acceptable levels in order to avoid the costs of transfer and removal. OSHA requests information on the conditions, if any, when respirators may be used to limit employee exposure.

MEDICAL REMOVAL PROTECTIONS

The medical surveillance provisions of the lead standard should include a requirement for medical removal protection. This requirement would maintain the rate of pay, seniority and other rights of an employee for the time period, or a portion thereof, that the employee is transferred or removed from his or her job as a result of an increased health risk from exposure to lead. After a follow-up medical examination and opinion, the following options would be available with no loss of earnings or rights: Return to the original job, assignment to a different job (transfer), or continuation of the transfer or removal.

The following is a discussion of several issues regarding the operation of medical transfer and removal protections. This discussion is not intended to be exhaustive. Rather, it presents the Agency's current position and is intended to serve as a focal point for further public comment, data and views.

A. MEDICAL BASIS FOR MANDATORY REMOVAL AND OTHER LIMITATIONS

The operation of the medical surveillance program raises several issues if the medical surveillance section of the lead standard is expanded to include transfer, removal and other limitations. Several employees testified that they had serious doubts about the objectivity or reliability of medical opinions rendered by physicians currently retained by their employers. One way to ensure greater accuracy in medical diagnosis and to improve employee confidence in the medical examinations would be a provision that would allow the employee to challenge the finding made by the first physician. This provision could allow the affected employee to select a second physician to render a medical opinion. This might occur where the first physician's opinion is that the employee is physically fit to work at the same job but the employee contiues to experience the symptoms of lead poisoning. Conversely, the employee may be healthy and want to continue work, but the first physician concludes the employee is not fit to do so. At this stage, peer review by a second physician may result in the first physician reconsidering the original opinion after comparing it with the findings of the second physician. If the second physician's opinion differs irreconcilably from the first, then a third impartial physician would be chosen by the first two physicians, and the third opinion would serve as the basis for the employer's determination concerning the particular employee's continued exposure to lead.

OSHA requests information on alternative physician selection procedures. These medical services would be at the employer's expense. This system of medical examination and review is analogous to the system required in the permanent standard on diving operations (42 FR 37650, July 22, 1977).

If exposure limitations including transfer and removal are based exclusively on blood lead levels in excess of an established level, then the necessity of the second and third medical examinations becomes an issue. Since an excessive blood lead level is an objective criterion, it may be unnecessary to authorize a second and perhaps third medical examination. However, the issue remains as to whether multiple opinions are necessary on the appropriateness of a limitation recommended by the first physician.

B. CRITERIA FOR LIMITATIONS ON EXPOSURE

Blood lead levels may be utilized either as the exclusive biological indicator for a medical opinion or they could be supplemented by additional biological indicators. The exclusive use of blood lead levels simplifies the medical surveillance process and focuses the physician's attention on appropriate preventive limitations. By supplementing blood lead levels with other biological indicators, the employer may place limitations on employee exposure based on medical opinion even though the blood lead levels are within the acceptable level. Data and views on these alternatives are sought by the Agency.

C. TERMS OF THE PROVISION ON MEDICAL REMOVAL PROTECTION

At the hearings on the proposal, employee and employer groups noted that certain employers currently protect the rate of pay and related rights of employees for a period of time after removal. Ninety days was mentioned as one time period for earnings protection ("rate retention"). However, there was also testimony that in some cases employees were not capable of returning to their original positions within that time. Thus, an issue is raised as to the appropriate duration of removal protection. The period of time should reflect the following considerations: The time necessary for employee health and/or biological indicators to normalize, the nature and extent of physiological damage from lead poisoning, and the number of removed employees who would be covered by this provision. Earnings and seniority protection could last until the individual employee is able to safely return to work. However, if the employee is unable to return to the job due to occupational exposure to lead, then a certain maximum time period could be established.

The record indicates that in some existing programs the period of earnings and seniority protection is not co-extensive with the actual transfer or removal period. For example, an employee removed from exposure for four months may receive earnings and seniority protection for only three months. OSHA requests information and views on the duration of transfer and removal protection.

Testimony at the hearings revealed employees occupationally poisoned by lead receive Workers Compensation payments in some States, such as Missouri. These payments do not equal the salaries of the affected workers nor are they necessarily co-extensive with the time period that the employee has been removed from work. Moreover, there is typically a substantial delay before an employee receives the first payment under Workers Compensation. Therefore, the Agency must consider the relation between awards to the removed employee under Workers' Compensation and payments under the medical surveillance provision.

Comments submitted for the record by employers suggested that medical removal protection should be limited to the transfer of employees to other available positions. This suggestion does not speak to the need to remove employees completely from exposure, e.g. their home or hospital. Moreover, employee protection becomes entirely dependent on the number of available jobs. If an employee should be removed for medical purposes, then job removal protection must be equally available to all removed employees.

Another issue involves the conditions which terminate medical transfer and removal protection. One alternative is to remove an employee for a definite period of time based on the medical recommendations. Medical examinations would be scheduled at various intervals within this time frame, and the removed employee would be returned to work when the employee's condition returned to normal. A related issue is the medical criteria for returning a removed employee to his or her original job. These criteria should insure so far as possible that the returned employee is not removed immediately after reassignment as a result of resumed lead exposure. This may require a reassignment criterion for the employee's blood lead level which is somewhat lower than the removal criterion. The provision might also condition the employee's return to exposure on assignment to a job with reduced lead exposures. Since the employer's decision to return an employee must be based on a medical opinion, a medical review procedure may be necessary to resolve disagreements on medical recommendations to return to the original job or the appropriateness of recommended limitations.

OSHA has already collected a substantial body of information on occupational exposure to lead. Therefore, the written responses to this notice and testimony at the public hearing shall be limited to those issues directly related to medical removal protection. Issues such as the blood lead level or levels which would trigger limitations on exposure have already been subjected to extensive public comment and testimony and are not appropriate for this comment period and hearing.

Comments and information are sought on any issues raised by the above discussion, the issues raised below and any other directly related issues:

1. Whether a provision for removal protection is necessary or appropriate.
2. What should be the appropriate scope of this provision?
3. What earning protection programs are presently in use, and how do they operate?
4. What impact would this provision have on small businesses?
5. What impact would this provision have on collective bargaining?
6. Should employees be permitted to remain on their job despite the risk of material impairment of their health?
7. To what extent, if any, should respirators be permitted to reduce exposures of employees who are at increased risk of material impairment of their health?
8. Should a time limitation be placed on the duration of medical removal protections for a particular employee? If so, what should that time limit be?
9. Should the initial medical opinion be subjected to multiple medical opinions?
10. Should employee participation in the medical surveillance program be mandatory?
11. Should elevated blood lead levels be the exclusive medical criterion for recommending removal from the job, limitations on exposure, or return to the original job? If not, what supplementary medical criteria should be used?
12. To what extent do Workers Compensation laws cover occupational diseases related to lead exposure?
13. The economic impact of such a provision, including (a) Number of employees affected if this provision becomes operative at 20 μg Pb/100g of whole blood, 30 μg Pb, 40 μg Pb, 60 μg Pb, or 80 μg Pb; (b) Cost per employee of this provision for each triggering blood lead levels; (c) Cost impact on consumers, businesses, markets, or Federal, State, or local government; (d) Effect on productivity of wage earners, businesses (both small and large) or government; (e) Effect on competition; (f) Ability of specific industries to absorb costs of compliance; and (g) Cost impact on the employee, the employee's family, compensation and disability programs, the health care delivery system, governmental and societal institutions and other related cost savings.

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PUBLIC PARTICIPATION

NOTICE OF HEARING

Interested persons are invited to submit written data, views and arguments with respect to medical removal protection. These comments must be postmarked on or before October 17, 1977, and submitted in quadruplicate to the Docket Officer, Docket H–004, Room S6212, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210. Written submissions must clearly identify the position taken with respect to the issue. The data, views, and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions received will be made a part of the record for this proceeding.

Pursuant to section 6(b)(3) of the Act, an opportunity to submit oral testimony concerning the issues raised by this notice, including the economic impact, will be provided at an informal public hearing scheduled to begin at 9:30 a.m. on November 1, 1977, in the Auditorium, New Department of Labor Building, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210.

NOTICES OF INTENTION TO APPEAR

All persons desiring to participate at the hearing, must file in quadruplicate, a notice of intention to appear, postmarked on or before October 17, 1977, with Clarence Page, the OSHA Division of Consumer Affairs, Docket No. H–004, Room N–3635, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210, telephone 202–523–8024. The notices of intention to appear, which will be available for inspection and copying at the OSHA Technical Data Center—Docket Office (Room S6212), telephone 202–523–7894, must contain the following information:

(1) The name, address, and telephone number of each person to appear;

(2) The capacity in which the person will appear;

(3) The approximate amount of time requested for the presentation;

(4) The specific issues that will be addressed;

(5) A detailed statement of the position that will be taken with respect to each issue addressed; and

(6) Whether the party intends to submit documentary evidence, and if so, a brief summary of that evidence.

FILING OF TESTIMONY AND EVIDENCE BEFORE HEARING

Any party requesting more than 15 minutes for presentation at the hearing, or who will submit documentary evidence, must provide in quadruplicate the complete text of testimony, including any documentary evidence to be presented at the hearing, to Clarence Page, the OSHA Division of Consumer Affairs. This material must be received by October 25, 1977, and will be available for inspection and copying at the Technical Data Center—Docket Office. Each such submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified.

Any party who has not substantially complied with this requirement may be limited to a 15 minute presentation, and may be requested to return for questioning at a later time.

CONDUCT OF HEARINGS

The hearing will commence at 9:30 a.m. on November 1, 1977, with resolution of any procedural maters relating to the proceeding. The hearing will be conducted in and expedited manner consistent with the full development of the record and rights of the parties.

The hearings will be presided over by an Administrative Law Judge who will have all the powers necessary and appropriate to conduct a full and fair informal hearing in accordance with 29 CFR Part 1911. Following the close of the hearing or of any post hearing comment period that might be provided, the Administrative Law Judge will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health. The proposal will be reviewed in light of all oral and written submissions received as part of the record, and a standard will be issued based on the entire record in the lead proceeding.

(Sec. 6, Pub. L. 91–596, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911; Secretary of Labor's Order No. 8–83 (41 FR 25059).)

Signed at Washington, D.C., this 13th day of September 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77–27041 Filed 9–15–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[30 CFR Parts 700, 710, 715, 716, 717, 720, 721, 722, 723, 725, 740, 795, 830]

SURFACE MINING RECLAMATION AND ENFORCEMENT PROVISIONS

Proposed Rules; Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Corrections.

SUMMARY: This document corrects proposed rules that appeared on page 44920 of the FEDERAL REGISTER on September 7, 1977, FR Doc. 77–25928.

DATES: Comments must be received by October 7, 1977. Public hearings will be held starting at 1 p.m. on September 20, 1977, and continuing if necessary at 9 a.m. on September 21 and 22, 1977.

ADDRESSES: Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240. Public hearings will be held at the Department of the Interior Auditorium, 18th and C Streets NW., Washington, D.C.; Kiel Auditorium, 1416 Market Street, St. Louis, Mo.; Public Library Auditorium, 1347 Broadway, Denver, Colo.; and Morris Harvey College, Riggleman Hall, 2300 McCorkle Avenue, Charleston, W. Va.

FOR FURTHER INFORMATION CONTACT:

Paul Reeves, Office of Surface Mining Reclamation and Enforcement, 202–343–4237.

DRAFTING INFORMATION: The principal authors of these corrections are: Michael Bradley, Office of Surface Mining Task Force, and Edward Clair, Office of the Solicitor, Department of the Interior.

Dated: September 13, 1977.

CARL C. CLOSE,
Acting Director, Office of Surface Mining Task Force.

The following corrections are made:

1. On page 44920, under SUMMARY, line 6 "These regulations require" is corrected to read "The Act requires".

2. On page 44920, under SUPPLEMENTARY INFORMATION, line 10, "These regulations, especially dealing with" is corrected to read "The regulations, especially those dealing with".

3. On page 44922, the first full paragraph, line 8, "that its was necessary" is corrected to read, "that it was necesary".

4. On page 44922 § 715.20, line 13, strike the comma after "wildlife" and before "habitat".

5. On page 44922, § 716.3, line 9, "long-term" is corrected to read "long term".

6. On page 44923, DRAFTING INFORMATION, line 3, after "George Davis" insert ", Office of Surface Mining Task Force,".

7. On page 44924, "DRAFTING REGULATION", is corrected to read "DRAFTING INFORMATION".

8. On page 44926, *Surface coal mining and reclamation*, is corrected in the second line by adding "*operations* means surface coal mining" immediately following "*reclamation*" and immediately before "operations".

9. On page 44926, § 700.13(d)(4), "The dates" is corrected to read "The date".

10. On page 44926, § 700.13(e), "Secretary of" is corrected to read "Secretary or".

11. On page 44927, § 710.5, *approximate original contour*, last line, "§ 715.7" is corrected to read "§ 715.17".

12. On page 44927, § 710.5, *Highwall*, first line, "face of an exposed" is corrected to read "face of exposed".

13. On page 44927, § 710.5, "*Roads means*" is corrected to read "*Roads* means".

14. On page 44928, "*Runnoff water*" is corrected to read "*Runoff water*".

15. On page 44928, "*Water table* means upper surface" is corrected to read "*Water table* means the upper surface".

16. On page 44929, § 710.12(c)(1), "not to exceed 1,000,000 tons" is corrected to read "not to exceed 100,000 tons".

17. On page 44929, PART 715, under Section heading 715.18 "Dams constructed of refuse material, general" is corrected to read "Dams constructed refuse materials."

18. On page 44929, § 715.11(c), line 6, "to exced 1:1000," is corrected to read "to exceed 1:1000,".

19. On page 44931, § 715.14, line 12, "highway may be disturbed" is corrected to read "highwall may be disturbed".

20. On page 44931, § 715.14(c)(3), line 2, "as stated as paragraph" is corrected to read "as stated in paragraph".

21. On page 44931, § 715.14(e), line 11, "struction of power grades" is corrected to read "struction of lower grades".

22. On page 44932, § 715.14(j)(2), line 5, "cordance with § 2020.17(g)" is corrected to read "cordance with § 715.17(g)".

23. On page 44933, § 715.17, line 18, "include but are limited to" is corrected to read "include but are not limited to".

24. On page 44933 § 715.17(a) "*Effluent limitations, in milligrams per liter except for hydrogen-ion concentration*" is corrected to read "*Effluent limitations, in milligrams per liter except for pH*".

25. On page 44933, § 715.17(a), line 4 in chart, "*Hydrogen-ion concentration.*", is corrected to read "pH."

26. On page 44934, line 7, "charges that occur more than" is corrected to read "charges that occur for more than".

27. On page 44934, (e)(1)(ii), line 1, "storage for each of" is corrected to read "storage for each acre of".

28. On page 44935, line 3, "(f) *Discharged structures.*" is corrected to read "(f) *Discharge structures.*"

29. On page 44935, (4)(f), "(f) *Alluvial valley*" is corrected to read "(j) *Alluvial valley*".

30. On page 44935, (k), line 12, "reflect hanges in" is corrected to read "reflect changes in".

31. On page 44935, (c)(iii), line 4, "water carriers" is corrected to read "water barriers".

31a. On page 44936, § 715.18, "Dams constructed of refuse materials, general." is corrected to read, "Dams constructed of refuse materials."

32. On page 44936, § 715.18(c)(3)(v), line 8, "blankets, previous drainage" is corrected to read "blankets, pervious drainage".

33. On page 44936, § 715.18(c)(ix), line 9, "professional policies by a" is corrected to read "professional practice by a".

34. On page 44937, § 715.19(b)(2), line 9, "to be effected by" is corrected to read "to be affected by".

35. On page 44937, § 715.19(7)(a), "(a) *Blasting procedures*" is corrected to read "(e) *Blasting procedures*".

36. On page 44939, the first chart, "*Standards for revegetation*" is corrected to read as follows:

Standards for revegetation

[Herbaceous species = grass, legumes, and nonleguminous forbs; woody plants = woody shrubs, trees, and vines; ground cover = area covered by the combined aerial parts of plants and litter that are produced naturally on site, expressed as a percentage of the total area of measurement]

A. Areas planted only in herbaceous species (percent ground cover of herbaceous species at the end of the growing season)

Average annual precipitation, in inches	1 year	5 years	10 years
Up to 10	6	8	10
10.1–16	10	20	30
16.1–26	20	30	40
More than 26	50	70	NA

B. Areas planted to mixtures of herbaceous and woody species (percent ground cover of herbaceous species and number of plants per acre of woody species at the end of the growing season)

Average annual precipitation, in inches	1 year		5 years		10 years	
	Percent ground cover	No. of woody plants per acre	Percent ground cover	No. of woody plants per acre	Percent ground cover	No. of woody plants per acre
Up to 10	6	2,500	5	2,000	4	1,500
10.1–16	7	800	10	900	15	1,000
16.1–26	20	400	25	400	30	400
More than 26	40	600	50	1/ 400	NA	NA

1/ On steep slopes, the minimum number of woody plants must be increased to 600 per acre.

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37. On page 44939, the second chart, "*Standards for revegetation when exclosures are required*" is corrected to read as follows:

Standards for revegetation when exclosures are required

[Ground cover = area covered by the combined aerial parts of plants and litter that are produced naturally on site, expressed as a percentage of the total area of measurement; biomass yield = the total yield of living plants above ground in an area at the end of the growing season]

Average annual precipitation, in inches	End of growing season-- 1 year	5 years	10 years
A. Number of adapted species in revegetated areas			
Up to 10 . . .	3	12	15
10.1-16 . . .	6	14	20
16.1-26 . . .	6	20	25
More than 26 . . .	8	25	30
B. Ground cover of perennial plants expressed as a percent of the ground cover in the exclosures			
Up to 10 . . .	90	80	85
10.1-16 . . .	70	80	85
16.1-26 . . .	70	80	90
More than 26 . . .	80	90	NA
C. Biomass yield of perennial plants expressed as a percent of the biomass yield			
Up to 10 . . .	90	80	80
10.1-16 . . .	70	80	85
16.1-26 . . .	70	80	90
More than 26 . . .	80	90	NA

38. On page 44940, PART 716, "SPECIAL PERFORMANCE STANDARD" is corrected to read "SPECIAL PERFORMANCE STANDARDS".

39. On page 44940, § 716.2(a)(1), line 6, "in excess if that" is corrected to read "in excess of that".

40. On page 44940, § 716.3(a), line 3, "seams running through" is corrected to read "seams running through".

41. On page 44941, § 716.4(c), line 9, "for these operations" is corrected to read "for those operations".

42. On page 44941, § 716.4(c)(1), line 6, "of thee slope in the" is corrected to read "of the slopes in the".

43. On page 44941, § 716.5(c), line 2, "for anthraciate coal" is corrected to read "for anthracite coal".

44. On page 44942, (1)(ii), line 5, 'quality (A dependable water" is corrected to read "quality (a dependable water".

45. On page 44944, § 720.14(a), line 6, "other office designed by" is corrected to read "other office designated by".

46. On page 44944, PART 722, under heading 722.17, "Pattern of violation." is corrected to read "Pattern of violations."

47. On page 44945, § 722.11(e), line 4, "written order when the" is corrected to read "written notice when the".

48. On page 44945, § 722.15(e), line 7, "reprot which led to" is corrected to read "report which lead to".

49. On page 44945, § 722.16(c), line 4, "under part 2033 of this" is corrected to read "under Part 723 of this".

50. On page 44945, § 722.17(b)(1), line 4, "single section Parts 715" is corrected to read "single section of Parts 715".

51. On page 44945, § 722.17(b)(2), line 4, "of part 715, 716" is corrected to read "of Parts 715, 716".

52. On page 44945, § 722.17(c)(3), line 14, "for the proceeding half year" is corrected to read "for the preceding half year".

53. On page 44946, "§ 723.12. When to assess after a notice of" is corrected to read "§ 723.11 When assessment made."

54. On page 44947, § 723.13, line 6, "25 and below-500" is corrected to read "25 and below-$500".

55. On page 44947, § 723.14(a), line 9, "$750.00, whichever isg reater" is corrected to read "$750.00, whichever is greater".

56. On page 44947, § 723.14(b), line 4, after "listed in" strike the next three lines and insert "§ 723.12 of this part and any economic benefit to the permittee or operator which resulted from a failure to comply".

57. On page 44948, line 1, "identified under part 2030" is corrected to read "identified under Part 720".

58. On page 44948, § 725.16(d), line 3, "prior to the executive of" is corrected to read "prior to the execution of".

59. On page 44949, § 725.18(b), line 3, "at least ten days' written" is corrected to read "at least ten days written".

60. On page 44949, § 725.19, line 4, "ment. Circular 74-7" is corrected to read "ment Circular 74-7."

61. On page 44951, § 740.16(e)(2), line 4, "cooperative agreements grants" is corrected to read "cooperative agreement grants".

62. On page 44952, § 740.21(a)(4)(i), line 7, "the benefits or, or be" is corrected to read "the benefits of, or be".

63. On page 44953, § 795.12(a)(1), line 5, "accordance with § 295.16." is corrected to read "accordance with § 795.16."

64. On page 44954, § 795.15(b), line 3, "is denied and of the reasons" is corrected to read "is denied and the reasons".

65. On page 44954, § 795.17(b)(1)(iv), line 1, "Meets the Occupational" is corrected to read "Meets the requirements of the Occupational".

66. On page 44954, § 795.17(b)(2), line 3, "statement under paragraph" is corrected to read "statement under".

67. On page 44955, § 830.13(d), line 3, "a report of investigation" is corrected to read "a report of the investigation".

[FR Doc.77-27062 Filed 9-15-77;8:45 am]

[30 CFR Part 837]

ABANDONED MINE RECLAMATION FUND FEE COLLECTION AND PRODUCTION RECORDS

Proposed Rules; Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Corrections.

SUMMARY: This document corrects proposed rules that appeared on page 44955 of the FEDERAL REGISTER on September 7, 1977, FR Doc. 77-25929.

DATES: Comments must be received by October 7, 1977. Public hearings will be held at 9 a.m. on September 20, 1977.

ADDRESSES: Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240. Public hearings will be held at the Department of the Interior Auditorium, 18th and C Streets NW., Washington, D.C.; Kiel Auditorium, 1416 Market Street, St. Louis, Mo.; Public Library Auditorium, 1347 Broadway, Denver, Colo.; and Morris Harvey College, Riggleman Hall, 2300 McCorkle Avenue, Charleston, W. Va.

FOR FURTHER INFORMATION CONTACT:

Paul Reeves, Office of Surface Mining Reclamation and Enforcement, 202-343-4237.

DRAFTING INFORMATION: The principal authors of these corrections are: Michael Bradley, Office of Surface Mining Task Force, and Edward Clair, Office of the Solicitor, Department of the Interior.

Dated: September 13, 1977.

CARL C. CLOSE,
Acting Director, Office of Surface Mining Task Force.

The following corrections are made:

1. On page 44955, under SUMMARY, line 7, "of" is corrected to "to" so that the phrase reads, "statement to the proper location."

2. On page 44956, the spelling of the name of the Acting Secretary of the Interior is corrected to read, "Leo M. Krulitz.".

3. On page 44957 in §§ 837.12 and 837.15, "OSM Form 4100-1" is corrected to read, "OSM Form 837-1" in each of the three places it appears.

On page 44957 in § 837.13(b)(2) delete the line "tiply the number of tons produced in a." and insert that line after the second line in § 837.13(c)(1).

5. On page 44957 in § 837.13(c)(1) the last word, "feet" is corrected to read "fee".

[FR Doc.77-27063 Filed 9-15-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 212, 295]

ADMINISTRATION OF FOREST DEVELOPMENT TRANSPORTATION SYSTEM

Use of Vehicles Off the Road

AGENCY: Department of Agriculture, Forest Service.

ACTION: Proposed rule.

SUMMARY: It is proposed to amend regulations on the administration of the Forest Development Transportation System and use of vehicles off the road. This action is necessary because of an earlier amendment which consolidated all regulations on prohibited acts in 36 CFR Part 261.

This document would (1) amend Parts 212 and 295 to clarify the relationship between 212, 295, and 261; (2) amend Parts 212 and 295 so they concern administrative regulations only; (3) consolidate all administrative regulations relating to Forest development trails into § 212.20; and (4) amend Part 295 to emphasize that these regulations concern vehicles that travel off the National Forest Transportation System.

DATES: Comments must be received on or before October 17, 1977.

ADDRESSES: Send comments to: USDA Forest Service, Recreation Staff, P.O. Box 2417, Washington, D.C. 20013.

Copies of comments will be available for public inspection (8:15 a.m. to 4:45 p.m.) Monday through Friday, at the following locations:

USDA Forest Service, Engineering Staff, Rm. 1108, Rossiyn Plaza E, 1621 N. Kent Street, Arlington, Virginia 22209

or

USDA Forest Service, Recreation Staff, Rm. 4243 South Building, 14th & Independence Ave., Washington, D.C. 20013

FOR FURTHER INFORMATION CONTACT:

Willard Clementson, 703-235-8074.

or

William Holman, 202-447-4228.

SUPPLEMENTARY INFORMATION: Last October 15, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 45577). This proposal combined regulations on prohibited acts, and placed them in one part of the Code of Federal Regulations (36 CFR Part 261). The new regulations were published in the FEDERAL REGISTER January 14, 1977 (42 CFR 2956), effective February 15, 1977.

It is necessary to eliminate redundancy and rewrite portions of 36 CFR Parts 212 and 295 to complement the revised general prohibitions. In addition, it was determined that these proposed regulations are necessary to further interpret the National Forest Roads and Trails System Act, National Trails Systems Act and Executive Order 11644 (Use of Off-Road Vehicles on Public Lands).

An environmental assessment of the proposed rule change has been made. It has been determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949 and OMB Circular A-107, or an environmental statement under section 102(2)(c) of the National Environmental Policy Act.

Accordingly, it is proposed to amend 36 CFR Chapter II as follows:

PART 212—ADMINISTRATION OF FOREST DEVELOPMENT TRANSPORTATION SYSTEM

1. Section 212.7 is revised to read as follows:

§ 212.7 Road system management.

(a) *Traffic rules.* Rules set forth under 36 CFR 261 shall apply to all roads under the jurisdiction of the Forest Service except when in conflict with written agreement.

(1) *General.* Traffic on roads is subject to State traffic laws where applicable except when in conflict with the rules established under 36 CFR 261.

(2) *Specific.* The following specific traffic rules shall apply unless different rules are established in 36 CFR 261.

(i) The load, weight, length, height, and width limitations of vehicles shall be in accordance with the laws of the States wherein the road is located. Greater or lesser limits may be imposed and these greater or lesser limits may be established as provided in 36 CFR 261.

(ii) Roads, or segments thereof, may be restricted to use by certain classes of vehicles or types of traffic as provided in 36 CFR 261. Classes of vehicles are defined to include, but not be limited to, distinguishable groupings such as passenger cars, buses, trucks, motorcycles, automobiles, and trailers. Types of traffic are defined to include, but not be limited to, groupings such as commercial hauling, recreation, and administrative.

(iii) Roads, or segments thereof, may be closed to all vehicle use as provided in 36 CFR 261.

(iv) Additional rules may be imposed as provided in 36 CFR 261.

§ 212.7 [Amended]

2. Section 212.7 (b) is revoked and reserved.

3. Section 212.20 is revised to read as follows:

§ 212.20 National Forest development trail system operation.

(a) *Forest development trails.* Forest development trails shall be designated on a map or plan available to the public at the offices of the Forest Supervisors and District Rangers and shall be marked on the ground by appropriate signs which reasonably bring their location to the attention of the public.

(Sec. 1, 30 Stat. 35, as amended, Sec. 205, 72 Stat. 907; 16 U.S.C. 551, 23 U.S.C. 205.)

4. Section 212.21 is revised to read as follows:

§ 212.21 Pacific Crest National Scenic Trail.

The Pacific Crest National Scenic Trail as defined by the National Trails Systems Act, 82 Stat. 919, shall be administered primarily as a footpath and horseback riding trail by the Forest Service in consultation with the Secretary of the Interior. The use of motorized vehicles may be authorized by the Federal Agency administering the segment of trail involved when use of such vehicles is necessary to meet emergencies or to enable adjacent landowners or land users to have reasonable access to their lands or timber rights.

(Sec. 1, 30 Stat. 35, as amended: 16 U.S.C. 551, Sec. 205, 72 Stat. 907, 23 U.S.C. 205 and 82 Stat. 919, 16 U.S.C. 1241 et seq.)

PART 295—USE OF VEHICLES OFF THE ROAD

1. Part 295 is retitled as shown above and revised to read as follows:

Sec.

295.1 Applicability
295.3 Planning and designation of areas
295.3 Public participation
295.4 Public information
295.5 Monitoring effects of vehicle use off of roads.

AUTHORITY: 30 Stat. 35, as amended (16 U.S.C. 551); 50 Stat. 525, as amended (7 U.S.C. 1011); E.O. 11644, 11989 (42 FR 26959).

§ 295.1 Applicability.

The regulations in this part pertain to administrative designation of specific areas of National Forest System lands on which the use of vehicles traveling off of National Forest development roads is allowed, restricted or prohibited. Prohibitions regarding use of vehicles off roads are established in or pursuant to 36 CFR Part 261.

§ 295.2 Planning and designation of areas.

On National Forest System lands, the continuing land management planning process will be used to permit, restrict,

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or close specific areas and trails to vehicular use off roads. This process will include coordination with appropriate Federal, State, and local agencies. The planning process will analyze and evaluate such vehicular use so as to enable decisions which will protect the resources of these lands, promote safety of all users, and minimize conflicts among the users of these lands. The process will consider potential impacts of such vehicular use on soil, watershed, vegetation, fish and wildlife, and cultural, and historic resources. If the analysis indicates that the use of vehicles off of roads will cause considerable adverse effects on these resources, areas or trails will not be opened to those vehicles likely to cause such adverse effects. However, this does not preclude the use of any fire, military, emergency, or law enforcement vehicle for emergency purposes, or the use of any combat or combat support vehicle for national defense purposes.

§ 295.3 Public participation.

The public shall be provided an opportunity to participate in the process of designating areas or trails for vehicular use off of roads. Advance notice will be given to allow for public review of proposed or revised designations or for proposed closures to such use. In emergency situations, designations or closures may be made or revised without public participation if needed to protect the resources and/or to provide for public safety.

§ 295.4 Public information.

In addition to the requirements of 36 CFR 261, information will be published and distributed describing the regulation of vehicular use and time periods when an area or trail is: (a) Open to such use, (b) restricted to certain types of such use, or (c) closed to such use.

§ 295.5 Monitoring effects of vehicular use off of roads.

The effects of use by vehicles off of roads on National Forest System lands will be monitored. If the results of monitoring indicate considerable adverse effects on the factors and resource values referred to in Part 295.2, the area or trail suffering adverse effects will be immediately closed to vehicle use until the adverse effects have been eliminated and measures have been implemented to prevent future recurrence. Designations, use restrictions, and operating conditions will be revised as needed to meet changing conditions.

SEPTEMBER 12, 1977.

M. RUPERT CUTLER,
Assistant Secretary.

[FR Doc.77-26947 Filed 9-15-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 792-1]

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLAN

Revisions to the Southeast Desert and the Metropolitan Los Angeles Intrastate Air Quality Control Regions (AQCR), to the Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: It is the purpose of this notice to acknowledge receipt of, and invite public comment on: The rules and regulations of, and their revisions for, those portions of the counties of Los Angeles, Riverside, and San Bernardino that lie within the Southeast Desert Air Quality Control Region; the South Coast Air Quality Management District (AQMD); and also those portions of Orange, Los Angeles, San Bernardino, and Riverside County Air Pollution Control Districts (APCD) that lie within the Metropolitan Los Angeles Air Quality Control Region. These were submitted to EPA by the California Air Resources Board for inclusion in the California State Implementation Plan on February 21, 1972, June 30, 1972, July 25, 1973, July 22, 1975 and June 6, 1977. Regulations concerning New Source Review, New Source Performance Standards, National Emission Standards for Hazardous Air Pollutants, and Emergency Air Episodes are not being considered in this notice and will be the topic of separate FEDERAL REGISTER notices. The EPA solicits comments regarding the desirability of approving or disapproving the rules and regulations being considered, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to October 17, 1977.

ADDRESS: Send comments to: Regional Administrator, Attention Air & Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco, Calif. 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air & Hazardous Materials Division, Environmental Protection Agency, 100 California Street, San Francisco, Calif. 94111, Attention David R. Souten, 415-556-7288.

SUPPLEMENTARY INFORMATION: The 1973-1977 submittals contain revisions to the rules listed below. Unless otherwise noted, the rules apply within the Southeast Desert AQCR portion of the Los Angeles, Riverside, and San Bernardino County APCD. In addition, two rules previously approved by EPA in 1972 are being reannounced for consideration.

REGULATION I—GENERAL PROVISIONS

Rule
101—Title
102—Definition of Terms
2—Definition of Atmosphere
103—Definition of Geographical Areas
104—Reporting of Source Test Data and Analysis
105—Authority to Arrest
106—Increments of Progress

REGULATION II—PERMITS

Those parts of Regulation II not part of New Source Review are:

Rule
208—Permit for Open Burning
218—Stack Monitoring

REGULATION III—FEES

Rule
301—Permit Fees
42—Hearing Board Fees
43—Analysis Fees (Los Angeles and San Bernardino Counties)
44—Technical Report—Charges for (Los Angeles and San Bernardino Counties)
44—Charges for Technical Reports (Riverside County)

REGULATION IV—PROHIBITIONS

Rule
401—Visible Emissions
402—Nuisance
403—Fugitive Dust
404—Particulate Matter—Concentration
405—Solid Particulate Matter—Weight
53—Sulfur Compounds—Concentration (Los Angeles County)
53—Specific Air contaminants (Riverside County)
53—Specific Contaminants (San Bernardino County)
56—Scavenger Plants (Riverside County)
53.1—Scavenger Plants (San Bernardino County)
407—Liquid and Gaseous Air Contaminants
408—Circumvention
409—Combustion Contaminants
430—Breakdown Provisions
431—Sulfur Content of Fuels
432—Gasoline Specifications
441—Research Operations
442—Usage of Solvents
443—Labeling of Solvents
444—Open Fires
461—Gasoline Transfer and Dispensing
462—Organic Liquid Loading
463—Storage of Organic Liquids
464—Oil-Effluent Water Separator
465—Vacuum Producing Devices
466—Pumps and Compressors
467—Safety Pressure Relief Valves
468—Sulfur Recovery Units
469—Sulfuric Acid Units
470—Asphalt Air Blowing
471—Asphalt or Coal Tar Equipment
472—Reduction of Animal Matter
473—Disposal of Liquid and Solid Wastes
474—Fuel Burning quipment—Oxides of Nitrogen
475—Electric Power Generating Equipment
476—Steam Generating Equipment
73—Dry Sandblasting (San Bernardino County)
73—Lead Content and Volatility of Gasoline (Riverside County)

REGULATION V—PROCEDURE BEFORE THE HEARING BOARD

Rule
501—General
502—Filing Petitions
503—Contents of Petitions
504—Petitions for Variances
505—Appeal from Denial
506—Failure to Comply with Rules
507—Pleadings
508—Dismissal of Petition
509—Place of Hearing
510—Notice of Hearing
511—Evidence
512—Preliminary Matters
513—Official Notice
514—Continuances
515—Decision
516—Effective Date of Decision
517—Lack of Permit
518—Findings

Regulation VI has been rescinded and replaced by California Health and Safety Codes, Chapter 957, Division 26, Sections 43210 and 41860.

Regulation VII, Emergencies, has been submitted by the Southern California APCD, but is not being considered in this notice and will be the topic of a separate FEDERAL REGISTER notice.

REGULATION VIII—ORDERS FOR ABATEMENT

Rule
801—General
802—Orders for Abatement
803—Filing Petitions
804—Contents of Petition
805—Scope of Order
806—Findings
807—Pleadings
808—Evidence
809—Failure to Comply with Rules
810—Dismissal of Petition
811—Place of Hearing
812—Notice of Hearing
813—Preliminary Matters
814—Official Notice
815—Continuance
816—Order and Decision
817—Effective Date of Decision

Metropolitan Los Angeles AQCR: Rules submitted by South Coast AQMD (successor to the Southern California APCD).

Rule
301—Permit Fees
431—Sulfur Content of Fuels
461—Gasoline Transfer and Dispensing

Metropolitan Los Angeles AQCR: Rules submitted by Los Angeles, Orange, San Bernardino, and Riverside County APCD as indicated.

Rule
45—Permit Fees—Open Burning (Los Angeles County—1973)
53—Sulfur Compounds—Concentration (Orange County—1975)
53.1—Scavenger Plants (San Bernardino County—1972)
56—Scavenger Plants (Riverside County—1972)

Pursuant to Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Relevant comments received on or before October 17, 1977, will be considered. Comments received will be available for public inspection at the Region IX Office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

South Coast Air Quality Management District, District Headquarters, 9420 Telstar Avenue, El Monte, Calif. 91731.
California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, Calif. 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

AUTHORITY: Section 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 1857c-5 and 1857g(a)).

Dated: September 2, 1977.

R. L. O'CONNELL,
Acting Regional Administrator.

[FR Doc.77-26969 Filed 9-15-77;8:45 am]

[FRL 792-2]

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Rules and Regulations of the Sierra County Air Pollution Control District in the States of California

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Sierra County Air Pollution Control District (APCD) has adopted changes to their rules and regulations. The revisions have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board as revisions to the California State Implementation Plan (SIP). The intended effect of the revisions is to update the rules and regulations, and to correct deficiencies in the SIP. The EPA invites public comments on these proposed rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to October 17, 1977.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), United States Environmental Protection Agency, Region IX, 100 California Street, San Francisco, Calif. 94111.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

Sierra County Air Pollution Control Board, County Courthouse, Downieville, Calif. 95936.
California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted on June 6, 1977, proposed revisions to the following rules:

Rule 102(B)—Definitions (Agricultural Burning).
Rule 102(E)—Definitions (Air Contaminant or Pollutant).
Rule 102(S)—Definitions (Emission Data).
Rule 102(II)—Definitions (Particulate Matter).
Rule 102(SS)—Definitions (Section).
Rule 203—Exceptions to Rule 202, (Visible Emissions).
Rule 205—Nuisance.
Rule 206(B)—Pathological Incineration.
Rule 207—Particulate Matter.
Rule 208—Orchard or Citrus Heaters.
Rule 211—Process Weight Per Hour.
Rule 213—Storage of Petroleum Products.
Rule 215—Abrasive Blasting.
Rule 216—Enforcement.
Rule 301—Open Outdoor Fires.
Rule 302—Exceptions to Rule 301.
Rule 303—Burning Permits.
Rule 304—Exceptions to Rule 303.
Rule 307—Exceptions to Rule 306 (No-Burn Days).
Rule 308—Agricultural Burning Reports.
Rule 319—Open Burning of Wood Waste on Property where Grown.
Rule 320—Right-of-Way Clearing and Levee, Ditch and Reservoir Maintenance Burning.
Rule 321—Hazard Reduction Burning.
Rule 322—Mechanized Burners.
Rule 324—Penalty.
Rule 402—Authority to Inspect.
Rule 407—Circumvention.
Rule 409—Public Records.
Rule 507—Provision of Sampling and Testing Facilities.
Rule 514—Appeals.
Rule 516—Analysis Fees.
Rule 600—Applicable Articles of the Health and Safety Code.
Rule 601—General.
Rule 602—Filing Petitions.
Rule 603—Contents of Petitions.
Rule 604—Petitions for Variances.
Rule 605—Appeal from Denial.
Rule 606—Failure to Comply with Rules.
Rule 607—Answers.
Rule 608—Dismissal of Petition.
Rule 609—Place of Hearing.
Rule 610—Notice of Public Hearing.
Rule 611—Evidence.
Rule 612—Preliminary Matters.
Rule 613—Official Notice.
Rule 614—Continuances.
Rule 615—Decision.
Rule 616—Effective Date of Decision.
Rule 617—Lack of Permit.
Rule 619—Order of Abatement.
Rule 620—Severability.

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the proposed regulations as SIP revisions. The Regional

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Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested parties may participate by submitting written comments to the EPA Region IX Office. Relevant comments received on or before October 17, 1977, will be considered, and made available for public inspection at the EPA Regional Office and the EPA Public Information Reference Unit.

AUTHORITY: Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 1857c-5 and 1857g(a)).

Dated: September 6, 1977.

PAUL DE FALCO, Jr.,
Regional Administrator.

[FR Doc 77-26970 Filed 9-15-77;8:45 am]

[FRL 792-3]

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Rules and Regulations of the Mariposa County Air Pollution Control District in the State of California

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Mariposa County Air Pollution Control District (APCD) has adopted changes to their rules and regulations. The revisions have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board as revisions to the California State Implementation Plan (SIP). The intended effect of the revisions is to update the rules and regulations, and to correct deficiencies in the SIP. The EPA invites public comments on these proposed rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to October 17, 1977.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), United States Environmental Protection Agency, Region IX, 100 California Street, San Francisco, Calif. 94111.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

Mariposa County Air Pollution Control District, Highway 140, Mariposa, Calif. 95338.
California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted on June 6, 1977 proposed revisions to the following rules:

Rule 102(B)—Definitions (Agriculture Burning).
Rule 102(E)—Definitions (Air Contaminant or Pollutant).
Rule 102(S)—Definitions (Emission Data).
Rule 102(II)—Definitions (Particulate Matter).
Rule 102(SS)—Definitions (Section).
Rule 202—Exceptions to Rule 202 (Visible Emissions).
Rule 205—Nuisance.
Rule 206(B)—Pathological Incineration.
Rule 207—Particulate Matter.
Rule 208—Orchard or Citrus Heaters.
Rule 211—Process Weight Per Hour.
Rule 213—Storage of Petroleum Products.
Rule 215—Abrasive Blasting.
Rule 216—Enforcement.
Rule 301—Open Outdoor Fires.
Rule 302—Exceptions to Rule 301.
Rule 303—Burning Permits.
Rule 304—Exceptions to Rule 303.
Rule 308—Agricultural Burning Reports.
Rule 319—Open Burning of Wood Waste on Property where Grown.
Rule 320—Right-of-Way Clearing and Levee, Ditch and Reservoir Maintenance Burning.
Rule 321—Hazard Reduction Burning.
Rule 322—Mechanized Burners.
Rule 324—Penalty.
Rule 402—Authority to Inspect.
Rule 407—Circumvention.
Rule 507—Provision of Sampling and Testing Facilities.
Rule 514—Appeals.
Rule 600—Applicable Articles of the Health and Safety Code.
Rule 603—Contents of Petitions.
Rule 610—Notice of Public Hearing.

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the proposed regulations as SIP revisions. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested parties may participate by submitting written comments to the EPA Region IX Office. Relevant comments received on or before October 17, 1977, will be considered, and made available for public inspection at the EPA Regional Office and the EPA Public Information Reference Unit.

AUTHORITY: Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 1857 c-5 and 1857g(a)).

Dated: September 7, 1977.

PAUL DE FALCO, Jr.,
Regional Administrator.

[FR Doc.77-26971 Filed 9-15-77;8:45 am]

[FRL 792-4]

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Rules and Regulations of the Nevada County Air Pollution Control District in the State of California

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Nevada County Air Pollution Control District (APCD) has adopted changes to their rules and regulations. The revisions have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board as revisions to the California State Implementation Plan (SIP). The intended effect of the revisions is to update the rules and regulations, and to correct deficiencies in the SIP. The EPA invites public comments on these proposed rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to October 17, 1977.

ADDRESSES: Comments may be sent to: Regional Administrator. Attn: Air & Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4): United States Environmental Protection Agency, Region IX, 100 California Street, San Francisco CA 94111.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX Office at the above address and following locations:

Nevada County Air Pollution Control District, H.E.W. Complex, Nevada City CA 95959.
California Air Resources Board, 1709-11th Street, Sacramento CA 95814.
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted on June 6, 1977 proposed revisions to the following rules:

Rule 102(B).—Definitions (Agricultural Burning).
Rule 102(E).—Definitions (Air Contaminant or Pollutant).
Rule 102(S).—Definitions (Emission Data).
Rule 102(II).—Definitions (Particulate Matter).
Rule 102(SS).—Definitions (Section).
Rule 103.—Enforcement
Rule 104.—Penalties.
Rule 203.—Exceptions to Rule 202 (Visible Emissions).
Rule 205.—Nuisance.
Rule 206(B).—Pathological Incineration.
Rule 207.—Particulate Matter.
Rule 216.—Abrasive Blasting.
Rule 304.—Exceptions to Rule 303 (Burning Permits).
Rule 319.—Open Burning of Wood Waste on Property where Grown.
Rule 320.—Right-of-Way Clearing and Levee, Ditch and Reservoir Maintenance Burning.
Rule 321.—Hazard Reduction Burning.
Rule 402.—Authority to Inspect.
Rule 407.—Circumvention.
Rule 409.—Public Records.
Rule 507.—Provision of Sampling and Testing Facilities.

Rule 514.—Appeals.
Rule 700.—Applicable Articles of the Health and Safety Code.
Rule 703.—Contents of Petitions.
Rule 704.—Petitions for Variance.
Rule 710.—Notice of Public Hearing.
Rule 711.—Evidence.

Pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the proposed regulations as SIP revisions. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested parties may participate by submitting written comments to the EPA Region IX Office. Relevant comments received on or before October 17, 1977, will be considered, and made available for public inspection at the EPA Regional Office and the EPA Public Information Reference Unit.

AUTHORITY: Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 1857c-5 and 1857g(a)).

Dated: September 6, 1977.

PAUL DEFALCO, Jr.,
Regional Administrator.

[FR Doc.77-26972 Filed 9-15-77;8:45 am]

[FRL 792-5]

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Rules and Regulations of the Plumas County Air Pollution Control District in the State of California

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Plumas County Air Pollution Control District (APCD) has adopted changes to their rules and regulations. The revisions have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board as revisions to the California State Implementation Plan (SIP). The intended effect of the revisions is to update the rules and regulations, and to correct deficiencies in the SIP. The EPA invites public comments on these proposed rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to October 17, 1977.

ADDRESSES: Comments may be sent to: Regional Administrator. Attn: Air & Hazardous Materials Division, Air Programs Branch, California SIP section (A-4). United States Environmental Protection Agency Region IX, 100 California Street, San Francisco CA 94111.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

Plumas County Air Pollution, Control District, County Courthouse, Quincy CA 95971.
California Air Resources Board, 1709 11th Street, Sacramento CA 95814.
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted on June 6, 1977 proposed revisions to the following rules:

Rule 102(B).—Definitions (Agricultural Burning).
Rule 102(E).—Definitions (Air Contaminant or Pollutant).
Rule 102(S).—Definitions (Emission Data).
Rule 102(II).—Definitions (Particulate Matter).
Rule 102(SS).—Definitions (Section).
Rule 203.—Exceptions to Rule 202 (Visible Emissions).
Rule 205.—Nuisance.
Rule 206(B).—Pathological Incineration.
Rule 207.—Particulate Matter.
Rule 208.—Orchard or Citrus Heaters.
Rule 211.—Process Weight Per Hour.
Rule 213.—Storage of Petroleum Products.
Rule 215.—Abrasive Blasting.
Rule 216.—Enforcement.
Rule 301.—Open Outdoor Fires.
Rule 302.—Exceptions to Rule 301.
Rule 303.—Burning Permits.
Rule 304.—Exceptions to Rule 303.
Rule 307.—Exceptions to Rule 306 (No-Burn Days).
Rule 308.—Agricultural Burning Reports.
Rule 319.—Open Burning of Wood Waste on Property where Grown.
Rule 320.—Right-of-Way Clearing and Levee, Ditch and Reservoir Maintenance Burning.
Rule 321.—Hazard Reduction Burning.
Rule 322.—Mechanized Burners.
Rule 324.—Penalty.
Rule 402.—Authority to Inspect.
Rule 407.—Circumvention.
Rule 409.—Public Records.
Rule 507.—Provision of Sampling and Testing Facilities.
Rule 514.—Appeals.
Rule 601.—Permit Fees.
Rule 602.—Permit Fee Schedules.
Rule 603.—Analysis Fees.
Rule 604.—Technical Reports.
Rule 605.—Hearing Board Fees.
Rule 700.—Applicable Articles of the Health and Safety Code.
Rule 703.—Contents of Petitions.
Rule 710.—Notice of Public Hearing.

Pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the proposed regulations as SIP revisions. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested parties may participate by submitting written comments to the EPA Region IX Office. Relevant comments received on or before October 17, 1977, will be considered, and made available for public inspection at the EPA Regional Office and the EPA Public Information Reference Unit.

AUTHORITY: Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 1857c-5 and 1857g(a)).

Dated: September 6, 1977.

PAUL DE FALCO, Jr.,
Regional Administrator.

[FR Doc.77-26973 Filed 9-15-77;8:45 am]

[40 CFR Part 52]

[FRL 793-3]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to the Glenn County and Tehama County Air Pollution Control Districts' Rules and Regulations in the State of California

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Glenn County and Tehama County Air Pollution Control Districts (APCD) have adopted changes to their rules concerning upset/breakdown (malfunction). These revisions have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board as revisions to the California State Implementation Plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted until October 17, 1977.

ADDRESS: Send comments to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco, Calif. 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air & Hazardous Materials Division, Environmental Protection Agency, 100 California Street, San Francisco, Calif. 94111. Attn: David R. Souten, 415-556-7288.

SUPPLEMENTARY INFORMATION:

The following rules were submitted on the indicated dates:

JULY 19, 1974—TEHAMA COUNTY APCD

Rule 4:17, Upset or Breakdown Conditions.

JANUARY 10, 1975—GLENN COUNTY APCD

Section 95.2, Maintenance of Equipment.
Section 95.3, Malfunction of Equipment.

The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Relevant comments received on or before October 17, 1977, will be considered. Comments received will be available for

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public inspection at the Region IX Office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

Glenn County Air Pollution Control District, 777 North Colusa Street, Willows, Calif. 95988.

Tehama County Air Pollution Control District, 1760 Walnut Street, Red Bluff, Calif. 96080.

California Air Resources Board, 1709-11th Street, Sacramento, Calif. 95814.

Environmental Protection Agency, Region IX, 100 California Street, San Francisco, Calif. 94111.

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

(Secs. 110 and 301, Clean Air Act, as amended (42 U.S.C. 1857c-5, 1857g))

Dated: August 3, 1977.

R. L. O'CONNELL,
Acting Regional Administrator.

[FR Doc.77-27064 Filed 9-15-77;8:45 am]

[40 CFR Ch. I]

[FRC 762-4]

NOISE CONTROL ACT

Development of Administrative Hearing Procedures

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Develop Administrative Hearing Procedures.

SUMMARY: The purpose of this notice is to advise interested members of the public including manufacturers of products which are or will be subject to regulation under the Noise Control Act that the Agency is presently developing administrative hearing procedures under section 11(d) of the Act. Further, by this Notice the Agency is establishing a contact point for all questions or comments regarding this rulemaking.

FOR FURTHER INFORMATION CONTACT:

U.S. Environmental Protection Agency, Noise Enforcement Division, EN-387, Washington, D.C. 20460, Attn: Richard G. Kozlowski, Director, telephone: 202-557-7470.

SUPPLEMENTARY INFORMATION: The Noise Control Act of 1972, (Act), mandates that the Administrator develop regulations to control the sound level of identified major sources of noise (Section 6) and develop regulations for the labeling of products (Section 8).

The first of these regulations under Section 6 will take effect on January 1, 1978, and are applicable to manufacturers of medium and heavy truck (April 13, 1976, 41 FR 15538) and portable air compressors of a rated capacity of no less than 75 cfm up to and including 250 cfm. (January 14, 1976, 41 FR 2162). A second standard for portable air compressors of rated capacity greater than 250 cfm, will take effect on July 14, 1976, 41 FR 2162). Other industries which will likely be subject to regulation are those which manufacture wheel and crawler tractors (regulation proposed on July 11, 1977, 42 FR 35804), and those which manufacture products which have been formally identified for possible regulation by the Agency (buses, truck transport refrigeration units, truck mounted solid waste compactors, and motorcycles, all identified on May 28, 1975 (40 FR 23105); lawnmowers, identified on January 12, 1977 (42 FR 2525); paving breakers and rock drills, identified on February 3, 1977 (42 FR 6722)). Additional products which may be subject to future identification and regulation are automobiles and light trucks, tires, chainsaws, air-conditioners, and earthmoving equipment.

In addition, Section 8 general labeling provisions and a regulation for labeling hearing protectors are presently under development (regulations proposed on June 22, 1977, 42 FR 31729). Similar labeling regulations are under consideration by the Agency for such product classes as household appliances, home shop tools, powered lawn-cart equipment, acoustical building materials, and mufflers for internal combustion engines.

Section 11(d)(1) of the Act authorizes the Administrator to issue remedial orders whenever any person commits prohibited acts set out in Section 10(a) of the Act. Section 11(d)(2) of the Act further requires that these orders be issued only after notice and opportunity for a hearing held in accordance with Section 554 of Title 5 of the United States Code. The development of administrative hearing procedures is designed to implement this requirement and establish procedures that will efficiently and fairly handle the enforcement proceedings likely to occur under the Act.

Dated: September 2, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-27105 Filed 9-15-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 3100]

OIL AND GAS LEASING

Lands Subject to Leasing

BUREAU OF LAND MANAGEMENT, INTERIOR.

ACTION: Proposed rulemaking.

SUMMARY: This proposal would authorize the Department of the Interior to lease lands acquired for military or naval purposes for oil and gas, sodium, phosphate, potassium and sulfur. This proposed change to the Department of the Interior's regulations would reflect the authority granted the Department by section 12(a) of the Federal Coal Leasing Amendments Act of 1975, which amended section 3 of the Mineral Leasing Act for Acquired Lands. This regulation would increase the amount of land available for oil and gas leasing.

DATE: Comments must be received on or before October 17, 1977.

ADDRESS: Send comments to Director (210), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

David M. Carty, Branch of Upland Mineral Leasing, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240, (202-343-7753), or

Lawrence G. McBride, Branch of Minerals, Office of the Solicitor, Department of the Interior, Washington, D.C. 20240, (202-343-4803).

SUPPLEMENTARY INFORMATION: The principal author of this proposed rulemaking is David M. Carty, assisted by Lawrence G. McBride. Section 12(a) of the Federal Coal Leasing Amendments Act of 1975, 90 Stat. 1090, repealed the prohibition against the leasing proposed here. The regulatory prohibition reflecting the old statutory provision remains in effect, serving as an exercise of the Secretary's new authority to lease or not to lease such deposits. This proposal would remove the regulatory prohibition and open these lands for mineral leasing under the same terms and conditions as apply to other acquired lands under section 3 of the Mineral Leasing Act for Acquired Lands, 30 U.S.C. 352.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Order 11821 and OMB Circular A-107.

It is hereby determined that publication of this proposed rulemaking is not a major Federal action significantly effecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) is required.

The environmental impacts of specific leasing proposals under this rule will be examined in accordance with existing environmental assessment procedures for these mineral leasing activities when such proposals are made. This rule commits the Department to no specific leasing activity.

Under the authority of section 12(a) of the Federal Coal Leasing Amendments Act of 1975 (90 Stat. 1090) it is proposed to amend § 3101.2-1, Subpart 3101, Part 3100, Subchapter C, Chapter II, Title 43 of the Code of Federal Regulations as set forth below:

Subpart 3101—Lands Subject to Leasing

1. Section 3101.2-1 of Subpart 3101 is amended to read as follows:

§ 3101.2-1 Lands to which the Act does not apply.

* * * * * * *

(f) Within naval petroleum and oil shale reserves and within the National Petroleum Reserve in Alaska, or

* * * * * * *

GARY J. WICKS,
Deputy Assistant,
Secretary of the Interior.

[FR Doc.77-27029 Filed 9-15-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[45 CFR Part 1069]

GRANTEE PERSONNEL MANAGEMENT

Community Services Administration

Subpart—Restrictions on Charging Out-of-State Travel to Grant Funds (CSA Instruction 6910-1a)

AGENCY: Community Services Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would replace the present CSA requirement for prior, written CSA approval of grantee use of grant funds for travel outside of the grantee's community with a requirement for such approval only for out-of-State travel. It would eliminate exceptions to the requirement for prior CSA approval for travel to meetings of professional associations whose efforts are closely related to the poverty program and travel to interview prospective employees or procure services, supplies, or equipment. This rule is proposed so that CSA can develop better control over long-distance grantee travel. Thus grantee travel within a State will not require prior, written CSA approval and all grantee travel out-of-State does require such approval, except for travel in response to an invitation from CSA.

DATE: Comments on this proposed rule must be received on or before October 20, 1977.

It is proposed to make this rule effective November 5, 1977.

ADDRESS: Comments should be addressed to Ms. Faye Rattner, Chief, Policy Development and Review Division, Community Services Administration, 1200 19th Street NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Ms. Faye Rattner, phone, 202-254-5670.

AUTHORITY: Sec. 602, 78 Stat. 530, 42 U.S.C. 2942.

GRACIELA (GRACE) OLIVAREZ,
Director.

Therefore, it is proposed to amend 45 CFR 1069.3-5 as follows, effective November 5, 1977:

§ 1069.3-5 Restrictions on charging out-of-State travel costs to grant funds.

(a) Grantees may use CSA grant funds for out-of-State travel costs incurred by grantee and delegate agency employees, consultants, and members of governing and administering boards without obtaining prior CSA approval, if the travel meets the conditions outlined below and meets the geographical limitations of § 1069.3-6:

(1) Travel in response to a specific invitation from CSA to attend a conference or meeting for the purpose of furthering grantee activity.

(2) For the District of Columbia only, if the travel is within a radius of 50 miles of the grantee's or delegate agency's headquarters.

[FR Doc.77-27028 Filed 9-15-77;8:45 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 502]

[Docket No. 77-40]

RULES OF PRACTICE AND PROCEDURE; SUBPENAS AND DISCOVERY REQUESTS DIRECTED TO COMMISSION STAFF PERSONNEL; REPLIES TO APPEALS

Notice of Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Enlargement of time to file comments.

SUMMARY: The Maritime Administrative Bar Association requests an enlargement of 45 days to file comments in response to the notice of proposed rulemaking in this proceeding (42 FR 40452; August 10, 1977). Thirty days have already been provided for comment. An additional 30 days would appear sufficient under the circumstances: Accordingly, time within which comments may be filed is enlarged to and including October 11, 1977.

DATES: Comments on or before October 11, 1977.

ADDRESSES: Comments to: Secretary, Federal Maritime Commission, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT:

Joseph C. Polking, Acting Secretary, Room 11101, 1100 L Street NW., Washington, D.C. 20573 (202-523-5727).

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-27040 Filed 9-15-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21338; RM-2745]

TELEVISION BROADCAST STATION IN SIKESTON, MISSOURI

Proposed Changes In Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Notice proposes to assign UHF television Channel 45 to Sikeston, Mo. Action initiated by petition for rulemaking filed by Delta Projects, Inc. This action would bring the community its first local television service.

DATES: Comments must be received on or before October 18, 1977, and reply comments on or before November 8, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Thomas L. McCrickard, III, Broadcast Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: September 2, 1977.

Released: September 9, 1977.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Sikeston, Mo.), Docket No. 21338, RM-2745

1. The Commission has under consideration a petition for rule making, seeking amendment of § 73.606(b) of the Commission's rules and regulations, the Television Table of Assignments. The petition was filed by Delta Projects, Inc. ("Delta") requesting the assignment of Channel 45 to Sikeston, Mo.

2. According to the 1970 U.S. Census, Sikeston had a population of 14,699. The current population estimate cited by the petitioner is 17,000. Sikeston lies partially in New Madrid County (1970 population of 23,420), but is situated primarily in Scott County (1970 population of 33,250). Sikeston is located midway between Memphis and St. Louis, and lies about 48 kilometers (30 miles) west of the Mississippi River. It is located in the "bootheel" of Missouri.

3. According to the petitioner, Sikeston was incorporated in 1874. Manufacturing and retail trade are the principal sources of employment opportunities and retail trades have been on the increase in Sikeston and Scott County. Delta supplied retail trade figures for both Scott and New Madrid counties from Sales Management Survey of Buying Power, which reported 1972 totals of $81,331,000.00 to $63,365,000.00, respectively.

4. Although Sikeston is located within the Grade B contours of TV stations located some distance away, it does not have a local TV broadcast station nor is there one elsewhere in Scott or New Madrid Counties.

5. In view of the above, the Commission is persuaded that a sufficient public interest showing has been made to warrant further consideration of petitioner's proposal in a rulemaking proceeding. Channel 45 may be assigned in accordance with the Commission's distance separation requirements and other technical criteria and could bring the community its first local television service. Therefore, we propose to consider the following revision in the Television Table of Assignments (§ 73.606(b) of the rules) with respect to the city listed below:

V 42 I 180 SEP 16 77 UMI

City	Channel No. Present	Proposed
Sikeston, Mo	45—	

6. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained below and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

7. Interested parties may file comments on or before October 18, 1977, and reply comments on or before November 8, 1977.

FEDERAL COMMUNICATIONS COMMISSION.
MARTIN I. LEVY,
Acting Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in this notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420 (d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commision's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77-27007 Filed 9-15-77;8:45 am]

[47 CFR Part 73]

[Docket No. 21389; RM-2852]

TELEVISION BROADCAST STATIONS IN CLARKSDALE AND GREENVILLE, MISS., AND IN BIRMINGHAM, ALA.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Federal Communications Commission proposes to substitute TV Channel *21 for Channel *22 in Clarksdale, Miss., and to substitute Channel 44 for Channel 21 in Greenville, Miss. The assignment of Channel *21 to Clarksdale, Miss., will require a change in the offset designation of the unoccupied Channel 21 Birmingham, Ala., assignment (from zero to minus). This action would enhance the possibility of a UHF station's becoming active in this area. This action was initiated by a petition for rulemaking filed by Big River Broadcasting Co., applicant for a TV station at Greenville, Miss.

DATES: Comments must be received on or before October 21, 1977, and Reply Comments must be received on or before November 10, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Thomas L. McCrickard, III, Broadcast Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: September 6, 1977.

Released: September 9, 1977.

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations. (Clarksdale and Greenville, Miss., Birmingham, Ala.), Docket No. 21389, RM-2852.

1. The Commission has under consideration a petition for rule making filed by Big River Broadcasting Co. ("Big River"). To avoid a short-spacing problem which otherwise would affect its application for a new TV station on Channel 15 at Greenville, Miss., Big River seeks amendment of § 73.606(b) of the Commission's rules and regulations, the Television Table of Assignments, by the substitution of Channel *21 for the Channel *22 assignment in Clarksdale, Miss., and the substitution of Channel 44 for the Channel 21 assignment in Greenville, Miss. Both of the existing assignments are unoccupied and unapplied for.

2. Clarksdale (pop. 21,673),[1] seat of Coahoma County (pop. 40,447), is located in northwest Mississippi. Greenville (pop. 39,648), seat of Washington County (pop. 70,581), is located in west central Mississippi, approximately 100 kilometers (62 miles) south of Clarksdale.

3. Big River filed an application on October 14, 1976, for authority to construct a new UHF television station to operate on Channel 15 at Greenville, Miss. The application was accepted for filing and given file number BPCT-4970. Big River contends that the site specified in its application, to the northeast of Greenville, would be advantageous in order to afford ample signal coverage to the north (Clarksdale) and to the east (Greenwood). However, this proposed transmitter site does not comply with the minimum mileage separation requirements of the Commission's rules and regulations. The proposed site would be short-spaced by approximately 35 kilometers (22 miles) to Channel *22 in Clarksdale. Petitioner contends that none of the other available sites would comply with the separation requirements and yet enable a new UHF TV station to reach a sufficient number of potential viewers.[2]

4. Rather than select a less desirable site, or abandon the attempt to construct a new television station for Greenville, Big River proposes to remove the short-spacing by substituting Channel 44 for Channel 21 in Greenville and substituting *21 for Channel *22 in Clarksdale. These changes can be accomplished in full compliance with the mileage separation requirements. However, the assignment of Channel *21 to Clarksdale, Miss. will require a change in the offset designation of the unoccupied co-channel Birmingham, Ala. assignment (from zero to minus).

5. The Commission believes that these changes would be in the public interest since they would aid in bringing an additional commercial television service to the residents of this area. Also, this action would promote the establishment of the first commercial UHF television service in this area, and only the third commercial UHF station in the state.

6. Therefore, we propose to consider the following revisions in the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) with respect to the cities listed below:

City	Channel No. Present	Proposed
Greenville, Miss.	15—, 21—, *21—	15—, 44—, *21
Clarksdale, Miss.		
Birmingham, Ala.	6—, *10—, 13—, 21, 42+, *32+, 66+	6—, *10—, 13—, 21—, 42+, *32+, 66+

7. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained below and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

8. Interested parties may file comments on or before October 21, 1977, and reply comments on or before November 10, 1977.

MARTIN I. LEVY,
Acting Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in this notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420 (d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77-27008 Filed 9-15-77;8:45 am]

[1] All population figures are taken from the 1970 U.S. Census.

[2] The proposed transmitter site would be 39 kilometers (24 miles) from Greenville, 43 kilometers (27 miles) from Clarksdale, and 50 kilometers (31 miles) from Greenwood. This location would allow coverage of these as well as other surrounding communities which petitioner states is essential to the creation of a viable UHF television operation.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

PROTECTION FOR THREATENED SPECIES OF WILDLIFE

Proposed Rulemaking

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Service issues a proposed rulemaking which would further protect threatened species of wildlife. Certain regulations currently prohibit the possession of illegally taken endangered species only, as well as their commercial transportation and sale or offer for sale in foreign or interstate commerce. It is proposed to have these protective regulations also apply to threatened species. (See FR Doc. 2751 in the Rules Section of the FEDERAL REGISTER for an emergency rule on the same subject.)

DATE: All relevant comments with regard to this proposed rulemaking received no later than November 15, 1977, will be considered.

ADDRESSES: Comments should be sent, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Department of the Interior, P.O. Box 19183, Washington, D.C. 20236. Comments will be available for public inspection during normal business hours at the Service's Division of Law Enforcement, Suite 600, 1612 K St. NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Marshall L. Stinnett, Special Agent in Charge, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 19183, Washington, D.C. 20236 (202-343-9237).

SUPPLEMENTARY INFORMATION: This proposed rule is currently in effect under the special emergency rulemaking procedure authorized by the Endangered Species Act of 1973, 16 U.S.C. 1533(f)(2)(B)(ii), as amended.

On May 11, 1976, the Service amended 50 CFR Part 17 to incorporate the State Cooperative Agreement Program into the Service's endangered and threatened species regulations. In particular, an amendment adding a new subsection (5) to § 17.21(c) authorized certain designated State employees in States with cooperative agreements to take endangered species without a permit for conservation purposes. This exemption did not apply in the following four situations:

(5) Notwithstanding paragraph (c)(1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties take Endangered Species, for conservation programs in accordance with the Cooperative Agreement, provided that such taking is not reasonably anticipated to result in: (i) the death or permanent disabling of the specimen; (ii) the removal of the specimen from the State where the taking occurred; (iii) the introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or (iv) the holding of the specimen in captivity for a period of more than 45 consecutive days.

If a proposed taking was to involve any one of those four situations, a regular endangered species permit would be required.

This amendment to § 17.21(c)(5) was similar to an already existing permit exemption for threatened species in § 17.31(b), which for the convenience of the reader is set forth below:

(b) In addition to any other provisions of this Part 17, any employee or agent of the Service, of the National Marine Fisheries Service, or of a State conservation agency which is operating a conservation program pursuant to the terms of a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take any threatened wildlife to carry out scientific research or conservation programs.

The major difference in treatment between endangered and threatened species under a cooperative agreement is that the four restrictions on the taking

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of an endangered species do not apply to threatened species under § 17.31(b).

The addition of § 17.21(c)(5), however, necessitated an amendment to § 17.31(a) which sets out the general prohibitions for activities involving threatened species. No prohibitions automatically cover threatened species under the Endangered Species Act of 1973, and the establishment of protective regulations is discretionary with the Service. The Service exercised this discretion in the original set of regulations implementing the 1973 Act and determined that as a general rule, all of the prohibitions applying to endangered species would apply to threatened species, unless otherwise provided for in a special rule. For the convenience of the reader, the original version of § 17.31(a) published at 40 F44412 is set forth below:

§ 17.31 Prohibitions.

(a) Except as provided in Subpart A of this part, or in a permit issued under this Subpart, all of the provisions in § 17.21 shall apply to threatened wildlife.

• • • • •

Thus, as a general rule all of the prohibitions and provisions of § 17.21 for endangered species were adopted and transferred over for threatened species under § 17.31(a).

Such a transference of the provisions of § 17.21 would include the newly adopted § 17.21(c)(5) dealing with cooperative agreements and endangered species. It has already been pointed out that § 17.21(c)(5) was more restrictive in its authorization of cooperative agreement activities with endangered species, than was § 17.31(b)'s authorization of cooperative agreement activities with threatened species. To avoid this conflict, it was deemed necessary to exclude § 17.21(c)(5) from the general transference provisions of § 17.31(a). The original preamble for the May 11th final rulemaking stated the problem as follows:

The adoption of amendment number 4 requires a slight modification of § 17.31(a) dealing with the prohibitions applicable to Threatened Species. Section 17.31(a) presently states that with a few specific exceptions, all of the provisions of § 17.21, for Endangered Species, shall apply to Threatened Species. While it has been noted that a provision similar to amendment number 4 already exists in § 17.31(b) for Threatened Species, it is not identical because it does not require the State to get a permit in the four situations set forth for § 17.21(c)(5) in amendment number 4.

The present language of § 17.31(a), in stating that all of the provisions of § 17.21, including the newly adopted § 17.21(c)(5), apply to Threatened Species, creates confusion as to the circumstances under which a Threatened Species may be taken without a permit under a Cooperative Agreement. The transference of the provisions of § 17.21 to Threatened Species would include the four restrictions on taking without a permit, while the present language in § 17.31(b) does not.

The Service proposed in amendment number 5, below, to eliminate this confusion by expressly excluding the transference of the provisions of § 17.21(c)(5) in § 17.31(a). This reaffirms the intent of the present language of § 17.31(b) to provide the maximum State antonomy possible under a Cooperative Agreement for the conservation of Threatened Species.

Thus, it was the intention of the Service to amend § 17.31(a) so that all of the provisions of § 17.21 applied to threatened species except § 17.21(c)(5).

Because of an inadvertent omission, however, not only was § 17.21(c)(5) excluded from applicability to threatened species, but § 17.21 (d), (e) and (f) as well. Instead of § 17.31(a) reading "• • • all of the provisions in § 17.21 shall apply to threatened wildlife, except § 17.21(c)(5).", the May 11th final rulemaking amended § 17.31(a) to read "• • • all of the provisions in § 17.21(a) through (c)(4) shall apply to threatened wildlife." The exclude subsections 17.21 (d), (e) and (f) set out the prohibitions dealing with the possession of illegally taken endangered species, as well as the commercial transportation or sale or offer for sale in interstate or foreign commerce of endangered species. It is the position of the Service that these prohibitions are clearly necessary for the conservation of threatened species of fish or wildlife. Furthermore, the Service contends that the absence of these protective regulations creates a significant risk to the well being of threatened species of fish or wildlife.

The primary author of this document is Marshall L. Stinnett, Division of Law Enforcement.

NOTE.—The Service has determined that this document is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. Accordingly, an environmental impact statement shall not be required.

Accordingly, it is proposed to amend § 17.31(a) to read as follows:

§ 17.31 Prohibitions.

(a) Except as provided in Subpart A of this Part, or in a permit issued under this Subpart, all of the provisions in § 17.21 shall apply to threatened wildlife, except § 17.21(c)(5).

• • • • •

NOTE.—The Service has determined that this document does not contain a major rulemaking requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 9, 1977.

WALTER R. MCALLISTER,
Director,
Fish and Wildlife Service.

[FR Doc.77-27050 Filed 9-15-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

MEETING

Notice is hereby given in accordance with the Council's Procedures for the Protection of Historic and Cultural Properties (36 C.F.R. 800) that the regular meeting of the Advisory Council on Historic Preservation will be held on October 11–12, 1977, in Washington, D.C. The entire meeting is open to the public.

The Council was established by the National Historic Preservation Act of 1966 (Pub. L. 89–665, as amended, Pub. L. 94–422) to advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Secretaries of the Interior; Housing and Urban Development; Commerce; Treasury; Agriculture; Transportation; State; Defense; Health, Education, and Welfare; and Smithsonian Institution; the Attorney General; Chairman of the Council on Environmental Quality; Chairman of the Federal Council on the Arts and Humanities; Architect of the Capitol; Chairman of the National Trust for Historic Preservation; President of the National Conference of State Historic Preservation Officers; and twelve non-Federal members appointed by the President.

The meeting will begin at 9:00 a.m. on Tuesday and Wednesday, October 11–12, 1977, at the Cash Room, Department of the Treasury, 15th & Pennsylvania Avenue, NW, Washington, D.C. 20220.

The agenda for the meeting includes the following:

I. Report of the Executive Director.
II. Report of the General Counsel.
III. Report of the Director of Intergovernmental Programs and Planning.
IV. Report of the Office of Review and Compliance.
VI. Memorandum of Understanding Between Council and Economic Development Administration Regarding Community Emergency Drought Relief Program.
VII. Memorandum of Understanding Between Council and National Park Service Regarding Grants-in-Aid Program.
VIII. Other Business.

For reasons of security in Federal buildings, those wishing to attend must have a Government Identification Card, or notify the Council by September 28 of their name, address, and social security number. Notify the Council in writing at Suite 530, 1522 K Street, NW, Washington, D.C. 20005, or call (202) 634–4153.

Additional information concerning either the meeting agenda or the submission of oral and written statements to the Council is available from the Executive Director, Advisory Council on Historic Preservation, Suite 530, 1522 K Street NW., Washington, D.C. 20005 (202) 254–3974.

Dated: September 7, 1977.

ROBERT M. UTLEY,
Deputy Executive Director.

[FR Doc.77-26975 Filed 9-15-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

SIERRA SKI RANCH EXPANSION, ELDORADO NATIONAL FOREST

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the proposed expansion of Sierra Ski Ranch Winter Sports Site, Eldorado National Forest, Calif., USDA–FS–R5–FES (ADM) 77–04.

The environmental statement concerns the proposed expansion of a winter sports site near Echo Summit in the Eldorado National Forest. The area is located in El Dorado County, Calif., approximately 83 miles east of Sacramento, and is accessible by U.S. Highway 50. There are no inventoried roadles areas within the proposed expansion boundary.

The final environmental statement was transmitted to the Council on Environmental Quality (CEQ) on September 12, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th Street and Independence SW., Washington, D.C. 20250.
Forest Supervisor, Eldorado National Forest, 100 Forni Road, Placerville, Calif. 95667.
Regional Forester, U.S. Forest Service, Room 529, 630 Sansome Street, San Francisco, Calif. 94111.
Forest Service, District Ranger, Placerville District, 8491 Carson Court, Placerville, Calif. 95667.

A limited number of single copies are available, upon request, from Forest Supervisor Joseph H. Harn, Eldorado National Forest, 100 Forni Road, Placeerville, Calif. 95667.

Copies of the environmental statement have been sent to various Federal, State and local agencies as outlined in the CEQ guidelines.

EINAR L. ROGET,
Acting Deputy Chief.

SEPTEMBER 12, 1977.

[FR Doc.77-27048 Filed 9-15-77;8:45 am]

Packers and Stockyards Administration

ROGUE VALLEY LIVESTOCK AUCTION, INC., CENTRAL POINT, OREGON

Change of Address

On January 4, 1972, a notice was published in the FEDERAL REGISTER, 37 FR 47, advising all interested parties that stockyard facility numbers were being assigned to all stockyards posted under the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq). Included in this publication was the name of the Rogue Valley Livestock Auction, Inc., Medford, Oregon. This stockyard was assigned stockyard facility number OR–115.

The purpose of this notice is to show that the mailing address has been changed to Central Point, Oregon. The stockyard known as Rogue Valley Livestock Auction, Inc., Central Point, Oregon, will remain posted as a stockyard within the definition of that term contained in section 302 of the Act (7 U.S.C. 202) and will remain subject to the provisions of the Act. This stockyard will retain the stockyard facility number, OR–115.

Done at Washington, D.C. this 12th day of September, 1977.

JOHN R. BRANNIGAN,
Acting Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.77-26976 Filed 9-15-77;8:45 am]

Rural Electrification Administration

LOWER VALLEY POWER AND LIGHT, INC.

Final Supplement to the Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Supplement to the Final Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with a loan application from Lower Valley Power and Light, Inc., P.O. Box 188, Afton, Wyoming 83110. The Final Supplement addresses

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staff evaluation of the most recent denial of the applicant's proposed Snake River crossing by the U.S. Department of the Interior.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Final Supplement have been sent to various Federal, State and local agencies as outlined in the Council on Environmental Quality Guidelines. The Final Supplement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C., Room 4310 or at the address of Lower Valley Power and Light, indicated above.

Comments concerning the environmental impact of the construction proposed should be addressed to Mr. Richter at the address given above. Comments must be received on or before October 17, 1977, to be considered in connection with the proposed action.

Final REA action with respect to this matter (including any release of funds) will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 9th day of September, 1977.

DAVID A. HAMIL,
Administrator.

[FR Doc.77-26974 Filed 9-15-77;8:45 am]

Soil Conservation Service

WASHINGTON MOUNTAIN BROOK WATERSHED, MASS.

Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Washington Mountain Brook Watershed, Berkshire County, Mass.

The environmental assessment of this Federal action indicates that the project will cause significant local, regional, or national impacts on the environment. As a result of these findings, Dr. Benjamin Isgur, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for watershed protection, flood prevention, municipal and industrial water supply, and recreation development. The planned works of improvement remaining to be installed include conservation land treatment supplmented by two multiple purpose dams, recreation facilities, and channel work consisting of 50 feet of concrete channel and about 100 feet of debris removal along Washington Mountain Brook.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Dr. Benjamin Isgur, State Conservationist, Soil Conservation Service, 29 Cottage Street, P.O. Box 848, Amherst, Mass. 01002.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 USC 1001-1008.)

Dated: September 9, 1977.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, United States Department of Agriculture.

[FR Doc.77-27019 Filed 9-15-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Dockets Nos. 31377, 31379]

BRITISH AIRWAYS CARGO CONTRACT RATES (UNITED KINGDOM–UNITED STATES)

Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on September 16, 1977, at 10 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise the Acting Chief Administrative Law Judge, by telex, to be received in his office on September 14, 1977, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., September 13, 1977.

HENRY M. SWITKAY,
Acting Chief Administrative Law Judge.

[FR Doc. 77-27047 Filed 9-15-77;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF DEFENSE

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary (European and NATO Affairs), OASD (International Security Affairs), Office of the Secretary of Defense.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26907 Filed 9-15-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Director, Office of Policy Development and Planning, Office of the Assistant Secretary for Health, Public Health Service.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26910 Filed 9-15-77;8:45 am]

INTERGOVERNMENTAL PERSONNEL ACT OF 1970

Allocations of Grant Funds

Pursuant to 5 CFR 900.301(a), notice is hereby given of the allocations of funds available for grants under the Intergovernmental Personnel Act of 1970, Pub. L. 91-648, 84 Stat. 1909. For grants under the Act, Congress has appropriated $20 million for Fiscal Year 1978. Eighty percent of this amount must be allocated by weighted formula among the States and between State and local government needs, as required by Section 506 of the Act. Under the Act, the term "local government" also means the recognized Indian governing bodies performing substantial governmental functions.

INTERGOVERNMENTAL PERSONNEL ACT
FORMULA GRANT ALLOCATIONS FOR FISCAL YEAR 1978

STATE	TOTAL STATE ALLOCATION	MINIMUM SHARE FOR LOCAL GOV'T NEEDS *
Missouri	$ 334,000	$ 167,000
Montana	90,000	45,000
Nebraska	119,000	59,500
Nevada	90,000	47,100
New Hampshire	90,000	45,000
New Jersey	524,000	325,100
New Mexico	94,000	47,000
New York	1,365,000	984,400
North Carolina	392,000	243,700
North Dakota	90,000	45,000
Ohio	722,000	394,000
Oklahoma	204,000	102,000
Oregon	176,000	88,000
Pennsylvania	780,000	390,000
Rhode Island	90,000	45,000
South Carolina	208,000	104,000
South Dakota	90,000	45,000
Tennessee	308,000	190,300
Texas	913,000	456,500
Utah	93,000	46,500
Vermont	90,000	45,000
Virginia	376,000	231,200
Washington	261,000	130,500
West Virginia	133,000	66,500
Wisconsin	334,000	199,600
Wyoming	90,000	45,000
TOTALS	$16,000,000	$8,879,500
Alabama	$ 255,000	$ 127,500
Alaska	90,000	45,700
Arizona	173,000	86,500
Arkansas	147,000	73,500
California	1,564,000	979,500
Colorado	198,000	99,000
Connecticut	212,000	132,100
Delaware	90,000	45,000
D.C.	90,000	--
Florida	608,000	331,300
Georgia	357,000	178,500
Hawaii	90,000	45,000
Idaho	90,000	45,000
Illinois	762,000	381,000
Indiana	371,000	185,500
Iowa	214,000	107,000
Kansas	175,000	78,500
Kentucky	232,000	116,000
Louisiana	289,000	144,500
Maine	90,000	45,000
Maryland	313,000	203,100
Massachusetts	418,000	273,300
Michigan	654,000	327,000
Minnesota	292,000	148,100
Mississippi	170,000	85,000

* Must be at least 50 percent of the State's total allocation

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PARAGRAPH 1. *Award of grant funds.* The allocations for Fiscal Year 1978 are furnished now to permit advance planning for the use of these funds. The funds will be available for award to eligible grantees after September 30, 1977. In most States, formula funds are awarded to a State agency designated by the Governor on the basis of a statewide program developed cooperatively by the State and local jurisdictions. Formula funds allocated for the use of the fifty States are awarded by the Commission's regional offices. Formula funds allocated for the use of the District of Columbia are awarded by the Commission's Bureau of Intergovernmental Personnel Programs.

PARAGRAPH 2. *Minimum allocations for individual States and for meeting the needs of local governments.* When the dollar allocation for a State would be less than $90,000, it has been raised to that level; with the funds required for this purpose being derived by adjusting proportionately the allocations for the other States. The minimum allocation for meeting the needs of local governments in each State is established by the Intergovernmental Personnel Act as 50 percent of the State's total allocation.

PARAGRAPH 3. *Use of grant funds.* Under the Intergovernmental Personnel Act, the U.S. Civil Service Commission is authorized to make grants to State governments; to general local governments, or combinations of local governments, that serve a population of fifty thousand or more; or to eligible Indian tribal governments for up to 50 percent of the costs of projects to strengthen personnel administration or to train professional, administrative, and technical employees and officials. To obtain the greatest benefit from limited funds, jurisdictions are urged to place emphasis on high-priority management improvement projects which will have lasting impact or otherwise serve as demonstration models for use by other jurisdictions.

PARAGRAPH 4. *Obtaining further information.* State, local, and Indian government executives or other interested persons may obtain further information on the grant program from the appropriate office of the U.S. Civil Service Commission.

UNITED STATES CIVIL SERVICE REGIONS

For convenience in administration of the field service the Commission has divided the United States into regions. The following shows the names of the Commission's regional directors and their headquarters, and the geographical areas over which these officials have jurisdiction, for Intergovernmental Personnel Act programs as well as other Commission programs.

REGION	HEADQUARTERS	DIRECTORS	AREA SERVED
Atlanta	1340 Spring Street, N.W. Atlanta, Ga. 30309	David Caldwell	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee
Boston	John W. McCormack Post Office and Courthouse Bldg. Boston, Mass. 02109	Charles A. Maher	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont
Chicago	Federal Office Bldg. 29th Floor 230 S. Dearborn St. Chicago, Ill. 60604	Keith A. Roelofs	Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin
Dallas	1100 Commerce Street Dallas, Texas 75202	Edward Vela, Jr.	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas
Denver	Building 20 Denver Federal Center Denver, Colo. 80225	George F. Dwyer	Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming
New York	Federal Building 26 Federal Plaza New York, N.Y. 10007	John J. Lafferty	New Jersey, New York, Puerto Rico, and the Virgin Islands
Philadelphia	William J. Green, Jr. Federal Building 600 Arch Street Philadelphia, Pa. 19106	Robert E. Sperry	Delaware, Maryland, Pennsylvania, Virginia, and West Virginia
St. Louis	1256 Federal Building 1520 Market Street St. Louis, Mo. 63103	Robert J. Dunn	Iowa, Kansas, Missouri, and Nebraska
San Francisco	Federal Building, Box 36010 450 Golden Gate Avenue San Francisco, Calif. 94102	Francis V. Yanak	Arizona, California, Hawaii, Nevada, and the Pacific Overseas Area
Seattle	Federal Building 915 Second Ave., 26th Fl. Seattle, Wash. 98174	Thomas G. McCarthy	Alaska, Idaho, Oregon, and Washington

For the IPA Grant Program in Washington, D. C.

Norman Beckman
Director
Bureau of Intergovernmental Personnel Programs
U.S. Civil Service Commission
Washington, D.C. 20415

Dated: September 16, 1977.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26776 Filed 9-15-77;8:45 am]

DEPARTMENT OF THE NAVY

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Navy to fill by noncareer executive assignment in the excepted service the position of Special Assistant for Financial Management, Office of the Assistant Secretary of the Navy (Financial Management).

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26908 Filed 9-15-77;8:45 am]

DEPARTMENT OF STATE

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of State to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26909 Filed 9-15-77;8:45 am]

EXPORT-IMPORT BANK OF THE UNITED STATES

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Export-Import Bank of the United States to fill by noncareer executive assignment in the excepted service the position of Assistant to the President and Chairman for Transition Planning, Office of the President and Chairman.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-26957 Filed 9-15-77;8:45 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

COSMOS FOOTWEAR CORP.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Cosmos Footwear Corp., 1350 Broadway, New York, N.Y. 10018, a producer of footwear for women, was accepted for filing on September 9, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business September 26, 1977.

JACK W. OSBURN, JR.,
Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-27023 Filed 9-15-77;8:45 am]

LINDA JO SHOE CO.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Linda Jo Shoe Co., Inc., 420 West Garnett Street, Gainesville, Tex. 76240, a producer of footwear for women was accepted for filing on September 12, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business September 26, 1977.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-27022 Filed 9-15-77;8:45 am]

MARLBORO FOOTWEAR CORPORATION

Petition for a Determination of Eligibilty To Apply for Trade Adjustment Assistance

A petition by Marlboro Footwear Corp., 49 Cotting Avenue, Marlboro, Mass. 01752, a producer of footwear for women, was accepted for filing on September 9, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States or articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of September 26, 1977.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-27025 Filed 9-15-77;8:45 am]

MILLER, HESS & COMPANY, INC.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Miller, Hess & Company, Inc., 7th and Main Streets, Akron, Pennsylvania 17501, a producer of footwear for women, was accepted for filing on September 9, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States or articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of September 26, 1977.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-27024 Filed 9-15-77;8:45 am]

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Foreign-Trade Zones Board

[Order No. 123]

GREATER MIAMI FOREIGN TRADE ZONE, INC.

Resolution and Order Approving Application for Permanent and Temporary Trade Zone Sites in Dade County, Florida

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

RESOLUTION AND ORDER

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following resolutions and Order:

The Board, having considered the matter hereby orders:

After consideration of the application of the Greater Miami Foreign Trade Zone, Inc., Dade County, Florida, filed with the Foreign-Trade Zones Board (the Board) on March 16, 1977, as amended May 20, 1977, requesting a grant of authority for establishing, operating, and maintaining a foreign-trade zone in Dade County, Florida, and a warehouse facility to be operated as a temporary site until the permanent facility is fully operational, both sites being within or adjacent to the Miami Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's Regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the permanent proposal involves an industrial park type zone that envisages the possible construction of buildings by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the permanent zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

GRANT TO ESTABLISH, OPERATE, AND MAINTAIN PERMANENT AND TEMPORARY FOREIGN-TRADE ZONE SITES IN DADE COUNTY, FLORIDA

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u), (hereinafter referred to as "the Act"), the Foreign-Trade Zones Board (hereinafter referred to as "the Board") is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Greater Miami Foreign Trade Zone, Inc. (the Grantee) has made application (filed March 16, 1977) in due and proper form to the Board requesting the establishment, operation, and maintenance of a permanent foreign-trade zone, as well as a temporary zone site, both in Dade County, Florida, within or adjacent to the Miami Customs port of entry;

Whereas, the Grantee amended its application (filed May 20, 1977) in due and proper form to change the site for the permanent zone, the amended site being within the same level land section as the original one;

Whereas, notice of said application and amendment has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating and maintaining a permanent foreign-trade zone, designated on the records of the Board as Zone No. 32, in Dade County, Florida, at the location described on the maps and drawings accompanying the amended application, marked as Exhibits IX and X, and a temporary foreign-trade zone, designated as Zone No. 32 (temporary), also in Dade County at the location described on the maps and drawings marked as Exhibits IX and X of the original application, said grant being subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations, to-wit:

Operation of the foreign-trade zone sites shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The temporary zone site will be deactivated within a reasonable time after the permanent site is fully operational and at that time zone status for this site will expire.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone sites in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within either zone site.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone sites, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 6th day of September, 1977 pursuant to Order of the Board.

FOREIGN-TRADE ZONES BOARD,
JUANITA M. KREPS,
Chairman and Executive Officer.

Attest:
JOHN J. DAPONTE,
Executive Secretary.

[FR Doc.77-27000 Filed 9-15-77;8:45 am]

[Order No. 122]

TRI-CITY REGIONAL PORT DISTRICT, GRANITE CITY, ILL.

Resolution and Order Approving Application for a Foreign-Trade Zone

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

RESOLUTION AND ORDER

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter hereby orders:

"After consideration of the application of the Tri-City Regional Port District, Granite City, Ill., filed with the Foreign-Trade Zones Board (the Board) on January 27, 1977, requesting a grant of authority for establishing, operating, and maintaining a foreign-trade zone in the Tri-City Industrial Center, Granite City, Ill., within the St. Louis Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

Since the proposal involves an industrial park type zone that envisages the construction of buildings by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order."

GRANT TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN-TRADE ZONE IN GRANITE CITY, ILL.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u), (hereinafter referred to as "the Act"), the Foreign-Trade Zones Board (hereinafter referred to as "the Board") is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Tri-City Regional Port District (hereinafter referred to as "the Grantee"), has made application (filed January 27, 1977) in due and proper form to the Board requesting the establishment, operation, and maintenance of a foreign-trade zone in Granite City, Ill., within the St. Louis Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 31, at the location mentioned above and more particularly described on the maps and drawings accompanying the application requesting authority for a foreign-trade zone in Granite City, Ill., marked as Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations, to-wit:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 6th day of September 1977 pursuant to Order of the Board.

FOREIGN-TRADE ZONES BOARD,
JUANITA M. KREPS,
Chairman and Executive Officer,
Secretary of Commerce.

Attest:

[FR Doc.77-27001 Filed 9-15-77;8:45 am]

National Bureau of Standards

CEMENT AND CONCRETE TECHNOLOGY

Workshop

The National Bureau of Standards and the Energy Research and Development Administration will hold a workshop on possible contributions of cement and concrete technology to energy conservation by the year 2000. The workshop will be held at the National Bureau of Standards in Gaithersburg, Maryland, on Monday and Tuesday, October 3 and 4, 1977. Each day's proceedings will begin at 8:45 a.m. with a plenary session in Lecture Room A of the Administration Building at which working group assignments will be reviewed. Subsequently, individual working groups will meet in Lecture Rooms A, B, and D, and Room B113 of the Administration Building, Room B163 of the Chemistry Building, Room B27 of the Technology Building (October 3 only) and Room A340 of the Metrology Building (October 4 only).

The purposes of the workshop are to (a) identify research needs relating to possible contributions of cement and concrete technology to energy conservation in the near term and by the year 2000 and (b) identify issues, and possible restraints, relating to the exploitation of energy conservation opportunities in the cement and concrete areas.

The public is invited to attend the workshop. A period will be set aside during the plenary sessions for oral comments or questions by the public which do not exceed 5 minutes each. More extensive questions or comments should be submitted in writing before October 1, 1977. Other public statements regarding issues before the workshop may be submitted at any time before or after the workshop.

Persons planning to attend should notify Geoffrey Frohnsdorff, Room B348, Building Research Building, Center for Building Technology, Institute for Applied Technology, National Bureau of Standards, Washington, D.C. 20234 (telephone 301–921–3458).

Dated: September 12, 1977.

ERNEST AMBLER,
Acting Director.

[FR Doc.77-26921 Filed 9-15-77;8:45 am]

National Oceanic and Atmospheric Administration

PRELIMINARY FISHERY MANAGEMENT PLANS AND PROPOSED FOREIGN FISHING REGULATIONS

Public Meeting

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190), the National Oceanic and Atmospheric Administration has prepared draft supplements to final environmental impact statements for preliminary fishery management plans prepared in accordance with the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265). Notice is hereby given of public meetings to be held by the National Marine Fisheries Service to receive public views and comments on the draft supplements applicable to the following preliminary fishery management plans:

1. Atlantic Herring Fishery of the Northwestern Atlantic.
2. Foreign Trawl Fisheries of the Northwestern Atlantic.
3. Hake Fisheries of the Northwestern Atlantic.
4. Mackerel Fishery of Northwestern Atlantic.
5. Squid Fisheries of the Northwestern Atlantic.

The notice of availability of supplements to final environmental impact statements for preliminary fishery management plans was published on September 6, 1977 (42 FR 44569).

Proposed amendments to foreign fishing regulations promulgated under Pub. L. 94–265 were published on September 9, 1977 (42 FR 45551) Public meetings will be held at the following locations, dates, and times to receive public views and comments on the draft supplements to final environmental impact statements for the above named plans and proposed amendments to foreign fishing regulations:

SEPTEMBER 27, 1977, OCEAN CITY, MD.
Sheraton Fontainebleau Inn
10100 Ocean Highway
7 p.m. to 10 p.m.

SEPTEMBER 29, 1977, NEW BERN, N.C.
Holiday Inn
Junction U.S. Highways 70 and 17
7 p.m. to 10 p.m.

SEPTEMBER 30, 1977, PEABODY, MASS.
Holiday Inn
Junction U.S. Highways 1 and 128
7 p.m. to 10 p.m.

Written comments from the public may be submitted to the Regional Director, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Mass. 01930, until October 6.

Dated: September 13, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-26991 Filed 9-15-77;8:45 am]

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National Oceanic and Atmospheric Administration

ATLANTIC TUNA FISHERIES

Atlantic Bluefin Tuna Season

On September 6, 1977, a notice was published in the FEDERAL REGISTER at 42 FR 44567. This notice announced that the season would be closed at 2400 hours local time on September 9 for the taking of Atlantic bluefin tuna weighing in excess of 300 pounds round weight with gear other than purse seines in the area of the Atlantic Ocean west of a line drawn from a point on the southern coast of Massachusetts extending south through Gay Head Light, Massachusetts including the waters of Narragansett Bay.

Pursuant to 50 CFR 285.13(b)(1)(i) (see 42 CFR 30374) the quota of such fish for this area was established at 150. Records of the National Marine Fisheries Service indicate that as of September 9, 1977, only 59 fish were taken. Accordingly, pursuant to 50 CFR 285.13(d) the season for the taking of Atlantic bluefin tuna weighing in excess of 300 pounds with gear other than purse seines in the area of the Atlantic Ocean, including Narragansett Bay, west of a line drawn from a point on the southern coast of Massachusetts extending south through Gay Head Light, Massachusetts shall be reopened at 0001 hours local time on September 16, 1977, until the quota of 150 fish is reached.

Issued at Washington, D.C and dated September 14, 1977.

WINFRED H. MEIBOHM,
Associate Director.

[FR Doc.77-27092 Filed 9-15-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Additions

AGENCY: Committee for Purchase from the Blind and Other Severly Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1977 commodities to be produced by and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: September 16, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On June 17, 1977, July 15, 1977, and July 22, 1977 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (42 FR 30883), (42 FR 36543) and (42 FR 37586) of proposed additions to Procurement List 1977, November 18, 1976 (41 FR 50975).

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following commodities and services are hereby added to Procurement List 1977:

Class 7105

Mirror, Glass (SH), 7105-00-260-1390.

Class 7530

Paper, Looseleaf, Blank (IB), 7530-00-286-5778, 7530-00-286-5782, 7530-00-286-5780, 7530-00-286-5781, 7530-00-286-5779, 7530-00-286-5777.

Class 7530

Paper, Looseleaf, Ruled (IB), 7530-00-286-4332, 7530-00-286-4331, 7530-00-286-4333, 7530-00-286-4334, 7530-00-286-4335, 7530-00-198-6265, 7530-00-286-4336, 7530-00-286-4337, 7530-00-286-4338, 7530-00-286-4339, 7530-00-286-6366.

SIC 7349

Custodial Services (SH), Fairchild Air Force Base, Spokane, Wash. At the following locations:

1. Alert Facility, Bldg. 2080
2. Alert Trailers
3. Post Office, Bldg. 644
4. Military Family Housing Office, Bldg. 2151B
5. Audit Agency Office, Bldg. 2245
6. 47th Air Division Hdqtrs, Bldg. 2285
7. Civilian Personnel and NAF (Room 209), Bldg. 2245
8. Red Cross Office, Bldg. 2245
9. Base Library, Bldg. 716
10. Base Chapel, Bldg. 4200
11. Base Education Center, Bldg. 2365
12. Family Visitation Center, Bldg. 2092

Class 7930

Detergent, General Purpose (Synthetic, Nonabrasive) (IB), 7930-00-530-8067, 7930-00-527-1207, 7930-00-527-1237.
Detergent, General Purpose (Liquid Solvent) (IB), 7930-00-985-6945, 7930-00-985-6946.

SIC 7699

Mattress and Boxspring Rehabilitation (IB), For GSA Region 8, Denver, Colo.

E. R. ALLEY, Jr.,
Acting Executive Director.

[FR Doc.77-27002 Filed 9-15-77;8:45 am]

PROCUREMENT LIST 1977

Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1977 commodities to be produced by and services to be provided by workshops for the blind or other severely handicapped.

COMMENTS: Must be received on or before October 19, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1977, November 18, 1976 (41 FR 50975):

Class 5440

Stepladder, Aluminum, 5440-00-514-4483, 5440-00-514-4485, 5440-00-514-4487 (The above for GSA Supply Distribution facilities in Region 7 only).

Class 7210

Covers, Mattress (Cotton Ticking), 7210-00-543-6001, 7210-00-543-6002, 7210-00-140-4231, 7210-00-140-4234.

Class 8430

Footwear Covers, Radioactive Contaminants, 8430-00-890-2079.

Class 8465

Lanyard, Pistol, 8465-00-262-5237, 8465-00-965-1705, 8465-00-753-3363.

SIC None

Magazine Subscription, Madigan Army Medical Center, Tacoma, Wash.

SIC 7349

Custodial Services, Bergstrom AFB, Tex., for building 713, 734, 2004, 2108, and 2501 only.

SIC 7699

Repair and Maintenance of Electric Typewriters at the following locations:

1. Railroad Retirement Board, 844 N. Rush, Chicago, Ill., and 2. HEW, 300 S. Wacker, Chicago, Ill.

SIC 7699

Repair and Maintenance of Electric and Manual Typewriters, Rochester N.Y. (including Monroe County).

E. R. ALLEY, Jr.,
Acting Executive Director.

[FR Doc.77-27003 Filed 9-15-77;8:45 am]

PROCUREMENT LIST 1977

Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received a proposal to add to Procurement List 1977 commodities to be produced by workshops for the blind or other severely handicapped.

COMMENTS: Must be received on or before October 19, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

This notice supersedes the notice of proposed addition of the following commodities published in the FEDERAL REGISTER on August 19, 1977 (42 FR 41903).

It is proposed to add the following commodities to Procurement List 1977, November 18, 1976 (41 FR 50975):

Class 8430

SHOES, MEN'S BLACK OXFORD

8430-00-559-4136	8430-00-559-4243
8430-00-559-4137	8430-00-559-4244
8430-00-559-4138	8430-00-559-4245
8430-00-559-4139	8430-00-559-4246
8430-00-559-4140	8430-00-559-4247
8430-00-559-4141	8430-00-559-4248
8430-00-559-4142	8430-00-559-4249
8430-00-559-4143	8430-00-559-4250
8430-00-559-4194	8430-00-559-4251
8430-00-559-4195	8430-00-559-4252
8430-00-559-4196	8430-00-559-4253
8430-00-559-4197	8430-00-559-4254
8430-00-559-4198	8430-00-559-4255
8430-00-559-4199	8430-00-559-4256
8430-00-559-4200	8430-00-559-4257
8430-00-559-4201	8430-00-559-4258
8430-00-559-4202	8430-00-559-4259
8430-00-559-4203	8430-00-559-4260
8430-00-559-4204	8430-00-559-4261
8430-00-559-4205	8430-00-559-4262
8430-00-559-4206	8430-00-559-4263
8430-00-559-4207	8430-00-559-4264
8430-00-559-4208	8430-00-559-4265
8430-00-559-4209	8430-00-559-4266
8430-00-559-4210	8430-00-559-4267
8430-00-559-4211	8430-00-559-4268
8430-00-559-4212	8430-00-559-4269
8430-00-559-4213	8430-00-559-4270
8430-00-559-4214	8430-00-559-4271
8430-00-559-4215	8430-00-559-4272
8430-00-559-4216	8430-00-559-4273
8430-00-559-4217	8430-00-559-4274
8430-00-559-4218	8430-00-559-4275
8430-00-559-4219	8430-00-559-4276
8430-00-559-4220	8430-00-559-4277
8430-00-559-4221	8430-00-559-4278
8430-00-559-4222	8430-00-559-4279
8430-00-559-4223	8430-00-559-4280
8430-00-559-4224	8430-00-559-4281
8430-00-559-4225	8430-00-559-4282
8430-00-559-4226	8430-00-559-4283
8430-00-559-4227	8430-00-559-4284
8430-00-559-4228	8430-00-559-4285
8430-00-559-4229	8430-00-559-4286
8430-00-559-4230	8430-00-559-4287
8430-00-559-4231	8430-00-559-4288
8430-00-559-4232	8430-00-559-4289
8430-00-559-4233	8430-00-559-4290
8430-00-559-4234	8430-00-559-4291
8430-00-559-4235	8430-00-559-4292
8430-00-559-4236	8430-00-559-4293
8430-00-559-4237	8430-00-559-4294
8430-00-559-4238	8430-00-559-4295
8430-00-559-4239	8430-00-559-4296
8430-00-559-4240	8430-00-559-4297
8430-00-559-4241	8430-00-559-4298
8430-00-559-4242	

E. R. ALLEY, Jr.,
Acting Executive Director.

[FR Doc.77-27004 Filed 9-15-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Availability

The following is a list of environmental impact statements received by the Council on Environmental Quality from Sept. 5 to Sept. 9, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the *minimum* period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (October 31, 1977) The thirty (30) day for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307A, Washington, D.C. 20250 (202-447-6827).

RURAL ELECTRIFICATION ADMINISTRATION

Final

Coyotte Generating Station, 440 MW Unit, Mercer and Oliver Counties, N. Dak., September 9: Proposed is the granting of loan funds to the Minnkota Power Cooperative for the financing of a 30 percent interest in the proposed new Coyotte Station. The project consists of a 440 MW lignite-fired steam electric generating plant. A new 33 mile, 345 kV transmission line will be built to interconnect the proposed plant with the substation at the Center Plant. Cooling tower blow down and small amounts of boiler blow down will be discharged to the Missouri River. Other major adverse effects include intrusion on the landscape and minor amounts of soil disturbance. Comments made by: DOT, USDA, HEW, FEA, FRDA, DOI, SOE, EPA, State agencies, and interest groups. (ELR Order No. 71117.)

SOIL CONSERVATION SERVICE

Draft

Lake Verret Watershed (2), Ascension, Assumption, and Iberville Parishes, La., September 6: Proposed is a project for watershed protection, flood prevention, and drainage in Ascension, Assumption, and Iberville Parishes, La. Approximately 168 miles of channel work with appurtenant measures, structures for water control, and measures to minimize adverse effects to fish and wildlife will be installed. There will be a loss of about 29 acres of Type 7 Wetland due to project channel rights-of-way; channel rights-of-way required for construction will occupy about 5 acres. Additional effects include the celaring of 1,200 acres of forest land, a reduction in air quality, frequent flooding, and the removal of vegetation from 348 acres. (ELR Order No. 71108.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314 (202-693-6795).

Draft

Mississippi River, Phillips Co., Additional Facilities, Phillips County, Ark., September 6: Proposed is the dredging of a new 5.5 mile channel in two stages along the right side of the main channel of the Mississippi River, extending northeastward from the north end of the Westover revetment and parallel to the main stem levee. Dredged material from a channel 500 feet wide would be placed to create 900 acres of developable flood free fill, which would be developed as a waterfront industrial complex. Approximately 805 acres of bottomland hardwoods, 915 acres of agricultural land and 250 acres of water surface would be displaced during construction. (Memphis District.) (ELR Order No. 71102.)

Savannah Harbor Channel Widening (2), Ga., September 6: Proposed is a plan of improvement for the Savannah Harbor, Ga. Plans call for the widening of the Harbor navigation channel between the present upstream limit of the 500-foot channel between Fig Island turning basin (mile 13.3) and Kings Island turning basin (mile 18.9) from 400 to 500 feet by 38 feet depth with two feet of overdepth dredging on the northern side of the channel. Adverse effects include the elimination of approximately 27 acres of terrestrial land on the northern bank of the Savannah River, temporary increase in turbidity, and loss of plankton during dredging activities. (Savannah District.) (ELR Order No. 71099.)

Bushley Bayou, Louisiana Flood Control (2), La., September 6: Proposed is the provision of backwater flood protection to the Bushley Bayou area by means of a loop levee, gravity flood gate, internal drainage canal, and a 300-cubic-foot-per-second pumping station. Included in the project plan is acquisition and management of 925 acres of suitable wildlife lands to mitigate project-induced fishery losses. Adverse effects include the loss of 94 acres of bottom-land hardwood forest, the degradation of about 1,246 acres of productive farmland, the loss of an additional 602 acres of farmland, and possible damage to archaeological and historical sites. (Vicksburg District.) (ELR Order No. 71100.)

Final

West Contra Coast Sanitary Landfill Project, Contra Costa County, Calif., September 9: This statement involves a regulatory permit application for confirmation and approval of all existing dikes and embankments at the West Contra Costa Sanitary Landfill Project, including rehabilitation, completion and permanent maintenance of these structures and validation of the placement of all existing fill and material behind the structures. Permission to continue sanitary landfill operations is also sought. The adverse impacts of the fill project include loss of a waterfowl resting area and some modified marsh habitat, decreased aesthetics, noise and air pollution due to truck traffic, and restricted use of the landfill area. (San Francisco District.) Comments made by: DOI, EPA, USDA, HEW, DOT, State and local agencies, concerned groups, and individuals. (ELR Order No. 7114.)

Humboldt Bay Harbor Marina (Reg. Permit), Humboldt County, Calif., September 9: Proposed is the development, at Humboldt Bay Harbor, of the Eastern shore of Woodley Island and the Eureka Inner Reach Channel into a public marina with support facilities. This project would reduce the width of the open channel and decrease the flushing capability of the channel. Approximately ½ of the open space/wildlife habitat, including 10 acres of salt marsh, would be replaced by marina development. (San Francisco District.) (250 pages.) Comments made by: USDA, DOC, HEW, HUD, DOI, DOT, EPA, AHP, State and local agencies, and concerned interest groups. (ELR Order No. 71115.)

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ENVIRONMENTAL PROTECTION AGENCY

Contact: Please refer to the separate notice published by EPA in this issue of the FEDERAL REGISTER for the appropriate EPA contact.

Draft

Lynwood Wastewater Treatment Facilities, Snohomish County, Wash., September 6: Proposed is the provision of secondary facilities for the existing sanitary sewerage system in the city of Lynwood, Wash., to replace the existing Lynwood treatment plant at Brown's Bay which affords only primary treatment. The Alderwood Water District will participate in the project through the installation of new gravity interceptors to extend sewer service to the Swamp Creek Basin. All of the communities serviced by the improvement are located in Snohomish County, Washington; however, the proposed Swamp Creek interceptor would discharge to the Municipality of Metropolitan Seattle (Metro) in King County for treatment. (Region X.) (ELR Order No. 71094.)

Final

Interim Heavy Duty Engine Regulations, 1979+, September 6: This statement proposes to set more stringent exhaust emission standards for new heavy duty engines, to revise exhaust gas sampling and analysis procedures, and to set a more stringent Diesel engine peak smoke emission level. To assure achievement of the desired standards, preproduction heavy duty engines will be tested to check the levels of emissions prior to certification for sale in vehicles in the United States. The standards and test procedure changes will be made optional for model year 1979 and will be required in 1980 and late model years by large volume manufacturers. Comments made by: DOD, DOI, DOT, State and local agencies, and concerned interest groups. (ELR Order No. 71109.)

FEDERAL ENERGY ADMINISTRATION

Contact: Mr. Robert Stern, Director, Office of Environmental Programs, Federal Energy Administration, New Post Office Building, Room 7119, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202-566-9760).

Sulfur Mines Salt Dome—SPR, Calcasieu County, La., September 8: Proposed is the storage of 24 million barrels of crude oil at the Sulphur Mines salt dome located in Calcasieu Parish, La. Sulphur Mines is a candidate site for the Strategic Petroleum Reserve (SPR) program currently being implemented by the Federal Energy Administration. Adverse effects include decreased air and water quality; soil erosion; and the possibility of oil spills. (ELR Order No. 71113.)

Texoma Group Salt Domes—SPR, Texas and Louisiana, September 9: Proposed are 4 candidate sites for use as part of the Strategic Petroleum Reserve program. These sites are from the Texoma group of salt domes located in the Gulf Coast region of southwestern Louisiana and southeastern Texas. The primary site for development in this group is an expansion of the West Hackberry Early Storage Reserve facility located in Cameron Parish, La. The 3 other sites are new: The Black Bayou salt dome in Cameron Parish, La.; the Vinton salt dome in Calcasieu Parish, La.; and the Big Hill salt dome in Jefferson County, Tex. One or a combination of these three sites may be developed. (ELR Order No. 71116.)

FEDERAL POWER COMMISSION

Contact: Dr. Jack M. Heinemann, Advisor on Environmental Quality, Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 (202-275-4791).

Supplement

Alcan Pipeline Project, Alaska Natural Gas (S-1), Alaska, September 7: This supplement to the final EIS concerning the Alaska Natural Gas Transportation System has been prepared by the Staff of FPC pursuant to a directive by the Council on Environmental Quality and the White House Alaska Task Force. The directive results from the recent announcement of the National Energy Board of Canada that transport of Alaska natural gas through Canada to the lower 48 states should be along the route proposed by the Alcan Pipeline Company with a Taylor Highway-Klondike Highway realignment. This realignment would diverge from the proposed Alcan route at Tetlin Junction, Alaska. Impacts are discussed. (ELR Order No. 71110.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410 (202-755-6308.)

Draft

Jonathan New Community—Chaska, Minn., Carver County, Minn., September 8: The proposed Federal action is the approval by the Board of Directors of the New Community Development Corporation (NCDC) of a revised Development Plan for Jonathan New Community in Chaska, Minn. Under the terms of the original Project Agreement, the Developer initiated development of a new community in accordance with an approved Development Plan. However, as the result of severe financial difficulties brought about by changing market conditions, development of Jonathan has stalled. This EIS evaluates the potential impact of six alternative development plans, including the plan as originally approved in 1970, on the environment. (ELR Order No. 71112.)

Lonergan Lake Disposition, Douglas County, Nebr., September 6: Proposed is the disposition of a 658-acre tract of land commonly referred to as Lonergan Lake, located to the north of the city of Omaha in Douglas County, Nebr. HUD committed the tract for FHA mortgage insurance for a planned unit development in 1968. The mortgagee failed to meet his financial obligations and Title was conveyed to the Secretary of the Department of HUD on September 23, 1975. HUD proposes to sell the Lonergan Lake property in accordance with the provisions of the National Housing Act as amended and HUD Handbook 4315.1, Property Disposition, Multifamily. (ELR Order No. 71098.)

Final

Newington Forest Development, Fairfax County, Va., September 8: Proposed is the residential development of a 734-acre tract of land located in Fairfax County, Va., over a 6 to 7 year period. Development will include construction of 917 townhouses, 200 garden apartments, and 791 single family units. The site will be developed in four phases. A total of 170 acres will be conveyed to Fairfax County Park Authority, and 15.6 acres will be conveyed to the County for one and one-half elementary school sites. Comments made by: EPA, USDA, COE, DOT, and State and local agencies. (ELR Order No. 71111.)

Section 104(h)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD.)

Draft

Bristol, Pa.—Golf Ranch/Centennial Industrial Park, Bucks County, Pa., September 6: Proposed is the Borough of Bristol's use of $428,000 from the 1975-76 and 1976-77 Community Development Block Grant Program for the acquisition of leasehold interests in the Borough-owned property generally known as the Golf Ranch. The intent is to terminate existing long term leases in order to make the land available for the proposed development of the site as an industrial park; the site is approximately 94 acres in size. Adverse effects include the acquisition of one business, the elimination of open space, increased air, water, and noise pollution, and an increase in the storm water runoff directed toward Otter Creek. (ELR Order No. 71095.)

Final

Wilkes-Barre, Pa.—Industrial Park Urban Renewal, Luzerne County, Pa., September 6: Proposed is the acquisition and redevelopment of 132 acres of land as an industrial park within a 250-acre urban renewal area in Wilkes-Barre, Pa. Plans call for demolition of 69 structures, rehabilitation of 106 buildings, acquisition and removal of obsolete and unused rail lines, and provision of a through line for the Conrail system on existing trackage. Adverse impacts include relocation of 44 commercial and industrial uses, 49 individuals and 8 families; excesses of design noise level standards, and increases in air pollution levels. Comments made by: EPA, DOC, DOI, and State and local agencies. (ELR Order No. 71093.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240 (202-343-3891).

BUREAU OF OUTDOOR RECREATION

Draft

Pine Creek State and National Scenic River, Lycoming and Tioga Counties, Pa., September 6: Proposed is a plan to include the 51.7 miles of Pine Creek between Ansonia and Torbert, Pa., in the National Wild and Scenic Rivers System, and be administered by the Commonwealth of Pennsylvania. The protection boundary would encompass the visual corridor and eight low-density recreation sites. Few adverse effects are anticipated, though some environmental damage to the terrain and vegetation may be expected as a result of visitor use. (ELR Order No. 71104.)

BONNEVILLE POWER ADMINISTRATION

Draft

BPA Fiscal Year 1979 Proposed Program, September 6: Proposed is the construction of fiscal year 1979 new facility additions and modifications to BPA's electric transmission system. Construction plans call for: Between 145 and 170 miles of new transmission line; three possible new substations and related structures, including power system control stations; possible equipment additions to 16 existing substations; maintenance of approximately 12,500 miles of existing transmission lines including tower structures, conductors, and access roads; and control of vegetation on approximately 19,080 acres of transmission line rights-of-way and 960 acres of substation property. Adverse effects include the removal of up to 20 acres of agricultural land. (ELR Order No. 71092.)

NATIONAL PARK SERVICE

Draft

Everglades National Park Master Plan, Dade County, Fla., September 6: Proposed is a master plan for Everglades National Park, Fla. The plan consists of proposals to establish developments, classify park lands, acquire exclusive jurisdiction over certain park lands, change visitor-use patterns, promote interpretive facilities and cooperative planning, continue the land acquisition program, and undertake studies of project feasibilities and methods of implementation. Adverse effects are confined to the land acquisition program, which entails economic loses in Dade County, and potential invasion of park lands by culturally undesirable plant species. (ELR Order No. 71103.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590 (202-426-4357).

FEDERAL HIGHWAY ADMINISTRATION

Draft

State Route 5 (U.S. 45), Henderson, Chester and McNairy Counties, Tenn., September 6: Proposed is the improvement of existing 2-lane State Route 5 (U.S. 45) to a 4-lane divided facility with no control of access, along with a proposed by-pass for the cities of Selmer and possibly Bethel Springs. The project would begin 1.55 miles north of the Mississippi state line and extend in a northerly direction to 0.70 mile south of Henderson. Adverse effects include the displacement of residences and businesses, air and noise pollution, and the loss of 69 to 162 acres of prime farm land. (Region 4.) (ELR Order No. 71096.)

State Highway 133, Hotchkiss to Paonia Dam, Delta and Gunnison Counties, Colo., September 6: The proposed project provides for the construction and/or improvement of approximately 26 miles of two-lane highway built to rural secondary standards. The project will improve State Highway 133 beginning about half a miles west of Hotchkiss and ending at the intersection of State Highway 133 and Kebler Pass Road about 26 miles to the east of Hotchkiss along the North Fork of the Gunnison River. Depending on the alternative selected, between 0 and 40 acres of orchard land will be removed and between 0 and 27 families will be displaced. (Region 8.) (ELR Order No. 71101.)

Kansas Highway 12, Johnson County, Johnson County, Kans., September 6: Proposed is the improvement of Kansas Highway 12 from the junction of Kansas Highways 7 and 10, approximately three miles north of the City of Olathe in Johnson County, Kans., east to approximately one-half mile west of Renner Road. The proposed project would provide a new, full access controlled, four-lane facility with interchanges at major crossroads and with seperations at railroad crossings and at roads of lesser importance. Adverse impacts include the acquisition of approximately 185 acres, the displacment of two families, increased noise and air pollution, and the loss of wooded areas and wildlife habitat. (Region 7.) (ELR Order No. 71105.)

State Route 15 (U.S. 64), Giles County, Tenn., September 6: Proposed is the construction of State Route 15 (U.S. 64), in Giles County, Tenn. The project begins at the junction of Industrial Park Road (Federal-Aid Secondary Route 6361) and State Route 15 west of Pulaski to Tarpley Cemetery east of Pulaski. State Route 15 is classified as a major arterial in Tennessee's "1990 Statewide Functional Highway Classification Plan." The project will utilize both four lane and two lane designs. Adverse impacts include the displacement of residences and businesses, increased air and noise pollution, and the siltation of streams during construction. (Region 4.) (ELR Order No. 71107.)

Final

Gould Street Connection, Bannock County, Idaho, September 6: Proposed is the upgrading of the intercity loop of U.S. 30 in Pocatello City. The improvement would include the intersection, approach sections and the Gould Street viaduct which crosses the Union Pacific Railroad Tracks. Adverse impacts include the removal of a maximum of four commercial structures, a maximum of six residential structures, and loss of shade trees. Comments made by: EPA, HUD, AHP, DOI, and State agencies. (ELR Order No. 71106.)

NICHOLAS C. YOST,
Acting General Counsel.

[FR Doc.77-27018 Filed 9-15-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

WINTER NAVIGATION BOARD ON GREAT LAKES-ST. LAWRENCE SEAWAY

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Winter Navigation Board to be held on 6 and 7 October 1977 in the 31st Floor Auditorium of the Anthony J. Celebreeze Federal Building at 1240 East 9th Street in Cleveland, Ohio. The meeting will be in session from 1 p.m. until approximately 3:30 p.m. on the 6th and from 9 a.m. until approximately 11:45 a.m. on the 7th. A public information meeting will be held in the same room on the 6th, starting at 7:30 p.m.

The Winter Navigation Board is a multi-agency organization which includes representatives of Federal agencies and non-Federal public and private interests. It was established to direct the Great Lakes-St. Lawrence Seaway navigation season extension investigations being conducted pursuant to Public Laws 91-611, 93-251, and 94-587.

This Winter Navigation Board meeting is one of a continuing series of such open forums, as an integral element of the planning process in preparation of a Feasibility Report on year-round navigation on the Great Lakes-St. Lawrence Seaway Navigation Season Extension studies. Primary subjects to be discussed include an overview of considered winter navigation system proposals, system economic analyses, and system-wide environmental plan of study. Other topics to be discussed include a detailed review of the FY-78 winter navigation program, public information program, and social well being and impacts.

The meeting will be open to the public, subject to the following limitations:

(a) As the seating capacity of the meeting room is limited, it is desired that advance notice of intent to attend be provided. This will assure adequate and appropriate arrangements for all attendants.

(b) Written statements, to be made part of the minutes, may be submitted prior to, or up to 10 days following, the meeting, but oral participation by the public is limited because of the time schedule.

Inquiries may be addressed to Mr. David Westheuser, U.S. Army Engineer District, Detroit, Corps of Engineers, P.O. Box 1027, Detroit, Mich. 48231, telephone 313-226-6770.

Dated: September 7, 1977.

By authority of the Secretary of the Army.

ROME D. SMYTH,
Colonel, United States Army Director, Administrative Management TAGCEN.

[FR Doc.77-26980 Filed 9-15-77;8:45 am]

CHEMICAL PROPULSION ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following meeting:

Name: Working Group on Structures and Mechanical Behavior, Workshop on Nozzle Materials and Material Characterization (a subelement of the Chemical Propulsion Advisory Committee).

Date: October 4-6, 1977.

Place: Naval Postgraduate School, Monterey, Calif.

Time: 8:30 a.m. to 4:30 p.m., all three days.

Proposed agenda: 1 hour, background and introductions; 10 hours, technical presentations on design analysis, and mechanical properties; 5 hours, questions and discussion; 5 hours, conclusions and recommendations.

Purpose of the meeting: The purpose of the Chemical Propulsion Advisory Committee is to provide technical advice to and via the Joint Army-Navy-NASA-Air Force (JANNAF) Interagency Propulsion Committee and to promote the exchange of technical information in the field of chemical rocket propulsion. The scope of this working group includes the experimental measurement and theoretical prediction of the effects of the mission environment on rocket components, and assessing and improving the accuracy of this information. This Workshop will examine the analyses that influence rocket nozzle design, the material response properties needed for design, the ability to measure these properties, and will quantify tradeoffs in system performance caused by inaccuracies or inabilities in analysis and measurement.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Working Group meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

For further information, contact the Chemical Propulsion Information Agency, ATTN: Mr. Ronald D. Brown, Johns Hopkins University, Applied Physics Laboratory, Johns Hopkins Road, Laurel, Md. 20810. Telephone: 301-953-7100, extension 7888.

Dated: September 8, 1977.

By authority of the Secretary of the Army:

ROME D. SMYTH,
Colonel, United States Army, Director, Administrative Management TAGCEN.

[FR Doc.77-26978 Filed 9-15-77;8:45 am]

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CHEMICAL PROPULSION ADVISORY COMMITTEE

Meeting

In accordance with section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following meeting:

Name: Working Group on Structures and Mechanical Behavior, Workshop on Stress Gage Interpretation (a sub element of the Chemical Propulsion Advisory Committee).
Date: October 19-20, 1977.
Place: United Technologies Chemical Systems Division, 1050 East Arques Avenue, Sunnyvale, Calif.
Time: 8:30 a.m. to 4:30 p.m., both days.
Proposed agenda: 1 hour, background and introduction; 3 hours, technical presentations; 6 hours, specific discussion questions; 4 hours, conclusions and recommendations.
Purpose of the meeting: The purpose of the Chemical Propulsion Advisory Committee is to provide technical advice to and via the Joint Army-Navy-NASA-Air Force (JANNAF) Interagency Propulsion Committee and to promote the exchange of technical information in the field of chemical rocket propulsion. The scope of this working group includes the experimental measurement of stresses and strains in rocket components, and assessing and improving the accuracy of those measurements. This workshop will address the techniques presently available for rocket motor stress gage calibration and application, and identify specific areas where additional analyses and/or tests are required to verify these techniques.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Working Group meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

For further information, contact the Chemical Propulsion Information Agency, ATTN: Mr. Ronald D. Brown, Johns Hopkins University, Applied Physics Laboratory, Johns Hopkins Road, Laurel, Md. 20810. Telephone: 301-953-7100, extension 7888.

Dated: September 8, 1977.

By authority of the Secretary of the Army.

ROME D. SMYTH,
Colonel, United States Army Director, Administrative Management TAGCEN.

[FR Doc.77-26979 Filed 9-15-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

GEOPRESSURED GEOTHERMAL INDUSTRIAL WORKSHOP

Public Meeting

The U.S. Energy Research and Development Administration has awarded a contract to CK GeoEnergy Corp. of Las Vegas, Nev. to conduct a series of workshops to integrate the expertise of the oil industry and other interested industrial participants into ERDA's Geopressured Geothermal Resource Development Program. The program will run for five months, beginning in September 1977, and terminating in January 1978.

The first meeting will be held on September 28th and 29th at the Adolphus Hotel, 1321 Commerce Street, Dallas, Tex., 214-747-6411. Meeting room numbers will be posted in the hotel lobby. This meeting will be open to invitees, and to the general public on a space available basis. The workshop will be organized into several groups: An Executive Working Group; a Site Review Working Subgroup, a Drilling and Testing Working Subgroup, and an Environmental Working Subgroup.

The tentative agenda for the meeting is as follows:

SEPTEMBER 28, 1977

9 a.m. Introduction: Discussion of Purpose, Schedule, Introduction of Attendees, H. F. Coffer.
9:15 a.m. ERDA Geothermal Overview: What ERDA is Doing in Research, Louis Werner.
9:45 a.m. ERDA Geopressured Geothermal Research, Keith Westhusing.
10:15 a.m. Break.
10:30 Status of Geopressured Geothermal Research at the University of Texas, Myron Dorfman.
12 noon Lunch.
1:15 p.m. Site Selection for first Geopressured Geothermal Test Well: Methods Used to Outline areas of Interest, D. G. Debout.
2:45 p.m. Break.
3 p.m. Review of Chocolate Bayou: Logs, Cores and Production, Don Smith.
4 p.m. Organization of Subgroups: H. F. Coffer, Overview Working Group, Site Selection Working Subgroup, Drilling and Testing Working Subgroup, Environmental Working Subgroup.
5 p.m. Adjourn.

SEPTEMBER 29, 1977

The organized subgroups will meet to discuss specific topics (Agenda and room numbers will be announced).

Practical considerations may dictate alterations to the above agenda. This will be a working meeting and the Workshop Chairman and Subgroups Chairmen are empowered to conduct the general sessions and subgroup meetings in a manner that in their judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply.

(a) Persons wishing to submit written statements on agenda items may do so by mailing 12 copies thereof, postmarked no later than September 20, 1977, to the Director, Division of Geothermal Energy, U.S. Energy Research and Development Administration, 20 Massachusetts Avenue NW., Washington, D.C. 20545. Comments shall be directly relevant to the above agenda items.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on September 20, 1977, to Ms. Betty Kitterman on 202-376-4581 between 8:30 a.m. and 5 p.m. (EDT).

(c) Questions at the general session and subgroup meetings may be raised by the public only when recognized to do so by the General Session Chairman or Subgroup Chairmen.

(d) Seating to the public will be made available on a first-come, first-served basis.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the workshop, will be permitted before and after each day's activities and during any recess. The use of such equipment will not, however, be allowed during the general sessions or subgroup meetings.

(f) Copies of the final report prepared by CK GeoEnergy Corp. will be available at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue NW., Washington, D.C. 20545, upon payment of all charges required by law.

Dated at Washington, D.C., this 12th day of September 1977.

DONALD A. BEATTIE,
Executive Officer, Solar, Geothermal and Advanced Energy Systems.

[FR Doc.77-27005 Filed 9-15-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 793-2]

AMBIENT AIR MONITORING REFERENCE METHOD DESIGNATION

CSI Model 1600 NO_x Analyzer

Notice is hereby given that the EPA, in accordance with 40 CFR Part 53 (40 FR 7044, February 18, 1975), has designated another reference method for the measurement of ambient concentrations of nitrogen dioxide. The new reference method is an automated method (analyzer) which utilizes the measurement principle (gas phase chemiluminescence) and calibration procedure specified in Appendix F of 40 CFR Part 50, as amended on December 1, 1976 (41 FR 52688). The method is:

RFNA-0977-025, "CSI Model 1600 Oxides of Nitrogen Analyzer," operated on a 0-0.5 ppm range with a Teflon sample filter (CSI P/N M951-8023) installed on the sample inlet line, with or without any of the following options:

951-3053	Rack Mounting Kit
951-3054	Chassis Slide Kit
951-3066	Tilt Stand
951-8032	Local—Remote Ambient, Zero, Span Kit

A notice of receipt of application for this method appeared in the FEDERAL REGISTER, Volume 42, July 12, 1977, page 35879. The method is available from Columbia Scientific Industries, 11950 Jollyville Road, P.O. Box 9908, Austin, Tex. 78766.

A test analyzer representative of this method has been tested by its manufacturer, in accordance with the test procedures specified in 40 CFR Part 53 as amended on December 1, 1976 (41 FR 52694). After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as a reference method. The information submitted by the applicant will be kept on file at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As a reference method, this method is acceptable for use by States and other control agencies for purposes of section 51.17(a) of 40 CFR Part 51 ("Requirements for Preparation, Adoption, and Submittal of Implementation Plans") as amended on February 18, 1975 (40 FR 7042). For such use, the method must be used in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see description of the method above). Vendor modifications of a designated method used for purposes of § 51.17(a) are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users were promulgated on March 17, 1976 (41 FR 11255).

In general, the designation applies to any analyzer which is identical to the analyzer described in the designation. In many cases, similar analyzers manufactured prior to the designation may be upgraded (e.g., by minor modification or by substitution of a new operation or instruction manual) so as to be identical to the designated method and thus achieve designated status at modest cost. The manufacturer should be consulted to determine the feasibility of such upgrading.

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B-1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) If such an analyzer has one or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been designated as reference or equivalent methods.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the analyzer has been cancelled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representations), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated non-compliance with any of these conditions should be reported to: Director, Environmental Monitoring and Support Laboratory, Department E (MD-76), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

Designation of this reference method will provide assistance to the States in establishing and operating their air quality surveillance systems under 40 CFR 51.17(a). Additional information concerning this action may be obtained by writing to the address given above.

TOM MURPHY,
Acting Assistant Administrator for Research and Development.

SEPTEMBER 13, 1977.

[FR Doc.77-27059 Filed 9-15-77;8:45 am]

[FRL 793-1]

AMBIENT AIR MONITORING REFERENCE METHOD AMENDMENT

Monitor Labs Model 8440E NO_x Analyzer

At the request of the manufacturer, reference method RFNA-0677-021 (Monitor Labs Model 8440R Nitrogen Oxides Analyzer) is hereby amended by changing the model number from "8440R" to "8440E." Further information concerning this reference method may be obtained by referring to the original notice of designation published in the FEDERAL REGISTER on July 21, 1977 (Vol. 42, page 37434).

TOM MURPHY,
Acting Assistant Administrator for Research and Development.

SEPTEMBER 13, 1977.

[FR Doc.77-27061 Filed 9-15-77;8:45 am]

[FRL 792-8]

AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

Receipt of Application for Reference or Equivalent Method Determination

Notice is hereby given that on August 29, 1977, the Environmental Protection Agency received an application from Thermo Electron Corp., Waltham, Mass., to determine if its Model 14 D/E Chemiluminescent $NO/NO_x/NO_2$ Analyzer should be designated by the Administrator of the EPA as a reference or equivalent method under 40 CFR Part 53, promulgated February 18, 1975 (40 FR 7044). If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the FEDERAL REGISTER.

TOM MURPHY,
Acting Assistant Administrator for Research and Development.

[FR Doc.77-27060 Filed 9-15-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 21380; 21381; 21382]

ROBERT P. MILBERT

Amateur Radio Station WAOFQF; Order Designating Application for Hearing on Stated Issues

Adopted: September 2, 1977.

Released: September 13, 1977.

In the matter of Robert P. Milbert, 808 22nd Avenue, North, South St. Paul, Minn. 55075; order to show cause why the license for radio station WAOFQF in the Amateur Radio Service should not be revoked, and suspension of Amateur Extra Class Radio Operator License WAOFQF, and application for modification of Amateur Radio Station License WAOFQF.

The Chief, Safety and Special Radio Services Bureau, has under consideration the revocation of the license for Amateur radio station WAOFQF, licensed to Robert P. Milbert, as well as the suspension of his Amateur Extra Class radio operator license. Also under consideration is Milbert's application for modification of the license for Amateur radio station WAOFQF.

Robert P. Milbert is the licensee of Extra Class Amateur radio station WAOFQF, granted on December 27, 1976, for a five-year term, and prior to being granted an Extra Class license, Milbert held an Advanced Class license, which was granted on July 9, 1976.

On April 22, 1976, the Commission released First Report and Order in Docket 20092, in which Part 97 of the Commission's Rules regarding the Amateur Radio Service was amended to permit issuance of specific two letter call signs to Amateur Extra Class licensees. The issuance of such call signs was based on the length of time the applicant held an Extra Class license. Beginning January 1, 1977, specific two letter call signs were issued upon request to Extra Class licensees who had held Extra Class license prior to July 2, 1974.

It appears, That on March 20, 1977, Milbert filed the captioned application for a special two letter call sign and in the application and on a document at-

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tached thereto, falsely represented that he had been an Extra Class licensee since at least the winter of 1971. The Commission's records indicate that Milbert held a General Class license until July 9, 1976, when he became an Advanced Class licensee.

It further appears, That Milbert made the false representations to the Commission in order to obtain a special two letter call sign for which he was ineligible under the Commission's Rules.

It further appears, That Milbert's conduct, described herein, in contrary to the public interest, convenience and necessity standards provided for in section 307(a) of the Communications Act of 1934, as amended, and raises substantial questions regarding his qualifications to remain a licensee of the Commission.

It further appears, That, in view of the above, the Commission would be warranted in refusing to grant an application filed by the licensee if his original application were now before it.

Accordingly, it is ordered, Pursuant to section 312 (a)(2) and (c) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's Rules, That Milbert show cause why the license for the captioned radio station should not be revoked, and appear and give evidence in respect thereto at a hearing to be held at a time and place before an Administrative Law Judge, to be specified by a subsequent order. (See Enclosure 1.) [1]

It is further ordered, under authority contained in section 303(m)(1)(A) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's Rules, That the Extra Class Amateur Operator license of Robert P. Milbert is suspended for the remainder of the license term; and,

It is further ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, and section 1.973(b) and 0.331 of the Commission's Rules, that Milbert's application for modification of Amateur radio station license WAOFQF is designated for hearing, at a time and place to be specified by subsequent Order upon the following issues:

(1) To determine the facts and circumstances surrounding the filing of the application for modification of Amateur radio station license WAOFQF by Robert P. Milbert, dated March 20, 1977.

(2) To determine, in light of the evidence adduced pursuant to issue (1), whether Milbert made misrepresentations or less than candid representations to the Commission.

(3) To determine, in light of the facts adduced under issues (1) and (2) whether Milbert possesses the requisite qualifications to be a licensee of the Commission.

(4) To determine, in light of the foregoing issues, whether the public interest, convenience and necessity would be served by a grant of the application for modification of Amateur radio station license WAOFQF.

It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof for revocation of station license (Docket No. 21380) and suspension of operator license (Docket No. 21381) is on the Bureau, pursuant to section 312(d) of the Communications Act of 1934, as amended; and the burden of introduction of evidence and the burden of proof for grant of the application (Docket No. 21382) is on the respondent, pursuant to section 309(e) of the Act.

It is further ordered, That, § 1.85 of the Commission's rules, which requires that persons whose operator licenses are suspended must, in order to have a hearing on the matter, file an application for a hearing within fifteen days, is waived; and

It is further ordered, That, § 1.221(c) of the Commission's rules, which requires that applicants whose applications are designated for hearing file a notice of appearance within 20 days in order to have a hearing on the issues, is waived; and

It is further ordered, That, in order to obtain a hearing on the suspension matter, Milbert shall, within 30 days after receipt of the suspension order, make a written request for a hearing whereupon the suspension will be held in abeyance until the conclusion of the proceedings on the suspension; that if Milbert elects not to make such a request, he shall mail his Amateur Radio Operator license to the Commission in Washington, D.C., before the expiration of thirty days. (See Enclosure 2.) [1]

It is further ordered, That, in order to obtain a hearing on his application, Milbert, in person or by attorney, shall within thirty days of the mailing of this order, file with the Commission in triplicate a written appearance stating an intent to appear on a date fixed for hearing to present evidence on the issues specified in the foregoing paragraph. Failure to file a written appearance within the time specified will result in the dismissal of the application with prejudice (See Enclosure 3.) [1]

It is further ordered, pursuant to the provisions of § 1.227 of the Commission's rules, that the proceedings on the above-stated issues regarding the order to Show Cause, the Suspension and the Application are consolidated for hearing.

It is further ordered, That a copy of this order shall be sent by Certified Mail—Return Receipt Requested and by Regular Mail to the licensee at his address of record as shown in the caption.

Chief, Safety and Special Radio Services Bureau.

MICHAEL T. N. FITCH,
Acting Chief, Legal, Advisory and Enforcement Division.

[FR Doc.77-26988 Filed 9-15-77;8:45 am]

[1] The Enclosures are filed as part of the original document.

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 70, "Minimum Performance Standards (MPS)—Marine Loran-C Receiving Equipment," Technical Specs Working Group.

Notice of 8th Meeting.

Thursday, October 6, 1977—10 a.m. (All-day meeting.) Full-day Meeting October 5, 10 a.m. Same location as October 6 meeting.

Conference Room (Second floor), U.S. Coast Guard Marine Inspection Office, Battery Park Building, Battery Park at South Ferry, New York, N.Y.

AGENDA

1. Call to Order; Chairman's Report.
2. Confirmation of Secretary; Adoption of Agenda.
3. Acceptance of SC-70 Summary Records.
4. Reports on Work Assignments.
5. Approval of Receiver Specifications.
6. Other Business.
7. Establishment of possible meeting date.

Captain Alfred E. Flore, Chairman, SC-70, U.S. Merchant Marine Academy, Kings Point, N.Y. 11024, phone 516-482-8200.

To comply with the advance notice requirements of Pub. L. 92-463, a comparatively long interval of time occurs between publication of this notice and the actual meeting. Consequently, there is no absolutely certainty that the listed meeting room will be available on the day of the meeting. Those planning to attend the meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for the meetings is available at that meeting. Those desiring more specific information may contact either the designated Chairman of the RTCM Secretariat. Phone 202-632-6490.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public. Written statements are preferred but by previous arrangement, oral presentations will be permitted within time and space limitations.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-26989 Filed 9-15-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH OFFICE OF EXCEPTIONS AND APPEALS

Week of August 12 Through August 19, 1977

Notice is hereby given that during the week of August 12 through August 19, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administrator's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be September 16, 1977, or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

ERIC J. FYGI,
Acting General Counsel.

SEPTEMBER 10, 1977.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of Aug. 12 through Aug. 19, 1977*

Date	Name and location of applicant	Case No.	Type of submission
Aug. 12, 1977.	Allied Chemical Corp., Houston, Tex. (If granted: The Allied Chemical Corp. would receive an extension of the exception relief granted in the FEA's Feb. 18, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Beneduum, Sligon, and Walnut Bend plants.)	FXE-4504—FXE-4506	Extension of relief granted in *Allied Chemical Corp.*, case Nos. FEE-3550, FEE-3553, FEE-3554 (decided Feb. 18, 1977) (unreported decision).
Do.....	Cabot Corp., Houston, Tex. (If granted: The Cabot Corp. would receive an extension of the exception relief granted in the FEA's Apr. 19, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Beaver, Estes, North Terrebonne, and Prentice plants.)	FXE-4507—FXE-4510	Extension of relief granted in *Cabot Corp.*, case Nos. FEE-3926 through FEE-3930 (decided Apr. 19, 1977) (unreported decision).
Do.....	Mustang Gas Products Co., Oklahoma City, Okla. (If granted: The Mustang Gas Products Co. would receive an extension of the exception relief granted in the FEA's July 15, 1977, decision and order which would permit it to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of $0.005/gal.)	FXE-4511	Extension of relief granted in *Mustang Fuel Corp.*, case No. 3971 (decided July 15, 1977) (unreported decision).
Do.....	V-1 Oil Co., Idaho Falls, Idaho. (If granted: The FEA region X's July 25, 1977, decision and order would be rescinded and the V-1 Oil Co. would not be required to comply with a special report order issued to the firm by region X on May 3, 1977.)	FSG-0053 FES-0006	Request for special redress. Stay requested.
Aug. 15, 1977	Aminoil USA, Inc., Houston, Tex. (If granted: Aminoil USA, Inc., would receive an extension of the exception relief granted in the FEA's Mar. 22, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Aline, Fox, Huntington Beach, Inglewood, Taloga, and Tioga plants.)	FXI-4515—FXE-4520	Extension of relief granted in *Aminoil USA, Inc.*, case Nos. FXE-3933 through FXE-3938 (decided Mar. 22, 1977) (unreported decision).
Do.....	Enkay Corp. (east Texas), Shreveport, La. (If granted: The Enkay Corp. would receive an extension of the exception relief granted in the FEA's June 8, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the east Texas plant.)	FXE-4521	Extension of relief granted in *Enkay Corp.*, case No. FEE-4038 (decided June 8, 1977) (unreported decision).
Do.....	Hunt Industries (Zoller), Dallas, Tex. (If granted: Hunt Industries would receive an extension of the exception relief granted in the FEA's Apr. 29, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Zoller plant.)	FXE-4512	Extension of relief granted in *Hunt Industries*, case No. FEE-3939 (decided Apr. 29, 1977) (unreported decision).
Do.....	Keener Oil Co., Tulsa, Okla. (If granted: Crude oil produced from Keener Oil Co.'s Lizzie-Orwig well No. 1 located in Seminole County, Okla., would be sold at upper tier ceiling prices.)	FEE-4513	Price exception (sec. 212.-73).
Do.....	Kennecott Copper Corp., Salt Lake City, Utah. (If granted: The FEA's June 30, 1977, prohibition order order would be modified and the Kennecott Copper Corp. would be permitted to burn natural gas at its Utah powerplant for startup, testing, and emergencies in the powerplant's coal handling system.)	FMR-0120	Request for modification.
Do.....	Kerr-McGee Corp., Oklahoma City, Okla. (If granted: The Kerr-McGee Corp. would receive an extension of the exception relief granted in the FEA's Feb. 22, and Mar. 11, 1977, decisions and orders which would permit the firm to increase its prices to reflect nonprodnct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Beaver, Beaver Creek, Maysville, and Pampa plants.)	FXE-4522—FXE-4526	Extension of relief granted in *Kerr-McGee Corp.*, case Nos. FEE-3624 through FEE-3628 (decided Feb. 22, 1977) (unreported decision); *Kerr-McGee Corp.*, case No. FEE-3896 (decided Mar. 11, 1977) (unreported decision).
Do.....	Laketon Asphalt Refining, Inc., Evansville, Ind. (If granted: The FEA's July 20, 1977, decision and order would be modified and Laketon Asphalt Refining, Inc., would receive retroactive exception relief which would relieve the firm of its entitlement purchase obligations for the months of April and May 1976.)	FXA-1432	Appeal of decision and order in *Laketon Asphalt Refining, Inc.*, 6 FEA par..... (July 20, 1977).
Do.....	Mapco, Inc. (Altonah, Tyrone); Tulsa, Okla. (If granted: Mapco, Inc., would receive an extension of the exception relief granted in the FEA's Mar. 22, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Altonah and Tyrone plants.)	FXE-4527 FXE-4528	Extension of relief granted in *Mapco, Inc.*, case Nos. FXE-3710 and FXE-3711 (decided Mar. 22, 1977) (unreported decision).

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Date	Name and location of applicant	Case No.	Type of submission
Do.....	McCulloch Gas Processing Corp., Washington, D.C. (If granted: The McCulloch Gas Processing Corp. would receive an extension of the exception relief granted in the FEA's Mar. 18, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Helle Fourche, (Gillette, and Oedekoven plants.)	FXE-4529—FXE-4531	Extension of relief granted in *McCulloch Gas Processing Corp.*, case Nos. FXE-3650, FXE-3642, FXE-3654 (decided Mar. 18, 1977) (unreported decision).
Do.....	Phillips Petroleum Co., Bartlesville, Okla. (If granted: The Phillips Petroleum Co. would receive an extension of the exception relief granted in the FEA's Feb. 18, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the following plants: Andrews, Benedum, Bradley, Canadian, Crane, Douglas, Dumas, Gray, Henderson, Hobbs, Lee, Lovington, North, Oklahoma, Spraberry, Tunstill, and Vermillion.)	FXE-4532—FXE-4548	Extension of relief granted in *Phillips Petroleum Co.*, case Nos. FEE-3479 through FEE-3502 (decided Feb. 18, 1977) (unreported decision).
Do.....	Poluris Production Corp., Midland, Tex. (If granted: The FEA's May 16, 1977, decision and order would be modified and crude oil produced from the Lea Carter lease located in Lea County, N. Mex., would be sold at upper tier ceiling prices.)	FMR-0119	Request for modification of decision and order in *Pierce and Dehlinger*, 5 FEA par. 83,160 (May 16, 1977).
Do.....	Standard Oil Co. (Indiana), Chicago, Ill. (If granted: The Standard Oil Co. (Indiana), would receive an extension of the exception relief granted in the FEA's Mar. 4, and Mar. 31, 1977, decisions and orders which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Edgewood, Indian Basin, Levelland, Luby, North Cowden, and Old Ocean plants.)	FXE-4549—FXE-4554	Extension of relief granted in *Standard Oil Co. (Indiana)*, case Nos. FXE-3813 through FXE-3818 (decided Mar. 31, 1977) (unreported decision); *Standard Oil Co. (Indiana)*, case No. FXE-3660 (decided Mar. 4, 1977) (unreported decision).
Do.....	Texaco, Inc., Houston, Tex. (If granted: Crude oil produced from Texaco, Inc.'s, Sandusky (Oil Creek Sand) unit located in Grayson County, Tex., would be sold at upper tier ceiling prices.)	FEE-4514	Price exception (sec. 212.-73).
Aug. 16, 1977	Cities Service Co., Tulsa, Okla. (If granted: The Cities Service Co. would receive an extension of the exception relief granted in the FEA's Apr. 1, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Bryans Mill, Chico, Conwley, Dollarhide, East Texas, Lajeyrouse, Lefors, and Maysville plants.)	FXE-4557—FXE-4564	Extension of relief granted in *Cities Service Co.*, case Nos. FXE-3838 through FXE-3845 (decided Apr. 1, 1977) (unreported decision).
Do.....	Doss, Inc., Eupora, Miss. (If granted: The FEA's July 15, 1977, decision and order would be rescinded and Doss, Inc., would be permitted to retroactively regard approximately 3,100,000 gal. of propane stored in a salt dome storage facility of the Warren Petroleum Co. as a separate inventory for the purpose of calculating the firm's maximum allowable selling prices for propane under the FEA price regulations.)	FXA-1431	Appeal of decision and order in *Doss, Inc.*, 6 FEA par. ..... (July 15, 1977).
Do.....	Great Southern Oil & Gas Co. Lafayette, La. (If granted: The FEA's Aug. 11, 1977, decision and order would be modified to change the effective date of the relief granted from Aug. 11, to Sept. 1, 1977.)	FEX-0182	Supplemental order to decision and order in *Great Southern Oil & Gas Co.*, 6 FEA par. ..... (Aug. 11, 1977).
Do.....	Texaco, Inc., Houston, Tex., (If granted: Texaco, Inc., would receive an extension of the exception relief granted in the FEA's Mar. 31, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Garvin County, Handy, Kettleman Hills, Luby, New Hope, Roosa S. Campana, Shiells Canyon South Kermit, Tijerina, and Van plants.)	FXE-4565—FXE-4574	Extension of relief granted in *Texaco, Inc.*, case Nos. FXE-3824 through FXE-3836 (decided Mar. 31, 1977) (unreported decision).
Do.....	Leo G. Wetherill, Jr., Kansas City, Mo. (If granted: Leo G. Wetherill, Jr., would be granted a stay of the FEA region VIII's Aug. 5, 1977, remedial order and would not be required to make interest payments to the Koch Oil Co. for overcharges made on sales of crude oil pending a final determination of an appeal of that order which he intends to file.)	FRS-1433	Stay request.
Do.....	Ward S. Merrick, Ardmore, Okla. (If granted: Crude oil produced from the Hattie Brown lease located in Carter County, Okla., would be sold at upper tier ceiling price.)	FEE-4555	Price exception (sec. 212.-73).
Do.....	Domingo Saena, Jr., Tivolli, Tex. (If granted: Domingo Saenz, Jr., would be assigned a new, lower priced supplier of motor gasoline to replace his present base period supplier, Mobil Oil Corp.)	FEE-4556	Exception to change supplier (sec. 211.9).
Do.....	Reinauer Petroleum Co., Hackensack, N.J. (If granted: The Reinauer Petroleum Co. would be permitted to import 18,000,000 gal of No. 2 heating oil on a license fee-free basis.)	FPI-0126	Exception from base fee requirements (sec. 213.-35).
Aug. 17, 1977	Arizona Fuels Corp., Salt Lake City, Utah. (If granted: The Arizona Fuels Corp., would receive a stay of its entitlement purchase obligations for the period May through October 1977 pending a final determination of its appeal of the FEA's July 12, 1977, decision and order which it intends to file.)	FES-0103	Stay request.
Do.....	Capitol Oil Co., Inc., Baltimore, Md. (If granted: The FEA's Mar. 22, 1977, decision and order would be modified and Capitol Oil Co., Inc., would not be required to make refunds to the U.S. Coast Guard for overcharges made on sales of heating oil.)	FMR-0121	Request for modification of decision and order in *Capitol Oil Co., Inc.* 5 FEA par. 80,580 (Mar. 22, 1977).

Date	Name and location of applicant	Case No:	Type of submission
Do.....	Capitol Oil Co., Inc., Baltimore, Md. (If granted: The Capitol Oil Co., Inc., would be granted a temporary stay of the provisions of the FEA's Mar. 22, 1977, decision and order and would not be required to make refunds to the U.S. Coast Guard for overcharges made on sales of heating oil pending a final determination on its application for stay of that order.)	FRS-0109 FRT-0048	Request for temporary stay. Stay requested.
Do.....	Cities Service Co., Tulsa, Okla. (If granted: The Cities Service Co. would receive an extension of the exception relief granted in the FEA's Apr. 1, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the North Cowden, Pampa, Price Hodiman, San Antonio Bay, Stonewall, Waco, and Wichita plants.)	FXE-4576—FXE-4583	Extension of relief granted in *Cities Service Co.*, case Nos. FXE-3848 through FXE-3856 (decided Apr. 1, 1977) (unreported decision).
Do.....	Continental Oil Co., Houston, Tex. (If granted: The Continental Oil Co. would receive an extension of the exception relief granted in the FEA's Mar. 31, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Emdond, Fruita, Gillis, Grand Chenier, Hennessey, Nuceses River, and Okeene plants.)	FEE-4584—FXE-4590	Price exception (sec. 212.165).
Do.....	Continental Oil Co., Houston, Tex. (If granted: The Continental Oil Co. would receive an extension of the exception relief granted in the FEA's Mar. 31, 1977, decision and order which would permit it to increase its prices to reflect nonproducts cost increased in excess of $0.005/gal for natural gas liquid products produced at the Acadia, Burnell, North Pattus, Hamlin, Maljamar, North Cowden, North Okarelie, Rincon, Sussex, West Seminole, and West World plants.)	FXE-4591 FXE-4600	Extension of relief granted in *Continental Oil Co.*, case Nos. FXE-3766 through FXE-3779 (decided Mar. 31, 1977) (unreported decision).
Do.....	Eason Oil Co., Oklahoma City Okla. (If granted: The Eason Oil Co. would receive an extension of the exception relief granted in the FEA's Mar. 30, 1977, decision and order which would permit Eason to sell the crude oil produced from the Weiner property located in Madison County, Miss., at upper tier ceiling prices.)	FXE-4575	Extension of relief granted in *Eason Oil Co.*, 5 FEA par. 83,116 (Mar. 30, 1977).
Do.....	Getty Oil Co., Los Angeles, Calif. (If granted: The Getty Oil Co. would receive an extension of the exception relief granted in the FEA's Mar. 18, and May 10, 1977, decisions and orders which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Bastian Bay, Houma, and Vermilion plants.)	FXE-4601—FXE-4503	Extension of relief granted in *Getty Oil Co.*, case Nos. FEE-3945, FEE-3949 (decided May 10, 1977) (unreported decision); *Getty Oil Co.*, case No.: FXE-3700 (decided Mar. 18, 1977) (unreported decision).
Do.....	Gulf Oil Corp., Tulsa, Okla. (If granted: The Gulf Oil Corp. would be permitted to increase it prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Delhi, Elmwood, Enville, Fashing, Johnsons Bayou, North Port Neches, Sea Robin, Venice, Waddell, and Worsham plants.)	FEE-V4612—FXE-4818 FXE-4639 FXE-4646	Price exception (sec. 212.165).
Do.....	Gulf Oil Corp., Tulsa, Okla. (If granted: The Gulf Oil Corp., would receive an extension of the exception relief granted in the FEA's Mar. 11, and Apr. 1, 1977, decisions and orders which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the following natural gas plants: Adena, Bluebell, Breckenridge, Camrick, Chesterville, Como, Encinal, Ennice, Fannett, Gladewater, Headlee, Kalkaska, Krotz Springs, Lake Washington, Maysville, Mermentau Monahans, Monument, Moores Orchard, Pledger, Saunders, Shackelford, South Fullerton, Spear, Vada, and Yates.)	FXE-4620—FXE-4638 FXE-4640—FXE-4645 FXE-4647	Extensions of relief granted in *Gulf Oil Corp.*, case Nos. FXE-3857 through FXE-3881 (decided Apr. 1, 1977) (unreported decision); *Gulf Oil Corp.*, case Nos. FEE-3863 through FEE-3865 (decided Mar. 11, 1977 (unreported decision).
Do.....	Marathon Oil Co., Findlay, Ohio. (If granted: The Marathon Oil Co. would receive an extension of the exception relief granted in the FEA's May 27, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Rock River, Welder, West Forelands, and West Sidney plants.)	FXE-4648—FXE-4651	Extension of relief granted in *Marathon Oil Co.*, case Nos. FEE-3959, FEE-3963 through FEE-3965 (decided May 27, 1977) (unreported decision).
Do.....	Northern Natural Gas Co., Omaha, Nebr. (If granted: The Northern Natural Gas Co. would receive an extension of the exception relief granted in the FEA's Mar. 22, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at 2 gas processing plants located in Martin County, Tex.)	FXE-4605	Extension of relief granted in *Northern Natural Gas Co.*, case No. FXE-3734 (decided Mar. 22, 1977) (unreported decision).
Do.....	Standard Oil Co. (Indiana), Chicago, Ill. (If granted: The Standard Oil Co. (Indiana), would receive an extension of the exception relief granted in the FEA's Mar. 4, and Mar. 31, 1977, decisions and orders which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Burnell, South Gillock, South Manchester, South Pecan, and Thibodaux plants.)	FXE-4606—FXE-4610	Extension of relief granted in *Standard Oil Co. (Indiana)*, case Nos. FEE-3962, FEE-3963 (decided Mar. 4, 1977) (unreported decision); *Standard Oil Co. (Indiana)*, case Nos. FXE-3812, FXE-3821, FXE-3822 (decided Mar. 31, 1977) (unreported decision).
Do.....	Tonkawa Refining Co., Oklahoma City, Okla. (If granted: The Tonkawa Refining Co. would be granted retroactive exception relief which would permit the firm to sell refined products at prices in excess of the maximum allowable prices calculated pursuant to the FEA mandatory price regulations.)	FEE-4604	Price exception (secs. 212.82 and 212.83).

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Date	Name and location of applicant	Case No.	Type of submission
Do.	Vallery Corp., Sterling, Colo. (If granted: The Vallery Corp. would receive an extension of the exception relief granted in the FEA's June 17, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products.)	FXE-4611	Extension of relief granted in *Vallery Corp.*, case No. FEE-4273 (decided June 17, 1977) (unreported decision).
Aug. 18, 1977	Pennsylvania Petroleum Co., Bridgeport, Conn. (If granted: The FEA's July 11, 1977, decision and order would be modified to grant the Pennsylvania Petroleum Corp. additional retroactive exception relief for the period Nov. 2, through Dec. 31, 1973, which would permit the firm to retain $9,119.15 in revenues which it obtained during that period from charging prices from motor gasoline which exceeded the maximum price levels permitted by the provisions of 6 CFR 150.350.)	FXA-1435	Appeal of decision and order in *Pennsylvania Petroleum Corp.*, 6 FEA par. ..... (July 11, 1977).
Aug. 19, 1977	Chevron U.S.A., Inc., Washington, D.C. (If granted: Chevron U.S.A., Inc., would receive an exception to 10 CFR 212.83(e)(2)(iii)(E) which would permit the firm to adjust its May 1973 nonproduct costs in the computation of its maximum allowable prices for covered products other than crude oil.)	FEE-4632	Price exception (sec. 212.83(e)(2)(iii)(E)).
Do.	T. Mayfield d.b.a. Mayfield Engineering, Tulsa, Okla. (If granted: The FEA's July 7, 1977, remedial order would be rescinded and T. Mayfield would not be required to refund overcharges made on sales of crude oil produced from the Harjo, Harlow, Smith B, and Barnsdall leases.)	FRA-1436	Appeal of FEA region VI's remedial order issued July 7, 1977.

[FR Doc.77-26789 Filed 9-15-77;8:45 am]

CONSUMERS POWER CO.

Request for Interpretation

Notice is hereby given that the Federal Energy Administration is analyzing a request for interpretation, pursuant to 10 CFR Part 205, Subpart F, for Consumers Power Co. (Consumers). That requests for interpretation poses the issue of whether Consumers may participate in FEA's domestic crude oil allocation program (the "entitlements program"), 10 CFR 211.67, based on the fact that crude oil feedstocks are refined at the feedstock preparation unit of the Consumers synthetic natural gas (SNG) plant located in Marysville, Mich. A determination of eligibility could have a substantial impact on the entitlements program. Therefore, FEA wishes to solicit coments from any party who believes it may be affected by an FEA decision on this request for interpretation.

A brief summary of the Consumers' request for interpretation follows:

Consumers is a public utility regulated by the Michigan Public Utilities Commission which is engaged in the generation, purchase, distribution and sale of electricity. Conumers also purchases, produces, manufactures, stores, distributes and sells natural gas.

Consumers' SNG plant initially began commercial production in September 1973 and operated at full production in April 1974. Consumers submitted an application to FEA's Office of Regulatory Programs requesting inclusion in the entitlements program on February 24, 1976. The application was deemed to be a request for interpretation by FEA's Office of Exception and Appeals on February 2, 1977 (5 FEA ¶ 80,508).

The Consumers' SNG plant uses approximately 50,000 barrels per day of feedstock. A portion of the feedstocks are processed through a separate and identifiable feedstock preparation unit which was constructed by Consumers in conjunction with the construction of the SNG facility. This portion of the feedstock stream, which is approximately seventy (70) percent of the total, consists of plant condensates and lease condensates (pentanes and heavier hydrocarbons). Ninety-eight (98) percent of the plant condensates are imported from Canada pursuant to long-term contracts with Dome Petroleum Limited and Amoco Oil Co. The amounts of lease condensate included in the feedstock stream are purchased from a domestic corporation located in Michigan.

The products of the feedstock preparation unit are a commercial grade liquefied petroleum gas ("LPG") consisting of propane and butane, gasoline, and residual fuel oil. The products are used internally within the SNG plant as fuel and as feedstocks in the gasification units of the plant, and a portion of them is sold back to one of Consumers' feedstock suppliers.

Consumers has requested inclusion in the FEA entitlements program on the basis that the Marysville SNG plant qualifies as a "refinery" as that term is defined in 10 CFR 211.62.

Consumers contends that: (1) The Marysville SNG plant processes lease condensate (which is expressly included in the definition of crude oil contained in 10 CFR 211.51); and (2) although the product eventually produced at the Marysville SNG plant is synthetic natural gas, the feedstock preparation unit of the plant manufactures refined peroleum products. Therefore, reasons Consumers, the SNG plant qualifies as a "refinery" under FEA's Regulations. Since the plant is a "refinery", Consumers contends the firm is thus a "refiner" under the applicable regulations and eligible for inclusion in the entitlements program.

Copies of the documents submitted by Consumers in this matter are available for public review in the FEA Freedom of Information Reading Room, 2107, 12th and Pennsylvania Avenue NW., Washington, D.C.

Interested persons are invited to submit their views and comments concerning this matter to Executive Communications, Box PL, Room 3317, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. All submissions should be made in five copies and should be received no later than September 28, 1977. Comments should be identified on the outside envelope and on the document with the designation "Comments on Consumers Request for Interpretation."

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing in accordance with the procedures stated in 10 CFR 205.9(f). The FEA reserves the right to determine the confidential status of the information or data and to treat such information according to its determination.

It is suggested that those desiring additional information contact Ms. Kathleen C. Williams, Interpretations Division, Office of General Counsel, 12th and Pennsylvania Avenue NW., Room 7132, Washington, D.C. 20461 or call 202-566-2454.

Issued in Washington, D.C., September 12, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-26967 Filed 9-15-77;8:45 am]

VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Meetings

In accordance with section 252(c)(1)(A)(1) of the Energy Policy and Conservation Act (Pub. L. 94-163), notice is hereby provided of meetings of Subcommittees A and C of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) to be held in New York during the period September 19-22, 1977.

The first meeting of Subcommittee A of the Industry Advisory Board will be held on September 19, 20, and 22, 1977, at the offices of the Exxon Corp., 1251 Avenue of the Americas, New York, N.Y., beginning at 9 a.m. on September 19. The agenda is as follows:

1. Opening remarks.
2. General discussion of the design of the Second IEA Allocation Systems Test (AST-2) proposed for Spring 1978 and review of first draft of AST-2 Test Guide.
3. Review critical path of actions required prior to AST-2.
4. Discussion of request by Secretariat that Subcommittee A consider developing a standardized set of crude yields and qualities for all crudes likely to be involved in the Test.
5. Next meeting date/location.

A second meeting of Subcommittee A will be held on September 21, 1977, at the offices of Exxon Corp., 1251 Avenue of the Americas, New York, N.Y., beginning at 9 a.m. The agenda is as follows:

1. Opening remarks.
2. Status report on planned October/November, 1977, Emergency Data Test, including feedback from Reporting Company meeting on September 8 and Secretariat meeting for participating countries on September 9.

3. Report of Design Group on status of Second IEA Allocation Systems Test (AST-2) and AST-2 Test Guide.
4. Discussion of request by Secretariat that Subcommittee A consider developing a standardized set of crude yields and qualities for all crudes likely to be involved in the Test.
5. Review critical path of actions required prior to AST-2.
6. Discussion of progress report by Chairman of the Standing Group on Emergency Questions (SEQ) working group on demand restraint.
7. Review IEA Secretariat proposed revisions to Emergency Management Manual.
8. Report by Secretariat on status of Industry Supply Advisory Group (ISAG) data formats.
9. Future work program.
10. Next meeting date and location.

A meeting of Subcommittee C of the Industry Advisory Board will be held on September 20, 1977, at the offices of Mobil Oil Corp., 150 East 42d Street, New York, N.Y., beginning at 1:30 p.m.

The agenda for the meeting is as follows:

1. Opening remarks by Chairman including report on July 12 SEQ meeting as it relates to work of Subcommittee C.
2. Pricing in an emergency.
3. Extraordinary costs.
4. Settlement of disputes.
5. Future work of Subcommittee C.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public. Unanticipated circumstances have required the notice period as contained in section 209.32(b) of FEA regulations to be shortened.

Issued in Washington, D.C., September 12, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-26968 Filed 9-15-77;8:45 am]

FEDERAL MARITIME COMMISSION

PACIFIC COAST AUSTRALASIAN TARIFF BUREAU

Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 813a).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126 or at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments with reference to the proposed contract form and the petition including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, on or before October 6, 1977. Any person desiring a hearing on the proposed contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the proposed contract form and the petition (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of Agreement filed by:

A. H. Eber, Secretary, Pacific Coast Australasian Tariff Bureau, 635 Sacramento Street, San Francisco, Calif. 94111.

Agreement No. 50DR-4 has been filed with the Commission for approval under section 14b of the Shipping Act, 1916, by the member lines of the Pacific Coast Australasian Tariff Bureau (PCATB). The purpose of the amendment is to change the application of PCATB's Tariff FMC 9, Item 1, Mixed Commodities, from a tariff rate to a contract/non contract rate, thereby including Item 1 within the scope of the conference's dual rate contract system.

Dated: September 13, 1977.

By order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-27009 Filed 9-15-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. CI76-1498, et al.]

APPLICATIONS FOR CERTIFICATES, ABANDONMENT OF SERVICE, AND PETITIONS TO AMEND CERTIFICATES[1]

SEPTEMBER 8, 1977.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 30, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

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the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and Date Filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure Base
C162-1408..... D 8-5-77	Aylward Drilling Co., A. J. Oil Co., and Andover Oil Co., 909 First National Bank Bldg., Wichita, Kans. 67202.	Cities Service Gas Co., Barkley No. 2 Gas Well, Stumph-Smith Field, Barber County, Kans.	(1)	.....
C165-438..... D 7-25-77	Mobile Oil Corp., 3 Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Natural Gas Pipeline Co. of America, Certain acreage in the Northwest Quinlan Field, Woodward County, Okla.	(2)	.....
C166-242..... C 7-25-77	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Roll "B" No. 1 Well located in Section 27-34S-43W, Interstate Red Cave Field County, Kans.	(3)	14.65
C172-440..... C 8-22-77	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Panhandle Eastern Pipe Line Co., Certain acreage in Weld, Arapahoe, and Adams Counties, Colo.	(3)	15.025
C173-46..... C 8-15-77	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	El Paso Natural Gas Co., Certain acreage in the Pictured Cliffs Formation, San Juan and Rio Arriba Counties, N. Mex.	(3)	15.025
C177-110..... C 8-16-77	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	Panhandle Eastern Pipe Line Co., Hatrzog Draw Field, Campell County, Wyo.	[2] 3138, 3515	14.65
C177-588..... F 6-10-77	Petroleum, Inc. (Operator) (Successor to Diamond Shamrock Corp.	Northern Natural Gas Co., Jarvis Unit and Brown "A", Hemphill County, Tex.	(3 4)	14.65
C177-573..... F 6-15-77	Gulf Oil Corp. (Successor to Dane G. Hansen Trust, Stelbar Oil Corp., Sahara Coal Co., Inc. Cecil M. Burton and C. W. Sebite) P.O. Box 2100, Houston, Tex. 77001.	Kansas-Nebraska Natural Gas Co., Inc., Granite Wash and Southest Canadian Douglas Fields, Hemphill County, Tex.	(5)	14.65
C177-594..... A 6-23-77	Cities Service Co. (Successor to Cities Service Oil Co.), P.O. Box 300, Tulsa, Okla. 74102.	Transco Gas Supply Co., Block A-70, Brazos area, offshore Texas.	(1)	15.025
C177-608..... F 6-27-77	Anadarko Production Co., P.O. Box 1330 Houston, Tex., 77001.	Natural Gas Pipeline Co., of America, Camrick Field of Texas County, Okla.	(3)	14.65
C177-614..... A 7-1-77	Beleo Petroleum Corp., et. al., 2500 First City National Bank Bldg., Houston, Tex. 77002.	Mid Louisiana, OPERC 4 Sand, Reservoir A, Hester Field, St. James Parish, La.	(3)	15.025
C177-615..... A 7-1-77	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	El Paso Natural Gas Co., Webb No. 1-187 Well, Canadian-Upper Morrow Field, Hemphill County, Tex.	(6)	14.73
C177-617..... F 7-5-77	Atlantic Richfield Co. (successor to A. R. Dillard, Jr., Trust), P.O. Box 2819, Dallas, Tex. 75221.	Northern Natural Gas Co., Allen Estate "B" Lease, West Perryton Field, Sec. 17, Blk. 12, H & GN RR Survey, Ochiltree County, Tex.	[7 8]	14.65
C177-618..... A 7-5-77	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Robert G. Hall, Amorita-Cherokee Field, Alfalfa County, Okla.	(9)	14.65
C177-619..... A 7-5-77	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	El Paso Natural Gas Co., Burton Flat Field, Eddy County, N. Mex.	[8] $1.46	14.73
C177-620..... A 7-5-77	Diamond Shamrock Corp., P.O. Box 631, Amarillo, Tex. 79173.	Southern Natural Gas Co., certain acreage in Block 288, Main Pass area, offshore, Louisiana.	(6)	15.025
C177-621..... A 7-5-77	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Michigan Wisconsin Pipe Line Co., West Cameron Block 265 area, offshore, Louisiana.	(6)	15.025
C177-622..... F 7-5-77	Exxon Corp. (successor to Samedan Oil Corp. and Marshall and Winston, Inc.), P. O. Box 2180, Houston, Tex. 77001.	El Paso Natural Gas Co., Carlsbad Field, Eddy County, N. Mex.	(3)	14.73
C177-623..... A 7-5-77	Monsanto Co. (Operator), 1300 Post Oak Tower, 5051 Westheimer, Houston, Tex. 77056.	El Paso Natural Gas Co., Morrow Formation underlying the Coquina Federal No. 1 and Wagner Federal No. 1 Wells located within Eddy County, N. Mex.	(6)	15.025

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and Date Filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure Base
C177-624..... B 7-5-77	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Champlin Petroleum Co., Edmond Field, Logan County, Okla.	(8)	.....
C177-625..... A 7-7-77	Southland Royalty Co., 1600 First National Bldg., Fort Worth, Tex. 76102.	Panhandle Eastern Pipe Line Co., Shannon Sandstone Formation from properties located in Secs. 15, 22, and 27, Township 44 North, Range 77 West, Johnson County, Wyo.	(3)	14.65
C177-626..... B 6-27-77	Maralo, Inc., P.O. Box 832, Midland, Tex. 79701.	Tennessee Gas Pipeline Co., Nada Field, Colorado County, Tex.	(1)	.....
C177-627..... A 7-1-77	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	Natural Gas Pipeline Co. of America, Sand Dunes Field, Eddy County, N. Mex.	(3)	14.65
C177-628..... B 7-7-77	Hunt Oil Co., 2900 First National Bank Bldg., Dallas, Tex. 75202.	Trunkline Gas Co., South Timbalier, Blocks 179 and 187, offshore, Louisiana.	(1)	.....
C177-629..... A 7-8-77	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001.	Northern Natural Gas Co., Drinkard Field, Lea County, N. Mex.	(7)	15.025
C177-630..... B 7-5-77	Placid Oil Co., 1600 First National Bank Bldg., Houston, Tex. 75202.	South Timbalier, Blocks 179 and 187, offshore, Louisiana.	(1)	.....
C177-631..... A 7-5-77	Aztec Oil & Gas Co. (Operator), 1600 First National Bldg., Fort Worth, Tex. 76102.	El Paso Natural Gas Co., Pictured Cliffs Formation from the Johns No. 1-A Well located in the NW/4 of Section 19 Township 32 North, Range 11 West, San Juan County, N. Mex.	(7)	14.73
C177-632..... A 7-11-77	Helmerich & Payne, Inc., 1579 East 21st St., Tulsa, Okla. 74114.	Michigan Wisconsin Pipe Line Co., Southeast Niles Field, Canadian County, Okla.	(7)	14.73
C177-633..... A 7-11-77	Amerada Hess Corp., 1200 Milam, 9th floor, Houston, Tex. 77002.	Northern Natural Gas Co., Eunice Field (Central Drinkard Unit), Lea County, N. Mex.	(7)	15.025
C177-634..... F 7-11-77	Cities Service Co. (successor to Cities Service Oil Co.) P.O. Box 300, Tulsa, Okla. 74102.	El Paso Natural Gas Co., Wagner-Federal No. 2 Well, S/2 of Section 29-20S-27E, Eddy County, N. Mex.	(7)	15.025
C177-638..... A 7-11-77	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Berryman-Richfield Unit, Berryman-Richfield Field, Morton County, Kans.	(7)	14.65
C177-725..... (G-19976). B 8-11-77	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	Southern Natural Gas Co., Mystic Bayou Field, St. Martin Parish, La.	(7)	.....
C177-716..... A 8-17-77	Felmont Oil Corp., 6 East 43d St., New York, N.Y. 10017.	El Paso Natural Gas Co., South Blanco Pictured Cliffs Field, Rio Arriba County, N. Mex.	[8] $1.746	14.73

[1] Depleted.
[2] By Oil and Gas Lease dated Jan. 28, 1977, Mobil leased to Ferguson Oil and Gas Compnay, Inc. certain acreage on which they drilled the Ferguson-Cadwell No. 1 and completed it as a gas well on Feb. 7, 1977. The acreage leased is a limited commitment from the surface of the ground down to the stratigraphic equivalent of 200 ft below the top of the Chester Formation.
[3] Applicant proposes to collect the applicable national rate as prescribed in Opinion No. 770-A, subject to conditions contained herein.
[4] Facilities for which a certificate of public convenience and necessity is required is Applicant's 3.125 pct and Pioneer Production Corporation's 1.5625 pct. interest in the Jarvis Unit, and Applicant's 10 pct. interest in the Brown "A", all in Hemphill County, Texas. The remaining interests in both are owned by a small producer, and no filing is necessary for that interest.
[5] Applicant makes this filing to obtain authority to continue the sales formerly covered by the Graham-Michaelis Drilling Company under its FPC Gas Rate Schedule No. 29, in Docket No. CS71-178.
[6] Applicant is willing to accept a permanent certificate in accordance with Opinion No. 770, as amended.
[7] Applicant is filing to continue in part service previously rendered by A. R. Dillard, Jr., Trust.
[8] Applicant proposes to continue the sale of gas from the Carlsbad Field, Eddy County, New Mexico to El Paso under a contract dated June 13, 1977.
[9] Production ceased, and lease abandoned.
[10] Lease terminated.

[FR Doc.77-26804 Filed 9-15-77;8:45 am]

[Docket No. CS77-772, et al.]

APPLICATIONS FOR "SMALL PRODUCER" CERTIFICATES[1]

SEPTEMBER 8, 1977.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 30, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Applicant
C877-772	Aug. 25, 1977	Binion H. Carr., d/b/a General Operating Co., Box 877, Wichita Falls, Tex. 76307.
C877-773	do	Western Oil Refining Co., 915 Pine Ave., Kemmerer, Wyo. 83101.
C877-774	do	Peter M. Mark, general partner, Mark Oil & Gas Ltd., (1977 program), suite 1030, Charleston National Plaza, Charleston, W. Va. 25301.
C877-775	do	Marjorie Y. Crosby, trustee for the Christine Elizabeth Crosby trust No. 2, P.O. Box 1032, Menlo Park, Calif. 94025.
C877-776	do	Marjorie Y. Crosby, individually, P.O. Box 1032, Menlo Park, Calif. 94025.
C877-777	do	Marjorie Y. Crosby, trustee for the Tamara Ellen Crosby trust No. 2, P.O. Box 1032, Menlo Park, Calif. 94025.
C877-778	do	Crosby-Mississippi Resources, Ltd., 3702 Hardy St., Hattiesburg, Miss. 39401
C877-779	do	Lynn Crosby Gammill, trustee for the Lucius Glen Crosby, 3702 Hardy St., Hattiesburg, Miss. 39401.
C877-780	do	Lynn Crosby Gammill, trustee for the Stewart Gammill, IV trust No. 2, 3702 Hardy St., Hattiesburg, Miss. 39401.
C877-781	do	Lynn Crosby Gammill, individually, 3702 Hardy St., Hattiesburg, Miss. 39401.
C877-782	do	Lynn Crosby Gammill, trustee for the Jennifer Lynn Gammill trust No. 2, 3702 Hardy St., Hattiesburg, Miss. 39402.
C877-783	Aug. 26, 1977	Houston Petroleum Co., 3121 Buffalo Speedway, suite 402, Houston, Tex. 77098.
C877-784	Aug. 29, 1977	L. Robinson Lease, box 421, Spencer, W. Va. 25276.
C877-785	do	Whitehead Production Co., Inc., 905 University Dr., Fort Worth, Tex. 76107.
C877-786	do	Hinton Production Co., P.O. Box 1257, Mt. Pleasant, Tex. 75455.
C877-787	do	Mildred C. Lane, P.O. Box 421, Spencer, W. Va. 25276.
C877-788	do	Bruce Clader, Inc., 1200 Hartford Bldg., Dallas, Tex. 75201.

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Applications received during the week ending Sept. 9, 1977

Name of applicant	Location of enterprise	Principal product or activity
Marshall Manor, Inc.	Machias, Maine	Intermediate nursing care for elderly.
American Press, Inc.	Gordonsville, Va.	Offset printing.
W. L. Smith Co.	Panama City, Fla.	Restaurant and retail food sales.
Delta Seed & Rice Inc.	Arcola, Miss.	Processing, storage, and sale of grain.
Davis Casket Co., Inc.	Americus, Ga.	Manufacture and marketing steel caskets.
Kaintuck Territory, Inc.	Benton, Ky.	Tourist facility.
Rochel Construction Co., Inc.	Zimmerman, Minn.	Installing utilities in housing development.
Aspen Fibre Corp.	Marcell, Minn.	Manufacture of pellets for feed and fuel.
Panel Processing, Inc.	Coldwater, Mich.	Manufacture of display panels.
Joplin Hiway, Inc., and Subsidiary Monkem Co., Inc.	Joplin, Mo.	Soliciting and controlling traffic for motor carrier operations.
Rocky Mountain Products	Larkspur, Colo.	Manufacture of communications equipment.
Yonemura Nursery, Inc.	Carpinteria, Calif.	Nursery operation.

[FR Doc.77 26305 Filed 9-15-77;8:45 am]

[Docket No. RP77-110]

ALABAMA-TENNESSEE NATURAL GAS CO.

Proposed Changes in FPC Gas Tariff

SEPTEMBER 12, 1977.

Take notice that on August 24, 1977, Alabama-Tennessee Natural Gas Co. (Alabama-Tennessee), P.O. Box 918, Florence, Ala. 35630, tendered for filing as part of its FPC gas Tariff, Third Revised Volume No. 1 the following tariff sheets:

First Revised Sheet No. 33.
First Revised Sheet No. 34.
Original Sheet No. 34-A.
Original Sheet No. 34-B.

The above-designated tariff sheets are to become effective on September 23, 1977.

This filing constitutes a refiling of the tariff sheets submitted July 19, 1977, which earlier filing was rejected by the Commission's Order issued in this matter on August 18, 1977. Such order provided that the July 19, 1977, filing should be rejected because the "Commission's PGA regulations simply do not provide for the inclusion of transportation charges as part of a pipeline's cost of purchased gas" but also provided that the rejection was "without prejudice to the refiling without the inclusion of transportation charges."

Alabama-Tennessee states, as it did in the July 19, 1977, filing, that the sole purchase of the refiled tariff sheets is to enable Alabama-Tennessee to contract for new supplemental supplies of natural gas, in addition to the supplies purchased from its current sole supplier, Tennessee Gas Pipeline Co., and to enable it to recoup from its customers the cost of the new supplemental supplies.

Alabama-Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected State regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10. All such petitions or protests should be filed on or before September 16, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77 27100 Filed 9-14-77;1:05 pm]

[Docket No. RP72-134 (PGA77-10)]

EASTERN SHORE NATURAL GAS CO.

Purchased Gas Cost Adjustment to Rates and Charges

SEPTEMBER 12, 1977.

Take notice that Eastern Shore Natural Gas Co. (Eastern Shore), on August 23, 1977, tendered for filing the following revised tariff sheets:

Substitute Forty-Fourth Revised Sheet No. 3A Superseding Forty-Fourth Revised Sheet No. 3A.
Substitute Forty-Fourth PGA-1.

Eastern Shore states that Substitute Forty-Fourth Revised Sheet No. 3A tracks increases in the rates to be effective September 1, 1977, filed by Eastern Shore's sole supplier, Transcontinental Gas Pipe Line Corp. (Transco) for sales of natural gas under Transco's FPC Gas Tariff, Second Revised Volume No. 1. Eastern Shore further states that Substitute Forty-Fourth PGA-1 shows the current and cumulative changes to its base tariff rate. The revised rates provide for an increase in the commodity component of Eastern Shore's CD-1, CD-E, G-1, E-1, I-1, and PS-1 rate schedules of 0.052 cents per Mcf, according to Eastern Shore.

Copies of this filing have been mailed to each of the Company's jurisdictional customers and to interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commision's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Stptember 16, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27099 Filed 9-14-77;1:05 pm]

[Docket No. RP72-155]

EL PASO NATURAL GAS CO.

Tariff Sheets Tender

SEPTEMBER 12, 1977.

Take notice that on August 18, 1977, El Paso Natural Gas Co. ("El Paso") tendered for filing the following revised tariff sheets to its FPC Gas Tariff, Original Volume No. 2A:

First Revised Sheet No. 1-E
First Revised Sheet No. 1-F
First Revised Sheet No. 1-G
First Revised Sheet No. 1-H
Second Revised Sheet No. 1-I

El Paso states that on March 28, 1977, it tendered for filing certain revised tariff sheets to its FPC Gas Tariff, Original Volume No. 1 which were designed to modify El Paso's Purchased Gas Cost Adjustment Provision ("PGAC") contained in said tariff, in accordance with El Paso's Stipulation and Agreement dated and filed August 6, 1976, approved and adopted by Order Affirming Initial Decision, Adopting Settlement Proposal and Reversing Initial Decision on Rate Design Complaint, issued February 16, 1977, at Docket Nos. RP72-150, et al. By order issued April 15, 1977, the Commission accepted said tariff tender and made the related tariff sheets effective as of April 1, 1977.

El Paso further states that the modified PGAC provision which was the subject of the aforementioned March 28, 1977, tariff tender applies to all rate schedules contained in El Paso's Original Volume No. 1 tariff, as well as certain special rate schedules contained in its Third Revised Volume No. 2 and Original Volume No. 2A tariffs, wherein the rates applicable thereunder are "keyed" to a designated rate schedule contained in said Volume No. 1 tariff. Such PGAC provision, as set forth in the subject Stipulation and Agreement does not, however, address itself to certain other special rate schedules contained in El Paso's Volume No. 2A tariff, which rate schedules contain rates that are based upon the purchase cost of clean, high pressure, pipeline quality gas, subject to adjustment under the provisions of the Purchased Gas Cost Adjustment Provision—Clean High Pressure Gas ("PGAC-CHPG") contained in said Volume No. 2A.[1]

El Paso states that it is a purpose of this tender to effectuate such modifications in the PGAC-CHPG. The required PGAC-CHPG modifications contained in the tendered revised tariff sheets will: (i) Permit the inclusion of carrying charges on monthly balances in Account 191, Unrecovered Purchased Gas Costs; (ii) change the surcharge adjustment for unrecovered purchased gas costs to be based upon estimated volumes of gas to be sold during the six (6) month period the surcharge will be in effect; and (iii) provide a means of crediting the applicable portion of producer-supplier refunds which are received by El Paso to Account 191.

Additionally, Section 1, Applicability, and paragraph (b) of Section 6, Determination of Gas Cost Adjustment, of said PGAC-CHPG require revision to update such provisions in order to reflect current data.

El Paso has requested that the Commission accept the tendered tariff sheets for filing and permit them to become effective thirty (30) days following the date filed.

Any person desiring to be heard or to make any protest with reference to said tariff tender should, on or before September 16, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27103 Filed 9-14-77;1:05 pm]

[1] The currently effective special rate schedules which are subject to El Paso's PGAC-CHPG are Rate Schedules FS-3, FS-6, FS-7, FS-10, and FS-32.

[Docket No. RP73-23 (PGA77-6a)]

LAWRENCEBURG GAS TRANSMISSION CORP.

Filing of Revised Gas Tariff Sheets

SEPTEMBER 12, 1977.

Take notice that on August 17, 1977, Lawrenceburg Gas Transmission Corp. (Lawrenceburg) tendered for filing two (2) revised gas tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1, both of which are dated as issued on August 15, 1977, proposed to become effective August 1, 1977, and identified as follows:

Substitute Ninth Revised Sheet No. 4, and
Substitute Eighth Revised Sheet No. 18.

Lawrenceburg states that these revised gas tariff sheets are being filed under its purchased gas adjustment provision and in substitution for those tariff sheets previously approved by Commission Order issued July 28, 1977, effective August 1, 1977. Lawrenceburg states that this revision is necessary because of a subsequent change in the Texas Gas Transmission Corp. rates tracked in its original filing and resulting from the settlement of certain reserved issues in Texas Gas' rate proceeding at Docket No. RP74-25.

The proposed changes contained therein would decrease revenues from jurisdictional sales by $85,219 as compared to revenues at Lawrenceburg's previous rates which became effective February 1, 1977, based on the 12 months ending May 31, 1977.

Lawrenceburg requests an effective date of August 1, 1977, on its proposed tariff sheets and requests that the Commission waive its notice requirements, as required, in order that its proposed tariff sheets can become effective on that date.

Lawrenceburg states that copies of this filing have been mailed to its two wholesale customers and to the interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 16, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27101 Filed 9-14-77;1:04 pm]

[Docket No. RP76-50]

MICHIGAN WISCONSIN PIPE LINE CO.

Filing of Proposed Tariff Change

SEPTEMBER 12, 1977.

Take notice that on August 18, 1977, Michigan Wisconsin Pipe Line Co. tendered for filing First Revised Sheet No. 26D of Second Revised Volume No. 1 of its FPC Gas Tariff proposed to become effective September 20, 1977.

Michigan Wisconsin states that the sole purpose of filing the proposed revised tariff sheet is to amend Section 9 of the General Terms and Conditions of its FPC Gas Tariff to enable Michigan Wisconsin to recoup demand charge credits on a current rather than deferred basis. Michigan Wisconsin further states that no changes in its rates are proposed in this filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protsets should be filed on or before September 16, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27098 Filed 9-14-77;10:04 pm]

[Docket No. RP77-123]

UNITED GAS PIPE LINE CO.

Filing of Original and Revised Tariff Sheets

SEPTEMBER 12, 1977.

Take notice that on August 17, 1977, United Gas Pipe Line Co. (United) tendered for filing as a part of its FPC Gas Tariff, First Revised Volume No. 1, the following tariff sheets:

First Revised Sheet No. 74-G.
Original Sheet No. 74-H.
Original Sheet No. 74-I.

These tariff sheets contain the provision whereby United's rates may be adjusted periodically to recover increased cost associated with Research, Development, and Demonstration cost. United's Research, Development, and Demonstration recovery provisions are being filed in accordance with the requirements of § 154.38(d)(5) of the Federal Code of Regulations as amended by Order No. 566 at Docket No. RM76-17.

United requests that the enclosed tariff sheets be accepted for filing and made effective September 17, 1977.

The Company states that copies of these tariff sheets have been mailed to United's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 16, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-27104 Filed 9-14-77;1:05 pm]

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[Docket No. RP72-133]

UNITED GAS PIPE LINE CO.

Filing of Revised Tariff Sheets

SEPTEMBER 12, 1977.

Take notice that on August 17, 1977, United Gas Pipe Line Company (United) filed with the Federal Power Commission (Commission) as a part of its FPC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets:

Second Revised Sheet No. 74-B.
Third Revised Sheet No. 74-C.
Second Revised Sheet No. 74-D.
Second Revised Sheet No. 74-E.
Second Revised Sheet No. 74-F.

These revised tariff sheets are being filed to correct certain deficiences in United's existing Purchased Gas Adjustment Clause in order to permit United to recover the proper gas cost from its jurisdictional customers each month. United requests that the attached revised sheets be accepted for filing and permitted to become effective concurrently with the tariff revisions contained in United's general rate increase filed at Docket No. RP77-107, but not later than January 1, 1977.

A copy of the letter of transmittal and revised tariff sheets are being mailed to United's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 16, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27102 Filed 9-14-77;1:04 pm]

FEDERAL RESERVE SYSTEM

COLORADO FUNDING CO.

Determination Regarding "Grandfather Privileges" Under Bank Holding Company Act

Section 4 of the Bank Holding Company Act (12 U.S.C. 1843) provides certain privileges ("grandfather privileges") with respect to nonbanking activities of a company that, by virtue of the 1970 Amendments to the Bank Holding Company Act, became subject to the Bank Holding Company Act. Pursuant to § 4(a)(2) of the Act, a "company covered in 1970" may continue to engage, either directly or through a subsidiary, in nonbanking activities that such company was lawfully engaged in on June 30, 1968 (or on a date subsequent to June 30, 1968, in the case of activities carried on as a result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition), and has been continuously engaged in since June 30, 1968 (or such subsequent date).

Section 4(a)(2) of the Act provides, inter alia, that the Board of Governors of the Federal Reserve System may terminate such grandfather privileges if, having due regard to the purposes of the Act, the Board determines that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. The Board is required to make such a determination with respect to a company that controls a bank with assets in excess of $60 million on or after December 31, 1970.

Notice of the Board's proposed review of the grandfather privilege of Colorado Funding Company, Denver, Colorado, affording an opportunity for interested persons to submit comments and views or request a hearing, has been given (40 FR 57398). The time for filing comments, views, and requests has expired, and all those received have been considered by the Board in light of the factors set forth in § 4(a)(2) of the Act.

On the evidence before it, the Board makes the following findings. Colorado Funding Company, Denver, Colorado ("Registrant"), became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the Act, by virtue of Registrant's ownership of approximately 97.5 per cent of the voting shares of The Colorado State Bank of Denver, Colorado ("Bank") (assets of $66.5 million as of December 31, 1973). Bank, control of which was acquired by Registrant in November 1964, had total deposits of approximately 67.1 million as of December 31, 1976, representing 1.3 percent of the aggregate deposits in commercial banks in the Denver banking market,[1] and is the eleventh largest banking organization in that market. Bank's managerial and financial rseources, and its future prospects are regarded as generally satisfactory, and the Board has found no evidence of any unsound banking practices.

On June 1, 1967, Registrant purchased Brancucci Produce Company, and has operated it as a subsidiary since that time. Brancucci Produce Company is based in Adams City, Colorado, a suburb of Denver, and is engaged in the wholesale processing and distribution of produce. In 1976 net income from this operation was $62,000 representing 6.9 per cent of Registrant's income for that year. Since Registrant has been engaged in this activity continuously since prior to June 30, 1968, it appears to be eligible for grandfather privileges.

[1] The Denver banking market is approximated by Denver, Adams, Arapahoe and Jefferson Counties, Colorado, and the Broomfield portion of Boulder County, Colo.

On June 30, 1968, Registrant was engaged directly in the sale of credit life, health and accident insurance in connection with installment loans made by Bank. However, since Registrant discontinued its insurance activities in December 1975, such activities are not eligible for grandfather privileges because Registrant has not been engaged in them continuously since June 30, 1968.

Registrant owns indirectly through Bank 100 per cent of Colorado State Bank Corporation, a limited partner in a partnership owning 50 per cent of the building occupied by Bank. Since such activities appear to be exempt from the prohibitions of section 4 of the Act by virtue of section 4(c)(1)(A) of the Act, Registrant need not rely on § 4(a)(2) of the Act for authority to continue such activities.

On the basis of the foregoing and all the facts before the Board, it appears that the volume, scope, and nature of the grandfathered activity of Registrant and its subsidiary do not demonstrate an undue concentration of resources, decreased or unfair competition, conflicts of interest or unsound banking practices.

There appears to be no reason to require Registrant to terminate its interest in its grandfathered subsidiary. It is the Board's judgment that, at this time, termination of the grandfather privileges of Registrant is not necessary in order to prevent an undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. However, this determination is not authority to enter into any activity that was not engaged in on June 30, 1968 and continuously thereafter, or any activity that is not the subject of this determination.

A significant alteration in the nature or extent of Registrant's grandfathered activities or a change in location thereof (significantly different from that described in this determination) will be cause for a re-evaluation by the Board of Registrant's activities under the provisions of § 4(a)(2) of the Act, that is, whenever the alteration or change is such that the Board finds that a termination of the grandfather privileges is necessary to prevent an undue concentration of resources or any of the other adverse effects designated in the Act. No merger, consolidation, acquisition of assets other than in the ordinary course of business, or acquisition of any interest in a going concern, to which the Registrant or its nonbank subsidiary is a party, may be consummated without prior approval of the Board. Further, the provision of any credit, property, or service by the Registrant or any subsidiary thereof shall not be subject to any condition which, if imposed by a bank, would constitute an unlawful tie-in arrangement under section 106 of the Bank Holding Company Act Amendments of 1970.

The determination herein does not preclude a later review by the Board of Registrant's nonbank activities and a future determination by the Board in favor of termination of grandfather benefits of Registrant. The determination herein is subject to the Board's authority to require modification or termination of the activities of Registrant or any of its nonbanking subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasions thereof.

By determination of the Board of Governors,[2] effective September 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26950 Filed 9-15-77;8:45 am]

[2] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell and Jackson. Absent and not voting: Chairman Burns and Governors Partee and Lilly.

DETROITBANK CORP.

Acquisition of Bank

Detroitbank Corp., Detroit, Mich., has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of The Detroit Bank—Sterling, National Association, Sterling, Mich. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 27, 1977.

Board of Governors of the Federal Reserve System, September 12, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26951 Filed 9-15-77;8:45 am]

FINANCIAL SERVICES CORPORATION OF THE MIDWEST

Order Approving Acquisition of a Consumer Finance Co.

Financial Services Corp. of the Midwest, Rock Island, Ill., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under § 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y to acquire, through a recently established subsidiary, Federal Discount Co., all of the voting shares of Federal Discount Corp., Dubuque, Iowa ("FDC"), a company that engages, through seven subsidiary companies, in the activities of making consumer installment loans, purchasing consumer installment sales finance contracts, and acting as agent for the sale of credit life and credit accident and health insurance related to extensions of credit by the subsidiaries of FDC. Such activities have been determined by the Board to be closely related to banking (12 C.F.R. § 225.4(a)(1) and (9)(ii)).

Notice of the application, according opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (42 Fed. Reg. 34553 (1977)). The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the public interest factors set forth in § 4(c)(8) of the Act (12 U.S.C. § 1843(c)(8)).

Applicant controls one bank, the ninety-first largest commercial bank in Illinois, with deposits of approximately $88 million, representing approximately 0.14 percent of total deposits in commercial banks in the State.[1] Applicant also controls FSC Money Shops, a consumer finance subsidiary with offices in Moline, East Moline, and Milan, Ill.

FDC operates its consumer finance business in the States of Iowa, Illinois, Wisconsin, Minnesota, and North Dakota, through subsidiaries known as Thrift Plan, Inc. (Iowa), Community Loan Corp. (Illinois), Citizens Loan and Investment Co. (Wisconsin and Minnesota), Phoenix Budget Loans, Inc. (Minnesota), Citizens Loan and Finance Co. (Wisconsin), and Phoenix Finance Co. (North Dakota).[3] FDC also controls 20.49 percent of the outstanding stock of Dubuque Bank and Trust Co., Dubuque, Iowa, all of which stock will be distributed to the present common stockholders of FDC as part of the acquisition transaction.[4] In addition, FDC owns all of the capital stock of an insurance company, Life of Mid-America Insurance Co., Dubuque, Iowa, which as a part of this application, FDC has committed to divest.

FDC competes in fifty-eight local consumer finance markets, one of which—the "Quad Cities" consumer finance market, the Davenport, Iowa/Rock Island, Ill. Ranally Metropolitan Area, the relevant geographic market for purposes of reviewing this application—is also the primary consumer finance market in which Applicant's subsidiary bank and consumer finance company compete. Applicant holds, through its bank subsidiary and three offices of its consumer finance subsidiary, approximately $16.7 million in consumer finance receivables originated in the Quad City market area, representing approximately 8.5 percent of the total amount of such receivables originated by financial institutions in the market. FDC controls, through two offices of its consumer finance subsidiary operating in Illinois, approximately $1.2 million of consumer finance receivables that were originated in the Quad City market, representing 0.6 percent of total receivables originated by financial institutions in the market.[4] Thus, upon consummation of the proposed acquisition, Applicant's share of the Quad City consumer finance market would increase only slightly. In view of the insubstantial increase in Applican't market share and the competitive structure of consumer finance lending in the Quad City market, it appears that consummation of the proposal would not have any significant adverse effects on existing competition in the relevant area. In that Applicant is not one of the most likely entrants into other consumer finance markets in which FDC competes, it does not appear that consummation of the proposed acquisition would eliminate any substantial amounts of competition. Furthermore, there is no evidence in the record indicating that consummation of this proposed transaction would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices, or other adverse effects upon the public interest.

Consummation of the proposed acquisition would facilitate FDC's provision of increased consumer services, such as home improvement loans, secondary mortgages on developed real estate, and vehicle financing. Accordingly, it appears that the acquisition proposal would produce benefits to the public that are consistent with and lend weight toward approval of this application.

Based upon the foregoing and other considerations reflected in the record, the Board has determined, in accordance

[1] Unless otherwise noted, banking data are as of December 31, 1976.

[3] FDC and its consumer finance subsidiaries sell short-term subordinated investment notes and certificates ("thrift notes") to small investors in order to augment their operating funds. As of June 30, 1977, the aggregate amount of such thrift notes, excluding approximately $4.0 million issued in passbook form by two of FDC's subsidiaries licensed as industrial loan companies and examined on a periodic basis by State regulatory authorities, was $12.0 million, representing approximately 30 percent of FDC's total consolidated assets, less its investments in Life of Mid-America Insurance Co. and Dubuque Bank and Trust Co. (both of Dubuque, Iowa), which will be divested as part of the acquisition transaction. Applicant has indicated that, upon consummation of the proposed acquisition, (a) no sales of thrift notes issued by FDC or its finance company subsidiaries would be made by them in the principal service area of Applicant's subsidiary bank; (b) all such thrift notes would indicate that they are not obligations of or guaranteed by any bank and are not covered by Federal deposit insurance; (c) the net proceeds from the sale of such notes by FDC and its subsidiaries would be used solely for the purpose of providing funds for FDC's consumer finance business; and (d) within a year of consummation of the proposed acquisition, the aggregate principal amount of such notes and certificates would be reduced so as not to exceed 25 percent of FDC's total consolidated assets. On the basis of all of the facts of record, the Board has determined that the issuance and sale of such notes by FDC and its subsidiaries subject to the above conditions would not result in a violation of the Banking Act of 1933 (the Glass-Steagall Act) by reason of the affiliation of Applicant's member bank subsidiary with FDC.

[4] At no point will Applicant or its recently established subsidiary, Federal Discount Co., own or control any of such bank's stock.

[4] Within the Quad Cities market, Applicant and FDC generally compete with 26 consumer finance companies, 27 commercial banks and 125 credit unions.

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with the provisions of § 4(c)(8) of the Act, that Applicant's acquisition of FDC can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago, pursuant to authority hereby delegated.

By order of the Board of Governors,[4] effective September 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26952 Filed 9-15-77;8:45 am]

FIRST DOUGLAS BANCORPORATION, INC.

Formation of Bank Holding Company

First Douglas BanCorporation, Inc., Tuscola, Ill., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The First National Bank and Trust Co. of Tuscola, Tuscola, Ill. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 7, 1977.

Board of Governors of the Federal Reserve System, September 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26953 Filed 9-15-77;8:45 am]

VALLEY FINANCIAL SERVICES, INC.

Determination Regarding "Grandfather Privileges" Under Bank Holding Company Act

Section 4 of the Bank Holding Company Act (12 U.S.C. 1843) provides certain privileges ("grandfather privileges") with respect to nonbanking activities of a company that, by virtue of the 1970 Amendments to the Bank Holding Company Act, became subject to the Bank Holding Company Act. Pursuant to § 4(a)(2) of the Act, a "company covered in 1970" may continue to engage, either directly or through a subsidiary, in nonbanking activities that such company was lawfully engaged in on June 30, 1968 (or on a date subsequent to June 30, 1968, in the case of activities carried on as a result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition), and has been continuously engaged in since June 30, 1968 (or such subsequent date).

Section 4(a)(2) of the Act provides, inter alia, that the Board of Governors of the Federal Reserve System may terminate such grandfather privileges if, having due regard to the purposes of the Act, the Board determines that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. The Board is required to make such a determination with respect to a company that controls a bank with assets in excess of $60 million on or after December 31, 1970.

Notice of the Board's proposed review of the grandfather privileges of Valley Financial Services, Inc., Elkhart, Ind., affording an opportunity for interested persons to submit comments and views or request a hearing, has been given (40 FR 57398). The time for filing comments, views, and requests has expired, and all those received have been considered by the Board in light of the factors set forth in § 4(a)(2) of the Act.

On the evidence before it, the Board makes the following findings. Valley Financial Services, Inc., Elkhart, Ind. ("Registrant"), became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the Act, by virtue of Registrant's ownership of approximately 81 percent of the voting shares of Valley Bank and Trust Co., Mishawaka, Ind. ("Bank") (assets of $67.5 million as of December 31, 1974). Bank, control of which was acquired by Registrant in January, 1966, had total deposits of approximately $77.4 million as of December 31, 1976, representing 6.5 percent of the total deposits in the South Bend banking market,[1] and is the seventh largest of fifteen banking organizations in that banking market. Bank's managerial and financial resources and future prospects are regarded as generally satisfactory, and the Board has found no evidence of any unsound banking practices.

Registrant is a finance company and engages directly in sales finance and secured and unsecured direct installment lending, and apparently has engaged in such activities continuously since before June 30, 1968. In addition, Registrant has three wholly-owned subsidiary finance companies which also engage in sales finance and direct installment lending: Owners Discount Corp. of Nappanee, Nappanee, Ind. (organized in March 1959); Owners Discount Corp of Goshen, Goshen, Ind. (organized in July 1959); and O.D.C. Corp of Elkhart, Elkhart, Ind. (organized in November 1967) Goods financed directly by Registrant and its subsidiaries are primarily autos and other consumer-type purchases. Registrant and its subsidiary finance companies also provide funds to auto dealers. As of December 31, 1975, Registrant and the finance company subsidiaries had total loan receivables of $5.8 million. Numerous other finance companies and lenders providing similar services compete with Registrant and its subsidiaries in their respective markets. Since Registrant has been engaged, directly and indirectly through its subsidiaries, in sales finance activities continuously since June 30, 1968, these activities appear to be eligible for grandfather privileges.

Registrant, through its wholly-owned subsidiary, Michiana Life Insurance Co., Elkhart, Ind., engages in underwriting as reinsurer credit life insurance related to extensions of credit by Registrant and its credit granting subsidiaries. Insurance premium income in 1975 was $153,000. Michiana Life Insurance Co. was organized by Registrant in 1956, and has been continuously engaged in its insurance activities since that time. Accordingly, such activities appear to be eligible for grandfather privileges.

In January 1969 Registrant acquired, as a result of a binding written contract entered into before June 30, 1968, Cast Products Corp., a distributor of plumbing supplies for the mobile home industry. Cast Products Corp., with sales of $2.4 million in 1975, accounts for approximately 0.2 percent of the total industry volume of $1.5 billion. Since Registrant has engaged in the activity of distributing plumbing supplies for mobile homes continuously since January 1969 as a result of an acquisition made by it pursuant to a binding written contract entered into prior to June 30, 1968, of a company engaging in that activity on the date of acquisition, such activity appears to be eligible for grandfather privileges.

On the basis of the foregoing and all the facts before the Board, it appears that the volume, scope, and nature of the grandfathered activities of Registrant and its subsidiaries do not demonstrate an undue concentration of resources, decreased or unfair competition, conflicts of interest or unsound banking practices.

There appears to be no reason to require Registrant to cease engaging in the activities it engages in directly nor to require Registrant to terminate its interest in its grandfathered subsidiaries. It is the Board's judgment that, at this time, termination of the grandfather privileges of Registrant is not necessary in order to prevent an undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. However, this determination is not authority to enter into any activity that was not engaged in on June 30, 1968 and continuously thereafter, or any activity that is not the subject of this determination.

A significant alteration in the nature or extent of Registrant's grandfathered activities or a change in location thereof (significantly different from that described in this determination) will be cause for a re-evaluation by the Board of Registrant's activities under the provisions of § 4(a)(2) of the Act, that is, whenever the alteration or change is such that the Board finds that a termination of the grandfather privileges is necessary to prevent an undue concentration of resources of any of the other adverse effects designated in the Act. No merger, consolidation, acquisition of assets other than in the ordinary course of business, or acquisition of any interest in a going concern, to which the Registrant or its nonbank subsidiaries is a party, may be consummated without prior approval of the Board. Further, the provision of any credit, property, or service by the Registrant or any subsidiary thereof shall not be subject to any condition which, if imposed by a bank, would constitute an unlawful tie-in arrangement under section 106 of the Bank Holding Company Act Amendments of 1970.

The determination herein does not preclude a later review by the Board of Registrant's nonbank activities and a future determination by the Board in favor of termination of grandfather benefits of Registrant. The determination herein is subject to the Board's authority to require modification or termination of the activities of Registrant or any of its nonbanking subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasions thereof.

By determination of the Board of Governors,[2] effective September 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26954 Filed 9-15-77;8:45 am]

[4] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell and Lilly. Absent and not voting: Governors Jackson and Partee.

[1] The South Bend banking market consists of the South Bend SMSA.

[2] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell and Jackson. Absent and not voting: Chairman Burns and Governors Partee and Lilly.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 77G-0099]

ARTHUR A. CHECCHI, INC.

Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Amended notice.

SUMMARY: This notice amends the notice published in the FEDERAL REGISTER of May 27, 1977, to correct the omission of the complete identity of the petitioners. Novo Laboratories Incorporated, Wilton, Conn. 06897, should appear in both the summary and in the supplementary information sections of the notice in addition to Arthur A. Checchi, Inc. The changed sections are set forth below.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-472-4750).

* * * * * *

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 (21 U.S.C. 321(s), 348, 371(a))) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35, formerly § 121.40, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), notice is given that a petition (GRASP 7G0086) has been filed by Arthur A. Checchi, Inc., 1730 Rhode Island Ave. NW., Washington, D.C. 20036, on behalf of Novo Laboratories Incorporated, Wilton, Conn. 06897, and placed on public display at the office of the Hearing Clerk, Food and Drug Administration, proposing affirmation that high-fructose corn syrup prepared by converting a part of the glucose in corn syrup to fructose by glucose isomerase enzyme, derived from *Bacillus coagulans*, for use as a sweetener in food and the gulcose isomerase enzyme are GRAS.

Dated September 7, 1977.

DONALD W. RIESTER,
Acting Director Bureau of Foods.

[FR Doc.77-26752 Filed 9-15-77;8:45 am]

[Docket No. 77N-0227]

SCHERING CORP. ET AL.

New Drug Applications; Withdrawal of Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is withdrawing approval of 21 new drug applications because of applicants' failure to submit required annual reports and their waiver of an opportunity for hearing. The drug products affected by this withdrawal are no longer marketed.

EFFECTIVE DATE: September 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Herbert Behrens, Bureau of Drugs (HFD-105), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4320).

SUPPLEMENTARY INFORMATION: The holders of the new drug applications listed herein have not submitted annual reports of experience with the drugs as required and have advised FDA that marketing of the drug products involved has been discontinued. The applicants have requested withdrawal of approval of the new drug applications and have waived their opportunity for hearing.

NADA No.	Drug name	Applicant's name and address
1-096	Cortate Solution in Oil	Schering Corp., 60 Orange St., Bloomfield, N.J. 07003.
1-543	Estrugenone Injection	Kremers-Urban Co., P.O. Box 2038, Milwaukee, Wis. 53201.
3-429	Vinobel Tablets	Merrell-National Laboratories, Division of Richardson-Merrell Inc., Cincinnati, Ohio 45215.
5-495	Cortate Pellets	Schering Corp.
6-338	Folic Acid Tablet and Sterile Solution	O'Neal, Jones & Feldman, Inc., 2510 Metro Blvd., Maryland Heights, Mo. 63043.
7-008	Histalon Tablets	Hance Brothers & White Co., Inc., 12th and Hamilton Sts., Philadelphia, Pa. 19123.
7-600	Anapac (Monhistin A.P.C.) Tablets	Retail Drug Co., 2901 North Kingshighway Blvd., St. Louis, Mo. 63115.
7-727	ACTH Solution	Merrell-National Laboratories.
8-424	Tyvid Tablets	Do.
8-738	Brisk Activated Toothpaste, Colgate Chlorophyll Toothpaste with Gardol, Colgate Dental Cream with Gardol	Colgate-Palmolive Co., 909 River Rd., Piscataway, N.J. 08854.
9-742	Toclase Expectorant	Pfizer Pharmaceuticals, 235 East 42d St., New York, N.Y. 10017.
9-931	Meticortelone Tablets	Schering Corp.
9-944	Super Amm-i-dent Toothpaste	Block Drug Co., Inc., 257 Cornelison Ave., Jersey City, N.J. 07305.
11-061	Meticortelone Soluble Sterile Powder	Schering Corp.
11-402	Professional Dial Soap with AT-7 (hexachlorophene, and 3, 4, 4 trichlorocarbanilide)	Armour-Dial, Inc., 15101 North Scottsdale Rd., Scottsdale, Ariz. 85260.
11-778	Gold Au 198 Solution	Mallinckrodt, Inc., Mallinckrodt and Second Sts., St. Louis, Mo. 63147.
12-024	Allercur Tablets	Pfizer Pharmaceuticals.
16-316	Tamate Tablets	Merrell-National Laboratories.
16-698	Strontium Nitrate Sr 85 Injection	Mallinckrodt, Inc.
16-779	Neohydrin-200 Injection	Abbott Laboratories, North Chicago, Ill. 60064.
17-261	Gold Au 198 Injection	Mallinckrodt, Inc.

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Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1053 as amended (21 U.S.C. 355 (e))), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82), approval of the new drug applications listed above, and supplements thereto, is hereby withdrawn on the grounds that the applicants have failed to make reports under section 505(j) of the act (21 U.S.C. 355(j)) and §§ 310.300 or 310.302 (e) and (f) of the new drug regulations (21 CFR 310.300 and 310.302 (e) and (f)).

This order shall become effective on September 26, 1977.

Dated: September 8, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-26753 Filed 9-15-77;8:45 am]

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Obstetrical and Gynecological Device Classification Panel.	Oct. 3, 9 a.m., room 6821, FB-8, 200 C St. SW., Washington, DC.	Open public hearing/open committee discussion 9 a.m. to 1 p.m.; closed committee deliberations 1 p.m. to 4 p.m.; Lillian Yin, Ph. D. (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7555.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing/open committee discussion. Willard Cates, M.D., will discuss "Late Effects of Induced Abortion—Summary of Clinical Findings"; Carol Hogue, Ph.D., will discuss "Late Effects of Induced Abortion—Methodologic Considerations"; and Harry Butts, Bureau of Medical Devices, will discuss "FDA's Requirements for Condoms." Interested parties are encouraged to present information pertinent to late effects of abortion to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by September 26, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their presentation.

Closed committee deliberations. The committee will review a premarket approval application of an obstetrical-gynecological device. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Committee name	Date, time, and place	Type of meeting and contact person
2. Viral Vaccines and Rickettsial Vaccines Panel.	Oct. 3 and 4, 9 a.m., room 121, Bldg. 29, 8800 Rockville Pike, Bethesda, Md.	Open public hearing Oct. 3, 9 a.m. to 10 a.m.; open committee discussion Oct. 3, 10 a.m. to 3 p.m.; closed presentation of data Oct. 3, 3 p.m. to 4 p.m.; closed committee deliberations Oct. 3, 4 p.m. to 5 p.m.; open committee discussion Oct. 4, 9 a.m. to 4 p.m.; Jack Gertzog (HFB-5), 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-5455.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of biological products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of communications received; presentation by staff members on the Bureau's Cell Substrate Program; and review of final draft of panel report.

Closed presentation of data. Presentation by sponsor of license application. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Closed committee deliberations. Discussion of data submitted in support of license application. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Committee name	Date, time, and place	Type of meeting and contact person
3. General and Plastic Surgery Device Classification Panel.	Oct. 6, 8 a.m., Room 5051, HEW-N, 330 Independence Ave. SW., Washington, DC.	Open committee discussion 8 a.m. to 2 p.m.; closed committee deliberations 2 p.m. to 2:30 p.m.; open public hearing 2:30 p.m. to 3:30 p.m.; Mark F. Farrish, Ph. D. (HFK-470), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open committee discussion. The following devices will be classified: Human umbilical vascular grafts; topical oxygen chambers; ultrasonic surgical devices; dermatological ultraviolet lights; colonic irrigator systems; and aorto-saphenous vein markers. The panel will review its classification recommendations for surgeon's gloves and implanted breast prostheses. The panel will discuss priorities for development of standards for surgical drapes. The panel will review the ECRI electrosurgical device standard.

Closed committee deliberations. The panel will review a premarket approval application. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Open public hearing. Interested parties are encouraged to present information pertinent to the classification of the devices listed above to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by September 30, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their presentation.

Committee name	Date, time, and place	Type of meeting and contact person
4. Cardiovascular Device Classification Panel.	October 7, 9 a.m., Room 1409, FB-8, 200 C St. SW., Washington, DC.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 11 a.m.; closed committee deliberations 12 p.m. to 4 p.m.; Glenn A. Rahmoeller (HFK-450), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7559.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the classification of cardiovascular devices to the executive secretary. Those desiring to make formal presentations should notify the executive secretary by September 23, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their presentation.

Open committee discussion. During the open committee discussion session the panel members will discuss their final classification report. And at their request, the panel members will reconsider their classification of pulsatile flow generators.

Closed committee deliberations. The panel members will review a premarket approval application. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Committee name	Date, time, and place	Type of meeting and contact person
5. Blood and Blood Derivatives Panel.	Oct. 7 and 8, 9 a.m., Room 115, Bldg. 29, 8800 Rockville Pike, Bethesda, Md.	Open public hearing Oct. 7, 9 a.m. to 10 a.m.; open committee discussion Oct. 7, 10 a.m. to 5:30 p.m. Oct. 8, 8:30 a.m. to 1 p.m.; closed committee deliberations Oct. 8, 1 p.m. to 4 p.m.; Clay Sisk (HFB-5), 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-5455.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of biological products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of source plasma (human); anti-human serum; blood group specific substances; revision of reviews of stored red blood cell products; revision of reviews of plasma fraction products; and comments or questions from the public.

Closed committee deliberations. Review of data submissions of producers of plasma fractionation products including Normal Serum Albumin (Human) and Plasma Protein Fraction (Human). This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permit such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is

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likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personal records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably, deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: September 12, 1977.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc 77-26949 Filed 9-15-77;8:45 am]

[Docket No. 77N-0283]

LEMMON PHARMACAL CO.

Adipex-P (Phentermine Hydrochloride 37.5 mg) Tablets; Opportunity for Hearing on Proposal To Refuse To Approve New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Director of the Bureau of Drugs proposes to refuse approval of an abbreviated new drug application for Adipex-P (phentermine hydrochloride 37.5 milligram) tablets (ANDA 85-128) by Lemmon Pharmacal Company, P.O. Box 30, Sellersville, PA 18960 ("Lemmon"), on the grounds (1) that (a) the application does not contain any reports of investigations or adequate tests, by all methods reasonably applicable, to show whether or not Adipex-P is safe for use under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof, and (b) upon the basis of the information submitted as part of the application, FDA has insufficient information to determine whether Adipex-P is safe for use under such conditions, and (2) that Adipex-P is a new drug as defined in section 201(p) of the Federal Food, Drug, and Cosmetic Act (the "act") and information relating to its safety and effectiveness must be contained in a new drug application in order to be approved under section 505 of the act (21 U.S.C. 355).

DATES: Any request for a hearing must be submitted on or before October 17, 1977. In support of any such request, all data and information relied upon to justify a hearing and any other comments from interested persons must be submitted on or before November 15, 1977.

ADDRESS: Requests, supporting data and information, and other comments shall be submitted, with FDA Docket No. 77N-0283 clearly indicated in the filings, to the FDA Hearing Clerk, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Robert H. Hahn, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301-443-3650).

SUPPLEMENTARY INFORMATION:

BACKGROUND

As required by the Drug Amendments of 1962, FDA is engaged in a Drug Efficacy Study Implementation (DESI) program under which each drug covered by a new drug application (NDA) that was approved by FDA on the basis of safety between 1938 and 1962 is reviewed to determine whether substantial evidence exists to demonstrate that the drug is effective for its labeled indications. As reviews are completed, notices are published in the FEDERAL REGISTER announcing the agency's conclusions on the effectiveness of the drugs reviewed.

In the FEDERAL REGISTER of February 12, 1973 (38 FR 4280), FDA published DESI Notice 11673 stating that Wilpo Tablets containing 8 milligrams of phentermine hydrochloride as a single active ingredient in non-controlled-release form and marketed by Dorsey Laboratories is effective "in the management of exogenous obesity as a short-term adjunct (a few weeks) in a regimen of weight reduction based on caloric restriction." The Indications section further was to read: "The limited usefulness of agents of this class * * * should be measured against possible risk factors inherent in their use * * *" The DESI notice also stated that Wilpo Tablets is regarded as a "new drug" as defined in section 201(p) of the act, and that "a new drug application is required from any person marketing such drug without approval." Furthermore, "all identical, related, or similar drugs, not the subject of an approved new drug application * * * are subject to this notice," citing the current 21 CFR 310.6. Finally, referring to a prior general announcement by FDA published in the FEDERAL REGISTER of July 14, 1970 (34 FR 11273), DESI Notice 11673 advised that "marketing of such drugs may be continued * * * [by] any person who does not hold an approved or effective new drug application, [upon] the submission of an abbreviated new drug application" (ANDA) within 60 days of the notice. The July 14, 1970 announcement also permitted manufacturers to commence marketing upon the filing of an NDA or ANDA. (On September 22, 1975, FDA published in the FEDERAL REGISTER a general notice (40 FR 43531) that in effect revoked those portions of the July 14, 1970 announcement that were inconsistent with the District Court's order in *Hoffmann-LaRoche, Inc* v. *Weinberger*, 425 F. Supp. 890 (D.D.C., 1975), reprinted in the September 22, 1975 notice. That order, and the September 22, 1975 notice, withdrew any "permission" from FDA for a new supplier of a drug listed in DESI notice 11673 to commence marketing upon submission of an NDA or ANDA but prior to the approval of an NDA or ANDA.)

APPLICATION FOR ADIPEX-P

On May 4, 1976, Lemmon submitted an ANDA (assigned number ANDA 85-128) for the following product:

Adipex-P Tablets (phentermine hydrochloride 37.5 milligrams). The ANDA form of a new drug application does not contain preclinical or clinical studies demonstrating the safety or effectiveness of the drug product. 21 CFR 314.1(f). The proposed labeling for the drug product contained a statement of indications identical to that set forth in DESI Notice 11673. On May 26, 1976, July 30, 1976, and November 10, 1976, Lemmon was informed by FDA that no provision had been made for filing an ANDA for a 37.5-milligram phentermine hydrochloride non-controlled-release tablet and that a full NDA is required.

On July 12, 1977, the firm requested that the application be filed over protest, as provided for in 21 CFR 314.110(d). Under that regulation, FDA is required to reevaluate the application and within 60 days the agency must either approve the application or give written notice of an opportunity for a hearing on the question of whether the application is approvable. This notice is provided pursuant to that regulation.

STATUS OF PHENTERMINE HYDROCHLORIDE 37.5-MILLIGRAM TABLETS AS A NEW DRUG

Section 201(p) of the act defines a "new drug" as any drug for human use "the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof," or any drug for human use "the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions." Section 201(p)(1) of the act exempts from the definition of "new drug," through a "grandfather clause," a drug marketed in 1938 and subject to the Food and Drug Act of 1906. Section 107(c) of the Drug Amendments of 1962 further exempts certain new drugs from the effectiveness standards of section 201(p).

The Food and Drug Administration has consistently asserted that the "newness" of a drug product arises from many factors. First, and most obvious, is whether the individual chemical entity contained in the product is a "new drug." 21 CFR 310.3(h)(1). As noted above, phentermine hydrochloride has been treated by FDA as a "new drug" for many years, and has not yet been formally determined by FDA to be generally recognized as safe and effective and no longer to be a "new drug."

Second, even if the individual drug substance is not itself a "new drug," the newness of the dosage, among other things, may cause a drug product to be regarded as a "new drug." 21 CFR 310.3(h)(5). The Director notes that the labeling of drugs approved pursuant to DESI Notice 11673 for conventional oral tablets containing 8 milligrams of phentermine hydrochloride provides for a usual dose of one 8-milligram tablet one-half hour before meals. It further provides for a 4-milligram dose one-half hour before meals for patients not requiring the full dose. Thus, the highest dose of a non-controlled-release product to be given at one time is 8 milligrams. The amount of phentermine hydrochloride in the proposed non-controlled-release tablet (37.5 milligrams) is over four and one-half times the recommended usual dose. The Director further notes that phentermine hydrochloride is related chemically and pharmacologically to amphetamine and appears to have a similar potential for abuse and risk of causing dependence in the user. Actual abuse of the drug was a significant factor in the decision of the Department of Justice to schedule phentermine under the Controlled Substances Act (see 38 FR 18013; July 6, 1973), as well as in FDA's decision to require a drug dependence warning in the labeling (see DESI Notice 11673). Because higher strength dosage forms would be even more attractive for abuse purposes, this safety problem increases and significantly affects the benefit-risk assessment.

The Director concludes that the fact that 8 milligrams of phentermine hydrochloride was found to be safe and effective for certain indications, as stated in DESI Notice 11673, is not a basis for concluding that 37.5 milligrams is safe for the same indications. Another question raised by the 37.5-milligram dosage is whether it provides any therapeutic benefit to the patient over the 8-milligram dosage to offset its inherent risks. The approved labeling for Wilpo Tablets provides for a usual dose of one 8-milligram tablet three times daily and provides for one-half that dose for patients not requiring the full dose. The 8-milligram dosage form adequately provides the intended flexibility in dosage. A 37.5 milligram tablet would substantially reduce the physician's ability to individualize the dose to, for example, 4 milligrams. At the same time, amphetamine and amphetamine analogs such as phentermine produce in patients a tolerance to the therapeutic effects. It is not known whether this tolerance develops more quickly at higher dosage levels; but if so, the duration of therapy described in the labeling would be unsupported by evidence of effectiveness. Finally, special safety problems may be presented to the patient from a 37.5-milligram tablet; in addition to the possibly more rapid onset of dependence on the drug, the risks of accidental overdosage are increased by a large dosage. Thus, no medical advantage, but possible serious disadvantages, seem to exist for the 37.5-milligram dosage compared to the 8-milligram tablet. Stated differently, there does not appear to be a significant patient population in whom the risks from a 37.5-milligram dosage from are outweighed by the benefits of such a product. This is not to say that clinical evidence that measures the safety and effectiveness could not demonstrate that a 37.5-milligram product meets the standards of the act. Rather, it is that such data are necessary before FDA can conclude that the novel questions posed by this significantly different dosage can be answered. For these reasons, FDA has determined that a new dosage of a drug, even one that at another dosage is generally recognized as safe and effective, is not always and immediately recognizable as safe and effective. See 21 CFR 310.3(h)(5). The agency, therefore, has required a "full" NDA or a supplemental NDA, containing clinical evidence demonstrating the safety and effectiveness of a different dosage of an approved drug.

Section 201(p)(2) of the act provides a further condition to "not new drug" status for a drug that becomes generally recognized by experts as safe and effective. It also requires that the drug have been used to a material extent or for a material time. This has generally been measured by the duration and volume of commercial marketing in the United States. There was no non-controlled-release dosage form containing more than 8 milligrams of phentermine hydrochloride in the DESI program, and no such product has ever been approved for marketing under section 505 of the act. The Director is not aware that any non-controlled-release product containing more than 8 milligrams of phentermine hydrochloride is now generally recognized by experts as safe and effective for the indications set forth in DESI Notice 11673, nor is he aware of any such product's having been used to a material extent or for a material period in the United States.

Based on the facts set forth above, the Director of the Bureau of Drugs finds that Adipex-P Tablets containing 37.5 milligrams of phentermine hydrochloride in non-controlled-release form is a "new drug" as defined in section 201(p) of the act, on the grounds that the non-controlled-release dosage form at this dosage is not generally recognized as safe and effective and has not been used to a material extent or for a material time.

QUESTION OF APPROPRIATE TYPE OF APPLICATION FOR NON-CONTROLLED-RELEASE FORMS OF PHENTERMINE HYDROCHLORIDE

In the FEDERAL REGISTER of July 19, 1974 (39 FR 26459), FDA published DESI Notice 5378 stating that Ionamin "30" Capsules, containing 30 milligrams of phentermine as a cation exchange resin complex of sulfonated polystyrene (a controlled-release product) is effective for the same indications as described above for Wilpo Tablets (DESI 11673). The notice provided for the submission of ANDA's for identical, related, or similar products.

Lemmon's submission of an ANDA for Adipex-P is based on an interpretation of DESI Notice 5378 that phentermine hydrochloride in a 37.5-milligram non-controlled-release form is a proper submission as an identical, related, or similar drug covered by DESI Notice 5378 for a 30-milligram controlled-release form of phentermine. The Director of the Bureau of Drugs believes that this argument is founded on a misinterpretation of 21 CFR 310.6 and a misunderstanding of the nature and purpose of the ANDA.

Section 310.6 was promulgated by FDA in light of experience gathered in the DESI program. As explained in paragraph (a) of the section:

> The specific products listed in these [DESI] notices include only those that were introduced into the market through the new-drug procedures from 1938-62 and were submitted for review by the National Academy of Sciences-National Research Council (NAS-NRC), Drug Efficacy Study Group. Many products which are identical to, related to, or similar to the products listed in these notices have been marketed under different names or by different firms during the same period or since 1962 without going through the new-drug procedures or the Acedemy review. Even though these products are not listed in the notices, they are covered by the new drug applications reviewed and thus are subject to these notices. All persons with an interest in a product that is identical, related, or similar to a drug listed in a drug efficacy notice or a notice of opportunity for a hearing will be given the same opportunity as the applicant to submit data and information, to request a hearing, and to participate in any hearing. It is not feasible for the Food and Drug Administration to list all products which are covered by an NDA and thus subject to each notice. However, it is essential that the efficacy conclusions be applied to all identical, related, and similar drug products to which those conclusions are reasonably applicable.

The Director notes that the concept of "identical, related, or similar drug products" was expressed in terms of giving interested persons "the same opportunity as the applicant to submit data and information, to request a hearing, and to participate in any hearing"; that is, to participate in the process of classifying their products as "effective" or "ineffective." The last sentence quoted from 21 CFR 310.6(a) emphasizes that the scope of the phrase "identical, related, or similar" depends on the extent to which conclusions that a reviewed drug is effective or ineffective may be applied to other nonreviewed drugs. Paragraph (b) expands on this to say:

> Where experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs would conclude that the findings in a drug efficacy notice or notice of opportunity for hearing concerning

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effectiveness are applicable to an identical, related, or similar drug product, such product is affected by the notice.

The Director is not aware that experts qualified by training and experience to evaluate the safety and effectiveness of drugs have concluded that the findings in DESI Notice 5378 on the effectiveness of phentermine in a controlled-release 30-milligram dosage form are applicable to a non-controlled-release 37.5-milligram dosage form of phentermine hydrochloride, nor was any evidence offered by the applicant to establish this point. Therefore, the Director finds that the non-controlled-release product is not a product that is identical, related, or similar to that described in DESI Notice 5378, and that that notice does not authorize the submission of ANDA's for such non-controlled-release products. The Director similarly finds that Adipex-P containing 37.5 milligrams of phentermine hydrochloride, a non-controlled-release product, is not a product that is "identical, related, or similar" to that described in DESI Notice 11673 that deals with an 8-milligram non-controlled-release dosage form. Each Adipex-P tablet contains approximately the same amount of the phentermine moiety as does each capsule of the controlled-release product Ionamin "30". The controlled-release product is not intended to deliver the entire amount for prompt absorption as is the non-controlled-release product. Because of this, the Director finds no basis for concluding that the two products are equally same for use.

USE OF ABBREVIATED NEW DRUG APPLICATIONS BY FDA

The history of the new drug provisions of the act and the agency's implementation of them, including introduction of the ANDA, is described in detail in the preamble to a notice of proposed rulemaking published in the FEDERAL REGISTER of June 20, 1975 (40 FR 26142). The Director will not reiterate that history here. He believes, however, that several points bear emphasizing. First, an ANDA is a new drug application; it represents a form of application in which certain information normally part of an NDA is not required because it is not essential to the agency's reaching a decision on the approvability of the drug product under section 505 of the act. This information requirement is waived because the agency already has sufficient publicly available data and information in its files to make appropriate conclusions on those elements of the drug approval decision. (Information contained in other approved NDA's may or may not be public. See 21 CFR 314.14. If not public, it may be relied upon by a second applicant only with the express permission of the first applicant. 21 CFR 314.11.) Generally, the information allowed to be omitted relates to preclinical and clinical studies regarding the safety and effectiveness of the active ingredients. As the Commissioner stated in the June 20, 1975, notice:

[A]n abbreviated NDA is appropriate only for those drugs which, from a generic standpoint, are generally recognized as safe and effective when they are properly labeled and manufactured. The submission of an abbreviated NDA has thus been required only to assure the quality of drug products and their proper labeling and manufacture, not to show the basic safety and effectiveness of the generic chemical entity involved. (40 FR 26147).

The purpose of an ANDA is to provide a means to eliminate unnecessary animal and human experimentation, to reduce the burdens on manufacturers in attempting to market duplicates of established drugs, and to ease the workload of FDA in reviewing and processing applications.

Second, in order for FDA to waive such requirements, it must affirmatively conclude that it has sufficient public information to make the requisite conclusions. Because the ANDA is an exception to the general rule requiring a complete NDA, the decision to allow use of an ANDA must be consciously and prospectively made by the agency. (See 21 CFR 314.1 (a): "* * * if the drug * * * is one for which an abbreviated new drug application has been *found* by the Food and Drug Administration to be sufficient. * * *" (emphasis added).) These decisions are formal and are officially issued, generally by a notice in the FEDERAL REGISTER but on rare occasions by other public notice. These decisions cannot extend to products for which little or no public information is available and which are not considered by FDA in making the ANDA decision. The product covered by this notice illustrates why this is so. No non-controlled-release form containing 37.5 milligrams of phentermine hydrochloride was reviewed in the Drug Efficacy Study and no such product has been approved by marketing in the United States. Appropriate information is needed to determine, for example, whether any medically significant differences exist in factors such as absorption rates, blood levels, metabolism, and excretion between the controlled-release dosage form containing 30 milligrams of phentermine and a non-controlled-release dosage form containing 37.5 milligrams of phentermine hydrochloride when used in accordance with the labeling approved pursuant to DESI Notice 5378. Other examples of unforeseen variations in drugs reviewed in the DESI program have also recently been uncovered in the process of implementing the court order in the *Hoffmann-La-Roche* case (discussed earlier), including untested combinations of two or more drugs and substantial increases in the strength of the drug. Clearly, it is contrary to the public interest, as well as the language of sections 201(p) and 505 of the act and implementing regulations cited above, for FDA to waive any information essential to determine the approvability of such a drug.

Third, the choice between NDA (including a supplemental NDA) and ANDA is not an "either-or" option. For many years, the agency has imposed on applicants using either application process a variety of requirements depending on the nature of the drug product, the types of information publicly available regarding the drug, and similar factors. Thus, some NDA's require chronic animal toxicology testing, and others do not; some ANDA's require detailed manufacturing data, and others do not; some NDA's and ANDA's require bioavailability data, and others do not. As noted, the most common distinction between the NDA and the ANDA relates to requirements for preclinical and clinical data. But this distinction should not blur the close similarity on most matters. To repeat, both the traditional "full" NDA and the most "abbreviated" ANDA are merely types of applications described in section 505 of the act.

Fourth, the fact that FDA does not waive any of the requirements of an NDA for a particular product does not necessarily mean that an applicant must conduct its own preclinical and clinical studies regarding safety or effectiveness. The applicant may be able to include in its applications published articles and other publicly available data and information that provide an adequate basis for the agency's making the evaluation and approvability decision required under section 505. An NDA can be approved on such a submission.

The Director finds that the use of an ANDA for a non-controlled-release form containing 37.5 milligrams of phentermin hydrochloride would be inconsistent with the purposes of the abbreviated form of a new drug application, has not been authorized by the Food and Drug Administration, and would not fulfill the requirements of section 505 of the act regarding the requisites for approval of such a product. Because of this, the Director finds that Lemmon must submit an application in the form described in 21 CFR 314.1(c) containing reports of investigations and adequate tests to show whether or not its product is safe for use under the conditions in the proposed labeling.

LACK OF INFORMATION IN APPLICATION

The Director finds that the ANDA for Adipex-P Tablets lacks any reports of preclinical or clinical investigations on the product. Because the application lacks safety data, the information therein has not been evaluated to determine whether it satisfies the other requirements of the act and new drug regulations. If, as a result of this notice, a hearing is requested and it is determined that a hearing will be ordered, the Bureau of Drugs will then review the other parts of the application and raise any remaining issues in the notice of hearing.

NOTICE OF OPPORTUNITY FOR HEARING

Therefore, notice is given to Lemmon and all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(d) of the act refusing to approve ANDA 85-128 on the following grounds: (1) the application does not contain any reports of investigations or adequate tests, by all methods reasonably applicable, to show whether or not the product is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof; and (2) upon the basis of the information submitted as part of the application, FDA has insufficient information to determine whether the drug is safe for use under such conditions.

If Lemmon elects to avail itself of the opportunity for hearing pursuant to section 505(d) of the act and 21 CFR 314.200, it must file with the Hearing Clerk, Food and Drug Administration, (1) written notice of appearance and request for hearing by October 17, 1977, and (2) the data, information, and analyses on which it relies to justify a hearing, as specified in § 314.200, by November 15, 1977. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, the notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of the applicant to file a timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election not to avail himself of the opportunity for a hearing, and the Director of the Bureau of Drugs will summarily enter a final order refusing to approve the application.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact that precludes the refusal to approve the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate with the Hearing Clerk, Food and Drug Administration.

All submissions pursuant to this notice, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Office of the Hearing Clerk (address given above) between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: September 9, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-26048 Filed 9-15-77;8:45 am]

[Docket No. 76N-0462]

PROBAN BRAND OF CYTHIOATE ORAL LIQUID

Final Order Denying Request for Hearing on Refusal To Approve New Animal Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs denies a request for a hearing on a refusal to approve a supplemental new animal drug application for Proban (NADA 33-606).

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857. (301-443-3420).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of November 19, 1976 (41 FR 51078), the Director of the Bureau of Veterinary Medicine (BVM) issued a notice of opportunity for hearing on the refusal to approve a supplemental new animal drug application (NADA) for over-the-counter (OTC) use of Proban brand of cythioate manufactured by American Cyanamid Co. (hereinafter cited "Cyanamid"), P.O. Box 400, Princeton, N.J. 08540, for the control of fleas on dogs. The notice stated that the Director was refusing to approve the supplemental NADA on the grounds that:

1. The drug had not been shown to be safe by adequate tests by all methods reasonably applicable to show whether or not such drug is safe for OTC use, i.e., the drug had not been shown to be safe without the supervision of a veterinarian for the proposed conditions of use pursuant to section 512(d)(1)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(d)(1)(A));

2. The results of the tests show that the drug had not been shown to be safe for OTC use pursuant to section 512(d)(1)(B) of the act (21 U.S.C. 360b(d)(1)(B)); and

3. On the basis of the information submitted and other information, there is insufficient evidence to determine whether the drug is safe under the proposed conditions of OTC use pursuant to section 512(d)(1)(D) of the act (21 U.S.C. 360b(d)(1)(D)).

In the notice, the Director of BVM first set forth a description of the evidence necessary to show that an organophosphate drug is safe for OTC use in companion animals and the basis for requiring each type of test. He further provided Cyanamid with an in-depth analysis of the data in the NADA jacket and available from the other sources explaining why he had concluded that Cyanamid had failed to demonstrate the safety of Proban for the proposed conditions of OTC use.

This action is the refusal to approve an NADA; accordingly, Cyanamid has the burden of showing that Proban is safe for OTC use. That showing must satisfy the statutory requirement of evidence from adequate tests by all methods reasonably applicable. Thus, to sustain its request for a hearing, Cyanamid cannot merely file affidavits containing contraverting allegations; it must show that it will produce evidence from adequate tests showing that Proban is safe for OTC use in accordance with the requirements of § 514.200 (21 CFR 514.200) of the regulations.

In response to the notice, Cyanamid submitted its analysis of the data on the NADA and affidavits of scientists and company personnel. Cyanamid also requested additional time to submit information to be obtained from the Environmental Protection Agency and BVM pursuant to requests for information filed under the Freedom of Information Act. The Director granted this request by letter dated December 17, 1976; as a result, the time for issuing subsequent notices in this matter was deferred 30 days. The material sought from BVM was released on February 2, 3, and 8, 1977, but no further submission has been received from Cyanamid.

The Commissioner has considered all of the material submitted by Cyanamid and has concluded that there is no genuine issue of material fact requiring a hearing and that the legal objections offered are insubstantial. The standards imposed by the Director are appropriate; their bases are fully explained; Cyanamid's experts concur that the standards are reasonable, although the precise length of time to complete the required long-term studies was questioned; and Cyanamid has submitted no evidence satisfying them. Further, even under Cyanamid's analysis of the test evidence, the data are inadequate to show that the drug is safe for OTC use; rather, they show that the drug has not been shown to be safe for OTC use. A full discussion follows:

A. THE DRUG

Trade name: Proban Oral Liquid, 1.6% (w/w).
Generic name: Cythioate—each milliliter (ml) contains 15.0 milligrams (mg).
Chemical name: O,O-dimethyl O-p-sulfamoylphenyl phosphorothioate.

Proban Oral Liquid, 1.6% was originally approved June 3, 1968, as a prescription drug for control of fleas on

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dogs. A supplemental NADA, initially submitted on April 18, 1972, sought approval to market the drug with virtually identical labeling for OTC (nonprescription) use.

The drug is to be administered orally, and the recommended dosage is 1 ml for each 10 pounds of body weight (3.3 mg of cythioate/kilogram (kg) once every third day or twice a week). The drug is directly applied to the dog's food and thoroughly mixed in. There is no stated limit on the permissible maximum duration of administration.

The labeling for Proban cautions against use of the drug simultaneously with flea collars and other drugs or articles such as insecticides, pesticides, or wormers. There are also contraindications against use in greyhounds and animals that are pregnant, sick, under stress, or recovering from surgery. In addition, the labeling contains the following warning statements:

Keep out of reach of children. Avoid prolonged or repeated contact with skin and wash thoroughly after handling. If swallowed by humans, induce vomiting by giving two tablespoons of salt in glass of water and call a physician immediately; and

"Note to physician and veterinarian" upon repeated, prolonged, or careless use, Proban may cause market cholinesterase inhibition. Atropine is antidotal.

B. Determination of the Safety for Over-the-Counter Use of New Animal Drugs Under Sections 502(f) and 512 of the Federal Food, Drug, and Cosmetic Act

1. *Introduction.* Toxicity is the state of being a potential source of harm for any reason directly attributable to the drug. Toxicity includes more than poisonous effects. To demonstrate that an animal drug product is safe for OTC use, the drug's sponsor must show that the toxicity or other potential harmful effect attributable to the drug, viewed in conjunction with the proposed methods of the drug's use without the supervision of a licensed veterinarian, will be prevented by adequate labeling directions that are reasonably certain to be followed in practice by laymen. For Proban, an organophosphate product intended for unlimited duration of oral use in dogs for the control of fleas, the sponsor, Cyanamid, must affirmatively demonstrate that administration of the drug without a veterinarian's order will result in no adverse reactions from OTC use of the drug that may be sufficient in number or severity to cause this use to be considered unsafe. This is a multistep process that was explained in detail in the notice. In brief summary, the sponsor must describe the disease to be treated, document the intoxication or toxicity caused by the drug, calculate the drug's margin of safety in the target animals, and demonstrate the drug's safety in well-controlled field investigations under simulated proposed labeling conditions. In the absence of this evidence, the Commissioner must conclude that the drug has not been shown to be safe for OTC use.

2. *Description of toxicity.* Cyanamid has not provided any evidence demonstrating that laypersons can recognize and interpret the subtle toxic signs of Proban intoxication. These signs may lead to death whether or not administration of the drug is terminated. Furthermore, these initial toxic signs may be precursors to severe toxicity which has a latent period. In the absence of this information, Cyanamid contends the Commissioner should rely on textbook assessments of organophosphate toxicity in general. Moreover, in the area of animal health, Cyanamid apparently subscribes to the theory that only severe toxic reactions, including the death of the target animal, are adverse reactions sufficient to require use of the drug under a veterinarian's order. Yet Cyanamid characterized the one reported death as an anomaly. However, since the test in which the death occurred contained no controls, all adverse reactions, including the death, must be attributed to the use of the drug.

3. *Intoxication syndrome—margin of safety.* Cyanamid has submitted affidavits but no new data to characterize the intoxication syndrome and thereby establish the margin of safety of Proban. Furthermore, Cyanamid's experts did not disagree with the testing format outlined by the Director in the notice. Dr. Harr's affidavit discusses the LD_1 (the dose of a drug that is projected to be lethal to percent of the test animals) and the ED_0 (the dose that is projected to be effective for 99 percent of the test animals). (Affidavit of Dr. James R. Harr; Exhibit 16.) Both are aspects of the margin of safety, which is the issue in this matter. Risk of lethality (LD_1) is only one aspect of the margin of safety. As set forth in the notice, the margin of safety must include measurement of the significant harmful effects or irreversible toxic reactions. Death, of course, is a significant irreversible harmful effect, but Cyanamid has submitted no evidence on severity of diarrhea, vomition, salivation, etc. Again, the Commissioner rejects Cyanamid's implicit premise that death of the animal is the only adverse reaction that warrants restrictive use of the drug. This premise underlies the protocals and testing approach of the toxicity studies submitted by Cyanamid. Principally, gross methods of observation were used to measure the toxicity of cythioate, which may fail to detect many of the subtle signs of intoxication of these drugs, and Cyanamid subsequently argues that the failure to observe these signs constitutes a demonstration that they did not occur.

Cyanamid must demonstrate that Proban is safe for OTC use through adequate tests, and Cyanamid has not submitted any evidence that satisfies the concerns raised in the notice. Instead, it contends that BVM has failed to show that Proban is unsafe and disputes minor points in BVM's analysis of the data submitted.

It repeatedly asserts that the absence of lethality at an administered level of the drug, when one or two dogs are administered the raw technical grade of cythioate, demonstrated that Proban is safe at that level. When death occurred, however, Cyanamid suggests that this was an anomaly. In addition, it submitted no evidence to demonstrate the equivalence of studies conducted with the technical grade of cythioate with studies on the marketed dosage form of Proban in the target species. Finally, Cyanamid contends that, despite the absence of an intoxication profile, an adequate margin of safety exists for the drug because a few test animals that were administered cythioate in high doses survived.

This evidence, however, fails to address the problems of nonfatal significant harmful or irreversible toxic reactions; i.e., it confuses risk of lethality with margin of safety. Therefore, the Commissioner concludes that the margins of safety, as defined in the notice, has not been determined; moreover, as discussed in the notice and supported by the affidavits of Cyanamid's experts, the studies are insufficient to demonstrate that Proban is safe for OTC use.

4. *Field tests.* Although the Director explained why well-controlled field investigations with the final dosage form under the proposed conditions of the drugs' use were necessary to demonstrate Proban's safety, Cyanamid has not submitted any evidence to satisfy this standard. Moreover, it has submitted no evidence to rebut the articulated deficiencies in the clinical reports filed about Proban, and it has submitted no evidence to explain why those clinical reports should be considered acceptable.

Instead, Cyanamid has attempted to muddle two distinctly different testing situations. In the first, the veterinarian supervises the animal study and records the observations (studies for prescription use). In the second, the veterinarian supervises, but laypersons make the individual observations (studies for OTC use). The latter is necessary to demonstrate that a drug is safe for OTC use, and such evidence is lacking on Proban.

Cyanamid claims that the clinical series reports meet the Director's requirement for field tests designed to show that adequate directions can be written for lay use. But the clinical series were designed to support an application for prescription use. For all of the above reasons, the Commissioner concludes that there can be no genuine issue as the inadequacy of these studies to show that adequate directions for OTC use of Proban can be written:

5. *Conclusion.* Simply, the issue is whether the available data, laboratory and clinical, adequately document the safety of Proban for OTC use. The following statements in the affidavit of one of Cyanamid's experts support the Director's position by acknowledging grossly apparent deficiences in the available data:

I have carefully examined the FDA remarks regarding the studies of Gross and Rohrbacher No. 1, McNerney, Grosse and Rohrbacher No. 2 and Wang and Colavita and conclude that much of what was said was true. The sign of toxicity varied greatly depending upon the dosage, however, in the low dosage ranges (close to clinical levels) vomiting, diarrhea, tremors, loss of appetite and depressed cholinesterase levels were noted. (December 15, 1976 Affidavit of Dr. William D. Black (Exhibit 15) at 1.)

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The fact that some of the toxicity studies were poorly controlled, or the numbers were too low, only point out the fact that many of these trials were done in the early 1960's. Times have changed and so have the standards for drug testing. (Id.)

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Much of what was said in this notice was true and taken in the narrow context of preclinical toxicity and safety data cannot be disputed. There is no doubt that the original study, carried out in the early '60's [sic] had many flaws, when considered in the light of 1976 standards. (December 14, 1976, letter of Dr. William D. Black (Exhibit 15) at 1.)

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Both the sponsor's request for hearing [hereinafter cited "Req".] and the Director's notice are fully discussed herein. Cyanamid contends that many factual issues exist, but the Commissioner concludes that all are peripheral in nature. For this reason, the disputes do not alter the basic conclusions set forth in the notice.

The Commissioner has evaluated the evidence submitted by Cyanamid to demonstrate that Proban is safe for OTC use, and he has concluded that adequate tests have not been submitted to demonstrate that the drug is safe for that use and that the results of the tests submitted have not shown that the drug is safe for OTC use. Accordingly, the Commissioner finds that there is insufficient evidence for him to conclude that Proban is safe for OTC use.

C. Diagnosis of Toxicity

Because neither an intoxication profile nor an intensive pathological evaluation of the test animals was available, the Director outlined the general signs of organophosphate intoxication and methods used by the sponsor to observe the test animals in the notice. These were used as the basis for evaluating the safety of Proban. As will be further amplified, the design of the studies submitted by Cyanamid is inadequate to determine whether Proban is safe for OTC use and a fortiori to prove that it is safe for that use.

D. Evidence Submitted To Demonstrate That Proban Is Safe for OTC Use

1. *Acute toxicity studies.* Acute toxicity studies are useful to provide initial evidence about a drug's potential for harm from acute, short-term doses of a drug. For long-term drug use such studies are helpful, but the information provided is only the first step in obtaining the data necessary to show that a drug is safe for OTC use. Cyanamid submitted the following information on the acute toxicity of Proban:

Grosse and Rohrbacher Study No. 1. The Director reviewed this study, discussed it in the notice, and concluded that it fails to demonstrate Proban's safety for OTC use. In addition, he concluded that, despite the small test animal population, the study demonstrates that Proban is toxic and may be unsafe for use without a veterinarian's order.

Cyanamid's request for hearing failed to demonstrate the existence of a substantial factual issue concerning the conclusions reached by the Director about this study. As noted by the affidavits submitted, the number of animals tested is too small to demonstrate Proban's safety. (Affidavit of Dr. Black at 1). The analysis of the study in Cyanamid's request, however, demonstrates that Proban under certain conditions is toxic and has a potentiality for harm.

The recommended dose of Proban is 3.3 mg/kg of body weight every 3 days or twice a week, and repeat treatment without a finite limitation is advocated. Cyanamid avers that 10 mg/kg/day for 3 days constitutes nine times the recommended dose, but it has apparently confused the concepts of total dose exposure with that of dose-related toxicity. (R.D. Radcleff, *Veterinary Toxicology*, 2d Ed., pp. 11–15, Philadelphia, Lea & Fabiger, 1970.) That a given amount of drug may produce completely different toxicological reaction when administered as a single dose compared to three divided doses is an axiom of toxicology. The study of Esposito, Hutchinson, Logan, Morell, Paquette, Ribelin, Stewart, and Woolston, discussed below, most clearly exemplifies the applicability of the axiom in this matter. As the daily dose was increased in that study to approximate that recommended in the labeling, more severe adverse reactions were observed. The affidavit of Dr. Williams (Exhibit 14, at 3) suggests that at least 3 days are necessary for restoration of cholinesterase activity, although Cyanamid has submitted no evidence on the rate of this reversibility under the recommended conditions of Proban's use.

Moreover, in this case, only one dog actually received 10 mg/kg/day as a single dose for 3 days. Nevertheless, Cyanamid contends that "standing alone, (this) is certainly evidence that the drug is nontoxic enough for OTC use." (Req. at 22.) The fallacy of this argument is apparent on its face, and the Commissioner rejects the premise that one animal administered a drug at three times the recommended dose for 3 days conclusively demonstrates that drug's safety for OTC use.

In the next treatment group, 25 mg cythioate/kg of body weight/day for 3 to 5 days, cythioate proved fatal to one of four treated dogs. Cyanamid contends this cumulative exposure is "some 23 times the recommended dose," yet a single 25-mg/kg dose is only approximately 7.6 times Proban's recommended dose. Cyanamid concedes that various side effects were observed as the dosage exposure increased, but argues these reactions are to be expected. (Req. at 22.) The Commissioner rejects the premise that death of the target animals is the only toxic reaction that merits restrictive use of the drug. Cyanamid concedes the potentiality for harm from the drug is shown in this study despite the few animals tested. The Commissioner must also note that Cyanamid argues that no controls are necessary because any unusual reaction is attributable to administration of the drug. (Req. at 24–25.) This overstates the statements of its expert. Moreover, the only expert to directly address the issue, Dr. Williams, indicates only that separate control animals are unnecessary for dermal irritation tests, which are irrelevant to showing Proban's safety for OTC use in this case. (Affidavit of Dr. Williams at 6.) But using this rationale, the death of the dog in the second treatment group obviously should be directly attributed to administration of cythioate. At that point Cyanamid contends that the death is an anomaly. Studies of this type conclusively demonstrate the need for a control group. In the absence of a control group the Commissioner cannot reach a conclusion that the death of the dog was an anomaly and not the result of drug effect.

Cyanamid also apparently has misunderstood the need for conducting studies in the final dosage form because its request notes, "the Director says that studies using the active ingredient alone are invalid • • •" (Req. at 24.) Rather, the Director stated that the Grosse and Rohrbacher Study No. 1 was conducted with an unformulated, technical grade of cythioate, not the proposed marketed formulation of Proban. The sponsor maintains that the so-called innocuous diluents used in preparation of the commercially marketed dosage form will not influence the safety assessment; however, the evidence in the Series I field trials vividly refute this. (See paragraph D.4. clinical reports below.) In that series of trials, the diethyl succinate component was replaced with polyethylene glycol 400 dioleate because the dogs refused to eat the treated food or vomited; thus the drug sponsor acknowledges the need for tests of the final dosage form, particularly where the drug is intended for unrestricted use.

No clinical pathology, including cholinesterase level determinations, was performed. The request, however, implies that the methods to identify pathologic changes are unnecessary in studies evaluating an organophosphate (Proban), and Cyanamid attempts to justify this position by quoting a phrase from the Director that pathologic changes associated with organophosphate poisoning are usually minimal and nonspecific.

This certainly does not excuse the failure to measure pathologic changes caused by cythioate. Although the pathologic changes associated with acute poisoning by organophosphate are usually minimal and nonspecific, pathological changes do occur; in fact, pulmonary edema and congestion are ordinarily present. (See Ref. 7 of notice at 41 FR 51084.) Furthermore, the Esposito, et al., study demonstrates that cythioate can cause pathological changes in dogs,

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e.g., renal collecting tubule lipidosis, renal microcalculi, decreases in hematocrit and hemoglobin values, pronounced reductions in erythrocyte and plasma cholinesterase activities, etc.

Cyanamid's argument on this first Grosse and Rohrbacher study is based on fundamental misconceptions about toxicity testing. Controls are necessary, and if one argues they are not, logic compels the conclusion that the fatal toxic reactions are due to administration of the drug. Moreover, the observation techniques are inadequate by contemporary standards, i.e., the sponsor failed to utilize comprehensive methods to identify pathologic changes induced by administration of the drug that are necessary to demonstrate affirmatively the drug's safety for OTC use. Accordingly, the Commissioner concludes that despite the small test animal population the study demonstrates that Proban is toxic under certain conditions and may be unsafe for use without the supervision of a veterinarian. There are no genuine factual issues about this study.

McNerney Study. In this study of 21 dogs divided into 7 groups of 3, a single dose of Proban was administered to dogs in combination with another organophosphate or phenothiazine tranquilizer. One and one-half times the recommended dose of each drug was given. From the results of this study, the Director concluded that Proban is unsafe for OTC use and may also be unsafe when administered in conjunction with other organophosphates or tranquilizers.

In its request, Cyanamid cites Dr. Schaffer (Exhibit 19), who states that the effects observed were "relatively slight." (Req. at 28.) None of the dogs was "physically disabled," and the studies "did not produce potentiation of acute toxicity." (Req. at 29.) For these reasons, "none of the reactions could be classified as severe." (Affidavit of Dr. Williams, Exhibit 14.) Toxic signs were not observed in all test groups, and Cyanamid believes the data give "assurance of safety." (Req. at 28.) In addition, Dr. Williams disputes the Director's use of the term "potentiation" to describe the joint toxic responses seen. (Req. at 30.) Finally, it alleges that even if the Director's conclusions were correct, they are an inadequate justification for refusing to approve Proban for OTC use. (Id.)

The Commissioner agrees that the term "potentiation" was inappropriately used in the notice. Descriptions of the combined effects of drugs are often ambiguous because the terms "addition," "summation," "synergism," "potentiation," and "antagonism" are not employed consistently and some have imprecise quantitative connotations (Goodman, L. and A. Gilman, "The Pharmacological Basis of Therapeutics," p. 36, MacMillan Publishing Co., Inc., New York, 5th Ed., 1975). Whether called "joint toxic action," "potentiation," "additive effect," or another semantic term, however, this study was intended to reveal whether cythioate produced more severe adverse reactions when given in conjunction with other organophosphates and phenothiazine tranquilizers than the administration of cythioate alone.

All three animals given Proban-acepromazine maleate exhibited signs of conjunctival injection or diarrhea; similarly, all three dogs receiving Proban-Tranvet exhibited one or more of the following: Conjunctival injection, diarrhea, tremors, salivation, and emesis. One of three dogs given Proban-Kemic Pet Spray was observed to be hyperactive; signs of intoxication for a second dog included depression and lacrimation secretion. The Proban-Trilafon group produced lethargy in all treated animals. Finally, two of the three dogs in both the Proban-Dipofene and Proban-Malathion groups exhibited diarrhea.

Thus, adverse reactions were observed with six out of the seven test groups in which one dose of Proban was administered at 1.5X the recommended dosage in conjunction with another organophosphate or a phenothiazine tranquilizer also given at 1.5X the recommended dosage. In addition, an extraordinary number of the total test animal population (15/21) adversely reacted in this study. No control animals were used. No animals served as untreated controls; no animals received Proban alone; and no animals received any one of the other seven tested drugs individually.

Cyanamid's contention that these observed adverse reactions were not severe is based on the affidavit of Dr. Williams and Dr. Shaffer. Although they contend the observed signs may not be sufficiently severe to cause concern, at least to a toxicologist, there is no dispute as to their occurrence. Furthermore, as previously noted, Cyanamid's experts admit that the basic data source is dubious since few animals were tested and the test involved one-time administration of the drugs.

On its face, the study's design fails to meet contemporary standards. The Commissioner agrees that no dogs died, but he rejects this as the sole criterion for determining whether drugs are safe for OTC use in animals. Excessive adverse reactions indisputably occurred. Their severity is apparent, and they may be harbingers of even more severe adverse reactions in the future. From this, the Commissioner can only conclude that the various drug combinations demonstrate a potential for harm, but he cannot measure the contribution of each individual drug to that potentiality for harm. For these reasons, the Commissioner must conclude that there is no genuine issue of material fact about the results of this study.

Finally, although Cyanamid alleges in its request for hearing (Req. at 29) that interactions are not likely to occur if the label directions are followed, the request and Proban's labeling acknowledge the need for judicious use of the drug. Toxic signs are often subtle. Laypersons lack the professional acumen to attach the proper significance to early central nervous system (CNS) stimulation, depression, abnormal behavior, lethargy, etc. Moreover, they lack the ability to make differential diagnoses and distinguish signs of cythioate toxicity from that attributable to numerous other sources. Accordingly, the Commissioner concludes that this study clearly demonstrates Proban's potentiality for harm and patently fails to raise any genuine factual issue about its potential safety for OTC use.

Acute toxicity studies provide some useful information about a drug's toxicity, and the Commissioner's evaluation of the limited acute studies and supporting affidavits submitted demonstrates that Proban is toxic under certain conditions of use. Moreover, the toxicity may be enhanced by other neurologically active drugs, including organophosphates. In accordance with section 512(d)(2)(B) of the act, therefore, the Commissioner concludes that Cyanamid has failed to demonstrate that Proban is safe for OTC use; the information demonstrates Proban's potentiality for harm. Even further, this evidence shows that Proban may be unsafe for such use.

2. *Short-term toxicity studies.* Short-term toxicity studies are tests of normally less than a 90-day duration, and they are useful to determine a compound's toxicity when it is administered for brief periods. Evidence from these studies permits estimates of the drug's short-term potential for harm although they obviously provide only supportive evidence about harm from long-term use. Cyanamid submitted the following short-term toxicity studies:

Grosse and Rohrbacher Study No. 2. For the reasons set forth in the notice, the Director concluded that this study is inadequate to demonstrate that long-term OTC use of Proban at the level of 3.3 mg/kg of body weight is safe. In his opinion, this study again demonstrates that Proban is toxic and has not been shown to be safe for OTC use.

Cyanamid acknowledges that this study was intended to demonstrate that the drug is effective for the control of fleas, and Cyanamid concedes that it was not designed primarily to determine the toxicity to the host animal. For this reason, Cyanamid's independent expert admits that the data are sparse. (Affidavit of Williams at 3.) Because no controls were used, as Cyanamid suggests, any reaction must be considered a toxic reaction.

Again, Cyanamid alleges that toxicity of the drug taken on a daily basis in small doses is more stressful than administration of higher doses periodically, citing the affidavit of Dr. Williams. (Req. at 36.) However, these data demonstrate that as the doses of the drug were increased, the toxic reactions, which must be attributed to administration of the drug since no control animals were used, increased. For this reason, the Commissioner must conclude that the drug's toxicity is dose-related.

Moreover, the results of this study dispute the sponsor's related contention in the request that any effects from the use of the drug are completely reversible. In th only dog receiving 10 mg/kg/day, the final erythrocyte cholinesterase value determined 22 days after cessation of treatment was less than one-half the normal values recorded from pretreatment samples secured from other animals in this study. No pretreatment values were obtained on this animal, nor were values obtained during treatment.

Finally, Cyanamid has submitted no evidence to support the contention that the toxic effects of the technical grade drug will be the same as those from the final dosage form.

For all of the foregoing reasons, the Commissioner concludes that Cyanamid has raised no genuine issue of material fact about this study, and he concurs with the Director's assessment.

Wang and Colavita Study. The principal information obtained from the study concerned feed consumption of animals treated with cythioate. From the observations, the Director concluded that treated animals consumed less food than control animals. Decreased food consumption is a significant adverse reaction that is characteristic of organophosphate toxicity. In addition, gross observations for clinical signs of toxicity showed that at least one of the eight animals used in the test exhibited a patent sign of organophosphate toxicity, namely, vomiting. Although there were no signficant differences in body weight after 10 weeks, the Commissioner attributes this to the fact that the amount of food given to the control group was lowered after 3 weeks to an amount significantly below their consumption during those first 3 weeks. The new level successfully prevented the control dogs from eating more than the dogs on drugs.

The Director rejected this study as dispositive of questions of safety or potential for harm from OTC use of Proban. On the contrary, he concluded that the study failed to demonstrate that Proban is safe for OTC use because when the data were construed in the best light for Cyanamid, he was unable to determine whether Proban is safe for OTC use.

In its request, Cyanamid disputed the Director's conclusions as to the significance of the vomition and the data related to food consumption. The sponsor stated that, "this one instance of emesis cannot be considered evidence of a toxic effect of the drug, nor would any responsible statistician establish any significance to that fact." (Req. at 39.) But the firm does not disagree that vomiting is a patent sign of organophosphate toxicity. In fact, the Harr Affidavit (Exhibit 18) refers to "[t]he signs of anorexia and vomiting characteristic of intoxication with proban • • •" and to "the tendency of signs of vomiting and anorexia to limit intake • • •" Also, in referring to the reported adverse effects in Australia, Dr. Harr states that "these reported adverse effects were as expected from intoxication with organic phosphate compounds." The Director previously noted that vomiting was one of those reported reactions. (41 FR 51083.) And, one of the sponsor's own acute toxicity studies—Grosse and Rohrbacher Study No. 1—confirms the fact that vomiting is an indication of poisoning by the specific organophosphorus compound at issue, cythioate.

While vomition was a factor considered by the Director, the request for hearing incorrectly states that "the Director apparently bases his entire analysis (and statistical treatment) upon one dog • • • (Req. at 38). An evaluation of the food consumption data was an important element among the considerations leading to the conclusions stated in the notice, and data pertaining to food consumption were obtained on all dogs in the study. Refusal to eat is an adverse effect, but Cyanamid seeks to minimize the significance of the data on food consumption by employing subtle, interchangeable references to food consumption and weight gain/loss. (See, e.g. Req. at 39.) These two parameters are separate entities and must be viewed as such. As the Director acknowledged in the notice, there were no significant differences after 10 weeks in body weight when the treated and control animals were compared. However, serious questions with respect to food consumption were raised but not resolved by the modifications made in the design of the study as well as by the data yielded by the study. The medicated group consumed significantly ($p < .06$ and $p < .02$, respectively) less food than the control group during the second and third weeks of the study,[1] as listed below:

[1] Cyanamid contends that the Director referred only to 4th week data in citing differences in food consumption. This is incorrect. Differences in food consumption were evidenced in the second and third week after medication was begun. Also, all dogs were fed unmedicated feed for 1 week which may explain Cyanamid's reference to the 4th week.

Average daily feed consumption in grams

	Week of treatment										
	-1	1	2	3	4	5	6	7	8	9	10
Control[1/]	387	397	395[2/]	405[3/]	292	277	308	329	329	344	312
Proban[1/]	386	399	349[2/]	341[3/]	296	296	317	320	336	336	319
Amount offered.	500	500	500	500	300	300	350	350	350	350	350

1/ Three males and three females per group. (The two pups in each group are not included because they were not fed ad lib.)

2/ Significantly different at the .06 level of probability.

3/ Significantly different at the .02 level of probability.

After the 3d week of medication the basic ration was altered, and the daily amount fed to adult dogs was reduced from 500 g/day to 300 g/day. By decreasing the amount of feed offered from 500 g to 300 g per day (which was less than the average consumption of the Proban-treated group) during the 4th and 5th weeks of treatment and then increasing the amount offered to 350 g during the 6th through 10th treatment week, Cyanamid negated any conclusions that could be made concerning body weights and feed consumption after the 3d treatment week. Moreover, reducing the amount of feed offered eliminated for all practical purposes the probability of demonstrating a statistically significant difference in feed intake after 10 weeks between the control and treated groups, although the following chart showing the feed consumption of each dog demonstrates more of a difference between control dogs and dogs on drug than the preceding chart showing average consumption:

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Daily feed consumption in grams	Week of treatment				
	6	7	8	9	10
Control 1/					
M	342	350	350	350	350
M	291	297	301	330	242
M	342	350	350	350	350
F	342	350	350	350	350
F	342	350	350	350	350
F	187	276	274	333	228
Proban 1/					
M	307	350	350	350	350
M	342	340	344	334	350
M	342	325	337	350	344
F	342	298	350	350	324
F	289	304	338	326	316
F	281	305	295	306	231
Amount offered	350	350	350	350	350

1/ Three males and three females in each group. (The two pups in each group are not included because they were fed ad lib)

The only reason given by Cyanamid in the supplemental NADA was "irregular daily feed consumption," but this is not supported by analysis of the daily feed intake data. The standard deviations of the daily feed intake were not significantly greater during the first 3 treatment weeks than during the pretreatment week. Therefore, the Commissioner cannot conclude that the feed intake was irregular and that the amount offered should have been reduced.

The only valid conclusion concerning feed intake and body weights that can be made from this study is that after 3 weeks of treatment with Proban feed intake was significantly ($p<0.02$) depressed when compared to control treatment, a clear sign of intoxication and potential for harm.

Finally, the Wang and Colavita study did not include any monitoring of clinical laboratory pathology including cholinesterase value measurements. The Commission reemphasizes the Director's conclusion that monitoring of clinical laboratory pathology is essential, and that cholinesterase determinations are an important diagnostic aid in determining if an animal has experienced harmful exposure to organophosphate compounds.

Cyanamid has not disputed two material facts associated with the study. First, although it contends that food consumption was not the primary parameter of the study, the sponsor does not dispute the relevancy of food consumption and body weight. Indeed, its decision to record data on these parameters is an admission of their relevance. Nor did the sponsor dispute the Director's observation that food consumption was lower in the early weeks of the study for the medicated group. Second, the sponsor does not address the implication of the quantitative change in the diet for the reliability of the results with respect to food consumption and body weight, and that this quantitative change invalidates the usefulness of the study in showing that Proban has no effect on body weight and food consumption. Based on the foregoing analysis of the short-term toxicity tests, the Commissioner concludes that there are no material issues of fact in dispute. The manner in which the studies were conducted raised questions about Proban's toxicity and potential for harm for which no evidence has been submitted to resolve. Therefore, the Commissioner concludes in accordance with section 512(d) (1) (B) and (2)(B) of the act that the studies do not show that Proban is safe for OTC use.

3. *Long-term studies in the test species.* Chronic toxicity studies are necessary to evaluate the test animals' long-term exposure or response to a drug. This is especially necessary for a drug such as Proban that may be used continuously in some parts of the country. Chronic toxicity studies in the target species evaluate the potential for toxicity and other adverse reactions in the target species and its offspring. They seek to resolve questions such as drug interactions, teratogenicity, sterility, geriatric complications, and other issues that may be associated with the long-term use.

In the notice, the Director concluded that Cyanamid had failed to submit a chronic toxicity study of sufficient duration using Proban in the target animal or in any other test animals that have been shown to be appropriate. The Director concluded, in the absence of these data for Proban, that Cyanamid failed to submit evidence by all reasonably applicable tests to demonstrate that Proban is safe for OTC use in dogs as required by section 512(d)(1)(A) of the act.

In its request, Cyanamid states that "FDA, to our knowledge, has never required long-term studies for companion animals"; that "long-term studies are only used to assess the potential toxicity of drugs or their metabolites to human consumers"; and that "their usefulness in household pets has never been clearly established." (Req. at 42–43.)

Under section 512(d)(1)(A) of the act, Cyanamid must demonstrate Proban's safety by adequate tests by all methods reasonably applicable regardless of the species for which the drug is targeted; moreover, the duration of such studies is dependent upon conditions prescribed, recommended, or suggested in the proposed labeling. Proban is proposed for control of fleas on dogs, without a specific duration of therapy. The etiology of flea infestation in dogs indicates that long-term use of the drug may result. In this case, the OTC use of Proban may be cyclical, or it may occur year-round depending on the locale. For example, a clinician in Hialeah, Fla., who participated in the field trials which Cyanamid submitted in support of its original application, wrote: "• • • our problem is year round • • •" Given these possible conditions of use, the Commissioner concludes that the request for long-term studies is not just reasonable, but is clearly necessary. Further, wherever proposed conditions of use for new animal drugs indicate the necessity for conducting long-term studies to confirm safety and/or effectiveness, such studies are, in fact, presently being required by BVM. While the company's request has asserted that long-term studies are not required for determining whether Proban is safe for OTC use, this assertion is not supported by statements contained in any of the affidavits of its experts.

Cyanamid also contends that the Director, by recommending studies that are at least twice the duration of the intended use, would require that studies run at least two lifetimes. (Req. at 44.) Cyanamid contends that the study it submitted, being 6 months in length, was long enough. In the absence of a specific limitation on the period of Proban's proposed use, the Commissioner concludes a study that is at least 2 years in length would be necessary to determine whether or not Proban is safe for OTC use. Cyanamid has failed to provide data from a study of this minimum acceptable length.

Esposito, Hutchinson, Logan, Morell, Paquette, Ribelin, Stewart, and Woolston Study. Twenty dogs were divided into four treatment groups and a negative control group, and each treatment group received cythioate in 250 grams of dry dog food per day for 6 months.

The Director concluded that the study not only failed to demonstrate that Proban is safe for OTC use in dogs, but it also demonstrated that the cythioate exhibits a clear potential for harm unless used under the supervision of a veterinarian.

In responding to the notice, Cyanamid disputed the Director's conclusions as to the use of unformulated cythioate, the frequency of administration, and the occurrence and significance of clinical observations and laboratory measurements at various levels of administration.

The request implies that the fact that this study was conducted with unformulated cythioate, not the finally proposed formulation of Proban, makes no difference (Req. at 46), and elsewhere, Cyanamid maintains that the so-called diluents used in the preparation of the commercial form would have not influence on the results. The Commissioner again notes that this argument is directly contradicted by information in the Series I field trials, where refusal of treated food or vomition prompted the sponsor to change inactive ingredients in the product's formulation. This is a demonstration that diluents, carriers, excipients, etc., can and do make a distinct difference in the product's safety; Cyanamid has submitted no evidence to rebut this fact.

As for the significance of frequency of administration, Cyanamid contends that "'daily dietary administration' for an extended period of time is 'more vigorous' than that which would occur upon the normal recommended application.'" (Req. at 46 citing Affidavit of Dr. Williams.) However, Cyanamid has submitted no evidence to substantiate this broad generalization. The study submitted by Cyanamid incorporates both lower and higher dose levels and more frequent administration than the proposed conditions of Proban's use. There is no basis from this study to contravene the fundamental principle that the toxicity is correlated as much with frequency of administration as with dose level.

The request for hearing also discusses the relationship between frequency of dosing and cholinesterase activity: "Since the dosing pattern on the proposed level for Proban recommends 2 doses per week, the time between doses would allow time for these cholinesterase activity effects to reverse themselves • • •." (Req. at 49.) No data are provided to support this statement, however. No studies submitted by Cyanamid demonstrate the existence of a 3-day reversal pattern. To the contrary, the only information concerning reversal trends was acquired 2 weeks post treatment, not 3 days. In this instance, animals previously fed 30 ppm (1 mg cythioate/kg/day) showed a minimal mean increase of 2.5 percent for erythrocyte and an average increase of 16 percent for plasma cholinesterase activity during the 2-week interval. This clearly demonstrates that the animals did not revert to their pretreatment cholinesterase levels.

As for the effects of cythioate at the various dosage levels, the request for hearing states that after the dosage in the highest dosed group was lowered from 300 ppm (10.7 mg/kg daily) to 200 ppm (6.5 mg/kg daily), "very few, if any, adverse effects were observed." (Req. at 46.) That position is contradicted in the very next paragraph: "It is true that a few adverse effects were seen at the highest dosage given. However, this is to be expected • • •." The Commissioner concludes that the adverse effects shown were neither few nor demonstrated to be insignificant. All dogs at this treatment level exhibited frequent muscular tremors and renal microcalculi, and all males had low testes weights. The request for hearing states that there was no adverse effect on organ weight. (Req. at 47.) However, Report No. 65–43 (p. 126), prepared by the sponsor, states the following under Organ Weight at Autopsy: "No statistical evaluation was undertaken because of the small number of observations. The 2 high level males had relatively low testes weights, • • •" Further, both the erythrocyte and plasma cholinesterase activities were markedly and rapidly inhibited after 1 week of feeding, and they remained at low levels throughout the treatment period. Compared with the pretreatment levels, the dogs retained, on the average, only 5 percent of the erythrocyte cholinesterase activity; therefore, there was a 95 percent reduction in erythrocyte cholinesterase activity.

Indications of this kind demonstrate that the control mechanisms of the body are being altered by the drug, and a distinct potential for harm from the drug exists. Interpreting the data in the light most favorable to Cyanamid cannot lead to the conclusion that the drug is safe, in view of the small number of animals involved. The adverse reactions observed, therefore, raise serious questions that cannot be answered by the study because the design is defective.

The request for hearing states that no effects from use of the drug were noted "at the lower levels," those below 200 ppm (6.5 mg/kg/day) (Req. at 46), but this statement is incorrect. At the 45 ppm level (1.5 mg/kg daily), a lowering of the erythrocyte cholinesterase activity was detected after only 3 weeks. The plasma cholinesterase activity was reduced after 3 weeks and became progressively more so. Moreover, there was renal collecting tubule lipidosis in 1 of 4 animals treated, focal engorgement of the spleen in 2 of 4 animals treated, and elevation of the plasma alkaline phosphatase in 1 of 4 animals studied at this (45 ppm) level. There were also statistically significant decreases in hematocrit and hemoglobin values. Although no pretreatment control brain tissue was assayed, at 31 weeks of treatment the sponsor calculated that the brain tissue had less than 50 percent of normal brain cholinesterase activity. The significance of these observations is emphasized by the fact that a single dose at 45 ppm is less than ½ the single dose recommended on the labeling; 3 consecutive days at this level is only 1.26× dosage.

Cyanamid suggests that the notice contained no discussion of the two lowest dosed groups of dogs (15 and 30 ppm, 0.5 mg/kg and 1.0 mg/kg) because there was a "total lack of any evidence of toxicity ever being observed in either group throughout the entire 6 months of the study. Other than a very slight drop in blood cholinesterase levels, no other effect was seen." (Req. at 52.) Again, these statements are incorrect. After 5 weeks of treatment at the lowest dosage level (15 ppm, which is 0.5 mg/kg/day and well below the proposed labeling dosage), 1 male had 26 percent reduction in erythrocyte cholinesterase activity and 34 percent reduction in plasma cholinesterase activity. Thus, the phrase "very slight" is not adequate to characterize or provide an accurate description of the decreases in blood cholinesterase levels. Furthermore, there was an indication that a trend of declining enzyme activities developed at the 15 ppm level, and persisted during the remainder of the treatment period. Also, all treated groups, including those at 15 and 30 ppm, experienced a higher incidence of diarrhea than the controls; diarrhea is one of the clinical signs of systemic toxicity of organophosphate compounds.

The request for hearing contends that the Director "makes several observations which are without any scientific basis," referring to data regarding focal enlargement of the spleen, plasma alkaline phosphatase levels, and hematocrit and hemoglobin values. (Req. at 49–50.) Cyanamid attributes the findings of focal enlargement of the spleen in the two animals receiving 45 ppm dose (3 day cumulative 1.26 × labeling dosage) to "incomplete exsanguination" and unequivocally states they were "not significant."

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There are, in fact, disease states which can cause splenic congestion, and one cause of local stasis in dogs is toxemic diseases. Circulatory disturbances, including congestion of the spleen, are important, frequently encountered phenomena which result from restricted venous outflow from the speed. One cause of this condition is paralysis of the splanchnic nerve. Organophosphates (including cythioate) characteristically affect the functioning of the nervous system. The Commissioner concludes that the enlargement of the spleen could well have been caused by the use of Proban.

In the notice of opportunity for hearing, the Director stated that "elevation of the plasma alkaline phosphatase occurred in one of two animals treated" at 45 ppm. Cyanamid contends these numbers are in error and further that the elevated value means nothing. (Req. at 50.) The notice referred to a specific segment of the population tested, i.e., one of two females treated at 45 ppm. As discussed above, results of this kind raise serious questions about the safety of the drug for OTC use, questions that are not resolved by the study because the small number of animals does not permit statistical analysis as to the significance of the findings.

The request for hearing also attempts to generate a factual issue from the following statement of the Director: "There were also significant decreases in the hematocrit and hemoglobin values." (Req. at 51.) However, the statement is factually correct. It is taken directly from the chart appearing on page 215 of Report No. 65–43, dated May 6, 1965. In that chart, an asterisk appears by any group which revealed a "statistically significant difference from mean of control group." Asterisks appear next to the hematocrit and hemoglobin values obtained from the group receiving 15 and 200 ppm level of the drug. Thus, by the sponsor's own accounting, statistically significant differences in hematocrit and hemoglobin values occurred in 2 out of 4 treated groups. The Commissioner concludes that this finding supports the conclusion that the drug has not been shown to be safe.

Next, Cyanamid disputes the Director's statements and conclusions with respect to cholinesterase values. In discussing the significance of the effect on cholinesterase levels in this study, the request for hearing contains self-contradictory statements. For example, Cyanamid states that the purpose of this study at the 3 lower doses was to determine the highest level which would not severely inhibit blood or brain cholinesterase activity. (Req. at 45.) This statement demonstrates that the sponsor considered cholinesterase determinations to be useful in evaluating the toxicity of cythioate. However, several attempts are made elsewhere in the request for hearing to discredit the validity of cholinesterase determinations as a means of identifying and estimating the impact of exposure to cythioate. For instance, earlier in the request (Req. at 26), Cyanamid noted "the blood cholinesterase values as sought by the Director would have very little, if any, usefulness in determining whether Proban is safe enough for OTC use." The Commissioner reiterates his support of the statment in the notice that cholinesterase values are an important aid in determining if an animal has experience exposure to a cholinesterase inhibitor.

By affidavit of Dr. Harr, Cyanamid contends "it is well recognized that cholinesterase depression has to be extensive before symptoms of toxicity appear." (Req. at 48.) But Cyanamid does not dispute the fact that these decreases occurred; in an attempt to minimize the changes that did occur, Cyanamid discusses only selected portions of the data. For example, at page 48 of the request, Dr. Williams' Affidavit is quoted as stating, "Erythrocyte and plasma cholinesterase determinations showed no changes from pretreatment values until the fifth week of daily Proban administration at the 15 and 30 ppm levels." However, Dr. Williams failed to mention that a trend of declining cholinesterase enzyme activities developed at the lowest treatment level (15 ppm), which persisted during the remainder of the treatment period. The reduction in erythrocyte cholinesterase levels for the 30 ppm group also continued throughout the feeding period. In analyzing these data, it is also important to note that both the 15 and 30 ppm single dose levels are below the proposed labeling dose.

Finally, Cyanamid attempts to avoid the salient issues related to the determination of brain tissue cholinesterase values, which are a significant indicator of organophosphate toxicity. Although the notice cited the sponsor's calculation that the brain tissue had less than 50 percent of normal brain cholinesterase activity, the study apparently had no control values, i.e., no values were provided as a point of reference for a comparison with the brain cholinesterase values obtained from treated animals. The request for hearing refers to the Director's statement that "no pretreatment brain tissue was assayed" as "incomprehensible" and further alleges "no standard procedure would recommend skull trephining and a brain biopsy for cholinesterase determinations." (Req. at 49.) But this response misses the point of the statement. The Director obviously did not recommend skull trephining and brain biopsy for cholinesterase determination on the test animals that were to receive the active drug. He simply stated that the sponsor should have established standards or mean reference values by obtaining these values from a portion of the control animals, or from other animals, prior to conducting the study.

From this comprehensive review, it is apparent that no genuine issue of material fact exists about this study. When the evidence is given the interpretation most favorable to Cyanamid, the Commissioner must conclude that Cyanamid has failed to submit the long-term tests that are reasonably applicable to show that Proban will be safe for OTC use in dogs. The study submitted has patently failed to show that Propan is safe for any potentially long-term OTC use. Actually, it raises strong indications of toxicity that Cyanamid has not rebutted and supports the finding that Proban's use requires the direction of a veterinarian. In addition, Cyanamid has failed to demonstrate the adequacy or applicability of this study to prove that Proban is safe for OTC use. In the absence of a long-term study, the sponsor has attempted to rebut the agency's authority to require such a study without providing any alternative contravening scientific evidence. For these two reasons, the Commissioner once again concludes that Proban has not been shown to be safe for OTC use.

4. *Clinical reports*—a. *First Series.*—In the notice, the Director severely criticized reports that were received from 40 of 82 veterinarians who, beginning in the fall of 1963, were sent a cythioate product for evaluation. The recommended dose was 0.72 mg/lb (1.58 mg of cythioate/kg of body weight) every 3 days for 1 to 32 weeks, which is approximately ½ of the dose now proposed for OTC use.

Cyanamid submitted no evidence to explain and resolve the articulated deficiencies with the clinical trial observations; moreover, the affidavits of its experts admit the studies are inadequate. Consequently, the firm attacks the numbers cited in the notice in an attempt to imply that a factual, albeit a transparent dispute, exists. Cyanamid in effect disputes the total number of dogs the Director contended were treated with ½ strength version of Proban, contending that 251 were actually treated. Then it attacks the calculated adverse reaction rates. (Req. at 53.)

The Director's calculation of the number of dogs administered the drug was derived from the Proban NADA file. The jacket contains three separate documents citing the total number of animals for which reports on the animals treated were received. All were prepared by the sponsor, and all cite the same number, 210, as the number of viable case reports from the clinical use of cythioate liquid in dogs in the tested formulation which, of course, is not Proban.

Dr. Robert L. Burkhart, an employee of the sponsor, prepared a "Summary of the Field Evaluation" which lists 210 usable case reports on dogs. The Summary Sheet (Table E–1 in that submission) of field reports prepared and submitted by the sponsor also lists 210 dogs receiving a liquid form of cythioate. Finally, Tables E–2, 3, 4 and 5 in that submission provide individual documentation of the cases received from the reporting veterinarians in their clinical trials. Again, these tables list the number of viable case reports at 210. The Director's intensive review of the data gleaned a report of three additional cases from another veterinarian (Dr. McClumpha) in which treated dogs exhibited toxic signs. These were excluded from the aforementioned analysis. The exclusion of these three reports of toxicity is unjustified in an evaluation of the drug's safety, particularly because the investigator, in a letter to the sponsor, expressly cited this ½ strength form of

Proban as the source of toxicity and terminated its administration.

To reach the figure asserted in the request for hearing (251 case reports), the sponsor has relied on case reports that the sponsor previously considered unusable or that were found in another NADA which covered cythioate tablets, a different dosage form. The additional case reports were gathered from a source that suffers from the same deficiencies as the series of clinical trials now under discussion. Moreover, the sponsor submitted no basis for comparing the responses seen from the animals given the tablets with the response from animals given the liquid form or with the actual drug product in question, Proban.

The sponsor next asserts that the Director improperly calculated the adverse reaction rates. The sponsor contends that 13, not 14, adverse reactions were reported in the study. The Commissioner, however, notes that 11 adverse reactions were listed in the sponsor's summaries of this study; those 11, plus the three adverse reactions that were inappropriately excluded, makes a total of 14. Accordingly, the Commissioner agrees with the Director that the observed adverse reaction rate is at least 14/213 (6.57 percent).

The request maintains that the reported toxic reactions were all "rated as light" and "none was adjudged of any higher degree of harm." (Req. at 56, 88.) This is an inaccurate characterization of the data. For example, in all three cases received from one clinician, Dr. McClumpha, the adverse reactions were so pronounced that use of the drug was discontinued. Another clinician, Dr. Thompson, reported the occurrence of ataxia severe enough to require a 3- to 4-week recovery period.

Finally, the sponsor alleges that the Director lumped the true toxic reactions with groups of dogs that refused feed merely in an attempt to raise the toxicity percentage. (Req. at 53.) The sponsor's original summaries of this study, however, listed failure to consume the feed as an observation to the test product. Although the sponsor now offers post-hoc rationalizations for the failure to consume food, the undisputed fact remains that several reporting veterinarians were sufficiently alarmed to report this and attributed this reaction to use of the cythioate product that is only ½ the strength of Proban. Moreover, several of the studies conducted by Cyanamid used feed consumption as a parameter for measuring toxicity. Given the flawed nature by which the sponsor has gathered the data, the Commissioner must conclude that the study demonstrates cythioate's potential for harm even when the evidence is viewed most favorably to the sponsor. The tested product was ½ the strength of Proban, and the sponsor has presented no evidence to demonstrate a mechanism for favorably extrapolating data between products of different strengths. On the basis of the reported results, cythioate exhibits a distinct potential for harm, and the Commissioner concludes that this clinical trial has clearly demonstrated Proban's potential for harm.

b. *Second series.* In 1966, FDA received clinical reports by veterinarians on Proban's use from another series of observations that were reviewed by the Director. Again, Cyanamid submitted no evidence to remedy the inadequacies that were cited by the Director in his notice about the manner in which the information was collected. Instead, Cyanamid has merely disputed the numbers of reported adverse reactions reported. The sponsor now contends that 152 dogs were treated. (Req. at 55.) As the Director noted, three dosage forms of cythioate were used in the study, and only one was the drug product in question. Cyanamid provides no basis for its revised number, but the Commissioner notes that the NADA contains duplicates on one case report form in the file concerning eight dogs, which would account for the discrepancy. Furthermore, only 46 case reports were received on dogs given liquid Proban.

Also, Cyanamid contends that vomiting is not a per se sign of drug toxicity (Req. at 56); however, Dr. Harr's affidavit (Exhibit 16) refers to anorexia and vomiting as a characteristic of Proban intoxication. Moreover, he later refers to the tendency of vomiting and anorexia to limit food intake.

The Commissioner concludes this study raises serious questions about Proban's toxicity and demonstrates its potentiality for harm that requires its used only on the order of a veterinarian.

5. *Tests in other species.* Tests of the drug in nontarget species animals produce indirect safety evidence, and Cyanamid submitted studies with cats, kittens, rabbits, and rats in support of its application. The Director analyzed each study in detail, concluding that they provide further evidence of Proban's lethal nature and potential for harm, and further evidence that Proban has not been shown to be safe for OTC use in dogs.

Sass, Burkhart and Colavita short-term toxicity study in cats; Grosse and Rohrbacher Study No. 3 (kittens). The Director concluded that the number of animals in the study by Sass, et al., was too small to permit definite conclusions about the drug's safety; that no control animals were used; and that clinical signs of toxicity may have been demonstrated. He reported that the Grosse and Rohrbacher Study No. 3 involved lethal effects; that the data were scant and anomalous; that no explanation was provided for failure to submit data on some of the test animals; and that the study did not utilize control animals or the final Proban formulation.

Cyanamid did not dispute any of the Director's conclusions as to deficiencies in study design and data reporting. Instead, the sponsor attempts to minimize the significance of the clinical signs that were observed in the studies, studies that the sponsor apparently considers acute toxicity studies. (Req. at 58–59.)

The request states that the data from these studies show that the drug "may be somewhat toxic in cats when administered at the enormously high doses given in Phase I of the first study (ranging from 25X on up) • • •" (Req. at 58.) This understates the toxic reactions caused by cythioate in the Phase I Sass, Burkhart and Colavita study because all treated cats died after five doses or less. Cyanamid refers to doses "ranging from 25X on up," apparently with the intent to extrapolate from the proposed recommended canine dosage. If this were the intent, the lowest single dose used in Phase I portion of the study represented 16.6X the single proposed dose in dogs, not 25X as stated in the request for hearing. More significantly, the sponsor neither provides nor offers to provide data to support the validity of extrapolation to the lower doses or from cats to dogs. Accordingly, there can be no substantial factual issue as to the validity of such extrapolation.

The request also states that "when the dose more nearly approximates the recommended level, very few, if any, toxic effects can be seen." (Req. at 58.) The two lowest levels tested in the Sass, Burkhart, and Colavita study were 12.5 and 6.25 mg/lb of body weight (4.1X proposed single dose for dogs) twice weekly for 12 weeks. At both of these dosage levels, the average daily feed consumption decreased, and the animals became more docile. On this basis, the Commissioner agrees with the Director's conclusion that these may be clinical signs of cythioate toxicity.

In summary, the Commissioner concludes that there can be no genuine issue for hearing as to the sponsor's contention that the cat and kitten studies show that Proban is safe for OTC use in dogs, since Cyanamid did not dispute the Director's conclusions regarding the inadequacies of the study design and data submission. Moreover, despite the deficiencies in the studies, a potential for harm was identified, and the studies thus fail to demonstrate that Proban is safe for OTC use in dogs.

Rabbit study. The Director concluded that this study was deficient because it did not involve the final dosage form, the mechanism of administration for which OTC use of the drug has been requested, or control animals. He also noted that the rating system was subjective, but that the study shows that cythioate is potentially toxic when administered topically to rabbits.

In its response, Cyanamid disputes several facts about the doses given by quoting Dr. Williams who stated: "[t]he actual facts are that the 10 rabbits received 5 ml/kg • • • or approximately 75 mg/kg. Each ml of the Proban formulation contains 15 mg. of compound." (Req. at 59.) But both calculations were incorrect. The study was actually not conducted with the currently proposed Proban formulation (15 mg/ml) which would correspond to 75 mg of cythioate/kg. The formulation used provides only approximately half that amount, or 36 mg/kg (7.2 mg/ml).

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The request for hearing states "there were no signs of intoxication, no skin irritation, and no mortalities." (Id.) Again, this is also incorrect since the highest dermal dose was reported to be "slightly toxic" by the investigator. The request for hearing states that "* * * the eye irritation tests revealed no irritant effects on the cornea, iria, or conjunctivae in 72 hours * * *" (Id.) Although this is true, the higher dosage produced graded conjunctivae reactions of 3.3 at 24 hours and 0.65 at 48 hours, which indicates irritation. Further, the request for hearing states that the notice "seemingly juxtaposed the Draize skin irritant scores and the eye irritant scores." (Req. at 60.) This observation is incorrect, but if the observation were true it still would have no practical significance.

Cyanamid's contention that the Director must provide a "larger explanation" if he wishes to criticize "this very well-accepted (Draize) test" (Req. at 60) obscures the basic issue. The director did not intend to criticize the Draize test. He intended to, and did, (1) state the factual conditions related to the conduct and results of this study, and (2) point out the limited relevancy of dermal/ophthalmic rabbit studies to a determination of safety of oral application in another species, dogs. Cyanamid provided no evidence to prove the relevancy, and the Commisioner accordingly concludes that the study fails to demonstrate the safety of Proban for oral OTC use in dogs.

Studies in rats. The Director concluded that these studies provide still more evidence of Proban's lethal nature and potential for harm.

Cyanamid's response stated that the Director's analysis of the rat study was erroneous because he misread the data. (Req. at 61.) The sponsor quoted from the affidavit of Dr. Williams, who concluded that the technical product, with an LD_{50} of 160 mg/kg "can be considered a compound of low toxicity." (Req. at 62.)

The following are the correct data on the rat studies: In 4 single oral dosage studies, cythioate was administered to a total of 119 male rats. Groups ranging from 5 to 10 rats received 1 of the following dosages:

(a) 50, 100, 200, and 400 mg/kg of the technical material—Report 64–116;

(b) 625 (not 650 as stated in the notice), 1250, 2500, and 5000 mg/kg of Proban tablets (30 mg)—Report A–74–26;

(c) 1.25, 2.5, 5, 10, and 20 ml/kg (not mg/kg as stated in the notice) of Proban cythioate oral liquid 1.6 percent—Report A–74–26;

(d) 5 ml/kg (not mg/kg as stated in the notice) of CL 26,691 (cythioate) 0.72 percent w/v, Diethyl succinate 6.25 percent, v/v, corn oil q.s. ad 100—Report 64–117.

Thus, the request confuses the formulation used in Report 64–117 with the currently proposed OTC Proban formulation. The alternate formulation used in that study was not the currently proposed Proban formulation; it was ½ strength, or 36 mg cythioate/5 ml. (7.2 mg/ml). Nevertheless, these disputes concern minor facts. Cyanamid does not dispute the observed reactions, and it submitted no evidence to translate the results of the rat studies into evidence showing Proban is safe for OTC use in dogs.

6. *Drug experience reports.* No adverse drug reactions concerning the use of Proban have been reported to the Food and Drug Administration since the NADA was initially approved, but the firm submitted drug experience reports from Australia for cythioate from 1973 and 1974 where the drug is sold by OTC and on a veterinarian's prescription. The Director outlined the basis for his conclusions that these reports failed to show Proban is safe for OTC use.

To rebut this, Cyanamid offers the affidavit of Dr. Black (Exhibit 15). In effect, he argues that the failure to observe and report the adverse reactions in the field demonstrates that Proban is safe for OTC use. Dr. Black agrees that the experimental data are inadequate in terms of numbers, etc. (Affidavits at 1); in his opinion, "the results of its use in the field are a far more accurate index of a drug's safety than laboratory toxicity tests." Since there have been no intoxication reports on Proban use in the United States, Dr. Black believes this dearth of information demonstrates the drug's safety.

Based on the available direct safety evidence, the Commissioner agrees with the Director and must reject Dr. Black's assertion. First, Proban's sales have decreased 85 percent during the past 7 years. The firm attributes this decrease to its not actively promoting Proban during this time. Nonetheless, this decrease reduces the likelihood that adverse reactions will occur and be reported. Next, Dr. Black agrees that adverse reactions have been demonstrated in the clinical tests. The Commissioner agrees with the Director that the nature of many of these adverse reactions is such that they are difficult for the untrained to recognize and associate with Proban use because the adverse reactions are subtle and may lead to severe consequences at a later time. Thus, reliance on warning statements alone concerning potential hazards which appear on "tear-off" or any other labeling for Proban is inadequate. While the layman may be able to recognize such as vomition, he may not attribute those signs to Proban intoxication which may ultimately lead to the animal's death. From the preclinical and clinical evidence, Proban's potentiality for harm is apparent. Finally, the drug has been used under the supervision of a licensed veterinarian in the U.S. for 9 years. The sponsor has not submitted any evidence to demonstrate how the mere failure to observe and report adverse reactions when the drug is used under a veterinarian's supervision overrides the fact that the clinical trials show the drug has a potentiality for harm. The evidence from the field trials of Proban, discussed above, demonstrates an adverse reaction rate of at least 6 to 10 percent. In light of this evidence and the data from direct safety studies, the Commissioner must conclude no material issue of fact has been raised about the absence of adverse reaction reports as it relates to showing Proban's safety for OTC use.

Although inadvertently referred to as Proban in both the request for hearing (Req. at 65–66) and the notice, the drug marketed OTC in Australia is Cyflee, brand of cythioate. Contrary to the implications made in the request for hearing (Req. at 66), the concentration and dosage directions for Cyflee and Proban are not identical. These differences are significant as set forth below. Proban is 1.6% w/w cythioate and is recommended for use at 1 ml/10 lb. of body weight every 3d day or twice a week, with no restrictions on duration of administration. On the other hand, Cyflee is 1.0% w/v cythioate, and the label directions recommend use at 1 ml/11 lb. body weight twice a week for 4 weeks and every other week thereafter. Cyflee is clearly a different and more dilute formulation than that proposed for marketing Proban OTC. Thus, during a 4-week period of administration, a dog given Proban at the highest recommended dosage would receive at least 65 percent more cythioate than a dog given Cyflee. After the 4th week, the difference would be much greater.

At best, drug experience reports imply that the restricted use of Proban in the United States contributes to the absence of adverse drug reactions. Based on the total number of cythioate doses sold, Cyanamid alleges that the true adverse reaction rate in Australia is less than 0.006 percent. This method of calculating adverse reaction rates is scientifically invalid because the Commissioner does not know to what extent adverse reactions occur and go unreported. Nor is there any certainty that doses sold are equivalent to doses administered. The Australian experience does demonstrate that adverse reactions do occur with cythioate use and are sufficient to cause users to seek relief.

In his affidavit, Dr. Black asserts that the extensive experience obtained with the use of cythioate in the USA and Australia over the past several years represent the real test of this drug's safety, but he again fails to address the flaws in these reports as specified by the Director. Moreover, the only OTC use experience is that with Cyflee in Australia which involved a product that differs significantly from Proban in concentration, dose levels, and duration of administration. Cyanamid has submitted no basis by which a valid comparison can be made between the Cyflee and Proban experiences. Thus, the Commissioner concludes that there is no substantial factual issue for resolution because Cyanamid has failed to demonstrate how

such field experience is adequate to show the safety of Proban for OTC use.

E. Other Safety Considerations

1. *Enhancement of toxicity by other drugs.* The Director outlined his concerns of this issue in the notice. Briefly, organophosphates are used widely in the environment as pesticides and in flea collars, and the toxicity of these compounds is likely to be enhanced when more than one is administered as demonstrated by the McNerney study and documented in the literature. Further, adverse reactions have been reported to EPA on organophosphate toxicity associated with flea collars (Refs. 4, 5 and 6 of November 19, 1976 notice), and Cyanamid concedes the potential for enhanced Proban toxicity because the labeling warns against the concurrent use of the drug with insecticides, pesticides, and wormers (some of which have neurological effects).

Cyanamid, however, argues that both the flea collar and Proban labeling contain warnings against concurrent use. Accordingly, it contends any adverse reactions would first require laymen to ignore the label warnings of both products. (Req. at 67–68.) To support this thesis, it has supplied the affidavit of Dr. Harr (Exhibit 16), who suggests that Proban may be safely used since the sponsor can package the drug in child-proof containers. Furthermore, Cyanamid argues that Proban is less toxic than flea collars. (Req. at 68.) For flea collars, the most frequently reported adverse reactions are dermatitis-like. Because Proban is taken internally, Cyanamid contends that the adverse reactions that will occur are less significant. In addition Cyanamid alleges that FDA is perpetuating the flea collar monopoly. (Req. at 69.)

Organophosphates are ubiquitous, appearing not only in flea collars but in other forms of pesticides. Cyanamid has totally ignored this latter source of potentiality for harm to the animal. Interactions with pesticides are of particular concern with respect to Proban, whose potential for harmful effect has been observed in animal tests despite the serious deficiencies in the studies. Again, the Commissioner notes that the layman may not attribute adverse reactions to Proban intoxication which may ultimately lead to the animal's death. Moreover, the proposition that laymen can deal with Proban-pesticide interactions is unrealistic. Cyanamid has submitted no evidence to show that laymen can deal with such interactions.

The Commissioner agrees that child-proof containers may provide an additional measure of safety for humans, but the crucial issue in this matter is whether Proban has been shown to be safe for OTC use in dogs. It should be noted that Cyanamid has had the opportunity to package the prescription drug in child-proof containers for several years. The Commissioner agrees that packaging the drug in a child-proof container may reduce the danger to man and suggests that Proban be packaged in this manner. The regulation of this area is vested with the Consumer Product Safety Commission under the provisions of 15 U.S.C. 2079 (Supp. II, 1972). This packaging, however, is irrelevant to the toxicity and potential for harmful effects to animals. Cyanamid has proffered no factual analysis of data it is prepared to prove contradicting the Director's charges. Accordingly, the Commissioner concludes Cyanamid has failed to demonstrate Proban's safety under OTC use.

2. *Restrictions required by stress to the animal.* In its request for hearing, Cyanamid has completely ignored the questions about the safe use of Proban during the dog's gestation (pregnancy). From the sparse numbers of animals treated, and the absence of controls, the Commissioner must conclude that additional evidence about the drug's safety to pregnant bitches is necessary before Proban can be shown to be safe for OTC use. No such evidence has been submitted. Rather, Cyanamid repeats the argument that EPA's approval of dog collars containing other organophosphates for OTC use requires FDA to approve Proban for OTC use, even in the absence of any evidence demonstrating the drug's safety for OTC use. (Req. at 70.) But there is no basis in science or law for such a conclusion.

3. *Potential for harm to humans.* Ignoring the concerns raised in the notice, Cyanamid argues that Proban's labeling is in accordance with 21 CFR 369.9, that the OTC labeling provides superior warning of the drug's potential for harm, and that the public receives more benefit from OTC use of the drug. (Req. at 70.) The sponsor, however, has overlooked one essential element. The act requires that it must submit evidence from adequate tests demonstrating the drug's safety for OTC use. The limited information available shows that the drug is toxic and has a potential for harmful effect. Cyanamid has submitted theories but no experimental evidence counter to the Director's assessment that younger animals are more susceptible to organophosphate toxicity. As a result of the data vacuum, the Commissioner agrees with the Director's assessment.

4. *Antidote.* The Commissioner agrees with Cyanamid that prescription status of an antidote does not per se require prescription status for a drug intended for OTC use. Limiting the distribution of Proban to a veterinarian's order facilitates communication of explicit warnings to the pet owner about the drug's toxicity and the need for its cautious use. Prescription status for the antidote, however, may not materially affect Proban's use. The antidote may be available or made readily available when necessary. The crucial issue is the ability to determine when the antidote is needed. Accordingly, the Commissioner agrees that prescription status of atropine alone is not a sufficient basis for refusing approval for OTC use.

F. Legal Issues

At various points in the request for hearing, Cyanamid has raised several legal issues. For the sake of clarity, the Commissioner has consolidated this discussion below.

1. *Authority to restrict the approved use of Proban to the order of a veterinarian.* On this issue, Cyanamid makes the argument that the Director of BVM has exceeded the authority granted under sections 502, 503, and 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352, 353, and 360b) by refusing to approve the Proban supplemental NADA for OTC use. First, Cyanamid contends that there is no provision of Federal law that provides for a veterinarian's "prescription" in which are included adequate directions for use. (Req. at 3.) Rather, it seems to allege that a veterinarian is a mere commercial conduit for the sale of animal drugs and does not need to establish a doctor-patient relationship to order use of a drug. The only constraints that are available to the Director on the use of veterinary drugs are labeling directions. "[T]here is little that FDA can do to impose any restriction on what a veterinarian can do. All that the labeling restriction requires is that he (the veterinarian) be the sole person to sell it or to order it for his customers." (Req. at 16.) Again, at page 17:

> The labeling restriction imposed by FDA is a labeling restriction on the sale or order of Proban. It nowhere mandates, nor does FDA have legal authority to mandate a physician-patient relationship between the veterinarian who sells Proban and the dog who ultimately receives it.

Citing *United States* v. *Cockerill*, 366 F. Supp. 856 (S.D. Ill., 1973), Cyanamid contends that only the States have the authority to regulate the practice of veterinary medicine. (Req. at 16.)

If, however, the Director has the authority to restrict the use of an animal drug to a veterinarian's order, Cyanamid argues that Proban may be used safely without the supervision of a veterinarian.

a. *Statutory authority under section 502(f)(1) of the act.* Prior to enactment of the Durham-Humphrey Amendment of 1951 (65 Stat. 648; 21 U.S.C. 353(b)), the Food and Drug Administration restricted the use of certain drugs in man and animals to the order of a physician under section 502(f)(1) of the act, which requires drug labeling to bear adequate directions for use, and an implementing exempting regulation (codified at 21 CFR 201.100 and 201.105). Under this approach, the labeling of certain drugs was required to contain the statement: "Caution—To be used only by or on the prescription of a physician." Because of the dangers incident to the use of these drugs, only this could constitute adequate directions for use; and the Supreme Court has recognized this mechanism for restricting the use of drugs. See *United States* v. *Sullivan*, 332 U.S. 689, 691 n.2 (1949).

Subsequently, in a case decided prior to enactment of the Durham-Humphrey Amendment of 1951, the Ninth Circuit directly affirmed FDA's statutory authority under section 502(f)(1) of the

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act and the companion implementing regulations to restrict the sale of a drug to the order of a licensed practitioner:

> A liberal interpretation of the Act, having in mind its background and purposes, requires us to sustain the action of the Administrator on the ground that he was empowered under the statute to exempt by regulation the drugs in question from the requirement that the label bear adequate instructions for use, conditioned upon its bearing an inscription that it be used only on the prescription of a physician. Under such construction, the regulation is not contrary to law, arbitrary, or unreasonable. (*United States* v. *El-O-Pathic Pharmacy*, 192 F.2d 62, 75 (C.A. 9, 1951)).

Moreover, that Congress intended for FDA to retain this authority to restrict the use of certain drugs to the use of a veterinarian's order under section 502(f)(1) of the act is explicitly documented in the legislative history of the Durham-Humphrey Amendment of 1951.

> In limiting prescription drugs to those intended for use by man this new subsection differs from the present law, which refers to prescription drugs to include not only those dispensed on prescription of physicians and dentists, but also those dispensed on prescription of a veterinarian. Under the committee bill, drugs intended for use under the supervision of a veterinarian will not require a prescription, although it will be possible under section 502(f) to exempt such drugs from adequate directions for use if they are to be used by or under the supervision of a veterinarian. In the absence of any exempting regulations, these drugs will be subject to the labeling and dispensing requirements of the act applicable to over-the-counter drugs. S. Rep. No. 946, 82d Cong., 1st Sess., p. 6 (1951).

The Food and Drug Administration has promulgated such an exempting regulation for veterinary drugs at 21 CFR 201.105; thus, the Commissioner concludes that both the legislative history and case law clearly demonstrate FDA's legal authority under section 502(f)(1) of the act to restrict the use of animal drugs to the order of a licensed veterinarian.

b. *Statutory authority under section 512 of the act.* Section 512 of the act (21 U.S.C. 360b) governs the safe and effective use of new animal drugs. Unlike section 505, which covers new human drugs, section 512(d)(2) specifically sets forth factors that are to be considered in determining whether a new animal drug will be safe under its proposed conditions of use. Among the enumerated factors are the following:

> (B) The cumulative effect on man or animal of such drug, taking into account any chemically or pharmacologically related substance. (C) safety factors which in the opinion of experts, qualified by scientific training and experience to evaluate the safety of such drugs, are appropriate for the use of animal experimentation data, and (D) *whether the conditions of use prescribed, recommended or suggested in the proposed labeling are reasonably certain to be followed in practice.* (Emphasis added.)

Additionally, section 512(l) of the act requires the Secretary to publish a notice of approval for a new animal drug application which, upon publication in the FEDERAL REGISTER, becomes effective as a regulation to provide public notice of the conditions for which the drug is approved. This section also identifies several factors that are to be addressed in the regulation which governs the use of an animal drug. Among them are the specific conditions of use under which the drug has been shown to be safe and effective, any other use restrictions, and such other information as the Secretary deems necessary to assure the safe and effective use of such drugs.

Thus, it is apparent from the plain language of the statute that the Director may restrict his approval of a new animal drug to the precise conditions for which it has been shown to be safe and effective, which may include appropriate restrictions on use.

Furthermore, FDA has primary jurisdiction (1) to determine whether an animal drug is new within the meaning of section 201(w) of the act, *Hyson, Westcott, & Dunning, Inc.* v. *Weinberger*, 412 U.S. 609 (1973); *United States* v. *Naremco, Inc.*, 553 F.2d 1138 (C.A. 9, 1977); *United States* v. *An Article of Drugs • • • "Entrol-C Medicated,"* 362 F. Supp. 424 (S.D. Cal., 1973), aff'd., 513 F.2d 1127 (C.A. 9, 1975); (2) to determine whether that drug has been shown to be safe and effective even under the restricted conditions of use of a veterinarian's order, *Diamond Laboratories, Inc.* v. *Richardson*, 452 F.2d 803 (C.A. 8, 1972); and (3) to restrict the use of a drug to only those conditions of use that have been shown to be safe and effective, *Agri-Tech, Inc.* v. *Richardson*, 482 F.2d 1148 (C.A. 8, 1973).

Finally, the regulations implementing section 512 of the act, 21 CFR 514.1(b)(8) and 514.111, set forth the requirements for evidence that must be submitted to demonstrate a drug is safe and effective for the proposed conditions of use. Accordingly, the Commissioner concludes the statute, case law, and regulations demonstrate that FDA may restrict the use of an animal drug to the order of a licensed veterinarian under section 512 of the act.

c. *FDA's authority to regulate the practice of veterinary medicine.* Cyanamid's reliance on the *Cockerill* case is misplaced in this administrative procedure for several reasons. First, Cockerill involved a criminal prosecution in a Federal district court. Next, FDA must operate on the premise of at least minimal competence and ethics on the part of the veterinary medical practitioner, and complementary State regulation of the field through licensing. But these factors are supplemented by the clear statutory procedure for regulating new animal drugs developed by Congress and recognized by the courts that authorizes FDA to protect the public by regulating labeling and restricting the distribution of these articles as discussed above in paragraph F. 1. See also *United States* v. *An Article of drug • • • Diso-Tate*, Civil No. 75–1790 (E.D. La., Sept. 28, 1976), CCH Food, Drug, and Cosmetic Law Reports ¶ 38,086. For these reasons, the Commissioner concludes that the argument based on Cockerill is both irrelevant and moot.

2. *Standards for determining that drugs must be restricted to the order of a veterinarian.* Cyanamid focused on two points in this area: The appropriateness of the standard set forth in 21 CFR 201.105 and the correct interpretation of the applicable case law.

a. *Scope of 21 CFR 201.105.* The only conceivable issue that Cyanamid can raise in this area is that FDA was arbitrary and capricious in establishing toxicity, potentiality for harmful effect, and method of the drug's administration as basic standards for determining whether an animal drug requires a veterinarian's order because these are similar to the standards for human drugs Congress adopted in the Durham-Humphrey Amendment of 1951. But this situation is analogous to that presented in *Pfizer, Inc.* v. *Richardson*, 434 F.2d 536 (C.A. 2, 1970), wherein Judge Friendly concluded that FDA could require adequate and well-controlled investigations as a prerequisite for permitting a hearing on the revocation of an antibiotic regulation under section 507 of the act (21 U.S.C. 357) despite the fact that Congress amended the act in 1962 to require adequate and well-controlled investigations for only new human drugs. See *American Cyanamid Co.* v. *Richardson*, 456 F.2d 509 (C.A. 1, 1971); *Upjohn Co.* v. *Finch*, 422 F.2d 944 (C.A. 6, 1970).

Congress has concluded that FDA can regulate prescription animal drugs on the basis of whether adequate directions for use can be written for the layperson and whether the drug has been shown to be safe for use by the layperson. Both the legislative history and case law demonstrate that the regulatory scheme established under 21 CFR 201.105 satisfies conditions raised by Congress during passage of the Durham-Humphrey Amendment of 1951. Moreover, FDA's authority to promulgate regulations defining or explaining the operative provisions of the act and applying the provisions to particular classes of products has subsequently been uniformly sustained by the courts. See, e.g., *Hynson, Westcott, & Dunning, Inc.* v. *Weinberger, supra; Federation of Homemakers* v. *Schmidt*, 539 F.2d 740 (C.A. D.C., 1976); *National Nutritional Foods Ass'n* v. *Weinberger*, 512 F.2d 688 (C.A. 2, 1975). The long-standing criteria are a reasonable exercise of the agency's authority to interpret the act. See *Udall* v. *Tallman*, 380 U.S. 1 (1965). For these reasons, the Commissioner concludes that toxicity, potentiality for harmful effect, and method of administration are appropriate standards for determining whether an animal drug may be used without a veterinarian's order.

b. *Case law.* For prescription animal drug status to be required, Cyanamid contends the agency must find more than "hypothetical problems" and "transitory side effects," citing *United States* v. *An Article of Drug • • • Decholin*, 264 F. Supp. 473 (E.D. Mich., 1967). Cyanamid also relies on *Decholin* for the proposition that the ordinary meaning of the word "safe" is that "the immaturity or stupidity of every potential user" need not be considered in assessing whether label directions and precautions are likely to be followed.

While the portions of the *Decholin* opinion relied upon by Cyanamid were accurately quoted, Cyanamid did not fully characterize the opinion as it relates to the issue of prescription-OTC status. Although *Decholin* provides some general principles on the salient issues, the facts of that case completely distinguish it from the matter at hand. *Decholin* was a contested civil seizure action in a United States district court where FDA had the burden of proving the drug's toxicity and potentiality for harm. Also, the drug was already on the market on an OTC basis, and the government conceded that no actual cases or evidence of harm had been attributed to the OTC use of the product. As a result, the court focused its attention on hypotheticals based on affidavits from the government's experts.

The matter before the Commissioner, however, is completely different. It is a refusal to approve a new animal drug application; accordingly, Cyanamid has the burden of first demonstrating that a genuine and substantial issue of fact exists on the demonstration of Proban's safety by adequate tests by all methods reasonably applicable to show that the drug is safe, as set forth in the notice. Then, should a hearing be justified, Cyanamid has the ultimate burden of proof. In addition, actual evidence of Proban's toxicity and potentiality for harm exists from preclinical and clinical tests.

In distinguishing *Decholin*, the United States Court of Appeals for the Second Circuit in *National Nutritional Foods Ass'n* v. *Weinberger*, 512 F.2d 688 (C.A. 2, 1975) stated:

> • • • [The Decholin case] involved an effort by the Government to classify *Decholin* as a prescription drug because there was a possibility that if used in certain ways it could harm. The *Decholin* case is not in point however since there had been no proof at all of toxicity. Here, the appellants do not contest the findings of Vitamin A and D toxicity at least at very high levels. *Id.* at 704, fn. 14.

National Nutritional Foods Ass'n v. *Weinberger, rev'd on other grounds sub nom, National Nutritional Foods Ass'n.* v. *Mathews*, No. 76–6135 (C.A. 2, June 7, 1977). More importantly, even in *Decholin* the court "(did) not feel that even an extensive history of past use of a drug without reported harmful results is enough to automatically put any possible ill-effect into the realm of the purely speculative. Congress never intended that the Government must be able to document a Thalidomide-type tragedy before it can obtain relief." *United States* v. *An Article of Drug • • • Decholin, supra*, at 480.

But the *Decholin* court did list factors to be considered in the decision as to whether prescription status is necessary. Among them were (1) the seriousness of the effect likely to result from unsupervised lay use; (2) the circumstances under which actual harm is likely to occur following use of the drug; (3) the immediacy of the harmful consequences; and (4) whether the effects of the drug would produce a noticeable change so that use could be discontinued before real harm occurs. (Id. at 481.)

Further, in *National Nutritional Foods Ass'n* v. *Weinberger*, the court held that the Commissioner could rationally conclude that "prescription use only" should be required even if a drug is unsafe only at levels above that which is recommended in the cautionary labeling:

> We reject petitioners' contention that because the higher dosage levels are not "inherently" unsafe but become unsafe only if used in violation of cautionary labelling they do not qualify as "prescription" drugs within the meaning of section 503(b) of the Act, 21 U.S.C. § 353(b). The broad language of section 503(b)(1)(B) permits consideration of the various factors surrounding the use of a particular drug in determining that it "is not safe for use except under the supervision of" a physician. There was ample evidence before the FDA that Vitamins A and D, when consumed in large quantities over a period of time, can be acutely toxic. It was reasonable for the Commissioner to recognize that the risks of toxicity are increased by over-the-counter availability of readily ingestible, high dosage forms, and therefore he could rationally conclude that these forms have a "potential harmful effect." (512 F. 2d at 704.)

In an earlier case involving the same regulations, *National Nutritional Foods Ass'n* v. *Weinberger*, 366 F. Supp. 1341 (S.D. N.Y., 1973), *aff'd* 491 F. 2d 845 (C.A. 2, 1973), the court also found that the Commissioner need not limit his consideration to the actions of the rational consumer:

> • • • the Commissioner is not required to circumscribe his responsibilities in terms solely of the completely "rational" consumer. He may and he must consider the "potentiality for harmful effect" through excessive use to the merely "average" man and even to the substantial numbers of us who help create the average by falling below it. (Id. at 1346.)

Thus, the court clearly sanctioned the requirement of a substantial margin of safety:

> Both plaintiffs and defendants agree that toxicity exists at some level. Plaintiff's quarrel with the Commissioner is over the dosage point at which some restrictions would become prudent. The Commissioner, however, is not required to set the over-the-counter limit at a maximum which the consumer (be he old, young, weak or strong) might withstand. See *United States* v. *Bodine Products*, 206 F. Supp. 201, 207 (D. Ariz. 1962). A substantial margin of safety probably should—certainly may—be used, at least in a case like this, where it can have only beneficial effects for the Commissioner's paramount subject of health. (Id.)

The Commissioner recognizes that both *Decholin* and the *National Nutritional Foods Ass'n* cases involve the issue of whether human drugs should be sold only on prescription under section 503(b) of the act, but, as noted in paragraph F.1. above, similar standards may and have been imposed for OTC use of animal drugs. Moreover, it is Cyanamid that relies solely on *Decholin* in an attempt to support its position. Furthermore, it is clear that the standards set forth in *Decholin* and *National Nutritional Foods Ass'n* are applicable in a determination of whether an animal drug is safe for OTC use under provisions of section 512(d) of the act, and whether adequate directions for lay use can be written as provided by section 502(f) of the act. Therefore, the Commissioner concludes that he may consider the following factors in determining whether OTC status is appropriate for Proban: The toxicity of the drug when used at levels higher than the recommended levels; the need for a substantial margin of safety; and the four factors itemized above from *Decholin*. Furthermore, this action is a refusal to approve an NADA. The test data show that Proban is toxic and has a potential for harm, and Cyanamid has the burden of proving Proban's safety for OTC use. The sponsor must present evidence proving the drug will be safe if used by laymen without a veterinarian's order. No evidence raising a substantial issue of fact has been submitted.

3. *FDA can apply the standards set forth in the notice in an adjudication proceeding.* Cyanamid contends that the sole question for a hearing is whether Proban is safe and suitable for consumer use without the intervention of a veterinarian; if there are any genuine issues of fact to be heard, they are to be heard in a hearing setting and presented to an administrative law judge. (Req. at 18.) Because Proban was approved for use only under order of a veterinarian in 1968, Cyanamid now alleges that action translates into a conclusive demonstration that Proban has been shown to be safe for OTC use 9 years later. In effect, Cyanamid argues that, despite the fact that it has requested an expanded use of Proban, FDA must adopt a uniform safety standard for OTC and prescription drugs, retain the same standards of evaluating the safety of drugs that were applicable a decade ago, and not reexamine the basis of the original approval in light of scientific advances. To vary from any of these, Cyanamid contends FDA must proceed either to a hearing or by informal rule making. (Req. at 17–19.)

This action arises because Cyanamid filed a supplemental NADA requesting the approval for the OTC use of Proban. In response to the request the Director was required to completely reevaluate (a) the scientific basis and data that had been previously used to determine whether Proban had been shown to be safe under the restricted conditions of its use and (b) the new evidence that Cyanamid submitted to show that the drug would be safe for OTC use. (Cyanamid concedes that it needs an approved supplemental NADA to market the drug in this manner. (Req. at 11.) As a response to the request for the supple-

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ment's approval, the Bureau of Veterinary Medicine completed the difficult task of reviewing and establishing the criteria that are essential to demonstrate that drugs for use in companion animals, in particular organophosphates, are safe for OTC use. The Director issued Cyanamid a notice of opportunity for hearing that identified the genuine issues for resolution by establishing the standards, criteria, and procedures for demonstrating an animal drug is safe for OTC use. Thus, Cyanamid's contention that no reexamination of the criteria to determine whether an animal drug should be OTC or on prescription occurred (Req. at 6) is refuted by the publication of the notice of opportunity for hearing. See, Ames and McCracken, *Framing Regulatory Standards to Avoid Formal Adjudication: The FDA As a Case Study*, 64 Calif. L. Rev. 14 (1976).

Cyanamid also indicates that it never previously received the in-depth critique of its data, but this argument, of course, overlooks the function of the notice of opportunity for hearing. For adjudications, the Federal Food, Drug, and Cosmetic Act, in conjunction with the Administrative Procedures Act, establishes the requirement for due notice and the opportunity for a hearing on the refusal to approve an NADA. But neither the statutes nor due process requires a hearing when no genuine and substantial issue of material fact exists. The agency's notice must provide the opportunity for identification of the issues and a meaningful dialogue on those issues. Before summary adjudication is appropriate, the opportunity to identify material issues of fact must embrace suitable notice of the basis upon which the agency proposes to act summarily.

Here, the Director painstakingly developed a comprehensive, specific notice setting forth his basis for refusing to approve the supplemental NADA and delineating the studies that are necessary to demonstrate that Proban is safe for OTC use. Because this proceeding is not a proposal to withdraw approval of an application, the respondent must do more than assert a dispute with the agency's factual predicate; Cyanamid must demonstrate that it will present evidence from adequate tests to raise material issues about the basic safety questions that must be resolved to demonstrate that Proban is safe for unrestricted use in companion animals.

Cyanamid did not dispute the agency's premarket approval testing standards. (Although it found the need for its long-term study excessive, it provided no basis or evidence for an alternative.) Its experts, on the other hand, agreed that these standards provide a rational contemporary basis for premarket evaluation of a drug's safety. Cyanamid presented no evidence that satisfied the test standards considered by the Director to be necessary to demonstrate Proban is safe for OTC use; it has submitted no evidence even alleging that the standards are unreasonable.

Finally, Cyanamid has undermined its own argument that the tests showing that Proban was safe for restricted use by order of a veterinarian in 1968 should qualify, a decade later, as evidence supporting unrestricted use. The Commissioner agrees with Cyanamid's contention that the same general premarket standards of testing for the basic core of safety data should apply to drugs that are intended for prescription or OTC use, and this is precisely the procedure that the Director outlined in the notice. Cyanamid's argument, however, fails because it seeks to apply untenable scientific standards. The axiom that continued reexamination of data and standards at significant junctures is vital to the administrative process has particular relevancy in the health area. *EDF* v. *EPA*, 510 F. 2d 1292 (C.A. D.C., 1975); *Bell* v. *Goddard*, 366 F. 2d 177 (C.A. 7, 1966).

In this matter data that were used to demonstrate that Proban is safe for restricted use under the standards applicable a decade ago cannot be said to demonstrate its safety for even restricted use under contemporary standards, and Cyanamid's experts generally agree. But Cyanamid has submitted no evidence to support its theory that the absence of reports on adverse reactions of a prescription drug whose use has markedly decreased by 85 percent in 7 years (for whatever reason) constitutes evidence that the drug is safe for unrestricted use in accordance with the procedure outlined in the notice. It has submitted affidavits indicating that the drug, under restricted conditions of use, has produced no reported adverse effects to FDA, and that a different product produced some reports of adverse reactions in Australia. Thus, Cyanamid has presented no evidence showing that the absence of these reports presents an issue of fact that requires a hearing for resolution.

4. *EPA registration of flea collars containing organophosphates.* Cyanamid states that EPA has approved registration for use of organophosphates in flea collars and strips, that the side effects and antidotes are the same for these products as for Proban, and that OTC sale is permitted for these products. (Req. at 4–5.) In so stating, Cyanamid appears to imply that the Director's decision to disapprove the supplemental application for Proban is arbitrary since it is inconsistent with the prior decisions made by EPA.

Initially, the Commissioner notes that, contrary to Cyanamid's claim, the precautions and directions for the flea collars whose labels were provided by Cyanamid are not as detailed as those proposed for Proban. More fundamentally, however, three factors distinguish the EPA and FDA actions. First, the two agencies are responsible for administering two different licensing statutes, and each statute involves different purposes and different risk/benefit calculations. Second, none of the flea collars approved by EPA, which are cited by Cyanamid, contain cythioate. Third, the two products—flea collars and Proban—involve completely different conditions of use.

To understand fully the relationships between the responsibilities of the two agencies with respect to products intended for control of fleas, it is helpful to review briefly the regulatory history. On September 6, 1973 (38 FR 24233), the two agencies published a revision to a Memorandum of Understanding (MOU) originally published on December 22, 1971 (36 FR 24234). The 1973 notice stated that where a pesticide is used for "treatments that are administered orally or parenterally for control of fleas (or other external parasites)," the substance would be considered both an animal drug and a pesticide, and FDA would have primary jurisdiction over the substance. If a pesticide is used for "treatments for control of fleas that are administered topically," the substance would be regarded solely as a pesticide, and EPA would have primary jurisdiction. However, under provision of the earlier MOU which remained in effect, neither agency would approve a product if the product was not in compliance with the requirements of a law administered by the other. Furthermore, even though under the later notice one agency was given primary jurisdiction, the other could require that its administrative requirements be fulfilled (e.g., registration by EPA, approval by FDA).

The foregoing agreements prevailed until section 2(w) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) was amended on November 28, 1975 (Pub. L. No. 94–140, 89 Stat. 751), to state that the term "pesticide" does not include "* * * any article (1)(a) that is a 'new animal drug' within the meaning of section 201(w) of the Federal Food, Drug, and Cosmetic Act * * *"; therefore, new animal drugs are no longer within the scope of FIFRA.

To implement the provisions of the FIFRA amendment, EPA is terminating the registration for any uses of pesticides that place such products within the definition of new animal drugs. For the purpose of transferring all such products to its sole authority, FDA (in cooperation with EPA) is compiling a list of products currently registered as pesticides with EPA and covered by an approved NADA. A partial list of such substances was published on June 29, 1976 (41 FR 26734). Included in the list was Proban oral liquid 1.6 percent (cythioate), subject of NADA No. 33–606 and EPA Reg. No. 241–274.

Thus, the Commissioner previously approved the use of Proban as a new animal drug, subject to the restriction that it be sold only on a prescription basis, its status as a new animal drug is unchanged despite the amendment of FIFRA. Therefore, sole jurisdiction over Proban obviously now rests with FDA. Historically, FDA did not consider pesticides incorporated in flea collars to be new animal drugs, and the agency did not attempt to exercise jurisdiction over these articles because they were being regulated by EPA.

The EPA decision to register organophosphates for use with flea collars was based on a decision by the Administrator

of EPA that, among other things, such use will not cause unreasonable adverse effects on the environment. 7 U.S.C. 136a (c)(5) (1972). "Unreasonable adverse effects on the environment" is defined by 7 U.S.C. 136(bb) to mean "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide." It should also be noted that, under provision of FIFRA as amended, EPA will be required to re-register every pesticide not registered, and will subsequently be required to renew each registration every 5 years. Re-registration and renewal will be accomplished utilizing "Criteria for Determinations of Unreasonable Adverse Effects," 40 CFR 126.11, criteria which are more stringent than those previously used, especially for pesticides used in the home environment. Among other things, chronic testing may be required for pesticides that did not previously undergo such testing.

It is apparent the risk/benefit calculation required by FIFRA for pesticides differs in focus and concept from the statutory standards that the Commissioner is required to apply to drugs under the Federal Food, Drug, and Cosmetic Act. The statutory mandate to the Commissioner is to determine safety for use principally to the target animals and man under the conditions prescribed, recommended, or suggested in the drug's labeling. Therefore, different risk/benefit considerations apply, and the Commissioner concludes that the occurrence of different decisions by the two agencies is not unreasonable, especially where, as here, factual differences are involved.

The second factor that is sufficient to justify different decisions by different (or even the same) regulatory agencies relates to the fact that none of the flea collars cited by Cyanamid contain cythioate, the active ingredient in Proban. The Commissioner concludes, therefore, that there exists no substantial basis for comparison between Proban and flea collars with respect to relative safety.

This conclusion is buttressed by a third factor that is sufficient to justify different decisions by the two agencies—differences between the conditions for use for Proban and the organophosphates used in flea collars. Proban is used internally; flea collars are worn externally. The potential health hazard (for the animal) is much greater using oral administration of Proban (which involves an internal mechanism of action) than with organophosphates used in flea collars (external mechanism of action). Accordingly, despite Cyanamid's claim to the contrary, more stringent controls are needed with Proban. The Commissioner concludes, therefore, that the registration by EPA of organophosphate-containing flea collars used not require him to approve the supplemental application for Proban.

G. Conclusions

Under section 512(d) of the act, Cyanamid has the burden of proving that Proban is safe, and further that Proban is safe for OTC use without a veterinarian's order. To satisfy the statutory requirements, the sponsor must submit investigations by all methods reasonably applicable to show that Proban is safe for OTC use. These investigations must show that the drug is nontoxic and without a potentiality for harmful effect under the proposed conditions of use, and that adequate directions for its safe use by laymen can be written (sections 502 (b)(1), 512(d)(1), and (2); 21 CFR 201.-105). The Commissioner finds that Cyanamid has failed to satisfy any of these statutory requirements and is, thus, refusing to approve the supplemental NADA requesting OTC use of Proban for control of fleas on dogs.

Cyanamid has failed to submit the long-term toxicity tests that are necessary to demonstrate Proban's safety for long-term OTC use in dogs. The sponsor submitted no evidence that provides the information that must be gleaned from a long-term study and no basis by which the material submitted can be used to provide such information. The sponsor questioned the need for a long-term study but provided neither data nor affidavits to support this contention. Its affidavits questioned the length of the long-term study, but no data are provided to support the contention that the 6-month study that was submitted was long enough. Further, the 6-month study by Esposito, et al., was scientifically defective because it did not simulate the conditions of use—e.g., unformulated cythioate was used; the drug was given daily, etc.—and for other reasons that were discussed in-depth both in the notice and above in this order. No factual evidence was submitted to rebut (a) the deficiencies in the study directly addressed by the Director and (b) the questions about the safety of the drug raised by the other tests as to the need for studies involving the final formulation at the recommended dose frequency. Both were clearly addressed in the notice. Accordingly, the Commissioner concludes that Cyanamid has failed to raise a genuine and substantial fact issue in the requirement for a long-term study.

Cyanamid has also failed to submit adequate studies that measure the short-term effects of the drug for OTC use in dogs. The Grosse and Rohrbacher Study No. 2 did not use the final formulation, used an inadequate number of test animals, did not incorporate controls, and used a daily dosage instead of the dosage frequency on the proposed label. Cyanamid's own experts have agreed with the Director that studies designed in this manner are inadequate. These deficiencies were particularized in the Director's notice, and nothing was submitted showing how these constituted adequate studies. Thus, the Commissioner concludes there is no genuine and substantial issue about the invalidity of this study to show the safety of Proban for OTC use. The Wang and Colavita study is also fatally defective because the modification in the amount of basic ration offered the dogs rendered the study useless in showing effects on feed consumption and body weight. Cyanamid did not provide any evidence to justify the modification in the diet; indeed, the Commissioner concludes that the modification is at such flagrant variance with fundamental principles of scientific investigation that no genuine issue could be raised as to the study's lack of validity.

Secondly, the evidence shows that Proban has a demonstrated potential for harmful effect and raises serious questions as to the safety of Proban for OTC use. Furthermore, although the experimental design was less than satisfactory, the McNerney study raised questions about the interactions between Proban and other organophosphates and the potential for harm from these interactions. Because of the invalidity of the designs of the long-term, short-term, and acute toxicity studies submitted by Cyanamid, the Commissioner concludes that the margin of safety for Proban has not been established in accordance with the requirements set forth in the notice of opportunity for hearing (identification of all potential harmful effects, characterization of the intoxication syndrome, and demonstration that the techniques used to monitor the test animals are adequate to quantitate foreseeable harmful effects). Nor has Cyanamid submitted any evidence by which this can be validly shown.

Cyanamid has not submitted a characterization of the drug's intoxication syndrome for the proposed OTC use, which would permit the Commissioner to determine whether the subtle signs of organophosphate toxicity can be detected by laymen before irreversible damage to the animals occurs. On the basis of the limited evidence from the studies now before him, the Commissioner must conclude that such discernment is not feasible. The intoxication syndrome must be characterized on the basis of the use proposed in the labeling, and for these reasons the Commissioner concludes that the studies submitted by Cyanamid are invalid to characterize the drug's intoxication syndrome.

Cyanamid discussed the risk of lethality, which is not the singular element of the margin of safety. It has made no offering to show that lethality alone demonstrates Proban's margin of safety or is the equivalent of the data the Director concluded were necessary. The studies conducted have demonstrated that Proban is toxic and has a distinct potential for harm at relatively low levels; the margin of safety appears to be quite narrow. Consequently, because of the apparently narrow margin of safety associated with Proban, labeling warnings alone are inadequate for its safe OTC use. The drug must be used with extreme caution even when administered pursuant to a veterinarian's order to protect the animal from significant harmful or irreversible toxic effects including death. In each study submitted for the target species, clinical signs of organophosphate intoxication were observed in some of the animals, and these

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signs showed detectable toxic effects that presented a risk of harm from the drug. Moreover, subtle clinical signs of toxicity that can lead to the death of the animals may go undetected by the layman and/or may not be attributed to the drug's use by the layman. On these points, the Commissioner must conclude there are no genuine and substantial factual issues remaining for resolution.

Third, when the potential for harm is significant, adequately designed field tests must be conducted to demonstrate that directions for safe use can be written for the proposed OTC use. Among other things, the studies must show that laymen can determine when use of the drug is contraindicated and when the animal exhibits drug-related toxic reactions. In view of the evidence showing that a significant potential for harm exists, such studies are essential. The sponsor has submitted no data from field tests under OTC conditions (i.e., designed to show that adequate directions for safe use can be written), nor has it contested the need for such field tests. Therefore, the Commissioner concludes that no genuine issue that requires a hearing exists with regard to this material fact.

Finally, a determination of a drug's safety requires a risk/benefit assessment. The risks associated with Proban's OTC use appear high; the drug is unquestionably toxic. Approving an NADA for OTC use of Proban will increase the use of the drug in dogs that are under stress and that are exposed to other neurologically active compounds. Logically, this would increase the likelihood of harm to those animals. The Commissioner finds that there are no countervailing benefits from OTC use of the drug that are sufficient to permit him to approve the supplemental NADA. The drug is already available on the order of a veterinarian, and other articles are available for the control of fleas on dogs.

For all of the foregoing reasons, the Commissioner finds:

1. American Cyanamid Co. failed to submit adequate tests by all methods reasonably applicable to show whether or not Proban is safe for OTC use for treatment of fleas on dogs as required by section 512(d)(1)(A) of the act;

2. The results of the tests submitted by American Cyanamid Co. do not show that Proban is safe for that use, which is required by section 512(d)(1)(B) of the act;

3. The results of the tests show that Proban is toxic and exhibits a distinct potential for harm even when administered by a veterinarian's order, and a fortiori, by laypersons without the necessary expertise. Also, the sponsor has failed to demonstrate that adequate directions for the drug's safe OTC use can be written for laypersons. On the basis of information about the drug in section 512(d)(2)(B), (C), and (D) of the act, there is inadequate information to determine whether Proban is safe for OTC use in accordance with section 512(d)(1)(D) of the act.

Therefore, the Commissioner, under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b)), and under authority delegated to him (21 CFR 5.1), and the findings announced above, hereby denies American Cyanamid Company's request for a hearing and orders the supplemental NADA 33–606 requesting approval for the OTC use of Proban brand of cythioate to be refused, effective September 16, 1977.

Dated: September 8, 1977.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

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Food and Drug Administration

HEALTH CARE AND SERVICES

Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces a forthcoming national Ad Hoc Professional Meeting on medical devices to be chaired by the Commissioner of Food and Drugs.

DATE: The meeting will be at 1 p.m., Wednesday, September 28, 1977.

ADDRESS: The meeting will be held at the Holiday Inn, 8120 Wisconsin Ave., Bethesda, Md. 20014.

FOR FURTHER INFORMATION CONTACT:

Alan S. Kaplan, Office of Professional Programs (HFG–15), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–5470.

SUPPLEMENTARY INFORMATION: The theme of the meeting is "The Health Professional and Medical Devices—Safety and Efficacy Through Education." The purpose of the meeting is to exchange views and information of mutual interest relative to medical devices, to identify common problems associated with medical devices that are within the sphere of FDA's responsibility that have an effect on health-care practitioners and/or the delivery of health services, to seek solutions to those problems, and to conduct other activities of similar interest and benefit. The meeting will be open to all interested persons.

Dated: September 12, 1977.

JOSEPH F. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-27070 Filed 9-15-77;8:45 am]

Health Resources Administration

ADVISORY COMMITTEE

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of October 1977:

Name: Task Force for Review of Departmental Health Reports of the United States National Committee on Vital and Health Statistics.

Date and time: October 11, 1977, 9:00 a.m.

Place: HEW-North Building, Room 3173, 300 Independence Avenue SW., Washington, D.C. 20201.

Status: Open for entire meeting.

Purpose: The Secretary and by delegation the Assistant Secretary for Health and the Director, National Center for Health Statistics (NCHS), are charged under section 306 of the Public Health Service Act, as amended, 42 U.S.C. 242k, with the responsibility to collect, analyze, and disseminate national health statistics on vital events and health activities, including the physical, mental, and physiological characteristics of the population, illness, injury, impairment, the supply and utilization of health facilities and manpower, the operation of the health services system, health economic expenditures, and changes in the health status of people; administer the Cooperative Health Statistics System; stimulate and conduct basic and applied research in health data systems and statistical methodology; coordinate the overall health statistical activities of the programs and agencies of the Health Resources Administration and provide technical assistance in the management of statistical information; maintain operational liaison with statistical gathering and processing services of other health agencies, public and private, and provide technical assistance within the limitations of staff resources, research, consultation and training programs in international statistical activities; and participate in the development of national health policy with Federal agencies.

Agenda: The Task Force will review the "Health of the Nation 1976–77," "The Health Statistics Plan," "The Nation's Use of Health Resources," and the "Forward Plan for Health," to submit a report to the United States National Committee on Vital and Health Statistics including recommendations for coordination between these documents.

The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, minutes of meeting, or other relevant information should contact Mr. James A. Smith, National Center for Health Statistics, Room 2–12, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, Telephone 301–436–7122.

* * * * *

Name: United States National Committee on Vital and Health Statistics.

Date and time: October 12–13, 1977, 9:00 a.m.

Place: Snow Room, 5051, HEW-North Building, 330 Independence Avenue SW., Washington, D.C. 20201.

Status: Open for entire meeting.

Purpose: The Secretary and by delegation the Assistant Secretary for Health and the Director, National Center for Health Statistics (NCHS), are charged under section 306 of the Public Health Service Act, as amended, 42 U.S.C. 242k, with the responsibility to collect, analyze, and disseminate national health statistics on vital events and health activities, including the physical, mental, and physiological characteristics of the population, illness, injury, impairment, the supply and utilization of health facilities and manpower, the operation of the health services system, health economic expenditures, and changes in the health status of people; administer the Cooperative Health Statistics System; stimulate and conduct basic and applied research in health data systems and statistical methodology; coordinate the overall health statistical activities of the programs and agencies of the Health Resources Administration and provide technical assistance in the management of statistical information; maintain operational liaison with statistical gathering and processing services of other health agencies, public and private, and provide technical assistance within the limitations of staff resources, research, consultation and training programs in international statistical activities; and participate in the development of national health policy with Federal agencies.

Agenda: Agenda items include (1) remarks by Assistant Secretary for Health; (2) Report of task force to prepare annual report of the USNCVHS; (3) remarks by Assistant Director, Office of Policy Development and Planning; (4) Report on Cooperative Health Statistics Advisory Committee; (5) Report on Health Statistics Section of OMB Framework; (6) Report of Plans for 10th Revision ICD; (7) Report plans for Health—U.S.; (8) Report HR3 and other legislation bearing on health statistics and response to health appropriations request; (9) Progress Report on planning of Public Health Conference on Records and Statistics; (10) Discussion of statistical activities for the Center for Disease Control; (11) Reports on the progress of Technical Consultant Panels (TCP) for: Uniform Hospital Discharge Data Set, Ambulatory Medical Care, Long Term Care, Manpower and Facilities, and National Health Insurance; (12) Report of progress of Department's Uniform Hospital Discharge Data Set; (13) Discussion of proposed TCP for Health Indicators; (14) Discussion of proposed TCP for Uniform Financial Accounts for Hospitals; (15) Report of Organizing Principals for Health Information; (16) Report on Medicaid Management Information System; (17) Report on Mental Health Data Sets; (18) Report on progress of WHO regional office on International Classification of Diseases; and (19) Discussion of Model State Health Statistics Law.

The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, or other relevant information, should contact Mr. James A. Smith, National Center for Health Statistics, Room 2–12, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, Telephone 301–436–7122.

Agenda items are subject to change as priorities dictate.

Dated: August 31, 1977.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.77-26647 Filed 9-15-77;8:45 am]

Health Resources Administration

ADVISORY COMMITTEES

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to assemble during the month of September 1977:

Name: National Council on Health Planning and Development.

Date and Time: September 23–24, 1977, 9:00 a.m.

Place: 1st Floor Auditorium, South Portal Building, 200 Independence Avenue SW., Washington, D.C. 20201

Open for entire meeting.

Purpose. The National Council on Health Planning and Development is responsible for advising and making recommendations with respect to (1) the development of national guidelines under section 1501 of Pub. L. 93–641, (2) the implementation and administration of Title XV and XVI of Pub. L. 93–641, and (3) an evaluation of the implications of new medical technology for the organization, delivery and equitable distribution of health care services. In addition, the Council advises and assists the Secretary in the preparation of general regulations to carry out the purposes of section 1122 of the Social Security Act and on policy matters arising out of the implementation of it, including the coordination of activities under that section with those under other parts of the Social Security Act or under other Federal or federally assisted health programs. The Council considers and advises the Secretary on proposals submitted by the Secretary under the provisions of section 1122(d)(2) that health care facilities or health maintenance organizations be reimbursed for expenses related to capital expenditures notwithstanding that under section 1122(d)(1) there would otherwise be exclusion of reimbursement for such expenses.

Agenda. This meeting of the Council will primarily be devoted to planning the future work schedule: Organization of the Council and Discussion of Election of a Chairperson; Report on Health Planning Program; Report on National Guidelines for Health Planning; Report on Health Technology Issues; Report on Sections 1526 and 1533(d); and Discussion of DOD and VA Health Programs.

The meeting is open to the public for observation. A portion of the meeting will be available for comments and public participation. Anyone wishing to participate obtain a roster of members, minutes of meeting, or other relevant information should contact Mr. Daniel I. Zwick, Office of Planning, Evaluation and Legislation, Room 10–22, Center Building, 3700 East-West Highway, Hyattsville, Md., 20782, Telephone 301–436–7270.

Agenda items are subject to change as priorities dictate.

Date:

CLIFFORD ALLEN,
Deputy Associate Administrator for Operations and Management.

[FR Doc.77-27020 Filed 9-15-77;8:45 am]

Office of Education

GRADUATE AND UNDERGRADUATE INTERNATIONAL STUDIES PROGRAMS

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 601(a) of Title VI of the National Defense Education Act of 1958, as amended (20 U.S.C. 511(a)), applications are being accepted from institutions of higher education for initial grants under the Graduate and Undergraduate International Studies Programs.

A separate Notice of Closing Date is published for applications for continuing grants under the Graduate and Undergraduate International Studies Programs.

Closing Date. November 18, 1977.

A. *Application Forms and Information.* Application forms and program information packages are available and will be mailed upon the publication of this notice in the FEDERAL REGISTER.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications Sent by Mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.435B, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, or other unforeseen circumstances, the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 14, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. *Hand-Delivered Applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. *Program Information.* The amount of funds available for initial grants un-

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der the Graduate and Undergraduate International Studies Programs will be approximately $731,000 for Fiscal Year 1978. Under the Graduate International Studies Program, it is expected that five to ten initial grants will be awarded at an average of approximately $40,000. Under the Undergraduate International Studies Program it is expected that ten to sixteen initial grants will be awarded at an average cost of $35,000. Grants for either Graduate or Undergraduate Programs will not exceed $45,000 for a single institution or $70,000 for a consortium.

The above statement with regard to the expected distribution of funds is basically for informational purposes and does not bind the Office of Education except as may be required by the applicable statute and regulation.

E. *For Further Information Contact.* Dr. Richard Thompson, Chief, International Studies Branch, U.S. Office of Education, 7th and D Streets SW., Washington, D.C. 20202. Telephone 202–245–2356.

F. *Applicable Regulations.* Awards pursuant to this notice will be subject to the Office of Education General Provisions Regulations (45 CFR Parts 100–100a) and the regulations for Modern Foreign Language and Area Studies (45 CFR Part 146 published in the FEDERAL REGISTER on May 23, 1977 at 42 FR 26209.

(20 U.S.C. 511.)

(Catalog of Federal Domestic Assistance Number 13.435B; Foreign Language and Area Studies—International Studies Programs.)

Dated: September 13, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc.77-27106 Filed 9-15-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

TULALIP INDIAN RESERVATION, WASH.

Ordinance Legalizing the Sale of Liquor

In accordance with authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2, and in accordance with the Act of August 15, 1953, Pub. L. 277 (83d Congress, 1st sess. (67 Stat. 586)), I certify that the following ordinance relating to the application of the Federal Indian Liquor Laws on the Tulalip Indian Reservation, Wash., was adopted on June 11, 1977, by Board of Directors of the Tulalip Tribe which has jurisdiction over the area of Indian Country included in the ordinance, reading as follows:

ORDINANCE No. 42

AN ORDINANCE GOVERNING SALE, DISTRIBUTION, AND TAXATION OF LIQUOR WITHIN THE EXTERIOR BOUNDARIES OF THE TULALIP INDIAN RESERVATION, ESTABLISHING A BOARD FOR CONTROL AND ADMINISTRATION OF LIQUOR AND REGULATING THE USE THEREOF

The Board of Directors of the Tulalip Tribes of Washington in th exercise of said Tribes jurisdiction within the exterior boundaries of the Tulalip Indian Reservation do hereby promulgate and enact the following liquor ordinance pursuant to the powers vested in it by Article VI, Section 1 (l) and (m) of the Constitution and By-laws of the Tulalip Tribes of Washington and the Act of August 15, 1953, 67 Stat. 586, U.S.C. 1161, as follows:

Section 1. Title: This ordinance shall be known as the Tulalip Liquor Ordinance.

Section 2. Revocation of Prior Ordinances: All Ordinances and Resolutions of the Tulalip Tribes regulating, authorizing, prohibiting or in any wise dealing with the sale of liquor heretofore enacted or now in effect are hereby repealed and of no further force and effect.

Section 3. Definition: "Liquor" means that liquid as at this date defined by the Revised Code of Washington in RCW 66.04.010 (1), (2), (16), (29), and (35).

"Sale" and "sell" means as now defined as set forth by the Revised Code of Washington in RCW 66.04.010(27).

Such definitions are hereby adopted by reference.

Section 4. Prohibitions: The purchase, sale, and dealing in liquor within the exterior boundaries of the Tulalip Indian Reservation by any person, party, firm, or corporation except pursuant to the control and regulations of the Tulalip Liquor Commission hereby established is prohibited and declared unlawful.

Section 5. Retroactivity: The provisions of this ordinance shall be prospective only from the date of its enactment and nothing herein contained shall be deemed to revoke any presently existing valid license or permit or renewal thereof previously issued by the Washington State Liquor Control Board or the exercise of privileges given thereunder.

Section 6. Tulalip Liquor Commission: The Board of Directors of the Tulalip Tribes are hereby constituted as the "Tulalip Liquor Commission" and empowered to administer this ordinance, including general control, management, and supervision of all liquor sales, places of sale, and sales outlets, and to exercise all of the powers and accomplish all of the purposes thereof as hereinafter set forth and may do the following acts and things for and on behalf of and in the name of the Tulalip Tribes of Washington:

(a) To adopt and enforce rules and regulations for the purpose of carrying into effect the provision of this ordinance and the performance of its functions;

(b) Collecting, auditing, and issuing fees, licenses, taxes, and permits;

(c) Purchasing, warehousing, and selling of liquor in the original package;

(d) Executing all contracts, papers, and documents in the name of the Tulalip Tribes of Washington or the Tulalip Liquor Commission.;

(e) Providing housing for its activities and all necessary equipment and fixtures with which to do business;

(f) Hiring and firing of employees, fixing their duties, and delegating to such specific powers and authorities;

(g) Paying all customs, duties, excises, charges, and obligations whatsoever related to the business of the Commission;

(h) Performing all matters and things incidental to and necessary to conduct its business and carry out its duties and functions.

Section 7. Funds—Appropriation: All revenue received, funds collected, and property acquired by the Commission shall be and are the property of the Tulalip Tribes of Washington and the Commission shall annually account for the same to it and pay the net proceeds of its activities into the general fund of the Tulalip Tribes of Washington subject to appropriation by it to the use of the Commission as the tribal board of directors shall see fit.

There is hereby appropriated to the uses and purposes of said Commission from the tribal funds the sum of $15,000.

Section 8. Powers of Commission: The Commission is hereby empowered to establish and operate a Tulalip Liquor Store or stores within the exterior boundaries of the Tulalip Indian Reservation upon tribal property, and not otherwise, and to operate the same and sell liquor thereat for such price as it shall from time to time fix and determine.

Section 9: Excise Tax Levy: There is hereby levied and shall be collected an excise tax upon each sale of liquor, except beer and wine, in whatever package or container, or whether at wholesale or retail, of three (3) cents per fluid ounce or fraction thereof contained in such package or container.

Section 10. Tax on Retail Sale: There is hereby levied and shall be collected a tax upon each retail sale of wine and beer in the original package at the rate equal to five percent (5%) of the selling price, which tax shall be paid by the buyer to the seller who shall collect the same and hold it in trust for payment to the Tulalip Liquor Commission in the same manner and at the same time the seller would be required to pay Washington State Retail Sales Tax pursuant to RCW 82.08.150 to the State of Washington if such tax were applicable, but regardless of whether or not such State tax is applicable. All records and tax returns required to be kept by seller by the State of Washington as if such State Tax were applicable, shall be kept by the Seller and made available for inspection. Such shall be prima facie proof of the amount of tax due and collectable; provided that the provisions of this paragraph requiring records, tax returns and payment of tax to the Commission shall not be applicable to sales made by the Commission.

Section 11. Tax remit: The Commission shall remit to the Treasurer of the Tulalip Tribes on the Twenty-Fifth (25th) day of every month to be deposited in the tribal treasury all monies collected by it in the preceding month by reason of the levy of excise tax. Said tax shall be added to the sale price of liquor sold and be collected from the purchaser thereof. The Commission shall also regularly remit for similar deposit to said Treasurer all retail sales taxes collected by it upon sales of beer and wine.

Section 12. Conformity with the State Law: Nothing herein contained shall be construed to supercede the substantive laws of the State of Washington effective within the exterior boundaries of the Tulalip Indian Reservation and, where not inconsistent herewith, the substantive standards of the criminal laws of the State of Washington regarding sale, consumption and use of liquor shall apply.

Section 13. Servability and Construction: If any clause, part, or section of this act shall be adjudged invalid, such judgment shall not affect nor invalidate the remainder of the act, but shall be confined in its operation to the clause, part or section directly involved in the controversy in which such judgment was rendered. If the operation of any clause, part, or section of this act shall be held to impair the obligation of contract, or to deny to any person any right or protection secured to him by the Constitution of the United States of America, or by the Constitution of the State of Washington it is hereby declared that, had the invalidity of such clause, part, or section been considered at the time of the enactment of this act, the remainder of the act would nevertheless have been adopted without such and any and all such invalid clauses, parts or sections.

Section 14. Effective date: This ordinance shall be and become effective on and after the 11th day of June 1977.

Adopted by the Board of Directors of the Tulalip Tribes of Washington at regular meeting assembled June 11, 1977, with a quorum present by a vote of 6 for and 0 against.

GEORGE W. WILLIAMS.

Approved: June 30, 1977.

DAVID J. L'ESPERANCE,
Acting Superintendent, Western Washington Indian Agency, Everett, Wash.

Attest: Dawn E. Simpson, *Secretary.*

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

AUGUST 31, 1977.

[FR Doc.77-26946 Filed 9-15-77;8:45 am]

[C-25780]

COLORADO

Proposed Withdrawal and Reservation of Lands

The Bureau of Land Mangement, Department of the Interior, on September 9, 1977, filed application, Serial No. Colo. 25780 for withdrawal of the following described lands from settlement, sale location or entry under the general land laws, including the mining laws, 30 U.S.C. Ch 2, but not the mineral leasing laws, subject to valid existing rights.

UTE PRINCIPAL MERIDIAN

T. 1. N., R. 3 W.,
Sec. 13, SW¼SW¼;
Sec. 24, W½NE¼ and NW¼.

The area described contains 280 acres in Mesa County.

The Bureau of Land Management desires that the lands be withdrawn and reserved for the protection of paleontological values.

On or before October 14, 1977, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, CO 80202, on or before October 14, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16 B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752. The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. The segregative effect of the application shall terminate upon (1) rejection of the application by the Secretary, (2) withdrawal of the lands by the Secretary, or (3) the expiration of two years from the date of publication of this notice.

All communications in connection with this proposed withdrawal (except public hearing requests) should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202.

THOMAS N. HARDIN,
Chief, Branch of Adjudication.

[FR Doc.77-26981 Filed 9-15-77;8:45 am]

Geological Survey

COAL LAND CLASSIFICATION ORDER COLORADO NO. 141

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

SIXTH PRINCIPAL MERIDIAN, COLORADO

COAL LANDS:

T. 8 N., R. 77 W.,
Sec. 6, lots 6 and 7, E½SW¼, SW¼SE¼;
Sec. 7;
Sec. 8, SW¼NE¼, W½NW¼, SE¼NW¼, S½;
Sec. 9, SW¼SW¼;
Sec. 15, SW¼SW¼;
Sec. 16, W½NE¼, SE¼NE¼, NW¼, N½SW¼, SE¼SW¼, SE¼;
Sec. 17, N½, N½SW¼, SW¼SW¼;
Sec. 18, lots 1 and 2, NE¼, E½NW¼, N½SE¼, SE¼SE¼;
Sec. 21, N½NE¼, SE¼NE¼;
Sec. 22, W½NW¼.

T. 8 N., R. 78 W.,
Sec. 1, NE¼SW¼, S½SW¼, SE¼;
Sec. 3, lot 17;
Secs. 4 and 5;
Sec. 6, lot 1, SE¼NE¼;
Sec. 8, N½N½;
Sec. 9, NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, SE¼;
Sec. 10, NE¼NE¼, S½NE¼, W½, SE¼;
Sec. 11, SW¼NW¼, SW¼, NW¼SE¼;
Sec. 12, N½, N½SW¼, SE¼;
Sec. 13, NE¼NE¼;
Sec. 14, SW¼NE¼, W½, W½SE¼, SE¼SE¼;
Sec. 15;
Sec. 16, E½;
Sec. 21, NE¼NE¼;
Sec. 22, N½, NE¼SW¼, N½SE¼;
Sec. 23, N½, N½S½.

T. N., R. 78 W.,
Sec. 5, lots 5 to 9, inclusive, SE¼NW¼, E½SW¼, NW¼SE¼;
Sec. 6;
Sec. 7, lots 5 to 12, inclusive, lots 14 to 16, inclusive, S½SE¼;
Sec. 8, N½, N½SE¼, SE¼SE¼;
Sec. 9, W½NW¼, SW¼;
Sec. 15, SW¼, S½SE¼;
Sec. 16, W½NE¼, SE¼NE¼, NE¼NW¼, NE¼SE¼;
Sec. 18, NE¼NE¼;
Sec. 19, lot 17;
Sec. 22, NE¼, NE¼NW¼, NW¼SE¼;
Sec. 23, NW¼NW¼;
Sec. 28, S½SE¼;
Sec. 29, lots 4 to 6, inclusive, and lots 11 to 14, inclusive;
Sec. 30, lots 1 to 3, inclusive, NE¼, E½NW¼, NE¼SW¼, SE¼;
Sec. 31, E½E½;
Secs. 32 and 33.

T. 9 N., R. 79 W.,
Sec. 1, lots 5 to 16, inclusive, and lots 18 to 20, inclusive;
Sec. 2, lots 5, 6, 12, and 17;
Sec. 3, lots 7 to 11, inclusive, and lots 13 to 20, inclusive;
Sec. 4;
Sec. 9, N½, NE¼SW¼, SE¼;
Sec. 10;
Sec. 11, S½NE¼, W½, SE¼;
Sec 12, lots 1, 2, 8, and lots 12 to 14, inclusive;
Sec. 13, lots 3 to 7, inclusive, and lots 9 to 13, inclusive;
Sec. 14, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 15, N½, N½S½;
Sec. 16, E½NE¼;
Sec. 23, N½NE¼, SE¼NE¼, E½SE¼;
Sec. 24, W½, SE¼;
Sec. 25, N½, N½SE¼;
Sec. 26, E½NE¼.

T. 10 N., R. 78 W.,
Sec. 30, lots 2 to 4, inclusive, E½SW¼, SW¼SE¼;
Sec. 31, lots 1 to 4, inclusive, NW¼NE¼, S½NE¼, E½W½, SE¼;
Sec. 32, NW¼SW¼.

T. 10 N., R. 79 W.,
Sec. 23, E½, E½W½;
Sec. 24, S½NW¼, SW¼, NW¼SE¼;
Sec. 25, S½NE¼, W½, SE¼;
Sec. 26;
Sec. 27, SE¼NE¼, SE¼SW¼, SE¼;
Sec. 33, SE¼NE¼, SE¼SW¼, SE¼;
Sec. 34, N½NE¼, SE¼NE¼, SW¼NW¼, W½SW¼, SE¼SW¼;
Sec. 35, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 36.

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RECLASSIFIED COAL LAND FROM NONCOAL LAND:

Prior classification of the following subdivisions as noncoal is hereby revoked and the land is reclassified as coal land:

T. 8 N., R. 77 W.,
Sec. 8, NE¼NW¼.
T. 8 N., R. 78 W.,
Sec. 2, lots 5 and 6;
Sec. 3, lots 8, 9, 16, and 18;
Sec. 6, lots 2 to 7, inclusive, SW¼NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 10, NW¼NE¼;
Sec. 24, W½NW¼, NW¼SE¼.
T. 8 N., R. 79 W.,
Secs. 1 to 4, inclusive;
Sec. 5, lots 1 to 4, inclusive, S½N½, NE¼SE¼;
Sec. 6, lots 1 to 3, inclusive, SE¼NE¼;
Sec. 9, NE¼, NE¼NW¼, NE¼SE¼;
Sec. 10, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 11, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 12, NW¼NE¼, NW¼, NW¼SW¼.
T. 9 N., R. 78 W.,
Sec. 4, SW¼SW¼;
Sec. 5, SW¼NE¼, NE¼SE¼;
Sec. 7, lot 18;
Sec. 9, SE¼NW¼, SE¼;
Sec. 14, SW¼SW¼;
Sec. 15, W½NW¼, SE¼NW¼, N½SE¼;
Sec. 16, NE¼NE¼;
Sec. 18, lots 3 and 15, NW¼NE¼;
Sec. 20, SE¼NE¼;
Sec. 21, NW¼SW¼;
Sec. 23, NE¼NW¼, NE¼SE¼;
Sec. 24, SW¼SW¼;
Sec. 25, E½NW¼;
Sec. 26, SW¼NW¼, SE¼SW¼;
Sec. 27, NE¼NE¼;
Sec. 28, SW¼NE¼, NE¼SE¼;
Sec. 30, lot 4, SE¼SW¼;
Sec. 31, lots 1 to 4, inclusive, W½E½;
E½W½;
Sec. 34, lots 5 and 12 to 14, inclusive;
Sec. 34, lots 1 and 8;
Sec. 36, W½SE¼.
T. 9 N., R. 79 W.,
Sec. 9, NW¼SW¼, SE¼SW¼;
Sec. 16, W½NE¼, NE¼NW¼;
Sec. 19, lot 4, SE¼SW¼, S½SW¼;
Sec. 20, S½S½;
Sec. 21, S½SW¼, SW¼SE¼;
Sec. 25, SW¼, S½SE¼;
Sec. 26, S½SW¼, NE¼SE¼, S½SE¼;
Sec. 27, NW¼NW¼, S½NW¼, S½;
Secs. 28 to 30, inclusive;
Sec. 31, lots 1 and 2, NE¼, E½NW¼, NE¼SW¼, SE¼;
Secs. 32 to 36, inclusive.
T. 10 N., R. 78 W.,
Sec. 30, lot 1, SE¼NW¼, NW¼SE¼, SE¼SE¼;
Sec. 31, NE¼NE¼;
Sec. 32, SW¼NW¼, SE¼SW¼.
T. 10 N., R. 79 W.,
Sec. 13, W½SW¼;
Sec. 14, NE¼SE¼, S½SE¼;
Sec. 24, SW¼NE¼, N½NW¼.

The area classified totals 41,586 acres, more or less, of which 29,038 acres are coal land, and 12,548 acres which were formerly classified as noncoal are reclassified as coal land.

Dated: September 9, 1977.

V. E. McKELVEY,
Director.

[FR Doc.77-26945 Filed 9-15-77;8:45 am]

Bureau of Land Management

OUTER CONTINENTAL SHELF, ALASKA

Oil and Gas Lease Sale No. CI, October 27, 1977

1. *Authority.* This notice is published pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343) and the regulations issued thereunder (43 CFR Part 3300).

2. *Filing of Bids.* Sealed bids will be received by the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, either in person or by mail, for the oil and gas lease sale on tracts described in paragraph 13 herein, and located in the Outer Continental Shelf adjacent to the State of Alaska. Bids sent by mail should be addressed to P.O. Box 1159, Anchorage, Alaska 99510, and will be received until 9:30 a.m., a.s.t., October 27, 1977. Bids delivered in person to the Manager will be received at his office at 800 A Street, Anchorage, Alaska, until 4 p.m., a.s.t., October 26, 1977, or at the Discovery Room, Captain Cook Hotel, 5th and K Streets, Anchorage, Alaska 99501, between the hours of 8 a.m., a.s.t., and 9:30 a.m., a.s.t., October 27, 1977. Bids received by the Manager later than the times and dates specified above will be returned to the bidders unopened. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., a.s.t., October 27, 1977. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in the FEDERAL REGISTER, 42 FR 18905, April 11, 1977.

3. *Method of Bidding.* A separate bid in a sealed envelope must be submitted for each tract and be labeled "Sealed Bid for Oil and Gas Lease (insert number of tract); not to be opened until 10 a.m., a.s.t., October 27, 1977." A suggested bid format appears in paragraph 17. Bidders are advised that tract numbers are assigned solely for administrative purposes during this sale and are not the same as block numbers found on OCS Official Protraction Diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash, or by cashiers check, bank draft, certified check, or money order payable to the order of the Bureau of Land Management. No bid far less than a full tract described in paragraph 13 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder in a percent to a maximum of five decimal places, as well as submit a sworn statement that the bidder is qualified under 43 CFR 3302. The form for this statement appears in paragraph 18. Other documents required of bidders are listed under 43 CFR 3302.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. *Royalty Bidding.* Bids on the following tracts must be submitted on a royalty bid basis with a fixed cash bonus as indicated. Leases which may be awarded on a royalty bid basis will provide for a yearly rental or minimum royalty payment of $8 per hectare[1] or fraction thereof. All royalty bids must be expressed in a percent to a maximum of five decimal places. Although a percentage could be expressed in other ways, it is requested that it be written as it is in the following example: 21.75698%. A suggested royalty bid form is shown in paragraph 17(a).

(a) A fixed cash bonus of $62 per hectare will be required on tracts CI–6, CI–7, CI–10, CI–11, CI–12, CI–13, CI–18, CI–19, CI–20, CI–21, CI–22, CI–27, CI–29, CI–30, CI–36, CI–37, CI–38, CI–39, CI–45, CI–46, CI–73, CI–74, CI–91, CI–92, CI–107, CI–113, CI–115, CI–118, CI–119, CI–121, CI–130, CI–131, CI–132, CI–148, CI–150, and CI–151.

(b) A fixed cash bonus of $124 per hectare will be required on tracts CI–114, CI–120, CI–124, CI–125, and CI–126.

(c) A fixed cash bonus of $433 per hectare will be required on tracts CI–28, CI–82, and CI–147.

(d) A fixed cash bonus of $1483 per hectare will be required on tracts CI–83 and CI–146.

5. *Bonus Bidding.* Bids on the remaining tracts to be offered at this sale must be on a cash bonus bid basis with a fixed royalty of 16⅔ percent. Leases which may be issued will provide for a yearly rental or minimum royalty payment of $8 per hectare or fraction thereof. A suggested cash bonus bid form is shown in paragraph 17(b).

6. *Equal Opportunity.* Each bidder must have submitted by 9:30 a.m., a.s.t., October 27, 1977, the certification required by 41 CFR 60–1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140–8 (November 1973), and the Affirmative Action Represenation Form, Form 1140–7 (December 1971).

7. *Bid Opening.* Bids will be opened on October 27, 1977, beginning at 10 a.m., a.s.t., in the Discovery Room, Captain Cook Hotel, at the address stated in paragraph 2. The opening of bids is for the sole purpose of publicly announcing and recording bids received; no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight October 27, 1977, that bid will be returned unopened to the bidder as soon thereafter as possible.

[1] One Hectare equals 2.471 acres.

8. *Deposit of Payments.* Any cash, cashiers checks, certified checks, bank drafts, or money orders submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

9. *Withdrawal of Tracts.* The United States reserves the right to withdraw any tracts from this sale prior to the issuance of a written acceptance of a bid for that tract.

10. *Acceptance or Rejection of Bids.* The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has complied with all requirements of this notice and applicable regulations;

(b) His bid is the highest valid royalty bid on the designated royalty tracts or the highest valid cash bonus bid for the remaining tracts; and

(c) The amount of the bid has been determined to be adequate by the United States.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of $62 or more per hectare or fraction thereof on the tracts designated for cash bonus bidding and 12.5 percent or more royalty on the tracts designated for royalty bidding.

11. *Successful Bidders.* Each person who has submitted a bid accepted by the United States will be required to execute copies of the lease specified below, pay the balance of the cash bonus together with the first year's annual rental, and satisfy the bonding requirements of 43 CFR 3304.1 within the time provided in 43 CFR 3302.5.

12. *Protraction Diagrams.* The tracts offered for lease described in paragraph 13, may be located on the following Outer Continental Shelf Official Protraction Diagrams which may be purchased for $2 each from the Manager, Alaska Outer Continental Shelf Office at the address stated in paragraph 2:

(1) No. 5–1, Iliamna.
(2) No. 5–2, Seldovia.
(3) No. 5–3, Mount Katmai.
(4) No. 5–4, Afognak.

13. *Tract Descriptions.* The tract offered for bid are as follows:

NOTE.—There are gaps in the sequence of the numbers of the tracts listed. Some of the tracts identified in the final environmental impact statement are not included in this notice.

OCS OFFICIAL PROTRACTION DIAGRAM, SELDOVIA NO 5-2
(Approved March 20, 1975)

Tract	Block	Description	Hectares
CI-2	187	All	2304.00
CI-4	230	All	2304.00
CI-5	231	All	2304.00
CI-6	268	All	2304.00
CI-7	269	All	2304.00
CI-8	274	All	2304.00
CI-9	275	All	2304.00
CI-10	312	All	2304.00
CI-11	313	All	2304.00
CI-12	314	All	2304.00
CI-13	315	All	2304.00
CI-14	318	All	2304.00
CI-15	319	All	2304.00
CI-16	354	All	2304.00
CI-17	355	All	2304.00
CI-18	356	All	2304.00
CI-19	357	All	2304.00
CI-20	358	All	2304.00
CI-21	359	All	2304.00
CI-22	362	All	2304.00
CI-23	363	All	2304.00
CI-24	397	All	2304.00
CI-25	398	All	2304.00
CI-26	399	All	2304.00
CI-27	400	All	2304.00
CI-28	401	All	2304.00
CI-29	402	All	2304.00
CI-30	403	All	2304.00
CI-33	441	All	2304.00
CI-34	442	All	2304.00
CI-35	443	All	2304.00
CI-36	444	All	2304.00
CI-37	445	All	2304.00
CI-38	446	All	2304.00
CI-39	447	All	2304.00

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OCS OFFICIAL PROTRACTION DIAGRAM, SELDOVIA NO. 5-2 (contd.)

Tract	Block	Description	Hectares
CI-79	662	All	2304.00
CI-80	663	All	2304.00
CI-81	664	All	2304.00
CI-82	665	All	2304.00
CI-83	666	All	2304.00
CI-84	667	All	2304.00
CI-85	668	All	2304.00
CI-87	705	All	2304.00
CI-88	706	All	2304.00
CI-89	707	All	2304.00
CI-90	708	All	2304.00
CI-91	709	All	2304.00
CI-92	710	All	2304.00
CI-93	711	All	2304.00
CI-94	712	All	2304.00
CI-96	749	All	2304.00
CI-97	750	All	2304.00
CI-98	751	All	2304.00
CI-99	752	All	2304.00
CI-100	753	All	2304.00
CI-101	754	All	2304.00
CI-102	755	All	2304.00
CI-105	794	All	2304.00
CI-106	795	All	2304.00
CI-107	796	All	2304.00
CI-108	797	All	2304.00
CI-109	798	All	2304.00
CI-110	799	All	2304.00
CI-111	838	All	2304.00
CI-112	839	All	2304.00
CI-113	840	All	2304.00
CI-114	841	All	2304.00
CI-115	842	All	2304.00
CI-116	881	All	2304.00
CI-117	882	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, SELDOVIA NO. 5-2 (contd.)

Tract	Block	Description	Hectares
CI-42	485	All	2304.00
CI-43	486	All	2304.00
CI-44	487	All	2304.00
CI-45	488	All	2304.00
CI-46	489	All	2304.00
CI-47	490	All	2304.00
CI-48	491	All	2304.00
CI-51	529	All	2304.00
CI-52	530	All	2304.00
CI-53	531	All	2304.00
CI-54	532	All	2304.00
CI-55	533	All	2304.00
CI-56	534	All	2304.00
CI-57	535	All	2304.00
CI-60	573	All	2304.00
CI-61	574	All	2304.00
CI-62	575	All	2304.00
CI-63	576	All	2304.00
CI-64	577	All	2304.00
CI-65	578	All	2304.00
CI-66	579	All	2304.00
CI-69	617	All	2304.00
CI-70	618	All	2304.00
CI-71	619	All	2304.00
CI-72	620	All	2304.00
CI-73	621	All	2304.00
CI-74	622	All	2304.00
CI-75	623	All	2304.00
CI-76	624	All	2304.00
CI-78	661	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, SELDOVIA NO. 5-2 (contd.)

Tract	Block	Description	Hectares
CI-118	883	All	2304.00
CI-119	884	All	2304.00
CI-120	885	All	2304.00
CI-121	886	All	2304.00
CI-122	925	All	2304.00
CI-123	926	All	2304.00
CI-124	927	All	2304.00
CI-125	928	All	2304.00
CI-126	929	All	2304.00
CI-127	969	All	2304.00
CI-128	970	All	2304.00
CI-129	971	All	2304.00
CI-130	972	All	2304.00
CI-131	1013	All	2304.00
CI-132	1014	All	2304.00
CI-133	1015	All	2304.00
CI-134	1016	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, ILIAMNA NO. 5-1
(Approved March 20, 1975)

Tract	Block	Description	Hectares
CI-135	484	All	2304.00
CI-136	528	All	2304.00
CI-137	571	All	2304.00
CI-138	572	All	2304.00
CI-139	615	All	2304.00
CI-140	616	All	2304.00
CI-141	659	All	2304.00
CI-142	660	All	2304.00
CI-143	703	All	2304.00
CI-144	704	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, MT. KATMAI NO. 5-3
(Approved July 3, 1975)

Tract	Block	Description	Hectares
CI-145	132	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, AFOGNAK NO. 5-4
(Approved July 3, 1975)

Tract	Block	Description	Hectares
CI-146	1	All	2304.00
CI-147	2	All	2304.00
CI-148	3	All	2304.00
CI-149	4	All	2304.00
CI-150	45	All	2304.00
CI-151	46	All	2304.00
CI-152	89	All	2304.00

14. *Lease Terms and Stipulations.* Leases issued as a result of this sale will be on Form 3300-1 (December 1976) available from the Manager, Alaska Outer Continental Shelf Office, at the address stated in paragraph 2. Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale:

STIPULATION NO. 1

If the Supervisor, having reason to believe that a site, structure or object of historical or archeological significance hereinafter referred to as "cultural resource", may exist in the lease area, gives the lessee written notice that the lesser is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation", the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archeologist to determine if indications are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archeologist shall be submitted by the lessee to the Supervisor and to the Manager, Bureau of Land Management (BLM) Outer Continental Shelf (OCS) office for review.

If such cultural resource indicators are present the lessee shall: (1) Locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the Supervisor, on the basis of further archeological investigation conducted by a qualified marine survey archeologist or underwater archeologist using such survey equipment and techniques as deemed necessary by the Supervisor, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archeologist or underwater archeologist shall be submitted to the Supervisor and the Manager, BLM OCS office for their review. Should the Supervisor determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the Supervisor has given directions as to its disposition.

The lessee agrees that if any site, structure, or object of historical or archeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the Supervisor, and make every reasonable effort to preserve and protect the cultural resource from damage until the Supervisor has given directions as to its disposition.

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STIPULATION No. 2.

If the Supervisor, having reason to believe that an area of special biological significance may exist in the lease area, gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development of lease areas including, but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation", the lessee shall conduct block-wide or site specific surveys, as approved by the Supervisor, to determine if the block or site contains special biological communities that may be adversely affected by any lease operation. If the surveys indicate the existence of such communities, the lessee shall: (1) establish, to the satisfaction of the Supervisor, that such operation will not have a significant adverse effect on the community identified; or (2) modify his operating procedure to minimize the impact of the operation on the biological community. Such modification could include relocation of the drilling site.

All data obtained in the course of any biological surveys conducted pursuant to the provisions hereof shall be submitted in a report to the Supervisor prior to or with any application by the lessee for drilling or other activity with a copy to the Manager, Alaska OCS Office. Should the Supervisor determine that the existence of a biological resource which may be adversely affected by such operation exists, the lessee shall take no action that may result in any adverse effect on such resource until the Supervisor has given the lessee directions with respect to the resource.

The lessee agrees that, if any communities of special biological significance should be discovered during the conduct of any operations on the leased area, he shall report such findings to the Supervisor, and make every reasonable effort to preserve and protect the resource from damage until the Supervisor has given the lessee directions with respect to the resource.

STIPULATION No. 3

The lessee shall include in his exploration and development plans submitted under 30 CFR 250.34 a proposed environmental training program for all personnel involved in exploration or development activities (including personnel of the lessee's contractors and subcontractors) for review and approval by the Supervisor pursuant to this stipulation. The program shall be designed to inform each person working on the project of specific types of environmental, social and cultural concerns which relate to the individual's job. The program shall be formulated and implemented by qualified instructors experienced in each pertinent field of study and shall employ effective methods to insure that personnel understand and use techniques necessary to preserve archaeological, geological and biological resources. The program shall also be designed to increase the sensitivity and understanding of personnel to community values, customs and lifestyles in areas in which such personnel will be operating.

The lessee shall also submit for review and approval a continuing technical environmental briefing program for supervisory and managerial personnel of the lessee and its agents, contractors and subcontractors.

STIPULATION No. 4

The lessee must describe in the development plan the proposed method of transportation of production. If the proposed method of transportation would significantly affect the quality of the human environment and the method was not discussed in the Final Cook Inlet Environmental Impact Statement (published in December 1976), a decision on whether to approve the development plan will not be made until the original environmental impact statement is supplemented or a new environmental impact statement is completed on the proposal.

The lessor reserves the right to determine the method of transportation of production, but his decision will be made within the context of a planning program for assessment and management of transportation of OCS oil and gas with the participation of Federal, State and local government and the industry. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. Where it is determined by the lessor to be environmentally, technologically, and economically appropriate, all pipelines, including flow lines and gathering lines for oil and gas shall be buried to a depth suitable for adequate protection from water currents, sand waves, storm scouring, fisheries trawling gear, and other uses as determined on a case-by-case basis. Barging of production may be permitted only in case of emergency or under special circumstances as determined by the Supervisor.

STIPULATION No. 5

To reduce the impacts of human disturbance (i.e., aircraft and vessel traffic) at major seabird colonies and marine mammal rookeries, boats will be routed to stay at least ½ mile from all colonies and rookeries from May 1 to September 15. In addition, during this period, fixed-wing and rotary aircraft must maintain a ½-mile horizontal and 2500 foot vertical distance from seabird colonies and marine mammal rookeries. The list and geographic locations of major seabird colonies and marine mammal rookeries will be available from the Manager, Alaska OCS Office. The location of any major colonies or rookeries discovered in the future will be submitted to the Manager, Alaska Office, for addition to the present list. Human safety will at all times take precedence over the provisions of this stipulation.

STIPULATION No. 6

No underwater blasting which involves the use of high velocity explosives may be conducted on any leasehold unless:

(a) The Supervisor determines that such blasting is necessary to protect human safety, fishing equipment, or navigation;

(b) The Supervisor determines that the failure to permit such blasting will result in greater environmental harm and economic costs than the blasting itself; or

(c) The Supervisor determines that such blasting will not pose a risk of significant damage to marine life.

As used in this stipulation, "high velocity explosives" includes any explosive with a burning rate greater than 5000 fps or creating a pressure curve with a sharp spike and a rise time of less than 0.18 milli-seconds.

STIPULATION No. 7

To assist coastal communities in planning for the impact of activities during exploration under this lease, the lessee shall submit, for review and comment, to the Governor of the State of Alaska and to local jurisdictions that will be directly affected by those activities a "Notice of Support Activity for the Exploration Program" (called hereafter in this stipulation "Notice"). When the lessee has doubts as to which local jurisdictions shall be informed, he will be guided by the advice of the Supervisor. The lessee shall not be required to include privileged information in the Notice. A lessee shall have discretion whether to submit a separate Notice in connection with each Exploration Plan submitted under 30 CFR 250.34 on a lease or to submit a Notice in connection with two or more Plans on one or more leases. The Notice shall not be subject to approval or disapproval by the Supervisor.

A copy of the Notice shall be submitted to the Supervisor simultaneously with, or prior to, the Exploration Plan with a certification that it has been submitted to the Governor of the State of Alaska and to the local jurisdictions that will be directly affected by activities under the Plan. If the lessee shall submit a Notice in connection with two or more Exploration Plans, he shall not be required to submit additional copies of the Notice, but may instead refer to that previous submission. Before the Supervisor approves or disapproves the Exploration Plan, he shall allow at least 30 days from the date of receipt of the certification for the Governor and local jurisdictions to submit comments on the Notice to him as well as to the lessee. Subsequent to the submission of the certification, significant changes in estimated support activities will be forwarded by the lessee, as an amendment to the Notice to the Supervisor, the Governor, and to the local jurisdictions that will be directly affected by the program.

The Notice shall include with respect to the lessee and his contractors:

(1) A description of the facilities, including site and size, that may be constructed, leased, rented, or otherwise procured in affected areas;

(2) The location and amount of acreage required within the State for facilities, including the need for storage of various supplies;

(3) An estimate of the frequency of boat and aircraft departures and arrivals, on a monthly basis, and the onshore location of terminals;

(4) The approximate number of persons who are expected to be engaged in onshore support activities and transportation, the approximate number of local personnel who are expected to be employed for or in support of the exploration program, and the approximate total number of persons who are expected to be employed for the exploration program;

(5) Estimates of the approximate addition to the population of the local jurisdiction because of the exploration program and the approximate number of persons needing housing and other facilities;

(6) An estimate of any significant quantity of major supplies and equipment to be procured within the State; and

(7) The onshore addresses of the lessee's operation offices and of the offices of contractors involved with the exploratory operation.

STIPULATION No. 8

Unless the lessee can demonstrate to the satisfaction of the Supervisor that it would not be in the interests of conservation all reservoirs underlying this lease which extend into one or more other leases, as indicated by drilling and other information, shall be operated and produced only under a unit agreement including the other lease(s) and approved by the Supervisor. Such a unit agreement shall provide for the fair and equitable allocation of production and costs. The Supervisor shall prescribe the method of allocating production and costs in the event operators are unable to agree on a method acceptable to him.

STIPULATION No. 9 (TO BE INCLUDED IN ANY LEASES RESULTING FROM THIS SALE FOR THE ROYALTY BIDDING TRACTS LISTED IN PARAGRAPH 4 OF THIS NOTICE.)

(a) The royalty rate on production saved, removed, or sold from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.12(e)), except that the Director, Geological Survey may approve an application for a reduction in royalty on this lease only when it is necessary in order to increase the ultimate recovery of oil and gas and in the interest of conservation. The Director may grant a reduction for only one year at a time. Reduction of royalty rates will not be approved unless production has been underway for one year or more.

(b) Although the royalty rate specified in section 3(b)(1) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16⅔ percent of the production saved, removed or sold from the leased area may be taken as royalty in amount, except as provided in section 6(c); the royalty on any portion of the production saved, removed or sold from the lease in excess of 16⅔ percent may only be taken in value of the production saved, removed or sold from the leased area.

15. *Information to Lessees.* The Department of the Interior recognizes the special human and environmental problems of Cook Inlet and expects lessees to work closely with the State and local officials to minimize potential conflicts with commercial fishing and traditional native ways and to minimize the adverse effects of onshore development. In enforcing safety, environmental and conservation laws and regulations, the Supervisor will require the use of the best available and safety technology which the Secretary determines to be economically achievable, and will cooperate with the relevant Federal agencies and the State of Alaska.

The Department of the Interior will seek the advice of the State of Alaska, and other Federal agencies, to identify areas of special concern which might require the burial of pipelines, alternative methods for disposal of drilling muds and formation waters, and the reduction of boat and air traffic.

If nationally recommended routes for boat traffic lanes are established by the Coast Guard, lessees will be required to use them to transport supplies to the lease area.

Tracts CI–2, CI–4, CI–5, CI–8, CI–9, CI–14, CI–15, CI–22, CI–23, CI–76, CI–85, CI–94, CI–96 through CI–102 inclusive, CI–105 through CI–134 inclusive, CI–145 through CI–152 inclusive, are designated as areas of special biological significance. The Supervisor may designate other areas in the future as areas of special biological significance. The effect of exploratory drilling on aquatic biota in such areas will be monitored. Based upon the findings of monitoring operations, alternative methods for disposing of drilling muds and formation waters may be required pursuant to OCS Order No. 7.

Some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes. Department of the Army permits are required for construction of any structures in or over any navigable waters of the United States pursuant to Section 10 of the River and Harbor Act of 1899 (30 Stat. 1151; 33 U.S.C. 403) and for artificial islands and fixed structures located on the Outer Continental Shelf in accordance with section 4(f) of the Outer Continental Shelf Lands Act of 1953 (67 Stat. 463; 43 U.S.C. 1333(f)). Permit applications and inquiries should be directed to the District Engineer, Anchorage District, U.S. Army Corps of Engineers.

Scare techniques will be used to protect bird resources during significant oil pollution incidents. A description of the scare techniques and devices shall be included in the operators oil spill contingency plan required by OCS Order No. 7.

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult the Department of Transportation for regulations applicable to offshore pipelines under its jurisdiction.

16. *OCS Orders.* Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Alaska OCS Orders, issued effective March 1, 1976, and any other applicable OCS Order, as it becomes effective.

17. *Suggested Bid Form.* It is suggested that bidders submit their bids to the Manager, Alaska Outer Continental Shelf Office in the following form:

(a) For the royalty bid tracts as described in Paragraph 4:

OIL AND GAS BID—ROYALTY

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf described below:

Tract No.	Percent royalty bid expressed to maximum of 5 decimals	Amount of fixed cash bonus submitted with bid

Proportionate interest of company(s) submitting bid

Qualification file No.
YK..... percent ..... Company
..... Address
..... Signature (please type signer's name under signature)

(b) All tracts offered for cash bonus bidding:

OIL AND GAS BID

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf specified below:

Tract No.	Total amount bid	Amount per hectare	Amount of cash bonus submitted with bid

Proportionate interest of company(s) submitting bid

Qualification file No.
YK..... percent ..... Company
..... Address
..... Signature (please type signer's name under signature)

18. *Required Joint Bidders Statement.* In the case of joint bids, each joint bidder must execute the following statement before a notary public and submit it with his bid:

JOINT BIDDER'S STATEMENT

I hereby certify that.....(entity submitting bid) is eligible under 43 CFR 3302 to bid jointly with the other parties submitting this bid.

Sworn to and subscribed before me this .....day of.....19.....

.....
(Notary Public)

State of.....
(County) of.....

.....
(Signature, please type signer's name under signature)

ROMAN H. KOENINGS,
Acting Associate Director,
Bureau of Land Management.

Approved: September 13, 1977.

JAMES A. JOSEPH,
Acting Secretary of the Interior.

[FR Doc.77-26944 Filed 9-15-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

CENTRAL VALLEY PROJECT

Tentative Power Rate Adjustments for Central Valley Project, California

On August 15, 1975, the Department of the Interior published in the FEDERAL REGISTER (40 FR 34431), the adopted "Procedures for Public Participation in General Adjustments in Power Rates." Those procedures give interested members of the public an opportunity to take part in the development of power rates.

Rate increases for wholesale electric power sold by the Central Valley Project (CVP), California, are being considered. Increased revenues of approximately 180 percent are needed to eliminate an annual $29 million deficit in meeting current expenses. The final rates will be set by the Department of Energy following a 6-month period of public comment and further review. The rates are to become effective with the first full billing period beginning on or after May 1, 1978.

The unusual size of the increase occurs because increases announced for 1974 and 1977 were set aside by court action on procedural grounds and because costs of purchased thermal power from the Northwest continue to rise sharply.

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The tentative proposal includes a demand charge of $2 per kilowatt per month that is calculated to repay power investment with interest and one-half of the irrigation investment. The remaining irrigation investment and all of the operating costs would be recovered through the energy charge. Two alternatives are being considered: A dual energy charge, based on assigning half of the purchased power costs to meeting the 1964 CVP permanent allocations and withdrawable allocations and half to meet contractual commitments to serve the "load growth" of seven customers after 1967; or a single energy charge, based on assigning purchased power costs equally to all customers. Under the first alternative, the "project" energy charge would be about 4.4 mills per kilowatthour, and the "growth energy" charge would be about 21 mills. Under the second alternative, the energy charge to all customers would be about 8.3 mills.

Under the first alternative, the cost of power to customers with fixed or withdrawable allocations, including the Sacramento Municipal Utility District, the city of Santa Clara, irrigation districts, and Federal and State agencies, would increase about 100 percent, and there would be an increase ranging from 200 to 300 percent to the "load growth" customers. The "load growth" customers are the cities of Biggs, Gridley, Palo Alto, Roseville, and Redding, the Plumas-Sierra Rural Electric Cooperative, and the Shasta Dam Area Public Utility District. For the second alternative, the increased cost to all customers would average 180 percent.

The existing rates have been in effect since 1945. They are a capacity charge of $0.75 per kW month and an energy charge in three blocks at 4, 3, and 2 mills per kWh.

The proceeding to adjust CVP rates that was begun on September 4, 1975, has been suspended since March 1976. Because many of the factors used as a basis for that tentative proposal have changed, the Department concluded that a new procedure was required. These changes include, among other things, revision of the charge to the Pacific Gas and Electric Company (PG&E) for Northwest power and charges to CVP by PG&E for transmission service, the court action invalidating the earlier rate increases on procedural grounds, and the effects of inflation on project costs.

The tentative rate increase is based on revenue requirements determined by a new power repayment study. The new repayment study incorporates many of the comments and suggestions received from customers following the September 1975 announcement plus those changes mentioned above.

A report will be mailed to customers and interested parties about September 12, 1977. It will include the basis for the tentative rate changes.

A public information forum is scheduled for Wednesday, October 5, 1977, beginning 9:30 a.m. at: Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825.

At this forum, departmental representatives will explain the tentative rates and criteria, answer questions concerning them, and accept comments. An additional information forum may be scheduled if the need is indicated by requests.

Public Comment Forum. The public comment forum is scheduled for Thursday and Friday, November 17 and 18, 1977.

At the public comment forum, interested persons may submit written comments or make oral presentations of their views. Department of Energy representatives will be present and may ask questions. The locations and other details regarding this forum will be made available later.

A transcript of the forums will be made, and copies of the transcript can be purchased by those who request them.

Dated: September 12, 1977.

DANIEL P. BEARD,
Deputy Assistant Secretary of the Interior.

[FR Doc. 77-26992 Filed 9-15-77;8:45 am]

DEPARTMENT OF JUSTICE

FALVEY LINEN SUPPLY, INC.

Proposed Consent Decree (Federal Water Pollution Control Act)

In accordance with departmental policy, 28 C.F.R. § 50.7, 38 Fed. Reg. 19029, notice is hereby given that on August 31, 1977, a proposed consent decree in *United States* v. *Falvey Linen Supply, Inc.*, Civil Action No. 760523, was lodged with the United States District Court for the District of Rhode Island. The proposed consent decree requires a revised system to be installed and working properly by December 30, 1977. There are also penalties if deadlines for construction and reaching operational level are not met.

The Department of Justice will receive until October 17, 1977, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Falvey Linen Supply, Inc.*, DJ Ref. 90-5-1-1-528. The proposed consent decree may be examined at the office of the United States Attorney for the District of Rhode Island, Providence, Rhode Island; at the Region I office of the Environmental Protection Agency, Enforcement Division, John F. Kennedy Federal Building, Boston, Massachusetts; and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2625, 9th Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Washington, D.C.

JAMES W. MOORMAN,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc.77-26983 Filed 9-15-77;8:45 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON PRODUCTIVITY AND TECHNOLOGICAL DEVELOPMENTS

Meeting

1. The notice of a meeting of this committee on September 27, 1977, was published in the FEDERAL REGISTER on page 45386, September 9, 1977.

2. Because of the inability of key committee members to appear on September 27, the meeting has been rescheduled for September 28, 1977, at 1:30 p.m. The location and agenda for the meeting are unchanged.

Signed at Washington, D.C., this 14th day of September 1977.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc.77-27171 Filed 9-15-77;8:45 am]

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order, to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of the employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to:

Deputy Assistant Secretary for Employment and Training, 601 D St. NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 12th day of September, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

C877-789	do	Dessa Drilling Corp., 2205 Crooked Oak Ct., Arlington, Tex. 76012.
C877-790	do	Perpetual Pipeline of America, Ltd., 764 Oil Hill Rd., El Dorado, Kans. 67042.
C877-791	do	Lillian R. Hollyfield, 911 North 26th St., Arkadelphia, Ark. 71923.
C877-792	do	Walter E. Baily, Box 548, Seminole, Okla. 74868.
C877-793	Aug 30, 1977	James R. Yoxall, Smith, Greenleaf & Brooks, Liberal, Kans. 67901.
C877-794	do	H. M. Daugherty, Jr., 1 State National Plaza, El Paso, Tex. 79901.
C877-795	Aug. 31, 1977	Maury Page Kemp., 1900 State National Plaza, El Paso, Tex. 79901.
C877-796	do	Charles B. Hammond, P.O. Box 179, El Paso, Tex. 79942.
C877-797	do	Lynwood J. Boyer, 1 State National Plaza, El Paso, Tex. 79901.
C877-798	do	David H. Wiggs, Jr., P.O. Drawer 2800, El Paso, Tex. 79999.
C877-799	do	James F. Garner, P.O. Drawer 2800, El Paso, Tex. 79999.
C877-800	do	Joseph P. Hammond, P.O. Drawer 2800, El Paso, Tex. 79999.
C877-801	do	Bassett California Co., P.O. Box 179, El Paso, Tex. 79942.
C877-802	do	Wasp I, a partnership, P.O. Box 2800, El Paso, Tex. 79999.
C877-803	do	John Ellis c/o Henry Ellis, P.O. Box 1072, El Paso, Tex. 79958.
C877-804	Aug. 26, 1977	R. C. McNeill, Route 1, Happy, Tex. 79042.
C877-805	do	Robert L. Miller, 1902 Virginia, Amarillo, Tex.

[FR Doc.77-26792 Filed 9-15-77;8:45 am]

Occupational Safety and Health Administration

SOUTH CAROLINA STANDARDS

Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 6, 1972, notice was published in the FEDERAL REGISTER (37 FR 25932) of the approval of the South Carolina plan and the adoption of Subpart C to Part 1952 containing the decision.

The South Carolina plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.41 of 29 CFR provides that: "Where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to the State Plan shall be required." By letter dated December 30, 1976, from Edgar L. McGowan, Commissioner, South Carolina Department of Labor to Donald E. MacKenzie, Regional Administrator, and incorporated as a part of the plan, the State submitted the following amended State standards comparable to OSHA standards 29 CFR Part 1910 and 29 CFR Part 1926, amendments to § 1910.309 and § 1926.400 dated, December 21, 1976; §§ 1910.103 through 1910.1016 dated, August 20, 1976; § 1910.1029 dated, October 22, 1976; Subpart T Part 1910 dated, November 5, 1976, and § 1926.57 dated October 22, 1976.

These standards were promulgated after public hearings held on December 30, 1976, and by filing with the South Carolina Secretary of State on December 30, 1976, respectively, pursuant to Act 379, South Carolina Acts and Joint Resolutions, 1971 (Sections 40-261 through 40-274 South Carolina Code of Laws, 1962).

2. *Decision.* Having reviewed the State submission in comparison with the Federal standard it has been determined that the State standards are identical to the Federal standards.

The State standards are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, South Carolina Department of Labor, 3600 Forest Drive, Columbia, S.C. 29211, Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, NE., Atlanta, Ga. 30309; and Office of the Associate Assistant Secretary for Regional Programs, Room N3603, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the South Carolina State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are essentially identical to the comparable Federal standards and are deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective September 16, 1977.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Atlanta, Ga., this 24th day of February 1977.

ALAN C. MCMILLAN,
Acting Regional Administrator.

[FR Doc.77-27046 Filed 9-15-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (77-60)]

RESEARCH AND TECHNOLOGY ADVISORY COUNCIL, INFORMAL COMMITTEE ON AERIAL APPLICATIONS TECHNOLOGY

Meeting

An informal Committee on Aerial Applications Technology of the Research and Technology Advisory Council will meet on October 5 and 6, 1977, at the NASA Langley Research Center, Hampton, Va., and October 7, 1977, at the Wallops Flight Center, Wallops Island, Va. The meeting at Langley Research Center will be held in Conference Room 225 of Building 1219. The meeting at Wallops Flight Center will be held in Conference Room 1 of Building E-2. The meetings will be open to the public on a first-come, first-served basis, up to the seating capacity of the rooms, which is about 40 persons. All visitors must report to the Langley Research Center and Wallops Flight Research Center Receptionists.

The informal Committee on Aerial Applications Technology of the Research and Technology Advisory Council is to review the results of the definition phase activities and provide recommendations and comments on the content, scope and pace of the potential NASA programs in Aerial Applications Technology. The Chairman of the committee is Mr. Corwin Meyer.

For further information, please contact Roger L. Winblade (Area Code 202-755-2399) or C. Robert Nysmith, Executive Secretary, Research and Technology

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Advisory Council (Area Code 202-755-8550), and NASA Headquarters, Washington, D.C. 20546.

OCTOBER 5, 1977

Time	Topic
9:30 a.m.	Convene.
9:40 a.m.	Welcoming Remarks (Purpose: To officially welcome the members of the Informal Committee on Aerial Applications Technology to the Langley Research Center.)
10 a.m.	Background and Objective of Meeeting (Purpose: To provide the Committee with a chronology of events leading to the development of a potential NASA program in Aerial Applications Technology and define the specific objectives of this meeting.)
10:40 a.m.	Review of Definition Phase Activities (Purpose: To provide the Committee with the results of workshops and study efforts conducted as a prelude to development of the prospective program plan.)
2 p.m.	Status and Review of Preliminary Experimental Efforts (Purpose: To provide the Committee with the results and current status of preliminary experimental tasks undertaken to define technical problems and approaches included in the prospective program plan.)
5:15 p.m.	Summary (Purpose: To provide the Committee with an opportunity to obtain clarification or additional information on presentations.)

OCTOBER 6, 1977

8:30 a.m.	Convene.
8:40 a.m.	Presentation of prospective NASA Program Plan on Aerial Applications Technology. (Purpose: To provide the Committee with a detailed description of the purpose, objective, content, and schedule of each task in the prospective program plan.)
2 p.m.	Industry Review Critique and Recommendations (Purpose: To obtain the comments, criticisms and recommendations from the industry on the prospective program plan.)

OCTOBER 7, 1977

9 a.m.	Convene.
9:10 a.m.	Welcoming Remarks (Purpose: To officially welcome the members of the Informal Committee on Aerial Applications Technology to the Wallops Flight Center.)
9:30 a.m.	Review of Wallops Flight Center Facilities and Proposed Activities in Aerial Applications Technology (Purpose: To provide the Committee with an opportunity to review the plans for development of a field test and calibration facility at Wallops Flight Center.)
10:30 a.m.	Tour of Wallops Flight Center.
11:30 a.m.	Final Summary and Review of Industry Comments (Purpose: To provide the Committee with an opportunity for presenting concluding remarks.)
12 noon	Adjournment.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

SEPTEMBER 12, 1977.

[FR Doc.77-26990 Filed 9-15-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

EXPANSION ARTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Expansion Arts Advisory Panel to the National Council on the Arts will be held on October 3-4, 1977, from 9:00 a.m. to 3:30 p.m., in the Alexandria Hotel, Spring at Fifth Street, Los Angeles, California 90012, and on October 5, 1977, from 9:15 a.m. to 1:30 p.m. and 3:00 p.m. to 5:30 p.m. at the Alexandria Hotel, Spring at Fifth Street, Los Angeles, California 90012 and on October 5, 1977, from 1:30 p.m. to 3:00 p.m. at Music Center Presentations, 135 North Grand Avenue, Los Angeles, CA 90012.

A portion of this meeting will be open to the public on October 3, 1977, from 9:00 a.m. to 3:30 p.m. and on October 5, 1977, from 9:15 a.m. to 5:30 p.m. on a space available basis. Accommodations are limited. The agenda for this session will include Guidelines, Policy and a joint session with the Dance Panel on October 5, 1977 at 5:00 p.m.

The remaining sessions of this meeting on October 4, 1977, from 9:00 a.m. to 3:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(B) of section 552(b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts and the Humanities.

SEPTEMBER 12, 1977.

[FR Doc.77-26966 Filed 9-15-77;8:45 am]

MUSEUM ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Museum Advisory Panel to the National Council on the Arts will be held on October 3, 1977, from 9:00 a.m. to 4:00 p.m. in The Minneapolis Institute of Arts, 2400 Third Avenue South, Minneapolis, Minn. 55404 and October 4, 1977 from 9:00 a.m. to 4:15 p.m. in the Walker Art Center, Vineland Place, Minneapolis, Minn. 55403.

A portion of this meeting will be open to the public on October 3, 1977, from 9:00 a.m. to 4:00 p.m. on a space available basis. Accommodations are limited. The agenda for this session will include a discussion of Policy and a question and answer session.

The remaining sessions of this meeting on October 4, 1977, from 9:00 a.m. to 4:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(B) of section 552(b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 624-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

SEPTEMBER 12, 1977.

[FR Doc.77-26965 Filed 9-15-77;8:45 am]

MUSIC ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Music Advisory Panel (Planning Section) to the National Council on the Arts will be held on October 4, 1977, from 10:00 a.m. to 5:30 p.m.; October 5, 1977, from 9:30 a.m. to 7:00 p.m.; and on October 6, 1977, from 9:30 a.m. to 5:30 p.m. in Columbia Plaza, Room 1422, 2401 E Street NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on October 4, 1977, from 10:00 a.m. to 12:00 noon, October 5, 1977, from 4:00 p.m. to 7:00 p.m. and October 6, 1977, from 9:30 a.m. to 5:30 p.m. on a space available basis. Accommodations are limited. The agenda for these sessions will include a discussion on Policy.

The remaining sessions of this meeting on October 4, 1977, from 12:00 noon to 5:30 p.m., and October 5, 1977, from 9:30 a.m. to 4:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and 9(B) of section 552(b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-624-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-27021 Filed 9-15-77;8:45 am]

National Endowment for the Humanities

ADVISORY COMMITTEE, EDUCATION PROGRAMS PANEL

Meeting

SEPTEMBER 12, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is hereby given that a meeting of the Education Programs Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1025, from 9 a.m. to 5:30 p.m. on October 17, 1977.

The purpose of the meeting is to review College Library Grant applications and Development Grant applications submitted to the National Endowment for the Humanities for projects beginning after April 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc.77-27044 Filed 9-15-77;8:45 am]

MEDIA ARTS ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Media Arts Advisory Panel to the National Council on the Arts will be held on September 21, 1977, from 9 a.m. to 5:30 p.m., in Room 1219, Columbia Plaza Building, 2401 E Street NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions may be closed to the public pursuant to subsections (c) (4), (6), and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-27055 Filed 9-15-77;8:45 am]

MEDIA ARTS ADVISORY PANEL

Meeting

Pursuant to Section 10(c)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Media Arts Advisory Panel (Aid to Film/Video Exhibition) will be held on October 6, 1977, from 9:30 a.m. to 7 p.m. and on October 7, 1977, from 9:30 a.m. to 3 p.m. in Room 1219, Columbia Plaza Building, 2401 E Street NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicant in accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977. These sessions may be closed to the public pursuant to subsections (c) (4), (6), and 9 (B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endow-

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ment for the Arts, Washington, D.C. 20506, or call 202–634–6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77–27056 Filed 9–15–77;8:45 am]

ADVISORY COMMITTEE, PUBLIC PROGRAMS PANEL

Notice of Meeting

SEPTEMBER 7, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given that a meeting of the Public Programs Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in the First Floor Conference Room, from 9 a.m. to 5:30 p.m. on October 11 and 12, 1977.

The purpose of the meeting is to review public media applications in all of the fields of the humanities submitted to the National Endowment for the Humanities for projects beginning after December 1, 1977.

Because the proposed meetings will consider financial information and disclose information of a personal nature, the discussion of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c), and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202–724–0368.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc.77–27042 Filed 9–15–77;8:45 am]

ADVISORY COMMITTEE, PUBLIC PROGRAMS PANEL

Meeting

SEPTEMBER 7, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given that a meeting of the Public Programs Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1130, from 9 a.m. to 5:30 p.m. on October 6, 7, and 8, 1977.

The purpose of the meeting is to review Public Program applications for museums and historical organization projects which were submitted to the National Endowment for the Humanities and which will begin after December 1, 1977.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c), and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202–724–0368.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc.77–27043 Filed 9–15–77;8:45 am]

ADVISORY COMMITTEE, RESEARCH GRANTS PANEL

Meeting

SEPTEMBER 9, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given that a meeting of the Research Grants Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1130, from 9 a.m. to 5:30 p.m. on October 7, 1977.

The purpose of the meeting is to review General Research applications in the field of History submitted to the National Endowment for the Humanities for projects beginning after April 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202–724–0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc.77–27045 Filed 9–15–77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 13, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202–395–4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, School Breakfast Program Evaluation, single-time, schools, natural resources division, Caywood, D. P., 395–6827.

Agricultural Stabilization and Conservation Service, Storage Contract for Processed Commodities, CCC–29, 29–1, 29–2, 29–3, single-time, warehousemen, Ellett, C. A., 395–5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration, Group Practice Efficiency Study Questionnaires, single-time, group medical practices in United States, Richard Elsinger, 395–6140.

REVISIONS

DEPARTMENT OF COMMERCE

Bureau of Census, Tractors (Except Contractor's Off-Highway Type, Garden Tractors and Motor Tillers), MA–35T, annually, manufacturing establishments, C. Louis Kincannon, 395–3211.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration (Medicare):

Home Health Agency Survey Report Crucial Data Extract (Medicare), HCFA–1572 E, on occasion, providers and suppliers of medicare/medicaid services, Caywood, D. P. and Warren Topelius, 395–3443.

Hospital Survey Report CDE (Crucial Data Extract) (Medicare), HCFA–1537 E, on occasion, hospitals (nonaccredited), Caywood, D. P. and Warren Topelius, 395–3443.

General Intermediate Care Facility Survey Report Crucial Data Extract (Medicare), HCFA–3070 E, semiannually, intermediate care facilities, Caywood, D. P. and Warren Topelius, 395–3443.

Fire Safety Survey Report Crucial Data Extract (Medicare), HCFA–2786 E, annually, nonaccredited hospitals, skilled nurses, and intermediate care facilities, Caywood, D.P. and Warren Topelius, 395–3443.

Independent Laboratory Survey Report Crucial Data Extract (Medicare), HCFA–1557 E, annually, independent laboratories, Richard Elsinger and Warren Topelius, 395–6140.

Outpatient Physical Therapy-Speech Pathology Survey Report Crucial Data Extract (Medicare), HCFA–1893 E, on occasion, outpatient physical therapy/speech pathology, Caywood, D. P. and Warren Topelius, 395–3443.

Medicare/Medicaid Skilled Nursing Facility Survey Report Crucial Data Extract (Medicare), HCFA–1569 E, annually, skilled nursing facility (medicare/medicaid), Caywood, D. P. and Warren Topelius, 395–3443.

Portable X-Ray Survey Report Crucial Data Extract (Medicare), HCFA–1882 E, on occasion, portable X-ray units, Caywood, D. P. and Warren Topelius, 395–3443.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service, Dealers Record (Tobacco), MQ–79, on occasion, tobacco dealers, Ellett, C. A., 395–5867.

Statistical Reporting Service, December Enumerative Survey (Livestock Operations), annually, farmers, Ellett, C. A., 395–5867.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–27153 Filed 9–15–77;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 12, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Forest Service, An assessment of the use and Potential of Private Lands for Outdoor Recreation, single time, Corporation and noncorporation, Forest and range owners, and Federal agency, Ellett, C. A., 395–5867.

Farmer Cooperative Service, Survey of Coordinated Cooperative Trucking Activities, single time, farmer cooperatives, Strasser, A., 395–5867.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, Work Injury Report, BLS–98, single time, workers injured as a result of specified source, Strasser, A., 395–5867.

DEPARTMENT OF TRANSPORTATION

Departmental and Other Questionnaire for Research Project: Improved Regulation of Interstate Transportation of Migrant Workers, single-time, migrant workers at selected labor camps, Strasser, A., 395–5867.

REVISIONS

DEPARTMENT OF AGRICULTURE

Economic Research Service, Survey of Milled Rice Distribution by Rice Millers and Repackagers, annually, all rice milling and repackaging firms in the United States, Ellett, C. A., 395–5867.

DEPARTMENT OF COMMERCE

Maritime Administration:

Vessel Data, Ma–828, on occasion, shipping companies, Strasser, A., 395–5867.

Designation or change of Beneficiary for Second Seamen's War Risk Insurance, MA–269, on occasion, seamen aboard Maritime Administration-owned vessels, Strasser A., 395–5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:

Institutional Application to Participate in Federal Student Financial Aid Programs July 1, 1978 to June 30, 1979, OE–1036, annually, post-secondary educational institutions, Laverne v. Collins, 395–5867.

ESEA Title I Comparability Report—Form A, General Information; Form B, Detailed School Data; OE–4524 A and B, annually, LEAS, Lavern, V. Collins, Budget Review Division, 395–5867.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service, Report of Production and Disposition (Tobacco), MQ–108, on occasion, tobacco producer, Ellett, C. A., 395–5867.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, Digest of Selected Pension Plans, BLS 2714, on occasion, pension plan administrators, Strasser, A., 395–5867.

DEPARTMENT OF THE TREASURY

Bureau of Customs, Record of Transactions of Licensed Customhouse Broker, CF 3079, on occasion, customhouse brokers, Strasser, A., 395–5867.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–27154 Filed 9–15–77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–0331]

FIRST WOMAN'S SMALL BUSINESS INVESTMENT CORP.

Issuance of License To Operate as a Small Business Investment Company

On July 11, 1977, a Notice of Application for a license as a Small Business Investment Company was published in the FEDERAL REGISTER (42 FR 35720) stating that an application had been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1977)) for a license as a small business investment company (SBIC) by First Woman's Small Business Investment Corp., 885 Second Avenue, New York, N.Y. 10017.

Interested parties were given until the close of business July 25, 1977, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information and the facts with regard thereto, SBA on August 26, 1977, issued License No. 02/02–0331 to First Woman's Small Business Investment Corp., to operate as a SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 7, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77–27006 Filed 9–15–77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

IMPORTATION FROM THE EUROPEAN COMMUNITIES OF FERROCHROMIUM AND CHROMIUM-BEARING STEEL MILL PRODUCTS UNDER THE RHODESIAN SANCTIONS REGULATIONS

Availability of Special Certificates for Imports From Federal Republic of Germany

Special certificates issued under the Certification Agreement between the United States and the Commission of the European Communities are now available for imports from the Federal Republic of Germany of ferrochromium and chromium-bearing steel mill products. Materials shipped after the date of this Notice may only be imported if a special certificate is presented to Customs at the time of entry.

Imports of certifiable materials shipped prior to the date of this Notice may continue to be made under the interim certificates. However, the entry will not be liquidated until the importer presents a special certificate. Such certificate must be obtained from the producer and filed by the importer on or before September 18, 1977, to complete liquidation.

Dated: September 8, 1977.

STANLEY L. SOMMERFIELD,
Acting Director.

Approved:

BETTE B. ANDERSON,
Under Secretary.

[FR Doc.77–26999 Filed 9–15–77;8:45 am]

SAFETY FILM KODAK
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Office of the Secretary

METHYL ALCOHOL FROM BRAZIL

Antidumping Proceeding Notice

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of methyl alcohol from Brazil are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally means that the prices of the merchandise sold for exportation to the United States are less than the prices of such or similar merchandise sold in the home market. Because there is substantial doubt that an industry is being, or is likely to be, injured as a result of those imports, this case is being referred to the United States International Trade Commission for a determination as to whether or not there is a reasonable indication of injury. If the Commission should find within 30 days that there is no reasonable indication of injury, this investigation will be terminated. Otherwise the investigation will continue to a conclusion.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: On August 11, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of the Celanese Corp., indicating a possibility that methyl alcohol from Brazil is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to, or the likelihood of injury to, or prevention of establishment of an industry in the United States. The petitioner has alleged that its profitability has been in decline since 1974, and the industry is operating at less than 75 percent capacity. However, there is evidence which indicates that U.S. domestic production of methyl alcohol increased from 1975 to 1976. There have been no imports of methyl alcohol from Brazil in two years. The allegation of a likelihood of injury to a domestic industry in this case relates to the sale and future delivery of methyl alcohol to a U.S. purchaser. The sale involves the delivery of a quantity of methyl alcohol which represents less than 0.5 percent of 1976 U.S. production and 1.0 percent of 1976 U.S. sales.

On the basis of such evidence, it has been concluded that there is substantial doubt of injury to, likelihood of injury to, or prevention of establishment of an industry in the United States by virtue of such importation from Brazil. Accordingly, the United States International Trade Commission is being advised of such doubt pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)).

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of price information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

SEPTEMBER 13, 1977.

[FR Doc.77-27010 Filed 9-15-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[AB 19 (Sub-No. 35)]

ALLEGHENY & WESTERN RAILWAY CO., ET AL.

Abandonment of Line

AUGUST 31, 1977.

In the matter of Allegheny & Western Railway Co., Buffalo, Rochester & Pittsburgh Railway Co., and the Baltimore & Ohio Railroad Co., abandonment near New Castle, Lawrence County, Pa.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Section of Energy and Environment to modify its previous conclusion that this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.

Said comments have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7011.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-27030 Filed 9-15-77;8:45 am]

[Notice No. 481]

ASSIGNMENT OF HEARINGS

SEPTEMBER 13, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 113678 (Sub-No. 659), Curtis, Inc., now assigned September 12, 1977, at San Francisco, Calif., is postponed indefinitely.

MC-C-8617, *Arrow Carrier Corp. et al* v. *United Parcel Service, Inc. et al*, now assigned September 27, 1977, at Washington, D.C., is patponed indefinitely.

MC 10421 (Sub-No. 20), Econolines, Inc., now being assigned November 29, 1977 (2 days), for hearing in Omaha, Nebr., in a hearing room to be later designated.

MC 117686 (Sub-No. 167), Hirschbach Motor Lines, Inc., now being assigned December 1, 1977 (2 days), for hearing in Omaha, Nebr., in a hearing room to be later designated.

MC-F-13153, McCarthy Truck Line, Inc.—Control—(B) East Nebraska Motor Freight, Inc., and (BB) Kruse Transportation Co., Inc., MC 121586 (Sub-No. 2), Kruse Transportation Co., Inc., MC 121540 (Sub-No. 4), East Nebraska Motor Freight, Inc., and MC-F-13168 McCarty Truck Line—Control—Nebraska-Iowa-Missouri Express, Inc., now being assigned December 5, 1977 (1 week), for hearing in Lincoln, Nebr., in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-27037 Filed 9-15-77;8:45 am]

[AB 123]

CHICAGO PRODUCE TERMINAL CO.

Abandonment of Railroad Operations in Chicago, Ill.

AUGUST 29, 1977.

The Interstate Commerce Commission hereby gives notice that: (1) The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., (2) a notice setting forth this conclusion was served June 28, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice, (3) this proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-27031 Filed 9-15-77;8:45 am]

[Ex Parte No. 241; Rule 19, 12th Rev. Exemption No. 129]

CHICAGO, WEST PULLMAN AND SOUTHERN RAILROAD CO., ET AL.

Mandatory Car Service Rules

It apearing, that the railroads named herein own numerous 40-ft. plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carrieres for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unncessary loss of utilization of such cars.

It is ordered, That; pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 404 issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

Chicago, West Pullman & Southern Railroad Co.
Reporting Marks: CWP.
Chicago, Rock Island and Pacific Railroad Co.
Reporting Marks: RI-ROCK
Detroit and Mackinac Railway Co.
Reporting Marks: D&M-DM
Illinois Terminal Railroad Co.
Reporting Marks: ITC
Louisville, New Albany & Corydon Railroad Co.
Reporting Marks: LNAC
Missouri-Kansas-Texas Railroad Co.
Reporting Marks: MKT
Missouri Pacific Railroad Co.
Reporting Marks: CEI-MI-MP-TP
New Hope and Ivyland Railroad Co.
Reporting Marks: NHIR
Richmond, Fredericksburg and Potomac Railroad Co.
Reporting Marks: RFP
St. Louis-San Francisco Railway Co.
Reporting Marks: SLSF[1]

Effective 12:01 a.m., September 15, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., September 9, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-27033 Filed 9-15-77;8:45 am]

[1] Southern Railway Company eliminated.

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 13, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before October 3, 1977.

FSA No. 43431—*Joint Rail-Water Container Rates — Bermuda Express Service*. Filed by Bermuda Express Service, (No. 1), for itself and interested rail carriers.

Rates on general commodities, from rail carriers terminals on the U.S. West Coast, to Hamilton, Bermuda.

Grounds for relief—Water competition.

Tariff—Bermuda Express Service tariff No. 1, I.C.C. No. 1, F.M.C. No. 16.

Rates are published to become effective on October 2, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-27034 Filed 9-15-77;8:45 am]

[Notice No. 223]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before October 17, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested parties on notice of the proposed transfer.

No. MC-FC-77290, filed September 1, 1977. Transferee: POTTSVILLE MOVING AND STORAGE CO., INC., Prospect and Water Streets, Pottsville, Pa. 17901. Transferor: Pottsville Storage and Transfer Co., Prospect and Water Streets, Pottsville, Pa. 17901. Applicant's representative: James J. Riley, Esq., American Bank Building, Pottsville, Pa. 17901. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 62898, issued November 28, 1962, as follows: Household goods between points in Schuylkill County, Pa., on the one hand, and on the other hand, points in New York, New Jersey, Delaware, Maryland, Virginia, and the District of Columbia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-27035 Filed 9-15-77;8:45 am]

[Notice No. 115TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 13, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date of the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the

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Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 5470 (Sub-No. 133TA), filed August 23, 1977. Applicant: TAJON, INC., R.D. #, Mercer, Pa. 16137. Applicant's representative: Richard W. Sanguigni, (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Abrasive materials and refractory products*, in dump vehicles, from Buffalo, N.Y. to Jackson and Quinnesec, Mich. and Philadelphia, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Grinding Wheel, Division Federal Mogul Corporation, Erie Ave. and Walck Road, North Tonawanda, N.Y. 14120. SEND PROTESTS: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 39167 (Sub-No. 13TA), filed August 29, 1977. Applicant: C. J. ROGERS TRANS. CO., 2947 Greenfield Road, Melvindale, Mich. 48122. Applicant's representative: David A. Turano, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products* and *building materials* (except commodities in bulk), from the facilities of the United States Gypsum Co. at or near Gypsum, Ohio (Portage Township, Ottawa County) to points in Indiana, Kentucky, Michigan, Pennsylvania, and West Virginia, for 180 days. Supporting shipper(s): U.S. Gypsum Company, R. A. Stoneham, Traffic Manager, 101 S. Wacker Drive, Chicago, Ill. 60606. Send protests to: Erma W. Gray, Secretary, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building & U.S. Courthouse, 231 West Lafayette Blvd., Detroit, Mich. 48226.

No. MC 42261 (Sub-No. 126TA), filed August 12, 1977. Applicant: LANGER TRANSPORT CORP., P.O. Box 305, Jersey City, N.J. 07303. Applicant's representatitve: W. C. Mitchell, 370 Lexington Avenue, New York, N.Y. 10017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials, and returned empty malt beverage containers*, between South Volney, N.Y., on the one hand, and, on the other, points in Connecticut, Massachusetts, New Jersey and New York, for 180 days. Supporting shipper(s): Miller Brewing Co., 4000 West State Street, Milwaukee, Wis. 53208. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 42261 (Sub-No. 127TA), filed August 12, 1977. Applicant: LANGER TRANSPORT CORP., P.O. Box 305, RT 440, Foot of Danforth Ave., Jersey City, N.J. 07303. Applicant's representative: W. C. Mitchell, 370 Lexington Avenue, New York, N.Y. 10017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water reducing admixtures, liquid*, in bulk, in tank vehicles, from Linden, N.J., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Maryland, Delaware, District of Columbia, Pennsylvania, West Virginia, Ohio, Virginia and Tennessee, for 180 days. Supporting shipper(s): Penn-Dixie Chemical Co., 2 Porete Avenue, North Arlington, N.J. 07032. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 61396 (Sub-No. 335TA), filed August 29, 1977. Applicant: HERMAN BROS., INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha, Nebr. 68101. Applicant's representative: John E. Smith, II, same address as above. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer material*, in bulk, in tank vehicles, from the facilities of CF Industries, Inc., at or near Albany, Ill. to points in the States of Iowa, Minnesota, Wisconsin, and Illinois, for 180 days. Supporting shipper(s): Donald B. Ayers, Manager Transportation, CF Industries, Inc., Salem Dr., Long Grove, Ill., 60047. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 No. 14th St., Omaha, Nebr. 68102.

No. MC 69834 (Sub-No. 15TA) filed August 22, 1977. Applicant: PRICE TRUCK LINE, INC., 2945 North Market, Wichita, Kans. 67219. Applicant's representative: William H. Shawn, 1730 M St. NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *School, art, and hobbies supplies and commodities used in the manufacturing, packaging, and the transportation of school, art, and hobbies supplies*, between the facilities of Binney & Smith, Inc., located at Winfield, Kans., Cincinnati, Ohio, and Easton, Pa., and Vandalia, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Binney & Smith, Inc., 1100 Church Lane, Easton, Pa. 18042. Send protests to: M. E. Taylor, District Supervisor, Interstate Commission, Commerce, 101 Litwin Bldg., 110 North Market, Wichita, Kans. 67202.

No. MC 84739 (Sub-No. 26TA), filed August 22, 1977. Applicant: SEVERSON TRANSPORT, INC., Route 1, Box 163, Edgerton, Wis. 53534. Applicant's representative: John Duncan Varda, 121 South Pinckney, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from the facilities of Krier Preserving Company at or near Belgium and Random Lake, Wis., to points in Pennsylvania on and west of U.S. Highway 15, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Michael V. Perry, d.b.a. Florie Diebold Co., 2 Gardner St., Johnstown, Pa. 15905. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Rm. 202, Madison, Wis. 53703.

No. MC 87566 (Sub-No. 9TA), filed August 23, 1977. Applicant: SCHMIDT TRUCK SERVICE, INC., U.S. Highway 66, Litchfield, Ill. 62056. Applicant's representative: Allan C. Zuckerman, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Zinc oxide*, from Hillsboro, Ill., to Murray, Ky. and Des Moines, Iowa; and (2) *tote bins*, from Murray, Ky., to Hillsboro, Ill., for 180 days. Supporting shipper: S. O. Holdman, District Traffic Mgr., ASARCO Inc., 611 Olive St., Suite 1755, St. Louis, Mo. 63101. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 93840 (Sub-No. 32TA), filed August 25, 1977. Applicant: W. W. GLESS, d.b.a. GLESS BROS., P.O. Box 216, Blue Grass, Iowa 52726. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc., at or near Albany, Ill., to points in Iowa, Wisconsin, Illinois, and Minnesota, for 180 days. Supporting shipper(s): There are approximately 5 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 103051 (Sub-No. 406TA), filed August 24, 1977. Applicant: FLEET TRANSPORT CO., INC., 934 44th Ave., North, Nashville, Tenn. 37209. Applicant's representative: P.O. Box 90408, Nashville, Tenn. 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acetic acid*, in bulk, in tank vehicles, from West Palm Beach, Fla. to Lodi, N.J., for 180 days. Applicant has also filed an an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Tropical Shipping & Const. Co., Ltd., 821 Avenue "E", Riviera Beach, Fla. 33404. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 107012 (Sub-No. 246TA), filed August 12, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway, East and Meyer Rds., Fort Wayne, Ind. 46801. Applicant's representative: Gary M. Crist, P.O. Box 988, Fort Wayne, Ind. 46801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fireplaces, component parts, accessories, and equipment therefor*, from plantsite of Heatilator, a Division of Vega Industries, Inc., at or near Mt. Pleasant, Iowa, to Wickes Lumber and Building Supply Centers in Wisconsin, Minnesota, Nebraska, Kansas Missouri, Illinois, Indiana, Michigan, Ohio, Kentucky, Tennessee, Pennsylvania, New York, Vermont, New Hampshire, Maine, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, Oklahoma, Arkansas, Texas, Louisiana, Mississippi, Georgia, Florida, North Carolina, South Carolina, Virginia, and Colorado, for 180 days. Supporting shipper(s): Wickes Lumber, A Division of the Wickes Corp., 515 North Washington Avenue, Saginaw, Mich. 48607. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 107496 (Sub-No. 1103TA), filed August 25, 1977. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center, 666 Grand Ave., Des Moines, Iowa 50309. Applicant's representative: E. Check, (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc., at or near Albany, Ill., to points in Iowa, Illinois, Minnesota, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): FS Services, Inc., 1701 Towanda, Bloomington, Ill. 61701. CENEX, P.O. Box 43089, St. Paul, Minn. 55164. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 107541 (Sub-No. 48TA), filed August 15, 1977. Applicant: WASHINGTON-OREGON LUMBER FREIGHTERS, INC., 12925 Northeast Rockwell Drive, Vancouver, Wash. 98665. Applicant's representative: Dwight Willard, 6400 Village Parkway, Dublin, Calif. 94566. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Borax and boric acid* (except in bulk), from the facilities of U.S. Borax Corp. at or near Boron, Calif., and the facilities of Kerr-McGee Corp. at Trona, Calif., to points on the international boundary line between the United States and British Columbia, Canada, restricted to foreign commerce, and (2) *soda products* (except in bulk), from points in Sweetwater County, Wyo., to points on the international boundary line between the United States and British Columbia, Canada, restricted to foreign commerce, for 180 days. Supporting shipper(s): St. Lawrence Chemical Co., 6590 McKenzie Drive, Delta, British Columbia, Canada Colours & Chemicals, Ltd., 7080 River Road, Suite 217, Richmond, British Columbia. Send protests to: District Supervisor R. V. Dubay, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland, Oreg. 97204.

No. MC 108449 (Sub-No. 400TA), filed August 26, 1977. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc., at or near Albany, Ill., to points in Iowa, Minnesota, Wisconsin, and Illinois, for 180 days. Supporting shippers: There are approximately 5 statements attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg. and U.S. Courthouse, 110 South 4th St., Minneapolis, Minn. 55401.

No. MC 110525 (Sub-No. 1204TA), filed August 9, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien, Commerce Counsel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends thereof, fish oil and vegetable oil*, in bulk, in tank vehicles, from the plant and storage facilities of Archer Daniels Midland Co., Bayway, N.J., to points in Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, Delaware, Maryland, Virginia, and Washington, D.C. Restricted to traffic originating at the facilities of ADM at Bayway, N.J., or to traffic having prior movement by water or rail and destined to the named destination points, for 180 days. Supporting shipper(s): Archer Daniels Midland Co., P.O. Box 1470, 4666 Faries Parkway, Decatur, Ill. 62525. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 110563 (Sub-No. 204TA), filed August 3, 1977. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, Ohio 45365. Applicant's representative: Victor J. Tambascia (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionary* (except in bulk) in vehicles equipped with mechanical refrigeration. From: Chicago and Carol Stream, Ill., to: Points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Restricted to traffic originating at the plantsites and warehouse facilities utilized by E. J. Brach & Sons, Div. of American Home Products Corp. located at or near Chicago and Carol Stream, Ill., for 180 days. Supporting shipper(s): E. J. Brach & Sons, Division of American Home Products Corp., 4656 West Kinzie St., Chicago, Ill. 60644. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 112750 (Sub-No. 344TA), filed August 24, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, and written instruments* (except currency and negotiable securities), as are used in the business of banks and banking institutions: Between Sturgis, Mich., on the one hand, and, on the other, Auburn, Howe, Indianapolis, Kendallville, Lagrange, and Middlebury, Ind., for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Information Technology Services Center, 617 McKee Street, Sturgis, Mich. 49091. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Building, New York, N.Y. 10007.

No. MC 114569 (Sub-No. 185TA), filed August 3, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins, P.O. Box 418, New Kingstown, Pa. 17072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles* distributed by meat packinghouses, as described in Section A and C of Appendix 1 to the report in descriptions in motor carrier certificates 61 MCC 209 and 766 (except commodities in bulk, hides, pet foods, or pet food ingredients), From the plantsite and storage facilities of Farmland Foods, Inc., at or near Crete, Nebr., to points in the states of Connecticut, New Jersey, New York, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the above shipper's facilities and destined to the named states, for 180 days. Supporting shipper(s): Farmland Foods, Inc., Box 403, Denison, Iowa 51442. Send protests to: Charles F. Meyers, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 278 Federal Building, P.O. Box 869, Harrisburg, Pa. 17108.

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No. MC 115092 (Sub-No. 63TA), filed August 24, 1977. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box O, Vernal, Utah 84078. Applicant's representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, Ill. 60174. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic foam articles* (except in bulk), from Oakland, Calif., to Price, Cedar City, Clearfiled, Fillmore, Logan, and Provo, Utah; Cody, Gillette, Larami, Cheyenne, and Casper, Wyo.; and Twin Falls, Burley, Pocatello, and Mesa, Idaho, for 180 days. Supporting shipper: Intermountain Plastics, P.O. Box 9381, Boise, Idaho 83707. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 South State Street, Salt Lake City, Utah 84138.

No. MC 121509 (Sub-No. 5TA), filed August 26, 1977. Applicant: DAUFELDT TRANSPORT, INC., 618 Clay Street, P.O. Box 675, Muscatine, Iowa 52761. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc., at or near Albany, Ill., to points in Iowa, Illinois, Minnesota, and Wisconsin, for 180 days. Supporting shipper(s): There are approximately 5 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 123157 (Sub-No. 33TA), filed August 23, 1977. Applicant: CTI, P.O. Drawer 397, 11115 N. Casa Grande Highway, Rillito, Ariz. 85246. Applicant's representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, Ariz. 85014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal* in bulk from railheads in Clark County, Nev., and San Bernardino County, Calif. to the Southern California Edison Power Plant located approximately 3 miles south of Davis Dam, Nev., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mono Power Company, P.O. Box 800, 2244 Walnut Grove Ave., Rosemead, Calif. 91770. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Rm. 2020, Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

No. MC 123765 (Sub-No. 11TA), filed August 8, 1977. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 E. National Ave., Milwaukee, Mis. 53204. Applicant's representative: Wm. C. Dineen, 710 N. Plankinton Ave., Milwaukee, Wis. 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail department stores between the retail outlets, storage facilities and distribution centers of H. C. Prange Company, in Wisconsin, on the one hand, and on the other, the retail outlets and storage facilities of H. C. Prange Company at or near Traverse City, Mich., restricted to traffic originating at or destined to said retail outlets, storage facilities and distribution centers of H. C. Prange, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: H. C. Prange Company, 504 Adams St., Green Bay, Wis. 54301. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, Wis. 53202.

No. MC 124411 (Sub-No. 13TA), filed August 22, 1977. Applicant: SULLY TRANSPORT, INC., P.O. Box 185, Sully, Iowa 50251. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc. at or near Albany, Ill., to points in Iowa, Illinois, Minnesota, and Wisconsin, for 180 days. Supporting shipper(s): There are approximately 5 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 128205 (Sub-No. 35TA), filed August 25, 1977. Applicant: BULK-MATIC TRANSPORT COMPANY, 12000 S. Doty Ave., Chicago, Ill. 60628. Applicant's representative: Stephen H. Loeb, 180 N. La Salle St., Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and soybean products*, in bulk (except liquid commodities in tank vehicles), from North Kansas City, Mo., to Arkansas, Texas, Mississippi, Louisiana, Oklahoma, New Mexico, Kansas, Nebraska, Iowa, Minnesota, Wisconsin, Illinois, Colorado, Indiana, Kentucky, Michigan, North Dakota, South Dakota, Ohio and Tennessee, for 180 days. Supporting shipper(s): Tabor Milling Co., William Carter, Traffic Manager, P.O. Box 12567, No. Kansas City, Mo. 64116. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 129262 (Sub-No. 2TA), filed August 22, 1977. Applicant: AYERS AND MADDUX, INC., 510 East Olympic Blvd., Los Angeles, Calif. 90015. Applicant's representative: Donald Murchison, 9454 Wilshire Blvd., Suite 400, Beverly Hills, Calif. 90212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank vehicles, from ports of entry on the United States-Mexico International Boundary line to points and places in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 6 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 133689 (Sub-No. 139TA), filed August 8, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First St. S.W., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Floor coverings, stair treads, wall tile, counter top coverings, mouldings, plumbers goods, kitchen fixtures and accessories, kitchen and bathroom cabinets and cabinet tops;* and (2) *materials and supplies* used in the installation, maintenance and repair of the commodities described in (1) above, from Brooklyn, Elmsford, Newburgh and Lake Success, N.Y.; Newark, Trenton, Roselle Park, East Brunswick and Port Elizabeth, N.J. to points in the Minneapolis/St. Paul, Minnesota Commercial Zone, restricted to shipments destined to the facilities of Minnesota Tile Supply located at or near Minneapolis, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Minnesota Tile Supply, 4825 France Avenue North, Minneapolis, Minn. 55492. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 136545 (Sub-No. 12TA), filed August 25, 1977. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., 1109 Railroad St., Box 95, Prentice, Wis. 54556. Applicant's representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Splicers, stackers, feeders and conveying systems* for the wood, wood products and corrugating industry from the plantsite of Marquip, Inc., located at or near Phillips, Wis., to points in the United States (except

Alaska, Hawaii, and Wisconsin), for 180 days. Applicant has also an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s). Marquip, Inc., North Airport Road, Phillips, Wis. 54555. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 136553 (Sub-No. 51TA), filed August 26, 1977. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th St., Dubuque, Iowa 52001. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc. at or near Albany, Ill., to points in Iowa, Illinois, Minnesota, and Wisconsin, for 180 days. Supporting shipper(s): There are approximately 5 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 140159 (Sub-No. 2TA), filed August 26, 1977. Applicant: CHARLES L. FEATHER, R.D. No. 4, Box 653, Altoona, Pa. 16601. Applicant's representative: Thomas M. Mulroy, Esquire, 800 Lawyers Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from points in Blair, Cambria, Clearfield, Indiana and Westmoreland Counties, Pa. to Front Royal, Va. and Baltimore, Md., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Black Gold Coal Corp., 241 Orchard Road, Paoli, Pa. 19301. Send protests to: Richard C. Gobbell, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 140768 (Sub-No. 6TA), filed August 12, 1977. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 499, South Bound Brook, Manville, N.J. 08880. Applicant's representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier* by motor vehicles, over irregular routes, transporting: *Oil and lubricants* except in bulk, from Elmenton and Farmers Valley, Pa. to Billerica, Fitchburg, Lawrence and Lowell, Mass., Gardiner, Me., and East Hartford and East Haven, Conn., restricted against transportation to or from the premises of any person who has entered into a contract with American Trans-Freight, Inc. and/or any person who is served by it pursuant to any permit issued by this Commission, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lawrence Motor Parts Co., John H. Robintol, President, 131–137 So. Broadway, Lawrence, Mass. 01843. Send protests to: Robert S. H. Vance, District Supervisor, 9 Clinton Street, Newark, N.J. 07102.

No. MC 141804 (Sub-No. 73TA), filed August 10, 1977. Applicant: WESTERN EXPRESS, a division of Interstate Rental, Inc. P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Michael J. Norton, P.O. Box 2135, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectioneries* from the plant site and storage facilities of Mrs. J. G. McDonald's Chocolate Co., at or near Salt Lake City, Utah, to points in the United States located on or east of U.S. Highway 85 except points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, Illinois, Indiana, Michigan, and the District of Columbia for 180 days. (Restricted to traffic originating at the above named location.) Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mrs. J. G. McDonald's Chocolate Co., 2250 South 3rd East, Salt Lake City, Utah. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations — Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 141914 (Sub-No. 15TA), filed August 9, 1977. Applicant: FRANK & SONS, INC., Route 1, Box 108–A, Big Cabin, Okla. 74332. Applicant's representative: E. Stephen Heisley, 666 11th Street N.W., No. 805, Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber piping, tubing and hose*, including rubber hose, reinforced with fabric or steel, from the port of entry on the International Boundary line between the United States and Canada located at or near Stanhope, Vt., to points in Alabama, Arizona, California, Colorado, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington and N.J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): I V G Rubber, Canada Ltd., Deregibus Blvd. St., Alphonse de Granby, Quebec, Canada. M. Waddington Ltd. 2121 Trans Canada Highway North, No. 408, Dorval, Quebec, Canada. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Building, 215 NW. Third Street, Oklahoma City, Okla. 73102.

No. MC 142059 (Sub-No. 12TA), filed August 23, 1977. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, P.O. Box 911, Joliet, Ill. 60436. Applicant's representative: Jack Riley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel pipe, plate, bolts and washers* (except commodities which because of size or weight require specialized transportation equipment), from Carlinville, Centralia, Flora, Irvington and Sparta, Ill. and Louisiana, Mo. to points in Iowa, Minnesota, Nebraska and South Dakota, for 180 days. Supporting shipper: Valley Steel Products, Co., P.O. Drawer 429, Centralia, Ill. 62801. Send protests to: Transportation Assistant, Patricia A. Roscoe, Interstate Commerce Commission, Everett Mckinley Dirksen Bldg., 219 S. Dearborn St., Room 1386 Chicago, Ill. 60604.

No. MC 142585 (Sub-No. 1TA), filed August 8, 1977. Applicant: MOORE'S AIRPORT LIMOUSINE SERVICE, INC., P.O. Box 8475, Greensboro, N.C. 27410. Applicant's representative: Willie L. Moore (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, material and supplies* used in the manufacture of telephone equipment having a prior or subsequent out-of-state movement via air freight, between the Greensboro/Winston-Salem/High Point Regional Airport, and the Western Electric Co., Inc., 330 Lexington Rd., Winson-Salem, N.C. and Mount Hope Church Rd., Greensboro, N.C. under a continuing contract with Western Electric Co. Inc. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Western Electric Co., Inc., Resident Transportation Supervisor, 3300 Lexington Rd., Winston-Salem, N.C. 27102. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 142848 (Sub-No. 4TA), filed August 23, 1977. Applicant: JAMES R. POSHARD & SON, INC., P.O. Box 69, Mount Vernon, Ind. 47620. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Temporary authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Pope, Saline, Union, and Williamson Counties, Ill.; and points in Kentucky on and west of U.S. Highway 31E to Gibson, Knox, and Vigo Counties, Ind. Supporting shipper: Public Service Indiana, 1000 East Main, Plainfield, Ind. 46168. Send protests to: Mr. William S. Ennis, District Supervisor, Interstate Commerce Commission, 429 Federal Building, 46 East Ohio Street, Indianapolis, Ind. 46204.

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No. MC 143250 (Sub-No. 2TA), filed August 16, 1977. Applicant: WILDCAT CONSTRUCTION CO., INC., St. Albans, Vt. 05478. Applicant's representative: David M. Yarnell, 99 North Main Street, St. Albans, Vt. 05478. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese products*, (1) from Swanton, Vt., to points in Connecticut, Massachusetts, Maryland, New Jersey, New York, Pennsylvania, Virginia, and the District of Columbia; and (2) from Brooklyn, Albany, and Schenectady, N.Y., and Baltimore, Md., to Swanton, Vt., under a continuing contract, or contracts, with Lucille Farm Products, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lucille Farm Products, Inc., Box 125, Swanton, Vt. 05488. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpellier, Vt. 05602.

No. MC 143379 (Sub-No. 1TA), filed August 22, 1977. Applicant: COX TRANSPORT CORP., 50 East 1st North, Manti, Utah 84642. Applicant's representative: Harry D. Pugsley, 12th Floor, 310 South Main Street, Salt Lake City, Utah 84101. Authority sought to operate as *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, from Aurora, Utah, to Mills Junction, Utah, and from Dog Valley Mine (50 miles east of Salina, Utah), to Mills Junction, Utah, railhead (4 miles southwest of Levan, Utah), under a continuing contract, or contracts, with Western States Coal Corp., for 180 days. Applicant has also filed an underlying ETA seeking up 90 days of operating authority. Supporting shipper(s): Western States Coal Corp., Lakewood, Colo. (Geoffery C. Benedict, Coal Sales Manager). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 143397TA, filed August 4, 1977. Applicant: NORRIS JACOBSON, d.b.a. NORRIS JACOBSON TRUCKING, Route 2, Box 42, Goodhue, Minn. 55027. Applicant's representative: F. H. Kroeger, 1745 University Avenue, St. Paul, Minn. 55104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed*, dry in bags and in bulk, moving in the same straight truck equipped with auxiliary auger unloading equipment, restricted to loads not in excess of 31,000 pounds net weight, from the plantsite of Cargill, Inc., Nutrena Feed Division, at Minneapolis, Minn., to points in Wisconsin in and north of LaCrosse, Monroe, Juneau, Adams, Marquette, Green Lake, Fond du Lac, and Sheyboygan Counties, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cargill, Inc., Nutrena Feed Division, P.O. Box 9300, Minneapolis, Minn. 55440. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 143579 (Sub-No. 1TA), filed August 22, 1977. Applicant: MONT TRUCKING, INC., 2023 North 2450 West, Salt Lake City, Utah 84116. Applicant's representative: D. Michael Jorgensen, 48 P.O. Place, P.O. Box 2465, Salt Lake City, Utah 84110. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Burned clay products and related installation materials*, between points in Arizona, New Mexico, Texas, Utah, California, Washington, Oregon, Idaho, Montana, Colorado, Wyoming, and Nevada, under a continuing contract, or contracts, with Interstate Brick for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Interstate Brick, 9710 South 5200, West West Jordan, Utah 84084 (Joan Baldwin Traffic Manager). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 143586TA, filed August 8, 1977. Applicant: RANGEN TRANSPORTATION, INC., Route 4, Buhl, Idaho 83316. Applicant's representative: Miss Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in and used by dealers, distributors, wholesalers, retailers, and manufacturers of animal and fish feed, animal and fish feed ingredients, fertilizer and fertilizer ingredients, chemicals, seeds and hatchery supplies. Between the plantsite and storage facilities of Rangen, Inc., at or near Buhl, Idaho, on the one hand, and, on the other, points in Oregon, Washington, Montana, California, Nevada, Utah, Wyoming, Arizona, Colorado, and New Mexico, under a continuing contract, or contracts, with Rangen, Inc., for 180 days. Applicant does not intend to tack or interline with other carriers. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Rangen, Inc., P.O. Box 706, Buhl, Idaho 83316. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 West Fort Street, Box 07, Boise, Idaho 83724.

No. MC 143600TA, filed August 11, 1977. Applicant: H. K. DELIVERY SYSTEMS, INC., 836 West North Avenue, Pittsburgh, Pa. 15233. Applicant's representative: Frederick L. Kiger, 7823 Mount Carmel Road, Verona, Pa. 15147. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household and industrial cleaning products, toilet preparations, insect control products, air fresheners, brooms, brushes, mops, and advertising material* related to the foregoing, from Pittsburgh, Pa., to that portion of Pennsylvania west of and bounded by the easterly boundaries of the counties of Potter, Cameron, Clearfield, Blair, and Bedford, from Pittsburgh, Pa., to that portion of West Virginia known as the Upper Panhandle; and from Charleston, W. Va., to the remaining portion of West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Fuller Brush Co., 1000 Skokie Boulevard, Willmette, Ill. 60091. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 143648TA, filed August 26, 1977. Applicant: CORALVILLE TRANSPORT, INC., R.R. No. 1, Lamont, Iowa 50650. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc., at or near Albany, Ill., to points in Iowa, Wisconsin, Illinois, and Minnesota, for 180 days. Supporting shipper(s): FS Services, Inc., 1701 Towanda, Bloomington, Ill. 61701. Midland Cooperatives, Inc., 2021 East Hennepin Avenue, Minneapolis, Minn. 55431. CENEX, P.O. Box 43089, St. Paul, Minn. 55164. CF Industries, Inc., Salem Lake Drive, Long Grove, Ill. 60047. Land O'Lakes Agricultural Services, 2827 8th Avenue South, Fort Dodge, Iowa. 50501. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 143649TA, filed August 5, 1977. Applicant: FIGANBAUM TRUCKING, INC., Tripoli, Iowa 50676. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc., at or near Albany, Ill., to points in Iowa, Wisconsin, Illinois, and Minnesota, for 180 days. Supporting shipper(s): There are approximately 5 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 143650TA, filed August 24, 1977. RAPID DAIRY TRANSPORT, INC., 1745 Torringford West Street, Torrington, Conn. 06790. Applicant's representative: Hugh M. Joseloff, 80 State Street, Hartford, Conn. 06103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid industrial waste*, in bulk in tank trucks from all points in New York, Massachusetts, New Hampshire, Vermont, Rhode Island, Maine, Pennsylvania, and New Jersey, to Thomaston, Conn., for 180 days, under a continuing contract with Liqwacon Corp., Old Waterbury Road, Thomaston, Conn. 06787. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Send protests to: J. D. Perry, Jr., Interstate Commerce Commission, 324 U.S. Post Office Building, 135 High Street, Hartford, Conn. 06101.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-27036 Filed 9-15-77;8:45 am]

[AB 12 (Sub-No. 52)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Kaplan and Eunice, in Acadia, St. Landry, and Vermilion Parishes, La.

AUGUST 29, 1977.

The Interstate Commerce Commission hereby gives notice that: (1) The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., (2) a notice setting forth this conclusion was served July 11, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice; (3) this proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-27032 Filed 9-15-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

COST OF TRAVEL AND OPERATION OF PRIVATELY OWNED VEHICLES

Report

Correction

In FR Doc. 77-26942 appearing at page 46087 in the issue of Wednesday, September 14, 1977 on page 46088, the last entry under the heading "Designated high rate geographical areas" should be corrected to read as follows:

Providence, R.I. (all locations within the corporate limits thereof)	40

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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1

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Friday, September 16, 1977. The business of the Board requires that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed statement to be presented to the Subcommittee on Financial Institutions Supervision, Regulation and Insurance of the House Committee on Banking, Finance and Urban Affairs regarding the Supervisory Amendments Act.

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, (202–452–3204).

Dated: September 13, 1977.

GRIFFITH R. GARWOOD,
Deputy Secretary of the Board.

[S 1326-77 Filed 9-13-77;2:14 pm]

2

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 45435, September 9, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, September 14, 1977.

CHANGES IN THE MEETING:

One of the items announced for inclusion at this closed meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item was added:

Proposed statement to be presented to the House Committee on Banking, Finance and Urban Affairs regarding H.R. 7918, a bill to amend the Federal Financing Bank Act of 1973. This matter was originally scheduled for a meeting on September 13, 1977.

Previously announced closed items:

1. Proposed statement to be presented to the Senate Committee on Banking, Housing and Urban Affairs regarding S. 684, a bill entitled the "Federal Bank Commission Act of 1977" and S. 711, a bill entitled the "Federal Bank Examination Council Act". This matter was originally considered at a meeting on August 15, 1977.

2. Proposed statement to be presented to the Subcommittee on Consumer Affairs of the House Committee on Banking, Finance and Urban Affairs regarding H.R. 8753, the Consumer Credit Protection Act Amendments of 1977.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, (202–452–3204).

Dated: September 13, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S 1335 77 Filed 9-13-77;4:05 pm]

3

CIVIL AERONAUTICS BOARD.

[MA 35 amending M-51]

SEPTEMBER 9, 1977.

ADDITION OF ITEMS TO, AND CHANGE OF TIME IN, THE SEPTEMBER 12, 1977 MEETING AGENDA

TIME AND DATE: 9 a.m., September 12, 1977.

PLACE: Room 1027, 1825 Connecticut Ave., NW., Washington, D.C. 20428.

SUBJECT: 1. Consideration of anticipatory costs for ratemaking purposes (Memo No. 6709-B, BFR).
2. Docket 31322, Domestic general fare increase proposed by various carriers (Memo No. 7414, BFR).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, (202–673–5068).

SUPPLEMENTARY INFORMATION: Docket 31322, the domestic general fare increase, involves tariffs filed through September 8, 1977. If the Board desires to suspend these tariffs pending investigation, it must act by September 15, 1977. A discussion of portions of BFR's memo on consideration of anticipatory costs for ratemaking purposes would be helpful to the determination of the tariff matters. Accordingly, the following Members voted that agency business requires that the Board meet on these two items at 9 a.m. on Monday, September 12, 1977, and that no earlier announcement was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

[S 1337-77 Filed 9-14-77;9:09 am]

4

CIVIL AERONAUTICS BOARD.

[MA 36 amending M-51]

ADDITION OF ITEM TO SEPTEMBER 12, 1977 MEETING AGENDA

SEPTEMBER 12, 1977.

TIME AND DATE: 12:30 p.m., September 12, 1977.

PLACE: Room 1027, 1825 Connecticut Ave., NW., Washington, D.C. 20428.

SUBJECT: Dockets 31232, 31234, 31235, 31246, 31247, 31285 and 31305 Complaints of National Air Carrier Association, Brendan Tours, Inc., Charter Travel Corporation, The Educational Cooperative, and Laker Airways Limited against Tariffs of Pan American World Airways, Inc., Trans World Airlines, Inc., British Airways, and Air India Proposing Standby Budget, and Super-Apex Fares over the North Atlantic; and Docket 29123, Agreement Adopted by the Traffic Conferences of the International Air Transport Association Relating to North Atlantic Passenger Fares Agreement C.A.B. 26858, R-1 through R-5.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, (202–673–5068).

SUPPLEMENTARY INFORMATION: The Board sent an interim recommendation to the President on Thursday, September 8. The Board desires to reconsider that recommendation in light of its September 9 tentative decision on these fares. Accordingly, the following Members have voted that agency business requires the addition of this item to today's agenda at 12:30 p.m. and that no earlier announcement of the addition was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

[S-1338-77 Filed 9-14-77;9:09 am]

5

CIVIL AERONAUTICS BOARD.

[MA-37 amending M-52]

NOTICE OF ADDITION OF ITEM TO THE SEPTEMBER 15, 1977 MEETING AGENDA

TIME AND DATE: 10 a.m., September 15, 1977.

PLACE: Room 1027, 1825 Connecticut Ave., NW., Washington, D.C. 20428.

SUBJECT: 21. Docket 28833, Discretionary review on Board initiative of the decision of the Director, BOE, declining to institute an enforcement proceeding in *Seaboard World Airlines* v. *Pan American World Airways and Trans World Airlines* (Memo 7415, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, (202–673–5068).

SUPPLEMENTARY INFORMATION: Agency business requires the addition to the calendar of September 15 of this item in Docket 28833 as the Board must make its determination before September 16, 1977 on whether or not to review the decision of the Bureau of Enforcement not to institute an enforcement proceeding or, under Rule 205 of the Procedural Regulations, the BOE decision will become that of the Board on September 16, 1977. Accordingly, the following Members have voted that agency business requires the addition of this item to the agenda of September 15, 1977, on less than seven days' notice and that no earleir announcement of this addition was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

[S-1339-77 Filed 9-14-77;9:09 am]

6

CIVIL AERONAUTICS BOARD.

[M-54]

SEPTEMBER 9, 1977.

TIME AND DATE: 10 a.m., September 16, 1977.

PLACE: Room 1027, 1825 Connecticut Ave., NW., Washington, D.C. 20428.

SUBJECT: 1. OMB request for Board comments on OMB draft bill to amend the Independent Offices Appropriations Act, 1952 with reference to User Charger (Memo No. 7416, OGC, OC).
2. Consideration of Board's position on the provisions of H.R. 8813 (Task Force and Steering Committee on Regulatory Reform).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary (202–673–5068).

[S-1340-77 Filed 9-14-77;9:09 am]

7

CIVIL AERONAUTICS BOARD.

[M-55]

SEPTEMBER 12, 1977.

TIME AND DATE: 10 a.m., September 19, 1977.

PLACE: Room 1027, 1825 Connecticut Ave., NW., Washington, D.C. 20428.

SUBJECT: International Aircoach Association will make a presentation to the Board regarding its operations.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, (202–673–5068).

[S-1341-77 Filed 9-14-77;9:09 am]

8

DATE AND TIME: August 24, 1977, 9:30 a.m.

LOCATION: 3rd Floor Hearing Room, 1111 18th St. NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Regulations on Substantial Product Hazards, CPSA sections 15 and 16(b).* The staff will brief the Commission on two draft FEDERAL REGISTER documents on substantial product hazards. The first would propose a consolidated version of existing regulations (16 CFR Parts 1115 and 1116) which govern CPSC's actions with regard to substantial product hazard notifications which it receives under requirements of section 15. The second would propose recordkeeping requirements under section 16(b).

2. *Collection and Utilization of Chemical Information.*

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th St. NW., Washington, D.C. 20207, telephone 202–634–7700.

[S-1331-77 Filed 9-13-77;2:14 pm]

9

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: August 25, 1977, 9.30 a.m.

LOCATION: 3rd Floor Hearing Room, 1111 18th St. NW., Washington, D.C.

STATUS: Part Open, Part Closed.

MATTERS TO BE CONSIDERED:

A. Open to the Public:

1. *Petition on Recall Cards AP 77–1.* In this petition, Paul Foldes, of Arlington, Virginia, has asked the Commission to require manufacturers and distributers to include pre-addressed, postage-paid "recall" cards with all consumer products.

2. *Petition on Acrosol Misdirection, CP 77–4.* In this petition, the National Consumers League has asked the Commission to initiate a proceeding to develop a standard which would ensure that the spray from aerosol containers is properly directed.

3. *Petition CP 77–5, Architectural Glazing Materials.* This petition asks the Commission to supplement or amend the architectural glazing materials standard with respect to visual barriers and the impactor.

4. *Possible Substantial Product Hazard: Gaffers & Sattler, Inc. counterflow furnace, ID 77–45.* The staff has recommended that the Commission close this case, based on its conclusion that the possible defect, an incorrectly installed switch, does not present a substantial product hazard.

5. *Possible Substantial Product Hazard: I–T–E Imperial Corp. electric baseboard heater, ID 77–12.* Based on its conclusion that the possible failure of resistance heating wires in these units does not present a substantial product hazard, the staff has recommended that the Commission close this case.

6. *Possible Substantial Product Hazard: D & B Model Aircraft Corp. propeller spinner, ID 77–1.* The staff has recommended that the Commission accept the corrective action plan which this firm has implemented to deal with a possible substantial product hazard involving model aircraft propeller spinners which the firm distributes. The staff also recommends that the Commission close the case as to the timeliness of the firm's notification.

7. *Possible Substantial Product Hazard: KLH Research and Development Corp. loudspeakers, ID 77–39.* The staff has recommended that the Commission accept the corrective action plan which KLH has implemented to deal with a defect which could pose a fire hazard in certain loudspeakers.

8. *Reconsideration of CPSA section 6 (b) Regulations.* These rules would establish procedures for manufacturers and other sellers to comment on Commission publicity and publications about consumer products, or to request retraction of inaccuracies in published information. The rules would express the Commission's interpretation of section

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6(b) of the Consumer Product Safety Act. The Commission previously considered these rules at the July 28, 1977 Commission Meeting.

9. *Regulations on Substantial Product Hazards, CPSA sections 15 and 16 (b).* The staff has prepared two draft FEDERAL REGISTER documents on substantial product hazards. The first would propose a consolidated version of existing regulations (16 CFR Parts 1115 and 1116) which govern CPSC's actions with regard to substantial product hazard notifications it receives under requirements of section 15. The second document would propose recordkeeping requirements under section 16(b). These regulations were originally scheduled for consideration at the August 18 Commission Meeting, and were discussed at the August 24 Commission Briefing Meeting.

10. *Information and Education Effort: Minorities and Women Project.* The Commission will consider action on staff plans for providing safety information and education directed toward minority groups and women.

B. Closed to the Public:

11. *TRIS.* The Commission will be briefed on enforcement action with regard to children's garments treated with the flame-retardant chemical TRIS.

12. *Request to Waive Enforcement of CPSA section 4(g)(2).* A former CPSC employee has asked the Commission to waive enforcement of section 4(g)(2) of the Consumer Product Safety Act, which restricts employment of former CPSC employees for one year.

13. *Mattress Case.* Request to seek consent agreement (OS package No. 439).

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th St., NW., Washington, D.C. 20207, telephone 202–634–7700.

[S-1330 77 Filed 9-13-77;2:14 pm]

10

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: September 21, 1977, 9:30 a.m.

LOCATION: 3rd Floor Hearing Room, 1111 18th St., NW., Washington, D.C.

STATUS: Part Open, Part Closed.

MATTERS TO BE CONSIDERED:

I. *Briefing Items.* Open to the Public:

1. *Burn Injury Demonstration Program.* At this briefing, a CPSC contractor will demonstrate educational strategies and materials which have been developed as part of a program to reduce the number and severityof burn injuries to children. The briefing will include an evaluation of results so far in the third year of the four-year program.

2. *Benzene Petition, HP–7712.* The staff will brief the Commission on issues related to this petition, in which the Health Research Group has asked the Commission to declare benzene to be a hazardous product, and to remove benzene-containing products from the market.

3. *Miniature Christmas Tree Lights.* The staff and representatives of the National Consumers League (NCL) will brief the Commission on the status of NCL's development of a recommended safety standard for Christmas tree lights, a proceeding under section 7 of the Consumer Product Safety Act.

II. *Decision Items.* A. Closed to the Public (The Commission will consider these as the last items on the agenda if time does not permit consideration before the lunch break.)

4. *Recommendation to Seek Consent Agreement* (OS Package No. 440). The staff has recommended that the Commission seek a consent agreement in this Flammable Fabrics Act case involving a carpet manufacturer.

5. *Recommendation to Seek Consent Agreement* (OS Package No. 441). The staff has recommended that the Commission seek a consent agreement in this Flammable Fabrics Act case involving a carpet manufacturer.

6. *Recommended Prosecution* (OS Package No. 442. The staff has recommended that the Commission initiate prosecution in this Flammable Fabrics Act case involving a manufacturer of children's sleepwear.

Lunch break.

2:00 p.m.

B. Open to the Public:

7. *Amendment to the Meetings Policy.* The Commission will consider an amendment to its Meetings Policy which, if approved, would permit CPSC staff to attend closed interagency meetings attended solely by government employees. At present, the policy allows closed meetings with other government employees only in specified instances, or when "extraordinary circumstances warrant closing the meeting."

8–12. *Architectural Glazing Petitions.* The Commission will consider five petitions to amend the Safety Standard for Architectural Glazing Materials (16 CFR Part 1201). The petitions are:

8. *CP 77–5,* in which Dr. Robert J. Cunitz asks the Commission to supplement or amend the standard with respect to visual barriers and the impactor used in testing glazing materials;

9. *CP 77–11,* in which the Plastic Safety Glazing Committee requests amendments to weathering requirements;

10. *CP 77–8,* in which the National Association of Home Builders seeks to exempt glazing in door openings through which a 6-inch sphere cannot pass;

11. *CP 77–14,* in which the National Lumber and Building Dealers Association asks to exempt glazing in door openings through which an 8-inch sphere cannot pass; and

12. *CP 77–15,* in which the Mahoney Sash and Door Co. seeks an exemption for glazing in "traditional wood stile and rail doors."

13. *Possible Substantial Product Hazard: Frohock-Stewart, Inc. bath stools,* ID 77–41. The staff has recommended that the Commission accept the corrective action plan which this firm has implemented to deal with a possible substantial product hazard involving bath stools which may collapse because of incorrect assembly at the factory.

14. *Office of Public Participation.* The Commission will consider a number of issues related to establishing the Office of Public Participation, including personnel qualifications, staff selection, operating budget, funding of participants, and other functions of the office.

15. *Office of Strategic Planning.* The Commission will consider proposed FY 78 activities of the Office of Strategic Planning in the areas of evaluation, policy analysis and special projects.

CONTACT PERSON:

Sheldon Butts, Assistant Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th St., N.W., Washington, D.C. 20207, telephone 202–634–7700.

[S-1343-77 Filed 9-14-77;10:22 am]

11

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 45731, September 12, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Wednesday, September 14, 1977.

CHANGE IN THE MEETING: (1) The meeting is postponed until 9:30 a.m. (eastern time), Monday, September 19, 1977.

(2) The following matters is deleted from the agenda for the closed portion of the meeting, and postponed until further notice:

Proposed time-phased plan for implementation of new compliance and litigation procedures in all EEOC field offices.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required these changes and that no earlier announcement was possible.

The vote was as follows: In favor of change—Eleanor Holmes Norton, Chair; Ethel Bent Walsh, Commissioner; Daniel E. Leach, Commissioner. Opposed—None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202–634–6748.

This notice issued September 14, 1977.

[S-1344-77 Filed 9-14-77; 11:24 am]

12

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 11:00 a.m. (eastern time), Tuesday, September 20, 1977.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Open to the public.

MATTER TO BE CONSIDERED: Revision of internal compliance manual.

NOTE.—Any matters not discussed or concluded may be carried over to a latter meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202–634–6748.

This notice issued September 13, 1977.

[S-1345-77 Filed 9-14-77;11:24 am]

13

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Monday, September 19, 1977.

PLACE: Hotel Washington, 15th Street and Pennsylvania Avenue NW., Washington, D.C.

STATUS: Open Commission meeting.

MATTER TO BE CONSIDERED: Discussions among CEPT/TELEGLOBE/FCC representatives concerning transatlantic facilities planning in Docket No. 18875.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202–632–7260.

Issued: September 12, 1977.

[S-1328-77 Filed 9-13-77;2:14 pm]

14

FEDERAL MARITIME COMMISSION.

TIME AND DATE: September 21, 1977, 10 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Notation items disposed of by the Commission during August, 1977.

2. Report on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during August 1977.

3. Report on applications for admission to practice approved during the month of August 1977.

4. Assignment of informal dockets during August 1977.

5. Agreement No. 9615–22, modification of the Iberian/U.S. North Atlantic Westbound Freight Conference to provide for associate membership.

6. Agreement No. 10022–4, modification providing for extension of the United States-Europe discussion agreement and request for additional time to submit justification.

7. Agreement No. 10186–1, modification of space chartering agreement between Korea Shipping Corp. and Orient Overseas Container Line, Inc., to increase the minimum and maximum number of forty foot equivalent container slots.

Portions closed to the public:

1. Agreement No. 10041–4, between Prudential Lines, Inc., and Compania Peruana de Vapores, and agreement No. 10044–3, between Lykes Bros. Steamship Co., Inc., and Compania Peruana de Vapores, petitions for extension of interim approval pendente lite (dockets Nos. 77–33 and 77–34); agreement No. 10041–5, reduction of minimum number of sailings.

2. Docket No. 71–29—*Baton Rouge Marine Contractors, Inc.* v. *Cargill, Inc.,* appeal from denial of motion to stay further proceedings and from denial of motion for reconsideration of the denial of the motion to stay further proceedings; petition for reconsideration of the Commission's report and order; appeal of motion dismissing the supplemental and amended complaint and striking supplemental and amended complaint; and hearing counsel motion to enforce, cease and desist order.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary, (202–523–5727)

[S-1332-77 Filed 9-13-77;2:43 pm]

15

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION.

TIME AND DATE: 11 a.m., Monday, September 26, 1977.

PLACE: Board Room, 712 Jackson Place NW., Washington, D.C. 20006.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Foundation's proposed graduate program; the Foundation's proposed budget and finances for fiscal year 1978.

CONTACT PERSON FOR MORE INFORMATION:

Dr. Ralph N. Malvik, Deputy Executive Secretary, telephone 202–395–4831.

ROBERT E. CLEARY,
Executive Secretary.

Approved:

JOHN W. SNYDER,
Chairman, Board of Trustees.

[S-1329-77 Filed 9-13-77;2:14 pm]

16

INTERNATIONAL TRADE COMMISSION.

[USITC SE–77–55]

TIME AND DATE: 9:30 a.m., Wednesday, September 28, 1977.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratification.
4. Petitions and complaints: (a) Saccharin from Korea (if necessary).
5. Quarterly East-West Trade Report (if necessary).
6. Zero base budgeting.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary (202–523–0161).

[S-1334-77 Filed 9-13-77;3:41 pm]

17

INTERNATIONAL TRADE COMMISSION.

[USITC SE–77–54A]

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 45435, September 9, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., September 22, 1977.

CHANGES IN THE MEETING: Additional items added to the agenda as follows: 7. Prehearing Order No. 25 in Investigation 337–TA–29 (stainless steel pipe and tube): Recommendation to dismiss certain persons—see memorandum from the General Counsel (to be distributed).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary 202–523–0161).

[S-1333-77 Filed 9-13-77;3:41 pm]

18

SEPTEMBER 13, 1977.

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 2 p.m., Tuesday, September 20, 1977.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Open regular conference.

MATTERS TO BE CONSIDERED:

1. Commission division organization.
2. Petition of the Motor Carrier Lawyers Association proposing establishment of an advisory committee.

CONTACT PERSON FOR MORE INFORMATION:

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Office of Information and Consumer Affairs, Douglas Baldwin, Director, telephone 202–275–7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S–1336–77 Filed 9–13–77;4:05 pm]

19

POSTAL RATE COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, September 21, 1977.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Tentative decision concerning the officer of the Commission's proposal to eliminate the distinction between rates for advertising and editorial matter, Docket No. MC76–2.

2. Further recommended decision on reconsideration implementing legislative amendments and making related procedural dispositions, Docket No. MC77–1.

3. Proposed coment on Postal Service's proposed post office closing and consolidation regulations (to be filed in Postal Service's notice-and-comment rulemaking proceeding).

Meeting closed pursuant to 5 U.S.C. § 552b(c)(10).

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, telephone 202–254–5614.

[S–1327–77 Filed 9–13–77;2:14 pm]

20

POSTAL SERVICE BOARD OF GOVERNORS.

SEPTEMBER 12, 1977.

VOTE TO CLOSE A MEETING

On September 9, 1977, the Board of Governors of the U.S. Postal Service unanimously voted to close to public observation a portion of its meeting currently scheduled for October 4, 1977. Each of the members of the Board voted in favor of partially closing the meeting, which is expected to be attended by the following persons: Governors Wright, Holding, Ching, Codding, Hardesty, Nevin and Robertson; Postmaster General Bailar; Deputy Postmaster General Bolger; Secretary of the Board Cox; and Senior Assistant Postmaster General (Employee and Labor Relations) Conway.

The portion of the meeting to be closed will consist of a discussion of the Postal Service's possible strategies and positions in anticipated collective bargaining negotiations involving parties to the 1975 National Agreement between the Postal Service and four labor organizations representing certain postal employees, which is scheduled to expire in July of 1978.

The Board of Governors is of the opinion that public access to any discussion of possible strategies that Postal Service management may decide to adopt, or the positions it may decide to assert, in any collective bargaining sessions that may take place would be likely to frustrate action to carry out those strategies or assert those positions successfully. In making this determination, the Board is aware that the effectiveness of the collective bargaining process in labor-management relations has traditionally depended on the ability of the parties to prepare strategies and formulate positions without prematurely disclosing them to the opposite party. The public has a particular interest in the integrity of this process as it relates to the Postal Service, since the outcome of the negotiations between the Postal Service and the various postal unions, and consequently the cost, quality and efficiency of postal operations, may be adversely affected if the process is altered.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of Title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose information prepared for use in connection with the negotiation of collective bargaining agreements under chapter 12 of title 39, United States Code, which is specifically exempted from disclosure by section 410(c)(3) of title 39, United States Code. The Board has determined further that, pursuant to section 552b(c)(9)(B) of title 5, United States Code, and § 7.3(i) of Title 39, Code of Federal Regulations, the discusion is exempt, because it is likely to disclose information the premature disclosure of which is likely to frustrate significantly proposed Postal Service action. Finally, the Board of Governors has determined that the public has an interest in maintaining the integrity of the collective bargaining process and that the public interest does not require that the Board's discussion of its possible collective bargaining strategies and positions be open to the public.

In accordance with section 552b(f)(1) of title 5, Untied States Code, and § 7.6 (a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation, pursuant to sections 552b (c)(3) and 552b(3)(9)(B) of title 5 and section 410(c)(3) of Title 39, United States Code, and §§ 7.3(c) and 7.3(i) of Title 39, Code of Federal Regulations.

LOUIS A. COX,
Secretary.

[S–1325–77 Filed 9–13–77;2:11 pm]

21

CIVIL SERVICE COMMISSION.

TIME AND DATE OF MEETING: 9 a.m., September 20, 1977.

PLACE: Commissioners' Meeting Room, Room 5H09 (fifth floor), 1900 E Street NW., Washington, D.C.

STATUS: Open (because of scheduling problems, earlier notice was not possible).

MATTERS TO BE CONSIDERED:

(1) Elimination of questions concerning membership in certain types of organizations from Standard Form 86 (security appraisal form) because such questions may abridge the first amendment rights of applicants.

(2) Proposed amendments to the Commission's suitability guidelines regarding current use of substances listed under the Controlled Substances Act, 21 U.S.C. 812.

CONTACT PERSON FOR MORE INFORMATION:

Georgia Metropulos, Office of the Executive Assistant to the Commissioners (202–633–5556).

UNITED STATES CIVIL SERVICE COMMISSON,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[S–1356–77 Filed 9–15–77;8:59 am]

federal register

FRIDAY, SEPTEMBER 16, 1977

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

NATIONAL FLOOD INSURANCE PROGRAM

Letters of Map Amendments; Various Communities

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Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-1138]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Vacaville, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On May 25, 1976, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the city of Vacaville, Calif. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the city of Vacaville, Calif., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 060373A Panel 03, published on May 25, 1976 in 41 FR 21326, indicates that Lots 4 through 75, 77, and 78, Crestview Estates, Unit No. 3, Vacaville, Calif., as recorded in Book 30, Pages 20 through 22, in the office of the Recorder of Solano County, Calif., are within the Special Flood Hazard Area.

Map No. H 060373A Panel 03 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on May 17, 1974 and May 21, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26423 Filed 9-15-77;8:45 am]

[Docket No. FI-321]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Concord, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 6, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the city of Concord, Calif. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the city of Concord, Calif., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 065022 Panel 09, published on August 6, 1974 in 39 FR 28250, indicates that Lot 1, Block 2, Oak Grove Villa, Concord, Calif., as recorded in Book 180, Pages 12, 13 and 14, in the office of the Clerk of Contra Costa County, Calif., is within the Special Flood Hazard Area.

Map No. H 065022 Panel 09 is hereby corrected to reflect that Buildings 1 through 9, and 14 through 17, on the above property are not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26424 Filed 9-15-77;8:45 am]

[Docket No. FI-438]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Santa Barbara County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final Rule.

SUMMARY: On January 3, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Santa Barbara County, Calif. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for Santa Barbara County, Calif., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 060331 Panel 22, published on January 3, 1975 in 40 FR 776, indicates that Tract 11390, Santa Barbara County, Calif., as recorded in Book 79, Pages 44 and 45, in the office of the Recorder of Santa Barbara County, Calif, is within the Special Flood Hazard Area.

Map No. H 060331 Panel 22 is hereby corrected to reflect that Buildings 3, 4, 7 and 8 on Tract 11390 are not within the Special Flood Hazard Area identified on December 20, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26425 Filed 9-15-77;8:45 am]

[Docket No. FI-805]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Petaluma, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On December 5, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Petaluma, Calif. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the City of Petaluma, Calif., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 060379A Panel 05, published on December 5, 1975 in 40 FR 56914, indicates that the 7.196± acres of land south of Washington Street, known as the Golden Eagle Shopping Center, Petaluma, Calif., as recorded in Book 235 of Maps, Pages 19 and 20, in the office of the Recorder of Sonoma County, Calif., is within the Special Flood Hazard Area.

Map No. H 060379A Panel 05 is hereby corrected to reflect that the existing structures on the above property are not within the Special Flood Hazard Area identified on November 28, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26426 Filed 9-15-77;8:45 am]

[Docket No. FI-279]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Lafayette, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 3, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Lafayette, Colo. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the City of Lafayette, Colo., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 080026A Panel 02, published on June 3, 1974, in 39 FR 19456, indicates that Lots 178, 182, and 183, Resubdivision of Lot 17, Centaur Village, Lafayette, Colo., as recorded in P–5, F3, No. 34, in the office of the Recorder of Boulder County, Colo., are within the Special Flood Hazard Area.

Map No. H 080026A Panel 02 is hereby corrected to reflect that Lot 182 and the existing structures on Lots 178 and 183 are not within the Special Flood Hazard Area identified on May 24, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968); as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26427 Filed 9-15-77;8:45 am]

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[Docket No. FI-326]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Aurora, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 7, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Aurora, Colo. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the City of Aurora, Colo., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 080002 Panel 11, published on August 7, 1974, in 39 FR 28424, indicates that Lots 10 through 27, Block 3; Lots 39 through 61, Block 4; and Lots 1 through 3, 17 through 19, 25, and 26, Block 7, Stone Ridge Park Subdivision, Filing No. 3, Aurora, Colo., as recorded in Book 31, Pages 11 through 13, in the office of the Clerk and Recorder of Arapahoe County, Colo., are within the Special Flood Hazard Area.

Map No. H 080002 Panel 11 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on July 26, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26429 Filed 9-15-77;8:45 am]

[Docket No. FI-327]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Town of Guilford, Connecticut

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 12, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Town of Guilford, Connecticut. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Town of Guilford, Connecticut, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202–755–5581) or Toll Free Line (800–424–8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 090077 Panel 10, published on August 12, 1974, in 39 FR 28887, indicates that Lot 19, Saw Mill Village, section 4, at 71 Grist Mill Circle, Guilford, Connecticut, recorded as Map No. 1855, in the office of the Clerk of the Town of Guilford, Connecticut, is within the Special Flood Hazard Area.

Map No. H 090077 Panel 10 is hereby corrected to reflect the existing structure on the above property is not within the Special Flood Hazard Area identified on August 2, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26430 Filed 9-15-77;8:45 am]

[Docket No. FI-70-14582]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Columbus, Georgia

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On October 30, 1970, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Columbus, Georgia. It has been determined by FIA, after further technical review of the Flood Insurance Rate Map for the City of Columbus, Georgia, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H&I 135158B Panel 41, published on October 30, 1970 in 35 FR 16799, indicates that land described as part Land Lot 35, 7th District, Columbus, Georgia, as recorded in Book 940, Folio 22, in the office of the Clerk of Muscogee County, Georgia, is within the Special Flood Hazard Area.

Map No. H&I 135158B Panel 41 is hereby corrected to reflect that the existing easternmost structure south of Wedgefield Court and the three existing easternmost structures north of Wedgefield Court on the above mentioned property are in Zone B and are not within the Special Flood Hazard Area identified on October 30, 1970.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26431 Filed 9-15-77;8:45 am]

[Docket No. FI-425]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of LaGrange, Illinois

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On December 13, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included LaGrange, Illinois. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the Village of LaGrange, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202–755–5581) or Toll Free Line (800–424–8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 170114 Panel 02, published on December 13, 1974, in 39 FR 43393, indicates that Lot 1 in Stanley A. Papierz Builders, Incorporated, Resubdivision Lots 1 through 48, Block 8, LaGrange, Illinois, as recorded in Document Numbers 19 150 130, 19 360 941, 19 234 451 of Deeds, in the office of the Recorder of Deeds, Cook County, Illinois, is within the Special Flood Hazard Area.

Map No. H 170114 Panel 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on November 29, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26432 Filed 9-15-77;8:45 am]

[Docket No. FI-440]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Steuben County, Indiana

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 10, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Steuben County, Indiana. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the County of Steuben, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202–755–5581) or Toll Free Line (800–424–8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 180243 Panel 05, published on January 10, 1975, in 40 F.R. 2183, indicates that Lots 1 through 27, North Snow Bay First Addition as recorded in Plat Record Number 4, Page 9; Lots 28 through 44 and 47 through 70, North Snow Bay Second Addition, as recorded in Plat Record Number 4, Page 17 through 17A; and Lots 75 through 82, and 85, 86, 87, 88, and 89 through 93, North Snow Bay Third Addition, as recorded in Plat Record Number 4, Page 25, in the Office of the Recorder of Steuben County, Indiana, are within the Special Flood Hazard Area.

Map No. H 180243 Panel 05 is hereby corrected to reflect that Lots 1 through 27, with the exception of the rear 10 feet, North Snow Bay First Addition; Lots 28 through 44 and 47 through 70 with the exception of the rear 10 feet, North Snow Bay Second Addition; Lots 75 through 82 and 85, with the exception of the rear 10 feet, Lots 89 through 93, with the exception of the front 10 feet and the rear 10 feet, Lots 86 and 87, with the exception of the rear 10 feet and front 40 feet, and Lot 88, with the exception of the rear 10

purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H&I 135158B Panel 41, published on October 30, 1970 in 35 FR 16799, indicates that land described as part Land Lot 35, 7th District, Columbus, Georgia, as recorded in Book 940, Folio 22, in the office of the Clerk of Muscogee County, Georgia, is within the Special Flood Hazard Area.

Map No. H&I 135158B Panel 41 is hereby corrected to reflect that the existing easternmost structure south of Wedgefield Court and the three existing easternmost structures north of Wedgefield Court on the above mentioned property are in Zone B and are not within the Special Flood Hazard Area identified on October 30, 1970.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26431 Filed 9-15-77;8:45 am]

[Docket No. FI-425]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of LaGrange, Illinois

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On December 13, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included LaGrange, Illinois. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the Village of LaGrange, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202–755–5581) or Toll Free Line (800–424–8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 170114 Panel 02, published on December 13, 1974, in 39 FR 43393, indicates that Lot 1 in Stanley A. Papierz Builders, Incorporated, Resubdivision Lots 1 through 48, Block 8, LaGrange, Illinois, as recorded in Document Numbers 19 150 130, 19 360 941, 19 234 451 of Deeds, in the office of the Recorder of Deeds, Cook County, Illinois, is within the Special Flood Hazard Area.

Map No. H 170114 Panel 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on November 29, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26432 Filed 9-15-77;8:45 am]

[Docket No. FI-440]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Steuben County, Indiana

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 10, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Steuben County, Indiana. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the County of Steuben, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202–755–5581) or Toll Free Line (800–424–8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 180243 Panel 05, published on January 10, 1975, in 40 F.R. 2183, indicates that Lots 1 through 27, North Snow Bay First Addition as recorded in Plat Record Number 4, Page 9; Lots 28 through 44 and 47 through 70, North Snow Bay Second Addition, as recorded in Plat Record Number 4, Page 17 through 17A; and Lots 75 through 82, and 85, 86, 87, 88, and 89 through 93, North Snow Bay Third Addition, as recorded in Plat Record Number 4, Page 25, in the Office of the Recorder of Steuben County, Indiana, are within the Special Flood Hazard Area.

Map No. H 180243 Panel 05 is hereby corrected to reflect that Lots 1 through 27, with the exception of the rear 10 feet, North Snow Bay First Addition; Lots 28 through 44 and 47 through 70 with the exception of the rear 10 feet, North Snow Bay Second Addition; Lots 75 through 82 and 85, with the exception of the rear 10 feet, Lots 89 through 93, with the exception of the front 10 feet and the rear 10 feet, Lots 86 and 87, with the exception of the rear 10 feet and front 40 feet, and Lot 88, with the exception of the rear 10

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feet and the front 10 feet, North Snow Bay Third Addition of the above property, are not within the Special Flood Hazard Area identified on December 27, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-26433 Filed 9-15-77;8:45 am]

[Docket No. FI-270]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Indianapolis, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On May 17, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Indianapolis, Ind. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the city of Indianapolis, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 180159A Panel 49, published on May 17, 1974, in 39 FR 17518, indicates that Lots 67 through 72, Section 3, Spring Valley Subdivision, Indianapolis, Ind., recorded as Document Number 76–57482, in the office of the Recorder of Marion County, Indianapolis, Ind., are within the Special Flood Hazard Area.

Map No. H 180159A Panel 49 is hereby corrected to reflect that Lots 67 through 70, and the existing structures on Lots 71 and 72 of the above property are not within the Special Flood Hazard Area identified on May 17, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26434 Filed 9-15-77;8:45 am]

[Docket No. FI-270]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Indianapolis, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On May 17, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Indianapolis, Ind. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the city of Indianapolis, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 180159A Panel 34, published on May 17, 1974, in 39 FR 17518, indicates that 3179 North Patton Drive, being lot 36 in the Eagledale High School Addition, Indianapolis, Ind., as recorded in Platbook 31, Page 396 in the Office of the Recorder of Marion County, Ind., is within the Special Flood Hazard Area.

Map No. H 180159A Panel 34 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on May 17, 1977.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26435 Filed 9-15-77;8:45 am]

[Docket No. FI-229]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Akron, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On March 27, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Akron, Iowa. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the city of Akron, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of

Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 190223A Panel 01, published on March 27, 1974, in 39 FR 11262, indicates that Coon's First Addition, Akron, Iowa, as recorded in Platbook 70, Page 227, in the Plymouth County Courthouse, Akron, Iowa, is within the Special Flood Hazard Area.

Map No. H 190223A Panel 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on March 22, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26436 Filed 9-15-77;8:45 am]

[Docket No. FI-2847]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Wichita, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On April 14, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Wichita, Kans. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the city of Wichita, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 200328A Panel 13, published on April 14, 1977, in 42 FR 19603, indictates that Lot 2, Block A, Rockborough Addition to Wichita, Kans., recorded on Deed Film 153, Page 914 in the Office of the Register of Deeds of Sedgwick County, Kans., is within the Special Flood Hazard Area. Map No. H 200328 Panel 13 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on April 1, 1977.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26437 Filed 9-15-77;8:45 am]

[Docket No. FI-446]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Shreveport, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 13, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Shreveport, La. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the City of Shreveport, La., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 220036A Panel 28, published on January 13, 1975, in 40 FR 2427, indicates that the existing structures on Lots 43, 61, 80, 81, 87, and 88, Shreveport, La., as recorded in Book 1500, Page 19, of the records of Caddo Parish, La., are within the Special Flood Hazard Area.

Map No. H 220036A Panel 28 is hereby corrected to reflect the above property

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is not within the Special Flood Hazard Area identified on January 3, 1975, and January 9, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-26438 Filed 9-15-77;8:45 am]

[Docket No. FI-539]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Town of Mount Vernon, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On April 2, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Mount Vernon, Maine. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the Town of Mount Vernon, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 230241 Panel 01, published on April 2, 1975, in 40 FR 14756, indicates that Lot 8 of Pinewood Point Development, Mount Vernon, Maine, as recorded in Deedbook 2003, Page 242 at the Kennebec Registry of Deeds, Mount Vernon, Maine, is within the Special Flood Hazard Area.

Map No. H 230241 Panel 01 is hereby corrected to reflect that a portion of the above property, which can be described as follows:

Beginning at a point being the Southeast corner of Lot 8, Pinewood Point Development, described in the deed; recorded in Deedbook 2003, Page 242 at the Kennebec Registry of Deeds; thence on a bearing S. 85°30' W. a distance of approximately 200 feet; thence from this point on a bearing N. 9°00' W., approximately 100 feet to meet that line bearing N. 85°30' E. as described in said Deed; from this point continuing a distance of approximately 210 feet along this line on a bearing N. 85°30' E. to an iron pin being the Northeast corner of Lot 8; thence on a bearing S. 3°18' E., approximately 100 feet to the point of beginning,

is not within the Special Flood Hazard Area identified on April 18, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26439 Filed 9-15-77;8:45 am]

[Docket No. FI-410]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Anne Arundel County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On November 29, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Anne Arundel County, Md. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the County of Anne Arundel, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 240008 Panel 77, published on November 29, 1974, in 39 FR 41504, indicates that Lots 4398 and 4399, Third Map of Woodland Beach, also being 410 Warwick Drive, Anne Arundel County, Md., as recorded in Platbook 8, Page 10, Plat Number 426, in the Office of the Clerk of the Circuit Court of Anne Arundel County, Md., are within the Special Flood Hazard Area.

Map No. H 240008 Panel 77 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on November 15, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26440 Filed 9-15-77;8:45 am]

[Docket No. FI-321]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Baltimore, Maryland

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 6, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Baltimore, Md. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the city of Baltimore, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 240087 Panel 11, published on August 6, 1974, in 39 FR 28256, indicates that 223 East Biddle Street, Baltimore, Md., as recorded in Liber 3473 of Deeds, Page 487, in the office of Land Records of Baltimore City, Md., is within the Special Flood Hazard Area.

Map No. H 240087 Panel 11 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1968, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26441 Filed 9-15-77;8:45 am]

[Docket No. FI-552]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Talbot County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On April 16, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Talbot County, Md. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the county of Talbot, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 240066 Panels 08 and 09, published on April 16, 1975, in 40 FR 17018, indicates that Buildings 1–2, 3–4, and 5–6 as shown on the Plat of Martingham Villas, dated April 1977, and prepared by J. R. McCrove, Jr., Inc.; and the Clubhouse-Pro Shop as shown on the topographic plat showing part of the land of Martingham Inn, Inc., dated February 1972, and prepared by J. R. McCrove, Jr., Inc., all being situated on a portion of the land described in the Deed recorded in Liber 508, Pages 314 through 328, in the Office of the Clerk of the Circuit Court for Talbot County, Md., is within the Special Flood Hazard Area.

Map No. H 240066 Panels 08 and 08 are hereby corrected to reflect that Building 1–2 and the Clubhouse-Pro Shop located on the above property are not within the Special Flood Hazard Area identified on April 25, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26442 Filed 9-15-77;8:45 am]

[Docket No. FI-321]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Annapolis, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 6, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Annapolis, Md. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the city of Annapolis, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from main-

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taining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 240009A Panel 03, published on August 6, 1974, in 39 FR 28255, indicates that Unit C–10, Horn Point Courts, being 11 Horn Point Court, Annapolis, Md., as recorded in Condominium Plat Book 56, Page 19, in the Office of the Clerk of the Circuit Court of Anne Arundel County, Md., is within the Special Flood Hazard Area.

Map No. H 240009A Panel 03 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26443 Filed 9-15-77;8:45 am]

[Docket No. FI–356]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Town of Scituate, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On September 12, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the town of Scituate, Mass. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the town of Scituate, Mass., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 250282 Panel 01, published on September 12, 1974, in 39 FR 32894, indicates that Lot A[1] on Land Court Subdivision Plan No. 15153[B1], filed with Certificate of Title No. 12934, issued by the Plymouth Registry District of the Land Court, Mass., is within the Special Flood Hazard Area.

Map No. H 250282 Panel 01 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on September 6, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26444 Filed 9-15-77;8:45 am]

[Docket No. FI–2400]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Town of Sharon, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On December 8, 1976, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the town of Sharon, Mass. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the town of Sharon, Mass., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirements to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 250252A Panel 09, published on December 8, 1976 in 41 FR 53667, indicates that Lot 7, Sharon Estates, Section III, Sharon, Mass., is within the Special Flood Hazard Area. This property is recorded as Lot 7A, in Book 5305, Page 706, in the office of the Register of Norfolk County, Mass.

Map No. H 250252A Panel 09 is hereby corrected to reflect the existing structure on the above property is not within the Special Flood Hazard Area identified on November 19, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26445 Filed 9-15-77;8:45 am]

[Docket No. FI–403]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Township of Harrison, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On November 19, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the township of Harrison, Mich. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Township of Harrison, Mich., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 260123B Panel 03, published on November 14, 1974 in 39 FR 40569, indicates that Lot 173, Venice Shores Subdivision No. 2, located at 41509 Clairpoint, Harrison Township, Mich., as recorded in Volume 39 of Plats, Pages 46 and 47, in the office of the Register of Macomb County, Mich., is within the Special Flood Hazard Area.

Map No. H 260123B Panel 03 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on November 8, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26446 Filed 9-15-77;8:45 am]

[Docket No. FI–3012]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Township of Springfield, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 29, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the township of Springfield, N.J. It has been determined by FIA, after further technical review of the Flood Insurance Rate Map for the Township of Springfield, N.J. in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H&I 345321A Panel 01, published on June 29, 1977 in 42 FR 33223, indicates that all of Lot 8 and the easterly one-half of Lot 7, Bryant Park, Section "B", located at 62 Rose Avenue, Springfield, N.J., as recorded as No. 301–A in the office of the Register of Union County, N.J., are within the Special Flood Hazard Area.

Map No. H&I 345321A Panel 01 is hereby corrected to reflect that the existing structure on the above property is within Zone B and is not within the Special Flood Hazard Area identified on October 13, 1971.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26447 Filed 9-15-77;8:45 am]

[Docket No. FI–196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to pur-

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chase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 01, published on August 24, 1973, in 38 FR 22776, indicates that Lot 20, Block 4405, at 420 Lucille Court, Ridgewood, N.J., as shown on the Village Tax Map, is within the Special Flood Hazard Area. This property is recorded as Lot 11–E, Block 317, in the office of the Clerk of Bergen County, N.J.

Map No. H 340067 Panel 01 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26448 Filed 9-15-77;8:45 am]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 04, published on August 24, 1973, in 38 FR 22776, indicates that Lot 3, Block 4706, at 724 Howard Road, Ridgewood, N.J., as shown on the Ridgewood Tax Map, is within the Special Flood Hazard Area. The property is also described as Lot 3 in Block 340–A, on Book 4688, Page 128, of Deeds, in the Office of the Clerk of Bergen County, N.J.

Map No. H 340067 Panel 01 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26449 Filed 9-15-77;8:45 am]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 02, published on August 24, 1973, in 38 FR 22776, indicates that Lot 29, Block 3201, located at 289 Meadowbrook Avenue, Ridgewood, N.J., as shown on the Tax Assessor's Map, is located within the Special Flood Hazard Area. This property is recorded as Lot No. 29, Block No. 185, in Book 5785, Page 301, in the office of the Clerk of Bergen County, N.J.

Map No. H 340067 Panel 02 is hereby corrected to reflect the above property is within the Special Flood Hazard Area, as identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26450 Filed 9-15-77;8:45 am]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 02, published on August 24, 1973, in 38 FR 22776, indicates that Lot 29, Block 3201, located at 289 Meadowbrook Avenue, Ridgewood, N.J., as shown on the Tax Assessor's Map, is located within the Special Flood Hazard Area. This property is recorded as Lot No. 29, Block No. 185, in Book 5785, Page 301, in the office of the Clerk of Bergen County, N.J.

Map No. H 340067 Panel 02 is hereby corrected to reflect the above property is within the Special Flood Hazard Area, as identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26450 Filed 9-15-77;8:45 am]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is within the Special Flood Hazard Area.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 02, published on August 24, 1973, in 38 FR 22776, indicates that Lot 29, Block 3201, located at 289 Meadowbrook Avenue, Ridgewood, N.J., as shown on the Tax Assessor's Map, is located within the Special Flood Hazard Area. This property is recorded as Lot No. 29, Block No. 185, in Book 5785, Page 301, in the office of the Clerk of Bergen County, N.J.

Map No. H 340067 Panel 02 is hereby corrected to reflect the above property is within the Special Flood Hazard Area, as identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26450 Filed 9-15-77;8:45 am]

surance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 03, published on August 24, 1973 in 38 FR 22776, indicates that the property known as 123 South Irving Street, Ridgewood, N.J., as recorded in Book 5403, Pages 248 through 251, in the office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area. The property is also described as Lot 25, Block 4005, on the Tax Assessor's Map of Ridgewood.

Map No. H 340067 Panel 03 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26451 Filed 9-15-77;8:45 am]

[Docket No. FI-2367]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Township of Washington, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On October 15, 1976, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the township of Washington, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the township of Washington, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340080 Panel 06, published on October 15, 1976 in 41 FR 45520, indicates that Lot 47, Block 4411, Fairwood Homes, at 115 Honeysuckle Drive, Washington Township, N.J., as recorded on Map No. 4933, in the Office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area.

Map No. H 340080 Panel 06 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on November 5, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26452 Filed 9-15-77;8:45 am]

[Docket No. FI-2367]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Township of Washington, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On October 15, 1976, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the township of Washington, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Township of Washington, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340080 Panel 04, published on October 15, 1976 in 41 FR 45520, indicates that Lot 40, Block 4411, Fairwood Homes, at 175 Honeysuckle Drive, Washington Township, N.J., as recorded on Map No. 4933, in the office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area.

Map No. H 340080 Panel 04 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on November 5, 1976.

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(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26453 Filed 9-15-77;8:45 am]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 orf toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 04, published on August 24, 1973, in 38 FR 22776, indicates that Lot 46, Block 3503, at 1103 East Ridgewood Avenue, Ridgewood, N.J., as shown on the Village Tax Map, is within the Special Flood Hazard Area. This property is recorded as Lot 41, Block 194, in Book 3217, Page 253, in the office of the Clerk of Bergen County, N.J.

Map No. H 340067 Panel 04 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26454 Filed 9-15-77;8:45 am]

[Docket No. FI-2245]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Borough of Waldwick, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 11, 1976, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Borough of Waldwick, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Borough of Waldwick, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year; *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year; *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of Letter of map amendment.

Map No. H 340078A Panel 02, published on August 11, 1976, in 41 FR 33913, indicates that Lot 22, Block 73, at 4 Ackerman Street, Waldwick, N.J., as recorded in Book 6036, Pages 320 and 321, in the office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area.

Map No. H 340078A Panel 02 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on January 9, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26455 Filed 9-15-77;8:45 am]

[Docket No. FI-3012]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Township of Wyckoff, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 29, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Township of Wyckoff, N.J. It has been determined by FIA, after further technical review of the Flood Insurance Rate Map for the Township of Wyckoff, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the existing structure on the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year; *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H&I 340084A Panel 0001, published on June 29, 1977, in 42 FR 33224, indicates that Lot 59, Block 346, Stagg Brook Section 6, at 456 George Place, Wyckoff, N.J., recorded as Map No. 6726, in the office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area.

Map No. H&I 340084A Panel 0001 is hereby corrected to reflect the existing structure on the above property is in Zone C and is not within the Special Flood Hazard Area identified on August 1, 1977.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26456 Filed 9-15-77;8:45 am]

[Docket No. FI-73-4551]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Borough of Allendale, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On March 12, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Borough of Allendale, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Borough of Allendale, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340019 Panel 02, published on March 12, 1973, in 38 FR 6679, indicates that Lot 15, Block 1406 as shown on the Borough Tax Assessment Map is located within the Special Flood Hazard Area. This property is recorded as 321 Brookside Avenue, Allendale, N.J., in Book 5748, Pages 49 and 50, in the office of the Clerk of Bergen County, N.J.

Map No. H 340019 Panel 02 is hereby corrected to reflect that the existing structures on the above property are not within the Special Flood Hazard Area identified on March 12, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26457 Filed 9-15-77;8:45 am]

[Docket No. FI-73-4551]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Borough of Allendale, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On March 12, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Borough of Allendale, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Borough of Allendale, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirements to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340019 Panel 02, published on March 12, 1973, in 38 FR 6679, indicates that Lot 18, Block 1406, located at 279 Brookside Avenue, Allendale, N.J., as recorded in Book 6041, Pages 199 and 200, in the office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area.

Map No. H 340019 Panel 02 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on March 16, 1973.

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(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26458 Filed 9-15-77;8:45 am]

[Docket No. FI-2600]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Las Cruces, N. Mex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 29, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Las Cruces, N. Mex. It has been determined by FIA, after further technical review of the Flood Insurance Rate Map for the City of Las Cruces, N. Mex., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H&I 355332B Panels 07 and 10, published on June 29, 1977, in 42 FR 33224, indicate that Tract 27–A–1; and Lots 1 through 12, Block 1, and Lots 1 through 12, Block 3, College View Subdivision, Las Cruces, N. Mex., as recorded in Book 197, Pages 318 and 319, in the office of the Clerk of Dona Ana County, N. Mex., are within the Special Flood Hazard Area.

Map No. H&I 355332B Panels 07 and 10 are hereby corrected to reflect that Lots 1 through 12, Block 1 and Lots 1 through 12, Block 3, College View Subdivision, and the portion of Tract 27–A–1 described as follows:

Beginning at the intersection of Farney Lane and El Paseo Road; thence East along the South boundary of Farney Lane a distance of 560 feet; thence South a distance of 1,090 feet; thence West a distance of 535 feet, to El Paseo Road; thence North along the East boundary of El Paseo Road, a distance of 1,090 feet, to the point of beginning,

are within Zone C and are not within the Special Flood Hazard Area identified on June 11, 1971.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26459 Filed 9-15-77;8:45 am]

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FRIDAY, SEPTEMBER 16, 1977
PART III



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

METHADONE REGULATIONS

Recodification

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Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Recodification Docket No. 17; Docket No. 77N-0214]

SUBCHAPTER C—DRUGS: GENERAL

PART 291—DRUGS USED FOR TREATMENT OF NARCOTIC ADDICTS

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 310—NEW DRUGS

Recodification of Methadone Regulations

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document transfers all Food and Drug Administration (FDA) methadone regulations to a single part. This new part is established for regulations pertaining to methadone to furnish ample room for reorganization and future expansion and to provide a vehicle whereby substantive changes to such regulations may be made jointly by FDA and the National Institute on Drug Abuse (NIDA), consistent with the joint delegation of authority by the Secretary of Health, Education, and Welfare.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Buddy F. Stonecipher, Bureau of Drugs (HFD-340), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857 (303-443-3414).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs is transferring former § 290.35 *Methadone in the maintenance treatment of narcotic addicts* and § 310.505 *Conditions for use of methadone* to new Part 291—Drugs Used for Treatment of Narcotic Addicts. The redesignations are as follows:

Old section:	New section
290.35	291.501
310.505	291.505

The changes being made are nonsubstantive. For this reason, notice and public procedure are not prerequisites to this action. For the convenience of the user, the entire text of new Part 291, as well as a conforming cross-reference amendment to § 310.304, is set forth below.

Dated: September 9, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

Secs.

291.501 Methadone in the maintenance treatment of narcotic addicts.
291.505 Conditions for use of methadone.

AUTHORITY: Secs. 505, 701(a), Pub.L. 717, 52 Stat. 1052-1053 as amended, 1055 (21 U.S.C. 355, 371(a)); sec. 303(a), Pub.L. 410, 70 Stat. 929 as amended (42 U.S.C. 242a(a)); sec. 4, Pub. L. 91-513, 84 Stat. 1241 (42 U.S.C. 257a).

§ 291.501 Methadone in the maintenance treatment of narcotic addicts.

(a) The Food and Drug Administration and the Drug Enforcement Administration recognize that the investigational use of methadone requiring the prolonged maintenance of narcotic dependence as part of a total treatment effort has shown promise in the management and rehabilitation of selected narcotic addicts. It is also recognized that a number of dangers and possible abuses may arise from such efforts if professional services and controls are inadequately applied. It is further felt that additional research is urgently needed so that data may be accumulated which will permit sound determinations of safety, efficacy, and necessary procedural safeguards.

(b) Therefore, the Commissioner of Food and Drugs and the Director of the Drug Enforcement Administration, Department of Justice, agree that interested professionals, municipalities, and organizations should be allowed to conduct further research in this area within a framework of adequate controls designed to protect the individual patients and the community. To facilitate this purpose, the Food and Drug Administration and the Drug Enforcement Administration, Department of Justice, have jointly agreed upon acceptable criteria and guidelines which are set forth in § 291.505. In addition, such other provisions of the Federal narcotic laws and regulations as are applicable must also be observed.

§ 291.505 Conditions for use of methadone.

(a) *Definitions.* (1) An individual is "drug dependent" when his addiction reaches a stage where a daily administration of heroin or other morphine-like drugs is required to avoid the onset of signs of withdrawal.

(2) "Detoxification treatment" using methadone is the administering or dispensing of methadone as a substitute narcotic drug in decreasing doses to reach a drug free state in a period not to exceed 21 days in order to withdraw an individual who is dependent on heroin or other morphine-like drugs from the use of these drugs.

(3) "Maintenance treatment" using methadone is the continued administering or dispensing of methadone, in conjunction with provision of appropriate social and medical services, at relatively stable dosage levels for a period in excess of 21 days as an oral substitute for heroin or other morphine-like drugs, for an individual dependent on heroin. An eventual drug free state is the treatment goal for patients but it is recognized that for some patients the drug may be needed for long periods of time.

(4) "State authority" means the State authority designated pursuant to section 409 of Public Law 92-255, the Drug Abuse Office and Treatment Act of 1972, or in lieu thereof any other State authority designated by the Governor for purposes of exercising the authority under this section. If no State authority is so designated, the provisions in this section relating to approval by the State authority shall be inapplicable with respect to that State.

(b) *Organizational structures and approval requirements*—(1) *Methadone treatment program*—(i) *Defined.* A methadone treatment program is defined as a person or organization furnishing a comprehensive range of services using methadone for the detoxification and/or maintenance treatment of narcotic addicts, conducting initial evaluation of patients and providing ongoing treatment at a specified location or locations. If there is a centralized organizational structure, consisting of a primary facility and other outpatient facilities, all of which conduct initial evaluation of patients and administer or dispense medication, both the primary facility and each outpatient facility shall be considered a separate program, even though some services may be shared (e.g. the same hospital or rehabilitative services).

(ii) *Services.* A methadone treatment program, in addition to providing medication and/or evaluation, shall provide, as a minimum, counseling, rehabilitative, and other social services (e.g. vocational and educational guidance, employment placement), which will help the patient become a well functioning member of society. These services should normally be made available at the primary outpatient facility, but the program sponsor is permitted to enter into a formal, documented agreement with private or public agencies, organizations or institutions for these services if they are available elsewhere. Evidence will be required to demonstrate that the services are fully available and are being utilized.

(iii) *Hospital affiliation.* If a program is not physically located within a hospital which has agreed to provide any needed medical care for drug related problems for the program's patients, there shall be a formal, documented agreement between the program sponsor and a responsible hospital official demonstrating that hospital care, both inpatient and outpatient, is fully available to any patient who may need it for such problems. It is suggested that the program sponsor enter into an agreement with the hospital official to provide general medical care for patients. Neither the program sponsor nor the hospital are required to assume financial responsibility for the patient's medical care.

(iv) *Private practitioners.* A private practitioner constitutes a separate program if he conducts initial evaluation of patients, administers and dispenses medication, provides a comprehensive range of services, and otherwise meets all of the requirements for a program established in this section. A private practitioner who qualifies and is approved as a program is permitted to serve as many patients as he desires, but will be required to meet all the requirements of this regulation, including staffing requirements, unless permission is granted by the Food and Drug Administration and the State authority for exemption from or revision of these requirements.

(v) *Program approval.* In order lawfully to operate a methadone treatment program, each separate program, whether an out-patient facility or a private practitioner, shall submit the applications specified in this section simultaneously to the Food and Drug Administration and the State authority and shall receive the approval of both, except as provided for in paragraph (h)(5) of this section. Before granting approval the Food and Drug Administration will first consult with the Drug Enforcement Administration, Department of Justice, to determine compliance with Federal controlled substances laws. Each physical location within any program shall be identified and listed in the approval application. At the time of application for approval the program sponsor shall indicate whether medication will be administered or dispensed at the facility. If medication is to be administered or dispensed at a location not previously used for this purpose, prior approval from both agencies shall be obtained. If a facility in which medication is administered or dispensed is deleted by a program the Food and Drug Administration and the State authority shall be notified within 3 weeks. Addition or deletion of facilities which provides services other than administering or dispensing medication is permitted with notification within 3 weeks to the Food and Drug Administration and the State authority.

(2) *Methadone treatment medication unit*—(i) *Defined.* A methadone treatment "medication unit" is a facility, established by a program sponsor as part of his program, from which licensed private practitioners and community pharmacists are permitted to administer and dispense methadone. These medication units may also collect urine for urine testing for narcotic drugs. Any such facility shall be geographically dispersed from the primary facility and other medication units that have been established. The enrollment in a medication unit shall be of reasonable size in relation to the space available for treatment and the size of the staff at the facility, and may not exceed 30 patients.

(ii) *Referral.* The patient shall be stabilized at his optimal dosage level before he may be referred to a medication unit. Since the medication unit will not provide a range of services, the program sponsor shall determine that the patient to be referred is not in need of frequent counseling, rehabilitative, and other services which are only available at the primary program facility. A patient may not be referred to a medication unit before he has demonstrated progress towards rehabilitation. The nature of this progress shall be entered in the patient's record.

(iii) *Responsibility for patient.* After a patient is referred to a medication unit, the program sponsor retains continuing responsibility for the patient's care. The program sponsor is responsible for assuring that the patient reports weekly for urinalysis at either the primary facility or the medication unit and receives needed medical and social services at least monthly at the primary facility.

(iv) *Services.* Medication units are limited to the administering or dispensing of medication and the collection of urine for urine testing, following the procedures outlined in paragraph (d)(6)(ii) of this section. If a private practitioner wishes to provide other services in addition to administering or dispensing medication and collecting urine samples, he shall be considered a program and shall be required to submit an application for separate approval.

(v) *Medication unit approval.* In order lawfully to operate a medication unit, the program shall obtain approval for each separate unit from both the Food and Drug Administration and the State authority, except as provided for in paragraph (h)(5) of this section. Approval will be based on the distribution of these units within a particular geographic area. Any new medication unit shall receive such approval before commencing operation.

(vi) *Revocation of approval.* If the primary program's approval is revoked by the Food and Drug Administration the approval for the medication unit is automatically revoked. If a particular medication unit's approval is revoked, the approval of the primary program will remain in effect unless it is also revoked.

(vii) *Methadone supply.* The medication unit will receive its supply of the drug directly from the stocks of the primary facility. Only persons permitted to administer or dispense the drug or security personnel licensed or otherwise authorized by State law may deliver the drug to a medication unit.

(3) *Organizational structure; central administration.* (i) The program sponsor shall submit to the Food and Drug Administration and the State authority a description of the organizational structure of the program applying for approval, listing the name of the person responsible for the particular program, the address, and the responsibilities of each facility or medication unit. The sources of funding for each program shall be listed and the name and address of each governmental agency providing funding shall be stated.

(ii) Where two or more programs share a central administration (e.g., a city or state-wide organization), the person responsible for the organization (Administrator) shall be listed as program sponsor for each separate program participating. An individual program shall indicate its participation in the central organization at the time of its application. The Administrator is permitted to fulfill all recordkeeping and reporting requirements for these programs, but it is emphasized that the programs will continue to receive separate approval.

(iii) One individual is permitted to assume primary medical responsibility for more than one program and be listed as medical director. If an individual assumes medical responsibility for more than one program, the feasibility of such an arrangement shall be documented and attached to the application.

(4) *Prohibition against unapproved use of methadone.* No individual, practitioner, organization, or legal entity, may prescribe, administer, or dispense methadone for narcotic addict treatment without prior approval by the Food and Drug Administration and the State authority, except as provided for in paragraph (h)(5) of this section, unless specifically exempted by this section.

(c) *Conditions for approval of the use of methadone in a treatment program*—(1) *Applicants.* An individual listed as program sponsor for a treatment program using methadone need not personally be a licensed practitioner but shall employ a licensed physician for the position of medical director. Persons responsible for administering or dispensing the medication shall be practitioners as defined by section 102(20) of the Controlled Substances Act (21 U.S.C. 802(20)) licensed to practice by the State in which the program is to be established.

(2) *Assent to regulation.* A person who sponsors a methadone treatment program, and any person responsible for a particular program, shall agree to adhere to all the rules, directives, and procedures, set forth in this regulation, and any regulation regarding the use of methadone which may be promulgated in the future. The program sponsor, and person responsible for a particular program, shall agree to assume responsibility for any practitioners, employees, agents, or other individuals providing services, who work in their programs at the primary facility or at other facilities or medication units. The responsible persons shall agree to inform these people of the provisions of this regulation and to monitor their activities to assure compliance with the provisions. The Food and Drug Administration and the State authority shall be notified within 3 weeks of any replacement of the program sponsor or medical director. Activities in violation of this regulation may give rise to the sanctions set forth in paragraph (i) of this section.

(3) *Facilities.* To obtain program approval, the applicant shall demonstrate that he will have access to adequate physical facilities to provide all necessary services. The physical facilities should be sufficiently spacious and well maintained to provide appropriate conditions for conducting individual and/or group counseling.

(4) *Submission of proper applications.* The following applications shall be filed simultaneously with both the Food and Drug Administration and the State authority.

(i) Form FD-2632 "Application for Approval of Use of Methadone in a Treatment Program." This form, set forth in paragraph (k)(1) of this section, shall be completed and signed by the program sponsor and submitted in triplicate to the Food and Drug Administration and the State authority.

(ii) Form FD-2633 "Medical Responsibility Statement for Use of Methadone in a Treatment Program." This form, set forth in paragraph (k)(2) of this section, shall be completed and signed by each licensed physician authorized to administer or dispense methadone and submitted in triplicate to the Food and Drug Administration and the State authority. The names of any other persons licensed by law to administer or dispense narcotic drugs working in the program shall be listed, even if they are not at

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present responsible for administering or dispensing the drug.

(iii) Form FD-2634 "Annual Report for Treatment Program Using Methadone." This form, set forth in paragraph (k)(3) of this section, shall be completed and signed by the program sponsor for every program over which he has responsibility for each calendar year of operation. It shall be submitted in triplicate to the Food and Drug Administration and the State authority on or before January 30 of each year.

(5) *State and Federal approval of treatment programs.* Treatment programs using methadone shall have been reviewed by the State authority and must conform to all State requirements for conducting a methadone treatment program. The Food and Drug Administration must have received notification of the program's approval by the State agency. Only after the State authority has given its approval will the Food and Drug Administration grant approval to a program. The Food and Drug Administration will also revoke approval when recommended by the State authority. If State approval of a program is denied or revoked the program shall have a right of appeal to the Commissioner, as provided for in paragraph (h)(5) of this section. Prior to granting or withholding approval, the Food and Drug Administration will consult with the Drug Enforcement Administration, Department of Justice, to determine the applicant's compliance with Federal controlled substances laws. No shipment of methadone may lawfully be made to any program which has not received approval from the Food and Drug Administration. The program sponsor will receive notification of approval or denial or a request for additional information, when necessary, within 60 days after receipt of the application by the Food and Drug Administration.

(d) *Requirements for operation of methadone treatment program*—(1) *Description of facilities.* A program shall have ready access to a comprehensive range of medical and rehabilitative services. The name, address, and description of each hospital, institution, clinical laboratory, or other facility available to provide the necessary services shall be given to the Food and Drug Administration and the State authority. This listing shall include the name and address of each medication unit.

(2) *Approximate number of patients to be treated.* The program sponsor shall submit to the Food and Drug Administration and the State authority an approximation of the number of patients who will be treated, based on past history, addict population in the area, treatment capacity, or other relevant information.

(3) *Minimum admission standards*—(i) *Voluntary participation; consent form.* Each patient shall be fully informed concerning the possible risk associated with the use of methadone. Participation in any program shall be voluntary. The person responsible for the program shall insure that all the relevant facts concerning the use of methadone are clearly and adequately explained to the patient and that all patients (including those under age 18) sign, with full knowledge and understanding of its contents, the first part of Form FD-2635 "Consent for Methadone Treatment" set forth in paragraph (k)(4) of this section and the parents or guardians of patients under age 18 sign the second part of that form.

(ii) *Physiologic addiction standards; records.* The mere use of a narcotic drug, even if periodic or intermittent, cannot be equated with narcotic addiction. Care shall be exercised in the selection of patients to prevent the possibility of admitting a person who was not first dependent upon heroin or other morphine-like drugs at least 2 years prior to admission to maintenance treatment. This drug history and evidence of current physiologic dependence on morphine-like drugs shall be documented. Evidence of physical dependence should be obtained by noting early signs of withdrawal (lacrimation, rhinorrhea, pupillary dilation, and piloerection) during the initial period of abstinence. Withdrawal signs may be observed during an initial period of hospitalization or while the individual is an outpatient undergoing diagnostic evaluation (e.g., medical and personal history, physical examination, and laboratory studies). Loss of appetite and increased body temperature, pulse rate, blood pressure, and respiratory rate are also signs of withdrawal, but their detection may require inpatient observation. It is unlikely that an individual would be currently dependent on narcotic drugs without having a positive urine test for one or more of these drugs. Additional evidence can be obtained by noting the presence of old and fresh needle marks, and by obtaining additional history from relatives and friends.

(iii) *Exceptions to physiologic addiction standards and special age limitations; justification.* An exception to the requirement for documented evidence and history of current physiologic dependence on heroin or other morphine-like drugs set forth in paragraph (d)(3)(ii) of this section or to the age limitations set forth in paragraph (d)(3)(iv) of this section will be allowed under the following exceptional circumstances. Justification for any of the exceptions shall be noted in the patient's record.

(*a*) Maintenance treatment may be indicated prior to or within 1 week of release from a stay of 1 month or longer in a penal or chronic care institution, if an individual has a predetention history of dependence upon heroin or other morphine-like drugs for at least 2 years prior to admission to the institution.

(*b*) Pregnant patients, regardless of age or prior addiction history, but otherwise eligible for maintenance treatment, may be placed in a maintenance regimen if the Medical Director certifies the pregnancy and, in his judgment, such treatment is medically justified. Within 6 weeks after termination of the pregnancy, the physician shall enter an evaluation of the patient's treatment state into the patient's records indicating whether she should remain in a maintenance program or be detoxified.

(iv) *Special limitations; treatment of patients under age 18.* (*a*) The safety and effectiveness of methadone when used in the treatment of adolescents has not been proven by adequate clinical study. Special procedures are therefore necessary to assure that patients under age 16 will not be admitted to a program and that patients between 16 and 18 years of age be admitted to maintenance treatment only under limited conditions.

(*b*) Patients between 16 and 18 years of age who are enrolled and under treatment in approved programs on the date of publication of this regulation may continue in maintenance treatment. No new patients between 16 and 18 years of age may be admitted to a maintenance treatment program after the date of publication of this regulation unless a parent, legal guardian, or responsible adult designated by the State authority completes and signs Form FD-2635 "Consent to Methadone Treatment," set forth in paragraph (k)(4) of this section. Methadone treatment of new patients between the ages of 16 and 18 years will be permitted after December 15, 1972, only with a documented history of two or more unsuccessful attempts at detoxification and a documented history of dependence on heroin or other morphine-like drugs beginning 2 years or more prior to application for treatment. No patient under age 16 may be continued or started on methadone treatment after December 15, 1972, but these patients may be detoxified and retained in the program in a drug free state for follow-up and after care.

(*c*) Patients under age 18 who are not placed in maintenance treatment may be detoxified. Detoxification may not exceed 3 weeks. A repeat episode of detoxification may not be initiated until 4 weeks after the completion of the previous detoxification.

(v) *Denial of admission.* If in the professional judgment of the medical director a particular patient would not benefit from methadone treatment, he may be refused such treatment even if he meets the admission standards.

(vi) *Patient evaluation; admission record.* An admission evaluation and record shall be made and maintained for each patient upon admission to the program. This evaluation and record shall consist of a personal history, a medical history, a physical examination, and any laboratory or other special examinations indicated in the judgment of the attending physician. It is recommended that a complete blood count, liver function tests, and a serologic test for lues be part of the admission evaluation.

(*a*) *Personal history.* A personal history record will be completed for each patient accepted for admission and will include at least age, sex, educational level, employment history, criminal history, past history of drug abuse of all types and prior treatment for drug abuse.

(*b*) *Medical history.* A thorough medical history record will be completed for each patient accepted for admission.

(c) *Physical examination.* The findings of a comprehensive physical examination will be recorded.

(4) *Staffing requirements.* As a minimum standard for the staffing of a treatment program there shall be the equivalent of one full-time physician licensed by and registered by State or Federal law to order, dispense, and administer methadone, two nurses (registered nurse or licensed practical nurse), and four counselors, for every 300 patients receiving maintenance treatment. The staffing pattern may be varied to fit the operational pattern and population characteristics of the program, but there shall always be at least one medical or osteopathic physician available for initial medical evaluation and follow-up care and to supervise the patient medication schedules for each 300 patients. This staffing pattern is not the recommended pattern, but the minimum staffing pattern acceptable.

(5) *Access to a range of services.* A treatment program shall provide a comprehensive range of medical and rehabilitative services to its patients. These services normally should be provided at the primary facility, but the program sponsor may enter into formally documented agreements with other public or private agencies, institutions, or organizations to render these services. Such facilities must be located so as to provide ease of access to the patient. Any service not furnished at the primary facility shall be listed, and the agreements to furnish those services shall be documented, when application for approval is submitted to the Food and Drug Administration and the State authority. Modification of the services shall be submitted in triplicate to the Food and Drug Administration as services are added or deleted.

(6) *Minimum procedures for ongoing care*—(i) *Dosage and administration requirements*—(*a*) *Form; packaging.* The methadone shall be administered or dispensed in oral form only when used in a treatment program. Hospitalized patients under care for a medical or surgical condition are permitted to receive methadone in parenteral form, when in the attending physican's professional judgment it is deemed advisable. Although tablet, syrup concentrate, or other formulations are permitted to be distributed to the program, all oral medication shall be administered or dispensed in a liquid formulation. The dosage will be formulated in such a way as to reduce its potential for parenteral abuse and accidental ingestion and packaged for outpatient use in special packaging as required by 16 CFR 1700.14. Any take-out medication shall be labeled with the treatment center's name, address and telephone number. Exceptions may be granted when any of the provisions of this subsection are in conflict with State law with regard to the administering or dispensing of drugs.

(*b*) *Detoxification treatment.* In detoxification the patient may be placed on a substitutive methadone administration schedule when there are significant symptoms of withdrawal. The dosage schedules indicated below are recommended but could be varied depending upon clinical judgment. Initially, a single oral dose of 15–20 milligrams of methadone will often be sufficient to suppress withdrawal symptoms. Additional methadone may be provided if withdrawal symptoms are not suppressed or whenever symptoms reappear. When patients are physically dependent on high doses of methadone, it may be necessary to exceed these levels. Forty milligrams per day in single or divided doses will usually constitute an adequate stabilizing dose level. Stabilization can be continued 2 to 3 days and then the amount of methadone will normally be gradually decreased. The rate at which methadone is decreased will be determined separately for each patient. The dose of methadone can be decreased on a daily basis or in 2-day intervals, but the amount of intake shall always be sufficient to keep withdrawal symptoms at a tolerable level. In hospitalized patients a daily reduction of 20 percent of the total daily dose usually will be tolerated and will cause little discomfort. In ambulatory patients, a somewhat slower schedule may be needed. If methadone is administered for more than 3 weeks, the procedure is considered to have progressed from detoxification or treatment of the acute withdrawal syndrome to maintenance treatment, even though the goal and intent may be eventual total withdrawal.

(*c*) *Maintenance treatment; special considerations for a pregnant patient.* (*1*) In maintenance treatment the initial dosage of methadone should control the abstinence symptoms that follow withdrawal of narcotic drugs, but should not be so great as to cause sedation, respiratory depression, or other effects of acute intoxication. It is important that the initial dosage be adjusted on an individual basis to the narcotic tolerance of the new patient. If such a patient has been a heavy user of heroin up to the day of admission, he may be given 20 milligrams 4 to 8 hours later, or 40 milligrams in a single oral dose. If he enters treatment with little or no narcotic tolerance (e.g. if he has recently been released from jail or other confinement), the initial dosage may be one-half these quantities. When there is any doubt, the smaller dose should be used initially. The patient should then be kept under observation, and, if symptoms of abstinence are distressing, additional 10 milligram doses may be administered as needed. Subsequently, the dosage should be adjusted individually, as tolerated and required, up to a level of 120 milligrams daily. For daily dosages above 100 milligrams patients shall ingest medication under observation 6 days per week. These patients will be allowed take-home medication for 1 day per week only. Those patients in treatment on the date this regulation becomes effective who are receiving a take-home dose of more than 100 milligrams per day shall have their dosage level reduced to 100 milligrams per day or less by June 13, 1973. A daily dose of 120 milligrams or more shall be justified in the medical record. For daily dosages above 120 milligrams, prior approval from State authority and the Food and Drug Administration shall be obtained beginning on March 15, 1973. For take-home doses above 100 milligrams per day, prior approval from the State authority and the Food and Drug Administration shall be obtained beginning on June 13, 1973. A regular review of dosage level should be made by the responsible physician with careful consideration given for reduction of dosage as indicated on an individual basis. A new dosage level is only a test level until stability is achieved.

(*2*) Caution shall be taken in the maintenance treatment of pregnant patients. Dosage levels shall be maintained as low as possible if continued methadone treatment is deemed necessary. It is the responsibility of the program sponsor to assure that each female patient is fully informed concerning the possible risks to a pregnant woman or her unborn child from the use of methadone.

(*d*) *Authorized dispensers of methadone; responsibility.* Methadone will be administered or dispensed by a practitioner licensed or registered under appropriate State or Federal law to order narcotic drugs for patients or by an agent of the practitioner, supervised by and pursuant to the order of the practitioner. This agent may only be a pharmacist, registered nurse, or licensed practical nurse depending upon the State regulations regarding narcotic drug dispensing and administering. The licensed practitioner assumes responsibility for the amounts of methadone administered or dispensed and all changes in dosage schedule will be recorded and signed by the licensed practitioner.

(7) *Frequency of attendance; take-home medication*—(i) *For detoxification, the drug shall be administered daily under close observation.* In maintenance treatment the patient will initially ingest the drug under observation daily, or at least 6 days a week, for the first 3 months. It is recognized that diversion occurs primarily when patients take medication from the clinic for self-administration. It is also recognized, however, that daily attendance at a program facility may be incompatible with gainful employment, education, and responsible homemaking. After demonstrating satisfactory adherence to the program regulations for at least 3 months, and showing substantial progress in rehabilitation by participating actively in the program activities and/or by participation in educational, vocational, and homemaking activities, those patients whose employment, education, or homemaking responsibilities would be hindered by daily attendance may be permitted to reduce to three times weekly the times when they must ingest the drug under observation. They shall receive no more than a 2-day take-home supply. With continuing adherence to the program's requirements and progressive rehabilitation for at least 2 years after entrance into the program, such patients may be permitted twice weekly visits to the program for drug ingestion under

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observation with a 3-day take-home supply. Prior to reducing the frequency of visits, documentation of the patient's progress and the need for reducing the frequency of visits shall be recorded. The requirements and schedule for when the drug must be ingested under observation may be relaxed if the patient has a serious physical disability which would prevent frequent visits to the program facility. The Food and Drug Administration and the State authority shall be notified of such cases. Additional medication may also be provided in exceptional circumstances such as acute illness, family crises, or necessary travel when hardship would result from requiring the customary observed medication intake for the specific period. In these circumstances the reasons for providing additional medication will be recorded. In circumstances of severe illness, infirmity or physical disability, an authorized individual (e.g. a licensed practitioner) may deliver or obtain the medication.

(ii) *Urine testing—(a) Schedule of testing; substances tested for.* In maintenance treatment, a urinalysis will be performed randomly at least weekly for morphine and monthly for methadone, barbiturates, amphetamines and other drugs if indicated. Those patients receiving their doses of the drug from medication units will also adhere to this schedule. The urine shall be collected at the program's primary facility or at the medication unit.

(b) *Method of collection.* Urine shall be collected in a manner which minimizes falsification of the samples. The reliability of this collection procedure shall be demonstrated.

(c) *Laboratories.* Laboratories used for urine testing shall participate in and be approved by any proficiency testing program designated by the Food and Drug Administration. Any changes made in laboratories used for urine testing shall have prior approval of the Food and Drug Administration.

(iii) *Patient's clinical record.* An adequate clinical record will be maintained for each patient. The record will contain a copy of the signed consent form(s), the date of each visit, the amount of methadone administered or dispensed, the results of each urinalysis, a detailed account of any adverse reactions, which will also be reported within 2 weeks to the Food and Drug Administration on Form FD–1639, "Drug Experience Report," any significant physical or psychological disability, the type of rehabilitative and counseling efforts employed, an account of the patient's progress, and other relevant aspects of the treatment program. For recordkeeping purposes, if a patient misses appointments for 2 weeks or more without notifying the program, the episode of care is considered terminated and so noted in the clinical record. This does not mean that the patient cannot return for care. If the patient does return for care and is accepted into the program, this is considered a readmission and so noted in the clinical record. This method of recordkeeping helps assure the easy detection of sporadic attendance and decreases the possibility of administering inappropriate doses of methadone (e.g., the patient who has received no medication for several days or more and upon return receives the usual stabilization dose). An annual evaluation of the patient's progress will be recorded in the clinical record(s).

(8) *Discontinuation of methadone use.* All patients in treatment will be given careful consideration for discontinuation of methadone use, especially after reaching a 10–20 milligram dosage level. Social rehabilitation shall have been maintained for a reasonable period of time. Patients should be encouraged to pursue the goal of eventual withdrawal from methadone and becoming completely drug free. Upon successfully reaching a drug-free state the patient should be retained in the program for as long as necessary to assure stability in the drug-free state, with the frequency of his required visits adjusted at the discretion of the director. Maintenance treatment using methadone shall be discontinued within 2 years after such treatment is begun unless, based upon clinical judgment recorded in the clinical record for the patient, the patient's status indicates that such treatment should be continued for a longer period of time. Any patient continued on methadone for longer than 2 years shall be subject to periodic reconsideration for discontinuance of such treatment.

(9) *Record of drug dispensing.* Accurate records traceable to specific patients shall be maintained showing dates, quantity, and batch or code marks of the drug dispensed. These records shall be retained for a period of 3 years.

(10) *Security of drug stocks.* Adequate security shall be maintained over stocks of methadone, over the manner in which it is administered or dispensed, over the manner in which it is distributed to medication units, and over the manner in which it is stored to guard against theft and diversion of the drug. The security standards for the distribution and storage of controlled substances as required by the Drug Enforcement Administration, Department of Justice (§§ 1301.72–1301.76 of this title) shall be met by the program.

(11) *Inspections of programs; patient confidentiality.* Inspection of a program may be undertaken by the State authority, by the Food and Drug Administration and by the Drug Enforcement Administration, Department of Justice, in accordance with Federal controlled substances laws. The identity of patients will be kept confidential except (i) when it is necessary to make follow-up investigations on adverse effect information related to use of the drug, (ii) when the medical welfare of the patient would be threatened by a failure to reveal such information, or (iii) when it is necessary to verify records relating to approval of the program or any portion thereof. In all circumstances the provision of 42 CFR Part 2 shall be followed.

(12) *Exemptions from specific program standards.* (i) A program is permitted, at the time of application or any time thereafter, to request exemption from or revision of specific program standards. The rationale for an exemption or revision shall be thoroughly documented in an appendix to be submitted with the application or at some later time. An example of a case in which an exemption might be granted would be for a private practitioner who wishes to treat a limited number of patients and requests exemption from some of the staffing and service standards in a nonmetropolitan area with few physicians and no rehabilitative services geographically accessible. The Food and Drug Administration will approve such exemptions or revisions of program standards at the time of application with the concurrence of the State authority.

(ii) The Food and Drug Administration has the right to withhold the granting of an exemption until such time as a program is in actual operation in order to assess if the exemption is necessary. If periodic inspections of the program reveal that discrepancies or adverse conditions exist, the Food and Drug Administration shall reserve the right to revoke any or all exemptions previously granted.

(13) *Additional reporting requirements—(i) Deaths.* The program sponsor shall report any patient death which is considered methadone related to the Food and Drug Administration within 2 weeks, using Form FD–1639 "Drug Experience Report."

(ii) *Newborns.* The program sponsor shall report to the Food and Drug Administration the birth of any child to a female patient, if the newborn is premature or shows any adverse reactions which, in the opinion of the attending physician, are due to methadone, within 1 month of the birth, using Form FD–1639 "Drug Experience Report."

(e) *Multiple enrollments—(1) Administering or dispensing to patients enrolled in other programs.* There is a danger of drug dependent persons attempting to enroll in more than one methadone treatment program to obtain quantities of methadone for the purpose of self-administration or illicit marketing. Therefore, except in an emergency situation, methadone shall not be provided to a patient who is known to be currently receiving the drug from another treatment program using methadone.

(2) *Patient attendance requirements.* The patient shall always report to the same treatment facility unless prior approval is obtained from the program sponsor for treatment at another program. Permission to report for treatment at the facility of another program shall be granted only in exceptional circumstances and shall be noted on the patient's clinical record.

(f) *Conditions for use of methadone in hospitals for detoxification and for temporary maintenance treatment—(1) Form.* The drug may be administered or dispensed in either oral or parenteral form.

(2) *Use of methadone in hospitals—(i) Approved uses.* Methadone for narcotic addict treatment is permitted to be administered or dispensed only for detoxification or temporary treatment of hospitalized patients. If methadone is administered for treatment of heroin dependence for more than 3 weeks, the procedure passes from treatment of the acute withdrawal syndrome (detoxification) to maintenance treatment. Maintenance treatment is permitted to be undertaken only by approved methadone programs. This does not preclude the maintenance treatment of an addict who is hospitalized for treatment of medical conditions other than addiction and who requires temporary maintenance treatment during the critical period of his stay or whose enrollment in a program which has approval for maintenance treatment using methadone has been verified. Any hospital which already has received approval under this paragraph (f) may be permitted to serve as a temporary methadone treatment program when an approved methadone treatment program has been terminated and there is no other facility immediately available in the area to provide methadone treatment for the patients. The Food and Drug Administration may give this approval upon the request of the State authority or the hospital, when no State authority has been established.

(ii) *Individual responsible for supplies.* The name of the individual (pharmacist) responsible for receiving and securing supplies of methadone for narcotic addict treatment shall be submitted to the Food and Drug Administration and the State authority. Individuals not authorized by Federal or State law shall not receive supplies of methadone.

(iii) *General description.* A general description of the hospital including the number of beds, specialized treatment facilities for drug dependence, and nature of patient care undertaken shall be submitted.

(iv) *Anticipated quantity of drug needed.* The anticipated quantity of methadone for narcotic addict treatment needed per year shall be submitted.

(v) *Records.* The hospital shall maintain accurate records showing dates, quantity, and batch or code marks of the drug used for inpatient treatment. The records shall be retained for a period of 3 years.

(vi) *Inspections.* The Food and Drug Administration and the State authority may inspect supplies of the drug and evaluate the uses to which the drug is being put. The identity of the patient will be kept confidential except (a) when it is necessary to make follow-up investigations on adverse effect information related to the drug, (b) when the medical welfare of the patient would be threatened by a failure to reveal such information, or (c) when it is necessary to verify records relating to approval of the hospital or any portion thereof. The confidentiality requirements of 42 CFR Part 2 shall be followed. Records relating to the receipt, storage, and distribution of narcotic medication shall also be subject to inspection as provided by Federal controlled substances laws; but use or disclosure of records identifying patients will, in any case, be limited to actions involving the program or its personnel.

(vii) *Approval of hospital pharmacy.* Application for a hospital pharmacy to provide methadone for detoxification and temporary treatment will be submitted to the Food and Drug Administration and the State authority and shall receive approval from both, except as provided for in paragraph (h)(5) of this section. Within 60 days after receipt of the application by the Food and Drug Administration, the applicant will receive notification of approval or denial or a request for additional information, when necessary.

(viii) *Approval of shipments to hospital pharmacies.* Before a hospital pharmacy may lawfully receive shipments of methadone for detoxification or temporary maintenance treatment, a responsible hospital official shall complete, sign, and file in triplicate with the Food and Drug Administration and the State authority Form FD–2636, "Hospital Request for Methadone for Detoxification and Temporary Maintenance Treatment" set forth in paragraph (k)(5) of this section and shall receive a notice of approval thereof from the Food and Drug Administration.

(ix) *Sanctions.* Failure to abide by the requirements described in this section may result in revocation of approval to receive shipments of methadone for narcotic addict treatment, seizure of the drug supply on hand, injunction, and criminal prosecution.

(g) *Confidentiality of patient records.* (1) Except as provided in paragraph (g)(2) of this section, disclosure of patient records maintained by any program shall be governed by the provisions of 42 CFR Part 2, and every program shall comply with the provisions of that part. Records relating to the receipt, storage, and distribution of narcotic medication shall also be subject to inspection as provided by Federal controlled substances laws; but use or disclosure of records identifying patients will, in any case, be limited to actions involving the program or its personnel.

(2) In addition to the restrictions upon disclosure in 42 CFR Part 2, and in accordance with the authority conferred by section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)), every program is hereby further authorized to protect the privacy of patients therein by withholding from all persons not employed by such program or otherwise connected with the conduct of its operations the names or other identifying characteristics of such patients under any circumstances under which such program has reasonable grounds to believe that such information may be used to conduct any criminal investigation or prosecution of a patient. Programs may not be compelled in any Federal, State, or local civil, criminal, administrative, or other proceedings to furnish such information, but this subparagraph does not authorize the withholding of information authorized to be furnished pursuant to 42 CFR Part 2 nor does it invalidate any legal process to compel the furnishing of information in accordance with 42 CFR Part 2. Records relating to the receipt, storage, and distribution of narcotic medication shall also be subject to inspection as provided by Federal controlled substances laws; but use or disclosure of records identifying patients will, in any case, be limited to actions involving the program or its personnel.

(3) A treatment program or medication unit or any part thereof, including any facility or any individual, shall permit a duly authorized employee of the Food and Drug Administration to have access to and to copy all records relating to the use of methadone. Patient identities shall be revealed (i) when it is necessary to make follow-up investigations on adverse effect information related to the drug, (ii) when the medical welfare of the patient would be threatened by a failure to reveal such information, or (iii) when it is necessary to verify records relating to any approval or any portion thereof under this section. The Food and Drug Administration will retain such identities in confidence pursuant to 42 CFR Part 2 and shall reveal them only when necessary in a related administrative or court proceeding.

(h) *Denial or revocation of approval.* (1) Complete or partial denial or revocation of approval of an application to receive shipments of methadone (Forms FD–2632 "Application for Approval of Use of Methadone in a Treatment Program" and FD–2636 "Hospital Request for Methadone for Detoxification and Maintenance Treatment") may be proposed to the Commissioner of Food and Drugs by the Director of the Food and Drug Administration's Bureau of Drugs, on his own initiative or at the request of representatives of the Drug Enforcement Administration, Department of Justice, National Institute of Mental Health, the State authority, or any other interested person.

(2) Before presenting such a proposal to the Commissioner, the Director of the Bureau of Drugs or his representative will notify the applicant in writing of the proposed action and the reasons therefor and will offer him an opportunity to explain the matters in question in an informal conference and/or in writing within 10 days after receipt of such notification. The applicant shall have the right to hear and to question the information on which the proposal to deny or revoke approval is based, and may present any oral or written information and views.

(3) If the explanation offered by the applicant is not accepted by the Bureau of Drugs as sufficient to justify approval of the application, and denial or revocation of approval is therefore proposed, the Commissioner will evaluate information obtained in the informal hearing before the Director of the Bureau of Drugs. If he finds that the applicant has failed to submit adequate assurance justifying approval of the application, he

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shall issue a notice of opportunity for hearing with respect to the matter pursuant to § 314.200 of this chapter and the matter shall thereafter be handled in accordance with established procedures for denial or revocation of approval of a new drug application. If the Secretary determines that there is an imminent hazard to health, revocation of approval will become effective immediately and any administrative procedures will be expedited. Upon revocation of approval of an application, the Commissioner will notify the applicant, the State authority, the Drug Enforcement Administration, Department of Justice, and all other appropriate persons that the applicant may no longer receive shipments of methadone, and will require the recall of all methadone from the applicant. Revocation of approval may also result in criminal prosecution.

(4) Denial or revocation of approval may be reversed when the Commissioner determines that the applicant has justified approval of the application.

(5) A treatment program or medication unit or any part thereof, including any facility or any individual, may appeal to the Food and Drug Administration a complete or partial denial or revocation of approval by the State authority unless the denial or revocation is based upon a State law or regulation. The appeal shall first be made to the Director of the Bureau of Drugs, who shall hold an informal conference on the matter in accordance with paragraph (h) (2) of this section. The State authority may participate in the conference. The appellant or the State authority may appeal the Director's decision to the Commissioner, who shall decide the matter in accordance with paragraph (h) (3) of this section. If the Commissioner denies or revokes approval, such action shall be handled in accordance with paragraph (h) (3) of this section. The Commissioner may not grant or retain Food and Drug Administration approval if he finds that the appellant is not in compliance with all applicable State laws and regulations and with this section.

(i) *Sanctions*—(1) *Program sponsor or individual responsible for a particular program.* If the program sponsor or the person responsible for a particular program fails to abide by all the requirements set forth in these regulations, or fails to adequately monitor the activities of those employed in the program, he may have the approval of his application revoked, his methadone supply seized, an injunction granted precluding operation of his program, and criminal prosecution instituted against him.

(2) *Persons responsible for administering or dispensing methadone.* If a person responsible for administering or dispensing methadone for narcotic addict treatment fails to abide by all the requirements set forth in these regulations, criminal prosecution may be instituted against him, his drug supply may be seized, the approval of the program may be revoked, and an injunction may be granted precluding operation of the program.

(j) *Requirements for distribution by manufacturers of methadone for narcotic addict treatment*—(1) *Distribution requirements.* Shipments of methadone for narcotic addict treatment are restricted to direct shipments by manufacturers of methadone to approved treatment programs using methadone and to approved hospital pharmacies. If requested by a manufacturer or State authority, wholesale pharmacy outlets in some regions or States may be authorized to stock methadone for narcotic addict treatment for that area and then trans-ship the drug to approved methadone treatment programs and approved hospital pharmacies. Alternative methods of distribution will be permitted if they are approved by the Food and Drug Administration and the State authority. Prior to any approval of an alternative method of distribution there will be consultation with the Drug Enforcement Administration, Department of Justice, to assure compliance with its regulations regarding controlled substance distribution.

(2) *Information regarding approved programs and hospitals.* The Food and Drug Administration will provide methadone manufacturers and the public with names and locations of programs and hospitals that have been approved to receive shipments of methadone for narcotic addict treatment. All information contained in the forms set out in paragraph (k) of this section is available for public disclosure except for names or other identifying information with respect to patients.

(3) *Acceptance of delivery.* Delivery shall only be made to a licensed practitioner employed at the facility. At the time of delivery the licensed practitioner shall sign for the methadone and place his specific title and identification number on any invoice. Copies of these signed invoices shall be kept by the manufacturer.

(k) *Program forms*—(1) *Treatment program application.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Form FD-2632 Application for Approval of Use of Methadone in a Treatment Program

Name or other identification of program-----

Address -----

Name of program sponsor-----

Commissioner,
Food and Drug Administration,
Bureau of Drugs (HFD-106),
Rockville, MD 20857.

DEAR SIR: As the person responsible for this program, I submit this request for approval of a treatment program using methadone to provide detoxification and maintenance treatment for narcotic addicts in accordance with § 291.505 of the new drug regulations. I understand that failure to abide by the requirements described below may cause revocation of approval of my application, seizure of my drug supply, an injunction, and criminal prosecution.

I. Attached is the name, complete address, and a summary of the scientific training and experience of each physician and all other professional personnel having major responsibilities for the program and rehabilitative efforts, and a singed Form FD-2633 "Medical Responsibility Statement for Use of Methadone in a Treatment Program" for every licensed practitioner authorized to prescribe, dispense, or administer methadone under the program. (If the Medical Director of this program has been listed for a program in a previous application, the feasibility of serving as Medical Director for this program must be documented and this documentation attached to this application.)

II. Attached is a description of the organizational structure of this program and the name and complete address of any central administration or larger organizational structure to which this program is responsible.

III. Attached is a listing of the sources of funding for this program. (The name and address for each governmental agency providing funding must be provided.)

IV. The program shall have ready access to a comprehensive range of medical and rehabilitative services. Attached is the name, address, and description of each hospital, institution, clinical laboratory facility, or other facility available to provide the necessary services and a statement for each facility as to whether or not methadone will be administered or dispensed at that facility. These facilities shall comply with any guidelines established by Federal or State authorities. (This listing should include the address of each medication unit. If any medical or rehabilitative service is not available at the primary facility, there must be a formal, documented agreement with private or public agencies, organizations, or institutions for these services.)

V. Attached is a statement of the approximate number of addicts to be included in the program.

VI. The following minimal treatment standards shall be followed:

A. A statement shall be given to the addicts to inform them about the program. A voluntary request and consent Form FD-2635 "Consent to Methadone Treatment" shall be signed by each patient. Participation in the program shall be voluntary.

B. I concur that the mere use of a narcotic drug, even if periodic or intermittent, cannot be equated with narcotic addiction. Care shall be exercised in the selection of patients to prevent the possibility of admitting a person who was not first dependent upon heroin or other morphine-like drugs at least 2 years prior to admission to maintenance treatment. This drug history and evidence of current physiologic dependence on morphine-like drugs shall be documented. Evidance of physical dependence should be obtained by noting early signs of withdrawal (lacrimation, rhinorrhea, pupillary dilation, and piloerection) during the initial period of abstinence. (Withdrawal signs may be observed during an initial period of hospitalization or while the individual is an outpatient undergoing diagnostic evaluation—(medical and personal history, physical examination, and laboratory studies). Loss of appetite and increased body temperature, pulse rate, blood pressure, and respiratory rate are also signs of withdrawal, but their detection may require inpatient observation. It is unlikely that an individual would be currently dependent on narcotic drugs without having a positive urine test for ons or more of these drugs. Additional evidence can be obtained by noting the presence of old and fresh needle marks, and by obtaining additional history from relatives and friends.)

C. An exception to the requirement for evidence of current physiologic dependence on narcotic drugs or to the age limitation will be allowed under the following exceptional circumstances: (1) Methadone treatment may be initiated prior to or within 1 week of release from a stay of 1 month or longer in a penal or chronic care institution if an individual has a predetention history of dependence upon heroin or other morphine-like drugs at least 2 years prior to admission to the institution, or (2) pregnant patients, regardless of age or prior addiction history, but otherwise eligible for maintenance treatment, may be placed on a maintenance regimen if the Medical Director certifies the pregnancy and, in his judgment, such treatment is medically justified. Within 6 weeks after the termination of the pregnancy, the physician shall enter an evaluation of the patient's treatment state into the patient's records indicating whether the patient should remain in a maintenance program or be detoxified. Justification for any such exception shall be noted on the patient's record.

D. Patients between 16 and 18 years of age who are enrolled and under treatment in approved programs on December 16, 1973 may continue in maintenance treatment. No new patients between 16 and 18 years of age may be admitted to a maintenance treatment program after such date unless a parent, legal guardian, or responsible adult designated by the State authority completes and signs consent form, Form FD-2635 "Consent to Methadone Treatment." Methadone treatment of new patients between the ages of 16 and 18 years of age will be permitted after such date only with a documented history of two or more unsuccessful attempts at detoxification and a documented history of dependence on heroin or other morphine-like drugs beginning 2 years or more prior to application for treatment. No patient under age 16 may be continued or started on methadone treatment after such date but these patients may be detoxified and retained in the program in a drug-free state for follow-up and aftercare. Patients under age 18 who are not placed in maintenance treatment may be detoxified. Detoxification may not exceed 3 weeks. A repeat episode of detoxification may not be initiated until 4 weeks after the completion of the previous detoxification.

VII. An admission evaluation and record shall be made and maintained for each patient upon admission to the program. This evaluation and record shall consist of a personal history, a medical history, a physical examination, and any laboratory or other special examinations as indicated in the judgment of the attending physician. (It is recommended that a complete blood count, liver function tests, and a serologic test for lues be part of the admission evaluation.)

A. A personal history record will include at least age, sex, educational level, employment history, criminal history, past history of drug abuse of all types, and prior treatment for drug abuse.

B. Medical history. A thorough medical history record will be completed for each patient accepted for admission.

C. Physical examination. The findings of a comprehensive physical examination will be recorded.

VIII. I understand that there is a danger of drug dependent persons attempting to enroll in more than one methadone treatment program to obtain quantities of methadone either for the purpose of self-administration or illicit marketing. To prevent such multiple enrollments, I will participate in whatever local, regional, or national patient identification system exists and I state my intention to participate in any system that may be developed and approved by the Food and Drug Administration unless I notify the Food and Drug Administration, in writing, to the contrary. I understand failure to participate may cause revocation of approval of my application. Except in an emergency situation, methadone will not be provided to a patient who is known to be currently receiving the drug from another treatment program using methadone. Except as provided in item XV of this form, information that could identify the patient will be kept confidential in compliance with 42 CFR Part 2.

IX. The following minimal procedures will be used for ongoing care.

A. Dosage and administration for detoxification and maintenance treatment:

1. Methadone will be administered or dispensed in oral form only when used in a treatment program. Hospitalized patients under care for medical or surgical condition are permitted to receive methadone in parenteral form, when in the attending physician's professional judgment it is deemed advisable. Although tablet, sirup concentrate, or other formulations are permitted to be distributed to the program, all oral medication shall be administered or dispensed in a liquid formulation. The dosage shall be formulated in such a way as to reduce its potential for parenteral abuse and accidental ingestion, and packaged for outpatient use in special packaging as required by 16 CFR 1700.14. Any take-out medication shall be labeled with the treatment center's name, address, and telephone number. Exceptions may be granted when any of the provisions of this subsection are in conflict with State law with regard to the administering or dispensing of drugs.

2. In detoxification, the patient may be placed on a substitutive methadone administration schedule when there are significant symptoms of withdrawal. The dosage schedules indicated below are recommended but may be varied depending upon clinical judgment. Initially, a single oral dose of 15–20 milligrams of methadone will often be sufficient to suppress withdrawal symptoms. Additional methadone may be provided if withdrawal symptoms are not suppressed or whenever symptoms reappear. When patients are physically dependent on high doses of methadone, it may be necessary to exceed these levels. Forty milligrams per day in single or divided doses will usually constitute an adequate stabilizing dose level. Stabilization can be continued for 2 to 3 days and then the amount of methadone will normally be gradually decreased. The rate at which methadone is decreased will be determined separately for each patient. The dose of methadone can be decreased on a daily basis or in 2-day intervals, but the amount of intake shall always be sufficient to keep withdrawal symptoms at a tolerable level. In hospitalized patients a daily reduction of 20 percent of the total daily dose usually will be tolerated and will cause little discomfort. In ambulatory patients, a somewhat slower schedule may be needed. If methadone is administered for more than 3 weeks, the procedure is considered to have progressed from detoxification or treatment of the acute withdrawal syndrome to maintenance treatment, even though the goal and intent may be eventual total withdrawal.

3. In maintenance treatment the initial dosage of methadone should control the abstinence symptoms that follow withdrawal of narcotic drugs but should not be so great as to cause sedation, respiratory depression, or other effects of acute intoxification. It is important that the initial dosage be adjusted on an individual basis to the narcotic tolerance of the new patient. If such a patient has been a heavy user of heroin up to the day of admission, he may be given 20 milligrams orally for the first dose and another 20 milligrams 4 to 8 hours later, or 40 milligrams in a single oral dose. If he enters treatment with little or no narcotic tolerance (e.g., if he has recently been released from jail or other confinement), the initial dosage may be one-half these quantities. When there is any doubt, the smaller dose should be used initially. The patient should then be kept under observation, and, if symptoms of abstinence are distressing, additional 10-milligram doses may be repeated as needed. Subsequently, the dosage should be adjusted individually, as tolerated and required, to a level of 120 milligrams daily. For daily dosages above 100 milligrams patients shall ingest medication under observation 6 days per week. These patients will be allowed take-home medication for 1 day per week only. Those patients in treatment on December 15, 1972 who are receiving a take-home dose of more than 100 milligrams per day shall have their dosage level reduced to 100 milligrams per day or less by June 13, 1973. A daily dose of 120 milligrams or more shall be justified in the medical record. For daily dosages above 120 milligrams or, beginning June 13, 1973, for take-home doses above 100 milligrams per day, prior approval shall be obtained from the Food and Drug Administration and the State authority. A regular review of dosage level should be made by the responsible physician with careful consideration given for reduction of dosage as indicated on an individual basis. A new dosage level is only a test level until stability is achieved.

4. Caution shall be taken in the maintenance treatment of pregnant patients. Dosage levels shall be maintained as low as possible if continued methadone treatment is deemed necessary. It is the responsibility of the program to assure that each female patient is fully informed concerning the possible risks to a pregnant woman or her unborn child from the use of methadone.

5. Methadone will be administered or dispensed by a practitioner licensed or registered under appropriate State or Federal law to order narcotic drugs for patients or by an agent of the practitioner, supervised by and pursuant to the order of the practitioner. This agent may be a pharmacist, registered nurse, or licensed practical nurse, depending upon the State regulations regarding narcotic drug dispensing and administering. The licensed practitioner assumes responsibility for the amounts of methadone administered or dispensed and all changes in dosage schedule shall be recorded and signed by the licensed practitioner.

6. For detoxification, the drug shall be administered daily under close observation. In maintenance treatment the patient initially will ingest the drug under observation daily, or at least 6 days a week, for the first 3 months. It is recognized that diversion occurs primarily when patients take medication from the clinic for self-administration. It is also recognized, however, that daily attendance at a program facility may be incompatible with gainful employment, education, and responsible homemaking. After demonstrating satisfactory adherence to the program regulations for at least 3 months and showing substantial progress in rehabilitation by participating actively in the program activities and/or by participation in educational, vocational, and homemaking activities, those patients whose employment, education, or homemaking responsibilities would be hindered by daily attendance may be permitted to reduce to 3 times weekly the times when they must ingest the drug under observation. They shall receive no more than a 2 day take-home supply. With continuing adherence to the program's requirements and progressive rehabilitation for at least 2 years after entrance into the program, such patients may be permitted twice weekly visits to the program for drug ingestion under observation with a 3 day take-home supply.

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Prior to reducing the frequency of visits, documentation of the patient's progress and the need for reducing the frequency of visits shall be recorded. The requirements and schedule for when the drug must be ingested under supervision may be relaxed if the patient has a serious physical disability which would prevent frequent visits to the program facility. The Food and Drug Administration and the State authority shall be notified of such cases. Additional medication may also be provided in exceptional circumstances such as acute illness, family crises, or necessary travel when hardship would result from requiring the customary observed medication intake for the specific period. In such circumstances the reasons for providing additional medication will be recorded in the clinical record. In circumstances of severe illness, infirmity or physical disability, an authorized individual (e.g., a licensed practitioner) may deliver or obtain the medication.

B. In maintenance treatment, a urinalysis will be performed randomly at least weekly for morphine and monthly for methadone, barbiturates, amphetamines, and other drugs if indicated. Those patients receiving their doses of the drug from medication units will also adhere to this schedule. The urine shall be collected in a manner which minimizes falsification of the samples. The reliability of this collection procedure shall be demonstrated. Laboratories used for urine testing shall participate in and be approved by any proficiency testing program designated by the Food and Drug Administration. Any changes in laboratories used for urine testing shall have prior approval of the Food and Drug Administration.

C. An adequate clinical record will be maintained for each patient. The record will contain a copy of the signed consent form(s), the date of each visit, the amount of methadone administered or dispensed, the results of each urinalysis, a detailed account of any adverse reactions, which will also be reported within 2 weeks to the Food and Drug Administration on Form FD–1639, "Drug Experience Report", any significant physical or psychologic disability, the type of rehabilitative and counseling efforts employed, an account of the patient's progress, and other relevant aspects of the treatment program. For recordkeeping purposes, if a patient misses appointments for 2 weeks or more without notifying the program, the episode of care is considered terminated and so noted in the clinical record. This does not mean that the patient cannot return for care. If the patient does return for care and is accepted into the program, this is considered a readmission and so noted in the clinical record. This method of recordkeeping helps assure the easy detection of sporadic attendance and decreases the possibility of administering inappropriate doses of methadone (e.g., the patient who has received no medication for several days or more and upon return receives the usual stabilization dose). An annual evaluation of the patient's progress will be recorded in the clinical record.

D. All patients in maintenance treatment will be given careful consideration for discontinuance of methadone, especially after reaching a 10–20 milligram dosage level. Social rehabilitation shall have been maintained for a reasonable period of time. Patients should be encouraged to pursue the goal of eventual withdrawal from methadone and becoming completely drug-free. Upon successfully reaching a drug-free state the patient should be retained in the program for as long as necessary to assure stability in the drug-free state, with the frequency of his required visits adjusted at the discretion of the director. Maintenance treatment using methadone shall be discontinued within 2 years after such treatment is begun unless, based upon clinical judgment recorded in the clinical record for the patient, the patient's status indicates that such treatment should be continued for a longer period of time. Any patient continued on methadone for longer than 2 years shall be subject to periodic reconsideration for discontinuance of such treatment.

X. To prevent diversion into illicit channels, adequate security shall be maintained over stocks of methadone and over the manner in which it is distributed, as required by the Drug Enforcement Administration, Department of Justice.

XI. Accurate records traceable to patients shall be maintained showing dates, quantity, and batch or code marks of the drug used. These records shall be retained for a period of 3 years.

XII. The program director may establish geographically dispersed medication units of reasonable size for administering and dispensing medication to patients stabilized at their optimal dosage level. The approval of such units for any geographic area shall be based upon the number and distribution of such units within the area. No more than 30 patients shall be under care at a medication unit at any one time. These units shall be responsible only for administering and dispensing medication. Private practitioners and community pharmacies may serve as medication units. Only after patients have been stabilized at their optimal initial dosage level may they be referred to a medication unit. Subsequent to such referral, the program director shall retain continuing responsibility for the patient's care and the patient shall be seen at the primary program facility at least monthly for medical evaluation and ancillary service. If a private practitioner wishes to provide other service in addition to administering and dispensing medication and collecting urine samples, the practitioner is considered a program component or a separate program, depending upon the type of services provided. In such case the restrictions on the number of patients served shall be determined by the staffing pattern and resources available.

XIII. All representations in this application are currently accurate, and no changes shall be made in the program until they have been approved by the Food and Drug Administration and the State authority.

XIV. If the program or any individual under the program is disapproved, the program director shall recall the methadone from the disapproved sources and return the drug to the manufacturer in a manner prescribed by the Drug Enforcement Administration, Department of Justice.

XV. Inspections of this program may be undertaken by the State authority, by the Food and Drug Administration and by the Drug Enforcement Administration, Department of Justice, in accordance with Federal controlled substances laws. The identity of patients will be kept confidential except when it is necessary to make follow-up investigations on adverse effect information related to use of the drug, when the medical welfare of the patient would be threatened by a failure to reveal such information, or when it is necessary to verify records relating to approval of the program or any portion thereof. In all circumstances the provisions of 42 CFR Part 2 shall be followed.

Signature ----------
(Program sponsor)

(2) *Medical responsibility statement.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Form FD–2633 Medical Responsibility Statement for Use of Methadone in a Treatment Program

(To be completed by each physician licensed to dispense or administer methadone under an approved program.)

Date ----------
Name of program----------
Address ----------
Telephone number----------

Medical Director for this facility (licensed by law to administer or dispense drugs and responsible for all medication administered or dispensed at this facility).

Address of this facility----------
Telephone number of this facility----------

I. The undersigned agrees to assume responsibility for the administration and dispensing of methadone under the above identified program and to abide by the required standards for methadone detoxification and maintenance treatment.

II. The name of each patient treated at a facility and the frequency of visits shall be registered with the medical director. An annual report Form FD–2634 "Annual Report for Treatment Program Using Methadone" shall be submitted to the program sponsor for submission to the Food and Drug Administration. The patient shall always report to the same facility unless prior approval is obtained from the medical director for treatment at another operation.

III. The following minimal treatment standards shall be followed.

A. A statement shall be given to the addicts to inform them about the program. A voluntary request and consent Form FD–2635 "Consent to Methadone Treatment" shall be signed by each patient. Participation in the program shall be voluntary.

B. The mere use of a narcotic drug, even if periodic or intermittent, cannot be equated with narcotic addiction. Care shall be exercised in the selection of patients to prevent the possibility of admitting a person who was not first dependent upon heroin or other morphine-like drugs at least 2 years prior to admission to maintenance treatment. This drug history and evidence of current physiologic dependence on morphine-like drugs shall be documented. Evidence of physical dependence should be obtained by noting early signs of withdrawal (lacrimation, rhinorrhea, pupillary dilation, and piloerection) during the initial period of abstinence. Withdrawal signs may be observed during an initial period of hospitalization or while the individual is an outpatient undergoing diagnostic evaluation (medical and personal history, physical examination, and laboratory studies). Loss of appetite and increased body temperature, pulse rate, blood pressure, and respiratory rate are also signs of withdrawal, but their detection may require inpatient observation. It is unlikely that an individual would be currently dependent on narcotic drugs without having a positive urine test for one or more of these drugs. Additional evidence can be obtained by noting the presence of old and fresh needle marks, and by obtaining additional history from relatives and friends.

C. An exception to the requirement for evidence of current physiologic dependence on narcotic drugs or to the age limitations will be allowed under the following exceptional circumstances: (1) Methadone treatment may be initiated prior to or within 1 week of release from a stay of 1 month or longer in a penal or chronic care institution if an individual has a predetention history of dependence upon heroin or other morphine-like drugs at least 2 years prior to admission to the institution, or (2) pregnant patients, regardless of age or prior addiction history, but otherwise eligible for maintenance treatment, may be placed on a maintenance regimen if the Medical Director certifies the pregnancy and, in his judgment, such treatment is medically justified. Within 6 weeks after the termination of the pregnancy, the physician shall enter an evaluation of the patient's treatment state into the patient's records indicating whether the patient should remain in a maintenance program or be detoxified. Justification for any such exception shall be noted on the patient's record.

D. Patients between 16 and 18 years of age who are enrolled and under treatment in approved programs on December 15, 1972 may continue in maintenance treatment. No new patients between 16 and 18 years of age may be admitted to a maintenance treatment after such date unless a parent, legal guardian, or responsible adult designated by the State authority completes and signs consent form, Form FD–2635, "Consent to Methadone Treatment". Methadone treatment of new patients between ages 16 and 18 years of age will be permitted after such date only with a documented history of two or more unsuccessful attempts at detoxification and a documented history of dependence on heroin or other morphine-like drugs beginning 2 years or more prior to application for treatment. No patient under age 16 may be continued or started on methadone treatment after such date, but these patients may be detoxified and retained in the program in a drug-free state for follow-up and aftercare. Patients under age 16 who are not placed in maintenance treatment may be detoxified. Detoxification may not exceed 3 weeks. A repeat episode of detoxification may not be initiated until 4 weeks after the completion of the previous detoxification.

IV. An admission evaluation and record shall be made and maintained for each patient upon admission to the program. This evaluation and record shall consist of a personal history, a medical history, and a physical examination, and any laboratory or other special examinations as indicated in the judgment of the attending physician. (It is recommended that a complete blood count, liver function tests, and a serologic test for lues be part of the admission evaluation.)

A. A personal history record will include at least age, sex, educational level, employment history, criminal history, past history of drug abuse of all types, and prior treatment for drug abuse.

B. Medical history. A thorough medical history record will be completed for each patient accepted for admission.

C. Physical examination. The findings of a comprehensive physical examination will be recorded.

V. I understand that there is a danger of drug dependent persons attempting to enroll in more than one methadone treatment program to obtain quantities of methadone either for the purpose of self-administration or illicit marketing. To prevent such multiple enrollments, I will participate in whatever local, regional, or national patient identification system that exists and I state my intention to participate in any system that may be developed and approved by the Food and Drug Administration unless I notify the Food and Drug Administration, in writing, to the contrary. I understand failure to participate may cause revocation of approval of my application. Except in an emergency situation, methadone will not be provided to a patient who is known to be currently receiving the drug from another treatment program using methadone. Except as provided in item XI of this form, information that could identify the patient will be kept confidential in compliance with 42 CFR Part 2.

VI. The following minimal procedures will be used for ongoing care.

A. Dosage and administration for detoxification and maintenance treatment:

1. Methadone will be administered or dispensed in oral form only when used in a treatment program. Hospitalized patients under care for a medical or surgical condition are permitted to receive methadone in parenteral form, when in the attending physician's professional judgment it is deemed advisable. Although tablet, syrup concentrate, or other formulations are permitted to be distributed to the program, all oral medication shall be administered or dispensed in a liquid formulation. The dosage shall be formulated in such a way as to reduce its potential for parenteral abuse and accidental ingestion, and packaged for outpatient use in special packaging as required by 16 CFR 1700.14. Any take-out medication shall be labeled with the treatment center's name, address and telephone number. Exceptions may be granted when any of the provisions of this subsection are in conflict with State law with regard to the administering or dispensing of drugs.

2. In detoxification, the patient may be placed on a substitutive methadone administration schedule when there are significant symptoms of withdrawal. The dosage schedules indicated below are recommended but may be varied depending upon clinical judgment. Initially, a single oral dose of 15-20 milligrams of methadone will often be sufficient to suppress withdrawal symptoms. Additional methadone may be provided if withdrawal symptoms are not suppressed or whenever symptoms reappear. When patients are physically dependent on high doses of methadone, it may be necessary to exceed these levels. 40 milligrams per day in single or divided doses will usually constitute an adequate stabilizing dose level. Stabilization can be continued for 2 to 3 days and then the amount of methadone will normally be gradually decreased. The rate at which methadone is decreased will be determined separately for each patient. The dose of methadone can be decreased on a daily basis or in 2 day intervals, but the amount of intake shall always be sufficient to keep withdrawal symptoms at a tolerable level. In hospitalized patients a daily reduction of 20 percent of the total daily dose usually will be tolerated and will cause little discomfort. In ambulatory patients, a somewhat slower schedule may be needed. If methadone is administered for more than 3 weeks, the procedure is considered to have progressed from detoxification or treatment of the acute withdrawal syndrome to maintenance treatment, even though the goal and intent may be eventual total withdrawal.

3. In maintenance treatment the initial dosage of methadone should control the abstinence symptoms that follow withdrawal of narcotic drugs but should not be so great as to cause sedation, respiratory depression, or other effects of acute intoxification. It is important that the initial dosage be adjusted on an individual basis to the narcotic tolerance of the new patient. If such a patient has been a heavy user of heroin up to the day of admission, he may be given 20 milligrams orally for the first dose and another 20 milligrams 4 to 8 hours later, or 40 milligrams in a single oral dose. If he enters treatment with little or no narcotic tolerance (e.g., if he has recently been released from jail or other confinement), the initial dosage may be one-half these quantities. When there is any doubt, the smaller dose should be used initially. The patient should then be kept under observation, and, if symptoms of abstinence are distressing, additional 10 milligram doses may be repeated as needed. Subsequently, the dosage should be adjusted individually, as tolerated and required, to a level of 120 milligrams daily. For daily dosages above 100 milligrams patients shall ingest medication under observation 6 days per week. These patients will be allowed take-home medication for 1 day per week only. Those patients in treatment on December 15, 1972 who are receiving a take-home dose of more than 100 milligrams per day shall have their dosage level reduced to 100 milligrams per day or less by June 13, 1973. A daily dose of 120 milligrams or more shall be justified in the medical record. For daily dosages above 120 milligrams or, beginning June 13, 1973, for take-home doses above 100 milligrams per day, prior approval shall be obtained from the Food and Drug Administration and the State authority. A regular review of dosage level should be made by the responsible physician with careful consideration given for reduction of dosage as indicated on an individual basis. A new dosage level is only a test level until stability is achieved.

4. Caution shall be taken in the maintenance treatment of pregnant patients. Dosage levels shall be maintained as low as possible if continued methadone treatment is deemed necessary. It is the responsibility of the program sponsor to assure that each female patient is fully informed concerning the possible risks to a pregnant woman or her unborn child from the use of methadone.

5. Methadone will be administered or dispensed by a practitioner licensed or registered under appropriate State or Federal law to order narcotic drugs for patients or by an agent of the practitioner, supervised by and pursuant to the order of the practitioner. This agent may only be a pharmacist, registered nurse, or licensed practical nurse depending upon the State regulations regarding narcotic drug dispensing and administering administration. The licensed practitioner assumes responsibility for the amounts of methadone administered or dispensed and all changes in dosage schedule shall be recorded and signed by the licensed practitioner.

6. For detoxification, the drug shall be administered daily under close observation. In maintenance treatment the patient initially will ingest the drug under the observation daily, or at least 6 days a week, for the first 3 months. It is recognized that diversion occurs primarily when patients take medication from the clinic for self-administraion. It is also recognized, however, that daily attendance at a program facility may be incompatible with gainful employment, education, and responsible homemaking. After demonstrating satisfactory adherence to the program regulations for at least 3 months and showing substantial progress in rehabilitation by participating actively in the program activities and/or by participation in educational, vocational, and homemaking activities, those patients whose employment, education or homemaking responsibilities would be hindered by daily attendance may be permitted to reduce to three times weekly the times when they must ingest the drug under observation. They shall receive no more than a 2-day take-home supply. With continuing adherence to the program's requirements and progressive rehabilitation for at least 2 years after entrance into the program, such patients may be permitted twice weekly visits to the program for drug ingestion under observation with a 3-day take-home supply. Prior to reducing the fre-

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quency of visits, documentation of the patient's progress and the need for reducing the frequency of visits shall be recorded. The requirements and schedule for when the drug must be ingested under supervision may be relaxed if the patient has a serious physical disability which would prevent frequent visits to the program facility. The Food and Drug Administration and the State authority shall be notified of such cases. Additional medication may also be provided in exceptional circumstances such as acute illness, family crises, or necessary travel when hardship would result from requiring the customary observed medication intake for the specific period. In such circumstances the reasons for providing additional medication will be recorded in the clinical record. In circumstances of severe illness, infirmity or physical disability, an authorized individual (e.g., a licensed practitioner) may deliver or obtain the medication.

B. In maintenance treatment, a urinalysis will be performed randomly at least weekly for morphine and monthly for methadone, barbiturates, amphetamines, and other drugs if indicated. Those patients receiving their doses of the drug from medication units will also adhere to this schedule. The urine shall be collected in a manner which minimizes falsification of the samples. The reliability of this collection procedure shall be demonstrated. Laboratories used for testing must participate in and be approved by any proficiency testing program designated by the Food and Drug Administration. Any changes made in laboratories used for urine testing shall have prior approval of the Food and Drug Administration.

C. An adequate clinical record will be maintained for each patient. The record will contain a copy of the signed consent form(s), the date of each visit, the amount of methadone administered or dispensed, the results of each urinalysis, a detailed account of any adverse reactions, which will also be reported within 2 weeks to the Food and Drug Administration on Form FD–1639, "Drug Experience Report," any significant physical or psychologic disability, the type of rehabilitative and counseling efforts employed, an account of the patient's progress, and other relevant aspects of the treatment program. For record-keeping purposes, if a patient misses appointments for 2 weeks or more without notifying the program, the episode of care is considered terminated and so noted in the clinical record. This does not mean that the patient cannot return for care. If the patient does return for care and is accepted into the program, this is considered a readmission and so noted in the clinical record. This method of recordkeeping helps assure the easy detection of sporadic attendance and decreases the possibility of administering inappropriate doses of methadone (e.g., the patient who has received no medication for several days or more and upon return receives the usual stabilization dose). An annual evaluation of the patient's progress will be recorded in the clinical record.

D. All patients in maintenance treatment will be given careful consideration for discontinuance of methadone especially after reaching a 10 to 20 milligrams dosage level. Social rehabilitation shall have been maintained for a reasonable period of time. Patients should be encouraged to pursue the goal of eventual withdrawal from methadone and becoming completely drug-free. Upon successfully reaching a drug-free state the patient should be retained in the program for as long as necessary to assure stability in the drug-free state, with the frequency of his required visits adjusted at the discretion of the director. Maintenance treatment using methadone shall be discontinued within 2 years after such treatment is begun unless, based upon clinical judgment recorded in the clinical record for the patient, the patient's status indicates that such treatment should be continued for a longer period of time. Any patient continued on methadone for longer than 2 years shall be subject to periodic reconsideration for discontinuance of such treatment.

VII. To prevent diversion into illicit channels, adequate security shall be maintained over stocks of methadone and over the manner in which it is distributed, as required by the Drug Enforcement Administration, Department of Justice.

VIII. The program director may establish geographically dispersed medication units of reasonable size for administering and dispensing medication to patients stabilized at their optimal dosage level. The approval of such units for any geographic area shall be based upon the number and distribution of such units within the area. No more than 30 patients shall be under care at a medication unit at any one time. These units shall be responsible only for administering and dispensing medication. Private practitioners and community pharmacies may serve as medication units. Only after patients have been stabilized at their optimal initial dosage level may they be referred to a medication unit. Subsequent to such referral, the program director shall retain continuing responsibility for the patient's care and the patient shall be seen at the primary program facility at least monthly for medical evaluation and ancillary service. If a private practitioner wishes to provide other service in addition to administering and dispensing medication and collecting urine samples, the practitioner is considered a program component or a separate program, depending upon the type of services provided. In such case the restrictions on the number of patients served shall be determined by the staffing pattern and resources available.

IX. All representations in this application are currently accurate, and no changes shall be made in the program until they have been approved by the Food and Drug Administration and the State authority.

X. If the program or any individual under the program is disapproved, the program director shall recall the methadone from the disapproved sources and return the drug to the manufacturer in a manner prescribed by the Drug Enforcement Administration, Department of Justice.

XI. Inspections of this program may be undertaken by the State authority, by the Food and Drug Administration and by the Drug Enforcement Administration, Department of Justice, in accordance with Federal controlled substances laws. The identity of patients will be kept confidential except when it is necessary to make follow-up investigations on adverse effect information related to use of the drug, when the medical welfare of the patient would be threatened by a failure to reveal such information, or when it is necessary to verify records relating to approval of the program or any portion thereof. In all circumstances the provisions of 42 CFR Part 2 shall be followed.

Signature: _____

(3) *Annual report form.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Form FD–2634 Annual Report for Treatment Program Using Methadone

This form shall be completed in triplicate by the program sponsor for each calendar year.

One copy is to be sent to the Food and Drug Administration and one copy to the State authority on or before January 30.

I. Name or other identification of program

_____

_____

Address _____

_____

II. Total Treatment Capacity _____

III. Amount of methadone dispensed (in grams) during the year: _____

IV. Number of individuals who applied to the program but were not admitted or given admission evaluation _____

V. Number of individuals who were provided only detoxification one or more times _____

VI. Census of patients provided methadone maintenance treatment _____

A. Number under care at the beginning of the year being reported _____

B. Of those in treatment at the beginning of the year:

1. Number continuously under care through the year being reported (still under care) _____

2. Number discharged or transferred to other types of programs and not readmitted _____

3. Number discharged or transferred to other types of programs and readmitted (still under care) _____

4. Number discharged and readmitted (no longer under care) _____

C. Number admitted to care during year _____, not previously treated in this program:

1. Number still under care at the end of the year _____

2. Number discharged or transferred to other types of programs and not readmitted _____

3. Number discharged or transferred to other types of programs and readmitted (still under care) _____

4. Number discharged and readmitted (no longer under care) _____

D. Number admitted to care during the year _____, previously treated in this program prior to the past year:

1. Number still under care at the end of the year _____

2. Number discharged or transferred to other types of programs and not readmitted _____

3. Number discharged and transferred to other types of programs and readmitted (still under care) _____

4. Number discharged and readmitted (no longer under care) _____

VII. Demographic and treatment characteristics of patients under care at the end of the year being reported:

A. By age and sex:

Age	Total	Male	Female
Under 14			
14–15			
16–17			
18–20			
21–25			
26–35			
36–45			
46+			

B. For the year being reported, give the number of patients who have been under continuous care for the following periods of time:

Under 3 months _____
3 months to 1 year _____
1 to 2 years _____
2 to 5 years _____
Over 5 years _____

C. Total number of individuals treated to date _____

D. For the year being reported, give the number of patients stabilized at each dosage level:

Daily dosage, mgm.	*Number of patients*
Under 20	
20–39	
40–59	
60–79	
80–99	
100–119	
Over 120	

E. For the year being reported, give the number of patients seen in the past 6 weeks who have fallen in the following categories:

No positive urinalysis for morphine for 2 months or more _____

Occasional positive urinalysis for morphine (monthly or less) _____

Frequent positive urinalysis for morphine (more than once per month) _____

In program for less than 2 months _____

For the year being reported, give the number of patients treated who were pregnant _____

VIII. Give the number of patients having significant adverse reactions, particularly reactions related to hematopoietic, cardiovascular, endocrine, nsurologic, and immunological functions (attach a completed copy of Form FD–1639, "Drug Experience Report," for each incident not previously reported to the Food and Drug Administration):

Type of reaction	*Number of patients*

IX. Give the number of patients who have died while under methadone care (attach a completed copy of Form FD–1639, "Drug Experience Report", for each incident not previously reported to the Food and Drug Administration):

	Number of patients
A. Definitely methadone-related	
B. Not methadone-related	

Signature _____
(Program sponsor)

(4) *Patient consent form.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Form FD–2635 Consent for Methadone Treatment

Patient _____ Date _____

Name of practitioner explaining procedures _____

(Provisions of this consent form may be modified to conform to any applicable State law.)

I hereby authorize and give my voluntary consent to Dr. _____
(Program medical director)
and/or any appropriately authorized assistants he may select, to administer or prescribe the drug methadone as an element in the treatment for my dependence on heroin or other narcotic drugs.

The procedures necessary to treat my condition have been explained to me and I understand that it will involve my taking daily dosages of methadone, or other drugs, which will help control my dependence on heroin or other narcotic drugs.

It has been explained to me that methadone is a narcotic drug which can be harmful if taken without medical supervision. I further understand that methadone is an addictive medication and may, like other drugs used in medical practice, produce adverse results. The alternative methods of treatment, the possible risks involved, and the possibilities of complications have been explained to me, but I still desire to receive methadone due to the risk of my return to the use of heroin or other drugs.

The goal of methadone treatment is total rehabilitation of the patient. Eventual withdrawal from the use of all drugs, including methadone, is an appropriate treatment goal. I realize that for some patients methadone treatment may continue for relatively long periods of time but that periodic consideration shall be given concerning my complete withdrawal from methadone use.

I understand that I may withdraw from this treatment program and discontinue the use of the drug at any time and I shall be afforded detoxification under medical supervision.

I agree that I shall inform any doctor who may treat me for any medical problem that I am enrolled in a methadone treatment program, since the use of other drugs in conjunction with methadone may cause me harm.

I also understand that during the course of treatment, certain conditions may make it necessary to use additional or different procedures than those explained to me. I understand that these alternate procedures shall be used when in the Program or Medical Director's professional judgment it is considered advisable.

(For female patients of child-bearing age)

To the best of my knowledge, I (am/am not) pregnant at this time.

Besides the possible risks involved with the long-term use of methadone, I further understand that, like heroin and other narcotic drugs, information on its effects on pregnant women and on their unborn children is at present inadequate to guarantee that it may not produce significant or serious side effects.

It has been explained to me and I understand that methadone is transmitted to the unborn child and will cause physical dependence. Thus, if I am pregnant and suddenly stop taking methadone, I or the unborn child may show signs of withdrawal which may adversely affect my pregnancy or the child. I shall use no other drugs without the medical director or his assistants' approval, since these drugs, particularly as they might interact with methadone, may harm me or my unborn child. I shall inform any other doctor who sees me during my present or any future pregnancy or who sees the child after birth, of my current or past participation in a methadone treatment program in order that he may properly care for my child and me.

It has been explained to me that after the birth of my child I should not nurse the baby because methadone is transmitted through the milk to the baby and this may cause physical dependence on methadone in the child. I understand that for a brief period following birth, the child may show temporary irritability or other ill effects due to my use of methadone. It is essential for the child's physician to know of my participation in a methadone treatment program so that he may provide appropriate medical treatment for the child.

All the above possible effects of methadone have been fully explained to me and I understand that at present, there have not been enough studies conducted on the long term use of the drug to assure complete safety to my child. With full knowledge of this, I consent to its use and promise to inform the Medical Director or one of his assistants immediately if I become pregnant in the future.

(For patients under 18 years of age)

The patient is a minor, _____ years of age, born, _____

The risks of the use of methadone have been explained to (me/us) and (I/we) understand that methadone is a drug on which long-term studies are still being conducted and that information on its effects in adolescents is incomplete. It has been explained to (me/us) that methadone is being used in the minor's treatment only because the risk of (his/her) return to the use of heroin is sufficiently great to justify this treatment. (I/We) declare that participation in the methadone treatment program is wholly voluntary on the part of both the (parent(s)/guardian(s)) and the patient and that methadone treatment may be stopped at any time on (my/our) request or that of the patient. With full knowledge of the potential benefits and possible risks involved with the use of methadone in the treatment of an adolescent, (I/we) consent to its use upon the minor, since (I/we) realize that otherwise (he/she) shall continue to be dependent upon heroin or other narcotic drugs.

I certify that no guarantee or assurance has been made as to the results that may be obtained from methadone treatment. With full knowledge of the potential benefits and possible risks involved, I consent to methadone treatment, since I realize that I would otherwise continue to be dependent on heroin or other narcotic drugs.

Patient _____
Date _____
Date of birth _____
Parent(s) or guardian(s) _____
Relationship _____
Witness _____

(5) *Hospital application.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DAUG ADMINISTRATION

Form FD–2636 Hospital Request for Methadone for Detoxification and Temporary Maintenance Treatment

Name of hospital _____
Address _____

Commissioner,
Food and Drug Administration,
Bureau of Drugs (HFD–106),
Rockville, MD 20857.

DEAR SIR: As hospital administrator, I submit this request for approval to receive supplies of methadone to be used for detoxification and maintenance treatment in accord with § 291.505 of the new drug regulations. I understand that the failure to abide by the requirements described below may result in revocation of approval to receive shipments of methadone, seizure of the drug supply on hand, injunction, and criminal prosecution.

I. The name of the individual (pharmacist) responsible for receiving and securing supplies of methadone is _____.

II. There are a total of _____ beds in the hospital.

III. A general description of the hospital and nature of patient care undertaken is attached.

IV. The anticipated quantity of methadone needed for narcotic addict treatment per year is _____ (Gms.).

V. Methadone for narcotic addict treatment is permitted to be administered or dispensed only for detoxification or temporary treatment of hospitalized patients. If methadone is administered for treatment of heroin dependence for more than 3 weeks, the procedure passes from treatment of the acute withdrawal syndrome (detoxification) to maintenance treatment. Maintenance treatment is permitted to be undertaken only by approved methadone programs. This

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does not preclude the maintenance treatment of an addict who is hospitalized for treatment of medical conditions other than addiction and who requires temporary maintenance treatment during the critical period of his stay whose enrollment in a program which has approval for maintenance treatment using methadone has been verified.

VI. Accurate records shall be maintained showing dates, quantity, and batch or code marks of the drug for inpatient treatment. The records shall be retained for a period of 3 years.

VII. The Food and Drug Administration and the State authority may inspect supplies of the drug and evaluate the uses to which the drug is being put. The identity of the patient will be kept confidential (except when it is necessary to make follow-up investigations on adverse effect information related to the drug, when the medical welfare of the patient would be threatened by a failure to reveal such information, or when it is necessary to verify records relating to approval of the hospital or any portion thereof. The confidentiality requirements of 42 CFR Part 2 shall be followed.

Signature_____
(Hospital official)

§ 310.304 [Amended]

Paragraph (b) of § 310.304 is amended by changing, the references to "§ 310.505" to read "§ 291.505".

[FR Doc.77-26754 Filed 9-15-77;8:45 am]

federal register

FRIDAY, SEPTEMBER 16, 1977
PART IV



DEPARTMENT OF LABOR

Employment and Training Administration

DISASTER UNEMPLOYMENT ASSISTANCE PROGRAM

Final Regulations

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Title 20—Employees' Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION

PART 625—DISASTER UNEMPLOYMENT ASSISTANCE

Final Regulations

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: These are the Department of Labor's final regulations for implementing the Disaster Unemployment Assistance Program. The regulations provide assistance to people unemployed because of a major disaster. The final regulations incorporate the substantive changes and improvements as set forth in the published proposal, except that in the final form the formula for calculating the weekly amount payable to individuals has been modified.

EFFECTIVE DATE: October 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Lawrence E. Weatherford, Jr., Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213, telephone 202–376–7032.

SUPPLEMENTARY INFORMATION: The Disaster Unemployment Assistance Program is created by section 407(a) of the Disaster Relief Act of 1974 (42 U.S.C. 5177(a)), to provide weekly payments of assistance to individuals whose unemployment is caused by a major disaster declared by the President in accordance with the Act.

Part 625, Chapter V, Title 20 of the Code of Federal Regulations, implements the Disaster Unemployment Assistance Program as most recently amended in the Disaster Relief Act of 1974, (Pub. L. 93–288, 88 Stat. 143). An interim revision of the regulations was published in the FEDERAL REGISTER on October 11, 1974, (39 FR 36579), with a comment period through November 11, 1974. The proposal to revise the regulations in final form was published in the FEDERAL REGISTER on November 9, 1976 (41 FR 49607), and this document contains the final regulations for Part 625.

Comments on the proposal published on November 9, 1976, were solicited through December 9, 1976, and the proposal was further reviewed in the Department. As a result of comments and review, a few changes have been made in the proposal.

1. The only comment suggesting any change in Part 625 was received from the Federal Disaster Assistance Administration of the Department of Housing and Urban Development. The FDAA suggested that § 625.5(b)(4), which defines unemployment for a self-employed individual injured due to a major disaster, conform with § 625.5(a)(5), which defines the same condition as pertaining to an unemployed worker. The suggestion has been adopted, and the words "or illness" are deleted from § 625.5(b)(4).

2. Further review of the proposed Part 625 revealed that under § 625.6 there is no provision for computing the DUA weekly amount to be paid to unemployed self-employed individuals who had no net earnings due to their self-employment operating at a loss. A new paragraph, designated as paragraph (3), has been added to provide that such individuals be paid a DUA weekly amount equal to the minimum weekly benefit amount payable for regular unemployment compensation under the applicable State law. Paragraph (3) of this section has now been redesignated paragraph (4).

3. The general rule for calculating the DUA weekly amount also has been reviewed further, and the rule is modified. As set out in § 625.6(a)(1) of the proposal, the DUA weekly amount would be computed under the applicable State law in the same manner as the weekly benefit amount for regular unemployment compensation purposes. This basic formula is retained in the final regulations, but if the resulting DUA weekly amount is less than the average weekly UI payment in the State, then a weekly amount would be computed based on the individual's earnings in the 13-week period preceding the disaster, and the higher of these two amounts would be the DUA weekly amount for the individual.

4. In addition a number of minor proofing and technical errors were made in the proposed document as published in the FEDERAL REGISTER on November 9, 1976 (41 FR 49607). Those errors have been corrected.

The Department of Labor has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11949 and applicable authority.

This document was prepared under the direction of Lawrence E. Weatherford, Jr., Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213. Telephone: 202–376–7932.

Accordingly, Part 625 of Chapter V of title 20, Code of Federal Regulations, is revised as set out below.

Signed at Washington, D.C., on September 9, 1977.

ERNEST G. GREEN,
Assistant Secretary
for Employment and Training.

Part 625 of Chapter V of Title 20, Code of Federal Regulations, reads as follows:

Sec.
625.1 Purpose; rules of construction.
625.2 Definitions.
625.3 Employment services.
625.4 Eligibility requirements for Disaster Unemployment Assistance.
625.5 Unemployment caused by a major disaster.
625.6 Disaster Unemployment Assistance: Weekly amount.
625.7 Disaster Unemployment Assistance: Duration.
625.8 Applications for Disaster Unemployment Assistance.
625.9 Determinations of entitlement; notices to individual.
625.10 Appeal and review.
625.11 Provisions of State law applicable.
625.12 The applicable State for an individual.
625.13 Restrictions on entitlement; disqualification.
625.14 Overpayments; disqualification for fraud.
625.15 Inviolate rights to DUA.
625.16 Recordkeeping; disclosure of information.
625.17 Announcement of the beginning of a Disaster Assistance Period.
625.18 Public access to Agreements.
625.19 Information, reports and studies.
625.20 Savings clause.

AUTHORITY: Secs. 302(a) and 601 of the Disaster Relief Act of 1974, Pub. L. 93–288, 88 Stat. 143, 146, 163; EO 11795, 39 FR 25935; and the delegation of authority from the Secretary of Housing and Urban Development to the Secretary of Labor, effective August 5, 1974, 39 FR 33020. Interpret or apply sec. 407 of the Disaster Relief Act of 1974, 88 Stat. 143, 156 (42 U.S.C. 5177).

§ 625.1 Purpose; rules of construction.

(a) *Purpose.* Section 407 of the "Disaster Relief Act of 1974" created a program for the payment of unemployment assistance to unemployed individuals whose unemployment is caused by a major disaster, and to provide employment services to those individuals. The unemployment assistance provided for in section 407 of the Act is hereinafter referred to as Disaster Unemployment Assistance, or DUA. The regulations in this Part are issued to implement section 407 of the Act.

(b) *First rule of construction.* Section 407 of the Act and the implementing regulations in this part shall be construed liberally so as to carry out the purposes of the Act.

(c) *Second rule of construction.* Section 407 of the Act and the implementing regulations in this Part shall be construed so as to assure insofar as possible the uniform interpretation and application of the Act throughout the United States.

(d) *Effectuating purpose and rules of construction.* (1) In order to effectuate the provisions of this section, each State agency shall forward to the United States Department of Labor, on receipt of a request from the Department, a copy of any determination or redetermination ruling on an individual's entitlement to DUA.

(2) If the Department believes a determination or redetermination is inconsistent with the Secretary's interpretation of the Act, the Department may at any time notify the State agency of the Department's view. Thereafter, the State agency shall appeal if possible, and shall not follow such determination or redetermination as a precedent; and in any subsequent proceedings which involve such determination or redetermination, or wherein such determination or redetermination is cited as precedent or otherwise relied upon, the State agency shall inform the hearing officer

of the Department's view and shall make all reasonable efforts to obtain modification, limitation, or overruling of the determination or redetermination.

(3) A State agency may request reconsideration of a notice that a determination or redetermination is inconsistent with the Act, and shall be given an opportunity to present views and arguments if desired. If a determination or redetermination setting a precedent becomes final, which the Department believes to be inconsistent with the Act, the Secretary will decide whether the Agreement with the State shall be terminated.

(4) Concurrence of the Department in a determination or redetermination shall not be presumed from the absence of a notice issued pursuant to this paragraph.

§ 625.2 Definitions.

For the purposes of the Act and this part:

(a) "Act" means section 407 of the Disaster Relief Act of 1974, Pub. L. 93–288, 88 Stat. 143, 156, approved May 22, 1974; 42 U.S.C. 5177.

(b) "Agreement" means the Agreement entered into pursuant to the Act, between a State and the Secretary of Labor of the United States, under which the State agency of the State agrees to make payments of Disaster Unemployment Assistance in accordance with the Act and the regulations and procedures thereunder prescribed by the Secretary.

(c) "Announcement date" means the first day on which the State agency publicly announces the availability of Disaster Unemployment Assistance in the State, pursuant to § 625.17.

(d)(1) "Compensation" means unemployment compensation; that is, cash benefits (including dependents' allowances) payable to individuals with respect to their unemployment, and includes regular, additional, extended, and emergency compensation as defined in this section, and unemployment compensation payable under the Hawaii Agricultural Unemployment Compensation Law and the Railroad Unemployment Insurance Act.

(2) "Regular compensation" means compensation payable to an individual under any State law or the unemployment compensation plan of a political subdivision of a State and, when so payable, includes compensation payable pursuant to 5 U.S.C. Chapter 85 (Parts 609 and 614 of this chapter), but not including extended compensation or additional compensation.

(3) "Additional compensation" means compensation totally financed by a State and payable under a State law by reason of conditions of high unemployment or by reason of other special factors, and, when so payable, includes compensation payable pursuant to 5 U.S.C. Chapter 85.

(4) "Extended compensation" means compensation payable to an individual for weeks of unemployment in an extended benefit period, under those provisions of a State law which satisfy the requirements of the Federal-State Extended Unemployment Compensation Act of 1970 (title II, Pub. L. 91–373; 84 Stat. 695, 708; Part 615 of this chapter), as amended, with respect to the payment of extended compensation, and, when so payable, includes additional compensation and compensation payable pursuant to 5 U.S.C. Chapter 85.

(5) "Emergency compensation" means compensation payable under the Emergency Unemployment Compensation Act of 1974 (Pub. L. 93–572; 88 Stat. 1869; Part 618 of this chapter, 41 FR 12151), as amended, and which is referred to as Federal Supplemental Benefits.

(6) "Special Unemployment Assistance" means the unemployment assistance payable under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 (title II, Pub. L. 93–567; 88 Stat. 1845, 1850; Part 619 of this chapter, 41 FR 12161), as amended.

(e) "Date the major disaster began" means the date a major disaster first occurred, as specified in the understanding between the Federal Disaster Assistance Administration and the Governor of the State in which the major disaster occurred.

(f) "Disaster Assistance Period" means the period beginning with the first week following the date the major disaster began, and ending with the last week which begins prior to one year subsequent to the date the major disaster was declared, or, if earlier, the date the Federal Coordinating Officer, after consultation with the appropriate Regional Administrator, Employment and Training Administration, has determined that unemployment in the major disaster area is no longer attributable to the major disaster.

(g) "Disaster Unemployment Assistance" means the assistance payable to an individual eligible for the assistance under the Act and this part, and which is referred to as DUA.

(h) "Federal Coordinating Officer" means the official appointed pursuant to section 303 of the Disaster Relief Act of 1974, to operate in the affected major disaster area.

(i) "Governor" means the chief executive of a State.

(j) "Initial application" means the first application for DUA filed by an individual, on the basis of which the individual's eligibility for DUA is determined.

(k) "Major disaster" means a major disaster as declared by the President pursuant to section 301(b) of the Disaster Relief Act of 1974.

(l) "Major disaster area" means the area identified as eligible for Federal assistance by the Federal Disaster Assistance Administration, pursuant to a Presidential declaration of a major disaster.

(m) "Secretary" means the Secretary of Labor of the United States.

(n) "Self-employed individual" means an individual whose primary reliance for income is on the performance of services in the individual's own business, or on the individual's own farm.

(o) "Self-employment" means services performed as a self-employed individual.

(p) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(q) "State agency" means—

(1) In all States except the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands, the agency administering the State law; and

(2) In the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands, the agency designated in the Agreement entered into by the State.

(r)(1) "State law" means, with respect to—

(i) The States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, the unemployment compensation law of the State which has been approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954, 26 U.S.C. 3304; and

(ii) The Virgin Islands, the unemployment compensation law of the Virgin Islands; and

(iii) The Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands, the Hawaii Employment Security Law.

(2) "Applicable State law" means, for an individual, the State law of the applicable State for an individual as provided in § 625.12.

(s) "Unemployed worker" means an individual who was employed in or was to commence employment in the major disaster area at the time the major disaster began, and whose principal source of income and livelihood is dependent upon the individual's employment for wages, and whose unemployment is caused by a major disaster as provided in § 625.5(a).

(t) "Unemployed self-employed individual" means an individual who was self-employed in or was to commence self-employment in the major disaster area at the time the major disaster began, and whose principal source of income and livelihood is dependent upon the individual's performance of service in self-employment, and whose unemployment is caused by a major disaster as provided in § 625.5(b).

(u) "Wages" means remuneration for services performed for another, and, with respect to a self-employed individual, net income from services performed in self-employment.

(v) "Week" means a week as defined in the applicable State law.

(w) "Week of unemployment" means—

(1) For an unemployed worker, any week during which the individual is totally, part-totally, or partially unemployed. A week of total unemployment is a week during which the individual performs no work and earns no wages, or has less than full-time work and earns wages not exceeding the minimum earnings allowance prescribed in the applicable State law. A week of part-total unemployment is a week of otherwise total

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unemployment during which the individual has odd jobs or subsidiary work and earns wages not exceeding the maximum earnings allowance prescribed in the applicable State law. A week of partial unemployment is week during which the individual works less than regular, full-time hours for the individual's regular employer, as a direct result of the major disaster, and earns wages not exceeding the maximum earnings allowance prescribed by the applicable State law.

(2) For an unemployed self-employed individual, any week during which the individual is totally, part-totally, or partially unemployed. A week of total unemployment is a week during which the individual performs no services in self-employment or in an employer-employee relationship, or performs services less than full-time and earns wages not exceeding the minimum earnings allowance prescribed in the applicable State law. A week of part-total unemployment is a week of otherwise total unemployment during which the individual has odd jobs or subsidiary work and earns wages not exceeding the maximum earnings allowance prescribed in the applicable State law. A week of partial unemployment is a week during which the individual performs less than the customary full-time services in self-employment, as a direct result of the major disaster, and earns wages not exceeding the maximum earnings allowance prescribed by the applicable State law, or during which the only activities or services performed are for the sole purpose of enabling the individual to resume self-employment.

(3) If the week of unemployment for which an individual claims DUA is a week with respect to which the individual is reemployed in a suitable position or has commenced services in self-employment, that week shall be treated as a week of partial unemployment if the week qualifies as a week of partial unemployment as defined in this paragraph.

§ 625.3 Employment services.

Individuals applying for DUA and all other individuals who are unemployed because of a major disaster shall be afforded employment services, including counseling, referrals to suitable work opportunities, and suitable training, to assist them in obtaining reemployment in suitable positions as soon as possible.

§ 625.4 Eligibility requirements for Disaster Unemployment Assistance.

An individual shall be eligible to receive a payment of DUA with respect to a week of unemployment, in accordance with the provisions of the Act and this part, if:

(a) That week begins during a Disaster Assistance Period;

(b) The applicable State for the individual has entered into an Agreement which is in effect with respect to that week;

(c) The individual is an unemployed worker or an unemployed self-employed individual;

(d) The individual's unemployment with respect to that week is caused by a major disaster, as provided in § 625.5.

(e) The individual has filed a timely initial application for DUA and, as appropriate, a timely application for a payment of DUA with respect to that week;

(f) That week is a week of unemployment for the individual;

(g) The individual is able to work and available for work within the meaning of the applicable State law: *Provided*, That an individual shall be deemed to meet this requirement if any injury caused by the major disaster is the reason for inability to work or engage in self-employment; or, in the case of an unemployed self-employed individual, the individual performs service or activities which are solely for the purpose of enabling the individual to resume self-employment; and

(h) The individual has not refused a bona fide offer of employment in a suitable position, or refused without good cause to resume or commence suitable self-employment, if the employment or self-employment could have been undertaken in that week or in any prior week in the Disaster Assistance Period.

§ 625.5 Unemployment caused by a major disaster.

(a) *Unemployed worker.* The unemployment of an unemployed worker is caused by a major disaster if—

(1) The individual no longer has a job as a direct result of the major disaster; or

(2) The individual is unable to reach the place of employment as a direct result of the major disaster; or

(3) The individual was to commence employment and does not have a job or is unable to reach the job as a direct result of the major disaster; or

(4) The individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of the major disaster; or

(5) The individual cannot work because of an injury caused as a direct result of the major disaster.

(b) *Unemployed self-employed individual.* The unemployment of an unemployed self-employed individual is caused by a major disaster if—

(1) The individual no longer can perform any regular services as a self-employed individual as a direct result of the major disaster; or

(2) The individual is unable to reach the place where services as a self-employed individual are performed, as a direct result of the major disaster; or

(3) The individual was to commence regular services as a self-employed individual, but does not have a place or is unable to reach the place where the services as a self-employed individual were to be performed, as a direct result of the major disaster; or

(4) The individual cannot perform services as a self-employed individual because of an injury caused as a direct result of the major disaster.

§ 625.6 Disaster Unemployment Assistance: weekly amount.

(a) *States of the United States.* (1) In all States except the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands, the amount of DUA payable to an unemployed worker or unemployed self-employed individual for a week of total unemployment shall be the weekly amount of compensation the individual would have been paid as regular compensation, as computed under the provisions of the applicable State law for a week of total unemployment, but in no event shall such amount be in excess of the maximum amount of regular compensation authorized under the applicable State law for that week: *Provided*, That except as provided in paragraph (a)(2) and paragraph (a)(3) of this section, in computing an individual's weekly amount of DUA, the base period, qualifying employment and wage requirements, and benefit formula of the applicable State law shall be applied; and for the purpose of this section employment, wages, and self-employment which are not covered by the applicable State law shall be treated in the same manner and with the same effect as covered employment and wages, but shall not include employment or self-employment, or wages earned or paid for employment or self-employment, which is contrary to or prohibited by any Federal law.

(2) If the weekly amount computed under paragraph (a)(1) of this section is less than the average weekly payment of regular compensation in the State, and a higher weekly amount can be determined under the State formula, based on application of the individual's average weekly wage for the 13-week period immediately preceding the date of the disaster, the higher amount will be the weekly amount payable under this part.

(3) If an unemployed worker or unemployed self-employed individual has insufficient wages in the applicable State's base period to compute a weekly amount under paragraph (a)(1) of this section, the weekly wage to be used in computing the individual's weekly amount shall be determined by multiplying the hourly wage the individual earned or would have earned in weeks in the 13-week period immediately preceding the date of the disaster in employment or self-employment by the number of hours in the normal work week in such employment or self-employment.

(4) If under paragraph (a)(1) or paragraph (a)(3) of this section it is not possible to compute the weekly amount for an unemployed self-employed individual because such individual has no net earnings from services performed in self-employment, the weekly amount payable to such individual shall be the minimum weekly amount of regular compensation payable under the applicable State law.

(5) A weekly amount computed under paragraph (a)(2) or paragraph (a)(3) of this section shall not exceed 70 per-

cent of the individual's average weekly earnings as calculated under those paragraphs, and if the application of this limitation would result in a weekly amount less than the minimum weekly amount of regular compensation payable under the applicable State law the individual shall be ineligible for DUA.

(b) *Canal Zone and Guam.* In the Canal Zone and the Territory of Guam the amount of DUA payable to an unemployed worker or unemployed self-employed individual for a week of total unemployment shall be the average of the payments of regular compensation made by all States (except the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands) for weeks of total unemployment in the first four of the last five completed calendar quarters immediately preceding the quarter in which the major disaster began. The weekly amount so determined, if not an even dollar amount, shall be rounded to the next higher dollar.

(c) *American Samoa and Trust Territory.* In American Samoa and the Trust Territory of the Pacific Islands the amount of DUA payable to an unemployed worker or unemployed self-employed individual for a week of total unemployment shall be the amount agreed upon by the Regional Administrator, Employment and Training Administration, for Region IX (San Francisco), and the Federal Disaster Assistance Administration, which shall approximate 50 percent of the area-wide average of the weekly wages paid to individuals in the major disaster area in the quarter immediately preceding the quarter in which the major disaster began. The weekly amount so determined, if not an even dollar amount, shall be rounded to the next higher dollar.

(d) *Partial and part-total unemployment.* The weekly amount of DUA payable to an unemployed worker or unemployed self-employed individual for a week of partial or part-total unemployment shall be the weekly amount determined under paragraph (a), (b), or (c) of this section, as the case may be, reduced (but not below zero) by the amount of wages that the individual earned in that week as determined by applying to such wages the earnings allowance for partial or part-total employment prescribed by the applicable State law.

§ 625.7 Disaster Unemployment Assistance: duration.

DUA shall be payable to an eligible unemployed worker or eligible unemployed self-employed individual for all weeks of unemployment which begin during a Disaster Assistance Period.

§ 625.8 Applications for Disaster Unemployment Assistance.

(a) *Initial application.* An initial application for DUA shall be filed by an individual with the State agency of the applicable State within 30 days after the announcement date of the major disaster as the result of which the individual became unemployed, and on a form prescribed by the Secretary which shall be furnished to the individual by the State agency. An initial application filed later than 30 days after the announcement date of the major disaster shall be accepted as timely by the State agency if the applicant had good cause for the late filing, but in no event shall an initial application be accepted by the State agency if it is filed after the expiration of the Disaster Assistance Period. If the 30th day falls on a Saturday, Sunday, or a legal holiday in the major disaster area, the 30-day time limit shall be extended to the next business day.

(b) *Weekly applications.* Applications for DUA for weeks of unemployment shall be filed with respect to the individual's applicable State at the times and in the manner as claims for regular compensation are filed under the applicable State law, and on forms prescribed by the Secretary which shall be furnished to the individual by the State agency.

(c) *Filing in person.* (1) Except as provided in subparagraph (2) of this paragraph, all applications for DUA, including initial applications, shall be filed in person.

(2) Whenever an individual has good cause for not filing any application for DUA in person, the application shall be filed at such time, in such place, and in such a manner as directed by the State agency and in accordance with this Part and procedures prescribed by the Secretary.

(d) *IBPP.* The "Interstate Benefit Payment Plan" shall apply, where appropriate, to an individual filing applications for DUA.

(e) *Wage combining.* The "Interstate Arrangement for Combining Employment and Wages" (Part 616 of this chapter) shall apply, where appropriate, to an individual filing applications for DUA: *Provided*, That the "Paying State" shall be the applicable State for the individual as prescribed in § 625.12.

(f) *Procedural requirements.* (1) The procedures for reporting and filing applications for DUA shall be consistent with this Part, and with the Secretary's "Standard for Claim Filing, Claimant Reporting, Job Finding and Employment Services" (Employment Security Manual, Part V, sections 5000 et seq.) insofar as such standard is not inconsistent with this part.

(2) The provisions of the applicable State law which apply hereunder to applications for and the payment of DUA shall be applied consistently with the requirements of Title III of the Social Security Act and the Federal Unemployment Tax Act which are pertinent in the case of regular compensation, including but not limited to those standards and requirements specifically referred to in the provisions of this part.

§ 625.9 Determinations of entitlement; notices to individual.

(a) *Determination of initial application.* (1) The State agency shall promptly, upon the filing of an initial application for DUA, determine whether the individual is eligible, and if the individual is found to be eligible, the weekly amount of DUA payable to the individual and the period during which DUA is payable.

(2) An individual's eligibility for DUA shall be determined, where a reliable record of employment, self-employment and wages is not obtainable, on the basis of an affidavit submitted to the State agency by the individual, and on a form prescribed by the Secretary which shall be furnished to the individual by the State agency.

(b) *Determinations of weekly applications.* The State agency shall promptly, upon the filing of an application for a payment of DUA with respect to a week of unemployment, determine whether the individual is entitled to a payment of DUA with respect to that week, and, if entitled, the amount of DUA to which the individual is entitled.

(c) *Redetermination.* The provisions of the applicable State law concerning the right to request, or authority to undertake, reconsideration of a determination pertaining to regular compensation under the applicable State law shall apply to determinations pertaining to DUA.

(d) *Notices to individual.* The State agency shall give notice in writing to the individual, by the most expeditious method, of any determination or redetermination of an initial application, and of any determination of an application for DUA with respect to a week of unemployment which denies DUA or reduces the weekly amount initiallly determined to be payable, and of any redetermination of an application for DUA with respect to a week of unemployment. Each notice of determination or redetermination shall include such information regarding the determination or redetermination and notice of right to reconsideration or appeal, or both, as is furnished with written notices of determination and written notices of redeterminations with respect to claims for regular compensation.

(e) *Promptness.* Full payment of DUA when due shall be made with the greatest promptness that is administratively feasible.

(f) *Secretary's standard.* The procedures for making determinations and redeterminations, and furnishing written notices of determinations, redeterminations, and rights of appeal to individuals applying for DUA, shall be consistent with this part and with the Secretary's "Standard for Claim Determinations—Separation Information" (Employment Security Manual, Part V, sections 6010 et seq.).

§ 625.10 Appeal and review.

(a) *States of the United States.* (1) Any determination or redetermination made pursuant to § 625.9, by a State agency other than the State agency of the Virgin Islands, the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands, may be appealed by the applicant in accordance with the applicable State law to the first-stage administrative appellate authority in the same

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manner and to the same extent as a determination or redetermination of a right to regular compensation may be appealed under the applicable State law.

(2) Notice of the decision on appeal, and the reasons therefor, shall be given to the individual by delivering the notice to the individual personally or by mailing it to the individual's last known address, whichever is most expeditious. The notice of decision shall contain information as to the individual's right to review of the decision by the appropriate Regional Administrator, Employment and Training Administration, and the manner of obtaining such review, including the address of the Regional Administrator. Notice of the decision on appeal shall be given also to the State agency and to the appropriate Regional Administrator.

(b) *Virgin Islands.* (1) In the case of an appeal by an individual from a determination or redetermination by the State agency of the Virgin Islands, the individual shall be entitled to a hearing and decision in accordance with the procedures set forth in §§ 609.34–609.45 of this chapter by a referee appointed by the Secretary.

(2) Notice of the referee's decision, and the reasons therefor, shall be given to the individual by delivering the notice to the individual personally or by mailing it to the individual's last known address, whichever is most expeditious. The notice of decision shall contain information as to the individual's right to review of the decision by the Regional Administrator, Employment and Training Administration, for Region II (New York), and the manner of obtaining such review, including the address of the Regional Administrator. Notice of the decision on appeal shall be given also to the State agency and to the Regional Administrator.

(c) *Canal Zone, Guam, American Samoa, and Trust Territory.* (1) In the case of an appeal by an individual from a determination or redetermination by the State agency of the Canal Zone, the Territory of Guam, American Samoa, or the Trust Territory of the Pacific Islands, the individual shall be entitled to a hearing and decision in accordance with the procedures set forth in §§ 609.34–609.45 of this chapter by a referee appointed by the Secretary.

(2) Notice of the referee's decision, and the reasons therefor, shall be given to the individual by delivering the notice to the individual personally or by mailing it to the individual's last known address, whichever is most expeditious. The notice of decision shall contain information as to the individual's right to review of the decision by the Regional Administrator, Employment and Training Administration, for Region IX (San Francisco), and the manner of obtaining such review, including the address of the Regional Administrator. Notice of the decision on appeal shall be given also to the State agency and to the Regional Administrator.

(d) *Review by Regional Administrator.* (1) The appropriate Regional Administrator, Employment and Training Administration, upon request for review by an applicant or a State agency shall, or upon the Regional Administrator's own motion may, review a decision on appeal issued pursuant to paragraph (a), (b), or (c) of this section.

(2) Any request for review by an applicant or a State agency shall be filed, and any review on the Regional Administrator's own motion shall be undertaken, within 15 days after notice of the decision on appeal was delivered or mailed to the individual.

(3) A request for review by an individual may be filed with the appropriate State agency, which shall forward the request to the appropriate Regional Administrator, Employment and Training Administration, or may be filed directly with the appropriate Regional Administrator. A request for review by a State agency shall be filed with the appropriate Regional Administrator, and a copy shall be served on the individual by delivery to the individual personally or by mail to the individual's last known address. When a Regional Administrator undertakes a review of a decision on the Regional Administrator's own motion, notice thereof shall be served promptly on the individual and the State agency. Whenever review by a Regional Administrator is undertaken, the State's appellate authority shall promptly forward to the Regional Administrator its entire record of the case.

Where service on a party is required by this paragraph, adequate proof of service shall be furnished for the record before the Regional Administrator, and be a condition of undertaking review pursuant to this paragraph.

(4) The decision of the Regional Administrator on reivew shall be rendered promptly, and not later than 15 days after receipt of the record from the State's appellate authority.

(5) Notice of the Regional Administrator's decision shall be mailed promptly to the last known address of the individual, to the State agency of the applicable State, and to the Administrator, Unemployment Insurance Service. The decision of the Regional Administrator shall be the final decision under the Act and this Part, unless there is further review by the Assistant Secretary as provided in paragraph (e) of this section.

(e) *Further review by Assistant Secretary.* (1) The Assistant Secretary for Employment and Training on his own motion may review any decision by a Regional Administrator issued pursuant to paragraph (d) of this section.

(2) Notice of a motion for review by the Assistant Secretary shall be given to the applicant, the State agency of the applicable State, the appropriate Regional Administrator, and the Administrator, Unemployment Insurance Service.

(3) When the Regional Administrator and the State agency are notified of the Assistant Secretary's motion for review, they shall forward all records in the case to the Assistant Secretary.

(4) Review by the Assistant Secretary shall be solely on the records in the case, any other written contentions or evidence requested by the Assistant Secretary, and any further evidence or arguments offered by the individual, the State agency, the Regional Administrator, or the Administrator, Unemployment Insurance Service, which are mailed to the Assistant Secretary within 15 days after mailing the notice of motion for review.

(5) Upon review of a case under this paragraph, the Assistant Secretary may affirm, modify, or reverse the decision of the Regional Administrator, and may remand the case for further proceedings and decision in accordance with the Assistant Secretary's decision.

(6) The decision of the Assistant Secretary shall be made promptly, and notice thereof shall be sent to the applicant, the State agency, the Regional Administrator, and the Administrator, Unemployment Insurance Service.

(7) The decision of the Assistant Secretary shall be final and conclusive, and binding on all interested parties, and shall be a precedent applicable throughout the States.

(f) *Procedural requirements.* (1) Decisions on appeals from determinations or redeterminations by the State agencies shall accord with the Secretary's "Standard for Appeals Promptness-Unemployment Compensation" in Part 650 of this chapter.

(2) The provisions on right of appeal and opportunity for hearing and review with respect to applications for DUA shall be consistent with this Part and with sections 303(a)(1) and 303(a)(3) of the Social Security Act, 42 U.S.C. 503(a)(1) and 503(a)(3).

(3) Any petition or other matter required to be filed within a time limit under this section shall be deemed to be filed at the time it is delivered to an appropriate office, or at the time of the postmark if it is mailed via the United States Postal Service to an appropriate office.

(4) If any limited time period specified in this section ends on a Saturday, Sunday, or a legal holiday in the major disaster area, the time limit shall be extended to the next business day.

§ 625.11 Provisions of State law applicable.

The terms and conditions of the State law of the applicable State for an individual, which apply to claims for, and the payment of, regular compensation, shall apply to applications for, and the payment of, DUA to each such individual, only as specifically set forth in the provisions of this part.

§ 625.12 The applicable State for an individual.

(a) *Applicable State.* The applicable State for an individual shall be that State in which the individual's unemployment is the result of a major disaster.

(b) *Limitation.* DUA is payable to an individual only by an applicable State as determined pursuant to paragraph (a) of this section:

(1) Only pursuant to an Agreement entered into pursuant to the Act and this part, and with respect to weeks in which the Agreement is in effect; and

(2) Only with respect to weeks of unemployment that begin during a Disaster Assistance Period.

§ 625.13 Restrictions on entitlement; disqualification.

(a) *Income reductions.* The amount of DUA payable to an individual for a week of unemployment, as computed pursuant to § 625.6, shall be reduced by the amount of any of the following that an individual has received for the week or would receive for the week if the individual filed a claim or application therefor and took all procedural steps necessary under the appropriate law, contract, or policy to receive such payment:

(1) Compensation as defined in § 625.2(d), except Special Unemployment Assistance;

(2) Any benefit or insurance proceed from any source for loss of wages due to illness or disability;

(3) A supplemental unemployment benefit pursuant to a collective bargaining agreement;

(4) Private income protection insurance;

(5) Any workers' compensation by virtue of the death of the head of the household as the result of the major disaster in the major disaster area, prorated by weeks, if the individual has become the head of the household and is seeking suitable work because the head of the household died as the result of the major disaster in the major disaster area; and

(6) The prorated amount of a retirement pension or annuity under a public or private retirement plan or system, prorated, where necessary, by weeks, but only if, and to the extent that, such amount would be deducted from regular compensation payable under the applicable State law.

(7) The prorated amount of primary benefits under Title II of the Social Security Act, but only to the extent that such benefits would be deducted from regular compensation if payable to the individual under the applicable State law.

(b) *Disqualification.* (1) An individual shall not be entitled to DUA for any week after the week in which the individual is reemployed in a suitable position.

(2) An individual who refuses without good cause to accept a bona fide offer of reemployment in a position suitable to the individual, or to investigate or accept a referral to a position which is suitable to and available to the individual, shall not be entitled to DUA with respect to the week in which such refusal occurs or in any subsequent week in the Disaster Assistance Period. For the purposes of this paragraph, a position shall not be deemed to be suitable for an individual if the circumstances present any unusual risk to the health, safety, or morals of the individual, if it is impracticable for the individual to accept the position, or if acceptance for the position would, as to the individual, be inconsistent with any labor standard in section 3304(a)(5) of the Federal Unemployment Tax Act, 26 U.S.C. 3304(a)(5), or the comparable provisions of the applicable State law.

§ 625.14 Overpayments; disqualification for fraud.

(a) *Finding and repayment.* If the State agency of the applicable State finds that an individual has received a payment of DUA to which the individual was not entitled under the Act and this part, whether or not the payment was due to the individual's fault or misrepresentation, the individual shall be liable to repay to the applicable State the total sum of the payment to which the individual was not entitled, and the State agency shall take all reasonable measures authorized under any State law or Federal law to recover for the account of the United States the total sum of the payment to which the individual was not entitled.

(b) *Recovery by offset.* (1) The State agency shall recover, insofar as is possible, the amount of any overpayment which is not repaid by the individual, by deductions from any DUA payable to the individual under the Act and this part, or from any compensation payable to the individual under any Federal unemployment compensation law administered by the State agency, or from any assistance or allowance payable to the individual with respect to unemployment under any other Federal law administered by the State agency, subject to the limitation in § 619.13(a)(3)(ii) of this chapter in regard to recovery from any Special Unemployment Assistance payable to the individual.

(2) A State agency shall also recover, insofar as is possible, the amount of any overpayment of DUA made to the individual by another State, by deductions from any DUA payable by the State agency to the individual under the Act and this part, or from any compensation payable to the individual under any Federal unemployment compensation law administered by the State agency, or from any assistance or allowance payable to the individual with respect to unemployment under any other Federal law administered by the State agency, subject to the limitation in § 619.13(a)(3)(ii) of this chapter in regard to recovery from any Special Unemployment Assistance payable to the individual.

(c) *Debts due the United States.* DUA payable to an individual shall be applied by the State agency for the recovery by offset of any debt due to the United States from the individual, but shall not be applied or used by the State agency in any manner for the payment of any debt of the individual to any State or any other entity or person.

(d) *Recovered overpayments.* Overpayments recovered in any manner shall be credited or returned, as the case may be, to the appropriate account of the United States.

(e) *Application of State law.* Any provision of State law authorizing waiver of recovery of overpayments of compensation shall not be applicable to DUA.

(f) *Final decision.* Recovery of any overpayment of DUA shall not be enforced by the State agency until the determination establishing the overpayment has become final, or if appeal is taken from the determination, until the decision after opportunity for a fair hearing has become final.

(g) *Procedural requirements.* (1) The provisions of paragraphs (c), (d), and (f) of § 625.9 shall apply to determinations and redeterminations made pursuant to this section.

(2) The provisions of § 625.10 shall apply to determinations and redeterminations made pursuant to this section.

(h) *Fraud detection and prevention.* Provisions in the procedures of each State with respect to detection and prevention of fraudulent overpayments of DUA shall be, as a minimum, commensurate with the procedures adopted by the State with respect to regular compensation and consistent with the Secretary's "Standard for Fraud and Overpayment Detection" (Employment Security Manual, Part V, sections 7510 et seq.).

(i) *Disqualification for fraud.* Any individual who, with respect to a major disaster, makes or causes another to make a false statement or misrepresentation of a material fact, knowing it to be false, or knowingly fails or causes another to fail to disclose a material fact, in order to obtain for the individual or any other person a payment of DUA to which the individual or any other person is not entitled, shall be disqualified as follows:

(1) If the false statement, misrepresentation, or nondisclosure pertains to an initial application for DUA—

(i) The individual making the false statement, misrepresentation, or nondisclosure shall be disqualified from the receipt of any DUA with respect to that major disaster; and

(ii) If the false statement, misrepresentation, or nondisclosure was made on behalf of another individual, and was known to such other individual to be a false statement, misrepresentation, or nondisclosure, such other individual shall be disqualified from the receipt of any DUA with respect to that major disaster; and

(2) If the false statement, misrepresentation, or nondisclosure pertains to a week for which application for a payment of DUA is made—

(i) The individual making the false statement, misrepresentation, or nondisclosure shall be disqualified from the receipt of DUA for that week and the first two compensable weeks in the Disaster Assistance Period that immediately follow that week, with respect to which the individual is otherwise entitled to a payment of DUA; and

(ii) If the false statement, misrepresentation, or nondisclosure was made on behalf of another individual, and was known to such other individual to be a false statement, misrepresentation, or nondisclosure, such other individual

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shall be disqualified from the receipt of DUA for that week and the first two compensable weeks in the Disaster Assistance Period that immediately follow that week, with respect to which the individual is otherwise entitled to a payment of DUA.

(j) *Criminal penalties.* The provisions of this section on recovery of overpayments and disqualification for fraudulently claiming or receiving any DUA to which an individual was not entitled under the Act and this part shall be in addition to and shall not preclude any applicable criminal prosecution and penalties under State or Federal law.

§ 625.15 Inviolate rights to DUA.

Except as specifically provided in this part, the right of individuals to DUA shall be protected in the same manner and to the same extent as the rights of persons to regular unemployment compensation are protected under the applicable State law. Such measures shall include protection of applicants for DUA from waiver, release, assignment, pledge, encumbrance, levy, execution, attachment, and garnishment, of their rights to DUA. In the same manner and to the same extent, individuals shall be protected from discrimination and obstruction in regard to seeking, applying for, and receiving any right to DUA.

§ 625.16 Recordkeeping; disclosure of information.

(a) *Recordkeeping.* Each State agency will make and maintain records pertaining to the administration of the Act as the Secretary requires, and will make all such records available for inspection, examination, and audit by such Federal officials or employees as the Secretary may designate or as may be required by law.

(b) *Disclosure of information.* Information in records made and maintained by a State agency in administering the Act shall be kept confidential, and information in such records may be disclosed only in the same manner and to the same extent as information with respect to regular compensation and the entitlement of individuals thereto may be disclosed under the applicable State law, and consistently with section 303(a)(1) of the Social Security Act, 42 U.S.C. 503 (a)(1). This provision on the confidentiality of information obtained in the administration of the Act shall not apply, however, to the United States Department of Labor, or in the case of information, reports and studies requested pursuant to § 625.19, or where the result would be inconsistent with the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), or regulations of the United States Department of Labor promulgated thereunder.

§ 625.17 Announcement of the beginning of a Disaster Assistance Period.

Whenever a major disaster is declared in a State, the State agency shall promptly announce throughout the major disaster area by all appropriate news media that individuals who are unemployed as the result of the major disaster may be entitled to DUA; that they should file initial applications for DUA as soon as possible, but not later than the 30th day after the announcement date; the beginning date of the Disaster Assistance Period; and where individuals may obtain further information and file applications for DUA.

§ 625.18 Public access to Agreements.

The State agency of a State will make available to any individual or organization a true copy of the Agreement with the State for inspection and copying. Copies of an Agreement may be furnished on request to any individual or organization upon payment of the same charges, if any, as apply to the furnishing of copies of other records of the State agency.

§ 625.19 Information, reports and studies.

(a) *Routine responses.* State agencies shall furnish to the Secretary such information and reports and make such studies as the Secretary decides are necessary or appropriate for carrying out the purposes of the Act and this part.

(b) *Final Report.* In addition to such other reports as may be required by the Secretary, within 60 days after all payments of Disaster Unemployment Assistance as the result of a major disaster in the State have been made, the State agency shall submit a final report to the Secretary. A final report shall contain a narrative summary, a chronological list of significant events, pertinent statistics about the Disaster Unemployment Assistance provided to disaster victims, brief statements of major problems encountered, discussion of lessons learned, and suggestions for improvement of the program during future major disasters.

§ 625.20 Savings clause.

The regulations in this part do not apply to applications, determinations, hearings, or other administrative or judicial proceedings, with respect to any major disaster declared prior to October 16, 1977, and such applications, determinations, hearings, or other administrative or judicial proceedings shall remain subject to the Act and the regulations in this part issued thereunder which were in effect prior to that date.

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federal register

FRIDAY, SEPTEMBER 16, 1977

PART V



CONSUMER PRODUCT SAFETY COMMISSION

SUBSTANTIAL PRODUCT HAZARDS

Proposed Reporting Requirements for Manufacturers, Importers, Distributors and Retailers of Products

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CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Parts 1115, 1116]

SUBSTANTIAL PRODUCT HAZARDS

Proposed Requirements, Policies, and Procedures

AGENCY: Consumer Product Safety Commission.

ACTION: Proposal of regulation.

SUMMARY: In this document, the Commission proposes requirements for manufacturers, importers, distributors, and retailers of consumer products regarding their obligation to report to the Commission immediately upon learning one of their products could create a substantial product hazard. The document also describes Commission procedures and policies regarding such notification. The proposed rules are intended to clarify the reporting requirement and remedial process under section 15 of the Consumer Product Safety Act.

The proposed regulation would replace existing Commission regulations regarding substantial product hazards.

DATES: It is proposed that these rules will be effective on the date of final publication in the FEDERAL REGISTER. Comments concerning the proposed rules should be received by October 31, 1977.

ADDRESSES: Written comments, preferably in five (5) copies, should be submitted to the Secretary, Consumer Products Safety Commission, Washington, D.C. 20207. All material which the Commission has that is relevant to the proposed rules, may be seen in, or copies obtained from, the Office of the Secretary, Third Floor, 1111 18th Street NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Eric L. Stone, Product Defect Correction Division, Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207 (301-492-6608).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 15(b) of the Consumer Product Safety Act (15 U.S.C. 2064(b)) (CPSA) requires that every manufacturer (including importer), distributor or retailer of a consumer product who obtains information which reasonably supports the conclusion that such product either fails to comply with an applicable consumer product safety rule, or contains a defect which could create a substantial product hazard, shall immediately inform the Commission, unless such manufacturer, distributor or retailer has actual knowledge that the Commission has been adequately informed of such defect or failure to comply. Section 15(a) defines a substantial product hazard as a failure to comply with an applicable consumer product safety rule or a product defect which because of the pattern of defect, the severity of the risk, the number of defective products, or other reasons, presents a substantial risk of injury to the consumer. Sections 15 (c) and (d) set forth various actions that the Commission can take to eliminate a hazard, including ordering the firms in question to notify the public, and/or to repair, replace or refund the purchase price of the product. In addition, the Commission may seek to enjoin further sale or distribution of the product.

On February 19, 1974, after soliciting public comment, the Commission issued a regulation entitled "Substantial Hazard Notification" (16 CFR Part 1115; 39 FR 6061), which interpreted and clarified the reporting requirements of section 15(b) of the CPSA. The regulation became effective March 21, 1974. On July 24, 1975, the Commission published a regulation entitled "Policy and Procedures Regarding Substantial Product Hazards", (16 CFR Part 1116; 40 FR 30936) which delineated the procedures to be followed by the staff with regard to products that could create a substantial product hazard. That regulation became effective on October 25, 1975, in accordance with a notice published in the FEDERAL REGISTER on September 10, 1975 (40 FR 42003), and comments were solicited until September 22, 1975.

The Commission solicited comments from the public on both regulations, although they are interpretive rules and statements of policy and procedure which are exempt from the notice and public comment provisions of the Administrative Procedure Act (5 U.S.C. 553). The comments which were received following the proposal of Part 1115 on August 3, 1973 (38 FR 20902) were addressed when that document was issued by the Commission on February 19, 1974. The comments received on proposed Part 1116 are addressed in this document.

The Commission received several comments on Part 1116 which raised questions regarding the clarity of the reporting requirement, the efficacy and fairness of the automatic "case opening" procedure used following a firm's report of a defect, and the desirability of enforcing the reporting requirement with civil penalties or other sanctions. Based on its experience in administering section 15 of the CPSA and Parts 1115 and 1116, and on its evaluation of the comments received from the public regarding Part 1116 the Commission has decided to propose revisions of these two regulations as one regulation.

The Commission believes this proposed regulation is not substantially different from the requirements that are now in effect under section 15 of the CPSA and the Commission's regulations at 16 CFR Parts 1115 and 1116. This proposal combines many of the provisions of Parts 1115 and 1116 and it clarifies the section 15 reporting requirement, eliminates the automatic case opening procedures, and sets forth in more detail the remedies and sanctions available under the CPSA.

SUMMARY OF PROPOSALS

1. *Application of the "transferred acts".* Section 30(d) of the CPSA (15 U.S.C. 2079) provides that risks of injury associated with a consumer product that could be eliminated or reduced to a sufficient extent by action under the Federal Hazardous Substances Act (15 U.S.C. 1261–1274), the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471–1476), or the Flammable Fabrics Act (15 U.S.C. 1191–1204) (hereafter referred to collectively as the "transferred acts") may be regulated under the CPSA only if the Commission by rule finds it is in the public interest to do so. However, as explained in the preamble to Part 1115 (February 19, 1974, 39 FR 6061, 6062), and in the existing regulation at 16 CFR 1115.1(b) the Commission believes that risks of injury associated with consumer products regulatable under the transferred acts cannot be eliminated or reduced to a sufficient extent in a timely fashion unless the Commission is notified under section 15. Therefore, there is no need to make a public interest determination.

In proposing this regulation the Commission reaffirms the decision regarding the transferred acts and has incorporated it into proposed § 1115.2 so that it will be clear to manufacturers, distributors, and retailers of consumer products subject to regulation under any of these acts that they must immediately notify the Commission whenever they have reason to believe that their product contains a defect which could create a substantial product hazard. They do not have to report violations of regulations promulgated under the transferred acts unless, to their knowledge, the violation indicates a defect which could create a substantial product hazard.

2. *Definition of the term "defect".* The term "defect" is not defined in the CPSA. In order to give persons regulated under section 15 some guidance as to the Commission's view of what is meant by the term as used in section 15, the Commission has defined it in § 1115.3(b)(3) below. The Commission believes that a defect is any aspect of a product which creates an unnecessary risk of injury. Such aspects include: performance, composition, contents, design, construction, finish, packaging, warnings, and instructions. Thus a product is defective within section 15 if either faulty quality control or other manufacturing error results in an unnecessary risk of injury to the public.

The proposed definition of "defect" specifies that a product is defective within the meaning of section 15, even if it has been manufactured and/or labeled exactly as intended, when it presents an unnecessary risk of injury which is not justified by its utility, or recreational or aesthetic benefits. Thus, for example, a chain saw without a guard might present an unreasonable risk of injury if the state of the manufacturing art for chain saws could provide a safer saw and if the risk was, therefore, unnecessary. Similarly, a glass coffee table with razor sharp corners might pose an unnecessary risk of injury that could not be justified by the aesthetic benefits to be derived from use of the product. A carving knife, however, has a sharp

blade and could severely lacerate the consumer, but its utility justifies the risk presented by the blade.

3. *Reporting by manufacturers (including importers), distributors, retailers.* Section 15(b) of the CPSA states that every subject firm that obtains information which reasonably supports the conclusion that its product either contains a defect that could create a substantial product hazard, or fails to comply with an applicable consumer product safety rule, must immediately report to the Commission. Numerous comments were received in response to the issuance of Parts 1115 and 1116 which questioned the requirement that the reporting party must inform the Commission within 24 hours after the reporting party has obtained such information. The comments questioned this requirement since, in the opinion of the commenters, the statutory criteria for reporting set forth in section 15(b) do not offer sufficient guidance to manufacturers, distributors, and retailers as to the nature of the information which reasonably supports the conclusion that the product contains a defect which could create a substantial product hazard. This created particular concern to some, since § 1116.6 made it clear that the staff would seek—and has in fact sought—civil penalties for reporting violations under section 15(b).

The Commission has interpreted the words "immediately inform"—the statutory language of section 15(b)—to include a reasonable time within which the subject firm may expeditiously investigate and evaluate, as well as a reasonable period of time for the information to be received by those in the subject firm having responsibility for assessment of information vis-a-vis substantial risk of injury to the public. Although reasonable time considerations have always been implicit in the Commission's interpretation of section 15, proposed §§ 1115.10 (d), 1115.11(c), and 1115.12(c) make them explicit. In addition, these proposed sections specify the time frame within which the expeditious investigations and evaluations must be undertaken and determinations made.

Guidance is provided in §§ 1115.10, 1115.11, and 1115.12 of this proposed rule so that firms can know who must report, what must be reported, and the period of time available for investigation and evaluation of information.

Proposed §§ 1115.11 (a) and (c) and 1115.12(c) together establish a presumption that reports are required within a reasonable time, but not later than eleven (11) working days, after a subject firm receives information involving the firm's product in a death or grievous bodily injury unless it has clear evidence that the injury was not caused by a defect in the product.

When a firm receives information linking its product to a death or grievous bodily injury, the firm may, but need not, investigate. If no investigation is undertaken and if the firm has no clear evidence that the injury was not caused by non-conformity or defect in the product, the firm must report to the Commission immediately (that is, within twenty-four (24) hours) pursuant to § 1115.12(c). Alternatively, the subject firm may wish to inquire into the incident further in which event § 1115.11(c) provides a reasonable time, but no more than ten working days, within which to conduct an expeditious investigation. The Commission sees the ten (10) working days as an outside limit and not as a standard or an average time. The Commission believes that most investigation can, and should, be completed in fewer than ten working days and that only in unusual cases should the entire ten days be necessary.

Section 1115.11(a) creates a presumption that a subject firm has obtained information which must be reported to the Commission unless the firm has clear evidence that the known injury was not caused by a nonconformity or defect in the firm's product. This provision does not, for example, require that a manufacturer of an electrical appliance report to the Commission based on a report of an electrocution involving that appliance if the company has clear evidence that the electrocution was caused by the appliance being improperly submerged in a bathtub. However, if the company had knowledge only that a person was electrocuted by or received a severe electric shock from one of its appliances, and it could not clearly eliminate the existence of a nonconformity or a defect as a reason for that injury, then the subject firm must report to the Commission. The requirement that the subject firm must have "clear evidence" that a nonconformity or a product defect is not the cause of a serious injury, means that the subject firm must report if it lacks convincing factual data eliminating the possibility of nonconformity or defect.

Section 1115.11(b) and (c) set out the circumstances under which, and time within which, information received should be studied and evaluated to determine whether a section 15 report must be made. These provisions are intended to provide additional guidance to manufacturers, distributors, and retailers, so that they will be prepared to evaluate a potential defect rapidly and responsibly and to make an informed and timely hazard analysis. The obligation to study and evaluate arises upon a firm's receipt of any of the items set forth in subparagraph (1) through (5) of § 1115.11(b). The obligation to inform the Commission arises when this information (allowing a reasonable length of time, not to exceed ten (10) working days, for study and evaluation) indicates a reportable defect or noncompliance, or when this information is inconclusive but the reasonable time for study and evaluation has expired.

Although the Commission has allotted ten working days for study and evaluation, the Commission believes that few cases will require use of the entire time. With both investigations into death or grievious bodily injury, and evaluation of available information, the Commission believes that time is of the essence because health and safety are involved. Consequently the timeliness of every report will be evaluated on the basis of what time was reasonably necessary on the facts of the case, although any time in excess of ten working days will be presumptively unreasonable.

Section 1115.11(d) points out that the criteria in section 15(a) of the CPSA for determining substantiality—pattern of defect, number of products distributed in commerce, severity of the risk of other factors—must all be considered in evaluating the substantiality of the hazard. Any one of these factors, standing alone, might indicate the existence of a substantial risk of injury, and, therefore, a substantial product hazard.

In §1115.10(d) information possessed by a firm's officers and employees and received in the normal course of business is imputed to the firm itself. The Commission expects that firms shall provide internal procedures for the rapid transmittal of safety information from any employee that may receive such information to the official responsible for complying with the reporting obligation of the CPSA. If the information suggests a reportable defect or is the kind that this proposed rule requires to be studied and evaluated, the subject firm must report in accordance with § 1115.11. It must be noted, however, that the five (5) day provision of § 1115.10(d) is not applicable where the official or employee originally receiving the information is the person within the subject firm to whom the information would be routed by others. In such an event, the time for investigation and evaluation set forth in § 1115.11 begins to run immediately.

4. *Remedies for substantial product hazards.* Section 1115.20 below retains the preference found in present Part 1116 for voluntary corrective action by manufacturers, distributors, and/or retailers of products that contain a defect which could create a substantial product hazard.

Several commenters on 16 CFR Parts 1115 and 1116 have asked what criteria the Commission would apply in choosing to proceed by a voluntary corrective action plan rather than seeking a binding consent agreement. Section 1115.20 sets out the criteria that will be used in determining whether a nonbinding voluntary corrective action plan is an available option. The staff will consider the promptness of the firm's report and any remedial actions taken, in addition to prior involvement of the firm in similar actions with the Commission.

While the essential elements of a voluntary corrective action plan are the same as those outlined in the existing 16 CFR 1116.2(b), proposed Part 1115 delineates in more detail the elements of such a plan. It is hoped that the criteria in the proposed § 1115.20 will help the subject firm to produce a plan that will adequately address the hazard presented.

Proposed Part 1115 sets forth other courses of action available to the Commission in matters involving substantial product hazards. Proposed § 1115.20 provides for a Consent Order Agreement to be used to remedy a defect and enumerates the requirements for such an agree-

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ment. Proposed § 1115.21(a) recognizes that the Commission may issue a complaint and obtain an adjudicated Commission Order pursuant to section 15(f) of the CPSA. In addition, proposed § 1115.21(b) states that the Commission may apply to a Federal district court under section 15(g) of the CPSA, as amended, for a preliminary injunction to restrain distribution in commerce of a product which it has reason to believe presents a substantial product hazard. Proposed § 1115.21(c) also expresses the Commission's willingness to proceed to bar imported products that fail to comply with a consumer product safety rule, or present a substantial product hazard, by using its powers under section 17(b) of the CPSA, 15 U.S.C. 2066(b).

5. *Prohibited acts and sanctions.* Section 1115.22 sets forth the prohibited acts and sanctions related to section 15 of the CPSA. Persons making false or misleading reports under the CPSA are subject to criminal penalties under 18 U.S.C. 1001. In addition, a failure to make an immediate or full report under section 15(b) of the CPSA and proposed Part 1115 would be a prohibited act under section 19(a)(4) of the CPSA (15 U.S.C. 2068(a)(4)) and could subject a person to civil or criminal penalties under sections 20 and 21 (15 U.S.C. 2069, 2070). Failures to permit access to or copying of records or to permit entry or inspection are violations of section 19(a)(3) of the CPSA (15 U.S.C. 2068(a)(3)) and subject the violator to possible civil and/or criminal penalties. Finally, violations of consumer product safety rules or Commission orders under section 15 of the CPSA may be punished with civil sanctions under section 20 and criminal penalties under section 21 of the CPSA.

6. *Case opening and closing procedures.* This proposed Part 1115 would eliminate the existing case opening and closing procedures. Under the existing procedures if a manufacturer, distributor, or retailer reports under section 15, the staff automatically opens a "case" (16 CFR 1116.4); if on the other hand, information comes to the attention of the staff from another source, a "case" is opened only after the staff has made a "tentative evaluation" that the information reasonably supports the conclusion that the product contains a defect which could create a substantial product hazard (16 CFR 1116.4). Under the existing rules, once a "case" has been "opened," the staff is to make a "preliminary determination" and to forward to the Commission a voluntary corrective action plan, a consent order agreement, or a complaint, or to make other appropriate recommendations within 30 days (16 CFR 1116.7). This rule has resulted in a largely manufacturer-initiated case system.

This proposed Part 1115 is expected to increase the number of reports by manufacturers, distributors and retailers dramatically, by clarifying and making more explicit a subject firm's reporting obligations. However, each report will not result automatically in an "open case." If, for example, a manufacturer reports initially that he has received a report that an electrical appliance he manufactured was involved in a death, the staff will await further information before deciding whether corrective action is required. If, for example, the manufacturer subsequently sends in a police report on the incident which indicates that the person who died committed suicide by electrocuting himself in the bathtub, then the matter will not be pursued.

The proposed rule is also expected to increase the number of staff-initiated contacts with manufacturers, distributors, and retailers, whose products may contain reportable defects under section 15. The staff will make a judgment, based on data from any source, that a particular product may present a hazard. The staff will communicate this information to the firm and ask the firm to respond. Each response will not result automatically in an "open" case. If the information relayed by the manufacturer, distributor, or retailer coupled with information the staff has obtained from other sources and evaluated in relation to other matters which demand staff attention, does not convince the staff that further investigation should take place, the matter will not be pursued.

Conclusion and Proposal

The Commission has observed the section 15 process under the existing regulations, and has considered comments received from members of the public regarding them. The Commission believes that clarification of the reporting requirement and the remedial process under section 15 will aid members of the business community in meeting their obligations, and will lead to more effective protection of the consumer.

The Commission is soliciting comments on the proposal for forty-five (45) days although the proposed rule is an interpretive rule and a statement of agency policy and procedure and is therefore exempt from the notice and public procedure provisions of the Administrative Procedure Act (5 U.S.C. 553). The Commission believes it is important to receive comment on the proposal from interested parties before issuing a final regulation under section 15.

Because this is an interpretive rule and a statement of agency policy and procedure, a delayed effective date is not required by the Administrative Procedure Act, 5 U.S.C. 553(d). Therefore, the Commission contemplates that this part will become effective upon final publication.

Accordingly, pursuant to sections 15 and 17 of the CPSA, Pub. L. 92-573, 86 Stat. 1221, 1223, 15 U.S.C. 2064, 2066, the Commission proposes that Title 16, Chapter II, be amended by adding to Subchapter B the following new Part 1115 an withdrawing the existing Parts 1115 and 1116:

PART 1115—SUBSTANTIAL PRODUCT HAZARDS

Sec.
1115.1 Purpose.
1115.2 Scope and background.
1115.3 Definitions.
1115.4–1115.9 [Reserved]
1115.10 Reporting by manufacturers (including importers), distributors, and retailers.
1115.11 Reportable information.
1115.12 Content and form of reports.
1115.13 Confidentiality and disclosure of data.
1115.14–1115.19 [Reserved]
1115.20 Voluntary remedial actions.
1115.21 Compulsory remedial actions.
1115.22 Prohibited acts and sanctions.

Authority: Secs. 15, 16, 17(a), 19, 20, 21, 22, 24, 27, 30; 86 Stat. 1221–1227, 1231, as amended, 90 Stat. 508–510 (15 U.S.C. 2064, 2065, 2066(a), 2068, 2069, 2070, 2071, 2075, 2076, 2079), unless otherwise noted.

§ 1115.1 Purpose.

The purpose of this Part 1115 is to set forth the Consumer Product Safety Commission's (Commission) requirements, policies, and procedures concerning consumer products which create or could create a "substantial product hazard," as that term is defined in section 15(a) of the Consumer Product Safety Act, as amended (CPSA) (15 U.S.C. 2064(a)).

§ 1115.2 Scope and background.

(a) Section 15(a) of the CPSA (15 U.S.C. 2064(a)) defines "substantial product hazard" as either (1) a failure to comply with an applicable consumer product safety rule, which failure creates a substantial risk of injury to the public, or (2) a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a substantial risk of injury to the public.

(b) Section 15(b) of the CPSA (15 U.S.C. 2064(b)) requires every manufacturer (including an importer), distributor, or retailer of a consumer product distributed in commerce who obtains information which reasonably supports the conclusion that the product either fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial product hazard immediately to inform the Commission, unless the manufacturer (including an importer), distributor, or retailer has actual knowledge that the Commission has been adequately informed.

(c) Sections 15(c) and 15(d) of the CPSA (15 U.S.C. 2064 (c) and (d)) empower the Commission to order a manufacturer (including an importer), distributor or retailer of a consumer product distributed in commerce that presents a substantial product hazard to give various forms of notice to the public of the defect and/or to elect either to repair, to replace, or to refund the purchase price of such product.

(d) The provisions of this Part 1115 deal with all consumer products, including imports, subject to regulation under the Consumer Product Safety Act, as amended (15 U.S.C. 2051–2081) (CPSA), and the Refrigerator Safety Act (15 U.S.C. 1211–1214) (RSA). In addition, the Commission finds that risks of injury to the public from consumer products subject to regulation under the Flammable Fabrics Act (15 U.S.C. 1191–1204), (FFA), the Federal Hazardous Substances Act (15 U.S.C. 1261–1274) (FHSA), and the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471–1476) (PPPA) cannot be eliminated or reduced to a sufficient extent in a timely fashion under those acts. Therefore, pursuant to section 30(d) of the CPSA (15 U.S.C. 2079(d)), manufacturers (including importers), distributors, and retailers of consumer products which are subject to regulation under provisions of the FFA, FHSA, and PPPA must comply with the reporting requirements of section 15 (b) (15 U.S.C. 2064(b)) and this part.

§ 1115.3 Definitions.

(a) The definitions in section 3 of the CPSA (15 U.S.C. 2052) apply to this Part 1115.

(b) The following additional definitions apply:

(1) "Adequately informed" under section 15(b) of the CPSA and this Part 1115 means that the Commission staff has received all of the information required under § 1115.12.

(2) "Commission" means the Commissioners of the Consumer Product Safety Commission acting in an official capacity.

(3) A "defect" within the meaning of section 15 of the CPSA is any aspect of a product which creates an unnecessary risk of injury. Such aspects include, but are not limited to the following: performance, composition, contents, design, construction, finish, packaging, warnings, and instructions. A product presents an unnecessary risk if the aspect which creates the risk is not necessary for the product to perform its functional purpose. A risk is also unnecessary if the benefits (including recreational and aesthetic benefits) to be gained from use of the product do not justify the risk of injury. A product defect within the meaning of section 15 includes both unintended manufacturing errors and/or imperfections and intended product aspects.

(4) "Staff" means the staff of the Consumer Product Safety Commission unless otherwise stated.

(5) "Subject firm" means any manufacturer (including an importer) distributor, private labeler, or retailer of a consumer product required to report and/or subject to an investigation under this part.

(6) An "investigation" means an undertaking by the Commission to obtain information for the purposes of enforcing or determining compliance with section 15 of the CPSA and the rules and orders promulgated thereunder. The term investigation includes, but is not limited to, inspections, investigational hearings, and inquiries, employing subpoenas, depositions, written interrogatories, and general or special orders pursuant to sections 16 and 27 of CPSA and/or rules issued under those sections.

§ 1115.10 Reporting by manufacturers (including importers), distributors, and retailers.

(a) Except as specified in § 1115.10(e) below, every manufacturer (including importer), distributor, or retailer of a consumer product that has been distributed in commerce who obtains information which reasonably supports the conclusion that such a consumer product either (1) fails to comply with an applicable consumer product safety rule (issued under the CPSA) or (2) contains a product defect which could create a substantial risk of injury to the public shall immediately notify the Product Defect Correction Division, Consumer Product Safety Commission, Washington, D.C. 20207 (301–492–6608).

(b) The reporting obligation described in § 1115.10(a) may arise upon receipt by the subject firm of the first information regarding a potential hazard or nonconformity. Information giving rise to a reporting obligation may include, but is not limited to, complaints, injury reports, quality control, and engineering data. A subject firm should not await complete or accurate risk estimates before reporting under section 15(b) of CPSA and this section. Reportable information is further described in § 1115.11.

(c) Manufacturers (including importers), distributors, and retailers of consumer products, as that term is defined in section 3(a) of the CPSA (15 U.S.C. 2052(a)), which are subject to regulation by the Commission under provisions of the FFA, FHSA, PPPA, as well as consumer products subject to regulation under the CPSA and RSA, must comply with the reporting requirements set forth in section 15(b) of the CPSA (15 U.S.C. 2064(b)) and this part. Reports are required only for defects which could create a substantial product hazard. A failure to comply with a standard or regulation issued under the provisions of the RSA, FFA, FHSA, or PPPA need not be reported unless it can also be reasonably concluded that the failure to comply results in a defect which could create a substantial product hazard.

(d) A manufacturer (including importer), distributor, or retailer shall be deemed to have received information which has been received by an official or employee of a subject firm in the normal course of business. The information shall be deemed to have been received by the manufacturer (including importer), distributor, or retailer within a reasonable time, but in no event later than five (5) working days, following receipt of the information by the official or employee. This subsection shall not apply if the person receiving the information is the official responsible for complying with the reporting obligation under the CPSA.

(e) A manufacturer (including an importer), distributor, or retailer need not inform the Commission under this section, if he or she has actual knowledge that the Commission has been adequately informed of the defect or failure to comply.

§ 1115.11 Reportable information.

(a) *Presumptively reportable information.* A subject firm is presumed to have obtained information which reasonably supports the conclusion that a product either fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial product hazard when it receives information involving that product in a death or grievous bodily injury such as mutilation, amputation/dismemberment, disfigurement, unless it has clear evidence that the injury was not caused by non-conformity or defect in such product.

(b) *Information which should be studied and evaluated to determine reportability.* Where there are no reports of death or grievous bodily injury, the following are examples of the types of information which a manufacturer (including an importer), distributor, or retailer should study and evaluate in order to determine whether he or she is obligated to report under section 15(b) of the CPSA and this Part 1115. This information includes, but is not limited to, any:

(1) Report(s) of engineering, quality control or production data suggesting the existence of a non-conformity or defect which could create a substantial product hazard;

(2) Product liability suits;

(3) Report(s) from an independent testing laboratory suggesting the existence of a non-conformity or defect which could create a substantial product hazard;

(4) Complaint(s) from a consumer indicating the existence of a non-conformity or defect which could create a substantial product hazard; or

(5) Report(s) received from the Commission indicating the existence of a non-conformity or defect which could create a substantial product hazard.

(c) *Time within which investigation and evaluation should take place.* (1) A subject firm may conduct a reasonably expeditious investigation of a death or grievous bodily injury for purposes of reporting in accordance with § 1115.11 (a) and should immediately undertake study and evaluation of available information for purposes of reporting in accordance with § 1115.11(b). In either event, the time allowed for investigation or evaluation shall not exceed ten (10) working days. In the event an investigation or evaluation is undertaken, at the expiration of the time permitted for investigation or evaluation, a subject firm shall be deemed to have received and considered all information which would have been available to it had a reasonable, expeditious, and diligent investigation been undertaken.

(2) In lieu of conducting an investigation, a subject firm may immediately notify the Commission of the death or

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grievous bodily injury pursuant to § 1115.11(a).

(d) *Defects which create substantial product hazards.* A product defect creates a substantial risk of injury to the public and, therefore, a substantial product hazard within the meaning of section 15 of CPSA (15 U.S.C. 2064) if the nature and extent of public exposure to the hazard is substantial. All the following factors shall be considered in determining the substantiality of a hazard; the presence of any one of these factors can indicate a substantial risk of injury to the public:

(1) Pattern of defect;

(2) Number of defective products distributed in commerce;

(3) Severity of the risk;

(4) Other considerations where applicable.

§ 1115.12 Content and form of reports.

(a) *General.* Weekends and holidays are excluded from the computation of the time periods in this part.

(b) *Written reports.* The Chief Executive Officer of the subject firm shall sign any written reports required by this Part unless this responsibility has been delegated by filing a written delegation of authority with the Product Defect Correction Division. Delegations of authority filed with the Commission under § 1115.9 of the previous regulations under section 15 of the CPSA will remain in effect until revoked by the Chief Executive Officer of the subject firm. The delegation may be in the following form:

DELEGATION OF AUTHORITY

(Name of company)----------

I ---------- hereby certify that I am Chairman and Chief Executive Officer of the above-named company and that as such I am authorized to sign documents and to certify on behalf of said company the accuracy and completeness of information in such documents.

Pursuant to the power vested in me, I hereby delegate all or, to the extent indicated below, a portion of that authority to the person listed below.

This delegation is effective until revoked in writing.

Authority delegated to:

(Name)

(Address)

(Title)

Extent of authority:

Signed:

(Name)

(Address)

(Title)

(c) *Initial report.* Immediately, but in no event later than twenty-four (24) hours, after a subject firm has obtained information which reasonably supports the conclusion that a product fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial risk of injury to the public, the Commission must receive an initial report, containing the information listed below. This initial report may be by any means, but if it is not in writing, it shall be confirmed in writing within 48 hours of the initial report. The initial report shall contain:

(1) An identification and description of the product.

(2) The name and address of the manufacturer (or importer), or, if the manufacturer or importer is not known, the names and addresses of all known distributors and retailers of the product.

(3) The nature and extent of the defect or the failure to comply with an applicable consumer product safety rule.

(4) The nature and extent of the injury or risk of injury associated with the product.

(5) The name and address of the person informing the Commission.

(6) To the extent such information is then reasonably available, the data specified in § 1115.12(d) below.

(d) *Full report.* Within such time as specified by the staff, the subject firm shall make a written "full report" to the Commission. This report shall be updated by the subject firm as new information becomes available. The "full report" is not complete until all of the updated information has been received by the staff. The following information, to the extent it is reasonably available to the subject firm, shall be included in the "full report":

(1) The name, address, and title of the person submitting the "full report" to the Commission.

(2) The name and address of the manufacturer (or importer) of the product and the addresses of the manufacturing plants for that product.

(3) An identification and description of the product(s). Give retail prices, model numbers, serial numbers, and date codes. Describe any identifying marks and their location on the product.

(4) A description of the nature of the defect or failure to comply with an applicable consumer product safety rule (if technical drawings, test results, schematics, diagrams, blueprints, or other graphic depictions are available, copies shall be attached).

(5) The nature of the injury or the possible injury associated with the product defect or failure to comply with an applicable consumer product safety rule.

(6) The manner in which and the date when the information about a defect or noncompliance (e.g., complaints, reported injuries, quality control testing) was obtained. If any complaints related to the safety of the product or any allegations or reports of injuries associated with the product have been received, copies of such complaints or reports (or a summary thereof) shall be attached. Give a chronological account of facts or events leading to the report under section 15(b) of CPSA and this Part, beginning with receipt of the first information which ultimately led to the conclusion that the product could create a substantial product hazard. Also included may be an analysis of these facts or events.

(7) The number of products and units involved.

(8) The dates when products and units were manufactured, imported, distributed, and sold at retail.

(9) The number and location of products and units in inventory, in distribution channels, and in the hands of consumers.

(10) An explanation of the changes (designs, adjustments, additional parts, quality control, testing, etc.) that have been or will be effected to correct the defect or failure to comply and of the steps that have been or will be taken to prevent similar occurrences in the future, together with the timetable for implementing such changes and steps.

(11) Information that has been or will be given to purchasers, including consumers, about the defects with a description of how this information has been or will be communicated. This shall include copies of any letters, press releases, warning labels, or other written information that has been or will be given to purchasers, including consumers.

(12) The details of and schedule for any contemplated refund, replacement, or repair actions.

(13) Upon request, the names and addresses of all distributors, retailers, and purchasers, including consumers.

(14) Such further information necessary or appropriate to the functions of the Commission as is requested by the staff.

§ 1115.13 Confidentiality and disclosure of data.

(a) Any person who submits information to the Commission under this Part who believes that any portion of the information is entitled to exemption from public disclosure under the provisions of the Freedom of Information Act, as amended (15 U.S.C. 552(b)) or the CPSA (15 U.S.C. 2051 et seq.) must accompany the submission with a written request that the information be considered exempt from disclosure or indicate that a written request will be submitted within ten (10) working days of the submission. The request shall (1) identify the portions of the information for which exemption is claimed and (2) state the facts and reasons which support the claimed exemption. Information for which status is claimed (such as alleged trade secrets, confidential commercial or financial information, or information the disclosure of which would constitute an unwarranted invasion of personal privacy) shall not be disclosed to the public unless the Commission decides to release it pursuant to the Commission's Freedom of Information Act regulations (16 CFR Part 1015; February 22, 1977; 42 FR 10490).

(b) Section 6(b)(1) of the CPSA (15 U.S.C. 2055(b)(1)) provides that manufacturers and private labelers of consumer products will, to the extent practicable, be given thirty (30) days notice before the Commission disseminates information about a consumer product which would enable the public readily to

ascertain the identity of the manufacturer and/or private labeler unless the Commission determines that a lesser notice period is required in the interest of public health and safety.

§§ 1115.14–1115.19 [Reserved]

§ 1115.20 Voluntary remedial actions.

As appropriate, the Commission will attempt to protect the public from substantial product hazards by seeking one or more of the following voluntary remedies:

(a) *Corrective action plans.* A corrective action plan is a voluntary, nonbinding document signed by a subject firm.

(1) Corrective action plans shall include, as appropriate:

(i) A statement of the nature of the hazard associated with the product, including the nature of the alleged defect, risk, and type(s) of injury or potential injury presented;

(ii) A detailed statement of the means to be employed to notify the public of the alleged product hazard (e.g., letter, press release, advertising), including an identification of the classes of persons who will receive such notice and a copy or copies of the notice or notices to be used;

(iii) A specification of model number and/or other appropriate descriptions of the product;

(iv) Any necessary instructions regarding safe use or handling of the product pending correction;

(v) An explanation of the specific cause of the alleged substantial product hazard, if known;

(vi) A stataement of the corrective action which will be or has been undertaken to eliminate the cause of the alleged substantial product hazard. Relevant drawings and test data should be submitted, and quality control procedures should be explained;

(vii) A statement of the steps that will be, or have been taken, to reasonably prevent recurrence of the alleged substantial product hazard in the future;

(viii) A statement of the action which will be undertaken to correct product units in the distribution chain, including a timetable and specific information about the number and location of such units;

(ix) The signatures of representatives of the staff and the subject firm;

(x) An agreement that the Commission may publicize the terms of the plan;

(xi) Additional points of agreement, as appropriate;

(xii) If desired by the subject firm, the following statement or its equivalent: "The signing of this agreement does not constitute an admission by (the subject firm) that a substantial product hazard exists;"

(xiii) An acknowledgement that the corrective action plan only becomes effective upon its final acceptance by the Commission.

(2) In determining whether to recommend to the Commission acceptance of a corrective action plan, the staff shall consider favorably both the promptness of the subject firm's reporting and any remedial actions taken by the subject firm in the interest of public safety. The staff also shall consider, insofar as possible, prior involvement by the subject firm in corrective action plans and Commission orders if such involvement bears on the likelihood that the firm will comply fully with the terms of a voluntary plan.

(3) Upon receipt of a corrective action plan and staff recommendation, the Commission may: (i) Approve the corrective action plan and monitor it; (ii) approve the corrective action plan without further monitoring; (iii) reject the corrective action plan and issue a complaint; and/or (iv) take any other appropriate action.

(4) Upon receipt of the plan, the Office of the Secretary shall (i) publish a summary of the plan in the Commission's Public Calendar, and (ii) include the summary in the Commission's FEDERAL REGISTER Notice Announcing the Commission Agenda. Any interested person wishing to comment on the plan must file a Notice of Intent to Comment at least forty-eight (48) hours prior to the commencement of the Commission Session during which the plan will be discussed. If no notices of intent are received, the Commission may take final action on the plan. If such notice is received within the time limits detailed above, the plan will be docketed for the following week's agenda. All comments must be in writing and final written comments must be submitted at least forty-eight (48) hours before that session.

(b) *Consent order agreements under section 15 of CPSA.* The consent order agreement (agreement) is a document executed by a subject firm (Consenting Party) and a Commission staff representative which incorporates both a proposed complaint setting forth the staff's charges and a proposed order by which such charges are resolved.

(1) Consent order agreements shall include as appropriate:

(i) An admission of all jurisdictional facts by the consenting parties;

(ii) A waiver of any rights to an administrative or judicial hearing and of any other procedural steps, including any rights to seek judicial review or otherwise challenge or contest the validity of the Commission's Order;

(iii) A statement that the agreement is in settlement of the staff's charges;

(iv) A statement that the Commission's Order is issued under section 15 of the Consumer Product Safety Act (15 U.S.C. 2064) and that a violation is a prohibited act within the meaning of section 19(a)(5) of the CPSA (15 U.S.C. 2068(a)(5)) and may subject a violator to civil and/or criminal penalties under sections 20 and 21 of CPSA (15 U.S.C. 2069 and 2070);

(v) An acknowledgement that the Commission reserves its authority to seek sanctions for any violations of the reporting obligations of section 15(b) of CPSA (15 U.S.C. 2064(b)) and its authority to take other appropriate legal action;

(vi) An acknowledgement that the agreement only becomes effective upon its final acceptance by the Commission and its service upon the Consenting Party;

(vii) An acknowledgement that the Commission may disclose terms of the consent order agreement to the public;

(viii) A listing of the acts or practices from which the Consenting Party will refrain;

(ix) A statement that the Consenting Party shall perform certain acts and practices pursuant to the consent order agreement;

(x) An acknowledgement that any interested person may bring an action pursuant to section 24 of the CPSA (15 U.S.C. 2073) in any United States district court for the district in which the defendant is found or transacts business to enforce the consent order agreement and to obtain appropriate injunctive relief;

(xi) A description of the alleged defect or noncompliance with an applicable consumer product safety rule. This description may, but need not, contain an admission by the Consenting Party that a defect or noncompliance exists; and

(xii) The elements of a corrective action plan as set forth in § 1115.41(c), above.

(2) At any time in the course of an investigation, the staff may propose to the firm which is being investigated that some or all of the allegations be resolved by a consent order agreement. Additionally, such a proposal may be made to the Commission staff by a subject firm.

(3) Upon receiving an executed agreement, the Commission may: (i) Provisionally accept the agreement; (ii) reject the agreement and issue a complaint; and/or (iii) take any other appropriate action.

(4) If the agreement is provisionally accepted, the Commission shall place the agreement on the public record and shall announce provisional acceptance of the agreement in the FEDERAL REGISTER. Any interested person may request the Commission not to accept the agreement by filing a written request in the Office of the Secretary. Such written request must be received in the Office of the Secretary no later than the close of business of the fifteenth (15th) calendar day following the date of announcement in the FEDERAL REGISTER.

(5) If the Commission does not receive any requests not to accept the agreement within the time period specified above, it shall be deemed finally accepted by the Commission on the twentieth (20th) calendar day after the date of announcement in the FEDERAL REGISTER, unless the Commission determines otherwise. However, if the Commission does receive a request not to accept the consent order agreement, then it will consider such request, and vote on the acceptability of such plan, or the desirability for further action. After the agreement is finally accepted, the Commission may then issue its complaint and Order in such form as the circumstances may require. The Order is a final Order in disposition of

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the proceeding and is effective immediately upon its service upon the Consenting Party pursuant to the Commission's Rules of Practice for Adjudicative Proceedings (16 CFR Part 1025; June 21, 1977; 42 FR 31431). The Consenting Party shall thereafter be bound by and take immediate action in accordance with such final Order.

(6) If the Commission does not accept the agreement on a final basis, it shall so notify the Consenting Party. Such notification constitutes withdrawal of the Commission's provisional acceptance unless the Commission orders otherwise. The Commission then may issue the complaint, in which case an administrative hearing will be commenced in accordance with the Commission's Rules of Practice for Adjudicative Proceedings (16 CFR Part 1025, June 21, 1977; 42 FR 31431); may order further investigation; or may take such other action it considers appropriate.

§ 1115.21 Compulsory remedial actions.

As appropriate, the Commission will attempt to protect the public from substantial product hazards by seeking one or more of the following:

(a) *Adjudicated Commission Order.* An adjudicated Commission Order under section 15 (c) or (d) of CPSA is issued after parties and interested persons have had an opportunity for a hearing in accordance with section 554 of title 5, United States Code and with section 15(f) of CPSA. This hearing is governed by the Commission's Rules of Practice for Adjudicative Proceedings (16 CFR Part 1025; June 21, 1977; 42 FR 31431).

(b) *Federal District Court Orders.* The Commission may apply to a Federal district court in accordance with the provisions of section 15(g) of CPSA for a preliminary injunction to restrain the distribution in commerce of a product it has reason to believe presents a substantial product hazard. The Commission may seek enforcement of its Orders issued under sections 15 (c) and (d) of CPSA in accordance with the provisions of sections 27 (b)(7) and (c) of CPSA (15 U.S.C. 2076 (b)(7) and (c)).

(c) *Orders of the Secretary of the Treasury.* The Commission staff may inform the Secretary of the Treasury that a consumer product offered for importation into the customs territory of the United States fails to comply with an applicable consumer product safety rule and/or has a product defect which constitutes a substantial product hazard. The Commission may request the Secretary of the Treasury under section 17 of CPSA (15 U.S.C. 2066) to refuse admission to any such consumer product.

§ 1115.22 Prohibited acts and sanctions.

(a) *Statements generally.* Whoever knowingly and willfully falsifies, or conceals a material fact in a report under the CPSA and rules thereunder, shall be subject to criminal penalties under 18 U.S.C. 1001.

(b) *Timeliness and adequacy of reporting.* A failure to inform the Commission immediately and adequately, as required by section 15(b) of CPSA (15 U.S.C. 2064(b)) and this Part, is a prohibited act within section 19(a)(4) of CPSA (15 U.S.C. 2068(a)(4)).

(c) *Failure to permit inspection.* The failure or refusal to permit access to or copying of records, to make reports or provide information, or to permit entry or inspection, as required under the CPSA, regulations promulgated thereunder, and/or of this part, is a prohibited act within the meaning of section 19(a)(3) of CPSA (15 U.S.C. 2068 (a)(3)).

(d) *Noncomplying products.* The manufacture for sale, offering for sale, distribution in commerce, and/or importation into the United States of a consumer product which is not in conformity with an applicable consumer product safety rule under CPSA is a prohibited act within the meaning of section 19(a)(1) of CPSA (15 U.S.C. 2068(a)(1)).

(e) *Orders issued under section 15 (c) and/or (d).* The failure to comply with an order issued under Section 15(c) or (d) of CPSA (15 U.S.C. 2064(c) or (d) is a prohibited act within the meaning of section 19(a)(5) of CPSA (15 U.S.C. 2068(a)(5)).

(f) *Consequences of engaging in prohibited acts.* A knowing violation of section 19(a) (15 U.S.C. 2068(a)) subjects the violator to a civil penalty in accordance with section 20 of CPSA (15 U.S.C. 2069). "Knowing" means the having of actual knowledge or the presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations (Section 20(c) of the CPSA, 15 U.S.C. 2069(c)). A knowing and willful violation of section 19(a) after the violator has received notice of noncompliance subjects the violator to criminal penalties in accordance with section 21 of CPSA (15 U.S.C. 2070).

PART 1116—POLICY AND PROCEDURES REGARDING SUBSTANTIAL PRODUCT HAZARDS [REMOVED]

Interested persons are invited to submit, on or before October 31, 1977, written comments regarding this proposed Part. Comments received after this date will be considered if practicable. Comments and accompanying materials should be submitted in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments that have been received will be available for public inspection in the Office of the Secretary, 1111 18th Street NW., Third Floor, Washington, D.C. 20207.

Dated: September 12, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-26987 Filed 9-15-77;8:45 am]

federal register

FRIDAY, SEPTEMBER 16, 1977

PART VI



DEPARTMENT OF LABOR

Office of the Secretary

YOUTH PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

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Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Youth Programs Under the Comprehensive Employment and Training Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rules.

SUMMARY: These rules are for the purpose of implementing the Youth Community Conservation and Improvement Projects and Youth Employment and Training Programs under the Youth Employment and Demonstration Projects Act of 1977 (YEDPA). The purpose of these new programs is to employ and increase the future employability of young persons, to help coordinate and improve existing career development, employment and training programs, and to test different approaches in solving the employment problems of youth.

DATES: Effective date: October 17, 1977. Comments must be received on or before October 17, 1977.

ADDRESSES: Send comments to: Robert Taggart, Administrator, Office of Youth Programs, U.S. Department of Labor, 601 D St., NW., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT:

Robert Taggart, Administrator, Office of Youth Programs, U.S. Department of Labor, 601 D Street, Washington, D.C. 20213.

SUPPLEMENTARY INFORMATION: With nearly one in five teenagers unemployed, including two-fifths of nonwhite youths, it is vital to move as rapidly as possible to implement YEDPA. To achieve this end, the Department finds that it is in the public interest to publish these regulations in final form so that program implementation may rapidly respond to the critical employment needs of youth. This finding constitutes a waiver of the Department's regulation 29 CFR 2.7. Nevertheless, in keeping with the spirit of 29 CFR 2.7, comments may be submitted during the 30-day period subsequent to this publication date. Comments must be in writing and submitted to Robert Taggart, Administrator, Office of Youth Programs, 601 D Street, NW., Washington, D.C. 20213. Although Sec. 702(a) of the Comprehensive Employment and Training Act requires that these rules may not become effective until 30 days after publication, eligible applicants should plan their programs so that their programs will comply with these rules when they become effective.

The Youth Employment and Demonstration Projects Act (YEDPA) of 1977, Pub. L. 95-93, became effective on August 5, 1977. It amended the Comprehensive Employment and Training Act (CETA) of 1973 by adding several new programs for youth. The purpose of these new programs is to employ and increase the future employability of young persons, to help coordinate and improve existing career development, employment and training programs, and to test different approaches in solving the employment problems of youth. YEDPA contains four distinct programs: (1) The Young Adult Conservation Corps (YACC) which emphasizes the participation of youth in needed conservation work on our Nation's public lands; (2) Youth Incentive Entitlement Pilot Projects (YIEPP) designed to test the effect of a year round structured work experience as an entitlement to encourage school completion; (3) Youth Community Conservation and Improvement Projects (YCCIP) designed to provide jobs and employment experience for youth in community betterment projects; and (4) Youth Employment and Training Programs (YETP) structured to make available to youth a broad range of employment and training services designed locally and adapted to local needs.

Section 702(a) of the Comprehensive Employment and Training Act (CETA) states that the Secretary may prescribe rules and regulations as he deems necessary to carry out the purposes of CETA. Pursuant to this authority, the Department of Labor is setting forth in this document the Federal regulations governing two of the new youth programs, YETP and YCCIP.

Both programs are to be operated by CETA Title I prime sponsors, sponsors of CETA Native American programs, sponsors of CETA migrant and seasonal farmworker programs and such other agencies and/or organizations as designated by the Secretary under his discretionary authority. The regulations in this document do not apply to Native American and migrant YETP and YCCIP programs; regulations for these Native American and migrant programs will be published at a later date. These regulations also do not apply to the Secretary's YETP and YCCIP discretionary funds.

Requirement Common to YCCIP and YETP

Labor union participation

Section 353(d) of CETA requires that where an appropriate local labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under the program, that organization shall be afforded a reasonable period of time prior to the submission of the application in which to make comments.

The regulations provide for a 15-day comment period prior to the submission of YETP and YCCIP plans to the regional administrators. During that period, appropriate local labor organizations may make written comments to the eligible applicant. The eligible applicant must consider any such comments before submitting its plan to the RA. Additionally, if there are any later modifications in the plan which involve changes in wage rates or job classifications to jobs in plans approved by the RA, then appropriate local labor organizations must be notified 15 days prior to the implementation of a minor modification, or the submission to the RA of a major modification, to the plan.

Requirements for YCCIP

Participation of neighborhood and community based organizations

Legislative history indicates the clear intent of Congress that YCCIP projects be carried out by neighborhood and community based organizations insofar as feasible. The regulations require that eligible applicants establish procedures which assure that potential project applicants, particularly neighborhood and community based organizations, are notified of the application process. Each eligible applicant is further required to establish objective project selection criteria which will be applied first to applications of neighborhood and community based organizations; only after these have been given such primary consideration may applications of other project applicants be considered. Furthermore, if eligible applicants elect to limit the types of activities for which the project applicants will compete, the regulations require that they secure the approval of the youth and planning councils in the selection of these activities.

Eligibility for participation

Section 332 of CETA requires that any unemployed youth aged 16 to 19, inclusive, is eligible for YCCIP. In section 354, CETA further requires that appropriate efforts be made to insure that participating youths shall be those who are experiencing severe difficulties in obtaining employment, including those who have demonstrated special needs, as determined by the Secretary. Because statistics show that youth in low-income families, particularly minority youth, have the highest unemployment rates, highest school dropout rates, and the greatest difficulties in entering the labor market, the regulations require that eligible applicants give preference to economically disadvantaged youth, and that they describe in their proposed plans the procedures they will use to assure this preference is given.

Program funding estimates

Section 333 of CETA provides for allocation of YCCIP funds among the States based on the relative number of unemployed persons within each State as compared to all States. No provision is made for allocations within States. The Department has issued program funding estimates rather than allocations for each Title I eligible applicant based on the relative share of the unemployed in that eligible applicant's area compared to all unemployed within the State. If an eligible applicant declines to participate in YCCIP or submits insufficient approvable project applications,

the RA may award its funds to other eligible applicants in the State within 30 days after a notification from the RA.

Supervision at work sites

Section 335 of CETA requires that project applicants assure that there are adequate numbers of supervisory personnel on the project. Because well supervised activities are essential both for enhancing work habits and the development of skills, the regulations require that there should be at least the equivalent of one full-time supervisor to every twelve youths, unless adequate justification can be provided to support another ratio. The regulations further recommend that eligible applicants consider hiring appropriate CETA Title II and Title VI participants as supervisors.

Limitation on use of funds

Because Section 335 of CETA requires that this program be labor intensive, the regulations have established percentage limitations on the use of the funds available. No more than 5 percent of the total funds available to an eligible applicant may be used for administrative supportive costs. Of the remaining funds, at least 65 percent must be spent on participant wages and fringe benefits, unless the eligible applicant can justify a lower amount, and no more than 10 percent can be used for administrative direct program costs. Project applicants and eligible applicants are further encouraged to secure worksite supervisors, materials, and supplies from other sources, wherever feasible.

Role of program agents

Section 336 of CETA permits program agents under Title II of CETA to act as program agents under YCCIP. A jurisdiction eligible to be a program agentand electing to assume those functions under YCCIP will be responsible for the approval and disapproval of project applications submitted in its area and for the administration of the projects pursuant to section 204(d) of CETA; however, program agents must share with eligible applicants the funds available for administrative supportive costs.

Requirements for YETP

Special consideration for community based organizations

Section 343(e) of CETA requires that special consideration be given to community based organizations (CBO's) of demonstrated local effectiveness in the delivery of employment and training services to youth. To assure special consideration, the regulations require that eligible applicants (1) actively involve local CBO's in the planning process and describe that role in the grant narrative; (2) indicate the ways in which those local CBO's that have demonstrated local effectiveness shall be given preference in the selection of service deliverers; (3) provide public notification of the proposed youth plan through appropriate media to all CBO's and through written notification to CBO's of demonstrated local effectiveness in serving youth; and (4) maintain documentation relating to the selection of services deliverers. The regulations also require an eligible applicant may directly perform classroom training, on-the-job training or work experience only if it has determined after consultation with CBO's that direct operation of the program by the eligible applicant will promote the purposes of YETP.

To further provide special consideration for CBO's, the regulations require that, 15 days prior to the submission of youth plans to the RA, eligible applicants must provide to CBO's of demonstrated local effectiveness the full youth plan or a summary of the youth plan which at a minimum identifies the deliverers selected, the services each is to offer and the target group(s) to be served. Eligible applicants are to respond in writing to any substantive comments from CBO's regarding the selection of service deliverers and must include those responses in the plan submitted to the RA.

Eligibility for participation

Section 345(a) of CETA emphasizes participation in YETP by individuals who are in families whose income does not exceed 85 percent of the lower living standard income level determined by the Bureau of Labor Statistics. Although the legislation also permits in some cases the provision of services to youth from families above that income level, the legislation and legislative history clearly indicate that YETP funds should be concentrated on those having severest difficulties in obtaining employment. The regulations, therefore, limit services to youth from families with incomes above the lower living standard income level to: counseling; activities promoting transition from education to work; occupational, educational, and training information; job referral information through coordinated intake; and programs to overcome employment-related sexstereotyping. In order to further target these programs to those having greatest need, the regulations also require that eligible applicants give preference to economically disadvantaged youth and that they describe in their proposed plans, the procedures they will use to assure thta this preference is given.

Section 345(a) of CETA also allows that 10 percent of the funds available for this program may be used for programs which include youth of all economic backgrounds in order to adequately test whether the disadvantaged benefit from participation in nontargeted programs. Programs mixing youths in different economic backgrounds must be an identifiable program component which follows a structured experimental design in which comparison groups and followup are used to determine the benefits to the disadvantaged. A report on the results must be submitted at the end of the fiscal year.

Agreements with local educational agencies (LEA's)

Section 343(d) of CETA requires that not less than 22 percent of the funds allocated to each eligible applicant must be used for programs for in-school youth carried out pursuant to agreements between eligible applicants and local educational agencies.

Since it is the purpose of LEA agreements to link eligible applicants and local educational agencies, only those two public entities may be signatories to the agreement. The particular form of the agreement itself has, however, been left flexible. The agreement may be financial or nonfinancial, and local educational agencies are encouraged to use other service deliverers in the area that can effectively provide the types of activities needed to serve the YETP in-school target population.

The regulations further provide for in-school career employment experience which combines ancillary transition services with any in-school work experience or on-the-job training supported under YETP.

This document has been prepared under the direction and control of Robert Taggart, Administrator, Office of Youth Programs.

Accordingly, Title 29 of the Code of Federal Regulations is amended as follows:

§ 94.3 [Amended]

1. In section 94.3, *Consolidated table of contents for Secs. 94-99;* the tables of contents for Part 97, Subparts G and H, are added to read as follows:

. . . . . .

Subpart G—Youth Community Conservation and Improvement Projects

General

Sec.
97.601 Scope and purpose.
97.602 Definitions.
97.603 Eligible applicants.
97.604 Allocation of funds; program funding estimates.
97.605 Award of funds.
97.606 Reallocation of funds.
97.607 Redistribution of funds.

Grant Planning, Application, and Modification Procedures

97.608 Eligible applicant planning process.
97.609 Pre-application for Federal assistance (Standard Form 424).
97.610 Project planning process.
97.611 Project application content.
97.612 Project application submission.
97.613 Project approval.
97.614 Project prioritization.
97.615 Submission of the proposed plan.
97.616 Application for Federal assistance.
97.617 Narrative description.
97.618 Budget information summary and program planning summary.
97.619 Special assurances and certifications.
97.620 Plan review and approval.
97.621 Modifications.

Administrative Provisions

97.622 Administrative provisions.

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tion "low-income housing" shall include reallocations, except that the reference applicants will compete. In the latter obtaining employment with well super-

PROGRAM OPERATIONS

Sec.
97.623 Eligibility for participation.
97.624 Acceptable project activities.
97.625 Participant benefits.
97.626 Academic credit.
97.627 Substitution for Title I programs.
97.628 Supervisory personnel.
97.629 Materials, equipment, and supplies.
97.630 Earnings disregard.
97.631 Limitation on use of funds.

Subpart H—Youth Employment and Training Programs

GENERAL

97.701 Scope and purpose.
97.702 Definitions.
97.703 Allocation of funds.
97.704 Reallocation procedures.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

97.705 Eligible applicant planning process.
97.706 Content and description of the grant application.
97.707 Approval request letter.
97.708 Application for Federal assistance (Standard Form 424).
97.709 Narrative description: program and planning forms; additional documentation.
97.710 Special assurances and certifications.
97.711 Youth plan, review, and approval.
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ADMINISTRATIVE PROVISIONS

97.713 Administrative provisions.

PROGRAM OPERATIONS

97.714 Eligibility for participation.
97.715 Eligibility for participation (extraordinary).
97.716 Allowable activities and services.
97.717 In-school programs.
97.718 Payments to participants.
97.719 Maintenance of effort.
97.720 Substitution for Title I programs.

GOVERNORS YOUTH PROGRAMS

97.721 Governors youth programs.

2. Part 97 is amended by adding the following new subparts.

Subpart G—Youth Community Conservation and Improvement Projects

GENERAL

Sec.
97.601 Scope and purpose.
97.602 Definitions.
97.603 Eligible applicants.
97.604 Allocation of funds; program funding estimates.
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97.606 Reallocation of funds.
97.607 Redistribution of funds.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

97.608 Eligible applicant planning process.
97.609 Pre-application for Federal assistance (Standard Form 424).
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97.616 Application for Federal Assistance.
97.617 Narrative description.
97.618 Budget information summary and program planning summary.
97.619 Special assurances and certifications.
97.620 Plan review and approval.
97.621 Modifications.

ADMINISTRATIVE PROVISIONS

97.622 Administrative provisions.

PROGRAM OPERATIONS

Sec.
97.623 Eligibility for participation.
97.624 Acceptable project activities.
97.625 Participant benefits.
97.626 Academic credit.
97.627 Substitution for Title I programs.
97.628 Supervisory personnel.
97.629 Materials, equipment, and supplies.
97.630 Earnings disregard.
97.631 Limitation on use of funds.

AUTHORITY: Sec. 702(a) of the Comprehensive Employment and Training Act of 1973, as amended, unless otherwise noted.

Subpart H—Youth Employment and Training Programs

GENERAL

Sec.
97.701 Scope and purpose.
97.702 Definitions.
97.703 Allocation of funds.
97.704 Reallocation procedure.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

97.705 Eligible applicant planning process.
97.706 Content and description of the grant application.
97.707 Approval request letter.
97.708 Application for Federal assistance (Standard Form 424).
97.709 Narrative description of program and planning forms; additional documentation.
97.710 Special assurances and certifications.
97.711 Youth plan, review, and approval.
97.712 Modifying the grant.

ADMINISTRATIVE PROVISIONS

97.713 Administrative provisions.

PROGRAM OPERATIONS

97.714 Eligibility for participation.
97.715 Eligibility for participation (extraordinary).
97.716 Allowable activities and services.
97.717 In-school programs.
97.718 Payments to participants.
97.719 Maintenance of effort.
97.720 Substitution for Title I programs.

GOVERNORS YOUTH PROGRAMS

97.721 Governors youth programs.

AUTHORITY: Section 702(a) of the Comprehensive Employment and Training Act of 1973, as amended, unless otherwise noted.

Subpart G—Youth Community and Improvement Projects

GENERAL

§ 97.601 Scope and purpose.

(a) This subpart contains the Department of Labor's regulations governing the establishment and operation of Youth Community Conservation and Improvement Projects (YCCIP) under title III, Part C, Subpart 2, of the Act. The regulation at Part 98 of this title also apply to YCCIP program, exempt to the extent noted in this subpart. The provisions at Sections 97.603 through 97.631 apply to the grants to eligible applicants which are title I prime sponsors.

(b) To the extent the regulations set forth in this subpart conflict with other regulations promulgated under the Act in 29 CFR Parts 94 through 99, the requirements contained in this subpart shall apply.

(c) This program seeks to provide youth experiencing severe difficulties in obtaining employment with well supervised work in projects that produce tangible benefits to the community. In order to adequately meet community needs, the participation of neighborhood and community based organizations in the program is stressed. This program places predominant emphasis on the development and provisions of jobs. Any training must be directly related to the development of specific skills needed for the job. Participation should result wherever possible in the attainment of academic credit for competencies gained from employment. The Department expects that supervisors will play a strong role in introducing and reinforcing desirable work habits. Program operators shall target activities primarily on economically disadvantaged youth, because these individuals, particularly minorities, have the highest unemployment rates, highest dropout rates and greatest difficulties in obtaining employment. Since it is expected that most participants will be school dropouts or have high dropout potential, projects should be structured so that academic credit may be granted for work experience. Youth are to be encouraged to remain in school or to return to school if they are out of school. Any programs developed for in-school youth must be flexible enough to accommodate the scheduling needs of such youth.

(d) The Department of Labor will provide allocations of funds for States rather than to eligible applicants, but will provide eligible applicants with program funding estimates to be used by them for planning purposes. Eligible applicants are expected to submit quality project applications selected through an objective process at the local level. The Department will review these project applications, and will fund only those projects which fulfill the requirements of the program. Under certain conditions, an eligible applicant may be awarded less than its program funding estimate, with the remaining funds awarded for acceptable projects to eligible applicants elsewhere in the State.

§ 97.602 Definitions.

Definitions for abbreviations and major terms used in this subpart are contained in Section 94.4 of this title. The following definitions are specific to this subpart:

(a) "Appropriate labor organization" shall mean a labor organization that represents employees in the eligible applicant's area in the same or substantially equivalent jobs as those proposed to be filled or already filled by YCCIP participants.

(b) "Low-income housing" shall mean dwellings of individuals whose incomes are at or below 125 percent of the poverty level which are privately owned and owner occupied, privately owned by a nonprofit organization, or units of public housing. For weatherization or winterization projects funded and approved by the Federal Energy Administration or the Community Services Administration, "low-income housing" shall include privately owned rental housing.

(c) "Neighborhood and community based organizations" shall mean (1) neighborhood groups organized at the local level to operate employment and training programs, and which have demonstrated local effectiveness. Such organizations can be public or private nonprofit organizations or associations; and (2) community based organizations as defined in Section 97.702(c) of this Part.

(d) "Program funding estimate" shall mean the level of funds announced by the Department for an eligible applicant's planning purposes which is determined by apportioning the State allocation among eligible applicants for YCCIP, using the unemployment data available.

(e) "Project" shall mean "Community Conservation and Improvement Project" which provides constructive work conducted by youths, under the guidance of skilled supervisors, which (1) results in tangible outputs or a specific product; (2) benefits participants in terms of work habits, skills, and attainment of academic credit where applicable; and (3) will be completed within a definable period of time not to exceed 12 months.

(f) "YCCIP" shall mean the Youth Community Conservation and Improvements Projects.

§ 97.603 Eligible applicants.

Any eligible applicant may apply for funds for projects in the area.

§ 97.604 Allocation of funds; program funding estimates.

(a) *Allocations.* Allocations shall be provided to the States on the basis of the formula and distribution requirements in Section 333 of the Act.

(b) *Program funding estimates.* The Secretary will provide eligible applicants with program funding estimates based on its relative share of the State's unemployed.

§ 97.605 Award of funds.

(a) The RA may award to an eligible applicant an amount of funds equal to the program funding estimate when sufficient approvable project applications are submitted by the eligible applicant.

(b) The RA may award to an eligible applicant an amount of funds greater than the program funding estimate when another eligible applicant within the same State has not submitted to the RA a Preapplication for Federal Assistance or sufficient approvable project applications within the time required.

§ 97.606 Reallocation of funds.

The RA may reallocate funds from one State to another when the RA determines that an eligible applicant will not be able to use the funds within a reasonable period of time and that no other eligible applicant within the same State will be able to effectively use the funds within a reasonable period of time. The procedures described in Section 98.11(d) of this title will apply to such reallocations, except that the reference in Section 98.11(d) to Section 98.11(c) does not apply.

§ 97.607 Redistribution of funds.

The RA may redistribute funds after a grant has been signed from one eligible applicant to another within the State when:

(a) The RA determines that the eligible applicant will not be able to use the funds within a reasonable period of time. The actions described in Section 98.11 (d) of this title will apply, except that the reference to Section 98.11(c) does not apply; or

(b) The RA determines that the eligible applicant's performance is inadequate or that it has failed to comply with the Act or the regulations. The procedures set forth in Section 98.11(b) of this title will apply to such cases.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

§ 97.608 Eligible applicant planning process.

Every eligible applicant which desires funds shall submit a preapplication pursuant to Section 97.609 and a plan pursuant to Sections 97.616 through 97.619. The eligible applicant shall utilize the planning process and planning council as described in Section 95.13 (b) and (c) of this title and the youth council described in Section 97.705 of this part in developing its plan.

§ 97.609 Preapplication for Federal Assistance (Standard Form 424).

(a) An eligible applicant interested in applying for funds shall submit a Standard Form 424 to the RA, governor and areawide A-95 clearinghouses by a date set by the RA.

(b) The RA may require that the additional information specified below be submitted at the same time as the Preapplication for Federal Assistance. Where the option to require additional information is exercised, an approval or disapproval decision concerning the adequacy of that information must be provided to the eligible applicant by five (5) work days after the submission date of the Standard Form 424. Further, the additional information submitted by the eligible applicant will not be required for resubmission in the formal proposed plan. The information that may be required in the preapplication includes a description of methods to be used to:

(1) Solicit applications, in particular, from neighborhood and community-based organizations, and for soliciting comments on the project applications from the planning and youth councils (Section 97.613(g));

(2) Objectively select and rank project applications (Section 97.614); and

(3) Insure involvement of appropriate labor organizations.

§ 97.610 Project planning process.

(a) In developing the program specifications, eligible applicants may consider proposals for any allowable activities under YCCIP or may elect to limit the types of activities for which project applicants will compete. In the latter case, the eligible applicant must secure the approval of the planning and youth councils in the selection of these activities. The eligible applicant may limit the types and number of project applications by:

(1) Establishing parameters regarding the size and duration of all projects;

(2) Identifying priority community needs, e.g., environmental, weatherization, and housing rehabilitation projects which projects must address;

(3) Identifying specific neighborhoods or geographic areas in which projects may be conducted.

(b) A program agent under title II may elect to be a program agent under this subpart. Program agents under YCCIP shall approve or disapprove projects, administer the program in their areas, and be subject to the limitation of funds provided in Section 97.631 of this subpart.

(c) Each eligible applicant shall establish procedures for its own use and the use of any program agent(s) which will assure that potential project applicants (as defined in Section 94.4(ppp) of this title), particularly neighborhood and community-based organizations, are notified of the project application process and the cut-off date for acceptance of project applications.

§ 97.611 Project application content.

All project applications must contain the following information:

(a) Name of agency or organization applying for project funds, type of agency (community-based organization, local educational agency as defined in Section 97.702, etc.) and, if applicable, the program agent to which it was submitted;

(b) *Description of Project.* (1) The need for the project in the area in which it will be conducted and how the project will meet the need;

(2) The types of jobs youth are to perform;

(3) The full-time supervisor to youth ratio, or its equivalent, and the reason for selecting the ratio;

(4) The qualifications of the supervisors in terms of necessary skills and experiences, or where these are not yet specifically identified, assurances that supervisors will be adequately trained in the skills needed to carry out the projects and in instructing participating youth and a description of the method for selecting supervisors; and

(5) The beginning and ending dates of the project;

(c) *Participants.* (1) Identification of the number of participants to be enrolled and their expected duration of employment;

(2) List of target groups to be served; and

(3) Description of the expected benefits to participants, e.g., skills to be obtained, other positive terminations anticipated, academic credits to be earned, etc.;

(d) *Job titles, descriptions and wages.* (1) The principal job titles, job descriptions, and hourly wages to be paid for

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each. If job restructuring is to occur, a

(4) it will not employ any person to

§ 97.617 Narrative description.

imum meet the factors and assurances

there is a written agreement between the project applicant and the eligible appli-

each. If job restructuring is to occur, a description of the methods of analysis to be used, the expected results, the methods for soliciting consultation of appropriate labor organizations, and the relevant expertise of personnel who performed the restructuring; and

(2) The participation of appropriate labor organizations and other affected organizations with regard to job classifications and wage rates;

(e) *Administration.* A description of the project applicant's organization (including type of organization, purpose of organization), experience in operating employment and training programs and/or providing public services, and a description of the accounting and financial management procedures and/or arrangements; and

(f) *Budget.* Totals for the following line items:

(1) Direct program costs as defined in 98.12(f)(6)(iii) of this title;

(2) Costs of participant wages and fringe benefits;

(3) Costs of wages and fringe benefits of work-site supervisors;

(4) Costs of job-related training;

(5) Costs of materials, supplies and equipment used by participants on the job; and

(6) Costs of supportive services for participants.

§ 97.612 Project application submission.

The project applicant shall submit applications to the program agent for its area, or to the eligible applicant if there is no program agent for its area.

§ 97.613 Project approval.

(a) Criteria shall be established by the eligible applicant to be used consistently by itself and any program agents for evaluating and approving project applications.

(b) Each project, in order to be approved, must:

(1) Provide tangible outputs and measurable benefits which will accrue to the community;

(2) Provide benefits to participants in terms of work habits, skills, and attainment of academic credit where applicable;

(3) Be labor intensive;

(4) Assure an adequate level of supervision, taking into account the complexity of the jobs to be created; and

(5) Describe or assure adequate qualifications for supervisors in terms of necessary skills and experience.

(c) Project applicants must assure that the project will result in an increase in employment opportunities over those which would otherwise be available, and that

(1) It will not result in the displacement of currently employed workers;

(2) It will not substitute jobs assisted under this subpart for existing federally assisted jobs;

(3) It will not employ any youth when any other person is on layoff by the employer from the same or any substantially equivalent job in the same area;

(4) it will not employ any person to fill a job opening created by laying off or terminating the employment of any regular employee, or otherwise reducing the regular work force, in anticipation of filling vacancies by hiring youth to be supported under YCCIP;

(5) it will not infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service not subsidized under the Act;

(6) it will not permit a job to be filled in other than an entry-level position in each promotional line until applicable personnel procedures and collective bargaining agreements have been complied with; and

(7) where job restructuring will occur or where new job classifications will be developed, these will not be done in order to negate established personnel procedures, or to displace currently employed workers.

(d) The project approval process shall assure that project applications from neighborhood and community based organizations of demonstrated local effectiveness in providing employment and training services to youth will be considered before applications from other project applicants are considered. Where it can be documented that the neighborhood or community based organization does not have the administrative capability to run the project, or its project application does not meet the criteria established by the prime sponsor, then project applications from other than neighborhood and community-based organizations may be considered, provided the same criteria are used.

(e) Program agents shall review the project applications submitted to them, approve or disapprove them, and submit all project applications to the eligible applicant, indicating their approval or disapproval.

(f) The eligible applicant shall review those project applications received, including those submitted by any program agent(s). When reviewing those submitted by a program agent, the eligible applicant shall give due consideration to project applications approved by the program agent.

(g) After review, the eligible applicant shall submit all project applications to the youth and planning councils for comment and recommendations.

(h) After review of any comments and or recommendations of the planning and youth councils, the eligible applicant shall approve or disapprove the project applications. The eligible applicant, however, shall not disapprove a project application recommended for approval by the planning council unless it has first considered any comments and recommendations made by the planning and youth councils and unless it has provided the councils with a written statement of its reasons for disapproval (Section 336(c)(2)).

(i) In cases of disapproval, the eligible applicant shall inform the project applicant in writing of its disapproval. It must also indicate the reasons for the disapproval.

§ 97.614 Project prioritization.

(a) Each eligible applicant shall rank, in terms of their relative priority, approved project applications.

(1) It shall first rank those projects having highest priority whose total proposed cost does not exceed the amount available for projects (see Section 97.631).

(2) It shall then rank those approved project applications whose additional total cost (including no more than five (5) percent for supportive costs) does not exceed 25 percent of the program funding estimate.

(b) Eligible applicants shall document the rationale used for ranking the approved project applications.

§ 97.615 Submission of the proposed plan.

(a) Each eligible applicant must submit a proposed plan to the RA by a date established by the RA. The proposed plan shall consist of prioritized project applications as well as the items described in Sections 97.616 through 97.619. The eligible applicant shall also submit any project applications approved by any program agents, but disapproved by the eligible applicant, together with a description of the due consideration which was accorded to them.

(b) A proposed plan may be submitted for a planned dollar level not to exceed 125 percent of the program funding estimate.

§ 97.616 Application for Federal Assistance.

(a) Standard Form 424, Application for Federal Assistance, shall be submitted.

(b)(1) Where there is an appropriate labor organization, it shall be given either the complete proposed plan or a summary of the proposed plan which includes a list of all job classifications and wage rates and afforded 15 calendar days to make written comments to the eligible applicant prior to the submission of the proposed plan to the RA.

(2) Except for the requirement contained in paragraph (b)(1) of this section, for the purpose of implementing the program for FY 1978, the comment and publication procedures provided in Section 95.15 of this title shall be followed except that copies of the proposed plan or summaries of the plan may be submitted to Governors, appropriate units of government, appropriate Native American CETA sponsors, and appropriate State and sub-State clearinghouse(s) at the same time they are submitted to the appropriate labor organizations for comment; and in any case should not be submitted later than the date of submission to the RA.

(3) Project applicants and other interested parties must be notified through appropriate media that they may review the proposed plan at a predesignated location.

§ 97.617 Narrative description.

The narrative description shall contain the eligible applicant's overall strategy and design and shall describe the procedures to be used to implement and administer the program including:

(a) Methods used to solicit project applications, in particular those from neighborhood and community based organizations;

(b) Methods used to approve and prioritize project applications;

(c) The criteria used for approving and prioritizing project applications;

(d) The participation of appropriate labor organizations;

(e) Recruiting methods to be used if different from those described in the PSA. This description should include coordination with other programs under the Act;

(f) The target groups to be served and procedures used to assure that economically disadvantaged youths receive preference;

(g) Plans for assessing the results of the projects to both the participants and the community; and

(h) A description of the administrative structure including subgrant and contract administration, which will be used if different from that described in the PSA.

§ 97.618 Budget information summary and program planning summary.

A budget information summary and program planning summary shall be completed by the eligible applicant and submitted as part of the plan. Eligible applicants shall use the classifications of costs by category which will be provided with the grant package instructions.

§ 97.619 Special assurances and certifications.

(a) The proposed plan shall contain the following special assurances:

(1) Compliance with Prime Sponsor Agreement (PSA), including the assurances and certifications in the PSA; and

(2) Compliance with the Youth Employment and Demonstration Projects Act of 1977 and the regulations of 29 CFR 97.601–97.631.

(3) Compliance with the Hazardous Occupations Orders issued pursuant to the Fair Labor Standards Act and set forth at 29 CFR 570.50 et seq with respect to the employment of youths under 18 years of age.

§ 97.620 Plan review and approval.

(a) The RA shall first review the project applications to determine if they meet the requirements of the Act, the regulations of this subpart and other applicable law.

(b)(1) Using the factors and assurances set forth in section 97.613 (b) and (c), the RA shall consider ranked projects and may approve projects up to 100 percent of the amount of the eligible applicant's program funding estimate which is available for projects.

(2) The RA shall disapprove any project application which does not at a minimum meet the factors and assurances of section 97.613 (b) and (c) and other requirements of the Act, the regulations and other applicable law. RA's will review individual applications for outstanding disagreements between appropriate labor organizations, employers, and eligible applicants with respect to jobs that have been restructured. RA's will provide in writing to the eligible applicant an explanation for any prioritized project applications that are rejected.

(c) If there are not sufficient approvable prioritized project applications in the plan to equal the amount of the eligible applicant's program funding estimate which is available for projects, the RA shall allow the eligible applicant 30 days in which to modify the prioritized project applications which were submitted to the RA. If the eligible applicant fails to submit revised project applications or submits revised project applications which are not approvable, the RA may award the unused funds to another eligible applicant within the State.

(d) The approval of the proposed plan will be in accordance with sec. 95.18 of this title.

(e) The RA shall determine whether or not the eligible applicant gave due consideration to project applications approved by any program agent, but disapproved by the eligible applicant.

§ 97.621 Modifications.

(a) Any modification to the plan will be in accordance with the provisions of section 95.21 of this title, except that in 95.21(a) the term "project(s)" shall be read for the term "program activities," and references to public service employment shall be disregarded.

(b) In addition, when a new job classification or wage rate is proposed, there shall be a modification to the plan and the eligible applicant must notify the appropriate labor organizations 15 calendar days prior to implementation of a minor modification or the submission of a major modification which would allow funding jobs in the new job classification or paying that new wage rate.

ADMINISTRATIVE PROVISIONS

§ 97.622 Administrative provisions.

(a) Eligible applicants shall comply with the administrative provisions of Part 98 of this title in operating programs pursuant to this subpart, except as stated in sec. 97.618 of this subpart.

(b) Eligible applicants or program agents shall enter into financial agreements with project applicants except as provided in paragraph (d) of this section. With respect to such agreements, program agents are governed by the fund restrictions set forth in Section 97.631 of this subpart.

(c) Eligible applicants must share supportive costs with the program agent(s), with the program agent receiving an amount proportionate to its share of program funds.

(d) The eligible applicant or program agent may enter into a non-financial agreement with a project applicant if there is a written agreement between the project applicant and the eligible applicant that clearly identifies the administrative and programmatic benefits of such a non-financial agreement.

PROGRAM OPERATIONS

§ 97.623 Eligibility for participation.

(a) In order to participate, an individual must:

(1) Be 16 through 19 years of age, inclusive, at the time of enrollment; and

(2) Be unemployed.

(3) If at the time of enrollment into any other program under the Act, a 16 through 19 year old youth was unemployed, that individual may be transferred into this program.

(b) Eligible applicants shall give preference to the economically disadvantaged, as defined in Section 94.4 of this title.

(c) Appropriate efforts shall be made to serve those youths who have severe difficulties in obtaining employment, as described in Section 354(a) of the Act.

(d) The citizenship and veterans provisions of Sections 95.32(d) and (e)(1) of this title shall apply to YCCIP programs.

§ 97.624 Acceptable project activities.

(a) Each project shall insure that each participant does constructive work in terms of individual and community benefits during participation in the program. Such employment shall be in projects that may include the rehabilitation or improvement of public facilities (including accessing them for the handicapped by removing architectural barriers); neighborhood improvements; weatherization and basic repairs to low income housing as defined in Section 97.602; energy conservation including solar energy projects; and conservation, maintenance, or restoration of natural resources of non-Federal publicly held lands.

(b) Training provided must be directly related to a participant's job.

(c) Where in-school youth are served, they must be in a structured combination work and education program.

§ 97.625 Participant benefits.

(a) Participants shall be paid wages as described in 97.718(c) of this Part.

(b) Each participant shall be provided the benefits and working conditions as provided in Section 98.24 of this title.

§ 97.626 Academic credit.

Eligible applicants shall make appropriate efforts to encourage educational agencies to award academic credit for the competencies participants gain from their employment.

§ 97.627 Substitution for Title I programs.

Programs funded under YCCIP shall be supplementary to, and shall not replace programs and activities for youth available under Title I of the Act (See sections 95.13(b)(3) and 95.14(b)(3)(ii)(G) of this title).

§ 97.628 Supervisory personnel.

(a) Each project must have an ade-

to YETP programs except as indicated in this subpart. The regulations at sections

League, SER-Jobs for Progress, Mainstream, Community Action Agencies, union related organizations, employer-

§ 97.703 Allocation of funds.

(a) *General.* The Secretary shall pub-

youth council described in paragraph (b) of this section;

(1) Fifteen (15) days prior to submission of the proposed youth plan to the

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§ 97.628 Supervisory personnel.

(a) Each project must have an adequate number of skilled supervisors. There must be at least the equivalent of one full-time supervisor to every 12 youths, unless satisfactory justification for another ratio is provided in the eligible applicant's plan. Supervisors must have the skill needed to carry out the project and must be able to instruct participants in those skills.

(b) The hiring of supervisory personnel for projects shall not impede the promotional rights of existing employees.

§ 97.629 Materials, equipment and supplies.

Eligible applicants are encouraged to make use of resources from CSA and FEA to provide or supplement administration, materials, equipment, supplies, etc. With respect to the use of YCCIP funds for the acquisition, lease or rental of supplies, equipment, and materials the provisions set forth in Section 98.12(c) of this title do not apply. Eligible applicants should be aware that Federal statutes which provide funds for materials, supplies, etc., often have Davis-Bacon related provisions which may affect wage rate levels in projects involving construction.

§ 97.630 Earnings disregard.

Earnings received by any youth under this subpart shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted programs.

§ 97.631 Limitation on use of funds.

(a) No more than 5 percent of the funds awarded to an eligible applicant may be used by the eligible applicant and program agent(s) for supportive costs as defined in 98.12(f)(6)(ii) of this title. The remaining funds must be made available for projects.

(b) Of the project funds:

(1) At least 65 percent of the funds must be used for participant wages and fringe benefits, unless adequate justification is provided in the eligible applicant's plan.

(2) No more than 10 percent may be used for direct program costs defined in 98.12(f)(6)(iii), including the salaries and fringe benefits of project directors.

(3) Any remaining project funds may be used for training of participants, on-site and supportive services.

Subpart H—Youth Employment and Training Programs

General

§ 97.701 Scope and purpose.

(a) This subpart contains the regulations for the Youth Employment and Training Programs (YETP) which are authorized by Title III, Part C, Subpart 3 of the Act. These regulations also implement, with respect to YETP, the administrative provisions found in sections 341 through 347 of the act. The regulations at part 98 of this title also apply to YETP programs except as indicated in this subpart. The regulations at sections 703 through 721 of this subpart apply only to eligible applicants which are Title I prime sponsors. To the extent the regulations set forth in this subpart conflict with other regulations issued under the Act in 29 CFR, parts 94 through 99, the regulations contained in this subpart shall prevail (sec. 357).

(b) It is the purpose of this program to enhance the job prospects and career opportunities of young persons to enable them to secure unsubsidized employment in the public and private sectors of the economy. It is not the purpose of this program to provide make-work activities but rather to provide youth, especially economically disadvantaged youth with opportunities to learn and earn, which will lead to meaningful employment opportunities after they have completed the program. In addition, this program explores methods of dealing with the structural unemployment problems of youth and the immediate difficulties of youth in need of and unable to find jobs (sec. 341).

(c) In order to achieve the highest quality of program services, coordination with existing services for youth is essential. These services include: activities funded under the other parts of CETA; employment and educational services provided by local educational agencies; services offered by State Employment Security Agencies; programs funded through other sources such as community based organizations; and employment and educational activities of business, labor, and nonprofit institutions in the community.

(d) Information gained from the operation of YETP will be considered by the Department in developing future legislative and program designs.

§ 97.702 Definitions.

Definitions for abbreviations and major terms used in this subpart are contained in section 94.4 of this title. Special definitions applicable to terms found in this subpart are as follows:

(a) "Appropriate labor organization" shall mean a labor organization that represents employees in the eligible applicant's area in the same or substantially equivalent jobs as those proposed to be filled or already filled by YETA participants.

(b) "Career employment experience" shall mean a program activity for in-school youth which is a combination of employment (either work experience or on-the-job training) supported under YETP and certain transition services, which at a minimum, shall consist of career information, skills training, counseling, guidance, and a high degree of supervision.

(c) "Community based organization (CBO)" shall mean an organization which is representative of a community or of particular segments of a community and which provides employment and training services. CBO's include such organizations as Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, Mainstream, Community Action Agencies, union-related organizations, employer-related nonprofit organizations, and other similar organizations.

(d) "Eligible applicant" shall mean a YETP program sponsor. Title I prime sponsors, as defined in section 94.4 of this title, may be eligible applicants under YETP.

(e) "In-school program" shall mean a program which provides either or both career employment experience and transition services to in-school youth.

(f) "In-school youth" shall mean:

(1) A youth who:

(i) Is currently enrolled in and attending a secondary, trade, or technical school, or

(ii) Was enrolled in, and attended, the last regularly scheduled quarter or semester of such school, and is scheduled to attend the next regularly scheduled quarter or semester; or

(2) A youth who has:

(i) A high school diploma or its equivalent and who attended the last regularly scheduled quarter or semester of a community college or vocational school; and

(ii) Not completed all coursework required for successful completion at the school; or

(3) A youth who has not completed high school and who agrees to enroll in a school program leading to a secondary school diploma or its equivalent (sec. 702(a)).

(g)(1) "Job restructuring" shall mean the procedure which includes:

(i) Identifying the separate tasks that comprise a job or group of jobs;

(ii) Developing new position descriptions which retain some of the taks of the original job; and

(iii) Developing a career ladder which builds upward from the new positions containing the lesser skilled tasks to regular jobs.

(2) A restructured job shall be clearly different from the original one in terms of skills, knowledges, abilities, and experience needed to perform the work (sec. 342(a)(3)(L)).

(h) "Local educational agency (LEA)" shall mean a public board of education or other public authority legally constituted within a State for either administrative control over, direction of, or service to public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or a combination of such school districts or counties which are recognized in a State as an administrative agency for their public elementary or secondary schools (sec. 702(a)).

(i) "Of this title" shall mean "of title 29 of the Code of Federal Regulations."

(j) "Transition services" shall mean services and activities which are designed to assist youth to make the transition from school to unsubsidized jobs. These services are set forth in section 97.717(a)(1) of this subpart.

(k) "YETP" shall mean the Youth Employment and Training Programs.

§ 97.703 Allocation of funds.

(a) *General.* The Secretary shall publish formula allocations to eligible applicants in the FEDERAL REGISTER.

(b) *Formula allocated funds (sec. 343).* (1) The Secretary shall allocate 75 percent of the funds available to YETP to eligible applicants.

(2) Of the funds available to YETP, the Secretary shall allocate an amount equal to 5 percent of the funds available under Title III, Part C of the Act, to Governors for programs as specified in section 97.721 of this subpart.

(3) The Secretary shall allocate funds to eligible applicants and Governors using the formula set out in section 343 (b) of the Act.

(c) *Additional allocations.* The Secretary shall allocate funds to Indian, Native American, and migrant and seasonal farmworker eligible applicants as provided in section 343 of the Act.

(d) *Secretary's discretionary funds.* The Secretary shall use all remaining funds for programs designed to identify and test approaches for dealing with the unemployment problems of youth (secs. 343, 348).

§ 97.704 Reallocation procedures.

(a) Reallocation procedures under YETP will apply only after a grant is signed.

(b) The RA may reallocate funds awarded to an eligible applicant if he determines that the eligible applicant will not be able to use all of the allocated amount within a period of time which the RA deems appropriate (sec. 354(b)).

(c) The procedures described in section 98.11(d) of this title shall apply to reallocations except that the reference in section 98.11(d) to 98.11(c) does not apply.

(d) The RA may also reallocate funds based on nonperformance. The procedures set forth in section 98.11(b) of this title shall apply to such reallocations.

(e) If all proposed LEA agreements under a grant are not signed by the eligible applicant and the LEA(s) within 60 days after the initial submission of the YETP plan to the RA for review and approval, the RA may reallocate that portion of the 22 percent of the eligible applicant's funds which were required to be covered under LEA agreement. The procedures set forth in 98.11(d) apply to such reallocations.

Grant Planning, Application, and Modification Procedures

§ 97.705 Eligible applicant planning process.

(a) *Youth plan.* Every eligible applicant which desires funds shall submit a youth plan containing the items listed in secs. 97.706 through 97.710 of this subpart. In developing its youth plan, the eligible applicant shall:

(1) Take into account the eligible applicant's Title I and summer program plans;

(2) Utilize the planning process and planning council, as described in sec. 95.13 (b) and (c) of this title; and the youth council described in paragraph (b) of this section;

(3) Afford an opportunity to community based organizations of demonstrated local effectiveness in providing employment and training activities for youth to participate in the development of the youth plan as required by paragraph (c) of this section.

(4) Afford an opportunity to appropriate labor organizations to participate in the development of the youth plan as required by paragraph (d) of this section.

(b) *Youth council.* Each eligible applicant shall establish a youth council, (sec. 346).

(1) In consultation with the planning council, the eligible applicant shall make appointments to a youth council which include individuals who are representative of the local educational agencies, the local vocational advisory council, post-secondary education institutions, business, unions, the State employment security agency, local government and non-government agencies which are involved in serving youth, the local community, and the eligible applicant. In addition, youth council members shall include youths who are participants in, or eligible for, YETP.

(2) The youth council may be either an entirely separate council or a subcommittee or subcouncil to the planning council, or eligible applicants may use existing youth councils created with respect to other programs under this Act if these councils meet the requirements set forth in this section. In all cases, the youth council must report to the planning council.

(3) The youth council shall perform the tasks described in sec. 95.13(b)(2) of this title, and provide recommendations to the planning council.

(4) The youth council shall at a minimum make recommendations to the planning council with respect to the planning and review of all program activities under Title III, Part C, of the Act, and shall review the proposed agreements with local educational agencies under YETP.

(5) No member of the youth council shall cast a vote on any matter under deliberation by the youth council which has direct bearing on services to be provided by that member (or any organization with which that member is associated).

(c) *Community-based organizations (CBO's).* (1) Each eligible applicant shall involve CBO's in the planning process as follows:

(i) CBO's of demonstrated local effectiveness in the delivery of employment and training services to youth shall actively participate in the planning process.

(ii) Public notification of the proposed youth plan will be provided to CBO's through appropriate media.

(2) Special consideration shall be given to CBO's of local demonstrated effectiveness in the delivery of employment and training services to youth. Special consideration shall consist of the following:

(i) Fifteen (15) days prior to submission of the proposed youth plan to the RA either the complete youth plan or a summary of the proposed youth plan will be submitted to such CBO's. If a summary is submitted, it shall include at a minimum:

(A) Information on the emphases of the program, and

(B) Proposed service deliverers and the services to be provided by each; and

(ii) Written response will be made to any substantive comments for such CBO's regarding selection of service deliverers and these comments and responses will be included when the youth plan is transmitted to the RA;

(3) Each eligible applicant shall maintain documentation relating to selection of service deliverers for a minimum of one year.

(4) An eligible applicant may directly perform classroom training, on-the-job training or work experience as described in § 95.33(c) (1), (2), or (4) of this title, only if, after consultation with CBO's, the eligible applicant determines that direct operation of the program will promote the purposes of this subpart (sec. 342(b)). The eligible applicant shall document the administrative and programmatic benefits of such direct operation.

(d) *Appropriate labor organizations.* Each eligible applicant shall afford appropriate labor organizations an opportunity to participate in the development of its youth plan by giving them an opportunity to comment on either the full youth plan or a summary of the youth plan which includes at least any proposed job classifications and wage rates. The plan or summary shall be sent to the appropriate labor organizations at least 15 days prior to the submission of the youth plan to the RA, and any comments received must be considered prior to the submission of the youth plan to the RA.

§ 97.706 Content and description of the grant application.

In order to receive funds, each eligible applicant shall submit a youth plan which, when approved, together with the Prime Sponsor Agreement (PSA), shall become the grant. Additions to, or variations from the PSA, if any, shall be included in the youth plan. The youth plan shall also include the documents described in secs. 97.707 through 97.710 of this subpart.

§ 97.707 Approval Request Letter.

Each eligible applicant shall submit an Approval Request Letter to the RA, by a date set by the RA.

§ 97.708 Application for Federal Assistance (Standard Form 424).

The Application for Federal Assistance shall identify the amount of funds requested and provide information on the number of people expected to be served.

§ 97.709 Narrative description; program and planning forms; additional documentation.

(a) The narrative shall contain descriptions of:

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(1) Objectives of the program;

§ 97.711 Youth plan, review and approval.

order to continue his or her education (sec. 346(c)).

for determining its comparability to existing jobs of other individuals similarly

(N) Job development, direct placement, and placement assistance to secure

vided under the agreement will be available to, and will be utilized by, the local

(1) Objectives of the program;
(2) Local priorities;
(3) Implementation planning;
(4) Program activities and services;
(5) Management and administration;
(6) Results and benefits expected from the program;
(7) Program planning summary; and
(8) Budget information summary.

(b) The youth plan shall also include documentation which shows that:

(1) The planned expenditures for program activities will further the purpose of the program by:

(i) developing long-term and coordinated solutions to the employment problems of youth, especially the economically disadvantaged;

(ii) enhancing job prospects and career opportunities for youth; and

(iii) enabling participants to secure appropriate unsubsidized employment (sec. 341);

(2) The identified performance goals in the youth plan are reasonable and can be achieved;

(3) A youth council has been established and that the youth council has participated in the planning and review process for the youth plan;

(4) CBO's have participated in the planning and CBO's of demonstrated local effectiveness have been given special consideration as set forth in section 97.705(c) of this subpart;

(5) Appropriate labor organizations have participated in the development of the youth plan as required by section 97.705(d) of this subpart;

(6) There is a description of the procedures to be used to notify the appropriate labor organizations of any changes to job classifications or wage rates;

(7) The eligible applicant has a proposed in-school program to be operated pursuant to section 97.717 of this title;

(8) With respect to youth plans from Governors, there is adequate justification for each proposed activity as defined in section 97.721; and

(9) The eligible applicant has coordinated with local SESA offices to the maximum extent feasible.

§ 97.710 Special assurances and certifications.

(a) The youth plan shall contain the following special assurances:

(1) Compliance with the Prime Sponsor Agreement;

(2) Compliance with the Youth Employment and Demonstration Projects Act of 1977 (YEDPA), other applicable CETA provisions, and the regulations in this subpart; and

(3) Compliance with the Hazardous Occupations Orders issued pursuant to the Fair Labor Standards Act and set forth at 29 CFR 570.50 et seq. with respect to the employment of youths under 18 years of age and the Child Labor Standards of 29 CFR 570.31 et seq. with respect to the employment of youths aged 14 and 15.

§ 97.711 Youth plan, review and approval.

(a) *Comment and publication procedures.* The procedures of section 95.15 of this title shall apply to YETP, except that for the purpose of implementating the program in FY 1978, copies of the YETP youth application will be submitted to Governors, and a summary to appropriate units of government, appropriate Native American CETA sponsors, and appropriate State or sub-State clearinghouse(s) at the same time it is submitted to the appropriate labor organizations for comment; or it may be submitted simultaneously with submission to the RA.

(b) *Standards for reviewing the youth plan.* The provisions of section 95.17 (a), (b) (1), (2), (3), (4), (6), (8), (9), (10), and (11) shall be followed by the RA in reviewing the youth plan. The RA shall also determine whether the youth plan meets the requirements of this subpart and that its documentation is adequate and sufficient.

(c) *Awarding the grant.* The procedures specified in sections 95.18, 95.19, and 95.20 of this title shall apply to the awarding of grants under YETP.

§ 97.712 Modifying the grant.

The procedures specified in § 95.21 of this title shall apply to the modifying of grants under YETP. Any change in job classifications or wage rates shall require a modification. Appropriate labor organizations shall be notified in writing of all such wage rate and job classification changes under the grant at least 15 days before the implementation of a minor modification, or submission to the RA of a major modification, which would allow the filling of jobs in the new classifications or the paying of the new wage rates.

ADMINISTRATIVE PROVISIONS

§ 97.713 Administrative provisions.

The administrative provisions of Part 98 (Grant Administration) of this title shall be applicable to the operation of programs under this subpart, except as otherwise indicated in this subpart.

PROGRAM OPERATIONS

§ 97.714 Eligibility for participation.

(a) An eligible applicant shall assure that every individual participating in the program meets the following criteria at the time of application and enrollment, except as provided in section 97.715 of this subpart (sec. 345):

(1) Unemployed or underemployed as defined in section 94.4(fff) of this title, or in-school as defined in section 97.702 of this subpart; and

(2) 16 through 21 years of age; and

(3) A member of a family with a total family income at or below 85 percent of the lower living standard income level, as defined in section 94.4(nnn) of this title.

(b) For the purpose of participating in in-school career employment experience, the youth needs such participation in order to continue his or her education (sec. 346(c)).

(c) If, at the time of enrollment into any other program under the Act, an individual met the eligibility requirements of paragraph (a) of this section, that individual is eligible to transfer from that other program into YETP, and into YETP career employment experience if the individual also meets the requirements of paragraph (b) of this section.

(d) The citizenship and veterans provisions of sections 95.32 (d) and (e) (1) of this title also apply to YETP.

(e) Programs funded under this subpart shall give preference to economically disadvantaged youth. Appropriate efforts shall be made to give service to the youth categories cited in section 354(a) of the Act.

§ 97.715 Eligibility for participation (extraordinary).

(a) Individuals otherwise eligible under section 97.714 of this subpart, who are in school, and who are 14 or 15 years old may participate in programs under YTEP when the youth plan specifies a youth development strategy which provides broad career exposure for these youths (sec. 345(a)(1)(B)).

(b) Youths need not meet the income criteria described in section 97.714(a)(3), if they participate in a special component, as described in section 97.716(e) of this subpart (sec. 345(a)(2)).

(c) Youths, who do not meet the income criteria defined in section 97.714(a)(3), and who are not in a special component described in section 97.716(e), may be offered services but these services are limited to:

(1) Counseling, including occupational information;

(2) Activities promoting transition from education to work;

(3) Occupational, education, and training information;

(4) Placement services;

(5) Job referral information through coordinated intake systems; and/or

(6) Assistance in overcoming employment related sex-stereotyping in job development, placement, counseling and guidance.

§ 97.716 Allowable activities and services.

(a) Programs may include any type of employment and training activity authorized under Title I of the Act, except public service employment.

(b) Each participant in on-the-job training, work experience, or career employment experience shall be assured of the general benefits and working conditions for program participants provided in section 98.24 of this title.

(c) No youth may enroll in full-time employment opportunities if the eligible applicant determines that there is evidence he or she dropped out of high school in order to participate (section 353(f)(2)). A written job description shall be developed and maintained for all work experience and OJT positions funded under this subpart to provide a basis for determining its comparability to existing jobs of other individuals similarly employed

(d) The child labor standards specified in 29 CFR Part 570.31 et seq. or appropriate State standards, whichever are stricter, shall apply to the employment of 14 or 15 year olds under YETP. The Hazardous Occupations Orders issued pursuant to the Fair Labor Standards Act and set forth at 29 CFR Part 570.50 et seq. shall apply to the employment of 16 and 17 year olds under YETP.

(e) An eligible applicant may design a special component using up to 10 percent of its YETP funds to serve a mixture of youth from families above and below the income level specified in section 97.714(a)(3) in order to test the desirability of serving such a mix of youth. This special component shall:

(1) Have and follow a structured experimental design;

(2) Establish and use comparison groups;

(3) Provide for followup on participants; and

(4) Provide for an end of the year report on the experimental outcomes.

§ 97.717 In-school programs.

(a) *Activities and services.* The in-school programs shall be designed to provide for either or both of the following two classifications of services (section 342):

(1) *Transition services*—(i) These transition services shall be designed to prepare and assist youth to move from school to unsubsidized jobs in the labor market.

(ii) These services may include, but are not limited to:

(A) Outreach, assessment, and orientation;

(B) Counseling, including occupational information and career counseling;

(C) Activities promoting education to work transition;

(D) Provision of labor market information;

(E) Services to youth to help them obtain and retain employment;

(F) Literacy training and bilingual training;

(G) Attainment of certificates of high school equivalency;

(H) Job sampling, including vocational exploration in the public and private sector;

(I) Institutional and on-the-job training, including development of basic skills and job skills;

(J) Transportation assistance;

(K) Child care and other necessary supportive services;

(L) Job restructuring to make jobs more responsive to the objectives of this subpart, including assistance to employers in developing job ladders of new job opportunities for youths, in order to improve work relationships between employers and youths;

(M) Provision of information regarding employment and training related opportunities;

(N) Job development, direct placement, and placement assistance to secure unsubsidized employment opportunities for youth to the maximum extent feasible, and referral to employability development programs;

(O) Assistance in overcoming sex-stereotyping in job development, placement, and counseling; and

(P) Outreach and other services to increase the labor force participation rate among minorities and women.

(2) *Career employment experience.* This activity is a combination of employment (work experience or on-the-job training) and certain transition services including, at a minimum, career information, adequate supervision, skills training, counseling, and guidance. Any work experience or on-the-job training must include these minimum ancillary transition services. Where work experience or on-the-job training is supported under the 22 percent or more of funds serving in-school youth under agreements with local educational agencies, the ancillary transition services must also include placement services.

(b) *Agreements with local educational agencies.* (1) Eligible applicants shall use at least 22 percent of their total funds to serve in-school youth in programs designed to enhance their career opportunities and job prospects (sec. 343(d)(1)) pursuant to written agreements between them and local educational agencies (LEA's). The programs shall be operated in accordance with the provisions of section 343(d)(2) and section 346(c) of the Act.

(2) Agreements may be between the eligible applicant and one or more local educational agencies or a combination of LEA's represented by one LEA, (section 702(a)).

(3) Each agreement may be either a financial or nonfinancial agreement and, whichever is determined most appropriate by the eligible applicant and the LEA(s), shall:

(i) Provide a description of the activities and services to be provided to eligible participants;

(ii) Detail the responsibility of each party to the agreement for providing the activities and services which have been selected;

(iii) Contain provisions to assure that services and/or funds received pursuant to the agreement will not supplant State and local funds expended for the same purpose.

(4) Additional provisions are required in those agreements which specifically provide for career employment experience opportunities. These include:

(i) Assurances that participating youths will be provided constructive work experience, which will improve their ability to make career decisions and which will provide them with basic work skills needed for regular employment;

(ii) Assurances that such agreements have been reviewed by the youth council;

(iii) Assurances that job information, counseling, guidance, and placement services will be made available to participating youth and that funds provided under the agreement will be available to, and will be utilized by, the local educational agency or agencies to the extent necessary to pay the cost of school-based counselors to carry out the provisions of this in-school program;

(iv) Assurances that jobs provided under this program will be certified by the participating educational agency or institution as relevant to the educational and career goals of the participating youths;

(v) Assurances that the eligible applicant will advise participating youths of the availability of other employment and training resources available in the local community to assist such youths in obtaining employment;

(vi) An assurance that career employment experience opportunities provided will be certified by a school based counselor as being relevant to the career and educational program for the youth(s) being provided those opportunities.

(5) In order to carry out the purposes of the LEA agreement, LEA's are encouraged to enter into subagreements, grants, or contracts with post-secondary schools, with State accredited nonprofit educational institutions, State accredited profit institutions, SESA's, and CBO's which have demonstrated effectiveness locally in serving youth, particularly those who are economically disadvantaged.

(6) Agreements for the use of the in-school funds under this section must be signed by the eligible applicant and local educational agencies by no later than 60 days after initial submission of the YETP plan to the regional office for review and approval. If an agreement is not reached within 60 days, the RA shall initiate the reallocation process as required by section 97.704 of this subpart.

§ 97.718 Payments to participants.

(a) Participants in training activities shall be paid allowances. Participants in employment shall be paid wages. Participants in activities which are a combination of employment and training shall be paid in accordance with section 95.33(d)(7) of this title.

(b) *Allowances.* Participants will be paid allowances in accordance with the criteria and process in section 94.34 of this title.

(c) *Wages.* Participants receiving wages shall be paid no less than the highest of:

(1) The wage rate set forth in section 6(a)(1) of the Fair Labor Standards Act. Fourteen and 15 year olds, however, may be paid the rate set forth in section 14(b) of the Fair Labor Standards Act; or

(2) The applicable State or local minimum wage, including exceptions for the wage rates of 14 and 15 year olds;

(3) For a job which is substantially the same as existing jobs of the same employer, the prevailing wage for the employer's existing, substantially similar jobs, except that the employer may pay less than its prevailing wage, but not less than the minimum wage, if:

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(1) The employer, the eligible applicant and the appropriate labor organi-

labor market, most jobs will be at entry level. Eligible applicants, therefore are

(2) To provide funds to carry out special model employment and training

(ii) Compliance with the Youth Employment and Demonstration Projects

(b) which shall report to the State Manpower Services Council (SMSC) de-

submission to the RA, during which period any comments received shall be con-

(i) The employer, the eligible applicant and the appropriate labor organization agree in writing to a lesser wage; or

(ii) There is job restructuring. In order to accomplish job restructuring, the eligible applicant, employer, and appropriate labor organization, shall enter into an agreement concerning the restructuring. If, after agreeing to the restructured job, the labor organization, employer, or eligible applicant disagree over the wages to be paid for the restructured job and an agreement is not reached, the eligible applicant, employer, and appropriate labor organization should resolve such dispute at the local level within 30 days. If, after these 30 days, an agreement has not been reached, they shall either agree to negotiate in good faith with the RA to resolve the disagreement or select other jobs. If negotiations with the RA do not result in resolution within 30 days, the RA shall set the wage rate; or

(iii) The employer creates new job classifications or occupations. If disputes arise regarding whether the jobs are new to the employer, the eligible applicant, appropriate labor organization, and employer should attempt to resolve the issue within 30 days after the appropriate labor organization is informed of the "new" jobs. If no agreement can be reached within that time frame, they shall either agree to negotiate in good faith with the RA to resolve the disagreement, or select other jobs. If negotiations with the RA do not result in a resolution within 30 days, the RA shall make a determination as to whether or not the job is new to the employer; or

(4) In the case of jobs in projects to which the provisions of the Davis-Bacon Act, or any Federal law containing labor standards in accordance with the Davis-Bacon Act, apply, the prevailing wage determined by the Secretary under the Davis-Bacon Act (see 29 CFR Parts 1, 3, 5, and 7). However, in the case of such projects, financed under YETP and YCCIP under $5,000, the employer, eligible applicant, and appropriate labor organization may agree to pay youth participants not less than the applicable minimum wage and not more than the wage rate of the entering apprentice in the most nearly comparable apprenticeable trade, and to prescribe an appropriate ratio of journeymen to such participating youth to work on the project. If they cannot agree in 30 days, they may request a decision from the RA, or develop other jobs.

(d) Allowances and wages received by any youth under YETP shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally-assisted programs (Section 356).

(e) Because most jobs will be short-term and/or part-time work assignments, and are designed to enhance the employability of individuals who are new entrants who have never worked, or individuals who are new entrants who have not been working in the competitive labor market, most jobs will be at entry level. Eligible applicants, therefore, are expected to pay the minimum wage whenever feasible.

§ 97.719 Maintenance of effort. (sec. 353(b))

(a) Youth plans shall reflect the purpose of this program to provide additional resources, activities, and services over an above the current level to result in an impact on the employment problems of youth.

(b) The provisions of § 97.334 of this part prescribing substitution of Federal over and above the current level to refunds for activities previously funded through other resources apply to all activities funded under this program (sec. 353 (b),(c), and (d)).

(c) The following provisions also apply to activities funded under this program:

(i) They will not result in the displacement of currently employed workers;

(ii) They will not substitute jobs assisted under this part for existing federally assisted jobs;

(iii) They will not employ any youth when any other person is on layoff by the empoyer from the same or any substantially equivalent job in the same area;

(iv) They will not be used to employ any person to fill a job opening created by laying off or terminating the employment of any regular employee, or otherwise reducing the regular work force, in anticipation of filling vacancies by hiring youth to be supported under YETP;

(v) They will not infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service not subsidized under the Act;

(vi) They will not permit a job to be filled in other than an entry-level position in each promotional line until applicable personnel procedures and collective bargaining agreements have been complied with;

(vii) Where job restructuring will occur or where new classifications will be developed, they will not be done in order to negate established personnel procedures or to displace currently employed workers.

§ 97.720 Substitution for title I programs.

Programs funded under YETP shall be supplementary to but no treplace programs and activities for youth available under title I of the Act (secs. 95.13(b)(3) and 95.14(b)(3)(ii)(G)).

§ 97.721 Governors youth programs.

(a) Activities and services. The Governor shall use the funds allocated pursuant to section 97.703(b)(2) of this subpart to provide one or more of the following statewide youth services (sec. 343(c)).

(1) To give special emphasis to funding expanded and experimental programs in apprenticeship trades, or development of new apprenticeship arrangements, in conjunction with business, labor unions, and State apprenticeship councils;

(2) To provide funds to carry out special model employment and training programs and related services between appropriate State agencies and an eligible applicant or eligible applicants, including contractors selected by eligible applicants, with particular emphasis on experimental job training in the private sector;

(3) To provide labor market and occupational information to eligible applicants and local educational agencies without reimbursement;

(4) To foster cooperative efforts between State and local institutions which provide occupational and career guidance and counseling, as well as placement services for in-school and out-of-school youth;

(5) To fund employment and training programs as defined in section 97.716 of this subpart for eligible youth who are under the supervision of the State.

(b) *Governor's youth plan.* The Governor's youth plan shall include the following information:

(1) A Request for Approval Letter;

(2) Application for Federal Assistance (Standard Form 424);

(3) The narrative, which shall include the following:

(i) A discussion of any support to be given for expanded and experimental programs in apprenticeable trades;

(ii) A description of efforts to provide employment and training opportunities for youth under the supervision of the State;

(iii) A description of the efforts the State will undertake in the development, analysis and dissemination, of appropriate labor market information as it relates to youth;

(iv) A description of efforts to coordinate existing State services or institutions and those of the eligible applicant(s);

(v) A description of any experimental, model or demonstration programs to be operated by the State; and, any plans to assist eligible applicants in the development or operation of such programs;

(vi) A description of expected results and benefits to be derived from specific program activities under the grant; and

(4) Youth planning summary and youth budget information summary:

(i) The youth planning summary requires a quantitative statement of planned enrollment levels, the participants to be served by each program activity, and planned outcomes for program participants. It shall also include an identification of the target groups within the youth population and the number of individuals in each to be served.

(ii) The youth budget information summary shall include a quantitative statement of yearly planned expenditures by cost category, planned quarterly obligations, and planned quarterly expenditures by program activity.

(5) *Special assurances and certifications.* The Governor's youth plan shall assure:

(i) Compliance with the Governor's Agreement;

(ii) Compliance with the Youth Employment and Demonstration Projects Act of 1977 (YEDPA), other applicable CETA provisions, and the regulations in this subpart; and

(iii) Compliance with the provisions of section 343(c) of the Act.

(iv) Compliance with the Hazardous Occupations Orders issued pursuant to 29 CFR 570.50 et seq. with respect to the employment of youths under 18 years of age and the Child Labor Standards of 29 CFR 570.31 et seq. with respect to the employment of youths aged 14 and 15.

(c) *Procedures for comment, modification and approval of Governor's youth plan:* (1) In developing the Governor's youth plan, the Governor shall establish a youth council as described in § 97.705 (b) which shall report to the State Manpower Services Council (SMSC) described in § 95.13(d) of this title and shall use the SMSC as described in § 95.13 (d) and (e) of this title.

(2) In submitting the Governor's youth plan, the procedures specified in § 95.52 (a) and (b) of this title shall be followed except that:

(i) The preapplication procedures in § 95.52(b)(1) and the preapplication provisions in § 95.11 and 95.15(d), which are referenced in § 95.52, do not apply; and

(ii) For the purpose of implementing the program for Fiscal Year 1978, copies of the Governor's youth plan may be submitted to organizations as required in § 95.52(b) 15 calendar days preceding submission to the RA, during which period any comments received shall be considered.

(3) Approval procedures to be followed for the Governor's youth plan are as specified in § 95.53 of this title, except that the provision of § 95.17(b)(7), referenced in § 95.53, do not apply.

(4) The modification procedures specified in section § 95.54 of this title shall be used to modify Governor's grants under YETP.

Signed this 14th day of September 1977, in Washington, D.C.

RAY MARSHALL,
Secretary of Labor.

[FR Doc.77-27207 Filed 9-15-77;8:45 am]

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federal register

FRIDAY, SEPTEMBER 16, 1977
PART VII



POSTAL SERVICE

■

POSTAL SERVICE MANUAL

Miscellaneous Amendments

VOL. 42 NO. 180 SEPT 16 77 V
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Transmittal Letter 42, Issue 117, dated June 22, 1977 (42 FR 31592): Transmittal Letter 42, Issue 117, dated

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICES

Postal Service Manual; Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby describes and publishes the full text of numerous miscellaneous revisions of the Postal Service Manual. Some of the revisions are minor, editorial, and technical; others are substantive. As to substantive changes, the Postal Service previously published in the FEDERAL REGISTER the complete text of those changes in the course of informal rulemaking proceedings. Publication of all the changes at this time is in accordance with the incorporation by reference in the FEDERAL REGISTER of all amendments to chapter I of the Postal Service Manual.

EFFECTIVE DATE: July 13, 1977, except that the revisions of appeal procedures and the deletion of Postal Service regulations on action organizations covered by 2.2c and 2.3f of the Transmittal Letter were published in the FEDERAL REGISTER on June 22, 1977 (42 FR 31592); except that the revised definition of advertising and the marking of paid reading matter described in 2.2e and 2.3j of the Transmittal Letter were published in the FEDERAL REGISTER on May 27, 1977 (42 FR 27246); ex ept that the new rates described in 2.3g of the Transmittal Letter became effective July 6, 1977 and were published in the FEDERAL REGISTER on June 21, 1977 (42 FR 31506); except that the contractor use of agency official mail described in 2.3t of the Transmittal Letter was published in the FEDERAL REGISTER on May 13, 1977 (42 FR 24266); and except that the changes to the loose and undeliverable mail regulations described in 2.4d and 2.5 e-g were published in the FEDERAL REGISTER on March 23, 1977 (42 FR 15681), and except for any changes announced in Postal publications prior to July 13, 1977, concerning which actual notice was received.

FOR FURTHER INFORMATION CONTACT:

Paul J. Kemp, 202-245-4638.

SUPPLEMENTARY INFORMATION: Chapter I of the Postal Service Manual, which has been incorporated by reference in the FEDERAL REGISTER (see 39 CFR 111.1), has been amended by the issuance of Post Office Services (Domestic) Transmittal Letter 42, Issue 117, dated July 13, 1977.

Consistent with 39 CFR 111.3, Transmittal Letter 42, Issue 117, is hereby published in the FEDERAL REGISTER in full text, and notice of this publication is added as an amendment to § 111.3. In addition, the text of the changes is filed with the Director, Office of the Federal Register. Subscribers to the Manual will receive these amendments automatically from the Government Printing Office. (For other availability of Chapter I of the Postal Service Manual, see 39 CFR 111.2.)

In consideration of the foregoing 39 CFR 111.3 is amended as follows:

§ 111.3 Amendments to Chapter I of the Postal Service Manual.

• • • • •

Transmittal letter	Issue	Date	FEDERAL REGISTER publication
42	117	July 13, 1977	42 FR

ROGER P. CRAIG,
Deputy General Counsel.

(5 USC 552(a), 39 USC 401.)

Accordingly, Transmittal Letter 42, Issue 117, is hereby published, and reads as follows:

2 EXPLANATION OF CHANGES

.1 *Subchapter 110*

Section 114.2 amended to reflect the realignment of Inspection Service Divisions.

.2 *Subchapter 120*

a. Sections 122.514c, 162.22, 165.16, 165.134, 166.22, 167.1, 167.2 and 167.4 revised to clarify procedures for official mail.

b. Section 123.422 amended to conform with Public Law 94-525, October 17, 1976.

c. Parts 123, 132, 134 and 135 amended to clarify appeal procedures on rulings on mailability and qualifications for second-class, controlled circulation, third-class and fourth-class mail.

d. Section 125.26 amended to require that the publication number be included as a part of the notice of entry shown on sealed or unsealed envelopes used as wrappers and sealed wrappers or other sealed covers.

e. Section 125.52 amended to simply and more precisely define the term "advertising."

f. Part 126 has been revised to update the list of MPO's and mailing restrictions. Section 126.162 deleted. Sections 126.163 and 126.164 renumbered 126.162 and 126.153; Section 126.162b (previously 126.163b) amended to clarify requirements for importation of firearms by military personnel from overseas military post offices.

.3 *Subchapter 130*

a. Sections 131.11, 135.131, 135.259, 136.11, 136.63, 141.124, 169.122 and 169.541 amended to correct printing errors in Post Office Services (Domestic) Transmittal Letter 41, dated December 31, 1976.

b. Section 131.121 revised to delete the requirement that mailing labels mailed at the presort first-class rate be addressed to different addresses.

c. Section 131.122, 131.53 b and 131.61 revised to provide for mailing of presorted first-class metered mail of nonidentical weight.

d. Section 131.211 amended to specify that first-class mail receives expeditious handling and transportation.

e. Section 131.234 added to provide for weighing of bulk quantities of identical business reply mail pieces for piece count computation. Former section 131.234 has been changed to 131.235.

f. Part 132 amended to permit applications for the additional second-class privileges to be submitted simultaneously with application for second-class mail privileges. Section 132.211 amended to clarify mailability of second-class publications.

g. Section 132.111, 132.12, 133.1, 134.12, 135.131 and 135.14 updated to reflect the postage rates applicable effective July 6, 1977.

h. Section 132.211 amended to clarify mailability of second-class publications.

i. Sections 132.25 and 133.3 amended to require the publication number be shown as part of the second-class or controlled circulation imprints and to change the location of identification numbers in copies.

j. Section 132.73 amended to limit the required marking to one page of a piece of reading matter, regardless of the total number of pages.

k. Sections 134.124 and 145.565 are amended to clarify the verifying procedures for permit imprint and bulk third-class mailings.

l. Sections 134.222 a and b and 145.51c corrected to clarify that all pieces in a bulk mailing must be identical as to size and weight. The requirement that all pieces be identical as to number of enclosures has been eliminated.

m. Sections 135.111 b and 135.163 have been deleted.

Issue 117 7-13-77

POSTAL SERVICE MANUAL

Post Office Services (Domestic) Transmittal Letter 42

1 FILING INSTRUCTIONS

Remove pages headed:	Insert pages headed:
113.262—114.2 (2 sheets)	113.262—114.2 (2 sheets)
121.341—121.341 (illustration 4)(2 sheets)	121.333 (1 sheet)
122.14—122.23 (2 sheets)	122.14—122.23 (2 sheets)
122.52 (1 sheet)	122.52 (1 sheet)
123.2—123.422 (2 sheets)	123.2—123.422 (2 sheets)
123.69—124.294 (5 sheets)	123.69—124.296 (5 sheets)
125.63 (1 sheet)	125.53 (1 sheet)
126.748 (1 sheet)	126.8 (1 sheet)
126.152—131.215 (6 sheets)	126.153—131.221 (6 sheets)
131.238—131.342 (2 sheets)	131.238—131.422 (2 sheets)
131.611—132.222 (5 sheets)	131.611—132.274 (4 sheets)
132.822—134.833 (4 sheets)	132.311—132.467 (4 sheets)
134.53—135.152 (5 sheets)	132.823—134.331 (4 sheets)
139.259 (1 sheet)	134.55—135.155 (5 sheets)
136.11—141.114 (16 sheets)	135.259 (1 sheet)
148.431—144.933 (13 sheets)	136.83—141.114 (14 sheets)
146.51—146.141 (4 sheets)	142.11 (1 sheet)
147.262 (1 sheet)	143.431—144.933 (11 sheets)
152.2 (1 sheet)	145.51—146.23 (5 sheets)
154.88—156.5 (3 sheets)	147.262 (1 sheet)
156.8—158.7 (5 sheets)	152.2 (1 sheet)
159.271 (1 sheet)	154.82—156.122 (3 sheets)
159.31—159.73 (5 sheets)	156.59—158.7 (5 sheets)
159.811—161.513 (4 sheets)	159.25 (1 sheet)
161.152—161.513 (4 sheets)	159.31—159.73 (5 sheets)
161.528—161.535b (2 sheets)	159.811 (1 sheet)
161.82—161.921 (3 sheets)	161.152—161.514 (4 sheets)
163.32 (1 sheet)	161.528 (1 sheet)
163.411 (1 sheet)	161.831—161.864 (2 sheets)
164.122—164.162 (3 sheets)	163.32 (1 sheet)
166.22 (1 sheet)	163.411 (1 sheet)
166.21—168.1 (3 sheets)	164.133—164.162 (2 sheets)
168.72—169.133 (2 sheets)	166.21 (1 sheet)
169.553 (1 sheet)	166.22—168.1 (3 sheets)
171.132 (1 sheet)	168.72—169.133 (2 sheets)
171.212—171.214 (2 sheets)	169.554 (1 sheet)
171.386 (1 sheet)	171.132 (1 sheet)
	171.212—171.214 (2 sheets)
	171.386 (1 sheet)

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n. Section 135.152 has been amended to change the manner in which applicable zone charges are determined for zone-rated mail originating and/or destinating at overseas military post offices.
o. Sections 135.154, 135.155 and 135.156 renumbered 135.153, 135.154 and 135.155 respectively.
p. Title of Part 136 changed to Priority Mail. Priority mail is defined and the minimum weight for priority mail changed to 13 ounces. References to airmail and label 19 deleted.
q. Section 136.234 amended to refer to 135.152.
r. Section 137.16 added to provide instructions on submission of mailing records for franked mailings.
s. Section 137.22c added to include official mail privileges used by cooperative extension employees of the U.S. Department of Agriculture.
t. Sections 137.23 through 137.3 revised to consolidate, clarify, and eliminate redundancies in the regulations governing agency use of official mail.
Section 137.25 establishes a licensing procedure for the use of official envelope and labels by Government contractors. Section 137.273f added to cover business reply permits for Federal Government agencies and departments.
u. Section 139.23 amended to provide for the mailing of attachments at the bulk third-class rates.
v. Sections 139.312 and 145.71 revised to provide for the payment of postage on enclosures through the use of permit imprints.

.4 Subchapter 140

a. Section 144.13 amended to update the names and addresses of authorized postage meter licenses.
b. Section 144.37 revised to clarify filing procedures for postage meter licenses.
c. Section 144.46 and 144.92f amended to permit customer's meter stamps to contain a ZIP Code.
d. References in last lines of sections 146.121 and 146.124c changed to 159.412m.

.5 Subchapter 150

a. Section 151.13 has been added to provide for customer obligation in keeping a clear approach to his mailbox to facilitate mail delivery.
b. Section 155.6 revised to clarify regulations and requirements for delivery to apartment houses, family hotels and flats.
c. Section 158.111 amended to make clear that a change of address may not be filed with the Postal Service for mail bearing an employee's name addressed to the employee's post of duty.
d. Section 158.7 amended to correct an omission in the chart summarizing procedures for handling undeliverable mail and to delete references to airmail which was eliminated on March 6, 1977.
e. Sections 159.411, 159.441 — 159.445, 159.72, 159.724 and 159.813 changed and section 159.412o added to reflect implementation of new policies in handling loose and undeliverable mails.
f. Sections 159.722c(6) and 159.742 are amended to correct typographical errors.
g. New section 159.772h(8) is transferred from old section 159.442 for continuity.

.6 Subchapter 160

a. Sections 161.21 and 161.22 amended to clarify registered mail liability and charges for material covered by commercial insurance.
b. Section 161.31 amended to specify that padded envelopes are not acceptable in the registered mail service.

Director
Office of Management Services

General Information on Postal Service: Service in Post Offices

113.263

.263 Standard Levels of Service—Holidays Not Widely Observed

(All Monday Holidays: Columbus Day, Veterans' Day, Memorial Day, Washington's Birthday)

	Window	Lockbox	Firm Call	Delivery			Collection
				Business	Residential	Special delivery	
Saturday	Normal	Normal	Normal	Normal	Normal	Normal	Normal
Sunday	None	Normal	None	None	None	Normal	Starred[1]
Monday	Limited	Sunday schedule	Limited	None	None	Holiday schedule	Starred[1]

Exceptions for service reasons must be approved by the Regional Postmaster General.

[1] Whenever a holiday is observed on Monday and there are no residential collections scheduled on Sunday, a full residential collection must be scheduled on the Monday holiday.

Definitions of terms:
Normal—Service normally provided on the particular day of the week.
Residential Collection—Neighborhood boxes collected by carrier serving in those areas on normal delivery days as scheduled except as provided in footnote 1.
Starred—Collections from boxes designated as collection points with either one or two stars identifying the box.
Limited—Service adjusted to meet the limited needs of the community on the particular day.

113.262

.262 Standard Levels of Service—Holidays Widely Observed

(Christmas Day, Independence Day, Labor Day, New Years Day, Thanksgiving Day)

	Window	Lockbox	Firm call	Delivery			Collection
				Business	Residential	Special delivery	
Friday holiday							
Friday	None	Holiday schedule.	None	None	None	Holiday schedule	Starred
Saturday	Limited	Normal	Normal	Normal	Normal	Normal	Normal
Sunday	None	Normal	None	None	None	Normal	Starred
Saturday holiday							
Friday	Normal	Normal	Normal	Normal	Normal	Normal	Normal
Saturday	None	Holiday schedule.	None	None	None	Holiday schedule	Starred
Sunday	None	Normal	None	None	None	Normal	Starred
Sunday or Monday holiday							
Saturday	Limited	Normal	Normal	Normal	Normal	Normal	Normal
Sunday	None	Normal	None	None	None	Normal	Starred[1]
Monday	None	Holiday schedule.	None	None	None	Holiday schedule	Starred[1]
Tuesday, Wednesday, or Thursday holiday							
Preceding Day	Normal	Normal	Normal	Normal	Normal	Normal	Normal
Holiday	None	Holiday schedule.	None	None	None	Holiday schedule	Starred

[1] Whenever a holiday is observed on Monday and there are no residential collections scheduled on Sunday, a full residential collection must be scheduled on the Monday holiday

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113.3 GENERAL DELIVERY

.31 USE

General delivery is primarily for use at offices without carrier delivery to serve transients and for other customers who prefer not to use lockbox service. Mail endorsed, *Transient, To Be Called For, General Delivery,* or with other suitable words, will be placed in the general delivery case to be delivered to the addressee on his application and proper identification.

.32 WHERE CARRIER DELIVERIES ARE PROVIDED

General delivery service is provided at offices with carrier delivery service, for transients and customers who are not permanently located. Persons intending to remain for 30 days or more in a city having carrier service should file their names and street addresses at the post office so that their mail may be delivered by carrier unless lockbox service is desired. Persons living in cities having carrier delivery service may for good and sufficient reasons satisfactory to the postmaster receive their mail at general delivery windows.

Part 114
COMPLAINTS

114.1 POSTAL SERVICE

Complaints by individual customers about any aspect of products, services, or information may be made at any post office or regional office. Although the foregoing is recommended as an initial step, any customer may choose to direct a complaint to the Consumer Advocate, U.S. Postal Service, Washington, DC 20260. When the complaint concerns apparent mishandling of mail, furnish the related envelope or wrapper.

114.2 POSTAL LAW VIOLATIONS

Send information and complaints of postal law violations to the nearest Postal Inspector in Charge at the address listed below:

Atlanta, GA 30302	P.O. Box 4327
Boston, MA 02107	P.O. Box 2217
Chattanooga, TN 37401	P.O. Box 711
Chicago, IL 60607	Main Post Office Bldg., Room 642
Cincinnati, OH 45201	P.O. Box 2057
Detroit, MI 48232	P.O. Box 119
Fort Worth, TX 76101	P.O. Box 1230
Los Angeles, CA 90030	P.O. Box 30456
Memphis, TN 38103	P.O. Box 3180
Newark, NJ 07101	Post Office and Courthouse Bldg.
New York, NY 10001	8th Ave. and 33rd Street
Philadelphia, PA 19101	P.O. Box 7500
Pittsburgh, PA 15219	1500 Chamber of Commerce Bldg.
San Francisco, CA 94101	P.O. Box 367
Seattle, WA 98111	P.O. Box 400
St. Louis, MO 63199	200 S. Hanley Rd., 10th Floor
St. Paul, MN 55165	Main Post Office Bldg., Room 309
Washington, DC 20013	P.O. Box 1820

Part 115
MAIL TREATED IN CONFIDENCE

First-class mail is given absolute secrecy while in our custody. No persons in the Postal Service, except employees of dead-mail offices, may open first-class mail without a legal warrant, even though it may contain criminal or otherwise unmailable matter or may furnish evidence of the commission of a crime.

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.333 When several items are within a package they must be protected from each other as well as from external forces. Concentrated heavy items must not be packaged with fragile items unless extreme care is exercised to separate the items from each other. Heavy items must be adequately blocked and braced.

ILLUSTRATION 4

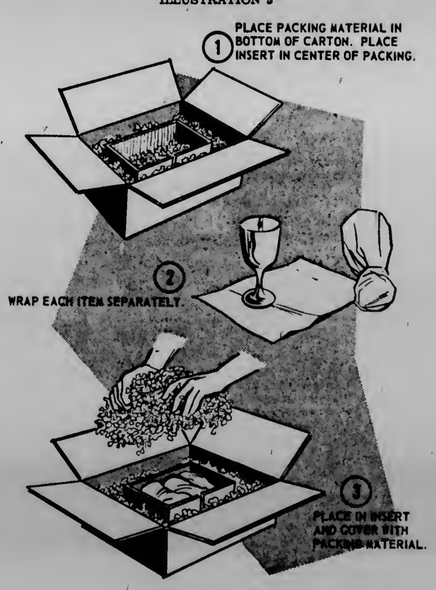


.34 CLOSURE AND REINFORCEMENT

.341 General

Closure and reinforcement of packages are primary considerations in the preparation and acceptability of any parcel. The principal methods of closure and reinforcement employ gummed and pressure sensitive tapes, adhesives, strapping, twine and cord; staples for boxes and bags; and various friction closures, screw caps and locking devices for cans and similar containers.

ILLUSTRATION 5



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46748 RULES AND REGULATIONS
46746 RULES AND REGULATIONS
46749 RULES AND REGULATIONS
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.54 AEROSOLS

Aerosol containers with inadequate friction cap closures, or other nonpositive means to prevent accidental discharge of contents, are a source of loss of contents and contamination to other mail. These cans must be so constructed as to preclude accidental discharge of contents in the mail. This may be accomplished through the use of recessed valves, screw thread caps, tape closures or other means of preventing discharge (see 124.25).

.55 HIGH DENSITY LOADS

High density loads such as gears, machine parts and tools are hazardous to other mail and Postal handling equipment. Articles of this type which weigh in excess of 15 pounds shall be packaged so as not to exert more than 60 pounds per square foot pressure.

121.6 PACKAGING IMPROVEMENT REPORT

When packaging deficiencies are noted after acceptance that are not of such a serious nature as to require refusal for dispatch or removal from the mails, the receiving Postal employee will complete a *Packaging Improvement Notice*, Form 3823, noting the potential source of loss or damage in accordance with 331.22. When damage occurs as a result of inadequate packaging, Form 3823 will be prepared in accordance with 334.723.

Part 122

ADDRESSES

122.1 GENERAL INFORMATION

.11 Write the name and the address clearly and legibly on one side only. See 124.293a(13) for exception on baby poultry.

.12 Mail must include in the address the name and the street and number; or post office box number, or general delivery; or rural or star route designation and box number (except simplified address mail as prescribed in 122.4). Mail for customers on a rural route may be addressed to street names and numbers if this type of address has been approved.

.13 All mail should bear the name and address of the actual sender to enable the Postal Service to return it (if returnable) when it is undeliverable for the reasons in 159.111. Mail bearing the same return and delivery address, or window mail with no address and a preprinted return address (obviously that of the intended addressee), without any postage is considered to bear no return address and will be sent to dead mail offices as prescribed in 159.412m. For instructions concerning mail which must bear a return address, see:

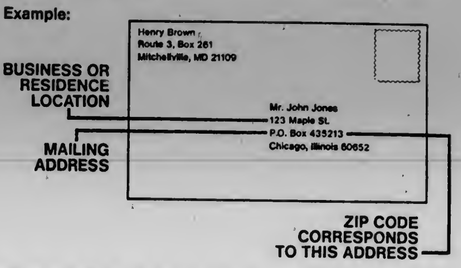
a. Second-class mail in envelopes or wrappers—125.26.
b. Fourth-class mail—135.511.
c. Priority mail—Part 136
d. Mail of any class, when its return is desired—122.3.
e. Registered mail—161.31.
f. Insured mail—162.12.
g. COD mail—163.13.
h. Matter bearing company permit imprints—145.33.

.14 Include the ZIP Code in all addresses and return addresses. See 122.6.

.15 Attach a slip to articles enclosed in parcels showing the name and address of the sender and addressee.

.16 Mail should be specifically addressed to the place where the post office is to deliver it. Mail bearing both a street address and post office box number will be distributed for delivery in accordance with the address shown on the line immediately preceding the city and State of destination, unless the addressee has issued contrary instructions. The ZIP Code shall correspond with the unit (box location or street address) to which delivery is to be effected. The requirements of this paragraph are also applicable to return addresses on mail matter.

Example:



Mail bearing the names of more than one post office in either the return address or recipient's address is not acceptable for mailing.

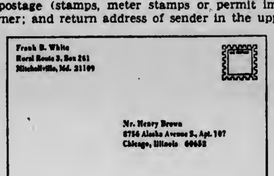
.17 Matter bearing instructions to return to *Point of Mailing* (postmark) is not acceptable for mailing.

.18 See 122.7 for special instructions on addressing second-class mail.

.19 See 122.8 for special instructions on addressing overseas military mail; see Part 127 for addressing mail via State Department to U.S. foreign service personnel abroad; and Publication 42, *International Mail*, for addressing international mail.

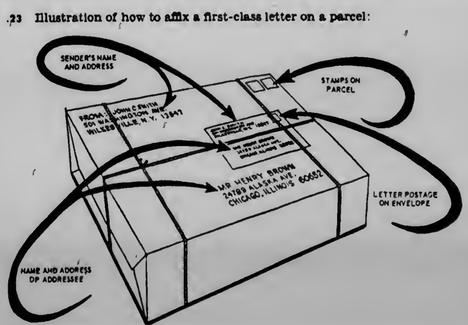
122.2 ARRANGEMENT OF ADDRESS

.21 The proper place for the address is in the lower right portion of the address area; postage (stamps, meter stamps or permit imprints) in the upper right corner; and return address of sender in the upper left corner.

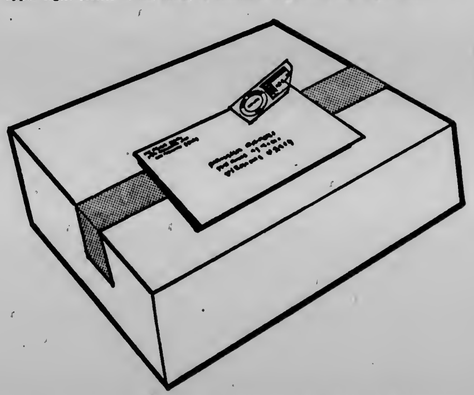


.22 Leave at least 3½ inches of clear space, from top to bottom, at the right end of the address side of envelopes, folders, or labels. This space will be used for address, postage, postmark, and other prescribed endorsements such as *special delivery*. On large envelopes or mailing pieces, leave on the right end of the address side a clear rectangular space of not less than 3 by 4¼ inches or an equivalent area, for the address, stamps, postmarks, etc. See 131.224 regarding the arrangement of the address on post cards.

.23 Illustration of how to affix a first-class letter on a parcel:



.24 Parcels which bear address labels shall have the regular or postage meter stamps affixed by accepting postal employees so that the stamps overlap the upper right corner of the label, as shown in the following illustration:



Postmasters should seek the cooperation of business mailers by asking them to affix postage in this manner. Parcels bearing address labels covering any portion of the postage or showing other significant evidence of overlabeling shall be withheld from dispatch or delivery and must be immediately reported to the nearest postal inspector or postal inspector in charge.

or changed to another post office, no charge will be made for correction if the list contains only names of persons residing on the route or routes involved.

b. Except for authorized users of official mail, payment must be made in advance by cash or money order. Do not return lists to commercial mailers until charges and postage fees have been collected.

c. Payment for correction of lists submitted by persons entitled to use the franking privilege is made under the official mail reimbursement program. The post office that serves the address must submit a report on Form 103, *Originating Franked Mail*, to:

Revenue Statistics Branch
Office of Statistical Programs and Standards
U.S. Postal Service
(Attn: Originating Franked Mail)
Washington, DC 20260

d. Payment for correction of lists submitted by Federal agencies is made under the official mail reimbursement program. Submit a report on Item 013, *Routing Slip*, or by memorandum indicating the applicable charges and the name of the Federal agency for which the list was corrected, to:

Manager, Government Revenue and Examination Branch
Finance Department
U.S. Postal Service
Washington, DC 20260

.515 Postage on Lists

Typewritten lists are subject to postage at the first-class rate. Those prepared by stencil, mimeograph, printing, or similar process may be mailed at the third- or fourth-class rate depending on the weight. Return lists to customers free of postage.

.516 Mailing List Correction Time Limitation

Within 10 working days after receipt by the employee responsible for the correction and return of mailing lists, the lists must be corrected and returned to the owners. EXCEPTION: The 10-working days time limitation shall not apply to mailing lists received for correction between November 16 and January 1. Mailing lists received for correction between these dates shall be corrected and returned at the convenience of the post office, but as early as possible.

.52 FURNISHING ADDRESS CHANGES TO ELECTION BOARDS AND REGISTRATION COMMISSIONS

Residential change-of-address information is available to duly constituted election boards or registration commissions using permanent registration, at a cost of 5 cents for each change-of-address Form 3575 notwithstanding the schedule of fees in 262.7. An election board or registration commission desiring this information must submit to the postmaster a written request signed by an authorized official. The postmaster will send the request to the Regional Postmaster General for approval. On approval, the postmaster will receive necessary instructions from the Regional Postmaster General for release, control, and return of change-of-address Form 3575.

.53 ADDRESS CARDS ARRANGED IN SEQUENCE OF CARRIER DELIVERY

Arrange address cards in sequence of carrier route delivery without charge. Each card must include only one address. Withdraw cards with incorrect, nonexistent, or other undeliverable addresses. Mailers may submit address plates or stencils instead of cards when satisfactory arrangements can be made to handle them. Insert a blank card for each existing address that is not included in the owner's address cards, plates, or stencils. If several addresses are missing in a series, insert a single blank card for the series and indicate on the card the number of addresses which are missing. The missing address must not be provided by the Postal Service. Postmasters must check to see that mailers whose lists have been arranged in sequence prepare bundles for each route with the individual pieces in address sequence. This service shall not be provided to mailers who do not make the required premailing preparation. It must not be provided as a substitute for the list correction service provided by 122.51.

.54 FURNISHING CITY AND STATE SCHEMES

To assist volume mailers in preparing their mailings, postmasters may furnish, on request, a copy of the city scheme or the State scheme used by clerks for sorting mail, and he may arrange address cards, plates, or stencils by carrier routes.

.55 ZIP CODING OF MAILING LISTS

.551 Single-ZIP-Coded Offices

It is the mailer's responsibility to ZIP Code mailing lists for the single ZIP-Code post offices described in 122.632 and the multi-ZIP-Codcd post offices described in 122.633 (see also 122.634).

.552 Multi-ZIP-Coded Post Offices

Under the following conditions, post offices will sort mailing lists consisting of addresses for the multi-ZIP-Coded post offices described in section 122.633 (see also 122.634) according to five-digit ZIP Code delivery units at a charge of $1.50 per thousand addresses or fraction thereof, payable to the local postmaster upon submission of the list:

a. Mailers with EDP equipment must first match their mailing lists with Postal Service EDP magnetic tapes or data processing cards, or both, to obtain the maximum number of ZIP Codes for those addresses which were previously zoned and which were unaffected by zone boundary changes when the ZIP Code system was introduced. It will also provide ZIP Codes for one-code offices. The addresses to be separated by the post offices must be submitted on cards about the size and quality of a postal card. Data processing cards are acceptable. The cards must be separated by the post offices of address and submitted by the owner to his local post office.

b. Post offices will not write ZIP Codes on individual cards. The cards will be sorted to local ZIP Code areas by city primary distributors and will be securely tied in bundles with a facing slip on each bundle reading "All for ZIP Code Area _____." Return the ZIP Coded bundles to the post office or the owner according to who submitted the cards.

c. Mailing lists should be wrapped by the owner for mailing, when practicable, and must bear the name and address of the owner. The local postmaster shall enclose addressed penalty labels (Label 41) for use in returning the coded cards to his office.

d. Gummed labels, wrappers, envelopes, or postal or post cards indicative of one-time use will not be accepted as mailing lists.

.823 Dependants Residing with Military Personnel

a. Address mail to dependents for delivery through the sponsor's military unit in care of the sponsor. Example:

Master Robert Brown
c/o Sgt. Michael Brown, 081-32-6959
Company A, 6th Bn., 10th Inf.
Fort Gordon, GA 30905

b. Mail addressed to dependents for delivery at the sponsor's military quarters need not be addressed in care of the sponsor. Example:

Master Robert Brown
2519 C Street
Wright-Patterson AFB, OH 45433

.83 GEOGRAPHICAL ADDRESS

Mail showing a foreign city and country in addition to the military address is subject to the rates of postage and conditions for international mail. (See Publication 42, *International Mail*.)

Part 123

NONMAILABLE MATTER—WRITTEN, PRINTED AND GRAPHIC MATTER

123.1 GENERAL PROVISIONS

.11 SCOPE

Certain potentially undesirable, harmful or dangerous matter has been declared nonmailable by statute or regulation. This part contains the rules relating to such nonmailable matter in written, printed or graphic form. The rules relating to nonmailable articles and substances and the special conditions under which certain of them can be mailed are contained in Part 124.

.12 RULES

This part contains rules on advising mailers on mailings of matter covered in parts 123 and 124. These rules restrict postmasters in making decisions to exclude written, printed and graphic matter from the mails as nonmailable. See 123.3.

.13 OTHER NONMAILABLE MATTER

Matter is also nonmailable when it cannot be forwarded to its destination because of illegible, incorrect or insufficient address, or because it fails to comply with postal regulations regarding preparation for mailing, classification, rates of postage, size, weight, etc.

123.2 RESPONSIBILITY OF MAILER

It is the responsibility of the mailer to refrain from depositing nonmailable matter in the mails. When a mailer is in doubt as to whether particular matter is nonmailable, he should inquire of the postmaster prior to depositing such matter in the mails. See 123.3.

123.3 ADVICE TO MAILERS—MAILABILITY DECISIONS

.31 GENERAL ADVICE

When a mailer seeks advice from the postmaster as to whether particular matter may be mailed, or where the postmaster otherwise learns that matter of questionable mailability is to be mailed, it is the postmaster's responsibility to call to the mailer's attention the relevant provisions of Parts 123 and124 and any relevant guidelines issued by the Postal Service. The scope of the postmaster's authority to decide whether particular matter is nonmailable, and to exclude matter from the mails in accordance with his decision, depends upon the nature of the matter in question and is determined by this section.

.32 MAILABILITY DECISION NOT AUTHORIZED—WRITTEN, PRINTED AND GRAPHIC MATTER

Postmasters are *not* authorized to decide whether written, printed or graphic matter (Part 123) is nonmailable and to exclude such matter from the mails in accordance with their decisions. As stated in 123.31, postmasters should call the attention of prospective mailers of such matter to any apparently relevant provisions of Part 123. If, after being so informed, the mailer demands that matter described in Part 123 be accepted for mailing, such matter shall be accepted and shall be treated as provided in 123.35.

.33 MAILABILITY DECISIONS AUTHORIZED

Postmasters *may* decide whether articles and substances (Part 124) are nonmailable and shall, where appropriate, refuse to accept for mailing such matter determined to be nonmailable. Where necessary, it is recommended that the postmaster consult the postal services center for guidance in determining mailability. If the mailer desires review of the postmaster's decision, the postmaster shall refer a sample or complete statement of the facts, whichever may be appropriate, to the Director, Office of Mail Classification, Rates and Classification Department. Further appeal may be made in accordance with 123.37.

.34 LAWS AND REGULATIONS OF OTHER AGENCIES

Postmasters shall not give advisory opinions concerning the mailing of articles and substances (Part 124) under laws and regulations administered by agencies other than the Postal Service, but postmasters shall inform postal customers of the existence of such laws and regulations, and the source from which further information may be obtained, when known. For example, postal customers with questions about the interstate shipment of rifles and shotguns should be referred to the Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, DC 20226, or to the nearest regional director of that Bureau.

.35 REFERRAL TO THE INSPECTION SERVICE

.351 Mail matter, believed to be nonmailable under this part, that has entered the mails, or a report containing information on such matter, shall be referred immediately to the Inspection Service and the matter shall be handled in accordance with instructions promptly furnished by the Inspection Service.

.352 Mail matter, believed to be nonmailable under Part 124, that has entered the mails shall be withheld from dispatch or delivery. Matter coming within the scope of 124.4 thru 124.7 (firearms and switchblade knives, controlled substances, motor vehicle master keys, abortive and contractptive devices and materials, and intoxicating liquors) or a report containing information on such matter, shall be immediately referred to the attention of the Inspection Service. All other articles and substances, or a report containing information on such matter, shall be referred to the Director, Office of Mail Classification, Rates and Classification Department. Postmasters are authorized and directed to take any steps reasonable and necessary to protect Postal Service personnel and equipment from the effects of potentially dangerous or injurious materials or substances found in the mails.

.36 JUDICIAL DETERMINATIONS

The other provisions of this Part do not apply to matter, the mailability of which has been determined by the Judicial Officer or a court of competent jurisdiction. Such matter shall be treated in accordance with the applicable decision of the Judicial Officer or court, whichever is appropriate.

.37 ADMINISTRATIVE APPEALS

A mailer may appeal any unfavorable mailability decision under part 123 or part 124 by filing a written *Notice of Appeal* with the Docket Clerk, U.S. Postal Service, Washington, DC 20260, together with a copy or description of the determination or ruling in question. Such appeals shall be governed by 39 CFR Part 953, *Rules of Practice in Proceedings Relative to Mailability*.

123.4 NONMAILABLE WRITTEN, PRINTED OR GRAPHIC MATTER GENERALLY

.41 SOLICITATIONS IN THE GUISE OF BILLS, INVOICES OR STATEMENTS OF ACCOUNT (39 U.S.C. 3001(d))

Any otherwise mailable matter which reasonably could be considered a bill, invoice, or statement of account due, but is in fact a solicitation for an order, is nonmailable unless it conforms to the following requirements:

a. Each such solicitation shall bear the notice: THIS IS NOT A BILL. The notice shall appear on the face of such solicitation in boldface capital letters of a color prominently contrasting with the background against which it appears, including all other print thereon, and at least as large and as bold as any other print thereon but not smaller than 30-point type. The notice shall be located in accordance with one of the following options:
   (1) On the center of the diagonal described by a straight line drawn from the vertex of the lower left corner to the vertex of the upper right corner; or
   (2) Overprinting each portion of the solicitation which reasonably could be considered to specify a monetary amount due and payable by the recipient.
b. In addition to the requirements in a., such solicitation shall bear on its face the following disclaimer:
   THIS IS A SOLICITATION. YOU ARE UNDER NO OBLIGATION TO PAY UNLESS YOU ACCEPT THIS OFFER.
c. The disclaimer shall meet the following requirements:
   (1) It shall be surrounded by clear space of at least one-quarter inch;
   (2) It shall appear in boldface capital letters no smaller than 18-point type and of the same color as the notice required by .41a; and
   (3) It shall not, by folding or any other device, be rendered less prominent than any other information on the face of the solicitation.
d. Any solicitation which states that it has been approved by the Postal Service or by the Postmaster General or that it conforms to any postal law or regulation is nonmailable.

.42 LOTTERY MATTER (18 U.S.C. 1302)

.421 Any scheme or promotion, whether or not lawful under the laws of any state, which, upon payment of consideration, offers a prize dependent in whole or in part upon lot or chance, is a lottery.

.422 The following matter is unlawful mail matter:

a. Any letter, package, postal card, or circular which advertises, invites or otherwise permits or facilitates participation in a lottery;
b. Any lottery ticket or part thereof or substitute;

c. Any form of payment for a lottery ticket or share;
d. Any newspaper, circular, pamphlet, or publication of any kind containing any advertising of a lottery or similar enterprise, or any list of prizes awarded in such an enterprise.

.423 This section does not apply to any fishing contest not conducted for profit, wherein prizes are awarded for the species, size, weight, or quality of fish caught by contestants in any bona fide fishing or recreational event (18 U.S.C. 1305).

.424 This section does not apply to an advertisement, list of prizes, or information concerning a lottery conducted by a State acting under the authority of its law contained in a newspaper published in that State or in an adjacent State which conducts such a lottery, or to the mailing to addresses within a State of tickets or other material concerning a lottery conducted by that State under the authority of its law (18 U.S.C. 1307).

.43 ADVERTISING MATTER

.431 Any advertising, promotional, or sales matter which solicits or induces the mailing of any article described in 124.2, 124.3, 124.47, 124.5 and 124.8 (harmful matter, radioactive material, controlled substances, knives and sharp objects and intoxicating liquor as well as pens, bottle caps and odd shaped items in envelopes), is likewise nonmailable, except that such matter relating to articles described in 124.2, 124.3, 124.47, 124.5, 124.83, 124.84, and 124.85 is mailable if it contains packaging instructions and any other limitations on mailing which are in accordance with such provisions of Part 124 (18 U.S.C. 1716).

.432 Advertisements for motor vehicle master keys (see 124.62) are nonmailable (18 U.S.C. 1716 A, 39 U.S.C. 3002).

.433 Any advertisement or other written representation that any article, substance, or thing may or can be used for producing abortion is nonmailable, except when the mailer has no commercial interest in any such item (18 U.S.C. 1461). (See 124.71.)

.434 Unsolicited advertisements for articles or things which are designed, adapted or intended for preventing conception are nonmailable, except when sent to a manufacturer of such articles or things, a dealer therein, a licensed physician or surgeon, or a nurse, pharmacist, druggist, hospital or clinic, or when the mailer has no commercial interest in any such item. Advertisements contained in a publication for which the addressee has paid or promised to pay a consideration, or which he has otherwise indicated he desires to receive, are not deemed unsolicited for the purposes of this section (39 U.S.C. 3001). (See 124.72.)

.44 OTHER PROHIBITED MATTER

The following are nonmailable:

a. *Fictitious Matter (18 U.S.C. 1342).* Any matter addressed to a person using any fictitious name, title, or address in conducting, through the mail, any scheme or device in violation of law if, after notification, the addressee fails to appear at the post office and be identified, or if the fictitious character of such mail is established to the satisfaction of the Judicial Officer in consequence of a proceeding initiated pursuant to 39 C.F.R. Part 953.
b. *Copyright Violations (17 U.S.C. 109).* Mail of foreign origin containing matter determined by a court of competent jurisdiction to violate the copyright laws of the United States, or any copyright convention or treaty to which the United States is a party.
c. *Certain Foreign Communications.* Matter addressed to foreign countries posted in violation of law or treaty stipulation.

will constitute an application for enforcement of the order. When the Postal Service finds, after appropriate administrative proceedings as described in Publication 125 and Title 39, Code of Federal Regulations, Part 916, that enforcement action is warranted, it requests the Department of Justice to seek a court order directing compliance with the prohibitory order.

.66 ABANDONMENT OF APPLICATIONS

An applicant for a prohibitory order or its enforcement will be deemed to have abandoned his application if he fails to comply, within 60 days, with any request by the Postal Service to supplement, correct, or complete his application. Abandoned applications need not be retained by the Postal Service.

.67 VOID ORDERS

A prohibitory order will be considered void upon expiration of five years from the date of issuance, except that when application for enforcement of a prohibitory order has been made, it will not be considered void until expiration of five years from the last application for enforcement. Postal Service files relating to such void orders may be disposed of provided a record is maintained of the disposal of each such file and the reason therefor.

.68 MODIFIED ORDERS

.681 An addressee protected by a prohibitory order who has a permanent change of mailing address may continue the protection provided by the order by notifying the mailer of his change of address and his desire to have the order honored with respect to the new address. The notification should be in writing and should be forwarded to the mailer by registered mail, return receipt requested. The notification should state that the addressee previously obtained a prohibitory order, and should identify the order by giving the prohibitory order number. It should also state the address covered by the order, that the addressee has had a permanent change of address, and the new address which the addressee wishes covered.

.682 To permit enforcement with respect to any violation of the order at the new address, a copy of the notification and return mailing receipt must be submitted to the postal services center which issued the order. Such written notification shall modify the order by substituting the new address for the address designated in the original or previously modified order. An order thus modified will take effect in the same manner as the original order.

.69 RATIFIED ORDERS

Orders issued on behalf of persons who had not attained nineteen years of age will not be enforced with respect to mailings received by such persons after they attain the age of nineteen, unless they ratify the order by giving written notice to the postal services center which issued the order that they wish to have the order continue in effect as to themselves. Such notice should include the prohibitory order number.

Part 124

NONMAILABLE MATTER—ARTICLES AND SUBSTANCES; SPECIAL MAILING RULES

124.1 GENERAL PROVISIONS

.11 SCOPE

Certain potentially harmful or dangerous articles and substances are nonmailable. Some of them may be mailed if specially prepared for mailing, or if mailed between specified classes of persons. This Part covers the rules applicable to nonmailable articles and substances and the special rules under which certain of them may be mailed. See Part 123 for rules relating to nonmailable written, printed or graphic material.

.12 RESPONSIBILITY OF MAILER

The mailer is responsible for compliance with applicable postal laws and regulations governing mailability and preparation for mailing, as well as other laws and regulations pertaining to the shipment of particular matter. The general requirements applicable to preparation, packaging, and packing of mailable matter are contained in Part 121.

.13 MAILABILITY RULINGS

For rules on giving advice as to the mailability of matter covered by this Part and Part 123, see 123.3.

.14 OTHER LAWS AND REGULATIONS

The customer's right to mail particular matter may be affected by conditions or limitations upon transportation of specific articles imposed by Federal agencies having jurisdiction over interstate transportation. See, for example: 49 CFR Parts 100 through 189 (Department of Transportation Regulations); 14 CFR Part 103 (Federal Aviation Regulations); the *Comprehensive Drug Abuse Prevention and Control Act of 1970* (Public Law 91-513), 21 U.S.C. 801; and the *Gun Control Act of 1968* (Public Law 90-618), 18 U.S.C. 921. For the rule on advising mailers about these other laws and regulations see 123.34.

.15 MARKINGS AND LABELS

.151 *Identification of Contents*

The identity or nature of contents of anything mailed under any of the provisions of Part 124, except firearms and switchblade knives (124.4), controlled substances (124.5) and motor vehicle master keys (124.8), must be stated plainly on the outside of the parcel as a condition of mailing. When the contents are hazardous material subject to Title 49 CFR, each package must be clearly marked on the outside with the required shipping name as set forth in 49 CFR Section 172.5.

.152 *Address Marking*

The name and address of both the mailer and the addressee must be affixed to the outside of any package, the mailing of which is covered by Part 124, using a material or method which is not water soluble and which cannot be easily rubbed off or smeared.

.153 *Labels*

Except for controlled substances mailed under 124.5, labels or other markings required by Federal law or regulation of any Federal agency must be securely affixed to the outside of the package. If the package is to be trans-

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ported via aircraft, it must also bear the appropriate Department of Transportation hazardous material label.

.154 *Shipment by Aircraft Certification*

Every shipment of restricted articles mailable under Part 124, which will be transported by aircraft, shall be accompanied by a shipper's certification prepared in accordance with Federal Aviation Regulations, completed and signed in triplicate by the mailer.

.155 *Customs Declaration for Canal Zone*

Any package of merchandise, weighing 16 ounces or more, addressed to an individual in the Canal Zone must have customs declaration Form 2966–A, *Parcel Post Customs Declaration* (adhesive), and Form 2966, *Customs Declaration* (tie-on-tag), attached. Parcels addressed to a U.S. Government agency, including the Panama Canal Company, and the Canal Zone Government are exempt from this requirement.

124.2 HARMFUL MATTER (18 U.S.C. 1716)

.21 GENERAL

Except as provided below, any article, composition, or material which may kill or injure another, or injure the mail or other property, is nonmailable. Harmful matter includes, but is not limited to:

a. All kinds of poison or matter containing poison;
b. All poisonous animals, except scorpions (see 124.293d) all poisonous insects, all poisonous reptiles, and all kinds of snakes;
c. All disease germs or scabs;
d. Narcotics and other *controlled substances* as defined by 21 U.S.C. 801 or the regulations thereunder; and
e. All explosives, flammable material, infernal machines, and mechanical, chemical, or other devices or compositions which may ignite or explode. Harmful matter also includes that which is likely to destroy, deface, or otherwise damage the mails or postal equipment, or which is likely to harm postal employees, such as caustic poisons (acids and alkalies), oxidizing materials, or highly flammable liquids, gases or solids; or which is likely under conditions incident to transportation to cause fires through friction, through absorption of moisture, through spontaneous chemical changes, or as a result of retained heat from manufacturing or processing; explosives or containers previously used for shipping high explosives having a liquid ingredient (such as dynamite), ammunition; fireworks; radioactive materials; matches; or articles emitting obnoxious odors. (For advertisements for the mailing of harmful matter generally, see 123.431.)

.22 CHEMICALS

The great variety of chemical compositions precludes the listing of each such item that may be mailed and each such item that may not be mailed. The acceptability of chemicals for mailing generally depends upon container fluid/vapor capacities, the ability of the complete package to contain the product, and the method of absorbing and containing the product in case of accidental leakage of the primary container. To permit mailability determinations on specific products, the following information is required:

a. Name of material.
b. Chemical composition by percentage of ingredient.
c. Flash point.
d. Toxic properties.
e. Irritant action to eyes and skin.
f. Special precautions necessary to permit handling to avoid harm to postal personnel or property or other mail matter.

g. Explanation of warning labels required by State or Federal regulations.
h. Proposed method of packaging.

.23 EXPLOSIVES

All explosives, as defined by Title 49, CFR, are nonmailable, except for toy propellant devices and some safety fuses upon specific approval of the Office of Mail Classification.

.24 FLAMMABLE MATERIAL

.241 *Flammable Solids and Oxidizing Materials; Matches*

a. Flammable solids are those items, other than explosives, which are liable to cause fires through friction, absorption of moisture, spontaneous chemical changes, or retained heat or which can be readily ignited and when ignited burn rapidly, vigorously and persistently. Oxidizing materials are those, such as peroxide, which yield oxygen readily to stimulate combustion of organic matter. Flammable solids and oxidizing materials in general are subject to the rules relating to the mailability of chemicals.
b. Matches are mailable under the following conditions:
   (1) Strike-anywhere matches may not be mailed.
   (2) Safety matches (book, card or strike-on-box) may be mailed under the following conditions:
      (a) When offered for transportation, they must be of a type that will not ignite spontaneously when subjected for eight consecutive hours to a temperature of 200°F. (93.3°C), in a properly conducted laboratory test.
      (b) They must be of a type that will not ignite spontaneously under conditions normally incident to transportation and of a type which can be readily ignited by friction only by striking on the manufacturer's (or similar) box, card, or book.
      (c) Matches exceeding 3 inches in length, or having a stick exceeding .015 square inch in cross-section area, must be packed in outside fiberboard or wooden boxes.
      (d) They must be tightly packed to prevent movement within the container and to prevent ignition by rubbing against adjoining boxes, books, or cards.
      (e) They may be packed in the same outside container with nonflammable articles when packed in outside fiberboard or wooden boxes. Such matches must be compactly packed in tightly closed inside container or securely wrapped so as to prevent accidental ignition.
      (f) Shipments to be sent by air transportation shall be marked, *ORA, Group C - Safety Matches*. A shipper's certificate is not required.
   (3) Although safety matches are admitted in the domestic mail, they are prohibited in the international mail (see 323.133 of Publication 42, *International Mail*).

.242 *Flammable Liquids*

a. Flammable liquids and semi-liquids with a flash point of 20°F (-6.7°C) or below are nonmailable. If the flash point is above 20°F (-6.7°C) up to 100°F (37.8°C) the item may be accepted in the domestic surface mail. Flammable liquids must be in metal containers not over one quart capacity or in other containers not over one pint capacity, each packed in a strong outside container.
b. Combustible liquids with a flash point at or above 100°F (37.8°C) up to and including 200°F (93.3°C) may also be accepted for domestic and international air transportation and surface international mail subject to the quantity restrictions described below. There are no restrictions for liquids with a flash point above 200°F (93.3°C). Combustible liquids shall not exceed one gallon in containers each packed in a strong outside container. For air transportation and international mail, each outside container must

have sufficient absorbent cushioning within to take up all leakage. The cushioning material and primary container shall be enclosed within another sealed container within the outside container and the flash point shall be listed on the outside of the parcel. A shipper's certification is required for air shipment.

.25 GASES

Compressed gas containers containing gaseous matter must be of metal or of other nonshattering material meeting Federal requirements applicable to the interstate transportation of gases. Containers with release mechanisms must be cushioned to absorb shock and protected against damage or accidental discharge in transit (see 121.54). Definitions of terms covering compressed gases are set forth in Title 49, CFR. These items are generally considered mailable if exempt from specification packaging requirements of Title 49 CFR and associated tariffs applicable to their interstate transport. Nonexempt items are nonmailable.

.26 POWDERS

Powders which, if allowed to escape from their containers, could cause damage, discomfort, destruction or soiling, must either be packed in sift-proof containers or in other containers sealed in durable sift-proof outer containers.

.27 POISONS

.271 *Highly Toxic Poisons for Scientific Use*

Highly toxic poisons for scientific use, which are not outwardly or of their own force dangerous or injurious to life, health or property, may be shipped only between manufacturers, dealers, bona-fide research or experimental scientific laboratories, and employees of the Federal, State, or local governments who have official use for such poisons. Any such employee must be designated by the head of his agency to receive or send such poisons.

.272 *Highly Toxic Poisonous Drugs and Medicines*

Highly toxic poisonous drugs and medicines may be shipped only from the manufacturer thereof or dealer therein to licensed physicians, surgeons, dentists, pharmacists, druggists, cosmetologists, barbers and veterinarians (18 U.S.C. 1716).

.28 DISEASE GERMS AND BIOLOGICAL PRODUCTS

.281 *Packaging*

Disease germs and scabs, such as contained in etiologic agents, diagnostic specimens and biological products which may cause disease, are nonmailable, except when it is determined that such items are properly prepared for mailing and conform to Federal requirements applicable to interstate transportation of such matter. To be accepted, such matter must be packaged in waterproof inner containers which are not permeable by the contents. When other than dry items are mailed, the inner container(s) must then be packaged in sufficient absorbent cushioning material to completely absorb the contents in case of leakage of the inner container. The cushioning and inner container(s) of liquid or semi-liquid must then be enclosed in a sealed nonpermeable outer container, which may also serve as the shipping container.

.282 *Marking*

When applicable, the outer containers will have required marking affixed (e.g., the etiologic agent label required for international mail by section 221.123a, Postal Service Publication 42, and Title 42 CFR Section 72.25).

.29 PERISHABLE MATTER

.291 *Time Factor*

Harmless live animals, perishable foods, and game may be sent through the mail only if they can reach their destination in good condition in the normal transit time between the mailing and address points. Perishable foods may be shipped at the mailer's risk, provided they are not subject to rapid decay and the generating of obnoxious odors. Priority mail, special handling, or special delivery services are recommended.

.292 *Highly Perishable Food and Game*

a. Crates, boxes, baskets, or other containers used to ship highly perishable goods should be constructed to protect the contents and to prevent their escape.
b. Berries, fruits, and vegetables are not mailable unless presented in dry condition.
c. Water ice used as a refrigerant must be packed as though it were a liquid in accordance with 121.53. Dry ice (carbon dioxide solid) is acceptable when wrapped securely in heavy paper. Dry ice must not be packed in glass, metal, or other air-tight containers. Sufficient insulation is necessary if a fiberboard box is used, in order to prevent condensation and wetting of the shipping carton.

.293 *Live Animals*

a. *Live Day-Old Poultry*

Live day-old chickens, ducks, geese, pheasants (during the period April through August), guinea fowl, and turkeys are acceptable in the mail only under the following conditions:

(1) They must be presented for mailing in the original unopened hatchery box from the hatchery of origin.
(2) The date and hour of hatching must be noted on the box by a representative of the hatchery who has personal knowledge thereof. (In the case of COD shipments made by a hatchery for the account of others, the name or initials and address of the hatchery or the post office box number and address of the hatchery, must be prominently shown in connection with this requirement.)
(3) They must not be over 24 hours old.
(4) The box must be properly ventilated and of proper construction and strength to bear safe transmission in the mail. (These boxes will not be stacked more than 10 high).
(5) They can be delivered to the addressee within 72 hours of the time of hatching regardless of whether the addressee resides in town or on a rural or star route.
(6) They must be mailed sufficiently early in the week to avoid receipt at the office of address, in case of missed connections, on a Sunday, on a national holiday, or on the afternoon preceding a Sunday or holiday.
(7) Shipments shall not be forwarded to the addressee from the office of origin address nor returned to mailer if delivery cannot be made to either the addressee or sender within 72 hours of the time of hatching, but will be disposed of in accordance with 159.28. Shipments that are delayed beyond the 72-hour limit by washouts, snow blockades, wrecks, and the like, will be disposed of by postmasters in accordance with instructions in 159.28.
(8) If a COD shipment is received at the office of address and it is not promptly accepted by the addressee, it will be held for delivery until the expiration of the 72-hour period from the time of hatching, if

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there is a possibility that delivery may be made within that period. If, at the expiration of the 72-hour period, the shipment has not been accepted, it will be sold. COD shipments will not be sold to the original addressee unless paid for in full, including all postal service charges. If the parcel is sent as ordinary or insured mail, it will be disposed of in accordance with 159.28.

(9) Boxes of day-old poultry of approximately identical size, securely fastened together to prevent separation in transit, may be accepted for mailing as a single parcel, provided such parcel does not exceed 100 inches in length and girth combined.

(10) Day-old poultry, originally shipped by air express or air cargo and then presented for mailing, must be in first-class condition, and prepared in accordance with paragraphs (1) through (6).

(11) The shipments must bear special delivery or special-handling postage in addition to regular postage.

(12) Day-old poultry vaccinated with Newcastle Disease (live virus) are nonmailable.

(13) Each box should bear, in addition to the address label on top, another address label on the side, or the narrow end, if the box is rectangular in shape, to eliminate unnecessary handling when boxes are stacked.

(14) Whenever live, day-old poultry is to be transported by aircraft, all provisions of the airline tariffs must be met and air carriers must have equipment available to safely deliver shipments within the specified time limitations, allowing for delays enroute in air and ground transportation.

(15) Day-old pheasants may only be accepted in the mail for the period of April through August each year.

b. *Other Animals*

(1) *Mailable.* Small, harmless, cold-blooded animals (except snakes) which do not require food or water or attention during handling in the mail and which do not create sanitary problems or obnoxious odors are mailable. For example, the following are mailable: Baby alligators and caymans not exceeding 20 inches in length, bloodworms, earthworms, mealworms, chameleons, frogs, toads, goldfish, hellgrammites, newts, salamanders, leeches, lizards, snails and tadpoles. Turtles (including terrapins, tortoises and all other animals of the Order *Testudinata*, Class *Reptilia*) with a carapace not exceeding 2½ inches in length, and viable turtle eggs, may be accepted for mailing only when accompanied by a certificate issued by the State Health Department of the State of origin certifying that such turtles or viable turtle eggs are free of bacteria of the *Salmonella* and *Arizona* genera. The certification shall be based upon results obtained through the test procedures specified by the Department of Health, Education, and Welfare (see 42 CFR 72.26). The mailing containers shall be marked in bold block letters: TURTLES OR TURTLE EGGS—COMPLIES WITH 124.293b, PSM. Turtles with a carapace exceeding 2½ inches in length are nonmailable. Animals mailed into the Trust Territory of the Pacific Islands require a permit issued by the Director of Agriculture of that Territory.

(2) *Nonmailable.* No warm-blooded animals except day-old poultry are acceptable. The following are examples of animals which are not mailable: Hamsters, white mice, rats, guinea pigs, rabbits, kittens, puppies, chickens, flying squirrels, parakeets, canaries and pigeons.

c. *Insects*

(1) Bees are acceptable in the continental surface mail when shipped in accordance with Federal and State regulations to assure that they are

free of disease. Packages of honey bees must bear special delivery or special handling postage. Queen honey bees only may be shipped by aircraft.

(2) Other live, nonpoisonous and nondisease-conveying insects may be sent through the mail, when properly prepared for mailing and when shipped in accordance with regulations of the U.S. Department of Agriculture. When such insects are mailed into the Trust Territory of the Pacific Islands, they are also subject to regulations of the Director of Agriculture of that Territory.

d. *Live Scorpions*

Live scorpions which are to be used for purposes of medical research or for the manufacture of antivenin will be accepted only in the continental surface mail when packaged in a double mailing container, both parts of which are closed or fastened to prevent escape of the scorpions. The inner container must be of material which cannot be punctured by the scorpions and must be plainly marked *Live Scorpions*. Cushioning material must be used when necessary to prevent shifting of the inner container. The outer container must be of sufficient strength to prevent crushing of the package or exposure of the contents during normal handling in the mail, and also must be plainly marked *Live Scorpions*.

e. *Packaging*

Shipping containers for mailable animals must be, at a minimum, made of 275 pound test, double wall, corrugated, weather resistant fiberboard (W5c) or equivalent and must be adequately ventilated. They must be constructed to prevent escape of the animals while in the mail and to preclude the container and its contents from being crushed in normal handling. They must be marked with a return address and a description of the contents. Packages marked *If Undeliverable Abandon* shall not be accepted.

.294 *Meat and Meat Products*

a. *Certificate Required*

Shipments of meats and meat products may be sent through the mail only if they conform with regulations of the U.S. Department of Agriculture under Federal statutes. Each shipment must be accompanied by a certificate by the mailer, unless the shipment shows on the outside the mark of Federal meat inspection. The mailer's certificate may be applied directly to the outside of the parcel, container or wrapper (in the case of volume shippers), or be submitted on Form 3583 filed at time of mailing (see 124.294c).

b. *Mark of Federal Meat Inspection*

Outside containers used to mail meat or meat products bearing the following mark of Federal Meat Inspection may be accepted without requiring a certificate:



c. *Form of Certificate*

(1) Volume shippers of U.S. inspected and passed products may elect to rubber hand stamp or by other means affix the following certificate to the address side of each package of meat and meat products:

I hereby certify that the following described product, which is offered for shipment in commerce, has been U.S. inspected and passed by the U.S. Department of Agriculture, is so marked, and at this date is not adulterated or misbranded.

Kind of product	Amount and weight
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----------	----------
----------	----------

Signature of Shipper

Address of Shipper

(2) Mailers not preparing their shipments as provided in 124.294b or c(1) should use Form 3583 *Certificate of Shipper Interstate Mail Shipment of Meat or Meat-Food Products*. The form is designed for use by all other shippers of meat or meat-food products subject to the inspection regulations of the U.S. Department of Agriculture. Three types of certificates are included in the form. The shipper must complete both sides of the form and submit it to the postmaster with each shipment.

d. *Disposition of Form 3583*

The original Form 3583 shall be filed in such a manner as to be readily available to authorized Department of Agriculture employees. This original shall be maintained for a period of two years after December 31 of the year in which the transaction occurred. A copy will be provided the mailer upon request.

.295 *Dead Wild Animals*

The dead bodies, or parts thereof, of any wild animals, wild birds or their eggs, are acceptable for mailing only when they have been lawfully killed or taken, and their shipment is not prohibited by law of the United States or of the State, Territory, district or foreign country or subdivision thereof in which killed or taken or offered for shipment. Mailing of fresh game is also subject to requirements of 124.294.

.296 *Furs, Hides, Skins, or Pelts*

a. Parcels containing furs, hides, skins, or pelts of wild animals are mailable only when their contents are properly dried or cured, have no offensive odor, and are plainly marked, labeled or tagged on the outside with the names and addresses of the shipper and addressee, together with such endorsement, if any, as may be required by State laws.

b. Hides and pelts must be wrapped when necessary to prevent damage to other mail.

.297 *Plant Quarantines*

Regulations on plant quarantines are found in Postal Service Publication 14.

124.3 RADIOACTIVE MATERIAL (18 U.S.C. 1716)

Radioactive material may not be mailed except in accordance with the regulations found in Publication 6. (For advertisements for the mailing of radioactive material see 123.431.)

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.512 *Copy Marked To Show Advertising*

The publisher must file, either with the postmaster of the original entry office or the postmaster of the additional entry office where the publication is produced or prepared for mailing, a copy of each edition of each issue marked by the publisher in such manner that the advertisements in the copy may be verified when necessary. The postmaster of the entry office where the marked copies are filed will promptly furnish to the postmasters of all the other entry offices statements of the verified per copy weights and the percentage of advertising shown by each marked copy. When the statements are not promptly received by the postmasters of the other entry offices, they should request the postmaster of the office where the marked copies were filed to furnish them. Continued failure to furnish the statements promptly should be reported to the Office of Mail Classification, Rates & Classification Department.

.52 DEFINITION OF ADVERTISING

The term "advertising" includes all material for the publication of which a valuable consideration is paid, accepted, or promised, that calls attention to something for the purpose of getting people to buy it, sell it, seek it, or support it. Moreover, if an advertising rate is charged for the publication of reading matter or other material, such material shall be deemed to be "advertising." Articles, items, and notices in the form of reading matter inserted in accordance with a custom or understanding that textual matter is to be inserted for the advertiser or his products in the publication in which a display advertisement appears are deemed to be "advertising." If a newspaper or periodical advertises its own services or issues, or any other business of the publisher, whether in the form of display advertising or editorial or reading matter, this is deemed to be "advertising."

.53 STATEMENT SHOWING NUMBER OF COPIES MAILED

When postage is to be computed on the bulk weight of one issue as provided for by 125.61, the publisher must file with the first mailing of each issue a statement on Form 3542, *Statement Showing Number of Copies of Second-Class or Controlled Circulation Publication Mailed*, showing the number of copies included in each zone or other separation necessary for computing the postage, and the average weight per copy as determined in the manner prescribed by 125.62. When postage is to be computed at the end of each calendar month on the total bulk weight of all issues mailed during the month as provided for by 125.63, the statement must be filed not later than 72 hours after the first mailing of the last issue mailed each month and must show the average number of copies of each issue included in each separation, the weight of one

.74 COMPUTATION

.741 Compute the key rate on Form 3541 once each calendar year at 12-month intervals, using the subscribers' copies shown by zones on Form 3542 furnished in accordance with 125.72. If a new report on Form 3542 is filed at any time during the 12-month intervals showing mailings to each zone, a new key rate must be computed and used.

.742 Enter on the corresponding lines in column B of Form 3541 the number of copies for each zone shown on Form 3542. Apply the applicable pound rates shown in column F to the number of copies for each zone and enter the postage for each zone in column C of Form 3541. Divide the total postage in item 2, column C, by the total number of copies in item 2, column B, to obtain the key rate, which should be carried to six decimal places. Apply the key rate only to the total weight of the advertising portion. Apply the regular reading portion rate to the total weight of the reading portion. Computation of the key rate must be verified by an employee or supervisor other than the person who originally computed it. See exhibit 125.742.

.743 Prepare Form 3541 for subsequent mailings as shown on exhibits 125.743A and 125.743B until a new report on Form 3542 showing mailings to each zone is filed under 125.72 or 125.73. Where a key rate has been developed and is being used to compute postage for subscribers' copies, postage on sample copies shall be determined by using the same key rate unless the transient rate is chargeable (see 132.13 and 132.461).

125.8 CONTROLLED CIRCULATION PUBLICATIONS

The weight of mailings of controlled circulation publications (see part 133) is obtained in the manner prescribed for obtaining the weight of mailings of second-class publications. Controlled circulation postage is collected and accounted for in the same manner as second-class postage. Each mailing must be prepared and made up for dispatch in the manner prescribed for second-class mail (125.1 through 125.3).

COMPUTATION OF NEW KEY RATE
Form 3542

STATEMENT SHOWING NUMBER OF COPIES OF SECOND-CLASS OR CONTROLLED CIRCULATION PUBLICATION MAILED

U. S. POSTAL SERVICE

1. CITY	2. STATE AND ZIP CODE	3. DATE
Mayville	Maryland 21104	March 4, 1974

4. NAME OF PUBLICATION OR NEWS AGENT: Mayville Press

5. DATE OF ISSUE PRINTED IN COPIES	6. DATE OF MAILING
March 4, 1974	

Was this statement is for ONE ISSUE only, furnish the following information:	Was this statement is for ALL ISSUES for a calendar month. Furnish the following information:
7. AVERAGE WEIGHT PER COPY FOR THE ISSUE: .248750 LBS.	8. WEIGHT OF ONE SHEET: LBS.
	9. COMBINED WEIGHT OF ONE COPY FROM EACH ISSUE: LBS.
8. PERCENTAGE OF ADVERTISING IN THE ISSUE: %	10. PERCENTAGE OF ADVERTISING COMPUTED ON CONTENTS OF ALL ISSUES: %
12. TRANSIENT RATE COPIES: NO. OF COPIES	NOTE: Do not use this form to declare postage to be collected at Postal Post Zone Rates. Such proofs must be mailed with postage affixed.

11. When postage is computed at the key rate, the items for Zones 1 to 5 need not be completed except for one issue each calendar year at 12-month intervals. The total zone mailings must be entered in item 14 during the 12 month intervals.

13. TYPE OF PUBLICATION (Check one)	POST'L ZONES	SUBSCRIBERS' COPIES: No. of Copies	No. of Pieces*	No. of Pounds	SAMPLE COPIES WITHIN 10% LIMIT (Section 132.461, Postal Service Manual): No. of Copies	No. of Pieces*	No. of Pounds
☐ PERIOD (WITH 4 OR FEWER COPIES OUTSIDE COUNTY)							
☒ 5 ONE COPIES OR MORE OUTSIDE COUNTY	1 AND 2	2,621					
☒ REGULAR RATE	3	1,971					
☐ SPECIAL RATE	4	1,052					
☐ QUALIFIED AS NEWS PUBLICATION	5	170					
☐ SCIENCE OF AGRICULTURE	6	124					
	7	38					
	8	21					
14. TOTAL TO ALL ZONES		5,997					
15. COPIES WITHIN COUNTY AT POUND RATE							
16. LOCAL COPIES (132.116, Postal Service Manual)							
17. REQUESTER COPIES (132.116, Postal Service Manual)							
Complete for Publications Authorized to Mail at Special Rates (132.121, Postal Service Manual): 18. COPIES TO PAID COUNTIES—EXCLUDING CANADA (132.116, Postal Service Manual)							
19. COPIES TO ALL OTHER COUNTIES AND CANADA							
20. DOMESTIC (132, Postal Service Manual)							
21. FOREIGN (132.116, Postal Service Manual)							

*Number of individually addressed copies and packages of an addressed copy.

I certify that all information furnished on this form is true, complete, and includes all requested information. I understand that anyone who furnishes false or misleading information on this form or who omits material information may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including multiple damages and civil penalties).

Joe Mays (Signature)

PS Form 3542

Part 126
MAIL ADDRESSED TO MILITARY POST OFFICES OVERSEAS

126.1 PREPARATION AND HANDLING

.11 POSTAGE

See section 135.221 for parcels sent by surface mail and 136.234 for parcels sent by air.

.12 PACKAGING REQUIREMENTS

In addition to meeting the requirements in Part 121 and the specific packaging requirements for items mailable under Part 124, packages addressed to overseas military post offices must, as a minimum, be packed in containers equivalent to 275 pound test fiberboard. Wood, metal or plastic containers of similar strength are equally acceptable. All containers of liquids and substances which easily liquefy must be packed, with sufficient absorbent material to take up all leakage in case of breakage, inside a second sealed waterproof container.

.13 ADDRESSING

See section 122.8.

.14 WEIGHT AND SIZE

See section 135.3 for parcels sent by surface mail and 136.3 for parcels sent as priority mail, if there is no exception to the size and weight limitations listed in 126.2.

.15 AIRLIFT MAIL

.151 First-class letter mail, including postal and post cards, and sound recorded communications having the character of personal correspondence are given airlift service on a space available basis between overseas military post offices outside the 48 contiguous States, and between those military post offices and the point of embarkation or debarkation of such mail within the 50 States. See 131.52 for these same articles mailed by certain servicemen. When postage is paid on sound recordings, they must be marked by the mailer on the address side *Sound Recorded Personal Correspondence* to assure airlift service. Those mailed free under section 131.52 must be marked only as required by that section.

.152 Parcels of any class paid at surface postage rates not exceeding the weight and size limits in (a) and (b) are airlifted to, from or between overseas military post offices outside the 48 contiguous States. These parcels must be marked with the large letters SAM (space available mail) on the address side, preferably below the postage and above the name of the addressee. Postal employees will place these letters on all such parcels at the time of acceptance:

(a) When mailed from the 48 contiguous States, the weight and size limits are not more than 45 pounds in weight and not more than 60 inches in length and girth combined.

(b) When mailed from an APO or FPO outside the 48 contiguous States, the weight and size limits are not more than 70 pounds in weight and not more than 100 inches in length and girth combined.

.153 Any parcel other than a parcel mailed as priority mail not exceeding 30 pounds in weight or 60 inches in length and girth combined which is mailed at or addressed to any overseas military post office outside the 48 contiguous States will be transported by air on a space available basis, upon payment of a fee of $1.00 in addition to the regular surface rate of postage. These parcels

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must be marked with the large letters PAL (parcel air lift) on the address side, preferably below the postage and above the name of the addressee. Postal employees will place these letters on all such parcels at the time of acceptance.

.154 Second-class publications published once each week or more frequently and featuring principally current news of interest to members of the Armed Forces and the general public, which are mailed at or addressed to any Armed Forces post office *outside the 48 contiguous States*, will be given the airlift service provided in 126.152.

.16 GENERAL RESTRICTIONS

.161 The following items are nonmailable to, from, and between overseas military post offices:

a. Matches of all kinds.
b. Flammable liquids with a flash point below 100 F.
c. Poisons, except as specified in Part 124.
d. Magnetic material shipped by air having sufficient magnetic field to cause a compass deviation at 15 feet or more. Magnetic material causing a compass deviation at less than 15 feet shall have the required magnetic equipment caution label affixed. This does not apply to magnetic material when surface transportation is assured. However, packages containing magnetic material with unconfined fields must be clearly identified on the wrapper of the package as *MAGNETIC—KEEP 15 FEET AWAY FROM NAVIGATIONAL EQUIPMENT* and may not be transmitted by registered mail.
e. Radioactive matter, except that authorized in Publication 6.
f. Explosives, including ammunition.

.162 Firearms are subject to the provisions of part 124:

a. To export firearms not specifically prohibited by footnote F of 126.2, a mailer must present an export license from the Office of Munitions Control, Department of State, Washington, DC 20520. See Publication 42, *International Mail*.
b. The following provisions govern the importation of firearms by military personnel by mail from overseas Military Post Offices in accordance with Revenue Ruling 69-309, Bureau of Alcohol, Tobacco, and Firearms:
   (1) Incident to a permanent change of duty or release from active duty, any member of the armed forces who has been stationed on active duty outside the United States for the preceding 60 days may, without an import permit, present up to 3 rifles or shotguns, mailable under 124.4, to the appropriate armed forces transportation officer to be forwarded to the member's residence as unaccompanied baggage officially shipped through the U.S. mail. Firearms imported in this manner must be intended for the member's personal use.
   (2) Any member of the armed forces who wishes to import more than 3 firearms, mailable under 124.4, must prepare ATF Form 6, *Application and Permit for Importation of Firearms*, and comply with DOD regulation 5030.49-R and other appropriate military directives.
   (3) The 3-firearm limitation does not apply to firearms, mailable under 124.4, for which the member of the armed forces has proof of prior ownership in the United States. The member may personally mail these other firearms back into the United States or any of its possessions if he can establish to the satisfaction of the U.S. Customs Service that he previously took the firearms out of the United States or any of its possessions.
   (4) Any member of the armed forces importing firearms under paragraphs (1), (2), or (3) of this subsection must prepare ATF Form 6A, *(Firearms) Release and Receipt*, under 27 CFR 178.114(b); and he or his authorized agent must furnish this form and associated certification to the customs officer releasing the firearms.

.163 Since military mail may be diverted to air transportation when space is available or when there is an absence of surface transportation,

restricted articles sent to overseas military addresses should meet the quantity, packaging, marking and labeling requirements of *Federal Aviation Regulations*, Volume VI, Part 103, and international air transportation tariffs for passenger carrying aircraft.

126.2 CONDITIONS PRESCRIBED BY THE DEFENSE DEPARTMENT APPLICABLE TO MAIL ADDRESSED TO CERTAIN MILITARY POST OFFICES OVERSEAS

Military post office number	See footnotes	Military post office number	See footnotes	Military post office number	See footnotes
09001	B-C-I	09040	A-B[1]-F-S	09077	B-C-D
09002	B-C-I	09045	B-C-D	09078	B-C-D
09007	B-C-D	09046	B-C-D	09079	B-C-D
09008	B-C-D	09047	B-C-D	09080	B-C-D
09009	B-C-D	09048	B*-C	09081	B-C-D
09010	B-C-D	09050	B-C-D	09082	B-C-D
09011	B-C-F[1]	09051	A-B[1]-F-S	09085	
09012	B-C-D	09052	B-C-D	09086	B-C-D
09017	B-E[2]-F-H[1]-R	09053	B-C-D	09088	B*
09019	B-C-I	09054	B-C-D	09090	B-C-D
09020	B[1]	09055	B*	09091	B-C-D
09021	B-C-D	09056	B-C-D	09093	B-C-D
09023		09057	B-C-D	09095	B-C-D
09025	B-C-D	09058	B-C-D	09098	B-C-D
09026	B-C-D	09059	B-C-D	09099	B-C-D
09028	B-C-D	09061	B-C-D	09102	B-C-D
09029	B-C-D	09066	B-C-D	09107	B-C-D
09030	I-N	09067	B-C-D	09108	B-C-D
09031	B-C-D	09068	B-C-D	09109	B-C-D
09033	B-C-D	09069	B-C-D	09111	B-C-D
09034	B-C-D	09070	B-C-D	09114	B-C-D
09035	B-C-D	09072	B-C-D	09117	A-B[1]-F-S
09036	B-C-D	09074	B-C-D	09118	A-B[1]-F-P-S
09038	B-E[2]-F-H[1]-R	09075	B*-C	09120	B*-C
09039	B-C-D	09076	B-C-D	09121	

See footnotes at end of table.

126.2 CONDITIONS PRESCRIBED BY THE DEFENSE DEPARTMENT APPLICABLE TO MAIL ADDRESSED TO CERTAIN MILITARY POST OFFICES OVERSEAS—Continued

Military post office number	See footnotes	Military post office number	See footnotes	Military post office number	See footnotes
09123	B-C-D	09166	B-C-D	09227	B-C-D
09127	B*-C	09168	B-C-I	09228	A-B
09128	B-C-D	09169	B-C-D	09230	A-B
09129	B*-C	09170	C-D-N	09232	B-C-I
09130	B-C-D	09171	B-C-D	09238	B*-C
09131	B-C-D	09172	B-C-D	09240	B-C-I
09132	B-C-D	09173	B-C-D	09241	B*-C
09133	A-B[1]-F-S	09175	B-C-D	09245	B-C-D
09137	B-C-D	09176	B-C-D	09252	B-C-D
09138	B-C-D	09177	B-C-D	09253	A
09140	B-C-D	09178	B-C-D	09254	A-B[1]-F-S
09141	B-C-D	09179	B*-C	09277	B-C-D
09142	B-C-D	09180	B-C-D	09281	B-C-D
09143	B-C-D	09184	B-C-D	09282	
09144	B-C-D	09185	B-C-D	09283	
09148	B-C-D	09189	B-C-D	09285	
09150	B*-C	09193	B*-C	09286	
09154	B-C-D	09194	B*-C	09289	A-B[1]-F-S
09155	A-B-T	09202	A-B-G	09291	A
09159	B-C-F[1]	09205	A-B	09292	B-C-F[1]
09160	B-C-D	09210	B*-C	09293	B-C-I
09162	B-C-D	09220	B-C-D	09294	A-B[1]-F-S
09164	B-C-D	09221	B-C-I	09305	B-C-D
09165	B-C-D	09223	A	09309	B-C-D
		09224	A-B[1]-F-S		

See footnotes at end of table.

126.2 CONDITIONS PRESCRIBED BY THE DEFENSE DEPARTMENT APPLICABLE TO MAIL ADDRESSED TO CERTAIN MILITARY POST OFFICES OVERSEAS—Continued

Military post office number	See footnotes	Military post office number	See footnotes	Military post office number	See footnotes
09320	A-B[1]-F-S	09452	B-C-D	09526	
09321	B-C-D	09453	B-C-I	09527	A-N
09322	B-C-D	09454	B-C-D	09528	A
09324	A-B[1]-F-S	09455	B-C-D	09530	A-B-C-F-M
09325	B-C-D	09457	B-C-D	09533	B-C-I[1]
09326	B-C-D	09458	B-C-D	09534	
09330	B-C-D	09460	B-C-D	09539	
09333	B-C-D	09501		09540	
09338	A-B-F-S	09502		09541	
09351	B-C-D	09505	O	09542	A-B-C-E
09352	B-C-D	09510	B*-C	09544	A-B-C-E
09353	B-C-D	09511	B*-C-J	09546	
09354	B-C-D	09512	B*-C-J	09549	
09355	B-C-D	09514	B*-C-J	09551	
09358	B-C-D	09515	B*-C-J	09552	
09359	B-C-D	09516	B*-C-J	09553	
09360	B-C-D	09518	B*-C-J	09554	
09370	B-C-D	09519	B*-C-J	09555	
09378	B*-C	09520	B-C-I	09556	
09380	A-B[1]-F-S	09521	B-C-I[1]	09558	
09401		09522	B-C-I[1]	09559	
09403	B-C-D	09523	B-C-I[1]	09560	
09405	B*-C	09524	B-C-I[1]	09571	C
09406		09525	A	09572	C
09407	B-C-D				
09411	B-C-D				
09451	B-C-D				

See footnotes at end of table.

126.2 CONDITIONS PRESCRIBED BY THE DEFENSE DEPARTMENT APPLICABLE TO MAIL ADDRESSED TO CERTAIN MILITARY POST OFFICES OVERSEAS—Continued

Military post office number	See footnotes	Military post office number	See footnotes	Military post office number	See footnotes
09580	B[1]	09696	B-C-D	09867	M
09584	B[1]	09697	B-E[2]-F-H[1]-R	09869	B-C-F-I-M-N
09585	B[1]	09701	B-C-D	09870	C-D-N
09593		09702	B-C-D	09871	B-I-L-M-N
09597		09710	B-C-D	09872	B-C-D
09598		09742	B-C-D	09879	H-I-M-N
09607	B*-C	09743	B-C-D	09880	A-B-F-N
09611	B-C-D	09751	B-C-D	09881	I-M
09616	B-E[2]-F-H[1]-R	09755	B*-C	09883	B-I-M-N
09633	B-C-D	09757	B-C-D	09885	M
09659	B*-C	09777	A-B-C-E	09887	B-D-F-I-M-N
09662		09794	B-C-I	09889	B-I-M-N
09664	N	09801	B-C-D	09891	B-M-N
09666	B-C-D	09807	B-C-D	09892	A-B-F
09667	B*	09825	B[1]	09893	C-F-H-I-M-N
09669	B-C-D	09826	B[1]	09895	B-I-M
09670	B-C-I	09827	B[1]	09897	I
09671	B-E[2]-F-H[1]-R	09829	B[1]	09899	B-I-M
09672		09832	B[1]	96208	A-B
09676	B-C-M	09834	B[1]	96209	A-B-H
09678	B-N	09837	B[1]	96210	A-B-M
09689	B-C-I	09851		96212	A-B
09690	A	09860	B-C-D	96213	A-B
09692	B-C-D	09862	N	96218	A-B
09693	A	09865	B-I-M	96220	A-B

See footnotes at end of table.

126.2 CONDITIONS PRESCRIBED BY THE DEFENSE DEPARTMENT APPLICABLE TO MAIL ADDRESSED TO CERTAIN MILITARY POST OFFICES OVERSEAS—Continued

Military post office number	See footnotes	Military post office number	See footnotes	Military post office number	See footnotes
96221	P	96302	A-B	96367	A-B-L-M
96224	A-B	96305		96369	A-B-H
96225		96311	F-K-L	96370	A-B
96230	A-B-L-M	96315	F-P-N	96371	A-B
96231	A-B	96319	F[1]	96397	A-B
96235	A-B-M	96323	A-B-M	96401	
96239	A-B-M	96324	A-B	96404	A-B-H
96244	A-B-M	96327	L	96405	A-B-H
96248	A-B-M	96328	A-B-M	96431	F-K
96251	A-B	96331	A-B-M	96432	F-K
96259	A-B	96333	M	96434	P
96263	F[1]	96334		96435	F[1]
96264	A-B	96335	A-B	96438	
96271	A-B	96336	A-B-M	96455	A-B
96274	F-K	96340	F[1]	96460	A-B
96276	A-B	96341		96468	F-N
96277	F-K	96343	A-B-M	96483	A-B
96282	F	96344	A-B-M	96488	A-B
96286	F-K-L	96346	F-N	96501	
96287	A-B-H	96351	P	96503	A-B-M
96290	F[1]	96356		96515	
96292	A-B-M	96358	A-B	96519	A-B-M
96298	F-K	96361	A-B-M	96528	F-K
96301	A-B	96366	A-B		

See footnotes at end of table.

126.2 CONDITIONS PRESCRIBED BY THE DEFENSE DEPARTMENT APPLICABLE TO MAIL ADDRESSED TO CERTAIN MILITARY POST OFFICES OVERSEAS—Continued

Military post office number	See footnotes	Military post office number	See footnotes	Military post office number	See footnotes
96545		96658	F-K	98747	
96553		96659	F	98748	
96555	M	96680	A-B-H-Q	98749	
96556		96685		98750	
96557		96690	B-H-M	98760	A-B-M
96558		96692		98761	A-B-M
96570	A-B	96699	A-F	98762	A-B-M
96571	A-B	98703		98763	A-B-M
96601		98704		98764	A-B-M
96602		98706		98765	A-B-M
96605	O	98709		98768	A-B-M
96610		98710		98767	A-B-M
96611		98711		98768	A-B-M
96612		98713		98769	A-B
96613		98715		98770	A-B-M
96614		98716		98771	
96615		98723		98772	A-B-M
96630		98731		98773	A-B-M
96637		98732		98774	
96650	F-K	98733		98775	
96651	F-K	98736		98776	
96652	F-K	98737		98777	
96654	F-K	98742		98778	A-B-M
96656	F-K	98745		98781	A-B-M
		98746		98782	A-B-M
				98783	

See footnotes at end of table.

126.2 CONDITIONS PRESCRIBED BY THE DEFENSE DEPARTMENT APPLICABLE TO MAIL ADDRESSED TO CERTAIN MILITARY POST OFFICES OVERSEAS—Continued

Military post office number	See footnotes	Military post office number	See footnotes	Military post office number	See footnotes
98784		98792		98796	
98785		98793		98797	
98786		98794		98798	
98790		98795		98799	
98791					

FOOTNOTES

A. No mail of any class may contain securities or currency. Precious metals in their raw, unmanufactured state are also prohibited. Official shipments are exempt from these restrictions.

B. Customs Declaration form required, except that prepaid mail from a contractor, addressed to a military organization for official use, NEED NOT bear Customs Declaration but must be endorsed "Contents For Official Use—Exempt from Customs Requirement. Official mail from Government agencies DOES NOT require customs declaration or exemption endorsement."

B[1]. Two customs declarations required, One Form 2966-A and one Form 2966.

*Articles will be liable for customs duty and/or purchase tax unless they are bona fide gifts, personal use intended for military personnel or their dependents. When the contents of a parcel meet these requirements, the mailer should place a certificate similar to the following on the customs form under the heading—"Description of Contents" "Certified to be a bona fide gift, personal effects or items for personal use of military personnel and dependents thereto."

C. Cigarettes and other tobacco products prohibited.

D. Coffee prohibited.

E. Mail may not contain: 1. Medicines or vaccines not conforming to French laws. 2. Nonauthorized publications, reprints, and publications prohibited on account of their political character or immoral contents.

F. Mail of all classes may not contain firearms of any type. See definition of firearms in 124.4 Exception: Not applicable to firearms mailed to or by official U.S. government agencies.

F[1]. No mail of any class may contain privately-owned weapons addressed to an individual.

G. Only first-class letters, second- and third-class mail authorized.

H. Meats, including preserved meats, whether hermetically sealed or not, are prohibited.

H[1]. Pork and/or pork by-products prohibited.

(Continued)

(Continued)

I. Mail of all classes may not exceed the following dimensions:

Length	
42"	72" length and girth combined.
Over 42" to 44"	24" girth.
Over 44" to 46"	20" girth.
Over 46" to 48"	16" girth.

Maximum length 48".

[1] Provisions of this footnote are not applicable to registered mail.

[2] Provisions of this footnote are not applicable to official Government mail marked MOM.

J. Weight for other than registered mail is restricted to 50 pounds.

K. Mail which includes in the address the words "Dependent Mail Section" may consist only of letter mail, newspapers, magazines and books. No parcel of any class containing any other matter may be mailed to Dependent Mail Section. This footnote is not applicable if the address does not include the words "Dependent Mail Section."

L. All official mail prohibited.

M. Fruits, animals, and living plants are prohibited.

N. No registered mail accepted.

O. Personal mail addressed to vessels using this number is limited to unregistered first-class mail, and certified mail. Other classes of mail may not be accepted.

P. APO will be used for the receipt and dispatch of official mail only.

Q. Mail may not exceed 66 pounds and size is limited to 42 inches maximum length and 72 inches maximum length and girth combined.

R. All alcoholic beverages, including those mailable under part 124 81 are prohibited

S. No parcels (merchendise) of any kind accepted

T. Mailings of case lots of food and supplemental household shipments must be approved by the sender's parent agency prior to mailing

Part 127

MAIL SENT VIA DEPARTMENT OF STATE TO U.S. FOREIGN SERVICE PERSONNEL ABROAD

127.1 WHO MAY USE

The facilities of the Department of State are available for sending unregistered and uninsured personal mail to authorized U.S. Foreign Service personnel stationed in other countries.

127.2 MAILING CONDITIONS

.21 ADDRESSING

The following form of address must be used:

Name
Foreign city (omit name of country)
Department of State
Washington, DC 20521

.22 CLASSES

Articles of all classes of domestic mail are acceptable.

.23 WEIGHT AND SIZE LIMITS

Domestic limits apply, including those in 135.3, except that no *package* may weigh more than 40 pounds or exceed 24 inches in length or 62 inches in length and girth combined.

.24 POSTAGE RATES

Postage must be paid at the applicable domestic rate for the classes of mail and type of service desired. (See 127.254.) The postage rates from the mailing office to Washington, D.C., apply to mail subject to zone rates.

.25 LIMITATIONS

.251 Airlift service from Washington, D.C., to destination will be provided only for communications in the form of letters, post cards, or tapes with recorded messages; for personal documents of value, such as deeds, wills, insurance policies, or titles; and for emergency supplies of prescription medicines or other urgently needed health items, such as prescription eyeglasses, hearing aids, orthopedic shoes, or dentures. Senders must mark the cover or wrapper to indicate the nature of the contents. For rapid transmission of other personal packages, senders must use the regular international air service, affixing customs declarations and addressing directly to the recipient in the foreign country. (See Publication 42, *International Mail*.)

.252 The Department of State prohibits tobacco products (except to selected foreign service posts), liquids, perishables, firearms, glass, and other fragile articles, as well as parcels intended for delivery to a third person.

.253 Packages must be securely and substantially packed. International postal forms (customs declarations, stickers, etc.) are not required on packages sent through Department of State facilities.

.254 Registration, insurance, and COD services are not available.

Subchapter 130 MAIL CLASSIFICATION AND RATES

Part 131

FIRST CLASS

131.1 RATES

.11 SINGLE PIECE RATES

The single piece rates are applied to each letter or piece of first-class mail according to its weight.

Kind of Mail	Rate
All first-class mail weighing 13 ounces or less except postal and post cards. See 136.12 for rates on first-class mail weighing more than 13 ounces.	13¢ for the first ounce or fraction of an ounce, 11¢ for each additional ounce or fraction of an ounce.
Single postal cards sold by the post office (see 141.13)	9¢ each.
Double postal cards sold by the post office (see 141.13)	18¢ (9¢ each portion).
Single post cards (see 131.222)	9¢ each.
Double post cards (see 131.222) (Reply portion of double post card does not have to bear postage when originally mailed.)	18¢ (9¢ each portion).
Presort rate (see 131.12)	The applicable first-class rate, less 1¢ per piece.
Business Reply:	
When the advance deposit trust account option is not used	The appropriate first-class postage; plus a surcharge of 12c per piece.
When the advance deposit trust account option is used	The appropriate first-class postage; plus a surcharge of 3.5c per piece.

.12 BULK PRESORT RATE

.121 *Identical Pieces*

The bulk presort rate is equal to the applicable single piece first-class rate, less one cent for each piece that is part of a group of ten or more pieces sorted to the same five-digit ZIP Code, or of a group of fifty or more pieces sorted to the same three-digit ZIP Code, when they are presented at one post office as part of a single mailing of not less than 500 pieces of first-class mail of identical size and weight, each weighing 13 ounces or less. All pieces must be individually addressed and sorted to the maximum extent; i.e., all five-digit sorts in groups of ten or more must be exhausted before proceeding to make up all three-digit sorts in groups of fifty or more. Full first-class postage must be paid on the residue not sorted to groups of 5- or 3-ZIP Code digits as described above. The mailing must be presented at a place and between the hours designated by the postmaster and must comply with the preparation

requirements in 131.5. Deposit of metered presort rate mail at other than these designated places will be considered misuse of a postage meter and grounds for revocation of the meter license in accordance with 144.23. Cards subject to sortation requirements of 131.224 are eligible for the presort rate if they meet all requirements for the rate.

.122 *Nonidentical Pieces*

a. Metered. Pieces of first-class metered mail which are nonidentical in size and weight may be mailed at presort rates providing all other requirements contained in 131.121 and 131.5 are met.

b. Mailings of nonidentical pieces with permit imprints may only be made under the provisions of 145.8 or 145.9.

.13 NONSTANDARD SURCHARGE

There is currently no surcharge for nonstandard mail as defined in 131.34. However, it is anticipated that such a surcharge will be imposed sometime in calendar year 1978.

131.2 CLASSIFICATION

.21 DESCRIPTION

.211 First-class mail receives expeditious handling and transportation and consists of mailable:

a. Postal cards.
b. Post cards.
c. Matter wholly or partially in writing or typewriting, except authorized additions to second-, third-, and fourth-class mail provided by 132.471, 132.472, 134.6 and 135.5, and written or typewritten matter listed in 135.24 and 135.26.
d. Matter closed against postal inspection.
e. Bills and statements of account.

.212 Examples of first-class matter:

a. Handwritten or typewritten matter, including identical copies prepared by automatic typewriter, and manifold or carbon copies of such matter. Handwritten or typewritten matter does not include matter produced by computers.
b. Autograph albums containing writing.
c. Notebooks or blank books containing written or typewritten entries or stenographic or shorthand notes.
d. Blank printed forms filled out in writing, such as notices, certificates, and checks either canceled or uncanceled.
e. Printed price lists containing written figures changing individual items.
f. Printed cards or letters bearing a written date, where the date is not the date of the card but gives information as to when something will occur or has occurred.
g. Printed matter such as receipts, orders and printed letters not sent in identical terms to several persons that, by having a signature attached, are converted into personal communications. This does not apply to Christmas or similar pripted greeting cards.

.213 Two or more individuals or firms, or a party acting as the agent of two or more individuals or firms, may not mail in one envelope to a mutual addressee the bills, statements of account, or other letters of the individuals or firms, unless the envelope is endorsed on the address side to show the number and weight of each letter enclosed and sufficient postage is paid at the

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first-class rate on each such letter. Firms that are distinct legal entities are treated as separate firms for purposes of this regulation, regardless of their affiliation.

.214 An individual or firm may mail in one envelope more than one of its own letters to an addressee and pay postage at the first-class rate on the weight of the piece. Agents of a licensing authority may forward completed applications in one envelope to an office of the licensing authority and pay postage at the first-class rate on the weight of the piece.

.215 The following provisions are applicable to matter closed against postal inspection:

a. The Postmaster General may prescribe the manner of wrapping and securing mail not charged with first-class postage so that the contents of the mail may be easily examined. He shall charge the first-class rate of postage on all matter that cannot be examined easily.
b. To ascertain whether the proper rate of postage has been paid, postmasters may examine second-class mail and remove the wrappers and envelopes from other mail not bearing first-class postage if it can be done without destroying them.
c. Matter closed against inspection includes mail of any class so wrapped as not to be easily examined, except second-, third-, or fourth-class matter sealed subject to postal inspection. See 125.25, 134.8, and 135.6.

.216 The following is a description of bills and statements of account:

a. A bill is a request for payment of a definite sum of money claimed to be owing by the addressee either to the sender or to a third party. The mere assertion of an indebtedness in a definite sum combined with a demand for payment is sufficient to make the message a bill.
b. Generally, a statement of account is the assertion of the existence of a debt in a definite amount owed by the addressee either to the sender or to a third party but which does not necessarily contain a request or a demand for payment. The amount may be immediately due or may become due after a certain time or upon demand or billing at a later date.
c. A bill or statement of account must present the particulars of an indebtedness with sufficient definiteness to inform the debtor of the amount he is required to pay to acquit himself of the debt. However, neither a bill nor a statement of account need state the precise amount if it contains sufficient information to enable the debtor to determine the exact amount of the claim asserted.
d. A bill or statement of account is not the less a bill or statement of account merely because the amount claimed is not in fact owing or may not be legally collectible.

.217 *Presorted First-Class Mail*

Presorted first-class mail is mail presented in a manner that preserves the orientation, facing, and ZIP Code sequence of the pieces.

.22 POSTAL AND POST CARDS

.221 *Postal Cards*

A postal card is a card supplied by the Postal Service with a postage stamp printed or impressed on it, for the transmission of messages. A double postal card consists of two attached cards, each of which has printed or impressed thereon a postage stamp of the first-class rate for postal cards denomination, and one of which may be detached by the receiver and returned by mail as a reply.

.233 *Postage and Fees*

a. An annual fee of $30 will be charged each calendar year for each permit issued. The $30 permit fee is applicable at each office where mail will be returned except that if the business reply is to be distributed from a central office for return to branches or dealers in other cities, one permit obtained from the post office where the central office is located may be used to cover all the business reply mail of the distributor, if the holder provides a copy of the receipt to each office where mail is to be returned under that permit. The permit holder guarantees payment of postage and fees on any returns refused by such branches or dealers.
b. *Third party* business reply mail arrangements, whereby business reply pieces are distributed by a company, under its own permit and with its own indicia, for use by another party which is neither a branch nor a dealer of the distributor, are permissible provided:
   (1) The holder of the permit number appearing on the mail guarantees payment of postage and fees for all business reply pieces which he distributes;
   (2) The holder of the permit number appearing on the piece pays the annual business reply permit fee; and
   (3) The addressee to whom the piece is returned obtains its own business reply permit and itself pays the annual business reply permit fee and, if desired, the annual business reply accounting fee.
c. Permit holders will have the option of keeping a Business Reply Mail (BRM) advance deposit trust account at the post office, or paying postage due charges to the carrier upon delivery. A $75 accounting fee will be charged for each BRM advance deposit trust account at each post office where the mail is to be returned. This fee will be paid each calendar year or portion thereof. No accounting fee will be charged to customers who do not maintain an advance deposit. The business reply advance deposit trust account will be used only for payment of business reply postage and fees.
d. When payment is by BRM advance deposit trust account as provided for in 131.233b, the amount to be collected is the appropriate first-class, or priority postage plus a surcharge of 3.5 cents per piece.
e. Business reply mail addressed to several different firms at the same delivery unit may be delivered to one agent under one advance deposit trust account. The business reply mail for each firm participating in such arrangements must be covered under a valid business reply permit. Only one billing is to be provided by the Postal Service for each business reply advance deposit trust account. If the agent, or any of the firms participating in such arrangements desire separation of their charges, a separate trust account and accounting fee are required.
f. When payment is not by use of an advance deposit trust account, postage is collected on each piece of business reply mail at the time it is delivered. Postage due stamps for the amount due will be affixed to the mail or to Form 3582-A, *Postage Due Bill.* The stamps will be canceled and delivered to the addressee with the mail when he pays the amount due. Business reply mail will not be mixed with other mail in direct packages or sacks for individuals or concerns. See 131.233 for amount to be collected which may not include fees for any special services.
g. When no BRM advance deposit trust account is maintained, the amount to be collected is the appropriate first-class, or priority postage, plus a surcharge of 12 cents per piece. Payment at the 12-cent rate may be paid in cash or through a regular postage due account.
h. Cards which do not conform to the specifications contained in 131.222 are to be charged postage at the regular first-class rate, and *not* at the card rate.

.234 *Piece Count for Bulk Quantities*

The piece count for bulk quantities of business reply mail pieces of identical weight may be determined as prescribed in 145.573.

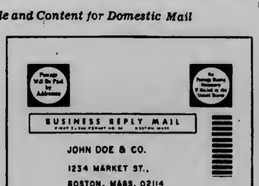
.235 *Form of Imprint and Address*

Any photographic, mechanical, or electronic process, or any combination of such processes, other than handwriting, typewriting, or handstamping, may be used to prepare the address side of business reply cards, envelopes, cartons, or labels. The address side must be prepared both as to style and content in one of the following forms without the addition of any matter other than a return address (see 141.114g for business reply window envelope requirements):

a. *Alternate Style and Content for Domestic Mail*



b. *Alternate Style and Content for Domestic Mail*



.238 *Form of Imprint and Address*

Business reply cards, envelopes, cartons, and labels may be distributed:

a. In any quantity for return to any post office in the United States and its Territories and possessions, including military post offices overseas; except in the Canal Zone, where they may not be returned without prepayment of postage. They should not be sent to any foreign country.
b. In any manner except by depositing in receptacles provided by customers for receipt of mail.

.237 *Responsibility of Distributor*

The distributor guarantees payment on delivery of postage on returned business reply mail. Any concern distributing business reply cards, envelopes, cartons, or labels under one permit for return to its branches or dealers guarantees to pay postage on any returns refused by any authorized addressees.

131.3 WEIGHT AND SIZE LIMITS

.31 WEIGHT

Each piece may weigh not more than 70 pounds.

.32 SIZE

Each piece may measure not to exceed 100 inches in length and girth combined. See 135.32 for instructions on how to measure.

.33 SHAPE, RATIO, AND SEALING FOR ENVELOPES, CARDS, AND SELF-MAILERS

The following standards apply to envelopes, cards, and self-mailers having postage paid thereon at the first-class postage rate:

a. Pieces less than 3 inches in width (height) or 4¼ inches in length are nonmailable.
b. Pieces having shapes other than rectangular are nonmailable.
c. Pieces having a ratio of width (height) to length between 1 to 1.3 and 1 to 2.5 are recommended.
d. Pieces not sealed or secured on all four edges so that they may be handled by machines are not recommended.
e. Cards having a thickness of less than 0.006 of an inch are nonmailable.

.34 NONSTANDARD FIRST-CLASS MAIL

.341 First-class mail weighing one ounce or less is nonstandard unless it meets the following size standards:
a. Length not greater than 11.5 inches, and
b. Height not greater than 6.125 inches, and
c. Thickness not greater than .25 inch, and
d. An aspect ratio (ratio of height to length) between 1:1.3 and 1:2.5 inclusive.

.342 Nonstandard mail often results in delays or damage to mail because it does not lend itself to machine processing. For this reason, mailers are encouraged to avoid mailing nonstandard first-class mail. It is anticipated that a surcharge will be imposed sometime in calendar year 1978 for nonstandard first-class mail.

131.4 PAYMENT OF POSTAGE

.41 SINGLE PIECE RATE

Mailers of first-class matter at single piece rate may pay postage by adhesive stamps, stamped envelopes and postal cards, meter stamps, and permit imprints.

.42 BULK RATE

.421 Mailings made at presort rates must be paid only by meter stamps or permit imprints. Except as provided in 131.422, metered postage must be for the first-class presort rate for qualifying pieces and the full first-class rate for residual pieces.

.422 For mailings paid by metered postage, the entire presorted mailing may be metered at the lower presort rate, if the entire mailing consists of pieces of identical size and weight. The additional postage for residual pieces for which the full single-piece rate is required is to be paid by means of a meter strip affixed to the back of Form 3602-PC, *Statement of Mailing, Bulk Rates.*

.423 When this form of payment is used, acceptance employees must verify the count of the residual pieces and ensure that the postage value of the meter strip equals the number of residual pieces *times* the difference between the full rate and the lower presort rate.

.43 ANNUAL FEE

A first-class presort mailing fee of $30 must be paid once each calendar year at each office of mailing by or for any person who mails first-class or airmail matter at presort rates. Any person who engages a business concern or another individual to mail for him must pay the $30 fee. This fee is separate from the fee that must be paid for a permit to mail under the permit imprint system (145.1).

131.5 PREPARATION OF PRESORT RATE MAIL

.51 ADDRESSES

The address on each piece must include the ZIP Code (or carrier route code if presorted directly to carriers).

.52 MARKINGS REQUIRED

Identifying words *PRESORTED FIRST-CLASS* must be incorporated as part of the permit imprint or be printed or rubber stamped by the mailer on each piece above the address and immediately below or to the left of the meter stamps or permit imprints. The marking may be printed by a postage meter, special slug, or *ad plate*. All pieces in the mailing including residual pieces not qualifying for the lower presort rate must be so marked.

.53 MAILING STATEMENT

Mailers who qualify for the first-class presort rate (see 131.121) must complete and submit a mailing statement with each mailing. The statement must be signed by the mailer or his authorized agent:

a. Form 3602, *Statement of Mailing - Permit Imprint*, for mail with permit imprints. If editions of the form earlier than December 1975 are used, two forms must be used: one for those qualifying for the lower presort rate, and one for those which do not. The form for those qualifying for the lower presort rate *must* be marked *PRESORT RATE* across the top of the form, and should only list the items which qualify for the lower presort rate. The form for the non-qualifying pieces *must* be marked *Presort Residual* across the top of the form and should only list the items which do not qualify for the lower presort rate.
b. Form 3602-PC, *Mailing Statement - Bulk Rates*, for mail bearing meter stamps. The blocks for weight of a single piece, number of pieces in a pound, and postage chargeable per piece need not be completed on Forms 3602-PC for presorted first-class mail. If editions of the form earlier than May 1976 are used, two forms must be used: one for those qualifying for the lower presort rate, and one for those which do not. The form for the qualifying pieces *must* be marked

d. *State Trays*
It is recommended, but not required, that packages remaining after traying, in accordance with 131.545a(2), b(2), and c(2), be prepared in state trays. A state pouch label in the following format must be firmly affixed to the end of the tray:

DIB CHICAGO IL 606
IL FCM PRESORTED
FR RECORD CHICAGO IL

e. *Mixed States Trays*

Packages remaining after traying in accordance with 131.454a(2), b(2), c(2) and d, must be prepared in *Mixed States* trays. A mixed states pouch label in the following format must be firmly affixed to the end of the tray:

DIB CHICAGO IL 606
MIXED STATES FCM PRESORTED
FR RECORD CHICAGO IL

f. *Residual Mail*
(1) Pieces remaining after bundles have been prepared into packages in accordance with 131.545a through e, are residual mail and are ineligible for the lower presort rate. Packages of residual mail must be placed in trays in such a way as to maintain the orientation and the ZIP Code sequence of the presort. Trays containing residual mail are not to bear a pouch label. The mail must be presented together with the lower-rated portion of a mailing, but must be clearly segregated therefrom to facilitate verification of the quantities of both the lower rated and residual pieces.
(2) In order to speed processing of the mail, it is recommended, but not required, that the mailer prepare state packages when there are 10 or more pieces to the same state. Orange label S must be affixed to the lower left corner of the address side of the top piece in each package.

g. *Exceptions to Bundling*
(1) The bundling requirements for presorted mail left over after filling full trays described in *a* through *e* may be waived when the use of separating tabs is approved by the local postmaster.
(2) The local postmaster may also waive the bundling requirements for loose-packed presorted flat mail sorted to one five-digit ZIP Code destination, when there is enough quantity to fill a number 3 sack. The flats must measure not less than approximately 8 inches high by 10 inches long.

131.6 PRESORT VERIFICATION

.61 Procedure

A designated employee in the weighing section, or other location where bulk mailings are accepted, shall verify that each mailing made at the presort rate is properly made up and presorted and qualifies for the presort rate. This is in addition to the postage computation verification performed for permit imprint mailings in accordance with 146.57. The designated employee must:

a. Verify that each mailing consist of at least 500 presorted pieces.
b. For each 10 trays or fraction thereof in a mailing:
(1) Select 2 trays of five-digit makeup and randomly withdraw and inspect by riffling 3 handfuls (about 120 letters) from each of the 2 trays to

determine whether the tray contains letters bearing other than the five-digit ZIP Code as shown on the tray label. If a discrepancy of 10 or more pieces is found, the mailing is disqualified.
(2) Select 2 trays of three-digit makeup and follow the procedures in (1).
(3) For the trays in (1) and (2), check if the proper labels are attached. If one improper label is found, check a total of ten trays. More than one improper label in ten trays is considered disqualifying.
(4) Check one tray of bundled mail to determine if the proper color-coded pressure sensitive package label is used on packages. If a wrong label is encountered, check a total of ten packages. More than one occurrence in ten packages is considered disqualifying.
(5) Check two packages to see if all pieces are in the proper bundles. If any improper bundling is detected, a total of five packages is to be checked. If more than four such improper pieces are in the five packages, the mailing is disqualified.

c. Riffle through one tray of residual mail to verify that it is in ZIP Code sequence. More than ten out of sequence in a tray is considered disqualifying.
d. If a mailing is disqualified, the next mailing by the customer at presort rates shall have twice the amount of pieces checked as called for above. In addition, one-fifth of the customer's mailings over the next six months shall receive such intensified checks.
e. For permit imprint mailings, verify that the quantity of lower rated *presorted* mail agrees with Form 3602. This is done by weighing the presorted mail and dividing the weight by the weight of a single piece.
f. For permit imprint mailings, verify that the quantity of *residual* mail agrees with Form 3602. This is done by weighing the residual mail and dividing the weight by the weight of a single piece.
g. Return permit imprint mailings to the mailer for corrective action or apply full rates as prescribed in 131.62 when the mailing does not qualify for the presort rate.
h. For metered mailings select a sample of ten pieces of the mailing at random. Each piece of the sample is to be weighed and verified for proper payment of postage and the correct date. Based on the results of the ten pieces checked use the following procedures for disposition of the mailing:
(1) If none of the pieces checked is short paid no further checks are necessary for proper payment of postage.
(2) If three or more of the pieces checked are short paid the mailing is to be rejected.
(3) If one or two of the pieces checked are short paid a second sample of forty pieces is to be made. Each piece of the second sample is to be weighed and verified for proper payment of postage.
(4) If a total of three or more pieces from both samples are found to be short paid or bear the wrong date the mailing is to be rejected.
(5) The mailing and Form 3602-PC, *Mailing Statement-Bulk Rates*, shall be returned to the mailer for corrective action when three or more pieces are found with insufficient postage or incorrect dates, or when the mailing does not qualify for the presort rate (see 131.62).
i. Mailers who elect to correct presort problems that result in disqualification of the mailing will generally be unable to return metered mail to the acceptance unit on the same day originally presented. The date in the meter stamp will thus reflect an incorrect mailing date. If the mailing is presented on the day immediately following its initial presentation and if it then

meets all other acceptance requirements, accept the mailing on a one-time only basis when:
(1) Its initial presort deficiencies resulted from mailing equipment problems beyond the mailer's control, or
(2) It is the customer's first mailing at the presort rate and the improper presort resulted from misinformation or misunderstanding of the presort requirements.

.62 ACCEPTANCE OF UNQUALIFIED METERED OR PERMIT IMPRINT MAILING AT SINGLE PIECE RATES

When the verification prescribed by 131.61 reveals a disqualification for the presort rate on a mailing, the mailer may elect to pay the single piece first-class rate in lieu of correcting the disqualification. Mailers may correct the Form 3602 or Form 3602-PC for unqualified mailings to indicate postage is to be paid at single piece first-class rates in 131.11. All other provisions of Part 145 are applicable to such mailings. Mailers of unqualified metered mailings must pay the difference in cash at the window and present their copy of the cash receipt at the acceptance point before the mail can be released for processing.

131.7 MAIL SENT BY MEMBERS OF THE U.S. ARMED FORCES

.71 LETTERS SENT POSTAGE COLLECT

Letters sent by soldiers, sailors, airmen, and marines in the United States military service located in the United States or other places where United States domestic mail service operates, addressed to places in the United States, may be dispatched for collection on delivery, under the following conditions:

a. The address side of the letter must be marked *Soldier's Letter, Airman's Letter, Sailor's Letter*, or *Marine's Letter*, as appropriate.
b. Under the marking, the letter must bear the signature and official designation, either with facsimile handstamp or in writing, of a commissioned officer to whose command the soldier or airman belongs, or of a surgeon or chaplain at a hospital where he is; and in the Navy and Marine service, of a commissioned officer attached to the vessel on which the member is serving or an officer commanding a hospital or detachment ashore where he is.
c. Postage, at single rate for each ounce or fraction, is collected on delivery.

.72 LETTERS SENT FREE

.721 Any personal letter mail, including post cards, in the usual and generally accepted form, and sound-recorded communications having the character of personal correspondence may be mailed free of postage under the following conditions:

a. When mailed by:
(1) Any member of the U.S. Armed Forces (Army, Navy, Air Force, Marine Corps, and Coast Guard) at any U.S. military post office in Vietnam and contiguous waters, as defined by regulations of the Department of Defense.
(2) Any member of the U.S. Armed Forces hospitalized in a facility under the jurisdiction of the Armed Forces of the United States as the result of disease or injury incurred as a result of military service or operations in Vietnam and contiguous waters, and air space thereover.

b. When mailed to:
(1) Any place within the United States, including Puerto Rico or any other possession of the United States, where the domestic mail service operates.
(2) Any Army and Air Force or Navy post office.
c. When such mail bears:
(1) In the upper right corner of the address side, in the handwriting of the sender, the word *FREE*, and
(2) In the upper left corner of the address side the name of the sender, his service number, grade, and complete military address.

.722 Letter mail, post cards, and sound-recorded communications sent free under the conditions in 131.721 will be afforded transportation by air or other means which will give the earliest possible delivery to the addressee. This mail may not be registered, insured, or certified. It may be accepted as special delivery mail upon payment of the required fee.

131.8 SHIP LETTERS

.81 VESSELS NOT REGULAR MAIL CARRIERS

Letters for delivery in the United States, carried by vessels not regularly employed in carrying the mail, are charged double rate of postage to cover the fee paid to the vessel. The postage may be collected at the office of delivery or prepaid with United States postage stamps.

.82 VESSELS OPERATING OVER POST ROAD

Letters and packages carried from one port to another in the United States over a water route that is wholly a post road by law, in a private ship or vessel, are charged single rate of postage. If part of the water route is not a post road, double rates of postage are charged.

.83 DELIVERY BY THE MASTER OF A VESSEL

Wholly unpaid printed matter delivered to the post office by the master of a vessel arriving from a foreign port and not regularly engaged in carrying mail, is charged with double the third-class rate of domestic postage, to be collected on delivery, and dispatched to its destination.

Part 132

SECOND CLASS

132.1 RATES

.11 RATES CHARGED ON COPIES FOR DELIVERY WITHIN THE COUNTY WHERE PUBLISHED AND ENTERED AND FOR DELIVERY AT POST OFFICE WHERE PUBLISHERS' HEADQUARTERS OR GENERAL BUSINESS OFFICES ARE LOCATED

.111 When Mailed at Office of Original Entry

a. For delivery of publications *other than weeklies* at office of original entry by its letter carriers. b. For delivery of publications *other than weeklies* by the letter carriers at a different post office than the office of original entry within the delivery limits of which the headquarters or general business office of the publisher is located (except that the pound rates from the office of mailing apply if they are higher).	Publications issued more frequently than weekly: 1.8c per copy. Publications issued less frequently than weekly: Copies weighing 2 ounces or less: 1.8c per copy. Copies weighing more than 2 ounces: 2.9c per copy.
c. For delivery of *weekly* publications to addressees *residing within* the county where published from all offices within or without the county *including the office of original entry*. d. For delivery of all publications, of whatever frequency, through post office boxes or general delivery, and for delivery by rural or star route carriers, *at an office of original entry* which *has* letter carrier service. e. For delivery of all publications, of whatever frequency, by whatever services are provided, *at an office of original entry* which *does not have* letter carrier service. f. For delivery of all publications, of whatever frequency, to addressees *residing within* the county where published, from all offices within or without the county, *other than the office of original entry*.	2.1c (two and one tenths cents) per pound or fraction of a pound plus 0.7c (seven-tenths of a cent) per piece charge.

.112 When Mailed at Office of Additional Entry

a. The per copy rates in 132.111 a or b, for publications *other than weekly*, apply to copies mailed at additional entry offices and addressed for delivery either at the office of original entry or at the publisher's headquarters office, when postage at these rates is higher than the postage computed at the rates in 132.12.
b. The charges prescribed by 132.111 c, d, e, and f also apply to copies of publications, of whatever frequency, mailed at an office of additional entry *located within* the county where published and entered, to addressees *residing within* the county, for delivery at all offices within or without the county, including the office of additional entry, by whatever delivery services are provided.

.113 Independent Cities

Each publication having original entry at an incorporated city which is situated entirely within a county or which is situated contiguous to one or more counties in the same State, but which is politically independent of such county or counties, shall be considered to be within and a part of the county with which it is principally contiguous and copies mailed into that county are chargeable with postage at the rates in 132.111. Where more than one county is involved, the publisher will select the principal county and notify the postmaster.

.12 RATES CHARGED ON COPIES FOR DELIVERY OUTSIDE THE COUNTY WHERE PUBLISHED AND ENTERED, AND ON COPIES MAILED AT AN OFFICE OF ADDITIONAL ENTRY *LOCATED OUTSIDE THE COUNTY* WHERE PUBLISHED AND ENTERED (Publishers authorized to mail publications at the postage rates in 132.121 must submit an annual written request for authority to mail matter at the phased rates of postage provided pursuant to 39 U.S.C. 3626. A block for this purpose is provided on Form 3526, *Statement of Ownership, Management and Circulation*, for the editor, publisher, business manager or owner to sign in order to comply with this requirement. Failure to sign the appropriate block will subject the publication to the full rates.)

.121 All Publications, Except Those Accepted at the Special Rate (132.122), Classroom Rate (132.123), or Science of Agriculture Rate (132.124)

All publications are subject to the charges in both a and b.

a. Rates in cents per pound or fraction of a pound:

Nonadvertising portion	8.0	Advertising portion: (Cont.)	
Advertising portion:		Zone 5	14.9
Zones 1 and 2	10.7	Zone 6	16.9
Zone 3	11.5	Zone 7	18.7
Zone 4	13.0	Zone 8	20.9

b. Per piece charge (cents):

(1) All publications except those provided for in (2)	2.8
(2) Publications mailing less than 5,000 copies per issue outside the county of publication	0.9

.122 Special Rate Publications

All publications are subject to the charges in both a and b.

a. Rates in cents per pound or fraction of a pound:

Nonadvertising portion	4.2	Advertising portion: (Cont.)	
Advertising portion:		Zone 5	10.5
Zones 1 and 2	6.7	Zone 6	11.7
Zone 3	7.4	Zone 7	12.6
Zone 4	8.9	Zone 8	13.5

b. Per piece charge (cents): 1.1
c. The zone rates in 132.122a are applicable to issues in which the advertising portion exceeds ten percent. Issues containing ten percent or less advertising shall be computed at the nonadvertising rate in 132.122a.
d. The rates in 132.122a, b, and c, apply only to publications issued by and in the interest of the following organizations and associations (see 134.5 for definitions of organizations listed in a–h) not organized for profit and none of the net income of which benefits any private stockholder or individual, when specially authorized by the Postal Service: (see 132.33a)

(1) Religious	(5) Agricultural
(2) Educational	(6) Labor
(3) Scientific	(7) Veterans
(4) Philanthropic	(8) Fraternal

(9) Association of rural electric cooperatives
(10) The official highway or development agency of a State (LIMITED TO ONE PUBLICATION THAT MEETS ALL THE REQUIREMENTS OF 132.22 and that contains no advertising.)
(11) Program announcements or guides published by an educational radio or television agency of a State or political subdivision thereof or by a nonprofit education radio or television station.
(12) One conservation publication published by an agency of a State which is responsible for management and conservation of the fish or wildlife resources of such State.

.123 Classroom Publications

(Religious, educational, or scientific publications designed specifically for use in school classrooms or in religious instruction classes.) All publications are subject to the charges in both a and b.

a. Rates in cents per pound or fraction of a pound:

Nonadvertising portion	3.3	Advertising portion: (Cont.)	
Advertising portion:		Zone 5	7.8
Zones 1 and 2	4.2	Zone 6	9.8
Zone 3	4.9	Zone 7	11.1
Zone 4	6.1	Zone 8	12.9

b. Per piece charge (cents): 0.3

.124 Science of Agriculture Publications

The rates in 132.121 a and b apply to publications devoted to promoting the science of agriculture. Exception: When the total number of copies furnished during any 12-month period to subscribers residing in rural areas consists of at least 70 percent of the total number of copies distributed by any means for any purpose, the rate for zones 1 and 2, for the advertising portion, is 6.7 cents per pound.

.13 TRANSIENT RATE

Copies mailed by public. Sample copies in excess of 10 percent allowance. Copies to persons not included in list of subscribers.	10¢ for first 2 ounces; 4¢ each additional ounce or fraction thereof, or the fourth-class rate, whichever is lower.

.14 SECOND-CLASS RATES TO OTHER COUNTRIES

See Publication 42, *International Mail*.

.15 COMPUTATION OF POSTAGE CHARGES

The pound rates for both within (132.111a) and outside (132.121a) the county of publication are computed on the bulk weight of a mailing. The charge per piece for both within (132.111b) and outside (132.121b) the county of publication is computed on individually addressed pieces consisting either of single copies or packages containing unaddressed copies. When two or more unaddressed copies are mailed in a package, the package is considered as one piece. The per piece charge is applicable to all pound rate mailings

.16 WEIGHT LIMITS

There is no limit of weight for second-class mail to domestic destinations. See Publication 42, *International Mail*, for weight limits to other countries.

.17 WHO PAYS

Postage at the transient rate must be paid on all copies mailed by the general public. Only publishers and registered news agents may mail at the other second-class rates.

132.2 QUALIFICATIONS FOR SECOND-CLASS PRIVILEGES

.21 WHAT MAY QUALIFY

.211 *Mailable Publications*

Only newspapers and other periodical publications which meet the mailability criteria established in Part 123 may be mailed at the second-class rates. However, in view of *Blount v. Rizzi*, 400 U.S. 410 (1971), approval of an application does not represent a determination by the Postal Service that a publication is mailable pursuant to 39 U.S.C., section 3001(a), 18 U.S.C., section 1461 and section 1463. The term *periodical publications* includes:

a. Any catalog or other course listing, including mail announcements of legal texts which are part of post-bar admission education issued by any institution of higher education or by a nonprofit organization engaged in continuing legal education.

b. Any looseleaf page or report (including any index, instruction for filing, table, or sectional identifier which is an integral part of such report) which is designed as part of a looseleaf reporting service concerning developments in the law or public policy.

.212 *With or Without General Advertising*

All publications that meet the basic qualifications explained in 132.22 may carry general advertising. The publications of the institutions and societies specifically named in 132.23 must meet all the basic qualifications except the requirement of a paid subscription list. They are excused from having a paid list only when they do not carry general advertising. Those that carry general advertising must have a paid list.

.22 BASIC QUALIFICATIONS

.221 *Regular Issuance*

Publishers must determine the number of issues they will publish each year and adopt a statement of frequency that will show at what regular intervals the issues will appear. Examples of statements of frequency are:

Daily	Semimonthly	Quarterly
Weekly	Semiweekly	Four times a year in January, February, October, and November
Monthly	Biweekly	
Monthly except during July and August	Weekly during school year	

A publication may not be published under a frequency that provides for less than four issues each year. Issues must be published regularly as called for by the statement of frequency. Publishers may change the number of issues scheduled and adopt a new statement of frequency by filing an application for second-class reentry. (See 132.34.) When a publication fails to maintain regular issuance according to its stated frequency, the postmaster will inform the publisher of the requirements and request compliance. If irregular issuance continues, or if the publication is discontinued, the postmaster will report all the facts, including publisher's current mailing address, to the Office of Mail Classification for determination as to whether proceedings should be instituted to revoke second-class mail privilege. See 132.8.

.222 *Issuance at Known Office*

Publications must be issued and mailed at a known office of publication. A known office of publication is a public office where the business of the publication is transacted during the usual business hours. The office must be maintained at the place where the publication has been granted original second-class mail privileges. Offices for the transaction of business may be maintained at more than one place, but mailings may be accepted at the second-class pound rates only at the post offices where original or additional mail privileges have been authorized.

.25 IDENTIFICATION STATEMENTS IN COPIES

Copies of publications must be identified as second-class mail by having the following items printed on one of the first five pages in a position where they may be easily located by postal employees and other interested persons:

a. *Name of publication.* The name of the publication must be shown on the front in a position and in a style and size of type that will make it clearly distinguishable from the name of the publisher or other items on the front.

b. *Date of issue.*

c. *Statement of frequency.*

d *Issue number.* The copies of each issue must be numbered consecutively. The consecutive numbering of published issues may not be broken by assigning numbers to issues unavoidably omitted.

e *Subscription price,* if the publication has one.

f. *Name of known office of publication and ZIP Code,* including street and number when there is letter-carrier service, must be printed in a position or in a style and size of type or with a designation that will make it clearly distinguishable from the names of other offices of the publication. When there is no post office at the place where published, the name of the post office where mailed must be shown as the office of publication. Addresses in mastheads and date lines must be printed so they will clearly show where change of address notices, undeliverable copies, orders for subscriptions, and other mail items are to be sent. See 125.26.

g. *Second-class imprint,* reading *Second-class postage paid at* _____. When a publication is mailed at two or more offices, the imprint must read *Second-class postage paid at* _____ *and at additional mailing offices.*

h. *Notice of pending application,* when copies are mailed while an application is pending, reading *Application to mail at second-class postage rates is pending at* _____.

132.3 APPLICATIONS FOR SECOND-CLASS PRIVILEGES

.31 FILING BY PUBLISHER

The following applications should be filed by the publisher at the post office where the publication maintains its known office of publication (see 132.222):

a. *Original entry applications for publications and news agents.*

An application must be filed by the publisher before a publication may be mailed at the second-class rates. Two copies of the issue described in the application must also be filed. When one-half or more of the total copies distributed are purchased by news agents for resale or are consigned to news agents for sale, two copies each of at least four issues must be filed before an application is either approved or disapproved, to demonstrate compliance with the requirement for regular issuance at least four times each year. If the publication is printed in a foreign language, a brief translation of the contents of the copies must be furnished. A synopsis of each article and advertisement is usually sufficient. News agents must file applications before they may mail second-class publications at the second-class rates. Copies of all application forms may be obtained from local postmasters. The headings on the forms describe what information must be furnished by publishers and news agents. Use the following forms:

(1) File application Form 3501 for second-class mail privileges for a publication that meets the basic qualifications (see 132.22) at the post office of

the place where the known office of publication is located. When one-half or more of the total copies distributed are purchased by news agents for resale or are consigned to news agents for sale, postmasters will not accept an application on Form 3501, unless the publisher has completed the application by furnishing all of the information called for by questions 30 and 31.

(2) File application Form 3502 for second-class mail privileges for a publication of an institution or society (see 132.23) that does not meet the basic qualifications at the post office of the place where the known office of publication is located.

(3) File application Form 3501-A for permission to mail foreign publications in the United States at the post office at which the copies are to be mailed.

(4) File application Form 3501-A for registry of a person or firm as a news agent with the privilege of mailing second-class publications at the post office where mailings are to be made.

b. *Additional entry application.* A publisher may apply for permission to mail at additional entry post offices. A written request for an additional entry must be filed by the publisher at the post office where the publication has original second-class entry. A form is not provided for an additional entry application. The request may accompany the application for original entry. See 132.23 for fees required. The request must include the following information:

(1) Name of publication.
(2) Frequency of issue.
(3) Name of place where publication is printed.
(4) Name of the additional entry post office.
(5) Approximate number and weight of copies to be mailed at the additional entry post office.
(6) Specific geographical area to be served from the additional entry office. (The geographical area served by the additional entry office must include the entire local delivery area of the additional entry office.)

An additional entry will be authorized at a post office located in the same county in which the office of original entry is located only when the publication is entirely or partly produced or prepared for mailing at the additional entry office (see 132.315 for available exceptional dispatch privileges). An additional entry will be authorized only at a post office served by transportation facilities which will enable the mailings to be effectively and economically handled in the postal transportation patterns.

c. *Application for special rates.* A publisher may apply for permission to mail at special rates. A written request for special rates must be filed by the publisher at the post office where the publication has original second-class entry. The request may be filed jointly with the application for original entry or filed separately at the post office of original entry after a publication has been granted second-class mailing privileges.

(1) Special rate. Non-profit organizations and associations listed in 132.122 may apply to the postmaster for the special second-class rates. They must submit evidence to establish their non-profit status and to show that they come within one of the categories stated.

(2) Classroom rate. Publishers of religious, educational, or scientific publications designed for use in school classrooms or in religious instruction classes may apply to the postmaster for the classroom rate listed in 132.123. They must submit evidence showing that their publications are of this character and for the uses stated.

(3) Science of agriculture rate. Publishers of publications designed to promote the science of agriculture may apply to the postmaster for the special zones 1 and 2 advertising rate listed in 132.124. They must submit evidence that their publications are of the character and for the use stated and that more than 70 percent of the copies distributed by

any means for any purpose during any twelve-month period are to subscribers residing in rural areas.

d. *Application for reentry.* When the name or frequency of issuance of a publication is changed, an application for reentry must be filed on Form 3510 at the post office of original entry accompanied by two copies of the publication showing the new name or frequency. When the location of the known office of publication is changed, an application for reentry must be filed on Form 3510 at the new office, accompanied by two copies of the publication showing the name of the new office as the known office of publication. Copies of second-class publications will be accepted for mailing at the second-class postage rates during the time applications for their reentry are pending. Copies of Form 3510 may be obtained from local postmasters. An application for reentry is not required when only the ownership is changed unless the change disqualifies the publication for an entry which was authorized under 132.23.

e. *Application for exceptional dispatch.* An application to deliver copies of a second-class publication at the publisher's expense and risk from the post office of original entry or an additional entry post office to other post offices or elsewhere may be filed by the publisher at the office of original or additional entry where the postage is paid on the copies which will be transported. Applications for exceptional dispatch may be filed jointly with applications for original entry, reentry, or special rates. A form is not provided for applications for exceptional dispatch. The postmasters at the office of original or additional second-class entry will approve or disapprove applications on the basis of whether the exceptional dispatch will improve service. They will notify other post offices concerned and the sectional center manager of approved arrangements and include a list showing how the sacks or outside bundles are to be labeled and the approximate number of copies. Only after notification by the postmaster at the entry office where the postage is paid shall copies be accepted at another office directly from the publisher. At least once each 6 months the accepting postmaster shall verify the number of copies received directly from the publisher. Any significant increase noted at the time of verification or at any other time shall be reported to the entry office where the postage is paid. Denial of an application for exceptional dispatch may be appealed to the Director, Office of Mail Classification, who will issue the final agency ruling.

.32 ACCEPTANCE AFTER APPLICATION IS FILED

Publishers or news agents may not mail at the second-class rates until the application for second-class privileges is approved by the Director, Office of Mail Classification, Rates & Classification Department. See 132.34. Postmasters may not accept mailings at the second-class rates until they receive a written authorization from the Director, Office of Mail Classification. Postage at the applicable third- or fourth-class rates may be paid in money on mailings made while an application is pending. The postmaster will keep a record of such mailings on Form 3503, *Record of Deposits Made While Second-class Application is Pending*, and if second-class privileges are authorized by the Director, Office of Mail Classification, he will be instructed to return to the publishers or news agents the difference between the third- or fourth-class rates and the second-class rates. Form 3503 will not be kept and the difference will not be returned when postage is paid by stamps affixed.

.33 FEES

The fees to accompany applications for second-class original entry, reentry, or additional entry, or for registration as a news agent, are:

Kind	*Amount*
Original entry—circulation not more than 2,000	$30
Original entry—circulation 2,001 to 5,000	60

Original entry—circulation 5,001 and over	120
News-agent registry	25
Reentry because of change in title, frequency of issue, office of publication, or other reasons	15
Additional entry (Only one fee is collectible for an application for additional entry even though the additional entry being applied for modifies one or more additional entries previously approved.)	
Within zones 1 and 2	15
Within zones 3 to 8	50

If an application is not approved, no part of the fee is returned to the applicant.

.34 GRANTING OR DENIAL OF APPLICATION

.341 *Responsibility*

The Director, Office of Mail Classification, Rates and Classification Department, Headquarters, rules on all applications for second-class mail privileges, special rates, additional entry, and reentry.

.342 *Granting of Application*

If the Director grants the application, he notifies the postmaster at the office where the application for original entry was filed, who shall notify the applicant. Before taking action, on an application, the Director may call on the publisher for additional information or evidence to support or clarify the application. Failure of the publisher to furnish the information requested may be cause for denial of the application as incomplete or, on its face, not fulfilling the requirements.

.343 *Denial of Application for Original Entry*

If the Director denies the application, he will notify the publisher specifying the reasons for the denial. A denial of second-class mail entry is effective 15 days from receipt of the notice by the publisher unless an appeal is filed with the Docket Clerk, U.S. Postal Service, Washington, DC 20260, in accordance with the provisions of 39 CFR § 954, Rules of Practice in Proceedings Relative to the Denial, Suspension, or Revocation of Second-Class Mail Privileges. A copy of the Rules will be included with any notice of denial of an application.

.344 *Denial of Application for Additional Entries, Special Rates, and Reentry*

If the Director denies an application for additional entry, special rates, or reentry made in accordance with sections 132.312-.314, he will notify the publisher specifying the reasons for the denial. The denial becomes effective 15 days from receipt of the notice by the publisher unless the publisher files an appeal with the Assistant Postmaster General, Rates and Classification Department, who will issue the final agency decision.

.35 REVOCATION OR SUSPENSION OF SECOND-CLASS PRIVILEGES

.351 The Postmaster General may revoke the entry of a publication as second-class mail whenever he finds, after a hearing, that the publication is no longer entitled to be entered as second-class mail.

.352 The Director, Office of Mail Classification, makes determinations concerning the suspension or revocation of a second-class entry subject to appeal and hearing requested by the publisher. He may call on a publisher from time to time to submit information bearing on the publisher's right to retain a second-class entry for his publication. When the Director determines that a

publication is no longer entitled to its second-class entry, he issues a ruling of suspension or revocation to the publisher at the last known address of the office of publication stating the reasons for his action. The ruling becomes effective 15 days from receipt of the notice by the publisher unless an appeal is filed with the Docket Clerk, U.S. Postal Service, in accordance with the provisions of 39 CFR Part 954, Rules of Practice in Proceedings Relative to the Denial, Suspension, or Revocation of Second-Class Mail Privileges. A copy of the Rules will be included with any notice of revocation or suspension.

.36 REVOCATION FOR ADDITIONAL ENTRIES, SPECIAL RATES, REENTRY AND EXCEPTIONAL DISPATCH.

The Director shall revoke authorizations for additional entry, special rates, reentry and exceptional dispatch whenever he finds that a publication or organization is no longer entitled to such authorization. Whenever the Director revokes any such authorization, he shall notify the publisher or organization specifying the reasons for the revocation. The revocation is effective 15 days from receipt of the notice by the publisher or organization unless an appeal is filed with the Assistant Postmaster General, Rates and Classification Department, who will issue the final agency decision.

132.4 WHAT MAY BE MAILED AT THE SECOND-CLASS RATES

.41 COMPLETE COPIES

Copies of the regular issues containing all of the pages may be mailed at the applicable second-class rates provided by 132.11 and 132.12 to subscribers, as samples (see 132.461 for limitation), and as provided for by 132.23. The transient rate provided by 132.13 applies to copies mailed to nonsubscribers and as excess samples. Copies which are not complete by reason of having pages or portions of pages removed must be charged with postage at the applicable third- or fourth-class rates.

.42 EDITIONS OR ISSUES

The following kinds of extra or special editions or issues may be mailed at the second-class rates:

a. Extra issues or editions issued for the purpose of communicating additional news and information received too late for insertion in the regular edition and not for advertising purposes.
b. Separate editions of the issues of a second-class publication. Separate publications will not be accepted as editions.
c. Issues containing annual reports, directories, lists, and similar text as a part of the contents, but the copies may not be distinguished from the regular issues by bearing designations which indicate they are annuals, directories, catalogs, yearbooks, or other types of separate publications. The regular annual subscription price must include the copies of such issues.

.43 BACK NUMBERS AND REPRINTS

The following kinds of back numbers and reprints may be mailed at the second-class rates:

a. Unbound copies of back numbers as long as entry is in effect.
b. Unbound reprint copies of daily publications printed within 1 week after the date of issue.
c. Unbound reprint copies of other than daily publications printed before the next issue is printed.

Other reprints and bound back numbers are charged with postage at any applicable third- or fourth-class rates.

.44 SUPPLEMENTS

Issues may include supplements subject to the following conditions:

a. The supplement must be germane to the issue, and prepared in order to complete it, having been omitted for want of space, time, or greater convenience.
b. Publishers must be paid at advertising rates and charges for carrying preprinted advertising supplements germane to the issue which are furnished to them by advertisers or others.
c. Publications which are distinct from and independent of the regular issue, such as catalogs, circulars, handbills, posters, and other special advertisements, and which are, therefore, not germane to the issue, may not be inserted as supplements.
d. A supplement must bear the title of the publication preceded by the words *Supplement to*.
e. Supplements must be folded and mailed with the regular issue.
f. Bound periodicals must observe the provisions of 132.48.

.45 PARTS OR SECTIONS

.451 The regular pages of publications may be prepared in parts or sections. Enclosures prohibited as supplements may not be prepared as parts or sections.

.452 Each part or section must show the title of the publication.

.453 The number of parts or sections in which the issue is published must be stated on the first page of the first part or section.

.454 Publishers must pay at a rate that is not nominal for parts or sections produced by others. The parts or sections may not be issued by or for advertisers. Publishers must submit to the Office of Mail Classification, Rates and Classification Department contracts entered into with producers of parts or sections.

.46 COPIES NOT PAID FOR BY THE ADDRESSEE

.461 *Sample Copies*

a. Complete copies of regular issues or editions may be mailed as samples at the second-class rates provided by 132.11 and 132.12.
b. Samples may be mailed at any time during a calendar year to the extent of 10 percent of the total estimated weight of copies to be mailed to subscribers during the calendar year. For publications having additional entries, the postmaster at the original entry office is responsible for determining that sample copies do not exceed the 10 percent limit. At the end of each calendar year the postmaster at the original entry post office must request from each additional entry office the weight of subscriber and sample copies mailed during the year.
c. The words *Sample Copy* must be shown on the address side of the envelopes or wrappers or the outside cover of unwrapped copies.
d. Samples for delivery in the county of publication are subject to the rates shown in 132.11.
e. The transient rate provided by 132.13 must be paid on samples mailed in excess of the 10 percent limit.
f. Copies mailed for advertising purposes under arrangements with advertisers or others and copies mailed by a publisher acting as an agent for an advertiser may not be mailed as samples.
g. Sample copies may be mailed to boxholders with each copy addressed in the simplified manner shown in 122.41. Copies so addressed and marked *Sample Copy* must be mailed to each boxholder on the rural or star route or to each boxholder at post offices not having city letter carrier service. Copies may not be mailed only to nonsubscriber boxholders. All copies

mailed in this manner are considered as samples even though some boxholders are subscribers. Such copies are individually addressed copies.

.462 *Copies Paid for by Advertisers*

Copies paid for by advertisers or others for advertising purposes may be mailed only at the transient rate provided by 132.13. When copies are being furnished free to the addressees, publishers may be required to tell the postmaster the purpose for sending the copies, the amount that the publisher received for the copies, and whether the purchaser is an advertiser.

.463 *Copies Paid for as Gifts*

A minor portion of the subscription list may consist of persons whose subscriptions were paid for as gifts. Subscriptions paid for by advertisers or other interested persons to promote their own interests and subscriptions given free by the publishers are not gift subscriptions: postage at the transient rate in 132.13 must be paid on these copies.

.464 *Exchange Copies*

A minor portion of the subscription list may consist of publishers to whom exchange copies are sent, one copy for another.

.465 *Expired Subscriptions*

Copies will be accepted at the pound rates of postage for a period of 6 months after a subscription has expired, if the publisher attempted during the 6 months to obtain payment or a promise to pay for a renewal. Postage at the transient second-class rate will be charged on copies sent after 6 months to persons who have not renewed.

.466 *Advertisers' Proof Copies*

One complete copy of each issue may be mailed at the pound rates to each advertiser in the issue to prove that the advertisements have been printed or, instead, copies may be mailed to the advertising representatives or agents of the publication. The number of proof copies of each issue sent under this section may not exceed the number of advertisers in the issue.

.467 *Mailed by Printer*

Copies sent by a printer to a publisher are chargeable with postage at the third- or fourth-class rate, whichever is applicable, according to the physical characteristics of the publication and the weight of the package or parcel.

.54 WHEN SUBJECT TO TRANSIENT SECOND-CLASS RATES

Unsold copies returned to publishers or other news agents, or copies sent to other news agents except for purpose of sale, or to persons not having subscriptions with news agents, are subject to transient second-class rate.

.55 RETURN OF PORTIONS OF UNSOLD PUBLICATIONS

The head or small portions of publications returned to publishers to show that copies have not been sold are subject to postage at third- or fourth-class rates according to weight.

132.6 OWNERSHIP, MANAGEMENT AND CIRCULATION STATEMENT

.61 REQUIREMENTS, AS CONTAINED IN 39 U.S. CODE, 3685

.611 Each owner of a publication having second-class mail privileges under 132.22 shall furnish to the Postmaster General at least once a year, and shall publish in such publication once a year, information in such form and detail and at such time as he may require respecting—

a. The identity of the editor, managing editor, publishers, and owners;
b. The identity of the corporation and stockholders thereof, if the publication is owned by a corporation;
c. The identity of known bondholders, mortgagees, and other security holders;
d. The extent and nature of the circulation of the publication, including, but not limited to, number of copies distributed, methods of distribution, and extent to which such circulation is paid in whole or in part; and
e. Such other information as he may deem necessary to determine whether the publication meets the standards for second-class mail privileges.

The Postmaster General shall not require the names of persons owning less than 1 per centum of the total amount of stocks, bonds, mortgages, or other securities.

.612 Each publication having second-class mail privileges under 132.23 shall furnish to the Postmaster General information in such form and detail, and at such times as he requires, to determine whether the publication continues to qualify thereunder. In addition, the Postmaster General may require each publication which has second-class mail privileges under 132.22 or 132.23 to furnish information, in such form and detail and at such times as he may require, to determine whether the publication continues to qualify thereunder.

.613 The Postmaster General shall make appropriate rules and regulations to carry out the purposes of this section, including provision for suspension or revocation of second-class mail privileges for failure to furnish the required information.

.62 PROCEDURES

.621 All publishers of publications having second-class mailing privileges, including the publishers of foreign publications accepted at the second-class postage rates under the provisions of 132.24, must file on or before the first day of October, a statement on Form 3526, *Statement of Ownership, Management and Circulation*, in duplicate, at the post office where the original second-class permit is authorized.

.622 Publishers who file a statement under the provisions of section 132.611 shall publish the complete statement in the second issue thereafter of the publication to which it relates. Publishers who file a statement under the provisions of section 132.612 are not required to publish the statement. Publishers of foreign publications accepted at the second-class postage rates under the provisions of 132.24 are not required to publish the statement.

.623 Publishers of second-class matter mailed at the post offices designated in the revenue and cost analysis sampling system (whether they are original or additional entry offices), must also complete Form 15, *Second-Class Publisher's Statement of Number of Copies*, and if applicable, Form 15E,

Second-Class Publication, Foreign Destinations, Postage Affixed, for the mailings, at the sampling offices only, of the issue for which Form 3526 in .621 was prepared. Forms 15 and 15E will be furnished to publishers by their postmasters. Completion of Forms 15 and 15E is not required for publications whose application for second-class original entry is in a pending status.

.624 A publication which fails to comply with the requirements of this section within 10 days after notice by certified mail of the failure may not be mailed at the second-class rates of postage until it has come into compliance.

.625 Postmasters shall:

a. Furnish at least 3 copies of Form 3526 for each publication not less than 10 days prior to October 1. One copy of the completed Form 3526 should be retained by the publisher for his records.
b. Examine each statement filed in duplicate to see that it contains all of the information required by law.
c. Return incomplete or incorrect statements to the publishers and obtain from them complete and correct statements.
d. Arrange the original copies alphabetically by titles and forward them to the Director, Office of Mail Classification, Rates and Classification Department, Washington, DC 20260. Retain the duplicate copies.
e. Obtain a copy of the issue of each publication in which the required statement is published. Verify the correctness of the published statement. File the copy. DO NOT forward it to Headquarters. Promptly report to the Rates and Classification Department, Office of Mail Classification, any instance where a publisher fails to file or to publish a statement.

132.7 MARKING OF PAID READING MATTER

.71 Editorial or other reading matter contained in publications entered as second-class mail and for publication of which a valuable consideration is paid, accepted, or promised shall be marked plainly *advertisement* by the publisher.

.72 Whoever, being an editor or publisher, prints in a publication entered as second-class mail editorial or other reading matter for which he has been paid or promised a valuable consideration, without plainly marking the same *advertisement*, shall be fined not more than $500. (18 U.S.C. 1734)

.73 Each paid editorial or other reading matter which occupies all or any part of one page, or which occupies more than one page, must be marked plainly "advertisement" either on the one page or on the first page. The word "advertisement" may be part of a statement which explains why the material is marked advertisement. However, such a statement must be prominent on the first page of an article and the word "advertisement" in the statement must be in bold or italicized print, or otherwise given emphasis so it can be plainly seen.

132.8 CANCELLATION OF SECOND-CLASS PRIVILEGES

.81 The Postmaster General may revoke the entry of a publication as second-class mail whenever he finds, after a hearing, that the publication is no longer entitled to be entered as second-class mail.

.82 The Director, Office of Mail Classification, Rates and Classification Department, makes determinations concerning the suspension or revocation of a second-class entry subject to appeal and hearing requested by the publisher. He may call on a publisher from time to time to submit information bearing on the publisher's right to retain a second-class entry for his publication. When the Director determines that a publication is no longer entitled to its second-class entry, he issues a ruling of suspension or revocation to the publisher at the last known address of the office of publication stating the reasons therefor. The ruling becomes effective in 15 days from receipt by the publisher unless the publisher appeals therefrom.

.83 A copy of the procedures governing administrative appeals and hearings relative to the denial, suspension, or annulment of second-class mail privileges may be obtained from the Director, Office of Mail Classification, Rates and Classification Department.

Part 133

CONTROLLED CIRCULATION PUBLICATIONS

133.1 RATES

Per pound or fraction of a pound	10.8 cents
Per piece charge	3.2 cents

The per piece charge is in addition to the pound rate.

133.2 PERMITS

.21 QUALIFICATIONS

Publications must:

a. Contain at least 24 pages.
b. Contain at least 25 percent nonadvertising.
c. Be issued at regular intervals of four or more times a year.
d. Not be owned and controlled by individuals or business concerns and conducted as an auxiliary to and essentially for the advancement of the main business or calling of those who own or control them.

.22 APPLICATIONS

Apply by letter to the postmaster at the office where mailings are to be made. State the name of the publication, frequency of issue, where published, the name of the publisher, and whether the publication is circulated free or mainly free. Submit two copies of the issue published nearest to the date of application marked to show the nonadvertising content as required in 133.4. The postmaster will submit the application and one copy of the publication to the Office of Mail Classification, Rates and Classification Department, Washington, DC 20260. Notice of authorization or denial will be furnished by the General Manager, Domestic Mail Classification Division.

.23 APPEAL OF DENIAL

If the application is denied and the mailer wishes to appeal, he may submit an appeal in writing within 15 days of receipt of the notice of denial to the postmaster who will forward the appeal to the Director, Office of Mail Classification for final ruling.

.24 DEPOSITS TO COVER POSTAGE

While an application is pending, deposits in money to cover postage on mailings at the third- or fourth-class rates may be made by the publisher. The excess deposits will be returned if a permit is issued.

.25 REVOCATION OF CONTROLLED CIRCULATION PRIVILEGES

.251 If a publication is discontinued, or fails to meet the requirements described in part 133, the postmaster should report all the facts, including the publisher's current mailing address, to the General Manager, Domestic Mail Classification Division, so that a determination may be made as to whether action should be taken to revoke the controlled circulation mail privileges.

.252 If it is determined that a publication authorized to be mailed at the controlled circulation rates is no longer qualified, the General Manager, Domestic Mail Classification Division, shall notify the publisher and the postmaster at the office of entry. Controlled circulation privileges will be

revoked 15 days from receipt of the notice by the publisher unless an appeal is filed with the postmaster who will forward it to the Director, Office of Mail Classification, for a final agency ruling.

133.3 IDENTIFICATION STATEMENTS

The following items must be printed on one of the first five pages of each copy, in a position where they may be easily located by postal employees and other interested persons:

a. Name of the publication on the front.
b. Date of issue.
c. Frequency of issue.
d. Address of publisher including street and number when there is carrier delivery service and the ZIP Code.
e. Subscription price, if the publication has one.
f. Controlled circulation imprint, reading: *Controlled circulation postage paid at* ---------- When a publisher has filed applications at more than one post office, and has received authorizations at each office, the imprint must read: *Controlled circulation postage paid at* ---------- *and at* ----------.
g. Notice of pending application when copies are mailed under deposits of money, reading: *Application to mail at controlled circulation rates is pending at* ----------.

A notice must be printed or handstamped on the envelopes or wrappers in which copies are mailed, reading: *Controlled circulation postage paid at* ---------- When a publisher has filed applications at more than one post office, and has received authorizations at each office, the notice must read: *Controlled circulation postage paid at* ---------- *and at* ----------.

133.4 FILING OF MARKED COPY

A copy of each issue, marked by the publisher to show nonadvertising to the extent of at least 25 percent of the total reading and advertising portions of the publication, must be filed with the postmaster at the time of mailing. The percentage of nonadvertising must be written on the first page of the copy. Advertising includes paid advertising and the publisher's own advertising. The advertising may be in display, classified, or editorial style.

133.5 ENCLOSURES

Enclosures are not permitted.

133.6 ADDRESSING, PREPARATION FOR MAILING, WEIGHING, AND COLLECTION OF POSTAGE

See 122.7 for applicable addressing requirements; 125.1 through 125.33 for applicable preparation requirements; and 125.6 for weighing and collecting of postage procedures.

133.7 STATISTICAL STATEMENT

Publishers of controlled circulation matter must execute Form 8-C, *Pieces by Destination, Controlled Circulation Publications*, for the first mailing of each fiscal year, and for the first mailing, at any time, at a new post office of entry after the authorization to mail at controlled circulation rates has been received. The form will be distributed to publishers by their postmasters. Failure to comply with this requirement will result in non-acceptance of the mailing by the Postal Service.

Part 134

THIRD CLASS

134.1 RATES

.11 SINGLE PIECE RATE

.111 All matter not in the first or second class (see 134.31 for weight limit) except mailings made under 134.12 and 134.13:

0 to 2 ozs	14¢	Over 8 to 10 ozs	61¢
Over 2 to 4 ozs	28¢	Over 10 to 12 ozs	72¢
Over 4 to 6 ozs	39¢	Over 12 to 14 ozs	83¢
Over 6 to 8 ozs	50¢	Over 14 but less than 16 ozs	94¢

.112 The following exception applies to single-piece rate third-class mail: When the postage rate computed at the single-piece third-class rate is higher than the rate prescribed in the corresponding fourth-class category for which the piece qualifies, the applicable lower fourth-class rate will be charged.

.12 BULK RATES[1]

(See 134.222 and 134.42.)

	Special rates for authorized organizations only (see 134.5)	Regular rates
.121 Books and catalogs having 24 or more bound pages with at least 22 printed, seeds, cuttings, bulbs, roots, scions, and plants (see 134.31 for weight limit).	11¢ per pound or fraction.	30¢ per pound or fraction.
Minimum rate per piece:		
First 250,000 pieces mailed during each calendar year.	2.1¢	7.5¢
Pieces in excess of 250,000 mailed during each calendar year (see 134.124).	2.1¢	7.7¢
.122 All matter, except the items in 134.121, not included in the first- or second-class (see 134.31 for weight limit).	14¢ per pound or fraction.	36¢ per pound or fraction.
Minimum rate per piece:		
First 250,000 pieces mailed during each calendar year.	2.1¢	7.5¢
Pieces in excess of 250,000 mailed during each calendar year (see 134.124).	2.1¢	7.7¢

[1] The annual bulk mailing fee is $40

.123 If the total postage computed at the pound rates does not amount to the minimum rate per piece or more, postage must be computed at the minimum charge per piece. (See 134.222a.)

.124 When mailings are made at the minimum per piece rates of 7.5¢ provided by 134.121 and 134.122, the mailer or his agent must show on each Form 3602, *Statement of Mailing Matter with Permit Imprints*, or Form 3602-PC, *Bulk Rate Mailing Statement—Third-Class Mail*, that his total mailings, including all those made at bulk pound rates and at minimum per

piece rates, at all post offices, under any name, for each current calendar year, have not exceeded 250,000 pieces. It is the responsibility of the mailer or his agent to make available upon request of postal officials whatever information is necessary to show the payment of correct minimum per piece rates on all mailings made during each calendar year. Postmasters must regularly review the records of mailings being made at the bulk third-class pound and piece rates for the purpose of determining from the identity of the mailer, the number of pieces mailed, the character of the mailing pieces, or any other facts, whether the correct minimum per piece rate is being paid. If any postmaster is in doubt as to whether the 250,000 limitation has been exceeded in a particular case, he shall submit all the facts to the Office of Mail Classification, Rates and Classification Department.

.125 The weight at which the pound bulk rates cease to apply for third-class bulk mail is found by multiplying the applicable piece rate by 16 and dividing the product by the corresponding pound rate. The result expresses this weight limit in ounces and decimal fractions of ounces. Pieces at or below this weight are subject to the applicable minimum per piece rate. The calculation should be carried to 5 decimal points.

.13 KEYS, IDENTIFICATION CARDS, IDENTIFICATION TAGS, OR SIMILAR IDENTIFICATION DEVICES

Keys, identification cards, identification tags, or similar identification devices that are without cover and that bear, contain, or have securely attached the name and complete post office address of a person, organization, or concern with instructions to return to such address and a statement guaranteeing the payment of the postage due on delivery: 19 cents for the first 2 ounces, 14 cents for each additional 2 ounces or fraction thereof.

134.2 CLASSIFICATION

.21 DEFINITION

.211 Third-class mail consists of mailable matter which is—

a. not mailed or required to be mailed as first-class mail;
b. not entered as second-class mail; and
c. less than 16 ounces in weight.

.212 Circulars, including printed letters which according to internal evidence are being sent in identical terms to several persons, are third-class mail. A circular does not lose its character as such when the date and name of the addressee and of the sender are written therein, nor by the correction in writing of mere typographical errors.

.213 Printed matter within the limit of weight is third-class mail. For the purpose of this section, printed matter is paper on which words, letters, characters, figures or images, or any combination thereof, not having the character of actual or personal correspondence, have been reproduced by any process other than handwriting or typewriting.

.22 APPLICATION OF RATES

.221 *Single Rate*

The single rate is applied to each piece according to its weight.

.222 *Bulk Rate*

a. The bulk rate is applied to mailings of identical pieces separately addressed to different addressees in quantities of not less than 50 pounds or of not less than 200 pieces. All the pieces in a bulk mailing must be identical as

to size and weight, but the printed textual matter need not be identical. Postage is computed at pound rates on the entire bulk mailed at one time, except that in no case shall less than the minimum charge per piece be paid. The annual bulk mailing fee must be paid at or before the first mailing each calendar year. (See 134.4 for other conditions governing acceptance of bulk mailings.)

b. It is recommended that mailers merge and presort all third-class matter presented for mailing during a day or part of a day when the pieces are identical as to size and weight and when they are addressed from one list or from more than one list. A variance in the text, the use or nonuse of adhesive address labels, or the use of several lists with different key numbers does not preclude the mailer from merging the mailings and presorting them.

.223 *Other Third-Class Rates*

The rate for keys and identification items placed loose in the mail under the conditions in 134.13 is applied to each item according to its weight. When there are several items for the same addressee the office of mailing will place them in an envelope or wrapper addressed to the intended recipient and marked to show the amount of postage due. The amount of postage will be computed on each item and not on the bulk weight of the mailing piece.

.224 *Nonstandard Surcharge*

There is currently no surcharge for nonstandard mail as defined in 134.33. However, it is anticipated that such a surcharge will be imposed sometime in calendar year 1978.

.23 CONTESTED CLASSIFICATION See 146.141.

134.3 WEIGHT AND SIZE LIMITATIONS

.31 WEIGHT

Each piece may weigh up to but not including 16 ounces.

.32 SIZE, SHAPE, AND RATIO

There is no maximum limit of size. The following standards apply to envelopes, cards, and self-mailers having postage paid thereon at the third-class rates:

a. Pieces less than 3 inches in width (height) or 4¼ inches in length are nonmailable.
b. Pieces having shapes other than rectangular are nonmailable.
c. Pieces having a ratio of width (height) to length between 1 to 1.3 and 1 to 2.5 are recommended.
d. Cards having a thickness of less than 0.006 of an inch are nonmailable.

.33 NONSTANDARD THIRD-CLASS MAIL

.331 Third-class single piece rate mail weighing 2 ounces or less is nonstandard unless it meets the following size standards:

a. Length not greater than 11.5 inches; and
b. Height not greater than 6.125 inches; and
c. Thickness not greater than .25 inch; and
d. An aspect ratio (ratio of height to length) between 1:1.3 and 1:2.5 inclusive.

.332 Nonstandard mail often results in delays or damage to other mail because it does not lend itself to machine processing. For this reason mailers are encouraged to avoid mailing nonstandard third-class mail.

.333 It is anticipated that a surcharge will be imposed sometime in calendar year 1978.

134.4 PREPARATION—PAYMENT OF POSTAGE

.41 SINGLE-PIECE MAILINGS

Mailers of third-class mail at other than bulk rates may use any method of paying postage, and may mail any number of pieces at one time, except when permit imprints are used (see 145.5). See 134.82 for marking required on sealed pieces.

.42 BULK MAILINGS

.421 *Annual Fee*

A fee of $40 must be paid once each calendar year by or for any person who mails at the bulk third-class rates. Any person who engages a business concern or another individual to mail for him must pay the $40 fee. This fee is separate from the fee that must be paid for a permit to mail under the permit imprint system (145.1). An alphabetical record of customers who have paid the $40 fee must be kept at the weighing section or any other place where bulk mailings are accepted and cleared. The record must show whether the mailer has been authorized to mail as one of the organizations or associations named in 134.5.

.422 *Postage Permits Required*

Postage must be prepaid by (see part 146):

a. Meter stamps. See part 144.
b. Precanceled stamps or precanceled stamped envelopes. See part 143.
c. Permit imprints (cash). See part 145.

.423 *Markings Required*

Identifying words as follows must be printed or rubber stamped by the mailer either in or immediately adjacent to permit imprints, meter stamps, or precanceled stamps:

a. *Bulk Rate* or the abbreviation *Blk. Rt.* by mailers other than nonprofit organizations.
b. *Nonprofit Organization* or the abbreviation *Nonprofit Org.* by authorized nonprofit organizations. (See 134.5).

.424 *Mailing Statement and Verification*

The mailer must complete and submit a mailing statement with each mailing as follows:

a. Form 3602, *Statement of Mailing Matter with Permit Imprints*, for mail with permit imprints (see 145.5); or
b. Form 3602—PC, *Statement of Mailing Bulk Rates*, for mail bearing precanceled stamps or meter stamps.

A designated employee in the weighing section or place where bulk mailings are accepted must verify the class of mail, verify that it is properly made up, and verify that the information contained on the mailing statement, including whether the average weight per piece is accurate, whether the minimum per piece charge or the pound rate is applicable, and whether the postage chargeable per piece or per pound is accurate.

provement associations; individuals; mutual insurance associations; political organizations; service clubs such as Civitan, Kiwanis, Lions, Optimist, and Rotary; social and hobby clubs; associations of rural electric cooperatives; and trade association. In general, state, county, or municipal governments are not eligible for the special rates. However, a separate and distinct state, county, or municipal governmental organization that meets the criteria for any one of the specific categories in 134.522 is eligible, notwithstanding its governmental status. For example, school districts and public libraries may be eligible under 134.522b. Nevertheless, governmental organizations will generally not be eligible under 134.522d (philanthropic), since their income is gnerally not derived primarily from voluntary contributions or donations.

.54 APPLICATION

.541 *Filing*

Application on Form 3624, *Application to Mail at Special Bulk Third-Class Rates for Qualified Nonnprofit Organizations or Associations*, must be filed by the organization or association at the post office where mailings will be deposited. The application must include evidence that the organization is nonprofit, and, if available, a certificate of exemption from Federal income tax should accompany the application. An exemption from the payment of Federal income tax is not required in order to qualify for the special third-class bulk rates. Such exemption will be considered as evidence of qualification for preferred Postal rates but will not be controlling in the matter. When an organization submits proof that it has been granted income tax exemption under Title 26, United States Code, section 501(c)(3), as a religious, educational, scientific, or charitable (philanthropic) organization; under section 501(c)(5) as an agricultural or labor organization; under section 501(c)(8) as a fraternal organization; or under section 501(c)(19) as a veterans' organization, it will be considered as qualifying for the special third-class rates unless the available evidence discloses some disqualification.

.542 *Approval or Denial*

The application Form 3624 together with any supporting papers will be sent to the postal services center. (Pending a decision, bulk mailings subject to the minimum per piece charge may be handled in accordance with 134.55.) The postmaster at the postal services center will approve or deny the application. The application Form 3624 and any supporting papers will be returned with the decision to the postmaster where the application was filed for notification of the applicant. Before taking action on an application or appeal, additional information or evidence may be requested to support or clarify the application. Failure of an organization to furnish the information is sufficient reason to deny an application or revoke existing authorization.

.543 *Appeal*

The decision of the postmaster at the postal services center may be appealed by the applicant, in writing to the postmaster where the application was filed. The postmaster will forward the appeal to the postal services center. If, after a review of the file, the postmaster at the postal services center is still of the opinion that the organization does not qualify, he shall furnish a statement of the reasons for his denial action to the Rates & Classification Department, Domestic Mail Classification Division. The complete file, including the original application and all supporting papers, should be submitted. The papers will be returned to the postmaster at the postal services center with the final decision on the appeal by the General Manager, Domestic Mail Classification Division.

.55 TEMPORARY MAILINGS

Until final action is taken on the application, postage paid on the mailings may be at the special rates, provided the mailer deposits with the postmaster

an amount sufficient to cover the additional postage at the higher rates. (See 134.121 and 134.122). This deposit will be returned to the mailer if the application is approved. If the application is denied, the deposit will not be returned. The deposit will be converted into postage-due stamps which will be canceled and given to the mailer if no appeal is made. If appeal is made, action concerning the deposit will be deferred.

.56 REVOCATION

.561 The approval may be revoked if the authorization was given to an organization or association which was not qualified or which becomes unqualified. The postmaster who approved the application will notify the organization of the pending cancellation of the authorization and of the reasons for the cancellation. The organization will be allowed 15 days within which to file a written statement appealing the pending cancellation. If no appeal is filed, the postmaster will revoke the authorization. If an appeal is filed, a decision on the continuance of the authorization will be made by the General Manager, Domestic Mail Classification Division. Notice of the decision will be given to the organization through the postmaster.

.562 A review of any organization authorized to mail at the special third-class rates may be initiated or undertaken at any time by the General Manager, Domestic Mail Classification Division. If the General Manager, after a review, determines that an organization is no longer qualified, he will notify the organization through the postmaster, of the proposed revocation of the authorization and the reasons for the revocation. The revocation becomes effective 15 days from receipt of the notice unless the organization files a written appeal, with the Director, Office of Mail Classification, who will issue the final agency decision.

.57 WHAT MAY BE MAILED AT THE SPECIAL BULK THIRD-CLASS RATES FOR QUALIFIED NONPROFIT ORGANIZATIONS

An organization authorized to mail at the special bulk third-class rates for qualified nonprofit organizations may mail *only* its own matter at these rates. An organization may not delegate or lend the use of its permit to mail at special third-class rates to any other person, organization or association. Cooperative mailings may not be made at the special bulk third-class rates for qualified nonprofit organizations if one or more of the cooperating persons or organizations is not entitled itself to the special rates. Cooperative mailings involving the mailing of matter in behalf of or produced for an organization not authorized to mail at the special bulk third-class rates for qualified nonprofit organizations must be paid at the applicable regular rate. If customers disagree with a postmaster's decision that the regular rate of postage applies to a particular mailing, the procedures in 146.14 may be followed.

134.6 PERMISSIBLE ADDITIONS

The additions authorized for fourth-class mail in 135.52 are permissible with matter mailed at third-class rates of postage.

134.7 ENCLOSURES

.71 BOOKS AND CATALOGS MAILED AT BULK RATES PROVIDED BY 134.121

External attachments are not permitted. The covers of a catalog or book for postal purposes are the outermost bound sheets. Only the following specifically named items may be enclosed loose provided they relate exclusively to the book or catalog they accompany:

a. A single reply envelope or reply post card, or both.
b. A single order form.
c. A printed circular. Circulars fastened securely along the entire bound edge inside the book or catalog by paste, stitches, or staples are not loose enclosures.
d. If no circular is enclosed, a printed price list listing only articles featured in the catalog and showing only the same prices and discounts as the catalog.
e. An invoice. (See 135.522).
f. Samples of merchandise attached to pages.

.72 ALL OTHER THIRD-CLASS MATTER

The following are permissible enclosures:

a. An invoice (see 135.522).
b. Manuscripts accompanying related proof sheets (see 135.521f(2)).

134.8 SEALING

.81 EXAMINATION

Third-class mail must be prepared by the mailer so that it can be easily examined. Third-class mail which is not sealed or secured so that it may be handled by machines is not recommended. Mailing of sealed articles at the third-class rates of postage is considered consent by the mailer to postal inspection of the contents.

.82 MARKING

Each sealed piece mailed at the single piece third-class postage rate provided for by 134.11 must be legibly marked on the address side, preferably below the postage and above the name of the addressee, with the two words *Third Class*. The marking may be included as a part of a permit imprint, and it may be printed adjacent to the meter stamp by a postage meter. The marking will not be considered adequate if it is included as a part of a decorative design or advertisement. Only the markings required by 134.423 need be carried on sealed pieces mailed at the bulk third-class postage rates provided for by 134.12.

Part 135
FOURTH CLASS

135.1 RATES

.11 FOURTH-CLASS (PARCEL POST) ZONE RATES

.111 *Single Piece Zone Rates*

Weight-1 pound and not exceeding (pounds)	Zones							
	Local	1 and 2	3	4	5	6	7	8
2	$0.77	$0.90	$0.93	$1.04	$1.15	$1.28	$1.40	$1.48
3	.82	.97	1.02	1.15	1.29	1.46	1.62	1.74
4	.86	1.04	1.10	1.25	1.42	1.63	1.84	2.00
5	.91	1.11	1.19	1.36	1.56	1.81	2.06	2.26
6	.96	1.18	1.27	1.46	1.69	1.98	2.28	2.52
7	1.00	1.25	1.36	1.57	1.83	2.16	2.50	2.78
8	1.04	1.32	1.44	1.67	1.96	2.33	2.72	3.04
9	1.09	1.39	1.53	1.78	2.10	2.51	2.94	3.30
10	1.13	1.46	1.61	1.88	2.23	2.68	3.16	3.56
11	1.18	1.53	1.70	1.99	2.37	2.86	3.38	3.82
12	1.22	1.60	1.78	2.09	2.50	3.03	3.60	4.08
13	1.27	1.67	1.87	2.20	2.64	3.21	3.82	4.34
14	1.31	1.74	1.95	2.30	2.77	3.38	4.04	4.60
15	1.35	1.81	2.04	2.41	2.91	3.56	4.26	4.86
16	1.40	1.88	2.12	2.51	3.04	3.73	4.48	5.12
17	1.44	1.95	2.21	2.62	3.18	3.91	4.70	5.38
18	1.49	2.02	2.29	2.72	3.31	4.08	4.92	5.64
19	1.54	2.09	2.38	2.83	3.45	4.25	5.14	5.90
20	1.58	2.16	2.46	2.93	3.58	4.43	5.36	6.16
21	1.63	2.23	2.55	3.04	3.72	4.61	5.58	6.42
22	1.67	2.30	2.63	3.14	3.85	4.78	5.80	6.68
23	1.72	2.37	2.72	3.25	3.99	4.96	6.02	6.94
24	1.76	2.44	2.80	3.35	4.12	5.13	6.24	7.20
25	1.81	2.51	2.89	3.46	4.26	5.31	6.46	7.46
26	1.85	2.58	2.97	3.56	4.39	5.48	6.68	7.72
27	1.90	2.63	3.06	3.67	4.53	5.66	6.90	7.98
28	1.94	2.72	3.14	3.77	4.66	5.83	7.12	8.24
29	1.99	2.79	3.23	3.88	4.80	6.01	7.34	8.50
30	2.03	2.86	3.31	3.98	4.93	6.18	7.56	8.76
31	2.08	2.93	3.40	4.09	5.07	6.36	7.78	9.02
32	2.12	3.00	3.48	4.19	5.20	6.53	8.00	9.28
33	2.17	3.07	3.57	4.30	5.34	6.71	8.22	9.54
34	2.21	3.14	3.65	4.40	5.47	6.88	8.44	9.80
35	2.26	3.21	3.74	4.51	5.61	7.06	8.66	10.06
36	2.30	3.28	3.82	4.61	5.74	7.23	8.88	10.32
37	2.35	3.35	3.91	4.72	5.88	7.41	9.10	10.58
38	2.39	3.42	3.99	4.82	6.01	7.58	9.32	10.84
39	2.44	3.49	4.08	4.93	6.15	7.76	9.54	11.10
40	2.48	3.56	4.16	5.03	6.28	7.93	9.76	11.36
41	2.53	3.63	4.25	5.14	6.42	8.11	9.98	11.62
42	2.57	3.70	4.33	5.24	6.55	8.28	10.20	11.88
43	2.62	3.77	4.42	5.35	6.69	8.46	10.42	12.14
44	2.66	3.84	4.50	5.45	6.82	8.63	10.64	12.40
45	2.71	3.91	4.59	5.56	6.96	8.81	10.86	12.66
46	2.75	3.98	4.67	5.66	7.09	8.98	11.08	12.92
47	2.80	4.05	4.76	5.77	7.23	9.16	11.30	13.18
48	2.84	4.12	4.84	5.87	7.36	9.33	11.52	13.44
49	2.89	4.19	4.93	5.98	7.50	9.51	11.74	13.70
50	2.93	4.26	5.01	6.08	7.63	9.68	11.96	13.96
51	2.98	4.33	5.10	6.19	7.77	9.86	12.18	14.22
52	3.02	4.40	5.18	6.29	7.90	10.03	12.40	14.48
53	3.07	4.47	5.27	6.40	8.04	10.21	12.62	14.74
54	3.11	4.54	5.35	6.50	8.17	10.38	12.84	15.00
55	3.16	4.61	5.44	6.61	8.31	10.56	13.06	15.26

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.122 *Bulk Rates for Bulk Mailings of Separately Addressed Identical Pieces in Quantities of Not Less Than 300 Mailed at One Time*

Zones	Piece rate	Bulk pound rate	Zones	Piece rate	Bulk pound rate
	(*cents*)	(*cents*)		(*cents*)	(*cents*)
Local	26	7.8	5	31	7.8
1 and 2	31	4.4	6	31	9.6
3	31	5.2	7	31	11.6
4	31	6.4	8	32	13.9

NOTE: The total charge for each bulk mailing shall be the sum of the charges derived by applying the applicable pound rate to the total number of pounds and by applying the applicable piece rate to the total number of pieces.

.13 SPECIAL FOURTH-CLASS RATE

.131 *Rates*

Kind of mail (Rate restricted to items specifically named)	Rate (without regard to zone)		
	First pound or fraction of a pound	Each additional pound or fraction through 7 pounds	Each additional pound or fraction over 7 pounds
Books; 16-millimeter or narrower width films and catalogs of such films (rate applies for films and catalogs except when mailed to or from commercial theaters); printed music, printed objective test materials, sound recordings; playscripts and manuscripts for books, periodicals and music; printed educational reference charts permanently processed for preservation; looseleaf pages, and binders therefor, consisting of medical information for distribution to doctors, hospitals, medical schools, and medical students. (See 135.214)			
Single piece rate, presort rates:	30¢	11¢	8¢
Presort rates:			
Level A	[1] 27.9¢	11¢	8¢
Level B	[2] 28.4¢	11¢	8¢

[1] Mailings of 500 or more pieces properly prepared and presorted to five-digit destination ZIP Codes. (See 135.25)

[2] Mailings of 2,000 or more pieces properly prepared and presorted to five-digit and three-digit destination ZIP Codes. (See 135.25)

.132 *Annual Fee*

A $30 fourth-class presort mailing fee must be paid once each calendar year at each office of mailing by or for any person who mails at the presorted special fourth-class rates.

Weight-1 pound and not exceeding (pounds)	Zones							
	Local	1 and 2	3	4	5	6	7	8
56	3.20	4.58	5.52	6.71	8.44	10.73	13.26	15.52
57	3.25	4.75	5.61	6.82	8.58	10.91	13.50	15.78
58	3.29	4.82	5.69	6.92	8.71	11.08	13.72	16.04
59	3.34	4.89	5.78	7.03	8.85	11.26	13.94	16.30
60	3.38	4.96	5.86	7.13	8.99	11.43	14.16	16.56
61	3.43	5.03	5.95	7.24	9.12	11.61	14.38	16.82
62	3.47	5.10	6.03	7.34	9.25	11.78	14.60	17.08
63	3.52	5.17	6.12	7.45	9.39	11.96	14.82	17.34
64	3.56	5.24	6.20	7.55	9.52	12.13	15.04	17.60
65	3.61	5.31	6.29	7.66	9.66	12.31	15.26	17.86
66	3.65	5.38	6.37	7.76	9.79	12.48	15.48	18.12
67	3.70	5.45	6.46	7.87	9.93	12.66	15.70	18.38
68	3.74	5.52	6.54	7.97	10.06	12.83	15.92	18.64
69	3.79	5.59	6.63	8.08	10.20	13.01	16.14	18.90
70	3.83	5.66	6.71	8.18	10.33	13.18	16.36	19.16

Exception:

Parcels weighing less than 15 pounds, and measuring over 84 inches but not exceeding 100 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 15 pound parcel for the zone to which addressed. See 135.3 for size and weight restrictions.

.112 *Bulk Zone Rates (Parcel Post)*

a. Mailings of 300 or more pieces of identical weight may be mailed at bulk zone rates if separated by postal zones. Mailings of pieces of nonidentical weight may only be made at bulk zone rates when authorized by the Office of Mail Classification in accordance with 145.8 or 145.9.
b. The rate of postage to be paid on each piece of a bulk zone rate mailing shall be the single piece rate for that zone for an item equal to the average weight per piece for parcels going to that zone, rounded up to the next highest whole pound.

.12 BOUND PRINTED MATTER RATES

.121 *Single Piece Zone Rate*

Pieces weighing up to—(pounds)	Zones							
	Local	1 & 2	3	4	5	6	7	8
1.5	$0.52	$0.62	$0.64	$0.67	$0.70	$0.73	$0.78	$0.84
2	.58	.66	.67	.71	.78	.79	.85	.99
2.5	.65	.98	.70	.76	.81	.98	.99	1.07
3	.57	.71	.74	.79	.86	.98	1.01	1.11
3.5	.59	.74	.78	.84	.91	.99	1.06	1.20
4	.61	.77	.81	.88	.96	1.06	1.17	1.31
4.5	.62	.79	.84	.98	1.01	1.11	1.28	1.40
5	.64	.82	.87	.98	1.06	1.17	1.82	1.49
6	.68	.88	.94	1.06	1.16	1.21	1.47	1.67
7	.71	.94	1.00	1.13	1.26	1.44	1.68	1.88
8	.76	1.00	1.07	1.20	1.37	1.57	1.78	2.04
9	.79	1.06	1.14	1.26	1.47	1.69	1.94	2.28
10	.82	1.11	1.20	1.38	1.38	1.61	2.10	2.42

.14 LIBRARY RATE

Kind of mail (Rate restricted to items specifically named mailed by or to organizations mentioned in 135.261	Rate (Without regard to zone)	
	First pound or fraction of a pound	Each additional pound or fraction
Books; printed music; bound volumes of academic theses; sound recordings; periodicals; other library materials; museum and herbarium materials; 16-millimeter or narrower width films, filmstrips, transparencies, slides, microfilms; scientific or mathematical kits, instruments, or other devices; also, catalogs, guides or scripts for some of these materials See 135.261	11¢	4¢

.15 APPLICATION OF RATES

.151 The rates in 135.11 and 135.12 are applied on the basis of weight of the individual piece and the distance the mail is sent. To administer these rates, the earth is considered to be divided into units of area thirty minutes square, identical with a quarter of the area formed by the intersecting parallels of latitude and meridians of longitude. The distance between these units of area is the basis of the postal zones and shall be measured from the center of the unit of area containing the dispatching sectional center facility or multi-ZIP Coded post office not serviced by a sectional center facility. A post office of mailing and a post office of delivery shall have the same zone relationship as their respective sectional center facilities or multi-ZIP Coded post offices, but this shall not cause two post offices to be regarded as within the same local zone. The postal zones are defined as follows:

a. The local zone, the extent of which is defined by the Postal Service. This local rate currently applies to parcels mailed at any post office for local delivery at that office; at any city letter-carrier office or at any point within its delivery limits for delivery by carriera from that office; at any office from which a rural route starts for delivery on the same route; and on a rural route for delivery at the office from which the route starts or on any rural route starting from that office.
b. The first zone includes all territory within the quadrangle in conjunction with every contiguous quadrangle, representing an area having a mean radial distance of approximately fifty miles from the center of a given unit of area. The zone one rate applies to parcels mailed between two post offices in the same sectional center.
c. The second zone includes all units of area outside the first zone lying in whole or in part within a radius of approximately one hundred and fifty miles from the center of a given unit of area.
d. The third zone includes all units of area outside the second zone lying in whole or in part within a radius of approximately three hundred miles from the center of a given unit of area.
e. The fourth zone includes all units of area outside the third zone lying in whole or in part within a radius of approximately six hundred miles from the center of a given unit of area.
f. The fifth zone includes all units of area outside the fourth zone lying in whole or in part within a radius of approximately one thousand miles from the center of a given unit of area.

g. The sixth zone includes all units of area outside the fifth zone lying in whole or in part within a radius of approximately one thousand four hundred miles from the center of a given unit of area.
h. The seventh zone includes all units of area outside the sixth zone lying in whole or in part within a radius of approximately one thousand eight hundred miles from the center of a given unit of area.
i. The eighth zone includes all units of area outside the seventh zone.

.152 Rates according to zone apply for zone-rated mail sent between Postal Service facilities, including armed forces post offices, wherever located, except the rates of postage for zone-rated mail transported between the United States, the Canal Zone, Puerto Rico or the possessions or territories of the United States, including the Trust Territory of the Pacific Islands, on the one hand, and Military post offices on the other, or among the latter, shall be the applicable zone rates for mail between the place of mailing or delivery and the city of the postmaster serving the Military post office concerned, subject to the following exception: The rate of postage for zone-rated mail which is mailed at or addressed to a Military post office and which is transported directly to or from Military post offices at the expense of the Department of Defense, without transiting any of the 48 contiguous states (including the District of Columbia), shall be the applicable local zone rate. If such mail transits any area served by the United States Postal Service at the expense of United States Postal Service and the distance from the place of mailing to the embarkation point or the distance from the point of debarkation to the place of delivery is greater than the local zone for such mail, postage shall be assessed on the basis of the distance from the place of mailing to the embarkation point or the distance from the point of debarkation to the place of delivery of such mail, as the case may be. The word *transiting* does not include enroute transfers at coastal gateway cities which are necessary to transport military mail directly between military post offices.

Examples:

a. A parcel mailed at Honolulu, Hawaii, for direct dispatch by the Department of Defense from Honolulu to a military post office in the Pacific will be subject to the local zone rate.
b. A paracel mailed at Hilo, Hawaii, and transported at the expense of the United States Postal Service to Honolulu, Hawaii, for direct dispatch at the expense of the Department of Defense from Honolulu to a Military post office in Japan will be subject to zone 2 rates.

.153 An official zone chart may be obtained free by request to the postmaster at the office of mailing. For ZIP Code numbers, consult the *National ZIP Code Directory*, Publication 65.

.154 The rates in 135.13 and 135.14 are computed on the basis of the weight of the piece regardless of the zone to which addressed.

.155 The single piece rates and conditions are applicable to forwarding and returning of parcels mailed at bulk rates.

RULES AND REGULATIONS 46784
RULES AND REGULATIONS 46782
RULES AND REGULATIONS 46785
RULES AND REGULATIONS 46783
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135.2 CLASSIFICATION

.21 FOURTH-CLASS MAIL

Fourth-class mail consists of mailable matter:

a. Not mailed or required to be mailed as first-class mail;
b. Weighing sixteen ounces or more; and
c. Not entered as second-class mail (except as specifically provided for transient rate matter).

.22 FOURTH-CLASS BULK ZONE RATES

.221 The bulk fourth-class zone rates in 135.112 are applied to mailings of 300 or more pieces of fourth-class mail of identical weight. Parcels need not be of identical size or content. Parcels which weigh less than 15 pounds and measure over 84 inches in length and girth combined may not be mailed at these rates.

.222 Mailings of nonidentical pieces may only be made if the mailer has demonstrated that adequate records are maintained to verify and audit such mailings and if the procedure has been specifically authorized by the Director, Office of Mail Classification, in accordance with 145.8 or 145.9.

.223 *Separation.* The mailer must separate mailing pieces by parcel post zones so that postage may be verified. This requirement may be waived by the Postal Service if the mailer demonstrates to the satisfaction of the Postal Service that records are maintained to enable the Postal Service to accurately verify and audit mailings of fourth-class bulk rate parcels. The Director, Office of Mail Classification, must specifically approve systems for the acceptance of such mailings.

.224 *Special services.* The insurance, special delivery, special handling, and COD services may be used on mailings sent at bulk fourth-class zone rates. However, special services may not be used selectively for individual parcels mailed at these rates. Selective special services may be used in conjunction with postage payment verification systems approved under the conditions stated in 135.222.

.225 *Markings Required.* The words *Fourth-Class Bulk Rates* or *Fourth-Class Blk. Rt.* must be incorporated as part of the permit indicia or be printed or rubber stamped above the address and to the left or below the permit imprint.

.257 *Container or Pallet Labeling Requirements*

a. Five-Digit Destination

CLEVELAND OH 44101
5-DIGIT PRESORTED PP
FR J COMPANY, BOSTON MA

b. City With Unique 3-digit ZIP Code

CLEVELAND OH 441
MACHINE PRESORTED PP
FR J COMPANY BOSTON MA

or

CLEVELAND OH 441
NONMACHINE PRESORTED PP
FR J COMPANY BOSTON MA

c. Sectional Center

CLEVELAND OH 441
MACHINE PRESORTED PP
FR J COMPANY BOSTON MA

or

CLEVELAND OH 441
NONMACHINE PRESORTED PP
FR J COMPANY BOSTON MA

.258 Bulk Mail Center Machinesbility Criteria for Special Fourth-Class Matter

a. The parcel sorter machinability criteria are:
(1) Weight: At least 1 pound but not over 25 pounds
(2) Length: At least 6 inches but not over 34 inches
(3) Height: At least 3/8 inches but not over 17 inches
(4) Width: At least 3* inches but not over 17 inches
*A width of 4 inches is required for parcels less than 9 inches long.

b. Mailing pieces that fall below the minimum dimensions specified in a. are considered SPR's.
c. Those exceeding the maximum dimensions or irregular in shape are considered non-machineable parcels.
d. Mailers who are not sure of the size classification of their pieces are advised to consult with their local postmaster.

.259 *Presort Verification*

For each 50 sacks or fraction thereof in a mailing, accepting post offices shall verify the presort as follows:

a. Select two sacks of 5-digit makeup and verify that no pieces are included bearing other than the 5-digit ZIP Code shown on the sack label. If a discrepancy of more than one piece is found, the mailing is disqualified.
b. For mailings that include sacks of mail presorted to 3-digit ZIP Code destination, select three sacks and verify that all pieces in a sack bear ZIP Codes having the same first three digits of ZIP Code as that shown on the sack label and that no identical 5-digit ZIP Codes are contained in quantities sufficient to make up a full or a substantially full sack, as appropriate for the presort rate level, for mail addressed to the same 5-digit ZIP Code destination. If it is found that one 5-digit sack could have been made up separately from the pieces in a 3-digit sack, the mailing is disqualified. If more than two pieces are found in any sack made up to the same 3-digit ZIP Code destination that bear a different first three digits of ZIP Code, the mail is disqualified.
c. If a mailing is disqualified, the next mailing by the customer at presort rates should have twice the number of sacks verified as specified in a. and b., and such intensified verification shall be extended to one-fifth of the customer's mailings during the following six-month period.

.26 FOURTH-CLASS LIBRARY RATE

Only the articles specifically described in this section may be mailed at the fourth-class library rate provided by 135.14. The identification statement *Library Rate* must be placed conspicuously on the address side of each package. Each package must show in the address or return address the name of a school, college, university, public library, or name of a nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans, or fraternal organization or association. No permit is required.

a. The following specific items when loaned or exchanged between schools, colleges, or universities and public libraries, museums and herbaria, nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans, or fraternal organizations or associations; or when cooperatively processed by libraries; or loaned or exchanged between libraries, organizations, or associations, and their members, readers, or borrowers, may be mailed at the library rate:
(1) Books, consisting wholly of reading matter, scholarly bibliography, or reading matter with incidental blank spaces for notations and containing no advertising other than incidental announcements of books.
(2) Printed music, whether in bound form or in sheet form.
(3) Bound volumes of academic theses in typewritten or duplicated form.
(4) Periodicals, whether bound or unbound.
(5) Sound recordings. [See also 135.26b(2).]
(6) Other library materials in printed, duplicated, or photographic form or in the form of unpublished manuscripts.
(7) Museum materials, specimens, collections, teaching aids, printed matter, and interpretative materials intended to inform and to further the educational work and interests of museums and herbaria.

b. The following specific items when sent to or from schools, colleges, universities, public libraries, museums and herbaria and to or from nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans, or fraternal organizations or associations, may be mailed at the library rate:
(1) 16-millimeter or narrower width films; filmstrips; transparencies; slides; microfilms; all of which must be positive prints in final form for viewing.
(2) Sound recordings.
(3) Museum materials, specimens, collections, teaching aids, printed matter, and interpretative materials intended to inform and to further the educational work and interests of museums and herbaria.
(4) Scientific or mathematical kits, instruments, or other devices.
(5) Catalogs of the materials in 135.26b(1) - (4) and guides or scripts prepared solely for use with such materials.

c. Books, including books to supplement other books, consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations, and containing no advertising matter other than incidental announcements of books, when mailed from a publisher or a distributor to a school, college, university, or library, may be mailed at the library rate.

d. When 5,000 or more identical pieces are mailed at the rates in 135.14 during a single day and there are enough pieces for the same destination to fill approximately one-third of a sack, they must be presorted and placed in sacks under the instructions contained in 134.432, and 134.436a(2), b(2), c(2), d(2), and e(2). When 1,000 or more but less than 5,000 identical pieces are mailed at these rates during a single day and there are enough pieces for the same destination to fill approximately one-third of a sack, they must be presorted and placed in sacks under the instructions in 134.432, and 134.436b(2), c(2), d(2), and e(2).

.27 CONTESTED CLASSIFICATION

See 146.141.

.543 *All Other Items Listed in 135.214 and 135.215*

Enclosures are not permitted except as provided in 135.522, and 139.3.

135.6 SEALING

Fourth-class mail must be wrapped or packaged so that it can be easily examined. Mailing of sealed parcels at the fourth-class rates of postage is considered consent by the sender to postal inspection of the contents. To assure that their parcels will not be opened for postal inspection, customers should, in addition to paying the first-class rate of postage, plainly mark their parcels *First Class* or with similar endorsements.

135.7 ADDRESSING

The address of all fourth-class matter mailed at bound printed matter, bulk parcel post, library, and special rate fourth-class rates must contain a complete ZIP Code.

135.8 PLACE OF MAILING

.81 Articles mailed at single piece fourth-class rates may be mailed at a post office, branch, or station, or handed to a rural or star route carrier.

.82 Mailing at bulk or presort rates must be made at a station or branch specified by the postmaster.

.83 Parcels exceeding the limits of size and weight for articles mailed at post offices with 950 or more revenue units that originate in and are prepared in cities or towns served by such post offices may not be diverted to other post offices or to a rural or star route carrier for mailing.

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Part 136

PRIORITY MAIL

136.1 RATES

Weight over 13-ounces and not exceeding—pound(s)	Rate					
	Local zones 1, 2, and 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1	$1.56	$1.58	$1.60	$1.62	$1.64	$1.67
1.5	1.78	1.77	1.84	1.90	1.97	2.07
2.0	1.89	1.96	2.07	2.18	2.29	2.46
2.5	2.06	2.15	2.29	2.43	2.59	2.76
3.0	2.21	2.33	2.50	2.68	2.88	3.09
3.5	2.37	2.51	2.70	2.91	3.15	3.38
4.0	2.53	2.69	2.90	3.14	3.41	3.67
4.5	2.68	2.86	3.09	3.35	3.65	3.94
5.0	2.83	3.03	3.27	3.56	3.86	4.20
6	3.13	3.37	3.64	3.98	4.35	4.72
7	3.43	3.71	4.01	4.40	4.82	5.24
8	3.73	4.05	4.38	4.82	5.29	5.76
9	4.03	4.39	4.75	5.24	5.76	6.28
10	4.33	4.73	5.12	5.66	6.23	6.80
11	4.63	5.07	5.49	6.08	6.70	7.32
12	4.93	5.41	5.86	6.50	7.17	7.84
13	5.23	5.75	6.23	6.92	7.64	8.36
14	5.53	6.09	6.60	7.34	8.11	8.88
15	5.83	6.43	6.97	7.76	8.58	9.40
16	6.13	6.77	7.34	8.18	9.05	9.92
17	6.43	7.11	7.71	8.60	9.52	10.44
18	6.73	7.45	8.08	9.02	9.99	10.96
19	7.03	7.79	8.45	9.44	10.46	11.48
20	7.33	8.13	8.82	9.86	10.93	12.00
21	7.63	8.47	9.19	10.28	11.40	12.52
22	7.93	8.81	9.56	10.70	11.87	13.04
23	8.23	9.15	9.93	11.12	12.34	13.56
24	8.53	9.49	10.30	11.54	12.81	14.08
25	8.83	9.83	10.67	11.96	13.28	14.60
26	$9.13	$10.17	$11.04	$12.38	$13.75	$15.12
27	9.43	10.51	11.41	12.80	14.22	15.64
28	9.73	10.85	11.78	13.22	14.69	16.16
29	10.03	11.19	12.15	13.64	15.16	16.68
30	10.33	11.53	12.52	14.06	15.63	17.20
31	10.63	11.87	12.89	14.48	16.10	17.72
32	10.93	12.21	13.26	14.90	16.57	18.24
33	11.23	12.55	13.63	15.32	17.04	18.76
34	11.53	12.89	14.00	15.74	17.51	19.28
35	11.83	13.23	14.37	16.16	17.98	19.80
36	12.13	13.57	14.74	16.58	18.45	20.32
37	12.43	13.91	15.11	17.00	18.92	20.84
38	12.73	14.25	15.48	17.42	19.39	21.36
39	13.03	14.59	15.85	17.84	19.86	21.88
40	13.33	14.93	16.22	18.26	20.33	22.40
41	13.63	15.27	16.59	18.68	20.80	22.92
42	13.93	15.61	16.96	19.10	21.27	23.44
43	14.23	15.95	17.33	19.52	21.74	23.96
44	14.53	16.29	17.70	19.94	22.21	24.48
45	14.83	16.63	18.07	20.36	22.68	25.00
46	15.13	16.97	18.44	20.78	23.15	25.52
47	15.43	17.31	18.81	21.20	23.62	26.04
48	15.73	17.65	19.18	21.62	24.09	26.56
49	16.03	17.99	19.55	22.04	24.56	27.08
50	16.33	18.33	19.92	22.46	25.03	27.60

136.1 RATES (Cont'd)

Weight over 13 ounces and not exceeding—pound(s)	Rate					
	Local zones 1, 2, and 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
51	16.63	18.67	20.29	22.88	25.50	28.12
52	16.93	19.01	20.66	23.30	25.97	28.64
53	17.23	19.35	21.03	23.72	26.44	29.16
54	17.53	19.69	21.40	24.14	26.91	29.68
55	17.83	20.03	21.77	24.56	27.38	30.20
56	18.13	20.37	22.14	24.98	27.85	30.72
57	18.43	20.71	22.51	25.40	28.32	31.24
58	18.73	21.05	22.88	25.82	28.79	31.76
59	19.03	21.39	23.25	26.24	29.26	32.28
60	19.33	21.73	23.62	26.66	29.73	32.80
61	19.63	22.07	23.99	27.08	30.20	33.32
62	19.93	22.41	24.36	27.50	30.67	33.84
63	20.23	22.75	24.73	27.92	31.14	34.36
64	20.53	23.09	25.10	28.34	31.61	34.88
65	20.83	23.43	25.47	28.76	32.08	35.40
66	21.13	23.77	25.84	29.18	32.55	35.92
67	21.43	24.11	26.21	29.60	33.02	36.44
68	21.73	24.45	26.58	30.02	33.49	36.96
69	22.03	24.79	26.95	30.44	33.96	37.48
70	22.33	25.13	27.32	30.86	34.43	38.00

EXCEPTION: Parcels weighing less than 15 pounds, measuring over 84 inches but not exceeding 100 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.

136.2 CLASSIFICATION

.21 DESCRIPTION

Priority mail consists of firstclass mail weighing more than 13 ounces and other mail which is mailed for expeditious handling and transportation

.22 ACCEPTABLE ARTICLES, EXCEPTIONS

.221 Generally, matter acceptable in domestic surface mail may be transported by aircraft except:

a. Anything susceptible to damage or which may become harmful because of changes in temperature or atmospheric pressures unless protected against the effects of such changes;
b. Magnetic material having a field strength sufficient to cause a compass deviation at a distance of 15 feet (4.6 meters) or more from any point on the package;
c. Flammable liquids and solids;
d. Radioactive matter;
e. Matter specifically excluded from air shipment by the regulations of the Department of Transportation, 49 CFR, Parts 100-189; Federal Aviation Agency, 14 CFR, Part 103; or the applicable restricted articles tariffs of the air carriers.

.222 Certain restricted articles as described in 49 CFR, Parts 100-189; 14 CFR, Part 103; and the restricted articles tariffs of the air carriers may be accepted for air transportation if they are properly packaged. Such articles must be labeled and bear a shipper's certification in triplicate as required by 14 CFR, Part 103, Federal Aviation Regulations, or must be marked in the manner prescribed by the air transport restricted articles tariff, e.g., *ORA Group A—DRY ICE.*

.223 Mailers are reminded that first-class mail is now regularly carried by air. Therefore, all merchandise sent by first-class mail is governed by these regulations.

.23 APPLICATION OF RATES

.231 Priority mail articles addressed to military post offices overseas (Army, Air Force, and Fleet post offices, and Naval vessels) require postage at the priority mail zone rate applicable between the mailing post office and the post office shown in the address, except as provided in section 135.152.

.232 The eighth zone priority mail rates apply to articles mailed between:

(1) its Possessions,
(2) the Canal Zone, and
(3) the islands of the Trust Territory of the Pacific;

b. The Possessions of the United States and
(1) the Canal Zone, and
(2) the islands of the Trust Territory of the Pacific; and

c. The Commonwealth of Puerto Rico and
(1) the Possessions of the United States,
(2) the Canal Zone, and
(3) the islands of the Trust Territory of the Pacific.

.233 The priority mail rates according to zone apply to articles mailed between:

a. The United States and
(1) the Commonwealth of Puerto Rico, and
(2) the Virgin Islands, and

b. Between the Commonwealth of Puerto Rico and the Virgin Islands.

136.3 WEIGHT AND SIZE LIMITS

.21 WEIGHT

Priority mail may weigh up to 70 pounds. See part 126 for the exception to this limit for articles addressed to certain APO's and FPO's.

.22 SIZE

Priority mail is limited to 100 inches in combined length and girth. See part 126 for the exception to this limit for articles addressed to certain APO's and FPO's, and 135.32 for instructions on how to measure parcels.

136.4 PAYMENT OF POSTAGE

Mailers of priority mail matter may pay postage by adhesive stamps, stamped envelopes and postal cards, meter stamps, and permit imprints.

136.5 ADDITIONS AND ENCLOSURES

There are no special restrictions with respect to written additions and enclosures in priority mail.

136.6 MARKING, SEALING, AND DEPOSITING

.61 Place the word priority prominently on the address side of flat mail preferably below the stamps and above the address, and on the top, bottom, and sides of parcels. The return address of the sender must be shown on the address side of each parcel mailed at zone rates of postage.

.62 Priority mail may be sealed or left unsealed without affecting the priority rate.

.63 Priority mail must be deposited at the post office, branch, or station, or handed to a rural or star route carrier.

Part 137

OFFICIAL MAIL

137.1 MEMBERS OF CONGRESS

.11 COLLECTION OF POSTAGE, FEES AND CHARGES

Postage, fees and charges, on mail sent under the franking privilege by the Vice President, Members and Members-elect of Congress, Delegates or Delegates-elect, the Resident Commissioner or Resident Commissioner-elect from Puerto Rico, the Secretary of the Senate, Sergeant at Arms of the Senate, each of the elected officers of the House of Representatives (other than a Member of the House), and Legislative Counsel of the House of Representatives, and the Senate are paid quarterly by a lump sum to the Postal Service.

.12 DESCRIPTION

Official mail of Members of Congress is sent without prepayment of postage and bears a written signature, printed facsimile signature or other required marking instead of a postage stamp. Mail accepted under frank, and the officials authorized to use franked mail, are shown in 137.13.

.13 AUTHORIZED USERS

Persons authorized to use the frank	Matter that may be franked	Marking required	Period during which the frank may be used
Vice President of the United States, Members of Congress, Resident Commissioners, Secretary of the Senate, Sergeant at Arms of the Senate, and each of the elected officers of the House of Representatives (other than Members of the House).	Public documents printed by order of Congress.	The words *Public Document*—and the letters U.S.S., or M.C. must appear on the address side.	Until the 1st day of April following expiration of their respective terms of office.
Members of Congress and Resident Commissioners.	Congressional Record or any part of it or any reprint of any part of it or speeches or reports contained in it, if relating to official business, activities or duties.	The words *Congressional Record* or *Part of Congressional Record*—and the letters U.S.S., or M.C. must appear on the address side.	During term of office only.
Members of Congress.	Seeds and agricultural reports from the Department of Agriculture.	The signature and title, either written or printed facsimile, of the person entitled to frank it, must appear on the address side.	Until the 30th day of June following the expiration of their terms of office.

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.13 AUTHORIZED USERS (Cont'd)

Persons authorized to use the frank	Matter that may be franked	Marking required	Period during which the frank may be used
Vice President of the United States, Members and Members-elect of Congress, Resident Commissioners, Secretary of the Senate, Sergeant at Arms of the Senate, each of the Elected officers of the House of Representatives (other than a Member of the House), Legislative Counsels of the House of Representatives and the Senate	Official correspondence including mailgrams.	Mailgrams may be sent in standard Mailgram envelopes. For other correspondence, the signature and title, either written or printed facsimile, of the person entitled to frank it, must appear on the address side.	During term of office only. When the position of Secretary, Sergeant at Arms, elected officer, or Legislative Counsel is vacant, privilege may be exercised in officer's name by authorized persons
Vice-President-elect.	All mail, sent by him in connection with preparation for the assumption of official duties as Vice President	The signature and title, either written or printed facsimile, of the Vice-President-elect must appear on the address side.	Until assumption of duties as the Vice President.
Former Vice President, each former Member of Congress, the former Secretary of the Senate, the former Sergeant at Arms of the Senate, each former elected officer of the House (other than a former Member of the House), and each former Delegate or Resident Commissioner.	Matter on official business related to the closing of their respective offices.	The signature and title, either written or printed facsimile, of the person entitled to frank it, must appear on the address side.	During the 90-day period immediately following the date on which he leaves office.
Former Speakers of the House.	Public documents, seeds and agricultural reports from the Department of Agriculture, official correspondence including Mailgrams.	The signature and title, either written or printed facsimile, of the former Speaker, or appropriate Mailgram or public document marking as indicated above, must appear on the address side.	For as long as the former Speaker determines necessary.

.14 RESTRICTIONS

The following restrictions apply to franked mail:

a. Matter transmitted under frank of the Vice President, each Member of or Member-elect to Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, each of the elected officers of the House of Representatives (other than a Member of the House), each Delegate or Delegate-elect, the Resident Commissioner or Resident Commissioner-elect, and each Legislative Counsel of the House and the Senate must relate to the official business, activities, and duties of the Congress of the United States.

b. Matter transmitted under frank of the former Vice President, each former Member of Congress, the former Secretary of the Senate, the former Sergeant at Arms of the Senate, each former elected officer of the House of Representatives (other than a former Member of the House), and each former Delegate or Resident Commissioner must be on official business relating to the closing of his respective office.

c. No franked mail will be admitted to the mail unless admissible as ordinary mail.

d. A person entitled to use franked mail may not loan his frank or permit its use by any committee, organization, or association; or permit its use by any person for the benefit or use of any committee, organization, or association. This restriction does not apply to any committee composed of Members of Congress.

d. Franked mail is forwarded like any other mail, but when once delivered to the addressee it may not be remailed. A package of franked pieces may be sent by a person entitled to the franking privilege to one addressee, who, on receiving and opening the package, may on behalf of such person place addresses on the franked articles and mail them.

f. Franked mail is handled as ordinary mail.

g. Franked mail must be addressed to the recipient by name, *except as provided in 122.442.*

.15 WEIGHT AND SIZE LIMITS

.151 *Weight*

Official correspondence may not exceed 70 pounds.

.152 *Size, Shape, Ratio, and Sealing*

The provisions of 131.222, 131.32, 134.32, and 141.113 apply.

.16 FORWARDING MAILING RECORDS FOR FRANKED MAIL

.161 Post offices serving the offices of persons entitled to use the franking privilege must record on Form 103, Originating Franked Mail, the number of pieces of originating franked mail, the dollar value of special service fees, the number of incoming address corrections and the dollar value of incoming postage due items processed during each accounting period. The value of special service fees paid with postage affixed will not be recorded on the form. Do not report on Form 103 mail endorsed Second-Class, Controlled Circulation Rate or Third-Class Bulk Rate. The original Forms 3542 and 3602-PC must be submitted to Headquarters for such mailings. See 122.514c for post office reporting procedures for mailing lists submitted for correction by persons entitled to use the franking privilege. Forms 103, 3542 and 3602-PC prepared for franked mailings must be forwarded to the following office for billing purposes:

Revenue Statistics Branch
Office of Statistical Programs & Standards
U.S. Postal Service Headquarters
(Attn: Originating Franked Mail)
Washington, DC 20260

.162 Submit the completed form(s) in one batch no later than five working days after the close of each accounting period. A separate report must be submitted for each accounting period and should include all mailings for that accounting period only. Reports on Form 103 are not required by postmasters regarding revenue due the Postal Service on *POSTAGE AND FEES PAID* matter sent by agencies and departments of the Federal Government.

.163 Occasional franked mailings made at other post offices not regularly serving local Congressional offices may be reported by the originating post offices on Form 13, *Routing Slip*, or by memorandum.

.164 Post Offices regularly serving local Congressional offices must submit negative reports if no franked mail items are processed during an accounting period. Submission of negative reports by other post offices where occasional mailings originate is not required.

137.2 EXECUTIVE AND JUDICIAL OFFICERS

.21 COLLECTION OF POSTAGE AND FEES

Departments, agencies, and establishments of the United States Government must reimburse the Postal Service the equivalent amount of postage and fees due for the official mail service they receive. Instructions governing the manner of reimbursement for official mail service are issued and administered by the Manager, Government Revenue and Examination Branch, Finance Department. Federal Government offices and officers must promptly furnish, in the manner and form requested, all information the Manager considers necessary to assure the accuracy of measurements of official mail use and the adequacy of budgeting to facilitate timely payment. The Manager may require offices and officers to establish improved methods of estimating or measuring official mail volume, or to initiate the use of postage meters or other forms of positive accountability for the use of official mail services, where he determines such action is necessary to secure adequate reimbursement to the Postal Service. Prior to making any such determination the Manager will consult with the office or officer involved as to possible alternative actions that might be taken which would be effective but which might have a better cost/benefit ratio. If the Manager, nevertheless, decides to require the use of postage meters or other forms of positive accountability for the use of official mail services, adequate advance notice will be given to affected agencies.

.22 DESCRIPTION

The following kinds of mail may be sent as Federal Government mail by those authorized to use this privilege:

a. Official mail relating exclusively to the business of the Government of the United States mailed by officers of the executive and judicial branches of the Government; official mail of legislative counsel for the House of Representatives and the Senate; official mail of the Superintendent of Documents; and official correspondence concerning the Congressional Directory under direction of the Joint Committee on Printing. *NOTE:* Mail matter such as retirement announcements, Christmas cards, job resumes, and all similar materials which do not relate exclusively to the business of the Government may not be sent as penalty or postage and fees paid mail.

b. All correspondence, bulletins, and reports relating to agricultural extension work and home economics carried on in cooperation with the United States Department of Agriculture, when mailed by the college officer or other person connected with the extension department of the college who has been designated by the Secretary of Agriculture. Mailings may be deposited by the designated officer only at the authorized post office. Correspondence must be conducted under the name of the designated officer. Correspondence with autograph signature may be sealed but all other matter must be left unsealed.

c. All correspondence, bulletins, pamphlets and other matter promoting cooperative extension work as a Federal enterprise or otherwise relating exclusively to the business of the Government of the United States, when mailed by cooperative extension agents of the United States Department of Agriculture Extension Service, such as county agents, county home demonstration agents, farm management demonstrators and farm forestry agents, as part of their official duties. Correspondence mailed by cooperative extension employees should be signed by an authorized agent of the United States Department of Agriculture, who should give his official title, indicating that he is an officer of the United States Government entitled to use official mail.

d. Bulletins, reports, periodicals, reprints of articles, and other publications necessary for the dissemination of results of researches and experiments, including lists of publications available for distribution, when mailed by agricultural experiment stations designated by the act of March 2, 1887, as amended by the act of August 11, 1955, as follows:

The officer in charge of a station that claims the privilege of sending materials without prepayment of postage through the mail must file an application with the Office of Mail Classification, Rates and Classification Department, through the post office where the station is located, stating the date of establishment of the station, its name or designation, its official organization, the names of its officers, the name of the college, school or institution to which it is attached, if any, the legislation of the State or Territory providing for its establishment, and any other legislation granting it the benefits of the act of Congress referred to in this section.

e. Annual reports of Government-aided colleges established under the act of July 2, 1862, when addressed to the Secretary of the Interior, the Secretary of Agriculture, and to any other Government-aided college. The postmaster receiving the annual reports from an officer of the college will use a post office penalty envelope or label to send it through the mail.

f. Copyright material sent to the Register of Copyrights with claim for registration, as follows:

(1) Postmasters receiving the claim for registration and any articles that are required to accompany the claim will use a post office penalty envelope or label to send the matter to the Register of Copyrights, Washington, DC 20540.

(2) If requested to do so, the postmaster will give a receipt for articles delivered to him to accompany a claim for registration.

(3) When desired, the person submitting copyright matter to the postmaster may also present the fee for copyright registration enclosed in a sealed envelope addressed to Register of Copyrights, Washington, DC 20540, which must have postage prepaid at the letter rate. The postmaster, after canceling the postage stamps, will enclose the envelope containing the fee together with the copyright material in the post office penalty envelope sent to the Register of Copyrights.

(4) Matter for copyright enclosed in post office penalty envelopes will not be sent by registered mail unless the registry fee is prepaid.

.23 AUTHORIZED DEPARTMENTS AND AGENCIES

.231 Departments and agencies authorized to use official mail services are as follows:

ACTION
Administrative Conference of the United States
Administrative Office of the United States Courts
Advisory Commission on Intergovernmental Relations
Advisory Committee on Federal Pay
Advisory Committee on National Growth Policy Process
Advisory Council on Historic Preservation
Agency for International Development
Agriculture, Department of
Air Force, Department of the
Alaska Power Administration
Alaska Railroad
Alcohol Drug Abuse and Mental Health Administration
Alcohol, Tobacco and Firearms, Bureau of
American Battle Monuments Commission
American Revolution Bicentennial Administration
Appalachian Regional Commission
Architect of the Capitol
Architectural & Transportation Barriers Compliance Board
Army, Department of the
Board for International Broadcasting
Bonneville Power Administration
Botanic Garden, United States
Business Economics, Office of
Census, Bureau of the
Center for Disease Control
Central Intelligence Agency
Civil Aeronautics Board
Civil Rights, Commission on
Civil Service Commission, United States
Coast Guard, United States
Commerce, Department of
Commission on Federal Paperwork
Committee for Purchase of Products and Services of the Blind and other Severely Handicapped
Commodity Futures Trading Commission
Community Services Administration
Comptroller of the Currency, Office of the
Congressional Budget Office
Cost Accounting Standards Board
Cost of Living Council
Council on Wage and Price Stability
Court of Claims, United States
Court of Customs and Patent Appeals, United States
Court of Military Appeals, United States
Customs, Bureau of
Customs Court, United States
Defense Civil Preparedness Agency
Defense Communications Agency
Defense Contract Audit Agency
Defense, Department of
Defense Intelligence Agency
Defense Investigative Service
Defense Logistics Agency
Defense Manpower Commission
Defense Mapping Agency
Defense Nuclear Agency
Delaware River Basin Commission
District of Columbia Court of Appeals
Domestic & International Commerce, Bureau of
Drug Enforcement Administration
Economic Advisers, Council of
Economic Development Administration
Education, Office of
Employment & Training Administration (Employment Security)
Energy Research & Development Administration
Engraving and Printing, Bureau of
Environmental Protection Agency
Environmental Quality, Council on
Equal Employment Opportunity Commission
Farm Credit Administration
Farmers Home Administration
Federal Aviation Administration
Federal Bureau of Investigation
Federal Communications Commission
Federal Crop Insurance Corporation
Federal Deposit Insurance Corporation
Federal Energy Administration
Federal Highway Administration
Federal Home Loan Bank Board
Federal Law Enforcement Training Center
Federal Maritime Commission
Federal Mediation and Conciliation Service
Federal Power Commission
Federal Prison Industries, Incorporated
Federal Railroad Administration

Federal Reserve System, Board of Governors
Federal Supply Service
Federal Trade Commission
Fine Arts, Commission of
Fish and Wildlife Service
Food and Drug Administration
Foreign Claims Settlement Commission of the United States
Foreign Direct Investments, Office of
General Accounting Office
General Services Administration
Geological Survey
Government Financial Operations, Bureau of
Government Printing Office
Great Lakes Basin Commission
Harry S Truman Scholarship Foundation
Health, Education, and Welfare, Department of
Health Resources Administration
Housing and Urban Development, Department of
Immigration and Naturalization Service
Indian Affairs, Bureau of
Indian Claims Commission
Inter-American Foundation
Interior, Department of the
Internal Revenue Service
International Boundary and Water Commission
Interstate Commerce Commission
Joint Chiefs of Staff
Justice, Department of
Kennedy, John F., Center for the Performing Arts
Labor, Department of
Land Management, Bureau of
Law Enforcement Assistance Administration
Library of Congress
Management and Budget, Office of
Marine Corps, United States
Marine Mammal Commission
Maritime Administration
Merchant Marine Academy, United States
Mines, Bureau of
Mining Enforcement and Safety Administration
Minority Business Enterprise, Office of
Mint, Bureau of the
Missouri River Basin Commission
National Advisory Council on Economic Opportunity
National Aeronautics and Space Administration
National Bureau of Standards
National Capital Planning Commission
National Commission for Productivity and Quality of Working Life
National Commission on Electronic Fund Transfers
National Commission on Libraries and Information Science
National Commission on Water Quality
National Credit Union Administration
National Foundation on the Arts and the Humanities
National Gallery of Art
National Highway Traffic Safety Administration
National Institute of Education
National Institutes of Health
National Labor Relations Board
National Mediation Board
National Park Service
National Science Foundation
National Security Council
National Transportation Policy Study Commission
National Transportation Safety Board
Navy, Department of the
New England River Basins Commission
Nuclear Regulatory Commission
Occupational Safety and Health Commission
Oceanic and Atmospheric Administration, National
Office of Drug Abuse Policy
Office of Information for the Armed Forces
Office of International Affairs
Office of Technology Assessment
Organization of American States
Outdoor Recreation, Bureau of
Overseas Private Investment Corporation
Panama Canal Company
Pan American Health Organization (Sanitary Bureau)
Patent Office
Pennsylvania Avenue Development Corporation
Pension Benefit Guaranty Corporation
Postal Rate Commission
Presidential Clemency Board
Prisons, Bureau of
Public Debt, Bureau of the
Public Health Service
Railroad Retirement Board

Reclamation, Bureau of
Regional Action Planning Commissions
Renegotiation Board
St. Lawrence Seaway Development Corporation
Saline Water, Office of
Secret Service, United States
Securities and Exchange Commission
Selective Service System
Small Business Administration
Smithsonian Institution
Social and Rehabilitation Service
Social Security Administration
Southeastern Power Administration
Southwestern Power Administration
Special Action Office for Drug Abuse Prevention
Special Representative for Trade Negotiations, Office of the
State, Department of
Superintendent of Documents
Superior Court of the District of Columbia
Supreme Court of the United States
Tax Court, United States
Technical Information Service, National
Telecommunications, Office of
Telecommunications Policy, Office of
Tennessee Valley Authority
Transportation, Department of
Transportation Systems Center
Travel Service, United States
Treasurer of the United States, Office of the
Treasury, Department of the
United States Information Agency
United States International Trade Commission
United States Soldier's & Airmen's Home
University of Health Sciences—Uniformed Services
Upper Mississippi River Basin Commission
Urban Mass Transportation Administration
Veterans Administration
Water Resources Council

.232 Departments and agencies created since publication of the list in 137.231 and other departments or agencies not appearing on the list may inquire of the Manager, Government Revenue and Examination Branch, Finance Department, regarding possible authorization to use official mail services.

.233 The right of an officer to use the official mail privilege ceases immediately when he leaves office.

.24 INDICIUM

.241 An area 1 1/4 inches by 3 inches is reserved in the upper righthand corner of the mail piece for the indicium. No other markings may appear in this area except boarders extending no further than one-quarter inch from the envelope edges.

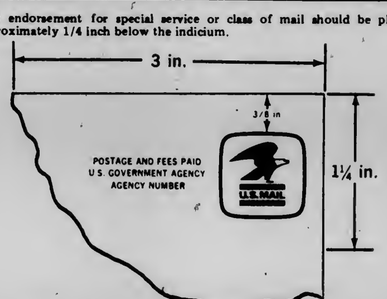
.242 a. The indicium for letter size official mail must not be handwritten or typewritten and must consist of the postal emblem (actual size shown below) located 3/8 inch from the top edge of the mail piece; and, to the left of the postal emblem, the words *Postage and Fees Paid*, the name of the department or agency, and the agency number.

b. The postal emblem may be reduced in size to not less than 5/8 inch by 5/8 inch and the indicium area to not less than 1 inch by 2 inches.

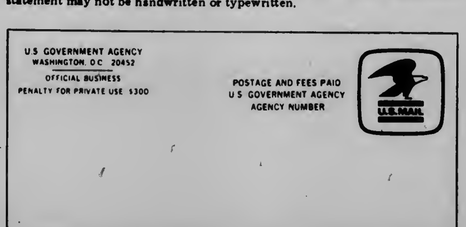
c. Use of the postal emblem as part of the indicium is optional on larger than letter-sized mail.

d. The postal emblem may be omitted on self-mailers completely printed by computer with no provisions for printing designs other than letters and numerals, provided the items are faced, sorted, and tied in bundles by ZIP Code.

e. Any endorsement for special service or class of mail should be placed approximately 1/4 inch below the indicium.



.243 Official mail of departments or agencies must bear in the upper left corner of the mail piece (as shown below) the complete return address and the words *Official Business, Penalty for Private Use, $300.* The return address and statement may not be handwritten or typewritten.



.244 Official mail of designated State extension directors must bear in the upper left corner the name of the agricultural college and the name of the post office at which the mail is to be accepted without prepayment of postage, followed by the name and title of the designated officer and the words *Cooperative Agricultural Extension Work—Acts of May 8 and June 30, 1914.* The postal emblem, the words *Postage and Fees Paid U.S. Department of Agriculture*, and the agency number must appear in the upper right corner of the address side.

.245 Official mailings by agricultural experiment stations must bear in the upper left corner of the address side the name of the station, the name of the post office at which the matter is to be accepted, and the name and title of the

officer in charge of the station, followed by the word *Publication*. The title of the bulletin or report may be used. The postal emblem, the words *Postage Paid U.S. Department of Agriculture*, and the agency number must appear in the upper right corner of the address side.

.246 Official mailings made by cooperative extension agents described in 137.22c must be prepared in accordance with the provisions of 137.242 and .243.

.247 The markings required in 137.242 through .246 may not be used to transmit mail other than official mail.

.248 Mail of departments and agencies which is not sent by use of official envelopes or labels as provided in 137.242 through .246 must have postage prepaid. The regular rates and conditions apply.

.25 REPLY AND CONTRACTOR USE.

.251 Except as provided in 137.252, .253, and .254, a department or agency authorized to use the official mail privilege may not loan or furnish official envelopes or labels to any private person, concern, or organization, or permit the use of such envelopes or labels for private benefit.

.252 A department or agency authorized to use the official mail privilege may furnish printed official reply envelopes and labels, preaddressed to a Federal Government office or officer, to a person, concern, or organization from or through whom official matter is desired. Reply envelopes and labels may not be furnished to bidders, nor may they be furnished to contractors under this provision other than for the return of extraordinary, non-recurring matter. (For envelopes and labels for contractors generally, see 137.253, .254.)

.253 A department or agency authorized to use the official mail privilege may request the Manager, Government Revenue and Examination Branch, Finance Department, to issue a permit for that department or agency to authorize printer-mailer contractors to use official envelopes and labels to mail, on behalf of that department or agency matter printed at Government expense. As provided in 137.257, any department or agency requesting a permit must furnish with the request all information the Manager considers necessary to insure accurate reimbursement to the Postal Service for private use of offical envelopes and labels.

.254 A department or agency authorized to use the official mail privilege may request the Manager, Government Revenue and Examination Branch, Finance Department, to issue a permit for that department or agency to authorize non-printer-mailer contractors to use official envelopes and labels, pre-addressed to a Federal Government office or officer, for the transmission of official matter for a specified time, or in the performance of specific contracts with the office or officer. As provided in 137.257, any department or agency requesting a permit must furnish with the request all information the Manager considers necessary to insure accurate reimbursement to the Postal Service for private use of official envelopes and labels.

.255 The Manager, Government Revenue and Examination Branch, Finance Department, or his designee, shall review each request under 137.253, or .254 and permit the department or agency to authorize contractor use of official envelopes and labels for a period of one year if he determines that the department or agency has established sufficient accountability procedures to insure reimbursement to the Postal Service for mail service provided to

contractors. In making this determination, the Manager, or his designee, shall consider factors including, but not limited to, the following:

a. Any relevant misuse of the official mail privilege, including the misuse of official envelopes or labels for the transmission of nonofficial matter by contractors licensed by the department or agency under 137.253 or .254;
b. Any relevant failure of the department or agency to comply with official mail reimbursement instructions issued by the Manager under 137.21, including failure to establish accurate methods for estimating or measuring the volume of official mail;
c. The method, such as use of a permit imprint, bulk permit, or meter, proposed by the department or agency for obtaining adequate information to insure full reimbursement for the proposed contractor use of offical mail.

.256 Official envelopes and labels used by any person, concern, organization, or contractor, as provided in 137.252, .253, and .254 must bear the printed return address of one of the authorized departments or agencies listed in 137.231 and be printed in the form set out in 137.242 and .243. No return name and address of a private person, concern, organization, or contractor may be shown. When a special service is required, the envelope or label must be preprinted with the type of special service desired. Private users of offical envelopes and labels may not add their own marking for these services.

.257 Departments and agencies authorized to use the official mail privilege must reimburse the Postal Service for the private use of official envelopes and labels under 137.252, .253, .254, as provided in instructions issued and administered by the Manager, Government Revenue and Examination Branch, Finance Department. Departments and agencies, and any contractors authorized by them to use official envelopes and labels, shall promptly furnish, in the manner and form requested, all information, including but not limited to contractor name, points and dates of mailing, classes, quantities, and single-piece weights of mail matter, the Manager considers necessary to insure accurate reimbursement to the Postal Service for private use of official envelopes and labels.

.26 WEIGHT AND SIZE LIMITS

.261 Weight.—Official mail must conform to the weight limitations in sections 131.31, 134.31, 135.31 (except that parcels weighing 70 pounds may be accepted at all post offices), and 136.3.

.262 Size.—a. If physically possible, mail should be prepared to be within the range of sizes which can be machine processed, and also most efficiently hand processed. This range of sizes, referred to as letter-size mail, is as follows:

Characteristic	Minimum mailable size (inches)	Maximum letter size (inches)
Height	3	5 3/4
Length	5	11 1/2
Thickness[1] (must be uniform)	0.007	0.25

[1] Cards exceeding 4 1/4 in. in height and/or 6 in. in length must be at least 0.009 in. thick and should not be thicker than 0.013 in.

b. If mail pieces must be larger than letter-size, mailers should avoid the use of items over 9 inches by 12 inches whenever possible. Items larger than that are especially difficult to handle even by manual methods.
c. Mail, other than letter-size mail, may not exceed 100 inches in combined length and girth. See 135.32 for instructions on how to measure.

.263 Shape.—a. Envelopes, cards, and self mailers must be rectangular, regardless of size or class of mail.
b. Letter-size mail must have a maximum ratio of height to length of 1 to 1.4, and a minimum ratio of 1 to 2.5.

.27 SERVICES TO BE PROVIDED

.271 Treatment.—All official mail must be treated as first-class mail, unless it is endorsed to a lower class. EXCEPTION: Pieces weighing over 13 ounces must be treated as third- or fourth-class mail unless endorsed as priority mail. Official mail endorsed to indicate a special service must be given the service indicated. (See Publication 42 regarding international mail.) EXCEPTION: Reply envelopes and labels and envelopes and labels used by contractors must be preprinted with special service endorsements (see 137.256). Endorsements which are typewritten, handwritten, rubber stamped or applied by adhesive stickers are not acceptable on preprinted reply envelopes and labels.

.272 Forwarding, Return, and Address Correction Services.—Official mail on which forwarding, return, or address correction service has been requested must be given the service requested without being rated for collection of postage due. The Postal Service is reimbursed pursuant to 137.11 and 137.21 for postage due accruing on offical mail.

.273 Mailing Permits.—Applications for mailing permits must be handled in the following manner:

a. Postage Meter

(1) License. the regular procedures prescribed in Part 144 must be followed. EXCEPTION: Prepayment is not required at time of setting. Meters must be set to maximum capacity to preclude unnecessary settings, and billings must be handled on a centralized basis from headquarters. A special official mail meter-stamp design is prescribed for meters used for official mail (see 144.41). The license to use a postage meter Form 3601—A, Application For a Postage Meter License, must be approved by the Government Revenue and Examination Branch. A copy of the license must be provided to the post office at the authorized location as the authority to set the meters without prepayment. Form 3610, Record of Meter Setting, must be executed and maintained by the meter-setting employee for each Federal Government entity. A separate ledger should also be maintained for Government meters. The original of Form 3603, Receipt of Postage Meter Setting, must be given to the agency and the copy forwarded to the Government Revenue and Examination Branch, along with a copy of the postage Form 3610 for billing purposes.

(2) Mailings. Federal Government agencies are not entitled to send official mail at nonprofit rates or other subsidized rates, but must use the full unphased rates for all classes of mail matter for which postage rates are phased. This includes mailings made at second-class, controlled circulation, and special fourth-class rates. Post offices serving Federal Government agencies using postage meters must monitor such mailings for possible postage deficiences.

b. Second Class

(1) Application. Federal Government agencies may apply for second-class mail privileges for periodical publications which meet the basic qualifying conditions stated in 132.22 by completing Form 3501, Application for Second-Class Mail Privileges. Form 3501 and two copies of the publication on which the application is based should be filed at the post office of the place where the known office of publication is located. Postmasters must verify the circulation of the publication for which an application is filed and complete the appropriate items on the application. The verification results must be recorded in column (e) on

the back of the application. The postmaster's report portion on the front must be completed giving a description of the records examined which substantiate the circulation of the publication. The application and a copy of the publication must be transmitted to the Director, Office of Mail Classification, for processing.

(2) Mailing. Official mail sent at second-class rates must meet the provisions of Parts 125 and 132. Exception: The provisions of 125.68 and 132.25 do not apply to such mailings. The address side of each copy, or its envelope or wrapper, must be plainly marked SECOND-CLASS MAIL or SECOND-CLASS MAIL NEWSPAPER (as appropriate) preferably in a position beneath the official indicium and above the address of the recipient. See 137.275a for billing of postage charges.

c. Controlled Circulation

(1) Application. Federal Government agencies may apply by letter or memorandum to mail publications at controlled circulation rates if they meet the qualifying conditions in 133.21. The application and a copy of the publication on which it is based may be filed at the post office where the mailings will be made or sent directly to the Director, Office of Mail Classification. Applications which are filed at local post offices must be forwarded by the postmaster to the Director.

(2) Mailings. Official mail sent at controlled circulation rates must meet the provisions of Part 133. Exception: the provisions of 133.3 do not apply to such mailings. The address side of each copy, or its envelope or wrapper, must be plainly marked CONTROLLED CIRCULATION RATE preferably in a position beneath the official indicium and above the address of the recipient. See 137.275a for billing of postage charges.

d. Bulk Third-Class Permits

(1) Application. Federal Government agencies may apply to mail at regular bulk third-class rates by letter or memorandum. The application may be filed at the post office where the mailings will be presented or sent directly to the Director, Office of Mail Classification. Applications which are filed at local post offices must be forwarded by the postmaster to the Director.

(2) Mailings. Official mail sent at bulk third-class rates must meet the provisions of Part 134. Exception: the provisions of 134.422 and 134.423 do not apply to such mailings. The address side of each piece, or its envelope or wrapper must be plainly marked THIRD-CLASS BLK RT preferably in a position beneath the official indicium and above the address of the recipient. See 137.275c for billing of postage charges.

e. Permit Imprints

(1) Application. Federal Government agencies may apply to mail identical pieces of first- and fourth-class mail under the permit imprint system. The application may be filed by letter, memorandum or on Form 3601, Application to Mail Without Affixing Postage Stamps, either at the post office where the mailings will be made or sent directly to the Director, Office of Mail Classification. Applications filed at local post offices must be forwarded by the postmaster to the Director. A special form of permit imprint is prescribed for official mail sent at first- and fourth-class rates (see 145.4).

(2) Mailings. Official mail sent under permit imprint must meet the provisions of Part 145. Exception: The provision of 145.13, 145.33, 145.561, and 145.562 do not apply to such mailings. Form 3083, Trust Account Receipts and Withdrawals, does not reflect mailings made under permit imprint by Federal Government agencies. See 137.275b for billing of postage charges.

f. Business Reply Mail

(1) Application. A Federal Government agency or department may apply for a business reply permit by filing an application in duplicate on Form 3614, *Application To Distribute Business Reply Cards, Envelopes, Cartons, and Labels*, at the post office where the mail will be returned. On receipt of the application, the postmaster will complete the approval and permit portions of the form. The application portion of the orginal

and duplicate copies will be annotated *Federal Government Agency*. Deliver the original permit portion to the applicant. The original copy of the application portion will be filed in the post office pursuant to the provisions of PSM 131.232b. The duplicate copy of the application and the duplicate permit portion will be forwarded to the Manager, Government Revenue and Examination Branch, Accounting Division, U.S. Postal Service Headquarters, Washington, DC 20260, for annual fee and accounting fee billing purposes.

(2) *Mailings.* The number of pieces of business reply mail returned each day to a Federal Government agency will be recorded by the post office where the mail is returned on Form 25, *Trust Fund Account*, together with the amount chargeable for postage and fees. At the end of each accounting period, all Forms 25 will be forwarded to the Manager, Government Revenue and Examination Branch, for billing purposes. *If no business reply mail items are received during an accounting period, the post office must submit a negative report on Form 25.* Post offices will make no collections of money at the local level from Federal Government agencies in connection with issuance of business reply permits or postage and fees due on such mail. Annual fees, accounting fees, postage, and business reply charges will be paid by Federal Government agencies in accordance with the reimbursement procedures of PSM 137.21. All other postal regulations pertinent to the preparation and distribution of business reply mail are applicable to such mail prepared and distributed by Federal Government agencies. Irregularities must be handled in accordance with the general instructions in PSM 137.81.

g. *Approved Applications*

If an application for any mailing permit is approved, each postmaster at the post office of entry must be advised. Postmasters must insure that mailings are properly presorted and otherwise prepared in accordance with the requirements of their classification.

.274 **Fees.**—Postmasters must not collect fees due for second-class or permit imprint applications nor must they collect annual bulk-mailing fees. The fees must be included in the next regular billing made to the respective agency by the Government Revenue and Examination Branch at Headquarters.

.275 **Mailing Statements for Billing Purposes.**

a. *Form 3542, Statement showing number of Copies of Second-class or Controlled Circulation Publication Mailed.* Federal Government agencies must file Form 3542 at the entry post office for offical mail sent at second-class and controlled circulation rates. The postmaster must forward the forms to Headquarters for billing purposes. Preparation of Form 3541, *Computation of Second-Class or Controlled Circulation Postage*, is not required.

b. *Form 3602, Statement of Mailing Matter With Permit Imprints.* Federal Government agencies must present Form 3602 at the post office when first- and fourth-class official mail is sent under the permit imprint system. At the end of each accounting period Form 3602 and corresponding Forms 3607, *Weighing and Dispatch Certificate*, together with Forms 3609, *Record of Permit Imprint Mailings*, must be forwarded by the postmaster to Headquarters for permit imprint billing purposes.

c. *Form 3602-PC, Bulk Rate Mailing Statement—Third-Class Mail.* Federal Government agencies must present Form 3602—PC at the post office when official mail is sent at bulk third-class rates. The front of the form must be fully completed by the mailer to identify the mailing agency and must include the following information:

(1) The permit number should be a six-digit coding. Zeros should be added at the end of the authorized permit number if it is not a six-digit coded number (for example 005-200).

(2) The date and total number of pieces in the mailing should be complete and legible.

(3) The designation of type of matter mailed such as circulars, books, or catalogs, should be indicated in the appropriate block.

(4) The weight of a single piece should be indicated in ounces and carried five places to the right of the decimal point Examples are:
1 ounce to be written as—1.00000
3/4 ounce to be written as—.75000
2/3 ounce to be written as—.66667
1/2 ounce to be written as—.50000
1/3 ounce to be written as—.33333
1/4 ounce to be written as—.25000

(5) The back of Form 3602—PC must be fully completed and signed by the receiving employee.

.276 **Forwarding Billing Records.**—All mailing statements and copies of Forms 3541, 3541A, 3602, 3602—PC, 3603, and 3610 pertinent to official mailings and meter settings must be forwarded to the following address at Headquarters for billing purposes:

Manager, Government Revenue & Examination Branch, U.S. Postal Service Headquarters, 475 L'Enfant Plaza West SW, Washington, DC 20260

The Forms 3602 and 3602—PC must be forwarded at the end of each accounting period. The other forms should be forwarded when mailings or meter settings occur.

.277 **Exception Reports.**

a. *Irregular Mailings*

(1) *Improper Preparation.* If any official mailing other than first class or priority mail is not properly prepared or otherwise fails to qualify for a rate with which the pieces are endorsed, the mail must not be accepted. For presorted mail that does not comply with preparation requirements, a report must be submitted immediately to the Government Revenue and Examination Branch so that the agency can be billed at the appropriate rate.

(2) *Mailings Without Authorization.* If official mail is presented for acceptance as second-class, controlled circulation, bulk third-class, permit imprint or metered mail at a post office without authorization, it must be accepted and processed by the post office in accordance with 137.81. An exception report must be submitted with the mailing statement or other record to the Government Revenue and Examination Branch.

.28 ZIP CODING OF MAIL.

.281 **Addressing.**—The address on all official mailings of Federal departments and agencies under 137.2 must include the ZIP Code number.

.282 **Presorting and Postage Charges.**—If identical pieces of individually addressed matter are included in a single mailing at the bulk rates in 131.12, 134.12, 135.122, 135.132 and 136.13, the mail must be prepared as prescribed for each bulk category.

137.3 CENSUS AND NATURALIZATION MAIL.

.31 CENSUS MAIL.—Official envelopes and labels prepared in accordance with 137.24 and pre-addressed to the Department of Commerce or to one of its bureaus or agencies, may be used to transmit mail relating to a collection of statistics, survey or census authorized by title 13, United States Code.

.32 NATURALIZATION MAIL.—Official envelopes and labels prepared in accordance with 137.24 and pre-addressed to the Department of Justice, to the Immigration and Naturalization Service, or to any of its officials may be used by clerks of courts to transmit mail relating to naturalization.

137.4 STATE EMPLOYMENT SECURITY MAILINGS

All mail of State employment security offices cooperating with the Department of Labor that bears, in the upper left corner of the address side, the words *Official Business* printed immediately below the name and address of the State employment agency and, in the upper right corner, the words *Postage and Fees Paid, Employment Security Mail* LAB-449 will be accepted without prepayment of postage or fees. Postage and fees chargeable are collected periodically under a special arrangement with the Postal Service. Such matter will be given the service indicated on the cover.

137.5 ABSENTEE BALLOTING MATERIALS

.51 PURPOSE

Balloting materials consisting of post card applications, ballots, voting instructions, and envelopes, are sent through the mail without prepayment of postage, for the purpose of enabling every person in any of the following categories to vote by absentee ballot when he is absent from the place of his voting residence and is otherwise eligible to vote:

a. Members of the Armed Forces while in the active service and their spouses and dependents.

b. Members of the merchant marine of the United States and their spouses and dependents.

c. Citizens of the United States temporarily residing outside the territorial limits of the United States and the District of Columbia and their spouses and dependents when residing or accompanying them. To be mailable free of postage, the balloting materials must be deposited at a United States post office, an overseas United States military post office, or presented to an American embassy.

.52 ELECTIONS AFFECTED

The materials may be sent for any general election of electors for President and Vice President or of Senators and Representatives in Congress and for other general, primary, and special elections.

.53 MARKINGS REQUIRED ON BALLOT ENVELOPES AND POST CARD APPLICATIONS

.531 Envelopes used to send balloting material and envelopes supplied for return of the ballot must have printed across the face two parallel horizontal red bars, each ¼ inch wide, extending from one side of the envelope to the other side, with an intervening space of ¼ inch, the top bar to be 1¼ inches from the top of the envelope, and the words *Official Election Balloting Material* or similar language as prescribed by State law, between the bars. There must be printed in the upper right corner of each envelope in a rectangular box the words *Free of U.S. Postage*. All printing on the fact must be in red with an appropriate inscription or blanks for return address of sender in the upper left corner.

Name and complete military, naval, or merchant marine address

Free of U. S. postage

OFFICIAL ELECTION BALLOTING MATERIAL

Secretary of State of _____ (Home State)

_____ (Capital city of home State)

_____ (Home State, Zip Code)

.532 The Federal post card application shall be approximately 9½ x 4⅛ inches in size. On the address side of the card shall be printed in red ink the following:

FILL OUT BOTH SIDES OF THE CARD

_____ (Name)

_____ (Unit, Gov. Agency, or Office)

_____ (Mil. Base, Station, Ship or Office)

_____ (Street No., APO, or FPO No.)

_____ (City, State, Zip Code)

FREE OF U. S. Postage

OFFICIAL ELECTION BALLOTING MATERIAL

To: _____ (Title of Election Official)

_____ (County or Township)

_____ (City or Town, State, Zip Code)

137.6 PRESIDENT-ELECT, FORMER PRESIDENT, SURVIVING SPOUSE OF FORMER PRESIDENT AND SURVIVING SPOUSE OF MEMBER OF CONGRESS

.61 PRESIDENT-ELECT

All mail of any President-elect sent by him in connection with his preparations for the assumption of official duties as President may be accepted subject to the provisions of 137.233.

.62 FORMER PRESIDENT AND SURVIVING SPOUSE OF FORMER PRESIDENT

All nonpolitical mail of former United States Presidents, and of the surviving spouse of a former President, shall be accepted without prepayment of postage if it bears the written signature of the sender, or a facsimile signature and the words Postage and Fees Paid in the upper right corner of the address side.

.63 SURVIVING SPOUSE OF MEMBER OF CONGRESS

Upon the death of a Member of Congress during his term of office the surviving spouse of such Member may send, without prepayment of postage for a period not to exceed one hundred and eighty days after the death of the Member, correspondence relating to the death of the Member, provided it bears the written signature of the sender, or a facsimile signature in the upper right corner of the address side.

137.7 GENERAL SECRETARIAT OF THE ORGANIZATION OF AMERICAN STATES AND PAN AMERICAN SANITARY BUREAU

The General Secretariat of the Organization of American States and Pan American Sanitary Bureau are authorized by law to transmit official matter without prepayment. The mail must bear the printed clause citing the penalty for private use instead of postage stamps. It must be prepared like Federal Government penalty mail and is subject to the same restrictions. See 137.233, 137.24, and 137.25.

137.8 GENERAL INSTRUCTIONS

.81 OFFICAL MAIL NOT TO BE DETAINED

Official mail of any kind must not be detained even though there are indications of abuse of official mailing privileges. It must be promptly dispatched and delivered to the addressee. Reports of the indicated abuse must be submitted to the Office of Mail Classification, Rates and Classification Department.

.82 SEPARATION OF OFFICIAL MAIL BY MAILER

Official mail must be separated according to the class of mail and special service requested before it is deposited at the post office. Second-class, controlled circulation, bulk third-class and special rate fourth-class mail must be prepared in accordance with Part 125 or sections 134.43, or 135.216. The postmaster will furnish appropriate sack labels with which to identify the various types of mail.

Part 138

FOR THE BLIND AND OTHER HANDICAPPED PERSONS

138.1 CONDITIONS

The following conditions are applicable to articles mailable free of postage under this section:

a. Except as provided in 138.21 the matter is for the use of the blind or other persons who cannot use or read conventionally printed material because of a physical impairment who are certified by competent authority as unable to read normal reading material;
b. No charge, or rental, subscription, or other fee, is required for such matter or a charge, or rental, subscription, or other fee is required for such matter not in excess of the cost thereof;
c. The matter may be opened for postal inspection;
d. The matter contains no advertising.

138.2 ITEMS MAILABLE FREE

.21 Unsealed letters sent by a blind person or a person having a physical impairment as described in section 138.1a in raised characters or in 14 point or larger sightsaving type or in the form of sound recordings;

.22 Reading matter and musical scores;

.23 Sound reproductions;

.24 Paper, records, tapes, and other material for the production of reading matter, musical scores, or sound reproductions;

.25 Reproducers or parts thereof for sound reproductions; and

.26 Braille writers or typewriters, or parts thereof, used for writing by or specifically designed or adapted for use of a blind person or a person having a physical impairment as described in section 138.1a.

.27 Educational or other materials or devices, or parts thereof, specifically designed or adapted for use of a blind person or a person having a physical impairment as described in section 138.1a.

138.3 MARKINGS

All matter mailed under the provisions of Part 138 shall show the words *Free Matter for the Blind or Handicapped* in the upper right corner of the address side.

138.4 WEIGHT AND SIZE LIMITS

The weight and size limitations in 135.31 are applicable to mailings made under this part.

Part 139

MIXED CLASSES

139.1 MAIL OF A HIGHER CLASS ENCLOSED WITH MAIL OF A LOWER CLASS

When mail of a higher class is enclosed with mail of a lower class, the rate of postage on the entire piece or package is that of the higher class except as provided in 139.3. See 139.2 for attachment of letters to parcels of second-, third-, and fourth-class mail.

139.2 COMBINATION MAILINGS OF TWO CLASSES

.21 ATTACHMENT

Letters or other pieces of first- or third-class mail may be placed in an envelope and securely tied or otherwise attached to the address side of a second-, third-, or fourth-class mailing piece. The envelope must be placed on the address side of the principal mailing piece. Combination envelopes or containers having separate parts for the two classes of mail may be used. See 134.8 concerning the sealing of third-class mail.

.22 ADDRESSING

The name and address of the sender and the name and address of the addressee should be placed on both the principal mailing piece and the attachment. If both names and addresses do not appear on both pieces, the sender's name and address must be placed on one and the name and address of the addressee must be placed on the other. Combination containers having inseparable portions or compartments are mailable with the names and addresses on only one portion.

.23 POSTAGE

Postage on the second-, third-, or fourth-class mail must be prepaid at the appropriate rate and must be placed in the upper right corner of the address space. Postage at the appropriate first- or third-class rate must be paid for the attachment and affixed to it.

.24 MARKINGS REQUIRED

First-class attachments may be marked *First Class* or *Letter Enclosed*. Third-class attachments must be marked *Third Class*.

139.3 MAILING ENCLOSURES OF DIFFERENT CLASSES

.31 ENCLOSURES MAILED WITH SECOND-CLASS AND CONTROLLED CIRCULATION PUBLICATIONS

.311 *First- and Third-Class Enclosures*

Separate and independent pieces of first- or third-class mail may be mailed as enclosures with second-class and controlled circulation publications.

.312 *Payment of Postage*

Postage at the appropriate first- or third-class rate must be paid for each separate enclosure. Pieces of related matter enclosed with a publication as a unit may be regarded as a single enclosure for purpose of computing postage. The postage may be placed on the enclosure by using precanceled or meter

stamps, or the postage may be placed on the outside envelope, wrapper, or cover by using precanceled stamps, meter stamps, or permit imprints. Postage at the second-class pound or per copy rates or postage at the controlled circulation rates must be paid on the publication in the manner prescribed by Part 125. When postage at the transient second-class rate is paid on the publication, follow the procedure in 139.32.

.313 *Marking Required*

When postage for the enclosure is placed on the outside envelope, wrapper, or cover of a publication, the mailer must mark each piece as required by 139.325. Markings are not required when postage is placed on the enclosure.

.32 ENCLOSURES MAILED WITH THIRD- AND FOURTH-CLASS PARCELS

.321 *First-Class Enclosures*

a. Letters may be enclosed with books, catalogs, and merchandise mailed at third-class rates. (See 139.2 for mailing letters with other third-class matter.) Letters may be enclosed in fourth-class parcels. Postage at the first-class rate must be paid for each letter.
b. An incidental first-class addition to a third- or fourth-class mailing piece, but inseparable from the piece to which it is attached, e.g., label, tag, etc., will, for postage payment purposes, be treated as though it were a separate first-class enclosure.

.322 *Third-Class Enclosures*

Third-class mail may be enclosed in a fourth-class parcel mailed at the special rates in 135.12, 135.13, and 135.14 or mailed free under 138. Postage at the applicable third-class rate must be paid for enclosures except the items listed in 135.6.

.323 *Placement of Enclosure*

The enclosure should be placed on top of other items in the parcel when practical.

.324 *Payment of Postage*

Postage for the enclosure must be placed on the outside of the parcel. It may be added to the postage for the parcel and the total amount paid together, or the postage for the enclosure may be affixed separately from the postage for the parcel.

.325 *Marking Required*

The mailer must place the endorsement *First-Class Mail Enclosed* or *Third-Class Mail Enclosed* on each parcel below the postage and above the address. The endorsement may be handstamped, handwritten, typewritten, printed, or put on by any other method.

.33 PENALTY

.331 *Failure to Pay*

If postage is not paid at the appropriate rate in the manner provided for by 139.31 and 139.32 for letters or other pieces of first- or third-class mail, the second-class publications or the third- or fourth-class parcels in which they are enclosed will be subject to the higher rate applicable to the enclosure.

.332 *Concealment*

Mailers are subject to a fine of not more than $100 if they knowingly conceal letters or other pieces of first- or third-class mail in second-class publications or in the third- or fourth-class parcels without paying the appropriate rate of postage on the enclosures in the manner provided for by 139.31 and 139.32.

139.4 TREATMENT

.41 FORWARDING

Pieces of second-, third-, or fourth-class mail having other classes of mail enclosed under the combination mail arrangements provided for by section 139.2 are subject to the same conditions for forwarding as single pieces of second-, third-, or fourth-class mail (see Part 158). If the enclosure is first-class mail, that fact will not affect the conditions of forwarding.

.42 RETURN

.421 Undeliverable combination mail pieces, including those which cannot be forwarded, one part of which is first-class mail, shall in all cases be returned to the sender subject to the charge for return according to its class. See sections 159.22, 159.23, 159.24, 159.25, and 159.26. The weight of the first-class piece will not be included when computing the charge for return of the second-, third-, or fourth-class portion.

.422 Any undeliverable combination mailing piece which does not include first-class matter shall be disposed of as provided in Part 159.

.423 If for any reason an undeliverable combination mailing piece, one part of which is first-class mail, is not returnable to the sender, it will be treated as provided in section 159.72.

139.5 SPECIAL SERVICES

Combination mailing pieces may be sent as special delivery or in the case of third- or fourth-class parcels as special handling, and only one fee applicable to the parcel is required. Combination pieces may not be registered. They may be sent insured or COD, the insurance to cover only the value of the parcel.

Subchapter 140 POSTAGE

Part 141
ENVELOPES, POSTAL CARDS, AEROGRAMMES

141.1 USE

.11 ENVELOPES

.111 COLOR

Use any light color that does not interfere with legible address and postmark. Do not use brilliant colors.

.112 QUALITY

Use paper strong enough to withstand normal handling. Highly glazed paper, or paper with an overall design, is not satisfactory.

.113 SIZE, SHAPE, AND RATIO

Envelopes of standard sizes and shapes are essential to the economical handling of mail, both by machine and manual methods. The following standards apply to envelopes:

a. Envelopes less than 3 inches in width (height) or 4¼ inches in length are nonmailable.
b. Envelopes more than 9 inches in width (height) or 12 inches in length are not recommended.
c. Envelopes having shapes other than rectangular are nonmailable.
d. Envelopes having a ratio of width (height) to length of less than 1 to 1.414 (1 to the square root of 2) are not recommended.

.114 WINDOW ENVELOPES

Window envelopes, or open panel envelopes, may be used under the following conditions:

a. The address window must be parallel with the length of the envelope.
b. The proper place for the address window is in the lower portion of the address side.
c. Nothing but the name, address, and any key number used by the mailer may appear through the address window.
d. The return address should appear in the upper left corner. If there is no return address and the delivery address does not show through the window, the piece will be handled as dead mail.
e. The address disclosed through the window must be on white paper or paper of a very light color.
f. When used for registered mail, they must conform with the conditions in 161.33.
g. Window envelopes, but not open panel envelopes, may be used for business reply mail provided:
   (1) All of the address side except the portion which will show through the window is prepared as required by 131.234.
   (2) An address prepared by any of the processes and in the style provided for by 131.234 is furnished by the distributor for use as an enclosure to return the envelope.
   (3) The window covering is of such texture as to allow maximum transparency.

.115 Green Border Envelopes and Cards

The use of envelopes and cards bearing a green border must be for first-class mail matter only. All envelopes and cards bearing a green border shall be charged postage equivalent to the first-class rate.

.12 PLAIN STAMPED ENVELOPES

.121 *Envelopes Available at Post Offices*

Kind	Size	Denomination	Item No.	Prices		
				Less than 500	500	1,000
Regular	6¾	13¢	631	$0.15	$68.55	$137.10
	10	13¢	131	.15	69.20	138.40
Window	6¾	13¢	632	—	69.00	138.00
	10	13¢	132	—	69.85	139.70
Precanceled	6¾	2¢	643	—	13.55	27.10
	10	2¢	123	—	14.20	28.40

Limit requisitions to a 3-accounting period supply. A minimum quantity of 500 plain stamped envelopes must be ordered even though this may cause some post offices to exceed the 3-accounting period stock level.

.122 *Sales at Post Offices*

Only sizes 6¾ and 10 regular will be sold in less than full box lots. Boxes contain 500 envelopes.

.123 *Discount on Sales of Plain Regular Stamped Envelopes*

a. *Definition.* Plain regular envelopes are charged to and carried on post office records at the amounts specified in *Handbook F–1*. Sales to customers are made at the rates specified in 141.12. This results in sales of 500 and multiples thereof out of the main stock or fixed credits being made at a discount.
b. *Recording Discount.* A record shall be kept of each bulk sale of 500 lots of plain regular envelopes. Use Form 3220, *Stamped Envelope Sales at Discount.* As each sale is made, record the date, purchaser's name, and quantity sold. The selling employee will obtain the purchaser's name from the check used for payment or by asking when payment is by cash. Do not refuse sales to those who decline to identify themselves. State purchaser declined identification in the name column. Enter the quantity in the proper size and denomination column.
c. *Reporting Discount.* Employees selling 500 lots may complete Form 3220 as often as necessary, but at least each accounting period at offices with 950 or more revenue units and each postal quarter at other offices in time for the discount to be included in a regular requisition submitted during the same period or quarter. The total amount of the discount claimed must be included in the total amount of the regular requisition for stock. Submit this requisition to the custodian of the main stock. The station superintendent or an employee in a similar capacity must verify the computations on Form 3220, enter his initials and submit the form direct to the director, office of finance, chief accountant or employee maintaining the cashbook as specified in Handbook F–1.

.124 *Precanceled Envelopes*

Only nonprofit organizations or associations covered in 134.5 may purchase 2.0 cent precanceled envelopes. Sales are made in full box lots only.

PART 142
STAMPS (ADHESIVE)

142.1 AVAILABILITY AND USE

.11 TYPES

Purpose	Form	Denomination and prices
Ordinary postage.	Single or sheet.	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 20, 21, 24, 25, 30, 40, and 50 cents; $1 and $5.
	Books.	40 10-cent ($4),* 6 13-cent and 6 2-cent ($.90), 23 13-cent ($2.99)
	Coil of 100.	10* and 13 cents: (Dispenser to hold coils of 100 stamps may be purchased for 5 cents additional.)
	Coil of 500	1, 2, 3, 5, 6, 8, 10, and 13 cents, and $1.
	Coils of 3,000.	1, 2, 3, 5, 6, 8, 10, 13, and 25 cents.
Airmail postage	Single or sheet.	**21, 25, 26, and 31 cents Available for international airmail service.**
Commemorative stamps.	Single or sheet.	Various denominations as announced.
Precanceled postage.	Single or sheet, coils of 500 and 3,000.	Available to permit holders only. (See part 143.)
Postage-due (for post office use only).	Single or sheet.	1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 13, 30, and 50 cents; $1 and $5.

*Will be discontinued when stock is exhausted.

.12 USE

.121 Use stamps of the highest suitable denomination.

.122 Fix stamps firmly in the upper right corner of the address side of the mail cover.

.123 Any stamp partly concealed by an overlapping stamp may not be counted as postage.

.124 Postal employees (other than rural carriers as prescribed in 156.41) are not required to fix stamps to mail.

.125 Airmail postage stamps may be used to pay regular postage and fees for special services.

.13 PERFORATING

Postage and special delivery stamps may be perforated with an identifying mark if the holes do not exceed 1/32 of an inch in diameter and if the space taken by the mark is not larger than ½-inch square.

.14 REUSE PROHIBITED

Reuse of stamps with intent to cause loss to the Government is punishable by fine and imprisonment.

142.2 PURCHASE OF POSTAGE

.21 ACCEPTABLE FORM OF PAYMENT

Foreign or mutilated money is not acceptable. When the post office cannot make change, the exact amount of the purchase must be paid. Postal employees are not required to accept personal checks. To send money by mail, use money order or certified check.

.22 PURCHASE RECEIPTS

If the customer wants a receipt for purchases and has prepared the receipt in advance, the postal employee will stamp it upon payment. If the customer has not prepared but wants a receipt for purchases, Form 1096, Cash Receipt, will be used for postage and other services for which verification of payment is not already provided. The postal employee will fill in the total amount of the purchase and will stamp the form upon payment.

.23 POSTAGE DUE

Postage due must be paid in cash. Postage-due stamps may not be used for paying postage.

142.3 REPLENISHMENT OF STOCK BY WINDOW CLERKS

.31 CHANGE FUNDS

Change funds must not exceed 10 percent of the fixed credit or $100, whichever is smaller. Clerks assigned automatic changers may retain an additional $50.

.32 CLERKS REQUISITIONING ON WEEKLY OR 4-WEEK CYCLE

Main office window clerks at offices with 950 or more revenue units, who make direct-to-bank deposits, may requisition on a weekly or 4-week cycle provided equipment is adequate for protection of the fixed credit. Use Form 3310, *Stamp Sales Remittance*. Remit funds in excess of change funds daily near the end of tour of duty. Other window clerks at offices with 950 or more revenue units may be authorized to use Form 3310 to remit daily and requisition weekly provided protective facilities are adequate. When Form

143.3 MAILER'S PRECANCEL POSTMARK

Mailers may use a precancel postmark on stamped envelopes mailed at the first-class rate of postage. The precanceling imprint must include the name of the post office and State, the permit number preceded by the words *Mailer's Postmark*, the date of mailing, and sufficient cancellation lines to fully deface the stamp. In instances wherein substantial processing savings accrue to the Postal Service, the Manager, Mail Classification Division, U.S. Postal Service, Washington, DC 20260, may authorize precanceling adhesive postage stamps under the procedure described. The ink used for cancellation must provide adequate indelibility and sufficient contrast from the stamp to prevent re-use. Illustrated below is the authorized design of a mailer's precancel postmark:



143.4 PRECANCEL PERMITS

.41 APPLICATION FOR PERMIT

Applications for permits to use precanceled stamps, precanceled stamped envelopes, and mailer's precancel postmarks must be filed on Form 3620 at the post office where mailings will be made. Copies of this application form may be obtained from local postmasters. Applications to use the mailer's precancel postmarks must be accompanied with an imprint of the cancellation to be used.

.42 ISSUANCE OF PERMIT

.421 *Approval*

The postmaster will approve or disapprove the application. If it is approved, he will issue a *Precancel Permit* on Form 3620 to the applicant. If the permit covers the use of a mailer's precancel postmark, the permit will include a statement to that effect.

.422 *Post Office Precancels*

Issue permits on Form 3620. (See 143.42.) Deliver the permit to the applicant and file the application portion. Date each permit and number it consecutively beginning with No. 1 for the first permit issued at your office.

.423 *Mailer's Postmark Precancels*

On receipt of application on amended Form 3620, or by letter, to precancel Government stamped envelopes and postal cards by a mailer's postmark, issue a permit on an appropriately amended Form 3620. Follow procedure in 143.422. A specimen mailing piece bearing the proposed cancellation mark must be furnished by the applicant. File it with the application portion of Form 3620.

.43 REVOCATION

.431 Permits may be revoked if used in operating any scheme or enterprise of an unlawful character, or for the purpose of purchasing or acquiring stamps for other than mailing purposes, or for any noncompliance with the instructions on the *Permit*, Form 3620.

.432 The permit holder will be notified by letter by the postmaster at the post office that issued the permit that it is to be canceled, with the reasons for cancellation. The permit holder will be allowed 10 days within which to file a written statement showing why the permit should not be revoked. When no answer is filed, the postmaster will cancel the permit. If an answer is filed it should be forwarded with a statement of the facts to the Manager, Mail Classification Division, Finance Department, who will determine whether the permit shall be continued in effect. Notice of decision will be given the permit holder through the postmaster.

Part 144
POSTAGE METERS AND METER STAMPS

144.1 POSTAGE METERS

.11 USE OF METER STAMPS

.111 Postage may be paid by printing meter stamps with a postage meter on any class of mail. Metered mail is entitled to all privileges and subject to all conditions applying to the various classes of mail.

.112 Meter stamps may be used to prepay reply postage on letters and postcards under the following conditions:

a. Meter stamps must be printed directly on the envelope or card that bears the return address of the meter license holder in an amount sufficient to prepay in full the first-class rate.

b. Any photographic, mechanical, or electronic process, or any combination of such processes, other than handwriting, typewriting, or handstamping, may be used to prepare the address side of reply mail prepaid by meter stamps. The address side must be prepared both as to style and content in the following form without the addition of any matter other than a return address:

(Meter stamp to be placed here)

NO POSTAGE STAMP NECESSARY
POSTAGE HAS BEEN PREPAID BY

John Doe Company
123 Tremont Street,
New York, N Y 10010

c. Reply mail prepaid by meter stamps will be delivered only to the address of the meter license holder. If the address is altered, the mail will be held for postage.

.113 Postage meter stamps for zero postage shall not be affixed to items delivered by other carriers since this would give the impression of Postal Service delivery.

.12 DESCRIPTION OF METERS

Postage meters are made to print single, several, or all denominations of postage. They contain in one sealed unit the printing die or dies and two

recording counters. One adds and keeps a total of all postage printed by the meter. The other subtracts and shows the balance of postage remaining in the meter, after the use of which it will lock. From time to time, mailers take the meter to the post office to have this counter set for additional postage, which is added to the balance remaining. Payment must be made for each additional setting.

.13 METER MANUFACTURERS

Postage meters may be leased from authorized manufacturers who are held responsible by the Postal Service for the control, operation, maintenance, and replacement, when necessary, of meters manufactured by them. The following manufacturers are presently authorized to lease meters to mailers:

a. ADS-POSTALIA, INC., 1423 Centre Circle Drive, Downers Grove, Il 60515
b. F.M.E. Corporation, 7901 Oakport Street, Oakland, CA 94621
c. National Cash Register Co., Dayton, OH 45409
d. Pitney Bowes, Inc., Pacific & Walnut Streets, Stamford, CT 06904

144.2 METER LICENSE

.21 APPLICATION

A customer may obtain a license to use a postage meter by submitting *Application for a Postage Meter License*, Form 3601-A (or a form supplied by the manufacturer), to the post office where his metered mail will be deposited. No fee is charged. On approval, the postmaster will issue a license.

.22 RESPONSIBILITIES OF LICENSEE

.221 After a meter has been delivered to a licensee, he must keep it in his custody until returned to the authorized manufacturer or to the post office. A customer may not have a meter in his possession unless it has been set, sealed, and checked into service by the Postal Service. Avoiding the payment of postage through tampering with or misusing a meter is punishable by law.

.222 The licensee must enter in the *Daily Record of Meter Register Readings*, Form 3602-A, the figures appearing in the ascending and descending registers each day the meter is operated. Failure to make such entries will be considered grounds for revocation of a meter license. If at any time the sum of the two figures does not equal the total entered in the Form 3602-A at the last setting, the meter should be taken immediately to the post office, station, or branch where it was set, for examination. The post office will provide Form 3602-A when the meter is initially set. Additional copies will be provided as the forms are filed.

.223 The meters in the custody of the licensee and his records relating to meter transactions must be immediately available for examination and audit by the Postal Service or meter manufacturer, see 144.962, upon request.

.224 If a meter is not reset within a 6-month period, it must be presented together with related Forms 3602-A for examination at the post office, station, or branch where it is regularly set.

.225 If the meter's printing or recording mechanism is in any way faulty, it shall be immediately taken to the post office, station, or branch where it is regularly set to be checked out of service. Under no circumstances, shall the faulty meter be used.

.23 REVOCATION

.231 A license may be revoked if a meter is used in operating any scheme or enterprise of an unlawful character, for nonuse during any con-

secutive 12 months, or for any failure of the licensee to comply with the regulations governing the use of postage meters.

.232 The meter license holder will be notified by the postmaster if the license is to be canceled and the reasons for cancellation. Form 3604, *Nonuse of Mailing Permit or Meter License*, may be used if cancellation for nonuse is being considered. If no written statement of objection is filed by the license holder within ten days, the postmaster will cancel the license. If a written statement is filed, the appeal shall be referred by the postmaster to the Office of Mail Classification for resolution. The Office of Mail Classification will notify the license holder of the decision through the postmaster. If a meter license is revoked, the postmaster will note the date and reason for cancellation on Form 3601–A (see 144.21).

144.3 SETTING METERS

.31 REQUIREMENT

a. A customer may not have any postage meter in his possession until it has been set, sealed, and checked into service by the Postal Service. The manufacturer will bring the meter to the post office where it is to be regularly set for setting and sealing prior to delievery to the customer, unless it is serviced in accordance with 144.38.

b. Post offices shall not set any meter which is not licensed at that post office, except as specified in 144.344. In the event that a customer moves from one post office to another, the meter(s) shall be check out of service in accordance with 144.351 and it, or another meter(s), shall be licensed at the new post office before the meter(s) is reset or initial settings are made in a new meter(s). This does not apply to branches or stations within a post office (see 144.345).

.32 PLACE

Meter settings, including checking meters in and out of service, will be done only by designated employees at the post office, station, or branch where the metered mail will be deposited, except as provided for in 144.345. Postal employees will not be sent out of the post office to set meters except under the on-site meter setting program as provided for in 144.38. Contract stations and branches are not authorized to set meters.

.33 PAYMENT

a. Payment must be made for postage at the time the meter is set. Payment may be made by cash, check, money order, or by a withdrawal from a trust fund previously established with the post office for that purpose. See section 142, Fiscal Handbook F–1, regarding the acceptance of checks. Trust accounts may be established when the monthly mailing of a license is $500 or more. No activity in the account over a 60-day period shall be grounds for closing of the account by the post office and returning the trust funds to the mailer.

b. Receipts for payment to a trust account shall be made on Form 3544, *Post Office Receipt for Money*. The original will be given to the customer, the duplicate sent to the office maintaining the cashbook, and the triplicate retained by the employee setting the meter. Trust account transactions shall be recorded on Form 25, *Trust Fund Account*, kept on the individual account by the employee setting the meter. Daily totals of the money received for such trust funds shall be listed on the *Daily Cash Report*, Form 1412.

c. Receipts for individual meter settings shall be made on Form 3603, *Receipt for Postage Meter Settings*, in accordance with 144.342.

d. Refer to 144.384b and .385d for payment procedures under the on-site meter setting program.

.34 EXAMINATION AND SETTING

.341 *Examination*

a. When meters are brought in for reset or examination in accordance with 144.222, they shall be examined to determine if they operate properly or have been tampered with.

b. Meters not reset within a 6-month period shall be examined, if practicable, by an employee not assigned to setting postage meters.

c. Meters shall be examined to determine whether the seal, register windows, break-off screws, top cover, lock cover, or other visible parts, have been broken or tampered with, and whether the die hub or meter drum is locked in home position. If evidence of tampering or breakage is found, retain the meter and promptly notify the postal inspector in charge.

d. Serial numbers shall be checked to see that they agree with those listed on Form 3610, *Record of Postage Meter Settings*, and that the total of the two registers equals the last entry in column 8 of Form 3610. If the meter is not registering properly, it shall be checked out of service in accordance with 144.35.

e. Instances where daily entries are obviously not being made should be brought to the attention of the supervisor, for consideration of license revocation. An entry shall be made on Form 3610 when an examination (but no reset) has been made.

.342 *Setting*

a. Prior to setting, meters shall be examined in accordance with 144.341.

b. Record descending and ascending register readings *before* reset and their sum on Form 3603, prepared in triplicate. Verify that the sum agrees with the last entry in column 8 of Form 3610 and column C of Form 3602–A.

c. Set the meter in accordance with the manufacturer's instructions.

d. Seal the meter using official USPS sealing pliers furnished by the manufacturer. Assure that the seal is properly affixed and thoroughly compressed. After sealing, the lead seal shall be checked to make sure it cannot move on the wire.

e. Record readings of descending and ascending registers' readings (after setting) on Form 3603 and complete the form.

f. If payment is to be made by withdrawal from a trust account, record the transaction on Form 25 maintained for that account by the employee setting the meter.

g. Post information from Form 3603 to Form 3610 and complete the Form 3610 entry.

h. The original copy of Form 3603 shall be given to the customer with the meter and Form 3602–A. Copy 2 of Form 3603 shall be sent to the holder of the cash book, and copy 3 shall be kept in the receipt book by the meter setter.

i. When a meter manufacturer's representative brings in a meter for initial setting or withdrawal, or reports a meter lost, stolen, recovered or found, he shall provide a copy of an installation or withdrawal form. This shall be forwarded to the office where the meter files are kept (see 144.37).

.343 *Transfer of Units*

When units are transferred from one meter to another, a note shall be made after the entries on Forms 3602–A for both meters and Form 3610 as required by 144.342, indicating the value of the units transferred and the serial number of the postage meter from (to) which the units were transferred. When additional units are purchased at the time of transfer, a receipt Form 3603 shall be prepared for the additional units purchased in accordance with 144.342.

.344 *Setting Meter for Use at Another Post Office*

The postmaster who serves the place where a mailer is located may set a meter to be used in paying postage on mail presented at another post office when it will be a convenience to the mailer. Before doing so the following requirements must be met:

a. The postmaster must obtain confirmation from the sectional center facility where the post office of mailing is located, that the post office of mailing has adequate facilities for handling the mail. This is intended to improve coordination between the Postal Service and the mailer as to which point of mailing can provide the best service by virtue of acceptance and transportation facilities. The postmaster shall request this confirmation by memorandum, describing the nature of the material to be mailed (letter size, flats, etc.), volume, classes and frequency of mailing, and the desired place of mailing.

b. The mailer must obtain a meter license from the post office where the mailing is to be presented. When the license is received, it must be presented to the mailer's local post office with the meter for setting. The license will be returned to the licensee.

c. The postmark die must show the name of the post office of mailing. A separate meter must be used for each post office.

d. Payment for each meter setting must be made by check or money order payable to the postmaster at the post office where mailings will be made. See section 142.1, Handbook F–1, regarding acceptance of checks. Checks must be presented to the local post office when the meter is set. Trust funds will not be utilized to pay for setting such meters.

e. The employee setting the postage meter will complete Form 3616, *Local Setting of Postage Meter Licensed at Another Office*, in duplicate. The original of this form with the check and a stamped, self-addressed envelope (furnished by the mailer for return of Form 3603) will be sent in a post office penalty envelope to the postmaster where the mailings are to be made. The duplicate shall be retained by the employee setting the meter. A record of each setting shall be entered on Form 3610 at the office where the mailings are made and the completed Form 3603 will then be sent to the mailer.

f. Mail must be presented at a designated receiving point in the post office by the mailer's representative. It may not be consigned to the post office in bulk by freight, express, or other carrier. The postmaster may not act as the mailer's representative and the Postal Service has no responsibility for the articles until they are actually accepted in the mail.

g. Matter sent to other post offices for mailing must be shipped in private containers. Post offices will not furnish mail sacks for this purpose. The total weight of containers such as cartons, crates, etc., which must be lifted by postal employees shall not exceed 70 pounds.

h. When the use of a meter is discontinued, the meter shall be presented to the post office where it was set, for checking out of service. Any postage adjustment will be made by the postmaster where the mailings have been made.

.345 *Changing Place of Setting Meter*

a. When the place of setting is changed to a different branch or station of the same post office, Form 3610 shall be retained by the office, branch, or station which previously set the meter. The readings on the registers and the office, branch, or station where future settings are to be made shall be recorded on Form 3610 and a horizontal line drawn under this last entry. Form 3610 shall be retained for 3 years.

b. A new Form 3610 will be prepared and sent to the office which will make future resets. It shall have one entry stating office, branch, or station which

previously did resets and the register readings when transferred. When appropriate, the second office can obtain this information by telephone and prepare the new Form 3610.

.346 *Reporting Receipts*

In filling out the *Daily Cash Report* (Form 1412 or 1412–A, as appropriate), stations, branches, and main office window unit personnel shall list the total of payments received for deposit in metered postage trust accounts as trust accounts receipts. The total of cash receipts for meter resets shall be listed as *Metered Postage*, A/C 40220. Duplicate copies of the corresponding Forms 3603 and 3544 shall be attached to the *Daily Cash Report*. Trust fund transactions shall be recorded on a Form 3083, *Trust Accounts Receipts and Withdrawals*, and forwarded with the *Daily Cash Report* to the chief accountant (or person designated to keep the cashbook) with copies of corresponding Forms 3603.

.347 *Meter Setting Supplies*

The manufacturer furnishes the postmaster with instructions for setting various types of meters and provides keys to the locks on the recording mechanism, a stylus (used in setting meters), lead seals and a sealing device. Protect these items to prevent their use by unauthorized persons. Keep the instructions in the binder holding Forms 3610. Requisition additional copies of the manufacturer's setting instructions from the nearest branch or headquarters office of the meter manufacturer. Requisition additional supplies of lead seals from the headquarters office of the meter manufacturer. Requisition the following forms from your supply office when the first application for a postage meter license is received at your office:

3083	Trust Accounts Receipts and Withdrawals.
3601–A	Application for a Postage Meter License.
3602–A	Daily Record of Meter Register Readings.
3603	Receipt for Postage Meter Settings.
3604	Nonuse of Mailing Permit or Meter License.
3610	Record of Postage Meter Settings.
3616	Report of Quarterly Verification of Metered Mail.
3977	Duplicate Key Envelope.

.348 *Custody of Meter Setting Keys*

Accurate custody records of meter keys will be maintained by post offices. Duplicate keys will be kept in *Duplicate Key Envelope*, Form 3977, and safeguarded in accordanse with the instructions on the envelope. A semiannual verification of keys will be made, with the entry for each key being initialed and dated as evidence of verification. The loss of any key shall be immediately investigated and reported to the regional controller and the meter manufacturer. If a key is subsequently recovered, promptly notify the regional controller and the manufacturer. Keys no longer required at an office and emergency requests for meter setting keys will be sent to the sectional center.

.35 CHECKING METER OUT OF SERVICE

.351 *Checkout Procedures*

a. When a mailer brings in a meter which he no longer requires or in which the printing and recording mechanism fails to record its operations correctly, promptly check the meter out of service. Notify the manufacturer's representative to call for the meter, if the meter user has not notified him.

b. Unused postage in the meter may be transferred to another meter used by the licensee and registered at the same post office, or the postmaster may refund the amount in accordance with provisions of 147.25 if the total readings of the ascending and descending registers are equal to or less than the total settings shown on the Form 3610. If the total of the register readings of the defective meter exceeds the total settings, deduct excess from the amount shown in the descending register to determine the amount

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of postage to be refunded or transferred. When a meter fails to lock out and prints stamps in excess of the amount for which set, collect the additional amount due from the mailer in cash. Annotate Form 3603 *Over Use Payment* in the amount of setting block. Record the descending and ascending register readings and their sum, the old control total, on Form 3603, prepared in triplicate. Enter the number of units paid for in the number of units set space and the new control. Post information from Form 3603 to Form 3610 with the annotation *Over Use Payment*. The amount of postage due will be determined by adding the last setting to the previous ascending register reading, and subtracting this total from the current ascending register reading. When the payment is for a meter licensed at another post office, Form 3618 will be used.

c. Clear the descending register to zero or to lowest possible setting, except when the meter is jammed in mid-cycle.

d. Record on Form 3610 the date, reason, and whether unused units were transferred to another meter, including the number of the meter and the number and value of units transferred. When units of postage are refunded, show amounts and method of payment.

e. Form 3602–A must be submitted by the user when the meter is checked out of service. Enter in the book, below the last entry, the readings of both registers before and after checkout, the amount of postage transferred, and the meter it was transferred to. Make an entry on Form 3602–A of the second meter indicating the amount of postage transferred and the meter it was transferred from. If the meter record book does not show the ascending and descending register readings, totals, and dates for the last three settings, enter these in the book from the information on Form 3610 and notify the supervisor. If Form 3602–A is not available, furnish a report to the manufacturer stating that fact, furnishing register readings, totals, and dates after each of the last three settings. State also the amount of postage transferred to another meter. Return Form 3602–A to the licensee unless the meter was faulty (see 144.352). The licensee shall keep Form 3602–A for at least one year after date of final entry.

f. Enter date of discontinuance on numerical file record card for each meter checked out of service.

g. Turn the meter over to the meter manufacturer's representative with the lock unsealed. Provide the manufacturer with Form 3602–A if the meter was faulty.

.352 *Checkout of Faulty Meter*

a. When a meter is presented for checkout because of mechanical failure, follow the procedures in 144.351.

b. Upon request of the manufacturer, furnish a photostat copy of Form 3610 for any meter checked out because of faulty operation. Send the copy directly to the manufacturer.

c. After examination of a meter withdrawn because of apparent faulty operation affecting registration, the manufacturer will return the meter record book directly to the postmaster with a detailed statement explaining why the meter failed to function properly. The manufacturer may also recommend an appropriate postage adjustment. Determine from the manufacturer's report and other facts what postage adjustment, if any, is necessary. Return the meter record book to the meter user. In case of doubt regarding proper postage adjustment, report all facts to the Rates and Classification Department, Office of Mail Classification, for instructions.

.36 REFUNDS FOR UNUSED METER STAMPS

Refunds for unused meter stamps will be made in accordance with 147.25.

.37 RECORDS—FILES

Three basic files shall be kept for meters and meter licensees: a file of meter licenses, an alphabetical file of meter licensees and meters currently in use by

them, and a numeric file of postage meters. These files will be maintained in the main post office. They shall not be duplicated at branches, stations, or other locations but shall be kept so that information is readily obtainable by telephone or other means. Additional information concerning accounting records for Postal Service owned meters is contained in 144.74:

a. *License File.* A central file shall be maintained of all currently licensed users of postage meters. This file shall consist of approved Forms 3601–A (top portion of form). Canceled licenses shall be maintained for a period of one year and then disposed of.

b. *Meter User File.* This file consists of cards filed alphabetically by licensee, listing the manufacturer and serial number of meters in use. As meters are withdrawn, delete from the list by simply drawing a line through the serial number. This file and the numeric file shall be kept where they will be available for use any time the post office is open for business or mail is being processed.

c. *Numeric File.* This file shall consist of cards for each meter set by post office, branch, or station. Cards shall contain the make, model, and serial number of the meter and list the name of the meter user, date of installation, and date when withdrawn or reported lost or stolen.

.38 ON-SITE METER SETTING PROGRAM

.381 *General*

a. This program provides for meter settings to be accomplished by a Postal Service clerk on a regular basis where the meter is licensed within the area covered by that post office. The on-site meter setting duties shall be made part of a duty assignment and posted and filled in accordance with the National Agreement by the senior qualified clerk.

b. To the maximum extent practicable, Forms 3610 of customers enrolled in the program will be maintained at a single postal facility of record. Meter setting employees will operate from that facility and only set meters of customers enrolled in the program whose records are maintained at that location. The program also provides for checking meters into or out of service at meter manufacturer's branch offices.

c. The schedule of fees for on-site meter setting follow:

Private Businesses:	*Meter Company Offices:*
$5.00 First meter on scheduled basis	$5.00 each meter on a scheduled basis
$7.50 First meter on emergency basis	
$2.50 Each additional meter	

.382 *Meter Setting Material*

Meter setting employees will have the following items:
Form 3544—*Post Office Receipt for Money*
Form 3602–A—*Daily Record of Meter Register Reading*
Form 3603—*Receipt for Postage Meter Setting*
Form 3618—*Local Setting of Postage Meter Licensed at Another Office*
Lead Seals
Lead Seal Validator (sealing pliers)
Diagonal Cutters
Meter Setting Keys
Postmaster's Restrictive Bank Endorsement Rubber Stamp

Meter setting material shall be checked in by a supervisor upon return and provided locked protection when not in use.

.383 *Procedures*

a. Books of receipts Forms 3603 and 3544, shall be issued solely for the on-site meter setting unit.

b. Prior to leaving the designated office of record, the meter setting employee shall record the unit value, manufacturer's code, meter number and old control total from Form 3610 on Form 3603 for each of the scheduled customer settings for that day. For emergency or unscheduled meter settings, the information shall be obtained by telephone.

.384 *Setting Meter at Customers' Place of Business*

a. The meter setting employee shall examine and set the meter(s) in accordance with procedures established, except for item f and g in 144.342. The transcription of the data from Form 3603 to Form 3610, as required by 144.342g, shall be done upon return to the postal unit by an employee other than the meter setting employee. Item 9 on both remaining copies of Form 3603 must be checked and initialed by the employee who posts the data to Form 3610. Section 144.342f, calling for payment by withdrawal from a trust fund account, does not apply. Checks only may be used for payment of on-site meter fees and postage.

b. Payment for postage set into the meter and for the meter setting fees involved must be collected prior to leaving the customer's place of business. Payment must be by check. If more than one meter is involved, payments for all postage and fees may be combined into one check. A single Form 3544 may be issued to cover all fees; however, a separate Form 3603 must be completed for each meter. All checks shall be immediately backstamped with the postmaster's restrictive endorsement. A clerk who accepts a check in accordance with established procedures shall not be financially liable for an uncollectable check. The original copies of receipts, Forms 3603 and 3544, shall be given to the customer.

.385 *Setting Meters at Meter Company Branch Offices*

a. *Installation of New Meter*

(1) Verify that the customer has received a license and has issued a check for amount of postage to be set on meter.
(2) Prepare Form 3618 in quadruplicate for amount of check.
(3) Set descending register for amount of check; lock and seal meter.
(4) Fill out front cover of Form 3602–A; make initial entry on Form 3602–A showing installation of meter.
(5) Give triplicate of Form 3618, Form 3602–A, license, and meter to meter company representative who will deliver to customer.
(6) Give quadruplicate of Form 3618 to meter company representative for his files.
(7) Retain duplicate of Form 3618 for post office record.
(8) Prepare penalty envelope for sending the following items to the postal unit where meter will be set:
  (a) Original of Form 3618
  (b) Check from customer for dollar value of the setting.
  (c) Pre-addressed return envelope (penalty)
(9) The appropriate supervisor in the postal unit where the meter will be registered for setting will insure that Forms 3603 and 3610 are prepared from information shown on Form 3618 and that the original of Form 3603 is sent to the customer. There will be no change in procedure for disposition of the other two copies of Form 3603. The check will be included on the 1412 or 1412–A on the day it is received.

b. *Checking Meters Out of Service*

(1) A letter addressed to the postmaster authorizing the checkout must be presented with the meter to be checked out.

(2) Check the serial number of the meter and phone the postal unit where the meter is registered to verify the control total. The meter company representative will furnish the postal clerk with the name of this unit. If the meter is out of balance, treat as directed in 144.35.
(3) Prepare Form 3618 in duplicate, write *checkout* in *Amount of Check* block and send original to postal unit of registration; retain duplicate.
(4) Reduce descending register to zero or to lowest possible reading.
(5) Complete a *postage meter checkout request form*, provided by the company, and retain two copies. Send these two copies and a letter authorizing checkout to postmaster of postal unit where the meter is registered.
(6) Give meter and remaining two copies of checkout request form to meter representative. Meter should be locked but not sealed.
(7) If refund is due and proper (no machine malfunction), refund will be by Treasury check mailed directly to the customer, unless the latter prefers to call at the post office for it. No refunds will be made by the *on-site* postal employee.

c. *Transferring Postage From One Meter to a New Meter*

The procedure for transferring postage from one meter to another is essentially the same as checking out one meter and installing another:
(1) Follow steps 1 through 6 in 144.385b, *Checking Meters Out of Service*.
(2) Set postage on new meter to correspond with amount taken off of old meter and lock and seal new meter.
(3) Prepare Form 3602–A for customer.
(4) If customer desires more postage on new meter than was transferred to it, an additional Form 3618 must be prepared in quadruplicate with the same distribution.
(5) The appropriate supervisor at the postal unit where the meter is registered for setting will insure that Forms 3603 and 3610 are prepared from information shown on Form 3618 and that the original of Form 3603 is sent to the customer. There will be no change in procedure for disposition of the other two copies of Form 3603. If there is a check, it should be included on the 1412 or 1412–A the day it is received.

d. *Payment*

(1) Payment of postage set into meters and for the fees involved must be collected prior to leaving the meter manufacturer's branch office. Fees shall be charged for each transaction as outlined in 144.361c. The schedule for fees shall be the same for each type of meter transaction performed.
(2) Payment for meter setting fees must be either by check or through an advance deposit account:
  (a) If payment is made by check, issue a Form 3544 to cover the fees.
  (b) If paid through an advance deposit account, the meter setting employee shall be responsible for determining that the account is in good standing before leaving the postal installation to which he is assigned.
(3) Procedures for collection of meter setting fees through advance deposit accounts:
  (a) The servicing employee will record each meter set (or checked out) on the meter setting log sheet; compute the setting fees

and sign the log. The meter manufacturer's representative will also sign the log.

(b) The original and one copy of the log will be given to the manufacturer's representative, the remaining copy will be turned in, with related Forms 3618 and check-out forms (if any), to the supervisor of clearance clerk at the setting employee's postal unit.

(c) The meter manufacturers will mail a monthly check to the address shown on the log covering all charges for the month. The advance deposit maintained must be adequate to cover the anticipated monthly fees. Log sheets will be supplied by the meter companies.

.386 *Reporting Revenue and Fees*

a. *Upon return to the parent unit the meter setting employee will:*
(1) Group Forms 3603 with related Forms 3544 and check so that fees and postage can be easily verified by the clearance clerk or supervisor.
(2) Group Forms 3618 with related Forms 3544 and checks for fees so that fees can be verified.
(3) Group Forms 3618 with related log sheets so that fees paid by advance deposit can be verified.
(4) Surrender to clearance clerk all Forms 3603, 3544, log sheets, and checks covering the value of Forms 3603 and 3544. Obtain a receipt on Form 1096, *Cash Receipt*.
(5) Mail Forms 3618 with related checks and pre-addressed envelopes to the postal unit at which the meter will normally be set.
(6) Turn in all meter setting equipment and receipt books to supervisors of clearance clerks. Obtain receipt for property (can be included on Form 1096).

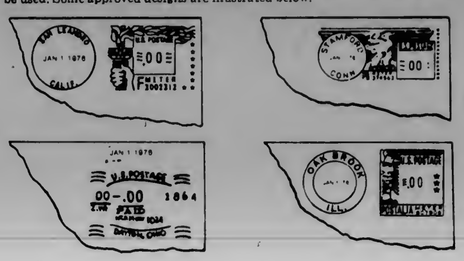
b. *The supervisor or clearing employee will:*
(1) Verify accountability for all receipt forms.
(2) Verify funds to Forms 3603 and 3544; verify value of log sheets to Forms 3618. Release Forms 3618 and related checks to employee for mailing; give receipt for funds and log sheets on Form 1096.
(3) Post meter setting fees collected to A/C 40620, *On-Site Meter Setting Fees*, on Form 1412 or 1412-A; include meter postage with other customer meter funds in A/C 40220.
(4) Insure that data on Forms 3603 is transcribed to Form 3610.
(5) Forward log sheets to the accounting unit for collection of meter setting fees paid through an advance deposit.

c. *Accounting unit will:*
(1) Establish Form 25 for each meter manufacturer which elects to pay for meter setting charges through an advance deposit account.
(2) Post the initial deposit to the record.
(3) Credit the monthly checks received from the meter manufacturers directly into revenue in A/C 40620 without the need to make actual withdrawals and redeposits to the trust account.
(4) Maintain the office copy of the log sheets by account, by month, and insure that the monthly checks agree with the sum of the log sheets.
(5) Whenever monthly charges are greater than the amount of the advance deposit, notify the meter manufacturer that the deposit must be increased to an amount which will cover the anticipated monthly charges.
(8) Records of monthly charges and payments should be maintained.

144.4 METER STAMPS

.41 DESIGNS

The types, sizes, and styles of meter stamps are fixed when meters are approved by the Postal Service for manufacture. Only approved designs may be used. Some approved designs are illustrated below.



Official Mail (see Part 137)



.42 LEGIBILITY

Meter stamps must be legible and not overlap. Illegible or overlapping meter stamps will not be counted in determining postage paid.

.43 FLUORESCENT INK

The use of fluorescent ink is mandatory for postage imprints on letter-size metered mail effective July 1, 1973. Failure to use fluorescent ink may result in the revocation of the meter license. Letter-size mail is defined as being from 4¼" to 11½" long, 3" to 6⅛" wide, and .006" to .25" thick.

.44 METER STAMPS ON TAPE

When meter stamps are printed on tape, only tape approved by the Postal Service may be used.

.45 POSITION

Meter stamps must be printed or stuck in the upper right corner of the envelope, address label, or tag.

.46 CONTENT

144.46 Meter stamps must show the city and state designation of the licensing post office, meter number and amount of postage for all classes of mail. Upon approval of the licensing post office, a meter indicia may contain the name and state designation of its local classified branch, which sets the meter. This authorization does not apply to classified stations or contract stations or branches. ZIP Codes will not be used in customer's postage meter indicias. When it is necessary to print multidenomination meter stamps on more than one tape, the circle showing the post office or classified branch must appear on each tape.

.47 DATE OF MAILING

.471 Dates shown in the meter postmark of any type or kind of mail shall be the actual date of deposit except when the mailing piece is deposited after the last scheduled collection of the day. When deposit is made after the last scheduled collection of the day, mailers are encouraged but not required to use the date of the next scheduled collection.

.472 The month, day, and year must be shown in the meter postmark on all first-class and priority mail (heavy pieces), and on all registered, certified, insured, COD, special delivery, and special handling mail, except prepaid reply postage, whether the postmark is printed directly on the mailing piece or on a separate tape.

.473 The month and year must be shown on meter postmarks printed on a separate tape for second-, third-, and fourth-class pieces. The day may be omitted. Mailing pieces postmarked on a separate tape with only the month and year may be accepted during the month shown and through the third day of the following month when, in the judgment of the postmaster, the mailing was unavoidably delayed prior to its deposit with the Postal Service.

.474 The date (day, month, or year) is not required to be shown on meter postmarks printed directly on a second-, third-, or fourth-class mailing piece.

.475 The date shall not be shown on meter postmarks used to prepay reply postage in accordance with 144.112.

.48 HOUR OF MAILING

The hour of mailing may be shown only on first-class, or special delivery mail, and then only when it is mailed in time to be dispatched at the hour shown.

.49 AD PLATES

.491 Advertising matter, slogans and the postal markings specified in .492 may be printed with the meter stamps within space limitations. Licensees must obtain the plates for the printing of this matter from authorized meter manufacturers to assure suitable quality and content in accordance with the requirements of the Postal Service. The advertising and slogans must not be objectionable or misleading.

.492 The following postal markings relating to the class of mail are permissible: FIRST CLASS; PRESORTED FIRST CLASS; THIRD CLASS; BLK. RT.; NONPROFIT ORG.; FOURTH CLASS; AND PRIORITY MAIL. If a postal marking is to appear in the ad plate area, no other matter is to be printed. The marking must fill the entire ad plate area to the extent practicable. All words must be in bold, capital letters which are at least 1/4" in height or 18-point type and legible at two feet. Exceptions for small ad plates that will not accommodate any of the above markings will not be considered.

144.5 MAILINGS

.51 PREPARATION

The mailer must bundle, box, or otherwise package mailings of 5 or more letter-type pieces with the addresses facing in one direction. This prevents the pieces from becoming mixed with other mail which has to be faced, canceled, and postmarked in the post office. Properly prepared metered mail can go directly to distribution and thereby be expedited in dispatch. Metered mail not properly bundled, boxed, or otherwise packaged as required will be reported by telephone or personal visit to the mailer or his authorized agent. A record of this action will be maintained by the postmaster on Form 3749, *Irregularities in the Preparation of Mail Matter*. If the mailer or his agent disregards such reports and irregularities are repeated, the mail will be retained by the postmaster and the mailer immediately notified by telephone so that the mailing can be picked up for proper preparation before acceptance and dispatch. Each class and denomination should be bundled separately. Special delivery should always be bundled separately or located on the top of a bundle.

.52 PLACE OF MAILING

a. Metered mail, other than bulk mailings of third-class mail may be deposited in any street collection box, mail chute, receiving box, cooperative mailing rack, or other place where mail is accepted, which is under the jurisdiction of the post office shown in the meter stamp. To secure faster dispatch, metered mail should be deposited at the main post office or a station or branch thereof.

b. To expedite dispatch and as a convenience to meter users, limited quantities of special delivery and other first-class mail may be deposited at offices other than the one which appears in the meter stamp. A limited quantity is considered to be the quantity of mail a secretary might deposit in a mail receptacle on the way home from work.

.53 HANDLING OF METERED MAIL

.531 *Mailed at Stations and Branches*

At stations and branches where mail is not processed, keep metered mail separate from other types of mail insofar as possible so that the advantages of the separation are not lost at the time of processing. When the quantity warrants, place metered mail in pouches, sacks, or hampers, labeled *Metered Mail*. When the quantities are too small to be separately pouched or sacked, tie the pieces securely in bundles labeled *Metered Mail* so that they may be identified and promptly separated in the distributing unit from other types of mail.

.532 *Postmarking*

Do not postmark metered mail, except as required in 332.35 and 144.534.

.533 *Distribution*

Send metered mail to distribution points as soon as received. Distribute in order of priority of receipt regardless of time shown in postmarks or meter stamps.

.534 *Examination*

Examine mail while being routed for distribution to determine that it is properly prepared. This examination may be made by a selective check of the

pieces as they are distributed. Metered mail bearing the wrong date of mailing (see 144.47) will be run through a canceling machine or otherwise postmarked to show the proper date. Form 3749 will be used by postmasters to call irregularities to the attention of the mailer. If the same irregularity is repeated, the postmaster will notify the head of the firm or his authorized agent in writing. If a mailer disregards such notices on dating of mail, the postmaster may refuse to accept the mail, or if the mail has already been accepted, he may return the mail with instructions to enclose it in new envelopes bearing the correct date in the meter stamp.

144.6 SECURITY

.61 QUARTERLY VERIFICATION

a. The postal data center provides each post office with a quarterly meter control list of postage meters used for mailings at that post office. These listings should be checked for accuracy in accordance with section 236.4, Handbook F–1.
b. Area mail processing units and post offices which do initial distribution of originating mail will take a sampling of local originating metered mail (letters and parcels including those bearing Postal Service meter stamps) during a different day of each quarter. Sample sizes will depend on the number of meters under license at the office, the total volume of local originating metered mail, classes of metered mail, and the diversity of mailings. Five to twenty-five percent of the meters set at the office should be included in the sampling, with larger offices using the lower percentage figure and smaller offices the higher. This sampling is designed to:
   (1) Detect use of unauthorized meters
   (2) Detect altered metered stamps
   (3) Detect improper metered mail procedures by mailers, especially incorrect postmarks.
c. Employees making the sample shall be familiar with the requirements of part 144 and shall be provided with copies of Forms 3616 and 3749.
d. Local originating metered mail with other than a local postmark shall be listed on a separate Form 3616, a separate Form 3616 being used for each postmark.
e. Metered mail being sampled should also be examined for alterations or counterfeit impressions. Suspect impressions should be immediately reported to the supervisor. Alterations may be indicated by:
   (1) Peculiar tint of ink.
   (2) Smudged or uneven impressions.
   (3) Digits which are out of line or vary in size.
   (4) Impressions which appear to have been altered manually by pen and ink or other means.
f. Metered mail being sampled should also be examined for improper mailing practices such as wrong date and improper preparation. Form 3749 shall be prepared for each irregularity observed.
g. An employee who did not participate in the sampling shall check the Forms 3616 against the numeric listing of meters set by the post office. Discrepancies which cannot be resolved shall be reported to the regional controller.
h. Forms 3616 for mail having other than local postmarks shall be forwarded to the appropriate postmaster to determine if they are authorized. These Forms 3616 shall be filed with Forms 3616 developed during that office's quarterly verification. Postmasters shall report use of unauthorized meters to the regional controller.
i. The regional controller shall attempt to resolve reports of unauthorized meters by comparison with lists of stolen meters and by discussion with

meter manufacturers. Meters that are unauthorized or which have previously been reported stolen shall be reported to the Inspection Service and to the manufacturer. The reporting post office shall be advised of any action taken.

.62 EXAMINATION

Review Forms 3610 quarterly. If no settings have been made during the previous 6 months advise local meter licensees to bring in meters which have not been set within this period for examination as required by 144.341. When the meter is set at another office, request the office which sets the meter to have it called in for examination. The office where the meter is set will then advise the office where Form 3610 is maintained of the results of the examination, including register readings at the time of examination, so a suitable entry can be made on Form 3610.

.63 LOST AND STOLEN METERS

Report the loss, theft, or recovery of any lost or stolen meters immediately to the local postmaster, to the regional controller for the region in which the meter is licensed for use, and to the local police. Reports shall include the meter model and serial number, the date, location and details of the loss or theft; and a copy of the police report when applicable. Postmasters will cooperate with meter manufacturers to locate meter licensees that have moved without informing the post office or manufacturer. Postmasters should provide manufacturers, upon request, with the forwarding address, except as restricted by 261.23h.

144.7 POST OFFICE METERS

.71 CRITERIA FOR USE

Omnidenomination postage meters are assigned to parcel post and registry windows and postage-due units at post offices and classified stations and branches meeting the criteria in 641.444. Post-office-owned meters are not assignable to contract stations or branches.

.72 REQUESTS FOR METERS

Requests for postage meters shall be made in accordance with 641.444.

.73 OPERATION OF METER

.731 *Instructions by Meter Manufacturer*

A representative of the manufacturer will instruct employees how to operate the device at time of installation.

.732 *Keys*

a. Two different keys are needed to operate a postage meter. One key is required to unlock the meter operating lever and must be used each day the machine is operated. A different key, which is the same as the key used to open customers' meters at time of setting, is required to open the meter unit to set an amount of postage in the device. The manufacturer will not furnish an additional meter setting key if you already have one.
b. Duplicate keys are provided for the meter operating lever of each machine. One key will be kept in custody of the designated supervisor except during the period the meter is assigned to the meter operator. The duplicate key will be recorded and retained in protective custody.

.733 *Settings*

Meters must be set by an employee authorized to set customer's meters. A meter machine operator must never set his own meter. Record initial setting and all other information called for on Form 3609–PO, *Control for Post Office Meter*. Set each meter at least once each 6 months. Limit settings to multiples of $100.00.

.734 *Conversion to Postage Due*

a. Meters are converted to postage due use by installing a snap-in die plate which imprints the words *Postage Due* to the left of the postmark circle. Dies are furnished by the Western Area Supply Center, Parts Section, Topeka, KS 66601. Requisition on Form 4984, *Repair Parts Requisition*. Include the model of meter with all requests.
b. Requisition a portable meter stand to move the meter between postage-due units and receiving windows when it is used in a dual capacity.
c. To the maximum extent practicable, postage-due meter operators assigned to process advance deposit postage-due mail shall not handle cash.

.735 *Affixing Meter Stamps*

Sell meter postage for packages or parcels of all classes, and for occasional letters presented by mailers of parcels. Affix meter stamps to the mail in presence of mailer. Do not use a meter for quantities of letters or circulars. Do not sell meter stamps to be taken from the post office to be put on parcels elsewhere. You may sell to collectors, stamps of meters installed at parcel post and registry receiving windows provided the stamps are for small amounts and are for philatelic purposes only. Do not issue stamps showing ".00" in the indicia or for less than 5 cents. Do not sell postage-due imprints except to collect postage-due. A meter operator should submit unused meter stamps daily that are printed in error with Form 3533, *Application and Voucher for Refund of Postage and Fees*, to postmaster for full refund. Do not hold these stamps longer than one week in any case.

.736 *Ink and Tape*

Use only tape and red ink furnished by the Postal Service. Requisition from the supply center. Use green ink in meters used exclusively for postage-due mail. Green ink must be obtained from meter manufacturer or their local representative in accordance with local procurement authority in chapter 6.

.737 *Protection of Meter Heads*

Remove meter heads and place in a safe or locked cabinet overnight and at other times when operator is temporarily absent from his station and adequate surveillance cannot be maintained over the meter head to prevent its misuse by unauthorized persons.

.738 *Repairs*

Postage meters are guaranteed against all defects in materials and workmanship for 1 year after installation. Request nearest authorized manufacturer's representative for free service during the 1-year guarantee. For other repairs see part 623.

.739 *Slogan Ad Plates*

Except as provided in 144.734, do not use slogan die plates in post-office owned meters.

.74 ACCOUNTING

.741 *Employees Accountable*

a. Designate a supervisor or other employee not assigned to operating the meter as responsible to check the daily accountability of postage printed by a meter. He shall check the meter in and out of service daily for the operator and see that it is protected as provided in 144.737.
b. A meter operator is responsible for all postage printed by a meter while it is checked into his service; and for locking the machine and safeguarding the key during temporary absences. He shall use an informal receipt, or back of Form 3602–PO, when meter is turned over to a relief clerk during lunch or other short period.

.742 *Preparation and Verification of Accounting Records*

a. *Form 3602–PO.* This is an accountable form, serially numbered, used daily to record meter register readings and remittance of cash. Each day the meter operator shall record the meter number, unit or station name, date, and ascending and descending register readings. The designated

supervisor shall verify the readings of registers and then turn over the lever key to the operating clerk. At the end of his tour, the meter operator shall record the ascending and descending register readings. The difference between the beginning and ending readings represent postage for which the meter operator is accountable. The designated supervisor must verify readings and initial Form 3602–PO when checking a meter out of service or when transferring it to another operator.
b. *Form 3609–PO*
   (1) Form 3609–PO shall be retained by the director, office of finance, chief accountant or the individual in charge of the office cash records. The first meter setting shall be recorded directly on Form 3609–PO. All other settings are reported on Form 3602–PO and posted to Form 3609–PO.
   (2) A copy of Form 3602–PO must be kept with Form 3609–PO and the total amount of postage posted once each accounting period on Form 3609–PO. The numerical sequence of Forms 3602–PO must be verified.

.743 *Ascending Register Revision*

The ascending register on reaching its maximum will revert to zero and start a new ascending record. When this occurs, the meter operator shall record the closing ascending register on Form 3602–PO as though it had not reverted by recording the carry-over digits in parentheses, as for example:

Descending register beginning	120000	Ascending register end	(1)0060000
Descending register end	40000	Ascending register beginning	9980000

Amount remitted: $800.00

When Form 3602–PO is received by the employee maintaining records on Form 3609–PO, appropriate notation of the date of reversion shall be made on the Form 3609–PO. Thereafter, readings of the ascending register will be recorded in the usual manner without addition of the digit in parentheses.

.744 *Remittance*

Money collected through postage meter operations must be remitted daily as near the end of the tour as possible. The original of Form 3602–PO must accompany Form 1412 or 1412–A *Daily Cash Report*. If Form 1412 or 1412–A is not used, send remittance with Form 3602–PO.

.75 USE BY CONTRACT STATIONS AND BRANCHES

.751 *Privately Owned Meters*

Although post-office-owned meters are not furnished to contract stations and branches, the contractor may at his own expense and option obtain a postage meter to collect postage on parcels presented by patrons.

.752 *Accountability*

a. Settings of meters for contract stations shall be made at the post office or classified station or branch designated by the postmaster.
b. If meter is used exclusively for mailings of customers, follow instructions in 144.733 and reduce stamp credit. Furnish Form 3602–PO to contractor and require submission of form with daily remission of meter funds.
c. If meter is also used by contractor to pay postage on his own mail, require payment for each setting at the time meter is set. Contractor will reimburse himself for meter postage applied to customers' parcels.
d. Account for all settings of non-post-office owned meters used at contract stations in the same manner as customer meters. See Handbook F–1.

144.8 [Reserved]

144.9 MANUFACTURE AND DISTRIBUTION OF POSTAGE METERS

.91 AUTHORIZATION TO MANUFACTURE AND LEASE

.911 *Qualification.*

Any concern desiring authorization to manufacture and lease postage meters for use by mailers under 144.13 must qualify as follows:

a. Satisfy the U.S. Postal Service as to its integrity and financial responsibility.
b. obtain approval of at least one model postage meter incorporating all the mechanical features and safeguards specified in 144.92.
c. Have, or establish, and maintain under its supervision and control adequate manufacturing facilities suitable to carry out to the satisfaction of the Finance Department the provisions of 144.94. Such facilities shall be subject to inspection by representatives of the Finance Department.
d. Have, or establish, and maintain adequate facilities for the control, distribution, and maintenance of postage meters and their replacement when necessary.

.912 *Application.* Any person or concern seeking authorization to manufacture postage meters may make application to the Finance Department, in person or in writing. On qualification and approval, the applicant will be authorized in writing to manufacture postage meters and to lease them to mailers. The name of the manufacturer will be listed in the Postal Service Manual.

.913 *Suspension.* The U.S. Postal Service may require a manufacturer to suspend production and distribution of any or all of his models of postage meters pending investigation to determine whether his authorization should be revoked and the Postal Service will fully advise him of the facts which may warrant such action. The manufacturer will be given an opportunity to demonstrate or achieve compliance with all the lawful requirements within a reasonable, specified time limit.

.914 *Revocation.* Authorization may be revoked if the manufacturer engages in any scheme or enterprise of an unlawful character or fails to comply with any of the provisions of part 144.

.92 SPECIFICATIONS

Postage meters must incorporate all of the following mechanical features and safeguards:

a. A postage meter may be either the detachable portion containing the printing die and registering mechanism of a mailing machine, or it may be complete in itself. In either case, it must be suitable for the mailer to bring to the post office for setting.
b. A postage meter may be capable of printing one denomination of postage and registering the number of such impressions made (single denomination); or it may be capable of printing several denominations and registering either multiples of the smallest unit printed (multidenomination) of the currency value of the impressions made (omnidenomination). The printing die or dies, counters, and counter-actuating mechanism must be inseparable in the unit brought to the post office for setting.
c. In each postage meter, there must be two accurate and dependable counting devices, one ascending and registering the total imprinted, the other descending and registering the balance of the last setting remaining unused. The descending register must actuate a locking mechanism preventing further operation of the meter after the register has reduced to an amount less than the largest denomination printable in one operation or to zero. The descending register must be so constructed as to be easily set at the post office for any amount of postage or number of impressions within its capacity, prepaid by the mailer.
d. The entire mechanism must be encased in a substantial housing. The descending register must be accessible to the post office by means of a door equipped with a suitable lock and with provision for a post office seal. The ascending register and all other mechanism must be so shielded as not to be accessible even when the door is open. The readings of both registers must be easily obtainable at any time between operations, either

by visibility through closed windows, or by imprint on tape or card, or by a combination of the two methods. The housing must be of such construction that it is impossible to alter the readings of the ascending register except by normal operation, or to gain access to the internal mechanism, except for setting the descending register as provided in 144.92c, without mutilation.
e. The printing die must either conform in design to one already in use or be approved by the Rates & Classification Department. It must include the serial number of the meter and identification of the manufacturer, and be so constructed or shielded that it is not practically possible without proper registration in the ascending and descending register to obtain imprints fraudulently.
f. The meter die must include a postmark to print the name of the city and state from which mail is dispatched and the date of mailing. The meter postmark may include a ZIP Code in accordance with 144.46. The postmark must be printed at the left of but adjacent to the denomination stamp and may be either included in an overall design with the denomination stamp or separated from it. Provision must be made so that the date may be either printed or omitted as required by the U.S. Postal Service on the various classes of mail. Provision may be made to print an hour of mailing either within or in a close position outside the postmark. Provision may also be made to print designations such as "Nonprofit Org.", and the like, adjacent to and in the same operation with the meter stamp. The denomination die must not be completely exposed at any time during the process of installing or removing postmark dies, daters, hour type, or special designation slugs or when changing the date.
g. Provision may be made in a meter for a *meter slogan* or *ad plate* to print to the left of and adjacent to the postmark. The size and position of a slogan or meter ad must be such that it will not interfere with or obscure the meter stamp or postmark and it must be possible to install the plate easily without exposing the meter stamp die. Plates must be made of suitable, durable material which will not soften or disintegrate while in use. They must be well fitted and so securely fastened to the printing mechanism that they will not become loose or detached or otherwise interfere with proper operation of a meter.
h. The entire mechanism must be of such solid, substantial, and dependable construction as to protect the U.S. Postal Service amply against loss of revenue from fraud, manipulation, misoperation, or breakdown.

.93 TESTING AND APPROVAL

.931 *Submission of Each Model.* Each model meter proposed for manufacture must be approved by the Rates & Classification Department, after being tested by the National Bureau of Standards, or the U.S. Postal Service Laboratory, at the expense of the manufacturer. A preliminary working model which meets the specifications in 144.92 may be submitted for tentative approval. No meters of any model may be distributed or used for payment of postage until a complete unit made to production drawings and specifications has been submitted, tested, and approved, except as may be specifically authorized for preliminary field testing.

.932 *Security Examination.* Each model meter proposed for manufacture will be examined to see that it incorporates all the mechanical features and safeguards required by section 144.92 and that it amply protects the U.S. Postal Service against loss of revenue.

.933 *Endurance Test.* Each model of meter proposed for manufacture must pass without error or breakdown the following described printing cycle endurance test which includes operation of the printing mechanism with proper registration of the selected postage value in both the ascending and descending registers:

a. For meters that operate at 100 or more printing cycles per minute—4 million cycles.——For meters that operate at less than 100 printing cycles

per minute (and cannot be used interchangeably on power base machines that operate at 100 or more printing cycles per minute)—2 million cycles.
b. For multi- and omni-denomination meters, postage value selection elements shall be tested for one-half million operations. A complete operation includes selection of a value and return to zero.
c. Balance register lockout operation shall be performed at the start of, at intervals during, and at the end of the printing cycle test.

.934 *Approval.* The U.S. Postal Service reserves the right before approval to require additional examination and testing as necessary to resolve any areas of doubt regarding the security or endurance characteristics of any meter which is proposed for manufacture.

.935 *Deposit of Specimen Meter.* One production model of each meter approved must be deposited with the Rates & Classification Department, and no changes affecting the basic features or safeguards may be made thereafter without Postal Service approval.

.936 *Tests After Approval.* Additional meters from current manufacture must be submitted to the National Bureau of Standards, or the U.S. Postal Service, for test, at the expense of the manufacturer, as may be requested by the Rates & Classification Department, U.S. Postal Service.

.94 SAFEGUARDS

.941 *Materials and Workmanship.* All meters must closely adhere to the quality in materials and workmanship of the approved production model and must be manufactured with suitable jigs, dies, tools, etc., to assure proper maintenance and interchangeability of parts.

.942 *Breakdown Tests.* At reasonably frequent intervals, the manufacturer must take meters at random from production and subject them to breakdown tests to make certain that quality and performance standards are maintained.

.943 *Protection of Printing Dies and Keys.* During the process of fabricating parts and assembling postage meters, the manufacturer must exercise due care to prevent loss or theft of keys or of serially numbered postage printing dies or component parts, such as denomination printing dies, which might be used in some manner to defraud the Government of postal revenues. All serially numbered printing dies produced should be accounted for by assembly into meters or by evidence of mutilation or destruction. Postage printing dies removed from meters and not suitable for reassembly must also be mutilated beyond the possibility of use, or be completely destroyed.

.944 *Destruction of Meter Stamps.* All meter stamps printed in the process of testing dies or meters must be collected and destroyed daily.

.945 *Inspection of New and Rebuilt Meters.* All new and rebuilt meters must be carefully inspected before leaving the manufacturer's meter service station.

.946 *Keys and Setting Equipment.* The meter manufacturer must furnish keys and other essential equipment for setting his meters to all post offices under whose jurisdiction his meters are licensed for use. These items must be protected and shall not be furnished to persons not authorized by the U.S. Postal Service to have them.

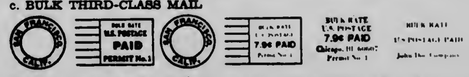
.95 DISTRIBUTION

.951 *Facilities.* Authorized manufacturers must maintain adequate facilities for the distribution, control, and maintenance of postage meters. All such facilities are subject to inspection by representatives of the Rates & Classification Department.

.952 *Controls.* Each authorized manufacturer is required to:

a. Retain title permanently to all meters of his manufacture except such as may be purchased by the U.S. Postal Service for use in post offices.

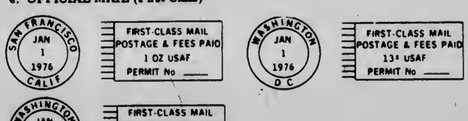
c. BULK THIRD-CLASS MAIL



d. SPECIAL RATES FOR AUTHORIZED ORGANIZATIONS ONLY



e. OFFICIAL MAIL (First-Class)



f. OFFICIAL MAIL (Fourth Class)
(Date and First Class Mail Omitted)



145.5 MAILINGS WITH PERMIT IMPRINTS

.51 MINIMUM QUANTITIES

Except as stated in 145.52, minimum quantities required to be mailed at one time are as follows:

a. *First-Class Mail.* 300 pieces of identical weight
b. *First-Class Presort Rate.* 500 pieces of identical size and weight.
c. *Second- and Third-Class Mail.* 300 pieces of identical matter, except 50 pounds or 200 pieces of identical (size and weight) third-class bulk mail.
d. *Fourth-Class Mail.* 250 pieces of identical matter.
e. *Fourth-Class Zone Bulk Rate Mail.* 300 or more pieces of identical weight.
f. *Special Fourth-Class Presort Rate.* 500 or more pieces of identical matter for the Level A rate. 2,000 or more pieces of identical weight for the Level B rate.
g. *International Mail.* See Publication 42, *International Mail.* 300 pieces of identical matter.

.52 EXCEPTIONS TO MINIMUM QUANTITIES

When any mailing consists of less than the required minimum, enter an explanation on the *Mailing Statement*, Form 3602. Exceptions may be made for the following reasons only:

a. *First-Class Mail.* Occasional exception for a mailer whose total daily mailings are not much more than 300 but who, to cooperate with the post office, presents a portion of his mailings early in the day.

b. *All Classes of Mail.* When a large mailing extends over two or more consecutive days and the last deposit, made to complete the mailing, is less than the minimum.

.53 PREPARATION FOR MAILING

The mailer must arrange all pieces with the address side facing the same way. It is recommended that the mailer separate the pieces to the finest extent possible in the manner prescribed by sections 125.32 and 134.43. Each class of mail must be separately presented with a separate *Mailing Statement*, Form 3602 or 3605. Fourth-class mailings on which postage is paid at different zone rates must be separated according to the postage paid on each piece.

.54 PLACE OF MAILING

Deposit mail at the post office that issued the permit or at a station or branch designated by the postmaster. Permit imprint mail shall be accepted at the main post office or at classified stations and branches where there is a separation of financial and mailhandling activities.

.55 MAILING STATEMENT

Prepare and sign a *Mailing Statement*, Form 3602 or 3605, for each mailing. The statement must be prepared by typewriter, ink, or indelible pencil to show the mailer's address, permit number, class of mail, number of pieces in the mailing, and weight of single piece. For third-class bulk mailings, additional information required by the *Mailing Statement* must be shown. If a receipt is desired, present a duplicate copy of Form 3602 or 3605, which will be initiated by the accepting employee after verification and returned to the mailer.

.56 PAYMENT OF POSTAGE

.561 *Prepayment in Full Required*

The mailer must pay for each mailing when it is presented at the post office, or make an advance deposit of enough to cover more than one mailing. Payments for postage or deposits must be made at points designated by the postmaster. These payments will not be accepted by employees handling the mail. Advance deposits may be made by mail. When the deposit becomes less than enough to pay for an entire mailing, an additional amount must be deposited before any mailings are made. Credit for postage is not allowed. Postage may not be paid partly in money and partly by postage stamps. Whenever the computation of postage results in a fraction of a cent in the total, the next higher even cent must be paid.

.562 *Receiving Money*

Window clerks who receive deposits must:

a. Accept money for postage, advance deposits, and fees. (See 145.11.)

b. Issue receipts on Form 3544 in triplicate, duplicate to the director, office of finance or chief accountant, and triplicate to the weigher.

.563 Confine verification of permit imprint mail to the principal weighing section if practicable. When conditions warrant, make verification at the branch or station accepting the mail. Accepting clerks at stations and branches shall telephone the principal weighing section prior to dispatch of the mail to ascertain if mailer has sufficient deposit on hand to cover postage charges.

.564 Branches and stations not authorized to make verification shall send permit imprint mail to the principal weighing section labeled to prevent the mail being taken direct to a distribution point.

.565 The verifying employee must:

a. Examine materials presented for mailing and, if necessary, open sealed pieces tendered as second-, third-, or fourth-class to be sure the materials are mailed at and qualify for the applicable postage rates. Sealed pieces mailed at first-class or priority rates may not be opened.

b. Weigh permit imprint mail and verify postage.

c. Verify mail is properly prepared. See 131.43, 131.5, and 135.25 for presort requirements.

d. Fill out the back of the mailing statement (Form 3602 or 3605) and at the same time, by carbon, prepare Form 3607. If the mailer requests a receipt, he must present a duplicate copy of the mailing statement which will be delivered to him after the back is filled out.

e. Send mail accompanied by Form 3607 to clearing point.

.566 Maintain only one ledger record, Form 3609, for each permit. Keep all Forms 3609 at the main office or other mail handling unit where the principal weighing section is located. The supervisor in charge of the weighing section will be responsible for the proper maintenance of all Forms 3609. Weighing section employees shall:

a. Record fees and advance deposits on Form 3609 from copies of Form 3544.

b. Record the postage charges on Form 3609 from each Statement of Mailing (Form 3602 or 3605).

c. Prepare daily Form 3083 and forward it to the director, office of finance or chief accountant with Forms 3602.

.57 POST OFFICE COMPUTATION OF POSTAGE

.571 *Random Samples*

Enough pieces will be selected at random from the entire lot to determine whether the whole mailing consists of identical pieces.

.572 *Weight of Single Piece*

Determine the exact weight of a single piece and the amount of postage required. When scales do not show exact weight of a single piece, weigh enough pieces to balance beam and divide total weight by number weighed.

Example: 20 pieces weigh exactly 3½ ounces.
3.5÷20=0.175 ounce.

.573 *Total Number of Pieces*

Ascertain the total number of pieces by one of the following methods:

a. Find the total weight in pounds, exclusive of tare. (For definition of tare, see 145.575.) Reduce the pounds to ounces and divide the total number of ounces by the weight of a single piece.

Example: Mailer's statement shows 1,240 pieces in mailing which weigh 13 pounds, 9 ounces. A single piece weighs 0.175 ounce.
Convert weight to ounces: 13×16+9=217 ounces.
217÷0.175=1,240 pieces.

b. Find the total weight, exclusive of tare, and the total weight exactly of 100 pieces in ounces and fractions of an ounce. Divide the total weight by the weight of 100 pieces. This will give the total number of hundreds and fractions of a hundred in the entire lot.

Example: Mailer's statement shows 124,400 pieces in mailing which weigh 1,360 pounds, 10 ounces. A single piece weighs 0.175 ounce.
Convert weight to ounces: 1,360×16+10=21,770
Weight of 100 pieces: 0.175×100=17.5
21,770÷17.5=1,244
1,244×100=124,400 pieces.

.574 *Agreement with Mailing Statement*

The result of either of these methods of computation should agree with the number of pieces shown on the statement of mailing. If they do not agree the matter will be taken up with the mailer and, if necessary, further examination and verification will be made.

.575 *Tare*

Tare includes sacks, cartons or other containers, hand trucks, skids, or similar pieces of equipment upon which the mail may be placed during the weighing operation. The standard weights for new sacks are as follows:

Sack	Material	Color	Weight Lbs.	Weight Ozs.
No. 1	Canvas	White	3	7
No. 2	Canvas	White	2	8
No. 2	Cotton	White	1	12
No. 2	Nylon	Brown	1	4
No. 3	Canvas	White	1	12
No. 3	Cotton	White	1	2
No. 3	Nylon	Brown		13

.576 *Clearance*

Designate a clearing point in the mailing division, separate from the weighing section, where an employee must check the mail with Form 3607 prior to distribution. Do not distribute mail not accompanied by Form 3607 until the form has been received from the weighing section. After comparing the number of sacks or outside bundles with the volume reported on Form 3607, the clearing section will remove Form 3607 and release the mail for distribution in sacks or hampers with identifying labels reading:

Weighing Clearance, Permit Imprint Mail from_____
(Unit or Station)

The clearing section employee verifying such mailings must sign Form 3607 in the space provided. Forward Forms 3607 to director, office of finance or chief accountant daily.

.577 *Small Offices*

At small offices which do not have a weigher or a chief accountant, the postmaster and employees designated by him must perform the weighing and financial duties following in principle the instructions in 145.54–56 except that the use of Forms 3607 and 3083 may be omitted. The function of receiving cash deposits for permit imprint mailings should be separated, as much as possible, from that of weighing and maintaining Form 3609. The employee receiving advance deposits must forward the duplicate copies of Form 3544 to the employee maintaining the cashbook; triplicate to employee maintaining

Form 3609. When cash is paid for postage at the time of mailing, the amount of postage charged may be entered directly in the appropriate revenue account. In this case entries in the trust fund account are not required.

145.6 ADDITIONAL SERVICES

Postage may be paid by means of permit imprints on matter which is entitled to be registered, or sent as certified, insured, or COD mail.

145.7 IMPROPER USE OF PERMIT IMPRINTS

.71 DISTRIBUTED OUTSIDE THE MAIL AND AS ENCLOSURES

Since permit imprints indicate that the matter on which they appear has had postage paid thereon under the permit imprint system, they must not ordinarily appear on matter which has not had postage so paid thereon, as, for example, matter which is circulated by means other than mail or which is circulated as an enclosure with other matter either by mail or by means other than mail. See 139.312 for combination mailings containing enclosures which may have postage paid by permit imprint. Permit imprints may appear on address labels, wrappers, envelopes, and other containers, and on complete mailing pieces, which have not had postage paid thereon under the permit imprint system, provided it would be impracticable to omit the permit imprint, as, for example, when envelopes are shipped from a printer to a permit imprint permit holder.

.72 PLACE OF ACCEPTANCE

Permit imprint matter will be accepted for mailing only at the post office shown in the permit imprint except when company permit imprints are used as provided for by 145.33 or when arrangements for acceptance at other post offices are made under the provisions of 145.8.

.73 NONPERMIT MAILINGS

Permit imprints must be obliterated from matter which is mailed as nonpermit imprint matter prepaid with postage by means of stamps or meter stamps.

145.8 OPTIONAL PROCEDURE FOR ACCEPTING PERMIT IMPRINT MAIL

.81 OBJECTIVE

The purpose of this optional procedure is to provide for the acceptance of permit imprint mail using the minimum amount of space, time, and manpower, and utilizing the latest developments in mechanization, facilities, and transportation while maintaining adequate control of the collection of correct postage charges.

.82 PROCEDURE

Weighing of the entire mailing on scales is not required. Postage is computed from the mailers' *Mailing Statement*, Form 3602 or *Mailing Statement—4th Class Bulk Rates*, Form 3605, which must always show the total number of pieces. The total computed weight must also be shown when it is known that the minimum per piece postage charge will not apply.

.83 VERIFICATION

Sample pieces from each mailing shall be weighed by a post office employee, either at the mailers' plant or at the post office, to determine whether the pound or the minimum per piece postage charges apply. Post office employees may be sent on rotating assignments to the mailers' plants to weigh sample pieces and observe preparation of mail by mailers only when the mail is not to be delivered to the post office for dispatch or when considered necessary

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and authorized in writing by Regional Postmaster General. Mailers must maintain for a three-year period, and make available for inspection and audit upon request of post office officials, all production and billing records relating to any particular mailing. A sample piece from the mailing must also be available.

.84 LIMITED USE OF OPTIONAL PROCEDURE

An optional procedure for items of identical weight must be authorized by the Regional Postmaster General. An optional procedure for items of nonidentical weight must be authorized by the Office of Mail Classification. It will be approved only when the mailers can make one or more of the following arrangements which are mutually beneficial to the mailers and the Postal Service:

a. Loading at the mailers' plant the major portion of the mailings into single or combination destination trailers with any remaining portion transported at the mailers' expense and risk from the plant to an acceptance place such as a special acceptance facility or sectional center facility designated by the Regional Postmaster General.
b. Transportation of the entire mailing at the mailer's expense and risk from the plant to the acceptance place designated by the Regional Postmaster General.
c. Merger by mailers of different varieties and classes of mailing pieces into direct sacks which could not be prepared if the pieces were mailed separately.
d. Unusual arrangements for which the Regional Postmaster General has obtained approval from the Office of Mail Classification, Rates & Classification Department.

145.9 EXPERIMENTAL NEGOTIATED PROCEDURES

Notwithstanding any other provision of the regulations of the Postal Service, the Office of Mail Classification may authorize contracts with individual mailers to provide for experimental methods of paying postage whenever the adoption of such methods would be in the best interests of the Postal Service. Such contracts may provide for surcharges to cover damages suffered by the Postal Service from the incorrect payment of postage.

Part 146

PREPAYMENT AND POSTAGE DUE

146.1 POSTAGE PAYMENT

.11 PREPAYMENT REQUIRED

Postage on all mail must be fully prepaid at the time of mailing, with the following exceptions:

a. Business reply mail, see 131.23, or metered reply mail handled as business reply mail, see 146.122.
b. Federal Government and free mail, see part 137.
c. Certain mailfor the blind, see part 138.
d. Mail sent by members of the Armed Forces, see 131.7.
e. Letters and printed matter carried or delivered by vessels not regularly employed in carrying mail, see 131.8.
f. Keys and identification devices returned to owners, see 134.13.

.12 INSUFFICIENT PREPAYMENT

.121 Mail of any class, including that for which special services are indicated, received at either the office of mailing or office of address without any postage, will be endorsed *Returned for Postage* and returned to the sender without an attempt at delivery. If no return address is shown, or if the delivery and return address are identical, the piece will be disposed of in accordance with 159.4. (Note that letters, but not post cards, are to be sent to dead mail offices as prescribed in 159.412m.)

.122 Metered reply mail, which is prepared in accordance with 144.112, except for the mailer's inadvertent failure to imprint a meter stamp on the envelope, will be treated as business reply mail (see 131.23), and will be delivered upon payment of postage and the corresponding business reply fee specified in 131.233.

.123 Mail of any class, including that for which special services is indicated (except registered mail—see 161.31), received at either the office of mailing or office of address without sufficient postage will be:

a. Marked to show the total deficiency of postage and fees.
b. Dispatched promptly to the addressee by means of the regular or special service indicated.
c. Delivered to addressee on payment of the charges marked on the mail. When quantity mailings of ten or more pieces are received at the office of mailing without sufficient postage, the mailer will be notified, without charge, preferably by telephone, in order that the postage charges may be adjusted before the mail is dispatched.

.124 When the addressee refuses to pay the deficient postage, and when the mail is undeliverable for any other reason, it will be handled as follows:

a. First-class mail bearing a return address will be returned to the sender and delivered on payment by him of the deficient postage.
b. Mail other than first-class bearing a return address will be returned to the sender and delivered on payment by him of the total of the deficient postage, the forwarding postage, if any, and the return postage.
c. All mail that does not bear a return address will be disposed of in accordance with 159.4. (Note that letters, but not post cards, are to be sent to dead mail offices as prescribed in 159.412m.)

.13 POSTAGE ON MAIL INSUFFICIENTLY PREPAID

Postage stamps stuck to mail are canceled when the mail is first received in the post office. Postage stamps or meter stamps originally affixed to insufficiently prepaid mail will, when it is again presented for mailing, be accepted in payment of postage to the amount of their face value.

.14 CONTESTED CLASSIFICATION

.141 If a mailer disagrees with a classification decision made by a local post office, the decision may be appealed by the mailer, in writing, to the postmaster within thirty days. The postmaster will forward the appeal to his postal services center where a decision will be made on the appeal. An unfavorable decision by the postal services center may be appealed, in writing, within ten days following receipt of the decision. The appeal must be filed with the postmaster. The postmaster will forward the appeal to the General Manager, Domestic Mail Classification Division, U. S. Postal Service, Washington, DC 20260, who will issue the final agency decision.

.142 Any mail classification decision made initially by the General Manager, Domestic Mail Classification Division, or General Manager, Special Services Division, or General Manager, International Mail Division, for which there is no specified appeal procedures may be appealed within 15 days to the Director, Office of Mail Classification, who will issue the final agency decision. If, however, the Director participated in any such decision, the appeal will be decided by the Assistant Postmaster General, Rates and Classification Department.

.143 Pending resolution of an appeal, the mailer may, by letter to the local postmaster, request to mail under a deposit arrangement. The mailer must deposit with the postmaster an amount adequate to cover postage at the higher rate. The difference between the amount deposited and a lower rate subsequently determined to be appropriate will be returned to the mailer if his appeal is sustained. If the appeal is denied, the deposit will not be returned; the applicable postage will be deducted from the deposit and entered in A/C 114 as postage revenue through the use of a postage-due invoice in lieu of postage due stamps. The customer will be requested to sign the invoice and will be given a duplicate. If a balance remains in the deposit after the postage has been deducted, it should be refunded if the customer so wishes.

146.2 MAILABLE MATTER NOT BEARING POSTAGE FOUND IN, PLACED UPON, ATTACHED TO, SUPPORTED BY, OR HUNG FROM, PRIVATE MAIL RECEPTACLES

.21 PENALTY

Whoever knowingly and willfully deposits any mailable matter such as statements of account, circulars, sale bills, or other like matter, on which no postage has been paid, in any letterbox established, approved, or accepted by the Postmaster General for the receipt or delivery of mail matter on any route with intent to avoid payment of lawful postage thereon, shall for each such offense be fined not more than $300.

.22 COLLECTION OF POSTAGE

.221 Except as permitted in 156.58, any mailable matter not bearing postage found in, or upon, or attached to, or supported by, or hung from, the private mail receptacles described in 151.11, is subject to the payment of the same postage as would be paid if carried by mail. When such matter is found, it will be dated, initialed, marked to show the address where it was found and taken to the post office. If general distribution of identical pieces has been made on a route, only two copies, each dated, initialed and marked with the address where found, should be taken to the office along with a written

notation of the total number of identical pieces observed on the route. The postmaster shall have a memorandum prepared showing the details to support the claim of postage.

.222 If the person or firm or distributor responsible for, or who assists in, the impermissible use of the private mail receptacles is known, and is within the delivery area of the post office, the local postmaster shall make demand for the total postage chargeable on all pieces. If the pieces are found in the receptacles, the postmaster shall also inform the person or firm or distributor that the practice is a violation of the law. An equivalent amount of postage due stamps affixed to a sheet of paper and properly canceled as a receipt for money collected shall be given the person or firm. If payment is in form of uncanceled stamps or meter stamps, they will be affixed to a sheet, canceled and returned as a receipt for payment. No other receipt will be issued.

.23 REPORT TO OTHER OFFICE

If the person or firm or distributor responsible for the impermissible use of the private mail receptacles is located at another post office, send a sample piece with a report of the facts to the postmaster at that location with request that he take the action in 146.22.

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j. When customs clearance and delivery fees are erroneously collected.
k. When fees are paid for registry or insurance service on mail addressed to a country to which such services are not available, unless claim for indemnity is made.

.232 A partial refund shall be made when complete and legible unused meter stamps are submitted within one year from the dates appearing in the stamps. See 147.25. When the face-value of the stamps does not exceed $250.00, refunds of 90% will be made. When the face-value of the stamps exceeds $250.00, refunds will be made for the face value of the stamps less $10.00 per hour for the actual manhours required to process the refund, with a minimum charge of $25.00 deducted from the amount of the refund. The employee processing the refund will enter the following endorsement on the reverse of Form 3533:

I certify that (number) hours were required to process this refund. The certifying and witnessing employees will both sign this certification.

.233 When mail is returned at the request of the sender or for a reason not the fault of the Postal Service, any difference between the amount paid and the appropriate surface rate chargeable from mailing office to interception point and return will be refunded.

.234 On articles prepaid at airmail rates but actually transported by surface means, the difference between the postage computed at the airmail and surface rates is refundable. The fact that surface transportation was used must be confirmed.

.24 UNALLOWABLE REFUNDS

No refund will be made:
a. For an application fee to use permit imprints.
b. For registered, insured, and COD fees after the mail has been accepted by the post office even though it is later withdrawn from the mailing post office.
c. For loose unused adhesive stamps.
d. For adhesive stamps affixed to unmailed matter.

.25 METERS AND METER STAMPS

.251 *Postage Adjustments*

The postage value of unused units set in a meter surrendered to the post office to be checked out of service may be refunded or, if desired, an equivalent amount will be transferred to another meter used by the same license holder. If the meter is withdrawn from service because of faulty mechanical operation, a final postage adjustment or refund may be withheld pending report of the meter manufacturer of the cause of faulty operation. If the meter is damaged by fire, a refund or transfer of postage will be made only if the registers are legible, or can be reconstructed by the meter manufacturer.

.252 *What to Submit*

a. Unused meter stamps that are complete and legible, accompanied by an application on Form 3533 within 1 year from dates appearing in the stamps, will be considered for refund. Arrange the stamps so that all of one denomination are together.
b. If portion of stamp is printed on one envelope or card and remaining portion on another, fasten the two together to show that the two portions represent one stamp.
c. Meter stamps printed on labels or tapes which have not been stuck to wrappers or envelopes must be submitted loose.
d. Refunds are allowable for stamps on metered reply envelopes only when it is obvious that an incorrect amount of postage was printed thereon.

e. Submit separately, with statement of facts, envelopes or address portions of wrappers on mail returned to sender from the mailing office marked *No such post office in State named, Returned for better address,* or *Received without contents* indicating no effort to deliver was made.

.253 *What not to Submit*

Do not submit:
a. Meter reply envelopes or cards paid at the proper rate of postage.
b. Meter stamps printed on labels or tape which have been removed from wrappers or envelopes.
c. Meter stamps without the name of the post office and State.
d. Meter stamps without the date printed on tape. (See 144.46.)
e. Meter stamps printed on mail which was dispatched from the mailing post office in regular course and returned to sender as undeliverable, including mail marked *No such post office in State named.*
f. Meter stamps on mail addressed for local delivery and returned to sender after directory service was given or effort was made to deliver.

.26 PROCESSING REFUND APPLICATIONS FOR BOX RENTS, MAILING FEES, AND POSTAGE PAID BY STAMPS AND PERMIT IMPRINTS

.261 *At Offices With 950 or More Revenue Units*

a. Review the application and supporting papers.
b. If a refund is due, complete the *Verification of Refund* on Form 3533.
c. Pay the applicant in cash from official funds on hand if practicable to do so and the refund is made in person.
d. Have the payee sign the receipt on Form 3533.
e. If requested, or if refund is to be mailed, pay by Treasury check, or, if less than $300, by no-fee money order in accordance with 237.233 Fiscal Handbook F-1, *Financial and Cost Controls.* Record the check or money order number on the receipt portion of Form 3533 instead of obtaining the payee's signature. When the amount of the refund is less than $2, a check or money order should not be issued unless the payee or his representative is physically unable to come to the post office.
f. Retain the receipted copy of Form 3533 in your files to support the office copy of the statement of account.
g. Destroy envelopes, wrappers, or other evidence submitted with the application, as provided in 147.272.a(4).
h. If the application is not approved, return it with the supporting papers and an explanatory statement to the applicant.
i. Enter the amount refunded in AIC 536(D), *Postage and Fees Refund,* as specified in *Handbook F-1.*

.262 *At Other Offices*

a. *Postage and Mailing Fees*
(1) Handle the application in accordance with provisions in 147.261.
(2) If no witness is available for signature in Part II, Form 3533, *Verification of Refund,* have payee sign in appropriate space.
(3) Record the refund as a write-in entry on a blank line in the disbursements section of your cashbook, and show AIC 536(D), *Postage and Fees Refund,* for the number and title of the account as specified in Handbook F-1.
(4) If the amount to be paid is greater than the $300 limit for money orders and the processing post office does not issue Treasury checks, send Form 3533 will all supporting papers and a statement certifying the claim to your sectional center postmaster.

Subchapter 150 COLLECTION AND DELIVERY

Part 151
GENERAL

151.1 PRIVATE MAIL RECEPTACLES

.11 DESIGNATION AS AUTHORIZED DEPOSITORY

Every letterbox or other receptacle intended or used for the receipt or delivery of mail on any city delivery route, rural delivery route, star route, or other mail route is designated an authorized depository for mail within the meaning of 18 U.S.C. sections 1702, 1705, 1708, and 1725. For the purposes of 146.2, 151.12, 156.44 and 156.58, the post is not part of the receptacle.

.12 USE FOR MAIL ONLY

Except as provided in 156.58, the receptacles described in 151.11 shall be used exclusively for matter which bears postage. Therefore, other than as permitted in 156.58, no part of a mail receptacle may be used to deliver any matter not bearing postage. This applies to items or matter placed upon, supported by, attached to, hung from, or inserted into, a mail receptacle. Any mailable matter not bearing postage and found as described above is subject to the same postage as would be paid if it were carried by mail. See 146.2 for procedures to be followed.

.13 CUSTOMER OBLIGATION IN MAINTAINING CLEAR APPROACH TO MAILBOX

Customer is responsible for keeping the approach to his mailbox clear to facilitate delivery. Where the approach to the mail receptacle located at the curb is temporarily blocked by a parked vehicle during normal delivery hours for the area, or snow or ice hampers the approach to the mailbox, the motorized city or rual carrier normally dismounts to make delivery. If the carrier continually experiences a problem in serving curbline boxes and where the customer who is able to control on-street parking in front of his mailbox does not take prompt corrective action after being properly notified, the postmaster may, with the approval of the sectional center manager, withdraw delivery service.

151.2 LOCAL ORDINANCES AND STATE LAWS

Postmasters are expected to report to regional offices any contemplated action by local or State authorities to enact or consider enactment of local ordinances or State laws that would adversely affect operating costs or performance of postal service.

Part 152
WHO MAY CARRY LETTERS

152.1 PRIVATE EXPRESS STATUTES

By a group of laws known as the Private Express Statutes Congress has generally conferred upon the Postal Service the exclusive right to carry letters for others over post routes.

152.2 IMPLEMENTING REGULATIONS: *QUESTIONS ANSWERED ON PRIVATE EXPRESS STATUTES*

The Postal Service's regulations under the Private Express Statutes are published in the Code of Federal Regulations, 39 CFR Parts 310 and 320.

These regulations take precedence over any inconsistent material in prior rulings and publications of the Postal Service, including Publication 111, *Restrictions on Transportation of Letters* (5th Ed. July 1967). The Postal Service has also published *Questions Answered on Private Express Statutes* containing answers to ten of the most frequently asked questions about the Statutes. Copies of the regulations or of *Questions Answered on Private Express Statutes* may be obtained from the Assistant General Counsel, Opinions Division, U.S. Postal Service, Washington, DC 20260.

152.3 GENERAL COVERAGE OF THE PRIVATE EXPRESS STATUTES

.31 DEFINITION OF *LETTER*

For purposes of the Private Express Statutes, a *letter* is defined as a message directed to a specific person or address and recorded in or on a tangible object. A *message* consists of any information or intelligence that can be recorded on tangible objects including, but not limited to, paper, in sheet or card form, recording disks, and magnetic tapes.

.32 EXCLUSIONS

Certain matter is excluded from the definition of the term *letter*, such as telegrams; checks and certain other instruments when shipped to, from, or between financial institutions; newspapers; and periodicals. (Other exclusions are described in the regulations.)

.33 PAYMENT OF POSTAGE

If the proper postage is paid, the letters may be privately carried without violating the Private Express Statutes. (The details to be complied with in cases of this kind are outlined in the regulations.)

.34 EXCEPTIONS

Letters may be carried privately and without paying postage under certain circumstances. The principal exceptions cover material transmitted with and relating exclusively to cargo; letters carried by the sender or the recipient, or by their regular salaried employees; and letters carried to or from a postal facility where they are to be or have been carried in the mail. (Details concerning these and other exceptions are found in the regulations.)

.35 SUSPENSION

A limited suspension of the Private Express Statutes permits the private carriage of certain defined data processing materials to and back from data processing centers, when the transmission is completed within 12 hours or by noon of the recipient's next business day, and when processing commences on materials sent to a processing center within 36 hours of receipt at the center. Carriers wishing to use this suspension to carry data processing materials for others must file a notice of their intention to operate on a form obtainable from the Private Express Liaison Officer, Customer Services Department, U.S. Postal Service, Washington, DC 20260. (Further details on this suspension are set out in the regulations.)

152.4 VIOLATIONS

Possible violations of the Private Express Statutes should be brought to the attention of the Inspection Service.

152.5 ADVICE ON THE MEANING OF PRIVATE EXPRESS STATUTES AND REGULATIONS

Members of the public and postal officials may obtain authoritative advice, including written advisory opinions, by contacting the Assistant General Counsel, Opinions Division, U.S. Postal Service, Washington, DC 20260.

154.6 DELIVERY TO PERSONS AT HOTELS, INSTITUTIONS, SCHOOLS, ETC.

.61 MAIL ADDRESSED TO PATIENTS OR INMATES AT INSTITUTIONS is delivered to the institution authorities, who in turn will deliver the mail to the addressee under the institution's rules and regulations. If the addressee is no longer at that address, the mail shall be redirected to his current address. If the forwarding address is unknown, the mail shall be returned to the post office.

.62 MAIL ADDRESSED TO PERSONS AT HOTELS, SCHOOLS, AND SIMILAR PLACES is delivered to the hotel or school. If the addressee is no longer at that address, the mail shall be redirected to his current address. If the forwarding address is unknown, the mail shall be returned to the post office.

.63 REGISTERED MAIL ADDRESSED TO PERSONS AT HOTELS AND APARTMENT HOUSES will be delivered to the persons designated by the management of the hotel or apartment house in a written agreement with the Postal Service. Form 3801–A, *Agreement by a Hotel, Apartment House or the Like*, MUST be executed for this purpose. If delivery of the registered mail has been restricted by the sender, it may not be delivered to the representative of the hotel or apartment house unless the addressee has specifically authorized this person in writing to receive his restricted delivery mail. The authorization may be made on Form 3849, *Notice of Mail Arrival or Attempted Delivery;* Form 3801, *Standing Delivery Order;* or by a letter to the postmaster.

154.7 CONFLICTING ORDERS BY TWO OR MORE PARTIES FOR DELIVERY OF SAME MAIL

.71 DELIVERY TO RECEIVER

Where persons make conflicting orders for delivery of the same mail, and they are unable to agree among themselves as to which of the parties may receive the mail, the mail may be delivered to a named receiver or third party unanimously agreed to by the disputing parties.

.72 REFERENCE TO REGIONAL COUNSEL FOR RULING

Where the disputing parties are unable to select a receiver, each party shall furnish the postmaster all available evidence on which he relies to exercise control over the disputed mail. If after receipt of such evidence the postmaster is still in doubt as to who should receive the mail, the postmaster will submit the case to his regional counsel for a ruling.

.73 DELIVERY OF MAIL IN ACCORDANCE WITH COURT ORDER

When the same mail is claimed by different persons, and a court decides to whom delivery should be made, the mail will be delivered in accordance with the court order.

154.8 DELIVERY OF PACKAGES

.81 HEAVY OR BULKY PACKAGES

Heavy or bulky packages of any class will be delivered as addressed if facilities are available.

.82 UNPROTECTED PLACES

Parcels will not be left on porches, steps, or elsewhere unprotected, except on the written order of the customer or when authorization for such delivery has been placed on the parcel by the mailer.

.83 MULTIPLE-FLOOR BUILDINGS

Parcel post, registered, insured, certified, and special-delivery articles will be delivered to the addressee or his authorized agent in person without regard to the floor on which his office or apartment is located. Cooperation of customers is requested, however, in making arrangements for mail to be delivered on the first floor.

.84 SECOND-ATTEMPT DELIVERY

If an ordinary parcel cannot be delivered on the carrier's first attempt, a notice will be left at the address indicating that the parcel is being held awaiting call. If the parcel is not called for, a second notice is sent after 5 days. If there is no response within 5 days after the second notice and no retention period is specified by the sender, the parcel will then be treated as undeliverable. When a retention period is specified, it is observed up to 30 days after the first notice. A second attempt to deliver will be made only if requested by the addressee.

.85 STREET-ADDRESS DELIVERY FOR BOX RENTERS

Parcel post mail for customers residing within the city delivery limits who receive mail through rented boxes will be delivered to a designated street address on written request.

154.9 DELIVERY TO MILITARY ORGANIZATIONS AND NAVAL VESSELS

.91 UNITS NOT OPERATING MILITARY POST OFFICES

Mail addressed to the Commanding General, Commander, Commanding Officer, staff sections and other officials by title, and personnel of military organizations, will be delivered to unit mail clerks or mail orderlies when such individuals have been designated on DD Form 285, *Appointment of Unit Mail Clerk or Mail Orderly* to receipt for all mail addressed to the unit for which he is designated. If the unit mail clerk or mail orderly has been designated on DD Form 285 to receipt for ordinary mail only, then registered, numbered insured, certified, and restricted delivery mail addressed to individuals by name may be delivered to the unit mail clerk or mail orderly only if authorized by the addressee in a letter to the post office, on Form 3849, *Mail Arrival Notice*, or Form 3801, *Standing Delivery Order*.

.92 UNITS OPERATING MILITARY POST OFFICES

All mail addressed to military organizations that operate military post offices will be delivered to the military postal clerk or an assistant postal clerk or to a postal finance clerk for the organization. Additionally, mail for other military organizations may be delivered to military postal clerks or postal finance clerks for further delivery when requested.

.93 IDENTIFICATION

Unit mail clerks, mail orderlies, postal clerks, and assistant postal clerks must provide proper identification to obtain mail. DD Form 285, properly completed showing classes of mail that the bearer is authorized to receive, with the military identification card, or Government issued identification bearing the individual's picture in the case of a civilian employee, will be required.

.94 RETURN RECEIPTS

Return receipts for registered, numbered insured, and certified mail shall not be completed by anyone other than the addressee.

Part 155
CITY DELIVERY

155.1 REQUIREMENTS FOR ESTABLISHING DELIVERY SERVICE

Consideration for establishing delivery service will be given when the following requirements are met:

a. A population of 2,500 or more within the area to be served, or 750 possible deliveries. (Postal population may vary greatly from the general census population because of different boundary interpretations and designations.)
b. Fifty percent of the building lots in the area to be served are improved with houses or business places. Where a house or building and its yard or grounds cover more than one lot, all lots involved are considered completely built up.
c. Streets are paved or otherwise improved to permit travel of post office vehicles at all times without damage or delay.
d. Street signs are in place and house numbers displayed, where applicable.
e. Right-of-ways, turnouts, and areas adjacent to roads and streets are improved so that installation and servicing of boxes will not be hazardous to the public or postal employees.
f. Satisfactory walks for carriers where required.
g. Approved mail receptacles or door slots are installed at designated locations.

The requirements are essential to an efficient mail delivery service, and must be met before delivery is inaugurated in a community. In establishing delivery service, a combination of delivery methods should be considered to provide adequate service to all residential and business sections of a community. All establishments of delivery service must have final approval of the Regional Postmaster General or his designee.

155.2 DELIVERY EXTENSION REQUIREMENTS

Delivery service extension requirements are the same as those listed in 155.1 with the exception of paragraph a. Methods of delivery for extensions are furnished in regional instructions. Door delivery service must have the final approval of the Regional Postmaster General or his designee.

155.3 REQUESTS FOR DELIVERY SERVICE

Requests or petitions to establish, change or extend delivery service must be made to the local postmaster. No formal petition is required. Postmasters will forward requests or petitions to establish service to the postal official designated by the regional office with a statement indicating whether the requirements in 155.1 are met.

155.4 MAIL RECEPTACLES

.41 OBLIGATION OF CUSTOMER

Customers of the carrier delivery service must provide mail receptacles or door slots. Business houses are not required to provide mail receptacles or door slots if they are open and someone is on hand to receive the mail when the carrier calls. Where an office building is equipped with an elevator, carriers will deliver to individual offices, provided they are open when the carrier arrives. If they will not be open, mail receptacles or door slots must be provided.

.42 DOOR SLOT SPECIFICATIONS

The clear rectangular opening in the outside slot plate must be at least 1½ inches wide and 7 inches long. The slot must have a flap, hinged at the top if placed horizontally, and hinged on the side away from the hinge side of the

door if placed vertically. When an inside hood is used to provide greater privacy, the hooded portion must not be below the bottom line of the slot in the outside plate if placed horizontally, or beyond the side line of the slot in the outside plate nearest the hinge edge of the door if placed vertically. The hood at its greatest projection must not be less than $2\frac{1}{16}$ inches beyond the inside face of the door. Door slots must be placed not less than 30 inches above the finished floor line.

155.5 OUT-OF-BOUNDS CUSTOMERS

Customers outside city delivery limits may be given delivery service if they erect boxes on the carrier's regular line of travel. Special delivery, parcel post, insured, certified, COD, and registered mail will be delivered to the residences of out-of-bounds customers, if the residences are not more than three blocks from the carrier's line of travel and passable walks have been constructed or the street is not impassable; otherwise, a notice will be left in the box requesting that the customer call for the mail. If an ordinary parcel is involved and it can be placed in the box, delivery will be made in that manner.

155.6 APARTMENT HOUSE RECEPTACLES

.611 *General*

Delivery of mail to individual boxes in a residential building containing apartments or flats occupied by different addressees—regardless of whether it is considered an apartment house, a family hotel, residential flats, or business flats in a residential area, and regardless of whether the apartments or flats are owned or rented—shall be contingent upon each such building:

(a) Containing three or more apartments or flats;
(b) Having a common building entrance; and,
(c) Having a common street number approved by appropriate local or municipal authorities;

And shall also be contingent upon:

(d) The installation and maintenance of mail receptacles approved by the Postal Service;
(e) The provision of one box for each apartment, including that of any resident manager or janitor, unless the management has arranged for mail to be delivered at the office or desk for distribution by its employees; and,
(f) The grouping of the boxes for the building at a single point readily accessible to the carrier.

The tenant's correct mailing address shall be the address of the entrance at which the mail receptacles are located, and should include the apartment number or designated mailbox number.

.612 *Exceptions*

a. *Apartment House Complexes.* If, however, more than one such building has the same approved common street number (as when all or several buildings in an apartment house complex have the same approved common street number), delivery of mail to individual boxes shall be contingent, not upon the grouping of the boxes for each building at a single point readily accessible to the carrier, but upon the grouping of all the boxes for the common street number at a single point readily accessible to the carrier, even though the boxes serve residents in more than one building.
b. *Two or More Entrances.* If, however, such a building has more than one entrance, delivery of mail to mail receptacles grouped at more than one entrance shall be contingent upon each entrance to which delivery is made serving three or more apartments or flats, and the assignment, by appropriate local or municipal authorities, of a different street number to each such entrance.

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.62 MAIL RECEPTACLES

.621 *Mail Receptacle Responsibility.* Purchase, installation, maintenance, and replacement of mail receptacles, boxes, or parcel lockers, are not the responsibility of the Postal Service.

.622 *Improved Mail Receptacles.* Owners and managers of apartment houses, family hotels, or flats or complexes described above, which are equipped with obsolete apartment house mail receptacles, are urged to install up-to-date receptacles approved by the Postal Service to assure more adequate protection of the mail. When such buildings are substantially renovated, or remodeled to provide additional apartments, or a material change is made in the location of boxes, obsolete receptacles shall be replaced by currently approved receptacles.

.63 INSTALLATION, SPECIFICATIONS, AND APPROVAL

The conditions requiring installation, specifications for construction, installation procedures and approval procedures for manufacturers are covered in Publication 17, *Apartment House Mail Receptacles, Regulations and Manufacturing Standards.*

Part 156
RURAL SERVICE

156.1 RURAL STATIONS AND BRANCHES

.11 ESTABLISHMENT

Rural stations and branches, both personnel and nonpersonnel, are established and maintained in communities where a considerable number of people would be seriously inconvenienced if required to transact postal business with rural or star route carriers only, and where it is determined inadvisable to establish an independent post office.

.12 FUNCTIONS

.121 Personnel rural stations and branches accept, dispatch, receive, and deliver mail, including registered, insured, COD, and certified mail, issue money orders and sell stamps and stamped paper.

.122 Nonpersonnel rural stations and branches are self-service units which furnish essential mail services such as the collection and delivery of ordinary mail and sale of stamps. Services such as the sale of money orders, and the acceptance and delivery of certified, insured, registered, and COD mail are provided customers of nonpersonnel rural stations and branches by the rural carrier at the time he services the unit. Carriers are

.56 MORE THAN ONE FAMILY

More than one family, but not more than five families, may use the same box, provided a written notice of agreement, signed by the heads of the families, or by the individuals who desire to join in the use of such box, is filed with the postmaster at the distributing office.

.57 LOCKS

The use of locks on boxes is not required. If customers provide locks, the keys should be delivered only to the postmaster, who will assign them to the carrier. The carrier will unlock and lock the boxes when serving them. To facilitate the carrier's work, customers should, as far as practicable, adopt locks for each route of such pattern that a master key may be provided the carrier for unlocking the boxes.

.58 UNSTAMPED NEWSPAPERS

Rural boxes are to be used for mail only, except that publishers of newspapers regularly mailed as second-class mail may, on Sundays and national holidays only, place copies of the Sunday or holiday issues in the rural and star route boxes of subscribers, with the understanding that copies will be removed from the boxes before the next day on which mail deliveries are scheduled.

.59 BOXES THAT DO NOT CONFORM TO REGULATIONS

Rural carriers will report any boxes that do not conform to the regulations to postmasters, who will send to the owners of these boxes Form 4056, *Your Mail Box Needs Attention*, requesting that the irregularities or defects be remedied.

Part 157
STAR ROUTE BOX DELIVERY SERVICE

157.1 DESCRIPTION

Star route service provides for the transportation of mail between post offices or other designated points where mail is received or dispatched. Box delivery, collection service, and other mail service are also performed on a majority of routes. Every star route carrier will receive any mail matter presented to him, if properly prepaid by stamps, and deliver it for mailing at the next post office at which he arrives.

157.2 ESTABLISHMENT

.21 NEW SERVICE

Contracts for regular service are awarded after public advertisements. Temporary service may be established on short notice without advertising. Address requests or petitions for new routes to the director, logistics division, having supervision over the transportation of mail in the area involved.

.22 CHANGES

Changes in line of travel, extensions of service and schedules may be ordered by the director, logistics division, at any time. Address requests for changes and extensions to him.

157.3 BOX DELIVERY AND COLLECTION SERVICE

.31 SERVICE REQUIRED

Star route advertisements and contracts state whether box delivery, collection service, or other mail services are required and specify the area to be served. In addition to usual box delivery and collection service, on some routes the carriers are required to:

a. Sell stamp supplies.
b. Deliver registered, insured, certified, and COD matter.
c. Accept matter presented by customers to be registered, insured, certified, or mailed COD, and money with applications for money orders and give receipts.

.32 AVAILABILITY

Box delivery and collection service is provided without charge to customers. To qualify for service, a customer must:

a. Reside on or near a route on which box delivery and collection service is required.
b. Live at least one-fourth mile from a post office.
c. Provide and erect a suitable box or provide a suitable sack or satchel with post upon which it may be hung. Where a box is newly installed or a present box is being replaced, an approved rural-type box must be used. The name and box number of the owner must be neatly inscribed in letters and numerals not less than 1 inch high on the side of the box visible to the carrier as he approaches, or on the door if boxes are grouped.

d. Request, from the post office to which mail is addressed, delivery and collection service on Form 5431, *Star Route Box Patron Notice.* Star route customers residing between two post offices may receive mail service from that post office which is the one next preceding the customer's residence, or from either post office if there is a return trip. In addition, the customer may receive delivery from the post office from which the star route originates.

.33 DELIVERY OF MAIL

Mail matter addressed to a qualified customer of a star route will be taken by the carrier from the post office and deposited into the proper mailbox. If required by the contract, the carrier will deliver registered, certified, insured, and COD mail: Delivery of this mail will be made only when customer meets the carrier at the box or along the route. Parcel post packages too large to go into boxes may be delivered outside boxes, provided the addressee has filed with the postmaster a written request for delivery in that manner. Otherwise, notice will be left in customer's box to meet carrier on next trip. If delivery cannot be made by carrier, the mail will be held at the post office.

.34 COLLECTION OF MAIL

Mail matter properly stamped and placed in a mailbox for dispatch must be collected by the carrier and deposited in the next post office at which the carrier arrives, unless otherwise directed by the Postal Service. Mail collected on the route, addressed for delivery on that part of the route still to be covered before reaching the next post office, will be delivered on the day of collection. The carrier will cancel the stamps before delivery by writing across them the name of the post office last served, the State, the date, and the number of the route. Bulky mailable matter, properly prepared and stamped, will be collected by the carrier if placed on or near the box. Money left in mailboxes for the purchase of stamps will be at the risk of the customer.

157.4 LOCATION OF BOXES AND RECEPTACLES

Mailboxes and approved sacks or satchels must be placed where they protect the mail and may be conveniently served by the carrier without leaving his vehicle. They must be located on the right side of the road in the direction of travel, when required by traffic conditions or when driving to the left to reach the boxes would constitute a violation of traffic laws by the carrier. In such cases, customers desiring service on both outward and return trips of carrier must furnish a box, sack, or satchel on each side of the road.

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157.5 DUTIES OF POSTMASTERS

Postmasters will:

a. Withhold delivery of registered, insured, certified, and COD mail to carrier, unless contract requires that the carrier deliver such mail.
b. Not deliver mail to carrier outside of regular lock pouch before it has reached the post office to which it is addressed.

157.6 DUTIES OF CARRIERS

If the contract requires that the carrier case his mail, he must:

a. Accept mail addressed to customers of the route, from the postmaster, and arrange it in order of delivery.
b. Prepare and maintain a list of the names of the customers served, arranged in alphabetical order with the box number opposite each name.
c. Markup and forward mail for customers on his route who have filed a change of address order and make appropriate entry in the roster book.

157.7 SALE OF STAMPS AND STAMP SUPPLIES

If contract requires carrier to sell stamps and stamp supplies, a fixed credit will be provided by the postmaster at the head of the route. Where the carrier serves customers who receive mail through other offices on the route, the carrier will replenish his fixed credit at those offices in amounts representing sales made by him to customers served through these offices.

Part 158

FORWARDING MAIL

158.1 ORDER TO CHANGE ADDRESS

.111 Forwarding Instructions

File Form 3575, *Change of Address Order*, which is available at any post office or from any carrier. A written and signed order or a telegram sent by the customer, his agent, or person in whose care mail will be addressed is acceptable. Furnish old and new addresses. A change of address may not be filed with the Postal Service for mail bearing an employee's name addressed to the place of employment either during or after the termination of the employment relationship. Such mail is delivered in accordance with 154.4. A former employee may leave a forwarding address with the former employer for the purpose of having mail redirected to the former employee under the provisions of 158.6.

.112 Forwardable Mail

Mail received at the old address will be handled as follows:

a. First-class, and priority mail will be forwarded.
b. Official mail described in Part 137 that is sent as first-class, or priority mail will be forwarded.
c. Second-, third- and fourth-class mail will be forwarded when specifically requested by the order.
d. Mail addressed to *Occupant* or *Postal Customer* Will NOT be forwarded.
e. All third- and fourth-class mail for which the sender has guaranteed to pay the forwarding postage will be forwarded.
f. Mail bearing specific instructions of the sender DO NOT FORWARD will not be forwarded.

.113 Pledge To Pay Forwarding Postage

The order to forward mail constitutes the pledge of the addressee to pay forwarding postage. When an addressee who has pledged to pay forwarding postage refuses to pay the postage due, the postmaster must send Form 3546, *Notice to Change Forwarding Order*, to the postmaster at the old address requesting him to discontinue forwarding mail of the class refused.

.114 Marking Forwarded Mail

a. The forwarding employee at noncentral markup post offices will draw a line through the original address, without obliterating original address or postmark. Mark the new address, if known, and the mail is forwardable, or mail is second-class and requires Form 3579. See 158.22. Always include the ZIP Code as part of the new address.
b. Forwarding employees at central markup post offices will affix a yellow forwarding label, which supersedes any other mailing address on the mail piece, below the original mailing address. Lining out the original mailing address is discontinued. EXCEPTION: When an addressee moves more than once in a 12-month period, the original mailing address and subsequent forwarding labels except the one required to get the mail piece to the final point of delivery will be lined out.
c. Rate for collection of postage from the addressee all second-, third-, and fourth-class mail forwarded to another post office, EXCEPT official mail described in Part 137. The Postal Service is reimbursed pursuant to 137.11 and 137.21 for forwarding postage accruing on official mail.

d. When articles prepaid at the rate in 135.123, 135.13, or 135.14 are forwarded, charge postage at the same rate. For catalogs prepaid at the rates in 135.121 compute return postage at the rates in 135.123.

.12 REGISTERED, CERTIFIED, INSURED, AND COD MAIL

.121 Conditions

A *Change of Address Order* for ordinary mail will cover registered, certified, insured, and COD mail unless the sender has given other instructions or unless the addressee moved outside the United States. The sender's instructions should be written or printed on the envelope or wrapper. Examples: *Do not forward; If not accepted within ____ days return to sender.* Exceptions:

a. COD mail will not be forwarded to the Canal Zone nor to overseas military post offices.
b. Domestic registered articles mailed outside the United States and addressed for delivery in the United States will not be forwarded to the Canal Zone if the postage indicates the articles were valued at more than $1,000. Articles mailed in the Canal Zone addressed for delivery in the United States will not be forwarded to any place outside the United States if there is reason to believe the value exceeds $1,000.
c. Insured and COD parcels that have mailers' instructions to abandon or to sell perishable items, written or printed on the envelope or wrapper, will be treated according to the instructions. Examples:

Do not forward or return. If not accepted within ____ days, treat as abandoned. Notify mailer of final disposition.

Do not forward or return. If undelivered after ____ days, sell contents to highest bidder and remit proceeds, less commission, to mailer.

Do not forward or return. If undeliverable after ____ days, destroy. Notify mailer of final disposition.

A commission of 10 percent, but not less than 25 cents, is retained by the Postal Service from the amount for which perishable items are sold.

d. COD mail may have written or printed on it a request that it be forwarded to a new addressee. The name and address of the new addressee must be shown in a bordered space with instructions that the mail be delivered either with or without the collection of COD charges.

.122 Forwarding

Do not change the name of the addressee or sender. Cross off the name of your office, add the new address and ZIP Code number, mark the piece *Forwarded*, postmark it, and dispatch under the original number. If a return receipt is attached to the article, forward it also. Show the particulars of forwarding on Form 3849 and file the form, or make entry in Form 3850 showing this information.

158.2 TIME LIMIT OF CHANGE OF ADDRESS ORDER

.21 TIME LIMIT SPECIFIED BY ADDRESSEE (Not to Exceed 1 year)

State beginning and ending dates in the change of address order. The original order should be canceled when the addressee returns to his old address or moves to another permanent address within the specified period.

.22 TIME LIMIT NOT SPECIFIED BY ADDRESSEE

.221 Records of permanent change of address orders, other than those subject to 158.23, are held one year for forwarding purposes from the end of the month in which the change becomes effective. Exception: Address changes to a post office box at the same post office, as indicated on Form 1093, *Application for Post Office Box*, shall be honored indefinitely. The order is not renewable. Mail may continue to be forwarded beyond the 1-year period if the new address is known to the forwarding employee.

.222 All post offices shall retain change of address orders for a period of one year from the end of the month in which the change becomes effective for administrative purposes, providing mailing list service (see 122.5) and releasing address change information to the public under provisions of the Freedom of Information Act.

.23 CHANGE FROM GENERAL DELIVERY AT CITY DELIVERY OFFICE

.231 To Permanent Local Address

Record of change of address orders without time limit will be kept 6 months.

.232 To Other Than Permanent Local Address

Record of change of address orders without time limit will be kept 30 days.

158.3 POSTAGE FOR FORWARDING

.31 CHANGE IN LOCAL ADDRESS

If a change is made to an address served by the same post office, all first-, second-, and fourth-class mail and third-class mail of obvious value will be delivered as directed. Additional postage will not be required. When the change of address is to a post office box at the same post office, all mail will be transferred to the box in accordance with instructions shown on Form 1093.

.32 CHANGE TO ANOTHER POST OFFICE

Mail forwarded to another post office is subject to additional postage as follows, to be computed the same as if the piece were originally mailed at the office from which it is forwarded:

a. *First-Class Mail weighing* not more than 13 ounces, including postal and post cards, is forwarded without charge when postage has been fully prepaid by the sender. No additional charge is made for forwarding first-class mail weighing not more than 13 ounces that is not fully prepaid, but any amount shortpaid at the time of original mailing will be collected on delivery.
b. *Second-Class Publications* are subject to additional postage for forwarding at the second-class transient rate computed on each individually addressed copy or package of unaddressed copies.
c. *Controlled Circulation Publications* are subject to additional postage for forwarding at the single-piece third- or fourth-class rate according to weight.
d. *Third-Class Mail* is subject to collection of additional postage for forwarding at the applicable rate of postage.
e. *Fourth-Class Mail* is subject to the collection of additional postage for forwarding at the applicable rate of postage.
f. Priority mail (heavy pieces) which includes all mail weighing over 13 ounces with postage prepaid thereon at the rates provided by 136.11, is forwarded by air and additional postage at the applicable rate in 136.11 between the forwarding and the delivery office will be collected on delivery.
g. *Registered, Certified, Insured, COD, and Special Handling Mail* is forwarded without the payment of additional fees, but the ordinary forwarding postage charges, if any, must be paid. Such mail will not be forwarded to a foreign country. See 166.46 for forwarding special delivery mail.

158.4 ADDRESS CHANGES OF PERSONS IN U.S. SERVICE

All first-, second-, and fourth-class mail and third-class mail of obvious value addressed to persons in the United States service (civil and military) serving at any place where the United States mail service operates, whose change of address is caused by official orders, will be forwarded until it reaches the addressee. No additional postage will be charged. Second-, obvious value third-, and fourth-class mail and priority mail so forwarded are endorsed by the forwarding office *Change of Address Due to Official Orders*. This provision for free forwarding from one post office to another applies to mail for the

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members of the household whose change of address is caused by official orders to persons in the United States service. (See 122.813 and 122.823 concerning dependents residing with military personnel.) Exception: Second-class mail will not be forwarded between the U.S. and overseas APO addresses by military authorities. Copies of publications addressed to an APO for military personnel transferred to overseas assignments will be endorsed by military personnel *Forwarding Prohibited, Addressee Assigned Overseas* and returned to the post office for disposition. Copies of publications addressed to military personnel at their APO addresses who have been transferred to the U.S. will be endorsed by military personnel *Forwarding Prohibited, Addressee Returned to the U.S.* and returned to the military post office for disposition. Second-class mail having FPO addresses may be forwarded to or from the U.S. and overseas for a period not to exceed 60 days when requested by individual addressees. Additional treatment of second-class mail shall be as outlined in 159.22.

158.5 CHANGE IN POST OFFICE SERVICE

.51 ADDRESSED TO A DISCONTINUED POST OFFICE

All first-, second-, and fourth-class mail and third-class mail of obvious value addressed to a discontinued post office may be forwarded to any other post office designated by the addressee without additional charge when the office to which such mail is ordered sent by the Postal Service is not convenient for the addressee.

.52 FORWARDED DUE TO CHANGE IN RURAL DELIVERY SERVICE

Customers of any office who, on account of the establishment of or a change in rural delivery service, receive their mail from the rural carrier of another office may have their first-, second-, and fourth-class mail and third-class mail of obvious value sent to the latter office and delivered by rural carrier without a new prepayment of postage, provided they file a written request with the postmaster at the former office.

.53 ADDRESSED TO BOXHOLDER

Mail addressed to post office, rural route, or star route boxholder will be delivered to those customers residing in the affected area until June 30 following establishment or conversion to city delivery service or for a period of 90 days, whichever is longer.

158.6 REFORWARDING

The address (but not the name) may be changed and the mail reforwarded as many times as necessary to reach the addressee. Each time second-class mail, third-class mail of obvious value, or fourth-class mail, and priority mail weighing over 13 ounces, is reforwarded, it is charged additional postage at the appropriate rate.

158.7 SUMMARY OF PROCEDURES FOR HANDLING UNDELIVERABLE MAIL (EFFECTIVE DECEMBER 28, 1975)

FORWARDING							RETURN					
	First class up to 13 ozs. incl. Postal and postcards	Priority mail (1st over 13 ozs.)	Second class	Controlled circulation	Third class	Fourth class		All 1st & priority mail	Postal and postcards	Second class	Controlled circulation	Third class up to 2 ozs. incl.	Third class over 2 ozs.	Fourth class
	a		b	c	d	e	◄----RATES----►	f		b	c	d		e
A	D		FG		J		No Markings	B		L	G		O	
							Ret. Post. Guar.		M				M	
			FH		IE		Fwdng & Return Postage Guaranteed				H		ME	
AC	DC				ICE		Address Corr. Req. Fwdng & Ret Post Guar							K
					JC		Address Corr. Req. Return Post. Guar		N			N		
			FG		JC		Address Corr. Req. or obsolete wording Return Requested				G			P

KEY
- A — Forward free.
- B — Return free endorsed with reason for nondelivery.
- C — Send address correction to mailer, collect address correction fee.
- D — Forward at rate "a."
- E — Sender must pay Fwdng & Return Postage if addressee refuses mail.
- F — For 3-month Period: Transfer locally free and forward out of town postage due if addressee guarantees forwarding postage. Furnish #3578 to addressee. After 3 months, or if not forwardable originally, apply G, H, below as appropriate.
- G — Send address correction together with old address, collect address Correction fee.
- H — Return complete copy with address correction attached. Collect "b" or "c" rate plus address correction fee.
- I — Transfer locally free, forward out of town at applicable rate.
- J — Transfer locally free if endorsed *Return Postage Guaranteed* or if addressee has guaranteed forwarding postage. Forward out of town only if addressee has guaranteed forwarding postage.
- K — Return at applicable rate plus fee for address correction attached.
- L — No return—treat as waste.
- M — Return at applicable rate, marked NOT DELIVERABLE AS ADDRESSED—UNABLE TO FORWARD only.
- N — Return endorsed with reason for nondelivery, collect address correction fee.
- O — If of obvious value, return at applicable rate—otherwise treat as waste.
- P — If of obvious value, return at applicable rate plus fee for address correction—otherwise send address correction and collect fee.

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.25 FOURTH-CLASS MAIL

.251 Undeliverable fourth-class mail will be handled according to the instructions in 159.24 for handling third-class mail weighing more than 2 ounces, except that fourth-class rates apply wherever third-class rates are mentioned. Address correction and return and forwarding services provided for third-class mail may be used for fourth-class mail.

.252 Return to the sender, or the person designated by him, undeliverable mail having obvious value or bearing the words *Return Postage Guaranteed If Undeliverable*. (If the mail bears instructions of the sender to destroy or abandon, follow the procedures in 159.257.)

.253 When fourth-class mail of obvious value bearing a postage meter stamp of a private meter user is received unaddressed and without return address and delivery cannot be made, return the piece to the mailing office. The office of mailing shall deliver the piece to the meter licensee on payment of the return postage.

.254 Compute and mark the charge on each piece. In determining the amount due compute postage at the applicable rate between the returning office and the office to which the piece is returned. If the piece has been marked to show that forwarding postage is due, add this amount to the return charge.

.255 When articles correctly prepaid at the rates in 135.121, 135.13, or 135.14 are returned, compute the return charge at the same rate or 25 cents whichever is higher. For material prepaid at the rates in 135.122, compute return postage at the rates in 135.121.

.256 If effort has been made to deliver a piece addressed for local delivery, do not return it to the sender without payment of the applicable charge.

.257 When undeliverable domestic ordinary, insured, or COD mail; or when undeliverable ordinary, insured, COD, or registered articles of domestic origin and foreign address bear instructions of the sender to abandon or destroy, hold for the prescribed retention period and then:

a. Strip the mail and dispose of the contents as prescribed in 159.72.
b. Notify the sender on Form 3858, *Notice of Undeliverable* or *Abandoned Mail*, relative to insured and COD mail only.
c. Treat packages of foods, drugs, and cosmetics in accordance with 159.28.

.26 PRIORITY

Priority mail (heavy pieces) will be returned by the same transportation as first-class mail at no additional charge. Priority mail (heavy pieces) includes all mail weighing over 13 ounces which has postage prepaid thereon at the rates provided by section 136.11.

.27 REGISTERED, CERTIFIED, INSURED, AND COD

.271 *Notice (Registered and COD Mail only)*

a. When registered mail is undeliverable as addressed and cannot be forwarded, a notice is sent to the mailer on Form 3858 showing the reason. By completing the form and returning it immediately in an envelope bearing first-class postage, the mailer may tell the postmaster what to do with the mail. Mail will be returned to the mailer if there is no response. The postage charge, if any, for returning the mail (but not registration or COD fees), will be collected from the mailer. EXCEPTION: When registered mail is addressed to a person who has moved and left no forwarding address, Form 3858 will not be sent, and the mail will be returned immediately to the mailer.
b. When, and only when, the mailer specifically so requests, Form 3849-D, *Notice to Sender of Undelivered COD Mail*, will be sent to the mailer in accordance with part 163.43. The mailer may then designate a new addressee or alter the amount of COD charges by submitting Form 3818, *Authorization to Change COD Charges or Addressee*, in accordance with

section 163.172. The article will be returned to the mailer at the end of the holding period if no response is received. The postage charge, if any, for returning the mail (but not registration or COD fees) will be collected from the mailer. *Exception:* When COD mail is addressed to a person who has moved and left no forwarding address, Form 3849-D will not be sent, and the mail will be returned immediately to the mailer.

.272 *Returning Registered, Numbered Insured, and Certified Mail*

Prepare the record on both sides of Form 3849 *Notice of Mail Arrival* or *Attempted Delivery*, or show disposition in Form 3850, *Record of Delivered Registered, Numbered Insured, Certified, and COD Mail*, if Form 3850 is used as the delivery record. File Form 3849. If a return receipt is attached, indicate the reason for non-delivery on the return receipt, initial the card, postmark the card, and *return the article to the mailer with the return receipt attached*. Return registered mail through the registered mail system.

.273 *Insured and COD Received Without Identification*

When insured or COD mail bearing a postage meter stamp or postmark is received unaddressed and without return address, open it to obtain the name and address of addressee or sender, if possible. When identification is not obtained but mailing office is known, send Form 3842 and hold parcel pending reply.

.274 *Returning COD Mail*

a. Enter on Form 3814, *Record of COD Parcels Held for Delivery;* Form 3814C, *Recording and Checking COD Parcels and Funds at Offices of the Second Class;* or Form 3850 all COD packages returned to the sender.
b. Packages marked *abandon* or *destroy* which have been improperly returned to the mailing office must be handled as prescribed in 159.257. Send a report of the irregularity on Form 3827, *Irregularity Report of Insured and COD Mail*, to the postmaster who returned the mail.

.28 DISPOSAL OF PERISHABLE MAIL, DRUGS, AND COSMETICS

.281 *Perishable Mail*

Undeliverable parcels containing perishable items that cannot be forwarded or returned before spoiling, and parcels of day-old poultry that cannot be delivered or returned within 72 hours after hatching, if salable will be disposed of by the postmaster to the highest bidder through competitive bidding. Sale by bid will not be made to the addressee. The postmaster will send the proceeds of the sale, less a commission of 10 percent (but not less than 25 cents), to the mailer, by postal money order, with an explanation of the action taken. The postal money order fee will be deducted.

.282 *Drugs*

Packages undeliverable to either the addressee or the sender that contain drugs will be destroyed. They will not be sold, donated, or retained as dead parcel post.

.283 *Cosmetics*

Packages undeliverable to either the addressee or the sender that contain cosmetics, such as soaps, perfumes, powders, home permanent waves, hand lotions, hand creams, after-shave lotions, and deodorant sticks or pastes, which bear no statements claiming medicinal properties, will be treated as dead parcel post. Lipsticks will be destroyed. If there is any question whether the use of a cosmetic might, as the result of deterioration or for other reason, jeopardize life or health, the article will be destroyed.

.284 *Prohibited Bidders*

Postal employees may not submit bids at sales of perishable mail.

.285 *Remittance and Commission*

Complete Form 3820, *Sale or Destruction of Perishable Mail*, in duplicate. Fix postage-due stamps representing the amount of the commission to the original Form 3820 to the sender, and cancel the stamps. Show on duplicate copy only the name and address of purchaser and retain on file.

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.323 Insured and certified mail is held a maximum of 15 days. It is held a lesser number of days if the sender so specifies.

.324 COD mail is held a maximum of 30 days. It is held a lesser number of days if the sender so specifies.

.33 SPECIAL DELIVERY AND SPECIAL HANDLING MAIL

Special delivery and special handling articles are held for the period specified in 159.31 or 159.32, except that requests for immediate return of special delivery mail will be honored.

159.4 DISPOSAL OF UNDELIVERABLE MAIL AND UNCLAIMED ARTICLES

.41 EXAMINATION AND DISPOSITION OF UNDELIVERABLE MAIL

.411 Examination

Third- and fourth-class undeliverable mail, which cannot be returned because of an incorrect, incomplete, illegible or missing return address, must be promptly opened and examined to identify the sender or addressee. This includes matter mailed under 162.122. All other mail bearing postage at the first-class or priority rates, may be opened only in dead letter or dead parcel branches (see 159.724). Examination of mail under this section is limited to employees designated in writing by the postmaster or bulk mail center manager. At post offices, these must be employees with claims and inquiry responsibility and must be assigned to the claims and inquiry unit at offices with such units.

.412 Disposition

Mail undeliverable after examination under 159.411 is disposed of as follows:

a. Postal and post cards or samples of merchandise are destroyed or sold immediately.
b. Printed matter, including circulars, greeting cards, newspapers, magazines, and other periodical publications, obviously without value, is disposed of as waste paper without examination of contents. This mail will not be torn or mutilated before being consigned to the general waste, except when necessary to prevent improper use. Such matter as redemption coupons and uncanceled postage stamps must be burned or mutilated to prevent improper use. Magazines shall not be separated from the general waste unless their separate bulk sale by contract as waste would result in a material advantage to the Postal Service by reason of the high quality of the paper. Under no circumstances may magazines or other periodical publications be sold at a per copy rate or at auction by the post office. Contracts negotiated for the disposal of waste should contain a provision prohibiting resale by the contractor of copies of magazines or other periodical publications to the public for reading purposes.
c. Domestic ordinary, insured, or COD articles bearing sender's instructions to abandon are disposed of immediately after expiration of the periods stated in 159.3.
d. Third-class mail of no obvious value (see 159.6) and without sender's request for return is disposed of as waste.
e. Insured and COD articles bearing sender's instructions to destroy will be destroyed.
f. Packages containing medicine, perishable articles, liquids, or other articles likely to injure employees, or damage equipment or other mail, or to attract pests, must be destroyed as soon as they are known to be undeliverable.
g. Letters from Canada or Mexico with return addresses are returned to the postmaster at the post office of origin.

h. Mail addressed to a deceased person. See 154.24.
i. Unclaimed franked mail from a Member of Congress, including that addressed under provisions of 122.442, and unclaimed official mail, including official reports and bulletins sent by State agricultural colleges and experiment stations, is returned to the postmaster at the office of origin if it is known. If office of origin is not known, the mail is sent to the post office at Washington, D.C. Undeliverable mail bearing return address of the White House, the Senate, or the House of Representatives, with or without postage stamps, is returned to the post office at Washington, D.C.
j. Santa Claus letters, with postage fully prepaid (or local unpaid or partly paid), with no identification of person for whom they are intended, are sent to institutions or persons who may request them to use for exclusively philanthropic purposes. If there is no voluntary request, they are sent to the dead mail office.
k. An undeliverable letter bearing the return address of a hotel, motel, school, college, or other public institution printed on the envelope as an advertisement is sent to a dead letter branch for disposition unless the return address also includes the name or title of an individual or a printed or written request for return.
l. Undeliverable and nonreturnable mail containing firearms is handled in accordance with 159.721d.
m. Other mail, including first-class and airmail, bearing no return address or an identical return and delivery address is sent to a dead letter or dead parcel post branch for final disposition.
n. Coins should be stripped from undeliverable circulars and their value should be accounted for as *Miscellaneous Revenue*, A/C 40990.
o. Mail matter, which is disposed of as waste, remains the property of the Postal Service until it has been physically removed from postal premises by contractors or others specifically authorized to effect such removal.

.42 MONEY FOUND LOOSE IN THE MAIL

Dispose of money found loose in the mail as follows:

a. United States money found loose in the mail, unless identified with losses from mail or returned to its owner, must be promptly turned over to a supervisor. Amounts turned over must be recorded on Form 25, and the entry must be receipted by both the supervisor and the finder by initialling the entry. Funds may be retained by the supervisor until $1 or more has accumulated but should be remitted at least weekly. Funds remitted must be taken into A/C 40990.
b. Retain 30 days awaiting possible claim by the owners all foreign money and any United States money having unusual value, such as uncirculated coins, antiques, or collector's items if identified as such. If unclaimed after 30 days, dispose of it as follows:
   (1) Send all Canadian money to the postmaster at Buffalo, NY 14203.
   (2) Send all other foreign money to the postmaster at New York, NY 10001.
   (3) Send U.S. money having unusual value to the postmaster at New York, NY 10001.
   (4) Register money if the known or estimated value exceeds $10.
c. Keep an identifying record only when it may assist in returning the money to its owner.
d. If a valid claim is received for money found loose in the mail after it has been taken into the postal account, make refund from current funds and take credit in A/C 40980.

.43 UNCANCELED STAMPS FOUND LOOSE IN THE MAIL

.431 Uncanceled Stamps Lost From Mail

a. Readdress to mail if possible; if not, drop in a slotted and sealed or locked container located on the workroom floor.
b. Destroy at least once a month by burning.
c. Make no record of these stamps.

.432 Uncanceled Stamps Not Lost From Mail

a. Place in an envelope and retain 30 days in the inquiry section of the main office if found at main office or at contract stations or branches; or in custody of the superintendent if found at classified stations and branches.
b. Make a descriptive record on the envelope only if it will assist in returning the stamps to the owner. If delivered to owner, take a receipt on the envelope.
c. If unclaimed after 30 days, destroy monthly at the place of retention in the presence of a witness designated by the postmaster. Keep a record of the amount of stamps received and destroyed, by total amounts only, on Form 25.

.44 ARTICLES FOUND LOOSE IN THE MAIL

.441 Treat mail under this section (159.44) at the bulk mail center or post office where found. Make every reasonable effort to match loose articles with the envelope or wrapper from which lost.

.442 Examine articles of value which cannot be matched with an addressed envelope or wrapper to try to identify the mailer or addressee. If identified, return or forward under a penalty envelope or label, with explanation. Handle unidentified postal money orders in accordance with 159.772b(8). Charge postage as follows:

a. Except as indicated in 159.442b, c, or d, matter which has become loose or undeliverable due to damage during handling, and which is subsequently identified and returned or forwarded to the mailer or addressee, shall be assumed to have been mailed with postage prepaid and shall be returned or forwarded to the next delivery point without any additional postage charges. Any subsequent forwarding or return, will be subject to postage charges at the applicable rate.
b. If the article contains $10 or more in money or negotiable or intangible property susceptible of being converted into cash, register the item and show the minimum registry fee as postage-due.
c. If it is evident that postage has not been prepaid, loose or undeliverable matter should be rated for collection of postage on delivery at the applicable rate.
d. Items such as wallets, bank deposits, or other nonmail matter, found in collection boxes or other points within the jurisdiction of the Postal Service, should be returned at the applicable single-piece third- or fourth-class rates in parts 134 or 136.

.443 Dispose of unidentified articles that have no value as waste. Treat those of value as dead mail. Forms, brochures, pamphlets, merchandise coupons, and similar matter which have become soiled, crumpled, or mutilated, must be disposed of as waste, in accordance with 159.412b.

.444 Loose merchandise bearing an exclusively controlled trade name may not be released for delivery or return unless there is acceptable evidence, as prescribed in 159.445, that the firm to whom the merchandise is to be delivered is the mailer or addressee. The fact that an item bears an exclusively controlled trade name does not, by itself, establish a firm's right as the mailer or addressee.

.445 Postmasters and bulk mail center managers must return merchandise to the nearest retail store, mail order store, or distribution center of a firm if ALL of the following conditions exist AND the firm does not object. Questions regarding return of merchandise under this Section should be addressed to the Office of Mail Classification, U.S. Postal Service, Washington, DC 20260.

a. The article must appear to be new.
b. Each article, or bundle of articles, must have an invoice, picking ticket, or other detachable identification on it. The identification must clearly show the following information:
   (1) The name of the firm.
   (2) A catalog, stock number, or other indication that the article was taken from the firm's stock.
   (3) An order or invoice number, or other indication that the article was mailed in connection with a customer's order.

159.5 DIRECTORY SERVICE

.51 AVAILABILITY

Service is not generally available, but at carrier offices where a directory is available, directory service is given to registered, certified, insured, COD, special delivery, and special handling mail; to perishable matter and parcels of obvious value; and to international mail, except circulars. Incorrectly or incompletely addressed mail from overseas Armed Forces is given directory service and is not returned to the sender until every effort is made to deliver it.

.52 MAIL ENTITLED TO DIRECTORY SERVICE

Provide directory service at letter carrier offices for the following types of mail which cannot be delivered due to insufficient address or which fail of delivery at the address given. Centralize the service at the main office or the point of centralized distribution.

a. Certified.
b. COD.
c. Foreign mail, except foreign circulars: Foreign mail bearing first-class postage, received in quantities, and having the general characteristics of circular mail, must not be given directory service.
d. Insured.
e. Mail from overseas Armed Forces. Do not return this mail to sender until every possible effort has been made to deliver it.
f. Parcels of obvious value.
g. Perishable matter.
h. Registered.
i. Special delivery.
j. Special handling.
k. Official Postal Service mail.

.53 WHAT DIRECTORY TO USE

Use only a city or a telephone directory. Do not compile one of any kind.

.34 MAIL NOT ENTITLED TO DIRECTORY SERVICE

.341 Do not give mail, other than that listed in 159.52, directory service.

.342 Mail not entitled to directory service which because of incomplete or erroneous address cannot be delivered must be examined by an experienced distributor to effect delivery if possible. EXCEPTIONS: Do not review mail not addressed by name, mail bearing a simplified address, and third-class mail of no obvious value prior to disposition.

.343 Indefinitely addressed first-class mail and other mail of obvious value, apparently intended for delivery on a rural or star route, must be examined by an experienced distributor who will either case it to the carrier, or endorse it as specified in 159.113 if undeliverable. The carrier, if unable to effect delivery, must endorse each piece *Not for Rural or Star Route No.*, unless one of the reasons in 159.112 would be more appropriate.

.344 At large offices, where rural service is provided from different stations, conduct the examination described above only at the station from which delivery is attempted.

159.6 OBVIOUS VALUE MAIL

.61 IDENTIFIED AS TO OBVIOUS VALUE

The sender of third- and fourth-class mail may identify pieces which are considered to be of obvious value and assure their return by using the *Return Postage Guaranteed* service. The sender may assure delivery or return of the pieces by using the *Forwarding and Return Postage Guaranteed* service.

.62 UNIDENTIFIED AS TO OBVIOUS VALUE

When an undeliverable piece does not bear the sender's guarantee to pay forwarding or return postage, its value must be appraised before it is disposed of. Packages of merchandise or personal property such as photographs, jewelry, or clothing are examples of matter having obvious value. Miscellaneous printed matter such as circulars and articles unsolicited by the addressee such as samples of merchandise are examples of matter not of obvious value.

.62 DISPOSITION

When a piece not so indorsed is determined to be of obvious value, it must not be disposed of as waste, or sent to dead letter or dead parcel branches if it can be forwarded to the addressee or returned to the sender. If the addressee has guaranteed to pay forwarding postage for matter of obvious value, the piece will be forwarded. If the piece cannot be forwarded, it will be returned to the sender at the applicable postage rates.

159.7 DEAD MAIL

.71 DEFINITION

Dead mail is matter deposited in the mail which is or becomes undeliverable, or is unmailable, and which cannot be returned to the sender.

.72 TREATMENT AT LAST OFFICE OF ADDRESS

.721 *Disposition*

At the end of retention periods specified in 159.3, mail is declared dead. Dead mail described in 159.412 a, b, c, d, e, and f is disposed of locally. First-class letters, first-class parcels, and other articles that have obvious value

are forwarded on fixed schedules to dead letter or dead parcel post branches for final disposition. Dispose of as follows:

a. *First-Class Mail.*
   (1) *Offices With 950 or More Revenue Units.* Send dead letters to your dead letter branch daily. Send dead first-class parcels to your dead parcel post branch weekly.
   (2) *Other Offices.* Send dead letters to your dead letter branch and dead first-class parcels to your dead parcel post branch weekly.

b. *Third- and Fourth-Class Mail* Hold third- and fourth-class parcels of obvious value for 30 days after they become dead. Then send them to the proper dead parcel post branch weekly.

c. *Insured and COD Matter.* Hold dead insured and COD mail for 6 months after it becomes dead. Then send it to your dead parcel post branch weekly. Hold dead mail having salvage value, and dead mail necessary as evidence for pending claims until disposal instructions are received from the St. Louis Postal Data Center, which adjudicates the claim. Insured and COD matter endorsed by the sender *Destroy* or *Abandon* is destroyed or abandoned when it becomes undeliverable at the last office of address. When the sender of undeliverable insured or COD mail refuses to accept it, give him written notice that the parcel will be treated as dead mail if not claimed and postage-due paid in 10 days. If parcel is not claimed, send it to the dead parcel branch on the next weekly dispatch. If parcel was insured, endorse Form 3849 to show refusal by the sender; if COD, endorse the tag.

d. *Firearms.*
   (1) Handle concealable firearms, mailed contrary to 124.4, in accordance with 232.3n.
   (2) Hold dead mail containing concealable firearms, mailed in accordance with 124.4, or other firearms, for the applicable retention period specified in 159.721b or 159.721c. Then send it to your dead parcel branch weekly using registered mail. Include a memorandum with the shipment advising the reason for nondelivery and how it was discovered that the shipment contained firearms.

e. *Matter Posted in Violation of Law or Treaty.* Retain all dead matter, including first class not in the form of a letter, addressed to foreign countries posted in violation of law or treaty stipulation that is of obvious value for 8 months after it becomes dead.

f. *Foreign Mail.*
   (1) *Originating in Canada.* Forward dead letters originating in Canada to your dead letter branch daily. See Publication 42, *International Mail.*
   (2) *Other.* Send dead letters originating in countries other than Canada to the exchange office daily. See Publication 42, *International Mail.*

g. *Articles Found Loose in the Mail.* Articles found loose in the mail, which cannot be delivered or returned after the initial handling prescribed in 159.444 and 159.445, are treated as dead mail. Hold for 30 days and then send to the proper dead parcel branch weekly. Treat as follows:
   (1) *Sorting.* If the volume requires a plan of sorting to facilitate search and disposal on schedule, proceed as follows:
      (a) Separate the articles into general groups, such as books, clothing, hardware, etc. Store by weeks to facilitate location and disposal.
      (b) Only if the volume makes it necessary, assign a serial number to each category referred to in (a); assign a serial number to each parcel within each category; make a card or book list of the parcels, by category and parcel numbers, with a brief description of the articles.

(2) *Wrapping.* Do not wrap or box loose articles during the retention period except when necessary to keep together several articles known to be from the same parcel.

.722 *Makeup and Dispatch*

a. *Marking*
   See that the reason for nondelivery is endorsed on dead mail when preparing for final disposition. Backstamp letters and postmark parcels.

b. *Makeup*
   (1) Enclose dead letters in an envelope wrapper, tie securely in separate bundles, or pouch, as warranted by quantity.
   (2) Use sacks for dead parcels and for articles found loose in the mail.
   (3) Do not tie undeliverable and unmailable dead letters in the same bundle. Separate bundles of undeliverable and unmailable dead letters may be placed in the same envelope wrapper, or pouch.
   (4) Do not tie domestic dead letters in the same bundle with dead letters which originated in Canada. Separate bundles of Canadian and domestic dead letters may be placed in the same envelope wrapper, or pouch.
   (5) Do not place any mail, not intended for dead mail units, in envelope wrappers, letter bundles, pouches, or sacks addressed to those units. Envelope wrappers or bundles addressed to dead mail units may be enclosed with other mail in pouches or sacks addressed to a post office in which a dead mail unit operates.

c. *Labeling and Addressing for Dispatch*
   (1) Address dead letter mail as follows: *Dead Letter Branch, (City, State, and ZIP Code).*
   (2) Address dead parcel mail as follows: *Dead Parcel Branch, (City, State, and ZIP Code).*
   (3) The address of the appropriate unit should be handwritten or typewritten on envelopes used for sending mail to dead letter or parcel branches.
   (4) When a pouch or sack is used, the address of the dead mail unit must be shown on a separate tag tied around the neck of the container to prevent opening in transit.
   (5) Where available, preprinted central markup labels should be used for forwarding mail to dead mail units as follows:
      (a) *Envelope Wrappers.* Affix as an address label.
      (b) *Letter Bundles.* Place on the top letter of the bundle adjacent to, but not covering, the original address. Affix a blue Label F in the lower left corner of the top letter.
      (c) *Pouches and Sacks.* Affix to a blank label inserted in the label holder, and to the security tag around the neck of the container (see 159.722c(4)).
   (6) Where preprinted central markup labels are not available, use Label 22, *Label For Return of Undeliverable Mail*, as a facing slip for letter bundles, or folded for use as a sack or pouch label for mail sent to dead letter or parcel branches.

.723 *Listing and Recording*

Do not make a list or record of dead mail sent to a dead letter or dead parcel post branch except as follows:

a. *Registered, Certified, and Numbered Insured Mail.* Complete delivery receipt, show disposition, and file with other delivery receipts. Dispatch as registered all dead registered mail.

b. *Minimum Fee Insured Mail.* Complete delivery receipt, show disposition, and file alphabetically under the name of addressee.

c. *COD Mail.* Show disposition by endorsing COD tag, and file with *return to sender* records.

.724 *Dead Letter and Dead Parcel Post Branches*

a. Send Forms 1510 inquiring for letters valued at more than $1 and for first-class parcels to dead mail branches.

b. *Dead Letter Branches*

(1) Locations

Atlanta, GA 30304
Boston, MA 02109
Chicago, IL 60607
Cincinnati, OH 45234
Dallas, TX 75221
Memphis, TN 38101
Minneapolis, MN 55401
New York, NY 10001
Philadelphia, PA 19104
St. Louis, MO 63155
San Francisco, CA 94101
San Juan, PR 00902
Washington, DC 20013
Wichita, KS 67202

(2) Dead Letter Service Areas

State or Territory	Dead letter branch
Alabama	Memphis, TN 38101
Alaska	San Francisco, CA 94101
Arizona	San Francisco, CA 94101
Arkansas	St. Louis, MO 63155
California	San Francisco, CA 94101
Colorado	San Francisco, CA 94101
Connecticut	Boston, MA 02109
Delaware	Philadelphia, PA 19104
District of Columbia	Washington, DC 20013
Florida	Atlanta, GA 30304
Georgia	Atlanta, GA 30304
Guam	San Francisco, CA 94101
Hawaii	San Francisco, CA 94101
Idaho	San Francisco, CA 94101
Illinois	Chicago, IL 60607
Indiana	Cincinnati, OH 45234
Iowa	St. Louis, MO 63155
Kansas	Wichita, KS 67202
Kentucky	Cincinnati, OH 45234
Louisiana	Dallas, TX 75221
Maine	Boston, MA 02109
Maryland	Washington, DC 20013
Massachusetts	Boston, MA 02109
Michigan (Lower Peninsula)	Chicago, IL 60607
Michigan (Northern Peninsula)	Minneapolis, MN 55401
Minnesota	Minneapolis, MN 55401
Mississippi	Memphis, TN 38101
Missouri	St. Louis, MO 63155
Montana	San Francisco, CA 94101
Nebraska	Wichita, KS 67202
Nevada	San Francisco, CA 94101
New Hampshire	Boston, MA 02109
New Jersey	Philadelphia, PA 19104
New Mexico	San Francisco, CA 94101
New York	New York, NY 10001
North Carolina	Atlanta, GA 30304
North Dakota	Minneapolis, MN 55401
Ohio	Cincinnati, OH 45234
Oklahoma	Wichita, KS 67202
Oregon	San Francisco, CA 94101
Pennsylvania	Philadelphia, PA 19104
Puerto Rico	San Juan, PR 00902
Rhode Island	Boston, MA 02109
Samoa	San Francisco, CA 94101
South Carolina	Atlanta, GA 30304
South Dakota	Minneapolis, MN 55401
Tennessee	Memphis, TN 38101
Texas (except zips 79930-79999)	Dallas, TX 75221
Texas (zips 79930-79999)	San Francisco, CA 94101
Utah	San Francisco, CA 94101
Vermont	Boston, MA 02109
Virginia (except Accomack and Northampton Counties)	Washington, DC 20013
Virginia (Accomack and Northampton Counties)	Washington, DC 20013
Virgin Islands	San Juan, PR 00902
Washington	San Francisco, CA 94101
West Virginia	Washington, DC 20013
Wisconsin	Minneapolis, MN 55401
Wyoming	San Francisco, CA 94101

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c. *Dead Parcel Branches*

(1) Policy

Dead Parcel Branches are established at selected post offices to serve post offices and bulk mail centers in a designated area. There will normally be one dead parcel branch in each BMC (bulk mail center) service area, but a dead parcel branch may serve more than one BMC service area as warranted by volume. The bulk mail center and all post offices in a BMC service area send dead parcels to their assigned dead parcel branch. If a post office is re-assigned to another bulk mail service area, its dead parcel branch assignment will also be changed.

(2) Dead Parcel Service Areas

Service Areas

Bulk Mail Centers	*Dead Parcel Branch*
Atlanta	Atlanta, GA 30304
Chicago	Chicago, IL 60607
Cincinnati	Cincinnati, OH 45234
Dallas	Fort Worth, TX 76101
Denver	Denver, CO 80202
Des Moines	St. Paul, MN 55101
Detroit	Detroit, MI 48233
Greensboro	Greensboro, NC 27420
Jacksonville	Jacksonville, FL 32201
Kansas City	St. Louis, MO 63155
Los Angeles	Los Angeles, CA 90052
Memphis	Memphis, TN 38101
New York	New York, NY 10001
Philadelphia	Philadelphia, PA 19104
Pittsburgh	Pittsburgh, PA 15219
St. Louis	St. Louis, MO 63155
St. Paul	St. Paul, MN 55101
San Francisco	San Francisco, CA 94101
Seattle	Seattle, WA 98109
Springfield	Boston, MA 02109
Washington	Washington, DC 20013

(3) Separate Activities

Each post office with a dead parcel branch must provide a separate activity for processing undeliverable and loose matter found within its own operation. A physical separation must be provided between the work areas devoted to loose and undeliverable processing and to dead mail activities. Mail subject to a retention period may cross the separation into the dead parcel area only after the applicable retention period has expired. Dead matter from other facilities must be taken directly into the dead parcel unit and immediately prepared for auction or other appropriate disposal. Activities for each of these operations must be reported separately. Form 3731, *Quarterly Report of Dead Parcel Post Branch*, must not include any volume or work hour statistics for mail matter which has not been held for the prescribed retention period.

.73 TREATMENT AT DEAD MAIL OFFICE

a. Mail is examined and opened when necessary to find the name and address of the sender or addressee.

b. A fee of 20 cents is charged for delivery to sender or addressee of each letter and first-class parcel opened in the dead mail office.

c. If the sender or addressee cannot be identified, the following retention periods are observed:

(1) Letters of domestic origin with enclosures of value, 1 year.

(2) Other letters, none.

(3) Letters containing merchandise, and third- and fourth-class mail containing valuables (including first-class mail not in the form of a letter, addressed to another country), 60 days: if posted in violation of law or treaty, 6 months.

d. Dead mail that cannot be delivered to addressee or sender is destroyed or sold.

e. Uncanceled postage stamps or stamped paper, which has been used for postage, will not be removed or salvaged in any manner. If mail bearing uncanceled postage is to be forwarded, returned, filed, or sold under the provisions of 159.7 or 159.8, the postage stamps or stamped paper will be canceled in accordance with 332.2. If mail bearing uncanceled postage is to be destroyed under 159.7 or 159.8, the destruction will include the affixed postage.

f. Follow procedure below for delivery of returned dead mail:

(1) *Confidential Treatment.* Treat this mail as if under seal. Maintain the strictest secrecy as to its contents.

(2) *Forwarding.* Forward if necessary to another post office under the same class as received. Appropriately endorse Form 4914, *Transmittal Letter To Deliver Dead Letters*, accompanying the mail and forward it with the mail.

(3) *Disposal If Undeliverable.* If the mail cannot be delivered within a reasonable time after return from the dead mail branch, endorse the reason for non-delivery on the form which accompanies the mail. Return the mail and form to the sending dead letter or dead parcel post branch under the same class by which received.

g. For registered mail:

(1) When received under registered cover, handle in the inquiry section or in some other section by an employee specifically designated by the postmaster. Do not allow the registry section to open and dispose of this mail.

(2) If the address is supplied, reregister to the rightful owner under the local registry number and charge the dead-letter fee (see 159.747) plus the minimum registry fee.

(3) Enter the registry number on the form which accompanies the dead mail. File the form.

(4) Register when forwarding or returning.

.74 TREATMENT OF DEAD MAIL IN DEAD LETTER BRANCHES

.741 *Opening Letters*

The dead letter branches dispose of dead first-class letters. Dead letters are opened at dead letter branches in an attempt to determine the name and address of the sender so that his property may be returned. Only those employees especially designated to open dead letters shall be allowed to treat such matter and then only under proper supervision. Do not ordinarily use substitute employees in dead letter branches.

.742 *Letters Which Can Be Returned to Sender or Forwarded to Addressee*

Return dead letters to the sender or, when the opening of the letter reveals the correct name and address of the addressee and the name and address of the sender is not found, forward the letter to the addressee; except:

a. Destroy any letter which contains advertising or other matter obviously of no value to the sender.

b. Send all domestic letters, registered or ordinary, containing money or valuable enclosures *returnable to a foreign address*, after recording when required, to the Postmaster, Dead Letter Branch, Washington, DC 20013.

(3) Destroy enclosures consisting of food or drugs. Dispose of other perishable enclosures in accordance with instructions in 159.28.

(4) Send handkerchiefs and similar merchandise to the proper dead parcel post branch, without listing or recording in weekly returns.

(5) Treat nonnegotiable or intangible property (excluding commercial securities) not susceptible of being converted into cash as having no value and destroy according to 159.772c(3). *Note:* Nonnegotiable or intangible property not susceptible of being converted into cash would require an endorsement to make it payable to bearer.

(6) Contents of letters containing negotiable or intangible property (excluding commercial securities) susceptible of being converted into cash, that have been returned to the sender and refused and then returned to the dead letter branch for second-time treatment, should be immediately converted into cash and the proceeds sent to the superintendent of main office windows, with Form 4912, for deposit as *Miscellaneous Revenue*, A/C 40990.

(7) All undeliverable commercial securities (stocks, bonds, and interest coupons) which cannot be returned, should be sent by registered mail to the Inspector in Charge, New York, New York 10001, Attention: Securities Coordinator.

(8) Forward unidentified postal money orders to the Money Order Division, St. Louis Postal Data Center, St. Louis, MO 63182, with a memorandum explaining the circumstances.

c. *Letters Not To Be Filed (Estimated Value $1 or less)*

(1) Send Air Force discharges to Director of Administrative Services, Department of the Air Force, Washington, 20330; Army discharges to Army Adjutant General, The Department of the Army, Washington, 20310; Navy and Marine Corps discharges to Department of the Navy, Bureau of Naval Personnel, Washington, 20350; Coast Guard discharges to United States Coast Guard, Washington, 20004; and certificates of naturalization or citizenship papers to Immigration and Naturalization Service, Department of Justice, Washington, 20536. In each case, send an accompanying memorandum explaining that the mail has been removed from dead letter mail.

(2) Place uncanceled United States postage stamps and stamped paper found as enclosures in a slotted and sealed or locked container each day and dispose of them in accordance with instructions for disposing of uncanceled postage stamps and stamped paper found loose in the mail. Record on Form 25, each day, the total amount of stamp stock removed from letters.

(3) Destroy other enclosures.

.78 REPORTS

Letters received at a dead letter branch must be treated promptly. Maintain a record on Form 4911, *Dead Letter Record*. Make the count of dead letters received by the measurement or weight process. For *Total Hours Used*, record the total clerical hours used, the paid absences of the employees, the proportionate hours devoted to this work by supervisory employees, and the proportionate paid absences of such supervisory employees. Complete Form 4913, *Quarterly Report of Dead Letters*, from the information on Forms 4911. Submit at the end of each quarter to the Office of Mail Classification, Rates and Classification Department, Washington, DC 20260.

.79 INQUIRIES

Give inquiries received from customers prompt attention. If search for a dead letter is unsuccessful, notify the customer on Form 4915, *Reply to Inquiry Concerning Dead Letter Mail*.

159.8 TREATMENT IN DEAD PARCEL POST BRANCHES

.81 INITIAL HANDLING

.811 *Opening Parcels*

Dead parcels are opened at dead parcel post branches in an attempt to

determine the name and address of the sender, so that his property may be returned. *Exception:* If the parcels are endorsed to show that they are the property of the United States Postal Service or that the sender has refused to pay postage due on return as undelivered, consider as property of the United States Postal Service. Only those employees especially designated to open dead parcels shall be allowed to treat such matter and then only under proper supervision. Do not ordinarily use substitute employees in dead parcel post branches.

.812 *First-Class Parcels*

Treat as dead letters. See 159.74.

.813 *Other Parcels*

a. Return dead parcels to the sender, or to the addressee when the opening of the parcel reveals the correct name and address of the addressee and the name and address of the sender is not found, except when the parcel has become the property of the United States Postal Service. Rate the parcel for collection of postage due at the zone rate from the dead parcel post branch and additional postage at the zone rate from the office of last address to the dead parcel post branch.

b. Prepare other parcels, including ordinary, insured and COD, for disposal as soon as received if sender or addressee cannot be identified. Do not list contents.

c. Treat mail matter which has been forwarded to a dead parcel post branch because it was found without any postage as follows:

(1) Return to sender.

(2) If the mail does not contain any return address information, forward to addressee.

(3) If the mail has been forwarded to the dead parcel post branch because the return address is the same as the delivery address, open the mail and proceed with either (1) or (2) above.

d. Treat parcels containing money or uncanceled domestic postage stamps in accordance with instructions in 159.75 through 159.76.

e. Report to the Office of Mail Classification, Rates and Classification Department, the receipt of matter from parcels deposited in the mail in violation of law or treaty. Furnish a detailed description of the matter and, if available, the names and addresses of sender and addressee. Hold the matter until disposal instructions are furnished.

f. Destroy any exposed or developed photographic material found in dead mail. Sixteen milimeter commercial or educational motion picture film must be retained for six months before destruction.

.82 USE OF DEAD MATTER BY POSTAL SERVICE

Items intended for official use may be withdrawn from dead parcel branches only by postal inspectors who will give memorandum receipts for the articles withdrawn. Keep these receipts on file in the dead parcel post branch until the goods are returned for disposal as dead parcel post. Return the receipts.

.83 FIREARMS AND AMMUNITION

.831 *Definition*

The term *firearms* means any weapon by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosive, and a firearm muffler or firearm silencer, or any part or parts of such weapon.

.832 *Notification*

The description and serial number of all firearms received at each dead parcel post branch shall be furnished to the local inspector-in-charge on a weekly basis. No firearm shall be committed to a sale until a clearance has been received from the Inspection Service.

UMI

Subchapter 160 SPECIAL MAIL SERVICES

Part 161

REGISTERED MAIL

161.1 DESCRIPTION

.11 WHY MAIL IS REGISTERED

Registered mail provides added protection for valuable and important mail plus evidence of mailing and delivery and indemnity in case of loss or damage.

.12 WHAT MAY BE REGISTERED

All mailable matter prepaid with postage at the first-class or priority rates. Stamps or meter stamps must be attached representing all postage and fee charges. Business reply mail may not be registered unless postage and all fees are fully prepaid.

.13 WHERE TO MAIL

Registration may be obtained by presenting mail to:

a. *Post Offices and Their Branches and Stations.* Postmasters will accept mail of unusually high value only at the main office or larger branches and stations.

b. *Rural Carriers.* Mail and cash may be left in a rural box. Any change will be handed to the sender or placed in an envelope and left in the box on the carrier's next trip. Responsibility will not be assumed for articles or money until a receipt is issued. No responsibility will be assumed for any change placed in the box.

c. *Nonpersonnel Rural Stations and Branches.* Customers must meet the rural carrier at the nonpersonnel rural station or branch to have mail registered

.14 REGISTRATION NOT AVAILABLE

Mail will not be registered if:

a. Placed in street letterboxes or in mail drops in post offices.

b. Addressed to post offices to which it cannot be transported with safety.

c. Not properly prepared. See 161.3.

d. Two or more articles are tied or fastened together, unless enclosed in the same envelope or wrapper.

.15 ADDITIONAL SERVICES

.151 *Registered COD*

Combined registry and COD service is available. The regular registered mail fees apply plus the collection charge specified in 161.21. The mail must conform with registered mail and COD service requirements.

.152 *Return Receipts*

The sender may obtain a return receipt, Form 3811, by paying fees, in addition to the registration fee and postage, as outlined in 165.2.

.153 *Restricted Delivery*

Restricted delivery may be obtained as set forth in 165.3 and by the payment of additional fees as provided in 165.32. For circumstances under which restricted delivery may be accomplished by delivery to other than to the addressee, see 165.34.

161.2 FEES AND LIABILITY

.21 FEES

Value	Fees (in addition to postage)	
	For articles not covered by commercial insurance or commercial policies with deductible, excess or other insurance clauses	For articles covered by commercial insurance or other insurance without deductible, excess or other insurance clauses
$0.00 to $100	$2.10	$2.10
$100.01 to $200	2.30	2.30
$200.01 to $400	2.60	2.60
$400.01 to $600	2.90	2.90
$600.01 to $800	3.20	3.20
$800.01 to $1,000	3.50	3.50
$1,000.01 to $2,000	3.80	$3.50 plus handling charge of 25 cents per $1,000 or fraction over first $1,000
$2,000.01 to $3,000	4.10	
$3,000.01 to $4,000	4.40	
$4,000.01 to $5,000	4.70	
$5,000.01 to $6,000	5.00	
$6,000.01 to $7,000	5.30	
$7,000.01 to $8,000	5.60	
$8,000.01 to $9,000	5.90	
$9,000.01 to $10,000	6.20	
	Maximum Liability $10,000.00	
$10,000.01 to $1,000,000	$6.20 plus handling charge of 25 cents per $1,000 or fraction over first $10,000.	Maximum Postal Service liability is the first $1,000.00 of value.
$1,000,000.01 to $15,000,000	$258.70 plus handling charge of 20 cents per $1,000 or fraction over first $1,000,000.	$258.25 plus handling charge of 20 cents per $1,000 or fraction over first $1,000,000.
Over $15,000,000	Additional charges may be made based on considerations of weight, space, and value.	

ADDITIONAL SERVICES	Extra fee (cents)
COD COLLECTION CHARGE (Maximum amount collectible is $300)	85
RESTRICTED DELIVERY	60
RETURN RECEIPTS:	
Requested at time of mailing:	
Showing to whom and when delivered	25
Showing to whom, when and address where delivered	45
Requested after mailing:	
Showing to whom and when delivered	45

.22 POSTAL INSURANCE LIABILITY

.221 *Without Other Insurance*

Postal insurance covers value up to the maximum of $10,000, except as provided in 161.222 and 161.223.

.222 *With Other Insurance*

Whenever postal insurance and other insurance both apply to the first $1,000 of value or any part thereof, postal liability is assumed on a co-insurance basis and prorated according to a prescribed formula.

.223 *With Commercial Insurance and Deductible, Excess or other Insurance Clauses*

When a commerical policy contains a deductible clause, the deductible is considered to be without commercial insurance. To obtain full postal liability coverage for the amount of the deductible, the full registry fee (161.21, Col. 1) must be paid for the amount of the deductible. When the commercial policy contains an excess or other insurance clause, there is considered to be no commercial insurance. To obtain full postal liability, the full registry fee (161.21, Col. 1) must be paid. In either case, postal liability cannot exceed $10,000.

.224 *Handling Charges*

The handling charge is assessed to offset the cost of handling higher value registered. These charges cannot be added to the registry fee to increase the liability of the Postal Service.

.225 *To Canal Zone*

The maximum liability for registered mail addressed to the Canal Zone is $1,000. For values over $1,000, the handling charges apply.

.23 REFUNDS

Registration fees will not be refunded after the mail is accepted. Return receipt or restricted delivery fees will be refunded only when failure to furnish a return receipt or to give restricted delivery was the fault of the Postal Service. Receipts for fees must be submitted with requests for refunds.

.24 DECLARATION BY SENDER

.241 *Value*

The sender is required to tell the postal clerk, or to enter on the firm mailing bill if a firm mailer, the FULL value of mail matter presented for registration. The fact that private insurance may be carried on registered mail does not modify the requirements for declaring the value as defined below:

Kind of mail matter	*Value to be declared*
Negotiable instruments—Instruments payable to bearer, and MATURED interest coupons.	Market value.
Nonnegotiable instruments—All registered bonds, warehouse receipts, checks, drafts, deeds, wills, abstracts, and similar documents. Certificates of stock are considered nonnegotiable so far as declaration of value is concerned.	No value, or replacement cost if postal insurance coverage is desired. (See *Note* below.)
Money	Full value.
Jewelry, gems, precious metals	Market value or cost.
Merchandise	Market value or cost.
Nonvaluables—matter not having intrinsic value such as letters, files, records, etc.	No value, or replacement cost if postal insurance coverage is desired.

Note: Individuals or firms who cannot obtain replacement without cost are required to declare replacement costs. Replacement costs normally range from 3 percent to 5 percent of the market value of the instrument. Indemnity is limited to replacement cost.

.242 *Official Mail*

Government agencies or officials must declare the value of the matter presented so that it may be given proper care.

.243 *Free Registration*

A declaration of value is not required on mail registered free under the provisions of 161.251c. No indemnity will be paid for any matter registered free.

.25 MAIL REGISTERED WITHOUT PREPAYMENT

.251 *Types*

The following types of official mail, if prepared in accordance with the requirements for transmission of mail without prepayment of postage set forth in Part 137, may be sent by registered mail without payment of a registration fee:

a. Official mail of authorized Government departments and agencies

b. Census mail

c. Naturalization and immigration mail

.252 *Currency For Redemption*

Currency sent to the Treasurer of the United States, Washington, DC 20220, for redemption, contained in letters or parcels with postage prepaid by the sender, and redeemed currency mailed to the Treasurer of the United States may be sent by registered mail without payment of registration fee, under the following conditions:

a. The contents must be exhibited to the postmaster with a list giving a detailed description of the money. For currency, list the serial number, series date, and denomination. For coin, list only number and denomination.

b. After the contents have been verified, the letter or parcel must be sealed in the presence of the postmaster.

c. The list must be left with the postmaster.

d. No liability is assumed by the Postal Service. If coverage is desired, the regular registration fees must be paid for liability.

161.3 PREPARATION FOR MAILING

.31 CONDITIONS

Postal employees are not permitted to assist in the preparation or sealing of mail to be registered. The mail must bear the complete names and addresses of both sender and addressee. Envelopes or packages that appear to have been opened and resealed, or which are otherwise improperly prepared, will not be registered. Padded envelopes are not acceptable in the registered mail service.

.32 SEALING

The sender must securely seal envelopes. Self-sealing envelopes are not acceptable. Do not place paper or cellulose strips or wax or paper seals over the intersections of flaps of letter size envelopes where the postmark impressions are made. Wrap and seal packages with mucilage or glue or with plain paper or cloth tape. Packages containing currency or securities may not be sealed exclusively by use of paper strips, but must first be sealed securely with may be considered packages so far as the sealing requirements are concerned. Tape that will not adhere in such a manner as to damage the envelope or wrapper if removed, or tape which will not absorb a postmark impression, may not be used on registered mail.

.33 FRAGILE ITEMS

The sender is required to tell the postal employee whether or not the item is of a fragile nature and, if so, describe the interior packing. Packages will be refused if not properly packed to withstand normal handling in the mail. Indemnity may be denied if fragile articles are not properly packed.

.34 PACKING

All articles presented for registration must be packed in accordance with Subchapter 120 of this Manual. A package may be refused if it is determined that an article is not packed in a manner that will assure safe transmission in the mails. Indemnity may be denied if articles are not properly packaged.

.35 WINDOW ENVELOPES

Envelopes must have panels covering the opening. If transparent panels are glued to the envelopes, they may contain only matter without intrinsic value. If the panel is part of the envelope, the envelope may be used for all registered mail.

.36 FIRM REGISTRATION BOOKS

If an average of three or more articles is presented for registration at one time, the sender may obtain free firm registration books, Form 3877. These must be used in accordance with instructions that will be given by the postmaster. One copy of the bill will be retained by the post office and the other will be receipted and returned to the sender. All entries made in firm registration books will be made by typewriter, ink, or ball-point pen. All unused portions of the *addressee* column will be obliterated by drawing a diagonal line through the unused portion.

.37 RETURN RECEIPTS AND RESTRICTED DELIVERY

Firm mailers are expected to complete and attach the return receipt card, Form 3811, to the mail and show the required official endorsement on the address side of the mail. See 161.152 and 161.153. If the mail is to be restricted in delivery, it shall be marked *Restricted Delivery* on the address side of the mail.

.38 MAILING RECEIPTS

A receipt will be issued when mail is accepted for registration. If requested to do so by sender, the accepting postal employee will show on the mailing receipt and post office record the time registered article was accepted for mailing. For individual transactions, the receipt is prepared by postal employee. When firm registration forms are used, the receipt will be postmarked, signed and issued after entries have been checked against mail. A temporary receipt showing only the total number of articles may be issued when a large number of articles is mailed. The permanent descriptive receipt will be issued as soon as possible after verification.

.39 WITHDRAWAL OR RECALL

The sender may withdraw or recall registered mail without charge before its delivery, under the following conditions:

a. By writing on the receipt *Withdrawn before dispatch* and signing and surrendering the receipt.
b. By filing a written request for its return after dispatch at the post office where the article was mailed, giving names and addresses of sender and addressee, the registry number, and date of mailing. Costs of telegrams must be paid by the sender.

If remailed, the article must be under new cover, and bear new postage and fee.

161.4 DELIVERY

.41 PROCEDURE

The responsibility of the Postal Service for registered mail ends with its proper delivery. Mail for delivery by carriers is taken on the first trip after

it is received unless the addressee has requested the postmaster to hold his mail at the post office. The addressee or person representing him may obtain the name and address of the sender, and may look at registered mail while it is held by the postal employee, before accepting delivery and signing the delivery receipt. Identification will be required if the applicant for registered mail is unknown. The mail will not be given to the addressee until the delivery receipt is obtained by the postal employee. The name of the addressee must appear on line 1. If the signature on the delivery receipt is not legible, the delivering employee must print the name of the recipient on the receipt in an area which will not interfere with other signatures.

.42 RURAL DELIVERY

For delivery by rural carriers or at personnel and nonpersonnel rural stations and branches, see Part 156.

.43 STAR ROUTE DELIVERY

Star route carriers will deliver registered mail if required by the contract, but delivery will be made only at the customer's box or along the route.

.44 NOTICE OF ARRIVAL

If the carrier is unable to deliver registered mail, he will leave a notice. If the mail is not delivered by carrier, a notice of arrival will be issued through regular mail channels. If the mail is not delivered or called for within 5 days, a second notice will be issued, provided the maximum period for which the mail may be held permits. No second attempt to deliver will be made unless the post office is requested to do so.

.45 RESTRICTED DELIVERY

Restricted delivery may be obtained as set forth in 165.3 and by the payment of additional fees as provided in 165.32. For circumstances under which restricted delivery may be accomplished by delivery other than to the addressee, see 165.34.

.46 BAD CONDITION

If the addressee accepts a registered article that has been repaired with sealing stamps or reenclosed in a new envelope or wrapper, the addressee must open it without disturbing the seal, in the presence of the delivering employee. If anything is missing, the envelope or wrapper must be given to the employee after it has been endorsed to show what was missing. The postal employee will not wait while large sums of money or coin are counted if the damage is so slight as to indicate that nothing is missing.

.47 WHEN NOT DELIVERED

Postmasters may require customers to call for registered mail at the post office if delivery by carrier would not be safe.

161.5 PROCEDURES AT MAILING OFFICE

.51 ACCEPTING

.511 *Endorsing*

Stamp each article on the left portion of the face side with the regulation rubber stamp *Registered No.* _____. Enter the registration number. Endorse articles too small to accommodate the official endorsement with the letter *R* followed by the registration number.

.512 *Assigning Registration Numbers*

Number the articles and receipts consecutively. Retain mailing office records in numerical order. File records of firm registrations to permit ready identification in case of inquiry or claim. Assign blocks or series of numbers as follows:

a. At all post offices having stations or branches, assign blocks of registration numbers for the main office and each station and branch. The number blocks should approximate the annual number of window registrations at the points involved. Repeat the series of numbers when the last number is used.
b. All other post offices use a series of numbers approximating the annual volume of window registrations. Repeat the series when the last number is used. Keep the number of digits in the number series to a minimum.
c. Assign blocks of registration numbers to firm mailers, keeping the number of digits to a minimum. Use Form 3857, *Assignment of Number Blocks for Registered, Insured, Certified, and COD Mail.* If prefixes have been used or assigned to firms, take action, on a gradual basis if considered necessary, to reassign blocks of numbers without prefixes. This instruction regarding prefixes does not apply to a few of the larger post offices to which special authority has been granted for the limited use of prefixes.
d. In areas where carriers are required to accept mail for registration, assign 100 numbers to each carrier. For rural carriers, use the route number as the first number of the series.

.513 *Issuing Receipts*

Issue receipts on the following forms:

a. Form 3806. Prepare duplicate for your record. After the four receipts on the sheet are issued, detach entire sheet of carbon entries and file.
b. Form 3877 (firm mailing bill) when senders use this form. See 161.35. Check articles against entries on the form. If sender does not want to wait for descriptive receipt, issue bulk receipt on Form 3824, check mailing, and issue regular receipt later. Use Form 3876, *Notice of Firm Mailer—Incorrect Fees,* to notify firm mailers of payment of incorrect fees or surcharges.
c. Special firm mailing bills or recapitulation sheets, which have been approved by the Office of Mail Classification, Rates & Classification Department, Washington, DC 20260.
d. Form 3896, *Carrier Registration Book,* issued by carriers to senders of registered mail. Carrier must not assist in preparation and sealing of such letters. Carriers must deliver the registered mail to the postmaster or his representative. When a rural carrier accepts mail for registration and it is addressed for delivery on his route, he may deliver it before returning to the post office. The carrier must cancel postage stamps at time of delivery. He must enter the disposition of the mail on the receipt (Form 3896) and also obtain the signature of the postmaster or station superintendent on it.
e. If the carrier loses his registration books or is unable to account satisfactorily for missing receipt, report facts immediately to the postal inspector in charge.
f. If requested to do so by the sender, show on the mailing receipt and post office record the time the article was accepted for mailing. Write the time in ink above the postmark block on individual receipts or next to the space for the name of the accepting employee on firm mailing bills.

.514 *Postmarking.*

Postmark letters twice on the back on the crossing of the upper and lower flaps or, if paste-on return receipts are used, postmark partially on the receipt

and partially on the flaps of the letter. Postmark packages sealed with paper strips across opposite edges of the strips. Use additional postmarks if this would make rifling more difficult. Postmark on the address side registered mail sealed on the address side. When large mailings consist of letters, containing written or printed matter of little value, the envelopes may be postmarked once on the back by running them through a canceling machine. Postmark once on the back of the tag of sack jackets.

.515 *Canceling Stamps.*

Cancel the postage stamps, using rubber or hardwood canceler.

.516 *Free Return Receipts*

Do not charge for return receipts for free registered mail of the Postal Service. Use such receipts only when it is essential that a signed receipt be on file at the mailing post office. Do not request return receipts for official post office remittances or postal supplies.

.52 PREPARING FOR DISPATCH

.521 *Rotary Lock Pouches.*

Process registered mail for dispatch in rotary-lock pouches as follows:

a. Use rotary-lock pouches when quantity or bulk of mail justifies, except when dispatch is to be made by air. (See 161.8.)
b. Bill rotary-lock pouches to offices having rotary lock keys. Enter the following information on bill Form 3852, 3853, or 3854, with ball point pen:
   (1) Lock and rotary number.
   (2) Bill and page number, if necessary.
   (3) Destination of dispatch.
   (4) Time and means of dispatch, if considered necessary.
   (5) Postmark on bill and coupon. Mobile unit clerks may use their stamps as a postmark.
   (6) Registration numbers and post offices of origin of individual articles. ZIP Code or an abbreviation of the office of origin may be used.
   (7) APO or FPO numbers will be used as the office of origin on military mail originating from overseas military post offices.
   (8) Numbers and offices of origin of jacket envelopes, and fixed and rotary-lock numbers and offices of origin of rotary-lock pouches.
   (9) If the Form 3630-A covering a rotary lock pouch is completed by the person who made up the inner bill of the pouch, the control number from Form 3630-A may be entered on the office copy of the

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pouch if there are no other registered articles to be dispatched. When only a rotary lock pouch or sack jacket is to be dispatched in an iron-lock pouch, enclose the dispatch card in registry bill envelope P–9 and attach the envelope to the staple of the rotary lock pouch or sack jacket.

(2) Enter the control number from Form 3830, 3830–A, or the dispatch bill on Label 89 or the orange pouch label. Seal the envelope container with gummed Label 89. Postmark the label. The destination shown on Label 89 must be the same as that shown on the slide label of the iron lock pouch in which dispatched. Enter dispatch information to assure proper dispatch on the orange pouch label when necessary. This information must be the same as that shown on the slide label of the iron lock pouch in which dispatched.

(3) If the registry container envelope or orange labeled container pouch contains special delivery or transit mail and is to be enclosed in a city iron lock pouch, check the appropriate block on Label 89 or endorse the orange pouch label to indicate that special delivery or transit mail is enclosed. Place the letters *SD* for special delivery or *T* for transit on the right end of the orange pouch label, or check the appropriate block on Label 89.

d. Pouch as follows:

(1) Do not place registered mail in an iron lock pouch until it is ready to be closed.

(2) Registry section employees may act as dispatchers when physical conditions indicate this would be preferable and less expensive.

(3) When the procedure in (2) is not followed, list registered mail on a dispatch bill in duplicate by envelope container number preceded by the letter *C*, by orange labeled pouch container number preceded by the letter *P*, by rotary-lock number and by the registry number of any outside pieces preceded by the letter *O*. Obtain receipt from the dispatch unit in duplicate, deliver one copy of the bill with the articles and retain the other in the registry section. Dispatch units should retain copies of transfer bills on file. Designate an employee of the outgoing mail section to pouch registered mail and make dispatches. The employee who actually pouches mail should initial the entries on the mailing section copy.

.523 *Way Pouches*

Each post office opening a way pouch shall open the registry container envelope or registry container pouch, receipt for the registered articles, and bill and dispatch in a registry container envelope or registry container pouch all registered articles for onward dispatch in the way pouch, including registered articles of local origin.

.526 *Numbered Seal Pouches*

Used in the air service. See 161.84.

.527 *Outside Registered Articles*

Prepare dispatches in the same manner as provided in 161.83 for outside registered articles sent by air. Such dispatches must be billed to the next postal installation that will handle the mail.

.528 *Special Containers*

When use of a special container has been authorized by the Postal Service between designated post offices or AMF's, dispatch rotary locked or numbered seal pouches within this container without reenclosing in another pouch. Dispatch *Outside* registered mail within this special container where practicable. List descriptively the rotary locked and numbered seal pouches, and

outside registered articles, enclosed in the container, on the proper manifold dispatch bills and enclose the bill with the registered mail. Close the container with a rotary lock or numbered seal, as directed, and bill by the rotary lock or seal number.

.53 DISPATCHING

.531 *To and From Stations and Branches*

Treat registered mail transmitted between main offices and stations or branches and between stations and branches in the same manner as between post offices, except that main offices must handle jackets and rotary-lock pouches addressed to an independent branch or station as transit matter.

.532 *To and From Military Installations*

Dispatch registered mail to or from postal facilities serving military installations within the United States in the same manner as other post offices, except as follows:

a. Make up and label jackets or rotary-lock pouches direct to postal facilities serving military installations when quantity justifies.

b. Postal facilities serving military installations may make up dispatches of outgoing registered mail in direct jackets or rotary-lock pouches when quantity justifies. The main office must not open these pouches or jackets being dispatched through the main office.

.533 *To Naval Vessels*

Dispatch registered mail as follows:

a. Make up and dispatch registered mail for United States naval vessels in the same manner as for domestic destinations.

b. Send to post office through which addressed.

c. Address registered jackets for United States naval vessels to the *Navy Postal Clerk, U. S. S. (Name of ship)* and endorse them *Navy mail.*

d. In making up closed registered mail for naval vessels, enter mail on a dispatch bill and enclose bill with the registered mail.

.534 *Official Registered Mail to or From Government Agencies Located in Areas Where the Domestic Service Operates*

Dispatch official registered mail of Government agencies and their field activities requiring overseas dispatch BETWEEN points where the domestic service operates (see part 112 for list of areas) only on carriers (air or surface vessels) of U.S. registry, as follows:

a. Interior offices making up direct jackets or pouches containing this official registered mail requiring overseas dispatch between destinations indicated should mark them *Official Mail.*

b. Offices billing and turning over official registered shipments direct to overseas carriers serving the areas indicated should select only U.S. air or surface vessels for these shipments.

.535 *Hand-to-Hand Receipts*

Exchange these receipts under the following conditions:

a. For dispatches when:

(1) A large volume of registered mail is exchanged directly by postal employees between postal units.

(2) The declared value of an individual shipment meets the coded value requirement set forth in special instructions issued by Headquarters to Regional Postmasters General.

(3) The aggregate value of a particular dispatch warrants such handling, as determined by the director, logistics division, from the dispatching point to the first transfer point.

b. Where hand-to-hand receipts are used as outlined in a(3), endorse these receipts to show only those points between which the hand-to-hand receipts are used for the particular dispatch involved. Specific instructions covering this type of dispatch will be issued by the director, logistics division.

.77 OVERNIGHT RETENTION

.771 *Valuable Articles*

Place valuable articles in vault or safe, and bill each article by registration number and office of origin. See 161.932 for definition of *valuable* for internal handling.

.772 *Ordinary Value Articles*

Place articles in vault, safe, or locked compartment. Bill by number and office of origin of the articles. If vault, safe, or locked compartment is not available, use a rotary lock pouch, and make an appropriate record. Keep record in safe place other than with the rotary lock pouch. If a loss is indicated, report shall be made to the Inspection Service.

.773 *Removing Articles*

Check all articles removed from vault, safe, or rotary lock pouch against bill enclosed with them. Report immediately any discrepancies to supervisor.

.774 *Protective Equipment Available*

See section 641.451 for details on protective equipment available and, criteria for requisitioning proper item.

161.8 AIR TRANSPORTATION

.81 BULKY SHIPMENTS

The following items classed as bulky should be given surface dispatch unless specific contrary instructions are issued by the director, logistics division:

a. Cartons of postage, and other stamp stock, and food.

b. Money order forms.

c. Savings bond stock.

d. Sack jackets. (International mail).

e. Other bulky shipments to and from foreign countries containing books or other merchandise items.

.82 BILLING

Except as stated in .83 and .84, bill registered mail receiving air service, as follows:

a. Bill in the same manner as required for other registered mail. Do not use orange labeled pouches as containers in the air service. See 161.521 through 161.524.

b. Show route and flight number.

c. Endorse sealed registry jackets and pouch labels *Air.*

d. Airport and air stop offices may use official airline code designations on registry bills covering dispatches of registers to other airport mail facilities or air stop offices.

e. When numbered sealed pouches for the same dispatch are reenclosed in two or more snap seal pouches, the registered mail contents of each individual snap seal pouch shall be billed separately on a dispatch card enclosed in a P–9 envelope.

f. When mail is due to be interline transferred between air carriers during night hours, bill the registered mail to the AMF or SCF at the en route transfer point for rehandling.

.83 OUTSIDE REGISTERED ARTICLES

.831 The first air stop point must bill each outside registered article on a separate dispatch card, Form 3830 or Form 3830–A, to the final air stop point or massing point. Show on the dispatch card (1) the registration number of the article preceded by the capital letter *O*, (2) the office of origin

and destination, the latter preceded by the word *TO*, (3) the round trip number.

.832 Place the dispatch card in a P–11, *Registry Bill Container Envelope;* tuck the flap of the envelope inside, making sure the flap is placed under the card to prevent the card from slipping out of the envelope.

.833 Attach the P–11 envelope to the address side of the article, in a manner which will not interfere with the address or endorsement. Do not use Label 87.

.834 Show routing on the P–11 envelope.

.835 If there are more than three outside registered articles for the same destination, list all of the articles on one bill or card. Enclose the bill or card in a P–11 envelope attached to one of the outside registered articles. Attach Label 87 to each of the remaining articles, show the routing, and number the labels appropriately as follows: 1 of 4, 2 of 4, 3 of 4. The article bearing the P–11 envelope would show 4 of 4.

.84 NUMBERED SEAL POUCHES

.841 *Billing*

Bill outgoing dispatches as follows:

Enter the number of the seal in the space on the inside dispatch bill identified for the seal number. Use the letter S before the seal number on the bill. Bill the registered article as previously described. Bill the sealed pouch by the seal number preceded by the letter S on Form 3830 or 3830–A. Place the dispatch card in the P–9 envelope.

.842 *Placing Seal and P–9 Envelope on Pouch*

Place the numbered seal, item 0–817, and P–9 envelope on the pouch in the following manner:

a. Close hasp over the staple and place the P–9 envelope, flap end down and wording up, on the staple.

b. Thread the small plain end of the seal, with the number down, through the bottom of the staple toward and through a grommet of the pouch.

c. Bend the seal back and thread the plain end through the red head of the seal.

d. The number on the seal should appear on the outside of the seal.

.843 *Enclosing Sealed Pouch*

Enclose the numbered seal pouch or pouches in another pouch and close with a snap seal. If more than one numbered seal pouch is enclosed in a single snap seal pouch, bill all the numbered seal pouches on one dispatch card to be enclosed in a P–9 envelope attached to one of the enclosed pouches, except as provided for in CON-CON instructions.

.844 *Transit Pouches*

Handle transit pouches as follows:

a. *Billing.* When receipts must be exchanged between employees in the registry unit and those on the workroom floor (see 161.732), show the letter S before the seal number on the transfer bills.

b. *Checking and Rebilling.* In the registry unit remove the dispatch card or bill from the P–9 envelope. Check the seal number or numbers against the entries on the bill. Complete the receipt and return it promptly to the dispatching unit. Prepare another card Form 3830 or 3830–A and insert it in the P–9 envelope for onward dispatch. If the seal is in bad order, proceed in accordance with 161.845c.

c. *Enclosing Sealed Pouch.* Enclose the numbered seal pouch or pouches in another pouch and close it with a snap seal.

.845 *Incoming Dispatches*

Handle incoming dispatches as follows:

a. *Condition of Seal.* Examine and test the seal to determine if it is intact.

b. *If Seal Is Intact.* Take the following action:

(1) Check the seal number against the number shown on the dispatch card in the P-9 envelope. If they agree, cut the numbered tin-band seal (Item 0-817-A) at the end away from the ball (1 thickness of metal) with the shears (FSN-5110-221-1035) and remove the seal. Do not discard it until checking is completed.

(2) Check the number of the seal and the contents of the pouch against the enclosed dispatch bill. Do not return the registry dispatch coupons of the inside bills of numbered seal pouches unless discrepancies or irregularities are noted.

(3) Complete the dispatch receipt portion of Form 3830 or 3830-A. Return it promptly to the dispatching unit.

c. *If Seal Is Not Intact.* Take the following action:

(1) If the seal is not properly closed, or if there appears to be evidence of tampering, immediately call a supervisor to witness further checking of the dispatch.

(2) If the seal number shown on the dispatch card Form 3830 agrees with the number on the seal, complete the dispatch receipt to show the exact nature of the irregularity, such as *seal not closed.* If the numbers on the seal and dispatch card do not agree, show the discrepancies on the receipt portion of the card. Record the exact nature of any irregularity on the bill portion of Form 3830 or 3830-A. Send the the receipt portion to the dispatching unit promptly.

(3) Cut the seal and check the contents in the presence of the supervisor. If there are any irregularities or discrepancies in the contents as billed, report them on the bill coupon to the dispatching office. Both the opening employee and the supervisor shall sign the pouch bill and coupon. *If there is evidence of tampering or loss of contents, hold out the seal, pouch, outer bill and pouch contents bill and notify the Inspection Service immediately.*

.846 *Protection of Numbered Seals*

Numbered seals will be issued to registry clerks by the seal control officer. Unlocked seals may not be removed from the registry section except by the seal control officer. Seals must not be placed near doors or service windows that are accessible to unauthorized persons.

.85 OPENING ENVELOPE AND POUCH CONTAINERS AND JACKETS

Follow the procedures in 161.74.

.86 DISPATCHING

.861 Post offices in the area of an airport mail facility, and AMF's use selected dispatches for registered mail rather than dispatching on all authorized flights.

.862 When estimated time of delivery to addressees will not be affected, accumulate registered mail to permit make up of warranted city or SCF pouches, in order to minimize billing operations. Avoid multiple dispatches of small volume to destination AMF's or SCF's unless it is known that delivery to addressees will be expedited.

.863 Do not include registers in snap seal pouches addressed to cities where an AMF is located unless the director, logistics division, of the destination city has authorized this procedure.

.864 In exceptional cases where there is more than one large post office served by an AMF, the director, logistics division of the destination region, may authorize registered mail to be included in incoming snap seal pouches labeled direct to those cities which are not SCF's, if such action is justified by the quantity of mail or local conditions.

.865 Dispatch registered mail receiving air service, between the local post office and AMF by either mail messengers or motor vehicle employees. These employees must give and take receipts on Forms 3852, 3853, or 3854, for rotary lock and numbered seal pouches. See 161.535. If the pouches are reenclosed in snap seal pouches, label the snap seal pouches to the local AMF, or post office.

.866 Registered mail dispatched to other AMF's shall be dispatched according to CON-CON instructions.

.87 MISSED CONNECTIONS

.871 *Interrupted Service*

Process transit registered mail which is stopped enroute because of missed connections or cancellation of planes as follows:

a. Open and work numbered seal pouches, if circumstances permit, and—

(1) Endorse, postmark, and send labels to office of address under separate cover.

(2) Keep a record of the receipt of pouches handled in the unit.

(3) Complete coupons of inside dispatch bills, endorse *Distributed at* _____ and return copy to offices which made up the original pouches.

b. Remove registered mail from container pouches and envelopes. Complete and return coupon of bill and rework registered mail.

c. If time does not permit, dispatch mail intact to destination.

.872 *Opened in Transit*

If a snap-seal pouch containing registered mail is opened at any point in transit and the contents are dispatched intact, sign a statement to that effect on bill and its coupon. Keep a record of transaction at the point where pouch is opened.

.88 RECEIPTS FOR DISPATCHES

.881 *Numbered Seal Pouches and Outside Articles*

a. Complete and return the receipt portions of cards covering these dispatches. See 161.72.

b. At the dispatching unit, follow the procedure specified in 161.54.

.882 *Dispatch Discrepancies*

a. Return the coupon of the inside numbered seal pouch or jacket bill only when discrepancies or irregularities are noted.

b. When there is a discrepancy between the number of articles entered on the bill and the number received, take the following action:

(1) If apparent that the discrepancy is due to a clerical error, make appropriate notation on the bill and coupon. Return the coupon postmarked, signed, and endorsed to the post office or other dispatching point. Hold the pouch, seal or jacket until the discrepancy has been cleared.

(2) When it appears from the condition of the jacket or pouch that the discrepancy is the result of depredation, or probable loss is indicated, make appropriate notation on the bill and coupon. Return the postmarked and signed coupon to the dispatching office. Hold out of service the pouch or jacket, pouch label, and the lock or seal until the discrepancy is explained or instructions are received from a postal inspector.

.12 CLASSES OF MAIL TO WHICH APPLICABLE

.121 Third- and fourth-class mail.

.122 Priority mail, or mail mailed at the first-class rate, which contains third- or fourth-class matter (may contain incidental first-class enclosures.) Sealed envelopes should be endorsed "Third-Class Mail Enclosed" or "Fourth-Class Mail Enclosed", in addition to the first-class or priority mail endorsement.

.123 Official Government mail bearing *Postage and Fees Paid* endorsement.

.124 The mail must bear the complete names and addresses of sender and addressee.

.13 NOT ACCEPTABLE FOR INSURANCE

.131 Parcels containing matter offered for sale, addressed to prospective purchasers who have not ordered or authorized their sending. If such matter is received in the mail, payment will not be made for loss, rifling, or damage.

.132 Nonmailable matter.

.133 Articles that are so fragile as to prevent their safe carriage in the mail regardless of packaging.

.134 Articles not adequately prepared to withstand normal handling in the mail, see part 121. As a general rule, any package that is mailable should be insurable.

162.2 FEES AND LIABILITY

.21 FEES (IN ADDITION TO POSTAGE)

Liability	*Fee*
$0.01 to $15	$0.40
15.01 to 50	.60
50.01 to 100	.80
100.01 to 150	1.00
150.01 to 200	1.20

Liability for insured mail is limited to $200

.22 PAYMENT OF FEES AND POSTAGE

Insurance fees must be prepaid in addition to the postage except on official mail sent under the provisions of part 137. The mailer guarantees to pay return and forwarding postage unless he writes instructions on the wrapper or envelope not to forward or return the mail.

162.3 ADDITIONAL SERVICES

.31 RESTRICTED DELIVERY

Restricted delivery may be obtained as set forth in 165.3 and by the payment of additional fees as provided in 165.32. For circumstances under which restricted delivery may be accomplished by delivery other than to the addressee, see 165.34.

.32 RETURN RECEIPT

The sender may obtain a return receipt, Form 3811, by paying the required additional fee as provided in 165.2.

162.4 MAILING

.41 WHERE TO MAIL

Mailers must mail parcels that they insure at a post office, branch, or station, or give them to a rural carrier. They must not be deposited in mail drops at post offices, nor in or on street mail boxes. They must not be left on, but may be placed in, rural mail boxes.

.42 INQUIRY AS TO CONTENTS AND PREPARATION

The postal employee at the window is required to ask whether the package presented for insurance contains fragile, perishable, or flammable matter. If the package does not contain such matter and to all outward appearances is adequately prepared, no further inquiry as to contents will be made. If the package contains such matter, detailed inquiry will be made to determine whether contents are admissible in the mail and are adequately packed.

.43 INDIVIDUAL RECEIPTS FOR MAILING

Mailers are issued a receipt for each insured parcel mailed on one of the following forms:

a. Form 3813, *Receipt For Domestic Insured Parcel*, when the package is insured for $15 or less.

b. Form 3813-P, *Receipt For Insured Mail, Domestic-International*, when the package is insured for more than $15.

The post office keeps no record of the mailing of insured packages. Mailers must enter the name and address of the addressee on the receipt and retain it. Mailers must exhibit the receipt if claim for loss is made. The receipt should be shown if an inquiry is filed. A telephone request for inquiry is acceptable if the mailer can furnish particulars of mailing from his receipt. A temporary receipt showing only the total number of parcels accepted may be issued when a large number of articles are mailed. The permanent receipt will be issued as soon as possible.

.44 FIRM MAILINGS

.441 *Firm Mailing Books*

Mailing books, Form 3877, are furnished without charge to customers who mail an average of three or more parcels at one time. Spaces are provided for entering the description of parcels to be insured. Any alterations must be initialed by the mailer and accepting employee. The sheets of these books become the senders' receipts. The books must be presented with the parcels to be mailed. Following are instructions for their use:

a. Parcels to be insured for $15 or less are not to be numbered and should be listed on separate sheets or grouped together. Prepare one copy only.

b. For parcels to be insured for more than $15, the postmaster will assign a series of numbers. The mailer must number the articles and the items in the book to correspond.

c. The parcels must be conspicuously endorsed with the stamped or printed official insurance endorsement.

d. All entries made in firm mailing books will be made by typewriter, ink, or ball-point pen. All unused portions of the *addressee* column will be obliterated by drawing a diagonal line through the unused portion.

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.325 While all of the following parts are not required on each COD tag, the tags should be arranged in order of usage from right to left (top to bottom in multi-layer versions) as follows: Mailer's receipt, mailing office's file copy, delivery employee's coupon, remittance coupon, delivery office coupon.

.326 Tags should be on card stock. Multi-layer forms may be on paper stock if the bottom copy is an extra copy (in addition to those listed in .321) which is firmly glued to the article. This is necessary to reduce the chance of loss resulting from a lightweight tag being torn off.

.327 The COD tag may incorporate an extra part to serve as an address label. This may be the bottom layer of a multi-layer form or the extreme left section of a card-stock form. The address label shall be firmly attached to the parcel by glue or other means.

.328 To facilitate processing, mailers, if volume warrants, may be authorized by the postmaster to type or computer print *mailed at* with the date and place of mailing in the areas of the COD tag calling for a postmark of the mailing office.

.33 NURSERY STOCK SHIPMENTS

Firms mailing nursery stock may print special COD tags bearing instructions as to disposition of shipments that are not immediately delivered. These tags must contain a remittance coupon that will be returned with the money order. The following rules apply:

a. If the sender does not desire to have the undeliverable parcel disposed of to the highest bidder, the sender's instructions on the back of the delivery-office portion of the COD tag (1), and on the remittance coupon (2), should read:
   (1) If addressee refuses to pay charges for any reason, deliver at once without collecting the charges. Notify sender at once if parcel is not delivered, and if no reply is received in 30 days, destroy parcel. See remittance coupon for further instructions.
   (2) Return this coupon with money order. If parcel is delivered without collection of charges, or is destroyed after 30 days, check disposition and send coupon to sender in penalty envelope.
   ☐ Delivered to addressee without collecting charges.
   ☐ Destroyed after 30 days.
b. If sender desires to have the undeliverable parcel disposed of to the highest bidder, the sender's instructions on the back of the delivery office portion of the COD tag (1), and on the remittance coupon (2), should read:
   (1) If addressee refuses to pay charges for any reason, deliver at once without collecting the charges. Notify sender at once if parcel is not delivered, and if no reply is received in 30 days, sell to highest bidder and remit proceeds less commission. If sale cannot be made, destroy parcel. See remittance coupon for further instructions.
   (2) Return this coupon with money order. If parcel is delivered without collection of charges, is destroyed after 30 days, or is sold, check disposition and send coupon to sender in penalty envelope.
   ☐ Delivered to addressee without collecting charges.
   ☐ Destroyed after 30 days.
   ☐ Sold for $_____. Remittance, less commission, herewith.

163.4 MAILING

.41 PREPARATION FOR MAILING

.411 COD articles will be identified by a number which the mailer will put on each section of the COD tag. The postmaster will assign a series of numbers using Form 2857, *Assignment of Number Blocks for Registered, Insured, Certified, and COD Mail*. The postmaster may authorize the mailer to use customer order numbers or computer generated numbers when such numbers will not hinder the accepting office's procedures. The use of prefixes is discouraged, but not prohibited. The number shall not exceed six digits plus a prefix, if a prefix is used. The use of suffixes is not permitted.

.412 A COD tag must be securely affixed by the sender to each COD article. The tag must show article number, names and addresses of sender and addressee, amount due sender, and amount of money order fee necessary to make remittance. Stock tags are furnished by the post office without charge. There are two types of tags eyeletted for tying to parcels and one uneyeletted type for attaching by gummed tape. Specially printed COD tags approved by the Postal Service may also be used (see 163.32). The eyeletted tag, Form 3816, *COD Article Tag—Delivery Employee and Mailing Office Coupon—Mailer's Receipt*, composed of delivery office coupon, delivering employee's coupon, mailing office record and the mailer's receipt, is intended for use by customers mailing fewer than three articles at one time.

.413 The particulars required on the tag must be filled in by the sender with ink, ball-point pen, typewriter or computer printer. The Postal Service is not responsible for errors by senders in stating charges to be collected.

.414 When the COD remittance is to be sent to someone other than the actual mailer, the name and address of the person to whom the remittance is to be sent must appear in the proper spaces on the address side of the delivery office coupon. The name and address of the person to whom the remittance is to be paid must also be shown as sender on the COD parcel itself, together with directions for return if undeliverable.

.415 Mailers of three or more parcels per mailing will present a listing (in duplicate) of parcels to be mailed at the time of mailing. The mailer may use Form 3877–A, *Firm Mailing Book for Use in Acceptance of Insured, COD, and Certified Mail*, which is provided to customers without charge or, when authorized by the postmaster, he may prepare typewritten or computer prepared listings which provide the equivalent data as the Form 3877–A. All entries made in firm mailing books will be made by typewriter, ink, or ball-point pen. All unused portions of the *addressee* column will be obliterated by drawing a diagonal line through the unused portion.

.416 Mailers of fewer than three parcels per mailing may obtain receipts on the sender's receipt portion of the COD tag. The post office will acknowledge receipt by postmarking the sender's receipt.

.417 In addition to the COD tag, COD parcels will bear an address label complete with the names and addresses of the sender and the addressee. Where the COD endorsement has not been made part of the address label, the endorsement showing the amount due the payee and the money order fee necessary to make the remittance should be boldly indicated by rubber stamp or other means on the front surface of the parcel near the address label. (COD endorsements must also appear on the COD tag.) The address label may be printed as an additional part of the COD label in accordance with 163.327. The address label should identify the parcel as a COD parcel and should be firmly attached by glue or other means.

.42 WHERE TO MAIL

COD parcels must be mailed at a post office, branch, or station, through a rural carrier, or at a personnel or nonpersonnel rural station or branch. They may not be placed in mail drops at post offices, nor in or on street mail boxes. They may not be left on, but may be placed in, rural mail boxes.

Part 164

INDEMNITY CLAIMS

164.1 GENERAL INSTRUCTIONS ON FILING AN INSURED (INCLUDING COD) MAIL CLAIM

.11 WHO MAY FILE

.111 A claim for complete loss (including COD) may be filed only by the mailer.

.112 A claim for partial loss (including COD) may be filed by the mailer or addressee.

.113 A claim for damage (including COD) may be filed either by the mailer or addressee.

.12 HOW TO FILE

.121 Domestic Claims

A customer may file a claim at any post office, classified branch, or station. Form 3812, *Request for Payment of Domestic Postal Insurance*, dated Nov. 1971 or later, is used to request payment for the loss or damage of insured mail. The form is a four-part snap-out set which includes two copies of Form 1510–A, *Inquiry for the Loss or Rifling of Mail Matter*, and one copy of Form 3841, *Post Office Record of Claim*. DO NOT COMPLETE A SEPARATE FORM 1510 or FORM 3841 FOR INSURED OR COD CLAIMS.

.122 International Claims

Claims for international insured mail are to be handled in accordance with Chapter 9, Publication 42—*International Mail*.

.13 WHEN TO FILE

.131 Loss Claims

The mailer may not file a claim until 15 days after the date of mailing for insured and registered articles and 45 days after the date of mailing for COD articles. *EXCEPTION:* Claims for loss shall not be submitted until 75 days after the date of mailing for parcels sent by surface ocean transportation between:

a. The contiguous 48 states and any state, territory or possession of the United States located outside the contiguous 48 states (including any location or unit having an APO or FPO designation as part of the address).
b. Any state, territory or possession of the United States located outside the continguous 48 states and any other state, territory or possession of the United States located outside the contiguous 48 states (including any location or unit having an APO or FPO designation as part of the address).

.132 Damage Claims

Customers should file damage or partial loss claims immediately.

.133 Insurance (including COD) Claims

Indemnity claims must be filed within one year from the date the article was mailed.

.14 INFORMATION REQUIRED

.141 Evidence of Insurance

The customer must submit evidence that the package was insured. Acceptable evidence includes either:

a. The original insurance receipt issued at time of mailing. Post offices may annotate the appropriate line(s) in firm mailing books *Claim filed on (date)*, and submit a photocopy with the claim form.
b. The wrapper, if it has the name and address of both the mailer and the addressee and the appropriate insurance endorsement.

.142 Evidence of Value

The customer (including Government agencies which have insured official mail) must submit evidence of value. The Postal Service will not undertake to obtain estimates of value. Acceptable evidence may include any one of the following:

a. Sales receipt.
b. Invoice.
c. Statement of value from a reputable dealer.
d. Catalog value of a similar article.
e. Statement describing the articles lost or damaged, including where purchased, date, amount, and whether the articles were new or used. If handmade, price of material used and labor. Describe the items in sufficient detail for the postal data center to determine that the value claimed is not excessive.
f. Paid repair bills, estimate of repair cost, or appraisals may be used in lieu of estimate of value in the case of claims for partial damage. When a question exists whether cost of repair exceeds actual value, other evidence of value may be required.

.143 Replacement Shipments

If a replacement shipment has been sent to a customer to replace original article(s) lost, indicate *Replacement Shipment* on claim (Form 3812) and obtain a copy of the invoice evidencing the replacement and attach to claim form.

.15 ASSIGNMENT OF RESPONSIBILITIES

.151 Post offices, classified stations and branches will:

a. Accept claims when evidence of insurance, statement of value (including proper documentation), and required signatures are furnished.
b. Assist customers in preparation of Form 3812.
c. Complete post office portion of Forms 3812.
d. Route completed Forms 3812 in accordance with section 164.4.

.152 The St. Louis Postal Data Center will adjudicate and pay or disallow all domestic insured and COD mail claims.

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.16 PAYABLE AND NONPAYABLE CLAIMS

.161 *Subject to 164.162, insurance for loss or damage to registered, insured or c.o.d. mail within the amount covered by the fee paid is payable for:*

a. Actual value of lost articles, less depreciation for used items.
b. Cost of repairing a damaged article or replacing a totally damaged article, not exceeding actual value of the article.
c. A c.o.d parcel for which no remittance has been received by the mailer.
d. Death of baby poultry due to physical damage to the package or delay for which the Postal Service is responsible. In the absence of definite evidence showing responsibility for death of baby poultry, the Postal Service will be presumed to be at fault if 10 percent or more are dead on delivery, and indemnity will be paid for all dead poultry; otherwise the Postal Service will not be presumed to be at fault (see section 164.162e and 124.33).
e. Costs incurred in duplicating or obtaining documents, or their original cost if they cannot be duplicated. The fee paid to an attorney to obtain duplication of valuable papers and other actual, direct and necessary expenses may be included.
f. The extra cost of gift wrapping if the gift wrapped article was enclosed in another container for handling in the mail.
g. Cost of outer container if specially designed and constructed for goods sent as registered, insured, or c.o.d mail.
h. The established market value, as determined by a recognized dealer selected by the claimant, of numismatic coins or stamps having philatelic value.
i. Federal, State or city sales tax paid on articles which are lost or totally damaged.
j. Postage (not fee) paid for sending damaged articles for repair. The Postal Service must be used for this purpose. Other reasonable transportation charges may be included if postal service is not available.

.162 *Nonpayable Claims. Payment will not be made in excess of the actual value of the article or in excess of the maximum amount covered by the fee paid. Further examples where indemnity may not be paid are as follows:*

a. The article was not rightfully in the mail. This includes c.o.d. articles sent to addressees without their consent for purposes of sale or on approval.
b. Claim is filed more than one year from the date the article was mailed.
c. Evidence of insurance coverage has not been presented.
d. The mailer failed to state at time of mailing the full value of a registered article (see section 161.24).
e. Loss, rifling, or damage occurred after delivery by the Postal Service.
f. Claim is based on sentimental loss rather than actual value.
g. The loss resulted from delay of the mail, except as in section 164.161(d).
h. The claim is for consequential loss rather than for the article itself.
i. Contents froze, melted, spoiled or deteriorated.
j. The parcel was packaged in such a way that it would not have reached the addressee in good condition in the ordinary course of the mail.
k. The damage consisted of abrasion, scarring, or scraping of suitcases, handbags, and similar articles which were not properly wrapped for protection.
l. The death of baby poultry was due to shipment to points where delivery could not be made within 72 hours from the time of hatch.
m. Death of honeybees and harmless live animals which was not the fault of the Postal Service (see section 124.332).
n. Failure on the part of the second party (the addressee if claim is filed by the mailer, or the mailer if the claim is filed by the addressee) to cooperate in the completion of the claim.

.17 USED ARTICLE(S) LOST OR DAMAGED

The St. Louis Postal Data Center depreciates used article(s) lost or damaged based on the following:

a. Used articles with a life expectancy of ten (10) years are depreciated at ten percent (10%) per year.
b. Used articles with a life expectancy of twenty (20) years are depreciated at five percent (5%) per year.

164.2 PREPARATION OF INSURED AND C.O.D. MAIL CLAIMS

.211 The accepting postal employee will enter a nine-digit claim number (see 164.42a) and complete items 1 through 10 on Form 3812. Type or print legibly with a ballpoint pen.

Press hard.

Item 1. Check appropriate *block* indicating reason for claim. If claim is for *Complete Loss of Contents* add: *CONT* after the block for Complete Loss. *No c.o.d. remittance* claims should be initiated as *Complete Loss.*

Item 2. Indicate use of airmail, if applicable.

Item 3. Check the appropriate block to indicate category of the claim.

Item 4. Indicate special delivery service, if applicable.

Item 5. Enter city, State and ZIP Code of *mailing post office* (not necessarily the post office where the claim is being filed). If the package was mailed at a station or branch, use the appropriate ZIP Code.

Item 6. Enter the date the package was mailed.

Item 7. Enter the date the claim is being filed.

Item 8. Enter city, State and ZIP Code of *post office of address.*

Item 9. Enter amount of postage paid, including special fees such as special delivery or special handling.

Item 10. Enter amount of insurance fee paid.

.212 Assist the claimant in completing items 11 through 14 and items 17, 18 or 19 of Form 3812 to the extent possible as follows:

Items 11 and 12. Names and addresses of mailer and addressee. The mailer should indicate the payee by checking the payee block in either item 11 or 12. The name of the payee indicated in items 11 or 12 *must* agree with the payee shown in the *Mail Check To* portion of the identification slip.

Item 13. Describe the articles lost or damaged; indicate the purchase price, the approximate year of purchase, whether the article was new or used, or the price of materials used and labor, if handmade. Describe the items in sufficient detail for the postal data center to determine that the value claimed is not excessive. Attach a supplementary sheet of paper to the claim form if necessary.

Item 14. Enter the total amount claimed excluding postage.

Item 15. MUST BE COMPLETED BY ADDRESSEE *ONLY.*

Item 16. Complete for COD mailings only.

Item 17. Complete if package was commercially insured. Include policy number, name and address of insurance company and amount of deductible, if appropriate.

Item 18. Have the *mailer* sign, date, and enter his telephone number in appropriate block. If the claim is being filed by a business firm, the firm name should be entered in the signature block and the firm's representative should sign the block labeled *BY.*

Item 19. Have the *addressee* sign, date, and enter his telephone number in appropriate block. If the claim is being filed by a business firm, the firm name should be entered in the signature block and the firm's representative should sign the block labeled *BY.*

.134 *Bulk Mailings*

Form 3606, *Sender's Statement and Certificate of Bulk Mailing of Matter Paid With Stamps or Meter Postage,* is used to issue certificates that a specified number of pieces have been mailed. These certificates are furnished only for mailings of identical pieces of first- and third-class matter paid with ordinary stamps, precanceled stamps, or meter stamps and for identical pieces of first- and third-class official mail bearing ordinary official mail indicia. A certificate will not be issued for bulk mailings paid with permit imprints.

.135 *Quantity Mailings*

When the number of articles ordinarily presented justifies such action, mailers must comply with the following:

a. When individual certificates on Form 3817 are desired, the forms must either be fixed by the stub to the articles or the forms must be consecutively numbered and fastened together. If the certificates are numbered, the articles should also be lightly numbered at a uniform place to permit relating the parcels and certificates.
b. When the articles are descriptively listed on firm mailing sheets or on special approved forms, they should, if practicable, be presented in the order in which they are entered on the sheets; otherwise, each entry must be consecutively numbered by the mailer, and the articles lightly numbered to show the sheet and line number on which they are described.

.14 ADDITIONAL CERTIFICATES AFTER MAILING

To obtain an additional certificate after mailing, the sender must present the original certificate and an additional certificate endorsed *duplicate* or *copy* showing the original dates of mailing. The additional certificate will be postmarked to show the current date.

.15 PAYMENT AND CERTIFICATION

Mailers must affix uncanceled stamps or meter stamps to cover the fee for certificates of mailing. The stamps will be canceled by the postmark of the mailing office. Signatures or initials of accepting employees are not required.

.16 PAYMENT AND CERTIFICATION FOR OFFICIAL MAIL

Certificates of mailing, prepared on Form 3606 for identical pieces of first- and third-class official mail and certificates prepared on Form 3877, Form 3877-A or other forms printed at the mailer's expense for certificates for three or more pieces of official mail of any class, need not have stamps affixed to cover the fee for the certificates of mailing. The forms must be presented to the post office in duplicate. The space provided on the forms for affixing stamps will be postmarked on the original and duplicate copies. Duplicate copies will be retained by the postmaster and forwarded at the end of each accounting period to the Manager, Government Revenue and Examination Branch, Accounting Division, U.S. Postal Service Headquarters, Washington, DC 20260, for billing purposes. Individual certificates of mailing prepared on Form 3817 or on forms specially printed at the mailer's expense for use as an individual certificate for ordinary official mail of any class must have stamps affixed to cover the fee for the certificate of mailing.

165.2 RETURN RECEIPTS

.21 PURPOSE

Return receipts furnish the mailer evidence of delivery. The fee paid for a return receipt does not insure the article against loss or damage. Return receipts may be obtained for mail which is sent COD, is insured for more than $15.00, or which is registered or certified. For international return receipts, see part 450 of Publication 42, *International Mail.*

.22 FEES (IN ADDITION TO POSTAGE AND OTHER FEES)

Requested at Time of Mailing:	
Showing to whom (signature) and date delivered	$0.25
Showing to whom (signature), date and address where delivered	.45
Requested After Mailing:	
Showing to whom and date delivered	.45

.23 PROCEDURES AT MAILING OFFICE

.231 The sender may request a return receipt, Form 3811, at the time of mailing by informing the postal clerk or writing on the mail *Return Receipt Requested* or *Return Receipt Requested Showing Address Where Delivered.* Firm mailers will complete the mailer's entries on the form, including the article identification number, attach the form, and *place the required endorsement on the article.* Individual mailers will also normally complete the mailer's entries on the form, but in those cases where the article is mailed with the endorsement and the correct postage but without Form 3811 attached, the clerk shall complete the form and attach it to the article.

.232 The sender may request a return receipt after mailing an article which is registered, certified, COD, or insured for more than $15.00 by paying the required fee. To do so, the sender shall complete Form 3811–A, *Request for Return Receipt (After Mailing),* attach the proper postage, and mail the Form 3811–A to the delivery post office. The sender will be provided the date of delivery and the name of the person who signed for the article as shown in delivery records. Neither the signature of the recipient nor the address of delivery will be provided.

.233 In the event a mailer does not, after a reasonable period of time, receive a return receipt he has paid for, he may, within one year of mailing, request a duplicate if he can produce a receipt for such payment. The mailer may request the duplicate by presenting the receipt at any post office, branch, or station. The clerk shall assist the customer in completing Form 3811–A, postmark it, and mail it to the delivering post office. No charge for such duplicate is to be made.

.234 Payment for return receipts shall be noted on the receipt given for purchase of the COD, registry, certified mail, or insurance service.

.24 PROCEDURES AT OFFICE OF DELIVERY

.241 *Return Receipt, Form 3811*

a. Delivery employees shall obtain the signature of addressee or his agent. Delivery shall only be made to the addressee if so requested on the Form 3811, except as provided in 165.341. The address of delivery shall be filled in only if requested on Form 3811. The delivery employee shall examine the card for completeness and make any corrections necessary. Return receipts shall be given to the clearing clerk daily when the carrier returns to the post office.
b. The clearing clerk shall check all return receipts to make sure they are properly signed and dated. If the mail was restricted in delivery, check to see that delivery was not made to an agent, except as provided in 165.341. If delivery was improper, have addressee sign a second return receipt. Take prompt corrective action with delivery employees if return receipts are improperly handled or completed. Postmark all return receipts legibly and mail no later than the first working day after delivery. Undeliverable articles will be handled in accordance with 159.272 and the appropriate endorsement will be made in block 6 of Form 3811.

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Part 166

SPECIAL DELIVERY

166.1 DESCRIPTION

.11 POINTS OF DELIVERY

Special delivery mail is given immediate delivery at the office of address during prescribed hours to:

a. Points within a radius of 1 mile of any post office, station, or branch (except contract and rural stations and branches).
b. Points within the city delivery limits of any post office having this service. These conditions apply to customers of rural routes residing within the 1-mile limitation.
c. Residences on rural routes if the road is passable and is located within one-half mile of rural route; otherwise, mail is left in the box. Delivery will be made by carrier on his regular trip.
d. Customers of nonpersonnel rural stations and branches if their residence is within one-half mile of the unit and if there is a passable road leading to it. Otherwise, mail is left in customer's box at the unit.
e. Points within one-half mile of a star route by the star route carrier who may make such delivery on his regular trip if the deviation from his regular route will not delay him in meeting schedule requirements.
f. Boxes erected on the city delivery boundary line and if customer lives no more than 3 blocks beyond and there is a passable walk or street to the residence. If there is no passable walk or street, the article is left in the box if the box will accommodate it. Otherwise, a notice is left in the box.

.12 TRANSPORTING AND DELIVERING

Special delivery mail is given preferential handling to the extent practicable in dispatch and transportation. Payment of a special delivery fee does not insure safety of delivery or provide for the payment of indemnity. Money or other valuables sent special delivery should be registered also. Insured, certified, and COD mail may be sent special delivery.

166.2 PAYMENT FOR SPECIAL DELIVERY

.21 SPECIAL DELIVERY FEES

Class of mail	Weight		
	Not more than 2 pounds (cents)	More than 2 pounds but not more than 10 pounds (cents)	More than 10 pounds (cents)
First-class and priority mail	$1.25	$1.50	$1.75
All other classes	1.75	1.85	2.15

.22 PREPAYMENT OF FEE

Prepay the special delivery fee by special delivery stamps, ordinary postage stamps, or meter stamps. The special delivery fee must be prepaid in addition to regular postage except on official mail sent under the provisions of 137.2

.23 MARKING

Mailers should mark prominently the words *Special Delivery* preferably below the postage and above the name of the addressee as follows:

Frank B. White
2416 Front Street
St. Louis, MO 63125

SPECIAL DELIVERY

Mr. Henry Brown
24789 Alaska Avenue
Chicago, IL 60652

166.3 WHEN TO DELIVER

.31 HOURS OF DELIVERY

.311 *At City Delivery Offices*

a. Normal hours of delivery begin at 7 a.m. and end at 11 or 12 p.m., the ending time being contingent upon the last major mail receipt. However, depending on local conditions, first-trip delivery may begin as early as 6 a.m. or as late as 8 a.m. Delivery on the first trip should be completed within four hours of the messengers departure from the office.
b. Special delivery messengers should leave delivery unit ahead of regular letter carriers serving the same territory. Every effort should be made to deliver specials ahead of ordinary mail.
c. Deliver specials in business sections by regular letter carrier on first trip when delivery before 8:30 a.m. and ahead of special delivery messengers can be assured.

.312 *At Nonclty Delivery Offices*

Normal hours of special delivery are 7 a.m. until closing hour of the post office. Unless there is a demand for earlier delivery, postmasters may authorize messengers to depart as late as 8 a.m. on the first trip. Specials arriving after the office is closed, but not later than 9 p.m., will be delivered provided the postmaster or an employee is on duty.

.313 *Sundays and Holidays*

Sunday and holiday deliveries should be scheduled as needed, but not to exceed a maximum of three delivery trips, one each in the morning, afternoon and evening.

.314 *Outside Regular Delivery Hours*

If specials arrive outside regular delivery hours, notify customers by telephone, if practicable; also notify customer if requested. Attempt to telephone rural customer if specials arrive after the rural carrier has departed on his route.

.315 *Unusual Conditions*

Postmasters and postal employees are expected to display interest and ingenuity to effect the prompt delivery of specials.

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.32 FREQUENCY OF DELIVERY

A maximum of four daily city-wide trips will be made. If unusual conditions exist and postmasters feel additional trips are needed, obtain specific authority from the Regional Postmaster General. Fixed schedules will be established to connect major mail receipts to insure that the maximum available specials are delivered on each trip. Establish an additional mid-morning trip in the central business sections, if needed. Schedule one of the city-wide trips in the mid or late afternoon to provide delivery of all available specials to firms prior to the normal closing hour. The last city-wide trip should connect with the last major mail receipt; however, messengers should not leave after 9 p.m.

166.4 DELIVERY PROCEDURES

.41 TO WHOM DELIVERY MAY BE MADE

Ordinary special delivery mail is delivered to the addressee or to anyone authorized to receive his mail. At city delivery offices, special delivery mail, other than registered and insured, addressed to a post office box or to the general delivery, is delivered to the box or held for delivery through the general delivery window, unless the addressee has given written notice that such mail be delivered to his residence or place of business. When special delivery mail is received at a city delivery office addressed to a street address and the addressee usually receives his mail through a post office box or through the general delivery window, the mail is delivered as addressed, unless the addressee files a written notice directing delivery to his box or through the general delivery window. At offices not having city delivery service, all special delivery mail is delivered to the residence or place of business of the addressee, unless the addressee files a written request that such mail be deposited in his post office box or held for delivery through the general delivery window.

.42 DELIVERY IN MAIL RECEPTACLES

When no one is at the address to receive mail, the messenger, if he can determine that the occupants are absent for not more than 1 day, will leave the mail and a notice on Form 3955, *Special Delivery Notice.*

.43 NOTICE OF ATTEMPTED DELIVERY

When mail cannot be delivered as described in 166.42, the Form 3955, left under the door, between the door and doorjamb, or in the receptacle, will state where the special delivery mail is being held.

.44 RURAL AND STAR ROUTE CARRIERS

If delivery is attempted and cannot be made to a customer's residence or place of business, the special delivery matter is deposited in his box and a notice of nondelivery on Form 3955 is left at his residence or place of business.

.45 MILITARY POSTS AND CAMPS

No special delivery service is provided by military personnel at military posts and camps. Special delivery by messenger is made only to addresses such as officers' homes, headquarters, hospitals, and other places where it is definitely known that delivery can be made.

.46 FORWARDED SPECIAL DELIVERY MAIL

Special delivery mail that is forwarded is not entitled to special delivery at the second office, unless a forwarding order had been given by the addressee at the office of original address in advance of the arrival of the mail.

Part 167

SPECIAL HANDLING

167.1 DESCRIPTION

Special handling service is available for third- and fourth-class mail only, including that which is insured or sent COD. It provides preferential handling to the extent practicable in dispatch and transportation, but does not provide special delivery. Special handling parcels are delivered as parcel post is ordinarily delivered, on regular scheduled trips. Except for official mail sent under the provisions of 137.2, the special handling fee (or special-delivery fee) must be prepaid on all parcels that must be given special attention in handling, transportation, and delivery such as parcels containing baby poultry or honey bees. Baby poultry or queen honey bees sent priority mail or at the first class rate will also have the special handling fee paid, since such parcels contain third- or fourth-class mail in addition to the first-class or priority mail endorsement.

167.2 FEES

Weight	Fee
Not more than 2 pounds	$0.50
More than 2 pounds but not more than 10 pounds	.70
More than 10 pounds	1.00

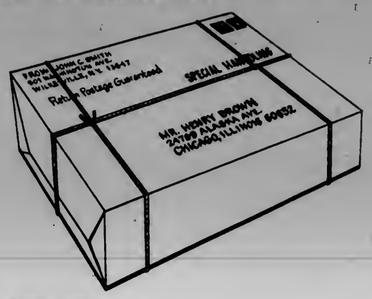
The special handling fee is in addition to regular third- or fourth-class postage and may be prepaid by ordinary postage stamps or by meter stamps. The special handling fee on official mail is collected from Federal Government agencies and departments under the reimbursement procedures in 137.21.

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167.3 MARKING OF PARCELS

Mailers should mark the words *Special Handling* above the name of the addressee and below the stamps as illustrated:



167.4 FORWARDING

Parcels undeliverable as originally addressed and forwarded to the addressee at a new address are given special handling without requiring an additional special handling fee. Except on official mail sent under the provisions of part 137, additional postage at the regular third- or fourth-class rate is collected on delivery. Forwarding postage on official mail is collected under the reimbursement procedures in 137.11 and 137.21.

Part 168
CERTIFIED MAIL

168.1 DESCRIPTION

Certified mail service provides a receipt to the sender and a record of delivery at the office of address. No record is kept at the office at which mailed. It will be dispatched and handled in transit as ordinary mail. No insurance coverage is provided. Return receipts and restricted delivery services may be obtained as set forth in part 165 and by the payment of additional fees as provided in 165.22 and 165.32. For circumstances under which



restricted delivery may be accomplished by delivery other than to the addressee, see 165.34. Certified mail will be endorsed in the following manner:

168.2 CLASS OF MAIL TO WHICH APPLICABLE

Any mailable matter of no intrinsic value on which postage at the first-class rate has been paid will be accepted as certified mail. This does not exclude articles of a nonnegotiable character and other similar matter which would involve a cost of duplication if lost or destroyed. The mail may be sent by air on payment of the required postage. Special delivery services are available on payment of the prescribed fees. Special delivery services may be provided without prepayment of postage and fees on official mail sent by Federal Government agencies and departments under the provisions of 137.2.

168.3 FEES

.31 FEE IN ADDITION TO POSTAGE	60 cents
.32 RESTRICTED DELIVERY	60 cents
.33 RETURN RECEIPTS	
Requested at time of mailing:	
Showing to whom and date delivered	25 cents
Showing to whom, date, and address where delivered	45 cents
Requested after mailing:	
Showing to whom and date delivered	45 cents

168.4 MAILING

.41 PAYMENT OF FEES AND POSTAGE

The fee and postage may be paid by ordinary postage stamps, meter stamps, or by permit imprints. The fee and postage on official mail of Federal Government agencies and departments are collected under the reimbursement procedures in 137.21.

.42 POINTS TO WHICH MAILABLE

Certified mail may be addressed for delivery only—
a. In the United States, its territories and possessions.
b. In the Canal Zone.
c. Through Army, Air Force (APO) and Navy (FPO) post offices.
d. Through the United Nations, N.Y. post office.

.43 WHERE TO MAIL

Customers may mail certified mail at the post office, branch, or station or give it to a rural carrier. It may also be deposited in mail drops in post offices, street letterboxes, nonpersonnel rural stations and branches, or any other receptacles for first-class mail, provided the specific directions in 168.44 are followed.

.44 HOW TO MAIL

Obtain blank certified mail coupons, Forms 3800, *Receipt for Certified Mail* (no charge) at the post office or from rural mail carriers. Also obtain blank return receipt forms if needed. Observe the following procedure:
a. Enter on the receipt portion of the certified mail coupon the name and complete address of the person or firm to whom the mail is addressed.
b. If return receipt is wanted, check block on the mailing receipt to show the fee and endorse the article on the address side near the certified mail endorsement *Return Receipt Requested* or *Return Receipt Requested Showing Address Where Delivered*. The mailer must enter the certified mail number on the return receipt card, address it to himself, and attach

.62 RETURNS

Check carrier and messenger returns in the manner described in 161.763c. Carrier will turn in all undelivered articles, delivery receipts, and return receipts for delivered articles.

.63 CLEARANCE

Carrier will prepare Form 3858, *Carrier's Clearance Receipt*, to show the combined total of returned certified letters and delivery receipts. The clearing clerk will sign this receipt and return to the carrier or messenger as his personal record.

.64 DELIVERY TO MILITARY INSTALLATIONS

Certified mail addressed for delivery at military installations within the continental United States must be delivered to the military installations in the same manner as numbered insured mail.

.65 FILING DELIVERY RECEIPTS

File individual delivery receipts, Form 3849, by the last two digits of the certified mail number in the consolidated delivery receipt file unless quantity accumulated over the filing period is less than 200 in which case use last digit only for breaking file. File firm delivery receipts, Form 3883, by the name of the addressee or chronologically by date.

.66 UNDELIVERABLE

Handle certified mail that is undeliverable or is to be forwarded in accordance with 159.27.

168.7 VERIFIED MAILING RECEIPTS

.71 INDIVIDUAL MAILINGS

Verify as follows:
a. Compare name and address of addressee on the article and on Form 3800.
b. If sender has checked blocks on Form 3800 for return receipt or restricted delivery service, make sure the article bears the proper endorsement.
c. Examine the return receipt card to determine whether appropriate blocks in instructions to delivering employee have been checked, and that the card is securely attached. Make sure address is properly completed by the sender.
d. Make certain that proper postal charges have been paid by stamps affixed; endorse mail if special delivery.
e. Postmark receipt portion and give to mailer. Initial, by the entry on the receipt in ink, time article was mailed if requested to do so by sender.
f. Deposit article in mail. Do not return to the mailer.

.72 QUANTITY MAILINGS

If the certified mail numbers are listed on firm mailing bills in consecutive order and the mail is similarly arranged, verify quantity mailings as follows:
a. Count the pieces of mail and listings on the bill. These should agree.
b. Compare certified mail numbers on first and last articles with the first and last numbers listed on the bill. These should agree.
c. Make a spot check to determine that mailings are properly prepared, and that postal charges have been fully prepaid.
d. Postmark receipt and give to mailer. Enter time articles were mailed if requested to do so by the sender, placing your initials by the entry. Use ink to enter time and initials in the space for the name of accepting employee.
e. Deposit articles in mail. Do not return to mailer.

Part 169
POST OFFICE LOCKBOX AND CALLER SERVICE

169.1 PURPOSE AND DEFINITION OF SERVICE

.11 GENERAL PURPOSE

Post Office Lockbox and Caller Service are premium services provided for the convenience of the public. These two services, provided in addition to available carrier or general delivery, afford customers privacy and permit them to obtain their mail at their convenience during the hours the lobby is open. Both services make use of the traditional post office box number as the address.

.12 DESCRIPTION OF SERVICE

.121 *Lockbox Service*

a. Lockbox service is provided only through the use of post office lockboxes. The term drawer is hereby abolished and all boxes previously referred to by that term are to be considered the same as lockboxes for all purposes, including rental rates. The terms lockbox and box are to be considered the same for purposes of these regulations and the term boxholder is to be applied to those who use lockboxes.
b. Lockboxes are located only in Postal facilities. Customers receive their mail in these boxes and may open the boxes by means of a key or combination. Numbers are assigned to the boxes and the customers must use their assigned post office box number in their addresses immediately above the city, state and ZIP Code.
c. Five sizes of lockboxes are available for rent and customers are assigned a lockbox of a certain size in accordance with their needs as determined by the postmaster.
d. Boxes without doors for customer access, formerly identified as *Call Boxes*, shall be used only in conjunction with general delivery service, and no rent shall be charged for their use.
e. Lockbox service does not include *alternate means of delivery* established to replace, simplify, or extend carrier delivery service. Examples are Vertical Improved Mail (VIM) units, neighborhood cluster box units, apartment house units, rural non-personnel units, etc. These *alternate means of delivery* shall not be administered or charged for under provisions of this part.

.122 *Caller Service*

a. Caller Service is provided through the use of sacks, pouches, trays, bundles, and other devices. Normally, mail is handed to the customer or his agent at a call window or from a loading dock. Caller service users are termed Callers throughout these regulations.
b. Caller service will be provided to customers under the following conditions:
(1) When boxholders regularly receive more mail than their lockboxes will hold and boxes of adequate size are not available. To determine when this condition exists, the following guidelines apply:
(a) For this purpose, *regularly*, is interpreted to be when the mail exceeds the capacity of the box for three out of five days.
(b) Types of mail which are to be considered in making this determination are: letters, flats, second-class publications, SPR's and any items which could be placed in a box in the absence of other mail. Excluded are large boxes, phonograph records, thick

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catalogs, or any similar item that has greater dimensions than the lockbox.

(2) To customers who wish to rent more than five lockboxes in any one facility. Five lockboxes may be rented to one customer, but additional separation may be provided only through the use of caller service. Customers who currently rent more than five lockboxes may retain those boxes providing that the appropriate caller fees are paid for all separations in excess of five (See 169.323b.)

c. Caller service may be provided to customers under the following conditions:
(1) To a new customer who will receive (or can be expected to receive) too much mail to be accommodated in the largest box available in the facility.
(2) To a customer who, at his option, desires a lockbox but none is available—with the provision that such service does not adversely affect normal postal operations.
(3) To any customer who desires caller service in lieu of lockbox service even though boxes of adequate size may be available and the provision of such service does not adversely affect normal postal operations.

d. No caller service shall be provided from post offices with 35 or fewer revenue units.

e. A post office box number is assigned to the caller for each separation utilized and the caller must use his assigned number in the address immediately above the city, state and ZIP Code.

f. A customer may obtain caller service for the purpose of receiving the mail of a client. A caller number issued to such a customer shall be considered to be held by the customer and not the client. All restrictions or regulations provided in 154.212 shall be applicable to the provision of caller service under this section.

g. No physical lockbox shall be used for purposes of obtaining a number for a caller.

h. If a caller is already using a number assigned to a lockbox, the caller may be issued a new caller number to replace it. However, this may be done only with the consent of the caller. (See 169.323 for rate to be charged when a caller holds a number assigned to a lockbox.)

i. Where possible, a post office lockbox presently used by a caller for purposes of obtaining a caller number may be renumbered, or an ALPHA prefix or suffix added to the number, and rerented to another party.

j. Caller service may be restricted by postmasters with approval of the district manager if local conditions justify such restrictions.

.13 GENERAL CALLER SERVICE INFORMATION

.131 *Caller Service Terms*

Services which may have been locally termed as Phantom Box Service, Holdout Service, Firm Direct Service, Firm Holdout Service, Sack Service and miscellaneous other services of similar nature which involved the customer use of a post office box number as an address and which required the customer pick-up of mail from a postal facility on a regular basis are replaced with caller service.

.132 *Carrier Holdout Service and Other Exceptions*

a. Caller service does not include firm holdout service provided to customers under provisions of 351.

b. Caller service does not include general delivery service.

.133 *Reservation of Caller Numbers*

a. Callers of record may reserve caller numbers for future use. Postmasters shall determine which numbers may be reserved and may restrict this service in accordance with local conditions. The fee for this special service is detailed in 169.31

b. If a caller has reserved a number and subsequently receives mail separated to that number or otherwise notifies the post office that he intends to begin receiving mail addressed and separated to that number, then the appropriate semi-annual rate for caller service will be charged and no return of the reservation fee or any part of the reservation fee will be made. If the customer continues to receive mail addressed for separation to the number he will be charged the appropriate caller fee and for the next fiscal year no reservation fee will be charged. (Note exceptions in 169.322b.)

.14 HOW TO RENT A LOCKBOX OR OBTAIN CALLER SERVICE

.141 *Application for Post Office Box, Form 1093*

Form 1093, obtainable from any postmaster, must be filled out completely and submitted to the postmaster at the post office where box or caller service is desired. The application will be approved or denied by the postmaster. Furnishing false information on the application is sufficient reason for denial (see 169.8).

.142 *Known Applicant*

A known applicant shall be issued a box or provided caller service upon submission of Form 1093 and payment of the proper rent or fee.

.143 *Unknown Applicant*

a. Applicant must present his driver's license, military ID, or other valid identification to postmaster upon submission of the application, Form 1093.

b. Postmasters will verify that the applicant resides or conducts business at the address shown. Verification procedures will be initiated immediately upon receipt of the application. Verification for local customers should be completed within three working days.

c. A box will be assigned or caller service provided immediately upon approval of the application and receipt of box rent or caller fee.

.144 *Minors*

Boxes may be rented or caller service extended to minors unless parents or guardians object in writing.

.15 CONDITIONS OF USE

.151 *Individuals*

An individual boxholder or caller may receive through his box or caller service mail addressed to himself, his family, relatives, or other persons residing in his household, whether permanently or temporarily, if the mail is properly addressed to the box number.

.152 *Firms, Corporations, Associations, or Institutions*

A firm, corporation, association, or public or private institution may receive through its box or caller service mail addressed to its name, any of its officials, employees, inmates, students, teachers, or other individuals associated with the organization if the mail is properly addressed to the box number. (See also 169.122f.)

c. Continue to distribute the mail to the box for up to 10 days. If at the end of that time the customer has not paid the rent or left other instructions, remove the mail from the box and treat that mail and any subsequent mail addressed to the customer at that box as undeliverable mail, unless it is possible to deliver it by carrier or general delivery.

d. At the end of 10 days, close the box if the customer has not paid his rent or submitted other instructions.

e. If the customer pays his rent, unplug the lock or notify him of his new combination.

.542 *Callers*

a. If a caller fails to pay his fee by the due date, does not submit a change of address order, and does not attempt to obtain his mail, retain his mail for a period not exceeding 10 days, then treat his mail as undeliverable mail unless it may be readily delivered by carrier.

b. If a caller fails to pay his fee by the due date, does not submit a change of address order, and attempts to obtain his mail within 10 days, explain to him or his agent that at the end of the tenth day after the due date, if payments or a change of address order is not received, his mail will be delivered to his street address. Explain also that he will lose the use of his post office or caller box number(s) and may not obtain his mail at the postal facility. Continue to give him his mail until the end of the ten-day period, but do not provide him in excess of one separation (in case multiple separations had been provided) during that period.

.55 WHEN A BOX IS SURRENDERED

.551 *Rerental of a Surrendered Box*

If a customer surrenders a box before the end of the payment period, the box may be rented to another customer after 15 days. If the box has been closed by the Judicial Officer, the box may be rented to another customer after 20 days. (See 169.8.)

.552 *Surrender of a Box*

A box shall be considered to have been surrendered if:

a. The boxholder submits a permanent change of address order.

b. The boxholder refuses or fails to pay appropriate rent or fees by the due date.

c. The boxholder submits in writing an order to discontinue service.

.553 *Nonsurrender of a Box*

A box shall not be considered to have been surrendered if:

a. The boxholder dies or disappears before the end of the period for which he has rented the box.

b. The boxholder submits a temporary change of address order.

c. There is a change of address order issued for mail going to the box by any person other than the boxholder.

.554 *Refund of Box Rent and Caller Fees*

a. Handle all refunds under this section in accordance with 147.26.

b. When a lockbox is closed or surrendered or caller service is terminated, no portion of the rent or fees shall be refunded for the remainder of the semiannual payment period in which the action occurs, unless such closure or termination is the result of discontinuance or relocation of a facility (see 169.554c). A customer, who has paid for a semiannual rental period

subsequent to that in which the closure or termination occurs, may apply for a refund of the entire box rent or caller fee applicable to the subsequent period.

c. Former lockbox or caller service customers of discontinued or relocated postal facilities may obtain a refund of unused box rent or caller service fees whenever additional travel of .4 kilometers (.25 miles) or more (from the address listed on the applicable Form 1093) is required to obtain equivalent service. For refunds under this section, one-sixth of a semiannual rental fee may be refunded for each month remaining in the rental period. If the effective date of the facility discontinuance falls on or before the 15th of the month, the refund shall be computed from the first day of that month. If the effective date is after the 15th day of the month, the refund shall be computed from the first day of the following month.

169.6 OPERATIONS

.61 PLACING IN BOXES

Place mail addressed to post office boxes in proper boxes immediately after distribution. If the flow of the mail allows it and no lengthy delays will occur, attempt to place larger items such as newspapers, catalogs, and magazines in boxes prior to placing smaller items such as letter mail and flats into the boxes.

.62 WITHDRAWAL FROM BOXES

Mail may be delivered to authorized persons who have forgotten their keys or cannot open their boxes. However, mail should not be handed out to persons properly supplied with keys who can open their boxes but who make it a practice of requesting that their mail be given to them.

.63 DELIVERY BY CARRIER

Do not remove mail from boxes of address for delivery by carrier except for the case of box service discontinued due to failure to pay rent.

.64 MULTI-PICKUP CALLERS

Callers who desire to call at a postal facility for their mail more than once in any 24-hour period as a regular practice shall make provisions with the postmaster for the establishment of a proper and reasonable schedule of pickup. Postmasters shall determine the times and places most satisfactory to the post office.

.65 STANDARDS

.651 *Box Service*

If the postmaster determines that safety and security provisions allow it and if he determines that there is sufficient public demand, then he may keep the box lobby open to the public 24 hours per day.

Subchapter 170 NONMAIL SERVICES

Part 171

MONEY ORDERS

171.1 ISSUANCE OF DOMESTIC MONEY ORDERS

.11 WHERE SOLD

Domestic money orders may be purchased at all post offices, branches, and stations in the United States and its possessions. Money order facilities are also provided for members of the Armed Forces of the United States.

.12 AMOUNTS, FEES, PAYMENTS

.121 *Money Order Amounts*

The maximum amount for a single money order is $300. There is no limitation on the number of orders that may be purchased at one time, except when the Postal Service may impose temporary restrictions.

.122 *Money Order Fees*

a. The fee for a postal money order issued to authorized civilian and military personnel and/or their dependents by an Armed Forces Postal Clerk on board any ship or at any Military Post Office (APO or NPO) located outside the 50 States, Puerto Rico, and Guam is 15¢, regardless of the amount of the money order. Postal money orders issued to others shall be charged at the fees indicated below.

b. Fees for domestic money orders issued at other post offices including those with branches or stations on military installations are as follows:

Amount of money order	Amount of fee
	Domestic
$0.01 to $10	$0.60
$10.01 to $50	.70
$50.01 to $300	.90

.123 *Paying for Money Orders*

Money orders must be paid for in United States money. Coins are legal tender in any amounts.

.13 ISSUE PROCEDURES FOR MONEY ORDERS

.131 *General*

All orders will be issued on the money order imprinter. Manual issuance is prohibited.

.132 *Imprinter Preparation*

At the start of a duty tour, the issuing clerk receipts for blank money order sets and a numbered validation plate unless already in his possession, by signing control registers maintained on item 0–127a. At the work station, the clerk verifies that the office number plate is affixed and uses the non-metallic

stylus to set the appropriate date into the dating device on the imprinter. (The setting from left to right is year, month, and day, such as 740402 for April 2, 1974.) The validation plate is then placed in the designated position on the imprinter as described in the operating instructions.

.133 *Imprinting the Order*

Before imprinting each money order, clerks will verify that the proper date is set, the validation plate is in place and the print handle is positioned to the extreme left. Set the five amount keys to the requested amount (never more than $300) and verify the setting as registered in the small windows above the keys. Next, select and insert the limitation plate for the same or next higher amount, and insert the blank money order form set so that it lies flat on the machine within the form guides. Finally, imprint the order by moving the print handle in one continuous motion to the extreme right position and returning it in a continuous motion to the starting position.

.134 *Completing the Transaction*

Remove the imprinted form set, snap-out the carbons and dispose of the carbons and stub as trash. Verify that all information (including validation plate and limitation plate imprint) is clearly imprinted on the money order, and that the date, office number, and amount are clear and completely legible on all parts. (See 171.162 for spoiled orders.) Both customer and clerk should verify the amount on the order. Next, collect payment for the face amount and the fee and then hand the money order and customer's receipt to the customer. Finally, place the voucher in the proper receptacle for end of day reporting, replace the limitation plate in its storage slot and move the amount keys back to their asterisk position. If two or more clerks share a single imprinter at the same time, each must remove his validation plate from the imprinter after his own sale.

.135 *Inoperable Imprinter Procedures*

Manual issuance of money orders is not permitted. Inoperable imprinters must be replaced or restored to service as quickly as possible. While service is disrupted, customers will be advised of the anticipated time that service will be restored and of the location of nearby facilities where service is available. Also, they will be allowed to apply on Form 6001, *Application for Domestic Money Order* for immediate issuance of an order upon restoration of service. In such instances, procedures as prescribed for issuance to rural customers (171.15) will apply, except that mailing of orders to payee, and orders and/or customer receipt to customers will be at Postal Service expense.

.14 COMPLETION OF MONEY ORDER BY PURCHASER

Clerks should remind the purchaser of the necessity to complete the information on both the order and the customer's receipt. The Postal Service is not liable for money orders lost before completion by the purchaser. Purchasers must fill in the following information on the money order and the customer's receipt:

a. *Name and address of payee and name and address of purchaser.* The customer should do this promptly to protect his rights in the event the order is lost. Also, he should complete and safeguard the customer receipt since it must be presented if inquiries are made later. Money orders may be made payable to:
   (1) The purchaser, if desired.
   (2) Only one person or firm. Show complete name to avoid redemption difficulties.
   (3) Payee by his official title. *Examples:* Director of Internal Revenue, Baltimore; Cashier, First National Bank, Richmond, VA.

Mail Matter, should be initiated and processed immediately if loss is believed to have occurred in the mail.
   (3) Application for a duplicate of a mutilated order or an order void by too many endorsements, on Form 6401, may be filed at any time if the order is attached.
   (4) If the customer's receipt is presented, the post office shall endorse it "Form 6401 (date)" and return it to the applicant. *The postmaster shall not keep any record of the filing of the form.* Reply will be made directly to the inquirer.

b. *Issuance of Duplicate Order*
   (1) The Money Order Division will issue a duplicate money order in accordance with the wishes of the purchaser applicant without the consent of the payee or endorsee, provided the records indicate that payment has not been made. However, the purchaser has no claim on COD orders.
   (2) Send a mutilated or void order to the Money Order Division with a properly completed Form 6401.
   (3) The Money Order Division will forward the duplicate to the payee named on Form 6401. The customer's receipt will be sent to the person submitting Form 6401, when he is not the payee of the duplicate.

c. *Orders Recovered After Duplicate Issued*
   When a duplicate order has been issued, write *Canceled-Duplicate Issued* on the original order and send it to the Money Order Division. If the postal employee does not know whether a duplicate was actually issued, send the recovered order with Form 6401.

d. *Payment of Duplicate Orders*
   A duplicate money order is payable only to the payee named thereon or to his endorsee.

171.2 INTERNATIONAL MONEY ORDERS

.21 ISSUANCE

.211 *Where Sold, Amounts and Fees*

An authorization to issue an international money order may be purchased at almost all post offices with 950 or more revenue units. Some post offices with fewer than 950 revenue units have been designated to provide this service. Post offices not designated but having sufficient need for the service will make application to the regional director, finance department. International money orders will be issued to addressees in those countries that have agreed with the United States to conduct such business. The maximum amount for an international order is $300. Except that orders should not exceed £50 (approx. $90) when payable in Great Britain, $250 when payable in Syria, and $100 when payable in Morocco. The fees are as follows:

Amount of International Order:	*Fee*
$0.01 to $10	$0.65
$10.01 to $50	.90
$50.01 to $300	1.15

.212 *Application*

a. For most countries and localities (see 171.216 and 171.219), the authorization to issue an international money order form is used. Application must be made on Form 6701, *Application for International Money Order*. For Mexico an optional application Form 6701–A, *Application For a Money Order Payable in Mexico*, is provided. In most cases, the amount is written in United States dollars and converted into foreign currency in the country where payable. For this reason, only approximations may be given for amounts in foreign currency, except Canadian.

b. Purchasers must complete Form 6083, *Supplemental International Money Order Advice*, written in the foreign language *if possible*, when they send money orders payable in Greece, Lebanon, Syria, Yugoslavia, and Japan.

c. Purchasers will be given a receipt. The postmaster will send the authorization form to the Money Order Division where the international order is issued.

d. Purchasers must state the following details in their application regarding the payee: full name, exact address, name of city, town, or village; name of the canton, department, or district as the case may be. If the payee is a woman, state whether single, married, or widowed. The purpose of the payment should also be stated.

.213 *Domestic International Money Orders*

For certain countries the domestic money order form is used. There is no application. See 171.217.

.214 *Issuing Procedures*

a. *When Domestic Form Is Used.* Handle in the same manner as for domestic orders. (See 171.13 and .14.) For Canada, the amount on the order must be expressed in both U.S. and Canadian money. Consult the current conversion table. Put the amount received in U.S. money and select the limitation plate in the usual manner. *Write* the Canadian equivalent on the *For* line in the *Purchased By* block and put *Canadian* before it.

b. *When Authorization to Issue an International Money Order is Used.*
   (1) *Reviewing Application.*—Verify that Forms 6701 or 6701A are *properly and legibly completed* in accordance with the instructions on the back. Incomplete Form 6701 will delay transmission to country. *Make sure that the country of payment is one of those listed in 171.218 and 171.219.* Do not accept applications for countries not included on those lists. Every effort should be made to have customers specify the purpose of payment as an aid to the recipient in identifying the sender. However, the form may still be accepted if they refuse to do so. Verify also that the customer has properly completed and submitted Form 6083 when required.
   (2) *Imprinter Preparation.*—Prepare the imprinter for issuance of the form set, *authorization to issue an international money order*, exactly the same as described in 171.132 for domestic form set. Make a practice of verifying that the date is correctly set.
   (3) *Imprinting the Form Set.*—Imprint the authorization form set exactly the same as the domestic form set as described in 171.133. Manual issuance is prohibited. The imprinted amount on form sets will always be in U.S. money. If a customer insists on the foreign equivalent for an order payable in one of the following countries, obtain the conversion rate from a local bank or firm which deals in foreign currency: Belgium, Denmark, France, Great Britain, and Northern Ireland, Guyana, Ireland, Luxemburg, Netherlands, New Zealand, Norway, Republic of South Africa, Surinam, Sweden, Switzerland, and Tunisia. If no such source is available locally, call the International Exchange Section, Money Order Division, St. Louis PDC, on 314–622–4933. Advise the customer in all cases that the quoted foreign equivalent is only approximate and will not necessarily be the amount paid in the foreign country.
   (4) *Completing the Transaction.*—
      (a) Remove the imprinted form set and snap-out the carbons.
      (b) Dispose of the carbon and stub as trash.

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(c) *Verify that all information (including validation plate and limitation plate imprint) is clearly imprinted on the authorization (bottom) part, and that the date, office number, and amount are correct, clear and completely legible on all parts.*
(d) Both customer and clerk should verify the imprinted amount.
(e) Collect payment for the face amount and the fee. Then hand the customer *only* the customer's receipt (top) part of the form set.
(f) Remind the customer to complete the *Paid To* and *Purchased By* portions of the receipt. The receipt must be presented whenever an inquiry is made.
(g) Place the voucher (middle) part in the proper receptacle for end of day reporting. Maintain voucher copies of authorization form sets as a separate group in numerical sequence (first 10 digits) from voucher copies of domestic money orders.
(h) Replace the limitation plate in the storage slot.
(i) Move the amount keys back to their asterisk position.
(j) If two or more clerks share a single imprinter at the same time, each must remove his validation plate from the imprinter after his own sale.
(k) When a Form 6083 is required, complete it by placing the date stamp where indicated and entering *Authorization No.* (first 10 digits) above the words *Money Order No.* Do not write on the line next to *Money Order No.*
(l) Complete the bottom of Form 6701 or 6701–A under the words *For Official Use Only.* Staple the authorization (bottom) part of the form set where indicated on Form 6701 or 6701–A. Also, when applicable, attach Form 6083 with a paper clip where indicated. *Do not staple.* Mail Form 6701 or 6701–A and attached documents by regular mail daily to the Money Order Division at the address shown on the back of the form.
(m) The Money Order Division will include the international money order it issues with others for the same country and no stamp need be furnished for its transmission overseas by airmail.

c. *Spoiled Form Sets*

(1) *Issuance of New Form Set.*—Issue a new form set without additional fee if from set is spoiled on day of issue due to defective form set, clerk error, mutilation, erroneous date, or faulty imprint during issuance. Once Form 6701 or 6701–A and attached documents have been sent to the Money Order Division, it is no longer possible to treat a form set as *Spoiled.* Any request for a change in the form set will be handled through the inquiry procedure described in 171.42b. Whoever was at fault on the original form set (clerk or customer) will pay the fee if a new form set is required.
(2) *Treatment of Spoiled Form Set.*—
(a) Customer's receipt and voucher copy—destroy immediately.
(b) Authorization copy—stamp or mark *Spoiled* below the data imprint area. *Do not stamp or mark between the lines* (OCR read band area). When the office number and date do not appear or are illigible, write them below the OCR read band area.
(c) Retain the spoiled authorizations as a separate group behind the voucher copies. Do not attach anything to the spoiled authorizations.

.215 *Refunds*

The amounts of authorization forms resulting in issuance of international money orders may not be repaid until authorized by the foreign postal administration. Verify Form 6684, *Inquiry Concerning International Money Order Issued in the United States,* with the particulars on the customer's receipt copy of the authorization. Send to the Money Order Division when purchaser requests repayment on U.S. issued orders.

.216 *Lost Reissued Orders*

Report the facts concerning lost reissued orders (an order certified to the United States by a foreign country and reissued in the United States) to the Money Order Division.

.217 *Countries Where Service Is Available on Domestic Basis* [1]

Country	*Address*
Antigua	Administrator St. Johns, Antigua
Bahamas	Postmaster Nassau, Bahamas
Barbados	Postmaster General Bridgetown, Barbados
Belize	Postmaster General Belize City, Belize
Bermuda	Colonial Postmaster Hamilton, Bermuda
British Virgin Islands	Administrator Tortola, British Virgin Islands
Canada (see 171.214a)	Deputy Postmaster General Financial Branch Money Order Division Ottawa ON Canada K1A 0B1
Canal Zone	Director of Posts Balboa Heights, Canal Zone
Dominica	Colonial Postmaster Dominica, West Indies
Grenada	Colonial Postmaster Grenada, West Indies
Jamaica	Postmaster General Kingston, Jamaica
Montserrat	Administrator Montserrat, West Indies
Saint Kitts-Nevis-Anguilla	Administrator St. Kitts-Nevis-Anguilla, West Indies
Saint Lucia	Postmaster General Saint Lucia, West Indies
Saint Vincent	Colonial Postmaster Saint Vincent, West Indies
Trinidad and Tobago	Postmaster General Port of Spain, Trinidad, West Indies

[1] See sections 171.213 and 171.42c.

171.3 CASHING MONEY ORDERS

.31 RESTRICTIONS ON PAYMENT

No money order shall be paid after 20 years from the last day of the month of original issue. The records of the Postal Service shall serve as the basis for adjudicating claims for payment of money orders.

.32 WHERE TO CASH

.321 Card money orders and the new paper imprinted orders may be cashed at any post office or bank.

.322 Rural carriers may cash money orders for rural customers, including customers of nonpersonnel rural stations and branches, subject to the availability of funds. Money orders must be endorsed in the carrier's presence. No fee or compensation is required for this service.

.323 Money orders issued at military post offices are payable only at military post offices and United States military banking facilities, or at post offices or banks located in the United States, its possessions or Territories, and countries with which the United States transacts domestic-international money order business. If the purchaser or payee of a money order issued at a military post office transfers ownership by endorsement to another, the endorsee must cash the money order at a military post office, a United States military banking facility, or a post office located in the United States, its possessions, or Territories.

.33 SIGNATURE REQUIREMENTS

.331 *Acceptance of Signature*

The paying post office may accept any signature of the payee, purchaser, or endorsee that is not different from the name given on the order.

.332 *Signature by Mark*

Customers who cannot write must use a mark. Marks (usually X) must be witnessed by someone who is not a post office employee.

.333 *Signature by Firms, Organizations, and Their Representatives*

All money orders payable to a business firm, an organization, society, institution, or Government agency must be signed in the name of the organization by a representative authorized to do so. It may be necessary for such authority to be presented and filed. The representative must also sign with his own name and organizational title. If drawn in favor of an official by name and presented by a successor, the latter must sign as follows: *William Jones, treasurer, successor to George Thompson.*

.334 *Use of Titles*

Use of such titles as *Dr., Rev., Prof., Madam, Mrs., M.D.,* or *D.D.S.,* are not required in signing a money order for payment, whether or not such title is used on the face of the money order.

.335 *Stamped Signatures*

A stamped signature is acceptable as an endorsement on a money order when drawn in favor of a firm, corporation, association, society, or individual, provided the money order is presented to a bank for payment. A post office will accept stamped signatures, provided an agreement is filed in advance regarding the responsibility for the correctness of such payments.

.336 *More Than One Payee*

Money orders completed by the purchasers to show more than one firm or person as payee shall be paid as follows:
a. If the conjunction "or" is used to connect the payees, either payee may cash the document.
b. If no conjunction is used, or if the conjunction "and" is used to connect the payees, then all the listed payees must endorse the document.

.34 PAYMENT OF ORDERS TO OTHER THAN PAYEE

.341 *Transfer of Money Order*

a. *By Payee.* Only the payee of a money order may endorse it to any other person or firm.
b. *On Power of Attorney.* A person with power of attorney may cash money orders in behalf of the payee who gave him that authority. The power of attorney must be filed at the office of payment.
c. *On Separate Written Order.* A payee may file a separate written order with the post office authorizing payment to another person. The person must be designated by name as the one to receive payment.

.342 *Upon Assignment*

When a payee, such as an individual or firm, makes an assignment, and intends that money orders be paid to the assigned person, he must file a power of attorney or a written order in the post office. The person designated to receive payment must receipt the money order and indicate below his signature the capacity in which he acts.

.343 *On Death of Payee*

A money order belonging to a deceased owner may be paid to the executor or administrator of the estate appointed by the court. A certified copy of the appointment as executor or administrator must be filed with the local postmaster. Payments will be made in accordance with the laws of the State of which the deceased was a resident.

.344 *To a Concern no Longer in Business*

Money orders will be paid to the legal representative of a firm, association, or company that has ceased to exist.

.345 *To a Committee or a Guardian*

Money orders will not be issued or paid to a ward when declared incompetent by a court. They will be paid only to the committee, guardian, or other duly authorized person.

.346 *To Minors*

A money order payable to a minor may be paid to the father or mother as natural guardian unless prohibited by court order.

.35 WHEN ORDERS WILL NOT BE PAID

.351 *When There is a Second Endorsement*

A money order with more than one endorsement is invalid. For proper procedure to obtain a duplicate, see 171.163a.

.352 *When There is a Question on a COD Parcel*

No payment will be made when a money order has been issued in return for a COD parcel, and is presented by the addressee (purchaser) and the money order has not been endorsed by the payee (shipper) or the payee has not expressly authorized payment to the purchaser by written approval.

.36 EXAMINATION OF THE ORDER BY POSTAL EMPLOYEE

Assure that:
a. *It is not a form reported stolen.* If it is, try to delay the person; immediately notify local police, nearest postal inspector, or postal inspector in charge; and hold order for instructions.
b. *It is properly imprinted and drawn by the issuing office.* Orders are payable in the amount imprinted by the machine and for no more than the amount imprinted below the words *Not Valid If Over.*

b. Keep an office record of the data required to be kept of unregistered COD mail. Furnish carriers completed Forms 3821, in duplicate, marked *Registered*.

c. Instructions in 163.51, concerning number of attempts at delivery, and in 163.43, concerning notification to sender, apply to registered COD mail, except that Form 3860 (marked *Registered*) shall be used as a notice of arrival instead of Form 3849.

.85 REPORTS AND DISPOSITION OF CHARGES

.851 *Offices With Revenue Units of 950 or More*

Make reports and dispose of COD charges as follows:

a. Each employee who delivers registered COD mail must make a report daily to the office of finance or designated supervisory employee, by depositing a copy of Form 3821 in the same receptacle used for the forms covering unregistered COD mail, if practicable.

b. The registry section must complete Form 3822 in triplicate, the forms being entered *Registered*.

c. Transfer the funds collected to the main office unit or remit with other receipts directly to the bank. Forward the COD tags with Form 3822 to the superintendent of the main office window unit, following the procedures in 163.714.

.852 *Other Offices*

Handle the charges collected in the same manner as charges collected on unregistered COD mail.

Post Office Services (Domestic) TL-42, 7-18-77, Issue 117

[FR Doc.77-26682 Filed 9-15-77;8:45 am]

federal register

FRIDAY, SEPTEMBER 16, 1977
PART VIII

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

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DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

California:		
	CA77-5039; CA77-5040	Apr. 22, 1977.
	CA77-5041; CA77-5042	May 6, 1977.
	CA77-5043; CA77-5044	May 20, 1977.
Iowa:		
	IA77-4211	Sept. 2, 1977.
Louisiana:		
	LA77-4169	July 29, 1977.
Massachusetts:		
	MA77-3066	Sept. 2, 1977.
Ohio:		
	OH77-2073; OH77-2080	May 13, 1977.
Texas:		
	TX77-4098	May 6, 1977.
	TX77-4190; TX77-4191; TX77-4192; TX77-4196; TX77-4199; TX77-4201; TX77-4202; TX77-4206; TX77-4206; TX77-4207.	Aug. 19, 1977.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Maryland:		
	MD77-3041 (MD77-3109)	Mar. 18, 1977.
Massachusetts:		
	MA75-2134 (MA77-3127)	Dec. 19, 1975.
	MA76-2097 (MA77-3064)	Aug. 13, 1976.
	MA76-2106 (MA77-3073)	Sept. 3, 1976.
Michigan:		
	MI76-2140 (MI77-2125)	Nov. 18, 1976.
Pennsylvania:		
	PA77-3028 (PA77-3128)	Apr. 15, 1977.
	PA77-3049 (PA77-3129)	Apr. 22, 1977.
Virginia:		
	MD77-3041 (MD77-3109)	Mar. 18, 1977.
Washington, D.C.:		
	DC77-3040 (DC77-3108)	Do.

NOTICE: *Effective Immediately.*—Due to the cost of publication involved, the Department of Labor will no longer publish the monthly index to General Wage Determination Decisions and Modifications. All users of general wage determination decisions are cautioned to consult the lists of new decisions, modifications, supersedeas decisions, and cancellations published each week in the preamble to the published prevailing wage rates to determine if there have been any changes in the wage determination decisions applicable to their programs.

Signed at Washington, D.C., this 9th day of September 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 2

DECISION NO. CA77-5039 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Pile driving					
Group 1	$9.18	$1.50*	$2.25	.90	.29
Group 1(a)	9.55	1.50*	2.25	.90	.29
Group 1(b)	9.78	1.50*	2.25	.90	.29
Group 2	9.78	1.50*	2.25	.90	.29
Group 2(a)	10.60	1.50*	2.25	.90	.29
Group 3	10.92	1.50*	2.25	.90	.29
Group 3(a)	11.36	1.50*	2.25	.90	.29
Group 4	11.93	1.50*	2.25	.90	.29
Group 5	12.11	1.50*	2.25	.90	.29
Power Equipment Operators:					
Group 1:					
Area 1	9.13	1.50*	2.25	.90	.29
Area 2	10.64	1.50*	2.25	.90	.29
Group 2:					
Area 1	9.50	1.50*	2.25	.90	.29
Area 2	11.01	1.50*	2.25	.90	.29
Group 3:					
Area 1	9.73	1.50*	2.25	.90	.29
Area 2	11.24	1.50*	2.25	.90	.29
Group 4:					
Area 1	10.32	1.50*	2.25	.90	.29
Area 2	11.83	1.50*	2.25	.90	.29
Group 5:					
Area 1	10.55	1.50*	2.25	.90	.29
Area 2	12.06	1.50*	2.25	.90	.29
Group 6:					
Area 1	10.71	1.50*	2.25	.90	.29
Area 2	12.22	1.50*	2.25	.90	.29
Group 7:					
Area 1	10.87	1.50*	2.25	.90	.29
Area 2	12.38	1.50*	2.25	.90	.29
Group 8:					
Area 1	11.31	1.50*	2.25	.90	.29
Area 2	12.82	1.50*	2.25	.90	.29
Group 9:					
Area 1	11.54	1.50*	2.25	.90	.29
Area 2	13.05	1.50*	2.25	.90	.29
Group 10:					
Area 1	11.76	1.50*	2.25	.90	.29
Area 2	13.27	1.50*	2.25	.90	.29

MODIFICATIONS P. 1

DECISION No. CA77-5039 - Mod. #5 (42 FR 20991 - April 22, 1977)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California					
Changes:					
Bricklayers; Stonemasons: Monterey and Santa Cruz Counties	$12.60	$1.22	$1.26		
Electricians: Fresno, Kings, Madera and Tulare Counties	12.76	.80	3%+1.05		.05
Electricians: Kern Counties	14.04	.80	3%+1.05		.05
Electricians: San Mateo County	13.64	1.25	3%+1.00		.03
Glaziers: Alameda, Contra Costa, Lake, Marin, Mendocino, (Southern half of County from North of Pt. Bragg), Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, (S.W. from east of Fairfield) and Sonoma Cos.	11.79	1.00	1.41		.02

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MODIFICATIONS P. 3

DECISION No. CA77-5039 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Alpine, Amador, Butte, Calaveras, El Dorado, Mariposa, Merced, (North of City of Livingston), Modoc, Nevada, Placer, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Stanislaus, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties	$10.886	.58	$1.50		
Ironworkers:					
Fence Erectors	10.66	1.24	2.22	$1.46	.06
Reinforcing	11.55	1.24	2.22	1.46	.06
Ornamental; Structrual	11.55	1.24	2.22	1.46	.06
Marble Setters	11.74	1.40	.93	1.03	
Plasterers:					
Monterey County	12.31	1.00	.35		.01
San Francisco and San Mateo Counties	12.33	1.00	2.25		.03
Plasterers' Tenders:					
Monterey County	10.40	1.25	1.70		
Plumbers; Steamfitters:					
San Benito and Santa Clara Counties	15.15	1.08	1.77		.14
San Mateo County	13.91	1.14	2.30		.25
Roofers:					
Monterey and Santa Cruz Cos. Roofers	10.40	1.40	1.15		
Sheet Metal Workers:					
Fresno, Kings, Madera and Tulare Counties	11.98	.73	1.22		.14
Sprinkler Fitters:					
Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano and Sonoma Counties	16.26	.65	1.45		.09

MODIFICATIONS P. 4

DECISION NO. CA77-5039 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 10-A:					
Area 1	$11.88	$1.50*	$2.25	.90	.29
Area 2	13.39	1.50*	2.25	.90	.29
Group 11:					
Area 1	12.06	1.50*	2.25	.90	.29
Area 2	13.57	1.50*	2.25	.90	.29
Group 11-A:					
Area 1	13.22	1.50*	2.25	.90	.29
Area 2	14.73	1.50*	2.25	.90	.29
Group 11-B:					
Area 1	13.52	1.50*	2.25	.90	.29
Area 2	15.03	1.50*	2.25	.90	.29
Group 11-C:					
Area 1	13.84	1.50*	2.25	.90	.29
Area 2	15.35	1.50*	2.25	.90	.29

*Includes $.23 per hour to Pensioned Health and Welfare Fund.

Add:

Plumbers; Steamfitters: Del Norte and Humboldt Counties	$12.29	.86	$1.22		.05

Omit:

Plumbers: Del Norte and Humboldt Counties	11.33	.71	1.12		.05

MODIFICATIONS P. 5

DECISION NO. CA77-5039 (Cont'd)

POWER EQUIPMENT OPERATORS
(AREAS I and II)

Group 1: Assistants to Engineers (Brakeman; Fireman; Heavy Duty Repairman Helper; Oiler; Deckhand; Signalman; Switchman; Tar Pot Fireman); Partsman (Heavy Duty Repair shop parts room)

Group 2: Compressor Operator; Concrete Mixer (up to and including 1 yard); Conveyor Belt Operator (tunnel); Fireman Hot Plant; Hydraulic; Monitor; Mechanical Conveyor (handling building materials); Mixer Box Operator (concrete plant); Pump Operator; Spreader Boxman (with screed); Tar Pot Fireman (power agitated)

Group 3: Box Operator (bunker); Helicopter Radioman (Signalman); Locomotive (30 tons or under); Motorman; Rodman or Chainman; Roas Carrier (construction jobsite); Rotomist; Screedman (except asphaltic concrete paving); Self-propelled, automatically applied concrete curing machine (on streets, highways, airports and canals); Trenching Machine, 4 ft. depth; Truck Crane Oiler; Tugger Hoist, single drum; Boiler Tender

Group 4: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper Multi-purpose; Boxman (asphalt plant); elevator Operator (inside); Fork Lift or Lumber Stacker (construction job site); Line Master; Material Hoist (1 drum); Shuttlecar; Tie Spacer; Towermobile

Group 5: Compressor Operator (over 2); Concrete Mixers (over 1 yard); Concrete Pumps or Pumpcrete Guns; Generators; Grouting Machine; Press-weld (air-operated); Pumps (over 2); Welding Machines (powered other than by electricity)

Group 6: BLH Lima Road Pactor or similar; Boom Truck or Dual Purpose A-Frame Truck; Concrete Batch Plants (wet or dry); Concrete Saws (self-propelled unit) on streets, highways, airports and canals; Drilling and Boring Machinery, vertical (not to apply to waterliners, wagon drills or jackhammers); Highline Cableway Signalman; Locomotives (steam or over 30 ton); Lubrication and Service Engineer (mobile and grease rack); Maginnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mechanical Finishers (concrete) (Clary, Johnson, Bidwell Bridge Deck or similar types); Mechanical Burm Curb and/or Curb and Gutter Machine, concrete or asphalt; Portable Crushers; Post Driver (HL500 and similar); Power Jumbo Operator (setting slip-forms, etc., in tunnels); Roller (except asphalt); Screedman (Barber-Greene and similar)(asphaltic concrete paving); Self-propelled Compactor (single engine); Self-propelled Pipeline Wrapping Machine (perault CRC or similar type); Self-propelled Power Sweeper; Self-propelled Tape Machine; Slip Form Pumps (lifting device for concrete forms); Small rubber-tired tractors; Surface Heaters; Auger-type drilling equipment up to and including 39 ft. depth)

MODIFICATIONS P. 6

DECISION NO. CA77-5039 (Cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)
(AREAS I and II) (Cont'd)

Group 7: Concrete Conveyor or Concrete Pump, Truck or Equipment mounted (boom length to apply); Concrete conveyor; building site; Deck Engineers; Drilling and Boring Machinery, horizontal (not to apply to waterliners, wagon drills or jackhammers); Dual Drum Mixer; Fuller Kenyon Pump and similar types; Gantry Rider (or similar equipment); Hydro-Hammer or similar; Instrument Man; Material Hoist (2 or more drums); Mechanical Finishers or Spreader Machine (asphalt, Barber-Greene and similar); Mine or Shaft Hoist; Mixermobile; Pavement Breaker with or without Compressor Combination; Pavement Breaker, truck mounted with Compressor Combination; Pipe Bending Machine (pipelines only); Pipe Cleaning Machine (tractor propelled and supported); Pipe Wrapping Machine (tractor propelled and supported); Refrigeration Plant; Roller Operator (finish asphalt); Self-propelled boom type lifting device (center mount)(10 tons or less M.R.C.); Self-propelled Elevating Grade Plane; Slusher Operator; Small Tractor (with boom); Soil Tester; Truck type Loader; Auger-type drilling equipment over 30 ft. depth

Group 8: Armor-Coater (or similar); Asphalt Plant Engineer; Cast-in-Place Pipe Laying Machine; Combination Slusher and Motor Operator; Concrete Batch Plant (multiple units); Dozer; Heading Shield Operator; Heavy Duty Repairman and/or Welder; Gradesetter, Grade Checker (mechanical or otherwise); Grooving and Grinding Machines (highways); Kan Seal Machine (or similar); Kolman Loader; Loader (up to 2 yards); Mechanical Trench Shield; Portable Crushing and Screening Plants; Push Cat; Rubber Tired Earthmoving Equipment (up to and including 45 cu. yds. "struck" m.r.c.); Euclids, T-Pulls, DW-10, 10, 21, and similar; Rubber Tired Dozer; Self-propelled Compactor with Dozer; Sheepfoot; Timber Skidder (rubber tired or similar equipment); Tractor drawn Scraper; Tractor; Trenching Machine over 4 ft. depth; Tri-batch Paver; Tunnel Mole Boring Machine; Welder; Woods-mixer (and other similar Pugmill equipment); Vermeer T-600 B Rock Cutter

Group 9: Chicago Boom; Combination Mixer and Compressor (gunite); Combination Slurry Mixer and/or Cleaner; Highline Cableway (5 tons and under); Lull Hi-Lift or similar (20 ft. or over); Mucking Machine (rubber tired, rail or track type); Tractor (with boom)(D-6 or larger and similar)

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DECISION NO. CA77-5039 (Cont'd) MODIFICATIONS P. 8

POWER EQUIPMENT OPERATORS (Cont'd)
(AREAS I and II) (Cont'd)

Group 11-A: Band Wagons (in conjunction with Wheel Excavator); Cranes (over 125 tons); Loader (over 12 cu .yds.; up to and including 18 cu. yds.); Power Shovels and Draglines (over 7 cu. yds. m.r.c.); Rubber Tired Self-Propelled All-purpose Earth Moving Machines (2 units over 75 cu. yds. "struck" m.r.c.); Wheel Excavator (over 750 cu. yds. per hour)

Group 11-B: Loader (over 18 cu. yds.)

Group 11-C: Operator of Helicopter (when used in erection work); Remote Controlled Earthmoving Equipment

Group 10: Boom-type Backfilling Machine; Bridge Crane; Carry-lift (or similar); Concrete Batching Machine, truck mounted; Combination Backhoe and Loader (up to and including 3/4 cu. yd. m.r.c.); Derrick (2 operators required when swing engine remote from hoist); Derrick Barges (except excavation work); Do-More Loader and Adams Elegrader; Elevating Grader Heavy Duty Rotary Drill Rig (including Caleson Foundation work Skooper (or similar); Lift Slab Machine; (Vagtborg and similar types); Loader (2 yards up to and including 4 yards); Locomotive (over 100 tons) (single or multiple units); Multiple Engine Earthmoving Machine (Euclids, Tiger-Cats, Terra-Cobras or similar); Pavement Breaker; Pettibone Mikro; Roberts-Hartwell-Dehrig Tug (self-propelled floating); Rubber-tired Scraper, self-loading (paddle wheels, etc.)); Shuttle Car (reclaim station); Single Engine Scraper over 45 yards; Soil Stabilizer (P & H or equal); Sub-grader (Guthies or other automatic type); Tractor, Compressor Drill Combination; Track Laying type earth moving machine (single engine with tandem scrapers); Train loading station; Trenching Machine, multi-engine with sloping attachment, Jefco or similar; Vacuum Cooling Plant; Whirley Crane (up to and including 25 tons)

Group 10-A: Backhoe (hydraulic) (up to and including 1 cu. yd. m.r.c.); Backhoe (cable) (up to and including 1 cu. yd. m.r.c.); Combination Backhoe and Loader over 3/4 cu. yd. m.r.c.); Continuous Flight Tie Back Auger (up to and including 1 cu. yd.)(Crane attached); Cranes (not over 25 tons, Hammerhead and Gantry); Grade-alls (up to and including 1 cu. yd.); Power Shovels, Clamshells, Draglines, (up to and including 1 cu. yd. m.r.c); Power Blade (single engine); Self-propelled Boom-type Lifting Device (Center Mount) (over 10 tons); Rubber-tired Scraper, self-loading (paddle wheel twin engine); CMI dual Lane Auto Grader 8950 or similar

Group 11: Automatic Concrete Slip Form Paver; Automatic Railroad Car Dumper; Canal Trimmer; Canal Trimmer w/ditching attachments; Cranes (over 25 tons up to and including 125 tons); Continuous Flight Tie Back Auger over 1 cu. yd. (including crane); Drott Travelift 650-A-1 or similar (45 tons or over); Euclid Loader when controlled from the pullcat; Highline Cableway (over 5 tons); Loader (over 4 yards, up to and including 12 cu. yds.); Miller Formless M900 Slope Paver or similar; Power Blade (multi-engine); Power Shovels, Clamshells, Draglines, Back Hoes, Gradalls (over 1 yd. and including 7 cu. yds. m.r.c.); Rubber-tired earth moving machines (multiple propulsion power units and two or more scrapers)(up to and including 75 cu. yds. "struck" m.r.c.); Self-propelled Compactor (with multiple propulsion power units); Single engine Rubber-tired Earthmoving Machines (with tandem scrapers); Slip Form Paver (concrete or asphalt); Tandem Cats; Tower Cranes Mobile including rail mounted; Trencher (pulling attached shield); Universal Liebher and Tower Cranes (and similar types); Wheel Excavator (up to and including 750 cu. yd. per hour); Whirley Crane (over 25 tons)

MODIFICATIONS P. 10

DECISION NO. CA77-5040 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plasterers:					
Monterey County	$12.31	$1.00	.35		.01
San Francisco and San Mateo Counties	12.33	1.00	2.25		.03
Plasterers' Tenders:					
Monterey County	10.40	1.25	1.70		
Plumbers: Steamfitters:					
San Benito and Santa Clara Counties	15.15	1.08	1.77		.14
San Mateo County	13.91	1.14	2.30		.25
Roofers:					
Monterey and Santa Cruz Cos. Roofers	10.40	1.40	1.15		
Sprinkler Fitters:					
Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano and Sonoma Counties	16.26	.65	1.45		.09
Power Equipment Operators:					
Group 1:					
Area 1	9.13	1.50*	2.25	.90	.29
Area 2	10.64	1.50*	2.25	.90	.29
Group 2:					
Area 1	9.50	1.50*	2.25	.90	.29
Area 2	11.01	1.50*	2.25	.90	.29
Group 3:					
Area 1	9.73	1.50*	2.25	.90	.29
Area 2	11.24	1.50*	2.25	.90	.29
Group 4:					
Area 1	10.32	1.50*	2.25	.90	.29
Area 2	11.83	1.50*	2.25	.90	.29
Group 5:					
Area 1	10.55	1.50*	2.25	.90	.29
Area 2	12.06	1.50*	2.25	.90	.29

MODIFICATIONS P. 9

DECISION No. CA77-5040 - Mod. 44 (42 FR 21012 - April 22, 1977)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Alameda, Alpine, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Fresno, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties, California					
Change:					
Bricklayers; Stonemasons: Monterey and Santa Cruz Counties	$12.60	$1.22	$1.26		
Electricians:					
Fresno County (3-4 stories)					
Electricians	12.76	.80	3%+1.05		.05
Cable Splicers	14.04	.80	3%+1.05		.05
San Mateo County					
Electricians	13.64	1.25	3%+1.00		.03
Glaziers:					
Alameda, Contra Costa, Marin, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano (SW from E of Fairfield), Sonoma Counties	11.79	1.00	1.41		.02
Alpine, Amador, Calaveras, El Dorado, Mariposa, Merced, (North of City of Livingston), Nevada, Placer, Sacramento, San Joaquin, Sutter, Tuolumne, Yolo and Yuba Counties	10.886	.58	1.50		
Ironworkers:					
Fence Erectors	10.66	1.24	2.22	1.46	.06
Reinforcing	11.55	1.24	2.22	1.46	.06
Ornamental; Structural	11.55	1.24	2.22	1.46	.06

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POWER EQUIPMENT OPERATORS
(AREAS I and II)

Group 1: Assistants to Engineers (Brakeman; Fireman; Heavy Duty Repairman Helper; Oiler; Deckhand; Signalman; Switchman; Tar Pot Fireman); Partsman (Heavy Duty Repair shop parts room)

Group 2: Compressor Operator; Concrete Mixer (up to and including 1 yard); Conveyor Belt Operator (tunnel); Fireman Hot Plant; Hydraulic; Monitor; Mechanical Conveyor (handling building materials); Mixer Box Operator (concrete plant); Pump Operator; Spreader Boxman (with screed); Tar Pot Fireman (power agitated)

Group 3: Box Operator (bunker); Helicopter Radioman (Signalman); Locomotive (30 tons or under); Motorman; Rodman or Chainman; Ross Carrier (construction jobsite); Rotomist; Screedman (except asphaltic concrete paving); Self-propelled, automatically applied concrete curing machine (on streets, highways, airports and canals); Trenching Machine, 4 ft. depth; Truck Crane Oiler; Tugger Hoist, single drum; Boiler Tender

Group 4: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper Multi-purpose; Boxman (asphalt plant); elevator Operator (inside); Fork Lift or Lumber Stacker (construction job site); Line Master; Material Hoist (1 drum); Shuttlecar; Tie Spacer; Towermobile

Group 5: Compressor Operator (over 2); Concrete Mixers (over 1 yard); Concrete Pumps or Pumpcrete Guns; Generators; Grouting Machine; Press-weld (air-operated); Pumps (over 2); Welding Machines (powered other than by electricity)

Group 6: BLH Lima Road Pactor or similar; Boom Truck or Dual Purpose A-Frame Truck; Concrete Batch Plants (wet or dry); Concrete Saws (self-propelled unit) on streets, highways, airports and canals; Drilling and Boring Machinery, vertical (not to apply to waterliners, wagon drills or jackhammers); Highline Cableway Signalman; Locomotives (steam or over 30 ton); Lubrication and Service Engineer (mobile and grease rack); Maginnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mechanical Finishers (concrete) (Clafy, Johnson, Bidwell Bridge Deck or similar types); Mechanical Burm Curb and/or Curb and Gutter Machine, concrete or asphalt; Portable Crushers; Post Driver (Ml500 and similar); Power Jumbo Operator (setting slip-forms, etc., in tunnels); Roller (except asphalt); Screedman (Barber-Greene and similar)(asphaltic concrete paving); Self-propelled Compactor (single engine); Self-propelled Pipeline Wrapping Machine (perault CRC or similar type); Self-propelled Power Sweeper; Self-propelled Tape Machine; Slip Form Pumps (lifting device for concrete forms); Small rubber-tired tractors; Surface Heaters; Auger-type drilling equipment up to and including 39 ft. depth)

POWER EQUIPMENT OPERATORS (Cont'd)
(AREAS I and II) (Cont'd)

Group 7: Concrete Conveyor or Concrete Pump, Truck or Equipment mounted (boom length to apply); Concrete conveyor; building site; Deck Engineers; Drilling and Boring Machinery, horizontal (not to apply to waterliners, wagon drills or jackhammers); Dual Drum Mixer; Fuller Kenyon Pump and similar types; Gantry Rider (or similar equipment); Hydro-Hammer or similar; Instrument Man; Material Hoist (2 or more drums); Mechanical Finishers or Spreader Machine (asphalt, Barber-Greene and similar); Mine or Shaft Hoist; Mixermobile; Pavement Breaker with or without Compressor Combination; Pavement Breaker, truck mounted with Compressor Combination; Pipe Bending Machine (pipelines only); Pipe Cleaning Machine (tractor propelled and supported); Pipe Wrapping Machine (tractor propelled and supported); Refrigeration Plant; Roller Operator (finish asphalt); Self-propelled boom type lifting device (center mount)(10 tons or less M.R.C.); Self-propelled Elevating Grade Plane; Slusher Operator; Small Tractor (with boom); Soil Tester; Truck type Loader; Auger-type drilling equipment over 30 ft. depth

Group 8: Armor-Coater (or similar); Asphalt Plant Engineer; Cast-in-Place Pipe Laying Machine; Combination Slusher and Motor Operator; Concrete Batch Plant (multiple units); Dozer; Heading Shield Operator; Heavy Duty Repairman and/or Welder; Gradesetter, Grade Checker (mechanical or otherwise); Grooving and Grinding Machines (highways); Ken Seal Machine (or similar); Kolman Loader; Loader (up to 2 yards); Mechanical Trench Shield; Portable Crushing and Screening Plants; Push Cat; Rubber Tired Earthmoving Equipment (up to and including 45 cu. yds. "struck" m.r.c.); Euclids, T-Pulls, DW-10, 10, 21, and similar; Rubber Tired Dozer; Self-propelled Compactor with Dozer; Sheepfoot; Timzer Skidder (rubber tired or similar equipment); Tractor drawn Scraper; Tractor; Trenching Machine over 4 ft. depth; Tri-batch Paver; Tunnel Mole Boring Machine; Welder; Woods-mixer (and other similar Pugmill equipment); Vermeer T-600 B Rock Cutter

Group 9: Chicago Boom; Combination Mixer and Compressor (gunite); Combination Slurry Mixer and/or Cleaner; Highline Cableway (5 tons and under); Lull Hi-Lift or similar (20 ft. or over); Mucking Machine (rubber tired, rail or track type); Tractor (with boom) (D-6 or larger and similar)

POWER EQUIPMENT OPERATORS (Cont'd)
(AREAS I and II) (Cont'd)

Group 10: Boom-type Backfilling Machine; Bridge Crane; Cary-lift (or similar); Chemical Grouting Machine, truck mounted; Combination Backhoe and Loader (up to and including 3/4 cu. yd. m.r.c.); Derrick (2 operators required when swing engine remote from hoist); Derrick Barges (except excavation work); Do-More Loader and Adams Elegrader; Elevating Grader Heavy Duty Rotary Drill Rig (including Caisson Foundation work and Euclid Loader and similar type; Robbins type Drills); Koehring Skooper (or similar); Lift Slab Machine; (Vagtborg and similar types); Loader (2 yards up to and including 4 yards); Locomotive (over 100 tons) (single or multiple units); Multiple Engine Earthmoving Machine (Euclids, Dozers, etc.) (no tandem scraper); Pre-stress Wire Wrapping Machine; Reservoir-Debris Tug (self-propelled floating); Rubber-tired Scraper, self-loading (paddle wheels, etc.); Shuttle Car (reclaim station); Single Engine Scraper over 45 yards; Soil Stabilizer (P & H or equal); Sub-grader (Gurries or other automatic type); Tractor, Compressor Drill Combination; Track Laying type earth moving machine (single engine with tandem scrapers); Train loading station; Trenching Machine, multi-engine with sloping attachment, Jefco or similar; Vacuum Cooling Plant; Whirley Crane (up to and including 25 tons)

Group 10-A: Backhoe (hydraulic) (up to and including 1 cu. yd. m.r.c.); Backhoe (cable) (up to and including 1 cu. yd. m.r.c.); Combination Backhoe and Loader over 3/4 cu. yd. m.r.c.); Continuous Flight Tie Back Auger (up to and including 1 cu. yd.)(Crane attached); Cranes (not over 25 tons, Hammerhead and Gantry); Grade-alls (up to and including 1 cu. yd.); Power Shovels, Clamshells, Draglines, (up to and including 1 cu. yd. m.r.c); Power Blade (single engine); Self-propelled Boom-type Lifting Device (center mount) (over 10 tons); Rubber-tired Scraper, self-loading (paddle wheel twin engine); CMI dual Lane Auto Grader SP30 or similar

Group 11: Automatic Concrete Slip Form Paver; Automatic Railroad Car Dumper; Canal Trimmer; Canal Trimmer w/ditching attachments; Cranes (over 25 tons up to and including 125 tons); Continuous Flight Tie Back Auger over 1 cu. yd. (including crane); Drott Travelift 650-A-1 or similar (45 tons or over); Euclid Loader when controlled from the pullcat; Highline Cableway (over 5 tons); Loader (over 4 yards, up to and including 12 cu. yds.); Miller Formless M900 Slope Paver or similar; Power Blade (multi-engine); Power Shovels, Clamshells, Draglines, Backhoes, Grade-alls (over 1 yd. and up to and including 7 cu. yds. m.r.c.); rubber-tired earth moving machines (multiple propulsion power units and two or more scrapers)(up to and including 75 cu. yds. "struck" m.r.c.); Self-propelled Compactor (with multiple propulsion power units); Single engine Rubber-tired Earthmoving Machines (with tandem scrapers); Slip Form Paver (concrete or asphalt); Tandem Cats; Tower Cranes Mobile including rail mounted; Trencher (pulling attached shield); Universal Liebher and Tower Cranes (and similar types); Wheel Excavator (up to and including 750 cu. yd. per hour); Whirley Crane (over 25 tons)

POWER EQUIPMENT OPERATORS (Cont'd)
(AREAS I and II) (Cont'd)

Group 11-A: Band Wagons (in conjunction with Wheel Excavator); Cranes (over 125 tons); Loader (over 12 cu .yds.) up to and including 18 cu. yds.); Power Shovels and Draglines (over 7 cu. yds. m.r.c.); Rubber Tired Multi-purpose Earth Moving Machines (2 units over 75 cu. yds. "struck" m.r.c.); Wheel Excavator (over 750 cu. yds. per hour)

Group 11-B: Loader (over 18 cu. yds.)

Group 11-C: Operator of Helicopter (when used in erection work); Remote Controlled Earthmoving Equipment

MODIFICATIONS P. 16

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
DECISION NO. CA77-5041 (Cont'd)					
Brush swing stage (13 stories or less); Paperhangers; Sandblasters, Spray	$11.52	.66	.75	.60	.02
Brush swing stage (over 13 stories)	11.64	.66	.75	.60	.02
Structural Steel and Bridge; Brush swing stage (13 stories or less); Sandblaster swing stage (13 stories or less); Paste Machine; Special coating; Spray	11.67	.66	.75	.60	.02
Steeplejack	11.77	.66	.75	.60	.02
Roofers:	12.52	.66	.75	.60	.02
Riverside and San Bernardino Counties	10.45	.60	.75	1.10	
Inyo, Kern and Mono Cos.	10.20	.60	.60		
DECISION NO. CA77-5042 - Mod. #3 (42 FR 23306 - May 6, 1977) Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California					
Changes:					
Asbestos Workers	13.90	.80	1.17		.06
Bricklayers; Stonemasons:					
Imperial County	11.22	1.03	1.06		.12
Kern County	12.65	1.00	1.45		.07
Riverside and San Bernardino Counties	11.20	1.28	1.55		.14
Ventura County	11.78	1.00	1.20		.05
Electricians:					
Los Angeles County	12.65	1.05	3%+1.95		.07
Cable Splicers	12.95	1.05	3%+1.95		.07
Lathers:					
Ventura County	11.98	1.05	1.13	1.50	.02
Marble Setters; Terrazzo Workers; Tile Setters:					
Imperial County	11.49	.81	1.17		.08
Painters:					
Inyo, Kern (Lancaster, Mojave, Palmdale, China Lake Naval Ordance Test Station and Edwards AFB); Los Angeles (except Pomona Area), San Bernardino (west of a line north of Trono including China Lake Area, Johannesburg, Boron, South including the Wrightwood Area)	11.27	.66	.75	.60	.02
Brush	11.39	.66	.75	.60	.02
Structural steel and bridge; Paint burner	11.79	.66	.75	.60	.02
Tapers					

MODIFICATIONS P. 17

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CA77-5042 (Cont'd)					
Painters:					
Kern (Lancaster, Mojave, Palmdale, China Lake Naval Ordance Test Station and Edwards AFB); Los Angeles (except Pomona Area), San Bernardino (west of a line north of Trono including China Lake Area, Johannesburg, Boron, South including the Wrightwood Area)					
Brush	$11.27	.66	.75	.60	.02
Structural Steel and bridge; Paint burner	11.39	.66	.75	.60	.02
Tapers	11.79	.66	.75	.60	.02
Brush swing stage (13 stories or less); Paperhangers; Sandblasters; Spray	11.52	.66	.75	.60	.02
Brush swing stage (over 13 stories)	11.64	.66	.75	.60	.02
Structural Steel and bridge, swing	11.67	.66	.75	.60	.02
Spray Sandblaster Swing Stage (13 stories or less); Paste Machine; Special Coating; Spray	11.77	.66	.75	.60	.02
Steeplejack	12.52	.66	.75	.60	.02
Roofers:					
Riverside and San Bernardino Counties	10.45	.80	.75	1.10	
Kern County	10.20	.60	.60		
DECISION NO. CA77-5043 - Mod. #4 (42 FR 26122 - May 20, 1977) San Diego County, California					
Changes:					
Bricklayers; Stonemasons	11.22	1.03	1.06		.12
Tenders	9.87	.77	1.95		

MODIFICATIONS P. 18

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Marble Setters; Terrazzo Workers; Tile Setters	$11.49	.81	$1.17		.08
Marble, Terrazzo and Tile Helpers	8.74	.81	1.00		.08
DECISION NO. CA77-5044 - Mod. #4 (42 FR 26130 - May 20, 1977) San Diego County, California					
Changes:					
Bricklayers; Stonemasons Brick, Block and Stonemasons' Tenders	11.22	1.03	1.06		.12
	9.87	.77	1.95		
Marble Setters; Terrazzo Workers; Tile Setters	11.49	.81	1.17		.08
Marble, Terrazzo and Tile Helpers	8.74	.81	1.00		.08
Decision #IA77-4211-Mod. #1 (42 FR 41427- September 2,1977) Allamakee, Appanoose, Bremer, Butler, Cerro Gordo, Chickasaw, Clayton,Davis, Fayette, Floyd, Franklin, Grundy, Hamilton, Hancock, Hardin, Henry, Howard, Iowa, Jefferson, Keokuk, Lee, Mitchell, Monroe, Poweshiek, Tama, Van Buren, Wapello, Washington, Winnebago, Winneshiek, Worth and Wright Counties (Excludes Mason City and Abuting Municipalities), Iowa					
Changes:					
Add Mahaska County to the area of coverage.					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
DECISION: MA77-4169 - Mod. #3 (42 FR 33850 - July 29, 1977) Statewide Louisiana					
Change:					
Asbestos workers - Zone 4	$ 9.63	.45	.50		
Bricklayers & stonemasons: Zone 9	9.50		.25		
Carpenters - Zone 1	8.74	.40			
Cement masons (Building Const.): Zone 8	8.22		.25		
Cement masons (Highway Const.): Zone 1	9.15				
Ironworkers (Highway Const.): Zone 1	10.32				
Laborers (Building Const.):					
Zone 1:					
Group 1	5.85	.15			
Group 2	6.00	.15			
Group 3	6.10	.15			
Zone 6:					
Group 1	7.25	.15	.27		.05
Group 2	7.35	.15	.27		.05
Group 3	7.50	.15	.27		.05
Laborers (Highway Const.):					
Group 1 - Zone 1	5.75	.15	.20		.05
Group 2 - Zone 1	5.85	.15	.20		.05
Group 3 - Zone 1	6.30	.15	.20		.05
Group 4 - Zone 1	6.55	.15	.20		.05
Marble setters - Zone 4	8.47		.25		
Millwrights - Zone 4	9.46	.40			
Painters:					
Zone 2:					
Group 1	8.85		.25		.05
Group 2	9.72		.25		.05
Piledrivermen - Zone 9	9.64	.40			

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
DECISION: MA77-4169 (Mod. #3)					
Power Equipment Operators (Highway Const.):					
Group 1 - Zone 1	$ 9.31	.45	.48		.05
Group 2 - Zone 1	9.56	.45	.48		.05
Group 3 - Zone 1	9.06	.45	.48		.05
Group 4 - Zone 1	7.93	.45	.48		.05
Group 5 - Zone 1	7.58	.45	.48		.05
Group 6 - Zone 1	6.68	.45	.48		.05
Group 7 - Zone 1	6.57	.45	.48		.05
Group 8 - Zone 1	7.05	.45	.48		.05
Group 9 - Zone 1	8.18	.45	.48		.05
Group 10 - Zone 1	6.82	.45	.48		.05
Terrazzo workers - Zone 4	8.47		.25		
Tile setters - Zone 4	8.47		.25		
Truck Drivers (Highway Const.):					
Group 1 - Zone 1	6.33				
Group 2 - Zone 1	6.46				
Group 3 - Zone 1	6.52				
Group 4 - Zone 1	6.60				
Group 5 - Zone 1	6.79				
Omit:					
Cement masons (Highway Const.): Zone 1 - On concrete lined ditches	8.195				

DECISION NO. MA77-3066- Mod #1
(42 FR 44440- September 2, 1977)
Franklin County, Massachusetts

Add:

Page 5:

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	9.73	.85	.75	a	.07
CLASS II	9.53	.85	.75	a	.07
CLASS III	9.33	.85	.75	a	.07
CLASS IV	8.96	.85	.75	a	.07
CLASS V	8.24	.85	.75	a	.07
CLASS VI	7.78	.85	.75	a	.07
CLASS VII	7.03	.85	.75	a	.07

CLASSIFICATIONS

CLASS I Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Dreglines, Derricks, Elevators with Chicago Boom, Bakchoes, Gradalls, Elevating Graders, Pile Driving Rigs, Concrete Road Pavers, three drum Hoisting and Trenching Machines, Belt-type Loaders, Front End Loader-5½ yards or over, Dual Drum Paver, Automatic Grader (i.e. C.M.I.) Combination Back Hoe-Loader-3/4 yard hoe or over

CLASS II Rotary Drill (with mounted compressor), compressor house (3 to 6 compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Graders, Front End Loaders-4 yards to 5½ yards, two Drum Hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers-21 yards and over (struck load), Sonic Hammer Console

CLASS III Combination Backhoe-Loader-up to 3/4 hoe, Bulldozers, Push Cats, Scraper-up to 21 yards (Struck Load)-self propelled or tractor drawn, Fireman, Front End Loaders-up to 4 yards, Asphalt Paver, Asphalt Roller-10 ton or over, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete Pumps and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-Loading Batch Plant, Well Point, Electric Pumps used in Well Point System, Pumps-12 inches and over (total discharge), compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators, (manually or remote controls), Grout Pumps, Boom Truck, Hydraulic Cranes-under 10 ton

CLASS IV Asphalt Roller-under 10 ton

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. OH77-2073 - Mod. #2 (42 FR 24642 - May 13, 1977) Fulton & Lucas Counties, Ohio					
Change:					
Asbestos workers	$12.43	.50	1.20		.04
Boilermakers	13.10	.70	1.00		.03
Bricklayers; Marble setters; & Stonemasons:					
Fulton Co. (Twps. of Amboy, Swan Creek, & Fulton); & Lucas Co..	12.155	.93	.90		.01
Fulton Co. (Rem. of Co.):					
Commercial	11.30	.60			
Residential	9.04	.60			
Electricians:					
Commercial	12.35	.50	3%+.55		.2%
Residential	6.78	.50	3%+.55		.1%
Ironworkers	12.30	.93	1.11		.05
Line Construction:					
Linemen	12.76	.45	3%	c	.25%
Cable splicers	13.01	.45	3%	c	.25%
Plumbers; Steamfitters; Pipefitters	12.83	.80	.85		.09
DECISION NO. OH77-2080 - Mod. #3 (42 FR 24655 - May 13, 1977) Ashtabula, Cuyehoga, Lake, Lorain, Portage, Stark, & Summit Counties, Ohio					
Change:					
Asbestos workers:					
Remaining Cos.	12.185	.50	.80		.02
Bricklayers; Stonemasons:					
Lorain Co.	12.10		.40		.01
Portage & Summit Cos.:					
Commercial construction	11.61	.73	.50		.02
Carpenters; Millwrights; Piledrivermen; Soft floor layers:					
Ashtabula, Cuyahoga, & Lake Cos.:					
Carpenters; Soft floor layers	12.10	.77	1.25		.03
Millwrights	11.95	.77	1.40		.03
Piledrivermen	12.10	.77	1.25		.03

MODIFICATIONS P. 24

DECISION NO. OH77-2080 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Ashtabula Co. (Twps. of Colebrook, Orwell, Wayne, Williamsfield, & Windsor):					
Cable splicer op.; Lineman	$13.23	.45	3%		1%
Pole digging equipment op.					
Groundmen:					
Over 3 yrs.	10.58	.45	3%		1%
3rd yr.	9.92	.45	3%		1%
2nd yr.	9.26	.45	3%		1%
2nd 6 mos.	7.94	.45	3%		1%
1st 6 mos.	6.62	.45	3%		1%
Ashtabula Co. (Rem. of Co.):					
Cable splicer; Equipment op.; Line truck driver; Lineman	12.00	.90	3%+.85		1%
Groundmen:					
Over 12 mos.	9.00	.90	3%+.85		1%
6 - 12 mos.	7.80	.90	3%+.85		1%
0 - 6 mos.	6.60	.90	3%+.85		1%
Cuyahoga & Lorain (Columbia Twp.) Cos.:					
Cable splicers; Equipment ops.; Linemen; & Welders	12.73	.35	3%		1%
Lake Co.:					
Equipment operators; Linemen	12.28	.70	3%+.50		1%
Lorain (Except Columbia Twp.) Co.:					
Cable splicers; Equipment ops., & Linemen	10.83	.60	3%+.80		1%
Portage (Twps. of Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantua, Randolph, Ravenna, Rootstown, Shalersville, Streetsboro, & Suffield), & Summit Cos.:					
Cable splicers	12.08	.57	3%+.65		1%
Cable splicers	12.88	.57	3%+.65		1%
Groundmen; Truck drivers	6.04	.57	3%+.65		1%
Equipment operators	9.06	.57	3%+.65		1%

MODIFICATIONS P. 26

DECISION NO. OH77-2080 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers:					
Lorain Co.	$12.25	.60	.88		.05
Portage & Summit (So. of Rte. #303) Cos.	11.46	.79	.90		.05
Sheet metal workers:					
Lorain Co.	12.68	.60	.60		.04
Portage, Stark, & Summit Cos.	10.91	.61	.84		.05
Steamfitters:					
Lorain Co.	12.25	.60	.88		.05
Terrazzo workers:					
Ashtabula Co.	11.21	.60	.50		.01
Lorain Co.	12.10		.40		
Portage & Summit Cos.	10.55	.68	.50		
Terrazzo workers' helpers:					
Cuyahoga, Lake & Lorain Cos.	12.12		.85		
Portage & Summit Cos.	10.05	.68	.50		
Tile setters:					
Ashtabula Co.	11.21	.60	.50		.01
Lorain Co.	12.10		.40		
Portage & Summit Cos.	10.55	.68	.50		
Tile setters' helpers:					
Cuyahoga, Lake, & Lorain Cos.	11.94		1.00		
Portage & Summit Cos.	10.05	.68	.50		
Laborers (Stark County):					
Building & general; Sign man; Flagman; Tool crib man; Carpenters' tenders; Finisher tenders; Concrete finisher tenders; Concrete laborers; Guard rail erector	8.46	.65	.40		.05
Laborers: Scaffold builder; Tunnel laborers; Pipe layers; Air & Power driven tools; Burners on demolition; Salamander men; Asphalt raker; Mason tender; Fireman worker; Cofferdam workers; Powder men & dynamite blasters; Concrete saw operators; Mortar mixers; Form setters; Mason tenders; Plasterers' tenders; Hod carriers; Laser beam men	8.66	.65	.40		.05
Gunnite operator	9.06	.65	.40		.05

MODIFICATIONS P. 25

DECISION NO. OH77-2080 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Portage (Rem. of Co.) Co.:					
Cable splicer; Lineman; Pole digging equipment	$13.23	.45	3%		1%
Stark Co.:					
Cable splicers; Linemen	11.75	.40	3%+.35		1%
Truck drivers	7.95	.40	3%+.35		1%
Groundmen:					
Over 1 yr.'s experience	7.50	.40	3%+.35		1%
Under 1 yr.'s experience	7.05	.40	3%+.35		1%
Line equipment ops.	10.60	.40	3%+.35		1%
Marble setters:					
Ashtabula Co.	11.21	.60	.50		.01
Lorain Co.	12.10		.40		
Portage & Summit Cos.	10.55	.68	.50		
Marble setters' helpers:					
Cuyahoga, Lake & Lorain Cos.	11.41		1.00		
Portage & Summit Cos.	10.05	.68	.50		
Painters:					
Stark Co.:					
Commercial:					
Brush; Roller	9.61	.78	.60		.02
Paperhangers	9.71	.78	.60		.02
Drywall	10.01	.78	.60		.02
Spray	10.11	.78	.60		.02
Drywall with machines	10.36	.78	.60		.02
Residential:					
Brush; Roller	9.17	.78	.60		.02
Paperhangers	9.27	.78	.60		.02
Spray	9.67	.78	.60		.02
Drywall	9.57	.78	.60		.02
Drywall with machines	9.92	.78	.60		.02
Pipefitters:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.	11.97	1.05	1.10		.05
Plasterers:					
Ashtabula Co.	11.21	.60	.50		.01
Lorain Co.	12.10		.40		
Portage, Stark, & Summit Cos.	10.56	.60	.75		.01

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MODIFICATIONS P. 27

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4098 - Mod. #5 (42 FR 23433 - May 6, 1977) Jefferson & Orange Cos., Texas					
Change:					
Bricklayers & stonemasons	$11.705	.63	.30		.04
Tile setters	10.395	.63	.30		.04
DECISION #TX77-4190 - Mod. #1 (42 FR 42115 - August 19, 1977) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas					
Change:					
Glaziers	7.40			a	
DECISION #TX77-4191 - Mod. #1 (42 FR 42117 - August 19, 1977) Bee, Kleberg & Nueces Cos., Texas					
Change:					
Asbestos workers	9.79	.50	.50		
Carpenters:					
Millwrights	9.80				1%
Marble setters' finishers	5.62				
Terrazzo workers' finishers:					
Terrazzo finishers	5.62				
Floor machine operators	5.82				
Base machine operators	5.97				
Tile setters' finishers	5.62				

MODIFICATIONS P. 28

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
DECISION #TX77-4192 - Mod. #1 (42 FR 42119 - August 19, 1977) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
Change:					
Electricians - Zone 1	9.15		3%		1/4%
DECISION #TX77-4196 - Mod. #1 (42 FR 42126 - August 19, 1977) Cameron, Hidalgo, Starr & Willacy Counties, Texas					
Change:					
Asbestos workers	9.79	.50	.50		
DECISION #TX77-4199 - Mod. #1 (42 FR 42133 - August 19, 1977) Galveston & Harris Cos., Texas					
Change:					
Painters - Galveston Co.:					
Group 1	9.65	.55	.50	.75	.035
Group 2	9.90	.55	.50	.75	.035
Group 3	8.895	.55	.50	.75	.035
DECISION #TX77-4201 - Mod. #1 (42 FR 42136 - August 19, 1977) Howard County, Texas					
Change:					
Ironworkers, Structural & Ornamental	8.53	.55	1.00		.10

MODIFICATIONS P. 29

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4202 - Mod. #1 (42 FR 42137 - August 19, 1977) Lubbock County, Texas					
Change:					
Ironworkers:					
Structural; Ornamental; Reinforcing	$ 8.53	.55	1.00		.10
All ironworkers on jobs 30 miles or more from the City of Lubbock	8.675	.55	1.00		.10
DECISION #TX77-4205 - Mod. #1 (42 FR 42140 - August 19, 1977) Tom Green County, Texas					
Change:					
Ironworkers:					
Ironworkers	8.53	.55	1.00		.10
On jobs 30 miles or more from the City of San Angelo	8.675	.55	1.00		.10
DECISION #TX77-4206 - Mod. #1 (42 FR 42141 - August 19, 1977) Travis County, Texas					
Change:					
Marble setters' finishers	5.62				
Terrazzo workers' finishers:					
Terrazzo finishers	5.62				
Floor machine operators	5.82				
Base machine operators	5.97				
Tile setters' finishers	5.62				
DECISION #TX77-4207 - Mod. #1 (42 FR 42143 - August 19, 1977) Wichita County, Texas					
Change:					
Ironworkers:					
Structural; Ornamental; Reinforcing	8.53	.55	1.00		.10
Ironworkers on jobs 30 miles or more from the City of Wichita Falls	8.675	.55	1.00		.10
Plasterers	9.80				.01

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SUPERSEDEAS DECISION

STATE: Maryland & Virginia

COUNTIES: Montgomery and Prince Georges Counties, Maryland; Arlington County, Virginia; D. C. Training School, and for WMATA - Rapid Rail Transit System Projects Only, Alexandria, Virginia

DECISION NO. MD77-3109

Supersedes Decision No. MD77-3041, dated March 18, 1977, in 42 FR 15268.

DESCRIPTION OF WORK: Building Construction, including Washington Metropolitan Area Transit Authority - Rapid Rail System, (excluding all residential projects).

BUILDING CONSTRUCTION, INCLUDING WMATA - RRTS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.92	.59	.89		.03
BOILERMAKERS - BLACKSMITHS	9.40	.60	.90		.02
BRICKLAYERS	11.65	.80	.70		.10
CARPENTERS	10.45	.80	.60		.05
CEMENT MASONS:					
Cement masons	10.50	.805	.60		.11
Grinding machine	10.75	.805	.60		.11
DIVERS	18.125	.50	.49		.07
DIVER TENDER	10.75	.50	.49		.07
ELECTRICIANS	11.40	.65	1%+.80		.13
ELEVATOR CONSTRUCTORS	11.235	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROBATIONARY)	50%JR				
GLAZIERS	10.53	.61	.50		.05
IRONWORKERS:					
Structural, ornamental and chain link fence	10.40	.87	.80		.05
Reinforcing	10.80	.62	.95		.03
LABORERS (EXCLUDING WMATA RAPID RAIL TRANSIT SYSTEM)					
Common laborers, landscapers	8.46	.60	.45		.05
Acetylene burners used on wrecking	8.96	.60	.45		.05
Air tool op., scaffold builders, paving breakers, townmasters, buggy mobiles, spaders, mortar man and scootcretes	8.61	.60	.45		.05
Pipelayers	8.61	.60	.45		.05
Plasterers' tenders	7.03	.32	.35		.05
Plumbers' laborers	6.93	.30	.40		.05
Powdermen	9.635	.60	.45		.05
Powersaw, well points	8.71	.60	.45		.05
LATHERS	10.36	.50	.50		.025
LEADBURNERS	10.75	.40	.25	c	.01
CARPET LAYERS	7.05	.30			.05

MD77-3109

BUILDING CONSTRUCTION, INCLUDING WMATA - RRTS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen, cable splicers, equipment operators	$12.41	.45	3%		½ of 1%
Truck with winch, truck pole or steel handling	7.53	.45	3%		½ of 1%
Groundmen (0 to 1 year)	6.11	.45	3%		½ of 1%
Groundmen (1 to 2 years)	7.02	.45	3%		½ of 1%
Groundmen (over 2 years)	7.27	.45	3%		½ of 1%
MARBLE SETTERS	11.60	.80	.65		.06
MARBLE SETTERS' HELPERS	7.35				
MILLWRIGHTS	10.94	.80	.60		.05
PAINTERS:					
Brush, spray, paperhangers, tapers	10.54	.81	1.10		.06
Steel, sandblasting, swing stage, power brushing	11.04	.81	1.10		.06
PILEDRIVERMEN	10.68	.80	.60		.05
PLASTERERS	10.15	.55	.65		.06
PLUMBERS	11.12	1.00	1.00		.27
ROOFERS:					
Composition	9.57	.56	.30		
Slate, tile mopmen, waterproofers, sprayers, sprandrel and ironite	10.13	.56	.30		
Helpers	6.79	.56	.30		
SHEET METAL WORKERS	11.14	1.07	1.21		.14
SOFT FLOOR LAYERS	10.45	.80	.60		.05
SPRINKLER FITTERS	11.70	.65	.95		.08
STEAMFITTERS, Refrigeration and air conditioning mechanic	11.48	.75	1.00		.16
STONE MASONS	11.60	.80	.65		.07
STONE CUTTERS:					
Fitters and trimmers	11.65	.18	.40		
Ornamental carvers	10.38	.18	.40	d	
Figure carvers	11.00	.18	.40	d	

MD77-3109

BUILDING CONSTRUCTION CONT'D: (INCLUDING WMATA)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO AND MOSAIC WORKERS	10.68	.60	.40		
TERRAZZO WORKERS' HELPERS	9.30	.50	.40		
TILE SETTERS	10.68	.60	.40		
TILE SETTERS' HELPERS	9.30	.50	.40		
TRUCK DRIVERS:					
Boom trucks	8.45	.415	.425	e+f	
Samll dump, water sprinkler, grease and oil	8.20	.415	.425	e+f	
Flat, pick-up hauling materials, small Euclids, dump over 8 wheels	8.30	.415	.425	e+f	
Trailers, low boys, tractor pulls	8.50	.415	.425	e+f	
Helpers	8.05	.415	.425	e+f	
Carryalls, large Euclids, Euclid water sprinkler, tunnel work under ground	8.60	.415	.425	e+f	
Mechanics	8.35	.415	.425	e+f	
RIGGERS AND WELDERS - Receive rates prescribed for crafts performing operations to which rigging and welding are incidental.					

MD77-3109

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Holidays: A through F plus Washington's Birthday, Good Friday and Christmas Eve (provided an employee has worked at least 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday).

d. Holidays: A-D-E-F and Veteran's Day.

e. Holidays: A-D-E and F(provided the employee works the regularly scheduled work days immediately preceeding and following the holiday.

f. One weeks paid vacation providing the employee has worked 3 years and a minimum of 1450 hours during any calendar year.

UMI

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY - RAPID RAIL TRANSIT SYSTEM ONLY

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
GROUP I	$8.46	.60	.45		.05
GROUP II	8.61	.60	.45		.05
GROUP III	8.66	.60	.45		.05
GROUP IV	8.71	.60	.45		.05
GROUP V	8.91	.60	.45		.05
GROUP VI	9.11	.60	.45		.05
GROUP VII	9.235	.60	.45		.05
GROUP VIII	9.635	.60	.45		.05

CLASSIFICATIONS

LABORERS:
GROUP I - Carloader, choker setter, concrete crewman, crushed feeder, demolition laborer (including salvaging all material, loading and cleaning up), wrecking, driller helper, dumpman, flagman, fence erector and installer (including installation and erection of fence, guard rails, median rails, reference posts, guide posts and right-of-way markers), form stripper, general laborers, railroad track laborer, riprap man, scale man, stake jumper, structure mover (includes foundation, separation, preparation, cribbing, shoring, jacking and unloading of structures), water nozzleman, timber bucker and feller, truck loader, water boys, tool room men
GROUP II - Combined air and water nozzlemen, cement handler, dope pot fireman (nonmechanical), form cleaning machine, mechanical railroad equipment (includes spiker, puller, tie cleaner, tamper pipe wrapper, power driven wheelbarrow, operators of hand derricks, townsmters, scoorcrates, buggymobiles and similar equipment), tamper or rammer operator, trestle scaffold builders over one tier high, power tool operator (gas, electric or pneumatic), sandblast or gunnite tailhose man, scaffold erector (steel or wood), vibrator operator (up to 4'), asphalt cutter, mortar men, shover and lagger, creosote material handler, corrosive enamel or equal, paving breaker and jackhammer operators
GROUP III - Multi-section pipe layer, non-mentallic clay and concrete pipe layer (including caulker, collarman, joiner, rigger and jacker) thermite welder and corrugated metal culvert pipe layer
GROUP IV - Asphalt block pneumatic cutter, asphalt roller, walking chain-saw with attachment, concrete saw (walking), high scalers, jackhammer (using over 6' of steel), vibrator (4' and over), well point installers, air-trac operator
GROUP V - Asphalt screeder, big drills, cut of the hole drills (1½ piston or larger) down the hole drills (3½" piston or larger), gunnite or sandblaster nozzleman, asphalt raker, asphalt tamper, form setter, demolition torch operator, shotcrete nozzleman and potman
GROUP VI - Powderman, master form setters
GROUP VII - Brick paver (asphalt block paver, asphalt block saw man, asphalt block grinder; hastings block or similar type)
GROUP VIII - Miners

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY - RAPID RAIL TRANSIT SYSTEM ONLY

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$8.735	.50	.40		.05
GROUP II	9.035	.50	.40		.05
GROUP III	9.685	.50	.40		.05
GROUP IV	9.935	.50	.40		.05

CLASSIFICATIONS

TUNNELS, RAISES AND SHAFTS - FREE AIR

GROUP I
Brakeman, bull gang, dumper, trackman, concrete man

GROUP II
Chuck tender, powderman in prime house, form setters and movers, nippers, cableman, hosemen, groutman, bull or signalman, top or bottom vibrator operator, caulkers' helpers

GROUP III
Miners, rodman, re-bar underground, concrete or gunnite nozzlemen, powderman, timberman and re-timberman, wood steel including liner plate or any other support, material, motorman, caulkers, diamond drill operators, riggers, cement finishers - underground, welders and burners, shield driver, air trac operator, shotcrete nozzleman and potman.

GROUP IV
Mucking machine operator (air)

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NOTICES

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY - RAPID RAIL TRANSIT SYSTEM ONLY

COMPRESSED AIR RATES		Rates Paid Daily	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
Gauge Pressure Pounds	Work Period Hours					
1-14	7	$91.26	a	b		c
14-18	6	94.60	a	b		c
18-22	5-1/7	97.89	a	b		c
22-26	5	101.28	a	b		c
26-32	4	104.61	a	b		c
32-38	3	107.91	a	b		c
38-44	2-1/2	119.29	a	b		c

Footnotes:
a. The employer pays $4.80 to health and welfare per day.

b. The employer pays $3.60 to Pension per day.

c. The employer pay $.40 to training fund per day.

(INCLUDING WMATA - RAPID RAIL TRANSIT SYSTEM)

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP I	$11.80	.55	.55		.12
GROUP II	11.50	.55	.55		.12
GROUP III	11.40	.55	.55		.12
GROUP IV	11.22	.55	.55		.12
GROUP V	11.17	.55	.55		.12
GROUP VI	11.15	.55	.55		.12
GROUP VII	11.14	.55	.55		.12
GROUP VIII	10.97	.55	.55		.12
GROUP IX	10.95	.55	.55		.12
GROUP X	10.75	.55	.55		.12
GROUP XI	10.27	.55	.55		.12
GROUP XII	10.09	.55	.55		.12

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP I - 35 ton cranes and above, tower and climbing cranes

GROUP II - Back hoes, boom-cat, cableways, cranes or derricks, draglines, elevating graders, hoists, multiple concrete conveyors, elevators (permanent), paving mixers, pile driving engines, power shovels, tunnel shovels, mucking machines, batch plant, concrete pumps, locomotives (standards, narrow guage), power driven wheel scoops and scrapers (50 cu. yd. struck capacity or above), front end loader above 3½ cu. yd., boom trucks, moles, shields, tunnel mining machines, loaders used as muckers in tunnel mining, gradalls, shotcrete machines and grout pumps with discharge of two inches I.D. or more, drill rigs

GROUP III - Hydraulic back hoes of less than ½ yd. capacity, mounted on tractors, front end loader above 2-3/4 to 3½ cu. yd.

GROUP IV - Air compressor on steel

GROUP V - Mechanic, mechanic-welder, welder

GROUP VI - Front end loader, highlift, fork lift

GROUP VII - Boilers (skeleton), trenching machines, tug boat, well drilling machines

GROUP VIII - Concrete mixer, tunnel motorman

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POWER EQUIPMENT OPERATORS CLASSIFICATIONS (CONT'D)

GROUP IX - Power driven wheel scoops and scrapers (below 50 cu. yd. struck capacity), blade graders, motor graders, bulldozers

GROUP X - Rollers, asphalt spreaders, bullfloat finishing machines, concrete finishing machines, concrete spreaders, fine graders

GROUP XI - Air compressors (except steel), welding machines, pumps, generators, space heaters, wellpoints, deepwells, hydraulic pumps

GROUP XII - Firemen

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DECISION NO: MA77-3064	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Apprn. Tr.
ELECTRICIANS (CONT'D)					
Residential	6.60	.50	5%	2%	.5%
Fall River, Freetown, Somerset					
Swansea & Westport	9.70	.4%	1%+.80	4%	.5%
Remainder of County	11.09	.75	1%		.1%
Residential	8.10	.50	1%		.1%
ELEVATOR CONSTRUCTORS	11.445	.545	.35	4%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS:					
Easton	10.40	.57	.64		.03
Remainder of County	8.88	.52	1.03		.01
IRONWORKERS:					
Easton, Mansfield, N. Easton	10.49	1.00	1.50		.06
Remainder of County	9.43	.70	1.50		.05
LABORERS (BUILDING):					
Laborers; carpenter tenders; wrecking laborers	7.50	.60	.70		.10
Jackhammer op.; pavement breakers; asphalt rakers; carbide core drilling machine) Cabin saw op.; pipelayer; Barco tamp; jackhammer; laser beam; concrete pump; mason tenders; mortar mixers; ride-on motorized buggy, fence and bean rail erectors and plasterers' tenders	7.75	.60	.70		.10
Air track; block pavers; rammers curb setters	8.00	.60	.70		.10
Blasters; powdermen	8.37	.60	.70		.10
Open air caisson; cylindrical work & tunnel raise:					
Laborers; Top man	7.50	.60	.70		.10
Helper	8.63	.60	.70		.10
Bottom men	8.25	.60	.70		.10
Driller	8.37	.60	.70		.10
LATHERS	9.45	.65	.55	d	.01
LEADBURNERS	9.25	.35			.01
LINE CONSTRUCTION:					
Linemen	11.50	.65	1%+.50	e	3/8 of 1%
Equipment Operators	10.38	.65	1%+.50	e	3/8 of 1%
Driver Groundman	8.53	.65	1%+.50	e	3/8 of 1%
Groundman	7.18	.65		e	3/8 of 1%

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Bristol
DECISION NO.: MA77-3064 DATE: Date of Publication
Supersedeas Decision No. MA76-2097 dated August 13, 1976 in 41 FR 34509.
DESCRIPTION OF WORK: Building Construction (including Residential), Heavy and Highway Construction and Marine Construction.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Apprn. Tr.
ASBESTOS WORKERS:					
Easton	10.26	.80	.80		.01
Remainder of County	10.28	1.00	1.18		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS, CEMENT MASONS, PLASTERERS & STONEMASONS:					
Easton, N. Easton & S. Easton Acushnet, Dartmouth, Fairhaven, Fall River, Freetown, New Bedford, N. Dartmouth, Somerset, Swansea, S. Dartmouth & Westport	9.85	.85	1.15		.06
Remainder of County	10.25	.80	.80		.06
CARPENTERS & SOFT FLOOR LAYERS:	9.55	1.10	.80		.06
Easton, N. Easton & S. Easton	9.30	.50	.65		.02
Attleboro, N. Attleboro & S. Attleboro	10.20	.60	1.00		.07
Remainder of County:					
All work over $1½ million including residential	9.30	.60	1.00		.02
Work from $1 million - 1½ million	8.83	.60	1.00		.02
Work from $5,000 - 1 million	8.37	.60	1.00		.02
Work from $2,000 - 500,000	7.44	.60	1.00		.02
Residential up to 4 stories & commercial up to $200,000	6.97	.60	1.00		.02
ELECTRICIANS:					
Attleboro, N. Attleboro & Seekonk	9.40	.4%	1%+1.40		.02
Residential	6.00	.3%	1%		.02
Acushnet, Dartmouth, Fairhaven, New Bedford, N. Dartmouth & S. Dartmouth:					
All other commercial	10.00	.55	1%+.70		e
Repair, jobbing, commercial, remodel, rewiring jobs with electrical contracts under $25,000	7.85	.55	1%+.70		a
Residential	5.70	.40	1%+.70		a
Easton:					
Electrical contracts less than $40,000.00	9.15	6%	5%	2%	.5%
Electrical contracts $40,000.00 or more	11.05	6%	5%	2%	.5%

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DECISION NO. MA77-3064	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE & TILE SETTERS; TERRAZZO WORKERS	9.80	.85	1.10		
MARBLE SETTERS' HELPERS	9.95		.25		
MILLWRIGHTS	10.00	.60	1.00		.07
PAINTERS:					
Acushnet, Dartmouth, Fairhaven, New Bedford, N. Dartmouth & S. Dartmouth: Brush & roller	8.75	.70	.65		
Spray	10.00	.70	.65		
Sandblasting, chipping hammer, power brush	10.25	.70	.65		
Paperhangers & vinyl installer	9.25	.70	.65		
Steel	12.00	.70	.65		
Remainder of County:					
Brush, taper	9.76	.72	1.05		.04
Steel (new & repaint steel)	11.88	.72	1.05		.04
Spray, sandblasting	10.76	.72	1.05		.04
All other repaint & alteration	8.61	.72	1.05		.04
PILEDRIVERMEN	10.15	.60	1.00		
PLASTERERS' TENDERS	7.75	.60	.70		.10
PLUMBERS & STEAMFITTERS:					
Easton	10.95	.80	.80		.05
Acushnet, Dartmouth, Fairhaven, Fall River, Freetown, New Bedford, N. Dartmouth, Somerset, S. Dartmouth, Swansea & Westport	9.90	.76	1.16		.15
Residential	8.91	.76	1.16		.15
Remainder of County	8.97	.60	.73		
ROOFERS:					
Attleboro, Taunton, Mansfield, Easton, Norton, Raynham & N. Attleboro:					
Journeyman	9.75	.70	1.20		.05
Re-roofing and repair	9.20	.70	1.20		.05
Pitch work	10.75	.70	1.20		.05
Remainder of County:					
Journeyman and mechanics	9.20	.75	.30		
Helpers Class "A"	8.50	.75	.30		
Helpers Class "B"	5.52	.75	.30		
Mechanics on shingle work	7.36	.75	.30		

DECISION NO. MA77-3064	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS:					
Acushnet, Assonet, Dartmouth, Dighton, Fairhaven, Fall River, Freetown, New Bedford, N. Dartmouth, Rehboth, Seekonk, Somerset, Swanwea & Westport	9.48	.95	.45		
Remainder of County	10.23	1.16	1.10		.06
SPRINKLER FITTERS	11.63	.65	.95		.08
TERRAZZO WORKERS' HELPERS	9.95		.25		.05

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Chirstmas Day

FOOTNOTES:

a. Employer contribution of 1.00 per journeyman Electricians per week

b. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

c. Holidays: A through F.

d. Holidays: A through F, Washington's Birthday, Good Friday & Christmas Eve, providing employee has worked at least 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

e. Holidays: A through F, & Bunker Hill Day, provided the employee is employed 10 days prior to the listed holidays.

DECISION NO. MA77-3064	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	7.50	.60	.70		.10
CLASS II	7.75	.60	.70		.10
CLASS III	8.00	.60	.70		.10
CLASS IV	8.25	.60	.70		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

DECISION NO. MA77-3064	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	10.61	1.10	.80	a	.02
CLASS II	10.49	1.10	.80	a	.02
CLASS III	8.86	1.10	.80	a	.02
CLASS IV	9.67	1.10	.80	a	.02
CLASS V	7.84	1.10	.80	a	.02
CLASS VI	8.32	1.10	.80	a	.02

CLASSIFICATIONS

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour
CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paying screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)
CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pullsometers, concrete mixers, values controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragn pump, lighting plants
CLASS IV Assistant engineers (firemen)
CLASS V Oilers (other than truck cranes and gradalls)
CLASS VI Oilers on truck cranes and gradalls

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

DECISION NO. MA77-3064

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	10.61	1.10	.80	a	.02
Hourly premium for boom lengths including jib					
Over 150 feet + $ .45					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
GROUP 2	10.49	1.10	.80	a	.02
GROUP 3	8.86	1.10	.80	a	.02
GROUP 4	9.67	1.10	.80	a	.02
GROUP 5	7.84	1.10	.80	a	.02
GROUP 6	8.32	1.10	.80	a	.02

CLASSIFICATIONS

GROUP 1 Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders. asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers

GROUP 3 Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generators, lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)

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CLASSIFICATIONS CONT'D

GROUP 4 Assistant engineers (firemen)

GROUP 5 Oilers (other than truck cranes & gradalls)

GROUP 6 Oilers (on truck cranes & gradalls)

FOOTNOTES:

a. Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

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MARINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP I	10.61	1.10	.80	a	.02
GROUP II	11.61	1.10	.80	a	.02
GROUP III	10.56	1.10	.80	a	.02
GROUP IV	10.49	1.10	.80	a	.02
GROUP V	8.86	1.10	.80	a	.02
GROUP VI	9.67	1.10	.80	a	.02
GROUP VII	7.84	1.10	.80	a	.02
GROUP VIII	8.32	1.10	.80	a	.02

CLASSIFICATIONS

GROUP I - Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers two or more drum machines, lighters, derricks boats, trenching, mechanics hoists pavement breakers, cement concrete pavers, draglines, hoisting engines, pump-crete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site, paving concrete mixers; Booms over 150' including jib - additional $.45 per hour - Booms over 185' including jib - additional $.80 per hour; Booms over 210' including jib - additional $1.15 per hour; Booms over 250' including jib - additional $1.75 per hour; Booms over 295' including jib additional $2.50 per hour

GROUP II - Master Mechanic

GROUP III - Swinger Engines

GROUP IV - Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bull-dozers, tractors york rakes, mulching machines, rollers, spreaders, tamper self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance, cal tracks, ballast, regulator, switch tampers, rail anchor machines, tire trucks

GROUP V - Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, well point systems, augers - powered by independence engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulsometers, concrete mixers, conveyors

DECISION NO. MA77-3064

CLASSIFICATIONS

GROUP VI - Assistant engineers (firemen)

GROUP VII - Oilers and apprentices (other than truck cranes and gradalls)

GROUP VIII - Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. 10 paid holidays: A Through F; Washington's Birthday; Patriots' Day; Columbus Day & Veterans' Day

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DECISION NO. MA77-3064	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
CLASS I	7.24	.545	.575	a+b	
CLASS II	7.39	.545	.575	a+b	
CLASS III	7.44	.545	.575	a+b	
CLASS IV	7.54	.545	.575	a+b	
CLASS V	7.64	.545	.575	a+b	
CLASS VI	7.89	.545	.575	a+b	
CLASS VII	8.14	.545	.575	a+b	

CLASSIFICATIONS

CLASS I Station wagons, panel trucks and pickup trucks

CLASS II Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators

CLASS III Three axle equipment and tiremen

CLASS IV Four and five axle equipment

CLASS V Specialized earth moving equipment under 35 tons othe than conventional type trucks, low bed, vachual, mechanics, paving restoration equipment, mechanics

CLASS VI Specialized earth moving equipment over 35 tons

CLASS VII Trailers for earth moving equipment, (double hookup)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided be has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Worcester
DECISION NO. MA77-3073 DATE: Date of Publication
Supersedes Decision No. MA76-2106, dated September 3, 1976 in 41 FR 37409.
DESCRIPTION OF WORK: Building Construction (including residential), heavy and highway construction.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	10.41	.57	.65		
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS, CEMENT MASONS, PLASTERERS AND STONEMASONS:					
Warren	9.55	.55	.80		.03
Hopedale, Milford & Southboro	9.65	1.20	1.00		.08
Ashburnham, Athol, E. Templeton, Fitchburg, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Luneburg, Petersham, Phillipston, Princeton, Royalston, Sterling, Templeton, Westminster and Winchendon	10.25	.90	.70		.06
Remainder of County	9.50	.70	.85		.02
CARPENTERS, SOFT FLOOR LAYERS:					
Blackstone, Millville	9.40	.65	.90		.05
Ashburnham, Athol, E. Gardner, E. Templeton, Fitchburg, Gardner, Harvard, Leominster, Lunenburg, N. Leominster, Petersham, Phillipston, Royalston, S. Ashburnham, S. Royalston, Templeton, Westminister, Winchendon, Berlin, Bolton, Clinton, Northboro, Southboro, Westboro, Hopedale, Mendon, Milford, Upton, W. Upton	10.20	.60	1.00		.07
Hardwick, Warren, W. Brookfield	9.65	.45	.65		.02
Remainder of County	10.30	.50	1.00		.07
ELECTRICIANS:					
Warren, W. WArren	9.85	.70	1%+.30	.43	.03
Ashburnham, Athol, Bolton, Fitchburg, Garden, Harvard, Hubbardston, Lancaster, Leominster, Lunenburg, Phillipston, Westminster, and Winchendon	10.05	.75	1%+.70		.02
Remainder of County	10.13	8%	3%+.24		.01
ELEVATOR CONSTRUCTORS	10.01	.445	.29	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	4%+a+b	.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS:					
East Douglas	8.68	.52	.85		.01
Remainder of County	10.40	.57	.64		.03
IRONWORKERS:					
Southboro	10.49	.70	1.50		.06
Blackstone	9.43	.70	1.50		.03
Remainderof County	10.49	.70	1.50		.06
LABORERS (BUILDING):					
Laborers, carpenter tenders and wrecking laborers	7.50	.60	.70		.10
Jackhammer ops, pavement breakers, asphalt rakers, carbide core drilling machine, chain saw ops, pipelayers, barco type jumping tampers, laser beam, concrete pump, mason tenders, mortar mixers, ride-on motorized buggies, and fence and beam rail erectors and plasterers' tenders	7.75	.60	.70		.10
Air track, block pavers, rammers, and curb setters	8.00	.60	.70		.10
Blasterers and powdermen	8.25	.60	.70		.10
Open air caisson and cylindrical work and boring crew:					
Laborer, topman	7.50	.60	.70		.10
Helper	7.62	.60	.70		.10
Bottom men	8.25	.60	.70		.10
Driller	8.37	.60	.70		.10
LATHERS:					
Sturbridge and Warren	9.40	.45	.25		.01
Drywall	8.30	.45	.25		.01
Blackstone and Lunenburg	9.25	.45	.55		
Remainder of COunty	10.12	1.65	.25		.01
LEADBURNERS	9.25	.35		d	.01
LINE CONSTRUCTION:					
Linemen	11.50	.65	1%+.50	c	3/8 of 1%
Equipment operator	10.78	.65	1%+.50	d	3/8 of 1%
Driver groundman	8.53	.65	1%+.50	d	3/8 of 1%
Groundman	7.18	.65	1%+.50	d	3/8 of 1%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS:					
Ashburnham, Fitchburg, Harvard, Lancaster, Leominster, Lunenburg, Princeton, Sterling, Westminster	9.80	.85	1.10		
Auburn, Barre, Berlin, Blackstone Bolton, Boylston, Brookfield, CHarlton, Clinton, Douglas, Grafton, Hardwick, Holden, Leicester, Mendon, Millbury, Millville, New Braintree, Northboro, Northbridge, Oakham, Oxford, Paxton, Rutland, Shrewsbury, Southbridge, Spencer, Sturbridge, Sutton, Upton, Uxbridge, Webster, W. Boylston, Westboro & Worcester	9.00	.70	.60		.02
Warren	9.55	.55	.55		.03
MARBLE SETTERS' HELPERS	8.71	.85	.25		
MILLWRIGHTS	10.20	.60	1.00		.07
PAINTERS:					
Warren, W. Warren:					
Brush & roller	8.92	.65	.40		.03
Spray	11.8933	.8666	.5333		.04
Swing stage under 40' steel	9.107	.65	.40		.03
Swing stage over 40' steel	9.42	.65	.40		.03
Holedale, Mendon, Milford, Southboro, Upton & Westboro:					
Brush (New Construction)	7.85	.35	.35		.06
Brush (Repaint)	7.30	.35	.35		.06
Steel (New Construction)	8.10	.35	.35		.06
Steel (Repaint)	7.55	.35	.35		.06
Spray (New Construction)	8.80	.35	.35		.06
Spray (Repaint)	8.25	.35	.35		.06
Remainder of County:					
Brush	10.08	.75	.70		.02
Steel	12.20	.75	.70		.02
Sandblasting; Spray	11.08	.75	.70		.02
Repaint	8.61	.75	.70		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PILEDRIVERMEN	10.15	.60	1.00		
PIPEFITTERS:					
Holedale & Southboro	9.97	.53	.55		.05
Remainder of County	10.18	.45	.40		.05
Pondville	11.76	.94	1.20		.07
PLUMBERS:					
Hopedale and Southboro	11.22	.98	.85		.05
Ashburnham, Athol, Bolton, Fitchburg, Garden, Harvard, Hubbardston, Lancaster, Leominster, Luneburg, Petersham, Phillipston, Royalston, Templeton, Westminster and Winchendon	10.02	.60	.65	.40	.05
Remainder of County	10.83	.65	.45		.05
ROOFERS	10.00	.77	.63		
SHEET METAL WORKERS	10.20	.85	.75		.05
SPRINKLER FITTERS	11.63	.65	.95		.08
TERRAZZO WORKERS AND TILE SETTERS:					
Ashburnham, Fitchburg, Harvard, Lancaster, Leominster, Lunenburg, Princeton, Sterling and Westminster Counties	9.80	.85	1.10		
Auburn, Barre, Berline, Blackstone, Bolton, Boylston, Brookfield, Charlton, Clinton, Douglas, Dudley, Grafton, Hardwick, Holden, Leicester, Mendon, Millbury, Millville, New Braintree, Northboro, Northbridge, Oakham, Oxford, Paxton, Rutland, Shrewsbury, Southbridge, Spencer, Sturbridge, Sutton, Upton, Uxbridge, Webster, W. Boylston, Westboro and Worcester Counties	9.00	.70	.60		.02
Warren County	9.55	.55	.55		.03
Hubbardston, Gardner, Phillipston, Petersham, Athol, Royalston, Winchenden (only Tile Setters)	9.45	.60	.60		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS' HELPERS	9.95		.25		.05
TILE SETTERS' HELPERS	8.71	.85	.25		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-CHristmas Day

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F.

c. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked at least 45 full days during the 120 calendar days immediately prior to the holiday and the regular scheduled work days immediately preceeding and following the holiday.

d. Holidays: A through F and Bunker Hill Day, provided the employee has worked 10 days prior to the listed holidays.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	7.50	.60	.70		.10
CLASS II	7.75	.60	.70		.10
CLASS III	8.00	.60	.70		.10
CLASS IV	8.25	.60	.70		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: Royalston, Phillipston, Athol, Petersham, Hardwick, New Braintree, Brookfield, E. Brookfield, N. Brookfield, Oakham, Barre, Templeton, Winchendon, Sturbridge, W. Brookfield & Warren:					
CLASS I	9.73	.85	.75	a	.07
CLASS II	9.53	.85	.75	a	.07
CLASS III	9.33	.85	.75	a	.07
CLASS IV	8.96	.85	.75	a	.07
CLASS V	8.24	.85	.75	a	.07
CLASS VI	7.78	.85	.75	a	.07
CLASS VII	7.03	.85	.75	a	.07

CLASSIFICATIONS

CLASS I Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Bakchoes, Gradalls, Elevating Graders, Pile Driving Rigs, Concrete Road Pavers, three drum Hoisting and Trenching Machines, Belt-type Loaders, Front End Loader-5½ yards or over, Dual Drum Paver, Automatic Grader (i.e. C.M.I.) Combination Back Hoe-Loader-3/4 yard hoe or over

CLASS II Rotary Drill (with mounted compressor), compressor house (3 to 6 compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Graders, Front End Loaders-4 yards to 5½ yards, two Drum Hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers-21 yards and over (struck load), Sonic Hammer Console

CLASS III Combination Backhoe-Loader-up to 3/4 hoe, Bulldozers, Push Cats, Scraper-up to 21 yards (Struck Load)-self propelled or tractor drawn, Tireman, Front End Loaders-up to 4 yards, Asphalt Paver, Asphalt Roller-10 ton or over, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete Pumps and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-Loading Batch Plant, Well Point, Electric Pumps used in Well Point System, Pumps-12 inches and over (total discharge), compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators, (manually or remote controls), Grout Pumps, Boom Truck, Hydraulic Cranes-under 10 ton

CLASS IV Asphalt Roller-under 10 ton

CLASSIFICATIONS CONT'D

CLASS V Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-Propelled Material Spreaders, A Frame Trucks, Fork Lifts up to 15 feet

CLASS VI Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps-4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers, Rubber, Tire Roller, Compactors or other machines used for pulverizing, Grading or Seeding

CLASS VII Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on Grease Truck, and Grease Trucks with hand greasing equipment

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Holidays: A through F, Veterans' Day and Columbus Day

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY & HIGHWAY CONSTRUCTION					
POWER EQUIPMENT OPERATORS: Sturbridge, Brookfield, N&E Brookfield, Oakham, Barre, Templeton, Winchendon, Royalston, Phillipston, Athol, Petersham, Hardwich, New Braintree, W. Brookfield, and Warren:					
CLASS I	9.73	.85	.75	a	.07
CLASS II	9.53	.85	.75	a	.07
CLASS III	9.33	.85	.75	a	.07
CLASS IV	8.96	.85	.75	a	.07
CLASS V	8.24	.85	.75	a	.07
CLASS VI	7.78	.85	.75	a	.07
CLASS VII	7.03	.85	.75	a	.07
* The Above Rates Are For Contracts $175,000.00 and Above					
POWER EQUIPMENT OPERATORS:					
CLASS I	9.45	.85	.75	a	.07
CLASS II	9.25	.85	.75	a	.07
CLASS III	9.05	.85	.75	a	.07
CLASS IV	8.68	.85	.75	a	.07
CLASS V	8.00	.85	.75	a	.07
CLASS VI	7.55	.85	.75	a	.07
CLASS VII	6.82	.85	.75	a	.07
* The Above Rates Are For Contracts Under $175,000.00					

CLASSIFICATIONS

CLASS I Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processing Plant (Engineer in charge), Dragline, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader-5½ yards and over, Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Pavers, Automatic Graders-Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine

CLASS II Rotary Drill (with mounted Compressor), Compressor House 3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5½ yards, Scraper-21 yards and over (Struck Load), Porklifts-7 ft. lift and over or 3 ton capacity and over, Sonic Hammer Console

CLASS III Bulldozer, Push Cats, Scrapers-up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders-up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well Point Operators, Electric Pumps used in Well Point system, Tiremen, Pumps-16 inches or over total discharge, Compressors (1 or 2) ()) cu. ft. and over, Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck Self-Propelled Hydraulic Cranes-up to 10 ton

CLASS IV Asphalt Roller-up to 10 ton

CLASS V Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant

CLASS VI Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheeps-foot toller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil

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CLASSIFICATIONS

CLASS VII Compressor (up to 315 cu. ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines, A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat

FOOTNOTES:

a. Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving Day and Christmas Day

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Remainder of County					
CLASS I	$10.61	1.10	.80	a	.02
CLASS II	10.49	1.10	.80	a	.02
CLASS III	8.86	1.10	.80	a	.02
CLASS IV	9.67	1.10	.80	a	.02
CLASS V	7.84	1.10	.80	a	.02
CLASS VI	8.32	1.10	.80	a	.02

CLASSIFICATIONS

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills,post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour

CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paying screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pullsometers, concrete mixers, values controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragn pump, lighting plants

CLASS IV Assistant engineers (firemen)

CLASS V Oilers (other than truck cranes and gradalls)

CLASS VI Oilers on truck cranes and gradalls

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	10.61	1.10	.80	a	.02
Hourly premium for boom lengths including jib					
Over 150 feet +	$ .45				
Over 185 feet +	.80				
Over 210 feet +	1.15				
Over 250 feet +	1.75				
Over 295 feet +	2.50				
GROUP 2	10.49	1.10	.80	a	.02
GROUP 3	8.86	1.10	.80	a	.02
GROUP 4	9.67	1.10	.80	a	.02
GROUP 5	7.84	1.10	.80	a	.02
GROUP 6	8.32	1.10	.80	a	.02

CLASSIFICATIONS

GROUP 1 Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines,three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders. asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers

GROUP 3 Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generators, lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)

CLASSIFICATIONS CONT'D

GROUP 4 Assistant engineers (firemen)

GROUP 5 Oilers (other than truck cranes & gradalls)

GROUP 6 Oilers (on truck cranes & gradalls)

FOOTNOTES:

a. Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

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BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVING:					
CLASS I	7.24	.545	.575	a+b	
CLASS II	7.39	.545	.575	a+b	
CLASS III	7.44	.545	.575	a+b	
CLASS IV	7.54	.545	.575	a+b	
CLASS V	7.64	.545	.575	a+b	
CLASS VI	7.89	.545	.575	a+b	
CLASS VII	8.14	.545	.575	a+b	

CLASSIFICATIONS

CLASS I Station wagons, panel trucks and pickup trucks

CLASS II Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators

CLASS III Three axle equipment and firemen

CLASS IV Four and five axle equipment

CLASS V Specialized earth moving equipment under 35 tons othe than conventional type trucks, low bed, vachual, mechanics, paving restoration equipment, mechanics

CLASS VI Specialized earth moving equipment over 35 tons

CLASS VII Trailers for earth moving equipment, (double hookup)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Hampden
DECISION NO.: MA77-3127 DATE: Date of Publication
Supersedes Decision No. 75MA-2134, dated December 19, 1975 in 40 FR 59166.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$9.95	.94	1.25		.01
Bricklayers	9.55	.55	.80		.06
Carpenters & Soft floor layers	9.65	.45	.65		.02
Cement masons	6.90				
Drywall applicator	7.50				
Drywall finisher	7.50				
Electricians:					
Holyoke, Chester:					
Contracts $75,000 and over	10.51	.70	1%+.40		.02
Contracts under $75,000	8.60	.70	1%+.40		.02
Remainder of County	5.32	.48	1%+.15	.43	a
Glaziers	7.41				
Ironworkers; structural, ornamental, & reinforcing	10.05	.70	1.75		.09
Laborers:					
Laborers	7.50	.60	.70		.10
Mason tenders	7.75	.60	.70		.10
Lathers	9.40	.45	.25		.01
Drywall work	8.30	.45	.25		.01
Painters,	8.92	.65	.40		.03
Plasterers	9.55	.55	.80		.06
Plumbers	9.85	.96	1.00	c	.10
Roofers	9.165	.82	1.06		.03
Sheet metal workers	9.41	.85	1.16		
Power equipment operators:					
Backhoe, crane, gradall, and trenching machines	9.73	.85	.75	b	.07
Bulldozer, pavers, rollers	9.33	.85	.75	b	.07
Graders	9.53	.85	.75	b	.07
Oilers	7.03	.85	.75	b	.07

PAID HOLIDAYS:
A- New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Footnotes:
a. $.10 per man per week
b. 8 paid holidays; A through F, Veterans' Day, and Columbus Day.
c. 2 paid holidays: Independence Day and Labor Day provided the employee has been employed 7 days prior to the holiday for the same employer.

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SUPERSEDEAS DECISION

STATE: Michigan
DECISION NO. MI77-2125
COUNTIES: Statewide
DATE: Date of Publication
Supersedes Decision No. MI76-2140, dated November 18, 1976 in 41 FR 51318
DESCRIPTION OF WORK: Highway, Bridge, Airport and Sewer Construction exlcusive of Buildings

CARPENTERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
MACOMB, MONROE, OAKLAND, ST. CLAIR & WAYNE COUNTIES; in LIVINGSTON COUNTY The Townships of Brighton, Deerfield, Genoa, Hartland, Osceola & Tyrone, in SANILAC COUNTY That part East of a line projected North & continuing the East Lapeer & West St. Clair county lines to South Huron County line	10.48	.75	9%	11%	.04
ZONE 2E					
ARENAC, BAY, CLARE, CLINTON, GENESSEE, GLADWIN, GRAIOT, HURON, INGHAM, ISABELLA, IOSCO, JACKSON, LAPEER, LENAWEE, MIDLAND, OGEMAW, SAGINAW, SHIAWASSEE, TUSCOLA & WASHTENAW COUNTIES; the Remainder of LIVINGSTON & SANILAC COUNTIES; in EATON COUNTY, All but the Townships of Bellevue, Kskamo, Vermontville & Walton; in IONIA COUNTY, the Townships of Danby, Orange, Portland & Sevewa	10.38	.60	.60		.01
ZONE 2W					
ALLEGAN, BARRY, BRANCH, CALHOUN CASS, HILLSDALE, KALAMAZOO, KENT, LAKE, MANISTEE, MASON, MESOCTA, MONTCALM, MUSKEGON, NEWAYGO, OCEANA, OTTAWA, ST. JOSEPH & VAN BUREN COUNTIES; the Remainder of EATON & IONIA COUNTIES; in BERRIEN COUNTY, all but the Townships of Chicaming, New Buffalo & 3 Oaks; in BENZIE COUNTY, the Townships of Blaine, Colfax, Crystal, Lake Gimore, Joyfield & Weldon	10.25	.60	.60		.01

DECISION NO. MI77-2125

CARPENTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and or Appr. Tr.
ZONE 3LP					
ALCONA, ALPENA, ANTRIM, CHARLEVOIX, CHEBOYGAN, CRAWFORD, EMMET, GRAND TRAVERSE, KALKASKA, LEELEAUNAW, MISSAUKEE, MONTMORENCY, OSEOLA, OSCADA, OTSEGO, PRESQUE, ISLE ROSCOMMON & WEXFORD COUNTIES & The remainder of BENZIE COUNTY	10.14	.60	.60		.01
ZONE 3UP					
ALGER, BARAGA, CHIPPEWA, DELTA DICKINSON, GEOGEBIC, HOUGHTON, IRON, KEWEENAW, LUCE, MAKINAC, MARQUETTE, MONOMINEE, ONTONAGON & SCHOOLCRAFT COUNTIES	10.09	.60	.60		.01
ZONE 4					
THE REMAINDER OF BERRIEN COUNTY	12.03	.50	.57		.05
CEMENT MASONS:					
ZONE 1					
GENESEE, LIVIGINSTON, MACOMB, MONROE, OAKLAND, SAGINAW, WASHTENAW & WAYNE COUNTIES-Cement masonry related to Highway, Road & Street Construction	10.90	.50	.50		.02
ZONE 2 - Remainder of State	10.55	.50	.50		.02
PAINTERS:					
KENT, MONTCALM, MECOSTA & the West ½ of IONIA COUNTIES only:					
Brush	8.05	.50	.25		.02
Bridges over Highway or Railroads	8.30	.50	.25		.02
Steam Cleaning/Sandblasting; Bridge Work over Rivers or Lakes, Spray & Pressure Roller	8.55	.50	.25		.02

DECISION NO. MI77-2125

LABORERS: HIGHWAY CONSTRUCTION	Basic Hourly Rates ZONE 1	Basic Hourly Rates ZONE 2	Basic Hourly Rates ZONE 2A	Basic Hourly Rates ZONE 3	Basic Hourly Rates ZONE 3A
CLASS A	8.78	8.26	8.01	7.90	7.75
CLASS B	8.56	8.03	7.78	7.60	7.45
CLASS B-1	8.43	8.12	7.87	7.88	7.73
CLASS B-2	9.24	7.93	7.68	7.70	7.55
CLASS C	8.35	7.87	7.62	7.55	7.40
CLASS D	8.24	7.71	7.46	7.35	7.20
CLASS E	8.18	7.65	7.40	7.25	7.10
CLASS F	8.15	7.57	7.32	7.20	7.05
FRINGE BENEFITS FOR ALL ZONES AND ALL CLASSIFICATIONS					
$.55 Health & Welfare					
.35 Pension					
.65 Vacation and Holiday					
.04 Apprentice Training					

CLASS A - Line form setter for curb or pavement
CLASS B - Pipe Layers, oxygen gun
CLASS B-1 - Asphalt Raker
CLASS B-2 Asphalt Tamper and asphalt taker helper
CLASS C - Tunnel miner (highway work only), finishers tenders, guard rail builder, highway and median barrier installer, fence erector, bottom man, powderman, wagon drill and air track operators, curb and side rail setters' helpers, diamond and core drills.
CLASS D - Mixer operator (less than 5 sacks), air or electric tool operator (jack hammer, etc.) spreader, boxman (asphalt, stone, gravel, etc.), concrete paddler power chain saw operator, paving batch truck dumper, asphalt screed chacker, grade checker and tunnel mucket (highway work only), concrete saw (under 40 h.p.) and dry pack machine
CLASS E - Cement handler or dockman, topman, asphalt dust handler
CLASS F - Asphalt shoveler, or loader, asphalt palt misc., axe man, batch bin (no power), burlap man, carpenters helpers, subgrade labor (hand tools), yard man, guard rail builder's helper, highway and median barrier installer's helper, fence erector helper, dumper (wagon, truck, etc.), jetting labor, joint filling labor, misc. unskilled labor, powder monkey (helpers) sprinkler labor, form setting labor, pavement reinforcing, handling and placing (e.g. wire mesh, steel mats, dowell boards, etc.), masons or bricklayer tender on manholes, headwall, etc.

ZONE DEFINITIONS
ZONE 1 - Genesee, Macomb, Monroe, Oakland, Washtenaw, & Wayne Counties
ZONE 2 - Allegan, Barry, Bay, Berrien, Branch, Clahoun, Cass, Clair, Clinton, Eaton, Gratiot, Hillsdale, Huron, Ingham, Jackson, Kalamazoo, Lapeer, Lenawee, Livingston, Midland, Muskingum, St. Joseph Saginaw, Sanilac, Shiawassee, Tuscola, & van Buren
ZONE 2A - Ionia, Kent Montcalm, & Ottawa Counties
ZONE 3 - Alcona, Alger, Alpena, Antrim, Arenac, Baraga, Benzie, Charlevoix, Cheboygan, Chippewa, Clare, Crawford, Delta, Dickinson, Emmet, Gladwin, Geogebic Grand Traverse, Houghton, Iosco, Iron, Isabella, Kalkaska, Keweenaw, Lake, Leelanau, Luce, Mackinac, Manistee, Marquette, Mason, menominee, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Ontonagon, Oscoda, Otesego, Presquo Ilse, Roscommon, Schoolcraft, and Wexford Counties
ZONE 3A - Mecosta and Osceola Counties.

DECISION NO. MI77-2125

SW LAB OC

LABORERS: OPEN CUT CONSTRUCTION ZONE 1 - WAYNE, OAKLAND & MACOMB COUNTIES	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	8.36	.75	.60	.75	.04
CLASS 2	8.44	.75	.60	.75	.04
CLASS 3	8.49	.75	.60	.75	.04
CLASS 4	8.54	.75	.60	.75	.04
CLASS 5	8.59	.75	.60	.75	.04
ZONE 2 - WASHTENAW & SOUTH EAST PART OF LIVINGSTON COUNTY					
CLASS 1	7.70	.55	.35	.55	.04
CLASS 2	7.78	.55	.35	.55	.04
CLASS 3	7.83	.55	.35	.55	.04
CLASS 4	7.88	.55	.35	.55	.04
CLASS 5	7.93	.55	.35	.55	.04
ZONE 3 - SANILAC, ST. CLAIR & MONROE COUNTIES					
CLASS 1	7.70	.55	.35	.55	.04
CLASS 2	7.80	.55	.35	.55	.04
CLASS 3	7.90	.55	.35	.55	.04
CLASS 4	7.95	.55	.35	.55	.04
CLASS 5	8.05	.55	.35	.55	.04
ZONE 4 - JACKSON, HILLSDALE & LENAWEE COUNTIES					
CLASS 1	7.40	.55	.35	.55	.04
CLASS 2	7.50	.55	.35	.55	.04
CLASS 3	7.60	.55	.35	.55	.04
CLASS 4	7.65	.55	.35	.55	.04
CLASS 5	7.75	.55	.35	.55	.04
ZONE 5 - CLINTON, EATON, INGHAM, WESTERN PART OF LIVINGSTON & CITY OR PORTLAND IN IONIA COUNTY					
CLASS 1	7.70	.55	.35	.55	.04
CLASS 2	7.80	.55	.35	.55	.04
CLASS 3	7.90	.55	.35	.55	.04
CLASS 4	7.95	.55	.35	.55	.04
CLASS 5	8.05	.55	.35	.55	.04

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SW LAB OC

DECISION NO. M177-2125

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OPEN CUT CONSTRUCTION					
ZONE 10 - MANISTEE, MASON, EMMETT, CHEBOYGAN, ANTRIM, CHARLEVOIX, OTSEGO, LEELANAU, BENZIE, GRAND TRAVERSE, KALKASKA, CRAWFORD, WEXFORD, MISAUKEE, PRESQUE ISLE, MONTMORENCY, ALPENA, OSCODA, ALCONA & IOSCO COUNTIES					
CLASS 1	5.75	.55	.35	.55	.04
CLASS 2	5.85	.55	.35	.55	.04
CLASS 3	5.95	.55	.35	.55	.04
CLASS 4	6.00	.55	.35	.55	.04
CLASS 5	6.10	.55	.35	.55	.04
ZONE 11 - ENTIRE UPPER PENINSULA					
CLASS 1	6.77	.55	.35	.55	.04
CLASS 2	6.87	.55	.35	.55	.04
CLASS 3	6.97	.55	.35	.55	.04
CLASS 4	7.02	.55	.35	.55	.04
CLASS 5	7.07	.55	.35	.55	.04

LABORERS: OPEN CUT CONSTRUCTION

CLASS 1 - Construction Laborer.
CLASS 2 - Mortar & Material Mixers, Concrete form man, Signal Man, Well Point Man, Manhole, Headwall & Catch Basin builder, Guard Rail Builders & Fence Erectors
CLASS 3 - Air, Gasoline, Electric Tool Opr., Vibrator Opers., Driller, Pumpman Tar Kettle Opr., Bracers, Rodder, reinforced Steel or mesh (under 40 H.P.) Windlass & Tugger Man
CLASS 4 - Trench or Excavating Grade Man
CLASS 5 - Pipelayers (inclu. crock, metal pipe, multi-plate or other coudults)

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SW LAB OC

DECISION NO. M177-2125

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OPEN CUT CONSTRUCTION					
ZONE 6 - GENESEE, LAPEER & SHIAWASSEE COUNTIES					
CLASS 1	7.50	.55	.55	.55	.04
CLASS 2	7.60	.55	.55	.55	.04
CLASS 3	7.70	.55	.55	.55	.04
CLASS 4	7.75	.55	.55	.55	.04
CLASS 5	7.85	.55	.55	.55	.04
ZONE 7 - SAGINAW, BAY, MIDLAND GRATIOT, TUSCOLA, ISABELLA, MIDDLE CLARE, CLINTON, ARENAC, ROSCOMMON & OCEDA COUNTIES					
CLASS 1	7.65	.55	.35	.55	.04
CLASS 2	7.75	.55	.35	.55	.04
CLASS 3	7.85	.55	.35	.55	.04
CLASS 4	7.90	.55	.35	.55	.04
CLASS 5	8.00	.55	.35	.55	.04
ZONE 8 - BARRY, CALHOUN, BRANCH, ALLEGAN, KALAMAZOO, ST. JOSEPH, VAN BUREN, BERRIEN, CASS, HUSKEGON, OCEANA, NEWAGO, S.W. PART OF EATON TO CITY OF OLIVET & EASTERN PART OF LAKE COUNTY					
CLASS 1	6.65	.55	.35	.55	.04
CLASS 2	6.75	.55	.35	.55	.04
CLASS 3	6.85	.55	.35	.55	.04
CLASS 4	6.90	.55	.35	.55	.04
CLASS 5	7.00	.55	.35	.55	.04
ZONE 9 - OSCEOLA, MECOSTA, KENT, MONTCALM, OTTAWA, IONIA (EXCEPT CITY OF PORTLAND) COUNTIES					
CLASS 1	6.10	.55	.35	.55	.04
CLASS 2	6.20	.55	.35	.55	.04
CLASS 3	6.30	.55	.35	.55	.04
CLASS 4	6.35	.55	.35	.55	.04
CLASS 5	6.45	.55	.35	.55	.04

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SW LAB-TSC

DECISION NO. M177-2125

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TUNNEL, SHAFT & CIASSON CONSTRUCTION					
ZONE 3 - GENESEE, SHIAWASSEE & LAPEER COUNTIES					
CLASS 1	8.13	.55	.55	.55	.04
CLASS 2	8.21	.55	.55	.55	.04
CLASS 3	8.26	.55	.55	.55	.04
CLASS 4	8.41	.55	.55	.55	.04
CLASS 5	8.61	.55	.55	.55	.04
CLASS 6	8.86	.55	.55	.55	.04

CLASS 1 - Tunnel, Shaft & Caisson Laborer, Dump Man.Shanty Man, Hog House Tender, Testing Man (on gas)

CLASS 2 - Manhole, Headwall, Catch Basin Builder, bricklayer tender, Mortar Man, Material Mixers, Fence Erector & Guard rail Builder

CLASS 3 - Air Tool Operator (Jackhammerman, brush Hammerman & Grinding Man) Form Bottom Man, Second Bottom Man, Gage Tender, Car Pusher, Carrier Man, Concrete Man, Concreete form Man, Concrete Repair Man, Cement Invert Laborer, Cement Finisher, Concrete Shoveler, Conveyor Man, Floor Man, Gasoline & Electric Tool Operator, Gunnite Operator, Pump Man, Outside Lock tender, Scaffold Man, Top Signal Man, Switch Man, Track Man, Tugger Man, Utility Man, Winch Operator Concrete Saw Operator Under 40 H.P.)

CLASS 4 - Tunnel, Shaft & Caisson Mucker, Bracer, Man, Under plate Man, Long Haul Dinky driver & Well Point Man

CLASS 5 - Tunnel, Shaft & Caisson Miner, drill Runner, Keyboard Operator, Power Knife Operator, reinforced Steel or Mesh Man (Waire Mesh, sTeel Mats, Dowell Bars, ETC.)

CLASS 6 - Dynamite Man & Powderman

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SW LAB TSC

DECISION NO. M177-2125

LABORERS: TUNNEL, SHAFT & CAISSON CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - WAYNE, OAKLAND & MACOMB COUNTIES					
CLASS 1	8.36	.75	.60	.75	.04
CLASS 2	8.44	.75	.60	.75	.04
CLASS 3	8.49	.75	.60	.75	.04
CLASS 4	8.64	.75	.60	.75	.04
CLASS 5	8.84	.75	.60	.75	.04
CLASS 6	9.09	.75	.60	.75	.04
ZONE 2 - ALL COUNTIES IN THE UPPER & LOWER PENINSULA OF MICHIGAN EXCLUDING WAYNE, OAKLAND, MACOMB, GENESEE, SHIAWASSEE & LAPEER COUNTIES					
CLASS 1	8.33	.55	.35	.55	.04
CLASS 2	8.41	.55	.35	.55	.04
CLASS 3	8.45	.55	.35	.55	.04
CLASS 4	8.61	.55	.35	.55	.04
CLASS 5	8.81	.55	.35	.55	.04
CLASS 6	9.06	.55	.35	.55	.04

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DECISION NO. MI77-2125

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LANDSCAPE LABORERS:					
ZONE 1 Washtenaw, Genesee, Lapeer, Shiawassee, Oakland, Wayne, Monroe, Livingston, St. Clair & Macomb Counties					
ZONE 2 Remainder of Counties					
CLASS A Landscape Specialist, including air, gas, diesel, electric tool and/or equipment					
Zone 1	6.57				
Zone 2	6.35				
CLASS B Landscape Laborer, Truck Driver, Material Haulers & Small Power Equipment					
Zone 1	4.82				
Zone 2	4.60				

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DECISION NO. MI77-2125

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LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ZONE 1 - Huron, Lapeer, Macomb, Oakland, St. Clair, Sanilac, Tuscola & Wayne Counties; Ingham County - The townships of Leroy, Locke, Wheatfield, White Oak, & Williamson; Lenawee County - Townships of Clinton & Macon; Livingston County - All but the Townships of Tyrone, Cohoctah, Deerfield and Unadilla, Monroe County - all but the Townships of Bedford, Erie, Lasalle and Whiteford, Washtenaw - all but the Townships of Lyndon, Manchester, Sharon & Sylvan					
Lineman-Technician	12.79	1.00	7%		5%
Cable Splicer	13.34	1.00	7%		5%
combination Equip. Operator Grroundman	10.31	1.00	7%		5%
Combination Driver - Groundman	9.72	1.00	7%		5%
Groundman	8.97	1.00	7%		5%
ZONE 2 - Remainder of State					
Linemen & Hvy. Equipment Technician	9.73	.45	3%	a	.5%
Cable Splicer	10.13	.45	3%	a	.5%
Combination Digger Operator-Tractor Operator					
1st 6 Months	7.04	.45	3%	a	.5%
Over 6 months	7.61	.45	3%	a	.5%
Light Equipment Operator; Groundman; Distribution Line Truck Driver Groundman:					
1st 6 Months	6.12	.45	3%	a	.5%
Over 6 Months	6.67	.45	3%	a	.5%
Combination winch Truck Driver Groundman					
1st 6 months	5.57	.45	3%	a	.5%
Over 6 Months	6.37	.45	3%	a	.5%
Combination Truck driver - Groundman	5.38	.45	3%	a	.5%

FOOTNOTE: a - 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day & Christmas Day.

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DECISION NO. MI77-2125 MICH-8-PED-U-2-1

POWER EQUIPMENT OPERATOR: UNDERGROUND CONSTRUCTION ZONE 1 *JURISDICTION BELOW	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	20%	.05

CLASS I - Power Shovel, crane (crawler, Truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging cpapcity), mechanic, endloader (over 1½ cu. yd. cap.), scraper sel-propelled or tractor drawn), dozer (9 blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equvalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant oper., concrete), backfiller tamper, well drilling rig, slip form paver, slope paver conveyor loader (euclid type) grader

CLASS II - Trencher (8' digging capacity & smaller), endloader 1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller or diesel powered or powered by generator of 300 amps or more - inclusive of other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors (600 cu. ft. per min or larger), pumpcrete machine (and similar equipment) (mechanic holper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more-300 amp or larger - gas or diesel powered), pump (2 or more 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day - gas or diesel powered - ex cluding equipment, self propelled (6' wideor over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt, curing machine (self-propelled), concrete saw (40 H. P. or over)

*JURISDICTION: WAYNE, OAKLAND, MACOMB, MONROE, LENAWEE, HILLSDALE, BRANCH, CALHOUN, JACKSON, WASHTENAW, LIVINGSTON, INGHAM, EATON, CLINTON, SHIAWASSEE, GENESEE, LAPEER, ST. CLAIR, SANILAC, TUSCOLA, SAGINAW, GRATIOT, MIDLAND, BAY & HURON COUNTIES.

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DECISION NO. MI77-2125 MICH-9-PED-U 2-2

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION ZONE 2 REMAINDER OF THE STATE	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	9.24	.80	1.00	10%	.05
CLASS II	8.98	.80	1.00	10%	.05
CLASS III	8.52	.80	1.00	10%	.05
CLASS IV	8.27	.80	1.00	10%	.05

CLASS I - Power Shovel, crane (crawler, Truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging cpapcity), mechanic, endloader (over 1½ cu. yd. cap.), scraper sel-propelled or tractor drawn), dozer (9 blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equvalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant oper., concrete), backfiller tamper, well drilling rig, slip form paver, slope paver conveyor loader (euclid type) grader

CLASS II - Trencher (8' digging capacity & smaller), endloader 1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller or diesel powered or powered by generator of 300 amps or more - inclusive of other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors (600 cu. ft. per min or larger), pumpcrete machine (and similar equipment) (mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more-300 amp or larger - gas or diesel powered), pump (2 or more 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day - gas or diesel powered - ex cluding equipment, self propelled (6' wideor over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt, curing machine (self-propelled), concrete saw (40 H. P. or over)

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DECISION NO. MI77-2125 MICH-10-PEO-3

POWER EQUIPMENT OPERATORS: Wayne, Monroe, Washtenaw, Oakland, Macomb & Genesee	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
HIGHWAY CONSTRUCTION					
CLASS 1	9.49	.80	1.00	10%	.05
CLASS 2	9.26	.80	1.00	10%	.05
CLASS 3	8.81	.80	1.00	10%	.05
CLASS 4	8.67	.80	1.00	10%	.05

CLASS 1 - Asphalt plant, cranes, draglines, shovels, locomotives, pavers (5 bags or more), elevating graders, pile driver, roller (asphalt), blade grader, trenching mach. (ladder ro wheel), auto-grader, slip form paver, self-propelled or tractor drawn scraper, conveyor loader (euclid type), endloader (1 yd. & over), bulldozer, hoisting Eng., tractor, finishing (asphalt), mechanic, pump (6" discharge or over, gas, diesel powered or generator 300 amp or more), shouldering or gravel dist. Mach. (self- propelled), backhoe (over 3.8 yd. bucket), side boom tractor (type D-4 or larger), tube finisher (slip form paving), gradall & similar mach., self-propelled asphalt planer, concrete batch plant, asphalt slurry Mach., self-propelled asphalt paver, concrete pump 3" and over

CLASS 2 - Sweeper (wayne type & similar equip.), screening plant, washing plant, crusher, backhoe (3/8 yd. bucket or less), side boom tractor (smaller than D-4 or equvilent

CLASS 3 - Air compressor (600 cu. ft. per min or more), air compressor (2 or more less than 600 cfm), wagon drill, concrete breaker, farm tractor w/attachments.

CLASS 4 - Oiler, firemen, Mechanic helper, Trencher (service), flecplanes, cleftpanne, graders selfpropelled fine grade form (concrete), concrete finishing Mach., boom or winch hoist truck, endloader under 1 yd. cap., roller (other than asphalt), curing equipment (self-propelled), concrete saw 40 HP up, power bin, asphalt plant driver, vibratory compaction equip., power driver guard post driver, mulching equipment, stump remover, boiler firemen, concrete pump under 3", self propelled mesh installer, farm type tractor

DECISION NO. MI77-2125 MICH-11-PEO-3

POWER EQUIPMENT OPERATORS: Remainder of State Zone 2 Highway Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	9.41	.80	1.00	10%	.05
CLASS 2	9.15	.80	1.00	10%	.05
CLASS 3	8.69	.80	1.00	10%	.05
CLASS 4	8.44	.80	1.00	10%	.05

CLASS 1 - Asphalt plant, cranes, draglines, shovels, locomotives, pavers (5 bags or more), elevating graders, pile driver, roller (asphalt), blade grader, trenching mach. (ladder ro wheel), auto-grader, slip form paver, self-propelled or tractor drawn scraper, conveyor loader (euclid type), endloader (1 yd. & over), bulldozer, hoisting Eng., tractor, finishing (asphalt), mechanic, pump (6" discharge or over, gas, diesel powered or generator 300 amp or more), shouldering or gravel dist. Mach. (self- propelled), backhoe (over 3.8 yd. bucket), side boom tractor (type D-4 or larger), tube finisher (slip form paving), gradall & similar mach., self-propelled asphalt planer, concrete batch plant, asphalt slurry Mach., self-propelled asphalt paver, concrete pump 3" and over

CLASS 2 - Sweeper (wayne type & similar equip.), screening plant, washing plant, crusher, backhoe (3/8 yd. bucket or less), side boom tractor (smaller than D-4 or equvilent

CLASS 3 - Air compressor (600 cu. ft. per min or more), air compressor (2 or more less than 600 cfm), wagon drill, concrete breaker, farm tractor w/attachments.

CLASS 4 - Oiler, firemen, Mechanic helper, Trencher (service), flecplanes, cleftpanne, graders selfpropelled fine grade form (concrete), concrete finishing Mach., boom or winch hoist truck, endloader under 1 yd. cap., roller (other than asphalt), curing equipment (self-propelled), concrete saw 40 HP up, power bin, asphalt plant driver, vibratory compaction equip., power driver guard post driver, mulching equipment, stump remover, boiler firemen, concrete pump under 3", self propelled mesh installer, farm type tractor

DECISION NO. MI77-2125

SIGN INSTALLERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A					
Performs all necessary labor and uses all tools & equipment required to construct & set concrete forms required in the installation of highway street signs:					
ZONE 1	8.32	a20.00	a22.00	.15	
ZONE 2	7.73	a20.00	a22.00	.15	
CLASS B					
Performs all miscellanious labor, uses all hand and power tools and operates all other equipment mobile or otherwise, required for the complete installation of highway and street signs:					
ZONE 1	8.07	a20.00	a22.00	.15	
ZONE 2	7.48	a20.00	a22.00	.15	

FOOTNOTE:

a. Per week Per employee

ZONE 1 - Genesee, Macomb, Monroe, Oakland, Washtenaw & Wayne
ZONE 2 - Remainder of State

DECISION NO. MI77-2125 MICH-SWH-3

TRUCK DRIVERS - HIGHWAY CONST. ZONE 1 Genesee, Lapeer, Lenawee, Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw & Wayne	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CLASS 1	9.38	a27.50	a28.00	.40	
CLASS 2	9.48	a27.50	a28.00	.40	
CLASS 3	9.63	a27.50	a28.00	.40	
ZONE 2 Remainder of State					
CLASS 1	9.28	a27.50	a28.00	.40	
CLASS 2	9.38	a27.50	a28.00	.40	
CLASS 3	9.53	a27.50	a28.00	.40	

CLASS 1 - Truck driver (on all trucks except dump trucks of 8 cubic yds. capacity or over, tandem axle trucks, transit mix and semis, euclid type equipment, double bottoms and low boys)

CLASS 2 - Truck drivers on dump trucks of 8 cubic yards capacity or over (including tandem axle trucks, tandem axle water trucks, transit mix and semis.)

CLASS 3 - Euclid type equipment, double bottoms and low bays for hauling heavy equipment.

FOOTNOTE:
a. Per week, Per employee

UMI 300 N. Zeeb Rd. Ann Arbor, MI 48106

DECISION NO. M177-2125 MICH-SWH-TD

TRUCK DRIVERS: UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Wayne, Oakland, Macomb, Washtenaw, Monre, St. Clair & Genesee Counties					
CLASS 1	9.08	a24.00	a28.00		
CLASS 2	9.21	a24.00	a28.00		
CLASS 3	9.41	a24.00	a28.00		
Lapeer & Shiawassee Counties:					
CLASS 1	8.98	a24.00	a28.00		
CLASS 2	9.11	a24.00	a28.00		
CLASS 3	9.31	a24.00	a28.00		
Jackson, Lenawee & Hillsdale Counties					
CLASS 1	7.30	a19.00	a22.00		

CLASS 1 - Truck driver (except dump trucks of 8 cubic yards capacity or over, Pole Trailers, Semis, Low Boys, euclid, Double Bottom & Fuel Trucks.
CLASS 2 - Truck Driver on Dump Trucks of 8 cubic yards capacity or over, Pole Trailers, Semis & Fuel Trucks.
CLASS 3 - Low Boy, Euclid & Double Bottom Driver

FOOTNOTE:
a. Per week Per employee

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Adams & York
DECISION NO.: PA77-3128 DATE: Date of Publication
Supersedes Decision No. PA77-3028, dated April 15, 1977, in 42 PR 20098.
DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$10.91	.52	.90		.01
Boilermakers	12.80	1.05	1.00		.02
Bricklayers & Stonemasons	9.55	.45	.45		.01
Carpenters(York County)	9.29	.35	.40		.03
Carpenters (Adams County)	10.14	.40	.50		.03
Cement masons (Adams County)	9.385	.50	.40		
Cement masons (York County)	10.035	.55	.40		.01
Electricians	10.25	.45	3%+.15		.01
Elevator Constructors	10.20	.545	.35	4%+a+b	.02
Elevator Constructors Helpers	7.14	.545	.35	4%+a+b	.02
Elevator Constructors Helpers (Prob.)	4.93				
Ironworkers	11.28	.84	1.36		.03
Laborers:					
General laborers	6.70	.40	.45		
Operators of jackhammer (etc.)	6.90	.40	.45		
Wagon drill (etc.)	7.00	.40	.45		
Handling of all materials (etc.)	6.85	.40	.45		
Laborers assisting tile (etc.)	6.75	.40	.45		
Handling & using dynamite	7.03	.40	.45		
Caisson work (top men)	6.95	.40	.45		
Caisson work (bottom men)	7.15	.40	.45		
Mixer man	7.10	.40	.45		
Line Construction:					
Linemen, cable splicers	10.81	.40	3%		3/8%
Winch truck operators	7.54	.40	3%		3/8%
Groundman	6.45	.40	3%		3/8%
Marble, tile & terrazzo workers	8.20	.45	.45		
Millwrights (Adams County)	11.29	.40	.50		.03
Millwrights (York Coonty)	9.79	.35	.40		.03
Painters:					
Brush	7.35	.35	.15		
Steel & Spray	7.90	.35	.35		
Piledrivermen	10.77	2.13	1.30	c	.12
Plasterers (York County	8.60	.35	.25		.01
Plasterers (Adams County)	9.25	.55	.40		.01
Plumbers	10.85	.30	.65		.12
Roofers:					
Composition	8.55	.45	.20	.25	
Slate & tile	9.15	.45	.20	.25	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sheet metal workers	$10.05	1.39	1.18		.05
Soft floor layers:					
Adams County	8.88	.40	.50		.03
York County	9.69	.35	.40		.03
Sprinkler fitters	11.86	.65	.95		.08
Steamfitters	10.85	.30	.65		.12
Welders - Receive rate for craft					

PAID HOLIDAYS (Where Applicable)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Paid Holidays: A through F.

c. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans's Day; Thanksgiving Day.

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POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.36	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5.5%	9.5%	a	1.2%
GROUP 7	12.54	5.5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Northumberland
DECISION NO.: PA77-3129 DATE: Date of Publication
Supersedeas Decision No. PA77-3049, dated April 22, 1977, in 42FR 21043.
DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$10.70	.65	.60		.01
Boilermakers	12.80	1.05	1.00		.02
Bricklayers & Stonemasons	9.50	.55	.65		
Carpenters	10.14	.40	.50		.03
Cement masons	10.10				.01
Electricians:					
Delaware, Lewis & Trubut	9.48	.50	3%+.60	.60	.02
Remainder of County	10.95	.35	3%		.05
Glaziers:					
Edgewell, Ralph, Knulpmont, Coal, Marion Heights Twps:	8.89	.40	.30		.01
Remainder of County	9.39	.40	.40		.01
Ironworkers	11.28	.84	1.36		.03
Laborers:					
North of Susquehanna River	7.20	.40	.35		
South of Susquehanna River	7.55	.30	.35		
Lathers	9.01	.25	.25		.01
Marble & Tile Setters	9.50		.50		
Painters:					
Brush	9.30	.50	.30		.05
Tapers	9.56	.50	.30		.05
Hazardous	10.56	.50	.30		.05
Piledrivermen	10.77	2.13	1.30	a	.12
Roofers:					
Coal, East Cameron, Jackson, Jordan, Little Mahony, Lower Augusta, Upper Mahony, Point Rockfeller, Shamokin, Upper Mahony, Washington, West Cameron, Zerbe Composition	9.71	.60	.55		
Remainder of County Composition	9.65	.85	.80		
Plumbers	10.85	.30	.65		.12
Steamfitters	10.85	.30	.65		.12
Sprinkler fitters	11.86	.65	.95		.08
Sheet metal workers	11.12	.73	.40		.02
Soft floor layers	8.88	.40	.50		.03
Millwrights	11.29	.40	50		.03
Welders: Receive rate for craft					

FOOTNOTE:

a. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day and Thanksgiving Day.

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POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.34	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5.5%	9.5%	a	1.2%
GROUP 7	12.54	5.5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: Washington, D. C. DATE: Date of Publication
DECISION NO.: DC77-3108
SUPERSEDES DECISION NO. DC77-3040, dated March 18, 1977, in 42 FR 15293
DESCRIPTION OF WORK: Building Construction, Heavy Construction (including Washington Metropolitan Area Transit Authority - Rapid Rail System), Sewer and Water Lines (excluding all residential construction)

BUILDING AND HEAVY CONSTRUCTION (INCLUDING WMATA)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.92	.59	.89		.03
BOILERMAKERS - BLACKSMITHS	9.40	.60	.90		.02
BRICKLAYERS	11.65	.80	.70		.10
CARPENTERS	10.45	.80	.60		.05
CEMENT MASONS:					
Cement masons	10.50	.805	.60		.11
Grinding machine	10.75	.805	.60		.11
DIVERS	18.125	.50	.49		.07
DIVER TENDER	10.75	.50	.49		.07
ELECTRICIANS	11.40	.65	1%+.80		.13
ELEVATOR CONSTRUCTORS	11.235	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROBATIONARY)	50%JR				
GLAZIERS	10.53	.61	.50		.05
IRONWORKERS:					
Structural, ornamental and chain link fence	10.40	.87	.80		.05
Reinforcing	10.80	.62	.95		.03
LABORERS (EXCLUDING WMATA RAPID RAIL TRANSIT SYSTEM)					
Common laborers, landscapers	8.46	.60	.45		.05
Acetylene burners used on wrecking	8.96	.60	.45		.05
Air tool op., scaffold builders, paving breakers, towmasters, buggy mobiles, spaders, mortar men and scootcretes	8.61	.60	.45		.05
Pipelayers	8.61	.60	.45		.05
Plasterers' tenders	7.03	.32	.35		.05
Plumbers' laborers	6.33	.30	.40		.05
Powdermen	9.635	.60	.45		.05
Powersaw, well points	8.71	.60	.45		.05
LATHERS	10.36	.50	.50		.025
LEADBURNERS	10.75	.40	.25	c	.01
CARPET LAYERS	7.05	.30			.05

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BUILDING AND HEAVY CONSTRUCTION CONT'D: (INCLUDING WMATA)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen, cable splicers, equipment operators	$12.41	.45	3%		½ of 1%
Truck with winch, truck pole or steel handling	7.53	.45	3%		½ of 1%
Groundmen (0 to 1 year)	6.11	.45	3%		½ of 1%
Groundmen (1 to 2 years)	7.02	.45	3%		½ of 1%
Groundmen (over 2 years)	7.27	.45	3%		½ of 1%
MARBLE SETTERS	11.60	.80	.65		.06
MARBLE SETTERS' HELPERS	7.35				
MILLWRIGHTS	10.94	.80	.60		.05
PAINTERS:					
Brush, spray, paperhangers, tapers	10.54	.81	1.10		.06
Steel, sandblasting, swing stage, power brushing	11.04	.81	1.10		.06
PILEDRIVERMEN	10.68	.80	.60		.05
PLASTERERS	10.15	.55	.65		.06
PLUMBERS	11.12	1.00	1.00		.27
ROOFERS:					
Composition	9.57	.56	.30		
Slate, tile mopmen, waterproofers, sprayers, sprandrel and ironite	10.13	.56	.30		
Helpers	6.79	.56	.30		
SHEET METAL WORKERS	11.14	1.07	1.21		.14
SOFT FLOOR LAYERS	10.45	.80	.60		.05
SPRINKLER FITTERS	11.70	.65	.95		.08
STEAMFITTERS, Refrigeration and air conditioning mechanic	11.48	.75	1.00		.16
STONE MASONS	11.60	.80	.65		.07
STONE CUTTERS:					
Fitters and trimmers	11.65	.18	.40		
Ornamental carvers	10.38	.18	.40	d	
Figure carvers	11.00	.18	.40	d	

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BUILDING AND HEAVY CONSTRUCTION CONT'D: (INCLUDING WMATA)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO AND MOSAIC WORKERS	10.68	.60 f	.40		
TERRAZZO WORKERS' HELPERS	9.30	.50	.40		
TILE SETTERS	10.68	.60	40		
TILE SETTERS' HELPERS	9.30	.50	.40		
TRUCK DRIVERS:					
Boom trucks	8.45	.415	.425	e+f	
Small dump, water sprinkler, grease and oil	8.20	.415	.425	e+f	
Flat, pick-up hauling materials, small Euclids, dump over 8 wheels	8.30	.415	.425	e+f	
Trailers, low boys, tractor pulls	8.50	.415	.425	e+f	
Helpers	8.05	.415	.425	e+f	
Carryalls, large Euclids, Euclid water sprinkler, tunnel work under ground	8.60	.415	.425	e+f	
Mechanics	8.35	.415	.425	e+f	
RIGGERS AND WELDERS - Receive rates prescribed for crafts performing operations to which rigging and welding are incidental.					

PAID HOLIDAYS: A-New Year's Day; B-Washington's Birthday; C-Memorial Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employees with [illegible] service of 24 [illegible] as Vacation Pay Credit.

c. Holidays: A through F plus Washington's Birthday, Good Friday and Christmas Eve (provided an employee has worked at least 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday).

d. Holidays: A-D-E-F and Veteran's Day.

e. Holidays: A-D-E and F(provided the employee works the regularly scheduled work days immediately preceding and following the holiday.

f. One weeks paid vacation providing the employee has worked 3 years and a minimum of 1450 hours during any calendar year.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY - RAPID RAIL TRANSIT SYSTEM ONLY

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
GROUP I	$8.46	.60	.45		.05
GROUP II	8.61	.60	.45		.05
GROUP III	8.66	.60	.45		.05
GROUP IV	8.71	.60	.45		.05
GROUP V	8.91	.60	.45		.05
GROUP VI	9.11	.60	.45		.05
GROUP VII	9.235	.60	.45		.05
GROUP VIII	9.265	.60	.45		.05

CLASSIFICATIONS

LABORERS:

GROUP I - Carloader, choker setter, concrete crewman, crushed feeder, demolition laborer (including salvaging all material, loading and cleaning up), wrecking, driller helper, dumpman, flagman, fence erector and installer (including installation and erection of fence, guard rails, median rails, reference posts, guide posts and right-of-way markers), form stripper, general laborers, railroad track laborer, riprap man, scale man, stake jumper, structure mover (includes foundation, separation, preparation, cribbing, shoring, jacking and unloading of structures), water nozzleman, timber bucker and faller, truck loader, water boys, tool room men

GROUP II - Combined air and water nozzlemen, cement handler, dope pot fireman (nonmechanical), form cleaning machine, mechanical railroad equipment (includes spiker, puller, tie cleaner, tamper pipe wrapper, power driven wheelbarrow, operators of hand derricks, towmasters, scooteretes, buggymobiles and similar equipment), tamper or rammer operator, trestle scaffold builders over one tier high, power tool operator (gas, electric or pneumatic), sandblast or gunnite tailhose man, scaffold erector (steel or wood) vibrator operator (up to 4'), asphalt cutter, mortar men, shorer and lagger, creosote material handler, corrosive enamel or equal, paving breaker and jackhammer operators

GROUP III - Multi-section pipe layer, non-mentallic clay and concrete pipe layer (including caulker, collarman, joiner, rigger and jacker) thermite welder and corrugated metal culvert pipe layer

GROUP IV - Asphalt block pneumatic cutter, asphalt roller, walking chain-saw with attachment, concrete saw (walking), high scalers, jackhammer (using over 6' of steel), vibrator (4' and over), well point installers, air-trac operator

GROUP V - Asphalt screeder, big drills, cut of the hole drills (1⅛ piston or larger) down the hole drills (3½" piston or larger), gunnite or sandblaster nozzleman, asphalt raker, asphalt tamper, form setter, demolition torch operator, shotcrete nozzleman and potman

GROUP VI - Pavior man, master form setters

GROUP VII - Brick paver (asphalt block paver, asphalt block saw man, asphalt block grinder; bastings block or similar type)

GROUP VIII - Miners

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY - RAPID RAIL TRANSIT SYSTEM ONLY

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$8.735	.50	.40		.05
GROUP II	9.035	.50	.40		.05
GROUP III	9.685	.50	.40		.05
GROUP IV	9.935	.50	.40		.05

CLASSIFICATIONS

TUNNELS, RAISES AND SHAFTS - FREE AIR

GROUP I
Brakeman, bull gang, dumper, trackman, concrete man

GROUP II
Chuck tender, powderman in prime house, form setters and rovers, nippers, cableman, hosemen, groutman, bell or signalman, top or bottom vibrator operator, caulkers' helpers

GROUP III
Miners, rodmen, re-bar underground, concrete or gunnite nozzlemen, powderman, timberman and re-timberman, wood steel including liner plate or any other support, material, motorman, caulkers, diamond drill operators, riggers, cement finishers - underground, welders and burners, shield driver, air trac operator, shotcrete nozzleman and potman.

GROUP IV
Tucking machine operator (air)

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WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY - RAPID RAIL TRANSIT SYSTEM ONLY

COMPRESSED AIR RATES		Rates Paid Daily	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
Gauge Pressure Pounds	Work Period Hours					
1-14	7	$91.26	a	b		c
14-18	6	94.60	a	b		c
18-22	5-1/2	97.89	a	b		c
22-26	5	101.28	a	b		c
26-32	4	104.61	a	b		c
32-38	3	107.91	a	b		c
38-44	2-1/2	119.29	a	b		c

Footnotes:
a. The employer pays $4.80 to health and welfare per day.

b. The employer pays $3.60 to Pension per day.

c. The employer pay $.40 to training fund per day.

(INCLUDING WMATA - RAPID RAIL TRANSIT SYSTEM)

BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
POWER EQUIPMENT OPERATORS:					
GROUP I	$11.80	.55	.55		.12
GROUP II	11.50	.55	.55		.12
GROUP III	11.40	.55	.55		.12
GROUP IV	11.22	.55	.55		.12
GROUP V	11.17	.55	.55		.12
GROUP VI	11.15	.55	.55		.12
GROUP VII	11.14	.55	.55		.12
GROUP VIII	10.97	.55	.55		.12
GROUP IX	10.95	.55	.55		.12
GROUP X	10.75	.55	.55		.12
GROUP XI	10.27	.55	.55		.12
GROUP XII	10.09	.55	.55		.12

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP I - 35 ton cranes and above, tower and climbing cranes

GROUP II - Back hoes, boom-cat, cableways, cranes or derricks, draglines, elevating graders, hoists, multiple concrete conveyors, elevators (permanent), paving mixers, pile driving engines, power shovels, tunnel shovels, mucking machines, batch plant, concrete pumps, locomotives (standards, narrow guage), power driven wheel scoops and scrapers (50 cu. yd. struck capacity or above), front end loader above 3½ cu. yd., boom trucks, moles, shields, tunnel mining machines, loaders used as muckers in tunnel mining, gradalls, shotcrete machines and grout pumps with discharge of two inches I.D. or more, drill rigs

GROUP III - Hydraulic back hoes of less than ½ yd. capacity, mounted on tractors, front end loader above 2-3/4 to 3½ cu. yd.

GROUP IV - Air compressor on steel

GROUP V - Mechanic, mechanic-welder, welder

GROUP VI - Front end loader, highlift, fork lift

GROUP VII - Boilers (skeleton), trenching machines, tug boat, well drilling machines

GROUP VIII - Concrete mixer, tunnel motorman

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (CONT'D)

GROUP IX - Power driven wheel scoops and scrapers (below 50 cu. yd. struck capacity), blade graders, motor graders, bulldozers

GROUP X - Rollers, asphalt spreaders, bullfloat finishing machines, concrete finishing machines, concrete spreaders, fine graders

GROUP XI - Air compressors (except steel), welding machines, pumps, generators, space heaters, wellpoints, deepwells, hydraulic pumps

GROUP XII - Firemen

(EXCLUDING WMATA - RAPID RAIL TRANSIT SYSTEM)

PAVING AND INCIDENTAL GRADING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
Asphalt Shoveler	$7.05	.27	.35		
Asphalt Raker	7.25	.27	.35		
Asphalt Tamper	7.15	.27	.35		
Bricklayers	11.65	.80	.70		.10
Carpenters	10.45	.80	.60		.05
Cement Masons	7.50	.27	.35		
Concrete Saw Operator	7.25	.27	.35		
Concrete Shoveler	7.15	.27	.35		
Form Setter	7.50	.27	.35		
Laborers:					
Laborers	7.00	.27	.35		
Jackhammer	7.20	.27	.35		
Hand Burner Operator	7.15	.27	.35		
Power Equipment Operators:					
Concrete Spreader Operator, Finishing Machine, Roller (rough), Compressor, Rubber-tired Loader (1-½ cu. yds., or less), Asphalt Plant Mixer	7.25	.27	.35		
Loader Operator Tracks (2-½ cu. yds. or less), Burner Planer, Bulldozer, Mechanic or Welder, Rubber Tired Loader (over 1-½ cu. yds.)	7.45	.27	.45		
Asphalt Spreader, Hydraulic Backhoe (½ cu. yd., or less), Asphalt Plant Engineer, Asphalt Roller Operator, Concrete Breaker (machine)	7.50	.27	.35		
Crane Operator, Concrete Paving Operator	7.65	.27	.35		
Shovel Operator	7.75	.27	.35		
Gradall Operator (1-½ cu. yds. or less), Motor Grader, Loader Operator Tracks (over 2-½ cu. yds	8.40	.27	.35		
G-1000 Gradall Operator (over 1½ cu. yds.)	8.65	.27	.35		
Power Broom, Oiler	7.15	.27	.35		
Sand Setter	7.45	.27	.35		
Truck Drivers:					
Truck Drivers (standard)	7.00	.27	.35		
Tandem	7.12	.27	.35		
Tractor trailer (capable of moving heavy equipment)	7.50	.27	.35		

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(EXCLUDING MARTA - RAPID RAIL TRANSIT SYSTEM)

SEWER AND WATER LINES CONT'D.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	10.45	.80	.70		.10
CARPENTERS	10.45	.80	.60		.05
CEMENT MASONS	10.50	.805	.60		.11
IRONWORKERS: Reinforcing	10.80	.62	.95		.03
LABORERS:					
Open Cut:					
Laborers, jackhammer, rammers and spaders	5.70	.28	.25		.03
Timbermen, sheeting-men, shoring-men, caulkers, pipelayers helpers	5.93	.28	.25		.03
Bottom man	5.83	.28	.25		.03
Wagon drillers, air track drillers	6.13	.28	.25		.03
Finishers	6.13	.28	.25		.03
Rock drillers	5.88	.28	.25		.03
Tunnel:					
Brakeman, bull gang, dumper, trackmen, concrete man	6.415	.28	.25		.03
Chuck tender, powder in prime house, form setters and movers, nippers, cablemen, hosemen, grout men, bell or signal men, top or bottom, valve operator, caulkers' helper	6.715	.28	.25		.03
Miners, rodmen, re-bar underground, concrete or gunite nozzlemen, pouermen, timbermen and retimberman wood or steel including liner plate or any other support material, motor-man, caulkers, wood drill (underground), welders and burners, shield driver	7.365	.28	.25		.03
Mucking machine operator (air)	7.615	.28	.25		.03

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FOOTNOTES:

a. Employer contributes $2.24 per day to Health and Welfare.

b. Employer contributes $2.00 per day to Pension.

c. $10.00 per week when employee has worked 90 days and work three days in any week week.

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(Revised as of April 1, 1977)

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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
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DOT/OPSO	LABOR		DOT/OPSO	LABOR
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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 572, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period September 9–15, 1977. The amendment recognizes that demand for Valencia oranges has improved, since the regulation was issued. This action will increase the supply of oranges available to consumers.

DATES: Weekly regulation period September 9–15, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Valencia Orange Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of Valencia oranges as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the Valencia orange markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit orange handlers to ship a larger quantity of Valencia oranges to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 125,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information became available upon which this amendment is based and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Valencia oranges.

(a) *Order, as amended.* The provisions in paragraph (b)(1) (i) and (ii) of § 908.872 Valencia Orange Regulation 572 (42 FR 44979) are hereby amended to read as follows:

§ 908.872 Valencia Orange Regulation 572.

* * * * * * *

(b) * * *
(1) * * *
(i) District 1: 310,000 cartons;
(ii) District 2: 465,000 cartons.

* * * * * * *

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated: September 14, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-27141 Filed 9-16-77;8:45 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order Nos. 1006, 1012, and 1013; Docket Nos. AO–356–A16, AO–347–A19, and AO–286–A27]

MILK IN THE UPPER FLORIDA, TAMPA BAY, AND SOUTHEASTERN FLORIDA MARKETING AREAS

Order Amending Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the three Florida Federal milk orders, based on a handler proposal considered at a public hearing in June 1977. The amended orders will provide for the use of a single butterfat differential for adjusting the value of producer milk in all uses according to the butterfat content of the milk. This change will improve competitive relationships between milk processors regulated under the Florida orders and those regulated under other nearby orders.

EFFECTIVE DATE: November 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–7311).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing—Issued June 13, 1977; published June 16, 1977 (42 FR 30627).

Recommended Decision—Issued July 26, 1977; published August 1, 1977 (42 FR 38913).

Final Decision—Issued August 25, 1977; published August 31, 1977 (42 FR 43855).

FINDINGS AND DETERMINATIONS

The following findings and determinations are made for each of the orders in this proceeding. They supplement those that were made when the orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth below.

(a) *Findings upon the basis of the hearing record.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the respective marketing areas. The hearing was held according to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing orders (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only

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to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within each of the respective marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending each of the specified orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders as hereby amended; and

(3) The issuance of the order amending each of the specified orders is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Upper Florida, Tampa Bay, and Southeastern Florida marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the aforesaid orders, as amended, and as hereby further amended, as follows:

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

1. In § 1006.50, the preamble and paragraph (a) are revised to read as follows:

§ 1006.50 Class prices.

Subject to the provisions of § 1006.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.85.

* * * * *

2. Section 1006.53 is revised to read as follows:

§ 1006.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II price for the preceding month.

3. Section 1006.55 is revoked.

§ 1006.55 [Revoked]

4. In § 1006.60, paragraph (b) is revised to read as follows:

§ 1006.60 Handler's value of milk for computing uniform price.

* * * * *

(b) Add the amount obtained from multiplying the overage deducted from each Class pursuant to § 1006.44(a)(11) and the corresponding step of § 1006.44 (b) by the applicable class prices, as adjusted by the butterfat differential specified in § 1006.74;

* * * * *

5. In § 1006.61, paragraph (b) is revoked and the preamble is revised to read as follows:

§ 1006.61 Computation of uniform price.

For each month, the market administrator shall compute a uniform price for milk of 3.5 percent butterfat content as follows:

* * * * *

6. Section 1006.62 is revised to read as follows:

§ 1006.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform price for such month.

7. In § 1006.71, paragraph (a)(2)(i) is revised to read as follows:

§ 1006.71 Payments to the producer-settlement fund.

(a) * * *

(2) * * *

(i) The value of such handler's producer milk at the uniform price, as adjusted pursuant to § 1006.75; and

* * * * *

8. Section 1006.74 is revised to read as follows:

§ 1006.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A bulk butter per pound at Chicago, as reported by the Department for the month.

9. In § 1006.76, paragraphs (a)(2)(i) and (b)(4) are revised to read as follows:

§ 1006.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(2) * * *

(i) The gross payments made by such handler, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1006.74, for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

* * * * *

(b) * * *

(4) Combine the amounts of skim milk and butterfat remaining into one total; and

* * * * *

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

1. § 1012.50, the preamble and paragraph (a) are revised to read as follows:

§ 1012.50 Class prices.

Subject to the provisions of § 1012.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.95.

* * * * *

2. Section 1012.53 is revised to read as follows:

§ 1012.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II price for the preceding month.

3. Section 1012.55 is revoked.

§ 1012.55 [Revoked]

4. In § 1012.60, paragraph (b) is revised to read as follows:

§ 1012.60 Handler's value of milk for computing uniform price.

* * * * *

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1012.44(a)(11) and the corresponding step of § 1012.44 (b) by the applicable class prices, as adjusted by the butterfat differential specified in § 1012.74;

* * * * *

5. In § 1012.61, paragraph (b) is revoked and the preamble is revised to read as follows:

§ 1012.61 Computation of uniform price.

For each month the market administrator shall compute a uniform price for milk of 3.5 percent butterfat content as follows:

* * * * *

6. Section 1012.62 is revised to read as follows:

§ 1012.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform price for such month.

7. In § 1012.71, paragraph (a)(2)(i) is revised to read as follows:

§ 1012.71 Payments to the producer-settlement fund.

(a) * * *

(2) * * *

(i) The value of such handler's producer milk at the uniform price, as adjusted pursuant to § 1012.75; and

* * * * *

8. Section 1012.74 is revised to read as follows:

§ 1012.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A bulk butter per pound at Chicago, as reported by the Department for the month.

9. In § 1012.76, paragraphs (a)(2)(i) and (b)(4) are revised to read as follows:

§ 1012.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(2) * * *

(i) The gross payments made by such handler, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1012.74, for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

* * * * *

(b) * * *

(4) Combine the amounts of skim milk and butterfat remaining into one total; and

* * * * *

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

1. In § 1013.50, the preamble and paragraph (a) are revised to read as follows:

§ 1013.50 Class prices.

Subject to the provisions of § 1013.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $3.15.

* * * * *

2. Section 1013.53 is revised to read as follows.

§ 1013.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

3. Section 1013.55 is revoked.

§ 1013.55 [Revoked]

4. In § 1013.60, paragraph (b) is revised to read as follows:

§ 1013.60 Handler's value of milk for computing uniform price.

* * * * *

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1013.44(a)(12) and the corresponding step of § 1013.44 (b) by the applicable class prices, as adjusted by the butterfat differential specified in § 1013.74;

* * * * *

5. In § 1013.61, paragraph (b) is revoked and the preamble is revised to read as follows:

§ 1013.61 Computation of uniform price.

For each month the market administrator shall compute a uniform price for milk of 3.5 percent butterfat as follows:

* * * * *

6. Section 1013.62 is revised to read as follows:

§ 1013.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform price for such month.

7. In § 1013.71, paragraph (a)(2)(i) is revised to read as follows:

§ 1013.71 Payments to the producer-settlement fund.

(a) * * *

(2) * * *

(i) The value of each handler's producer milk at the uniform price, as adjusted pursuant to § 1013.75; and

* * * * *

8. In § 1013.73, paragraph (a)(3) is revised to read as follows:

§ 1013.73 Payments to producers and to cooperative associations.

(a) * * *

(3) On or before the 15th day of the following month, to each producer an amount equal to not less than the uniform price computed pursuant to § 1013.61 adjusted pursuant to §§ 1013.74 and 1013.75, multiplied by the total pounds of milk received from such producer, subject to the following adjustments:

* * * * *

9. Section 1013.74 is revised to read as follows:

§ 1013.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A bulk butter per pound at Chicago, as reported by the Department for the month.

10. In § 1013.76, paragraph (a)(2) and (b)(4) are revised to read as follows:

§ 1013.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(2) From this obligation there will be deducted the sum of:

(i) The gross payments made by such handler, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1013.74, for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

(ii) Payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) * * *

(4) Combine the amounts of skim milk and butterfat remaining into one total; and

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Effective date: November 1, 1977.

Signed at Washington, D.C., on September 14, 1977.

ROBERT H. MEYER,
Assistant Secretary for Marketing Services.

[FR Doc.77-27142 Filed 9-16-77;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg Z; FC-0106 through FC-0109]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official staff interpretation(s).

SUMMARY: The Board is publishing the following official staff interpretations of Regulation Z, issued by a duly authorized official of the Division of Consumer Affairs.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Attorney, Fair Credit Practices Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–2412).

SUPPLEMENTARY INFORMATION: (1) Identifying details have been de-

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leted to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(2) Official staff interpretations may be reconsidered upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2). Every request for reconsideration should clearly identify the number of the official staff interpretation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

[FC-0106]

(3 U.S.C. 15 U.S.C. 1640(f)).

§ 226.2(h)—Where customer and home improvement contractor enter cash contract and contractor agrees to submit credit application to service agency which will arrange financing, the contractor is an arranger only where it receives a fee for those services, regardless of whether it offered to provide credit.

§ 226.9(a)—Right of rescission does not apply to cash contract for home improvement if the contractor is not an arranger of credit, so contractor need not give notice or delay performance until after related credit transaction is consummated.

SEPTEMBER 1, 1977.

This is in reply to your letter of • • •, requesting an official staff interpretation of the requirements of Regulation Z with regard to certain home improvement contracts. You pose a situation with several factual variations and then ask a series of questions about each fact situation. This letter will deal with the questions together.

You pose a situation in which a customer and a contractor enter into a construction contract by which the contractor is to be paid in cash upon completion of the home improvement. The customer advises that a loan will have to be arranged in order to pay the contract price, and the two parties agree that the contractor will submit the customer's credit application to a service agency, which will in turn secure a loan commitment from a lending institution to finance the improvement. The customer has no obligation to accept the financing arranged and offered by the service agency and is free to seek independent financing. The service agency submits the customer's credit application to a lending institution, which then approves the request and issues a loan commitment. The service agency prepares all documents required by the lending institution for consummation of this transaction, including a second contract, security document, and Federal and State disclosures and notices. The second contract and security document are drafted to designate the customer as the "borrower" and the service agency as the "seller." Thus, the second contract purports to be a sales document for the purchase of a home improvement.

You state under California law, the customer has three days in which to rescind the construction contract. Upon expiration of the three-day rescission period, the security document relating to the second contract is assigned to the lending institution by the service agency. At the same time, the contractor, with the consent of the customer, assigns the construction contract to the service agency. These assignments become effective only when the lending institution has accepted the security document and paid the loan proceeds to the service agency. The proceeds are held by the service agency until completion of construction and are then disbursed to the contractor.

In one situation, the contractor does not pay the service agency a fee for its services, nor does the service agency compensate the contractor for the referral. In the other situation, either (a) the contractor pays the service agency a fee for its services, or (b) the service agency compensates the contractor for the referral. In some situations, the construction contract includes the phrase "financing to be arranged," which you explain is merely a notation on the contract indicating that the customer will be arranging a loan to pay the contract price. (We assume that the customer is not thereby obligated to accept any financing to be procured by the contractor). In other situations, either the construction contract or the notice of opportunity to rescind given in connection therewith contains the following language: "The financing of this transaction is provided to you, the Buyer, by the Seller; however, if you wish to obtain your own financing you have the right, as explained below, to cancel or rescind any financial arrangements provided by the Seller. If you do cancel or rescind the financing offered by the Seller, the Seller's contract immediately becomes payable as per cash terms thereon."

Finally, in some situations, when the customer and contractor enter into the construction contract, there is no discussion about financing the contract price. After the three-day State-law right of rescission has expired, the contractor commences performance. During the course of construction, the customer advises the contractor that although an attempt has been made to arrange a loan to finance the contract price, it has been unsuccessful. Alternatively, the customer advises the contractor that while he/she had anticipated paying the contract price in cash, he/she now wishes to arrange for financing. The customer and contractor agree that the contractor will submit the customer's credit application to a service agency at this time in order to secure such financing.

In the context of the above statement of facts, you ask a number of questions. First, you ask whether the contractor is an arranger of credit. Pursuant to § 226.2(h), an arranger of credit is one who provides or offers to provide consumer credit to be extended by another person, and who either receives a fee or other consideration for such service or has knowledge of the credit terms and participates in preparation of the contract documents required in the credit transaction. Where the contractor has received compensation from the service agency for its services in arranging the credit transaction, it is an arranger of credit within the meaning of § 226.2(h). The fact that it has paid a fee to the service agency is irrelevant to the question of whether it is an arranger of credit.

In all of the other situations, however, the contractor is not an arranger of credit. In these cases, the transaction between the contractor and the customer is a cash transaction and is essentially the same as that discussed in Official Staff Interpretation FC-0007, a copy of which is enclosed. As explained in section 2 of that interpretation, the contractor is not a creditor since it neither extends nor arranges for the extension of credit. It may have participated in preparation of the credit application but has taken no part in preparing the contract documents required for the credit transaction.

Inclusion of the above-quoted language concerning the financing being provided by the seller does not by itself cause the contractor to be an arranger of credit. Although it has by this language offered to provide credit to be extended by another person, it has neither received compensation nor participated in preparation of the credit transaction documents with knowledge of the credit terms. Furthermore, since the quoted provision makes it clear that the customer is not bound to accept the financing which may be provided, the transaction with the contractor is not contingent upon or a part of any credit transaction.

The service agency, on the other hand, is an arranger of credit in all of the situations, since it has provided consumer credit that is extended by another person (the lending institution), has knowledge of the credit terms, and has prepared the documents required for the credit transaction. In addition, where the service agency receives compensation for its services, that constitutes another basis for finding it to be an arranger of credit.

You ask whether the § 226.9 right of rescission applies to the construction contract. In the situation in which the contractor has arranged for the extension of credit and is therefore a creditor, the construction contract is a credit sale within the meaning of § 226.2(t), since it is a sale with respect to which consumer credit is arranged by the seller. The right of rescission under § 226.9 of Regulations Z relates to the entire credit transaction, including the construction contract. Section 226.9(c) prohibits creditors from performing any of the actions enumerated therein during the three-day rescission period, which period commences only when the credit transaction has been consummated or delivery of all required disclosures is made, whichever is later. If consummation occurs upon issuance of the loan commitment by the lending institution and the required disclosures and notice of right to rescind are given at that time, the contractor must delay performance until at least three business days after that date. If the customer exercises the right of rescission, the construction contract as well as the rest of the credit transaction would be rescinded.

In all of the other situations, that is, those in which the contractor is not an arranger of credit, the construction contract is a cash transaction, not a credit sale. The §.226.9 right of rescission would not apply to the construction contract, and the contractor, therefore, has no obligation to delay performance in accordance with § 226.9(c), or to cease performance in those cases where the financing is arranged during the course of construction. If the customer exercises the § 226.9 right of rescission as to the credit transaction, this would not affect the separate cash transaction between the contractor and the customer. This answer does not, of course, address the contractor's duties and rights under the California rescission law.

You ask whether the security document constitutes a credit sale within the meaning of § 226.2(t). Since a security instrument cannot in itself constitute a credit sale, we assume what you are asking is whether the second contract, the one secured by the security document, evidences a credit sale.

It appears that the second contract is, in reality, a loan transaction between the lending institution and the customer. It is drafted, however, as a sale contract for the purchase of a home improvement, with the service agency named as the seller. In a telephone conversation with a member of this staff, you stated that the contract must be drafted as a sale for State law reasons. Your letter states that lending institutions, presumably as a matter of business policy, require that the service agency rather than the contractor be named as the seller. Thus, it appears that there are two contracts for the sale of a single home improvement to be performed by the same party, one contract naming the contractor as the seller and another naming the service agency as the seller.

It is staff's opinion that, regardless of the terminology used in the second contract, for purposes of Regulation Z, it is a loan and not a sale. Therefore, it is not a credit sale as defined by § 226.2(t). Of course, it should be noted that in those situations where the contractor is a creditor, all of the creditors may choose to make joint disclosures pursuant to § 226.6(d). If they do so, it would be appropriate to give credit sale disclosures as set forth in § 226.8 (b) and (c).

Finally, you ask several questions about the security interest acquired by the contractor. You state that under the construction contract alone (assuming no financing is required), upon performance by the contractor and absent payment by the customer, the contractor would be entitled to claim a mechanic's lien. You ask whether this gives the contractor a security interest as defined by § 226.2(gg) and, if so, whether it is of such a nature as to require the Notice of Opportunity to Rescind set forth in § 226.9(b). The contractor's mechanic's lien would constitute a "security interest" as defined in § 226.2(gg). However, the contractor need not provide the § 226.9(b) notice because that notice must be provided only by creditors for credit transactions to which the right to rescind applies. This response assumes that there is no credit transaction with the contractor (since the contract is for a cash sale) and, therefore, § 226.9 is not applicable.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited to the facts and issues as described herein. I trust it is responsive to your inquiry.

Sincerely,

JANET HART,
Director.

[FC-0107]

§ 226.7(k)—Section 226.7(k)(3)(ii) permits creditor to date nonsale credit documents which customer failed to date and to disclose that date as "the date which appears on the document" as required by § 226.7(k)(3)(ii) so that the requirements of § 226.7(k)(4) need not be met, with respect to identifying the date, when such a procedure is used.

SEPTEMBER 1, 1977.

This is in response to your letter of • • •, in which you request an official staff interpretation with regard to § 226.7(k)(3) and (4) of Regulation Z.

You state that your client, a bank, has an open end credit plan that offers several different types of transactions that you believe to be nonsale credit transactions covered by § 226.7(k)(3). You also state that the customers complete the credit documents for the different transactions by placing the dates and amounts of the transactions on the credit documents they sign. You state, however, that your client sometimes receives the above-described documents signed but undated. An undated item is usually honored and processed, with the customer's account being debited for the amount authorized.

You indicate that your client uses a descriptive billing system on its periodic statement which identifies transactions by disclosing both the date of debiting and the date appearing on the document. You claim, however, that where the customer neglects to date one of the documents, the bank has a problem in disclosing the date required by § 226.7(k)(3)(ii). Your concern is based upon the fact that the regulation provides that after October 28, 1977, disclosure of the transaction date or the date which appears on the credit document is required, and that disclosure of the debiting date alone will no longer be sufficient for purposes of § 226.7(k).

With regard to only those instances in which the customer neglects to date a document, your client does not wish to treat any customer inquiry regarding the description of the transaction as an erroneous billing or to provide documentary evidence of the transaction as required by § 226.7(k)(4). That section requires such treatment when, despite the creditor's procedures to procure such information, the primarily required information is unavailable. You ask whether § 226.7(k)(3) permits your client to place a date on those credit documents which the customer fails to date and disclose that date as "the date which appears on the documents," without having to meet the requirements of § 226.7(k)(4). Such a date would generally be the date the bank first receives the item or instrument and has an opportunity to process it. You state that the date will usually be the date of debiting.

Staff agrees with your contention that the language of § 226.7(k)(3)(ii) permits disclosure of a date placed by your client on the document or instrument evidencing the transaction in the circumstances which you have described. Furthermore, staff agrees with your reasoning that such a conclusion is buttressed by the fact that the language in § 226.7(k)(3)(ii), unlike § 226.7(k)(3)(i) (which addresses "country club" rather than "descriptive" billing situations), allows disclosure of the date appearing on the document or instrument evidencing the transaction without requiring that such date be placed on the document or instrument by the customer. Staff is of the opinion that the procedures you describe would satisfy the disclosure requirements of § 226.7(k)(3)(ii) and that the requirements of § 226.7(k)(4) need not be met, with respect to identifying the date, when such a procedure is used. However, we do not believe that such a procedure would be appropriate in cases in which the customer did, in fact, place a date on the credit document.

This is an official staff interpretation issued in accordance with § 226.1(d)(3) of Regulation Z and limited to the facts and issues presented herein. I trust that it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC-0108]

§ 226.10(f)—§ 226.10(f) does not apply to advertisements in which a bona fide finance charge is identified in connection with the credit terms.

§ 226.2(x)—A credit plan which does not provide for the assessment of a finance charge computed from time on the outstanding unpaid balance is not open end credit.

SEPTEMBER 2, 1977.

This is in response to your letter of • • •, in which you requested official staff interpretations concerning § 226.10(f) and 226.2(x) of Regulation Z.

Your first question is whether a retailer who advertises sales credit plans imposing only a minimal one-time finance charge (e.g., 50 cents) and involving no additional finance charges (regardless of the amount owing thereunder and with no stated limit on the dollar amount of purchases which may be made thereunder), with a substantial period for repayment (e.g., 24 months) must state in his advertisement pursuant to § 226.10(f) that "the cost of credit is included in the price quoted for the goods or services." Staff continues to hold the opinion expressed in Public Information Letter 896 (a copy of which is attached) that § 226.10(f) does not apply to advertisements in which a finance charge is identified in connection with the credit terms. However, the finance charge so identified should be bona fide and not merely set forth as a nominal amount to circumvent or evade the purposes of the Act. Staff does not believe that it can give any definite guidelines regarding what would be considered bona fide for every situation, although such factors as the normal markup on merchandise and the time price of money, as well as factors bearing on the nature of the charge involved (for example, the fact that the finance charge does not vary no matter how much the customer borrows or how long the customer takes to repay) would appear to be relevant in this determination.

Your second question is whether the imposition of a one-time finance charge as discussed above would preclude classification of any such plan as an open end credit plan, even where the customer may make purchases from time to time and repay in full or in installments. Staff believes that a credit plan which contemplates repetitive transactions and involves only a one-time finance charge assessment as you have outlined would not meet the definition of open end credit in § 226.2(x) of Regulation Z. However, this conclusion results not from the imposition of the one-time finance charge but, rather, from the fact that the plan involves other than open end credit and, as you have suggested, would be subject to the advertising requirements of § 226.10(d) rather than those of § 226.10(c). We would point out, however, that your client's plan would be subject to certain open end credit provisions, despite the fact that it does not meet the general definition of open end credit, if it involves the issuance of a credit card (§ 226.8(q)).

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited in its application to the facts set forth herein. I trust that it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC-0109]

§ 226.7(a)—"Required minimum periodic payment" is that amount a customer is contractually obligated to pay in order to avoid his or her account being considered delinquent or in default.

SEPTEMBER 2, 1977.

This is in response to your letter of • • •, requesting an official staff interpretation of § 226.7(a)(8) of Regulation Z. Your bank provides a check cashing guarantee program to its cardholders. A participating merchant who is presented with a check by one of your cardholders will first call the bank to obtain a proper authorization number. Once authorization is received, the merchant accepts the cardholder's check in payment for the goods or services. If the check is later returned to the merchant unpaid, the bank will pay the merchant and debit the cardholder's account, treating the debit as a cash advance for purposes of descriptive billing and imposition of finance charges.

When the bank pays a merchant for a returned check, the cardholder's check cashing guarantee privileges are suspended until the next two required minimum periodic payments are made in a timely manner. The bank would like to give its customer the option of immediate reinstatement of check cashing privileges by remitting to the bank the entire amount of the returned check. You inquire whether giving the customer that option might be construed as altering the required minimum payment (presently four percent of the new balance or $10.00, whichever is greater) previously disclosed in accordance with § 226.7(a)(8), thereby requiring the bank to provide a notice of a change in terms pursuant to § 226.7(f).

You believe that the answer to your question depends upon the meaning of the phrase "minimum required periodic pay-

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ment" in § 226.7(a)(8). You are concerned that if the phrase is intended to describe the amount a customer is required to pay in order to have every feature of an open end credit plan fully available for immediate use, then what your bank proposes would constitute a change in terms as meant by § 223.7(f).

Staff does not believe that this was the intended meaning or purpose of this phrase. Since your bank will treat immediate remission of the entire amount of any returned check as optional, and since the account will not be considered delinquent or in default if a customer elects to repay that amount over a period of time, we believe that no change in the "required minimum periodic payment" as meant by § 226.7(a)(8) will occur upon implementation of your bank's proposal. Accordingly, the provisions of § 226.7(f) would be inapplicable.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited in its application to the facts and issues outlined herein. I trust it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

Board of Governors of the Federal Reserve System, September 12, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-27093 Filed 9-16-77;8:45 am]

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 720—DESCRIPTION OF OFFICE, DISCLOSURE OF OFFICIAL RECORDS, AVAILABILITY OF INFORMATION, PROMULGATION OF REGULATIONS

Technical Revision of Regulation

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: Certain technical revisions are hereby made to the National Credit Union Administration's regulations on description of office, disclosure of official records, availability of information, and promulgation of regulations to reflect changes in the designations of certain internal offices and officials.

DATES: These regulations are to be effective September 19, 1977.

ADDRESS: National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Robert M. Fenner, Office of the General Counsel, National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456, telephone 202-254-9810.

SUPPLEMENTARY INFORMATION: The Office of Inspection and Audit is now the Office of Internal Audit and Investigation, and the Assistant Administrator for this Office is now the Assistant Administrator for Internal Audit and Investigation. The Office of Fiscal Affairs is now the Office of the Comptroller. The Assistant Administrator of this Office is now the Comptroller, and the Deputy Assistant Administrator is now the Deputy Comptroller. In addition, the addresses of three Regional Offices have changed.

5 U.S.C. 553 excludes "rules of agency organization, procedure, or practice" from the general requirements of allowing comment periods for and delaying the effective dates of proposed rules. Since this rule deals with mere organizational technicalities, it falls within this exception and no comment period is provided. The changes presented are already in effect and this publication is to serve simply as a notice of a final rule.

Accordingly, 12 CFR Part 720 is amended as set forth below:

§ 720.2 [Amended]

Section 720.2(b)(6) is amended by inserting "Internal Audit and Investigation" wherever "Inspection and Audit" formerly appeared.

Section 720.2(b)(7) is amended by changing "Assistant Administrator, Office of Fiscal Affairs," to "Comptroller, Office of the Comptroller," and by replacing "Assistant Administrator for Fiscal Affairs" with "Comptroller," and "Deputy Assistant Administrator" with "Deputy Comptroller."

Section 720.2(c)(1) is amended by changing the addresses of three Regional Offices as follows:

Region IV: New Federal Building, 234 N. Summit Street, Room 704, Toledo, Ohio 43604;

Region V: 515 Congress Avenue, Suite 1400, Austin, Tex. 78701; and

Region VI: Two Embarcadero Center, Suite 1830, San Francisco, Calif. 94111.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).)

LAWRENCE CONNELL, JR.,
Administrator.

SEPTEMBER 8, 1977.

[FR Doc.77-27087 Filed 9-16-77;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 71—PACKAGING OF RADIOACTIVE MATERIAL FOR TRANSPORT AND TRANSPORTATION OF RADIOACTIVE MATERIAL UNDER CERTAIN CONDITIONS

Quality Assurance Requirements for Transport Packages; Notice of Approval by Comptroller General

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule. Approval of reporting and record keeping requirements by Comptroller General.

SUMMARY: On August 4, 1977, the Nuclear Regulatory Commission published in the FEDERAL REGISTER a notice of rulemaking, effective October 18, 1977, amending its regulations for packaging of radioactive material for transportation and transportation of radioactive material.

The notice included a note that: (1) The Nuclear Regulatory Commission has submitted the rule to the Comptroller General for such review as may be appropriate under the Federal Reports Act, as amended, and (2) the date on which the reporting requirement of the rule becomes effective, unless advised to the contrary, accordingly reflects inclusion of the 45-day period which that statute allows for such review. The reporting requirements set out in the rule have been approved by the U.S. General Accounting Office under number B-180225 (R0056).

EFFECTIVE DATE: October 18, 1977. The reporting requirements set out in §§ 71.51, 71.62, and 71.63 of the rule published in the FEDERAL REGISTER on August 4, 1977 (42 FR 39364) have been approved by the U.S. General Accounting Office under number B-180225 (R0056) and the effective date of the rule is October 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald R. Hopkins, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301-443-6910.

Dated at Bethesda, Md., this 15th day of September 1977.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.77-27324 Filed 9-19-77;9:32 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 74-WE-42-AD; 39-3031]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas DC-8 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: After issuing Amendment 39-2999 to AD 74-23-06 it appears that the inclusion of a new subparagraph (4) would require an unnecessary revision to the FAA approved airplane flight manual. After a thorough review and study the FAA has determined that a change in the FAA approved airplane flight manual is not necessary to accomplish the desired objective. Therefore AD 74-23-06 is being further amended to remove the reference to subparagraph (4) and to add a Note in its place.

Since this amendment provides a clarification and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

DATE: Effective date, September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

DRAFTING INFORMATION

The principal authors of this document are Thomas C. DuFour, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), Amendment 39-2005 (39 FR 39717), AD 74-23-06, as amended by Amendment 39-2999, 42 FR 39972, is further amended as follows:

(1) Amend the opening statement to read as follows:

Within 24 hours after receipt of this telegram, incorporate the operating limitations and procedures, set forth in paragraphs (1), (2), and (3), below, into the Douglas DC-8 FAA approved Airplane Flight Manual. Make appropriate notations on the log of pages. Operators shall promptly implement these limitations and procedures.

(2) Delete subparagraph (4).

(3) Add a new paragraph following subparagraph (3) to read:

NOTE.—One reservoir feed pump may be inoperative provided: (a) The affected reservoir feed pump is placarded inoperative at the feed pump switch position.

(b) Established maintenance procedures for this item are followed.

(c) Sufficient fuel is carried in the associated tank to provide a minimum of 2000 pounds of additional fuel in excess of the fuel (including reserves) needed for the flight.

(d) 'Fuel Loading and Management' is in accordance with the FAA Approved Airplane Flight Manual.

This amendment becomes effective September 13, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, California on August 29, 1977.

HERMAN C. BLISS,
Acting Director, Federal Aviation Administration Western Region.

[FR Doc.77-26998 Filed 9-16-77;8:45 am]

[Docket No. 77-EA-65; Amdt. 39-3036]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman-American Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) is applicable to Grumman G-164A and 164B type airplanes. It requires the removal and replacement of flying wire terminals due to the possibility of defective terminals in the affected airplane groups. It appears that the defect was caused by improper manufacturing.

EFFECTIVE DATE: September 22, 1977.

ADDRESS: Grumman operations and maintenance manuals may be acquired from the manufacturer at P.O. Box 2206, Savannah, Ga. 51402.

FOR FURTHER INFORMATION CONTACT:

I. Mankuta, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J. F. K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-2875.

SUPPLEMENTARY INFORMATION: There has been a report of a loose flying wire on a subject aircraft which is normally used in agricultural operations. Research has indicated that the looseness was due to an improperly manufactured terminal, in that threads were torn, they were of improper pitch, and the hole for the threaded portion was eccentric. In view of the effect on air safety, notice and public procedure hereon are impractical and good cause exists for making the rule (AD) effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are I. Mankuta, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, as follows:

GRUMMAN-AMERICAN: Applies to Models G-164A, S/N's 1715 through 1717 and G-164B, S/N's 240B, 242B, 243B, 244B, 246B, 251B, 252B, 253B, 254B, 257B, 258B, 264B, 269B.

To prevent hazards associated with defective flying wire terminals, part number AN665-115L/R, accomplish the following prior to further flight:

Remove the AN665-115L/R, terminals and replace them with unused parts received from Grumman American Aviation Corporation. Installation will be in accordance with the aircraft operations and maintenance manual. Parts will be obtained from Grumman American Aviation Corporation, P.O. Box 147, Elmira, N.Y. 14902.

The aircraft may be flown in accordance with 21.197 to a location where the AD can be accomplished.

Effective Date: This amendment is effective September 22, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of a Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on September 8, 1977.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.77-27013 Filed 9-16-77;8:45 am]

[Docket No. 77-GL-17; Amdt. 39-3037]

PART 39—AIRWORTHINESS DIRECTIVES

Detroit Diesel Allison Model 250-C20/C20B/C20C and 250-B17/B17B Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) applicable to Detroit Diesel Allison Model 250-C20 and B17 series engines by specifying an acceptable level of corrosion of the power turbine outer coupling nut and requiring repetitive inspections on all configurations of coupling nuts irrespective of condition. The amendment is needed because the FAA has determined that by use of newly developed inspection criteria the person performing the inspection can differentiate between acceptable and unacceptable levels of corrosion thereby reducing the number of mandatory engine disassemblies.

DATES: Effective September 23, 1977. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: Copies of Detroit Diesel Allison Commercial Service Letters referenced herein may be obtained by contacting: Detroit Diesel Allison, Division of General Motors Corp., P.O. Box 894, Indianapolis, Ind. 46206.

FOR FURTHER INFORMATION CONTACT:

W. Ashworth, Engineering and Manufacturing Branch, Flight Standards Division, AGL-214, Federal Aviation Administration, 2300 E. Devon Avenue, Des Plaines, Ill. 60018, telephone 312-694-4500, extension 308.

SUPPLEMENTARY INFORMATION: This notice amends Amendment 39-2977,

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42 FR 37804, AD 77-15-12 which required inspection of the power turbine outer coupling nut for corrosion with required removal and replacement if any evidence of corrosion was found. After issuing Amendment 39-2977, AD 77-15-12 the FAA determined that new inspection criteria developed by the engine manufacturer would allow the person performing the inspection to differentiate between acceptable and unacceptable levels of corrosion. The acceptability of a specified level of corrosion however requires that all coupling nuts whether coated or uncoated and irrespective of condition be subjected to repetitive inspections so that corrosion progression may be monitored. Therefore, the FAA is amending Amendment 39-2977 by requiring that the new inspection criteria and compliance requirement developed by the engine manufacturer be applicable to all affected engines.

Since this amendment provides an alternate means of compliance and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are W. Ashworth, Flight Standards Division, Great Lakes Region, and J. McLaughlin, Office of the Regional Counsel, Great Lakes Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-2977, 42 FR 37804, AD 77-15-12 by changing the body of the AD to read as follows:

DETROIT DIESEL ALLISON. Applies to 250-B15 and B17 and 250-C18 and C20 series engines equipped with power turbine outer coupling nuts Part Number (P/N) 6846278 as installed in aircraft certificated in all categories.

NOTE.—This amended version of AD 77-15-12 requires that all power turbine coupling nuts, both coated and uncoated, be inspected on a repetitive basis.

Compliance schedule. Compliance required as follows unless previously accomplished.

(a) For engines with turbine sections having more than 400 hours or one calendar year time in service since installation in an aircraft, initial compliance must be accomplished within the next 100 hours or 90 days, whichever occurs first, from the effective date of the original amendment of July 27, 1977.

(b) Remains unchanged.

(c) For each turbine section incorporating an acceptable uncoated or coated coupling nut, as defined by the below referenced service letters, repetitive compliance is required at intervals not to exceed 500 hours or one calendar year time since last inspection, whichever occurs first.

To preclude possible engine failure resulting from power turbine coupling nut failure: Inspect the power turbine outer coupling nut P/N 6846278 in accordance with Detroit Diesel Allison Commercial Service Letter Numbers 88 for the C18 series, 1060 for the C20 series, 25 for the B15 series, and 1030 for the B17 series engines. All Service Letters are Revision 3 or later FAA approved revisions. If an unacceptable extent of corrosion, as defined by the Service Letter, is found, the nut shall be replaced before further flight except that the aircraft may be flown in accordance with FAR 21.197 to a base where the repair can be performed.

This amendment is effective September 23, 1977, and was effective immediately for all recipients of airmail letters dated August 19, 1977 which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107 (and certifies that an Economic Impact Statement has been prepared).

Issued in Des Plaines, Ill., on September 8, 1977.

JOHN M. CYROCKI,
Director, Great Lakes Region.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc 77-27014 Filed 9-16-77;8:45 am]

[Docket No. 77-CE-16-AD; Amendment 39-3040]

PART 39—AIRWORTHINESS DIRECTIVES

Gates Learjet 23, 24, and 25 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to certain Gates Learjet 23, 24, and 25 series airplanes which requires repetitive inspections of the cabin upper door locking mechanism and places a 3,000-hour life limit on one component in that mechanism. This action will assure proper locking of the cabin upper door and will help insure correct flight crew analysis in the event of an illuminated door opening warning light on these airplanes.

DATES: Effective date—September 26, 1977. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: Gates Learjet Service Bulletin SB 23/24/25-280 applicable to this AD may be obtained from Gates Learjet Corp., Mid-Continent Airport, P.O. Box 7707, Wichita, Kans. 67277, telephone number 316-722-5640. A copy of the Service Bulletin cited above is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3446.

SUPPLEMENTARY INFORMATION: Investigation of a recent incident on a Gates Learjet Model 23 airplane which involved opening of the cabin entrance upper door during takeoff showed that the bolt common to the upper door locking pins actuating mechanism and the inside locking handle had failed because of fatigue. Friction between the handle and its shaft, after bolt failure, allowed what appeared to be satisfactory operation of the door pins with the door open. However, slippage of the door handle on its shaft when the door was closed prevented the locking pins from being driven all the way into the locked position, thereby, allowing the door to open as a result of vibration, external air loads or cabin pressurization loads. The door warning system will give a red door open light on the pilot's instrument panel any time the door is not properly closed, but since the door locking mechanism may operate properly with the door opened, after failure of the bolt, a pilot could erroneously conclude that the door warning system was giving false indications and takeoff with the door improperly closed. Subsequent investigation by the manufacturer shows that fatigue failure of the bolt is due to wear of the hole in which the bolt is installed and high door locking forces caused by a worn or improperly rigged door locking mechanism. As a result, Gates Learjet has issued Service Bulletin SB 23/24/25-280 and revisions to applicable service manuals which together recommend a 3,000-hour life limit for the bolt and repetitive inspection of the door locking mechanism. The FAA has concluded that failure of the bolt common to the upper door locking pins actuating mechanism and the door handle shaft is an unsafe condition that may exist or develop in other airplanes of the same type design. Accordingly, an AD is being issued applicable to Gates Learjet 23/24 and 25 series airplanes, having 36-inch wide cabin doors, making compliance with the aforementioned Service Bulletin and revisions to applicable service manuals mandatory. This AD was coordinated with the manufacturer prior to issuance. The FAA has determined that there is an immediate need for a regulation to assure safe operation of the affected airplanes. Therefore, Notice and Public Procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than thirty (30) days after the date of publication in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal authors of this document are: William L. Schroeder, Flight Standards Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

ADOPTION OF AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

GATES LEARJET. Applies to all serial numbers of Models 23, 24, 24A, 24B, 24B-A, 24C, 24D, 24D-A, 24E, 24F, 24F-A, 25, 25A, 25B, 25C, 25D, and 25F airplanes certificated in all categories having a 36-inch wide (as opposed to a 24-inch wide) cabin door.

Compliance. Required as indicated in accordance with Compliance Table I set forth in this AD, unless already accomplished.

To assure proper locking of the cabin upper door when the inside handle is in the locked position and to prevent possible unwanted door openings that may occur if a pilot disregards the door warning system accomplish the following at the time intervals noted in Table I of this AD:

TABLE I.—*Compliance times*

Airplane total time in service (hour)	Inspection times: Paragraph "A" bolt inspection and replacement — Initial inspection/replacement	Paragraph "A" bolt inspection and replacement — Interval for repetitive inspections/replacement	Paragraph "B" locking mechanism inspection — Initial inspection	Paragraph "B" locking mechanism inspection — Interval for repetitive inspections
0 to 2,999	Prior to or upon the accumulation of 3,075 h time in service.	Each 3,000 h time in service thereafter.	In accordance with asterisk (*) paragraph below or upon accumulation of 6,075 h time in service, whichever occurs first.	In accordance with asterisk (*) paragraph below or upon accumulation of each 6,000 h time in service after initial inspection.
3,000 to 5,999	Within 75 h time in service after the effective date of this AD.	...do...	...do...	Do.*
6,000 up	...do...	...do...	Within 75 h time in service after the effective date of this AD.	Do.*

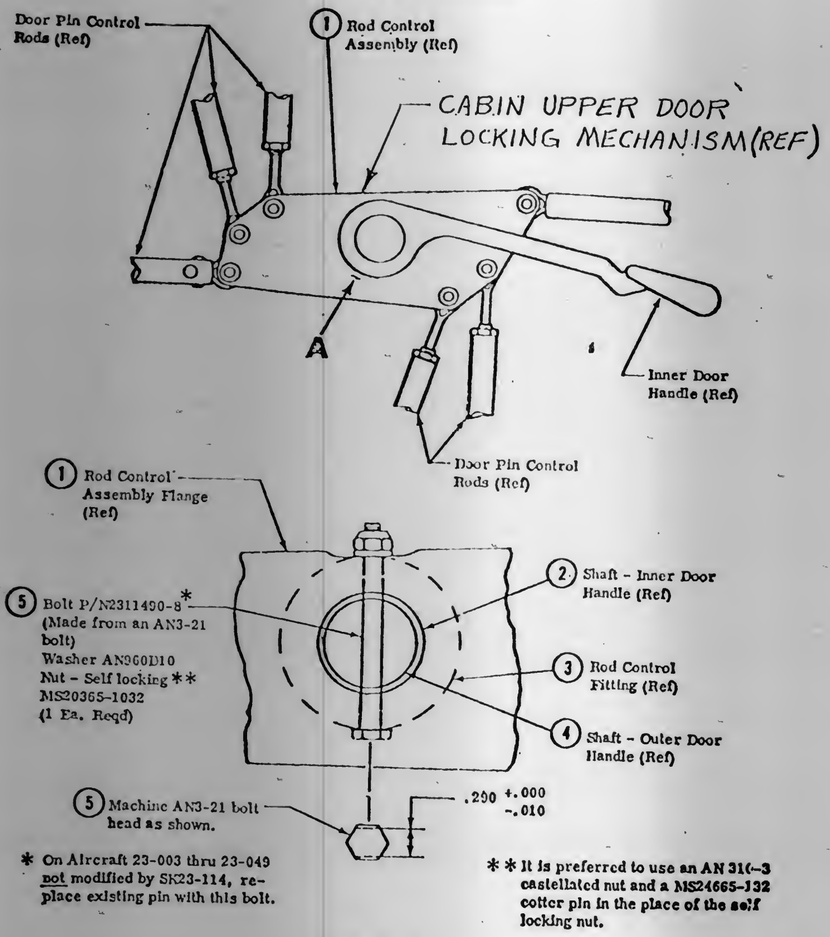
*The door locking mechanism inspection must be accomplished any time the bolt inspection required by par. "A" of this AD reveals a cracked, bent, broken or worn bolt.

A. Inspect and replace, at the time intervals noted in Table I above, the bolt or pin identified as ⑥ in Figure I of this AD in accordance with Gates Learjet Service Bulletin SB 23/24/25-280 dated July 15, 1977, or later approved revisions and as summarized below:

1. Remove the bolt, or if applicable, pin from the upper door rod control assembly and visually inspect it for cracks, breaks, bends, or wear. If any of the aforementioned defects are found accomplish the door locking mechanism inspection required by Paragraph "B" of this AD prior to the next flight; and

2. Replace the bolt or pin removed in Paragraph A.1. of this AD with a new Gates Learjet part number 2311490-8 bolt, or a new AN3-21 bolt modified in accordance with the above noted Service Bulletin, and secure using an AN960D10 Washer and either a new MS20365-1032 Nut or AN310-3 Nut and MS24665-132 Cotter Pin.

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Detail A

FIGURE I

B. Inspect, at the time intervals noted in Table I above, the cabin door locking mechanism in accordance with Gates Learjet Service Bulletin SB 23/24/25-280 dated July 15, 1977; or later approved revisions, and as summarized below:

1. Drill out rivets and remove cabin upper door inner panel.

2. Remove and inspect door locking mechanism for wear and defects in accordance with Learjet Service Manual Inspection Requirements. The maximum allowable diameter (measured in any direction) of the hole in which the ⑤ bolt is installed is 0.201 inches. Replace any excessively worn or defective parts prior to the next flight.

3. Reinstall door locking mechanism and using rivets, reinstall the inner panel.

4. Check door locking mechanism for free movement with no binding thru entire operating travel. Correct any binding prior to the next flight.

5. Energize door warning system and check its operation for proper functioning.

C. Submit a written report on any cracked, broken, bent or worn ⑤ (see Figure I of this AD) bolts or pins discovered during inspections required by this AD to the FAA via a letter to FAA, Chief Engineering and Manufacturing Branch (ACE-210), 601 East 12th Street, Kansas City, Mo. 64106, or an FAA M or D report (FAA Form 8330-2).

The report must include airplane model, serial number, airplane total time-in-service, bolt or pin total time-in-service and statements describing the condition of the bolt and the hole including dimensions of the hole determined in accordance with Paragraph B.2. of this AD. (Reporting approved by the Office of Management and Budget under OMB No. 04-R0174).

D. Airplanes may be flown in accordance with FAR 21.197 to a base where this AD can be accomplished.

E. Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective on September 26, 1977.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.89 of the Federal Aviation Regulations (14 CFR sec. 11.89).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on September 9, 1977.

JOHN E. SHAW,
Acting Director,
Central Region.

[FR Doc.77-27015 Filed 9-16-77;8:45 am]

[Docket No. 77-WE-28-AD; Amdt. 39-3039]

PART 39—AIRWORTHINESS DIRECTIVES

Hughes Helicopters Model 369D Helicopter

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: An emergency airworthiness directive (AD) was issued by the Federal Aviation Administration on August 19, 1977, as a result of failed laminates in the lead lag bolt hole area of the main rotor retention straps. This AD requires initial and repetitive visual inspections for broken laminates to prevent possible loss of a main rotor blade.

DATES: Effective date, September 27, 1977, for all persons except those to whom it was made effective by telegram dated August 19, 1977. Initial Compliance; Before further flight after the effective date of this AD.

FOR FURTHER INFORMATION CONTACT:

Wallace M. Frei, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: There have been failures of laminates in the main rotor retention straps in the area of the lead-lag bolt hole. One incident occurred where several broken laminates in a single strap pack resulted in severe lateral vibration and yielding of the remaining laminates. This AD requires removal of the excess Teflon in the area of the lead-lag bolt, visual inspection of the main rotor strap assembly P/N 369D21210 for broken strap laminates before further flight, and repetitive visual inspections at intervals not to exceed 25 hours time in service thereafter. This is a separate condition from that referred to in AD 77-15-09 or that referred to in the telegraphic AD issued on August 12, 1977 and does not modify the requirement of those AD's.

This AD includes editorial changes to the emergency telegram dated August 19, 1977.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. owners and operators of model 369D helicopters upon receipt of individual telegrams dated August 19, 1977. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as amendment to Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective as to all persons.

DRAFTING INFORMATION

The principal authors of this document are James R. Haynes, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

HUGHES HELICOPTERS: Applies to Hughes Model 369D helicopters, certificated in all categories.

Compliance required as indicated.

To prevent failure of the main rotor retention straps which can result in loss of a main rotor blade accomplish the following:

(a) Before further flight after the effective date of this AD, unless already accomplished in the last 25 hours time in service, use an aluminum chisel to carefully trim the excess teflon strips where they protrude from the strap laminations in the area of the lead-lag bolt. Trim the teflon so that the exterior edges of the strap laminations are visible from one and one-half inches inboard of the center line of the lead-lag bolt to one-half inch outboard of the center line of the lead-lag on bolt both sides of the straps. Do not trim the teflon further inboard than one and one-half inches inboard of the center line of the lead-lag bolt.

(b) Before further flight, after the effective date of this AD, unless already accomplished in the last 25 hours time in service, visually inspect the edge of each laminate around the lead-lag bolt for breaks.

(1) If a broken laminate is found, replace the main rotor hub P/N 369D21200 before further flight.

(2) If no laminate is found broken repeat the inspection in (b) at intervals not to exceed 25 hours time in service.

This amendment becomes effective September 27, 1977, for all persons except those to whom it was made effective by telegram dated August 19, 1977 which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Los Angeles, California on September 8, 1977.

ROBERT H. STANTON,
Director, Federal Aviation Administration, Western Region.

[FR Doc.77-27016 Filed 9-16-77;8:45 am]

[Docket No. 77-WE-23-AD; Amdt. 39-3038]

PART 39—AIRWORTHINESS DIRECTIVES

Hughes Helicopters Model 369D Helicopter

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: An emergency airworthiness directive (AD) was issued by the Federal Aviation Administration on August 12, 1977, as a result of a report of failed laminates in the main rotor retention straps at the inboard ends of the strap legs. These failures were initiated by fretting between two anti-fretting laminates which had been incorrectly installed during hub assembly. This AD requires initial inspection to determine if the anti-fretting laminates have been incorrectly installed and repetitive visual inspection to prevent strap laminate failures if the incorrect installation exists.

DATES: Effective date, September 27, 1977, for all persons except those to

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whom it was made effective by telegram dated August 12, 1977. Initial Compliance. Before further flight after the effective date of this AD.

FOR FURTHER INFORMATION CONTACT:

Wallace M. Frei, Executive Secretary Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: There has been a failure of five retention strap laminates in a single leg of the main rotor retention strap pack of a Model 369D helicopter. This defect was initiated by fretting between two adjacent metallic anti-fretting laminates P/N 369D21271-5, -51, -53 or -55 which are usually installed singly on the upper side of the lead leg of the strap pack for each blade. These metallic anti-fretting laminates when broken off from fretting fatigue can create a stress raiser for the retention strap laminates and failures then propagate through the retention strap pack P/N 369D21210. Two of these anti-fretting laminates could have been installed adjacently during hub assembly up to and including main rotor hub serial number 0178. This AD requires visual inspection of the strap pack inboard end before further flight to determine if two of the metallic anti-fretting laminates have been installed and repetitive visual inspection at intervals not to exceed 25 hours to determine if any of these anti-fretting laminates are cracked or broken off. This is a separate condition from that covered by AD 77-15-09 and does not modify the requirements of that AD.

The metallic anti-fretting laminates were referred to in the telegraphic AD as shims and this has led to some confusion since the Hughes Handbook of Maintenance Instruction refers to them as laminates. This clarification has been added to the A&D as well as the addition of the dash numbers to the part number to further identify the anti-fretting laminates.

This AD includes editorial changes and minor changes for clarification to the emergency telegram dated August 12, 1977. In addition it has been determined that the condition exists only for certain serial number main rotor hubs and the effectivity of the AD has been changed to provide this relief.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. owners and operators of model 369D helicopters upon receipt of individual telegrams dated August 12, 1977. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective as to all persons.

DRAFTING INFORMATION

The principal authors of this document are James R. Haynes, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

HUGHES HELICOPTERS: Applies to Hughes Model 369D helicopters, certificated in all categories, which have P/N 369D21200 main rotor hub serial numbers 0001 through 0178 installed.

Compliance required as indicated.

To prevent failure of the main rotor retention straps which can result in loss of a main rotor blade accomplish the following:

A. Before further flight after the effective date of the AD, visually inspect the lead leg of each main rotor retention strap pack, P/N 369D21210, at the inboard ends to determine if two adjacent metallic anti-fretting laminates P/N 369D21271-5, -51, -53, or -55, have been installed on the upper side of the lead leg of any strap pack.

(1) If two adjacent metallic anti-fretting laminates have been installed, visually inspect to determine if one or both are cracked or have been broken off where they extend from the hub.

(i) If no anti-fretting laminate is found cracked or broken, repeat the inspections in (1), above, at times in service not to exceed 25 hours. This repetitive inspection can be discontinued when the main rotor hub, P/N 369D21200, has been replaced by a serviceable hub having only one anti-fretting laminate on the upper side of the lead leg of each main rotor strap pack.

(ii) If any anti-fretting laminate is found cracked or broken, further visually inspect the main rotor retention strap laminates adjacent to the anti-fretting laminates.

(a) If any strap laminate is broken or cracked, replace the main rotor hub, P/N 369D21200, before further flight.

(b) If no strap laminate is cracked or broken, replace the main rotor hub, P/N 369D21200, within ten hours time in service.

(2) If the inspection reveals that only one metallic anti-fretting laminate has been installed on the upper lead leg of each strap pack no further action is required by this AD.

This amendment becomes effective Sept. 27, 1977, for all persons except those to whom it was made effective by telegram dated August 12, 1977, which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, California on September 8, 1977.

ROBERT H. STANTON,
Director, Federal Aviation Administration Western Region.

[FR Doc.77-27017 Filed 9-16-77;8:45 am]

[Airspace Docket No. 77-SW-18]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area: Pleasanton, Texas; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction.

SUMMARY: This correction changes the magnetic bearing that appeared in FR Doc. 77-20460 at page 36813 in the FEDERAL REGISTER of Monday, July 18, 1977.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: In FR Docket 77-20460 appearing at page 36813 in the FEDERAL REGISTER of Monday, July 18, 1977, the conversion of the 160° magnetic bearing to true bearing was inadvertently omitted. Action is taken herein to correct this omission.

ADOPTION OF THE CORRECTION

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 77-20460 is amended as follows: Delete the 160° magnetic bearing and substitute therefor "the 168° bearing."

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))).

Issued in Fort Worth, Tex., on September 2, 1977.

PAUL J. BAKER,
Acting Director, Southwest Region

[FR Doc.77-27012 Filed 9-16-77;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. R-77; 3322]

PART 1912—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Servicing Companies

Correction

In FR Doc. 77-25557, appearing at page 43975 in the issue for Thursday, September 1, 1977, in the fifth line of § 1912.7, third column, page 43975, "Natural Flood Insurance Program" should read "National Flood Insurance Program".

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-117]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Lake Washington Ship Canal, Washington

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the regulations governing the operation of four highway drawbridges across Lake Washington Ship Canal to require one hour notice from 12 midnight to 8 a.m. before the draws need open for the passage of vessels. This change is being made due to infrequent passages of vessels during this time frame and will relieve the bridge owner of the obligation of continually manning all of the bridges.

EFFECTIVE DATE: This amendment is effective on October 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, (202-426-0942).

SUPPLEMENTARY INFORMATION: On November 29, 1976, the Coast Guard published a proposed rule (41 FR 52307) concerning this amendment. The Commander, Thirteenth Coast Guard District, also issued a public notice on November 29, 1976. Interested persons were given until December 28, 1976, to submit comments.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Project Attorney, Office of the Chief Counsel.

DISCUSSIONS OF COMMENTS

Twenty-five comments were received. Only five supported or had no objection to the proposal. The twenty objections were basically from two groups. The first group of objections were from owners of commercial vessels, i.e., towboats and fishing vessels. The second group of objections were from owners of sailboats. The basic objections from both groups were that there was no way of communicating by radiotelephone with the drawtenders and that too few bridges would be manned. The applicant agreed to provide VHF two-way radiotelephone communications at all four bridges; intercoms at both ends of the ship canal connected to the Fremont bridge; and three tenders to tend the four bridges between midnight and 8 a.m. with the tenders stationed at the lowest and most frequently opened of the four bridges. It is the Coast Guard's position that the reasonable needs of navigation will be provided for by these additions. The objections of the sailboaters are recognized although their passages have been provided for by installation of the intercom at both ends of the canal and the use of telephone when departing from way points between the ends of the canal. The City of Seattle is aware that should the regulations be amended, as requested, and not work in practice, as they should in theory, then the regulations may be again amended to require the bridges to be attended 24 hours a day.

DISCUSSION OF COMMENTS

The provision concerning towing of non-self-propelled vessels, which is in the existing regulations, was accidentally left out of the proposal. It is included in this document.

The proposal included regulations for two Burlington Northern Railroad bridges. The bridge across the waterway at mile 1.6 has been removed, and the final rule now only addresses the railroad bridge at Shilshole Bay.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations, is amended by revising § 117.795 to read as follows:

§ 117.795 Lake Washington Ship Canal; bridges.

(a) The draw of the Burlington Northern Railroad bridge at Shilshole Bay shall open on signal.

(b) The draws of the Ballard, Fremont Avenue, University and Montlake Boulevard bridges shall open on signal except that they:

(1) Need not open from 7 a.m. to 9 a.m., and from 4 p.m. to 6 p.m., Monday through Friday, except national holidays, for vessels of less than 1,000 tons unless the vessel has a vessel of over 1,000 tons in tow, except under emergency conditions when the Seattle City Engineer is notified; and

(2) Shall open on signal from 12 midnight to 8 a.m., if at least one hour notice is given by telephone, radiotelephone, or otherwise to the drawtender at the Fremont Avenue drawbridge.

(c) Signals.

(1) The opening sound signal for each bridge is one long blast followed by one short blast, except that the University bridge opens on one long blast followed by three short blasts.

(2) The acknowledging sound signal from the drawtender of each bridge is the same as the opening signal when the draw will open.

(3) The acknowledging sound signal from the drawtender of each bridge when the draw will not open, or is open and must close, is four short blasts.

(4) The opening visual signal is a white flag by day, or a white light at night, swung in circles at arms length while facing the drawbridge.

(5) The acknowledging visual signal when the draw will open is a white flag by day, or a white light, raised and lowered vertically while facing the vessel.

(6) The acknowledging visual signal when the draw will not open, or is open and must close, is a red flag by day, or a red light at night, swung in circles at arms length while facing the vessel.

(d) During conditions of restricted visibility, as defined in the Rules of the Road, the drawtender after giving the acknowledging signals that the draw will open, shall toll a bell continuously during the approach and passage of the vessel.

(e) The following provisions shall not relieve the owner of or agency controlling a drawbridge from opening the draw for the passage of vessels in accordance with paragraphs (a) and (b) of this section.

(1) A vessel shall not require the opening of the draw when such opening is needed only to provide additional clearance for appurtenances unessential to navigation of the vessel, or for appurtenances essential to navigation but which may be altered by hinging, telescoping, collapsing, or otherwise, so as to require no greater clearance then the highest fixed and essentially unalterable point of the vessel.

(2) Appurtenances unessential to navigation include, but are not limited to fishing outriggers, radio antennae which are or can reasonably be made flexible or collapsible, television antennae, false stocks, and masts purely for ornamental purposes. Appurtenances unessential to navigation do not include radar antennae, flying bridges, sailboat masts, piledriver leads, spud frames on hydraulic dredges, drilling derricks, derrick substructures and/or buildings, cranes on drilling or construction vessels, or other items of permanent and fixed equipment clearly necessary to the intended use of the vessel.

(3) The owners of, or agencies controlling the drawbridges, shall report to the District Commander in charge of the locality, the names of any vessels causing bridge openings considered to be in violation of this paragraph. The District Commander may at any time cause an inspection to be made of any craft so reported and is empowered to decide in each case whether or not the appurtenances are unessential to navigation. If the District Commander decides a vessel has appurtenances unessential to navigation, he notifies the vessel owner of his decision, specifying a reasonable time for making necessary alterations. If the vessel owner is aggrieved by the decision of the District Commander, he may within 30 days after receipt of the request to perform necessary alterations appeal the decision to the Commandant in writing. If the Commandant rules that an appurtenance is unessential to navigation, the District Commander again specifies to the vessel owner a reasonable time for making necessary alterations to the appurtenance, and after the expiration of the time specified, any operation of the vessel in such a manner as to require drawbridge openings is deemed to be in violation of the regulations of this paragraph unless the necessary alterations have been made.

(f) All non-self-propelled vessels, crafts, or rafts, navigating the Lake Washington Ship Canal, for which the opening of any bridge may be necessary, shall, while passing such bridge, be towed by a suitable self-propelled vessel.

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(Sec. 5, 28 Stat. 362, as amended, sec 6(g)(2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: September 14, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard, Commandant.

[FR Doc.77-27139 Filed 9-16-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 788-8]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Air Pollution Control; State of Arizona, Pima County and Maricopa County Rules and Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval, with exceptions, of revisions to the Arizona State Implementation Plan (SIP). These revisions include State regulations for public availability of emission data, permit procedures, definition of sources under State jurisdiction, and open burning; and county regulations for process source control (Pima, Maricopa Counties) and new source review procedures (Pima County).

The Administrator is required to approve or disapprove of revisions to state implementation plans under the Clean Air Act, as amended. The regulations being approved are currently being enforced by the State of Arizona, the Maricopa County Bureau of Air Pollution Control, and the Pima County Air Quality Control District, and therefore pose no further requirements on any affected facility.

EFFECTIVE DATE: October 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Attn: Erik Hauge, Air Programs Branch, EPA Region IX, 100 California St., San Francisco, Calif. 94111, telephone 415-556-7595.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On June 3, 1977 (42 FR 28553) EPA proposed, approval, with exceptions, of revisions to the Arizona SIP consisting of State and local air pollution control regulations. The State regulations were submitted to EPA on February 19, 1974 and September 27, 1974. The Pima County regulations were submitted on March 19, 1974, and the Maricopa County regulation was submitted on January 28, 1974.

The rulemaking notice provided for a 30-day public comment period. Information concerning the regulations proposed for approval and disapproval (the EPA evaluation report), the regulations under consideration, and a copy of the proposed rulemaking notice were made available during the comment period at locations in Phoenix and Tucson, Arizona, and at the EPA offices in San Francisco, California, and Washington, D.C. as per the June 3, 1977 notice.

DISCUSSION OF ACTION

Final rulemaking is identical to that proposed. Approval is being promulgated for Maricopa County Regulation III, Rule 31 (Particulate Matter Emissions) submitted on January 28, 1974; Pima County Regulation II, Rule 2 (Particulate Matter Emissions) submitted on March 19, 1974; and State of Arizona Regulations 7-1-1.7 (R9-3-107) (Unlawful open burning) submitted on February 19, 1974, 7-1-8.1 (R9-3-801) (Original State Jurisdiction), 7-1-8.2 (R9-3-802) (Assertions of Jurisdiction), 7-1-8.3 (R9-3-803) (Delegation of Authority), 7-1-11.3 (R9-3-1203) (Suspension and Revocation of Permits), 7-1-11.4 (R9-3-1204) (Permits Non-transferable), 7-1-11.5 (R9-3-1205) (Posting of Permits), 7-1-11.6 (R9-3-1206) (Notice by Permit Agencies), 7-1-11.7 (R9-3-1207) (Equipment Covered), 7-1-11.9 (R9-3-1209) (Permit Fees), and 7-1-1.4 (R9-3-104) (Recordkeeping and Reporting), submitted on September 27, 1974. Pima County Regulation I, Rules 4C, 4E, 5, and 10, and State of Arizona Regulations 7-1-11.1 (R9-3-1201), 7-1-11.2 (R9-3-1202) and 7-1-11.8 (R9-3-1208), which pertain to new source review, will be considered in a separate FEDERAL REGISTER action.

The Administrator is disapproving the regulations portion of the State plan dealing with source surveillance as it does not meet the requirements of 40 CFR 51.19(e) for continuous monitoring of certain source categories.

DISCUSSION OF MAJOR COMMENTS

No public comments were received.

(Sec. 110, 301(a), Clean Air Act as amended (42 U.S.C. 1857c-5, 1857g(a), respectively).)

Dated: September 12, 1977.

DOUGLAS M. COSTLE,
Administrator.

Subpart D of Part 52 of Chapter 1, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart D—Arizona

1. Section 52.120, paragraph (c) is amended by renumbering subparagraphs (9), (10) and (11) as (12), (14) and (15) respectively, and by adding subparagraphs (9), (10), (11) and (13) as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(9) Maricopa County Air Pollution Control District Regulation III, Rule 31 (Particulate Matter Emissions) submitted on January 28, 1974.

(10) Arizona Air Pollution Control Regulation 7-1-1.7 (R9-3-107) (Unlawful open burning) submitted on February 19, 1974.

(11) Pima County Air Pollution Control District Regulation II, Rule 2 (Particulate matter emissions) submitted on March 19, 1974.

(12) * * *

(13) Arizona Air Pollution Control Regulations 7-1-8.1 (R9-3-801) (Original State jurisdiction); 7-1-8.2 (R9-3-802) (Assertions of jurisdiction); 7-1-8.3 (R9-3-803) (Delegation of authority); 7-1-11.3 (R9-3-1203) (Suspension and revocation of permits); 7-1-11.4 (R9-3-1204) (Permits non-transferable); 7-1-11.5 (R9-3-1205) (Posting of permits); 7-1-11.6 (R9-3-1206) (Notice by permit agencies); 7-1-11.7 (R9-3-1207) (Equipment covered); 7-1-11.9 (R9-3-1209) (Permit Fees); and 7-1-1.4 (R9-3-104) (Recordkeeping and reporting) submitted on September 27, 1974.

2. In § 52.126, paragraphs (a) and (b) are amended by the deletion of references to Rule 31(E) of Regulation III of the Maricopa County Air Pollution Control Rules and Regulations, and to Rule 2(B) of Regulation II of the Rules and Regulations of the Pima County Air Pollution Control District as follows:

§ 52.126 Control strategy and regulations: Particulate matter.

(a) The requirements of §§ 51.13 and 51.22 of this chapter are not met since the plan does not provide the degree of control necessary to attain and maintain the national standards for particulate matter in the Phoenix-Tucson Intrastate Region. Therefore, Regulation 7-1-3.6 (process industries) of the Arizona Rules and Regulations for Air Pollution Control is disapproved for the Phoenix-Tucson Intrastate Region.

(b) *Replacement regulation for Regulation 7-1-3.6 of the Arizona Rules and Regulations for Air Pollution Control (Phoenix-Tucson Intrastate Region).*

* * * * *

3. In § 52.130, paragraph (d) is added as follows:

§ 52.130 Source surveillance.

* * * * *

(d) The requirements of § 51.19(e) of this chapter are not met since the plan does not contain legally enforceable procedures for requiring certain stationary sources subject to emission standards to install, calibrate, operate, and maintain equipment for continuously monitoring and recording emissions, and to provide other information as specified in Appendix P of Part 51 of this chapter.

[FR Doc. 77-27156 Filed 9-16-77;8:45 am]

[FRL 767-7]

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

Certification and Test Procedures for Heavy-Duty Engines for 1979 and Later Model Years

Correction

In FR Doc. 77-25747 appearing at page 45132 in the issue for Thursday, September 8, 1977 make the following corrections:

(1) On page 45136, first column, in § 86.079-10 (a)(2)(i), the figure "1.10" should have read "1.0", and "gram" should have read "grams".

(2) On page 45139, first column, in § 86.079-24 (e)(6), the figure "200" should have read "2000".

Title 47—Telecommunications

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Editorial Amendments Concerning Amateur Radio Service Call Signs

Correction

In FR Doc. 77-24810, appearing at page 43084 in the issue for Friday, August 26, 1977, in the table appearing on page 43085 in § 2.302, under the column for "Call sign blocks", it should be noted that the figures appearing as "0" are zeroes and should have been typed with slashes through them to clarify that fact.

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-28; Notice 5]

PART 567—CERTIFICATION

Certification of Multistage Vehicles; Correction

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Correction.

SUMMARY: In an amendment of the agency's certification regulations published July 25, 1977 (page 37817), an incorrect format was established for the listing of tire information. This notice corrects that error and another minor error in the wording of the regulation.

EFFECTIVE DATE: September 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. David Fay, Motor Vehicle Programs, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-426-2817)

SUPPLEMENTARY INFORMATION: On July 25, 1977 (42 FR 37814), the NHTSA published an amendment of Part 567, Certification, and Part 568, Vehicles Manufactured in Two or More Stages, which prescribed regulations for vehicle certification. In that amendment, the agency erroneously listed a tire size example that used the symbol "x" to separate the tire width from diameter. Current agency regulations use the symbol "-" instead of "x."

§ 567.5 [Amended]

Accordingly, Part 567.5(c)(6) of Title 49 of the Code of Federal Regulations is corrected by the substitution of the symbol "-" for the symbol "x" wherever it occurs in the example listed thereunder.

The second sentence in Part 567.5(c)(7)(ii) is corrected to read: "The statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, to which the chassis-cab manufacturer has made the conditional certification under paragraph (a)(2) of this section."

The principal author of this document is Roger Tilton of the Office of Chief Counsel.

(Secs. 103, 108, 112, 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1397, 1401, 1408, 1407); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on September 14, 1977.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

[FR Doc.77-27151 Filed 9-16-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Shiawassee National Wildlife Refuge, Saginaw, Mich., to Goose Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of goose hunting on Shiawassee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977, through November 30, 1977, excluding November 15.

FOR FURTHER INFORMATION CONTACT:

Robert G. Johnson, Refuge Manager, Shiawassee National Wildlife Refuge, 6975 Mower Road, Saginaw, Mich. 48601, telephone number 517-777-5930.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of geese on the Shiawassee National Wildlife Refuge, Michigan, is permitted from waterfowl opening hour to 12 noon each odd numbered day from October 1 through November 30, 1977, excluding November 15. The hunting area comprising approximately 1,200 acres is delineated on maps located at the refuge headquarters, Saginaw, Mich., and at the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of geese subject to the following special conditions:

(1) Hunting shall be by Federal permit and only from assigned blinds and pits. Blind assignments will be determined by drawings.

(2) All hunters are required to use Steel Shot Shells. These shells must be loaded with No. 4 shot or larger, except buckshot is not allowed.

(3) Lead shot shells shall not be in the possession of any reservation holders while hunting on the refuge.

(4) Each hunter may possess not more than 12 shotgun shells.

(5) A blind rental fee of two dollars per hunter is required.

(6) Not more than three hunters are permitted in each blind or pit.

(7) Permit application cards must be postmarked on or before September 15, 1977, and only successful applicants will be notified.

(8) After completion of the days hunt, all hunters must proceed to refuge headquarters for check-out and the submission of geese for examination.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 30, 1977. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 9, 1977.

CHARLES A. HUGHLETT,
Acting Regional Director.

[FR Doc.77-27149 Filed 9-16-77;8:45 am]

PART 32—HUNTING

Opening of Pathfinder National Wildlife Refuge, Wyoming, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Pathfinder National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

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DATES: As established by Wyoming Game and Fish Commission for calendar year 1977.

FOR FURTHER INFORMATION CONTACT:

V. Carrol Donner, Refuge Manager, Pathfinder National Wildlife Refuge, Box 457, Walden, Colo. 80480, telephone 303-723-4717.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Hunting of ducks, geese, coots, and mergansers is permitted on Pathfinder National Wildlife Refuge, Wyoming, in accordance with dates established by Wyoming Game and Fish Commission, but only on areas of Pathfinder Refuge known as Goose Bay, DeWeese Creek, and Sage Creek-Platte Units. This open area, comprising 3,760 acres, is delineated on maps available at refuge headquarters in Walden, Colo., and from the office of the Area Manager, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, and mergansers subject to the following special condition:

(1) *Blinds.* The construction of permanent blinds or pits is not permitted. Portable blinds may be used but not left on the refuge.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

V. CARROL DONNER,
Refuge Manager.

SEPTEMBER 9, 1977.

[FR Doc.77-27150 Filed 9-16-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77-NW-24-AD]

SUNDSTRAND DATA CONTROL, INC. ANGLE OF ATTACK SENSORS

Airworthiness Directive

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: An airworthiness directive (AD) is being considered to require modifications to Sundstrand Data Control, Inc. Angle of Attack Sensors, P/Ns 965-4020-003/-004. This AD is being proposed because at higher ambient temperatures the angle of attack sensors may malfunction and cause either the loss of stall warning or a false warning which may result in an unsafe condition. The proposed modifications will reduce the probability of malfunctions.

DATE: Comments must be received on or before November 8, 1977.

ADDRESS: Send comments on the proposal in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 77-NW-24-AD, 9010 East Marginal Way South, Seattle, Wash., 98108.

FOR FURTHER INFORMATION CONTACT:

C. H. Mackal, Systems and Equipment Section, ANW-213, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108, telephone 206-767-2500.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of the proposed AD will be filed in the Rules Docket.

Two angle of attack sensor malfunctions have been identified which may either disable a real stall warning or cause a false warning. The loss of pickoff coil inductance could, depending upon system installation, disable the stall warning system without warning to the flight crew. The failure of a field effect transistor (A1Q5), used for self-test, could cause the initiation of a self-test which then could result in a false stall warning. Either failure may cause a hazardous operation if it should occur at a critical time.

During the past two years, 58 reports have been received concerning false stall warning annunciation (stick shaker activation) during takeoff roll in McDonnell Douglas DC-10 airplanes resulting in five aborted takeoffs due to stall warning probe, P/N 965-4020-003, malfunctions.

Stall warning probe, P/N 965-4020-004, is installed in the Lockheed L-1011 airplane. The -004 probe is included in this NPRM because it may not comply with the high temperature qualification requirements in TSO-C54. The probes are manufactured under the technical standard order (TSO-C54) authorization system. Additional compliance time is proposed for the -004 due to the lack of adverse service reports.

The proposed AD would require the following:

(1) The addition of one diode and one resistor to reduce the probability of the self-test field effect transistor (A1Q5) from turning on at elevated temperatures and causing false warnings or no warning.

(2) The addition of two diodes to the pressure pickoff in the probe assembly and associated wiring changes to prevent excessive pressure transducer heater temperature, which may result in loss of inductance in the pickoff coils, rendering the sensor inoperative.

DRAFTING INFORMATION

The principal authors of this document are C. H. Mackal, Engineering and Manufacturing Branch, Northwest Region, and Jonathan Howe, Regional Counsel, Northwest Region.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

SUNDSTRAND: Applies to all Angle of Attack Sensors, P/Ns 965-4020-003/-004 manufactured under Technical Standard Order (TSO-C54) authorization installed in McDonnell-Douglas DC-10 and Lockheed L-1011 respectively. Compliance time required as indicated.

(1) Within the next 1,000 hours time in service after the effective date of this AD, unless already accomplished, modify the Sundstrand probe P/N 965-4020-003 in accordance with Sundstrand Service Bulletin No. 2 (Doc. No. 012-0125-102), Rev. 2, dated August 1977 and No. 3 (Doc. No. 012-0125-103), Rev. 2, dated August 1977, or subsequent FAA approved service bulletins, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

(2) Within the next 3,600 hours time in service after the effective date of this AD unless already accomplished: (1) modify the self-test circuit in the Sundstrand probe P/N 965-4020-004 (345D-2), in accordance with Collins-Lear Siegler, Inc. Service Bulletin No. 345D-2-22-03 dated February 15, 1975, and (2) modify the pressure pickoff assembly in the Sundstrand probe P/N 965-4020-004 (345D-2), in accordance with the Collins-Lear Siegler, Inc. Service Bulletin to be released, or subsequent FAA approved service bulletins, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Seattle, Wash., on September 9, 1977.

C. B. WALK, Jr.
Director, Northwest Region.

[FR Doc.77-27011 Filed 9-16-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-SW-41]

PROPOSED DESIGNATION OF TRANSITION AREA

Edna, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to designate a transition area at Edna, Tex., to provide controlled airspace for aircraft executing a proposed instrument approach procedure to the Jackson County Airport, using the newly established navigation aid (NDB) located on the airport.

DATES: Comments must be received by October 19, 1977.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Pro-

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cedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Rd., Fort Worth, Tex. 76106.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

Subpart G 71.181 (42 FR 440) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Designation of the transition area at Edna, Tex., will necessitate an amendment to this subpart.

COMMENTS INVITED

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before October 19, 1977 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Texas 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Edna, Tex. The FAA believes this action will enhance IFR operations at the Jackson County Airport by providing controlled airspace for aircraft executing a proposed instrument approach procedure using the newly established NDB on the airport. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 440).

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) by adding the Edna, Tex., transition area as follows:

§ 71.181 [Amended]

EDNA, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Jackson County Airport (latitude 29°00'03" N., longitude 96°34'55" W.) and within 3.5 miles either side of the 322° bearing from the NDB extending 6.5 miles from the 5-mile radius.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on September 2, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc.77-27144 Filed 9-16-77;8:45 am]

[14 CFR Part 73]

[Airspace Docket No. 77-EA-60]

PROPOSED TEMPORARY RESTRICTED AREAS

Correction

In FR Doc. 77-26064 appearing at page 45011 in the issue for Thursday, September 8, 1977, the following correction should be made.

On Page 45012, first column, the longitude given in the second line of the restricted areas under the heading, "R-5201A Fort Drum, N.Y.", now reading, "75°39'00" W" should read, "75°39'-30" W".

DEPARTMENT OF THE INTERIOR

Mining Enforcement and Safety Administration

[30 CFR Parts 55, 56, 57]

HEALTH AND SAFETY STANDARDS

Continuation of Public Hearing

AGENCY: Department of the Interior, Mining Enforcement and Safety Administration (MESA).

ACTION: Notice of the continuation of a formal public hearing.

SUMMARY: Formal public hearings on proposed mandatory health and safety standards held during the week of August 22, 1977, through August 27, 1977, in Albuquerque, N. Mex., are continued to the week beginning on Monday, October 3, 1977, in Lakewood, Colo.

DATES: The formal public hearing will resume on Monday, October 3, 1977, beginning at 9 a.m. and will continue each day thereafter until all objections relating to the remaining proposed mandatory health and safety standards have been heard.

ADDRESS: The formal public hearing will be held in the Galahad Room, Ramada Inn-Foothills, 11595 W. Sixth Avenue, Lakewood, Colo. 80215, Telephone number 303-238-7751.

FOR FURTHER INFORMATION: Communications shall be addressed to:

The Honorable George A. Koutras, Administrative Law Judge, Office of Hearings and Appeals, Department of the Interior, Room 1235, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, telephone number 703-557-9200.

SUPPLEMENTARY INFORMATION: Notice is given that formal public hearings, subject to the Administrative Procedure Act (5 U.S.C. 553-557), on proposed new and revised mandatory health and safety standards applicable to mines and mills subject to the Federal Metal and Nonmetallic Mine Safety Act, as amended (30 U.S.C. 721-740), held in Albuquerque, N. Mex., during the week of August 22, 1977, through August 27, 1977, (see the notice of public hearing published in Part III of the FEDERAL REGISTER for June 16, 1977, 42 FR 30772-R30780), will resume in Lakewood, Colo., on Monday, October 3, 1977.

The remaining proposed mandatory health and safety standards are:

VENTILATION

57.5-24 Separation of intake airflow from exhaust airflow to prevent recirculation.

HEALTH

57.5-37 Radon daughter sampling equipment and procedures; at least one air sample in all mines; where uranium is not minded and concentrations between 0.1 and 0.3 WL are found, sample 90 days; and, where uranium is mined, sample every 30 days.

57.5-40 Radon daughter sampling when concentrations in excess of 0.3 WL are found; sampling equipment, procedures, and reporting to MESA of "Record of Work Area Radon Daughter Concentrations" and "Record of Individual Exposure to Radon Daughters."

LOAD, HAUL, DUMP

55.9-1, 56.9-1, and 57.9-1 Inspection of mobile equipment; reporting and recording of safety defects.

55.9-34, 56.9-34, and 57.9-34 Excessive loading of haulage equipment; loading to minimize spillage.

57.9-104 Warning devices or conspicuous markings on chute lips, air doors, and obstructions that create hazards to persons on equipment.

ESCAPEWAYS

57.11-59 Protection for operators of underground hoists which are part of the escape and evacuation plan.

HOISTING

57.19-78 Raising of buckets from the bottom; signals and speed.

MISCELLANEOUS

55.20-8, 56.20-8, and 57.20-8 Toilet facilities.

DRAFTING INFORMATION

The principal persons responsible for preparation of these proposed and revised standards are: Arthur P. Nelson, Assistant Administrator, Metal and Nonmetal Mine Health and Safety, MESA; E. Levi Brake, Chief, Division of Safety; Aurel Goodwin, Chief, Division of Health; and Donald R. Tindal, Assistant Solicitor, Metal and Nonmetallic Mine Health and Safety, Office of the Solicitor.

Dated: September 15, 1977.

ANTHONY RASPOLIC,
Acting Deputy Assistant
Secretary of the Interior.

[FR Doc.77-27280 Filed 9-16-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 77 146]

DRAWBRIDGE OPERATION REGULATIONS

Hillsborough River, Florida

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the City of Tampa, Florida, the Coast Guard is considering amending the regulations governing the operation of the drawbridges across the Hillsborough River at Platt Street, Brorein Street, Kennedy Boulevard, Cass Street and Laurel Street, to require at least two hours notice from 10 p.m. to 6 a.m. This change is being considered because of limited passage of vessels during this period. Editorial revisions are being proposed to the section concerning the Hillsborough River for clarity.

DATE: Comments must be received before October 18, 1977.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan), Seventh Coast Guard District, Room 1018, Federal Building, 51 S.W. First Avenue, Miami, Florida 33130.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, (202-426-0942).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Each person submitting comments should include his name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Seventh Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

This amendment would revise the regulations governing the operations of five drawbridges across the Hillsborough River in Tampa, Florida, by requiring at least two hours notice from 10 p.m. to 6 a.m. Limited passages of vessels during this period is the reason this proposal is being considered. Editorial revision of § 117.465 is also being proposed for greater clarity.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by revising § 117.465 to read as follows:

§ 117.465 Hillsborough River, Tampa, Florida.

(a) City of Tampa highway bridges at Platt Street, mile 0.0; Brorein Street, mile 0.16; and the State of Florida highway bridge at Kennedy Boulevard, mile 0.4. From 6 a.m. to 10 p.m., the draws shall open on signal except that from 7:30 a.m. to 9 a.m. and 4 p.m. to 6:15 p.m., Monday through Saturday, the draws of these bridges need not be opened for passage of vessels. From 10 p.m. to 6 a.m., the draws shall open on signal if at least two hours advance notice is given.

(b) City of Tampa highway bridges at Cass Street, mile 0.7 and Laurel Street mile 1.0. From 6 a.m. to 10 p.m., the draws shall open on signal. From 10 p.m. to 6 a.m., the draws shall open on signal if at least two hours advance notice is given.

(c) Seaboard Coast Line Railroad bridge Cass Street, mile 0.7. The draw shall open on signal from 4 p.m. to 12 midnight, Monday through Friday. At all other times the draw shall be maintained in the open to navigation position

(d) City of Tampa highway bridge at West Columbus Drive, mile 2.3, and the State of Florida highway bridge at West Hillsborough Avenue, mile 4.8. From 8 a.m. to 6 p.m., the draws shall open on signal. From 6 p.m. to 8 a.m., the draws shall open on signal if at least one hour advance notice is given.

(e) Public vessels and vessels in distress. (1) From 6 a.m. to 10 p.m., the draws of the bridges listed in paragraph (a) of this section shall open on signal for the passage of public vessels of the United States, vessels owned or operated by state, county, or local governments for public safety purposes, or any vessel in distress. The opening signal is four blasts of a whistle, horn, or other sound producing device.

(2) From 10 p.m. to 6 a.m., the draws of the bridges listed in paragraphs (a) and (b) of this section shall open as soon as possible but not longer than one hour after a request by a public vessel of the United States, vessels owned or operated by the state, county, or local governments used for public safety purposes, or any vessel in distress.

(f) The owners of or agencies controlling the bridges shall conspicuously post notices containing the substance of these regulations, both upstream and downstream, on the bridges or elsewhere, in such a manner that they may be easily read at all times from an approaching vessel. This notice shall state exactly how the authorized representative may be reached for openings of the draw.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: September 14, 1977.

O. W. SILER,
Admiral U.S. Coast
Guard Commandant.

[FR Doc.77-27165 Filed 9-16-77;8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 434]

[FRL 789-8]

COAL MINING POINT SOURCE CATEGORY

Standards of Performance for New Sources

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: These proposed regulations set forth limitations on the discharge of pollutants into navigable waters from "new source" coal mines and coal preparation plants. These regulations are required to be issued under the Federal Water Pollution Control Act. When promulgated in final form, the limitations will be incorporated in National Pollutant Discharge System Permits issued to new sources by the Federal EPA or by States with approved programs.

DATE: Comments must be received on or before November 18, 1977.

ADDRESS: Send comments to: Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, Attention: Distribution Officer, WH-552.

FOR FURTHER INFORMATION CONTACT:

William Telliard, Effluent Guidelines Division (WH-552), Environmental Protection Agency, Washington, D.C. 20460 (202-426-2726).

SUPPLEMENTARY INFORMATION:

Background

On October 17, 1975, EPA promulgated a regulation adding Part 434 to Title 40 of the Code of Federal Regulations (40 FR 48830). That regulation with subsequent amendments established interim effluent limitations guidelines, based on the "best practicable control technology currently available" (BPT), for existing sources in the coal mining point source category. On April 26, 1977, EPA promulgated final effluent limitations guidelines for the coal mining point source category based on best practicable control technology currently available (40 FR 21380). These final effluent limitations guidelines included a number of major changes and clarifications which reflected public comments received on the earlier interim final regulations.

On May 13, 1976, EPA proposed standards of performance and pretreatment standards for new sources for two subcategories of the coal mining point source category: Subpart A (coal preparation plant subcategory) and Subpart B (coal storage, refuse storage, and coal preparation plant ancillary area subcategory) (41 FR 19841). (Those Subparts A and B were subsequently combined as Subpart B, Coal Preparation Plants and Associated Areas, when the final BPT regulations were promulgated). The Agency also proposed limitations based on best available technology economically achievable (BAT) for Subparts A, B, C, and D. New source standards of performance for mine drainage (Subparts C and D) were not proposed at that time because new source coal mine NPDES permits pose difficult problems in connection with the environmental analysis that must be conducted under the National Environmental Policy Act (NEPA) and section 511(c) of the Act. The Agency is addressing these problems in this regulation by adding a definition for "new source coal mines", and by issuing guidance for the environmental review of permits for mines which fall within this definition.

The present proposed regulations would amend 41 FR 19841 by establishing standards of performance for new sources in Subparts B, C, D, and F. With respect to Subpart B, the present proposal modifies the new source performance standards originally proposed in 41 FR 19841. Subpart E has been added in anticipation of a later proposal of guideline limitations covering the drainage from areas under reclamation. Subpart F is a new subcategory which covers Western mines.

The standards of performance proposed today reflect Agency consideration of comments received on earlier rulemakings. Many of these comments were relevant to the promulgation of BPT regulations on April 26, 1977, and are discussed at length in 42 FR 21380. Therefore, except as specifically noted, the preamble set forth in 42 FR 21380 is incorporated herein by reference. A summary of comments which pertained specifically to new source performance standards and the Agency's response is set forth under Summary of Public Participation.

Legal Authority

These standards are issued under the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, 86 Stat. 816, Pub. L. 92-500 (the Act).

Section 304(c) of the Act requires the Administrator to issue to the States and appropriate water pollution control agencies information on the processes, procedures or operating methods which result in the elimination or reduction of the discharge of pollutants, to implement standards of performance under section 306 of the Act. The report, or "Development Document", referred to in the preamble of this notice provides methods, and fulfills the requirements of section 304(c).

Section 306 of the Act requires the achievement by new sources of a Federal standard of performance providing for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

Section 306(b)(1)(B) of the Act requires the Administrator to propose regulations establishing Federal standards of performance for categories of new sources included in a list published under section 306(b)(1)(A) of the Act. On October 17, 1975, a notice appeared in the FEDERAL REGISTER titled "Additions to the List of Categories of Sources" (40 FR 48712) adding the coal mining point source category and is in accordance with the provisions of section 306(b)(1)(A) of the Act. The regulation applicable to new sources for the coal preparation plants and associated areas subcategory (Subpart B), the acid of ferruginous mine drainage subcategory (Subpart C), the alkaline mine drainage subcategory (Subpart D), and the Western mines subcategory (Subpart F) of the coal mining point source category.

Summary and Basis of Standards

The present regulations establish limitations on TSS, iron, manganese, and pH.

The general methodology which was used is discussed in the preamble and Development Document of the final regulations for the coal mining point source category promulgated by EPA on April 26, 1977 (42 FR 21380). While that final regulation applies to existing sources, the definitions and basic pollution control concepts employed are also utilized in these proposed standards of performance.

(1) *Coal preparation plants and associated areas.* Since the issuance of regulations on April 25, 1977 (42 FR 21380), all coal preparation plants and associated areas are covered by a single subcategory (Subpart B). The new proposed regulations allow a discharge of process waste water pollutants from point sources in this subcategory, subject to the same limitations discussed above for mine drainage, if recycling of water for use in processing is practiced. If no recycling is practiced, then there may be no discharge of process waste water pollutants. These requirements take into account the information presented by the industry indicating that even when facilities are designed to recycle process water, occasional discharges may nevertheless be necessary due to the accumulation of excess water. At the same time these standards reflect the data which show that recycling of process water is widely practiced in the industry.

The standards of performance for new source coal preparation plants and associated areas are based on the application of the best available demonstrated control technology. All preparation plants visited or contacted had some form of settling facilities associated with the preparation plant and the majority had provisions for recirculating the clarified process waste water back to the preparation plant. Coal preparation is water consumptive due to the water loss on clean coal, coal refuse, and thermal drying of coal. The majority of coal preparation plants maximize the use of water resources through water recirculation. This technology is consequently well demonstrated in this industry as a means of limiting the discharge of pollutants.

As in other mining categories, the limitations are applied on a concentration basis (mg/l) rather than a mass basis (lbs/ton of product), because no direct correlation between water usage and production could be established. Therefore, EPA was unable to simply establish a mass limit which would reflect total pollutants discharged from a coal preparation plant and associated areas, assuming that the plant is recycling process water. The standards which are established, therefore, refer to the pollutant levels that can be attained through use of "best available demonstrated control technology," without reference to tons of production.

(2) *Mine drainage.* The standards for mine drainage from Eastern mines in Subparts C and D are based upon the degree of effluent reduction achievable through the application of "best available demonstrated control technology." The standards proposed today to control the discharge of total suspended solids are the same as the BPT regulations for existing sources. The standard for discharges of manganese in acid or ferruginous mine drainage (Subpart C) are also the same as the BPT regulations. The new source performance standards to control the discharge of total iron are equivalent to the more stringent proposed BAT limitations for existing sources, rather than to the BPT limitations, since it has been demonstrated that these limitations can be met through proper maintenance and careful pH control.

(3) *Areas under reclamation.* The new source performance standards proposed today for mine drainage discharges apply only to discharges from "active mining areas." An active mining area is a place where work or other activity related to the extraction, removal, or recovery of coal is being conducted, except, with respect to surface mines, any land on or in which grading has been completed to return the earth to the desired contour and reclamation has begun.

Thus, mining areas which have been returned to final contour and are under reclamation are not subject to the present proposed standards for Subparts C and D. The Agency has decided, however, to establish a separate subcategory (Subpart E) for discharges from areas under reclamation. An area under reclamation is an area of land resulting from the surface mining of coal which has been returned to final contour and for which there is an applicable revegetation or reclamation bond. As noted in the preamble to the BPT regulations, EPA is conducting an analysis of available information with respect to the water pollution which originates in surface mines undergoing revegetation and reclamation. When the Agency has an adequate opportunity to review this information, the Agency will undertake formulation of new source performance standards and other regulations for such discharges.

Although regulations for such discharges are not now being proposed, it should be noted that section 511(c) of the Act and the National Environmental Policy Act require the Agency to include in its decisionmaking appropriate and careful consideration of all environmental aspects associated with new sources. EPA has a responsibility to inform the public of the effects of new sources through the NEPA mechanism. Under the Council of Environmental Quality guidelines, this environmental review includes consideration of land use impacts. The procedures to be followed under NEPA are discussed below under Environmental Review of New Source Coal Mine Permits.

(4) *Western coal mines.* As discussed in the preamble to the BPT regulations, data gathered by EPA's Region VIII (located in Denver, Colo.) appear to indicate that Western coal mines are able to discharge pollutants in lower concentrations than Eastern coal mines. Possible factors which explain the differences include the relatively more even topography of Western coal mines, the emphasis on conserving relatively scarce water supplies, and the relatively lower concentration of pollutants in the geologic formations being exploited. EPA has decided to propose a separate subcategory (Subpart F) for Western coal mines, and to develop a separate set of limitations specifically for Western coal mines.

Western coal mines are defined as those located west of the 100th meridian. The 100th meridian was chosen because it closely approximates the boundary of relevant climatic conditions (arid and semi-arid areas) and geographical features (alluvial valley floors used for agriculture; availability of relatively flat land for large settling ponds).

(5) *Monitoring.* The coal mining point source category has been divided into major subcategories based on the waste water characteristics, and treatability of the waste water. (See section IV of the Development Document.) The Agency recognizes that raw waste water or raw mine drainage at some mines and preparation plants in a subcategory may not contain detectable or substantial quantities of a pollutant controlled in that subcategory. Where raw waste water or raw mine drainage does not contain a pollutant controlled in detectable quantities or the pollutant is in substantially lower concentration than the effluent limitation on a consistent basis, a permit may allow the pollutant to be monitored on a less frequent schedule than the other pollutants controlled by the permit. (See 40 CFR Part 125.27.) This less frequent schedule will verify that the pollutant has not been introduced into the discharge by, for example, a change in the process or a change in the mineralogy of the coal or overburden. Such modification to monitoring requirements will be considered on a case-by-case basis by the agency issuing the permit.

(6) *Availability of documents.* A report entitled "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Coal Mining Point Source Category, May 1977," details the analysis undertaken in support of the regulation being proposed today and is available for inspection in the EPA Public Information Reference Unit, Room 2404, Waterside Mall, 401 M Street SW., Washington, D.C. 20460, at all EPA Regional offices, and at State water pollution control offices. A supplementary analysis entitled "Economic Impact of Effluent Guidelines, Coal Mining" which was prepared for EPA on the potential economic effects of the proposed regulation is also available for inspection at these locations. Copies of both of these documents are being sent to persons or institutions affected by this proposed regulation and to those who have placed themselves on a mailing list for this purpose (see EPA's advance notice of public review procedures, 38 FR 21202, August 6, 1973). Additional copies of both reports are available from the National Technical Information Service, Springfield, Va. 22151.

Definition of a New Source Coal Mine

These regulations add a new § 434.11(l), which defines the term "new source" with reference to coal mines. The definition contained in this regulation is issued to implement section 306(a)(2) of the FWPCA, which provides that "the term 'new source' means any source, the construction of which is commenced after the publication of proposed regulations prescribing a standard of performance under this section which will be applicable to such source, if such standard is thereafter promulgated in accordance with this section." Mining activity which falls within the definition of a "new source" will be subject to new source standards, rather than to existing source regulations. Furthermore, in accordance with section 511(c) of the FWPCA, federal permits for coal mines which are found to be "new sources" will be subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), as described under Environmental Review of New Source Coal Mine Permits in this preamble.

The definition of a "new source coal mine" is set forth in two parts. First, a coal mine will be considered a new source if the identification number assigned by the Mining Enforcement and Safety Administration (MESA) under the Federal Coal Mine Health and Safety Act of 1969 (Pub. L. 91-173) and 30 CFR Part 82, is not assigned before new source performance standards are proposed. Under the Coal Mine Health and Safety Act, MESA is charged with making frequent inspections and investigations in every operating coal mine in the United States. In order to carry out and record the inspections required, MESA assigns identification numbers to all existing and operating coal mines. Since a report of legal identity must be filed with MESA before mining is carried out (30 CFR 75.-1721, 77.1712, 82.1-82.20), the date that the MESA number is assigned is useful in determining whether "construction" of a mine (within the meaning of section 306 of the Act) occurred after the proposal of new source performance standards. The MESA list includes all mines known to be operating. If a mine is not on the MESA list of mines as of the date

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of proposal of applicable new source performance standards, then EPA will conclude that the mine was begun after that date, and will determine that it is a "new source."

Regional offices of the Agency will be furnished with a complete list of mines identified by MESA in their Region as of the date of this proposed regulation. Applications for NPDES permits from coal mines should include the applicable MESA identification number.

Second, even if the MESA number has been assigned before the proposal of new source performance standards, the Regional Administrator may determine that a coal mine is a new source, based on his consideration of a list of criteria which relate to the expansion of coal mining activities into new areas. If the Regional Administrator finds, based on these criteria, that a coal mine is a "substantially new operation," then the coal mine will be considered a new source.

The list of criteria focuses on the occurrence of the following: Extraction of a coal seam not previously extracted by the mine operation; discharge into a drainage area not previously affected by waste water from the mine operation; creation of extensive new surface disruption; construction of a new shaft, slope or drift; acquisition of additional land or mineral rights; significant capital investment in additional equipment or additional facilities; and such other factors as the Regional Administrator deems relevant.

The occurrence of any one of these events is not intended to be conclusive in making a new source determination. Rather, the list of criteria is intended to guide the Regional Administrator in assessing the overall situation.

In all industries, if a plant owner substantially alters or significantly expands existing facilities after the proposal of new source performance standards, then EPA may find that a "new source" has been constructed. Furthermore, if a plant owner incurs some expenses before the proposal of new source performance standards, but only makes a substantial commitment to build in a particular place after that date, EPA may find that the facility is a new source. The factors which are usually considered relevant in making new source determinations are described in 40 CFR Part 6, Appendix A (42 FR 2450, January 11, 1977).

Creation of a coal mine is, in many obvious ways, different from construction of a plant. The list of criteria proposed today is intended to help the Regional Administrator define a "new source" in a way that is as analogous as possible to the criteria used in other industries. Thus a consideration of when the mine owner has made a substantial commitment to mine in a particular area is important. The list of relevant criteria include the acquisition of property rights and investment in equipment or facilities for use in a particular area. Other criteria relate to assessing the extent of expansion or alteration of mining activity. Thus, consideration of whether the mine operator has begun mining a new seam or whether mine drainage has begun to enter a different drainage area is relevant to determining the scope and nature of the expansion. Acquisition and use of new facilities or equipment, construction of new shafts, slopes, or drifts, creation of extensive new surface disruption or mining in a new seam are also factors to consider in assessing whether the expansion or change in the mining activity warrants a new source determination. Some of the factors (extensive new surface disruption, mining in a new seam with different pollutant levels, or drainage into a different drainage area) may be particularly important if they lead to the creation of significant new environmental problems, such as pollution of another stream or an increase or change in the pollutants entering the receiving stream.

Because the characteristics of coal mines and the technologies used vary widely from one region to another, it was decided that some relevant criteria (in addition to those described above) may need to be formulated at the regional level.

EPA has decided to rely upon these additional criteria, in addition to the MESA number, because mining operations in contiguous areas remain subject to a single identification number no matter how much additional investment or surface disruption occurs. Under section 306 of the FWPCA, a key concern is the creation of new sources of pollution and the incorporation of more advanced pollution control techniques into the plans for new construction. The assignment of a MESA number does not require consideration of many of the factors which would warrant the classification of a mine as a new source. Therefore, the Regional Administrator is given the authority to make new source determinations based on additional criteria which are relevant in the environmental context.

Environmental Review of New Source Coal Mine Permits

In accordance with section 511(c) of the Act, federal permits for "new sources" are subject to the provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.; 83 Stat. 852 et seq.; Pub. L. 91-190). NEPA requires identification and environmental review of "major Federal actions significantly affecting the quality of the human environment." (Section 102(2)(c).)

General regulations governing the application of NEPA to new source permits were promulgated on January 11, 1977, 40 CFR Part 6 (42 FR 2450). The general regulations provide for environmental review by EPA of new source permits. EPA initially reviews an "environmental impact assessment" submitted by the permit applicant. Upon completion of this review, EPA may either issue a "negative declaration" (indicating that no significant environmental impact is anticipated) or require the preparation of an environmental impact statement (EIS) as a basis for more extensive review.

For further information on 40 CFR Part 6—Preparation of Environmental Impact Statements, and this portion of the preamble addressing Environmental Review of New Source Coal Mines contact:

Peter Cook, Assistant Director for Policy and Procedures, Office of Federal Activities (A-104), Environmental Protection Agency, Washington, D.C. 20460 (202-755-0790).

EPA has expanded upon the general NEPA regulations by issuing a separate policy memorandum on the applicability of NEPA to new source coal mines. Copies are available at the Office of Federal Activities, at EPA headquarters and at EPA regional offices. A summary of this guidance follows:

In an effort to use resources in the most effective way, EPA has developed some screening procedures to identify the coal mines that are most likely to have a significant impact on the environment. The following factors were judged to be particularly relevant to the expected environmental impact: (1) the rate of production of the mine, and (2) the mining techniques used by the mine.

Not all new source coal mines will be required to undergo the detailed environmental review described in 40 CFR 6.906. Depending on the projected rate of production of a mine, EPA will (1) automatically conduct a detailed environmental review, (2) conduct an environmental review only if preliminary evidence indicates that the risk of significant impact on the environment may be high, or (3) allow a mine to certify to use of "best practices" (defined below) as an alternative to automatically conducting a detailed environmental review.

Although for some mines a detailed environmental review will not be automatically conducted, a review will always be conducted if preliminary evidence suggests that the risk of significant impact on the environment may be high. A negative declaration or an EIS must be prepared only if a detailed environmental review is required according to the guidance given below.

Summary of Guidance for Environmental Review of New Source Coal Mines

(1) New source coal mines are divided into three groups as indicated in the following table:

Type of mine	Designed annual tonnage [1]		
	Under 100,000 ton per year	100,000 to 300,000 ton per year	Over 200,000 ton per year
Surface mines (including auger mines)	Group C	Group B	Group A.
Underground mines	do	do	Group B.

[1] A mine category is determined by the production rate for the highest production year during the life of the NPDES permit. For mining operations which are conducted for less than 1 year (during the NPDES permit life regardless of its length) the rate used for categorization will be calculated by dividing 12 by the number of months coal is extracted and multiplying the resulting number by the production (in tons) to determine the equivalent annual production rate.

(2) The environmental review procedures to be used for each group are listed below:

(a) *Group A.* Coal mines in this group are subject to detailed environmental review on a routine basis under 40 CFR § 6.906. In addition to an environmental assessment, mines in this group must submit a mining plan, as described in the EPA draft document "Best Practices for New Source Surface and Underground Coal Mines."

(b) *Group B.* For coal mines in this group, Group A procedures apply, unless the permit applicant certifies that he will use "best practice procedures" as set forth in the draft document, Best Practices for New Source Surface and Underground Coal Mines. If the applicant so certifies, Group C procedures apply. A mine which has certified to use of "best practices," and which has received a permit on that basis, may be subject to a field audit to verify compliance. A mine which is chosen for a field audit may be required to submit a mining plan as described in Best Practices for New Source Surface and Underground Coal Mines prior to on site inspection.

(c) *Group C.* The Agency will not routinely conduct a detailed environmental review unless the Regional Administrator determines that such a review is warranted in the particular case, based on evidence relating to any of the following: Archaeological sites; sensitive ecosystems; habitats of endangered species; historical sites, wild and scenic rivers; wetlands; prime agricultural lands; significant surface water or groundwater pollution; recreational land uses; air quality; noise levels; community integrity and quality of life; mining in a saturated zone; presence of toxic overburden; presence of high sulfur coal; steep slope mines (over 25 percent); mining in alluvial valley floors; other criteria developed by the regional office based on characteristics of the particular region. Coal mines in Group C must submit a brief questionnaire to help the Agency identify mines or groups of mines that may need detailed review.

The Agency's decision to structure the environmental review of new source coal mines by dividing them into categories based on coal production levels is based on the belief that the amount of pollutants produced by a mine will be roughly proportional to the number of tons of coal mined for similar mine types assuming equal pollution control. A similar belief was relied upon in developing the comprehensive matrix of environmental residuals for energy systems set forth in "Energy Alternatives: A Comprehensive Analysis," a study funded jointly by the Council on Environmental Quality, the Energy Research and Development Administration, the Federal Energy Administration, the Federal Power Commission, the Department of the Interior, and the National Science Foundation. The study assumes that the pollutant residuals (pollution generated per 10^{15} Btu of energy produced) remain the same regardless of the size of the mining operation, assuming equal pollution control for large and small mines of a similar type. Based on this assumption, mines producing over 100,000 tons of coal per year are responsible for about 83 percent of the total coal production, and for a similar portion of the pollutants; mines producing under 100,000 tons are responsible for about 17 percent. Thus, larger coal mines are more likely to have a significant impact on the environment than smaller coal mines. The Agency has consequently decided that the priority in allocating Agency resources should be given to the review of larger mines.

The Agency has further concluded that the risk of significant impact on the environment by a coal mine can in many cases be minimized by use of sound mining practices. These practices, described in an EPA document entitled "Best Practices for New Source Surface and Underground Coal Mines," are discussed in the policy memorandum mentioned earlier from the Director of the Office of Federal Activities to the Regional Administrators, dated September 1977. In the Agency's judgment, use of "best practices" by certain coal mines will minimize or prevent environmental impacts to the extent possible, without bringing about unreasonable reduction in mining activities. For this reason, the option of certifying to use of "best practices" is offered to some coal mines as an alternative to being automatically subject to detailed environmental review. This option is not extended to large surface mines because extensive surface disruption and the total pollution generated by these mines are more likely to pose a significant threat to the environment. These large surface mines will always be subject to a detailed environmental review.

EPA believes that structuring the review process as set forth above will allow the most efficient use of the limited resources which can be devoted to new source NPDES permit review. By establishing a set of threshold criteria, the Agency hopes to keep the task within manageable limits while at the same time facilitating the early identification and review of those mines which will in fact have a significant impact on the environment.

EPA is aware that the Department of Interior (DOI) is proposing regulations required by the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87). EPA will continue to work closely with the DOI Office of Surface Mining in those areas where proposed regulations affect the same activity at a coal mine. Such efforts will emphasize coordination of the two separate programs.

Summary of Public Participation

Prior to this publication, interim final regulations for existing sources were promulgated for the coal mining point source category (41 FR 19832) which were supported by a report entitled "Development Document for Effluent Limitation Guidelines and New Source Performance Standards for the Coal Mining Point Source Category, May 1976." This document was made available to the public. Public comment was solicited in the Federal Register, 41 FR 19832. A complete listing of participants and a discussion of comments and responses pertaining to the comments was contained in the final rule promulgated on April 26, 1977, for existing sources in the coal mining point source category (42 FR 21380).

While the interim final rulemaking addressed best practicable control technology currently available for existing sources, the definitions and basic pollution control concepts used are also relevant to these proposed standards of performance. Appendix C of the April 26, 1977, preamble should be referred to for a discussion of these comments.

Comments which specifically addressed the formulation of new source performance standards are set forth below:

(1) Several commenters noted that the publication of new source performance standards for coal mines had not taken place by the statutory deadline.

The Agency was forced to delay the proposal of new source performance standards because of the difficult problems associated with defining a "new source" coal mine and conducting the environmental analysis which is required for new source permits by the National Environmental Policy Act (NEPA) and Section 511(c) of the FWPCA. The present regulations include a definition of the term "new source coal mine." Furthermore, guidance set forth above addresses the question of structuring environmental review of the large numbers of new source mines which are expected to come into existence.

(2) Commenters suggested that requirements for environmental review of new source permits should be related to the size of the mine (i.e., design or proposed annual tonnage). Another suggestion was to require the preparation of environmental assessments on an area wide basis with the area being no larger than a single watershed.

Under Environmental Review of New Source Coal Mines above, the Agency outlines the factors taken into consideration in issuing guidance for Environmental Review of New Source Coal Mines. Essentially, the environmental assessments of new source coal mines is based on the size of the mine (designed annual tonnage) and the mining method used (surface or underground).

(3) A number of comments were received from public interest groups requesting the extension of coverage of the effluent limitations guidelines and new source performance standards to include areas under reclamation or those areas which have been returned to final grade, but where the reclamation bond for the area has not been returned by the appropriate State or federal agency. It was requested that EPA delay issuance of regulations to allow for an extension of the guidelines coverage to include areas which had been regraded but not reclaimed.

By use of the definition "active mining area", these proposed standards do not apply to discharges from areas affected by surface coal mining after these areas

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have been graded. However, a new subcategory for areas under reclamation (Subpart E) is also established by these regulations. As discussed above under Summary of Standards, formulation of regulations for this subcategory is currently under consideration.

(4) Commenters suggested that the maximum daily limitation for total iron be set at 6.0 mg/l instead of 3.5 mg/l as suggested in the development document for new source performance standards. Commenters also suggested that the new source performance standards be the same as the limitations based on best practicable control technology currently available.

New source performance standards are based on the best available demonstrated control technology including, where practicable, a standard permitting no discharge of pollutants. The standard for total iron can be achieved with improved performance related to pH control and improved maintenance of the mine drainage treatment system. Total iron parameters can be controlled since the same neutralization process that controls pH also causes iron to precipitate out of solution; this precipitate is then removed in the process used to control total suspended solids. Consideration was given to the cost of achieving the level of reduction of iron, the non-water quality environmental impact and energy requirements in settling the limitations.

(5) Many comments were received regarding the achievability of the discharge limitations for coal preparation plants which were published on May 13, 1976 (41 FR 19832 and 41 FR 19841).

Subpart A—Coal preparation plants subcategory, and Subpart B—Coal storage, refuse storage, and coal preparation plant ancillary areas subcategory, were combined in the final regulation promulgated on April 26, 1977 (42 FR 21380) as Subpart B—Coal preparation plants and associated areas. These regulations proposed today amend the new source performance standards proposed on May 13, 1976 (41 FR 19841). The "zero discharge" requirement formerly applicable to coal preparation plants has been replaced by a single set of limitations for discharges from the plant and associated areas. For further discussion of the consolidation of the former Subparts A and B, see the April 26, 1977, preamble for the BPT regulations.

Under the present proposed regulations, facilities which recycle waste water for use in processing may discharge process waste water subject to certain limitations. Facilities which do not recycle process waste water for use in processing are subject to a "no discharge" limitation. These requirements are based on a determination by the Agency that the "best available demonstrated control technology" for this industry includes recycling of process water as a means of limiting the discharge of pollutants. As discussed above under Summary of Standards, recycling is already practiced by most coal preparation facilities. However, it has also become apparent that these facilities occasionally experience discharges even when recycling is practiced. Therefore, the limitations which are now being proposed reflect the level of control of pollutant discharges which can be achieved through recycling, while at the same time allowing the occasional discharges which some plants may have even though recycling is practiced.

Economic Impact Analysis

A report entitled "Economic Impact of Effluent Guidelines, Coal Mining," was prepared in support of these proposed regulations; it showed the proposed new source effluent guidelines are not expected to affect significantly prices, production, employment, or the balance of trade. These proposed regulations may increase 1985 raw coal prices up to 32 cents per ton for an average percentage increase of approximately 0 to 1.6 percent. The higher price is predicted to reduce the 1985 demand for coal from 897 to 894 million tons, a decrease of 0.3 percent. Assuming 12,000 BTU per pound of coal, this reduction in annual demand is approximately 72×10^{12} BTU per year.

The preparation plant standards are predicted to increase the cost of prepared coal up to seven cents per ton. This increase is approximately 3.5 percent of the $2 per ton charge for coal cleaning and proportionally less of the cost of the prepared coal. No significant change in the demand for cleaned coal is expected to result from the proposed regulations.

Capital requirements through 1985 to comply with these standards of performance will total approximately $126 to $161 million. This is less than 2 percent of the eight to eleven billion dollars which the coal industry is expected to spend for capital expansion during this period. The reduction in the demand for coal in 1985 exceeds the 50×10^{12} BTU per year increase in energy consumption criterion for economic impact assessments. The economic impact report fulfills the requirement for this assessment. Accordingly, the Environmental Protection Agency has determined that this document contains a major proposal requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107 and certifies that an Economic Impact Analysis has been prepared.

Opportunity for Public Comment

Interested persons may participate in the rulemaking proposed today by submitting written comments in triplicate to the Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Attention: Distribution Officer (WH-552). Comments on all aspects of the proposed regulation are solicited. In the event comments are in the nature of criticisms as to the adequacy of data available, or which may be relied upon by the Agency, comments should identify and provide any additional data which is available. If comments address the approach taken by the Agency in establishing the standard of performance, EPA solicits suggestions as to what alternative approach should be taken and why this alternative better satisfies the requirements of section 306 of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M Street SW., Washington, D.C. 20460. Draft contractor reports, the development document and economic study referred to above, and supplementary material supporting the rulemaking is also maintained at this location for public review and copying. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee be charged for copying.

All comments received on or before November 18, 1977, will be considered. The Agency previously outline procedures concerning public review on August 6, 1973 (38 FR 21202).

Small Business Administration Loans

Section 8 of the FWPCA authorizes the Small Business Administration, through its economic disaster loan program, to make loans to assist any small business concern in effecting additions to or alterations in their equipment, facilities, or methods of operation so as to meet water pollution control requirements under the FWPCA, if the concern is likely to suffer a substantial economic injury without such assistance.

For further details on this Federal loan program write to EPA, Office of Analysis and Evaluation, WH-586, 401 M Street SW., Washington, D.C. 20460.

Dated: September 8, 1977.

DOUGLAS M. COSTLE,
Administrator.

Part 434 is proposed to be amended as follows:

Subpart A—General Definitions

1. In § 434.11, paragraph (l) is added as follows:

§ 434.11 General Definitions.

* * * * * *

(l) The term new source coal mine shall mean a coal mine which:

(1) Was not assigned the applicable Mining Enforcement Safety Administration (MESA) identification number under 30 CFR Part 82 prior to the date of proposal of applicable new source performance standards, or

(2) Is determined by the Regional Administrator to constitute a substantially new operation in accordance with section 306(a)(2) of the FWPCA and 40 CFR Part 6 (even if the applicable MESA identification number is assigned prior to the proposal of new source performance standards). In making this determination, the Regional Administrator shall take into account the occurrence of one or more of the following events, in connection with the mine for which the NPDES permit is being considered, after the date of proposal of applicable new source performance standards:

(i) A mine operation initiates extraction of a coal seam not previously extracted by that mine

(ii) A mine operation discharges into a drainage area not previously affected by waste water discharges from the mine

(iii) A mine operation causes extensive new surface disruption

(iv) A mine operation initiates construction of a new shaft, slope, or drift

(v) A mine operation acquires additional land or mineral rights

(vi) A mine operation makes significant capital investment in additional equipment or additional facilities

(vii) Such other factors as the Regional Administrator deems relevant.

Subpart B—Coal Preparation Plants and Associated Areas

2. Section 434.25 is added as follows:

§ 434.25 Standards of performance for new sources.

(a) The following limitations establish the concentrations of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best available demonstrated control technology:

(1) Discharge of process waste water pollutants from facilities which recycle waste water for use in processing shall not exceed the following limitations, if dischnrges from that point source normally are acidic prior to treatment:

[Milligrams per liter]

Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	70.0	35.0
Iron, total	3.5	3.0
Manganese, total	4.0	2.0
pH	Within the range 6 to 9.	

(2) Discharge of process waste water pollutants from facilities which recycle waste water for use in processing shall not exceed the following limitations, if discharges from that point source normally are alkaline prior to treatment:

[Milligrams per liter]

Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	70.0	35.0
Iron, total	3.5	3.0
pH	Within the range 6 to 9.	

(3) From facilities which do not recycle waste water for use in processing, there shall be no discharge of process waste water pollutants into navigable waters.

(b) Any excess water, resulting from rainfall or snow melt, discharged from facilities designed, constructed, and maintained to contain or treat the volume of water which would result from a 10-year 24-hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section.

(c) Where the application of neutralization and sedimentation treatment technology results in an sedimentation treatment technology results in an inability to comply with the manganese limitation set forth in paragraph (a) of this section, the permit issuer may allow the pH level in the final effluent to be exceeded to a small extent in order that the manganese limitation in paragraph (a) of this section will be achieved. In no case shall the pH exceed 9.5.

Subart C—Acid or Ferruginous Mine Drainage Subcategory

3. Section 434.30 is revised to read as follows:

§ 434.30 Applicability; description of the acid or ferruginous mine drainage subcategory.

The provisions of this subpart are applicable to acid or ferruginous mine drainage resulting from the mining of coal of any rank including but not limited to bituminous, lignite, and anthracite, except that the provisions of this subpart do not apply to Western coal mines, as defined in Subpart F of this part.

4. Section 434.35 is added as follows:

§ 434.35 Standards of performance for new sources.

(a) The following limitations establish the concentrations of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best available demonstrated control technology:

[Milligrams per liter]

Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	70.0	35.0
Iron, total	3.5	3.0
Manganese, total	4.0	2.0
pH	Within the range 6 to 9.	

(b) Any excess water, resulting from rainfall or snow melt, discharged from facilities designed, constructed, and maintained to contain or treat the volume of water which would result from a 10-year 24-hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section.

(c) Drainage which is not from an active mining area shall not be required to meet the limitations set forth in paragraph (a) of this section as long as such drainage is not commingled with untreated mine drainage which is subject to the limitations in paragraph (a) of this section.

(d) Where the application of neutralization and sedimentation treatment technology results in an inability to comply with the manganese limitation set forth in paragraph (a) of this section, the permit issuer may allow the pH level in the final effluent to be exceeded to a small extent in order that the manganese limitation in paragraph (a) of this section will be achieved. In no case shall the pH exceed 9.5.

Subpart D—Alkaline Mine Drainage Subcategory

5. Section 434.40 is revised to read as follows:

§ 434.40 Applicability; description of the alkaline mine drainage subcategory.

The provisions of this subpart are applicable to alkaline mine drainage resulting from the mining of coal of any rank including but not limited to bituminous, lignite, and anthracite, except that the provisions of this subpart do not apply to Western coal mines, as defined in Subpart F of this part.

6. Section 434.45 is added as follows:

§ 434.45 Standards of performance for new sources.

(a) The following limitations establish the concentrations of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best available demonstrated control technology:

[Milligrams per liter]

Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	70.0	35.0
Iron, total	3.5	3.0
pH	Within the range 6 to 9.	

(b) Any excess water, resulting from rainfall or snow melt, discharged from facilities designed, constructed, and maintained to contain or treat the volume of water which would result from a 10-year 24-hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section.

(c) Drainage which is not from an active mining area shall not be required to meet the limitations set forth in paragraph (a) of this section as long as such drainage is not commingled with untreated mine drainage which is subject to the limitations in paragraph (a) of this section.

7. Subpart E is added as follows:

Subpart E—Areas Under Reclamation Subcategory

§ 434.50 Applicability; description of the areas under reclamation subcategory.

The provisions of this subpart are applicable to discharges from surface mining areas where grading has been completed and the area of land is bonded by an appropriate reclamation bond.

8. Subpart F is added as follows:

Subpart F—Western Coal Mines Subcategory

§ 434.60 Applicability; description of the western coal mines subcategory.

The provisions of this subpart are applicable to mine drainage resulting from the mining of coal of any rank including but not limited to bituminous, lignite, and anthracite from mines located west of the 100-degree meridian.

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§ 434.65 Standards of performance for new sources.

(a) The followng limitations establish the concentrations of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best available demonstrated control technology:

[Milligrams per liter]

Effluent Characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	40.0	20.0
pH	Within the range 6 to 9.	

(b) Any excess water, resulting from rainfall or snow melt, discharged from facilities designed, constructed, and maintained to contain or treat the volume of water which would result from a 10-year 24-hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section.

(c) Drainage which is not from an active mining area shall not be required to meet the limitations set forth in paragraph (a) of this section as long as such drainage is not commingled with untreated mine drainage which is subject to the limitations in paragraph (a) of this section.

[FR Doc.77-27145 Filed 9-16-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 31, 34, 38, 40, 54, 98, 154]

[CGD 77-069a]

CONSTRUCTION AND EQUIPMENT OF EXISTING SELF-PROPELLED VESSELS CARRYING BULK LIQUEFIED GASES

Extension of Comment Period

AGENCY: Coast Guard, DOT.

ACTION: Extension of time for comments on proposed rules.

SUMMARY: On June 30, 1977, the Coast Guard published an advance notice of proposed rulemaking in the FEDERAL REGISTER (42 FR 33353) concerning U.S. and foreign flag existing self-propelled vessels that carry bulk liquified gases. This notice extends the comment period to October 11, 1977. The original closing date was August 11, 1977. Two requests have been received to extend the comment period in order to allow additional time for a thorough review of the proposal. The Coast Guard found these requests reasonable and has extended the time for comments.

DATE: Comments on the proposed rules must be received on or before October 11, 1977.

ADDRESS: Comments should be submitted to the Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Captain Goerge K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh St., SE., Washington, D.C. 20590 (202-426-1477).

DRAFTING INFORMATION

The principal persons involved in drafting this document are: Lieutenant Commander Thomas R. Dickey, Project Manager, Office of Merchant Marine Safety, and Mr. Stanley M. Colby, Project Attorney, Office of the Chief Counsel.

The advance notice of proposed rulemaking was issued under the following authority:

Regulations for dangerous cargoes issued under R.S. 4472, as amended (46 U.S.C. 170) except those for flammable and combustible liquids issued under sec. 201, 86 Stat. 427, as amended (46 U.S.C. 391a); the functions, powers, and duties relating to the Coast Guard under R.S. 4472, as amended, transferred to the Department under sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 46 U.S.C. 170 delegated to the Coast Guard under 49 CFR 1.46 (b) and (t), 46 U.S.C. 391a delegated to the Coast Guard under 49 CFR 1.46(n)(4).

Dated: September 12, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc.77-27140 Filed 9-16-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

GRAIN STANDARDS

Maryland Grain Inspection Point

Statement of considerations. On August 2, 1976, there was published in the FEDERAL REGISTER (41 FR 32280) a notice announcing (1) the request of the Maryland Department of Agriculture that its designation to operate as an official agency at Salisbury, Md., be suspended for a period of 1 year; and (2) the designation of the Maryland Department of Agriculture was suspended for a period of 1 year, effective August 1, 1976. In addition, interested persons were given until September 1, 1976, to submit views and comments with respect to the suspension of the designation of the Maryland Department of Agriculture and were also given opportunity to make application for interim designation to operate as an official agency at Salisbury, Md.

It was found that good cause existed to implement the voluntary suspension of the Maryland Department of Agriculture without public notice and participation in rulemaking on such suspension and that good cause existed for making the proposed actions effective less than 30 days after the publication in the FEDERAL REGISTER.

No comments or applications were received with respect to the August 2, 1976, notice in the FEDERAL REGISTER and 1 year has now expired since the August 1, 1976, effective date of the voluntary suspension of designation. Subsequently, by mutual agreement between the Maryland Department of Agriculture and the Federal Grain Inspection Service, the designation of the Maryland Department of Agriculture to operate as an official agency at Salisbury, Md., is hereby voluntarily canceled. No person is now designated under section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79(f)), to operate as an official agency at Salisbury, Maryland. This notice does not preclude interested persons from making application for designation to operate as an official agency at Salisbury, Md., in accordance with the requirements under the U.S. Grain Standards Act as amended. Also, this notice does not preclude the Maryland Department of Agriculture from applying for designation as an official agency again at a later date.

(Sec. 7, 82 Stat. 764, as amended 90 Stat. 2872, 7 U.S.C. 79(f)(2); sec. 3A, 90 Stat. 2868, 7 U.S.C. 75a.)

Effective date: This notice shall become effective September 19, 1977.

Done in Washington, D.C., on September 13, 1977.

L. E. BARTELT,
Administrator.

[FR Doc.77-27090 Filed 9-16-77;8:45 am]

Farmers Home Administration

[Notice of Designation Number A499]

OREGON

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Jackson County, Oreg., as a result of freezing conditions on April 10, 20, and May 2, 1977, followed by hail on May 3, 6, and 8, 1977.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Robert W. Straub that such designation be made.

Applications for emergency loans must be received by this Department no later than October 31, 1977, for physical losses and June 1, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 9th day of September 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77-27091 Filed 9-16-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 30823]

AIR WISCONSIN CERTIFICATION PROCEEDING

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held commencing on October 18, 1977, at 10 a.m. (local time) in the Outagamie County Board Room, Outagamie County Courthouse, 410 South Walnut Street, Appleton, Wis., before the undersigned Administrative Law Judge.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the Prehearing Conference Report, served on August 9, 1977, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., September 13, 1977.

KATHERINE A. KENT,
Administrative Law Judge.

[FR Doc.77-27157 Filed 9-16-77;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE ON POPULATION STATISTICS

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 1, (Supp. V, 1975)), notice is hereby given that the Census Advisory Committee on Population Statistics will convene on October 7, 1977, at 9:30 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Md.

The Census Advisory Committee on Population Statistics advises the Director, Bureau of the Census, on current programs and on plans for the decennial census of population.

The Committee is composed of five members appointed by the Secretary of Commerce, and ten members designated by the President of the Population Association of America from the membership of that Association.

The agenda for the meeting is: (1) Introductory remarks by the Director of the Census Bureau; (2) current status of 1980 census planning; (3) national content reinterview and Oakland test results; (4) 1980 plans for enumerating American Indians; (5) developments on the 1980 monograph program; (6) State data centers; (7) future CPS supplements; (8) new plans for income collection; and (9) public discussion, Committee recommendations, election of chairperson-elect, and plans for the next meeting.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Dr. Paul C. Glick,

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Senior Demographer, Population Division, Bureau of the Census, Room 2011, Federal Building 3, Suitland, Md. (Mailing address: Washington, D.C. 20233), telephone 301-763-7030.

Dated: September 13, 1977.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

[FR Doc.77-27158 Filed 9-16-77;8:45 am]

Domestic and International Business Administration

ELECTRONIC INSTRUMENTATION TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Electronic Instrumentation Technical Advisory Committee will be held on Wednesday, October 5, 1977, at 9:30 a.m. in room 3708, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973. On October 7, 1975, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. section 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to electronic instrumentation, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has six parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Report on the recommendations of "A Report of the Defense Science Board Task Force on Export of U.S. Technology" (DOD/Bucy Report).
(4) Report on microprocessor studies by Committee members.
(5) Review items as requested by the Director, Office of Export Administration in the Battelle Report (Identification of Strategically Significant Technologies to Office of the Director, Defense Research and Engineering).

EXECUTIVE SESSION

(6) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (6), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 8, 1976, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409 that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Electronic Instrumentation Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on December 28, 1976 (41 FR 56377).

Dated: September 14, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, United States Department of Commerce.

[FR Doc.77-27177 Filed 9-16-77;8:45 am]

IMPORTERS' TEXTILE ADVISORY COMMITTEE

Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975) notice is hereby given that a meeting of the Importers' Textile Advisory Committee will be held on November 17, 1977 at 10:30 a.m. in Room 6802, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

The Committee was established by the Secretary of Commerce on August 13, 1963 to advise U.S. Government officials of the effects on import markets of cotton, wool and man-made fiber textile agreements.

The agenda for the meeting will be as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report on conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the DIBA Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5078.

Dated: September 14, 1977.

ROBERT E. SHEPHERD,
Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.77-27159 Filed 9-16-77;8:45 am]

SEMICONDUCTOR MANUFACTURING AND TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that at meeting of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee will be held on Wednesday, October 5, 1977, at 9:30 a.m. in Room 6802, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C.

The Semiconductor Manufacturing and Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) (Supp. V, 1975) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to semiconductor manufacturing and test equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone A/C 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on May 25, 1977 (42 FR 26681).

Dated: September 14, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.77-27176 Filed 9-16-77;8:45 am]

EXPORTERS' TEXTILE ADVISORY COMMITTEE

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975) notice is hereby given that a meeting of the Exporters' Textile Advisory Committee will be held at 10:30 a.m., on October 4, 1977, in Room 305B Federal Office Building, 26 Federal Plaza, Foley Square, New York, N.Y. 10007.

The Committee, which is comprised of members involved in textile and apparel exporting, advises Department officials concerning ways of increasing U.S. exports of textile and apparel products.

The agenda for the meeting is as follows:

1. EC/EFTA Rules of Origin.

A limited number of seats will be available to the public on a first come basis. The public may file written statements with the Committee before or after the meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the DIBA Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5078.

Dated: September 13, 1977.

ROBERT E. SHEPHERD,
Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.77-27368 Filed 9-16-77;11:09 am]

Foreign-Trade Zones Board

[Docket No. 8-77]

PHILADELPHIA PORT CORP.

Application and Public Hearing

Correction

In FR Doc. 77-26635 appearing on page 46380 in the issue of Thursday, September 15, 1977, in the first column on page 46381, the first sentence of the fifth paragraph should read as follows:

"In connection with its investigation of the proposal, the Examiners Committee will hold a public hearing on October 5, 1977, beginning at 9:00 a.m., in the 2nd Floor Conference Room, 313 Walnut St., Philadelphia, Pennsylvania."

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of August 26 Through September 2, 1977

Notice is hereby given that during the week of August 26 through September 2, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

ERIC J. FYGI,
Acting General Counsel.

SEPTEMBER 14, 1977.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, Week of Aug. 26 through Sept. 2, 1977*

Date	Name and location of applicant	Case No.	Type of submission
Aug. 26, 1977	Beacon Oil Co., Hanford, Calif. (If granted: The FEA's July 22, 1977, decision and order would be rescinded and the Beacon Oil Co. would not be required to purchase entitlements during the period August 1977 through January 1978.	FXA-1446	Appeal of decision and order in *Beacon Oil Co.*, 6 FEA par. . . . (July 22, 1977).
Do	Farmers Union Oil Co., Madison, N.Dak. (If granted: The Farmers Union Oil Co. would be granted a stay of the requirements of the FEA region VIII's June 30, 1976, consent order pending a final determination of an application for exception which it intends to file.)	FES-4751	Request for stay of FEA region VIII's consent order dated June 30, 1976.
Do	Navajo Refining Co./Holly Corp., Dallas Tex. (If granted: The Navajo Refining Co./Holly Corp. would not be considered as a single firm.)	FIA-1448	Appeal of FEA Interpretation dated July 28, 1977.
Aug. 29, 1977	American Gas Products Co., Rogers City, Mich. (If granted: The remedial order issued by FEA region V on Aug. 12, 1977, would be rescinded and American Gas Products Co. would not be required to refund overcharges made in its sales of propane.)	FRA-1447	Appeal of the remedial order issued by FEA region V on Aug. 12, 1977.
Do.....	Beatrice Foods Co., Chicago, Ill. (If granted: The Beatrice Foods Co. would be granted a modification of requirement that it report under standard industrial classification (sic) codes 34 and 35 on form FEA U-824-P-O.)	FMR-0122	Request for modification of reporting requirement (sec. 211.127).

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Date	Name and location of applicant	Case No.	Type of submission
Do.....	Cities Service Co., Tulsa, Okla. (If granted: The Cities Service Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Ambrose, Camrick, Corpus Bay, Diamond M, Elmwood, Fairway, Indian Basin, Murdock, Roberts Ranch, West Seminole, and Wilburton plants.)	FEE-4754-FEE-4764	Price exception (sec. 212.165).
Do.....	Texaco, Inc., New York, N.Y. (If granted: The FEA's July 28, 1977, temporary assignment orders would be rescinded and Texaco, Inc., would not be required to supply additional volumes of aviation turbine fuel to Braniff Airways at Miama, Fla., Continental Air Lines, Inc., at Tulsa, Okla., and Denver, Colo., and Frontier Airlines at Tulsa, Okla.)	FRA-1450 FRA-1451 FRA-1452	Appeals of temporary assignment orders issued July 28, 1977.
Do.....	Total Petroleum, Inc., Detroit, Mich. (If granted: Total Petroleum, Inc., would receive various types of administrative relief from the mandatory petroleum allocation and price regulations in connection with its acquisition of Apco Oil Corp.'s refinery located at Arkansas City, Kans.)	FEE-4753	Exception to mandatory petroleum allocation and price regulations (pts. 211 and 212).
Aug. 30, 1977..	Charles Brocato d/b/a Geronimo Oil Co., Corpus Christi, Tex. (If granted: The FEA's Aug. 15, 1977, remedial order would be rescinded and Charlee Brocato d/b/a Geronimo Oil Co. would not be required to refund to the Tesoro Crude Oil Co. overcharges made on sales of crude oil.)	FRA-1454	Appeal of FEA region VI's remedial order issued Aug. 15, 1977.
Aug. 29, 1977	Cities Service Oil Co., Boston, Mass. (If granted: The FEA's Aug. 19, 1977, remedial order would be rescinded and the Cities Service Oil Co. would not be required to restore the supplier/wholesale purchaser-reseller relationship with Phillip Mysel.)	FRA-1449	Appeal of FEQ region I's remedial order for immediate compliance issued Aug. 19, 1977.
Do.....	James L. Flinn, Midland, Tex. (If granted: Crude oil produced from the C. W. Popnoe A lease located in Scurry County, Tex., would be sold at upper tier ceiling prices.)	FEE-4752	Price exception (sec. 212.73).
Do.....	Standard Oil Co. (Indiana), Chicago, Ill. (If granted: The Standard Oil Co. (Indiana) would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Colton Valley, Patterson, South Sarepta, Toco, and Vermillion plants.)	FEE-4765-FEE-4769	Price exception (sec. 212.165).
Aug. 30, 1977	C.A.C.I., Arlington, Va. (If granted: The FEA's information request denial dated July 26, 1977, would be rescinded and C.A.C.I. would receive access to the documents requested.)	FRA-1453	Appeal of information request denial dated July 26, 1977.
Do.....	Estates of Inez Phillips and Loyce Phillips (Nan-Su-Gail), Austin, Tex. (If granted: The estates of Inez and Loyce Phillips would receive an extension of the exception relief granted in the FEA's Aug. 3, 1977, decision and order which would permit them to increase their prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Nan-Su-Gail plant.)	FXE-4773	Extension of relief granted in *Estates of Inez and Loyce Phillips*, case No. FEE-4342 (decided Aug. 3, 1977) (unreported decision).
Do.....	Larco Drilling Co., Inc., Jackson, Miss. (If granted: Crude oil produced from the Mooringsport formation unit, Gitano field, Jones County, Miss., would be sold at upper tier ceiling prices.)	FEE-4770	Price exception (sec. 212.73).
Do.....	Moran Pipe & Supply, Inc., Seminole, Okla. (If granted: The Moran Pipe & Supply, Inc.'s Conar lease located in Seminole, Okla., would be classified as a stripper well property.)	FEE-4772	Do.
Do.....	Osage Oil & Transportation, Inc., Cleveland, Okla. (If granted: The Osage Oil & Transportation, Inc., would be granted an exception which would permit it to file schedule C of FEA form P-124-M-1 on an annual basis.)	FEE-4771	Exception to reporting requirement (sec. 211.127).
Do.....	Sabre Refining, Inc., Bakersfield, Calif. (If granted: Sabre Refining, Inc., would be granted a stay of its June 1977 entitlement purchase obligations for a period of 30 d.)	FES-0105	Stay request.
Aug. 31, 1977	Apco Oil Corp., Oklahoma City, Okla. (If granted: The Apco Oil Corp. would receive various types of administrative relief from the mandatory petroleum allocation and price regulations in connection with its sales of its crude oil refineries located at Cyril, Okla., and Arkansas City, Kans.)	FEE-4774	Exception to mandatory allocation and price regulations (pts. 210, 211, and 212).
Do.....	City of Long Beach, Calif., Long Beach, Calif. (If granted: The FEA's May 10, 1977, decision and order would be modified to grant additional exception relief to the city of Long Beach, Calif.)	FMR-0123	Request for modification of decision and order in *City of Long Beach, Calif.*, 5 FEA par. 83,153 (May 10, 1977).
Do.....	Etna Oil Co./North Etna Oil Co., Washington, D.C. (If granted: Etna Oil Co. would be permitted to import 1,033,333 bbl of motor gasoline into districts I-IV of a license fee-free basis.)	FPI-0127	Exception from the base fee requirements (sec. 213.35).

Date	Name and location of applicant	Case No.	Type of submission
Do.....	New York Petroleum Co., New Orleans, La. (If granted: The New York Petroleum Corp. would receive a stay of the remedial order issued by FEA region VI on July 29, 1977, requiring the firm to refund overcharges made in its sales of crude oil pending a final determination of its appeal of that order.)	FRS-1155	Stay request.
Do.....	Pennzoil Producing Co., Houston, Tex. (If granted: The Pennzoil Producing Co. would receive an extension of the exception relief granted in the FEA's Apr. 1, and Apr. 8, 1977, decisions and orders which would permit crude oil prodneed from the North Perry unit located in Yazoo County, Miss., to be sold at upper tier ceiling prices.)	FXE-4776	Extension of relief granted in *Pennzoil Producing Co.*, 5 FEA par. 83,122 (Apr. 8, 1977); *Pennzoil Producing Co.*, 5 FEA par. 83,122 (Apr. 1, 1977).
Do.....	Western Petroleum Co., Minneapolis, Minn. (If granted: The Western Petroleum Co. would receive an exception from the domestic crude oil entitlement program (sec. 211.67) which would permit the firm to receive entitlements for the residual fuel oil it purchased from Gulf Coast refineries.)	FEE-4775	Exception to domestic crude oil entitlement program (sec. 211.67).
Do.....	Whitco, Inc., Dallas, Tex. (If granted: Whitco, Inc., would receive an extension of the exception relief granted in the FEA's June 23, 1977, decision and order which would require the Sun Co. to continue supplying Whitco directly without the use of a substitute supplier.)	FXE-4777	Extension of relief granted in *Whitco, Inc.*, 6 FEA par. 83,024 (June 23, 1977).
Sept. 1, 1977	Atlantic Richfield Co., Los Angeles, Calif. (If granted: The FEA's Aug. 1, 1977, remedial order would be rescinded and the Atlantic Richfield Co. would not be required to treat the cost of its blending component, Arconol, as a nonproduct cost.	FRA-1456 FRS-1456	Appeal of FEA region IX's remedial order issued Aug. 1, 1977.
Do.....	Charles Brocato, d.b.a. Geronimo Oil Co., Corpus Christi, Tex., (If granted: Geronimo Oil Co. would receive a stay of the remedial order issued by FEA region VI on Aug. 15, 1977, requiring the firm to refund overcharges made in its sales of crude oil pending a final determination of its appeal of that order.)	FRS-0106	Stay request.
Do.....	Kirkwood Oil & Gas, Casper, Wyo. (If granted: The FEA's July 29, 1977, remedial order would be rescinded and Kirkwood Oil & Gas would not be required to refund overcharges made on sales of crude oil.)	FRA-1458	ppeal of FEA region VIII's remedial order issued July 29, 1977.
Do.....	Mull Drilling Co., Inc., Wichita, Kans. (If granted: The FEA's June 15, 1977, decision and order would be rescinded and crude oil produced from the Mull Drilling Co.'s UPRR Roth lease located in Cheyenne County, Colo., would be sold at upper tier ceiling prices.)	FXA-1457	Appeal of decision and order in *Mull Drilling Co., Inc.*, 6 FEA par. 83,016 (June 15, 1977).
Do.....	Standard Oil Co. (Indiana), Chicago, Ill. (If granted: The FEA region IV's July 22, 1977, decision and order would be rescinded and the Standard Oil Co. (Indiana) would not be required to supply motor gasoline to the McDonald Oil Co. under the Oct. 29, 1976, assignment orders.)	FSG-0055	Request for special redress.

[FR Doc.77-27131 Filed 9-16-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ID-1723]

FRANK N. BIEN

Application

SEPTEMBER 12, 1977.

Take notice that on September 1, 1977, Frank N. Bien, filed an application pursuant to section 305(b) of the Federal Power Act to hold the following position:

Director, Appalachian Power Co., electric utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 3, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27117 Filed 9-16-77;8:45 am]

[Docket No. ID-1734]

JOHN R. BURTON

Application

SEPTEMBER 12, 1977.

Take notice that on August 26, 1977, John R. Burton, filed an application pursuant to section 305(b) of the Federal Power Act to hold the following position:

Director, Kanawha Valley Power Co., electric utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 30, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27119 Filed 9-16-77;8:45 am]

[Docket No. ER77-514]

CENTRAL POWER & LIGHT CO.

Order Granting Intervention, Denying Motion To Treat Rate as an Initial Rate, and Granting Motion

SEPTEMBER 8, 1977.

On August 3, 1977, the Commission issued an order in Docket No. ER77-514, that, inter alia, accepted for filing the proposed rate increases submitted by the Central Power & Light Co. (CPL) to six wholesale customers.[1] The Commission established certain procedures and suspended the proposed rate increases for one day to August 13, 1977, at which time they became effective subject to refund. In addition, the Commission determined that it was appropriate to grant intervention to Magic Valley Electric Cooperative, Inc., and the Rio Grande Electric Cooperative, Inc.

On August 5, 1977, CPL filed a motion proposing that the rates filed in Docket No. ER77-514 be made effective August 11, 1977. CPL advocates that its electric tariff Original Volume No. 1 (filed July 12, 1977) contains the initial rates under which it proposes to serve its affected wholesale customers. CPL asserts that as an initial tariff filing the rates under which it proposes to serve its become effective on August 11, 1977, 30 days after the filing. In addition, CPL alleges that as an initial filing the tariff is not subject to suspension under section 206 of the Federal Power Act. Finally, CPL asserts that unless the Original Tariff is effective on August 11, 1977, it will raise uncertainty as to the nature of rates and conditions of wholesale service under which CPL must operate as

[1] The customers to whom the increased rates will be applicable are as follows: Magic Valley Electric Cooperative, Inc., Nueces Electric Cooperative, Inc., Rio Grande Electric Cooperative, Inc., Kimble Electric Cooperative, Inc., Medina Electric Cooperative, Inc., and Victoria County Electric Cooperative Co.

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a public utility subject to the Commission's jurisdiction.

On August 9, 1977, the Magic Valley Electric Cooperative, Inc., Rio Grande Electric Cooperative, and Kimble Electric Cooperative, Inc.[2] (hereinafter referred to as "Intervenors"), filed an "Answer To Motion of CPL and a Petition for Rehearing." The Intervenors assert that the procedural history of CPL's rate filings before this Commission indicates clearly that its initial rate filing, docketed as No. ER77–331 and not this proposed increase, constitutes CPL's initial rate. In addition, Intervenors request the Commission to modify its order issued August 3, 1977, to provide for a full five-month suspension.

On August 9, 1977, in Docket No. ER77–514, the Kimble Electric Cooperative, Inc. (hereinafter "Kimble"), filed a "Protest and Petition to Intervene," pursuant to sections 1.7, 1.8, and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.7, 1.8, and 1.10). In support of its petition to intervene, Kimble states that it purchases all of its capacity and energy requirements from CPL and that no other party can represent its interests in these proceedings.

In addition, on August 29, 1977, Intervenors filed a "Further Application For Rehearing of Commission Order of August 3, 1977." The Intervenors advocate that given the magnitude of the rate increase, the obvious absence of cost justification and their difficulties in passing the increase through to the ultimate customers, that the Commission amend its suspension order to provide for the full five month suspension period mandated by the Federal Power Act. Specifically, the Intervenors allege inter alia, that CPL's proposed rate of return is excessive, the proposed increased depreciation rates are unjustified, that CPL failed to synchronize the long-term debt expense included in its capital structure with the interest expense used for purposes of calculating federal income tax allowance, and that CPL's fuel clause is not in conformity with section 35.14 of the Regulations. Further, Intervenors request that the Commission consider carefully the total impact of CPL's substantial rate increase, and the resultant "price squeeze."

Discussion. Our review indicates that Kimble is an interested party within the meaning of Section 1.8 of the Rules of Practice and Procedure and that sufficient justification exists for permitting its intervention in Docket No. ER77–514.

Our analysis indicates that CPL's motion to make rates effective August 11, 1977, filed August 5, 1977, in Docket No. ER77–514 must be denied. The procedural history of Docket Nos. ER77–331 and ER77–514 indicates clearly that the rate tariff tendered to this Commission for filing on April 28, 1977, in Docket No. ER77–331 constitutes CPL's initial rates. The rate filing in Docket No. ER77–331 was determined to be deficient and the deficiency was cured by CPL on July 11, 1977. Thereafter, on July 12, 1977, CPL filed the proposed rate increases in Docket No. ER77–514. In the cover letter accompanying the rate filing[3] CPL states that the filing is made pursuant to Section 35.13 of the Commission's Regulations under the Federal Power Act. Section 35.13 of the Regulations (18 CFR § 35.13) pertains to filing of changes in rate schedules whereas section 35.12 of the Regulations (18 CFR § 35.12) pertains to the filing of initial rate schedules. In addition, paragraph two of the cover letter provides that "the proposed wholesale tariff will supersede the rates, including terms and conditions, contained in the respective contracts of the affected wholesale customers, which contracts were the subject of an initial filing dated April 25, 1977." CPL and the entities listed in footnote 1 of this order are parties to the rate tariffs tendered to the Commission on April 28, 1977, and July 12, 1977. Therefore, we conclude that CPL's filing of July 12, 1977, constituted a superseding rate within the meaning of § 35.13 of our Regulations.

Intervenors seek modification of our order issued August 3, 1977, in Docket No. ER77–514, to provide for a full five-month suspension of the rates included therein. In support of their motions for reconsideration, Intervenors contend that CPL's proposed demand cost allocation formula is novel and requires extensive analysis. Intervenors also assert that the rate of return requested by CPL is extremely high and is virtually certain to be found unjust and unreasonable. In addition, Intervenors allege that CPL failed to synchronize the long-term debt expense included in its capital structure with the interest expense used for purposes of calculating federal income tax allowance, and that CPL's fuel clause is not in conformity with section 35.14 of the Regulations. Our Order of August 3, 1977, found that a hearing should be held on the question of the lawfulness of CPL's filing and suspended that filing for one day to become effective August 13, 1977. Intervenors' arguments are persuasive and we are disposed to grant their request for a longer suspension period. On reconsideration we conclude that a longer suspension period is indeed warranted in this case. Section 313(a) of the Federal Power Act provides:

> Any person, State, municipality, or State Commission aggrieved by an order issued by the Commission in a proceeding under this Act to which such person, State municipality, or State Commission is a party may apply for a rehearing within thirty days after the issuance of such order. The application for rehearing shall set forth specifically the ground or grounds upon which such application is based. Upon such application the Commission shall have power to grant or deny rehearing or to abrogate or modify its order without further hearing.[4]

Based on the foregoing, we find and conclude that it is appropriate and in the public interest to suspend the rates in question for an additional four months and twenty-nine days from August 12, 1977. The rates shall become effective January 8, 1977, subject to refund. CPL shall be required to refund all amounts collected in the interim under the subject rate schedules.

The Intervenors raise a "price squeeze" allegation in the filing of August 29, 1977. To conform with our Order No. 563, additional procedures must be established so as to effectuate these policies. We will direct the Administrative Law Judge to convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the Intervenors' request for data necessary to present their prima facie showing on the price-squeeze issue.

The Commission finds: (1) Intervenors' motion for reconsideration of August 9, 1977, should be granted.

(2) The intervention in Docket No. ER77–514 by Kimble Electric Cooperative may be in the public interest.

(3) CPL's motion to make rates effective on August 11, 1977, should be denied.

(4) Good cause exists to establish "price squeeze" procedures to effectuate the Commission's policy announced in Order No. 563.

(5) Good cause exists to require CPL to refund all amounts collected in the interim period under the subject rate schedules.

The Commission orders: (A) Kimble Electric Cooperative is hereby permitted to intervene in these proceedings; *Provided, however,* That participation of such intervenors shall be limited to matters set forth in the petition to intervene; *And provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) Intervenors' motion for reconsideration of August 9, 1977, is hereby granted.

(C) CPL's motion to make rates effective on August 11, 1977, filed August 5, 1977, is hereby denied.

(D) The Administration Law Judge shall convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the Intervenors' request for data required to present its case, including a prima facie showing, on the price-squeeze issue. CPL shall also be required to respond to the discovery requests authorized by the Administrative Law Judge within 30 days and the Intervenors shall file their case-in-chief on the price-squeeze issue within 30 days after CPL's response.

(E) CPL shall refund within thirty days all amounts collected during the interim period under the subject rate schedules.

(F) The rates and charges hereunder are hereby suspended for an additional four months and 29 days, until January 8, 1978, when they shall become effective subject to refund.

By the Commission, Chairman Curtis voted present.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27108 Filed 9-16-77;8:45 am]

[2] Kimble Electric Cooperative, Inc., on August 9, 1977, filed a Petition to Intervene in Docket No. ER77–514.

[3] See letter, dated July 12, 1977, from Glen D. Churchill, Executive Vice President, CPL to Kenneth Plumb, Secretary FPC.

[4] Section 2.4(a) of the Statements of General Policy and Interpretation of the Commission provides that "[t]he Commission cannot suspend a rate schedule after its effective date." However, once the rate schedule has been suspended the Commission may reconsider that order even after the rates have become effective.

COLUMBIA LNG CORP., ET AL.

Order Granting Temporary Certificate, Severing Proceedings and Consolidating Proceedings Granting Interventions, and Providing for Hearing

SEPTEMBER 9, 1977.

In the matter of Columbia LNG Corp., et al., Docket No. CP71–68, et al.; Texas Eastern Transmission Corp., Docket No. CP77–418; Consolidated System LNG Co., Consolidated System LNG Co., Docket No. CP71–290.

This order concerns an amendment sought by Consolidated System LNG Co. (Consolidated LNG) to the certificate of public convenience and necessity issued in Docket No. CP71–290 authoring construction and operation of approximately 190 miles of 30-inch pipeline extending from Loudoun County, Virginia, to Clinton County, Pa. Consolidated LNG is a participant with Columbia LNG Corp. and Southern Energy Co. in a project designed to import liquefied natural gas (LNG) from Algeria into the United States at Cove Point, Md., and Savannah, Ga. The pipeline proposed by Consolidated is designed, to transport its share of revaporized LNG from this project to a point of connection with Consolidated Gas Supply Corporation's existing system in the vicinity of the Leidy storage field. In the motion to amend its certificate, Consolidated seeks to eliminate approximately 80 miles of pipeline, to eliminate the Doylesburg, Pa., Compression Station and also to make a change in the original pipeline route. A companion application by Consolidated and Texas Eastern Transmission Corp. (Texas Eastern) in Docket No. CP77–418 requests authority for the exchange of gas, as more fully set forth in the application.

It is stated in Docket No. CP77–418 that pursuant to the terms of an exchange agreement dated May 20, 1977, between Texas Eastern and Consolidated LNG, Consolidated LNG would deliver vaporized liquefied natural gas (LNG) to Texas Eastern at two exchange points to be constructed in Pennsylvania where the proposed Consolidated LNG 30-inch pipeline authorized at Docket No. CP71–290 would intersect Texas Eastern's transmission lines, at quantities on an average daily basis of approximately 365,000 dekatherms equivalent per day, plus a maximum day surge allowance of 20 percent above such average daily quantity. It is stated that Texas Eastern would deliver equivalent quantities to Consolidated Gas Supply Corp. (Consolidated Supply) for Consolidated LNG's account at any of twelve existing interconnection points between the two systems. Specifically, it is stated that Texas Eastern would deliver the exchange gas to Consolidated Supply in accordance with mutually agreed upon dispatching arrangements at delivery pressure existing at the same time and place of delivery and on the outlet sides of the following existing pipeline system measuring stations (Delivery Points):

1. Measuring Station 450 in Noble County, Ohio.
2. Measuring Station 471 in Monroe County, Ohio.
3. Measuring Station 983 in Monroe County, Ohio.
4. Measuring Station 004 in Monroe County, Ohio.
5. Measuring Station 372 in Marshall County, W. Va.
6. Measuring Station 1671 in Cambria County, Pa.
7. Measuring Station 037 in Green County, Pa.
8. Measuring Station 051 in Somerset County, Pa.
9. Measuring Station 082 in Westmoreland County, Pa.
10. Measuring Station 458 in Cambria County, Pa.
11. Measuring Station 323 in Blair County, Pa.
12. Measuring Station 931 in Clinton County, Pa.

Applicants state that their exchange agreement will result in a net reduction of $27,735,700 in construction costs. The agreement provides for an exchange charge of $150,000 per month for the exchange of gas as proposed, which is a negotiated charge. The exchange agreement further provides that subject to Texas Eastern's placing in effect increased rates to compensate it for loss of the monthly exchange charge, Consolidated LNG's obligation to pay the monthly exchange charge then in effect would be suspended for each consecutive month following nine consecutive months during which Consolidated LNG fails to tender at the receiving points any daily deliveries of gas, it is said. It is asserted that if Texas Eastern's compensating increased rates are not in effect at the end of such nine month period, Consolidated LNG would continue to be obligated to pay Texas Eastern the monthly exchange charge until such time as Texas Eastern's compensating increased rates become effective.

The Commission has evaluated the environmental consequences of the proposed new construction and exchange of gas, and has determined that approval of the proposal would not constitute a major federal action significantly affecting the environment. The proposed facilities to effectuate this amended proposal would be constructed on small areas of land, would facilitate the exchange of gas and would eliminate the need for construction of 80 miles of pipeline.

The project for which the presently certificated Loudoun to Leidy facilities are part was approved by the Commission in Opinion Nos. 622 and 622–A, Columbia LNG Corporation, 47 FPC 1624, issued June 28, 1972, as modified on rehearing 48 FPC 723, issued October 5, 1972. Additional limited proceedings were ordered to consider the environmental issues of the Loudoun to Leidy pipeline, which culminated in the Commission's order approving stipulation and agreement for location of pipeline right-of-way, issued March 21, 1975. While consolidation with Columbia LNG Corporation, et al., Docket No. CP71–68, et al., was appropriate when ordered to enable the Commission to consider the project as a whole, it is now of little moment to the import project as a whole whether Consolidated gas moves by exchange or direct transmission to Clinton County, Pa. Continuing consolidation of Docket No. CP71–290 with the Columbia LNG project serves only to guarantee an enormous service list consisting of the customers of Columbia and Southern. For this reason, the Commission orders severance below, and consolidation of Docket Nos. CP71–290 and CP77–418.

The petition to amend was noticed in the FEDERAL REGISTER on June 13, 1977, 42 FR 30248. The Application in Docket No. CP77–418 was noticed in the FEDERAL REGISTER on June 23, 1977, 42 FR 31835. Timely petitions to intervene were submitted by the following entities:

Philadelphia Electric Co.
Philadelphia Gas Works
New York State Electric & Gas Corp.
Columbia Gas Transmission Corp.
Public Service Electric and Gas Co.
Public Service Commission of the State of New York[1]
Commonwealth of Virginia
Fairfax County, Va.

Late petitions to intervene were submitted by the following:

Boston Gas Co.
Long Island Lighting Co.
The Brooklyn Union Gas Co.
Rochester Gas & Electric Corp.
Elizabethtown Gas Co.
East Ohio Gas Co.

These late interventions will not delay the proceeding and will be permitted. In their petitions, Boston Gas Company, Elizabethtown Gas Company, and Philadelphia Gas Works request formal hearing. Brooklyn Union Gas Company requests a hearing unless certain conditions are imposed on any certificate issued. The intervenors, all customers of Texas Eastern, question the details of the exchange contract, and more specifically the amount of the charges and the possibility of higher BTU gas delivered to Texas Eastern affecting the volumes of gas available to them as customers of Texas Eastern. Without passing on the merits of these allegations, and likewise without addressing the conditions sought by the Brooklyn Union Gas Company, the Commission believes these allegations warrant development of a formal hearing record upon which to base a decision.

[1] Notice of intervention.

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On August 18, 1977, Consolidated LNG applied for a temporary certificate to authorize the construction and operation of the 4.09-mile deviation to the Perulack Compressor Station on the Texas Eastern system and construction and operation of new delivery points. Consolidated declares that it agrees that the temporary, if issued, will not prejudge or prejudice the issues raised by the intervenors on the exchange contract, and states that it has contracted the intervenors and that none of them oppose issuance of a temporary certificate on that basis. Based upon this pleading the construction of facilities is authorized by temporary certificate, but the authority to operate, as well as the propriety of amendment sought in Docket No. CP71–290 are reserved for decision in the proceeding ordered below.

The Commission finds: (1) It is necessary and appropriate that a formal hearing record be developed concerning the issues raised in the petition to amend in Docket No. CP71–290 and the application in Docket No. CP77–418.

(2) The proceeding in Docket No. CP71–290 is no longer appropriate for consolidation with the proceeding in Docket No. CP71–68, et al., and should be severed.

(3) The proceeding in Docket No. CP71–290 raises common questions of law and fact with the application in Docket No. CP77–418 and should be consolidated for hearing and decision.

(4) Participation by the above-named intervenors may be in the public interest.

The Commission orders: (A) The proceeding in Docket No. CP71–290 is hereby severed from the proceeding in Docket No. CP71–68, et al., and consolidated with the proceeding in Docket No. CP77–418 for hearing and decision.

(B) A temporary certificate is issued to Consolidated System LNG Company authorizing construction of the facilities described above, *provided*, That such facilities shall not be operated until further order of the Commission, and *provided further*, That the originally certificated facilities sought to be deleted by the petition to amend in Docket No. CP71–290 shall not be constructed or operated until further order of the Commission.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a public hearing shall be held in a hearing room of the Federal Power Commission, respecting all matters and issues in this proceeding.

(D) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to Section 3.5(d) of the Commission's General Rules 18 CFR 3.5(d) shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates and to rule on all motions with the exception of petitions to intervene, motions to consolidate and sever and motions to dismiss, as provided for in the Commission's Rules of Practice and Procedure.

(E) A prehearing conference shall be convened on September 22, 1977, at 10:00 a.m. in a hearing room of the Federal Power Commission before the designated Administrative Law Judge to discuss procedural issues, clarification of issues, dates for testimony and orderly presentation of evidence.

(F) The aforesaid petitioners to intervene are permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission; *Provided, however*, That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and *Provided*, further, that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27109 Filed 9-16-77;8:45 am]

[Docket No. ID-1779]

R. E. DISBROW

Application

SEPTEMBER 12, 1977.

Take notice that on August 29, 1977, R. E. Disbrow, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Appalachian Power Co., electric utility.
Vice President and Director, Indiana & Michigan Electric Co., electric utility.
Vice President and Director, Indiana & Michigan Power Co., electric utility.
Vice President, Kentucky Power Co., electric utility.
Vice President, Kingsport Power Co., electric utility.
Vice President, Michigan Power Co., electric utility.
Vice President, Ohio Power Co., electric utility.
Vice President, Wheeling Electric Co., electric utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 30, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27124 Filed 9-16-77;8:45 am]

[Docket No. ID-1816]

A. JOSEPH DOWD

Application

SEPTEMBER 12, 1977.

Take notice that on August 29, 1977, A. Joseph Dowd, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following position:

Director, Kentucky Power Co., electric utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 30, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27116 Filed 9-16-77;8:45 am]

[Docket No. ID-1778]

JACK LLOYD

Application

SEPTEMBER 12, 1977.

Take notice that on August 30, 1977, Jack Lloyd, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following position:

Director, Appalachian Power Co., electric utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on on before September 30, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27118 Filed 9-16-77;8:45 am]

[Docket No. RP77-124]

McCULLOCH INTERSTATE GAS CORP.

Order Accepting for Filing and Suspending Proposed Rate Increase, Initiating Hearing, Establishing Procedures, and Requiring Restatement of Rates and Granting Petition To Intervene

SEPTEMBER 9, 1977.

On August 10, 1977, McCulloch Interstate Gas Corp. (McCulloch) tendered for filing in the above docket certain proposed changes to its FPC Gas Tariff [1] which would increase its revenues for jurisdictional natural gas sales and services by approximately $40,700 annually, based upon costs and sales for the 12 months ended December 31, 1976, as adjusted for known and measurable changes through September 30, 1977. McCulloch requests the proposed increase be permitted to become effective on June 1, 1977. For the reasons set forth below, the Commission shall accept the proposed increase for filing, subject to restatement, suspend it until November 1, 1977, and set the matter for hearing.

McCulloch proposes to increase its X–1 transportation rate charged to Colorado Interstate Gas Co. from 7 cents per Mcf to 7.67 cents per Mcf. McCulloch also proposed to reduce its rate schedule PL–1 rate by 0.56 cents per MMBtu to 127.68 cents per MMBtu. McCulloch states the principal reasons for the proposed net increase in rates are (1) increased cost of operations, (2) diminishing gas reserves, and (3) the need to assure a reasonable rate of return. McCulloch claims a rate of return of 10.19 percent with a return on common equity of 13 percent.

Based upon a review of McCulloch's filing, the Commission finds that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the rates shall be suspended and the matter set for hearing.

McCulloch originally tendered its proposed rate increase for filing on April 29, 1977, in Docket No. RP77–61. The requested effective date was June 1, 1977. On May 27, 1977, the Commission rejected the filing in Docket No. RP77–61 on grounds that McCulloch's application did not support the rates which it claimed. The present filing has been revised by McCulloch to meet the objections stated in the order of May 27th and was resubmitted by McCulloch in Docket No. RP77–61. The filing was treated as a new filing by the Commission and was assigned the present Docket No. RP77–124.

In determining the suspension period to be imposed in this case, the Commission has considered the procedural history of McCulloch's filing as described above. The Commission finds that under the circumstances of this case it would be unduly severe to prescribe a maximum five month suspension period commencing September 11, 1977, the earliest date on which the proposed rates in Docket No. RP77–124 could become effective in the absence of a waiver of the Commission's regulations. While the Commission believes that good cause has not been shown to waive the regulations and permit the rates to become effective on June 1, 1977, as requested, for the reason that they have not been shown to be just and reasonable, nevertheless the Commission finds that as a matter of discretion, a suspension period should be imposed such that the proposed rates may become effective, subject to refund, on November 1, 1977, the same date the original rates in Docket No. RP77–61 would have beome effective had they been suspended for five months.

A review of McCulloch's filing indicates that the components of the PL–1 rate of 127.68 cents per MMBtu shown on Eleventh Revised Tariff Sheet No. 32 are incorrectly stated. The Commission's acceptance for filing of the present application in Docket No. RP77–124 shall therefore be made subject to the prompt submission by McCulloch of a restatement of the PL–1 rate consistent with the supporting materials contained in its filing. The present and revised statement of rates are shown below:

PL–1 rate component	Present, cents per MMBtu	Restated, cents per MMBtu
Base tariff rate	47.89	[1] 105.05
Current adjustment	(.56)	[2] 22.63
Cumulative adjustment	79.79	[2] 22.63
Currently effective rate	127.68	127.68

[1] 127.68 cents per MMBtu less 22.63 c per MMBtu
[2] Statement A(4).

Public notice of McCulloch's filing was issued on August 31, 1977, providing for protests and petitions to intervene to be filed on or before September 9, 1977. On September 8, 1977, Mountain Fuel Gas Supply Corp. (Mountain Fuel) filed a timely petition to intervene. Mountain Fuel has demonstrated an interest in this proceeding and its participation may be in the public interest. Accordingly its petition to intervene shall be granted.

Finally, the Commission notes that the 12 months of actual experience upon which McCulloch's filing is predicated ended on December 31, 1976, some seven months prior to the date of the present filing. Under normal circumstances, this would represent a violation of the requirements of section 154.63(e)(2) of the Commission's regulations. This section requires that the end of the base year shall be not more than four months prior to the date of filing. However as noted above, the present filing represents a correction of McCulloch's filing of April 29, 1977. The original filing met the four month requirement. The Commission finds it would be unreasonable and unnecessary to require McCulloch to revise its base and test period data for purposes of the present filing, and the Commission shall therefore for good cause waive the applicable regulation.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates proposed by McCulloch and that the same be accepted for filing and suspended as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by McCulloch.

(B) Pending hearing and decision, McCulloch's proposed rate increase is accepted for filing and suspended until November 1, 1977, when it shall be permitted to become effective, subject to refund, upon motion filed by McCulloch in accordance with the provisions of the Natural Gas Act.

(C) Within 15 days from the date of this order, McCulloch shall file a revised tariff sheet restating the PL–1 rate in accordance with the terms of this order.

(D) Waiver of section 154.63(e)(2) of the Commission's regulations is granted.

(E) The Commission staff shall prepare and serve top sheets on all parties on or before December 5, 1977.

(F) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(G) Mountain Fuel is permitted to intervene in this proceeding subject to the Commission's Rules and Regulations; *Provided, however*, That its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition to intervene; and *Provided, further*, That the admission of Mountain Fuel as an intervenor shall not be construed as recognition that it might be aggrieved by any order entered in this proceeding.

(H) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27110 Filed 9-16-77;8:45 am]

[1] Eleventh Revised Sheet No. 32 and Second Revised Sheet No. 38 to Original Tariff Volume No. 1.

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[Docket No. CP77-114]

MISSISSIPPI RIVER TRANSMISSION CORP., ET AL.

Amendment

SEPTEMBER 12, 1977.

Take notice that on August 31, 1977, Mississippi River Transmission Corp. (Mississippi), P.O. Box 14521, St. Louis, Mo. 63178, Arkansas Louisiana Gas Co. (Arkla), P.O. Box 1734, Shreveport, La. 71151, and Arkansas Oklahoma Gas Corp. (Ark–Okla), 115 North 12th Street, Fort Smith, Ark. 72901 (Petitioners), filed in Docket No. CP77–114 an amendment to their joint application for a certificate of public convenience and necessity filed on January 4, 1977, in the instant docket, pursuant to section 7(c) of the Natural Gas Act so as to provide for the payment by Ark–Okla to Mississippi of an initial 15.79 cents per Mcf transportation charge for each Mcf of gas transported and delivered by Mississippi to Ark–Okla in accordance with a July 18, 1977, amendment to an exchange agreement between Petitioners dated May 5, 1976, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Petitioners state that in their January 4, 1977, application they sought the authorization of a tri-party exchange of nautral gas pursuant to the provisions of a May 5, 1976, exchange agreement. Under that agreement Ark–Okla would deliver from its U.S.A. No. 1–8 Well in Sebastian County, Ark., during the months of December, January, and February, up to 1,000 Mcf of natural gas per day to Arkla which would deliver equivalent volumes to Mississippi at its Sherrill Connection in Jefferson County, Ark. Mississippi would then deliver equivalent volumes on a best-efforts basis to Ark–Okla at an existing point of delivery near Pocahontas, Ark., it is said.

The May 5, 1976, exchange agreement intended this transaction to be a straight gas-for-gas exchange with no monetary compensation being paid by or to any party, it is indicated. Petitioners assert, however, that by letter of the Commission Secretary dated February 28, 1977, Mississippi was requested to amend its application in this proceeding to provide for the payment by Ark-Okla to Mississippi of a transportation charge. In accordance therewith Petitioners seek to amend their January 4, 1977, application.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commision's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27122 Filed 9-16-77;8:45 am]

[Docket No. CP77-600]

NORTHERN NATURAL GAS CO.

Application

SEPTEMBER 9, 1977.

Take notice that on September 1, 1977, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP77–600 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for North Central Public Service Co. (North Central) pursuant to a Gas Transportation Agreement dated August 1, 1977, among Applicant, North Central, and Iowa Power and Light Co. (Iowa Power), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it would, upon request by North Central, deliver during the period March 27 through November 26 of each year (Summer Season) up to 1,000 Mcf of Summer Maximum Daily Volume (Summer MDV) to Iowa Power at Des Moines, Iowa, for the account of North Central and that Iowa Power would liquefy and store such volumes for North Central. It is stated that such deliveries would be made through Applicant's Des Moines, Iowa, TBS No. 1 located in Polk County, Iowa, and that on days not within the Summer Season when no Winter Season deliveries are made, North Central may request and, subject to the approval of Applicant and Iowa Power, have gas delivered to Iowa Power under the same terms and conditions as volumes delivered during the Sumer Season. The total net liquefied natural gas (LNG) inventory held in storage by Iowa Power for North Central's account would at no time exceed 16,000 Mcf, it is indicated.

It is indicated that each day during the Summer Season, North Central would designate the volume it wishes Applicant to deliver to Iowa Power at Des Moines for liquefaction and storage and that gas volumes delivered on any day would be those which could otherwise be delivered to North Central within their authorized entitlement for such day.

Further, it is asserted that Applicant would, at the direction of North Central, transport by displacement during the period November 27 through March 26 (Winter Season) volumes of vaporized LNG at a daily rate of up to 600 Mcf to North Central's Perry, Iowa, delivery point and up to 400 Mcf to its Algona, Iowa, delivery point. It is said that total daily volumes designated for transportation by North Central would be made available to Applicant by Iowa Power's injection of vaporized LNG volumes into its Des Moines distribution system and the concurrent reduction of authorized deliveries by Applicant to Iowa Power at Des Moines, Iowa, under Applicant's Rate Schedule CD–1. It is stated that all Winter Season volumes of gas transported for North Central would be resold only to firm and small volume consumers.

The application shows that North Central would pay Applicant a monthly transportation demand charge of $209.90 during the Summer Season and $302.34 during the Winter Season and a commodity charge of 1.5 cents per Mcf of Winter Season volumes transported by Applicant.

It is stated that the transportation service would provide the flexibility and additional reliability desirable to protect service to North Central's high priority customers served from its Perry and Algona distribution system and that the gas to be transported is required for the 1977–78 heating season.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27111 Filed 9-16-77;8:45 am]

[Docket Nos. E-9068, E-9118, and E-9497]

OHIO EDISON CO.

Refund Report

SEPTEMBER 12, 1977.

Take notice that on September 6, 1977, Ohio Edison Co. (Ohio Edison) tendered for filing its report containing the information with respect to refunds required by the Commission Order Approving Settlement issued in this docket on July 6, 1977.

Ohio Edison states that copies of the report have been served on all parties of record in this proceeding and have been furnished to the Public Utilities Commission of Ohio.

Any person desiring to protest said filing should file a protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Section 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.10). All such protests should be filed on or before September 28, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27123 Filed 9-16-77;8:45 am]

[Docket No. CP72-118]

SEA ROBIN PIPELINE CO.

Application To Amend

SEPTEMBER 12, 1977.

Take notice that on August 29, 1977, Sea Robin Pipeline Co. (Sea Robin), P.O. Box 1478, Houston, Tex. 77001, filed an application to amend the certificate heretofore issued by the Federal Power Commission in Docket No. CP72–118. Sea Robin states that a decline in production from Block 261 East Cameron Area and Tennessee Gas Pipeline Co.'s (Tennessee) capability to transport its own gas from Block 338 Eugene Island Area has caused Tennessee to request Sea Robin to reduce Tennessee's Contract Demand Quantity under Sea Robin's Rate Schedule X–4 from 35,000 Mcf per day to 15,000 Mcf per day. Sea Robin requests Commission authorization to revise its Rate Schedule X–4 accordingly.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 3, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessary. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised; it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27125 Filed 9-16-77;8:45 am]

[Docket No. ER77-577]

SIERRA PACIFIC POWER CO.

Filing of Supplement to Rate Schedule

SEPTEMBER 9, 1977.

Take notice that Sierra Pacific Power Co. (Sierra) on September 6, 1977, tendered for filing Supplement No. 1 to its Rate Schedule FPC No. 10.

Sierra states that Supplement No. 1 is a supplemental agreement dated August 10, 1972. Sierra further states that the rate schedule supplement provides for the establishment of a second interconnection for the interstate sale for resale of electric energy between Utah Power & Light Co. and Sierra Pacific Power Co., the extension of the term of the original agreement (Rate Schedules FPC No. 108 and No. 10), and the increase of Utah Power & Light Co.'s firm sales of power and energy to Sierra Pacific Power Co. to an additioanl 150 MW in 1978 and thereafter. Sierra indicates that the supplement involves no change in rates.

Sierra requests an effective date of October 1, 1977, and therefore requests waiver of the Commission's notice requirements.

According to Sierra copies of the filing were served upon Utah Power & Light Co., the other party to the amendatory agreement, the Nevada Public Service Commission, the California Public Utilities Commisssion, and the Utah Public Service Commission.

Any person desiring to be heard or to protest the filing of the supplemental rate schedule should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 26, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27112 Filed 9-16-77;8:45 am]

[Docket No. G-17500]

ST. LAWRENCE CO., INC.

Petition To Amend

SEPTEMBER 9, 1977.

Take notice that on September 1, 1977, St. Lawrence Gas Co., Inc. (Petitioner), 56–68 Main Street, Massena, N.Y. 13662, filed in Docket No. G–17500 a petition to amend the Commission's Opinion No. 347 and order of December 8, 1966, issued in the instant docket (26 FPC 265) pursuant to Section 3 of the Natural Gas Act so as to authorize the importation from Canada into the United States by Petitioner through December 31, 1977, a maximum daily volume of 30,000 Mcf of natural gas and a maximum annual volume of 6,000,000 of natural gas, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner indicates that pursuant to Opinion No. 347 and order, as amended, it is authorized to import from Canada maximum annual and daily volumes of natural gas in amounts of 5,519,987 Mcf and 23,000 Mcf respectively, for distribution and sale to consumers in St. Lawrence County, N.Y.

Petitioner states that current estimates of the natural gas requirements of its system for the annual period ending December 31, 1977, indicate a total of 5,800,000 Mcf, unless interruptible sales for the months of September and October 1977 are to be excluded. Petitioner has been advised by its sole supplier, Niagara Gas Transmission Ltd. (Niagara), that sufficient supplies of natural gas would be available to it to meet the projected uncurtailed market requirements for September and October, it is indicated.

Petitioner indicates that no additional facilities would be required to be constructed by Niagara or by Petitioner to enable transportation and delivery by Niagara and receipt by Petitioner of the proposed maximum annual and daily volumes of gas.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any

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person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27113 Filed 9-16-77; 8:45 am]

[Project No. 405]

SUSQUEHANNA POWER CO. PHILADELPHIA ELECTRIC POWER CO.

Informal Conference

SEPTEMBER 9, 1977.

Take notice that on Friday, September 30, 1977, at 10:30 a.m., an Informal Technical Conference will be held in the second floor conference room of the Fulton Bank Building, corner of 3rd and Walnut Streets, Harrisburg, Pa. The purpose of the conference will be to discuss the issues concerning the Conowingo Project, FPC No. 405, owned and operated by the Susquehanna Power Co. and Philadelphia Electric Power Co., and the restoration of anadromous fish to the Susquehanna River. Representatives from the following entities have stated that they will attend the conference: (a) The Susquehanna Power Co. and Philadelphia Electric Power Co.; (b) the Maryland Department of Natural Resources and Attorney General's Office; (c) the Pennsylvania Fish Commission; (d) the New York State Department of Environmental Conservation; (e) the Susquehanna River Basin Commission; (f) the U.S. Fish and Wildlife Service; (g) the National Marine Fisheries Service; and (h) the Commission's staff.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27114 Filed 9-16-77;8:45 am]

[Docket Nos. ER77-549, ER77-550, and ER77-516]

TAMPA ELECTRIC CO.

Order Accepting for Filing and Suspending Rate Increases, Providing for Hearing, Establishing Procedures and Consolidating Proceedings

SEPTEMBER 9, 1977.

On August 10, 1977, Tampa Electric Co. (Tampa) tendered for filing proposed interconnection agreements with Florida Power Corp. (Florida Power) and Florida Power & Light Co. (FP&L). With its filing, Tampa submitted concurrences executed by Florida Power and FP&L. The agreements would provide three classes of service between Tampa, Florida, and FPL; (1) Emergency interchange service, (2) scheduled interchange service, and (3) economy interchange service.

Public notice of the filing was given on August 17, 1977, with comments, protests, and petitions to intervene due on or before August 31, 1977. None were received.

On July 14, 1977, in Docket No. ER77-516, Florida Power tendered for filing a proposed interchange agreement with FP&L. In an order of August 1, 1977, the Commission determined that the amount of rate increase (to FP&L) could not be determined at that time because it depended on the interchange operations themselves. In its order the Commission suspended the proposed rates and charges until August 15, 1977, when they became effective subject to refund. The Commission ordered that, pursuant to section 205 and 206 of the Federal Power Act, a hearing be held concerning the lawfulness of the proposed rates.

Tampa states that the agreements filed on August 10, 1977, by Tampa would provide interchange service identical with that proposed in Docket No. ER77-516, above, except that the August 10, 1977, filings would include Tampa Electric Co. in addition to Florida Power and FP&L. In its filing Tampa requests waiver of the Commission's notice requirements[1] and an effective date of August 14, 1977, so that the susension period would coincide with the requested effective date of the Florida Power-FP&L agreement.[2]

As stated supra, the interconnection service to be provided in Docket No. ER 77-516 and the instant case, ER77-549 and ER77-550 are closely related. Accordingly, these dockets shall be consolidated as hereinafter ordered. The effective dates for the agreements shall not, however, be the same.

Our review of Tampa's filing indicates that the terms and conditions of the proposed agreement, filed by Tampa Electric Co. on August 10, 1977, have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful. Accordingly, we will accept Tampa's agreements for filing and suspend their operation for one day to become effective September 11, 1977, subject to refund. We will also establish hearing procedures for the consolidated dockets as described above.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the proposed increased rates and charges tendered by Tampa Electric Co. on August 10, 1977, establishing procedures for that hearing, and that the proposed increased rates and charges be accepted for filing, suspended, and the use thereof deferred, all as hereinafter ordered.

(2) Good cause exists to consolidate the instant case with Docket No. ER77-516.

(3) Good cause to waive the Commission's notice requirements does not exist.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly sections 205, 206, 301, 307, 308, and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Tampa Electric Co. in this proceeding.

(B) Pending such hearing and decision thereon, the proposed increased rates and charges filed by Tampa Electric Co. on August 10, 1977, and identified above are hereby accepted for filing, suspended and the use thereof deferred until September 11, 1977, when they shall become effective, subject to refund.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see, Delegation of Authority, 18 CFR § 3.5(d)), shall preside at an initial conference in this proceeding to be held on October 7, 1977, at 10 a.m. (ET) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(D) Docket Nos. ER77-516, ER77-549, and ER77-550 are hereby consolidated for purposes of hearing and decision.

(E) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement purpuant to section 1.18 of the Commission's Rules of Practice and Procedure.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-27115 Filed 9-16-77;8:45 am]

[Docket No. ID-1528]

JOHN TILLINGHAST

Application

SEPTEMBER 12, 1977.

Take notice that on September 1, 1977, John Tillinghast filed an application pursuant to section 305(b) of the Federal Power Act to hold the following position:

Vice President, Michigan Power Co., electric utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 3, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27120 Filed 9-16-77;8:45 am]

[Docket No. CP77-596]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

SEPTEMBER 12 ,1977.

Take notice that on August 30, 1977, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP77-596 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation on an interruptible basis for Philadelphia Electric Co. (PECO) each year during a limited term of five years beginning November 1, 1977, 3,500,000 dekatherms (dt) vaporous equivalent of synthetic gas which PECO would purchase from the Brooklyn Union Gas Co. (BUG) to serve better its high priority markets, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that BUG would make available to PECO up to 35,000 dt per day by reducing its takes from Applicant, and Applicant would deliver equivalent quantities to PECO at existing delivery points, in accordance with an agreement between Applicant, PECO and BUG dated July 11, 1977. Applicant states that PECO would pay it an initial charge of 9.55 cents per dt transported and delivered and that no additional facilities are required to render this service.

It is indicated that PECO is experiencing substantial curtailment in deliveries of contract demand volumes from Applicant due to the shortage of flowing gas supplies on Applicant's system, and that the additional gas to be made available by BUG would offset these curtailments under Applicant's Rate Schedule CD-3.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 3, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27126 Filed 9-16-77;8:45 am]

[Docket No. CP77-598]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

SEPTEMBER 12, 1977.

Take notice that on August 31, 1977, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP77-598 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation on an interruptible basis for South Jersey Gas Co. (South Jersey) each year during a limited term of five years beginning November 1, 1977, 2,000,000 dekatherms (dt) vaporous equivalent of synthetic gas which South Jersey would purchase from the Brooklyn Union Gas Co. (BUG) to serve better its high priority markets, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that BUG would make available to South Jersey up to 30,000 dt per day by reducing its takes from Applicant, and Applicant would deliver equivalent quantities to South Jersey at existing delivery points, in accordance with an agreement between Applicant, South Jersey and BUG dated July 11, 1977. Applicant states that South Jersey would pay it an initial charge of 9.55 cents per dt transported and delivered and that no additional facilities are required to render this service.

It is indicated that South Jersey is experiencing substantial curtailment in deliveries of contract demand volumes from Applicant due to the shortage of flowing gas supplies on Applicant's system, and that the additional gas to be made available by BUG would offset these curtailments under Applicant's Rate Schedule CD-3.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77 27127 Filed 9-16-77;8:45 am]

[Docket No. CP77-597]

TRUNKLINE GAS CO.

Application

SEPTEMBER 12, 1977.

Take notice that on August 31, 1977, Trunkline Gas Co. (Applicant), P.O. Box 1642, Houston, Tex. 77001, filed in Docket No. CP77-597 an application pursuant to section 7(c) of the Natural Gas Act and the regulations thereunder for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Amoco Production Co. (Amoco), and for a temporary certificate therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes a two-part transportation service consisting of (1) transportation of volumes up to 50 percent of the capacity of Applicant's six-inch line under construction between Blocks 292 and 274 of the Ship Shoal Area, offshore Louisiana; and (2) transportation of 3,000 Mcf per day on a firm basis, plus additional volumes on a best

[1] Section 205(d), Federal Power Act, 16 U.S.C. 824d(d).

[2] In its order of August 1, 1977, the Commission suspended the proposed rates in Docket No. ER77-516 for one day, to become effective August 15, 1977, subject to refund.

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efforts basis, between Block 274 and a point of redelivery to Amoco near the facilities of Florida Gas Transmission Corp. in Calcasieu Parish, La. The facilities to be used in the transportation service between Ship Shoal Block 292 and Block 274 will be constructed by Applicant pursuant to its Budget Certificate obtained in Docket No. CP77-314. Amoco will make a contribution in aid of construction of one-half of the costs of such facilities. Applicant will purchase 50 percent of Amoco's gas reserves in Block 292 for its own account. Applicant proposes to utilize existing facilities to provide the proposed transportation from Ship Shoal Block 274 to the onshore redelivery point except for a measuring station to be installed at the point of redelivery. The estimated cost of this facility is $28,000.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 3, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-27128 Filed 9-16-77;8:45 am]

[Docket No. CP77-554]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application; Correction

SEPTEMBER 2, 1977.

In FR Doc. 77-24898, issued August 22, 1977, appearing at page 43449 in the issue for Monday, August 29, 1977, make the following correction:

Delete "and section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79)".

[FR Doc.77-27129 Filed 9-16-77;8:45 am]

[Docket No. RM76-15]

REGULATION OF SMALL PRODUCERS

Order Granting Rehearing for Purposes of Further Consideration and Granting Intervention

SEPTEMBER 7, 1977.

On July 14, 1977, the Commission issued its Order No. 568 amending section 157.40 of its Regulations in an effort to resolve certain problems which had arisen in the administration of the small producer program. On August 10, 1977, and August 15, 1977, respectively, applications for rehearing and clarification were filed by Texas Oil & Gas Corp., et al. (TXO) and American Liberty Oil Co. (American Liberty). American Liberty also filed a petition for leave to intervene.

We shall grant the applications for rehearing solely for purposes of further consideration. This action does not constitute a grant or denial of the applications on their merits in whole or in part.

The Commission orders: (A) The applications for rehearing of our July 14, 1977, order filed by TXO and American Liberty are granted for purposes of further consideration.

(B) American Liberty is permitted to intervene in the above-entitled proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene; and *provided further,* That the admission of American Liberty in the manner provided shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders entered in this proceeding, and that American Liberty agrees to accept the record as it now stands.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27107 Filed 9-16-77;8:45 am]

FEDERAL RESERVE SYSTEM

CENTRAL STATE BANCSHARES, INC.

Formation of Bank Holding Company

Central State Bancshares, Inc., Nevada, Mo., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of Webb City Bank, Webb City, Mo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 6, 1977.

Board of Governors of the Federal Reserve System, September 12, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-27076 Filed 9-16-77;8:45 am]

GENERAL EDUCATIONAL FUND, INC.

Determinaton Regarding "Grandfather Privileges" Under Bank Holding Company Act

Section 4 of the Bank Holding Company Act (12 U.S.C. 1843) provides certain privileges ("grandfather privileges") with respect to nonbanking activities of a company that, by virtue of the 1970 Amendments to the Bank Holding Company Act, became subject to the Bank Holding Company Act. Pursuant to section 4(a)(2) of the Act, a "company covered in 1970" may continue to engage, either directly or through a subsidiary, in nonbanking activities that such company was lawfully engaged in on June 30, 1968 (or on a date subsequent to June 30, 1968, in the case of activities carried on as a result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition), and has been continuously engaged in since June 30, 1968 (or such subsequent date).

Section 4(a)(2) of the Act provides, inter alia, that the Board of Governors of the Federal Reserve System may terminate such grandfather privileges if, having due regard to the purposes of the Act, the Board determines that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. The Board is required to make such a determination with respect to a company that controls a bank with assets in excess of $60 million on or after December 31, 1970.

Notice of the Board's proposed review of the grandfather privileges of General Educational Fund, Inc., Burlington, Vt., affording an opportunity for interested persons to submit comments and views or request a hearing, has been given (40 F.R. 57398). The time for filing comments, views and requests has expired, and all those received have been considered by the Board in light of the factors set forth in § 4(a)(2) of the Act.

On the evidence before it, the Board makes the following findings. General Educational Fund, Inc., Burlington, Vt. ("Registrant"), became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the Act, by virtue of Registrant's ownership of more than 25 percent of the outstanding voting shares of The Merchants Bank (formerly The Merchants National Bank of Burlington), Burlington, Vt. ("Bank") (assets of $64 million as of December 31, 1972). As of December 31, 1976, Bank was the fifth largest commercial bank in Vermont, controlling deposits of $86.7 million representing 5.8 percent of total commercial bank deposits in the State. It is the smallest of three banks in the Chittenden County banking market, and controls 18.5 percent of deposits in commercial banks in that market. Bank's managerial and financial resources and its future prospects are regarded as generally satisfactory, and the Board has found no evidence of any unsound banking practices.

Registrant is a charitable trust incorporated in 1918 under the laws of the State of Vermont "* * * for the purpose of aiding young men and women to obtain a common school or University Education, or both, or to learn a trade * * * provided that only those persons be aided, who, in the best judgment of the trustees of said corporation or their successors are worthy to receive such aid and are in need of same." Since Registrant has conducted these charitable activities continuously since prior to June 30, 1968, it would appear to be eligible for grandfather privileges for its charitable activities.

During the 1920's Registrant received as a donation over 50 percent of the common stock of Bank and all of the common stock of The Farmers Trust Co., Burlington, Vt. ("Trust Company"). Since Trust Company does not accept deposits that the depositor has a legal right to withdraw on demand and does not engage in the business of making commercial loans, it is not a "bank" as defined in the Act. Accordingly, Registrant's ownership of the shares of Trust Company must be treated as an interest in a nonbanking organization. Since Registrant has controlled directly or indirectly 100 percent of the shares of Trust Company continuously since prior to June 30, 1968, it would appear to be eligible for grandfather privileges for the activities of Trust Company.

Trust Company is a State-chartered trust company with total assets of $17.4 million as of December 31, 1973. Registrant's activities, investments and supervision are managed in a fiduciary capacity by Trust Company. Trust Company also functions as the trust department of the Bank and over the years, several proposals have been made to merge the two. In view of the longstanding relationship between Bank and Trust Company, as well as the fact that Bank engages in its trust activities through Trust Company, continuation of the existing relationship would not present any serious anti-competitive effects.

Registrant indirectly through Bank has two wholly-owned subsidiaries, Merchants Properties, Inc., and Batreal, Inc., each of which owns the land and buildings occupied by Bank. Additionally, Registrant indirectly through Bank owns 50 percent of the shares of Vermont Realty, Inc., which owns a parking lot used for and by Bank. The activities of these companies appear to be exempt from the prohibitions of section 4 of the Act by virtue of section 4(c)(1)(A) of the Act, and Registrant need not rely on section 4(a)(2) of the Act to continue to engage in these activities.

On the basis of the foregoing and all the facts before the Board, it appears that the volume, scope, and nature of the grandfathered activities of Registrant and its subsidiary do not demonstrate an undue concentration of resources, decreased or unfair competition, conflicts of interest or unsound banking practices.

There appears to be no reason to require Registrant to cease engaging in the activities it engages in directly not to require Registrant to terminate its interest in its grandfathered subsidiary. It is the Board's judgment that, at this time, termination of the grandfather privileges of Registrant is not necessary in order to prevent an undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. However, this determination is not authority to enter into any activity that was not engaged in on June 30, 1968 and continuously thereafter, or any activity that is not the subject of this determination.

A significant alteration in the nature or extent of Registrant's grandfathered activities or a change in location thereof (significantly different from that described in this determination) will be cause for a re-evaluation by the Board of Registrant's activities under the provisions of section 4(a)(2) of the Act, that is, whenever the alteration or change is such that the Board finds that a termis, whenever the alteration or change is necessary to prevent an undue concentration of resources or any of the other harmful effects designated in the Act. No merger, consolidation, acquisition of assets other than in the ordinary course of business, or acquisition of any interest in a going concern, to which the Registrant or its nonbank subsidiary is a party, may be consummated without prior approval of the Board. Further, the provision of any credit, property, or service by the Registrant or any subsidiary thereof shall not be subject to any condition which, if imposed by a bank, would constitute an unlawful tie-in arrangement under section 106 of the Bank Holding Company Act Amendments of 1970.

The determination herein does not preclude a later review by the Board of Registrant's nonbank activities and a future determination by the Board in favor of termination of grandfather benefits of Registrant. The determination herein is subject to the Board's authority to require modification or termination of the activities of Registrant or any of its nonbanking subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasions thereof.

By determination of the Board of Governors,[1] effective September 13, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-27077 Filed 9-16-77;8:45 am]

[1] Voting for this action: Vice Chairman Gardner, Governors Wallich, Coldwell and Jackson. Absent and not voting: Chairman Burns and Governors Partee and Lilly.

TRANS-WYOMING BANK SHARES, INC.

Determination Regarding "Grandfather Privileges" Under Bank Holding Company Act

Section 4 of the Bank Holding Company Act (12 U.S.C. 1843) provides certain privileges ("grandfather privileges") with respect to nonbanking activities of a company that, by virtue of the 1970 Amendments to the Bank Holding Company Act, became subject to the Bank Holding Company Act. Pursuant to section 4(a)(2) of the Act, a "company covered in 1970" may continue to engage, either directly or through a subsidiary, in nonbanking activities that such company was lawfully engaged in on June 30, 1968 (or on a date subsequent to June 30, 1968, in the case of activities carried on as a result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition), and has been continuously engaged in since June 30, 1968 (or such subsequent date).

Section 4(a)(2) of the Act provides, inter alia, that the Board of Governors of the Federal Reserve System may terminate such grandfather privileges if, having due regard to the purposes of the Act, the Board determines that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. The Board is required to make such a determination with respect to a company that controls a bank with assets in excess of $60 million on or after December 31, 1970.

Notice of the Board's proposed review of the grandfather privileges of Trans-Wyoming Bank Shares, Inc., Cheyenne, Wyo., affording an opportunity for interested persons to submit comments and views or request a hearing, has been given (41 FR 37857). The time for filing comments, views, and requests has expired, and all those received have been considered by the Board in light of the factors set forth in section 4(a)(2) of the Act.

On the evidence before it, the Board makes the following findings. Trans-Wyoming Bank Shares, Inc., Cheyenne, Wyo., ("Registrant"), became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the Act, by virtue of Registrant's ownership of more than 25 percent of the outstanding voting shares of The American National Bank of Cheyenne, Cheyenne, Wyo. ("Bank") (assets of $66.3 million as of December 31, 1974). As of December 31, 1976, Bank was the fourth largest commercial bank in Wyoming controlling deposits of $68.7 million representing 3.7 percent of total commercial bank deposits in the State. Bank is the second largest of five banks in the Cheyenne banking market with 30.5 percent of deposits in commercial banks in the market. Bank's managerial and financial resources and future prospects are regarded as generally satisfactory, and the Board has found no evidence of any unsound banking practices.

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Registrant is engaged through a subsidiary, American National Building Co. of Cheyenne, Cheyenne, Wyo. ("Building"), in leasing properties to Bank and to Mountain States Telephone & Telegraph Co. ("MST&T").[1] On November 14, 1967, a lease was entered into between Bank as owner and MST&T as tenant providing for the leasing of certain real property and construction by Bank of a building thereon.[2] From the facts of record it appears that Building became a subsidiary of Registrant after June 30, 1968, but before December 31, 1970, and Building also became the owner of the property leased to MST&T during that period.[3]

The Board has previously determined that activities performed by a bank holding company solely through a subsidiary bank on or before June 30, 1968, and later transferred to the bank holding company, are not eligible for grandfather privileges (59 Federal Reserve Bulletin 371 (1973)). Since all the facts of record indicate that Registrant was not engaged in the nonbanking activities of Building on June 30, 1968, Registrant does not appear to be eligible for grandfather privileges for those activities. Accordingly, Registrant may not retain the activities of Building beyond December 31, 1980.[4]

On the basis of the foregoing and the facts before it, the Board finds that Registrant is not entitled to grandfather privileges within the meaning of the provision in section 4(a)(2) of the Act.

By determination of the Board of Governors,[5] effective September 13, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-27078 Filed 9-16-77;8:45 am]

[1] Inasmuch as the activities of Building with respect to leasing property to Bank for its use appear to be exempt from the prohibitions of section 4 of the Act by virtue of section 4(c)(1)(A) of the Act, Registrant need not rely on section 4(a)(2) of the Act to continue to engage in these activities.

[2] Registrant asserts that Building was the owner of the property leased to MST&T at the time the lease was entered into and that Bank was erroneously named as owner in the lease. However, Registrant has failed to submit copies of real estate records or other documents to support its claim that Building owned the leased property on or before June 30, 1968.

[3] Registrant asserts that Building became a subsidiary on September 25, 1967. Information from Bank's primary regulator indicates that Building became an affiliate of Bank on September 16, 1968, as a result of Registrant's acquisition of shares of Building on that date. In its registration statement filed with the Board, Registrant states that Building became a subsidiary on July 31, 1969. Registrant has failed to submit corporate records or other documents to support its claim that Building became a subsidiary on or before June 30, 1968.

[4] Of course, Registrant may file an application under section 4(c)(8) of the Act for the Board's approval of the retention of the shares of Building.

[5] Voting for this action: Vice Chairman Gardner, Governors Wallich, Coldwell, and Jackson. Absent and not voting: Chairman Burns and Governors Partee and Lilly.

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following request for clearance of reports intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on September 6, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before October 11, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

INTERSTATE COMMERCE COMMISSION

ICC requests an extension without change clearance of the Monthly Preliminary Report of Number of Employes of Class I Railways, required to be filed by some 91 Class I line-haul railroads and switching and terminal companies, pursuant to Section 20 of the Interstate Commerce Act. Data are used for economic regulatory purposes. No change is made in the data requirements. Reporting burden per report is estimated by ICC to average 14 hours for line-haul railroads and 8 hours for switching and terminal companies. Reports are mandatory and available for use by the public.

ICC requests an extension without change clearance of the Monthly Report of Employees, Service, and Compensation, ICC Wage Statistics Forms A&B, required to be filed by some 91 Class I line-haul railroads and switching and terminal companies, pursuant to Section 20 of the Interstate Commerce Act. Data are used for economic regulatory purposes. No change is made in the data requirements. Reporting burden per report is estimated by ICC to average 121 hours for line-haul railroads and 26 hours for switching and terminal companies. Reports are mandatory and available for use by the public.

ICC requests an extension without change clearance of the Quarterly Report of Freight Loss and Damage Claims—Motor Carriers, Form QL&D-M, required to be filed by some 2280 motor carriers of property with an average operating revenue of $1 million or more, pursuant to Section 220 of the Interstate Commerce Act. Data are used for economic regulatory purposes. Revisions in this quarterly report resulted from the addition of city zone codes following publication of Notice of Change in the FEDERAL REGISTER, 40 FR 27747; 39578. Reporting burden for carriers is estimated by ICC to average 36 hours per report. Reports are mandatory and available for use by the public.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-27097 Filed 9-16-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

METRIC EDUCATION PROGRAM

Closing Date for Receipt of Applications for Fiscal Year 1978

Notice is hereby given that, pursuant to authority contained in section 403 of the Education Amendments of 1974, Pub. L. 93-380 (20 U.S.C. 1862), applications are being accepted for the Metric Education Program. This program is authorized to make grants and contracts to State educational agencies, local educational agencies, institutions of higher education, and public and private nonprofit agencies, organizations, and institutions for the development, continuation, and expansion of metric education projects. Processing of these proposals will be subject to the availability of funds.

Closing date: December 12, 1977.

A. *Application forms and information.* Application forms and program information packages are available and will be mailed upon the publication of this Notice in the FEDERAL REGISTER.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention 13.561, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, or other unforeseen circumstances, the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than Wednesday, December 7, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education

mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. *Hand-delivered applications.* An Application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. *State comment.* A local educational agency (LEA) must provide a copy of its application to the State educational agency (SEA) of the State within which the applicant is located concurrently with its submission of the application to the Office of Education. For verification of submission to the SEA, the LEA applicant must enclose, in its application to the Commissioner, a copy of the dated cover letter used to forward a copy of its application to the SEA. State educational agencies wishing to submit advice and comments on any application originating within their State may do so by forwarding such advice and comments to the Metric Education Program, U.S. Office of Education, Room 5640, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. 20202. Advice and comments received from SEAs no later than Tuesday, December 27, 1977, will be considered in reviewing applications.

E. *Program information.* In formulating proposals, potential applicants should be aware of the amount of funds expected to become available for the program for Fiscal Year 1978 which will total $2,090,000. The program has no legislatively prescribed priorities, therefore, all eligible agencies may compete for the available funds. It is expected that awards of State and multi-State metric education planning grants will generally be in the range of $25,000–$40,000 and $50,000–$110,000, respectively; the school-based metric instructional pilot and model project grants will generally be in the range of $25,000–$35,000; the national technical support effort will generally be in the range of $175,000–$225,000; and the grants for purposes of conducting preservice and inservice teacher development projects will generally be in the range of $20,000–$30,000. Public and private nonprofit organizations are eligible to apply for grants in all four areas. During the 1977 fiscal year, 614 applications were received from SEA's, LEA's, IHE's, and NONPROFIT's. A total of 75 grants were awarded: 6, totaling $189,167, went to State education agencies; 34, totaling $873,550, to local education agencies; 27, totaling $740,986, to institutions of higher education; and 8, totaling $286,297, to nonprofit public and private institutions. Applicants should be aware that funds are generally available only to cover educational cost as specified in section 160a.29 and other sections of the regulation. All grants will be new awards, no funds are reserved for continuation awards. A current grantee may apply for a new award on the same basis as an applicant not previously funded. Projects are for one year in duration.

F. *For further information contact:* Metric Education Program U.S. Office of Education, Room 5640, Regional Office Building Three, 7th & D Streets, S.W., Washington, D.C. 20202.

G. *Applicable regulations.* The regulations applicable to this program are the Office of Education General Provisions Regulations (45 CFR Part 100a) and the Metric Education Program Regulation (45 CFR 160a) published on April 21, 1975, in the FEDERAL REGISTER included in the application package.

(20 U.S.C. 1862; 45 CFR Part 160a.)

(Catalog of Federal Domestic Assistance Number 13.561; Education for the Use of the Metric System of Measurement (commonly known as the Metric Education Program).)

Dated: September 13, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc.77-27134 Filed 9-16-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Public Hearing

AGENCY: Office of Education National Advisory Council on Women's Educational Programs.

ACTION: Notice of public hearing.

SUMMARY: This notice sets forth the schedule of a forthcoming hearing on the educational needs of displaced homemakers, single parents and older women, sponsored by the National Advisory Council on Women's Educational Programs. It also describes the functions of the Council. This document is intended to notify the public of their opportunity to attend.

DATE: September 30, 1977, 9 a.m. to 3 p.m.

ADDRESS: Bergen Community College, Paramus, N.J., Building E, Room 130D.

FOR FURTHER INFORMATION CONTACT:

Carol Eliason, American Association of Community and Junior Colleges, One Dupont Circle, Suite 410, Washington, D.C. 20036 (202-293-7050).

The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 93-380, Section 408(f)(1). The Council is mandated to (a) advise the Commissioner with respect to general policy matters relating to the administration of the Women's Educational Equity Act of 1974; (b) advise and make recommendations to the Assistant Secretary concerning the improvement of educational equity for women; (c) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to Section 408 of Pub. L. 93-380, including criteria developed to insure an appropriate distribution of approved programs and projects throughout the Nation; (d) make such reports to the President and the Congress on the activities of the Council as it determines appropriate; (e) develop criteria for the establishment of program priorities; and (f) disseminate information concerning its activities under Section 408 of Pub. L. 93-380.

The hearing on the educational needs of displaced homemakers, single parents and older women is being coordinated by the American Association of Community and Junior Colleges under contract to the National Advisory Council on Women's Educational Programs. It will be open to the public. Persons wishing to make oral presentations or to submit testimony should contact Carol Eliason, American Association of Community and Junior Colleges, One Dupont Circle, Suite 410, Washington, D.C. 20036 (202-293-7050).

Signed at Washington, D.C., on September 14, 1977.

JOY R. SIMONSON,
Executive Director.

[FR Doc.77-27168 Filed 9-16-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Public Hearing

AGENCY: Office of Education National Advisory Council on Women's Educational Programs.

ACTION: Notice of public hearing.

SUMMARY: This notice sets forth the schedule of a forthcoming hearing on the educational needs of displaced homemakers, single parents and older women, sponsored by the National Advisory Council on Women's Educational Programs. It also describes the functions of the Council. This document is intended to notify the public of their opportunity to attend.

DATE: October 4, 1977, 9 a.m. to 3 p.m.

ADDRESS: Catonsville Community College, Baltimore, Md., Learning Resource Center, Conference Room.

FOR FURTHER INFORMATION CONTACT:

Carol Eliason, American Association of Community and Junior Colleges, One Dupont Circle, Suite 410, Washington, D.C. 20036 (202-293-7050).

The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 93-380, Section 408(f)(1). The Council is mandated to (a) advise the Commissioner with respect to general policy matters relating to the administration of the Women's Educational Equity Act of 1974; (b) advise and make recommendations to the Assistant Secretary con-

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cerning the improvement of educational equity for women; (c) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to Section 408 of Pub. L. 93-380, including criteria developed to insure an appropriate distribution of approved programs and projects throughout the Nation; (d) make such reports to the President and the Congress on the activities of the Council as it determines appropriate; (e) develop criteria for the establishment of program priorities; and (f) disseminate information concerning its activities under Section 408 of Pub. L. 93-380.

The hearing on the educational needs of displaced homemakers, single parents and older women is being coordinated by the American Association of Community and Junior Colleges under contract to the National Advisory Council on Women's Educational Programs. It will be open to the public. Persons wishing to make oral presentations or to submit testimony should contact Carol Eliason, American Association of Community and Junior Colleges, One Dupont Circle, Suite 410, Washington, D.C. 20036 (202-293-7050).

Signed at Washington, D.C. on September 14, 1977.

JOY R. SIMONSON,
Executive Director.

[FR Doc 77-27169 Filed 9-16-77;8:45 am]

PROGRAM FOR THE GIFTED AND TALENTED

Closing Date for Receipt of Applications—Programs for the Gifted and Talented—Initial Awards

Pursuant to the authority contained in Section 404 (c) and (d) of Pub. L. 93-380, the Education Amendments of 1974 (20 U.S.C. 1863), the U.S. Commissioner of Education hereby gives notice that applications for initial awards will be accepted from: (1) State and local educational agencies for Statewide and locally based programs for gifted and talented children (20 U.S.C. 1863(c); 45 CFR Part 160b, Subpart C); and (2) State agencies for State personnel training projects (20 U.S.C. 1863(d); 45 CFR Part 160b, Subpart D).

Applications must be received by the U.S. Office of Education Application Control Center on or before November 21, 1977.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Washington, D.C. 20202, Attention: 13.562A for both State and local educational agency programs for gifted and talented children and State personnel training projects. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 16, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. *Program information and forms.* The funding level and distribution of project funds vary according to the final appropriation made available during a specific fiscal year. The amount of funds available to the Program for Gifted and Talented during fiscal year 1978 is $2.56 million. The projected allocation for initial awards is $1,231,640. The allocation for continuations of current projects for which applications are being invited pursuant to separate notices of closing dates is $1,328,360. It is expected that the funding level for specific categories of initial awards generally will not exceed $1,011,640 for projects under Section 404(c), 45 CFR 160b, Subpart C; $220,000 for projects under section 404(d), 45 CFR 160b, Subpart D. There is no fixed level of funding or number of grants projected. However, approximately thirty-five new projects and nineteen continuation projects are expected to be funded. The funding level for the past operational year has ranged between $6,762 and $190,000. Further information and application forms may be obtained from the Office of Gifted and Talented, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202.

D. *Applicable regulations.* Grant awards made pursuant to this notice will be subject to the regulations published in the FEDERAL REGISTER on May 6, 1976 (41 FR 18660, 45 CFR Part 160b) and the Office of Education General Provisions Regulations (45 CFR Part 100a).

(20 U.S.C. 1863(c) (d).)

(Catalog of Federal Domestic Assistance Number 13.562, Gifted and Talented.)

Dated: August 29, 1977.

JOHN ELLIS,
Acting U.S. Commissioner of Education.

[FR Doc.77-27132 Filed 9-16-77;8:45 am]

PROGRAM FOR THE GIFTED AND TALENTED

Closing Date for Receipt of Applications for Programs for the Gifted and Talented—Competitive Continuation Awards

Pursuant to the authority contained in section 404 (c), (d), and (e) of Pub. L. 93-380, the Education Amendments of 1974 (20 U.S.C. 1863), the U.S. Commissioner of Education hereby gives notice that applications for the continuation of assistance are being accepted (1) from State educational agencies for Statewide activities under § 160b.22 and Subpart D of the program regulation (45 CFR Part 160b; § 160b.22 and Subpart D), and (2) from colleges and universities and other non-profit institutions and agencies for graduate programs for leadership personnel, for internships, and for training institutions (45 CFR 160b.42(b) (1), (2), and 3). Funds are available for grants to continue programs presently in operation pursuant to an approved project period in excess of one year. Applications for continuation awards are competitive with other applications for continuation awards in the same year (45 CFR 160b.4 (c) (2)).

Applications must be received by the U.S. Office of Education Application Control Center on or before November 21, 1977.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Washington, D.C. 20202, Attention: 13.562A (from State Educational Agencies), and 13.562B (from colleges and universities, and other non-profit institutions and agencies.) An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 16, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. *Program information and forms.* The amount of funds which is expected to be available in Fiscal Year 1978 for

continuation grants for Gifted and Talented programs under Subpart C, D, and E of 45 CFR Part 160b is approximately $1,118,380 of which $693,360 is projected for grants for Statewide activities and $425,000 is projected for leadership personnel training programs. The anticipated number of continuation awards for these programs is fourteen. The funding level of continuation awards has ranged in the past operational year between $13,000 and $190,000. It is projected that many of these continuation projects may be funded at the same level this fiscal year.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any pattern of distribution, except as required by applicable provisions of Gifted and Talented regulations, and appropriation acts.

Further information and application forms may be obtained from the Office of Gifted and Talented, U.S. Office of Education, 400 Maryland Avenue SW. (Donohoe Building, Room 4100), Washington, D.C. 20202.

D. *Applicable regulations.* Grant awards made pursuant to this notice are subject to the regulations published in the FEDERAL REGISTER on May 6, 1976 (41 FR 18660, 45 CFR Part 160b), and the Office of Education General Provisions Regulations (45 CFR Part 100a).

(20 U.S.C. 1863(d), and (e).)

(Catalog of Federal Domestic Assistance Number 13.562, Gifted and Talented.)

Dated: September 9, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 77-27133 Filed 9-16-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

CONSUMERS' EDUCATION PROGRAM

Closing Date for Receipt of Applications for Fiscal Year 1978

Notice is hereby given that, pursuant to the authority contained in Section 811 of the Elementary and Secondary Education Act of 1965, as enacted by Section 505 of the Education Amendments of 1972, Pub. L. 92-318, 20 U.S.C. 887d, applications for grants are being accepted from institutions of higher education, local educational agencies, State educational agencies, and other public and private non-profit organizations and institutions (including libraries) for the support of research, demonstration, and pilot projects designed to provide consumers' education to the public.

CLOSING DATE: December 16, 1977.

A. *Application forms and information:* Application forms and program information packages are available and will be mailed upon publication of this Notice in the FEDERAL REGISTER.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications sent by mail:* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention 13.564, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flights, tardy messenger service, or other unexpected circumstances, the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than December 12, 1977 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. *Hand-delivered application:* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal Holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

D. *State comment:* A local educational agency must provide a copy of its application to the State educational agency of the State within which the applicant is located concurrently with its submission of the application to the Office of Education. For verification of submission to the SEA, the LEA applicant must enclose, in its application to the Commissioner, a copy of the dated cover letter used to forward a copy of its application to the SEA. A State educational agency wishing to submit advice and comments on any LEA application originating within its State may do so by forwarding such advice and comments to the Office of Consumers' Education, U.S. Office of Education. (See address under "For Further Information Contact.") Advice and comments received from SEA's not later than January 6, 1978 will be considered in reviewing applications.

E. *Program information:* The amount of funds available under this program is $4,068,000, with approximately $3.6 million going for grant awards for applications submitted in response to this notice, and the balance for procurement contracts. It is estimated that a total of approximately 80 new grants will be awarded during Fiscal Year 1978. The average grant is expected to be about $45,000, though no minimum or maximum amounts have been predetermined.

F. *For further information contact:* Dustin W. Wilson, Jr., 7th & D St., SW., Washington, D.C. 20202, (202-245-0636).

G. *Applicable regulations:* Awards made pursuant to this notice will be subject to (1) The Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) published in the FEDERAL REGISTER on November 6, 1973 and, (2) the regulation for the Consumers' Education Program published in the FEDERAL REGISTER on May 24, 1976 (41 FR 21191-21199).

(20 U.S.C. 887d.)

(Catalog of Federal Domestic Assistance Number 13.564; Consumers' Education Program.)

Dated: September 15, 1977.

ERNEST L. BOYER,
Commissioner of Education.

[FR Doc.77-27297 Filed 9-16-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM 049147]

FLORIDA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

SEPTEMBER 9, 1977.

The Fish and Wildlife Service, U.S. Department of the Interior, filed application BLM 049147 on May 18, 1959, for withdrawal of the following described lands in Lee County, Florida:

TALLAHASSEE MERIDIAN

T. 44 S., R 22 E.
Sec. 31: Lot 1 (Hemp Island).
T. 45 S., R. 23 E.
Sec. 31: Lot 1 (Merwin Key);
Sec. 32: Lot 1 (Merwin Key).

The areas described aggregate approximately 46.61 acres.

The applicant desires the use of the lands as the Hemp Island and Merwin Key National Wildlife Refuges for the management of migratory birds and other wildlife.

A notice of proposed withdrawal was previously published in 37 FR 16413 on August 12, 1972, and corrected in 37 FR 17069 on August 24, 1972.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2754), notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request with the undersigned officer of the Bureau of Land Management on or before October 25, 1977.

If a public hearing is scheduled, a notice will be published in the FEDERAL REGISTER giving the time and place of such hearing. All previous comments of

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record concerning the proposed withdrawal will be considered in making a final determination on the application. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned officer of the Bureau of Land Management on or before October 25, 1977.

The above-described land is temporarily segregated from all forms of appropriation under the public land laws. Current administrative jurisdiction over the segregated land will not be affected by the temporary segregation. In accordance with Section 204(g) of the aforementioned Act of October 21, 1976, the segregative effect of the pending withdrawal will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications in connection with this proposed withdrawal should be addressed to the Director, Eastern States, Bureau of Land Management, 7981 Eastern Ave., Silver Spring, Md. 20910.

LOWELL J. UDY,
Director, Eastern States.

[FR Doc.77-27065 Filed 9-16-77;8:45 am]

[OR 5232]

OREGON

Order Providing for Opening of Public Land

SEPTEMBER 12, 1977.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following land has been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 29 S., R. 17 E.,
Sec. 16, NE¼ and W½.

The area described contains 480 acres in Lake County, Oreg.

2. The United States did not acquire any mineral rights with the land described in paragraph 1 hereof.

3. The subject land is located in the vicinity of Summer Lake approximately 65 miles northwest of the town of Lakeview. Elevation averages 5,000 feet above sea level, and the topography varies from moderately sloping to very steep. Vegetation consists primarily of sagebrush, native grasses, and some western juniper. In the past, the land has been used for livestock grazing purposes, and it will be managed, together with adjoining public lands, for multiple use.

4. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land described in paragraph 1 hereof is hereby open (except as provided in paragraph 2 hereof) to operation of the public land laws, including, to the extent applicable, the mineral leasing laws. All valid applications received at or prior to 10 a.m., October 18, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Ore. 97208.

HAROLD A. BERENDS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc 77-27135 Filed 9-16-77;8:45 am]

[OR 2752]

OREGON

Order Providing for Opening of Public Lands

SEPTEMBER 12, 1977.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following lands have been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 24 S., R. 42 E.,
Sec. 8, SE¼NE¼.
Sec. 9, SW¼NE¼ and S½NW¼.
T. 25 S., R. 42 E.,
Sec. 14, S½SW¼ and SW¼SE¼.
Sec. 23, N½NE¼, SW¼NE¼, NW¼, NE¼SW¼, and NW¼SE¼.
Sec. 24, W½NW¼ and NW¼SW¼.
T. 20 S., R. 43 E.,
Sec. 11, SE¼SE¼.
Sec. 13, W½NW¼, SW¼, and SW¼SE¼.
Sec. 14, E½NE¼, N½NW¼, and NE¼SE¼.
Sec. 16, E½ and W½SW¼.
Sec. 22, N½SW¼ and SW¼SW¼.
Sec. 23, SE¼NW¼, NE¼SW¼, and W½SE¼.
Sec. 24, W½NE¼, NW¼, and NW¼SE¼.
T. 19 S., R. 44 E.,
Sec. 30, E½NE¼ and NE¼SE¼.

The areas described aggregate 2,360 acres in Malheur County, Oreg.

2. All minerals in the land in T. 25 S., R. 42 E., were and continue to be in United States ownership and are already open to operation of the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws.

3. The United States acquired only one-half of the mineral rights with the land in the W½SW¼ of Sec. 16, T. 20 S., R. 43 E.

4. The United States acquired only one-third of the mineral rights with the land in T. 19 S., R. 44 E.

5. The United States did not acquire any mineral rights in the following described land:

WILLAMETTE MERIDIAN

T. 20 S., R. 43 E.,
Sec. 11, SE¼SE¼;
Sec. 13, W½NW¼, SW¼, and SW¼SE¼;
Sec. 14, E½NE¼, N½NW¼, and NE¼SE¼;
Sec. 16, E½;
Sec. 22, N½SW¼ and SW¼SW¼;
Sec. 23, SE¼NW¼, NE¼SW¼, and W½SE¼;
Sec. 24, W½NE¼, NW¼, and NW¼SE¼.

6. The subject lands consist of several scattered tracts located within 10 to 45 miles southwest of the City of Vale. Elevation ranges from 2,500 to 4,500 feet above sea level, and the topography varies from level to moderately steep. Vegetation consists primarily of sagebrush and native grasses. In the past, the lands have been used for livestock grazing purposes, and they will be managed, together with adjoining public lands, for multiple use.

7. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 hereof are hereby open (except as provided in paragraphs 2, 3, 4, and 5 hereof) to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10 a.m., October 18, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

8. Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oreg. 97208.

HAROLD A. BERENDS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77 27136 Filed 9-16-77;8:45 am]

[OR 4667]

OREGON

Order Providing for Opening of Public Lands

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following lands have been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 25 S., R. 35 E.,
Sec. 35, NW¼NE¼, S½NE¼, W½, and SE¼.
T. 26 S., R. 35 E.,
Sec. 2, SW¼, except that parcel of land containing 5.41 acres, more or less, conveyed to the Oregon-Washington Railroad and Navigation Co. for railroad purposes by deed recorded January 11, 1916, at Book X, Page 536, Deed Records of Harney County, Oreg.

The areas described aggregate, after making the aforesaid exception, 754.59 acres in Harney County, Oreg.

2. The subject lands are located in the vicinity of Coyote Creek approximately 40 miles southeast of the City of Burns. Elevation averages 4,000 feet above sea level, and the topography varies from nearly level to steeply sloping. Vegetation consist primarily of sagebrush and native grasses. In the past, the lands have been used for livestock grazing purposes, and they will be managed, together with adjoining public lands, for multiple use.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 hereof are hereby open to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10 a.m., October 18, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Maangement, P.O. Box 2965, Portland, Oreg. 97208.

HAROLD A. BERENDS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-27137 Filed 9-16-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[332-85]

CONDITIONS OF COMPETITION IN U.S. MARKETS BETWEEN DOMESTIC AND FOREIGN LIVE CATTLE AND CATTLE MEAT FIT FOR HUMAN CONSUMPTION

Notice is hereby given that the public hearing in the above noted investigation set to begin on Tuesday, September 20, 1977, at 10 a.m., e.d.t., will be held in the Departmental Auditorium, Constitution Avenue between 12th and 14th Streets NW., Washington, D.C., rather than in the Hearing Room of the U.S. International Trade Commission Building, as previously announced.

The last notice concerning this investigation, relating to a change in place of the Kansas City Hearing, was published in the FEDERAL REGISTER of July 14, 1977 (42 FR 36321), and notice of the institution of the investigation and of hearings was pubyishsed in the FEDERAL REGISTER of April 13, 1977 (42 FR 19389).

By order of the Commission.

Issued: September 14, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-27210 Filed 9-16-77;8:45 am]

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

MEETING

Notice is hereby given of the National Commission on Libraries and Information Science (established by Pub. L. 91-345) holding a meeting of the Task Force on the Role of the School Library Media Program in Networking. This meeting of the Task Force will be held on October 17-18, 1977, at the Gramercy Inn, 1616 Rhode Island Avenue NW., Washington, D.C.

PROPOSED AGENDA

(1) Progress report.

(2) Discussion on position paper No. 2, "Networking and School Library Centers," by David V. Loertscher.

(3) Reports of subcommittees on assigned tasks.

(4) Reaction to initial report.

(5) Activities to be accomplished for next meeting.

ALPHONSE F. TREZZA,
Executive Director.

SEPTEMBER 13, 1977.

[FR Doc.77-27138 Filed 9-16-77;8:45 am]

NATIONAL COMMISSION FOR MANPOWER POLICY

MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Public L. 92-463; 86 Stat. 770) notice is hereby given that the National Commission for Manpower Policy will hold a working conference on the Role of Community-Based Organizations in Manpower and Policy on October 7, 1977. The conference will be held in the Mount Vernon Room of the Sheraton Carlton, 16th and K Streets NW., Washington, D.C. The meeting will commence at 9 a.m. and conclude at 4 p.m.

The National Commission for Manpower Policy was established pursuant to Title V of the Comprehensive Employment and Training Act of 1973 (Public L. 92-203). The Act charges the Commission with the broad responsibility of advising the Congress, the President, the Secretary of Labor, and other Federal agency heads on national manpower issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's manpower policies and programs.

The agenda will cover the following areas:

A. The dual roles of community based organizations (CBOs) as service deliverers and advocates for the needs of particular groups of the population;

B. Ways in which CBOs can have early and effective positive input to manpower policy formulation and decisionmaking processes of federal executive agencies and advisory bodies including this Commisison;

C. Participation of CBO's in manpower policy formulation and decisionmaking processes in state and local government; and

D. Ways to insure that local community based organizations, especially those not affiliated with the large national associations of CBOs, can make effective representation on behalf of their constituencies.

Members of the general public or other interested individuals may attend the Commission Conference. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so, provided such statements are in reproducible form and are submitted to the Director no later than two days before and seven days after the meeting.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that the time available for the meeting permits. Such oral statements must be directly germane to the announced agenda items and written application must be submitted to the Director of the Commission three days before the meeting. This application shall identify the following: the name and address of the applicant, the subject of his or her presentation and its relationship to the agenda; the amount of time requested; the individual's qualifications to speak on the subject matter; and shall include a justifying statement as to why a written presentation would not suffice. The Chairman reserves the right to decide to what extent public oral presentation will be permitted at the meeting. Oral presentations shall be limited to statements of fact and views and shall not include any question of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting, working papers and other documents prepared for the meeting will be available for public inspection five working days after the conference at the Commission's headquarters located at 1522 K Street NW., Room 300, Washington, D.C.

Signed at Washington, D.C., this 13th day of September 1977.

ISABEL V. SAWHILL,
Director, National Commission for Manpower Policy.

[FR Doc.77-27166 Filed 9-16-77;8:45 am]

MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) notice is hereby given that the National Commission for Manpower Policy will conduct a field review on the net employment effects of the public service employment (PSE) program on October 13 and October 14, 1977. The meeting will be held in the Gardener Room of the Sheraton Boston Hotel located at 39 Dalton Street, Prudential Center, Boston, Mass. The reviews will commence at 9 a.m. and conclude at 4 p.m. on both days.

The National Commission for Manpower Policy was established pursuant to Title V of the Comprehensive Employment and Training Act of 1973 (Pub. L. 92-203). The Act charges the Commission with the broad responsibility of advising the Congress, the President, the Secretary of Labor, and other Federal agency heads on national manpower issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's manpower policies and programs. The Emergency Jobs Programs Extension Act of 1976 directs the Commission to study and report to Congress on the net employment effects of PSE programs under Title II and Title VI of the Comprehensive Employment and Training Act.

V 42 181 SEP 19 77 UMI

The purpose of the review is to elicit the views of those at the state and local level (in and out of government) on the effects and effectiveness of the public service employment program. Among the issues to be addressed are:

1. What goals and objectives are developed by state and local governments for the PSE programs? How are these goals developed so that they are supportive of national goals; provide needed public services; and are supportive of other public services?

2. To what extent has PSE resulted in an increase in the provision of services by state or local governments? Has PSE been instrumental in maintaining the level of services where they would have otherwise been curtailed due to revenue reductions, increased costs or other factors? What types of services are being provided through the PSE programs? What types of agencies (e.g., public safety, sanitation, education) received PSE jobs? If the PSE program were reduced or phased out, to what extent would these services also be reduced or terminated?

3. To what extent has PSE resulted in an increase in the services provided by nonprofit community organizations? How has this changed as a result of the requirements of the Emergency Jobs Programs Extension Act of 1976? What types of services are being provided by community organizations with the employment provided by PSE?

4. What is the ability of state and local governments to absorb additional PSE jobs? To what extent can this be expanded by increased utilization of nonprofit community organizations? What has been the experience in implementing and increasing the PSE programs to date? What are the constraints to further increasing the size of the program?

5. What effect has the presence of the PSE program had on the personnel practices of state and local governments? Have changes been made to provide PSE employees with improved access to regular (i.e., non-PSE) jobs? Has the PSE program resulted in any changes in the composition of the regular employment of the employing jurisdiction in terms of race, sex, education, experience, or other characteristics? Can PSE be used as a means of training the hard-to-employ and then obtaining access for them to permanent, unsubsidized employment?

6. What should be the areas of concern in consideration of phasing out or phasing down the current PSE programs? What areas should be considered if the target populations or mode of operation of the current programs are to be modified? To what extent and how do changes in the scale, mode of operation, target population and/or continuity of the program affect the delivery of needed public services?

Members of the general public or other interested individuals may attend the Commission field reviews. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so, provided such statements are in reproducible form and are submitted ot the Director no later than two days before and seven days after the meeting.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that the time available for the meeting permits. Such oral statements must be directly germane to the announced agenda items and written application must be submitted to the Director of the Commission three days before the meeting. This application shall identify the following: the name and address of the applicant, the subject of his or her presentation and its relationship to the agenda; the amount of time requested; the individual's qualifications to speak on the subject matter; and shall include a justifying statement as to why a written presentation would not suffice. The Chairman reserves the right to decide to what extent public oral presentation will be permitted at the meeeting. Oral presentations shall be limited to statements of fact and views and shall not include any question of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting, working papers and other documents prepared for the meeting will be available for public inspection five working days after the field review at the Commission's headquarters located at 1522 K Street NW., Room 300, Washington, D.C.

Signed at Washington, D.C., this 13th day of September 1977.

ISABEL V. SAWHILL,
Director, National Commission for Manpower Policy.

[FR Doc. 77-27167 Filed 9-16-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-485]

ROCHESTER GAS AND ELECTRIC CORP. (STERLING POWER PROJECT, NUCLEAR UNIT NO. 1)

Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR § 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this construction permit proceeding:

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Richard S. Salzman

Dated: September 12, 1977.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.77-26073 Filed 9-16-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on October 6-8, 1977, in Room 1046, 1717 H Street NW., Washington, D.C.

The agenda for the subject meeting will be as follows:

THURSDAY, OCTOBER 6, 1977

8:30 a.m.-9:15 a.m.: Executive Session (Open)—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities. The Committee will hear the report of the ACRS Subcommittee on the Reactor Safety Study (WASH-1400) and discuss matters to be considered during the meeting with the Risk Assessment Review Group.

9:15 a.m.-10:15 a.m.: Meeting with Risk Assessment Review Group (Open)—The ACRS will meet with members of the Risk Assessment Review Group to discuss ACRS comments on the Reactor Safety Study, developments in the field of risk assessment methodology, and application of this methodology to the reactor licensing process.

10:15 a.m.-10:45 a.m.: Executive Session (Open)—The Committee will also hear and discuss the report of the ACRS Subcommittee and consultants who may be present related to review of the request for a Construction Permit for the Greene County Nuclear Power Plant. Portions of this session will be closed if necessary to discuss Proprietary Information applicable to this project and provision for physical protection of this facility.

10:45 a.m.-1:15 p.m.: Greene County Nuclear Power Plant (Open)—The Committee will hear presentations and hold discussions with representatives of the NRC Staff and the Applicant related to the request for a Construction Permit for the Greene County Nuclear Power Plant. Portions of this session will be closed if necessary to discuss Proprietary Information applicable to this project and provisions for physical protection of this facility.

2:15 p.m.-2:45 p.m.: Executive Session (Open)—The Committee will hear and discuss the report of the ACRS Subcommittee and consultants who may be present related to the request for an Operating License for the Pilgrim Nuclear Power Station Unit 2. Portions of this session will be closed if necessary to discuss Proprietary Information applicable to this project and provisions for physical protection of this facility.

2:45 p.m.-5:45 p.m.: Pilgrim Nuclear Power Station Unit 2 (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC Staff and the Applicant related to the request for an Operating License for the Pilgrim Nuclear Power Station Unit 2. Portions of this session will be closed if required to discuss Proprietary Information related to this facility and provisions for physical protection of this facility.

5:45 p.m.-6:30 p.m.: Executive Session (Open)—The Committee will hear and discuss the report of ACRS subcommittees on matters related to reactor safety including Regulatory Activities, reactor safety research, physical protection of nuclear facilities and information provided by the Federal Republic of Germany. Portions of this session will be closed if necessary to discuss material applicable to the physical protection of specific nuclear facilities and information provided in confidence by a foreign source.

FRIDAY, OCTOBER 7, 1977

8:30 a.m.-12:45 p.m. and 1:45 p.m.-2:15 p.m.: Meeting with NRC Staff (Open)—The Committee will hear presentations and hold discussions with members of the NRC Staff regarding recent operating experience at nuclear facilities, recent licensing actions, generic matters related to reactor licensing, and the future schedule for ACRS activities. This discussion will include:

Provisions for shutdown of D.C. Cook Nuclear Plant from alternate station; performance of control rod drive mechanisms at the Dresden Nuclear Power Plant Unit 2; seismic evaluation of North Anna Nuclear Plant Units 1 and 2; effectiveness of program to license standard nuclear plants and nuclear steam supply systems; cracking of BWR feedwater and control rod drive return line nozzles; interaction of control rods and fuel rods in BWR's during LOCA blowdown; evaluation of test results applicable to ECCS; evaluation of post-accident radiation levels in nuclear plant control rooms.

2:15 p.m.-6:30 p.m.: Executive Session (Open)—The Committee will discuss proposed reports to the Nuclear Regulatory Commission of the Greene County Nuclear Power Plant Project and the Pilgrim Nuclear Power Station Unit 2. The Committee will also hear and discuss the reports of ACRS subcommittees, working groups, and members regarding proposed ACRS comments and recommendations related to a number of generic matters including emergency dose limits for design of nuclear plants and related emergency procedures, methodology for seismic evaluation of proposed nuclear sites and facilities operation of nuclear facilities at "stretch power" limits and transportation of radioactive materials near and through urban centers. Portions of this session will be closed as required to protect Proprietary Information and matters involved in NRC adjudicatory proceedings, specifically the preparation of reports on the Greene County Plant and the Pilgrim Nuclear Station.

SATURDAY, OCTOBER 8, 1977

8:30 a.m.-12:30 p.m.: Executive Session (Open/Closed)—The Committee will continue preparation of its reports to the NRC on matters discussed during this meeting. The Committee will also discuss ACRS procedures and practices regarding use of technical experts, implementation of ACRS consultants' recommendations and appointment of new members. Portions of this session will be closed as required to protect Proprietary Information and matters involved in NRC adjudicatory proceedings.

I have determined in accordance with Subsection 10(d) of Public Law 92-463 that it is necessary to close portions of the meeting as noted above to protect Proprietary Information (5 U.S.C. 552b.(c)(4)), to preserve the confidentiality of information related to safeguarding of special nuclear material and the physical protection of nuclear facilities (5 U.S.C. 552b.(c)(1) and (4). The portions of the meeting during which the ACRS comments on matters involved in adjudication are prepared will be held in closed session pursuant to exemption (10) of 5 U.S.C. 552b.(c). A portion of the material provided by the Federal Republic of Germany is deemed to be commercial or financial information within the meaning of 10 CFR Section 9.5(a)(4) and exempt from public disclosure in accordance with 10 CFR Section 2.790(d)(2). A portion of this material is classified information in accordance with Executive Order 11652. Separation of factual information from information considered exempt from disclosure under exemptions (1), (4), and (10) of 5 U.S.C. 552b.(c) during these portions of the meeting is not considered practical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Committee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information-gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally deal with matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy to the Committee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview. Persons desiring to mail written comments may do so by mailing a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than September 28, 1977, to the Executive Director, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, D.C. 20555 will normally be received in time to be considered at this meeting. Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the following Public Document Rooms:

Greene County Nuclear Power Plant, Catskill Public Library, 1 Franklin Street, Catskill, N.Y. 12414.
Pilgrim Nuclear Power Station Unit 2, Plymouth Public Library, North Street, Plymouth, Mass. 02360.

(b) Those persons wishing to make oral statements regarding agenda items at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements in safety-related areas within the Committee's purview at an appropriate time chosen by the Chairman of the Committee.

(c) Further information regarding topics to be discussed, whether the meeting or portions of the meeting have been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor, can be obtained by a prepaid telephone call on October 5, 1977 to the Office of the Executive Director of the Committee (Telephone: 202-634-1371) between 8:15 a.m. and 5 p.m., Eastern Time. It should be noted that the above schedule is tentative, based on the anticipated availability of related information, etc. It may be necessary to reschedule items to accommodate required changes. The ACRS Executive Director will be prepared to describe these changes on October 5, 1977.

(d) Questions may be asked only by members of the Committee, its consultants and staff.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive of the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings of the proceedings will be permitted only during those open sessions when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information other than safeguards information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed. The Executive Director of the ACRS should be informed of such an agreement at least 3 days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of this agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Executive Director at the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented will be available for inspection during the following workday at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C., on or after January 6, 1978. Copies may be obtained upon payment of appropriate charges.

Dated: September 15, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-27268 Filed 9-16-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON REGULATORY ACTIVITIES

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on Regulatory Activities will hold an open meeting on October 5, 1977 in Room 1162, 1717 H St., N.W., Washington, DC 20555.

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The agenda for subject meeting shall be as follows:

WEDNESDAY, OCTOBER 5, 1977

8:45 A.M.—10:30 A.M.

A. The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following:

(1) Regulatory Guide 1.91, Revision 1, "Evaluation of Explosions Postulated to Occur on Transportation Routes Near Nuclear Power Plants."

(2) Regulatory Guide 1.127, Revision 1, "Inspection of Water Control Structures Associated with Nuclear Power Plants."

10:30 A.M. UNTIL THE CONCLUSION OF BUSINESS

B. The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to activities which affect the current licensing process on reactor operations, including those related to proposed requirements for testing of relief and safety-relief valves in BWR reactor facilities.

Other matters which may be of a predecisional nature relevant to reactor operation or licensing activities may be discussed following this session.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the meeting, the following requirements shall apply:

(A) Persons wishing to submit written statements regarding Regulatory Guides 1.91, and 1.127, may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Such comments shall be based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., NW., Washington, D.C. 20555.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than September 28, 1977 to Mr. G. R. Quittschreiber, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

(B) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(C) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on October 4, 1977 to the Office of the Executive Director of the Committee (telephone 202-634-1374, Attn: Mr. G. R. Quittschreiber) between 8:15 a.m. and 5:00 p.m., EDT.

(D) Questions may be propounded only by members of the Subcommittee, its consultants, and Staff.

(E) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings of the proceedings will be permitted only during those sessions when a transcript is being kept.

(F) A copy of the transcript of the portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection at the NRC Public Document Room, 1717 H St., NW., Washington, D.C. 20555 on or after October 12, 1977, and January 5, 1978, respectively.

Copies may be obtained upon payment of appropriate charges.

Dated: September 15, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-27222 Filed 9-16-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, REACTOR SAFETY STUDY WORKING GROUP

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Reactor Safety Study Working Group will hold an open meeting on October 5, 1977 in Room 1046, 1717 H St. NW., Washington, D.C. 20555.

The agenda for subject meeting shall be as follows:

WEDNESDAY, OCTOBER 5, 1977

1:00 P.M. UNTIL CONCLUSION OF BUSINESS

The Working Group will meet in Executive Session, with any of its consultants who may be present, to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Working Group will meet to hold discussions with representatives of the NRC Staff, the Risk Assessment Review Group, and their consultants.

At the conclusion of these sessions, the Working Group may caucus to determine whether the matters identified in the initial session have been adequately covered.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy addressed to Mr. John C. McKinley, ACRS, NRC, Washington, D.C. 20555. Comments postmarked no later than September 28, 1977 will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in WASH-1400 and related documents on file and available for public inspection at the NRC Public Document Room, 1717 H. St., NW., Washington, D.C. 20555.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the beginning of the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on October 4, 1977 to the Office of the Executive Director of the Committee (telephone 202-634-1371, Attn: Mr. John C. McKinley) between 8:15 a.m. and 5:00 p.m. EDT.

(d) Questions may be asked only by members of the Working Group, its consultants, and the Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection or or after October 12, 1977 and January 5, 1978, respectively, at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: September 15, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-27223 Filed 9-16-77;8:45 am]

[Docket Nos. 50-317 and 50-318]

BALTIMORE GAS AND ELECTRIC CO.

Notice of Consideration of Proposed Modification to Facilities Spent Fuel Storage Pool

The Nuclear Regulatory Commission (the Commission) is considering the approval of a modification to the spent fuel storage pool of the Calvert Cliffs Nuclear Power Plant Unit Nos. 1 and 2 (the facilities), pressurized water reactors located in Calvert County, Maryland, and currently authorized for operation at power levels up to 2700 MWt and 2560 MWt, respectively.

The two facilities share a common pool that is divided in two sections and connected by a transfer canal. The existing racks in the Unit No. 2 side of the pool have a capacity for storage of 210 fuel assemblies and the racks in the Unit No. 1 side have a capacity for storage of 200 fuel assemblies. The proposed modification being considered involves replacement of the existing racks in each side of the spent fuel pool of the facilities with racks of a design capable of accommodating up to 528 fuel assemblies and interchangeable storage of one facility's fuel in the other facility's side of the two-section pool. The proposed modification and subsequent use of the two-section pool would permit a total of 1056 fuel assemblies to be stored in lieu of the current 410 assemblies. The modification will require changes to the facilites Technical Specifications and issuance of a license amendment for each facility.

Prior approval of the proposed modification and license amendments authorizing use of the modified pool, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By October 19, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the approval of the modification to the subject facility spent fuel storage pool. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER Notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to James A. Biddison, Jr., General Counsel, Gas and Electric Building, Charles Center, Baltimore, Maryland 21203, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commissioner or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has the right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the licensee's proposals dated August 5, 1977 and September 7, 1977, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Calvert County Library, Prince Frederick, Maryland 20678.

Dated at Bethesda, Maryland, this 15th day of September, 1977.

For the Nuclear Regulatory Commission,

DON K. DAVIS,
Acting Chief, Operating Reactors, Branch No. 2, Division of Operating Reactors.

[FR Doc.77-27321 Filed 9-16-77;8:31 am]

[Docket No. 50-263]

NORTHERN STATES POWER CO.

Notice of Consideration of Proposed Modification to Facility Spent Fuel Storage Pool

The Nuclear Regulatory Commission (the Commission) is considering the issuance of a proposed amendment to Provisional Operating License No. DPR-22, issued to the Northern States Power Company (the licensee), for the Monticello Nuclear Generating Plant (the facility) which would authorize a modification to the spent fuel storage pool. The facility is a boiling water reactor located in Wright County, Minnesota, and currently authorized for operation at power levels up to 1670 MWt.

The proposed amendment would authorize replacement of the existing racks in the spent fuel storage pool of the facility with racks of a design capable of accommodating up to 2237 fuel assemblies in accordance with the licensee's letter dated August 17, 1977, and license amendment request dated September 12, 1977. Thereafter, the licensee would be able to operate the facility with this larger spent fuel storage capacity. The existing racks have a capacity for storage of 740 fuel assemblies.

Prior to approval of the proposed modification and license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By October 19 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the approval of the modification to the subject facility spent fuel storage pool. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER Notice and section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esquire of Shaw, Pittman, Potts, and Trowbridge, 1800 M Street NW., Washington, D.C. 20036, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding

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and has the right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the licensee's letter dated August 17, 1977, and related license amendment request dated September 12, 1977, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at The Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Bethesda, Maryland, this 15th day of September, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-27320 Filed 9-16-77;9:31 am]

RISK ASSESSMENT REVIEW GROUP

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a two-day meeting of the Risk Assessment Review Group of the U.S. Nuclear Regulatory Commission (NRC), to be held at 9 a.m., on October 5 and 6, 1977, in Room 1046 and Room 1062, respectively, of the Matomic Building, 1717 H Street NW., Washington, D.C. The purpose of this meeting is to continue the review of the final report of the Reactor Safety Study and to obtain information on developments in the field of risk assessment methodology.

The Review Group will hold in open sessions discussions with the Subcommittee on the Reactor Safety Study and the full Commisison of the Advisory Committee on Reactor Safeguards and will hear presentations by and hold discussions with representatives of the NRC staff and with individuals outside of NRC regarding the field of risk assessment methodology. It may be necessary for the Review Group to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

At the conclusion of these presentations, the Review Group may caucus to determine whether the matters identified have been adequately covered. The Chairman of the Review Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted session from one day to the next.

The Risk Assesment Review Group is an independent group established by the NRC (42 FR 34955) for the purpose of providing advice and information to the Commission regarding the final report of the Reactor Safety Study, WASH 1400 (NUREG-75/014), and the peer comments on the study, advice and recommendations on developments in the field of risk assessment methodology and courses of action which might be taken on future development and use of risk assessment methodology. This advice and information will assist the Commission in establishing policy regarding the use of risk assessment in the regulatory process. It will also clarify the achievements and limitations of the Reactor Safety Study. The Review Group will submit a report to the Commission on or before December 31, 1977. In carrying out these assignments, it is anticipated that a number of working sessions will be scheduled at different locations, with notification to the public well in advance of each meeting.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 10 readily reproducible copies to the Review Group at the beginning of the meeting. Comments should be limited to areas within the Group's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than September 28, 1977, to Dr. John H. Austin, Office of Policy Evaluation, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting. Comments should pertain to the field of risk assessment methodology or should be based on the final report of the Reactor Safety Study, copies of which are available for public inspection at:

1. The NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

2. The NRC's five Regional Offices of Inspection and Enforcement:

Region I: 631 Park Avenue, King of Prussia Pa. 19406.

Region II: Suite 1217, 230 Peachtree Street, Atlanta, Ga. 30303.

Region III: 799 Roosevelt Road, Glen Ellyn, Ill. 60137.

Region IV: Suite 1000, 611 Ryan Plaza Drive, Arlington, Tex. 76012.

Region V: Suite 202, 1990 North California Boulevard, Walnut Creek, Calif. 94596.

Copies of the Final Report may be obtained from:

U.S. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Probabilistic Analysis Branch, Attn: Melea S. Fogle (telephone 301-492-8377), 7735 Old Georgetown Road, Bethesda, Md. 20014.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangement can be made. The time allotted for such statements will be at the discretion of the Chairman. The Review Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on October 4, 1977, to the Office of Policy Evaluation (telephone 202-254-5184, Attn: John Austin) between 8:15 a.m. and 5 p.m., EDT.

(d) Questions may be asked only by members of the Review Group.

(e) Statements of views or expressions of opinion made by members of the Review Group at open meetings are not intended to represent final determinations or beliefs.

(f) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(g) A copy of the minutes of the meeting will be available for inspection on or after December 5, 1977, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: September 16, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-27371 Filed 9-16-77;11:50 am]

POSTAL RATE COMMISSION

[Docket No. MC76-3]

MAIL CLASSIFICATION SCHEDULE, 1976

Notice of Oral Argument on the Commission's Tentative Decision Concerning Proposals for Varying Discounts on Presorted Third-Class Bulk Mail

SEPTEMBER 13, 1977.

The Commission will hold oral argument with respect to the exceptions filed by Direct Mail/Marketing Association, Inc. (DMMA)[1] in the above-captioned matter on September 29, 1977. The time for argument has been allocated as follows:

DMMA—30 minutes (may reserve 10 minutes for rebuttal).

Postal Service—15 minutes.

OOC—15 minutes.

Oral argument will begin at 9:30 a.m. in the Commission's hearing room.

DAVID F. HARRIS,
Secretary.

[FR Doc.77-27148 Filed 9-16-77;8:45 am]

[1] Associated Third Class Mail Users (ATCMU) and Mail Advertising Association (International), Inc. (MASA) also filed exceptions but did not request oral argument.

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-13941; File No. SR-BSE-77-3]

BOSTON STOCK EXCHANGE

Proposed Constitutional Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 1, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed constitutional change as follows:

Article XII, Section 2. Failure to Pay. Strike present Section 2 and substitute the following:

Section 2. Any member who shall neglect to pay any dues, fees, fines or any assessment or other sum due to the Exchange or any of its subsidiaries for thirty days after the same shall become payable, shall be reported to the Board of Governors, and after ten days written notice to such delinquent, may be suspended until payment is made. Should such delinquency continue for ninety days after such payment is due, the Board of Governors may expel the member and may dispose of the membership forthwith in such manner as it may determine.

STATEMENT OF BASIS AND PURPOSES

PURPOSE OF THE PROPOSED CONSTITUTIONAL CHANGE

The purpose of the constitutional change was to reduce the time in which the Exchange could take action for nonpayment of dues, fees, fines or assessments.

BASES OF THE PROPOSED CONSTITUTIONAL CHANGE

(i) Not applicable.
(ii) Not applicable.
(iii) Not applicable.
(iv) Not applicable.
(v) Not applicable.
(vi) Not applicable.
(vii) Not applicable.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED CONSTITUTIONAL CHANGE

The change was submitted to a vote of the membership and no comments or objections were received.

BURDEN ON COMPETITION

No burden on competition is perceived by adoption of the proposed amendment.

By October 24, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date, if it finds such longer period to be appropriate and published its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed constitutional changes, or

(B) Institute proceedings to determine whether the proposed constitutional changes should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by October 10, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 8, 1977.

[FR Doc.77-27094 Filed 9-16-77;8:45 am]

[Rel. No. 20169]

CENTRAL POWER AND LIGHT CO.

Proposed Agreements With State Authority for Construction of Pollution Control Equipment; Request for Exception From Competitive Bidding

SEPTEMBER 12, 1977.

In the matter of Central Power and Light Co., 120 North Chaparral Street, Corpus Christi, Tex. 78403. (70-6046).

Notice is hereby given that Central Power and Light Co. ("CP&L"), an electric utility subsidiary of Central and South West Corp., a registered holding company, has filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 9(a), 10, and 12(d) of the Act and Rules 44(b)(3) and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

CP&L states that it has begun construction of its first coal-fired generating unit, Coleto Creek Unit No. 1 (the "Unit"). The Unit is scheduled for completion in mid-1980, will have a rated capacity of 550 megawatts and is expected to cost approximately $249,746,000. CP&L states that in order to comply with applicable state and federal environmental control standards with respect to the Unit, it is necessary to construct, as part of the Unit, certain facilities for the control or abatement of air and water pollution ("Facilities"). CP&L proposes to enter into two Installment Sale Agreements ("Agreements") with the Guadalupe-Branco River Authority ("Authority"), an instrumentality of the State of Texas, pursuant to which the Authority would undertake the financing of the Facilities. The Agreements provide that CP&L will transfer to the Authority its interest in the Facilities and that the Authority will own the Facilities during the period of construction. CP&L states that, as agent for the Authority, it will provide for the completion of the Facilities and will be reimbursed by the Authority for the costs incurred. Title to the Facilities will be reconveyed to CP&L, pursuant to the Agreements, upon completion of construction.

CP&L states that the acquisition and construction of the Facilities will be financed through the issuance by the Authority of up to $39,000,000 of its Pollution Control Revenue Bonds, 1977 Series and of up to $1,000,000 of its Pollution Control Revenue Bonds, 1977 Series A (collectively, the "Bonds"). The 1977 Series A Bonds will be issued under provisions of the Internal Revenue Code for so-called "small issues" of industrial development revenue bonds and the proceeds thereof will go to finance items that might not qualify under the Code as pollution control facilities. Each issue of the Bonds will be sold pursuant to a separate Bond Purchase Agreement and will be issued pursuant to a separate Trust Indenture entered into concurrently with a separate Installment Sale Agreement between CP&L and the Authority. The corporate trustee ("Trustee") will be selected in consultation with CP&L. The 1977 Series A Bonds will be secured by a lien on the facilities financed thereby subordinate to the lien of CP&L's first mortgage indenture. In all other respects the terms of each issue and of the corresponding documents for each issue will be substantially the same.

The Bonds will be dated on or about the first day of the month in which they are issued (presently scheduled for November 1977). They will bear interest semiannually and will mature at a date or dates not more than 30 years from their date of issuance, with the exact date or dates of maturity to be determined at the time of pricing.

All of the Bonds, or such portion of the Bonds maturing more than 10 years after the date of issuance, will be redeemable in whole on any date or, in part, on any interest payment date on or after a date to be 10 years from the date of issuance, at CP&L's option, at redemption prices (plus accrued interesrt) beginning at 103 percent of principal amount and declining by 0.5 percent each year thereafter to par for redemption on or after a date 16 years from the date of issuance. The Bonds will be redeemable at any time in whole, at CP&L's option, at par value plus accrued interest upon the occurrence of various extraordinary events specified in the Agreements and the Indentures and will be subject to mandatory redemption at par plus accrued interest if the agreement becomes void, unenforceable or impossible of performance. All or a portion of the Bonds maturing more than ten years after the date of issuance will be subject to mandatory redemption in satisfaction of sinking fund provisions

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under the Indentures. The sinking fund provisions will be designed to retire in less than 30 years at least 25 percent principal amount of the Bonds. CP&L states that its Bond counsel is prepared to render its legal opinion that interest on the Bonds will be free from federal taxation and that, while it is not possible to ascertain in advance the interest rate which may be obtained in connection with the issuance of the Bonds, similar tax-exempt bonds generally carry an annual interest rate which is significantly lower than that of comparable taxable bonds.

The proceeds from the sale of the Bonds will (except as otherwise required under the Indenture) be placed in Escrow Funds created under the Indentures and will be disbursed to reimburse CP&L for (i) the cost of acquisition and construction of the Facility; (ii) the Trustee's expenses, and (iii) the Authority's Bond-related administrative and overhead costs. CP&L states that in the event that amounts in the Escrow Funds are insufficient to cover such disbursements, it is obligated under the Agreement to complete construction of the Facilities at its own expense.

The Agreements contains an unsecured commitment by CP&L to pay to the Trustee(s) on behalf of the Authority, in payment of the purchase price for the Facilities, amounts sufficient to enable the Authority to service the Bonds, such amounts to be held under the Indentures in Debt Service Funds.

It is contemplated that the Bonds will be sold by the Authority pursuant to arrangements between it and Blyth Eastman Dillon & Co., Incorporated and E. F. Hutton & Co., Inc., as underwriters. Although CP&L will not be a party to the underwriting arrangements for the Bonds, the Bond Purchase Agreements are subject to its approval.

CP&L requests that the Agreements and the Bond Purchase Agreements be excepted from the competitive bidding requirements of Rule 50 pursuant to subsection (a)(5) of said Rule.

It is stated that fees and expenses to be incurred by CP&L in connection with the proposed transaction will be supplied by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 4, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended, or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-27095 Filed 9-16-77;8:45 am]

[Rel. No. 34-13940; File No. SR-MSE-77-33]

MIDWEST STOCK EXCHANGE, INC.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securitis Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 6, 1977, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Rules 6 and 10 of Article XXXI are hereby amended as shown below. (The paragraph that is deleted from Rule 6 which relates to Midwest Stock Exchange, Inc., exclusive issues is reworded and added to Rule 10 as Provision (a). The paragraph that remains in Rule 6 relates to both exclusive (local) and dually traded issues. Price provisions, which differ for exclusive and dually traded issues, are hereby placed in Rule 10. (additions italicized, deletions [bracketed]).

ARTICLE XXXI

Dealer Required to Purchase All Odd Lots Offered Rule 6. In any security in which he or it is registered as such, an odd-lot dealer shall be required to purchase all odd lots offered to him or it by any member or member organization of the Exchange and he or it shall be required to sell to any member or member organization of the Exchange any odd lots bid for by such member or member organization. [upon the terms hereinafter stated.

Sales of odd lots by an odd-lot dealer shall be at a price equivalent to the next full-lot regular sale made on the Exchange, after the order is recieved by the odd-lot dealer, plus the designated odd-lot differential. Purchases of odd lots by an odd-lot dealer shall be at a price equivalent to the next full-lot regular sale made on the Exchange, after the order is received by the odd-lot dealer, minus the designated odd-lot differential.]

["Last Proper Sale"] *Exception of Odd Lot Orders* Rule 10. (a) *MSE Exclusive Issues. Odd-lot market orders in MSE exclusive issues will be executed at a price equivalent to the next full-lot regular sale made on the Exchange, after the order is received by the odd-lot dealer plus or minus, if any differential is charged, the amount of such differential.*

(b) *Dually Traded Issues.* As to certain stocks dually traded on this Exchange and on another national securities exchange in the State of New York and which stocks have been designated as being in the dual trading system, *market* orders will be accepted for execution as an odd lot based on the last New York *exchange* sale in effect at the time the order is presented at the specialist post, provided the order is for a number of shares less than the full lot in said stock.

(i) An odd lot as part of an order involving a round lot, shall be filled on the basis of the full lot price whether such full lot is executed on Midwest or on another exchange; in such case the order shall be marked "on sale".

(ii) Odd lot *market* orders which are entered during trading halt situations will be executed based on the reopening price in the New York *exchange* market.

(iii) A member firm may, at its discretion direct the execution of an odd lot *market* order in a dually traded issue on the basis of the last round lot sale on Midwest provided that a more current effective New York *exchange* sale is not in effect at the time the order is presented at the specialist post.

(c) *General. A market order shall be executed at the proper full lot transaction, plus or minus a differential, if one is to be charged, except where an order exceeds a full lot or a multiple of a full lot, such excess portion shall be filled on the execution of the first full lot.*

(i) Stop orders to buy shall become market orders when a round-lot transaction takes place at or above the stop price. The order shall be filled at the price of the next transaction plus an odd-lot differential if one is to be charged.

(ii) Stop orders to sell shall become market orders when a round lot transaction takes place at or below the stop price. The order shall be filled at the price of the next transaction minus an odd-lot differential if one is to be charged.

(iii) Odd-lot transactions shall not be made on "seller" or "cash" trades.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rules changes is as follows:

The purpose of the proposed rules changes is to clarify existing Exchange procedures regarding the execution of odd lot orders in dually traded and exclusive Midwest Stock Exchange, Incorporated issues. Wording has been eliminated which related to the time when fixed commission rates were in existence.

Clarification of the Midwest Stock Exchange, Inc.'s odd lot pricing procedures is necessary for the facilitation of transactions in odd lots on the Exchange.

Therefore, the proposed rules changes promote just and equitable principles of trade and remove impediments to the perfection of the mechanism of a free and open market.

Comments have neither been solicited nor received.

The Midwest Stock Exchange, Inc., believes that no burdens have been placed on competition.

By October 24, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the abovementioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by October 10, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 8, 1977.

[FR Doc.77-27096 Filed 9-16-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 06/12-0023]

FIRST SOUTHERN CAPITAL CORP.

Approval of the Transfer of Control of a Small Business Investment Company

On August 23, 1977, a notice was published in the FEDERAL REGISTER (42 FR 42421) stating that First Southern Capital Corp., Suite 1216 Commerce Building, 821 Gravier Street, New Orleans, La. 70112, had filed an aplication with the Small Business Administration (SBA), pursuant to § 107.701 of the SBA rules and regulations governing small buiness investment companies (13 CFR Section 107.701 (1977)), for the transfer of control of this company to Crabtree Investments, Inc.

Interested parties were given to the close of business September 2, 1977, to submit their written comments to SBA.

Notice is hereby given that, having considered the application and all other data, SBA approved this application for transfer of control effective September 7, 1977.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 12, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator, for Investment.

[FR Doc.77-27082 Filed 9-16-77;8:45 am]

MINNEAPOLIS DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Minneapolis District Advisory Council will hold a public meeting from 10 a.m. until 2 p.m., Thursday, October 20, 1977, at the College of St. Thomas, St. Paul, Minn., to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call Paul W. Jansen, District Director, U.S. Small Business Administration, Plymouth Building, Room 530, 12 South Sixth Street, Minneapolis, Minn. 55402 (612-725-2928).

Dated: September 13, 1977.

(Ms.) K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc.77-27083 Filed 9-16-77;8:45 am]

[Application No. 04/04-5133]

SOUTHERN INVESTMENT AND FUNDING CORP., INC.

Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under Section 301(d) of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et seq.) has been filed by Southern Investment and Funding Corp., Inc. (Applicant) with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1977).

The officers and directors are as follows:

George Eng, 72 Blackland Road, Atlanta, Ga. 30342; President, Director, and Sole Stockholder.

Anne C. Eng, 72 Blackland Road, Atlanta, Ga. 30342; Vice Presideent and Director.

Donald Eng, 300 Peachtree Street, Atlanta, Ga. 30308; Secretary/Treasurer, Director.

The applicant will maintain offices at 300 West Peachtree Street, Atlanta, Ga. 30308, and will begin operations with paid-in capital and paid-in surplus of $500,000 derived from the sale of 1,000 shares of common stock at $500 per share to Mr. George Eng, an owner of Eng's Gourmet Restaurant.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owner and manager and the probability of successful operations of the Applicant under this management, including adequate profitability and financial soundness, in accordance with the Act and SBA Rules and Regulations.

Any person may, not later than October 4, 1977, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Atlanta, Ga.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: September 12, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-27084 Filed 9-16-77;8:45 am]

[Proposed License No. 06/06-0193]

FIRST BANCORP CAPITAL, INC.

Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1977)), under the name of First Bancorp Capital, Inc., 100 North Main Street, Corsicana, Tex. 75110, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders are as follows:

William D. Wyatt, Jr., 1444 Oaklawn Drive, Corsicana, Tex. 75110; Chairman of the Board.

Oliver L. Albritton, Jr., 1218 West Park Avenue, Corsicana, Tex. 75110; President, Director.

Albert M. Harral, 808 Ambassador, Corsicana, Tex. 75110; Vice President, Director.

Gordon R. Lewis, 1712 Nrth 26th, Corsicana, Tex. 75110; Secretary, Treasurer, Director.

James K. Ward, 1101 Mockingbird, Ennis, Tex. 75119; Director.

First National Bank, Corsicana, Tex.; 72.28 percent.

Citizens National Bank, 303 West Knox, Ennis, Tex. 75119; 27.72 percent.

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The only class of authorized capital stock is common stock. No share of common stock will be entitled to preference over any other share, and each share will be equal to every other share in all respects. Holders of the common stock will be entitled to one vote for each share held of record at every meeting of shareholders.

Both of the above banking institutions are subsidiaries of First Bancorp, Inc., a bank holding company located in Corsicana, Tex. The holding company operation consists of eight banks, one insurance company, one mortgage company and trust activities. As of August 5, 1977, First Bancorp, Inc. had approximately 800 shareholders.

The Applicant Licensee proposes to commence operations with private capital of $505,000. Applicant proposes to conduct its operations principally in the State of Texas and primarily in the seven county market area including Navarro, Hill, Henderson, Dallas, Kaufman, Ellis, and Freestone Counties. The Applicant intends to establish a broad investment policy and does not intend to use the services of an investment advisor.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any interested person may, not later than October 4, 1977, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Corsicana, Tex., and Ennis, Tex.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 12, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-27085 Filed 9-16-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

[Redelegation of Authority No. 131-1]

ASSOCIATE ASSISTANT ADMINISTRATOR FOR TITLE XII AND RESEARCH

Redelegation of Authority Regarding Small Research Projects

Pursuant to the authority delegated to me by the Administrator of the Agency for International Development in Delegation of Authority No. 86, dated September 19, 1969, (34 FR 13585), as amended; in the action memorandum dated November 12, 1975 on the Small Research Project Program; and in 41 CFR 7-4.5301, I hereby redelegate to the Associate Assistant Administrator for Title XII and Research, Technical Assistance Bureau, the authority to:

1. Approve activities under the Small Research Project Program up to the level of $35,000 for each activity and $600,000 annually for the total program;
2. Make the determination in the case of an unsolicited proposal that such proposal is a product of original thinking, has significant scientific and technical merit, and contributes to AID's research program as is required under AID Procurement Regulations Section 7-4.5301 (e).

The authorities contained in 1. and 2. above do not include the authority to sign grants.

Actions heretofore taken by the Associate Assistant Administrator are hereby ratified and confirmed.

These authorities may not be redelegated.

This redelegation shall become effective immediately.

Dated: August 18, 1977.

CURTIS FARRAR,
Assistant Administrator for Technical Assistance.

[FR Doc.77-27067 Filed 9-16-77;8:45 am]

BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), P.L. 92-463, Federal Advisory Committee Act, notice is hereby given of the twelfth meeting of the Board for International Food and Agricultural Development on October 11, 1977.

The purpose of this meeting is: to meet with the Board's subordinate units, the Joint Research Committee and the Joint Committee on Agricultural Development, to review the activities of these units and receive progress reports on research and program activities relevant to A.I.D.'s Title XII objectives; to consider additional priority areas for possible collaborative research projects; and to receive progress reports on prior Board-requested actions, including actions taken to strengthen American universities' capabilities in agricultural development and research and the expansion of the roster of American universities eligible to participate in Title XII programs.

The meeting will begin at 8:30 a.m. and will adjourn at 4:30 p.m. It will be held in Room 1107 in the State Department Building. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Associate Assistant Administrator, Technical Assistance Bureau, is designated Federal Officer at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 703-235-9001.

Dated: September 8, 1977.

ERVEN J. LONG,
Federal Officer, Board for International Food and Agricultural Development.

[FR Doc.77-27066 Filed 9-16-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FLIGHT STANDARDS DISTRICT OFFICE NO. 63 AT YPSILANTI, MICHIGAN

Change in Function

Notice is hereby given that on or about October 1, 1977, the Ypsilanti, Michigan, Flight Standards District Office (FSDO) will be closed and its functions will be performed by two new offices located at Willow Run Airport, Ypsilanti, Michigan. Services to the general aviation public will be provided by General Aviation District Office (GADO No. 20) and air carrier services will be provided by Air Carrier District Office (ACDO No. 35). This information will be reflected in the next issuance of the FAA Organization Statement.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

Issued in Des Plaines, Illinois, on September 8, 1977.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc.77-26997 Filed 9-16-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Commissioner's Delegation Order No. 66 (Rev. 5); Chief Counsel's Order No. 1031.2]

ASSISTANT REGIONAL COMMISSIONERS

Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of authority.

SUMMARY: The authority of the Commissioner of Internal Revenue to determine liability in docketed and nondocketed cases is being delegated to the Assistant Regional Commissioners (Employee Plans and Exempt Organizations). The text of the delegation order appears below.

EFFECTIVE DATE: October 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. B. Larson, E:EO:O, 1111 Constitution Avenue, NW., Room 2215, Washington, D.C. 20224 (202-566-6489), not toll free.

JOHN J. MONACO,
Acting Chief, Exempt Organizations Operations Branch.

Date of issue: September 14, 1977.

Effective date: October 17, 1977.

AUTHORITIES OF REGIONAL APPELLATE DIVISION AND REGIONAL EMPLOYEE PLANS AND EXEMPT ORGANIZATIONS DIVISION IN PROTESTED AND TAX COURT CASES

The authority vested in the Commissioner of Internal Revenue by 26 CFR 301.6020-1, 26 CFR 301.6201-1, 26 CFR 301.7701-9 and Treasury Department Order No. 150-37, is hereby delegated as follows:

1. (a) In each region the Regional Commissioner is authorized to represent the Commissioner in determining liability or qualification for the following types of cases not docketed in the U.S. Tax Court when the taxpayer does not agree with the determination made by the office of a District Director or by the office of the Director of International Operations and requests consideration by the Regional Appellate Division or the Regional Employee Plans and Exempt Organizations Division, or both:

(1) Except as excluded under paragraph 5 of this Order, liability for excise, employment, income, profits, estate and gift taxes; and

(2) Initial or continuing qualification under Subchapter D of Chapter 1 of the Internal Revenue Code of 1954.

(b) Except as provided in subparagraph (c), in each region the Assistant Regional Commissioner (Appellate), is authorized and each Chief and Assistant Chief, Appellate Branch Office, is authorized to represent the Regional Commissioner in the determination of tax liability in any such case.

(c) In each region the Assistant Regional Commissioner (Employee Plans and Exempt Organizations) is authorized and the Executive Assistant to such Assistant Regional Commissioner is authorized to represent the Regional Commissioner in each case under the Internal Revenue Code of 1954 (and related statutory provisions) not docketed in the Tax Court:

(1) In which a taxpayer does not agree to the determination of liability for Chapter 42 or Chapter 43 excise taxes and certain income taxes as applicable to taxable private foundations, and section 4947 trusts, and under Code sections 507(c), 511, 527(f), or 1381(a)(1), made by the office of a Key District Director of Internal Revenue for Employee Plans and Exempt Organizations matters and requests consideration by the Regional Employee Plans and Exempt Organizations Division.

(2) In which an applicant does not agree to the determination of initial or continuing qualification under Subchapter D of Chapter 1 made by the office of a Key District Director of Internal Revenue for Employee Plans and Exempt Organizations matters and requests consideration by the Regional Employee Plans and Exempt Organizations Division.

(d) The authorities delegated in this paragraph are subject to the exceptions set forth in paragraph 3 of this Order and they may not be redelegated.

2. (a) In conformity with the provisions of Delegation Order No. 60 (as revised), except as provided in subparagraph (b) following, in each income, excise, profits, estate, and gift tax case docketed in the United States Tax Court, the Assistant Regional Commissioner (Appellate) is authorized and each Chief and Assistant Chief, Appellate Branch Office, is authorized to perform those functions delegated to the Regional Commissioner in that joint Order.

(b) With respect to cases docketed in the Tax Court under the Internal Revenue Code of 1954 and related statutory provisions, in each Chapter 42 or Chapter 43 excise tax case and in certain income tax cases, as applicable to taxable private foundations, and to section 4947 trusts, Code sections 507(c), 511, 527(f), or 1381(a)(1), and in each retirement plan qualification case under Subchapter D of Chapter 1, in each region the Assistant Regional Commissioner (Employee Plans and Exempt Organizations), is authorized and the Executive Assistant to such Assistant Regional Commissioner is authorized to perform those functions vested in the Regional Commissioner by Commissioner's Delegation Order No. 60 (as revised).

(c) The authorities delegated in this paragraph are subject to the exceptions set forth in paragraph 3 of this Order and may not be redelegated.

3. The authorities delegated to the Regional Commissioner do not include authority to:

(a) Eliminate the ad valorem fraud penalty in any case in which the penalty has been determined by the district office or service center office in connection with a tax year or period, or which is related to or affects such year or period, for which criminal prosecution against the taxpayer (or related taxpayer involving the same transaction) has been recommended to the Department of Justice for willful attempt to evade or defeat tax, or for willful failure to file a return, except upon the recommendation or concurrence of Counsel; or

(b) Act in any case in which a recommendation for criminal prosecution is pending, except with the concurrence of Counsel.

4. In any case not docketed in the Tax Court in which a statutory notice was issued by the Office of a District Director or by the Director of International Operations, the Assistant Regional Commissioner (Appellate) or the Assistant Regional Commissioner (Employee Plans and Exempt Organizations), as appropriate, may relinquish the requested jurisdiction by waiver to the office of that Director. No such waiver shall be made in any case in which criminal prosecution has been recommended and not finally disposed of; nor in any case in which the determination in the statutory notice includes the ad valorem fraud penalty. Notwithstanding any such waiver, upon filing of a petition with the Tax Court, jurisdiction shall revest in the Appellate Division and or the Employee Plans and Exempt Organizations Division, as appropriate.

5. The excise and employment taxes subject to the provisions of this Order include any Federal excise or employment tax under the Internal Revenue Code of 1954, except any tax imposed by the following provisions or corresponding provisions of the Internal Revenue Code of 1939:

(a) Subtitle E; or

(b) Subchapter D, Chapter 78 of Subtitle F, insofar as it relates to alcohol and tobacco.

6. The authority to make and subscribe to a return under provisions of Code section 6020 is delegated to Appellate Appeals Officers and/or Employee Plans and Exempt Organizations Conferees, as appropriate.

7. While certain officials are delegated authority under subparagraphs 1(c) and 2(b) broad enough to determine all matters affecting proposed liabilities arising from application of the Code provisions referred to in those subparagraphs, it is contemplated that such officials will not usually determine substantial unrelated matters affecting tax liability but arising independently of the application of the said Code provisions. If, pursuant to this Order, two officials of different functions have determined separate matters in the same or a related case, either official may sign notices required by statute giving effect to the determinations of both.

8. The authorities contained in this Order are intended to supplement the authorities contained in Delegation Order No. 60 (as revised).

9. The authority delegated under this Order to Employee Plans and Exempt Organizations officials will apply only to those cases where a preliminary notice (30-day letter), notice of intent to disqualify, or proposed notice of revocation or modification is issued on or after the effective date of this Order. Regional Appellate Division officials will continue to determine the disposition of cases in which such notices were issued before such effective date.

10. This Order supersedes Commissioner's Delegation Order No. 66 (Rev. 4), Chief Counsel's Order No. 1958-11 (Rev. 4), issued November 23, 1970. Delegation Order No. 158, issued September 17, 1976, is superseded.

Dated: August 29, 1977.

JEROME KURTZ,
Commissioner.

SEPTEMBER 6, 1977.

STUART E. SEIGEL,
Chief Counsel.

[FR Doc.77-27155 Filed 9-16-77;8:45 am]

[Commissioner's Delegation Order No. 60 (Rev. 1); Chief Counsel's Order No. 1031.1]

REGIONAL COMMISSIONERS

Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of authority.

SUMMARY: The authority of the Commissioner of Internal Revenue and the Chief Counsel for the Internal Revenue

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Service to settle cases in the United States Tax Court is being revised to continue the authority of Regional Commissioners to act for the Commissioner without further specifying in that order who will represent the Regional Commissioners. The text of the delegation order appears below.

EFFECTIVE DATE: October 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. B. Larson, E:EO:O, 1111 Constitution Ave., NW., Room 2215, Washington, D.C. 20224, (202-566-6489 (not toll free)).

JOHN J. MONACO,
Acting Chief, Exempt Organizations, Operations Branch.

DATE OF ISSUE: September 14, 1977.

EFFECTIVE DATE: October 17, 1977.

CASES IN THE UNITED STATES TAX COURT

1. With respect to United States Tax Court cases, the authority vested in the Commissioner of Internal Revenue by 26 CFR 301.6020-1, 26 CFR 301.6201-1, 26 CFR 301.7701-9 and Treasury Department Order No. 150-37 is hereby delegated, and pursuant to the authority vested in Chief Counsel for the Internal Revenue Service by General Counsel Legal Division Order No. 4 it is ordered:

(a) *Pre-Session Cases.* Prior to the opening date of the session at which a case is calendared for trial or of any pre-trial hearing of or report session on a case:

(1) Settlement negotiations with the petitioner or petitioner's counsel or both shall be conducted by the Regional Commissioner, with Chief Counsel's delegate (hereinafter referred to as Counsel) invited to participate; and

(2) A settlement or concession of the case in whole or in part, negotiated or made by the Regional Commissioner and concurred in by Counsel will dispose of the case or the issue or issues involved; and

(3) If the Regional Commissioner and Counsel fail to agree (i) as to a proposed settlement or concession or (ii) that there should not be a settlement or concession, the views of each office shall be submitted by Counsel to the Chief Counsel; and the decision of the Chief Counsel in such a case shall be controlling and action shall be taken in accordance with the decision memorandum as to the whole case, or as to the issue or issues on which there was a failure to agree at the regional level.

(b) *Session Cases.* On and after the opening date of the session at which a case is calendared for trial, or of any pre-trial hearing of or report session on a case:

(1) The conclusion of Counsel that the case, in whole or in part, shall be settled, conceded, or tried shall be controlling; and Counsel's decision memorandum on the settlement or concession shall be the basis for disposition of the case, in whole or in part; and

(2) Counsel is authorized to execute stipulations of settlement of an issue or issues or of the whole case, and of concession of the case in whole or in part.

(c) *Continuance of Authority of Counsel.* The authority of Counsel under paragraph (b) shall continue:

(1) During the session at which the case is calendared for trial; or during the pre-trial or report session, as the case may be; and

(2) If a pre-trial or report session is held on the case after notice has been given that the case is calendared for trial; from the opening day of the pre-trial or report session, whichever is earlier, to and during the session for which the case is calendared for trial; and

(3) If a case is continued other than generally from a pre-trial, report, or trial session; during such continuance; and

(4) From the time when any action is taken by Counsel, during any period of time prescribed in (1), (2) and (3) of this paragraph, which modifies a pre-session conclusion of the Regional Commissioner with respect to any issue or issues of the case.

(d) *Reversion to Pre-Session Status.* If a case is continued generally from a pre-trial, report, or trial session without action having been taken by Counsel to modify a pre-session conclusion of the Regional Commissioner with respect to any issue or issues of the case, it shall revert to the status of a pre-session case and paragraph (a) shall apply until paragraph (b) again becomes effective.

(e) *Responsibility of Counsel.* Counsel shall act for the Chief Counsel, and shall be responsible for, and have power of decision in, proceedings before the Court. In the post-trial processing of a case Counsel shall have all the authority stated in subparagraphs (1) and (2) of paragraph (b). Counsel may consult at any time with the Regional Commissioner to the full extent desirable.

2. The authority delegated herein to Regional Commissioners may be redelegated only by specific Commissioner's Delegation Orders. The authority of Chief Counsel's Delegate to redelegate is contained in Chief Counsel's Order No. 1030.1A, issued August 20, 1974.

3. This Order supersedes Commissioner's Delegation Order No. 60, Chief Counsel's Order No. 1958-5, issued April 17, 1958.

Dated: August 29, 1977.

JEROME KURTZ,
Commissioner.

[FR Doc 77-27152 Filed 9-16-77;8:45 am]

Office of the Secretary

[Department Circular Public Debt Series—No. 22-77]

TREASURY NOTES OF SEPTEHBER 30, 1979

Series U-1979

SEPTEMBER 14, 1977.

1. INVITATION FOR TENDERS

1.1 The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $3,136,000,000 of United States securities, designated Treasury Notes of September 30, 1979, Series U-1979 (CUSIP No. 912827 HA 3). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated September 30, 1977, and will bear interest from that date, payable on a semiannual basis on March 31, 1978, and each subsequent 6 months on September 30 and March 31 until the principal becomes payable. They will mature September 30, 1979, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, September 21, 1977. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, September 20, 1977.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accomplished by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the weighted average price (in three decimals) of accepted competitive tenders, and competitive tenders with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Friday, September 30, 1977, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Monday, September 26, 1977, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Friday, September 23, 1977, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

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6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.77-26995 Filed 9-14-77;2:04 pm]

VETERANS ADMINISTRATION

CAREER DEVELOPMENT COMMITTEE

Meeting

The Veterans Administration gives notice pursuant to Public Law 92-463 that a final meeting of the Career Development Committee will be held in Room A-53 of the Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, October 3-4, 1977, at 8:30 a.m. The meeting will be for the purpose of scientific review of applications for appointment to the Career Development Program in the Veterans Administration system. The Committee advises the Director, Medical Research Service on selection and appointment of Associate Investigators, Research Associates, Clinical Investigators, Medical Investigators, Senior Medical Investigators and William S. Middleton Award Nominees.

The meting will be open to the public up to the seating capacity of the room from 8:30 a.m. to 9 a.m. to discuss the general status of the program. Because of the limited seating capacity of the room, those who plan to attend should contact Mrs. Darlene R. Whorley, Executive Secretary of the Committee, VA Central Office, Washington, D.C. (202-389-2317) prior to September 28, 1977.

The meeting will be closed from 9 a.m. to 5 p.m. on October 3-4 for consideration of individual applications for positions in the Career Development Program. This necessarily requires examination of personnel files and discussion and evaluation of the qualifications, competence, and potential of the several candidates, disclosure of which information would constitute a clearly unwarranted invasion of personal privacy, as provided for in 5 USC 552b(c)(6) and section 10(d) of Public Law 92-463.

Minutes of the meeting and rosters of the committee members may be obtained from Mrs. Darlene R. Whorley, Chief, Career Development Program, Medical Research Service, Veterans Administration, Washington, DC (phone 202-389-2317).

Dated: September 13, 1977.

MAX CLELAND,
Administrator.

[FR Doc.77-27130 Filed 9-16-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 482]

ASSIGNMENT OF HEARINGS

SEPTEMBER 14, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 125433 (Sub-No. 94), F-B Truck Line Company, now assigned September 16, 1977, at San Francisco, Calif. is canceled and application dismissed.

MC 82841 (Sub-No. 207), Hunt Transportation, now assigned September 22, 1977, at Kansas City, Mo. is canceled and application dismissed.

MC 141081 Sub No. 4 National Freight Lines, Inc., now assigned September 15, 1977 is postponed to December 8, 1977 (2 days) at Los Angeles, Calif., in a hearing room to be later designated.

MC 142982 T. G. Swarb, DBA Swarb Trucking Co., now assigned October 26, 1977 at Houston, Tex., will be held in Room 7006, Federal Bldg. and Courthouse, 515 Rusk Ave.

MC 129068 Sub No. 38 Griffin Transportation, Inc., now assigned October 31, 1977 at Dallas, Tex., will be held in Room 5A15-17, Federal Bldg., 1100 Commerce St.

MC 141663 Robert E. Moore Common Carrier Application, now assigned October 12, 1977 at Greensboro, N.C., will be held in Room 127, U.S. Post Office and Federal Bldg., 324 West Market St.

MC 124857 Sub 1, Interstate Towing, Inc. now assigned September 19, 1977 at Phoenix, Ariz., is cancelled and transferred to Modified Procedure.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-27164 Filed 9-16-77;8:45 am]

[Notice No. 224]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30-days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77285, filed September 2, 1977. Transferee: B-N INC., 705 North Topeka, P.O. Box 232, El Dorado, Kans. 67042. Transferor: Bacon, Inc., P.O. Box 1326 Ardmore, Okla. 73401. Applicant's representative: Wilburn L. Williamson, Attorney at Law, 3535 NW., 58th Street, Suite 280, National Foundation Life Bldg., Oklahoma City, Okla. 73112. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Permit No. MC-129467 issued April 22, 1970, as follows: Industrial asphalt, in bulk, in tank vehicles, from Augusta and El Dorado, Kans., to Kansas City, Mo. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77289, filed September 2, 1977. Transferee: UNIVERSAL DEVELOPMENT, INC., P.O. Box 568, York, Nebr., 68467. Transferor: Iowa Packers Xpress, Inc., 920 32nd Ave. West, Spencer, Iowa 51301. Applicant's representative: John Jandera, Attorney at Law, 641 Harrison St., Topeka, Kans. 66603; Scott E. Daniel, Attorney at Law, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC-115113 (Sub-No. 31), issued July 15, 1976, as follows: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant site and storage facilities of, or utilized by, Farmland Foods, Inc., located at or near Crete, Nebr., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. Transferee is presently authorized to operate as a common carrier under Certificate No. MC-143071 and subs thereafter. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77292, filed September 2, 1977. Transferee: WILLIAM L. POTTER, doing business as FRANKS EXPRESS, 83 Mill St., Rhinebeck, N.Y. 12572. Transferor: Ellwood V. Franks, doing business as Franks Express, Old Route 22, Millerton, N.Y. 12546. Applicant's representative: Neil D. Breslin, Attorney at Law, 99 Washington Ave., Suite 1111, Albany, N.Y. 12210. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC-97059 (Sub-No. 1), issued September 30, 1975, as follows: General commodities, between all points in Dutchess County, N.Y. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77294, filed August 30, 1977. Transferee: STAN'S VAN SERVICE, INC., 5 Lynde St., Nashua, N.H. Transferor: Edgar J. Liberty, doing business as Liberty's Eastern Express, 41 Elm St., Milford, N.H. Applicant's representative: Silas Little III, Attorney at Law, 116 Lowell St., Manchester, N.H. 03101. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-38299, issued May 15, 1953, as follows: *Household goods* as defined by the Commission, over irregular routes, between points in Hillsboro, Cheshire, and Merrimack Counties, N.H., on the one hand, and, on the other, points in Vermont. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77296, filed August 31, 1977. Transferee: J. J. BRADY & SONS, INC., R. 29 West Street, Beverly Farms, Mass. 01915. Transferor: Elmer Robert Dahlenburg (Davis R. Dahlenburg, M.D., Executor), doing business as E. R. Dahlenburg, 238 Pike Street, Covington, Ky. 41011. Applicant's representative: David B. Erwin, Attorney at Law, 1030 E. Lafayette Street, Suite 112, Tallahassee, Fla. 32301. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC-53746, issued October 20, 1955, as follows: Horses and in connection therewith harness, sulkies, and other articles customarily accompanying race horses and polo ponies between points in Ohio, Illinois, Indiana, Michigan, Pennsylvania, New Jersey, New York, Kentucky, and West Virginia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77297, filed August 30, 1977. Transferee: CASSER TOURS, INC., 46 West 43rd Street, New York, N.Y. 10036. Transferor: Manhattan Transit Co., U.S. Highway 46, Elmwood Park, N.J. 07407. Applicant's representative: Henry U. Snavely, 410 Pine Street, Vienna, Va. 22180. Authority sought for the purchase by transferee of (1) the operating rights of transferor as set forth in Certificates Nos. MC-3700 (Sub-No. 37), issued March 14, 1958; MC-3700 (Sub-No. 39), issued November 18, 1958; MC-3700 (Sub-No. 40), issued January 21, 1959; MC-3700 (Sub-No. 41), issued April 28, 1959; MC-3700 (Sub-No. 42), issued October 18, 1963; MC-3700 (Sub-No. 43), issued May 2, 1961; MC-3700 (Sub-No. 44), issued September 28, 1961; MC-3700 (Sub-No. 45), issued December 27, 1961; MC-3700 (Sub-No. 47), issued November 13, 1963; MC-3700 (Sub-No. 53), issued August 1, 1967; MC-3700 (Sub-No. 54), issued June 26, 1969; MC-3700 (Sub-No. 56), issued April 15, 1968; MC-3700 (Sub-No. 59) issued April 24, 1969; MC-3700 (Sub-No. 60), issued October 8, 1969; MC-3700 (Sub-No. 62), issued December 4, 1970; MC-3700 (Sub-No. 63), issued June 23, 1971; MC-3700 (Sub-No. 65), issued May 25, 1972; MC-3700 (Sub-No. 67), issued July 6, 1972; MC-3700 (Sub-No. 69), issued June 4, 1973; MC-3700 (Sub-No. 71), issued January 8, 1975; and MC-3700 (Sub-No. 72), issued May 12, 1975; and (2) the special operations portions of Certificate No. MC-3700 (Sub-No. 36), issued May 13, 1957, as follow:

Passengers and their baggage, over irregular routes, in special round-trip operations, restricted to the authorized racing season at each of the tracks named: Beginning and ending at New York, N.Y., and extending to the Delaware Race Track, Stanton, Del., the Pimlico Race Track, Baltimore, Md., the Laurel Race Track, Laurel, Md., the Bowie Race Track, Bowie, Md., the Saratoga Race Track, Saratoga, N.Y., the Lincoln Downs Race Track, Lincoln, R.I., Charles Town Race Track, Charles Town, W. Va., Freehold Race Track, Freehold, N.J., Atlantic City Race Track (Hamilton Township), N.J., Green Mountain Park Race Track, at Pownal, Vt., Dover Downs Race Track, Dover, Del., Liberty Bell Park Race Track, Philadelphia, Pa., Brandywine Raceway at Wilmington, Del., Penn National Race Course, at Grantville, Pa., and Keystone Race Track, at Bensalem, Pa.; (b) Beginning and ending at Newark or Paterson, N.J., and extending to Yonkers Raceway, Yonkers, N.Y., Roosevelt Raceway, Westbury, N.Y., Aqueduct Race Track and Jamaica Race Track, New York, N.Y., and Belmont Race Track, Belmont, N.Y.; (c) Beginning and ending at Jersey City and Newark, N.J., and extending to Saratoga Race Track, Saratoga Springs, N.Y.; (d) Beginning and ending at Paterson, Clifton, and Passaic, N.J., and extending to Delaware Park Race Track, Stanton, Del., Pimlico Race Track, Baltimore, Md., Laurel Race Track, Laurel, Md., and Bowie Race Track, Bowie, Md.; (e) Beginning and ending at Clifton and Passaic, N.J., and extending to Aqueduct Race Track, New York, N.Y., Belmont Race Track, [B]elmont, N.Y., Jamaica Race Track, New York, N.Y., Yonkers Raceway, Yonkers, N.Y., and Roosevelt Raceway, Westbury, N.Y.; (f) Beginning and ending at Hackensack and Fort Lee, N.J., and extending to Yonkers Raceway, Yonkers, N.Y.; (g) Beginning and ending at Bloomfield, N.J., and extending to Delaware Park Race Track, Stanton, Del., Pimlico Race Track, Baltimore, Md., and Bowie Race Track, Bowie, Md.; (h) Beginning and ending at Bloomfield, Clifton, Passaic, and Paterson, N.J., and extending to Liberty Bell Park Race Track, Philadelphia, Pa., and Green Mountain Park Race Track, Pownal, Vt.; (i) Beginning and ending at Fort Lee and Hackensack, N.J., and extending to Delaware Park Race Track, Stanton, Del., Green Mountain Park Race Track, Pownal, Vt., and Liberty Bell Park Race Track, Philadelphia, Pa.;

Passengers and their baggage, over irregular routes, in special operations restricted to traffic originating at the points indicated in round-trip sightseeing or pleasure tours, from points in Passaic, Bergen, and Essex Counties, N.J., and New York, N.Y., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, North Carolina, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, and the District of Columbia, and return, subject to the following conditions: No passenger shall be picked up at any point not within the above-described base territory who has not purchased a round-trip tour ticket, and except in the case of a bona fide stopover from one tour to a succeeding tour, no passenger shall be discharged at any point outside the described base territory other than the point of origin of that particular passenger.

Passengers and their baggage in the same vehicle with passengers, over irregular routes, (a) in one-way and round-trip charter operations, Beginning or ending at points in Nassau and Suffolk Counties, N.Y., and extending to points in the United States (except Alaska and Hawaii); (b) in special round-trip sightseeing tours, Beginning and ending at Jersey City, N.J., and extending to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, North Carolina, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, and the District of Columbia; (c) in special operations, in round-trip sightseeing or pleasure tours, (i) Beginning and ending at Freeport, Hempstead Village, Lynbrook, Garden City, Mineola, New Hyde Park, Floral Park, Hicksville, East Patchogue, Bay Shore, Babylon, Huntington, and Huntington Station, N.Y., and extending to points in Connecticut, Delaware, Maine, Massachusetts, Maryland, North Carolina, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, and the District of Columbia; (ii) Beginning and ending at Bayonne, N.J., and extending to points in Florida; (iii) Beginning and ending at Jersey City, N.J., New York, Freeport, Hempstead Village, Lynbrook, Garden City, Mineola, New Hyde Park, Floral Park, Hicksville, East Patchogue, Bay Shore, Babylon, Huntington, and Huntington Station, N.Y., points in Passaic, Bergen, and Essex Counties, N.J., and extending to points in Alabama, Alaska,

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Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Texas, Utah, Washington, West Virginia, Wisconsin, and Wyoming; (iv) Beginning and ending at points in that part of Westchester County, N.Y., on, south, and east of a line beginning at the Hudson River, thence southeasterly over Highway 287 to junction Interstate Highway 95, and thence northeasterly over Interstate Highway 95 to the New York-Connecticut State line, and extending to points in the United States (including Alaska but excluding Atlantic City, N.J., and points in Hawaii); and (v) Beginning and ending at points in Hudson County, N.J., and extending to points in the United States (including Alaska but excluding Hawaii).

Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77 27160 Filed 9-16-77;8:45 am]

[Notice No. 112TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 7, 1977.

The following are notices of filing of applications for temporary authority under Section 310a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 32967 (Sub-No. 2TA) (Correction) filed July 7, 1977, published in the FEDERAL REGISTER issue of August 4, 1977, and republished as corrected this issue. Applicant: ATLANTIC COAST EXPRESS, INC., 2170 North Fleet St., Elizabeth, N.J. 07201. Applicant's representative: Galland, 1054 Thirty First St. NW., Washington, D.C. 20007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities*, except motor vehicles, commodities in bulk, Class A and B explosives, household goods, and commodities which because of their size and weight require special equipment, and (2) *containers and container chassis, and trailers* (except those designed to be drawn by passenger automobiles), between Baltimore, Md., and points in it's Commercial Zone as defined in Title 49 CFR 1048.21, restricted to traffic having an immediate prior or subsequent movement by rail or water, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): D. Lee Kraus & Company, 406 Water St., Baltimore, Md. 21202. Renn F. LaMaster, Inc. FMC No. 1785 R, 541 S. Turtle Creek, Indianapolis, Ind. 46227. Keystone Terminals, Inc., Rm. 115 Dunmar Bldg., Dundalk Marine Terminal 21222. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, Bureau of Operations, 9 Clinton St. Newark, N.J. 07102. The purpose of this republication is to add the rest of the commodity description in (2) above.

No. MC 114211 (Sub-No. 311TA) (Correction), filed July 29, 1977, published in the FEDERAL REGISTER issue of August 22, 1977, and republished as corrected this issue. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, Waterloo, Iowa 50704. Applicant's representative: Daniel Sullivan, Suite 1600, 10 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural equipment and industrial equipment*, between Grand Island and Lexington, Nebr. and Vinton, Iowa, on the one hand, and, on the other, points in Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, Washington, Oregon, Nevada, California, and the ports of entry between the United States and Canada located in North Dakota, Montana, Idaho and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sperry New Holland, 500 Diller Avenue, New Holland, Pa. 17557. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309. The purpose of this republication is to indicate the state of Wyoming in lieu of Nebraska, which was previously published in error.

No. MC 115036 (Sub-No. 25TA), filed August 5, 1977. Applicant: VAN TASSEL Inc., 5th and Grand, Pittsburg, Kans. 66762. Applicant's representative: Dean Williamson, 208 Nat'l. Foundation Life Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Materials* used in the manufacture of urethane (except commodities in bulk), from Pittsburg, Kans. to points in the United States (except Alaska and Hawaii), from points in the United States (except Alaska, Hawaii, Illinois, Indiana, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin), to Pittsburg, Kans.; (2) *equipment used* in the mixture and discharge of the commodities described in (1) above, between Pittsburg, Kans., on the one hand, and, on the other, points in the United States (except Alaska, and Hawaii). Restriction. Said operations are limited to a transportation service to be performed under a continuing contract or contracts, with Pitzer Inc. of Pittsburg, Kans., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pitzer Inc., 502½ N. Broadway, Pittsburg, Kans. 66762. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101A Litwin Building, Wichita, Kans. 67202.

No. MC 60014 (Sub-No. 55TA), filed August 5, 1977. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit or pipe, cement*, containing asbestos fibre and fittings therefor, from the plantsite of Cement Asbestos Products Company (subsidiary of ASARCO Incorporated), at or near Ragland, Alabama, to all points in the states of Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Maine, Miami, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Cement Asbestos Products Company, Subsidiary ASARCO Incorporated, 611 Olive St., Suite 1755, St. Louis, Mo. 63101. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 106398 (Sub-No. 781TA) (Correction), filed July 18, 1977, published in the FEDERAL REGISTER issue of August 9, 1977, and republished as corrected this issue. Applicant: NATIONAL TRAILER CONVOY, INC., 525 S. Main, P.O. Box 3329, Tulsa, Okla. 74103. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation board*, from the plantsite

of Johns-Manville Sales Corp., at or near Natchez, Miss., to points in Jasper, Newton, McDonald, Lawrence, Barry, Greene, Christian, Stone, Taney, Webster, Douglas, Ozark, Wright, Howell, Oregon, Carter, Ripley, Butler, Stoddard, Cape Girardeau Counties, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Johns-Manville Sales Corporation, Ken-Caryl Ranch, Denver, Colo. 80217. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Building, 215 Northwest Third Street, Oklahoma City, Okla. 73102. The purpose of this republication is to indicate the destination points of Natchez, Miss., in lieu of Natchez, Mo., as was previously published in error.

No. MC 111375 (Sub-No. 88TA), filed August 17, 1977. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, Wis. 53704. Applicant's representative: Charles E. Dye, P.O. Box 3358, Madison, Wis. 53704. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *meat, meat products* and *meat by-products and articles* distributed by meat packinghouses as described in sections A, B and C of Appendix I to the Report of the Commission in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766. From: Independence and Waterloo, Iowa and Omaha, Nebraska and points in their Commercial Zones. To: Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming. Restricted to shipments originating in Wisconsin and stopped to complete loading at named origins, for 180 days. SUPPORTING SHIPPER(S): Cudahy Foods Co., 204 West Division St., Fond du Lac, Wis. 54935. SEND PROTESTS TO: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 111729 (Sub-No. 710TA), filed August 5, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch, (Same address as Applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cut flowers, decorative greens, and green plants*, when moving at the same time and in the same vehicle with commodities the transportation of which is subject to economic regulation: 1. From Denver, Colo. to points in Colorado, on traffic having an immediately prior movement by air, rail or motor vehicle; 2. From Seattle, Wash. to points in Washington, on traffic having an immediately prior movement by air, rail or motor vehicle; 3. From Portland, Oreg. to points in Oregon, on traffic having an immediately prior movement by air, rail or motor vehicle, for 180 days. Supporting shipper: Norman Cox & Co., Gulf Coast Farms, 2524 First Street, Fort Myers, Florida 33902. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 116110 (Sub-No. 15TA), filed August 5, 1977. Applicant: P. C. WHITE TRUCK LINE, INC. P.O. Box 1488, Dothan, Ala. 36301. Applicant's representative: Bruce E. Mitchell, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tobacco and tobacco products*, from the plantsite and storage facilities of Bayuk Cigars, Inc., located at or near Dothan, Ala., to points in Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Rhode Island, Massachusetts, Ohio, Illinois, Missouri, Michigan, Indiana, and the District of Columbia, for 180 days. Supporting shipper: Bayuk Cigars, Inc., P.O. Box 6000, Fort Lauderdale, Fla. 33310. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 118159 (Sub-No. 221TA), filed August 11, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC. P.O. Box 51366, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Deodorants* NOI other than medicine and other toilet preparations, in containers and boxes, in mixed shipments of Clorox products of foodstuffs, cleaning, bleaching and scouring compounds, cooking oils, and animal litter, from the plantsite and facilities of The Clorox Co. in Houston, Tex., to points in Arkansas, Louisiana, and Mississippi, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Clorox Co., 1221 Broadway, Oakland, Calif. Send protests to: District Supervisor, Joe Green, Interstate Commerce Commission, Room 240 Old Post Office Building, 215 NW. Third Street, Oklahoma City, Okla. 73102.

No. MC 123069 (Sub-No. 17TA), filed August 10, 1977. Applicant: ALLER & SHARP, INC., 817 West 5th Avenue, Columbus, Ohio 43212. Applicant's representative: Gregory A. Stayart, Suite 1600, 10 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, in packages, from Rittman and Fairport Harbor, Ohio to points in Indiana and the Chicago, Illinois Commercial Zone and from Lodi, Ohio, to points in Indiana (except Indianapolis, Fort Wayne, Muncie, Lafayette, Cloverdale, Terre Haute, Beech Grove, Winchester, Kokomo, Centerville, Bloomington, Evansville, Jasper, Plymouth, and Anderson), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Morton Salt Co., 110 North Wacker, Chicago, Ill. 60606. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 123255 (Sub-No. 115TA), filed August 10, 1977. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods* (except frozen foods and commodities in bulk), from the plantsite of Joan of Arc Co., Inc., at or near Turkey, N.C., to points in the States of Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Joan of Arc Co., Inc., 2231 West Altorfer Drive, Peoria, Ill. 61614. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 125433 (Sub-No. 119TA), filed August 17, 1977. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *logs or fuel*, made of ground wood, ground peanut hulls or sawdust, compressed with or without resin and/or wax, from Chowchilla, Calif. to Denver, Colo., and its commercial zone and Salt Lake City, Utah and its commercial zone, for 180 days. Supporting shipper(s): The Wickes Corp., 515 North Washington Avenue, Saginaw, Mich. 48607 (J. B. Townley, Director of Corporate Distribution). Send protests to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 127812 (Sub-No. 25TA), filed August 16, 1977. Applicant: Tyson Truck Lines, Inc., 185 5th Avenue SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packinghouse products and articles* dealt in by wholesale and retail grocery houses in vehicles equipped with mechanical refrigeration (except commodities in bulk and malt beverages), between Minneapolis-St. Paul, Minn., on the one hand, and, on the other, points in Minnesota and points in Ashland, Barron, Bayfield, Buffalo, Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Iron, Jackson, LaCrosse,

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Oneida, Pepin, Pierce, Polk, Price, Rusk, Sawyer, St. Croix, Trempealeau, Washburn, and Vilas Counties, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 28 statements of support attached to the application which may be examined at the interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 128592 (Sub-No. 10TA) (Correction), filed August 2, 1977, published in the FEDERAL REGISTER issue of August 22, 1977, and republished as corrected this issue. Applicant: KLM, INC., P.O. Box 162, Railroad Avenue, Jackson, Miss. 39208. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ham*, from Miami, Fla., to San Jose, Calif.; Chicago, Ill.; New Orleans, La., St. Louis, Mo., and Virginia Beach, Va., (2) *frozen foods*, from points in Pennsylvania, Texas, and Wisconsin, to the distribution facilities of the Burger King Corp. located at San Jose, Calif., and (3) *cheese*, from points in Wisconsin to the distribution facilities of the Burger King Corp. located at San Jose, Calif., under a continuing contract with Burger King Corp., Distron Division, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Burger King Corp., Distron Division, P.O. Box 520843, Miami, Fla. 33152. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201. The purpose of this republication is to omit (3) which was repeated twice in the first publication.

No. MC 134477 (Sub-No. 18TA), filed August 4, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Meat, meat products, and meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Morris Rifkin & Sons at or near South St. Paul, Minn., to Dallas and Fort Worth, Tex., restricted to the transportation of traffic originating at the above named origin and destined to the above named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Morris Rifkin & Sons, South St. Paul, Minn. 55075. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 134859 (Sub-No. 10TA), filed June 29, 1977. Applicant: WILLIAM C. RUSSELL & JAMES F. RUSSELL, doing business as, FRANK RUSSELL & SON, 401 South Ida Street, West Frankfort, Ill. 62896. Applicant's representative: William C. Russell (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magnetite*, in bulk, in pneumatic tank vehicles, from Bristol, Tenn., to coal mines located in Union County, Ky., and in Illinois under a continuing contract or contracts with Reiss Viking Corp. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Robert H. Biever, General Superintendent, Reiss Viking Corp., 1011 South 8th Street, Sheboygan, Wis. 53081. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 138635 (Sub-No. 42TA) (Partial Correction), filed July 21, 1977, published in the FEDERAL REGISTER issue of August 22, 1977, and republished as corrected this issue. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, N.C. 28052. Applicant's representative: Eric Meierhoefer, Suite 712, 11511 K Street NW., Washington, D.C. 20005.

NOTE.—The purpose of this republication is to add the Supporting shipper: District Supervisor, Terrell Pice, Interstate Commerce Commission, 800 Brair Creek Road, Mart Office Building, CC-516, Charlotte, N.C. 28205, which was previously omitted before in error. The rest of the publication remains the same.

No. MC 139850 (Sub-No. 10TA), filed August 2, 1977. Applicant: FOUR STAR TRANSPORTATION, INC., Box 66, 301-12 Park Building, Council Bluffs, Iowa 51501. Applicant's representative: Leonard D. Wilkins, Box 8, Underwood, Iowa 51576. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix 1 to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk), from American Beef Packers at Oakland, Iowa to Kansas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Beef Packers, Kenneth Hering, Traffic Manager, Oakland, Iowa. Send protests to: District Supervisor, Carroll Russell, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 141255 (Sub-No. 10TA), filed August 4, 1977. Applicant: TANDY TRANPORTATION, INC., P.O. Box 7135, 3501 Fairview, Fort Worth, Tex. 76111. Applicant's representative: Ralph W. Pulley, Jr., 4555 First National Bank Bldg., Dallas, Tex. 75202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by electronic equipment supply stores, between the facilities of Radio Shack, division of Tandy Corp., at Groveport, Ohio, on the one hand, and, on the other, points in Georgia, Illinois, Indiana, Kentucky, Michigan, New York, Pennsylvania, Tennessee, West Virginia, New Jersey, Delaware, Maryland, Virginia, Wisconsin, and the District of Columbia, under a contract with Tandy Corp. and its division, Radio Shack, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Tandy Corp. and its division, Radio Shack, 2727 West 7th Street, Fort Worth, Tex. 76111. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor St., Fort Worth, Tex. 76102.

No. MC 141774 (Sub-No. 10TA), filed August 16, 1977. Applicant: R & L TRUCKING CO., INC., 105 Rocket Avenue, Opelika, Ala. 36801. Applicant's representative: Robert E. Tate, Registered Practitioner, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic bags, plastic can liners, plastic containers and plastic articles*, from the facilities utilized by Bes-Pak & Co., Inc., in Montgomery County, Ala., to points in the States of Arkansas, Georgia, Kansas, Illinois, Kentucky, Mississippi, Missouri, and Tennessee; (2) *Materials and supplies* used in the manufacture of plastic bags, plastic can liners, plastic containers, plastic articles, (except commodities in bulk, in tank vehicles), from points in the States of Arkansas, Georgia, Kansas, Illinois, Kentucky, Mississippi, Missouri, and Tennessee, to the facilities used by Bes-Pak & Co., Inc., in Montgomery County, Ala., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bes-Pak & Co., Inc., P.O. Drawer 2190, Montgomery, Ala. 36103. Send protest to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 142117 (Sub-No. 3TA), filed August 4, 1977. Applicant: B.W.C.S., Inc., 14 Park Avenue, Salem, N.H. 03079. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electronic components, business machine parts, business papers, records, audit and accounting media, magnetic tapes, and microfilm*, between points in Massachusetts, New Hampshire, Maine, Vermont, and Rhode Island. Restriction: Restricted against the transportation of any package or article weighing more than 70 pounds or exceeding 108 inches in length and girth combined and each package or article shall be considered as a separate and distinct shipment, and restricted against transportation of packages or articles weighing in the aggregate more than 150 pounds, from one consignor at one location to one consignee at one location on any one day, for 180 days. Supporting shipper: Digital Equipment Corp., 444 Whitney Street, Northboro, Mass. 01532. Send protests to: District Supervisor Ross J. Seymour, Interstate Commerce Commission, Federal Building, Room 425, 55 Pleasant Street, Concord, N.H. 03301.

No. MC 143505 (Sub-No. 1TA) (Correction), filed July 21, 1977, published in the FEDERAL REGISTER issue of August 9, 1977, and republished as corrected this is-pose of this partial correction is to add SERVICES, INC., 171 Stafford Road, Palmyra, N.Y. 14522. Applicant's representative: Charles A. Schiano, One East Main Street, 500 Wilder Bldg., Rochester, N.Y. 14614. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dried brewers grain and by-products* of the Brewing Industry, from points in Monroe County, N.Y., to points in Pennsylvania, from points in Pennsylvania to points in Monroe County, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ames Burns Co., 701-3 Hotel Jamestown Bldg., Jamestown, N.Y. 14701; Co-op Feed Dealers, Inc., P.O. Box 670, Binghamton, N.Y. 13902; Genesee Brewing Co., Inc., 445 St. Paul Street, Rochester, N.Y. 14605. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, U.S. Courthouse and Federal Bldg., 100 South Clinton Street, Syracuse, N.Y. 13202. The purpose of this republication is to indicate the territory description.

No. MC 143555 (Sub-No. 1TA) (Partial Correction), filed August 3, 1977 published in the FEDERAL REGISTER issue of August 23, 1977, and republished as corrected this issue. Applicant: RIVERSIDE TRANSPORTATION CO., INC., 1903 Canal Drive, Wilson, N.C. 27893. Applicant's representative: Dennis A. Peacock (same address as applicant). The purpost of this partial correction is to add 4 additional supporting shippers: Penn-Packing Co., 2300 E. Butler St., Philadelphia, Pa. 19137; Wessel, Duval & Co., Inc., One World Trade Center, Suite 2671, New York, N.Y. 10048; John C. Cramer, Associate, P.O. Box 236, Brookside, N.J. 07926; Central Soya, Inc., Box 110, Wilson, N.C. 27893. The rest of the publication remains the same.

No. MC 143609 TA, filed August 16, 1977. Applicant: HJM TRANSPORT INC., P.O. Box 967, Williston, N. Dak. 58102. Applicant's representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles* distributed by meat packing houses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except liquid commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Williston Packing Co., Inc., at or near Williston, N. Dak. to Minneapolis-St. Paul, Minn., commercial zone; Belgrade, Minn.; Chicago, Ill.; and Milwaukee, Wis. Restriction: Restricted to traffic originating at and destined to the above-named origin and destinations, under a continuing contract, or contracts, with Williston Packing Co., Inc., Box 967, Williston, N. Dak. 58801, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper(s): Williston Packing Co., Inc., Box 967, Williston, N. Dak. 58801. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 143615 (Sub-No. 1TA), filed August 17, 1977. Applicant: L & A LEASING, INC., P.O. Box 233, Broadway, N.J. 08808. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Acids, solvents, chemicals and materials, equipment, and supplies* used in the manufacture of acids, solvents, and chemicals (except commodities in bulk). Between Harrison, Phillipsburg, N.J., Chicago, Ill., on the one hand, and, on the other Chicago, Ill., Brisbane, Hayward, Pittsburg, San Francisco, Los Angeles, Pasadena, Calif., Salt Lake City, Utah, Phoenix, Ariz., Denver, Colo., under continuing contract or contracts with J. T. Baker Chemical Co., Phillipsburg, N.J., for 180 days. Restricted to shipments moving in mechanical refrigeration equipment. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): J. T. Baker Chemical Co., North Broad Street, Phillipsburg, N.J. 08865. Send protests to: District Supervisor Joel Morrows, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-27161 Filed 9-16-77; 8:45 am]

[Notice No. 118TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 16, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 51146 (Sub-No. 523TA), filed August 31, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded cellular foam rubber*, from Baltimore, Md., to Lancaster, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): William T. Burnett & Co., Inc., 1500 Bush St., Baltimore, Md. 21230. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg. and Courthouse, 517 East Wisconsin Avenue, Rm. 619, Milwaukee, Wis. 53202.

No. MC 100666 (Sub-No. 362TA), filed August 26, 1977. Applicant: MELTON TRUCK LINES, INC., P.O. Box 766, 1129 Grimmett Drive, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 3535 NW. 58th St., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials* (except commodities in bulk, in tank vehicles), from Stroud, Okla., to points in Colorado and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Allied Materials Corp., P.O. Box 12340, Oklahoma City, Okla. 73112. Send protests to: District Supervisor Ray C. Armstrong,

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Jr., 701 Loyola Ave., 9038 Federal Bldg., New Orleans, La. 70113.

No. MC 112963 (Sub-No. 69TA), filed August 24, 1977. Applicant: ROY BROS. INC., 764 Boston Road, Pinehurst, Mass. 01866. Applicant's representative: Leonard E. Murphy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry sugar*, in bulk, in specially designed dump vehicles, from Ports of Entry on the International Boundary line between the United States and Canada, in New York, Vermont, and New Hampshire to Waymouth, Mass., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Northeastern Brokerage, Inc., 308 Boylston Street, Boston, Mass. 02116. Send protests to: District Supervisor John B. Thomas, Bureau of Operations, Interstate Commerce Commission, 150 Causeway Street, Boston, Mass. 72114.

No. MC 113678 (Sub-No. 701TA), filed August 25, 1977. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner, P.O. Box 16004, Stockyards Station, Denver, Colo. 80216. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk), from Traverse City, Mich., to points in Arizona, California, Idaho, Montana, Nevada, and Utah, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Chef Pierre, Inc., P.O. Box 1009, Traverse City, Mich. 49804. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th St., Denver, Colo. 80202.

No. MC 113678 (Sub-No. 702TA), filed August 25, 1977. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner, P.O. Box 16004, Stockyards Station, Denver, Colo. 80216. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, and meat products* (except commodities in bulk in tank vehicles), from Webster City, Iowa, to points in Arizona, California, Colorado, Nebraska, Utah, and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Send protests to: Webster City Custom Meats, Inc., East Hwy. 20, P.O. Box 280, Webster City, Iowa 50595. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th St., Denver, Colo. 80202.

No. MC 113678 (Sub-No. 703TA), filed August 25, 1977. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner, P.O. Box 16004, Stockyards Station, Denver, Colo. 80216. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meant by-products, and articles distributed by meat packinghouses* (except bulk), from Limon, Colo., to points in Arizona, California, New Jersey, New York, Pennsylvania, and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Limon Packing Co., Inc., 474 Wisconsin Avenue, Limon, Colo. 80828. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th St., Denver, Colo. 80202.

No. MC 117940 (Sub-No. 230TA), filed August 30, 1977. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packing houses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Swift Fresh Meats Co. at or near Rochelle, Ill., to Lexington, Ky., and Cincinnati and Springdale, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Swift Fresh Meats Co., a Division of Swift & Co., 115 W. Jackson Blvd., Chicago, Ill. 60604. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg. and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 119789 (Sub-No. 369TA), filed August 29, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: Donald L. Stern, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular route, transporting: *Fresh meats and packinghouse products*, from the plant sites and storage facilities of Wilson Foods Corp. at Albert Lea, Minn.; Cherokee, Cedar Rapids, and Des Moines, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia, for 180 days. Supporting shipper(s): Wilson Foods Corp., 4545 Lincoln Boulevard, Oklahoma City, Okla. 73105. Send protests to: Opal M. Jones, Transportation Asst., 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 119988 (Sub-No. 123TA), filed August 18, 1977. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Hwy 103 East, Lufkin, Tex. 75901. Applicant's representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned fruit and canned vegetable juices*, from Weslaco, Tex., to points in Alabama, Arizona, Arkansas, California, Colorado, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Nevada, Ohio, Oklahoma, Oregon, Tennessee, Utah, Washington, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Texsun Corp., 522 South Texas Boulevard, Weslaco, Tex. 78596. Send protests to: John F. Mensing, District Supervisor, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk, Houston, Tex. 77002.

No. MC 120761 (Sub-No. 28TA), filed August 29, 1977. Applicant: NEWMAN BROS. TRUCKING CO., 6559 Midway Road, P.O. Box 13302, Fort Worth, Tex. 76118. Applicant's representative: Clint Oldham, 1108 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardwood products, plywood and particle board*, from the facilities of Contemporary Corporation at or near Dallas, Tex., and the facilities of Elof Hansson, Inc., at or near Arlington, Tex., to points in Arkansas, Georgia, Kansas, Louisiana, Missouri, and Oklahoma, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Contemporary Corp., 915 S. Great Southwest Parkway, Grand Prairie, Tex. 75051; and Elof Hansson, Inc., 1701 Timberlake Drive, Arlington, Tex. 76010. Send protests to: Robert J. Kirspel, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 9A27, Federal Building, 819 Taylor St., Fort Worth, Tex. 76102.

No. MC 120978 (Sub-No. 18TA), filed August 30, 1977. Applicant: REINHART MAYER, doing business as MAYER TRUCK LINE, 1203 South Riverside Drive, Jamestown, N. Dak. 58401. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap paper for recycling and reuse*, from Chicago, Ill., and Duluth and Minneapolis, Minn., to Valley City, N. Dak., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): NCI, Inc., P.O. Box 267, Valley City, N. Dak. 58072. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 121060 (Sub-No. 49TA), filed August 22, 1977. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, 1220 West 3rd St., Birmingham, Ala. 35201. Applicant's representative: William P. Jackson, 3426 North Washington Blvd., P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood and composition board*, from the facilities of Champion International Corp. located at Charleston, S.C., to points in Illinois, Indiana, Kentucky, Ohio, Tennessee, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Champion International Corp., Knightsbridge Drive, Hamilton, Ohio 45020. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Rm. 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 123387 (Sub-No. 9TA), filed August 29, 1977. Applicant: E. E. HENRY, 1923 Sparrow Road, Chesapeake, Va. 23320. Applicant's representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the facilities of Midland Glass Co. located at or near Warner Robins, Ga., to Williamsburg, Va., and points within its commercial zone, for 180 days. Supporting shipper(s): Midland Glass Co., P.O. Box 557, Cliffwood, N.J. 07721. Send protests to: District Supervisor Paul D. Collins, Bureau of Operations, Interstate Commerce Commission, Rm. 10–502, Federal Bldg., 400 North 8th St., Richmond, Va. 23240.

No. MC 124151 (Sub-No. 7TA), filed August 30, 1977. Applicant: VANGUARD TRANSPORTATION INC., Foot Lafayette Street, Carteret, N.J. 07008. Applicant's representative: Morton E. Kiel, Suite 6193—5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except petrochemicals), in bulk, in tank vehicles, from the facilities of Mobil Oil Corp. at or near Paulsboro, N.J., to points in Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, and Baltimore, Md. (restricted to traffic originating at the named origin and destined to the named destinations), for 180 days. Supporting shipper(s): Mobil Oil Corp., 150 East 42nd Street, New York, N.Y. 10017. Roger Williams, Manager, Eastern Traffic Area. Send protests to: Robert S. H. Vance, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 129262 (Sub-No. 1TA), filed August 15, 1977. Applicant: AYERS AND MADDUX, INC., 510 East Olympic Blvd., Los Angeles, Calif. 90015. Applicant's representative: Donald Murchison, 9454 Wilshire Blvd., Beverly Hills, Calif. 90212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank vehicles, from ports of entry on the United States-Mexico International Boundary line located at Laredo and El Paso, Tex., to Bardstown and Louisville, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: (1) Barton Brands, Ltd., Barton Rd., Bardstown, Ky. 40004; (2) Brown Foreman Distillers Corp., 850 Dixie Hwy., Louisville, Ky. 40210; (3) Tequila Tres Magueyes, S.A., Porfirio Diaz 17, Atotonilco, Jalisco, Mexico; and (4) Tequila San Matias de Jalisca, S.A., Calzada Gonzalez Gallo No. 2565, Guadalajara, Jal., Mexico. Send protests to: Irene Carlos, Transportation Asst., Interstate Commerce Commission, Room 1321, Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 133928 (Sub-No. 13TA), filed August 18, 1977. Applicant: OSTERKAMP TRUCKING, INC., 1049 N. Glassell St., Orange, Calif. 92667. Applicant's representative: Anthony Henry Osterkamp, Jr., P.O. Box 5546, Orange, Calif. 92667. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products, and materials and supplies* used in the manufacture, installation, and distribution of the above named commodities (except in bulk), between the plantsite of the United States Gypsum Company located at or near Empire, Nev., to the plantsite of the United States Gypsum Company located at or near Heath, Mont., under a continuing contract, or contracts, with United States Gypsum Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): United States Gypsum Company, 525 S. Virgil Ave., Los Angeles, Calif. 90020. Send protests to: Irene Carlos, Transportation Asst., Interstate Commerce Commission, Room 1321, Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 135539 (Sub-No. 9TA), filed August 12, 1977. Applicant: FARM SERVICE & SUPPLIES, INC., P.O. Box 5351, Evansville, Ind. 47715. Applicant's representative: Margie Market, 305 Van Buren St., Marengo, Ill. 60152. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Continuous flow grain dryers*, portable and stationary, between the plantsite of Delux Mfg. Company, located at Kearney, Nebr., and points in Iowa, Illinois, Indiana, Ohio, Pennsylvania and North Carolina, under a continuing contract, or contracts, with Delux Mfg. Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Delux Mfg. Company, P.O. Box Q, Kearney, Nebr. 68847. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg. and U.S. Courthouse, 46 East Ohio St., Room 429, Indianapolis, Ind. 46204.

No. MC 135684 (Sub-No. 53TA), filed August 29, 1977. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Herbert A. Dubin, 1320 Fenwick Lane, Silver Spring, Md. 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from the plantsite and warehouse facilities of U.S. Steel Products, located at or near Newnan, Ga., to the facilities of Merck & Co., Inc., at Rahway, N.J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Merck & Co., Inc., P.O. Box 2000, Rahway, N.J. 07065. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 138313 (Sub-No. 25TA), filed August 26, 1977. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street SW., Great Falls, Mont. 59404. Applicant's representative: Irene Warr, 430 Judge Bldg., Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation*, from the plantsite and facilities of Robinson Insulation Company located at or near Great Falls, Mont., to points in North Dakota, Wyoming, Utah, Idaho, Washington and Oregon, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Floyd E. Gebert, General Manager, Robinson Insulation Company, 1226 River Drive Mo., Great Falls, Mont. 59403. Send protests to: Paul J. Labone, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 138824 (Sub-No. 7TA), filed August 10, 1977. Applicant: REDWAY CARRIERS, INC., 5910 49th St., Kenosha, Wis. 53140. Applicant's representative: Paul J. Maton, 10 S. LaSalle St., Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bins* knocked down, and *parts for machines, equipment and implements* uncrated, or in tote boxes, or palletaners, or on skids, between the plantsites and warehouses of Outboard Marine Corportion, located in or near Galesburg, Ill. and the plantsite and warehouse facilites of Outboard Marine Corporation located at or near Beloit, Wis., under a continuing contract, or contracts, with Outboard Marine Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Outboard Marine Corporation, 100 Sea Horse Drive, Waukegan, Ill. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg. and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 142268 (Sub-No. 19TA), filed August 31, 1977. Applicant: GORSKI BULK TRANSPORT, INC., R.R. No. 4. Harrwo, Ontario, Canada NOR 1G0. Applicant's representative: Bernard S. Gorski, 843 Central Ave., Windsor, Ontario, Canada N8Y 4S2. Authority sought to operate as a *common carrier*, by mo-

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tor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank vehicles, from International Port of Entry at Laredo, Tex., to Owensboro, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Glenmore Distilleries Company, P.O. Box 1069, Owensboro, Ky. 42301. Send protests to: Erma W. Gray, Secretary, Interstate Commerce Commission, Bureau of Operations, 604 Federal Bldg., and U.S. Courthouse, 231 West Lafayette Blvd., Detroit, Mich. 48226.

No. MC 142811 (Sub-No. 2TA), filed August 30, 1977. Applicant: S. R. I. TRUCKING CO., 1000 N. Cindy Lane, Carpenteria, Calif. 93013. Applicant's representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, Calif. 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Restaurant supplies, foodstuffs, fats and oils* (except in bulk), *furniture and fixtures, shellfish, poultry, fresh produce and fish*, normally exempt from economic regulation under Section 203(b) of the Interstate Commerce Act, when moving in mixed loads with restaurant supplies, foodstuffs, fats and oils (except in bulk) and *furniture and fixtures*, (1) from the warehouse facilities of Sambo's Restaurants, Inc., at Florence, Ky., to all Sambo's restaurants located in Arkansas, Illinois, Iowa, Kansas, Louisiana, Michigan, Minnesota, Nebraska, North Dakota, Oklahoma, South Dakota, Texas and Wisconsin; and (2) from points in Arkansas, Illinois, Iowa, Kansas, Louisiana, Michigan, Minnesota, Nebraksa, North Dakota, Oklahoma, South Dakota, Texas and Wisconsin, to the warehouse facilities of Sambo's Restaurants, Inc. at Florence, Ky., restricted to a transportation service to be performed under a continuing contract, or contracts, with Sambo's Restaurants, Inc., for 180 days. Supporting shipper(s): Sambo's Restaurants, Inc., 3760 State Street, Santa Barbara, Calif. 93105. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 143561 (Sub-No. 1TA), filed August 29, 1977. Applicant: Joseph E. Cobb, d.b.a., J. E. C. TRUCKING, 35324 Severen Dr., P.O. Box 111, Newark, Calif. 94560. Applicant's representative: Joseph E. Cobb (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products*, and *meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (including hides and commodities in bulk), from Yerington, Nev., to points in California, and *equipment, materials and supplies* used in the conduct of a meat packinghouse business, from points in California to Yerington, Nev., restricted to a transportation service to be performed under a continuing contract, or contracts, with Nevada West Packing, Inc., for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Nevada West Packing, Inc., P.O. Box JJ, Nordyke Cutoff, Yerington, Nev. 98447. Send protests to: District Supervisor, A. J. Rodrigues, 211 Main, Suite 500, San Francisco, Calif. 94105.

No. MC 143581 (Sub-No. 1TA), filed August 24, 1977. Applicant: R. E. ELLIS DRAYING CO., INC., 201 Alabama St., San Francisco, Calif. 94103. Applicant's representative: Daniel W. Baker, 100 Pine St., San Francisco, Calif. 94111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by a packer and manufacturer of foods and foodstuffs, and in connection therewith, equipment, materials and supplies used in the conduct of such a business (except commodities in bulk), and (2) *commodities* which are otherwise exempt from economic regulation under Section 203(b)(6) of the Interstate Commerce Act, when moving in mixed loads with the commodities specified in (1) above, (a) from San Francisco and Oakland, Calif., to the plant site of Spice Islands at Sparks, Nev.; and (b) from the plant site of Spice Islands at Sparks, Nev., to points in San Francisco, Marin, Sonoma, Napa, Solano, Contra Costa, Alameda, Santa Clara, San Mateo, Santa Cruz, Yolo, Sacramento, San Joaquin and Stanislaus Counties, Calif., restricted to a transportation service to be performed under a continuing contract, or contracts, with Spice Islands, a Division of Specialty Brands, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Spice Islands, a Division of Specialty Brands, Inc., 345 Allerton Ave., S. San Francisco, Calif. 94080. Send protests to: Michael M. Butler, District Supervisor, 211 Main, Suite 500, San Francisco, Calif. 94105.

No. MC 143644 (Sub-No. 1TA), filed August 29, 1977. Applicant: EMBER LINK, Rural Route 1, Palmyra, Ind. 47164. Applicant's representative: Edwin J. Simcox, 601 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand and gravel*, from the plantsite of M & M Construction Service, Inc., in Floyd and Harrison Counties, Ind., to points in Breckenridge, Hardin and Meade Counties, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): M & M Construction Service, Inc., 35 West Seventh St., New Albany, Ind. 47150. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg. and U.S. Courthouse, 46 East Ohio St., Room 429, Indianapolis, Ind. 46204.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-27162 Filed 9-16-77;8:45 am]

[Notice No. 113TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 8, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 4428 (Sub-No. 17TA), filed August 16, 1977. Applicant: HARCHELROAD TRUCKING CO., 243 Tilford Rd., Pittsburgh, Pa. 15235. Applicant's representative: Christian V. Graf, 407 North Front St., Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractory products*, from the plantsites and shipping facilities of Freeport Brick Company, at or near Freeport and Reesedale, Armstrong County and Creighton, Allegheny County, Pa., to points in New York, Ohio and Mich., restricted to traffic originating at and destined to the above origins and destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Freeport Brick Company, Drawer F, Freeport, Pa. 16229. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 40978 (Sub-No. 33TA), filed August 16, 1977. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, 3321 Business, 141 South, Sheboygan, Wis. 53081. Applicant's representative: Wm. C. Dineen, 710 N. Plankinton, Milwaukee, Wis. 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured, distributed or used by manufacturers or distributors of plastic, wooden, and health care products (except commodities in bulk), betwen Sheboygan Falls, Wis., and points in the Sheboygan Falls, Wis., Commercial Zone, on the one hand, and, on the other, points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Tex., for 180 days. Supporting shipper(s): Bemis Manufacturing, Sheboygan Falls, Wis. 53085. (Fritz H. Hebeker). Send protests to: Gail Daugherty Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 517 East Wisconsin Avenue, Room 619, Wilwaukee, Wis. 53202.

No. MC 51146 (Sub-No. 521TA), filed August 22, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials, and returned empty malt beverage containers*, between the facilities of Pabst Brewing Company at or near Pabst, Ga., on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pabst Brewing Company, 917 W. Juneau Avenue, Milwaukee, Wis. 53201. (Richard Trampe) Send protests to: Gail Daugherty Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 106074 (Sub-No. 40TA), filed August 19, 1977. Applicant: B AND P MOTOR LINES, INC., Oakland Rd., P.O. Box 727, Forest City, N.C. 28043. Applicant's representative: George W. Clapp, 109 Hartsville St., P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Cameron, Hidalgo and Webb Counties, Tex., to points in Arkansas, and La., and points in the United States in and east of Illinois, Kentucky, Mississippi, Tennessee and Wis., for 180 days. Supporting shipper(s): Bluebonnet Foods, Inc., Monte Alto, Tex. 78538. Rio Sales Company, Inc., 701 North 15th Street, McAllen, Tex. 78501. Sun Valley Sales Co., 1019 Wisteria Street, McAllen, Tex. 78501. San Antonio Foreign Trading Co., Inc., 306 W. Rhapsody, San Antonio, Tex. 78216. Send protests to: Terrell Price, District Supervisor, Interstate Commerce Commission, 800 Briar Creek Rd., Mart Office Bldg., Room CC-516, Charlotte, N.C. 28205.

No. MC 114457 (Sub-No. 326TA), filed August 22, 1977. Applicant: DART TRANSIT COMPANY, 2102 University Ave., St. Paul, Minn. 55114. Applicant's representative: James H. Wills, 2102 University Ave., St. Paul, Minn. 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except dairy products, frozen foods and commodities in bulk), from the plantsite and/or warehouse facilities of Geo. A. Hormel & Co., at or near Austin, Minn., to points in Oklahoma and Ark., for 180 days. Supporting shipper(s): Geo. A. Hormel & Co. P.O. Box 800, Austin, Minn. 55912. Send protests to: Marion L. Cheney Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., and U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 114569 (Sub-No. 186TA), filed August 23, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins, P.O. Box 418, New Kingstown, Pa. 17072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and frozen vegetables*, from points in Cameron and Hidalgo Counties, Tex., to Cambridge, Md.; Jackson., Ohio.; and Kansas City, Mo., for 180 days. Supporting shipper(s): RJF Foods, Inc. P.O. Box 3037, Winston-Salem, N.C. 27102. Send protests to: Charles F. Myers District Supervisor, Interstate Commerce Commission, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 116763 (Sub-No. 388TA), filed August 5, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building materials and supplies; building mortar; concrete surface curing compounds; and adhesives;* and (2) *equipment, materials and supplies* used in the installation or application of commodities named in item (1) above, from Conyers, Ga., to points in Alabama, Arkansas, Florida, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. Restricted to the transportation of traffic originating at the facilities of UPCO Company located at or near Conyers, Ga., for 180 days. Supporting shipper: The UPCO Company, 4805 Lexington Ave., Cleveland, Ohio 44103. Send protests to: Paul J. Lawry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Maine St., Cincinnati, Ohio 45202.

No. MC 118776 (Sub-No. 24TA), filed August 22, 1977. Applicant: C. L. CONNORS, INC., 3820 Wisman Lane, Quincy, Ill. 62301. Applicant's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beer*, from Milwaukee, Wis., to Quincy, Ill., for 180 days. Supporting shipper(s): B. Kirk McAllister Vice President & Executive Operator and Officer, Consumers Sales Distribution Company (Corp.) 833 Jersey Street, Quincy, Ill. 62301. Send protests to: Harold C. Jolliff District Supervisor, Interstate Commerce Commission, P.O Box 2418, Springfield, Ill. 62705.

No. MC 118882 (Sub-No. 5 TA), filed August 8, 1977. Applicant: JOE L. LAMBERT, doing business as LAMBERT TRUCKING SERVICE, 715 Fox Avenue, Harrisville, W. Va. 26362. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, W. Va. 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast concrete pipe and precast concrete products*, (1) from points in West Virginia to all points in Ohio on and east of a line running parallel with Interstate Highway 75 from Toledo, Ohio, to Findlay, thence south along Route 68 through Kenton, Belfontaine, Urbana, Springfield, Xenia, Wilmington, Fairfield, and Ripley, Ohio, and (2) from Zanesville, Ohio, to points in West Virginia, for 180 days. Supporting shipper: Charles Marshall, Jr., Vice President and Treasurer, Centurial Products Corp., Box 265, Waverly, W. Va. 26184. Send protests to: H. R. White, District Supervisor, Interstate Commerce Commission, 3108 Federal Office Bldg., 500 Quarrier Street, Charleston, W. Va. 25301.

No. MC 120646 (Sub-No. 21TA), filed August 11, 1977. Applicant: BRADLEY FREIGHT LINES, INC., 35 Carfield Street, Asheville, N.C. 28803. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Bldg., Pennsylvania Avenue and 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* used in the manufacture of new furniture, from points in Pennsylvania, Ohio, West Virginia, Kentucky, New York, Indiana, Illinois, Michigan, Missouri, and Wisconsin, to the facilities of Drexel-Heritage Furnishings located at or near Kingstree, S.C., and Black Mountain and Whittier, N.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Drexel Heritage Furnishings, Huffman Road, Drexel, N.C. 28619. Send protests to: Terrell Price, District Supervisor, Interstate Commerce Commission, Mart Office Building, Room CC-516, 800 Briar Creek Road, Charlotte, N.C. 28205.

No. MC 126126 (Sub-No. 6TA), filed August 23, 1977. Applicant: RABB BROS. TRUCKING, INC., P.O. Box 736, San Joaquin, Calif. 93660. Applicant's representative: Randall M. Faccinto, Handler, Baker & Greene, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Dry fertilizer*, in bulk, (1) from Helm, Bena, Edison, and Hercules, Calif., to points in Lane, Linn, and Benton Counties, Oreg.; and (2) from Bena, Edison, and Hercules, Calif., to points in Douglas, Coos

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Curry, Josephine, Klamath, Jackson, and Lake Counties, Oreg., under a continuing contract, or contracts, with Valley Nitrogen Producers, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Valley Nitrogen Producers, Inc., P.O. Box 128, Helm, Calif. 93627. Send protests to: Michael M. Butler, District Supervisor, 211 Main, Suite 500, San Francisco, Calif. 94105.

No. MC 128007 (Sub-No. 107TA), filed August 23, 1977. Applicant: HOFER, INC., P.O. Box 583, 4032 Parkview Drive, Pittsburg, Kans. 66762. Applicant's representative: Larry E. Gregg, 641 Harrison, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Copper sulphate and iron sulphate*, from the facilities of Chem-Serv Division, United Chemical Corp. of New Mexico, at Gilbert, Ariz., and St. Louis, Mo., to points in Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Westmin Corp., P.O. Box 822, Quincy, Ill. 62301. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, Kans. 67202.

No. MC 128246 (Sub-No. 21TA), filed August 8, 1977. Applicant: SOUTHWEST TRUCK SERVICE, P.O. Box A.D., Watsonville, Calif. 95076. Applicant's representative: William F. King, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, Va. 22312. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Meat, meat products, and meat by-products*, as described in section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk), (b) from the plantsite and warehouse facilities of Payton Packing Co. at or near El Paso, Tex., the plantsite and warehouse facilities of Glover Packing Co. at or near Roswell, N. Mex., the plantsite and warehouse facilities of Swift & Co. at or near Clovis, N. Mex., and the plantsite and warehouse facilities of Schwartzman Packing Co. at or near Albuquerque, N. Mex., to the plantsite and warehouse facilities of the Safeway Stores, Inc., meat processing plant at or near Wichita, Kans. Restriction: The operations described above are limited to a transportation service to be performed under a continuing contract or contracts with Safeway Stores, Inc., of Oakland, Calif.

NOTE.—The authority sought involves only the territorial expansion of the present contract carrier service being provided by applicant under continuing contracts with Safeway Stores, Inc., of Oakland, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority.

Supporting shipper: Safeway Stores, Inc., 5725 E. 14th St., Oakland, Calif. 94660. Send protests to: District Supervisor Michael M. Butler, 211 Maine St., Suite 500, San Francisco, Calif. 94105.

No. MC 128449 (Sub-No. 8TA), filed August 23, 1977. Applicant: JAMES A. Tucker, d.b.a. Jimmie Tucker Trucking, P.O. Box 428, Browkn Bow, Okla. 74728. Applicant's representative: Rufus H. Lawson, 106 Bixler Building, 2400 Northwest 23rd Street, Oklahoma City, Okla. 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood post, polcs, and lumber, treated and untreated*, from plantsite of the Weyerhauser Co., located at or near De Queen, Ark., to the states of Colorado, Kansas, Iowa, Nebraska, New Mexico, Missouri, Oklahoma, and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Weyerhauser Co., 810 Whittington Avenue, Hot Springs, Ark. 71901. Send protests to: Joe Green, District Supervisor, Interstate Commerce Commission, Room 240, Old Post Office Building, 215 Northwest Third Street, Oklahoma City, Okla. 73102.

No. MC 128555 (Sub-No. 18TA), filed August 19, 1977. Applicant: MEAT DISPATCH, INC., 2103 17th Street East, Palmetto, Fla. 33561. Applicant's representative: S. Michael Richards, 44 North Avenue, P.O. Box 225, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Texarkana, Ark., Port Edwards, Wis.; Rapids, Brokaw, and Green Bay, Wis., to Rochester, N.Y., under a continuing contract, or contracts, with Economy Paper Co., for 180 days. Supporting shipper(s): Economy Paper Co., 1175 East Main Street, Rochester, N.Y. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 Northwest 5rd Terrace, Miami, Fla. 33166.

No. MC 133168 (Sub No. 5TA), filed August 19, 1977. Applicant: DELTA EXPRESS, INC., P.O. Box 776, River Road, Natchitoches, La. 71457. Applicant's representative: D. E. Lester, P.O. Box 776, Natchitoches, La. 71457. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, from the plant sites of Reed Lumber Co. in Bernice, Monroe, and Holy Ridge, La. to points in Mississippi, Texas, and Arkansas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): C. A. Reed Lumber Co., P.O. Box 267, Bernice, La. 71222. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 701 Loyala Avenue, 9038 Federal Building, New Orleans, La. 70113.

No. MC 134022 (Sub-No. 27TA), filed August 4, 1977. Applicant: RICHARD A. ZIMA, doing business as Zipco, P.O. Box 715, West Bend, Wis. 53095. Applicant's representative: Richard A. Zima, 3462 Townhall Road, Kewaskum, Wis. 53040. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen sandwiches and bread products*, and (2) *materials, equipment, and supplies* used in the manufacture of frozen sandwiches and bread products in mechanically refrigerated, temperature controlled vehicles, (1) from Plover, Wis., to points in Maryland, New Jersey, Washington, D.C., Pennsylvania, Rhode Island, New York, Ohio, Michigan, Massachusetts, Connecticut, and Indiana; and (2) from the points as described in part (1) to Plover, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Great American Basic Commodities, Inc., 1001 Hoover Road, Plover, Wis. 54467. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 135797 (Sub-No. 80TA), filed August 8, 1977. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Hwy 71, Lowell, Ark. 72745. Applicant's representative: Paul A. Maestri, P.O. Box 200, Lowell, Ark. 72745. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal and poultry medicinal health products* (except in bulk), from Norwich, N.Y., to Ashland, Ohio, and (2) *feed supplements, components, and ingredients* (except in bulk), from Lowell, Ark., to Sparks, Nev., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Smith Kline Animal Health Products, Division of Smith Kline Corp., P.O. Box 219, Lowell, Ark. 72745. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 136521 (Sub-No. 2TA), filed August 8, 1977. Applicant: EXECUTIVE COURIER SERVICE, INC., 305 Cravens Bldg., Oklahoma City, Okla. 73102. Applicant's representative: David L. Leffel, 3000 N. Santa Fe, Oklahoma City, Okla. 73105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Currency, cash letters, checks, audit media, and other business records, computer print outs, engineering diagrams, legal documents, exposed and processed film and prints, video tape recordings*, transported in passenger cars only, between Amarillo, Tex., on the other hand, and on the other points in Potter County, Moore, and Sherman County, and Dallam County, the state of Texas; Cimmarron County, Tex., County in the State of Oklahoma; and Seward County in the State of Kansas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: City National Bank and Trust Co., Box 410, Guymon, Okla. 73942; The Citizens State

Bank, P.O. Box 1299, Liberal, Kans.; Bank of the Panhandle, Inc., P.O. Box 1027, Guymon, Okla. 73942; First Nation Bank, P.O. Box 649, Texhoma, Okla. 73949; First National Bank, P.O. Box 100, Guymon, Okla. 73942; Western Data Centers, Inc., P.O. Box 1308, Amarillo, Tex. 79105. Send protests to: District Supervisor Joe Green, Room 240 Old Post Office Bldg., 215 Northwest Third Street, Oklahoma City, Okla. 73102.

No. MC 139313 (Sub-No. 6TA), filed August 22, 1977. Applicant: KRIMBEL TRUCKING CO., INC., 3554 McReynolds Avenue, Modesto, Calif. 95355. Applicant's representative: Henry C. Winters, 15 South Grady Way, Suite 235, Renton, Wash. 98055. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* (except in bulk), from San Francisco and Los Angeles, Calif., and their commercial zones, to Seattle and Bellevue, Wash., under a continuing contract, or contracts, with K & L Distributors, Inc., for 180 days. Supporting shipper(s): K & L Distributors, Inc., 300 120th Avenue NE., Bellevue, Wash. 98006. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 140337 (Sub-No. 3TA), filed August 17, 1977. Applicant: JESSE SHERMAN, d.b.a. Sherman Trailer Transportation, P.O. Box 3343, Cheyenne, Wyo. 82001. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, Wyo. 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Swimming pools*, from points in Jefferson County, Colo., to points in Salt Lake County, Utah, and Pennington County, S. Dak., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): San Juan Pools, Inc., 200 South Taft, Lakewood, Colo. 80228. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 105, Federal Bldg. and Court House, 111 South Wolcott, Casper, Wyo. 82601.

No. MC 141097 (Sub-No. 8TA), filed August 4, 1977. Applicant: CAL-TEX, INC., 3051 Capri Lane, Costa Mesa, Calif. 92626. Applicant's representative: Kellner & Steffire, 700 South Flower Street, Suite 1724, Los Angeles, Calif. 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Synthetic yarn, synthetic fiber, and the materials and supplies* used in connection with the manufacturing thereof, from the facilities, production, and plant sites of E. I. du Pont, located at Chattanooga, Tenn.; Waynesboro, Va.; Columbia, S.C.; and Charlotte, N.C.; Monsanto located at Greenville, S.C., and Pensacola, Fla.; Hale located at Abbeville, S.C.; to the facilities and sites of Pharr Yarns, Inc., located at McAdenville, Gastonia, Belmont, and Spencer Mountain, N.C.; Clover, S.C.; and Rome, Ga.; on the other, with no transportation for compensation on return except as otherwise authorized. (2) *Synthetic yarn, synthetic fiber, and materials and supplies* used in connection with the manufacturing thereof, from the facilities of Pharr Yarns, Inc., at or near McAdenville, Gastonia, Belmont, and Spencer Mountain, N.C., to Little Falls, N.J.; Marietta, Pa.; and Carlisle, Pa.; with no transportation for compensation on return except as otherwise authorized under a continuing contract with Pharr Yarns, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pharr Yarns, Inc., McAdenville, N.C. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street Los Angeles, Calif. 90012.

No. MC 142048 (Sub-No. 6TA), filed August 19, 1977. Applicant: PACIFIC TRANSPORTATION LINES, INC., 443 Deleware Avenue, Buffalo, N.Y. 14202. Applicant's representative: William J. Hirsch, Suite 1125, 45 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, except in bulk, from the storage facility of Lamb-Weston at Mountain Morris, N.Y., to points in New Jersey, New York, Ohio, and Pennsylvania, and returned shipments in return, for 180 days. Supporting shipper(s): Lamb-Weston, a Division of Amfac Foods, Inc., 6600 Southwest Hampton Street, P.O. Box 23517, Portland, Oreg. 98223. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 142994 (Sub-No. 3TA) (partial correction), filed July 27, 1977, published in the FEDERAL REGISTER issue of August 22, 1977, and republished as corrected this issue. Applicant: VIRGINIA COURIER SERVICE, INC., P.O. Box 278, Harrisonburg, Va. 22801. Applicant's representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth Street N.W., Washington, D.C. 20005.

NOTE.—The purpose of this partial correction is to indicate the error in (a) no service shall be provided in the transportation of articles weighing in the aggregate more than 5,000 pounds from one consignor at one location to one consignee on any one day. The purpose of this republication is to indicate 5,000 pounds in lieu of 500 pounds which was previously published in error. The rest of the publication remains the same.

No. MC 143436 (Sub-No. 2TA), filed August 18, 1977. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 9049 Stonegate Road, Indianapolis, Ind. 46227. Applicant's representative: Stephen M. Gentry, 1500 Main Street, Speedway, Ind. 46224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery items*, in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of Peter Paul, Inc., located at or near Frankfort, Ind., to points in Illinois, Kentucky, Michigan, and Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Peter Paul, Inc., Frankfort, Ind. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MC 143545 (Sub-No. 2TA), filed August 16, 1977. Applicant: BLACK ANGUS, INC., P.O. Box 8780, Jackson, Miss. 39204. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in or used by a manufacturer or distributor of chemicals (except in bulk), from Chicago and Waukegan, Ill.; Memphis, Tenn.; Buffalo, N.Y.; Gulfport, Miss.; Pittsburgh, Pa.; Pennsylvania, Buffalo, N.Y.; Spruce Pine, N.C.; Aiken, S.C.; and Mobile, Ala., to Torrance, Calif., for 180 days. Supporting shipper(s): The C. P. Hall Co., 444 Alaska Avenue, Torrance, Calif. 90503. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 143623TA, filed August 19, 1977. Applicant: CITY COAL & SUPPLY CO., INC., South Second Street, P.O. Box 788, Princeton, W. Va. 24740. Applicant's representative: Tony Oney, P.O. Box 788, Princeton, W. Va. 24740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, for ice control purposes, in bulk, in dump vehicles, from the plantsites and facilities of Morton Salt Co., at or near Princeton, W. Va., to points in the Virginia Counties of Bland, Buchanan, Carroll, Craig, Dickenson, Floyd, Giles, Grayson, Henry, Montgomery, Patrick, Pulaski, Russell, Scott, Smythe, Tazewell, Washington, Wise and Wythe, for 180 days. Supporting shipper(s): Robert W. Brinckman, Traffic Manager, Eastern Territory, Morton Salt Co., 110 N. Wacker Drive, Chicago, Ill. 60606. Send protests to: H. R. White, District Supervisor, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, W. Va. 25301.

PASSENGER. APPLICATIONS

No. MC 143438 (Sub-No. 1TA), filed August 15, 1977. Applicant: DENISE, INC., d.b.a. Travel Time, Kimberly Park, Peabody, Mass. 01960. Applicant's representative: Frank Daniels, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, passengers in special round-trip operations beginning and ending at Auburn, Charlton, Oxford, Webster, Dudley, Southbridge, Sturbridge, Mass., Quinebaug and Stafford Springs, Conn., extending to the site of Pratt & Whitney Division of the United Aircraft Corp. plant in East Hartford, Conn., for 180

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days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): United Tchnologies Corp., Pratt & Whitney Aircraft Group, Manufacturing Division, 400 Main Street, East Hartford, Conn. 06108, Pratt & Whitney Employees. Send protests to: Max Gorenstein, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 150 Causeway Street, Boston, Mass. 02114.

No. MC 143592 (Sub-No. 1TA), filed August 22, 1977. Applicant: EDWARDS TRUCKING CO., INC., P.O. Box 123, Clinton, Md. 20735. Applicant's representative: James E. Savitz, Suite 145, Professional Drive, Gaithersburg, Md. 20760. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers* who are employees of the Consolidated Rail Corp., *and their baggage*, between points in Maryland, Virginia, Delaware, Pennsylvania, and the District of Columbia, under a continuing contract, or contracts, with Consolidated Rail Corp. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Consolidated Rail Corp., Penn Station, 1515 North Charles Street, Baltimore, Md. 21201. Send protests to: W. C. Hersman, District Supervisor, Room 1413, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-27163 Filed 9-16-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

DELETION OF ITEM FROM THE SEPTEMBER 15, 1977 MEETING AGENDA

CIVIL AERONAUTICS BOARD.

SEPTEMBER 12, 1977.

TIME AND DATE: 10 a.m.—September 15, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 6. Consideration of anticipatory costs for ratemaking purposes (Memo No. 6709-B, BFR).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: At the time this item was added to the September 12, 1977 agenda, it was thought that it would be necessary for this item to be on both the September 12 and September 15 meeting agenda. However, this item was completed at the September 12 meting and there is no need for further discussion of this item on September 15. Accordingly, the following Members have voted that agency business requires that this item be deleted from the September 15, 1977 agenda and that no earlier announcement of this change was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

[S-1355-77 Filed 9-14-77;4:29 pm]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., September 20, 1977.

PLACE: 2033 K St. NW., Washington, D.C. 5th floor hearing room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Chicago Mercantile Exchange Application for Designation To Trade Stud Lumber.

Comex Application for Designation To Trade New Zinc Contract.

Portions closed to the public:

Enforcement Matter.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[FR Doc.S-1358-77 Filed 9-15-77,9:52 am]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m. September 23, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Market Surveillance Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Jane K. Stuckey, 254-6314.

[S-1359-77 Filed 9-15-77;9:52 am]

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern Time), Monday, September 19, 1977.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

(1) Final version of revised Procedural Regulations. A majority of the entire membership of the Commission determined by a recorded vote that Commission business required that this matter be added to the agenda and that no earlier announcement was possible. The vote was as follows:

In favor of change:
Eleanor Holmes Norton, Chair
Ethel Bent Walsh, Commissioner
Daniel E. Leach, Commissioner

Opposed:
None.

(2) Proposed work-sharing agreements between EEOC and the following five State or local agencies, for handling charges of discrimination:
(a) Maryland Commission on Human Relations.
(b) Baltimore (Maryland) Community Relations Commission.
(c) Montgomery County (Maryland Human Relations Commission.
(d) Illinois Fair Employment Practices Commission.
(e) Fort Worth (Texas) Human Relations Commission.
This matter is carried over from the agenda for the postponed meeting of September 14, 1977.

Portions closed to the public:

(1) Litigation Authorization; General Counsel Recommendations. Matters closed to the public under Sec. 1612.13(a) of the Commission's regulations (42 FR 13830, March 14, 1977). These matters are carried over from the agenda for the postponed meeting of September 14, 1977.

(2) Organization of the Commission's Headquarters Offices. A majority of the entire membership of the Commission determined by a recorded vote that Commission business required that this matter be added to the agenda and that no earlier announcement was possible. The vote was as follows:

In favor of change:
Eleanor Holmes Norton, Chair
Ethel Bent Walsh, Commissioner
Daniel E. Leach, Commissioner

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Opposed:
None.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Maria D. Wilson, Executive Officer, Executive Secretariat at 202–634–6748.

[S–1351–77 Filed 9–14–77;4:02 pm]

5

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 1:30 p.m. (Eastern Time), Wednesday, September 21, 1977.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington D.C. 20506.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

(1) Revision of internal Compliance Manual.

(2) Proposed work-sharing agreements between EEOC and the following five State or local agencies, for handling charges of discrimination:

a. Maryland Commission on Human Relations

b. Baltimore (Maryland) Community Relations Commission

c. Montgomery County (Maryland) Human Relations Commission

d. Illinois Fair Employment Practices Commission

e. Forth Worth (Texas) Human Relations Commission

NOTE: Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202–634–6748.

This Notice Issued September 14 1977.

[S–1360–77 Filed 9–15–77;9:59 am]

6

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m. September 21, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202–376–3012.

MATTERS TO BE CONSIDERED:

Application for Permission to Organize a New Federal Association—William E. Davenport, et al., Alexander City, Ala.

Application for Acquisition and Merger—Allstate Savings and Loan Association, Los Angeles, Calif. INTO Security Savings and Loan Associations, San Jose, Calif.

Application for Permission to Organize a new Federal Association—Charles C. Culotta, et al., Morgan City, La.

EFTS–RSU Application—Capitol Federal Savings and Loan Association, Denver, Colo.

Satellite Facility Application—First Federal Savings and Loan Association of Detroit, Detroit, Mich.

No. 71, September 14, 1977.

[S–1361–77 Filed 9–15–77;10:12 am]

7

FEDERAL HOME LOAN MORTGAGE CORPORATION.

TIME AND DATE: At the conclusion of the open meeting to be held at 2:30 p.m., September 22, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Closed Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Henry Judy, 202–624–7107.

MATTERS TO BE CONSIDERED:

Discussion of Personnel Matters.

No. 70, September 14, 1977.

RONALD A. SNIDER,
Assistant Secretary.

[S–1248–77 Filed 9–14–77;2:52 pm]

8

FEDERAL HOME LOAN MORTGAGE CORPORATION.

TIME AND DATE: 2:30 p.m., September 22, 1977.

PLACE: 320 First Street, NW., Room 630, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Henry Judy, 202–624–7107.

MATTERS TO BE CONSIDERED:

Consideration of Status Report on FHLMC move to New FHLBB Building.

No. 69, September 14, 1977.

RONALD A. SNIDER,
Assistant Secretary.

[S–1349–77 Filed 9–14–77;2:52 pm]

FEDERAL POWER COMMISSION.

SEPTEMBER 14, 1977.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub.L. No. 94–409), 5 U.S.C. 8552B;

AGENCY HOLDING MEETING: Federal Power Commission.

TIME AND DATE: September 21, 1977, 10 a.m.

PLACE: 825 North Capitol Street.

STATUS: Open.

MATTER TO BE CONSIDERED:

(Agenda) *NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, Telephone 202–275–4166.

9

This is a list of matters to be considered by the Commission, it does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, room 1000.

GAS AGENDA, 7674th MEETING, SEPTEMBER 21, 1977, REGULAR MEETING, (10 a.m.)

G–1.—Docket No. RP72–6, El Paso Natural Gas Company.

G–2.—Docket Nos. RP74–20 and RP74–83, United Gas Pipe Line Company.

G–3.—Docket No. RP74–52, Transwestern Pipeline Company.

G–4.—Docket No. RP76–89, Northern Natural Gas Company.

G–5.—Docket No. RP76–158. North Penn Gas Company.

G–6.—Docket No. RP76–144. *Fort Pierce Utility Authority, et al., complainants v. Florida Gas Transmission Company, respondent.*

G–7.—Docket No. RP77–43. *City of Tallahassee, Florida, complainant v. Florida Gas Transmission Company, respondent.*

G–8.—Docket Nos. G–8820, et al., Texaco Inc., et al., Docket No. CI77–222, Exxon Corporation.

G–9.—Docket No. CI77–329, Texaco Inc. Docket No. CP77–304 and Docket No. CP64–97, Sabine Pipe Line Company.

G–10.—Docket No. CI77–635, Gulf Oil Corporation.

G–11.—Docket No. CP76–87, El Paso Natural Gas Company.

G–12.—Docket No. CP77–267, Mid Louisiana Gas Company and Transcontinental Gas Pipe Line Corporation.

G–13.—Docket Nos. CP74–160 and CP74–207, Pacific Indonesia LNG Company. Docket No. CP75–85–3, Western LNG Terminal Company.

G–14.—Docket No. CP77–315, Tarpon Transmission Company.

G–15.—Docket No. CP77–432, Tennessee Gas Pipeline Company, a division of Tenneco Inc.

GAS AGENDA,
7674TH MEETING, SEPTEMBER 21, 1977,
REGULAR MEETING

G–1.—Docket No. RP72–134 (PGA77–10), Eastern Shore Natural Gas Company.

G–2.—Docket No. CI62–175, American Petrofina Company of Texas. Docket No. CI76–745, Ashland Oil, Inc.

G–3.—Docket No. CI77–488, The Superior Oil Company. Docket No. CI77–564, Canadian Superior Oil (U.S.) Ltd.

G–4.—Docket No. CP77–432, Tennessee Gas Pipeline Company, a division of Tenneco Inc.

G–5.—Docket No. CP77–325. Consolidated Gas Supply Corporation and Texas Eastern Transmission Corporation. Docket No. CP77–392, Transcontinental Gas Pipe Line Corporation.

G–6.—Docket No. CP77–422, Transcontinental Gas Pipe Line Corporation.

G–7.—Docket No. CP77–482, Tennessee Gas Pipeline Company, a division of Tenneco Inc.

G–8.—Docket No. CP77–509, Northern Natural Gas Company.

G–9.—Docket No. CP75–350, Columbia Gulf Transmission Company, Northern Natural Gas Company, and Tennessee Gas Pipeline Company, a division of Tenneco Inc.

G–10.—Docket Nos. CP74–160 and CP74–207, Pacific Indonesia LNG Company. Docket No. CP75–83–3, Western Terminal Company, et al.

MISCELLANEOUS AGENDA,
7674TH MEETING, SEPTEMBER 21, 1977,
REGULAR MEETING

CM–1.—Docket No. RM74–16, Natural Gas Companies' Annual Report of Proved Domestic Gas Reserves FPC Form No. 40.

CM–2.—Reserved.

CM–3.—Dworshak Dam and Reservoir Project, North Fork Clearwater River, Idaho.

POWER AGENDA,
7674TH MEETING, SEPTEMBER 21, 1977,
REGULAR MEETING

P–1.—Docket No. ER77–531, Illinois Power Company.

P–2.—Docket Nos. E–7738 and E–7784, Boston Edison Company.

P–3.—Docket No. E–9520, Illinois Power Company.

P–4.—Docket No. ER77–521, Arizona Public Service Company.

P–5.—Docket No. ER77–402, Philadelphia Electric Company.

P–6.—Docket No. ER76–303, Wisconsin Electric Power Company. Docket No. ER76–399, Wisconsin Michigan Power Company.

P–7.—Docket No. ER76–714, Indiana and Michigan Electric Company.

P–8.—Docket No. ER77–523, Puget Sound Power and Light Company.

P–9.—Docket No. E–9592, *Roscoe E. Dean, Jr. and William D. Lovin, complainants, v. Georgia Power Company, defendant.*

P–10.—Docket No. ER76–739, Public Service Company of Indiana, Inc.

P–11.—Project No. 2466, Virginia Appalachian Power Company.

P–12.—Project No. 2100, State of California, Department of Water Resources.

P–13.—Project No. 2590, Consolidated Water Power Company.

P–14.—Hydroelectric Development.

POWER AGENDA, 7674TH MEETING, SEPTEMBER 21, 1977, REGULAR MEETING

CP–1.—Docket No. ER77–556, Niagara Mohawk Power Corporation.

CP–2.—Docket No. ER77–499, Kansas City Power & Light Company.

CP–3.—Docket No. ES77–51, Iowa Electric Light and Power Company.

CP–4.—Project No. 2232, Duke Power Company.

CP–5.—Docket No. DA–223–Washington, Washington State Department of Highways.

CP–6.—Docket No. ER76–543, Southwestern Public Service Company.

CP–7.—Docket No. ER77–548, Southern California Edison Company.

KENNETH F. PLUMB,
Secretary.

[S–1350–77 Filed 9–14–77;4:15 pm]

10

FEDERAL POWER COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Pub. September 14, 1977, 42 FR 46094.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., September 16, 1977.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

P–13.—ES77–55, Iowa Power & Light Company.

KENNETH F. PLUMB,
Secretary.

[S–1357–77 Filed 9–15–77;9:35 am]

11

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, September 21, 1977.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchase of computer equipment by the Federal Reserve Bank of San Francisco.

2. Proposed expenditures for the Federal Reserve Bank of New York's Space Consolidation Plan.

3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, (202–452–3204).

SEPTEMBER 14, 1977.

GRIFFITH L. GARWOOD,
Deputy Director of the Board.

[S–1354–77 Filed 9–14–77;4:30 pm]

12

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: 1:30 p.m., Wednesday, September 14, 1977.

PLACE: Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Discussion of NRC Space Requirements (Exemption 9) (Replaces meeting on Licensing Reform Bill, which is cancelled).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, (202–634–1410).

Dated: September 14, 1977.

WALTER MAGEE,
Office of the Secretary.

[S–1363–77 Filed 9–15–77;12:13 pm]

13

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of September 19, 1977.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C. (Except as noted.)

STATUS: Some of these meetings will be open to the public; others will be closed to the public.

MATTERS TO BE CONSIDERED:

MODAY, SEPTEMBER 19

3:00 p.m.—Discussion of Draft Administration Bill for Nuclear Plant Licensing Reform (Closed, Exemption 9) (Tentative).

TUESDAY, SEPTEMBER 20

10:00 a.m.—Annual Meeting of the Atomic Safety and Licensing Board Panel (Public Meeting). (Fifth Floor Hearing Room, East-West Towers, 4350 East-West Highway, Bethesda, Maryland.)

WEDNESDAY, SEPTEMBER 21

9:00 a.m.—Discussion of Personnel Matter (Closed, Exemption 6).

9:30 a.m. (approximate)—Commission Review of Director's Denial of Petition for Revocation of Bailly CP (Closed, Exemptions 5 and 10).

10:30 a.m. (approximate)—Discussion of TRIGA (Columbia U.) Reactor (Closed, Exemption 10).

11:00 a.m. (approximate)—Briefing on Special Safeguard Implementation Report (Closed, Exemption 4).

1:30 p.m.—1. Mandatory Licensee Participation in the Nuclear Plant Reliability System (NPRDS) (approximately 1 hour) (Public Meeting).

2. Affirmation of:

New England Coalition on Nuclear Pollution (NECNP) Petition for Rulemaking to Amend Table S–3 of 10 CFR 51.

Appointment of Robert M. Lazo as Executive Secretary of the ASLBP.

Commission Order Granting Staff Petition for Review of ALAB–399.

Public Response to Proposed Rulemaking: Criteria and Procedures for Determining Eligibility for Access to or Control over Unclassified Special Nuclear Material.

(Public Meeting.)

NOTE.—The affirmations will consist of votes on matters previously reviewed individually by the Commissioners and are expected to take no more than 5 minutes.

2:30 p.m. (approximate)—Discussion of Draft Administration Bill for Nuclear Plant Licensing Reform (Closed, Exemption 9).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, (202–634–1410).

Dated: September 14, 1977.

WALTER MAGEE,
Chief, Operations Branch.

[S–1364 Filed 9–15–77;12:13 pm]

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14

UNITED STATES PAROLE COMMISSION.

TIME AND DATE: Monday, September 26, 1977, 9 a.m.-5:30 p.m., resuming at 9 a.m., Wednesday, September 28, 1977.

PLACE: Rooms 702 and 704, Federal Aviation Administration (FAA) Offices, 3400 Whipple St., East Point, (Atlanta area) Ga. 30320.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of open meeting held on July 28, 1977.

2. Chairman's remarks concerning operations of the Parole Commission.

3. Reports on regional office operations by Regional Commissioners.

4. Report on National Appeals Board and National Commissioners' operations.

5. Reports from Chairmen of various advisory committees.

6. Consideration of public comment for following proposed amendments to rules in 28 C.F.R., Part 2:

a. § 2.10(c)—Definition of what is meant by "Absconding from supervision" to cause youth or NARA offenders to lose time credit.

b. § 2.20—Classification of certain offenses formerly in the "Greatest" category as Greatest I with time ranges, and others as Greatest II with no time ranges.

7. Consideration of the following suggested rule changes to be published for public comment if adopted:

a. § 2.53—Waiver of parole consideration at the two-thirds point of an inmate's sentence.

b. § 2.26—Allow concurrence of two votes for affirmance of Regional Commissioner's decision, but require concurrence of three votes for reversal, modification, or rehearing.

8. Vote by Proxy—Consideration of whether or not to allow a Commissioner to authorize another Commissioner to vote on his behalf by proxy.

9. Publication of a report entitled "Salient Factor Score and Release Behavior" by Research personnel, in Crime and Delinquency Journal.

10. Legal Report.

11. Research Report. a. Current projects. b. Current and contemplated projects. c. Evaluation of guidelines. d. Definitions of parole success and failure—Recidivism.

12. Consideration of the following suggested Procedures Manual changes.

a. Forfeiture of street time credit for breach of conditions of parole.

b. Elimination of dispositional review delay pending appointment of counsel.

c. Discussion of possible changes in the Mental Competency procedure description.

d. Sentences consecutive to YCA terms—Aggregation of both terms.

e. Provide uniform procedure for revocation hearings within or without contiguous 48 states.

f. Add a paragraph advising examiners to avoid prejudicial, discriminatory or non-professional references in their reports.

g. Determine circumstances when testimony should or should not be in inmate's presence.

h. Release plan—Recommendation that it not be furnished prior to hearings.

i. Establish cut-off date for accepting documents into records to be considered on Original Jurisdiction cases or Original Jurisdiction Appeals.

j. Enforcement of 30 day time limit on appeals and what constitutes extenuating circumstances.

k. Absence of Regional Commissioner for over six consecutive days—Procedure to be followed.

l. Press Contacts—Whether to conduct directly at regional level or at Headquarters through the Public Information Office.

m. New Offense Table—Retroactive or prospective application of entire table or selected portions.

13. Reply to Congressmen regarding constituents by giving them public sector information, sending them consents for inmates signatures, and making full disclosure upon return of signed consent.

14. Regional Commissioners meeting with inmate councils.

15. Delegation of authority between Regional Commissioner, Analysts, and other staff members.

16. Parole supervision and pre-sentence investigations—international aspects.

17. Forms for Original Jurisdiction references and appeals.

18. Mexican Treaty—Handling inmates transferred to United States.

19. Attendance at corrections units meetings in various regions.

20. Contacts with examiners or Commissioners by persons not directly connected with specific cases.

21. NARA—Changes in Bureau of Prisons Procedural Manual.

22. Overtime or compensatory time for occasional work and travel in non-duty hours.

23. Professional organizations with which Commissions should be active.

24. Removing I.D.C.[1] reports which have already been expunged from Bureau of Prisons files from Commission files.

25. Rescission Hearing—Necessity for an I.D.C.[1] report.

26. In Revocation Hearing—Can charges be considered where there is no finding of probable cause.

27. Review of proposed new Administrative Section of Procedures Manual.

CONTACT PERSONS FOR MORE INFORMATION:

M. E. Malin Foehrkolb 202-724-3117 (Washington, D.C.) J. Wayne Allgood 404-763-7846 (Atlanta, Ga.).

[S-1352-77 Filed 9-14-77;4:29 pm]

[1] Institutional Disciplinary Committee.

15

UNITED STATES PAROLE COMMISSION.

TIME AND DATE: Tuesday, September 27, 1977, 9 a.m.

PLACE: Room 700, Federal Aviation Administration (FAA) Offices, 3400 Whipple St., East Point (Atlanta area) Georgia 30320.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of closed meeting of July 27, 1977.

2. Discussion of budget plans and specific problems connected therewith.

3. Discussion re personnel policies and practices—personnel committee functions.

4. Discussion of specific parolees, the circumstances of their release, and/or parole conditions.

5. Consideration of internal personnel rules, policies, and practices as impacting on specific employees.

6. Consideration of an application for exemption from a bar imposed by 29 USC 504 against the employment of applicant by certain labor unions; following a hearing held pursuant to the Administrative Procedures Act and a recommended decision based thereon.

7. Consideration by the Commission of approximately 11 cases determined to be Original Jurisdiction pursuant to a reference under 28 CFR § 2.17 and/or appealed pursuant to 28 CFR § 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSONS FOR MORE INFORMATION:

M. E. Malin Foehrkolb 202-724-3117 (Washington, D.C.)

J. Wayne Allgood 404-763-7846 (Atlanta, Ga.)

[S-1353-77 Filed 9-14-77;4:20 pm]

16

POSTAL RATE COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, September 21, 1977.

PLACE: Conference Room, Room 500, 2000 L St. NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Minutes of the 305th Meeting, August 31, 1977.

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, Telephone 202-254-5614.

[S-1365-77 Filed 9-15-77;12:13 pm]

17

RENEGOTIATION BOARD.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 46485, September 15, 1977.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Friday, September 16, 1977, 10:00 a.m.

CHANGE IN MEETING: Time of previously announced meeting changed to 9 a.m.

MATTERS TO BE CONSIDERED: Classified.

STATUS: Closed to public observation.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: September 14, 1977.

GOODWIN CHASE, *Chairman.*

[S-1362-77 Filed 9-15-77;10:27 am]

18

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of September 19, 1977, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Monday, September 19, 1977, immediately following the open meeting at 11 a.m., on Wednesday, September 21, 1977, at 10 a.m., and on Wednesday, September 21, 1977, immediately following the open meeting scheduled for 2 p.m. Open meetings will be held on Monday, September 19, 1977, at 11 a.m. and on Wednesday, September 21, 1977, at 2 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)A and (10) and 17 CFR 200.-402(a)(8)(9)(i) and (10).

Chairman Williams, Commissioners Loomis, Evans, and Pollack determined to hold the aforesaid meetings in closed session and that Commission business requires consideration on Monday, September 19, 1977, of the items scheduled for the open meetings on that date.

The subject matter of the closed meeting scheduled for Monday, September 19, 1977, will be:

Institution of injunctive actions.

Referral of investigative files to Federal, State, or Self Regulatory authorities.

Opinions.

The subject matter of the closed meeting scheduled for Wednesday, September 21, 1977, at 10 a.m. will be:

Referral of investigative files to Federal, State, or Self Regulatory authorities.

Settlement of injunctive actions.

Institution of administrative proceeding.

Institution of injunctive action.

Subpoena enforcement action.

The subject matter of the closed meeting scheduled for Wednesday, September 21, 1977, immediately following the open meeting at 2 p.m. will be:

Post-oral argument discussion.

The subject matter of the open meeting scheduled for Monday, September 19, 1977, at 11 a.m. will be:

1. Consideration of the deferral of re-examination of the indefinite underwriter status under Rule 145(c) and certain provisions of Rule 145(d) pending completion and presentation of a study being prepared by the Directorate of Economic and Policy Research.

2. Affirmation of duty officer action authorizing staff members to appear and testify at a hearing in the matter of SEC v. Equity Service Corporation.

3. Consideration of an application by the Interment Association of California and certain other california mortuary companies for exemption from all provisions of the Investment Company Act of 1940.

4. Consideration of rulemaking proposals to require disclosure in proxy statements of all services auditors provide public companies and their related fees; and a request for information on non-audit services provided by accounting firms.

5. Proposed rule to require disclosure of all the reasons for a change in auditors and whether the decision to change auditors was considered by the registrant's Board of Directors or its Audit Committee.

6. Application filed by the Columbia Gas System, Inc. for an order to issue and sell short-term notes and commercial paper and request for hearing by the State of Ohio regarding the application (Rescheduled from September 14, 1977).

7. Consideration of letters to be sent to certain self-regulatory organizations giving further notice that certain transaction completion rules do not comply with the Securities Exchange Act of 1934.

The subject matter of the open meeting scheduled for Wednesday, September 21, 1977, at 2 p.m. will be:

Oral argument on an application by Mr. Steven C. Pruette for appeal from disciplinary action taken against him by the National Association of Securities Dealers, Inc.

FOR FURTHER INFORMATION CONTACT:

William M. Alexander at (202) 376-7474 or Sam Knight at 202-376-8068.

SEPTEMBER 14, 1977.

[S-1347-77 Filed 9-14-77;12:11 pm]

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federal register

MONDAY, SEPTEMBER 19, 1977
PART II



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

NATIONAL FLOOD INSURANCE PROGRAM

Status of Participating Communities; Changes in Special Flood Hazard Areas and Base Flood Elevations; Letters of Map Amendment

V 42 181
SEP 19 77
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Title 24—Housing and Urban Development
CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-3335]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to list those communities where the sale of flood insurance is authorized under the National Flood Insurance Program. Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state.

DATE: The date that appears in the fourth column of the table is the effective date of authorization for the sale of flood insurance.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by Section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The addresses of the National Flood Insurers Association servicing companies, where flood insurance policies can be obtained, are published at § 1912.5 (24 CFR Part 1912).

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
•	•	•	•	•	•
Florida	Pinellas	Belleair Bluffs, city of	May 1, 1973, emergency; Aug. 15, 1977, regular	June 28, 1974 June 11, 1976	120296H
Louisiana	West Baton Rouge Parish	Addis, village of	Apr. 30, 1973, emergency; Aug. 15, 1977, regular	Dec. 7, 1973 Feb. 20, 1976	220210H
Do	do	Brusly, town of	Apr. 30, 1973, emergency; Aug. 15, 1977, regular	June 28, 1974	220241H
Massachusetts	Bristol	Dartmouth, town of	Sept. 16, 1971, emergency; Aug. 15, 1977, regular	Feb. 28, 1975	250051A
Michigan	Monroe	LaSalle, township of	Feb. 9, 1973, emergency; Aug. 15, 1977, regular	June 28, 1974 July 16, 1976	260181H
New Jersey	Bergen	Maywood, borough of	May 26, 1972, emergency; Aug. 15, 1977, regular	Aug. 15, 1977	340050
New York	Suffolk	Lindenhurst, village of	Apr. 11, 1973, emergency; Aug. 15, 1977, regular	Nov. 9, 1973 June 18, 1976	360798H
Pennsylvania	Berks	Douglass, township of	May 15, 1973, emergency; Aug. 15, 1977, regular	Nov. 9, 1973 Oct. 1, 1976	420331H
Do	Carbon	Jim Thorpe, borough of	Aug. 7, 1973, emergency; Aug. 15, 1977, regular	Apr. 5, 1974	420219A
Do	Schuylkill	Landingville, borough of	June 28, 1973, emergency; Aug. 15, 1977, regular	June 28, 1974 Apr. 23, 1976	420771H
Do	Lycoming	Montoursville, borough of	Feb. 9, 1973, emergency; Aug. 15, 1977, regular	June 15, 1973	420618A
Texas	Bexar	Windcrest, city of	Jan. 21, 1974, emergency; Aug. 15, 1977, regular	May 17, 1974	480389A
•	•	•	•	•	•
New Jersey	Sussex	Walpack, township of	Aug. 16, 1977, emergency		340158
North Dakota	Grand Forks	Northwood, city of	Mar. 8, 1976, emergency; Aug. 4, 1977, withdrawn.		380215
•	•	•	•	•	•
Iowa	Dickinson	Lake Park, city of	Aug. 17, 1977, emergency	July 30, 1976	190307
Do	Clayton	Littleport, city of	do	Aug. 23, 1974 Feb. 6, 1976	190078 A
Tennessee	Hawkins	Surgoinsville, city of	do	May 17, 1974	470279 A

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended (39 FR 2787, Jan. 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26480 Filed 9-16-77;8:45 am]

[Docket No. FI-3336]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to list those communities where the sale of flood insurance is authorized under the National Flood Insurance Program. Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state.

DATE: The date that appears in the fourth column of the table is the effective date of authorization for the sale of flood insurance.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition

or construction except as authorized by Section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The addresses of the National Flood Insurers Association servicing companies, where flood insurance policies can be obtained, are published at § 1912.5 (24 CFR Part 1912).

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
•	•	•	•	•	•
Illinois	McHenry	Holiday Hills, village of	Aug. 8, 1977, emergency		170536–NEW
Do	Piatt	Unincorporated areas	do	Jan. 31, 1975	170542
New York	Tioga	Berkshire, town of	do	Mar. 11, 1977	361215–A
Do	Steuben	Bradford, town of	do	Dec. 13, 1974 Feb. 27, 1976	361207–A
Pennsylvania	Cambria	Franklin, borough of	Aug. 1, 1977, emergency	Jan. 10, 1975	422593
•	•	•	•	•	•
Pennsylvania	Cambria	Clearfield, township of	July 29, 1977, emergency	July 18, 1975	421437
Do	do	Lorain, borough of	do	Nov. 19, 1976	422552
•	•	•	•	•	•
Tennessee	Gibson	Bradford, city of	Aug. 10, 1977, emergency	June 21, 1974 Apr. 23, 1976	470057–A
North Dakota	McHenry	Anamoose, city of	Aug. 12, 1977, emergency	Jan. 17, 1975	380154
Do	Bottineau	Souris, city of	do	Nov. 29, 1974	380049
Oklahoma	McIntosh	Checotah, city of	do	Aug. 13, 1976	400258
Do	Pushmataha	Clayton, town of	do	Nov. 5, 1976	400558
Pennsylvania	Cambria	West Taylor, township of	Aug. 3, 1977, emergency	Nov. 22, 1974	421450

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968; effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended (39 FR 2787, Jan. 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26481 Filed 9-16-77;8:45 am]

[Docket No. FI-3332]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes in Special Flood Hazard Areas

AGENCY: Federal Insurance Administration.

ACTION: Interim rule.

SUMMARY: The purpose of this rule is to list those communities wherein the Federal Insurance Administrator, after consultation with the Chief Executive Officer of the community, has determined that modification of the Special Flood Hazard Areas (SFHAs) of some locations is appropriate.

Any persons who have knowledge of changed conditions or new scientific or technical data or who wish to comment on these changes should immediately notify the Chief Executive Officer at the address listed.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

DATE: These modified SFHAs are currently in effect and amend the Flood Insurance Rate Map (FIRM), in effect prior to this determination. A revised FIRM will be published as soon as possible.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, these modified SFHAs may be changed.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The changes to the Special Flood Hazard Areas are as follows:

Panel H and I 06—The limits of Zone A are amended to coincide with the shore line of Woodridge Lake, as shown on the map.

Panel H and I 09—The limits of Zone A are amended to coincide with the shore line of Batterson Park Pond, as shown on the map.

Panel H and I 13—Zone A on this panel is now a Zone B.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

These SFHAs are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These SFHAs together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities.

These modified SFHAs shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The entry (entry not to be codified in CFR) reads as follows:

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§ 1916.8 Changes in special flood hazard areas.

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Connecticut	Hartford	Farmington, town of	Farmington Valley Herald, Aug. 18, 1977, Aug. 25, 1977.	Mr. Stephen A. Flis, Town Manager, town of Farmington, Town Hall, 1 Monteith Dr., Farmington, Conn. 06032.	Aug. 15, 1977	090029A

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended (39 FR 2787, Jan. 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-26484 Filed 9-16-77;8:45 am]

[Docket No. FI-3333]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes in Base Flood Elevations

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator has published a notification of modification of the base (100-year) flood elevations for communities listed below, in prominent local newspapers. Since that publication, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of each community listed, has determined that no changes in the modified flood elevations are necessary.

The numerous changes made in the base flood elevations on the Flood Insurance Rate Map (FIRM) for each community make it administratively infeasible to publish in this notice all of the base flood elevation changes contained in the maps. However, this notice includes the address of the Chief Executive Officer where the modified base flood elevation determinations are available for inspection.

The modifications are pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

DATE: These modified flood elevations are in effect as of the dates in the 6th Column of the attached list and amend the FIRM in effect for each listed community prior to this date.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: These base flood elevations are basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities.

These modified elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The entry (entry not to be codified in CFR) reads as follows:

§ 1916.8 Changes in base flood elevations.

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Florida	Volusia	Holly Hill, city of	The News Journal, Apr. 21, 1977, Apr. 22, 1977.	Honorable Gordon Currie, Mayor, city of Holly Hill, 1065 Ridgewood Ave., Holly Hill, Fla. 32017.	Apr. 22, 1977	125112C
Do	Escambia	Navarre Beach, town of Santa Rosa County Beach Administration.	The Pensacola News Journal, Apr. 21, 1977, Apr. 22, 1977.	Mr. John Kearly, General Manager, town of Navarre Beach, c/o Santa Rosa County Beach Administration, Route 1, Box 372, Gulf Breeze, Fla. 32561.	do	125131C

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968; effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended (39 FR 2787, Jan. 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26485 Filed 9-16-77;8:45 am]

[Docket No. FI-321]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Charlotte, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 6, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Charlotte, N.C. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the City of Charlotte, N.C., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 370159 Panel 08, published on August 6, 1974, in 39 FR 28265, indicates that Lot 2, Shannon Park No. 9, located at 5111 Belcamp Lane, Charlotte, N.C., as recorded in Book 15, Page 89, in the office of the Register of Deeds of Mecklenburg County, N.C., is within the Special Flood Hazard Area.

Map No. H 370159 Panel 08 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26460 Filed 9-16-77;8:45 am]

[Docket No. FI-2245]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Toledo, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 11, 1976, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Toledo, Ohio. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the City of Toledo, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 395373 Panel 13, published on August 11, 1976, in 41 FR 33917, indicates that Lots 1 through 18, Marina Meadows and Lots 19 through 69, Marina Meadows First Extension, Toledo, Ohio, as recorded in Plat Volume 69, Page 53 and Plat Volume 73, Page 60, respectively, in the Office of the Recorder of Lucas County, Ohio, are within the Special Flood Hazard Area.

Map No. H 395373 Panel 13 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on October 8, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26461 Filed 9-16-77;8:45 am]

[Docket No. FI-285]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Idabel, Okla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 23, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Idabel, Okla. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the City of Idabel, Okla., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 400108A Panels 01 and 04, published on January 23, 1974, in 39 FR 2603, indicates that Lots 1 through 10, Block 1; Lots 1 through 10, Block 2; Lots 1 through 10, Block 3; Lots 2 through 5, Block 5; and Lots 1 through 5, Block 6, as recorded in Book 1, Page 61, in the office of the Clerk of McCurtain County, Okla., are within the Special Flood Hazard Area.

Map No. H 400108A Panels 01 and 04 are hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on January 23, 1974.

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(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-26462 Filed 9-16-77;8:45 am]

[Docket No. FI-455]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Washington County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 27, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Washington County, Oreg. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for Washington County, Oreg., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 410238 Panel 14, published on January 27, 1975, in 40 FR 3989, indicates that Lot 9, Forestwaye No. 2, Washington County, Oreg., as recorded in Book 36, Page 37, in the office of the Clerk of Records and Elections of Washington County, Oreg., is within the Special Flood Hazard Area.

Map No. H 410238 Panel 14 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on January 24, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26463 Filed 9-16-77;8:45 am]

[Docket No. FI-1134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Easley, S.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On May 19, 1976, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Easley, S.C. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the Town of Easley, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchased flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 450167A Panel 01, published on May 19, 1976, in 41 FR 20562, indicates that Lot 14, Woodberry Circle, Easley, S.C., as recorded in Deedbook 12R, Page 78 in the Office of the Clerk of Court for Pickens County, S.C., is withih the Special Flood Hazard Area.

Map No. H 450167A Panel 01 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on April 9, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26464 Filed 9-16-77;8:45 am]

[Docket No. FI-342]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Memphis, Tenn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 28, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Memphis, Tenn. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the City of Memphis, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 470177 Panels 22 and 23, published on August 28, 1974, in 39 FR 31315, indicate that a 1.59 acre tract of land on the southwesterly side of Mount Moriah Road between Mendenhall Road and Interstate 240 within the City of Memphis, Tenn., being a portion of the property recorded as Document Number J4 6913 in the Office of the Register of Shelby County, Tenn., is within the Special Flood Hazard Area.

Map No. H 470177 Panels 22 and 23 are hereby corrected to reflect that the existing structures as identified on a topographical map by M.C.L. and Associates, Inc., June 15, 1977, of the above property are not within the Special Flood Hazard Area identified on August 23, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-26465 Filed 9-16-77;8:45 am]

[Docket No. FI-3012]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Mesquite, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 29, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Mesquite, Tex. It has been determined by FIA, after further technical review of the Flood Insurance Rate Map for the City of Mesquite, Tex., in light of additional recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H&I 485490 A Panel 05 published on June 29, 1977, in 42 FR 33234 indicates that Lots 7 and 8, Block 5, and Lots 2, 3, and 4, Block 6, Palos Verdes Estates No. 4, Mesquite, Tex., as recorded in Volume 76082, Page 0555, in the office of the Clerk of Dallas County, Tex., are within the Special Flood Hazard Area.

Map No. H&I 485490 A Panel 05 is hereby corrected to reflect the above property is not within the special Flood Hazard Area identified on September 26, 1977. The property is located in Zone B.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26466 Filed 9-16-77;8:45 am]

[Docket No. FI-3012]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Harris County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 29, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Harris County, Tex. It has been determined by FIA, after further technical review of the Flood Insurance Rate map for the County of Harris, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H and I 480287B Panel 41, published on June 29, 1977, in 42 FR 33233, indicates that Windfern Place, being a parcel of land out of the Findlay A. McNaughton Survey A–553, Harris County, Tex., recorded as Film Code No. 154–37–0812 through 154–37–0817 in the Office of Deed Records of Harris County, Tex., is within the Special Flood Hazard Area.

Map No. H and I 480287B Panel 41 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on July 30, 1977. The property is in Zone C.

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(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-26467 Filed 9-16-77;8:45 am]

[Docket No. FI-71-6361]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Brazoria County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On May 8, 1971, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Brazoria County, Tex. It has been determined by FIA, after further technical review of the Flood Insurance Rate Map for the County of Brazoria, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H & I 485458B Panels 01 and 04, published on May 8, 1971, in 36 FR 8566, indicate that a tract of land, which is located in Brazoria County, Tex., and recorded in Volume 1228, Page 484, of Deeds in the Office of the Clerk of the Court of Brazoria County, Tex., is within the Special Flood Hazard Area.

Map No. H & I 485458B Panels 01 and 04 are hereby corrected to reflect that a portion of the above property, which can be described as follows:

Commencing at an iron pipe in the west line of Lot 3, Section 83, H. T. & B.R.R. Co. Survey, Abstract No. 761, and east line of the Franklin Hooper Survey, Abstract No. 198, said iron rod being located N. 0°09' E., 190.79 feet from the southwest corner of Lot 3 and northwest corner of Lot 4, Section 83, H. T. & B.R.R. Co. Survey and N. 0°09' E., 1,702.74 feet from the southwest corner of said Section 83; thence S. 89°11'30" E., approximately 1,470 feet to a point on the City of Pearland-Brazoria County Line, also being the point of beginning; thence N. 15° E., along said City of Pearland-Brazoria County Line, approximately 3,430 feet; thence N. 68° E., approximately 265 feet to a point on the east line of Lot 1 and west line of Lot 2, Section 83, H. T. & B.R.R. Co. Survey; thence S. 0°02' W., approximately 3,350 feet along the east line of Lots 1 and 3 and the west line of Lots 2 and 5 in said Section 83 to an iron pipe at a fence corner located N. 0°02' E., 153.55 feet from the southeast corner of Lot 3 and the northeast corner of Lot 4; thence N. 89°11'30" W., approximately 1,130 feet to the point of beginning,

is not within the Special Flood Hazard Area identified on May 8, 1971. The property is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator (34 FR 2680, February 27, 1969), as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-26468 Filed 9-16-77;8:45 am]

[Docket No. FI-2016]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Marble Falls, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 9, 1976, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Marble Falls, Tex. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the City of Marble Falls, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 480093A Panel 04, published on June 9, 1976, in 41 FR 23196, indicates that a parcel of land consisting of a 5.31 acre tract, being Tract II, Marble Falls, Tex., as described in the Deed recorded in Volume 201, Page 322 of the Deed Records of Burnet County, Tex., and a 2.973 acre tract as described in the Deed recorded in Volume 225, Page 6 of the Deed Records of Burnet County, Tex., is within the Special Flood Hazard Area.

Map No. H 480093A Panel 04 is hereby corrected to reflect that the existing structures on the above property are not within the Special Flood Hazard Area identified on May 28, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968) effective January 28, 19669 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26469 Filed 9-16-77;8:45 am]

[Docket No. FI-454]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Tyler, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 28, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Tyler, Tex. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the City of Tyler, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 480571 Panel 17, published on January 28, 1975, in 40 FR 4133, indicates that Lots 1 through 6, N.C.B. 1509; Lots 6, 8, 10 through 12, 14, 16, 18, 20, and 22 through 24, N.C.B. 1507; Lots 14 through 19, 21, 22, 24 through 28, and 30 through 35, N.C.B. 1505, Hampton Hill Subdivision, Unit No. 1, Tyler Tex., as recorded in Volume 8, Page 34 in the Office of Plat Records of Smith County, Tex., are within the Special Flood Hazard Area.

Map No. H 480571 Panel 17 is hereby corrected to reflect that Lots 1 through 6, N.C.B. 1509; Lots 6, 8, 10 through 12, 14, 15, 18, 20, 22 through 24, N.C.B. 1507, Lots 14 through 17, and 30 through 35, N.C.B. 1505 and the existing structures on Lots 18, 19, 21, 22, and 24 through 28, N.C.B. 1505 are not within the Special Flood Hazard Area identified on January 10, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26470 Filed 9-16-77;8:45 am]

[Docket No. FI-454]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Dallas, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 28, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Dallas, Tex. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the City of Dallas, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The next reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 480171 Panels 48 and 55, published on January 28, 1975, in 40 FR 4133, indicates that Lot 6, Block 23, City Block 6129, Buckner Terrace Addition, First Installment, Eighth Section, City of Dallas, Tex., as recorded in Plat Volume 71116, Page 2775, in the Office of Map Records of Dallas County, Tex., is within the Special Flood Hazard Area.

Map No. H 480171 Panels 48 and 55 are hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 10, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26471 Filed 9-16-77;8:45 am]

[Docket No. FI-3012]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Burleson, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 29, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Burleson, Tex. It has been determined by FIA, after further technical review of the Flood Insurance Rate map for the City of Burleson, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

V 42 181 SEP 19 77 UMI

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H & I 485459D Panel 01, published on June 29, 1977, in 42 FR 33233, indicates that Lots 1, 9, and 10, Block 12, as shown on the plat prepared by Carter & Burgess, Inc., June 30, 1977, Project No. 76 351–2, Burleson, Tex., being part of a 30 acre tract of land described in Deed recorded in Volume 491, Page 928 and part of a 23.33 acre tract of land described in Deed recorded in Volume 491, Page 914 in the Deed Records of Johnson County, Tex., are within the Special Flood Hazard Area.

Map No. H & I 485459D Panel 01 is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on November 2, 1973. The property is in Zone B.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26472 Filed 9-16-77;8:45 am]

[Docket No. FI-2245]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Lewisville, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 11, 1976, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Lewisville, Tex. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the City of Lewisville, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H480195A Panel 07, published on August 11, 1976, in 41 FR 33915, indicates that Lots 1 through 8, Block M, Lewisville Valley Section 2, Part 1; and Lots 9 through 12, Block M, Lewisville Valley Section 2, Part 2, as recorded in Plat Volume 8, Page 28, and Plat Volume 9, Page 15, respectively, in the Deed Records Office of Denton County, Tex., are within the Special Flood Hazard Area.

Map No. H 480195A Panel 07 is hereby corrected to reflect that the above properties, with the exception of the recorded Drainage and Utility Easements, are not within the Special Flood Hazard Area identified on March 15, 1974, and August 6, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26473 Filed 9-16-77;8:45 am]

[Docket No. FI-3012]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Fairfax County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 29, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Fairfax County, Va. It has been determined by FIA, after further technical review of the Flood Insurance Rate Map for the County of Fairfax, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H & I 515525C Panel 28, published on June 29, 1977, in 42 FR 33235, indicates that a portion of a 116.386 acre tract of land, bounded on the east by Telegraph Road and on the south by Accotink Creek, being a portion of the property described in the instrument recorded in Deedbook 584, Page 25 in the Office of the Clerk of the Circuit Court for Fairfax County, Va., which can be described as follows:

Beginning at a point located on an abandoned railroad bed and being the Northwest corner of that tract of land shown on the Survey Plat by Long, Rinker, and Brown dated July 25, 1977; thence N. 79°07'20" E., approximately 1,000 feet to a point; thence S. 45°37' E., approximately 470 feet to a point; thence S. 66°37' E., approximately 755 feet to a point; thence S 8°37' E., approximately 260 feet to a point; thence S. 63°23' W., approximately 345 feet to a point; thence S. 73°23' W., approximately 445 feet to a point; thence S. 80°23' W., approximately 100 feet to a point; thence S. 34°23' W., approximately 265 feet to a point; thence N. 58°37' W., approximately 40 feet to a point; thence N. 31°53' E., approximately 180 feet to a point; thence N. 27°37' W., approximately 50 feet to a point; thence S. 82°37' W., approximately 110 feet to a point; thence N. 61°07' W., approximately 100 feet to a point; thence N. 81°37' W., approximately 300 feet to a point; thence N. 66°37' W., approximately 405 feet to a point; thence N. 49°07' W., approximately 200 feet to a point; thence N. 32°37' W., approximately 240 feet to a point; thence N. 22°07' W., approximately 195 feet to a line bearing N. 21°50'40" E.; thence N. 21°50'40" E., approximately 290 feet to the point of beginning.

is within the Special Flood Hazard Area.

Map No. H & I 515525C Panel 28 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 8, 1972. The property is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26474 Filed 9-16-77;8:45 am]

[Docket No. FI-3012]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Virginia Beach, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 29, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Virginia Beach, Va. It has been determined by FIA, after further technical review of the Flood Insurance Rate map for the City of Virginia Beach, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H & I 515531B Panel 18, published on June 29, 1977, in 42 FR 33235, indicates that Lot 40, Subdivision of Section Eleven, Kings Grant, Part Two, Lynnhaven Borough, Virginia Beach, Va., as recorded in Mapbook 73, Page 5A, of Plats, in the Office of the Clerk of the Circuit Court of Virginia Beach, Va., is within the Special Flood Hazard Area.

Map No. H & I 515531B Panel 18 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on October 3, 1970. The structure is in Zone B.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26475 Filed 9-16-77;8:45 am]

[Docket No. FI-838]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Lynnwood, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 15, 1976, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Lynnwood, Washington. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the City of Lynnwood, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh St., SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 530167A Panel 03, published on January 15, 1976, in 41 FR 2247, indicates that a portion of Lots 31 and 32, State Plat in Section 16, T27N, R4E, "W.M.", Lynnwood, Washington, as recorded in Volume 1020, Page 536 of Statutory Warranty Deeds in the Office of Deed Records of Snohomish County, Washington, are within the Special Flood Hazard Area.

Map No. H 530167A Panel 03 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974, and December 26, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26476 Filed 9-16-77;8:45 am]

V 421181 SEP 19 77 UMI

federal register

MONDAY, SEPTEMBER 19, 1977

PART III



DEPARTMENT OF STATE

APPLICATIONS FOR PERMITS TO FISH OFF THE COASTS OF THE UNITED STATES

People's Republic of Bulgaria and German Democratic Republic

V 42 181 SEP 1977 UMI

[Public Notice 565]

DEPARTMENT OF STATE

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Applications for fishing during 1978 have been received from the People's Republic of Bulgaria and are published herewith:

Dated: September 9, 1977.

LARRY L. SNEAD,
Acting Director, Office of Fisheries Affairs

BULGARIA - FISHING PLAN FOR 1978

VESSEL'S NAME AND TYPE	OCEAN AREA	PERIOD FROM-TO	SPECIES	CONTEMPLATED CATCH/MT/	GEAR TO BE USED
1	2	3	4	5	6
FIZALIA	5 • 6	May 15-	SB	850	BT & M
Stern		June 30	SQ	200	BT & M
trawler			H	20	BT & M
			OF	100	BT & M
AFALA	5 • 6	May 15-	SB	850	BT & MT
		June 30	SQ	200	BT & M
trawler			H	20	BT & MT
			OF	100	BT & MT
BEKAS	5 • 6	Jan 1-	MAC	1500	MT
Stern		Feb 28	H	20	MT
trawler			OF	100	MT
LORNA	5 • 6	Jan 1-	MAC	1500	MT
Stern		Feb 28	H	20	MT
trawler			OF	100	MT
KONDOR	5 • 6	Jan 1-	MAC	1500	MT
Stern		Feb 28	H	20	MT
trawler			OF	100	MT
FLAMINGO	5 • 6	Jan 1-	MAC	1500	MT
Stern		Feb 28	H	20	MT
trawler			OF	100	MT
PINGVIN	5 • 6	Jan 1-	MAC	1500	MT
Stern		Feb 28	H	20	MT
trawler			OF	100	MT
SLANCHEV BRIAG	5 • 6	Jan 1-			
Transport		Dec 31			
vessel					
SLATNI PIASATSI	5 • 6	Jan 1-			
Transport		Dec 31			
vessel					
LAZUREN BRIAG	5 • 6	Jan 1-			
Transport		Dec 31			
vessel					
ALBENA	5 • 6	Jan 1-			
Transport		Dec 31			
vessel					
KITEN	5 • 6	Jan 1-			
Transport		Dec 31			
vessel					

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. 24-78-0004

1. Name of Vessel BEKAS 2. Visual Identification (Call Sign) LZBR
3. Type of Vessel Stern Trawler 4. Length 82 Meters
5. Gross Tonnage 2653 6. Net Tonnage 1115 7. Speed (knots) 13.5
8. Owner's Name and Address SFR "Okeanski Ribolov n. sol. 3,Industrialna Str. Bourgas,Bulgaria
9. Types of Processing Equipment Freezers,Fish Meal Plant
10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Activity: Processing	Activity: Other Support
1&3	Mackerel	Bottom and mid-water trawls	X	X	
5	Other Finfish	" "	X	X	
6	Herring	" "	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag?
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, Fishery, species, quantities, dates, locations and specific activities requested.)

THE UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

APPLICATION FOR VESSEL PERMITS TO FISH WITHIN THE FISHERY CONSERVATION ZONE OF THE UNITED STATES

No. _____

In accordance with the provisions of the Fishery Conservation and Management Act of 1976, the Government of BULGARIA hereby submits this application for permits for vessels under its jurisdiction to fish within the Fishery Conservation Zone of the United States, or beyond that Zone for anadromous species or Continental Shelf fishery resources subject to the jurisdiction of the United States, during the year 1978.

Fishing Vessel Identification forms will be submitted in support of this application. The fishery plans, species, and catch contemplated for vessels of the BULGARIA are as follows:

Fishery Plans	Target Species	Total Tonnage Requested For Each Species (mt)
Atlantic Squid	SQU Squid	400 mt
Atlantic Pe-	BAK Silver Hake	1700 "
Atlantic Mackerel	MAC Mackerel	7500 "
Other Finfis-	PFF Other Finfish	700 "
Atlantic Herri-	HER Herring	340 "

Submitted: September 6,1977
Date

Signature of Authorized Official
Prof.Anastas Kaloyanov
Title Agricultural Counselor

V 42 I 181 SEP 19 77 UMI

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. BU-78-0006

1. Name of Vessel ALBENA 2. Visual Identifier (Call Sign) LZBA
3. Type of Vessel Cargo/Transport 4. Length 130 M
5. Gross Tonnage 5947 6. Net Tonnage 2844 7. Speed (knots) Maximum 17,2
8. Owner's Name and Address SBS "Okeansky Ribolov ", 3,Industrialna St. Bourgas,Bulgaria
9. Types of Processing Equipment

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
HAK					X
SQU					X
PKP					X
HER					X
MAC					X

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. BU-78-0007

1. Name of Vessel APALA 2. Visual Identifier (Call Sign) LZBJ
3. Type of Vessel Stern Trawler 4. Length 89 M
5. Gross Tonnage 2467 6. Net Tonnage 1033 7. Speed (knots) Maximum 15,1
8. Owner's Name and Address SBS "Okeansky Ribolov ", 3 Industrialna St, Bourgas,Bulgaria
9. Types of Processing Equipment Freezers,Fish Meal Plant,Filleters, Headers,Skinning Machines

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
HAK	S.Bass	Bottom and Mid-water Trawls	X	X	
SQU	Squid	-"-	X	X	
PKP	Other Finfish	-"-	X	X	
HER	Herring	-"-	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. BU-78-0008

1. Name of Vessel FIALLA 2. Visual Identifier (Call Sign) LZBB
3. Type of Vessel Stern trawler 4. Length 89 M
5. Gross Tonnage 2467 6. Net Tonnage 1033 7. Speed (knots) Maximum 15,1
8. Owner's Name and Address SBS "Okeansky Ribolov ", 3 Industrialna St. Bourgas, Bulgaria
9. Types of Processing Equipment Freezers,Fish Meal Plant,Filleters, Headers,Skinning Machines

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
HAK	S.Bass	Bottom and Mid-water Trawls	X	X	
SQU	Squid	-"-	X	X	
PKP	Other Finfish	-"-	X	X	
HER	Herring	-"-	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. BU-78-0009

1. Name of Vessel FLAMINGO 2. Visual Identifier (Call Sign) LZRV
3. Type of Vessel Stern Trawler 4. Length 82 M
5. Gross Tonnage 2653 6. Net Tonnage 1115 7. Speed (knots) Maximum 13,5
8. Owner's Name and Address SBS "Okeansky Ribolov ", 3 Industrialna St. Bourgas,Bulgaria
9. Types of Processing Equipment Freezers,Fish Meal Plant

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
MAC	Mackerel	Bottom and Mid-water Trawls	X	X	
PKP	Other Finfish	- " -	X	X	
HER	Herring	-"-	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

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FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. BU-78-0070

1. Name of Vessel KITE 2. Visual Identifier (Call Sign) LZBI
3. Type of Vessel Cargo/Transport 4. Length 130 M (Maximum)
5. Gross Tonnage 5942 6. Net Tonnage 2844 7. Speed (knots) 17,2
8. Owner's Name and Address SBE " Okeansky Ribolov ". 3,Industrialna St. Bourgas, Bulgaria
9. Types of Processing Equipment

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
MAA					X
SQC					X
PEP					X
MAQ					X
MAJ					X

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. BU-78-0071

1. Name of Vessel KONDOR 2. Visual Identifier (Call Sign) LZBY
3. Type of Vessel Stern trawler 4. Length 82 M (Maximum)
5. Gross Tonnage 2653 6. Net Tonnage 1115 7. Speed (knots) 13.5
8. Owner's Name and Address SBE " Okeansky Ribolov" .3 Industrialna St. Bourgas, Bulgaria
9. Types of Processing Equipment Freezers, Fish Meal Plant

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
MAC	Mackerel	Bottom and Mid-water Trawls	X	X	
PNP	Other Finfish	-"-	X	X	
HER	Herring	-"-	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. BU-78-0072

1. Name of Vessel LAZUREN BRIAG 2. Visual Identifier (Call Sign) LZBQ
3. Type of Vessel Cargo/ Transport 4. Length 130 M (Maximum)
5. Gross Tonnage 5942 6. Net Tonnage 2844 7. Speed (knots) 17.2
8. Owner's Name and Address SBE " Okeansky Ribolov" .3 Industrialna St. Bourgas , Bulgaria
9. Types of Processing Equipment

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
MAJ					X
SQC					X
PEP					X
MAQ					X
MAJ					X

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. BU-78-0073

1. Name of Vessel LORNA 2. Visual Identifier (Call Sign) LZBJ
3. Type of Vessel Stern Trawler 4. Length 82 M (Maximum)
5. Gross Tonnage 2653 6. Net Tonnage 1115 7. Speed (knots) 13.5
8. Owner's Name and Address SBE" Okeansky Ribolov ". 3,Industrialna St, Bourgas,Bulgaria
9. Types of Processing Equipment Freezers,Fish Meal Plant

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
MAC	Mackerel	Bottom and Mid-water Trawls	X	X	
PNP	Other Finfish	-"-	X	X	
HER	Herring	-"-	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

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FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. BU-78-0014

1. Name of Vessel PINGVIN 2. Visual Identifier (Call Sign) LZRL
3. Type of Vessel Stern Trawler 4. Length 62 M (Maximum)
5. Gross Tonnage 2663 6. Net Tonnage 1115 7. Speed (knots) 13,5
8. Owner's Name and Address SEK " Okeanski Ribolov ", 3, Industrialna St, Bourgas, Bulgaria
9. Types of Processing Equipment Freezers, Fish Meal Plant
10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
PAC	Mackerel	Bottom and Mid-water Trawls	X	X	
PEP	Other Finfish	- " -	X	X	
HER	Herring	-"-	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. BU-78-0025

1. Name of Vessel SLANCHEV BRIAG 2. Visual Identifier (Call Sign) LZRO
3. Type of Vessel Cargo/T. ansport 4. Length 130 M (Maximum)
5. Gross Tonnage 5942 6. Net Tonnage 2844 7. Speed (knots) 17,2
8. Owner's Name and Address SEK " Okeanski Ribolov ", 3, Industrialna St, Bourgas, Bulgaria
9. Types of Processing Equipment
10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
HAK					X
BOT					X
PEP					X
BAS					X
MAC					X

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. BU-78-0026

1. Name of Vessel ZLATNI PIASATZI 2. Visual Identifier (Call Sign) LZRP
3. Type of Vessel Cargo/ Transport 4. Length 130 M (Maximum)
5. Gross Tonnage 5942 6. Net Tonnage 2844 7. Speed (knots) 17,2
8. Owner's Name and Address SEK " Okeanski Ribolov ", 3, Industrialna St, Bourgas, Bulgaria
9. Types of Processing Equipment
10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
HAL					X
BOT					X
PEP					X
BAS					X
MAC					X

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

[FR Doc.77-26993 Filed 9-16-77;8:45 am]

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[Public Notice 566]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Applications for fishing during 1977 have been received from the German Democratic Republic, and are published herewith.

Dated: September 9, 1977.

LARRY L. SNEAD,
Acting Director, Office of Fisheries Affairs.

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: Sept. 1, 1977 to Oct. 15, 1977 — Application No. GC 77-003 — For Use of Issuing Office

Status: _____

1. Name of Vessel MS Burhaversand
2. Vessel No.: Hull No. _____ Registration No. 1127
3. Name and Address of Owner / Name and Address of Charterer
   Name: Reeder-Union Meyer-Brake / VEB Fischkombinat Rostock
   Address: D 280 Brake(Unterweser) / DDR-251 Roetock-Marienehe
   Banhofstr. 15
   Cable Address: Meyer D SA-NR. 025231
4. Homeport and State of Registry: Brake (unterweser), FRG
5. Type of Vessel OP./CL. shelter-decker
6. Tonnage (Gross) 1,999 (Net) 1,289
7. Length 82 M. 8. Breadth 13.6 M. 9. Draft 6.1 M.
10. Horsepower 3,000 shp. 11. Maximum Speed 15 kt.
11. Propulsion: Diesel (4), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built 1969
14. Number and Nationality of Personnel 18 (FRG, Portugal, Danma
    Officers 7 Crew 11 Other (Specify) _____
15. Communications: VHF-FM ( ), AM/SSB, Voice (x), Telegraphy (x
    Other _____
    International Radio Call Sign DDJI
    Radio Frequencies Monitored 410, 425, 454, 468, 500, 512,
    Other Working Frequencies 2023, 2049, 2056 kHz
    Schedule HX
16. Navigation Equipment: Loran C ( ), Loran A (x), Omega ( ), Decca (x), Navsat ( ), Radar ( ), Fathometer (x), Other 1 direction-finding transmitter, 1 autopilot
17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish	3,400	Freezer	
Fresh Fish	4	Dry Hold	
Frozen Fish	-	Tanks	
Fish Meal	_____	Other	
Other	_____		

19. Processing Equipment (indicate daily capacity,MT) _____
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Georges Banks	9/1-10/1 (if request in Note No. 96/77 is granted: 9/1 to 10/15/77.)	none	none, transport	none

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    International Chartering Service, Inc.
    17 Battery Place
    New York, New York 10004

[FR Doc.77-2699 Filed 9-16-77;8:45 am]

federal register

MONDAY, SEPTEMBER 19, 1977

PART IV



PRIVACY ACT ISSUANCES, ANNUAL PUBLICATION

Department/ Agency	FR Page Numbers: Systems of Records	Rules
Transportation	47036	47152

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DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
PRIVACY ACT OF 1974
Annual Publication of Systems of Records

This preamble is to introduce the annual publication for 1977 by the Federal Register of notices of systems of records of the Department of Transportation, as required by Public Law 93-579 of December 31, 1974, otherwise known as the Privacy Act. The Act requires such publication at least annually.

The systems of records published herewith are all of the systems of the Department of Transportation which have been identified and previously published up to July 15, 1977. The list includes corrections made as a result of standardization of format and typographical errors. No systems have been added which were not previously published as a notice for public comment. Accordingly, this list supersedes all previously published listings of systems of records for the Department. (40 FR 38803, 44075, 53965; 41 FR 8819, 28051, 53561, 42 FR 1555, 16881; Privacy Act Issuances, 1976 Compilation, Volume II, pages 455-583.)

Since the last publication, two systems, DOT/SLS 154 and DOT/SLS 158, are no longer maintained and have been deleted. A seventh "General Routine Use" for all systems has been added which permits NARS (GSA) to conduct lawful inspections of recordkeeping practices among systems of records. Four locations were eliminated from DOT/OST 14 in which employment application files, separate from those in the personnel system, were being maintained on prospective employees. Minor editorial changes also were made to DOT/OST 14, 22, 28, and 50 which did not indicate a necessity for previous republication in their entirety.

All of the above are included in the annual publication in the Federal Register for 1977 which follows.

Effective date. This notice is effective on August 24, 1977.

Brock Adams,
Secretary of Transportation.

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DOT/UMTA 181 Attendees Names and Addresses for R & D Priorities
DOT/UMTA 190 Employee Travel Records
DOT/UMTA 191 Travel Advance File
DOT/UMTA 192 Urban Transportation Planning System (UTPS) Address File
DOT/UMTA 193 Docket
DOT/UMTA 194 Litigation and Claims Files
DOT/UMTA 195 Confidential Statement of Employment and Financial Interests

DEPARTMENT OF TRANSPORTATION

The following listing is the 1977 update of systems of records contained in the Privacy Act Issuances, 1976 Compilation, Volume II of the Department of Transportation, published by the Federal Register.

NOTICE OF SYSTEMS OF RECORDS

The identification of the operating unit or units within the Department to which the particular system of records pertains appears as 'DOT/' followed by a designating abbreviation. The abbreviations and their meanings are as follows:

OST - Office of the Secretary of Transportation
CG - United States Coast Guard
FAA - Federal Aviation Administration
FHWA - Federal Highway Administration
FRA - Federal Railroad Administration
NHTSA - National Highway Traffic Safety Administration
SLS - Saint Lawrence Seaway Development Corporation
TSC - Transportation Systems Center
UMTA - Urban Mass Transportation Administration

PREFATORY STATEMENT OF GENERAL ROUTINE USES.

The following routine uses apply to, and are incorporated by reference into, each system of records set forth below.

1. In the event that a system of records maintained by the Department to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. A record from this system of records may be disclosed, as a routine use, to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. A record from this system of records may be disclosed, as a routine use, to a federal aresponse to its request, in connection with the hiring or retention of an employee, the issuance of clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system of records may be disclosed, as a routine use, in the course presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

5. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth inthat Circular.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

7. One or more records from a system of records may be disclosed routinely to NARS (GSA) in records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

APPENDIX I

LOCATION OF CG DISTRICTS AND HEADQUARTERS UNITS.

1. COMMANDER
1st Coast Guard District
150 Causeway Street
Boston, MA 02114
2. COMMANDER
2nd Coast Guard District
Federal Building
1520 Market Street
St. Louis, MO 63103
3. COMMANDER
3rd Coast Guard District
Governors Island
New York, NY 10004
4. COMMANDER
5th Coast Guard District
Federal Building
431 Crawford Street
Portsmouth, VA 23705
5. COMMANDER
7th Coast Guard District
51 S.W. 1st Ave
Miami, FL 33130
6. COMMANDER
8th Coast Guard District
Customhouse
New Orleans, LA 70130
7. COMMANDER
9th Coast Guard District
1240 East 9th St
Cleveland, OH 44199
8. COMMANDER
11th Coast Guard District
Heartwell Bldg
19 Pine Ave
Long Beach, CA 90802
9. COMMANDER
12th Coast Guard District
630 Sansome St
San Francisco, CA 94126
10. COMMANDER
13th Coast Guard District
Federal Bldg
915 Second Ave
Seattle, WA 98174
11. COMMANDER
14th Coast Guard District
P.O. Box 48
FPO San Francisco, CA 96610
12. COMMANDER
17th Coast Guard District
FPO Seattle, CA 98771
13. COMMANDER
U.S. COAST GUARD ACADEMY
New London, CT 06320
14. COMMANDING OFFICER
U.S. COAST GUARD YARD
Curtis Bay,
Baltimore, MD 21225
15. COMMANDING OFFICER
US COAST GUARD
TRAINING CENTER
Governors Island
New York, NY 10004
16. COMMANDING OFFICER
U.S. Coast Guard Training Center
Cape May, NJ 08204
17. COMMANDING OFFICER
U.S. Coast Guard Training Center
Government Island
Alemeda, CA 94501
18. COMMANDING OFFICER
U.S. Coast Guard
Supply Center
830 3rd Ave
Brooklyn, NY 11232
19. COMMANDING OFFICER
U.S. COAST GUARD INSTITUTE
P.O. Substation 18
Oklahoma City, OK 73169
20. COMMANDING OFFICER
U.S COAST GUARD
AIRCRAFT REPAIR & SUPPLY CENTER
Elizebeth City, NC 27909
21. COMMANDING OFFICER
U.S. Coast Guard Aviation
Training Center
Mobile, AL 36608
22. COMMANDING OFFICER
U.S. COAST GUARD RADIO
STATION NHM)
7223 Telegraph Rd.
Alexandria, VA 22310
23. COMMANDING OFFICER
U.S. COAST GUARD RESERVE
TRAINING CENTER
Yorktown, VA 23490
24. OFFICER IN CHARGE
RECORD DEPOT
U.S. Coast Guard Air Station
Elizebeth City, NC 27909
25. COMMANDER, COAST GUARD
ACTIVITIES, EUROPE
London
Box 50
FPO New York, NY 09510
26. COMMANDING OFFICER
U.S. COAST GUARD
TRAINING CENTER
Petaluma, CA 94952
27. COMMANDER
U.S. COAST GUARD AIR BASE
Elizebeth City, NC 27909
28. COMMANDING OFFICER
U.S COAST GUARD
ELECTRONICS ENGINEERING
CENTER
Wildwood, NJ 08260
29. COMMANDING OFFICER
RESEARCH & DEVELOPMENT CENTER
Avery Point
Groton, CT 06340
30. COMMANDING OFFICER
U.S COAST GUARD OCEANOGRAPHIC UNIT
Building 159E, Navy Yard Annex
Washington, D.C., 20590

DOT/CG 501.

System name: Auxiliary Management Information System (AUXMIS). DOT/CG.

System location: Department of Transportation (DOT), United States Coast Guard (CG), Office of Boating Safety, G-BAU, 2100 2nd Street, SW, Room 4304, Washington, DC 20590.

Categories of individuals covered by the system: All present Coast Guard Auxiliarists.

All Auxiliarists disenrolled since 1974.

Categories of records in the system: Personal information (name, address, birthdate, Social Security Number (SSN), phone number).

Auxiliary qualifications information (Instructor, Examiner, Specialty).
Auxiliary Activities information (patrols conducted, classes taught).
Information on boats, radio stations or aircraft owned by Auxiliarists.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Cumulative unit and individual activity summaries for use as a management tool by all Auxiliary units.

Identification cards for all Auxiliary members.
Alphabetical nationwide cross-reference listing for use by headquarters and district office staffs.
Mailing labels for district mailings to Auxiliarists.
An annual member summary of all information on each member which is mailed directly to the member concerned.
Used by:
District Directors of Auxiliary.
Chief Director of Auxiliary
All elected and appointed officers of the Auxiliary.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: AUXMIS master records contain personal and activity information concerning USCG Auxiliarists and Director of Auxiliary (DIRAUX). Each person's record consists of 500 characters. The approximately 50,000 records which are stored in the system presently are stored on both magnetic tape and magnetic disk.

Retrievability: The current AUXMIS master file residing on magnetic disk is retrieved by number and name of the individual and can be accessed by those Directors of Auxiliary with access to the CDC-3300 system at any time. Those DIRAUX without access to the CDC-3300 can request inquiries to be done at the central site by the Office of Boating Safety.

Safeguards: The master files cannot be accessed without the proper control cards. All DIRAUX and Chief, Director of Auxiliary have the means available to access the master files.

Retention and disposal: Retention of weekly tape files is 180 days at which time they are erased

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Retention of disk files is 1 week, and then updated.
Retention of the year-end tape file is permanent.

System manager(s) and address: Chief Director of Auxiliary, G-BAU,
Department of Transportation,
United States Coast Guard,
2100 2nd Street, SW.
Washington, DC 20590.

Notification procedure: Department of Transportation
United States Coast Guard Headquarters,
Management Analysis Division, G-CMA,
400 7th Street, SW
Washington, DC 20590
Written request must be signed by the individual.

Record access procedures: Individuals in the Auxiliary have their record available on a quarterly basis in the Flotilla Roster produced for their flotilla. All information except the Social Security Number and date of birth is on the Flotilla Roster. On an annual basis, the member receives a personal report concerning himself only which contains all elements of his record. At any time during the year, members of the Auxiliary can request through the DIRAUX where attached for access to their member's jacket retained by DIRAUX or can request a report in the annual report format.

Contesting record procedures: Record content can be contested at any time, and if error is found all DIRAUX have the means to correct individual records. Members are provided the means to correct their own addresses, SSN's, names and phone numbers and occupations.

Record source categories: All records pertaining to Auxiliarists are derived from forms which are filled out by the individuals involved on a voluntary basis.

DOT/CG 503.

System name: Motorboat Registration. DOT/CG.

System location: Department of Transportation (DOT),
United States Coast Guard (CG),
Commandant (G-BD-1),
400 7th Street, SW
Washington, DC 20590.

Categories of individuals covered by the system: Boat owners registering for the issuance of boat identification numbers for boats recorded in the States of Washington, Alaska, and New Hampshire and in American Samoa.

Categories of records in the system: Tapes; (Computer listings on disk with information on boat owner: name, address, and boat information).
Printouts- Same.
Office files- Same.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by:
Authorized Coast Guard Personnel involved in the Coast Guard boating safety program.
To renew old registrations to issue new number to all motorboats.
The purpose of the numbering system is for identification of recreational boats in case of accident, loss, theft, or abandonment.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
All records are maintained in file cabinets.

Retrievability: By name/number.

Safeguards: Only authorized office personnel have access to subject files. All personnel screened prior to allowing access. Building secured and guarded after duty hours.

Retention and disposal: Records are retained permanently.

System manager(s) and address: Chief, Office of Boating Safety,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW
Washington, DC 20590.

Notification procedure: Contact:
Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written request must be signed by the individual whose record(s) are being requested.

Record access procedures: Procedures may be obtained by visiting Coast Guard Headquarters or writing to:
Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Individual applicant.

DOT/CG 505.

System name: Recreational Boating Law Enforcement Case Files. DOT/CG.

System location: Department of Transportation (DOT),
United States Coast Guard (CG),
Commandant (G-B),
400 7th Street, SW,
Washington, DC 20590.
And at:
Coast Guard District Offices and Headquarters unit offices for records of incidents in their localities. Addresses in Appendix 1.

Categories of individuals covered by the system: Owners/operators of vessels found in violation of Federal recreational boating laws or regulations.

Categories of records in the system: Case files containing names of violators, their addresses and social security numbers, together with descriptions of boats and notations of the alleged violations of Federal boating laws, and copies of correspondence relating to the disposition of any penalty involved.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information contained in this system is used by authorized Coast Guard employees in performance of their duties to determine the appropriate enforcement action to be taken by the Coast Guard in individual cases as well as providing a record of repeated offenders.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in this system is maintained on index cards, in logbooks, and in file folders.

Retrievability: Information is retrieved by name of individual in alphabetical file.

Safeguards: Information available only to authorized personnel. Files maintained in office in building which is secured during non-working hours and which has a roving guard patrol.

Retention and disposal: Records in system maintained for three years before disposal by mutilation or burning.

System manager(s) and address: Chief, Office of Boating Safety,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.

Record access procedures: Procedures may be obtained by writing to or visiting the Commandant (G-CMA) at the address in 'System Manager', or by visiting the local Coast Guard District or Unit where incident occurred.
Proof of identity will be required prior to release of records. A military identification card, driver's license or similar document is considered suitable identification.

Contesting record procedures: Same as 'Notification Procedure.'

Record source categories: Information obtained from reports of Coast Guard boarding officers and marine safety investigations as

well as from reports by citizens concerning possible violations of law or regulation.

Systems exempted from certain provisions of the act: Portions of this system may be exempt from disclosure under the provisions of 5USC 552a (K)(2) which provide in part, that investigatory material compiled for law enforcement purposes may be withheld from disclosure to the extent that the identity of the source of the information would be revealed by disclosing the investigatory record, and the source has received an express guarantee that his identity would be held in confidence, or prior to the effective date of this section, if the source received an implied promise that his identity would be held in confidence

DOT/CG 507.

System name: Coast Guard Supplement to the Manual of Courts Martial Investigations DOT/CG.

System location: Department of Transportation (DOT),
United States Coast Guard (CG),
Commandant (G-L),
400 7th Street, SW, Washington, DC 20590.

Categories of individuals covered by the system: Military and civilian employees of the Coast Guard and other individuals who may be involved in any Coast Guard investigation.

Categories of records in the system: Investigations into injuries to Coast Guard personnel, mishaps involving vessels, aircraft and vehicles.
Incidents involving fires, explosions, for loss or destruction of classified material
Circumstances involving equipment failures and property damage, loss, or destruction.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by authorized Coast Guard personnel in connection with the performance of their official duties which include, but are not limited to:
Accident prevention.
Payment of disability benefits.
Improvement of internal Coast Guard procedures and practices.
Reports are used in connection with the resolution of claims against the Coast Guard as well as claims asserted by the government.
Reports are transmitted to the Veterans Administration to assist that agency in determining entitlement to benefits administered by it.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained in storage cabinets in division files for two years and then forwarded to the Federal Records Depository.

Retrievability: Card index maintained permitting access to individual investigations by listing identifiable data such as name of person, vessel or other facility involved in investigation.

Safeguards: Authorized personnel are granted access to these records in connection with the performance of their official duties.
Records are disclosed to members of the public under the provisions of the FOIA. These requests are considered on a case by case basis.

Retention and disposal: Records are maintained in division files for two years and then forwarded to Federal Records Depository

System manager(s) and address: Chief Counsel,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW.
Washington, DC 20590.

Notification procedure: Written request must be signed by the individual. Write to or visit:
Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW.
Washington, DC 20590.

Record access procedures: All individuals whose conduct is the subject of these investigations are designated at the outset as parties to these investigations and accorded their rights as such. Following completion of the investigative reports, parties will be provided with copies upon request.
At all subsequent times parties may have access to the investigative records by writing to or visiting Commandant (G-CMA), at the address in 'Notification Procedure' above or the local unit to which assigned.
Proof of identity may be required prior to release of records. Military identification, driver's license or similar document will be considered suitable identification.

Contesting record procedures: A party has the right to make argument and/or submit statements on his own behalf during the course of an investigation or subsequent to its conclusion. Write or visit locations as indicated in 'Record Access Procedure.'

Record source categories: Coast Guard investigating officers, military and civilian personnel.

DOT/CG 508.

System name: Claims and Litigation. DOT/CG.

System location: Department of Transportation (DOT),
United States Coast Guard (CG),
Commandant (G-L),
400 7th Street, SW, Washington, DC 20590.

Categories of individuals covered by the system: Individuals, corporations, insurance companies, estate administrators.

Categories of records in the system: Suits and claims for and against the Coast Guard.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by cognizant Coast Guard personnel, and attorneys handling cases.
For review purposes and determination as to the validity of claims.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinets.

Retrievability: Two card index files, one alphabetic and one numeric, maintained for cross reference

Safeguards: Access is limited to Coast Guard and civilian employees of the Claims and Litigation Division granted in connection with official duties.

Retention and disposal: Records maintained for five years and then forwarded to the Federal Records Center. Card index files retained indefinitely.

System manager(s) and address: Chief Counsel,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW.
Washington, DC 20590.

Notification procedure: Written request must be signed by the individual. Write or visit:
Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW.
Washington, DC 20590.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA0 at the address in 'Notification Procedure' above
Proof of identity may be required prior to affording access to records: A military identification card, a drivers licenses or similiar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Information obtained from Coast Guard military and civilian personnel, members of the public, and Coast Guard investigating officers.

DOT/CG 509.

System name: Non-Judicial Punishment Report. DOT/CG.

System location: Department of Transportation (DOT),
United States Coast Guard (CG),
Commandant (G-L),
400 7th Street, SW, Washington, DC 20590.

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Categories of individuals covered by the system: Coast Guard military personnel who have been subject to non-judicial punishment proceedings under Article 15 of the Uniform Code of Military Justice.

Categories of records in the system: Records of Proceedings under Article 15, Uniform Code of Military Justice.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Coast Guard Personnel, in connection with military justice administration.

Records provide statistical data concerning the number of proceedings held, units holding proceeding, offenses committed, punishments imposed, and background data of individuals concerned.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinet.

Retrievability: By name.

Safeguards: Records are made available to authorized personnel. Records are maintained in building with limited access during non-working hours and with roving security patrol.

Retention and disposal: New system, disposal procedures not as yet established. Back-up material disposed of after introduction into system.

System manager(s) and address: Chief Counsel,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA), at the address in 'Notification Procedure' above or the local Coast Guard District Office in the area in which the individual is assigned to duty.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Information from individual service records and from proceedings conducted.

DOT/CG 510.

System name: Records of trial: Special, General and Summary Courts-Martial DOT/CG.

System location: Department of Transportation (DOT),
United States Coast Guard (CG),
Commandant (G-L),
400 7th Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: Any individual who is tried by court martial in the Coast Guard.

Categories of records in the system: Records of trial.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These are public records available to anyone.

Review
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file cabinets.

Retrievability: Filed alphabetically by name of individual.

Safeguards: Maintained in file cabinets in building with limited access during non-working hours and with roving security patrol.

Retention and disposal: Retained permanently Maintained for two years, reviewed by System Manager and then transferred to Federal Records Center.

System manager(s) and address: Chief Counsel,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.

Record access procedures: Procedures may be obtained by writing to or visitingCommandant (G-CMA) at address in 'Notification Procedure' above.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Trial proceedings and subsequent statutory reviews - Court of Military Review, Court of Military Appeals and Chief Counsel of the Coast Guard.

DOT/CG 511.

System name: Legal Assistance Case File System. DOT/CG.

System location: Department of Transportation (DOT),
United States Coast Guard (CG),
Commandant (G-L),
400 7th Street, SW,
Washington, DC 20590.
System is also located at:
United States Coast Guard District Legal Offices and Legal Offices of Coast Guard Units. See Appendix I for addresses of the District and other legal offices.

Categories of individuals covered by the system: Clients of officers assigned to render legal assistance regarding the personal affairs of Coast Guard military members.

Categories of records in the system: Records contain information concerning the matters handled by these officers for clients.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information is used on behalf of clients in providing legal assistance.

These records are also used to prepare statistical reports concerning a legal officer's time utilization.

The Prefatory Statement of Routine Uses applies to records in this system only to the extent that their disclosure would not constitute a violation of the judicially recognized privilege attaching to attorney-client communications and of the ethical and professional responsibilities of lawyers under the American Bar Association's Code of Professional Responsibility.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Normally, written records kept in file folders.

Retrievability: Alphabetical indexes by name of member.

Safeguards: Kept in office space or filing cabinets which are normally locked during non-working hours. Building patrolled by roving security guards after duty hours.

Retention and disposal: Records retained as long as needed to serve client or as long as deemed necessary by the legal officer. Disposal is by whatever means considered appropriate by the legal officer, depending on the contents of the record involved.

System manager(s) and address: Chief Counsel,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.
District or unit legal offices:
Senior Counsel, for records maintained at the particular location (See Appendix I for addresses).

Notification procedure: Requests for determination whether this system contains records concerning an individual should be made in writing or in person to:
Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.

Record access procedures: These records are available in the Office of Chief Counsel at Coast Guard Headquarters or within the legal offices in the various Coast Guard districts or units, dependent on where legal assistance was rendered.

A military identification card or other comparable identification will be required to be shown by persons seeking access to their legal assistance records.

Contesting record procedures: The agency's rules for contesting the contents of these records or for appealing initial determinations by the custodian therof not to disclose any part of these records shall be controlling. These rules may be obtained by writing: Commandant (G-CMA) at the address listed in 'Notification Procedure.'

Record source categories: Information in this record system is obtained from the client involved and as a result of any subsequent investigation by the legal officer on behalf of the client.

DOT/CG 512.

System name: Statement of Employment and Financial Interest Record System DOT/CG

System location: Department of Transportation (DOT),
United States Coast Guard (CG),
Commandant (G-L),
400 7th Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: Those Coast Guard officials occupying the positions listed in Appendix C, Section III, of 49 CFR (Code of Federal Regulations), Part 99. Incumbents of these positions are required to file these statements by the terms of the regulations.

Categories of records in the system: Statements pertaining to personal financial interests, including shareholdings and similar interests in private business enterprises; copies of blind trusts and other instruments pertaining to interests of this nature; opinions of counsel and other records and correspondence relating to these interests.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to review the financial interests of various responsible Coast Guard officials in order to insure against the existence or the appearance of the existence of conflicts of interest.

Records are reviewed by the Chief Counsel and members of his staff as well as the immediate superiors of the individuals concerned.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained in file folders.

Retrievability: Indexed by name of individual.

Safeguards: Records stored in locked file cabinet, and, during working hours, access to records controlled by office personnel. During non-working hours, building is patrolled by roving security guards.

Retention and disposal: Retained during the term of the individual's occupancy of position and destroyed upon separation or transfer of the person.

System manager(s) and address: Chief Counsel,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure.'

Proof of identity will be required prior to affording an individual access to records.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: From the individuals concerned.

DOT/CG 516.

System name: Coast Guard Military Discrimination Complaints. DOT/CG.

System location: Department of Transportation (DOT).
United States Coast Guard (CG),
Commandant (G-H),
400 7th Street, SW,
Washington, DC 20590.
Records are also maintained at:
Each District Office and Headquarters Unit at the addresses in Appendix I.

Categories of individuals covered by the system: Coast Guard Military Personnel.

Categories of records in the system: Files contain discrimination complaints filed by Coast Guard military personnel or their representatives and correspondence resulting therefrom.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Department of Transportation. Office of Civil Rights:
Used for investigations of complaints and arriving at decisions for resolution of complaints
Coast Guard Headquarters Military Personnel Office:
Used for information in making personnel administration decisions.
Coast Guard Headquarters, Commandant, Vice Commandant, Congressional Liaison. Used to answer correspondence being sent to Congressional representatives, federal and state officials, and nationally recognized organizations who are representing the individual.
Coast Guard Headquarters, Office of Civil Rights and the Military Equal Opportunity Division:
Used to take care of discrimination complaints and the correspondence precipitated therefrom and maintain a file on it.
All Coast Guard Commands:
Used to bring a complaint to a satisfactory conclusion, where possible.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders kept in file cabinets.

Retrievability: System is kept by alphabetical file, service number and/or social security number, rank/rate, and Coast Guard unit.

Safeguards: During normal working hours access to records is controlled by office personnel; during non-working hours the building is guarded by a roving security patrol.

Retention and disposal: Files are kept permanently.

System manager(s) and address: Chief, Office of Civil Rights,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW, Washington, DC 20590.

Notification procedure: Contact the following office in writing or in person:
Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written request must be signed by the individual.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local office where the record is filed.

Prior written notification of personal visits is required to insure that the records will be available at the time of visit.

Proof of identity will be required prior to affording access to records. A military identification, driver's license or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: From individuals or their representatives submitting complaints, congressional correspondence, personnel service, records, Coast Guard Headquarters and Coast Guard units correspondence, individuals and organizations volunteering information pertinent to complaints.

DOT/CG 517.

System name: Complaints of Discrimination. DOT/CG.

System location: Department of Transportation (DOT).
United States Coast Guard (CG),
Commandant (G-H),
400 7th Street, SW,
Washington, DC 20590.
Each District and Headquarters Unit: See addresses in Appendix I.

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Categories of individuals covered by the system: Civilian employees (including non-appropriated funds employees) and applicants for employment.

Categories of records in the system: Various memoranda, letters, statements, statistics and other information related to the situation which prompted the person to allege discrimination.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Investigating and processing complaints of discrimination by personnel in Office of Civil Rights, Investigators, Hearing Examiners, Employee Representatives, Coast Guard Officials.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Typed, hand-written, printed material stored in folders in metal filing cabinets.

Retrievability: Indexed by name and Coast Guard installation.

Safeguards: Screening of personnel, need to know basis.

After duty hours building is secured and roving security guards are on duty

Retention and disposal: Maintained indefinitely.

System manager(s) and address: Chief, Office of Civil Rights, Department of Transportation, United States Coast Guard Headquarters, 400 7th Street, SW Washington, DC 20590.

Notification procedure: Contact the following office in person or in writing:

Department of Transportation, United States Coast Guard Headquarters, Commandant (G-CMA), 400 7th Street, SW. Washington, DC 20590

Written requests must be signed by the individual.

Record access procedures: Procedure may be obtained by writing to or visiting the Commandant (G-CMA) at the address in 'Notification Procedure' or the local activity where the complaint was filed.

Prior written notification of personal visits is required to insure that the records will be available at the time of visit.

Proof of identity will be required prior to release of records. A military identification card, drivers license or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Interviews with complainant, employees, management officials; personnel records, internal Coast Guard memoranda.

DOT/CG 525.

System name: Active Duty Military Payroll System. DOT/CG.

System location: Department of Transportation (DOT), United States Coast Guard (CG), Commandant (G-FPS/71), 400 7th Street, SW, Washington, DC 20590.

System is used throughout the Coast Guard. See Appendix I for locations.

Categories of individuals covered by the system: Active duty military members.

Categories of records in the system: Pay and allowances records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Prepare check tapes.

Prepare listings and reports for various USCG offices.
Reports of funds expended.
Reports of earnings to state and city taxing authorities.
Listing of earnings to appropriate taxing authorites.
W-2 and federal tax reporting to the Internal Revenue Service.
FICA reporting.
Produce runs for reconciliation of allotments.
Produce mailing labels.
Used by Coast Guard employees in performance of official duties in preparing and maintaining the Active Duty Military Payroll System.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are filed manually in cabinets. Check tapes are retained in tape library.

Retrievability: Records are indexed alphabetically, check tapes are indexed by tape number.

Safeguards: Access is limited to user staff members.

Secured building after duty hours.

Retention and disposal: Pay records are retained until closed (6 months) and then transferred to Headquarters, Pay Systems Branch.

Payroll listings are retained for 3 years and then transferred to a Federal Records Center.

Tapes retained for 6 years and then destroyed.

System manager(s) and address: Chief, Office of Personnel, Department of Transportation, United States Coast Guard Headquarters, 400 7th Street, SW. Washington, DC 20590.

Notification procedure: Department of Transportation, United States Coast Guard Headquarters, Commandant (G-CMA), 400 7th Street, SW. Washington, DC 20590.

Written request must be signed by individual.

Record access procedures: Procedure may be obtained by writing to or visiting the Commandant (G-CMA) at the address in 'Notification Procedure', or the local Coast Guard District for the area in which an individual's duty station is located. See Appendix I for addresses.

Proof of identity will required prior to affording an individual access to records. A military identification card, a driver's license or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Information is obtained from the individual, Coast Guard personnel and payroll offices and the Department of Defense.

DOT/CG 526.

System name: Adjudication and Settlement of Claims System. DOT/CG.

System location: Department of Transportation (DOT), United States Coast Guard (CG), Commandant (G-FP), 400 7th Street, SW, Washington, DC 20590.

Partial systems are located at Coast Guard Districts and Units. See Appendix I for locations.

Categories of individuals covered by the system: Active duty military members.

Reserve military members.
Retired military members.
Civilian employees.

Categories of records in the system: Claims arising out of disputes concerning amounts of pay received.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To reach a final decision as to entitlements of claimants.

To use as precedential data in the resolution of similar questions in the future.

Used by authorized Coast Guard officials and officials of the IRS, GAO, and the Civil Service Commission, as required.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored manually in file folders.

Retrievability: Claims in the file are filed and retrieved by claimant name.

Safeguards: Access is limited to authorized officials by screening of personnel.

Maintained in Government building having roving security guards after duty hours.

Retention and disposal: After adjudication and settlement, most submissions are disposed of. A limited number of such submissions are retained for precedential value, as required.

System manager(s) and address: Chief, Office of Comptroller, Department of Transportation, United States Coast Guard Headquarters, 400 7th Street, SW, Washington, DC 20590.

Notification procedure: Department of Transportation, United States Coast Guard Headquarters, Commandant (G-CMA), 400 7th Street, SW, Washington, DC 20590.

Written request must be signed by the individual.

Record access procedures: Procedure may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedures' or the local Coast Guard District or Unit administrative officer for the area in which an individual's duty station is located. See Appendix I for locations.

Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license, or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Sources include: the individual, CG payroll offices, legal staff, investigators, Office of Personnel, Comptroller General (GAO) and congressional correspondence.

DOT/CG 527.

System name: Allotment System (Military). DOT/CG.

System location: Department of Transportation (DOT), United States Coast Guard (CG), Commandant (G-FP), 400 7th Street, SW, Washington, DC 20590.

Categories of individuals covered by the system: Active Duty Military Members.

Retired Military Members.

Categories of records in the system: Allotment deductions from active duty military pay and retired military pay.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by authorized personnel to prepare tapes and vouchers for cutting checks and bonds for submission to banks, charity organizations, dependents or other institutions and firms as authorized by individuals.

Various reports as required by USCG offices.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Main records are maintained on microfilm, others are filed manually in file folders.

Retrievability: Microfilm records are indexed alphabetically/SSN, file folders by ACO number and alphabetically. Retrieved by name/number.

Retention and disposal: Files are maintained until individual is discharged from service or expires. Records are then shipped to a Federal Records Center.

System manager(s) and address: Chief, Office of Comptroller, Department of Transportation, United States Coast Guard Headquarters, 400 7th Street, SW, Washington, DC 20590.

Notification procedure: Contact the following office in person or in writing:

Department of Transportation, United States Coast Guard Headquarters, Commandant (G-CMA), 400 7th Street, SW, Washington, DC 20590.

Written request must be signed by the individual.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local Coast Guard District or unit for the area in which an individual's duty station is located.

Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license, or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: Sources include: the individual and USCG payroll offices.

DOT/CG 528.

System name: Centralized Reserve Pay and Retirement System. DOT/CG.

System location: Department of Transportation (DOT), United States Coast Guard (CG), Commandant (G-FP), 400 7th Street, SW, Washington, DC 20590.

System is also located at District Offices and other Field Units. See Appendix I for locations.

Categories of individuals covered by the system: United States Coast Guard Reserve Members.

Categories of records in the system: Master Pay and Retirement Point Credits Record.

Master Personnel Data Accounting Record.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to prepare monthly payroll and all associated listings.

Used also:
For preparation of budgets.
For accounting purposes.
To compute pay and points.
The compilation of data.
Permanent pay and points records (retirement data).
W-2 wage and federal tax reporting.
To report earnings to state and city taxing authorities.
Used by authorized Coast Guard, IRS, GAO, and other Agency Officials as required.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Microfilm of payroll retained in Reserve Pay Branches and Districts.

Records are filed manually in filing cabinet.

Retrievability: Records are indexed alphabetically by name of Reservist and CG Unit Number.

Records are retrieved by name/number.

Safeguards: Access is limited to user staff members.

Stored in secured building after duty hours.

Retention and disposal: Microfilm and records are retained until member is discharged or retired. Three years subsequent to retirement or discharge, records are transferred to a Federal Records Center.

System manager(s) and address: Chief, Office of Comptroller, Department of Transportation, United States Coast Guard Headquarters, 400 7th Street, SW, Washington, DC 20590.

Notification procedure: Department of Transportation, United States Coast Guard Headquarters, Commandant (G-CMA), 400 7th Street, SW, Washington, DC 20590.

Written request must be signed by the individual.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local Coast Guard District or Unit administrative officer for the area in which an individual's duty station is located.

Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license, or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Sources include:

The District Commander and Office of Reserve.

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The individual.
Unit Commanding Officers.
District Commanders.
Office of the Reserve.

DOT/CG 529.

System name: Civilian Payroll System. DOT/CG.

System location: Department of Transportation (DOT).
United States Coast Guard (CG),
Federal Aviation Administration (FAA),
Aeronautical Center (AAC-24),
P.O. Box 25735,
Oklahoma City, OK 73125.
and:
Commanding Officer,
Coast Guard Yard,
Curtis Bay,
Baltimore, MD 21226.

Categories of individuals covered by the system: Civilian employees

Categories of records in the system: Earnings and leave.
Retirement records.
Pay files.
Allotment deductions
Accounts receivable and accounts payable.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used for the preparation of payroll checks and bonds
To report federal withholding tax to the Internal Revenue Service.
To report earnings to state and city taxing authorities.
To report FICA withholding to the Social Security Administration.
Used also to prepare report of retirement contributions, allotment payments, and various reports for CG Headquarters and District Offices (budgeting, accounting, management, etc).
Used by authorized Coast Guard, FAA, IRS, GAO, and Civil Service Commission in the performance of their official duties
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manually filed in file folders, records maintained on tape.

Retrievability: Records indexed by pay periods, alphabetically, and by tape number. Records are retrieved by name/number.

Safeguards: Access is limited to authorized personnel.
Stored in Government building with a roving security guard after duty hours.

Retention and disposal: Records retained for 3, 4 and 10 years then transferred to a Federal Records Center.

System manager(s) and address: Chief, Office of Comptroller,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW.,
Washington, DC 20590.

Notification procedure: Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW.,
Washington, DC 20590.
Written request must be signed by the individual.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local Coast Guard District or Unit office for the area in which an individual's duty station is located.
Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license, or similar documents will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Sources include:
The individual.
Personnel Offices.
Payroll Offices.

DOT/CG 530.

System name: Closed Out Military Pay Record System. DOT/CG.

System location: Department of Transportation (DOT).
United States Coast Guard (CG),
Commandant (G-FP),
400 7th Street, SW.,
Washington, DC 20590.

Categories of individuals covered by the system: Active duty military members, retired military members, and separated military members. Closed out active duty pay records of active duty members, retired members, and separated members and correspondence relating thereto.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by authorized Coast Guard and other agency personnel for auditing and settlement of claims (over/under payments).
Source of data permitting responses to general and Congressional inquiries and for submitting reports to the General Accounting Office.
See Prefatory Statement of General Routine Uses

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are filed manually in file folders.

Retrievability: Records are indexed and retrieved by name/number.

Safeguards: Access is limited to authorized Coast Gurad or other agency personnel.
Records are stored in building having roving security guards.

Retention and disposal: Pay records of retirees and separated members maintained separately for one year after date of retirement or separation, then transferred to a Federal Records Center for retention until records become disposable 10 years after final separation or retirement of member.

System manager(s) and address: Chief, Office of Comptroller,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW.,
Washington, DC 20590.

Notification procedure: Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW.,
Washington, DC 20590.
Written request must be signed by the individual.

Record access procedures: Procedure may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local Coast Guard District or Unit administrative office for the area in which an individual's duty station is located.
Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license, or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Sources include:
The individual.
Coast Guard Payroll Offices.
Responsible agencies.
Congressional correspondence.

DOT/CG 531.

System name: Custody and Safekeeping of Savings Bonds DOT/CG.

System location: Department of Transportation (DOT).
United States Coast Guard Headquarters (CG),
Commandant (G-FP),
400 7th Street, SW, Washington, DC 20950.

Categories of individuals covered by the system: Active duty military members. Sretired military members.

Categories of records in the system: U.S. Savings Bonds.
Correspondence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Safekeeping function.

Advice/consent of safekeeping.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manually stored in combination lock filing cabinet.

Retrievability: System indexed by Social Security Number. Retrieved by number/name.

Safeguards: Access to locked filing cabinet is limited to authorized individuals.
Building has roving security guards after duty hours.

Retention and disposal: Held until member requests release of bonds.

System manager(s) and address: Chief, Office of Comptroller,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW.,
Washington, DC 20590.

Notification procedure: Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW.,
Washington, DC 20590.
Written request for must be signed by the individual.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure'.
Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license, or similar document will be considered suitable identification.

Contesting record procedures: Same as in 'Record Access Procedure'.

Record source categories: Sources include:
The individual.
Field Payroll Offices.
Headquarters Payroll Office.

DOT/CG 532.

System name: FICA Wage and Tax System for Military Pay. DOT/CG.

System location: Department of Transportation (DOT).
United States Coast Guard (CG),
Commandant (G-FP),
400 7th Street, SW,
Washington, DC 20590.
and at:
Each District and Headquarters Unit. See Appendix I for locations.

Categories of individuals covered by the system: Active duty military members.

Categories of records in the system: Wages paid and federal taxes witheld, FICA wages witheld.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Control processing and reporting of FICA to the Social Security Administration.
W-2 wage and tax data to IRS are forwarded using magnetic tapes for reporting purposes.
Information is used by authorized Coast Guard personnel.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Record listings are filed manually, semi-annually.
Magnetic tapes are filed in tape library.

Retrievability: Listings are indexed by date; tapes are indexed by tape number. Retrieved by name/number.

Safeguards: Access is limited to user staff members. Maintained in building which is secured after duty hours.

Retention and disposal: Listings retained for 2 years, then transferred to a Federal Records Center.

System manager(s) and address: Chief, Office of Comptroller,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590
Written request must be signed by the individual.

Record access procedures: Procedure may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local Coast Guard District or unit office for the area in which an individual's duty station is located
Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license, or similar document will be considered suitable identification

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Sources include:
The individual
Coast Guard payroll offices.

DOT/CG 533.

System name: Retired Pay and Personnel System. DOT/CG

System location: Department of Transportation (DOT).
United States Coast Guard (CG),
Commandant (G-FP),
400 7th Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: Annuitants.
Lighthouse Keeper Retirees.
Honorary Retirees.
USCG Retirees.

Categories of records in the system: Pay and personnel data of military retirees, annuitants, lighthouse keepers and retirees.
Personnel data of honorary retirees.
Accounts receivable and accounts payable.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Produce various listings and reports provided to USCG offices.
Produce checks.
W-2 wage and federal tax reporting to the Internal Revenue Service.
Reports of earnings to state and city taxing authorities.
Listing of currently retiring officers, home addresses and mailing labels used by authorized USCG and USCG affiliated organizations.
Reports and information exchanged with the Veterans Administration, Civil Service Commission, SOcial Security Administration, the Department of Defense and the Red Cross.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are filed manually in file folders.
Microfilm is stored in the retired pay branch.
Check tapes are filed in tape library.

Retrievability: Records and microfilm are indexed alphabetically, check tapes are indexed by tape number.
Retrieved by name/number.

Safeguards: Access is limited to user staff members under supervisory control.
Stored in government building having roving security guard after duty hours.

Retention and disposal: Records are retained in the Retired Pay Branch for 3 years subsequent to retiree's or annuitant's death, then forwarded to a Federal Records Center.
Magnetic tapes are retained 18 months, microfilm for 6 years (required by GAO) then destroyed.

System manager(s) and address: Chief, Office of Comptroller,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
United States Coast Guard Headquarters,

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Commandant (G-CMA),
400 7th Street, SW.,
Washington, DC 20590.
Written request must be signed by the individual

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure.'

Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license, or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Sources include:

The individual.
Coast Guard personnel offices.
Coast Guard payroll offices.

DOT/CG 534.

System name: Travel and Transportation of Household Effects. DOT/CG.

System location: Department of Transportation (DOT),

United States Coast Guard (CG),
Commandant (G-FP),
400 7th Street, SW.,
Washington, DC 20590.
System is also located at each District Office and Headquarters unit See Appendix I for locations.

Categories of individuals covered by the system: Active duty military members, retired military members, and civilian employees

Categories of records in the system: Travel claims, transportation claims, government bills of lading, application for shipment of household effects.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Vouchers submitted for payment of claims, for audit of claims for payment, to account for cost of moving household goods, advice of shipment of household goods, for reporting of funds expended, and for payment of household and transportation claims.

Used by authorized Coast Guard personnel and personnel of the General Accounting Office (GAO) in connection with the performance of official duties.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Filed manually in file folders.

Retrievability: Records are retrieved by schedule numbers and/or individual name.

Safeguards: Access is limited to user staff members.

Stored in a building which is secured after duty hours.

Retention and disposal: Records are kept for 3 years, then transferred to a Federal Records Center.

Exception: Schedule 98-Ts (Freight and Transportation) are forwarded to General Accounting Office (GAO) after 3 months

System manager(s) and address: Chief, Office of Comptroller,

Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW.,
Washington DC 20590.

Notification procedure: Department of Transportation,

United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW.,
Washington, DC 20590.
Written request must be signed by the individual.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local Coast Guard District or unit office for the area in which an individual's duty station is located.

Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license, or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Sources include:

The individual who is the subject of the record.
Ground freight and transportation carriers and agents.
Airline companies.
Personnel offices.
Other responsible agencies.

DOT/CG 535.

System name: Nonappropriated Fund System (NAFA). DOT/CG.

System location: Department of Trasnsportation (DOT),

United States Coast Guard (CG),
Commandant (G-FER),
400 7th Street, SW.,
Washington, DC 20590.
System is also located at:
District and Headquarters Units. See Appendix I for Locations.

Categories of individuals covered by the system: Civilian employees.

Active duty military members.
Retired military members.
Military dependents.

Categories of records in the system: Payroll records.

Accounting records for NAFA loans.
Purchase slips for articles sold in Base Exchange (BX) that cost more than
25.
Listing of bad checks.
Lay away purchase list.
Job applications.
Personnel records.
Credit books kept by ships and isolated shore units.
Correspondence.
Membership applications.
Accounts receivable.
Investigatory reports involving abuse of facilities.
Purchase listings and sales slips for specific items.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Payroll for NAFA employees.

Personnel actions.
Accounting purposes.
Budget and inventory controls.
Used by members and employees of USCG in the performance of their official duties related to the management, supervision and administration of nonappropriated funds.
Officials and employees of other agencies, attorney general's office or Congress in the performance of their official duties related to the management, supervision and administration of nonappropriated funds.
Billing, reservations, protection of funds.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Automated records may be stored on tape, disc, drums and punched cards.

Manual records may be stored in file folders and/or credit ledgers, card files, and notebooks.

Retrievability: Records are indexed alphabetically and by social security number, membership number or unit number.

Safeguards: Access is limited to authorized personnel. Building is secured after duty hours.

Retention and disposal: Records are retained until usefulness has expired and then destroyed.

System manager(s) and address: Chief, Office of Comptroller,

Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW.,
Washington, DC 20590.

Notification procedure: Department of Transportation,

United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW.,
Washington, DC 20590.

Written request must be signed by the individual.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local Coast Guard District or Unit office for the area in which an individual's work station is located.

Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license, or similar document will be considered suitable identification.

Contesting record procedures: Same as in 'Record Access Procedure'.

Record source categories: Sources include:

The individual.
Previous employees.
Educational institutions.
Employment agencies.
Civilian and military investigative reports.
General correspondence.

DOT/CG 536.

System name: Contract and Real Property File System. DOT/CG.

System location: Department of Transportation (DOT),

United States Coast Guard (CG),
Commandant (G-F),
400 7th Street, SW.,
Washington, DC 20590.
Systems are also located at various District and Headquarters Units. See Appendix I for locations.

Categories of individuals covered by the system: Individuals or companies doing business with the Coast Guard.

Employees of prime and sub-contractors.
Individuals requiring use of CG property.
Military members and civilian employees.

Categories of records in the system: Contracts and related files.

Real property and leased family housing files.
Bidders list.
Minority compliance records.
Payment schedule records.
Witness fees records.
Various payment files relating to Admiralty and Tort claims.
Personnel claims.
Collection register.
Open purchase order file.
Correspondence files and vendor lists.
Information on employees of contractors, job level and pay of these employees.
Permits, licenses and easements.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to determine compliance of contractors with minimum wages for certain skills and trades on government contracts.

Used to aid in record keeping of payments and collections.
Used to determine potential for contracting with the government.
Used to record issuance of personal property and maintain inventories.
Used to determine contractor responsibilities and liability.
Used by Coast Guard officials of the General Accounting Office (GAO) in performance of duties.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manually filed in file folders. Maintained on tape/card three ring binders, and in hard cover books.

Retrievability: Retrieved by individual/company name, number, construction job, and/or location.

Safeguards: Access restricted to authorized personnel only; some records in locked safe and/or filing cabinet.

Maintained in Government building having roving security guard after duty hours.

Retention and disposal: Some records retained indefinitely; some retained 3, 4 or 6 years, then destroyed or forwarded to a Federal Records Center for an additional 7 years

System manager(s) and address: Chief, Office of Comptroller,

Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW.,
Washington, DC 20590.

Notification procedure: Department of Transportation,

United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW.,
Washington, DC 20590.
Written request must be signed by the individual.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local Coast Guard District or Unit office for the area in which the contract was submitted or property is located.

Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license, or similar document will be considered suitable identification.

Contesting record procedures: Same as above 'Record Access Procedure.'

Record source categories: Sources include:

Individuals.
Contractors.
Contract employees.
Bidders.
Finiancial institutions.
Insurance companies.
Community associations.
Other agencies.
Bills.
Letters.
Collection receipts.
Electronic accounting machine listings.

DOT/CG 537.

System name: FHA Mortgage Insurance for Servicemen.

System location: Department of Transportation (DOT),

United States Coast Guard (CG),
Commandant (G-F),
400 7th Street, SW.,
Washington, DC 20590.

Categories of individuals covered by the system: U.S. Coast Guard Military Personnel who have applied for Federal Housing Administration Mortagage Insurance.

Categories of records in the system: Selected aspects of FHA Mortgage Insurance Records for military personnel, including copies of Form DD-802, 'Request for and Certificate of Eligibility' and Form DD-803, 'Certificate of Termination'.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to enable management to verify that billings from FHA are correct, and payable from Coast Guard funds. Users are authorized Coast Guard personnel.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are filed manually in closed file cases.

Retrievability: Folders are filed by named individual, alphabetically. Copies of documents are filed chronologically in the folders together with a record of payment.

Safeguards: Access is limited to user staff members. After duty hours the building is patrolled by roving security guards.

Retention and disposal: Files are maintained as long as a member is covered by an insured mortgage loan; 3 years after, files are forwarded to Federal Records Center. Destroyed 4 years after case files are closed.

System manager(s) and address: Chief,

Office of Comptroller,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW.,
Washington, DC 20590.

Notification procedure: Contact Commandant (G-CMA),

U.S. Coast Guard Headquarters,
Washington, DC 20590.
The written request should include the requestors name in full and signature.

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Record access procedures: Procedures may be obtained by writing Commandant (G-CMA), at the address above, or by visiting the Coast Guard Headquarters, 400 7th Street, SW, Washington, DC. Proof of identity will be required prior to affording an individual access to his records. A military identification card, a drivers license, or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: From individual concerned and the Federal Housing Administration.

DOT/CG 561.

System name: Port Safety Reporting System Individual Violation Histories. DOT/CG.

System location: Department of Transportation (DOT),

United States Coast Guard (CG),
Commandant (G-WLE-1),
400 7th Street, SW,
Washington, DC 20590
System is also located at
Offices of the District Commanders. See Appendix I for locations.

Categories of individuals covered by the system: Masters, operators, owners, agents, shippers, charterers and/or pilots of commercial vessels/barges, dock and waterside facilities reported for violations of United States port safety regulations.

Categories of records in the system: Computerized listings, by name, giving specific violations, date, place and penalty assessed.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Determining penalties to be assessed by Coast Guard hearing officers, execution of judgments by U S attorneys as necessary.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape or disc.

Retrievability: By name.

Safeguards: Restricted access data processing area. Program access by password.

Source documents and printouts are stored in locked rooms or file cabinets.

Retention and disposal: Disposed of 3 years after final disposition of case.

Paper files destroyed by mutilation, shredding or burning.
Magnetic tapes are obliterated by writing over magnetic surface till content is rendered useless and unreadable.

System manager(s) and address: Chief, Office of Marine Environment and Systems,

Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written request must be signed by the individual.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' above or the local Coast Guard District, at the address in Appendix I, where the violation occurred.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: Report of Violation, Form CG-2636, prepared by Coast Guard officials.

Systems exempted from certain provisions of the act: Portions of this system may be exempt from disclosure under the provisions of 5 USC 552a (k)(2), which provide in part, that investigatory material compiled for law enforcement purposes may be withheld from disclosure to the extent that the identity of the source of the information would be revealed by disclosing the investigatory record, and the source has received an express guarantee that his identity would be held in confidence or, prior to the effective date of this section, if the source received an implied promise that his identity would be held in confidence.

DOT/CG 571.

System name: Physical Disability Separation System. DOT/CG.

System location: Department of Transportation (DOT),

United States Coast Guard (CG),
Commandant (G-KMA),
400 7th Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: USCG active duty personnel and USCG personnel separated or retired for physical disability.

Categories of records in the system: Central Physical Evaluation Board files.

Formal Physical Evaluation Board files.
Physical Review Council files.
Physical Disability Appeal Board files.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by:

Coast Guard officials in connection with physical disability separation and retirement proceedings.
The Veterans Administration for assistance in determining the elgibility of individuals for benefits administered by that agency and available to USPHS or DOD medical personnel in connection with the performance of their official duties.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: By name of individual .

Safeguards: Roving guard patrol. Restricted personnel access by screening.

Retention and disposal: Retained two years after disposition then transferred to Federal Records Center, St. Louis, MO.

System manager(s) and address: Chief, Office of Health Services,

Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written request must include a notarized statement attesting that the individual requesting the notification is in fact the individual about whom information is requested.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure.'

Contesting record procedures: Same as 'Record Access Procedure' above.

Record source categories: Information in records developed through proceedings of administrative bodies listed in 'Categories of Records' above.

DOT/CG 572.

System name: USCG Military Personnel Health Record System. DOT/CG.

System location: Department of Transportation (DOT),

United States Coast Guard (CG),
Commandant (G-KPS),
400 7th Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: USCG active duty personnel. USCG active duty personnel dependents,

Dependents of USCG active duty personnel.
Department of Defense active duty personnel and dependents.
Dependents of USCG and DOD retired personnel and their dependents.
Members of USCG Reserve.

Categories of records in the system: Records of medical and dental treatment.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by medical staff in affording medical and dental treatment to personnel listed in 'Categories of Individuals' above.

Provided to the Social Security Administration and Veteran's Administration for use in determining an individual's entitlement to benefits administered by those agencies.
Records are provided to the Department of Health, Education and Welfare for purposes of the Federal Medical Care recovery set.
Records are available to the Public Health Service or DOD medical personnel in connection with medical treatment of individuals at USPHS or DOD facilities.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Name and military identification number.

Safeguards: Roving guard patrol. Room in which records are located is locked when unattended.

Access limited to these records at all times by personnel screening.

Retention and disposal: Retained so long as individual is assigned to the particular area. Transmitted to new duty station upon transfer of member/sponsor. Incorporated into personnel record file system upon transfer, separation, or retirement.

System manager(s) and address: Chief, Office of Health Services,

Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written request must be signed by the individual.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local District or Headquarters Unit Office for the area in which assigned. See Appendix I for locations. See Appendix II for details pertaining to release of medical records.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Medical facilities where treatment received and from the individual.

All Field Units with Medical Personnel assigned. See Appendix I for locations.

DOT/CG 573.

System name: U.S. Public Health Services (USPHS) Commissioned Officer Corps Staffing and Recruitment Files. DOT/CG.

System location: Department of Transportation (DOT),

United States Coast Guard (CG),
Commandant (G-KMA),
400 7th Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: Personnel records of USPHS commissioned officers assigned to duty with the Coast Guard.

Categories of records in the system: Personnel records, Commissioning applications, assignment preference, reference questionnaires, background information.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to assist administrators in assigning personnel to area requiring their specific skills.

Used to monitor career development of personnel assigned to program.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: By name of individuals.

Safeguards: During working hours access is controlled by office personnel; during non-working hours building is patrolled by roving security patrol.

Retention and disposal: Records are retained during period of an individual's assignment to the Coast Guard. Thereafter, records are destroyed by shredding.

System manager(s) and address:

Chief, Office of Health Services,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written request must be signed by the individual.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure'.

Proof of identity will be required prior to release of records. A military identification card, driver's license or similiar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Previous employers, educational institutions, references, Coast Guard Medical Administrators and the individual.

DOT/CG 574.

System name: Drug and Alcohol Abuse Prevention Program Record System. DOT/CG.

System location: Department of Transportation (DOT),

United States Coast Guard (CG),
Commandant (G-PS),
400 7th Street, SW,
Washington, DC 20590.
All Coast Guard units have portions of duplicate case folders on individuals involved in the program. See Appendix I for addresses.

Categories of individuals covered by the system: Active duty Coast Guard officers, enlisted personnel and reserve personnel; retired and separated Coast Guard personnel.

Categories of records in the system: Annotations on file cards of drug abuse, drug exemptions, drug rehabilitation, alcohol rehabilitation and waiver for enlistment in the Coast Guard cases.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to:

Determine the extent of the drug and alcohol problem in the Coast Guard.
Evaluate program effectiveness.
Maintain the integrity of the Coast Guard employees in performance of their official duties.
Assist the U.S. Navy Department in consonance with inpatient treatment at Navy Rehabilitation Center.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on file cards (5'x8') and message file.

Retrievability: File cards are indexed by name; message file by date/time group.

Safeguards: Files are stamped 'For Official Use Only' and maintained in locked filing cabinet.

Retention and disposal: Disposal schedules are under development and will be in accord with disposal schedules of the Military Personnel Record System.

System manager(s) and address: Chief, Office of Personnel,

Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

United States Coast Guard Headquarters,

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Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written request must be signed by individual.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local Coast Guard District or unit office for the area in which an individual's duty station is located. See Appendix I for locations.

Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license, or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Reports of drug exemption; reports of civil and military offenses involving drugs or alcohol; reports of Coast Guard Intelligence Investigation, recommendation for inpatient drug or alcohol rehabilitation.

Individual personnel, medical, and security records.

DOT/CG 586.

System name: Chemical Transportation Industry Advisory Committee. DOT/CG.

System location: Department of Transportation (DOT).

United States Coast Guard (CG),
Commandant (G-M),
400 7th Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: Committee members.

Categories of records in the system: Address, phone number.

Biographical sketch.
Committee information.
Minutes of meetings.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Arranging meetings, keeping records of committee business, determine committee membership.

Used by Coast Guard personnel in the performance of offficial duties.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: By committee name/individual name.

Safeguards: Personnel screening prior to granting access.

Building has roving security after hours.

Retention and disposal: Permanently retained.

System manager(s) and address:

Chief, Office of Merchant Marine safety.
Department of Transportation.
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

United States Coast Guard Headquarters,,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written request must be signed by the individual.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure.'

Proof of identity will be required prior to granting access. A military identification card, driver's license or similar document is considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: From the individual of record.

DOT/CG 587.

System name: Investigation of Violations of Marine Safety Laws or Regulations. DOT/CG.

System location: District Offices - See Appendix I for addresses.

Categories of individuals covered by the system: Persons who have violated or who are suspected of violating marine safety or related laws or regulations.

Categories of records in the system: Reports of violation and supporting documents.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Evaluation by Coast Guard personnel for law enforcement purposes.

Evaluation by other agencies, state, local and foreign governments for purposes of law enforcement, and other purposes which the agency may deem necessary for their mission.
For use in civil litigation.
For insurance purposes.
Use by the general public.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records pertaining to violations of law or regulation are retrieved by individual name or vessel name.

Safeguards: Destroyed three years after case is closed.

System manager(s) and address: Chief, Office of Merchant Marine Safety,

Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written request must be signed by the individual.

Record access procedures: Procedures may be obtained by writing to or visiting (G-CMA) at the address in 'Notification Procedure' or the local Coast Guard District for the area in which the alleged violation occurred.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Coast Guard investigating records compiled as a result of vessel casualty.

Investigations by other law enforcement agencies.
Vessel operator complaints.
Deficiencies noted during Coast Guard inspections.

Systems exempted from certain provisions of the act: Portions of this system may be exempt from disclosure under the provisions of 5 USC 552a (K)2) which provide in part, that investigatory material compiled for law enforcement purposes may be withheld from disclosure to the extent that the identity of the source of the information would be revealed by disclosing the investigatory record, and the source has received an express guarantee that his identity would be held in confidence, or, prior to the effective date of this section, if the source received an implied promise that his identity would be held in confidence.

DOT/CG 589.

System name: U. S. Merchant Seamen's Records.

System location: Department of Transportation (DOT).

United States Coast Guard (CG),
Commandant (G-MVP),
400 7th Street, SW,
Washington, DC 20590.
Portions of these records may be located at the Marine Inspection Office or the Marine Safety Office where the seaman was documented.

Categories of individuals covered by the system: U. S. Merchant Seamen.

Categories of records in the system: Personnel File.

Shipping Articles.
Locator List.
Log Books.
Seamen's License Records.
Fingerprint Records.
Disciplinary Records.
Security Records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to determine qualification of individuals for issuance of Merchant Mariners Documents.

Used by individual seaman, seamen's representatives, seaman's next of kin, law enforcement agencies, other government agencies, attorneys, welfare agencies and limited use by the general public.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The personnel file will be stored on updateable microfiche and limited personal data will reside on computer disks and magnetic tapes. The above media will be continuously updated as new or additional data is received. The remainder of the records will be stored in file folders in paper form.

Retrievability: The personnel file on microfiche will be accessed from its storage cabinet by a coded identifier of the location of the record within the cabinet. The data on the computer record will be retrieved by direct terminal access with the selection of data elements determined by the authorized user. Retrieval will be by name and cross indexed under ID (i.e., 'Z', 'BK', or Social Security Number).

Safeguards: Personnel files on microfiche are stored in the locked retrieval cabinet. The data on the computer file can be retrieved only via 'password' identifier with users being permitted access only to that portion of the overall file that has previously been determined as meeting their needs. The file folders are maintained in locked rooms.

Retention and disposal: Personnel files are held 3 years for unlicensed personnel and 10 years for licensed personnel after last activity, then transferred to a holding area where they may be destroyed after 60 years of inactivity. Shipping Articles are held 3 years then transferred to a Federal Records Center where they are considered historical data and are not destroyed. Disciplinary Records are maintained in paper form. Administrative Law Judge's Decisions and Orders and Appeal File are transferred to a Federal Records Center after 5 years. Commandant's Decision on Appeal and National Transportation Safety Board Decisions and Orders are retained. Disciplinary Record Cards are destroyed upon notice of death.

System manager(s) and address: Chief, Office of Merchant Marine Safety,

Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation, United States Coast Guard Headquarters, Commandant (G-CMA), 400 7th Street, SW, Washington, DC 20590. In order to determine if a record for an individual exists, it is necessary that the applicant furnish the complete name in which the document was issued, the serial number of the document (i.e., 'Z', 'BK', and/or Social Security Number), and his date and place of birth. A written request must be signed by the individual.

Record access procedures: Procedures may be obtained by writing Commandant (G-CMA) or visiting at the address in 'Notification Procedure' or the Marine Inspection Office or Marine Safety Office where the document was issued for locally maintained portions.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: Personnel File - Date furnished by the seamen, U.S. Coast Guard officials, other Federal Agencies and employer. Shipping Articles - Vessels' operators, seamen, masters of vessels, State Department, and Coast Guard officials. Disciplinary Records - Furnished by the Investigating Officers at the various Marine Inspection and Marine Safety Offices.

Systems exempted from certain provisions of the act: Portions of this system of records may be exempt from disclosure under the provisions of 5 USC 552a (k)2), which provide, in part that investigatory material compiled for law enforcement purposes may be withheld from disclosure to the extent that the identity of the source of the information would be revealed by disclosing the investigatory record, and the source has received an express guarantee that his identity would be held in confidence, or, prior to the effective date of this section, if the source received an implied promise that his identity would be held in confidence.

DOT/CG 590.

System name: Merchant Vessel Casualty Reporting System. DOT/CG.

System location: Department of Transportation (DOT),

United States Coast Guard (CG),
Commandant (G-MVI),
400 7th Street, SW,
Washington, DC 20590.
System is also maintained at:
District and Headquarters Units-see Appendix I for addresses.

Categories of individuals covered by the system: The categories of individuals included in this system of records are persons who have been involved in vessel casualties. Categories include: deceased persons, injured persons, witnesses, vessel pilots, vessel masters, vessel crew members and vessel owners.

Categories of records in the system: Investigative reports of vessel casualties.

Investigative reports of deaths aboard vessels.
Investigative reports of personnel injuries.
Note: Vessels included in this system include commercial U. S. vessels, foreign vessels using the territorial waters of the U. S., and other vessels involved in a casualty with a U. S. commerical vessel.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine Uses and Purposes include:

Evaluation by Coast Guard personnel for corrective safety measures, and law enforcement purposes.
Evaluation by other agencies, state, local and foreign governments for purposes of safety, law enforcement, and other purposes for which the agency may deem necessary for their missions.
Civil litigation.
For insurance purposes.
Use by Congressional representatives for possible legislative action or to provide information to a constituent.
Use by shipping concerns such as owners, operators, and charterer for safety; protection against law suits and general background.
Use by research groups for safety purposes or any other purpose.
Use by the general public.
See Prefatory Statement for General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and magnetic tape.

Retrievability: Vessel casualty records are filed by vessel name, type of casualty and date of casualty.

Retrieved by a combination of above information.
Personel injuries and deaths are filed by individual name and date of injury or death.
Retrieved by date/name.

Safeguards: Personnel screening. Building secured after duty hours and patrolled by roving security patrol.

Retention and disposal: Marine Boards of Investigation. Transfer to Federal Records Center after five years.

Vessel Casualties records transferred to FRC after two years, and disposed of after twenty-five years.
District Offices records disposed of after five years.
Officers in Charge, Marine Inspection Office; Commanding Officers, Marine Safety Office; Merchant Marine Details: ten years.
Transferred to the Federal Records Center after five years. Disposed of after

System manager(s) and address: Chief, Office of Merchant Marine Safety,

Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written request must be signed by the individual.

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Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at address in 'Notification Procedure' or the local Coast District or Unit office in which the casualty occurred.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Persons directly involved in the casualty e.g., vessel master, pilot, crewmembers.
Vessel owners.
Witnesses to casualty.
Coast Guard personnel.
Manufacturers.
Investigations by other law enforcement agencies.

Systems exempted from certain provisions of the act: Portions of this system of records may be exempt from disclosure under the provisions of 5 USC 552a(k)(2), which provide, in part, that investigatory material compiled for law enforcement purposes may be withheld from disclosure to the extent that the identity of the source of the information would be revealed by disclosing the investigatory record, and the source has received an express guarantee that his identity would be held in confidence, or, prior to the effective date of this section, if the source received an implied promise that his identity would be held in confidence.

DOT CG 591.

System name: Merchant Vessel Documentation System (Manual and Automated). DOT/CG.

System location: Automated system is located at
Department of Transportation,
United States Coast Guard Headquarters,
Commandant (C-MVD),
400 7th Street, SW.
Washington, DC 20590.
Manual systems are located at
Coast Merchant Vessel Documentation Offices.
(See section E.W., Standard Distribution List - CG-131 for office locations).

Categories of individuals covered by the system: Vessel owners.
Mortgagees.
Vessel buyers and sellers.
Lien claimants.
Vessel builders.

Categories of records in the system:
Vessel owner information.
Vessel information.
Instruments of record (bills of sale, mortgages, etc.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Establishing eligibility for documentation of vessels.
Issuance of marine documents.
Recordation of bills of sale, mortgages, etc.
Publication of the annual MERCHANT VESSELS OF THE UNITED STATES.
Publication of the monthly supplement to MERCHANT VESSELS OF THE UNITED STATES.
Used by:
Coast Guard.
Other Governmental agencies.
Financial institutions and other money leaders.
Anyone having business with or an interest in a documented vessel.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Index of owners maintained by Commandant (G-MVD).
All other records maintained at home port of vessel by vessel name.

Retrievability: Upon furnishing name of vessel owner to Commandant (G-MVD), vessel name is established and request for information referred to appropriate home port.
Records retrieved at home port by use of vessel name.

Safeguards: Personnel screening.

Retention and disposal: Listings of vessel owners constantly updated by additions and deletions (automated).
Field office vessel folders transferred to FRC 2 years after change of vessel's home port or 2 years after removal of vessel from documentation (manual).

System manager(s) and address: Chief, Office of Merchant Marine Safety,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written requests must be signed by the individual whose records are the subject.

Record access procedures: Procedures may be obtained by writing or by visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local Coast Guard District Office.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Vessel owners, Mortgagee, lien claimants, Vessel sellers and buyers, Coast Guard admeasures and vessel builders.

DOT/CG 592.

System name: Registered/Applicant Pilot Eligibility Folder. DOT/CG.

System location: Department of Transportation (DOT),
United States Coast Guard (CG),
Ninth Coast Guard District,
Great Lakes Pilotage Staff,
1240 East Ninth Street,
Cleveland, OH 44199.

Categories of individuals covered by the system: United States registered pilots and applicant pilots suitably registered to perform pilotage duties aboard foreign vessels on the Great Lakes.

Categories of records in the system: Application for registration, renewal of registration, annual report of physical examination, Coast Guard license data, examination for registration.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Department of Transportation, U. S. Coast Guard, F.B.I., pilot associations and corporations.
Used for pilot registration, training program needs, retirements, statistical compilations, and negotiations with Canadian authorities to assure equitable participation by U.S. registered pilots with Canadian registered pilots.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: By name and pilot registration number.

Safeguards: Screened by office personnel prior to use. Locked in cabinets during non-working hours.

Retention and disposal: Permanent.

System manager(s) and address: Chief, Great Lakes Pilotage Staff,
Ninth Coast Guard District,
1240 East Ninth Street,
Cleveland, OH 44199.

Notification procedure: Same as 'System Manager' above.

Record access procedures: Same as 'System Manager' above.

Contesting record procedures: Same as 'System Manager' above.

Record source categories: Individual's original application for U.S. pilot's registration and individual's yearly report of medical examination.

DOT/CG 611.

System name: Intelligence and Security Investigative Case System. DOT/CG.

System location: Department of Transportation(DOT),
United States Coast Guard(CG),
Commandant (G-OIS),
400 7th Street, SW,
Washington, DC 20590.
Systems are also located in Coast Guard District Offices at the addresses listed in Appendix I.

Categories of individuals covered by the system: U. S. Coast Guard military personnel, merchant marine personnel, port and dock workers, and persons under investigation for violations of laws and regulations administered by the Coast Guard.

Categories of records in the system: Personnel security investigations, national agency check results, criminal investigations, counterintelligence investigations, computerized case control system.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by authorized Coast Guard personnel for:
Security clearances.
Actions by commanders under the Uniform Code of Military Justice.
Career advancement of U.S. Coast Guard military personnel.
Approval of merchant seamen documents.
Access of individuals to port facilities.
Used by:
Appropriate federal, state or local agencies for criminal law enforcement and prosecution by the United States government.
National Agency Checks and background investigations.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Investigative dossiers and 3x5 card retrieval system.

Retrievability: By name and/or case number.

Safeguards: Alarm controlled spaces, locked and/or limited access file cabinets and office spaces.
Using receipt control, automatic data processing (ADP) system cannot be penetrated for data through terminals, or otherwise, located outside the U.S. Coast Guard computer center without use of proper administrative controls.
Release of dossiers to accreditied personnel on 'need-to-know' basis only.

Retention and disposal: Dossiers retained 50 years from date of birth.
Deceased, retirees and others separated are held one year from separation.
Dossiers are retired to the Washington National Federal Records Center for further retention of 30 years.
3x5 cards are annotated to recall retired dossiers if necessary.
Computer printouts are retained for 10 years then destroyed.

System manager(s) and address:
Chief, Office of Operations,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written request must be signed by the individual.

Record access procedures: Procedures may be obtained by writing to, or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local Coast Guard District Office, location in Appendix I, for the area in which an individual's duty station is located.
Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license, or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: National Agency Checks, background investigations, criminal investigations, interviews, records, checks, observations, statements.

Systems exempted from certain provisions of the act: Portions of this system of records may be exempt from disclosure under the provisions of 5 USC 552a (k)(2), which provides in part that investigatory material compiled for law enforcement purposes may be withheld from disclosure to the extent the identity of the source of the information would be revealed by disclosing the investigatory record, and the source has received an express promise that his identity would be held in confidence, or, prior to the effective date of this section, if the source received an implied promise that his identity would be held in confidence.
Portions of this system of records may be exempt from disclosure under the provisons of 5 USC 552a(which provides, in part, that investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be withheld from disclosure but only to the extent that the disclosure of such material would reveal the identity of the source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.
Portions of this system of records may be exempt from disclosure under the pro- visions of 5 USC 552a (k)(7), which provide, in part, that evaluation material used to determine potential for promotion in the armed services may be withheld from dis- closure but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of a source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

DOT/CG 612.

System name: Port Security Card System. DOT/CG.

System location: Department of Transportation (DOT),
United States Coast Guard Headquarters (CG),
Commandant (G-OIS),
400 7th Street, SW,
Washington, DC 20590.
Records also also located at each District Office. See Appendix I for locations.

Categories of individuals covered by the system: Persons regularly employed on vessels and water front facilities, or persons having regular public or private business with the operation, maintenance, or administration of vessels and cargoes or waterfront facilities.

Categories of records in the system: Applications for port security cards awaiting processing.
Processed applications indicating those granted or denied port security cards.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Authorized Coast Guard officials to determine eligibility for issuance of Port Security Cards
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files, 3x5 cards.

Retrievability: By name.

Safeguards: Maintained in file cabinets in secure areas.
Personnel are screened prior to granting access.

Retention and disposal: Retained for 8 years, then destroyed by mutilating, shredding or burning.

System manager(s) and address: Chief, Office of Operations,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Departemnt of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written request must be signed by the individual.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local Coast Guard District or unit office for the area in which the application was filed.

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Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license, or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: Individual applications.
National Agency checks.
Other records already at Coast Guard Headquarters, if any.

Systems exempted from certain provisions of the act: Portions of this system of records may be exempt from disclosure under the provisions of 5 USC 552a(k)(2), which provide, in part, that investigatory material compiled for law enforcement purposes may be withheld from disclosure to the extent that the identity of the source of the information would be revealed by disclosing the investigatory record and the source has received an express guarantee that his identity would be held in confidence, or, prior to the effective date of this section, if the source received an implied promise that his identity would be held in confidence.

DOT/CG 621.

System name: Detainee's Log DOT/CG.

System location: Department of Transportation (DOT),
United States Coast Guard (CG),
Commanding Officer,
United States Coast Guard Training Center,
Cape May, NJ 08204.

Categories of individuals covered by the system: Military personnel detained at the United states Coast Guard Training Center, Cape May, NJ.

Categories of records in the system: Photographs of persons detained, detention orders, release orders, inventory of personal effects, data card, request and receipt for health and comfort supplies, work and training report, conduct record, medical log, official travel orders (if applicable), mail and visiting list, court orders or orders of a convening authority (if applicable).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Protect rights of individual.
Monitor behavior patterns of the individual serving terms of non-judicial punishment or correctional custody to effect rehabilitation.
Prevent suicide attempts.
Protect the property rights of the individual.
Insure that health needs of the individual are met and recorded.
In general, the records contain all relevant facts pertaining to the individual's detention or period in correctional cusody.
Records are used by the commanding officer, executive officer, legal officer, personnel officer, medical offier, and personnel assigned to the provost department.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Handwritten and typewritten forms and notebooks, stored in file folders.

Retrievability: By name.

Safeguards: Locked rooms and/or file cabinets.
Content of records accessed by screened personnel only.

Retention and disposal: Informal log entries are retained for six months at the Training Center unless they are relevant to pending disciplinary actions.
Formal records are retained at the Training Center for one year.
All records are disposed of by burning.

System manager(s) and address: Chief, Office of Personnel,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written requests must be signed by the individual.

Record access procedures: Procedures may be obtained by writting to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or by writing or visiting Commanding Officer, U.S. Coast Guard Training Center, Cape May, NJ 08204.
Prior written notification of personal visits is required to insure that the records will be available at the time of visit.
Proof of identity will be required prior to release of records. A military identification card, driver's license or similiar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: Record of proceedings under Article 15, UCMJ.
Records of civil arrest or apprehension by the military authorities.
Direct observations by watchstanders.
Some information is provided by clearance.

DOT/CG 622.

System name: Military Training and Education Records, DOT/CG.

System location: Department of Transportation (DOT),
United States Coast Guard (CG),
Commandant (G-PTE),
400 7th Street, SW,
Washington, DC 20590.
Records are also located at District and Headquarters Units. See Appendix I for locations.

Categories of individuals covered by the system: Coast Guard Military Personnel.

Categories of records in the system: General Service Correspondence Course.
Off-Duty Education Records.
Professional Training Records.
Non-traditional Educational Support Records.
Achievement and Aptitude Test Results.
Academic Performance Records.
Correspondence Course Rate Advancement Records.
Military Performance Records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Evaluation and measurement of training performance.
Statistical summaries.
Input to personnel records.
Partial criteria for selection and admission to service/professional schools.
Partial criteria for selection to postgraduate education programs.
Criteria for admission to the Coast Guard.
Criteria for retention in service schools.
Criteria for promotion.
The above information is used by authorized Coast Guard personnel in the performance of official duties.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders stored in file cabinets.

Retrievability: Retrieved by name, rate, class number.

Safeguards: Records are kept in file cabinets in offices that are locked during off-duty hours.
Access to the records is limited to authorized yeomen and training administrators.

Retention and disposal: Personal history, service history and school conduct and military performance records are kept for one year.
Academic and correspondence course records are kept for five years.
Aptitude and Achievement Test results, as a part of training and education records, are kept for five years.
Records are destroyed by mutilating, shredding or burning.

System manager(s) and address: Chief, Office of Personnel,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
United States Coast Guard Headquarters,

Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written request must be signed by the individual.

Record access procedures: Procedures may be obtained by writing to or visiting (G-CMA) at the address in 'Notification Procedure' or by visiting the local activity where assigned for training.
Prior written notification of personal visits is required to insure that the applicable record will be available.
Proof of identity is required prior to release of records. A military identification card, driver's license, or similiar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedures'.

Record source categories: Official military personnel records, test results, instructions and supervisors.

Systems exempted from certain provisions of the act: Portions of this system of records may be exempt from disclosure under the pro- visions of 5 USC 552a (k)(5), which provide, in part, that investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be withheld from disclosure but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.
Portions of this system of records may be exempt from disclosure under the pro- visions of 5 USC 552 (k)(6), which provides, in part, that testing or examination material used soley to determine individual qualifications for appointment or pro- motion in the Federal service may be withheld from disclosure to the extent that dis- closure of these records would compromise the objectivity or fairness of the testing or examination process.
Portions of this system of records may be exempt from disclosure under the pro- visions of 5 USC 552a (k)(7), which provide, in part, that evaluation material used to determine potential for promotion in the armed services may be withheld from disclosure but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of a source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identy of the source would be held in confidence.

DOT/CG 624.

System name: Personnel Management Information System (PMIS)

System location: Department of Transportation (DOT),
United States Coast Guard (CG),
Commandant (G-P),
400 7th Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: All regular Coast Guard personnel on active duty. All Reserve Coast Guard personnel on extended active duty and Reserve personnel on initial active duty for training.

Categories of records in the system: A single computer record which currently contains about 450 data elements on each member. Some data elements are used only for enlisted, others only for officers. The file contains personal information such as name, place of birth, rank, location, etc. The file also contains pay date elements which will form the basis for deriving pay entitlements for Coast Guard military personnel under the Joint Uniform Military Pay System (JUMPS).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The file is used to produce a number of reports used throughout the Coast Guard. Types of reports are:
Locator Listing for Headquarters and Districts.
Personnel Roster for the unit to assist in verifying information.
Number of personnel in pay grades for advancement levels and budget expenditures.
Current reports for this system of records are listed in the Reports Distribution Manual generated by the Coast Guard for this system.
Queires and batch processing are used to recruitment levels.
Various Coast Guard offices receive the locator listing and management reports.
Government agencies other than Coast Guard categories.
See prefatory statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The storage is on computer disks with tape backups. The file is updated once a week. Once a month the file is dumped to a tape file for historical purposes.

Retrievability: Retrieval from the system is by use of name or Social Security Number or a combination of personal and non-personal characteristics.
Users retrieve information direct from the file through card input or direct terminal access. Data elements to be retrieved and method of use are selected by the user.
An extract file containing summary records is produced monthly for use on a 'time sharing' system. Retrieval of information from this extract is by direct terminal access only. Data elements to be retrieved and method of use are selected by the user.

Safeguards: The computer provides privacy and access limitations by requiring a user name and password match. In addition each element of the file has its own level of accessability which must be held by the user. Only those staff components at Headquarters with a need to have access to the file are given user names and passwords. Access to the 'Time Share' extract is similarly controlled. The backup tapes and monthly dumps also have limited access in that users must justify the need before they are provided the tape numbers.

Retention and disposal: End-of-Year system backup tapes and day to day transaction tapes are retained indefinitely. Statistical and other report extract tapes are recycled into the system and consequently destroyed. Paper working files are disposed of in accordance with current record disposal instructions.

System manager(s) and address: Chief,
Office of Personnel,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Inquiries should be directed to:
Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.

Record access procedures: Procedure may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure'. Prior written notification of personal visits is requried to insure that the records will be available at the time of visit. Proof of identity will be required prior to release of records. A military identification card, driver's license or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: The data to update the file comes from copies of official service record entries prepared by field units. The data is entered on tape for update of the computer files.

DOT/CG 625.

System name: Officer Selection and Appointment System, DOT/CG.

System location: Department of Transportation (DOT),
United States Coast Guard (CG),
Commandant (G-PMR),
400 7th Street, SW,
Washington, DC 20590.
Records are also located at each District and Headquarters Unit. Use Appendix I for locations.

Categories of individuals covered by the system: Applicants for Coast Guard Officer Candidate School or direct commission programs of the Coast Guard.

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Categories of records in the system: Information in the system is supplied by applicants and also by persons, other than the applicants, who submit information pertinent to the suitability of the applicants for commissioned service in the Coast Guard.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Officials and employees of the Coast Guard in the performance of their duties in managing and contributing to the recruitment and appointment of men and women for officer programs in the regular and reserve components of the Coast Guard.

The Attorney General of the United States or his authorized representatives in connection with litigation, fraudulent enlistment or other matters under the jurisdiction of such agencies.

Official employees of the Veterans Administration and Selective Service Administration in the performance of their official duties related to enlistment and reenlistment eligibility and related benefits.

The Senate or the House of Representatives of the United States or any committee or subcommittee on matters within their jurisdiction requiring disclosure of files or records of personnel covered by this system.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records are stored in file folders.

Retrievability: The system is indexed alphabetically by name of applicant and is retrieved by name.

Safeguards: Records kept in file cabinets locked after working hours.

Buildings have 24-hour security guards and limited access.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Application records are maintained at Headquarters for one year, then forwarded to the National Records Center.

Records are retained for 7 years then destroyed.

System manager(s) and address: Chief, Office of Personnel,

Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW.,
Washington, DC 20590.

Notification procedure: Department of Transportation,

United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW.,
Washington, DC 20590.

Record access procedures: Procedure may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or to the applicable Coast Guard District Office.

A letter request should contain full name, address, social security number, approximate date of application, and signature.

Proof of identification will consist of military identification card, driver's license or other official identification.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: Coast Guard recruiting personnel and employee processing application.

Medical personnel conducting physical examination and private physicians providing consultations or patient history.
Character and employer references named by applicants.
Educational institutions, staff and faculty members.
Selective Service Commission.
Local state and Federal law enforcement agencies.
Prior or current military service record.
Commanding officer of Coast Guard unit, if active duty.
Coast Guard offices charged with personnel security clearance functions.
Other Coast Guard officials and employees in the performance of their official duties and as specified by current instructions and regulations promulgated by competent authority.

Systems exempted from certain provisions of the act: Portions of this system of records may be exempt from disclosure under the provisions of 5 USC 552a(k)(5), which provide, in part, that investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be withheld from disclosure but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

Portions of this system of records may be exempt from disclosure under the provisions of 5 USC 552a(k)(7), which provide, in part, that evaluation material used to determine potential for promotion in the armed services may be withheld from disclosure but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of a source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

DOT/CG 626.

System name: Official Officer Service Records. DOT/CG.

System location: Department of Transportation (DOT),

United States Coast Guard(CG),
Commandant (G-PO),
400 7th Street, SW.,
Washington, DC 20590.

Certain records in the system are maintained at:
National Personnel Records Center,
9700 Page Boulevard,
St. Louis, MO 63132.

Portions of the official service record, e.g., health record, security status jacket and leave record are maintained at the officer's unit.

Categories of individuals covered by the system: All Commissioned officers of the Coast Guard on active duty, permanent or disability retired lists.

Regular officers whonesign and do not accept a Reserve commission.

Categories of records in the system: General file & service record card.

Fitness File & Officer Summary Records.
Medical File.
Medical History for officers on the Temporary Disability Retired List.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Fulfillment of normal administrative procedures including assignment, promotion, training, etc.

Physical Evaluation Boards.
Board for Correction of Military Records.
Answering of Congressional and personal inquiries initiated by the individual whose record is concerned.
Preparation of forms, statements, compilations and computations necessary in the daily personnel administration of each individual entering, reentering or leaving the Coast Guard.
(Routine personnel administration requires copies of this and other service record material to be included in administrative files physically separated from the record; however, the original of this material will be included in the official service record maintained at Coast Guard Headquarters).
Furnishing of information (authorized and specified by the individual concerned) to other agencies or individuals (specified by the individual concerned) normally concerned with employment, educational or veteran's benefits, claims or applications.
Furnishing specified material in an officer's service record pursuant to the order of a court of competent jurisdiction.
Used by:
Authorized Coast Guard Personnel.
Personnel from other Federal Agencies in the conduct of official business, as authorized by the Chief, Officer Personnel Division or his designated representative.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on paper and are assembled and filed in one official service record per member and stored on open shelf files in a room with controlled access.

Retrievability: Individual records are indexed and retrievable by name and/or last four digits of member's service number.

Safeguards: During working hours physical access to records is controlled by the Officer Records Branch (G-PO-4/72).

Records are maintained in a central storage area locked behind two separate doors during non-working hours in the building, which has roving and static security patrols.

Retention and disposal: Each individual record is maintained at Coast Guard Headquarters, until three months after retirement/resignation, after which it is shipped to the:

National Personnel Records Center (Military Personnel Records),
9700 Page Boulevard,
St. Louis, MO 63132.

After the separation documents are received, records of Reserve Officers released from active duty and Regular Officers who resign and accept Reserve Commissions are sent to the Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW.,
Washington, DC 20590.

System manager(s) and address: Chief, Office of Personnel,

Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW.,
Washington, DC 20590.

Notification procedure: Inquiry requests for a determination as to whether this system contains records on an individual should be made by that individual, in person or in writing, to:

Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW.,
Washington, DC 20590.

Requestors in person will be required to show a valid I.D. card.
Written request must include the member's name, rank, Social Security Number, and period of service.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local activity to which assigned for locally maintained portions of subject records.

Proof of identity will be required prior to release of records. A military identification card, driver's license or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Personal interview and voluntary submissions by individuals.

Training/Educational Reports.
Fitness Reports.
USCG District Offices and other operating units of the Coast Guard.

Systems exempted from certain provisions of the act: Portions of this system of records may be exempt from disclosure under the provisions of 5USC 552a(k)(5), which provide, in part, that investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be withheld from disclosure, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

Portions of this system of records may be exempt from disclosure under the provisions of 5 USC 552a(k)(7), which provide, in part, that evaluation material used to determine potential for promotion in the armed services may be withheld from disclosure but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

DOT/CG 627.

System name: Enlisted Recruiting Selection Record System. DOT/CG.

System location: Primary System:

Department of Transportation (DOT),
United States Coast Guard (CG),
Commandant (G-P),
400 7th Street, SW.,
Washington, DC 20590.

Decentralized segments are maintained at:
Coast Guard District offices and Coast Guard recruiting offices. See Appendix I for locations.

Categories of individuals covered by the system: Records and correspondence pertaining to prospective applicants, applicants for regular and reserve enlisted programs, and any other individuals who have initiated correspondence pertaining to enlistment in the United States Coast Guard.

Categories of records in the system: Records and correspondence in both automated and non-automated forms concerning personal history, education, professional qualifications, mental aptitude, physical qualifications, character and interview appraisals, National Agency Checks and certifications, service performance and congressional or special interests.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Officials and employees of the U.S. Coast Guard in the performance of their duties in managing and contributing to the recruitment program of the Coast Guard Reserve.

The Comptroller General or any of his authorized representatives, upon request, in the course of the performance of duties of the General Accounting Office relating to the management or quality of military recruitment.

The Attorney General of the United States or his authorized representatives in connection with litigation, fraudulent enlistment or other matters under the jurisdiction of such agencies.

Officials and employees of other Departments and agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management or quality of military recruitment.

Officials and employees of the Veterans Administration and Selective Service System in the performance of their official duties related to enlistment and reenlistment eligibility and related benefits.

The Senate or the House of Representatives of the United States or any committee or subcommittee on matters within their jurisdiction requiring disclosure of files or records of personnel covered by this system.

Such contractors and their employees as are or may be operating in accordance with an approved official contract with the U.S. Government.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Automated records are stored on magnetic tape.

Paper records are stored in file folders.

Retrievability: Alphabetically by name of subject and social security number.

Safeguards: Records are accessible only to authorized personnel within the Coast Guard recruiting organization and are handled with security procedures appropriate for documents marked 'For Official Use Only'.

Retention and disposal: Records are normally maintained for two years and then disposed of by multilating, shredding, or burning.

System manager(s) and address: Chief, Office of Personnel,

Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW.,
Washington, DC 20590.

Notification procedure: Department of Transportation,

United States Coast Gurad Headquarters,
Commandant (G-CMA),
400 7th Street, SW.,

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Record access procedures: Procedures may be obtained by writing to, or visiting, Commandant (G-CMA) at the address in 'Notification Procedure' or the appropriate local office where the record, or portion there of, is filed

Prior written notification is required to insure that records will be available at time of visit.

Proof of identity will be required prior to affording access to records. A military identification card, driver's license, or similar document, will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: Coast Guard recruiting personnel and administrative staff.

Medical personnel or private physicians providing consultations or patient history.
Character and employer references.
Educational institutions, staff and faculty members.
Selective Service System.
Local, state, and Federal law enforcement agencies.
Prior or current military service records.
Members of Congress.
Other officials and employees of the Coast Guard, Department of Defense and components thereof, in the performance of their duties and as specified by current instructions and regulations promulgated by competent authority.

Systems exempted from certain provisions of the act: Portions of this system of records may be exempt from disclosure under the provisions of 5 USC 552a(k)(5), which provide, in part, that investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualification for Federal civilian employment, military service, Federal contracts, or access to classified information may be withheld from disclosure but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

Portions of this system of records may be exempt from disclosure under the provisions of 5 USC 552a (k)(7), which provide, in part, that evaluation material used to determine for promotion in the armed services may be withheld from dis- closure but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of a source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

DOT/CG 628.

System name: Officer, Enlisted, and Recruiter Selection Test File. DOT/CG.

System location: Department of Transportation (DOT),
United States Coast Guard (CG),
Commandant (G-PMR),
400 7th Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: Civilian or military personnel who have taken the following tests:

U.S. Navy Officer Qualification (OQT).
U.S. Navy and U.S Marine Corps Aviation Selection (AST).
U.S. Navy Basic Test Battery (BTB) (retests).
The Cooperative Tests for Advanced Electronic Training (AET TESTS).
The 16 Personality Factor Test used for screening of enlisted personnel for recruiting duty.
Professional Examination for Merchant Mariners.

Categories of records in the system: Card files, answer sheets.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records are kept to provide the test results if an applicant (civilian or military) applies for an officer program or is already in military and interested in certain training programs.

Internal users:
Officer Recruiting, Enlisted Recruiting, Enlisted Personnel Training Programs, Merchant Marine, Commanding Officer, Enlisted Personnel District, Personnel offices, Training Centers and Academy.
Other Government Agencies:
U.S. Navy Recruiting, U.S. Marine Corps, U.S. Navy Bureau of Medicine and Surgery.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, case files.

Retrievability: By name.

Safeguards: Combination - type safe, locked files.

Test results are given only on a need to know basis to authorized personnel.
Only custodian of safes and alternate custodian have access.

Retention and disposal: Test answer sheets are destroyed after 2 years.

Card file - destroyed after 4 years.

System manager(s) and address: Chief, Office of Personnel,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure.'

Proof of identity will be required prior to release of records. A military identification card, driver's license or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Individuals concerned and United States Coast Guard recruiting officials.

U.S. Marine Corps officials.
U.S. Navy Recruiting officials,
U.S. Navy Bureau of Medicine Surgery officials.

Systems exempted from certain provisions of the act: Portions of this system of records may be exempt from disclosure under the provisions of 5 USC 552(k)(6), which provides, in part, that testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service may be withheld from disclosure to the extent that disclosure of these records would compromise the objectivity or fairness of the testing or examination process.

Portions of this system of records may be exempt from disclosure under the provisions of 5 USC 552a (k) (5), which provide, in part, that investigatory material compiled soley for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be withheld from disclosure but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

Portions of this system of records may be exempt from disclosure under the pro- visions of 5 USC 552a (k)(7), which provide, in part, that evaluation material used to determine potential for promotion in the armed services may be withheld from disclosure but only to the extent that the disclosure of such material would reveal the identity of a source who furnished informaton to the Government under an express promise that the identity of a source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

DOT/CG 629.

System name: Enlisted Personnel Record System. DOT/CG.

System location: Department of Transportation (DOT),
United States Coast Guard (CG),
Commandant (G-PMR),
400 7th Street, SW,
Washington, DC 20590.
Decentralized segments of the system are located at each District office and Headquarters Unit. See Appendix I for locations.

Categories of individuals covered by the system: All enlisted members of the Coast Guard now serving on active duty (including enlisted members of the Reserve on extended active duty), and members who have been temporarily or permanently retired or discharged.

Categories of records in the system: Enlisted contract package, record of emergency data, leave records, performance ratings, administrative remarks, medical records.

All other requisite Coast Guard personnel forms, and pertinent miscellaneous correspondence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For use in formulating all Coast Guard personnel actions including, but not limited to, assignment, promotion, re-enlistment, retirement, discharge, determination of entitlement to pay and allowances, correction of records, and disciplinary actions.

Data is provided to the Veterans Administration for determination of an individual's eligibility for benefits administered by that agency and to medical facilities maintained by the Department of Health, Education and Welfare in conjunction with medical treatment afforded an individual.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in enlisted files record jackets and stored in file cabinets.

Retrievability: Records are retrievable by name of individual or the last three digits of the individual's social security number.

Safeguards: Records maintained at Coast Guard Headquarters are located in a central storage area, locked behind two separate doors during non-working hours, in a building with a roving security patrol.

Records at field units are maintained in Government office buildings with off-duty hours security.
During working hours, access to records is controlled by office personnel.

Retention and disposal: Individual records are maintained at CG Headquarters until six months after an enlisted member is discharged, permanently retired for physical disability, or retired for years of service, after which records are transmitted for permanent storage to the:

National Personnel Records Center, (Military Personnel Records) GSA,
9700 Page Boulevard,
St. Louis, MO 63132.
In the case of members transferred to the Reserve, their records are sent to Commandant (G-RA-2/82) after separation documents are received.

System manager(s) and address: Chief, Office of Personnel,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW.,
Washington, DC 20590.
Written request must be signed by individual.

Record access procedures: Procedures may be obtained by writing to, or visiting, Commandant (G-CMA) at the address in 'Notification Procedure' or the local Coast Guard District or unit administrative officer for the area in which an individual's duty station is located.

Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license, or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: Information is obtained from the individual, and Coast Guard Officials.

Systems exempted from certain provisions of the act: Portions of this system of records may be exempt from disclosure under the provisions of 5 USC 552a(k)(5), which provide, in part, that investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be withheld from disclosure but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

Portions of this system of records may be exempt from disclosure under the provisions of 5 USC 552a(k)(7), which provide, in part, that evaluation material used to determine potential for promotion in the armed services may be withheld from disclosure but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

DOT/CG 630.

System name: Coast Guard Family Housing. DOT/CG.

System location: Department of Transportation (DOT),
United States Coast Guard (CG),
Commandant (G-P),
400 7th Street, SW,
Washington, DC 20590.
Decentralized segments are maintained at:
Each District and Headquarters Unit. See Appendix I for locations.

Categories of individuals covered by the system: Military and civilian personnel of all pay grades who make application for government and/or government leased housing.

Military personnel who make application in locating community housing, married officers and married Petty Officer Third Class or above (over 2 years service).
Certain government employees occupying government housing.
Military or civilian personnel who have corresponded with the President, a Congressman, or the Commandant concerning family housing.

Categories of records in the system: Applicants name, pay grade, marital status, current address and dependent information maintained for the Coast Guard Housing Administration Information and Liaison (HAIL) System.

Includes family housing survey; computer data summaries are maintained for the family housing survey.
Copies of correspondence from individual to the President, a Congressman or the Commandant, inquiry sheets, and replies maintained for Congressional correspondence files.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For use by authorized Coast Guard employees in performance of their duties in placing the applicant in government owned or leased housing or community housing.

Assessing housing needs of District and Headquarters Units.
Answering inquiries from individuals, Congressmen or the Commandant concerning family housing.
Preparing budgets.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: By name of individual, Coast Guard District and date received.

Safeguards: Records are maintained in locked file cabinets and desk file drawers.

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Retention and disposal: Records are maintained until the applicant placed in housing and then destroyed.

Records concerning Congressional correspondence are maintained indefinitely.

System manager(s) and address: Chief, Office of Personnel, Department of Transportation.

United States Coast Guard Headquarters,
400 7th Street, SW.
Washington, DC 20590.

Notification procedure: Department of Transportation.

United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW.
Washington, DC 20590.
Written request must be signed by individual whose record is being requested.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local Coast Guard District Office. See address in Appendix I.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Information is obtained from applicants, individuals who complete family housing survey forms, initiate correspondence concerning family housing and Coast Guard Officials.

DOT/CG 632.

System name: Uniformed Services Identification and Privilege Card Record System. DOT/CG.

System location: Department of Transportation (DOT),

United States Coast Guard (CG),
Commandant (G-PS),
400 7th Street, SW.
Washington, DC 20590.

Categories of individuals covered by the system: Dependents of U S. Coast Guard personnel (active, retired, reserve and deceased).

Former Coast Guard personnel who have been rated by the Veterans Administration as one-hundred percent disabled and their eligible dependents.

Categories of records in the system: Applications for Uniformed Service Identification and Privilege Card (DD-1172).

Verification for eligibility to possess the Identification and Privilege Cards (DD-1173).
Pertinent miscellaneous correspondence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by authorized Coast Guard employees to verify that applicant is entitled to be issued an Identification and Privilege Card.

Verification provided to other Armed Forces authorized personnel as required.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: Alphabetical by name.

Safeguards: Maintained in file cabinets. During working hours access to records is controlled by office personnel. During non-working hours building is patrolled by roving security guards.

Retention and disposal: Retained for 10 years after which they are destroyed.

System manager(s) and address: Chief, Office of Personnel,

Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written request must contain, full name, social security number (SSN) and be signed by individual.

Record access procedures: Procedures may be obtained by writing to, or visiting, Commandant (G-CMA) at the address in 'Notification Procedure.'

Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license, or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Information is supplied by the sponsor and/or his dependents.

DOT/CG 633.

System name: Coast Guard Personnel Security Program. DOT/CG.

System location: Department of Transportation (DOT),

United States Coast Guard (CG),
Commandant (G-PS/6),
400 7th Street, SW,
Washington, DC 20590.
Decentralized segments are located at:
Each District Office and Headquarters Unit. See Appendix I for locations.

Categories of individuals covered by the system: Coast Guard Military Personnel.

Coast Guard Civilian Personnel.
Applicants for military enlistment or appointment.
Applicants for civilian positions.

Categories of records in the system: Records of security clearance granted. Correspondence and requests concerning personnel security actions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For use in determining eligibility for access to classified information under Executive Order 11652 and suitability for sensitive positions.

Categories of users include use by Coast Guard employees in performance of official duties and use by investigative agents of other federal agencies.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folder - 3x5 Index cards.

Retrievability: Records are retrieved by name of individual.

Safeguards: Records are kept in locked cabinets and safes. Individual identification is required for users of records.

Retention and disposal: Upon termination of employment investigative files for civilians, which serve as a basis for security clearances, are returned to the Civil Service Commission.

Military clearances based on documents held in the official service records.
A name record of type of investigation is kept for 5 years and then destroyed by burning.

System manager(s) and address: Chief, Office of Personnel,

Department of Transportation,
United States Coast Guard Headquartetrs,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written request must be signed by the individual whose record is being requested.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local office or unit. See addresses in Appendix I.

Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license, or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Civilian Personnel:

Civil Service Investigative Reports, Personnel Security Clearance requests and forms SF-85, SF-86 and SF-171.
Military Personnel: Forms DD-398, DD-365 and CG 2765.

Systems exempted from certain provisions of the act: Portions of this system of records may be exempt from disclosure under the provisions of 5 USC 552a(k)(5), which provide, in part, that investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be withheld from disclosure but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

Portions of this system of records may be exempt from disclosure under the provisions of 5 USC 552a (k) (7), which provide, in part, that evaluation material used to determine potential for promotion in the armed services may be withheld from disclosure but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of a source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

DOT/CG 635.

System name: Coast Guard Welfare. DOT/CG.

System location: Department of Transportation (DOT),

United States Coast Guard (CG),
Commandant (G-PS-3),
400 7th Street, SW,
Washington, DC 20590.
Decentralized segments are located at:
Each District Office or Headquarters Unit. See Appendix I for locations.

Categories of individuals covered by the system: Enlisted military personnel (active duty and retired) and dependents.

Officer personnel (active duty and retired) and dependents.

Categories of records in the system: Card Index.

Loan applications forms filed by month.
Educational loan file.
Organization financial records.
Bad debts listing.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by authorized Coast Guard officials in approving loan and grant applications.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Index boxes and file folders.

Retrievability: By name.

Safeguards: Maintained in separate correspondence files.

All correspondence regarding an applicant is considered priviledged and personnel are screened prior to access.
No loan records or correspondence are placed in service record of individual.
Periodic inspections are performed.

Retention and disposal: Administrative and financial data relating to CG Welfare Cases are disposed of four years after date of last transaction.

All other records and correspondence are disposed of after four years.

System manager(s) and address: Chief, Office of Personnel,

Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written requests must be signed by individual whose record is being requested. Give date and place assistance is believed to have been received.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local Coast Guard District office or unit for the area in which an individual's duty station is located. See Appendix I for addresses.

Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license, or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Individual requesting loan or grant.

DOT/CG 636.

System name: Personal Affairs Record System Coast Guard Military Personnel. DOT/CG.

System location: Department of Transportaion (DOT),

United States Coast Guard (CG), Commandant (G-PS),
400 7th Street, SW,
Washington, DC 20590.
Decentralized segments at:
Each District and Headquarters Unit. See Appendix I for locations.

Categories of individuals covered by the system: Active duty and retired Coast Guard military personnel who have been subject to damage arising out of domestic relations disputes, alleged personal indebtedness, and claims of alleged paternity.

Categories of records in the system: Case files containing complaint concerning alleged personal indebtedness, complaints arising out of domestic relations disputes, claims of alleged paternity.

Files contain correspondence including investigative steps, response to complaints and follow up correspondence on recurring complaints. Index card files contain summary of material contained in case file for each reference.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For use in attempting to resolve complaints in an expeditious manner.

For reference in development of future policy.
Information is used by:
Authorized Coast Guard employees in performance of the duties.
Complainant and/or authorized representatives.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Case file and card index file.

Retrievability: Alphabetical listing.

Safeguards: Kept in locked filing cabinet.

Personnel are screened prior to granting access.

Retention and disposal: Maintained for 5 years after action completed and then destroyed.

System manager(s) and address: Chief, Office of Personnel,

Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written requests must be signed by the individual whose record is being requested.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local Coast Guard District Office or unit for the area in which an individual's duty station is located. See Appendix I for addresses.

Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

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Record source categories: Information is obtained from complainants, their legal representatives and Coast Guard officials.

DOT/CG 637.

System name: Appointment of Trustee or Guardian for Mentally Incompetent Personnel. DOT/CG.

System location: Department of Transportation (DOT),
United States Coast Guard Headquarters (CG),
Commandant (G-PS),
400 7th Street, SW,
Washington, DC 20590.
Decentralized segments are located at:
Each District and Headquarters Unit. See Appendix I for locations.

Categories of individuals covered by the system: Active duty and retired Coast Guard military personnel.

Categories of records in the system: Case files containing information relating to the mental incompetency of certain Coast Guard personnel.
Records used to assist Coast Guard Officials in appointing trustees for mentally incompetent Coast Guard persons.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Authorized Coast Guard employees in performance of their duties, prospective appointees, including but not limited to relatives, lawyers, physicians or other designated respresentatives.
Veterans Administration upon request for the determination of eligibility for benefits administered by that agency.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Locked file cabinet:

Retrievability: Alphabetical listing.

Safeguards: Stored in locked file cabinets.
Acess restricted to representatives of incompetent.
Identification required, such as, a military identification card, valid state driver's license, or other picture identification card.

Retention and disposal: Maintained for 5 years after action is completed then destroyed.

System manager(s) and address: Chief, Office of Personnel,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW.,
Washington, DC 20590.
Written request must be signed by trustee or guardian.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local Coast Guard District office or unit having custody of the records. See Appendix I for addresses.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Coast Guard officials, legal representatives of individuals and/or individuals concerned, and complainants.

DOT/CG 638.

System name: Drug and Alcohol Abuse Prevention Program Record System. DOT/CG.

System location: Department of Transportation (DOT),
United States Coast Guard (CG),
Commandant (G-PS),
400 7th Street, SW,
Washington, DC 20590.
All Coast Guard units have portions of duplicate case folders on individuals involved in the program. See Appendix I for addresses.

Categories of individuals covered by the system: Active duty Coast Guard officers, enlisted personnel and reserve personnel.
Retired and separated Coast Guard personnel.

Categories of records in the system: Annotations on file cards of drug abuse, drug exemptions, drug rehabilitation, alcohol rehabilitation and waiver for enlistment in the Coast Guard cases.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to:
Determine extent of drug and alcohol problem in the Coast Guard.
To evaluate program effectiveness.
Maintain the integrity of the Coast Guard drug exemption program by authorized Coast Guard employees in performance of their official duties.
Assist the U.S. Navy Department in consonance with inpatient treatment at Navy Rehabilitation Centers.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on file cards (5'x8') and message file.

Retrievability: File cards are indexed by name; message file by date/time group.

Safeguards: Files are stamped 'For Official Use Only' and maintained in locked filing cabinet.

Retention and disposal: Disposal schedules are under development and will be in accord with disposal schedules of the Military Personnel Record System.

System manager(s) and address: Chief, Office of Personnel,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written request must be signed by individual.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local Coast Guard District or unit office for the area in which an individual's duty station is located. See Appendix I for addresses.
Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license, or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Reports of drug exemption.
Reports of civil and military offenses involving drugs or alcohol.
Reports of Coast Guard Intelligence Investigation.
Recommendation for inpatient drug or alcohol rehabilitation.
From individual personnel, medical, and security records.

DOT/CG 639.

System name: Request for Remission of Indebtedness. DOT/CG.

System location: Department of Transportation (DOT),
United States Coast Guard (CG),
Commandant (G-PS),
400 7th Street, SW,
Washington, DC 20590.
Decentralized segments are located at:
Each District and Headquarters Unit. See Appendix I for locations.

Categories of individuals covered by the system: Active Duty Enlisted Coast Guard Personnel.

Categories of records in the system: Files containing correspondence, requests with endorsements, research material, paneling action, Commandant's decisions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For use in making determinations based on the best interests of the individual and the Government.
Categories of users are Coast Guard Officials in performance of their official duties.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Locked filing cabinets

Retrievability: Alphabetical listing.

Safeguards: Locked filing cabinets.

Retention and disposal: Retained for 5 years after decision is made, then destroyed.

System manager(s) and address: Chief, Office of Personnel.
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written requests must be signed by individual.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local Coast Guard District or unit for the area in which an individual's duty station is located.
Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Information is obtained from individual and Coast Guard Officials.

DOT/CG 640.

System name: Outside Employment of Active Duty Coast Guard Personnel. DOT/CG.

System location: Department of Transportation (DOT),
United States Coast Guard (CG),
Commandant (G-PS),
400 7th Street, SW,
Washington, DC 20590.
Decentralized segments are located at:
Each District Office and Headquarters Unit. See Appendix I for locations.

Categories of individuals covered by the system: Active Duty and Reserve Coast Guard Personnel.

Categories of records in the system: Correspondence relating to individual's request for part time employment.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For use by Coast Guard officials in determining in questionable cases whether an individual should hold a particular job or position. Both the legality and the propriety of the request are considered.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Locked filing cabinet.

Retrievability: Alphabetical listing.

Safeguards: Kept in locked filing cabinet.
Access restricted to individuals who request outside employment, and authorized Coast Guard officials.
Proper identification is required.

Retention and disposal: Retained indefinitely.

System manager(s) and address: Chief, Office of Personnel,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written requests must be signed by the individual whose record(s) is being requested.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' above or the local Coast Guard District Office or unit for the area in which an individual's duty station is located. See addresses in Appendix I.
Proof of identity will be required, prior to affording an individual access to records. A military identification card, a driver's license or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Information is obtained from the individual and Coast Guard officials.

DOT/CG 671.

System name: Biographical Statement. DOT/CG.

System location: Department of Transportation (DOT),
United States Coast Guard (CG),
Commandant (G-A),
400 7th Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: Key DOT officials, USCG officers.

Categories of records in the system: Individual biographical data

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Public Affairs Staff - uses records for publicity.
Personnel Office - uses records for promotion.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper forms and correspondence are stored in filing cabinets.

Retrievability: By name.

Safeguards: Personnel are screened prior to granting access.
Stored in building having roving security guards during non-working hours.

Retention and disposal: Transferred to historical file upon termination of active duty.

System manager(s) and address:
Chief, Office of Public and International Affairs,
Department of Transportation,
U. S. Coast Guard Headquarters
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590. Written request must be signed by individual.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure.'
Proof of identity will be required prior to granting access. A military identification card, drivers license, or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: Individual named in file.

DOT/CG 676.

System name: Official Coast Guard Reserve Service Record. DOT/CG.

System location: Department of Transportation (DOT),
United States Coast Guard (CG),
Commandant (G-RA),
400 7th Street, SW,
Washington, DC 20590. For official records on discharged, retired, and separated former members:
General Services Administration (GSA),
National Personnel Records Center (Military Personnel Records),
9700 Page Boulevard,
St. Louis, MO 63132.

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Decentralized segments are located at:
Each Coast Guard District Reserve office (for District records).

Categories of individuals covered by the system: Reserve officer and enlisted personnel (not on extended active duty) in an active, inactive, retired, discharged, separated or former member status; including those Reservists released from extended active duty to fulfill a specified term of obligated inactive reserve service.

Enrolled and disenrolled members of the Temporary Coast Guard Reserve.

Categories of records in the system: Official career history of each Reservist including (as applicable):

Enlistment contract or Oath of Office
Record of Emergency Data.
Training Courses Educational achievements.
Rate/Grade Rating qualifications.
Leave record.
Performance of duty marks/fitness reports.
Medals and commendations.
Record of sea duty/duty outside continental United States.
Statements of creditable and former service (including pay base date).
Statements and computations of retirement points.
Official orders.
Correspondence pertaining to any/all of the above.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Fulfilment of normal administrative personnel procedures, including examining and screening for completeness and accuracy of records and correspondence pertaining thereto.
Screening of service records for advancement, promotion, or retention of individual Reservists by various Reserve Boards.
Answering of Congressional and personal inquiries initiated by the individual whose record is concerned.
Preparation of forms, statements, compilations and computations necessary in the daily personnel administration of each individual entering, reentering or leaving the Coast Guard Reserve. Routine personnel administration requires copies of this and other service record material to be included in administrative files physically separated from the record; however, the original copy of this material will be included in the official service record maintained at Coast Guard Headquarters.
Furnishing of information (authorized and specified by the individual concerned) to other agencies or individuals (specified by the individual concerned) normally concerned with employment, educational or Veterans benefits, claims, or applications.
Furnishing specified material in a Reservist's service record pursuant to the order of a court of competent jurisdiction.
Used by:
Individual upon whom records are kept (personal review).
File clerks and personnel from the Office of Reserve, Administration, Training, and Programs Divisions in the normal performance of their duties.
Other personnel within the Coast Guard in the normal performance of their duties, as authorized by the Chief, Reserve Administration Division or his designated representative.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained on paper assembled and filed in one official service record per member.

Retrievability: Individual Service Records are indexed and retrievable by name and/or triple terminal digit of member's service number.

Safeguards: Service records are maintained in a central storage area locked behind two separate doors.

During non-working hours the building security consists of roving and static security patrols.
During working hours physical access to records is controlled by Records Control Branch personnel.

Retention and disposal: Individual records are maintained at CG Headquarters until six months after an enlisted member's separation from the service (three months for officers), after which it is transmitted for permanent storage to the:

Military Personnel Record Center (MPRC)
National Personnel Records Center (NPRC),
9700 Page Boulevard,
St. Louis, MO.63132.
In the case of retired members, the service record is shipped to NPRC upon retirement.

System manager(s) and address:

Chief, Office of Reserve (G-R),
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street SW.,
Washington, DC 20590.

Notification procedure: Inquiry requests for determination whether this system contains records on an individual should be made by that individual, in person or in writing to:

Department of Transportation,
united States Cost Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written requests must be signed by the individual and must include the member's name, social security number and/or reserve number.

Record access procedures: Procedures for access may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the District Office in which an individual's duty station is located.

Proof of identity will be required prior to affording an individual access (may consist of a military identification, driver's license, or other suitable identification.)

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Information contained in a member's service record is obtained from the individual concerned, CG Headquarters, District offices and other CG units.

Systems exempted from certain provisions of the act: Portions of this system of records may be exempt from disclosure under the provisions of 5 USC 552a(k) (5), which provide, in part, that investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be withheld from disclosure but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

Portions of this system of records may be exempt from disclosure under the provisions of 5 USC 552a (k) (7), which provides, in part, that evaluation material used to determine potential for promotion in the armed services may be withheld from disclosure but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.
Portions of this system of records may be exempt from disclosure under the provisions of 5 USC 552 (k) (6), which provides, in part, that testing or examination material used soley to determine individual qualifications for appointment or promotion in the Federal service may be withheld from disclosure to the extent that disclosure of these records would compromise the objectivity or fairness of the testing or examination process.

DOT/CG 677.

System name: Coast Guard Reserve Personnel Mobilization System, DOT/CG.

System location: Department of Transportation, (DOT),

United States Coast Guard (CG),
Commandant (G-RP/82),
400 7th Street, SW.,
Washington, DC 20590.
Commander Reserve in each Coast Guard District Office (except 17th).
Each District and Headquarters Unit.

See Appendix I for locations.

Categories of individuals covered by the system: Reserve officer and enlisted personnel (not on extended active duty) in an Active or Retired status; including those Reservists released from extended active duty to fulfill a specified term of obligated inactive Reserve service.

Categories of records in the system:

Mobilization and qualification cards and orders.
Initial, Annual, and Retired Screening and Qualification Questionaires.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Fulfillment of normal administrative procedures including the examining and screening for completeness and accuracy of records, correspondence pertaining thereto as a basis for assignment to active duty for training; special active duty for training or extended active duty and mobilization billets.

Users of these Records are Coast Guard employees in performance of official duties.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained on paper, punched cards and magnetic tape

Retrievability: Individual Reservists are indexed by name and/or social security account number.

Safeguards: Safeguards and controls afforded this system of records are similar to those normally employed 'For Official Use Only' material, both at Headquarters and District Offices.

Records are maintained in locked secure areas when not in use and personnel screening is employed prior to granting access.

Retention and disposal: Individual records are maintained at CG Districts and at Headquarters throughout the members active Reserve status and during any period in a Retired Status thereafter (as applicable, and for as long as that member is considered a mobilizable resource).

A 'dead file' is often maintained for those Reservists transferred, discharged, or otherwise separated (this procedure varies from District to District.)
The majority of records in this system (in any form) are generally destroyed immediately after the expiration of their useful life, except those retained in the aforementioned 'dead files' (which are subsequently destroyed one year after placement in the file). The major exceptions to this policy are the Screening and Qualification Questionaires, which are filed in the Reservists District Service Record.
Records are destroyed by mutilating, shredding or burning.

System manager(s) and address:

Chief, Office of Reserve (G-R),
Department of Transportation,
United States Coast Guard Headquarters
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written request must be signed by the individual.

Record access procedures: Individual should contact Commandant (G-CMA) in person or in writing at the address in 'Notification Procedure'.

For records maintained at the District, individual should contact the Commander (r).at the District to which the individual is assigned. Refer to Appendix I for addresses.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Information contained in this system of records is obtained from the following sources: the individual himself, CG Headquarters, and CG District Offices.

DOT/CG 678.

System name: Reserve Master Personnel File (Automated), DOT/CG.

System location:

Department of Transportation (DOT),
United States Coast Guard (CG),
Commandant (G-RA/82),
400 7th Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: Reserve officers and enlisted personnel in an active and inactive status, with the exception of retired reserve, including those reservists released from extended active duty to fulfill a specified term of inactive obligated service.

Categories of records in the system: Record of various personnel accounting data including: name, social security account number, service number, educational background, district and unit assignment and date assigned, status, date of birth, dates of enlistment, appointment, or extension, expiration of obligation, anniversary year, data on pay base date, aviation pay, training rating, reserve category and class, training/pay category, number of dependents, Federal witholding exemptions, Selective Service induction certification, completion of correspondence courses, Ready Reserve obligation, officer designator, last screening date, civilian occupation, date of last National Agency check, date last physical, immunization dates, date of completion of extended active duty, and annual training date.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records used for reserve personnel administration purposes.

See Prefatory Statement of General Routine Uses.
Records are used by authorized Coast Guard employees in performance of official duties in maintaining the system through routine personnel transaction inputs, updates, and corrections.
Used by:
Personnel from the Office of Reserve Administration, Training, and Programs Divisions in the normal performance of their duties, as authorized by the Chief, Reserve Administration Division or his designated representative.
Personnel within Coast Guard Headquarters in the normal performance of their duties, as authorized by the Chief, Reserve Administration Division or his designated representative.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained on magnetic tape.

Retrievability: Individuals in the system are indexed/retrieved by name and/or triple terminal digit of member's service number.

Safeguards: Magnetic tapes are stored in locked storage area when not in use and are accountable and accounted for at all times during actual use.

Personnel screening is employed prior to granting access.

Retention and disposal: Magnetic tapes are used, corrected and updated until the tape becomes physically deteriorated after which it is destroyed.

System manager(s) and address:

Chief, Office of Reserve (G-R),
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Requests to determine whether this system contains information on any individual should be made in person or in writing to:

Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written request must be signed by individual.

Record access procedures: Procedure may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' above or the local Coast Guard District for the area where individuals duty station is located. See Appendix I for addresses.

Proof of identity will be required prior to affording an individual access to records. A military identification card, a driver's license or similar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

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Record source categories: Information contained in a member's service record is obtained from the following sources: the individual himself, CG Headquarters and CG District Offices and various operating units of the Coast Guard.

DOT/CG 679.

System name: Reserve Pay and Points System (Automated). DOT/CG

System location: Department of Transportation (DOT).
United States Coast Guard (CG),
Commandant (G-RA),
400 7th Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: Reserve officer and enlisted personnel (not on extended active duty) in an active status.

Categories of records in the system: System includes name, rate/grade, social security account number, total retirement points and satisfactory years of service for retirement purposes, retirement point accounting data, including inactive duty training and active duty training participation, taxable wages and witholding data, anniversary dates, uniform allowances and Servicemans Group Life Insurance (SGLI) information.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Computation and compilation of Form CG-4175, Coast Guard Reserve Annual or Terminal Statement of Retirement Points.

Various listings and print-outs requested from the master file including Reserve Pay/Point System Points Issued Report, Special Point Statement, Pay and Point Master Record (Inquiry), 20 Satisfactory Year letter listing, and various exception listings.
Routine personnel transaction inputs, updates, and corrections are made, as necessary, by District and Headquarters personnel who maintain the system.
Used for general Reserve personnel administration.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained on magnetic tape stored in magnetic tape library.

Retrievability: Individuals in the system are indexed/retrieved by name and/or triple terminal digit of member's service number.

Safeguards: Only authorized personnel from the Office of Reserve are allowed access to tapes.

Magnetic tapes are stored in locked storage area when not in use and are accountable and accounted for at all times during actual use.

Retention and disposal: Magnetic tapes are used, corrected and updated until the tape becomes physically deteriorated after which it is destroyed.

System manager(s) and address: Chief, Office of Reserve,
Department, of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Inquiry requests for determination whether this system contains records on an individual should be made by that individual in writing to:
Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Requests in writing must include the member's name, Social Security Number and/or service number.

Record access procedures: Procedures for access to records may be obtained by writing to or visiting (G-CMA) at the address in 'Notification Procedure.'
Prior written notification of personal visit is required to insure that the record will be available at the time of visit.
Proof of identity will be required prior to release of records. A military identification or similiar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.' If a satisfactory solution/correction is not achieved the subject Reservist may address his case to the:
Board for Correction of Military Records,
U.S. Coast Guard,
Commandant (G-L-2/81),
4007th Street, SW,
Washington, DC 20590; which is the final appellate board in these matters.

Record source categories: Information contained in a member's service record is obtained from the following sources: the individual himself, CG Headquarters and CG District Offices and various operating units of the Coast Guard.

DOT/CG 686.

System name: Coast Guard Motor Vehicle Operator Permit. DOT/CG.

System location: Department of Transportation (Dot0.
United States Coast Guard (CG),
System is maintained at: District and Headquarters Unit Safety Offices.
See Appendix I for locations.

Categories of individuals covered by the system: Licensed Coast Guard employees.

Categories of records in the system: Statement of driving history and drive test results.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by authorized Coast Guard Officials for licensing Coast Guard employees to enable them to drive on Coast Guard property.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Applications (CG 3308) are stored in file cabinets.

Retrievability: Retrieved by name/service number.

Safeguards: Locked files.

Retention and disposal: 5 years.

System manager(s) and address: Chief, Safety Programs Division,
Department of Tranportation,
U.S. Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Contact:
Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written request must be signed by the individual.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' or the local Coast Guard District or unit office for the area in which duty station is located.
Proof of identity will be required prior to granting access. A military identification card, driver's license or similiar document is considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Individual submission, accident experience, and driver's examination.

DOT/CG 691.

System name: Master Chief Petty Officer of the Coast Guard Individual Grievance and Correspondence File. DOT/CG.

System location: Department of Transportation (DOT).
United States Coast Guard (CG),
Commandant (G-CMCPO),
400 7th Street, SW,
Washington, DC 20590.
System is also maintained at:
Each District and Headquarters Unit which has a Senior Enlisted Advisor assigned. See Appendix I for addresses.

Categories of individuals covered by the system: Enlisted Coast Guard Personnel who have filed a grievance or requested information through the Master Chief Petty Officer of the Coast Guard (at Headquarters) or the Senior Enlisted Advisors at field units.

Categories of records in the system: Correspondence and other related information compiled during the process of resolving alleged grievance.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Master Chief Petty Officer, Commandant/Vice Commandant, Special Assistant, Administrative Aide and other authorized officials, to resolve enlisted personnel problems and inquiries.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders in locked file cabinet.

Retrievability: By name.

Safeguards: Locked room and file cabinets.
Screening of personnel prior to granting access.

Retention and disposal: Kept until individual is discharged or retired at which time the records are destroyed by mutilating, shredding and burning.

System manager(s) and address: Master Chief Petty Officer of the Coast Guard,
Department of Transportation,
United States Coast Guard Headquarters,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure:
Department of Transportation,
United States Coast Guard Headquarters,
Commandant (G-CMA),
400 7th Street, SW,
Washington, DC 20590.
Written requests must be signed by the individual.

Record access procedures: Procedures may be obtained by writing to or visiting Commandant (G-CMA) at the address in 'Notification Procedure' above or the local activity where the complaint was filed. See Appendix I for addresses.
Prior written notification of personnel visits is required to insure that the records will be available at the time of visit.
Proof of identity will be required prior to release of records. A military identification card, driver's license or similiar document will be considered suitable identification.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Information received from individuals and Coast Guard Units.

DOT/FAA 800.

System name: Aviation Medical Certification System. DOT/FAA.

System location: Records are located at:
Department of Transportation (DOT),
Federal Aviation Administration(FAA),
Aeronautical Center,
Aeromedical Certification Branch,
Oklahoma City, OK 73125.
Regional Flight Surgeon Offices in all regional headquarters.
And
Office of Aviation Medicine,
Aeromedical Standards Division,
800 Independence Avenue, SW,
Washington, DC 20591.

Categories of individuals covered by the system: Current certificated airmen, airmen whose certificates have expired, airmen rejected for medical certification, airmen with special certification, airmen who are deceased and others requiring medical certification.
Controllers in Centers, Terminals and Flight Service Stations, and applicants for these positions.

Categories of records in the system: This system consists of a variety of records that are required to determine the physical condition of an individual with respect to the medical standards established by the FAA.
These files contain medical examinations by an Aviation Medical Examiner, X-Rays, EKG's, lab reports, hospital records, treating or examining physician reports, consultant reports, copies of correspondence, worksheets, summaries, petitions for review by the National Transportation Safety Board, medical exemption records, letters of appeals for exemptions, medical history tapes, microfilm EKG's, computer listings and locator name cards.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records is used or may be used:
By agency officials for the purpose of determining eligibility for airmen medical certification.
By agency officials for purposes of review in connection with appeals and petitions for waiver of medical standards.
By agency officials for purpose of reviewing applicants request for FAA employment that require medical certifications, such as air traffic controllers, FAA pilots, etc.
To provide data for the Automated Medical Certification data base.
To provide data for the Automated Comprehensive Airman Information System. (CAIS)
To provide statistical reports for internal use, to Congress, other Federal agencies and the public on the characteristics of the pilot population.
To provide information for Federal, state and local agencies maintaining civil, criminal or other relevant information or other pertinent operational purposes, such as validating airman qualification by supplying relevant information to an agency concerning the hiring or retention of an employee or the issuance of a grant or other benefit.
To refer where there is an indication of a violation, or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency whether Federal, state or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.
As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained.
To respond to general requests for statistical information under the Freedom of Information Act, or to locate specific individuals for a variety of personnel management functions.
To provide data to the Automated Medical History tape system.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinets, punch cards, and magnetic tape files.

Retrievability: Records are indexed by name, date of birth, and sex.
Special cases are indexed and retrieved by Pathological number.

Safeguards: Records are maintained in steel file cabinets and electrievers which are locked when not in use.
All files are maintained in a secured work room limited to those whose duties require access.
Tape and punch cards are maintained in secured computer center. When not in use, tapes are stored in fire proof tape libary within the center; punch cards are stored in steel file cabinets in work area.

Retention and disposal: Medical Examination paper records are retained for three years. The last two examination records are retained on magnetic tape. As a new record is received, the oldest record is put on to the history file.
Locator name cards are kept two years and then printed out as a computer listing which is destroyed after the listings are microfilmed.
Pathological records are sent to the Federal Records Center in Fort Worth after five years of inactivity and destroyed after fifty years. Magnetic tapes are retained.

System manager(s) and address: Records from Master Files:
Chief, Aeromedical Certification Branch,
Aeronautical Center,
Oklahoma City, OK 73125.
Records from Regional Files: Regional Flight Surgeon within Region where examination was conducted.

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Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Information is obtained from Aviation Medical Examiners, individuals themselves, consultants, hospitals, treating or examining physicians, other government agencies, tests taken by individual, special studies such as blood test, and in some rare cases, records supplied by other persons or agencies.

DOT/FAA 801.

System name: Aircraft Registration System. DOT/FAA.

System location: Department of Transportation (DOT),
Federal Aviation Administration (FAA),
Aeronautical Center,
Oklahoma City, OK 73125.
Portions of these records are located in:
General Aviation District Offices (GADO's).
Air Carrier District Offices (ACDO's).
Flight Standards District Offices (FSDO's).
(See FAA National Field Directory, 1000.23F, for locations).

Categories of individuals covered by the system: This system identifies aircraft owners, partners, corporations, lien holders, operators, and lessees.

Categories of records in the system: This system consists of a series of records that identify:
Aircraft types.
Current certification status and ownership of registered aircraft.
Aircraft to be registered or aircraft that have been registered and are now temporarily deregistered.
These records contain information about:
N - Number assignment.
Airworthiness of aircraft.
Bills of sale.
Applications for certification of amateur aircraft.
Major repairs and alterations maintenance inspection forms.
Revalidation and use forms:
Lien documents and collateral documents.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To determine that aircraft are registered in accordance with the provisions of the Federal Aviation Act of 1958.
To support investigative efforts of investigative and law enforcement agencies of Federal, state, and foreign governments.
To serve as a repository of legal documents used by individuals and title search companies to determine the legal ownership of an aircraft.
To provide aircraft owners and operators information about potential mechanical defects or unsafe conditions of their aircraft in the form of airworthiness directives.
To provide supporting information in court cases concerning liability of individual in law suits.
To serve as a data source for management information for production of summary descriptive statistics and analytical studies in support of agency functions for which the records are collected and maintained.
To respond to general requests from the aviation community or the public for statistical information under the Freedom of Information Act or to locate specific individuals or specific aircraft for accident investigation, violation, or other safety related requirements.
To provide data for the automated aircraft registration master file.
To provide documents for microfiche backup records.
To provide data for development of the aircraft registration statistical system.
To prepare an Aircraft Registry in magnetic tape and publication form required by ICAO agreement containing information on aircraft owners by name, address, N-Number, type of aircraft, total calendar year flight hours, primary use, avionics capability and base airport used for internal FAA safety program purposes and also available to the public (individuals, aviation organizations, direct mail advertisers, State and local governments, etc.) upon payment of user charges reimbursing the Federal Government for its costs.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, magnetic tape, punch cards, and on microfiche.

Retrievability: Records are filed by aircraft N-Number, but may be and are quite frequently retrieved by name of the individual aircraft owners or operators.

Safeguards: Records are stored in open shelves in a room that is open only to authorized employees and by special permission.
Magnetic tapes are maintained in secure data processing area accessed by pass only.
Backup copies of microfiche are kept in a fire proof vault and storage room.

Retention and disposal: Punch cards are kept on file in working area, destroyed after magnetic tape is complete.
Microfiche is retained indefinitely.
Aircraft registration files are retained until deregistered, held in N-Number file system for two years, then sent to storage in Fort Worth Federal Records Center. Destruction is not authorized.

System manager(s) and address: For official agency records, contact:
Chief, Aircraft Registration Branch,
Aeronautical Center,
Oklahoma City, OK 73125.
Chief of the nearest GADO, ACDO, or FSDO for records held in those offices.
(See FAA National Field Directory, 1000.23F, for addresses).

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Information is collected from individuals, manufacturer's of aircraft, maintenance inspectors, mechanics, and FAA officials.

DOT/FAA 802.

System name: Airman Certification System. DOT/FAA.

System location: Department of Transportation (DOT),
Federal Aviation Administration (FAA),
Aeronautical Center,
Airman Certification Branch,
Oklahoma City, OK 73125.
Copies of temporary files are maintained in the originating General Aviation District Office(GADO), Air Carrier District Office (ACDO), or Flight Standards District Office (FSDO) until required action or certification is completed. (See the FAA National Field Directory, 1000.23F, for locations).

Categories of individuals covered by the system: Individuals seeking to be certified, airmen seeking additional certifications or additional ratings, individuals denied certification, airmen holding inactive certificates, airmen who have had certificate revoked, and flight attendants engaged in international air transport.

Categories of records in the system: Application for certification; written examination, application for written examination, results of written test, application for inspection authority, certificates held, ratings, stop orders.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To determine that airmen are certified in accordance with the provisions of the Federal Aviation Act of 1958.
Repository of documents used by individual and potential employers to determine validity of airmen qualifications.
To support investigative efforts of investigation and law enforcement agencies of Federal, state and local governments.
Supporting information in court cases concerning individual status and/or qualifications in law suits.
To provide data for the Comprehensive Airman Information System (CAIS).
To provide documents for microfilm and microfiche back up records.
To prepare an Airman Directory in magnetic tape and paper form containing information on airmen by name, address, and certificate status.
Used for internal FAA safety program purposes and also available to the public (individuals, aviation organizations, direct mail advertisers, State and local governments, etc.) upon payment of user charges reimbursing the Federal Government for its costs.
To verify U.S. citizenship, certify qualified applicants, and provide them with a crewmember certificate to be used in lieu of a passport in International Civil Aviation Organization member countries.
To answer inquiries regarding crewmember certification.
The U.S. Department of State uses these applications and any supporting documents to verify U.S. citizenship.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in microfilm, microfiche, magnetic disk, magnetic tape, file folders and notebook listings.

Retrievability: Records are maintained in alphabetic order cross referenced with social security number and airman number.

Safeguards: Records are stored in a data processing facility.
Data is retrieved via a terminal, which requires operation numbers and indivíual passwords.
Accessible only to limited numbers of authorized persons.
Back-up microfilm and microfiche are kept in locked vault.

Retention and disposal: Source documents are destroyed after being microfilmed and key punched.
Magnetic tapes and disks are being continually updated, destruction is not authorized.
Source document crewmember certifications are in storage at the Fort Worth Federal Records Center, destruction is not authorized.

System manager(s) and address: For official FAA Certification Records contact:
Chief, Airman Certification Branch,
Department of Transportation,
Federal Aviation Administration,
Aeronautical Center,
Oklahoma City, OK 73125.
Requests for assistance may be made to the originating GADO, ACDO, or FSDO.
(See the FAA National Field Directory, 1000.23F, for addresses).

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: The individual to whom the record pertains. Written test scores are derived from answers given by individuals. Action filed by FAA personnel.

DOT/FAA 803.

System name: General Aviation Medical Accident System. DOT/FAA.

System location: Department of Transportation (DOT),
Federal Aviation Administration (FAA),
Aeronautical Center,
Aeromedical Certification Branch,
Oklahoma City, OK 73125.
System records are also located at:
Federal Aviation Administration,
Office of Aviation Medicine,
Aeromedical Applications Division,
800 Independence Avenue, SW,
Washington, DC 20591.

Categories of individuals covered by the system: Pilots involved in aircraft accidents.

Categories of records in the system: Reports of fatal accidents, autopsies, toxological studies, AME's reports, medical record printouts, nonfatal reports, injury reports, accident name cards, magnetic tape records of fatal accidents, psychological autopsy, and consulting pathologist summary of findings.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To identify and monitor airman having accidents or incidents, analyze medical data for regulatory purposes, research studies of causes of accidents, promote aviation safety.
Data is supplied to the National Transportation Safety Board (NTSB) under requirements of FAA accident investigation authority delegated to it by the Board.
Supporting information in court cases concerning individual medical fitness or medical mishap that may or may not relate to the cause of the accident.
Repository of legal documents that relate to individual's physical status or condition used to determine statistically the validity of FAA Medical Standards.
As a data source for management information for producing summary descriptive statistics and analytical studies in support of agency functions for which the records are collected.
Used in developing professional papers that are distributed to various aviation and medical groups for evaluation and study.
To inform the aviation community of medical findings related to flight safety.
To provide data for the automated Medical Accident System.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, punch cards and on magnetic tape.

Retrievability: Records are filed by accident number cross referenced by name of pilot.
Punch cards are maintained in name order.
Magnetic tapes are in accident number order and are cross referenced by name.
Records are quite often retrieved by name.

Safeguards: Records are stored in lockable file cabinet in secured work area.
Punch cards are maintained in metal file drawers in secured area.
Magnetic tape is retained in a secured automatic data processing facility.

Retention and disposal: Records of fatal accidents are transferred to Fort Worth Federal Records Center when five years old and destroyed when 10 years old.
Accident name card destruction is not authorized.
Magnetic tape record - destruction not authorized.

System manager(s) and address: For official medical accidents records contact:
Chief, Aeromedical Certification Branch,
Aeronautical Center,

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Oklahoma City, OK 73125.

Notification procedure: Individuals wishing to see their records may appear in person or submit in writing a request identifying records desired. For identification an individual must submit his or her name, date of birth, sex, social security number or Airman number. Letter should be addressed to:

Chief, Aeromedical Certification Branch,
Aeronautical Center,
Oklahoma City, OK 73125.

Record access procedures: Individuals who desire to access information about themselves in the system records should contact or address their inquiries to:

Chief, Aeromedical Certification Branch,
Aeronautical Center,
Oklahoma City, OK 73125.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Information is obtained from aviation medical examiners (AME), pathologists, accident investigation medical laboratories, law enforcement officials and FAA employees.

DOT/FAA 804.

System name: General Aviation Aircraft Accident System. DOT/FAA.

System location: Department of Transportation (DOT),
Federal Aviation Administration (FAA),
Aeronautical Center,
Flight Standards Technical Division,
Safety Data Branch,
Oklahoma City, OK 73125.
Working copies are maintained in the region in which the accident occurred.
(See the FAA National Field Directory, 1000.23F, for locations).

Categories of individuals covered by the system: Persons involved in aircraft accidents, pilots, passengers, persons on the ground, and witnesses.

Categories of records in the system: Reports of accidents investigation, preliminary notices of accident, injury reports, engineering analysis, witness statements, investigators analysis, pictures of accident scene.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To identify and monitor airman involved in accidents. Analyze facts surrounding accidents to determine whether or not FAA regulations have been violated.

To supply data to the National Transportation Safety Board (NTSB) as required by the delegated authority for accident investigation from the Board.
As a data source for management information, for the production of summary descriptive statistics and analytical studies in support of agency functions.
Used in the development of professional papers that are distributed to various aviation organizations and the general public as required.
To provide data for the Automated Comprehensive Airman Information System (CAIS).
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic tapes, in file folders, and magnetic disk.

Retrievability: Data is retrieved by name, date of birth and sex, social security numbers, airman numbers, and accident number.

Safeguards: Magnetic disk and magnetic tape.

Data can only be retrieved by computer operators through batch process methods.
File folders are maintained in a secured work area.
Files not in use are kept in locked cabinets accessible to persons with a need to know.

Retention and disposal: Raw files are destroyed after 3 years by shredding the ADP documents.

Magnetic tapes are updated monthly, records retained up to 10 years, magnetic disk updated continuously.

System manager(s) and address: Chief, Safety Data Branch,
Flight Standards Technical Division,
Aeronautical Center,
Oklahoma City, OK 73125.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Data is collected from individuals, manufacturers of aircraft, maintenance inspectors, accident investigators, witnesses to accident, and involved passengers.

DOT/FAA 805.

System name: Administrative Action and Legal Enforcement System. DOT/FAA.

System location: Portions of this system are maintained in the:
Department of Transportation (DOT),
Federal Aviation Administration (FAA),
Office of the Chief Counsel,
800 Independence Avenue, SW,
Washington, DC 20591.
and the:
Aeronautical Center,
Safety Data Branch,
Oklahoma City, OK 73125.
originals and copies of some records are maintained in field offices and Flight Standards and Regional Counsel's offices in the Region of occurrence.
(See the FAA National Field Directory, 1000.23F, for locations).

Categories of individuals covered by the system: Records in this system are on individuals against whom FAA has taken administrative action or legal enforcement action for violation of certain Federal Aviation Regulations.

Individuals or companies holding Federal Aviation Administration certificates.
Persons charged with violating FAA regulations.
Persons allegedly violating FAA regulations.
Applicants who have been denied airman medical certificates.
Persons denied certificates or allegedly violating FAA regulations who have appealed to the National Transportation Safety Board (NTSB) or the courts.

Categories of records in the system: Safety Compliance Notices.

Letters of Reprimand.
Letters of Correction.
Final action legal documents in enforcement cases.
Enforcement and airman medical denial cases on appeal to NTSB.
Summary of violation reports and enforcement actions.
Correspondence of Regional Counsels in enforcement cases.
Violation reports on alleged FAA certificate violations other than medical certificates. These reports include certificate number and/or social security numbers of alleged violators.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records relating to final legal enforcement and administrative actions are disclosed, upon request, to members of the public and other government agencies.

Disclosed to the Department of Justice and the NTSB.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored in file cabinets and on magnetic tape.

Retrievability: Records in this system are filed chronologically and crossindexed alphabetically by name.

Safeguards: Records are kept in lockable file cabinets. Magnetic tape is kept in a secured data processing facility.

Retention and disposal: Aeronautical Center records are transferred to the Federal Records Center after six years where they are destroyed after four years.

Washington records are sent to the Federal Records Center when the case is closed where general aviation cases are destroyed after one year and Air Carrier cases are destroyed after two years.
Monthly ADP printouts are destroyed each month. Annual printouts are retained permanently.

System manager(s) and address: For official agency legal enforcement action records:
Chief, Statistics and Dockets Section,
Department of Transportation,
Federal Aviation Administration,
Office of the Chief Counsel,
Enforcement Division,
800 Independence Avenue, SW,
Washington, DC 20591.
Regional counsel and Flight Standards offices in the region of occurrence or the chief of the field office that made the charge maintain selected records. (See the FAA National Field Directory, 1000.23F, for addresses).
For administrative action records:
Chief, Safety Data Branch,
Aeronautical Center,
Oklahoma City, OK 73125.
Flight Standard office and Regional Counsel in the region of occurrence.
(See the FAA National Field Directory 1000.23F, for addresses).

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address.

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Regional counsel, NTSB, Flight Standards personnel, Aeronautical Center personnel, Office of Chief Counsel.

Systems exempted from certain provisions of the act: System is exempt from certain subsections of the Privacy Act. The purpose of these exemptions is to protect investigatory materials compiled for law enforcement purposes. Disclosure of such material would hamper law enforcement by prematurely disclosing the knowledge of illegal activity and the evidentiary basis for possible enforcement actions. The exemption rule may be found on page 49887 of the Friday, October 24, 1975, issue of the Federal Register.

DOT/FAA 806.

System name: Federal Aviation Administration Employee Payable System. DOT/FAA.

System location: Financial Systems and Accounting Operations Divisions, Washington, D.C., and each region and center accounting division. Working copies of certain of these records are held by the organizations employing the personnel. Copies are maintained at emergency operations facilities.

Categories of individuals covered by the system: Federal Aviation Administration employees and civilians who work for the United States Coast Guard.

Categories of records in the system: This system contains those records required to insure that an employee receives his or her pay and benefits required by law. It includes Master Employee Record, Annual Leave Payroll Register, FAA Bond Deductions and Bond Issued, Union Dues, FICA Records, City Withholdings, State Withholdings, Federal Withholdings, Retirement, Leave Without Pay, Pay Scale, Contributions, Travel Orders, Travel Advances, Travel Vouchers, Time and Attendance, Overtime, claims relating thereto.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This System is used to:

Prepare annual report and reconcile with Gen. Ledger Accounts
Record permanent pay changes
List leave earned, taken, and/or lost and new balances for employees
Test run against MEA to reflect missing T&A cards of employees
Summary of earnings and deductions by pay periods
History of checks and bonds to be issued and magnetic tape sent to Treasury for their issuance.
Report dues deducted by individuals to Unions
Report amounts withheld to credit financial institutions and charitable organizations.
Quarterly summary of earnings and deductions
Record travel advances and allowances
Adjudicate claims for reimbursements which are sent to G.A.O.
Extract list of FICA employees for reporting earnings and deductions to IRS
Used to report state tax withholding to various states and cities and to IRS.
Record temporary pay changes
Notify employees of pay adjustments processed
See prefatory statement of general routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored on punched card, magnetic tape and in file folders.

Retrievability: Records are maintained by employee name and employee payroll number.

Safeguards: Files are retained mainly in unsecured work area but files are locked during non-duty hours; magnetic tape files are kept in a secured computer center with limited accessibility by agency personnel.

Retention and disposal: Some records are microfilmed annually, and retained as historical data. Hard copy or paper files are filed in a locked storage room or lockable file until G.A.O. audits the records - then some are destroyed and some are retained permanently. Some records are destroyed when they are one year old.

System manager(s) and address: Chiefs, Financial Systems and Accounting Operations Divisions, 800 Independence Ave., S.W., Washington, D. C. 20591.

Chief, Accounting Division, Regional Office and Centers address listed in FAA National Field Directory, 1000.23G.

Notification procedure: Individuals wishing to know if their records appear in this system may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate, 800 Independence Ave., S. W., Washington, D. C. 20591.

Record source categories: Data is collected from the individual employees, time and attendance clerks, and FAA Personnel Management Operations Divisions.

DOT/FAA 807.

System name: Police Warrant File and Central Files. DOT/FAA.

System location: Department of Transportation (DOT),
Federal Aviation Administration (FAA),
Washington National Airport,
Operations and Safety Division,
Police Branch,
Hangar 9,
Washington, DC 20001.
Dulles International Airport,

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Operations and Safety Division,
Police Branch,
Chantilly, VA 22201.
Investigation and Security Division,
Aeronautical Center,
Oklahoma City, OK 73125.

Categories of individuals covered by the system: Individuals failing to pay Violation Notices and individuals involved in a situation requiring a police report.

Individuals cited for parking and a traffic violation.
Individuals having criminal records.

Categories of records in the system: Individual Case File, file Cards with warrant numbers, arrest records, traffic accident records, injury reports, loss, theft and complaints report, traffic violations notice files.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used to carry out such required functions as:

Check for wanted individuals and vehicles.
Vehicle registration information.
Prior offense status, to testify in court hearings, to assist in case preparation by U.S. Attorney's Office.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders. Stored in metal file cabinets.

Retrievability: Data is retrievable by individual name and/or cross referenced to a warrant number as a case file number.

Safeguards: Files are retained in a secured work area accessible only by consent of guard on duty.

Retention and disposal: Warrants are disposed of when warrant has been paid, case files are kept permanently. Records of citations destroyed after one year.

System manager(s) and address: Director, Metropolitan Washington Airport Service,

Washington National Airport,
Hangar 9,
Washington, DC 20001.
Chief of Investigation and Security Division,
Aeronautical Center,
Oklahoma City, OK 73125.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the applicable System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the applicable System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Agency employees, arresting officers, investigating officers, other agencies, witnesses.

Systems exempted from certain provisions of the act: System is exempt from certain subsections of the Privacy Act. The purpose of the exemption is to prevent compromise or impairment of criminal investigations conducted by the Airport Police Branches. The exemption rule may be found on page 49887 of the Friday, October 24, 1975, issue of the Federal Register.

DOT/FAA 809.

System name: Motor Vehicle Operator/Examiner System. DOT/FAA.

System location: These records are maintained in the offices of those organizations throughout the FAA who have vehicle licensing and operations functional responsibility.

Categories of individuals covered by the system: This system of records contains information regarding all FAA employees who are licensed to drive and/or operate government vehicles.

Categories of records in the system: This system of records contains information regarding license application and test, safe driving awards, accident reports, and related correspondence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Determine qualifications and fitness for issuance, revocation, or renewal of operator's license.

Processing of tort claims.
Source of data for legal inquiry.
Prepare analytical and statistical studies and reports.
See prefatory statement of general routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in file cabinets and computers.

Retrievability: These records are indexed by name.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: These records are destroyed three years after separation of the employee or three years after recision of authorization to operate government-owned vehicles whichever is earlier.

System manager(s) and address: Local FAA Motor Vehicle Management Officers.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to th Administrator of his delegatee, 800 Independence Ave., S. W., Washington, D. C. 20591.

Record source categories: Information contained in this system comes from the individual and other public sources.

DOT/FAA 810.

System name: Discrimination Complaint Files. DOT/FAA.

System location: These records are maintained at FAA regional and center Civil Rights Offices and at the FAA Office of Civil Rights in Washington, D.C.

Categories of individuals covered by the system: This system of records contains information regarding FAA employees, applicants for FAA employment, contractors, sponsors and members of the public who are directly or indirectly involved in a discrimination complaint filed with FAA.

Categories of records in the system: Case files developed in processing complaints of discrimination.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Investigation of alleged discrimination.

Preparation of analytical and statistical studies and reports.
See prefatory statement of general routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in approved security files and containers.

Retrievability: These records are retrieved by name.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: These records are destroyed five years after the final decision is rendered.

System manager(s) and address: Director, Office of Civil Rights, ACR-1, FAA, 800 Indep. Ave., S. W., Washington, D.C. 20591, and regional and center civil rights offices.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records

should contact or address their inquiries to the Administrator or his delegatee, 800 Independence Ave., S. W., Washington, D. C. 20591.

Record source categories: Information contained in this system comes from complaints filed by complainants, EEO counselor reports; investigative reports, and departmental decisions.

DOT/FAA 811.

System name: Employee Health Record System. DOT/FAA.

System location: These records are maintained at regional, center and Washington FAA Health Units and/or dispensaries or other government health units servicing the employees geographic location.

Categories of individuals covered by the system: This system of records contains information regarding FAA employees.

Categories of records in the system: This system of records contains documents constituting the basic medical record of an FAA employee, including medical examination reports, laboratory findings, correspondence, retirement, fitness for duty examinations, and related papers.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To document employee health unit visits and nature of complaint or physical examination findings, treatment rendered and case disposition. Physical examination findings are used by agency officials to determine employee fitness for duty or employment.

To refer to employee private physician if authorized by the employee or his legal representative.
To prepare analytical and statistical studies and reports
Disclosed to an insurance carrier where an employee has signed a health, disability or life insurance contract with the carrier authorizing any licensed physician, medical practitioner, hospital, clinic or other medical or medically related facility, insurance company or other organization, institution or person, that maintains any records or his dependents, to release to the carrier any such information
See prefatory statement of general routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in approved security files and containers.

Retrievability: These records are indexed by name.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: These records are destroyed 20 years after the date of last entry.

System manager(s) and address: Regional Flight Surgeon within region where examination was conducted and Chief, Aeromedical Services Division, Washington, D. C. 20591.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegatee, 800 Independence Ave., S. W., Washington, D. C. 20591.

Record source categories: Information contained in this system comes from the employee and from attending physicians and nurses and from associated medical reports.

DOT/FAA 812.

System name: System Error Reporting Program. DOT/FAA.

System location: FAA, Air Traffic Service, Evaluation Staff, Washington, D.C. Regional Air Traffic Division, and all Air Traffic field facilities.

Categories of individuals covered by the system: Any Air Traffic Control Specialist involved in a system error

Categories of records in the system: Reports or computer printouts which can contain, name of controller, performance appraisal data, disciplinary actions, age, grade, date of birth, physical examination, medical information, home address.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Statistical analysis for policy development and release to the public under the Freedom of Information Act.

Released for investigative purposes to the NTSB in the case of accident/ incident/or violation.
See prefatory statement of general routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All data is stored on magnetic tape or disk file and file folders.

Retrievability: Data is filed in random order within the computer with selections being on name of the individual. File folders are retrieved by name.

Safeguards: Security code for computer program is limited to those who have a need to know.

Retention and disposal: Records are maintained as active files for 10 years then stored on magnetic tapes indefinitely.

System manager(s) and address: Chief, Evaluation Staff, AAT-20, Air Traffic Service, FAA, Washington, D. C., 10591, the FAA Regional Air Traffic Division Chiefs, and field facilities where error occurred.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegatee 800 Independence Avenue, S. W., Washington, D C. 20591

DOT/FAA 813.

System name: Civil Aviation Security System. DOT/FAA.

System location: Department of Transportation (DOT),

Federal Aviation Administration (FAA),
Office of Civil Aviation Security Service,
800 Independence Avenue, SW,
Washington, DC 20591.
These records are also maintained at FAA Air Transportation Security Field Offices and regional Air Transportation Security Divisions. See the FAA National Field Directory, 1000.23F, for locations.

Categories of individuals covered by the system: This system of records contains information regarding hijackers, potential hijackers, extortionists, terrorists, and other individuals who have been involved or might be involved in crimes against civil aviation

Categories of records in the system: This system of records contains information regarding hijacking incidents, potential or suspected hijackers, explosives or devices found on aircraft or at airports, attempts to board aircraft with concealed weapons, and other civil aviation criminal acts.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the event that a system of records maintained by the Federal Aviation Administration to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule regulation or order issued pursuant thereto.

Source of data regarding air piracy threats for dissemination to airport and air carrier security officers.
Preparation of Alerts and Bulletins on threats to civil aviation
Preparation of summaries for development/change of security procedures in civil aviation.
Respond to authorized inquiries
Preparation of analytical and statistical studies and reports.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in approved security files and containers.

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Retrievability: These records are indexed by name and or incident.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: These records are maintained up to four years after which they are updated, revised, retired, or destroyed.

System manager(s) and address: Chief, Operations Liaison Staff, ACS-20,

Department of Transportation,
Federal Aviation Administration,
Office of Civil Aviation Security Service,
800 Independence Avenue, SW,
Washington, DC 20591.
Regional Air Transportation Security organizations. See the FAA National Field Directory, 1000.23F, for addresses.

Notification procedure: Individuals wishing to see their records may appear in person or or submit in writing a request identifying record desired.

For identification an individual must submit his or her name to the System Manager.

Record access procedures: Individuals who desire information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Information contained in this system comes from other FAA records; Federal, State or local agencies; foreign sources; public record sources; and third parties.

DOT/FAA 814.

System name: Equal Employment Opportunity Minority/Female Statistical Reporting System. DOT/FAA.

System location: Department of Transportation(DOT),

Federal Aviation Administration(FAA),
Office of Civil Rights,
800 Independence Avenue, SW,
Washington, DC 20591.
Local records are maintained at FAA regional and center Civil Rights Offices. (See the FAA National Field Directory, 1000.23F, for locations).

Categories of individuals covered by the system: This system of records contains information on all FAA employees.

Categories of records in the system: This system of records contains information (187 data elements) such as name, organization, social security number, racial background, etc.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Monitor and evaluate status and progress of minority/female employment.

Preparation of analytical and statistical studies and reports.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are in the form of magnetic tape and computer listings and are stored in magnetic tape security areas and in file cabinets.

Retrievability: These records are retrieved by name.

Safeguards: Access to data in this system is limited to the Director, Office of Civil Rights, or to those authorized by him.

Retention and disposal: This system is updated monthly and the replaced master tape is reused in the normal data processing manner.

System manager(s) and address: Director, Office of Civil Rights,

Department of Transportation,
Federal Aviation Administration,
800 Independence Avenue, SW,
Washington, DC 20591.

Local records are the responsibility of the regional and center civil Rights Offices. (See the FAA National Field Directory, 1000.23F, for address).

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Personal Observation.

Self Identification.
Manpower records.
Organization Records.

DOT/FAA 815.

System name: Investigative Record System. DOT/FAA.

System location: Department of Transportation,

Federal Aviation Administration(FAA),
Office of Investigations and Security,
800 Independence Avenue, SW,
Washington, DC 20591.
Investigations and Security Division,
Aeronautical Center,
Oklahoma City, OK 73125.
Air Transportation Security Division,
National Aviation Facilities Experimental Center (NAFEC),
Atlantic City, NJ 08405.
Records are maintained at FAA regional and center Air Transportation Security Divisions. (See the FAA National Field Directory, 1000.23F, for addresses).
Retired records are stored at Federal Record Centers.
See 'System Manager' paragraph for further information.

Categories of individuals covered by the system: Current and former applicants for FAA employment.

Current and former FAA employees.
Individuals considered for access to classified information or restricted areas and/or security determinations as contractors, employees of contractors, experts, instructors, and consultants to Federal programs.
Aircraft owners.
Flight Instructors.
Pilots.
Mechanics.
Designated FAA representatives.
Other individuals certificated by FAA.
Individuals involved in tort claims against the FAA.

Categories of records in the system: Results of investigations and inquiries conducted by the Office of Investigations and Security; FAA regional and center Air Transportation Security Divisions and Investigations and Security Division, Aeronautical Center; reports of investigations conducted by Federal, state, and local investigative agencies which relate to the mission and function of the Office of Investigations and Security and field elements.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the event of an indication of any violation or potential violation of the law, whether civil, criminal, or regulatory in nature, and whether arising by statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing such referral shall also include, and be deemed to authorize,

(1) any and all appropriate and necessary uses of such records in a court of law and before an administrative board or hearing, including referrals related to probation and parole matters, and

(2) such other inter-agency referrals as may be necessary to carry out the receiving agency's assigned law enforcement duties.

To authorized officers and employees of FAA and other agencies and departments of the Federal Government, and the District of Columbia Government, having an interest in the individual for employment purposes, including a security clearance or access determination, and a need to evaluate qualifications, suitability, and loyalty to the United States Government.

Officials from FAA and DOT administrative, operating and regulatory components who require access to the case file to fullfill their responsibilities contained in Executive Orders, Civil Service Commission Regulations, Federal Aviation Regulations and Orders or Federal statutes.

Authorized representatives of Federal agencies and departments who require access to the file pursuant to an investigation or inquiry conducted under appropriate statutes, Executive Orders or administrative procedures of Federal Government. This can include investigations completed by FAA and referred to other Federal agencies for further investigation, prosecution or administrative action.

To authorized officers and employees of FAA having the responsibility to grant security clearance, make determinations regarding access to classified information or restricted areas, or to evaluate qualifications, suitability, or loyalty to the United States Government, in connection with performance of a service to the Federal Government under a contract or other agreement.

As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of individuals).

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored in approved security file cabinets and containers.

Retrievability: These records are indexed alphabetically by name.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: These records are retired to the Federal Records Center four years after close of case and retained indefinitely.

Any records authorized for destruction are destroyed by approved methods.

System manager(s) and address: The FAA Investigative Record System is decentralized and requests for such records should be directed to the appropriate System Manager as follows:

For the Washington Metropolitan area, excluding Eastern Region jurisdiction:
Department of Transportation,
Federal Aviation Administration,
800 Independence Avenue, SW,
Washington, DC 20591.
For the geographical area under the jurisdiction of the various regions:
Chief, Air Transportation Security Division, of the appropriate region. (See the FAA National Field Directory, 1000.23F, for addresses).
For the jurisdiction of the National Aviation Facilities Experimental Center:
Chief, Air Transportation Division,
National Aviation Facilities Exmperimental Center,
Atlantic City, NJ 08405.
For the jurisdiction of the Aeronautical Center:
Chief, Investigations and Security Division,
Aeronautical Center,
Oklahoma City, OK 73125.

Notification procedure: An individual may inquire as to whether or not the system contains a record pertaining to him or to her by addressing a written request to the applicable Systems Manager identified above. The request should include the full name and date and place of birth of the individual, and any available information regarding the type of record involved, and the category of individual under which the requester feels he or she fits.

Record access procedures: Individuals who wish to gain access to such records should contact the System Manager. However investigative data compiled for law enforcement purposes may be exempt from the access provision pursuant to 5 U.S.C. 552a(k)(2) and (k)(5).

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: These records contain information obtained from interviews, review of records and other authorized, applicable investigative techniques.

Systems **exempted from certain provisions of the act:** System is exempt from certain subsections of the Privacy Act. The purpose of the exemption is to protect investigatory materials compiled for law enforcement purposes. The exemption rule may be found on page 49887 of the Friday, October 24, 1975, issue of the Federal Register.

DOT/FAA 816.

System name: Tort Claims and Personal Property Claims Record System. DOT/FAA.

System location: These records are maintained at regional and center FAA Counsel offices and Logistics Divisions.

Categories of individuals covered by the system: This system of records contains information regarding Tort and property claimants who have filed claims against the government/FAA.

Categories of records in the system: This system of records contains reports, vouchers, witness statements, legal decisions, and related material pertaining to claims by or against the government resulting from FAA transactions, other than litigation cases.

Approved claims are sent to the Accounting Division for certification and payment by Treasury check.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Investigation Purposes.

Reference Purposes.
Court Action.
Doubtful claims are sent by Accounting Division to G.A.O. for adjudication.
Some larger claims go to Department of Justice for approval or disapproval.
See prefatory statement of general routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored in approved file cabinets and containers.

Retrievability: These records are indexed by name.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: These records are destroyed three years after the final decision is rendered.

System manager(s) and address: Regional and center counsels.

Notification procedure: Individuals who wish to know if they appear in this system should contact the system manager.

Record access procedures: Individuals who wish to gain access to their records should contact the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Associate Administrator for Administration, 800 Independence Ave., S.W., Washington, D.C. 20591.

Record source categories: Claimant; Investigation Reports, and Courts.

DOT/FAA 817.

System name: Emergency Operations Staffing Assignment. DOT/FAA.

System location: These records are maintained at region, center, and Washington headquarters.

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Categories of individuals covered by the system: This system of records contains information on FAA employees.

Categories of records in the system: This system of records contains information such as name, address and telephone numbers.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To contact FAA personnel for emergency readiness purposes. See prefatory statement of general routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored in file folders and/or file cabinets.

Retrievability: These records are retrieved by name.

Safeguards: Access to data in this system is limited to those persons whose official duties require such access.

Retention and disposal: These records are destroyed when superseded or obsolete.

System manager(s) and address: Region, Center and Washington headquarters Emergency Planning Officers.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegatee, 800 Independence Avenue, S. W., Washington, D. C. 20591.

Record source categories: Employees and employees records.

DOT/FAA 818.

System name: Statement of Employment and Financial Interest. DOT/FAA.

System location: These statements are filed at FAA regional, center and Washington headquarters locations.

Categories of individuals covered by the system: Selected FAA employees, GS-13 and above, occupying positions as reflected in Part 99 of the DOT Regulations. This regulation can be found in FAA Order 3750.3A and is identified in this directive as Appendix C.

Categories of records in the system: This system of records contains information regarding an employee's present position; his connections or financial interest, if any, with cooperations, companies, firms or other business enterprises, partnerships, nonprofit organizations, and educational or other institutions; names of creditor; interest in real property or rights in lands; and names of other persons who are authorized by the employee to supply further information.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To enable Reviewing Officials to determine whether or not an employee's functions or assignments, actual or proposed, could result in a conflict of interest.

See prefatory statement of general routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in file folders and secure files.

Retrievability: These records are indexed by the names of the individuals.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: These records are maintained up to two years after the employee is separated. At this time, all his statements and supplements are destroyed.

System manager(s) and address: The employee's Reviewing Official maintains control of these statements.

Notification procedure: An employee may inquire about the status of his Confidential Statement of Employment and Financial Interest file at any time. All inquiries should be directed to the employee's Reviewing Official or his supervisor.

Record access procedures: Employees who wish to gain access to their records should contact their Reviewing Official.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegatee, 800 Independence Avenue, S. W., Washington, D. C. 20591.

Record source categories: Information contained in this system either comes from the individual or from those designated as authorized sources.

DOT/FAA 819.

System name: Psychological Support for Air Traffic Controller Health Program and Air Traffic Controller Applicant Screening System. DOT/FAA.

System location: Department of Transportation(DOT),
Federal Aviation Administration(FAA),
Behavioral Science Division,
800 Independence Avenue, SW,
Washington, DC 20591.
Regional Flight Surgeons in region where individual is employed. See FAA National Field Directory, 1000.23F for addresses.

Categories of individuals covered by the system: Air Traffic Control Specialist, applicants for air traffic control specialist.

Categories of records in the system: Psychological test results.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To assist the agency in determining an individual's fitness to be a controller.
To assist the agency in establishing Job Standards.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in file folders on magnetic tape and on punch cards and answer sheets.

Retrievability: Files are retrieved by name, date of birth and sex.

Safeguards: File cabinets are kept locked when not in use.
Magnetic tape and computer program used with the tapes are under the control of those who have a need to know.
Answer sheets are destroyed after input to computer.
Punch cards are stored in card files.

Retention and disposal: Records are retained as historical statistical records.

System manager(s) and address: Chief, Behavioral Science Division,
Regional Flight Surgeons in region where individual is employed. See addresses in the FAA National Field Directory, 1000.23F.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:
Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: All the data in this system is collected from the individual applicants and controllers.
Office of Aviation Medicine.

DOT/FAA 820.

System name: Pending legislation (Employee's) - Private Relief and Public/Private Laws (Employee's) Private Reliefs. DOT/FAA.

System location: This system of records is located in the Office of Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, S. W., Washington, D. C. 20591.

Categories of individuals covered by the system: FAA employees for whom Private relief legislation has been introduced in Congress.

Categories of records in the system: Travel information, litigation reports, collection vouchers, and real estate contracts.

Authority for maintenance of the system: The Federal Aviation Act of 1958, as amended, and the Department of Transportation Act, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system is for reference in order to formulate FAA's position on proposed private relief legislation for FAA employees. All information is released to the Office of Management and Budget. See prefatory statement of general routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is stored in file cabinets.

Retrievability: Data indexed and retrieved by name of employee and employee number.

Safeguards: No special safeguards required.

Retention and disposal: Records are transferred to Federal Records Center or destroyed when no longer needed.

System manager(s) and address: Legislative Assistant, Legislative Staff, Office of Chief Counsel, FAA, 800 Independence Avenue, S. W., Washington, D. C. 20591.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegatee, 800 Independence Ave., S. W., Washington, D. C. 20591

Record source categories: Data obtained from Members of Congress and FAA records.

DOT/FAA 821.

System name: Litigation Information Management Systems. DOT/FAA.

System location: This system of records is maintained within the Office of the Chief Counsel, FAA, 800 Independence Avenue, S. W., Washington, D. C. 20591.

Categories of individuals covered by the system: This file contains information on Litigants, Claimants, Witnesses, Decendents, Plaintiff's Attorney, FAA Attorney and Department of Justice Attorney.

Categories of records in the system: Litigation and claim pleadings, discovery material, related documents (including background data on individual, or decedent involved) memoranda, correspondence, and other material necessary to respond to claims or prepare for litigation or hearings. Types of claims or litigation: aircraft accidents, auto accidents, personnel and general litigation.

Authority for maintenance of the system: The Federal Aviation Act of 1958, as amended and the Department of Transportation Act, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The documents are produced or used in and for litigation and claims. These documents are disclosed to the Department of Justice. See prefatory statement of general routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data is stored in lockable and unlockable file cabinets, individuals attorneys' offices, binders, index files and in computers.

Retrievability: Access is by name, location of accident, and/or docket number.

Safeguards: Data from these files are retrievable only by persons within the Office of the Chief Counsel or Regional Counsels.

Retention and disposal: Litigation files are kept for two years after case is closed, then sent to the Federal Records Center. All other records in this system are retained indefinitely.

System manager(s) and address: Chief,
Litigation Division,
Office of Chief Counsel,
Federal Aviation Administration,
800 Independence Ave., S.W.,
Washington, D.C. 20591.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegatee, 800 Independence Ave., S. W., Washington, D. C. 20591.

Record source categories: Employees of the Office of Chief Counsel, Federal courts, individuals and their attorney, FAA records, litigation files, etc.

DOT/FAA 822.

System name: Aviation Medical Examiner System. DOT/FAA.

System location: Department of Transportation (DOT),
Federal Aviation Administration (FAA),
Aeromedical Education Branch,
Civil Aeromedical Institute,
Aeronautical Center,
Oklahoma City, OK 73125.
Regional Flight Surgeons in all regional headquarters. See addresses in the FAA National Field Directory, 1000.23F.

Categories of individuals covered by the system: Private physicians appointed as Aviation Medical Examiners and selected military units through agreement with the Surgeon Generals.

Categories of records in the system: The system includes records necessary to the operation of the system to establish qualifications of physicians, identification as to location within the system, actual performance in support of the system and records pertaining to training received from the system.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: By the Aeromedical Education Branch, AME Section, to determine training needs.
By Regional Flight Surgeons to evaluate the physicians performance in the AME System and determine reappointments.
By the Office of Aviation Medicine in Washington, DC, in policy determination.
By General Aviation District Offices in locating and obtaining support of qualified AMEs.
By private organizations needing to contact and utilize the physician's services in his capacity of an AME.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Card file, file folders, magnetic tapes, and hard copy.

Retrievability: Information stored by Region, State, Name and Control Number.

Safeguards: File rooms with restricted access, 3 combination safe with access by authorized personnel.

Retention and disposal: Permanent record files, permanent record hard copy files, magnetic tapes - storage with updating continuously.

System manager(s) and address: Records from Master files:
Chief, Aeromedical Education Branch,
Department of Transportation,
Federal Aviation Administration,
Aeronautical Center,
oklahoma City, OK 73125.
Regional files from Regional Flight Surgeon within Region wherein the AME is appointed. See the FAA National Field Directory for regional addresses.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:
Department of Transportation,
Federal Aviation Administration,

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Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Information is obtained from the Aviation Medical Examiners themselves.

DOT/FAA 823.

System name: Working Level Personnel Folder System. DOT/FAA.

System location: This system of records is found at all (FAA) Federal Aviation Administration field offices physically separated from the personnel Office which maintains the employee's Official Personnel Folder. See the FAA National Field Directory for field office locations.

Categories of individuals covered by the system: This system contains information regarding FAA employees.

Categories of records in the system: This system contains only information regarding the employee's, experience, education, training, special qualifications and skills, position description, performance appraisals and conduct.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To assist local supervisors in managing their personnel more effectively.

To assist in the development and implementation of a viable employee productivity improvement program.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These files are stored in file cabinets.

Retrievability: These files are retrieved by name.

Safeguards: Access and use of these files are limited to those whose official duties require such access.

Retention and disposal: These files are destroyed three months after transfer or termination of service.

System manager(s) and address: FAA Field Office Supervisors. See the FAA National Field Directory, 1000.23F for field office locations.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied.

DOT/FAA 824.

System name: Medical Exemptions - Public Dockets. DOT/FAA.

System location: Department of Transportation,

Federal Aviation Administration,
Office of the Chief Counsel,
800 Independence Avenue, SW,
Washington, DC 20591.

Categories of individuals covered by the system: Persons petitioning for a medical exemption under Federal Aviation Regulations.

Categories of records in the system: Petitions for exemption, supporting and supplementary documentation submitted by petitioners, correspondence, and the grant or denial of the exemption.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Compliance with statutory and regulatory provisions for public accessibility to rulemaking actions.

Disclosure to general public and other agencies.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Original and copies of records in file folders.

Retrievability: Retrieved by exemption number, docket number, or alphabetical listing of petitioner names.

Safeguards: Access through request to Docket Specialist.

Retention and disposal: Dockets are retained indefinitely, destruction not authorized.

System manager(s) and address: Docket and Regulations Specialist,

Department of Transportation,
Federal Aviation Administration,
Office of the Chief Counsel,
800 Independence Avenue, SW,
Washington, DC 20591.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Office of Aviation Medicine, FAA, 800 Independence Avenue, SW,
Washington, DC 20591.

DOT/FAA 825.

System name: Petitions for Rulemaking - Public Dockets. DOT/FAA.

System location: Department of Transportation(DOT),

Federal Aviation Administration(FAA),
Office of the Chief Counsel,
800 Independence Avenue, SW,
Washington, DC 20591.

Categories of individuals covered by the system: Persons petitioning for a change in the Federal Aviation Regulations.

Categories of records in the system: Petitions for rulemaking, correspondence, documents showing disposition of the petition and public comments on any resulting NPRM.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Compliance with statutory and regulatory provisions for public accessibility to rulemaking actions.

Disclosure to general public and other government agencies.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Original and copies of records are stored in unlocked file cabinets.

Retrievability: Retrieved by exemption number, docket number, or alphabetical listing of petitioner names.

Safeguards: Access through request to Dockets Specialist.

Retention and disposal: Transferred to Federal Records Center when inactive; destruction not authorized.

System manager(s) and address: Docket and Regulations Specialist,

Department of Transportation,
Federal Aviation Administration,
Office of the Chief COunsel,
800 Independence Avenue, SW,
Washington, DC 20591.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Petitions for rulemaking.

DOT/FAA 826.

System name: Petitions for Exemption (Other than Medical Exemption) - Public Dockets. DOT/FAA.

System location: Department of Transportation (DOT),

Federal Aviation Administration(FAA),
Office of the Chief Counsel,
800 Independence Avenue, SW,
Washington, DC 20591.

Categories of individuals covered by the system: Persons petitioning for an exemption (other than medical) under the Federal Aviation Regulations.

Categories of records in the system: Petitions for exemptions, supplementary information, and correspondence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Compliance with statutory and regulatory provisions for public accessibility to rulemaking actions.

Disclosure to general public and other government agencies.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Original and copies of records stored in unlocked file cabinets.

Retrievability: Retrieved by exemption number, docket number, or alphabetical listing of petitioner names.

Safeguards: Access through request to Dockets Specialist.

Retention and disposal: Transferred to Federal Records Center when inactive; destruction not authorized.

System manager(s) and address: Docket 7 Regulations Specialist, AGC-24,

Department of Transportation,
Federal Aviation Administration,
Office of the Chief Counsel,
800 Independence Avenue, SW,
Washington, DC 20591.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Petitions for exemptions.

DOT/FAA 827.

System name: Environmental Litigation Files. DOT/FAA.

System location: Department of Transportation(DOT),

Federal Aviation Administration(FAA),
Office of the Chief Counsel,
800 Independence Avenue, SW,
Washington, DC 20591.

Categories of individuals covered by the system: Litigants, witnesses, plaintiff's attorney, FAA attorney, Department of Justice Attorney, etc.

Categories of records in the system: Information on litigation, pleadings, discovery material, related documents, (including background data on individual involved), memoranda, correspondence, and other material necessary to respond to claim or prepare for litigation or hearings.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Litigation; documents are produced or used in and for litigation and are disclosed to the Department of Justice.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders stored in locked and unlocked file cabinets and individual attorney's offices.

Retrievability: Retrieved by caption of the particular litigation.

Safeguards: Access by Office of Chief Counsel personnel only.

Retention and disposal: Files are kept for two years after case has been closed and then sent to Records Center.

System manager(s) and address: Chief, Environmental Staff,

Department of Transportation,
Federal Aviation Administration,
Office of the Chief Counsel,
800 Independence Avenue, SW,
Washington, DC 20591.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Federal courts, individuals and their attorneys, FAA records, litigation files, etc.

DOT/FAA 828.

System name: Physiological Training System. DOT/FAA.

System location: Department of Transportation(DOT),

Federal Aviation Administration(FAA),
Aeronautical Center,
Civil Aeromedical Institute,
Aeromedical Education Branch,
Oklahoma City, OK 73125.

Categories of individuals covered by the system: The training is primarily of benefit to pilots. It is also recommended for other air crew personnel, Air Traffic Controllers, Aviation Medical Examiners, and other personnel from the national aviation system.

Categories of records in the system: The system includes records necessary to establish qualifications of eligibility to receive physiological training, maintain accountability of funds required for training and transfer of funds to involved agencies, and to provide proper evidence of training.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: By the Aeromedical Education Branch, Physiological Training Section, to determine training qualifications.

By the Accounting Division, General Accounting Branch, for receipt and transfer of training funds.
By the Aeromedical Education Branch, Physiological Training Section, to provide proper evidence of training.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Card file, and file folders.

Retrievability: Information files by name and location of training.

Safeguards: Files access restricted to Aeromedical Education Branch personnel.

Retention and disposal: Files are retained for 3 years after completion of training and then disposed.

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System manager(s) and address: Chief, Aeromedical Education Branch.

Department of Transportation,
Federal Aviation Administration,
Aeronautical Center,
Oklahoma City, OK 73125.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Information is obtained from the individuals themselves.

DOT/FAA 829.

System name: Working Level Files for Employees assigned overseas (Permanently and TDY) and Employees Transferred to an International Organization. DOT/FAA.

System location: Department of Transportation(DOT),

Federal Aviation Administration (FAA),
Office of International Aviation Affairs(OIAA),
800 Independence Avenue, SW,
Washington, DC 20591.

Categories of individuals covered by the system: All employees that go on overseas assignments, for OIAA, ICAO, and employees on temporary foreign travel for FAA.

Categories of records in the system: This system of records contains: name; date and place of birth; names and dates of birth of dependents; position title; grade and salary; marital status, education; knowledge of foreign language(s); home address and phone number; country and medical clearances (DSL-820 and DS-823), medical waivers, listing of all employees cleared or issued medical wavers by Department of State; professed religion; check, savings, allotment, and savings bonds mailing information; information concerning shipment of household and personal effects, storage, automobile and allowances; training records (Foreign Service Institute and Agency for International Development); tort claims; travel vouchers; SF-50 (for employees transferred to an International Organization).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to obtain country clearances for overseas assignments.

To provide AID and DOS with required information relating to medical and emergency evacuation, emergency travel, etc,
To compile reports and provide listings to the Department of State. (verbal and written)
To obtain approval for foreign travel, passport and visa services.
To enroll employees in training.
To prepare travel orders and vouchers.
To determine allowable allowances and other benefits.
To provide information to embassies in countries of assignment.
To obtain medical and security clearances.
To intercede for employees concerning salary, personnel actions, allowances, leave and benefits.
To verify medical claims.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These files are stored in locked cabinets.

Retrievability: Retrieved by name.

Safeguards: Access and use are limited to those who's official duties require such access.

Retention and disposal: Are destroyed three years after terminations of employees service.

System manager(s) and address: Executive Officer, Office of International Aviation Affairs,

Department of Transportation,
Federal Aviation Administration,
800 Independence Avenue, SW,
Washington, DC 20591.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Deparment of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied.

DOT/FAA 830.

System name: Representatives of the Administrator. DOT/FAA.

System location: Master lists of certain categories of representatives are maintained at the:

Department of Transportation,
Federal Aviation Administration,
800 Independence Avenue, SW,
Washington, DC 20591.
and the:
Aeronautical Center,
Oklahoma City, OK 73125. The remainder of the system is located and maintained as a decentralized system with all designations being maintained at General Aviation District Offices, Air Carrier District Offices, Flight Standards District Offices, Engineering and Manufacturing District Offices, Air Traffic and Aviation Medicine Headquarters, regional or field offices that designate Air Traffic Control Tower Operator Examiners, Aviation Medical examiners, Forensic Pathologists, and the International field offices where delegations were made with lists of certain categories of representatives maintained by individual FAA Regional Offices to whom the designating field offices report.
See the National Field Directory (FAA), 1000.23F) for locations.

Categories of individuals covered by the system: Aviation medical examiners, pilot examiners, technical personnel examiners, designated aircraft maintenance inspectors, designated engineering representatives, and designated manufacturing inspection representatives.

Categories of records in the system: Records on qualification, certification, and appointment authorization.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide a data base for management use of the numbers and qualifications of individuals designated as representatives.

To facilitate written and oral communication between the FAA and its representatives.
To provide the public with the names and addresses of certain categories of representatives who may provide service to them.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are filed by designee name and retrieved by same.

Safeguards: Records are stored in lockable file cabinets.

Retention and disposal: Records are retained during the life of the designated, then destroyed 2 years after expiration of the designation.

System manager(s) and address: Chief of the office where the designation was made.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied.

DOT/FAA 831.

System name: Standard Procedure Uniform Reporting System (SPUR). DOT/FAA.

System location: This system is located at all General Aviation District Offices (GADO), Air Carrier District Offices (ACDO), Flight Standards District Offices (FSDO) in all regions. (See the FAA National Field Directory, 1000.23F for locations).

Categories of individuals covered by the system: Pilots, mechanics, parachute rigger examiners, flight instructors, authorized inspectors, air taxi operators, and avionics examiners.

Categories of records in the system: Accident reports, supplement reports, remedial checks, violations, records of inspections, surveillance and certification.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Aids supervisors in developing work plans and work measurements to accomplish agency mission.

Release to state aviation authorities for seminars and workshops.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Posted on big board in office and in file cabinets in office.

Retrievability: Data is retrieved by name of individual to be examined.

Safeguards: Data is available to members of FAA staffs on a need-to-know basis.

Retention and disposal: When the individual is no longer affiliated with the agency, or no further action is required.

System manager(s) and address: Chief of the GADO, ACDO, FSDO in region where individual is operating or assigned. (See the FAA National Field Directory, 1000.23F for addresses).

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: By the applicant, inspector surveillance, or by being reported by an FAA official.

DOT/FAA 832.

System name: Pilot, Crewmember and Aircraft Rental Flight Record System. DOT/FAA.

System location: department of Transportation,

Federal Aviation Administration,
Aircraft Programs Division,
Headquarters Aircraft Management Branch,
800 Independence Avenue, SW,
Washington, DC 20591.
and at the:
Oklahoma City, OK 73125.
National Aviation Facilities Experimental Center (NAFSE),
Atlantic City, nj 08405.
and at:
All regional offices. (See the FAA National Field Directory, 1000.23F for locations).

Categories of individuals covered by the system: All FAA pilots, flight engineers assigned to FAA Flight Programs.

Categories of records in the system: Flight check records, list showing flight time, certifications and flight logs.

Authority for maintenance of the system: The Federal Aviation Act (1958) and the Department of Transportation Act (1966).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used by flight program management personnel to determine qualifications of crewmembers to:

Fly agency aircraft.
Utilize rental aircraft.
See prefatory statement of general routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored on magnetic tape, cardex files, and in file folders.

Retrievability: Records are retrieved by employee name and crewmember number.

Safeguards: Records are stored in a restricted, controlled-access, area and are used only by agency personnel with need-to-know.

Retention and disposal: Cardex and folder files are destroyed when employee is no longer designated to participate in agency flight programs. Magnetic tape is updated periodically.

System manager(s) and address: Chief, Operations Staff, AAC-8, Aeronautical Center, Oklahoma City, Oklahoma 73125, Chief, Aircraft Programs Division, Flight Standards Service, FAA, Washington, D.C. 20591, or Aircraft Management Branch in region where employed.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Flight check records submitted by the individual to whom the record pertains; reports submitted by the pilot in command of each flight.

DOT/FAA 833.

System name: Housing Management Monthly Report, RIS: AL-4930-3. DOT/FAA.

System location: Department of Transportation(DOT),

Federal Aviation Administration(FAA),
Alaskan Regional Office,
632 W. Sixth Ave.,
Anchorage, AK 99501.

Categories of individuals covered by the system: Names of employees occupying FAA owned or leased housing.

Names of employees and agencies who lease FAA housing.

Categories of records in the system: Housing records, leases, maintenance bills, damage reports.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Maintain percentage of occupancy.

Maintain up-to-date record of maintenance cost.

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Maintain up-to-date list of persons occupying FAA units.
Provide above information to Sector Managers.
Provide above information to local sector.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Filing cabinet, Housing Management, AAL-52D.

Retrievability: Station location.

Unit numbers.
Name of employee.
Number of dependents.
Pay Period rental rate

Safeguards: Retrieved only by agency personnel on a need-to-know basis

Retention and disposal: Monthly records are destroyed upon receipt of next month's ADP run.

End of year reports are retained.

System manager(s) and address: Housing Management Officer,

632 W. Sixth Ave.,
Anchorage, AK 99501.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Employees.

Employees of other agencies that lease housing from FAA.

DOT/FAA 834.

System name: Commissary Billing. DOT/FAA.

System location: Department of Transportation(DOT),

Federal Aviation Administration(FAA),
Alaskan Regional Office,
632 W. Sixth Avenue,
Anchorage, AK 99501.

Categories of individuals covered by the system: FAA Employees.

Categories of records in the system: Commissary Billing Invoices.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Bill FAA employees for goods received from the FAA Commissary.

Commissary sales analysis.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File Folders.

Data Processing Cards.

Retrievability: Organization, Voucher Number, Name.

Safeguards: Restricted computer room access.

Only need-to-know rule.

Retention and disposal: Data Processing Cards held for 30 days after last use, then placed in trash.

File folders held 2 years, then destroyed at dump.

System manager(s) and address: Chief, Accounting Division, AAL-20,

632 Sixth Avenue, Anchorage, AK 99501.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Individuals requesting goods from the FAA Commissary.

DOT/FAA 835.

System name: Work Scheduling and Management System. DOT/FAA.

System location: Department of Transportation (DOT),

Federal Aviation Administration (FAA),
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.
This system of records is located at all levels of supervision and management within the Federal Aviation Administration.
FAA Headquarters is located at:
800 Independence Avenue, SW,
Washington, DC 20591.
See the FAA National Field Directory, 1000.23F, for field addresses.

Categories of individuals covered by the system: Agency employees.

Categories of records in the system: This system contains records required by supervisors and managers to assign and record the assignment of projects, shifts, and other duties to agency employees such as:

Duty rosters.
List of employees by watch, shift, unit, or other work group.
Work and training schedules.
In addition, it may contain information about certificated schools, airman repair stations, and other similar aviation related people and activities needed to help supervisors assign work related to these organizations and people.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system of records is used to:

Assign tasks and projects to individual employees or groups of employees.
Assign workers to shift and hours of duty.
Assign individuals to training, leave, and other administrative activities.
Record work assigned and performed by individual employees or groups of employees.
Record available workforce and their status and distribution.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on display boards, black boards, loose leaf notebooks, file folders, and similar informal storage devices.

Retrievability: Records are retrievable by name, organization, project title, or other similar work-related identifier.

Safeguards: Files are controlled by the supervisor.

Retention and disposal: These records are continuously changed and purged as work assignments change and people are reassigned.

System manager(s) and address: Supervisors of field offices, regions and centers, and Washington organizations down to the branch level and below. See location information in 'System Location' paragraph above.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Information is obtained from personnel records and from the individual employee.

DOT/FAA 836.

System name: Citizens Advisory Committee on Aviation. DOT/FAA.

System location: Department of Transportation(DOT),

Federal Aviation Administration (FAA),
Office of Public Affairs,
800 Independence Avenue, SW,
Washington, DC 20591.

Categories of individuals covered by the system: Present members of the Citizens Advisory Committee on Aviation; past members of the Woman's Advisory Committee on Aviation, predecessor of the Citizens Advisory Committee; and individuals interested in being considered for appointment.

Categories of records in the system: Biographies and photographs of members and travel records (includes travel orders, travel vouchers, and claims for reimbursement).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Biographies used in connection with appointing members to the committee. Maintaining travel expenses. Also, information in the system may be disclosed to members of the public and the news media. See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored in file cabinets.

Retrievability: Records indexed alphabetically by name.

Safeguards: Access through request to System Manager.

Retention and disposal: Retained for five years then sent to storage after inventory of files.

System manager(s) and address: Assistant Administrator for Public Affairs,

Department of Transportation,
Federal Aviation Administration,
Office of Public Affairs,
800 Independence Avenue, SW, Room 912,
Washington, DC 20591.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Members of Citizens Advisory Committee on Aviation and former members of the Woman's Advisory Committee on Aviation.

DOT/FAA 837.

System name: Photographs and Biographical Information. DOT/FAA.

System location: Department of Transportation(DOT),

Federal Aviation Administration(FAA),
Office of Public Affairs,
800 Independence Avenue, SW,
Washington, DC 20591.
and
Public Affairs Offices at the following FAA Regions and Centers:
Aeronautical Center,
P.O. Box 25082,
Oklahoma City OK 73125.
Alaskan Region,
632 Sixth Avenue,
Anchorage, AK 99501.
Central Region,
601 East 12th Street,
Kansas City, MO 64106.
Eastern Region,
Federal Bldg., JFK International Airport,
Jamaica, NY 11430.
Great Lakes Region,
2300 E. Devon Avenue,
Des Plaines, IL 60018.
National Aviation Facilities Experimental Center,
Atlantic City, NJ 08405.
New England Region,
12 New England Executive Park,
Burlington, MA 01803.
Northwest Region,
FAA Building, Boeing Field,
Seattle, WA 98108.
Pacific-Asia Region,
P.O. Box 4009,
Honolulu, HA 96813.
Rocky Mountain Region,
Park Hill Station, P.O. Box 7213,
Denver, CO 80207.
Southern Region,
P.O. Box 20636,
Atlanta, GA 30320.
Southwest Region,
P.O. Box 1689,
Fort Worth, TX 76101.
Western Region,
P.O. Box 92007,
World Way Postal Center,
Los Angeles, CA 90009.

Categories of individuals covered by the system: FAA employees and other individuals who may appear with them in candid photographs.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The system is maintained to provide information to the public--particularly the news media--and for use in employee publications. See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored in file cabinets.

Retrievability: Records indexed alphabetically by name or subject.

Safeguards: Access through request to the System Manager.

Retention and disposal: Materials retained as long as individual or event is newsworthy, following which they are destroyed. In certain cases, material is retained for historical purposes.

System manager(s) and address: Assistant Administrator for Public Affairs,

Department of Transportation,
Federal Aviation Administration,
800 Independence Avenue, SW,
Washington, DC 20591.
Public Affairs Officers at the addresses shown in 'System Location' above.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the applicable System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the applicable System Manager

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW, Washington, DC 20591.

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Record source categories: FAA employees and other individuals who may appear with them in candid photographs.

DOT/FAA 838.

System name: Congressional/Employment Inquiry Files. DOT/FAA.

System location: Office of Personnel and Training, Personnel Staffing and Benefits Branch, Personnel Programs Division, and Employment Branch, Personnel Management Operations Division, Washington, D. C. 20591.

Categories of individuals covered by the system: Current and former FAA employees and applicants for FAA employment.

Categories of records in the system: Correspondence submitted by, or on behalf of an individual including applications, resumes, reference letters and inquiries on the status of circumstances surrounding the application, employment situation or separation from FAA employment.

Responses to such correspondence.
Staff recommendations and supporting information.

Authority for maintenance of the system: The Federal Aviation Act of 1958, as amended and the Department of Transportation Act, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by FAA officials to provide information to a Congressional office from the record of the individual in response to an inquiry from a Congressional office made at the request of that individual.

Used by FAA officials for referral to the appropriate FAA action office for preparation of recommendations and responses to inquiries. See prefatory statement of general routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in file folders.

Retrievability: The records are indexed by individuals' name.

Safeguards: The records are located in lockable metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: The records are retained for two years from the date of the most recent inquiry. They are then disposed of by shredding.

System manager(s) and address: Chiefs,

Employment Branch,
APT-150 and Personnel Staffing and Benefits Branch,
APT-220,
Federal Aviation Administration,
800 Independence Avenue, S.W.,
Washington, D.C. 20591.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegatee, 800 Independence Ave., S. W., Washington, D. C. 20591.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information the individual supplied or was supplied on behalf of him/her. Other information may be supplied by FAA Officials.

DOT/FAA 839.

System name: Printing Branch Distribution System. DOT/FAA.

System location: Department of Transportation(DOT),

Federal Aviation Administration(FAA),
Office of Management Systems,
800 Independence Avenue, SW,
Washington, DC 20591.

Categories of individuals covered by the system: Individuals or governmental agencies interested in receiving Federal Aviation Documents.

Categories of records in the system: Names and addresses of those individuals and/or governmental organizations wishing to be placed on the mailing lists for FAR's, AC's, NPRM's, the AIM, and various miscellaneous publications.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To serve as a comprehensive mailing list of individuals and/or governmental agencies for dissemination of all and/or specific parts of FAR's, AC's, NPRM's, the AIM, and various miscellaneous publications.

Subject system of records correlates or matches specific consumer information requirements to subject category information contained in the FAR's, AC's, NPRM's, the AIM, and miscellaneous publications, thereby reducing printing costs and, at the same time, satisfying the particular needs and interests of the recipients of desired information
See Prefatory Statement of General Routine Uses

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored on magnetic tape.

Retrievability: Records are retrieved by record identification numbers (state code, city code, first 5 characters of last name of customer, and first initial of customer).

Safeguards: Magnetic Tape: Data may only be retrieved by computer operators as authorized by the System Manager or delegate

Requests for disclosure of and access to records are screened carefully and must satisfy the 'need-to-know' policy.
The file room is open to agency personnel only.

Retention and disposal: Magnetic tapes are updated annually as a result of canvassing, and retention and disposal of records are governed by consumer requests, in writing.

System manager(s) and address: Chief, Systems Support Division, AMS-100,

Department of Transportation,
Federal Aviation Administration,
Office of Management Systems,
800 Independence Avenue, SW,
Washington, DC 20591.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Information is obtained from:

Aviation Medical Examiners.
General aviation public.
Consumers and consumer organizations.
Other government agencies.
Libraries.
Army, Navy, Air Force, etc.

DOT/FAA 840.

System name: Federal Aviation Administration (FAA) Maintenance Base Personnel Training Records System. DOT/FAA.

System location: All FAA Maintenance Bases. (See FAA National Field Directory, 1000.23F, for locations.)

Categories of individuals covered by the system: FAA maintenance base personnel.

Categories of records in the system: Dates of attendance for all types of training, including: on-the-job training; formal classroom training; maintenance orientation; special situation training, 'new employee indoctrination; management training; and non-resident training.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: By agency officials, supervisors, and foremen to determine qualifications of repairmen and inspectors.

By agency officials to determine training requirements. See Prefatory Statement of Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored in file cabinets and file folders.

Retrievability: Records are indexed by employee name alphabetically, and are retrieved by name.

Safeguards: Records are stored in steel file cabinets which are locked when not in use.

Retention and disposal: Records are retained for the duration of employment as a maintenance base employee; are transferred with the employee when appropriate; and are destroyed by burning or shredding upon termination of employment.

System manager(s) and address: Supervisors of FAA maintenance bases. see FAA National Field Directory (100.23F) for addresses.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the applicable System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the applicable System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Agency training records, and supervisor's training certifications.

DOT/FAA 841.

System name: NAFEC Manpower Requirements Information System (MARQUIS). DOT/FAA.

System location: Department of Transportation (DOT),

Federal Aviation Administration (FAA),
National Aviation Facilities Experimental Center (NAFEC),
Atlantic City, NJ 08405.

Categories of individuals covered by the system: All center personnel (except tenants and contractors) by specialized skills.

Categories of records in the system: Identification data, education level and history, current technical assignment (including expected completion date), skills (derived from specialized skills indexed), training and work experience background, and licenses and certificates.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To locate employees with the skills or combination of skills needed for specified current or future program assignments.

Identify employees qualified for detail or possible reassignment to new, special, or higher priority program activities.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored on magnetic tapes, selected printouts in file folders in EMS staff and personnel management staff offices.

Retrievability: Selected according to skill requirement, name, employee number, location, grade, job title and series, education level, current technical assignment skill(s) and training and work experience background.

Safeguards: Authorized by Chief, Engineering Management Staff, (NAFEC), ANA-4.

User ID number for access to data banks and printouts are stored in a secure cabinet in ANA-4.

Retention and disposal: Magnetic tape storage updated continuously, Printouts destroyed after use.

System manager(s) and address: Chief, Engineering Management Staff, ANA-4,

National Aviation Facilities Experimental Center,
Atlantic City, NJ 08405.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves contained in this system of records should contact or address inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Individual center employees.

DOT/FAA 842.

System name: Federal Air Marshal Program Management System. DOT/FAA.

System location: Department of Transportation (DOT),

Federal Aviation Administration (FAA),
Civil Aviation Security Service,
Air operations Security Division,
800 Independence Avenue, SW,
Washington, DC 20591.

Categories of individuals covered by the system: This system of records contains information on past and present FAA employees who have been or are participants in the Federal Air Marshal program.

Categories of records in the system: This system consists of a variety of records necessary to manage the Federal Air Marshal program.

These records include information about the medical/physical fitness, weapons proficiency and training qualifications of each individual.
Also included in the system are documents pertaining to deputation as Deputy U.S. Marshal, equipment issued and other related papers and background information.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in this system is used to:

Record qualifications of Air Marshals (weapon, physical, medical).
Maintain current record of weapon and equipment issued.
Record training completed.
Record previous experience, background information.
and schedule assignments.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by name of individual.

Safeguards: Records are maintained in approved security files and containers. Access to and use of these records is limited to those persons whose official duties require such access.

Retention and disposal: Records are kept indefinitely.

System manager(s) and address: Chief, Air Operations Security Division, ACS-100,

Department of Transportation,
Federal Aviation Administration,
Civil Aviation Security Service,
800 Independence Avenue, SW,
Washington, DC 20591.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves contained in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address:

Department of Transportation,
Federal Aviation Administration,
Office of the Administrator,
800 Independence Avenue, SW,
Washington, DC 20591.

Record source categories: Information is obtained from the individual to whom it applies, from other FAA records which contain information supplied by the individual, and from results of training.

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DOT/FAA 843.

System name: FAA World Home Address System. DOT/FAA.

System location: FAA Office of Public Affairs, Washington, D. C.

Categories of individuals covered by the system: FAA full time permanent and temporary employees.

Categories of records in the system: Address labels, master list (names, addresses, job series, and job location), and error list.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Home mailing of FAA World magazine; occasional mailing of other employee information material and employee union ballots. See prefatory statement of general routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape; paper printouts.

Retrievability: By last name, job series and job location.

Safeguards: Magnetic tape used only by authorized computer operators, paper printouts only by authorized Headquarters and regional control points.

Retention and disposal: Magnetic tape is re-used until worn, then destroyed, paper printouts are destroyed after each monthly use to check accuracy of data

System manager(s) and address: Assistant Administrator,
Office of Public Affairs,
Federal Aviation Administration,
800 Independence Avenue, S.W.,
Washington, D.C. 20591.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegatee, 800 Independence Ave., S. W., Washington, D. C. 20591.

Record source categories: FAA employees, on a voluntary basis.

DOT/FHWA 202.

System name: University and Industry Programs Coding and Filing System. DOT/FHWA.

System location: Department of Transportation (DOT),
Federal Highway Administration (FHWA),
National Highway Institute, 400 7th Street, SW, Room 4207,
Washington, DC 20590.

Categories of individuals covered by the system: Current and prior year candidates for FHWA fellowships/scholarships employees of FHWA and State and local transportation agencies.

Categories of records in the system: Applications for fellowships.
Transcripts of grades.
Follow-up evaluation reports.
Study progress reports.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Applications and transcripts used by fellowship selection panel.
Study progress reports and follow-up evaluation reports used by the National Highway Institute in program evaluation.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Name.

Safeguards: Stored in file cabinets.

Retention and disposal: 5 years - discarded in trash.

System manager(s) and address: Administrative Assistant, Department of Transportation,
Federal Highway Administration,
National Highway Institute,
400 7th Street, SW, Room 4206,
Washington, DC 20590.

Notification procedure: Any individual that has applied for a fellowship/scholarship may obtain such information by written request to the Institute. The requestor should know the year of his application.

Record access procedures: May be obtained from the 'System Manager' at the address given above.

Contesting record procedures: May be obtained from the 'System Manager' at the address given above.

Record source categories: The information comes from individual applications, reports prepared by the individuals and their faculty advisors, and college transcripts.

DOT/FHWA 204.

System name: FHWA Motor Carrier Safety Porposed Civil and Criminal Enforcement Cases. DOT/FHWA.

System location: Department of Transportation (DOT),
Federal Highway Administration (FHWA),
All FHWA Regional Offices. (See 49 CFR Part 7 Appendix D for addresses).

Categories of individuals covered by the system: Officers, Agents or Employees of Motor Carriers, including drivers who have been the subject of investigation for Motor Carrier Safety regulation violations.

Categories of records in the system: This system of records contains information pertaining to Motor Carrier Safety regulation violations and identifying features.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records and information in the records are used for referral to U.S. Attorney civil proceedings or referred to other agencies for criminal or civil investigation of other Federal violations.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders in the Regional Counsel's Office.

Retrievability: These records are indexed by names of Motor Carriers or individuals.

Safeguards: The records are marked 'Confidential.' Only Regional Counsel Office employees or Bureau of Motor Carrier Safety (BMCS) employees have access to the files.

Retention and disposal: The records are retained for one year and then are sent to the Central Files for an additional three year period.

System manager(s) and address:
FHWA, Regional Counsel,
FHWA, Regional Offices (See 49 CFR Part 7 Appendix D for addresses.)

Notification procedure: Same as 'System Manager'.

Record access procedures: Same as 'System Manager'.

Contesting record procedures: Same as 'System Manager'.

Record source categories: Individuals, motor carrier files, and BMCS files, etc., as gathered by BMCS investigators.

Systems exempted from certain provisions of the act: Pursuant to (k) (2) of 5 U.S.C. 552a this system of records is exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f).

DOT/FHWA 208.

System name: Application for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License). DOT/FHWA.

System location: Department of Transportation (DOT),
Federal Highway Administration (FHWA),
Office of Management Systems, HMS-4,
400 7th Street, SW, Room 4317
Washington, DC 20590.
System is also maintained at:
All FHWA Regional and Division Offices (See 49 CFR Part 7 Appendix D for addresses).

Categories of individuals covered by the system: FHWA employees who have applied for Federal Government Drivers License.

Categories of records in the system: Application for Operator's Identification card, Form FHWA-133, and Physical Fitness Inquiry for Motor Vehicle Operators, Standard Form 47.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Identification of FHWA drivers, and qualification of the driver.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in a file cabinet in folders.

Retrievability: The system is indexed alphabetically by name of applicant.

Safeguards: Personnel screening.

Retention and disposal: Records are retained until expiration of licensing period.

System manager(s) and address: Occupational Safety Engineer,
Department of Transportation,
Federal Highway Administration,
400 7th Street, SW,
Washington, DC 20590.
Executive Officer in Regions; Administrative Managers in Divisions (See 49 CFR Part 7 Appendix D for addresses).

Notification procedure: The requester must provide his name, organizational element, and proper identification to the address in 'System Manager' above.

Record access procedures: Same as in 'System Manager' above.

Contesting record procedures: Same as in 'System Manager' above.

Record source categories: The information is provided by the individual on his application for an FHWA U.S. Government drivers license.

DOT/FHWA 209.

System name: Driver Accident Record Cross-Reference File. DOT/FHWA.

System location: Department of Transportation (DOT),
Federal Highway Administration (FHWA),
FHWA Regional Office,
Bureau of Motor Carrier Safety,
Room 210, Mohawk Building,
222 SW Morrison Street,
Portland, OR 97204.

Categories of individuals covered by the system: All Motor Carrier drivers who have had commercial accidents in the Region 10 geographic area and drivers from motor carriers based in Region 10 who have had commercial accidents anywhere in the United States.

Categories of records in the system: Card file cross-referenced to motor carrier files.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To identify commercial drivers who have been involved in one or more commercial accidents.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on 3x5 index cards.

Retrievability: Filed alphabetically by driver's name.

Safeguards: Personnel screening of those individuals requesting driver accident information.

Retention and disposal: Retained indefinitely until driver discontinues his line of work. Discarded in a trash receptacle.

System manager(s) and address:
FHWA Regional Director,
FHWA Regional Office,
Bureau of Motor Carrier Safety,
Room 210, Mohawk Building,
222 SW Morrison Street,
Portland, OR 97204.

Notification procedure: May be obtained upon request by supplying name to the address in 'System Manager' above.

Record access procedures: Same as in 'System Manager' above.

Contesting record procedures: Same as in 'System Manager'.

Record source categories: Accident information on the cards are transposed from the Motor Carier Safety Accident Forms (MCS 50-T) and State Police Accident Reports.

DOT/FHWA 210.

System name: Occupational Safety and Health Accident Reporting System. DOT/FHWA.

System location: Department of Transportation (DOT),
Federal Highway Administration (FHWA),
Office of Management Systems, HMS-4,
400 7th Street, SW, Room 4317,
Washington, DC 20590. Duplicate copies may be retained in Regional and Division offices (See 49 CFR Part 7 Appendix D for addresses).

Categories of individuals covered by the system: Any FHWA employee involved in an occupational accident.

Categories of records in the system: The system contains all type of occupational accidents such as, employees' injuries, occupational illnesses, motor vehicle, property damage, fire and explosion, vessel, train, and incidents not resulting in injuries or property damage.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The use and purpose of the information is to obtain information for accident prevention.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in a file cabinet in folders.

Retrievability: The system is indexed by organizational element and name.

Safeguards: Personnel screening.

Retention and disposal: Records are retained for five years as required by Occupational Safety and Health Act of 1970, as amended, Title 29, U.S.C., Part 1960, Safety and Health Provisions for Federal Employees. The records are then forwarded to the Records Center of Archives and Records Services, GSA.

System manager(s) and address: Occupational Safety Engineer,
Department of Transportation,
Federal Highway Administration,
Office of Management Systems,
400 7th Street, SW, Room 4317,
Washington, DC 20590.

Notification procedure: The requester must provide his name, organizational element, and/or date of the accident, and proper identification to address in 'System Manager' above.

Record access procedures: Same as in 'System Manager' above.

Contesting record procedures: Same as in 'System Manager' above.

Record source categories: The information is obtained from individuals involved in the accident, and by investigation by the individual's supervisors. Management obtains the information through investigation.

DOT/FHWA 211.

System name: Motor Carrier Accident File - Property and Passenger. DOT/FHWA.

System location: Department of Transportation (DOT),
Federal Highway Administration (FHWA),
400 7th Street, SW,
Washington, DC 20590.
(Hard copy is located in Room 4432-Magnetic tape storage is located in Room 2401.)
Hard copy is also stored in the Federal Records Center.

Categories of individuals covered by the system: Accidents reported by motor carriers of passengers and property.

Categories of records in the system: Motor Carrier Accident Report Form.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Compilation of data concerning accident frequency and causation.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy and magnetic tape.

Retrievability: Indexed by carrier name or driver's name.

Safeguards: Personnel screening.

Retention and disposal: Retained indefinitely - continuing data reference for comparison purposes.

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System manager(s) and address:
Chief, Accident Analysis Branch, Department of Transportation, Federal Highway Administration,
Bureau of Motor Carrier Safety,
Regulations Division,
400 7th Street, SW, Room 3404,
Washington, DC 20590.

Notification procedure: Same as in 'System Manager' above.

Record access procedures: Information available upon request to Chief, Accident Analysis Branch, Regulations Division at the address in 'System Manager' above.

Contesting record procedures: Same as in 'System Manager' above.

Record source categories: Information supplied by motor carrier.

DOT/FHWA 212.

System name: Medals of Honor File. DOT/FHWA.

System location: Department of Transportation (DOT),
Federal Highway Administration (FHWA),
Bureau of Motor Carrier Safety,
Compliance Division,
400 7th Street, SW, Room 3403,
Washington, DC 20590.

Categories of individuals covered by the system: Nominees and recipients of Presidential Medals of Honor for Lifesaving on Highways.

Categories of records in the system: Description of incidents, Investigator's report, and related correspondence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Determination of applicability of Medals of Honor criteria, background information for preparation of Medal presentation.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folder, one file drawer.

Retrievability: Indexed by name of nominee/recipient.

Safeguards: Personnel screening.

Retention and disposal: Approximately two years retention after presentation or denial.

System manager(s) and address: Chief, Compliance Division,
Department of Transportation,
Federal Highway Administration,
Bureau of Motor Carrier Safety,
400 7th Street, SW, Room 3403,
Washington, DC 20590.

Notification procedure: Same as in 'System Manager' above.

Record access procedures: Same as in 'System Manager' above.

Contesting record procedures: Same as in 'System Manager' above.

Record source categories: Medal of Honor Nomination.

DOT/FHWA 213.

System name: Driver Waiver File. DOT/FHWA.

System location: Department of Transportation (DOT),
Federal Highway Administration (FHWA),
Bureau of Motor Carrier Safety,
Regulations Division,
Driver Requirements Branch,
400 7th Street, SW, Room 3402,
Washington, DC 20590.

Categories of individuals covered by the system: Operators of interstate commercial vehicles transporting certain commodities.

Categories of records in the system: Application for waiver (usually involving physical disability).
Final disposition of request for waiver.
Waiver renewal.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Control of physically impaired operators of commercial motor vehicles.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folder, entire file cabinet.

Retrievability: Information retained by name.

Safeguards: File is classified as non-confidential. Accessible to certain employees of Regulations Division, Bureau of Motor Carrier Safety.

Retention and disposal: Files are retained while waiver is active. Inactive waiver files are purged each year.

System manager(s) and address: Chief, Driver Requirements Branch,
Department of Transportation,
Federal Highway Administration,
Bureau of Motor Carrier Safety,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Same as in 'System Manager' above.

Record access procedures: Requests for information should be made in writing to Chief, Driver Requirements Branch at the address in 'System Manager' above, giving name of individual.

Contesting record procedures: Same as in 'System Manager' above.

Record source categories: Information obtained from Application for Waiver or Waiver Renewal.

DOT/FHWA 214.

System name: Investigations Case File System. DOT/FHWA.

System location: Department of Transportation (DOT),
Federal Highway Administration (FHWA),
Office of Program Review and Investigations,
400 7th Street, SW, Room 4203,
Washington, DC 20590.

Categories of individuals covered by the system: Any individuals, including Federal Highway Administration employees, State and other political subdivision personnel, contractors and contractor employees who were the subjects of investigation based on allegations of wrongdoing relating to the Federal-aid highway program.

Categories of records in the system: Records of investigation conducted by the Office of Program Review and Investigations of allegations of irregularities, fraud, bribery, false statements, and other improprieties.
Reports of violation of or noncompliance with administrative rules and regulations pertaining to programs administered by the FHWA.
Reports of investigation from State and Federal agencies, including the FBI, relating to the Federal-aid highway program.
Newspaper clippings containing articles relating to questionable or un- ethical conduct, irregularities, investigations, indictments, and convictions of individuals and officials who are or might be involved in Federal-aid highway programs or related fields.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Reports of investigation that contain information indicating a possible violation of Federal or State criminal or civil laws are referred to the appropriate prosecutive authorities for their evaluation of prosecution.
Results of investigation are evaluated for the purpose of making recommendations to the Federal Highway Administrator and other officials for their use in determining the action to be taken regarding procedural deficiencies or unacceptability action against an individual under Title 23, Code of Federal Regulations, Part 16.
Reports of investigation are furnished to State highway departments to aid them in correcting procedural deficiencies that were disclosed.
Reports are furnished to Members of Congress, upon their request for specific information.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: System is indexed by the name of individuals.

Safeguards: Records are maintained in locked file cases and are released only to authorized personnel with a followup system for prompt return.

Retention and disposal: Files are kept until they are three years old and then transferred to the Federal Records Center. They are destroyed when 10 years old.

System manager(s) and address: Chief, Investigations and Special Inquiry Division,
Department of Transportation,
Federal Highway Administration,
400 7th Street, SW, Room 4203,
Washington, DC 20590.

Notification procedure: Individuals wishing to know whether information about them is maintained in this system should address inquiries to the:
Department of Transportation,
Federal Highway Administration,
Office of Program Review and Investigations,
400 7th Street, SW, Room 4203,
Washington, DC 20590.

Record access procedures: Individuals who desire access to or to contest information about them in this system of records should contact or address their inquiries to the:
Department of Transportation,
Federal Highway Administration,
Office of Program Review and Investigations,
400 7th Street, SW, Room 4203,
Washington, DC 20590.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: The information contained in our investigatory records was obtained through investigations, interviews of various individuals, examination of official and public records, and information from State and Federal agencies. Information is also received from identified private citizens, anonymous sources and newspaper articles.

Systems exempted from certain provisions of the act: Pursuant to (k) (2) of 5 U.S.C. 552a this system of records is exempt from subsections (c)(3), (d),(e)(1), (e)(4)(G),(H), and (I) and(f).

DOT/FHWA 215.

System name: Travel Advance File. DOT/FHWA.

System location: Department of Transportation (DOT),
Federal Highway Administration (FHWA),
Office of Fiscal Services,
400 7th Street, SW,
Washington, DC 20590.
All FHWA Regional Offices (See 49 CFR Part 7 Appendix D for addresses).

Categories of individuals covered by the system: Recipients of travel advances.

Categories of records in the system: Record of travel advances and repayments.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To control repayment of travel advances.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on a 5 x 8 inch form.

Retrievability: Indexed by name.

Safeguards: Records are maintained in a locked file.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Schedule 9, Travel and Transportation Reocrds, of the General Records Schedules (FPMR 101-11.4).

System manager(s) and address: Chief, Voucher Review & Disbursement Section,
Department of Transportation,
Federal Highway Administration,
Office of Fiscal Services,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Same as System Manager.

Record access procedures: Same as System Manager.

Contesting record procedures: Same as System Manager.

Record source categories: Individual on whom the record is maintained.

DOT/FHWA 216.

System name: Travel Voucher - Change of Duty Station. DOT/FHWA.

System location: Department of Transportation (DOT),
Federal Highway Administration (FHWA),
Office of Fiscal Services,
400 7th Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: Employees reimbursed for change of duty station travel.

Categories of records in the system: Record of travel expenses claimed for change of duty station.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Record of travel expenses for change of duty station.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on a 8 x 10 inch form.

Retrievability: Indexed by name.

Safeguards: Supervised by the Chief, Voucher Review & Disbursements Section.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Schedule 9, Travel and Transportation Records, of the General Records Schedules (FPMR 101-11.4).

System manager(s) and address: Chief, Voucher Review & Disbursements Section,
Department of Transportation,
Federal Highway Administration,
Office of Fiscal Services,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Same as in 'System Manager' above.

Record access procedures: Same as in 'System Manager' above.

Contesting record procedures: Same as in 'System Manager' above.

Record source categories: Individual on whom the record is maintained.

DOT/FHWA 217.

System name: Accounts Receivable. DOT/FHWA.

System location: Department of Transportation (DOT),
Federal Highway Administration (FHWA),
Office of Fiscal Services,
400 7th Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: Individuals indebted to the Federal Highway Administration.

Categories of records in the system: Amount of indebtedness.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To control accounts receivable.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in indexed loose-leaf book.

Retrievability: By name.

Safeguards: Supervised by Chief, General Ledger and Funds Control Section.

Retention and disposal: Schedule 7, Expenditure Accounting Records, of General Records Schedules (FPMR-101-11.4).

System manager(s) and address: Chief, General Ledger & Funds Control Section,
Department of Transportation,
Federal Highway Administration,
Office of Fiscal Services,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Same as in 'System Manager' above.

Record access procedures: Same as in 'System Manager' above.

Contesting record procedures: Same as in 'System Manager' above.

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Record source categories: Employer.

DOT/FHWA 218.

System name: Memorandum of Monthly Performance of Keypunch Operators. DOT/FHWA.

System location: Department of Transportation (DOT).
Federal Highway Administration (FHWA).
Transportation Computer Center.
Operations Division - Data Section.
400 7th Street, SW. Room 2101/2401.
Washington, DC 20590.

Categories of individuals covered by the system: Keypunch and key-to-tape operators.

Categories of records in the system: The System consists of a Computer Printout Report containing various production information.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This information is used as a measurement of employee performance and equipment utilization by TCC managers.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The report is in the form of a computer printout.

Retrievability: System is indexed by employee number. Employee's name does not appear on report.

Safeguards: Report is returned and filed in a folder by Chief, Data Section in a locked file drawer.

Retention and disposal: The reports are kept for a period of one year at which time they are disposed of by a shredding process.

System manager(s) and address: Chief, TCC Operations Group A.
Department of Transportation.
Federal Highway Administration.
Transportation Computer Center
400 7th Street, SW. Room 2401.
Washington, DC 20590.
Chief, TCC Operations Group B.
Department of Transportation.
Federal Highway Administration.
Transportation Computer Center.
400 7th Street, SW. Room 2101.
Washington, DC 20590.

Notification procedure: Same as in 'System Manager' above.

Record access procedures: Same as in 'System Manager' above.

Contesting record procedures: Same as in 'System Manager' above.

Record source categories: The information comes from an employee utilization form filled out by each operator for each job keyed.

DOT/FHWA 219.

System name: Employee Utilization (monthly report). DOT/FHWA.

System location: Department of Transportation.
Federal Highway Administration.
Data Systems Division.
400 7th Street, SW. Room 2410.
Washington, DC 20590.

Categories of individuals covered by the system: All computer programers and systems analysts in the Data Systems Division (DSD), FHWA.

Categories of records in the system: Working file (internal).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Basis for reimbursable charges for services to other organizational elements (computer program maintenance and/or development).
Basis for Planning Staff projections of current and future workloads; estimates, etc.
Can be used to evaluate employee proficiency and productivity.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer printouts and magnetic tape.

Retrievability: Organization, two digit employee numbers, Project 0, operation code, date.

Safeguards: Secure building.

Retention and disposal: Magnetically recorded data is erased on a quarterly basis.
Printouts are usually destroyed on a monthly or quarterly basis.
One complete historical printout is retained by the planning staff for long range reference.

System manager(s) and address: Chief, Data System Division.
Department of Transportation.
Federal Highway Administration.
400 7th Street, SW. Room 2418.
Washington, DC 20590.

Notification procedure: Same as in 'System Manager' above.

Record access procedures: Same as in 'System Manager' above.

Contesting record procedures: Same as in 'System Manager' above.

Record source categories: Data Systems Division computer programers and system analysts provide this information on a weekly basis - accounting for their various work activities plus leave, training, etc.

DOT/FHWA 220.

System name: Payroll Administration. DOT/FHWA.

System location: Department of Transportation (DOT).
Federal Highway Administration (FHWA).
FHWA Region 10.
Office of Federal Highway Projects.
610 E. Fifth Street.
Vancouver, WA 98661.
FHWA Region 8, P.O. Box 25246, Building 40.
Denver Federal Center.
Denver, CO 80225.
Office of Fiscal Services.
400 7th Street, SW.
Washington, DC 20590.

Categories of individuals covered by the system: Employees of the following Headquarters Elements:
Department of Transportation.
Federal Highway Administration.
Office of the Secretary of Transportation.
Federal Railroad Administration.
National Highway Traffic Safety Administration.
Urban Mass Transportation Administration.
Also:
FHWA employees in Regions 8 and 10.
Employees of the National Transportation Safety Board.

Categories of records in the system: Contains all data relative to payrolling employees. Includes time, attendance, leave, gross pay and payroll deduction records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Payrolling and Leave Administration.
The purpose of each use of categories of records within the DOT/FHWA Payroll Administration is to enable the administration of the payroll function and related financial matters in accordance with applicable laws and regulations and to comply with the requirements of the Comptroller General.
System Uses:
1. For transmittal of data to U.S. Treasury to effect issuance of paychecks to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions and other authorized purposes.
2. For reporting tax withholding to Internal Revenue Service and appropriate state and local taxing authoritites.
3. For FICA deductions to the Social Security Administration.
4. For dues deductions to labor unions.
5. For withholdings for Health Insurance, Retirement and Federal Employees Group Life Insurance to the U.S. Civil Service Commission.
6. For charity contribution deductions to agents of charitable institutions.
7. For annual W-2 statements to appropriate taxing authoritites and the individual.
8. For providing a permanent record of actions taken pertinent to the admini- stration of pay, leave and allowances.

9. For any of the routine uses specified in the Prefatory Statement.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File Folders.

Retrievability: By name.

Safeguards: Supervised by Chief, Payroll & Employee Records Section.

Retention and disposal: Schedule 2 of General Records Schedules Payrolling and Pay Administration Records (FPMR 101-11.4).

System manager(s) and address: Chief, Payroll & Employee Records Section.
Department of Transportation.
Federal Highway Administration.
Office of Fiscal Services.
400 7th Street, SW.
Washington, DC 20590.
Appropriate Finance Officer in FHWA Region 8 or 10.

Notification procedure: Same as in 'System Manager' above.

Record access procedures: Same as in 'System Manager' above.

Contesting record procedures: Same as in 'System Manager' above.

Record source categories: Individual on whom the record is maintained, Office of Personnel and Training, Federal, State and City Tax Regulations.

DOT/FHWA 221.

System name: Panel for the Santa Monica Demonstration Project.

System location: Held by Market Facts, Inc.,
100 So. Wacker Dr.,
Chicago, IL 60606.
for the Urban Planning Division.
Federal Highway Administration.
Department of Transportation.
400 7th Street, SW.
Washington, DC 20590.

Categories of individuals covered by the system: A random sample of residents from the Los Angeles area.

Categories of records in the system: Names, addresses and telephone numbers are located on the questionnaire. Information from the questionnaire is stored on magnetic tape and can be accessed by an identifying number (interview number). A list of names, addresses and phone numbers associated with the interview number are separately filed. The questionnaire contains information regarding:
Transportation commute patterns, frequency of mode use, trip characteristics, and satisfaction with various ways of traveling.
Perceptions and importance ratings of modal attributes; tradeoff data on required service levels.
Intentions to alter commuting behavior in response to various transportation system modifications.
Perceptions of service changes based on transportation management actions.
Perceived similarity of transportation modifications.
Sociodemographic information, e.g., age, race, income, sex, children.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Names are associated with the interview numbers after interviews are recorded. Information from the questionnaire is analyzed statistically without reference to any specific individual. The Urban Planning Division will use the data obtained from the surveys in the development of mode choice models, to assess transportation system modifications and to calibrate systematically induced mode shift models. Both the statistical analyses and statistical data will be made available to interested administrators in the Department of Transportation, Federal Energy Administration as well as to the California State Department of Transportation and the Southern California Association of Governments. Other researchers interested in the Santa Monica transportation system management evaluation will also be given access to purely statistical information. Names, addresses and telephone numbers are retained for the sole purpose of locating the sample to be re-interviewed a second time.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The questionnaire is stored in a locked file cabinet in the Chicago Office of Market Facts, Inc. Two individuals have keys to the cabinet, Mr. Frank Griffiths, V.P. of Market Facts, and Mr. Bob Kranz, project analyst. There are three complete copies of the master list with names, and addresses and phone numbers; one is held by the field supervisor in Los Angeles, one by Mr. Bob Kranz, and by Mr. Frank Griffiths. The names and addresses were placed on labels to be attached to the questionnaires, under the supprvision of Mr. Frank Griffiths. No additional copies are to be made without approval of the Urban Planning Division, DOT. Magnetic tapes are stored in the tape libraries at Market Facts, Inc., and at the Department of Transportation. Again data from the tape can only be identified with an individual when the interview number is matched against a master list.

Retrievability: Questionnaire information is stored on tape and is retrievable only through and identifying number (Interview number). This must be matched with a list of interview numbers if it is necessary to associate with names. The questionnaires themselves can be accessed from the files only under the supervision of Mr. Frank Griffiths.

Safeguards: All identifying materials are under lock; only two individuals directly working on the project have keys to the files; a guard is on duty 24 hours a day. The list which assign names to interview numbers is kept separately from the data stored on tape.

Retention and disposal: The record list of names and interview numbers will be retained until Phase II interviewing and coding is completed. The questionnaire will be kept in locked-storage for three years to ensure accessibility if significant errors in transcription were to be determined.

System manager(s) and address: Ricardo dePaul Dobson and Mary Lynn Tischer
HHP-22.
Urban Planning Division.
FHWA.
DOT.
400 7th Street, SW.
Washington, DC 20590.

Notification procedure: Inquiries should be directed to the System Managers.

Record access procedures: Contact System Managers for information on procedures for gaining access to records.

Contesting record procedures: Contact System Managers for information on procedures for confesting records.

Record source categories: Private list with no transmission expected.

DOT/FRA 100.

System name: Alaska Railroad Examination of Operating Personnel. DOT/FRA.

System location: Department of Transportation (DOT).
Federal Railroad Administration (FRA).
The Alaska Railroad.
Pouch 7-2111.
Anchorage, Alaska 99510.

Categories of individuals covered by the system: Alaska Railroad operating employees.

Categories of records in the system: Examination papers on rules and safety practices.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Determination of employees understanding of safety practices and rules of the Alaska Railroad.
Qualification for employment.
Review for promotion.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Kept under lock and key.
Only authorized Alaska Railroad officials can handle the examinations.

Retrievability: By name.

Safeguards: Access to examinations limited to Alaska Railroad officials only.

Retention and disposal: Examinations kept during employment of individual with Alaska Railroaad; upon termination, disposed of by destruction by either burning or shredding.

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System manager(s) and address: Operations Officer,
Department of Transportation,
Federal Railroad Administration,
The Alaska Railroad,
Pouch 7-2111,
Anchorage, Alaska 99510.

Notification procedure: Individuals may request from the System Manager whether or not this system of records pertains to him.

Record access procedures: The System Manager may allow an individual to review his score on the examination.

Contesting record procedures: Contest of these records, if appropriate, is through the System Manager.

Record source categories: Official examination papers.

Systems exempted from certain provisions of the act: This system is exempted under Section 552a(K)6, 'testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service the disclosure of which would compromise the objectivity or fairness of the testing or examination process.'

DOT/FRA 101.

System name: Alaska Railroad Personnel and Pay Management Information System DOT/FRA.

System location: Department of Transportation (DOT),
Federal Railroad Administration (FRA),
The Alaska Railroad,
Pouch 7-2111,
Anchorage, Alaska 99510.

Categories of individuals covered by the system: Alaska Railroad officials and employees.

Categories of records in the system: Time, attendance and leave.
Payroll data
Payroll computation and history
Personnel records.
Personnel Management Records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Personnel Status Reports.
Personnel Strength Reports.
Payroll computation and related reports.
Record of leave accrued and used.
Labor distribution and accounting reports.
Personnel management and budget reports.
Reports to Internal Revenue Service (IRS), U.S. Treasury, Civil Service Commission (CSC), etc.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Integrated data based on mag-tape.

Retrievability: By Name or I.D. Number

Safeguards: Access to the data base is limited to computer programs. Outputs from computer programs are disclosed only to employees or officials in discharge of their official duties. Primary control is achieved through a separation of functions wherein no one person is responsible for the input processing and auditing of any given transaction.

Retention and disposal: Individual records are deleted from the automated data base at the end of the calendar year in which Alaska Railroad employment is terminated. Input document and printed outputs are disposed of by burning or shredding or transfer to a records center in accordance with established records disposition schedules.

System manager(s) and address: General Manager.
Department of Transportation,
Federal Railroad Administration,
The Alaska Railroad,
Pouch 7-2111,
Anchorage, Alaska 99510.

Notification procedure: The individual who feels that this system of records pertains to him may present himself to the General Manager, The Alaska Railroad requesting confirmation.

Record access procedures: Contact the system manager for access.

Contesting record procedures: In case of contest employee is instructed to first contact the immediate supervisor. Procedures are established which permit an employee to pursue an appeal to the General Manager, The Alaska Railroad, then to the U.S. Civil Service Commission.

Record source categories: Official Personnel Folders.
Time, attendance and leave records.
Organizational code structure.
Computations and historical record of pay.

DOT/FRA 102.

System name: Alaska Railroad Security and Freight Claims Investigatory Files. DOT/FRA.

System location: Department of Transportation (DOT),
Federal Railroad Administration (FRA),
The Alaska Railroad,
Pouch 7-2111,
Anchorage, Alaska 99510.

Categories of individuals covered by the system: Employees of the Alaska Railroad.

Categories of records in the system: Investigatory files.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used in routine investigatory work for the DOT/Alaska Railroad Security and Freight Claims division.
Review by General Manager or his designee.
Review by General Counsel, Alaska Railroad.
May be forwarded to U.S. Attorney to assist in prosecution where warranted.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Locked in fire class C Safe with combination lock.

Retrievability: By name.

Safeguards: In addition to the combination safe only two officials of the railroad maintain the combination.

Retention and disposal: Records are maintained in the official safe for two years, then transferred to secured holding area for two years and then destroyed by burning or shredding.

System manager(s) and address: Chief, Security and Claims,
Department of Transportation,
Federal Railroad Administration,
The Alaska Railroad,
Pouch 7-2111,
Anchorage, Alaska 99510.

Notification procedure: Individual may confirm through the System Manager whether or not the System contains records on him or her.

Record access procedures: Access of records requires the individual to contact in person or in writing the System Manager. The records in this system are exempted by Section 552(k) (2) if investigatory matter is being pursued in a court case.

Contesting record procedures: However, contest procedures through the System Manager and the the General Manager are available if the investigatory files are maintained for general purposes. Confidentiality of sources will be maintained.

Record source categories: Personal information provided by individual.
Confidential Statements.
Photographs.

Systems exempted from certain provisions of the act: This system of records is exempted under Section 552a(1) (2); 'investigatory material compiled for law enforcement purposes other than material within the scope of subsection (j)(2) of this section: Provided, however, that if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal Law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.'

DOT/FRA 103.

System name: Application for Operator's (Vehicle) Identification Card. DOT/FRA.

System location: Department of Transportation (DOT),
Federal Railroad Administration,
Office of Administrative Operations, RAD-40,
2100 2nd Street, SW, Room 4504,
Washington, DC 20590.

Categories of individuals covered by the system: FRA employees applying for GSA motor vehicle operator license.

Categories of records in the system: Applications for motor vehicle operator license.
Physical fitness inquiry.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To issue operator's license.
Ensure applicants meet requirements.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Copies of basic documents.

Retrievability: By name.

Safeguards: Kept in file drawer.

Retention and disposal: Retained for three years. Disposal by shredding or burning.

System manager(s) and address: Acting Director, Office of Administrative Operations, RAD-40,
Department of Transportation,
Federal Railroad Administration,
2100 2nd Street, SW, Room 4504,
Washington, DC 20590.

Notification procedure: Inquiries may be addressed to the System Manager either in person or in writing.

Record access procedures: Access of records requires the individual to contact in person or write the System Manager.

Contesting record procedures: Constest of a record is also through the System Manager, if resolvement is not possible through the System Manager an appeal may be filed in writing with the Secretary of Transportation addressed to the General Conounsel as follows:
Department of Transportation,
Federal Railroad Administration,
Office of the Chief Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Applications received from individuals for operator's license.
Physical fitness inquiry completed by applicant and signed by physician.

DOT/FRA 104.

System name: Confidential Statement of Employment and Financial Interest. DOT/FRA.

System location: Department of Transportation (DOT),
Federal Railroad Administration (FRA),
Office of the Chief Counsel,
400 7th Street, SW, Room 5101,
Washington, DC 20590.

Categories of individuals covered by the system: FRA Permanent Employees GS-13 and above, supervisors and procurement personnel.

Categories of records in the system: Standard Form on Employment and Financial Interest.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Review of Financial Interest to Employment.
Administrative References.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All records are maintained on standard form in a locked file cabinet located in the Chief Counsel's Office.

Retrievability: Records are indexed by name.

Safeguards: Physical security consists of locked file cabinet; records provided to individuals only after physical screening.

Retention and disposal: Records are maintained for a one year period. Upon receipt of new statements old records are removed and destroyed.

System manager(s) and address: Chief Counsel,
Department of Transportation,
Federal Railroad Administration,
Office of Chief Counsel,
400 7th Street, SW, Room 5101,
Washington, DC 20590.

Notification procedure: Requests for information about this system should be addressed to the System Manager either in person or in writing. Prior employees must provide notarized signature or provide valid social security number.

Record access procedures: Access to records requires the individual to contact in person or write the System Manager.

Contesting record procedures: Contest of a record is also through the System Manager. If a change is valid after agency review it will be made as requested.

Record source categories: Information is provided by the individual on Standard Form DOT F 3700.1, Confidential Statement of Employment and Financial Interest.

DOT/FRA 105.

System name: Employee Travel Records. DOT/FRA.

System location: Department of Transportation (DOT),
Federal Railroad Administration (FRA),
Office of Administrative Operations, RAD-40,
2100 2nd Street, SW, Room 4504,
Washington, DC 20590.

Categories of individuals covered by the system: All FRA employees.
Private persons issued invitational travel orders to confer on government problems.

Categories of records in the system: Travel logs.
Individual travel folders.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Provide back-up to support FRA General Accounting Ledger.
Analysis of travel trends.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in a file drawer secured with lock and key.

Retrievability: System is indexed by name.

Safeguards: Physical security maintained by secured file system.
Individuals requesting individual travel folders are screened by accounting personnel.

Retention and disposal: Records are maintained three years then forwarded to the Federal Records Center.

System manager(s) and address: Accounting Officer,
Department of Transportation,
Federal Railroad Administration,
Accounting Division,
2100 2nd Street, SW, Room 4107,
Washington, DC 20590.

Notification procedure: Requests for information about this system should be addressed to the System Manager either in person or in writing.

Record access procedures: Access of records requires the individual to contact in person or in writing the System Manager.

Contesting record procedures: Initial contest of any record will be with the System Manager; if resolvement at this level is not satisfactory the individual may file an appeal in writing with the Secretary of Transportation addressed as follows:
Department of Transportation,
Federal Railroad Administration,
Office of the Chief Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Individual Travel Vouchers.

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DOT/FRA 106.

System name: Occupational Safety and Health Reporting System. DOT/FRA.

System location: Department of Transportation (DOT),
Federal Railroad Administration (FRA),
Office of Administration,
Office of Administrative Operations, RAD-40,
2100 2nd Street, SW, Room 4504,
Washington, DC 20590.

Categories of individuals covered by the system: FRA employees (injury-illnesses).

FRA employees involved in government property accidents.

Categories of records in the system: Federal Occupational Injuries and Illnesses Survey (Standard Form OSHA-102).

Departmental Accident/Injury Reports DOT Forms 3902.1-8.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Maintain accident records per departmental orders.

Provide data to Office of the Secretary.
Develop causative trends.
Use for corrective accident prevention.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on copies of basic documents.

Retrievability: By name.

Safeguards: Physical security consists of file drawer with data; records provided to authorized individuals by FRA Safety Manager after physical screening.

Retention and disposal: Records are retained for five years. Documents are then destroyed by shredding or burning.

System manager(s) and address: FRA Safety Manager, Department of Transportation,
Federal Railroad Administration,
Office of Administration,
Office of Administrative Operations, RAD-40,
2100 2nd Street, SW, Room 4504,
Washington, DC 20590.

Notification procedure: Inquiries may be addressed to the Systems Manager either in person or in writing. If written the individual must provide a notarized signature, or provide a valid social security number.

Record access procedures: Access to records requires the individual to contact in person or write the System Manager.

Contesting record procedures: Contest of a record is also through the System Manager. If a change is valid after System Manager review it will be made as requested. If resolvement is not possible at this level an appeal may be filed in writing with the Secretary of Transportation addressed as follows:

Department of Transportation,
Federal Railroad Administration,
Office of the Chief Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Documents provided by the individual.

DOT/FRA 109.

System name: Office of Safety Past Employees Files. DOT/FRA.

System location: Department of Transportation (DOT),
Federal Railroad Administration (FRA),
Office of Safety, RSS-2,
2100 2nd Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: Past employees of the Office of Safety.

Categories of records in the system: Personnel information provided from Office of Safety Personnel Convenience File.

Standard Form 7-B listing name, salary, position title, organization, etc.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Provides historical reference on past Office of Safety employees.
Verification of employment of past employees.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Record maintained by locked conserv-a-file.

Retrievability: By name.

Safeguards: Physical security maintained by locked conserv-a-file.

Personnel are screened by Secretary, Associate Administrator or Deputy Administrator to insure that records are not released to unauthorized personnel.

Retention and disposal: Record maintained current at all times. No disposal.

System manager(s) and address: Deputy Associate Administrator for Safety,

Department of Transportation,
Federal Railroad Administration,
Office of Safety, RRS-2,
2100 2nd Street, SW,
Washington, DC 20590.

Notification procedure: Requests for information about this system may be addressed to the System Manager either in person or in writing.

Record access procedures: Access of records requires the individual to contact in person or in writing the System Manager.

Contesting record procedures: Initial contest of any record will be with the System Manager if resolvement at this level is unsatisfactory. The individual may file an appeal in writing with the Secretary of Transportation addressed as follows:

Department of Transportation,
Federal Railroad Administration,
Office of the Chief Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Standard GSA Forms, SF-50, SF-1126.

DOT/FRA 112.

System name: Personnel and Pay Management Information System. DOT/FRA.

System location: Department of Transportation (DOT),
Federal Railroad Administration (FRA),
Office of Personnel and Training, RAD-10,
400 7th Street, SW, Room 5406,
Washington, DC 20590.

Categories of individuals covered by the system: Employees of the Federal Railroad Administration.

Categories of records in the system: Payroll data.

Personnel records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Personnel Status Reports.

Personnel Strength Reports.
Payroll computations and related reports.
Personnel Management and Budget Reports.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Integrated data based on magnetic tape, reports are prepared on computer readable form.

Retrievability: By name or I.D. number.

Safeguards: Access to programs limited to employees or officials of the Transportation Computer Center (TCC).

Retention and disposal: Individual records are deleted from automated data base at end of calendar year in which separation occurs.

Computer readable programs are destroyed in accordance with established internal procedures.

System manager(s) and address: Director, Office of Personnel and Training, RAD-10,

Department of Transportation,
Federal Railroad Administration,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Any individual who feels that this system of records pertains to him may visit or write the System Manager at the address in 'System Manager: requesting confirmation.

Record access procedures: Contact the System Mananger for access.

Contesting record procedures: Employee should, in case of contest, contact the System Manager. Procedures are established which permit an employee to pursue appeal through agency levels to U.S. Civil Service Commission.

Record source categories: Official personnel folders.

Time, attendance and leave records.
Organizational code structure.
Computations and historical records.

DOT/FRA 113.

System name: Regional Personnel Convenience Files. DOT/FRA.

System location: Department of Transportation (DOT),
Region 2, Federal Railroad Administration (FRA),
Independence Building, Room 1020,
434 Walnut Street,
Philadelphia, PA 19106.
Region 3, Federal Railroad Administration,
1568 Willingham Drive,
College Park, GA 30337.
Region 4, Federal Railroad Administration,
536 South Clark Street,
Chicago, IL 60605.
Region 5, Federal Railroad Administration,
819 Taylor Street, Room 11A23,
Fort Worth, TX 76102.
Region 6, Federal Railroad Administration,
450 Multnomah Building,
319 S. W. Pine Street,
Portland, OR 97204.
Region 7, Federal Railroad Administration,
2 Embarcadero, Suite 630,
San Francisco, CA 94111.
Region 8, Federal Railroad Administration,
911 Walnut Street,
Kansas City, MO 64106.

Categories of individuals covered by the system: Federal Supervisory Inspectors.

Federal Safety Inspectors.
Federal clerical personnel.
Regional Directors.

Categories of records in the system: Standard Form 52.

Standard Form 171.
Performance evaluations.
Within grade increases.
Travel authority and vouchers.
Use of Government-owned vehicles and authority.
Training records.
Payroll and leave records.
Copies of commendations and awards.
Work measurement records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

For the individual's use.
Schedule training.
Statistics to recommend personnel actions.
Administrative reference material.
Budgetary information material.
Technical information material.
Work territory assignments.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained from copies of original documents.

Retrievability: The system is indexed by name.

Safeguards: Physical security is maintained by locked file cabinets.

Any individual requesting data is screened by the Regional Director's secretary.

Retention and disposal: Personnel records are retained until employee is terminated, retired, or transferred.

Records are then disposed of as trash.
Records used for budgetary purposes are retained for 1 year then disposed of.

System manager(s) and address: The responsible System Manager for each regional system is the Regional Director. The location is identical to those previously listed.

Notification procedure: The individual may present himself to the Regional Office (Regional Director) to inquire about whether this system of records applies to him either in person or in writing.

Record access procedures: An individual may gain access to his records by request to the System Manager.

Contesting record procedures: Contest of these records will be at the Regional level, if resolvement is not satisfactory to the individual at that level an appeal may be field in writing with the Secretary of Transportation addressed as follows:

Department of Transportation,
Federal Railroad Administration,
Office of the Chief Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record source categories:

Informational copies provided by the individual.
Informational copies provided by Office of Personnel.
Informational copies generated by on-going work programs.

DOT/FRA 114.

System name: Transportation Test Center Employee Service Record File. DOT/FRA.

System location: Department of Transportation (DOT),
Federal Railroad Administration (FRA),
Transportation Test center,
Pueblo, CO 81001.

Categories of individuals covered by the system: Federal employees of the Transportation Test Center.

Categories of records in the system: Personal data submitted by individuals.

Personnel actions.
Training data.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Record of personal data on SF 7.

Computer service computations dates.
Review performance ratings.
Follow-up dates for within-grade pay increases.
Training data used to determine training needs.
Awards information.
Used to prepare manpower and budget reports and requests.
Used in preparing requests for personnel actions.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Service records are maintained by a clerk during working hours. File cabinet is secured by lock during non-duty hours.

Retrievability: By name.

Safeguards: Physical Security is maintained by locked file cabinet.

Physical screening is insured by clerk who cannot release records without approval.

Retention and disposal: Each individual's service record is maintained until termination of employment. After termination record is maintained for one year and then destroyed.

System manager(s) and address:

Director, Transportation Test Center,
Department of Transportation,
Federal Railroad Administration,
Transportation Test Center,
Pueblo, CO 81001.

Notification procedure: The individual who feels that this system of records pertains to him may write or present himself to the Director, Transportation Test Center (System Manager) requesting confirmation.

Record access procedures: An individual may gain access to his records by request to the System Manager.

Contesting record procedures: Contest of these records, if appropriate, may be settled by informal communication. If this is unsatisfactory to the individual, the person may file an appeal in writing with the Secretary of Transportation addressed as follows:

Department of Transportation,

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Federal Railroad Administration,
Office of the Chief Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Information supplied by employee.

Personnel actions, SF 50.
Evaluation and training forms.
Information supplied by supervisors.

DOT/FRA 115.

System name: Travel Advance Records. DOT/FRA.

System location: Department of Transportation (DOT),

Federal Railroad Administration (FRA),
Office of Administrative Operations, RAD-40,
2100 2nd Street, SW, Room 4504,
Washington, DC 20590.

Categories of individuals covered by the system: All FRA employees.

Private persons traveling on government request.

Categories of records in the system: Travel Advance Card.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Maintain accounting records.

Ensure collection of amounts due to the U.S.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file drawer.

Retrievability: By name

Safeguards: Records controlled by Accounting Division personnel.

Retention and disposal: Retained three years then forwarded to Federal Record Center with other accounting records.

System manager(s) and address: Accounting Officer,

Department of Transportation,
Federal Railroad Administration,
Accounting Division,
2100 2nd Street, SW,
Washington, DC 20590.

Notification procedure: Individuals may contact the System Manager to confirm whether or not the system contains a record on them.

Record access procedures: An individual may gain access to his records by request to the System Manager.

Contesting record procedures: Content of these records may be settled with the System Manager. If this is unsatisfactory to the individual, the person may file an appeal in writing with the Secretary of Transportation addressed as follows:

Department of Transportation,
Federal Railroad Administration,
Office of the Chief Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Travel advance card signed by individual, forwarded to Accounting Division.

DOT/FRA 116.

System name: Work Measurement System. DOT/FRA.

System location: Department of Transportation (DOT),

Federal Railroad Administration (FRA),
Office of Management Systems, RAD-20,
400 7th Street, SW, Room 5418,
Washington, DC 20590.

Categories of individuals covered by the system: All employees of the Federal Railroad Administration.

Categories of records in the system: Work Measurement Reports submitted by individuals.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Staffing and manpower justifications.
Budget presentations.
Review of performance efficiency and effectiveness to FRA objectives.
Reports to BLS, JFMIP, and other interested productivity oriented agencies.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape (mag-tape).

Retrievability: By payroll identification number

Safeguards: Computer safeguards maintained by DOT Transportation programs are sensitive file retrieval computer systems.

Retention and disposal: Mag-tape is kept for 5 years, computer printouts retained 2 years. Disposal by usual disposal methods.

System manager(s) and address: Director, Office of Management Systems, RAD-20,

Department of Transportation,
Federal Railroad Administration,
400 7th Street, SW, Room 5418,
Washington, DC 20590.

Notification procedure: Inquiries may be addressed to the System Manager either in person or in writing.

Record access procedures: Access of records requires the individual to contact in person or write the System Manager.

Contesting record procedures: Contest of a record is also through the System Manager. If resolvement is not possible through the System Manager, an appeal may be filed in writing with the Secretary of Transportation addressed as follows:

Department of Transportation,
Federal Railroad Administration,
Office of the Chief Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Input from FRA employees on FRA Form F 53, Work Measurement Report.

DOT/FRA 118.

System name: Transportation Test Center Cost Tracking System DOT/FRA.

System location: Department of Transportation (DOT),

Federal Railroad Administration (FRA),
Transportation Test Center,
Pueblo, CO 81001.

Categories of individuals covered by the system: Operations and Maintenance (O&M) contractor employees.

Categories of records in the system: Employee weekly time cards

Employee work order charges.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For the individual's use.

Administrative reference material.
Budgetary information material.
Technical information material.
DOT/FRA and other Government agencies that need Project/Work Order Cost Accounting Data.
Statistical purposes such as labor utilization assessment.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: O&M contractor employee labor distribution records are stored on magnetic tape files.

Retrievability: The system is indexed by name and employee clock number.

Safeguards: Primary system record input and output control is assigned to the Operations and Maintenance Contractor Accounting Office which functions as a single point interface with data processing operations.

Retention and disposal: Employee labor distribution records are retained in fiscal year transaction history files on magnetic tapes. Input document (employee time cards) and printed output are disposed of after three years from termination of the O&M contract.

System manager(s) and address: Director, Transportation Test Center,

Department of Transportation,
Federal Railroad Administration,
Pueblo, CO 81001.

Notification procedure: Any individual who wishes to inquire about whether this system of records applies to him may request confirmation from the System Manager.

Record access procedures: An individual may gain access to his records by request to the System Manager who will notify the appropriate O&M Project Manager.

Contesting record procedures: Contest of record content will be with the System Manager. If resolvement at this level is not satisfactory the individual may file an appeal in writing with the Secretary of Transportation addressed as follows:

Department of Transportation,
Federal Railroad Administration,
Office of the Chief Counsel,
400 7th Street, SW, Room 5101,
Washington, DC 20590.

Record source categories: Employee time cards.

DOT/FRA 119.

System name: Transportation Test Center Operations and Maintenance Contractor Personnel Information System. DOT/FRA.

System location: Department of Transportation (DOT),

Federal Railroad Administration (FRA),
Transportation Test Center,
Pueblo, CO 81001.

Categories of individuals covered by the system: Operations and Maintenance (O&M) contractor officials and employees.

Categories of records in the system: Time, attendance, and leave data.

Payroll data.
Payroll computation and history.
Personnel records.
Personnel management records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Personnel status reports.

Personnel strength reports.
Payroll computation and related reports.
Accrued leave and use.
Labor distribution and accounting reports.
Personnel management, budget, and turnover reports.
Reports to IRS, commercial banks, retirement funds, etc.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Integrated data base on magnetic tape.

Retrievability: By employee name, unit and clock number.

Safeguards: Access to the data base is limited to computer programs.

Outputs from computer programs are disclosed only to employees or officials in discharge of their official duties.
Primary control is achieved through a separation of functions wherein no one person is responsible for the input processing and auditing of any given transaction.

Retention and disposal: Individual records are deleted from the automated data base at the end of the calendar year in which Transportation Test Center employment is terminated.

Input documents and printed outputs are disposed of by shredding, burning or transfer to a records center per agency schedules.

System manager(s) and address: Director, Transportation Test Center,

Department of Transportation,
Federal Railroad Administration,
Pueblo, CO 81001.

Notification procedure: Any individual who wishes to inquire about whether this system of records applies to him may request confirmation from the System Manager.

Record access procedures: An individual may gain access to his records by request to the System Manager who will notify the appropriate O&M Project Manager.

Contesting record procedures: Contest of record content will be with the System Manager. If resolvement at this level is not satisfactory the individual may may appeal in writing to the Secretary of Transportation, addressed as follows:

Department of Transportation,
Federal Railroad Administration,
Office of the Chief Counsel,
400 7th Street, SW, Room 5101,
Washington, DC 20590.

Record source categories: Official Personnel folders.

Time, attendance and leave records.
Organizational code structure.
Computations and historical record of pay.

DOT/NHTSA 400.

System name: National Highway Safety Advisory Committee Membership/Nominee Files. DOT/NHTSA.

System location: Department of Transportation (DOT),

National Highway Traffic Safety Administration (NHTSA),
400 7th Street, SW, Room 5215-D,
Washington, DC 20590.

Categories of individuals covered by the system: Members, past members, and nominees for membership on a committee dealing with highway safety.

Categories of records in the system: Biographical information (date and place of birth; education; current and past experience)

Appointment papers (oath, withholding form)
Photograph.
Travel vouchers.
Compensation payment forms.
Miscellaneous correspondence from and to members.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Files are maintained on members and nominees for use in specific situations, i.e., biographical information to be used for meetings, conferences, news articles when pertinent and when needed for recommendations for membership on committee.

Used only by support staff members.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: By individual name

Safeguards: Locked files.

Retention and disposal: Records are stored indefinitely.

System manager(s) and address: Executive Secretary,

Department of Transportation,
National Highway Traffic Safety Administration,
400 7th Street, SW, Room 5215,
Washington, DC 20590.

Notification procedure: Department of Transportation,

National Highway Traffic Safety Administration,
Office of the Executive Secretary,
Privacy Act Coordinator,
400 7th Street, SW, Room 5217,
Washington, DC 20590.

Record access procedures: See 'Notification Procedure' above

Contesting record procedures: See 'Notification Procedure' above

Record source categories: All information has been obtained from the individual upon appointment to the advisory committee, or, in the case of nominees, on that individual's behalf by another person or organization.

DOT/NHTSA 401.

System name: Docket System. DOT/NHTSA.

System location: Department of Transportation (DOT),

National Highway Traffic Safety Administration (NHTSA),
Informatics Inc.,
6000 Executive Boulevard,
Rockville, MD 20852

Categories of individuals covered by the system: Individuals who have commented on notices of NHTSA appearing in the Federal Register.

Authors of reports which are added to the docket as background information.

Categories of records in the system: Summary of the nature of the comment or the report, date written and filed, author affiliation.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To gather information on responses to rules promulgated by NHTSA. Users are both NHTSA staff members and public.

Other uses include searching for background data on standards, determining areas for further research, and preparation for litigation.
See Prefatory Statement of General Routine Uses.

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Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape.

Retrievability: By individual name.

Safeguards: Records are maintained in a Technical Reference Library.

Retention and disposal: Indefinitely held.

System manager(s) and address: Chief, Technical Services Division, Department of Transportation,
National Highway Traffic Safety Administration,
Office of Management System,
400 7th Street, SW,
Washington, Dc 20590.

Notification procedure: Department of Transportation,
National Highway Traffic Safety Administration,
Office of Management Systems,
Technical Reference Branch,
400 7th Street, SW, Room 5108,
Washington, DC 20590.

Record access procedures: Same as 'Notification Procedure' above.

Contesting record procedures: Same as 'Notification Procedure' above.

Record source categories: From letters freely sent to NHTSA by the public; publications used by engineers in writing standards.

DOT/NHTSA 402.

System name: Highway Safety Literature Personal Author File. DOT/NHTSA.

System location: Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
Informatics Inc.,
6000 Executive Boulevard,
Rockville, MD 20852.

Categories of individuals covered by the system: Writers of technical articles and reports who have authored publications selected for inclusion in the abstract journal Highway Safety Literature.

Categories of records in the system: Bibliographic information giving title of article, book, or paper written; journal or other publication in which it appears; date of publication; abstract.

The file is similar in nature to the card catalog of a library.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Users are principally NHTSA staff members and their contractors who require literature searches prior to performing research.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape.

Retrievability: By individual name.

Safeguards: Records are stored in file cabinets.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address: Chief, Technical Services Division,
Department of Transportation,
National Highway Traffic Safety Administration,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
National Highway Traffic Safety Administration,
Technical Reference Branch,
400 7th Street, SW, Room 5108,
Washington, DC 20590.

Record access procedures: Same as 'Notification Procedure' above.

Contesting record procedures: Same as 'Notification Procedure' above.

Record source categories: Publications related to highway safety.

DOT/NHTSA 403.

System name: Active Contract Run. DOT/NHTSA.

System location: Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
400 7th Street, SW, Room 5301,
Washington, DC 20590.

Categories of individuals covered by the system: NHTSA employees.

Categories of records in the system: List of names of contract specialists and contract technical managers managing active NHTSA contracts and agreements.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used in routine contract administration.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Punch cards.

Retrievability: By individual name.

Safeguards: Records are maintained in a secured offfice.

Retention and disposal: Retained for life of contract; destroyed when no longer needed.

System manager(s) and address: Director, Office of Contracts and Procurement,
Department of Transportation,
National Highway Traffic Safety Administration,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
National Highway Traffic Safety Administration,
Director, Office of Contracts and Procurement,
400 7th Street, SW,
Washington, DC 20590.

Record access procedures: Department of Transportation,
National Highway Traffic Safety Administration,
Director, Office of Contracts and Procurement,
400 7th Street, SW,
Washington, DC 20590.

Contesting record procedures: Department of Transportation,
National Highway Traffic Safety Administration,
Director, Office of Contracts and Procurement,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Employee job assignments.

DOT/NHTSA 404.

System name: Alcohol Projects. DOT/NHTSA.

System location: In connection with the Alcohol Safety Action Program of the:
Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHT);
Systems of records are maintained at various locations, as follows:
ASAP Staff Office and ASAP Probation,
22nd floor, City Hall,
Kansas City, MO 64106.
School for Alcohol Safety,
Greater Kansas City Area Safety Council,
714 East 12th Street,
Kansas City, MO 64106.
Community Alcohol Programs,
VFW Building,
406 East 34th Street,
Kansas City, MO 64111.
Kansas City, Missouri, Police Department,
Computer Division,
1125 Locust Street,
Kansas City, MO 65106. The following offices in Sioux City, Iowa at the address immediately following: ASAP Police, Court Service Office, Social Science Research Center, Woodbury County Sheriff's Office, Siouxland Council on Alcoholism, City Data Processing Center, County Attorney.
ASAP,
Benson Building,
Room 246,
Sioux City, IA 51101.
Siouxland Council on Alcoholism,
St. Vincent Hospital, Room 210,
Box 3168,
Sioux City, IA 51102.

Backup Disk File,
Vault in Lewis Hall,
Morningside College,
Sioux City, IO 51106 The following offices in Puerto Rico: Courts Administration, Adult Probation Dept., Dept. of Transportation and Public Works, Dept. of Alcohol and Drug Addiction, Institute of Legal Medicine, Dept. of Health, Police Dept.
The following offices in Nassau County, New York: Nassau County Police Dept., Nassau County Traffic Safety Board, Nassau County Central Traffic Court, N.Y. Dept. of Motor Vehicles.
Idaho Traffic Safety Commission,
Statehouse,
Boise, ID.
Department of Motor Vehicles,
Columbus, GA.
Department of Motor Vehicles,
Richland County, SC.
Department of Motor Vehicles,
Tampa, FL.
University of North Carolina,
Highway Safety Research Center (HSRC),
Chapel Hill, NC 27514.
Alcohol Safety Action Project,
17 South Second Avenue, Room 402,
Phoenix, AZ 85003.
Management Information System,
City of Phoenix,
251 West Washington Street,
Phoenix, AZ 85003.
Human Factors Laboratory,
Department of Psychology,
Old Union Building,
University of South Dakota,
Vermillion, SD 57069.
City Court Rehabilitation-Probation Center,
17 South Second Avenue,
Phoenix, AZ 85003.
Department of Highways,
Division of Highway Safety,
Office of Alcohol-Driving Countermeasures,
4201 E. Arkansas Avenue,
Denver, CO 80222.
Southwest Research Institute,
Dept. 22,
8500 Culebra Road,
P.O. Drawer 28510,
San Antonio, Texas 78284.
Alcohol Safety Action Project,
140 Main Plaza,
San Antonia, TX 78205.
McDonnell Douglas Automation Company,
Huntington Beach, CA.
San Antonio Alcohol Safety Action Project,
Problem Drinker Evaluation Center,
200 Main Plaza, Suit 104,
San Antonio, TX 78105.
Corporate Computer Center,
4100 Chain Bridge Road,
Fairfax, VA 22030
Mississippi State University,
Social Science Research Center,
Mississippi State, MS 39762.
Program on Alcohol and Drug Abuse,
66 South Street,
Concord, NH 03301.
New Hampshire Alcohol Safety Action Project,
105 Loudon Road,
Concord, NH 03301.
Dunlap and Associates, Inc.,
One Parkland Drive,
Darien, CT 06820.
Hennepin County ASAP,
625 Second Avenue South, Room 404,
Minneapolis, MN 55402.
STR Project,
11a Government Center,
Minneapolis, MN 55402.
Data Processing,
City Hall,
Stockton, CA 95202
Bureau of Motor Vehicle Services,
District of Columbia,
Department of Transportation,
301 C Street, NW,
Washington, DC 20001
ASAP Offices,
142 High Street,
Portland, ME 04101.
ASAP,
211 Congress Street,
Ninth Floor,
Boston, MA 02110.
Project CRASH,
Division of Alcohol Services,
Department of Mental Health,
Waterbury, VI 05676.
Los Angeles County Alchohol Safety Action Project,
311 South Spring Street, Suite 700,
Los Angeles, CA 90013.
New Orleans ASAP,
545 St. Charles Avenue,0302,
New Orleans, LA 70130.
Oklahoma City ASAP,
Hightower Building, Suite 529,
105 North Hudson,
Oklahoma City, OK 73102.
Puerto Rico ASAP,
Traffic Safety Commission,
P.O. Box F.I.,
Santurce, PR 00910.

Categories of individuals covered by the system: Vehicle operators having committed alcohol-related driving violations.

Categories of records in the system: DMV records, police arrest and citation records, court and probation records, various official and social services rehabilitation records, and voluntary personal interviews.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records are used to evaluate the status of activities within a project, including the status of different groups for purposes of subsequent comparison and analysis, such as recidivism rates. Reports and management information are compiled, using statistical and comparative analysis of the records, which may be released to relevant authorities mon- itoring the progress of the project.

Data contained in these systems of records may be routinely distributed to the lower courts,police departments, public health services, probation authorities, or juvenile and rehabilitation services within the system if that agency's purpose for maintaining the records is compatible with the Project usage.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Punch-card, disk, paper files, magnetic tape.

Retrievability: Individual name, ID number, social security number.

Safeguards: Locked file cabinet, code and restricted access.

Retention and disposal: Two years after project termination.

System manager(s) and address: Chief, Demonstration Management Division,
Department of Transportation,
National Highway Traffic Safety Administration,
Office of Driver and Pedestrian Programs,
400 7th Street, SW, Room 5130,
Washington, DC 20590.

Notification procedure: Same as Location.

Record access procedures: Letter of request to the System Manager (see address above) with notarized statement as to personal identification.

Contesting record procedures: See address of 'System Manager' above.

Record source categories: Local law enforcement, court, health, and motor vehicle division records.

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DOT/NHTSA 405.

System name: Debarred Bidders List. DOT/NHTSA.

System location: Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
400 7th Street, SW, Room 5301,
Washington, DC 20590.
Region IV Headquarters,
1720 Peachtree Road, NW,
Suite 400,
Atlanta, GA 30309.
Region IX Headquarters,
3140 Federal Building,
915 Second Avenue,
Seattle, WA 98174.

Categories of individuals covered by the system: Various individuals, who have committed offenses which require that they be barred from bidding or employment with the Federal government.

Categories of records in the system: Printed Notice from FHWA. Names of individuals.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to identify ineligible individuals debarred from bidding on U.S. Government requirements.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy of original document.

Retrievability: If an individual is the bidder, retrieved by individual name.

Safeguards: Locked file.

Retention and disposal: Records are maintained until an updated issuance is received.

Disposal is by manual shredding.

System manager(s) and address: Director, Office of Contracts and Procurement,
Department of Transportation,
National Highway Traffic Safety Administration,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Apply to address in 'System Location' above.

Record access procedures: Same as 'System Manager' above.

Contesting record procedures: Same as 'System Manager' above.

Record source categories: From the Federal Highway Administration (FHWA) and the Federal Aviation Administration (FAA).

DOT/NHTSA 406.

System name: Diagnostic Inspection Demonstration Project. DOT/NHTSA.

System location: Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
Computer Sciences Corporation,
6231 Leesburg Pike,
Falls Church, VA 22046.
State Demonstration Project Office,
Huntsville, AL.
Demonstration Project Office,
Washington, DC.
State Demonstration Project Office,
Chattanooga, TN.
Demonstration Project Office,
San Juan, PR.
State Demonstration Project Office,
Phoenix, AZ.
Department of Transportation,
Commonwealth of Puerto Rico,
San Juan, PR.

Categories of individuals covered by the system: Auto vehicle owners.

Categories of records in the system: For each automobile inspected in the program, the diagnostic inspection records contain pass/fail/advise information on each safety or emissions related item inspected at each state inspection facility. These inspection items include:

Federal vehicle-in-use inpsection standards and EPA emission standards.
Individual state statutory inspection requirements.
Other inspection items as added by each participating state.
In addition to these P/F/A results, quantitative data are included on emissions, front-end alignment and engine analysis. The original hard copy also contains the name and address of participating motorists.
System repair cost records contain the parts and labor costs associated with the inspection results. Most of the original repair cost data-forms contain the name and address of the repair facility as well as the name and address of the participating motorist.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The system is routinely used monthly by CSC to perform in-progress evaluations for NHTSA project personnel on the evaluation areas specified in Title III of the Motor Vehicle Information and Cost Savings Act (PL 92-513).

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape, punched card, and hard copy original data forms.

Retrievability: Computer stored data are indexed by vehicle identification number (VIN), vehicle year, vehicle make/model code, and inspection site code; the hard copy original data forms are indexed by VIN and cross-indexed by vehicle owner name and address.

Safeguards: For computer stored information standard security established by GSA users of INFONET is used, computer system access is limited to authorized users; the hard copy original data forms are stored in locked file cabinets after handling and keypunching by authorized project personnel.

Retention and disposal: All records will be retained by the contractor for the duration of the contract; at the conclusion of the contract the contractor will furnish to NHTSA all data forms, data tape records, and punched cards developed and received as a result of the contract.

System manager(s) and address: Chief, Engineering and Demonstration Division,
Department of Transportation,
National Highway Traffic Safety Administration,
Office of State Vehicle Program,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Apply to applicable address in 'System Location' above.

Record access procedures: Same as 'System Manager' above.

Contesting record procedures: Same as 'System Manager' above.

Record source categories: State and local vehicle records; gathered from voluntary interviews.

DOT/NHTSA 407.

System name: Dynamic Sled Tests of Human Volunteer Subjects. DOT/NHTSA.

System location: Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
Southwest Research Institute,
8500 Culebra Road,
Post Office Drawer 28510,
San Antonio, TX 78284.

Categories of individuals covered by the system: Human volunteer test subjects.

Categories of records in the system: Results of pre-test and post-test physical examinations, briefing and debriefing questionnaires, voluntary consent and briefing statements, records of payment for each test exposure, electrocardiogram traces, test results, tape recordings of briefing and debriefing questions and answers.

High speed motion picture films and still photographs.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Research reference.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored in locked file cabinets.

Retrievability: Indexed by test, number, coded volunteer number, social security number, name.

Safeguards: Coded numbers to identify each volunteer and protect their anonymity.

Retention and disposal: 7 years, then disposed of by shredding.

System manager(s) and address: Contract Technical Manager,
Department of Transportation,
National Highway Traffic Safety Administration,
Structure Research Division, N43-12,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
National Highway Traffic Safety Administration,
Structures Research Division,
Contract Technical Manager,
400 7th Street, SW,
Washington, DC 20590.

Record access procedures: Send letter of request for information to System Manager or SWRI.

Contesting record procedures: Send letter of request for information to System Manager or SWRI.

Record source categories: Human tests of Allied Inflataband completed in May 1975

DOT/NHTSA 408.

System name: Experts and Consultants List. DOT/NHTSA.

System location: Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
Office of Contracts and Procurement,
400 7th Street, SW, Room 5301,
Washington, DC 20590.

Categories of individuals covered by the system: Individuals desiring to serve as experts and consultants.

Categories of records in the system: Professional abilities of individuals.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to provide identification of individuals available to serve as experts and consultants.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Material is stored on bonded paper.

Retrievability: By individual name.

Safeguards: Records are stored in a secured office area.

Retention and disposal: Indefinite and discarded when no longer needed.

System manager(s) and address: Director, Office of Contracts and Procurement,
Department of Transportation,
National Highway Traffic Safety Administration,
Office of Contracts and Procurement,
400 7th Street, SW, Room 5301,
Washington, DC 20590.

Notification procedure: Director, Office of Contracts and Procurement,
Department of Transportation,
National Highway Traffic Safety Administration,
Office of Contracts and Procurement,
400 7th Street, SW, Room 5301,
Washington, DC 20590.

Record access procedures: Director, Office of Contracts and Procurement,
Department of Transportation,
National Highway Traffic Safety Administration,
Office of Contracts and Procurement,
400 7th Street, SW, Room 5301,
Washington, DC 20590.

Contesting record procedures: Director, Office of Contracts and Procurement,
Department of Transportation,
National Highway Traffic Safety Administration,
Office of Contracts and Procurement,
400 7th Street, SW, Room 5301,
Washington, DC 20590.

Record source categories: Information submitted by individuals.

DOT/NHTSA 409.

System name: Federal Motor Vehicle Safety Standards (FMVSS) Compliance. DOT/NHTSA.

System location: Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
Validation Division,
2100 2nd Street, SW, Room 3222,
Washington, DC 20590.
Region IX, NHTSA,
450 Golden Gate Avenue
Box 36112,
San Francisco, CA 94102.
Region II, NHTSA,
200 Mannaroneck Avenue,
White Plains, NY 10601.
Region X, NHTSA,
3140 Federal Building,
915 Second Avenue,
Seattle, WA 98174.
Region IV, NHTSA,
Suite 400,
1720 Peachtree Road, NW
Atlanta, GA 30309.

Categories of individuals covered by the system: Individuals suspected of violation of FMVSS.

Categories of records in the system: Data gathered regarding alleged non-compliance of FMVSS.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is used to assist investigations of alleged violators, and in the effort to secure proper compliance.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper file, microfilm, disc.

Retrievability: Fiscal year, date, name, number.

Safeguards: Stored in locked file cabinets in a security room.

Retention and disposal: Indefinite or until obsolete.

System manager(s) and address: Associate Administrator, Motor Vehicle Programs,
Department of Transportation,
National Highway Traffic Safety Administration,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Write or visit applicable office at address in 'System Location' above.

Record access procedures: Same as 'System Manager' above.

Contesting record procedures: Same as 'System Manager' above.

Record source categories: Manufacturers, importation officials, dealers, purchasers, inspector, informants.

DOT/NHTSA 410.

System name: General Public Inquiries. DOT/NHTSA.

System location: Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
Office of the Executive Secretary,
400 7th Street, SW, Room 5217,
Washington, DC 20590.

Categories of individuals covered by the system: Inquiries from the general public.

Categories of records in the system: Control cards identifying incoming correspondence from individuals who are requesting information, jobs, device - testing, etc.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Reference purposes.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Filed in trays in file cabinet.

Retrievability: By individual name or control number.

Safeguards: Conserva-Files; locked when not in use.

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Retention and disposal: Records are retained for one year and are then disposed of.

System manager(s) and address: Executive Secretary,
Department of Transportation,
National Highway Traffic Safety Administration,
Office of the Executive Secretary,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
National Highway Traffic Safety Administration,
Office of the Executive Secretary,
Privacy Act Coordinator,
400 7th Street, SW,
Washington, DC 20590.

Record access procedures: Same as 'Notification Procedure'.

Contesting record procedures: Same as 'Notification Procedure'.

Record source categories: Individuals and organizations.

DOT/NHTSA 411.

System name: General Public Correspondence System. DOT/NHTSA.

System location: Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
Office of the Executive Secretary,
400 7th Street, SW, Room 5217,
Washington, DC 20590.

Categories of individuals covered by the system: Individuals who have requested information or advice.

Categories of records in the system: Files containing correspondence with individuals who have requested information or advice on promoting devices.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Reference purposes.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: By individual name.

Safeguards: Conserva-Files; locked when not in use.

Retention and disposal: Records are retained for one year and are then disposed of.

System manager(s) and address: Executive Secretary,
Department of Transportation,
National Highway Traffic Safety Administration,
Office of the Executive Secretary,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
National Highway Traffic Safety Administration,
Office of the Executive Secretary,
Privacy Act Coordinator,
400 7th Street, SW,
Washington, DC 20590.

Record access procedures: See 'Notificaton Procedure' above.

Contesting record procedures: See 'Notification Procedure' above.

Record source categories: Individuals.

DOT/NHTSA 412.

System name: Manpower Training File. DOT/NHTSA.

System location: Office of Governor's Highway Safety Representative in each State.

Categories of individuals covered by the system: Persons receiving highway safety training under 23 USC 402.

Categories of records in the system: Type and length of training and completion dates.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Aggregation for report to Congress on total individuals trained.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: By individual name.

Safeguards: Records are stored in file cabinets.

Retention and disposal: Records are retained for 3 years; then sent to State Archives.

System manager(s) and address: Chief, Manpower Development Division, N42-22,
Department of Transportation,
National Highway Traffic Safety Administration,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Write or visit the System Manager in the applicable State Traffic Safety Commission Office.

Record access procedures: Same as 'Notification Procedure' above.

Contesting record procedures: Same as 'Notification Procedure' above.

Record source categories: Applications filed by individual or employer.

DOT/NHTSA 413.

System name: Odometer Rollback. DOT/NHTSA.

System location: Department of Transportation (DOT):
National Highway Traffic Safety Adminisnistration (NHTSA):
Region X Headquarters,
3140 Federal Building,
Seattle, WA 98174.
Region I Headquarters,
55 Broadway,
Cambridge, MA 02142.
Region II Headquarters,
200 Mamaroneck Avenue,
White Plains, NY 10601.
Region IV Headquarters,
1720 Peachtree Road, NW,
Suite 501,
Atlanta, GA 30309.
Region V Headquarters,
1010 Dixie Highway,
Executive Plaza, Suite 214,
Chicago Heights, IL 60411.
Region VI Headquarters,
819 Taylor Street,
Fort Worth, TX 76102.
Region VIII Headquarters,
330 South Garrison Street,
Lakewood, CO 80226.

Categories of individuals covered by the system: Private individuals who may be involved in odometer rollbacks.

Categories of records in the system: Alleged circumstances surrounding odometer rollbacks on used cars sold or offered for sale.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Data is made available to legal authorities for appropriate action.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: By individual name.

Safeguards: Locked file.

Retention and disposal: Retained indefinitely.

System manager(s) and address: Chief Counsel,
Department of Transportation,
National Highway Traffic Sagety Administration,
400 7th Street, SW, Room 5219,
Washington, DC 20590.

Notification procedure: Department of Transportation,
National Highway Traffic Safety Administration,
Office of the Chief Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record access procedures: Same as 'System Manager' above.

Contesting record procedures: Same as 'System Manager' above.

Record source categories: Individual complaint by used car purchaser.

DOT/NHTSA 414.

System name: Youth Highway Safety Advisory Committee. DOT/NHTSA.

System location: Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
Office of the Executive Secretary,
400 7th Street, SW, Room 5215,
Washington, DC 20590.

Categories of individuals covered by the system: Nominees and past and present members of the Youth Highway Safety Advisory Committee.

Categories of records in the system: Appointment affidavits; resume's; photographs; travel vouchers.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For budget purposes.
Selection of nominees for Youth Highway Safety Advisory Committee (when nominations come up).
Used by the Administrator's Office (NHTSA) and the Secretary of Transportation Office.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders; (originals and carbons).

Retrievability: By individual name.

Safeguards: Records are stored in locked file cabinets.

Retention and disposal: Retained for 10 years; then sent to storage.

System manager(s) and address: Executive Secretary, N 40-10,
Department of Transportation,
National Highway Traffic Safety Administration,
Office of the Executive Secretary,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
National Highway Traffic Safety Administration,
Office of the Executive Secretary,
Privacy Act Coordinator,
400 7th Street, SW,
Washington, DC 20590.

Record access procedures: Same as 'Notification Procedure' above.

Contesting record procedures: Same as 'Notification Procedure' above.

Record source categories: From the individuals themselves.

DOT/NHTSA 415.

System name: Motor Vehicle Defects. DOT/NHTSA.

System location: Department of Transportation (DOT),
National Traffic Safety Highway Adminsitration (NHTSA),
Office of Defects Investigation,
400 7th Street, SW, Rooms 5234/5108,
Washington, DC 20590.
Kappa Systems, Inc.,
1500 Wilson Boulevard,
Arlington, VA 22209.
Comnet Corp.,
5185 McArthur Boulevard, NW,
Washington, DC 20016.
Region VIII Headquarters, NHTSA,
330 South Garrison Street,
Denver, CO 70226.

Categories of individuals covered by the system: Vehicle owners.

Categories of records in the system: Vehicle identification, vehicle problem, vehicle owner.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Check complaints about vehicle defects to spot trends, resulting in investigations of the vehicle model.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Disc pack and paper file.

Retrievability: Identification Number.

Safeguards: Coded.

Retention and disposal: Three years or indefinite.

System manager(s) and address: Chief, Information Processing Staff,
Department of Transportation,
National Highway Traffic Safety Administration,
Office of Defects Investigation,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Write or visit the applicable address in 'System Location' above.

Record access procedures: Same as 'System Manager' above.

Contesting record procedures: Same as 'System Manager' above.

Record source categories: General public, State highway offices, insurance companies, vehicle manufacturers.

DOT/NHTSA 416.

System name: Offerors Data Bank. DOT/NHTSA

System location: Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
Office of Contracts and Procurement,
400 7th Street, SW, Room 5301,
Washington, DC 20590.

Categories of individuals covered by the system: Individual on the offerors mailing list.

Categories of records in the system: History of response or non-response to Requests for Proposal provided to the individuals.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to provide history of responses to Requests for Proposal.
Used as a purging system for the offerors mailing list.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Forms, magnetic tape.

Retrievability: Name, codes of contractual fields of interest.

Safeguards: Records are stored in a locked file cabinet.

Retention and disposal: Indefinitely; destroyed when no longer needed.

System manager(s) and address: Director, Office of Contracts and Procurement,
Department of Transportation,
National Highway Traffic Safety Administration,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
National Highway Traffic Safety Administration,
Director, Office of Contracts and Procurement,
400 7th Street, SW,
Washington, DC. 20590.

Record access procedures: Department of Transportation,
National Highway Traffic Safety Administration,
Director, Office of Contracts and Procurement,
400 7th Street, SW,
Washington, DC 20590.

Contesting record procedures: Department of Transportation,
National Highway Traffic Safety Administration,
Director, Office of Contracts and Procurement,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Information from individual letters or proposal submissions to Requests for Proposal.

DOT/NHTSA 417.

System name: National Driver Register (NDR). DOT/NHTSA.

System location: Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
Office of Driver and Pedestrian Programs,
National Driver Register Office,
2100 2nd Street, SW, Room 3214,
Washington, DC 20590.
Master file is located at:
Transportation Computer Center,
400 7th Street, SW, Room 2401,
Washington, DC 20590.

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Categories of individuals covered by the system: Persons who have had their driver's license denied, withdrawn, revoked or suspended as reported by State/Territorial driver licensing authorities.

Categories of records in the system: NDR records include: the reporting jurisdiction, the subject's full name, other names used, date of birth, driver license number and/or social security number (if used by the reporting jurisdiction), sex, height, weight, eye color, the reason for withdrawal, the date of the withdrawal, the date eligible for restoration of driving privilege and the date license was actually restored.

It should be noted that very frequently the physical data is not provided by the reporting agency.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Provide identification of drivers who have had their licenses withdrawn, suspended, revoked or otherwise denied in response to inquiries from State or Federal driver licensing agencies relative to driver license applicants.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The NDR master file is maintained on magnetic tape.

Source data; i.e., manual input (forms, letters) are retained in that form.
Source data received on magnetic tape are converted into printed listings.
All source data is batch filed.

Retrievability: The magnetic tape master file is indexed by surname and refined by program application of screening criteria involving given names, date of birth and physical characteristics.

Source data batch files are indexed by the processing date as determined from test inquiry of the master file. A manual search of the appropriate batch is then required to access the specific record.

Safeguards: The master file is kept in the Transportation Computer Center, a limited access area.

The source data files are maintained in a building under surveillance of a 24 hour guard force.
In addition, the spaces in which the files are maintained are equipped with lockable doors which are locked when vacated.
All personnel are cleared for the equivalent of secret classified matter.
In addition, all NDR employees are orally briefed on NDR security requirements and their responsibilities.

Retention and disposal: Master file records are retained for seven or five years depending on the reason for withdrawal of the individual's license.

Withdrawals for drunk driving, hit and run, fatal accident, felony and misrepre- sentation are retained for seven years.
Records of 'habitual offenders' as stipulated by certain states are retained indefinitely, unless otherwise requested by the reporting state.
All other master file records are retained for five years.
Source data files are retained for one year.
Magnetic tape records are erased by degaussing, using 86db degaussing equipment, prior to disposing of the tapes.
Paper source data reports of withdrawal are destroyed by shredding.

System manager(s) and address: Chief, National Driver Register,
Department of Transportation,
National Highway Traffic Safety Administration,
Office of Driver and Pedestrian Programs,
2100 2nd Street, SW, Room 3214,
Washington, DC 20590.

Notification procedure: Mailed inquiries should be addressed as above under 'System Manager.'

For inquiries made in person, the inquirer should present himself at the National Driver Register office at the following location:
400 2nd Street, SW, Room 3214,
Washington, DC 20590.
In order to conduct a file search the requesting party must provide:
Full legal name,
Other names used (nickname, professional name, maiden name),
Date of birth,
Place of birth (City, State or Foreign Country),
Sex,
Height,
Weight,
Color of eyes,
Social security number and/or driver license number (provision of the social security number is voluntary).
In addition, although not mandatory, it would help to more positivly identify any records we may have concerning the inquirer if the following information is included:
The reason his/her driver license was withdrawn or denied.
The date of the action.
The State which took the action.
An inquirer presenting himself/herself in person should have at least two means of identification sufficient to reasonably insure that he/she is who he/she purports to be.
For mailed inquiries the foregoing identification elements should be included in the form of a notarized affidavit and addressed to the System Manager. A form for this purpose will be provided by the National Driver Register office upon request. Use of this form is optional.

Record access procedures: An individual desiring to obtain information on procedures to obtain his or her record (s) should contact the Chief, National Driver Register, at the address under 'System Manager' above.

Contesting record procedures: To obtain information on procedures to contest records one should contact the Chief, National Driver Register at the address in 'System Manager' above.

With regard to contesting records it must be realized that the file is made up of State records. As such, these can only be changed or corrected by the reporting State. The records in the driver Register file are changed only when advised by the originating jurisdiction.

Record source categories: The records comprising the National Driver Register file are provided by States, District of Columbia, Puerto Rico, Canal Zone, Virgin Islands and Guam driver licensing administrators or the agency within the jurisdictions responsible for such records.

DOT/NHTSA 418.

System name: National Motor Vehicle Safety Advisory Council Membership/Nominee Files. DOT/NHTSA.

System location: Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
Office of the Executive Secretary,
400 7th Street, SW, Room 5215-D,
Washington, DC 20590.

Categories of individuals covered by the system: Members, past members, and nominees for membership on the council dealing with motor vehicle safety.

Categories of records in the system: Biographical information (date and place of birth; education; current and past experience).

Appointment papers (oath; withholding form).
Photograph.
Travel vouchers, compensation payment forms.
Miscellaneous correspondence to and from members.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Files are maintained on members and nominees for use in specific situations, i.e., biographical information to be used for meetings, conferences, news articles when pertinent, and when needed for recommendations for membership on council.

Used only by support staff members.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: By individual name.

Safeguards: Records are maintained in locked file cabinets.

Retention and disposal: Since establishment of this council no membership or nominee file has been destroyed or retired.

System manager(s) and address: Executive Secretary,
Department of Transportation,
National Highway Traffic Safety Administration,
Office of the Executive Secretary,
400 7th Street, SW, Room 5215,
Washington, DC 20590.

Notification procedure:
Department of Transportation,
National Highway Traffic Safety Administration,
Office of the Executive Secretary,
Privacy Act Coordinator,
400 7th Street, SW, Room 5217,
Washington, DC 20590.

Record access procedures: Same as 'Notification Procedure' above.

Contesting record procedures: Same as 'Notification Procedure' above.

Record source categories: All information has been obtained from the individual upon appointment to the advisory council or, in the case of nominees, on that individual's behalf by another person or organization.

DOT/NHTSA 421.

System name: Survey of Recreational Vehicle Suspensions. DOT/NHTSA.

System location: Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
Office of Defects Investigation,
400 7th Street, SW, Room 5330,
Washington, DC 20590.
Records are also stored at:
Pioneer Engineering & Manufacturing Company,
2500 E. Nine Mile Road,
Warren, MI.

Categories of individuals covered by the system: 6,400 owners of recreational vehicles surveyed for on-the-road load characteristics of the vehicles.

Categories of records in the system: Vehicle loads, vehicle identification, vehicle component identification and owner or driver identification.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Survey analysis and evaluation.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Punch cards.

Retrievability: The information is stored on punch cards and retrievable by survey identification number or type, year and make of vehicle but not by owner's name.

Safeguards: The record cards are stored in locked file cabinets.

Retention and disposal: Upon completion, all related investigations' data will be destroyed via normal Coast Guard record destruction methods.

System manager(s) and address: Contract Technical Manager,
Department of Transportation,
National Highway Traffic Safety Adminstration,
Office of Defects Investigation,
400 7th Street, SW, Room 5330,
Washington, DC 20590.

Notification procedure: Department of Transportation,
National Highway Traffic Safety Administration,
Chief, Technical Reference Service,
400 7th Street, SW, Room 5108,
Washington, DC 20590.

Record access procedures: Same as 'System Manager' above.

Contesting record procedures: Same as 'System Manager' above.

Record source categories: The entire record was obtained from owners of recreational vehicles as they were found on the highways and from the manufacturers of vehicles. The information from the two sources were then combined for analysis and evaluation of recreational vehicle loading characteristics of the vehicle condition as found on the highways.

DOT/NHTSA 422.

System name: Temporary Exemption Petitions. DOT/NHTSA.

System location: Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
Office of Chief Counsel,
400 7th Street, SW, Room 5219,
Washington, DC 20590.

Categories of individuals covered by the system: Petitioners (commercial entities) seeking exemption from Federal motor vehicle safety standards.

Categories of records in the system: Income statement and balance sheets, production information.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For consultation by attorneys while file is active; copies in public docket.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Office files.

Retrievability: Temporary exemptions; filed by individuals' names.

Safeguards: Available only to the System Manager and his secretary.

Retention and disposal: Thus far all records have been retained.

System manager(s) and address: Senior Staff Attorney,
Department of Transportation,
National Highway Traffic Safety Administration,
Office of Chief Counsel,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
National Highway Traffic Safety Administration,
Office of Chief Counsel,
400 7th Street, SW, Room 5219,
Washington, DC 20590.

Record access procedures: Department of Transportation,
National Highway Traffic Safety Administration,
Office of Chief Counsel,
400 7th Street, SW,
Washington, DC 20590.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: Submitted by petitioners.

DOT/NHTSA 423.

System name: Vendor Edit Table Listing (Employees). DOT/NHTSA.

System location: Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
Office of Financial Management,
400 7th Street, SW, Room 5115,
Washington, DC 20590.

Categories of individuals covered by the system: NHTSA employees.

Categories of records in the system: Employee name.

Employee number.
Residence - City, County, State, Zip Code.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Employee travel orders are controlled by employee number to maintain a record of authorized travel and the related expenses for each trip. This file is assessed to match the employee number coded from the travel order and the voucher and for retrieval of this data for the travel report by organization and by individual.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic Disc.

Retrievability: Table is indexed by employee number (vendor number).

Safeguards: System operators are identified as individuals given authority for processing data in terminal room.

No others are allowed access to data.
Job controls (JCL's) for retrieval of data are kept in locked cabinet under custody of System Manager.

Retention and disposal: Table maintenance is the responsibility of the System Manager who adds new employee data as it is received from Personnel Director. Deletions are also controlled by the System Manager, as employees retire or otherwise leave the agency

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System manager(s) and address: Chief, Policies and Procedures Division,

Department of Transportation,
National Highway Traffic Safety Administration,
Office of Financial Management,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Address inquiries to the Privacy Act Coordinator at the address under 'System Manager'. Requests for data may be made by any employee of NHTSA. Requests must be in writing and identify:

System Name: DOT/NHTSA FMS-940.
Employee number.
Employee name

Record access procedures: All inquiries as to procedures for gaining access to records shall be directed to:

Department of Transportation,
National Highway Traffic Safety Administration,
Office of Financial Management,
400 7th Street, SW, Room 5115,
Washington, DC 20590.

Contesting record procedures: Same as 'Record Access Procedure'

Record source categories: Source of data is from the Office of Personnel Management, NHTSA.

DOT/NHTSA 424.

System name: Offerors Mailing List. DOT/NHTSA.

System location: Department of Transportation (DOT),

National Highway Traffic Safety Administration (NHTSA),
Office of Contracts and Procurement,
400 7th Street, SW, Room 5301,
Washington, DC 20590.

Categories of individuals covered by the system: Offerors that may bid on Requests for Proposal as individuals.

Categories of records in the system: Offerors name, address, and NHTSA areas of interest that the offeror wishes to bid on.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to identify suppliers to fulfill NHTSA requirements.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Forms, magnetic tape

Retrievability: Name, codes of contractual field of interest.

Safeguards: The records are maintained in a secure area.

Retention and disposal: Indefinitely and destroyed when no longer needed.

System manager(s) and address: Director, Office of Contracts and Procurement,

Department of Transportation,
National Highway Traffic Safety Administration,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Write or visit the System Manager at the address in 'System Manager' above.

Record access procedures: Same as 'Notification Procedure' above.

Contesting record procedures: Same as 'Notification Procedure' above.

Record source categories: From the individual himself.

DOT/NHTSA 427.

System name: Statement of Employment and Financial Interest. DOT/NHTSA.

System location: Department of Transportation (DOT),

National Highway Traffic Safety Administration (NHTSA),
Office of Personnel Management,
400 7th Street, SW, Room 5306,
Washington, DC 20590.

Categories of individuals covered by the system: Individuals encumbering positions listed in Appendix C of Part 99 Title 49 CFR.

Special government employees.

Categories of records in the system: Records contain Statements of Financial Interest including but not limited to stocks, bonds and real estate that are held by individuals whose records are in the system.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Financial statements are reviewed by the Director, Office of Personnel Management or his delegate to ascertain conflicts or apparent conflicts of interest between the holdings of individuals and the discharge of the individual's official duties.

Assistance of the NHTSA Chief Counsel or his delegate may be secured in the determination process.
Where potential conflict may arise the individual is contacted by the Chief Counsel or his delegate to attempt to resolve the issue.
Should further action be necessary the Administrator NHTSA may attempt to resolve the issue.
If necessary, remedial action may be instituted to resolve the conflict.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored on forms DOT F 3700.1 and DOT F 3700.2.

Retrievability: Records are retrieved by individual's name.

Safeguards: Records are stored in safes or locked files. Access is only by authorized individuals on a 'need to know' basis.

Personnel screening is employed to prevent unauthorized access.

Retention and disposal: Five years following termination of employment and then destroyed.

System manager(s) and address: Director, Office of Personnel Management,

Department of Transportation,
National Highway Traffic Safety Administration,
400 7th Street, SW, Room 5306,
Washington, DC 20590.

Notification procedure: Department of Transportation,

National Highway Traffic Safety Adminstration,
Director, Office of Personnel Management,
400 7th Street, SW, Room 5306,
Washington, DC 20590.

Record access procedures: Department of Transportation,

National Highway Traffic Safety Administration,
Current employees may contact the:
Director, Office of Personnel Management,
400 7th Street, SW, Room 5306,
Washington, DC 20590.
Former employees who wish to gain access to their records should direct such a request in writing including their names, date of birth and social security number to:
Department of Transportation,
National Highway Traffic Safety Administration,
Director, Office of Personnel Management,
400 7th Street, SW, Room 5306,
Washington, DC 20590.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Information in this system of records comes from the individual to whom it applies or is derived from information he supplied.

DOT/NHTSA 431.

System name: Civil Penalty Enforcement Files. DOT/NHTSA.

System location: Department of Transportation (DOT),

National Highway Traffic Safety Administration,
Office of the Chief Counsel,
400 7th Street, SW, Room 5219,
Washington, DC 20590.

Categories of individuals covered by the system: Persons (corporate or individual) against whom civil penalties are sought or contemplated for violations of NHTSA - administered statutes.

Categories of records in the system: Investigatory records of alleged violations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For consultation by attorneys regarding a civil suit against an individual.

See Prefatory Statement of General Routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Office files.

Retrievability: Files in CIR numerical order.

Safeguards: Available only to the System Manager and his secretary.

Retention and disposal: Records are retained indefinitely and destroyed when no longer needed.

System manager(s) and address: Senior Staff Attorney,

Department of Transportation,
National Highway Traffic Safety Administration,
Office of Chief Counsel,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

National Highway Traffic Safety Administration,
Office of Chief Counsel,
400 7th Street, SW, Room 5219, Washington, DC 20590.

Record access procedures: Department of Transportation,

National Highway Traffic Safety Administration,
Office of the Chief Counsel,
Chief Counsel,
400 7th Street, SW, Washington, DC 20590.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: NHSTA investigations and tests.

DOT/NHTSA 432.

System name: EEO Counseling Program and Discrimination Complaint File. DOT/NHTSA.

System location: Department of Transportation (DOT),

National Highway Traffic Safety Adminsitration (NHTSA),
Office of Civil Rights,
400 7th Street, SW, Room 5312,
Washington, DC 20590.

Categories of individuals covered by the system: NHTSA personnel or those seeking employment with NHTSA (clerical and professional).

Categories of records in the system: Detailed description of alleged discrimination.

Background and support material.
Transcripts of hearings.
Personnel evaluation forms.
Record of interviews.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used for reference to aid EEO investigations.

See Prefatory Sstatement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are kept on the orgiginal forms.

Retrievability: Subject, individual's name.

Safeguards: Personnel screening; kept in locked files.

Retention and disposal: Retained indefinitely.

System manager(s) and address: Director, Office of Civil Rights,

Department of Transportation,
National Highway Traffic Safety Administration,
Office of Civil Rights,
400 7th Street, SW, Room 5312,
Washington, DC 20590.

Notification procedure: Department of Transportation,

National Highway Traffic Safety Administration,
Office of Civil Rights,
400 7th Street, SW, Room 5312, Washington, DC 20590.

Record access procedures: Department of Transportation,

National Highway Traffic Safety Administration,
Office of Public Affairs and Consumer Services,
400 7th Street, SW, Room 5232,
Washington, DC 20590.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: From interviews with the complainants, others involved in the alleged discrimination action.

DOT/NHTSA 433.

System name: Injuries, Illnesses, Motor Vehicle Accidents and Property Damages. DOT/NHTSA.

System location: Department of Trasnsportation (DOT),

National Highway Traffic Safety Administration (NHTSA),
Office of Management Systems,
General Services Division,
400 7th Street, SW, Room 5111,
Washington, DC 20590.

Categories of individuals covered by the system: Individuals involved in injuries on the job.

Individual Motor Vehicle accident reports.
Individual Property Damage reports.

Categories of records in the system: Accident Report - DOT F 3902.1.

Injury Report, Supplement - I - DOT F 3902.2.
Motor Vehicle Report, Supplement - M - DOT F 3902.3.
Property Damage Report, Supplement - P - DOT F 3902.4.
Log of Federal Occupational Injuries and Illnesses - DOT F 3902.8.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Legal.

Security.
Budget.
Audit.
Personnel Management.
Investigation.
Recordkeeping.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folder.

Retrievability: Alphabetical, by individual's name.

Safeguards: File cabinet with lock.

Retention and disposal: Maintained for 5 years, then transferred to Archives.

System manager(s) and address: Chief, General Services Division,

Department of Transportation,
National Highway Traffic Safety Administration,
Office of Management Systems,
400 7th Street, SW, Room 5111,
Washington, DC 20590.

Notification procedure: Department of Transportation,

National Highway Traffic Safety Administration,
Office of Management Systems,
400 7th Street, SW,
Washington, DC 20590.

Record access procedures: Department of Transportation,

National Highway Traffic Safety Administration,
Chief Counsel,
400 7th Street, SW,
Washington, DC 20590.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: Individual to whom record pertains.

Investigations.
Reports of witnesses,

DOT/NHTSA 434.

System name: Government Driver Licenses. DOT/NHTSA.

System location: Department of Transportation (DOT),

National Highway Traffic Safety Administration (NHTSA),
Office of Management Systems,
General Services Division,
400 7th Street, SW, Room 5111,
Washington, DC 20590.

Categories of individuals covered by the system: Government drivers.

Categories of records in the system: Application for Operator's Identification Card.

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Physical Fitness Inquiry for Motor Vehicle Operators.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used to verify that an applicant is qualified both legally and physically to operate a government vehicle.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored on the original forms.

Retrievability: Alphabetical, by individual's name.

Safeguards: File cabinet with lock.

Retention and disposal: Records are maintained for 5 years, then Transferred to Archives.

System manager(s) and address: Chief, General Services Division,

Department of Transportation,
National Highway Traffic Safety Administration,
Office of Management Systems,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

National Highway Traffic Safety Administration,
Office of Management Systems,
400 7th Street, SW,
Washington, DC 20590.

Record access procedures: Department of Transportation,

National Highway Traffic Safety Administration,
Office of the Chief Counsel,
400 7th Street, SW,
Washington, DC 20590.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: Individual to whom record pertains.

National Driver Register.

DOT/NHTSA 435.

System name: Investigations and Security. DOT/NHTSA.

System location: Department of Transportation (DOT),

National Highway Traffic Safety Administration (NHTSA),
Office of Management Systems,
General Services Division,
400 7th Street, SW, Room 5111,
Washington, DC 20590.

Categories of individuals covered by the system: Employees who allegedly violate NHTSA security regulations.

Categories of records in the system: A memoranda specifying security violations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For security purposes.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored on original form HS 154.

Retrievability: Individual's name and Organization.

Safeguards: Locked file cabinet.

Retention and disposal: Retained until completion of appropriate corrective action and/or disciplinary action.

System manager(s) and address: Security Coordinator, NHTSA.

Department of Transportation,
National Highway Traffic Safety Administration,
General Services Division,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

National Highway Traffic Safety Administration,
Office of Management Systems, 400 7th Street, SW,
Washington, DC 20590.

Record access procedures: Department of Transportation,

National Highway Traffic Safety Administration,
Office of the Chief Counsel, 400 7th Street, SW, Washington,
DC 20590.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: Security Coordinator.

DOT/NHTSA 436.

System name: Contract Grievance Records. DOT/NHTSA.

System location: Department of Transportation (DOT),

National Highway Traffic Safety Administration (NHTSA),
Office of Personnel Management,
400 7th Street, SW, Room 5306,
Washington, DC 20590.

Categories of individuals covered by the system: Employees in the non-professional exclusive unit covered by the NHTSA/AFGE contract of March 5, 1974.

Categories of records in the system: Records contain information or documents relating to a decision by the Administration or an arbitrator affecting an individual.

The records consist of:
The initial grievance.
Letters or notices to the individual.
Record of arbitration hearing when conducted.
Materials placed into the record to support the decision or determination affidavits or statements.
Testimonies of witnesses.
Investigative reports.
Instructions to the Administration about action to be taken to comply with decisions.
Related correspondence opinions and recommendations. - opinions and recommendations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To respond to a Member of Congress regarding status of a grievance.

To provide information to the public as requested by the Freedom of Information Act.
To respond to the Assistant Secretary of Labor for LMR in connection with an Unfair Labor Practice Procedure or to respond to the Federal Labor Relations Council on appeal of an arbitration award.
To respond to a court subpoena in connection with a civil suit.
To adjudicate a grievance.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders and index cards.

Retrievability: Retrieved by names of grievant (s).

Safeguards: Access limited to those with official 'need to know.' Personnel screening is employed to prevent unauthorized disclosure.

Retention and disposal: The records are maintained up to 3 years and then retired to the Washington National Records Center.

System manager(s) and address: Director, Office of Personnel Management,

Department of Transportation,
National Highway Traffic Safety Administration,
400 7th Street, SW, Room 5306,
Washington, DC 20590.

Notification procedure: Individuals who have filed grievances under the NHTSA/AFGE contract should address inquiries to the:

Department of Transportation,
National Highway Traffic Safety Administration,
Director, Office of Personnel Management,
400 7th Street, SW, Room 5306,
Washington, DC 20590.
Individuals requesting information about this system of records should provide their full name, date of birth, social security number, name and address of office in which currently or formerly employed in the Federal service.

Record access procedures: After a grievance case has been closed an individual or his representative may gain access to the official copy of a grievance record by contacting the System Manager. Individuals should provide their names, date of birth, approximate date and subject of the grievance.

Contesting record procedures: Contest, correction or amendment of the record is permitted during the prosecution of the grievance by the individual to whom the record pertains or his representative

Record source categories: Individual to whom record pertains and/or representative.

Administration officials.

Affidavits or statements from employees.
Testimonies of witnesses.
Official documents relating to grievance.
Correspondence from organizations or persons.

DOT/NHTSA 438.

System name: Idaho Traffic Records System Accident Component - Driver Component. DOT/NHTSA.

System location: Under the auspices of:

Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
Systems are located as follows:
Accident Component:
Idaho Transportation Department,
P.O. Box 7129,
Boise, ID 83707.
Driver Component:
Department of Law Enforcement,
P.O. Box 31,
Boise, ID 83707.

Categories of individuals covered by the system: Accident Component - Information on all motor vehicle accidents, not identified by individual name.

Driver Component - All individuals who have a motor vehicle operators license.

Categories of records in the system: Accident Component - Includes information relating to vehicle accidents which have been reported on the motor vehicle accident report form.

Driver Component - Includes driver history including license application information, convictions, suspensions, accident occurrence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Accident Component - Used by Division of Highways to analyze high accident locations to determine need of correction.

Used by State Police to guide them in enforcement routes.
Used by Traffic Safety Commission to determine problems to be corrected through safety programs.
Driver Component - Used by all law enforcement agencies to determine background of individuals they apprehend and if there are outstanding warrants.
Used by Department of Law Enforcement to determine drivers needing to be counseled or have licenses suspended due to point violation accumulation.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Both systems are maintained on disk packs.

Retrievability: Accident Component - Location, driver number, accident number, vehicle identification number (VIN).

Driver Component - Name, driver identification number

Safeguards: The program specification block in the data base controls who may have access to the data base. Since all material is on the data base this limits and safeguards the security of the system. The current separate driver component also has coded access.

Retention and disposal: The records are maintained for 5 years on the data base. At that time the information is spooled off onto a tape prior to purging from system. This spooled off information is maintained approximately one year and is destroyed by erasing or reusing tape.

System manager(s) and address: Regional Administrator,

Department of Transportation,
National Highway Traffic Safety Administration,
Region X Headquarters,
3140 Federal Building,
915 Second Avenue,
Seattle, WA 98174.

Notification procedure: Department of Transportation,

National Highway Traffic Safety Administration
Office of Contracts and Procurements,
400 7th Street, SW, Room 5301,
Washington, DC 20590.

Record access procedures: See address in 'Notification Procedure.'

Contesting record procedures: See address in 'Notification Procedure.'

Record source categories: Accident Component - Information comes from Officer Motor Vehicle Accident Report Form or from Individual Motor Vehicle Accident Report Form.

Driver Component - Information on driver comes from driver license application form. Information on convictions are from the courts. Information on accidents comes from accident report forms.

DOT/NHTSA 442.

System name: Restraint System Effectiveness Study. DOT/NHTSA.

System location: Under the auspices of:

Department of Transprotation (DOT),
National Highway Traffic Safety Administration (NHTSA),
System is located at:
Southwest Research Institute (SWRI),
Division 11,
8500 Culebra Road,
P.O. Drawer 28510,
San Antonio, TX 78284.

Categories of individuals covered by the system: Occupants of 1973-1976 passenger car vehicles that are towed from accident scenes.

Categories of records in the system: The following types of information are in the system:

Policy accident report which contains name, driver's license number and other data pertinent to the accident.
Medical report if injury or death occurs.
Copies of forms generated by SWRI during an investigation are enclosed for review.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The system use by the Project Evaluator, Southwest Research Institute is purely statistical to provide DOT/NHTSA data to be used in conjunction with four other accident investigation teams to determine effectiveness of restraint systems in late model vehicles.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The system is stored on paper forms and is eventually coded into computer punch cards.

Retrievability: Records are normally retrieved by case number.

Safeguards: Only employees with a need to know work with the records which are stored in a locked cabinet.

Retention and disposal: The data collected on the SWRI forms are maintained for five years. In all probability records will be destroyed by burning.

System manager(s) and address: Chief, Structures Research Division,

Department of Transportation,
National Highway Traffic Safety Administration,
Office of Vehicle Safety Research,
2100 2nd Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

National Highway Traffic Safety Administration,
Office of Contracts and Procurement, N48-30,
400 7th Street, SW, Room 5301,
Washington, DC 20590.

Record access procedures: See address in ' Notification Procedure'.

Contesting record procedures: See address in 'Notification Procedure'.

Record source categories: The information in the system comes from:

Law enforcement agencies in seven counties.
Hospitals.
Data gathered by SWRI accident investigation teams.

DOT/NHTSA 443.

System name: Cost Effectiveness Study of Breakaway and Non-Breakaway Poles, Including Sign and Light Standards Along Highways. DOT/NHTSA.

System location: Under the auspices of:

Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
System is located at:

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Southwest Research Institute (SWRI),
Division 11,
8500 Culebra Road,
P.O. Drawer 28510,
San Antonio, TX 78284.
University of Kentucky Research Foundation,
East Wing, Kinkead Hall,
Lexington, KY 40506.

Categories of individuals covered by the system: Occupants of passenger car vehicles that are involved in accidents with breakaway and non-breakaway poles including sign and light standards along highways.

Categories of records in the system: The following types of information are in the system:

Police accident report which contains name, driver's license number and other data pertinent to the accident.
Medical report if injury or death occurs.
Copies of forms to be generated by SWRI during an investigation are enclosed for review.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The system is used by the Project Evaluators, Southwest Research Institute and University of Kentucky Research Foundation for purely statistical purposes to provide DOT/NHTSA data to be used in conjunction with a cost effectiveness study of breakaway versus non-breakaway poles including sign and light standards.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The system is stored on paper forms and is indexed by SWRI case number. The information will eventually be put on computer punch cards.

Retrievability: The card deck and police accident report are then forwarded to DOT/NHTSA for their use.

Safeguards: Only employees with a need to know work with the records which are stored in a locked cabinet.

Retention and disposal: The data collected on the SWRI forms are maintained for five years.

In all probability records will be destroyed by burning or shredding.

System manager(s) and address: Chief, Accident Investigation Division,

Department of Transportation,
National Highway Traffic Safety Administration,
Office of Statistics and Analysis,
2100 2nd Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

National Highway Traffic Safety Administration,
Office of Contracts and Procurement, N48-30,
400 7th Street, SW, Room 5301,
Washington, DC 20590.

Record access procedures: See address in 'Notification Procedure' above.

Contesting record procedures: See address in 'Notification Procedure' above.

Record source categories: The information in the system comes from:

Law Enforcement Agencies in San Antonio, Texas and Lexington, Kentucky.
Hospitals and University of Kentucky Research Foundation.
Data gathered by SWRI and University of Kentucky Research Foundation accident investigation teams.

DOT/NHTSA 444.

System name: Volunteer Pool. DOT/NHTSA.

System location: Under the auspices of:

Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
System is located at:
Southwest Research Institute,
Department 13,
8500 Culebra Road,
P. O. Drawer 28510,
San Antonio, TX 78284.

Categories of individuals covered by the system: Human subject volunteers.

Categories of records in the system: Medical records on each human subject volunteer.

Results of physical examinations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used when subjects are involved in a research project to supplement the data gathered in that project.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored on the original bond paper forms.

Retrievability: System is indexed by an identification number and cross referenced to name.

Safeguards: The records are stored in a locked cabinet with access only by employees with a need to know.

Retention and disposal: Records will be kept as long as needed and will be destroyed by shredding.

System manager(s) and address: Director, Department of Bioengineering,

Southwest Research Institute (SWRI),
8500 Culebra Road,
San Antonio, TX 78284.

Notification procedure: Department of Transportation,

National Highway Traffic Safety Administration,
Office of Contracts and Procurements,
400 7th Street, SW, Room 5301,
Washington, DC 20590.

Record access procedures: See address in 'Notification Procedure' above.

Contesting record procedures: See address in 'Notification Procedure' above.

Record source categories: The information in the system comes from medical examinations given at SWRI.

DOT/NHTSA 446.

System name: Habitual Offender Analysis File. DOT/NHTSA.

System location: Under the Auspices of:

Department of Transportation (DOT),
National Highway Traffic Safety Administration (NTSA),
System is located at:
The University of North Carolina,
Highway Safety Research Center,
Chapel Hill, NC 27514.

Categories of individuals covered by the system: Individuals certified as Habitual Offenders in North Carolina in Calendar Year 1973, pursuant to Section 20-220-Section 20-231, General Statutes of North Carolina.

Categories of records in the system: Driver record.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: File is being used by research staff at the Highway Safety Research Center to perform specific analyses of the driver records of habitual offenders as a group. The work is being performed as a subcontract of the subject contract.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape.

Retrievability: File is indexed by driver's license number of subjects.

Safeguards: When not in use the file is locked in a secure container. Only the programming staff of the Computer Division of the Center has access to the file.

Retention and disposal: The file will be used for the duration of the contract (10/31/75) and returned to the North Carolina Department of Motor Vehicles for retention or destruction (erasure) at their discretion.

System manager(s) and address: Chief, Driver Licensing and Adjudication Division,

Department of Transportation,
National Highway Traffic Safety Administration,
Office of Driver and Pedestrian Programs,

400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

National Highway Traffic Safety Administration,
Office of Contracts and Procurement, N48-30,
400 7th Street, SW, Room 5301,
Washington, DC 20590.

Record access procedures: See address in 'Notification Procedure' above.

Contesting record procedures: See address in 'Notification Procedure' above.

Record source categories: Driver Record File of the Department of Motor Vehicles, State of North Carolina.

DOT/NHTSA 447.

System name: Drinking Driver Tracking System. DOT/NHTSA.

System location: Under the auspices of:

Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
System is located at:
State Office Building,
Salt Lake City, Utah 84114.

Categories of individuals covered by the system: Persons convicted while under the influence of alcohol.

Categories of records in the system: Identification data, driving record history and probation record.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To analyze and evaluate drunk driver's records to look for trends, similarities and redivision rates.

To extract statistical information for evaluation purposes.
See Prefatory Statement of General Routine Uses

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape.

Retrievability: By individual name or driver's license number.

Safeguards: Only personnel of the Utah Highway Safety Program Office can get information from file, which is stored in secured file cabinets.

Retention and disposal: 5 years; erased from file.

Source documents are destroyed after information is taken off

System manager(s) and address: Regional Administrator,

Department of Transportation,
Region VIII,
330 South Garrison Street,
Lakewood, CO 80226.

Notification procedure: Department of Transportation,

National Highway Traffic Safety Administration,
Office of Contracts and Procurement, N48-30,
400 7th Street, SW, Room 5301,
Washington, DC 20590.

Record access procedures: See address in 'Notification Procedure' above.

Contesting record procedures: See address in 'Notification Procedure' above.

Record source categories: Police arrest records.

Court records.
Probation records.
State Driver License Division.

DOT/NHTSA 449.

System name: Vehicles Defect Program File (Proposed). DOT/NHTSA.

System location: Under the auspices of:

Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
System is located at:
Connecticut Motor Club,
2276 Whitney Avenue,
Hamden, CT 06518.

Categories of individuals covered by the system: Owners of vehicles suspected of having safety related defects.

Categories of records in the system: Name and address of vehicle owner.

Vehicle identification number.
Description of vehicle and suspected defect.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Investigation reports of suspected defects for development of statistical data, both raw information and dates furnished to NHTSA for statistical purposes:

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard paper copy.

Retrievability: Alphabetical by individual's name within the defect category.

Safeguards: Maintained in locked cabinets within secured space; only designated individuals involved in defects program have access.

Retention and disposal: Duration of contract and contract requirements are met (7-1-76).

Destroyed by shredding.

System manager(s) and address: Chief, Investigations Division,

Department of Transportation,
National Highway Traffic Safety Administration,
Office of Defects Investigation,
400 7th Street, SW,
Washinton, DC 20590.

Notification procedure: Contact System Manager at address in 'System Manager' above.

Record access procedures: Same as 'Notification Procedure' above.

Contesting record procedures: Same as 'Notification Procedure' above.

Record source categories: Individual vehicle owners.

Connecticut Motor Club membership lists.
Insurance company files.
Direct mail lists.
Responses to public announcements of the project.

DOT/NHTSA 450.

System name: Safety Related Defects Interviews and Vehicle Disablement Study. DOT/NHTSA.

System location: Under the auspices of:

Department of Transportation (DOT),
National Highway Traffic Safety Adminsistration (NHTSA),
System is located at:
Traffic Safety Research Corporation,
1010 Corporation Way,
Suite 101,
Palo Alto, CA 94303.

Categories of individuals covered by the system: Vehicle owners and operators.

Categories of records in the system: Owner interviews relating their experiences with the subject vehicle/accident.

Supporting records, photographs and reports.
Completed Disablement Questionnaires and Driver Interviews describing failed components, repairs and details of incidents/accidents that resulted.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used to determine whether vehicle accidents or disablements as reported by owners/operators were caused by safety related defects of the vehicle itself.

Records may be used as a basis for an automotive recall campaign and for research and development purposes.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy files and punch cards.

Retrievability: By individual name.

Safeguards: Locked storage files.

Retention and disposal: Files are maintained for a minimum of 3 years. Records are destroyed by burning.

System manager(s) and address: Chief, Investigations Division.

Department of Transportation,
National Highway Traffic Safety Administration,
Office of Defects Investigations,

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400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
National Highway Traffic Safety Administration,
Office of Contracts and Procurement, N48-30,
400 7th Street, SW, Room 5301,
Washington, DC 20590.

Record access procedures: See address under 'Notification Procedure' above.

Contesting record procedures: See address under 'Notification Procedure' above.

Record source categories: Interviews with knowledgeable persons regarding safety related defects complaints.

Interviews and questionnaires from persons who experienced on-road failures.

DOT/NHTSA 451.

System name: Medical Records and Research Data. DOT/NHTSA.

System location: Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
System is located at:
Naval Aerospace Medical Research Laboratory (NAMRL),
Pensacola, FL 32512; and at:
NAMRL Detachment,
New Orleans, LA

Categories of individuals covered by the system: Military research subjects.

Categories of records in the system: Medical Histories, results of physical examinations, psychological testing, electrocardiograms, audiograms, x-rays, and miscellaneous clinical laboratory results.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used to screen research subjects and for statistical purposes by military and civilian personnel employed at this activity.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in file folders, magnetic tape and punch cards.

Retrievability: The key for retrieval is name or social security number.

Safeguards: Records are not sent to records center because they are considered raw scientific data.

Records are destroyed by burning when research projects are completed.
The military health records are sent to Naval Manpower Center, Bainbridge, Maryland when an active duty member completes his tour of service.

System manager(s) and address: Chief, Structures Research Division,
Department of Transportation,
National Highway Traffic Safety Administration,
Office of Vehicle Safety Research,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
National Highway Traffic Safety Administration,
Attention: Director, Office of Contracts and Procurement, N48-30,
400 7th Street, SW, Room 5301,
Washington, DC 20590.

Record access procedures: See address under 'Notification Procedure' above.

Contesting record procedures: See address under 'Notification Procedure' above.

Record source categories: Personal medical history, personal responses to test, medical examinations, and results of experimental data.

DOT/NHTSA 452.

System name: Special Adjudication for Enforcement (SAFE). DOT/NHTSA.

System location: Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
System is located at:
Washington Department of Motor Vehicles,
Highways-licenses Building,
Olympia, WA 98504.
and at:
Administrative Adjudication Division,
345 Harris Avenue,
Providence, RI 02909.

Categories of individuals covered by the system: 1. Persons charged with traffic violations.
2. Persons who have had motor vehicle accidents.
3. Persons who have had their driver's license suspended.

Categories of records in the system: Driving records contain data concerning all accidents and traffic violations of which the driver has been found guilty, forfeited bail, or had license suspended.

Additional data is maintained in a separate file and contains demographic information relating to socio economic status, such as level of education, approximate income level, marital status and percent of business and pleasure driving. Statistics concerning completion of rehabilitation programs are entered on this file. Such rehabilitation may include the National Safety Council's Defensive Driving Course or one of the Department of Motor Vehicles driver improvement group interview programs.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The system is used for the purpose of producing statistical reports for the Department of Transportation Quarterly.

Names are used for the purpose of tracking recidivism rates of drivers who have been adjudicated through the SAFE system compared with drivers who forfeited bail or appear for trial in formal court.
The system is also used to determine eligibility to pay traffic fines by mail and to control.
Records may be made available to state and local law enforcement agencies and cooperating social service agencies.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape or punch cards.

Retrievability: The system is indexed by driver name and birthdate, or the driver license number.

Safeguards: Computer program control is the main access safeguard. Files are stored in a tape library which has safeguards against unauthorized access.

System manager(s) and address: Chief, National Driver Register,
Department of Transportation,
National Highway Traffic Safety Administration,
Driver Licensing and Adjudication Division,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
National Highway Traffic Safety Administration,
Attention: Director, Office of Contracts and Procurement, N48-30,
400 7th Street, SW, Room 5301,
Washington, DC 20590.

Record access procedures: See address in 'Notification Procedure' above.

Contesting record procedures: See address in 'Notification Procedure' above.

Record source categories: Driver history information is obtained from the abstract of court records following case adjudication.

Demographic data is obtained on a voluntary basis from individuals entering the system prior to the informal case hearing.
Data relative to completion of rehabilitation programs is forwarded to the Department from the Evergreen Safety Council and the Department's Driver Improvement Division.

DOT/NHTSA 454.

System name: Alcohol Behavior Research. DOT/NHTSA.

System location: Under Auspices of:
Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
System is located at:

13766 S. Hawthorne Boulevard,
Hawthorne, CA 90250.

Categories of individuals covered by the system: Male, heavy drinkers.

Categories of records in the system: Self-professed drinking ability, medical condition, personality traits, experimental drinking data, experimental performance data.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Experimenters' selection of subjects for alcohol and automobile control behavior research.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders are kept in the technical library.

Retrievability: System is indexed by subject's name.

Safeguards: Accessible by the experimenter from the locked storage cabinet.

Retention and disposal: Depend on the success and longevity of the particular line of research.

System manager(s) and address: Director, Office of Driver and Pedestrian Research,
Department of Transportation,
National Highway Traffic Safety Administration,
2100 2nd Street, SW, Room 3202,
Washington, DC 20590.

Notification procedure: Department of Transportation,
National Highway Traffic Safety Administration,
Office of Contracts and Procurement, N48-30,
400 7th Street, SW, Room 5301,
Washington, DC 20590.

Record access procedures: See address in 'Notification Procedure' above.

Contesting record procedures: See address in Notification Procedure' above.

Record source categories: Written examination filled out by the individual and experimental data collected during tests.

DOT/NHTSA 455.

System name: Debt Complaint File. DOT/NHTSA.

System location: Department of Transportation (DOT), National Higwhway Traffic Safety Administration (NHTSA),
Office of Personnel Management,
400 7th Street, SW, Room 5306,
Washington, DC 20590.

Categories of individuals covered by the system: Employees of the NHTSA on whom the Agency has received contacts from creditors concerning indebtedness.

Categories of records in the system: Letters and other correspondence from creditors, collection agents, and state and local tax supported institutions with claims upon employees of the NHTSA.

System also contains copies of agency responses, employee statements of intention to pay debts, and other related correspondence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in the system may be used by officials of the agency to determine an employee's suitability for continued employment.

Documents in the file may be used to substantiate disciplinary actions related to indebtedness.
Material in file may be used oto verify prior debt complaints from the same creditor on the same individual in order to respond to the creditor's current correspondence.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records stored in file folders.

Retrievability: Indexed by name.

Safeguards: Records are located in lockable file cabinets with access limited to individuals with an official need to know.

Retention and disposal: Retained in file for 6 months following separation or transfer of employee unless documents become part of disciplinary or appeal files covered by Civil Service Commission regulations.

System manager(s) and address: Director, Office of Personnel Management,
National Highway Traffic Safety Administration,
Department of Transportation,
400 7th Street, SW, Room 5306,
Washington, DC 20590.

Notification procedure: Individuals desiring to review information about them in the system of records should address inquiries to the System Manager. Individuals requesting the information should provide their full name, date of birth, and social security number.

Record access procedures: Individuals desiring to access information in this system should address inquiries to the System Manager.

Contesting record procedures: Individuals desiring to contest information in this system of records should address inquiries to the System Manager.

Record source categories: The individual to whom the record applies.

Creditors.
Tax supported institutions.
Courts.

DOT/NHTSA 456.

System name: Emergency Medical Information System. DOT/NHTSA.

System location: Under the auspices of the:
Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
System is located at:
Philadelphia Health Management Corporation,
Attention: Director of Emergency Medical Service,
530 Walnut Street, 13th Floor,
Philadelphia, PA 19106.
and at the:
Department of Public Health,
City of Philadelphia,
Division of Emergency Medical Service,
500 S. Broad Street,
Philadelphia, PA 19146.
and at the:
Emergency Operations Center,
City of Philadelphia,
3rd and Spring Garden Streets,
Philadelphia, PA 19123.
and at the:
Finance Department,
City of Philadelphia,
Municipal Services Building,
Philadelphia, PA 19102.

Categories of individuals covered by the system:
Users of central emergency access phone system (9.1.1).
Users of Fire Rescue Service and other emergency medical transport systems.
Users of hospital emergency departments under contract to the City of Philadelphia.
Special studies of serious medical emergency categories.

Categories of records in the system: Statistical, management and evaluation information on the utilization and cost of the Philadelphia emergency services system.

Billing information to be processed for individual hospital.
9.1.1 central medical emergency dispatch records, ambulance encounter record, hospital emergency department record summaries.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Periodic and special planning, management, system evaluation and billing reports and studies of emergency departments, ambulances, geographic areas, training requirements and other aspects of the Emergency Medical Service System.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: This function is currently being planned; magnetic tape and discs are most likely.

Retrievability: Billing will be done with data provided by hospitals; all other data except for possibly high risk file will not be patient specific, but will be by diagnosis, rescue unit, time, place,

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treatment given, severity, response, process, outcomes, etc.; high use file would be by person identifier, if accepted (it is now only being explored).

Safeguards: This area is currently in planning, however, we will use a variety of mechanisms including software design, personnel screening and training, physical plant design and other state of the art measures to assure security of the system.

Retention and disposal: This area is currently in the planning phase, however, it is clear that with the possible exception of high risk files patient specific information will not be maintained.

System manager(s) and address: Chief, Enforcement and Emergency Services Division, N42-13,

Department of Transportation,
National Highway Traffic Safety Administration,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

National Highway Traffic Safety Administration
Attention: Director, Office of Contracts and Procurement,
Office of Contracts and Procurement,
400 7th Street, SW, Room 5301,
Washington, DC 20590.

Record access procedures: See address in 'Notification Procedure' above.

Contesting record procedures: See address in 'Notification Procedure' above.

Record source categories:

9.1.1 central medical emergency dispatch records
Ambulance records
Hospital emergency department forms
Special studies
Philadelphia Health Management Corporation data base.

DOT/NHTSA 457.

System name: Suitability Files. DOT/NHTSA.

System location: Department of Transportation (DOT),

National Highway Traffic Safety Administration (NHTSA),
Office of Personnel Management,
400 7th Street, SW, Room 5306,
Washington, DC 20590.

Categories of individuals covered by the system: Employees of the National Highway Traffic Safety Administration.

Categories of records in the system: File consists of reference checks, medical examination reports, and fitness-for-duty medical examination reports.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in the system may be used by officials of the Agency to determine employee's suitability for employment and continued employment.

Documents in the file may be utilized as basis for separation actions after appointment.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored in manila envelopes.

Retrievability: Records are retrievable by employee name.

Safeguards: Records are maintained in locked file cabinets. Access is limited to those whose official duties require access.

Retention and disposal: Files are maintained during period of employment. Except for medical examination reports, which will be transferred to another agency if employee transfers, the records in the file are destroyed upon employee separation. Medical examination records are destroyed, however, when inter-agency transfer is not the basis for separation.

System manager(s) and address: Director, Office of Personnel Management,

Department of Transportation,
National Highway Traffic Safety Administration,
400 7th Street, SW, Room 5306,
Washington, DC 20590.

Notification procedure: Inquiries about the system of records should be directed to the System Manager. Individuals requesting information should provide their name, mailing address, and social security number.

Record access procedures: Individuals who desire access to or to contest information about them in this system of records should contact the System Manager.

Contesting record procedures: Same as 'Record Access Procedure' above.

Record source categories: Previous Employers.

Medical Practitioners.
Employee to whom the record pertains.

DOT/NHTSA 458.

System name: Investigations of Alleged Misconduct or Conflict of Interest. DOT/NHTSA.

System location: Department of Transportation (DOT),

National Highway Traffic Safety Administration (NHTSA),
Office of Associate Administrator for Administration,
400 7th Street, SW, Room 5238,
Washington, DC 20590.

Categories of individuals covered by the system: Name of individual, state or contractor.

Categories of records in the system: Copies of allegations, investigations, audits, and recommendations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In assessing need for corrective action as necessary.

Available to Associate Administrator for Administration, individual assigned to the review or investigation, and Secretary to the Associate Administrator for Administration.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in folders in safe.

Retrievability: Identified alphabetically by name.

Safeguards: Safe combination is available only to the secretary of the Associate Administrator for Administration and secretary to the Director, Management Systems.

Retention and disposal: Until one year following final disposition of case then shredded.

System manager(s) and address: Associate Administrator for Administration,

Department of Transportation,
National Highway Traffic Safety Administration,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

National Highway Traffic Safety Administration,
Attention: Associate Administrator for Administration, N48-01,
400 7th Street, SW, Room 5238,
Washington, DC 20590.

Record access procedures: See address in 'Notification Procedure' above.

Contesting record procedures: See address in 'Notification Procedure' above.

Record source categories: OST Office of Investigations and Security, FBI, Office of Audits, and internal investigative individuals.

State and local investigative and law enforcement agencies.

DOT/NHTSA 459.

System name: Stockton Increased DUI Enforcement/DUI Citation and Arrest File. DOT/NHTSA.

This file will be modified specifically for this project to include driver's license numbers and BAC levels.
Other files to be used are already maintained by the City of Stockton (traffic and criminal information) or will contain no information by which an individual could be identified (roadside survey data).

System location: Under the auspices of the:

Department of Highway Traffic Safety Administration (NHTSA),
System is located at:
Department of Psychology,
University of the Pacific,
Stockton, CA 95211,
and at the
Records Division,

City Hall,
22 East Market Street,
Stockton, CA 95202.

Categories of individuals covered by the system: Persons cited and/or arrested for DUI in City of Stockton.

Categories of records in the system: Citation and/or arrest records; court records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used to determine BACs of DUI offenders and recidivism rate overtime.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Record are maintained on magnetic tape and cards.

Retrievability: By name and driver's license number.

Safeguards: Records will be available for use by professional personnel only on evaluation team.

Records will be stored in a locked file cabinet in the Psycology Department or on tape at either computer center.

Retention and disposal: Retained for 10 years.

System manager(s) and address: Chief, Program and Demonstration Management Division, N42-11,

Department of Transportation,
National Highway Traffic Safety Administration,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,

National Highway Traffic Safety Administration,
Attention: Director, Office of Contracts and Procurement,
N48-30,
400 7th Street, SW, Room 5301,
Washington, DC 20590.

Record access procedures: See address in 'Notification Procedure' above.

Contesting record procedures: See address in 'Notification Procedure' above.

Record source categories: Citation and/or Arrest Records.

DOT/NHTSA 460.

System name: College Station/Young Problem Driver Improvement Program/ TDIP Driving Record File. DOT/NHTSA.

System location: Under the auspices of the:

Department of Transportation (DOT),
National Highway Traffic Safety Administration (NHTSA),
System is located at:
Room 114, Mechanical Engineering Shops,
Texas Transportation Institute,
Texas A&M University,
College Station, TX 77840.

Categories of individuals covered by the system: Drivers assigned to participate in Driver Improvement Training Program and control counterparts.

Categories of records in the system: This is a general driving record maintained on all drivers holding a valid Texas driver's license, and includes such information as:

(1) Name, date of birth, and sex.
(2) Date of issuance of license and license number.
(3) Current address.
(4) A listing of all convictions and accidents for the previous 36 months.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records will be used to evaluate the effectiveness of a driver improvement training program in reducing the accident and conviction experience of problem and near-problem drivers.

Users are Evaluation Specialists working on contract.
Analysis of gross recidivism rates for near problem and problem drivers will be forwarded to NHTSA.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Driving records will be maintained as hard copy printouts.

Retrievability: System is indexed by driver's license number.

Safeguards: Driving records are maintained in coded files such that access by name is not possible.

Retention and disposal: Records will be maintained for approximately 30 months and then will be burned.

System manager(s) and address: Regional Administrator,

Department of Transportation,
National Highway Traffic Safety Administration,
Region VI Headquarters,
819 Taylor Street, Room 11A26,
Fort Worth, TX 76102.

Notification procedure: Department of Transportation,

National Highway Traffic Safety Administration,
Attention: Director, Office of Contracts and Procurement,
N48-30,
400 7th Street, SW, Room 5301,
Washington, DC 20590.

Record access procedures: See address in 'Notification Procedure' above.

Contesting record procedures: See address in 'Notification Procedure' above.

Record source categories: Information being maintained is obtained from Texas Department of Public Safety driver record files. Address:

Texas Department of Public Safety,
Austin, TX.

DOT/NHTSA 461.

System name: Hotline-Call Report System. DOT/NHTSA.

System location: Department of Transportation (DOT),

National Highway Traffic Safety Administration (NHTSA),
Office of Consumer Services, N40-40,
400 7th Street, SW, Room 5232,
Washington, DC 20590.

Categories of individuals covered by the system: Vehicle owners according to make/model/year of motor vehicles owned, and/or according to safety information requested.

Categories of records in the system: System contains:

Vehicle defect-related owner complaints or information.
Vehicle or equipment failure-related complaints or information.
Inquiry groupings according to types of safety-related information or written source-materials requested.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: System is used to indicate emerging patterns of vehicle or vehicle equipment failure, and/or to correlate such patterns with typographical or geographical regions, in order to support defect-related NHTSA investigations and vehicle recall actions as authorized by statute. Individuals may be contacted to verify the accuracy of the information initially provided.

System is also used to categorize the types of informational requests and safety-related materials most requested and/or needed by all users of the Hotline service.
System is also used to generate statistical evaluation of Hotline-call volume, frequency, service rendered, degree of safety-realted information recorded and utilized as a result of the Hotline's installation.
Records may be disclosed to other federal or state agencies or consumer groups having remedial or response jurisdiction over the individual complaint recorded.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: On hard copy and magnetic tape.

Retrievability: By name and case number.

Safeguards: Appropriate ADP procedures for safeguarding data are utilized with the system.

Retention and disposal: System is maintained in support of an experimental 'pilot' program. Hence, length of record retention is now unknown. Destruction, when authorized, will be by shredder (hard copy) and by deletion (magnetic tape).

System manager(s) and address: Chief, Office of Consumer Services,

Department of Transportation,
National Highway Traffic Safety Administration,
400 7th Street, SW,

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Notification procedure: Department of Transportation,
National Highway Traffic Safety Administration,
Chief, Office of Consumer Services,
400 7th Street, SW., Room 5232,
Washington, DC 20590.

Record access procedures: Same as listed under 'Notification Procedure' above

Contesting record procedures: Same as listed under 'Notification Procedure' above

Record source categories: All information in the system is voluntarily submitted by vehicle owners, individual citizens, or other interested parties.

DOT/NHTSA 463.

System name: Motor Vehicle and Motor Vehicle Equipment Import. DOT/NHTSA

System location: Department of Transportation,
National Highway Traffic Safety Administration,
Office of Standards Enforcement,
2100 2nd Street, SW., Room 3310B,
Washington, DC 20590.

Categories of individuals covered by the system: Importers or declarants of imported motor vehicles and motor vehicles equipment, both private and commercial

Categories of records in the system: Forms HS-7, declaration on motor vehicles and motor vehicle equip- ment subject to Federal Motor Vehicle Safety Standards
Customs reports of declarations and inspections
Records relating to refusal of entry or penalties, and in some instances law enforcement and court records in alleged fraud cases

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used for monitoring compliance with Federal Motor Vehicle Safety Standards by NHTSA
Records may be released to the Environmental Protection Agency for compliance with the Clean Air Act and to the U.S. Customs Service for import requirements
Released to State divisions of motor vehicles for state purposes and to law enforcement agencies in alleged fraud cases.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper forms and computer disc tapes.

Retrievability: By name of importer or declarant, addressee(s) vehicle or vehicle identification, customs district and entry number, and port of entry.

Safeguards: Disc or tape may be accessed only by discrete identification code known to the System Manager and staff.
Hard paper copies are maintained in locked cabinets.

Retention and disposal: Hard paper copy is retained one year if no official claims are lodged against importer or declarant.
Disc and tapes retained for period of U.S. Customs Service statute of limitations before erasure.

System manager(s) and address: Team Leader, Customs Unit,
Office of Standards Enforcement,
National Highway Traffic Safety Administration,
Department of Tansportation,
2100 2nd Street, SW, Room 3310B,
Washington,DC 20590.

Notification procedure: Same as 'System Manager.'

Record access procedures: Same as 'System Manager.'

Contesting record procedures:
Same as 'System Manager.'

Record source categories: Data is obtained from forms executed by importers or declarants for the NHTSA,U.S. Customs Service, and the Environmental Protection Agency.

DOT/NHTSA 465.

System name: Improved Motorcyclist Licensing and Testing Project (IMLTP).

System location: Department of Motor Vehicles,
Division of Electronic Data Processing Service,
2415 First Avenue,
Sacramento, California 95818.

Categories of individuals covered by the system: Applicants for original motorcycle license or endorsement.

Categories of records in the system: Name, Driver's License Number, Address, Birthday, Sex, Educational level, Previous Experience Riding Motorcycles, Application Data, Knowledge Test Total Scores and Item Scores, Knowledge Test Administration Date, Mini-Skill Test Total Scores and Item Scores, Drive Test Administration Date, Drive Test Total Scores and Item Scores, Remedial Skills Training Data, Date Attended Remedial Skills Training, Accident and Conviction Record Since Date of Application.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Evaluation Specialist will use the system for the following:
To evaluate the effect of the licensing programs on accidents and convictions.
To determine the validity of the tests.
To evaluate the effect of remedial skills training on subsequent accidents and convictions.
To evaluate the influence of applicant characteristics on the licensing rate and on the accident reducing effectiveness of the licensing program.
To prepare management information system reports.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape.

Retrievability: By I.D. Number of drivers license Number.

Safeguards: The contents of the collected data will not be available to any public source. The Tape Library is in a locked room with controlled access.

Retention and disposal: The records will be kept on tape until ten years after completion of the study. Then the ID No., Application No. or Drivers License No. will be erased, and the records will be available to other researchers.

System manager(s) and address: Chief,
Program and Demonstration Management Division,
ODPP, Room 5130,
400 7th Street, SW.,
Washington, DC 20590.

Notification procedure: Inquiries should be directed to:
Department of Transportation
National Highway Traffic Safety Administration
Room 5301,
400 7th Street, SW.,
Washington, DC 20590
Atten: Director, Office of Contracts and Procurement (N48-30).

Record access procedures: Write or contact System Manager.

Contesting record procedures: All of the information in the system comes from the motorcycle subject file, the Driver's License Examiner file, or the driver's license files of the State of California.

DOT/NHTSA 466.

System name: National Highway Traffic Safety Administration Employee Travel Advances and Expense File.

System location: Room 4103,
DOT Headquarters Building,
400 7th Street, SW.,
Washington, DC 20590.

Categories of individuals covered by the system: NHTSA Employees at Headquarters and the ten Regional Offices
Intergovernmental Personnel Act Employees of NHTSA
Temporary Employees of NHTSA

Categories of records in the system: Employee Name
Employee Number
Travel Order Number
Travel Advances Outstanding:
Continuing Advance Amount and date issued
Trip advance amount and date issued
Change of Station advance amount and date issued
Payments of advances
Travel Expense:

Subsistence
Transportation of Persons

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To maintain accountability of travel and transportation costs by object class for each allottee - Budget and Accounting Report - RIC-0031.
To control funds advanced to employees for travel and change of station.
To record detail of transactions processed for each budget allotment/allowance - Operating Budget - RIC09032.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Original records are maintained by the Office of Financial Management as follows:
Travel Orders, DOT 1500.3 and DOT 1500.4
Travel Vouchers, SF-1012
Travel Advance Record, DOT 1500.5
Data coded from these documents are keypunched to cards and proceessed for disc storage.

Retrievability: Job controls (JCL's) for retrieving data for periodic reports are maintained. Each report is identified by Report I.D. and by Report Name.

Safeguards: JCL's are kept in a locked cabinet under custody of System Manager.

Retention and disposal: Original Records are retained in accordance with the Comptroller General's requirements for record retention.
Punched cards are disposed of three months after processing as input to disc.
Hard copies of reports are retained for one year.

System manager(s) and address: Chief,
Accounting Operations
Room 4103,
Office of Financial Management
400 7th Street, SW
National Highway Traffic Safety Administration
Washington, DC 20590.

Notification procedure: Address all inquiries to:
Privacy Act Coordinator, Room 4103
Office of Financial Management
National Highway Traffic Safety Administration
400 7th Street, SW
Washington, DC 20590
Request for data may be made by any employee of NHTSA concerning the employee's own record. Request must be in writing and must identify:
System Name: DOT/NHTSA Travel Advances and Expense
Employee Number
Employee Name

Record access procedures: All inquiries as to procedures for gaining access to and Contesting records shall be directed to:
Privacy Act Coordinator - Room 4103
Office of Financial Management
National Highway Traffic Safety Administration
400 7th Street, SW
Washington, DC 20590

Contesting record procedures: DOT Form 1500.2 Application and Account for Advance of Funds
DOT Form 1500.3 Travel Order for Temporary Duty
DOT Form 1500.4 Travel Order for Permanent Change of Station
SF-1012 Travel Expense

DOT/OST 001.

System name: General Employee Records System. DOT/OST.

System location: Department of Transportation (DOT),
Office of the Secretary (OST),
400 7th Street, SW., Room 10320A and 10314,
Washington, DC 20590.

Categories of individuals covered by the system: Current employees of the Office of Management Systems.

Categories of records in the system: This system consists of copies of Time and Attendance cards of all employees in the Office of Management Systems and the Office of the Assistant Secretary for Administration, showing what their pay status was at any particular time. Maintenance of Employee Records (SF-7B) for all employees in the Office of Management Systems. Retention of copies of paid travel vouchers for certain employees of the Department of Transportation.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records is used to provide a readily available source of reference for organizational planning; ready reference as to attendance; general idea of how travel funds are being utilized.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in file folders, on index cards, and in file boxes.

Retrievability: These records are maintained chronologically by name; by individual division; and, individual regions.

Safeguards: Access to and use of these records are limited to persons whose official duties require such access. Files are maintained in room 10320A which is locked during non-work hours. The system manager's secretary is responsible for screening people who wish to use the files, for filing, and for maintenance of the files.

Retention and disposal: The records are maintained while the individuals are employed in the Office of Management Systems.

System manager(s) and address: Director of Management Systems,
Department of Transportation,
Office of the Secretary,
TAD-20, Room 10320,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Any individual who w-shes to inquire as to whether this system contains records about him may write to:
Department of Transportation,
Office of the Secretary,
Office of Management Systems,
Director's Secretary,
400 7th Street, SW., Room 10320,
Washington, DC 20590.
The written request should include the individual's social security number or a notarized signature. An individual who wishes to make an inquiry in person should present himself and his DOT building pass to:
Director's Secretary,
400 7th Street, SW., Room 10320,
Washington, DC 20590.

Record access procedures: Employees who wish to gain access or contest their records should contact:
Department of Transportation,
Office of the Secretary,
Director of Management Systems,
400 7th Street, SW.,
Washington, DC 20590.

Contesting record procedures: Same as 'Record Access Procedure' above.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied.

DOT/OST 003.

System name: Allegations of Infringement of United States Patents. DOT/OST.

System location: Department of Transportation (DOT),
Office of the Secretary (OST),
Office of the General Counsel,
400 7th Street, SW, Room 10100,
Washington, DC, 20590.

Categories of individuals covered by the system: Individuals who believe that an agency of the Department of Transportation is infringing a United States patent owned by the individual.

Categories of records in the system: Copies of correspondence alleging that agencies of the Department of Transportation have infringed, or are infringing, United States patents owned by the originators of the correspondence. Copies of replies by the Department Patent Counsel to the originator of the allegation. Copies of correspondence forwarding the allegation to the particular Depart-

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ment agency accused for their comment; their replies to Patent Counsel. Copies of correspondence between the Department of Transportation and the Department of Justice concerning the allegations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a record of allegations and Patent Counsel's actions thereon.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders stored in file cabinets.

Retrievability: Indexed individually by name in alphabetical sequence.

Safeguards: Records are disclosed only to individuals with established legal interest or legal 'need to know.'

Retention and disposal: Transfer to Federal Records Center two years after close of file; Destroy 25 years after close of file.

System manager(s) and address: Patent Counsel,
Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
Office of the Assistant General Counsel for Operations and Legal Counsel,
400 7th Street, SW, Room 10100,
Washington, DC 20590.

Notification procedure: Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
Office of Patent Counsel,
400 7th Street, SW, Room 10100,
Washington, DC 20590.

Record access procedures: Patent Counsel,
Office of the Assistant General Counsel for Operations and Legal Counsel,
Office of the Secretary,
Office of the General Counsel,
Department of Transportation,
400 7th Street, SW, Room 10100,
Washington, DC 20590.

Contesting record procedures: Same as 'Record Access Procedures'

Record source categories: Patent owners.

DOT/OST 004.

System name: Board for Correction of Military Records (BCMR). DOT/OST.

System location: Department of Transportation (DOT),
Office of the Secretary (OST),
Office of the General Counsel,
400 7th Street, SW, Room 10102,
Washington, D.C. 20590

Categories of individuals covered by the system: Military personnel requesting the Board for Correction of Military Records to correct their military records.

Categories of records in the system: Copies of actions of the General Counsel acting under delegated authority approving or disapproving BCMR cases.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a record of the General Counsel's action in individual BCMR cases.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders stored in file cabinets (Conserv-a-File).

Retrievability: Indexed individually by name in alphabetical sequence.

Safeguards: Files are kept in the office of the Assistant General Counsel. Requests are referred to the Executive Secretary, BCMR.

Retention and disposal: Retire in 3 years; destroy in 6 years.

System manager(s) and address: Assistant General Counsel for Operations and Legal Counsel,
Department of Transportation,
Office of the Secretary, Office of the General Counsel,
400 7th Street, SW, Room 10102,
Washington, D.C. 20590.

Notification procedure: Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
400 7th Street, SW, Room 10428,
Washington, D.C. 20590.

Record access procedures: Executive Secretary,
Department of Transportation,
U.S. Coast Guard, Office of the Chief Counsel,
Board for Correction of Military Records,
2100 2nd Street, SW, Room 5601,
Washington, D.C. 20590.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: Official agency records; hearings, documentary material from outside the agency.

DOT/OST 005.

System name: Citizens' Advisory Committee on Transportation Quality. DOT/OST.

System location: Department of Transportation (DOT),
Office of the Secretary (OST),
Office of Consumer Affairs,
400 7th Street, SW, Room 9424,
Washington, DC 20590.

Categories of individuals covered by the system: Present Members of the Citizens' Advisory Committee.
Past Members of the Citizens' Advisory Committee.
Individuals interested in being considered for appointment.

Categories of records in the system: Biographic Sketches and Travel Records (includes travel orders, travel vouchers, claims for reimbursement).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Sketches used in connection with appointing members to the committee.
Maintaining travel expenses.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained in official filing system.

Retrievability: Records indexed alphabetically by name.

Safeguards: Records are kept in locked files.

Retention and disposal: Retained until expiration of terms, then sent to storage for a 3 year period, then destroyed.

System manager(s) and address: Director, Office of Consumer Affairs, TES-40,
Department of Transportation,
Office of the Secretary,
400 7th Street, SW, Room 9424,
Washington, DC 20590.

Notification procedure: The individual may present himself in person or in writing to the System Manager where files are held to inquire about whether records apply to him.

Record access procedures: The individual may gain access to his records upon his request to the System Manager.

Contesting record procedures: Contest of these records will be in writing to the System Manager, listed above. If request is not resolved, the individual may file an appeal with the Secretary of Transportation addressed to the General Counsel as follows:
Department of Transportation,
Office of the Secretary,
Office of General Counsel,
400 7th Street, SW, Room 10428,
Washington, DC 20590.

Record source categories: Biographical data obtained from various methods, including information provided by the individual and submission by DOT Secretarial Representatives.
Travel data submitted by individual members.

DOT/OST 006.

System name: Confidential Statement of Employment and Financial Interests. DOT/OST.

System location: Department of Transportation (DOT),
Office of the Secretary (OST),
Office of the General Counsel,
400 7th Street, SW, Room 10428,
Washington, DC 20590.

Categories of individuals covered by the system: Employees of the Department of Transportation in supervisory or other positions where a conflict of interest or the appearance of a conflict of interest might occur. Also included in this category are Consultants and Experts of the Department of Transportation.

Categories of records in the system: Information on employment and financial interests and debts.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information to be furnished is required by Executive Order 11222 and the regulations of the Civil Service Commission issued thereunder and may not be disclosed except as the Commission or the agency head may determine. The purpose of the use of this information is to avoid a conflict of interest or the appearance of a conflict of interest in DOT employees.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Accordion - type file folder.

Retrievability: Indexed individually by name in alphabetical sequence.

Safeguards: Records are stored in safe.

Retention and disposal: Records are kept 3 years and then destroyed.

System manager(s) and address: Deputy General Counsel,
Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
400 7th Street, SW, Room 10428,
Washington, DC 20590. 11
Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
Deputy General Counsel,
400 7th Street, SW, Room 10428,
Washington, DC 20590. Inquiries may be addressed to the Deputy General Counsel either in person or in writing. If written the individual must provide a notarized signature.

Record access procedures: Access to records requires the individual to contact in person or write the Deputy General Counsel.

Contesting record procedures: Contest of a record is also through the Deputy General Counsel.

Record source categories: Statements of employment and financial interests, creditors, interests in real property are submitted by employees and consultants of the Department of Transportation. Initial requests for submission of statements are through the Office of Personnel and Training.

DOT/OST 008.

System name: Departmental Advisory Committee Files. DOT/OST.

System location: Department of Transportation (DOT),
Office of the Secretary (OST),
Office of the Executive Secretary,
400 7th Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: Present and former members of Departmental Advisory Committees.

Categories of records in the system: Individual index card membership file listing name, address, occupation, committee name, and term of appointment.
Biographical information on committee members.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To prepare reports required by the Congress and the Office of Management and Budget.
To answer inquiries on the membership status of individuals received from Departmental elements as well as from public and private organizations and individuals.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 3x5 index card file.
File folders.

Retrievability: Alphabetically by individual's name.
Alphabetically by committee name.

Safeguards: Files kept in locked room, accessible only by permission of the Committee Records Manager.

Retention and disposal: Maintained indefinitely.
Retired to Federal Records Center within five years after a committee becomes inactive.

System manager(s) and address: Executive Secretary/DOT Committee Management Officer,
Department of Transportation,
Office of the Secretary,
Office of the Executive Secretary,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Inquiries should be directed to the System Manager. Full, correct name of advisory committee, if known, will facilitate location of information.

Record access procedures: Contact System Manager for information on procedures for gaining access to records.

Contesting record procedures: Contact System Manager for information on procedures for contesting records. Appeals should be directed to the Secretary of Transportation, if request for modification or deletion is denied.

Record source categories: Information supplied by the Committee Sponsor.

DOT/OST 010.

System name: Departmental Personnel Management Information System. DOT/OST.

System location: Department of Transportation (DOT),
Transportation Computer Center,
400 7th Street, SW, Room 2401,
Washington, DC 20590.
Computer Network Corporation,
5185 MacArthur Blvd.,
Washington, DC 20016.

Categories of individuals covered by the system: Federal civilian employees of the U. S. Department of Transportation.

Categories of records in the system: Personnel Records and Training Records

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Issue automated records to the U.S. Civil Service Commission.
Submit personnel reports, summaries and name listings to the U.S. Civil Service Commission, Office of Management and Budget, U. S. Department of Commerce, U.S. Congress, and other government agencies.
Develop statistical summaries and name listings for use in performing personnel management functions and other manpower and budgetary functions of the Department.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic Tapes and Disks.

Retrievability: Social Security Number.

Safeguards: Transportation Computer Center maintains both physical security and personal access by retrieve/access procedures and secured storage and operative areas.

Retention and disposal: The personnel records are maintained for a 3 year period while the training records will be maintained for a 10 year period. The records disposed by blending the magnetic tapes or disks.

System manager(s) and address: Director of Personnel and training,
Department of Transportation,
Office of the Secretary,
400 7th Street, SW.,
Washington, DC 20590.

Notification procedure: The individual may address the Office of Personnel and Training (Director of Personnel and Training), in person or in writing, at the above address.

Record access procedures: Same as 'Notification Procedure'.

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Contesting record procedures: Contest of these records will be to the Office of Personnel and Training. If resolution is not satisfactory to the individual, an appeal may be filed with the Secretary of Transportation addressed to the General Counsel as follows:

Department of Transportation,
Office of The Secretary,
Office of the General Counsel,
400 7th Street, SW., Room 10428,
Washington, DC 20590.

Record source categories: Standard Form 50 (Notification of Personnel Action).

Standard Form 52 (Request for Personnel Action).
Standard Form 171 (Personnel QUALIFICATIONS Statement).
Standard Form 1126 (Pay Change Action).
Optional Form 170 (Training) and other internal training forms.
Internal Forms (Minority Identification Record).

DOT/OST 011.

System name: Discrimination Complaint Investigative Files. DOT/OST.

System location: Department of Transportation (DOT),

Office of the Secretary (OST),
Departmental Office of Civil Rights,
Complaints Division,
2100 Second Street, SW., Rm 5300,
Washington, DC 20590.

Categories of individuals covered by the system: Complaints of discrimination by employees of, and applicants to, the Department. Complaints of discrimination by individuals affected by departmental programs for which the Department has compliance responsibility.

Categories of records in the system: Formal complaint.

Personnel record information.
Racial-ethnic data.
Investigative reports.
Affidavits.
Departmental decision.
Hearing transcript, if hearing is held.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Internal Complaints:

Investigation and adjudication of complaint by the Departmental Office of Civil Rights.
Referral to the General Counsel and, upon request, to the appropriate U.S. Attorney's Office, if complainant files suit in court.
Referral to the Civil Service Commission (CSC) if complainant requests a hearing or appeals a Departmental decision.
Referral to the CSC for investigation of complaint.
Information copies to the Civil Rights Office of the employee's administration and to the employee.

External Complaints:

Referral to Office of Federal Contract Compliance (OFCC) of discrimination complaints relating to employment.
Referral to operating administration with compliance responsibility of class-action complaints, for purpose of a compliance review.
Investigation by Departmental Office of Civil Rights personnel of Title VI complaints.
Referral, upon request, to Department of Justice, which has overall program responsibility for Title VI enforcement.
Referral to General Counsel when conciliation fails and sanction action is anticipated.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Alphabetically within operating administration.

Safeguards: Maintained in locked file cabinets in a locked room.

Retention and disposal: Maintained three years, then retired to NARS.

System manager(s) and address: Director of Civil Rights,

Department of Transportation,
Office of the Secretary,
Director of Civil Rights,
400 7th Street, SW.,
Washington, DC 20590.

Notification procedure: Inquiries should be directed to the System Manager.

Record access procedures: Contact System Manager for information on procedures for gaining access to records.

Contesting record procedures: Contact System Manager for information on procedures for contesting records. Appeals should be directed to the Secretary of Transportation, if request for modification or deletion is denied.

Record source categories: Information provided by the complainant.

Personnel files and employment records.
Interviews with witnesses.

DOT/OST 012.

System name: Files Relating to Personnel Hearings. DOT/OST.

System location: Department of Transportation (DOT),

Office of the Secretary (OST),
Office of the General Counsel,
400 7th Street, SW, Room 10102,
Washington, DC 20590.

Categories of individuals covered by the system: Certain employees of the Office of the Secretary who have availed themselves of the opportunity for a hearing in certain personnel matters.

Categories of records in the system: A record of the legal services performed and reference material for future cases.

Routine uses of records maintained in the system, including categories of users and the purpoees of such uses: Used by agency management in the preparation and conduct of administrative hearings.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage file folders stored in file cabinets (Conserv-a-File).

Retrievability: Indexed individually by name in alphabetical sequence.

Safeguards: Files are kept in the office of the Assistant General Counsel.

Retention and disposal: Retire in 3 years; destroy in 6 years.

System manager(s) and address: Assistant General Counsel for Operations and Legal Counsel,

Department of Transportation,
Office of the1 Secretary, Office of the1 General Counsel,
400 7th Street, SW, Room 10102,
Washington, DC 20590.

Notification procedure: Department of Transportation,

Office of the Secretary,
Office of the General Counsel,
400 7th Street, SW. Room 10428,
Washington, DC. 20590.

Record access procedures: Department of Transportation,

Office of the Secretary, Office of the General Counsel,
Assistant General Counsel for Operations and Legal Counsel,
400 7th Street, SW, Room 10102,
Washington, DC 20590.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: Official agency records; hearings; documentary material from outside the agency.

DOT/OST 013.

System name: Employee Management Convenience Files-Audit.

System location: Regional Audit Manager,

Office of Audits, DOT-OST,
Room 930,
Transportation Systems Center,
Kendall Square,
Cambridge, MA 02124.
Regional Audit Manager,
Office of Audits, DOT-OST,
181 South Franklin Avenue,
Valley Stream, NY 11581.
Regional Audit Manager,
Office of Audits, DOT-OST,
1568 Willingham Drive,
Atlanta, GA 30337.
Regional Audit Manager,

Office of Audits, DOT-OST,
Suite 710,
300 South Wacker Drive,
Chicago, IL.
Regional Audit Manager,
Office of Audits, DOT-OST,
Room 9A31,
Federal Office Building,
819 Taylor Street,
Fort Worth, TX 76102.
Regional Audit Manager,
Office of Audits, DOT-OST,
PRUDENTIAL PLAZA BUILDING,
1050 17th Street,
Denver, CO 80220.
Regional Audit Manager,
Office of Audits, DOT-OST,
Suite 580,
2 Embarcadero Center,
San Francisco, CA 94111.
Regional Audit Manager,
Office of Audits, DOT-OST,
Federal Office Building,
915 Second Avenue,
Room 3198,
Seattle, WA 98174.
Manager, Kansas City Suboffice,
Office of Audits, DOT-OST,
601 East 12th Street, Room 1756,
Kansas City, MO 64106.

Categories of individuals covered by the system: Present employees.

Categories of records in the system: Performance Evaluation Records, Position Descriptions, SF-171s.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Employment, pay and performance evaluations.

Used by supervisor and administrative personnel in preparation of personnel documents.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Safe and File cabinets.

Retrievability: By name.

Safeguards: Locked safe and files.

Retention and disposal: Retained for current employment. Destroyed by shredding.

System manager(s) and address: Chief, Resource Management Staff, TAD-72,

Department of Transportation,
Office of the Secretary,
Office of Audits,
400 7th Street, SW, Room 9210,
Washington, DC 20590.

Notification procedure: Department of Transportation,

Office of the Secretary,
Office of Audits,
Chief, Resource Management Staff,
400 7th Street, SW, Room 9210,
Washington, DC 20590.

Record access procedures: Current employees may have access to contents through the System Manager.

Contesting record procedures: Current employees may contest contents through the System Manager.

Record source categories: Subject, supervisor, responsible official, personnel and payroll offices.

DOT/OST 014.

System name: Employment Applications Files. DOT/OST.

System location: The following Secretarial Offices located at:

400 7th Street, SW,
Washington, DC 20590:
Office of the Deputy Secretary, S-2.
Special Assistant to the Secretary, S-3.
Special Assistant to the Secretary, S-7.
Office of the Deputy Under Secretary, S-5.
Office of the Executive Secretary, S-10.
Contract Appeals Board, S-20.
Office of Public Affairs, S-80.
Office of Civil Rights, S-30.

Categories of individuals covered by the system: Prospective employees.

Categories of records in the system: Resumes, employee applications, samples of work and letters of recommendation and referral. (Note: Not all items are held in all offices.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Consideration for in-house employment.

Where appropriate, referral to other offices and agencies for consideration of employment.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Filed alphabetically by name, except in the Office of Civil Rights of the Department, where they are filed alphabetically by name within occupational series.

Safeguards: Files are accessible only with the permission of each System Manager.

Retention and disposal: Files are retained as long as position(s) for which individual(s) is (are) being considered remain(s) viable.

System manager(s) and address: Senior official of each office listed.

Notification procedure: Inquiries should be directed to the appropriate System Manager.

Record access procedures: Contact the appropriate System Manager for information on procedures for gaining access to records.

Contesting record procedures: Contact the appropriate System Manager for information on procedures for contesting records. Appeals should be directed to the Secretary of Transportaion, if request for modification or deletion is denied.

Record source categories: Applicant.

Referring individual.
Other agencies, including the Civil Service Commission.
DOT officials.
Office of Personnel Operations.
(Note: Not all sources are used by all offices.)

DOT/OST 015.

System name: Funds Management Records. DOT/OST.

System location: Department of Transportation (DOT),

Office of the Secretary (OST),
Office of Emergency Transportation, (OET) (TAD)-80),
400 7th Street, SW, Washington, DC 20590.
Regional Emergency Transportation Coordinator (RETCO),
Regions 1 and 2,
c/o Commander 1st Coast Guard District,
150 Causeway Street,
Boston, MA 02114.
RETCO, Region 3,
c/o Federal Highway Administration,
1633 Federal Building,
Baltimore, MD 21201.
RETCO, Region 4,
c/o Federal Aviation Administration,
P.O. Box 20636,
Atlanta, GA 30320.
RETCO, Region 5,
c/o Federal Highway Administration,
18209 Dixie Highway,
Homewood, IL 60430.
RETCO, Region 6,
c/o Federal Aviation Administration,
P.O. Box 1689,
Ft. Worth, TX 76101.
RETCO, Region 7,
c/o Federal Highway Administration,
P.O. Box 19715, Country Club Sta.,
Kansas City, MO 64141.
RETCO, Region 8,
c/o Federal Highway Administration,
Denver Federal Center,
Denver, CO 80225.

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RETCO, Region 9,
c/o United States Coast Guard, Commander Pacific Area,
630 Sansome Street,
San Francisco, CA 94126.
RETCO, Region 10,
c/o Commander 13th Coast Guard District,
Federal Building, Room 3446,
915 Second Avenue,
Seattle, WA 98174.
RETCO, Alaska Region,
c/o Federal Aviation Administration,
632 Sixth Avenue,
Anchorage, AK 99501.

Categories of individuals covered by the system: Members of the National Defense Executive Reserve (NDER): private citizens; Military members; U.S., State, and local government officials and civil servants, who participate in Fund activities.

Categories of records in the system: Receipt forms by individual name, with dates, amounts of money received, and purpose with vouchers to enter the fund; checks with vouchers in payment of approved invoices; procurement requests for authorized services; invoices for services rendered and correspondence to agencies, firms and individuals pertaining to the above.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Internal management of non-appropriated funds of NDER units, National and Regional, in authorized training activities of those units.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Individual records are maintained in a filing folder appended to numbered vouchers.

Retrievability: Retrieved only by incident or occasion to which voucher pertains.

Safeguards: Maintained in metal file containers or other standard office equipments which are kept in a locked file room.

Retention and disposal: Retained indefinitely.

System manager(s) and address: Custodian, Organization Fund,
Department of Transportation,
Office of the Secretary,
Office of Emergency Transportation Unit,
National Defense Executive Reserve,
400 7th Street, SW, Room 9114,
Washington, DC 20590. For each Region the RETCO (Section 02) is manager of the Regional Fund.

Notification procedure: Inquiries may be addressed to any of the offices listed under 'System Locations'. Individuals requesting such information must sign the request personally and include suitable identification. Alternatively personal visits to the above locations with presentation of suitable identification will enable individual to learn of and have access to his or her record.

Record access procedures: Individual may secure or obtain information or procedures for gaining access to records by addressing a written query to the offices cited above or presenting him or herself in person to those offices.

Contesting record procedures: Same as 'Record Access Procedures'.

Record source categories: Data comes from individuals concerned.

DOT/OST 016.

System name: General Investigations Record System. DOT/OST.

System location: Department of Transportation (DOT),
Office of the Secretary (OST),
Office of Investigations and Security (TAD-50),
400 7th Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: DOT employees and contractor employees as well as employees, grantees, subgrantees, contractors, subcontractors and applicants for DOT funded programs.

Categories of records in the system: Results of investigations and inquiries conducted by the Office of Investigations and Security (OST); reports of investigations conducted by other Departmental, Federal, state and local investigative agencies which relate to the mission and function of the Office of Investigations and Security; incident reports covering occurrences relating to the security of DOT personnel and headquarters buildings; and investigative case index card files.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in the Investigative Records System is collected and maintained in the administration of the DOT Act, Federal Criminal Statutes, Uniform Code of Military Justice, Executive Orders, and the Code of Federal Regulations to oversee and enforce Federal laws and regulations. Material gathered is used in the enforcement of the aforementioned laws and regulations.

These records may be disseminated, depending on jurisdiction, to:
DOT Officials in the administration of their responsibilities.
Other Federal, state, local or foreign agencies or administrations having interest or jurisdiction in the matter.
Any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, to inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in case folders in manual filing system and on index cards.

Retrievability: By name or incident title.

Safeguards: Investigative files and case index file cards are maintained in a cypher-locked room with appropriate access controls. Access to investigative files is strictly restricted to authorized investigative personnel on a 'need-to-know' basis, with appropriate access controls.

Retention and disposal: Investigative material held for ten years, then destroyed by secure means used for classified materials.

System manager(s) and address: Director, Office of Investigations and Security (TAD)-50),
Department of Transportation,
Office of the Secretary,
400 7th Street, SW, Room 10323,
Washington, DC 20590.

Notification procedure: Same as 'System Manager'.

Record access procedures: Same as 'System Manager'. Investigative data compiled for law enforcement may be exempt from the access provisions pursuant to 5 USC 552a(k)(2).

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: These records contain information obtained from interviews, review of records and other authorized investigative techniques.

Systems exempted from certain provisions of the act: Investigative data compiled for law enforcement purposes may be exempt from the access provisions pursuant to 5 USC 552a (j)(2), (k)(1) or (k)(2).

DOT/OST 018.

System name: Identification Media Record Systems. DOT/OST.

System location: Department of Transportation (DOT),
Office of the Secretary (OST),
Office of Investigations and Security, TAD-50,
400 7th Street, SW,
Washington, DC 20590.
Commandant (GOIS),
U.S. Coast Guard Headquarters,
Washington, D.C. 20590; and each District Office.
Federal Aviation Administration,
Office of Investigations and Security,
800 Independence Avenue, SW,
Washington, D.C. 20591; and FAA Regional and Center Air Transportation Security Divisions.
Federal Highway Administration,
Operations and Services Division,
400 7th Street, SW,
Washington, DC 20590; and all FHWA Regional Offices.

Categories of individuals covered by the system: Present employees, contractor employees, and National Defense Executive Reservists in the Office of the Secretary, U.S. Coast Guard, Federal Aviation Administration, Federal Railroad Railroad Administration, National Highway Traffic Safety Administration, Urban Mass Transportation Administration, St. Lawrence Seaway Development Corporation, and Materials Transportation Bureau.

Categories of records in the system: Applications, photographs, receipts for DOT identification cards, and official credentials; special facilities passes, including Federal Preparedness Agency passes; temporary building passes; and application for Civil Defense Emergency Assignee cards or other passes needed for official duties.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are maintained for control and accountability of DOT identification cards, credentials, and Civil Defense Emergency Assignee cards issued to DOT Civilian employees, contractor employees and executive reservists for identification purposes and admittance to the DOT facilities or for other official duties.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Alphabetically filed card forms in manual filing system.

Retrievability: By name.

Safeguards: Application cards stored in locked drawers and/or in a locked room with limited access.

Retention and disposal: Applications, including photographs and identification media, are destroyed upon termination of employment.

System manager(s) and address: Director of Investigations and Security, TAD-50,
Department of Transportation,
Office of the Secretary,
400 7th Street, SW, Room 10323,
Washington, DC 20590.
For USCG: Commandant (GOIS),
U.S. Coast Guard Headquarters,
Washington, DC 20590.
For FAA: Director, Office of Investigations and Security,
Federal Aviation Administration,
800 Independence Avenue, SW,
Washington, DC 20591.
For FHWA: Chief, Operations and Services Division,
Federal Highway Administration,
400 7th Street, SW,
Washington, DC 20590.
All FHWA Regional Offices

Notification procedure: Same as 'System Manager'.

Record access procedures: Same as 'System Manager'.

Contesting record procedures: Same as 'System Manager'.

Record source categories: Individual on whom the record is maintained.

DOT/OST 019.

System name: Individual Personal Interests in Intellectual Property. DOT/OST.

System location: Department of Transportation (DOT),
Office of the Secretary (OST),
Office of the General Counsel,
400 7th Street, SW, Room 10100,
Washington, DC 20590.

Categories of individuals covered by the system: Inventors employed by or having contractual relationships with the Department of Transportation and other Government agencies.

Categories of records in the system: Invention disclosures, Government Patents Branch cases, patent applications, issued patents, and license agreement files.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Patent Counsel and his staff as a record of determination of rights in inventions, determination of novelty and patentability, determination of patent coverage, and allocation of rights in issued patents.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders stored in file cabinets.

Retrievability: Indexed individually by name in alphabetical sequence.

Safeguards: Records are disclosed only to individuals who have legal interest in the records or legal 'need to know.'

Retention and disposal: Transfer to Federal Records Center two years after close of file; destroy 25 years after close of file.

System manager(s) and address: Patent Counsel,
Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
Office of the Assistant General Counsel for Operations and Legal Counsel,
400 7th Street, SW, Room 10100,
Washington, DC 20590.

Notification procedure: Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
Office of Patent Counsel,
400 7th Street, SW, Room 10100,
Washington, DC 20590.

Record access procedures: Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
Patent Counsel,
Office of the Assistant General Counsel for Operations and Legal Counsel,
400 7th Street, SW, Room 10100,
Washington, DC 20590.

Contesting record procedures: Same as 'Record Access Procedures'.

Record source categories: Individual inventors, technical evaluators, and United States Patent and Trademark Office.

DOT/OST 020.

System name: Information Systems Division Project Management System. DOT/OST.

System location: Department of Transportation (DOT),
Office of the Secretary (OST),
400 7th Street, SW, Room 10317,
Washington, DC 20590.

Categories of individuals covered by the system: Records involve only employees of the Information Systems Division, Office of Management Systems.

Categories of records in the system: Contains detailed plans for obligation and expenditure of funds for individual projects, including project manager, category of expenditure maintained on random access data base with formal reports, specific task assignment notes with scheduled completion dates, agreed-on goals and objectives for projects and individuals.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Normal use is for internal agency management review of planned and actual accomplishments and fund usage on approved projects. May also be used for similar reviews with other government agency personnel involved in management of information systems activities such as OMB, GSA and NBS.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Printed, typed or hand-written items are maintained in normal office file systems. Obligation and cost tracking records maintained on commercial computer time-sharing random access storage under password control (plus account number control).

Retrievability: Computer-resident data normally retrieved by standard report, selected by project or group of projects.
Detailed reports normally used by individuals to update; summary reports (which do not contain personal date) normally used for management review.
Goal/objectives statements manually filed (variable).

Safeguards: Computer data base under account number and password control; requires some knowledge of system to extract.
Manual records and print-outs are in normal office files, amount of personal data is not considered significant.

Retention and disposal: Records are maintained for the life of a particular project or fiscal year.

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Computer based records are deleted from a terminal. Printed or hard copies in normal trash pickup.

System manager(s) and address: Chief, Information Systems Division,

Department of Transportation,
Office of the Secretary,
Office of Management Systems,
400 7th Street, SW, Room 10317,
Washington, DC 20590

Notification procedure: Contact the System Manager. Generally, each individual should have a copy of any record pertaining to him.

Record access procedures: Contact the System Manager. All records are normally brought to the named individual's attention periodically for updating since this is a status system.

Contesting record procedures: Notify the system manager of any erroneous items.

Record source categories: Records are normally created by the division chief in conjunction with the named individual as part of the normal management process of assigning work. States data is supplied (usually by the named individual) based on billings from contractors, revised estimates, budget changes or similar events and sources.

DOT/OST 022.

System name: National Defense Executive Reserve (NDER)File. DOT/OST.

System location: Office of Emergency Transportation (OET) (TAD-80).

Department of Transportation,
400 7th Street, SW,
Washington, D.C. 20590.
Some records are held only in the Office of Emergency Transportation while others are held at various locations in the custody of officials in the several regions, as indicated in the paragraph labeled 'Categories of Records' below. Holdings of the Regional Directors-designate and Deputy Directors-designate are partial duplications of the Regional Emergency Transportation Coordinator(RETCO) files and may be accessed through the applicable RETCO. The RETCO and the Regional Emergency Transportation Representative(RETREP) for each region may be contacted directly at the addresses shown below. The Regional Director-designate and Deputy Director-designate for each region may be contacted by addressing mail in care of the RETCO for that region at the address shown in the following list:
Regions 1 and 2,
150 Causeway Street,
Boston, MA 02114.
Region 3,
1633 Federal Building,
Baltimore, MD 21201.
Region 4,
P.O. BOx 20636,
Atlanta, GA 30320.
Region 5,
18209 Dixie Highway,
Homewood, IL 60430.
Region 6,
P.O. Box 1689,
Ft. Worth, TX 76101.
Region 7,
P.O. Box 7186,
Country Club Sta.,
Kansas City, MO 64113.
Region 8,
Denver Federal Center,
Denver, CO 80225.
Region 9,
630 Sansome Street,
San Francisco, CA 94126.
Region 10,
Federal Bldg.,
Rm. 3590,
915 Second Ave.,
Seattle, WA 98174.
Alaska Region,
632 Sixth Avenue,
Anchorage, AK 99501.
Administrative Communications Officer,
Department of Commerce,
Box No. 688,
Greensboro, NC 27402.

Categories of individuals covered by the system: Upper, middle, and lower management members of the transportaton industry, university professors, lawyers and business men who are candidates for membership in NDER, active members of NDER, or who are former members whose membership has been terminated by death, resignation or involuntary release, and emeritus members.

Categories of records in the system: Personnel and security forms completed by individuals consisting of applications, statements of understanding by employers, security and identifcation data from individuals, certificates of appointment and reappointmen (located at DOT/OST/OET and RETCOs only); names and addresses of individuals for directory (maintained at DOT/OST/OET only); name and address card file (maintained at DOT/OST/OET only); card file with name, date of appointment and date of reappointment (in OET only); lists of reservists in process including active and Emeritus members and former members showing steps in process, numerical sequence, unit assignment, name date of designation, state of residence, date of separation and reason (in OET only); contact file of those previously nominated but not appointed, or once in program but not no longer members, with date and reason for non-affiliation (in OET only); personal data sheet for each individual which presents summary of pertinent data including photograph to assist professional staff in evaluating the member and assigning member on appointment and reappointment or during active membership (this record held at all locations).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Internal personnel management of the NDER for the Office of the Secretary, which includes staff action and exchange of data with the Office of the Director, Federal Preparedness Agency, which is responsible for the entire National Defense Executive Reserve Program. Available to the Secretary, any Secretarial Officer, head of an operating administration, or their designated subordinates who require access in the pursuit of their duties. Available to director and staff members of OET, to RETCO's and their staff members, to Regional Directors-designate and Deputies and the Facility Manager, Federal Aviation Administration Headquarters Records Center (for storage only) who require access in pursuit of their duties.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Individual records are maintained in a manual system consisting of a filing jacket with the individual's name tabbed and containing all papers pertaining to him or her, except the following which are maintained as stated.

Directory - stored in bulk in steel containers.
Mailing List - maintained in standard card file.
Chronological File - maintained in standard card file.
Contact File - maintained in standard card file.
Personal Data Sheets - maintained in separate loose leaf note books or in personnel jackets at option of holder.

Retrievability: Indexed alphabetically by name. Retrieved manually.

Safeguards: Maintained in metal file containers or other standard office equipment in locked file.

Retention and disposal: Held for five years from date of separation and then destroyed.

System manager(s) and address: Director of Emergency Transportation, Office of the Secretary (TAD-80), Department of Transportation (Room 9114), Washington, D.C. 20590.

Notification procedure: Inquiries may be addressed to any of the offices and officials listed under 'System Locations'. Individuals requesting such information must sign the request personally and include in the text of the request the card number of his or her Federal Emergency Assignee Identification Card (CD Card) (SF 138). Alternatively, personal visits to the above locations with presentation of the above credentials will enable individual to learn of and have access to his or her record.

Record access procedures: Individual may secure or obtain information on procedures for gaining access to records by (1) referral to the information sheet issued to him or (2) addressing a written query to the offices cited under 'System Location' above (except the Facility Manager, FAA Headquarters Records Center which

maintains duplicate files for storage) or (3) presenting himself or herself in person to those offices.

Contesting record procedures: Same as 'Record Access Procedures'.

Record source categories: Personal data submitted by the individual; data from his or her employer; recommendations from colleagues; mailing data from existing distribution system.

DOT/OST 024.

System name: Parking Permit Application File. DOT/OST.

System location: Department of Transportation (DOT),

Office of the Secretary (OST),
Parking Management Office, TAD-444.3,
400 7th Street, SW, Room 2322,
Washington, DC 20590.

Categories of individuals covered by the system: DOT parking permit holders (Washington, DC), DOT carpool members.

Categories of records in the system: Parking permit application form

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Determine criteria for permit issuance, record change data, record garage violations and periodic review and revalidation. Used by parking management office personnel only.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in lockable visible edge file in a security locked workroom.

Retrievability: Indexed sequentially by permit number.

Safeguards: Only Parking Management Office personnel have access to these records.

Retention and disposal: Record cards are retained for 3 years locally, sent to the Federal Records Center for 2 more years, and then destroyed.

System manager(s) and address: Chief, Transportation Branch, TAD-444,

Department of Transportation,
Office of the Secretary,
Office of Administration Operations,
400 7th Street, SW, Room 2318,
Washington, DC 20590.

Notification procedure: Individual may review only his own application card upon presentation of valid DOT ID card at the address given under 'System Location'.

Record access procedures: Same as Notification Procedure.

Contesting record procedures: No contest - individual can change recorded data at will.

Record source categories: Submitted by individual.

DOT/OST 025.

System name: Parking Permit Management System. DOT/OST.

System location: Department of Transportation (DOT),

Office of the Secretary (OST),
Parking Management Office, TAD-444.3,
400 7th Street, SW, Room 2322,
Washington, DC 20590.

Categories of individuals covered by the system: DOT parking permit holders (Washington Headquarters) and DOT car pool members (Washington Headquarters).

Categories of records in the system: Status record (of permits) and member record (of carpools).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records used for ADP report and listing production.
Lisfings are used by the parking vendor for billings and Parking Mangement Office for system administration.
Additionally, a carpool location listing is produced for use in forming and enlarging carpools. This is for use by the general public.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Parking Management office personnel enter data password control.

Retrievability: Indexed sequentially by permit number.

Safeguards: Only Parking Mangement Office personnel and the parking vendor have access to general listings. The carpool location listing is for use by the general public, but is secured in the parking office.

Retention and disposal: Data is deleted and not retained on ADP once individual leaves system. Record copies of monthly reports and listings are retained locally for 3 years, forwarded to the Federal Records Center for 2 more years and then destroyed.

System manager(s) and address: Chief Transportation Branch, TAD-444, Department of Transportation,

Office of the Secretary,
400 7th Street, SW, Room 2318,
Washington, DC 20590.

Notification procedure: Individual may review data upon presentation of valid DOT ID card.

Record access procedures: Same as Notification Procedure.

Contesting record procedures: No contest - individual can change data at will.

Record source categories: Only source is from parking permit application.

DOT/OST 026.

System name: Payroll Management System. DOT/OST.

System location: Department of Transportation (DOT),

Office of the Secretary (OST),
Accounting Operations Division, TAD-45,
400 7th Street SW, Room 2228,
Washington, DC 20590.

Categories of individuals covered by the system: Office of the Secretary

Categories of records in the system: Gross to net payroll.

Payroll master.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Support for payment of payroll.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: ADP listing.

Retrievability: Alpha-numeric by employee.

Safeguards: People given access are screened by responsible management personnel.

Retention and disposal: Federal records retention schedule.

Retained for 1 year - destroyed.

System manager(s) and address: Chief, Accounting Operations Division, TAD-45, Department of Transportation,

Office of the Secretary,
Accounting Operations Division, TAD-45,
400 7th Street, SW, Room 2228,
Washington, DC 20590.

Notification procedure: Department of Transportation,

Office of the Secretary,
Accounting Operations Division, TAD-45,
400 7th Street, SW, Room 2228,
Washington, DC 20590.

Record access procedures: Same as 'Notification Procedure'.

Contesting record procedures: Same address as 'Notification Procedure'.

Record source categories: Time and attendance records.

Personnel actions (SF So)

DOT/OST 027.

System name: Personnel Reference Files DOT/OST.

System location: Office of the Assistant Secretary for Envionment,

Safey, and Consumer Affairs,
Room 10101,
Department of Transportation,
400 7th Street, SW,
Washington, DC 20590.

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Categories of individuals covered by the system: TES employees.

Categories of records in the system: Standard Form 52.

Position descriptions.
TES Personnel Printout.
Key Executive Book.
Copies of Commendations and awards.
Payroll and Leave Records.
Training Records.
Travel Records (includes travel orders, travel vouchers, change of official duty station records, foreign travel requests, trip reports, claim for reimbursement).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For the individual's use. None of the above records arekept in individual folders, but are filed chronologically, or by organization or subject for general reference only.

To review travel records to prepare corrections or prepare statistics of travel performed. b7
To review in relation to personnel actions.
To prepare tme and attendance cards.
Budgetary information and reports.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records consist of copies or original documents and are maintained in official filing systems.

Retrievability: The personnel records are indexed chronologically; and travel and training records are indexed by subject or organization Payroll and leave records are indexed by organization.

Safeguards: Physical security is maintained by locked file cabinets. Any individuals requesting personnel files are screened by administrative personnel.

Retention and disposal: Personnel records are retained during employment and up to one year after employee resigns, retires, or is transferred.

Payroll are leave records are retained during employment and up to three years after employment resigns, retires, or is transferred.
Records for budgetary purposes are retained indefinitely.
All records are disposed of as trash.

System manager(s) and address: Executive Officer,

Office of the Assistant Secretary for Environment, Safety, and Consumer Affairs,
Room 10101
Department of Transportation,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: The individual may present himself in person or in writing to the System Manager where files are held to inquire about whether records apply to him.

Record access procedures: The individual may gain access o his records upon request, as under 'Notification Procedure'.

Contesting record procedures: Contest of these records will be in writing to the System Manager where the files are located, as listed above. If request is not resolved, the individual may file an appeal to:

Office of the General Counsel,
Department of Transportation,
Room 10428,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Information copies provided by the individual.

Information copies provided by hte Office of Personnel.
Information copies from time and attendance cards.
Information copies generated from travel and training program.

DOT/OST 028.

System name: Personnel Convenience Files. DOT/OST.

System location: The following Secretarial Offices located at the

Department of Transportation (DOT),
Office of the Secretary (OST),
400 7th Street, SW,
Washington, DC 20590:
Immediate Office of the Secretary, S-1.
Office of the Deputy Secretary, S-2.
Special Assistant to the Secretary, S-3.
Office of the Deputy Under Secretary, S-5.
Special Assistant to the Secretary, S-7.
Executive Secretary, S-10.
Contract Appeals Board, S-20.
Departmental Office of Civil Rights (except for the Complaints Division), S-30.
White House Fellow, S-9.
Office of Planning and Program Review, S-40. Office of Budget, S-50. Office of Public Affairs, S-80. Office of Deepwater Ports, S-90.
Additionally:
Departmental Office of Civil Rights,
Complaints Division, S-35,
2100 2nd Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: Employees, past and present.

Categories of records in the system: The following documents are kept in all offices:

Copies of orders, vouchers, and related documentation for local and non-local travel. Copies of some of the following documents are kept in all offices: except the Immediate Office of the Secretary and the Offices of the Deputy Secretary, Deputy Under Secretary, the White House Fellow and Special Assistants to the Secretary, for whom such documents are maintained by the Office of the Executive Secretary:
Standard Form 52, Request for Personnel Action.
Standard Form 7-B, Employee Record
Position Descriptions.
Performance evaluations.
Training records.
Payroll and leave records.
Commendations and awards.
Savings Bond and CFC campaign records.
Biographies and profiles (applies to full staff of the Office of the Executive Secretary and to key executives in most of the other offices listed).
Security classification documents.
Monthly Personnel Roster.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Biographies and profiles of the Office of the Executive Secretary staff are maintained for familiarization of the Secretary, Deputy Secretary, and other key executives serviced by the Office of the Executive Secretary.

Savings Bond and CFC campaign records are maintained for reference in connection with future campaigns.
All other records are maintained for effective budgetary, manpower, and employee management and also for the use of the individual (not all items and not in all offices).
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy in file folders and binders.

Retrievability: By name.

Safeguards: Data available only by request of the senior official, his deputy, or secretaries to them, of the office or division in which the information is maintained. Provided only on a need-to-know basis.

Retention and disposal: Personnel records are retained until employee leaves.

Payroll records are retained three years.
Travel records normally retained at least one year.
Records are disposed of following minimal period of retention on a space-needed basis.

System manager(s) and address: Senior official of each office listed.

Notification procedure: Inquiries should be directed to the employee's supervisor.

Record access procedures: Contact supervisor for information on procedures for gaining access to records.

Contesting record procedures: Contact supervisor for information on procedures for contesting records.

Appeals should be directed to the Secretary of Transportation, if request for modification or deletion is denied by the senior official of the employee's office.

Further appeal, if necessary, should be to the Secretary of Transportation.

Record source categories: Information provided by the employee.

Informational copies provided by Personnel Operations Division.
Material generated within the employing office.

DOT/OST 030.

System name: Personnel Management Files. DOT/OST.

System location: Department of Transportation (DOT),

Office of the Secretary (OST),
Office of the Assistant Secretary for Policy, Plans and International Affairs,
400 7th Street, SW,
Washington, DC 20590

Categories of individuals covered by the system: Current employees.

Prospective employees.
Prior employees - three years (payroll/time cards only).

Categories of records in the system: Basic recruitment, employment, status and pay records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Employment, pay and performance decisions.

Use by subject, supervisor, responsible official; administrative personnel in preparation; personnel and payroll offices in processing.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Copies of basic documents.

Retrievability: By name.

Safeguards: Locked files with personnel screening for access.

Retention and disposal: Retained only for control purposes, pending official action by Personnel or Payroll offices or management officials.

Pay records are retained for 3 years, then destroyed by burning or shredding.

System manager(s) and address: Assistant Secretary for Policy, Plans and International Affairs (TPI1), and the Directors of the following subordinate offices for records maintained in their respective offices:

Transportation Systems Analysis and Information,
Transportation Planning,
Transportation Economic Analysis,
International Transportation Programs,
Transportation Energy Policy,
Air Transportation Policy,
Transportation Regulatory Policy, all of which are located at the:
Department of Transportation,
Office of the Secretary,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Inquiries: Oral request by current employees to the System Manager. Written or direct inquiry by prior emplpyees or applicants to:

Department of Transportation,
Office of the Secretary,
Director Management Staff, TPI-5,
400 7th Street, SW,
Washington, DC 20590.
Must provide notarized signature or social security number.

Record access procedures: Current employees may have access to contents through the System Manager.

For all other inquiries - Office Director, TPI-5 at the address under Notification Procedure.

Contesting record procedures: Present employees may request changes through the System Manager, as above. If request denied, may refer to TPI Review Officer, TPI 5, then to OST Review Officer. For all other inquiries - Office Director, TPI-5.

Record source categories: Subject, supervisor, responsible official, personnel and payroll offices.

DOT/OST 032.

System name: Management Operating Record System. DQT/OST.

System location: Department of Transportation (DOT),

Office of the Secretary (OST),
Office of Investigations and Security, TAD-50,
400 7th Street,SW, Room 10323,
Washington, DC 20590.

Categories of individuals covered by the system: Current employees of the Office of Investigations and Security, OST, DOT.

Categories of records in the system: This system of records contains current employee Time and Attendance Cards, Travel Orders and Vouchers and Position Descriptions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system of records is maintained for internal administrative management and operating purposes by the TAD-50 Office Director and Division Chiefs.

Time and Attendance Cards are maintained for TAD-50 employees pay purposes and are forwarded to the Payroll Office.
Travel Orders are maintained for TAD-50 employees authorized to travel on DOT business and are forwarded to Travel Office and the Accounting Office to arrange necessary transportation and payment of expenses.
Travel Vouchers are maintained on TAD-50 employees to provide an ongoing tabulation of the Office's travel expenses.
Position Descriptions are maintained for positions within TAD-50 and are utilized internally by the Director and Division Chiefs for reference and to assure effective employee utilization.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Standard forms in individual folders in manual filing system.

Retrievability: By employee name.

Safeguards: This system of records is stored in a locked room with limited access.

Retention and disposal: Records are maintained while an individual is an employee of the Office of Investigations and Security and are destroyed upon transfer or termination.

System manager(s) and address: Director of Investigations and Security, TAD-50,

Department of Transportation,
400 7th Street, SW, Room 10323,
Washington, DC 20590.

Notification procedure: Same as 'System Manager'.

Record access procedures: Same as 'System Manager'.

Contesting record procedures: Same as 'System Manager'.

Record source categories: Employee and office generated statements and forms.

DOT/OST 034.

System name: Personnel Records. DOT/OST.

System location: Department of Transportation (DOT),

Office of the Secretary (OST),
Office of the General Counsel,
400 7th Street, SW, Room 10428,
Washington, DC 20590.

Categories of individuals covered by the system: Attorney and Clerical Employees of the Office of the General Counsel.

Categories of records in the system: Standard Form 52.

Within Grade Increases.
Travel Authority and Vouchers.
Training Records.
Payroll and Leave Records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For the individual's use.

Schedule training.
Statistics to recommend personnel actions.
Administrative reference material.
Budgetary information material.
Technical information material.
Work Territory assignments.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

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Storage: File cards in a locked safe.

Retrievability: Individual names filed alphabetically.

Safeguards: Physical security consists of filing records in a locked safe.

Retention and disposal: Personnel records retained in active files duration of appointment, then destroyed.

System manager(s) and address: Deputy General Counsel,

Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
400 7th Street, SW
Washington, DC 20590.

Notification procedure: Deputy General Counsel,

Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record access procedures: An individual may gain access to his records by request to the System Manager.

Contesting record procedures: Contest of these records may be addressed to the Deputy General Counsel.

Record source categories: Informational copies provided by the Office of Personnel & Training.

DOT/OST 035.

System name: Personnel Security Record System. DOT/OST.

System location: Department of Transportation (DOT),

Office of the Secretary (OST),
Office of Investigations and Security, TAD-50,
400 7th Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: DOT applicants, employees, former employees; candidates and designees to the DOT unit of the National Defense Executive Reserve, and detailees to DOT from other Federal agencies.

Categories of records in the system: Records of personnel security processing, personal data on investigative and employment forms completed by the individual, reports of investigations, records of security and suitability determinations, records of access authorizations granted, documentation of security briefings/debriefings received, record of security violations by the individual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Departmental personnel security officers for making security determinations and granting access authorizations, by Departmental personnel management officials for making suitability determinations, by representatives of other Federal agencies with which the individual is seeking employment, and by Federal agencies conducting official inquiries to the extent that the information is relevant and necessary to the requesting agency's inquiry, and by Departmental officials, to the extent necessary, to identify the individual to sources from whom information is requested for any of the foregoing purposes to inform the source of the nature and purpose of the request and to indicate the type of information requested.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Completed forms and typed pages in individual folders in a manual filing system, and on a manual system control cards.

Retrievability: By name.

Safeguards: Stored in locked room with proprietary lock or in approved security safe. Access limited to authorized staff members.

Retention and disposal: Retained during employment in the Department, retained in accordance with GSA Records Schedule 018 after employment is terminated, authorized destruction done by secure means used for classified materials.

System manager(s) and address: Director of Investigations and Security, TAD-50,

Department of Transportation,
Office of the Secretary,
400 7th Street, SW, Room 10323,
Washington, DC 20590.

Notification procedure: Same as System Manager.

Record access procedures: Same as System Manager. However, information compiled solely for the purpose of determining suitability, elgibility, or qualification for Federal civilian employment or access to classified information may be exempted from the access provisions pursuant to 5 USC 552a(k)(5).

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: Investigative sources contacted in full field, National Agency Check and Written Inquiry and similar investigations; investigative reports reviewed at other Government agencies; personal history statements, employment applications and other data provided by the individual and/or other agencies.

Systems exempted from certain provisions of the act: Information compiled solely for the purpose of determining suitability, eligibility, or qualification for federal civilian employment or access to classified information may be exempted from the access provisions pursuant to 5 USC 552a(k)(1) and/or(5).

DOT/OST 036.

System name: Planning Officials for Emergency Functions. DOT/OST.

System location: Department of Transportation (DOT),

Office of the Secretary (OST),
Office of Emergency Transportation (TAD-80),
400 7th Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: Federal, State and Territorial officials engaged in, or interested in, emergency transportation planning.

Categories of records in the system: Name, title, business address, home address, telephone, office and residence, telegrahic and other communications services as appropriate available to each individual listed.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Ready reference for persons listed and for staff members in the offices of each, to facilitate contact in planning and execution of emergency functions.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Minor stock held in files in Office of Emergency Transportation. Bindery stock held in DOT warehouse. Both available for issue to interested persons.

Retrievability: Entries of individual names and positions in order by agency, Federal, State, and Territorial.

Safeguards: Stocks are maintained in locked file rooms in guarded buildings and issued only on orders from Office of the System Manager.

Retention and disposal: Stocks are retained until exhausted by issue or replaced by a new edition; usually every two years.

System manager(s) and address: Director of Emergency Transportation, TAD-80,

Department of Transportation,
Office of the Secretary,
400 7th Street, SW, Washington, DC 20590.

Notification procedure: Inquiries may be addressed to the office listed under 'System Locations'. Individuals requesting such information must sign the request personally. Alternatively, personal visits to the above locations with proper identification will enable individual to have access to his record.

Record access procedures: Individual may obtain information on procedures for gaining access by addressing a written query to the persons cited under 'System Location' or by presenting himself to those offices.

Contesting record procedures: Same as 'Record Access Procedures'.

Record source categories: Individuals concerned, agency offices for federal persons, Regional Emergency Transportation Coordinators for regional persons, and State and Territorial Officials.

DOT/OST 037.

System name: Records of Confirmation Proceeding Requirements for Proposed Executive Appointments to the Department of Transportation. DOT/OST.

System location: Department of Transportation (DOT),

Office of the Secretary (OST),

Office of the General Counsel,
400 7th Street, SW, Room 10428,
Washington, DC 20590.

Categories of individuals covered by the system: Individuals nominated for top executive positions of the Department of Transportation.

Categories of records in the system: Financial data and biographical data.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Data submitted to the General Counsel as reviewing official by subject individual for use by the Senate Commerce Committee to determine if there would be a conflict of interest, or the appearance of a conflict of interest, in subject's appointment to the Department of Transportation.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Legal sized documents located in locked safe.

Retrievability: Individual names filed alphabetically.

Safeguards: Physical security consists of filing records in safe; data released to Senate Commerce Committee and authorized officials only of the Department.

Retention and disposal: Records are retained for 3 years then destroyed.

System manager(s) and address: Deputy General Counsel,

Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Inquiries may be addressed to the Deputy General Counsel at the address above, either in person or in writing. If written the individual must provide a notarized signature.

Record access procedures: Access to records requires the individual to contact in person or write the Deputy General Counsel.

Contesting record procedures: Contest of a record is also through the Deputy General Counsel.

Record source categories: Documents are provided by subject individual.

DOT/OST 039.

System name: Safety Management Information System (SMIS).DOT/OST.

System location: Department of Transportation (DOT),

Office of the Secretary (OST),
Transportation Computer Center,
Department of Transportation (DOT),
400 7th Street, SW, Room 2401,
Washington, DC 20590.

Categories of individuals covered by the system: Federal Civilian/Military Employees of the Department of Transportation:

Contractors working on DOT premises;
DOT Real & Personal Property.

Categories of records in the system: Accident Reporting Records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Issue automated records to the U.S. Dept. of Labor, OSHA.

Submit quarterly accident statistics data to DOT operating administrations.
Develops statistical summaries & special analysis listings for use in programming safety management functions, departmental level budget function as it relates to OWCP, and maintains 5 year OSHA requirement for accident record retention.

See Prefatory Satement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic Tapes and Disks.

Retrievability: Name/Social Security Number/Accident Report Number/Special Project Data Programming.

Safeguards: Transportation Computer Center maintains both physical security and personnel security. Retrieve/access procedures. The records are disposed of by blanking/erasing the magnetic tape or disk.

Retention and disposal: Kept 5 years then destroyed.

System manager(s) and address: Director of Personnel and Training, TAD-10,

Department of Transportation,
Office of the Secretary,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Quarterly management analysis delivered to safety managers or all operative administrators. Special data may be provided by request in written form to:

Director TAD 10,
Office of Personnel & Training,
at the above address.

Record access procedures: An individual may gain access to his record by request to the System Manager.

Contesting record procedures: Contest of these records will be to the Office of Personnel and Training. If resolution is not satisfactory to the individual, an appeal may be filed with Secretary of Trasnportation addressed to the General Counsel as follows:

Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
400 7th Street, SW, Room 10428,
Washington, DC 20590.

Record source categories: DOT Form 3902.1,

DOT Form 3902.2,
DOT Form 3902.3,
DOT Form 3902.4,
DOT Form 3902.5,
DOT Form 3902.6,
DOT Form 3902.7,
DOT Form 3902.8.

DOT/OST 040.

System name: Security Management Records. DOT/OST.

System location: Department of Transportation (DOT),

Office of the Secretary (OST),
Office of Emergency Transportation (OET),
400 7th Street SW, Room 9114,
Washington, DC 20590.

Categories of individuals covered by the system: All members of OET.

Categories of records in the system: Jacket file of all security clearance records of all personnel.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Management by Director OET and Security Officer of security classification levels required by missions and functions of OET.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in single folder with all pertinent items included alphabetically.

Retrievability: Alphabetically by name.

Safeguards: Restricted to use by Director of Emergency Transportation and the OET Security Officer. File maintained in a locked 3-combination safe.

Retention and disposal: Retained during period of employment. Transferred with the individual or returned to Security Office of OST.

System manager(s) and address: Director of Emergency Transportation,

Department of Transportation,
Office of the Secretary,
400 7th Street, SW.,
Washington, DC 20590.

Notification procedure: Inquiries may be addressed to the office listed under 'System Location'. Individuals requesting such information must sign the request personally. Alternatively, personal visits to the above location with presentation of necessary identification will enable individual to have access to his record and to actions to contest it.

Record access procedures: Individual may secure information on procedures for gaining access to records by (1) addressing a written

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query to the office cited under System Location above or (2) presenting himself in person to that office.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: Data from individual, and from Director of Investigation and Security, Department of Transportation.

DOT/OST 041.

System name: Secretariat Information Retrieval System (SIRS). DOT/OST.

System location: Department of Transportation (DOT),
Office of the Secretary (OST),
Office of the Executive Secretary,
400 7th Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: Individuals who write, or are referred in writing by a second party,to the Secretary, Deputy Secretary, Deputy Under Secretary, and their immediate offices.

Individuals who are the subject of an action requiring approval or action by one of the forenamed, such as appeal actions, training, awards, foreign travel, promotions, selections, grievances, and discipline.

Categories of records in the system: Correspondence submitted by, or on behalf of, an individual, including resumes, letters of reference, etc.

Responses to such correspondence.
Staff recommendations on actions requiring approval or action by one of the forenamed.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Referral to the appropriate action office within or outside the Department for preparation of a response.

Referral to the appropriate agency for actions involving matters of law or regulation beyond the responsibility of the Department, such as the Civil Service Commission for employee appeals, the Department of Justice in matters of law enforcement, etc.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer microdisc and - selectively - on microfilm for all records since 1/1/74.

In hard copy for all records prior to 1/1/74.

Retrievability: Indexed by name of correspondent, referring individual, and subject category (e.g., 'employment' for applicants) from 1/1/74 on.

Indexed by name of correspondent prior to 1/1/74.

Safeguards: Computer microfilm records, and remote reader terminals, which permit random access to the system records, are locked after office hours.

During office hours computer is accessible only through terminals operated by, and under the surveillance of, authorized employees of the Executive Secretary.

Retention and disposal: Hard-copy records for 1967-1969 and duplicate microfilms for 1974-1975 are in the custody of National Archives and Records Service (NARS).

Records from 1970 and following are retained in the Departmental headquarters building.
Records are retired to NARS on a space-needed basis.

System manager(s) and address: The Executive Secretary at the address above.

Notification procedure: Inquiries should be directed to the System Manager. Helpful information, in addition to the individual's name, includes date(s), subject matter, and addressee(s) of the incoming correspondence, and date(s) and author(s) of the response(s).

Record access procedures: Contact System Manager for information on procedures for gaining access to records.

Contesting record procedures: Contact System Manager for information on procedures for contesting records. Appeals should be directed to the Secretary of Transportation, if request for modification or deletion is denied.

Record source categories: Correspondence from individual, his representative or sponsor.

Responses to incoming correspondence.
Related material provided for background as appropriate.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape storage via batch processing. Source data returned to DOT.

Retrievability: Can retrieve on social security number or on name.

Safeguards: Only DOT & OSI personnel have access to tapes.

Retention and disposal: Tapes are retained through three (3) cycles, grandfather, father, son, and then scratched. Source materials are retained until the next update is completed.

System manager(s) and address: Chief, Publishing and Graphics Division, TAD-48,
Department of Transportation,
Office of the Secretary,
Office of Administrative Services,
400 7th Street, SW, Room 2317,
Washington, DC 20590.

Notification procedure: Contact Publishing and Graphics Division at the address above.

DOT/OST 042.

System name: Technical Pipeline Safety Committee. DOT/OST.

System location: Department of Transportation (DOT),
Office of the Secretary (OST),
Materials Transportation Bureau (MTB),
2100 Second Street, SW, Room 6226,
Washington,DC 20590.

Categories of individuals covered by the system: Members of Technical Pipeline Safety Standards Committee- intermittent consultants.

Categories of records in the system: Biographical data in support of member's nomination.

Letters and news releases for member's appointment/reappointment.
Personnel Actions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: General reference purposes for support functions.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: Alphabetically by name within subject area.

Safeguards: Room locked after hours, most information is public knowledge.

Retention and disposal: Kept indefinitely.

Director
Administrative Correspondence/Memorandums.

DOT/OST 043.

System name: Telephone Directory and Locator System. DOT/OST.

System location: Opportunity Systems, Inc. (OSI),
1330 Massachusetts Avenue, NW,
Washington, DC 20005.

Categories of individuals covered by the system: Department of Transportation (DOT) headquarters employees.

Categories of records in the system: Alphabetic Employee Master Records and GSA Metrocentrex Locator Records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Departmental Alphabetic Directory production,

DOT Mail Room,
DOT Locator Service, and
GSA Metrocentrex Locator Service.
Used by DOT Telephone Directory Representatives, DOT Mail room, and Publishing and Graphics Division Control Clerk.

Record access procedures: Contact Publishing & Graphics Division, TAD-48 at the address above.

Individual may review own data upon presentation of valid DOT ID card.

Contesting record procedures: Individual may change own data at any time.

Record source categories: DOT F 1700.1 - DOT Form prepared for each employee.

DOT/OST 044.

System name: Travel and Transportation Management File. DOT/OST.

System location: Department of Transportation (DOT),
Office of the Secretary (OST),
Accounting Operations Division, TAD-45,
400 7th Street, SW, Room 2228,
Washington, DC 20590.

Categories of individuals covered by the system: All travelers visits using OST travel funds.

Categories of records in the system: Travel Vouchers.

Travel Authorizations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Subsidiary Accounting Records.

Records used by:
Accounting Operations Division employees.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Open files.

Retrievability: Alphabetically by employee name.

Safeguards: Persons given access are screened by responsible management personnel.

Retention and disposal: Destroy after 4 years.

System manager(s) and address: Chief, Accounting Operations Division, TAD-45,
Department of Transportation,
Office of the Secretary,
400 7th Street, SW, Room 2228,
Washington, DC 20590.

Notification procedure: Department of Transportation,
Office of the Secretary,
Accounting Operations Division, TAD-45,
400 7th Street, SW, Room 2228,
Washington, DC 20590.

Record access procedures: Same as 'Notification Procedure'.

Contesting record procedures: Same as 'Notification Procedure'.

Record source categories: Program Offices.

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DOT/OST 045.

System name: Unsolicited Contract or Research and Development Proposals Embodying Claims of Proprietary Rights. DOT/OST.

System location: Department of Transportation (DOT).

Office of the Secretary (OST),
Office of the General Counsel,
400 7th Street, SW, Room 10100,
Washington, DC 20590.

Categories of individuals covered by the system: Individuals who believe they have original and innovative ideas in the field of transportation.

Categories of records in the system: Copies of descriptions of proposed innovations or inventions and methods of carrying out the proposal. Evaluations by Patent Counsel of the adequacy and propriety of restrictive markings on the proposals and correspondence of the Patent Counsel pertaining thereto.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a record of Patent Counsel's action in individual unsolicited proposal cases.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders stored in file cabinets (Conserv-a-File).

Retrievability: Indexed individually by name and subject in alphabetical sequence.

Safeguards: Records are disclosed only in accordance with the terms of restrictive markings agreed upon between submitter and DOT.

Retention and disposal: Transfer to storage when three years old; Destroy after six years.

System manager(s) and address: Patent Counsel,

Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
Office of the Assistant General Counsel for Operations and Legal Counsel,
400 7th Street, SW, Room 10100,
Washington, DC 20590.

Notification procedure: Department of Transportation,

Office of the Secretary,
Office of the General Counsel,
Office of Patent Counsel,
400 7th Street, SW, Room 10100,
Washington, D.C. 20590.

Record access procedures: Patent Counsel,

Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
Office of the Assistant General Counsel for Operatons and legal Counsel,
400 Sev7th Street, SW, Room 10100,
Washington, DC 20590.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: Forwarded by individual or by the DOT office to whom unsolicited proposal was addressed.

DOT/OST 046.

System name: Visit Control Records System. DOT/OST.

System location: Department of Transportation (DOT),

Office of the Secretary (OST),
Office of Investigations and Security, TAD-50,
400 7th Street, SW, Room 10323,
Washington, DC 20590.

Categories of individuals covered by the system: DOT employees, Industrial Security contractor employees, non-employee visitors to DOT facilities during security hours.

Categories of records in the system: Record of clearance certification (level, date granted and basis) on employees to visit facilities or attend meetings involving classified information. Record of security clearance data for visitors to DOT facility from other agencies and from contractors. Record of individuals other than employees who are authorized access to DOT facilities during security hours.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Confirming to the proper authorities the security clearance for individuals requiring access to classified information; identifying individuals authorized to be present in DOT facilities during security hours.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Visitor forms and letters.

Retrievability: By name.

Safeguards: Stored in locked room with proprietary cipher lock, available only to authorized staff members.

Retention and disposal: Maintained for two years after visit, then destroyed.

System manager(s) and address: Director of Investigations and Security, TAD-50,

Department of Transportation,
Office of the Secretary,
400 7th Street, SW, Room 10323,
Washington, DC 20590.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Security clearance information furnished by personnel security officers. Visit data furnished by individual.

DOT/OST 048.

System name: Transportation Research Activities Information Service (TRAIS).DOT/OST.

System location: Department of Transportation (DOT),

Office of the Secretary (OST),
Transportation Systems Center (TSC),
Kendall Square,
Cambridge, MA 02142.

Categories of individuals covered by the system: Program/Project Managers and research investigators.

Categories of records in the system: Notification of Technical Research and Development.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information on on-going and completed research and development accomplishments.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer disc storage and magnetic tape.

Retrievability: Retrievable by keywords and unique accession number assigned by Data Base Administrator; batch process or on-line interaction.

Safeguards: Physical security - user identification and passwords.

Retention and disposal: Up to three-year retention and then tape is reused which destroys previous data.

System manager(s) and address: Chief, Transprotation Research Activity Information Services Branch, TST-25.1,

Department of Transportation,
Office of the Secretary,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Same as System Manager.

Record access procedures: Same as System Manager.

Contesting record procedures: Same as System Manager.

Record source categories: Contract Awards from Contracting Offices, Publication of Technical Report.

DOT/OST 049.

System name: Transportation Research Information Service on line (TRIS-On-Line).DOT/OST.

System location: Department of Transportation (DOT),

Office of the Secretary (OST),
System physically located at the:
Battelle Laboratories,
Columbus, OH

Categories of individuals covered by the system: Program/Project Managers and authors of reports.

Categories of records in the system: Notification of Technical Research and technical reports.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information on on-going and completed research and development accomplishments.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer disc storage and magnetic tape.

Retrievability: Retrievable by keywords and accession number assigned by Data Base Administrator, batch or on-line interaction.

Safeguards: Physical security - User identification keywords and passwords.

Retention and disposal: Up to five year accessibility, tape goes to archival storage.

System manager(s) and address: Chief, Transportation Research Information Services Branch, TST-25.1,

Department of Transportation,
Office of the Secretary,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Same as System Manager.

Record access procedures: Same as System Manager.

Contesting record procedures: Same as System Manager.

Record source categories: Contract awards received from Contracting Offices, Publication of Technical Reports.

DOT/OST 050.

System name: Executive Team Cadre Listings and Emergency Alerting Schedules for Continuity of Operations Plan of the Office of the Secretary, and the Operating Elements of the Department of Transportation (DOT) and similar listings designed for management convenience within DOT and the operating elements. DOT/OST.

System location: These records are located in the national headquarters of the Offices of the Secretary; the heads of operating elements; regional offices of the Regional Emergency Transportation Coordinator, the Regional Administrators and Directors of the operating elements and in headquarters of operating element divisions, districts, and other field offices of the Department.

Categories of individuals covered by the system: Professional and clerical employees and military members of the U.S. Government, Directors - designate and Deputy Directors - designate and members of the National Defense Executive Reserve who have been given emergency billet assignments within the Department of Transportation Emergency Structure.

Categories of records in the system: Record consists of a pamphlet (DOT P 1915.4B w/supplement I) periodically showing office and agency listings of elements and with current staffing patterns, current position numbers or routing symbols; emergency assignments, emergency position numbers and cadre designation. The supplement contains listings of individual names of active duty civil servants and military members, identified by DOT office symbol, emergency position numbers and cadre designation. In addition similar listings are maintained in all Federal Standard Regions and in Alaska.

The alerting charts and schedules show names and office and home telephone numbers of individuals in calling sequence and are listed by national headquarters and by regions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For identification of individuals required to insure viability of DOT in the immediate preattack - transattack - immediate postattack period of a national defense emergency. Available to the Secretarial Officers, heads of operating administrations or designated subordinates (national and regional) and to individuals listed.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Publication is maintained in stock in listings in each office of record in standard filing equipment in a locked file room.

Retrievability: Manually by position listing.

Safeguards: Metal file containers or other standard office equipment secured in a locked file room during office duty hours.

Retention and disposal: Retained until republished then destroyed.

System manager(s) and address: Director of Emergency Transportation, TAD-80,

Department of Transportation,
Office of the Secretary,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Inquiries may be addressed to any of the offices listed under 'System Locations'. Individuals requesting such information must sign the request personally and include in the text of the request card number of his or her Federal Emergency Assignee Identification Card (CD Card)(SF 138) or other official identification card.

Alternatively, personal visits to the above locations with presentation of the above credentials will enable individual to learn of and have access to his or her record.

Record access procedures: Individual may secure or obtain information on procedures for gaining access to records by (1) referral to the information sheet issued to him or (2) addressing a written query to the offices cited under System Location (except the Facility Manager, FAA Records Center, West King Street and Maple Avenue, Martinsburg, WV 25401 who maintains duplicate files in storage only) or (3) presenting himself to those offices.

Contesting record procedures: Same as 'Record Access Procedures'.

Record source categories: Office or Agency of employment.

DOT/OST 054.

System name: Time and Attendance Report (FHWA Form 320 (7-73)) for the Office of Emergency Transportation. DOT/OST.

System location: Department Transportation (DOT),

Office of the Secretary (OST),
Office of Emergency Transportation (OET), TAD-80,
400 7th Street, SW, Room 9114,
Washington, DC 20590.

Categories of individuals covered by the system: Professional and clerical employees, permanent and temporary, and consultants employed in OET.

Categories of records in the system: Record consists of a computer punch card with a tissue carbon.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to maintain record of attendance at duty station and leave accounts of employees concerned.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained alphabetically in desk of the administrative secretary to the Director.

Retrievability: Maintained alphabetically; retrieved manually.

Safeguards: Maintained in a locked file room in a building under 24 hour guard; admission by building pass only.

Retention and disposal: Hard copy forwarded to paymaster every pay period; tissue retained indefinitely.

System manager(s) and address: Director of Emergency Transportation, TAD-80,

Department of Transportation,
Office of the Secretary,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Inquiries may be addressed to the System Manager. Individuals requesting such information must sign the request and provide suitable identification.

Alternatively, a personal request to the System Manager or his representative will enable the individual to have access to his record, to have access to his record.

Record access procedures: Individual may obtain information on procedures for gaining access by addressing a written query to the system manager or by presenting himself to the office cited in location above.

Contesting record procedures: Individual may obtain information on contest by request to the System Manager.

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Record source categories: Individuals concerned. Personnel and pay account records.

DOT/OST 055.

System name: Application for U. S. Government Motor Vehicle Operator's Identi- fication Card (Government Drivers License). DOT/OST.

System location: Department of Transportation (DOT), Office of the Secretary (OST),
Transportation Branch (TAD-444),
400 7th Street, SW, Room 2318,
Washington, DC 20590.

Categories of individuals covered by the system: This system of records contains information regarding all OST employees who are licensed to operate government vehicles.

Categories of records in the system: Application for operator's Identification Card.
Physical fitness inquiry.
Accident Reports.
NHTSA Vehicle Driver Register Report.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Determine qualifications and fitness for issuance, retention, revocation or renewal of operators license.
Limited access to issuing official and those persons whose official duties require such access.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in a locking filing cabinet in folders.

Retrievability: These records are filed in alphabetical order with a cross reference by permit number in a log.

Safeguards: Limited access to issuing official and those persons whose official duties require such access.

Retention and disposal: Retained for 5 years after separation, retirement or transfer of individual or expiration of license and then destroyed.

System manager(s) and address: Chief, Transportation Branch,
Department of Transportation,
Office of the Secretary,
Chief, Transportation Branch 400 7th Street, SW, Room 2318,
Washington, DC 20590.

Notification procedure: Inquiries may be addressed to:
Department of Transportation,
Office of the Secretary,
Transportation Branch, TAD-444,
400 7th Street, SW, Room 2318,
Washington, DC 20590.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact, or address their inquiries to, the system manager.

Contesting record procedures: To contest a record, contact the System Manager.

Record source categories: Applications received from individuals for operator's license.
Accident reports received from individuals.

DOT/OST 056.

System name: Garnishment Files. DOT/OST.

System location: Department of Transportation (DOT),
Office of the Secretary (OST),
Office of the General Counsel,
Office of the Assistant General Counsel for Operations and Legal Counsel, TGC-10,
400 7th Street, SW, Room 10100,
Washington,DC 20590.

Categories of individuals covered by the system: Employees of the Department of Transportation, including members of the Coast Guard, whose pay is sought to be attached under section 459 of the Social Security Act , 42 U.S.C. 659.

Categories of records in the system: Correspondence and court orders, and copies thereof,concerning attachment of employees' pay.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as record of garnishments and Garnishment Attorney's action thereon.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders stored in the Garnishment Attorney's office.

Retrievability: Indexed individually by name in alphabetical order.

Safeguards: Records are disclosed only to individuals with established legal interest or legal 'need to know'.

Retention and disposal: Retained for as long as the attachment of pay continues and thereafter as needed for precedential value.

System manager(s) and address: Garnishment Attorney,
Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
Office of the Assistant General Counsel for Operations and Legal Counsel,
400 7th Street, SW, Room 10100,
Washington,DC 20590

Notification procedure: An individual may be notified as to whether a record on him/her is in the system by contacting the System Manager.

Record access procedures: Persons wishing to obtain access to their records may do so by contacting the System Manager.

Contesting record procedures: To request correction of a record contact the System Manager.

Record source categories: Data is obtained from state courts and agencies, private attorneys, present and former spouses of employees, and federal pay records.

DOT/OST 057.

System name: Honors Attorney Recruitment Files. DOT/OST.

Security classification: Department of Transportation (DOT),
Office of the Secretary (OST),
Office of the General Counsel,
400 7th Street, SW, Room 10424,
Washington, DC 20590.

Categories of individuals covered by the system: Third-year law students and recent law school graduates.

Categories of records in the system: Resumes, transcripts, copies of Personnel Form 171.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by General Counsel, Chief Counsels, and their staffs in filling job vacancies for attorneys.
See also Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders in file cabinets.

Retrievability: Indexed individually by name in alphabetical order.

Safeguards: Records are disclosed only to individuals who have legal interests in the records or legal 'need-to-know.'

Retention and disposal: Retained at system location for 5 years, then destroyed.

System manager(s) and address: Recruitment Attorney,
Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
Office of the Assistant General Counsel for Litigation,
400 7th Street, SW, Room 10424,
Washington, DC 20590.

Notification procedure: Contact the:
Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
Office of the Assistant General Counsel for Litigation,
400 7th Street, SW, Room 10424,
Washington, DC 20590.

Record access procedures: Contact the:
Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
Assistant General Counsel for Litigation,
Recruitment Attorney,
400 7th Street, SW, Room 10424,
Washington, DC 20590.

Contesting record procedures: Same as 'Record Access Procedure.'

Record source categories: Law students, recent law school graduates, General Counsel, Chief Counsels and their staffs.

DOT/OST 058.

System name: Public Information Distribution System. DOT/OST.

System location: Department of Transportation (DOT),
Office of the Secretary (OST),
400 7th Street, SW,
Washington, DC 20590.
System is located in the
Office of Public Affairs. DOT/OST 059.
and in the
Office of the Assistant Secretary for Administration, TAD-1.

Categories of individuals covered by the system: News media representatives; Federal, state and local government officials; Congressional representatives and Senators; educators; librarians; foreign government and foreign industry officials; domestic transportation industry officials; and interested members of the general public.

Categories of records in the system: Names and addresses; subjects of interest to addressee.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For effective dissemination of Departmental public information materials.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape and disc; Xerox 730 cards; and computer printouts.

Retrievability: By name of addressee; by subject of interest.

Safeguards: Computer storage secured by access codes and passwords; cards and printouts are stored in locked files, accessible only by authorized personnel.

Retention and disposal: Record of addressee retained until person wishes to be removed from list or until deleted as a result of annual purge.

System manager(s) and address: Assistant to the Secretary and Director of Public Affairs,
Department of Transportation,
Office of the Secretary,
400 7th Street, SW,
Washington, DC 20590.

Notification procedure: Inquiries should be directed to the: Department of Transportation,
Office of the Secretary,
Assistant to the Secretary and Director of Public Affairs,
400 7th Street, SW,
Washington, DC 20590.

Record access procedures: Contact System Manager for information on procedures for gaining access to records.

Contesting record procedures: Contact System Manager for information on procedures for contesting records. Appeals should be directed to the Secretary of Transportation, if request for modification or deletion is denied.

Record source categories: Published lists (e.g., media directories); other governmental agencies; and specific requests by addressees and interested parties.

System name: Files of the Board for Correction of Military Records (BCMR) for the Coast Guard. DOT/OST.

System location: Department of Transportation (DOT),
Office of the Secretary (OST),
Office of the General Counsel,
Board for Correction of Military Records,
Trans Point Building, Room 5601,
2100 2nd Street, SW,
$Washington, DC 20590.

6**Categories of indhviduals covdred by thel system:** Individuals who have filed applications for rdlief before the Board.

Categories of records in thdl system: Applications and related documents, Board decisions, and official military records of applicants.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by the Chairman, the Board, the Executive Secretary and Staff in determining whether to grant relief to applicants.
Used by the Coast Guard in presenting its views to the Board concerning pending 00048Also used by applicant and his representative.
Used by the General Counsel and his staff in determining whether to approve decisions of the board.
See Prefatory Statement of General Routine Uses.

Storage: File folders stored in file cabinets.

Retrievability: Indexed individually by name in one of two alphabetical sequences representing pending and closed cases. Also indexed by docket number. Pending cases filed by docket number; closed cases filed alphabetically.

Safeguards: Records are disclosed only to the applicant, his representative, interested members of Congress, and the Coast Guard.

Retention and disposal: Transfer of official military record of individual separated from service to Federal Records Center when case closed; transfer of official military record of Active or Reserve member to Coast Guard Headquarters when case closed; re- tention of application file in all cases.

System manager(s) and address: Executive Secretary,
Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
Board for Correction of Military Records,
2100 2nd Street, SW,
Washington, DC 20590.

Notification procedure: Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
Board for Correction of Military Records,
2100 2nd Street, SW,
Washington, DC 20590.

Record access procedures: Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
Board for Correction of Military Records,
Executive Secretary,
2100 2nd Street, SW,
Washington, DC 20590.

Contesting record procedures: Same as 'Record Access Procedure'.

Record source categories: U.S. Coast Guard, Veterans Administration, individual applicants.

DOT/OST 060.

System name: Medical Records of Participants in Study of Health Effects of Bicycling in Polluted Air. DOT/OST.

System location: Department of Transportation (DOT), Office of the Secretary (OST), Office of Environmental Affairs (TES-70), 400 7th Street, S.W., Washington, D.C. 20590.

Categories of individuals covered by the system: None.

Categories of records in the system: Volunteers who bicycle in selected urban transportation corridors.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Department of Transportation Act of 1966, 49 U.S.C. 1651 et seq.
Records may be released to the Department of Justice in defending claims against the United States when the claim is based upon an individual's mental or physical condition, and is alleged to have arisen because of activities of the Department of Transportation in connection with such individual. See also prefatory statement of General Routine Uses.
Records will be used in preparation of the Final Report for this study and by Project Officer in reviewing contractor's Final Report.

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Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, locked file cabinets.

Retrievability: Personal name is the identifier which is used to retrieve a record from this system. The purpose of this system of records is to identify and evaluate any adverse health effects caused by bicycling in polluted air.

Safeguards: Disclosure of records is limited to the Department's consultants involved in collection and analysis of medical data. Safeguards include locked building, guard service, and locked file cabinets.

Retention and disposal: The records will be retained at contractor's facilities until completion of study, and thereafter transmitted to contract Project Officer (TES-70) to be held for one year. Contractor's facilities will have security provisions in accordance with the government standards. Subjects will sign consent forms allowing disposal of records one year after completion of the approved Final Report.

System manager(s) and address: Project Officer, Research and Coordination Division (TES-74), Office of Environmental Affairs, Office of the Assistant Secretary for Environment, of Environmental Affairs, Office of the Assistant Secretary for Environment, Safety, and Consumer Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590.

Notification procedure: Inquiries should be directed to the:

Department of Transportation,
Office of the Secretary,
Office of Environmental Affairs (TES-70),
400 7th Street, S.W.,
Washington, D.C. 20590.

Record access procedures: Contact or write to System Manager for information on procedures for gaining access to records.

Contesting record procedures: Write the Privacy Act Officer, Office of Management Systems, Office of the Secretary, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590. Reasonably identify the record and specify the information to be contested.

Record source categories: Information is obtained directly from the individual and from results of medical tests.

DOT/SLS 150.

System name: Biographical Files. DOT/SLS.

System location: Department of Transportation (DOT),

Saint Lawrence Seaway Development Corporation (SLSDC),
Administration Building,
180 Andrews Street,
Massena, NY 13662.

Categories of individuals covered by the system: Employees of SLSDC.

Categories of records in the system: Biographical sketches.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide current information for public appearances and speeches.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Indexed by name.

Safeguards: Records are kept in locked file cabinets accessible only to the Public Information Officer and his Assistant.

Retention and disposal: Files are retained during period of employment; are then destroyed.

System manager(s) and address: Public Information Officer,

Department of Transportation,
Saint Lawrence Seaway Development Corporation,
P. O. Box 520,
Massena, NY 13662.

Notification procedure: The individual may inquire, in writing, to the above system manager to inquire whether this system of records applies to him.

Record access procedures: An individual may gain access to his records by written request to:

Department of Transportation,
Saint Lawrence Seaway Development Corporation,
Director of Administration,
P.O. Box 520,
Massena, NY 13662.

Contesting record procedures: Contest of these records will be directed to the Director of Administration, and if not resolved at that level, may be appealed in writing to the Secretary of Transportation addressed as follows:

Department of Transportation,
Saint Lawrence Seaway Development Corporation,
Administrator, SLSDC,
P.O. Box 520,
Massena, NY 13662.

Record source categories: Information obtained from employees.

DOT/SLS 151.

System name: Claimants under Federal Tort Claims Act. DOT/SLS.

System location: Department of Transportation (DOT),

Saint Lawrence Seaway Development Corporation (SLSDC),
Administration Building,
180 Andrews Street,
Massena, NY 13662.

Categories of individuals covered by the system: Persons who make claims against the Corporation.

Categories of records in the system: Claims forms on which are recorded name, address, age and marital status of claimants.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by General Counsel to determine allowability of claims.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Indexed by subject and name.

Safeguards: Records are kept in locked file cabinets and are accessible only to the General Counsel and his secretary.

Retention and disposal: Records are retained indefinitely since they are not extensive and are used for reference.

System manager(s) and address: General Counsel,

Department of Transportation,
Saint Lawrence Seaway Development Corporation,
P. O. Box 520,
Massena, NY 13662.

Notification procedure: The individual may inquire, in writing, to the above System Manager to inquire whether this system of records applies to him/her.

Record access procedures: An individual may gain access to his/her records by written request to the:

Department of Transportation,
Saint Lawrence Seaway Development Corporation,
Director of Administration,
P.O. Box 520,
Massena, NY 13662.

Contesting record procedures: Contest of these records will be directed to the Director of Administration, as under 'Record Access Procedure',and if not resolved at that level, may be appealed in writing to the Secretary of Transportation addressed as follows:

Department of Transportation,
Saint Lawrence Seaway Development Corporation,
Administrator, SLSDC,
P.O. Box 520,
Massena, NY 13662.

Record source categories: Claimants.

DOT/SLS 152.

System name: Data Automation Program Records. DOT/SLS.

System location: Department of Transportation (DOT),

Saint Lawrence Seaway Development Corporation (SLSDC),
Administration Building,
180 Andrews Street,
Massena, NY 13662.

Categories of individuals covered by the system: Employees and consultants.

Categories of records in the system: Payroll and leave records, work measurement records, travel vouchers.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Payroll and voucher disbursement:

GAO audits.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape reels, punch cards, micro-film cassettes and supporting documents.

Retrievability: Indexed by social security number and name.

Safeguards: Records are kept in locked file cabinets or locked rooms accessible to appropriate supervisor, his immediate assistants and secretary.

Retention and disposal: Records are retained in accordance with GAO and GSA schedules.

System manager(s) and address: Comptroller,

Department of Transportation,
Saint Lawrence Seaway Development Corporation,
P.O. Box 520,
Massena, NY 13662.

Notification procedure: The individual may inquire, in writing, to the System Manager to inquire whether this system of records applies to him.

Record access procedures: An individual may gain access to his records by written request to:

Department of Transportation,
Saint Lawrence Seaway Development Corporation,
Director of Administration,
P.O. Box 520,
Massena, NY 13662.

Contesting record procedures: Contest of these records will be directed to the Director of Administration, at the address given in 'Record Access Procedure'.

If not resolved at that level, may be appealed in writing to the Secretary of Transportation addressed as follows:
Department of Transportation,
Saint Lawrence Seaway Development Corporation,
Administrator, SLSDC,
P.O. Box 520,
Massena, NY 13662.

Record source categories: Information obtained from employees, personnel records, consultants.

DOT/SLS 153.

System name: Employees' Compensation Records. DOT/SLS.

System location: Department of Transportation (DOT),

Saint Lawrence Seaway Development Corporation (SLSDC),
Administration Building,
180 Andrews Street,
Massena, NY 13662.

Categories of individuals covered by the system: Employees.

Categories of records in the system: Claim forms on which are recorded employees' personal statistics, medical record.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For determining allowability of claims.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and micro-film cassette.

Retrievability: Indexed by name.

Safeguards: Records are kept in locked file cabinets and are accessible to cognizant Personnel Officers.

Retention and disposal: Retained indefinitely for possible future use.

System manager(s) and address:

Director of Administration,
Department of Transportation,
Saint Lawrence Seaway Development Corporation,
P.O. Box 520
Massena, NY 13662.

Notification procedure: The individual may inquire, in writing, to the above System Manager to inquire whether this system of records applies to him.

Record access procedures: An individual may gain access to his records by written request to:

Department of Transportation,
Saint Lawrence Seaway Development Corporation,
Director of Administration,
P.O. Box 520,
Massena, NY 13662.

Contesting record procedures: Contest of these records will be directed to the System Manager and if not resolved at that level, may be appealed in writing to the:

Secretary of Transportation,
Saint Lawrence Seaway Development Corporation,
Administrator, SLSDC,
P.O. Box 520,
Massena, NY 13662.

Record source categories: Injured employee, witnesses, supervisors, hospitals, physicians.

DOT/SLS 155.

System name: Emergency Operating Records (Vital Records). DOT/SLS.

System location: Department of Transportation (DOT),

Saint Lawrence Seaway Development Corporation (SLSDC),
Eisenhower Lock (Emergency Relocation Site),
Massena, NY 13662.

Categories of individuals covered by the system: Employees.

Categories of records in the system: Retirement records, payroll distribution records, leave records, employee roster and next of kin records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To insure continuity of operations during and after a national defense emergency.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 4 File folders.

Retrievability: Indexed by name and social security number.

Safeguards: Locked metal file container.

Retention and disposal: Retained until updated annually; then old records destroyed.

System manager(s) and address: Director of Administration (Emergency Coordinator),

Department of Transportaion,
Saint Lawrence Seaway Development Corporation,
P. O. Box 520,
Massena, NY 13662.

Notification procedure: Individuals may inquire in writing to the System Manager to inquire whether this system of records applies to him.

Record access procedures: An individual may gain access to his records by written request to the:

Department of Transportation,
Saint Lawrence Seaway Development Corporation,
Director of Administration,
P. O. Box 520,
Massena, NY 13662.

Contesting record procedures: Contest of these records will be directed to the Director of Administration and if not resolved at that level, may be appealed in writing to the Secretary of Transportation addressed as follows:

Department of Transportation,
Saint Lawrence Seaway Development Corporation,
Administrator SLSDC,
P.O. Box 520,
Massena, NY 13662.

Record source categories: Personnel records, time cards, and related supporting documents.

DOT/SLS 156.

System name: Safety Management Information System. DOT/SLS.

System location: Department of Transportation (DOT),

Saint Lawrence Seaway Development Corporation (SLSDC),
Safety and Security Division,Eisenhower Lock,
Massena, NY 13662.

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Categories of individuals covered by the system: Federal employees, contractor personnel and visitors.

Categories of records in the system: Accident Reporting Records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To submit required reports.

Provide data base for analysis and corrective action.
Statistical records.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Indexed by name

Safeguards: Locked metal file cabinets accessible to Safety and Security Officer.

Retention and disposal: Retained for three years, then destroyed.

System manager(s) and address: Safety and Security Officer,

Department of Transportation,
St. Lawrence Seaway Development Corporation,
P.O. Box 520,
Massena, NY 13662.

Notification procedure: The individual may inquire , in writing, to the System Manager to inquire whether this system of records applies to him.

Record access procedures: An individual may gain access to his record(s) by written request to:

Department of Transportation,
St. Lawrence Seaway Development Corporation,
Director of Administration,
P.O. Box 520,
Massena, NY 13662.

Contesting record procedures: Contest of these records will be directed to the Director of Administration and if not resolved at that level, may be appealed in writing to the Secretary of Transportation, addressed as follows:

Department of Transportation,
Saint Lawrence Seaway Development Corporation,
Administrator, SLSDC,
P.O. Box 520,
Massena, NY 13662.

Record source categories: Federal employees and supervisors.

DOT/SLS 157.

System name: Vehicle Operator Identification System. DOT/SLS.

System location: Department of Transportation (DOT),

Saint Lawrence Seaway Development Corporation (SLSDC),
Safety & Security Division, Eisenhower Lock,
Massena, NY 13662.

Categories of individuals covered by the system: Employees.

Categories of records in the system: This record contains personal identification, vehicle limitations and driving record; also contains information on employee's physical condition.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To ensure safe operation of government owned vehicles on government business.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Card and file folders.

Retrievability: Indexed by name and identification number.

Safeguards: Records kept in locked file cabinets accessible only to Safety and Security Officer.

Retention and disposal: Maintained for tenure of the employee plus 1 year, then destroyed.

System manager(s) and address: Safety and Security Officer,

Department of Transportation,
Saint Lawrence Seaway Development Corporation,
P.O. Box 520,
Massena, NY 13662.

Notification procedure: The individual may inquire, in writing, to the System Manager to inquire whether this system of records applies to him.

Record access procedures: An individual may gain access to his records by written request to:

Department of Transportation,
Saint Lawrence Seaway Development Corporation,
Director of Administration,
P. O. Box 520,
Massena, NY 13662.

Contesting record procedures: Contest of these records will be directed to the Director of Administration and, if not resolved at that level, may be appealed in writing to the Secretary of Transportation, addressed as follows:

Department of Transportation,
Saint Lawrence Seaway Development Corporation,
Administrator,
P.O. Box 520,
Massena, NY 13662.

Record source categories: Information obtained from employee and from records maintained in the Personnel Division.

DOT/TSC 700.

System name: Automated Management Information System. DOT/TSC.

System location: Department of Transportation (DOT),

Transportation Systems Center (TSC),
Data Services Division, Code 840,
Kendall Square,
Cambridge, MA 02142.

Categories of individuals covered by the system: All TSC employees.

Categories of records in the system: Contains job related information associated with the following applications: ADP services, property management, procurement requests, contract information, travel information, program and related job plans, patent data, space utilization, park control and other pertinent management information.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The general pruposes of this system are intended for internal management and control, including:

Computer facility planning.
ADP cost distribution.
Budget and planning analysis.
Procurement tracking.
Procurement statistics and analysis.
Information of travel incurred.
Contract administration.
Control of property.
Control of building space.
Control of parking facilities.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Punched cards, magnetic tape and disk.

Retrievability: Indexed by employee's name.

Safeguards: Access to the systems and their associated data banks is available through the utilization of the unique project and programmer numbers, and the passwords known only by the authorized custodians.

Access to reports is controlled by the Reports Distribution function of the Administrative Directorate on a need-to-know basis. For normal working requirements, the reports are distributed to the functional areas responsible for the data generation.
Access to the computer room and its associated areas where data and reports are stored is delineated in the TSC ADP Facility Document on Safeguards and Controls.

Retention and disposal: The systems are permanent unless replaced.

The data banks, for the most part, are related to fiscal year activity.
Subsequent to the fiscal year, the data banks become either part of the history file of the system or are maintained by themselves for historical reasons.
Data records are deleted from the data banks on an as-required basis, and subsequently are eliminated from associated reports.

Reports used as daily working papers are retained only until updated reports are produced and then the old reports are discarded. Official closing reports corresponding to month-end and fiscal-year-end periods are retained for longer periods and are not subject to any rigid disposal procedure.

System manager(s) and address: Director of Administration, Code 800,

Department of Transportation,
Transportation Systems Center,
Kendall Square,
Cambridge, MA 02142.

Notification procedure: Information may be obtained through the Director of Administration from the

Department of Transportation,
Transportation Systems Center,
Chief, Data Services Division, Code 840,
Kendall Square,
Cambridge, MA 02142.

Record access procedures: Requests from individuals should be addressed to the System Manager.

An individual may gain access to his data by written request.

Contesting record procedures: Contest of this data will be made to the System Manager. If administrative resolvement is not satisfactory to the individual, appeals may be filed in writing with the Secretary of Transportation addressed to the General Counsel as follows:

Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Administrative functional areas and technical directorates utilizing standard forms and special TSC forms such as the ADP Job Order form, the Procurement Request form, the TSC Contract, the Property Control form the Project Program Agreement (PPA form, and the Work Plan Budget (WP) form.

DOT/TSC 701.

System name: Employee Travel Records. DOT/TSC.

System location: Department of Transportation (DOT),

Transportation Systems Center (TSC),
Administrative Services Division,
Accounting Branch, Code 831,
Kendall Square,
Cambridge, MA 02142.

Categories of individuals covered by the system: TSC employees and other Government employees and private persons issued invitational travel orders to confer on Government problems.

Categories of records in the system: Travel records pertaining to reimbursements to individuals, consisting of:

Copies of travel orders.
Per diem vouchers.
Transportation requests.
Hotel reservations and all supporting papers relating to official travel of TSC employees or others authorized to travel by law.
Travel logs.
Travel reservation record card.
ADP travel reports.
Teletype ticket listing.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The general purposes of these records are intended for internal management and control, and also to authorize travel and reimbursement of expenses incurred.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Travel forms, logs, card files, basic documents and other paper records, including ADP printouts.

Retrievability: Indexed by employee's name.

Safeguards: Records are maintained in locked file cabinets. Logs are generally maintained in locked desk drawer.

Retention and disposal: Travel administration unit copies are maintained two (2) years then forwarded to the Federal Records Center where they are disposed of after one (1) additional year.

Obligation copies are disposed of when funds are obligated, generally by shredding.

System manager(s) and address: Chief, Administrative Services Division, Code 830,

Department of Transportation,
Transportation Systems Center,
Kendall Square,
Cambridge, MA 02142.

Notification procedure: Information may be obtained from the System Manager.

Record access procedures: Requests from individuals should be addressed to the System Manager. An individual may gain access to his records by written request.

Contesting record procedures: Contest of this data will be made to the System Manager. If administrative resolvement is not satisfactory to the individual, appeals may be filed in writing with the Secretary of Transportation addressed to the General Counsel as follows:

Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Individual's request for travel and reimbursement with all supporting papers relating to official travel.

DOT/TSC 702.

System name: Legal Counsel Information Files. DOT/TSC.

System location: Department of Transportation (DOT),

Transportation Systems Center (TSC),
Office of Legal Counsel, Code 140,
Kendall Square,
Cambridge, MA 02142.

Categories of individuals covered by the system: TSC employees involved with legal matters.

Categories of records in the system: Counseling records, conflict of interest and Source Evaluation Board (SEB), and individual claims and personnel actions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The general purposes of these records are intended for internal management and control, including administrative reference and advising and counseling in legal matters.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper record folders.

Retrievability: Indexed by employee's name and subject matter.

Safeguards: Records are maintained in locked desk drawers and safe.

Retention and disposal: One (1) year after final action.

System manager(s) and address: Legal Counsel,

Department of Transportation,
Transportation Systems Center,
Office of Legal Counsel,
Kendall Square,
Cambridge, MA 02142.

Notification procedure: Information may be obtained from the System Manager.

Record access procedures: Requests from individuals should be addressed to the System Manager.

An individual may gain access to his records by written request.

Contesting record procedures: Contest of this data will be made to the System Manager. If administrative resolvement is not satisfactory to the individual, appeals may be filed in writing with the Secretary of Transportation addressed to the General Counsel as follows:

Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
400 7th Street, SW,

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Washington, DC 20590.

Record source categories: Employee, Supervisor, Legal Office, Personnel Office

DOT/TSC 703.

System name: Occupational Safety & Health Reporting System. DOT/TSC.

System location: Department of Transportation (DOT),

Transportation Systems Center (TSC),
Management Services Division, Code 810,
Kendall Square,
Cambridge, MA 02142.

Categories of individuals covered by the system: TSC employees, in-house contractor personnel and visitors who have occupational illnesses, injuries or are involved in Government property accidents.

Categories of records in the system: Federal Occupational Injuries & Illnesses Survey form. DOT Accident/Injury Reports, DOT forms 3902.1 through 8.

Department of Labor, for payment of medical bills and workmen's compensation, as applicable.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The general purposes of these records are intended for internal management and control, and also for accident prevention.

The routine uses of the Department of Labor forms are for (1) submission to doctors and medical institutions rendering services to individuals and (2) to the Office of Employees Compensation, Department of Labor, for payment of medical bills and workmen's compensation, as applicable.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Forms and other paper records.

Retrievability: Indexed by individual's name.

Safeguards: Records are maintained in locked file cabinets and folders are stamped 'For Official Accident Prevention Use Only.'

Retention and disposal: Records are retained for five years and then destroyed by shredding.

System manager(s) and address: Chief, Management Services Division, Code 810,

Department of Transportation,
Transportation Systems Center,
Kendall Square,
Cambridge, MA 02142.

Notification procedure: Information may be obtained from the System Manager.

Record access procedures: Requests from individuals should be addressed to the System Manager.

An individual may gain access to his records by written request.

Contesting record procedures: Contest of this data will be made to the System Manager. If administrative resolvement is not satisfactory to the individual, appeals may be filed in writing with the Secretary of Transportation addressed to the General Counsel as follows:

Department of Tranportation,
Office of the Secretary,
Office of the General Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Documents provided by the individual concerned and immediate supervisor.

DOT/TSC 704.

System name: Stand-By Personnel Information. DOT/TSC.

System location: Department of Transportation (DOT),

Transportation Systems Center (TSC),
Management Services Division,
Budget Branch, Code 811,
Kendall Square,
Cambridge, MA 02142.

Categories of individuals covered by the system: TSC technical directorate personnel currently not fully assigned to authorized projects.

Categories of records in the system: Employee work project status and request for approval for stand-by time.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The general purposes of these files are intended for internal management and control, including administrative reference and scheduling of work projects, budgeting and overhead classification.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Indexed by employee's name and subject classification 'Stand-By Time.'

Safeguards: Records are maintained in secured desk drawers and cabinets.

Retention and disposal: Records are maintained for one (1) additional year following completion of current fiscal year. Records are then destroyed.

System manager(s) and address: Chief, Management Services Division, Code 810,

Department of Transportation,
Transportation Systems Center,
Kendall Square,
Cambridge, MA 02142.

Notification procedure: Information may be obtained from the System Manager.

Record access procedures: Requests from individuals should be addressed to the System Manager.

An individual may gain access to his records by written request.

Contesting record procedures: Contest of this data will be made to the System Manager. If administrative resolvement is not satisfactory to the individual, appeals may be filed in writing with the Secretary of Transportation addressed to the General Counsel as follows:

Department of Transportation
Office of the Secretary
Office of the General Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Supervisor.

DOT/TSC 706.

System name: Automated Planning System. DOT/TSC.

System location: Department of Transportation (DOT),

Transportation Systems Center (TSC),
Data Services Division, Code 840,
Kendall Square,
Cambridge, MA 02142.

Categories of individuals covered by the system: All TSC technical personnel, i.e., those personnel working on direct projects.

Categories of records in the system: Information on all current and anticipated programs/projects and respective limits of man-years and dollars (total) budgeted.

Personnel information on all technical personnel.
Information on each technical person, based upon the planning/assignment of an individual to a program/project.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The general purpose of this system is to aid in the planning for an analysis of the loading (assignment) of manpower to the numerous programs/projects undertaken by the TSC.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Punched cards, magnetic tape and disk.

Retrievability: Indexed by employee's name.

Safeguards: Access to the system and its associated data banks is available through the utilization of the unique project and programmer numbers, and the passwords known only by the authorized custodians:

Access to reports is controlled by the Reports Distribution function of the Administrative Directorate on a need-to-know basis. For normal working requirements, the reports are distributed to the functional areas responsible for the data generation.

Access to the computer room and its associated areas where data and reports are stored is delineated in the TSC ADP Facility Document on safeguards and controls.

Retention and disposal: The system is permanent unless replaced. The data banks, for the most part, are related to fiscal year activity. Subsequent to the fiscal year, the data banks become either part of the history file of the system or are maintained separately for historical reasons.

Reports used as daily working papers are retained only until updated reports are produced and then the old reports are discarded. Official closing reports corresponding to month-end and fiscal-year-end periods are retained for longer periods and are not subject to any rigid disposal procedure.

System manager(s) and address: Director of Administration, Code 800,

Department of Transportation,
Transportation Systems Center,
Kendall Square,
Cambridge, MA 02142.

Notification procedure: Information may be obtained through the Director of Administration from the Chief, Data Services Division, Code 840:

Department of Transportation,
Transportation Systems Center,
Kendall Square,
Cambridge, MA 02142.

Record access procedures: Requests from individuals should be addressed to the System Manager

Contesting record procedures: An individual may gain access to his data by written request. Contest of this data will be made to the System Manager. If administrative resolvement is not satisfactory to the individual, appeals may be filed in writing with the Secretary of Transportation addressed to the General Counsel as follows:

Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Program/Project files.

Personnel files.
Assignment forms.

DOT/TSC 707.

System name: Automated Manpower Distribution System. DOT/TSC.

System location: Department of Transportation (DOT),

Transportation Systems Center (TSC),
Data Services Division, Code 840,
Kendall Square,
Cambridge, MA 02142.

Categories of individuals covered by the system: All TSC employees.

Categories of records in the system: Contains information delineating the time and charges, including fringe and overhead, that TSC employees worked. The main association of the time and charges is with employee job assignment.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The general purposes of this system are intended for internal management and control, including:

Administrative reference.
Cost management.
Labor assignments and expenditures as they relate to both the job and the employee.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Punched cards, magnetic tape and disk.

Retrievability: Indexed by employee's number and job number.

Safeguards: Access to the system and its associated data bank is available through the utilization of the unique project and programmer numbers, and the passwords known only by the authorized custodians.

Access to reports is controlled by the Reports Distribution function of the Administrative Directorate on a need-to-know basis. For normal working requirements, the reports are distributed to the functional area responsible for the data generation.

Access to the computer room and its associated areas where data and reports are stored is delineated in the TSC ADP Facility Document on Safeguards and Controls.

Retention and disposal: The system is permanent unless replaced.

The data bank is related to fiscal year activity. Subsequent to the fiscal year, the data bank becomes part of the system's history file.

Data records are deleted from the data bank on an as required basis, and subsequently are eliminated from associated reports.

Reports used as daily working papers are retained only until updated reports are produced and then the old reports are discarded.

Official record copy reports are subject to retirement in accordance with General Records Schedules (GRS).

System manager(s) and address: Director of Administration, Code 800,

Department of Transportation,
Transportation Systems Center,
Kendall Square,
Cambridge, MA 02142.

Notification procedure: Information may be obtained through the Director of Administration from the Chief, Data Services Division/Code 840 at the address under 'System Location'.

Record access procedures: Requests from individuals should be addressed to the System Manager.

Contesting record procedures: An individual may gain access to his data by written request.

Contest of this data will be made to the System Manager.

If administrative resolvement is not satisfactory to the individual, appeals may be filed in writing with the Secretray of Transportation addressed to the General Counsel as follows:

Department of Transportation,
Transportation Systems Center,
Office of the General Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: TSC form entitled 'Manpower Distribution'.

DOT/TSC 708.

System name: Combined Federal Campaign Information. DOT/TSC.

System location: Department of Transportation (DOT),

Transportation Systems Center (TSC),
Office of Public Affairs, Code 130,
Kendall Square,
Cambridge, MA 02142.

Categories of individuals covered by the system: All TSC employees.

Categories of records in the system: A record of how much, if anything, each employee has contributed.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The general purpose of this system is to gather and disseminate statistics and information on the donations to the Combined Federal Campaign.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Form filled out by keyman.

Retrievability: Indexed by employee's name.

Safeguards: Records are maintained in locked file cabinet.

Retention and disposal: Records are maintained for five years and then destroyed by shredding.

System manager(s) and address: Public Affairs Officer,

Department of Transportation,
Transportation Systems Center,
Office of Public Affairs, Code 130,
Kendall Square,
Cambridge, MA 02142,

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Notification procedure: Information may be obtained from the System Manager.

Record access procedures: Requests from individuals should be addressed to the System Manager.

Contesting record procedures: An individual may gain access to his records by written request.

Contest of this data will be made to the System Manager.
If administrative resolvement is not satisfactory to the individual, appeals may be filed in writing with the Secretary of Transportation addressed to the General Counsel as follows:
Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Combined Federal Campaign forms filled out by employees.

DOT/TSC 709.

System name: Minority Information Files. DOT/TSC.

System location: Department of Transportation (DOT),

Transportation Systems Center (TSC),
Equal Opportunity Officer, Code 120,
Kendall Square,
Cambridge, MA 02142.

Categories of individuals covered by the system: TSC minority employees.

Potential minority hires in New England.

Categories of records in the system: Counselor records, Potential employee applications, minority skills bank, ADP reports - minority evaluation, personnel changes, minority reports, skills bank - resume card file, minority training records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The general purpose of these files is for: Use by the Civil Rights Office in DOT, administrative reference, and statistical reporting.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Card files, paper records, ADP reports.

Retrievability: Indexed by name, skills, standard personnel subject classification.

Safeguards: Records are maintained in locked file cabinet.

Retention and disposal: Records are maintained for 2 years and then destroyed.

System manager(s) and address: Equal Opportunity Officer, Code 120,

Department of Transportation,
Transportation Systems Center,
Kendall Square,
Cambridge, MA 02142.

Notification procedure: Information may be obtained from the System Manager.

Record access procedures: Requests from individuals should be addressed to the System Manager.

Contesting record procedures: An individual may gain access to his records by written request.

Contest of this data will be made to the System Manager.
If administrative resolvement is not satisfactory to the individual, appeals may be filed in writing with the Secretary of Transportation addressed to the General Counsel as follows:
Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Equal Opportunity Officer.

Equal Opportunity Counselors.
Personnel Office.
Individual potential federal employees.

DOT/TSC 711.

System name: Blood Donor Information File. DOT/TSC.

System location: Department of Transportation (DOT),

Transportation Systems Center (TSC),
Office of Public Affairs, Code 130,
Kendall Square,
Cambridge, MA 02142.

Categories of individuals covered by the system: All TSC employees and on-site contractor personnel.

Categories of records in the system: Blood Donors Phone Book (name, organization and telephone number of donor).

Blood Donors Schedule.
Requests for Blood Form (from hospital for employee or dependent).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The general purposes of these records is for the donation of blood by TSC employees and on-site contractor personnel to ensure coverage for themselves, spouses, dependent children, parents and grandparents of both employee and spouse, and all other people living in the employee's household for whom the member has responsibility.

The routine use of this system of records is to respond to requests for blood from employees and their dependents by furnishing information to the Red Cross to ensure the availability of blood.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper record.

Retrievability: Indexed by employee's name.

Safeguards: Records maintained in locked file cabinet.

Retention and disposal: Blood Donors Phone Book and Blood Donors Schedule maintained for one year and then destroyed. Request for Blood Form maintained until individual terminates employment with TSC, records are then destroyed.

System manager(s) and address: Public Affairs Officer, Code 130,

Department of Transportation,
Transportation Systems Center,
Kendall Square,
Cambridge, MA 02142.

Notification procedure: Information may be obtained from the System Manager.

Record access procedures: Requests from individuals should be addressed to the System Manager.

Contesting record procedures: An individual may gain access to his data by written request.

Contest of this data will be made to the System Manager.
If administrative resolvement is not satisfactory to the individual, appeals may be filed with the Secretary of Tranportation addressed to the General Counsel as follows:
Department of Transportation,
Office of the Secretary,
Office ot the General Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Blood Donors Phone Book and Blood Donors Schedule are filled out by solicitors.

Request for Blood Form completed by employee or dependent requesting blood.

DOT/TSC 712.

System name: Automated Payroll/Personnel/Communications/Security System. DOT/TSC.

System location: Department of Transportation (DOT),

Transportation Systems Center (TSC),
Data Services Division, Code 840,
Kendall Square,
Cambridge, MA 02142.

Categories of individuals covered by the system: All TSC employees and tenants from other government agencies.

Categories of records in the system: Contains the pertinent information for activities involved with Payroll, Personnel, Communications, and Security.

Contains information about an individual relating to:
Social security number.
Salary, including current and calendar year-to-date data.
Birthdate.

Veteran preference.
Tenure.
Handicap.
Grade.
Marital status.
Service computation date.
Home address and telephone number.
TSC location including building and telephone number.
Security clearance level and date granted.
CSC title and classification code.
Competitive level.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The general purposes of this system are intended for internal management and control, including:

Administrative reference.
Source for management information for producing summary statistics and registers in support of the Payroll, Personnel, Communications and Security functions.
The routine uses of the Payroll portion of this system are for:
(1) Submission of data to the Federal Disbursing Office for check issuance.
(2) Submission of employee's salary data, including gross, and withholdings, to the Internal Revenue Service for income tax purposes.
(3) Submission of employee's salary data to State Income Tax Bureau for income tax purposes.
(4)Transfer of information of Health and Life Insurance companies for insurance coverage.
(5) Transfer of information to financial institutions and labor unions.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Punched cards, magnetic tape and disk.

Retrievability: Indexed by employee's number.

Safeguards: Access to the systems and their associated data banks is available through the utilization of the unique project and programmer numbers, and the passwords known only by the authorized custodians.

Access to reports is controlled by the Reports Distribution function of the Administrative Directorate on a need-to-know basis. For normal working requirements, the reports are distributed to the functional areas responsible for the data generation.
Access to the computer room and its associated areas where data and reports are stored is delineated in the TSC ADP Facility Document on Safeguards and Controls.

Retention and disposal: The systems are permanent unless replaced.

The data banks are related to both fiscal year and calendar year activity. Subsequent to the appropriate period, the data banks become either part of the history file of the system or are maintained by themselves for historical reasons.
Data records are deleted from the data banks on an as-required basis, and subsequently are eliminated from associated reports.
Reports used as daily working papers are retained only until updated reports are produced and then the old reports are discarded. Official closing reports corresponding to month-end, fiscal-year-end and calendar year-end periods are retained for longer periods and are not subject to any rigid disposal procedure.

System manager(s) and address: Director of Administration, Code 800,

Department of Transportation,
Transportation Systems Center,
Kendall Square,
Cambridge, MA 02142.

Notification procedure: Information may be obtained through the Director of Administration from the:

Department of Transportation,
Transportation Systems Center,
Chief, Data Services Division, Code 840,
Kendall Square,
Cambridge, MA 02142.

Record access procedures: Requests from individuals should be addressed to the System Manager.

Contesting record procedures: An individual may gain access to his data by written request.

Contest of this data will be made to the System Manager.
If administrative resolvement is not satisfactory to the individual, appeals may be filed in writing with the Secretary of Transportation addressed to the General Counsel as follows:
Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Employee, Personnel Office, Payroll Office, Communications Office, Security Office.

DOT/TSC 713.

System name: Employee Payroll - Manpower Distribution System. DOT/TSC.

System location: Department of Transportation (DOT),

Transportation Systems Center (TSC),
Administrative Services Division,
Accounting Branch, Code 831,
Kendall Square,
Cambridge, MA 02142.

Categories of individuals covered by the system: All TSC employees.

Categories of records in the system: Payroll and pay administration records pertatining to TSC employees for personal services, consisting of leave cards, manpower distribution cards, payroll change slips, retirement records, time and attendance reports, withholding tax and savings bank records, ADP reports, etc.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The general purposes of these records are intended for internal management and control; to authorize disbursements to employees for personal services and to charge labor to the appropriate direct or overhead job orders.

The routine uses of these records are as follows:
Transfer of information to the Treasury Department to complete payroll checks.
The receipt of information by the Social Security Administration to complete quarterly posting of accounts.
The receipt of information by the Internal Revenue Service and Massachusetts Income Tax Bureau for income tax purposes.
Transfer of information to Health and Life Insurance companies for insurance coverage.
Transfer of retirement records to the Bureau of Retirement, Insurance, and Occupational Health of the Civil Service Commission.
Transfer of information to the Department of Labor, Office of Employees Compensation, for payment of workmen's compensation.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Payroll and Manpower Distribution forms, cards, registers, basic documents and other paper records, including ADP printouts.

Retrievability: Indexed by employee's name and number.

Safeguards: Employee's payroll folders are maintained in a locked file cabinet.

Payroll office is locked during other than normal working hours.
Manpower Distribution records are maintained in a locked file cabinet.
Access to and use of all these records are limited to individual employee and those persons whose official duties require such access.

Retention and disposal: Payroll System Records common to all federal agencies are retained and disposed of in accordance with General Records Schedule (GRS) No. 2.

Manpower Distribution cards are maintained one fiscal year and then forwarded to the Federal Records Center (FRC) where they are destroyed after 2

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All ADP reports are maintained one fiscal year and then additional years, destroyed except the year-end reports which are maintained three fiscal years and then forwarded to the FRC where they are destroyed in accordance with GRS No. 2.

System manager(s) and address: Chief, Administrative Services Division, Code 830,
Department of Transportation,
Transportation Systems Center,
Kendall Square,
Cambridge, MA 02142.

Notification procedure: Information may be obtained from the System Manager.

Record access procedures: Requests from individuals should be addressed to the Systems Manager.

Contesting record procedures: An individual may gain access to his data by written request.
Contest of this data will be made to the System Manager.
If administrative resolvement is not satisfactory to the individual, appeals may be filed in writinthe Secretary of Transportation addressed to the General Counsel as follows:
Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Basic payroll and manpower documents (standard and TSC forms); duplicate copies provided by Personnel and Training Division; individual employee on whom record is maintained.

DOT/TSC 714.

System name: Health Unit Employee Medical Records. DOT/TSC.

System location:
Department of Transportation (DOT),
Transportation Systems Center (TSC),
Personnel and Training Division, Code 820,
Health Unit/Building 1, 9th Floor,
Kendall Square,
Cambridge, MA 02142.

Categories of individuals covered by the system: TSC employees and support service contractor personnel.

Categories of records in the system: Individual Health Record Cards.
Individual Health Record Case Files.
Register of Visits.
Laser Eye Tests and Government Driver's Tests.
Pre-employment Physical Examinations, Health Justification Placement Records, Disability Retirement Examinations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The general purposes of these records are to maintain a medical history of any TSC employee, including contractor personnel, who receives services from the Health Unit; ensure applicants for licenses to drive Government Vechiles meet physical requirements; and lasers are not adversely affecting employee's eyes.
The routine uses of these records are to respond to requests from other Doctors, Universities and Insurance Companies, and to submit medical reports to the Department of Labor, Office of Employees Compensation, to meet requirements of the Occupational Safety and Health Act of 1970 and DOT/TSC Safety Program.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Cards, forms, logs and other paper records.

Retrievability: Indexed by employee's name.

Safeguards: Records are maintained in locked file cabinets and room secured when no one is there.
Information from records is provided only with consent of employee.

Retention and disposal: (In accordance with GRS No. 1):
Individual Health Record Cards are maintained until 6 years after date of last entry on the card.
Individual Health Record Case Files are maintained until 6 years after date of last papers in the file.
Registers of visits maintained until 2 years after last date in log or register.
Upon termination of employment with TSC, latest Laser Eye Tests and Government Driver's Tests records are combined with Health Record Case Files and disposed of as part of these files.
Pre-employment Physical Examinations, Health Justification Placement Records, and Disability Retirement Examinations become part of the official personnel folder (OPF) upon separation, and are transferred to the NPRS, St. Louis, MO., 30 days after separation, where they are disposed of in accordance with GRS No. 1, Item 1.

System manager(s) and address: Chief, Personnel and Training Division, Code 820,
Department of Transportation,
Transportation Systems Center,
Kendall Square,
Cambridge, MA 02142.

Notification procedure: Information may be obtained through the Chief, Personnel and Training Division, from resident physician or nurse, TSC Health Unit.

Record access procedures: Request from individuals should be addressed to the System Manager.

Contesting record procedures: An individual may gain access to his data by written request.
Contest of this data will be made to the System Manager.
If administrative resolvement is not satisfactory to the individual, appeals may be filed in writing with the Secretary of Transportation addressed to the General Counsel as follows:
Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Employee.
Health Unit Doctor/Nurse.
TSC Safety Officer.

DOT/TSC 715.

System name: Bi-Weekly Personnel Status Report. DOT/TSC.

System location: Department of Transportation (DOT),
Transportation Systems Center (TSC),
Personnel and Training Division, Code 820,
Kendall Square,
Cambridge, MA 02142.

Categories of individuals covered by the system: All TSC employees.

Categories of records in the system: Name, grade and title.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The general purpose of this system is to dispense personnel management information in order to control billets.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Chronologically.

Safeguards: Records are maintained in a cabinet.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address: Chief, Personnel and Training Division, Code 820,
Department of Transportation,
Transportation Systems Center,
Kendall Square,
Cambridge, MA 02142.

Notification procedure: Information may be obtained from the System Manager.

Record access procedures: Requests from individuals should be addressed to the System Manager.

Contesting record procedures: An individual may gain access to his records by written request.
Contest of this data will be made to the System Manager.

If administrative resolvement is not satisfactory to the individual, appeals may be filed in writing with the Secretary of Transportation addressed to the General Counsel as follows:
Department of Transportation,
Office of the Secretary,
Office of the General Counsel,
400 7th Street, SW,
Washington, DC 20590.

Record source categories: Standard Form 50's are the source of the records.

DOT/UMTA 175.

System name: Personnel Convenience Files. DOT/UMTA.

System location: Department of Transportation (DOT),
Urban Mass Transportation Administration (UMTA).
Systems are located at:
Region I,
Regional Director, UMTA,
c/o Transportation Systems Center,
Technology Building - Room 277,
55 Broadway,
Cambridge, MA 02142.
Region II,
Regional Director, UMTA,
26 Federal Plaza, Suite 507,
New York, NY 10007.
Region III,
Regional Director, UMTA,
434 Walnut Street, Suite 1010,
Philadelphia, PA 19106.
Region IV,
Regional Chief, UMTA,
1720 Peachtree Road, NW, Suite 501,
Atlanta, GA 30309.
Region V,
Regional Chief, UMTA,
300 South Wacker Dirve - Suite 700,
Chicago, IL 60606.
Region VI,
Regional Chief, UMTA,
819 Taylor Street, Suite 9A32,
Fort Worth, TX 76102.
Region VII,
Regional Chief, UMTA,
601 East 12th Street - Suite 633,
Kansas City, MO 64106.
Region VIII,
Regional Director, UMTA,
Prudential Plaza - Suite 1822,
1050 17th Street,
Denver, CO 80202.
Region IX,
Regional Director, UMTA,
450 Golden Gate Avenue,
Box 36125,
San Francisco, CA 94102,
Region X,
Regional Chief, UMTA,
915 Second Avenue,
Suite 3106, Federal Building,
Seattle, WA 98174.

Categories of individuals covered by the system: UMTA employees.

Categories of records in the system: Standard Form 171.
Resumes.
Personnel Action Forms.
Position Descriptions.
Performance evaluation forms.
Written performance standards.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Personal Use.
Personnel Reference Manual.
Statistical Information.
Technical Information.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are originals or copies of documents.

Retrievability: Retrieved by name.

Safeguards: Maintained in locked file cabinets.

Retention and disposal: Retained until termination of employment and then shredded.

System manager(s) and address: Appropriate Associate Administrator or Regional Office (addresses same as in 'System Location').

Notification procedure: Inquiries are addressed to the System Manager (addresses same as in'System Location').

Record access procedures: Access is permitted by written or personal request.
Direct control is maintained by the System Manager.

Contesting record procedures: Contest of these records is at the Headquarters' level, addressed as follows:
Department of Transportation,
Urban Mass Transportation Administration,
Attention: Personnel Division, UAD-60,
400 7th Street, SW,
Washington, DC 20590. Unsatisfactory resolvement by the individual may be appealed in writing to the Secretary of Transportation addressed as follows:
Department of Transportation,
Urban Mass Transportation Administration
Office of the Administrator,
400 7th Street, SW, Room 9324,
Washington, DC 20590.

Record source categories: Personnel Action Forms as completed by the employee or prospective employee.

DOT/UMTA 176.

System name: Blood-Donor File. DOT/UMTA.

System location: Department of Transportation (DOT),
Urban Mass Trasnportation Administration (UMTA),
Office of Administration,
Administrative Services Division, UAD-40,
400 7th Street, SW, Room 9223,
Washington, DC 20590.

Categories of individuals covered by the system: UMTA employees.

Categories of records in the system: Record of employee's donation to UMTA/Red Cross Blood Program.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Computing participation in Blood Program identifying donors by blood types.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained by telephone cardex.

Retrievability: Access by name.

Safeguards: Maintained in locked office during non-work hours.

Retention and disposal: Only information on current employees is maintained. Card and information slips are destroyed in the year following blood quota/program year.

System manager(s) and address: UMTA Blood Program Coordinator (Administrative Services Director, address as above in 'System Location').

Notification procedure: Verbal notification from System Manager.

Record access procedures: Upon verbal request to System Manager.

Contesting record procedures: Record access not contested. Contact System Manager to contest content.

Record source categories: Red Cross Donor Registration Forms as completed by UMTA employee.

DOT/UMTA 177.

System name: UMTA-Sponsored Reports Author File. DOT/UMTA.

System location: Department of Transportation (DOT),
Urban Mass Trasnportation Administration (UMTA),
Transit Research Information Center,
Office of Transit Management,
Transportation and Management Demonstration,
Human Resources and Technical Development Manager,
UTM-50,
2100 2nd Street, SW,
Washington, DC 20590.

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Categories of individuals covered by the system: Contributing authors of UMTA sponsored reports.

Categories of records in the system: Author's name and address of organization at time of report submission to UMTA.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For technical information dissemination.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on card file.

Retrievability: Access by author's name.

Access by author's organization.
Access by report title.
Access by project number.
Access by geographical location of research.

Safeguards: Available for use under control of System Manager.

Card files are maintained in a locked office.

Retention and disposal: Retained as archive files of UMTA-sponsored report information.

System manager(s) and address: Human Resources and Technical Development Manager, UTM-50, (address as in 'System Location' above).

Notification procedure: Inquiries are addressed to the System Manager, UTM-50, (address as in 'System Location ' above).

Record access procedures: Access is permitted by written or personal request. Direct control is maintained by the System Manager.

Contesting record procedures: Contest of these records is at the Headquarter's level, (i.e., to the System Manager).

Unsatisfactory resolvement by the individual may be appealed in writing to the Secretary of Transportation addressed as follows:
Department of Transportation,
Urban Mass Transportation Administration,
Office of the Administrator,
400 7th Street, SW, Room 9324,
Washington, DC 20590.

Record source categories: Authors of UMTA-sponsored reports.

DOT/UMTA 178.

System name: Minority Recruitment File. DOT/UMTA. 4

Department of Transportation (DOT),
Urban Mass Transportation Administration (UMTA).
Office of Civil Rights,
2100 2nd Street, SW, Room 6204,
Washington, DC 20590.

Categories of individuals covered by the system: Minority applicants interested in UMTA employment.

Categories of records in the system: Resumes and Personal Qualifications Statements (S.F. 171).

Card file summarizing general information on each applicant.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Referrals for UMTA position vacancies.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in original and photocopied form.

Retrievability: Retrieved by name or position classification.

Safeguards: Source documents are maintained in the Office of Civil Rights storage facilities.

Only persons authorized by the Director of Civil Rights or the Chief, Division of Internal Programs, are permitted access to these files.

Retention and disposal: Records held for a year's period at which time applicants are requested to update their forms; those forms updated are retained and the forms of those non-responding destroyed.

System manager(s) and address: Chief, Division of Internal Programs, UCR-20,

Department of Transportation,
Urban Mass Transportation Administration,
Office of Civil Rights,
2100 2nd Street, SW, Room 6204,
Washington, DC 20590.

Notification procedure: Inquiries are addressed to the System Manager.

Record access procedures: Access is permitted by written or personal request. Direct control is maintained by the System Manager.

Contesting record procedures: Contest of these records is at Headquarter's level (i.e., to the System Manager at the address shown in 'System Manager' above).

Unsatisfactory resolvement by the individual may be appealed in writing to the Secretary of Transportation addressed as follows:
Department of Transportation,
Urban Mass Transportation Administration,
Office of the Administrator,
400 7th Street, SW, Room 9324,
Washington, DC 20590.

Record source categories: Resumes and Personal Qualifications Statements (S.F. 171) submitted by applicants.

Resumes and Personal Qualifications Statements (S.F. 171) submitted by the DOT Office of Civil Rights, DOT modal administrations, and other Federal agencies.
Established recruitment sources, e.g., community organizations, national civil rights groups, professional societies, colleges and universities, etc.

DOT/UMTA 179.

System name: Application for U.S. Government Motor Vehicles Operator's Identification Card. DOT/UMTA.

System location: Department of Transportation (DOT),

Urban Mass Transportation Administration (UMTA),
Personnel Office, UAD-60,
400 7th Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: All UMTA employees who apply for a Government Motor Vehicle Operator's license.

Categories of records in the system: Applications for Motor Vehicle Operator's license and related documents.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To verify applicants' qualifications.

To issue I.D. Cards.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in a metal file cabinet.

Retrievability: The system is maintained by individual's name.

Safeguards: File cabinet is in records room, with approved security lock on door.

Retention and disposal: Records are retained unitil the expiration of three year period or until employee leaves UMTA.

Documents destroyed by tearing or shredding.

System manager(s) and address: Director, Personnel Division, UAD-60,

Department of Transoportation,
Urban Mass Transportation Administration,
400 7th Street, SW, Room 4116,
Washington, DC 20590.

Notification procedure: Inquiries should be addressed to the System Manager.

Record access procedures: If requestor applies in person be prepared to furnish adequate identification.

Written requests should be sent to the System Manager.

Contesting record procedures: Should be submitted to the System Manager.

Record source categories: Past driving record as to accidents, arrests, citations and physical condition.

DOT/UMTA 180.

System name: Occupational Safety and Health Accident Reporting System. DOT/UMTA.

System location: Department of Transportation (DOT),

Urban Mass Transportation Administration (UMTA),
Personnel Office, UAD-60,
400 7th Street, SW, Room 4116,
Washington, DC 20590.

Categories of individuals covered by the system: Any UMTA employee involved in an accident while on duty status which results in injury to an individual or property damage.

Categories of records in the system: This system contains documents pertaining to occupational accidents involving injury to employees and/or non-employees. It will also contain documents pertaining to accidents involving employees of UMTA when no injury is involved but property damage has occurred.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Accumulate accident information and statistics per DOT Order.

Develop accident cause trends.
For accident reports.
For accident prevention program.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in a metal file cabinet.

Retrievability: Folders are in alphabetic order by name.

Safeguards: File cabinets are located in records room which has a security approved lock on door.

Retention and disposal: Records are maintained for five years and then destroyed by tearing or shredding.

System manager(s) and address: Director, Personnel Division, UAD-60,

Department of Transportation,
Urban Mass Transportation Administration,
400 7th Street, SW, Room 4116,
Washington, DC 20590.

Notification procedure: Inquiries should be addressed to the System Manager at the address above.

If in person, proper identification will be required.
If written, notarized signature and social security number of the individual involved in the accident must be presented.

Record access procedures: Same as 'Notification Procedure.'

Contesting record procedures: Same as 'Notification Procedure.'

Record source categories: Individuals involved in accidents.

Witnesses to accidents.
Supervisor of the UMTA employee involved in an accident.
Doctors of medical facility where treated.

DOT/UMTA 181.

System name: Attendees Names and Addressees for R&D Priorities Conference. DOT/UMTA.

System location: UMTA Office of Research and Development and American Public Transit Association (acting as contractor to UMTA).

Categories of individuals covered by the system: Persons attending first R&D Priorities Conference in February 1976; those to be invited to the second and subsequent annual conferences, and those to whom copies of the proceedings of each conference are to be sent.

Categories of records in the system: These records contain names, organizational affiliation and addresses only.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Including categories of users and the purposes of such uses:

To communicate plans for planned conferences to likely participants.
To distribute to participants and those who have requested, or are likely to benefit from, informational materials, proceedings, and other documents related to UMTA's research, development and demonstration activity.
Records are subject to examination by federal officials concerned with the dissemination of research and development information, but are not disclosed to members of the public (except through publication in the proceedings of names of individuals who actually participate in each conference).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents in file system.

Retrievability: Alphabetically by name.

Safeguards: Access is restricted to officials of UMTA and APTA involved in planning and disseminating information about conferences.

Retention and disposal: Records are maintained in current status. Deleted names and addresses are discarded completely. The system itself will be discarded within two years after the last R&D priorities conference of the current series has been concluded.

System manager(s) and address: Official responsible is Executive Assistant to Associate Administrator for Research and Development,

URD-3,
UMTA,
Washington, DC 20590.

Notification procedure: Individual may contact the systems manager to confirm whether or not the system contains a record on them.

Record access procedures: Same as Notification Procedure.

Contesting record procedures: Content of these records may be settled with the system manager. If this is unsatisfactory to the individual, the person may appeal in writing to:

Privacy Act Officer, UAD-60
Urban Mass Transportation Administration
Room 4116, Nassif Building
400 7th Street, S. W.
Washington, D. C. 20690

Record source categories: Names of individuals who have attended past R & D Priorities Conferences and individuals who have requested copies of the proceedings.

DOT/UMTA 190.

System name: Employee Travel Records. DOT/UMTA.

System location: Department of Transportation (DOT),

Urban Mass Transportation Administration (UMTA),
Office of Financial Management,
Accounting Division,
2100 2nd Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: All UMTA employees.

Private persons, congressional committee members or other persons issued invitational travel orders to confer on government matters.

Categories of records in the system: Individual travel folders.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Maintain accounting records.

Analysis of travel trends.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in a file cabinet secured with lock and key.

Retrievability: System is indexed by name.

Safeguards: Individuals requesting individual travel folders are screened by Accounting Branch personnel.

Records are maintained by Accounting Branch personnel in secured file.

Retention and disposal: Retained three years, then forwarded to Federal Records Center with other accounting records.

System manager(s) and address: Fiscal Officer, Accounting Branch,

Department of Transportation,
Urban Mass Transportation Administration,
2100 2nd Street, SW, Room 6613,
Washington, DC 20590.

Notification procedure: Individuals may contact the System Manager to confirm whether or not the system contains a record on them.

Record access procedures: An individual may gain access to his records by request to the System Manager.

Contesting record procedures: Content of these records may be settled with the System Manager. If this is unsatisfactory to the individual, the person may appeal in writing to the Secretary of Transportation addressed to the following:

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Department of Transportation,
Urban Mass Transportation Administration,
Office of the Chief Counsel,
400 7th Street, SW, Room 9320,
Washington, DC 20590.

Record source categories: Travel orders, individual travel vouchers.

DOT/UMTA 191.

System name: Travel Advance File. DOT/UMTA.

System location: Department of Transportation (DOT),
Urban Mass Transportation Administration (UMTA),
Office of Financial Management,
Accounting Division,
2100 2nd Street, SW,
Washington, DC 20590.

Categories of individuals covered by the system: Recipients of travel advances.

Categories of records in the system: Records of travel advances and liquidation and repayment thereof.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Maintain accounting records.

Ensure collection of amounts due the United States.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on 5 x 8 card form.

Retrievability: By name.

Safeguards: Records are maintained by Accounting Branch personnel in locked file.

Retention and disposal: Retained three years then forwarded to Federal Records Center with other accounting records.

System manager(s) and address: Fiscal Officer, Accounting Branch,
Department of Transportation,
Urban Mass Transportation Administration,
2100 2nd Street, SW, Room 6613,
Washington, DC 20590.

Notification procedure: Individuals may contact the System Manager to confirm whether or not the system contains records on them.

Record access procedures: An individual may gain access to his records by request to the System Manager.

Contesting record procedures: Content of these records may be settled with the System Manager. If this is unsatisfactory to the individual, the person may appeal in writing to the Secretary of Transportation, addressed to the following:

Department of Transportation,
Urban Mass Transportation Administration,
Office of the Chief Counsel,
400 7th Street, SW, Room 9320,
Washington, DC 20590.

Record source categories: Travel advance card signed by individual.

DOT/UMTA 192.

System name: Urban Transportation Planning System (UTPS) Address File. DOT/UMTA.

System location: Department of Transportation (DOT),
Urban Mass Transportation Administration (UMTA),
Office of Transit Planning,
Planning Methodology and Technical Support Division, UTP-40,
400 7th Street, SW, Room 9311,
Washington, DC 20590.

Categories of individuals covered by the system:
UTPS users.
Persons indicating continuing interest in UTPS developments.
Federal Highway Administration (FHWA) Planning Package users.

Categories of records in the system: Individual's name, business address, telephone number, UTPS or FHWA Planning Package version date, UTPS course/symposium/conference attendance.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For technical information dissemination.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in a computer file.

Retrievability: Access by computer terminal by any item.

Safeguards: Available for use under the control of the System Manager.

Computer file is protected by account number and code words.

Retention and disposal: Records are retained until notified that individual no longer desires information and then record is destroyed.

System manager(s) and address: Director, Planning Methodology and Technical Support Division, UTP-40,
Department of Transportation,
Urban Mass Transportation Administration,
Office of Transit Planning,
400 7th Street, SW, Room 9311,
Washington, DC 20590.

Notification procedure: Inquiries are addressed to the System Manager, UTP-40 (address same as above).

Record access procedures: Direct control is maintained by the System Manager.

Contesting record procedures: Contest of these records is at Headquarter's level (i.e. the System Manager). Individual may appeal adverse decision to the Secretary of Transportation, addressed as follows:

Department of Transportation,
Urban Mass Transportation Administration,
Office of the Administrator,
400 7th Street, SW, Room 9324,
Washington, DC 20590.

Record source categories: UTPS order forms, UTPS course registration forms, letter and/or verbal request to be place on mailing list.

DOT/UMTA 193.

System name: Docket. DOT/UMTA.

System location: Department of Transportation (DOT),
Urban Mass Transportation Administration (UMTA),
Office of the Chief Counsel,
400 7th Street, SW, Room 9320,
Washington, DC 20590.

Categories of individuals covered by the system: Individuals who have commented on notices of UMTA appearing in the Federal Register; authors of reports which are added to the Docket as background information.

Categories of records in the system: Summary of the nature of the comment or the report, date written and filed, author affiliation.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To gather information in response to rules promulgated by UMTA. Users are both UMTA staff members and the public.

See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Legal-size file folders stored in file cabinets.

Retrievability: By name and Docket number assigned at the time of receipt.

Safeguards: None required. Publically available file.

Retention and disposal: Indefinite.

System manager(s) and address: Docket Clerk, Office of the Chief Counsel,
Department of Transportation,
Urban Mass Transportation Administration,
400 7th Street, SW, Room 9300,
Washington, DC 20590.

Notification procedure: Same as 'System Manager.'

Record access procedures: Same as 'System Manager.'

Contesting record procedures: Same as 'System Manager.'

Record source categories: Correspondence freely sent by the public to UMTA.

DOT/UMTA 194.

System name: Litigation and Claims Files. DOT/UMTA.

System location: Department of Transportation (DOT),
Urban Mass Transportation Administration (UMTA),
Office of the Chief Counsel,
400 7th Street, SW, Room 9320,
Washington, DC 20590.

Categories of individuals covered by the system: Persons who are involved in litigation or claims actions.

Categories of records in the system: Litigation and claim pleadings, discovery material, related documents (including background data on individuals involved), memoranda, correspondence, and other material necessary to respond to claims or prepare for litigation or hearings.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The documents are produced or used in and for litigation and claims.

These documents are disclosed to the Department of Justice.
See Prefatory Statement for Genaral Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Legal-size file folders stored in lockable and unlockable file cabinets and individual attorney's offices.

Retrievability: Retrieved by caption of the particular litigation.

Safeguards: Data from these files are retrievable only by persons within the Office of the Chief Counsel.

Retention and disposal: Litigation files are kept for two years after case is closed, then sent to Federal Records Center. All other records in the system are retained indefinitely.

System manager(s) and address: Chief Counsel,
Department of Transportation,
Urban Mass Transportation Administration,
400 7th Street, SW, Room 9320,
Washington, DC 20590.

Notification procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures: Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the System Manager.

Record source categories: Federal courts, individuals and their attorneys, UMTA records, litigation files, etc.

DOT/UMTA 195.

System name: Confidential Statement of Employment and Financial Interests. DOT/UMTA.

System location: Department of Transportation, (DOT),
Urban Mass Transportation Administration, (UMTA),
Office of the Chief Counsel,
400 7th Street, SW, Room 9320,
Washington, DC 20590.

Categories of individuals covered by the system: Employees of the Urban Mass Transportation Administration in supervisory positions where a conflict of interest or the appearance of a conflict of interest might occur. Also included in this category are consultants and experts of the Urban Mass Transportation Administration.

Categories of records in the system: Information on employment and financial interests and debts.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information to be furnished is required by Executive Order 11222 and the requlations of the Civil Service Commission issued thereunder and may not be disclosed except as the Commission or the agency head may determine.

The purpose of the use of this information is to avoid a conflict of interest or the appearance of a conflict of interest in UMTA employees.
See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Legal size folders.

Retrievability: Indexed by name in alphabetical sequence.

Safeguards: Records are stored in locked file cabinet.

Retention and disposal: Records are kept 3 years and then transferred to Federal Records Center for 6 years.

System manager(s) and address: Chief Counsel,
Department of Transportation,
Urban Mass Transportation Administration,
Office of the Chief Counsel,
400 7th Street, SW, Room 9320,
Washington, DC 20590.

Notification procedure: Department of Transportation,
Urban Mass Transportation Administration,
Office of the Chief Counsel,
400 7th Street, SW, Room 9320,
Washington, DC 20590.
Inquiries may be addressed to the Chief Counsel either in person or in writing. If written the individual must provide a notarized signature.

Record access procedures: Access to records requires the individual to contact in person or write the Chief Counsel at the address in 'Notification Procedure.'

Contesting record procedures: Contest of a record is also through the Chief Counsel.

Record source categories: Statements of employment and financial interests, creditors, interests in real property are submitted by employees and consultants of the Urban Mass Transpor- tation Administration.

Initial requests for submission of statements are through the Personnel Division, Office of Administration, Urban Mass Transportation

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Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

PART 10—MAINTENANCE OF AND ACCESS TO RECORDS PERTAINING TO INDIVIDUALS

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AUTHORITY: Pub. L. 93-579, sec. 9, Department of Transportation Act, Pub. L. 89-670; 49 U.S.C. 1657.

SOURCE: 40 FR 45729, Oct. 2, 1975, as amended at 40 FR 54001, Nov. 20, 1975; 40 FR 57361, Dec. 9, 1975; 41 FR 22564, June 4, 1976; 41 FR 24822, June 18, 1976.

Subpart A—Applicability and Policy

§ 10.1 Applicability.

(a) This part implements section 552a of Title 5, United States Code (the Privacy Act) and prescribes rules governing the availability of those records of the Department of Transportation which relate to citizens of the United States and aliens lawfully admitted for permanent residence.

(b) Appendices B through J to this part:

(1) Describe the places and times at which records will be available for inspection and copying;

(2) Indicate the systems of records located at each facility;

(3) Identify the officials having authority to deny requests for disclosure of records under this part.

(4) Describe the procedures to be followed in requesting correctioin of a record in accordance with § 10.41 of this part.

(5) List additional personal identification requirements in accordance with § 10.35 of this part.

(c) The Assistant Secretary for Administration may amend Appendix A to this part to reflect any changes in the items covered by that appendix. The head of the operating administration concerned may amend the appendix applicable to that administration to reflect any changes in the terms covered by that appendix.

(d) Appendix A to this part identifies systems of records which are exempt from some of the requirements of this part, in accordance with Subpart G and 5 U.S.C. 552 (a), (j) and (k). Appendix A may be amended by the General Counsel upon the request of the Assistant Secretary for Administration in the case of a system of records maintained by the Office of the Secretary or the Administrator in the case of a system of records maintained by an operating administration.

§ 10.3 Policy.

It is the policy of the Department of Transportation to comply with the letter and the spirit of the Privacy Act (the Act). Therefore, personal data contained in each system of records will be afforded adequate protection against unauthorized access, will be as accurate as is feasible, and will be limited to that necessary to accomplish the stated use or uses of the system. Further, no system of records will be exempted from the requirements of the Act unless it is determined that to do so is in the best interest of the government with due concern for individual rights.

§ 10.5 Definitions.

Unless the context requires otherwise, the following definitions apply in this part:

"Administrator" means the head of an operating administration and includes the Commandant of the Coast Guard and the Director of the Materials Transportation Bureau.

"Department" means the Department of Transportation, including the Office of the Secretary and the following operating administrations:

(a) The United States Coast Guard.

(b) The Federal Aviation Administration.

(c) The Federal Highway Administration.

(d) The Federal Railroad Administration.

(e) The National Highway Traffic Safety Administration.

(f) The Urban Mass Transportation Administration.

(g) The St. Lawrence Seaway Development Corporation.

(h) The Materials Transportation Bureau.

"He" includes she;

"Includes" means "includes but is not limited to;"

"May" is used in a permissive sense to state authority or permission to do the act prescribed;

"Secretary" means the Secretary of Transportation or any person to whom he has delegated his authority in the matter concerned;

"Individual" means a citizen of the United States or an alien lawfully admitted;

"Maintain" includes maintain, collect, use, or disseminate;

"Record" means any item, collection, or grouping of information about an individual that is maintained by the Department including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or an identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

"System of records" means a group of any records under the control of the Department from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

"Statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of Title 13; and

"Routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

Subpart B—General

§ 10.11 Administration of part.

Except as provided in Subpart F of this part, authority to administer this part in connection with the records of the Office of the Secretary is delegated to the Assistant Secretary for Administration. Authority to administer this part in connection with records in each operating administration is delegated to the head of that administration. The head of any operating administration may redelegate to officers of that administration the authority to administer this part in connection with defined systems of records. The head of an operating administration, however, may redelegate his duties under Subparts F and G of this part only to his deputy and to not more than one other officer who reports directly to the head and who is located at the headquarters of that administration or at the same location as the majority of that administration's systems of records.

§ 10.12 Privacy Act Officer.

(a) To assist him in the oversight of the implementation, continuing administration and in evaluating the effectiveness of compliance with the Act, the Assistant Secretary for Administration will appoint a principal coordinating official with the title Privacy Act Officer, and one Assistant Privacy Act Officer from his staff. (Until further notice, the Director of Management Systems is designated the Privacy Act Officer. He will designate an appropriate member of his staff as his Assistant.)

(b) Inquiries concerning Privacy Act matters, or requests for assistance, may be addressed to the Privacy Act Officer (TAD-20), Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

(c) Heads of operating Administrations may designate Privacy Act Officers to act as central coordinators within their Administrations to assist them in administering the Act.

§ 10.13 Protection of records.

(a) No person may, without permission, remove any record made available to him for inspection or copying under this part from the place where it is made available. In addition, no person may steal, alter, multilate, obliterate, or destroy, in whole or in part, such a record.

(b) Section 641 of Title 18 of the United States Code provides, in pertinent part, as follows:

> Whoever * * * steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record * * * or thing of value of the United States or of any department or agency thereof * * * shall be fined not more than $10,000 or imprisoned not more than 10 years or both; but if the value of such property does not exceed the sum of $100, he shall be fined not more than $1,000 or imprisoned not more than one year or both * * *.

(c) Section 2071 of Title 18 of the United States Code provides, in pertinent part, as follows:

> Whoever willfully and unlawfully conceals, removes, multilates, obliterates, or destroys, or attempts to do so, or with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other thing, filed or deposited * * * in any public office, or with any * * * public officer of the United States, shall be fined not more than $2,000 or imprisoned not more than 3 years, or both.

Subpart C—Maintenance of Records

§ 10.21 General.

Except to the extent that a system of records is exempt in accordance with Subpart G of this part, the Department shall, with respect to each system of records:

(a) Maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the Department required to be accomplished by statute or by executive order of the President;

(b) Collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, or privileges under Federal programs;

(c) Inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual of:

(1) The authority (whether granted by statute, or by executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(2) The principal purpose or purposes for which the information is intended to be used;

(3) The routine uses, as published pursuant to (d)(4) of this subsection, which may be made of the information; and

(4) The effects, if any, on the individual of not providing all or any part of the requested information;

(d) Publish in the FEDERAL REGISTER at least annually a notice of the existence and character of the system of records, which notice shall include:

(1) The name and location of the system;

(2) The categories of individuals on whom records are maintained in the system;

(3) The categories of records maintained in the system;

(4) Each routine use of the records contained in the system, including the categories of users and the purpose of such use;

(5) The policies and practices regarding storage, retrievability, access controls, retention, and disposal of the records;

(6) The title and business address of the official who is responsible for the system of records;

(7) The procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;

(8) The procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of records, and how he can contest its content; and

(9) The categories of sources of records in the system;

(e) Maintain all records which are used in making any determination about any individual with such accuracy, relevancy, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination;

(f) Prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to section 10.33(a)(2), make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for the Department's purposes;

(g) Maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless—

(1) Expressly authorized by the General Counsel; and

(2) Expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity;

(h) Make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record.

§ 10.23 Accounting of disclosures.

Each operating administration and the Office of the Secretary, with respect to each system of records under its control, shall:

(a) Except for disclosures made under § 10.33(a) (1) or (2) of this part, keep an accurate accounting of:

(1) The date, nature, and purpose of each disclosure of a record to any person or to another agency made under § 10.33; and

(2) the name and address of the person or agency to whom the disclosure is made;

(b) Retain the accounting made under paragraph (a) of this section for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made;

(c) Except for disclosures made under § 10.33(a)(7) of this part, make the accounting made under paragraph (a)(1) of this section available to the individual named in the record at his request; and

(d) Inform any person or other agency about any correction or notation of dispute made by the agency in accordance with § 10.45 of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

§ 10.25 Mailing lists.

An individual's name and address shall not be sold or rented unless such action is specifically authorized by law. This provision shall not be construed to require the withholding of names and addresses otherwise permitted to be made public.

§ 10.27 Government contractors.

When the Department provides by a contract for the operation by or on behalf of the Department of a system of records to accomplish a function of the Department, the requirements of this part shall be applied to such system. For purposes of Subpart I, *Criminal Penalties*, any such contractor and any employee of the contractor, if the contract is agreed to on or after the effective date of this part, shall be considered, in accordance with section 3(m) of the Privacy Act, to be an employee of the Department.

§ 10.29 Social Security numbers.

(a) No individual shall be denied any right, benefit, or privilege provided by law because of such individual's refusal to disclose his Social Security account number.

(b) The provisions of paragraph (a) of this section shall not apply with respect to:

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(1) Any disclosure which is required by Federal statute; or

(2) The disclosure of a Social Security number when such disclosure was required under statute or regulation adopted prior to January 1, 1975, to verify the identity of an individual.

(c) When an individual is requested to disclose his Social Security account number, that individual shall be informed whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, what uses will be made of it, and what detriments, including delay in the location of records, will be incurred if the number is not provided.

Subpart D—Availability of Records

§ 10.31 Requests for records.

(a) Ordinarily, each person desiring to determine whether a record pertaining to him is contained in a system of records covered by this part or desiring access to a record covered by this part, or to obtain a copy of such a record, shall make his request in writing as provided in the pertinent appendix to this part. In exceptional cases oral requests will be accepted.

(b) Each request shall specify the name of the requesting individual and the system of records in which the subject record is located or thought to be located. If assistance is required to determine the system of records identification number assigned in the systems notices, such assistance may be obtained from the appropriate Privacy Act Officer or his Assistant. Refer to § 10.12 for procedures for requesting assistance.

§ 10.32 Acknowledgement and access.

(a) Requests by an individual to determine whether he is the subject of a record in a system of records, or requesting access to his record in a system of records, should be acknowledged within 10 working days, where the request is by mail. For requests in person, an immediate response will be given, either granting access or informing such individual when notification or access may be expected.

(b) If the response granting access or copies of the record is made within 10 working days, separate acknowledgement is not required.

(c) Although requests for access to a record will normally be in writing, e.g. by filing a written form or letter, it is the option of the individual to mail or present the request form in person.

§ 10.33 Conditions of disclosure.

(a) No record which is contained within a system of records within the Department shall be disclosed by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be:

(1) To those officers and employees of the Department who have a need for the record in the performance of their duties;

(2) Required under Part 7 of this title which implements the Freedom of Information Act;

(3) For a routine use as defined in § 10.5 and described pursuant to § 10.21 (d)(4);

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13, United States Code;

(5) To a recipient who has provided the Department with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9) To either House of the Congress, or, to the extent of matters within its jurisdiction, any committee or subcommittee thereof, any joint committee of the Congress or subcommittee of any such joint committee;

(10) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(11) Pursuant to the order of a court of competent jurisdiction.

(b) Any individual requesting access to his record or to any information pertaining to him which is contained within a system of records within the Department shall have access to that record or information unless the system of records within which the record or information is contained is exempted from disclosure in accordance with Subpart G, provided, however, that nothing in this part shall be deemed to require that an individual be given access to any information compiled in reasonable anticipation of a civil action or proceeding. No exemption contained in Subpart G of Part 7 of the Regulations of the Office of the Secretary shall be relied upon to withhold from an individual any record which is otherwise accessible to such individual under the provisions of this part. Any individual who is given access to a record or information pertaining to him shall be permitted to have a person of his own choosing accompany him and to have a copy made of all or any portion of the record or information in a form comprehensible to him. When deemed appropriate, the individual may be required to furnish a written statement authorizing discussion of his record in the accompanying person's presence. If the release of a record containing medical information (including psychological information furnished by a physician) directly to the individual to whom the record pertains may, in the judgment of the cognizant medical office or a medical doctor and with the concurrence of the General Counsel, have an adverse effect on the health or well-being of the individual, the record will be released to the individual only through a physician designated by the individual and upon a written request by that physician for that record.

(c) Any person requesting access to records or to any information pertaining to other individuals shall not be granted such access unless he can show that he has obtained permission for such access from the individual to whom the record pertains, unless the request comes within one of the exceptions of § 10.33(a).

§ 10.35 Identification of individual making request.

No record or information contained in a system of records shall be disclosed to an individual nor shall any correction of a record in accordance with Subpart E be made at the request of an individual unless that individual demonstrates that he is who he claims to be. Normally, identity can be proven for individuals who appear in person by the presentation of an identifying document issued by recognized organization (e.g., a driver's license or a credit card) and which contains a means of verification such as a photograph or a signature. For requests by mail, the unique identifier used in the system should be included if known. Responses to mail requests will normally be sent only to the name and address listed in the system of records. In the case of particularly sensitive records, additional identification requirements may be imposed. In such cases, these additional requirements shall be listed in the public notice for the system and in the appropriate appendix to this part.

§ 10.37 Location of records.

Each record made available under this subpart is available for inspection and copying during regular working hours at the place where it is located or, upon reasonable notice, at the document inspection facilities of the Office of the Secretary or each administration as set forth in the appendix applicable to that office or administration. Original records may be copied but may not be released from custody. Upon payment of the appropriate fee, copies will be mailed to the requester.

Subpart E—Correction of Records

§ 10.41 Requests for correction of records.

Any person who desires to have a record pertaining to him corrected shall submit a written request detailing the correction and the reasons the record should be so corrected. Requests for correction of records shall be submitted in accordance with the procedures set forth in Appendices B through J to this part.

§ 10.43 Time limits.

Within ten days (excluding Satuday, Sunday, and legal holidays) of the receipt in accordance with § 10.41 of a request by an individual to amend a record pertaining to him, the receipt of the request shall be acknowledge in writing. If a determination is made to correct the record as requested, the correction shall be promptly made. If a determination is made not to correct a record the individual shall be informed promptly of his right to appeal in accordance with Subpart F. If an appeal of a refusal to correct a record is in accordance with Subpart F, a determination whether to correct the record shall be made within thirty days (excluding Saturday, Sunday and legal holidays) of the receipt of the appeal unless, for good cause shown, the head of the operating administration concerned, or in the case of the Office of the Secretary, the General Counsel, extends such period. Where an extension is taken, the party taking the appeal shall be promptly notified of such fact.

§ 10.45 Statement of disagreement.

If a determination is made not to amend a record, the requester shall be informed that he may file a concise statement setting forth the reasons for his disagreement with the refusal to amend. In any disclosure containing information about which an individual has filed such a statement of disagreement, the portions of the record which are disputed shall be noted clearly and copies of the statement of disagreement shall be provided. If the head of the operating administration concerned or his delegee, or in the case of the Office of the Secretary, the General Counsel or his delegee, deems it appropriate, copies of a concise statement of the reasons for not making the amendments requested may be provided along with the statement of disagreement.

Subpart F—Procedures for Reconsidering Decisions Not To Grant Access to or Amend Records

§ 10.51 General.

(a) Each officer or employee of the Department who, upon a request by a member of the public for a record under this part, makes a determination that access is not to be granted or who determines not to amend a record in a requested manner, shall give a written statement of the reasons for that determination to the person making the request and indicate the name and title or position of each person responsible for the denial of such request and the procedure for appeal within the Department.

(b) Any person:

(1) Who has been given a determination pursuant to paragraph (a) of this section, that access will not be granted; or

(2) Who has been informed that an amendment to a requested record will not be made;

may apply to the head of the operating administration concerned, or in the case of the Office of the Secretary, to the General Counsel of the Department, for reconsideration of the request. A determination that access will not be granted or a record amended is not administratively final for the purposes of judicial review unless it was made by the head of the operating administration concerned or his delegee, or the General Counsel or his delegee, as the case may be. Upon a determination that an appeal will be denied, the requester shall be informed in writing of the reasons for the determination, and the names and titles or positions of each person responsible for the determination, and that the determination may be appealed to the District Court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the records are located, or in the District of Columbia.

(c) Each application for reconsideration must be made in writing and must include all information and arguments relied upon by the person making the request. It is recommended that such request be made within 180 days of the date of the initial denial; however exceptions to this time period will be considered in the event that a longer time is required for good reasons.

(d) Upon a determination that a request for the correction of a record will be denied, the requester shall be informed that he may file a concise statement in accordance with § 10.45.

(e) Each application for reconsideration must indicate that it is an appeal from a denial of a request made under the Privacy Act. The envelope in which the application is sent should be marked prominently with the words "Privacy Act". If these requirements are not met, the time limits described in § 10.43 will not begin to run until the application has been identified by an employee of the Department as an application under the Privacy Act and has been received by the appropriate office.

(f) The head of the operating administration concerned, or the General Counsel, as the case may be, may require the person making the request to furnish additional information, or proof of factual allegations, and may order other proceedings appropriate in the circumstances. The decision of the head of the operating administration concerned, or the General Counsel, as the case may be, as to the availability of the record or whether to amend the record is administratively final.

(g) The decision by the head of the operating administration concerned, or the General Counsel, as the case may be, not to disclose a record under this part is considered a determination for the purposes of section 552a(3)(g) of Title 5, United States Code.

(h) Any final decision by the head of an operating administration on his delegee identified in Appendices B through H of this part, not to grant access to or amend a record under this part, is subject to concurrence by the General Counsel or his delegee.

Subpart G—Exemptions

§ 10.61 General exemptions.

(a) The Assistant Secretary for Administration, with regard to the Investigations Division, the Federal Aviation Administration, with regard to the police functions of the National Capital Airport Police, the U.S. Coast Guard, with regard to the Intelligence and Security Division, and the Federal Railroad Administration, with regard to the Alaska Railroad Special Agents, may exempt from any part of the Act and this part, except subsections (b), (c) (1) and (2), (e)(4)(A) through (f), (e) (6), (7), (9), (10) and (11), and (i) of the Act, and implementing §§ 10.33, 10.23 (a) and (b), 10.21(d) (1) through (6), 10.81, 10.83, and 10.85, any system of records, or portion thereof, which it maintains which consists wholly of:

(1) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status;

(2) Information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or

(3) Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

(b) The requirements (including general notice) of sections 553(b) (1), (2), and (3), and (c) and (e) of title 5, United States Code, will be met by publication in Appendix A to this part, which must, at a minimum, specify:

(1) The name of the system; and

(2) The specific provisions of the Act from which the system is to be exempted and the reasons therefor.

(c) Any decision to exempt a system of records under this section is subject to concurrence by the General Counsel.

(d) Any person may petition the Secretary in accordance with the provisions of Part 5 of this Title, to institute a rulemaking proceeding for the amendment or repeal of any exemptions established under this section.

§ 10.63 Specific exemptions.

The Secretary or his delegee, in the case of the Office of the Secretary, or the Administrator or his delegee, in the case of an operating administration, may exempt any system of records which is maintained by the Office of the Secretary or the administration, as the case may be, from subsections (c)(3), (d),

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(e)(1) and (4) (G), (H), and (I), and (f) of the Act and implementing §§ 10.23 (c); 10.33(b); 10.41; 10.43; 10.45; 10.21 (a) and 10.21(d) (6), (7) and (8) of this part, under the following conditions:

(a) The system of records must consist of:

(1) Records subject to the provisions of section 552(b)(1) of Title 5, United States Code;

(2) Investigatory material compiled for law enforcement purposes, other than material within the scope of paragraph (a)(2) of § 10.61: *Provided, however*, That if any individual is denied any right, privilege, or benefit to which he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(3) Records maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of Title 18, United States Code;

(4) Records required by statute to be maintained and used solely as statistical records;

(5) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(6) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) Evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

(b) The requirements (including general notice) of sections 553(b) (1), (2) and (3), and (c) and (e) of title 5, United States Code, will be met by publication in Appendix A to this part, which must, at a minimum, specify:

(1) The name of the systems; and

(2) The specific provisions of the Act from which the system is to be exempted and the reasons therefor.

(c) Any decision to exempt a system of records under this section is subject to the concurrence of the General Counsel.

(d) Any person may petition the Secretary in accordance with the provisions of 49 CFR Part 5, to institute a rule making for the amendment or repeal of any exemptions established under this section.

Subpart H—Fees

§ 10.71 General.

This subpart prescribes fees for services performed for the public under this part by the Department.

§ 10.73 Payment of fees.

The fees prescribed in this subpart may be paid by check, draft, or postal money order payable to the Treasury of the United States.

§ 10.75 Fee schedule.

(a) Copies of documents by photocopy or similar method:

Each page not larger than 11 x 17 inches:	
First page	.25
Each additional page	.05

(b) Copies of documents by typewriter:

Each page	2.00

(c) Certified copies of documents:

(1) With Department of Transportation seal	3.00
(2) True copy, without seal	1.00

(d) Photographs:

(1) Black and white print (from negative)	1.25
(2) Black and white print (from print)	3.15
(3) Color print (from negative)	3.50
(4) Color print (from print)	6.25

(e) Duplicate data tapes—each reel of tape or fraction thereof 36.00

The applicant must furnish the necessary number of blank magnetic tapes. The tapes must be compatible for use in the supplier's computer system, ½ inch wide and 2,400 feet long, and must be capable of recording data at a density of 556 or 800 characters per inch. Unless otherwise designated, the tapes will be recorded at 556 CPI density. The Department of Transportation is not responsible for damaged tape. However, if the applicant furnishes a replacement for a damaged tape, the duplication process is completed at no additional charge.

(f) Microreproduction fees are as follows:

(1) Microfilm copies, each 100 foot roll or less	3.75
(2) Microfiche copies, each standard size sheet (4" x 6" containing up to 65 frames)	.15

(g) Computerline printer output, each 1,000 lines or fraction thereof 1.00

§ 10.77 Services performed without charge.

(a) No fee is charged for time spent in searching for records or reviewing or preparing correspondence related to records subject to this part.

(b) No fee is charged for documents furnished in response to:

(1) A request from an employee or former employee of the Department for copies of personnel records of the employee;

(2) A request from a Member of Congress for his official use;

(3) A request from a State, territory, U.S. possession, county or municipal government, or an agency thereof;

(4) A request from a court that will serve as a substitute for the personal court appearance of an officer or employee of the Department;

(5) A request from a foreign government or an agency thereof, or an international organization.

(c) Documents will be furnished without charge or at a reduced charge, if the Assistant Secretary of Administration or the head of the operating administration concerned, as the case may be, determines that waiver or reduction of the fee is in the public interest, because furnishing the information can be considered as primarily benefiting the general public.

(d) When records are maintained in computer-readable form rather than human-readable form, one printed copy will be made available without charge.

Subpart I—Criminal Penalties

§ 10.81 Improper disclosure.

Any officer or employee of the Department who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this part and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000 in accordance with 5 U.S.C. 552a(i)(1).

§ 10.83 Improper maintenance of records.

Any officer or employee of the Department who willfully maintains a system of records without meeting the notice requirements of § 10.21(d) of this part shall be guilty of a misdemeanor and fined not more tha $5,000 in accordance with 5 U.S.C. 552a(i)(2).

§ 10.85 Wrongfully obtaining records.

Any person who knowingly and willfully requests or obtains any record concerning an individual from the Department under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000 in accordance with 5 U.S.C. 552a(i)(3).

Appendix A—Exemptions

Part I. General exemptions.

Those portions of the following systems of records that consist of (a) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (b) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (c) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision, are exempt from all parts of 5 U.S.C. 552(a) except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i):

A. The Investigations Record System maintained by the Investigations Division, Office of Investigations and Security, Office of the Secretary.

B. Police Warrant Files and Central Files maintained by the Police Branches, Washington National and Dulles International Airports, Federal Aviation Administration.

C. Intelligence and Security Investigative Case Systems (DOT/CG 611), maintained by the Intelligence and Security Division, U.S. Coast Guard, at headquarters and district offices.

The purpose of these exemptions is to prevent the compromise or impairment of criminal investigations conducted by the Office of Investigations and Security, OST, the Airport Police Branches, and the Investigations and Security Division, USCG.

Part II. Specific exemptions. A. The following systems of records are exempt from subsection (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4) (G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) of 5 USC 552a, to the extent that they contain investigatory material compiled for law enforcement purposes, in accordance with 5 USC 552a(k)(2):

1. Investigative Record System maintained by the Federal Aviation Administration at FAA Regional and Center Air Transportation Security Divisions, the Investigations and Security Division, Aeronautical Center; and Office of Investigations and Security, FAA Headquarters, Washington, D.C.

2. FHWA Investigations Case File System, maintained by the Office of Program Review and Investigations, Federal Highway Administration.

3. FHWA Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases, maintained by the Bureau of Motor Carrier Safety, Federal Highway Administration.

4. Recreational Boating and Law Enforcement Cases (DOT/CG 505), maintained by the Office of Boating Safety, U.S. Coast Guard.

5. Port Safety Reporting System—Individual Violation Histories (DOT/CG 561), maintained by the Office of Marine Environment and Systems, U.S. Coast Guard.

6. Marine Pollution Case Files (DOT/CG 583), maintained by the U.S. Coast Guard.

7. Merchant Vessel Casualty Reporting System (DOT/CG 590), maintained by the Office of Merchant Marine Safety, U.S. Coast Guard.

8. U.S. Merchant Seaman's Records (DOT/CG 589), maintained by the Office of Merchant Marine Safety, U.S. Coast Guard.

9. Intelligence and Security Investigative Case Systems (DOT/CG 611), maintained by the Office of Operations, U.S. Coast Guard.

10. Port Security Case System (DOT/CG 612), maintained by the Office of Operations, U.S. Coast Guard.

11. DOT/NHTSA Investigations of Alleged Misconduct or Conflict of Interest, maintained by the Associate Administrator for Administration, National Highway Traffic Safety Administration.

12. Investigations of Violations of Marine Safety Laws (DOT/CG 587), maintained by the Office of Merchant Marine Safety, U.S. Coast Guard.

13. Civil Aviation Security System (DOT/FAA 813), maintained by the Civil Aviation Security Service, Federal Aviation Administration.

The purpose of these exemptions is to protect investigatory materials compiled for law enforcement purposes. Disclosure of such material would hamper law enforcement by prematurely disclosing the knowledge of illegal activity and the evidentiary basis for possible enforcement actions.

B. The following systems of records are exempt from subsections (c)(3) (Accounting of Certain Disclosure), and (d) (Access to Records) of 5 U.S.C. 552a:

1. Alaska Railroad Security and Freight Claims Investigatory Files maintained by the Alaska Railroad, Federal Railroad Administration.

2. Administrative Action and Legal Enforcement System (DOT/FAA), maintained by the Chief Counsel, Federal Aviation Administration.

3. Investigations Record System, maintained by the Investigations Division, Office of Investgiations and Security, Office of the Secretary.

The purpose of these exemptions is to prevent the compromise or impairment of law enforcement investigations by altering individuals that they are the subject of investigation, and to prevent the disclosure of the identity or sources of information promised confidentiality, in accordance with 5 U.S.C. 552a(k)(2).

C. The system of records known as the Alaska Railroad Examination of Operating Personnel, maintained by the Alaska Railroad, Federal Railroad Administration, is exempt from the provisions of subsection (d) of 5 U.S.C. 552a. The release of these records would compromise their value as impartial measurement standards for appointment and promotion within the Federal Service.

D. Those portions of the following systems of records consisting of investigatory material compiled for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, or access to classified information or used to determine potential for promotion in the armed services, are exempt from sections (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4) (G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) of 5 USC 552a to the extent that disclosure of such material would reveal the identity of a source who provided information to the Government under an express or, prior to September 27, 1975, an implied promise of confidentiality (5 USC 552a(k)(5) and (7)):

1. Personnel Security Record Systems, maintained by the Investigations Division, Office of Investigations and Security, Office of the Secretary.

2. Intelligence and Security Investigative Case System (DOT/CG 611), maintained by the Office of Operations, U.S. Coast Guard.

3. Officer Selection and Appointment System (DOT/CG 625), maintained by the Office of Personnel, U.S. Coast Guard.

4. Official Officer Service Records (DOT/CG 626), maintained by the Office of Personnel, U.S. Coast Guard.

5. Enlisted Recruiting Selection Record System maintained by the Office of Personnel, U.S. Coast Guard.

6. Officer, Enlisted, and Recruiting Selection Test Files (DOT/CG 628), maintained by the Office of Personel, U.S. Coast Guard.

7. Enlisted Personnel Record System, (DOT/CG 629), maintained by the Office of Personnel, U.S. Coast Guard.

8. Coast Guard Personnel Security Program (DOT/CG 633), maintained by the Office of Personnel, U.S. Coast Guard.

9. Official Coast Guard Reserve Service Record System (DOT/CG 676), maintained by the Office of Reserve, U.S. Coast Guard.

10. Investigative Record System, maintained by the Federal Aviation Administration at FAA Regional and Center Air Transportation Security Divisions; the Investigations and Security Division, Aeronautical Center; and Office of Investigations and Security, Headquarters, Washington, D.C.

11. Military Training and Education Records (DOT/CG 622), maintained by the Office of Personnel, U.S. Coast Guard.

The purpose of these exemptions is to prevent disclosure of the identities of sources who provide information to the government concerning the suitability, eligibility, or qualifications of individuals for Federal civilian employment, contracts, access to classified information, or appointment or promotion in the armed services, and who are expressly or, prior to September 27, 1975, impliedly promised confidentiality (5 U.S.C. 552a(k)(5) and (7)).

The purpose of these exemptions is to prevent disclosure of the identities of sources who provide information to the government concerning the suitability, eligibility or qualifications of individuals for Federal civilian employment, contracts, access to classified information, or appointment or promotion in the armed services, and who are expressly or, prior to September 27, 1975, impliedly promised confidentiality (5 U.S.C. 552a(k)(5) and (7)).

E. Those portions of the following systems of records consisting of testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service are exempt from subsections (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4) (G), (H) and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a:

1. Officer, Enlisted and Recruiting Selection Test Files (DOT/CG 628), maintained by the Office of Personnel, U.S. Coast Guard.

2. Official Coast Guard Reserve Service Record System (DOT/CG 676), maintained by the Office of Reserve, U.S. Coast Guard.

3. Military Training and Education Records (DOT/CG 622), maintained by the Office of Personnel, U.S. Coast Guard.

The purpose of these exemptions is to preserve the value of these records as impartial measurement standards for appointment and promotion within the Federal service.

F. Those portions of the following systems of records which consist of information properly classified in the interest of national defense or foreign policy in accordance with 5 U.S.C. 552(b)(1) are exempt from sections (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4) (G), (H) and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552:

1. Investigations Records System maintained by the Investigations Division, Office of Investigations and Security, Office of the Secretary.

2. Personnel Security Records System, maintained by the Office of Investigations and Security, Office of the Secretary.

3. Civil Aviation Security System (DOT/FAA 813), maintained by the Civil Aviation Security Service, Federal Aviation Administration.

The purpose of these exemptions is to prevent the disclosure of material authorized to be kept secret in the interest of national defense or foreign policy, accordance with 5 U.S.C. 552(b)(1) and 552a(k)(1).

G. Those portions of the following systems of records which consist of information properly classified in the interest of national defense or foreign policy in accordance with 5 U.S.C. 552a(b)(1) are exempt from subsections (c)(3) (Accounting of Certain Disclo-

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sures) and (d) (Access to Records) of 5 U.S.C. 552a:

1. Investigative Records System (DOT/FAA 815), maintained by the Federal Aviation Administration at FAA Regional and Center Air Transportation Security Divisions; the Investigations and Security Division, Aeronautical Center; and Office of Investigations and Security, Headquarters, Washington, D.C.

The purpose of these exemptions is to prevent the disclosure of material authorized to be kept secret in the interest of national defense or foreign policy, in accordance with 5 U.S.C. 552(b)(1) and 552a(k)(1.

APPENDIX B

OFFICE OF THE SECRETARY

1. *Introduction.* This Appendix, with respect to the Office of the Secretary,

a. Describes the places and times at which records will be available for inspection and copying;

b. Indicates the systems of records maintained in the Office of the Secretary;

c. Identifies the officials having authority to deny requests for access to records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 10.35 of these regulations.

An individual requiring assistance, concerning this Appendix or systems maintained in the Office of the Secretary, may contact the Privacy Act Officer, Office of the Assistant Secretary for Administration, TAD–20, at 400 Seventh Street SW., Washington, D.C. 20590.

2. *Availability for Inspection and Copying.*

a. Records in systems maintained in the Office of the Secretary (OST) are available at 400 Seventh Street SW., Washington, D.C., except as follows:

(1) Records are maintained at 2100 Second Street SW., Washington, D.C., for the following systems:

(a) DOT/OST 011 Discrimination Complaint Investigative Files;

(b) DOT/OST 042 Technical Pipeline Safety Complaint File;

(c) DOT/OST 051 Applications for Employment with Office of Pipeline Safety Operations;

(d) DOT/OST 052 Informational Work Folders on Employees of the Office of Pipeline Safety Operations; and

(e) DOT/OST 053 Personnel Data Convenience File, Office of Hazardous Materials Operations.

(2) DOT/OST 013 Employee Management Files: Records for the employees at each location are located as delineated in the system notice.

(3) DOT/OST 015 Funds Management Records: Central records are maintained at 400 Seventh Street SW., Washington, D.C. Records for the applicable region are maintained in the office of each of the eleven Regional Emergency Transportation Coordinators, as delineated in the system notice.

(4) DOT/OST 022 National Defense Executive Reserve File: Complete records are maintained at 400 Seventh Street SW., Washington, D.C. Applicable records are maintained in a wide variety of field offices as delineated in the system notice.

(5) DOT/OST 027 Personnel Data Convenience Files: Records applicable to the Office of Transportation Security of the Office of the Assistant Secretary for Environment, Safety and Consumer Affairs are maintained at 800 Independence Avenue SW., Washington, D.C. All other records in the system are located at 400 Seventh Street SW., Washington, D.C.

(6) DOT/OST 028 Personnel Convenience Files: Employee records applicable to the Complaints Division of the Office of Civil Rights of the Office of the Secretary are located at 2100 Second Street SW., Washington, D.C. All other records are located at 400 Seventh Street SW., Washington, D.C.

(7) DOT/OST 043 Telephone Directory and Locator System: Records are stored on magnetic tape at 13 Massachusetts Avenue NW., Washington, D.C. However, access is controlled by the System Manager: Chief, Accounting Operations Center, Room 2228, 400 Seventh Street SW., Washington, D.C.

(8) DOT/OST 048 Transportation Research Activities Information System: Records are stored on magnetic tape at the Transportation Systems Center, Cambridge, Massachusetts. Individuals desiring access to their own personal data should contact the System Manager: R&D Information Officer, TST–25.1, Department of Transportation, 400 Seventh Street SW., Washington, D.C.

(9) DOT/OST 049 Transportation Research Information System: Records are maintained on magnetic tape at the Battelle Laboratories, Columbus, Ohio. Individuals desiring access to their own personal data should contact the System Manager: R&D Information Officer, TST–25.1, Department of Transportation, 400 Seventh Street SW., Washington, D.C.

(10) DOT/OST 050 Executive Team Cadre Listings: Records are maintained at 400 Seventh Street SW., Washington, D.C., and at the offices of the Regional Emergency Transportation Coordinators, as delineated in the system notice.

(11) Records are maintained at the Transportation Systems Center, Kendall Square, Cambridge, Massachusetts, for the following systems:

(a) DOT/TSC 700 Automated Management Information Systems;

(b) DOT/TSC 701 Employee Travel Records;

(c) DOT/TSC 702 Legal Counsel Information Files;

(d) DOT/TSC 703 Occupational Safety and Health Reporting System;

(e) DOT/TSC 704 Stand-by Personnel Information;

(f) DOT/TSC 705 Automated Personnel Skills Reporting System;

(g) DOT/TSC 706 Automated Planning System;

(h) DOT/TSC 707 Automated Manpower Distribution System;

(i) DOT/TSC 708 Combined Federal Campaign Information;

(j) DOT/TSC 709 Minority Information Files;

(k) DOT/TSC 710 Personnel Management Convenience Files;

(l) DOT/TSC 711 Blood Donor Information File;

(m) DOT/TSC 712 Automated Payroll/Personnel/Communications/Security System;

(n) DOT/TSC 713 Employee Payroll-Manpower Distribution System;

(o) DOT/TSC 714 Health Unit Employee Medical Records;

(p) DOT/TSC 715 Bi-Weekly Personnel Status Report.

b. Records are available for inspection and copying at the applicable locations delineated above between the hours of 9 A.M. and 5:30 P.M., except on Saturdays, Sundays, and holidays. Access to certain records may be restricted in accordance with exemptions applied and noticed in accordance with sections 3 (j) and (k) of the Privacy Act of 1974. Individuals desiring access to their own records should follow the instructions contained in the system notice published for each system of records. Requests for access shall be submitted to the System Manager having responsibility for the system in which the records are maintained, unless the system notice describing the system prescribes or permits submission to some other official or officials.

3. *Systems of Records.* A compilation of notices describing the systems of records maintained in the Department of Transportation is published annually in the FEDERAL REGISTER. The notices describing the systems maintained in the Office of the Secretary are published in a block within the overall compilation and each is identified by a three-digit number preceded by the acronym, OST; e.g., OST 013 (except those maintained at the Transportation Systems Center which uses the acronym, TSC; e.g., TSC 701). The basic compilation of system notices, for systems subject to the Privacy Act of 1974, which are maintained in the Office of the Secretary, was published in the FEDERAL REGISTER of August 27, 1975, on pages 38868–38886. An addendum to the compilation was published in the FEDERAL REGISTER of September 24, 1975, pages 44105–44109. The final notice adopting the aforementioned compilation was published in the FEDERAL REGISTER of November 19, 1975 on pages 53965–53991.

4. *Access to Records.* Requests for access to records shall be processed in accordance with the rules provided in section 10.33 of these regulations.

a. A request from an individual for access to a record pertaining to such individual shall be granted promptly unless:

(1) The record was compiled in reasonable anticipation of a civil action or proceeding; or

(2) The system of records is one which has been exempted from the notification and access provisions of the Privacy Act by rule-making; or

(3) The record is not part of a system of records required to be noticed in accordance with the provisions of the Privacy Act and is not otherwise required to be made available by a law or regulation; or

(4) The System Manager or other cognizant official determines that the particular circumstances justify denial of access; or

(5) The information requested is contained in and is inseparable from another individual's record.

b. When information sought from a system of records in the Office of the Secretary includes information that has been furnished by an operating element of the Department or by another agency, as the case may be, the Systems Manager or other cognizant official shall consult the operating element or the other agency, as the case may be, before granting access. If referral of the request to the operating element or the other agency, as the case may be, will provide a more expeditious decision with resulting probable access, the request may be referred to the operating element or the other agency, as the case may be, but the requester shall be notified of the referral.

c. When a Systems Manager or other cognizant official in the Office of the Secretary determines that a request for access should be denied, the request and the reason(s) for the determination shall be referred to the Assistant Secretary for Administration for decision. In the event of a decision to deny access, the Office of the Assistant Secretary for Administration will notify the requester in writing in accordance with section 10.51 of these regulations.

5. *Requests to Correct or Alter Records.* An individual may request that a record pertaining to such individual be amended to correct any portion thereof which such individual believes is not accurate, relevant, timely, or complete.

a. A request to amend a record must:

(1) Be in writing and signed by the individual to whom the record pertains;

(2) Be clearly marked "Request for Amendment of Record";

(3) Contain a statement that the request is being made under the provisions of the Privacy Act of 1974;

(4) Contain the name and address of the individual making the request;

(5) Specify the name and location of the systems of records, as set forth in the system notice, in which the record is maintained;

(6) Specify the title and business address of the official designated in the "Contesting Record Procedures" paragraph of the applicable system notice;

(7) Specify the particular record in the system which the individual is seeking to amend;

(8) Clearly state the specific changes which the individual wishes to make in the record and a concise explanation of the reason for the changes. If the individual wishes to correct or add any information, the request shall contain specific language making the desired correction or addition; and

(9) Be addressed to or delivered in person to the office of the official designated in the "Contesting Records Procedures" paragraph of the applicable system notice. A request delivered to an office in person must be delivered during the regular office hours of that office.

6. *Personal Identification Requirements.* Generally, the identification rules in paragraph 10.35 of these regulations apply to systems maintained in the Office of the Secretary. In addition, specific requirements for some systems are delineated below:

a. The notarized signature of the requester is required for requests by mail for notification and access to records in the following systems:

(1) OST 001 General Employee Records System;

(2) OST 017 General Personnel Management Files; and

(3) OST 030 Personal Management Convenience Files.

(NOTE: An individual's social security number is an optional means of identification, which may be supplied in lieu of notarization. Social security numbers are used on these records as authorized under the provisions of Executive Order 9397, dated November 22, 1943.)

b. The notarized signature of the requester is required for requests by mail for notification and access to records in the following systems:

(1) OST 006 Confidential Statement of Employment and Financial Interests; and

(2) OST 037 Records of Confirmation Proceeding Requirements.

c. The number of the Federal Emergency Assignee Identification Card (SF 138) issued to the requester is required for requests by mail for notification and access to records in the following systems:

(1) OST 022 National Defense Executive Reserve File;

(2) OST 036 Planning Officials for Emergency Functions; and

(3) OST 050 Executive Team Cadre Listings.

d. The name of the applicable advisory committee is required for notification and access to records in the following system: OST 008 Departmental Advisory Committee Files.

APPENDIX C

UNITED STATES COAST GUARD

1. *Introduction.* This Appendix supplements the procedures set forth for the Department of Transportation in Subparts A through I of 49 CFR Part 10.

2. *Availability for Inspection and Copying.*

a. Individuals who wish the Coast Guard to screen its systems of records covered by this part to determine whether a system contains information about them, or who wish to gain access to records which contains information about them, should address written requests either to the appropriate system manager as listed in the annual description of Coast Guard record systems appearing in the FEDERAL REGISTER or to: Commandant (G–CMA), U.S. Coast Guard Headquarters, 400 Seventh Street SW., Washington, D.C. 20590. Requests may also be delivered in person to the above address between 7:30 A.M. and 4 P.M. (Monday through Friday, excluding holidays). Requests for notification of the existence of, or access to, a record must specifically identify the system of records involved.

b. The Coast Guard will acknowledge requests for notification of the existence of a record within ten working days (excluding Saturdays, Sundays and holidays) after receipt of a completed request. The Coast Guard will make every effort within 30 days of the receipt of a request for access to a record to:

(1) make the record available;

(2) notify the requester of the need for additional information; or

(3) notify the requester of any denial, either in whole or in part, of access to a record. Para. 3 of this Appendix sets forth the addresses of Coast Guard district offices and headquarters units where records in decentralized systems may be located.

3. *Systems of Records.* The annual notice of systems of records required by 5 U.S.C. 552a(e)(4) with respect to records maintained by the Coast Guard is set forth in the FEDERAL REGISTER. Assistance may be requested in exercising his rights by an individual addressing the Privacy Act Coordinator at one of the following U.S. Coast Guard offices nearest his residence:

a. Commander, 1st Coast Guard District, 150 Causeway Street, Boston, MA 02114.

b. Commander, 2nd Coast Guard District, Federal Building, 1520 Market Street, St. Louis, MO 63013.

c. Commander, 3rd Coast Guard District, Governors Island, New York, NY 10004.

d. Commander, 5th Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, VA 23705.

e. Commander, 7th Coast Guard District, Federal Building, 51 S.W. 1st Avenue, Miami, FL 33130.

f. Commander, 8th Coast Guard District, Customhouse, New Orleans, LA 70130.

g. Commander, 9th Coast Guard District, 1240 East 9th Street, Cleveland, OH 44199.

h. Commander, 11th Coast Guard District, Heartwell Building, 19 Pine Avenue, Long Beach, CA 90802.

i. Commander, 12th Coast Guard District, 630 Sansome Street, San Francisco, CA 94126.

j. Commander, 13th Coast Guard District, Federal Building, 915 Second Avenue, Seattle, WA 98174.

k. Commander, 14th Coast Guard District, P.O. Box 48, FPO San Francisco 96610.

l. Commander, 17th Coast Guard District, FPO Seattle 98771.

m. Superintendent, U.S. Coast Guard Academy, New London, CT 06320.

n. Commanding Officer, U.S. Coast Guard Yard, Curtis Bay, Baltimore, MD 21225.

o. Commanding Officer, U.S. Coast Guard Training Center, Governors Island, New York, NY 10004.

p. Commanding Officer, U.S. Coast Guard Training Center, Cape May, NJ 08204.

q. Commanding Officer, U.S. Coast Guard Training Center, Government Island, Alameda, CA 94501.

r. Commanding Officer, U.S. Coast Guard Supply Center, 830 3rd Avenue, Brooklyn, NY 11232.

s. Commanding Officer, U.S. Coast Guard Institute, P.O. Substation 18, Oklahoma City, OK 73169.

t. Commanding Officer, U.S. Coast Guard Aircraft Repair & Supply Center, Elizabeth City, NC 27909.

u. Commanding Officer, U.S. Coast Guard Aviation Training Center, Mobile AL 36608.

v. Commanding Officer, U.S. Coast Guard Radio Station (NMH), 7723 Telegraph Road, Alexandria, VA 22310.

w. Commanding Officer, U.S. Coast Guard Reserve Training Center, Yorktown, VA 23490.

x. Officer in Charge, Record Depot, U.S. Coast Guard Air Station, Elizabeth City, NC 27909.

y. Commander, Coast Guard Activities, Europe, London, Box 50, FPO New York 09510.

z. Commanding Officer, U.S. Coast Guard Training Center, Petaluma, CA 94952.

aa. Commander, U.S. Coast Guard Air Base, Elizabeth City, NC 27909.

bb. Commanding Officer, U.S. Coast Guard Electronics, Engineering Center, Wildwood, NJ 08260.

cc. Commanding Officer, Research & Development Center, Avery Point, Groton, CT 06340.

dd. Commanding Officer, U.S. Coast Guard Oceanographic Unit, Building 159E, Navy Yard Annex, Washington, D.C. 20590.

4. *Access to Records.*

a. The Coast Guard will honor only those requests for notification, access, or amendment made by:

(1) the individudal to whom the record pertains;

(2) the parent or guardian of a minor to whom the record pertains;

(3) the legal guardian of a person to whom the record pertains when that person has been declared incompetent by reason of physical or mental disability by a court having jurisdiction of the matter; or

(4) the executor or personal representative of the estate of a deceased person to whom the record pertains.

If made by a person other than the individual to whom the record pertains, the request must specify the relationship of the requester to that individual.

b. Written requests for information or amendment must be signed by the requester. Requests for access to records containing sensitive or detailed personnel information (including, but not limited to, earnings and tax statements, employee payroll records, employee grievance and appeal files, civilian, officer, and enlisted personnel files, and health and medical records (subject to the conditions of 49 CFR 10.33(b)) may be required to contain the following notarized certification:

I, ----------, do hereby certify that I am the individual to whom the record in question pertains.

(or)

I am the parent or guardian of the minor to whom the record in question pertains.

(or)

I am the legal guardian of the individual determined by a court to be incompetent to whom the record in question pertains.

(or)

I am the executor or personal representative of the estate of the deceased individual to whom the record in questions pertains.

Notarization

(Signature)

(Date)

5. *Requests to Correct or Alter Records.* The official responsible for administering a system of records, in consultation as appropriate with the System Manager, Privacy Act

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Coordinator, and Privacy Act Officer, will initially determine whether to grant requests under 49 CFR § 10.41 to amend records. Requests must be made as provided in paragraph 2a. of this Appendix. Requests for amendment must contain a complete description of the item sought to be changed and documentation to substantiate the grounds for the requested change. The Coast Guard will acknowledge the receipt of completed requests for amendment within ten working days. As promptly as possible the Coast Guard will advise the requester whether or not the change has been made, and in cases where a change has been made, transmit a copy of the amended record to the requester.

a. When a request for access to a record or amendment of a record is denied, in whole or in part, the manager of the system of records involved will notify the requester in writing, of the reasons for the denial and furnish him a statement of the name and position or title of each person responsible for the denial. The requester will also be advised of the right to file a written appeal of the adverse decision within 180 days of receipt of the initial denial. Appeals must be addressed to: Commandant (G-CMA), U.S. Coast Guard Headquarters, 400 Seventh Street SW., Washington, D.C. 20590.

b. Within 30 working days of the receipt of a written appeal, the Commandant or his designee will make an independent review of the record and decide whether or not to make the requested disclosure or amendment. If the appeal is granted, the Coast Guard will promptly notify the requester of the decision in writing and transmit to him a copy of the record or amended record. If the appeal is denied, the Coast Guard will promptly notify the requester, in writing, of the reasons for the denial and furnish him a statement of the name and position or title of each person responsible for the denial. The Coast Guard will also inform the requester of his right to seek judicial review of the adverse decision pursuant to 5 U.S.C. 552a(g)(1).

c. In addition to appealing an adverse determination of a request to amend a record, the requester may file a concise "statement of disagreement" setting forth the reasons for disagreeing with the refusal of the Coast Guard to amend the record. The notification by the Coast Guard of the denial of an initial request for amendment or the denial of an administrative appeal for an amendment informs the requester of his right to file a statement of disagreement.

d. The Commandant of the Coast Guard, by Commandant Instruction 5212.11 (26 September 1975), has redelegated to the Chief of Staff his authority under 49 CFR Part 10 to:

(1) exempt systems of records from certain provisions of the Privacy Act;

(2) make final administrative determinations not to disclose or amend a record; and

(3) issue extensions of review time.

This authority may not be redelegated further.

6. *Personal Identification Requirements.*

a. When an individual requests notification, access, or amendment in person, he must show identification such as a driver's license, military or employment identification card, credit card, or medicare card. An individual requesting in person information about or amendment to a "sensitive" record may be required to complete the notarized certification set forth in paragraph 4.b. of this Appendix.

b. The Coast Guard may require more specific information in order to establish the identity of a requester. For example, the Coast Guard may require that a legal guardian or personal representative produce certified copies of court documents appointing him to his position. The Coast Guard may independently verify the identity of a requester by telephone contact with him, personal identification by Coast Guard employees who may know him, or any other lawful means considered appropriate under the circumstances.

c. An individual may be accompanied by a person of his choosing while reviewing records to which he has been granted access, provided that he signs a statement authorizing the person accompanying him to do so. An individual granted access to a record may be required to sign and notarize a statement authorizing the Coast Guard to release the record to a person (e.g., his attorney) designated by him.

d. No request for information or amendment will be considered complete until all necessary identification material has been provided. No copies of records will be provided to individuals until they pay appropriate fees as set forth in 49 CFR Subpart H.

APPENDIX D

FEDERAL AVIATION ADMINISTRATION

1. *Introduction.* This Appendix:

a. Describes the procedures for determining if an individual is the subject of a record maintained by the Federal Aviation Administration;

b. Describes the availability of records and prescribes requirements for identifying an individual who requests a record pertaining to him;

c. Prescribes procedures for granting access to an individual upon his request for the record pertaining to him;

d. Prescribes procedures for reviewing a request from an individual concerning the amendment of any record pertaining to him;

e. Prescribes procedures for making a determination on the request for an individual for amendment of any record pertaining to him; and

f. Prescribes procedures for an appeal within the FAA of a determination not to grant access to or amendment of records.

2. *Availability for Inspection and Copying.* Records may be inspected at the FAA facility identified for the particular system of records appearing in the systems notices published in the FEDERAL REGISTER. These facilities are open to the public during regular business hours, except Saturdays, Sundays, and Federal holidays.

3. *Systems of Records.*

a. A list of FAA systems of records pertaining to the Privacy Act indicating the geographic locations and the responsible systems managers has been published in the FEDERAL REGISTER and appears as follows:

(1) August 27, 1975 on pages 38629–38639;

(2) November 19, 1975 on pages 53967–53978; and

(3) March 1, 1976 on pages 8620–8621.

b. Any individual who is unable to determine in which FAA-maintained system the records pertaining to him may be found, may submit a written request for assistance to the attention of the Privacy Act Coordinator located at the region or center nearest to his residence. The addresses for the regional and center facilities of the FAA are listed below:

(1) FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591;

(2) Alaskan Region, 632 Sixth Avenue, Anchorage, AK 99501;

(3) Central Region, 601 East 12th Street, Kansas City, MO 64106;

(4) Southern Region, 3400 Whipple Street, East Point, GA (Mailing address: P.O. Box 20636, Atlanta, GA 30320);

(5) Southwest Region, 4400 Blue Mound Road (Mailing address: P.O. Box 1689, Fort Worth, TX 76101);

(6) Western Region, 5651 West Manchester Avenue (Mailing address: P.O. Box 92007, Los Angeles, CA 90009);

(7) Eastern Region, Federal Building, JFK International Airport, Jamaica, NY 11430;

(8) Pacific Region, 1833 Kalakaua Avenue (Mailing address: P.O. Box 4009, Honolulu, HI 96813);

(9) Aeronautical Center, 6400 South MacArthur Boulevard (Mailing address: P.O. Box 25082, Oklahoma City, OK 73125);

(10) National Aviation Facilities Experimental Center, Tilton Road, Route 563 (near Pomona, NJ), (Mailing address: Atlantic City, NJ 08405);

(11) New England Region, 12 New England Executive Park, Burlington, MA 01803;

(12) Great Lakes Region, 2300 East Devon, Des Plaines, IL 60018;

(13) Rocky Mountain Region, Park Hill Station, P.O. Box 7213, Denver, CO 80207; and

(14) Northwest Region, FAA Building, 9010 East Marginal Way South, King County International Airport (Boeing Field), Seattle, WA 98108.

4. *Access to Records.*

a. Any individual desiring to inspect a record or obtain a copy thereof to determine if it contains information pertaining to him, must present a written request in accordance with the provisions of this section. An individual making a request under this section, may either appear in person or submit his request by mail to the address and attention of the system manager as it appears in the list of systems of records published in the FEDERAL REGISTER. The individual must first determine in which system of records he believes the particular records pertaining to him are maintained by examining the categories of records and routine uses in the list of the systems of records published in the FEDERAL REGISTER and available at the addresses set forth in paragraph 3.b. of this Appendix.

b. The individual must include in his request the information necessary to identify the specific system of records as it appears in the list of the systems of records of the FAA published in the FEDERAL REGISTER.

c. Upon request by any individual to gain access to an FAA record that contains information pertaining to him, the FAA official responsible for the record informs the individual whether or not the requested record is exempt under subpart G of this part.

d. An individual making a request under this section is permitted to inspect and have a copy made of any record pertaining to him in a form comprehensible to him, if—

(1) He has identified himself in accordance with section 6 of this Appendix;

(2) The record is not exempt under subpart G of this part; and

(3) The record was not compiled in reasonable anticipation of a civil action or proceeding.

e. Notwithstanding paragraph d of this section, if an individual requesting a record pertaining to him is accompanied by a person of his own choosing to review the record, the individual making the request must submit a signed statement authorizing the discussion of the record in the presence of the person accompanying him.

f. Each request for a record determined to be releasable under paragraph d of this section is complied with within ten days, excluding Saturdays, Sundays, and Federal holidays. If additional time is necessary to make the requested record comprehensible to the individual requesting it, the FAA official responsible for the record notifies the individual within ten days of the request of the estimated time required to fill the request.

g. Any individual whose request for access to a record pertaining to him is denied, may file a written appeal to the Administrator, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Appeals submitted under this section must comply with the requirements of § 10.51 of this part.

5. *Requests to Correct or Alter Records.*

a. Any individual may request an amendment of any record pertaining to him maintained by the FAA in a system of records, by submitting the request in writing to the attention of the FAA official responsible for the record at the address appearing in the list of systems of records published in the FEDERAL REGISTER.

b. Each request for an amendment of a record must be accompanied by a written explanation as to why the individual believes the present record is not accurate, timely, relevant, or complete. The individual making the request may submit any documentation he wishes in support of his request.

c. Upon receipt of a request for an amendment of a record, the FAA official responsible for the record reviews the record and supporting documentation and determines if there is a sufficient basis upon which to make a decision to make the requested amendment.

d. If the FAA official responsible for the record determines under paragraph c of this section that additional information is necessary before a deecision can be made as to whether to make the requested amendment, he notifies the individual making the request to amend specifying what additional information is necessary.

e. If the FAA official responsible for the record determines that the requested amendment should be made, he amends the record, notifies the individual making the request, and sends to that individual a copy of the corrected record, as well as to other persons or agencies to whom the record may have been disclosed (See 49 CFR 10.23(d)).

f. If the FAA official responsible for the record determines that the requested amendment should be denied, he forwards to his supervisor the request for amendment with all supporting documentation and his reasons for the denial.

g. If the supervisor determines that the requested amendment should be made, he follows the procedures in paragraph e of this section.

h. If the supervisor determines that the requested amendment should be denied, he notifies the individual making the request of the denial, the reasons therefor, and informs the individual of the FAA procedures for appealing the denial.

i. Any individual whose request for correction or alteration of a record pertaining to him is denied, may file a written appeal to the Administrator, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Appeals submitted under this section must comply with the requirements of § 10.51 of this part.

6. *Personal Identification Requirements.*

a. Each individual making a request under this Appendix for a record pertaining to him, must present appropriate identification before the record he has requested will be released. Types of appropiate identification include—

(1) For requests made in person, a driver's license or employee identification card; and

(2) For requests made by mail, name (printed or typed, and signature) and date or birth, or the unique identifier used in the system of records.

(b) If an individual cannot provide appropriate identification as required in paragraph 6.a. of this Appendix, or if the record requested is particularly sensitive, the FAA official responsible for the record may require him to sign a statement certifying his identity and his understanding that to knowingly and willfully request or obtain any record concerning an individual from the FAA under false pretenses is a misdemeanor punishable by a fine of up to $5,000 as provided in 5 U.S.C. 52a(i)(3).

APPENDIX E

FEDERAL HIGHWAY ADMINISTRATION

1. *Introduction.* This Appendix, with respect to the Federal Highway Administration:

a. Describes the places and times at which records will be available for inspection and copying;

b. Indicates the systems of records maintained in the Federal Highway Administration;

c. Identifies the officials having authority to deny requests for access to records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 10.35 of these regulations.

2. *Availability for Inspection and Copy.* Places and times at which records will be available for inspection and copying, and the system of records and systems managers having authority at each place.

a. *Headquarters:* The Federal Highway Administration, 400 7th Street SW., Washington, D.C. 20590. Time: 7:45 a.m.–4:15 p.m.

Systems of Records and Responsible Systems Managers:

1. Accounts Receivable DOT/FHWA–Chief General Ledger and Funds Control Section.

2. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Occupational Safety Engineer.

3. Driver Waiver File (BMCS) DOT/FHWA—Chief, Driver Requirements Branch.

4. Employee Utilization Monthly Report DOT/FHWA—Chief, Data Systems Division.

5. Investigation Case File DOT/FHWA–Chief, Investigations and Special Inquiry Division.

6. Medal of Honor File DOT/FHWA—Chief, Compliance Division.

7. Memorandum of Monthly Performance of Key Punch Operators DOT/FHWA—Chief, TCC Operation (Groups A and B).

8. Motor Carrier Accident File (BMCS) Property and Passenger—Chief, Accident Analysis Branch.

9. Occupational Safety and Health Accident Reporting System DOT/FHWA—Occupational Safety Engineer.

10. Payroll Administration DOT/FHWA—Chief, Payroll and Employee Records Section.

11. Personnel Records—(CSC Government-wide) DOT/FHWA Chief, Personnel Programs Division.

12. Travel Advance File DOT/FHWA—Chief, Voucher Review and Disbursement Section.

13. Travel Order (Change of Duty Station) DOT/FHWA—Chief, Review and Disbursement Section.

14. University and Industry Programs Coding and Filing Systems DOT/FHWA—Administrative Assistant—National Highway Institute.

b. *Regional Offices:* Region 1—Federal Highway Administration, Leo N. O'Brien Federal Building, Albany, New York 12207. Time: 8:00 a.m.–4:30 p.m.

Systems of Records:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License)—DOT/FHWA–Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases for DOT/FHWA—Chief, Regional Counsel.

3. Travel Advance File—Executive Officer DOT/FHWA, Region 3—Federal Highway Administration, George H. Fallon, Federal Office Building, 31 Hopkins Plaza, Baltimore, Maryland 21201. Time: 8:00 a.m.–4:30 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA—Executive Officer, Region 4—Federal Highway Administration, 1720 Peachtree Road, NW., Atlanta, Georgia 30309. Time 7:45 a.m.—4:15 p.m.

Systems or Records and Responsible Systems Managers:

1. Application for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA—Executive Officer. Region 5—Federal Highway Administration, 18209 Dixie Highway, Homewood, Illinois 60430. Time: 8:50 a.m.–4:30 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA—Executive Officer. Region 6—Federal Highway Administration, 819 Taylor Street, Fort Worth, Texas 76102. Time: 8:00 a.m.–4:30 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA—Executive Officer. Region 7—Federal Highway Administration, 6301 Rockhill Road, Kansas City, Missouri 64131. Time: 7:45 a.m.–4:15 p.m.

Systems of Records and Responsible Systems Managers:

1. Application for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA—Executive Officer. Region 8—Federal Highway Administration, P.O. Box 25246, Denver Federal Records Center, Denver, Colorado 80225. Time: 7:45 a.m.–4:15 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motors Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Chief Counsel.

3. Payroll Administration DOT/FHWA—Appropriate Finance Officer.

4. Travel Advance File—DOT/FHWA—Executive Officer. Region 9—Federal Highway Administration, 2 Embarcadero Center, P.O.

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Box 7614, San Francisco, California 94120. Time: 7:45 a.m.–4:15 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License)—DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Chief Counsel.

3. Travel Advance File DOT/FHWA—Executive Officer. Region 10—Federal Highway Administration, 222 SW. Morrison Street, Portland, Oregon 97204. Time: 8:00 a.m.–4:45 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License)—DOT/FHWA—Executive Officer.

2. Driver Accident Cross-Reference File (BMCS) DOT/FHWA—Regional Director.

3. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Chief Counsel.

4. Payroll Administration DOT/FHWA—Appropriate Finance Officer.

5. Travel Advance File—Executive Officer. Region 15—Federal Highway Administration, 1000 North Glebe Road, Arlington, Virginia 22201. Time: 7:45 a.m.–4:15 p.m.

Systems of Records and Responsible Systems Manager: Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

c. Places: Division Offices (For location see 49 CFR Part 7). Time: See 49 CFR Part 7 for Hours of Duty.

Systems of Records and Responsible Systems Managers: Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officers.

3. *Access to Records:*

a. Each individual desiring to determine whether a record pertaining to him is contained in a system of records, or desiring access to such record, or to obtain a copy of such record, shall make his request to the appropriate System Manager. In appropriate circumstances, oral requests will be acted upon. Each request must specify the name of the requesting must specify the name of the the requesting individual and the system of records in which the subject record is located or thought to be located.

4. *Requests to Correct or Alter Records:*

a. The FHWA will allow individuals to request amendment of their personal records to the extent that such amendment does not violate existing statutes, regulations, or administrative procedures. Requests to amend personnel records of active employees should be addressed to the responsible system managers specified in A(1)–(3).

b. The System Managers will provide a written acknowledgment of the receipt of a request to amend a record to the individual within 10 days. However, if the request can be reviewed, processed and the individual notified of compliance or denial within the 10-day working period, no acknowledgment is required.

c. If the System Manager agrees with an individual's request to amend the person's record, the following steps will be taken:

1. Correct the record accordingly.

2. Advise the individual in writing, and

3. If an accounting of disclosure has been made, advise all previous recipients of the record of the fact that the correction was made and the substance of the correction.

d. If the System Manager disagrees with all or any portion of the request to amend a record, he will:

1. Proceed as described above with respect to those portions of the record which will be amended.

2. Advise the individual of the refusal and the reason for not amending a record, indicating the name and title or position of each person responsible for the denial, and

3. Inform the individual that he may appeal the decision not to amend a record to:

Associate Administrator for Administration, Federal Highway Administration, Washington, D.C. 20590.

e. If after this review the FHWA refuses to amend the record on the individual requested, the FHWA will advise the individual:

1. Of the refusal and the reason for it,

2. Of the individual's right to file a concise statement of the reasons for disagreeing with the decision of the FHWA,

3. The procedures for filing the statement of disagreement,

4. That the statement which is filed will be made available to anyone to whom the record is subsequently disclosed, and

5. Of the individual's right to seek judicial review of the FHWA's refusal to amend a record.

f. The final FHWA determination on the individual's request must be concluded within 30 days of the receipt of the appeal unless for good cause shown, the Associate Administrator for Administration extends such period. Such final administrative decision must address all information and arguments relied upon by the individual.

g. Each applicant for reconsideration must indicate that it is an appeal from a denial of a request made under the Privacy Act. The envelope in which the application is sent should be marked prominently with the words "Privacy Act".

If these requirements are not met, the time limits described in Chapter 4, paragraph 2 will not begin until the application has been identified by an employee of the FHWA as an application under the Privacy Act and has been received by the appropriate office.

h. The Associate Administrator for Administration may require the person making a request to furnish additional information, or proof of factual allegations, and may order other appropriate proceedings. His decision as to the availability of a record or whether to amend a record will be administratively final subject to the concurrence of the DOT General Counsel or his delegate. However, requests for reconsideration of denials of information contained in Government-wide systems of personnel records, which includes the FHWA Personnel Records System, will be handled by the Civil Service Commission in accordance with 5 CFR 294.108 and 5 CFR 297.108.

i. If the Associate Administrator for Administration also refuses to grant access or to correct the individual's record, he shall advise the individual of:

1. the reason(s) for the refusal, the names, and titles or positions of each person responsible for the denial.

2. the individual's right to file a statement of disagreement; that the statement will be made available to anyone to whom the record is subsequently disclosed, and to prior recipients of the record (see Section 10.23(d) of the Rules), and

3. the right to bring suit in the District Court of the United States in the district in which the individual resides, the district in which his principal place of business is located, the district in which the record(s) is located, or the District of Columbia.

5. *Personal Identification Requirements:*

a. When a record is applied for in person, the person so applying must, unless personally known to the custodian of the records, furnish adequate identification. Such identification may consist of an employee identification card, Medicare Card, driver's license, or a similar document.

b. When a record is applied for by mail, sufficient information to identify the individual must be furnished, and a notarized statement as to the identity of the requestor may be required in some instances when the record involved contains particularly sensitive information in the judgment of the systems manager.

APPENDIX F

FEDERAL RAILROAD ADMINISTRATION

1. *Introduction.* This Appendix, with respect to the Federal Railroad Administration.

a. Describes the places and times at which records will be available for inspection and copying;

b. Indicates the systems of records maintained in the Federal Railroad Administration;

c. Identifies the officials having authority to deny requests for access to records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 10.35 of these regulations.

2. *Availability for Inspection and Copying.* Places and times at which records will be available for inspection and copying; and, the systems of records and systems managers having authority to deny requests for disclosure at each facility.

a. Records in systems maintained in the Federal Railroad Administration are available at the Alaska Railroad, Anchorage, Alaska 99510, 9:00 a.m.–4:00 p.m.

Systems of Records and Responsible Systems Managers:

1. Alaska Railroad Examination of Operating Personnel; DOT/FRA Operations Officer (System Manager).

2. Alaska Railroad Personnel and Pay Management Information System; DOT/FRA—General Manager (System Manager).

3. Alaska Railroad Security and Freight Claims Investigatory Files; DOT/FRA—Chief, Security and Claims Office (Systems Manager).

b. *Places:* The Alaska Railroad, Anchorage, Alaska 99510. Hours: 9:00 a.m.–4:00 p.m.

Systems of Records and Responsible Systems Managers:

1. Application for (Vehicle) Operator's Identification Card; DOT/FRA—Director, Office of Administrative Operations (System Manager).

2. Confidential Statement of Employment and Financial Interest; DOT/FRA—Chief Counsel, Office of the Chief Counsel (System Manager).

3. Employee Travel Records; DOT/FRA—Accounting Officer, Accounting Division (System Manager).

4. Occupational Safety and Health Reporting System; DOT/FRA—FRA Safety Manager, Office of Administrative Operations (System Manager).

5. Office of Policy and Program Development Internal Work Reference File; DOT/FRA—Associate Administrator for Policy and Program Development (System Manager).

6. Office of Chief Internal Personnel Data File; DOT/FRA—Chief Counsel, Office of Chief (System Manager).

7. Office of Research and Development Internal Work Reference File; DOT/FRA—Administrative Officer, Office of Research and Development (System Manager).

8. Office of Safety Past Employees Files; DOT/FRA—Deputy Associate Administrator for Safety (System Manager)

9. Office of Safety Performance Evaluation Convenience File; DOT/FRA Deputy Associate Administrator for Safety (System Manager)

10. Office of Safety Personnel Convenience File; DOT/FRA—Deputy Associate Administrator for Safety (System Manager)

11. Personnel and Pay Management Information Systems; DOT/FRA—Director, Office of Personnel and Training (System Manager)

12. Travel Advance Records; DOT/FRA—Director, Office of Administrative Operations (System Manager)

13. Work Measurement System; DOT/FRA—Director, Office of Management Systems

c. Places: Regional Office as follows:

Region 2, Federal Railroad Administration, Philadelphia, Pa. 19106.

Region 3, Federal Railroad Administration, College Park, Ga. 30337.

Region 4, Federal Railroad Administration, Chicago, Illinois 60605.

Region 5, Federal Railroad Administration, Ft. Worth, Texas 76102.

Region 6, Federal Railroad Administration, Portland, Oregon 97204.

Region 7, Federal Railroad Administration, San Francisco, California 94102.

Region 8, Federal Railroad Administration, Kansas City, Missouri 64106.

Hours: 9:00 a.m.–4:00 p.m.

Systems of Records and Responsible Systems Managers at each Region:

Regional Personnel Convenience Files; DOT/FRA—Regional Directors (Systems Manager)

d. Place: Transportation Test Center (TTC) Pueblo, Colorado 81001. Hours: 9:00 a.m.–4:00 p.m.

System of Records and Responsible System Manager:

Transportation Test Center Employee Service Record File—Director, TTC (System Manager)

3. *Access to Records.*

a. Each individual desiring to determine whether a record pertaining to him is contained in a system of records or to obtain a copy of such a record, shall make his request in writing to the appropriate official listed in Section 2.3 of this Appendix. Each request shall specify the name of the requesting individual and the system of records in which the subject record is located or thought to be located.

b. The Administration will allow individuals to request amendment of their personal records to the extent that such amendment does not violate existing statutes, regulations, or administrative procedures. Requests to amend personal records of active employees should be addressed to the responsible system managers specified in 2.3A–D.

c. The system managers will provide a written acknowledgment of the receipt of a request to amend a record to the individual within ten days. However, if the request can be reviewed, processed and the individual notified of compliance or denial within the ten-day working period, no acknowledgment is required.

d. If the Administration agrees with an individual's request to amend the person's record, the following steps will be taken:

1. Advise the individual in writing;

2. Correct the record accordingly; and

3. If a prior disclosure has been made, advise all previous recipients of the record of the correction and its substance.

e. If the Administration, after an initial review by the system manager of a request to amend a personal record, disagrees with all or any portion of it; the Administration will:

1. Advise the individual of refusal and the reasons for it;

2. Inform the individual of procedures to request a further review;

f. If an individual disagrees with the initial determination, the individual may file a request for a further review of that determination. The request for a review should be addressed to:

Attn: Privacy Act of 1974, Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590.

g. If after this review the Administration refuses to amend the record as the individual requested, the Administration will advise the individual:

1. of refusal and the reasons for it;

2. of the individual's right to file a concise statement of the reasons for disagreeing with the decision of the Administration;

3. the procedures for filing the statement of disagreement;

4. that the statement which is filed will be made available to anyone to whom the record is subsequently disclosed;

5. of the individual's right to seek judicial review of the Administration's refusal to amend a record.

h. The final Administration determination on the individual's request must be concluded within thirty (30) working days unless the FRA Administrator determines that a fair and equitable review cannot be completed in that time-frame. If additional time is required, the individual will be informed in writing of reasons for the delay and of the Administration's estimated date on which the review is expected to be completed.

i. For personnel related records final Civil Service Commission determination may apply within 30 working days following the procedures explained above.

4. *Procedures for Establishing Identity of Individual Making a Request:*

a. Disclosure of personnel records requires that the individual produce an identification card; employee identification, annuitant identification, Medicare cards, or driver's license are examples. For records disclosed by mail, the Administration will require identifying information to locate the record, i.e., employee identification number, name, date of birth or social security number. A comparison of the signature of the requestor and those in the record will be used to determine identity.

b. If an individual can provide no suitable documents for identification, the Administration requires a signed statement asserting identity and stipulating that the individual understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of up to $5,000 under 5 U.S.C. 552a(i)(3).

APPENDIX G

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

1. *Introduction.* This Appendix, with respect to the National Highway Traffic Safety Administration:

a. Describes the places and time at which records will be available for inspection and copying;

b. Indicates the systems of records maintained in the National Highway Traffic Safety Administration;

c. Identifies the officials having authority to deny requests for access to records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 10.35 of these regulations.

2. *Availability for Inspection and Copying.* Records of the National Highway Traffic Safety Administration, hereafter referred to as NHTSA, are located at NHTSA headquarters, Washington, D.C., and at regional office locations, both described below. Records created, collected, maintained and used in various demonstration and research projects as contract requirements of NHTSA are located at various points in the several States and the Commonwealth of Puerto Rico.

a. All NHTSA headquarters offices are open from 7:45 A.M. to 4:15 P.M., each day except Saturdays, Sundays, and Federal legal holidays. The main headquarters office is located at 400 Seventh Street SW., Washington, D.C. 20590. The Office of Standards Enforcement, Motor Vehicle Programs; the Vehicle Ratings Division, Office of Crashworthiness, Motor Vehicle Programs; the Office of State Vehicle Programs and the National Driver Register, Traffic Saftey Programs, are located at the Trans Point Building, 2100 2nd Street SW., Washington, D.C. 20590.

b. NHTSA Regional offices are located at the following addresses and are open during the indicated hours each day, except for Saturdays, Sundays, and Federal legal holidays:

(1) Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), 55 Broadway, Cambridge, Massachusetts 02142 (7:45 A.M.–4:15 P.M.).

(2) Region II (New Jersey, New York, Puerto Rico, Virgin Islands), 200 Mamaroneck Avenue (Room 200), White Plains, New York 10601 (7:45 A.M.–4:15 P.M.).

(3) Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia), Airport Plaza Building, 6701 Elkridge Landing Road, Linthicum, Maryland 21090 (8 A.M.–4:30 P.M.).

(4) Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), Suite 501, 1720 Peachtree Road, N.W., Atlanta, Georgia 30309 (7:45 A.M.–4:15 P.M.).

(5) Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), Suite 214, Executive Plaza, 1010 Dixie Highway, Chicago Heights, Illinois 60411 (8 A.M.–4:30 P.M.).

(6) Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas), 819 Taylor Street, Room 11A26, Fort Worth, Texas 76102 (8 A.M.–4:30 P.M.).

(7) Region VII (Iowa, Kansas, Missouri, Nebraska), 6301 Rockhill Road, Kansas City, Missouri 64111 (7:45 A.M.–4:15 P.M.).

(8) Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), 330 South Garrison Street, Lakewood, Colorado 80226 (7:45 A.M.–4:15 P.M.).

(9) Region IX (American Samoa, Arizona, California, Guam, Hawaii, Nevada), Suite 610, Two Embarcadero Center, San Francisco, California 94111 (7:45 A.M.–4:15 P.M.).

(10) Region X (Alaska, Idaho, Oregon, Washington), 3140 Federal Building, 915 Second Avenue, Seattle, Washington 98174 (7:45 A.M.–4:15 P.M.).

c. NHTSA demonstration and research project records may be created, collected, maintained, and used for the purposes of NHTSA contract requirements. These records are maintained at various points in the several States and the Commonwelth of Puerto Rico. Since these project contractors only act as agents for NHTSA, and to prevent unauthorized disclosure of information that may be subject to the provisions of the Privacy Act of 1974, management of the systems has been retained by appropriate officials of NHTSA. Access to the published systems may be obtained by corresponding with the systems manager indicated for the system of records found in the citations in paragraph 3 of this Appendix. Appropriate personal identification must be furnished in accordance with paragraph 4. These officials should be notified of any inaccuracy of the record and, also, are responsible for considering requests for correction or alteration of the record.

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3. *Systems of Records.* A list of NHTSA systems of records pertaining to the Privacy Act indicating the geographic locations and the responsible systems managers has been published in the FEDERAL REGISTER and appears as follows:

a. Federal Register Document 75–22441, Vol. 40, No. 167, dated August 27, 1975, beginning on page 38852;

b. Federal Register Document 75–24710, Vol. 40, No. 186, Part V, dated September 24, 1975, beginning on page 44101; and

c. Federal Register Document 75–30613, Vol. 40, No. 220, dated November 19, 1975, beginning on page 53978.

4. *Access to Records.*

a. Individuals desiring to determine whether records pertaining to them are contained in systems of records covered by this Appendix or desiring access to records covered by this Appendix, or to obtain copies of such records, shall make written requests providing appropriate identification of the system and proof of their identity in the same manner as former employees described in 4.c. below. When an individual is not capable of personally providing the required information, a second party request may be honored that a duly attested authorization, power of attorney, or appropriate court order is submitted with the request.

b. Decision to release or deny requested records will be made by the systems manager, identified in the citations of paragraph 3 of this Appendix, within ten working days of the receipt of the request. A person seeking reconsideration of a denial of the disclosure of a record may appeal to the NHTSA Associate Administrator for Administration, 400 Seventh Street SW., Washington, D.C. 20590, under the DOT Freedom of Information Act Procedures, 49 CFR Part 7. Decision on the request for reconsideration will be made in writing within 30 working days from the receipt of the request for reconsiderstion of disclosure.

c. Employees and former employees of NHTSA may obtain access to and consideration of the amendment of their records by providing a current Department of Transportation (DOT) identification card (Form D–1600.1.9), a DOT retired employee identification card (Form D–1680.2), Medicare card, attested signed request, or such other identification that may prove the validity of their claims.

d. Since nearly all NHTSA systems of records are maintained on electronic data processing equipment, it may require up to 48 hours to obtain individual records due to computer scheduling requirements. It is in the interest of the individual, therefore, to request information in writing rather than in person.

5. *Requests to Correct or Alter Records.*

a. Individuals may request correction or alteration of records pertaining to them by addressing such requests to the systems managers or the NHTSA Privacy Act Coordinator, the addresses of whom are contained in the citation of paragraph 3 of this Appendix.

b. Since the records of the National Driver Register merely contain partial records of the States' motor vehicle records, they are susceptible to correction or alteration only to the extent that such records are at variance with the State records. Persons seeking to correct their State motor vehicle records should address requests to their respective States' motor vehicle licensing authorities.

c. The system manager, in accordance with 49 CFR 10.41, will provide written acknowledgement of the receipt of a request to amend a record to the individual within ten working days. If the request can be reviewed, processed, and the individual notified of compliance or denial of the request within the ten working day period, no acknowledgement is required.

d. When decision is made by the systems manager to comply with an individual's request to amend the person's record, the following steps will be taken within 30 working days from the date of acknowledgement of the request:

(1) Advise the individual of the decision in writing;

(2) Correct the record accordingly; and

(3) Advise all previous recipients of the record, if an accounting of disclosure has been made, of the correction.

e. When decision is made, after initial review by the systems manager of a request to amend a personal record, to disagree with all or any portion of the requested amendment, the following steps will be taken within 30 working days from the date of acknowledgement of the request.

(1) Advise the individual of refusal and the reasons therefore; and

(2) Inform the individual of the procedures for appeal to the NHTSA Administrator for further review.

f. If the individual disagrees with the initial determination of the system manager, the individual may file a request for further review of that determination. This request for review should be addressed to the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590.

g. If after review the Administrator agrees to the amendment of the record, the procedures of subparagraph 5.d. of this Appendix will be followed. If amendment of the record is refused as requested by the individual, the individual will be advised:

(1) Of the refusal and reasons therefore, and the names and titles of positions of each person responsible for the determination;

(2) Of the individual's right to file, together with the appropriate procedures, a concise statement of the reasons for disagreeing with the decision of the Administrator;

(3) Of the fact that the statement which is filed by the requester will be made available to prior recipients and anyone to whom the record is subsequently disclosed; and

(4) Of the individual's right to seek judicial review of the administrator's refusal to amend a record.

h. The final determination to refuse an individual's request for amendment of a record must be concluded within 30 working days after the receipt of the appeal to the Administrator. If a fair and equitable review cannot be completed by the stipulated time, the Administrator will inform the individual in writng of the reasons for delay and provide an estimated date on which completion of the review is expected.

6. *Personal Identification Requirements.* The NHTSA does not demand any personal identification beyond that specified by § 10.35 of this part.

APPENDIX H

URBAN MASS TRANSPORTATION ADMINISTRATION

1. *Introduction.* This Appendix, with respect to the Urban Mass Transportation Administration:

a. Describes the places and times at which records will be available for inspection and copying;

b. Indicates the systems of records maintained in the Urban Mass Transportation Administration;

c. Identifies the officials having authority to deny requests for access for records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 1035 of these regulations.

2. *Availability for Inspection and Copying.* In acordance with Title 49, Part 10, Subpart A, Section 10.1, dealing with the maintenance of and access to records pertaining to individuals under the Privacy Act of 1974 (Pub. L. 93–579), the following places and times at which individual's records will be available for inspection and copying, and the titles of the officials who are responsible systems managers are submitted.

a. Regional Offices as follows:

(1) Region I, Urban Mass Transportation Administration, Cambridge, MA 02142;

(2) Region II, Urban Mass Transportation Administration, New York, NY 10007;

(3) Region III, Urban Mass Transportation Administration, Philadelphia, PA 19106;

(4) Region IV, Urban Mass Transportation Administration, Atlanta, GA 30309;

(5) Region V, Urban Mass Transportation Administration, Chicago, IL 60606;

(6) Region VI, Urban Mass Transportation Administration, Ft. Worth, TX 76102;

(7) Region VII, Urban Mass Transportation Administration, Kansas City, MO 64131;

(8) Region VIII, Urban Mass Transportation Administration, Denver, CO 80202;

(9) Region IX, Urban Mass Transportation Administration, San Francisco, CA 94111; and

(10) Region X, Urban Mass Transportation Administration, Seattle, WA 98174.

b. Hours: 8:30 A.M. to 5 P.M., local time.

c. System of Records: Regional Personnel Convenience Files at each location.

d. Systems Manager: Regional Directors or Chiefs are Systems Managers

e. Headquarters: Urban Mass Transportation Administration, Washington Headquarters, Washington, D.C. 20590; Hours: 8:30 A.M. to 5 P.M.

3. *Systems of Records.*

a. Confidential Statement of Employment and Financial Interest—DOT/UMTA, Chief Counsel, Office of the Chief Counsel;

b. Occupational Safety and Health Reporting System, Director of Personnel Division;

c. Litigation and Claims File—Chief Counsel, Office of Chief Counsel;

d. Grant Applicants List, Director, Grant Management Division;

e. Contract Information System, Director, Procurement Division;

f. Unsolicited Research and Development Grants, Director, Grant Management Division;

g. Complaints if Discrimination, Director, Office of Civil Rights;

h. Employee Travel Vouchers, Chief, Accounting Branch;

i. Accounts Receivable Chief, Accounting Branch;

j. Equal Employment Opportunity, Minority/Female Statistical Reporting System, Director, Office of Civil Rights;

k. Minority Recruitment File, Director, Office of Civil Rights;

l. UMTA Sponsored Reports—Authors File, Director, Office of Transit Management;

m. Blood Donors File, Director, Administrative Services Division;

n. Approved Grants, Director, Administrative Services Division;

o. Closed-Out Grants, Director, Administrative Services Division; and

p. Docket DOT/UMTA, Chief Counsel, Office of Chief Counsel.

4. *Access to Records.* Each individual desiring to determine whether a record pertaining to him is contained in a system of records or to obtain a copy of such a record, shall make his request in writing to the official specified in paragraph 1 of this Appendix. Each request shall specify the name of the requesting individual and the system of records in which the subject record is located or thought to be located.

5. *Requests to Correct or Alter Records.*

a. The Administration will allow individuals to request amendment of their personal records to the extent that such amendment does not violate existing statutes, regulations, or administrative procedures. Requests to amend personal records of active employees should be addressed to the responsible system manager specified in paragraph 1.

b. The system managers will provide a written acknowledgement of the receipt of a request to amend a record to the individual within ten days. However, if the request can be reviewed, processed and the individual notified of compliance or denial within the ten-day working period, no separate acknowledgement is required.

c. If the Administration agrees with an individual's request to amend the person's record, the following steps will be taken:

(1) advise the individual in writing;

(2) correct the record accordingly; and

(3) advise all previous recipients of the record which was corrected of the correction and its substance.

d. If the Administration, after an initial review by the system manager of a request to amend a personal record, disagrees with all or any portion of it, the Administration will:

(1) advise the individual of refusal and the reasons for it; and

(2) inform the individual of procedures to request a further review.

e. If an individual disagrees with the initial determination, the individual may file a request for a further review of that determination. This request for a review should be addressed to: Privacy Act Officer, UAD–60, 400 Seventh Street SW., Washington, D.C. 20590.

f. If after this review the Administration refuses to amend the record as the individual requested, the Administration will advise the individual:

(1) of refusal and the reasons for it;

(2) of the individual's right to file a concise statement of the reasons for disagreeing with the decision of the Administration;

(3) the procedures for filing the statement of disagreement;

(4) that the statement which is filed will be made available to anyone to whom the record is subsequently disclosed; and

(5) of the individual's right to seek judicial review of the Administration's refusal to amend a record.

g. The final Administration determination on the individual's request must be concluded within 30 working days unless the UMTA Administrator determines that a fair and equitable review cannot be completed in that period. If additional time is required, the individual will be informed in writing of reasons for the delay and of the Administration's estimated date on which the review is expected to be completed.

h. For personnel related records final Civil Service Commission determination may apply within 30 working days following the procedures explained above.

6. *Personal Identification Requirements.*

a. Disclosure of personal records requires that the individual produce an identification card; employee identification, annuitant identification, Medicare card, or driver's license are examples. For records disclosed by mail, the Administration will require identifying information to locate the record, i.e., employee identification number, name, date of birth, or social security number. A comparison of the signature of the requester and those in the record will be used to determine identity.

b. If an individual can provide no suitable documents for identification, the Administration requires a signed statement asserting identity and stipulating that the individual understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of up to $5,000 under citation 3(i)3 of the Privacy Act.

APPENDIX I

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

1. *Introduction.* This Appendix, with respect to the Saint Lawrence Seaway Development Corporation:

a. Describes the places and times at which records will be available for inspection and copying;

b. Indicates the systems of records maintained;

c. Identifies the officials having authority to deny requests for access to records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 10.35 of these regulations.

2. *Availability for Inspection and Copying.* a. Place and time for records inspection and copying: Saint Lawrence Seaway Development Corporation, Administration Building, Andrews Street, Massena, New York 13662, Massena Office: 9:00 a.m.–4:00 p.m.

b. Systems of records located at each facility: *Administration Building:* Biographical Files, Claimants under Federal Tort Claims Act, Data Automation Program Records, Employees' Compensation Records, Personnel Convenience Files. *Operations Building:* Personnel Convenience Files. *Maintenance Building:* Personnel Convenience Files. *Office of Administrator:* Personnel Convenience Files.

c. Official having authority to deny requests for disclosure of records under this part:

Resident Manager, Saint Lawrence Seaway Development Corporation, Administration Building, Andrews Street, Massena, New York 13662.

3. *Systems of Records:* A complete listing of the systems of records maintained by the Saint Lawrence Seaway Development Corporation has been published in the FEDERAL REGISTER as follows:

a. August 27, 1975, pages 38887–38888

b. November 19, 1975, pages 53989–53990

4. *Access to Records:* Each individual desiring to determine whether a record pertaining to him is contained in a system of records or to obtain a copy of such record, shall make his request in writing to the address provided in Section 2 of this Appendix. Each request should specify the name of the requesting individual and the system of records in which the subject record is located or thought to be located.

5. *Requests to correct or alter a record:*

a. Any person who desires to have their own record corrected, shall submit a written request.

b. Only the individual to whom the record pertains may make the written request and it must be signed by that person.

c. Request should state the reasons the record should be corrected.

d. State that the request is made pursuant to the Privacy Act or mark Privacy Act Amendment Request on the envelope.

e. Requests for correction of records shall be submitted to the Personnel Officer, Saint Lawrence Seaway Development Corporation, Administration Building, Andrews Street, Massena, New York 13662.

6. *Personal identification requirements:* Refer to subsection 10.35 for normal requirements. In those cases involving mail requests for sensitive records, i.e.—medical records, the requestor's signature shall be notarized.

APPENDIX J

MATERIALS TRANSPORTATION BUREAU

The Materials Transportation Bureau requires only the general rules of Part 10 (49 CFR Part 10).

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

HEW/FDA—Estrogenic drug products; new specifications in product labeling. 37636; 7–22–77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

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presidential documents

Title 3—The President

PROCLAMATION 4520

General Pulaski's Memorial Day, 1977

By the President of the United States of America

A Proclamation

Exactly two centuries ago, in 1777, the Polish patriot Casimir Pulaski arrived on our shores to help secure the liberty of the American colonies.

In exile from his native land, he fought courageously at Brandywine and in other battles. He formed and commanded the Pulaski Legion, the famous cavalry unit which contributed valiantly to the achievement of our independence.

In October, 1779, General Pulaski died of wounds received in the siege of Savannah. In commemoration of his heroic sacrifice on behalf of American independence, our Nation has for generations paid grateful tribute to him and to the millions of Americans of Polish descent who have played a role of enduring significance in the life of our country.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate Tuesday, October 11, 1977, as General Pulaski's Memorial Day, and I direct the appropriate Government officials to display the flag of the United States on all Government buildings on that day.

I also invite the people of the United States to honor the memory of General Pulaski by holding appropriate exercises and ceremonies in suitable places throughout our land.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of September, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.

Jimmy Carter

[FR Doc.77-27401 Filed 9-16-77;2:56 pm]

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Memorandum of September 15, 1977

Designation of Senior Intergovernmental Officials in Federal Agencies

Memorandum for the Heads of Executive Departments and Agencies

THE WHITE HOUSE,
Washington, September 15, 1977.

To simplify the procedures of the Federal government and to make its programs more responsive to public needs, I have asked the head of each Federal agency having extensive contact with State and local leaders to designate a senior official for liaison with them in the development of policy. These intergovernmental officials are listed at the end of this notice.

I have also asked the agency heads to ensure that these officials respond to matters referred to them within two weeks. If a problem cannot be solved in this two week period, I have asked that the response indicate a definite plan of action and a timetable for reaching a resolution. State and local governments should, of course, direct their questions about pending applications to the appropriate grants offices and should take reasonable steps to resolve all questions at that level before enlisting the aid of the intergovernmental officials.

Where intergovernmental officials find that a problem raised by a grantee requires a decision by more than one Federal department, it is their responsibility to contact the other agencies to reach a decision. Matters that cannot be resolved at this level will be referred to Under Secretaries.

I invite comments and suggestions for improving this process; these should be sent to my Assistant for Intergovernmental Relations, Jack Watson, at the White House, Washington, D.C. 20500; telephone (202) 456–2335.

This document shall be published in the FEDERAL REGISTER.

Jimmy Carter

ACTION

For contacts with State and local officials:

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Donald Green
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For contacts with public interest groups and matters requiring interagency cooperation:

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NOTE: As of October 1, ERDA will become part of the Department of Energy. That department will appoint intergovernmental liaison officers in accordance with this notice.

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NOTE: As of October 1, FEA will become part of the Department of Energy. That department will appoint intergovernmental liaison officers in accordance with this notice.

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 4—Accounts

CHAPTER I—GENERAL ACCOUNTING OFFICE

SUBCHAPTER A—GENERAL PROCEDURES

PART 6—CODE OF ETHICS

Including Employee Responsibilities and Conduct

AGENCY: General Accounting Office.

ACTION: Final rule.

SUMMARY: This rule revises Part 6 to prescribe a code of ethics and standards of conduct and responsibilities for employees of the U.S. General Accounting Office. It is intended to strengthen safeguards for preventing conflicts of interest and thereby maintain GAO's reputation for integrity and objectivity in carrying out its mission.

EFFECTIVE DATE: September 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles O. Magnetti, Deputy Director, Office of Personnel Development and Services, General Accounting Office, Washington, D.C. 20548 (202-275-5540).

SUPPLEMENTARY INFORMATION: Government service requires unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees. This assures the proper performance of Government business and confidence in the Government on the part of the citizens.

Over the years, the General Accounting Office has achieved a reputation for integrity and objectivity in carrying out its mission. All employees of GAO have a stake in maintaining this reputation. This revision of Part 6 is primarily an effort to strengthen our safeguards for preventing financial conflicts of interest.

Each employee has an obligation to apprise his supervisor of any circumstances which, because of a personal or private situation—financial or otherwise—could create an appearance of our being less than objective when involved in our work. There are many types of relationships which need to be considered in addition to financial interests. Among these are close relatives and friends, organizational affiliations, debtor-creditor relationships, directorships and memberships in organizations, and many other situations which might lead to charges of bias or favoritism.

Each supervisor has a responsibility to determine any relationships which could place a staff member in a conflict-of-interest or potential conflict-of-interest situation. The supervisor shall take the initiative in such situations to remove the employee from the work situation involved or otherwise eliminate the conflict of interest or apparent conflict of interest.

This part requires many employees and special Government employees to submit confidential statements of employment and financial interests to a designated reviewing official. These statements will then be reviewed to determine whether such employment or financial interests conflict with assigned duties. In addition to this requirement, each employee and special Government employee has a continuing obligation to report any situation which may involve him in a conflict of interest or apparent conflict of interest. The submission of a statement of employment and financial interests in no way relieves an employee or special Government employee from this latter responsibility.

Accordingly, 4 CFR Part 6 is revised to read as follows:

Subpart A—Purpose and General Information

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6.1 Purpose, scope, and applicability.
6.2 Forms.
6.3 Definitions.
6.4 Standards of conduct for Government service.
6.5 General policy on conduct for GAO employees.
6.6 Proscribed actions.
6.7 Interpretation and advisory service—Ethics counselor.
6.8 Appointment of deputy ethics counselors.
6.9 Compliance.
6.10 Disciplinary and other remedial action.
6.11 Effecting disciplinary and remedial action.
6.12 Access to pertinent laws and related materials.
6.13 Miscellaneous statutory provisions.

Subpart B—Policy Pertaining to Gifts, Entertainment, and Favors

6.14 When an employee shall not accept gifts, entertainment, and favors.
6.15 Permissible gifts, entertainment, and favors.
6.16 Gifts to superiors.
6.17 Gifts and decorations from foreign Governments.
6.18 Reimbursement of travel and living expenses.

Subpart C—Miscellaneous Prohibited Practices

6.19 Indebtedness of employees.
6.20 Gambling, betting, and lotteries.
6.21 Use of Government property.
6.22 Misuse of information.
6.23 Prohibited financial interests.
6.24 Bribery, graft, and conflicts of interest.
6.25 Nondisqualifying interests.
6.26 General conduct prejudicial to the Government.

Subpart D—Employment Outside the General Accounting Office

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6.27 Policy.
6.28 Engaging in teaching, lecturing, and writing.
6.29 Permissible participation by employees.
6.30 Criteria for considering outside employment.
6.31 Requesting permission to engage in outside employment.
6.32 The head of division or office will evaluate executed GAO Form 256 and make recommendations.
6.33 Review by the Director, OPDS.
6.34 Expiration of permission for outside employment.
6.35 Permission applies only to a specific request to engage in outside employment.
6.36 Prohibited practices.
6.37 Employees in grade GS-13 and above.
6.38 When an employee desires to engage in income tax work.

Subpart E—Instructions Governing Ethical and Other Conduct and Responsibilities of Special Government Employees

6.39 Use of Government employment.
6.40 Use of inside information.
6.41 Teaching, lecturing, and writing.
5.42 Coercion.
6.43 Gifts, entertainment, and favors.
6.44 Miscellaneous statutory provisions.

Subpart F—Prohibited Activities by Former Employees

6.45 Prohibited activity at any time after termination of Government employment.
6.46 Prohibited activity for 1 year after termination of Government employment.

Subpart G—Disqualification Procedures for Avoiding Conflicts of Interest in Connection With Assignments

6.47 Definitions.
6.48 Prohibitions.
6.49 Committee on ethics and conflicts of interest.
6.50 Disqualification procedure.

Subpart H—Confidential Statements of Employment and Financial Interests

6.51 Purpose of the submission.
6.52 Effect of disqualifications, statements, and certifications on other requirements.
6.53 Employee's complaint about filing requirement.
6.54 Those who are required to submit confidential statements of employment and financial interests.
6.55 When to submit initial statements.
6.56 To whom to submit statements (reviewing officials).
6.57 Additional statements.
6.58 Additional information about the contents of statements.
6.59 Review of statements by reviewing officials.
6.60 No conflict of interest or apparent conflict of interest.
6.61 Retention and inspection of statements.
6.62 Findings of conflict of interest.
6.63 Remedial action.

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6.64 Request for reconsideration of decisions.
6.65 Access to statements and documents.
6.66 Those who are not required to submit statements.
6.67 Responsibilities in connection with the submission of statements.
6.68 Personal copies of statements.

AUTHORITY: Sec. 311, 42 Stat. 25, as amended (31 U.S.C. 52, interpret to apply 18 U.S.C. 201–218).

§ 6.1 Purpose, scope, and applicability.

This part sets forth the code of ethics of the U.S. General Accounting Office (GAO) and the policies which prescribe standards of conduct and responsibilities for its employees and special Government employees.

§ 6.2 Forms.

This part prescribes:

(a) GAO Form 256, Request for Permission to Engage in Outside Employment.

(b) GAO Form 310, Confidential Statement of Employment and Financial Interests (For Use by Employees).

(c) GAO Form 311, Confidential Statement of Employment and Financial Interests (For Use by Special Government Employees).

(d) GAO Form 523, Certification of Review of Confidential Statement of Employment and Financial Interests for a Special Government Employee and Finding of No Conflicts of Interest.

§ 6.3 Definitions.

In this part:

(a) "Employee" means an officer or employee of GAO other than a special Government employee.

(b) "Special Government employee" means—

(1) An officer or employee who is retained, designated, appointed or employed to perform, with or without compensation, for a period not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis (18 U.S.C. 202);

(2) An officer or employee whose intermittent appointment—described in paragraph (b)(1) of this section—is converted to a temporary appointment, thus allowing him to work for up to 1 year, beginning with the date upon which his intermittent appointment began; and

(3) Experts and consultants appointed under section 401, Pub. L. 93–604 and section 702(a), Pub. L. 99–344.

(c) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(d) "Former employee" means a former GAO employee or former special Government employee as defined in paragraph (b) of this section. (Special provisions relating to former employees are discussed in Subpart F of this part.)

(e) Words importing the masculine gender include the feminine as well, and words importing the plural include the singular.

§ 6.4 Standards of conduct for Government service.

The Government service requires the maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by employees and special Government employees, to assure the proper performance of Government business and the maintenance of confidence by citizens in their Government. This is especially true of service in GAO because of the unique functions and special trust placed upon GAO. GAO employees and special Government employees are therefore expected and required to exercise informed judgments to avoid misconduct.

§ 6.5 General policy on conduct for GAO employees.

The personal demeanor of employees of GAO is subject to the closest public and official scrutiny, and as representatives of GAO they are judged by their personal associates and activities as well as by their official actions and conduct. In all their dealings employees of GAO shall so conduct themselves as to permit no reasonable basis for suspicion of unethical conduct or practices. The obligation to protect fully the interests of the Government as a whole and GAO as an agency of the Congress, demands the avoidance of circumstances which invite conflict between self-interest and the integrity of employment with GAO. Loyalty to GAO and its programs and purposes is a necessary attribute.

§ 6.6 Proscribed actions.

An employee shall avoid any action, whether or not specifically prohibited by this part, which might result in, or create the appearance of:

(a) Using public office for private gain;

(b) Giving improper preferential treatment to any person;

(c) Impeding Government efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a Government decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of the Government or its operations.

§ 6.7 Interpretation and advisory service—ethics counselor.

The General Counsel, with the approval of the Comptroller General, shall designate an ethics counselor for GAO. An important responsibility of the ethics counselor shall be to keep abreast of developments in the field of conflicts of interest and to give advice and counsel, on conflicts-of-interest matters, to reviewing officials, employees, and special Government employees. He shall also provide counsel and interpretations on questions of conflicts-of-interest matters covered by this part, to deputy ethics counselors designated under § 6.8.

§ 6.8 Appointment of deputy ethics counselors.

Subject to the approval of the Comptroller General, the ethics counselor, named under § 6.7 may designate, when appropriate and needed, deputy ethics counselors to assist GAO employees and special Government employees. Deputy ethics counselors designated under this section shall be qualified and in a position to give authoritative advice and guidance to employees and special Government employees on conflicts-of-interest questions.

§ 6.9 Compliance.

The heads of divisions and offices shall be responsible for assuring that this order is fully complied with in their respective divisions or offices. Except as otherwise specifically provided for in this part, any matter coming within the provisions of this part—arising in GAO—will be referred immediately, by the head of the division or office or other official concerned, to the Director, Office of Personnel Development and Services (OPDS), for appropriate disposition.

§ 6.11 Effecting disciplinary and remedial action.

A violation of any of these regulations by an employee or special Government employee may be cause for appropriate disciplinary action, which may be in addition to any penalty prescribed by law.

§ 6.11 Effecting disciplinary and remedial action.

Remedial action, whether disciplinary or otherwise, shall be effected in accordance with applicable laws and regulations.

§ 6.12 Access to pertinent laws and related materials.

Copies of pertinent laws; Executive Order No. 11222, as amended; GAO orders; and Civil Service regulations and instructions relating to ethical and other conduct will be made available upon request by employees and special Government employees. Requests should be directed to the Director, Office of Personnel Development and Services, room 7830, GAO Building.

§ 6.13 Miscellaneous statutory provisions.

Each employee will acquaint himself with each statute that relates to his ethical and other conduct as an employee of GAO, with particular reference to the following:

(a) House Concurrent Resolution 175, 85th Congress, 2d Session, 72 Stat. B12, Gode Ethics for Government Service.

(b) The prohibition against bribery of public officials (18 U.S.C. 201) which imposes a maximum penalty of a $20,000 fine or three times the money or thing received, whichever is greater; 15 years' imprisonment; or both; and removal.

(c) The prohibition against receiving compensation for claims, contracts, etc. (18 U.S.C. 203), which imposes a maximum penalty of a $10,000 fine; 2 years' imprisonment; or both; and removal.

(d) The prohibition against prosecuting claims against and other matters affecting the Government (18 U.S.C. 205), which imposes a maximum penalty of a $10,000 fine; 2 years' imprisonment; or both.

(e) The prohibition against prosecuting claims, involving matters connected with former duties—disqualification of partners (18 U.S.C. 207), which imposes a maximum penalty of a $10,000 fine; 2 years' imprisonment; or both.

(f) The prohibition against an employee or special Government employee acting or participating in any matter in which he, his immediate family, his partner, or an organization with which he is connected or is seeking employment has a financial interest (18 U.S.C. 208), which imposes a maximum penalty of a $10,000 fine; 2 years' imprisonment; or both.

(g) The prohibition against an employee receiving salaries or contributions from other than Government sources for his Government services (18 U.S.C. 209), which imposes a maximum penalty of a $5,000 fine; 1 year's imprisonment; or both.

(h) The prohibition against acceptance or solicitation of anything of value to obtain public office for another (18 U.S.C. 211) which imposes a maximum penalty of a $1,000 fine; 1 year's imprisonment; or both.

(i) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913) which imposes a maximum penalty of a $500 fine; 1 year's imprisonment; or both; and removal.

(j) The prohibition against disloyalty and striking (5 U.S.C. 7311, and 18 U.S.C. 1918), which imposes a maximum penalty of a $1,000 fine; 1 year and a day's imprisonment; or both; and removal.

(k) The prohibition against employment of a member of a Communist organization (50 U.S.C. 784) which imposes a maximum penalty of a $10,000 fine; 5 years' imprisonment; or both; and removal.

(l) The prohibition against disclosure of classified information (18 U.S.C. 798), which imposes a maximum penalty of a $10,000 fine; 10 years' imprisonment; or both.

(m) The prohibition against disclosure of confidential information (18 U.S.C. 1905), which imposes a maximum penalty of a $1,000 fine; 1 year's imprisonment; or both; and removal.

(n) The prohibition against habitual use of intoxicants to excess (5 U.S.C. 7352), which imposes a maximum penalty of removal.

(o) The prohibition against the misuse of Government vehicles (31 U.S.C. 638a(c)), which imposes a maximum penalty of removal.

(p) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719), which imposes a maximum penalty of a $300 fine.

(q) The prohibition against deceit in examination or personnel action (18 U.S.C. 1917), which imposes a maximum penalty of a $1,000 fine; 1 year's imprisonment; or both.

(r) The prohibition against fraud and false statement (18 U.S.C. 1001), which imposes a maximum penalty of a $10,000 fine; 5 years' imprisonment; or both.

(s) The prohibition against mutilating or destroying public records (18 U.S.C. 2071), which imposes a maximum penalty of a $2,000 fine; 3 years' imprisonment; or both; and removal.

(t) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508), which imposes a maximum penalty of a $5,000 fine; 10 years' imprisonment; or both.

(u) The prohibition against embezzlement and theft of Government money, property, or records (18 U.S.C. 641), which imposes a maximum penalty of a $10,000 fine; 10 years' imprisonment; or both.

(v) The prohibition against failure to account for public money (18 U.S.C. 643), which imposes a maximum penalty of a fine equal to the amount embezzled; imprisonment not more than 10 years; or both.

(w) The prohibition against wrongfully converting property of another (18 U.S.C. 654), which imposes a fine equal to the amount embezzled; imprisonment not more than 10 years; or both.

(x) The prohibition against unauthorized use of documents relating to duties (18 U.S.C. 285), which imposes a maximum penalty of a $5,000 fine; 5 years' imprisonment; or both.

(y) The prohibition against political activity (5 U.S.C. 7323, 7324, and 7325), which imposes a maximum penalty of removal.

(z) The prohibition against solicitation of political contributions (18 U.S.C. 602), which imposes a maximum penalty of a $5,000 fine; 3 years' imprisonment; or both.

(aa) The prohibition against solicitation of political contributions in Federal buildings (18 U.S.C. 603), which imposes a maximum penalty of a $5,000 fine; 3 years' imprisonment; or both.

(bb) The prohibition against making political contributions through a Government employee or Senator or Representative (18 U.S.C. 607), which imposes a maximum penalty of a $5,000 fine; 3 years' imprisonment; or both.

(cc) The prohibition limiting political contributions and purchases (18 U.S.C. 608), which imposes a maximum penalty of a $25,000 fine; 1 year's imprisonment; or both.

(dd) The prohibition against an employee acting as an agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219), which imposes a maximum penalty of a $10,000 fine; 2 years' imprisonment; or both.

(ee) The prohibition against the employment of a person convicted of participating in or promoting a riot or civil disorder (5 U.S.C. 7313).

(ff) The prohibition against knowingly disclosing information pursuant to the exercise of responsibilities or authorities relating to geological or geophysical information which imposes civil and criminal penalties (42 U.S.C. 6382(e)(2)).

Subpart B—Policy Pertaining to Gifts, Entertainment, and Favors

§ 6.14 When an employee shall not accept gifts, entertainment, and favors.

Except as provided in §§ 6.15 and 6.18 an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

(a) Has, or is seeking to obtain, contractual or other business or financial relations with the Federal Government;

(b) Conducts operations or activities that are subject to audit, investigation, decision or regulation by GAO; or

(c) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duty.

§ 6.15 Permissible gifts, entertainment, and favors.

Despite the limitations established by § 6.14, the following exceptions are made:

(a) A gift, gratuity, favor, entertainment, loan, or other similar favor of monetary value may be accepted by the employee when it or they stem from a family relationship, such as that between the employee and his parents, children, or spouse, and when the circumstances make it clear that it is that relationship which is the motivating factor.

(b) Food and refreshments of nominal value may be accepted on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting, or on an inspection tour where the employee may properly be in attendance.

(c) Loans from banks and other financial institutions may be accepted on customary terms to finance the proper and usual activities of employees, such as home mortgage loans.

(d) Unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars and other items of nominal intrinsic value may be accepted.

§ 6.16 Gifts to superiors.

An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift presented by an employee receiving less pay than himself (5 U.S.C. 7351).

§ 6.17 Gifts and decorations from foreign governments.

(a) An employee may not request or otherwise encourage the tender of a gift or decoration from a foreign government or an official thereof.

(b) An employee may accept: (1) A gift of minimal value tendered or received as a souvenir or mark of courtesy;

(2) A gift of more than minimal value when it appears that to refuse the gift would be likely to cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States. However, a gift of more than minimal value is deemed to have been accepted on behalf of the U.S. Government and must be deposited with the Chief of Protocol of the Department of State for disposal. (A gift of minimal value is defined as "any present or other thing, other than a decoration, which has a retail value not in excess of $50 in the United States.")

(c) An employee may accept, retain and wear a decoration tendered in recognition of active field service in time of

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combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the Comptroller General and the concurrence of the Secretary of State.

(d) Members of an employee's family and household are also subject to the regulations contained in this section. A member of an employee's family and household is defined as "a relative by blood, marriage, or adoption who is a resident of the household."

§ 6.18 Reimbursement of travel and living expenses.

(a) Neither § 6.14, nor § 6.27, precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part when not engaged on official business. However, this section does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits.

(b) When traveling on official business, no reimbursement may normally be accepted from private sources. If an employee is authorized by GAO to participate in the activities of a professional organization and the authorized per diem is insufficient to cover his expenses, he shall not accept reimbursement for all or part of the expenses incurred while he was on duty as a Government employee. The employee may either take annual leave while participating and accept reimbursement from the professional organization or pay the difference out of his pocket.

(c) Notwithstanding this section, the requirements relating to the acceptance of contributions and awards, travel, subsistence and other expenses in section 4111, title 5, United States Code, and the regulations thereunder in the Federal Personnel Manual, Supplement 990–1, Book III, Part 410, Subpart G, continue to apply. While this provision in chapter 41 of title 5 generally deals with the training of Federal employees, GAO has held that it is the statutory authority for employees to receive contributions for travel and subsistence from tax-exempt organizations described in 26 U.S.C. 501 (c)(3) incident to attendance at meetings. (See 49 Comp. Gen. 572 (1970).)

Subpart C—Miscellaneous Prohibited Practices

§ 6.19 Indebtedness of employees.

(a) *An Employee Is Expected To Manage Just Financial Obligations in a Proper Manner.* An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purposes of this paragraph, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court or one imposed by law such as Federal, State, or local taxes; "in a timely manner" means in a manner in which GAO determines does not, under the circumstances, reflect adversely on the Government as his employer. In the event of a dispute between an employee and an alleged creditor, this section does not require the agency to determine the validity or amount of that disputed debt. GAO is interested when one of its employees is involved in a bankruptcy proceeding; however, this remedy is available to employees on the same basis as it is to all citizens.

(b) *Reports on Indebtedness.* While GAO will not become a collection agency for private creditors of an employee, each complaint of nonpayment of a debt will be referred to the employee concerned, and the employee will be requested to report, in writing, what he proposes to do about the debt.

(c) *Garnishment of Government Salaries.* The Government salaries of GAO employees are subject to garnishment for the following purposes:

(1) Payment of delinquent Federal income taxes (26 U.S.C. 6331).

(2) Legal obligation to provide child support (section 459 of Pub. L. 93–647, enacted January 4, 1975, 88 Stat. 2357).

(3) Legal obligation to make alimony payments (section 459 of Pub. L. 93–647, enacted January 4, 1975, 88 Stat. 2357).

§ 6.20 Gambling, betting, and lotteries.

An employee shall not participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

§ 6.21 Use of Government property.

An employee shall not directly or indirectly use or allow the use of Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him.

§ 6.22 Misuse of information.

For the purpose of furthering a private interest, an employee shall not, except as provided in § 6.28, directly or indirectly use or allow the use of official information obtained through or in connection with his Government employment which has not been made available to the general public.

§ 6.23 Prohibited financial interests.

An employee shall not: (a) Have a direct or indirect financial interest that conflicts substantially or appears to conflict substantially with his Government duties and responsibilities;

(b) Engage in, directly or indirectly, a financial transaction as a result or primarily relying on information obtained through his Government employment.

§ 6.24 Bribery, graft, and conflicts of interest.

An employee shall not engage in acts prohibited by chapter 11 of title 18, United States Code, relating to bribery, graft, and conflicts of interest as appropriate to the employee concerned. Three of the more important "conflict of interest" provisions are summarized as follows:

(a) An employee may not, except as provided by law for the proper discharge of his official duties, ask or seek any compensation for services by him or another in connection with any proceeding, request for a ruling, or other determination before any Government agency or officer in which the United States is a party or has a direct and substantial interest (18 U.S.C. 203)

(b) An employee may not, except in the discharge of his official duties, represent anyone else (with or without compensation) before a court or Government agency in a matter in which the United States is a party or has a direct or substantial interest. However, this does not prevent an employee, if not inconsistent with the faithful performance of his duties, from acting without compensation as agent or attorney for any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings (18 U.S.C. 205).

(c) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his services to the Government (18 U.S.C. 209).

§ 6.25 Nondisqualifying interests.

This part does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by applicable law or regulations.

§ 6.26 General conduct prejudicial to the Government.

An employee shall not engage in criminal, infamous, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government, nor shall he conduct himself in such a manner as to give rise to a reasonable belief that he is engaging in criminal, infamous, immoral, or notoriously disgraceful conduct.

Subpart D—Employment Outside the General Accounting Office

§ 6.27 Policy.

An employee shall not engage in outside employment or other activity, for or without compensation, not compatible with the full and proper discharge of the duties and responsibilities of his Government employment. Incompatible activities include but are not limited to:

(a) Acceptance of a fee, compensation, gift, payment of an expense, or any other thing of monetary value in circumstances in which acceptance may result in or create the appearance of a conflict of interest.

(b) Outside employment which tends to impair his mental or physical capacity to perform his Government duties and responsibilities in an acceptable manner; or

(c) Outside employment or activity that is likely to result in criticism of, or cause embarrassment to, GAO.

§ 6.28 Engaging in teaching, lecturing, and writing:

Employees may (subject to the provisions of § 6.29(c)) engage in teaching, lecturing, and writing that is not prohibited by law, regulations, or order. An employee shall not, however, either for or without compensation, engage in teaching, lecturing, or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Civil Service Commission or Board of Examiners for the Foreign Seervice, that depends on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the Comptroller General gives written authorization for the use of nonpublic information on the basis that such use is in the public interest. In addition, the Comptroller General shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance, the subject matter of which is devoted substantially to the responsibilities, programs, or operations of GAO, or which draws substantially on official data or ideas which have not become part of the body of public information.

§ 6.29 Permissible participation by employees.

This order does not preclude an employee from:

(a) Participation in the activities of national or State political parties not prohibited by law.

(b) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement, given by a charitable, religious, professional, social, fraternal, nonprofit, educational and recreational, public service, or civic organization.

(c) Outside employment when permission has been granted in advance by the Director, OPDS, or his designee, and the employee has been notified in writing of the approval. This permission will be granted in accordance with the policies, procedures, and limitations set forth in this part.

§ 6.30 Criteria for considering outside employment.

In considering requests for outside employment, the following criteria will be applied:

(a) The provisions of applicable law.

(b) The policies incorporated in this order including the possibility of conflicts of interest.

(c) The general attendance record of the employee.

(d) The nature of his official duties in relation to the nature of the duties which will comprise the outside employment.

(e) The financial need or other justification for such outside employment.

(f) The amount of time and hours of work required by the outside employment.

§ 6.31 Requesting permission to engage in outside employment.

An employee will request permission to engage in outside employment by executing, in full, GAO Form 256, Request for Permission to Engage in Outside Employment, and forwarding it through his immediate supervisor to the head of his division or office.

§ 6.32 The head of division or office will evaluate executed GAO Form 256 and make recommendations.

The head of the employee's division or office will, upon receipt of a fully executed GAO Form 256, evaluate the request in the light of existing law, policies, and regulations provided by this part. Should the request be found proper and in the best interests of GAO and not in violation of law, policies, and regulations, the head of the division or office will transmit the request with his favorable recommendation to the Director, OPDS, or his designee. If the head of the employee's division or office finds otherwise, he will recommend that the request be denied, record his reasons, and transmit the request and related papers to the Director, OPDS, or his designee.

§ 6.33 Review by the Director, OPDS.

The Director, OPDS, or his designee shall review requests to engage in outside employment, including the recommendation of the head of the division or office involved, for the proper, fair, and uniform application of this part. If the head of the division or office involved, and the Director, OPDS, or his designee, agree, the request may be officially approved or disapproved and the employee shall be notified. If they do not agree, the request and all recommendations shall be submitted to the Director of Management Services for ultimate determination. (If the employee is one who reports to the Director of Management Services, the request and all recommendations shall be submitted to the Deputy Comptroller General for ultimate determination.) The Director of Management Services (or the Deputy Comptroller General, if appropriate) shall thereupon consider the entire record, make the final determination, and cause the employee to be notified.

§ 6.34 Expiration of permission for outside employment.

Grants of permission to engage in outside employment will normally expire 3 calendar years from the date of the last issue, unless sooner revoked or modified. Permission, to engage in outside employment, which is about to expire will be considered for renewal upon receipt of a request on GAO Form 256. Procedures for renewal will be the same as those for an original application and should be made, if continuity of permission is desired, from 30 to 60 days before the expiration of the current permission.

§ 6.35 Permission applies only to a specific request to engage in outside employment.

Permission to engage in outside employment extends only to the specific employment described in the request considered. New requests must be made in writing in accordance with these procedures to cover any changes or modifications in outside employment.

§ 6.36 Prohibited practices.

Prohibited practices are stated below:

(a) An employee with permission to engage in outside employment will not hold himself out to the public as an attorney, accountant or other professional practitioner by such means as:

(1) Placing his name on an office door;

(2) Having his name listed in the classified section of the telephone directory; or

(3) Using business stationery with his name on letterheads or envelopes.

(b) Permission to engage in outside employment will not be granted for the purpose of representing clients in court or before Government agencies except in rare cases (when not prohibited by law) when permission may be granted for specific appearances.

(c) An employee may not use his employment with GAO as a means of soliciting or obtaining outside employment.

(d) An employee may not engage in outside employment while he is on sick leave from his duties. Deviations from this policy may be permitted in rare instances when prior approval is obtained from the Director, OPDS, upon a favorable recommendation from the head of the division or office involved.

§ 6.37 Employees in grade GS–13 and above.

Employees in grade GS–13 and above will not normally be given permission to engage in outside employment except as provided in § 6.28. Exceptions will be made for good and sufficient reasons, such as where a critical need exists for addition income by the employee or where the employment is found to be in the public interest in terms of opportunity for valuable experience, beneficial both to the employee and to GAO. Each request for an exception under this section shall be in sufficient detail to permit a judgment that is merited. If an exception is made for employees in grade GS–13 and above, permission will be granted for 1-year intervals.

§ 6.38 When an employee desires to engage in income tax work.

An employee may be permitted to engage in income tax work and to sign income tax returns as a preparer provided:

(a) The taxpayer has no Government contracts and has no business with the U.S. Government;

(b) The employee does not in any manner intercede with or appear for the taxpayer before the Internal Revenue

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Service, the courts, or other Government body;

(c) The employee is not engaged in the audit of the Internal Revenue Service by GAO.

Subpart E—Instructions Governing Ethical and Other Conduct and Responsibilities of Special Government Employees

§ 6.39 Use of Government employment.

A special Government employee shall not use his Government employment for a purpose that is or gives the appearance of being motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business, or financial ties.

§ 6.40 Use of inside information.

A special Government employee shall not use inside information obtained as a result of his Government employment for private gain for himself or another person either by direct action on his part or by counsel, recommendation, or suggestion to another person, particularly one with whom he has family, business, or financial ties. For the purposes of this section, "inside information" means information obtained by reason of his Government employment which has not become part of the body of public information.

§ 6.41 Teaching, lecturing, and writing.

A special Government employee may, without prior approval, teach, lecture, or write in a manner not otherwise inconsistent with § 6.22.

§ 6.42 Coercion.

A special Government employee shall not use his Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business, or financial ties.

§ 6.43 Gifts, entertainment, and favors.

Except as provided in § 6.15 (as in the case of employees), a special Government employee, while so employed or in connection with his employment, shall not receive nor solicit, either for himself or another person, particularly one with whom he has family, business, or financial ties, anything of value as a gift, gratuity, loan, entertainment, or favor from a person who:

(a) Has, or is seeking to obtain, contractual or other business or financial relations with GAO;

(b) Has interests which may be substantially affected by the performance or nonperformance of his official duties.

§ 6.44 Miscellaneous statutory provisions.

Each special Government employee shall acquaint himself with each statute that relates to his ethical and other conduct as a special Government employee of GAO and the Government, with particular reference to the statutes cited in § 6.13 and the following:

(a) A special Government employee may not, otherwise than as provided by law for the proper discharge of his official duties, receive or agree to receive or solicit any compensation for any services by himself or another; and may not, except in the proper discharge of his duties, represent or assist anyone, with or without compensation, before a department, agency, court, court-martial, officer, or any civil, military, or naval commission, in connection with a particular matter in which the United States is a party or has a direct or substantial interest: *Provided, however,* That these restrictions apply to a special Government employee only in relation to a particular matter involving a specific party or parties—

(1) In which he has at any time participated personally and substantially as a Government employee or special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or

(2) Which is pending in the department or agency of the Government in which he is serving, except that this provision (§ 6.44(a)(2)) shall not apply when he has served in such department or agency no more than 60 days during the immediately preceding period of 365 consecutive days. He is bound by the restraint of this provision (§ 6.44(a)(2)) despite the fact that the matter is not one in which he has ever participated personally and substantially (18 U.S.C. 203 and 205).

(b) A special Government employee shall not participate in his Government capacity in any matter in which to his knowledge he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest (18 U.S.C. 208), unless the special Government employee first obtains written approval as provided in § 6.50 (c)(2).

(c) After his Government employment had ended, a special Government employee is subject to the prohibition pertaining to a "former employee" in matters connected with his former duties (18 U.S.C. 207).

Subpart F—Prohibited Activities by Former Employees

§ 6.45 Prohibited activity at any time after termination of Government employment.

A former employee shall not at any time after his Government employment has ended, knowingly represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

§ 6.46 Prohibited activity for 1 year after termination of Government employment.

For 1 year after his Government employment has ended, a former employee shall not appear personally before any court or Government agency as agent or attorney for anyone other than the Government in connection with a matter in which the Government is a party or has a substantial interest and which was under his official responsibility as an employee of the Government at any time during the last year of his Government employment (18 U.S.C. 202(b) and 207(b)).

Subpart G—Disqualification Procedures for Avoiding Conflicts of Interest in Connection With Assignments

§ 6.47 Definitions.

The following definitions shall apply in Subparts G and H:

(a) A "conflict of interest" exists whenever a private interest (financial, personal, or one resulting from non-Government employment) of an employee or special Government employee might cause him (1) to perform his official duties in a way other than he would have if he did not have the private interests, or (2) to use information gained through his official duties for his personal benefit.

(b) An "apparent conflict of interest" exists whenever a reasonable person might suspect that a private interest (financial, personal, or one resulting from non-Government employment) of an employee or special Government employee might cause him (1) to perform his official duties in a way other than he would have if he did not have the private interest, or (2) to use information gained through his official duties for his personal benefit.

(c) "Financial interest" means:

(1) Interest in a corporation, company, firm, mutual fund or other business enterprise, partnership, nonprofit organization, and educational or other institution, through ownership of stock, stock options, bonds, securities, or other arrangements including trusts; or

(2) A continued interest in one of the entities listed above through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional association.

(d) A "close relative" means a spouse, parent, son, daughter, brother, or sister while members of the immediate household. However, employees should be sensitive to the fact that other distant relationships, not members of the immediate household, may create a conflict of interest or apparent conflict of interest, depending on such factors as the personal relationship of the employee and the distant relative, the amount of financial interest owned by the relative, and/or the importance of the position held by the relative in relation to the subject matter of the assignment.

(e) "Employment" means connections with a corporation, company, firm, partnership, or other business enterprise; nonprofit organization; or educational or other institution as an employee, owner, director, member, trustee, partner, advisor, or consultant.

(f) "Reviewing officials" are defined as those officials to whom employees and special Government employees shall submit their statements in accordance with § 6.56.

§ 6.48 Prohibitions.

(a) An employee or special Government employee shall not participate in any GAO assignment in which he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest, with the following exception: If the employee first obtains written approval as provided in § 6.50(c)(2).

(b) The basic responsibility for avoiding conflicts and apparent conflicts of interest rests with employees and special Government employees. The submission of a confidential statement of employment and financial interests in no way relieves them or their obligation to disqualify themselves whenever their assignments conflict with a financial or personal interest, including one derived from non-Government employment. This is particularly true with respect to personal interests which involve situations which are not reported in a confidential statements of employment and financial interests.

§ 6.49 Committee on Ethics and Conflicts of Interest.

(a) *Purpose of the committee.* The Committee on Ethics and Conflicts of Interest (Committee) is established and delegated authority to make determinations for the Comptroller General in cases submitted by reviewing officials: (1) In doubtful cases of conflicts of interest or apparent conflicts of interest, and (2) as to whether conflicts of interest or apparent conflicts of interest are or are not so substantial as to affect or give the appearance of affecting the integrity of the services which the Government may expect of the employee or special Government employee, pursuant to 18 U.S.C. 208.

(b) *Committee composition.* This Committee shall be comprised of 5 voting members:

(1) *Permanent members.* (i) The General Counsel for the General Accounting Office, Charpersion;

(ii) The Director of Management Services; and

(iii) The Director, Field Operations Division.

(2) *Rotating members.* Two other members on a rotating basis as appointed by the Comptroller General.

§ 6.50 Disqualification procedure.

(a) Whenever an employee or special Government employee finds that an assignment involves him or may involve him in a conflict of interest or an apparent conflict of interest, the employee shall submit the details of the case, in writing, to the appropriate reviewing official and shall be considered disqualified from the assignment in question until the matter is resolved. These details shall include a description of: The interest concerning which a conflict of interest or apparent conflict of interest exists, the duties including the assignment of the employee or special Government employee, and the nature of the conflict of interest or apparent conflict of interest.

(b) Upon receiving the submission from the employee or special Government employee, the reviewing official shall develop any additional information about the case which he deems necessary and may consult with the ethics counselor for GAO. If there is no conflict of interest or apparent conflict of interest, the reviewing official will notify the employee or special Government employee, in writing, that he may participate in the assignment. Otherwise the reviewing official shall, depending upon his finding:

(1) Decide that a conflict of interest or apparent conflict of interest exists and requires the employee or special Government employee to divest himself of the conflicting interest, reassign the employee or special Government employee, or take other remedial action in accordance with § 6.63; or

(2) Find that a conflict of interest or apparent conflict of interest exists but that it is not so substantial as to be deemed likely to affect the integrity of the employee's or special Government employee's services. In this case, the reviewing official shall submit the facts in the case and his recommendations, in writing, to the Committee for a determination under paragraph (c) of this section in accordance with § 6.62(b)(2). See paragraph (d) of this section.

(c) In the case of paragraph (b)(2) of this section, the Committee or the Comptroller General, as the case may be, shall make a determination as to whether the conflict of interest or apparent conflict of interest is so substantial as to preclude the employee or special Government employee from participating in the assignment.

(1) If the determination is that the conflict of interest or apparent conflict of interest is substantial enough to disqualify the employee or special Government employee and if divestiture in accordance with § 6.63 cannot be accomplished, his assignment shall be changed. If reassignment is not possible he shall be given the opinion of resigning or facing disciplinary action. A memorandum of disqualification shall be prepared by the Chairperson of the Committee, and forwarded to the employee or special Government employee, with copies to the reviewing official, the ethics counselor for GAO, the Director, Office of Personnel Development and Services (OPDS).

(2) If the determination is that the conflict of interest or apparent conflict of interest is not so substantial as to affect the integrity of the employee's or special Government employee's services, the Chairperson of the Committee shall so notify him, in writing, and the employee or special Government employee is not considered disqualified.

(d) The Committee, the Deputy Comptroller General, and the Comptroller General are the only officials authorized to make a determination that a conflict of interest or apparent conflict of interest is not so substantial as to affect the integrity of the services which the Government may expect from such employee or special Government employee. Heads of divisions and offices and other reviewing officials are not authorized to waive the determination process because the conflict of interest appears to be minor. (See 18 U.S.C. 208.)

Subpart H—Confidential Statements of Employment and Financial Interests

§ 6.51 Purpose of the submission.

(a) The submission of confidential statements of employment and financial interests (GAO Form 310 or 311) is required of the employees and special Government employees listed in § 6.54. The purpose of the submission is to enable reviewing officials (see § 6.47(f) for the definition of "Reviewing Officials") to compare the financial interests and non-Government employment of their staff members with their official duties and assignments in order to avoid the possibility of conflict of interest or apparent conflict of interest. (See § 6.47(a) for the definition of "Conflict of Interest" and § 6.47(b) for the definition of "Apparent Conflict of Interest.") When requested, in order to assist the reviewing official in making these determinations, the employee or special Government employee will explain, in writing, the extent and nature of each interest identified by the reviewing official as requiring amplification. This may include the type and primary function or functions of each corporate or other interests reported. (See also § 6.59(a).)

(b) GAO Form 310 and GAO Form 311 may be referred to as "statements" hereafter in this subpart.

§ 6.52 Effect of disqualifications, statements, and certifications on other requirements.

The requirements listed below are in addition to and not in substitution for or in derogation of any similar requirement imposed by law, order, or regulation.

(a) *Requirements.* (1) If there is a possibility of conflict of interest, each employee and special Government employee shall submit the details of the case, in writing, to his reviewing official. (See § 6.50.)

(2) Specified employees and special Government employees must submit confidential statements of employment and financial interests. (See §6.54)

(b) *Observation of above requirements does not permit participation when prohibited by law.* Observation of the above requirements does not permit an employee or special Government employee to participate in a matter in which his participation is prohibited by law.

§ 6.53 Employee's complaint about filing requirement.

An employee who thinks that his position has been improperly included under this subpart as one requiring the submission of a statement may obtain a

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review of that decision by writing to the Comptroller General in accordance with § 6.64. The section does not apply to special Government employees.

§ 6.54 Those who are required to submit confidential statements of employment and financial interests.

(a) *Employees.* Submission of GAO Form 310, Confidential Statement of Employment and Financial Interests (For Use by Employees), is required of the following GAO employees. (See § 6.3 (a) for the definition of "Employee.")

(1) All GAO professional employees. For the purposes of this part, professional employees include those in statutory positions, positions in grade GS–7 and above in 2-grade interval series, and all other positions in grade GS–13 and above.

(2) The incumbents of certain nonprofessional positions which are particularly susceptible to conflicts of interest because the nature of their work involves decisions or actions which have an economic impact on any non-Federal enterprise. Each reviewing official shall designate any such positions under his supervision.

(b) *Special Government employees.* (1) All special Government employees, including those appointed under Pub. L. 93–604 and Pub. L. 93–344, except for those exempted under § 6.66(b) shall submit GAO Form 311, Confidential Statement of Employment and Financial Interests (For use by Special Government Employees). (See § 6.3(b) for the definition of "Special Government Employee.")

(2) The requirement of paragraph (b)(1) of this section becomes applicable to a special Government employee who is already employed but was exempted therefrom under § 6.66(b) at the time of his employment if the special Government employee is to be assigned to work on a specific review, audit, survey, legal case, or other assignment that is not within the scope of the exemption provided under § 6.66(b).

§ 6.55 When to submit initial statements.

(a) *Employees.* (1) An employee who assumes a position subject to the reporting requirements of § 6.54(a) is required to submit an initial statement to the appropriate reviewing official within 30 days of his assumption of that position.

(2) Employees who are required for the first time to submit statements under § 6.54(a)(1) shall submit initial statements to the appropriate reviewing official within 30 days of the effective date of this part.

(3) Employees who are required for the first time to submit statements under § 6.54(a)(2) shall submit initial statements to the appropriate reviewing official within 30 days of the designation of the position they occupy as one requiring submission of a statement.

(b) *New hires.* New hires to positions in grades GS–13 and above are required to submit statements to the appropriate reviewing official prior to the effective date of their initial appointments to GAO. Before the new hire may be appointed, the appropriate reviewing official must certify that he has reviewed the new hire's statement and that no conflict of interest or apparent conflict of interest exists.

(c) *Special Government employees.* Each special Government employee who is required to submit a statement shall submit it to the appropriate reviewing official prior to the effective date of his initial appointment to GAO. Before a special Government employee may be so appointed, the appropriate reviewing official must certify that he has reviewed the special Government employee's statement and that no conflict of interest or apparent conflict of interest exists.

§ 6.56 To whom to submit statements. (Reviewing officials.)

(a) *Employees.* (1) The Comptroller General shall file his statement with the Director, OPDS, who shall retain it with other such statements.

(2) The following employees shall submit their statements to the Comptroller General.

(i) Deputy Comptroller General;

(ii) General Counsel for the General Accounting Office;

(iii) Assistant comptrollers general;

(iv) Director of Management Services;

(v) Heads of divisions, offices, and staffs who report direct to the Comptroller General; and

(vi) Any other employee who is required to submit a statement, who reports direct to the Comptroller General.

(3) All employees of the Office of the General Counsel who are required to submit statements shall submit their statements to the General Counsel for the General Accounting Office.

(4) The following employees shall submit their statements to the appropriate assistant comptroller general.

(i) Heads of divisions, offices, and staffs who report direct to an assistant comptroller general.

(ii) Any other employee who is required to submit a statement, who reports direct to an assistant comptroller general.

(5) The following employees shall submit their statements to the Director of Management Services.

(i) Heads of offices and staffs who report direct to the Director of Management Services.

(ii) Any other employee who is required to submit a statement, who reports direct to the Director of Management Services.

(6) Regional Managers of the Field Operations Division (FOD) shall submit their statements to the Director, FOD.

(7) Directors of overseas branches of the International Division (ID) shall submit their statements to the Director, ID.

(8) Other employees, except for those described in paragraph (a) (9) and (10) of this section, who are required to submit statements, shall submit them to the heads of their division or office:

(9) Each employee of FOD who is assigned to a regional office who is below the level of regional manager, and who is required to submit a statement, shall submit it to the regional manager.

(10) Each employee of ID who is assigned to an overseas branch, who is below the level of overseas branch director, and who is required to submit a statement, shall submit it to the director of the overseas branch.

(11) Each employee assigned to a Congressional assignment who is required to submit a statement, shall submit it to the Director, Office of Congressional Relations.

(b) *Special government employees.* (1) Special Government employees who report direct to an official above the level of head of division or office (e.g., the Comptroller General, the General Counsel for the General Accounting Office, an assistant comptroller general, etc.), shall submit their statements to the official to whom they report.

(2) Special Government employees who report direct to the Director of Management Services shall submit their statements to that official.

(3) All other special Government employees except those described in paragraph (b)(4) and (5) of this section, shall submit their statements to the head of their division or office.

(4) Each special Government employee who is assigned to a regional office of FOD, shall submit his statement to the regional manager.

(5) Each special Government employee assigned to an overseas branch of ID shall submit his statement to the director of the overseas branch.

(6) A special Government employee who is assigned to more than one of the organizational entities mentioned above (e.g., to two or more divisions or offices), shall submit a copy of his statement to the head of each of the organizational entities to which assigned.

§ 6.57 Additional statements.

(a) *Employees.*—(1) *Annual Additional Statements.* Each employee subject to the reporting requirement of § 6.54(a) shall submit an additional statement to the appropriate reviewing official (see § 6.56) by June 30 of each year. The statement shall consist of a completely executed up-to-date GAO Form 310. It is permissible to submit a copy of the most recently submitted GAO Form 310, initialed under the current date and amended to reflect any changes in or additions to previously submitted material or unamended if no change has taken place. (Each amendment should be initialed and dated by the employee.) However, a brief statement of changes or a statement that no change has occurred is not acceptable. This requirement does not relieve the employee from reporting any conflict of interest or apparent conflict of interest to his reviewing official immediately upon its occurrence. (See § 6.50)

(2) Additional Statements Required Upon Reassignment or Detail. Each employee subject to the reporting requirement of § 6.54(a) shall submit an additional statement to the appropriate reviewing official whenever he is reassigned

or detailed for a period of 30 days or more to a different division or office or to an organizational entity above the level of division or office. The appropriate reviewing official shall request submission of the statement when the employee is reassigned or detailed to his organizational entity. The employee shall submit the statement no later than 15 calendar days after the effective date of the reassignment or detail. The statement shall consist of a completely executed, up-to-date GAO Form 310. It is permissible to submit a copy of the most recently submitted GAO Form 310, initialed under the current date and amended to reflect any changes in or additions to previously submitted material or unamended if no change has taken place. (Each amendment should be initialed and dated by the employee.) However, a brief statement of changes or a statement that no change has occurred is not acceptable.

(b) *Special Government Employees.*—(1) *Annual Additional Statements.* As long as a special Government employee is subject to the reporting requirements of § 6.54(b), he shall submit an additional statement to the appropriate reviewing official (see § 6.56) by June 30 of each year. The statement shall consist of a completely executed, up-to-date GAO Form 311. It is permissible to submit a copy of the most recently submitted GAO Form 311, initialed under the current date and amended to reflect any changes in or additions to previously submitted material or unamended if no change has taken place. (Each amendment should be initialed and dated by the special Government employee.) However, a brief statement of changes or a statement that no change has occurred is not acceptable. This requirement does not relieve the special Government employee from reporting any conflict of interest or apparent conflict of interest to his reviewing official immediately upon its occurrence. (See § 6.50.)

(2) *GAO Form 523.* The appropriate reviewing official shall execute and submit a GAO Form 523 (Certification of Review of Confidential Statement of Employment and Financial Interest for a Special Government Employee and Finding of No Conflicts of Interest) with each initial statement and additional statement from a special Government employee. (See § 6.60 for information on GAO Form 523.)

(3) *Other Additional Statements.* At any other time during his period of service, if there is a substantial change in or an addition to information previously submitted, a special Government employee shall submit a brief statement describing the change or addition. Questions as to what constitutes a substantial change or addition should be directed to the appropriate reviewing official. If that official has further questions, the matter should be referred to the ethics counselor for GAO. (See § 6.7 for information on the ethics counselor for GAO.)

§ 6.58 Additional information about the contents of statements.

(a) *Interests of relatives of employees.* The interest of a spouse, minor child, or other member of an employee's or special Government employee's immediate household is considered to be an interest of the employee or special Government employee. "Member of an employee's or special Government employee's immediate household" means those relatives by blood, marriage, or adoption who are residents of his household. Beyond this, the financial or other interests known to the employee or special Government employee which might cause him to be less than fully objective or give that appearance is also reportable (part V of statements).

(b) *Information not known by an employee or special Government employee.* If any information required to be included in an initial or additional statement, including holdings placed in trust, is not known by an employee or special Government employee but is known to another person, the employee or special Government employee shall request that other person to submit information on his behalf.

(c) *Information not required.* This part does not require employees or special Government employees to include in their initial or additional statements any information relating to their connection with, or interest in, professional societies or charitable, religious, social, fraternal, recreational, public service, civic, or political organizations or similar organizations not conducted as business enterprises. (Educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are considered to be "business enterprises" and must be included in an employee's or special Government employee's statement.)

§ 6.59 Review of Statements by Reviewing Officials.

(a) The reviewing official (defined in § 6.47(f)), for employees and special Government employees under his jurisdiction, shall review each initial statement of employment and financial interests and each additional statement, together with all relevant information known to him, within 15 calendar days of the date of submission, to determine whether there are any conflicts of interest or apparent conflicts of interest on the part of the individual submitting the statement. If there are no conflicts of interest or apparent conflicts of interest the statement shall be disposed of, immediately thereafter, in accordance with § 6.61. If there is a question of conflict of interest or apparent conflict of interest the 15 calendar days requirement does not apply, but all such cases should be resolved as quickly as possible. If it is pertinent to a conflict-of-interest decision, the reviewing official may request an employee or Special Government employee to supplement the information in the statement by stating the number or amount of shares, stock options, bonds, and other securities owned by him, his spouse, minor child, or other member of his immediate household. (See also § 6.51.)

(b) Reviewing officials shall also review statements on file when employees change duties or assignments within their divisions or offices to determine whether conflicts of interest or apparent conflicts of interest exist in the light of the new duties or assignments.

(c) Reviewing officials do not have the authority to waive conflicts of interest or apparent conflicts of interest as being inconsequential. All such cases must be processed in accordance with § 6.62.

§ 6.60 No conflict of interest or apparent conflict of interest.

(a) When there is no conflict of interest or apparent conflict of interest, the reviewing official will sign the certification on the employee's or special Government employee's GAO Form 310 or 311, respectively.

(b) In connection with special Government employees, the reviewing official shall also complete and sign GAO Form 523, Certification of Review of Confidential Statement of Employment and Financial Interests for Special Government Employee and Finding of No Conflicts of Interest. (This duplicate certification is necessary to meet United States Civil Service Commission requirements that documentation of such certification be maintained in each special Government employee's Official Personnel Folder.)

§ 6.61 Retention and inspection of statements.

(a) *Retention of Statements.* Statements of employees and special Government employees shall be forwarded or retained as follows:

(1) The Comptroller General shall forward his statement to the Director, OPDS, who shall retain it, in confidence, in a safe-lock file.

(2) The statements of all other employees and special Government employees shall be retained, in confidence, by the appropriate reviewing official in a safe-lock file.

(3) A GAO Form 523 shall be sent to OPDS for each special Government employee whose statement is reviewed and signed by a reviewing official.

(4) Reviewing officials shall retain each statement for 3 years and then destroy it, except in an appropriate case when there is written justification to hold it for a longer period.

(b) *Inspection by OPDS.* The statements of employees and special Government employees, retained in confidence by reviewing officials, shall be inspected periodically by the staff of OPDS to insure that all those who are required to submit statements have submitted them. (See § 6.65.)

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§ 6.62 Findings of conflict of interest.

If the reviewing officials believes that a statement or other information known to him discloses a conflict of interest or apparent conflict of interest, the employee or special Government employee concerned shall be asked to explain the conflict of interest or apparent conflict of interest. Reviewing officials do not have the authority to waive conflicts of interest or apparent conflicts of interest as being inconsequential. All such cases must be processed, as appropriate, in accordance with the remainder of this section.

(a) *If the Explanation Indicates No Conflict.* If after considering the employee's or special government employee's explanation, no conflict of interest or apparent conflict of interest, in fact, exists, the reviewing official will follow the procedures outlined in § 6.60. (In arriving at this conclusion the reviewing official may, at his discretion, have consulted with the ethics counselor for GAO.)

(b) *If the Explanation Indicates a Conflict.* (1) If the reviewing official determines that there is a substantial conflict of interest or apparent conflict of interest, the shall take remedial action in accordance with § 6.63. (In arriving at this decision the reviewing official may, at his discretion, have consulted with the ethics counselor for GAO.)

(2) If the reviewing official is in doubt as to whether a conflict of interest or apparent conflict of interest exists or believes that the conflict of interest or apparent conflict of interest is not so substantial as to affect the integrity of the employee's or special Government employee's services, he shall report the case to the Committee for final disposition, in accordance with § 6.49. The report shall include:

(i) A description of the interest concerning which a conflict of interest or apparent conflict of interest exists:

(ii) A statement summarizing the duties or the assignment of the employee or special Government employee;

(iii) The nature of the conflict of interest or apparent conflict of interest;

(iv) A summary of the employee's or special Government employee's explanation, if any; and

(v) The conclusions of the reviewing official including reasons therefor and recommendations.

(c) *Decision by the Committee.* (1) Upon receipt of the report, the Committee may, if necessary, give the employee or special Government employee concerned or other interested parties an opportunity to explain the situation. After careful consideration, the Committee shall then make a determination that there is:

(i) No conflict of interest or apparent conflict of interest;

(ii) A conflict of interest or apparent conflict of interest but that it is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such employee or special Government employee; or

(iii) A conflict of interest or apparent conflict of interest that is substantial enough to affect the integrity of the employee's services, in which case, appropriate remedial action should be taken in accordance with § 6.63.

(2) Decisions of the Committee will require the assent of at least four members present and voting. Cases wherein there is agreement of less than four members shall be transmitted with appropriate comments to the Comptroller General or Deputy Comptroller General for final determination.

(3) The Committee will notify the employee or special Government employee, in writing, of its decision, and issue (as an advisory service) periodic reports to the reviewing officials on decisions made by it.

(d) *Decisions by the Comptroller General.* The Comptroller General or the Deputy Comptroller General will notify the employee or special Government employee, in writing, of his determination in cases submitted to him for decision by the Committee in accordance with paragraph (c)(2) of this action.

(e) *Distribution and retention of documents after determination.* (1) The appropriate reviewing official, the ethics counselor for GAO, and the Director, OPDS, shall receive copies of the notice of determination, sent in confidence.

(2) If the reviewing official is a regional manager; the Director, FOD, and the appropriate regional manager, shall receive copies of the notice of determination, sent in confidence.

(3) If the reviewing official is an overseas branch director; the Director, ID, and the appropriate overseas branch director, shall receive copies of the notice of determination, sent in confidence.

(4) The employee's GAO Form 310 or the special Government employee's GAO Form 311 and GAO Form 523, properly executed and signed, plus any documents produced by the employee or special Government employee, shall be disposed of in accordance with the appropriate provisions of § 6.61.

§ 6.63 Remedial action.

(a) When, after consideration of the explanation of the employee or special Government employee, the Committee, the Comptroller General, or the Deputy Comptroller General decides that remedial action is required, the reviewing official shall take immediate steps to end the conflict of interest or the apparent conflict of interest (see § 6.50(b)(1)). Remedial action may include but is not limited to:

(1) Changing the assigned duties of the employee or special Government employee.

(2) Causing the employee or special Government employee to divest himself of the conflicting interest.

(3) Permitting the employee the option of resigning or facing disciplinary action, and a special Government employee the option of resigning or being separated from the rolls.

(b) An employee or special Government employee, who is notified that he must divest himself of a conflicting interest (see paragraph (a)(2) of this section) shall do so within a reasonable period of time after receiving the notification. A reasonable period of time shall be at least 30 calendar days.

§ 6.64 Request for reconsideration of decisions.

(a) Any employee or special Government employee who believes that he has been aggrieved by a conflict-of-interest or apparent conflict-of-interest decision by a head of a division or office, a reviewing official, or the Committee, may request review of his case by the Comptroller General. He may do this by addressing a memorandum to the Comptroller General in which he will identify himself, his position and assignment, the decision appealed from, the area of conflict of interest or apparent conflict of interest, if any, and his reasons for requesting relief. The employee or special Government employee will not be entitled to a hearing.

(b) After careful consideration the Comptroller General will notify the employee or special Government employee, in writing, of his decision which will be final. A copy of this final decision letter will be sent to the pertinent head of division or office, the reviewing official, and the Committee, so that appropriate action may be taken in accordance with the final decision.

(c) Remedial action, whether disciplinary or otherwise, shall be effected in accordance with applicable laws and regulations.

§ 6.65 Access to statements and documents.

Only those persons listed below shall have access to the statements and documents (covered under this subpart) submitted by employees and special Government employees, and then only to carry out the purposes of this part. No disclosure of information shall be made from such statements and documents except as specifically authorized by the Comptroller General for good cause shown.

(a) Comptroller General.

(b) Deputy Comptroller General.

(c) General Counsel for the General Accounting Office.

(d) Assistant comptrollers general.

(e) Director of Management Services.

(f) Appropriate head of division or office.

(g) Ethics Counselor and Deputy Ethics Counselors.

(h) Regional Managers for employees and special Government employees assigned to their respective regional offices.

(i) Directors of overseas branches for employees and special Government employees assigned to their respective overseas branches.

(j) Members of the Committee.

(k) Director and Deputy Director, OPDS, and designee(s) to conduct periodic inspections to insure that all those required to submit statements have submitted them. (See § 6.61(b).)

(1) Director, Office of Internal Review, to conduct periodic evaluations of the ethics and conflicts of interest system.

§ 6.66 Those who are not required to submit statements.

(a) *Nonprofessional Employees.* Nonprofessional employees of GAO are not required by this part to submit statements. They may, however, be required by their respective reviewing officials to submit statements. (See § 6.54(a)(2).) This paragraph does not in any way modify or limit an employee's responsibility under § 6.23, § 6.24, and § 6.56. See also § 6.25.

(b) *Special Government employees.* (1) By reason of 18 U.S.C. 208(b)(2), the provision of § 6.54(b)(1) is waived for special Government employees who are employed to render advice, counsel, or expert services on recruiting or staff development because the nature of their employment and level of responsibility is such that any financial interest which they might have would be too remote or too inconsequential to affect the integrity of their services to the Government.

(2) The Comptroller General or the General Counsel for the General Accounting Office may waive the requirement of § 6.54(b)(1) when either finds that the nature of the special Government employee's work is such that the submission of the statement is not necessary to protect the integrity of his services to the Government.

§ 6.67 Responsibilities in connection with the submission of statements.

All reviewing officials shall insure that statements are submitted by the employees and special Government employees under their supervision by June 30 of each year (or earlier if applicable under § 6.55). After appropriate action has been taken on the statements they shall be retained in accordance with the appropriate provisions of § 6.61.

§ 6.68 Personal copies of statements.

All employees or special Government employees who are required to submit statements under this subpart should make and retain copies thereof for future reporting (see § 6.57), and for their own use.

ELMER B. STAATS,
Comptroller General of the United States.

[FR Doc.77-27318 Filed 9-19-77;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

National Foundation on the Arts and the Humanities

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Special Assistant and one position of Staff Assistant are excepted under Schedule C because they are confidential in nature.

EFFECTIVE DATE: September 20, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, (202-632-4533).

Accordingly 5 CFR 213.3382(e) is amended and (i) is added as set out below:

§ 213.3382 National Foundation on the Arts and the Humanities.

. . . . . .

(e) Two Special Assistants to the Chairman of the National Endowment for the Humanities.

. . . . . .

(i) One Staff Assistant to the Chairman of the National Endowment for the Humanities.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-27325 Filed 9-19-77;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Regulation 109, Amendment 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period September 11-17, 1977. The amendment recognizes that demand for lemons has improved, since the regulation was issued. This action will increase the supply of lemons available to consumers.

DATES: Weekly regulation period September 11-17, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202-447-3545).

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of recommendations and information submitted by the Lemon Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of lemons, as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the lemon markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit lemon handlers to ship a larger quantity of lemons to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 25,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of lemons.

§ 910.409 [Amended]

(b) *Order, as amended.* Paragraph (a)(1) of § 910.409 (Lemon Regulation 109 (42 FR 45325)) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period September 11, 1977, through September 17, 1977, is established at 240,000 cartons."

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: September 14, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-27266 Filed 9-19-77;8:45 am]

PART 981—ALMONDS GROWN IN CALIFORNIA

Expenses of the Board and Rate of Assessment for the 1977-78 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $6,401,620 and a rate of assessment of 2.18 cents per pound (Kernelweight basis) for the maintenance and functioning of the Almond Board of California. This regulation enables the Board to collect assessments from handlers on all almonds handled and use the resulting funds for its expenses.

EFFECTIVE DATE: For the 1977-78 crop year beginning July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone 202-447-3545.

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SUPPLEMENTARY INFORMATION: The marketing agreement, and Order No. 981, both as amended (7 CFR 981), regulate the handling of almonds grown in California. They are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 01–674). The Board, established under the order, is responsible for its local administration.

Notice was published in the August 22, 1977, FEDERAL REGISTER (42 FR 42227) inviting written comments by September 7, 1977. No comments were received.

Findings. After consideration of all relevant matters, including the proposals in the notice, it is found that the following expenses and rate of assessment should be approved.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular crop year shall be applicable to all almonds received by handlers for their own accounts during such crop year; and (2) the current crop year began July 1, 1977, and the rate of assessment herein fixed will automatically apply to all such almonds beginning with that date.

The expenses and assessment rate as set forth in § 981.327 are as follows:

§ 981.327 Expenses of the Board and rate of assessment for the 1977–78 crop year.

(a) *Expenses.* Expenses in the amount of $6,401,620 are reasonable and likely to be incurred by the Board during the crop year beginning July 1, 1977, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for said crop year, payable by each handler in accordance with § 981.81, less any amount credited pursuant to § 981.41 but not to exceed 2 cents per pound of almonds (kernal weight basis), is fixed at 2.18 cents per pound of almonds (kernel weight basis).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: September 14, 1977.

CHARLES R. BRADER,
Deputy Director,
Fruit and Vegetable Division.

[FR Doc.77–27264 Filed 9–19–77;8:45 am]

PART 981—HANDLING OF ALMONDS GROWN IN CALIFORNIA

Salable and Reserve Percentages for 1977–78 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes marketing percentages for California almonds for the 1977–78 crop year. Under the rule, 100 percent of the marketable almonds are salable, and handlers can ship almonds freely to all markets. The anticipated marketable supply is expected to equal the market needs.

EFFECTIVE DATE: For the 1977–78 crop year beginning July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: Notice was published in the August 22, 1977, issue o fthe FEDERAL REGISTER (42 FR 42227) of a proposal to establish salable and reserve percentages of 100 percent and 0 percent, respectively, for the 1977–78 crop year, beginning July 1, 1977.

The proposal was unanimously recommended by the Almond Board of California. The Board is established under the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons the opportunity to submit written data, views, or arguments with respect to the proposal. No comments were received.

In arriving at its recommendation, the Board estimated production, handler carryover as of July 1, 1977, and other factors as prescribed in § 981.49 related to the establishing of salable and reserve percentages.

The Board estimated the total 1977 marketable production at 288 million pounds, which is 30 million pounds more than last year's record redetermined production of 258 million pounds. The total marketable supply is expected to be 361 million, 44 million pounds more than last year's record marketable supply. The Board noted that even with such abundant supplies, it expects to ship 280 million pounds of almonds to domestic and export markets during the 1977–78 crop year. This is 36 million pounds more than last year's record shipments. The Board anticipates a continued strong demand for almonds through the current crop year.

After consideration of all relevant matter presented, including that in the notice, the Board's recommendation and supporting information, and other available information, it is found that to establish salable and reserve percentages as hereinafter set forth will tend to effectuate the declared policy of the act.

It is also found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said amended marketing agreement and this part require that salable and reserve percentages designated for a particular crop year shall be applicable to all almonds received by handlers for their own accounts during such year; (2) the current crop year began on July 1, 1977, and the percentages established herein will automatically apply to all such almonds beginning with such date; and (3) this action places no restriction on handlers.

Therefore, the salable and reserve percentages for almonds received by handlers for their own account during the 1977–78 crop year are established as follows:

§ 981.227 Salable and reserve percentages for almonds during the crop year beginning July 1, 1977.

The salable and reserve percentages during the crop year beginning July 1, 1977, shall be 100 percent and 0 percent, respectively.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated: September 15, 1977.

CHARLES R. BRADER,
Deputy Director,
Fruit and Vegetable Division.

[FR Doc.77–27279 Filed 9–19–77;8:45 am]

PART 991—HOPS OF DOMESTIC PRODUCTION

Expenses of the Hop Administrative Committee and Rate of Assessment for the 1977–78 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $195,230 and a rate of assessment of 0.3 cent per pound of salable hops handled, for the maintenance and functioning of the Hop Administrative Committee. This regulation enables the Committee to collect assessments from handlers on all hops handled and use the resulting funds for its expenses.

EFFECTIVE DATE: For the 1977–78 marketing year beginning August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: Order No. 991, as amended (7 CFR 991), regulates the handling of hops of domestic production, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Committee, established under the order, is responsible for its local administration.

Notice was published in the August 22, 1977, FEDERAL REGISTER (42 FR 42227) inviting written comments by September 7, 1977. No comments were received.

Findings. After consideration of all relevant matters, including the proposals in the notice, it is found that the following expenses and rate of assessment should be approved.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of the amended marketing order require that the rate of assessment fixed for a particular marketing year shall be applicable to all salable hops handled during such year; and (2) the current marketing year began on August 1, 1977, and the rate of assessment herein fixed will automatically apply to all such hops beginning with that date.

The expenses and assessment rate as set forth in § 991.312 are as follows:

§ 991.312 Expenses of the Hop Administrative Committee and rate of assessment for the 1977–78 marketing year.

(a) *Expenses.* Expenses in the amount of $195,230 are reasonable and likely to be incurred by the Hop Administrative Committee during the marketing year beginning August 1, 1977, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for said marketing year. Payable by each handler in accordance with § 991.56 is fixed at 0.3 cent per pound of salable hops.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: September 14, 1977.

CHARLES R. BRADER,
Deputy Director,
Fruit and Vegetable Division.

[FR Doc.77–27265 Filed 9–19–77;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Kern County in California from the areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the area quarantined. No areas remain under quarantine in the State of California.

EFFECTIVE DATE: September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. M. A. Mixson, USDA, APHIS, VS, Federal Building, Room 748, Hyattsville, Md. 20782 (301–436–8073).

SUPPLEMENTARY INFORMATION: This amendment excludes a portion of Kern County in California from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded area.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects.

§ 82.3 [Amended]

In § 82.3, paragraph (a) (3) relating to the State of California is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; Secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 15th day of September, 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

PIERRE A. CHALOUX,
Deputy Administrator
Veterinary Services.

[FR Doc.77–27275 Filed 9–19–77;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

Changes in Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Change in discount rates.

SUMMARY: The Board of Governors has amended its Regulation A, "Extensions of Credit By Federal Reserve Banks," for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country.

EFFECTIVE DATE: The changes were effective on the dates specified below.

FOR FURTHER INFORMATION CONTACT:

Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3257).

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), Part 201 is amended as set forth below:

1. Section 201.51 is amended to read as follows:

§ 201.51 Advances and discounts for member banks under sections 13 and 13a.

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except advances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

Federal Reserve Bank of—	Rate	Effective
Boston	5½	Sept. 2, 1977
New York	5½	Aug. 31, 1977
Philadelphia	5½	Aug. 30, 1977
Cleveland	5½	Do.
Richmond	5½	Do.
Atlanta	5½	Do.
Chicago	5½	Do.
St. Louis	5½	Do.
Minneapolis	5½	Do.
Kansas City	5½	Sept. 2, 1977
Dallas	5½	Do.
San Francisco	5½	Do.

2. Section 201.52 is amended to read as follows:

§ 201.52 Advances to member banks under section 10(b).

(a) The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

Federal Reserve Bank of—	Rate	Effective
Boston	6¼	Sept. 2, 1977
New York	6¼	Aug. 31, 1977
Philadelphia	6¼	Aug. 30, 1977
Cleveland	6¼	Do.
Richmond	6¼	Do.
Atlanta	6¼	Do.
Chicago	6¼	Do.
St. Louis	6¼	Do.
Minneapolis	6¼	Do.
Kansas City	6¼	Sept. 2, 1977
Dallas	6¼	Do.
San Francisco	6¼	Do.

(b) The rates for advances to member banks for prolonged periods and significant amounts under section 10(b) of the Federal Reserve Act and § 201.2(e)(2) of Regulation A are:

Federal Reserve Bank of—	Rate	Effective
Boston	6¼	Sept. 2, 1977
New York	6¼	Aug. 31, 1977
Philadelphia	6¼	Aug. 30, 1977
Cleveland	6¼	Do.
Richmond	6¼	Do.
Atlanta	6¼	Do.
Chicago	6¼	Do.
St. Louis	6¼	Do.
Minneapolis	6¼	Do.
Kansas City	6¼	Sept. 2, 1977
Dallas	6¼	Do.
San Francisco	6¼	Do.

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3. Section 201.53 is amended to read as follows:

§ 201.53 Advances to persons other than member banks.

The rates for advances under the last paragraph of section 13 of the Federal Reserve Act to individuals, partnerships, or corporations other than member banks secured by direct obligations of, or obligations fully guaranteed as to principal and interest by, the United States or any agency thereof are:

Federal Reserve Bank of—	Rate	Effective
Boston	8½	Sept. 2, 1977
New York	8½	Aug. 31, 1977
Philadelphia	8½	Aug. 30, 1977
Cleveland	8½	Do.
Richmond	8½	Do.
Atlanta	8½	Do.
Chicago	8½	Do.
St. Louis	8½	Do.
Minneapolis	8½	Do.
Kansas City	8½	Sept. 2, 1977
Dallas	8½	Do.
San Francisco	8½	Do.

((12 U.S.C. 248(i)). Interprets or applies 12 U.S.C. 357.)

By order of the Board of Governors, September 12, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-27081 Filed 9-19-77;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Amdt. 7]

PART 113—NONDISCRIMINATION IN FINANCIAL ASSISTANCE PROGRAMS OF SMALL BUSINESS ADMINISTRATION—EFFECTUATION OF POLICIES OF FEDERAL GOVERNMENT AND SBA ADMINISTRATOR

Inclusion of the Nondiscrimination Sanctions Contained in the Equal Credit Opportunity Act Amendments of 1976, and Addition of Appendix A

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This amendment will put into effect the requirements of the Equal Credit Opportunity Act, as amended, by making it unlawful for any recipient creditor to discriminate against any applicant with respect to any aspect of a credit transaction because of race, color, religion, national origin, sex, marital status, age; *Provided*, The applicant has the capacity to contract, because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. It also adds a listing of the types of Federal financial assistance which are covered by this part.

EFFECTIVE DATE: September 20, 1977.

FOR FURTHER INFORMATION CONTACT:

J. Arnold Feldman, Chief, Compliance Division, Small Business Administration, 1441 L Street NW., 12th Floor, Vermont Building, Washington, D.C. 20416 (202-653-6054).

SUPPLEMENTARY INFORMATION: On June 8, 1977, there was published in the FEDERAL REGISTER a notice that the Small Business Administration (SBA) proposed to extend its nondiscrimination coverage to effectuate the requirements of the Equal Credit Opportunity Act, as amended, and to add a listing of the types of Federal financial assistance which are to be covered by 13 CFR Part 113. Interested parties were given until June 30, 1977, to submit comments, suggestions, or objections regarding the proposed amendment. Following publication, a comment was received, objecting to SBA's proposed enforcement of the nondiscrimination sanctions under the Equal Credit Opportunity Act, as amended. However, because of a prior agreement allowing SBA to enforce this Act with respect to its recipients, the proposed amendment was not changed. Accordingly, Part 113 of Chapter I of Title 13 CFR is hereby amended by:

1. Redesignating § 113.1(b) as § 113.1 (c) and adding the following as § 113.1 (b):

§ 113.1 Purpose.

* * * * *

(b) In accordance with Pub. L. 94-239, 15 U.S.C. 1691, cited as the Equal Credit Act Amendments of 1976, it is unlawful for any recipient creditor to discriminate against any applicant, with respect to any aspect of a credit transaction because of race, color, religion, national origin, sex, marital status, age; *Provided*, The applicant has the capacity to contract, because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

* * * * *

2. Adding § 113.3(e) to read as follows:

§ 113.3 Discrimination prohibited.

* * * * *

(e) With regard to the granting of credit by all recipient creditors, discriminate against any applicant, with respect to any aspect of a credit transaction, because of race, color, religion, national origin, sex, marital status, age; *Provided*, The applicant has the capacity to contract, because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

3. Adding Appendix A to the end of Part 113.

APPENDIX A

Name of program	*Authority*
Regular business loans	Small Business Act, sec. 7(a).
Economic opportunity loans	Small Business Act, sec. 7(i) (formerly Title IV of the Economic Opportunity Act).
Pool loans	Small Business Act, sec. 7(a)(5).
Displaced business loans	Small Business Act, sec. 7(b)(3).
Handicapped assistance loans	Small Business Act, sec. 7(h).
Debtor small business investment companies and their small business concerns.	Small Business Investment Act, Title III.
Debtor local development company loans (502) and their small business concerns.	Small Business Investment Act, sec. 502.
Debtor State development company loans (501) and their small business concerns.	Small Business Investment Act, sec. 501.
Lease guarantees	Small Business Investment Act, Title IV.
Surety bond guarantees	Small Business Investment Act, Title IV, Part B.
Disaster loans:	
Physical, including riot	Small Business Act, sec. 7(b)(1) as amended by secs. 231, 234, as amended by secs. 231 and 234 of the Disaster Relief Act of 1970, Public Law 92-385, Public Law 93-24, and Public Law 94-68.
Economic injury	Small Business Act, sec. 7(b)(2) as amended by sec. 231 and 234 of the Disaster Relief Act of 1970, Public Law 92-385, Public Law 93-24, and Public Law 94-68.
Product disaster	Small Business Act, sec. 7(b)(4); Public Law 92-385, Public Law 93-24, and Public Law 94-68.
Coal mine health and safety loans	Small Business Act, sec. 7(b)(5).
Consumer protection	Small Business Act, sec. 7(b)(5).
Occuptional safety and health	Small Business Act, sec. 7(b)(5).
Other regulatory	Small Business Act, sec. 7(b)(5).
Strategic arms economic injury loans	Small Business Act, sec. 7(b)(6).
Air pollution control loans	Small Business Act, sec. 7(b)(5).
Base closing economic injury	Small Business Act, sec. 7(b)(7).
Water pollution control loans	Small Business Act, sec. 7(g)(1).
Emergency energy shortage economic injury	Small Business Act, sec. 7(b)(8).

Dated: September 12, 1977.

(All SBA Programs listed in the Catalog of Federal Domestic Assistance Program under Nos. 59.001-59.025, except 59.005-007, 59.009, and 59.019.)

A. VERNON WEAVER,
Administrator.

[FR Doc.77-27298 Filed 9-19-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Procedural Regulation Docket No. 30247; PR-167, Enactment of Part]

PART 313—IMPLEMENTATION OF THE ENERGY POLICY AND CONSERVATION ACT

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule adopts a new Part 313 of the Board's Procedural Regulations implementing the Board's role under the Energy Policy and Conservation Act, Pub. L. 94-163, 42 U.S.C. 6201 et seq. (EPCA). The purpose of these regulations is to establish procedures and guidelines for carrying out the Board's responsibility under EPCA to include in any major regulatory action taken by the Board a statement of the probable impact of such action on energy efficiency and energy conservation.

DATES: Effective: October 20, 1977. Adopted: September 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Ivars V. Mellups, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5208).

SUPPLEMENTARY INFORMATION: On December 22, 1976, the Board issued a Notice of Proposed Rulemaking (NPRM) which stated that it had under consideration the adoption of a new Part 313 of its Procedural Regulations entitled "Implementation of The Energy Policy and Conservation Act" (PDR-42, 41 FR 56669 (December 29, 1976)). The notice was accompanied by a proposed regulation and an explanatory statement. Interested persons were afforded an opportunity to participate in the rulemaking by filing written comments on or before March 14, 1977.[1] Comments were filed by Continental Air Lines, Inc., Braniff Airways, Inc., and the Federal Energy Administration.[2]

The Board has considered the filed comments, which are discussed below, and has determined to issue the proposed rule as its final regulation, with only minor stylistic changes. In reaching this conclusion, the Board, except to the extent modified here, adopts and makes final the tentative findings and analysis set forth in the explanatory statement accompanying the NPRM.

For the most part the comments, while recommending some changes in the Board's proposed regulation, do not present striking departures from the Board's approach. Thus, Braniff agrees with the Board's view that many Board actions are not of "major" regulatory significance and do not require the preparation of an energy impact statement. Moreover, it agrees that "the suggested threshold test of a net annual change in aircraft fuel consumption of ten million gallons or more, compared to the probable consumption of fuel were the action not to be taken, is a reasonable figure to use in gaining required experience." It also agrees with the Board's reservations on how energy efficiency should be evaluated and weighed. Nevertheless, it admonishes that there are two areas the Board suggests for measurement of energy efficiency that are "unacceptable without difficult and possibly unachievable qualifications," namely, "(1) load factors and (2) a 1972 base year." We cannot agree with this extreme conclusion. For the reasons stated in the explanatory statement accompanying the NPRM we believe these factors are entitled to consideration in the determination of energy efficiency, although we recognize that Braniff has presented rational bases for limiting the weight to be accorded to load factors and the 1972 base period. In any event, we have made it clear that neither load factor nor the 1972 base year should be exclusive or necessarily controlling. Braniff itself "recognize[s] that the Board plans to closely scrutinize all allegedly quantifiable efficiency criteria in any action taken under" EPCA. In sum, we believe that the rule is sufficiently flexible to take account of the limitations of any particular means of measuring energy efficiency.

Continental's suggestions for changes in the proposed rules are directed to minimizing the weight to be accorded to findings on energy conservation and energy efficiency in determining the balance to be drawn between such factors and those enumerated in section 102 of the Act for determining the "public interest" and the "public convenienc eand necessity." Thus, it would strike the first sentence of section 313.2, which states that the Board will view the conservation of energy and the neergy efficiency improvement goals of EPCA as part of the Board's overall mandate, to be considered along with the public interest and public convenience and necessity factors enumerated in section 102 of the Act. Likewise, Continental would strike subparagraph (3) of section 313.6(a), which provides that energy impact statements shall normally include findings and conclusions about "the balance struck between energy factors and other public interest and public convenience and necessity factors in the decision." We reject these proposed changes. We see no reason to obscure what should be seen and understood. EPCA objectives represent a Congressional mandate to the Board which the Board will follow. The determination of whether the factors set forth in section 102, such as competition, are entitled to greater or conclusive weight as against the EPCA factors, is a fruitless exercise in the abstract, in which we will not indulge. As a practical matter, the issue will always be presented in a concrete situation and both the 102 factors and the EPCA factors will be considered together, with the outcome depending on the factual situation presented. The Board's regulation should, as it now does, describe the course of action that will in fact be followed.[3]

Continental also disagrees with the proposed rule because of "its inflexibility in dictating that a case is a 'major regulatory action' when it gives rise to the consumption of 10 million gallons of fuel." It fears that in competitive route proceedings short-term consumption of fuel will assume a measure of importance far beyond the long-range impact. In view of the Board's detailed analysis of this situation in the explanatory statement, there is little reason for Continental to be fearful. The fact is that Continental cannot reasonably expect the Board to decide, in a procedural regulation, cases which have not yet arisen.

The comments of the Federal Energy Administration (FEA) are more sympathetic to the goals of EPCA. It made three recommendations for changes in the proposed rule which will be discussed. First, it suggests that the Board's procedures be revised to require applicants to submit multi-year estimates of fuel requirements and load factors in the initial application submitted to the Board. This is consistent with Continental's approach in first competitive service cases, although Continental thinks such data will show reduced fuel consumption over time and FEA the opposite. We need not speculate on the result. The question is whether multi-year estimates of fuel consumption and load factors should be required of all applicants at the time applications are filed. We think not. The Board's judgment was, and remains, that such matters should be left to the direction of the administrative law judge, who will be fully informed of the circumstances in the particular case. The evidence requests may thus be tailored to the particular circumstances so that adequate evidence is secured and wasted time and effort avoided. Nothing in the comments challenges the soundness of our previous judgment.

An additional consideration is that the objective of realistic multi-year forecasts of fuel consumption and load factors (or any other reasonable measure of energy efficiency), while a worthy one, is likely to be difficult to achieve in the typical Board route case, given the nature of the licensing in which the Board engages and the statutory limitations on the Board's authority to regulate carrier decisions with respect to either

[1] The time was extended to this date by PDR-42A, February 9, 1977 (42 FR 9184, February 15, 1977).

[2] The U.S. Department of the Interior stated that it had no comment.

[3] The regulation deals with the decisional process rather than the outcome of a case. Nothing in *Continental Air Lines, Inc. v. CAB*, 519 F. 2d 944 (D.C. Cir. 1975), cert. denied, 424 U.S. 958 (1976), is to the contrary.

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equipment or schedules. A certificate of public convenience and necessity granted by the Board ordinarily encompasses operations which may range from none to many. Most of the authority granted by the Board is permissive, and insofar as any specific city-pair market is concerned, does not necessarily result in the provision of any service at all.[4] On the other hand, the authority is typically unlimited in that it includes no ceiling on the amount of service which may be offered by the carrier. In short, the licenses granted by the Board authorize carriers to engage in operations largely as they see fit in responding to the conditions of the marketplace. The open-ended nature of certificate authority reflects the congressional judgment that private enterprise, rather than governmental regulation, should determine the amount of services provided in air transportation. This judgment is embodied in section 401(e)(4) of the Act, which directs the Board that no "term, condition, or limitation of a certificate shall restrict the right of an air carrier to add to or change schedules, equipment, accommodations, and facilities for performing the authorized transportation and service as the development of the business and the demands of the public shall require * * *."

As can be seen from the above, it may well be difficult, if not impossible, to forecast with any degree of reliability the actual operations which newly licensed carriers will conduct or which incumbent carriers will schedule in response to new competition. The problem is exacerbated by the relative ease with which carriers may switch resources—planes, personnel, ground equipment, fuel—from market to market as conditions require. In fact, air carriers' commitments of resources to individual markets are commonly made on a short-term basis, and they have the discretion to alter that commitment on short notice if the need exists. This is in sharp contrast to other common types of activities requiring federal licenses, in which multi-year forecasts of certain consequences, such as fuel consumption or environmental impact, can be quantified with some certainty, since there is often involved a long-term dedication of physical resources to one specific use, such as a highway, a dam, or a nuclear power station. In such cases, it is theoretically feasible to predict with a fair degree of certainty the most direct consequences of the actions and to project those consequences into the future over the predictable life of the facility.

These same considerations affect the economic analysis of the public convenience and necessity factors bearing upon a decision to license or not to license in a route proceeding. Recognizing this, the Board has for many years confined such economic analysis to a single forecast year—or at most two years—selected in advance as the likely first year of operations. Even so, there are limitations on the reliability of such single-year forecasts, since carriers may operate different services than the specific services which they propose in licensing proceedings.[5] Rather, the actual schedules operated if a certificate award is made are subject to the economic conditions prevailing at the time of their implementation, primarily the actual traffic available in the market. These conditions may be substantially different from the assumptions and forecasts on which the forecast year schedules were predicated and, accordingly, the schedules actually operated may differ significantly from those used in economic forecasts. Naturally, the fuel consequences, in terms of consumption or efficiency, will also vary from the proposals. Thus, even the single-year forecasts used in route cases are not to be understood as being precise, but only as "ballpark" estimates of operations under the proposed certificate authority. Given the above, it can be seen that multi-year forecasts, particularly when made before a carrier has marshalled its economic case for hearing, may be no more than a statistical exercise unrelated to reality.

A second recommendation of FEA is that the Board adopt its current load factor standard of 55 percent as a measure of energy efficiency. It will be recognized that this is directly contrary to the position of Braniff. The Board is still satisfied that a passenger load factor or ton load factor is valuable as a measurement of energy efficiency, but as Braniff has pointed out, there are many differences between carrier route systems (stage length, traffic density, operational limitations, etc.) which make the use of a single load factor alone as the measure of energy efficiency unwise. We do not reject load factor as a measure of energy efficiency. But load factors can be determined separately for systems, routes, segments, markets, etc. And a comparison in any particular case with our present 55-percent standard, which is an industry average factor for ratemaking purposes only, may not, therefore, be meaningful. For these reasons, we are not persuaded by FEA that the other considerations we discussed at length in the explanatory statement, to which FEA has not addressed itself, should be abandoned at this time. For the present, we shall retain an open position on the ways to measure efficiency in the use of fuel. Certainly, load factors will be one of the ways.

Finally, FEA recommends that the Board alter the threshold test that triggers the issuance of an energy statement from the 10 million gallon net annual change in aviation fuel consumption embodied in the Board proposal to a dual test: if (1) the net annual increase in fuel consumption resulting from a proposed action were five million gallons, or (2) the proposed action resulted in a load factor below 55 percent. We do not deem it desirable to adopt this recommendation. The 55-percent load factor is a trunkline industry rate-making standard. It is an average against which the industry as a whole is measured for purposes of determining whether or not fares should be adjusted to acheive the regulated rate of return. Employed in this way, it provides an incentive to carriers to avoid excessive capacity on a system basis and a means of guarding consumers from paying for any excess capacity actually operated. However, even though a carrier reaches or exceeds the load factor systemwide for ratemaking purposes, it will inevitably have load factors in numerous city-pair markets exceeding and falling short of 55 percent. Whether the certification of new services in a particular market, or any other Board action, produces a 55-percent load factor will depend on a host of factors unrelated to energy conservation or efficiency. Under the FEA suggestion, a proposed action that increases the load factor in the affected area from 40 to 45 percent would trigger an energy impact statement. The same would be true if the load factor projected for a proposal was only 50 percent, even though the additional annual fuel consumption was only 45,000 gallons.[6] In our judgment the projected load factor cannot alone be used to determine whether an energy statement should be prepared, because (1) it is unrelated to whether a regulatory action is "major"; and (2) it would, in our opinion, impose an undue and unjustified burden on the Board and the parties appearing before it.

The other prong of FEA's triggering device, taken alone, is the same as the one used by the Board, except that FEA would reduce the trigger from 10 million to five million gallons net change in consumption of aviation fuel. The difference between the Board and FEA is a difference in judgment about where a somewhat arbitrary line should be drawn. The Board picked a consumption figure "sufficiently sensitive to encompass virtually all cases in which energy considerations could matter and yet high enough to exclude the vast bulk of Board actions which have little if any meaningful energy impact." The 10 million gallon figure, the Board noted, is "arbitrary to some extent" and should be viewed as an "experimental figure" which "may well be adjusted in the light of experience."

[4] Even where the authority is not permissive, the level of service required from any one carrier to meet the adequacy-of-service requirements of the Federal Aviation Act may be quite minimal, since adequacy of service is measured in terms of the overall services available in any particular market.

[5] Indeed, the schedules presented for Board consideration are often formulated in such a way as to maximize the likelihood of the carriers obtaining the route awards they seek—for example, by maximizing promised service benefits or minimizing the competitive impact on other carriers.

[6] The amount is that calculated by FEA for Apple Valley-Palmdale Nonstop Service authorized by Order 71-6-70. See FEA Comments, Appendix A, p. 6. There are 19 other cases, out of 25 cases analyzed in Appendix A, where the increase in fuel consumption was less than five million gallons a year. Energy statements could have been triggered in all 19 cases by a projected load factor under 55 percent if FEA's proposal were adopted.

The Board found that "this threshold would cover approximately one-half of the route cases currently being handled."

FEA based its proposal for a lower figure on a study of the 25 route awards by the Board between April 1971 and November 1975 and one major route proceeding in 1969, which demonstrated that the net number of additional gallons of fuel required annually as a result of the awards exceeded the Board's threshold level of 10 million gallons in only three of the 25 awards, or 12 percent of the cases. Only 6 of the awards, or 24 percent, exceeded FEA's proposed 5 million gallons.

We find the study enlightening. Unfortunately, as FEA notes, the Board's route activity "was substantially curtailed after 1971," and remained so until 1976. As a result, the FEA study is not representative of our much more active current route program. We adhere to the tentative view expressed in our proposal that approximately half of the route cases currently being handled are of such magnitude as to trigger the preparation of energy impact statements under the Board's proposed threshold. Moreover, we still view our 10 million gallon figure as experimental and we shall not hesitate to change it should the circumstances warrant. For the present we shall adhere to our earlier judgment.

Accordingly, the Board adopts a new Part 313 of the Board's Procedural Regulations (14 CFR Part 313) to read as follows:

Sec.

313.1 Purpose, Scope, and Authority.
313.2 Policy.
313.3 Definitions.
313.4 Major Regulatory Actions.
313.5 Energy Information.
313.6 Energy Statements.
313.7 Integration with Environmental Procedures.

AUTHORITY: Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324; and section 382(b) of the Energy Policy and Conservation Act, 89 Stat. 940, 42 U.S.C. 6362(b).

§ 313.1 Purpose, Scope, and Authority

(a) The Energy Policy and Conservation Act (42 U.S.C. 6201 et seq., hereinafter "EPCA") authorizes and directs certain actions to conserve energy supplies through energy conservation programs and where necessary, the regulation of certain energy uses, and to provide for improved energy efficiency of motor vehicles, major appliances, and certain other consumer products. In furtherance of these purposes, section 382 of EPCA requires several transportation regulatory agencies, including the Board, to submit a number of reports to the Congress with respect to energy conservation and efficiency, and, where practicable and consistent with the exercise of the Board's authority under other law, to include in any major regulatory action a statement of its probable impact on energy efficiency and energy conservation. Section 382(b) of EPCA directs the Board to define the term "major regulatory action" by rule.

(b) Section 204(a) of the Federal Aviation Act of 1958, as amended (hereinafter "Act"), authorizes the Board to establish such rules, regulations, and procedures as are necessary to the exercise of its functions and are consistent with the purposes of the Act.

(c) The purpose of these regulations is to establish procedures and guidelines for the implementation of the Board's responsibility under EPCA to include in any major regulatory action taken by the Board a statement of the probable impact on energy efficiency and energy conservation.

(d) These regulations apply to all proceedings before the Board, as provided herein.

§ 313.2 Policy.

(a) *General.* It is the policy of the Board to view the conservation of energy and the energy efficiency improvement goals of EPCA as part of the Board's overall mandate, to be considered along with the several public interest and public convenience and necessity factors enumerated in section 102 of the Federal Aviation Act (49 U.S.C. 1302). To the extent practicable and consistent with the Board's authority under the Act and other law, energy conservation and efficiency are to be weighed in the decision-making process just as are the Board's traditional policies and missions.

(b) *Implementation.* Implementation of this policy is through the integration of energy findings and conclusions into decisions, opinions, or orders in proceedings involving a major regulatory action, as defined in this part.

(c) *Proceedings in progress.* The provisions of this Part are intended primarily for prospective application. Proceedings in progress on the effective date of this Part, in which an application has been docketed but no final decision made public, shall adhere to § 313.6(a) of this Part, provided that the fair, efficient, and timely administration of the Board's regulatory activities is not compromised thereby. Nothing herein shall imply a requirement for new or additional hearings, a reopening of the record, or any other procedures which would tend to delay a timely decision in proceedings in progress.

(d) *Hearings.* Public hearings will not normally be held for the purpose of implementing EPCA, particularly in connection with proposed actions which do not require notice and hearing as a prerequisite to decision under the Act. Hearings may be ordered in exceptional circumstances where the proposed action is of great magnitude or widespread public interest and, in addition, presents complex issues peculiarly subject to resolution through evidentiary hearings and the process of cross examination.

§ 313.3 Definitions.

As used in this Part: (a) "Act" means the Federal Aviation Act of 1958, as amended.

(b) "Energy efficiency" means the ratio of the useful output of services in air transportation to the energy consumption of such services.

(c) "Energy statement" is a statement of the probable impact of a major regulatory action on energy efficiency and energy conservation, contained in a decision, opinion, order, or rule.

(d) "EPCA" means the Energy Policy and Conservation Act.

(e) "Major regulatory action" is any decision by the Board or administrative law judge requiring an energy statement pursuant to section 313.4 of this Part.

(f) "NEPA" means the National Environmental Policy Act of 1969.

§ 313.4 Major Regulatory Actions.

(a) Any initial, recommended, tentative or final decision, opinion, order, or final rule is a major regulatory action requiring an energy statement, if it:

(1) May cause a near-term net annual change in aircraft fuel consumption of 10 million (10,000,000) gallons or more, compared to the probable consumption of fuel were the action not to be taken; or

(2) Is specifically so designated by the Board because of its precedential value, substantial controversy with respect to energy conservation and efficiency, or other unusual circumstances.

(b) Notwithstanding section (a)(1), above, the following types of actions shall not be deemed as major regulatory actions requiring an energy statement:

(1) Tariff suspension orders under Section 1002(g) or 1002(j) of the Act, temporary suspensions under Section 401(j) of the Act, emergency exemptions or temporary exemptions not exceeding 24 months under Sections 101(3) or 416(b) of the Act, interim approval of agreements under Section 412, and other proceedings in which timely action is of the essence;

(2) Orders instituting or declining to institute investigations or rulemaking, setting or declining to set applications for hearing, on reconsideration, or on requests for stay;

(3) Other procedural or interlocutory orders; and

(4) Actions taken under delegated authority.

(c) Notwithstanding section (a)(1), above, the Board may provide that an energy statement shall not be prepared in a proceeding which may result in a major regulatory action, if it finds that:

(1) The inclusion of an energy statement is not consistent with the exercise of the Board's authority under the Act or other law;

(2) The inclusion of an energy statement is not practicable because of time constraints, lack of information, or other unusual circumstances; or

(3) The action is taken under laws designed to protect the public health or safety.

§ 315 Energy Information.

(a) It shall be the responsibility of applicants and other parties or participants to a proceeding which may involve a major regulatory action to submit sufficient information about the energy consumption and energy efficiency consequences of their proposals or positions in the proceeding to enable the administra-

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tive law judge or the Board, as the case may be, to determine whether the proceeding will in fact involve a major regulatory action for purposes of this Part, and if so, to consider the relevant energy factors in the decision and prepare the energy statement.

(b) In proceedings involving evidentiary hearings, the energy information shall be usbmitted at such hearings pursuant to the Board's usual procedural regulations and practices, under control of the administrative law judge or other hearing officer.

(c) In proceedings not involving evidentiary hearings, the energy information shall be submitted at such time as other materials in justification of an application are submitted. Where an application itself is intended as justification for Board action, the energy information shall be submitted with the application. In rulemakings not involving hearings, the energy information shall normally be submitted along with comments on the notice of proposed rulemaking, or as directed in any such notice or any advance notice.

§ 313.6 Energy Statements.

(a) Each major regulatory action shall include, to the extent practicable, consideration of the probable impact of the action taken or to be taken upon energy efficiency and conservation. The administrative law judge or the Board, as the case may be, shall normally make findings and conclusions about:

(1) The net change in energy consumption;

(2) The next change in energy efficiency; and

(3) The balance struck between energy factors and other public interest and public convenience and necessity factors in the decision.

(b) Energy findings and conclusions contained in any initial or recommended decision are a part of that decision and thus subject to discretionary review by the Board.

(c) In the case of orders to show cause initiated by the Board, energy findings and conclusions may be omitted if adequate information is not available. In such instances the energy statement shall be integrated into the final decision.

§ 313.7 Integration with Environmental Procedures.

(a) In proceedings in which an environmental impact statement or a detailed environmental negative declaration is prepared by a responsible official pursuant to the Board's Procedural Regulations implementing the National Environmental Policy Act of 1969 (NEPA), the energy information called for by this Part may be included in that statement or declaration in order to yield a single, comprehensive document. In such instances, the procedures of the Board's NEPA regulations shall govern the submission of the energy information. However, it shall remain the responsibility of the administrative law judge or the Board, as the case may be, to make the findings and conclusions required by §313.6(a) of this Part.

(b) A determination that a major regulatory action within the meaning of EPCA and this Part may be involved in a proceeding is independent from any determination that the proceeding is a "major Federal action significantly affecting the quality of the human environment" within the meaning of NEPA, and vice versa.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc 77-27319 Filed 9-19-77;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE; DEPARTMENT OF THE TREASURY

[T.D. 77-232]

PART 1—GENERAL PROVISIONS

Ports of Entry

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Final Rule.

SUMMARY: To obtain more efficient use of Customs personnel, facilities, and resources, and to provide better service to carriers, importers and the public, the United States Customs Service has determined to make certain changes in its field organization. This document extends the Customs port of entry limits of Akron, Ohio; Cleveland, Ohio; and Louisville, Kentucky. Further, the Customs ports of entry of Ashtabula, Ohio, and Conneaut, Ohio, are consolidated into one Customs port of entry.

EFFECTIVE DATE: October 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Schenarts, Inspection and Control Division, United States Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, (202-566-8151).

SUPPLEMENTARY INFORMATION:

BACKGROUND

As part of its continuing program to obtain more efficient use of personnel, facilities, and resources, and to provide better service to carriers, importers and the public, the United States Customs Service determined that it would be desirable to make certain changes in the field organization of Customs Region IX (Chicago, Illinois). However, prior to making any of these changes, a notice of each proposed change was published in the FEDERAL REGISTER giving interested persons an opportunity to submit relevant data, views, or arguments concerning the proposed changes. After consideration of the comments received in response to the notices, the Customs Service has decided to make the changes set forth in this document.

AKRON, OHIO

On December 15, 1976, notice of a proposal to extend the Customs port of entry limits to Akron, Ohio, was published in the FEDERAL REGISTER (41 FR 54777). No comments were received in response to this proposal.

Accordingly, the port limits of Akron, Ohio, are extended to include all of Summit County, Ohio, and Lake Township in Stark County, Ohio.

CLEVELAND, OHIO

On December 3, 1976, notice of a proposal to extend the Customs port of entry limits of Cleveland, Ohio, was published in the FEDERAL REGISTER (41 FR 53039). One favorable comment was received in response to this proposal.

Accordingly, the port limits of Cleveland, Ohio, are extended to include all of Cuyahoga County, Ohio.

LOUISVILLE, KENTUCKY

Also on December 3, 1976, notice of a proposal to extend the Customs port of entry limits of Louisville, Kentucky was published in the FEDERAL REGISTER (41 FR 53039). The one comment which was received was in favor of the proposed change since the extension would assist many firms located beyond the city limits that are actively engaged in foreign trade. The commenter also noted that the extension would assist in the development of international trade in the publicly-owned industrial park located along the Ohio River in southwestern Jefferson County.

Accordingly, the port limits of Louisville, Kentucky, are extended to include all of Jefferson County, Kentucky, Twelve Mile Island, Kentucky, the townships of Utica, Jeffersonville, and Silver Creek in Clark County, Indiana, and the township of New Albany in Floyd County, Indiana.

ASHTABULA AND CONNEAUT, OHIO

On January 11, 1977, notice of a proposal to consolidate the ports of Ashtabula, Ohio and Conneaut, Ohio, into one Customs port of entry to be known as the Ashtabula/Conneaut Customs port of entry was published in the FEDERAL REGISTER (42 FR 2329). No comments were received in response to this proposal.

Accordingly, the Customs port of entry limits of Ashtabula, Ohio, and Conneaut, Ohio, are consolidated into the Ashtabula/Conneaut Customs port of entry. The geographical limits of the consolidated port of entry include all of the territory within the corporate limits of Ashtabula and Conneaut, Ohio, as well as all the territory located between Ohio State Route 531, also known as Lake Road, and Lake Erie from the western city limits of Conneaut to the eastern city limits of Ashtabula.

AUTHORITY

These organizational changes are made under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR, 1949-1953 Comp., Ch. II), and pursuant to the authority provided by Treasury Department Order No. 190, Rev. 14 (42 FR 35239).

DRAFTING INFORMATION

The principal author of this document was Marvin M. Amernick, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the Customs Service participated in its development, both on matters of substance and style.

AMENDMENTS TO THE CUSTOMS REGULATIONS

§ 1.2 [Amended]

To reflect these changes, the table in section 1.2(c) of the Customs Regulations (19 CFR 1.2(c)) is amended by adding the language "(including the territory described in T.D. 77-232)" directly after "Akron, Ohio (E.O. 4597, Feb. 25, 1927)"; by deleting the language "(including territory described in T.D. 54734)," which appears directly after place the language "(including the territory described in T.D. 77-232)"; by deleting the language "Ashtabula, Ohio" and adding in its place the language "Ashtabula/Conneaut, Ohio (including the territory described in T.D. 77-232)"; by deleting the language "Conneaut, Ohio" and by adding the language "including the territory described in T.D. 77-232)" directly after "Louisville, Ky." all in the column headed "Ports of entry" in the Cleveland, Ohio, Customs district (Region IX).

(Sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended (5 U.S.C. 301, 19 U.S.C. 1, 2).)

Dated: September 12, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc.77-27263 Filed 9-19-77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 77C-0206]

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

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Correction

In FR Doc. 77-21792 appearing at page 38561 in the issue for Friday, July 29, 1977, make the following changes:

1. Some of the subscripts are illegible in the formula at the end of the fifth line of § 73.1496(a)(1), middle column, page 38561. That formula should read "K_2Al_4 (Al_6Si_6)".

2. In the formula at the end of the sixth line of § 73.1496(a)(1), "AL_4" should read "Al_3".

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 75N-0107]

PART 101—FOOD LABELING

Subpart A—General Provisions

TYI SIZE EXEMPTIONS

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is amending this regulation to provide that dietary supplements may qualify for the type-size exemptions for small packages. Manufacturers have recently expressed some confusion as to whether dietary supplements qualify for these exemptions. The effect of this amendment will be to make clear that dietary supplements are eligible for these type-size exemptions.

EFFECTIVE DATE: September 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-245-3092).

SUPPLEMENTARY INFORMATION: Section 101.2 establishes certatin type size and placement requirements with respect to information appearing on packaged foods. Paragrph (c) (1), (2), and (3) of that section, however, provides exemptions from type size requirements for smaller packages meeting certain specific criteria.

One of the criteria required for each of these exemptions is that the label information include "nutrition information • • • in accordance with regulations in this part", i.e., 21 CFR Part 101.

In the FEDERAL REGISTERS of October 19, 1976 (41 FR 46156) and April 19, 1977 (42 FR 20292), the Commissioner of Food and Drugs published final regulations governing composition and labeling of dietary supplements. In the October 19 FEDERAL REGISTER, the Commissioner established a format under 21 CFR 105.85 for the presentation of nutrient information on the labels of dietary supplements that differs from the format established for nutrition labeling of conventional foods under 21 CFR 101.9.

After publication of the final rules on dietary supplements, the Commissioner received inquiries concerning alternate labeling for small packages of dietary supplements. Manufacturers were concerned that because dietary supplements are required by § 105.85 to provide nutrient information in a different format from that established for nutrition labeling under § 101.9, dietary supplements might not qualify for the type-size exemptions for small packages of food established in § 101.2(c) (1), (2), and (3). They assumed that, in order to meet the criteria for the exemption, nutrition information in the format established by § 101.9 must be provided on the label.

The Commissioner did not intend that the format requirements in § 105.85 should preclude small packages of dietary supplements from qualifying for the type-size exemptions established in § 101.2.

He therefore concludes that § 101.2(c) (1), (2), and (3) should be amended to clarify the meaning of "nutrition information" so that dietary supplements will not appear to be excluded because of format requirements.

The Commissioner is amending § 101.2 in paragraph (c) (1) (iii), (2) (iii), and (3) (ii) to read as follows: "The label information includes: (*a*) Nutrition labeling in accordance with § 101.9 of this part or, in the case of a dietary supplement, nutrient information in accordance with § 105.85 of this chapter, and (*b*) A full list of ingredients in accordance with regulations in this part and the policy expressed in § 101.6 of this part."

The Commissioner concludes that these amendments are essentially a clarification of the intended scope of the existing regulations and that, accordingly, under the Administrative Procedure Act (5 U.S.C. 553(b)(B)) prior notice and public procedure are unnecessary for their promulgation. Also, under the Administrative Procedure Act (5 U.S.C. 553(d)(1)) the amendments shall be effective upon publication in the FEDERAL REGISTER because they recognize an exemption.

The Commissioner has considered the environmental effects of the issuance of these amendments and has concluded that under 21 CFR 25.1 these amendments do not constitute a substantial change from existing regulations and that neither an environmental impact statement nor additional environmental assessment is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 403, 701 (a), 52 Stat. 1047-1048 as amended, 1055 (21 U.S.C. 343, 371 (a)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 101 is amended in § 101.2 by revising paragraphs (c) (1) (iii), (2) (iii), and (3) (ii) to read as follows:

§ 101.2 Information panel of package form food.

• • • • • •

(c) • • •

(1) • • •

(iii) The label information includes:

(*a*) Nutrition labeling in accordance with § 101.9 or, in the case of a dietary supplement, nutrient information in accordance with § 105.85 of this chapter, and

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(b) A full list of ingredients in accordance with regulations in this part and the policy expressed in § 101.6.

(2) • • •

(iii) The label information includes:

(a) Nutrition labeling in accordance with § 101.9 or, in the case of a dietary supplement, nutrient information in accordance with § 105.85 of this chapter, and

(b) A full list of ingredients in accordance with regulations in this part and the policy expressed in § 101.6.

(3) • • •

(ii) The label information includes:

(a) Nutrition labeling in accordance with § 101.9 or, in the case of a dietary supplement, nutrient information in accordance with § 105.85 of this chapter, and

(b) A full list of ingredients in accordance with regulations in this part and the policy expressed in § 101.6.

Effective date: These amendments shall be effective September 20, 1977.

(Secs. 408, 701(a), 52 Stat. 1047-1048 as amended (21 U.S.C. 343, 371(a)).)

Dated: September 12, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-27086 Filed 9-19-77;8:45 am]

[Docket No. 76P-0128]

PART 133—CHEESES AND RELATED CHEESE PRODUCTS

Provolone, Caciocavallo Siciliano, Mozzarella, and Low Moisture Mozzarella Cheeses; Standards of Identity

Correction

In FR Doc.77-22210 appearing at page 39101 in the issue for Tuesday, August 2, 1977 in the third column, page 39102, the heading of § 133.11, now reading "*§ 133.-111 Caciocavallos siciliano cheese, identity; label statement of optional ingredients.*" should read "*§ 133.111 Caciocavallo siciliano cheese.*

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 520—ORAL DOSAGE FROM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Haloxon Drench

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule approves safe and effective use of an intermediate size haloxon packet used for control of gastrointestinal roundworms in sheep and goats. The supplemental application for this use was filed by Burroughs Wellcome Co. The animal drug regulations are amended to reflect this approval.

EFFECTIVE DATE: September 20, 1977.

FOR FURTHER INFORMATION CONTACT:

William D. Price, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3442).

SUPPLEMENTARY INFORMATION: Burroughs Wellcome Co., 3030 Cornwallis Rd., Research Triangle Park, NC 27709, filed a supplemental new animal drug application (48-913V) proposing safe and effective use of an intermediate size packet containing 70.7 grams of haloxon used for control of gastrointestinal roundworms in sheep and goats.

This application provides for making an intermediate size packet and corresponding directons for use. This approval does not require a review of the new animal drug application or reaffirmation of the underlying safety and effectiveness data.

In addition, editorial changes are made to reflect current labeling.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 520 is amended in § 520.1120a by revising paragraph (f) (2) to read as follows:

§ 520.1120a Haloxon drench.

• • • • • •

(f) • • •

(2) *Sheep and goats*—(i) *Amount.*—44.9, 70.7, or 141.5 grams or haloxon per packet.

(ii) *Indications for use.* Control of gastrointestinal roundworms of the genera *Haemonchus, Ostertagia,* and *Cooperia* in sheep and *Haemonchus* in goats.

(iii) *Limitations.* (a) Dissolve the contents of a packet containing 44.9 grams of haloxon in 32 ounces of water and administer as follows:

Weight of animal (pounds)	Dose (fluid ounces)	Milliliters
Up to 50	½	15
50 to 90	1	30
90 to 150	1½	45
Over 150	2	60

(b) Dissolve the contents of a packet containing 70.7 grams of haloxon in 32 ounces of water and administer as follows:

Weight of animal (pounds)	Dose (fluid ounces)	Milliliters
30 to 35	¼	8
35 to 65	½	15
65 to 95	¾	23
95 to 130	1	30
Over 130	1¼	38

(c) Dissolve the contents of a packet containing 141.5 grams of haloxon in 32 fluid ounces of water and administer as follows:

Weight of animal (pounds):	(*Milliliters*)
Up to 21	2.5
22 to 30	4
30 to 50	6
50 to 80	10
80 to 120	15
Over 120	20

(d) Do not treat within 1 week of slaughter; do not treat dairy goats of breeding age; animals should be retreated in 3 to 4 weeks.

Effective date: This regulation becomes effective September 20, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: September 13, 1977.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.77-27253 Filed 9-19-77;8:45 am]

PART 548—CERTIFIABLE PEPTIDE ANTIBIOTIC DRUGS FOR ANIMAL USE

Bacitracin Methylene Disalicylate and Streptomycin Sulfate Oral Powder

Correction

In FR Doc. 77-21967 appearing at page 38565 in the issue for Friday, July 29, 1977:

1. In the fifth line of § 548.112d(b)(1)(ii), third column, page 38565, "0.1 M" should read "0.1 *M*".

2. In the fourth line of § 548.112d(c)(3)(i)(b), first column, page 38566, "facitracin" should read "bacitracin".

PART 548—CERTIFIABLE PEPTIDE ANTIBIOTIC DRUGS FOR ANIMAL USE

Bacitracin Methylene Disalicylate and Streptomycin Sulfate Tablets

Correction

In FR Doc. 77-21968 appearing at page 38566 in the issue for Friday, July 29, 1977:

1. In the fourteenth line of § 548.113b(a)(1), middle column, page 38566, "1,000 units" should read "1,000 units".

2. "Spp.", which appears in italics once in the fifth line and twice in the sixth line of § 548.112b(c)(3)(i)(b), should be printed in Roman.

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[TD 7508]

PART 1—INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Minimum Participation Standards

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to minimum participation standards for qualified retirement plans. Changes in the applicable tax law were made by the Employee Retirement Income Security Act of 1974. These regulations provide necessary guidance to the public for compliance with the law and affect employees covered by qualified retirement plans.

DATE: The regulations have varying effective dates. Most of the effective date rules are dependent upon the time when

a retirement plan came into existence. For plans in existence on January 1, 1974, the regulations are effective for plan years beginning after December 31, 1975. For plans not in existence on January 1, 1974, the regulations are effective for plan years beginning after September 2, 1974.

FOR FURTHER INFORMATION CONTACT:

Richard J. Wickersham of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3289) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On October 3, 1975, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 410 of the Internal Revenue Code of 1954, 40 FR 45838. The amendments were proposed to conform the regulations to section 1011 of the Employee Retirement Income Security Act of 1974 (88 Stat. 898). A public hearing was held on February 26, 1976. After consideration of all comments regarding the proposed amendments, these amendments are adopted as revised by this Treasury decision.

STATUTORY PROVISIONS

Section 410 of the Code prescribes minimum participation standards for pension, stock bonus, or profit-sharing plans (and their related trusts) seeking to qualify under section 401(a), 403(a), or 405(a) of the Code. These new participation standards impose various requirements on plans. A principal requirement relates to the limitations on age and service conditions which plans may impose for plan participation. Another requirement relates to the minimum coverage of employees in plans.

AGE AND SERVICE REQUIREMENTS

Paragraph (e) of § 1.410(a)-3 relates to certain plan provisions which may be treated as imposing prohibited age and service requirements. This paragraph has been revised to clarify the rules with respect to certain plans for retired employees. In general, a plan which provides supplemental benefits for retired employees to take into account cost-of-living increases will not be treated as imposing a prohibited age and service requirement.

TIME FOR PARTICIPATION

Paragraph (b) of § 1.410(a)-4 relates to the time when an employee must participate in a plan. This provision has been revised to make clear the time at which certain separated employees must participate in a plan.

NONDISCRIMINATORY COVERAGE TEST

Paragraph (d)(2) of proposed § 1.410(b)-1, relating to the nondiscriminatory coverage test, has been withdrawn. The Service intends to repropose regulations at a later date relating to this test. Temporary regulations, which are the same as the withdrawn regulation, will remain in effect.

ELIGIBILITY REQUIREMENTS

Paragraph (d)(7) of proposed § 1.410(b)-1, relating to different eligibility requirements for present and future employees, has been withdrawn. The Service intends to repropose regulations at a later date which will generally allow plans to have different eligibility requirements for present and future employees.

WITHDRAWAL OF SECTIONS MERELY REPRODUCING STATUTORY MATERIAL

As part of the effort to reduce the bulk of the Code of Federal Regulations, those sections of the proposed regulations which merely reproduced various provisions of the Internal Revenue Code are withdrawn.

DRAFTING INFORMATION

The principal author of these regulations was Richard J. Wickersham of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly—

1. The following provisions, as set forth in paragraph 1 of the appendix to the notice of proposed rulemaking, are withdrawn: § 1.410(a); § 1.410(b); paragraph (d) (2) and (7) of § 1.410(b)-1; § 1.410(c); and § 1.410(d).

2. The amendments to 26 CFR Part 1 are hereby adopted, subject to the changes indicated below.

PARAGRAPH 1. Section 1.410(a)-1, as set forth in paragraph 1 of the appendix to the notice of proposed rulemaking, is changed by adding a new paragraph (d) at the end thereof to read as set forth below.

PARAGRAPH 2. Section 1.410(a)-3, as set forth in paragraph 1 of the appendix to the notice of proposed rulemaking, is changed by revising subparagraph (e)(1) and example (4) in subparagraph (e)(2) and adding new examples (5) and (6) in subparagraph (e)(2). These revised and added provisions read as set forth below.

PARAGRAPH 3. Section 1.410(a)-4, as set forth in paragraph 1 of the appendix to the notice of proposed rulemaking, is changed by revising so much of paragraph (b)(1) which follows subdivision (ii) thereof to read as set forth below.

PARAGRAPH 4. Section 1.410(a)-5, as set forth in paragraph 1 of the appendix to the notice of proposed rulemaking, is changed by revising the second sentence of paragraph (a), by revising paragraph (b), by revising the first sentence in the example under paragraph (c)(2)(ii), by revising the first sentence in example (1) under paragraph (c)(3)(ii), by adding a new sentence after the first sentence in paragraph (c)(4)(i), and by revising pararagraph (d). These revised provisions read as set forth below.

PARAGRAPH 5. Section 1.410(b)-1, as set forth in paragraph 1 of the appendix to the notice of proposed rulemaking, is changed by reserving paragraphs (d)(2) and (d)(7) and by adding a new paragraph (d)(9). These reserved and added provisions read as set forth below.

PARAGRAPH 6. Section 1.413-1, as set forth in paragraph 2 of the appendix to the notice of proposed rulemaking, is changed by redesignating paragraph (a) as paragraph (b) and reserving paragraph (a) to read as set forth below.

PARAGRAPH 7. Section 1.413-2, as set forth in paragraph 3 of the appendix to the notice of proposed rulemaking, is changed by redesignating paragraph (a) as paragraph (b) and reserving paragraph (a) to read as set forth below.

(Secs. 410, 7805, Internal Revenue Code of 1954 (88 Stat. 898, 68A Stat. 917 (26 U.S.C. 410, 7805)).)

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: September 3, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

PARAGRAPH 1. The following new sections are added immediately after § 1.405-3:

§ 1.410(a)-1 Minimum participation standards; general rules.

(a) *In general.* A plan is not a qualified plan (and a trust forming a part of such plan is not a qualified trust) unless the plan satisfies—

(1) The minimum age and service requirements of section 410(a)(1) and § 1.410(a)-3,

(2) The maximum age requirements of section 410(a)(2) and § 1.410(a)-4, and

(3) The minimum coverage requirements of section 410(b)(1) and § 1.410(b)-1.

(b) *Organization of regulations relating to minimum participation standards*—(1) *General rules.* This section prescribes general rules relating to the minimum participation standards provided by section 410.

(2) *Effective dates.* Section 1.410(a)-2 provides rules under section 1017 of the Employee Retirement Income Security Act of 1974 relating to effective dates under section 410.

(3) *Age and service conditions.* Section 1.410(a)-3 provides rules under section 410(a)(1) relating to minimum age and service conditions.

(4) *Maximum age and time of participation.* Section 1.410(a)-4 provides rules under section 410(a)(2) and (4) relating to maximum age and time of participation.

(5) *Year of service; breaks in service.* For rules relating to years of service and breaks in service, see 29 CFR Part 2530 (Department of Labor regulations relating to minimum standards for employee pension benefit plans). See § 1.410(a)-5 for rules under section 410(a)(3)(B)

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relating to seasonal industries and for certain rules under section 410(a)(5) relating to breaks in service.

(6) *Breaks in service.* Section 1.410(a)-6 provides special rules under section 1017(f) of the Employee Retirement Income Security Act of 1974 relating to amendment of break in service rules.

(7) *Coverage.* Section 1.410(b)-1 provides rules relating to the minimum coverage requirements provided by section 410(b)(1).

(8) *Church election.* Section 1.410(d)-1 provides rules relating to the election by a church to have participation, vesting, funding, etc., provisions apply.

(c) *Application of participation standards to certain plans*—(1) *General rule.* Except as provided in subparagraph (2) of this paragraph, section 410 does not apply to—

(i) A governmental plan (within the meaning of section 414(d) and the regulations thereunder),

(ii) A church plan (within the meaning of section 414(e) and the regulations thereunder) which has not made the election provided by section 410(d) and the regulations thereunder,

(iii) A plan which has not provided for employer contributions at any time after September 2, 1974, and

(iv) A plan established and maintained by a society, order, or association described in section 501(c)(8) or (9), if no part of the contributions to or under such plan are made by employers of participants in such plan.

(2) *Participation requirements.* A plan described in subparagraph (1) of this paragraph shall, for purposes of section 401(a), be treated as meeting the requirements of section 410 if such plan meets the coverage requirements resulting from the application of section 401(a)(3) as in effect on September 1, 1974.

(d) *Supersession.* Section 11.410(a)-1 through 11.410(d)-1 (other than § 11.410(b)-1(d)(2)), inclusive, of the Temporary Income Tax Regulation under the Employee Retirement Income Security Act of 1974 are superseded by this section and §§ 1.410(a)-2 through 1.410(d)-1.

§ 1.410(a)-2 Effective dates.

(a) *Plans not in existence on January 1, 1974.* Under section 1017(a) of the Employee Retirement Income Security Act of 1974, in the case of a plan which was not in existence on January 1, 1974, section 410 and the regulations thereunder apply for plan years beginning after September 2, 1974. See paragraph (c) of this section for time plan is considered in existence.

(b) *Plans in existence on January 1, 1974.* Under section 1017(b) of the Employee Retirement Income Security Act of 1974, in the case of a plan which was in existence on January 1, 1974, section 410 and the regulations thereunder apply for plan years beginning after December 31, 1975. See paragraph (c) of this section for time plan is considered to be in existence.

(c) *Time of plan existence*—(1) *General rule.* For purposes of this section, a plan is considered to be in existence on a particular day if—

(i) The plan on or before that day was reduced to writing and adopted by the employer (including, in the case of a corporate employer, formal approval by the employer's board of directors and, if required, shareholders), even though no amounts had been contributed under the plan as of such day, and

(ii) The plan was not terminated on or before that day.

(2) *Collectively bargained plan.* Notwithstanding subparagraph (1) of this paragraph, a plan described in section 413(a), relating to a plan maintained pursuant to a collective bargaining agreement, is considered to be in existence on a particular day if—

(i) On or before that day there is a legally enforceable agreement to establish such a plan signed by the employer, and

(ii) The employer contributions to be made to the plan are set forth in the agreement.

(3) *Special rule.* If a plan is considered to be in existence on January 1, 1974, under subparagraph (1) of this paragraph, any other plan with which such existing plan is merged or consolidated shall also be considered to be in existence on such date.

(d) *Certain existing plans may elect new provisions*—(1) *In general.* The plan administrator (as defined in section 414(g)) of a plan that was in existence on January 1, 1974, may elect to have the provisions of the Code relating to participation, vesting, funding, and form of benefit (as in effect from time to time) apply to a plan year selected by the plan administrator which begins after September 2, 1974, but before the otherwise applicable effective dates determined under section 1017 (b) or (c), 1021, or 1024 of the Employee Retirement Income Security Act of 1974, and to all subsequent plan years. The provisions referred to are the amendments to the Code made by sections 1011, 1012, 1013, 1015, 1016(a)(1) through (11) and (13) through (27), 1021, and 1022(b) of the Employee Retirement Income Security Act of 1974.

(2) *Election is irrevocable.* Any election made under this paragraph, once made, shall be irrevocable.

(3) *Procedure and time for making election.* An election under this paragraph shall be made by attaching a statement to either the annual return required under section 6058(a) (or an amended return) with respect to the plan which is filed for the first plan year for which the election is effective or to a written request for a determination letter relating to the qualification of the plan under section 401(a), 403(a), or 405(a) of the Code and, if trusteed, the exempt status under section 501(a) of the Code of a trust constituting a part of the plan. If the election is made with a written request for a determination letter, the election may be conditioned upon issuance of a favorable determination letter and will become irrevocable upon issuance of such letter. The statement shall indicate that the election is made under section 1017(d) of the Employee Retirement Income Security Act of 1974 and the first plan year for which the election is effective.

(e) *Examples.* The rules of this section are illustrated by the following examples:

Example (1). A plan is adopted on January 2, 1974, effective as of January 1, 1974. The plan is not considered to have been in existence on January 1, 1974.

Example (2). A plan was in existence on January 1, 1974, and was amended on November 1, 1974, to increase benefits. The fact that the plan was amended is not relevant and the amended plan is considered to be in existence on January 1, 1974.

Example (3). (i) A subsidiary business corporation is a member of a controlled group of corporations within the meaning of IRC section 1563(a). On November 1, 1974, the plan of the parent corporation is amended to provide coverage for employees of the subsidiary corporation. This amendment of the parent corporation's plan does not affect the effective date of section 410 with respect to the parent corporation's plan. No distinction is made for this purpose between employees of the parent corporation and employees of the subsidiary corporation.

(ii) If the subsidiary adopted a separate plan on November 1, 1974, under paragraph (a) of this section, section 410 would apply to that plan for its first plan year beginning after September 2, 1974. However, the adoption of a different plan by the subsidiary would not affect the time section 410 applies to the plan of the parent corporation. If, instead of adopting its own separate plan, the subsidiary merely executed an adoption agreement under the terms of the parent plan providing that a subsidiary, upon the execution of an adoption agreement, will become part of the parent plan, the effective date of section 410 with respect to such plan will not be affected by the adoption of the plan by the subsidiary.

§ 1.410(a)-3 Minimum age and service conditions.

(a) *General rule.* Except as provided by paragraph (b) or (c) of this section, a plan is not a qualified plan (and a trust forming a part of such plan is not a qualified trust) if the plan requires, as a condition of participation in the plan, that an employee complete a period of service with the employer or employers maintaining the plan extending beyond the later of—

(1) *Age 25.* The date on which the employee attains the age of 25; or

(2) *One year of service.* The date on which the employee completes 1 year of service.

(b) *Special rule for plan with 3 year-100 percent vesting.* A plan which provides that after not more than 3 years of service each participant's right to his accrued benefit under the plan is completely nonforfeitable (within the meaning of section 411 and the regulations thereunder) at the time such benefit accrues satisfies the requirements of paragraph (a) of this section if the period of service required by the plan as a condition of participation does not extend beyond the later of—

(1) *Age 25.* The date on which the employee attains the age of 25; or

(2) *Three years of service.* The date on which the employee completes 3 years of service.

(c) *Special rule for employees of certain educational institutions.* A plan maintained exclusively for employees of an educational institution (as defined in section 170(b)(1)(A)(ii)) by an employer exempt from tax under section 501(a) which provides that after 1 year of service each participant's right to his accrued benefit under the plan is completely nonforfeitable (within the meaning of section 411 and the regulations thereunder) at the time such benefit accrues satisfies the requirements of paragraph (a) of this section if the period of service required by the plan as a condition of participation does not extend beyond the later of—

(1) *Age 30.* The date on which the employee attains the age of 30; or

(2) *One year of service.* The date on which the employee completes 1 year of service.

(d) *Other conditions.* Section 410(a), § 1.410(a)-4, and this section relate solely to age and service conditions and do not preclude a plan from establishing conditions, other than conditions relating to age or service, which must be satisfied by plan participants. For example, such provisions would not preclude a qualified plan from requiring, as a condition of participation, that an employee be employed within a specified job classification. See section 410(b) and the regulations thereunder for rules with respect to coverage of employees under qualified plans.

(e) *Age and service requirements*—(1) *General rule.* For purposes of applying the rules of this section, plan provisions may be treated as imposing age or service requirements even though the provisions do not specifically refer to age or service. Plan provisions which have the effect of requiring an age or service requirement with the employer or employers maintaining the plan will be treated as if they imposed an age or service requirement. In general, a plan under which an employee cannot participate unless he retires will impose an age and service requirement. However, a plan may provide benefits which supplement benefits provided for employees covered under a pension plan, as defined in section 3(2) of the Employee Retirement Income Security Act of 1974, satisfying the requirements of section 410(a)(1) without violating the age and service rules.

(2) *Examples.* The rules of this paragraph are illustrated by the following examples:

Example (1). Corporation A is divided into two divisions. In order to work in division 2 an employee must first have been employed in division 1 for 5 years. A plan provision which required division 2 employment for participation will be treated as a service requirement because such a provision has the effect of requiring 5 years of service.

Example (2). Plan B requires as a condition of participation that each employee have had a driver's license for 15 years or more. This provision will be treated as an age requirement because such a provision has the effect of requiring an employee to attain a specified age.

Example (3). A plan which requires 1 year of service as a condition of participation also excludes a part-time or seasonal employee if his customary employment is for not more than 20 hours per week or 5 months in any plan year. The plan does not qualify because the provision could result in the exclusion by reason of a minimum service requirement of an employee who has completed a year of service. The plan would not qualify even though after excluding all such employees, the plan satisfied the coverage requirements of section 410(b).

Example (4). Employer A establishes a plan which covers employees after they retire and does not cover current employees unless they retire. Any employee who works past age 60 is treated as retired. The plan fails to satisfy the requirements of section 410(a) because the plan imposes a minimum age and service requirement in excess of that allowed by this section.

Example (5). Employer B establishes plan X, which provides that employees covered by qualified plan Y will receive benefits supplementing their benefits under plan Y to take into account cost of living increases after retirement. Plan X is not treated as imposing an age or service requirement.

Example (6). Employer C establishes a qualified plan satisfying the minimum age and service requirements. At a later time, entry into the plan is frozen so that employees not covered at that time cannot participate in the plan. The limitation on new participants is not treated as imposing a minimum age and service requirement.

§ 1.410(a)-4 Maximum age conditions and time of participation.

(a) *Maximum age conditions*—(1) *General rule.* A plan is not a qualified plan (and a trust forming a part of such plan is not a qualified trust) if the plan excludes from participation (on the basis of age) an employee who has attained an age specified by the plan unless—

(i) The plan is a defined benefit plan or a target benefit plan, and

(ii) The employee begins employment with the employer after the employee has attained an age specified by the plan, which age is not more than 5 years before normal retirement age (within the meaning of section 411(a)(8) and § 1.411(a)-7).

For purposes of this paragraph, a target benefit plan is a defined contribution plan under which the amount of employer contributions allocated to each participant is determined under a plan formula which does not allow employer discretion and on the basis of the amount necessary to provide a target benefit specified by the plan for such participant. Such target benefit must be the type of benefit which is provided by a defined benefit plan and the targeted benefit must not discriminate in favor of employees who are officers, shareholders, or highly compensated. For purposes of this paragraph, in the determination of the time an employee begins employment, any such time which is included in a period of service which may be disregarded under the break in service rules need not be taken into account.

(2) *Examples.* The rules provided by this paragraph are illustrated by the following examples:

Example (1). A defined benefit plan provides that an employee will become a participant upon completion of 3 years of service if at such time the employee is less than age 60. The normal retirement age under the plan is age 65. The plan also provides full and immediate vesting for each of the plan's participants. Under the plan, an employee hired at age 58 would be denied participation on account of service for the first 3 years and on account of maximum age for the remaining years even though the employee was hired more than 5 years prior to the normal retirement date. The plan therefore does not satisfy section 410(a)(2).

Example (2). A defined benefit plan provides a normal retirement age of the later of age 65 or completion of 10 years of service. Because no employee could ever be hired within 5 years of his normal retirement age, the plan could not exclude employees for being over a specified age.

Example (3). Prior to the effective date of section 410, a defined benefit plan with a normal retirement age of 65 contained a maximum age 55 requirement for participation. Because of the maximum age requirement, an employee hired at age 58 was excluded from the plan. This employee is age 61 at the time that section 410 first applies to the plan. The employee cannot be excluded from participation because of age. The exclusion under section 410(a)(2) is not applicable in this instance because the employee's age at the time of hire, 58, was not within 5 years of the normal retirement age specified in the plan.

Example (4). Employee A was hired at age 50 and participated in a defined benefit plan until separating from service at age 55 with 5 years of service and with no vested benefit. At age 61, employee A was rehired within 5 years of the normal retirement age of 65 after he incurred 6 consecutive breaks in service. Because A's consecutive number of 1-year breaks (6) exceeds his years of service prior to such breaks (5), his service before the breaks may be disregarded. Consequently, A's initial employment date falling within such period may be disregarded and the plan could exclude A on account of his age because his employment commenced within 5 years of normal retirement age.

(b) *Time of participation*—(1) *General rule.* A plan is not a qualified plan (and a trust forming a part of such plan is not a qualified trust) unless under the plan any employee who has satisfied the applicable minimum age and service requirements specified in § 1.410(a)-3, and who is otherwise entitled to participate in the plan, commences participation in the plan no later than the earlier of—

(i) The first day of the first plan year beginning after the date on which such employee first satisfied such requirements, or

(ii) The date 6 months after the date on which he first satisfied such requirements,

unless such employee was separated from service and has not returned before the date referred to in subdivision (i) or (ii), whichever is applicable. If such separated employee returns to service after either of such dates without incurring a 1-year break in service, the employee must commence participation immediately upon his return. In the case of a plan using the elapsed time method described in Department of Labor regulations, such an employee who has a period of absence commencing before the date referred to in subdivision (i) or (ii) (whichever is applicable) must commence participation as of such applicable date no later than the date such

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absence ended. However, if an employee's prior service is disregarded on account of the plan's break-in-service rules then, for purposes of this subparagraph, such service is also disregarded for purposes of determining the date on which such employee first satisfied the minimum age and service requirements.

(2) *Examples.* The rules provided by this paragraph are illustrated by the following examples:

Example (1). A calendar year plan provides that an employee may enter the plan only on the first semi-annual entry date, January 1 or July 1, after he has satisfied the applicable minimum age and service requirements specified in section 410(a)(1). The plan satisfies the requirements of this paragraph because an employee is eligible to participate no later than the earlier of (1) the first day of the first plan year beginning after he satisfied the applicable minimum age and service requirements, or (2) the date 6 months after he satisfied such requirements.

Example (2). A plan provides that an employee is not eligible to participate until the first day of the first plan year beginning after he has satisfied the minimum age and service requirements of section 410(a)(1). In this case, an employee who satisfies the "6 month" rule described in subparagraph (1) of this paragraph will not be eligible to participate in the plan. Therefore, the plan does not satisfy the requirements of this paragraph.

Example (3). A calendar year plan provides that an employee may enter the plan only on the first semi-annual entry date, January 1 or July 1, after he has satisfied the applicable minimum age and service requirements specified in section 410(a)(1). Employee A after 10 years of service separated from service in 1976 with a vested benefit. On February 1, 1990, A returns to employment covered by the plan. Assuming A completes a year of service after his return, A must participate immediately on his return, February 1. A's prior service cannot be disregarded, because he had a vested benefit when he separated from service. Therefore, the plan may not postpone his participation until July 1.

Example (4). Assume the same facts as in example (3). The plan has the break-in-service rule described in section 410(a)(5)(D) and § 1.410(a)-5(c)(4). Employee B, after he had 5 years of service but no vested benefit incurs 5 consecutive 1-year breaks. Because B's prior service can be disregarded, the plan may postpone B's participation in the plan under the rule described in section 410(a)(4) and this paragraph.

§ 1.410(a)-5 Year of service; break in service.

(a) *Year of service.* For the rules relating to years of service under subparagraphs (A), (C), and (D) of section 410(a)(3), see regulations prescribed by the Secretary of Labor under 29 CFR Part 2530, relating to minimum standards for employee pension benefit plans.

Rules relating to a general rule for a year of service, elapsed time, hours of service, and maritime industries apply for purposes of section 410(a) and the regulations thereunder.

(b) *Seasonal industries.* For rules which relate to seasonal industries under section 410(a)(3)(B), see regulations prescribed by the Secretary of Labor under 29 CFR Part 2530, relating to minimum standards for employee pension benefit plans.

(c) *Breaks in service*—(1) *General rule.* This paragraph provides rules with respect to breaks in service under section 410(a)(5). Except as provided in subparagraphs (2), (3), (4), and (5) of this paragraph, all of an employee's years of service with the employer or employers maintaining a plan are taken into account in computing his period of service under the plan for purposes of section 410(a)(1) and § 1.410(a)-3.

(2) *Employees under 3-year 100 percent vesting schedule*—(i) *General rule.* In the case of an employee who incurs a 1-year break in service under a plan which provides that after not more than 3 years of service, each participant's right to his accrued benefit under the plan is completely nonforfeitable (within the meaning of section 411 and the regulations thereunder) at the time such benefit accrues, the employee's service before the break in service is not required to be taken into account after the break in service in determining the employee's years of service under section 410(a)(1) and § 1.410(a)-3 if such employee has not satisfied such service requirement.

(ii) *Example.* The rules of this subparagraph are illustrated by the following example:

Example. A qualified plan computing service by the actual counting of hours provides full and immediate vesting. The plan can not require as a condition of participation that an employee complete 3 consecutive years of service with the employer because the requirement as to consecutive years is not permitted under section 410 (a) (5). However, such a plan can require 3 years without a break in service, i.e., 3 years with no intervening years in which the employee fails to complete more than 500 hours of service. Under a plan containing such a participation requirement, the following example illustrates when employees would become eligible to participate.

Year	Hours of service completed		
	Employee A	Employee B	Employee C
1	1,000	1,000	1,000
2	1,000	1,000	500
3	1,000	700	1,000
4	1,000	1,000	700
5	1,000	1,000	1,000
6	1,000	1,000	1,000

NOTE.—Employee A will have satisfied the plan's service requirement at the end of year 3, Employee B at the end of year 4, and Employee C at the end of year 6.

(3) *One-year break in service*—(i) *In general.* In computing the period of service of an employee who has incurred a 1-year break in service, for purposes of section 410(a)(1) and § 1.410(a)-3, a plan may disregard the employee's service before the break until the employee completes a year of service after such break in service.

(ii) *Examples.* The rules provided by this subparagraph are illustrated by the following examples:

Example (1). Employee A completes a year of service under a plan computing service by the actual counting of hours for the 12-month period ending December 31, 1980, and incurs a 1-year break in service for the 12-month period ending December 31, 1981. The plan does not contain the provisions permitted by section 410(a)(5)(B) (relating to 3-year 100 percent vesting) and section 410(a)(5)(D) (relating to nonvested participants). Thereafter, he does not complete a year of service. As of January 1, 1982, in computing his period of service under the plan his service prior to December 31, 1981, is not required to be taken into account for purposes of section 410(a)(1) and § 1.410(a)-3.

Example (2). The employee in example (1) completes a year of service for the 12-month period ending December 31, 1982. Prior to December 31, 1982, in computing the employee's period of service as of any date occurring in 1982, the employee's service before December 31, 1981, is not required to be taken into account for purposes of section 410(a)(1) and § 11.410(a)-3. Because the employee completed a year of service for the 12-month period ending December 31, 1982, however, his period of service is redetermined as of January 1, 1982. Upon completion of a year of service for 1982, the employee's period of service, determined as of any date occurring in 1982, includes service prior to December 31, 1981.

(4) *Nonvested participants*—(i) *General rule.* In the case of a participant in a plan who does not have any nonforfeitable right under the plan to his employer-derived accrued benefit and who incurs a 1-year break in service, for purposes of section 410 (a) (1) and § 1.410 (a)-3 the plan may disregard his years of service prior to such break if the number of his consecutive 1-year breaks in service equals or exceeds his aggregate number of years of service prior to such break. In the case of a plan using the elapsed time method described in Department of Labor regulations, the plan may disregard such years of service prior to such break if the period of severance is at least 1 year and the period of severance equals or exceeds the prior period of service, whether or not consecutive, completed before such period of severance. The plan may in computing such aggregate number of years of service prior to such break disregard any years of service which could have been disregarded under this subparagraph by reason of any prior break in service.

(ii) *Examples.* The rules of this subparagraph are illustrated by the following example:

Example. In 1980, A, who was hired at age 35, separates from the service of X Corporation after completing 4 years of service. At this time A had no vested benefits. In 1985, after incurring 5 consecutive one-year breaks in service, A was reemployed. Under section 410 (a) (5) (D), A's 4 years of service may be disregarded because they are exceeded by the number of years of consecutive one-year breaks (5) after such service.

(c) *Special continuity rule for certain plans.* For special rules for computing years of service in the case of a plan maintained by more than one employer, see regulations prescribed by the Secretary of Labor under 29 CFR Part 2530, relating to minimum standards for employee pension benefit plans.

§ 11.410(a)-6 Amendment of break in service rules; Transitional period.

(a) *In general.* Under section 1017(f)(1) of the Employee Retirement Income Security Act of 1974, a plan is not a qualified plan (and a trust forming a part of such plan is not a qualified trust) if the rules of the plan relating to breaks in service are amended, and—

(1) Such amendment is effective after January 1, 1974, and before the date on which section 410 becomes applicable to the plan, and

(2) Under such amendment, any employee's participation in the plan commences at any date later than the later of—

(i) The date on which his participation would commence under the break in service rules of section 410(a)(5), or

(ii) The earliest date on which his participation would commence under the plan as in effect on or after January 1, 1974.

(b) *Break in service rules.* For purposes of paragraph (a), the term "break in service rules" means the rules provided by a plan relating to circumstances under which a period of an employee's service or plan participation is disregarded for purposes of determining his rights to participate in the plan, if under such rules such service is disregarded by reason of the employee's failure to complete a required period of service within a specified period of time.

§ 1.410(b)-1 Minimum coverage requirements.

(a) *In general.* A plan is not a qualified plan (and a trust forming a part of such plan is not a qualified trust) unless the plan satisfies the requirements of section 410(b)(1). A plan satisfies the requirements of section 410(b)(1) if it satisfies the requirements of paragraph (b)(1) or (2) of this section. This section does not apply in the case of a plan which provides contributions or benefits for any individual who is an owner-employee (as defined in section 401(c)(3) and the regulations thereunder).

(b) *Coverage tests*—(1) *Percentage test.* A plan satisfies the requirements of this subparagraph if it benefits—

(i) Seventy percent or more of all employees, or

(ii) Eighty percent or more of all employees who are eligible to benefit under the plan if 70 percent or more of all the employees are eligible to benefit under the plan,

excluding in each case employees who have not satisfied the minimum age and service requirements (if any) prescribed by the plan, as of the date coverage is tested, as a condition of participation and employees permitted to be excluded under paragraph (c) of this section. The percentage requirements of this subparagraph refer to a percentage of active employees, including employees temporarily on leave, such as those in the Armed Forces of the United States, if such employees are eligible under the plan.

(2) *Classification test.* A plan satisfies the requirements of section 410(b)(1) and this subparagraph if it benefits such employees as qualify under a classification of employees set up by the employer, which classification is found by the Internal Revenue Service not to be discriminatory in favor of employees who are officers, shareholders, or highly compensated. For purposes of this subparagraph, except as provided by paragraph (c) of this section, all active employees (including employees who do not satisfy the minimum age or service requirements of the plan) are taken into account.

(c) *Exclusion of certain employees.* Under section 410(b)(2), for purposes of section 410(b)(1) and paragraph (b) of this section, there shall be excluded from consideration employees described in subparagraphs (1), (2), and (3) of this paragraph.

(1) *Bargaining unit.* Under section 410(b)(2)(A) and this paragraph, there may be excluded from consideration employees not included in the plan who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, if the Internal Revenue Service finds that retirement benefits were the subject of good faith bargaining between such employee representatives and such employer or employers. For purposes of determining whether such bargaining occurred, it is not material that such employees are not covered by another plan or that the plan was not considered in such bargaining.

(2) *Air pilots.* Under section 410(b)(2)(B) and this paragraph there may be excluded from consideration, in the case of a plan established or maintained pursuant to an agreemcnt which the Secretary of Labor finds to be a collective bargaining agreement between air pilots represented in accordance with title II of the Railway Labor Act and one or more employers all employees not covered by such agreement. Section 410(b)(2)(B) and this subparagraph do not apply to a plan if the plan provides contributions or benefits for employees whose principal duties are not customarily performed aboard aircraft in flight.

(3) *Nonresident aliens.* Under section 410(b)(2)(C) and this paragraph, there may be excluded from consideration employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(b) and the regulations thereunder) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3) and the regulations thereunder).

(d) *Special rules*—(1) *Highly compensated.* The classification of an employee as highly compensated for purposes of section 410(b)(1)(B) and § 1.410(b)-1(b)(2) is made on the basis of the facts and circumstances of each case, taking into account the level of the employee's compensation and the level of compensation paid by the employer to other employees, whether or not covered by the plan. Average compensation levels determined on a local, regional, or national basis, are not relevant for this purpose. Further, the classification of an employee as highly compensated is not made solely on the basis of the number or percentage of employees whose compensation exceeds, or is exceeded by, the employee's.

(2) [Reserved]

(3) *Multiple plans*—(i) An employer may designate two or more plans as constituting a single plan which is intended to qualify for purposes of section 410(b)(1) and this section, in which case all plans so designated shall be considered as a single plan in determining whether the requirements of such section are satisfied by each of the separate plans. A determination that the combination of plans so designated does not satisfy such requirements does not preclude a determination that one or more of such plans, considered separately, satisfies such requirements.

(ii) Notwithstanding subdivision (i) of this subparagraph, a plan which is subject to the limitations of section 401(a)(17) of the Code or section 301(d)(3) of the Tax Reduction Act of 1975 cannot be considered with any other plan which covers any employee covered by such plan.

(4) *Profit-sharing plans.* Employees under a profit-sharing plan who receive the amounts allocated to their accounts before the expiration of a period of time or the occurrence of a contingency specified in the plan shall not be considered covered by the plan. Thus, in case a plan permits employees to receive immediately the amounts allocated to their accounts, or to have such amounts paid to a profit-sharing plan for them, the employees who receive the shares immediately shall not be considered covered by the plan.

(5) *Certain classifications.* See section 401(a)(5) and the regulations thereunder for rules relating to classifications of employees which are not considered to be discriminatory per se for purposes of section 410(b)(1)(B) and § 1.410(b)-1(b)(2).

(6) *Integration with Social Security Act.* See section 401(a)(5) and the regulations thereunder for rules relating to integration of plans with the Social Security Act.

(7) [Reserved]

(8) *Certain controlled groups.* In applying the percentage test and classification test described in paragraph (b)(1) and (2) of this section for a year, all the employees of corporations or trades and businesses whose employees are treated as employed by a single employer by reason of section 414 (b) or (c) must be taken into account. The preceding sentence shall apply for a plan year if, on 1 day in each quarter of such plan year, such corporations are members of a controlled group of corporations (within the meaning of section 414(b)) of such trades or businesses are under common control (within the meaning of section 414(c)).

(9) *Transitional rule.* In the case of a cash and deferred profit-sharing plan, in existence on June 27, 1974, the requirements of paragraph (b)(2) of this section are satisfied if over one-half of the participants in the plan are among

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the lowest paid two-thirds of all eligible employees. This subparagraph shall not apply after December 31, 1977.

(e) *Example.* The rules provided by this section are illustrated by the following example:

Example. An employer established a noncontributory defined benefit plan covering all employees of its ABC Division who are hired prior to age 60 and who are at least 25 years old. The normal retirement age under the plan is age 65. The employer has 100 employees including 20 employees who are under age 25 and 10 employees who were hired over age 60. The plan does not cover 15 employees who are over age 25 and were hired before age 60 because they are not in the ABC Division. Of these 15 excluded employees, 3 have less than 1 year of service. In addition, 12 of the 55 employees covered have less than one year of service. The plan can be shown not to satisfy the requirements of IRC section 410(b)(1)(A) as follows:

(i) Number of Employees	100
(ii) Number of employees excluded on account of minimum age and service	30
(iii) (i)–(ii)	80
(iv) Number of employees who must be covered if plan is to satisfy IRC section 410(b)(1)(A), 70% of (iii)	56
(v) Number of employees actually covered	55

Because the number of employees covered is less than the number of employees who must be covered, the plan does not satisfy the percentage coverage requirements of IRC section 410(b)(1)(A).

§ 1.410(d)–1 Election by church to have participation, vesting, funding, etc. provisions apply.

(a) *In general.* If a church or convention or association of churches which maintains any church plan, as defined in section 414(e), makes an election under this section, certain provisions of the Code and Title I of the Employee Retirement Income Security Act of 1974 (the "Act") shall apply to such church plan as if such plan were not a church plan. The provisions of the Code referred to are section 410 (relating to minimum participation standards), section 411 (relating to minimum vesting standards), section 412 (relating to minimum funding standards), section 4975 (relating to prohibited transactions), and paragraphs (11), (12), (13), (14), (15), and (19) of section 401(a) (relating to joint and survivor annuities, mergers and consolidations, assignment or alienation of benefits, time of benefit commencement, certain social security increases, and withdrawals of employee contributions, respectively).

(b) *Election is irrevocable.* An election under this section with respect to any church plan shall be binding with respect to such plan and, once made, shall be irrevocable.

(c) *Procedure for making election*—(1) *Time of election.* An election under this section may be made for plan years for which the provisions of section 410(d) of the Code apply to the church plan. By reason of section 1017(b) of the Act section 410(d) does not apply to a plan in existence on January 1, 1974, for plan years beginning before January 1, 1976. Section 1017(d) of the Act permits a plan administrator to elect to have certain provisions of the Code (including section 410(d)) apply to a plan before the otherwise applicable effective dates of such provisions. See § 1.410(a)–2(d). Therefore, for a plan in existence on January 1, 1974, an election under section 410(d) of the Code may be made for a plan year beginning before January 1, 1976, only if an election has been made under section 1017(d) of the Act with respect to that plan year.

(2) *By whom election is to be made.* The election provided by this section may be made only by the plan administrator of the church plan.

(3) *Manner of making election.* The plan administrator may elect to have the provisions of the Code described in paragraph (a) of this section apply to the church plan as if it were not a church plan by attaching the statement described in subparagraph (5) of this paragraph to either (i) the annual return required under section 6058(a) (or an amended return) with respect to the plan which is filed for the first plan year for which the election is effective or (ii) a written request for a determination letter relating to the qualification of the plan under section 401(a), 403(a), or 405(a) of the Code and, if trusteed, the exempt status under section 501(a) of the Code of a trust constituting a part of the plan.

(4) *Conditional election.* If an election is made with a written request for a determination letter, the election may be conditioned upon issuance of a favorable determination letter and will become irrevocable upon issuance of such letter.

(5) *Statement.* The statement described in subparagraph (3) of this paragraph shall indicate (i) that the election is made under section 410(d) of the Code and (ii) the first plan year for which it is effective.

PAR. 2. Section 1.413–1 is amended by adding the following new paragraph immediately before paragraph (e) thereof:

§ 1.413–1 Special rules for collectively bargained plans.

(a) [Reserved]

(b) *Participation.* Section 410 and the regulations thereunder shall be applied as if all employees of each of the employers who are parties to the collective-bargaining agreement and all such employees who are subject to the same benefit computation formula under the plan were employed by a single employer.

* * * * * *

PAR. 3. Section 1.413–2 is amended by adding immediately before paragraph (d) thereof:

§ 1.413–2 Special rules for plans maintained by more than one employer.

(a) [Reserved]

(b) *Participation.* Section 410 (a) and the regulations thereunder shall be applied as if all employees of each of the employers who maintain the plan were employed by a single employer.

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[FR Doc.77-27175 Filed 9-14-77;4:35 pm]

Title 29—Labor

CHAPTER XXV—OFFICE OF EMPLOYEE BENEFITS SECURITY, DEPARTMENT OF LABOR

PART 2550—RULES AND REGULATIONS FOR FIDUCIARY RESPONSIBILITY

Acquisition and Holding of Employer Securities and Employer Real Property

AGENCY: Department of Labor.

ACTION: Final regulation.

SUMMARY: The Department of Labor is adopting final regulations in order to implement certain requirements of the Employee Retirement Income Security Act of 1974. The regulations set forth rules relating to the acquisition and holding of employer securities and employer real property, and explain how a plan can comply with the requirement that certain employer securities and employer real property be divested no later than December 31, 1979.

EFFECTIVE DATE: January 1, 1975.

FOR FURTHER INFORMATION CONTACT:

Rhea Schwartz, Plan Benefits Security Division, U.S. Department of Labor, Washington, D.C. 20210, (202–523–6855).

SUPPLEMENTARY INFORMATION: The supplementary information on these rules is divided into two parts. Part I, "Description of the Regulations," is a general, nontechnical description of the provisions of the regulations. It is written for the reader who is not a professional or an expert in the field of employee benefit plans. Part II, "Technical Explanation of the Regulations," contains a more detailed explanation of the regulations as well as discussion of the public comments on the proposals.

PART I—DESCRIPTION OF THE REGULATIONS

SCOPE

These regulations set forth rules relating to the acquisition and holding of employer securities and employer real property and the requirement that certain employer securities and employer real property be divested no later than December 31, 1979.

Under section 407(a) of the Act, a plan cannot acquire or hold any employer securities which are not qualifying employer securities or any employer real property which is not qualifying employer real property. An employer security is a security issued by an employer of employees covered by the plan or by an affiliate of the employer. A qualifying employer security is stock or a marketable obligation of the employer (as that term is defined in the Act). Employer real property is real property which is leased to an employer of employees covered by the plan or to an affiliate of the employer. Qualifying employer real property is defined as parcels of employer real property if a substantial number of the parcels are dispersed geographically and each parcel and its improvements are suitable (or adaptable without excessive cost) for more than one use.

Section 407(a) also provides that after December 31, 1984, all plans except eligible individual account plans (such as certain profit sharing and stock bonus plans) cannot hold qualifying employer securities and qualifying employer real property if the aggregate fair market value of such investments represents more than 10 percent of plan assets. Section 407(a) further provides that by December 31, 1979, a plan must dispose of 50 percent of the employer securities and employer real property which it must dispose by 1984.

Certain holdings of employer securities and employer real property, however, may be exempt from these requirements. Section 414(c) (1) and (2) of the Act provides transitional relief until June 30, 1984 for certain loan and lease transactions between a plan and a party in interest with respect to the plan. (An employer of employees covered by the plan is included within the definition of the term "party in interest"). If a loan or lease between a plan and the employer satisfies the conditions of the transitional rules, none of the restrictions of section 407(a) would apply to such loan or lease until June 30, 1984. The loan or lease could be held until that date even if it were not a qualifying employer security or qualifying employer real property and even if the plan would otherwise have to dispose of part of such holdings by December 31, 1979.

There is another exception to the requirement that a plan can hold only employer securities which are qualifying employer securities. That exception is available for a very small number of plans which made an election under section 407(c) before January 1, 1976, of an alternative way of satisfying the requirements of section 407(a) regarding the holding of employer securities.

HOLDING REQUIREMENTS

The regulations provide that after December 31, 1984, a plan other than an eligible individual account plan cannot hold qualifying employer securities or qualifying employer real property if the aggregate fair market value of the securities and real property is more than 10 percent of plan assets. A plan can meet this requirement on any date between December 31, 1974, and January 1, 1985. If a plan complies with the holding requirement on any such date, and subsequent changes in the value of plan assets cause the plan to exceed the 10 percent limitation, the plan will not have to dispose of additional employer securities or employer real property. However, if as a result of changes in the value of plan assets, the plan's holdings of employer securities and employer real property fall below 10 percent, the plan may acquire additional employer securities and employer real property so long as its holdings do not exceed 10 percent of plan assets.

DIVESTITURE BY DECEMBER 31, 1979

The regulations explain how a plan can comply with the requirement that one-half of the qualifying employer securities and qualifying employer real property which must be divested by December 31, 1984, are divested by December 31, 1979. A plan must determine the amount by which the qualifying employer securities and qualifying employer real property exceed 10 percent of plan assets on a valuation date. A plan can select any date between December 31, 1974, and January 1, 1980, as the valuation date. The value of plan assets on the valuation date can be either the actual value on that date or a good faith actuarial estimate of the value of plan assets on any date between December 31, 1979, and January 1, 1985. After selecting a valuation date, the plan should determine the amount of employer securities and employer real property which exceeds 10 percent of plan assets on that date and divide that excess by one-half. The plan then should subtract from that amount those loans and leases between the plan and the employer which satisfy the transitional rules in section 414(c)(1) and (2). The difference represents the amount of employer securities and employer real property which must be divested by December 31, 1979.

Separate regulations have been adopted for plans which have made an election under section 407(c). Those regulations are substantially similar to the regulations for plans which have not made the election, but have been modified to reflect the specific requirements of section 407(c).

FAIR MARKET VALUE

In determining whether a plan is in compliance with the percentage requirements of section 407(a) and these regulations, a plan first must determine the fair market value of plan assets. The figure to be used is the fair market value of plan assets less any indebtedness incurred in connection with the acquisition of such assets. However, the fair market value of qualifying employer securities and qualifying employer real property for purposes of determining compliance with the percentage limitations of section 407(a) is not reduced by any such indebtedness. The regulations contain examples illustrating the operation of these rules.

MULITIPLE EMPLOYER PLANS

For a discussion of the application of section 407(a) to multiple employer plans, see the comments received section of Part II of this preamble.

PART II—TECHNICAL EXPLANATION OF THE REGULATION

On January 7, 1977, notice was published in the FEDERAL REGISTER (42 FR 1618) of a proposal to adopt regulations 29 CFR 2550.407a–1, 2550.407a–2, 2550.407a–3, and 2550.407a–4 under sections 407(a)(1), 407(a)(2), 407(a)(3), and 407(a)(4) of the Act, relating to the acquisition and holding of employer securities and employer real property and to the requirement that certain employer securities and employer real property be divested no later than December 31, 1979. Interested persons were invited to submit written comments on the proposed regulation.

Preliminarily, the following points should be noted, which were included in the Preamble to the proposed regulations:

Although the regulations prescribe certain rules for determining the fair market value of employer real property, employer securities and other plan assets for purposes of section 407(a) of the Act, the Department ordinarily will not issue opinions as to whether the value ascribed to any parcel of employer real property, any employer security or any other plan asset constitutes fair market value. In this regard, reference is made to section 5.02(p) of the Department's Advisory Opinion Procedure, ERISA Procedure 76–1 (41 FR 36281, August 27, 1976).

(2) Section 407(a)(4)(B) requires divestiture of 50 percent of the holdings of employer securities and employer real property which are required to be divested before January 1, 1985, "under paragraph (2) (of section 407(a)) or subsection (c) (whichever is applicable)." However, section 407(a)(2) does not refer to "holding" of employer securities and employer real property, but refers to the acquisition of qualifying employer securities and qualifying employer real property. The "holding" limitation of section 407(a) is contained in paragraph (3). The regulations take the position that the statutory reference to "paragraph (2)" is erroneous, and should have been to "paragraph (3)." See the last sentence of § 2550.407a–4(a). Not only is the position consistent with the Joint Explanatory Statement of the Managers of the Committee of Conference (H.R. Rep. No. 93–1280, 93d Cong., 2d Sess. (1974) 318–320), but is also necessary to give meaning to the divestiture requirements of section 407(a)(4).

(3) Section 407(b)(1) provides that the 10 percent limitation and related rules contained in section 407(a) with respect to the acquisition, holding and divestiture of qualifying employer securities and qualifying employer real property do not apply to the acquisition or holding of qualifying employer securities or qualifying employer real property by an eligible individual account plan. Section 407(d)(3) defines an eligible individual account plan as an individual account plan which is a profit sharing, stock bonus, thrift or savings plan, an employee stock ownership plan, or a money purchase plan which was in existence on the date of the enactment of the Act and which on such date invested primarily in qualifying employer securities. In addition, section 407(d)(3) provides that a plan shall be treated as an eligible individual account plan with respect to the acquisition or holding of qualifying employer real property or qualifying employer securities only if such plan explicitly provides for the acquisition and holding of qualifying employer securities or qualifying employer real property. Because eligible individual account plans are not subject to the limitations of section 407(a)(2) and (3),

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such plans are not subject to the divestiture requirements of section 407 (a) (4) of the Act.

(4) Section 407 does not distinguish between single employer plans and multiple employer plans[1] regarding its acquisition, holding and divestiture rules and, consequently, the proposed regulations contain no such distinction. However, the Department recognizes that the 10 percent limitation, applied to qualifying employer securities of all contributing employers in the aggregate, may impose a restraint on investment that is not administratively feasible or is otherwise inappropriate for certain multiple employer plans. Accordingly, the Department specifically solicited comments regarding the particular problems multiple employer plans have encountered or will encounter in complying with the 10 percent limitation in section 407(a) and the manner in which the Department should deal with those problems. For a discussion of the comments which the Department received and its treatment of this issue in the regulation as adopted, see Comments Received section below.

COMMENTS RECEIVED

In response to the Department's specific solicitation of comments with respect to multiple employer plans, three comment were received. One comment argued that a limited exception to the 10 percent requirement should be granted for multiple employer plans in certain situations. Two comments urged that the Act be interpreted so that the 10 percent limitation would be applicable only to the holding or acquisition of employer securities of any single contributing employer or its affiliates. If this interpretive position is not adopted in the final regulation, one of the comments requested an opportunity to submit to the Department an application for a class exemption with respect to the acquisition and holding of qualifying employer securities by multiple employer plans.

The Department has considered the comments in light of the statutory language in section 407 and has decided not to adopt the suggested interpretation. Given the statutory definition of an "employer security" as a security issued by an employer of employees covered by the plan or an affiliate of such employer and "employer real property" as real property and related personal property which is leased to an employer of employees covered by the plan or an affiliate of such employer, the Department does not believe that it can interpret the percentage limitation of section 407(a), which applies to the aggregate fair market value of employer securities and employer real property, to be limited to the securities issued by and leases of real property to a single employer. In addition, the Department believes that the application of the 10 percent limitation separately to the securities of each employer in situations in which a multiple employer plan covers employees in a single industry or limited geographic area might present a risk to plan participants that is inconsistent with the purposes of section 407(a). The Department recognizes, however, that in many cases the 10 percent limitation may be unnecessarily burdensome to multiple employer plans when applied to the holding of employer securities in the aggregate. Accordingly, the Department will consider an application for class exemption containing adequate protections for plan participants which covers the acquisition and holding of qualifying employer securities by multiple employer plans.

One comment, which was not adopted as unnecessary in light of provisions in the regulation, requested clarification of § 2550.407a–4(c)(1) (i) and (i) with respect to whether the amount of employer real property which must be divested pursuant to paragraph (c)(i) of that section can be reduced by an amount equal to the fair market value of any employer real property which is not qualifying employer real property but is leased to the employer pursuant to a lease that satisfies the requirements of section 414(c)(2) of the Act. The commentator suggests that a question arises as to whether a plan which owns such employer real property must divest the property, or a portion thereof, on or before December 31, 1979. Section 2550.407a–1(b)(2) permits a plan to hold employer real property which is not qualifying employer real property if the employer real property is leased to the employer pursuant to a lease which satisfies the requirements of section 414(c)(2) of the Act. Employer real property leased to the employer pursuant to such a lease may be held by a plan, in accordance with the terms of section 414(c)(2) of the Act, until June 30, 1984. Such property need not be included in determining the amount of employer securities and employer real property which must be divested no later than December 31, 1979, pursuant to § 2550.407a–4(c)(1).

One comment requested clarification of the relationship between section 408(b)(4) and sections 406 and 407(a) of the Act. Section 408(b)(4) provides an exemption for the investment of all or part of a plan's assets in deposits which bear a reasonable rate of interest in a bank or similar financial institution if such bank or other institution is a fiduciary of such plan and certain conditions are satisfied. The comment expressed concern that the 10 percent limitation in section 407(a) might still apply to investments in bank deposits which are exempt under section 408(b)(4). However, because section 408(b)(4) provides an exemption from, among other things, the prohibitions of section 406 (a)(1)(E) and (a)(2), which prohibit a fiduciary from causing a plan to acquire or permitting a plan to hold employer securities or employer real property if the acquisition or holding violates section 407(a), the restrictions of section 407(a) would not apply with respect to investments which are exempt under section 408(b)(4).

Corrections were made in response to two comments which pointed out typographical errors in § 2550.407a–1(b)(2) of the proposed regulation. In addition, it should be noted that on January 21, 1977, the Department published in the FEDERAL REGISTER (42 FR 3871) a complete list of corrections for the typographical errors which appeared in the January 7, 1977 publication of the proposed regulation. The final regulations reflect those corrections.

Finally, three comments, which objected to substantive provisions of the Act, were not adopted as beyond the scope of the regulation. The first objected to the 10 percent limitation in section 407(a) regarding the acquisition and holding of qualifying employer real property because it deprives participants of defined benefit pension plans of advantageous investments. The second objected to the definition of the term "marketable obligation", as set forth in section 407(e) of the Act, because it prohibits plan investment in certain employer debt instruments which may be more secure than employer equity securities which would be permissible investments. The third objected to the definition of the term "eligible individual account plan" in section 407(d)(3) of the Act and requested that it be expanded to include all money purchase plans.

TECHNICAL EXPLANATION

After consideration of all the comments received, §§ 2550.407a–1, 2550.407a–2, 2550.407a–3 and 2550.407a–4 are adopted in the form set forth below, pursuant to the authority of sections 407(a)(4)(B) and 505 of the Act.

Section 2550.407a–1 sets out the general rule that a plan may not hold or acquire employer securities or employer real property which are not qualifying employer securities or qualifying employer real property, except to the extent that the employer security is held by a plan which has made an election under section 407(c)(3) or the employer security or employer real property satisfies the conditions of sections 414(c)(1) or (2) respectively.

Section 2550.407a–2 provides a limitation with respect to the acquisition of qualifying employer securities and qualifying employer real property. Paragraph (a) sets forth the general rule that a plan cannot acquire qualifying employer securities or qualifying employer real property if, immediately after the acquisition, the aggregate fair market value of qualifying employer securities and qualifying employer real property held by the plan exceeds 10 percent of the fair market value of plan assets. Paragraph (b) explains the scope of the term "acquisition".

Paragraph (c) provides that for purposes of section 407(a) and these regulations, (1) the fair market value of total plan assets is the fair market value of such assets less the unpaid amount of any indebtedness incurred by the plan in connection with the acquisition of those assets; and (2) the fair market value of qualifying employer securities and qualifying employer real property is the fair market value of such assets without any reduction for the unpaid amount of any indebtedness incurred by the plan in connection with the acquisition of such employer securities or employer real property. The same definition of fair market value is contained in §§ 2550.407a–3 and 2550.407a–4.

Section 2550.407a–3 sets forth the limitation with respect to the holding of qualifying employer securities and qualifying employer real property. Paragraph (a)(1) states the general rule of section 407(a)(3)(A) that after December 31, 1984, a plan may not hold any qualifying employer securities or qualifying employer real property (or both) to the extent their aggregate fair market value on December 31, 1984, exceeds 10 percent of the greater of the fair market value of plan assets determined on December 31, 1984, or determined on January 1, 1975. Paragraph (a)(2) explains that the holding limitation of section 407(a)(3)(A) will not apply to a plan which on any date after December 31, 1974, and before January 1, 1985, did not hold qualifying employer securities or qualifying employer real property (or both) whose aggregate fair market value determined on such date exceeded 10 percent of the greater of the fair market value of plan assets determined on such date, or determined on January 1, 1975.

Paragraph (b) provides that the requirement that a plan hold no more than 10 percent of its assets in qualifying employer securities or qualifying employer real property (or both) can be met at any time between December 31, 1974 and January 1, 1985. If a plan complies with the holding requirement on any date between December 31, 1974 and January 1, 1985, the plan will satisfy the holding requirements of paragraph (b), notwithstanding any subsequent increase in the percentage because of a change in the fair market value of either the qualifying employer securities or qualifying employer real property or other assets of the plan. However, if changes in the fair market value of plan assets cause such percentage to fall below 10 percent, the plan may acquire additional qualifying employer securities or qualifying employer real property in accordance with the limitation on such acquisitions contained in section 407(a)(2).

Section 2550.407a–4 sets forth the requirements of section 407(a)(4) regarding the divestiture of certain employer securities and employer real property by December 31, 1979. Paragraph (a) explains the general rule that plans must divest, by December 31, 1979, 50 percent of the qualifying employer securities and qualifying employer real property which they would be required to divest before January 1, 1985, under section 407(a)(3) or section 407(c) of the Act.

Paragraph (c) provides a means for plans to comply with the 50 percent divestiture requirement of section 407(a)(4). A plan will be in compliance with such divestiture requirement if it divests by December 31, 1979, qualifying employer securities and qualifying employer real property which have, on any date between December 31, 1974, and January 1, 1980, a fair market value equal to 50 percent of the amount by which such securities and real property exceeds 10 percent of the fair market value of plan assets on that date. The fair market value of plan assets on such date (referred to as the "valuation date") is either the fair market value of plan assets on that date, or a good faith actuarial estimate, whose basis is set forth in writing, of the value of the plan assets on any date between December 31, 1979 and January 1, 1985.

Paragraph (c)(1)(ii) allows a plan to reduce the fair market value of qualifying employer securities and qualifying employer real property which would otherwise be divested under this section by an amount equal to the fair market value of any qualifying employer securities and qualifying employer real property held by the plan which satisfy the conditions of sections 414(c)(1) and (2) of the Act.

A plan which has made a valid election under section 407(c)(3) of the Act must divest certain employer securities by December 31, 1979 in accordance with section 407(a)(4) and paragraph (c)(2)(i). Under that subparagraph, a plan must divest employer securities which have, on any date between December 31, 1974, and January 1, 1980 (the valuation date), a fair market value determined as of December 31, 1974, equal to 50 percent of the amount in excess of 10 percent of the lesser of: (A) The fair market value of the assets of the plan determined on the valuation date (disregarding any portion of the fair market value of employer securities which is attributable to appreciation of such securities after December 31, 1974) but not less than the fair market value of plan assets on January 1, 1975; or (B) an amount equal to the sum of (1) the total contributions to the plan received after December 31, 1974 and prior to the valuation date, and (2) the fair market value of plan assets determined as of January 1, 1975.

The valuation date may be any date between December 31, 1974 and January 1, 1980 and the fair market value of plan assets on the valuation date shall be either the fair market value of plan assets on the valuation date, or a good faith actuarial estimate, whose basis is set forth in writing, of the value of plan assets on any date between December 31, 1979 and January 1, 1985.

Paragraph (c)(2)(ii) allows a plan to reduce the fair market value of employer securities which would otherwise be divested under this section by an amount equal to the fair market value of any employer security held by the plan which satisfies the conditions of section 414(c)(1) of the Act.

Accordingly, Part 2550 of Chapter XXV of Title 29 of the Code of Federal Regulations is amended by adding §§ 2550.407a–1, 2550.407a–2, 2550.407a–3 and 2550.407a–4 as set forth below.

PAR. 1. Section 2550.407a–1 is added in the appropriate place to read as set forth below.

§ 2550.407a–1 General rule for the acquisition and holding of employer securities and employer real property.

(a) *In General.* Section 407(a)(1) of the Employee Retirement Income Security Act of 1974 (the Act) states that except as otherwise provided in section 407 and section 414 of the Act, a plan may not acquire or hold any employer security which is not a qualifying employer security or any employer real property which is not qualifying employer real property. Section 406(a)(1)(E) prohibits a fiduciary from knowingly causing a plan to engage in a transaction which constitutes a direct or indirect acquisition, on behalf of a plan, of any employer security or employer real property in violation of section 407(a), and section 406(a)(2) prohibits a fiduciary who has authority or discretion to control or manage assets of a plan to permit the plan to hold any employer security or employer real property if he knows or should know that holding such security or real property violates section 407(a).

(b) *Requirements applicable to all plans.* A plan may hold or acquire only employer securities which are qualifying employers securities and employer real property which is qualifying employer real property. A plan may not hold employer securities and employer real property which are not qualifying employer securities and qualifying employer real property, except to the extent that:

(1) The employer security is held by a plan which has made an election under section 407(c)(3) of the Act; or

(2) The employer security is a loan or other extension of credit which satisfies the requirements of section 414(c)(1) of the Act of the employer real property is leased to the employer pursuant to a lease which satisfies the requirements of section 414(c)(2) of the Act.

Par. 2. Section 2550.407a–2 is added in the appropriate place to read as set forth below:

§ 2550.407a–2 Limitation with respect to the acquisition of qualifying employer securities and qualifying employer real property.

(a) *In general.* Section 407(a)(2) of the Employee Retirement Income Security Act of 1974 (the Act) provides that a plan may not acquire any qualifying employer security or qualifying employer real property, if immediately after such acquisition the aggregate fair market value of qualifying employer securities and qualifying employer real property held by the plan exceeds 10 percent of the fair market value of the assets of the plan.

(b) *Acquisition.* For purposes of section 407(a) of the Act, an acquisition by a plan of qualifying employer securities or qualifying employer real property shall include, but not be limited to, an acquisition by purchase, by the exchange of plan

[1] The term "multiple employer plan", as used herein, means an employee benefit plan which is a multiemployer plan within the meaning of section 3(37) of the Act, or a plan which meets the requirements of at least subsection 3(37)(A)(i), (ii) and (v) of the Act.

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assets, by the exercise of warrants or rights, by the conversion of a security (except any acquisition pursuant to a conversion exempt under section 406(b)(7) of the Act), by default of a loan where the qualifying employer security or qualifying employer real property was security for the loan, or by the contribution of such securities or real property to the plan. However, an acquisition of a security shall not be deemed to have occured if a plan acquires the security as a result of a stock dividend or stock split.

(c) *Fair market value—Indebtedness incurred in connection with the acquisition of a plan asset.* In determining whether a plan is in compliance with the limitation on the acquisition of qualifying employer securities and qualifying employer real property in section 407(a)(2), the limitation on the holding of qualifying employer securities and qualifying employer real property in section 407(a)(3) and § 2550.407a–3 thereunder, and the requirement regarding the disposition of employer securities and employer real property in section 407(a)(4) and § 2550.407a–4 thereunder, the fair market value of total plan assets shall be the fair market value of such assets less the unpaid amount of:

(1) Any indebtedness incurred by the plan in acquiring such assets;

(2) Any indebtedness incurred before the acquisition of such assets if such indebtedness would not have been incurred but for such acquisition; and

(3) Any indebtedness incurred after the acquisition of such assets if such indebtedness would not have been incurred but for such acquisition and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition. However, the fair market value of qualifying employer securities and qualifying employer real property shall be the fair market value of such assets without any reduction for the unpaid amount of any indebtedness incurred by the plan in connection with the acquisition of such employer securities and employer real property.

(d) *Examples.* (1) Plan assets have a fair market value of $100,000. The plan has no liabilities other than liabilities for vested benefits of participants and does not own any employer securities or employer real property. The plan proposes to acquire qualifying employer securities with a fair market value of $10,000 by paying $1,000 in cash and borrowing $9,000. The fair market value of plan assets would be $100,000 ($100,000 of plan assets less $1,000 cash payment plus $10,000 of employer securities less $9,000 indebtedness), the fair market value of the qualifying employer securities would be $10,000, which is 10 percent of the fair market value of plan assets. Accordingly, the acquisition would not contravene section 407(a).

(2) Plan assets have a fair market value of $100,000. The plan has liabilities of $20,000 which were incurred in connection with the acquisition of those assets, and does not own any employer securities or employer real property. The plan proposes to pay cash for qualifying employer securities with a fair market value of $10,000. The fair market value of plan assets would be $80,000 ($100,000 of plan assets less $10,000 cash payment plus $10,000 of employer securities less $20,000 indebtedness), the fair market value of the qualifying employer securities would be $10,000, which is 12.5 percent of the fair market value of plan assets. Accordingly, the acquisition would contravene section 407(a).

PAR. 3. Section 2550.407a–3 is added in the appropriate place to read as set forth below:

§ 2550.407a–3 Limitation with respect to the holding of qualifying employer securities and qualifying employer real property.

(a) *In general.* (1) Section 407(a)(3) of the Employee Retirement Income Security Act of 1974 (the Act) provides that a plan (other than an eligible individual account plan) may not hold, after December 31, 1984, any qualifying employer securities or qualifying employer real property (or both) to the extent that the aggregate fair market value of such securities and property, determined on December 31, 1984, exceeds 10 percent of the greater of:

(i) The fair market value of the assets of the plan, determined on December 31, 1984, or

(ii) The fair market value of the assets of the plan determined on January 1, 1975.

(2) Section 407(a)(3)(B) makes section 407(a)(3)(A) inapplicable to a plan which on any date after December 31, 1974, and before January 1, 1985, did not hold qualifying employer securities or qualifying employer real property (or both) the aggregate fair market value of which determined on such date exceeded 10 percent of the greater of:

(i) The fair market value of the assets of the plan, determined on such date, or

(ii) The fair market value of the assets determined on January 1, 1975.

(b) *Ten percent limitation.* (1) The requirement of section 407(a)(3) that a plan hold no more than 10 percent of the fair market value of its assets in qualifying employer securities or qualifying employer real property (or both) can be met at any time between December 31, 1974, and January 1, 1985. In accordance with section 407(a)(3)(B) of the Act, if at any time between December 31, 1974 and January 1, 1985, the fair market value of qualifying employer securities and qualifying employer real property does not exceed 10 percent of the fair market value of total plan assets, the plan will be in compliance with the holding requirements of section 407(a)(3), notwithstanding any subsequent increase in such percentage above 10 percent which occurs as the result of changes in the fair market value of either the qualifying employer securities or qualifying employer real property, or the other assets of the plan. Moreover, if such percentage falls below 10 percent, the plan may acquire additional qualifying employer securities or qualifying employer real property not to exceed the limitation on such acquisitions contained in section 407(a)(2).

(2) *Example.* On January 1, 1975 a plan holds qualifying employer real property with a fair market value of $200,000 and has total assets with a fair market value of $1,000,000. The plan would have to divest qualifying employer securities or qualifying employer real property with a value of $100,000 to comply with section 407(a)(3). If, however, there is a substantial rise in the market value of the plan's other assets in 1976 and the first quarter of 1977 so that the fair market value of total plan assets on March 31, 1977, is $2,000,000, but the aggregate fair market value of the qualifying employer securities and qualifying employer real property is still $200,000, the 10 percent holding requirement of section 407(a)(3) would have been met on March 31, 1977. Henceforth, the plan would not be subject to the holding limitations of section 407(a)(3), but only the limitations regarding the acquisition of qualifying employer securities and qualifying employer real property set forth in section 407(a)(2) of the Act. If the plan does not acquire any additional employer securities or employer real property, and if in 1978, the fair market value of other plan assets decreases to $1,500,000 while the fair market value of qualifying employer securities and qualifying employer real property held by the plan remains at $200,000, or even increases to $300,000, the plan will not contravene the holding requirement of section 407(a)(3), inasmuch as the plan was in compliance with that requirement on March 31, 1977. If, on February 1, 1980, the fair market value of total plan assets is $2,500,000 and the fair market value of qualifying employer securities and qualifying employer real property is $200,000, the plan may acquire additional qualifying employer securities and qualifying employer real property in the amount of $50,000.

(c) *Fair market value—Indebtedness incurred in connection with the acquisition of a plan asset.*—In determining whether a plan is in compliance with the limitation on the holding of qualifying employer securities and qualifying employer real property in section 407(a)(3), the fair market value of total plan assets, qualifying employer securities and qualifying employer real property for purposes of section 407(a)(3) and this section shall be determined in accordance with the provisions of § 2550.407a–2(c).

PAR. 4. Section 2550.407a–4 is added in the appropriate place to read as set forth below:

§ 2550.407a–4 Divestiture of employer securities and real property by December 31, 1979.

(a) *In general.* Section 407(a)(4)(A) of the Employee Retirement Income Security Act of 1974 (the Act) provides that a plan may not hold, after December 31, 1979, any employer securities or employer real property in excess of the amount specified in regulations promulgated by the Secretary of Labor under

section 407(a)(4)(B) of the Act. That section directs the Secretary to prescribe regulations which shall have the effect of requiring a plan to divest 50 percent of the holdings of employer securities and employer real property which the plan would be required to divest before January 1, 1985, under sections 407(a)(3) or 407(c) of the Act.

(b) *Fair market value—Indebtedness incurred in connection with the acquisition of a plan asset.*—In determining whether a plan is in compliance with the requirement regarding the disposition of employer securities and employer real property set forth in section 407(a)(4), the fair market value of total plan assets, employer securities and employer real property for purposes of section 407(a)(4) and this section shall be determined in accordance with the provisions of § 2550.407a–2(c).

(c) *Fifty percent divestiture—(1) Divestiture which would be required under section 407(a)(3).*—(i) A plan which would be required to divest qualifying employer securities or qualifying employer real property before January 1, 1985, pursuant to section 407(a)(3), and which has not met the requirements of that section by December 31, 1979, will be in compliance with the requirements of section 407(a)(4) of the Act and this section if the plan divests by December 31, 1979, qualifying employer securities and qualifying employer real property which have, on any date between December 31, 1974, and January 1, 1980 (hereafter referred to as the "valuation date"), a fair market value equal to 50 percent of the amount by which such qualifying employer securities and qualifying employer real property exceed 10 percent of the fair market value of plan assets as of the valuation date. For purposes of this section, the fair market value of plan assets on the valuation date shall be deemed to be an amount equal to:

(A) The fair market value of the assets of the plan on the valuation date, or

(B) An actuarial estimate of the fair market value of the assets of the plan on any date between December 31, 1979 and January 1, 1985. The actuarial estimate under paragraph (c)(1)(i)(B) of this section must be made in good faith and its basis must be set forth in writing.

(ii) The fair market value of qualifying employer securities and qualifying employer real property which must be divested pursuant to paragraph (c)(1)(i) of this section shall be reduced by an amount equal to the fair market value of any qualifying employer security which is a loan or other extension of credit that satisfies the requirements of section 414(c)(1) of the Act or any qualifying employer real property leased to the employer pursuant to a lease that satisfies the requirements of section 414(c)(2) of the Act.

(iii) *Examples.* (A) On January 1, 1975, the assets of a plan have a fair market value of $800,000. On December 31, 1977, plan assets have a fair market value of $900,000 and the actuarial estimate of the fair market value of plan assets as of December 31, 1984, is $1,000,000. The plan has chosen December 31, 1977, as the valuation date, and has decided that for purposes of section 407(a)(4) and § 2550.407a–4 the fair market value of plan assets on the valuation date shall be the actuarial estimate of the fair market value of plan assets as of December 31, 1984, which is $1,000,000. The qualifying employer securities and qualifying employer real property held by the plan on December 31, 1977 have a fair market value of $200,000. A qualifying employer security, which has a fair market value of $25,000, is a loan by the plan which meets the conditions of section 414(c)(1) of the Act. The fair market value of qualifying employer securities and qualifying employer real property held by the plan exceed by $100,000 10 percent of the greater of the fair market value of plan assets on January 1, 1975, or the valuation date. In order to comply with section 407(a)(4) of the Act and this section, the plan ordinarily would have to divest, by December 31, 1979, $50,000 of qualifying employer securities or qualifying employer real property, which would be 50 percent of the amount which exceeds 10 percent of plan assets. However, because qualifying employer securities which have a fair market value of $25,000 are held by the plan pursuant to the transitional rules of section 414(c)(1) of the Act, the plan will have to divest by December 31, 1979, only $25,000 of qualifying employer securities and qualifying employer real property because it may subtract the fair market value of any qualifying employer securities or qualifying employer real property held by the plan which satisfies the requirements of the transitional rules of section 414(c)(1) or (2) of the Act from any amounts which it is required to divest.

(B) Same facts as example (A), except that the plan has $100,000 in indebtedness outstanding, which was incurred in connection with the acquisition of a plan asset (other than qualifying employer securities or qualifying employer real property). For purposes of determining the percentage of plan assets represented by the investment in qualifying employer securities and qualifying employer real property, the fair market value of plan assets on the valuation date is $900,000 ($1,000,000 less $100,000 in indebtedness). The fair market value of qualifying employer securities and qualifying employer real property (i.e., $200,000) held by the plan exceeds 10 percent (i.e., $90,000) of the fair market value of plan assets by $110,000. In order to comply with section 407(a)(4) of the Act and this section, the plan would be required to divest $30,000 of qualifying employer securities or qualifying employer real property by December 31, 1979, which would be 50 percent of $110,000, less the fair market value of qualifying employer securities or qualifying employer real property held pursuant to section 414(c)(1) or (2) of the Act.

(2) *Divestiture which would be required under section 407(c).* (i) Notwithstanding the prohibition of section 407(a)(1)(A) of the Act regarding the holding of employer securities, and subject to the limitations of section 407(c)(1) of the Act, section 407(c) permits a plan which has made a valid election under section 407(c)(3) to hold an employer security which is neither a qualifying employer security nor a loan or other extension of credit covered by the transitional provisions of section 414(c)(1) of the Act. An election under section 407(c) must have been made before January 1, 1976, and in accordance with § 2550.407c–3 (41 FR 43726, September 23, 1975). A plan which has made a valid election under section 407(c)(3) will be in compliance with the requirements of section 407(a)(4) of the Act and this section if, by December 31, 1979, the plant divests employer securities which have on any date between December 31, 1974 and January 1, 1980 (hereafter referred to as the "valuation date"), a fair market value determined as of December 31, 1974 equal to 50 percent of the amount in excess of 10 percent of the lesser of:

(A) The fair market value of the assets of the plan determined on the valuation date (disregarding any portion of the fair market value of employer securities which is attributable to appreciation of such securities after December 31, 1974) but not less than the fair market value of the plan assets on January 1, 1975, or

(B) An amount equal to the sum of (1) The total amount of the contributions to the plan received after December 31, 1974 and prior to the valuation date, plus (2) The fair market value of the assets of the plan, determined as of January 1, 1975.

For purposes of this paragraph (c)(2), the fair market value of plan assets on the valuation date shall be deemed to be an amount equal to (1) the fair market value of the assets of the plan on the valuation date, or (2) an actuarial estimate of the fair market value of the assets of the plan on any date between December 31, 1979 and January 1, 1985. The actuarial estimate must be made in good faith and its basis must be set forth in writing.

(ii) The fair market value of employer securities which must be divested pursuant to this section shall be reduced by an amount equal to the fair market value of any employer security which is a loan or other extension of credit that satisfies the requirements of section 414(c)(1) of the Act.

(iii) *Examples.* (A) A plan has made a valid election under section 407(c) of the Act and has been in compliance with the requirements of section 407(c)(3). On January 1, 1975, total plan assets have a fair market value of $105,000 and employer securities have a fair market value of $15,000. On June 30, 1975, the fair market value of plan assets is $105,000, and the actuarial estimate of the fair market value of plan assets as of December 31, 1984 is $145,000. The plan has

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chosen June 30, 1975 as the valuation date and has decided that for purposes of section 407(a)(4) and § 2550.407a-4 the fair market value of plan assets on the valuation date shall be the actuarial estimate of the fair market value of assets as of December 31, 1984, which is $145,000. No contributions have been made to the plan from December 31, 1974, to June 30, 1975, and the employer securities held by the plan on June 30, 1975, are the same employer securities held on January 1, 1975. Five thousand dollars of employer securities held by the plan is a loan which meets the conditions of section 414(c)(1) of the Act. One thousand dollars of employer securities is neither qualifying employer securities nor a loan or other extension of credit covered by the provisions of section 414(c)(1). Ten percent of the fair market value of plan assets on the valuation date is $14,500; and 10 percent of the sum of the amount of contributions received after December 31, 1974, and prior to July 1, 1975 (nothing, because no contributions were received) plus the fair market value of plan assets on January 1, 1975 ($105,000) is $10,500. Ordinarily, as of December 31, 1979, the plan would have to divest employer securities in excess of 50 percent of the fair market value of the lesser of these amounts. The fair market value of employer securities held by the plan exceeds the lesser of these amounts by $4,500 and 50 percent of $4,500 is $2,250. However, because $5,000 of employer securities is a loan covered by the provisions of section 414(c)(1), the amount of employer securities which would have to be divested is reduced by $5,000. Accordingly, the plan is not required to divest any employer securities by December 31, 1979.

(B) A plan has made a valid election under section 407(c) and has been in compliance with the requirements of section 407(c)(3). On January 1, 1975, total plan assets have a fair market value of $100,000 and employer securities have a fair market value of $30,000. On April 30, 1977, the fair market value of total plan assets is $110,000, none of which is attributable to appreciation of employer securities after December 31, 1974. The actuarial estimate of the fair market value of plan assets as of December 31, 1984 is $160,000. Contributions to the plan from December 31, 1974, through April 30, 1977, total $12,000. The plan has chosen April 30, 1977 as the valuation date and has decided that the fair market value of plan assets on the valuation date shall be the actuarial estimate of the fair market value of plan assets as of December 31, 1984, which is $160,000. The employer securities held on April 30, 1977, are the same employer securities held on January 1, 1975. Ten percent of the fair market value of plan assets on the valuation date is $16,000; and 10 percent of the sum of the amount of contributions received after December 31, 1974, and prior to May 1, 1977, plus the fair market value of plan assets on January 1, 1975, is $11,200. The fair market value of employer securities held by the plan exceeds the lesser of these two amounts by $16,800. In order to comply with section 407(a)(4) of the Act and this section, the plan would be required to divest, by December 31, 1979, $9,400 of employer securities.

Signed at Washington, D.C., this 15th day of September 1977.

IAN D. LANOFF,
Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration.

[FR Doc.77-27315 Filed 9-19-77;8:45 am]

Title 33—Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1110-2-100]

PART 222—ENGINEERING AND DESIGN

Periodic Inspection and Continuing Evaluation of Completed Civil Works Structures

AGENCY: Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This regulation describes objectives, policy, responsibilities and procedures for the Corps of Engineers to follow in assuring the continuing structural adequacy of Civil Works projects by performing periodic inspections. This amendment to 33 CFR Part 222 requires that any deviation from the scheduled frequency of inspections for any project must be approved by the Office of the Chief of Engineers (OCE). This applies to projects where less frequent inspections are warranted. The intended effect of this program is to aid the Corps in detecting conditions of significant structural distress or operational inadequacy and provide a basis for restoration and the timely initiation of remedial measures.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Philip M. Brown, HQDA (DAEN-CWE-BB) Washington, D.C. 20314, telephone 202-693-7360.

NOTE.—The U.S. Army Corps of Engineers has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Date: September 8, 1977.

JAMES N. ELLIS,
Colonel, Corps of Engineers, Executive Director, Engineer Staff.

Accordingly, 33 CFR § 222.2 is amended by revising paragraph (g) of Appendix A to read as follows:

§ 222.2 Periodic inspection and continuing evaluation of completed civil works structures.

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APPENDIX A—PROCEDURES FOR INSPECTION AND EVALUATION PROGRAM

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(g) *Frequency of Inspections.* The interval of inspections outlined below are for guidance in developing projected inspection schedules. These indicated intervals do not preclude more frequent inspections if deemed necessary, or less frequent inspections (subject to OCE approval and not to exceed each five years) for those structures where condition or structural integrity warrants.

(1) Initial Inspections. The first general field inspection will be carried out immediately after topping out for new earth and rock-fill dams. The initial inspection of concrete structures will be accomplished immediately prior to impoundment of reservoir water.

(2) Subsequent Inspections. The second inspection for earth and rock-fill dams will be made at a reasonable stage of reservoir filling, but in no case later than attainment of normal operating pool. The second inspection of concrete structures will be made when the reservoir water attains the normal operation pool but in no case later than one year after initial impoundment has begun. Subsequent inspections for concrete structures, and earth and rock-fill dams and embankments will be made at one-year intervals for the next four years, at two-year intervals for the following four years, and then may be extended to each five years if warranted by the results of the previous inspections. Intervals between inspections of existing structures may be increased up to five years, (subject to OCE approval) depending upon the results of the initial inspection and the size and importance of the structure.

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[FR Doc.77-27257 Filed 9-19-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 790-8; OPP-300012A]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Exemptions From Requirement of a Tolerance for Certain Inert Ingredients in Pesticide Formulations

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes exemptions from the requirement of a tolerance for certain additional inert (or occasionally active) ingredients in pesticide formulations. The amendment was requested by various firms. The intended effect of this regulation is to improve how pesticides work.

EFFECTIVE DATE: Effective on September 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. David Ritter, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street, SW., Washington, D.C. (202-426-2680).

SUPPLEMENTARY INFORMATION: On May 24, 1977, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (42 FR 26440) to

amend Part 180, Subpart D, by exempting certain pesticide chemicals which are additional inert (or occasionally active) ingredients in pesticide formulations from tolerance requirements under provisions of Section 408(e) of the Federal Food, Drug, and Cosmetic Act. One comment was received from Air Products and Chemicals, Piscataway NJ, objecting to the limitation on 3,6-dimethyl-4-octyn-3,6-diol and 2,4,7,9-tetramethyl-5-decyne-4,7-diol that prohibits herbicides containing them from being applied during the early postemergence stage of plants. The Agency has concluded that since there is no reasonable expectation of residues in human food, provided that the inerts are applied to growing crops before edible parts form, the limitation should be changed to restrict application to soil prior to planting or to plants before the edible parts form, regardless of the type of pesticide. No requests for referral to an advisory committee were received by the Agency with regard to this notice, and it has been concluded that the proposed amendment to the regulations will protect the public health and, therefore, that the proposed amendment to the regulations should be adopted as corrected with minor editorial changes.

Any person adversely affected by this regulation may, on or before October 20, 1977, file written objections with the Hearing Clerk, EPA, Room 1019, East Tower, 401 M St. SW., Washington, DC 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on September 20, 1977, Part 180, Subpart D, is amended as set forth below.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Dated: September 9, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart D, is amended by alphabetically inserting new items in paragraph (d) and adding the new §§ 180.1036, 180.1037, and 180.1038 as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

• • • • • •

(d) • • •

Inert Ingredients	Limits	Uses
• • •	• • •	• • •
3,6-Dimethyl-4-octyn-3,6-diol.	In pesticide formulations, for soil prior to planting or to plants before edible parts form.	Surfactants, related adjuvants of surfactants.
• • •	• • •	• • •
Maleic acid-butadiene copolymer.	3 pct of pesticide formulation.	Surfactants, related adjuvants surfactants.
• • •	• • •	• • •
Propane		Propellant.
• • •	• • •	• • •
2,4,7,9-Tetramethyl-5-decyne 4,7-diol.	In pesticide formulations, for application to soil prior to planting or to plants before edible parts form.	Surfactants, related adjuvants of surfactants.
• • •	• • •	• • •

§ 180.1035 Hydrogenated castor oil; exemption from the requirement of a tolerance.

The adhesive hydrogenated castor oil is exempt from the requirement of a tolerance for residues in or on the raw agricultural commodity cottonseed when used as an inert adhesive for formulations of the attractant gossyplure (1:1 mixture of (*Z,Z*)- and (*Z,E*)-7,11-hexadecadien-1-ol acetate) to disrupt the mating of the pink bollworm.

§ 180.1036 Polybutenes; exemption from the requirement of a tolerance.

Polybutenes are exempt from the requirement of a tolerance for residues in or on the raw agricultural commodity cottonseed when used as a sticker agent for formulations of the attractant gossyplure (1:1 mixture of (*Z,Z*)- and (*Z,E*)-7,11-hexadecadien-1-ol acetate) to disrupt the mating of the pink bollworm.

§ 180.1037 Polyoxymethylene copolymer; exemption from the requirement of a tolerance.

Polyoxymethylene copolymer, conforming to 21 CFR 121.2637, is exempt from the requirement of a tolerance for residues in or on the raw agricultural commodity cottonseed when used as an inert controlled-release dispenser for formulations of the attractant gossyplure (1:1 mixture of (*Z,Z*)- and (*Z,E*)-7-11-hexadecadien-1-ol acetate) to disrupt the mating of the pink bollworm.

[FR Doc.77-26759 Filed 9-19-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER H—UTILIZATION AND DISPOSAL

[FPMR Amdt. H-105]

PART 101-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Subpart 101-47.3—Surplus Real Property Disposal

SURPLUS REAL PROPERTY DISPOSAL FOR CREDIT

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This rule prescribes the policy for the sale of surplus real property. Sales of surplus property will generally be for cash rather than credit. The exceptions to general policy for cash sales are authorized when circumstances dictate that the granting of credit is in the best interests of the government.

EFFECTIVE DATE: This rule is effective September 20, 1977.

FOR FURTHER INFORMATION CONTACT:

James R. Bergdahl, Office of Real Property, Public Buildings Service, General Services Administration, Washington, D.C. 20405, (202-566-1339).

1. Section 101-47.301(b) is revised to read as follows:

§ 101-47.301-1 Policy.

• • • • • •

(b) That surplus real property shall ordinarily be disposed of for cash consistent with the best interests of the Government.

2. Section 101-47.301-4 is revised to read as follows:

§ 101-47.301-4 Credit disposals and leases.

Where credit is extended in connection with any disposal of surplus property, the disposal agency shall offer credit pursuant to the provisions of § 101-47.304-4. The disposal agency shall administer and manage the credit, lease, or permit and any security therefor and may enforce, adjust, or settle any right of the Government with respect thereto in such manner and upon such terms as that agency considers to be in the best interest of the Government.

3. Section 101-47.304-4 is amended to read as follows:

§ 101-47.304-4 Invitation for offers.

In all advertised and negotiated disposals, the disposal agency shall prepare and furnish to all prospective purchasers or lessees written invitations to make an offer, which shall contain or incorporate by reference all the terms and conditions under which the property is offered for disposal, including all provisions required by statute to be made a part of the offer. The invitation shall further specify the form of the disposal instrument, which specifications shall be in accordance with the appropriate provisions of §§ 101-47.307-1 and 101-47.307-2.

(a) When the disposal agency has determined that the sale of specific property on credit terms is necessary to avoid retarding the salability of the property and the price obtainable, the invitation shall provide for submission of offers on the following terms:

• • • • • •

(7) [Reserved]

(b) Where the disposal agency has determined that an offering of the property on credit terms that do not meet the standards set forth in § 101-47.304-4(a) is essential to permit disposal of the property in the best interests of the Gov-

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ernment, the invitation may provide for submission of offers on such alternate terms of payment as may be recommended by the disposal agency and approved by the Administrator of General Services on the basis of a detailed written statement justifying the need to deviate from the standard terms. The justification shall be based on the needs of the Federal Government as distinguished from the interests of the purchaser. The sale in those cases where the downpayment is less than 20 percent shall, unless otherwise authorized by the Administrator of General Services, be under a land contract which shall provide, in effect, for conveyance of title to the purchaser by quitclaim deed or other form of conveyanve in accordance with the appropriate provisions of §§ 101–47.307–1 and 101–47.307–2 upon payment of one-third of the total purchase price and accrued interest, or earlier if the Government so elects, and execution and delivery of purchaser's note and purchase money mortgage (or bond and deed of trust) satisfactory to the Government, to secure payment of the unpaid balance of the purchase price.

• • • • • •

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A–107.

Dated: September 9, 1977.

JAY SOLOMON,
Administrator of General Services.

[FR Doc.77–27240 Filed 9–19–77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[RM–2243; FCC 77 588]

PART 97—AMATEUR RADIO SERVICE

Frequencies Available to Amateur Radio Stations

Corrections

In FR Doc. 77–26189 appearing at page 45308 in the issue for Friday, September 9, 1977, the following corrections should be made.

On page 45309, third column, paragraph (l) should read as set forth below.

(l) Region 1: 3.5–3.8 MHz, 7.0–7.1 MHz, 14.0–14.35 MHz, 21.0–21.45 MHz, 28.0–29.7 MHz, 144–146 MHz, 430–440 MHz, 1215–1300 MHz, 2300–2450 MHz.

Region 3: 1.8–2.0 MHz, 3.5–3.9 MHz, 7.0–7.1 MHz, 14.0–14.35 MHz, 21.0–21.45 MHz, 28.0–29.7 MHz, 50.0–54.0 MHz, 144–148 MHz, 420–450 MHz, 1215–1300 MHz, 2300–2450 MHz.

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Lacassine National Wildlife Refuge, Louisiana to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to hunting of Lacassine National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 5, 1977 through December 4, 1977 and December 17, 1977 through January 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Bobby W. Brown, Refuge Manager, Lacassine National Wildlife Refuge, Route 1, Box 186, Lake Arthur, La. 70549, telephone 318–774–2750.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting for ducks, geese, and coots is permitted on the Lacassine National Wildlife Refuge, Louisiana, only on the areas designated by signs as being open to public hunting. These areas comprising 6,400 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, 17 Executive Park Drive, NE., Atlanta, Ga. 30329. Waterfowl hunting shall be in accordance with all applicable State Regulations subject to the following conditions:

1. All hunters must have a Federal refuge hunting permit in their possession in order to hunt on the refuge.

2. Hunting is restricted to the use of steel shot shells only. No lead or other toxic shot shells will be permitted on the refuge.

3. Hunting Schedule: Hunting is permitted 5 half-days per week—Wednesday through Sunday. No hunting on Mondays or Tuesdays and no hunting on December 25.

4. Shooting Hours: One-half hour before sunrise until 11 a.m. Hunters may enter the hunting area no earlier than two hours before legal shooting time and must be off the refuge by 12 noon.

5. Hunting is restricted to ducks, geese, and coots. No other species of birds, mammals, or reptiles may be shot or taken on the refuge.

6. Hunters under 18 years of age must be under the close supervision of an adult. For safety reasons the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

7. Hunting parties may not hunt closer than 100 yards apart.

8. Firearms must be encased or dismantled when carried in transit through refuge waters.

9. Temporary blinds made of native vegetation are required, but may not contain boards, netting, lumber, poles, or wire. Portable blinds may be used but must be removed from the refuge after each day's hunt.

10. Use of retriever dogs is permitted and encouraged, but they must be under control of the hunter at all times.

11. Furbearing animals or trapping equipment present in the hunting areas shall not be molested or disturbed by hunters.

12. Hunters cannot hunt closer than 50 yards to canals or waterways.

13. Airboats and all-terrain vehicles (ATVs) will not be permitted on the hunting area. Operation of boats shall be in accordance with all State and Federal regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: September 13, 1977.

HAROLD W. BENSON,
Acting Regional Director.

[FR Doc.77–27271 Filed 9–19–77;8:45 am]

PART 32—HUNTING

Opening of St. Vincent National Wildlife Refuge, Florida, to Public Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to public resident big game hunting of St. Vincent National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: *Archery:* October 20–23, 1977 and November 17–20, 1977. *Primitive gun:* December 8–11, 1977.

FOR FURTHER INFORMATION CONTACT:

Harry T. Stone, Refuge Manager, St. Vincent National Wildlife Refuge, P.O. Box 447, Apalachicola, Fla. 32320, telephone 904–653–8808.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of white-tailed deer, feral (wild) hogs, raccoon, and opossum is permitted on 12,358 acres of St. Vincent National Wildlife Refuge. The area open to hunting includes all of St. Vincent Island. This open area is delineated on a map available at the refuge headquarters and from the office of the Regional Director, 17 Executive Park Drive, NE., Atlanta, Ga. 30329. Hunting shall be in accordance with all applicable State and Federal regulations subject to the following conditions:

1. *Species permitted to be taken.* (a) White-tailed deer—either sex (except spotted fawn) on the archery hunts; antlered (minimum 5") bucks only on the primitive gun hunt. (b) Hogs (minimum 15" shoulder height), raccoon, and opossum.

2. *Bag limits.* White tailed deer—1 per day, 2 per season; Hogs, raccoon, and opossum—no bag limits.

3. *Open seasons.* (a) Bow and arrow—October 20–23, 1977 and November 17–20, 1977; (b) Primitive gun—December 8–11, 1977.

4. *Permitted methods of hunting*—(a) *Bow and arrow seasons.* Long bows capable of casting a one (1) ounce hunting arrow 150 yards and sharp broadhead arrows. Firearms and cross bows are prohibited. Hunters must be on stands from ½ hour before sunrise to 1½ hours after sunrise. No stalking or movement through the woodlands is permitted during the stand hunt hours. There will be no required afternoon stand period although still hunting is encouraged from 4 p.m. until sunset.

(b) *Primitive gun season.* Weapons permitted are muzzle loading percussion cap or flint lock rifles with a single or double rifled barrel of .40 caliber minimum and a .58 caliber maximum bore. Minimum barrel length is 20".

5. *Permit requirements.* A non-transferable hunting permit must be obtained at one of the check stations on the Island before hunting. This permit must be kept in possession while hunting.

6. *Access.* Initial entry onto St. Vincent Island is restricted to two check stations throughout the hunts. These are designated Campsite 1 and Campsite 2 on the hunting area map. Each hunter must check-in upon initial entry and check-out before he leaves the Island on his last hunting day. Participants are to have their game inspected by refuge personnel at the check station where they received their permits. The use of boats to gain access at other designated locations is permitted following check-in. Boats to be used to gain access at points other than check stations must first be registered at one of the check stations. The use of boats for ingress and egress at unauthorized locations is prohibited.

7. During the primitive gun hunt; hunters are required to wear outer garments above the waist which contain a minimum total of 500 square inches of daylight fluorescent orange colored material. Bow hunters are required to wear red, orange, or yellow outer garment (hat, vest, etc.) while hunting.

8. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

9. Camping and fires are restricted to two designated camping areas. Participants may set up camp one day prior to the opening of each hunt season, but are not permitted to leave the campsite area to set up stands, "scout", etc. Campers must remove all camping equipment from St. Vincent Island by 3 p.m. following the last day of each hunt season.

10. Dogs are not permitted on the Island.

11. No motorized vehicles or equipment such as scooters, tote bikes, beach buggies, jeeps, portable electric generators, chain saws, etc., will be permitted.

12. Littering and cutting of live trees is prohibited. Only dead wood may be cut.

13. It is unlawful to drive a nail, spike, or other metal object into any tree or to hunt from any tree in which a nail, spike, or other metal object has been driven.

14. Apprehension of a participant for any infraction of regulations shall be cause for immediate revocation of his hunting permit.

The provisions of this special regulation supplements the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: September 13, 1977.

HAROLD W. BENSON,
Acting Regional Director.

[FR Doc.77–27270 Filed 9–19–77;8:45 am]

PART 32—HUNTING

Opening of Ottawa National Wildlife Refuge, Ohio to Goose Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to goose hunting of Ottawa National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 14, 1977 through November 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Leland E. Herzberger, Refuge Manager, Ottawa National Wildlife Refuge, 14000 W. State Route 2, Oak Harbor, Ohio 43449, telephone number 419–897–0211.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Hunting of Canada, snow (including blue color phase) and white-fronted geese is permitted on the Ottawa National Wildlife Refuge, Ohio, only on the areas designated by signs as being open to hunting. These areas comprising 640 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Hunting shall be by State permit and only from assigned blinds. Blind assignments will be determined by drawings.

(2) A fee of five dollars per hunter will be required for blind rental.

(3) No more than two persons per blind (permit holder and one guest) are permitted.

(4) Hunters must report to the check station at least one hour before legal shooting time.

(5) Each hunter may possess not more than 10 shells. Only non-toxic steel shot in shot sizes no larger than No. 1 will be permitted. Hunters may not have shotgun shells containing lead or other toxic shot in their possession.

(6) Hunters will be permitted to pursue and shoot downed geese only within 75 yards of their assigned blind.

(7) Hunting hours shall be from the legal opening time in the morning until 12 noon.

(8) All hunters must be out of their assigned blinds by 1 p.m.

(9) All hunters must report to the check station and submit their geese for examination by 2 p.m.

(10) Vehicle travel is restricted to designated routes of travel and parking areas.

(11) Foot travel is restricted to the designated public use areas only.

(12) Overnight camping and open fires are prohibited.

(13) The use of trained dogs to retrieve downed geese within the hunting area is permitted.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 26, 1977. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: September 12, 1977.

WILLIAM E. DAUGHERTY,
Acting Regional Director.

[FR Doc.77–27276 Filed 9–19–77;8:45 am]

PART 32—HUNTING

Opening of Tamarac National Wildlife Refuge, Minn., to Migratory Game Bird Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of the Tamarac National Wildlife Refuge to waterfowl and coot hunting is compatible with the objectives for which the area was estab-

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lished, will utilize a renewable natural resource, and will provide recreational opportunity to the public.

DATES: October 1, 1977 through November 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Omer N. Swenson, Refuge Manager, Tamarac National Wildlife Refuge, Rochert, Minn. 56578; telephone 218–847–4355.

SUPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks, geese, and coots on the Tamarac National Wildlife Refuge, Rochert, Minn., is permitted in the area designated by signs as public hunting area. This area comprising 12,500 acres is delineated on maps available at the Refuge Headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Hunting shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The hunting of other migratory game bird species as may be authorized by Minnesota State regulations is prohibited.

(2) No person shall, for the purpose of hunting, enter or leave the refuge except by designated roads or trails.

(3) Use of steel shot is required for hunting waterfowl and coots. Possession of shot shells containing lead or other toxic shot while hunting waterfowl and coots is prohibited.

(4) Construction of permanent blinds, platforms, or scaffolds is prohibited. Temporary blinds may be constructed, but if left overnight, such blinds will be available on a first come, first served basis.

(5) The use of dogs to retrieve downed waterfowl and coots is permitted.

(6) Boats are permitted for waterfowl and coot hunting.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 12, 1977.

WILLIAM E. DAUGHERTY,
Acting Regional Director.

[FR Doc.77-27277 Filed 9-19-77;8:45 am]

PART 32—HUNTING

Opening of Lake Nettie National Wildlife Refuge, N. Dak., to Deer Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to deer hunting of Lake Nettie National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 21, 1977 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

David C. McGlauchlin, Refuge Manager, Audubon National Wildlife Refuge, Coleharbor, N. Dak. 58531. Phone 701–442–5474.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Deer Bow Hunting is permitted on the Lake Nettie National Wildlife Refuge, N. Dak., only on the areas designated by signs as being open to hunting. These areas comprising 2,265 acres are delineated on maps available at the refuge headquarters and from the office of the Area Manager, 1500 Capitol Avenue, Bismarck, N. Dak. 58501. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Hunting is permitted from 12 noon, C.S.T. November 21, 1977, to sunset that day, and from sunrise to sunset each day from November 22 through December 31, 1977.

(2) All hunters must exhibit their hunting license, deer tag, game, and vehicle contents to Federal and State officers upon request.

(3) Vehicular traffic, including the use of boats, is prohibited by hunters on the refuge during the deer season.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

DAVID C. MCGLAUCHLIN,
Refuge Manager, Audubon National Wildlife Refuge, Coleharbor, N. Dak. 58531.

SEPTEMBER 12, 1977.

[FR Doc.77-27278 Filed 9-19-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 966]

TOMATOES GROWN IN FLORIDA

Proposed Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on proposed expenses of $119,500 and a rate of assessment of 0.35 cent ($0.0035) per 30-pound equivalent of tomatoes for the functioning of the Florida Tomato Committee. The regulation would enable the committee to collect assessments from first handlers on all assessable tomatoes handled and to use the resulting funds for its expenses.

DATE: Comments due October 4, 1977.

ADDRESS: Comments should be sent to: Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written materials shall be submitted. Comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 125 and Order No. 966, both as amended, regulate the handling of tomatoes grown in designated counties in Florida. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Tomato Committee, established under the order, is responsible for its local administration.

The proposals are as follows:

§ 966.214 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1978, by the Florida Tomato Committee for its maintenance and functioning and for such other purposes as the Secretary may determine to be appropriate will amount to $119,500.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be 0.35 cent ($0.0035) per 30-pound container or equivalent quantity, of tomatoes handled by him as the first handler thereof during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve.

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

Dated: September 14, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-27267 Filed 9-19-77;8:45 am]

Rural Electrification Administration

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed Revision of REA General Specification for Private Automatic Branch Exchanges and REA Specification for Equipment for Direct Distance Dialing

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise REA Bulletin 384–3, Central Office Equipment Contracts and Specifications, to announce the revision of REA Form 528, General Specification for Private Automatic Branch Exchanges, and REA Form 538, Specification for Equipment for Direct Distance Dialing. On issuance of REA Bulletin 384–3, Appendix A to Part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than October 20, 1977.

ADDRESS: Persons interested in the revision of REA Form 528 and/or REA Form 538 may submit written data, views, or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Maynard S. Knapp, Chief, Central Office Equipment Branch, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1334, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202–447–5773.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to revise REA Bulletin 384–3. A copy of the proposed revised REA Form 528 and/or of the proposed revised REA Form 538 may be secured in person or by written request from the Director, Telephone Operations and Standards Division. The text of the revised REA Bulletin 384–3 announcing the issuance of revised REA Form 528 and REA Form 538 is as follows:

REA BULLETIN 384–3

SUBJECT: CENTRAL OFFICE EQUIPMENT CONTRACTS AND SPECIFICATIONS

I. *Purpose.* To announce the revision of REA Form 528, General Specification for Private Automatic Branch Exchanges, and REA Form 538, Specification for Equipment for Direct Distance Dialing, and list current editions of central office equipment contracts and specifications.

II. *General.* The standard forms and specifications are to be used by borrowers for all purchases of central office equipment for the initial system. For further detail, see REA Bulletin 384–1, Purchasing and Installing Central Office Equipment.

III. *Contracts and Amendment*—A. *REA Form 525 (9–66), Central Office Equipment Contract (Including Installation),* for use when the equipment is installed by the supplier.

B. *REA Form 545 (9–66), Central Office Equipment Contract (Excluding Installation),* for use when the equipment is installed by the borrower's own forces or by others under a separate contract.

C. *REA Form 400 (10–65), Telephone Equipment Contract (Installation Only),* for use when the equipment is to be installed by others than the supplier under a separate contract.

D. *REA Form 238 (4–72), Construction or Equipment contract Amendment,* for use in amending the contracts to provide for any necessary changes in the equipment and materials or specifications and for any additional equipment and materials required in connection with the central offices included in the contract.

IV. *Specifications.*—A. REA Form 524 (1–76), General Specification for Common Control Central Office Equipment.

B. REA Form 528 (10–77), General Specification for Private Automatic Branch Exchanges.

C. REA Form 537 (4–77), Specification for Equipment for Automatic Number Identification—CAMA.

D. REA Form 538 (10–77), Specification for Equipment for Direct Distance Dialing.

E. REA Form 542 (4–63), Specification for Toll Office Equipment.

F. REA Form 558 (9–66), Specification for Dial Central Office Equipment.

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V. *Revision of REA Form 523, General Specification for Private Automatic Branch Exchanges.* This revision becomes effective January 1, 1978. All applicable equipment furnished REA projects through bids or negotiations or on orders placed by REA borrowers after that date shall comply with the revised specification. This does not preclude the adoption of the revised specification by manufacturers prior to the effective date. The principal reasons for the reissue are:

A. To include more specific requirements for the parameters of transmission, traffic, features, surge protection and general switching requirements.

B. To bring the specification more in line with other REA performance type switching specifications.

VI. *Revision of REA Form 538, Specification for Equipment for Direct Distance Dialing.* This revision becomes effective January 1, 1978. All applicable equipment furnished REA projects through bids or negotiations or on orders placed by REA borrowers after that date shall comply with the revised specification. This does not preclude the adoption of the revised specification by manufacturers prior to the effective date. The principal reasons for the reissue are:

A. To specify DDD equipment for all common control offices, new or existing.

B. To recognize various changes in the latest issue of REA Form 524, General Specification for Common Control Central Office Equipment.

C. To reword various requirements throughout the specification for purposes of clarification.

VII. *Source of Central Office Equipment Contracts, Specifications, Amendment, and Contractor's Bonds.*—A. REA Form 525, Central Office Equipment Contract (A copy of REA Form 558, Specification for Dial Central Office Equipment is attached to each copy of the Form 525 Contract) is to be purchased from the Superintendent of Documents, Public Documents Distribution Center, Pueblo Industrial Park, Pueblo, Colo. 81008. Orders for the purchase of Form 525 should be prepared on REA Form 33. Copies of Form 33 are available from REA upon request.

B. All other forms referred to in this bulletin are available from REA upon request. Each contract Form 400 and 525 contains one copy of the Contractor's Bond, REA Forms 400a and 525a, respectively. Additional copies of these bond forms are available from REA upon request.

C. Questions concerning the revised specifications may be referred to the Chief, Central Office Equipment Branch, Telephone Operations and Standards Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202–447–5773.

Dated: September 12, 1977.

C. R. BALLARD,
Assistant Administrator—Telephone.

[FR Doc.77-27143 Filed 9-19-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Parts 205 and 303]

ADMINISTRATIVE PROCEDURES REGARDING APPLICATIONS FOR EXCEPTIONS

Amendments

AGENCY: Federal Energy Administration.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Administration (FEA) hereby gives notice of a proposal to amend its administrative procedure regulations regarding applications for exception. The purpose of the proposed amendments is to revise the procedures governing the exceptions process so as to provide a fuller administrative review of the issues raised in each application for exception and afford interested parties a greater opportunity for comment during the consideration of the application. FEA will receive written comments with respect to this proposal.

DATES: Comments by October 4, 1977.

ADDRESSES: Written comments to: Federal Energy Administration, Executive Communications, Room 3317, Federal Building, Box PQ, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (FEA Reading Room), 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C., 202–566–9161.

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461 (202–566–9833).

Melvin Goldstein (Office of Exceptions and Appeals), 2000 M Street NW., Room 8002, Washington, D.C. 20461 (202–254–5134).

Paul L. Bloom (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 5210, Washington, D.C. 20461 (202–566–9472).

SUPPLEMENTARY INFORMATION

I. BACKGROUND

The present procedures which govern the issuance of administrative determinations with regard to applications for exception are found in Subpart D of the FEA Administrative Procedures and Sanctions Regulations which apply to Mandatory Petroleum Allocation and Price Regulations (10 CFR Part 205) and in Subpart E of the FEA Administrative Procedures and Sanctions Regulations which apply to regulations issued pursuant to the Energy Supply and Environmental Coordination Act of 1974, as amended (10 CFR Part 303). It is the FEA's current view that those procedures should be revised so as to produce a more fully developed administrative record. The development of that type of record through the hearing process described below will enable any reviewing authority to consider arguments on appeal in a more effective and efficient manner. These new procedures will also enhance the opportunity of applicants to present factual data and legal arguments in support of the position which they state the FEA should adopt.

II. DISCUSSION

Under existing procedures an applicant who has filed a request for exception becomes aware of the agency's determination with respect to that request only when a copy of the formal decision and order is served upon him. Although an applicant is usually requested to provide additional factual information during the pendency of the proceeding in order to assist the agency in its analysis of the application and to establish a foundation upon which relief can be granted, these contacts with the Office of Exceptions and Appeals are more limited than the formal hearings contemplated by the procedures outlined below. Under these new procedures, a proposed Decision and Order would be served upon all parties to the proceeding, and comments would be requested.

After receiving the proposed Decision any aggrieved party will have the opportunity to file a further document in the proceeding in which it specifies the errors in fact which it believes appear in the proposed Decision. Parties will also have the opportunity to request that an evidentiary hearing be convened in the matter. An opportunity for oral argument would in addition be provided as a matter of right in the regulations themselves. After the completion of these proceedings the proposed Decision would be reassessed and an exception decision would then be issued in final form.

It should also be noted that the proposed regulations will provide the Office of Exceptions and Appeals with an opportunity which does not exist under present procedures to easily correct minor or inadvertent errors. If, for example, a mathematical error occurs in the decision issued with respect to a particular application for exception, a party that is adversely affected by that error may find that its only remedy is to undertake a lengthy appeal of the decision. Under the proposed procedures, a comment on the proposed decision would suffice to correct the error.

The procedures that are conducted with respect to exception applications will be greatly expanded in nature under the proposed regulations. An opportunity for a full evidentiary hearing will have already been provide prior to the issuance of the exception decision, and parties will have an ample opportunity to present argument and evidence to demonstrate that the proposed decision and order which is issued in the exception proceeding is erroneous. Accordingly, interested parties will be required to raise any issue of fact or law which they intend to contest in the matter during the course of the exception proceeding itself. Under that type of arrangement, the scope of review on appeals may generally be limited to issues which were raised in the prior exception proceeding and which the parties contend were erroneously decided.

III. PROCEDURES FOR RECEIVING WRITTEN COMMENTS AND PUBLIC HEARING

A. WRITTEN COMMENT PROCEDURES

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposals set forth in this notice to Executive Communications, Federal Energy Administration.

B. PUBLIC HEARINGS NOT REQUIRED

It has been determined that the requirements of section 7(i) (1) (C) of the Federal Energy Administration Act of 1974 (Pub. L. 93–275), as amended, relating to opportunities for oral presentations, do not apply because the proposed regulations are procedural in nature and are not likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses.

C. OTHER PROCEDURAL CONSIDERATIONS

Since the proposed regulations are not regulations affecting the quality of the environment, the provisions of section 7 (c) (1) of the Federal Energy Administration Act of 1974 (Pub. L. 93–275), as amended, have been determined to be inapplicable to the proposal.

Additionally, the FEA has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and Office of Management and Budget Circular A–107.

D. INTERIM REQUIREMENTS

In order to avoid a situation in which the FEA is applying two different sets of procedures in exception proceedings that are being conducted at the same time, the FEA will conduct exception proceedings in accordance with the proposed procedures subsequent to the date of issuance of these proposed regulations. It is not anticipated, however, that parties will be adversely affected by the immediate implementation of these new procedures since the proceedings provide a greater opportunity for a party to submit factual data and legal arguments in support of the position which it urges the agency to adopt.

(Federal Energy Administration Act of 1974 (Pub. L. 93–275) (15 U.S.C. 761 et seq.), as amended by Pub. L. 94–385 and Pub. L. 95–70; Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159 as amended; Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93–319) (15 U.S.C. 791 et seq.), as amended.)

In consideration of the foregoing it is proposed to amend Subpart D of Part 205 and Subpart E of Part 303 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., September 14, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

1. a. The table of contents for Part 205 is amended by revising the entries for §§ 205.56 through 205.58 and by adding §§ 205.59 through 205.67.

Subpart D—Exception

• • • • •

Sec.
205.56 Issuance of Proposed Decision and Order.
205.57 Statement of objections to Proposed Decision and Order.
205.58 Motion for evidentiary hearing.
205.59 Statement of collateral factual representations.
205.60 Response.
205.61 Motion to dismiss.
205.62 Decision with respect to motion for evidentiary hearing.
205.63 Evidentiary hearing.
205.64 Hearing for the purpose of oral argument only.
205.65 Extension of time; interim and ancillary orders.
205.66 Issuance of decision and order with respect to exception proceeding.
205.67 Appeal of exception decision.

1. b. Sections 205.56, 205.57 and 205.58 are revised and §§ 205.59 through 205.67 are added to read as follows:

§ 205.56 Issuance of Proposed Decision and Order.

(a) After considering the submissions of the parties, and any other relevant information received or obtained during the proceeding, the Office of Exceptions and Appeals shall issue a Proposed Decision and Order with respect to the Application for Exception. The proposed determination shall include a written statement setting forth the relevant facts and legal basis supporting the conclusions reached in the proposed order.

(b) The FEA shall serve a copy of the Proposed Decision and Order upon the applicant, any other person who participated in the proceeding and upon any other person readily identifiable by the FEA as one who would be aggrieved by such order. A copy of each Proposed Decision and Order with such modification as is necessary to insure the confidentiality of information protected from disclosure under 18 U.S.C. 1905 and 5 U.S.C. 552, shall also be placed on file in the Public Docket Room described in § 205.15.

(c) Within 10 days of service of the proposed Decision and Order any person who would be aggrieved by the issuance of the Order may state his opposition to the finalization of the Proposed Decision and Order by filing a Notice of Objection in the matter. Any such Notice shall be filed with the National Office of Exceptions and Appeals at the address stated in § 205.12, and shall contain a brief statement describing the manner in which the person filing the Notice would be aggrieved by the issuance of the proposed Order. The person filing the Notice shall also state his intention to establish through the procedures set forth in this subpart that the proposed Decision and Order is erroneous in fact or law or is arbitrary or capricious.

(d) Any aggrieved party who fails to file a Notice of Objection within the prescribed time period shall be deemed to consent to the finalization of the proposed Decision and Order.

(e) Any person that files a Notice of Objection shall serve a copy of the Notice upon any other person who is reasonably ascertainable as a person who would be aggrieved by the action sought including those parties who participated in the exception proceeding prior to the issuance of the proposed Decision and Order. The service required by this paragraph shall be made on the same date that the person files the Notice with the Office of Exceptions and Appeals. The Notice shall include a certification that the provisions of this paragraph have been complied with and shall include the names and addresses of each person to whom a copy of the Notice was sent and the date and manner of service.

(f) Unless the Office of Exceptions and Appeals otherwise directs, a proposed Decision and Order shall be issued in final form as a matter of course if no aggrieved party has filed the Notice referred to in paragraph (c) of this section in a timely manner.

(g) An aggrieved party shall not be deemed to have properly exhausted his administrative remedies with respect to an Application for Exception unless he files the Notice referred to in paragraph (c) of this section in a timely manner.

§ 205.57 Statement of objections to Proposed Decision and Order.

(a) *Filing Requirement.* A Statement of Objections to a Proposed Decision and Order must satisfy the general filing requirements specified in other provisions of this Part and must be filed within 30 days of service of the Proposed Decision and Order. A request for an extension of the date by which such Statement must be filed must be submitted in writing and may be granted in the discretion of the Office of Exceptions and Appeals for good cause shown.

(b) *Filing and Service of Statement of Objections and Related Documents.* (1) A Statement of Objections to a proposed Decision and Order, comments filed by aggrieved parties regarding the Statement, any motions or supporting documents referred to in this subpart and any other document filed in connection with the proceeding shall be filed with the National Office of Exceptions and Appeals at the address provided in § 205.12. A copy of each such document shall also be served upon any other person who is reasonably ascertainable as a person who would be aggrieved by the action sought including those parties who participated in the exception proceeding which preceded the issuance of the Proposed Decision and Order.

(2) Service of the documents referred to in § 205.57(b) (1) shall be made on the same date the filing is made with the Office of Exceptions and Appeals. The party filing any such document shall also file a certification of service with the Office of Exceptions and Appeals. The certification shall contain a statement that the provisions of this subparagraph have been complied with and shall include the names and addresses of each person upon whom service was made and the date and manner of service.

(3) Two additional copies of the submission referred to in subsection (b) (1) of this section shall also be filed with the Office of Exceptions and Appeals. If a party claims confidential treatment with respect to any portion of a submission referred to in subsection (b) (1) of this section, the party shall delete the con-

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fidential portion in the copies of its submission which it files pursuant to this subsection. The FEA shall place one copy of the submission received pursuant to this subsection in the Public Docket Room described in § 303.13 of this chapter.

(c) *Content of Statement of Objections.* The Statement of Objections shall contain a full and detailed discussion of the basis upon which the person filing the Statement is objecting to the issuance of the Proposed Decision and Order, and persons are required to specify in the statement each issue of fact or law which they intend to contest in the matter during the course of the exception proceeding. The Statement shall include a discussion of all relevant authorities, including, but not limited to, FEA rulings, regulations, interpretations, and previous Decisions issued by the Office of Exceptions and Appeals. The Statement shall also include a separate specification of the particular findings of fact contained in the Proposed Decision and Order which the person filing the Statement contends are incorrect. That specification shall refer to the particular page and line of the Proposed Decision and Order in which the disputed findings of fact appears, shall set forth the alternative finding which the person filing the Statement contends should properly be made with respect to the disputed matter and shall further specify the manner in which the applicant proposes to establish the validity of the position which it advances.

§ 205.58 Motion for evidentiary hearing.

If a person who has filed a Statement of Objection to the finalization of a Proposed Decision and Order contends that it can properly establish the validity of its position only through the introduction of evidence at an evidentiary hearing, the person shall file a Motion for an Evidentiary Hearing. That motion shall be filed at the same time that the person files a Statement of Objection and shall with respect to each disputed finding of fact:

(i) Identify each witness whose testimony is required;

(ii) State the relevancy of the testimony and the reasons why the testimony of the witness is necessary in order to establish the asserted position; and

(iii) State the reasons why the asserted position cannot be established in a manner other than through the direct questioning of witnesses at an evidentiary hearing.

§ 205.59 Statement of collateral factual representations.

At the time it files a motion for an evidentiary hearing, a person may also file a specification of particular factual representations which are not expressly referred to in the Proposed Decision and Order and which the person contends are material and relevant in establishing that the proposed Decision and order is either erroneous in fact or law or is arbitrary or capricious. With respect to each such factual representation the person filing the Statement shall set forth the particular finding of fact which it asserts should be made with respect to the matter, the reasons why the factual representation is relevant and material to a determination of the matter, and the manner in which it proposes to establish the validity of the factual representation which it claims to be correct. In the event the person filing the Statement of Collateral Factual Representations contends that it can properly establish the validity of the asserted position only through the introduction of evidence at an evidentiary hearing, it shall with respect to each such disputed finding of fact:

(i) Identify each witness whose testimony is required;

(ii) State the relevance of the testimony and the reasons why the testimony of the witness is necessary in order to establish the asserted position; and

(iii) State the reasons why the asserted position cannot be established in a manner other than through the direct questioning of witnesses at an evidentiary hearing.

§ 205.60 Response.

Within ten (10) days of receipt of a Statement of Objections, Motion for Evidentiary Hearing or accompanying Statements, any aggrieved party may file its comments with respect to those documents. In the event the party filing such comments wishes to respond to specific factual representations that appear in the material it has received, the party shall identify:

(i) The particular factual representations which it considers to be correct;

(ii) The particular factual representations which it asserts is incorrect;

(iii) The particular factual representations whose validity it is not in a position to either accept or deny;

(iv) The particular factual representations whose validity it challenges and wishes proven by the submission of evidence; and

(v) The particular factual representations which it is prepared to dispute through the submission of testimony of its own witnesses or through the submission of verified documents.

§ 205.61 Motion to dismiss.

At the time it files the Response referred to in § 205.60 an aggrieved party may also file a motion to dismiss any factual representation propounded by the person that has filed a Statement of Objections on the grounds of vagueness, immateriality, or irrelevance.

§ 205.62 Decision with respect to motion for evidentiary hearing.

(a) After receiving the submissions of the parties with respect to a Motion for Evidentiary Hearing, the Office of Exceptions and Appeals may in its discretion conduct conferences with the parties for the purpose of resolving any differences of view and may convene a hearing pursuant to the provisions of § 205.172 in order to hear oral argument with respect to the motion.

(b) After considering the motion, supporting documents and any other relevant information received or obtained during the proceeding, the Office of Exceptions and Appeals shall enter an appropriate Order with respect to the motion. In the event the motion is granted in whole or in part, the Order which the Office of Exceptions and Appeals issues shall expressly or by reference to another document filed in the course of the proceeding specify the particular issues of fact which will be set forth for an evidentiary hearing.

(c) The Order of the Office of Exceptions and Appeals with respect to a Motion for Evidentiary Hearing shall be deemed to be an Interlocutory Order which is subject to further administrative review or appeal only upon the issuance of the Decision and Order referred to in § 205.66.

§ 205.63 Evidentiary hearing.

(a) All evidentiary hearings convened pursuant to this section shall be conducted by the Director of the Office of Exceptions and Appeals or by his designee.

(b) The presiding officer of the evidentiary hearing shall afford the parties an opportunity to present evidence which:

(i) Directly relates to a particular issue of fact which has been set forth for hearing; and

(ii) Is material and relevant in establishing the validity of the position which the party asserts the FEA should adopt.

(c) The presiding officer may take reasonable measures to exclude duplicative material from the hearing. The presiding officer may also require that evidence be submitted through affidavits or other written form if he concludes that the presentation of evidence through the direct testimony of witnesses will unduly delay the orderly progress of the hearing and would add little substantive value in resolving the issues involved in the hearing.

(d) In all instances in which a party presents evidence through the testimony of a witness, the presiding officer of the hearing shall ensure that reasonable opportunity is provided to the other parties for cross-examination.

(e) In general, the presiding officer of the hearing may administer oaths and affirmations, rule on objections to dispose of procedural requests, determine the format of the hearing, direct that written motions or briefs be provided with respect to issues raised during the course of the hearing and otherwise regulate the course of the hearing.

(f) The provisions of § 205.8 of this Part which relate to subpoenas and witness fees shall apply to any hearing conducted pursuant to this section.

(g) Following the presentation of all evidence the presiding officer shall afford the parties an opportunity to present oral argument as to the Decision and Order which the FEA should issue with respect to the matter. The presiding officer may direct that written memoranda, briefs or other documentary material be submitted in support of any position which a party advances or with respect to any issue otherwise specified by the presiding officer. In the event written submissions of that nature are requested by the presiding officer, an opportunity shall also be provided for other parties to file responsive memoranda, briefs or documents.

§ 205.64 Hearing for the purpose of oral argument only.

(a) In those instances in which an evidentiary hearing is not convened, any party may nevertheless request that a hearing be convened in order to afford an opportunity for oral argument in connection with the finalization of a Proposed Decision and Order in an exception proceeding. Any such request shall be filed by a person that files a Statement of Objections at the same time that the Statement is filed. A request for a hearing for the purpose of oral argument shall be filed by any other party within 10 days after service of a Statement of Objections upon that party.

(b) Upon a timely request by any party or on its own initiative the Office of Exceptions and Appeals shall conduct a hearing for the purposes of receiving oral argument with respect to the finalization of a Proposed Decision and Order in an exception proceeding. The hearing shall be convened at a time and place determined by the Office of Exceptions and Appeals and will generally be conducted only after the issues involved in the proceeding have been sufficiently delineated and the parties have submitted the written material, if any, which the Office of Exceptions has requested as a supplement to the Statement of Objections.

(c) Hearings convened pursuant to this subsection shall be conducted by the Director of the Office of Exceptions and Appeals or by his designee. The procedures specified in § 205.172 shall generally apply to such hearings.

(d) At the direction of the presiding officer of the hearing, the parties shall file written memoranda, briefs and other documentary material in support of a position that a party advances at the hearing or with respect to any other issue specified by the presiding officer. An opportunity shall also be afforded to other parties to file responsive memoranda, briefs or documents.

(e) In the event an evidentiary hearing is held with respect to the finalization of a Proposed Decision and Order in an exception proceeding, the proceeding conducted pursuant to § 205.63(g) shall be regarded as the hearing that satisfies the provisions of this subsection.

§ 205.65 Extension of time; interim and ancillary orders.

The Director of the Office of Exceptions and Appeals or his designee may in his discretion permit a document referred to in this Subpart to be filed at a time which is different from the time period specified in a particular provision of this Subpart. The Director or his designee may also issue any interim or ancillary Orders or make any ruling or determination which he deems necessary to ensure that the proceedings specified in this Subpart are conducted in an appropriate manner and that the resolution of the issues presented in the proceeding are not unduly delayed.

§ 205.66 Issuance of decision and order with respect to exception proceeding.

(a) After considering the submissions of the parties, the transcript of any hearing, and any other relevant information received or obtained during the proceeding, the Director of the Office of Exceptions and Appeals or his designee shall issue an appropriate Decision and Order with respect to the exception proceeding. The determination shall include a written statement setting forth the relevant facts and legal basis supporting the order.

(b) The order shall provide that any person aggrieved thereby may file an appeal pursuant to the procedures set forth in § 205.67.

(c) The FEA shall serve a copy of the order upon the applicant, any other person who participated in the proceeding and upon any other person readily identifiable by the FEA as one who is aggrieved by such order. A copy of each order, with such modification as is necessary to insure the confidentiality of information protected from disclosure under 18 U.S.C. 1905 and 5 U.S.C. 552, will also be placed on file in the Public Docket Room described in § 205.15.

§ 205.67 Appeal of exception decision.

(a) An Appeal from a Decision and Order which the FEA issues pursuant to § 205.66 must be filed within 30 days of issuance of the Decision and Order.

(b) All such Appeals that are filed prior to October 1, 1977 shall be filed with and decided by the National Office of Exceptions and Appeals in accordance with the procedures established in Subpart H of this part.

(c) All Appeals from a Decision and Order which the FEA issues pursuant to § 205.66 that are filed on or after October 1, 1977 shall be filed with the Federal Energy Regulatory Commission in accordance with the procedures to be established by the Commission.

(d) There has not been a proper exhaustion of administrative remedies until an Appeal has been filed pursuant to the procedures set forth in this section and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

PART 303—ADMINISTRATIVE PROCEDURES AND SANCTIONS

2.a. The table of contents for Part 303 is amended by revising the entries for §§ 303.76 through 303.78 and by adding §§ 303.79A through 303.79I.

Subpart E—Exception

* * * * *

Sec.	
303.76	Issuance of Proposed Decision and Order.
303.77	Statement of objections to Proposed Decision and Order.
303.78	Motion for evidentiary hearing.
303.79A	Statement of collateral factual representations.
303.79B	Response.
303.79C	Motion to dismiss.
303.79D	Decision with respect to Motion for Evidentiary Hearing.
303.79E	Evidentiary hearing.
303.79F	Hearing for purpose of oral argument only.
303.79G	Extension of time; interim and ancillary orders.
303.79H	Issuance of Decision and Order with respect to exception proceeding.
303.79I	Appeal of exception decision.

2.b. Sections 303.76, 303.77 and 303.78 are revised and §§ 303.79A through 303.79I are added to read as follows:

§ 303.76 Issuance of Proposed Decision and Order.

(a) After considering the submissions of the parties, and any other relevant information received or obtained during the proceeding, the Office of Exceptions and Appeals shall issue a Proposed Decision and Order with respect to the Application for Exception. The proposed determination shall include a written statement setting forth the relevant facts and legal basis supporting the conclusions reached in the proposed order.

(b) The FEA shall serve a copy of the Proposed Decision and Order upon the applicant, any other person who participated in the proceeding and upon any other person readily identifiable by the FEA as one who would be aggrieved by such order. A copy of each Proposed Decision and Order with such modification as is necessary to insure the confidentiality of information protected from disclosure under 18 U.S.C. 1905 and 5 U.S.C. 552, shall be placed on file in the Public Docket Room described in § 303.13.

(c) Within 10 days of service of the proposed Decision and Order any person who would be aggrieved by the issuance of the Order may state his opposition to the finalization of the Proposed Decision and Order by filing a Notice of Objection in the matter. Any such Notice shall be filed with the National Office of Exceptions and Appeals at the address stated in § 303.12, and shall contain a brief statement describing the manner in which the person filing the Notice would be aggrieved by the issuance of the proposed Order. The person filing the Notice shall also state his intention to establish through the procedures set forth in this subpart that the proposed Decision and Order is erroneous in fact or law or is arbitrary or capricious.

(d) Any aggrieved party who fails to file a Notice of Objection within the prescribed time period shall be deemed to consent to the finalization of the proposed Decision and Order.

(e) Any person that files a Notice of Objection shall serve a copy of the Notice upon any other person who is reasonably ascertainable as a person who would be aggrieved by the action sought including those parties who participated in the ex-

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ception proceeding prior to the issuance of the proposed Decision and Order. The service required by this paragraph shall be made on the same date that the person files the Notice with the Office of Exceptions and Appeals. The Notice shall include a certification that the provisions of this paragraph have been complied with and shall include the names and addresses of each person to whom a copy of the Notice was sent and the date and manner of service.

(f) Unless the Office of Exceptions and Appeals otherwise directs, a proposed Decision and Order shall be issued in final form as a matter of course if no aggrieved party has filed the Notice referred to in paragraph (c) of this section in a timely manner.

(g) An aggrieved party shall not be deemed to have properly exhausted his administrative remedies with respect to an Application for Exception unless he files the Notice referred to in paragraph (c) of this section in a timely manner.

§ 303.77 Statement of objections to Proposed Decision and Order.

(a) *Filing requirement.* A Statement of Objections to a Proposed Decision and Order must satisfy the general filing requirements specified in other provisions of this Part and must be filed within 30 days of service of the Proposed Decision and Order. A request for an extension of the date by which such Statement must be filed must be submitted in writing and may be granted in the discretion of the Office of Exceptions and Appeals for good cause shown.

(b) *Filing and service of Statement of Objections and related documents.* (1) A Statement of Objections to a proposed Decision and Order, comments filed by aggrieved parties regarding the Statement, any motions or supporting documents referred to in this subpart and any other document filed in connection with the proceeding shall be filed with the National Office of Exceptions and Appeals at the address provided in § 303.12. A copy of each such document shall also be served upon any other person who is reasonably ascertainable as a person who would be aggrieved by the action sought including those parties who participated in the exception proceeding which preceded the issuance of the Proposed Decision and Order.

(2) Service of the documents referred to in § 303.77(b) (1) shall be made on the same date the filing is made with the Office of Exceptions and Appeals. The party filing any such document shall also file a certification of service with the Office of Exceptions and Appeals. The certification shall contain a statement that the provisions of this subparagraph have been complied with and shall include the names and addresses of each person upon whom service was made and the date and manner of service.

(3) Two additional copies of the submission referred to in subsection (b) (1) of this section shall also be filed with the Office of Exceptions and Appeals. If a party claims confidential treatment with respect to any portion of a submission referred to in subsection (b) (1) of this section, the party shall delete the confidential portion in the copies of its submission which it files pursuant to this subsection. The FEA shall place one copy of the submission received pursuant to this subsection in the Public Docket Room described in § 303.13.

(c) *Content of Statement of Objections.* The Statement of Objections shall contain a full and detailed discussion of the basis upon which the person filing the statement is objecting to the issuance of the Proposed Decision and Order and persons are required to specify in the statement each issue of fact or law which they intend to contest in the matter during the course of the exception proceeding. The Statement shall include a diseussion of all relevant authorities, including, but not limited to, FEA rulings, regulations, interpretations, and previous Decisions issued by the Office of Exceptions and Appeals. The Statement shall also include a separate specification of the particular findings of fact contained in the Proposed Decision and Order which the person filing the Statement contends are incorrect. That specification shall refer to the particular page and line of the Proposed Decision and Order in which the disputed findings of fact appears, shall set forth the alternative finding which the person filing the Statement contends should properly be made with respect to the disputed matter and shall further specify the manner in which the applicant proposes to establish the validity of the position which it advances.

§ 303.78 Motion for evidentiary hearing.

If a person who has filed a Statement of Objection to the finalization of a Proposed Decision and Order contends that it can properly establish the validity of its position only through the introduction of evdince at an evidentiary hearing, the person shall file a Motion for an Evidentiary Hearing. That motion shall be filed at the same time that the person files a Statement of Objection and shall with respect to each disputed finding of fact:

(i) Identify each witness whose testimoney is required;

(ii) State the relevancy of the testimony and the reasons why the testimony of the witness is necessary in order to establish the asserted position; and

(iii) State the reasons why the asserted position cannot be established in a manner other than through the direct questioning of witnesses at an evidentiary hearing.

§ 303.79A Statement of collateral factual representations.

At the time it files a motion for an evidentiary hearing, a person may also file a specification of particular factual representations which are not expressly referred to in the Proposed Decision and Order and which the person contends are material and relevant in establishing that the proposed Decision and Order is either erroneous in fact or law or is arbitrary or capricious. With respect to each such factual representation the person filing the statement shall set forth the particular finding of fact which it asserts should be made with respect to the matter, the reasons why the factual representation is relevant and material to a determination of the matter, and the manner in which it proposes to establish the validity of the factual representation which it claims to be correct. In the event the person filing the Statement of Collateral Factual Representations contends that it can properly establish the validity of the asserted position only through the introduction of evidence at an evidentiary hearing, it shall act with respect to each such disputed finding of fact:

(i) Identify each witness whose testimony is required;

(ii) State the relevance of the testimony and the reasons why the testimony of the witness is necessary in order to establish the asserted position; and

(iii) State the reasons why the asserted position cannot be established in a manner other than through the direct questioning of witnesses at an evidentiary hearing.

§ 303.79B Response.

Within ten (10) days of receipt of a Statement of Objections, Motion for Evidentiary Hearing or accompanying Statements, any aggrieved party may file its comments with respect to those documents. In the event the party filing such comments wishes to respond to specific factual representations that appear in the material it has received, the party shall identify:

(i) The particular factual representations which it considers to be correct;

(ii) The particular factual representations which it asserts is incorrect;

(iii) The particular factual representations whose validity it is not in a position to either accept or deny;

(iv) The particular factual representations whose validity it challenges and wishes proven by the submission of evidence; and

(v) The particular factual representations which it is prepared to dispute through the submission of testimony of its own witnesses or through the submission of verified documents.

§ 303.79C Motion to dismiss.

At the time it files the Response referred to in § 303.79B an aggrieved party may also file a motion to dismiss any factual representation propounded by the person that has filed a Statement of Objections on the grounds of vagueness, immateriality, or irrelevance.

§ 303.79D Decision with respect to Motion for Evidentiary Hearing.

(a) After receiving the submissions of the parties with respect to a Motion for Evidentiary Hearing, the Office of Exceptions and Appeals may in its discretion conduct conferences with the parties for the purpose of resolving any differences of view and may convene a hearing pursuant to the provisions of § 303.172 in order to hear oral argument with respect to the motion.

(b) After considering the motion, supporting documents and any other relevant information received or obtained during the proceeding, the Office of Exceptions and Appeals shall enter an appropriate Order with respect to the motion. In the event the motion is granted in whole or in part, the Order which the Office of Exceptions and Appeals issues shall expressly or by reference to another document filed in the course of the proceeding specify the particular issues of fact which will be set forth for an evidentiary hearing.

(c) The Order of the Office of Exceptions and Appeals with respect to a Motion for Evidentiary Hearing shall be deemed to be an Interlocutory Order which is subject to further administrative review or appeal only upon the issuance of the Decision and Order referred to in § 303.79H.

§ 303.79E Evidentiary hearing.

(a) All evidentiary hearings convened pursuant to this section shall be conducted by the Director of the Office of Exceptions and Appeals or by his designee.

(b) The presiding officer of the evidentiary hearing shall afford the parties an opportunity to present evidence which:

(i) Directly relates to a particular issue of fact which has been set forth for hearing; and

(ii) Is material and relevant in establishing the validity of the position which the party asserts the FEA should adopt.

(c) The presiding officer may take reasonable measures to exclude duplicative material from the hearing. The presiding officer may also require that evidence be submitted through affidavits or other written form if he concludes that the presentation of evidence through the direct testimony of witnesses will unduly delay the orderly progress of the hearing and would add little substantive value in resolving the issues involved in the hearing.

(d) In all instances in which a party presents evidence through the testimony of a witness, the presiding officer of the hearing shall ensure that reasonable opportunity is provided to the other parties for cross-examination.

(e) In general, the presiding office of the hearing may administer oaths and affirmations, rule on objections to dispose of procedural requests, determine the format of the hearing, direct that written motions or briefs be provided with respect to issues raised during the course of the hearing and otherwise regulate the course of the hearing.

(f) The provisions of § 303.8 of this Part which relate to subpoenas and witness fees shall apply to any hearing conducted pursuant to this section.

(g) Following the presentation of all evidence the presiding officer shall afford the parties an opportunity to present oral argument as to the Decision and Order which the FEA should issue with respect to the matter. The presiding officer may direct that written memoranda, briefs or other documentary material be submitted in support of any position which a party advances or with respect to any issue otherwise specified by the presiding officer. In the event written submissions of that nature are requested by the presiding officer, an opportunity shall also be provided for other parties to file responsive memoranda, briefs or documents.

§ 303.79F Hearing for the purpose of oral argument only.

(a) In those instances in which an evidentiary hearing is not convened, any party may nevertheless request that a hearing be convened in order to afford an opportunity for oral argument in connection with the finalization of a Proposed Decision and Order in an exception proceeding. Any such request shall be filed by a person that files a Statement of Objections at the same time that the Statement is filed. A request for a hearing for the purpose of oral argument shall be filed by any other party within 10 days after service of a Statement of Objections upon that party.

(b) Upon a timely request by any party or on its own initiative the Office of Exceptions and Appeals shall conduct a hearing for the purposes of receiving oral argument with respect to the finalization of a Proposed Decision and Order in an exception proceeding. The hearing shall be convened at a time and place determined by the Office of Exceptions and Appeals and will generally be conducted only after the issues involved in the proceeding have been sufficiently delineated and the parties have submitted the written material, if any, which the Office of Exceptions has requested as a supplement to the Statement of Objections.

(c) Hearings convened pursuant to this subsection shall be conducted by the Director of the Office of Exceptions and Appeals or by his designee. The procedures specified in § 303.172 shall generally apply to such hearings.

(d) At the direction of the presiding officer of the hearing, the parties shall file written memoranda, briefs and other documentary material in support of a position that a party advances at the hearing or with respect to any other issue specified by the presiding officer. An opportunity shall also be afforded to other parties to file responsive memoranda, briefs or documents.

(e) In the event an evidentiary hearing is held with respect to the finalization of a Proposed Decision and Order in an exception proceeding, the proceeding conducted pursuant to § 303.79E(g) shall be regarded as the hearing that satisfies the provisions of this subsection.

§ 303.79G Extension of time; interim and ancillary orders.

The Director of the Office of Exceptions and Appeals or his designee may in his discretion permit a document referred to in this Subpart to be filed at a time which is different from the time period specified in a particular provision of this Subpart. The Director or his designee may also issue any interim or ancillary Orders or make any ruling or determination which he deems necessary to ensure that the proceedings specified in this Subpart are conducted in an appropriate manner and that the resolution of the issues presented in the proceding are not unduly delayed.

§ 303.79H Issuance of decision and order with respect to exception proceeding.

(a) After considering the submissions of the parties, the transcript of any hearing, and any other relevant information received or obtained during the proceeding, the Director of the Office of Exceptions and Appeals or his designee shall issue an appropriate Decision and Order with respect to the exception proceeding. The determination shall include a written statement setting forth the relevant facts and legal basis supporting the order.

(b) The order shall provide that any person aggrieved thereby may file an appeal pursuant to the procedures set forth in § 303.79I.

(c) The FEA shall serve a copy of the order upon the applicant, any other person who participated in the proceeding and upon any other person readily identifiable by the FEA as one who is aggrieved by such order. A copy of each order, with such modification as is necessary to insure the confidentiality of information protected from disclosure under 18 U.S.C. 1905 and 5 U.S.C. 552, will also be placed on file in the Public Docket Room described in § 303.13.

§ 303.79I Appeal of exception decision.

(a) An Appeal from a Decision and Order which the FEA issues pursuant to § 303.79H must be filed within 30 days of issuance of the Decision and Order.

(b) All such Appeals that are filed prior to October 1, 1977, shall be filed with and decided by the National Office of Exceptions and Appeals in accordance with the procedures established in Subpart H of this part.

(c) All Appeals from a Decision and Order which the FEA issues pursuant to § 303.79H that are filed on or after October 1, 1977, shall be filed with the Federal Energy Regulatory Commission in accordance with the procedures to be established by the Commission.

(d) There has not been a proper exhaustion of administrative remedies until an Appeal has been filed pursuant to the procedures set forth in this section and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

[FR Doc.77-27211 Filed 9-19-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 131]

[Docket No. 77N-0143]

CULTURED AND ACIDIFIED BUTTERMILK, YOGURTS, CULTURED AND ACIDIFIED MILKS, AND EGGNOG

Proposal To Establish New Identity Standards; Extension of Comment Period

AGENCY: Food and Drug Administration.

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ACTION: Proposed rule; extension of comment period.

SUMMARY: The comment period on a proposal to establish standards of identity for several dairy products (42 FR 29919) is extended, based on requests for extension to provide additional time for submitting comments.

DATE: Comments by October 10, 1977.

ADDRESS: Written comments to the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Eugene T. McGarrahan, Bureau of Foods (HFF–415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, (202–245–1155).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs proposed, in the FEDERAL REGISTER of June 10, 1977 (42 FR 29919), identity standards for cultured buttermilk, acidified buttermilk, yogurt, lowfat yogurt, nonfat yogurt, cultured milk, acidified lowfat milk, and eggnog. Interested persons were invited to submit comments on the proposal by September 8, 1977.

The Commissioner has received written requests for extension of the comment period (on file with the Hearing Clerk, Food and Drug Administration) from the National Milk Producers Federation, Washington, DC, whose request asserts that additional time is necessary for completing surveys within its membership, and from The Delmark Co., Inc., Minneapolis, MN, whose request states that vacation schedules have left insufficient time for preparing and submitting full and complete comments by September 8, 1977.

Good reason therefor appearing, the Commissioner extends the comment period in this matter to October 10, 1977.

Interested persons may, on or before October 10, 1977, submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above-named office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 14, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-27221 Filed 9-15-77;11:27 am]

[21 CFR Parts 182, 184, 186]

[Docket No. 77N–0177]

SODIUM THIOSULFATE

Proposed Affirmation of GRAS Status as a Direct and Indirect Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This is a proposal to affirm sodium thiosulfate as generally recognized as safe (GRAS) as a direct and indirect human food ingredient. The safety of this ingredient has been evaluated pursuant to a comprehensive safety review being conducted by the agency. The proposal would list the ingredient as a direct and indirect food substance affirmed as GRAS.

DATE: Comments by November 21, 1977.

ADDRESS: Written comments to the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF–335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202–472–4750).

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is conducting a comprehensive safety review of direct and indirect human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20040), initiating this review. Pursuant to this review, the safety of sodium thiosulfate has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35, formerly 21 CFR 121.40 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), the Commissioner proposes to affirm the GRAS status of this ingredient.

Sodium thiosulfate is a synthetic, crystalline, efflorescent, water-soluble compound that occurs naturally in the urine of humans at a concentration of 2 to 17 milligrams per day. Thiosulfate is formed in very small amounts by bacterial action in plants, and it is found in certain sulfur spring water at 1 to 3 ppm. Sodium thiosulfate is prepared synthetically by the reaction of sulfides and sulfur dioxide, the reaction of sulfur and sulfite, or the oxidation of metal sulfides and hydrosulfides. It decomposes slowly in acid solution to sulfur and sulfite.

Sodium thiosulfate is listed in § 182.6807 (21 CFR 182.6807, formerly 21 CFR 121.101(d) prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) as GRAS for use as a sequestrant in salt, pursuant to regulations published in the FEDERAL REGISTER of November 20, 1959 (24 FR 9368). It is also listed in § 182.90 (21 CFR 182.90, formerly 21 CFR 121.101(h) prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) as a GRAS substance migrating to food from paper and paperboard products used in food packaging, pursuant to regulations published in the FEDERAL REGISTER of June 17, 1961 (26 FR 5421).

A representative cross section of food manufacturers was surveyed to determine the specific foods in which sodium thiosulfate was used and the levels of usage. Information from surveys of consumer consumption was obtained and combined with the manufacturing information to obtain an estimate of consumer exposure to this substance. It was reported that the amount of sodium thiosulfate used in food in 1970 was about 2,000 pounds. Also, the data indicate that use of this substance in 1970 was one-third of that used in 1960.

Sodium thiosulfate has been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 66 abstracts was reviewed and 51 particularly pertinent reports have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (hereinafter referred to as the Select Committee), selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

Sodium thiosulfate is a normal constituent of human body fluids and is excreted in the urine of man and higher animals. Quantitative studies have demonstrated the consistent presence of 2 to 17 mg of thiosulfate sulfur in 24-hour urine specimens of healthy young adults. Variations in excretion of thiosulfate are related to the extent of protein metabolism, activity of the intestinal flora, and the sulfur-amino acid content of the diet. The sulfur-containing amino acids of dietary protein are the source of the endogenous thiosulfate pool. In the rat, 33 percent of the radioactive sulfur of D, L-[^{35}S] cystine, administered subcutaneously (0.8 mg of radioactive cystine and 200 mg of nonradioactive thiosulfate per rat), was excreted in the urine as thiosulfate. Rat liver and kidney extracts catalyzed the oxidation of sulfide to thiosulfate and/or the conversion of sulfite and B-mercaptopyruvate to thiosulfate.

Orally administered thiosulfate that is absorbed from the gastrointestinal tract is excreted in the urine unchanged or after oxidation to sulfate. After oral administration of sodium thiosulfate (about 800 mg per kg of body weight), 23 percent was excreted as sulfate in the urine of rats. From 5 to 70 percent of an oral dose of sodium thiosulfate is considered to be absorbed from the gastrointestinal tract of man and the remainder to be excreted in the feces. When a human **subject received a 10 g oral dose of sodium thiosulfate (about 170 mg per kg), 60 percent** appeared in the urine as sulfate within 48 hours, and about 5.5 percent was excreted unchanged. In the same series of experiments, after intravenous doses of 1 g of sodium thiosulfate, about 35 percent of the thiosulfate was excreted unchanged in the urine.

Three female dogs, trained for urine collection studies, received intravenous injections of doses of sodium thiosulfate that produced arterial plasma concentrations of 18 to 55 mg per 100 ml, without producing toxic effects. Because glomerular filtration of sodium thiosulfate occurs without appreciable tubular resorption, "thiosulfate clearance" can be used as a measure of the glomerular filtration rate, especially in acidotic conditions.

The intraperitoneal LD_{50} of sodium thiosulphate for male mice has been reported to be 7.5±0.75 g per kg.

Eight male rats were injected intramuscularly with 50 mg of sodium thiosulphate per day for 1 to 3 months. The dose, estimated to be about 125 mg per kg per day, produced histologic evidence of atrophy of the glomeruli with diminished number of cells, dilatation of the proximal tubules and the glomerular capillaries, and eosinophilic infiltration of the capillaries in the loops of Henle of the kidneys. A decreased permeability of the capillary walls of the vasculature of the liver and an increased number of Kupffer stellate cells in the liver sinusoids were noted.

The antineoplastic properties of sodium thiosulfate were studied in a strain of albino mice that develops spontaneous sarcomas and pulmonary adenomas. The addition of 0.4 percent of ground, crystalline sodium thiosulfate to their diet, one week prior to challenging these mice with a single 0.9 mg subcutaneous injection of methylcholanthrene or ethylurethane (0.15 mg parenterally or 0.15 percent in the diet), halved the number of tumors as compared with control mice. No untoward effects of feeding a dose of sodium thiosulfate (estimated to be about 600 mg per kg per day) for four months were observed; the food intakes and body weights were similar to those in the control animals. A similar anticarcinogenic effect was noted when mice were fed 0.4 percent thiosulfate and 0.015 percent p-dimethylaminoazobenzene in their diet. A delay in the appearance of methylcholanthrene-induced tumors was produced in white rats injected subcutaneously every three to six days for four months with 0.01 to 0.02 g of sodium thiosulfate (about 80 to 160 mg per kg of body weight).

In another study, 3 g of sodium thiosulfate pentahydrate per kg of body weight was administered intravenously over a 20-minute period to five mongrel dogs. Metabolic acidosis, hypoxemia, hypernatremia, electrocardiographic changes (T-wave flattening and inversion) and arterial and venous pressure increases were noted. Four of the dogs survived the experimental period and two were alive 24 hours thereafter. These investigators concluded that the metabolic and hemodynamic effects were due to the sodium loading. In other experiments in this study, dogs tolerated a dose of 1.6 g of sodium thiosulfate pentahydrate per kg of body weight administered intravenously over a 30 minute period.

Various biochemical effects have been reported following the administration of sodium thiosulfate. These include: an increase in the glutathione level in blood following the parenteral administration of 2.5 to 5 g of sodium thiosulfate per kg of body weight to pigeons, an inhibition of the activity of streptomycin in vitro, an increase of 30 to 40 percent in the activity of histaminase and cholinesterase in humans receiving therapeutic injections (2 g) of sodium thiosulfate, an antianaphylactic effect in guinea pigs administered 50 mg of sodium thiosulfate intraperitoneally at least 20 minutes prior to challenge with horse serum, and an anticlotting effect on human blood in vitro and in vivo after therapeutic injection (100 ml of a 6.5 percent solution) of sodium thiosulfate.

Sodium thiosulfate was found to cause no mutagenic effects when tested by the following procedures and in the doses indicated: host-mediated assay in mice, 50 to 5,000 mg per kg orally; observations of aberrations in bone marrow metaphase chromosomes in the rat, 50 to 5,000 mg per kg orally; observation of aberrations in anaphase chromosomes of human embryonic lung cells in tissue culture, 8 to 8,000 micrograms per ml; dominant lethal assay in rats, 50 to 5,000 mg per kg orally.

Oral intubation of maximum daily doses of 550 mg sodium thiosulfate per kg of body weight to pregnant mice on day 6 through day 15 of gestation, or 400 mg per kg to pregnant rats on day 6 through day 15 of gestation, or 400 mg per kg to pregnant hamsters on day 6 through day 10 of gestation, had no effect on nidation, maternal or fetal survival, or fetal development.

In teratogenicity studies in avian embryos, sodium thiosulfate did not significantly increase mortality at a dose of 220 mg per kg when injected into the air cell at 0 hours, but did significantly increase embryo deaths at a dose of 556 mg per kg. When injected into the air cell after 96 hours of incubation, a significant increase in embryo mortality was observed at doses of 110 mg per kg and above. When injected into the yolk at both 0 hours and after 96 hours of incubation, sodium thiosulfate was toxic only at a dose of 556 mg per kg. A statistically significant increase in the incidence of abnormalities occurred at doses of 110 mg per kg and above after air cell injection. The dose relationship was linear only in treatments at 0 hours and the data yielded an estimate of 77,503 mg per kg as the level which would produce a 50 percent incidence of abnormal embryos.

It is to be noted in connection with the mutagenic and teratogenic studies reported above, that estimated average daily human consumption of sodium thiosulfate added to food is of the order of 0.05 to 0.2 microgram per kg.

The toxicity of sodium thiosulfate has been studied in connection with its use as a poison antidote. Two volunteers took 200 and 250 g intravenously over a period of two weeks; no changes were observed in blood morphology or biochemistry in the ensuing four months. Patients receiving a single injection of 50 ml of a 50 percent solution of sodium thiosulfate (about 400 mg per kg body weight) showed no significant changes other than a prolonged blood clotting time. Patients receiving lower dosages did not exhibit any hematologic changes or blood chemical abnormalities. However, twelve patients who ingested relatively low doses (about 50 mg per kg per day) of sodium thiosulfate for 1 to 2 weeks developed a moderate degree of cyanosis. It was concluded that the unsaturation of hemoglobin was caused by a decreased affinity of hemoglobin for oxygen and not by deterioration of the red cell hemoglobin.

Sodium thiosulfate has been used to measure extracellular water in women by the intravenous injection of sodium thiosulfate in a 6.7 percent solution (about 73 mg sodium thiosulfate per kg of body weight) over a period of 8 to 14 minutes. In three studies, 26 patients received this treatment; no comment was made concerning any untoward effects.

In another study, forty patients with multiple sclerosis received 50 to 70 intravenous doses, over a period of several weeks. Doses ranged from 10 to 33 mg sodium thiosulfate per kg of body weight. No untoward effects related to the administration of the thiosulfate were reported, but minor to significant improvement was reported in 95 percent of the patients. One 45-year-old patient received a total of 22.5 g of sodium thiosulfate (presumably six injections intravenously) for treatment of eczema. Edema of the legs and feet resulted and the medication was discontinued.

An examination was made of the effects of daily intravenous doses of 2 g sodium thiosulfate in cancer patients. While various effects on several types of cancer were noted, no toxic effects were considered attributable to the sodium thiosulfate administered.

All of the available safety information on sodium thiosulfate has been carefully evaluated by qualified scientists of the Select Committee. It is the opinion of the Select Committee that:

Thiosulfate is a normal constituent of human body fluids, and is a metabolite of dietary constituents. Experimental animal studies show that sodium thiosulfate is well tolerated. All investigations in which it has been administered to normal and diseased persons, clearly show that very large therapeutic doses cause no advrese effects. The reported use of sodium thiosulfate as a stabilizer of potassium iodide in iodized salt, as a sequestrant in alcoholic beverages, and as a substance that may migrate to foods from packaging materials, results in human exposure far below that needed to produce untoward biological effects.

It is the conclusion of the Select Committee that there is no evidence in the available information on sodium thiosulfate that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future. Based upon his own evaluation of all available information on sodium thiosulfate (including a teratogenic evaluation in rabbits, which was not available when the Select Committee formed its conclusion), the Commissioner concurs with this conclusion. The Commissioner therefore concludes that no change in the current GRAS status of sodium thiosulfate is justified.

A survey of the food industry on the use of GRAS ingredients in food did not indicate that sodium thiosulfate was used in salt as a sequestrant. However, the Commissioner believes that this may have been due to confusion over the intended technical effect because information from other sources indicates that

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sodium thiosulfate is used in iodized salt as a stabilizer. Also, since the intended technical effect of this substance is to prevent the oxidation of iodide (I^-) to iodine (I_2), it is proper to refer to it as a reducing agent as defined in § 170.3(o)(22) (21 CFR 170.3(o)(22)), formerly 21 CFR 121.1(o)(22) prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)). Therefore, it is concluded that the use of this substance in salt has not changed. Further, the survey indicated that sodium thiosulfate is used in alcoholic beverages as a formulation aid that was not specifically authorized by § 182.6807. The Commissioner feels, however, that the safety information developed for the safety review of sodium thiosulfate provides a sound scientific basis for also affirming this limited use as GRAS.

Copies of the scientific literature review, the mutagenic and teratogenic evaluations, and the report of the Select Committee on sodium thiosulfate are available for review at the office of the Hearing Clerk, Room 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, Va. 22151, as follows:

Title	Order No.	Price code	Price[1]
Sodium thiosulfate (scientific literature review)	PB-223-854/AS	A04	$4.50
Sodium thiosulfate (mutagenic evaluation)	PB-245-446/AS	A05	5.00
Sodium thiosulfate (teratogenic evaluation)	PB-221-779	A03	4.00
Sodium thiosulfate (teratogenic evaluation, rabbit)	PB-264-830/AS	A02	3.50
Sodium thiosulfate (Select Committee report)	PB-254-526/AS	A02	3.50

[1] Price subject to change.

This proposed action does not affect the present use of sodium thiosulfate for pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055–1056, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))), and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Parts 182, 184, and 186 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.90 [Amended]

1. By amending § 182.90 Substances migrating to food from paper and paperboard products by deleting from the listing the entry "Sodium thiosulfate (additive in salt)" therein.

§ 182.6807 [Deleted]

2. By deleting § 182.6807 Sodium thiosulfate.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. By adding new § 184.1807 to read as follows:

§ 184.1807 Sodium thiosulfate.

(a) Sodium thiosulfate ($Na_2S_2O_3 \cdot 5H_2O$, CAS Reg. No. 010102–17–7) is also known as sodium hyposulfite. It is prepared synthetically by the reaction of sulfides and sulfur dioxide (SO_2), the reaction of sulfur and sulfite, or the oxidation of metal sulfides and hydrosulfides.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972), as amended by the first (1974) supplement.[1]

(c) The ingredient is used as a formulation aid as defined in § 170.3(o)(14) of this chapter and reducing agent as defined in § 170.3(o)(22) of this chapter.

(d) The ingredient is used in alcoholic beverages and table salt at levels not to exceed good manufacturing practice. Current good manufacturing practice results in a maximum level, as served, of 0.00005 percent for alcoholic beverages as defined in § 170.3(n)(2) of this chapter and 0.1 percent for table salt as defined in § 170.3(n)(26) of this chapter.

PART 186 INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

4. By adding new § 186.1807 to read as follows:

§ 186.1807 Sodium thiosulfate.

(a) Sodium thiosulfate ($Na_2S_2O_3 \cdot 5H_2O$, CAS Reg. No. 010102–17–7) is also known as sodium hyposulfite. It is prepared synthetically by the reaction of sulfides and sulfur dioxide (SO_2), the reaction of sulfur and sulfite, or the oxidation of metal sulfides and hydrosulfides.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972), as amended by the first supplement.[1]

(c) The ingredient is used or is intended for use as a constituent of paper and paperboard food packaging materials.

(d) The ingredient is used at levels not to exceed good manufacturing practice.

The Commisioner hereby gives notice that he is unaware of any prior sanction for the use of this ingredient in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Part 181, incoprorating the same provisions, in the even that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before November 21, 1977, submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact statement is on file with the Hearing Clerk, Food and Drug Administration.

Dated: September 12, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

NOTE.—Incorporations by reference approved by the Director of the Office of the Federal Register on July 10, 1973 and June 27, 1977. Copies of referenced material are on file in the Federal Register library.

[FR Doc.77-27080 Filed 9-19-77;8:45 am]

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave., NW., Washington, DC 20037.

[21 CFR Parts 514]

[Docket No. 77N–0164]

NEW ANIMAL DRUG APPLICATIONS

Criteria For Adequate and Well-Controlled Investigations

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This is a proposal to update the new animal drug regulations to provide for the use of untreated controls as an alternate basis to establish the effectiveness of new animal drugs. As amended, the regulations would more closely conform to those for human drugs.

DATE: Comments by November 21, 1977.

ADDRESS: Written comments to the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Ann Holt, Bureau of Veterinary Medicine (HFV–120), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3134).

SUPPLEMENTARY INFORMATION: The Federal Food, Drug, and Cosmetic Act requires that, to be marketed, a new animal drug must be the subject of an approved new animal drug application. Section 512(b)(1) of the act (21 U.S.C. 360b(b)(1)) requires, among other things, that such application include full reports of investigations which show that such drug is effective for use. Section 512(d) of the act (21 U.S.C. 360b(d)), which enumerates the criteria that must be met before a new animal drug may be approved, includes a requirement that a drug's effectiveness be shown by "substantial evidence", which, in section 512(d)(3), is defined in restrictive terms:

> The term "substantial evidence" means evidence consisting of adequate and well-controlled investigations, including field investigation, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and reasonably be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.

This statutory standard, a part of the Animal Drug Amendments of 1968 (Pub. L. 90–399), is modeled after section 505(d) of the act, which was included as a part of the Drug Amendments of 1962 (Pub. L. 87–781).

Pursuant to enactment of the Animal Drug Amendments of 1968, § 514.111 Refusal to approve an application (21 CFR 514.111, formerly 21 CFR 135.12 prior to recodification in the FEDERAL REGISTER of March 27, 1975 (40 FR 13802)) was promulgated in 1971. This section was intended to be modeled closely after the corresponding regulation regarding human drugs in § 314.111 Refusal to approve the application (21 CFR 314.111). The provisions of § 514.111 were patterned after the provisions of § 314.111 (published in the FEDERAL REGISTER of September 16, 1969 (34 FR 14596)). Subsequently, § 314.111 was revised (FEDERAL REGISTER of May 8, 1970 (35 FR 7250)) regarding the criteria that constitute adequate and well-controlled investigations. Consequently, the two corresponding sections are no longer parallel.

Section 314.111 states that, generally, four kinds of studies are used to establish substantial evidence of effectiveness.

1. *No treatment.* Where objective measurements of effectiveness are available and placebo effect is negligible, comparison of the objective results in comparable groups of treated and untreated patients.

2. *Placebo control.* Comparison of the results of use of the new drug entity with an inactive praparation designed to resemble the test drug as far as possible.

3. *Active treatment control.* An effective regimen of therapy may be used for comparison, e.g., where the condition treated is such that no treatment or administration of a placebo would be contrary to the interest of the patient.

4. *Historical control.* In certain circumstances, such as those involving diseases with high and predictable mortality (acute leukemia of childhood), with signs and symptoms of predictable duration or severity (fever in certain infections), or in case of prophylaxis where morbidity is predictable, the results of use of a new drug entity may be compared quantitatively with prior experience historically derived from the adequately documented natural history of the disease or condition in comparable patients or populations with no treatment or with a regimen (therapeutic, diagnostic, prophylactic) the effectiveness of which is established.

Section 514.111 lists only three kinds of studies for establishing substantial evidence of effectiveness:

1. *Placebo control.* The new animal drug entity may be compared quantitatively with an inactive placebo control. The level of blinding may affect the validity of the observation and comparisons.

2. *Active drug control.* The new animal drug entity may be compared quantitatively with another drug or modality known to be effective.

3. *Historical control.* In some circumstances involving diseases with high and predictable mortality or with signs and symptoms of predictable duration or severity, the results of use of a new animal drug entity may be compared quantitatively with prior experience historically derived from the adequately documented natural history of the disease in comparable animals with no treatment or with treatment with an established effective therapeutic regimen.

Thus, § 514.111 does not expressly provide for the submission of data derived from studies in which untreated controls are used for comparison purposes, as is provided for by § 314.111. Studies using such untreated comparisons are recognized as appropriate to provide adequate and well-controlled investigations that yield valid data upon which the effectiveness of a drug may reasonably be determined. In these studies, results from groups of treated animals are compared with those that are untreated in situations where objective measurements of effectiveness are available and placebo effect is negligible, e.g., to show increased rate of weight gain and improved feed efficiency. For this reason, the Commissioner is proposing to amend § 514.111 to provide for the use of these kinds of studies for the evaluation of effectiveness of animal drugs as is currently provided for in efficacy data regarding human drugs.

In addition he is also proposing to revise editorially § 514.111 to conform with § 314.111 regarding the kinds of required studies that constitute adequate and well-controlled investigations necessary to establish "substantial evidence" of effectiveness, and to more closely reflect the wording and format in that section.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 514 be amended in § 514.111 by revising paragraph (a)(3) through (5) to read as follows:

PART 514—NEW ANIMAL DRUG APPLICATIONS

§ 514.111 Refusal to approve an application.

(a) • • •

(3) The methods used in and the facilities and controls used for the manufacture, processing, and packing of such drug are inadequate to preserve its identity, strength, quality, and purity; or

(4) Upon the basis of the information submitted to the Food and Drug Administration as part of the application, or upon the basis of any other information before it with respect to such drug, it has insufficient information to determine whether such drug is safe for use under such conditions. In making this determination the Commissioner shall consider, among other relevant factors:

(i) The probably consumption of such drug and of any substances formed in or on food because of the use of such drug;

(ii) The accumulative effect on man or animal of such drug, taking into account any chemically or pharmacologically related substances;

(iii) Safety factors which, in the opinion of experts qualified by scietific training and experience to evaluate the safety of such drugs, are appropriate for the use of animal experimentation data; and

(iv) Whether the conditions of use prescribed, recommended, or suggested in the proposed labeling are reasonably certain to be followed in practice; or

(5) (i) Evaluated on the basis of information submitted as part of the application and any other information before the Food and Drug Administration with respect to such drug, there is lack of substantial evidence consisting of adequate and well-controlled investigations, including clinical (field) investigation, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and reasonably be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling.

(ii) The following principles have been developed over a period of years and are recognized by the scientific community as the essentials of adequate and well-controlled clinical (field) investigations. They provide the basis for the determination whether there is "substantial evidence" to support the claims of effectiveness for "new animal drugs".

(a) The plan or protocol for the study and the report of the results of the effectiveness study must include the following:

(1) A clear statement of the objective of the study.

(2) A method of selection of the subjects that does the following:

(i) Provides adequate assurance that they are suitable for the purposes of the

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study, diagnostic criteria of the condition to be treated or diagnosed, confirmatory laboratory tests where appropriate, and, in the case of prophylactic agents, evidence of susceptibility and exposure, to the condition against which prophylaxis is desired.

(ii) Assigns the subjects to test groups in such a way as to minimize bias.

(iii) Assures comparability in test and control groups of pertinent variables, such as species, age, sex, duration, and severity of disease, management practices, and use of drugs other than those being studied.

(3) Explains the methods of observation and recording of the animal response variables studied and the means of excluding bias or minimizing bias in the observations.

(4) Provides a comparison of the results of treatment or diagnosis with a control in such a fashion as to permit quantitative evaluation. The precise nature of the control must be stated and an explanation given of the methods used to minimize bias on the part of the observers and the analysists of the data. Level and methods of "blinding," if used, are to be documented. Generally, four types of comparison are recognized:

(i) No treatment: Where objective measurements of effectiveness are available and placebo effect is negligible, comparison of the objective results in comparable groups of treated and untreated animals.

(ii) Placebo control: Comparison of the results of use of the new animal drug entity with an inactive preparation designed to resemble the test drug as far as possible.

(iii) Active treatment control: An effective regimen of therapy may be used for comparison, e.g., where the condition treated is such that no treatment or administration of a placebo would be contrary to the well being of the animals.

(iv) Historical control: In some circumstances involving diseases with high and predictable mortality (leukemia or tetanus) or with signs and symptoms of predictable duration or severity (some forms of parasitism, bovine hypocalcemia, canine eclampsia) or in the case of prophylaxis where morbidity is predictable, the results of use of a new animal drug entity may be compared quantitatively with prior experience historically derived from the adequately documented natural history of the disease or condition in comparable animals with no treatment or with a regimen (therapeutic, diagnostic, prophylactic the effectiveness of which is established.

(5) A summary of the methods of analysis and an evaluation of data derived from the study, including any appropriate statistical methods.

Provided, however, That any of the above criteria in this paragraph (a)(5) of this section may be waived in whole or in part, either prior to the investigation or in the evaluation of a completed study, by the Director of the Bureau of Veterinary Medicine with respect to a specific clinical (field) investigation. A petition for such a waiver may be filed by any person who would be adversely affected by application of the criteria to a particular clinical investigation. The petition should show that some or all of the criteria are not reasonably applicable to the investigation and that alternative procedures can be or have been followed, the results of which will or have yielded data that can and should be accepted as substantial evidence of the drug's effectiveness. A petition for a waiver shall set forth clearly and concisely the specific provision or provisions in the criteria from which waiver is sought, why the criteria are not reasonably applicable to the particular clinical (field) investigation, what alternative procedures, if any, are to be or have been employed, what results have been obtained, and the basis on which it can be or has been concluded that the clinical (field) investigation will or has yielded substantial evidence of effectiveness, notwithstanding nonconformance with the criteria for which waiver is requested.

(b) Standardized test drug: For such an investigation to be considered adequate for consideration for approval of a new animal drug, the test drug must be standardized as to identity, strength, quality, purity, and dosage form to give significance to the results of the investigation.

(c) Uncontrolled studies or partially controlled studies are not acceptable as the sole basis for the approval of claims of effectiveness. Such studies, carefully conducted and documented, may provide corroborative support of well-controlled studies regarding efficacy and may yield valuable data regarding safety of the test drug. Such studies will be considered on their merits in the light of the principles listed here, with the exception of the requirement for the comparison of the treated subjects with controls. Isolated case reports, random experience, and reports lacking the details which permit scientific evaluation will not be considered.

* * * * *

Interested persons may, on or before November 21, 1977 submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: September 12, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77–27079 Filed 9–19–77;8:45 am]

[21 CFR Part 544]

[Docket No. 76N–0332]

STREPTOMYCIN/DIHYDROSTREPTOMYCIN TABLETS

Certification Provision; Termination of Proposed Rule

AGENCY: Food and Drug Administration.

ACTION: Termination of proposed rulemaking.

SUMMARY: This document terminates a proposal to delete from the regulations a provision that permits the certification of streptomycin/dihydrostreptomycin tablets that contain a sulfonamide. The proposal is being terminated because it would delete the provision that permits certification of an approved product.

EFFECTIVE DATE: September 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald Gable, Bureau of Veterinary Medicine (HFV–100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–4313).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of September 16, 1976 (41 FR 39823), the agency issued a notice of opportunity for hearing proposing the withdrawal of streptomycin or dihydrostreptomycin boluses and tablets with sulfonamides. Consistent with this action, the Director proposed in the same FEDERAL REGISTER (41 FR 39765) to delete from § 544.173a (21 CFR 544.173a) the provision that permits the certification of these products.

In a separate document appearing elsewhere in this issue of the FEDERAL REGISTER, the Director of the Bureau of Veterinary Medicine (Director) is amending the notice of opportunity for hearing as it pertains to Merck & Co. only and is also withdrawing certain new animal drug applications for which no response to the notice was submitted. The amendment of the notice of opportunity for hearing excludes Merck & Co. from the proposed withdrawal because it has been determined that Merck should not have been included in the notice.

Consistent with this action, the Director is terminating the proposal to amend the regulations because it would delete the provision that permits the certification of the Merck product.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512, 59 Stat. 463 as amended, 82 Stat. 343–351 (21 U.S.C. 357, 360b)) and under authority delegated to the Commissioner (21 CFR 5.1), the proposal that Part 544 be amended by amending § 544.173a Streptomycin/dihydrostreptomycin tablets by deleting from the first sentence in paragraph (a)(1) the phrase "and one or more suitable sulfonamides" is terminated, effective September 20, 1977.

Dated: September 13, 1977.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.77–27254 Filed 9–19–77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1 and 7]

[CC:LR–175–76]

INCOME TAX

Livestock Sold on Account of Drought

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the year in which amounts received from the sale of livestock on account of drought are included in income. Changes in the applicable tax law were made by the Tax Reform Act of 1976. The regulations provided farms with the guidance needed to determine the year in which certain amounts received are to be included in income. The regulations would also provide guidance with respect to amounts received under the Agricultural Act of 1949.

DATES: Written comments and requests for a public hearing must be delivered or mailed by November 4, 1977. The amendments are proposed to be effective for taxable years beginning after December 31, 1975, except as otherwise provided.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, (CC:LR–175–76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

David Jacobson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, Attention: CC:LR:T (202–566–3923).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 451 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to sections 2102 and 2141 of the Tax Reform Act of 1976 (90 Stat. 1900 and 1933) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

EXPLANATION OF REGULATIONS

Under section 451(d) insurance proceeds received as the result of crop damage may in certain cases be treated as received in the year after they were actually received. The proposed regulations provide that payments received under the Agricultural Act of 1949 may also be given similar treatment.

Under section 451(e) of the Internal Revenue Code of 1954, income received due to the early sale of livestock sold on account of drought may in some cases be treated as having been received in the taxable year after the year it was actually received. The proposed regulations describe the conditions under which, the manner in which, and the classifications of livestock for which the election may be made.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations was David Jacobson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part 1 are as follows:

§ 1.451 [Deleted]

PARAGRAPH 1. Section 1.451 is deleted.

PAR. 2. Section 1.451–6 is amended by adding the following immediately after the last sentence in paragraph (a)(1):

§ 1.451–6 Election to include crop insurance proceeds in gross income in the taxable year following the taxable year of destruction or damage.

(a) *In general.* (1) * * * For the purposes of this section, payments received under the Agricultural Act of 1949 as amended, as the result of (i) destruction or damage to crops caused by drought, flood, or any other natural disaster, or (ii) the inability to plant crops because of such a natural disaster, shall be treated as insurance proceeds received as a result of destruction or damage to crops. The preceding sentence shall apply to payments which are received by the taxpayer after December 31, 1973.

* * * * *

PAR. 3. A new § 1.451–7 is added immediately following § 1.451–6. The new section reads as follows:

§ 1.451–7 Election relating to livestock sold on account of drought.

(a) *In general.* Section 451(e) provides that for taxable years beginning after December 31, 1975, a taxpayer whose principal trade or business is farming (within the meaning of § 6420 (c)(3)) and who reports taxable income on the cash receipts and disbursements method of accounting may elect to defer for one year a certain portion of income. The income which may be deferred is the amount of gain realized during the taxable year from the sale or exchange of that number of livestock sold or exchanged solely on account of a drought which caused an area to be designated as eligible for assistance by the Federal Government (regardless of whether the designation is made by the President or by an agency or department of the Federal Government). That number is equal to the excess of the number of livestock sold or exchanged over the number which would have been sold or exchanged had the taxpayer followed its usual business practices in the absence of such drought. For example, if in the past it has been a taxpayer's practice to sell or exchange annually 400 head of beef cattle but due to qualifying drought conditions 500 head were sold in a given taxable year, only income from the sale of 150 head may qualify for deferral under this section. The election is not available with respect to livestock described in section 1231(b)(3) (relating to cattle, horses (and other livestock) held by the taxpayer for 24 months (12 months) and used for draft, breeding, dairy, or sporting purposes).

(b) *Usual business practice.* The determination of the number of animals which a taxpayer would have sold if it had followed its usual business practice in the absence of drought will be made in light of all the facts and circumstances. In the case of taxpayers who have not established a usual business practice, reliance will be placed upon the usual business practice of similarly situated taxpayers in the same general region as the taxpayer.

(c) *Special rules.*—(1) *Connection with drought area.* To qualify under section 451(e) and this section, the livestock need not be raised, and the sale or exchange need not take place, in a drought area. However, the sale or exchange of the livestock must occur solely on account of drought conditions, the existence of which affected the water, grazing, or other requirements of the livestock so as to necessitate their sale or exchange.

(2) *Sale prior to designation of area as eligible for Federal assistance.* The provisions of this section will apply regardless of whether all or a portion of the excess number of animals were sold or exchanged before an area becomes eligible for Federal assistance, so long as the drought which caused such dispositions also caused the area to be designated as eligible for Federal assistance.

(d) *Classifications of livestock with respect to which the election may be made.* The election to have the provisions of section 451(e) apply must be made separately for each broad generic classification of animals (e.g., hogs, sheep, cattle) for which the taxpayer wishes the provisions to apply. Separate elections shall not be made solely by reason of the animals' age, sex, or breed.

(e) *Computation.*—(1) *Determination of amount deferred.* The amount of income which may be deferred for a classification of livestock pursuant to this section shall be determined in the follow-

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ing manner. The total amount of income realized from the sale or exchange of all livestock in the classification during the taxable year shall be divided by the total number of all such livestock sold. The resulting quotient shall then be multiplied by the excess number of such livestock sold on account of drought.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. A, a calendar year taxpayer, normally sells 100 head of beef cattle a year. As the result of drought conditions existing during 1976, A sells 135 head during that year. A realizes $35,100 of income from the sale of the 135 head. On August 9, 1976, as a result of the drought, the affected area was declared a disaster area thereby eligible for Federal assistance. The amount of income which A may defer until 1977, presuming the other provisions of this section are met, is determined as follows:

$$\frac{\$35,100 \text{ (total income from sales of beef cattle)}}{135 \text{ (total number of beef cattle sold)}} \times 35 \text{ (excess number of beef cattle sold, i.e. } 135-100) = \$9,100 \text{ (amount which A may defer until 1977)}$$

(f) *Successive elections.* If a taxpayer makes an election under section 451(e) for successive years, the amount deferred from one year to the next year shall not be deemed to have been received from the sale or exchange of livestock during the later year. In addition, in determining the taxpayer's normal business practice for the later year, earlier years for which an election under section 451(e) was made shall not be considered.

(g) *Time and manner of making election.* The election provided for in this section must be made by the later of (1) the due date for filing the income tax return (determined with regard to any extensions of time granted the taxpayer for filing such return) for the taxable year in which the early sale of livestock occurs, or (2) (the 90th day after the date these regulations are published as a Treasury decision in the FEDERAL REGISTER). The election must be made separately for each taxable year to which it is to apply. It must be made by attaching a statement to the return or an amended return for such taxable year. The statement shall include the name and address of the taxpayer and shall set forth the following information for each classification of livestock for which the election is made:

(1) A declaration that the taxpayer is making an election under section 451(e);

(2) Evidence of the existence of the drought conditions which forced the early sale or exchange of the livestock and the date, if known, on which an area was designated as eligible for assistance by the Federal Government as a result of the drought conditions;

(3) A statement explaining the relationship of the drought area to the taxpayer's early sale or exchange of the livestock;

(4) The total number of animals sold in each of the three preceding years;

(5) The number of animals which would have been sold in the taxable year had the taxpayer followed its normal business practice in the absence of drought;

(6) The total number of animals sold, and the number sold on account of drought, during the taxable year; and

(7) A computation, pursuant to paragraph (e) of this section, of the amount of income to be deferred for each such classification.

(h) *Revocation of election.* Once an election under this section is made for a taxable year, it may be revoked only with the approval of the Commissioner.

(i) *Cross reference.* For provisions relating to the involuntary conversion of livestock sold on account of drought see section 1033(e) and the regulations thereunder.

§ 7.0 [Revoked]

Par. 4. Section 7.0 of this chapter (26 CFR Part 7), promulgated by Treasury Decision 7459, is hereby revoked to the extent it applies to elections under section 451(e).

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc.77-27291 Filed 9-19-77;8:45 am]

[26 CFR Part 1]

INCOME TAX

Reporting Requirements for Non-Qualified Stock Options

AGENCY: Internal Revenue Service. Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to reporting requirements for nonqualified stock options. Changes to the applicable tax law were made by the Tax Reform Act of 1969. These regulations provide necessary guidance to the public for compliance with the law, and affect all employers, employees, and independent contractors with respect to nonqualified stock options.

DATES: Written comments and requests for a public hearing must be delivered or mailed by November 4, 1977. The amendments are proposed to be effective for options granted after 30 days after the date final regulations are filed by the FEDERAL REGISTER.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Geoffrey B. Lanning of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service, by mail at 1111 Constitution Avenue NW., Washington, D.C. 20224, (Attention: CC:LR:T) (202-566-3295).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On June 3, 1971, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 83 of the Internal Revenue Code of 1954, 36 FR 10787, in order to conform the regulations to section 321 of the Tax Reform Act of 1969 (83 Stat. 588). The amendments contained in that notice of proposed rulemaking are not withdrawn by this document.

This document contains additional proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 83 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 321 of the Tax Reform Act of 1969 (83 Stat. 588) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

EXPLANATION OF THE REGULATIONS

The proposed regulations in this document concern the situation of a compensatory option not actively traded on an established market that is believed to have a readily ascertainable fair market value at the time of grant. A person that claims a deduction for the grant of such an option, or a person including such an option in gross income at the time of grant, must satisfy certain reporting requirements, as provided in these proposed regulations.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of this regulation was Geoffrey B. Lanning of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part 1 are as follows:

PAR 1. The following new paragraphs are added to § 1.83-6 to read as set forth below:

§ 1.83-6 Deduction by employer.

* * * * *

(e) *Options.* A deduction is allowable according to the rules of this section for the grant of an option, in connection with the performance of services, to the person for whom such services were performed, but only if, at the time of grant, the option has a readily ascertainable fair market value (determined in accordance with the rules of § 1.83-7(b)). An option granted after (insert date, 30 days after the date final regulations are filed by the FEDERAL REGISTER) that is not actively traded an an established market will be presumed not to have a readily ascertainable fair market value at the time of grant, unless the reporting requirements of § 1.83-7(c) and paragraph (f) of this section are satisfied with respect to such option. However, if the facts show that an option does have a readily ascertainable fair market value under § 1.83-7(b) when granted, failure to comply with such reporting requirements will not preclude the taxpayer from taking a deduction for the grant of such option.

(f) *Reporting requirements.* A person for whom services were performed, who claims a deduction for an option granted after (insert date, 30 days after the date final regulations are filed by the FEDERAL REGISTER) that is not actively traded on an established market, must submit with the return on which such claim is made, the following:

(1) A statement that the option has a readily ascertainable fair market value at the time of grant for purposes of determining the deductibility of the grant of the option;

(2) An explanation of why the option has a readily ascertainable fair market value (including why the fair market value of the option privilege is readily ascertainable);

(3) A statement of the option's fair market value at the time of grant, and an explanation of the method used by the taxpayer to determine the fair market value of the option at the time of grant (including the fair market value of its option privilege) for purposes of determining the amount of the deduction;

(4) A list of the names of all employees (or independent contractors) who have been compensated by the taxpayer with the grant of an option that is deductible on this return (if includible in gross income at the time of grant) and has the same material terms (other than the exercise price) as an option for which the taxpayer is claiming a deduction on this return;

(5) A statement that each such employee (or independent contractor) agrees with the taxpayer that the option granted to such employee (or independent contractor) has a readily ascertainable fair market value, and is includible in the gross income of the employee (or independent contractor), at the time of grant; and

(6) A statement that each such employee (or independent contractor) agrees with the taxpayer as to the fair market value at the time of grant of the option granted to such employee (or independent contractor), and agrees to use such value in determining the amount includible in the gross income of the employee (or independent contractor).

PAR. 2. The following new paragraph is added to § 1.83-7 to read as set forth below:

§ 1.83-7 Taxation of nonqualified stock options.

* * * * *

(c) *Reporting requirements.* An option granted after (insert date, 30 days after the date final regulations are filed by the FEDERAL REGISTER) that is not actively traded on an established market will be presumed not to have a readily ascertainable fair market value when granted unless the reporting requirements of § 1.83-6(f) and this paragraph are satisfied with respect to such option. However, if the facts show that an option does have a readily ascertainable fair market value under § 1.83-7(b) when granted, failure to comply with such reporting requirements will not relieve the taxpayer from having to include such option in gross income at the time of grant. An employee (or independent contractor) who includes in gross income the value of such an option must submit with the return on which such option is reported, the following:

(1) A copy of the information and statements described in § 1.83-6 (f) (1), (2), (3), and (5) that were submitted with a claim for a deduction for the grant of such option by the person for whom the taxpayer performed services;

(2) A statement by the taxpayer that the option has a readily ascertainable fair market value, and is includible in the taxpayer's gross income, at the time of grant; and

(3) A statement by the taxpayer that the taxpayer agrees to the determination of the option's fair market value by the person for whom the taxpayer performed services (which determination is described in § 1.83-6(f)(3)) for purposes of determining the amount includible in the taxpayer's gross income at the time of grant.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc.77-27285 Filed 9-15-77;3:41 pm]

DEPARTMENT OF DEFENSE

Office of the Secretary

[32 CFR Ch. I]

ARMED SERVICES PROCUREMENT REGULATIONS

Organizational Conflicts of Interest; Proposed Policy

CROSS REFERENCE.—For a proposed rule issued by the Office of Procurement Policy, Office of Management and Budget, concerning amendments to the Armed Services Procurement Regulations in 32 CFR Ch. I on the subject of organizational conflicts of interest, see FR Doc. 77-27419 appearing in the Proposed Rules section of this issue under the Office of Management and Budget.

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

[32 CFR Ch. I]

[41 CFR Ch. I]

ORGANIZATIONAL CONFLICTS OF INTEREST

Proposed Policy; Invitation for Public Comment

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of a proposed regulation governing Organizational Conflicts of Interest.

SUMMARY: This proposed policy would amend the Federal Procurement Regulations by adding a Section 24 and would supersede Appendix G of the Armed Service Procurement Regulation (ASPR).

The problem of organizational conflicts of interest has received much recent attention by Federal executive agencies and Congress. It is the view of this Office that any attempted solution to this problem—to the extent it involves imposing procurement regulations and contractual requirements—should be uniformly applicable Government-wide.

This policy is directed to the avoidance of contractual relationships which might encourage contractors to give biased advice and, secondly, the reduction of opportunities for contractors to gain an unfair competitive advantage. The policy would require contractors to disclose existing organizational conflicts when submitting an offer, and to stay free of conflicts during performance or be terminated.

DATE: Comments must be received on or before November 22, 1977.

ADDRESS: Comments should be addressed to the Administrator for Federal Procurement Policy, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

Mr. Jack Nadol, Deputy Administrator for Regulations, telephone 202-395-6987.

SUPPLEMENTARY INFORMATION: Under Pub. L. 93-400, authority for Federal procurement policy is vested in the Administrator for Federal Procurement Policy. All executive agency procurement policies, regulations, procedures, and forms are subject to those prescribed by the Administrator.

The Office of Federal Procurement Policy, Office of Management and Budget, is considering the adoption of a policy which would require the use by all Federal executive agencies of regulations and contract clauses governing organizational conflicts of interest.

The problem of organizational conflicts of interest has received much recent attention by Federal executive

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agencies and Congress. It is the view of this Office that any attempted solution to this problem—to the extent it involves imposing procurement regulations and contractual requirements—should be uniformly applicable Government-wide.

This proposed policy would amend the Federal Procurement Regulations by adding a Section 24 and would supersede Appendix G of the Armed Service Procurement Regulation (ASPR).

The policy is directed to the avoidance of contractual relationships which might encourage contractors to give biased advice and, secondly, the reduction of opportunities for contractors to gain an unfair competitive advantage. The policy would require contractors to disclose existing organizational conflicts when submitting an offer, and to stay free of conflicts during performance or be terminated.

It requires contracting officers to make determinations regarding the existence and elimination of organizational conflicts of interest. The policy would also require the incorporation of organizational conflicts of interest solicitation notices and contract clauses.

The "Organizational Conflict of Interest" regulations and clauses which follow are proposed for mandatory use by all Federal executive agencies.

Comments should be addressed to the Administrator for Federal Procurement Policy, Office of Management and Budget, Washington, D.C. 20503 and should be received by November 22, 1977.

Questions may be referred to Mr. Jack Nadol, Deputy Assistant Administrator for Regulations, telephone 202-395-6987.

LESTER A. FETTIG,
Administrator.

SECTION ANALYSIS

Section 2402. Defines organizational conflict of interest (OCI) as an interest that may diminish objectivity or give unfair competitive advantage. This definition includes the interest of chief executives and directors of an organization to insure that (OCI) rules will not be circumvented by creation of a sister corporation by directors who have no legal affiliation. It also includes subcontractors and consultants so as to reduce another opportunity for abuse.

Section 2403. Lists possible situations where OCI may exist or arise. This is to overcome the belief by many that OCI covers only "hardware exclusion" and restrictive specifications.

Section 2404. Requires offerors to disclose potential OCI. One of the major weaknesses of the current regulation is that no disclosure is required and contracting officers are making awards with little knowledge of potential OCI.

Section 2405. Requires notice in the solicitation that if an OCI could result, a clause to eliminate OCI will be incorporated into the contract. Such a clause could prohibit a contractor from some future work and he should be advised of this prior to making a proposal.

Section 2406. Requires that a solicitation representation be included in all evaluation, consultant, management support, research and development contracts, and other contracts over $100,000. This coverage is agreed to by DOD and GSA; however, DOD would cover only negotiated contracts, while GSA would cover both negotiated and formally advertised. Our draft covers the latter. OCI type prohibitions are not self executing and may be applied only if specifically incorporated into a solicitation or contract clause. We therefore require wide application of solicitation representation so the contracting officer will have the knowledge on which to make his determination and to incorporate a contract clause to avoid OCI.

Section 2407-1. The general conflict clause requires the contractor to warrant there is no conflict of interest and requires notice to the C.O. if one arises. It also gives the C.O. authority to terminate.

Section 2407-2. Lists areas where OCI may be avoided by special clauses, e.g. "hardware exclusion."

Section 2403. Requires a D&F when OCI is present or an exception is granted.

Section 2411. Requires pass through to subcontracts and consultant agreements.

Section 2412. Provides that in addition to other remedies for violation of OCI rules a contractor may be disqualified from subsequent agency contracting.

Section 2413. Explains and gives examples of OCI. This is similar to the current appendix G provisions of ASPR. It provides help to C.O.s in making determinations as to whether or not OCI is present.

EDITORIAL NOTE.—This proposed policy would supersede Appendix G of Title 32, Chapter I, Armed Services Procurement Regulations, and would amend Title 41, Chapter 1, Federal Procurement Regulations, by adding the following new regulations. When adopted, the numbering of these regulations will correspond to the numbering systems of 32 CFR Ch. I and 41 CFR Ch. I.

SUBPART 1.24—ORGANIZATIONAL CONFLICTS OF INTEREST

1.2400 Scope of subpart.

This subpart sets forth policies and procedures regarding organizational conflicts of interest.

1.2401 Policy.

It is the policy of the Government that organizational conflicts of interest connected with the procurement of supplies and services be identified, prior to award if possible, and be adequately avoided, eliminated, or neutralized.

1.2402 Definitions.

(a) The term "organizational conflict of interest" means that a relationship exists whereby an offeror or a contractor (including his chief executives, directors, proposed consultants or subcontractors) has interests which (1) may diminish his capacity to give impartial, technically sound, objective assistance and advice or may otherwise result in a biased work product or, (2) may result in an unfair competitive advantage. It does not include the "normal flow of benefits" from the performance of a contract.

(b) The term "contractor" means any person, firm, unincorporated association, joint venture, partnership, corporation or affiliate thereof, which is a party to a contract with the United States of America. As used in this definition, the term "affiliate" has the same meaning as provided in 41 CFR 1-1.601-1(e).

1.2403 Conflict of interest.

(a) In addition to other situations, an organizational conflict of interest may exist or arise:

(1) Even if there is no follow-on procurement;

(2) Even if a contract is awarded on a noncompetitive or a sole source basis;

(3) Even though a hardware exclusion clause may not be appropriate;

(4) From prior and prospective interests as well as current interests.

(5) Whenever the contractor's judgment or performance may be biased even though there is no competitive advantage.

(6) From benefits which later accrue to the industry even if the contractor receives no more benefits than any other contractor in the industry.

(7) From benefits which are not directly financial in character.

(b) The fact that the Government can identify and later eliminate or neutralize any potential bias arising from the performance of or affecting the work product of a contract, is not relevant to a determination regarding the existence and elimination of an organizational conflict of interest prior to award.

(c) The existence of an organizational conflict of interest is more likely to be disclosed if a contract results from competition. Accordingly, greater care shall be exercised in the absence of competition, particularly whenever a contract may result from an unsolicited proposal.

(d) It is not relevant that the contractor has the professional reputation of being able to resist temptations which may arise from an organizational conflict of interest.

(e) An organizational conflict of interest is presumed to exist whenever one of the contractual relationships prohibited by paragraph 1-2413 would appear to result.

1.2404 Disclosure of potential organizational conflicts of interest.

When submitting offers (bids and proposals) in connection with the procurement of supplies and services, offerors and contractors (with respect to modifications) shall be required to disclose any organization conflicts of interest by completing the representation required by 1.2406. When a contracting officer finds that an organizational conflict of interest exists or may exist with respect on an offeror or contractor, no contract or contract modification award shall be made until the organizational conflict of interest has been adequately avoided, eliminated or neutralized, except as provided in 1.2408 below.

1.2405 Notices and representations; action required of contracting officers.

(a) The representation required by 1.2406 is designed to alert the contracting officer to situations or relationships which may constitute either present or future organizational conflicts of interest with respect to a patricular offeror or contractor. However, this representation may not identify a potential organizational conflict of interest involvign a successful offeror that could affect his participation in subsequent procurements arising out of or related to work performed under a contract that results from a solicitation currently under consideration. Accordingly, whenever such potential conflicts are foreseeable by the contracting officer, a special notice also shall be included in the solicitation informing offerors of the fact that such a potential conflict is foreseen and that a special contract clause designed to eliminate the conflict will be included in any resultant contract as required by 1.2407(.2). Such notice shall specify the proposed extent and duration of restrictions to be imposed with respect to participation in subsequent procurements. A fixed term of reasonable duration is measured by the time required to eliminate what would otherwise constitute an unfair competitive advantage. This is a variable; for example, it may run to the date of award of a first production contract or for a stated period of time. Except in the few instances where a permanent exclusion is appropriate, in no event shall an exclusion be stated which is not related to a specific expiration date or an event certain.

1.2406 Representation.

(a) The representation prescribed by this section shall be included in (1) all solicitations for the conduct of evaluation services and for technical, consulting and management support services, (2) solicitations, modifications and unsolicited proposals involving research and development and (3) all other solicitations, modifications, and unsolicited proposals which may exceed $100,000 in value.

It also may be employed as otherwise deemed desirable by the heads of agencies.

ORGANIZATIONAL CONFLICTS OF INTEREST REPRESENTATION

(a) The offeror represents, to the best of his knowledge and belief, that:

The award to him of a contract or the modification of an existing contract does ( ) or does not ( ) involve an organizational conflict of interest as defined in the Federal Procurement Regulations (see 41 CFR 1.2402(a) and the Armed Services Procurement Regulation (see paragraph 1-2402(a)).

(b) If the representation, as completed, or other information indicates the existence of an organizational conflict of interest, the contracting officer will determine whether a conflict does exist. If the contracting officer determines that a conflict exists, the offeror will be disqualified unless a special clause is included in the contract which is designed to adequately avoid, eliminate, or neutralize the conflict. The offeror will be permitted to negotiate the terms of the clause.

(c) When a solicitation involves a formally advertised procurement and the representation of the otherwise successful offeror indicates a conflict of interest, the contracting officer will discuss the matter with the offeror and will determine whether it is reasonable to expect that the conflict can be adequately avoided, eliminated or neutralized by the offeror. If the determination is negative, he will find that the offeror is not responsible. If the determination is affirmative, he will enter into an agreement with the contractor which adequately avoids, eliminates or neutralizes the conflict and subsequently award the contract.

(b) Failure to execute the representation will be deemed to be a minor informality and the offeror or contractor will be permitted to correct the omission.

(c) Refusal to provide the representation and any additional information required, or the nondisclosure or misrepresentation of any relevant interest shall disqualify the offeror or contractor for award.

1.2407 Contract Clauses.

1.2407-1 General Contract Clause.

All contract actions subject to the solicitation representation required by 1.2406 shall include the following clause:

ORGANIZATIONAL CONFLICTS OF INTEREST—GENERAL

(a) The contractor warrants that, to the best of his knowledge and belief, and except as otherwise set forth in this contract, he does not have any organizational conflict of interest, as defined in the Federal Procurement Regulations (see 41 CFR 1.2402(a)) and the Armed Services Procurement Regulation (see paragraph 1-2402(a)).

(b) The contractor agrees that, if after award he discovers an organizational conflict of interest with respect to this contract, he shall make an immediate and full disclosure in writing to the contracting officer which shall include a description of the action which the contractor has taken or proposes to take to avoid, eliminate or neutralize the conflict. The Government may, however, terminate the contract for the convenience of the Government if it would be in the best interests of the Government.

(c) The contractor agrees further that, if the award follows a formally advertised solicitation and a conflict of interest was identified prior to award, he will adequately avoid, elimniate or neutralize the conflict in a manner satisfactory to the contracting officer.

(d) In the event that the contractor was aware of organizational conflict of interest prior to the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the Government may terminate the contract at no cost to the Government.

END OF CLAUSE

1.2407-2 Special Contract Clause.

When an organizational conflict of interest is found to exist, it shall be adequately avoided, eliminated, or neutralized through the use of an appropriate special contract clause. Examples of the types of clauses which may be employed include but are not limited to the following:

(a) Hardware exclusion clauses which prohibit the acceptance of production contracts which follow a related nonproduction contract previously performed by the contractor;

(b) Software exclusion clauses;

(c) Clauses which require the contractor, members of his Board of Directors, or his chief executives to avoid, eliminate, or neutralize an organizational conflict of interest; and

(d) Clauses which provide for the protection of the confidentiality of data and guard against its unauthorized use.

The prospective contractor shall be given the opportunity to negotiate the terms and conditions of the clause and its application. The extent and time period of any restrictions shall be specified in the clause.

1.2407-3 Records of use of special notices and clauses.

Agencies shall maintain, in accordance with agency procedures, and for an appropriate period of time as determined by the circumstances, a record of all special solicitation notices used pursuant to 1.2405 and of all special contract clauses incorporated in contracts pursuant to 1.2407-2.

1.2408 Contract award when an organizational conflict of interest is present.

(a) When an organizational conflict of interest is present, an award shall not be made to an offeror who has a conflict unless:

(1) The conflict has been adequately avoided, eliminated or neutralized; or

(2) The head of the agency determines that the award of the contract would be otherwise in the best interests of the Government. Where such a determination is made, an appropriate written finding and determination shall be placed in the contract file.

(b) Examples of circumstances justifying the determination permitted by 1.2408(a)(2) include but are not necessarily limited to:

(1) (Situations where) the public exigency will not otherwise permit; and

(2) (Situations where) the requirement cannot otherwise be obtained.

1.2409 Action in lieu of termination.

If the contracting officer determines that it would not be in the best interests of the Government to terminate a contract as provided in the clause required by 1.2407, the contracting officer shall take every reasonable action to avoid, eliminate, or otherwise neutralize the organizational conflict of interest.

1.2410 Architect-engineering and construction contracts.

The award of related architect-engineering and construction contracts to the same contractor can result in self-inspection of construction work and permit the contractor to render biased decisions. Such contract awards are prohibited.

1.2411 Subcontracts.

The contractor shall require a representation in accordance with Section 1.2406 from subcontractors and consultants and shall include in consultant agreements or in subcontracts involving performance of work under a prime contract covered by this section, contract clauses in accordance with 1.2407.

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1.2112 Remedies.

In addition to other remedies, as may be permitted by law or contract for a knowing breach of the restriction in this section or for nondisclosure or misrepresentation of any relevant interest required to be disclosed by this section, the agency shall disqualify the contractor from subsequent agency contracts.

1.2113 Specific examples of contractual relationships which constitute an inherent organizational conflict of interest and rules for their avoidance.

Introduction. The following examples illustrate types of organizational conflicts of interest which frequently arise, but [they] are not all inclusive. They are not rules in the literal sense, but are only examples of the two principles enumerated in the definition of an "organizational conflict of interest" set forth in paragraph 1–2402(a) above. These two basic principles ((1) preventing conflicting roles and competing interests which might bias a contractor's judgment and (2) preventing a contractor from gaining an unfair competitive advantage over others) are the fundamental goals which must always be borne in mind in reaching a determination as to the presence or absence of an organizational conflict of interest. Organizational conflicts may involve not just hardware production but also software and services in many forms. Many consulting and engineering firms, for example, have no hardware capability but may nevertheless perform work under contractual situations giving rise to potential conflicts under the two principles mentioned above. Attention must be given therefore to the possible need for using both hardware and software exclusion clauses in appropriate cases, particularly in the fields of research, development, test, and evaluation, where objectivity may be influenced or a competitive advantage gained through access to information regarding future Government plans or programs.

(a) If a contractor agrees to provide systems engineering and technical direction (SE/TD) for a system, without at the same time assuming overall contractual responsibility for:

(1) Development, or

(2) Integration, assembly, and checkout (IAC), or

(3) Production of the system, then that contractor shall not later be allowed to supply the system or any major components thereof, or to be a subcontractor or consultant to a supplier of the system or any major components thereof.

Explanation. The SE/TD contractor occupies a highly influential and responsible position as an agent of the Government, both in determining basic concepts of a system and in supervising their execution by other contractors. To assure the objectivity of its services and hence a more soundly planned system, the SE/TD contractor must not be in a position to make decisions which could favor its own products. Furthermore, it would be inconsistent with the managerial responsibility of an SE/TD contractor for it to be concurrently one of the component suppliers.

Illustration A. Company A agrees to provide SE/TD for the Navy on the power plant for a group of submarines (i.e., turbine, drive shafts, props, etc.). Company A shall not be allowed to supply any power plant components. Company A can, however supply components of the submarine unrelated to the power plant, (not the submarine) and the ban on the supply of components is coterminous with the system only.

Illustration B. Company A is the SE/TD contractor for system X. After some progress, but prior to completion, the system is canceled. Later, system Y is developed to achieve the same purposes as system X, but in a fundamentally different fashion. Company B is the SE/TD contractor for system Y. Company A may bid to produce system Y or its components.

(b) If a contractor agrees to prepare and furnish complete specifications covering nondevelopmental items to be used in competitive procurement, that contractor shall not be allowed to furnish such items, either as a prime or subcontractor, for a reasonable period of time including, at least, the initial procurement. This rule shall not apply to:

(1) Contractors who furnish at Government request specifications or data with respect to the product they furnished, even though the specifications or data may have been paid for separately or in the price of the product.

(2) Situations where one or more contractors acting as industry representatives assist Government agencies in preparing, refining, or coordinating specifications, regardless of source, which assistance is supervised and controlled by Government representatives.

(3) Contracts for developmental or prototype items.

Explanation. If a single contractor is engaged by the Government to draft complete specifications for nondevelopmental equipment, he should be eliminated for a reasonable time from competition for production based on the specifications. This should be done in order to avoid a situation where he could draft specifications which would favor his own products or capabilities. In this way the Government can be assured of getting unbiased advice as to the content of its specifications and can avoid allegations of favoritism in the award of production contracts.

In development work it is normal to select firms which have done the most advanced work in the field. It is to be expected that these firms will design and develop around their own prior knowledge. Development contractors can frequently start production earlier and more knowledgeably than firms which did not participate in the development, and this affects the time and quality of production, both of which are important to the Government. In many instances the Government may have financed such development. Thus, the development contractor may have an unavoidable competitive advantage which is not considered unfair and no prohibition should be imposed.

In instances of cooperation between industry and Government agencies to prepare, refine, or coordinate specifications, there is continuous participation and supervision by Government representatives and, usually, more than one contractor concerned. In these circumstances Government supervision prevents the establishment of specifications oriented to favor a given contractor's products or capabilities.

Illustration A. Company A prepares updated Government specifications for a standard refrigerator to be procured competitively. Company A shall not be allowed for a reasonable period of time to compete for supply of the refrigerator.

Illustration B. Company A designs or develops a new electronic equipment and, as a result of the design or development, prepares specifications. Company A may supply the electronics equipment.

Illustration C. XYZ Tool Co. and/or KLM Machinery Co. representing the American Tool Institute work under the supervision and control of Government representatives to refine specifications or to clarify the requirements of a specific procurement. These companies may supply the item.

Illustration D. Prior to selection of the Automatic Data Processing (ADP) Equipment, Company A is awarded a contract to develop software to automate an Air Force function. Since software can be written to favor a particular vendor's commercial ADP hardware, a potential conflict of interest exists. Accordingly, Company A should be barred from at least the initial follow-on ADP hardware procurement using the software developed under its development contract.

Illustration E. A System Engineering and Integration contract is awarded to Company A. As part of its effort it is required to identify and modify commercially available software packages, integrate them into a system, and identify and provide performance specifications for the commercial hardware requirements to operate the resulting system. Since the identified packages and modifications can be biased toward a particular vendor's hardware when used in a follow-on acquisition, Company A should be barred from at least the initial follow-on computer hardware procurement.

Illustration F. A study contract is awarded to Company A to solve a computer interface problem. The effort will require the identification of commercial equipment that will solve the interface problem. Since the vendor's judgment could be biased if allowed to recommend its own equipment, it should be barred from at least the initial follow-on procurement resultant from its interface effort.

(c) If a single contractor, other than a company which has participated in the development or design of a system, agrees to assist a Government agency or a contractor of a Government agency in the preparation of a statement of work, or agrees to provide material leading directly, predictably, and without delay to a statement of work, to be used in the competitive procurement of a system or services, that contractor shall not be allowed to supply the services, or the system or major components thereof, unless it is the sole source. The content of a statement of work shall not be considered predictable if more than one contractor is involved in the preparation of material leading to it.

Explanation. The various services related to a statement of work to be used in competitive procurement should normally be performed by the Government agency. However, when it is necessary to seek the assistance of contractors, they may often be in a position to favor their own products or capabilities. To overcome this possibility of bias, such contractors are to be prohibited from supplying a system or services procured on the basis of work statements growing out of their services.

No prohibitions are imposed on development contractors for the reasons given in the explanation to rule (b).

Illustration A. Company A receives a contract to define the detailed performance characteristics a Government agency will require for the purchase of rocket fuels. A has not developed the particular fuels. At the time the contract is awarded, it is clear to both parties that the performance characteristics arrived at will be used by the Government agency to choose competitively a contractor to develop or produce the fuels. Company A shall not be permitted to bid on this procurement.

Illustration B. Company A receives a contract to prepare a detailed plan for the procurement of services aimed at the advanced scientific and engineering training of a Government agency's personnel. It suggests a curriculum which the agency endorses and incorporates in requests for proposals to various institutions to establish and conduct such training. Company A shall not be permitted to bid on this procurement.

Illustration C. Company A prepares a feasibility study of a new weapons system without proposing in detail the characteristics of a possible final device. It may bid to produce the system or components thereof.

(d) If a contractor gains access to proprietary data of other companies incidental to the performance of a Government contract, the contractor must agree with such companies to protect such data from unauthorized use or disclosure so long as it remains proprietary. In addition, the contractor shall not be permitted to utilize the data for any purpose other than that for which it was furnished to him, unless otherwise specifically provided for in his contract or unless written authorization from the owner of the data has been obtained.

Explanation. Proprietary data is information considered so valuable by its owners that it is held secret by them and their licensees. Where a contractor must obtain such data from others for purposes of performing a Government contract, and can obtain it by the leverage of that contract, he will gain an advantage over other companies unless there are restrictions upon his use of the data. Such restrictions are necessary both to protect the data, and to encourage companies to furnish it to contractors when necessary for the performance of a Government contract. The rule is not intended to protect proprietary data furnished voluntarily by companies without limitations as to use, or data which falls into the public domain.

Illustration A. Company A is selected to study the use of lasers in military communications. The Government agency will request that firms doing research in the field make proprietary data available to A. In order to receive the contract, A must agree with such firms to protect any proprietary data it obtains, so long as the data remains proprietary, and shall not be permitted to utilize the data in supplying any lasers to the Government agency. While A could not receive a competitively awarded contract to perform additional studies of lasers using such data, it may receive a contract award if it is the sole source.

(e) A contractor who in connection with the performance of a study, consulting or similar contract will be given information by a Department regarding the Department's plans or programs, which is not available to other interested potential contractors shall not be permitted to compete with such firms for work relating to such plans or programs.

(f) A contractor shall not, without making a full disclosure to the contracting officer, and in the absence of adequate safeguards, be allowed to evaluate or give other consulting services:

(1) Which will necessarily require the evaluation of the contractor's own work product or (2) with respect to the product or services of any other contractor with which the contractor has an existing consulting relationship.

(g) A contractor performing evaluation or consulting services for the Government in connection with a competitive procurement shall not be permitted to enter into a contractual relationship with the successful offeror with respect to work arising out of or related to the performance of the contract resulting from the competition.

[FR Doc.77–27419 Filed 9–16–77;4:11 pm]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 794–5]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to Yolo-Solano Air Pollution Control District Rules and Regulations in State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: It is the purpose of the notice to acknowledge receipt of and invite public comments on the revision to the Yolo-Solano Air Pollution Control District Rules and Regulations which was submitted to EPA by the California Air Resources Board (ARB) for inclusion in the California State Implementation Plan (SIP). The EPA solicits comments regarding the desirability of approving or disapproving the rule being considered, especially as to its consistency with the Clean Air Act.

DATES: Comments may be submitted on or before October 20,1977.

ADDRESSES: *Send comments to:* Regional Administrator, Attn.: Air and Hazardous Materials Division, Air Programs Branch (A–4), EPA Region IX, 100 California Street, San Francisco Calif. 94111.

Availability of documents. Copies of the proposed revision are available for public inspection during normal business hours at the EPA Region IX office at the above mentioned address and at the following locations:

Yolo-Solano Air Pollution Control District, 323 First Street, Woodland, Calif. 95695.

California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814.

Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section (415–556–7288).

SUPPLEMENTARY INFORMATION: The June 6, 1977, submittal contained only a revision to Rule 2.21, Vapor Control for Organic Liquid Transfer and Storage. This rule was previously submitted on July 19, 1974, and was proposed to be disapproved in the March 21, 1977, FEDERAL REGISTER (42 FR 15344) because the regulation contained no final compliance date. The March 1977 notice also requested the California Air Resources Board to submit the most recent version of Rule 2.21 for EPA review, and this amended rule is the rule being acted upon by this notice. No final action was taken of the previous proposed disapproval because this rule was submitted as an SIP revision during the comment period.

Pursuant to section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision. The Regional Administrator hereby issues this notice setting forth this revision as a proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX office. Comments received will be available for public inspection at the Region IX office and the EPA Public Information Reference Unit.

(Secs. 110 and 301 of the Clean Air Act, as amended, 40 U.S.C. 1857c–5 and 1857 g.)

Dated: August 16, 1977.

FRANK M. COVINGTON,
Acting Regional Administrator,
Region IX.

[FR Doc. 77–27212 Filed 9–19–77;8:45 am]

[40 CFR Part 205]

[FRL 793–5]

NEW TRUCK-MOUNTED SOLID WASTE COMPACTORS

Noise Emission Standards; Change of Public Hearing Dates

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of change of public hearing dates.

SUMMARY: By this notice the Environmental Protection Agency (EPA) announces that the scheduled public hearings on the recently proposed noise emission standards for new truck-mounted solid waste compactors have been rescheduled. The dates of the hearings announced in the FEDERAL REGISTER of August 26, 1977 (42 FR 43226), were September 27, 1977, in New York City, N.Y., and September 29, 1977, in Salt Lake City, Utah. The revised dates and locations are:

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DATES:

NEW YORK CITY HEARING

Date: October 18, 1977.

Place: United Nations Plaza Hotel, 1 United Nation Plaza, New York City, N.Y. 10017.

Time: 9 a.m. to 9 p.m. (or until all parties are heard).

SALT LAKE CITY HEARING

Date: October 20, 1977.

Place: Salt Palace, 100 South West Temple Street, Salt Lake City, Utah 84101.

Time: 9 a.m. to 9 p.m. (or until all parties are heard).

The final public comment date will not change, it remains November 25, 1977.

The Agency considers it in the best interest of the public to extend the period prior to public hearings so that more time is allowed: (1) To review the proposed regulation, (2) to prepare testimony, and (3) to permit maximum public participation in its rulemaking action.

ADDRESSES: Those persons wishing to make statements at the hearing should notify the EPA at the following address by October 4, 1977, so that presentations may be scheduled: Director, Standards and Regulations Division (AW 471), Office of Noise Abatement and Control, Attn. Truck-Mounted Solid Waste Compactor Hearings, Docket No. ONAC–77–1, U.S. Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Fred Mintz, Project Officer, Standards and Regulations Division (AW 471), U.S. Environmental Protection Agency, Washington, D.C. 20460 (703–557–2710).

SUPPLEMENTARY INFORMATION: See following text.

In the FEDERAL REGISTER of May 28, 1975 (40 FR 23105), the Administrator of EPA identified truck-mounted solid waste compactors, generally known as garbage trucks, as a major source of environmental noise. On August 26, 1977 the EPA published a proposed noise emission standard for these products in the FEDERAL REGISTER (42 FR 43226). Compliance with the proposed standard should, on the average, reduce noise from new conventional truck-mounted solid waste compactors by from 4 to 8 decibels in 1979, and by an additional 3 decibels in 1982. In terms of reduced noise impact on the nation's population, the proposed not-to-exceed noise emission standard, when considered in combination with existing Federal noise standards for new medium and heavy trucks, should result in a reduction of approximately 71 percent in the severity and extensiveness of noise impact due to solid waste collection by the year 1991.

A final regulation for the truck-mounted solid waste compactors will be promulgated after critical review of all comments and data received in response to the published proposal. The information gained from the hearings is necessary, in order for the Agency to ensure that all issues associated with the regulation have been identified and adequately addressed.

It is the Agency's policy to solicit public participation in its rulemaking. The EPA is especially interested in hearing from private citizens and consumer and public interest groups, in addition to product manufacturers and retailers, during the formal comment period and at the public hearings scheduled.

All interested persons will be given an opportunity to make a statement at the hearings. Such persons should notify the EPA of their intentions to make a statement at the address and by the date indicated above. Persons who have not given such notice will be heard as time permits following the scheduled statements. If possible, it is requested that speakers submit a copy of their statement no later that the day on which they appear. The hearings will be conducted informally. Technical rules of evidence will not apply. The hearings are scheduled to include some evening sessions to facilitate testimony by the general public. Persons wishing to be heard in the evening hours should so specify when notifying the EPA of their desire to make a statement.

The transcript of the hearings and any material submitted for the record will become part of the official docket for the Proposed New Truck-Mounted Solid Waste Compactor Noise Emission Standards, Docket No. ONAC–77–1.

Dated: September 13, 1977.

EDWARD F. TUERK,
Acting Assistant Administrator for Air and Waste Management.

[FR Doc.77-27219 Filed 9-19-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[41 CFR Ch. 1]

FEDERAL PROCUREMENT REGULATIONS

Organizational Conflicts of Interest; Proposed Policy

CROSS REFERENCE.—For a proposed rule issued by the Office of Procurement Policy, Office of Management and Budget, concerning amendments to the Federal Procurement Regulations in 41 CFR Ch. 1 on the subject of organizational conflicts of interest, see FR Doc. 77–27419 appearing in the Proposed Rules section of this issue under the Office of Management and Budget.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 172]

TEACHER CORPS

Clarification of 1976 Amendments

AGENCY: Office of Education, HEW.

ACTION: Proposed regulations.

SUMMARY: The Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend the Code of Federal Regulations by adding a new part for the Teacher Corps. This will clarify the new directions established for Teacher Corps in the extensive 1976 amendment.

In general the amendment proposes: (1) Increased attention to improving the school/learning climate through Teacher Corps projects, (2) emphasis on the reform of the training and retraining of educational personnel through Teacher Corps projects, and (3) a greater focus on demonstration, documentation, institutionalization, and dissemination of the results of Teachers Corps projects. Major procedural changes made by the amendment include: (1) Lengthened Teacher Corps projects, (2) increased collaboration among local educational agencies, institutions of higher education; and communities in the development and carrying out of projects, and (3) greater emphasis on local determination of project objectives and design.

DATES: Comments must be received on or before October 20, 1977. A public hearing on all provisions of the proposed regulations is scheduled for October 5, 1977, from 9 a.m. to 12 noon.

ADDRESSES: Comments should be addressed to Russell Wood, Deputy Director, Teacher Corps, Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202. The public hearing will be held at New Gage Elementary School, Third and Elm Streets NW., Washington, D.C. Participants may call Area Code 202–737–7868 for directions.

FOR FURTHER INFORMATION CONTACT:

Russell Wood, 202–245–8224.

SUPPLEMENTARY INFORMATION: Section 503 of the Education Amendments of 1973 requires the Commissioner to study all rules, regulations, guidelines, or other published interpretations or orders issued by him or by the Secretary after June 30, 1965, in connection with, or affecting the administration of Office of Education programs; to report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives, concerning this study; and to publish in the FEDERAL REGISTER these rules, regulations, guidelines, interpretations, and orders with an opportunity for public hearing on the matters published. The regulations proposed below reflect the results of this study as it relates to the Teacher Corps. Upon publication of Part 172 in final form, after comments and hearing, all preceding rules regulations, guidelines, and other published interpretations and orders issued in connection with or affecting the program will be superseded.

Reference to "Sec.," in the citations of authority following provisions of the proposed regulations, refer to sections of the Higher Education Act of 1965, as amended.

Emphasis and purpose. The proposed regulations set forth rules and criteria governing grant awards by the Commissioner of Education to institutions of

higher education, local educational agencies and State educational agencies. These awards are designed to (a) strengthen the educational opportunities available to children in areas having concentrations of low-income families and (b) encourage colleges and universities to broaden their programs of teacher preparation and (c) encourage institutions of higher education and local educational agencies to improve programs of training and retraining for teachers, teacher aides, and other educational personnel. The proposed regulations apply to all grant awards made with funds appropriated to carry out the "Teacher Corps" program.

Resolution of issues. Certain provisions of the proposed regulations make significant changes in the Teacher Corps program. The following changes are particularly significant and stem primarily from the Education Amendments of 1976 (Pub. L. 94–482):

(1) *Project length.* In § 172.30 of the proposed regulations, the term of a Teacher Corps project is extended from the present two years to the newly authorized five years. The two-year limitation was placed on projects before 1974 when they were primarily concerned with graduate level pre-service training of teacher-interns in master or arts-type projects. Sec. 513(a)(1) of the Education Amendments of 1976 specifically authorizes a project length of five years. So that all parties concerned with a Teachers Corps project (i.e., an institution of higher education, a local educational agency and a community council) have sufficient time to plan a worthwhile project, carry it out, document it, and disseminate the results, the authorized five year project duration is implemented.

(2) *Community council.* Sec. 513(e) of the Education Amendments of 1976 requires the full participation of an elected community council in planning, carrying out, and evaluating a Teacher Corps project. Section 172.15 of the proposed regulations permits the temporary use of a community council elected for purposes other than the Teacher Corps project (e.g., a community council elected to participate in a Title I, ESEA or a bilingual education project) to serve as a Teacher project council for a maximum of three months after the date of award of a Teacher Corps project grant. This provides for useful community contributions to early project planning, without requiring a special community election before the award of a project grant.

Past experience shows that only one out of every two or three project applications is finally approved for a grant award. Therefore, postponing the election of a community council minimizes the creation of unwarranted expectations on the part of communities that are seeking projects. At the same time, a Teacher Corps community council must be elected early in the planning year (the first year of every project) so as to participate in designing the project in collaboration with the participating local educational agency and institution of higher education.

Section 172.104 describes the community council for the Youth Advocacy projects which is intended to promote the involvement of the parents of juvenile delinquents and youth offenders who may be participating in a Teacher Corps project.

(3) *Reduction of Federal support.* Under § 172.31 of the proposed regulations, Federal support of a Teacher Corps project is reduced during the fourth and fifth years of the project term. One persistent criticism of Federal project grant programs is that the effects rarely last after Federal project funding terminates. The reduction of Federal funding in the latter project years is designed to contribute to an orderly assumption of funding responsibility by the institutions of higher education, local education agencies, and other agencies participating in the project.

(4) *Released time compensation.* Compensation of local educational agencies, for the time they release educational personnel from their duties during the regular school day to participate in Teacher Corps project training, is permitted by Sec. 152 of the Education Amendments of 1976. Section 172.92 of the proposed regulations restricts the payment of released time. Released time compensation would only be paid in cases where the continuation of the project is jeopardized without the payment.

Section 172.92 implements the intent of Congress that, "* * * the Commissioner will use the authority in a limited way only when he determines that a particular local education agency is confronted with unusual financial difficulties such that the continuation of the Teacher Corps program would be jeopardized without federal compensation. The managers further expect that compensation will be necessary for only a few days per month during the school year." (p. 204, Conference Report 94–1701, U.S. House of Representatives, September 27, 1976).

(5) *Number of teacher-interns.* Section 172.83 requires at least four interns for each project. This regulation continues the Teacher Corps practice of requiring teacher-interns in each project. The requirement assures that a project will be able to integrate the training of new teachers with the in-service training existing staff and, thus, broaden programs of teacher preparation.

If a participating local educational agency provides an assurance (§ 172.81) that each teacher-intern in the project will be employed by the local educational agency at the end of the internship, the project may include a ratio of up to one teacher-intern for each five teachers in the Teacher Corps project. Sec. 513(f) of the Education Amendments of 1976 requires the Teacher Corps to work toward a nationwide Teacher Corps membership ratio of approximately five teachers to each individual not yet employed as a teacher. This section also authorizes the Commissioner to waive this goal if there is an insufficient number of qualified teacher applicants, or if there are insufficient employment opportunities for the preservice traineess (the teacher-interns). It is unlikely that there would be an insufficient number of qualified teacher-intern applicants. However, the market for teachers in many parts of the nation offers little proposect of employment of teacher-interns after their period of training. Therefore, if an assurance of employment of the pre-service trainee is not given in the project application (§ 172.124), the project will be required to have only the minimum of four teacher-interns.

(6) *Local development of objectives.* Section 172.62 of the proposed regulations requires local educational agencies, institutions of higher education, and communities to jointly establish their own local objectives. Previously published funding criteria for the Teacher Corps (see FEDERAL REGISTER, Vol. 42, No. 1, January 3, 1977, p. 77) required a project to adopt one of five broadly defined strategies which included: (a) Establishment of training complexes including teacher centers; (b) implementing competency-based teacher education; (c) training for implementing alternative school designs; (d) interdisciplinary training; and (e) training for the systematic adaptation of research findings. While these strategies remain useful, they are not project requirements in the proposed regulations. It is anticipated that the commitment of people involved in a project and the prospects of achieving lasting benefits will be enhanced if much of the substance of a project is left to local determination.

(7) The Trust Territory of the Pacific is included in the Teacher Corps statute as eligible for allocations of Teacher Corps members, but not defined as a "State" in the general provisions regulations for the Office of Education. Therefore, in § 172.155 of these proposed regulations the Trust Territory of the Pacific is included in the definition of "State."

(8) Sections 172.82(c) and 172.113(b) direct grantees to give consideration to persons who are broadly representative of the ethnic and cultural characteristics of the community served by the project in recruiting Corps members and staff. This is consistent with Congressional intent as expressed in S. Rep. No. 94–882, 94th Cong., 2d Sess. (1976).

Notice of intent to publish regulations and public hearings. A notice of intent to publish regulations for the Teacher Corps appeared in the FEDERAL REGISTER on November 22, 1976. Public hearings on the notice of intent were held in the following cities between December 10, 1976 and December 16, 1976: New York, New York; Atlanta, Georgia; Chicago, Illinois; Denver, Colorado; San Francisco, California. Comments received at the hearings and through the mail strongly supported: (1) The extension of project length to five years, (2) the inclusion of all school educational staff in training, (3) the provision of planning time at the start of a project, (4) the provision of latitude for a local project to develop its own objectives, (5) placing increased

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emphasis on ways to ensure the persistence of project effects, and (6) increasing the demonstration and dissemination efforts. There was substantial comment, but less agreement, on the role of the community, of teacher-interns, and of undergraduate teacher education in a Teacher Corps project. The public comments were valuable in the development of the proposed regulations.

Invitation to comment. Interested persons are invited to submit comments, suggestions, and recommendations to be considered prior to the issuance of the final regulations. Comments, suggestions, or recommendations may be presented at the public hearing or be sent to the address given at the beginning of this notice, or both. All comments received on or before October 20, 1977 will be considered. All comments submitted will be available for public inspection both during and after the comment period, in Room 1700, Donohoe Building, 6th and D Streets, S.W., Washington, D.C., between 8:30 a.m. and 4:00 p.m., Monday through Friday of each week.

Authority. The proposed regulations are issued under the authority of Title V-A of the Higher Education Act of 1965 (Pub. L. 89-329), as amended by Pub. L. 90-35, Pub. L. 90-575, Pub. L. 91-230, Pub. L. 92-318, Pub. L. 93-380, and Pub. L. 94-482.

(20 U.S.C. 1101 et seq.)

NOTE.—*Inflation Impact.* The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance No. 13.489, Teacher Corps.)

Dated: June 22, 1977.

ERNEST L. BOYER,
United States Commissioner of Education.

Approved: August 30, 1977.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

It is proposed that Title 45 of the Code of Federal Regulations be amended by adding a new part 172 to read as follows:

PART 172—TEACHER CORPS

Subpart A—General

Sec.
172.1 Scope.
172.2 Purpose.
172.3 Definitions.

Subpart B—Elements of a Teacher Corps Project

PARTICIPANTS

172.10 Joint participants.
172.11 Institution of higher education.
172.12 Project schools.
172.13 Involvement of all educational school personnel in the project.
172.14 Elected community council required.
172.15 Use of existing council.
172.16 Election of community council.
172.17 Policy board.
172.18 Other participating institutions and agencies.
172.19 Involvement of State educational agency personnel.

GRANTS

172.30 Project duration.
172.31 Size of grants.
172.32 Separate grants.
172.33 Time period before agencies or institutions may apply for a new project.

PROJECT PROGRAM

172.40 Initial development year.
172.41 Achievement of objectives during the remaining four years.
172.42 Functions of each participant.
172.43 Institution of higher education functions.
172.44 Local educational agency functions.
172.45 Training by institutions of higher education.
172.46 Pre-service and in-service training.
172.47 Training program for teacher-interns.
172.48 Graduate level training for teachers and teacher-interns.
172.49 Degree and certification for teacher-interns.
172.50 Field and community based training.
172.51 Training for volunteers.
172.52 Plan for dissemination.
172.53 Documentation of project experience.

BASIC OUTCOMES AND PROJECT OBJECTIVES

172.60 Basic outcomes.
172.61 Project objectives.
172.62 Development and adoption of project objectives.
172.63 School objectives.
172.64 Educational personnel development system objectives.
172.65 Institutionalization objectives.
172.66 Demonstration and dissemination objectives.

TEACHER CORPS MEMBERS

172.80 Educational personnel, teacher-interns, and volunteers.
172.81 Number of teacher-interns.
172.82 Recruiting teacher-interns.
172.83 Teacher-interns teams.
172.84 Teacher-interns may not replace teachers.
172.85 Federal employees.
172.86 Other Federal student assistance programs.
172.87 Compensation of team leaders.
172.88 Teacher-interns compensation during their term of service with the project.
172.89 Teacher-interns training stipends.
172.90 Teacher-interns and team leader medical insurance.
172.91 Training stipends for teachers and other educational personnel.
172.92 Released time for educational personnel.
172.93 Compensation of volunteers.
172.94 Travel expenses of Teacher Corps members.

Subpart C—Youth Advocacy Projects

172.100 Purpose and project design.
172.101 Other regulations in this part apply to youth advocacy projects.
172.102 Youth advocacy project joint participation.
172.103 Project schools.
172.104 Youth advocacy project community council.
172.105 Policy board.
172.106 Youth advocacy projects—separate grants.
172.107 Time period before correctional facility may apply for a new project.
172.108 Correctional facility functions.
172.109 Youth advocacy teacher-intern training.

Subpart D—Project Administration

172.110 Management Plan.
172.111 Project director.
172.112 Compensation of project director and staff.
172.113 Employment of project administrative staff.
172.114 Supervision of Teacher Corps members.
172.115 Services provided by the Commissioner.

Subpart E—Applications

172.120 Length of application.
172.121 Jointly signed application.
172.122 Policy board.
172.123 Institution of higher education.
172.124 Project schools.
172.125 Community council.
172.126 Correctional facility.
172.127 Project objectives.
172.128 Management and staffing plans.
172.129 Compensation.
172.130 Released time.
172.131 Training; community council expenses.
172.132 Project activities.
172.133 Youth advocacy projects.
172.134 Information responding to evaluation criteria.
172.135 Approval of applications by the State educational agency.
172.136 Continuation grant application.
172.137 Annual publication of application submission date.

Subpart F—Evaluation Criteria

172.150 Evaluation procedure.
172.151 School learning climate criterion.
172.152 Educational personnel development system criterion.
172.153 Institutionalization criteria.
172.154 Adaptation criterion.
172.155 Geographical allocation of Teacher Corps members.

APPENDIX—PART A OF TITLE V OF THE HIGHER EDUCATION ACT OF 1965, AS AMENDED—TEACHER CORPS PROGRAM STATEMENT OF PURPOSE AND AUTHORIZATION OF APPROPRIATIONS

AUTHORITY: Title V-A of the Higher Education Act of 1965 (Pub. L. 89-329), as amended by Pub. L. 90-35 in 1967; Pub. L. 90-575 in 1968; Pub. L. 91-230 in 1970; Pub. L. 92-318 in 1972; Pub. L. 93-380 in 1974; and Pub. L. 94-482 in 1976 (20 U.S.C. 1101 et sec.), unless otherwise noted.

Subpart A—General

§ 172.1 Scope.

(a) This part applies to the Teacher Corps program authorized under Title V-A of the Higher Education Act of 1965, as amended (set forth in the appendix to this part).

(b) Each grant under this part is subject to applicable provisions contained in the general provisions regulations of the Office of Education (Parts 100 and 100a of this chapter). The criteria in § 100a.26(b) of this chapter do not apply to applications under this part.

(Secs. 511 et seq.; 20 U.S.C. 1101 et seq.)

§ 172.2 Purpose.

The purpose of the Teacher Corps program is to strengthen the educational opportunities available to children in areas having concentrations of low income families, to encourage colleges and universities to broaden their programs of teacher preparation, and to encourage

institutions of higher education and local educational agencies to improve programs of training and retraining for teachers, teacher aides, and other educational personnel.

(Secs. 511(a); 20 U.S.C. 1101(a).)

§ 172.3 Definitions.

As used in this part: "Institution of higher education" means an institution of higher education as defined in Section 1201(a) of the Higher Education Act of 1965, as amended.

(Secs. 1201(a); 20 U.S.C. 1141(a).)

"Local educational agency" means a local educational agency as defined in section 1201(g) of the Higher Education Act of 1965, as amended. The term includes a State educational agency or other public or private nonprofit agency which provides a program or project designed to meet the special educational needs of migratory children of migratory agricultural workers.

(Sec. 1201(g), 20 U.S.C. 1141(g); Secs. 517A, 20 U.S.C. 1107a).)

"Low-income family" means a family with a child the local educational agency may count under Section 103 of Title I of the Elementary and Secondary Education Act of 1965, as amended.

(Sec. 513(a)(3); 20 U.S.C. 1103(a)(3).)

"Other educational personnel" means administrators, supervisors, and other specialized educational personnel.

(Sec. 513(a)(1); 20 U.S.C. 1103(a)(1).)

"State" means the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(Sec. 513(c)(2); 20 U.S.C. 1103(c)(2); Sec. 1201(b); 20 U.S.C. 1141(b).)

"State educational agency." means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(Sec. 1201(h); 20 U.S.C. 1141(h).)

"Teacher" means a person who has a teaching certificate valid in the State in which the Teacher Corps project is located, and who has had full-time paid teaching experience.

(Sec. 513(a)(1), 20 U.S.C. 1103(a)(1).)

"Teacher aide" means a person employed as a paraprofessional in a school or correctional facility who assists a teacher in performing educational duties. The term does not include teacher-interns or non-educational personnel. State and local rules determine whether certification is required for a teacher aide.

(Sec. 513(a)(1); 20 U.S.C. 1103(a)(1).)

"Teacher-intern" means a person recruited to serve in a Teacher Corps project who has a bachelors degree or its equivalent, with or without a teaching certificate, but who has not had full-time paid teaching experience.

(Sec. 513(a)(1); 20 U.S.C. 1103(a)(1).)

Subpart B—Elements of a Teacher Corps Project

PARTICIPANTS

§ 172.10 Joint Participants.

(a) Each project must be carried out jointly by:

(1) One or more institutions of higher education;

(2) One or more local educational agencies; and

(3) A community council established under §§ 172.14–172.16.

(b) A project may also include participation by a State educational agency. The State educational agency may participate by providing training to the Teacher Corps members.

(c) The institutions, agencies and community council which participate in a project shall collaborate in planning, carrying out, and evaluating the project.

(Sec. 513(a), (e), (g); 20 U.S.C. 1103(a), (e), (g).)

§ 172.11 Institution of higher education.

Each project must include at least one institution of higher education which offers academic course work at the graduate level leading to a graduate degree in the field of education.

(Sec. 513(a)(2), (b); 20 U.S.C. 1103(a)(2), (b).)

§ 172.12 Project schools.

(a) A project must include: (1) Two to four complete schools within a feeder system of the local educational agency (A feeder system is one or more elementary school, a junior high or intermediate school, and a senior high school, through which a student would normally progress.); or

(2) A single school of the local educational agency, if that school serves grades one through twelve.

(b) Only schools eligible for a project under Title I of the Elementary and Secondary Education Act of 1965, as amended, may be included inthe project.

(Sec. 513(a)(3), 20 U.S.C. 1103(a)(3).)

§ 172.13 Involvement of all educational school personnel in the project.

All educational personnel employed by a project school must be involved in planning and carrying out the project in that school.

(Sec. 513(a)(3); 20 U.S.C. 1103(a)(3).)

§ 172.14 Elected community council required.

(a) Each project must include an elected community council of at least seven members.

(b) The community council must be representative of:

(1) Parents of the children attending the project schools; and

(2) Other residents of the areas served by the project schools.

(Sec. 513(c)(1); 20 U.S.C. 1103(c)(1).)

§ 172.15 Use of existing council.

An existing council which meets the requirements in § 172.14 may serve as the community council under this part for up to three months after the date of the initial grant award.

(Sec. 513(c)(1), (g); 20 U.S.C. 1103(c)(1), (g).)

§ 172.16 Election of community council.

A community-wide election must be held to elect a community council for the project within the three months after the date of the initial grant award (community-wide means within the attendance boundaries of the project schools).

(Sec. 513(c)(1), (g); 20 U.S.C. 1103(c)(1), (g).)

§ 172.17 Policy board.

(a) Each project assisted under this part must be planned and operated under the supervision of a policy board which represents the grantees and the community council.

(b) The policy board must include the following members:

(1) The dean of the school of education, or other component that offers graduate training, in the institution of higher education;

(2) The superintendent or an associate superintendent (or his or her equivalent) of the local educational agency; and

(3) The chairperson of the community council.

(4) Teacher-interns; or

ticipates under § 172.10(b), a State Teacher Corps liaison.

(c) The three policy board members listed in paragraph (b) of this section may agree to add members to the board who represent:

(1) Organizations which represent teachers in the local educational agency;

(2) Organizations which represent principals in the local educational agency;

(3) Students;

(4) Teacher-interns; or

(5) Other persons or organizations which the three board members determine would be appropriate.

(d) Each policy board decides its own voting procedures.

(Sec. 513(a), (e), (g); 20 U.S.C. 1103(a), (e), (g).)

§ 172.18 Other participating institutions and agencies.

A project may include the participation of other groups, such as teacher organizations, professional associations, students, and teacher-interns.

(Sec. 513(a), (g); 20 U.S.C. 1103(a), (g).)

§ 172.19 Involvement of State educational agency personnel.

(a) The State educational agency must be kept informed of the progress and experience of the project.

(b) State educational agency personnel must be involved in all project matters which would contribute to the im-

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provement of State teacher certification requirements.

(Sec: 512(a) (2), (3), (5); 20 U.S.C. 1103(a) (2), (3), (5).)

GRANTS

§ 172.30 Project duration.

(a) Each application must be for a five year project. The Commissioner awards separate grants for each of those five years, subject to the availability of funds and continued effectiveness of the project.

(b) The Commissioner's assistance to a project may not continue after the fifth year.

(Sec. 513(g); 20 U.S.C. 1103(g).)

§ 172.31 Size of grants.

The total amount which the Commissioner awards to the grantees under a project is limited to:

(a) $150,000 for the first year of a five year project;

(b) Approximately $300,000 for each of the second and third years; and

(c) Approximately $200,000 for the fourth year; and

(d) Approximately $100,000 for the fifth year.

(Sec. 513(g); 20 U.S.C. 1103(g).)

§ 172.32 Separate grants.

(a) If an application is selected for assistance under this part the Commissioner awards a grant to the institution of higher education and a grant to the local educational agency. If a State educational agency participates in a project under § 172.10(b), the Commissioner awards a separate grant to the State educational agency.

(b) If more than one institution of higher education, or local educational agency apply for a project, the Commissioner may award a grant to one or more of those institutions or agencies.

(Sec. 513 (a), (g); 20 U.S.C. 1103 (a), (g).)

§ 172.33 Time period before agencies or institutions may apply for a new project.

If an institution of higher education or a local educational agency participate in a project, it may not apply for a new project until five years after the end of that participation. In a case in which a local education agency is subdivided into districts, this restriction applies only to the district within the local educational agency which participates in the project.

(Sec. 513(g); 20 U.S.C. 1103(g).)

PROJECT PROGRAM

§ 172.40 Initial developmental year.

During the first year of a project:

(a) The project must be developed and organized;

(b) The community council must be elected;

(c) The team leader must be hired;

(d) The teacher-interns must be recruited; and

(e) Any revisions of the objectives adopted under §§ 172.61–172.66 must be planned and developed.

§ 172.41 Achievement of objectives during the remaining four years.

(a) During the remaining four years of a project, activities must be carried out which are designed to achieve the objectives adopted under §§ 172.61–172.66.

(b) Activities during this period must consist primarily of training.

(Sec. 513 (a)(1), (g); 20 U.S.C. 1103 (a)(1), (g).)

§ 172.43 Functions of each participant.

The applicants must agree to the functions each will perform, subject to §§ 172.43–172.45.

(Sec. 513(g); 20 U.S.C. 1103(g).)

§ 172.43 Institution of higher education functions.

An institution of higher education may perform the following functions under its grant:

(a) Recruiting, selecting, and enrolling Teacher Corps members.

(b) Training Teacher Corps members.

(c) Paying the administrative and secretarial costs of the community council.

(d) Paying the costs of project administration, including planning, documentation, evaluation, and dissemination.

(Sec. 513 (a), (e); 20 U.S.C. 1103 (a), (e).)

§ 172.44 Local educational agency functions.

A local educational agency may perform the following functions under its grant:

(a) Recruiting, selecting and enrolling Teacher Corps members.

(b) Training Teacher Corps members.

(c) Paying the compensation of Teacher Corps members.

(d) Paying the compensation for released time for educational personnel while in training, within the limitations in § 172.92.

(e) Paying the administrative and secretarial costs of the community council.

(f) Paying the costs of project administration, including planning, documentation, evaluation, and dissemination.

(Sec. 513 (a), (e); 20 U.S.C. 1103 (a), (e); Sec. 541(f); 20 U.S.C. 1104(f).)

§ 172.45 Training by institutions of higher education.

(a) Each institution of higher education which receives a grant under this part shall provide training to Teacher Corps members. This must include training designed to achieve the objectives under § 172.63(b).

(b) An institution of higher education which does not offer academic coursework beyond the bachelor's degree level may provide training for volunteers and teacher aides, if this type of training is designed to achieve the objectives adopted under § 172.63.

(Sec. 513(a)(2), (5), (b), (g); 20 U.S.C. 1103 (a)(2), (5), (b), (g).)

§ 172.46 Pre-service and in-service training.

Training under this part must include pre-service training for teacher-interns and in-service training for other educational personnel employed by the project schools.

(Sec. 513(a)(2); 20 U.S.C. 1103(a)(2))

§ 172.47 Training program for teacher-interns.

(a) The training program for a teacher-intern must be developed by the project director in consultation with the team leader and the institution of higher education which provides the training.

(b) The training must include:

(1) Practical classroom experience in each of the project schools;

(2) Academic study; and

(3) Practical experiences and training in the community served by the project.

(c) The practical classroom experience of a teacher-intern during any school day may not last more than one-half of that day.

(d) Training may also be provided in a pre-school early childhood setting if that training is consistent with the objectives adopted under §§ 172.61–172.66.

(Sec. 513 (a)(2), (g); 20 U.S.C. 1103 (a)(2), (g).)

§ 172.48 Graduate level training for teachers and teacher-interns.

All training for teachers and teacher-interns must be at the graduate level.

(Sec. 513 (a)(1), (b), (g); 20 U.S.C. 1103 (a)(1), (b), (g).)

§ 172.49 Degree and certification for teacher-interns.

Training must be designed so that a teacher-intern begins his or her internship at the beginning of the second year of the project and has the opportunity to complete the internship, and receive a degree and a teaching certification, by the end of the third year of the project.

(Sec. 513 (a)(2), (b); 20 U.S.C. 1103 (a)(2), (b).)

§ 172.50 Field and community based training.

Training of Teacher Corps members must be primarily field based and carried out in the community served by the project.

(Sec. 513(a)(2); 20 U.S.C. 1103(a)(2).)

§ 172.51 Training for volunteers.

A grantee may provide training to volunteers to prepare them for service in the project.

(Sec. 513 (a)(5), (b); 20 U.S.C. 1103 (a)(5), (b).)

§ 172.52 Plan for dissemination.

Each project must include a plan to meet the objectives developed under §§ 172.61–172.66.

(Sec. 511; 20 U.S.C. 1101; Sec. 513(g); 20 U.S.C. 1103(g).)

§ 172.53 Documentation of project experience.

(a) Each project must include documentation of all significant factors which influence project experience and results, including:

(1) The characteristics and condition of the local setting; and

(2) The usefulness of project processes, practices, and products in the project schools.

(b) The documentation under paragraph (a) of this section must be used to:

(1) Review progress in accomplishing the objectives developed under §§ 172.61–172.66; and

(2) Revise those objectives if necessary.

(Sec. 511; 20 U.S.C. 1101; Sec. 513(g); 20 U.S.C. 1103(g).)

BASIC OUTCOMES AND PROJECT OBJECTIVES

§ 172.60 Basic outcomes.

Each project must be designed to achieve the following outcomes:

(a) An improved school climate which fosters the learning of children of low-income families.

(b) An improved educational personnel development system for persons who serve or who are preparing to serve in schools for children of low-income families.

(c) The continuation of educational improvements (including products, processes, and practices) made as a result of the project, after Federal funding ends.

(d) The adoption or adaptation of those educational improvements by other educational agencies and institutions.

(Sec. 511; 20 U.S.C. 1101; Sec. 513(g); 20 U.S.C. 1103(g).)

§ 172.61 Project objectives.

Each project must include objectives which are designed to achieve the outcomes described in § 172.60.

(Sec. 511; 20 U.S.C. 1101; Sec. 513(g); 20 U.S.C. 1103(g).)

§ 172.62 Development and adoption of project objectives.

(a) Project objectives must be developed jointly by the institution of higher education, the local educational agency, and the community council.

(b) Each project objective must be adopted by the policy board.

(Sec. 513(g); 20 U.S.C 1103(g).)

§ 172.63 School objectives.

(a) Each project must include specific objectives designed to achieve the outcome under § 172.60(a) in each of the project schools. These objectives may include curriculum, organizational or other changes that affect an entire school.

(b) In addition to the objectives under paragraph (a) of this section, each project school must have objectives designed to:

(1) Improve the competency of all educational personnel employed by the project schools (and the teacher-interns) to provide education that is multicultural and to be knowledgeable of and sensitive to the needs of diverse cultures, regardless of the pupil population served by the project;

(2) Improve the competency of these educational personnel, the teacher interns, and the project schools, to deal with a wide range of variability in children; and

(3) Provide all educational personnel employed by the project schools (and the teacher-interns) with the opportunity to improve ther competency to identify children with learning and behavioral problems, diagnose the special needs of those children, and prescribe learning activities to meet those needs.

(Sec. 511(a); 20 U.S.C. 1101(a); Sec. 513(g); 20 U.S.C. 1103(g).)

§ 172.64 Educational personnel development system objectives.

Each project must include specific objectives designed to achieve the outcome under § 172.60(b), including objective to achieve:

(a) Basic and systemic improvements in the methods used by the institution of higher education and the local educational agency to train educational personnel;

(b) The development of the capacity of the institution of higher education to provide training that will achieve the objectives under § 172.63(b); and

(c) Provision of pre-service and in-service training as an integral process.

(Sec. 511(a); 20 U.S.C. 1101(a); sec. 513(g); 20 U.S.C. 1103(g).)

§ 172.65 Institutionalization objectives.

Each project must include specific objectives designed to achieve the outcome under § 172.60(c).

(Sec. 511(a); 20 U.S.C. 1101(a); sec. 513(g); 20 U.S.C. 1103(g).)

§ 172.66 Demonstration and dissemination objectives.

Each project must include specific objectives designed to achieve the outcome under § 172.60(d) by demonstrating and disseminating project processes, practices, and products found useful in the project schools to:

(a) Persons involved in the project;

(b) Schools of the local educational agency and components of the institution of higher education which are not involved in the project;

(c) Other local educational agencies, institutions of higher education, and communities; and

(d) Others interested in educational policy.

(Sec. 511(a); 20 U.S.C. 1101(a); sec. 513(g); 20 U.S.C. 1103(g).)

TEACHER CORPS MEMBERS

§ 172.80 Educational personnel, teacher-interns, and volunteers.

The following persons are Teacher Corps members:

(a) Teachers and other educational personnel who are employed by a project school;

(b) Volunteers who serve as part-time tutors of full-time instructional assistants in project schools; and

(c) Teacher-interns.

(Sec. 513(a)(1); 20 U.S.C. 1103(a)(1).)

§ 172.81 Number of teacher-interns.

(a) Each project must include at least four teacher-interns.

(b) Each project may include up to one teacher-intern for each five teachers in the project schools if the local educational agency will employ all teacher-interns who complete their internships.

(Sec. 513(f); 20 U.S.C. 1103(g).

§ 172.82 Recruiting teacher-interns.

(a) The Commissioner provides each grantee with a national listing of qualified applicants for teacher-internships.

(b) A grantee may recruit teacher-interns from the national listing of qualified applicants, but is not required to do so.

(c) A grantee must design its recruitment of teacher-interns so that it gives consideration to persons who are broadly representative of the ethnic and cultural characteristics of the community served by the project.

(d) The Commissioner publishes a notice annually in the FEDERAL REGISTER that explains how to apply for teacher-internships.

(Sec. 513(a) (1), (3); 20 U.S.C. 1103(a) (1), (3).)

§ 172.83 Teacher-intern teams.

Teacher-interns must be organized into teams that include at least four teacher-interns and one experienced teacher who serves as leader of the team. This team must spend a portion of the internship in each project school.

(Sec. 513(a)(3); 20 U.S.C. 1103(a)(3).)

§ 172.84 Teacher-interns may not replace teachers.

(a) A grantee shall not use a teacher-intern to replace, or carry out the functions of, a teacher who is or would otherwise have been employed in a project school.

(b) A teacher-intern may not be used as a substitute teacher.

(Sec. 517; 20 U.S.C. 1107.)

§ 172.85 Federal employees.

Members of the Teacher Corps are not considered Federal employees except for the purposes of the Federal tort claims provisions of Title 28 of the United States Code.

(Sec. 515 (a), (c); 20 U.S.C. 1104 (a), (c).)

§ 172.86 Other Federal student assistance programs.

Members of the Teacher Corps may not receive a loan under the National Direct Student Loan Program authorized by Title IV–E of the Higher Education Act of 1965 (20 U.S.C. 1087–aa–1087–ff), nor may they receive a grant under the Supplemental Educational Opportunity Grant Program authorized by Title IV–A–2 of the Higher Education Act of 1965 (20 U.S.C. 1070b–1070b–3).

(Sec. 515(d); 20 U.S.C. 1105(d).)

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§ 172.87 Compensation of team leaders.

(a) The local educational agency shall employ each teacher-intern team leader.

(b) The local educational agency shall compensate a team leader at a rate comparable to that being paid to other personnel in the same agency who perform similar work.

(c) A local educational agency shall use funds under its grant to pay up to 90 percent of the compensation paid under paragraph (b) of this section.

(Sec. 513(a)(3); 20 U.S.C. 1103(a)(3); sec. 514(a)(1); 20 U.S.C. 1104(a)(1).)

§ 172.88 Teacher-intern compensation during their term of service with the project.

(a) The local educational agency shall compensate a teacher-intern during each period he or she serves in the project schools at a rate of $150 per week.

(b) This compensation must include an additional $15 per week for each dependent who receives more than half of his or her support from the teacher-intern.

(c) A local educational agency shall use funds under its grant to pay up to 90 percent of the compensation paid under paragraphs (a) and (b) of this section.

(Sec. 513(a)(3); 20 U.S.C. 1103(a)(3); sec. 514(a)(2); 20 U.S.C. 1104(a)(2).)

§ 172.89 Teacher-intern training stipends.

(a) The institution of higher education shall pay a training stipend at $150 per week to each teacher-intern during each period he or she receives training at that institution. The institution of higher education may not pay this stipend during the periods when the teacher-intern serves in the project schools.

(b) The training stipend must include an additional $15 per week for each dependent who receives more than one-half of his or her support from the teacher-intern.

(c) An institution of higher education shall use funds under its grant to pay up to 100 percent of the cost of the amounts paid under paragraphs (a) and (b) of this section.

(Sec. 514(b); 20 U.S.C. 1104(b).)

§ 172.90 Teacher-intern and team leader medical insurance.

(a) The grantees shal provide teacher-interns and team leaders with medical insurance coverage (including hospitalization) during their participation in a project.

(b) Dependents who receive more than one half of their support from a teacher-intern must be included in the coverage provided under paragraph (a) of this section.

(c) A grantee which provides medical insurance coverage under paragraphs (a) and (b) of this section shall use funds under its grant to pay up to 100 percent of the cost of that coverage.

(Sec. 514 (d), (e); 20 U.S.C. 1104 (d), (e).)

§ 172.91 Training stipends for teachers and other educational personnel.

(a) The institution of higher education or local educational agency shall pay a training stipend to each of the teachers and other educational personnel employed by a project school who participate in training under this part during a period of the year (if any) not covered by a local employment contract.

(b) The training stipend must be at a rate of $100 per individual per week, prorated if the training is part-time.

(c) A local educational agency shall use funds under its grant to pay up to 100 percent of the cost of stipends paid under paragraphs (a) and (b) of this section.

(Sec. 514(b); 20 U.S.C. 1104(b).)

§ 172.92 Released time for educational personnel.

(a) If authorized by the Commissioner, the local educational agency may use funds under its grant to pay the cost of releasing educational personnel from their regular duties in a project school to participate in training under this part.

(b) The Commissioner may authorize a local educational agency to use funds under paragraph (a) of this section if the local educational agency demonstrates in its application that the project is or will be placed in jeopardy by the lack of compensation for released time.

(Sec. 514(f); 20 U.S.C. 1104(f).)

§ 172.93 Compensation of volunteers.

(a) Volunteers who serve as part-time tutors or full-time instructional aides in project schools are paid or unpaid, according to local policy.

(b) If volunteers are paid, they must be compensated at a rate equal to that being paid other volunteers for similar work.

(c) A grantee which pays any compensation under paragraph (b) of this section shall use funds under its grant to pay up to 90 percent of that compensation.

(Sec. 513(a)(5); 20 U.S.C. 1103(a)(5); sec. 514(a)(3); 20 U.S.C. 1104(a)(3).)

§ 172.94 Travel expenses of Teacher Corps members.

(a) The grantees shall pay, subject to paragraph (b) of this section:

(1) The necessary travel expenses of Teacher Corps members and their dependents;

(2) The necessary expenses of the transportation of the household goods and personal effects of Teacher Corps members and their dependents; and

(3) Other necessary expenses of Teacher Corps members and their dependents which are directly related to their service in the project, including readjustment allowances proportionate to that service.

(b) A teacher-intern, whose last permanent address before coming to a project is outside the community served by the project, shall be paid:

(1) By the institution of higher education for his or her necessary travel expenses to the project (by the lease expensive common carrier or by private automobile subject to any institutional rules on reimbursement for mileage); and

(2) By the local educational agency for:

(i) The necessary travel expenses of teacher-intern dependents to the project (by the least expensive common carrier or by private automobile subject to any agency limits on reimbursement for mileage); and

(ii) The necessary expenses of shipment of up to 11,000 pounds of household goods and personal effect owed by the teacher-intern or his or her dependents to the project.

(Sec. 514(c); 20 U.S.C. 1104(c).)

Subpart C—Youth Advocacy Projects

§ 172.100 Purpose and project design.

(a) *Purpose.* Under this subpart, the Commissioner provides assistance to projects designed to attract and train educational personnel who provide remedial, basic, and secondary educational training (including literacy and communication skill training) to juvenile delinquents or youth offenders.

(b) *Project design.* A youth advocacy project must be designed to meet the special educational needs of juvenile delinquents, or youth offenders.

(Sec. 513(a)(6); 20 U.S.C. 1103(a)(6).)

§ 172.101 Other regulations in this part apply to youth advocacy projects.

Subject to the regulations in this subpart, all of the regulations in this part apply to youth advocacy projects.

(Secs. 551 et seq; 20 U.S.C. 1103 et seq.)

§ 172.102 Youth advocacy project joint participation.

(a) Section 172.10 does not apply to youth advocacy projects.

(b) Each project assisted under the subpart must be carried out jointly by:

(1) One or more institutions of higher education;

(2) One or more local educational agencies;

(3) A community council established under § 172.104; and

(4) One or more of the following correctional facilities:

(i) A detention center;

(ii) An incarceratory institution;

(iii) A public or private non-profit alternative school for delinquent youth; or

(iv) A special center, within a public school, which serves the special needs of juvenile delinquents or youth offenders, or both.

(c) The correctional facility must participate equally under each section of the regulations in this part that require joint participation or collaboration.

(Sec. 513(a)(6)(e); 20 U.S.C. 1103 (a)(6), (e).)

§ 172.103 Project schools.

(a) Section 172.12 does not apply to youth advocacy projects.

(b) A youth advocacy project must include one or more junior high schools or senior high schools, or both, of the local educational agency.

(c) A youth advocacy project may include one or more schools of the correctional facility.

(Sec. 513(a)(6); 20 U.S.C. 1103(a)(6).)

§ 172.104 Youth advocacy project community council.

(a) Each youth advocacy project must include an elected community council of at least seven members.

(b) The community council must be representative of:

(1) The parents of the juvenile delinquents or youth offenders participating in the project; and

(2) The residents of the areas served by the project schools.

(Sec. 513 (e)(1), (g); 20 U.S.C. 1103 (e)(1), (g).)

§ 172.105 Policy board.

The policy board under § 172.17 must include as a member the director of the correctional facility (or his or her equivalent).

(Sec. 513(a)(6); 20 U.S.C. 1103(a)(6).)

§ 172.106 Youth advocacy projects—separate grants.

(a) If an application is selected for assistance under this subpart, the Commissioner awards a grant to the institution of higher education, a grant to the local educational agency, and a grant to the correctional facility.

(b) If the application includes more than one institution of higher education, local educational or correctional facility, the Commissioner may award grants to one or more of those institutions, agencies, or facilities.

(Sec. 513(a)(6); 20 U.S.C. 1103 (a)(6).)

§ 172.107 Time period before correctional facility may apply for a new project.

If a correctional facility participates in a project, it may not apply for a new project until five years after the end of that participation.

(Sec. 513(a)(6); 20 U.S.C. 1103(a)(6).)

§ 172.108 Correctional facility functions.

A correctional facility may perform the following functions under its grant:

(a) Recruiting, selecting, and enrolling Teacher Corps members.

(b) Training Teacher Corps members.

(c) Paying the compensation of Teacher Corps members.

(d) Paying compensation for released time for educational personnel while in training, within the limitations in § 172.92.

(e) Paying the administrative and secretarial costs of the community council.

(f) Project administration, including planning, documentation, evaluation, and dissemination.

(Sec. 513(a)(6); 20 U.S.C. 1102(a)(6).)

§ 172.109 Youth Advocacy teacher-intern training.

In addition to the training required under § 172.47, a youth advocacy project must include teacher-intern training in a correctional facility where youth are:

(a) Incarcerated; or

(b) Having problems adjusting to traditional educational programs; or

(c) Preparing to return to the school-community environment.

(Sec. 513(a)(6); 20 U.S.C. 1103(a)(6).)

Subpart D—Project Administration

§ 172.110 Management Plan.

(a) Each project must have a management plan for all five project years, which includes:

(1) A description of the activities to be carried out;

(2) A description of the sequence and timing of the activities;

(3) The assignment of responsibilities;

(4) A description of the resources to be devoted to each activity;

(5) A detailed budget for following year, beginning with the initial project year;

(6) A budget for subsequent project years in outline form; and

(7) An analysis of how the activities contribute to achieving each of the four categories of objectives developed under §§ 172.61–172.66.

(b) The management plan must be revised at least annually.

(c) The management plan must show in detail how it contributes to meeting each of the objectives developed under §§ 172.63–172.66.

§ 172.111 Project director.

(a) Each project must have a project director.

(b) A temporary project director must be appointed at the beginning of the initial project year.

(c) A permanent project director must be appointed before the end of the initial project year.

(Sec. 513(g); 20 U.S.C. 1103(g).)

§ 172.112 Compensation of project director and staff.

(a) The project director and other project administrative staff are not Teacher Corps members and must be employed by a grantee.

(b) A grantee may use funds under its grant to pay the salaries of the project director and project staff.

(Sec. 513(a); 20 U.S.C. 1103(a).)

§ 172.113 Employment of project administrative staff.

(a) The project administrative staff must be hired from the grantees' regular employees whenever possible.

(b) A grantee must design its hiring of project administrative staff so that it gives consideration to persons who are broadly representative of the ethnic and cultural characteristics of the community served by the project.

(Sec. 513(g); 20 U.S.C. 1103(g).)

§ 172.114 Supervision of Teacher Corps members.

(a) Teacher Corps members are under the direct supervision of the local educational agency to which they are assigned.

(b) Subject to the requirements in §§ 172.81–172.84, the local educational agency retains the authority to:

(1) Assign Teacher Corps members within its system;

(2) Transfer Teacher Corps members within its system;

(3) Determine the terms and continuance of the assignment of Teacher Corps members within its system.

(Sec. 516; 20 U.S.C. 1106.)

§ 172.115 Services provided by the Commissioner.

The Commissioner provides planning, technical assistance, monitoring, documenting, dissemination, and evaluation services for projects under this part.

(Sec. 513(a)(7); 20 U.S.C. 1103(a)(7).

Subpart E—Applications

§ 172.120 Length of application.

(a) An application for the initial project year may not be more than 100 double-spaced typewritten pages, including appendices.

(b) An application for continuation of funding after the initial project year is not subject to the limitation on length in paragraph (a) of this section.

(Sec. 513(g); 20 U.S.C. 1103(g))

§ 172.121 Jointly signed application.

An application must be signed by: (a) The president or other authorized official of each institution of higher education;

(b) The superintendent or other authorized official of each local educational agency;

(c) The chairperson of the community council; and

(d) If a State educational agency participates under § 172.10(b), the Chief State School Officers; and

(e) In the case of an application for a youth advocacy project, the authorized official of each correctional facility.

(Sec. 513(g); 20 U.S.C. 1103(g))

§ 172.122 Policy board.

An application must include a description of the members, method of selection, and operating procedures of the policy board.

(Sec. 513(g); 20 U.S.C. 1103(g))

§ 172.123 Institution of higher education.

(a) An application must include a description of each institution of higher education, including:

(1) Its degree offerings in education; and

(2) Its pre-service and in-service graduate training program.

(b) An application must also include a description of past and current efforts by the institution of higher education to improve its educational personnel training and retraining programs, and the way those efforts relate to the project.

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(Sec. 511(a); 20 U.S.C. 1101(a); Sec. 513(b); 20 U.S.C. 1103(b).)

§ 172.124 Project schools.

An application must include: (a) A brief description of each project school, including the size of the educational staff and the relationships among the schools in the feeder system;

(b) A description of past and current efforts to improve each project school, and the way those efforts relate to the project;

(c) A statement that each project school meets the low-income criterion in § 172.13;

(d) A statement that all educational personnel employed by the project schools will be involved in planning and carrying out the project in that school; and

(e) If the project includes more than four teacher-interns, an assurance that the local educational agency will employ all of the teacher-interns who complete their internships.

(Sec. 511(a); 20 U.S.C 1101(a); Sec 513(a)(3); 20 US.C. 1103(a)(3).)

§ 172.125 Community council.

An application must include:

A description of the temporary community council, including:

(1) The purpose for which the council was originally established;

(2) The boundaries and composition of the community represented by the council;

(3) The terms of the council members;

(4) The date and methods of election of the council members; and

(5) The number of council members.

(b) A description of the permanent community council, including:

(1) The boundaries and composition of the community represented by the council;

(2) The number of council members;

(3) The terms of the council members;

(4) The date and method of election of the council members; and

(5) The activities to be carried out by the council.

(c) An assurance that the community council participates with the other applicants in planning, carrying out, and evaluating the project.

(Sec. 513(e); 20 U.S.C. 1103(e).)

§ 172.126 Correctional facility.

An application for a youth advocacy project must include a description of each correctional facility.

(Sec. 513(e); 20 U.S.C. 1103(e).)

§ 172.127 Project objectives.

An application must include a description of each project objective developed and adopted under §§ 172.61–172.66, including the basis for each objective in research, theory, or practical experience.

(Sec. 511(a); 20 U.S.C. 1101(a); Sec. 513(a); 20 U.S.C. 1103(g).)

§ 172.128 Management and staffing plans.

An application must include: (a) The management plan required under § 172.110; and

(b) A staffing plan.

(Sec. 513(g); 20 U.S.C. 1103(g).)

§ 172.129 Compensation.

An application must describe the stipends and compensation (including insurance and travel expenses) which will be paid to: (a) Teacher-interns; (b) Teachers; (c) Volunteers; (d) Other educational personnel; (e) Project staff; and (f) The project director.

(Sec. 514; 20 U.S.C. 1104.)

§ 172.130 Released time.

A local educational agency which wishes to use grant funds under § 172.92 must demonstrate in the application that the project is or will be placed in jeopardy by the lack of compensation for released time.

(Sec. 514(f); 20 U.S.C. 1104(f).)

§ 172.131 Training; community council expenses.

An application must describe the amount and proposed use of funds requested for:

(a) Training Teacher Corps members; and

(b) Secretarial and administrative expenses of the community council.

(Sec. 513(a)(2), (5), (b), (c)(3); 20 U.S.C. 1103(a)(2), (5), (b), (c)(3).)

§ 172.132 Project activities.

An application must include a description of: (a) The teacher-intern recruitment methods;

(b) The organization of each teacher-intern team in each project school.

(c) The training program for teacher-interns;

(d) The training program for volunteers, teachers, and other educational personnel;

(e) The project plans and methods for achieving each of the objectives developed under §§ 172.51–172.66; and

(f) Project evaluation to date.

(Sec. 513; 20 U.S.C. 1103.)

§ 172.133 Youth advocacy projects.

In addition to the other requirements in this subpart, an application for a youth advocacy project must describe:

(a) The persons receiving training in the project in remedial, basic, and secondary education;

(b) The special educational needs of the persons described under paragraph (a) of this section;

(c) How the project is designed to:

(1) Meet the needs of those persons; and

(2) Attract and train educational personnel who provide educational training to juvenile delinquents or youth offenders.

(Sec. 513(a)(6); 20 U.S.C. 1103(a)(6).)

§ 172.134 Information responding to evaluation criteria.

An application must include information which provides a basis for evaluating it under each of the criteria in Subpart F.

(Sec. 513(g); 20 U.S.C. 1103(g).)

§ 172.135 Approval of applications by the State educational agency.

(a) The Commissioner may not approve an application submitted under this part unless the State educational agency of the State in which the project is located has approved the application.

(b) The approval by the State educational agency must be:

(1) In writing and signed by the chief State school officer; and

(2) Attached to the application before the application is submitted to the Commissioner.

(c) The State educational agency shall approve an application that is:

(1) In conformance with all applicable State laws, rules, and regulations; and

(2) Consistent with overall plans for teacher education in that State.

(Sec. 512(a)(2), (3), (5); 20 U.S.C. 1103(a)(2), (3), (5).)

§ 172.136 Continuation grant application.

In addition to meeting all of the other requirements of this subpart, an application for a continuation grant must include a description of:

(a) Planning done during the initial project year;

(b) Project experience to date; and

(c) Any revisions of or additions to the project objectives.

(Sec. 512(a)(2), (3), (5); 20 U.S.C. 1103(a) 20 U.S.C. 1103(g).)

§ 172.137 Annual publication of application submission date.

The Commissioner publishes the date and place to submit project applications annually in the FEDERAL REGISTER.

(Sec. 513(g); 20 U.S.C. 1103(g).)

Subpart I—Evaluation Criteria

§ 172.150 Evaluation procedure.

(a) Applications for grants under this part are evaluated by the Commissioner on the basis of the criteria in this subpart.

(b) Each application for initial project funding is evaluated in competition with all other applications for initial project funding.

(c) Each application for a continuation grant is evaluated noncompetitively based on the effectiveness of the project and the availability of appropriations.

(d) The evaluation of applications for initial project funding is based on a point system. Each criterion is weighted as indicated. The highest possible score under these criteria is 100 points.

(Sec. 513(g); 20 U.S.C. 1103(g).)

§ 172.151 School learning climate criterion (25 points).

In evaluating an application the Commissioner considers the extent to which:

(a) The objectives developed under § 172.63 are likely to achieve the outcomes in § 172.60(a) (8 points);

(b) The project activities are likely to accomplish the objectives developed under § 172.63 (9 points); and

(c) The management plan for accomplishing the objectives developed under § 172.63 is realistic and economical (8 points).

(Sec. 513(g); 20 U.S.C. 1103(g).)

§ 172.152 Educational personnel development system criterion (36 points).

In evaluating an application, the Commissioner considers the extent to which:

(a) The objectives developed under § 172.64 are likely to achieve the outcome in § 172.60(b) (9 points);

(b) The project training activities are likely to accomplish the objectives developed under § 172.63(b) (9 points);

(c) The project activities are likely to accomplish the objectives developed under § 172.64 (9 points); and

(d) The management plan for accomplishing the objectives developed under § 172.64 is realistic and economical (9 points).

(Sec. 513(g); 20 U.S.C. 1103(g).)

§ 172.153 Institutionalization criterion (21 points).

In evaluating an application, the Commissioner considers the extent to which:

(a) The objectives developed under § 172.65 are likely to achieve the outcome in § 172.60(c) (7 points);

(b) The project activities are likely to accomplish the objectives developed under § 172.65 (8 points); and

(c) The management plan for accomplishing the objectives developed under § 172.65 is realistic and economical (6 points).

(Sec. 513(g); 20 U.S.C. 1103(g).)

§ 172.154 Adaptation criterion (18 points).

In evaluating an application, the Commissioner considers the extent to which:

(a) The objectives developed under § 172.66 are likely to achieve the outcome in § 172.60(d) (6 points);

(b) The project activities are likely to accomplish the objectives developed under § 172.66 (6 points); and

(c) The management plan for achieving the objectives developed under § 172.66 is realistic and economical (6 points).

(Sec. 513(g); 20 U.S.C. 1103(g).)

§ 172.155 Geographical allocation of Teacher Corps members.

The Commissioner allocates Teacher Corps members as follows:

(a) Not more than five percent of the Teacher Corps members are allocated to Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(b) Not more than five percent of the Teacher Corps members are allocated to the elementary and secondary schools operated for Indian children by the Department of the Interior.

(c)(1) The remainder of Teacher Corps members are allocated among the States (excluding the areas included under paragraph (a) of this section).

(2) The number of Teacher Corps members available to any State must have the same ratio to the total number of Teacher Corps members being allocated, as the number of children enrolled in the public and private elementary and secondary schools of that State have to the total number of children so enrolled in all States (excluding areas included under paragraph (a) of this section).

(Sec. 513(c); 20 U.S.C. 1103(b).)

APPENDIX—PART A OF TITLE V OF THE HIGHER EDUCATION ACT OF 1965, AS AMENDED—TEACHER CORPS PROGRAM STATEMENT OF PURPOSE AND AUTHORIZATION OF APPROPRIATIONS

SEC. 511. (a) The purpose of this part is to strengthen the educational opportunities available to children in areas having concentrations of low-income families and to encourage colleges and universities to broaden their programs of teacher preparation and to encodrage institutions of higher education and local educational agencies to improve programs of training and retraining for teachers, teacher aides, and other educational personnel by—

(1) Attracting and training qualified teachers who will be made available to local educational agencies for teaching in such areas;

(2) Attracting and training inexperienced teacher-interns who will be made available for teaching and in-service training to local educational agencies in such areas in teams led by an experienced teacher;

(3) Attracting volunteers to serve as part-time tutors or full-time instructional assistants in programs carried out by local educational agencies and institutions of higher education serving such areas;

(4) Attracting and training educational personnel to provide relevant remedial, basic, and secondary educational training, including literacy and communications skills, for juvenile delinquents, youth offenders, and adult criminal offenders;

(5) Supporting demonstration projects for retraining experienced teachers, teacher aides, and other educational personnel serving in local educational agencies.

(b) For the purpose of carrying out the provisions of this part there are authorized to be appropriated $50,000,000 for the fiscal year 1977, $75,000,000 for the fiscal year 1978, and $100,000,000 for the fiscal year 1979.

ESTABLISHMENT OF TEACHER CORPS

SEC. 512. In order to carry out the purposes of this part, there is hereby established in the Office of Education a Teacher Corps. The Teacher Corps shall be headed by a Director who shall be compensated at the rate prescribed for grade 17 of the General Schedule of the Classification Act of 1949, and a Deputy Director who shall be compensated at the rate prescribed for grade 16 of such General Schedule. The Director and the Deputy Director shall perform such duties as are delegated to them by the Commissioner; except that (1) the Commissioner may delegate his functions under this part only to the Director, and (2) the Director and Deputy Director shall not be given any function authorized by law other than that granted by this part.

TEACHER CORPS PROGRAM

SEC. 513. (a) For the purpose of carrying out this part, the Commissioner is authorized to—

(1) Enter into contracts or other arrangements with institutions of higher education or local educational agencies under which they will recruit, select, and enroll in the Teacher Corps for periods of up to five years, experienced teachers, teacher aides, and other educational personnel, persons who have a bachelor's degree or its equivalent, and persons who have successfully completed two years of a program for which credit is given toward a baccalaureate degree and, for such periods as the Commissioner may prescribe by regulation, persons who volunteer to serve as part-time tutors or full-time instructional assistants;

(2) Enter into arrangements, through grants or contracts, with institutions of higher education or local educational agencies (upon approval in either case by the appropriate State educational agency) or with State educational agencies to provide members of the Teacher Corps with such training as the Commissioner may deem appropriate to carry out the purpose of this part, including not more than three months of training for members before they undertake their teaching duties under this part;

(3) Enter into arrangements (including the payment of the cost of such arrangements) with local educational agencies upon approval by the appropriate State educational agency and, after consultation in appropriate cases with institutions of higher education, to furnish to local educational agencies, for service during regular or summer sessions, or both, in the schools of such agencies in areas having concentrations of children from low-income families, Teacher Corps programs each of which shall include teacher-interns teams lead by experienced teachers, and may include additional experienced teachers, teacher aides, and other educational personnel, who may be afforded time by the local educational agency for a training program carried out in cooperation with an institution of higher education;

(4) Pay to local educational agencies such part of the amount of the compensation which such agencies pay to or on behalf of members of the Teacher Corps assigned to them pursuant to arrangements made pursuant to the preceding clause as may be agreed upon after consideration of their ability to pay such compensation, but not in excess of 90 per centum thereof, except that, in exceptional cases, the Commissioner may provide more than 90 per centum of such compensation during the first year of any agency's participation in the program;

(5) Enter into contracts or other arrangements with local educational agencies or institutions of higher education, upon approval by the appropriate State educational agency, under which provisions (including payment of the cost of such arrangements) will be made (A) to carry out programs serving disadvantaged areas in which volunteers (including high school and college students) serve as part-time tutors or full-time instructional assistants in teams with other Teacher Corps members, under the guidance of experienced teachers, but not in excess of 90 per centum of the cost of compensation for such tutors and instructional assistants may be paid from federal funds, and (B) to provide appropriate training to prepare tutors and instructional assistants for service in such programs;

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(6) Enter into arrangements, through grants or contracts, with State and local educational agencies, and with institutions of higher education, and such other agencies or institutions approved by the Commissioner according to criteria which shall be established by him to carry out the purposes of this paragraph, under which provisions (including payments of the cost of such arrangements) will be made to furnish to such agencies members of the Teacher Corps to carry out projects designed to meet the special educational needs of juvenile delinquents, youth offenders, and adult criminal offenders, and persons who have been determined by a State or local educational agency, court of law, law enforcement agency or any other State or local public agency to be predelinquent juveniles, but not in excess of 90 per centum of the cost of compensation for Teacher Corps members serving in such projects may be paid from Federal funds;

(7) (A) Make available technical assistance to State and local educational agencies and institutions of higher education for carrying out arrangements entered into under this title; and

(B) Provide planning, technical assistance, monitoring, documenting, dissemination, and evaluation services for arrangements made under this title;

(8) Acquaint qualified persons of teaching opportunities and needs in disadvantaged areas and encourage qualified persons to apply to appropriate educational agencies or institutions for enrollment in the Teacher Corps; and

(9) Accept and employ in the furtherance of the purposes of this subpart (A) voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes, as amended (31 U.S.C. 665(b)), and (B) any money or property (real, personal, or mixed, tangible or intangible) received by gift, device [sic,] bequest, or otherwise.

(b) Arrangements with institutions of higher education to provide training for Teacher Corps members while serving in schools for local education agencies under the provisions of this part shall provide, wherever possible, for training leading to an appropriate degree.

(c) (1) Whenever the Commissioner determines that the demand for the services of members of the Teacher Corps exceeds the number available, he shall, to the extent practicable, allocate the number of members of the Teacher Corps who are available among the States in accordance with paragraph (2).

(2) Not to exceed 5 per centum of the number of members of the Teacher Corps who are available shall be allocated to Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands and not to exceed 5 per centum of such members shall be allocated to the elementary and secondary schools operated for Indian children by the Department of Interior, according to their respective needs. The remainder of such number of Teacher Corps members shall be allocated among the States so that the number of members available to any State shall bear the same ratio to the number being allocated as the number of children enrolled in the public and private elementary and secondary schools of that State bears to the total number of children so enrolled in all of the States. The number of children so enrolled shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him. For purposes of this subsection, the term "State" shall not include Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

(3) If the Commissioner determines that a State will not require the number of Teacher Corps members allocated to it under paragraph (2), he shall, from time to time, reallot the number not required, on such dates as he may fix, to other States in proportion to the original allocation to such States under paragraph (2), but with such proportionate number for any of such other States being reduced to the extent it exceeds the number the Commissioner determines such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallocated among the States whose proportionate numbers were not so reduced.

(d) A local educational agency may utilize members of the Teacher Corps assigned to it in providing, in the manner described in section 205(a)(2) of Pub. L. 874, Eighty-first Congress, as amended, educational services in which children enrolled in private elementary and secondary schools can participate.

(e)(1) No arrangement may be entered into under the provisions of paragraph (1), (2), (3), (5), or (6) of subsection (a) of this section unless that arrangement is prepared with the participation of an elected council which shall be representative of the community in which the project subject to that arrangement is located and of the parents of the students of the elementary or secondary schools or both, to be served by such project.

(2) Each council selected pursuant to this subsection shall participate with the local educational agency or institution of higher education, or both, in the planning, carrying out, and evaluation of projects subject to arrangements under paragraphs (1), (2), (3), (5), and (6) of subsection (a) of this section.

(3) The Commissioner is authorized in each fiscal year to arrange for the payment of necessary secretarial and administration expenses of each council elected pursuant to the provisions of this subsection for the purposes of carrying out its functions under this subsection.

(f) The Commissioner shall establish procedures seeking, with respect to the Teacher Corps members enrolled after the date of enactment of the Education Amendments of 1976, [a] goal of having approximately five individuals who are at the time of enrollment, or who previously have been, employed as teachers by local educational agencies to one individual who has not been so employed. The Commissioner may waive the procedure established under this subsection if he makes a determination that there are insufficient qualified applicants to maintain the goal sought by this subsection, or that there are insufficient employment opportunities for individuals who are not so employed, and submits a report to the Congress of such a determination.

(g) Notwithstanding any other provision of law, the Commissioner shall develop and establish specific criteria for entering into arrangements under this part in order to assist applicants for assistance under this part to develop proposals to be submitted. Criteria established under this subsection shall be used by the Commissioner in selecting proposals under this title.

COMPENSATION

SEC. 514. (a) An arrangement made with a local educational agency pursuant to paragraph (3) of section 513 (a) or arrangement with a local educational agency or institution of higher education pursuant to paragraph (5) of section 513(a), or an arrangement with any agency pursuant to paragraph (6) of section 513(a), shall provide for compensation by such agency of Teacher Corps member during the period of their assignment to it at the following rates:

(1) An experienced teacher who is leading a teaching team shall be compensated at a rate agreed to by such agency and the Commissioner.

(2) A teacher intern shall be compensated at such rates as the Commissioner may determine to be consistent with the nature of the program and with prevailing practices under comparable federally supported work-study programs.

(b) For any period of training under this part the Commissioner shall pay to members of the Teacher Corps such stipends (including allowances for subsistence and other expenses for such members and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported training programs.

(c) The Commissioner shall pay the necessary travel expenses of members of the Teacher Corps and their dependents and necessary expenses for the transportation of the household goods and personnel effects of such members and their dependents, and such other necessary expenses of such members as are directly related to their services in the Corps, including readjustment allowances proportionate to service.

(d) The Commissioner is authorized to make such arrangements as may be possible, including the payment of any costs incident thereto, to protect the tenure, retirement rights, participation in a medical insurance program, and such other similar employee benefits as the Commissioner deems appropriate, of a member of the Teacher Corps who participates in any program under this part and who indicates his intention to return to the local educational agency or institution of higher education by which he was employed immediately prior to his service under this part.

(e) The Commissioner is authorized to provide medical (including hospitalization) insurance for members of the Teacher Corps who do not otherwise obtain such insurance coverage either under an arrangement made pursuant to subsection (d) of this section or as an incident of an arrangement between the Commissioner and an institution or a State or local educational agency pursuant to section 513.

(f) The Commissioner is authorized to compensate local educational agencies for released time for educational personnel of the agency who are being trained in Teacher Corps projects assisted under this title.

APPLICATION OF PROVISIONS OF FEDERAL LAW

SEC. 515. (a) Except as otherwise specifically provided in this section, a member of the Teacher Corps shall be deemed not to be a Federal employee and shall not be subject to the provisions of laws relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

NOTE.—Subsection (b) was repealed by Pub. L. 90-83.

(c) Such members shall be deemed to be employees of the Government for the purposes of the Federal tort claims provisions of title 28, United States Code.

(d) Members of the Teacher Corps shall not be eligible to receive payment of a student loan under title II of the National Defense Education Act of 1958 or of an educational opportunity grant under title IV of this Act.

LOCAL CONTROL PRESERVED

SEC. 516. Members of the Teacher Corps shall be under the direct supervision of the appropriate officials of the local educational agencies to which they are assigned. Except as otherwise provided in clause (3) of section 513(a), such agencies shall retain the authority to—

(1) Assign such members within their systems;

(2) Make transfers within their systems;

(3) Determine the subject matter to be taught;

(4) Determine the terms and continuance of the assignment of such members within their systems.

MAINTENANCE OF EFFORT

SEC. 517. No member of the Teacher Corps shall be furnished to any local educational agency under the provisions of this part if such agency will use such member to replace any teacher who is or would otherwise be employed by such agency.

TEACHING CHILDREN OF MIGRATORY AGRICULTURE WORKERS

SEC. 517A. For purposes of this part the term "local educational agency" includes any State educational agency or other public or private nonprofit agency which provides a program or project designed to meet the special educational needs of migratory children of migratory agricultural workers, and any reference in this part to (1) teaching in the schools of a local educational agency includes teaching in any such program or project and (2) "migratory children of migratory agricultural workers" shall be deemed to continue to refer to such children for a period, not in excess of five years, during which they reside in the area served by the local educational agency.

[FR Doc.77-27039 Filed 9-19-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 68]

[Docket No. 19538]

INTERSTATE AND FOREIGN MESSAGE TOLL TELEPHONE SERVICE (MTS) AND WIDE AREA TELEPHONE SERVICE (WATS)

Opinion and Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: An eight day extension of time for the filing of reply comments on the issues of the July 20, 1977 Supplemental Notice of Proposed Rulemaking in Docket No. 19528 (concerning PBX and key telephone systems) (42 FR 38195, July 27, 1977) is granted on motion of Continental Telephone Corporation.

DATE: Reply comments must be received on or before September 23, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Michael S. Slomin, Policy and Rules Division, Common Carrier Bureau, (202-632-9342).

OPINION AND ORDER

Adopted: September 12, 1977.

Released: September 13, 1977.

In the matter of proposals for new or revised classes of Interstate and Foreign Message Toll Telephone Service (MTS) and Wide Area Telephone Service (WATS), Docket No. 19528.[1]

1. We have before us a motion for extension of time for the filing of reply comments on the issues designated in our June 20, 1977 Supplemental Notice of Proposed Rulemaking in this proceeding, FCC 77-395. By a September 7, 1977 filing, Continental Telephone Corporation is seeking an eight day extension of time and argues that such additional time is required to ensure adequate analysis of the various and complex comments which previously were filed herein on August 15, 1977.

2. While extensions of time are not routinely granted,[2] we note that no party would be prejudiced by a grant of this short extension as this is the final round of comments to be filed on the issues of the Supplemental Notice. The public interest would best be served by the preparation of adequate comments by Continental, and accordingly the requested extension will be granted. Therefore, pursuant to authority delegated under §0.303 of the Commission's rules[3]: *It is hereby ordered*, That reply comments may be filed on the issues delineated in paragraphs 41 and 44 of the Supplemental Notice of Proposed Rulemaking released June 20, 1977, FCC 77-395, on or before September 23, 1977.

PHILIP V. PERMUT,
Acting Deputy Chief,
Common Carrier Bureau.

[1] See 42 FR 38195, July 27, 1977.
[2] 47 CFR 1.46(a).
[3] 47 CFR 0.303(c).

[FR Doc.77-27236 Filed 9-19-77;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

SHIPPERS ADVISORY COMMITTEE

Public Meetings

Pursuant to the provisions of § 10(a)(2) of the Federal Advisory Committee Act (86 Stat. 770), notice is hereby given of meetings of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR Part 905). This order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674.) The committee will meet in the A. B. Michael Auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Florida, at 10:30 am. on October 18 and 25, 1977.

The meetings will be open to the public and a brief period will be set aside for public comments and questions. The agenda of the committee includes analysis of current information concerning market supply and demand factors, and consideration of recommendations for regulation of shipments of the named fruits.

The names of committee members, agenda, summary of the meetings and other information pertaining to the meetings may be obtained from Frank D. Trovillion, Manager, Growers Administrative Committee, P.O. Box R, Lakeland, Florida 33802; telephone 813–682–3103.

Dated: September 14, 1977.

WILLIAM T. MANLEY,
Deputy Administrator, Program Operations.

[FR Doc.77-27274 Filed 9-19-77;8:45 am]

Forest Service

DESCHUTES NATIONAL FOREST LAND MANAGEMENT PLAN

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Deschutes National Forest Land Management Plan USDA–FS–R6–DES(Adm)–77–16.

The environmental statement concerns a proposed comprehensive Land Management Plan for the Deschutes National Forest.

The draft environmental statement was transmitted to CEQ on September 12, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th Street & Independence Ave., SW. Washington D.C. 20013.
USDA, Forest Service, Pacific Northwest Region, 319 S.W. Pine St., Portland, Oregon 97204.
USDA, Forest Service, Deschutes National Forest, 211 N.E. Revere St., Bend, Oregon 97701.
USDA, Forest Service, Deschutes National Forest, Sisters Ranger District, Sisters, Oregon 97759.
USDA, Forest Service, Deschutes National Forest, Crescent Ranger District, Crescent, Oregon 97733.

A limited number of single copies are available upon request to Earl E. Nichols, Forest Supervisor, Deschutes National Forest, 211 N.E. Revere Street, Bend, Oregon 97701.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Earl E. Nichols, Forest Supervisor, Deschutes National Forest, 211 N.E. Revere St., Bend, Oreg. 97701. Comments must be received by November 11, 1977, in order to be considered in the preparation of the final environmental statement.

JOHN POPPINO,
Acting Regional Environmental Coordinator, Planning, Programming and Budgeting.

SEPTEMBER 12, 1977.

[FR Doc.77-27269 Filed 9-19-77;8:45 am]

Soil Conservation Service

TIDBURY CREEK PARK RC&D MEASURE, DELAWARE

Intent To Not Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Tidbury Creek Park RC&D Measure, Kent County, Delaware.

The environmental assessment of this Federal action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Otis D. Fincher, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The measure concerns a plan for the installation of basic facilities for a water-based recreational development. The planned works of improvement include a pedestrian trail, a bike trail, a parking lot, a picnic pavillion with tables, fencing, benches, a sanitary facility with sewer line and pump, an access road, a maintenance road, play areas, a boat docking and fishing pier on Tidbury Creek, modification of two small ponds, and critical eroding area stabilization.

The notice of intent to not prepare an environmental impact statement has been forwarded to the Council on Environmental Quality. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, Treadway Towers, Suite 2–4, 9 East Loockerman Street, Dover, Delaware 19901. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests.

No administrative action on implementation on the proposal will be taken until October 20, 1977.

Dated: September 13, 1977.

ED THOMAS,
Assistant Administrator for Land Resources Soil Conservation Service.

(Catalog of Federal Domestic Assistance Program No. 10.901, National Archives Reference Services.)

[FR Doc.77-27268 Filed 9-19-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Dockets 29580, 30241, 31311; Order 77-8-107]

ALLEGHENY AIRLINES, ET AL.

Order; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 23rd day of August, 1977.

Application of Allegheny Airlines for Cincinnati-Cleveland Nonstop Authority; application of Wright Air Lines, Inc. for a certificate of public convenience and necessity in the Cincinnati-Cleveland Nonstop Route Proceeding.

In FR Doc. 77–25578, appearing at page 44002 in the issue of Thursday, September 1, 1977, through clerical error, issues (d) and (e) which should appear in ordering paragraph 2 were merged. Accordingly, the language currently appearing in ordering paragraph 2 as condition (d) should be disregarded and the following two subparagraphs added:

(d) Should Trans World Airlines' nonstop authority between Cincinnati and Cleveland be altered, amended, modified or suspended pursuant to section 401(g) of the Act?[1]

(e) Should Trans World Airlines' nonstop authority between Cincinnati and Cleveland be suspended pursuant to section 401(j) of the Act?

By the Civil Aeronautics Board.

Dated: September 14, 1977.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-27292 Filed 9-9-77;8:45 am]

[Order 77-9-43; Docket 31363]

NORTH ATLANTIC STANDBY, BUDGET AND SUPER-APEX FARES

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 7th day of September, 1977.

North Atlantic Standby, Budget, and Super-APEX Fares proposed by: Pan American World Airways, Inc., Trans World Airlines, Inc., British Airways, Air-India, Iran National Airlines Corporation, Aerlinte Eireann Teoranta.

By unilateral tariff revisions filed for travel to commence on September 15, 23 or 26, 1977, Pan American World Airways, Inc. (Pan American), Trans World Airlines, Inc. (TWA), British Airways, Air-India, and Iran National Airlines Corporation (Iran-Air) propose new standby, budget and super-APEX (advance purchase excursion) fares for use between New York and London. The budget and standby fares are proposed at $256 round trip, and the super-APEX at $290 round trip; all are intended to compete with Laker Airways' "Skytrain" service which is expected to begin operations September 26, 1977, at a New York-London fare of $236.48.[1] The proposals were later incorporated, with some changes, into an agreement among the members of the International Air Transport Association (IATA).

Numerous complaints have been filed by various parties. Answers have been received from the carrier proponents. The U.S. supplemental (charter only) carriers and several charter tour organizers contend that the proposed fares are uneconomic and predatory, and will destroy the North Atlantic charter market. Laker Airways alleges that the proposals will destroy the Skytrain experiment as well as decimate the charter market. The American Society of Travel Agents (ASTA) supports the super-APEX and budget fares but opposes the standby fare. The U.S. Department of Justice opposes all the proposed fares for the same reasons as the charter parties, alleging generally that the fares are predatory and will drive the supplemental carriers out of business. Finally, the Board's Office of the Consumer Advocate (OCA) supports the standby fare as a reasonable competitive response to Skytrain, but only if the standby fare level is raised; and OCA opposes the budget and super-APEX fares.

Skytrain and the proposed competitive fares, and the arguments presented by their proponents and opponents, raise serious questions about the future of the North Atlantic air travel market. Thus on August 30 the Board gave notice that it would hear oral argument on the IATA agreement and the tariff filings. The oral argument was set for September 7, 1977.

The Board concludes that the tariff proposals should be investigated and suspended at this time. The Board is considering the various pleadings in support of, and in opposition to, the proposals, and expects to issue a decision shortly, which will either vacate or affirm the suspension and investigation ordered here. In the meantime, to preserve stability in the marketplace and considering also that Laker's Skytrain, with which these fares are intended to compete, is not expected to begin operating before September 26 in any event, we will not permit these proposals to become effective before we have completed our review of the record and issued a decision on the merits.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a), 403, 801 and 1002(j) thereof,

It is ordered That: 1. An investigation be instituted to determine whether the fares and provisions set forth in the Appendix hereof, and rules, regulations, or practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to take appropriate action to prevent the use of such provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, the tariff provisions specified in the Appendix hereof are suspended and their use deferred from September 15, 1977, to and including September 15, 1978, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. This order shall be submitted to the President[2] and shall become effective on September 14, 1977.

4. The investigation ordered herein be assigned for hearing before an Administrative Law Judge of the Board at a time and place hereafter to be designated; and

5. Copies of this order be filed in the aforesaid tariffs and be served upon Aerlinte Eireann Teoranta; Air-India; British Airways Board carrying on business under the firm name and style of British Airways; Iran National Airlines Corporation (Iran Air), Pan American World Airways, Inc.; and Trans World Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

All Members concurred.

PHYLLIS T. KAYLOR,
Secretary.

APPENDIX

TARIFF C.A.B. NO. 44 ISSUED BY AIR TARIFFS CORP., AGENT

On 28th Revised Pages 49 and 50 all provisions in Rule 155;

On Original Pages 50–A and 50–B all provisions in Rule 156;

On 20th Revised Page 222–A all fares and provisions in Table 154;

On 20th Revised Page 222–B all fares and provisions in Table 155;

On 44th Revised Page 160 and 45th Revised Page 161 the proposed reference mark "A" shown in connection with the $340 Basic Advance Purchase Excursion Fares between Boston, on the one hand, and Cork and Dublin, on the other hand, and the explanation of reference mark "A", and the proposed $289 Basic Advance Purchase Excursion Fares between Boston, on the one hand, and Cork and Dublin, on the other hand, reference mark "B" and the explanation thereof.

On 45th Revised Page 162 the proposed reference mark "A" shown in connection with the $334 Basic Advance Purchase Excursion Fare between Boston and Shannon, reference mark "B" and the explanation thereof.

The proposed $283 Basic Advance Purchase Excursion Fare between Boston and Shannon, reference mark "B" and the explanation thereof.

On 45th Revised Page 210–8 the proposed reference mark "A" shown in connection with the $345 Basic Advance Purchase Excursion Fare between New York and Cork, and the explantation thereof; and the Proposed $294 Basic Advance Purchase Excursion Fare between New York and Cork, reference mark "B" and the explanation thereof;

On 65th Revised Page 211:

1. All added Advance Purchase Excursion Fares from/to London; and

2. The reference marks and explanations therof used in connection with the $350 and $440 Advance Purchase Excursion Fares from/to London.

On 66th Revised Page 211:

1. The proposed reference mark "J" shown in connection with the $345 Basic Advance Purchase Excursion Fare between New York and Dublin, and the explanation thereof;

2. The proposed $294 Basic Advance Purchase Excursion Fare between New York and Dublin and reference mark "K" and the explanation thereof; and

3. All fares and provisions which are reissues of fares and provisions suspended above on 65th Revised Page 211.

On 66th Revised Page 212, the proposed reference mark "A" shown in connection with the $339 Basic Advance Purchase Excursion Fare between New York and Shannon, and the explanation thereof; and

The $288 Basic Advance Purchase Excursion Fare between New York and Shannon,

[1] Aerlinte Eireann Teoranta (Aerlinte) also filed the super-APEX fare for travel between the United States and Ireland.

[2] This order was submitted to the President on September 8, 1977.

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reference mark "B" shown in connection therewith and the explanation thereof.

The suspension of fares and provisions on 65th Revised Page 211 does not stay the cancellation of 62nd and 64th Revised Pages 211.

TARIFF C.A.B. NO. 22, ISSUED BY JOHN M. SAMPSON, AGENT

On Original Pages 58–A and 58–B all provisions in Rule 40;

On 7th and 8th Revised Pages 268–A all fares and provisions in Section 38;

On 1st Revised Pages 52 and 52–A all provisions in Rule 32;

On 10th Revised Page 272–B all fares and provisions in Section 41.

TARIFF C.A.B. NO. 37, ISSUED BY TRANS WORLD AIRLINES, INC.

On 14th, 15th, and 16th Revised Pages 30–Q and 13th, 14th and 15th Revised Pages 30–R all provisions in Rule 28;

On 15th, 16th, and 17th Revised Pages 30–W and 30–X all provisions in Rule 33–A;

On 14th and 15th Revised Pages 174 all fares and provisions;

On 15th and 16th Revised Pages 184–E all fares and provisions;

On 21st, 23rd, and 24th Revised Pages 172 the $290 Basic Advance Purchase Excursion Fare from New York to London, reference mark "(a)" shown in connection therewith and the explanation thereof;

The proposed reference mark "(b)" on 21st Revised Page 172 and the double-dagger reference mark on 23rd and 24th Revised Pages 172 shown in connection with the $350 and $400 Advance Purchase Excursion Fares between New York and London, and the explanation thereof;

On 32nd, 33rd, and 34th Revised Page 185 all fares and provisions.

[FR Doc.77–27293 Filed 9–19–77;8:45 am]

[Order 77–9–44; Docket 31363]

NORTH ATLANTIC STANDBY, BUDGET AND SUPER-APEX FARES

Order

● Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of September 1977.

North Atlantic Standby, Budget, and Super-APEX Fares proposed by: Pan American World Airways, Inc., Trans World Airlines, Inc., British Airways, Air-India, Iran National Airlines Corp., Aerlinte Eireann Teoranta.

By tariff revisions filed for travel to commence on September 15, 23, or 26, or October 1 or 6, 1977, Pan American World Airways, Inc. (Pan American), Trans World Airlines, Inc. (TWA), British Airways, Air-India, and Iran National Airlines Corp. (Iran-Air) propose new standby, budget and super-APEX (advance purchase excursion) fares for use between New York and London. The budget and standby fares are proposed at $256 round trip, and the super-APEX at $290 round trip, all are intended to compete with Laker Airways' "Skytrain" service which is expected to begin operations September 26, 1977, at a New York-London fare of $236.48.[1]

Numerous complaints were filed by various parties, and the fares were later incorporated, with some changes, into an agreement among the carrier members of the International Air Transport Association (IATA).[2] On August 30 the Board gave notice that it would hear oral argument on the IATA agreement and the tariff filings. The oral argument was heard on September 7, 1977.

On September 8, 1977, the Board sent a letter to the President recommending suspension of the tariff filings that were to have become effective before September 26, 1977. The Board proposed this action as a temporary, interim measure while we were considering the extensive pleadings of the parties, presented in their written comments and at the oral argument. The Board then carefully considered the parties' positions and other information available to us, and on September 9, 1977, concluded that the standby fare should be approved; that the super-APEX fare should be disapproved; and that the budget fare should not be approved in its present form because of its level and conditions of travel relative to the other fares.

Having decided that the standby fare should be approved, the Board sees no reason to preclude its becoming effective before September 26, and this order therefore vacates the portion of our previous, recommended suspension order which involves the standby fare. We are also amending that order so that the suspensions of the budget and super-APEX fares will terminate on October 1, 1977. This will provide ample time for the Board to prepare and submit our recommendation to the President that the budget and super-APEX fares be suspended for the usual one-year period pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a), 403, 801, and 1002(j) thereof,

It is ordered, that: 1. The suspension ordered by Order 77–9–43, September 7, 1977, is vacated insofar as it relates to the tariff fares and provisions set forth in Appendix A hereto;

2. The suspension ordered by Order 77–9–43, September 7, 1977, shall expire on October 1, 1977, insofar as it relates to the tariff fares and provisions set forth in Appendix B hereto;

3. This order shall be submitted to the President[3] and shall become effective on September 14, 1977; and

4. Copies of this order shall be filed in the aforesaid traiffs and be served upon Pan American World Airways, Inc., Trans World Airlines, Inc., British Airways, Air-India, Iran National Airways Corp., Aerlinte Eireann Teoranta, the National Air Carrier Association, Brendan Tours, Inc., Charter Travel Corp., the Educational Cooperative, the Air Charter Tour Operators of America, United Buying Service, Inc., Unitours, a California corporation, Vouga Travel Agency, Laker Airways, Ltd., the American Society of Travel Agents, the U.S. Department of Justice, and the Office of the Consumer Advocate.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

All Members concurred.

PHYLLIS T. KAYLOR,
Secretary.

APPENDIX A

TARIFF C.A.B. NO. 44, ISSUED BY AIR TARIFFS CORPORATION AGENT

On 28th Revised Pages 49 and 50, all provisions in Rule 155 insofar as they apply to "Standby" Fares;

On Original Pages 50–A and 50–B all provisions in Rule 156 insofar as they apply to "Standby" Fares;

On 20th Revised Page 222–A all Standby Fares in Table 154;

On 20th Revised Page 222–B all Standby Fares in Table 155.

TARIFF C.A.B. NO. 22, ISSUED BY JOHN M. SAMPSON, AGENT

On Original Pages 58–A and 58–B all provisions in Rule 40 insofar as they apply to "Standby" Fares;

On 7th and 8th Revised Pages 268–A all "Standby" Fares in Section 38.

TARIFF C.A.B. NO. 37, ISSUED BY TRANS WORLD AIRLINES, INC.

On 14th, 15th, and 16th Revised Pages 30–Q;

13th, 14th, and 15th Revised Pages 30–R all provisions in Rule 28.

On 14th and 15th Revised Pages 174 all fares and provisions.

APPENDIX B

TARIFF C.A.B. NO. 44 ISSUED BY AIR TARIFFS CORPORATION, AGENT

On 28th Revised Pages 49 and 50 all provisions in Rule 155 insofar as they apply to Budget Fares;

On Original Pages 50–A and 50–B all provisions in Rule 156 insofar as they apply to Budget Fares;

On 20th Revised Page 222–A all Budget Fares in Table 154;

On 20th Revised Page 222–B all Budget Fares in Table 155;

On 44th Revised Page 160 and 45th Revised Page 161 the proposed reference mark "A" shown in connection with the $340 Basic Advance Purchase Excursion Fares between Boston, on the one hand, and Cork and Dublin, on the other hand, and the explanation of reference mark "A", and the proposed $289 Basic Advance Purchase Excursion Fares between Boston, on the one hand, and Cork and Dublin, on the other hand, reference mark "B" and the explanation thereof.

On 45th Revised Page 162 the proposed reference mark "A" shown in connection with the $334 Basic Advance Purchase Excursion Fare between Boston and Shannon, reference mark "B" and the explanation thereof.

On 43rd Revised Page 210–B the proposed reference mark "A" shown in connection with the $345 Basic Advance Purchase Excursion Fare between New York and Cork, and the explanation thereof; and the Proposed $294 Basic Advanced Purchase Excursion Fare between New York and Cork, reference mark "B" and the explanation thereof;

On 65th Revised Page 211:

1. All added Advance Purchase Excursion Fares from/to London; and

2. The reference marks and explanations thereof used in connection with the $350 and $440 Advance Purchase Excursion Fares from/to London.

On 66th Revised Page 211:

1. The proposed reference mark "J" shown in connection with the $345 Basic Advance

[1] Aerlinte Eireann Teoranta (Aerlinte) also filed super-APEX fares for travel between the United States and Ireland.

[2] For example, the IATA agreement proposes a level of $299 for the super-APEX compared to $290 in the individual tariffs.

[3] This order was submitted to the President on September 13, 1977.

Purchase Excursion Fare between New York and Dublin, and the explanation thereof;

2. The proposed $294 Basic Advance Purchase Excursion Fare between New York and Dublin and reference mark "K" and the explanation thereof; and

3. All fares and provisions which are reissues of fares and provisions suspended above on 65th Revised Page 211.

On 66th Revised Page 212, the proposed reference mark "A" shown in connection with the $339 Basic Advance Purchase Excursion Fare between New York and Shannon, and the explanation thereof; and

The $288 Basic Advance Purchase Excursion Fare between New York and Shannon, reference mark "B" shown in connection therewith and the explanation thereof.

The suspension of fares and provisions on 65th Revised Page 211 does not stay the cancellation of 62nd and 64th Revised Pages 211.

TARIFF C.A.B. No. 22, ISSUED BY JOHN M. SAMPSON, AGENT

On Original Pages 58–A and 58–B all provisions in Rule 40 insofar as they apply to Budget Fares;

On 7th and 8th Revised Pages 268–A all Budget Fares in Section 38;

On 1st Revised Pages 52 and 52–A all provisions in Rule 32;

On 10th Revised Page 272–B all fares and provisions in Section 41.

TARIFF C.A.B. No. 37, ISSUED BY TRANS WORLD AIRLINES, INC.

On 15th, 16th, and 17th Revised Pages 30–W and 30–X all provisions in Rule 33–A;

On 15th and 16th Revised Pages 184–E all fares and provisions.

On 21st, 23rd, and 24th Revised Pages 172 the $290 Basic Advance Purchase Excursion Fare from New York to London, reference mark "(a)" shown in connection therewith and the explanation thereof;

The proposed reference mark "(b)" on 21st Revised Page 172 and the double-dagger reference mark on 23rd and 24th Revised Pages 172 shown in connection with the $350 and $440 Advance Purchase Excursion Fares between New York and London, and the explanation thereof;

On 32nd and 33rd Revised Pages 185 all fares and provisions.

THE WHITE HOUSE,
Washington, September 14, 1977.

Honorable ALFRED E. KAHN,
Chairman, Civil Aeronautics Board, Washington, D.C. 20428.

Dear Mr. Chairman: I have received your proposed order (Docket 31363) which suspends until October 1 passenger fares filed by Pan American World Airways, Inc., Trans World Airlines, Inc., British Airways, Air-India, Iran National Airlines Corporation, and Aerlinte Eireann Teoranta for foreign air transportation.

I understand that this suspension is merely designed to give the Board time to issue its opinion before the fares go into effect.

Because the North Atlantic aviation fare structure is important to our foreign economic policy, I am approving this temporary suspension for foreign policy reasons, on the ground that I have not received the decision of the Board.

By approving this temporary suspension I do not intend to indicate my ultimate decision on the merits of the final order which I expect to receive by September 16.

Sincerely,

JIMMY CARTER

[FR Doc.77–27294 Filed 9–19–77;8:45 am]

COMMISSION ON CIVIL RIGHTS

MARYLAND ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maryland Advisory Committee (SAC) of the Commission will convene at 2 p.m. and will end at 5 p.m. on October 9, 1977, Route 1, Box 420, Lutherville, Md. 21093.

Persons wishing to attend this open meeting should contact either Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to plan for termination of housing subcommittee activities and to prepare recommendations for regional housing activities.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 14, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77–27234 Filed 9–19–77;8:45 am]

MARYLAND ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maryland Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 3 p.m. on October 29, 1977, at 2404 Ken Oak Road, Baltimore, Md. 21209.

Persons wishing to attend this open meeting should contact either Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to plan for the termination of activities and to prepare recommendations for regional activities.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 14, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77–27235 Filed 9–19–77;8:45 am]

CIVIL SERVICE COMMISSION

FEDERAL EMPLOYEES PAY COUNCIL

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the President's Pay Agent announces the following meeting:

NAME: Federal Employees Pay Council.

DATE AND TIME: October 7, 1977, 2 p.m.

PLACE: U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C., Room 5A06A.

TYPE OF MEETING: Open.

CONTACT PERSON: Merlin S. Berry, Committee Management staff for the President's Pay Agent, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C., telephone 202–632–5595.

PURPOSE OF COMMITTEE: To make recommendations to the President's Pay Agent with respect to the process and procedures leading to, and amounts of, annual comparability adjustments in Federal white-collar pay.

AGENDA: Discussions on the 1978 comparability adjustment for the statutory pay systems of the Federal Government, which are defined in section 5301 of title 5, United States Code.

For the President's Pay Agent.

RICHARD H. HALL,
Committee Management Officer for the President's Pay Agent.

[FR Doc.77–27370 Filed 9–19–77;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ERNST K. GUSTKE

Receipt of Application for Certificate of Exemption

Notice is hereby given that the following applicant has applied in due form for a Certificate of Exemption under Pub. L. 94–359, and the regulations issued thereunder (50 CFR Part 222, Subpart B), to engage in certain commercial activities with respect to pre-Act endangered species parts or products.

Applicant: Ernst K. Gustke, 106 N. 17th Street East, Bradenton, Fla. 33508.

Period of exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products consisting of approximately 30 engraved whale teeth and finished scrimshaw products to be made from approximately 220 whale teeth and nine pieces of whale teeth.

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Written comments on this application may be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 on or before October 20, 1977.

Dated: September 15, 1977.

MORRIS M. PALLOZZI,
Acting Associate Director for Fisheries Management.

[FR Doc.77-27296 Filed 9-19-77;8:45 am]

FEDERAL PREPAREDNESS AGENCY

Receipt of Application for Certificate of Exemption

Notice is hereby given that the following applicant has applied in due form for a Certificate of Exemption under Pub. L. 94-359, and the regulations issued thereunder (50 CFR Part 222, Subpart B), to engage in certain commercial activities with respect to pre-Act endangered species parts or products.

Applicant: Federal Preparedness Agency, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405.

Period of exemption. The applicant requests that the time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Approximately 19,595 pounds of sperm whale oil. This oil was not included in the applicant's Certificate of Exemption issued on October 22, 1976 as it consists of "squeezings" from storage tanks and constitutes newly found inventory.

Written comments on this application may be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 on or before October 20, 1977.

Dated: September 15, 1977.

MORRIS M. PALLOZZI,
Acting Associate Director for Fisheries Management.

[FR Doc.77-27295 Filed 9-19-77;8:45 am]

NEW ENGLAND FISHERY MANAGEMENT COUNCIL AND MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a joint meeting of the New England and Mid-Atlantic Fishery Management Councils established by Section 302 of the Fishery Conservation and Management Act of 1976 (P.L. 94-265).

The two Councils have authority, effective March 1, 1977, over fisheries within the fishery conservation zone. The Councils will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to fisheries within its area of authority, prepare comments on foreign fishing applications, and conduct public hearings.

This joint meeting will be held on October 19 and 20, 1977, from 10 a.m. to 5 p.m., and 9 a.m. to 12 noon, respectively, at the Northeast Fisheries Center, National Marine Fisheries Service, Woods Hole, Massachusetts.

PROPOSED AGENDA

1. Operational responsibilities of the Center.
2. Scientific and technical interrelations between the Center and the Councils.
3. Other business.

This meeting is open to the public and there will be limited seating for public attendance available on a first-come, first-serve basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. Interested members of the public should contact either Spencer Apollonio, Executive Director, New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts 01960, or John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, Room 2115, North and New Streets, Dover, Delaware 19901, on or about 10 days before the meeting to receive information on changes in the agenda, if any.

Dated: September 15, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-27273 Filed 9-19-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 794-4; (OPP-42018B)]

FLORIDA

State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides, Approval Status

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.) and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan for such purpose, subject to approval by the Environmental Protection Agency (EPA). On June 24, 1976, the Florida State Plan was approved contingent upon the promulgation of regulations by the Florida Department of Agriculture and the Florida Department of Health and Rehabilitative Services necessary for the implementation of the Florida State Plan. Notice of conditional approval was published in the FEDERAL REGISTER on August 11, 1976 (41 FR 33940). Subsequently, on December 2, 1976 and January 1, 1977, final regulations to amend the Florida Pesticide Laws (FS 487), Florida Pest Control Act (FS 482), and Florida Mosquito Control Act (FS 388) became effective. Having reviewed the legislation and the regulations and finding that legal authorities required by FIFRA and 40 CFR Part 171, are now enacted and promulgated, the Regional Administrator, EPA Region IV, hereby gives notice that the Florida State Plan is now a fully approved State Plan.

Dated: September 13, 1977.

JOHN A. LITTLE,
Deputy Regional Administrator.

[FR Doc.77-27217 Filed 9-19-77;8:45 am]

[FRL 793-6]

HAWAII

Approval of State Application Drinking Water Primary Enforcement Responsibility

This public notice is issued pursuant to section 1413 of the Safe Drinking Water Act, Pub. L. 93-523, December 16, 1974, and § 142.10 of the National Interim Primary Drinking Water Regulations, published in the FEDERAL REGISTER on January 20, 1976.

An application has been received from the Director of Health, dated August 10, 1977, requesting that the Hawaii State Department of Health be granted primary enforcement responsibility for public water systems in the State of Hawaii, in accordance with the provisions of this Act.

In response, I have determined that the Hawaii State Department of Health has met all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the State of Hawaii. The State:

(1) Has adopted drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;

(2) Has adopted and will implement adequate procedures for the enforcement of such State regulations, including adequate monitoring and inspections;

(3) Will keep such records and make such reports as required;

(4) If it permits variances or exemptions from the requirements of its regulations, will issue such variances and exemptions in accordance with the provisions of the National Interim Primary Drinking Water Regulations;

(5) Has adopted and can implement an adequate plan for the provision of safe drinking water under emergency conditions.

All documents relating to this determination are available for public inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Deputy Director for Environmental Health, Hawaii State Department of Health, 1250 Punchbowl Street, Honolulu, Hawaii 96801.
Regional Administrator, Environmental Protection Agency, Region IX, 100 California Street, San Francisco, Calif. 94111.

All interested parties are invited to submit written comments on this determination and may request a public hearing. Written comments and/or a request for a public hearing must be submitted on or before October 20, 1977. A request for a public hearing shall include the following information:

(1) The name, address and telephone number of the individual, organization, or other entity requesting a hearing.

(2) A brief statement of the resuesting person's interest in the Regional Administrator's determination and information that hte requesting person intends to submit at such hearing.

(3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made on or before October 20, 1977, a public hearing will be held. The Regional Administrator will give further notice in the FEDERAL REGISTER and in a newspaper or newspapers of general circulation in the State of Hawaii of any hearing to be held pursuant to a request submitted by an interested person, or on his own motion. Notice of the hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. In addition to publication as described above, notice will be sent to the person requesting a hearing and to the State. Notice of the hearing will include a statement of the purpose of the hearing, information regarding the time and location for the hearing, and the address and telephone number of an office at which interested persons may obtain further information concerning the hearing.

After receiving the record of the hearing, the Regional Administrator will issue an order affirming or rescinding his determination. If the determination is affirmed, it shall become effective as of the date of this order.

If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective on October 20, 1977.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Dated: August 29, 1977.

PAUL DE FALCO, JR.,
Regional Administrator, Region IX, Environmental Protection Agency.

[FR Doc.77-27216 Filed 9-19-77;8:45 am]

[FRL 793-8 (PP 6G1690/T131)]

PESTICIDE PROGRAMS

2-Chloro-1(3-exthoxy-4-nitrophenoxy) - 4-trifluoromethyl benzene; Renewal of Temporary Tolerances

On May 6, 1976, the Environmental Protection Agency (EPA) gave notice (41 FR 18707) that in response to a pesticide petition (PP 6G1690) submitted to the Agency by Rohm and Haas Co., Independence Mall West, Philadelphia, Pa. 19105, temporary tolerances were established for combined residues of the herbicide 2-chloro - 1 - (3 - ethoxy - 4 - nitrophenoxy) - 4 - trifluoromethyl benzene and its metabolites containing the diphenyl ether linkage in or on the raw agricultural commodities almonds, apricots, grapes (intended for the fresh fruit market only), nectarines, peaches, and plums (fresh prunes) (intended for the fresh fruit market only) at 0.05 part per million (ppm). (The original notice erred in giving the tolerance at 0.5 ppm.) These temporary tolerances expired April 29, 1977.

Rohm and Haas Co. has requested a one-year renewal of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of an experimental use permit that is being extended concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

The scientific data reported and all other relevant material have been evaluated, and it has been determined that a renewal of the temporary tolerances will protect the public health. Therefore, the temporary tolerances are renewed on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the qunatity authorized by the experimental use permit.
2. Rohm and Haas Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire September 12, 1978. Residues not in excess of 0.05 ppm remaining in or on almonds, apricots, grapes (intended for the fresh fruit market only), nectarines, peaches, and plums (fresh prunes) (intended for the fresh fruit market only) after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Special Registrations Section, Registration Division (WH-567), Office of Pesticide Programs, Room 315, East Tower, 401 M Street SW., Washington, D.C. 20460 (202-755-4851).

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356a(j)).)

Dated: September 12, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77-27213 Filed 9-19-77;8:45 am]

[FRL 794-1; (PP 3G1316 & 3G1349/T128)]

PESTICIDE PROGRAMS

Oxamyl; Renewal of Temporary Tolerances

On May 6, 1976, the Environmental Protection Agency (EPA) announced (41 FR 18707) a renewal of temporary tolerances for residues of the insecticide oxamyl (methyl-*N'*,*N'*-dimenthyl-*N*-[(methylcarbamol)oxy] - 1 - thiooxamidate) in or on the raw agricultural commodities citrus fruits at 3 parts per million (ppm) and apples at 2 ppm (in response to Pesticide Petition (PP) 3G1349), and peanut hulls at 0.2 ppm and peanuts and potatoes at 0.1 ppm (in response to PP 3G1316). These tolerances were established (40 FR 13334) in response to the above pesticide petitions submitted by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898. This renewal expired April 29, 1977.

E. I. du Pont de Nemours & Co., Inc., requested a one-year renewal of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit that was renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

The scientific data reported and all other relevant material were evaluated, and it was determined that a renewal of the temporary tolerances would protect the public health. Therefore, the temporary tolerances have been renewed on condition that the pesticides be used in accordance with the

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.
2. E. I. du Pont de Nemours & Co., Inc., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

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These temporary tolerances expire July 6, 1978. Residues not in excess of 3 ppm remaining in or on citrus fruits, 2 ppm in or on apples, 0.2 ppm in or on peanut hulls, and 0.1 ppm in or on peanuts and potatoes after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to the Special Registration Section, Registration Division (WH-567), Office of Pesticide Programs, Room 315, East Tower, 401 M Street, SW., Washington, D.C. 20460 (202-755-4851).

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 34a(j)).

Dated: September 12, 1977.

DOUGLAS D. CAMPT,
Director,
Registration Division.

[FR Doc.77 27214 Filed 9-19-77;8:45 am]

[FRL 794-2; (PP 5G1626 T129)]

PESTICIDE PROGRAMS

Sodium Azide; Renewal of Temporary Tolerances

On September 15, 1976, the Environmental Protection Agency (EPA) announced (41 FR 39378) an extension of temporary tolerances for residues of the fungicide sodium azide (expressed as the azide ion (N_3)) in or on the raw agricultural commodities green beans (pole and snap), tomatoes, and potatoes at 0.1 part per million (ppm). These tolerances were established (40 FR 44186) in response to a pesticide petition (PP 5G1626) submitted by PPG Industries, Inc., One Gateway Center, Pittsburgh, Pa. 15222. This extension expired September 19, 1976.

PPG Industries requested a one-year renewal of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit that was renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

The scientific data reported and all other relevant material were evaluated, and it was determined that a renewal of the temporary tolerances would protect the public health. Therefore, the temporary tolerances have been renewed on condition that the pesticide be used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.
2. PPG Industries, Inc., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire August 1, 1978. Residues not in excess of 0.1 ppm in or on green beans (pole and snap), tomatoes, and potatoes after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances.

These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to the Special Registrations Section, Registration Division (WH-567), Office of Pesticide Programs, Room 315, East Tower, 401 M Street SW., Washington D.C. (202-755-4851).

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)].).

Dated: September 12, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-27215 Filed 9-19-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Canadian List No. 365]

CANADIAN STANDARD BROADCAST STATIONS

Notification List

List of new stations, proposed changes in existing stations, deletions and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

JULY 29, 1977.

Call letters	Location	Power (in Kilowatts)	Antenna	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of commencement of operation
		630 kHz:							
CKRC (change in height of 1 antenna and in antenna radiation patterns).	Winnipeg, Manitoba, N. 49°45'51", W. 97°07'57".	10	DA-2	U	III				EIO July 29, 1978.
		730 kHz:							
New	Grand Anse, New Brunswick, N. 48°01'19", W. 65°14'52".	5	ND-1/7	D	II	404	120	605	Do.
		900 kHz:							
CHML (PO 5 kW, DA-1, N. 43°10'52" W. 79°41'07"—corrections to vertical sections of nighttime radiation pattern).	Hamilton, Ontario, N. 43°20'00", W. 80°07'15".	50	DA-2	U	II				EIO June 27, 1978.
		910 kHz:							
CJDV (PO 5 kW—conditional upon successful implementation of frequency change from 910 to 550 kHz by CFJC, Kamloops, British Columbia).	Drumheller, Alberta, N. 51°24'50", W. 112°44'10".	10	DA-2	U	III				EIO July 29, 1978.
		1240 kHz:							
CJNS (assignment of call letters).	Meadow Lake, Saskatchewan, N. 54°05'03", W. 108°27'08".	1D/.25N	ND-1/82	U	IV	150	120	317 (ave)	EIO Jan. 19, 1978.
		1570 kHz:							
CKLQ (now in operation)	Brandon, Manitoba, N. 49°45'25", W. 99°57'53".	10	DA-N ND-D-188	U	II				

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

[FR Doc.77-27237 Filed 9-19-77;8:45 am]

[Docket Nos. 21344, 21345; File Nos. BPH-9791, BPH-9914]

DEAN HARDEN ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: September 13, 1977.

Released: September 15, 1977.

In re applications of Dean Harden, J. B. Crawley, Frank O. Schooler, Jr. and Joel David Sonnheim, d.b.a. J.-Town Radio Company, Jeffersontown, Kentucky, Docket No. 21344, File No. BPH-9791, Req: 101.7 MHz, Channel No. 269; 3 kW (H&V); 300 feet (H&V); Publicast Communications, Inc., Jeffersontown, Kentucky, Docket No. 21345, File No. BPH-9914, Req: 101.7 MHz, Channel No. 269; 3 kW (H&V); 300 feet (H&V), for construction permit.

1. The Commission, by the Chief, Broadcast Bureau, has before it for consideration the above-captioned mutually exclusive applications of Dean Harden, J. B. Crawley, Frank O. Schooler, Jr., and Joel David Sonnheim d/b/a J.-Town Radio Company (hereinafter "J.-Town") and Publicast Communications, Inc. (hereinafter "Publicast") both seeking a construction permit for a new FM station at Jeffersontown, Kentucky.

2. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and population which would receive service from the proposals. Consequently, for purposes of comparison, the areas and population which would receive FM service of 1 mV/m or greater intensity together with the availability of other primary aural services in such areas will be considered under the standard comparative issue, to determine whether a comparative preference should accrue to either of the applicants.

3. Section 73.315(a) of the Commission's rules requires that a 70 dBu (3.16 mV/m) signal be placed over the entire principal community to be served. Both applicants propose a 70 dBu signal which would not encompass the entire city of Jeffersontown. Hence, an issue will be specified to determine whether waivers of the rule would be justified.

4. Except as indicated above, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

5. *Accordingly, it is ordered,* That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to both proposals, whether circumstances exist which warrant a waiver of § 73.315(a) of the rules.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

6. *It is further ordered,* That to avail themselves of the opportunity to be heard, the applicants, pursuant to § 1.221 (c) of the Commission's rules, in person, or by attorney shall, within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

7. *It is further ordered,* That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-27281 Filed 9-19-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CANADIAN ALLOCATION PROGRAM

Allocation Notice for the October Through December 1977 Allocation Period

In accordance with the provisions of FEA's Mandatory Canadian Crude Oil Allocation Regulations, 10 CFR Part 214, the allocation notice specified in §-214.32 for the allocation period commencing October 1, 1977 is hereby published.

The issuance of Canadian crude oil rights for the October through December 1977 allocation period to refiners and other firms, pursuant to § 214.31, is set forth in the Appendix to this notice. As to this allocation period, the Appendix lists: (1) the name of each refiner and other firm to which rights have been issued; (2) the base period volume[1] of Canadian crude oil for each refiner's first or second priority refinery; (3) the base period volume of Canadian light and heavy crude oil, respectively, for each refiner's first or second priority refinery; (4) the nominations to FEA for Canadian light and heavy crude oil, respectively, of each refiner or other firm; (5) the number of rights for Canadian light and heavy crude oil, respectively, expressed in barrels per day, issued to each such refiner or other firm; and (6) the specific first or second priority refineries for which rights are applicable.

The listing contained in the Appendix also reflects any adjustments made by FEA to base period volumes to compensate for reductions in volumes due to unusual or nonrecurring operating conditions as provided by § 214.31(d).

Based on its review of the affidavits, supplemental affidavits and reports filed pursuant to Subpart D of Part 214, and other information available to the agency, FEA has designated each refinery or other facility listed in the Appendix as a first or second priority refinery as defined in § 214.21. If a refinery or other facility has not been designated as a priority refinery by FEA, such refinery or other facility is not entitled to process or otherwise consume Canadian crude oil subject to allocation under the program.

As provided by § 214.31(e), in the allocation period commencing October 1, 1977, each refiner or other firm which has been issued Canadian crude oil rights for light and heavy crude oil, respectively, is entitled to process, consume or otherwise utilize in the priority refinery or refineries specified in the Appendix to this notice a number of barrels of Canadian light and heavy crude oil, respectively, subject to allocation under Part 214 equal to the number of rights specified in the Appendix.

The Canadian National Energy Board (NEB) has advised FEA that the total volumes of Canadian light and heavy crude oil authorized for export to the United States, and therefore subject to allocation under Part 214, for the three-month allocation period commencing October 1, 1977, will be at the average level of 137,000 barrels per day (B/D) of Canadian light crude oil and 123,261 B/D of Canadian heavy crude oil. Any change in the average export levels for Canadian light crude oil, including condensate, and Canadian heavy crude oil anticipated for this allocation period will be reflected in revised allocations for this period pursuant to a supplemental allocation notice.

The NEB has further advised FEA of the following operational constraints with respect to the export of Canadian light crude oil for the allocation period:

50 B/D of light crude oil must be delivered through the Union Oil pipeline from the Dragon field in Canada to the Thunderbird refinery at Cutbank, Montana.

Pursuant to 10 CFR 214.35, FEA has given effect to these operational constraints in the allocations set forth in the Appendix.

ALLOCATION OF CANADIAN LIGHT CRUDE OIL

The authorized export level for Canadian light crude oil for this allocation period is 137,000 B/D. The adjusted base period volumes of Canadian light crude oil for all first priority refineries nominating for light crude oil total 169,271 B/D. Accordingly, with the exception of the operational constraint of 50 B/D to the Thunderbird refinery at Cutbank, Montana, a second priority refinery, no allocations of light crude oil are shown for second priority refineries and the export level of light crude oil, as adjusted to reflect the operational constraint as to the Thunderbird refinery, was allocated among first priority refineries on a pro-rata basis in the following manner.

[1] "Base period volume" for the purposes of this notice means average number of barrels of Canadian crude oil included in a refinery's crude oil runs to stills or consumed or otherwise utilized by a facility other than a refinery during the base period on a barrels per day basis.

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First, a factor of 0.809058 [2] was applied to each first priority refinery's base period volume of light crude oil. Second, the allocation for Consumers Power was reduced to conform to its nominations for light crude oil for its Marysville facility. Third, the factor was recomputed [3] to reflect this adjustment and was reapplied to each first priority refinery's (excluding Consumers Power's Marysville facility) base period volume of light crude oil to arrive at the final allocations.

Allocation of Canadian Heavy Crude Oil

The authorized export level for Canadian heavy crude oil is anticipated to be at the average level of 123,261 B/D. First priority refineries nominating for heavy crude oil have been allocated a total of 83,910 B/D of Canadian heavy crude oil, which was calculated by combining their respective base period volumes of light and heavy crude oil and subtracting their allocations of light crude oil. In no case do the allocations of heavy crude oil to first priority refineries exceed their respective nominations for heavy crude oil.

The remaining supply of Canadian heavy crude oil, 39,351 B/D, was allocated among second priority refineries on a pro-rata basis in the following manner. First, a factor of 0.224786 [4] was applied to each second priority refinery's base period volume of light and heavy crude oil, as adjusted to reflect allocations of light crude oil. Second, the resulting allocations of heavy crude oil for Ashland's refineries at Buffalo, New York and Findlay, Ohio were reduced to reflect Ashland's nominations for heavy crude oil for these refineries. Third, the factor was recomputed [5] to reflect these adjustments and was reapplied to each second prior refinery's (excluding Ashland's Buffalo and Findlay refineries') adjusted base period volume of Canadian crude oil. Fourth, the resulting allocations of heavy crude oil for Mobil's refineries at Buffalo, New York, Ferndale, Washington, and Joliet, Illinois were reduced to reflect Mobil's nominations for heavy crude oil for these refineries. Finally, the factor was recomputed [6] to reflect these adjustments and was reapplied to the remaining second priority refineries' adjusted base period volume of Canadian crude oil to arrive at the final allocations for heavy crude oil for second priority refineries.

On or prior to the thirtieth day preceding each allocation period, each refiner or other firm that owns or controls a first priority refinery shall file with FEA the supplemental affidavit specified in § 214.41(b) to confirm the continued validity of the statements and representations contained in the previously filed affidavit or affidavits, upon which the designation for that priority refinery is based. Each refiner or other firm owning or controlling a first or second priority refinery shall also file the periodic report specified in § 214.41(d)(1) on or prior to the thirtieth day preceding each allocation period; *provided, however*, That the information as to estimated nominations specified in § 214.41(d)(1)(i) is not required to be reported.

Within 30 days following the close of each three-month allocation period, each refiner or other firm that owns or controls a priority refinery shall file the periodic report specified in § 214.41(d)(2) certifying the actual volumes of Canadian crude oil and Canadian plant condensate included in the crude oil runs to stills of or consumed or otherwise utilized by each such priority refinery (specifying the portion thereof that was allocated under Part 214) for the allocation period.

This notice is issued pursuant to Subpart G of FEA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with FEA's Office of Exceptions and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before October 19, 1977.

Issued in Washington, D.C. on September 14, 1977.

ERIC J. FYGI,
Acting General Counsel.

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[2] See the following:

$$0.809058 = \frac{\text{Adjusted export level for Canadian light crude oil} = 136{,}950\ \text{B/D}}{\text{Sum of first priority refineries' base period volume of light crude oil} = 169{,}271\ \text{B/D}}$$

[3] As recomputed, the factor is:

$$0.813229 = \frac{\text{Adjusted export level for light crude oil (136,950 B/D), less allocations to Consumers Power's Marysville facility (21,500 B/D)} = 115{,}450\ \text{B/D}}{\text{Sum of first priority refineries' (excluding Consumers Power) base period volume of light crude oil} = 141{,}965\ \text{B/D}}$$

[4] See the following:

$$0.224786 = \frac{\text{Export level of Canadian heavy crude oil available to second priority refineries} = 39{,}351\ \text{B/D}}{\text{Sum of second priority refineries' base period volume of Canadian crude oil adjusted to reflect allocations of light crude oil} = 174{,}615}$$

[5] As recomputed, the factor is:

$$0.245096 = \frac{\text{Export level of Canadian heavy crude oil available to second priority refineries (39,351 B/D), less allocations of heavy crude oil to Ashland's Buffalo and Findlay refineries (5978 B/D)} = 33{,}373\ \text{B/D}.}{\text{Sum of second priority refineries' (excluding Ashland's Buffalo and Findlay refineries) adjusted base period volumes of Canadian crude oil} = 136{,}165}$$

[6] As recomputed, the factor is:

$$0.364184 = \frac{\text{Export level of Canadian heavy crude oil available to second priority refineries (39,351 B/D), less allocations of heavy crude oil to Ashland's Buffalo and Findlay refineries (5978 B/D) and Mobil's Buffalo, Ferndale and Joliet refineries (20,000 B/D)} = 13{,}373\ \text{B/D}}{\text{Sum of remaining second priority refineries' adjusted base period volume of Canadian crude oil} = 50{,}620\ \text{B/D}}$$

APPENDIX

CANADIAN ALLOCATION PROGRAM

RIGHTS - October 1, 1977 to December 31, 1977
(Barrels Per Day)

Priority	Refiner/Refinery	Base Period Volumes: Total Canadian Runs	Base Period Volumes: Canadian Light Crude Oil	Base Period Volumes: Canadian Heavy Crude Oil	Nominations: Light	Nominations: Heavy	Allocation: Light	Allocation: Heavy
II	AMOCO							
II	Whiting, Ind.	26,751	25,560	1,191	11,000	0	0	0
II	Casper, Wyo	2,991	2,991	0	0	0	0	0
II	Mandan, N.D.	8,995	8,995	0	10,000	0	0	0
II	Sugar Creek, Mo.	317	317	0	0	0	0	0
II	ARCO				9,013	0	0	0
II	Cherry Point, Wash.	34,225	34,225	0	0	5,641	0	5,641
II	ASHLAND				0	337	0	337
II	Buffalo, N.Y.	36,752	32,033	4,719	35,867	5,000	32,451	5,000
II	Findlay, Ohio	2,198	33	2,165				
I	St. Paul Park, Minn	44,707	39,904	4,803				
II	DOW CHEMICAL, U.S.A				1,000	0	0	0
	Bay City, Mich.	2,767	2,767	0				
II	CLARK				0	0	0	0
	Blue Island, Ill	18,764	18,764	0				
	CONSUMERS POWER				0	0	0	0
I	Essexville, Mich	13,872	13,872	0	21,500	0	21,500	0
I	Marysville, Mich.	27,306	27,306	0				
	CONTINENTAL				25,994	0	21,139	0
I	Billings, Mont.	25,994	25,994	0	4,638	0	0	0
II	Denver, Colo.	4,639	4,639	0	1,188	0	0	0
II	Ponca City, Okl.	1,188	1,188	0	20,651	0	16,794	0
I	Wrenshall, Minn.	20,651	20,651	0				

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Priority	Refiner/Refinery	Base Period Volumes: Total Canadian Runs	Base Period Volumes: Canadian Light Crude Oil	Base Period Volumes: Canadian Heavy Crude Oil	Nominations: Light	Nominations: Heavy	Allocation: Light	Allocation: Heavy
	CRA							
II	Coffeyville, Kan.	318	318	0	318	0	0	0
II	Philipsburg, Kan.	173	173	0	173	0	0	0
II	Scotsbluff, Neb.	401	401	0	401	0	0	0
	CRYSTAL							
II	Carson City, Mich.	1,104	1,104	0	0	0	0	0
	ENERGY COOPERATIVE							
II	East Chicago, Ind.	10,804	10,267	537	0	0	0	0
	EXXON							
I	Billings, Mont.	15,908	15,908	0	19,000	0	2,937	0
	FARMERS UNION							
I	Laurel, Mont.	13,439	13,439	0	13,500	0	10,929	0
	GLADIEUX							
II	Fort Wayne, Ind.	774	774	0	0	0	0	0
	GULF							
II	Toledo, Ohio	13,253	13,253	0	0	0	0	0
	HUSKY							
II	Cheyenne, Wyo.	4,865	4,865	0	0	0	0	0
II	Cody, Wyo.	806	806	0	0	0	0	0
	KOCH							
I	ST. Paul, Minn	74,383	5,691	68,692	5,000	90,000	4,628	69,755
	LAKE SUPERIOR D.P.							
I	Ashland, Wisc.	125	125	0	125	0	102	0
	LAKETON							
II	Laketon, Ind.	141	10	131	0	0	0	0
	LAKESIDE							
II	Kalamazoo, Mich.	1,240	1,240	0	0	0	0	0
	LITTLE AMERICA							
II	Casper, Wyo.	2,248	2,248	0	0	0	0	0

Priority	Refiner/Refinery	Base Period Volumes: Total Canadian Runs	Base Period Volumes: Canadian Light Crude Oil	Base Period Volumes: Canadian Heavy Crude Oil	Nominations: Light	Nominations: Heavy	Allocation: Light	Allocation: Heavy
	MARATHON							
II	Detroit, Mich.	10,301	10,159	142	18,735	0	0	0
	MOBIL							
II	Buffalo, N.Y.	24,995	24,995	0	0	5,900	0	5,900
II	Ferndale, Wash.	45,444	45,444	0	0	10,700	0	10,700
II	Joliet, Ill.	14,606	2,132	12,474	0	3,400	0	3,400
	MURPHY							
I	Superior, Wisc.	25,625	20,253	5,372	20,000	10,000	16,470	9,155
	NCRA							
II	McPherson, Kan.	836	836	0	0	0	0	0
	PESTER REFINING CO.							
II	EL DORADO, ARK.	196	196	0	0	0	0	0
	PASCO							
II	Sinclair, Wyo.	709	709	0	0	0	0	0
	PHILLIPS							
II	Great Falls, Mont.	1,222	1,222	0	2,000	0	0	0
II	Kansas City, Kan.	3,352	3,105	247	0	0	0	0
	ROCK ISLAND							
II	Indianapolis, Ind.	1,063	1,063	0	0	0	0	0
	SHELL							
II	Anacortes, Wash.	55,919	55,919	0	35,000	0	0	0
II	Wood River, Ill.	8,673	8,673	0	25,000	0	0	0
	SUN							
II	Toledo, Ohio	16,427	16,427	0	0	0	0	0
	SOHIO							
II	Toledo, Ohio	29,182	29,182	0	25,000	10,000	0	7,709
	TENNECO							
II	Chalmette, La.	1,767	1,767	0	0	0	0	0
	TESORO							
II	New Castle, Wyo.	676	676	0	0	0	0	0

Refiner/Refinery	Priority	Base Period Volume: Total Canadian Runs	Base Period Volume: Canadian Light Crude Oil	Base Period Volume: Canadian Heavy Crude Oil	Nominations: Light	Nominations: Heavy	Allocation: Light	Allocation: Heavy
TEXACO								
Anacortes, Wash.	II				60,000	0	0	0
Casper, Wyo.	II				4,500	0	0	0
Lockport, Ill.	II				26,000	0	0	0
THE REFINERY CORP.								
Commerce City, Colo	II	174	174	0	0	0	0	0
THUNDERBIRD								
Cut Bank, Mont.	II	554	554	0	50	0	50 1/	0
TOTAL PETROLEUM								
Alma, Mich.	II	9,727	3,020	6,707	0	8,000	0	2,570
TEXAS AMERICAN								
West Branch, Mich.	II	2,011	2,011	0	0	0	0	0
UNION OIL OF CALIF								
Lemont, Ill.	II	11,711	11,711	0	10,000	10,000	0	3,094
UNITED REFINING								
Warren, Pa.	II	9,917	9,789	128	0	0	0	0
TOTAL PRIORITY I		262,010	183,143	78,867	161,637	105,000	136,950	83,910
TOTAL PRIORITY II		469,029	440,588	28,441	244,016	53,978	50	39,351
TOTAL I&II		731,039	623,731	107,308	405,653	158,978	137,000	123,261

1/ Operational Constraint.

[FR Doc 77-27089 Filed 9-14-77;11:54 am]

COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT

Environmental Assessment of Proposed Waiver of Propane Purchase and Use Limitations; Correction

AGENCY: Federal Energy Administration (FEA).

ACTION: Notice of availability of environmental assessment: Correction.

SUMMARY: This document corrects an error made in the notice of availability of the environmental assessment and negative determination made by FEA with respect to the waiver of purchase and use limitations on propane for Amoco Chemical Corp.'s No. 2 olefins unit at the Chocolate Bayou Plant, Alvin, Tex.

FOR FURTHER INFORMATION CONTACT:

J. Thomas Wolfe, Office of General Counsel, Room 7146, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202-566-9750).

SUPPLEMENTARY INFORMATION: The Notice of Availability, which appeared in the FEDERAL REGISTER on September 12, 1977 (42 FR 45707), contained an error. The third sentence in the Supplementary Information section of the notice stated that, "Amoco Chemical is requesting authorization to purchase and use an additional 9,000 barrels per day of naphtha * * *". The word "naphtha" is incorrect and should read "propane."

Thus the corrected sentence should read: "Amoco Chemical is requesting authorization to purchase and use an additional 9,000 barrels per day of propane and to maintain an inventory of 500,000 barrels of propane for its No. 2 unit."

Issued in Washington, D.C., September 14, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-27227 Filed 9-19-77;8:45 am]

VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Meeting; Correction

In FR Doc. 77-26609, appearing at page 46077 in the FEDERAL REGISTER of September 14, 1977, notice of a meeting of the Industry Advisory Board (IAB) was incorrectly listed as a meeting of Subcommittee A of the IAB. Accordingly, the first paragraph appearing on page 46077 is corrected in the fourth and fifth lines of that paragraph by deleting the words, "Subcommittee A of", immediately following the words, "meeting of," and immediately before the words, "the Industry Advisory Board".

In all other respects the earlier notice remains as published and the provisions of that notice are specifically incorporated by reference herein. Unanticipated circumstances have required that the notice period as contained in § 209.32(b) of FEA regulations be shortened with respect to this corrected notice.

Issued in Washington, D.C., September 16, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-_ Filed _-77; _ am]

FEDERAL POWER COMMISSION

[Docket No. CP77-607]

CITY OF MARIETTA, TEXAS, APPLICANT AND NATURAL GAS PIPELINE CO. OF AMERICA, RESPONDENT

Application

SEPTEMBER 13, 1977.

Take notice that on September 6, 1977, the City of Marietta, Texas (Applicant), Marietta, Texas 75566, filed in Docket No. CP77-607 an application pursuant to Section 7(a) of the Natural Gas Act for an order directing Natural Gas Pipeline Company of America (Respondent) to establish an additional physical connection of its transportation facilities with those of Applicant and to deliver presently contracted for supplies of natural gas to Applicant at said point, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that its existing natural gas distribution system receives gas pursuant to the Commission's order issued December 7, 1966, in Docket No. CP67-18, as amended on August 31, 1967, which order directed Respondent to establish physical connection of its natural gas transmission system with Applicant's distribution facilities and sell and deliver to Applicant up to 610 Mcf of natural gas per day. Applicant's existing distribution system has a single physical connection to the gas supply lateral of Respondent which originates in the Bryans Mill Field, and the existing points of connection is at the intersection of said supply lateral and Texas Highway No. 77, approximately one mile west of the City of Douglassville, it is indicated. It is stated that the master metering, regulating, and odorizing facilities are at this location.

Applicant proposes to expand its existing natural gas distribution system in order to serve approximately 1,500 additional rural residents of Cass County, Texas. Applicant states that the area which would be served natural gas by the proposed expansion includes the communities of Antioch, Bethlehem, Bivins, Domino, Gum Springs, Honey Grove, Huffinies, Lanark, Laws, Chapel, Love Chapel, Midway, Mt. Zion, New Colony, Oak Grove, Piney Grove, Red Hill, Shady Grove, Springdale, and Warren Springs, as well as the area circumscribed by and adjacent to these communities.

It is stated that Applicant's proposed expansion of its distribution facilities would not require any transmission line or supply lateral but consists solely of lines designed for direct distribution of natural gas by means of additional physical connection to the transmission line of Respondent at the point of its intersection with Applicant's distribution main, said point to be at or near Texas Highway No. 43 approximately five miles south of the City of Atlanta, Texas. The master metering, regulating and odoring facilities would be located at such point of connection.

Applicant states that it does not intend to exceed the daily allotment of gas already committed to it by contract with Respondent, which daily allotment is said to be 610 Mcf at 14.73 psia for each of the first three years of operations with the second delivery point from Natural. Estimated annual natural gas requirements for all customers, existing and proposed, for the first three years of operations with two delivery points are 156,000 Mcf, 164,000 Mcf, and 172,000 Mcf respectively.

Applicant asserts that the proposed physical connection would provide Applicant's proposed customers with a more economical and reliable fuel supply. The expansion of the gas distribution facilities is expected to cost $1,658,000.00, it is said. Applicant indicates that it would finance the facilities of its gas distribution system expansion by borrowing $1,643,000 and contribution $40,250 from the collection of connection deposits.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 14, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 156.9). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27299 Filed 9-19-77;8:45 am]

[Docket No. CP77-605]

COLUMBIA GAS TRANSMISSION CORP.

Application

SEPTEMBER 13, 1977.

Take notice that on September 6, 1977, Columbia Gas Transmission Corp., (Applicant), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP77-605 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 400 Mcf of natural gas per day for Ball Corporation (Ball) for two years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

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Applicant proposes to transport gas for Ball which would be received by Applicant into its Line V–W11449 in Milton Township, Mahoning County, Ohio, at a specific point to be mutually agreed upon. Applicant indicates that it would redelivery the gas for the account of Ball at existing points of delivery in Marion Township, Hancock County, Ohio, to Columbia Gas of Ohio, Inc. (Columbia Ohio), which would in turn deliver the gas to Ball for use at its Findlay Ohio, plant. It is stated that since Ball's Findlay plant began operations in October 1973, approximately two years after Columbia Ohio had ceased serving any new industrial customers, the plant is not a customer of Columbia Ohio but operates with propane under a firm contract for its total requirements with Columbia Hydrocarbon Corporation. Further, it is stated that since Columbia Hydrocarbon has curtailed its delivery of propane to Ball's Findlay plant and because of future anticipated shortages of propane, Ball has requested that a portion of the natural gas to which it has access in Mahoning County, Ohio, be transported to its Findlay plant.

It is stated that Ball's Findlay plant produces metal containers primarily for beverages under a long-term contract with the Stroh Brewing Company and that the plant supplies approximately 50 percent of all containers used by Stroh at its Detroit brewery. Applicant states that the gas proposed to be transported is for process uses for which an alternate fuel is not technically feasible, i.e., the ovens, washers and after burners in which process the products of combustion from alternate fuels would contaminate the beverage containers, making them not acceptable for consumer use.

Applicant states that Ball would be required to pay for the construction of facilities necessary to effectuate such deliveries at an estimated cost of $16,000. Applicant indicates that it would not be required to construct any additional facilities to perform the proposed transportation services.

Ball would purchase the gas, proposed to be transported, from Montara Petroleum Co. and Mutual Oil and Gas Co. for a period of two years at a cost of $2.20 per Mcf for the first contract year and $2.50 per Mcf for the second contract year. Applicant's transportation charge for its service would be its average system-wide unit gathering, storage and transmission costs exclusive of company-use and unaccounted for gas, which is currently 24.75 cents per Mcf, and Applicant would retain for company-use and unaccounted for gas a percentage of the total volumes received for the account of Ball, which percentage is currently 2.1 percent, it is said. The transportation contract provides that subject to diversion to it in emergency period when, in Applicant's sole judgment, such gas is required for the protection of Priority 1 requirements on its system.

It is indicated that the gas proposed to be transported has never been sold in interstate commerce and that it would not be sold in interstate commerce at present interstate prices.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 5, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27300 Filed 9-19-77;8:45 am]

[Docket No. RI77-123]

DORFMAN PRODUCTION CO., OPERATOR

Petition for Special Relief

SEPTEMBER 13, 1977.

Take notice that on September 1, 1977, Dorfman Production Co., Operator (Petitioner), 1848 Mercantile Dallas Building, Dallas, Tex. 75201, in Docket No. RI77–123, filed a petition for special relief pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 CFR § 2.76). Petitioner requests an increase in rate from 37.20 cents per Mcf to $1.10 per Mcf for its Thrasher No. 1 well and to $1.15 per Mcf for its Thrasher No. 2 well. The subject gas is sold to United Gas Pipe Line Company from the Willow Springs Field, Gregg County, Tex. Petitioner states that the proposed rate increase is necessary to justify needed workovers of the two wells.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 5, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27301 Filed 9-19-77;8:45 am]

[Docket No. CP77-604]

EL PASO NATURAL GAS CO.

Application

SEPTEMBER 13, 1977.

Take notice that on September 2, 1977, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP77–604 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing (i) the transportation and delivery of natural gas on an exchange basis, to Transwestern Pipeline Co. (Transwestern), (ii) the operation of certain existing facilities necessary to facilitate the exchange of gas, and (iii) the exchange of gas from future wells attached to either party's system in certain specified areas of interest in the States of Texas, New Mexico, and Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that pursuant to the Commission's order of January 11, 1965, in Docket No. CP61–265, as amended, it was authorized, inter alia, to construct and to place into operation certain facilities situated in Hemphill, Ochiltree and Roberts Counties, Tex., and Beaver and Ellis Counties, Okla., and deliver natural gas, on an exchange basis, to Transwestern. It is stated that such authorized exchange arrangement is being accomplished in accordance with and under the terms and conditions of a gas exchange agreement dated February 1, 1961, as amended, between Applicant and Transwestern, which agreement is on file with the Commission as special Rate Schedule X–12 to Applicant's FTC Gas Tariff, Third Revised Volume No. 2. It is stated that pursuant to the arrangements authorized in Docket No. CP61–265, Applicant delivers certain quantities of gas to Transwestern at various points located on Transwestern's existing gathering systems in the aforesaid countries in exchange for equivalent quantities of gas delivered by Transwestern to Applicant at points on Applicant's existing gathering system in Beaver County, Okla.

It is indicated that Applicant and Transwestern are also parties to a gas exchange agreement known as the Delaware Basin Gas Exchange agreement (Delaware Agreement) dated September 20, 1967, as amended, which provides for the wellhead exchange delivery of gas by Applicant to Transwestern from gas supplies available to Applicant from certain wells located in Reeves County, Tex.

Applicant states that pursuant to said Delaware Agreement, it received in exchange equivalent volumes of gas for Transwestern's account at a wellhead in the Hamon Field and from Cities Service Oil Co.'s (Cities) Lehman Gasoline Plant located in Cochran County, Tex. As a result of the abandonment by Cities of its Lehman Gasoline Plant, deliveries of gas to Applicant for the account of Transwestern are being made at Cities' Bluitt Gasoline Plant located in Roosevelt County, N. Mex., it is said.

It is stated that in order to facilitate exchange arrangements and reduce the number of individual exchange agreements between the parties, Applicant and Transwestern have executed a gas exchange agreement dated February 8, 1977, wherein the parties have consolidated the gas exchange agreement dated February 1, 1961, as amended, and the Delaware Agreement dated September 20, 1967. Applicant states that the exchange agreement provides for the continued receipt and gathering of natural gas produced from (i) 17 wells located in Hemphill, Ochiltree and Roberts Counties, Tex., and Beaver and Ellis Counties, Okla., in accordance with the terms and conditions of the gas exchange agreement dated February 1, 1961, as amended (Rate Schedule C–12); (ii) 8 additional wells located in Reeves County, Tex., presently included as a part of the Delaware Agreement; and (iii) 5 new wells connected to existing gathering facilities in Hemphill County, Tex., Eddy County, N. Mex., and Beaver County, Okla. which have not been made a part of an existing exchange arrangement. It is indicated that the receipt and gathering of gas is being accomplished by the party designated as the gathering party with respect to each well through utilization of existing gathering system facilities in the area of interest covered by the exchange agreement. In the event that volumes of gas received and gathered by each party are not equal, said exchange agreement provides for reasonably concurrent deliveries of balancing gas in volumes sufficient to equal the differences in volumes so received and gathered, which deliveries are to be made at one or more of 5 existing points of interconnection between the systems of Applicant and Transwestern located in Reeves and Ward Counties, Tex., Roosevelt County, N. Mex., and Beaver County, Okla.

Applicant proposes to continue to operate all facilities presently being utilized at the above described balancing points to accomplish the exchange arrangements set forth by the exchange agreement dated February 8, 1977. Applicant requests that the authorization sought herein specifically permit the exchange of gas from additional wells attached to the respective gathering systems of each party as they become available to Applicant and Transwestern in the counties identified in the subject exchange agreement. Applicant states that upon the completion of new wells subject to the exchange agreement between Applicant and Transwestern, Applicant would promptly tender to the Commission for filing and acceptance appropriate revision to Exhibit A to the Exchange Agreement dated February 8, 1977.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 5, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27302 Filed 9-19-77;8:45 am]

[Docket No. ER77-499]

KANSAS CITY POWER & LIGHT CO.

Filing of Service Schedule

SEPTEMBER 13, 1977.

Take notice that on August 23, 1977, Kansas Power & Light Co. (KCPL) tendered for filing a Service Schedule under the Missouri Participation Agreement, KCPL's Rate Schedule FPC No. 31A, Supplement No. 2. KCPL requests that said Service Schedule be permitted to become effective thirty (30) days after filing. KCPL states that the Service Schedule provides for the sale of Two Unit Capacity Participation Service to Associated Electric Cooperative, Inc. (AEC).

KCPL states that AEC needs to be assured of the availability of capacity from KCPL for the years 1980 and 1981.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 30, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27303 Filed 9-19-77;8:45 am]

[Docket No. RP76-64 (PGA77-2)]

MOUNTAIN FUEL SUPPLY CO.

Tariff Sheet Filing Effective October 1, 1977

SEPTEMBER 14, 1977.

Take notice that on August 15, 1977, Mountain Fuel Supply Co., pursuant to Section 154.62 of the Commission's Regulations under the Natural Gas Act, filed Fourth Revised Sheet No. 3–A to its FPC Gas Tariff Original Volume No. 1. Mountain Fuel states that the filed tariff sheet relates to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment provision authorized by the Commission's order issued February 27, 1976 in Docket No. RP76–64. More specifically the tariff sheet reflects a net rate decrease over that currently being collected of 11.5¢/MCF (X–4) and 12.8¢/(X–5) and are to be effective October 1, 1977.

Any person desiring to be heard and to make any protest with reference to said filing should on or before September 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 of 1.10). All protests filed with the Commission will be considered by it but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's Rules. Mountain Fuel Supply Co.'s tariff filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27309 Filed 9-19-77;8:45 am]

[Docket No. CP76-460]

NATURAL GAS PIPELINE CO. OF AMERICA

Petition to Amend

SEPTEMBER 13, 1977.

Take notice that on August 24, 1977, Natural Gas Pipeline Co. of America (Petitioner), 122 South Michigan Ave-

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nue, Chicago, Ill. 60603, filed in Docket No. CP76-460 a petition to amend the Commission's order of October 6, 1976, issued in the instant docket (56 FPC) pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Commission's Regulations thereunder (18 CFR 157.7(b)) so as to conform the authorization to reflect the actual construction of budget-type gas purchase facilities at a cost in excess of the authorized single offshore project cost limitation permitted by the subject order, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the Commission's order of October 6, 1976, in the instant docket, Petitioner was authorized under budget-type authorization to construct and operate certain natural gas facilities to take natural gas which would be purchased from producers during the twelve-month period commencing October 1, 1976. It is stated that said order limited the total expenditures during the 12-month period to $10 million, with no single on-shore project to exceed a cost of $1,500,000 and no single offshore project to exceed a cost of $2,500,000.

Petitioner states that it entered into a gas purchase contract dated May 1, 1974, with Shell Oil Co. (Shell) to purchase gas from Block 331, Eugene Island Area, offshore Louisiana, and that first delivery of gas from the field at Shell's Block 331-A Platform was made on October 2, 1974. Petitioner further states that in October 1976 Petitioner and Shell agreed to connect additional reserves of gas available from Shell's Block 331-B Platform and that it was estimated that an additional 60,000 to 75,000 Mcf per day would be available to help Petitioner in its critical need for gas supply to meet the 1976-77 winter heating season demand. Petitioner asserts that even though the construction of offshore facilities late in the construction season is risky, Petitioner budgeted substantial finances to cover weather and contingencies. Petitioner felt it could reasonably be assured that the project could be completed under the $2.5 million single project limit, it is indicated.

Petitioner states that the weather encountered during the 1976-77 winter in the Gulf of Mexico was the most severe since offshore pipelining began, that the high seas and winds commenced earlier than ever before, in October, and that the percentage of construction days was the lowest on record between October 1, 1976, and March 15, 1977. The commencement of construction was delayed over a month because the lay barge was delayed in the completion of previous commitments, and continued adverse weather resulted in a construction period of 52 days compared to an estimate of 14 days plus weather downtime, it is said. Petitioner states that the facilities were placed in service on March 10, 1977.

Petitioner indicates that it has now determined that the estimated final cost of said facilities would be $4,139,229. The lay barge weather standby, diving and engineering services and boat rental charges were over $2 million higher than estimated, it is said. Accordingly, Petitioner requests that the authorization be amended to make the single project cost limitation for this project $4,150,000.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 5, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27304 Filed 9-19-77;8:45 am]

[Docket No. RP76-157]

NORTHERN NATURAL GAS CO.

Rate Settlement Proposal

SEPTEMBER 14, 1977.

Take notice that on August 29, 1977, Northern Natural Gas Co. (Northern) filed with the Commission in Docket No. RP76-157 a settlement proposal which, if approved, will resolve all issues in the proceeding.

Northern states that the settlement proposal was served on all parties of record, all jurisdictional customers, and interested state commissions.

Any person wishing to do so may submit comments in writing concerning Northern's settlement proposal. All comments should be addressed to the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, and should be mailed or filed on or before September 23, 1977. Northern's settlement proposal is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27310 Filed 9-19-77;8:45 am]

[Docket No. RP72-154 (PGA 77-4)]

NORTHWEST PIPELINE CORP.

Change in Rates Pursuant to Purchased Gas Cost Adjustment

SEPTEMBER 14, 1977.

Take notice that Northwest Pipeline Corp., on August 16, 1977, tendered for filing a proposed change in rates applicable to service rendered under rate schedules affected by and subject to Article 16, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in its FPC Gas Tariff, Original Volume No. 1. Such change in rates is for the purpose of (1) reflecting changes in Northwest's cost of purchased gas which will become effective on or before October 1, 1977, applied to volumes purchased for the twelve (12) month period ending June 30, 1977 and its change in unrecovered purchased gas costs since Northwest's prior semi-annual PGAC filing dated April 1, 1977, (2) crediting to all rate schedules except Rate Schedule SGS-1 through a special surcharge adjustment the difference between the estimated average storage injections cost into Clay Basin storage field and the estimated average cost of purchased gas included in Northwest's sales rates during the withdrawal season and (3) crediting to storage gas purchasers of Jackson Prairie storage withdrawal volumes under Rate Schedule SGS-1 through a special surcharge adjustment, the difference between the estimated average storage injection cost and the estimated base average cost of purchased gas included in Northwest's sales rates during the withdrawal season.

The current PGAC adjustment, for which notice is given herein, aggregates an increase of .972¢ per therm in all rate schedules affected by and subject to the PGAC. The annualized change in Northwest's purchased gas cost aggregates an increase of $80,731,524. Northwest proposes to recover, through a surcharge, the adjusted negative balance of $19,394,652 in its FPC Account No. 191, as of June 30, 1977 and the balance of $176,863 in its FPC Account No. 813, applicable to Northwest's Rate Schedule X-29 Deferred Exchange, as of June 30, 1977 and Northwest proposes to credit $1,994,680 applicable to storage gas purchasers from Clay Basin Storage to all rate schedules affected by and subject to the PGAC within this surcharge. Northwest also proposes to credit $2,281,284 to storage gas purchasers under Rate Schedule SGS-1 from Jackson Prairie Storage through a special surcharge adjustment. The proposed change in rates would increase Northwest's revenues from jurisdictional sales and service by $56,221,613.

Northwest is concurrently filing notices of changes in rates applicable to Section 13.4, Change in Rates to Reflect Curtailment Credits, contained in its Original Volume No. 1 Tariff and Article VI, Advance Payments, contained in Northwest's Stipulation and Agreement in Settlement of Rate Proceedings in Docket No. RP76-115 and Docket Nos. RP73-109 and RP74-95 (Reserved Issue). In accordance with the Commission's Order issued March 29, 1974 at Docket No. RP74-72 and the aforementioned Stipulation and Agreement, the rate adjustments under the Demand Charge Credit Adjustment provision and Advance Payment Tracker become effective on Northwest's PGAC adjustment date after 45 days notice. Accordingly, all three rate adjustments are reflected on the tendered Substitute Sixteenth Revised Sheet No. 10, which is proposed to become effective on October 1, 1977.

Any person desiring to be heard or to protest said filing should file a petition

to intervene or protest with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 23, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-27311 Filed 9-19-77;8:45 am]

[Docket No. CP77-609]

PANHANDLE EASTERN PIPE LINE CO. AND TRUNKLINE GAS CO.

Application

SEPTEMBER 13, 1977.

Take notice that on September 6, 1977, Panhandle Eastern Pipe Line Co. (Panhandle) and Trunkline Gas Co. (Trunkline), (Applicants), P.O. Box 1642, Houston, Tex. 77001, filed in Docket No. CP77-609 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange and transportation of natural gas for Michigan Gas Utilities Co. (MGU), an existing resale customer of both Panhandle and Trunkline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Panhandle and MGU have entered into a gas sales contract dated September 15, 1970, and Trunkline and MGU have entered into a gas sales contract dated October 31, 1961, under the terms of which Panhandle and Trunkline are authorized to sell and deliver gas to MGU. Applicants indicate that MGU desires to have part of its gas purchases from Panhandle transported by Trunkline to Trunkline to Trunkline's existing delivery point to MGU near White Pigeon, Mich.

Consequently, Applicants and MGU have entered into a gas transportation and exchange agreement dated June 14, 1977, under the terms of which MGU may designate up to 6,000 Mcf per day of its daily contract volume under its gas sales contract with Panhandle for delivery by Panhandle to Trunkline and subsequent redelivery by Trunkline to MGU at the existing Trunkline-MGU delivery point near White Pigeon, Mich. Applicants state that on any day that MGU might designate a volume of gas under its gas sales contract with Panhandle to be delivered to it at White Pigeon by Trunkline, Panhandle would make such volume available to Trunkline at the existing interconnection between Applicants near Tuscola, Ill., by decreasing its takes of gas from Trunkline by a quantity equal to that designated by MGU. Trunkline would use its best efforts to transport and deliver such volumes to MGU at White Pigeon, it is said.

It is stated that MGU has advised Panhandle that it has been experiencing low pressure problems in its service areas as a result of the curtailment by Applicants of monthly and daily volumes of gas sold and delivered to it. It is indicated that the proposed transportation and exchange of gas would assist MGU in eliminating such low pressure problems and would decrease the number of days MGU must withdraw large volumes from its storage operation for emergency pressure maintenance.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 5, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27305 Filed 9-19-77;8:45 am]

[Project No. 2780]

SOLANO IRRIGATION DISTRICT

Extension of Time

SEPTEMBER 13, 1977

On August 29, 1977, Solano Irrigation District filed a motion to extend the time within which to answer the petition to intervene filed August 8, 1977, by Pacific Gas & Electric Co. in the above designated docket.

Upon consideration, notice is hereby given that the date for filing answers to the August 8, 1977, petition to intervene is extended to and including September 22, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27306 Filed 9-19-77;8:45 am]

[Docket No. CI77-718]

SOUTH LOUISIANA PRODUCTION CO., INC. (OPERATOR), ET AL.

Limited-Term Certificate

SEPTEMBER 13, 1977.

Take notice that on August 8, 1977, South Louisiana Production Co., Inc. (Operator), et al. (SLAPCO), 3000 One Shell Plaza, Houston, Tex. 77002, filed an application for a limited-term certificate of public convenience and necessity with pregranted abandonment in Docket No. CI77-718 authorizing the sale of natural gas by SLAPCO, CRA Oil Exploration Co. (CRA), Carpenter Oil & Gas Co. (Carpenter), W. A. Moncrief, Jr. (Moncrief), and Reidy International, Inc. (Reidy).

SLAPCO, et al. request the issuance of a limited-term certificate authorizing the sale of natural gas produced from and attributable to the interests of SLAPCO, CRA, Carpenter, Moncrief, and Reidy in the Morris Heirs No. 1 Well, False River Field, West Baton Rouge Parish, La. The sale of gas proposed to be made from the Morris Heirs No. 1 well consists of a 60-day emergency sale to be effective as of August 1, 1977, and deliveries to commence on or about August 15, 1977, pursuant to Section 157.29 of the Commission's Regulations under the Natural Gas Act, to be immediately followed by a limited-term sale for an additional period extending through 7 a.m., on March 22, 1978. The sale is proposed to be made to Mid Louisiana Gas Co. (Mid Louisiana) pursuant to a Letter Agreement dated as of July 21, 1977. The agreement provides that SLAPCO, et al. retain the contractual right to refuse to accept any certificate of public convenience and necessity issued authorizing the proposed sale (1) if the certificate does not pregrant to SLAPCO, et al. the unconditional right to discontinue and abandon the sale at the conclusion of the period specified in the agreement, i.e., 360 consecutive days following March 27, 1977, or (2) if said certificate contains conditions affecting the price payable under the agreement which, in SLAPCO, et al.'s judgment, would be unduly burdensome either in the performance of the agreement or with respect to SLAPCO, et al.'s other gas operations.

Pursuant to the terms and conditions of the July 21, 1977 Agreement, Mid Louisiana would pay SLAPCO, et al. a rate of $1.53 per million Btu on a dry basis, plus 7 cents per Mcf as severance tax reimbursement, for all gas delivered under the agreement. Further, the parties have agreed that Mid Louisiana will reimburse SLAPCO, et al. for any new, increased or additional severance, production or similar taxes levied on and paid by SLAPCO, et al. The unit of volume for measurement purposes under the agreement is the State of Louisiana standard of 15.025 psia.

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It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27307 Filed 9-19-77;8:45 am]

[Docket No. RP72-121 (PGA77-4)]

SOUTHWEST GAS CORP.

Filing of Tariff Sheet

SEPTEMBER 14, 1977.

Take notice that on August 18, 1977, Southwest Gas Corp. ("Southwest") tendered for filing Twenty-First Revised Sheet No. 3A, constituting Original PGA-1 in its FPC Gas Tariff, Original Volume No. 1. According to Southwest, the purpose of this filing is to increase rates of Southwest under its Purchased Gas Adjustment Clause in Section 9 of its General Terms and Conditions contained in its FPC Volume No. 1.

Southwest states the instant notice of change in rates is occasioned solely by an increase in the cost of purchased gas which will become effective on October 1, 1977.

Southwest has requested an effective date of October 1, 1977, and states that copies of the filing have been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Co. and the California-Pacific Utilities Co.

Any person desiring to be heard, or to protest said filing, should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 23, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27312 Filed 9-19-77;8:45 am]

[Docket No. RP76-35 (PGA77-3)]

UTAH GAS SERVICE CO.

Proposed Change in FPC Gas Tariff

SEPTEMBER 14, 1977.

Take notice that Utah Gas Service Co., on August 18, 1977, tendered for filing a Notice of Rate Change pursuant to the Purchased Gas Cost Adjustments provision of its Special Rate Schedule No. X-1 under which surplus gas is sold to Northwest Pipeline Corp.

The purpose of the filing is to recover the jurisdictional portion of the increase in purchased gas costs which have or will become effective on or before October 1, 1977. Based on estimated sales in the twelve month period ending June 30, 1977, this increase in revenues on an annual basis attributable to the jurisdictional sales would be $7,829 subject to Btu adjustment. In addition, the filing provides for a surcharge to permit the recovery of an additional amount of $39,067 which is the balance of Account No. 191, Jurisdictional Portion of Unrecovered Gas Purchase Cost, at June 30, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 23, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27313 Filed 9-19-77;8:45 am]

[Docket No. ER77-474]

WISCONSIN PUBLIC SERVICE CORP.

Filing of Cost Support Information

SEPTEMBER 13, 1977.

Take notice that Wisconsin Public Service Corp. (WPSC) on August 25, 1977, tendered for filing cost support information. WPSC indicates that this cost support information is submitted in response to the Commission's letter of August 4, 1977, in which WPSC's original filing of June 27, 1977 ,was declared deficient.

WPSC states that it supports the principle of time-of-use pricing because it will more truly reflect WPSC's cost of service. WPSC further states that the information filed herein clarifies the original submittal of June 27, 1977. WPSC reiterates its request for a waiver of the Commission's notice requirements to allow an effective date of July 1, 1977 for the Agreement originally filed.

Any person desiring to protest said filing should file a protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All protests should be filed on or before September 23, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27308 Filed 9-19-77;8:45 am]

FEDERAL RESERVE SYSTEM

ATOKA STATE BANCORPORATION, INC.

Formation of Bank Holding Company

Atoka State Bancorporation, Inc., Atoka, Okla., has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Atoka State Bank, Atoka, Okla. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 11, 1977.

Board of Governors of the Federal Reserve System, September 14, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-27228 Filed 9-19-77;8:45 am]

CAPITOL BANCORPORATION

Proposed Acquisition of Key Entry, Inc.

Capitol Bancorporation, Boston, Mass., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Key Entry, Inc., Boston, Mass. Notice of the application was published on June 30, 1977, in The Boston Globe, a newspaper circulated in Boston, Mass.

Applicant states that the proposed subsidiary would engage in the following activities: preparation of computerized business and financial information, invoicing, preparation of payroll accounts and related payroll/withholding tax information for small and medium-sized corporations and local banks. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board aproval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably

be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 11, 1977.

Board of Governors of the Federal Reserve System, September 13, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-27229 Filed 9-19-77;8:45 am]

COUNTY NATIONAL BANCORPORATION

Acquisition of Bank

County National Bancorporation, Clayton, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of Bank of Louisiana, Louisiana, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than October 12, 1977.

Board of Governors of the Federal Reserve System, September 14, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-27230 Filed 9-19-77;8:45 am]

EQUITABLE BANCORPORATION

Order Approving Acquisition of Bank

Equitable Bancorporation, Baltimore, Maryland, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of the successor by merger to University National Bank, Rockville, Maryland ("Bank"). Applicant presently owns 55.9 percent of the outstanding voting shares of Bank.[1] The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of all the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of all the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the second largest banking organization in Maryland, controls five banks with aggregate deposits of approximately $1.2 billion representing 2.7 percent of the total deposits in commercial banks in the State.[2] Applicant presently owns 55.9 percent of the voting shares of Bank ($96.8 million in deposits), which is the eighteenth largest banking organization in the Maryland portion of the Washington, D.C. SMSA (which approximates the relevant banking market). In light of Applicant's pre-existing ownership interest in Bank, consummation of the subject proposal would not have any adverse effect upon existing or potential competition, nor would it increase the concentration of banking resources or have an adverse effect on other banks in the area. Competitive considerations, therefore, are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its other subsidiary banks and Bank are considered satisfactory and the future prospects for each appear favorable. Thus, banking factors are consistent with approval of the application. Although there will be no immediate increase in the services offered by Bank as a result of the proposed transaction, considerations relating to the convenience and needs of the community to be served are consistent with approval. It is the Board's judgment that the proposed transaction would be consistent with the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

[1] By Order of January 5, 1973 (38 FR 1539), the Board approved Applicant's application to acquire its current stock interest in Bank.

[2] All banking data are as of December 30, 1976.

By order of the Board of Governors,[3] effective September 13, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-27231 Filed 9-19-77;8:45 am]

FORTUNE INSURANCE CO., INC.

Formation of Bank Holding Company

Fortune Insurance Company, Inc., Hugoton, Kansas, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent (less directors' qualifying shares) of the voting shares of The First State Bank, Norton, Kansas. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 11, 1977.

Board of Governors of the Federal Reserve System, September 13, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-27232 Filed 9-19-77;8:45 am]

GILMAN INVESTMENT CO.

Formation of Bank Holding Company

Gilman Investment Co., Gibson, Iowa, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 84.3 percent of the voting shares of Citizens Savings Bank, Gilman, Iowa. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 12, 1977.

Board of Governors of the Federal Reserve System, September 14, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[3] Voting for this action: Vice Chairman Gardner and Governors Coldwell, Jackson and Partee. Absent and not voting: Chairman Burns and Governors Wallich and Lilly.

[FR Doc.77-27233 Filed 9-19-77;8:45 am]

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GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on September 14, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FEA request are invited from all interested person, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before October 11, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Review, United States General Accounting Office, Room 5033, 441 G Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

FEDERAL ENERGY ADMINISTRATION

The FEA requests clearance of revised Form FEA–P112–M–2, No. 2 Heating Oil Supply/Price Monitoring Report. The FEA states that there are three changes that have been made to the present Form FEA–P112–M–1 (expiring 6/30/79) and which necessitate this clearance request. The changes are: (1) deletion of the telephonic survey Schedule A–2 (the other schedules remain unchanged); (2) expansion and clarification of the form's instructions including specific directions concerning companies' requests for treatment of data as confidential; and (3) expansion of the respondent sample from 600 to 2,000 companies. These changes were necessitated by revisions to the FEA middle distillate post-exemption monitoring system as a result of experience gained during the 1976–77 heating season, and comments received from the petroleum industry, state governments and consumer groups.

Form FEA–P112–M–2 is required in order that FEA execute its role in monitoring certain volumetric cost, margin and price movements for No. 2 heating oil within the petroleum industry and to perform analyses and projections related to supplies, demands, margins and prices pursuant to Public Law 93–275, section 52, as amended by Public Law 94–385.

The proposed mandatory form will be mailed to a stratified sample of 2,000 sellers of No. 2 heating oil selected from the total universe of 7,430 companies. The strata will be the same as those used for the Form FEA–P112–M–1.

Stratum 1 will consist of all companies reporting national total annual sales of 10,000,000 gallons or more of No. 2 heating oil. There are approximately 230 of these companies and they will all be included in the sample.

Stratum 2 will consist of those companies having annual sales of 2,000,000 to 10,000,000 gallons of No. 2 heating oil. There are approximately 1,200 companies in this stratum and they will be sampled by state.

Stratum 3 will consist of those companies having annual sales under 2,000,000 gallons of No. 2 heating oil of which there are approximately 6,000 firms.

A detailed cover letter and the FEA–P112–M–2 form and instructions will be mailed to every selected firm. The form will be required to be filed no later than 20 days after the close of each calendar month. FEA estimates a monthly respondent burden of 5 hours per report. This burden is the same as that estimated for the FEA–P112–M–1 minus the one hour for the telephonic survey.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-27256 Filed 9-19-77;8:45 am]

GOVERNMENT PRINTING OFFICE

DEPOSITORY LIBRARY COUNCIL TO THE PUBLIC PRINTER

Meeting

The Depository Library Council to the Public Printer will meet on October 17 and 18, 1977, at the Holiday Inn (Crystal City), 1489 Jefferson Davis Highway, Arlington, Va.

The purpose of this meeting is to discuss the Depository Library Program.

The meeting will be open to the public. Any member of the public who wishes to attend shall notify Mr. J. D. Livsey, Head, Library and Statutory Distribution Service, Government Printing Office, Washington, D.C. 20401 (telephone area code 703–557–2050).

General participation by members of the public, or questioning of Council members or other participants, shall be permitted with approval of the Chairman.

Dated: August 29, 1977.

T. F. MCCORMICK,
Public Printer.

[FR Doc.77-27247 Filed 9-19-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

IMMUNIZATION PRACTICES ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Center for Disease Control announces the following Committee meeting:

NAME: Immunization Practices Advisory Committee.

DATES: October 5–7, 1977.

PLACE: Room 207, Building 1, Center for Disease Control, 1600 Clifton Road NE., Atlanta, Ga. 30333.

TIME: 8:30 a.m.

TYPE OF MEETING: Open.

CONTACT PERSON:

H. Bruce Dull, M.D., Executive Secretary of Committee, Building 1, Room 2118, Center for Disease Control, 1600 Clifton Road NE., Atlanta, Ga. 30333. Phone: AC/404 633–3311, Extension 3701, FTS: 236–3701.

PURPOSE: The Committee is charged with advising on the appropriate uses of immunizing agents for public health practice.

AGENDA: The Committee will continue its review of existing recommendations on vaccines of public health importance and proceed with their updating.

Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: September 12, 1977.

WILLIAM H. FOEGE,
Director,
Center for Disease Control.

[FR Doc.77-27146 Filed 9-19-77;8:45 am]

Food and Drug Administration

[Docket No. 76P-0158]

LIBBY, McNEILL & LIBBY, INC.

Canned Peaches Deviating From Identity Standards; Extension of and Amendment to a Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces that a temporary permit to market test a new style of peaches designated as "chunky" issued to Libby, McNeill & Libby, Inc., has been extended and amended, as requested. The amendment provides for market testing of an additional 60,000 cases of twenty-four 16-ounce cans of the test product to be packed this year. The amendment also provides for the expansion of the marketing areas. The finished product deviates from the standard of identity for canned peaches.

EFFECTIVE DATE: This amended permit is effective on September 20, 1977, and shall terminate either on the effective date of an affirmative order ruling on the Libby, McNeill & Libby, Inc., petition or 30 days after a negative order ruling on the petition, whichever the case may be.

FOR FURTHER INFORMATION CONTACT:

Benjamin M. Gutterman, Bureau of Foods (HFF–402), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204 (202–245–1231).

SUPPLEMENTARY INFORMATION: The original permit was issued to Libby, McNeill & Libby, Inc., pursuant to § 130.17 (21 CFR 130.17, formerly § 10.5) concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). Notice of the issuance of the permit was published in the FEDERAL REGISTER of September 17, 1976 (41 FR 40205). This permit covered limited interstate marketing tests of canned peaches that deviate from the standard of identity prescribed in § 145.170(a) (21 CFR 145.170(a)), in that the optional style of chunky peaches (units predominantly greater than ½ inch and less than 1¾ inches in the largest dimension) is not provided for in the standard. The product is packed in heavy syrup and contains artificial peach flavor, both of which are already provided for in the standard. In addition to the name "chunky peaches," the principal display panel of the label contains the words "in heavy syrup".

Libby, McNeill & Libby, Inc., has submitted a petition, in conjunction with the request for an extension and amendment to the temporary permit, proposing that the standards of identity and quality for canned peaches (21 CFR 145.170) be amended to provide for the optional style "chunky" peaches. The petition, which is being considered by the Food and Drug Administration, is on file with the Hearing Clerk, Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, for review by interested persons.

The Commissioner concludes that it will be in the interest of consumers to extend the time period and amend the temporary permit as requested. Pursuant to § 130.17, all interested persons may participate in the market tests under the conditions that apply to Libby, McNeill & Libby, Inc., including the labeling requirements and the amounts to be distributed (60,000 cases of twenty-four 16-ounce cans of peaches). The amendment also provides for the expansion of the marketing areas to include Illinois (excluding Chicago), Eastern Kansas, Minnesota, Missouri, North Dakota, Oklahoma, and South Dakota, in addition to Iowa, Nebraska, New York, and Pennsylvania. The designated area of distribution does not apply to such interested persons. Any interested person who elects to participate in the extended market test shall notify the Commissioner in writing of that fact, the amount to be distributed, and the area of distribution. Along with such notification, he shall submit the labeling under which the food is to be distributed.

This permit extension, as issued to Libby, McNeill & Libby, Inc., and such others who participate in accordance with the provisions set out above, expires either on the effective date of an affirmative order ruling on the petition of Libby, McNeill & Libby, Inc., or 30 days after a negative order ruling on the petition, whichever the case may be.

Dated: September 12, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-27069 Filed 9-19-77;8:45 am]

MILK AND MILK PRODUCTS SANITATION

Memorandum of Understanding With National Conference on Interstate Milk Shipments

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration has executed a memorandum of understanding with the National Conference on Interstate Milk Shipments. The purpose of the agreement is to strengthen the Interstate Milk Shippers Program by setting forth the responsibilities of each agency in the cooperative effort to ensure the sanitary quality of milk and milk products shipped interstate.

DATE: The agreement became effective August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Gary Dykstra, Compliance Coordination and Policy Staff (HFC–13), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3470).

SUPPLEMENTARY INFORMATION: Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697), stating that future memoranda of understanding and agreements between FDA and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs is issuing the following memorandum of understanding:

MEMORANDUM OF UNDERSTANDING BETWEEN THE U.S. FOOD AND DRUG ADMINISTRATION AND THE NATIONAL CONFERENCE ON INTERSTATE MILK SHIPMENTS

BACKGROUND

The Food and Drug Administration (FDA) is the federal agency responsible for enforcing the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq. Included within the FDA's responsibilities under the Act is the responsibility for regulation of foods shipped in interstate commerce, including milk and milk products.

The National Conference on Interstate Milk Shipments (NCIMS) is a voluntary organization directed and controlled by the member States and open to all persons interested in its objective of promoting the availability of a high quality milk supply. It is governed by an Executive Board whose members include representatives from state departments of health and agriculture, the FDA, the U.S. Department of Agriculture and industry.

Through their collaborative efforts, the FDA and the NCIMS have developed a cooperative, federal-state program (the Interstate Milk Shippers Program) to ensure the sanitary quality of milk and milk products shipped interstate. The Program is operated primarily by the States, with FDA providing varying degrees of scientific, technical and inspection assistance as provided by FDA Publication No. 72–2022, Procedures Governing the Cooperative Federal-State Program for Certification of Interstate Milk Shippers ("Procedures Manual"). The result has been the establishment of a viable and effective certification and enforcement program which has been of significant benefit to consumers.

The Interstate Milk Shippers Program relies upon the Grade "A" Pasteurized Milk Ordinance and related technical documents referred to in the Procedures Manual for the sanitary standards, requirements and procedures it follows to ensure the safety and wholesomeness of Grade "A" milk and milk products. FDA considers these standards, requirements, and procedures to be adequate for the protection of the health and safety of the consumer. Sources of Grade "A" milk and milk products intended for use on interstate conveyances and subject to the Interstate Conveyance Sanitation Regulations (21 CFR 1250 et seq.) promulgated pursuant to the Public Health Service Act (42 U.S.C. 264) are considered approved sources for purposes of 21 CFR 1250.26 if they have a State or local permit, are under the routine inspection of a State or local regulatory agency and meet the provisions of the Procedures Manual.

PURPOSE

The purpose of this Memorandum is to strengthen the Interstate Milk Shippers Program by stating the responsibilities of the FDA and the NCIMS for execution of the Program, the means for resolving questions of interpretation that may arise in the execution of the Program, and the means for making modifications in the Program.

AGREEMENT

The FDA and the NCIMS have agreed upon the following principles:

A. The Interstate Milk Shippers Program shall be governed by the provisions of the current FDA Publication No. 72–2022, Procedures Governing the Cooperative Federal-State Program for Certification of Interstate Milk Shippers, and by the documents referenced therein. Copies of all governing documents are available for review in the office of the Food and Drug Administration, Hearing Clerk.

B. The responsibilities of the NCIMS, the participating States, and FDA for execution of the Interstate Milk Shippers Program shall be as stated in the above referenced Procedures Manual.

C. Failure on the part of any certified state milk sanitation rating officer, state milk laboratory survey officer, or state sampling surveillance officer to comply with the provisions of this Memorandum or the Procedures Manual shall be sufficient cause for FDA to proceed to a hearing to provide said rating officer, laboratory survey officer, or sampling surveillance officer an opportunity to show cause why his/her certification or approval should not be revoked.

D. It shall be the right of the NCIMS and each participating State to request and receive consultation with the appropriate representative of the FDA to discuss the provisions of this Memorandum or problems encountered in the execution of the provisions of the Procedures Manual. The initial contact office at FDA for all inquiries pertaining to the Program is the Bureau of Foods (HFF–415), FDA, 200 C Street SW., Washington, D.C. 20204.

E. It shall be the right of the FDA to request and receive consultation with appropriate officials of the NCIMS or any of its member States to discuss the provisions of this Memorandum or problems encountered in the execution of the provisions of the Procedures Manual. The Executive Board of NCIMS can be contacted by FDA personnel through the Bureau of Foods (HFF–415) at the address indicated in paragraph D, above.

F. Problems of interpretation regarding provisions of the Procedures Manual and the documents referenced therein, or their application, shall be subject to resolution by mutual agreement of the parties.

G. Changes in the provisions of the Procedures Manual and the documents referred

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to therein shall be mutually concurred in by NCIMS and FDA.

H. This Memorandum of Understanding may be modified by mutual consent of the parties and may be terminated by either party upon a thirty (30) day advance written notice to the other. Any modification or notice of termination will be published in the FEDERAL REGISTER

For the FDA.

Dated: August 5, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

For the NCIMS.

Dated: June 28, 1977.

H. H. VAUX,
Chairman, NCIMS.

Effective date: This Memorandum of Understanding became effective August 5, 1977.

Dated: September 12, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77 27071 Filed 9-19-77;8:45 am]

[Docket No. 76N-0331]

MERCK & CO., INC., ET AL.

Streptomycin, or Dihydrostreptomycin Boluses and Tablets with Sulfonamides; Withdrawal of Approval of Certain NADA's

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document amends a notice of opportunity for hearing as it pertains to Merck & Co. and withdraws approval of certain new animal drug applications (NADA 65-048, NADA 65-091, NADA 65-093) for which timely appearances in response to the notice were not filed.

EFFECTIVE DATE: September 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4313).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of September 16, 1976 (41 FR 39823), the Food and Drug Administration issued a notice of opportunity for hearing proposing to withdraw approval of the following new animal drug applications (NADA's) for streptomycin or dihydrostreptomycin boluses and tablets with sulfonamides:

NADA 65-070; Sulfastrep Bolus and Pro-Pak Sulfastrep (streptomycin sulfate, sulfamethazine, phthalylsulfathiazole and kaolin). Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., Rahway, N.J. 07065.

NADA 65-048; Sul-Mycin Calf Scour Bolus, Karan Bolus and Wayne Calf Bolus (an activated attapulgite, sulfathiazole, phthalylsulfacetamide, dihydrostreptomycin sulfate and pectin). Philips Roxane, Inc., St. Joseph, Mo. 64502.

NADA 65-091; Dihydrostreptomycin-Sulfonamide Tablets (several products consisting of dihydrostreptomycin sulfate in combination with various sulfonamides including phthalylsulfacetamide, sulfathiazole, sulfamerazine, sulfacetamide, phthalylsulfathiazole, sulfamethazine, sulfaguanidine); NADA 65-093; Streptomycin-Sulfonamide Tablets (streptomycin sulfate, phthalylsulfathiazole, sulfamethazine and kaolin). Vet Products Corp., Kansas City, Mo. 64108.

The notice of opportunity for hearing was based upon a finding by the Director of the Bureau of Veterinary Medicine (Director) that:

1. New information with respect to the drug products, evaluated together with evidence available at the time of the approval of the products, shows there is a lack of substantial evidence that the drug products will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling;

2. New evidence not available until after such application was approved, evaluated together with the evidence available when the application was approved, shows such drug is not shown to be safe for use under the conditions of use upon the basis of which the application was approved; and

3. The applicants have failed to make such required reports in accordance with a regulation under section 512(1) of the act (21 U.S.C. 360b(1)).

Merck and Co. responded to the notice of opportunity of hearing for NADA 65-070 by letter, dated October 8, 1976. Merck stated that it was doing the required efficacy studies, that it had submitted the subacute toxicity studies required by § 510.450 (21 CFR 510.450) for phthalylsulfathiazole, and that it had authorization from its supplier of sulfamethazine to use their safety information. For these reasons, Merck stated that it should not have been included in the notice proposing the withdrawal of NADA's and that the proposal to amend § 544.173a (21 CFR 544.173a) by deleting the provisions that provide for certification of its product should be withdrawn.

The Director has evaluated Merck's response and has determined it to be an adequate basis for delaying a withdrawal action as it pertains to NADA 65-070. Therefore, the Director agrees that NADA 65-070 should be excluded from the notice of opportunity for hearing.

Neither Philips Roxane, Inc., nor Vet Products Corp. filed a timely written appearance or request for hearing in response to the notice within the 30-day period provided, as required by § 514.200 *Contents of notice of opportunity for a hearing* (21 CFR 514.200). Such failure is construed as an election not to avail themselves of the opportunity for hearing and is grounds for entering a final order without further notice.

Elsewhere in this issue of the FEDERAL REGISTER, the Director is terminating a proposal to delete from the regulations the provision that permits the certification of streptomycin/dihydrostreptomycin tablets that contain a sulfonamide.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and in accordance with §514.155 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that the notice of opportunity for hearing published in the FEDERAL REGISTER of September 16, 1976 (41 FR 39823) is amended as it pertains to Merck, removing Merck from its scope; and, that approvals of NADA 65-048, NADA 65-091, and NADA 65-093 and all supplements and amendments thereto are hereby withdrawn, effective September 20, 1977.

Dated: September 13, 1977.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.77-27255 Filed 9-19-77;8:45 am]

Health Services Administration

NATIONAL ADVISORY COUNCIL ON MIGRANT HEALTH

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1977:

NAME: National Advisory Council on Migrant Health.

DATE AND TIME: November 8-10, 1977, 9 a.m.

PLACE: Conference Room K, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

OPEN for entire meeting.

PURPOSE: The Committee is charged with advising, consulting with, and making recommendations to the Secretary and the Administrator, Health Services Administration, concerning the organization, operation, selection, and funding of Migrant Health Centers and other entities under grants and contracts under section 319 of the Public Health Service Act.

AGENDA: The Council will consider the following: (1) Quality of health care and how it is focused in the migrant health centers and projects; (2) integration of mental health, alcohol and drug abuse diagnosis, treatment and prevention programs with migrant health programs; (3) program development and coordination of services with Federal, State and community organizations and their providers and staff.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Billy W. Sandlin, Bureau of Community Health Services, Room 7A-55, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, telephone 301-443-1153.

Agenda items are subject to change as priorities dictate.

Dated: September 12, 1977.

WILLIAM H. ASPDEN, JR.,
Associate Administrator for Management.

[FR Doc.77-27248 Filed 9-19-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Wyoming 60720]

WYOMING

Application

SEPTEMBER 9, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Western Transmission Corp. of Rawlins, Wyo., filed an application for a right-of-way to construct a 4-inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 15 N., R. 90 W.,
Sec. 31, lots 6 and 7.
T. 14 N., R. 91 W.,
Sec. 1, lots 5, 9-11;
Sec. 12, lot 1, W½E½ and SE¼SW¼;
Sec. 13, NE¼NW¼.

The pipeline will transport natural gas within T. 14 N., R. 91 W., and T. 15 N., R. 90 W., 6th P. M., Carbon County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-27225 Filed 9-19-77;8:45 am]

National Park Service

[DES 77-26]

CUMBERLAND GAP NATIONAL HISTORICAL PARK, TENNESSEE, KENTUCKY, AND VIRGINIA; PROPOSED MASTER PLAN

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Draft Environmental Statement on the proposed Master Plan for Cumberland Gap National Historical Park.

The statement discusses proposals for the management, development and operation of Cumberland Gap National Historical Park.

Written comments on the Environmental Statement are invited and will be accepted on or before November 4, 1977. Comments should be addressed to the Regional Director, Southeast Region, or the Superintendent, Cumberland Gap National Historical Park, at the addresses given below.

Copies are available from or for inspection at the following locations:

Southeast Regional Office, National Park Service, 1895 Phoenix Boulevard, Atlanta, Ga. 30349.
Superintendent, Mammoth Cave National Park, Mammoth Cave, Ky. 42259.
Superintendent, Cumberland Gap National Historical Park, P.O. Box 840, Middlesboro, Ky. 40965.

NOTE.—The U.S. Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: August 17, 1977.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-27238 Filed 9-19-77;8:45 am]

DEATH VALLEY NATIONAL MONUMENT

Availability of Mining Plan of Operations

Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, U.S. Mining Corp. has filed a Plan of Operations in support of proposed mining activities on lands embracing its Le Moine Mining Claim Group within the Death Valley National Monument. This plan is available for public inspection during normal business hours at the Death Valley National Monument Headquarters, Death Valley, Calif.

Dated: July 25, 1977.

DONALD M. SPALDING,
Superintendent, Death Valley National Monument.

Dated: August 23, 1977.

HOWARD H. CHAPMAN,
Regional Director, Western Region.

[FR Doc.77-27242 Filed 9-19-77;8:45 am]

DEATH VALLEY NATIONAL MONUMENT

Availability of Mining Plan of Operations

Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the proyisions of section 9.17 of 36 CFR Part 9, Alex Hegedus has filed a Plan of Operations in support of proposed mining activities on lands embracing his Lost Burro Mining Claim Group within the Death Valley National Monument. This plan is available for public inspection during normal business hours at the Death Valley National Monument Headquarters, Death Valley, Calif.

Dated: August 17, 1977.

DONALD M. SPALDING,
Superintendent, Death Valley National Monument.

Dated: August 25, 1977.

BRUCE M. KILGORE,
Acting Regional Director, Western Region.

[FR Doc 77-27243 Filed 9-19-77;8:45 am]

[INT DES 77-29]

EVERGLADES NATIONAL PARK, FLA.; PROPOSED MASTER PLAN

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Draft Environmental Statement on the proposed Master Plan for Everglades National Park.

The statement discusses proposals for the management, development and operation of Everglades National Park.

Written comments on the Environmental Statement are invited and will be accepted on or before November 4, 1977. Comments should be addressed to the Regional Director, Southeast Region, or the Superintendent, Everglades National Park, at the address given below.

Copies are available from or for inspection at the following locations:

Southeast Regional Office, National Park Service, 1895 Phoenix Boulevard, Atlanta, Ga. 30349.
Superintendent, Everglades National Park, P.O. Box 279, Homestead, Fla. 33030.
Superintendent, Biscayne National Monument, P.O. Box 1369, Homestead, Fla. 33030

Dated: August 31, 1977.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-27239 Filed 9-19-77;8:45 am]

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 9, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by September 30, 1977.

WILLIAM J. MURTAGH,
Keeper of National Register.

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ALABAMA

Madison County

Huntsville, *Saturn V Space Vehicle*, Tranquility base.

ARIZONA

Maricopa County

Glendale, *Beet Sugar Factory*, 5243 W. Glendale Ave.

Navajo County

Cibecue vicinity, *Grasshopper Ruin (AZ P: 14:1)*, 10 mi. NW of Cibecue within Fort Apache Indian Reservation.

CALIFORNIA

Los Angeles County

Altadena, *Pacific Electric Railway Company Substation No. 8 (Altadena Substation)*, 2245 N. Lake Ave.

Pasadena, *Pasadena Athletic and Country Club*, SE corner of E. Green St. and S. Los Robles Ave.

DELAWARE

Sussex County

Seaford vicinity, *Ross, Gov. William H. House (Ross Mansion, The)*, N of Seaford on Market St.

IDAHO

Idaho County

Kooskia vicinity, *Lochsa Historical Ranger Station*, near Kooskia.

MAINE

Lincoln County

Boothbay vicinity, *Damariscove Island Archeological Site*, Damariscove Island.

MONTANA

Meagher County

Harlowton vicinity, *Mud Creek Site (24 ME 93)*, near Harlowton.

Harlowton vicinity, *Whetstone Ridge Site (24 ME 409)*, near Harlowton.

Missoula County

Missoula vicinity, *Indian Vision Quest Site*, near Missoula.

NEW JERSEY

Mercer County

Trenton, *Trenton City Hall*, 309 E. State St.

OREGON

Baker County

Baker, *Baker Municipal Natatorium*, 2470 Grove St.

PENNSYLVANIA

Berks County

Wernersville vicinity, *Old Dry Road (Staudt Farm)*, 3 mi. NE of Wernersville on Highland Rd.

UTAH

Salt Lake County

Salt Lake City, *Henderson Block*, 375 W. 200 South.

VERMONT

Rutland County

East Poultney, *East Poultney Historic District*, Village Green and surrounding streets of Main, Meadow, River, and Thrall and North Rds.

[FR Doc.77-26904 Filed 9-19-77;8:45 am]

GREEN SPRINGS HISTORIC DISTRICT, LOUISA COUNTY, VA.

Negative Declaration for Redesignation of Historic District as National Historic Landmark and Request for Written Comments on Related Matters

Pursuant to a FEDERAL REGISTER notice of June 29, 1977, the Secretary of the Interior, among other matters, is reconsidering whether or not the Green Springs Historic District is of national historic significance and therefore properly designated as a National Historic Landmark and listed on the National Register as such. A public hearing on this issue, among others, was held on July 27, 1977, in Louisa County, Va., and the Department of the Interior has received several written comments. This notice is to announce that an environmental assessment of the impacts of determining that the Green Springs Historic District is properly a National Historic Landmark has been made, and upon review thereof it has been determined that an environmental impact statement on this possible action is not required.

Basically, the environmental assessment discusses the consequences of designation as a National Historic Landmark (and subsequent listing on the National Register), including the Secretary's responsibilities to preserve historic places and what measures may be taken to do this and examines the consequences of listing on the National Register, including the increased environmental and historic review attaching to Federal or Federally-assisted projects which may impact on such areas and the effect of section 2124 of the Tax Reform Act of 1976 which provides both Federal income tax benefits and detriments to certain properties located within historic districts located on the National Register. The alternative of not redesignating the area as a National Historic Landmark is also considered as are the nature of the resource, alternatives, and adverse affects.

The environmental assessment and review are on file and available upon request from the Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, Washington, D.C. 20240. Anyone desiring to comment upon the environmental assessment and review should put their comments in writing and send them to the Chief, Office of Archeology and Historic Preservation at the address noted above. Comments received within thirty days of the date of this notice shall be considered. The Secretary will not make a decision on the reconsideration of the designation of the Green Springs Historic District as a National Historic Landmark until the comment period has expired. The area will remain a National Historic Landmark until such time as the Secretary has made his decision.

As additional time for consideration is needed pursuant to the above, this notice also requests that any person wishing to comment in writing further or for the first time on any of the matters to be decided upon by the Secretary with respect to the Green Springs Historic District may do so to the address noted above within thirty days of the date of this notice. Those matters include: The acceptance of preservation easements for the Green Springs Historic District as described in FEDERAL REGISTER notices of March 18, 1977, May 18, 1977, and June 21, 1977; whether or not proper notice was given by the State of Virginia with respect to the nomination of the Green Springs Historic District to the National Register in 1973 as described in the June 29, 1977, FEDERAL REGISTER notice; and, as described above, whether or not the Green Springs Historic District is of national historic significance and thus properly designated as a National Historic Landmark in 1974 as described in the June 27, 1977, FEDERAL REGISTER notice. Any of the background documents mentioned in the notices indicated above are available to the public upon request.

With respect to the reconsideration of designation as a National Historic Landmark, two matters ought to be particularly noted. First, if the Green Springs Historic District is properly designated as a National Historic Landmark, it will remain listed on the National Register of Historic Places regardless of whether or not it was properly nominated to the National Register by the State of Virginia. Among the other consequences mentioned in the environmental assessment, particular attention should be given to, and comment is particularly invited upon, the fact that certain properties located within historic districts listed on the National Register are subject to certain Federal income tax benefits and detriments. These provisions are set forth fully in section 2124 of the Tax Reform Act of 1976 but basically provide for rapid depreciation or amortization of rehabilitation to depreciable property of historic significance to the district, loss of tax deductions for demolition of such depreciable property, and loss of accelerated depreciation benefits for properties built upon the site of such structures.

Particular attention is also called to the issue of whether the Green Springs Historic District is of national historic significance and comments are particularly requested based on the following criteria for determining if a district is of national historic significance: (1) Does the district have exceptional value or quality in illustrating or interpreting the historical heritage of our Nation illustrating a way of life in its developing culture? (2) Does the district possess integrity, that is, does it have a composite quality derived from original workmanship, original location and intangible elements of feeling and association inherent in an assemblage of historic buildings of visible architectural unity? When preserved or restored as integral parts of the environment, historic buildings not sufficiently significant individually by reason of historical association or architectural value may nonetheless collectively compose an historic district of national historic significance by meeting these criteria.

The decisions of the Secretary on the matters mentioned above will be made after expiration of the thirty day written comment period provided hereby and review of all comments received.

Dated: September 14, 1977.

JERRY L. ROGERS,
Chief, Office of Archeology and Historic Preservation.

[FR Doc.77-27282 Filed 9-19-77;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

ECGONINE FOR CONVERSION

Controlled Substances in Schedules I and II

Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On July 8, 1977, a notice of the proposed aggregate production quota for 1977 for Ecgonine For Conversion was published in the FEDERAL REGISTER (42 FR 35234). All interested parties were invited to comment or object to the proposed aggregate production quota on or before August 8, 1977. No comments or objections were received.

Therefore, under the authority vested in the Attorney General by section 306 of the Comprehensive Drub Abuse Prevention and Conrtrol Act of 1970 (21 U.S.C. 826), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration hereby orders that the aggregate production quota for the controlled substance listed below, expressed in grams of anhydrous base, be established as follows:

	Issued 1977 (700 kilograms)
Basic class:	
Ecgonine for conversion	700,000

This order is effective September 20, 1977.

Dated: September 13, 1977.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc.77-27272 Filed 9-19-77;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-1701]

AL-MAE CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1701: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977 in response to worker petition received on Feberuary 28, 1977 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing dresses at the Croyden, Pennsylvania plant at Al-Mae Company.

The notice of investigation was published in the FEDERAL REGISTER on March 11, 1977 (42 FR 13627). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Al-Mae Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at Al-Mae declined 1.7 percent in 1976 compared to 1975. Moreover, employment decreased 21.2 percent in the second half of 1976 compared to the same period in 1975. Average employment declined 27.7 percent in the first quarter of 1977 compared to the same quarter in 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company sales of women's dresses and sportswear increased 5.4 percent in 1976 compared to 1975, but decreased 36.5 percent in the second half of 1976 compared to the same period in 1975. Sales further declined 42.3 percent in the first quarter of 1977 compared to the same quarter in 1976.

INCREASED IMPORTS

Imports of women's and misses' dresses declined from 963,000 dozens in 1972 to 596,000 dozens in 1973 and then increased each year to 659,000 dozens in 1976. The ratio of imports to domestic production declined from 4.7 percent in 1972 to 3.2 percent in 1973 and then increased steadily to 4.5 percent in 1975 and 1976.

Imports of women's, misses', and children's coats and jackets were recorded at 1,769,000 dozen in 1972; 1,807,000 dozen in 1973; 1,478,000 dozen in 1974; and 1,517,000 dozen in 1975. In 1976 imports rose to 2,252,000 dozen, an increase of 48.5 percent from 1975. For the first quarter of 1977, imports increased to 590,000 dozen, representing an increase of 16.6 percent compared to 506,000 dozen in the first quarter of 1976. The ratio of imports to domestic production increased from 30.9 percent in 1974 to 35.4 percent in 1975 and to 52.2 percent in 1976.

Imports of women's, misses', and children's slacks and shorts decreased from 12,094,000 dozen in 1972 to 8,923,000 dozen in 1974 and then increased to 10,067,000 dozen in 1975. In 1976 imports rose to 11,040,000 dozen, an increase of 9.7 percent from 1975. For the first quarter of 1977, imports decreased to 3,373,000 dozen, representing a decline of 4.5 percent compared to 3,531,000 dozen in the first quarter of 1976. The ratio of imports to domestic production increased from 30.3 percent in 1974 to 33.0 percent in 1975 and to 39.0 percent in 1976.

Imports of women's, misses', and children's blouses and shirts increased in each year from 17,265,000 dozen in 1972 to 26,113,000 dozen in 1975. In 1976 imports rose to 30,273,000 dozen, in increase of 15.9 percent from 1975. For the first quarter of 1977, imports decreased to 8,280,000 dozen, representing a decline of 14.3 percent compared to 9,657,000 dozen in the first quarter of 1976. The ratio of imports to domestic production increased from 50.2 percent in 1973 to 70.4 percent in 1975 and to 76.0 percent in 1976.

Imports of women's, misses', and children's skirts decreased from 593,000 dozen in 1972 to 254,000 dozen in 1974 and then increased to 508,000 dozen in 1975. In 1976 imports rose to 780,000 dozen, an increase of 53.5 percent from 1975. For the first quarter of 1977, imports were recorded at 103,000 dozen, representing a decline of 61.3 percent compared to 266,000 dozen in the first quarter of 1976. The ratio of imports to domestic production increased from 4.9 percent in

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1974 to 10.6 percent in 1975 and to 12.2 percent in 1976.

Imports of women's, misses', and children's sweaters decreased from 8,087,000 dozen in 1972 to 7,990,000 dozen in 1973 and then increased to 8,965,000 dozen in 1975. In 1976 imports rose to 9,613,000 dozen, an increase of 7.2 percent from 1975. For the first quarter of 1977, imports were recorded at 816,000 dozen, representing a decline of 33.4 percent compared to 1,225,000 dozen in the first quarter of 1976. The ratio of imports to domestic production increased from 94.2 percent in 1973 to 115.1 percent in 1975 and to 122.3 percent in 1976.

Imports of women's, misses' and children's suits (including pantsuits and jumpsuits) increased each year from 306,000 dozens in 1972 to 412,000 dozens in 1975, and then declined to 408,000 dozens in 1976. Imports increased from 46,000 dozens in the first quarter of 1976 to 62,000 dozens in the same quarter in 1977. The ratio of imports to domestic production increased from 7.1 percent in 1972 to 12.3 percent in 1974 and then declined to 11.6 percent in 1976.

CONTRIBUTED IMPORTANTLY

A survey of customers of Al-Mae indicated that all of these customers purchased imported women's dresses and sportswear. Most of these customers shifted purchases from Al-Mae to foreign sources in 1976 and the first half of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's dresses and sportswear produced at the Croyden, Pennsylvania plant of Al-Mae Company contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Croyden, Pennsylvania plant of Al-Mae Company, who became totally or partially separated from employment on or after April 26, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc 77-27178 Filed 9-19-77;8:45 am]

[TA-W-2130]

CHICAGO BRIDGE & IRON CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2130: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 8, 1977 in response to a worker petition received on June 7, 1977 which was filed by the United Steelworkers of America on behalf of workers and former workers fabricating heavy plate carbon steel tanks at the New Castle, Delaware plant of Chicago Bridge and Iron Company.

The Notice of Investigation was published in the FEDERAL REGISTER on June 17, 1977 (42 FR 30936). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the United Steelworkers of America, officials of Chicago Bridge and Iron Company, the U.S. International Trade Commission, U.S. Department of Commerce publications, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important, but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

Evidence developed in the Department's investigation reveals that petroleum and water storage tanks are field erected tanks made of fabricated steel. The fabricated steel shapes or sections are transported to the construction site to be erected. Over 80 percent of all field erected storage tanks are produced by U.S. firms. United States firms have a competitive advantage over foreign firms because of the proximity of fabricating plants to the actual construction site.

Imports of field erected steel storage tanks are in a basket category in the Tariff Schedules of the United States. This category includes metal tanks of various types and sizes. Separately identifiable import statistics on petroleum and water storage tanks like or directly competitive with those produced by workers employed at the New Castle, Delaware plant of Chicago Bridge and Iron Company are not available. Various industry sources indicate that imports of field erected steel storage tanks are negligible. The consensus of industry sources is that the decline in domestic production of field erected steel storage tanks can be attributed to reduced capital expenditures by major domestic petroleum companies.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of fabricated steel tanks like or directly competitive with tanks produced at the New Castle, Delaware plant of the Chicago Bridge and Iron Company have not contributed importantly to separations or the threat hereof, nor to the decrease in sales or production at that plant as required in Section 222 of the Trade Act of 1974. The petition is, therefore, denied.

Signed at Washington, D.C. this 19th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-27179 Filed 9-19-77;8:45 am]

[TA-W-2112]

COLSHIRE MANUFACTURING CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2112: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 31, 1977, in response to a worker petition received on May 31, 1977, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's sleepwear at the Morgantown, W. Va. plant of the Colshire Manufacturing Co. a subsidiary of the Michael Berkowitz Co., Inc.

The notice of investigation was published in the FEDERAL REGISTER on June 17, 1977 (42 FR 30939). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Michael Berkowitz Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in, increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the Morgantown, W. Va. plant of the Colshire Manufacturing Co. declined 21.5 percent in 1975 compared to 1974 and remained unchanged in 1976 compared to 1975. Employment declined 1.6 percent and 12.7 percent in the second and fourth quarters of 1976, respectively, compared to the same quarters of 1975. Employment declined 37.5 percent in the first quarter of 1977 compared to the first quarter of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

The Michael Berkowitz Co., Inc. is a contractor. As such, sales and production are the same.

Company sales of men's sleepwear declined 4.0 percent in 1975 compared to 1974 and declined 6.7 percent in 1976 compared to 1975. Company sales of men's sleepwear declined 34.2 percent in the first quarter of 1977 compared to the first quarter of 1976.

INCREASED IMPORTS

U.S. imports of men's and boys' woven sleepwear declined from 815.0 thousand dozen in 1972 to 478.6 thousand dozen and 357.4 thousand dozen, respectively, in 1973 and 1974. U.S. imports increased to 415.2 thousand dozen and 457.0 thousand dozen, respectively, in 1975 and 1976.

The ratio of imported men's and boys' woven sleepwear to domestic production declined from 27.2 percent in 1972 to 17.0 percent and 13.8 percent, respectively, in 1973 and 1974. The ratio of imports to domestic production increased to 17.9 percent and 18.1 percent, respectively, in 1975 and 1976.

U.S. imports of men's and boys' knit sleepwear declined from 58.4 thousand dozen in 1972 to 21.8 thousand dozen and 11.9 thousand dozen, respectively, in 1973 and 1974. U.S. imports declined to 2.3 thousand dozen in 1975 before increasing to 50.3 thousand dozen in 1976.

The ratio of imported men's and boys' knit sleepwear to domestic production declined from 13.0 percent in 1972 to 4.6 percent and 2.4 percent, respectively, in 1973 and 1974. The ratio of imports to domestic production declined to 0.4 percent in 1975 before increasing to 7.9 percent in 1976.

CONTRIBUTED IMPORTANTLY

The sole customer of sleepwear produced by the Colshire Manufacturing Co. increased purchases of imported sleepwear from 1975 to 1976 while reducing purchases from Colshire as well as other domestic sources due to price considerations.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's sleepwear produced by the Colshire Manufacturing Co., Morgantown, W. Va., contributed importantly to the total or partial separation of the workers at that firm.

In accordance with the provisions of the Act, I make the following certification:

All employees at the Morgantown, W. Va. plant of the Colshire Manufacturing Co. who became totally or partially separated from employment on or after May 2, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-27181 Filed 9-19-77;8:45 am]

[TA-W-1899]

CYNTHIA SUE

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1899: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 24, 1977 in response to a worker petition received on March 24, 1977 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's dresses at Cynthia Sue, Swoyersville, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19175). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Cynthia Sue, its cutomers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number of proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the investigation revealed that the second criterion has not been met.

Cynthia Sue is an apparel contractor producing women's pant suits, as well as the women's dresses mentioned in the petition. As a contractor, the firm's sales equal production.

Company production increased 79.3 percent in quantity in 1975 compared to 1974, and further increased 12.5 percent in 1976 compared to 1975. Company production also increased 60.1 percent in the first half of 1977 compared to the first half of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales or production of women's dresses and pant suits at Cynthia Sue, Swoyerville, Pennsylvania, have not decreased as required for certification in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-27182 Filed 9-19-77;8:45 am]

[TA-W-1718]

FABIEN CORP.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 and in accordance with Section 223(a) of such Act, on June 9, 1977 the Department of Labor issued a certification to workers and former workers of Fabien Corporation, Lodi, New Jersey (TA-W-1718). The notice of certification was published in the FEDERAL REGISTER on June 17, 1977 (42 FR 30946).

At the request of a former employee of Fabien Corporation, further investigation was conducted by the Office of Trade Adjustment Assistance to determine if all workers separated from employment related to the production of printed fabric were covered by the certification. The investigation revealed some employees of Fabien were separated from employment prior to the impact date of May 28, 1976 and were never recalled.

Since the intent of the certification is to cover all workers separated from Fabien Corporation as a result of increased imports of printed fabric, the certification is revised to include all workers separated from employment at Fabien Corporation on or after February 17, 1976—one year prior to the signature date of the petition upon which the certification was based.

Based on additional evidence, a review of the entire record and in accordance

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with the provisions of the Act, I have determined that the impact date included in TA-W-1718, Notice of Certification, issued on June 9, 1977, should be revised.

The revised certification applicable to TA-W-1718 is hereby issued as follows:

All workers at Fabien Corporation, Lodi, New Jersey who became totally or partially separated from employment on or after February 17, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-27183 Filed 9-19-77;8:45 am]

[TA-W-2076]

FASHION MATE, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2076: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 18, 1977 in response to a worker petition received on May 18, 1977 which was filed by Local 155 of the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's pants suits at the Brooklyn, New York plant of Fashion Mate, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on May 31, 1977 (42 FR 27691). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from officials of Fashion Mate, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The firm discharged all employees in May 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

All production ceased in May 1976 and has not been resumed.

INCREASED IMPORTS

Women's pants suits are included in the import category "Women's, Misses' and Children's Suits." U.S. imports of women's, misses' and children's suits increased from 206 thousand dozen in 1972 to 245 thousand dozen in 1973, to 387 thousand dozen in 1974, and to 412 thousand dozen in 1975. Imports increased from 66 thousand dozen in the first 5 months of 1975 to 70 thousand dozen in the first 5 months of 1976.

The ratio of imports to domestic production of women's, misses' and children's suits increased from 7.1 percent in 1972 to 8.4 percent in 1973 and 12.3 percent in 1974 before declining to 12.2 in 1975. Production data are not available for fractions of a year; therefore, no ratio is available for the first 5 months of 1976 or the like period in 1975.

CONTRIBUTED IMPORTANTLY

Fashion Mate, Incorporated was a contractor engaged in cutting and sewing of women's pants suits. During its last two years of operation, it produced principally for one manufacturer. This manufacturer reduced purchases from Fashion Mate and increased purchases of imported pants suits. On June 15, 1976 all of the stock of Fashion Mate, Inc. was sold. Under the new owners, the firm became a retailer.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's pants suits produced at the Brooklyn, New York plant of Fashion Mate, Incorporated contributed importantly to the total or partial separations of workers of the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Brooklyn, New York plant of Fashion Mate, Incorporated who became totally or partially separated from employment on or after April 28, 1976 and before June 16, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers separated on or after June 16, 1976 are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 6th day of September 1977.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary International Affairs.

[FR Doc.77-27184 Filed 9-19-77;8:45 am]

[TA-W-2057]

FRASER SHOE CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2057: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 10, 1977 in response to a worker petition received on May 4, 1977 which was filed on behalf of workers and former workers producing women's shoes at the Union, Missouri plant of Fraser Shoe Company.

The Notice of Investigation was published in the FEDERAL REGISTER on May 27, 1977 (42 FR 27330). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Fraser Shoe Company, its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated; or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers employed at Fraser Shoe Company declined 14.6 percent from 1975 to 1976. Employment declined 12.5 percent in the first quarter of 1977 compared to the like period in 1975.

Average weekly hours declined 2.6 percent from 1974 to 1975 and further declined 10.8 percent from 1975 to 1976. Hours declined 8.8 percent in the first quarter of 1977 compared to the like period in 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of shoes by Fraser Shoe Company declined 7.8 percent in value from 1974 to 1975 and further declined 23.2 percent from 1975 to 1976. Sales declined 4.4 percent in the first quarter of 1977 compared to the like period in 1976.

INCREASED IMPORTS

Imports of women's nonrubber footwear increased from 192.9 million pairs in 1972 to 206.2 million pairs in 1973, declined to 179.8 million pairs in 1974, increased to 183.5 million pairs in 1975 and further increased to 183.8 million pairs in 1976. Imports declined from 56.4 million pairs in the first quarter of 1976 to 45.4 million pairs in the first quarter of 1977.

The ratio of imports to domestic production increased from 99.8 percent in 1972 to 115.0 percent in 1973, declined to 107.6 percent in 1974, increased to 119.1 percent in 1975 and declined to 108.8 percent in 1976. The ratio increased from 112.8 percent in the first quarter of 1976 to 120.1 percent in the first quarter of 1977.

CONTRIBUTED IMPORTANTLY

Customers that were surveyed have indicated that they have decreased purchases from Fraser Shoe Company and increased purchases of imported shoes. The lower price of imports was the factor cited most frequently for switching.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's shoes produced by the Fraser Shoe Company plant in Union, Missouri contributed importantly to the total or partial separations of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Fraser Shoe Company plant located in Union, Missouri who became totally or partially separated from employment on or after May 4, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-27185 Filed 9-19-77;8:45 am]

[TA-W-2169]

GENERAL ELECTRIC CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2169: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 23, 1977 in response to a worker petition received on the same date which was filed on behalf of workers and former workers producing color and monochrome televisions at the Portsmouth, Virginia plant of General Electric Company.

The notice of investigation was published in the FEDERAL REGISTER on July 12, 1977 (42 FR 35903). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of General Electric Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) that articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) that such increased imports have contributed importantly to the separations, or or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of color television production workers at the Portsmouth, Virginia plant of General Electric Company declined 30 percent from 1974 to 1975 and 3 percent from 1975 to 1976. In the January to April 1977 period, employment of color television production workers declined 7 percent when compared to the same period in 1976.

Employment of monochrome television production workers declined forty-four percent from 1974 to 1975 and 31 percent from 1975 to 1976. In the first four months of 1977, employment of monochrome television production workers fell 24 percent when compared to the same period in 1976.

Salaried employees at Portsmouth work on both color and monochrome televisions. Salaried employment fell eleven percent from 1974 to 1975 and 6 percent from 1975 to 1976. In the January through April 1977 period, salaried employment fell 3 percent when compared to the same period in 1976.

Labor turnover data for the Portsmouth plant indicates that layoffs occurred in every month of 1976 and the January through April 1977 period. Layoffs are also scheduled for the third quarter of 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of color televisions at the Portsmouth plant declined 32 percent from 1974 to 1975 and then increased nine percent from 1975 to 1976. In the January–April 1977 period, production of color televisions declined 39 percent when compared to the same period in 1976.

Production of monochrome televisions at the Portsmouth plant of the General Electric Company decreased 46 percent from 1974 to 1975 and then increased 6 percent from 1975 to 1976. In the first four months of 1977, production of monochrome televisions increased six percent when compared to the same period in 1976. Sales of monochrome televisions declined from 1974 to 1975, from 1975 to 1976 and in the first four months of 1977 compared to the first fourth months of 1976. The decline in sales in the January–April 1977 period when compared to the like 1976 period is reflected in inventory build up. Inventories of monochrome televisions increased 24 percent in the first four months of 1977 when compared to the first four months of 1976.

INCREASED IMPORTS

U.S. imports of color televisions, including combinations increased from 1318.4 thousand units in 1972 to 1,459.3 thousand units in 1973 and then decreased to 1,302.9 thousand units in 1974 and to 1020.8 units in 1975. From 1975 to 1976 imports increased absolutely by 180 percent from 1,020.8 thousand units to 2,856.3 thousand units. The ratio of imports to domestic production increased from 23.4 percent in 1975 to 55.0 percent in 1976. In the January through April 1977 period, imports increased to 779.9 thousand units from 560.9 thousand units in the comparable period in 1976. The ratio of imports to domestic production increased to 41.6 percent in the first four months of 1977 compared to 36.3 percent in the same period in 1976.

Imports of monochrome televisions decreased absolutely from 5,056.4 thousand units in 1972 to 4,988.7 thousand units in 1973 and to 4,658.8 thousand units in 1974, but increased relatively in the same years. Imports declined absolutely and relatively from 1974 to 1975, from 4,658.8 thousand units and 210.3 percent to 2,974.7 thousand units and 193.8 percent. From 1975 to 1976, imports increased absolutely by 45 percent from 2,974.7 thousand units to 4,326.9 thousand units. The ratio of imports to domestic production increased from 193.8 percent in 1975 to 311.3 percent in 1976. In the first four months of 1977, imports of monochrome televisions increased absolutely to 1,350.8 thousand units from 1224.8 thousands units in the January–April 1976 period. The ratio of imports to domestic production increased from 296.3 percent in the January–April 1976 period to 386.1 percent in the January–April 1977 period.

CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation revealed that workers at the Portsmouth, Virginia plant of the General Electric Company engaged in employment related to the production of color and monochrome televisions were certified eligible to apply for adjustment assistance in TA-W-22. The certification expired July 7, 1977.

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The Department instituted a termination investigation with respect to TA-W-22 on May 27, 1976. The Department's determination in that investigation was that total or partial separations of workers at the Portsmouth plant continue to be attributable to the conditions specified in Section 222 of the Act. Customers surveyed during the course of the termination investigation indicated that they had decreased purchases of color and monochrome televisions from the Portsmouth plant and increased purchases of imported color and monochrome televisions.

Furthermore, General Electric's share of the total color television market and the total monochrome television market has decreased from 1974 to 1975 and from 1975 to1976, while the market share held by imports has increased during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of artigles like or directly competitive with color and monochrome televisions produced at the Portsmouth, Virginia plant of General Electric Company contributed importantly to the total or partial separations of workers at the plant. In accordance with the provisions of the Act, I make the following certification:.

All workers at the Portsmouth, Virginia plant of General Electric Company who became totally or partially separated from employment related to the production of color and monochrome televisions on or after July 7, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-27186 Filed 9-19-77;8:45 am]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 30, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 30, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 29th day of August 1977.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Abbott Mills (workers).	Greenville, S.C.	Aug. 26, 1977	Aug. 24, 1977	TA-W-2,288	Drapery linings, cotton and synthetic blend kettle cloth, pocketing cloth and cotton industrial cloth.
Bliss & Laughlin Steel Co. (United Steelworkers of America).	Seattle, Wash.	Aug. 25, 1977	Aug. 23, 1977	TA-W-2,289	Cold finished steel bars.
Bort Carlton Co. (workers).	Boston, Mass.	do	Aug. 24, 1977	TA-W-2,290	Women's shoes and sandles.
Conen D'oro, Inc. (workers).	Paterson, N.J.	Aug. 22, 1977	Aug. 17, 1977	TA-W-2,291	Women's coats, suits, and raincoats.
Continental Sportswear, Inc. (workers).	do	Aug. 25, 1977	do	TA-W-2,292	Women's winter coats.
GAF Corp. (International Chemical Workers Union).	Binghamton, N.Y.	do	Aug. 22, 1977	TA-W-2,293	Photographic and reprographic film and paper and other related products.
Robert Hall Clothes (workers).	Wilkes Barre, Pa.	Aug. 18, 1977	Aug. 15, 1977	TA-W-2,294	Men's, ladies', boys' and girls' clothing.
Robert Hall Clothes (ACTWU).	New York, N.Y.	Aug. 22, 1977	Aug. 17, 1977	TA-W-2,295	Warehousing of men's clothing.
Do	Long Island City, N.Y.	do	do	TA-W-2,296	Men's clothing.
Do	do	do	do	TA-W-2,297	Do.
Do	Middle Village, N.Y.	do	do	TA-W-2,298	Do.
Do	Jersey City, N.J.	do	do	TA-W-2,299	Do.
Harmony Hulling Co., Inc. (company).	Peabody, Mass.	do	do	TA-W-2,300	Leather finishing for the shoe industry.
Prophet Foods Co. (Hotel & Restaurant Employees & Bartenders Union).	Phoenix, Ariz.	Aug. 16, 1977	Aug. 2, 1977	TA-W-2,301	Preparation and serving of food.
Stedfast Rubber Co. (workers).	Mattapan, Mass.	Aug. 25, 1977	Aug. 22, 1977	TA-W-2,302	Rubber friction tape.
Stride Rite Corp. (Boot & Shoe Workers Union).	Boston, Mass.	Aug. 24, 1977	do	TA-W-2,303	Shoes for infants, children, and teenagers.
Western Electric Co., Inc. (IBEW).	Kearny, N.J.	Aug. 25, 1977	Aug. 25, 1977	TA-W-2,304	Telephone apparatus equipment.

[FR Doc.77-27172 Filed 9-19-77;8:45 am]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 30, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 30, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 30th day of August 1977.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bethlehem Steel Corp. (workers).	San Francisco, Calif.	Aug. 29, 1977	Aug. 10, 1977	TA-W-2,305	Sales office.
D.A. MacPherson, Inc. (workers).	Iron River, Mich.	do	Aug. 19, 1977	TA-W-2,306	The rebuilding of Deutz diesel engines.
Northern Shoe Co. (workers).	Clintonville, Wis.	do	Aug. 5, 1977	TA-W-2,307	Men's, womens' and childrens' work and casual shoes.

[FR Doc.77-27173 Filed 9-19-77;8:45 am]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has institutec investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 30, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 30, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 31st day of August 1977.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bethlehem Steel Corp. (United Steelworkers of America).	Lackawanna, N.Y.	Aug. 30, 1977	Aug. 24, 1977	TA-W-2,308	Rails, bars, billets, sheets, coils, ingots, structural and wires.
Colt Industries Cutting Tool & Gage Operation of Pratt & Whitney Machine Tool Division (UAW).	West Hartford, Conn.	Aug. 26, 1977	Aug. 15, 1977	TA-W-2,309	Metal-cutting tools.
Fay-Del Coat, Inc. (workers).	Paterson, N.J.	Aug. 30, 1977	Aug. 25, 1977	TA-W-2,310	Women's coats and jackets
Goldstein Footwear, Inc. (United Shoe Workers of America).	Brooklyn, N.Y.	Aug. 26, 1977	Aug. 22, 1977	TA-W-2,311	Ladies' casual shoes and slippers.

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Petitioner: union/ workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
The Grandoe Corp. (ACTWU).	Gloversville, N.Y.	Aug. 30, 1977	Aug. 24, 1977	TA-W-2,312	Dress, semidress, work, golf and ski gloves and mittens.
Karmel Textile Co. (Textile Workers Union of America).	Hackensack, N.J.	Aug. 29, 1977	do.	TA-W-2,313	The warehousing and shipping fabrics.
Tom Mora Mason & Carpenter Contractors (workers).	North Haledon, N.J.	Aug. 24, 1977	Aug. 22, 1977	TA-W-2,314	Masonry and carpentry work for Allied Textile Co.

[FR Doc.77-27174 Filed 9-19-77;8:45 am]

[TA-W-1729]

ISELLE MANUFACTURING CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1729: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 3, 1977, in response to a worker petition received on February 28, 1977, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's dresses and sportswear at Iselle Manufacturing Co., Philadelphia, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on March 15, 1977 (42 FR 14185). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Iselle Manufacturing Co., its customers, the U.S. Department of Agriculture, the American Textile Manufacturers Institute, the International Ladies' Garment Workers' Union, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

The Department's investigation revealed that Iselle Manufacturing Co. is a contractor for several garment manufacturers. One manufacturer accounted for approximately 50 percent of Iselle's sales in value in 1976. A survey of customers of this manufacturer revealed that they did not switch purchases from that manufacturer to imports. The manufacturers which accounted for the remainder of Iselle's sales experienced increased sales in 1976 compared to 1975 and experienced continued increased sales in early 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's sportswear and dresses produced by Iselle Manufacturing Co., Philadelphia, Pa., did not contribute importantly to the decline in sales, or production, or separations of workers of that firm.

Signed at Washington, D.C., this 31st day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-27187 Filed 9-19-77;8:45 am]

L. E. SMITH GLASS CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1809: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 15, 1977, in response to a worker petition received on February 25, 1977, which was filed by the American Flint Glass Workers' Union of North America, AFL-CIO locals 537 and 102 on behalf of workers and former workers producing hand-pressed decorative glass at the Mount Pleasant, Pa., plant of the L. E. Smith Glass Co.

The notice of investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18155). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of L. E. Smith Glass Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the investigation revealed that the fourth criterion has not been met.

The Department's investigation revealed that the average number of production workers employed at L. E. Smith Glass increased 6.1 percent in 1976 compared to 1975 before declining 7.6 percent in the first quarter of 1977 compared to the first quarter of 1976. The decline in employment in the first quarter of 1977 was entirely due to curtailment of natural gas which caused the partial shutdown of the Mount Pleasant, Pa., plant for two weeks during January and February 1977. Average plant employment subsequently increased 4.7 percent in the second quarter of 1977 compared to the second quarter of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with hand-pressed decorative glass produced at the L. E. Smith Glass Co., Mount Pleasant, Pa., did not contribute importantly to the total or partial separation of workers producing such articles at that firm.

Signed at Washington, D.C., this 31st day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-27188 Filed 9-19-77;8:45 am]

[TA-W-1844]

LORI CHARLES SPORTSWEAR, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1844: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 22, 1977, in response to a worker petition received on March 22, 1977, which was filed on behalf of workers and former workers producing women's dresses at Lori Charles Sportswear, Inc., Luzerne, Pa.

The notice of investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18156). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lori Charles Sportswear, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the investigation revealed that the second criterion has not been met.

Lori Charles Sportswear, Inc., an apparel contractor located in Luzerne, Pa., began producing women's dresses and pant suits under present ownership in 1969.

As an apparel contractor, sales for Lori Charles Sportwear, Inc., equal production. Production increased 9.3 percent in 1976 compared to 1975 and further increased 9 percent in the first quarter of 1977 compared to the first quarter of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales or production of women's dresses and pant suits at Lori Charles Sportwear, Inc., in Luzerne, Pa., have not decreased as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of August 1977.

JAMES TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-27189 Filed 9-19-77;8:45 am]

[TA-W-1804]

LOUIS CANTOR & SON, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1804: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 15, 1977, in response to a worker petition received on March 14, 1977, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's coats at Louis Cantor & Son, Inc., Egg Harbor City, N.J.

The notice of investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18155). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Louis Cantor & Son, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at Louis Cantor and Son, Inc., decreased 1.9 percent from 1975 to 1976. In the first quarter of 1977, the average number of workers decreased 34.3 percent compared to the first quarter of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at Louis Cantor and Son, Inc., decreased 3.9 percent in quantity and 2.1 percent in value from 1975 to 1976. In the first quarter of 1977, production decreased 17 percent in quantity and 11.9 percent in value compared to the the first quarter of 1976.

INCREASED IMPORTS

Imports of women's, misses', and children's coats increased from 1,769 thousand dozen units in 1972 to 1,807 thousand dozen units in 1973. In 1974, the volume of imports decreased to 1,478 thousand dozen units and then increased to 1,517 thousand dozen units in 1975. Imports increased to 2,252 thousand dozen units in 1976. The ratios of imports to domestic production and consumption increased from 35.4 percent and 26.1 percent, respectively, in 1975 to 52.2 percent and 34.3 percent, respectively, in 1976. Imports increased from 506 thousand dozen units in the first quarter of 1976 to 590 thousand dozen units in the similar quarter of 1977.

CONTRIBUTED IMPORTANTLY

The only manufacturer for whom Louis Cantor and Son, Inc., produces experienced a decline in sales in 1976 compared to 1975 and this decline has continued into 1977. Major customers of this manufacturer have reported an increase in purchases of imported women's coats in 1976 and have continued into 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's coats produced at Louis Cantor & Son, Inc. contributed importantly to the separations of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Louis Cantor & Son, Inc., Egg Harbor City, N.J. who became totally or partially separated from employment on or after February 26, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of September 1977.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary, International Affairs.

[FR Doc.77-27190 Filed 9-19-77;8:45 am]

[TA-W-1742 and TA-W-1743]

MANCHESTER MODES, INC.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1742 and TA-W-1743: Investigations regarding certification of eligibility to

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apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigations were initiated on March 3, 1977 in response to worker petitions received on February 14, 1977 which were filed on behalf of workers and former workers engaged in employment related to the production of women's apparel at the Manchester, Conn. and Somersville, Conn. plants of Manchester Modes, Inc.

The Notices of Investigation were published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

The information upon which the determinations were made was obtained principally from information and publications provided by officials of Manchester Modes, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) that a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) that articles like or directly competitive with those produced by the workers' firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) that such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met for workers engaged in employment related to the production of women's leather coats. The investigation has further revealed that, without regard to whether any of the other criteria have been met, criterion (2) has not been met for workers engaged in employment related to the production of women's non-leather coats and suits.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

With the exception of leather cutters, who work only on women's leather coats, all workers are used interchangeably in the production of all products. The employment trends for leather cutters directly reflect the total employment related to the production of women's leather coats. The average number of leather cutters declined 36.4 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company sales of women's leather coats declined 47.9 percent in value, in constant 1974 dollars, in 1976 as compared to 1975.

Company sales of women's non-leather coats and suits, increased 14.0 percent, in constant 1974 dollars, in 1976 as compared to 1975.

The company doesn't produce for inventory and sales approximates production.

INCREASED IMPORTS

Imports of leather coats and jackets increased each year from 91.7 million dollars in 1972 to 154.3 million dollars in 1975 and continued to increase 53.3 percent to 236.6 million dollars in 1976.

The ratio of imports to domestic production increased in each year from 52.7 percent in 1972 to 67.1 percent in 1975 and continued to increase to 81.6 percent in 1976.

CONTRIBUTED IMPORTANTLY

The Office of Trade Adjustment Assistance conducted a survey of customers of women's leather coats of Manchester Modes, Inc. Customers indicated that they had reduced purchases of women's leather coats from Manchester Modes and had increased purchases of imported leather coats. Most of the customers responding to the survey reported that imports were adversely affecting the domestic leather coat industry. The cheaper prices of the imports were cited as the reason for switching to imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that neither sales nor production of women's non-leather coats and suits at the Manchester, Conn. and Somersville, Conn. plants of Manchester Modes have declined as required for certification under Section 222 of the Trade Act of 1974.

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the leather coats produced at the Manchester, Connecticut and Somersville, Connecticut plants of Manchester Modes have contributed importantly to the total or partial separation of workers engaged in employment related to the production of women's leather coats at the plants as required for certification.

In accordance with the provisions of the Act, I make the following certification:

All workers at the Manchester, Conn. and Somersville, Conn. plants of Manchester Modes, Inc., engaged in employment related to the production of women's leather coats who became totally or partially separated from employment on or after February 11, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-27191 Filed 9-19-77;8:45 am]

[TA-W-2107]

MICHAEL BERKOWITZ CO., INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2107: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 31, 1977 in response to a worker petition received on May 31, 1977 which was filed by the Amalgamated Clothing and Textiles Workers' Union on behalf of workers and former workers producing men's sleepwear and ladies' robes at the Uniontown, Pa. plant of the Michael Berkowitz Co., Inc. located on Barton Mill Road in Uniontown, Pa.

The notice of investigation was published in the FEDERAL REGISTER on June 17, 1977 (42 FR 30939). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Michael Berkowitz Co., Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) that articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) that such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the investigation has revealed that criterion one has not been met.

The Michael Berkowitz Co., Inc. plant located on Barton Mill Road in Uniontown, Pa. produces men's sleepwear and ladies' robes and is integrated with the Uniontown, Pa. plant of Berkowitz located on Route 119.

Average employment at the Barton Mill Road and Route 119 plants increased 8.1 percent in 1976 compared to 1975 and increased 8.5 percent in the first quarter of 1977 compared ot the first quarter of 1976. Employment increased in each quarter of 1976 compared to like quarters of 1975. Average weekly hours per worker remained constant from 1974 through 1976.

There is no indication that current workers are threatened with any involuntary separations from employment at the Uniontown, Pa. plant of the Michael Berkowitz Co., Inc. located on Barton Mill Road.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Uniontown, Pennsylvania plant of the Michael Berkowitz Co., Inc. located on Barton Mill Road have not become totally or partially separated as required for certification under Section 222 of the Trade Act of the 1974.

Signed at Washington, D.C. this 31st day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-27192 Filed 9-19-77;8:45 am]

[TA-W-2109]

MICHAEL BERKOWITZ CO., INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2109: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 31, 1977 in response to a worker petition received on May 31, 1977 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's sleepwear and ladies' robes at the Uniontown, Pennsylvania plant of the Michael Berkowitz Company, Inc. located on Route 119 in Union town, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on June 17, 1977 (42 FR 30939). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Michael Berkowitz Company, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the investigation has revealed that criterion one has not been met.

The Michael Berkowitz Company, Inc. plant located on Route 119 in Uniontown, Pennsylvania produces men's sleepwear and ladies' robes and is integrated with the Uniontown, Pennsylvania plant of Berkowitz located on Barton Mill Road.

Average employment at the Barton Mill Road and Route 119 plants increased 8.1 percent in 1976 compared to 1975 and increased 8.5 percent in the first quarter of 1977 compared to the first quarter of 1976. Employment increased in each quarter of 1976 compared to like quarters of 1975. Average weekly hours per worker remained constant from 1974 through 1976.

There is no indication that current workers are threatened with any involuntary separations from employment at the Uniontown, Pennsylvania plant of the Michael Berkowitz Co., Inc. located on Route 119.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Uniontown, Pennsylvania plant of the Michael Berkowitz Co., Inc. located on Route 119 have not become totally or partially separated as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.2719 Filed 9-19-77;8:45 am]

[TA-W-2110]

MICHAEL BERKOWITZ CO., INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2110: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 31, 1977 in response to a worker petition received on May 31, 1977 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing ladies' breakfast coats at the Confluence, Pennsylvania plant of Michael Berkowitz Company, Inc.

The notice of investigation was published in the FEDERAL REGISTER on June 17, 1977 (42 FR 30939). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Michael Berkowitz Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

The Confluence, Pennsylvania plant of the Michael Berkowitz Company, Inc. produces ladies' robes (breakfast coats).

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at the Confluence, Pennsylvania plant declined 6.7 percent in 1975 compared to 1974 and increased 1.2 percent in 1976 compared to 1975. Employment declined 5.7 percent in the first quarter of 1977 compared to the first quarter of 1976. No layoffs occurred in 1976. Layoffs and partial separations started after January 1, 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at the Confluence, Pennsylvania plant declined 14.7 percent from 1974 to 1975 and then increased 38.5 percent from 1975 to 1976. Production declined 60.4 percent in the first half of 1977 compared to the first half of 1976.

INCREASED IMPORTS

U.S. imports of women's, misses' and children's robes and dressing gowns, including sets with pajamas or nightgowns, declined from 265 thousand dozen in 1972 to 134 thousand dozen in 1973. U.S. imports increased to 151 thousand dozen in 1974. U.S. imports declined to 113 thousand dozen in 1975 before increasing to 189 thousand dozen in 1976. U.S. imports increased from 41 thousand dozen in the first quarter of 1976 to 60 thousand dozen in the first quarter of 1977.

The ratio of imports to domestic pro-

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dren's robes and dressing gowns, including sets with pajamas or nightgowns, declined from 6.0 percent in 1972 to 3.0 percent in 1973. The ratio of imports to domestic production increased to 3.4 percent in 1974, declined to 2.6 percent in 1975, and then increased to 4.5 percent in 1976.

CONTRIBUTED IMPORTANTLY

The customer who purchases all of the robes produced at the Confluence, Pennsylvania plant of the Michael Berkowitz Company, Inc., increased its purchases of imported ladies' robes while decreasing purchases from Berkowitz. This customer increased its purchases of imported ladies' robes because of lower prices.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports like or directly competitive with ladies' robes produced at the Confluence, Pennsylvania plant of the Michael Berkowitz Company, Inc. have contributed importantly to the total or partial separation of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All hourly and salaried workers at the Confluence, Pennsylvania plant of the Michael Berkowitz Company, Inc. who became totally or partially separated from employment on or after January 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of September 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-27194 Filed 9-19-77;8:45 am]

[TA-W-1782]

MR. KURTIN

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1782: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 10, 1977 in response to a worker petition received on March 1, 1977 which was filed by three workers on behalf of workers and former workers engaged in shrimp fishing aboard the trawler Mr. Kutin in Aransas Pass, Texas.

The Notice of Investigation was published in the FEDERAL REGISTER on March 23, 1977 (42 FR 16200). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the trawler Mr. Kurtin, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

The Department's investigation has revealed that Mr. Kurtin's major customer purchases all the shrimp that Mr. Kurtin is able to supply. This customer only purchases imported shrimp when Mr. Kurtin and other domestic suppliers are unable to meet its requirements. Several factors tended to depress levels of shrimp production in 1976 and consequently the quantities made available to Mr. Kurtin's customer. These factors included adverse weather conditions, a lack of shrimp available in known fishing grounds in the first quarter of 1977 and the imposition by the Mexican government of a 200 mile fishing restriction which prevented domestic shrimpers from fishing within Mexican coastal waters.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with the shrimp caught and landed by the trawler Mr. Kurtin of Arkansas Pass, Texas have not contributed importantly to the total or partial separations of workers of that company as required for a certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-27195 Filed 9-19-77;8:45 am]

PRAIRIE MANUFACTURING CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2040: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 2, 1977 in response to a worker petition received on May 2, 1977 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing large sized men's slacks and jeans, and men's uniform slacks.

The notice of investigation was published in the FEDERAL REGISTER on May 13, 1977 (42 FR 24346). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Prairie Manufacturing Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the investigation revealed that the fourth criterion has not been met.

The Department's investigation revealed that most of the customers who purchase Prairie Manufacturing Company's products do not purchase imports similar to those produced at the firm. Those that do purchase imports similar to these products have either maintained or increased their purchases from Prairie Manufacturing Company.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the men's slacks, jeans and uniforms produced at the Prairie Manufacturing Company did not contribute importantly to the total or partial separations of the workers producing such articles at that firm.

Signed at Washington, D.C. this 31st day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-27196 Filed 9-19-77;8:45 am]

[TA-W-1772]

ROSE COAT, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-177: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 7, 1977 in response to a worker petition received on March 4, 1977 which was field by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats at Rose Coat Incorporated, Neptune, New Jersey. The investigation revealed that Rose Coat is associated by common management with two other firms producing ladies' coats, J. Kasliner Company, Incorporated, Neptune, New Jersey, and Lewis Sportswear, Incorporated (TA-W-1767), Atlantic Highlands, New Jersey.

The notice of investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16200). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from information and publications provided by officials of Rose Coat Incorporated, customers of the manufacturer for whom the three firms performed contract work, the U.S. Deparement of Commerce, U.S. International Trade Commission, National Cotton Council of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation reveals that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Workers are transferable between Rose Coat and the two firms with which it is associated. Average total employment at the three companies decreased 28.1 percent from 1974 to 1975, and increased 23.8 percent from 1975 to 1976. Employment in the first quarter of 1977 decreased 39.0 percent from the same period in 1976.

All workers were laid off when Rose Coat shut down on April 16, 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production as measured in sales figures is distributed among Rose Coat and the two companies associated with the subject firm according to centrally made management decisions. Total three-company sales in terms of units decreased 34.0 percent from 1974 to 1975, and increased 27.6 percent from 1975 to 1976. Unit sales in the first quarter of 1977 decreased 34.6 percent from the same period in 1976.

INCREASED IMPORTS

Imports of women's, misses' and children's coats and jackets fluctuated from 1972 to 1976. Imports increased 2.1 percent from 1,769,000 dozen garments in 1972 to 1,807,000 garments in 1973, decreased 18.2 percent to 1,478,000 garments in 1974, increased 2.6 percent to 1,517,000 garments in 1975, and increased 48.5 percent to 2,252,000 garments in 1976. The ratio of imports to U.S. Production increased from 35.4 percent in 1975 to 72.2 percent in 1976.

CONTRIBUTED IMPORTANTLY

Evidence developed during the Department's investigation revealed that customers, of the firms' sole manufacturer, decreased purchases of ladies' coats from that manufacturer and increased purchases of ladies' coats from 1975 to 1976. The consensus of customers surveyed was that imports have constituted an increasing share of the ladies' coats market as a whole in recent years. The loss of sales by the manfacturer caused decreases in sales and employment at Rose Coat and the two companies with which it shares management since the manfacturer decreased total orders for ladies' coats.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' coats produced at Rose Coat, Incorporated, Neptune, New Jersey contributed importantly to the total or partial separation of the workers of that company. In accordance with the provisions of the Act, I make the following certification:

All employees of Rose Coat, Incorporated, Neptune, New Jersey who became totally or partially separated from employment on or after November 27, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of September 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-27197 Filed 9-19-77;8:45 am]

[TA-W-1921]

SCRANTON GARMENT MFG., INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1921: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 29, 1977 in response to a worker petition received on March 28, 1977 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's sportscoats and ladies' blazers at the Scranton, Pennsylvania plant of Scranton Garment Mfg., Inc.

The notice of investigation was published in the FEDERAL REGISTER on April 12, 1977, (42 FR 19182). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Scranton Garment Mfg., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the investigation revealed that the fourth criterion has not been met.

Scranton Garment Mfg., Inc., located in Scranton, Pennsylvania was a contractor that produced ladies' blazers and men's sportcoats. During 1976, only ladies' blazers were produced. All production and employment ceased on November 10, 1976 when the firm closed.

The Department's investigation revealed that customers contracting with Scranton Garment Mfg., Inc. did not purchase from foreign contractors; nor did they purchase imported apparel. These customers reduced purchases from Scranton Garment and switched to other

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domestic contractors because of price considerations.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with ladies' blazers produced at the Scranton, Pennsylvania plant of Scranton Garment Mfg., Inc. did not contribute importantly to the total or partial separation of workers at that plant.

Signed at Washington, D.C. this 12th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-27198 Filed 9-19-77;8:45 am]

[TA-W-1834]

STELMAR MANUFACTURING CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1834: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 21, 1977 in response to a worker petition received on March 18, 1977 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's blouses at Stelmar Manufacturing Company, Wilkes-Barre, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18158). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Stelmar Manufacturing Company, its customers, the U.S. International Trade Commission, U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (2) has not been met.

Production at Stelmar Manufacturing Co. is on a contract basis, therefore sales equal production. Production, in quantity, of women's blouses increased 22 percent from 1974 to 1975, increased 10 percent from 1975 to 1976 and then increased 35 percent for the first quarter of 1977 as compared to the same quarter in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales or production, or both, have not decreased absolutely, as required in Section 222 of the Trade Act of 1974. The petition is, therefore denied.

Signed at Washington, D.C. this 8th day of September 1977.

HARRY GRUBERT,
Director, Office of Foreign, Economic Research.

[FR Doc.77-27199 Filed 9-19-77;8:45 am]

[TA-W-1778]

SOUTH HAVEN COIL, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1778: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 8, 1977 in response to a worker petition received on March 7, 1977 which was filed by three workers on behalf of workers and former workers producing coils at the Bedford, Ind. plant of South Haven Coil, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of South Haven Coil, Inc., and its customers, the U.S. Department of Commerce, the International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of workers engaged in the production of coils at the Bedford, Indiana plant increased 100 percent in the first three quarters of 1976 as compared to the like 1975 period before declining 11.1 percent in the October 1976 through June 1977 period as compared to the October 1975 through June 1976 period.

SALES OR PRODUCTION, OR BOTH, HAVE DECLINED ABSOLUTELY

Plant sales of coils increased 67.1 percent in value in the first three quarters of 1976 as compared to the like 1975 period before declining 28.2 percent in the October 1976 through June 1977 period as compared to the October 1975 through June 1976 period.

Company sales of coils increased 47.9 percent in the first three quarters of 1976 as compared to the like 1975 period before declining 23.2 percent in the October 1976 through June 1977 period as compared to the October 1975 through June 1976 period.

INCREASED IMPORTS

Imports of certain electronic inductors, a category which includes the coils produced by South Haven Coil, increased each year from $18.2 million in 1972 to $20.8 million in 1975 and continued to increase 36.5 percent to $28.4 million in 1976. Imports increased from $5.4 million in the first quarter of 1976 to $8.4 million in the first quarter of 1977.

The ratio of imports to domestic production declined each year from 8.1 percent in 1972 to 6.2 percent in 1974, increased to 7.1 percent in 1975 and continued to increase to 9.3 percent in 1976. The ratio of imports to domestic production increased from 7.4 percent in the first quarter of 1976 to 11.1 percent in the first quarter of 1977.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that some customers had reduced purchases of coils from South Haven Coil, Inc., and had increased purchases of imported coils.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the coils produced at the Bedford, Indiana plant of South Haven Coil, Inc., have contributed importantly to the absolute decline in sales or production and the total or partial separations of workers at the plant.

In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of coils at the Bedford, Ind. plant of South Haven Coil, Inc., who became totally or partially separated from employment on or after September 26, 1976 are eligible to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of September 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-27200 Filed 9-19-77;8:45 am]

[TA-W-1917]

TENSOR CORP.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1917: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 28, 1977 in response to a worker petition received on March 23, 1977 which was filed on behalf of workers and former workers producing metal tennis racquets and high intensity lamps at Tensor Corp., Brooklyn, N.Y.

The Notice of Investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19178). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from information and publications provided by officials of Tensor Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that with respect to tennis racquets, all of the above criteria have been met. Without regard to whether any of the other criteria have been met, criterion (4) has not been met with respect to high intensity lamps.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of tennis racquet production workers at the Brooklyn plant decreased 18 percent from 1974 to 1975 and 22 percent from 1975 to 1976. Monthly employment declined steadily from March 1976 through February 1977, when the remaining employees in the department were separated.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Dollar sales by Tensor of tennis racquets and tennis accessories decreased 40 percent from 1974 to 1975, 33 percent from 1975 to 1976, and 57 percent in the first quarter of 1977 compared to the like period in 1976. Plant production of metal tennis racquets declined in quantity by 23 percent from 1974 to 1975 and by 42 percent from 1975 to 1976. Production of tennis racquets ceased at the Brooklyn plant in June 1976.

INCREASED IMPORTS

Imports of strung and unstrung tennis racquets increased annually from $10,421 thousand in 1972 to $32,068 thousand in 1974, declined to $31,890 thousand in 1975, and then increased to $32,687 thousand in 1976. The ratio of imports to domestic tennis racquet production declined from 37.7 percent in 1974 to 27.7 percent in 1975 and remained unchanged in 1976.

CONTRIBUTED IMPORTANTLY

The Department's customer survey for tennis racquets revealed that customers either had replaced Tensor's metal racquets with less expensive imports or had been forced out of the low-end tennis racquet market due to import competition.

Tensor's tennis racquet sales, production and employment declined annually from 1974 through 1976. Due to price competition with imports, Tensor decided to cease production of metal tennis racquets at its Brooklyn plant in June 1976 and to rely on imports of less expensive metal racquets for future sales commitments.

In March 1977 the U.S. Department of Commerce found that increased imports of tennis racquets had contributed importantly to sales, production, and employment declines at Tensor and thus certified Tensor Corporation as eligible to apply for firm adjustment assistance under the provisions of the Trade Act of 1974.

The Department's customer survey for high intensity lamps revealed that customers either did not purchase any imported desk lamps or did not switch their lamp purchases from Tensor to imports.

Furthermore, dollar sales of high intensity lamps and bulbs by Tensor rose yearly from 1974 through 1976 and remained level in the first quarter of 1977 compared to the first quarter of 1976. Unit production of lamps at the Brooklyn plant increased yearly from 1974 through 1976, and employment of lamp production workers rose from 1975 to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with metal tennis racquets produced by Tensor Corp. contributed importantly to the total or partial separations of workers producing tennis racquets at Tensor's Brooklyn, N.Y. plant. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers engaged in employment related to the production of metal tennis racquets at Tensor Corp., Brooklyn, N.Y. who became totally or partially separated from employment on or after March 21, 1976, are eligible to apply for worker adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that imports of articles like or directly competitive with high intensity desk lamps produced by Tensor Corporation did not contribute importantly to the total or partial separations of workers producing lamps at Tensor's Brooklyn, N.Y. plant as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of September 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-27281 Filed 9-19-77;8:45 am]

[TA-W-1803]

TRACOR ADAMS; TRACOR, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1803: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 15, 1977, in response to a worker petition received on February 16, 1977, which was filed by the Allied Industrial Workers of America on behalf of workers and former workers producing circuit boards, coils, and components for color televisions at the Bangor, Mich., plant of Tracor Adams.

The Notice of Investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18155). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Tracor Adams, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analyst, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment as-

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sistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at Tracor Adams decreased 17.9 percent in the first quarter of 1977 compared to the first quarter of 1976 and decreased in each month, September through December 1976 compared to the previous month.

All production workers are used interchangeably.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total sales equals production as all work is by order.

Sales declined 14.7 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975 and declined 9.8 percent in the first quarter of 1977 compared to the first quarter of 1976.

INCREASED IMPORTS

Imports of printed circuit boards increased each year from 1972 to 1976. Imported printed circuit boards were valued at $8 million in 1972, $11 million in 1973, and $15.1 million in 1974. After increasing to $21 million in 1975, imports of printed circuit boards increased 2.9 percent in 1976 to $21.6 million. Imports increased 11.9 percent in the first quarter of 1977 compared to the first quarter of 1976 from $4.2 million to $4.7 million.

The import to production ratio increased from 1.3 percent in 1972, to 1.5 percent in 1973, and 1.6 percent in 1974. After increasing to 3.4 percent in 1975, it declined to 3 percent in 1976. The ratio increased from 2.5 percent in the first quarter of 1976 to 2.7 percent in the first quarter of 1977.

The value of imported inductors increased from $36.2 million in 1972 to $55.3 million in 1973 and $68 million in 1974. After decreasing to $66.7 million in 1975 and to $54 million in 1976, imports increased 28.2 percent in the first quarter of 1977 compared to the same period in 1976, from $17.7 million to $22.7 million.

The import to production ratio increased from 10.8 percent in 1972 to 12.4 percent in 1973 and 12.7 percent in 1974. After increasing to 15.2 percent in 1975, it declined to 11.9 percent in 1976. The ratio increased from 15.2 percent in the first quarter of 1976 to 19.2 percent in 1977.

CONTRIBUTED IMPORTANTLY

Tracor Adams' largest customer, who purchased a majority of Tracor Adams' 1976 sales, indicated that it increased its purchases of imported convergence boards and coils (inductors) and decreased purchases of these products from Tracor Adams.
ceased its

Tracor Adams itself imported and increased its purchases of imported convergence boards and coils in 1976 compared to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports like or directly competitive with convergence boards and inductors produced at the Bangor, Mich., plant of Tracor Adams, Inc., contributed importantly to the total or partial separations of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Bangor, Mich., plant of Tracor Adams, Inc., engaged in the production of convergence boards and inductors who became totally or partially separated from employment on or after September 12, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc 77-27202 Filed 9-19-77;8:45 am]

[TA-W-1438]

UNITED STATES STEEL CORP.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1438: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 15, 1976, in response to a worker petition received on December 15, 1976, which was filed by the United States Steelworkers of America on behalf of workers and former workers producing tubular steel products at the Gary Tube Works of U.S. Steel Corp., Gary, Ind., and all workers producing carbon steel plate, structural steel shapes and bar-size light shapes at the Gary Works of U.S. Steel Corp., Gary, Ind.

The notice of investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 900). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of U.S. Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met for workers engaged in employment related to the production of tubular steel products, carbon steel plate, and structural steel shapes.

The investigation has further revealed that without regard to whether any of the other criteria have been met, criterion (3) has not been met for bar-size light shapes.

TUBULAR STEEL PRODUCTS

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of workers engaged in the production of tubular steel products increased 28 percent from 1974 to 1975. Employment declined 17.2 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales in quantity increased 7.3 percent from 1974 to 1975. Sales declined 24.7 percent in the first 11 months of 1976 compared to the first 11 months of 1975.

INCREASED IMPORTS

Imports of carbon steel pipe and tubing declined from 1,768.1 thousand short tons in 1972 to 1,574.6 thousand short tons in 1973. Imports increased to 1,781.5 thousand short tons in 1974, declined to 1,542.5 thousand short tons in 1975 and increased to 1,820.7 thousand short tons in 1976.

The ratio of imports to domestic shipments declined from 28.6 percent in 1972 to 20.3 percent in 1973. The ratio increased to 21.5 percent in 1974, increased further to 22.8 percent in 1975 and increased again to 35.8 percent in 1976.

CONTRIBUTED IMPORTANTLY

A survey of customers who purchase tubular steel products from the Gary Tube Works indicated that some customers have been reducing purchases from U.S. Steel and increasing purchases of imported tubulars. The lower prices of the imports was the reason most frequently cited for switching.

CARBON STEEL PLATE

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of workers engaged in the production of carbon steel plate declined 1.7 percent from 1974 to 1975 and further declined 26.9 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales in quantity declined 20.8 percent from 1974 to 1975 and further declined 20.8 percent from 1975 to 1976.

INCREASED IMPORTS

Imports of carbon steel plate declined from 1,651 thousand short tons in 1972 to 1,322 thousand short tons in 1973. Imports increased to 1,699 thousand short tons in 1974, decreased to 1,353 thousand short tons in 1975 and increased to 1,555.4 thousand short tons in 1976.

The ratio of imports to domestic shipments declined from 26.3 percent in 1972 to 16.4 percent in 1973. The ratio increased to 18.8 percent in 1974, increased further to 19.4 percent in 1975 and increased again to 27.7 percent in 1976.

CONTRIBUTED IMPORTANTLY

A survey of customers who purchased carbon steel plate from the Gary Works indicated that some customers have been reducing purchases of plate from U.S. Steel and increasing purchases of imported plate. The lower prices of imports was the reason given for switching.

STRUCTURAL STEEL SHAPES

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of workers engaged in the production of structural steel shapes declined 34.5 percent from 1974 to 1975 and further declined 22.2 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales in quantity declined 47.3 percent from 1974 to 1975 and further declined 17.9 percent from 1975 to 1976.

INCREASED IMPORTS

Imports of carbon steel structural shapes decreased from 1,614 thousand short tons in 1972 to 1,250.7 thousand short tons in 1973. Imports declined to 1,142.7 thousand short tons in 1974, declined further to 804.9 thousand short tons in 1975 then increased to 1,351.4 thousand short tons in 1976.

The ratio of imports to domestic shipments decreased from 34.1 percent in 1972 to 21.3 percent in 1973. The ratio further declined to 19.7 percent in 1974 and declined again to 19.5 percent in 1975. In 1976, the ratio increased to 40 percent.

CONTRIBUTED IMPORTANTLY

A survey of customers who purchase structural steel shapes from the Gary Works indicated that some customers have reduced purchases from U.S. Steel and increased purchases of imported structurals due to the lower prices of the imports. In addition, some steel service centers which did not purchase imports said they had reduced purchases from U.S. Steel because they were losing business to other service centers which sold primarily lower priced imports.

BAR-SIZE LIGHT SHAPES

Imports of carbon steel bar-size light shapes declined from 562.7 thousand short tons in 1972 to 457.4 thousand short tons in 1973. Imports increased to 521.5 thousand short tons in 1974, declined to 167.2 thousand short tons in 1975 and declined again to 164.3 thousand tons in 1976.

The ratio of imports to domestic shipments declined from 75.1 percent in 1972 to 44.2 percent in 1973. The ratio increased to 53.1 percent in 1974, declined to 22.7 percent in 1975 and declined further to 19.5 percent in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with tubular steel products produced by the Gary Tube Works of U.S. Steel Corp., Gary, Ind., and carbon steel plate and structural steel shapes produced by the Gary Works of U.S. Steel Corp., Gary, Ind., contributed importantly to the total or partial separations of the workers of those plants. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of tubular steel products at the Gary Tube Works of U.S. Steel Corp., Gary, Ind., and all workers engaged in the production of carbon steel plate or carbon steel structural shapes at the Gary Works of U.S. Steel Corp., Gary, Ind., who became totally or partially separated from employment on or after November 15, 1975, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

It is further concluded that imports of articles like or directly competitive with bar-size light shapes produced by the Gary Works have not increased, either absolutely or relative to U.S. production, as required for certification under section 222 of the Trade Act of 1974. Therefore, workers engaged in employment related to the production of bar-size light shapes at the Gary Works of U.S. Steel Corp., Gary, Ind., are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 12th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-27203 Filed 9-19-77;8:45 am]

[TA-W-1868]

WALK-OVER/JOHN E. LUCEY DIVISION OF GEORGE E. KEITH CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1868: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 22, 1977, in response to a worker petition received on March 21, 1977, which was filed on behalf of workers and former workers producing men's dress and casual footwear at the Bridgewater, Mass., plant of the Walk-Over/John E. Lucey Division of the George E. Keith Co.

The notice of investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18156). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Walk-Over/John E. Lucey Division of the George E. Keith Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either, actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average hourly employment at the Walk-Over/John E. Lucey Division increased 4.3 percent in 1976 over 1975 and then decreased 2 percent in the first quarter of 1977 compared to the first quarter of 1976.

Average weekly hours per worker increased 15.6 percent in 1976 over 1975 and then decreased 16.2 percent in the first quarter of 1977 compared to the first quarter of 1976.

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SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales increased 4.6 percent in quantity in 1976 over 1975 and then decreased 13.3 percent in quantity in the first quarter of 1977 compared to the first quarter of 1976.

Production increased 20 percent in quantity in 1976 over 1975 and then decreased 14.3 percent in quantity in the first quarter of 1977 compared to the first quarter of 1976.

INCREASED IMPORTS

Imports of men's dress and casual footwear increased from 53.5 million pairs in 1972 to 56.4 million pairs in 1973, decreased to 44.3 million pairs in 1974 and increased to 47.5 million pairs in 1975. Imports rose to 58.7 million pairs in 1976, an increase of 23.6 percent from 1975. In the first quarter of 1977 imports of men's dress and casual footwear equalled 15.7 million pairs, 3.3 percent above the 15.2 million pairs imported during the comparable time period in 1976.

CONTRIBUTED IMPORTANTLY

Some customers of the Walk-Over/John E. Lucey Division increased purchases of imported men's shoes relative to purchases from the subject firm from 1975 to 1976 and in the first quarter of 1977 compared to the first quarter of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's dress and casual footwear produced by the Walk-Over/John E. Lucey Division of the George E. Keith Co. contributed importantly to the total or partial separations of the workers at that subdivision of the firm. In accordance with the provisions of the Act, I make the following certification:

All hourly and salaried workers at the Bridgewater, Massachusetts plant of the Walk-Over/John E. Lucey Division of the George E. Keith Co. who became totally or partially separated from employment on or after January 23, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 8th day of September 1977.

HARRY GRUBERT,
Director, Office Foreign Economic Research.

[FR Doc.77-27204 Filed 9-19-77;8:45 am]

[TA-W-1623]

ZURN INDUSTRIES, INC., CAST METALS DIVISION, MECHANICAL DRIVES DIVISION

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1623: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 7, 1977 in response to a worker petition received on January 31, 1977 which was filed by the United Steelworkers of America on behalf of workers and former workers at the Cast Metals Division of Zurn Industries, Inc., Erie, Pa. The investigation was expanded to include the Mechanical Drives Division of Zurn Industries also located in Erie, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12499). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Zurn Industries, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Secton 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally, or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (4) has not been met with respect to workers producing gray iron castings at the Cast Metals Division and workers producing power transmission equipment at the Mechanical Drives Division.

GRAY IRON CASTINGS

The Cast Metals Division produces gray iron castings for external sales and for internal transfer to Zurn's Hydromechanics Division, which is also located in the Erie plant. The Department contacted Zurn's largest customers of gray iron castings. These companies indicated that they purchased no imported castings in 1976.

Production declines at the Cast Metals Division were caused by a reduction in transfers to the Hydromechanics Division. This division fabricates casting into plumbing fittings used in commercial and industrial establishments. Reduced capital spending for nonresidential construction caused a decline in demand for Zurn's plumbing fittings.

POWER TRANSMISSION EQUIPMENT

The Department contacted the Mechanical Drives Division's largest customers. None of the customers purchased imports. All stated that they knew of no import competition in this area. Customers cited reduced spending for new capital equipment, especially in the steel industry, as having caused decreased demand for the type of machinery of which Zurn's power transmission is a component.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with gray iron castings and power transmission equipment produced at the Cast Metals Division and the Mechanical Drives Divisions of Zurn Industries, Inc., Erie, Pennsylvania, did not contribute importantly to the total or partial separation of the workers at these Divisions of that plant.

Signed at Washington, D.C., this 31st day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-27205 Filed 9-19-77;8:45 am]

Office of the Secretary

[TA-W-1765]

J. KASLINER CO., INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1765: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 7, 1977, in response to a worker petition received on March 4, 1977, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at J. Kasliner Co., Inc., Neptune, N.J. The investigation revealed that J. Kasliner Co. is associated by common management with two other firms producing ladies' coats, Lewis Sportswear, Inc. (TA-W-1767), Atlantic Highlands, N.J., and Rose Coat Inc. (TA-W-1772), Neptune, N.J.

The notice of investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16200). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from information and publications provided by officials of J. Kasliner Co., Inc., customers of the manufacturer for whom the three firms performed contract work, the U.S. Department of Commerce, the U.S. International Trade Commission, National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation reveals that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Workers are transferable between J. Kasliner Co. and the two firms with which it is associated. Average total employment at the three companies decreased 28.1 percent from 1974 to 1975, and increased 23.8 percent from 1975 to 1976. Employment in the first quarter of 1977 decreased 39 percent from the same period in 1976.

All workers were laid off when J. Kasliner shut down on April 16, 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production as measured in sales figures is distributed among J. Kasliner Co. and the two companies associated with the subject firm according to centrally made management decisions. Total three-company sales in terms of units decreased 34 percent from 1974 to 1975, and increased 27.6 percent from 1975 to 1976. Unit sales in the first quarter of 1977 decreased 34.6 percent from the same period in 1976.

INCREASED IMPORTS

Imports of women's, misses', and children's coats and jackets fluctuated from 1972 to 1976. Imports increased 2.1 percent from 1,769,000 dozen garments in 1972 to 1,807,000 garments in 1973, decreased 18.2 percent to 1,478,000 garments in 1974, increased 2.6 percent to 1,517,000 garments in 1975, and increased 48.5 percent to 2,252,000 garments in 1976. The ratio of imports to U.S. production increased from 35.4 percent in 1975 to 52.2 percent in 1976.

CONTRIBUTED IMPORTANTLY

Evidence developed during the Department's investigation revealed that customers, of the firms' sole manufacturer, decreased purchases of ladies' coats from that manufacturer and increased purchases of ladies' coats from 1975 to 1976. The consensus of customers surveyed was that imports have constituted an increasing share of the ladies' coats market as a whole in recent years. The loss of sales by the manufacturer caused decreases in sales and employment at J. Kasliner Co. and the two companies with which it shares management since the manufacturer decreased total orders for ladies' coats.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' coats produced at J. Kasliner Co., Inc., Neptune, N.J., contributed importantly to the total or partial separation of the workers of that company. In accordance with the provisions of the Act, I make the following certification:

All employees of J. Kasliner Co., Inc., Neptune, N.J., who became totally or partially separated from employment on or after November 27, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 8th day of September 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-27318 Filed 9-19-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-0195]

SAN JOSE CAPITAL CORP.

Issuance of a License To Operate as a Small Business Investment Company

On August 2, 1977, a Notice was published in the FEDERAL REGISTER (42 FR 39173) stating that an application had been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (SBICs) for a license to operate as an SBIC by San Jose Capital Corporation, 100 Park Center Plaza, San Jose, California 95113.

Interested parties were invited to submit their written comments to SBA. No comments were received.

Notice is hereby given that pursuant to the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), after having considered the application and all other pertinent information and facts in regard thereto, SBA has issued License No. 09/09-0195 on September 2, 1977, to San Jose Capital Corporation to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 12, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-27241 Filed 9-19-77;8:45 am]

VETERANS ADMINISTRATION

SPECIAL MEDICAL ADVISORY GROUP

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463 that a meeting of the Special Medical Advisory Group, authorized by 38 U.S.C. 4112(a), will be held in the Administrator's Conference Room at the Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, D.C., on October 3 and 4, 1977. The purpose of the Special Medical Advisory Group is to advise the Administrator and the Chief Medical Director relative to the care and treatment of disabled veterans, and other matters pertinent to the Veterans Administration's Department of Medicine and Surgery.

The general session will convene at 8:30 a.m. on October 3. It will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Mr. R. E. Lindsey, Executive Secretary, Special Medical Advisory Group, Veterans Administration Central Office, phone 202-389-2588, prior to September 30, 1977.

This notice was delayed due to an administrative oversight.

Dated: September 15, 1977.

MAX CLELAND,
Administrator.

[FR Doc.77-27317 Filed 9-19-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[No. 483]

ASSIGNMENT OF HEARINGS

SEPTEMBER 15, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 141511 Sub No. 1 Robert W. Rettig, d.b.a. Protein Express, now assigned October 17, 1977 at Chicago, Ill. is postponed indefinitely.

MC 93235 Sub 10, Indiana Trucking, Inc. now being assigned October 17, 1977 (1 day) at Chicago, Ill. and will be held in Court Room 704, 610 South Canal Street.

MC 114211 (Sub-No. 291), Warren Transport, Inc., now assigned September 20, 1977, at Chicago, Ill. is canceled and application dismissed.

MC 124211 Sub 289, Hilt Truck Line, Inc. now assigned October 17, 1977 at Chicago, Ill. is cancelled and transfered to Modified Procedure.

MC 25798 Sub No. 296 Clay Hyder Trucking Lines, Inc., now being assigned October

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17, 1977 (1 week) for hearing in San Francisco, Calif., will be held in Room 510, 211 Main Street.

MC 116457 (Sub-No. 20), General Transportation, Inc., now assigned September 21, 1977, at Phoenix, Ariz. is canceled and Transfered to Modified Procedure.

MC 52566 Sub 5, New England-New York Transport, Inc. now assigned October 26, 1977 at Hartford, Conn. is being reassigned October 26, 1977 (3 days) at Springfield, Mass. and will be held at the Holiday Inn, Room 1108, Dwight Street.

MC-F 12921, Osborne Group, Inc.—Control—Washington-Oregon Lumber Freighters, Inc. now assigned September 19, 1977 at Portland, Oreg. is cancelled, application dismissed.

MC 113678 Sub No. 631 Curtis, Inc., MC 115331 Sub No. 413 Truck Transport Inc., MC 116763–348 Carl Subler Trucking, Inc., MC 118989 Sub No. 141 Container Trucksit, Inc., MC 123048 Sub No. 343 Diamond Transportation System, Inc., MC 124211 Sub No. 281 Hilt Truck Line, Inc., MC 128273 Sub No. 240 Midwestern Distribution, Inc., and MC 135732 Sub No. 25 Aubrey Freight Lines, Inc., now assigned October 25, 1977 at Milwaukee, Wis., will be held in Milwaukee Inn, 916 East State Street.

MC 119792 (Sub-No. 57), Chicago, Southern Transportation Co., now assigned October 17, 1977, at Milwaukee, Wis., will be held at the Milwaukee Inn, 916 East State Street.

MC 136849 (Sub-No. 1), E & H Distributing Co., Contract Carrier Application, now assigned October 12, 1977, at Las Vegas, Nev., will be held in Room 213, Federal Building and Post Office, 301 Stewart Street.

MC 82079 (Sub-No. 47), Keller Transfer Line, Inc., now assigned October 4, 1977, at Lansing, Mich., will be held in Room C-4, State Police Training Academy, 7426 North Canal Road.

MC 11375 (Sub-No. 84), Pirkle Refrigerated Lines, Inc., now assigned October 12, 1977, at Chicago, Ill. will be held in Suite 1437, Federal Building, 55 East Monroe Street.

MC 108587 Sub 21, Schuster Express, Inc. now assigned December 5, 1977 at Hartford, Conn. and will be held at the Sheraton-Hartford Hotel, Trumbuss Street at Civic Center Plaza.

MC 142712, Jerry Paul, d.b.a. Jerry Paul Trucking now assigned October 18, 1977 at Santa Fe, N. Mex. and will be held at the P.E.R.A. Building, 411 East Manhattan.

MC 118848 (Sub-No. 24), Domenico Bus Service, Inc., now assigned October 3, 1977, at Newark, N.J. will be held at the PUC—Room 2 New Jersey Public Utility Commission, 1100 Raymond Boulevard and October 4 through 7, 1977, at the Tax Court, Room 7A–730, Federal Office Building, 970 Broad Street.

MC–C 9615 Ridgeway Tours, Inc. v. Keys to Better Living, Inc., et al. now assigned October 5, 1977 in Harrisburg, Pa. is cancelled and application dismissed.

MC 143142, Garfield and Sargent, Inc., now assigned October 13, 1977, at Boston, Mass. will be held on the Fifth Floor, 150 Causeway.

AB 12 (Sub-No. 52), Southern Pacific Transportation Co. Abandonment Between Kaplan and Eunice, In Acadia, St. Landry and Vermilion Parishes, La., now assigned October 22, 1977 at Eunice, La., will be held in the Meeting Room, Saint Landry Bank & Trust Company of Eunice, 101 North Second Street.

MC 97068 (Sub-No. 16), H. S. Anderson Trucking Co., now assigned October 17, 1977, at Houston, Tex. will be held in the Credit Hearing Room, 7th Floor, Federal Building, 515 Rusk Street.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-27286 Filed 9-19-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 15, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43432—*Joint Rail-Water Container Rates—Seaspeed Services.* Filed by Seaspeed Services, (No. 2), for itself and interested rail carriers.

Rates on general commodities, from railroad terminals at U.S. Gulf and West Coast ports, to ports in the Middle East.

Grounds for relief—Water competition.

Tariff—Seaspeed Services tariff No. 1, I.C.C. No. 1, F.M.C. No. 2.

Rates are published to become effective on October 12, 1977.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-27287 Filed 9-19-77;8:45 am]

[Notice No. 116TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 14, 1977.

Important notice: The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA applicant. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2253 (Sub-No. 77TA), filed August 26, 1977. Applicant: CAROLINA FREIGHT CARRIERS CORPORATION, P.O. Box 697, Cherryville, N.C. 28021. Applicant's representative: J. S. McCallie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cast iron pipe and fittings*, from Charlotte, N.C., to points in Maine, New Hampshire and Vermont, and (2) *Plastic pipe and fittings*, from Bakers, N.C., to points in Maine, New Hampshire and Vermont, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Charlotte Pipe and Foundry Co., 2109 Randolph Rd., Charlotte, N.C. Send protests to: District Supervisor, Terrell Price, Interstate Commerce Commission, 800 Briar Creek Rd., Mart Office Bldg., CC-516, Charlotte, N.C. 28205.

No. MC 52334 (Sub-No. 5TA), filed August 22, 1977. Applicant: BOISE-WINNEMUCCA STAGES, INC., 1105 La Pointe St., Boise, Idaho 83706. Applicant's representative: Shirley Achabal (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Illegal aliens, passengers and their baggage*, consisting of illegal aliens in the custody of the United States Immigration & Naturalization Service, when being removed from the United States, from points in Washington to Calexico, Calif., in one way special or charter operations, for 180 days. Applicant does not intend to tack or interline authority. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: United States Immigration and Naturalization Service, 815 Airport Way South, Seattle, Wash. 98134. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 W. Fort St., Box 07, Boise, Idaho 83724.

No. MC 77424 (Sub-No. 41TA), filed August 15, 1977. Applicant: WENHAM TRANSPORTATION, INC., 3200 East 79 St., P.O. Box 6931, Cleveland, Ohio 44104. Applicant's representative: Daniel C. Sullivan, 10 South LaSalle St., Suite 1600, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bicycles and tricycles, and parts and accessories for bicycles and tricycles*, from Celina, Ohio to points in Alabama, Connecticut, Delaware, Georgia, Iowa, Kentucky, Maryland, Massachusetts, Minnesota, Mississippi, Missouri (except St. Louis), New Jersey, North Carolina, Tennessee, Virginia, Wisconsin, District of Columbia, Illinois south of U.S. Highway 24, Indiana, south of U.S. Highway 24 (except Indianapolis), Michigan north of U.S. Highway 16, New York east of a line beginning at Oswego, N.Y. extending along a line to Syracuse, N.Y., thence along U.S. Highway 11 to the New York-Pennsylvania State line, and Pennsylvania east of U.S. Highway 220 (except Scranton and Philadelphia, Pa.), for 180 days. Supporting shipper: Huffman Manufacturing Co., Ohio Bicycle Division, 410 Grand Lake Road, Celina, Ohio 45822. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Office Bldg., 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 83539 (Sub-No. 465TA), filed August 23, 1977. Applicant: C&H TRANSPORTATION CO., INC., 1936–2010 West Commerce St., (P.O. Box 5976), Dallas, Tex. 75222. Applicant's representative: Thomas E. James (same address a applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete roof tile*, from San Marcos, Tex., to points in Georgia, Kansas, Louisiana, Mississippi, New Jersey, Ohio, Oklahoma, and South Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Skandia Roof Tile, Ltd., 1910 Westminster, Denton, Tex. 76201. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 105375 (Sub-No. 72TA), filed August 26, 1977. Applicant: DAHLEN TRANSPORT, INC., 1680 Fourth Ave., Newport, Minn. Applicant's representative: Joseph A. Eschenbacher, Jr., 1680 Fourth Ave., Newport, Minn. 55055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of C. F. Industries, Inc., at or near Albany, Ill., to points in Illinois, Iowa, Minnesota and Wisconsin, for 180 days. Supporting shipper(s): There are approximately 5 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 107012 (Sub-No. 248TA), filed August 22, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Hwy., East and Meyer Rd., Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lawn mowers, rotary tillers and garden tractors, and parts and accessories* for lawn mowers, rotary tillers and garden tractors, from Willard, Strongville and Cleveland, Ohio, and Plymouth, Wis., to points in the United States, restricted to traffic originating at the plantsite or storage facilities of MTD, Inc. or Gillson Brothers, Inc. and destined to the facilities of Western Auto or Montgomery Ward, for 180 days. Supporting shippers: Western Auto, 2107 Grand Avenue, Kansas City, Mo. 64108; and Montgomery Ward, Montgomery Ward Plaza, Chicago, Ill. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 110988 (Sub-No. 347) (Partial correction), filed August 12, 1977, published in the FEDERAL REGISTER issue of September 1, 1977, and republished as corrected this issue. Applicant: SCHNEIDER TANK LINES, INC., 2661 South Broadway, Green Bay, Wis. 54306. Applicant's representative: Paul Schneider (same address as applicant). NOTE.—The purpose of this republication is to indicate the correct Docket No. MC 110988 (Sub-No. 347TA), in lieu of 51146 (Sub-No. 517TA), which was previously published in error.

No. MC 114194 (Sub-No. 195TA), filed August 22, 1977. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Rd., East St. Louis, Ill. 62201. Applicant's representative: Earnest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Products of corn*, in bulk, (except corn oil, feed and feed ingredients) in tank vehicles and (2) *inedible products of corn*, in bulk, (except corn oil, feed and feed ingredients) in tank vehicles, (1) from the plantsite and storage facility of CPC International, Inc., at Argo, Ill., to points in Connecticut, Maryland, Delaware, West Virginia, Virginia, Kentucky, Michigan, Tennessee, Alabama, Georgia, South Carolina, North Carolina and the District of Columbia and (2) from the plantsite and storage facility of CPC International, Inc., at Argo, Ill., to points in Indiana, Ohio, Pennsylvania, New York, New Jersey, Missouri, Iowa and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Roger V. Haugen, Asst. Transp. Mgr., CPC International, Inc., International Plaza, Englewood Cliffs, N.J. 07632. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 115496 (Sub-No. 61TA), filed August 29, 1977. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Hwy 23 South, Cochran, Ga. 31014. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel, a Division of Nucor Corporation, at or near Darlington, S.C., to points in Alabama, Florida, Georgia, Kentucky, North Carolina, Ohio, Pennsylvania, Virginia, West Virginia, Tennessee and Washington, D.C., for 180 days. Supporting shipper(s): Nucor Steel Company, P.O. Box 5255, Darlington, S.C. 29532. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1232 W. Peachtree St., N.W., Rm. 300, Atlanta, Ga. 30309.

No. MC 120364 (Sub-No. 13TA), filed August 25, 1977. Applicant: A & B FREIGHT LINE, INC., 2800 Falund St., Rockford, Ill. 61109. Applicant's representative: Robert M. Kaske (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lawn equipment* and parts, materials and supplies on return, from the plantsite of Sycamore Manufacturing Co., Genoa, Ill., to points in the States of Minnesota, and Wisconsin, *materials and supplies* on return, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sycamore Manufacturing Co., Walter E. Cunny, Sec.-Treas., Genoa, Ill. Send protests to: Transportation Assistant, Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 123407 (Sub-No. 398TA), filed August 25, 1977. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass tanks*, from the facilities of Structural Fibers, Inc. in Chardon, Ohio, to points in California, Utah, Arizona, Texas, Minnesota, Iowa, Illinois, Indiana, Wisconsin, Arkansas, New York, Georgia, Florida, Vermont, Maine, New Hampshire, Connecticut and New Jersey, for 180 days. Supporting shipper(s): Structural Fibers, Inc., Industrial Parkway, Chardon, Ohio 44024. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 124947 (Sub-No. 67TA), filed August 12, 1977. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Rd., Stroud, Okla. 74079. Applicant's representative: David J. Lister, 1945 South Redwood Rd., Salt Lake City,

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Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Buildings, complete, knocked down or in sections*, (2) *buildings, sections and panels*, (3) *component parts, materials and supplies* for (1) and (2), and (4) *parts, accessories and equipment* used in the installation of (1), (2), and (3) except commodities in bulk, from the plantsite and storage facilities of Star Manufacturing Company located at or near Homer City, Pennsylvania to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Rhode Island, Vermont, Virginia, West Virginia and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Star Manufacturing Company, 8600 South Interstate 35, Oklahoma City, Okla. 73109. Send protests to: District Supervisor Joe Green, Interstate Commerce Commission, Rm. 240, Old Post Office Bldg., 215 NW. Third Street, Oklahoma City, Okla. 73102.

No. MC 129480 (Sub-No. 28TA) (Partial correction) filed July 14, 1977, published in the FEDERAL REGISTER issue of August 9, 1977, and republished as corrected this issue. Applicant: TRI-LINE EXPRESSWAYS, LTD., P.O. Box 5245 Station A, Calgary, Alberta, Canada. Applicant's representative: Edward T. Lyons, Jr., 1660 Lincoln St., 1660 Lincoln Center Bldg., Denver, Colo. 80264.

NOTE.—The purpose of this partial correction is to add an additional Supporting Shipper: McMillan, Bodel, Aspenite Division, Hudson Bay, Saskatchewan, which was previously omitted in error.

No. MC 139420 (Sub-No. 22TA), filed August 29, 1977. Applicant: Art Greenberg, d.b.a. GLACIER TRANSPORT, P.O. Box 428, Grand Forks, N. Dak. 58201. Applicant's representative: James B. Holyland, P.O. Box 1637, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen novelty confections and dietetic frozen desserts*, from Grand Forks, N. Dak., to Salt Lake City, Utah; and (2) *Yogurt*, from Salt Lake City, Utah, to Grand Forks, N. Dak., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Grand Forks Branch, Bridgeman Western Division of Land O'Lakes, Inc., University Avenue, Grand Forks, N. Dak. 58201. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 142549 (Sub-No. 2TA), filed August 22, 1977. Applicant: WALNUT HILL WRECKER SERVICE, INC., 11500 Stemmons Freeway, Suite 112, Dallas, Tex. 75229. Applicant's representative: D. Paul Stafford, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, or repossessed vehicles and replacement vehicles* for wrecked, disabled or repossessed vehicles, by use of wrecker equipment, between Dallas County, Tex., on the one hand, and, on othe other, points in New Mexico, Arizona, Colorado, Kansas, Oklahoma, Missouri, Arkansas, Louisiana, Mississippi, Tennessee, Alabama, Georgia and Florida, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Billy D. Cox Leasing, Inc., 10606 Goodnight Lane, Dallas, Tex. 75220. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 143174 (Sub-No. 2TA), filed August 22, 1977. Applicant: KAPRI TRANSPORTATION CO., P.O. Box "G", Valley, Nebr. 68064. Applicant's representative: Aryln L. Westergren, Suite 530 Univac Bldg., 7100 West Center Rd., Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from Davenport, Iowa, to points in Illinois, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Robert Tedrick, Operations Manager, Energy Engineering, Inc., 4777 West Lake Street, River Forest, Ill. 60305. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 143551 (Sub-No. 1TA), filed August 4, 1977. Applicant: TRIANGLE TRUCKING, Delano, Minn. 55403. Applicant's representative: Samuel Rubenstein, 301 North Fifth St., Minneapolis, Minn. 55043. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Floor coverings, stair treads, wall tile, counter top coverings and mouldings and materials and supplies* used in the installation, maintenance and repair of the commodities described above, and (2) *China bath accessories*, from Baltimore, MD; Newark, Salem, Trenton, E. Brunswick, Roselle Park and Keyport, NJ; Newburgh, New York and Elmsford, NY; Minerva and Dalton, OH; and Gettysburg and Philadelphia, PA; to points in Iowa, Minnesota, North Dakota, South Dakota and Wisconsin, under a continuing contract or contracts with Minnesota Tile Supply, Minneapolis, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Minnesota Tile Supply, 4825 France Avenue North, Minneapolis, Minn. 55429. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 143567 (Sub-No. 1TA), filed August 16, 1977. Applicant: MIDEAST EXPRESS, INC., 504 First National Bank Bldg., Johnstown, Pa. 15901. Applicant's representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, Pa. 19107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and byproducts, articles distributed by and commodities used by meat packinghouses* (except commodities in bulk, hides, and animal feed and animal feed ingredients), in vehicles equipped with mechanical refrigeration, from the facilities of American Stores Packing Company in Lancaster County, Nebr., to the facilities of Acme Markets, Inc., at or near Forty Fort, Pa., under a continuing contract, or contracts, with Acme Markets, Inc., or American Stores Packing Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Send protests to: Richard C. Gobbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Bldg., 100 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 143584 (Sub-No. 1TA), filed August 22, 1977. Applicant: CATES TRUCKING, INC., Box 518, Swayzee, Ind. 46986. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Milroy, Hartford City, Upland, Elwood, Port Isabel, and Swayzee, Ind., to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Illinois, Wisconsin, Michigan, Kentucky, Tennessee, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Ohio, Pennsylvania, New York, Delaware, Maryland, New Jersey, Connecticut, Massachusetts, Vermont, New Hampshire, Maine and Rhode Island; and *materials, equipment, and supplies* used in the manufacture of canned goods from North Dakota, South Dakota, Nebraska, Kansas, Ohio, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Illinois, Wisconsin, Michigan, Kentucky, Tennessee, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Oklahoma, Pennsylvania, New York, Delaware, Maryland, New Jersey, Connecticut, Massachusetts, Vermont, New Hampshire, Maine, and Rhode Island, to Hartford City, Upland, Elwood, Swayzee, and Port Isabel, Ind., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Milroy Canning Co., Inc., Box 125, Milroy, Ind. 46156; Fettig Canning Corp., P.O. Box 495, Elwood, Ind. 46036; Swayzee Packing Co., Inc., 714 East Lyons Street, Swayzee, Ind. 46986; and Blackford County Canning Co., R.R. 3, Hartford City, Ind. 47348. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 143628 (Sub-No. 1TA), filed August 25, 1977. Applicant: GLACIER REFRIGERATION SERVICE, INC., 14 Orchard Road, Woodbridge, Conn. 06525. Applicant's representative: Harold B. Hernly, Jr., 118 North St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in, or used by, the Marriott Corp. pursuant to its business, between Washington, D.C., and Prince Georges County, Md., on the one hand, and, on the other, points in the United States (including Alaska but excluding Hawaii), under a continuing contract, or contracts, with the Marriott Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fairfield Farm Kitchens, 5200 Addison Road NE., Washington, D.C. 20027. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 135 High Street, Room 324, Hartford, Conn. 06101.

No. MC 143645 (Sub-No. 1TA), filed August 19, 1977. Applicant: HOMER JONES, doing business as Homer Jones Trucking, Route 4, Box 354, Minden, La. 71055. Applicant's representative: John W. Montgomery, P.O. Box 1173, 209 Pine Street, Minden, La. 71055. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gravel*, from Wilton, Ark., to Shreveport and Bossier City, La., and to various points in Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, East Carroll, Jackson, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Red River Richland, Sabine, Union, Webster, West Carroll, and Winn Parishes, La., under a continuing contract, or contracts, with Braswell Industries, Inc., for 180 days: Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Braswell Industries, Inc., P.O. Box 6617, Shreveport, La. 71106. Send protests to: District Supervisor Ray C. Armstrong, Jr., 701 Loyola Ave., 9038 Federal Building, New Orleans, La. 70113.

No. MC 143657TA, filed August 29, 1977. Applicant: GLENN PETERSON, Thunder Hawk, S. Dak. 57655. Applicant's representative: Curtis W. Hanks, 209½ Main Avenue, Lemmon, S. Dak. 57638. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured animal, poultry and livestock feed*, in bags and bulk, *poultry and livestock health products, and bulk grain*, between Minneapolis, Minn., and Lemmon, S. Dak., and between Sioux City, Iowa, and Lemmon, S. Dak., for 180 days. Supporting shipper(s): Lemmon Feed Corp., Lemmon, S. Dak. 57638, Don Murray, Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, S. Dak. 57501.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-27288 Filed 9-19-77;8:45 am]

[Notice No. 119TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 12, 1977.

Important notice: The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 5227 (Sub-No. 30TA), filed August 15, 1977. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, Nebr. 68041. Applicant's representative: Gailyn L. Larsen, Peterson, Bowman, Coffman & Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Solar heating units, collectors and duct work, and equipment, materials, and supplies* used in the manufacture, distribution, and installation thereof, from Manhattan, Kans., to points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Wisconsin, Washington, and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): James McAdams, President, Future Systems, Inc., 12500 West Cedar Drive, Lakewood, Colo. 80228. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 5603 (Sub-No. 1TA), filed July 29, 1977. Applicant: CHALMERS MOTOR FREIGHT, INC., 275 Langhorne, Yardley Road, Langhorne, Pa. 19047. Applicant's representative: Raymond A. Thistel, Jr., Suite 1012, Four Penn Center Plaza, Philadelphia, Pa. 19103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *noncarbonated beverages*; (2) *chilled juices* in vehicles equipped with mechanical refrigeration; and (3) *lemonade crystals*, from Hightstown and Vincentown, N.J., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, under a continuing contract or contracts with Coca Cola Co. Foods Division, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Coca Cola Co. Foods Division, 480 Mercer Street, Hightstown, N.J. 08520. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 83539 (Sub-No. 460TA) (correction), filed June 7, 1977, published in the FEDERAL REGISTER issue of July 12, 1977, and August 4, 1977, and republished as corrected this issue. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce Street, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral products*, in bags (except commodities in bulk, in tank vehicles), from the plantsite and facilities of Industrial Mineral Ventures, Inc., in Nye County, Nev., to points in Colorado, Idaho, Illinois, Kansas, Louisiana, Mississippi, Montana, New Mexico, North Dakota, Oklahoma, Oregon, Texas, Utah (except Salt Lake City, Utah, and a 40 mile radius there), and Wyoming, for 180 days. Supporting shipper: Industrial Mineral Ventures, Inc., 5920 McIntyre Street, Golden, Colo. 80401. Send protests to: Transportation Assistant Opal M. Jones, nterstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242. The purpose of this republication is to add the territorial description which was previously omitted in error, and to change the State Indiana to Idaho and the State Missouri to Mississippi, which was previously typed in error.

No. MC 89684 (Sub-No. 99TA), filed August 23, 1977. Applicant: WYCOFF COMPANY, INC., 560 South 300 West,

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Salt Lake City, Utah 84110. Applicant's representative: Kent W. Capener (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *General commodities*, between Elko, Nev., and Washoe, Storey, Carson City, Humboldt, Pershing, Churchill, Lander, Eureka, and White Pine Counties, Nev., for 180 days. Restrictions: Said operations are restricted to the transportation of packages or articles each not exceeding 100 pounds in weight. Said operations are restricted against the transportation of shipments of packages or articles weighing in the aggregate of more than 200 pounds from one consignor to one consignee on any one day. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

NOTE.—Applicant does intend to tack authority here applied for to authority held by it in MC 89684. Applicant does intend to interline with other carriers at Elko, Winnemucca, and Reno, Nev. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. There are approximately 93 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named.

No. MC 103993 (Sub-No. 900TA), filed August 22, 1977. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani, 28651 U.S. 20 West, Elkhart, Ind. 46514. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles in initial movements, from Harnett County, N.C., to points in Cambria County, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Titan Homes Division, P.O. Box 11385, Lillington, N.C. 27546. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 107403 (Sub-No. 1030TA), filed August 19, 1977. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr., Vice President, Traffic (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Alcoholic liquors*, in bulk, in tank vehicles, from the United States-Mexico ports of entry located in Arizona, New Mexico, and Texas, to points in the United States (except Alaska and Hawaii), (2) *alcoholic liquors and wine*, in bulk, in tank vehicles, between points in Indiana, Kentucky, Tennessee, and Pennsylvania, on the one hand, and, on the other, points in California, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Schenley Distillers, Inc., 36 East Fourth Street, Cincinnati, Ohio 45202. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 112617 (Sub-No. 374TA), filed August 25, 1977. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bisphenol*, in bulk, in tank or hopper type vehicles, from the facilities of United States Steel Corp., Haverhill, Scioto County, Ohio, to points in the United States except Alaska and Hawaii, and return or rejected shipments from all of the destinations to the point of origin, for 180 days. Supporting shipper: Mr. F. B. Varner, General Manager, Traffic and Transportation, 600 Grant, U.S. Steel Corp., Pittsburgh, Pa. 15230. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 P.O. Building, Louisville, Ky. 40202.

No. MC 113678 (Sub-No. 700TA), filed August 16, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Denver, Colo. 80022. Applicant's representative: Roger M. Shaner, P.O. Box 16004, Stockyards Station, Denver, Colo. 80216 (303-287-3211). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rugs, carpets, carpeting, and related floor products* (except commodities in bulk), (1) from points in Georgia to points in Idaho, Oregon, Utah, and Washington, and (2) from Morganfield, Ky., to points in Colorado, Idaho, Oregon, Utah, and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 27 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, Colo. 80202.

No. MC 115730 (Sub-No. 36TA), filed August 15, 1977. Applicant: THE MICKOW CORP., P.O. Box 1774, Des Moines, Iowa 50306. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal building, wire mesh, furniture racks, grain tanks, grain crop dryers, and hydraulic presses, and component parts therefor, and equipment, materials and supplies* used in the manufacture of the above items between the plantsite and storage facilities of Behlen Manufacturing Co. at or near Columbus, Neb., on the one hand, and, on the other, points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Texas, Wisconsin, and Wyoming. Restricted against the transportation of commodities in bulk and commodities which because of size or weight require the use of special equipment and restricted against the transportation of iron and steel articles from points in Ohio and the commercial zones of Chicago and Joliet, Ill., to Behlen Manufacturing Co. at Columbus, Neb., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Behlen Manufacturing Co., Columbus, Nebr. 68601. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 117439 (Sub-No. 52TA) (correction), filed July 27, 1977, and published in the FEDERAL REGISTER issue of August 22, 1977, and republished this issue. Applicant: BULK TRANSPORT, INC., P.O. Box 1429 (5500 Florida Boulevard), Baton Rouge, La. 70821. Applicant's representative: John Schwab, P.O. Box 3036 (617 North Boulevard), Baton Rouge, La. 70821. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drilling mud*, in bulk and bags, from points in Louisiana to points in Georgia, Florida, Mississippi, and Alabama, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. supporting shipper(s): There are approximately (3) statements of support attached to the application which may be exmained at the Interstate Commerce Commission in Washington. D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Ray C. Armstrong, Jr., 701 Loyola Avenue, 9038 Federal Building, New Orleans, La. 70113. The purpose of this republication is to correct commodity description to *"Drilling mud in bulk and in bags,"* in lieu of *"Drilling mud in bulk"* which was previously shown in error.

No. MC 119493 (Sub-No. 160TA), filed August 22, 1977. Applicant: MONKEM CO., INC., West 20th Street Road, P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: Lawrence F. Kloeppel (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and materials and supplies* used in the manufacture of new furniture, new furniture from the facilities of La-Z-Boy Midwest Co., at or near Neosho, Mo.; and the facilities of La-Z-Boy Arkansas Co., at or near Siloma Springs, Ark., to points in the United States except Alaska and Hawaii, and materials and supplies used in the manufacture of new furniture from points in the United States except Alaska and Hawaii to the facilities of La-Z-Boy Arkansas Co., at or near Siloma Springs, Ark., for 180 days. Supporting shipper: La-Z-Boy Midwest Co., P.O. Box 628, Neosho, Mo. 64850. Send protests to:

John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 120427 (Sub-No. 6TA), filed August 23, 1977. Applicant: WILLIAMS TRANSFER, INC., P.O. Box 34, Adams, Nebr. 68301. Applicant's representative: John K. Walker (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Grain storage, drying and handling equipment; iron and steel articles; items* used in the manufacturing of grain storage, drying, and handling equipment, (1) from Crawfordsville, Ind., to Brown City, Mich.; Huey, Galva, and Paris, Ill.; Palmer, Nebr.; Lebanon, Pa.; Fayetteville, Ohio and Greeley, Iowa; and (2) from Chicago, Ill. and its commercial zone to Crawfordsville, Ind.; Webster City, Iowa and Grand Island, Nebr., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Donald R. Reimer, Jr., Modern Farm Systems, Inc., 2929 East Highway 30, Grand Island, Nebr. 68801. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 124896 (Sub-No. 24TA), filed August 25, 1977. Applicant: WILLIAMSON TRUCK LINE, INC., P.O. Box 3485, Wilson, N.C. 27893. Applicant's representative: B. H. Williamson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats and packing house products* (for Geo. A. Hormel & Co.), from the plant sites of at or near Fort Dodge, and Algona, Iowa, and Fremont, Nebr., to points in Georgia, North Carolina, and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Geo. A. Hormel & Co., Austin, Minn. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 125211 (Sub-No. 1TA), filed August 26, 1977. Applicant: ERNEST ALLEN, P.O. Box 390, Springvale, Maine 04083. Applicant's representative: John G. Feehan, One Canal Plaza, Portland, Maine 04112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mixed fortified feed* in bags from the plantsite of Agway Co., Manchester, N.H., to Sanford, Maine, for 180 days. Supporting shipper(s): Falls Agway, Berwick Road, Sanford, Maine 04073. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, 76 Pearl Street, Room 307, Portland, Maine 04111.

No. MC 125872 (Sub-No. 4TA), filed August 15, 1977. Applicant: C. H. DREDGE & CO., INC., a Utah corporation, 918 South 3000 West, Syracuse, Utah 84041. Applicant's representative: Miss Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *meats, meat products, meat by-products, and articles* distributed by meat packinghouses, as described in Sections A and C of Appendix 1 to the report in Descriptions Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides) from the plant site of Joe Doctorman & Sons, Inc. located at or near South Salt Lake City, Utah to Denver, Colo. and Hillsboro and Portland, Oreg., under a continuing contract, or contracts, with Joe Doctorman & Sons, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Joe Doctorman & Sons, 2900 South 300 West, Salt Lake City, Utah 84115, (Harry Doctorman, Vice President). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 127834 (Sub-No. 118TA), filed August 22, 1977. Applicant: CHEROKEE HAULING & RIGGING, INC., P.O. Drawer L., Madisonville, Ky. 42431. Applicant's representative: Carl U. Hurst (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Conduit or pipe, cement*, containing asbestos fibre and fittings therefor, from the plantside of Cement Asbestos Products Co. (subsidiary of ASARCO Inc.), at or near Ragland, Ala., to points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Cement Asbestos Products Co., Subsidiary ASARCO Inc., 611 Olive St., Suite 1755, St. Louis, Mo. 63101. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations—ICC, Suite A-422—U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 135599 (Sub-No. 7TA), filed August 25, 1977. Applicant: WITTENBURG TRUCK LINE, INC., P.O. Box 98, Readlyn, Iowa 50668. Applicant's representative: Ronald R. Adams, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic drain tile, other plastic water pipe, and plastic storm sewer pipe*, from a point at or near Fairmont, Minn.; to points in North Dakota, South Dakota, Nebraska, Kansas, Missouri, Illinois, Wisconsin, Ohio, Colorado, Wyoming, Montana, Indiana, Oklahoma, Arkansas, and Tennessee, and return to Fairmont, Minn.; for 180 days, under a continuing contract with Hancor of Iowa, P.O. Box 550, Oelwein, 50662. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 136668 (Sub-No. 4TA), filed August 26, 1977. Applicant: ROGERS VINEGAR COMPANY, INC., West Olive at Frisco Tracks, Rogers, Ark. 72756. Applicant's representative: Michael H. Mashburn, 111 Holcomb Street, P.O. Box 869, Springdale, Ark. 72764. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ethyl alcohol* in bulk, from Muscatine, Iowa to the plant site and warehouse of Standard Brands, Inc. at Nixa, Mo., under a continuing contract, or contracts, with Standard Brands, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Standard Brands, Inc., Nixa, Missouri. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 138297 (Sub-No. 6TA), filed August 18, 1977. Applicant: CENTRAL FLORIDA COACH LINES, INC., P.O. Box 127, Mountaintop, Pa. 18707. Applicant's representative: Joseph F. Hoary, 121 South Main Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, substitute Lima, Ohio, in lieu of Bowling Green, Ohio, in the 7th line of the territorial description in Docket No. MC 138297 Sub 4. Restriction: The authority granted herein above is restricted to the transportation of passengers having an immediately prior movement in a passenger automobile tendered to carrier for transportation on separate automobile transporters pursuant to the authority set forth in No. MC 142317 Sub 1, for 180 days. Supporting shipper(s): There are no supporting shippers: Send protests to: Paul J. Kenworth, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 138929 (Sub-No. 4TA), filed August 15, 1977. Applicant: AIR FREIGHT DELIVERY SERVICE, INC., P.O. Box 707, Route 50, Winchester, Va. 22601. Applicant's representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, Va. 22611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, and commodities requiring special equipment), between points in Charlottesville, Clifton Forge, Culpeper, Elkton, Harrisonburg, Staunton, Waynesboro, Virginia, and their commercial zones, on the one hand, and, on the other, Friendship International Airport at Baltimore, Md., Dulles International Airport at Chantilly, Va., and Washington International Airport at Alexandria, Va., restricted to the transportation of shipments having an im-

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mediately prior or immediately subsequent movement by air, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 10 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 141112 (Sub-No. 6TA), filed August 23, 1977. Applicant: BURWELL RAY GALLOP d.b.a., GALLOP BUS LINES, 3900 East Indian River Rd., Chesapeake, Va. 23325. Applicant's representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, Va. 22611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passangers and their baggage*, in the same vehicle with passengers, in special and/or round-trip charter operations, beginning and ending in Portsmouth, Norfolk, Chesapeake, Suffolk, and Virginia Beach, Va., and extending to points in Alabama, California, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia, for 180 days. Supporting shipper(s): There are approximately 32 statements of support attached to the application which may be examined at the Interstate Commerce Commission, Washington, D.C. or copies thereof which may be examined at the filed office named below. Send protests to: District Supervisor Paul D. Collins, Bureau of Operations, Rm. 10–502 Federal Bldg. 400 North 8th St., Richmond, Va. 23240.

No. MC 142178 (Sub-No. 2TA), filed August 29, 1977. Applicant: KENNETH J. PRENGER d.b.a. CHERKEN TRUCK LINES, P.O. Box 1302, Columbia, Mo. 65201. Applicant's representative: Arthur J. Cerra, P.O. Box 19251, 2100 Ten Main Center, Kansas City, Mo. 64141. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* used in the construction of heating and ventilating systems, from the plantsite of SEMCO Mfg., Inc., at Salisbury, Mo., to points in the United States (except Alaska, Hawaii, and Missouri), under a continuing contract, or contracts, with SEMCO Mfg., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): SEMCO Mfg., Inc., P.O. Box 1797, Columbia, Mo. 65201. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 142704 (Sub-No. 1TA), filed August 23, 1977. Applicant: TRANSTECH, INC., 535 Blackberry Patch, Arnold, Mo. 63010. Applicant's representative: Robert Neihesler, 5565 Fireleaf Drive, St. Louis, Mo. 63129. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers*, from Terre Haute, Ind., to St. Louis, Mo., and (2) *materials and supplies* used in the manufacture and distribution of glass containers, from the St. Louis, Mo.-East St. Louis, Ill. Commercial Zone to Terre Haute, Ind., under a continuing contract or contracts with Midland Glass Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midland Glass Co., Inc., P.O. Box 557, Cliffwood, N.J. 07721. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Room 1645, 210 North 12th Street, St. Louis, Mo. 63101.

No. MC 142887R (Sub-No. 2TA), filed August 31, 1977. Applicant: NEW ENGLAND BULK TERMINAL, INC., 390 Southbridge Street, Worcester, Mass. 01610. Applicant's representative: John F. O'Donnell, Barrett and Barrett, P.O. Box 238, 60 Adams Street, Milton, Mass. 02187. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic*, dry, in bulk, in tank vehicles, from Worcester and Leominster, Maine, to Dover, N.H., Pownal, Vt., Pawtucket, R.I., Rochester, Granville, Schenectady, Yonkers, Hauppage, and Brooklyn, N.Y., Bethel, Conn., Avenrel, Edison, Trenton, Clarksville, and Burlington, N.J., Scranton and Lancaster, Pa., and Winchester, Va., for 180 days. Supporting shipper(s): Border Chemical, Division of Borden, Inc., 180 East Broad Street, Columbus, Ohio 43215. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 436 Dwight Street, Room 338, Springfield, Mass. 01103.

No. MC 143618TA, filed August 18, 1977. Applicant: ACADEMY BUS TOURS, INC., 1515 Jefferson Street, Hoboken, N.J. 07030. Applicant's representative: Sidney J. Leshin, 575 Madison Avenue, New York, N.Y. 10022. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, restricted to persons attending sporting events in which a New York City professional athletic team is participating. Beginning and ending in New York, N.Y., and extending to Boston, Mass., Philadelphia and Pittsburgh, Pa., Landover, Md., Buffalo, N.Y., and the New York-Canadian border, for 180 days. Supporting shipper(s): There are approximately 24 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 143630TA, filed August 18, 1977. Applicant: FLOYD M. GRIEBEL, SR., FLOYD M. GRIEBEL, JR., and WILLIAM F. GRIEBEL d.b.a., GRIEBEL TRUCKING, Box 145, Marengo, Ill. 60152. Applicant's representative: James Canfield, 1100 Rockford Trust Building, Rockford, Ill. 61101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lamination sheet steel* (item 105.600 National Classification Guide) *transformer parts, iron ingots, iron and scrap steel, magnets* (not magnetized), *and strontium ferrite iron powder*, from Marengo, Ill., to Memphis, Tenn., Little Rock, Ark., and from Washington, Ind., to Marengo, Ill., from Marengo, Ill., to Detroit, Mich., and between Greenville, Bagdad, and Leechburg, Pa., and Dunkirk, N.Y., on the one hand, and, on the other, Marengo, Ill., under a continuing contract, or contracts, with The Arnold Engineering Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Arnold Engineering Co., Kurt F. Riebock, Manager, Material Services, Marengo, Ill. 60152. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 77-27289 Filed 9-19-77;8:45 am]

[Notice No. 117TA]

MOTOR CARRIER TEMPORARY APPLICATIONS

September 15, 1977.

Important notice: The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

No. MC 61403 (Sub-No. 249TA), filed August 26, 1977. Applicant: THE MASON & DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bisphenol*, in bulk, in tank or hopper-type vehicles, from the facilities of United States Steel Corp., at Haverhill, Scioto County, Ohio, to points in the United States (except Alaska and Hawaii), and *returned and rejected shipments*, from the above named destination territory to the above named origin point, for 180 days. Supporting shipper(s): United States Steel Corp., 600 Grant Street, Pittsburgh, Pa. 15230. Send protests to: Joe E. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 111268 (Sub-No. 2TA), filed August 30, 1977. Applicant: KERNS TRUCKING, INC., Highway 161 and I-85, P.O. Box 206, Kings Mountain, N.C. 28086. Applicant's representative: George W. Clapp, 109 Hartsville Street, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ground lithium ore waste*, in bulk, in dump vehicles, from the mine site and facilities utilized by Lithium Corp. of America, at or near Bessemer City, N.C., to the plantsite and facilities utilized by Lithium Corp. of America, Spartan Minerals Division, at or near Pacolet, S.C., restricted to a transportation service to be performed under a continuing contract, or contracts, with Lithium Corp. of America, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lithium Corp. of America, 449 North Cox Road, Gastonia, N.C. 28052. Send protests to: District Supervisor Terrell Price, Interstate Commerce Commission, 800 Briar Creek Road, Mart Office Building, Room CC516, Charlotte, N.C. 28205.

No. MC 112595 (Sub-No. 71TA), filed August 29, 1977. Applicant: FORD BROTHERS, INC., P.O. Box 727, Ironton, Ohio 45638. Applicant's representative: James W. Muldoon, 50 West Broad Street, Suite 1815, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bisphenol*, in bulk, in tank or hopper type vehicles, from the facilities of United States Steel Corp. at Haverhill, Scioto County, Ohio, to points in the United States (except Alaska and Hawaii), and *returned or rejected shipments* from the above named destination territory to the above named origin point, for 180 days. Supporting shipper(s): F. B. Varner, General Manager, Traffic and Transportation, United States Steel Corp., 600 Grant Street, Pittsburgh, Pa. 15230. Send protests to: H. R. White, District Supervisor, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, W. Va. 15230.

No. MC 117344 (Sub-No. 262TA), filed August 29, 1977. Applicant: THE MAXWELL CO., 10380 Evendale Drive, P.O. Box 15010, Cincinnati, Ohio 45215. Applicant's representative: John C. Spencer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bisphenol*, in bulk, in tank or hopper type vehicles, from the facilities of United States Steel Corp. at Haverhill, Scioto County, Ohio, to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper(s): F. B. Varner, General Manager, Traffic and Transportation, United States Steel Corp., 600 Grant Street, Pittsburgh, Pa. 15230. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, I.C.C., 5514–B Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 129455 (Sub-No. 24TA), filed August 4, 1977. Applicant: CARPETTA TRUCKING, INC., P.O. Box 887, Maywood, N.J. 07607. Applicant's representative: Charles J. Williams, 1815 Front Street, Scotch Plains, N.J. 07076. Authority south to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Medicines and toilet preparations* (except in bulk), (1) from Hillside, N.J., Franklin, Ky., and St. Louis, Mo., to a La Mirada and Oakland, Calif., and Portland, Oreg., and (2) between St. Louis, Mo., and Hillside, N.J., restricted to a transportation service to be performed under a continuing contract, or contracts, with Bristol-Meyers Products, for 180 days. Supporting shipper(s): Bristol-Meyers Products, 225 Long Avenue, Hillside, N.J. 07207. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 133095 (Sub-No. 171TA), filed August 30, 1977. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, 2603 W. Euless Boulevard, Euless, Tex. 76039. Applicant's representative: Donald L. Stern, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats and packinghouse products*, from the plant sites and storage facilities of Wilson Foods Corp. at Albert Lea, Minn., Cherokee and Des Moines, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and the District of Columbia, for 180 days. Supporting shipper(s): Wilson Foods Corp., 4545 Lincoln Boulevard, Oklahoma City, Okla. 73105. Send protests to: District Supervisor, Robert J. Kirspel, Room 9a27, Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 134574 (Sub-No. 19TA), filed August 29, 1977. Applicant: FIGOL DISTRIBUTORS LTD., 11041 105th Avenue, Edmonton, Alberta, Canada T5M 1Y2. Applicant's representative: Richard S. Mandelson, 1600 Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nickel*, in drums, from ports of entry on the International Boundary line between the United States and Canada located in Montana, Idaho and Washington, to points in Washington, Oregon and California; restricted to the transportation of traffic originating in the Province of Alberta, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Michael Nelson, President, Keystone-Lenway, 100 California Street, San Francisco, Calif. 94111. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 135469 (Sub-No. 5TA), filed August 30, 1977. Applicant: HAWKEYE TRANSPORT CO., 601 East Front Street, Stanwood, Iowa 52337. Applicant's representative: Carl E. Munson, 469 Fischer Building, Dubuque, Iowa 52201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer* and *fertilizer materials*, in bulk, from the facilities of C. F. Industries located at or near Albany, Ill., to points in Illinois, Iowa, Minnesota and Wisconsin, for 180 days. Supporting shipper(s): There are approximately 5 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 135691 (Sub-No. 18TA), filed August 29, 1977. Applicant: DALLAS CARRIERS CORP., 3610 Garden Brook Drive, P.O. Box 34080, Dallas, Tex. 75234. Applicant's repesentative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pallets*, from Concord, Ark., to Seward, Nebr., Lake Mills, Iowa, Batavia, Ill. and Arden, N.C., under a continuing contract, or contracts, with Walker Manufacturing Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Walker Manufacturing Co., 1201 Michigan Avenue, Racine, Wis. 53402. Send protests to: District Supervisor Opal M. Jones, Transportation Assistant, Interstate

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Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 136168 (Sub-No. 18TA), filed August 30, 1977. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 280, Marshall, Mo. 65340. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats and packinghouse products*, from the plantsites and storage facilities of Wilson Foods Corp., at Cherokee, Cedar Rapids and Des Moines, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia and the District of Columbia, restricted to a transportation service to be performed under a continuing contract, or contracts, with Wilson Foods Corp., for 180 days. Supporting shipper(s): Wilson Foods Corp., 4545 Lincoln Boulevard, Oklahoma City, Okla. 73105. Send protests to: Vernon V. Coble, District Supervistor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 138157 (Sub-No. 42TA), filed August 30, 1977. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., doing business as, SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, Tenn. 37412. Applicant's representative: Patrick E. Quinn, 2931 South Market Street, P.O. Box 9596, Chattanooga, Tenn. 37412. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shaped metal articles* and *related accessories* (except commodities in bulk and commodities which by reason of size and weight require the use of special equipment), from Atlanta, Ga., to points in the United States (except Alaska, Hawaii and Georgia), (restricted to traffic originating at or destined to the facilities of Kinkead Industries, Inc., at or near Atlanta, Ga., for 180 days. Supporting shipper(s): United States Gypsum Co., 101 South Wacker Drive, Chicago, Ill. 60606. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 140051 (Sub-No. 3TA), filed August 12, 1977. Applicant: DANIEL C. NEASE, doing business as, RANCER ENTERPRISES, 9327 Sherborn Drive, Cincinnati, Ohio 45231. Applicant's representative: Timothy Slater, 6343 Birchdale Court, Cincinnati, Ohio 45230. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpet, linoleum, tile and materials and supplies* used for installation of the foregoing commodities and returned shipments of the foregoing commodities, between the facilities of Carson, Pirie, Scott & Co., at Cincinnati, Ohio, on the one hand, and, on the other, points in Allen, Huntington, Wells, Adams, Grant, Blackford, Jay, Tipton, Madison, Delaware, Randolph, Marion, Hancock, Henry, Wayne, Johnson, Shelby, Rush, Fayette, Union, Brown, Barthalomew, Decatur, Franklin, Jackson, Jennings, Ripley, Dearborn, Ohio, Switzerland, Jefferson, Scott, Washington, Clark, Floyd and Harrison Counties, Ind. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Carson, Pirie, Scott & Co., for 180 days. Supporting shipper: Carson, Pirie, Scott & Co., 950 Laidlaw Avenue, Cincinnati, Ohio 45237. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 140119 (Sub-No. 2TA), filed August 26, 1977. Applicant: RAYMOND J. GALLAHER, Irvona, Pa. 16650. Applicant's representative, Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from the facilities of Bituminous Processing Co., Inc., at or near the Village of Wyano, Westmoreland County, Pa., to Binghamton, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bituminous Processing Co., Inc., 285 South Washington Road, McMurray, Pa. 15317. Send protests to: Richard C. Gobbell, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 140201 (Sub-No. 1TA), filed August 30, 1977. Applicant: SONNELL, INC., 524 Wyndmoor Ave., Wyndmoor, Pa. 19118. Applicant's representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cocoa, chocolate, confectionery, and commodities* produced from or composed thereof, in temperature controlled equipment, from facilities of Hershey Foods Corp., Derry Township, Dauphin County, Pa., to points in Nassau, Suffolk, and Westchester Counties, N.Y., and New York, N.Y., Commercial Zone, and Bergen, Essex, Hudson, Union, Middlesex, and Somerset Counties, N.J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hershey Foods Corp., 19 East Chocolate Avenue, Hershey, Pa. 19033. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 140665 (Sub-No. 12TA), filed August 11, 1977. Applicant: PRIME, INC., Route 1, Box 115B, Urbana, Mo. 65767. Applicant's representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Chemicals and chemical additives, color pigments, paint compounds, magnetic ferrite powder, and materials and supplies* used in the production or marketing of the above commodities (except commodities in bulk), from Baton Rouge, La.; (b) *refractories, ceramic materials and supplies, and materials and supplies* used in the installation or production of kilns or furnaces, from Tyler, Tex.; (c) *fiberglass, glass, plastic articles, and fiber*, from Toccoa, Ga.; (d) *plastic and plastic materials, and supplies* used in the production of marketing of plastic (except commodities in bulk), from Houston, Tex., to points in the states of Arizona, California, Colorado, New Mexico, Utah, Nevada, Wyoming, Montana, Idaho, Oregon, and Washington, for 180 days. Supporting shipper: Ferro Corp., One Erieview Plaza, Cleveland, Ohio 44114. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 141033 (Sub-No. 30TA), filed August 30, 1977. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, P.O. Box 1257, City of Industry, Calif. 91749. Applicant's representative: James I. Mendenhall (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Deodorants*, other than medicinal and other than toilet preparations, foodstuffs, cleaning, bleaching, and scouring compounds, cooking oils, animal litters, in containers and boxes, in mixed shipments, from Houston, Tex., to points in Arkansas, Georgia, Louisiana, Missouri, New Mexico, Oklahoma, and Tennessee (restricted to shipments originating at the plantsite and facilities of the Clorox Co. in Houson, Tex.), for 180 days. Supporting shipper(s): The Clorox Co., 1221 Broadway, Oakland, Calif. 94612. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 F ederal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 141097 (Sub-No. 9TA), filed August 29, 1977. Applicant: CAL-TEX, INC., 3051 Capri Lane, Costa Mesa, Calif. 92626. Applicant's representative: Greg P. Steffire, 700 South Flower Street, Suite 1724, Los Angeles, Calif. 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Synthetic yarn, synthetic fibers, and the materials and supplies* used in connection with the manufacturing thereof, (a) between the facilities of Pharr Yarns, Inc., at McAdenville, Gastonia, Belmont, and Spencer Mountain, N.C.; and Rome, Ga., and the facilities of Bulkspun at Lugoff, Stuckey, and Olanta, S.C., and Inman Mills at Enoree, S.C., (b) from the facilities of Bulkspun Industries at Lugoff, Stuckey, and Olanta, S.C., and Inman Mills at Enoree, S.C., to various points in California, restricted to a transportation service to be performed under a continuing contract, or contracts, with

Pharr Yarns, Inc., of McAdenville, N.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pharr Yarns, Inc., McAdenville, N.C. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 143121 (Sub-No. 3TA), filed August 9, 1977. Applicant: TILLAMOOK CARRIERS, INC., 8023 East Slauson Avenue, No. 8, Montebello, Calif. 90640. Applicant's representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, Calif. 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodites*, as are dealt in by retail and chain grocery, hardware, and drug stores; and materials and supplies used in the manufacture and distribution of such commodities. (1) Between the plant and warehouse facilities of Boyle-Midway Division of American Home Products in Chicago, Ill., and Los Angeles, Calif., with stop-off service enroute to points in Iowa, Kansas City, Mo., Denver, Colo., Salt Lake City, Utah, and Phoenix, Ariz.; and (2) from the plant and warehouse facilities of Boyle-Midway Division of American Home Products in Chicago, Ill., to Portland, Oreg., with stop-off service en-route to Fargo, N. Dak., and points in Montana, Wyoming, Idaho, Washington, and Oregon; and (3) from Portland, Oreg., to points in Montana, Wyoming, Idaho, Washington, and Oregon; and (4) from the plant and warehouse facilities of Boyle-Midway Division of American Home Products in Los Angeles, Calif., to points in Idaho, Montana, Oregon, and Washington; and (5) from the facilities of Peterson-Puritan Co. and Aerosol Techniques located in Danville, Ill., to the plant and warehouse facilities of Boyle-Midway Division of American Home Products in Chicago, Ill., and Los Angeles, Calif.; and (6) from the plant and warehouse facilities of Boyle-Midway Division of American Home Products in Cranford, N.J., to its plant and warehouse facilities in Canton, Ohio, and Chicago, Ill.; and (7) from the plant and warehouse facilities of Boyle-Midway Division of American Home Products in Canton, Ohio, to its plant and warehouse facilities of Chicago, Ill., under a continuing contract or contracts with Boyle-Midway Division of American Home Products, for 180 days. Supporting shipper: Boyle-Midway, Division, of American Home Products, 683 Third Street, New York, N.Y., 10017. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 143378 (Sub-No. 2TA), filed August 26, 1977. Applicant: WESTERN PROVISIONERS, INC., a Utah corporation, P.O. Box 84115, Salt Lake City, Utah 84115. Applicant's representative: Chester A. Zyblut, 1030 Fifteenth St. NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass, automobile*, cut to shape, from the plant of Guardian Industries, at Detroit, Mich., to points in Washington, Oregon, California, New Mexico, Utah, Wyoming, Idaho, and Nevada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Guardian Industries, 14600 Romine Rd., Carleton, Mich. 48117 (Donald A. Nichols, Traffic Manager), and Pierce Enterprises, Inc., d.b.a. Pierce of Utah, 1756 South 760 West, Salt Lake City, Utah 84104 (Frederick E. Pierce, Vice President—Southern Region). Send protest to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No MC 143509 (Sub-No. 1TA), filed August 11, 1977. Applicant: ROY V. BRECKENRIDGE, an individual, doing business as BRECKENRIDGE TRUCKING, 6108 Denver Circle, Las Vegas, Nev. 89107. Applicant's representative: Roy V. Breckenridge (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated and noncarbonated beverages, flavoring syrups, flavoring compounds, and rcturn empty containers and pallets.* To or between the plant and warehouse sites of Royal Crown Bottling Co. and United Beverage Co. at Los Angeles, Buena Park, Baldwin Park, Torrance, and San Diego, Calif., and from the plant and warehouse sites of Pepsi Cola Metropolitan Bottling Co. at Phoenix, Ariz., to Las Vegas, Nev., Kingman, Ariz., and St. George, Utah, for 180 days. Supporting shipper: Pepsi-Cola Metropolitan Bottling Co., Purchase, N.Y. 10577. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, 203 Federal Building, 705 North Plaza Street, Carson City, Nev. 89701.

No. MC 143583 (Sub-No. 1TA), filed August 29, 1977. Applicant: M. H. HEATON, INC., Thurston Road, Gloucester, Mass. 01930. Applicant's representative: Frank M. Cushman Associates, 36 South Main Street, Sharon, Mass. 02067. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Snowmobiles* in crates, parts, and accessories when transported with the original units in crates in specially designed flat bed trailers, from Lawrence, Mass., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, restricted to a transportation service to be performed under a continuing contract, or contracts, with Kawasaki Motors Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 180 days of operating authority. Supporting shipper(s): Kawasaki Motors Corp., 5080 36th St. SE., Grand Rapids, Mich. 49508. Send protests to: Max Gorenstein, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 150 Causeway Street, Boston, Mass. 02114.

No. MC 143638 (Sub-No. 1TA), filed August 25, 1977. Applicant: JOHNSON'S TRUCKING, INC., Route 1, Box 31, Inola, Okla. 74036. Applicant's representative: Gary Brasel, Mezzanine Floor, Beacon Building, Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from Tulsa, Craig, Rogers, Nowata, Wagoner, Mayes, Cherokee, Delaware, Washington, and Okmulgee Counties, Okla., to points in states of Kansas, Missouri, Oklahoma, Arkansas, Texas, and Louisiana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Elco, Inc., P.O. Box 1287, Claremore, Okla. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office and Courthouse Building, 215 Northwest 3d, Oklahoma City, Okla. 73102.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-27290 Filed 9-19-77;8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[MA-40 amending M-52]

ADDITION OF ITEMS TO THE SEPTEMBER 15, 1977 MEETING AGENDA

TIME AND DATE: 10 a.m., September 15, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 22. Docket 28036, South Pacific Case, Petition for Reconsideration (Memo No. 6642–B, OGC).

23. OMB request for Board comments on OMB draft bill to amend the Independent Offices Appropriations Act, 1952 with reference to User Charger (Memo No. 7416, OGC, OC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, 202–673–5068.

SUPPLEMENTARY INFORMATION: The certificates in the South Pacific Case go into effect on September 18, 1977 and action by September 15 will permit release of the Board decision in a timely fashion. The Office of Management and Budget requests the Board's views by September 16, 1977 on a draft bill to amend the Independent Offices Appropriations Act with reference to User Charger. Since there will be no meeting on September 16, 1977, at which the Board could consider these items, it is necessary to add items 22 and 23 to the September 15, 1977 agenda. Accordingly, the following Members have voted that agency business requires the addition of items 22 and 23 to the agenda of September 15, 1977 and that no earlier announcement of these additions was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

[S-1373-77 Filed 9-16-77;8:45 am]

2

CIVIL AERONAUTICS BOARD

[MA-41 amending M-52]

DELETION OF ITEM FROM THE SEPTEMBER 15, 1977 MEETING AGENDA

TIME AND DATE: 10 a.m., September 15, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 5. New door-to-door parcel express service proposed by Eastern Air Lines, Effective (posted) October 1, 1977. (BFR)).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202–673–5068.

SUPPLEMENTARY INFORMATION: Eastern Air Lines has informed the Board's staff that it intends to modify its tariff filing for "New Door-to-Door Parcel Express Service" which is to become effective October 1, 1977. Consequently, the staff's preparation of its memorandum to the Board will be delayed. Accordingly, the following Members have voted that agency business requires the deletion of item 5 from the September 15, 1977 agenda and that no earlier announcement of this deletion was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

[S-1374-77 Filed 9-16-77;8:45 am]

3

CIVIL AERONAUTICS BOARD.

[M-56]

SEPTEMBER 13, 1977.

TIME AND DATE: 10 a.m., September 20, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C., 20428.

SUBJECT: 1. Docket 30455 and 30167; Pittsburgh Parties' Petition (Application) for First Competitive Nonstop Service in the Pittsburgh-Denver/Los Angeles/San Francisco Markets; and United Air Lines' Subpart N Application for Nonstop Pittsburgh-Denver authority (Memo No. 6817–C, BOR, BLJ).

2. Docket 30106, Continental's Kansas City-Seattle/Portland show cause application (Memo No. 6971–A, BOR OGC).

3. Dockets 29441 and 29991, Service to Kamuela (Memo No. 6321–B, BOR, BLJ).

4. Docket 31248, Western's request for renewal of exemption authority to serve the San Francisco-Grand Junction market on a nonstop basis during the ski season (Memo No. 7419, BOR).

5. United Air Lines' Transaction Agreement UA–518 (No. 25. filed August 26, 1977) (Memo No. 7418, BOR, BAS, OGC).

6. Docket 27123, Western Air Lines' Route Realignment (Memo No. 5611–E, BOR, OGC, BFR).

7. Docket 28744, Continental Air Lines, Inc. Suspension/Replacement Agreement, Petition for reconsideration (Memo No. 7336–A, OGC).

8. Docket 28495, Review of decision of the Director, BOE, dismissing the third-party complaint in *United Air Lines* v. *Pacific Southwest Airlines* (Memo No. 7413, OGC).

9. Docket 30997, Discretionary review on Board initiative of the decision of the Director, BOE, declining to institute an enforcement proceeding in *Emery Air Freight* v. *Rockford Motors, d/b/a Emery Air Charter* (Memo No. 7417, OGC).

10. Docket 30314, Proposed Final Amendment of Part 370, Employee Responsibilities and Conduct (Memo No. 7400, OGC).

11. New door-to-door parcel express service proposed by Eastern Air Lines. Effective October 1, 1977 (BFR).

12. Dockets 25427 and 25457—Laker Airways Limited—"Skytrain", Order denying petition filed by Laker Airways for reconsideration of Order 77–6–68. (Memo No. 4598–E, OGC, BIA, BFR).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202–673–5068.

[S-1375-77 Filed 9-16-77;8:45 am]

4

[MA-39 amending M-54]

CIVIL AERONAUTICS BOARD.

CHANGE IN AGENDA

REVISED AGENDA

TIME AND PLACE: 10 a.m. September 16, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Dockets 31377 and 31779, Oral Argument, Refiled British Airways' Contract Cargo Rates.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202–673–5068.

SUPPLEMENTARY INFORMATION: These tariffs were filed September 6, 1977, with an effective date of October 6, 1977. Any order of suspension would have to be sent to the President no later than September 23, 1977. In order for the Board to have ample time to hear the parties and reach a determination in this matter, it is necessary that oral argument be scheduled as soon as possible. The time available for a Board meeting on September 16, 1977, will not permit the consideration of the two items originally announced on the September 16, 1977 agenda. Item 1 on the original announcement, the OMB request for Board comments on draft legislation regarding User Charger, has been added to the September 15, 1977 meeting agenda. Item 2 on the original agenda, Task Force and Steering Committee on Regulatory Reform, will be rescheduled in the near future. Accordingly, the following Members have voted that agency business requires that these changes be made and that no earlier announcement of the changes was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

[S-1376-77 Filed 9-16-77;8:45 am]

5

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Thursday, September 15, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: The following agenda item should be deleted.

Agenda, Item No., and Subject

Renewal—1—Indianapolis Black Media Coalition's petition to deny renewal application of Station WSMJ (FM), Greenfield, Indiana.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202–632–7260.

Issued: September 14, 1977.

[S-1368-77 Filed 9-15-77;3:49 pm]

6

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: Follows 9:30 a.m. Open Meeting, Thursday, September 15, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting.

MATTER TO BE CONSIDERED:

Discussion of the arrangements, procedures and issues relating to the Commission's September 19, 1977 meeting in Washington, D.C., with CEPT and Canadian representatives concerning issues under consideration in Docket No. 18875.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given of this meeting.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202–632–7260.

Issued: September 14, 1977.

[S-1369-77 Filed 9-15-77;3:49 pm]

7

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: Follows 9:30 a.m. Open Meeting, Wednesday, September 21, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Motion to clarify order in the Los Angeles, California common carrier complaint proceeding, *Western States Telephone Co.* v. *AT&T et al.*, Docket No. 16883,
Hearing—2—Petition for reconsideration of designation order in the Los Angeles, California common carrier complaint proceeding: *Western States Telepohne Co.* v. *American Telephone & Telegraph Co. et al.*, Docket No. 16883.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202–632–7260.

Issued: September 14, 1977.

[S-1370-77 Filed 9-15-77;3:49 pm]

8

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, September 21, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Amendment of Part 2 of the Rules to prohibit the marketing of external radio frequency power amplifiers capable of operation on any frequency from 24 to 35 MHz (Docket No. 21116).

General—2—Amendment of Parts 2 and 97 of the Rules to require type acceptance of equipment marketed for use in the Amateur Radio Service (Docket No. 21117).

Safety and Special Radio Services—1—Deregulation of Part 97 of the Rules to simplify the licensing and operation of complex systems of stations and to modify repeater subbands in the Amateur Radio Service (Docket No. 21033).

Common Carrier—1—Bell Telephone Co. of Pennsylvania's Section 214 applications for authority to discontinue interchange of traffic with Philadelphia Mobile Telephone Co. and Pennsylvania Radio Telephone Co. for non-payment of lawful charges.

Common Carrier—2—Notice of Inquiry into whether WATS services are "like" or "unlike" services to MTS.

Renewal—1—Opinion of U.S. Court of Appeals in *Black Broadcasting of Richmond* v. *FCC* re: Commission grant of 1972 license renewal applications of Roy H. Park Broadcasting of Virginia, Inc. for Stations WTVR-AM-FM-TV.

Complaints and Compliance—1—Application for Review, filed September 2, 1976, by Saul Jakel of the Broadcast Bureau's ruling of July 30, 1976 denying his complaint against WNBC-TV, New York, New York.

Special—1—Decision re: exclusivity in broadcast TV contracts (Docket No. 20402).

CONTACT PERSON FOR MORE INFORMATION:

Samuel W. Sharkey, FCC Public Information Officer, telephone number 202–632–7260.

Issued: September 14, 1977.

[S-1371-77 Filed 9-15-77;3:49 pm]

9

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, September 28, 1977 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance with the FECA.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, press officer, telephone 202–523–4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-1367-77 Filed 9-15-77;3:45 pm]

10

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Thursday, September 22, 1977 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed to the public.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC

I. Future meetings.
II. Correction and approval of min-

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utes for September 8, 1977.

III. Advisory opinions: AO 1977-38. AO 1977-106. AO 1977-35.

IV. Timetable for revision of regulations.

V. Report from the task force on independent expenditures.

VI. Government office space for congressional campaign committees.

VII. Appropriations and budget.

VIII. Pending legislation.

IX. Liaison with other Federal agencies.

X. Report on pending litigation.

XI. Routine administrative matters.

PORTIONS CLOSED TO THE PUBLIC

Compliance. Audit reports. Personnel.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, press officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-1366-77 Filed 9-15-77;3:49 pm]

11

FEDERAL POWER COMMISSION.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552B:

TIME AND DATE: September 16, 1977, following regular Commission meeting.

PLACE: 825 North Capitol Street, Room 9306, Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Discussion of pending civil litigation; the initiation, conduct or proposition of pending agency actions subject to the procedures of 5 U.S.C. 554 or otherwise involving a determination on-the-record after opportunity for a hearing, internal personnel rules and practices of the Commission; and other administrative matters which may be properly closed to the public.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

KENNETH F. PLUMB,
Secretary.

[S-1380-77 Filed 9-16-77;10:28 am]

12

FEDERAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1324-77 (42 FR 46485).

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, September 21, 1977.

CHANGES IN THE AGENDA: The meeting has been cancelled.

The previously announced discussion of the Proposed Franchising Trade Regulation Rule has tentatively been rescheduled for a Commission Meeting on Wednesday, October 5, 1977.

[S-1372-77 Filed 9-15-77;4:04 pm]

13

SEPTEMBER 15, 1977.

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 2 p.m., Tuesday, September 20, 1977.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Partially Open and Partially Closed Regular Conference.

MATTERS TO BE CONSIDERED:

OPEN PORTION

The following item will be on the agenda for the open portion of the conference: (1) Petition of the Motor Carrier Lawyers Association Proposing Establishment of an Advisory Committee.

CLOSED PORTION

The following item will be considered in closed session: (1) Commission Division organization.

The Commission unanimously (Vice Chairman Clapp absent and not participating) voted to close the conference as to the above item on the grounds that it is likely to relate solely to practices of the agency, within the meaning of 5 U.S.C. 552b(c)(2) and 49 CFR 1012.7(d)(2), and disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy, within the meaning of 5 U.S.C. 552b(c)(6) and 49 CFR 1012.7(d)(6). The Commission's General Counsel has issued his certificate to that effect.

The following persons will be in attendance at the closed portion:

Mark Evans, General Counsel
Pierce Quinlan, Managing Director
George Chandler, Director, Office of Policy

CONTACT PERSON FOR MORE INFORMATION:

Office of Information and Consumer Affairs, Douglas Baldwin, Director, telephone 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-1377-77 Filed 9-16-77;8:45 am]

14

SEPTEMBER 14, 1977.

INTERSTATE COMMERCE COMMISSION, DIVISION 3.

TIME AND DATE: 3 p.m., Wednesday, September 14, 1977.

PLACE: Room 5124, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Short Notice of Closed Meeting. Commissioners Brown, MacFarland and Christian unanimously voted to close this conference because it specifically concerns the disposition of a particular case of formal adjudication conducted pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after an opportunity for hearing within the meaning of 5 U.S.C. b(c)(10) and 4 CFR 1012.7(d)(12).

In addition to the Division members, the following persons are expected to attend:

Examiner Guise
Examiner Horne
Examiner Radcliffe

MATTER TO BE CONSIDERED: MC-F-11490—Consolidated Freightways Corporation of Delaware—Pooling—Silver Wheel Freightlines, Inc.

CONTACT PERSON FOR MORE INFORMATION:

Public Information Officer, Douglas Baldwin, telephone 202-275-7252.

[S-1378-77 Filed 9-16-77;8:45 am]

15

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: 1 p.m., Thursday, September 15, 1977.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Discussion of Seabrook Order (Exemption 10) (continued from the week of September 5, 1977).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

SEPTEMBER 15, 1977.

[S-1379-77 Filed 9-16-77;9:53 am]

16

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 45733.

PREVIOUS ANNOUNCED TIME AND DATE: 10 a.m., September 14, 1977.

CHANGE IN THE MEETING: Deletion of item on open meeting agenda.

The following item originally scheduled for the open meeting at 10 a.m. on September 14, 1977 will be rescheduled at a later date:

Consideration of rulemaking proposals which would: (1) Exempt mineral resource assets in the oil and gas industry from replacement cost rule and (2) require disclosure of information on the present value of estimated future net revenues from production of proved oil and gas reserves.

Chairman Williams, Commissioners Loomis, Evans, and Pollack, voted to approve the above change and determined that no earlier notice thereof was possible.

SEPTEMBER 14, 1977.

[S-1381-77 Filed 9-16-77;11:03 am]

17

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, September 23, 1977.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

(1) Proposed statement to be presented to the Subcommittee on Financial Institutions Supervision, Regulation and Insurance of the House Committee on Banking, Finance and Urban Affairs regarding H.R. 9086, a bill entitled the "Safe Banking Act of 1977" (previously announced as the Supervisory Amendments Act). This matter was originally scheduled for a meeting on September 16, 1977.

(2) Proposed statement to be presented to the Senate Committee on Banking, Housing, and Urban Affairs regarding certain banking practices including bank stock loans, loans to favored customers, overdrafts, and failure to comply with banking laws or regulations.

(3) Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: September 16, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-1382-77 Filed 9-16-77;11:45 am]

18

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 12 noon, Monday, September 26, 1977.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

(1) Proposed salary structure adjustments at the Federal Reserve Bank of Atlanta. This matter was originally scheduled for a meeting on September 13, 1977.

(2) Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: September 16, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-1383-77; Filed 9-16-77;11:45 am]

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federal register

TUESDAY, SEPTEMBER 20, 1977

PART II



DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

■

MASS TRANSIT AND SPECIAL USE HIGHWAY PROJECTS

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Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER I—PUBLIC TRANSPORTATION

PART 810—MASS TRANSIT AND SPECIAL USE HIGHWAY PROJECTS

Establishment of Regulations

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: This rule allows flexibility in the use of Federal-aid highway funds for mass transit and transit-related facilities and for special use highways. The purpose of this rule is to implement certain provisions of the Federal-Aid Highway Act of 1973 and 1976, as amended.

EFFECTIVE DATE: October 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Federal Highway Administration FHWA): Cince Clietti, Chief, Programs Branch (202–426–0450) or Frank Calhoun, Attorney, Office of the Chief Counsel (202–426–0762); or in the Urban Mass Transportation Administration (UMTA): Sam Rea, Office of Transit Assistance (202–472–2435) or David Yudin, Attorney, Office of the Chief Counsel (202–426–1906), all located at 400 Seventh Street SW., Washington, D.C. 20590. FHWA office hours are from 7:45 a.m. to 4:15 p.m. ET; UMTA office hours are from 8:30 a.m. to 5 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: 23 U.S.C. 142 was amended and considerably expanded by section 121 of the 1973 Highway Act, and now allows exclusive and preferential busways, fringe and corridor parking facilities, and other highway-related mass transit facilities to be approved on any Federal-aid system. In addition, 23 U.S.C. 142 now allows nonhighway public mass transit projects to be approved as part of the Federal-aid urban system.

These regulations supersede Policy and Procedure Memorandum (PPM) 21–20 (now located in the Federal-Aid Highway Program Manual (FHPM) Volume 6, Chapter 8, Section 2, Subsection 3[1]), "Fringe and Corridor Parking Facilities," dated November 9, 1971, PPM 50–10 (FHPM 6–1–1–3[1]), "Urban Highway Public Transportation," dated January 17, 1972, FHWA Notice N 5580.2 dated November 15, 1973, "Preliminary Guidance on Advancing Public Transportation Now Applicable under Provisions of the Federal-Aid Highway Act of 1973," IM 50–4–70, IM 21–13–67(1), CM 7–17–70 (IM's and CM now cited as FHPM 4–4–5),[1] and implement 23 U.S.C. 149 and 23 U.S.C. 137. Section 149 of title 23, U.S.C., which was added by section 142 of the Federal-Aid Highway Act of 1973 permits the approval of exclusive or preferential truck lanes on any Federal-aid highway system. Section 137 of title 23, U.S.C., permits the approval of fringe and corridor parking facilities on the Federal-aid urban system. Because of the interrelationship between these actions and 23 U.S.C. 142, it was decided that these three sections could properly be implemented in one set of regulations.

In the September 5, 1974, edition of the FEDERAL REGISTER (39 FR 32298), FHWA and UMTA published a notice of proposed rulemaking to add a new Part 810, Subparts A, B, C, and D to Chapter I of Title 23, Code of Federal Regulations. The public was invited to participate in this rulemaking through submission of written comments. Review of the comments received indicated the desirability of making changes in the regulations as originally proposed. Only those sections of these final regulations which have been significantly revised or were the subject of major interest are discussed in this commentary.

SUBPART A

A number of comments received evidenced confusion as to whether or not a nonhighway public mass transit project has to be physically located on a route designated as part of the Federal-aid urban system. That is not a requirement, and the definition of nonhighway public mass transit projects has been revised accordingly. The definition now reads:

§ 810.4(b)(6): "Nonhighway public mass transit project" means a project to develop or improve public mass transit facilities or equipment. A project need not be physically located or operated on a route designated as part of the Federal-aid urban system, but must be included in and related to a program for the development or improvement of an urban public mass transit system which includes either the construction of fixed rail facilities, or the purchase of passenger equipment, or both. Passenger equipment includes buses, fixed rail rolling stock and other transportation equipment.

With regard to the definition of "responsible local officials" under § 810.4, some concern was expressed over the role of the Metropolitan Planning Organization (MPO) in the various activities required under the regulations. It was felt, by some respondents, that the role of the MPO in these activities tended to impinge on State and local prerogatives as mandated under State and local statutes. This was not the intent of either UMTA or FHWA. The MPO is a forum for cooperative decisionmaking by principal elected officials of general purpose governments. Accordingly, the definition of "Metropolitan Planning Organization" has been added to § 810.4.

Several additions have been made to the planning requirements outlined under § 810.6. A new paragraph (c) has been added to § 810.6 to incorporate by reference the planning and program requirements of 23 CFR Part 450, Subparts A and C and 23 CFR Part 630, Subpart A. Those regulations contain the general planning and programming requirements applicable to all projects proposed to serve or be located in urbanized areas funded under title 23, U.S.C. (highways). Furthermore, the requirement under 23 U.S.C. 142(f) that a finding be made that a project will be fully utilized by the public mass transportation system is appropriately addressed in the planning process; consequently, a new paragraph (d) has been added to § 810.6 with respect to the "full utilization" requirement. This new section replaces § 810.104(d) as published in the original notice.

SUBPART B

One comment questioned, in the case of exclusive or preferential lanes, whether or not a mix of carpools and buses is allowed. Nothing in these regulations is intended to exclude carpools from the use of these lanes.

The word "construction" has been added to the exception clause of § 810.210(a) to indicate that it is not intended to preclude Federal-aid projects for improvements (as opposed to actual construction of an emergency vehicle lane) which will facilitate the flow of emergency vehicles on Federal-aid systems. Section 810.102(a) reflects the statutory provisions (23 U.S.C. 142(a)(1), 142(b), and 149) which limit construction of exclusive or preferential emergency vehicle lanes to the Interstate System while construction of bus and truck lanes are eligible for construction on all Federal-aid systems.

A technical change was made to § 810.104(c) deleting the reference to 23 U.S.C. 120(a) to make clear that the Federal share of the cost of eligible projects is determined by the Federal-aid system which such project serves or upon which it is located. One comment raised a question as to the disposition of certain commuter parking projects already underway in light of the fact that such projects could be approved as either highway or nonhighway projects under these regulations. Generally, eligible projects under these regulations are classified as follows: (1) Highway projects—approved and carried out subject to the applicable project requirement of FHWA; and (2) Nonhighway public mass transportation projects—approved and carried out subject to the applicable project requirements of UMTA. Title 23 U.S.C. 142, however, permits certain projects to be classified as either highway or nonhighway public mass transportation projects, e.g., commuter parking facilities in conjunction with fixed rail facilities.

A change has been made to § 810.106(a)(4) to clarify that parking projects could be constructed on lands outside of a Federal-aid right-of-way which were acquired in accordance with the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970, with or without Federal funds.

A change has also been made to § 810.106(a)(5). After the proposed regulations were issued, 23 U.S.C. 142(a)(1) was amended by section 127 of the Federal-Aid Highway Act of 1976 (Pub. L. 94–280). Section 127 permits fees to be charged for use of a parking facility if the rate is not in excess of that required for "maintenance and operation of the facility (including compensation to any person for operating the facility)." Accordingly, § 810.106(a)(5) has been amended to include the language of section 127.

In consideration of the fact that urban system nonhighway public mass transportation projects are administered by the UMTA Administrator and urban system highway public transportation projects are administered by the FHWA Administrator, it was deemed appropriate to provide a mechanism for coordinating the administration of such projects. Accordingly, a new § 810.108 has been added which describes the joint FHWA–UMTA review of the Transportation Improvement Program; coordination with UMTA of the urban system program of projects; and UMTA receipt of a copy of all plans, specifications, and estimates for highway public mass transportation projects. Section 810.110 has also been added, whereby the FHWA Administrator is required to notify the UMTA Administrator of the approval of projects under his administration. Corresponding notifications are required of the UMTA Administrator for "nonhighway" projects under Subpart D. In addition, several other minor changes have been made elsewhere in these regulations to reflect the need for coordinated administration of urban system mass transit projects.

SUBPART C

The purpose clause (§ 810.200) states that the regulations permit FHWA after consultation with the UMTA Administrator to authorize a State to make highway rights-of-way available to a publicly owned mass transit authority. One commentator felt that this reference to publicly owned mass transit authorities would preclude use of right-of-way in States with no publicly owned mass transit authority. This is not the intent of the regulations. The FHWA is precluded from contracting with other than a publicly owned authority. FHWA practice would permit the right-of-way to be made available to a public agency for the purpose of providing public mass transportation. That public agency could then enter into agreements with a private carrier for the use of such right-of-way. In any event the terms and conditions under which the State could make the right-of-way available for a public mass transportation use would be subject to the Federal Highway Administrator's approval. Further, nothing in the regulations is to be construed as prohibiting a private carrier from operating a bus service that utilizes existing Federal-aid highways including exclusive or preferential bus lanes.

Other comments recommended that the reference throughout Subpart C to "publicly-owned mass transit authority" implied that only an autonomous public authority will be eligible under this subpart of the regulations. While "publicly-owned mass transit authority" is the term used in 23 U.S.C. 142(g) we do not view this as excluding from its coverage any other public agency responsible for operating public mass transit by lease, contract or otherwise.

SUBPART D

A new paragraph (b) has been added to § 810.302 to clarify the fact that fixed facilities, as opposed to buses, railcars, and other rolling stock, must be located within the urban boundaries required to be established under 23 U.S.C. 101(a) (23 CFR Part 470, Subpart B, this regulation is a proposed rule published October 9, 1974, 39 FR 36350).

A further revision has been made to § 810.302, relating to eligible projects. Proposed subsections (b) and (c), which reflected the period during which certain types of projects under 23 U.S.C. 142(c) were eligible have been eliminated since the eligibility date of January 1, 1975, has passed. A distinction was made between sections 142(a)(2) and 142(c) because the provisions of 23 U.S.C. 142(c) limit approval of fixed rail projects in fiscal years 1974 and 1975 to urbanized areas. However, this distinction is no longer relevant as the provisions of 23 U.S.C. 142(a)(2) authorize approval of fixed rail projects with urban system apportionments in all urban areas, including but not limited to urbanized areas, with apportionments for fiscal year 1976. Inasmuch as the January 1, 1975, date has passed, there are no general restrictions on eligibility. Technically, rail projects approved or utilizing funds apportioned for fiscal year 1974 and 1975 are still subject to the limitation that such projects be located in urbanized areas only. In practical effect, however, we doubt that this technical limitation will have any detrimental impact on the progress on any rail mass transportation activity in urban areas that are not within urbanized areas.

Additionally, the planning and programming requirements under § 810.304 have been consolidated with the general planning and programming requirements under § 810.6. This was done because these requirements are generally applicable to all projects eligible for funding under these regulations.

Sections 810.304 and 810.306 relate to the submission of projects, the determination of fund availability by the FHWA, and subsequent transmittal of nonhighway projects to UMTA for approval. We have discovered in using this process that some nonhighway project applications submitted do not meet the requirements for the UMTA project approval as prescribed in the UMTA External Operating Manual. In such instances approval may be subject to delay. To avoid delays and other difficulties attendant to deficient project applications we suggest that during the early stages of the development of the application applicants contact UMTA. Some minor technical changes have been made in these regulations to facilitate the expeditious transmittal and approval of these projects.

Revisions and consolidations of other sections mentioned above have resulted in the elimination of § 810.308. The elimination of this section, however, is in the nature of a technical change and has no substantive impact on the regulations as published in the original notice.

In consideration of the foregoing, and under the authority of 23 U.S.C. 137, 142, 149, and 315 and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48(b) and 1.51(f), Chapter I of 23 CFR is amended by adding a new Part 810 as set forth below.

NOTE.—The FHWA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A–107.

Issued on: September 7, 1977.

WILLIAM M. COX,
Federal Highway Administrator.

RICHARD S. PAGE,
Urban Mass Transportation Administrator.

Subpart A—General

Sec.
810.2 Purpose.
810.4 Definitions.
810.6 Prerequisites for projects authorized by 23 U.S.C. 137, 142, or 149.

Subpart B—Highway Public Transportation Projects and Special Use Highway Facilities

810.100 Purpose.
810.102 Eligible projects.
810.104 Applicability of other provisions.
810.106 Approval of fringe and transportation corridor parking facilities.
810.108 Review and coordination with Urban Mass Transportation Administrator.
810.110 Notifications.

Subpart C—Making Highway Rights-of-Way Available for Mass Transit Projects

810.200 Purpose.
810.202 Applicability.
810.204 Application by mass transit authority.
810.206 Review by the State highway agency.
810.208 Action by the Federal Highway Administrator.
810.210 Authorization for use and occupancy by mass transit.
810.212 Use to be without charge.

Subpart D—Federal-Aid Urban System Nonhighway Public Mass Transit Projects

810.300 Purpose.
810.302 Eligible projects.
810.304 Submission of projects.
810.306 Reservation of funds.
810.308 Approval of urban system nonhighway public mass transit projects.
810.310 Notifications.
810.312 Applicability of other provisions.

AUTHORITY: 23 U.S.C. 137, 142, 149, and 315; Delegation of authority by the Secretary of Transportation, 49 CFR 1.48(b) and 1.51(f).

Subpart A—General

§ 810.2 Purpose.

The purpose of the regulations in this subpart is to implement sections 137, 142,

[1] The Federal-Aid Highway Program Manual (FHPM) is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

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and 149 of title 23 U.S.C. Sections 137 and 142 relate generally to the use of Federal-aid highway funds for various types of public transportation projects; section 149 permits the Secretary to approve as a project on any Federal-aid system the construction of exclusive or preferential truck lanes.

§ 810.4 Definitions.

(a) Except as otherwise provided, terms defined in 23 U.S.C. 101(a) are used in this subpart as so defined.

(b) The following terms, where used in the regulations in this subpart, have the following meanings:

(1) "Bus passenger loading areas and facilities (including shelters)" means areas and facilities located at or near passenger loading points for safety, protection, comfort, or convenience of bus passengers. The term "areas and facilities" includes but is not limited to access roads, buildings, structures, equipment, improvements, and interest in land.

(2) "Exclusive or preferential bus, truck, or emergency vehicle lane(s)" means one or more lanes of a highway facility or an entire highway facility where buses, trucks or emergency vehicles, or any combination thereof, are given, at all times or at any regularly scheduled times, a priority or preference over some or all other vehicles moving in the general stream of mixed highway traffic.

(3) "Fringe and transportation corridor parking facilities" means those facilities located in fringe areas which are intended to be used for the temporary storage of vehicles and which are located and designed so as to facilitate the safe and convenient transfer of persons traveling in such vehicles to and from existing or planned public transportation facilities. The term "parking facilities" includes but is not limited to access roads, buildings, structures, equipment improvements and interests in land.

(4) "Fringe areas" means those areas outside the central business district of urban areas.

(5) "Highway traffic control devices" means traffic control devices as defined by the currently approved "Manual on Uniform Traffic Control Devices for Streets and Highways." [2]

(6) "Nonhighway public mass transit project" means a project to develop or improve public mass transit facilities or equipment. A project need not be physically located or operated on a route designated as part of the Federal-aid urban system, but must be included in and related to a program for the development or improvement of an urban public mass transit system which includes either the construction of fixed rail facilities, or the purchase of passenger equipment, or both. Passenger equipment includes buses, fixed rail rolling stock and other transportation equipment.

(7) "Metropolitan Planning Organization" means that organization designated by the Governor as being responsible, together with the State, for carrying out the provisions of 23 U.S.C. 134, as required by 23 U.S.C. 104(f)(3), and capable of meeting the requirements of section 3(a)(2) and (e)(1), 4(a), and 5(g)(1) and (l) of the Urban Mass Transportation Act of 1964, as amended, 49 U.S.C. 1602(a)(2) and (e)(1), 1603(a), and 1604(g)(1) and (l). This organization shall be the forum for cooperative decisionmaking by principal elected officials of general purpose local government.

(8) "Responsible local officials" means: (i) In areas under 50,000 population, the principal elected officials of general purpose local governments; or

(ii) In urbanized areas, the principal elected officials of general purpose local governments acting through the Metropolitan Planning Organization designated by the Governor. For purposes of this definition the term "Governor" includes the Mayor of the District of Columbia and the Governor of Puerto Rico.

§ 810.6 Prerequisites for projects authorized by 23 U.S.C. 137, 142, or 149.

(a) Programs for projects in an urbanized area may not be approved by the Federal Highway Administrator and the Urban Mass Transportation Administrator unless they find that the projects are based on a continuing comprehensive transportation planning process, carried on in accordance with 23 U.S.C. 134 as prescribed in 23 CFR Part 450, Subpart A and included in a transportation improvement program approved pursuant to 23 CFR Part 450, Subpart C and 23 CFR Part 630, Subpart A (Federal-Aid Program Approval and Authorization).

(b) Routes and schedules on public mass transportation systems in urbanized areas which receive Federal-aid assistence under 23 U.S.C. 137 or 142, which are established or significantly altered as the result of receiving this assistance, shall be based upon a continuing comprehensive transportation planning process carried on in accordance with 23 U.S.C. 134 as prescribed in 23 CFR Part 450, Subpart A.

(c) A proposed urban system public transportation project not in an urbanized area must be included in a program of projects approved pursuant to 23 CFR Part 630, Subpart A (Federal-Aid Programs Approval and Authorization).

(d) The full utilization assurances required under 23 U.S.C. 142(f) for each project under this part shall be deemed to have been made if the project is included in the transportation improvement program required by 23 CFR Part 450, Subpart C.

Subpart B—Highway Public Transportation Projects and Special Use Highway Facilities

§ 810.100 Purpose.

The purpose of the regulations in this subpart is to implement 23 U.S.C. 137, 142(a)(1), 142(b), and 149, which by delegation of the Secretary allow the Federal Highway Administrator to approve various highway public mass transportation improvements and special use highway facilities as Federal-aid highway projects.

§ 810.102 Eligible projects.

Under this subpart the Federal Highway Administrator may approve on any Federal-aid system projects which encourage the development, improvement, and use of public mass transportation systems operating motor vehicles (other than on rail) so as to increase the traffic capacity of the Federal-aid system for the movement of persons. Eligible projects include:

(a) Exclusive or preferential bus, truck, or emergency vehicle lanes, except that construction of exclusive or preferential lanes limited to use by emergency vehicles can be approved only on the Federal-aid Interstate System;

(b) Highway traffic control devices;

(c) Bus passenger loading areas and facilities (including shelters) that are on or serve a Federal-aid system; and

(d) Fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers.

§ 810.104 Applicability of other provisions.

(a) Project authorized under § 810.102 shall be deemed to be highway projects for all purposes of title 23, U.S.C., and shall be subject to all regulations of Title 23, CFR.

(b) Projects approved under this subpart on the Federal-aid Interstate System for exclusive or preferential bus, truck, and emergency vehicle lanes are excepted from the minimum four-lane requirement of 23 U.S.C. 109(b).

(c) The Federal proportional share of a project approved under this subpart shall be the same as that provided in 23 U.S.C. 120 for any other project on the Federal-aid system on which the project is located or which it serves.

§ 810.106 Approval of fringe and transportation corridor parking facilities.

(a) In approving fringe and transportation corridor parking facilities, the Federal Highway Administrator:

(1) Shall make a determination that the proposed parking facility is located in a fringe area;

(2) Shall require that the parking facility be located and designed in conjunction with existing or planned public transportation facilities;

(3) May approve acquisition of land proximate to the right-of-way of a Federal-aid highway;

(4) May approve construction of publicly-owned parking facilities on land within the right-of-way of any Federal-aid highway, including the use of the airspace above and below the established gradeline of the highway pavement, and on land, acquired with or without Federal-aid funds, which is not within the right-of-way of any Federal-aid highway but which was acquired in accordance with the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (84 Stat. 1894, 42 U.S.C. 4601 et seq.), and;

(5) May permit the charging of fees for the use of the facility, except that the rate of the fee shall not be in excess of that required for maintenance and operation (including compensation to any person for operating such facility).

(b) The Federal Highway Administrator shall not approve a fringe and transportation corridor parking facility project unless:

(1) He has determined that the State, or the political subdivision thereof, where the project is to be located, or any agency or instrumentality of such State or political subdivision, has the authority and capability of constructing, maintaining, and operating the facility;

(2) He has received assurance from the State that the facility will remain in public ownership as long as the facility is needed and that any change in ownership shall have his prior approval;

(3) He has entered into an agreement governing the financing, maintenace, and operation of the parking facility with the State, political subdivision, agency, or instrumentality which shall include necessary requirements to insure that adequate public transportation services will be available to persons using the facility; and

(4) He has approved design standards for constructing the facility developed in cooperation with the State highway agency.

(c) A State, political subdivision, agency, or instrumentality thereof may contract with any person to operate any parking facility constructed under this section.

§ 810.108 Review and Coordination with Urban Mass Transportation Administrator.

The Federal Highway Administrator and the Urban Mass Transportation Administrator will jointly review the Transportation Improvement Program. The Federal Highway Administrator will coordinate with the Urban Mass Transportation Administrator on approval of State urban system program of projects under 23 U.S.C. 105, and will provide the Urban Mass Transportation Administrator with copies of all plans, specifications, and estimates which involve highway public mass transportation projects.

§ 810.110 Notifications.

The Federal Highway Administrator will notify the Urban Mass Transportation Administrator of all projects approved under this subpart.

Subpart C—Making Highway Rights-of-Way Available for Mass Transit Projects

§ 810.200 Purpose.

The purpose of the regulations in this subpart is to implement 23 U.S.C. 142(g), which permits the Federal Highway Administrator to authorize a State to make available to a publicly-owned mass transit authority existing highway rights-of-way for rail or other non-highway public mass transit facilities.

(a) The provisions of this subpart are applicable to the rights-of-way of all Federal-aid highways in which Federal-aid highway funds have participated or will participate in any part of the cost of the highway.

(b) The provisions of this subpart do not preclude acquisition of rights-of-way for use involving mass transit facilities under the provisions of Subparts B and D of this part. Rights-of-way made available under this Subpart may be used in combination with rights-of-way acquired under Subparts B and D of this part.

§ 810.204 Application by mass transit authority.

A publicly-owned mass transit authority desiring to utilize land existing within the publicly acquired right-of-way of any Federal-aid highway for a rail or other nonhighway public mass transit facility may submit an application therefor to the State highway agency.

§ 810.206 Review by the State highway agency.

The State highway agency, after reviewing the application, may request the Federal Highway Administrator to authorize the State to make available to the publicly-owned mass transit authority the land needed for the proposed facility. A request shall be accompanied by evidence that utilization of the land for the proposed purposes will not impair future highway improvements or the safety of highway users.

§ 810.208 Action by the Federal Highway Administrator.

The Federal Highway Administrator after consultation with the Urban Mass Transportation Administrator may authorize the State to make available to the publicly-owner mass transit authority the land needed for the proposed facility, if he finds:

(a) The evidence submitted by the State highway agency under § 810.206 to be satisfactory;

(b) The public interest will be served thereby; and

(c) The proposed action in urbanized areas is based on a continuing comprehensive transportation planning process carried on in accordance with 23 U.S.C. 134 as described under 23 CFR Part 450, Subpart A.

§ 810.210 Authorization for use and occupancy by mass transit.

(a) Upon being authorized by the Federal Highway Administrator, the State shall enter into a written agreement with the publicly-owned mass transit authority relating to the use and occupancy of highway right-of-way subject to the following conditions:

(1) That any significant revision in the design, construction, or use of the facility for which the land was made available shall receive prior review and approval by the State highway agency.

(2) The use of the lands made available to the publicly-owned mass transit authority shall not be transferred to another party without the prior approval of the State highway agency.

(3) That, if the publicly-owned mass transit authority fails within a reasonable or agreed time to use the land for the purpose for which it was made available, or if it abandons the land or the facility developed, such use shall terminate and any abandoned facility developed or under development by the publicly-owned mass transit authority shall be disposed of in a manner prescribed by the State.

(b) A copy of the use and occupancy agreement and any modification under paragraphs (a)(1), (2), and (3) of this section shall be forwarded to the Federal Highway Administrator.

§ 810.212 Use to be without charge.

The use and occupancy of the lands made available by the State to the publicly-owned transit authority shall be without charge. Costs incidental to making the lands available for mass transit shall be borne by the publicly-owned mass transit authority.

Subpart D—Federal-Aid Urban System Nonhighway Public Mass Transit Projects

§ 810.300 Purpose.

The purpose of the regulations in this subpart is to implement 23 U.S.C. 142(a)(2), which allows the Urban Mass Transportation Administrator, by delegation of the Secretary, to approve nonhighway public mass transit projects as Federal-aid urban system projects, and 23 U.S.C. 142(c), which permits approval of nonhighway public mass transit projects in lieu of highway projects on the Federal-aid urban system in urbanized areas.

§ 810.302 Eligible projects.

(a) Eligible projects are those defined as non-highway public mass transit projects in § 810.4 of this chapter subject to the limitations in paragraph (b) of this section.

(b) All projects under this subpart for the construction, reconstruction, or improvement of fixed facilities shall be located within the urban boundaries established under 23 CFR Part 470, Subpart B.

§ 810.304 Submission of projects.

(a) An application for an urban system nonhighway public mass transit project (which shall constitute the submission of plans, specifications, and estimates for the project) shall be developed by the Governor or by any person or entity authorized by State or local law to plan, organize, operate, manage, or otherwise provide mass transportation service in and for the urban areas. The application shall be prepared in accordance with procedures applicable to the preparation of an application for a capital or technical assistance grant from UMTA as set forth in the UMTA External Op-

[2] The MUTCD was published by the U.S. Department of Transportation, Federal Highway Administration, 1971. Errata and Official Rulings on Requests for Interpretations, Changes, and Experimentations, Vols. I-VII are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Stock No. 5001-0021.

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erating Manual (UMTA Order 1000.2, August 22, 1972, as amended).[*]

(b) The application should be submitted to the UMTA Administrator. Upon submission of the application to the UMTA Administrator, the State highway agency should submit a request to the FHWA Administrator for a reservation of apportioned Federal-aid Urban System funds.

§ 810.306 Reservation of funds.

(a) When the FHWA Administrator receives the request for fund reservation, he will—

(1) Determine whether sufficient Federal-aid urban system funds are available to finance the Federal share of the cost of the proposed projects; and

(2) Notify the State highway agency and the UMTA Administrator of their reservation.

(b) The apportioned funds reserved for the proposed project under paragraph (a) of this section shall remain available for obligation unless the FHWA Administrator is notified that the application has been disapproved by the UMTA Administrator, or unless the local responsible officials in whose jurisdiction the project is to be located and the State highway agency jointly request the withdrawal of the project application.

§ 810.308 Approval of urban system nonhighway public mass transit projects.

(a) An urban system public mass transit project may be approved by the UMTA Administrator when he—

(1) Determines that the application and project are in accordance with the provisions of the UMTA External Operating Manual (UMTA Order 1000.2 dated August 22, 1972, as amended) relating to capital assistance or technical studies grants, as appropriate; and

(2) Receives notification from the FHWA Administrator that sufficient apportioned Federal-aid urban system funds are available to finance the Federal share of the cost of the proposed project.

(b) Approval of the plans, specifications, and estimates of a nonhighway public mass transit project shall be deemed to occur on the date the UMTA Administrator approves the project application. This approval which is subject to the availability of budget authority at the time of obligation, will obligate the United States to pay its proportional share of the cost of the project.

(c) Upon approval of an urban system nonhighway public mass transit project, the UMTA Administrator will execute a grant contract covering implementation of the project with the Governor, or with any person or entity designated by the Governor including the State highway agency, which is authorized by State or local law to plan, organize, operate, manage, or otherwise provide mass transportation services and facilities in and for the urban area.

§ 810.310 Notification.

The UMTA Administrator will notify the FHWA Administrator of all projects approved under this Subpart.

§ 810.312 Applicability of other provisions.

The Federal proportional share of the cost of an urban system nonhighway public mass transit project approved under this subpart shall be equal to the Federal share which would have been paid if the project were a highway project, as determined under 23 U.S.C. 120 (a).

[FR Doc.77-27226 Filed 9-19-77;8:45 am]

[*] Available for inspection and copying as prescribed in 49 CFR Part 7, App. G.

federal register

TUESDAY, SEPTEMBER 20, 1977

PART III



DEPARTMENT OF LABOR

Occupational Safety and Health Administration

■

WALKAROUND PAY DISPUTES

Employee Compensation

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Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1977—DISCRIMINATION AGAINST EMPLOYEES EXERCISING RIGHTS UNDER THE WILLIAMS-STEIGER OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Walkaround Pay Disputes

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Legal Interpretation.

SUMMARY: This amendment to § 1977.21 of Chapter XVII of Title 29 adopts a new interpretation concluding that an employer's failure to compensate employees for time spent participating in a walkaround inspection conducted pursuant to section 8 of the Occupational Safety and Health Act of 1970 (84 Stat. 1590 et seq.; 29 U.S.C. 651 et seq.) constitutes discrimination under section 11(c) of the Act (29 U.S.C. 660). This interpretive change is based on a thorough reexamination of the legal issues involved.

EFFECTIVE DATE: August 10, 1977, except as noted below.

FOR FURTHER INFORMATION CONTACT:

Mr. James Foster, Office of Public Affairs, Occupational Safety and Health Administration, Third Street and Constitution Avenue NW., Room N-3641, Washington, D.C. 20210 (Tel. No. 202-523-8151).

SUPPLEMENTARY INFORMATION: This amendment is made pursuant to section 8(g)(2) of the Act (29 U.S.C. 657) and Secretary of Labor's Order No. 8-76 (41 FR 25059). General notice of proposed rulemaking, public participation therein, and delay in effective date are not required by 5 U.S.C. 553, since this section is an interpretive rule and general statement of policy.

Section 11(c)(1) of the Act proscribes any discriminatory action against an employee because the employee has: (1) Filed a complaint under or related to the Act; (2) instituted or caused to be instituted any proceeding under the Act or related to the Act; (3) testified or is about to testify in any proceeding under the Act or related to the Act or (4) exercised on behalf of himself or others any right afforded by the Act. As embodied in the Agency's interpretive regulation at 29 CFR 1977.21, it was the original interpretation of the Occupational Safety and Health Administration of the Department of Labor that an employer's refusal to compensate employees for time spent in a walkaround inspection generally did not constitute discrimination under section 11(c)(1) of the Act. For the reasons stated below, it has been determined that the earlier interpretation was not correct and that an employer who fails to pay an employee for walkaround time violates section 11(c) of the Act.

This decision is based on an interpretation of the Act including the policy and purposes underlying section 8(e) and the entire enforcement scheme of the Act. The right of employees to participate in walkaround is expressly guaranteed by section 8(e) of the Act, which provides that an employee representative shall be given the opportunity to accompany the Secretary's representative during the physical inspection of any workpiece under section 8(a) for the purpose of aiding the inspection. Thus, the right to participate in a walkaround is not a right corollary, or derived from, the Secretary's mandate to conduct workplace inspections. Rather, it is an employee right expressly granted by the Act, similar to the express employee right to file complaints, whose exercise is protected under section 11(c).

This express right of employees to participate in the inspection process is crucial to the successful enforcement of the Act. Employee walkarounds are intended to serve as an aid to the Secretary in the performance of his duties and responsibilities under the Act to conduct comprehensive and effective inspections. Employees often are the best sources of information concerning hazardous areas in a workplace, on how machinery operates, and on potential or actual exposure of employees to workplace hazards. This information is essential to enable representatives of the Secretary to determine whether violations of the Act exist and what enforcement action should be taken. This view of section 8(e) is strongly supported by the legislative history of the Act. Thus, in the development of the Act, members of Congress repeatedly emphasized the crucial importance of employee participation in the walkaround process:

During the field hearings (on the OSHA legislation) * * *, the complaint was repeatedly voiced that under existing safety and health legislation, employees are generally not advised of the content and results of a Federal or State inspection. Indeed, they are often not even aware of the inspector's presence and are thereby deprived of an opportunity to inform him of alleged hazards. Much potential benefit of an inspection is therefore never realized, and workers tend to be cynical regarding the thoroughness and efficacy of such inspections. Consequently, in order to aid in the inspection and provide an appropriate degree of involvement of employees themselves in the physical inspections of their own places of employment, * * * an authorized representative of employees should be given an opportunity to accompany the person who is making the physical inspection * * * the inspector should have an opportunity to question employees in private so that they will not be hesitant to point out hazardous conditions which they might otherwise be reluctant to discuss. S. Rep. No. 1282, 91st Cong., 2nd Sess. 11 (1970).

Certainly no one knows better than the working man what the conditions are, where the failures are, where the hazards are, and particularly where there are safety hazards. The opportunity to have the worknig man himself and a representative of other working men accompanying inspectors is manifestly wise and fair, and in arriving at the objectives of this legislation (OSHA) I think it is one of the key provisions of the bill * * *. Remarks of Senator Williams in Legislative History of the Occupation Safety and Health Act of 1970, 430 (1971) (hereinafter Leg. Hist.).

See also H.R. Rep. 1291, 91st Cong., 2nd Sess. 852 (1970); Remarks of Cong. Steiger in Leg. Hist., 1216-1217.

Further, other provisions of the Act underscore the overriding importance of employee walkaround in facilitating a free and open exchange of information between the representative of the Secretary and employees. The Act expressly provides in section 8(f)(2) that employees have the right to notify the OSHA inspectors prior to or during the inspection itself of violations which they have reason to believe exist in the workplace. The likelihood and effectiveness of this notification would be greatly increased where an employee representative was accompanying the compliance officer during the inspection.

The wisdom of the Congressional judgment to ensure open channels of communication between the Secretary and employees has been continually reinforced throughout the six years of enforcement experience. During these years, employee participation and cooperation at the inspection stage has proved to be critically important to enforcement efforts under the Act. Information provided by employees often makes the difference between success and failure in the effort to achieve the elimination of workplace hazards. For example, there are many hazardous conditions which cannot be adequately evaluated by OSHA without information from employees who are familiar with the particular condition in the context of the particular workplace and who transmit this information to the compliance officer during the walkaround. In addition, there have been many instances where employees have informed OSHA during the inspection of hazards which might otherwise not have been detected by the compliance officer. Moreover, the increasingly complex nature of workplace hazards, as in the health area, has imposed greater burdens on the Secretary in detecting these hazards and has correspondingly made the need for employee involvement at the inspection stage even more compelling.

It is against this statutory background that an employer's refusal to compensate employees for time spent during the walkaround must be viewed. This refusal has a twofold and related impact: It is inherently destructive of the employees' right to participate in the walkaround and, consequently, impedes the free flow of information between employees and representatives of the Secretary which is so critical to effective enforcement of the Act.

It is plain that the failure of an employer to pay an employee for time spent during the walkaround will have a strong chilling effect on an employee's willingness to act as representative of employees during a walkaround. The loss of pay involved would clearly constitute a significant economic disincentive to employees' exercising their express statutory right under section 8(e) to accompany a compliance officer during an inspection. Moreover, the failure to pay for walkaround would also interfere with the statutory right of employees to notify compliance officers of hazards prior to and during inspections, a right expressly granted to employees under section 8(f)(2) of the Act.

The Supreme Court has held, in the context of an unfair labor practice charge of discrimination under section 8(a)(3) of the National Labor Relations Act based on an employer's refusal to pay striking employees vacation benefits while paying these benefits to non-striking employees, that certain employer conduct may be so "inherently destructive" of employee rights that no specific proof of discriminatory motivation otherwise present in 8(a)(3) proceedings is needed in order to prohibit conduct. "NLRB v. Great Dane Trailers, Inc.", 388 U.S. 26, 34 (1967); "NLRB v. Erie Resistor Corp.", 373 U.S. 221, 228, 231 (1963). The failure to pay for walkaround participation is conduct which is "inherently destructive" of employee rights under the Occupational Safety and Health Act.

When employees are discouraged from present and future participation in the walkaround, the open channels of communication between employees and the Secretary are seriously impaired. OSHA compliance personnel would be substantially limited to reliance on information provided by employers—the subject of the investigation—thereby reducing the likelihood of obtaining complete, objective and useful information on workplace hazards. Thus, the failure to pay for walkaround is inherently destructive not only of employees' protected rights, but also of the entire enforcement scheme of the Act.

It has further come to the attention of the Agency that management representatives are often paid for the time spent accompanying OSHA representatives during an inspection while the employees participating in the same activity are not paid. Thus, an employee of the employer designated by the employer would be paid for time spent on the walkaround while an employee designated by the employee representative would not be paid. Where such disparate treatment occurs, it would constitute an independent and additional ground for a finding of discriminatory conduct under section 11(c).

The Secretary's interpretation that denial of walk-around pay violates section 11(c) is reinforced by the current interpretation of the Department of Labor that time spent by employees participating in an OSHA walk-around inspection constitutes "work time" or "hours worked" under the Fair Labor Standards Act (FLSA). Under this interpretation, time spent by employees during a walkaround inspection is analogous to other activities which are considered hours worked under the Department's Interpretive Bulletin on Hours Worked (29 CFR Part 785) such as time spent for coffee breaks (§ 785.18), adjusting grievances (§ 785.42), waiting for and receiving medical attention (§ 785.43), working for public and charitable purposes (§ 785.44), and developing suggestions (§ 785.45). These instances of employee activity, as well as the walkarounds by employee representatives on OSHA inspections, are considered hours worked, even if the employer merely permits but does not require this activity, so long as the activity is done while the employee is required to be on the employer's premises. This interpretation further supports the conclusion that failure to pay for walkaround time is discriminatory under section 11(c). Since walkaround time is working time under FLSA, the employee is not being paid solely because he is engaged in walkaround activity under the Act. It follows, therefore, that the discriminatory action by the employer, the failure to compensate employees for time spent, is "because" of the employee's exercise of his statutory rights under section 8(e), and is therefore in violation of section 11(c).

Finally, the same factors which govern the Agency's decision that the failure to pay for walkaround constitutes discrimination under 11(c) would support the conclusion that the failure to pay for time spent by employees in participating in any other inspection related activity constitutes discrimination under section 11(c). Other related employee activity includes responding to questions by compliance officers and participation in opening and closing conferences.

Effective date. This interpretation is effective on August 10, 1977, when public announcement of the interpretation, which received wide publicity, was made. However, this interpretation is effective on September 20, 1977, as to any employer who did not receive notice of the interpretation prior to that date.

In accordance with this statement of policy, 29 CFR 1977.21 is hereby amended as follows:

§ 1977.21 Walkaround pay disputes.

The Secretary recognizes the essential nature of employee participation in walkaround inspections under section 8(e) of the Act. Employees constitute a vital source of information to representatives of the Secretary concerning the presence of workplace hazards. Employees should be able to freely exercise their statutory right to participate in walkarounds without fear of economic loss, such as the denial of pay for the time spent assisting OSHA compliance personnel during workplace inspections. Therefore, in order to insure the unimpeded flow of information to the Secretary's inspectors, as well as the unfettered statutory right of employees to participate in walkaround inspections, an employer's failure to pay employees for time during which they are engaged in walkaround inspections, is discriminatory under section 11(c). In addition, where employees participate in other inspection related activities, such as responding to questions of compliance officers, or participating in the opening and closing conferences, an employer's failure to pay employees for time engaged in these activities, is discriminatory under section 11(c).

(Sec. 8(g)(2), Pub. L. 91-596, 84 Stat. 1600 (29 U.S.C. 657).)

Signed at Washington, D.C., this 15th day of September 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-27403 Filed 9-19-77;10:35 am]

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TUESDAY, SEPTEMBER 20, 1977
PART IV



PRIVACY ACT ISSUANCES, ANNUAL PUBLICATION

Department/ Agency	FR Page Numbers: Systems of Records	Rules
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Advisory Commission on Intergovernmental Relations	47369	—
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ACTION

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

Agency: ACTION
Action: Annual publication of Systems of Records
Summary: The purpose of this notice is to inform the public of the Privacy Act Systems of Records maintained by ACTION.
Effective date: August 1, 1977.
For further infirmation contact:
John F. Nolan, Director, Administrative Services Division, Office of Administration and Finance, Washington, D.C. 20525 (202-254-8105)

Supplementary information: the notices published in accord with 5 U.S.C. 522a(e) (4) and (11) of the Privacy Act of 1974 (Public Law 93-570) in the Federal Register on Tuesday, June 14, 1977, in 42 FR No. 114 at page 30412 and on Thursday, December 9, 1976, in 41 FR No. 238 at pages 53940 thru 53960 continue in effect except for systems numbered ACTION/OD/1, Office of the Director Personnel Records and ACTION/OD-2, National Advisory Council File.

This notice does not include specific identification of certain systems of records in the custody of the Agency due to the fact that other Federal agencies have assumed responsibility for publishing government-wide notices with respect thereto. Primarily this includes publication of systems of records pertaining to Federal employee personnel records by the United States Civil Service Commission.

Special note should be taken of the Preliminary Statement to the systems of records containing an indication of general routine uses, general exemptions from disclosure, general regulations as to notification, access and contest, and other material applicable to ACTION record systems. The Agency desires to avoid unnecessary repetition and duplication in the publication of each system of records which might make it difficult for the public to review and locate a system in which a record might be available. The publication of general routine uses and exemptions does not serve as an indication that each system will be normally used or unable for such purposes or subject to such exemptions, but that the use of any system for such routine use shall be permitted upon request of a designated routine user. Included in the preliminary statement of routine uses are certain indications of special exemptions with respect to volunteer personnel files and medical/psychiatric records as to which special procedures are required to comply with the Agency's special responsibility to volunteers and to personnel as to whom it maintains medical/psychiatric information.

Changes made to systems and the Preliminary Statement:

Preliminary Statement

General Routine use number 10 has been added. Notice was published in the Federal Register on Tuesday, June 14, 1977, in 42 FR No. 114 at page 30412. The Location of Regional Offices reflects a change of address for ACTION Region VIII.

Systems of Records

System location: DO-9 and DO-11—Deleted Washington Service Center and address. Added Atlanta Service Center and address.

Categories of individuals covered by the system: AF-21—Corrected to reflect that the system pertains to individuals contracted by Headquarters Procurement Branch Office. DO-2—Corrected statement to relect that a medical file is established for all Domestic Volunteers.

Categories of records in the system: AF-1—Deleted the words "and other travel related material" and listed the types of records included in the system. DO-5—Corrected to reflect congressional inquiry records. IO-10 and IO-11—Deleted statement regarding "a card file." Card files are no longer maintained.

Authority for maintenance of the system: AF-3—Deleted "Federal Employees Compensation Act Regulations of the U.S. Department of Labor."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The statement, "See preliminary statement" was added to systems to clarify for the reader that all are subject to our 10 General Routine Uses unless specifically limited. CA-1, GC-2 & GC-3—Added subject to routine use number 10. AF-12—Corrects 200 dollar amount to read 500 dollars. AF-3—Deleted the words, "Office of Federal Agency Programs" and "Office of Workers Compensation Programs, the Department of Labor." AF-15 and AF-26—Deleted duplication of routine use number 7. GC-1—Has been corrected to include the Routine Uses heading and the words "See Preliminary Statement."

Retrievability: AF-11—Added the words, "some records are maintained by country."

Retention and disposal: AF-13—Corrected the seventy-five year retention date to read five. DO-1—Rephrased statement to reflect that file is retired from the field to the Federal Records Center via ACTION Headquarters. DO-8—Changed to reflect three year retention. IO-2—Changed to reflect one year retention.

System manager(s) and address: DO-1, DO-9 and DO-11—Were changed to reflect that the Administrative Officer is the system manager while the records are in the field.

Record source categories: AF-3—Deleted the words, "Medical personnel treating or examining the employee. Witnesses to an accident or occurrence giving rise to a claim."

Special note regarding AF-22: AF-22 is described to reflect that the Talent Bank is maintained by two offices in addition to the Personnel Management Division. The basic job application system has not changed. The system location and system manager(s) and address have been changed to reflect the Office of the Director and the Associate Director for International Operations. The retenton and disposal has been changed to reflect a two year retention date.

This notice is issued in Washington, D.C., August 1, 1977.

James Duke,
Executive Officer.

Preliminary Statement

Operating Units—Identification of the operating units within the Agency to which a particular system of records pertains appears as "ACTION" followed by a designated abbreviation. The abbreviations and their meanings are as follows:

OD—Office of the Director
DO—Office of Domestic and Anti-Poverty Operations
IO—Office of International Operations
OPP—Office of Policy and Planning
CA—Office of Congressional Affairs
GC—Office of General Counsel
EO—Office of Equal Opportunity
AF—Office of Administration and Finance
PA—Office of Public Affairs
SA—Office of Special Affairs
IG—Office of the Inspector General

Offical Personnel Files—Official personnel files of Federal employees in the General Schedule in the custody of the Agency are considered the property of the Civil Service Commission. Access to such files shall be in accordance with such notices published by the Commission. Access to such files in the custody of the Agency will be granted to individuals to whom such files pertain upon request to the Office of the Director, Personnel Management Division, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Files of employees in the Foreign Service which are not specifically covered by the Civil Service Commission publication are inter-filed with all other personnel files and treated in the same manner. The Commission regulations for official personnel files are therefore adopted by reference for Foreign Service personnel files in the custody of the Agency provided however that access, contests and appeals as to any record shall be heard as provided in accord with ACTION Regulations under the Privacy Act and the Freedom of Information Act.

Various offices in the Agency maintain files which contain miscellaneous copies of personnel material affecting ACTION employees. This would include copies of standard personnel forms, evaluation, etc. These files are kept only for immediate office reference use and are considered by the Agency to be part of the personnel file system. The Agency's internal regulations provide that such information is a part of the general personnel files and can only be disclosed through the Office of the Director, Personnel Management Division, in order that he may insure that any material to be disclosed is relevant, material, current, and fair to the individual employee. It is also the policy of the Agency to limit the use of such files and to encourage the destruction of as many as possible.

Statement of General Routine Uses—The following routine uses are incorporated by this reference into each system of records set forth herein, unless such incorporation is specifically limited in the system description.

1. In the event that a record in a system of records maintained by the Agency indicates any violation or potential violation of the law whether civil, criminal, or regulatory in nature, and whether arising by statute, or by regulation, rule or order issued pursuant thereto, the relevant record in this system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto; such referral shall also include and be deemed to authorize, (1) any and all appropriate and necessary uses of such records in a court of law or before an administrative board or hearing, and (2) such other interagency referrals as may be necessary to carry out the receiving agencies assigned law enforcement duties.

2. In the event the Agency receives a request from a Federal, state or local instrumentality under the jurisdiction of the United States for a record to be used for a civil or criminal law enforcement activity, authorized by law, such record shall be disclosed to such agency or instrumentality provided ACTION receives a written request from the head of such agency or instrumentality specifying the particular portion of the record desired and the law enforcement activity for which the record is sought.

3. A record may be disclosed as a routine use to designated officers and employees of other agencies and departments of the Federal government having an interest in the individual for employment purposes including the hiring or retention of any employee, the issuance of a security clearance, the letting of a contract, or the issuance of license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter involved, provided however, that other than information furnished for the issuance of authorized security clearances, information divulged hereunder as to full-time volunteers under Title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951) or the Peace Corps Act (22 U.S.C. 2501) shall be limited to the provision of dates of service and a standard description of service as heretofore provided by the Agency.

4. A record may be disclosed as a routine use in the course of presenting evidence to a court, magistrate or administrative tribunal of appropriate jurisdiction and such disclosure shall include disclosures to opposing counsel in the course of settlement negotiations.

5. A record may be disclosed as a routine use to a member of Congress submitting a request involving an individual who is a constitutent of such member who has requested assistance from the member with respect to the subject matter of the record.

6. Information from certain systems of records especially those relating to applicants for Federal employment or volunteer service may be disclosed as a routine use to designated officers and employees of other agencies of the Federal government for the purpose of obtaining information as to suitability, qualifications and loyalty to the United States government.

7. Information from records systems may be disclosed to any source from which information is requested in the course of an investigation to the extent necessary to identify the individual inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

8. Information in any system may be used as a data source, for management information, for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies. Information may also be disclosed to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or the Privacy Act or to locate specific individuals for personnel research or other personnel management functions.

9. Information in any system of records may be disclosed to a Congressional office, in response to an inquiry from any such office, made at the request of the individual to whom the record pertains.

10. A record from any system of records may be disclosed as a routine use to the National Archives and Records Service, General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Exemption of Disclosure—National Defense and Foreign Policy Matters—Certain systems of records covered by the Act and maintained by the Agency may from time to time contain materials subject to specific exemptions authorized by 5 U.S.C. 552a(k)(1) relating to national defense and foreign policy materials. Such materials, as an example, might consist of classified cables or other documents properly classified under Executive Order. The Agency maintains the right to exempt such materials from disclosure wherever they might appear in such systems of records, but only to the extent necessary to protect such material as required by Executive Order and various statutes in the interest of national defense and foreign policy.

Partial Exemption of Medical/Psychiatric Information—Certain systems of records maintained by the Agency contain medical/psychiatric information, the disclosure of which might harm an individual if disclosed directly to him. As to such records, if in the sole judgment of appropriate officials of the Agency such disclosure could have an adverse effect upon an individual under the provisions of 5 U.S.C. 552a(f)(3), disclosure may be limited to a physician chosen by the requesting individual or his authorized representative.

Location of Regional Offices—The Agency maintains ten Regional Offices in which certain systems, or parts of systems are maintained. The Agency also maintains State offices under the jurisdiction of the Regional Offices. The Regional Offices, their address, and the States within their respective jurisdictions are listed below. In the event of any doubt as to whether a record is maintained in a Regional Office, a query may be directed to the Director, Administrative Services, ACTION, Washington, D.C. 20525, who shall furnish all assistance necessary to locate a specific record.

ACTION Region I, John W. McCormack Federal Bldg., Room 1420, Boston, Massachusetts 02109 (Massachusetts, Maine, New Hampshire, Vermont, Rhode Island and Connecticut).

ACTION Region II, 26 Federal Plaza, 16th Floor, Suite 1611, New York, New York 10007 (New York, New Jersey, Puerto Rico and the Virgin Islands).

ACTION Region III, 320 Walnut Street, Suite 600, Philadelphia, Pennsylvania 19106 (Pennsylvania, Maryland, District of Columbia, Delaware and Virginia).

ACTION Region IV, 730 Peachtree Street, N.E., Room 895, Atlanta, Georgia 30308 (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee).

ACTION Region V, 1 North Wacker Drive, 3rd Floor, Rm. 322, Chicago, Illinois 60606 (Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin).

ACTION Region VI, Corrigan Tower Building, Suite 1600, 212 No. St. Paul Street, Dallas, Texas 75201 (Arkansas, Louisiana, New Mexico, Oklahoma and Texas).

ACTION Region VII, II Gateway Center, Suite 330, 4th and State, Kansas City, Kansas 66101 (Iowa, Kansas, Missouri and Nebraska).

ACTION Region VIII, 1845 Sherman Street, Room 201, Denver, Colorado 80203 (Colorado, Wyoming, Montana, North Dakota, South Dakota and Utah).

ACTION Region IX, 211 Main St., 5th Floor, San Francisco, California 94105 (Arizona, California, Hawaii and Nevada).

ACTION Region X, 1601 Second Avenue, Seattle, Washington 98101 (Alaska, Idaho, Oregon and Washington).

Notification—Individuals may inquire as to whether any system contains information pertaining to them by addressing the System Manager in writing. Such request should include the name and address of the individual, his or her social security number, and any relevant data concerning the information sought. Where possible, the place of assignment or employment, etc. In case of any doubt as to which system contains a record, interested individuals may contact the Director, Administrative Services, ACTION, Washington, D.C. 20525, who has overall supervision of records systems and who will provide assistance in locating and/or identifying appropriate systems.

Access and Contest—In response to a written request by an individual, the appropriate System Manager shall arrange for access to the requested record or advise the requester if no such record exists. If an individual wishes to contest the content of any record he or she may do so by addressing a written request to the Director, Administrative Services, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525. The Director shall provide all necessary information regarding such contest and appeal.

ACTION

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ACTION/CA—1

System name: Congressional Files System—ACTION/CA

System location: Office of Congressional Affairs/ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Members of Congress.

Categories of records in the system: The records in this system consist of bio-data, voting records, ACTION programs in members districts or states, indications of program concerns of members of Congress affecting ACTION, and copies of incoming and outgoing correspondence between personnel of ACTION and members of Congress.

Authority for maintenance of the system: Peace Corps Act, 22 U.S.C. 2501 et seq. and Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records in this system are not subject to routine use outside the Agency except for routine use number 10 in the preceding preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records in this system are maintained in file folders in metal filing cabinets locked at the close of the business day in a building having a 24-hour security guard.

Retrievability: Records in this system concerning members of committees concerned with ACTION legislation are filed by Congressional committee and within each committee alphabetically; Congressional correspondence is filed alphabetically by last name of the member.

Safeguards: Records in this system are generally available only to personnel of ACTION having a need for such information in the performance of their official duties as such.

Retention and disposal: Records in this system are maintained permanently.

System manager(s) and address: Assistant Director for Congressional Affairs/ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information in system of record is obtained from the following category of sources: 1. The Congressional Directory, Congressional Records, Congressional Quarterly, Periodicals and standard reference materials. 2. Members of Congress and their staffs. 3. ACTION employees. 4. Newspaper and magazine publications.

ACTION/EEO—1

System name: Discrimination Complaint File

System location: Office of Equal Opportunity, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Any employee or applicant for employment who has filed a complaint of discrimination against ACTION.

Categories of records in the system: Affidavits maintained concerning the following information: the complaint, correspondence related to the complaint and copies of personnel records and information how the complaint was resolved.

Authority for maintenance of the system: Executive Order 11478 and 5 CFR 713, 222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Contents of these records and files may be disclosed and used as follows: a. To the Civil Service Commission for hearings and/or administrative appeals on the complaint of discrimination; b. To the Department of Justice in connection with any suits brought against the agency for alleged discrimination. c. To the Equal Employment Opportunity Commission for advice and counsel within its jurisdiction. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal file cabinets with manipulation proof combination locks when not in immediate use.

Retrievability: Files are indexed alphabetically.

Safeguards: Records in the system are available only to appropriate personnel in the Office of Equal Opportunity and other designated officials of ACTION with a need of such records in the performance of their duties.

Retention and disposal: Records are destroyed five years after the close of the case.

System manager(s) and address: Director, Equal Employment Opportunity, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Data in this system is obtained from the following categories of sources: 1. Employees or applicants of ACTION involved as complainants, witnesses, etc. in discrimination complaints. 2. Reports of investigations and other materials prepared by Equal Employment Opportunity Officers, counsellors and investigators. 3. Copies of Agency documents relevant to any EO investigation. R. Records of hearings on complaints.

ACTION/AF—1

System name: Former Peace Corps Volunteer Medical Records and Claims—ACTION/AF

System location: Office of Health Services/ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Former Peace Corps Volunteers.

Categories of records in the system: Records maintained contain all medical histories of former Volunteers.

Authority for maintenance of the system: Peace Corps Act, 22 U.S.C. 2501 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files may be disclosed as follows: To the Office of Workers Compensation programs of the Department of Labor in connection with claims filed under the Federal Employees Compensation Act. Also see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in a room locked with a manipulation proof combination lock built into the door.

Retrievability: Files are retrieved alphabetically by last name.

Safeguards: Records in the system are available only to appropriate Health Services personnel and other appropriate officials of ACTION having a need of such records in the performance of their official duties.

Retention and disposal: Records are retained for two years after the volunteer terminates and are then retired to the Federal Records Center. The Federal Records Center retains the record for 23 years and then destroys them. In addition, normal x-rays are retained for five years and then destroyed. Abnormal x-rays are retained 25 years and then destroyed. All records are destroyed by burning and shredding.

System manager(s) and address: Chief, Health Benefits and Analysis Division Office of Health Services/ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information is obtained from the following categories of sources: 1. Physicians, dentists, and other medical personnel who have treated or examined the individual or his records. 2. Peace Corps medical personnel. 3. Individuals who are the subjects of the records.

ACTION/AF—2

System name: Travel Authorization File—ACTION/AF

System location: Fiscal Services Branch Administration and Finance/ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Any ACTION employee, volunteer or person invited to travel for ACTION.

Categories of records in the system: Files consist of copies of obligated travel authorizations, travel vouchers, receipts, records of payments, and other materials related to official travel.

Authority for maintenance of the system: The Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 et seq. and the Peace Corps Act, 22 U.S.C. 2051 et seq.; The Budget and Accounting Act of 1921; Accounting and Auditing Act of 1950; and the Federal Claim Collection Act of 1966.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Contents of these records and files may be disclosed and used as follows: a. To the Department of Treasury which receives a copy of the travel voucher forwarded with the Voucher and Schedule of Payment (SF-116) for forwarding to the payee. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in file folders in filing cabinets with bar locks, key locks or manipulation proof combination locks when not in immediate use.

Retrievability: Files are indexed alphabetically by last name.

Safeguards: Records in the system are available only to appropriate personnel, Fiscal Services Branch, and other appropriate officials of ACTION with the need for such records in the performance of their duties.

Retention and disposal: Records are held for three years and retired to the Federal Records Center in accordance with General Accounting Office instructions.

System manager(s) and address: Chief, Fiscal Services Branch, Accounting Division, Administration and Finance/ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Data in this system is obtained from forms submitted by individuals engaging in official travel, and other ACTION employees.

ACTION/AF—3

System name: ACTION Employees Occupational Injury and Illness Reports—ACTION/AF

System location: Maintained at Headquarters, ACTION and all ACTION Domestic Retional Offices and Peace Corps countries.

Categories of individuals covered by the system: ACTION employees who have had job-related injuries or illnesses.

Categories of records in the system: Reports of occupational injuries and illnesses and medical reports with respect thereto.

Authority for maintenance of the system: The Occupational Safety and Health Act of 1970 Executive Order 11807.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Occupational injury and illness reports are maintained in order to provide data, including statistical data required by the Occupational Safety and Health Administration, Department of Labor.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal file cabinets with manipulation proof combination lock.

Retrievability: Records are indexed in alphabetical order.

Safeguards: Records are available only to ACTION employees having a need for such records in the performance of their official duties.

Retention and disposal: Files in this system are retained for a period of five years following the calendar year to which they are related and then destroyed by burning or shredding in accordance with standard procedures.

System manager(s) and address: Chief, Health Benefits and Analysis Branch, Health Services Division, ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information contained in the system is obtained from the following categories of sources: Employees who have suffered a work-related illness or injury ACTION Supervisory personnel.

ACTION/AF—5

System name: Peace Corps Applicant and Trainee Medical History and Payment Record—ACTION/AF

System location: Division of Health Services; ACTION; 806 Connecticut Avenue, NW., Washington, D.C. 20525

Categories of individuals covered by the system: Applicants for Peace Corps and Peace Corps trainees.

Categories of records in the system: Records maintained in this system consist of medical histories and physical examinations and payment records.

Authority for maintenance of the system: The Peace Corps Act, 22 U.S.C. 2501 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files may be disclosed and used as follows: 1. Information in this system may be provided to medical personnel engaged in treatment of the individual to whom the record pertains upon request in situations where it is not feasible to obtain the consent of such individual. 2. Information will be given to a physician of the applicant's choice upon written request of the individual to whom the record pertains. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal filing cabinets with manipulation proof combination locks.

Retrievability: Records are maintained in alphabetical order.

Safeguards: Records in this system are available only to authorized Health Services personnel with a need for such records in the performance of their duties.

Retention and disposal: Records of applicants who do not become trainees are retained for one year and destroyed. Records of trainees who do not become volunteers are retained for two years

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and then destroyed. Psychiatric records are maintained separately and do not accompany the trainee/volunteer overseas. Psychiatric records are destroyed two years after termination. Records of Peace Corps volunteers accompany the volunteers overseas and upon termination of service the record is retired to the Federal Records Center and destroyed after 25 years in accord with its schedule by burning and shredding.

System manager(s) and address: Chief, Medical Screening and Services Branch Office of Health Services, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information contained in this system is obtained from the following sources: 1. The individual applicant or trainee 2. Physicians and other medical personnel who have examined or treated the individual. 3. Personnel in the Office of Health Services.

ACTION/AF—6

System name: Domestic Volunteer Applicant Psychiatric Report System—ACTION/AF

System location: Division of Health Services/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Any person who has applied as a volunteer in an ACTION domestic program who refuses, or is reported by a physician or counselor, to have a history of psychiatric treatment.

Categories of records in the system: The records maintained in this system consist of histories of psychiatric or psychological treatment.

Authority for maintenance of the system: Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files may be disclosed and used as follows: (a) Psychiatrists or clinical psychologists when necessary for treatment of the individual to whom the record pertains. To the extent practicable such disclosures will not be made without the approval of such individual. (b) The existence of these records but not their contents may be disclosed to designated officers and employees of other agencies and departments of the Federal Government and the District of Columbia Government having an interest in an individual for employment purposes including a security clearance or access determination. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders in metal filing cabinets with manipulation proof combination locks.

Retrievability: These records are maintained in alphabetical order.

Safeguards: Records are available only to Health Services personnel having a need for such records in the performance of their duties.

Retention and disposal: Records of applicants who do not become volunteers are destroyed at the end of two years by shredding or burning. Records of applicants who do become volunteers become part of the volunteer's medical folder and are retained in the Federal Records Center and destroyed in accordance with this regulation.

System manager(s) and address: Chief, Medical Screening and Services Branch, Division of Health Services/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information in this system is obtained from the following sources: Category of Sources: 1. Individuals who are subject to the records. 2. Physicians, psychiatrists and psychiatric medical personnel.

ACTION/AF—7

System name: Classified Document Security Violation File—ACTION/AF

System location: Facilities and Property Management Division Office of Administrative Services/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Any ACTION employee responsible for using or taking care of classified documents.

Categories of records in the system: Records maintained contain information about security violations and the handling of classified documents in the National defense of the United States, copies of notices sent to employees, and action taken with respect to such violations.

Authority for maintenance of the system: Peace Corps Act, 22 U.S.C. 2501 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in this system may be used and disclosed for routine uses noted in paragraphs 1, 2 and 10 of the Preliminary Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in a safe.

Retrievability: Records are indexed in alphabetical order.

Safeguards: Records in this system are available only to ACTION employees having a need for such records in the performance of their duties.

Retention and disposal: Records are kept for two years and then destroyed by shredding.

System manager(s) and address: Chief, Facilities and Property Management Division Administrative Services Division/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information obtained from individuals allegedly committing a security violation and security building guards.

ACTION/AF—8

System name: Grievance, Appeal and Arbitration—ACTION/AF

System location: Labor and Employee Relations Branch Personnel Management Division/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Any individual involved in a grievance or grievance appeal or who has filed a complaint with the Department of Labor, Federal Labor Relations Council, Federal Mediation and Conciliation Service, or similar organization.

Categories of records in the system: This system contains copies of petitions, complaints, charges, responses, rebuttals, evidentiary material, briefs, affidavits, statements, records of hearings and decisions or findings of fact with respect thereto and incidental correspondence regarding complaints and appeals with respect to grievances and arbitration matters.

Authority for maintenance of the system: The Peace Corps Act, 22 U.S.C. 2501 et seq. and the Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 et seq. and provisions of the Federal Personnel Manual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files may be disclosed and used as follows: 1. To the Civil Service Commission on request in conjunction with any appeal or in conjunction with its official duties with regard to personnel matters and investigation regarding complaints of Federal employees and applicants. 2. To designated officers and employees of other Federal agencies conducting investigations of an individual for the purpose of granting a security clearance or access determination, and having a need to evaluate qualifications, suitability, and loyalty to the United States Government in connection with employment. 3. In the event of any indication of any violation or potential violation of the law, whether civil, criminal, or regulatory in nature, and whether arising by statute or by regulation, rule or order issued pursuant thereto, the relevant records in the system may be referred, as a routine use, to the appropriate Federal agency, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto. Such referral shall also include and be deemed to authorize, (1) any and all appropriate and necessary uses of such records in a court of law and before an administrative board or hearing, including referrals related to probation and parole matters, and (2) such other interagency referrals as may be necessary to carry out the receiving agency's assigned law enforcement duties, provided however, that in the event of a request for records in this system from a Federal agency for a civil or criminal law enforcement activity, authorized by law, the record shall be disclosed only upon written request signed by the head of such agency or instrumentality specifying the particular portion desired in the law enforcement activity for which the record is sought. 4. To designate hearing examiners, arbitrators and third-party appellate authorities involved in the hearing or appeal processes. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in folders in metal file cabinets with three way combination locks.

Retrievability: Records are indexed in alphabetical order.

Safeguards: Records in the system are available only to ACTION officials having need for such records in the performance of their official duties.

Retention and disposal: Records are retained indefinitely in the files of the Labor and Employee Relations Division.

System manager(s) and address: Chief, Labor and Employee Relations Personnel Management Division/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information contained in the system is obtained from the following categories of sources: 1. ACTION employees. 2. Witnesses to any occurrence giving rise to a grievance, appeal or other action. 3. Hearing records and affidavits and other documents used or usable in connection with such hearings.

ACTION/AF—9

System name: Domestic Volunteer Appeal File—ACTION/AF

System location: Labor and Employee Relations Branch Personnel Management Division/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Persons serving as volunteers in ACTION domestic full-time programs appealing any action terminating such volunteer, or any action of the Agency affecting such individual selected for volunteer service and any other appealable matters affecting domestic volunteers and applicants.

Categories of records in the system: The records contain applications or petitions relating to voluntters' appeals, including replies, rebuttals, hearing records, documentary evidence, determinations and records of resulting actions.

Authority for maintenance of the system: The Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records may be used and disclosed as follows: 1. In the event of any indication of any violation or potential violation of the law, whether civil, criminal, or regulatory in nature, and whether arising by statute or regulation, rule or order issued pursuant thereto, the relevant records in the system may be referred, as a routine use, to the appropriate Federal agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto. Such referral shall also include and be deemed to authorize, (1) any and all appropriate and necessary uses of such records in a court of law and before an administrative board or hearing, including referrals related to probation and parole matters, and (2) such other inter-agency referrals as may be necessary to carry out the receiving agency's assigned law enforcement duties, provided however, that in the event of a request for records in this system from a Federal agency for a civil or criminal law enforcement activity, authorized by law, the record shall be disclosed only upon written request signed by the head of such agency or instrumentality specifying the particular portion desired in the law enforcement activity for which the record is sought. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in folders in metal file cabinets with three-way combination locks.

Retrievability: Records are indexed in alphabetical order.

Safeguards: Records in the system are generally available only to employees of the Agency having the need for such records in the performance of their duties.

Retention and disposal: Records in this system are maintained for 3 years and then retired to the Federal Records Center for disposition in accordance with regulations.

System manager(s) and address: Chief, Labor and Employee Relations Branch Personnel Management Division/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Notification procedure: Information in this system is obtained from the following sources: 1. Volunteers and trainees. 2. ACTION officials. 3. Officials of sponsoring organizations. 4. Individuals with personal knowledge of the occurrence which are the subject of any appeal.

ACTION/AF—10

System name: Employees Indebtedness Files—ACTION/AF

System location: Labor and Employee Relations Branch Personnel Management Division/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Present and former ACTION employees on whom correspondence has been received to the effect that they have failed to honor a debt.

Categories of records in the system: The system contains records which are primarily correspondence regarding alleged indebtedness of ACTION employees, including employees' responses, the Agency's response to the employee and/or creditor and administrative correspondence and records relating to Agency assistance to the employee in resolving the indebtedness, if appropriate.

Authority for maintenance of the system: The Peace Corps Act, 22 U.S.C. 2501 et seq. and the Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 et seq. and the provisions of the Federal Personnel Manual and the Foreign Affairs Manual relating to employee indebtedness.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files may be disclosed and used as follows: a. To designated officers and employees of other agencies and departments of the Federal Government, having an interest in an individual for employment purposes, including s security clearance or access determination, and a need to evaluate qualifications, suitability, and loyalty to the United States Government. b. In the event of any indication of any violation or potential violation of the law, whether civil, criminal, or regulatory in nature, and whether arising by statute or by regulation, rule or order issued pursuant thereto, the relevant records in the system may be referred, as a routine use, to the appropriate Federal Agency, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto. Such referral shall also include and be deemed to authorize, (1) any and all appropriate and necessary uses of such records in a court of law and before an administrative board or hearing, including referrals related to probation and parole matters, and (2) such other inter-agency referrals as may be necessary to carry out the receiving agency's assigned law enforcement duties, provided however, that in the event of a request for records in this system from a Federal agency for a civil or criminal law enforcement activity, authorized by law, the record shall be disclosed only upon written request signed by the head of such agency or instrumentality specifying the particular portion desired in the law enforcement activity for which the record is sought.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records in the system are maintained in file folders in metal file cabinets with three way combination locks.

Retrievability: Records are indexed in alphabetical order.

Safeguards: These records are generally available only to personnel of Labor and Employee Relations Branch and other ACTION officials having a need for such records in the performance of their official duties.

Retention and disposal: The system is purged on a bi-annual basis. Any records as to which the problem has been resolved are destroyed at such time.

System manager(s) and address: Chief Labor and Employee Relations Branch Personnel Management Division/ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information in this system is obtained from the following category of sources: 1. Alleged creditors of employees. 2. Employees. 3. ACTION officials.

ACTION/AF—11

System name: ACTION Travel Files—ACTION/AF

System location: Chief, Travel and Transportation Division Office of Administrative Services/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Any ACTION employees, volunteer, consultant, contractor or other individual who travels on agency business.

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Categories of records in the system: Records maintained contains travel authorization itinerary Government Bills of lading, packing letter and passport numbers which are included for overseas travel, diplomatic, official and no-fee passports for staff, trainees and volunteers; completed visa applications are temporarily held in files for Peace Corps Trainees; and other travel related material.

Authority for maintenance of the system: The Domestic Volunteer Service Act of 1973, 42 U.S.C. Section 4951 et seq.; the Peace Corps Act, 22 U.S.C. Section 2501 et seq.; The Budget and Accounting Act of 1921; the Accounting and Auditing Act of 1950; the Federal Claim Collection Act of 1966.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Preliminary Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in key locked cabinets.

Retrievability: Records are arranged alphabetically by name in accord with categories, i.e., staff travel file, Peace Corps volunteer travel file, Domestic Volunteer travel file, and consultants, experts and invitational travel files, some records are maintained by country.

Safeguards: Records are available only to appropriate personnel, Office of Travel and Transportation Division and other appropriate officials of ACTION with need for such records for the perfrmance of their duties.

Retention and disposal: Records in the system are maintained in the Travel and Transportation Division of one year after the employee leaves the agency and are then burned.

System manager(s) and address: Chief, Trvel and Transportation Division Office of Administrative Sevices ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information is obtained from the following categories of sources: individual travellers ACTION employees.

ACTION/AF—12

System name: Accounts Receivable (Collection of Debts Records and Claims Record)—ACTION/AF

System location: Fiscal Services Branch/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Any person whether vendor or volunteer, or employee of ACTION as well as former volunteers and former employees allegedly erroneously overpaid by ACTION.

Categories of records in the system: This system contains the following categories of records: 1. Register of debts claimed. This record consists of names and addresses of individuals who are indebted to ACTION including the date of the debt, a claim number, the amount of the debt, and the date the debt is paid if that has occurred. 2. Claim Record Card. This record consists of the same information in shorter form as that contained in the Register. 3. File Folders. This record consists of the initial billing, follow up letters for collection of debt and related correspondence together with a copy of the check or checks paying the debt if that has occurred.

Authority for maintenance of the system: The Peace Corps Act, 22 U.S.C. 2501 and the Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951; The Budget and Account Act of 1950. In addition to the above two Acts granting general powers of management to the Director of ACTION there are additional Federal statutes requiring and permitting the administrative settlement of claims by agencies.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records in this system may be disclosed in the following circumstances: To the General Accounting Office (GAO) for cases of administrative error amounting to over 500 dollars of overpayment and situations in which the agency has been unable to collect such debt. Disclosure will also occur in which the agency requests a waiver for error caused by overpayment of salary in excess to 500 dollars. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal file cabinets with manipulation proof combination lock.

Retrievability: Records are indexed in alphabetical order.

Safeguards: These records are available only to officials of ACTION having a need for such records in the performance of their official duties and for the routine uses listed above.

Retention and disposal: These records are maintained until the settlement of a claim and then retired to the Federal Record Center to be destroyed in accord with their schedule of destruction.

System manager(s) and address: Chief, Fiscal Services Branch, Accounting Division/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information contained in the system was obtained from the following categories of sources: Domestic Retional Offices Peace Corps Country Posts Headquarters Payroll Office Employees of ACTION having knowledge of the facts.

ACTION/AF—13

System name: Peace Corps Trainee and Volunteer Personnel and Pay Record—ACTION/AF

System location: ACTION, International Volunteer Support Services Branch, Administration and Finance, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Any person accepted as a Peace Corps Trainee or Volunteer.

Categories of records in the system: Individual trainee and volunteer files contain the following information about the particular person: Permanent Address, Social Security Number, Birthdate, Marital Status, Description of Peace Corps Service, Location of Peace Corps Service, Change of Address, W-2 Forms, Base Salary, Oath, Educational Level, Next of Kin, Designation of Beneficiary, Termination Documents, Trainee Registration Form, Payroll Card containing payments, allotments, withdrawals and related records.

Authority for maintenance of the system: Peace Corps Act, 22 U.S.C. 2501 et seq.; Budget and Accounting Act of 1950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Contents of these records and files may be disclosed and used for routine uses contained in the Preliminary Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal file cabinets in a room locked with a manipulation proof combination lock built into the door.

Retrievability: Records are indexed in alphabetical order.

Safeguards: Records in the system are available only to appropriate officials of ACTION with the need for access to such records for the performance of their duties.

Retention and disposal: Records in this system are maintained in the office for two years after the volunteer termination date and are then retired to the Federal Records Center where they are retained for five years. After this period, they are destroyed by burning or shredding.

System manager(s) and address: Chief, International Volunteer Support Services Branch/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information supplied by the volunteers and ACTION.

ACTION/AF—14

System name: Theft of Employee Property File—ACTION/AF

System location: Facilities and Property Management Division Office of Administrative Services, ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: ACTION employees who have been robbed of personal or government property.

Categories of records in the system: Records maintained contain forms filled out on the theft of personal and Federal government property.

Authority for maintenance of the system: The Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 et seq. and the Peace Corps Act, 22 U.S.C. 2501 et seq.; the Budget and Accounting Act of 1950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Those contained in the Preliminary Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in a metal filing cabinet with key lock.

Retrievability: Records are indexed in alphabetical order.

Safeguards: Records in this system are available only to designated ACTION employees having a need for such records in the performance of their duties.

Retention and disposal: Records of thefts are kept for two years and then destroyed by shredding.

System manager(s) and address: Chief, Facilities and Property Management Division Administrative Services Division/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Data in this system is obtained from the following categories of sources: 1. ACTION employees. 2. Police reports. 3. Witness statements.

ACTION/AF—15

System name: Staff Security Files

System location: Employee Security Branch Personnel Management Division/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Current and former applicants for employment in ACTION. Current and former Federal employees of ACTION. Individuals considered for access to classified information or restricted areas and/or security determinations as contractors, employees of contractors, experts, instructors, and consultants to Federal programs.

Categories of records in the system: These records contain investigative information regarding an individual's character, conduct, behavior in the community where he or she lives; arrests and convictions for any violations against the law; reports of interviews with former supervisors; co-workers, associates, educators, etc; reports about the qualifications of an individuals for a specific position; reports of inquiries with law enforcement agencies; former employers, educational institutions attended; and other similar information developed from the above.

Authority for maintenance of the system: Executive Order 10450 Federal Personnel Manual, Chapter 731 et seq. In addition to the provisions cited above, there are various acts of Congress relating to personnel investigations authorizing the same by the Civil Service Commission which responsibility can, under Civil Service Regulations and law, be delegated in whole or in part to agencies.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files may be disclosed and used as follows: a. To the Civil Service Commission as a part of the central CSC personnel investigation records system. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal file cabinets with three way combination locks in a room which is locked when not in use.

Retrievability: Records are indexed in alphabetical order.

Safeguards: All officials or employees having access to such files are required to have an appropriate security clearance. Generally these files are available only to personnel of the security office or to agency office heads or other agency personnel having a need for such files in the performance of their duties.

Retention and disposal: Files are maintained in the personnel security office for three years after the termination, death or retirement of an employee, or for the same period of time after consideration of an applicant. Thereafter, said files are transferred to the Federal Records Center where they are maintained for twenty-seven years and then destroyed in accordance with regulations of the General Services Administration.

System manager(s) and address: Chief, Employee Security Branch Personnel Management Division, ACTION, Room 400, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information contained in the system was obtained from the following categories of sources: a. Applications and other personnel and security forms furnished by the individual. b. Investigative material furnished by other Federal agencies. c. By personal investigation or written inquiry from such sources as employers, schools, references, etc. d. Neighbors, associates, police departments, courts, credit bureaus, medical records, probation officials, prison officials, and other such sources as may be developed from the above.

ACTION/AF—16

System name: Voucher Payment Record and Schedules of Payments File—ACTION/AF

System location: Fiscal Services Branch, Administration and Finance, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Any current or former ACTION, employee, volunteer or vendor.

Categories of records in the system: The Voucher Payment Record is a single index card form containing the following data: Invoice number or date, amount paid, voucher and schedule number, grant, contract or purchase order number and type of payment (advance, partial or final). The Schedule of Payments File consists of the invoice received, document authorizing the action to be taken such as travel authorization or purchase order and the voucher making the payment as well as the SF-1166 (Voucher and Schedule of Payments) and SF-1081 (Voucher and Schedule of Withdrawals and Credits—used in government only) and to which the other documents are attached.

Authority for maintenance of the system: Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 et seq.; Peace Corps Act, 22 U.S.C. 2501 et seq.; Budget and Accounting Act of 1921 Accounting and Auditing Act of 1950; and the Federal Claims Collection Act of 1966.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The content of these records may be disclosed and used as follows: The Treasury Department receives the Schedule of Payment and a copy of voucher for payment. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Voucher Payment Records are stored in an index card box placed in a metal file cabinet with bar locks, key locks or manipulation proof combination locks when not in immediate use. Schedule of Payment is stored in the same way.

Retrievability: Voucher Payment Record is indexed by last name alphabetically. Schedule of Payments is filed numerically by schedule number.

Safeguards: Records in the system are available only to appropriate personnel, Fiscal Services Division, and other appropriate officials of ACTION with the need for such records in the performance of their duties.

Retention and disposal: Records are held for three years and retired to the Federal Records Center in accordance with General Accounting Office instructions.

System manager(s) and address: Chief, Fiscal Services Branch, Accounting Division, Administration and Finance, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Data is obtained from documents provided by the individual or the vendor.

ACTION/AF—17

System name: Employee Reemployment and Repromotion Priority Consideration File—ACTION/AF

System location: Personnel Operations Branch, Personnel Management Division, Office of Administration and Finance/ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Current and previous ACTION employees eligible for priority consideration for reemployment and repromotion under U.S. Civil Service Commission and ACTION regulations.

Categories of records in the system: The records contain a listing of a person's name and the positions he was considered for and dates of consideration.

Authority for maintenance of the system: The Domestic Volunteer Service Act of 1973; 42 U.S.C. 4951 et seq.; Ch 351, Federal Personnel Manual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The content of these records and files may be disclosed and used as follows: a. To the Civil Service Commission as part of the CSC personnel management evaluation system. b. To the Civil Service Commission for information concerning the reemployment and repromotion rights of individuals covered under the Civil Service System. Also, see preliminary statement.

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Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in loose-leaf binders placed in metal file cabinets with three-way combination locks when not in immediate use.

Retrievability: Records are indexed alphabetically by name.

Safeguards: Records in this system are available only to appropriate personnel, Office of Personnel Management and other appropriate officials of ACTION with a need for such records in the performance of their duties.

Retention and disposal: A person's name is retained on the list in accordance with reemployment eligibility: former career-conditional employees, one year; former career employees, two years. Retention for repromotion eligibility is indefinite or until repromoted to the grade previously held.

System manager(s) and address: Chief, Personnel Operations Branch, Office of Personnel Management Division/ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information is received from Labor and Employee Relations Branch, Personnel Management Division, ACTION

ACTION/AF—18

System name: Performance Evaluation File—ACTION/AF

System location: Personnel Operations Branch, Personnel Management Division/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: ACTION employees and former employees up to one year after their termination of employment with the Agency.

Categories of records in the system: This system consists of annual performance evaluations of employee performance prepared by supervisors and reviewed by supervisory reviewing officials, together with comments, if any, by the employees evaluated.

Authority for maintenance of the system: Chapters 250 and 430, Federal Personnel Manual and the Peace Corps Act, 22 U.S.C. 2501 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. To the Civil Service Commission in connection with any request for information or inquiry as to Federal Personnel Regulations. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal file cabinets with three-way combination locks.

Retrievability: Records are indexed in alphabetical order.

Safeguards: Only personnel of the Personnel Management Division with a need for such records in the performance of their duties, the individual about whom such record is maintained, or supervisory employees of the agency with a need to know in the performance of their duties are granted access to these files.

Retention and disposal: All evaluations are held for one year or until superseded and then are destroyed by shredding.

System manager(s) and address: Chief, Personnel Operations Branch, Personnel Management Division, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information contained in the system was obtained from the following sources: Supervisors of ACTION employees. Reviewing officials who review evaluation reports submitted by supervisors. Employees who make comments with respect to their evaluations when given an opportunity to do so at the time the record is made.

ACTION/AF—19

System name: Management-Union Records System—ACTION/AF

System location: Labor and Employees Relations Branch, ACTION Personnel Management Division, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: ACTION employees including those who have authorized withholding of Union dues in writing.

Categories of records in the system: The records in this system consist of automated data printouts showing an employee's name, grade, series, title, organizational entity and other associated data which determines his inclusion or exclusion from the bargaining unit under the existing Union contract. The record also contains a printout showing the amount of dues withheld from each employee who has authorized such withholding, and other related data.

Authority for maintenance of the system: The Peace Corps Act, 22 U.S.C. 2501 et seq. and the Domestic Volunteer Service Act of 1973, 42 U.S.C. 1951 et seq. and various Executive Orders concerning management relations with employee organizations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records in this system may be disclosed and used for the following uses: 1. The ACTION Employees Union for maintenance of its records with respect to dues and inclusion in the bargaining. 2. The Treasury Department for preparation of payroll checks with appropriate withholding of dues. 3. To the Civil Service Commission for union related reporting in the area of management/labor relations. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records in this system are maintained in metal filing cabinets.

Retrievability: As to the dues withholding list, records are maintained alphabetically within salary blocks. As to the list of employees in or out of the bargaining unit, records are maintained alphabetically within each organizational unit.

Safeguards: Records in these systems are available generally only to employees of ACTION with the need for such records in the performance of their duties.

Retention and disposal: The listing of all positions considered as included in or excluded from the bargaining unit are retained as follows. A historical/record copy is retained in Labor Relations for purposes of Union representation identification until it is supplemented or replaced by corrected or updated editions as appropriate. The dues withholding lists are retained until updated by new information.

System manager(s) and address: Chief, Labor and Employees Branch, Personnel Management Division/ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information contained in this system is obtained from the following categories of sources: 1. Fiscal and payroll records maintained for each employee. 2. The Official Personnel File.

ACTION/AF—20

System name: Peace Corps Volunteer Authorized Storage File—ACTION/AF

System location: Chief, Travel and Transportation Division, Office of Administrative Services, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Peace Corps volunteers authorized to store household effects and personal belongings.

Categories of records in the system: Records contain copy of the travel authorization for the volunteer and the household goods storage letter.

Authority for maintenance of the system: Section 5(n) of the Peace Corps Act, 22 U.S.C. Section 2504(n).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Preliminary Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained on book shelves in loose leaf binders in a locked room.

Retrievability: Records are arranged alphabetically by name.

Safeguards: Records in this system are available only to appropriate personnel, Office of Travel and Transportation and other appropriate officials of ACTION with a need for such records for the performance of their duties.

Retention and disposal: Records in the system are maintained in the Office of Travel and Transportation for two years after the Peace Corps volunteers terminate and are then burned.

System manager(s) and address: Chief, Travel and Transportation Division Office of Administrative Services/ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Peace Corps Washington Staff ACTION Overseas Peace Corps Mission Requesting Volunteers.

ACTION/AF—21

System name: Personal Service Contracts Records—ACTION/AF

System location: Chief, Procurement Branch, Contracts and Grants Management Division/ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Only those persons contracted through the Headquarters Procurement Branch who have served or are serving as a personal services contractor for the Peace Corps abroad or in the United States are covered by this system.

Categories of records in the system: The records maintained contain the history of employment, including earning records, of individuals hired as personal services contractors.

Authority for maintenance of the system: Section 10(a)(4) of the Peace Corps Act, 22 U.S.C. 2509.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Preliminary Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal file cabinets with manipulation proof combination locks when not in immediate use.

Retrievability: Records are arranged by contract number.

Safeguards: Records in the system are available only to appropriate personnel in the Contracts and Grants Management Division and other appropriate officials of ACTION with the need for such records for the performance of their duties.

Retention and disposal: Records in the system are maintained in the Contracts and Grants Management Division for one year after the closing date of the contract and then sent to the Federal Records Center where they are maintained for three years and then destroyed in accordance with regulations governing such destruction of Federal Record Center records.

System manager(s) and address: Chief, Procurement Branch, Contracts and Grants Management Division, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information contained in the system is obtained from the following categories of sources: Individual contractors Peace Corps Overseas Staff, Peace Corps Washington Staff.

ACTION/AF—22

System name: Talent Bank—ACTION/AF

System location: Personnel Management Division, Office of Administration and Finance; the Office of the Director and the Office of the Associate Director for International Operations.

Categories of individuals covered by the system: Applicants for staff employment with ACTION.

Categories of records in the system: These files contain copies of applications for employment (SF-171), resumes submitted by applicants, and other background information regarding qualifications of the applicant for staff positions in ACTION.

Authority for maintenance of the system: The Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 et seq. and the Peace Corps Act, 22 U.S.C. 2501 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files may be disclosed and used as follows: a. To the Civil Service Commission with regard to any question of eligibility, suitability or qualifications of an applicant for employment. b. To any source of which information is requested in the course of an inquiry as to the qualifications of an applicant, to the extent necessary to identify the individual, inform the source of the nature and purpose of the inquiry, and to identify the type of information requested. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal file cabinets with three-way combination locks.

Retrievability: Records are indexed in alphabetical order.

Safeguards: Records are generally available only to employees with ACTION with the need for such records in the performance of their duties.

Retention and disposal: Records are destroyed when applications are two years old. Applications which result in appointment are filed in the Official Personnel Folder and are subsequently retired to the Federal Records Center, St. Louis.

System manager(s) and address: The Administrative Assistant to the Director and the Special Assistant for Country Director Recruitment in the Office of International Operations are system managers for non-career applications until they are forwarded to the Personnel Management Division. The Chief, Personnel Operations Branch is the system manager for all other applications and for those non-career applications forwarded from the Office of the Director and the Office of International Operations. All are located at 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information contained in the system was obtained from the following categories of sources: Applications and other personnel forms furnished by the individual. By oral or written inquiries from sources disclosed by the applicant such as: Employers Schools References, etc.

ACTION/AF—23

System name: Staff and Volunteer Household Storage File—ACTION/AF

System location: Office of Administration and Finance/ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Any employee or volunteer of ACTION whose furniture is authorized for storage.

Categories of records in the system: The records maintained contain the following information: Travel authorization. A Xerox copy of the invoice for payment. Record of partial payment form.

Authority for maintenance of the system: The Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 et seq.; the Peace Corps Act, 22 U.S.C. 2501 et seq.; and the Budget and Accounting Act of 1950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files may be disclosed and used as follows: a. To the Department of Treasury in connection with payment of invoice received from vendor. b. To the vendor in the event there is a descrepancy between its and ACTION records. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in file folders in filing cabinets with bar locks, key locks, or manipulation proof combination locks when not in immediate use.

Retrievability: Records are indexed in alphabetical order.

Safeguards: Records in the system are available only to appropriate persons in Administration and Finance and other appropriate officials of ACTION with the need for such records for the performance of their duties.

Retention and disposal: Records are retained for two years after a volunteer's or employee's termination (including retirement) and retired to the Federal Records Center.

System manager(s) and address: Chief, Fiscal Services Branch, Accounting Division, Administration and Finance/ACTION 806 connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Administration and Finance, Fiscal Services Branch, Travel Orders, Vendors Invoices.

ACTION/AF—24

System name: Domestic Volunteer Payroll Records—ACTION/AF

System location: Domestic Volunteer Payroll Section/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Full-time volunteers serving in ACTION Domestic programs such as VISTA, UYA, etc.

Categories of records in the system: The records in this system consist of the following: 1. Food and lodging allowance records. 2. Gross and net amounts paid. 3. Stipend amount accrued. 4. Deductions from check for authorization. 5. Overpayments to the collected per pay period. 6. Name of volunteer, sex, age, marital status. 7. Living allowance. 8. Amount of debt, if any, owed to the United States Government and correspondence explaining and relating to such indebtedness.

Authority for maintenance of the system: Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 et seq.; Budget and Accounting Act of 1950.

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Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information from this system is placed on a computer and ultimately provided on a routine basis to the Social Security Administration for crediting of social security accounts, to the Internal Revenue Service to report on taxes paid, and to the Treasury for the purpose of obtaining payroll checks. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records and maintained in rooms locked during off-duty hours. A manipulation proof combination lock is built into the door.

Retrievability: Files are indexed alphabetically.

Safeguards: Files are generally available to personnel of the payroll section and other employees of ACTION having a need for such records in the performance of their official duties.

Retention and disposal: Records in this system are destroyed seven years after volunteer termination date.

System manager(s) and address: Chief, Domestic Volunteer Payroll Section, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: ACTION employees and the individual to whom the record pertains.

ACTION/AF—25

System name: Peace Corps Volunteer Personnel and Payroll System (Computer System)—ACTION/AF

System location: Accounting Division, Office of Accounting and Computer Services/ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Any person who has served or is currently serving as a Peace Corps volunteer.

Categories of records in the system: Records maintained include volunteers' social security number, name and address, next of kin and address, birthdate, sex, marital status, education level, colleges attended, degree and degree type, skills, jobs and source codes. Date entered on duty, date of oath, completion of service date (projected and actual), effective date of transaction, current and prior project information, current and last country served, and number of school age and non-school age children. Also included is financial data required to accrue and disburse monies in volunteer readjustment allowance account, payee name and address for allotments and withdrawals from readjustment allowance account, beneficiary name and social security number for bonds purchased for Peace Corps volunteers.

Authority for maintenance of the system: Peace Corps Act, 22 U.S.C. 2501 et seq.; Budget and Accounting Act of 1950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Contents of these records and files may be disclosed and used as follows: a. To the Department of Treasury for the issuance of checks in connection with the payment of volunteer readjustment allowances. b. To the Internal Revenue Service in connection with the filing of W-2 withholding forms for income tax purposes. c. The Social Security Administration in connection with withholdings of social security tax as appropriate on allowances paid including readjustment allowance. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained on magnetic discs and tapes which are stored in a locked room with a manipulation proof combination lock built into the door.

Retrievability: Records are indexed by social security number.

Safeguards: Records in the system are available only to appropriate personnel in the Volunteer Support Services Division, Office of Accounting and Computer Services, Administration and Finance, and other appropriate officials of ACTION with the need for such records for the performance of their duties.

Retention and disposal: These records are kept permanently.

System manager(s) and address: Chief, International Volunteer Support Services Division, Office of Accounting and Computer Services, Administration and Finance, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Data is keypunched from forms completed by the volunteers such as Training Registration Form, Waiver of Coverage of Peace Corps Life Insurance, Designation of Beneficiary Peace Corps Life Insurance, Notice of Volunteer-Trainee Action (Status), Application for allotment or withdrawal, Request for payment of Dental Bills, List of Payments Advanced in Country and Application for U.S. Savings Bonds.

ACTION/AF—26

System name: Domestic and International Volunteer Security Files—ACTION/AF

System location: Employee Security Branch Personnel Management Division/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Peace Corps volunteers and volunteer applicants. Volunteers serving in full-time domestic volunteer programs under Title I of the Domestic Volunteer Service Act of 1973 including service in such programs as VISTA, UYA, PLS, etc., and applicants for such service.

Categories of records in the system: These records contain investigative information regarding an individual's character, conduct, qualifications and integrity and reputation in the community where he or she lives, including records of arrest and convictions for any violations against the law, reports and recommendations from former supervisors, co-workers, friends, educators, etc.; reports of inquiries with law enforcement agencies, former employers, educational institutions attended, and other information developed from the above.

Authority for maintenance of the system: The Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 et seq. and the Peace Corps Act, 22 U.S.C. 2501 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files may be disclosed and used as follows: a. To the Civil Service Commission as a part of the central CSC personnel investigation records system. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal file cabinets with three-way combination locks in a room which is locked when not in use.

Retrievability: Records are indexed in alphabetical order.

Safeguards: All officials of employees having access to such files are required to have an appropriate security clearance. Generally, these files are available only to personnel of the security office or to agency office heads or other agency personnel having a need for such files in the performance of their duties.

Retention and disposal: Peace Corps files are maintained in the personnel security office for three years after the termination or death of a volunteer, or for the same period of time after consideration of an applicant. Thereafter, said files are transferred to the Federal Records Center, where they are maintained for twenty-seven years and then destroyed in accordance with regulations of the General Services Administration. All domestic volunteer files are maintained in the personnel security office up to the time of the termination or death of a volunteer when they are destroyed by burning or shredding.

System manager(s) and address: Chief, Employee Security Branch, Personnel Management Division ACTION, Room 400, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information contained in the system was obtained from the following categories of sources: a. Applications and other personnel and security forms furnished by the individual. b. Investigative material furnished by other Federal agencies, c. By personal investigation or written inquiry from such sources as employers, schools, references, etc. d. Neighbors, associates, police departments, courts, credit bureaus, medical records, probation officials, prison officials, and other such sources as may be developed from the above.

ACTION/AF—27

System name: Employee Pay and Leave Records—ACTION/AF

System location: Office of Administration and Finance/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Persons employed by ACTION.

Categories of records in the system: Personnel actions employing, promoting and terminating employees, savings bond applications, advises of allotments, IRS tax levels, notice of deduction for health insurance, combined Federal campaign, union dues withholdings

applications, and educational allowances for children of overseas employees and records regarding collections for overpayments and time and attendance records.

Authority for maintenance of the system: GAO Policy and Procedures Manual; 31 U.S.C. 66(a); and the Budget and Accounting Procedures Act of 1950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information from these records are routinely provided as follows: 1. To the Treasury for payroll and savings bonds and other deduction purposes. 2. To Internal Revenue Service with regard to tax deductions. 3. To participating insurance companies holding policies with respect to Federal employees employed by ACTION. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders and looseleaf binders in metal file cabinets with manipulation proof combination locks. The individual Time and Attendance records maintained by designated timekeepers throughout the agency are stored in a metal file cabinet with a key lock or manipulation proof combination lock.

Retrievability: Records are indexed in alphabetical order.

Safeguards: Records in this system are available only to employees of ACTION with a need for such records in the performance of their official duties.

Retention and disposal: Records in this system are maintained for three years after the end of the fiscal year in which an employee terminates his employment with ACTION, and then retired to the Records Center in accordance with GAO instructions.

System manager(s) and address: Designated timekeepers throughout the agency and Chief, Domestic Volunteer and Staff Payroll Branch, Accounting Division, Office of Administration and Finance, ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: ACTION employees and the individual to whom the record pertains.

ACTION/AF—28

System name: Peace Corps Applicant Record System—ACTION/AF

System location: Applicant Records Center, Paperwork Management Branch, Office of Administration and Finance, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Any person whose application to ACTION for enrollment as a Peace Corps volunteer has been accepted by an ACTION Service Center.

Categories of records in the system: The records maintained include the application of a Peace Corps applicant, material received from references provided by him, invitations to training and similar material having to do with the enrollment of an individual as a Peace Corps trainee.

Authority for maintenance of the system: The Peace Corps Act, 22 U.S.C. 2501, 2504.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files may be disclosed and used as follows: To host country officials where necessary to obtain visas or to inform such host countries of the impending arrival of the volunteer and for review of such volunteer's qualifications for the intended program. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal file cabinets in a room equipped with a manipulation proof combination lock built into the door.

Retrievability: Records are indexed in terminal digit order.

Safeguards: Records in this system are available only to ACTION employees having a need for such records in the performance of their duties as such.

Retention and disposal: Records of applicants rejected at prescreening process are destroyed within six months of such action. Records of applicants rejected during processing are destroyed within one year after such action. Records of applicants who report for training become part of the Peace Corps volunteer record system.

System manager(s) and address: Chief, Applicant Records Center, Paperwork Management Branch, Office of Administration and Finance, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Peace Corps applicants References supplied by individuals listed by Peace Corps applicants. Information obtained from United States Government investigative agencies including the Civil Service Commission.

ACTION/AF—29

System name: Peace Corps Medical Evacuation/Administrative System—ACTION/AF

System location: Medical Operations Branch, Health Services Division/ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Peace Corps volunteers and trainees who have had medical problems effecting their continued service.

Categories of records in the system: A. For Peace Corps trainees and volunteers medically cleared to resume service after interruption for medical reasons the files contain cables, memos, letters and forms having to do with travel, per diem, and medical clearance. B. For volunteers and trainees who have been medically terminated, the information contained in subparagraph A is forwarded to the Office of Special Services for maintenance in the Peace Corps termination/consultation system. C. A permanent record card is maintained in a file box which includes the name of the volunteer, his home of record, his next of kin and Peace Corps project number. D. For volunteers completing service but terminating in Washington as a result of medical consultation, the file contains all of the above listed material and a permanent record card as aforesaid is also maintained.

Authority for maintenance of the system: The Peace Corps Act, 22 U.S.C. 2501, 2504.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files may be disclosed and used as follows: To Federal agencies having a need to verify volunteer eligibility for special consideration for Federal employment under Executive Order 11103. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal file cabinets with manipulation proof combination locks.

Retrievability: Records are indexed in alphabetical order.

Safeguards: Records are available only to personnel of the Health Services Division and selected officials of ACTION having a need for information from such records for the performance of their duties.

Retention and disposal: These records are maintained in the Office of Medical Affairs for three years and then destroyed. A record card as indicated above is permanently maintained in the Office of Medical Affairs.

System manager(s) and address: Director, Office of Medical Affairs, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Health Services Division staff, Individual volunteers and trainees, Physicians and other medical personnel.

ACTION/AF—30

System name: Peace Corps Medical Evacuation Cards—ACTION/AF

System location: Health Services Division, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Peace Corps volunteers and trainees who have had medical problems requiring medical evacuation to Washington.

Categories of records in the system: These cards contain the name of the individual involved, short description of the medical problem, a record of the consulting physician, treatment, hospitalization and final disposition of the case.

Authority for maintenance of the system: The Peace Corps Act, 22 U.S.C. 2501, 2504(e) and various provisions of the Peace Corps Manual relating to health care.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these

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cards and files may be disclosed and used as follows: a. To physicians or other medical personnel directly involved in the medical care of Peace Corps volunteers or trainees and having a need for such records for the provision of such services. b. In view of Peace Corps' policy of maintaining medical confidentiality these cards are not otherwise disclosed outside of the agency, and within the agency, only to personnel of the Health Services Division or selected medical staff of ACTION having a need for knowledge of such records in the performance of their official duties. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Cards are maintained in metal file cabinets with manipulation proof combination locks.

Retrievability: Records are indexed in alphabetical order.

Safeguards: Cards in the system are avilable only to appropriate personnel of the Health Services Division having a need for such record in the performance of their official duties as such. Information from these records may be provided to other officials of ACTION having a need for such knowledge in the performance of their official duties.

Retention and disposal: These records are maintained in the Health Services Division for three years and then destroyed.

System manager(s) and address: Chief, Medical Operations Branch, Health Services Division, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Peace Corps overseas staff, Health Services Division staff, Individual volunteers and trainees, Physicians and other medical personnel.

ACTION/DO—1

System name: Domestic Full-time Volunteer Personnel File—ACTION/DO

System location: All ACTION Domestic Regional Offices (See Preliminary Statement for Regional Office Addresses) and State Offices.

Categories of individuals covered by the system: Any full-time ACTION Domestic Volunteer working in the following Programs: Volunteers in Service to America (VISTA), University Year for ACTION (UYA), ACTION Cooperative Volunteer (ACV), Program for Local Service (PLS), and Volunteers in Justice (VIJ).

Categories of records in the system: Records maintained contain Volunteers application, forms and copies of correspondence regarding actions occurring during the volunteer's service such as authorization to use a motor vehicle, copy of driver's license, status of volunteer form, future intent form, food and lodging allowance, living allowance, time and attendance, paychange forms, volunteer payment vouchers and evaluation on termination.

Authority for maintenance of the system: The Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The content of these records and files may be disclosed and used as follows: To the volunteer's sponsor concerning his placement, performance, support, and related matters. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal filing cabinets with manipulation proof combination locks or in a room with a combination lock in the door.

Retrievability: Records are retrievable alphabetically by last name.

Safeguards: Records in the system are available only to appropriate persons in the regional offices and other appropriate officials of ACTION with the need for such records for the performance of their duties.

Retention and disposal: Records are retained for one year after the volunteer has terminated and is then sent to ACTION headquarters for subsequent retirement to the Federal Records Center and are destroyed in six years.

System manager(s) and address: The system manager is the Administrative Officer in the region.

Record source categories: The data is supplied by the volunteer or through forms signed and executed by the volunteer or Domestic Regional Office personnel or State Program Director.

ACTION/DO—2

System name: Domestic Volunteer medical File and Medical Claims—ACTION/DO

System location: All ACTION Domestic Regional Offices.

Categories of individuals covered by the system: Any person applying as a volunteer in a domestic ACTION program and ultimately selected by ACTION to become a volunteer.

Categories of records in the system: The records maintained contain the following information: 1. Medical history, medical examination and medical release forms. 2. Medical claims submitted by volunteer for processing and correspondence.

Authority for maintenance of the system: The Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files may be disclosed and used as follows: a. To Group Hospitalization, Inc., contractor under the ACTION health policy, for the purposes of adjudication of volunteer claims. b. The United States Department of Labor in connection with claims under the Federal Employees Unemployment Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal filing cabinets with manipulation proof combination locks or in a room with a manipulation proof combination lock built in the door.

Retrievability: Records are indexed alphabetically by last name.

Safeguards: Records in the system are available only to appropriate persons in the regional offices and other appropriate officials of ACTION with the need for such records for the performance of their duties. Information is released only with the written consent of the volunteer and only to a physician or medical authority.

Retention and disposal: Files are maintained in the regions during service. Files are returned to the Health Services Division on termination of service and are retired to the Federal Records Center.

System manager(s) and address: Administrative Officer, Regional Office is system manager while the file is maintained in the region; Chief, Health Benefits and Analysis Branch (HBAB), Division of Health Services, 806 Connecticut Avenue, NW., Washington, D.C. 20525, is system manager upon retirement. Records are released only by Chief, HBAB.

Record source categories: Data in this system is obtained from the following categories of sources: 1. Medical personnel who have examined or treated a volunteer or applicant. 2. Domestic volunteers and applicants. 3. ACTION staff. 4. Medical contractors.

ACTION/DO—3

System name: Employee Travel File—ACTION/DO

System location: All ACTION Domestic Regional Offices except for Region I.

Categories of individuals covered by the system: Any employee, expert, consultant or other person engaged in travel on USG Travel authorization for a Domestic Regional Office.

Categories of records in the system: Records maintained are travel authorizations and vouchers.

Authority for maintenance of the system: The Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records may be disclosed and used for the purposes expressed in the Preliminary Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal filing cabinets with manipulation proof combination locks or key locked filing cabinets when not in immediate use.

Retrievability: Records are indexed alphabetically by last name.

Safeguards: Records in the system are available only to appropriate persons in the regional offices and other appropriate officials of ACTION with a need for such records for the performance of their duties.

Retention and disposal: Records are retained until the employee has terminated and then are destroyed.

System manager(s) and address: Administrative Officer, ACTION Regional Office.

Record source categories: Itinerary provided by individual or supervisor and the voucher submitted by the individual traveller.

ACTION/DO—4

System name: Domestic Full-Time Volunteer Census Master File—ACTION/DO

System location: Management Information System, Domestic Operations Management, ACTION, 806 Connecticut Avenue, Washington, D.C. 20525.

Categories of individuals covered by the system: Any person who has served or is serving as a full-time ACTION domestic volunteer in one of ACTION's full-time domestic operations programs including VISTA, ACTION Cooperative Volunteers (ACV), University Year for ACTION, (UYA), Program for Local Service (PLS), Volunteers in Justice (VIJ) and Veterans Reach (VETREACH).

Categories of records in the system: The records maintained contain information extracted from the volunteer's application, information about the volunteer's period of service, and information about the volunteer's history with ACTION.

Authority for maintenance of the system: Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Generally speaking the information in this file would not be routinely available outside the agency since most routine uses would have to do with the applicant's volunteer file as such. This is a computerized file used for such things as payroll information, etc. The system might be used to verify the fact that an individual has served or is serving in one of ACTION's full-time domestic programs.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored on magnetic tape which is kept in a locked room when not in use.

Retrievability: Records are retrieved by social security number and the first four letters of the last name of the volunteer.

Safeguards: The material on these tapes is generally available only to Programmers and Systems Analysts of the Management Information System and is so coded as to be unavailable to anyone else.

Retention and disposal: These records have no present destruction date and are maintained permanently.

System manager(s) and address: Chief, Management Information System/DO/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Volunteer Application and payroll notices.

ACTION/DO—5

System name: Domestic Full-Time Volunteer Legal File—ACTION/DO

System location: ACTION Domestic Region No. 4 (only) 730 Peachtree Street, N.E., Room 895, Atlanta, Georgia 30308.

Categories of individuals covered by the system: Any Region No. 4 full-time ACTION Domestic Volunteer.

Categories of records in the system: The records maintained contain the following information: (1) Claims related to the Federal Tort Claims Act. (2) Claims related to the Federal Employee Compensation Act. (3) Support material for volunteer claims or losses and thefts. (4) Legal support information for volunteer civil and criminal matters. (5) Material related to alleged misuse of General Services Administration vehicles. (6) Congressional inquiries instituted by and on behalf of full-time volunteers, including a chronological log thereof.

Authority for maintenance of the system: The Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 et. seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Contents of these records and files may be disclosed and used as follows: (a) To the Department of Labor in connection with names filed by volunteers for compensation under the Federal Employees Compensation Act. (b) To the General Services Administration in connection with the alleged misuse of GSA vehicles. (c) Volunteer supervisors and sponsors who are involved in legal matters affecting volunteers. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal filing cabinets when not in immediate use.

Retrievability: Records are indexed alphabetically by last name.

Safeguards: Records in the system are available only to appropriate persons in the regional offices and other appropriate officials of ACTION with the need for such records for the performance of their duties.

Retention and disposal: Records are destroyed 5 years after termination of case.

System manager(s) and address: Regional Attorney, Region IV 730 Peachtree Street, N.E., Room 895, Atlanta, Georgia 30308.

Record source categories: The source of the information may be the volunteer's sponsor, the Volunteer's supervisor or any other person involved in these legal matters including ACTION employees such as the State Director.

ACTION/DO—6

System name: Domestic Volunteers Status Change System

System location: All ACTION Domestic Regional Offices (See Preliminary Statement for addresses)

Categories of individuals covered by the system: Any person who is serving or has served as a full-time ACTION domestic volunteer under Title I of the Domestic Volunteer Services Act of 1973 (42 U.S.C. 4951) including VISTA, ACTION Cooperative Volunteers (ACV), University Year for ACTION (UYA), Program for Local Services (PLS), and Volunteers in Justice (VIJ) and Veterans Reach (VETREACH)

Categories of records in the system: Record maintained in a single index card containing the date volunteer entered training, the date of placement, extra payments made for travel and training and the dates of termination, reenrollments, and extensions.

Authority for maintenance of the system: Title I and Title IV of the Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Contents of these records and files may be disclosed and used as follows: a. To the Department of Health, Education, and Welfare for the purpose of certifying student loans. b. Verification of present or past volunteer status. c. To volunteer's relatives so that he may be located in case of emergency. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in metal filing cabinets when not in immediate use.

Retrievability: Records are indexed alphabetically by last name.

Safeguards: Records in the system are available only to appropriate persons in the regional offices and other appropriate officials of ACTION with the need for such records for the performance of their duties.

Retention and disposal: Records in this system are maintained as a permanent record.

System manager(s) and address: Administrative Officer, Regional Office.

Record source categories: Volunteer personnel records.

ACTION/DO—7

System name: Employee Unofficial Personnel Files

System location: All ACTION Domestic Regional Offices. In some cases, these files may be located in ACTION State Offices. The supervising ACTION Retional Office shall be responsible for all relevant requests in such cases.

Categories of individuals covered by the system: Current ACTION Domestic Regional employees.

Categories of records in the system: The records maintained consist of copies of personnel documents sent to ACTION Headquarters in Washington including employment applications, appointment papers, job descriptions and personnel action change notices. The Official Personnel Folder is maintained in ACTION Headquarters in Washington.

Authority for maintenance of the system: The Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: There are no routine uses other than those in the Preliminary Statement.

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Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal filing cabinets with manipulation proof combination locks or locked in a room with a manipulation proof combination lock built into the door.

Retrievability: Records are indexed alphabetically by last name.

Safeguards: Records in the system are available only to appropriate persons in the regional offices and other appropriate officials of ACTION with the need for such records for the performance of their duties.

Retention and disposal: Files are retained until the employee terminates his service at the retional office and destroyed by burning or shredding one year after such termination.

System manager(s) and address: Administrative Officer, ACTION Regional Office.

Record source categories: The data is obtained from the employee, his references and Agency personnel forms.

ACTION/DO—8

System name: Combined Domestic and International Volunteer Applicant System—ACTION/DO

System location: Office of Recruitment ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Any person who applies to ACTION as a full-time volunteer in Domestic or Peace Corps Volunteer programs. This file has been in existence since June 1974.

Categories of records in the system: The records contain the following information: Name, Date of Birth, Sex, Social Security Number, Type of Volunteer Applied for, Marital Status, Personal Statistics, Skills, Educational Level, Method of Recruitment, Data of Availability, Status Codes (Rejection Codes), similar data required to process a person as an applicant and report on processing progress.

Authority for maintenance of the system: Section 404(e) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5044(e)). Peace Corps Act, 22 U.S.C. 2501, et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Preliminary Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are contained in disc packs with type backup and are kept in metal file cabinets with manipulation proof combination locks when not in immediate use.

Retrievability: Files are retrievable through the last name and social security number.

Safeguards: Records in the system are available only to appropriate personnel in the Planning and Evaluation Division, Office of Recruitment and other officials of ACTION with a need of such records in the performance of their duties.

Retention and disposal: Records are destroyed after three years at the end of the fiscal year.

System manager(s) and address: Director, Planning and Evaluation Division, Office of Recruitment, ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information if obtained from the Application provided by the Applicant and Evaluations made by the ACTION Regional Placement Units.

ACTION/DO—9

System name: Volunteer Applicants Record System—ACTION/DO

System location: ACTION Area and Sub-Area Offices and ACTION/ORC Field Service Centers: New York Service Center/ACTION 26 Federal Plaza, 16505, New York, New York 10007. Chicago Service Center/ACTION 1 North Wacker Drive, 3rd Floor, Chicago, Illinois 60606, Dallas Service Center/ACTION Corrigan Tower building, 1620, 212 No. St. Paul Street, Dallas, Texas 75201. San Francisco Service Center/ACTION 211 Main Street, 5th floor, San Francisco, California 94105. Atlanta Service Center/ACTION, 730 Peachtree St. NE., Room 895, Atlanta, Georgia, 30308.

Categories of individuals covered by the system: Any person applying as a full-time ACTION volunteer for domestic or overseas programs under the Peace Corps Act or Title I of the Domestic Volunteer Service Act of 1973.

Categories of records in the system: Records maintained in the system include applications, references, invitations to training, medical fitness reports, correspondence and similar documents.

Authority for maintenance of the system: The Peace Corps Act 22 U.S.C. 2501, et seq.; The Domestic Volunteer Service Act of 1973, 42 U.S.C. 4501 et. seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records may be disclosed and used as follows: To any source from which information is requested in the course of an investigation of qualifications or suitability of an applicant to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation and to identify the type of information requested. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders in metal filing cabinets with manipulation proof combination locks.

Retrievability: The last initial of the applicant's name and his social security number are used as a personal identifier.

Safeguards: Records in the system are generally available only to ACTION employees having a need for such records in the performance of their official duties.

Retention and disposal: Records of applicants rejected at prescreening process are destroyed in six months. Records of applicants rejected during processing are destroyed within one year. Records of applicants who are accepted for service become a part of the volunteer folder of such individual.

System manager(s) and address: The Administrative Officer ACTION Regional Office.

Record source categories: Information in the system is obtained from the following categories of sources: From the individual to whom the record pertains. From references supplied by the individual to whom the record pertains. From United States Government investigative agencies and local law enforcement officials.

ACTION/DO—10

System name: Peace Corps Applicant File for period 1963 to June, 1974—ACTION/DO

System location: Office of Recruitment/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Any person who applied to become a Peace Corps Volunteer between 1963 and June, 1974.

Categories of records in the system: Records maintained contain applicant information as follows: Name, date of birth, sex, social security number, marital status, personal statistics, skills, educational level, method of recruitment, date of availability, and similar data required to process a person as an applicant and report on processing progress.

Authority for maintenance of the system: Peace Corps Act, 22 U.S.C. 2501 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Preliminary Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored on magnetic tapes which are maintained in metal file cabinets with manipulation proof combination locks when not in immediate use.

Retrievability: Records are indexed alphabetically and by Social Security number.

Safeguards: Records in this system are available only to appropriate personnel in the Planning and Evaluation Division, Office of Recruitment and to other appropriate officials of ACTION with the need for access to such records for the performance of their duties.

Retention and disposal: These records are kept indefinitely.

System manager(s) and address: Chief Director Planning and Evaluation Division Office of Recruitment/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information is obtained from the application provided by the applicant and evaluations made by the placement division of the Office of Recruitment.

ACTION/DO—11

System name: Domestic Program Applicant Medical Record—DO

System location: ORC Field Service Centers: New York Service Center/ACTION 26 Federal Plaza, 1605 New York, New York 10007. Chicago Service Center/ACTION 1 North Wacker Drive, 3rd Floor Chicago, Illinois 60606. Dallas Service Center/ACTION Corrigan Tower Building, No. 1620, 212 No. St. Paul Street, Dallas, Texas 75201. San Francisco Service Center/ACTION 211 Main Street, 5th Floor, San Francisco, California 94105. Atlanta Service Center/ACTION, 730 Peachtree St. NE., Room 895, Atlanta, Georgia, 30308.

Categories of individuals covered by the system: Any person applying as a volunteer in a domestic ACTION program who is over 44 years of age or has reported in his application information which causes ACTION selection officials to require medical examination or history.

Categories of records in the system: This system contains medical histories, records of examination, and related medical information.

Authority for maintenance of the system: Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files may be disclosed and used as follows: Information may be provided to a physician or other medical personnel treating the applicant. In situations where is is practicable the applicant's consent will be obtained before releasing such information. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records in this system are maintained in metal file cabinets locked with a three position combination lock or in a room locked with a three position lock built into the door.

Retrievability: Records are filed alphabetically.

Safeguards: Records in this system are generally available only to ACTION personnel having a need for such information in the performance of their official duties. Information is released only with the written consent of the applicant/volunteer and only to a physician or medical authority.

Retention and disposal: Records of applicants who do not become volunteers are destroyed by burning or shredding after one year. Records of applicants who become volunteers are forwarded to the appropriate Domestic Regional Office. Upon termination of the volunteer's service, these records are returned to the Health Services Division and retired to the Federal Records Center.

System manager(s) and address: The Administrative Officer is the system manager while the record is in the field; Chief, Health Benefits and Anaylsis Branch (HBAB), Health Services Division, 806 Connecticut Avenue, NW., Washington, D.C. 20225, is system manager upon retirement. Records are released only by Chief, HBAB.

Record source categories: Information contained in these systems was obtained from the following categories of sources: A. Examining physicians and other medical personnel. B. Applicants for volunteer service. C. ACTION personnel.

ACTION/GC—1

System name: Conflict of Interest Records—ACTION/GC

System location: Office of General Counsel/ACTION/M-607 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Employees, contractors, consultants and other persons employed by or dealing with ACTION.

Categories of records in the system: Statement of personal and family interests in business enterprise correspondence with respect thereto including opinions of counsel and confirmation materials.

Authority for maintenance of the system: 18 U.S.C. 306 and E.O. 11222 (5865)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal file cabinets with manipulation proof combination locks.

Retrievability: Records are indexed alphabetically.

Safeguards: Records are generally available only to attorneys and other personnel of the Office of General Counsel and to designated ACTION officials having a need for such knowledge in the performance of their official duties.

Retention and disposal: Records are purged annually and destroyed two years after they are obtained unless there is a specific need for the retention of any specific record.

System manager(s) and address: General Counsel/ACTION/M-607 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Data is obtained from the following categories of sources: 1. Employees of ACTION. 2. Work product of attorneys for ACTION.

ACTION/GC—2

System name: Legal Files—Staff and Applicants (A-Z)—ACTION/GC

System location: Office of the General Counsel/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: 1. Applicants for employment with ACTION. 2. Staff employees of ACTION.

Categories of records in the system: Records of any legal matter affecting my present or former staff member of ACTION or any applicant for employment in ACTION whose employment has raised any legal question. Included among the kinds of records maintained are those involving employee grievances, appeals from adverse actions, claims by and against staff members, records concerning litigation in which ACTION staff members become involved as parties, legal queries from staff members regarding themselves or their employment and answers thereto and any other matter involving a contact between a staff member and an attorney of the Office of General Counsel.

Authority for maintenance of the system: These records are maintained under the general authority of the Office of General Counsel to represent the Agency in connection with its dealings with its employees and the general functions of the Office of General Counsel to provide advice and counsel to the Director of the Agency and his staff.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are not routinely disclosed outside the Agency except in the following circumstances: 1. To the Department of Justice in conjunction with litigation or potential litigation in situations in which the Department may be called upon to provide representation to the Agency. 2. In circumstances set forth in paragraphs 1, 2, 7, and 10 of the general routine uses set forth in the Preliminary Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are kept in separate file folders in cabinets secured by changeable combination locks or bar locks secured by such combination locks and in room locked when not in use.

Retrievability: Files are maintained under subject headings but access to files concerning individuals may be gained by referring to an alphabetical index.

Safeguards: Files are available only to personnel of the Office of General Counsel which includes attorneys and confidential secretaries.

Retention and disposal: Files are maintained for the duration of the litigation or other matter to which they refer and retired on an annual review basis to the Federal Records Center for 27 years at which time they are destroyed.

System manager(s) and address: General Counsel, ACTION 806 Connecticut Avenue, NW., Room M-607, Washington, D.C. 20525.

Record source categories: Data is obtained from the following categories of sources: 1. ACTION employees, 2. Correspondence and reports from persons and agencies dealing with the agency and its employees. 3. Work product and research of lawyers of the office.

ACTION/GC—3

System name: Legal Files—Volunteers and Applicants (A-Z—ACTION/GC

System location: Office of the General Counsel/ACTION, Room M-607, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Current and former ACTION volunteers, and applicants for volunteers service.

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Categories of records in the system: Records of any legal matter affecting volunteers or applicants for volunteer service, including grievances, appeals from decisions of ACTION staff, claims against volunteers, claims by volunteers, records of litigations in which ACTION is involved as a party, or in conjunction with any obligation under the Peace Corps Act or the Domestic Volunteer Service Act to provide legal defense, legal queries from volunteers or applicants and answers thereto, and any other matter involving contact between a volunteer and the Office of General Counsel.

Authority for maintenance of the system: The Peace Corps Act, 22 U.S.C. 2501. The Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951. In addition to authority specifically contained in the above-named Acts, these records maintained as an adjunct to the normal requirements of the functions of the Office of General Counsel to provide advice and counsel.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are not routinely disclosed outside the Agency except in the following circumstances: 1. To the Department of Justice in conjunction with litigation or potential litigation in situations in which the Department may be called upon to provide representation to the Agency. 2. In circumstances set forth in paragraphs 1, 2, 7, and 10 of the general routine uses set forth in the Preliminary Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are kept in separate file folders in cabinets secured by changeable combination locks, and in a room locked when not in use.

Retrievability: Files are maintained under subject headings but access may be gained by referring to an alphabetical name index.

Safeguards: Files are available only to personnel of the Office of General Counsel which includes attorneys and confidential secretaries.

Retention and disposal: Files are maintained for the duration of the litigation or other matters to which they refer and retired on an annual review basis to the Federal Records Center for 27 years at which time they are destroyed.

System manager(s) and address: General Counsel/ACTION, Room M-607, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: ACTION employees and volunteers.

ACTION/IO—1

System name: Peace Corps Volunteer Death Files—ACTION/IO

System location: Office of Special Services/ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Peace Corps Volunteers and Trainees who have died during service or training.

Categories of records in the system: Official cables relating to the death and subsequent disposition of the body. Eye witness or other accounts of the occurrence or event. Medical Reports including an autopsy report if any. Designation of beneficiary statement. Death certificate. Police report. Copies of all correspondence with family and next of kin of deceased volunteers. Proof of receipt of insurance and readjustment allowance check and other financial documents having to do with the death of a volunteer or trainee.

Authority for maintenance of the system: The Peace Corps Act 22 U.S.C. Section 2500, et seq. and Section 2504(d).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files may be disclosed and used as follows: a. To notify an appropriate insurance company to obtain the payment of life insurance benefits and personal property insurance. b. To notify the Office of the Vice President for the preparation of appropriate condolence letters. c. For notification to the Department of State. d. Notification of the Department of Labor/Office of Federal Employees Compensation. e. To the family and next of kin of the deceased volunteer or trainee. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal file cabinets with a manipulation proof combination lock.

Retrievability: Records are indexed in alphabetical order.

Safeguards: Records are available to officials of ACTION with a need for such records for the performance of their duties.

Retention and disposal: Records in this system are maintained in ACTION for 7 years at which time they are destroyed by burning or shredding.

System manager(s) and address: Chief, Special Services Branch, Office of Special Services/IO ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information contained in this system was obtained from the following categories of sources: Peace Corps Country Staff American Embassy and Consulates Host Country Police Host Country Ministry Officials Staff of the Office of International Operations, ACTION Insurance Companies Witnesses to any accident or occurrence causing the death of a volunteer or trainee.

ACTION/IO—2

System location: these records are maintained in the office of each Peace Corps program overseas. There are at present an excess of 60 such offices and this number fluctuates from time to time as programs are added or withdrawn. A complete list with specific addresses will be provided upon request to the Director of Administration Services, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525. Any particular country in which Peace Corps maintains a program may be addressed by writing to the Country Director, Peace Corps, c/o the American Embassy in such country.

Categories of individuals covered by the system: Current and Former Peace Corps Volunteers Current and former Peace Corps Trainees.

Categories of records in the system: Correspondence between Peace Corps staff and volunteer or trainees.

Authority for maintenance of the system: The Peace Corps Act, 22 U.S.C. Section 2501 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files may be disclosed and used as follows: There are no routine uses of this system other than as indicated in the preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders and metal file cabinets with manipulation proof combination lock.

Retrievability: Records are indexed in alphabetical order.

Safeguards: Records are available only to the Country Director and his staff with a need for such records in the performance of their duties.

Retention and disposal: These files are destroyed one year after a volunteer terminates, provided that documents, reports, etc., having continuing use in programs are retained in appropriate program files.

System manager(s) and address: The Country Director in each country in which Peace Corps serves.

Record source categories: Peace Corps volunteers Peace Corps staff Host country ministry officials.

ACTION/IO—3

System name: Peace Corps Volunteer Financial Records—ACTION/IO

System location: These records are maintained in the office of each Peace Corps program overseas. There are at present in excess of 60 such offices and this number fluctuates from time to time as programs are added or withdrawn. A complete list with specific addresses will be provided upon request to the director of Administrative Services, ACTION, 806 Connecticut Avenue NW., Washington, D.C. 20525. Any particular country in which Peace Corps maintains a program may be addressed by writing to the Country Director, c/o the American Embassy in such country.

Categories of individuals covered by the system: Current and former Peace Corps volunteers and trainees.

Categories of records in the system: This system consists of records of all payments or accrued credits to volunteers and trainees, and records of any advances or other items due from volunteers or trainees to the government. The records include those of monthly living allowances, leave allowances, settling in allowances, etc.

Authority for maintenance of the system: The Peace Corps Act, 22 U.S.C. Section 2501, 2504.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files may be disclosed and used as follows: a. To appropriate U.S. Government agencies for monthly payroll preparation. b. To the U.S. Treasury for the purpose of reporting overpayments. c. To the Social Security Administration for the purpose of reporting Social Security withholdings. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders and metal file cabinets with manipulation proof combination lock.

Retrievability: Records are indexed in alphabetical order in each location.

Safeguards: Records are available only to ACTION staff with a need for such records in the performance of their duties.

Retention and disposal: These files are retained for five years and then are destroyed.

System manager(s) and address: the Country Director in each country in which Peace Corps serves.

Record source categories: Peace Corps Volunteers and Trainees Personnel of ACTION, Office of Administration and Finance.

ACTION/IO—4

System name: Peace corps Trainees/Volunteers Overseas Health Records—ACTION/IO

System location: These files are maintained in the Office of the Medical Officer in each country in which Peace Corps employs such an official.

Categories of individuals covered by the system: Peace Corps Trainees and Volunteers.

Categories of records in the system: Medical History entrance physical/dental examinations and Record of treatment received while in Peace Corps.

Authority for maintenance of the system: The Peace Corps Act, 22 U.S.C. Section 2501 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files may be disclosed and used as follows: a. To medical personnel in the process of treating the volunteer or staff member or trainee who have a need for such record in order to provide appropriate treatment. b. See Preliminary Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal file cabinets with manipulation proof combination lock.

Storage:

Retrievability: Records are indexed in alphabetical order.

Safeguards: These records are available only to medical personnel of the Peace Corps.

Retention and disposal: Upon termination of the volunteer/trainee, these records are sent to Health Services Division of Administration and Finance, ACTION, Washington, 806 Connecticut Avenue, NW., Washington, D.C. 20525 for ultimate disposition.

System manager(s) and address: The Medical Officer at any Peace Corps post is System Manager for this system. Upon termination of the volunteer, the system manager is the Chief, Health Benefits and Analysis Branch, Health Services Division, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information is obtained from the following sources: Physicians, dentists and other medical personnel who have treated or examined the individual or his records. 2. Peace Corps medical personnel. 3. Individuals who are the subjects of the records.

ACTION/IO—5

System name: United Nations Volunteer System—ACTION/IO

System location: Office of Multilaternal and Special Programs/ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: United Nations Volunteer Corps applicants, trainees, volunteers, and returned volunteers.

Categories of records in the system: These records contain applications, correspondence associated therewith, and with the placement of the applicant, and other records connected with the application, training and placement of persons wishing to serve or serving as United Nations volunteers. For short periods of time references furnished by the applicant may be kept in the file but they are transferred to the ACTION Office of Recruitment which has the responsibility for the selection process. Similarly, medical history forms are collected but are immediately forwarded to the United Nations or to the Health Services Division (Volunteer Health Service) of ACTION.

Authority for maintenance of the system: The Peace Corps, 22 U.S.C. 2501 et. seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files may be disclosed and used as follows: a. Designated officers and employees of the United Nations Having a responsibility for the selection and placement of United Nations volunteers. b. To officials of a proposed host country desiring the assignment or placement of United Nations volunteers. c. Routine uses as contained in Preliminary Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal file cabinets with manipulation proof combination locks.

Retrievability: Records are indexed in alphabetical order.

Safeguards: Records are generally available only to personnel of the Office of Multilateral and Special Programs and to other officials of ACTION having a need for such records in the performance of their official duties.

Retention and disposal: Records are maintained in the Office of Multilateral and Special Programs for two years following the completion of service of a UN volunteer then forwarded to AF Volunteer Support Services for maintenance with the Peace Corps records and subsequent removal to the Federal Records Center and are destroyed after five years.

System manager(s) and address: Director, Office of Multilateral and Special Programs, ACTION, 806 Cnnecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Applicants for United Nations volunteer programs References named by the applicant Multilateral and Special Programs staff United Nations Staff.

ACTION/IO—6

System name: Peace Corps Property Records—ACTION/IO

System location: These records are maintained in the office of each Peace Corps program overseas. There are at present an excess of 60 such offices and that this number fluctuates from time to time as programs are added or withdrawn. A complete list with specific addresses will be provided upon request to the Director of Administrative Services, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525. Any particular country in which Peace Corps maintains a program may be addressed by writing to the Country Director, c/o the American Embassy in such country.

Categories of individuals covered by the system: Current and former Peace Corps staff, Current and former Peace Corps volunteers, Current and former Peace Corps trainees who have trained overseas.

Categories of records in the system: These files consist of records of U.S. Government property assigned to Peace Corps staff, volunteers or trainees for which they are accountable and which must be returned to the Peace Corps.

Authority for maintenance of the system: The Peace Corps Act 22 U.S.C. Section 2501, et. seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files may be disclosed and used as follows: To the Department of State or any other Federal agency having the responsibility for accounting for the disposition of Federal property. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in metal file cabinets.

Retrievability: Files are indexed in alphabetical order in each Peace Corps post overseas.

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Safeguards: Files are available only to ACTION/Peace Corps staff having a need for such records in the performance of their official duties. For these purposes, host country nationals employed by the U.S. Government and working for Peace Corps are considered staff.

Retention and disposal: Files in this system are retained at overseas posts for two years after an employee or volunteer leaves the country and then are destroyed by burning, shredding or such other method as is approved by the Department of State for the disposal of such request.

System manager(s) and address: Country Directors in each country in which ACTION/Peace Corps maintains a program.

Record source categories: Peace Corps overseas staff. The individual to whom the record pertains.

ACTION/IO—7

System name: Peace Corps Volunteer Extension/Transfer/Reenrollment Files—ACTION/IO

System location: Office of Special Services/IO—ACTION, 806 Connecticut Avenue, N.W. Washington, D.C. 20525.

Categories of individuals covered by the system: Peace Corps Trainees and Volunteers.

Categories of records in the system: This system consists of a log book containing the details of all extensions, transfers, reenrollments or reinstatements of volunteers and/or trainees in the Peace Corps. The specific details of the information contained include the name of the volunteer/trainee, the country of assignment, the program number and dates during which actions occurred.

Authority for maintenance of the system: The Peace Corps Act, 22 U.S.C. Section 2501, et. seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files have no routine uses other than those stated in the general statement of uses and limitations.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The log book is maintained in the Office of Special Services in a metal cabinet in a room locked during off duty hours in a building with a 24-hour security guard.

Retrievability: The records are indexed in alphabetical order by country of assignment.

Safeguards: These records are not considered sensitive or confidential. They are generally available to employees of ACTION having a need for them in the performance of their duties.

Retention and disposal: The records in this system are maintained for five years and then destroyed by burning or shredding.

System manager(s) and address: Chief, Office of Special Services/IO, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information contained in the system is obtained from the following categories of sources: Peace Corps Country Staff Individual Volunteers and Trainees. Staff of the Office of Special Services.

ACTION/IO—10

System name: Peace Corps Volunteer Termination/Consultation System—ACTION/IO

System location: Office of Special Services/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Present and former Peace Corps volunteers and trainees who have terminated prior to the end of their tours or been returned to Washington for consultation.

Categories of records in the system: A. Individuals volunteer/trainee files contain the following information: 1. Termination document 2. Description of service 3. Termination report or the statement of resignation 4. Financial information statement 5. Travel agreement 6. Case summary 7. Recommendations of ACTION/Washington staff 8. Relevant cables 9. Early termination questionnaires. B. A monthly early termination log containing information from the above files is maintained. It contains the following information: 1. Name of volunteer/trainee 2. Social security number. 3. Project number 4. Date and coded reason for termination. C. A log is maintained known as the early termination project log containing information from the above files including the name of the volunteer/trainee, the date and the coded reason for termination.

Authority for maintenance of the system: The Peace Corps Act, 22 U.S.C. 2501 et seq. and various provisions of the Peace Corps Manual and the Foreign Affairs Manual relating to conduct and performance of individuals serving in Peace Corps programs as volunteers.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records and files may be disclosed and used as follows: To Federal agencies having a need to verify volunteer eligibility for special consideration for Federal employment under Executive Order 11103. Also, see preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal file cabinets with manipulation proof combination locks when not in immediate use.

Retrievability: Records are indexed in alphabetical order.

Safeguards: Records in the system are available only to appropriate personnel in the Office of Special Services and other appropriate officials of ACTION with the need for such records for the performance of their duties.

Retention and disposal: Records in the system are maintained in the Office of Special Services for 4 years and then sent to the Federal Records Center where they are maintained for 3 years and then destroyed.

System manager(s) and address: Chief, Office of Special Services, ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Information contained in the system is obtained from the following categories of sources: Peace Corps volunteers and trainees including the individual about whom the record is maintained. Peace Corps Overseas Staff of the Office of Special Services, Peace Corps Washington Staff Job Supervisors.

ACTION/IO—11

System name: Peace Corps Volunteer Emergency Leave Records ACTION/IO

System location: Office of Special Services/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Peace Corps Trainees and Volunteers.

Categories of records in the system: A. Fact sheets giving details of the emergency requiring emergency leave, notes and cables on the handling and course of the emergency, cost information, and a volunteer ACTION report. The system also contains a monthly log listing volunteers and trainees home on emergency leave by name giving reasons for the emergency, departure dates, cost, estimated time of return and remarks concerning the emergency.

Authority for maintenance of the system: The Peace Corps Act, (22 U.S.C. Section 2501).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See preliminary statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal file cabinets with manipulation proof combination locks.

Retrievability: Records are indexed in alphabetical order.

Safeguards: Records in this system are available to personnel of the Office of Special Services and other officials of ACTION needing such records in performance of their duties.

Retention and disposal: Records in this system are maintained for two years and then destroyed by shredding or burning.

System manager(s) and address: Chief, Office of Special Service/ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: Individuals who are the subjects of the system Family of an individual as to whom records are maintained Physicians Staff of the Office of Special Services.

ACTION/IO—12

System name: Overseas Staff Personnel records ACTION/IO

System location: These records are maintained in the office of each Peace Corps program overseas. There are at present an excess of 60 such offices and this number fluctuates from time to time as programs are added or withdrawn. A complete list with specific addresses will be provided upon request to the Director of Administrative Services, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525. Any particular country in which Peace Corps maintains a program may be addressed by writing to the Country Director, c/o the American Embassy in such country.

Categories of individuals covered by the system: Staff employees of ACTION serving overseas who are United States Citizens.

Categories of records in the system: These records contain copies of personnel actions affecting overseas staff, copies of personnel evaluations retained in the Country Files, and an inventory list of Government property contained in residences of overseas staff.

Authority for maintenance of the system: The Peace Corps Act 22 U.S.C. Section 2501 and pertinent sections of the Foreign Affairs Manual adopted by Peace Corps and of the Peace Corps Manual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Preliminary Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders and metal file cabinets with three way combination locks.

Retrievability: Records are indexed in alphabetical order.

Safeguards: Records are available only to the Country Director and ACTION staff with a need for such records in the performance of their duties.

Retention and disposal: These records are destroyed one year after the employee leaves the country and has completed all appropriate clearance procedures, including obtaining receipts for any property contained in inventories.

System manager(s) and address: The Country Director in each country in which Peace Corps serves.

Record source categories: The individual employee to whom the record pertains. Supervisors and ACTION personnel officials.

ACTION/IO—13

System name: Overseas Staff Correspondence Files—ACTION/IO

System location: Africa Regional Office as to personnel serving in Africa and Latin America Regional Office as to personnel serving in Latin America, the Caribbean and Central America, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Peace Corps overseas staff, contractors and consultants.

Categories of records in the system: Correspondence between the Regional Director or the Deputy Director and current overases staff, consultants or contractors.

Authority for maintenance of the system: The Peace Corps Act, 22 U.S.C. 2501 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Preliminary Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal file cabinets with manipulation proof combination locks.

Retrievability: Records are indexed by country of service and alphabetically within such countries.

Safeguards: Records in this system are available to regional office personnel and other officials of ACTION needing such records in the performance of their duties.

Retention and disposal: Records in this system are reviewed annually and destroyed after three years.

System manager(s) and address: Regional Director (Africa or Latin America) ACTION 806 Connecticut Avenue, NW., Washington, D.C. 20525

Record source categories: Individuals who are the subjects of the system and staff members of the Regional Offices.

ACTION/IO—14

System name: Regional Volunteer Correspondence Files

System location: Africa Regional Office as to volunteers serving in Africa and Latin America Regional Office as to volunteers serving in Latin America, the Caribbean and Central America, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Present and former Peace Corps volunteers.

Categories of records in the system: These records contain copies and original correspondence to and from volunteers regarding project related activities.

Authority for maintenance of the system: The Peace Corps Act, 22 U.S.C 2501 et. seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Preliminary Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal file cabinets with three-way combination locks.

Retrievability: Records are indexed in alphabetical order by country of service.

Safeguards: Records are available only to officials of ACTION needing such records in performance of their duties.

Retention and disposal: These records are reviewed annually and destroyed after three years.

System manager(s) and address: The country desk officer of each country served by Peace Corps volunteers, Latin America Region and Africa Region, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525

Record source categories: Peace Corps volunteers and ACTION staff members.

ACTION/IO—15

System name: Regional Peace Corps Personnel Records—ACTION/IO

System location: Africa Region, Latin America Region and North Africa, Near East, Asia and Pacific Region (NANEAP), ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Staff Employees of ACTION serving in Regional Offices or overseas.

Categories of records in the system: These files contain correspondence, copies of resumes, form 171s and other documents regarding personnel matters and actions of current use.

Authority for maintenance of the system: The Peace Corps Act, 22 U.S.C. 2501 et seq. and pertinent sections of the Peace Corps Manual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Preliminary Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal file cabinets with three-way combination locks.

Retrievability: Records are indexed in alphabetical order.

Safeguards: Records are available only to ACTION staff for the need for such records in the performance of their duties.

Retention and disposal: Any documents which should be placed in the official personnel file are forwarded to the Office of Personnel Management after the employee terminates his employment with ACTION. Thereafter all other records are destroyed after one year following the termination of such employee.

System manager(s) and address: Personnel Analyst, Regional Offices, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: The individual employee to whom the record pertains, supervisors and other ACTION personnel.

ACTION/IO—16

System name: Contractors and Consultants Records File—ACTION/IO

System location: Africa, Latin America and NANEAP Regions, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Categories of individuals covered by the system: Individuals who have served or could serve as Contractors/Training Consultants for Peace Corps programs overseas.

Categories of records in the system: These files contain correspondence, resumes, and other materials pertaining to current personal services contractors, training consultants, etc., or perspective applicants for such positions.

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Authority for maintenance of the system: The Peace Corps Act, 22 U.S.C. 2501 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Preliminary Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in folders in metal file cabinets with three-way combination locks.

Retrievability: Records are indexed in alphabetical order. Alternatively records may be indexed by skills categories but alphabetically within such skills categories.

Safeguards: Records are available only to ACTION staff for the need for such records in the performance of their duties.

Retention and disposal: These records are reviewed annually and those which are no longer necessary for current operations are destroyed.

System manager(s) and address: Contract/Training Specialist, Africa, Latin America or NANEAP Region, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

Record source categories: The individual contractor or consultant to whom the record pertains, supervisors and other ACTION personnel.

[FR Doc.77-22409 Filed 9-19-77;8:45 am]

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

On October 3, 1975, there were published in the Federal Register in accordance with Section 3(e)(4) of the Privacy Act, 5 U.S.C. Sec. 552a(e)(4), notices of proposed routine uses (40 FR 46064-5) for four systems of records maintained by the Commission. No comments were received from members of the public. Through administrative oversight however, these routine uses were never adopted and annual notices were not published in the Federal Register.

In addition ACIR-3, the Secondary Personnel Files system is being deleted because the records are being combined with the Official Personnel Records System, ACIR-4 which is being transferred from the General Services Administration to the Commission. The system location of ACIR-4 is changed from the General Services Administration to the Advisory Commission on Intergovernmental Relations, 726 Jackson Place, NW., Washington, D.C. 20575.

Pursuant to the authority vested in me by 5 U.S.C. Sec. 552a, the routine uses are adopted and the complete system notices are reproduced in their entirety below. In accordance with Sections 3(e)(4) and (11) of the Privacy Act, these notices constitute the annual compilation of notices of systems of records maintained by the Advisory Commission on Intergovernmental Relations.

Dated: June 22, 1977.

Wayne F. Anderson,
Executive Director.

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ACIR—1 Audience mailing list.
ACIR—2 Financial accounts.
ACIR—3 Official personnel files.

ACIR—1

System name: Audience Mailing List—ACIR

System location: The system is maintained by a contractor at his place of business. Since the contractor may change from time-to-time, the system is administered by:

Assistant to the Executive Director, Advisory Commission on Intergovernmental Relations, 726 Jackson Place, NW., Washington, D.C. 20575

Categories of individuals covered by the system: The system contains individuals and organizations representing the executive and legislative sectors of all levels of government, community civic and business leaders, members of the academic community, and other individuals (both foreign and domestic) interested in government.

Categories of records in the system: Name of individual or organization, title, address. The individual is provided with functional codes up to five out of a possible 999 choices, five interest codes from a possible 99, and one publication (Privacy Act) code. Each entity is also assigned an identification number.

Authority for maintenance of the system: The Advisory Commission on Intergovernmental Relations Act. 42 U.S.C. Sec. 4271.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To mail commission reports, announcements, recommendations, as well as other information on government and intergovernmental relations produced by the Commission and others.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information in the system of records is maintained on keypunch cards and optical scanning sheets until entered into the master magnetic tape.

Retrievability: An individual report may be retrieved only by specific identification number assigned at the time it is placed in the system.

Safeguards: The physical master tapes are kept in locked, fireproof cabinets, in limited access facilities, in a guarded bank building. Access to the master tape for routine uses is restricted to the system manager and his assistant (two people) and requires 1043 OCR Keypunch-encoded information in proper sequential presentation.

Retention and disposal: The records are maintained until the recipient no longer classifies as important for ACIR retention. Updating is handled biennially at the minimum and is ongoing regularly. Disposal is handled by electronic erasure. All paperwork is destroyed when the record is entered into the master file.

System manager(s) and address: Assistant to the Executive Director, Advisory Commission on Intergovernmental Relations, 726 Jackson Place, NW., Washington, D.C. 20575.

Notification procedure: Same as the above. See Commission access regulations.

Record access procedures: Same as the above. See Commission access regulations.

Contesting record procedures: Same as the above. See Commission access regulations.

Record source categories: The individual record is created from individual responses, public and organizational directories, other mailing lists, and information obtained in the day-to-day operation of the Commission. The individual is notified at least biennially that he is on the system and has the right to be removed or to limit the use of his record by the Commission.

Systems exempted from certain provisions of the act: None.

ACIR—2

System name: Financial Accounts—ACIR

System location: Advisory Commission on Intergovernmental Relations, 726 Jackson Place, NW., Washington, D.C. 20575

Categories of individuals covered by the system: Anyone having or entering into financial transactions with the Commission including employees, other individuals, and organizations.

Categories of records in the system: Contains all information regarding the financial transactions of the individual or organization with the commission, including records of payments to or from said organizations and individuals, as well as those records that have a bearing on the amount of the transactions.

Authority for maintenance of the system: The Advisory Commission on Intergovernmental Relations Act. 42 U.S.C. Sec. 4271.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To check the validity of current financial transactions, an internal operation only.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In 8-1/2 by 11 inch manila files, in fireproof file cabinets, in federally protected, secured building.

Retrievability: Indexed by name and by financial transaction number.

Safeguards: Federally secured building.

Retention and disposal: All records are maintained for three years in the ACIR offices, two years in the ACIR warehouse or GSA Archives, and then they are destroyed.

System manager(s) and address: Accountant, Advisory Commission on Intergovernmental Relations, 726 Jackson Place, NW., Washington, D.C. 20575

Notification procedure: Assistant to the Executive Director, (address is same as above). See Commission access regulations.

Record access procedures: Same as above. See Commission access regulations.

Contesting record procedures: Same as above. See Commission access regulations.

Record source categories: The individual or organization upon whom the record is maintained.

Systems exempted from certain provisions of the act: None.

ACIR—3

System name: Official Personnel Files—ACIR

System location: Advisory Commission on Intergovernmental Relations, 726 Jackson Place, NW., Washington, D.C. 20575

Categories of individuals covered by the system: Present and former members of the Commission and present and former employees of the Commission.

Categories of records in the system: General personnel information, including, among other data, applications, suggestions, position descriptions, request for and notification of personnel action, employee performance ratings and promotion appraisals, time and

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attendance records, security clearances, titles, salary, employment history, home address, age, marital status, SSN, home telephone number, resume, and letters of recommendation. System contains copies of Civil Service Commission and GSA personnel forms including SF 50, Notification of Personnel Action; SF 52, Request for Personnel Action; SF 171, Personnel Qualification Statement; etc.

Authority for maintenance of the system: The Advisory Commission on Intergovernmental Relations Act, 42 U.S.C. Sec. 4271.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record from this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement or a grievance, complaint, or appeal filed by an employee. A record of this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of federal personnel management.

A record from this system of records may be disclosed to officers and employees of a federal agency for purposes of audit.

A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Records also are released to GAO for audits; to the IRS for investigation; and to private attorneys pursuant to a power of attorney.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and microfilm.

Retrievability: Social Security Number and name.

Safeguards: Stored in guarded building; released to authorized personnel.

Retention and disposal: Retained indefinitely. Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address: Administrative Officer, Advisory Commission on Intergovernmental Relations, 726 Jackson Place, NW., Washington, D.C. 20575.

Notification procedure: See Commission access regulations.

Record access procedures: See Commission access regulations.

Contesting record procedures: See Commission access regulations.

Record source categories: The subject individual and the Commission.

Systems exempted from certain provisions of the act: None.

[FR Doc.77-21509 Filed 9-19-77;8:45 am]

AGENCY FOR INTERNATIONAL DEVELOPMENT

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

Pursuant to 5 U.S.C., 552a(e)(4), the Privacy Act of 1974, the Agency for International Development hereby publishes its systems of records as presently maintained. The systems were originally published at 40 FR 39463 (Aug. 27, 1975) and amended at 40 FR 45768 (Oct. 2, 1975) and 40 FR 51174 (Nov. 3, 1975). Additional amendments were proposed in the Agency's annual publication at 41 FR 38900 (Sept. 13, 1976). As a result of subsequent comments received from the U.S. Department of Labor, additional routine uses were proposed at 42 FR 31511 (June 21, 1977). A relocation of some systems was published at 42 FR 31511 (June 21, 1977). Additional amendments were proposed at 42 FR 37084 (July 19, 1977) and 42 FR 40302 (Aug. 9, 1977). The prior notification requirement (552a(e)(11)) was waived for the August 9, 1977, publication.

Changes in this publication include deletions which referenced medical records, which are no longer a part of our systems of records, and language added for clarification purposes.

John J. Gilligan,
Administrator.

Alphabetical Listing of Systems of Records

SYSTEM OF RECORD

Attendance and Leave Reporting Records - AID-16
Awards and Incentives Records - AID-14
Civil Service Employee Office Personnel Records - AID-2
Claims Records - AID-20
Congressional Relations, Inquiries, and Travel Records - AID-22
Criminal Law Enforcement Records - AID-9
Emergency Case File - AID-24
Employees Automated Records - AID-3
Employee Conduct and Discipline Records - AID-11
Employees' Equal Employment Opportunity Complaint Investigative Records - AID-23
Employee-Owned or -Leased Property Records - AID-17
Employees Payroll Records - AID-15
Employee Relations Records - AID-10
Employee Use of Property Owned or Leased by the U.S. Government Records - AID-18
Executive Assignment Records - AID-12
Foreign Service Employee Personnel Records - AID-1
Foreign Service Personnel Evaluation Records - AID-7
Litigation Records - AID-26
Orientation and Training Records - AID-13
Personnel Security and Suitability Investigative Records - AID-8
Position Classification Records - AID-4
Privacy Act Implementation Records - AID-25
Public Information Records - AID-21
Recruiting, Examining, and Placement Records - AID-6
Reserved - AID-5
Travel and Transportation Records - AID-19

(Appendix A to 22 CFR, Part 215 - Regulation, Agency for International Development Addresses and Locations of Offices Referenced in the Regulations and Notices is hereby incorporated by reference into this Notice as Appendix A hereto.)

Statement of General Routine Uses

The following routine uses apply to, and are incorporated by reference into each system of records set forth below to the extent therein applicable:

1. In the event of an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by statute or particular program pursuant therto, a record in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. A record from this system of records may be disclosed, as a routine use, to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information if necessary to obtain information relevant to an Agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the approval of a grant or other benefits.

3. A record from this system of records may be disclosed, as a routine use, to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, approval of a grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

5. A record from this system of records may be disclosed, as a routine use, to the Department of State and its posts abroad for the purpose of transmission of information between organizational units of the Agency, or for purposes related to the responsibilities of the Department of State in conduction United States foreign policy or protecting United States citizens, such as the assignment of employees to positions abroad, the reporting of accidents abroad, evacuation of employees and dependents, and other purposes for which officers and employees of the Department of State have a need for the records in the performance of their duties.

6. A record from this system of records may be disclosed, as a routine use, to a foreign government or international agency in response to its request for information to facilitate the conduct of U.S. relations with that government or agency through the issuance of such documents as visas, country clearances, identification cards, drivers' licenses, diplomatic lists, licenses to import or export personal effects, and other official documents and permits routinely required in connection with the official service or travel abroad of the individual and his or her dependents.

7. A record from this system of records may be disclosed, as a routine use, to Federal agencies with which the Agency has entered into an agreement to provide services to assist the Agency in carrying out its functions under the Foreign Assistance Act of 1961, as amended. Such disclosures would be for the purpose of transmission of information between organizational units of the Agency; of providing to the original employing agency information concerning the services of its employee while under the supervision of the Agency, including performance evaluations, reports of conduct, awards and commendations, and information normally obtained in the course of personnel administration and employee supervision; or of providing other information directly related to the purposes of the inter-agency agreement as set forth therein, and necessary and relevant to its implementation.

8. A record form this system of records may be disclosed, as a routine use, to a Member of Congress or a Congressional staff representative of the Member in response to an inquiry from a Member made at the request of an individual.

9. A record in those systems of records which contains medical information may be disclosed, as a routine use, to the medical adviser of any individual submitting a request for access to the record under the Act and 15 CFR Part 4b if, in the sole judgment of the Agency, disclosure could have and adverse effect upon the individual, under the provision of 5 U.S.C. 552a(f)(3) and implementing regulations at 15 CFR 4b.6.

10. A record contained in this sytem of records may be disclosed, as a routine use, to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

11. A record from this system of recods may be disclosed, as a routine use, to the Foreign Service Grievance Board in the course of the Board's consideration of matters properly before it.

A.I.D. - 1

System name: Foreign Service Employee Personnel Records.

System location: Washington offices and offices of assignment abroad as listed in Appendix A.

Categories of individuals covered by the system: Present and former A.I.D. Foreign Service employees and employees of other U.S. Agencies detailed to A.I.D.

Categories of records in the system: This system includes (a) central records consisting of official personnel folders and (b) decentralized records consisting of office copies of official documents and papers. Records are comprised of documents in the following

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categories: Biographic Data; assignment and reassignment orders; notification of personnel actions; travel arrival and departure notices; time and attendance cards; requests for security clearances and building passes; nominations and host country clearances, position descriptions; staffing and workload information; home, family, and emergency location information, records of language proficiency; records of security clearances; performance evaluations; individual assignment rating sheets; earning statements; compensations, awards, and leave information; copies of power of attorney granted by the individual; education and training information; delegations of authority; reports of accomplishments; commendations; health and medical record abstracts; accident or incident reports; reprimands and disciplinary actions; complaints and grievances; documents pertaining to fiscal, property, and transportation matters; foreign office notes and official correspondence; permits and authorizations of foreign governments; health and life insurance plans; and correspondence pertaining to the individual.

Authority for maintenance of the system: Foreign Assistance Act of 1961 as amended, Sec. 621, 625, 626, 627, 628, and 636 (b); Foreign Service Act of 1946 as amended, U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To Foreign Governments, international organizations, and U.S. and Foreign Firms for employment or employee exchange.

To Financial and Credit Institutions for loan and credit reference purposes solely to verify the employee's name, employment with A.I.D., dates of employment and pay grade.

To other Federal Agencies and private firms for placement under exchange programs.

To officials of the Department of State serving as the employee's supervisor for performance evaluation and review.

To representatives of the Civil Service Commission on matters relating to the inspection, survey, audit or evaluation of A.I.D. personnel management programs, of personnel actions, or such other matters under the jurisdiction of the Commission.

To representatives of the Civil Service Commission for the maintenance of their Central Personnel Data File, Federal Automated Career System, and Executive Inventory File.

To the Attorney General of the United States or his authorized representative in connection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice, or carried out as the legal representative of the executive agencies.

To a duly appointed hearing examiner or arbitrator (an employee of another federal agency) for the purpose of conducting a hearing in connection with an employee's appeal involving disclosures of records of A.I.D.'s personnel management system.

To an arbitrator who is given a contract pursuant to a negotiated labor agreement to hear an employee's grievance involving disclosure of records of the personnel management system.

To officials of labor organizations recognized under Executive Orders 11636 and 11491, as amended, when relevant and necessary to their duties of exclusive representation under the Orders, and to include data such as veteran preference status, tenure, salaries, grades, positions titles, duty stations, agency-sponsored training and awards received, notices of reduction in force, job-related injury, and personnel actions, when such information is relevant to personnel policies and practices affecting employment conditions and necessary for exclusive representation by the labor organization. Wherever feasible and consistent with responsibilities under the orders, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

To state employment security agencies and to the U. S. Department of Labor, upon request, employment, wage and seperation data of former AID employees, to determine eligibility for unemployment compensation.

To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folders.

Retrievability: By name of employee.

Safeguards: Located in metal file cabinets with three-way combination lock in secured premises with access limited to those whose official duties require access.

Retention and disposal: Retention of these records varies from 1 to 75 years, depending upon the specific kind of record involved. They are retired or destroyed in accordance with General Records Schedules issued by the National Archives and Records Serivce and approved records control schedules of the Agency for International Development.

System manager(s) and address: Chief, Foreign Service Personnel, Office of Personnel and Manpower, Agency for International Development, 515 22nd Street, N.W. Washington, D.C. 20523.

Administrative Officer or Executive Officer of the employing office or Mission as listed in Appendix A.

Notification procedure: Requests by individuals concerning the existence of a record may be addressed to:

Director
Office of Personnel and Manpower (SER/PM)
Attn: Privacy Liaison Officer
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523

or presented in person at State Annex 2, 515 22nd Street, N.W. Washington, D.C. 20523.

For offices abroad, to the Privacy Liaison Officer at the applicable address in Appendix A.

Information Required: Individual's name, place and date of birth. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security number and dates and places of service.

Record access procedures: Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to Sec.215.4(c) or (d) of the Agency's Regulations as published in this issue of the Federal Register.

Contesting record procedures: Written requests from individuals to amend their record should be mailed or presented in person to the same address as stated in the Notification Section above.

Requests for review of a refusal to amend a record should be made in writing and mailed or delivered to:

Administrator
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523
ATTENTION: Executive Secretary - Privacy Review Request.

Both the envelope and the letter should be clearly marked Attention: Executive Secretary - Privacy Review Request.

Record source categories: Provided by the individual, by officers and employees of A.I.D. in the performance of their official duties, by United States and foreign civil authorities, by educational institutions, private persons and companies and produced in the course of normal personnel administration operations of the Agency.

A.I.D. - 2

System name: Civil Service Employee Office Personnel Records.

System location: Washington offices and, when a Civil Service employee is assigned overseas, at offices of assignment abroad as listed in Appendix A.

Categories of individuals covered by the system: Present and former A.I.D. Civil Service employees, consultants, experts; persons under contract to A.I.D.; other U.S. Government Agency personnel employed by A.I.D.; advisers to A.I.D.

Categories of records in the system: In addition to central records in the custody of A.I.D. but officially 'maintained' by the Civil Service Commission the Agency maintains personnel records which may be comprised of any of the following categories of documents: Biographic data; assignments and reassignment orders; notification of personnel actions; travel arrival and departure notices; time and attendance cards; requests for security clearances and building passes; nominations and host country clearances; position descriptions; contracts when individuals are employed under a contract; staffing and workload information; home, family, and emergency location information; records of language proficiency; performance evaluations; earning statements; compensation awards, and leave information; copies of power of attorney granted by individual; education and training information; delegations of authority; reports of accomplishments; commendations; accident or incident reports; reprimands and disciplinary actions; complaints and grievances;

documents pertaining to fiscal, property, and transportation matters; correspondence pertaining to the individual; and health and life insurance plans.

Authority for maintenance of the system: Foreign Assistance Act of 1961 as amended, Sec. 621, 625, 626, 627, 628 and 636 (d); Foreign Service Act of 1946, as amended, Sec. 911; 5 U.S.C. 301, 1301, 1302, Authority to establish and maintain files.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To Foreign Governments and U.S. and Foreign firms for employment purposes.

To Financial and Credit Institutions for loan and credit reference purposes solely to verify the employee's name, employment with A.I.D., dates of employment and pay grade.

To other Federal Agencies and private firms for placement under exchange programs.

To officials of the Department of State serving as the employee's supervisor for performance evaluation and service.

To representatives of the Civil Service Commission on matters relating to the inspection, survey, audit or evaluation of A.I.D. personnel management programs, of personnel actions, or such other matters under the jurisdiction of the Commission.

To representatives of the Civil Service Commission for the maintenance of their Central Personnel Data File, Federal Automated Career System, and Executive Inventory File.

To the Attorney General of the United States or his authorized representative in connection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice, or carried out as the legal representative of the executive agencies.

To a duly appointed hearing examiner or arbitrator (an employee of another federal agency) for the purpose of conducting a hearing in connection with an employee's appeal involving disclosures of records of A.I.D.'s personnel management system.

To an arbitrator who is given a contract pursuant to a negotiated labor agreement to hear an employee's grievance involving disclosure of records of the personnel management system.

To officials of labor organizations recognized under Executive Orders 11636 and 11491, as amended, when relevant and necessary to their duties of exclusive representation under the Orders, and to include data such as veteran preference status, tenure, salaries, grades, position titles, duty stations, agency-sponsored training and awards received, notices of reduction in force, job-releated injury, and personnel actions, when such information is relevant to personnel policies and practices affecting employment conditions and necessary for exclusive representation by the labor organization. Wherever feasible and consistent with responsibilities under the orders, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

To state employment security agencies and to the U. S. Department of Labor, upon request, employment, wage and seperation data of former AID employees, to determine eligibility for unemployment compensation.

To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folder.

Retrievability: By name of employee, consultant, expert, contractor, and adviser.

Safeguards: Located in metal file cabinets with three-way combination lock in secured premises with access limited to those whose official duties require access.

Retention and disposal: Retention of these records varies from 1 to 75 years, depending upon the specific kind of record involved. They are retired or destroyed in accordance with General Records Schedules issued by the National Archives and Records Service and approved records control schedules of the Agency for International Development.

System manager(s) and address: Chief, Civil Service Personnel, Office of Personnel and Manpower, Agency for International Development, 515 22nd Street, N. W. Washington, D.C. 20523.

Administrative Officer or Executive Officer of the employing office or Mission as listed in Appendix A.

Notification procedure: Requests by individuals concerning the existence of a record may be addressed to:

Director
Office of Personnel and Manpower (SER/PM)
Attn: Privacy Liaison Officer
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523

or presented in person at State Annex 2, 515 22nd Street, N. W. Washington, D.C. 20523.

For offices abroad, to the Privacy Liaison Officer at the applicable address in Appendix A.

Information Required: Individual's name, place and date of birth. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security number and dates and places of service.

Record access procedures: Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to Sec.215.4(c) or (d) of the Agency's Regulations as published in this issue of the Federal Register.

Contesting record procedures: Written requests from individuals to amend their record should be mailed or presented in person to the same addresses as stated in the Notification Section above.

Requests for review of a refusal to amend a record should be made in writing and mailed or delivered to:

Administrator
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523
ATTENTION: Executive Secretary - Privacy Review Request.

Both the envelope and the letter should be clearly marked Attention: Executive Secretary - Privacy Review Request.

Record source categories: Provideo by the individual, by officers and employees of A.I.D. in the performance of their official duties, by United States and foreign civil authorities, by educational institutions, private persons and companies and produced in the course of normal personnel administration operations of the Agency.

A.I.D. - 3

System name: Employees Automated Records.

System location: Office of Data Management, Agency for International Development, 1975 Florida Avenue, Washington, D.C.

Categories of individuals covered by the system: a. A.I.D. Employees including: Direct-hire employees assigned positions in the United States; United States citizen direct-hire employees assigned to positions overseas; and employees of Federal, state, or local government agencies detailed or assigned to A.I.D.; and

b. Applicants for employment

Categories of records in the system: This automated system consists of ten files of computerized records maintained on magnetic discs and magnetic tapes. These files are described below. The first seven (a through g) and the tenth (j) pertain to the category of individuals defined in a. above; the eighth (h) pertains only to the category of individuals defined in b. above; the ninth file (i) is maintained separately from the other eight files.

a. Master Data File - This file contains information about the organizational structure of the Agency, and the location within that structure of all employees. Individual records, in addition to containing data describing the position incumbered by the employee, contain the following types of information on the employee: basic data such as name, Social Security Account Number (SSAN), birth date, veteran preference, tenure group, service computation date, reportable handicap, retirement system, and participation in Federal Employee' Government Life Insurance; pay data such as pay plan, grade or class, step within grade, date appointed to present grade, and work schedule; personal data supplied by the employee such as sex, marital status, state of legal residence, and academic education level; data on retirement from a uniformed service, if applicable; a wide variety of dates including those that indicate suspense actions which are due at the future date, and others used for other purposes by personnel managers such as date assigned overseas and date returned from overseas; for Civil Service and Foreign Service employees their evaluation rating and the date of their last evaluation; qualifications and skills data such as college degrees, special prior experience, training courses completed, proficiency in foreign languages, and skills of use to the Agency.

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b. A Chronological Data Record is maintained on each employee and contains up to ten entries reflecting the most recent 'personnel actions' on that individual, such as appointment, conversion, reassignment, transfer, promotion, extension, and separation. Included for each entry is the type of action code and title, effective date, position assigned to, including position title, and employee's pay plan and grade at the time.

c. Separated Employee File - For employees who have been separated, a record is maintained made up of the employee data in the Master Data Record and the Chronological Data Record as described in a and b above. This record is maintained for three years after date of separation.

d. Index File - This file contains a record for each employee, but contains only the SSAN and the Position Sequence Number of the position to which the employee is assigned. It is used to find the employee's Master Data Record when only the SSAN is known.

e. Turnaround File - This file contains only records generated by the computer and is used by the computer to update the Master Data and Chronological Record files on future effective personnel actions. It is also used by the process that prints the Standard Form 50, Report of Personnel Actions.

f. SF 50 File - This file contains data that was used in printing the Standard Form 50 and is retained for 90 days in the event the Standard Form 50 requires correction or cancellation. It contains basic data on the employee and personnel action being effected by the Standard Form 50.

g. Transaction History File - This file contains a record on each file maintenance transaction input into the computer that passed computer program edits and is used in maintaining system files.

h. Applicant Data File - This file contains name, SSAN, veteran preference, and qualification data supplied by the applicant.

i. Minority Group Designator File - This file contains SSAN and a minority code designator, used in preparing reports required by the Equal Employment Opportunity Act of 1972.

j. The Equal Opportunity Program Extract File - This file contains information from the Master Data File and the Minority Group Designator File and consists of the following: position number; position title; occupational specialty code; position pay plan, position grade; GSA location code; employee name; SSAN; sex; employee pay plan; employee grade; employee step; minority group designator; work schedule; current civil service performance rating, date of last civil service performance rating; supervisory code; age; date of birth; handicap code; date appoined present grade; incumbent assigned date; date entered on duty with AID or predecessor; academic education level; degree Majors 1, 2 and 3; Agency occupational special ties 1, 2 and 3; Veteran's Preference.

Authority for maintenance of the system: Title 5 U.S.C., Sec. 301, 1302, 2951, 4118, 4308; Foreign Assistance Act of 1961, as amended, Sec. 621, 621A, 625, 626, 627, 628; Foreign Service Act of 1946, as amended, Sec. 911.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To representatives of the Civil Service Commission on matters relating to the inspection, survey, audit or evaluation of A.I.D. personnel management programs, of personnel actions, or such other matters under the jurisdiction of the Commission.

To representatives of the Civil Service Commission for the maintenance of their Central Personnel Data File, Federal Automated Career System, and Executive Inventory File.

To the Attorney General of the United States or his authorized representative in connection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice, or carried out as the legal representative of the executive agencies.

To the Chesapeake and Potomac Telephone Co. (a contractor) and its employees for the purpose of telecommunications transmission of data between the central computer facility and the remote terminals.

To a duly appointed hearing examiner or arbitrator (an employee of another federal agency) for the purpose of conducting a hearing in connection with an employee's appeal involving disclosures of records of A.I.D.'s personnel management system.

To an arbitrator who is given a contract pursuant to a negotiated labor agreement to hear an employee's grievance involving disclosure of the record of the personnel management system.

To the recognized labor union for the purposes of meeting the requirements of the negotiated agreement.

To representatives of the Department of Health, Education and Welfare for the purpose of producing microfiche and microfilm outputs.

To the Department of State for the purposes of producing microfiche and microfilm outputs.

To the Department of the Treasury and the Department of State for the purpose of providing special reports pertaining to AID employees in the Foreign Service Retirement and Disability System.

To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored on magnetic disc and/or magnetic tape.

Retrievability: The ten files described above are indexed in the following manner and may be retrieved as indicated, however, personal data in all files are readily retrieved through the Index File. (a) Master Data File: by Position Sequence Number. (POSNO) within A.I.D.;

(b) Chronological Data File: by Social Security Account Number (SSAN)

(c) Separated Employee File: by SSAN;

(d) Index File: by SSAN:

(e) Turnaround File: by effective date

(f) SF-50 File: by effective date;

(g) Transaction History File: by date of input to the system or effective date, whichever is later; and

(h) Applicant Data File: by SSAN.

(i) Minority Group Designator File: by SSAN.

(j) Equal Opportunity Program Extract File: by Position Sequence Number. (POSNO) within A.I.D.

Safeguards: A 'password' is assigned to A.I.D. employees who, in the performance of their official duties, must have access to these files. The password is checked by the computer prior to granting access to the files. The computer facility, including the time library, is located in secured premises with combination-lock door, and access is limited to persons of verified identity who require access.

Retention and disposal: The computerized records are deleted from the files when no longer needed by the system. A copy of the content of all files is made at the end of June and December and is retained for five years, then destroyed.

System manager(s) and address: Chief, Systems Design Branch, Policy Development Division, Office of Personnel and Manpower, Agency for International Development, 515 22nd Street N. W., Washington, D.C. 20523.

For the Minority Group code designator, the Director, Equal Opportunity Programs, Agency for International Development, 320 21st Street, N.W., Washington, D.C. 20523.

Notification procedure: Requests by individuals concerning the existence of a record may be addressed to:

Director
Office of Personnel and Manpower (SER/PM)
Attn: Privacy Liaison Officer
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523
or presented in person at State Annex 2, 515 22nd Street N. W., Washington, D.C. 20523.

Information Required: Individual's name, place and date of birth. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security number and dates and places of service.

Record access procedures: Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to Sec.215.4(c) or (d) of the Agency's rules as published in this issue of the Federal Register.

Contesting record procedures: Written requests from individuals to amend their record should be mailed or presented in person to the same address as stated in the Notification Section above.

Requests for review of a refusal to amend a record should be made in writing and mailed or delivered to:

Administrator
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523

ATTENTION: Executive Secretary - Privacy Review Request.

Both the envelope and the letter should be clearly marked Attention: Executive Secretary - Privacy Review Request.

Record source categories: The individual concerned and A.I.D. employees acting in their official capacities in approving personnel actions and verifying information.

A.I.D. - 4

System name: Position Classification Records.

System location: Office of Personnel and Manpower, State Annex 2, 515 22nd Street N. W., Washington, D.C. 20523.

Categories of individuals covered by the system: Employees of A.I.D.

Categories of records in the system: Position descriptions, appeals, correspondence relating to position classification, reviews of classifications and the determinations made theron, and Notifications of Personnel Actions (SF-50's) relating to the position.

Authority for maintenance of the system: The Foreign Assistance Act of 1961, as amended Sec. 621 and the Foreign Service Act of 1946 as amended; 5 U.S.C., Sec. 301, 1302, 2951, 4118, 4308, and Executive Orders 10561 and 10987.

To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copies in file folders.

Retrievability: Name of individual.

Safeguards: Located in metal file cabinets with three-way combination locks in a secure space or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained by A.I.D. as long as five years (in case of appeals against position classification actions), then destroyed by shredding.

System manager(s) and address: For Civil Service personnel: Chief, Civil Service Personnel, Office of Personnel and Manpower, Agency for International Development, 515 22nd Street N. W., Washington, D.C. 20523.

For Foreign Service personnel: Chief, Position Management & Foreign National Branch, Office of Personnel and Manpower, Agency for International Development, 515 22nd Street N. W., Washington, D.C. 20523.

Notification procedure: Requests by individuals concerning the existence of a record may be addressed to:

Director
Office of Personnel and Manpower (SER/PM)
Attn: Privacy Liaison Officer
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523
or presented in person at State Annex 2, 515 22nd Street N. W., Washington, D.C. 20523.

Information Required: Individual's name, place and date of birth. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security number and dates and places of service.

Record access procedures: Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to Sec.215.4(c) or (d) of the Agency's Regulations as published in this issue of the Federal Register.

Contesting record procedures: Written requests from individuals to amend their record should be mailed or presented in person to the same addresses as stated in the Notification Section above.

Requests for review of a refusal to amend a record should be made in writing and mailed to:

Administrator
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523

ATTENTION: Executive Secretary - Privacy Review Request.

Both the envelope and the letter should be clearly marked Attention: Executive Secretary - Privacy Review Request.

Record source categories: The individual concerned and A.I.D. employees acting in their official capacities.

A.I.D. - 5

Reserved.

A.I.D. - 6

System name: Recruiting, Examining and Placement Records.

System location: Records are maintained in various offices in Washington and abroad that have responsibility for recruiting candidates for employment. See Appendix A for actual location of these offices.

Categories of individuals covered by the system: Individuals who have applied to the Agency for employment or employees who have requested outplacement assistance.

Categories of records in the system: In addition to central records maintained by A.I.D. but under the control of the Civil Service Commission, the Agency also maintains information relating to the education and training; employment history and earnings; appraisal of past performance; convictions of offenses against the law; results of written tests; appraisal of potential; honors, awards or fellowships; military service; veteran preference; birthplace; birth date; Social Security number; and home address.

Authority for maintenance of the system: The Foreign Assistance Act of 1961, as amended; the Foreign Service Act of 1946; 5 U.S.C., Sec. 301,1302,3301,3302,3304,3306,3307, 3309, 3313, 3317, 3318, 3319, 3349, 4103, 5532, 5533, 5723; and Executive Orders 10577 and 11103.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To prospective employees (Universities, State, and Local Governments, private enterprises, United Nations and other international organizations, foreign governments, and governments of the territories of the U.S.) for purposes of proposing A.I.D. employees who have requested placement assistance for positions outside the Agency.

To law enforcement agencies, U.S. Government agencies, courts the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folders.

Retrievability: By name of individual.

Safeguards: Located in metal file cabinets with three-way combination lock in secured premises with access limited to those whose official duties require access.

Retention and disposal: Kept from 6 months to 5 years depending upon need; disposed of by shredding or burning.

System manager(s) and address: Chief, Recruitment Staff, Office of Personnel and Manpower, Agency for International Development, 515 22nd Street N. W., Washington, D.C. 20523.

Notification procedure: Requests by individuals concerning the existence of a record may be addressed to:

Director
Office of Personnel and Manpower (SER/PM)
Attn: Privacy Liaison Officer
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523
or presented in person at State Annex 2, 515 22nd Street N. W., Washington, D.C. 20523.

For offices abroad, to the Privacy Liaison Officer at the applicable address in Appendix A.

Information Required: Individual's name, place and date of birth. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security number and dates and places of service.

Record access procedures: Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to Sec.215.4(c) or (d) of the Agency's Regulations as published in this issue of the Federal Register.

Contesting record procedures: Written requests from individuals to amend their record should be mailed or presented in person to the same addresses as stated in the Notification Section above.

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Requests for review of a refusal to amend a record should be made in writing and mailed or delivered to:

Administrator
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523
ATTENTION: Executive Secretary - Privacy Review Request.

Both the envelope and the letter should be clearly marked Attention: Executive Secretary - Privacy Review Request.

Record source categories: The individual concerned and A.I.D. employees acting in their official capacities; previous employers, personal references provided by the individual; and educational institutions.

A.I.D. - 7

System name: Foreign Service Personnel Evaluation Records.

System location: Evaluation files are kept in the Office of Personnel and Manpower, 515 22nd Street N. W., Washington, D.C. 20523.

Categories of individuals covered by the system: Foreign Service Reserve Officers and Staff of A.I.D.

Categories of records in the system: Employee's name , date of birth, entry on duty in Foreign Service, Social Security number, name of evaluation panel, employee backstop code, panel determination and comments, relative ranking of employee, employee data record print, and personal evaluation reports.

Authority for maintenance of the system: Foreign Assistance Act of 1961 as amended, Sec. 625(d) and (e); Foreign Service Act of 1946 as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To representatives of the Civil Service Commission on matters relating to the inspection, survey, audit or evaluation of A.I.D. personnel management programs, of personnel actions, or such other matters under the jurisdiction of the Commission.

To a duly appointed hearing examiner or arbitrator (an employee of another federal agency) for the purpose of conducting a hearing in connection with an employee's appeal involving disclosures of records of A.I.D.'s personnel management system.

To an arbitrator who is given a contract pursuant to a negotiated labor agreement to hear an employee's grievance involving disclosure of records of the personnel management system.

To the recognized labor union for the purpose of meeting the requirements of the negotiated agreement.

To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy filed in folders.

Retrievability: By name of individual.

Safeguards: Located in metal cabinets with three-way combination lock in a secured area. Access is to those whose official duties require access.

Retention and disposal: Destroyed by burning five years after employee separates.

System manager(s) and address: Chief, Personnel Information Center (PM/PO/PIC), Agency for International Development, 515 22nd Street N. W., Washington, D. C. 20523.

Notification procedure: Requests by individuals concerning the existence of a record may be addressed to:

Director
Office of Personnel and Manpower (SER/PM)
Attn: Privacy Liaison Officer
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523

or presented in person at State Annex 2, 515 22nd Street N. W., Washington, D.c. 20523.

Information Required: Individual's name, place and date of birth. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security number and dates and places of service.

Record access procedures: Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to Sec.215.4(c) or (d) of the Agency's regulations as published in this issue of the Federal Register.

Contesting record procedures: Written requests from individuals to amend their record should be mailed or presented in person to the same address as stated in the Notification Section above.

Requests for review of a refusal to amend a record should be made in writing and mailed or delivered to:

Administrator
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523
ATTENTION: Executive Secretary - Privacy Review Request.

Both the envelope and the letter should be clearly marked Attention: Executive Secretary - Privacy Review Request.

Record source categories: The individual concerned and A.I.D. employees acting in their official capacities.

A.I.D. - 8

System name: Personnel Security and Suitability Investigations Records.

Security classification: Secret.

System location: a. Central file: Office of Security, 1621 North Kent Street, Arlington, Virginia.

b. Working files are maintained in various offices in Agency Washington Headquarters and in missions abroad. See Appendix A for actual locations.

c. Retired files are maintained in the Washington National Records Center, 4205 Suitland Road, Suitland, Maryland.

Categories of individuals covered by the system: Present and former employees, including full and part-time, 'When Actually Employed' (WAE), 'Without Compensation' (WOC), intermittent, experts and consultants; current and former applicants for employment; Americans currently or formerly employed under contract; applicants for contract; certain contractors and contractor personnel; individual names not included in the above categories are also cross-indexed in security files when significantly involved in security-related investigations; and individuals currently and formerly employed under Participating Agency Service Agreements (PASA) or Interagency Personnel Act (IPA) or other authority.

Categories of records in the system: Employee identification cards and photographs; reports of investigations conducted by A.I.D. and by other government agencies; interoffice and intraoffice correspondence, memoranda and reports; correspondence and memoranda originated by other elements of A.I.D., Federal agencies and other governmental entities (i.e., state and local), corporate and private entities, and by individuals. Additionally, records are maintained of security violations and consequent recommendations for disciplinary action. The system contains reports of briefings and debriefings of employees.

Authority for maintenance of the system: Foreign Assistance Act of 1961, as amended, Sec. 635(b), 5 U.S.C. Sec. 7531 and 7532; Act of August 26, 1950, 64 Stat. 476; and Executive Order 10450 of April 27, 1953 (as amended by Executive Orders 10491 of October 13, 1953; 10531 of May 27, 1954; 10548 of August 2, 1954; 10550 of August 5, 1954, 11785 of April 6, 1974; and 11652 of March 8, 1972).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To persons contacted in the course of an investigation to the extent necessary to further the purposes of the investigation.

To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy and photographic film in file folders.

Retrievability: By name of individual.

Safeguards: Maintained in containers with three-way combination locks or areas with intrusion alarms and accessible only to authorized personnel for their information in the performance of their duties.

Retention and disposal: Security violation records and investigative reports are normally retained for 30 years following separation of employee but may be destroyed earlier upon determination that material has no value; identification cards are destroyed upon termination of employment.

System manager(s) and address: Director, Office of Security, 1621 North Kent Street Arlington, Virginia.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), (k)(3), and (k) (5) all investigatory material in the record which meets the criteria of all these subsections is exempted from the notice, access, and contest requirements under 5 U.S.C. 552a(e)(3), (d), (e) (1), (e)(4)(G), (H), (I) and (f) in order to accomplish this law enforcement function of the Agency, to prevent disclosure of classified information as required by Executive Order 11652, to assure the protection of the President, to prevent subjects of investigation from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of information and sources, and to avoid endangering these sources and law enforcement personnel. See Agency Regulations published in this issue of Federal Register.

A.I.D. - 9

System name: Criminal Law Enforcement Records.

Security classification: Top Secret

System location: a. Central files are maintained in the Office of Inspections and Investigations, 1621 North Kent Street, Arlington, Virginia.

b. Working files are maintained in the Office of the General Counsel, 320 21st Street, N.W., Washington, D.C. and in the overseas offices of the Auditor General, Office of Inspections and Investigations located in Panama, Karachi, Bangkok, Rabat and Manila. (See Appendix A for acutal location of these offices).

c. Retired files are maintained at the Washington National Records Center, 4205 Suitland Road, Suitland, Maryland.

Categories of individuals covered by the system: In furtherance of an investigation for suspected violation of criminal laws - present and former employees of the Agency and of the Overseas Private Investment Corporation; present and former employees of contractors used by the Agency and individuals involved or associated with such employees; individuals investigated at the request of another Federal agency.

Categories of records in the system: Reports of investigations concerning violations of Federal civil and criminal statutes and other violations of Title 18, U.S.C., and violations of Agency regulations; personal identification data and details of activities; related correspondence with individuals, with other organizational units of the Agency, and with federal, state, and local government agencies; records of disciplinary or other actions deriving from investigations; and copies of reports of investigations conducted by the Agency on the behalf of other federal agencies. Executive Order 10973 of November 3, 1961, and State Department Delegation of Authority 104 of November 3, 1963.

Authority for maintenance of the system: Attorney General's memorandum re: P.L. 725 (28 U.S.C. 535); Foreign assistance Act of 1961, as amended; Title 18 U.S.C.;

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To persons contacted in the course of an investigation to the extent necessary to further the purposes of the investigation.

To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folders.

Retrievability: By name of individual.

Safeguards: Files in Washington are stored in combination locked containers or in intrusion-alarmed areas. Files in field offices abroad are stored in secured areas with access by combination lock doors; in combination locked containers, and/or in areas secured by U.S. Marine guards. Access to records is limited to authorized screened personnel with an official need to know.

Retention and disposal: Records are retained for three years after the closing of a case and are then retired to the Washington National Records Center for 10 years after last entry in file. Copies of reports furnished by other agencies are returned to the originating agency when so requested; otherwise such records are retained until cases are closed and then retired to the National Washington Records Center for the periods stated above.

System manager(s) and address: Director, Office of Inspections and Investigations, 1621 North Kent Street, Arlington, Virginia.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(j)(2) all information about an individual in the record which meets the criteria stated in 5 U.S.C. 552a(j)(2) are exempted from the notice, access, and contest requirements of 5 U.S.C. 552a except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) If the 5 U.S.C. 552a(j) (2) exemption is held to be invalid, then this system is determined to be exempt, under 5 U.S.C. 552(a) (k) (1) and (2) of the Act, from the provisions of 5 U.S.C. 552a (c) (3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f). The reasons for asserting the exemptions are to protect the materials required by Executive Order to be kept secret in the interest of the national defense or foreign policy, to prevent subjects of investigation from frustrating the investigatory process, to insure the proper functioning and integrity of law enforcement activities, to prevent disclosures of investigative techniques, to maintain the ability to obtain necessary information, to fulfill commitments made to sources to protect their identities and the confidentiality of information and to avoid endangering these sources and law enforcement personnel. See Agency Regulations published in this issue of the Federal Register.

A.I.D. - 10

System name: Employee Relations Records.

Security classification: Confidential.

System location: a. For active records: Employee Relations Branch, Office of Personnel and Manpower, Agency for International Development, 515 22nd Street N. W., Washington, D.c. 20523.

b. For retired records: Washington National Records Center, 4205 Suitland Road, Suitland, Maryland.

Categories of individuals covered by the system: Any A.I.D. employee or employee of another Federal Agency assigned to A.I.D. under a Participating Agency Service Agreement who has filed a complaint, grievance or appeal; has been the subject of an alimony or child support claim; has been listed as a prisoner of war or missing in action (POW/MIA); or has a medical problem affecting his employment.

Categories of records in the system: Correspondence and indexes covering complaints, grievances, appeals, life insurance, health insurance, occupational health, workers' compensation, but not including those records belonging to the Department of Labor; alimony and child support, employee medical problems (but not including medical records maintained by the Office of the Medical Director, Department of State) and material relating to POW/MIA's.

Authority for maintenance of the system: Foreign Assistance Act of 1961, as amended, especially Secs. 621 and 625; Foreign Service Act of 1946, as amended; Executive Order 10450 as amended August 5, 1954; 5 U.S.C. 301, 7301, 7531, 7532, 7533; Sec. 914 of P.L. 92-255; and Sec. 201 of P.L. 91-616.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To a duly appointed Hearing Examiner or Arbitrator for the purpose of conducting a hearing in connection with an employee's appeal involving a grievance.

To a union representative for the purpose of representing an employee in order to protect the employee rights negotiated under the union agreement.

To the Civil Service Commission for the purpose of determining if the Agency's course of action is correct.

To a health or life insurance carrier for the purpose of determining the status of benefits paid or owed by or to an employee pursuant to a health or life insurance compensation agreement.

To hospitals, clinics, and other medical treatment facilities upon their request in order to provide information about health insurance under the Federal Employees Group Health Insurance Program.

To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set

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forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By employee name.

Safeguards: Located in metal file cabinets with three-way combination lock in secured premises with access limited to those whose official duties require access.

Retention and disposal: Workers' compensation files are retired to Federal Records Center, St. Louis, Missouri, for permanent retention after resolution of case. Alcohol and drug abuse files are destroyed by burning one to three years after separation of employee. POW/MIA files are retained indefinitely. All other records are destroyed by burning one to two years after resolution of a problem or final decision on a pending matter.

System manager(s) and address: Chief, Employee Relations Branch, at the location shown in the Systems Location Section above.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a (k)(5), all investigatory material in the record which meets the criteria of these subsections is exempted from the notice, access and contest requirements of Sections (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f) 5 U.S.C. 552a in order to fulfill commitments made to protect the confidentiality of sources, and to maintain access to sources of information which are necessary to determine suitability for employment. See Agency Regulations published in this issue of the Federal Register.

A.I.D. - 11

System name: Employee Conduct and Discipline Records.

Security classification: Secret.

System location: a. For active records: Office of Personnel and Manpower, Agency for International Development, 515 22nd Street N. W., Washington, D.C. 20523 and Office of General Counsel, Agency for International Development, 320 21st Street, N.W., Washington, D.C. 20523.

b. For retired records: Washington National Records Center, 4205 Suitland Road, Suitland, Maryland.

Categories of individuals covered by the system: A.I.D. employees and personal services contract personnel.

Categories of records in the system: Investigations of alledged misconduct, statements of outside employment and financial interests, claims for indebtedness, conflict of interest, insubordination, prohibited political activity, sale or barter of personal property abroad, medical problems affecting employment, and relevant disciplinary actions affecting all of the above.

Authority for maintenance of the system: 18 U.S.C. 201 through 209, Executive Order 11222 of May, 1965; F.R. Doc. 68-14888, filed Dec. 12, 1968.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, Members of Congress, and individuals' medical advisers for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folders.

Retrievability: By name of individual.

Safeguards: Stored in fire-insulated combination vault or in three-way combination locked containers accessible only to authorized personnel with an official need to know.

Retention and disposal: Misconduct and discipline records are destroyed by burning twenty years after last entry in file or ten years after separation whichever is earlier. All other records are destroyed by burning one to two years after resolution of a problem or final decision on a pending matter.

System manager(s) and address: a. For records at Location (a): Chief, Employee Relations Branch, Office of Personnel and Manpower, 515 22nd Street N. W., Washington, D.C. 20523.

b. For records at Location (b): Management Assistant, Office of the General Counsel, A.I.D., 320 21st Street, N.W., Washington, D.C.

Record source categories: The individual concerned, creditors, and A.I.D. employees acting in their official capacities.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a (k)(5), all investigatory material in the record which meets the criteria of these subsections is exempted from the notice, access and contest requirements of Sections (c)(3), (d), (e)(1), (e)(4)(G) (H) and (I) and (f) of U.S.C. 552a in order to fulfill commitments made to protect the confidentiality of sources and to maintain access to sources of information which are necessary to determine suitability for employment. See Agency regulations published in this issue of the Federal Register.

A.I.D. - 12

System name: Executive Assignment Records.

Security classification: Confidential.

System location: Agency for International Development Office of the Deputy Administrator, 320 21st Street, N.W. Washinton, D.C. 20523

Categories of individuals covered by the system: Applicants for employment and present A.I.D. employees

Categories of records in the system: Biographical data, education, nominating documents, and recommendations.

Authority for maintenance of the system: Foreign Assistance Act of 1961 as amended, Sections 631 (b) and (c) and 625 (b), (c), (d); 5 U.S.C. 2103.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To Members of Congress for Congressional clearance; the White House for clearance; Department of Justice, Federal Bureau of Investigations for security clearance; Civil Service Commission for security clearance, and other U.S. Government Departments and Agencies for executive placement opportunities.

To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folders.

Retrievability: By name of applicant or employee.

Safeguards: Located in metal file cabinets with three-way combination locks in secure premises with access limited to those whose official duties require access.

Retention and disposal: Applicant's file kept for one year and then reviewed for status. Employee's file kept until employee retires, transfers, or resigns. Files destroyed by shredding or burning.

System manager(s) and address: Special Assistant for Executive Assignments, Agency for International Development, Office of the Deputy Administrator, 320 21st Street, N.W. Washington, D.C. 20523

Notification procedure: Requests by individuals concerning the existence of a record may be addressed to:

Director
Office of Personnel and Manpower (SER/PM)
Attn: Privacy Liaison Officer
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523

or presented in person at State Annex 2, 515 22nd Street N. W., Washington, D.C. 20523.

Information Required: Individual's name, place and date of birth. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security number and dates and places of service.

Record access procedures: Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to Sec. 215.4(c) or (d) of the Agency's regulations as published in this issue of the Federal Register.

Contesting record procedures: Written requests from individuals to amend their record should be mailed or presented in person to the same addresses as stated in the Notification Section above.

Requests for review of a refusal to amend a record should be made in writing and mailed or delivered to:

Administrator

Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523

ATTENTION: Executive Secretary - Privacy Review Request.

Both the envelope and the letter should be clearly marked Attention: Executive Secretary, Privacy Review Request.

Record source categories: Information provided by the applicant or employee, educational institutions, and documents originated by A.I.D., the White House other U.S. Government Departments and Agencies, Members of Congress, organizations and persons.

A.I.D. - 13

System name: Orientation and Training Records.

System location: Records are maintained in various offices in Washington and abroad that have responsibilities in processing applications. See Appendix A for actual location of these offices.

Categories of individuals covered by the system: Employees of A.I.D., employees of other U.S. Agencies assigned to A.I.D., A.I.D. contractor personnel and dependents of the foregoing; personnel from voluntary organizations, foreign governments and international organizations who apply for participating agency training programs.

Categories of records in the system: In addition to central records in custody of A.I.D., but officially 'maintained' by the Civil Service Commission, the Agency maintains biographical information, training applications, college transcripts, thesis papers, language aptitude and proficiency scores, micellaneous test scores and correspondence, and evaluations of employees in training.

Authority for maintenance of the system: Foreign Assistance Act of 1961, as amended (P.L. 87-195), Sec 621; and the Foreign Service Act of 1946 amended Title 5, U.S.C. Sec 301, 1302, 2951, 4118, 4308, and Executive Order 10561, Sept 13, 1954.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To colleges, universities, and other formal training institutions, for the purpose of nominating or recommending employees of the Agency for academic studies or training at such institutions, law enforcement agencies, U.S. Government agencies, A.I.D. contractors, courts, the Department of State, foreign governments and international agencies, Members of Congress, and individuals' medical advisers for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folders.

Retrievability: By name of individual or other personal identifier.

Safeguards: Located in metal file cabinets with three-way combination locks in secure premises with access limited to those whose official duties require access.

Retention and disposal: Selected records disposed of after one to five years by shredding or burning; records of more permanent value disposed of in same manner after retirement, transfer or resignation of employee to which they pertain.

System manager(s) and address: The Chief, Professional Studies and Career Development Division, Agency for International Development, 1735 N. Lynn Street, Arlington, Virginia. Additional records are maintained by Administrative and Executive officers and office supervisors in A.I.D. Washington offices located abroad. See Appendix A for actual location of offices.

Notification procedure: Requests by individuals concerning the existence of a record may be addressed to:

Director
Office of Personnel and Manpower (SER/PM)
Attn: Privacy Liaison Officer
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523

or presented in person at State Annex 2, 515 22nd Street N. W., Washington, D.C. 20523.

For offices abroad, to the Privacy Liaison Officer at the applicable address in Appendix A.

Information Required: Individual's name, place and date of birth. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security number and dates and places of service.

Record access procedures: Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to Sec. 215.4(c) or (d) of the Agency's regulations as published in this issue of the Federal Register.

Contesting record procedures: Written requests from individuals to amend their record should be mailed or presented in person to the same addresses as stated in the Notification Section above.

Requests for review of a refusal to amend a record should be made in writing and mailed or delivered to:

Administrator
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523

ATTENTION: Executive Secretary - Privacy Review Request.

Both the envelope and the letter should be clearly marked Attention: Executive Secretary - Privacy Review Request.

Record source categories: The individual concerned and A.I.D. employees acting in their official capacities.

A.I.D. - 14

System name: Awards and Incentives Records.

System location: a. Central File: Incentive Awards Branch, Office of Personnel and Manpower, Agency for International Development, 515 22nd Street N. W., Washington, D.C. 20523.

b. Decentralized files are maintained in various Washington offices and offices abroad having responsibility for initiating and/or implementing incentive award activities or programs. See Appendix A for actual location of these offices.

Categories of individuals covered by the system: Foreign Service and Civil Service Employees of A.I.D. and employees of other governemnt agencies.

Categories of records in the system: In addition to central records in the custody of A.I.D. but officially 'maintained' by the Civil Service Commission the agency maintains forms recording employee suggestions, supervisor's recommendations, award citations, and agency decisions.

Authority for maintenance of the system: Foreign Assistance Act of 1961 as amended, Section 621 (a); Foreign Service Act of 1946 as amended, 5 U.S.C. Chapter 45.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folders.

Retrievability: By name of individual.

Safeguards: Located in metal file cabinets with three-way combination locks in secured premises with access limited to those persons whose official duties require access.

Retention and disposal: Destroyed one year following completion of program or granting of award; or when obsolete.

System manager(s) and address: a. Central File: Chief Incentive Awards Branch, Office of Personnel and Manpower, Agency for International Development at the location stated above.

b. Executive Officer or principal Administrative Officer in A.I.D. Washington offices and offices abroad. See Appendix A for actual location of offices.

Notification procedure: Requests by individuals concerning the existence of a record may be addressed to:

Director
Office of Personnel and Manpower (SER/PM)
Attn: Privacy Liaison Officer
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523

or presented in person at State Annex 2, 515 22nd Street N. W., Washington, D.C. 20523.

For offices abroad, to the Privacy Liaison Officer at the applicable address in Appendix A.

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Information Required: Individual's name, place and date of birth. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security number and dates and places of service.

Record access procedures: Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to Sec. 215.4(c) or (d) of the Agency's regulations as published in this issue of the Federal Register.

Contesting record procedures: Written requests from individuals to amend their record should be mailed or presented in person to the same addresses as stated in the Notification Section above.

Requests for review of a refusal to amend a record should be made in writing and mailed or delivered to:

Administrator
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523
ATTENTION: Executive Secretary - Privacy Review Request.

Both the envelope and the letter should be clearly marked Attention: Executive Secretary, Privacy Review Request.

Record source categories: The individual concerned and A.I.D. employees acting in their official capacities.

A.I.D. - 15

System name: Employees Payroll Records.

System location: a. For automated files - Office of Data Management, Agency for International Development, 1975 Florida Avenue, Washington, D.C.

b. For employee case file - Employee Services Division, Office of the Controller, Agency for International Development, 1975 Florida Avenue, Washington, D.C.

c. For alimony and child support garnishment file - Employee Relations Branch, Office of Personnel and Manpower, Agency for International Development, 515 22nd Street N. W., Washington, D.C. 20523.

d. For retired files - Washington National Records Center, 4205 Suitland Road, Suitland, Maryland.

Categories of individuals covered by the system: A.I.D. employees including Direct-hire employees assigned to positions in the United States, U.S. citizen direct-hire employees assigned to positions overseas, personal services contractors, other contract employees; and employees of Federal, state, or local government agencies assigned to A.I.D.

Categories of records in the system: This system consists of five files, three of which are computerized records maintained on magnetic discs and magnetic tapes. The other two are manual files maintained in filing cabinets These files are described below.

a. Employee Case File - this manual file contains copies of SF-50's, withholding statements, bond allotment slips, health benefits forms, life insurance forms, retirement forms and other papers concerning payroll matters.

b. New American Payroll System Automated Master Employee File this is an automated file. Individual records contain the following types of information; name, Social Security account number, country post, union indicator, timekeeper code, W-2 mail indicator, retirement system, federal government life insurance, health benefits, birth date, a wide variety of dates including those that indicate suspense actions which are due at a future date, and other dates for the use of financial managers such as limited appointment expiration date, effective date of pay change; allowances, deductions, hours worked, leave-severance pay, and federal and state income tax.

c. Payroll History File- this file is an automated file. Individual records contain Social Security account number, current pay, year to date pay, tax status, allotments, bonds, time and attendance, retirement, insurance and other pay data.

d. Address File - this is an automated file. Individual records contain address records for bonds, allotment, paychecks; W-2 mailing address, agency, Social Security account number, bond number, checkline code and financial organization.

e. Alimony and Child Support Garnishment File - this is a manual file which contains court judgement and writ and other legal orders concerning alimony and/or child support payments.

Authority for maintenance of the system: Foreign Assistance Act of 1961 (as amended) 621(a), 625, 636(b), (c); Chapter 51 title 5 U.S.C.; Executive Order 10927; P.L. 93-647; Foreign Service Act of 1946, as amended; and Social Security Act (42 U.S.C. 659).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To Treasury Department for payroll purposes.

To Treasury Department for issuance of savings bonds.

To Civil Service Commission for retirement, health and life insurance purposes.

To the Social Security Administration for Federal Insurance Compensation Act purposes.

To the Internal Revenue Service for taxable earnings and withholding purposes.

To the Combined Federal Campaign for charitable contribution purposes.

To American Federation of Government Employees for union dues.

To American Foreign Service Association for union dues.

To the States of California, New York, Pennsylvania, Maryland, Virginia, and the District of Columbia, under agreements entered into by the Secretary of the Treasury, wage and tax information consisting of name, address, social security number, wages (as defined in Section 3401(a) of the Internal Revenue Code, 26 U.S.C. 3401(a)), and tax withheld, if any. This data is provided generally with respect to employees of the Agency who are employed in the State and subject to the tax (whether or not tax is withheld); or, who have opted for voluntary withholding for their taxing jurisdiction.

To the Attorney General of the United States or his authorized representative in connection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice, or carried out as the legal representative of the Executive Branch agencies.

To the Internal Revenue Service for audit and inspection and investigation purposes.

To the Department of Health, Education and Welfare for microfilming and producing microfiche.

To the Chesapeake and Potomac Telephone Company (a contractor) and its employees for the purpose of telecommunications transmission of data between the central computer facility and the remote terminal.

To the Department of State for retirement and microfilming purposes.

To judgement holder for the purposes of garnishment for the payment of alimony or child support.

To a duly appointed hearing examiner or arbitrator (an employee of another federal agency) for the purpose of conducting a hearing in connection with an employee's appeal involving disclosures of records of A.I.D. financial systems.

To an arbitrator who is given a contract pursuant to a negotiated labor agreement to hear an employee's grievance involving disclosure of records of the financial management system.

To the Civil Service Commission concerning pay, benefits, retirement deductions, and other information necessary for the Commission to carry out its Government-wide personnel management functions.

To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Automated records are stored on magnetic disc and/or magnetic tape. The manual files contain microfilm, microfiche, printed forms, punched cards, and correspondence.

Retrievability: The five files described above are indexed in the following manner; a. Employee Case File - By name of employee.

b. New American Payroll System Automated Master Employee File - by Social Security account number.

c. Payroll History File - by Agency (A.I.D. and O.P.I.C.) and Social Security account number.

d. Address File - by Social Security account number.

e. Alimony and Child Support Garnishment File - by name.

Safeguards: For the automated system, a 'password' is assigned to A.I.D. employees who in the performance of their official duties, must have access to these files. For the manual files they are located in metal file cabinets with three-way combination locks or in secured premises with access limited to those whose official duties require access. The computer facility, including the tape library, is located in secured premises with combination-lock door and, access is limited to persons of verified identity who require access.

Retention and disposal: a. The Employee Case Files are maintained for ten years after the date of an employee's separation. The file is transferred to the Washington National Records Center one year after audit.

b. The New American Payroll System Automated Master Employee File is maintained for a two-week period; then it is updated by writing over the old record. This automated record duplicates the information in the employee case file.

c. The Payroll History File is maintained for five years; then it is written over.

d. The Address File is updated periodically as needed and the old version is written over.

e. The Alimony and Child Support Garnishment File is maintained in the office for a period of seven years after an employee is transferred or separated.

System manager(s) and address: For Alimony and Child Support Garnishment File: Chief, Employee Relations Branch, Office of Personnel and Manpower, Agency for International Development, 515 22nd Street N. W., Washington, D.C. 20523.

For all other files: Assistant Controller, Employee Services Division, Financial Management, Agency for International Development 1975 Florida Avenue, Washington, D.C.

Notification procedure: Requests by individuals concerning the existence of a record may be addressed to:

Director
Office of Personnel and Manpower (SER/PM)
Attn: Privacy Liaison Officer
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523

or presented in person at State Annex 2, 515 22nd Street N. W., Washington, D.C. 20523.

Information Required: Individual's name, place and date of birth. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security number and dates and places of service.

Record access procedures: Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to Sec. 215.4(c) or (d) of the Agency's Regulations as published in this issue of the Federal Register.

Contesting record procedures: Written requests from individuals to amend their record should be mailed or presented in person to the same addresses as stated in the Notification Section above.

Requests for review of a refusal to amend a record should be made in writing and mailed or delivered to:

Administrator
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523
ATTENTION: Executive Secretary - Privacy Review Request.

Both the envelope and the letter should be clearly marked Attention: Executive Secretary - Privacy Review Request.

Record source categories: The individual concerned and A.I.D. employees acting in their official capacities.

A.I.D. - 16

System name: Attendance and Leave Reporting Records.

System location: Central records located in Office of Financial Management, Agency for International Development, 1975 Florida Avenue, N.W., Washington D.C. Timekeeper's records are kept by the employing Washington office and offices abroad. See Appendix A for a listing of these locations.

Categories of individuals covered by the system: Employees of A.I.D. and Personal Service Contractors.

Categories of records in the system: Central Records (Employee Payroll File) and Timekeepers Records contain various combinations of the following: time and attendance cards, leave requests forms, correspondence and memorandums on leave, payroll deductions for savings bonds and allotments to various institutions and correspondence on reimbursements.

Authority for maintenance of the system: Title 5, U.S.C. Section 1302, 2951, 4118, 4308 and sections 112 (a) and 113 of the Budget and Accounting Procedures Act of 1950, and Title 6, GAO Policies and Procedures Manual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

To the Civil Service Commission concerning pay, benefits, retirement deductions, and other information necessary for the Commission to carry out its Government-wide personnel management functions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folders.

Retrievability: By name of individual and Social Security number

Safeguards: Located in metal file cabinets with three-way combination locks in a secure space or secured premises with access limited to those whose official duties require access.

Retention and disposal: Destroyed after 5 years by burning or shredding.

System manager(s) and address: Assistant Controller, Employees Services Division, at the location shown in System Location Section above.

Notification procedure: Requests by individuals concerning the existence of a record may be addressed to:

Director
Office of Personnel and Manpower (SER/PM)
Attn: Privacy Liaison Officer
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523

or presented in person at State Annex 2, 515 22nd Street N. W., Washington, D.C. 20523.

For offices abroad, to the Privacy Liaison Officer at the applicable address in Appendix A.

Information Required: Individual's name, place and date of birth. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security number and dates and places of service.

Record access procedures: Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to Sec. 215.4(c) or (d) of the Agency's Regulations as published in this issue of the Federal Register.

Contesting record procedures: Written requests from individuals to amend their record should be mailed or presented in person to the same addresses as stated in the Notification Section above.

Requests for review of a refusal to amend a record should be made in writing and mailed or delivered to:

Administrator
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523
ATTENTION: Executive Secretary - Privacy Review Request.

Both the envelope and the letter should be clearly marked Attention: Executive Secretary, Privacy Review Request.

Record source categories: The individual concerned and A.I.D. employees acting in their official capacities.

A.I.D. - 17

System name: Employee-Owned or-Leased Property Records.

System location: Records are located at various overseas offices listed in Appendix A.

Categories of individuals covered by the system: U.S. government employees and contract employees of A.I.D.

Categories of records in the system: Records on leasing living quarters whose rent and utility costs are reimbursed wholly or in part by A.I.D. and personally-owned vehicles and other property at post. Records contain a description of such property, and how property is disposed of at post.

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Authority for maintenance of the system: Foreign Assistance Act of 1961r as amended, Sec. 636;-Foreign Service Act of 1946 as amended

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To the Department of State for the issuance of licenses and establishing of duty free status of A.I.D. personnel.

To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folders.

Retrievability: By name of individual

Safeguards: Located in metal file cabinets with three-way combination locks in secured premises with access limited to those whose official duties require access.

Retention and disposal: After employee leaves post, records on owned property are retained for four years and on leased property for two years, then destroyed.

System manager(s) and address: Director, Office of Management Operations, 320 21st Street N.W., Washington, D.C. 20523.

Notification procedure: Requests by individuals concerning the existence of a record may be addressed to:

Director
Office of Personnel and Manpower (SER/PM)
Attn: Privacy Liaison Officer
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523

or presented in person at State Annex 2, 1601 North Kent Street, Arlington, Virginia.

For offices abroad, to the Privacy Liaison Officer at the applicable address in Appendix A.

Information Required: Individual's name, place and date of birth. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security number and dates and places of service.

Record access procedures: Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to Sec. 215.4(c) or (d) of the Agency's Regulations as published in this issue of the Federal Register.

Contesting record procedures: Written requests from individuals to amend their record should be mailed or presented in person to the same addresses as stated in the Notification Section above.

Requests for review of a refusal to amend a record should be made in writing and mailed or delivered to:

Administrator
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523
ATTENTION: Executive Secretary - Privacy Review Request.

Both the envelope and the letter should be clearly marked Attention: Executive Secretary - Privacy Review Request.

Record source categories: U.S. Government employees, local and contract employees of A.I.D. and American Embassy personnel.

A.I.D. - 18

System name: Employee Use of Property Owned or Leased by the U.S. Government Records.

System location: Records are located at Agency Washington headquarters and at offices abroad. See Appendix A for actual location of those offices

Categories of individuals covered by the system: U.S. Government employees, contract employees of A.I.D., and guests at A.I.D.-operated staff or guest houses.

Categories of records in the system: Records pertaining to the occupancy or use of property owned or leased by the U.S. Government, and to facilities and/or services provided such as: government-leased housing; government-owned furniture, appliances and furnishings; U.S. Government property in custody used for official purposes; government-owned vehicles used for official or unofficial purposes; parking permits; government-purchased publications; long-distance telephone calls made from A.I.D. facilities; U.S. Government vehicle repair facilities; commissory, liquor, and post exchange purchases; gasoline purchased from or through post exchange purchases; gasoline purchased from or through an A.I.D. overseas post; government-furnished housing maintenance and repair services; and A.I.D. staff or guest house facilities.

Authority for maintenance of the system: Foreign Assistance Act of 1961 as amended, Sec. 621, 635; Foreign Service Act of 1946 as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folders, and card index file.

Retrievability: By name of individual.

Safeguards: Located in metal file cabinets with three-way combination locks in secured premises with access limited to those whose official duties require access.

Retention and disposal: Records on the issuance of U.S. Government property are destroyed three years after the property is turned in or otherwise accounted for. Individual trip tickets reflecting official and unofficial use of vehicles are destroyed 6 months after the end of the fiscal year. Maintenance and repair records and related papers pertaining to the maintenance and repair of individual residential units occupied by individuals at overseas posts are destroyed at the end of 4 years. Destruction is by shredding or burning.

System manager(s) and address: Director, Office of Management Operations, Agency for International Development, 320 21st Street, N.W. Washington, D.C.

Notification procedure: Requests by individuals concerning the existence of a record may be addressed to:

Director
Office of Personnel and Manpower (SER/PM)
Attn: Privacy Liaison Officer
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523

or presented in person at State Annex 2, 515 22nd Street N. W., Washington, D.C. 20523.

For offices abroad, to the Privacy Liaison Officer at the applicable address in Appendix A.

Information Required: Individual's name, place and date of birth. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security number and dates and places of service.

Record access procedures: Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to Sec. 215.4(c) or (d) of the Agency's Regulations as published in this issue of the Federal Register.

Contesting record procedures: Written requests from individuals to amend their record should be mailed or presented in person to the same addresses as stated in the Notification Section above.

Requests for review of a refusal to amend a record should be made in writing and mailed or delivered to:

Administrator
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523
ATTENTION: Executive Secretary - Privacy Review Request.

Both the envelope and the letter should be clearly marked Attention: Executive Secretary - Privacy Review Request.

Record source categories: U.S. Government employees, local and contract employees of A.I.D., and personnel of the Department of State.

A.I.D. - 19

System name: Travel and Transportation Records.

System location: Central Records located in A.I.D. Washington Headquarters. Decentralized records maintained in various Washington offices and offices abroad having responsibilities for initiating requests for travel or transportation of things. Travel Advance Control History File for Automated Files: Office of Data Management, 1875 Connecticut Avenue, N. W., Washington, D.C. Travel Advance, Employee Case File: Employee Services Division, Office of the Controller, 1875 Connecticut Avenue, N. W., Washington, D.C. See Appendix A for actual location of these offices.

Categories of individuals covered by the system: A.I.D. employees and their dependents, individuals whose travel is sponsored or paid for by A.I.D., and visitors to A.I.D. offices abroad.

Categories of records in the system: a. Central Records: travel authorizations; itineraries; government bills of lading, government transportation requests; card file pertaining to passports, travel and shipment of effects; and correspondence.

b. Decentralized Records: copies of documents maintained in the central records; export/import permits; baggage declarations; customs declarations; passports and records of applications for visas; travel advance requests; arrival and departure notices; record of clearances prior to departure from post abroad; packing lists and information on meetings abroad including meeting schedules and biographical sketch of attendees.

c. Travel Advance, Employee Case File: a manual file containing copies of travel authorizations and related paid vouchers and correspondence.

d. Travel Advance Control History File: automated file containing name, social security account number, appropriation code, date issued, advance issued and advance outstanding.

Authority for maintenance of the system: Foreign Assistance Act of 1961 as amended, esp. Sec. 621, 636 (a) and (b); Foreign Service Act of 1946 as amended, Sec. 911; and Chapter 57, 5 U.S.C.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To commercial travel, transportation and shipping companies and agents for making travel, transportation and shipping arrangements.

To U.S. Treasury for payment of bills and vouchers.

To U.S. Dispatch Agents to arrange shipment and clearance of effects.

To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folder

Retrievability: Individual's name or other personal identifier.

Safeguards: Biographic information and passports kept in metal cabinets with three way combination lock. Other records kept in areas with access limited to those whose official duties require access.

Retention and disposal: Retained for four years and then destroyed by shredding or burning.

System manager(s) and address: a. Central Records: Director, Office of Management Operations, Agency for International Development, 320 21st Street, N.W. Washington, D.C. 20523

b. Decentralized Records: Administrative and Executive officers and office supervisors in A.I.D. Washington offices and offices abroad. See Appendix A for actual location of offices.

c. Travel Advance, Employee Case File: Chief, Central Accounts Division, Office of the Controller, 1875 Connecticut Avenue, N. W., Washington, D.C.

d. Travel Advance Control History File: Chief, Information Management Division, Office of Data Management, 1875 Connecticut Avenue, N. W., Washington, D.C.

Notification procedure: Requests by individuals concerning the existence of a record may be addressed to:

Director
Office of Personnel and Manpower (SER/PM)
Attn: Privacy Liaison Officer
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523

or presented in person at State Annex 2, 515 22nd Street N. W., Washington, D.C. 20523.

For offices abroad, to the Privacy Liaison Officer at the applicable address in Appendix A.

Information Required: Individual's name, place and date of birth. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security number and dates and places of service.

Record access procedures: Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to Sec. 215.4(c) or (d) of the Agency's Regulations as published in this issue of the Federal Register.

Contesting record procedures: Written requests from individuals to amend their record should be mailed or presented in person to the same addresses as stated in the Notification Section above.

Requests for review of a refusal to amend a record should be made in writing and mailed or delivered to

Administrator
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523
ATTENTION: Executive Secretary - Privacy Review Request.

Both the envelope and the letter should be clearly marked Attention: Executive Secretary - Privacy Review Request.

Record source categories: The individual concerned and A.I.D. employees acting in their official capacities

A.I.D. - 20

System name: Claims Records.

System location: a. Central Records:

Office of Personnel and Manpower, Agency for International Development, 1601 Kent Street, Arlington, Virginia for allowance claims and health benefit claims.

Office of the General Counsel, Agency for International Development, 320 21 st Street, N.W., Washington, D.C. for tort claims.

Office of Management Operations, Agency for International Development, 320 21st Street, N.W., Washington, D.C. 20523 for claims involving loss of private personal property.

Office of Financial Management, Agency for International Development, 1975 Florida Avenue, N.W., Washington, D.C. for all other claims.

b. Decentralized records maintained in various Washington offices and offices abroad having responsibilities for initiating requests for claims activity. See Appendix A for actual location of these offices.

Categories of individuals covered by the system: Employees who have filed claims against the Agency and employees against whom the Agency has filed a claim.

Categories of records in the system: a. Central Records: Documentation of claims, voucher disallowances, duplicate payment, and bills for collection.

b. Decentralized Records: Copies of documents maintained in the central records, legal reviews and opinions, and referrals to G.A.O.

Authority for maintenance of the system: Foreign Assistance Act of 1961 as amended, Sec. 621; Foreign Service Act of 1946, as amended; Federal Tort Claims Act and G.A.O. Policy and Procedures Manual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To U.S. Treasury for payment.

To U.S. Despatch Agents to verify movement of persons and things and costs thereof.

To Office of Operations, Department of State, for review and initial adjudication of private personal property claims.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To the State - A.I.D. - U.S.I.A. Joint Survey Board for review of claims arising from evacuation.

To commercial travel, transportation, and shipping companies and agents to verify actual costs of services;

To the Office of the Director of Medical Services, Department of State of determine validity of medical claims.

To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and interna-

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tional agencies, and Members of Congress, for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Storage: Paper copy in file folders.

Retrievability: By name of individual or other personal identifier.

Safeguards: Located in metal file cabinets with three-way combination locks in secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained for seven years and then destroyed by shredding or burning.

System manager(s) and address: a. Central Records:

For Allowance Claims: Chief, Foreign Service Technical and Staff Support Branch, Agency for International Development, 515 22nd Street N. W., Washington, D.C. 20523.

For Health Benefit Claims: Chief, Employee Relations Branch, Agency for International Development, 515 22nd Street N. W., Washington, D.C. 20523.

For Tort Claims: Deputy General Counsel, Agency for International Development, 320 21st Street, N.W.,.Washington, D.C.

For Private Personal Property Claims: Office of Management Operations, Agency for International Development, 320 21st Street, N.W., Washington, D.C. 20523.

For Uncollectable Claims: Assistant Controller, Central Accounting Division, Office of Financial Management, Agency for International Development, 1975 Florida Avenue, Washington, D.C.

b. Decentralized Records: Administrative and Executive Officers in A.I.D., Washington and offices abroad. See Appendix A for actual location of office.

Notification procedure: Requests by individuals concerning the existence of a record may be addressed to:

Director
Office of Personnel and Manpower (SER/PM)
Attn: Privacy Liaison Officer
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523

or presented in person at State Annex 2, 515 22nd Street N. W., Washington, D.C. 20523.

For offices abroad, to the Privacy Liaison Officer at the applicable address in Appendix A.

Information Required: Individual's name, place and date of birth. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security number and dates and places of service.

Record access procedures: Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to Sec. 215.4(c) or (d) of the Agency's Rules as published in this issue of the Federal Register.

Contesting record procedures: Written requests from individuals to amend their record should be mailed or presented in person to the same addresses as stated in the Notification Section above.

Requests for review of a refusal to amend a record should be made in writing and mailed to

Administrator
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523
ATTENTION: Executive Secretary - Privacy Review Request.

Both the envelope and the letter should be clearly marked Attention: Executive Secretary - Privacy Review Request.

Record source categories: The individual concerned and A.I.D. employees acting in their official capacities.

A.I.D. - 21

System name: Public Information Records.

System location: Office of Public Affairs, Agency for International Development, 320 21st Street, N.W. Washington, D.C. 20523.

Categories of individuals covered by the system: Employees of A.I.D., Members of Congress, individuals associated with foreign economic assistance, and individuals requesting information under the Freedom of Information Act.

Categories of records in the system: Biographical information on employees who serve as public speakers, press releases, news clippings, photographs, requests for access to A.I.D. records under the Freedom of Information Act, and related correspondence.

Authority for maintenance of the system: Foreign Assistance Act of 1961, as amended, Sec 621, 634(b); PL93-502; 5 U.S.C. 301; and the Freedom of Information Act (5 U.S.C. 552).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Persons or organizations requesting A.I.D. to make available an employee to speak in public on A.I.D. activities are provided a biographical sketch of the speaker in order to select and introduce the speaker.

To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set forth in the Statement of Generel Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copies and photographs in file folders.

Retrievability: By name of individual.

Safeguards: Located in metal file cabinets with three-way combination lock in a secure space or secured premises with access limited to those whose official duties require access.

Retention and disposal: Destroyed after five years by burning.

System manager(s) and address: Director, Office of Public Affairs, Agency for International Development, 320 21st Street, N.W., Washington D.C. 20523.

Notification procedure: Requests by individuals concerning the existence of a record may be addressed to:

Director
Office of Personnel and Manpower (SER/PM)
Attn: Privacy Liaison Officer
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523

or presented in person at State Annex 2, 515 22nd Street N. W., Washington, D.C. 20523.

For offices abroad, to the Privacy Liaison Officer at the applicable address in Appendix A.

Information Required: Individual's name, place and date of birth. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security number and dates and places of service.

Record access procedures: Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to Sec. 215.4(c) or (d) of the Agency's Regulations as published in this issue of the Federal Register.

Contesting record procedures: Written requests from individuals to amend their record should be mailed or presented in person to the same addresses as stated in the Notification Section above.

Requests for review of a refusal to amend a record should be made in writing and mailed or delivered to:

Administrator
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523
ATTENTION: Executive Secretary - Privacy Review Request.

Both the envelope and the letter should be clearly marked Attention: Executive Secretary-Privacy Review Request.

Record source categories: Employees, public media information, A.I.D. records, and individuals requesting access to records under the Freedom of Information Act.

A.I.D. - 22

System name: Congressional Relations, Inquiries, and Travel Records.

System location: a. Principal files are maintained in the Office of Legislative Affairs, A.I.D., 320 21st Street, N.W., Washington, D.C. 20523.

b. Records of Congressional inquiries concerning employees of and applicants for employment with the Office of General Counsel are maintained in the Office of the General Counsel, A.I.D., 320 21st Street, N.W., Washington, D.C. 20523.

c. Related files are maintained in certain areas of the field offices listed at Appendix A.

d. Retired files are maintained in the Washington National Records Center, 4205 Suitland Road, Suitland, Maryland.

Categories of individuals covered by the system: Members of Congress, members of their personal staffs and of Congressional Committee staffs; employees of A.I.D. or applicants for employment who are or have been the subject of Congressional inquiries and recommendations.

Categories of records in the system: Congressional correspondence and memoranda of Congressional telephone calls covering (1) requests for information and assistance on matters related to foreign assistance; (2) requests for assistance from the Agency in arranging official travel overseas by Members of Congress, their staffs or committee staffs to inspect and observe foreign assistance programs abroad, and (3) inquiries about A.I.D. employees and recommendations concerning employees or applicants for employment. Also includes information about individual members of Congress derived from public media sources, including biographic records, and extracts from the Congressional Record.

Authority for maintenance of the system: Foreign Assistance Act of 1961 as amended, especially Section 634(b); 5 U.S.C. 301; 44 U.S.C., Chapters 31 and 33.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folders.

Retrievability: By name of individual member of Congress.

Safeguards: Except for material completely in the public domain, located in a secure space or secured premises with access limited to those whose official duties require the information.

Retention and disposal: Except for correspondence involving matters of policy, records are destroyed by burning after no more than 15 years; files related to individual Congressmen are retired at the end of each session of Congress. Records involving policy matters are retained permanently in archival files.

System manager(s) and address: a. For records maintained at Location (a): Assistant Administrator for Legislative Affairs, A.I.D., 320 21st Street, N.W., Washington, D.C. 20523.

b. For records maintained at Location (b): Office of the General Counsel, A.I.D., 320 21st Street, N.W. Washington, D.C. 20523.

c. For records maintained at Location (c): Executive Officer of the appropriate A.I.D. office listed at Appendix A.

Notification procedure: Requests by individuals concerning the existence of a record may be addressed to:

Director
Office of Personnel and Manpower (SER/PM)
Attn: Privacy Liaison Officer
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523

or presented in person at State Annex 2, 515 22nd Street N. W., Washington, D.C. 20523.

For offices abroad, to the Privacy Liaison Officer at the applicable address in Appendix A.

Information Required:. Individual's name. For records of Congressional correspondence, include name of Congressman and appropriate session of Congress. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security number and dates and places of service.

Record access procedures: Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to Sec. 215.4(c) or (d) of the Agency's Regulations as published in this issue of the Federal Register.

Contesting record procedures: Written requests from individuals to amend their record should be mailed or presented in person to the same addresses as stated in the Notification Section above.

Requests for review of a refusal to amend a record should be made in writing and mailed or delivered to:

Administrator
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523

ATTENTION: Executive Secretary - Privacy Review Request.

Both the envelope and the letter should be clearly marked Attention: Executive Secretary, Privacy Review Request.

Record source categories: Members of Congress and their staffs; Congressional Committee Staff Members, A.I.D. employees; Congressional Directory, Congressional Quarterly, and Congressional Record; newspapers, magazines, and other public media.

A.I.D. - 23

System name: Employees Equal Employment Opportunity Complaint Investigative Records.

Security classification: Confidential.

System location: Files are maintained in the Office of Equal Opportunity, Agency for International Development, 320 21st Street, N.W. Washington, D.C.

Retired Files, Washington National Records Center, 4205 Suitland Road, Suitland, Maryland.

Categories of individuals covered by the system: Employees of A.I.D. who have filed a discrimination complaint.

Categories of records in the system: Employee's name, hearing transcripts, depositions, witness statements, salary, grade, supervisor's evaluation, biographic data.

Authority for maintenance of the system: Executive Order 11478 of Aug 8, 1969; and Federal Personnel Manual Chapter 713.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To the Civil Service Commission for the purposes of compiling statistics on employees.

To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folders.

Retrievability: By name of individual.

Safeguards: Located in metal file cabinets with three-way combination lock in secured premises with access limited to those whose official duties require access.

Retention and disposal: Records are retained for three years after the closing of a case and are then retired to the Washington National Records Center for 10 years after termination of employee or 20 years after last entry in file.

System manager(s) and address: Director, Equal Opportunity Programs at the location shown in System Location Section above.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552 a (k)(5), all investigatory material in the record which meets the criteria of 5 U.S.C. 552a (k)(5) is exempted from the notice, access, and contest requirements of Sections (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f) of 5 U.S.C. 552a in order to fulfill commitments made to protect the confidentiality of sources. See Agency Regulations published in this issue of the Federal Register.

A.I.D. - 24

System name: Emergency Case File.

System location: a. Central records located in A.I.D. Washington Headquarters.

b. Decentralized records maintained in various Washington offices and offices abroad having responsibilities for administrative processing. See Appendix A for office locations.

c. For retired records: Washington National Records Center, 4205 Suitland Road, Suitland, Maryland.

Categories of individuals covered by the system: A.I.D. employees and employees of other U.S. Government Agencies assigned to A.I.D.

Categories of records in the system: a. Material and claims connected with employee deaths, employee emergency locator cards, blood donor records and emergency visitation travel.

b. Decentralized Records: Copies of documents maintained in the central records.

Authority for maintenance of the system: Foreign Assistance Act of 1961, as amended; Foreign Service Act of 1946, as amended; and Title 5, Sub-chapter VIII.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To survivors of em-

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ployees for the purpose of settling claims and to families of employees for emergency visitation travel arrangements and arrival notifications.

To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folders.

Retrievability: By name of individual.

Safeguards: Safeguarded in metal file cabinets with three-way combination locks.

Retention and disposal: Cases related to employee death are retained for three years and then retired to Washington National Records Center for permanent retention. Emergency locator cards and blood donor records are destroyed when obsolete. Emergency visitation records are filed in Offical Personnel Folder upon completion of travel.

System manager(s) and address: a. Central Records: Chief, Employee Relations Branch, Office of Personnel and Manpower, Agency for International Development, Washington, D.C.

b. Decentralized Records: Administrative and Executive officers and office supervisors in A.I.D. Washington offices and offices abroad. See Appendix A for actual location of offices.

Notification procedure: Requests by individuals concerning the existence of a record may be addressed to:

Director
Office of Personnel and Manpower (SER/PM)
Attn: Privacy Liaison Officer
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523

or presented in person at State Annex 2, 515 22nd Street N. W., Washington, D.C. 20523.

For offices abroad, to the Privacy Liaison Officer at the applicable address in Appendix A.

Information Required: Individual's name, place and date of birth. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security number and dates and places of service.

Record access procedures: Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to Sec. 215.4(c) or (d) of the Agency's Regulations as published in this issue of the Federal Register.

Contesting record procedures: Written requests from individuals to amend their record should be mailed or presented in person to the same addresses as stated in the Notification Section above.

Requests for review of a refusal to amend a record should be made in writing and mailed or delivered to

Administrator
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523
ATTENTION: Executive Secretary - Privacy Review Request.

Both the envelope and the letter should be clearly marked Attention: Executive Secretary-Privacy Review Request.

Record source categories: The individual concerned and A.I.D. employees acting in their official capacities.

A.I.D. - 25

System name: Privacy Act Implementation Records.

System location: Office of Personnel and Manpower, Personnel Services Division, 515 22nd Street N. W., Washington, D.C. 20523

Categories of individuals covered by the system: Individuals, U.S. Federal and local governments, and Members and Committees of Congress.

Categories of records in the system: Correspondence and other documents related to requests for information about the existence of records, requests for access to information, requests for amendments to records, and requests for review of refusals to amend records.

Authority for maintenance of the system: Privacy Act of 1974(P.L.93-579) Sec. 552a (c), (e), (f), and (p); and 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folders.

Retrievability: By name of individual.

Safeguards: Maintained in metal containers with three-way combination locks and accessible only to authorized personnel with a need for the information in the performance of their offical duties.

Retention and disposal: Records are retained for one year and then retired to the Washington National Records Center for ten years before destruction.

System manager(s) and address: Privacy Liaison Officer, Office of Personnel and Manpower, Agency for International Development, 515 22nd Street N. W., Washington, D.C. 20523.

Notification procedure: Requests by individuals concerning the existence of a record may be addressed to:

Director
Office of Personnel and Manpower (SER/PM)
Attn: Privacy Liaison Officer
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523

or presented in person at State Annex 2, 515 22nd Street N. W., washington, D.C. 20523.

For offices abroad, to the Privacy Liaison Officer at the applicable address in Appendix A.

Information Required: Individual's name, place and date of birth. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security number and dates and places of service.

Record access procedures: Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to Sec. 215.4(c) or (d) of the Agency's Regulations as published in this issue of the Federal Register.

Contesting record procedures: Written requests from individuals to amend their record should be mailed or presented in person to the same addresses as stated in the Notification Section above.

Requests for review of a refusal to amend a record should be made in writing and mailed or delivered to:

Administrator
Agency for International Development
320 21st Street, N.W.
Washington, D.C. 20523
ATTENTION: Executive Secretary - Privacy Review Request.

Both the envelope and the letter should be clearly marked Attention: Executive Secretary-Privacy Review Request.

Record source categories: Individuals and Agency employees acting in their offical capacities.

A.I.D. - 26

System name: Litigation Records.

Security classification: Secret.

System location: a. Active files are maintained at the Office of the General Counsel, Agency for International Development, 320 21st Street, N.W. Washington, D.C. 20523.

b. Retired records are maintained at the Washington National Records Center, 4205 Suitland Road, Suitland, Maryland.

Categories of individuals covered by the system: Foreign Service employees, Civil Service employees, personal services contractors, former employees, and members of the public.

Categories of records in the system: Correspondence and other documents relating to disputed contracts, and tort claims against the Agency, and other claims and actions against the Agency.

Authority for maintenance of the system: Foreign Assistance Act of 1961, as amended; Foreign Service Act of 1946, as amended; Tort Claims Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, and Members of Congress, for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folders.

Retrievability: By name of employee and calendar year.

Safeguards: Maintained in combination vault insulated against fire and located in secure premises with access limited to those whose official duties require access.

Retention and disposal: Maintained for two years following settlement of case and then retired to Washington National Records Center for five years prior to destruction.

System manager(s) and address: Assistant General Counsel for Management and Administration, Office of the General Counsel, Agency for International Development 320 21st Street, Washington, D.C. 20523.

Systems exempted from certain provisions of the act: This system is exempt under 5 U.S.C. 552a (k)(1), (k)(2), and (k)(5) from the notice, access, and contest requirements of Sections (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f) of 5 U.S.C. 552a. These exemptions are claimed to protect the materials required by Executive Order to be kept secret in the interest of national defense or foreign policy, to prevent subjects of investigation from frustrating the investigatory process, to insure the proper functioning and integrity of law enforcement activities, to prevent disclosure of investigative techniques, to maintain the ability to obtain candid and necessary information, to fulfill commitments made to sources to protect the confidentiality of information, and to avoid endangering these sources. See Agency Regulations published in this issue of the Federal Register.

[FR Doc.77-27334 Filed 9-19-77;8:45 am]

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BOARD FOR INTERNATIONAL BROADCASTING

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

Pursuant to 5 U.S.C. 552a(e)(4), the Board for International Broadcasting hereby publishes the system of records as currently maintained by the agency. No changes have occurred since the last publication on December 7, 1976 (41 FR 53517).

Barry F. Gidley,
Budget and Administrative Officer.

BIB—1

System name: General Financial Records—BIB

System location: General Services Administration, Central Office; copies held by the Board (GSA holds records for the Board under contract).

Categories of individuals covered by the system: Board members, staff and consultants, past and present.

Categories of records in the system: SF-1038 application and account for advance of funds; vendor register and vendor payment tape.

Authority for maintenance of the system: 31 U.S.C., generally; Public Law 93-129, October 19, 1973.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Records are also released to GAO for audits; to the IRS for investigation; and to private attorneys, pursuant to a power of attorney.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and Tape.

Retrievability: Manual and automated by name.

Safeguards: Stored in guarded building; released only to authorized personnel.

Retention and disposal: Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address: Special Assistant to the Executive Director, Board for International Broadcasting, Suite 430, 1030 Fifteenth Street, NW., Washington, D.C. 20005.

Notification procedure: Contact system manager listed above.

Record access procedures: See Board access regulations in title I CFR IV Part 415.

Contesting record procedures: See Board access regulations in title I CFR IV Part 415.

Record source categories: The subject individual; the Board.

BIB—2

System name: Payroll records—BIB

System location: General Services Administration; Region Three office; copies held by the Board (GSA holds records for Board under contract).

Categories of individuals covered by the system: Board members, staff and consultants, past and present.

Categories of records in the system: Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records; requests for deductions; tax forms; W2 forms; overtime requests; leave data; retirement records.

Authority for maintenance of the system: 31 U.S.C., Generally; Public Law 93-129, October 19, 1973

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See appendix. Records also are released to GAO for audits; to the IRS for investigation; and to private attorneys, pursuant to a power of attorney.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and Tape.

Retrievability: Social security number.

Safeguards: Stored in guarded building; released only to authorized personnel.

Retention and disposal: Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address: Special Assistant to the Executive Director, Board for International Broadcasting, Suite 430, 1030 Fifteenth Street, NW., Washington, D.C. 20005.

Notification procedure: Contact the system manager listed above.

Record access procedures: See Board access regulations in title 1 CFR IV part 415.

Contesting record procedures: See Board access regulations in title 1 CFR IV Part 415.

Record source categories: The subject individual, the Board.

APPENDIX

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violations or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized offical engaged in investigation or settlement or a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of Federal personnel management.

A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that circular.

[FR Doc.77-27335 Filed 9-19-77;8:45 am]

COMMISSION OF FINE ARTS

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

In accordance with 552a(e)(4) of the Privacy Act of 1974, the Commission of Fine Arts hereby publishes the Systems of Records currently maintained by the Commission. No changes have occurred since the last annual publication on December 8, 1976 (41 FR 53767).

Signed in Washington, D.C., August 2, 1977.

Charles H. Atherton,
Secretary.

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CFA-1 Members of the Commission of Fine Arts and the Board of Architectural Consultants for Old Georgetown.
CFA-2 Personnel Administration.

CFA—1

System name: Members of the Commission of Fine Arts and the Board of Architectural Consultants for Old Georgetown—CFA

Security classification: None.

System location: Commission of Fine Arts offices, 708 Jackson Place, NW., Washington, D.C. 20006.

Categories of individuals covered by the system: Presidentially-appointed members of the Commission of Fine Arts and Commission-appointed members of the Board of Architectural Consultants for Old Georgetown.

Categories of records in the system: These records contain self-supplied biographical data; relevant newspaper and periodical clippings; appointment affidavits; appointment, acceptance, resignation, and other related correspondence.

Authority for maintenance of the system: An Act Establishing a Commission of Fine Arts, Public Law 181, 61st Congress, H. R. 19962, 40 U.S.C. 104, 36 Stat. 371; Old Georgetown Act, Public Law 808, 81st Congress, H. R. 5660, 40 U.S.C. 121, 53 Stat. 1144.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are routinely used for research and reference purposes, both in-house and for other government agencies and the general public.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Current records are stored in files in the second floor offices of the Commission and past records are stored in files in the basement file room of the Commission.

Retrievability: Records are arranged alphabetically by last name under the general headings of "FAA (Fine Arts Act)-CFA (Commission of Fine Arts)-Members" and "FAA-OGB (Old Georgetown Board)-Members".

Safeguards: Access to the basement file room is limited to Commission staff members or individuals escorted by a staff member; access to second floor files is under surveillance by the Commission staff as all visitors must be individually admitted at the front door and are greeted by a staff member.

Retention and disposal: Records are maintained on the premises at 708 Jackson Place, NW. until such time as a determination is made to transfer them to the National Records Center; they are maintained there under the same retrievability system until such time as determination is made to transfer them to the National Archives or that they be destroyed.

System manager(s) and address: Secretary, Commission of Fine Arts, 708 Jackson Place, NW., Washington, D.C. 20006.

Notification procedure: Requests to be notified whether or not the system contains a record pertaining to an individual should be addressed to the Secretary, Commission of Fine Arts, 708 Jackson Place, NW., Washington, D.C. 20006.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information obtained from individual to whom it pertains; newspapers, periodicals, and other publications; official correspondence to and of the Commission of Fine Arts.

Systems exempted from certain provisions of the act: Not applicable.

CFA—2

System name: Personnel Administration—CFA

Security classification: None.

System location: Commission of Fine Arts offices, 708 Jackson Place, NW., Washington, D.C. 20006.

Categories of individuals covered by the system: Employees, past and present, of the Commission of Fine Arts.

Categories of records in the system: These records may contain employee time and attendance records; annual and sick leave records; personnel grievances; EEO discrimination complaints; Privacy Act implementation records; and other personnel administrative records which are not part of the personnel data maintained by the Civil Service Commission.

Authority for maintenance of the system: An Act Establishing a Commission of Fine Arts, Public Law 181, 61st Congress, H. R. 19962, 40 U.S.C. 104, 36 Stat. 371.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Except for disclosures to officers or employees of the Commission of Fine Arts in connection with the performance of their official duties for the agency, there are no routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored in the office safe in the basement file room of the offices of the Commission.

Retrievability: Records are arranged alphabetically by last name under the subheadings Time and Attendance Records; Annual and Sick Leave Records; Personnel Grievances; EEO Discrimination Complaint Records; Privacy Act Implementation Records; and, in all other cases, on the left side of the employee's Official Personnel Folder, also maintained alphabetically by last name in the office safe.

Safeguards: Access to the combination of the office safe is limited to the Secretary and the Assistant Secretary of the Commission, and all records retrieved from this record system will be retrieved by them.

Retention and disposal: Same as CFA—1 above.

System manager(s) and address: Secretary, Commission of Fine Arts, 708 Jackson Place, NW., Washington, D.C. 20006.

Notification procedure: Requests to be notified whether or not the system contains a record pertaining to an individual should be addressed to: Secretary, Commission of Fine Arts, 708 Jackson Place, NW., Washington, D.C. 20006.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Inter- and intra-office memos and correspondence from the individual to whom it pertains, the Secretary, the Chairman, the General Counsel, the Department of the Interior, the Civil Service Commission, and any other relevant source; bi-weekly time and attendance reports; and bi-weekly payroll statements to employees.

Systems exempted from certain provisions of the act: Not applicable.

[FR Doc.77-22736 Filed 9-19-77;8:45 am]

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FARM CREDIT ADMINISTRATION

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

The purpose of this document is to give notice that the systems of records identified in notice published in the Federal Register at 41 FR 39693-39701 (September 15, 1976) and published in last year's compilation remain unchanged. They are being published in their entirety as follows. This notice is published in compliance with the requirements of 5 U.S.C. 552a(e)(4) as added by section 3 of the Privacy Act of 1974.

C. K. Cardwell,
Acting Governor, Farm Credit Administration.

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FCA—1

System name: General Personnel Records—FCA

System location: Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578

Categories of individuals covered by the system: Current FCA employees

Categories of records in the system: Official Personnel Folder and employee service record card which contains a summary of all personnel actions and pay change actions during employment of the individual in FCA.

Authority for maintenance of the system: 12 U.S.C. 2249, 2252

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To furnish information (name, permanent or temporary status, how long employed, position, grade, salary) to other Government agencies, commercial or credit organizations, or verification of employment to prospective employers or personnel directors of Farm Credit Banks.

In the event that information in this record system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

In the event that information in this record system is needed in the course of presenting evidence to a court, magistrate, or administrative tribunal, the relevant records may be referred, as a routine use, to the appropriate person to use as evidence.

Information in this record system may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee, the letting of a contract, or the issuance of a grant or other benefit.

Information in this record system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Employee service record cards are maintained in a Kardex binder. Official Personnel Folders are maintained in file folders.

Retrievability: Cards and Folders are arranged alphabetically by name.

Safeguards: Cards and Folders are kept in lockable cabinets.

Retention and disposal: Employee service record cards are retained for the life of the record. Official Personnel Folders are sent to the National Personnel Records Center within 30 days of the date of the employee's separation from the Federal service.

System manager(s) and address: Director, Personnel Division, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578; Director, Administrative Division, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Notification procedure: All inquiries about this system of records shall be directed to the Director, Administrative Division at the above address as provided in 12 CFR 603.310.

Contesting record procedures: Requests for amendments of a record shall be directed to the Director, Adminstrative Division, at the above address as provided in 12 CFR 603.330.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied, except information provided by agency officials.

FCA—2

System name: Former Employee Records—FCA

System location: Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Categories of individuals covered by the system: Former FCA employees.

Categories of records in the system: Employee service record cards containing a summary of all personnel actions and pay change actions during FCA employment period and disposition of Official Personnel Folder. Photocopies of retirement records. Cards showing name, date of birth, social security number, and disposition of Official Personnel Folder of separated employees.

Authority for maintenance of the system: 12 U.S.C. 2249, 2252

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To furnish certain information (name, permanent or temporary status, how long employed, position, grade, salary) to other Government agencies, commercial or credit organizations, verification of employment to former employees, prospective employers or personnel directors of Farm Credit banks.

In the event that information in this record system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

In the event that information in this record system is needed in the course of presenting evidence to a court, magistrate, or administrative tribunal, the relevant records may be referred, as a routine use, to the appropriate person to use as evidence.

Information in this record system may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee, the letting of a contract, or the issuance of a grant or other benefit.

Information in this record system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Cards are maintained in a Kardex binder and in a cabinet. Photocopies of retirement records are stored in a lockable shelf cabinet.

Retrievability: Cards and photocopies are arranged alphabetically by name.

Safeguards: Records are kept in an area locked after business hours and are maintained only by FCA files employees.

Retention and disposal: Life of the record.

System manager(s) and address: Director, Personnel Division, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Notification procedure: All inquiries about this system of records shall be addressed to: Director, Administrative Division, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Record access procedures: Requests for access to a record shall be directed to the Director, Administrative Division at the above address as provided in 12 CFR 603.310.

Contesting record procedures: Requests for amendments of a record shall be directed to the Director, Administrative Division at the above address as provided in 12 CFR 603.330.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied, except information provided by agency officials.

FCA—3

System name: Upward Mobility Skills Survey—FCA

System location: Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Categories of individuals covered by the system: FCA employees at GS-9 level and below or equivalent.

Categories of records in the system: Records consist of personal history, interests and traits, education and work experience.

Authority for maintenance of the system: 12 U.S.C. 1981 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is used for career counseling, merit promotion, manpower utilization, and upward mobility.

In the event that information in this record system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

In the event that information in this record system is needed in the course of presenting evidence to a court, magistrate, or administrative tribunal, the relevant records may be referred, as a routine use, to the appropriate person to use as evidence.

Information in this record system may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee, the letting of a contract, or the issuance of a grant or other benefit.

Information in this record system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are arranged alphabetically by name.

Safeguards: Records are kept in locked file except when used by Upward Mobility Coordinator and/or Upward Mobility Selection Panel.

Retention and disposal: Records are retained until employee leaves FCA and then destroyed.

System manager(s) and address: Upward Mobility Coordinator, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Notification procedure: All inquiries about this system of records shall be addressed to: Director, Administrative Division, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Record access procedures: Requests for access to a record shall be directed to the Director, Administrative Division at the above address as provided in 12 CFR 603.310.

Contesting record procedures: Requests for amendments of a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.330.

Record source categories: Information in this system of records is completed on a voluntary basis by the individual to whom it applies.

FCA—4

System name: Group Accident Insurance Records—FCA

System location: Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Categories of records in the system: Records consist of listings of persons who elect to participate in program and the amount of coverage selected.

Authority for maintenance of the system: 12 U.S.C. 2249, 2252

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records is used by agency officials to ascertain coverage, to notify carrier of participants, and to provide information to the individual.

In the event that information in this record system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

In the event that information in this record system is needed in the course of presenting evidence to a court, magistrate, or administrative tribunal, the relevant records may be referred, as a routine use, to the appropriate person to use as evidence.

Information in this record system may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee, the letting of a contract, or the issuance of a grant or other benefit.

Information in this record system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Alphabetical listing by name.

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Safeguards: Records are located in lockable file cabinets.

Retention and disposal: Records are retained until program is discontinued.

System manager(s) and address: Director, Personnel Division, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Notification procedure: All inquiries about this system of records shall be addressed to: Director, Administrative Division, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Record access procedures: Requests for access to a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.310.

Contesting record procedures: Requests for amendments of a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.330.

Record source categories: The individual to whom the record pertains.

FCA—5

System name: Employee reports of financial interests and employment—FCA

System location: Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Categories of individuals covered by the system: FCA employees.

Categories of records in the system: "Confidential Statement of Employment and Financial Interests" required of certain employees. Contains statement of financial interests of the employee and of members of his immediate household as well as any other employment of the FCA employee.

Authority for maintenance of the system: E.O. 11222

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Uses by authorized FCA personnel for ascertaining conflicts or apparent conflicts of interest and recommending or taking appropriate action.

In the event that information in this record system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

In the event that information in this record system is needed in the course of presenting evidence to a court, magistrate, or administrative tribunal, the relevant records may be referred, as a routine use, to the appropriate person to use as evidence.

Information in this record system may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee, the letting of a contract, or the issuance of a grant or other benefit.

Information in this record system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are maintained alphabetically by name.

Safeguards: Records are kept in a closed safe with combination lock except when being used by authorized personnel who are instructed as to their confidentiality and permitted use.

Retention and disposal: Maintained by FCA until the employee leaves the agency and then destroyed.

System manager(s) and address: Director, Personnel Division, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Notification procedure: All inquiries about this system of records shall be addressed to: Director, Administrative Division, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Record access procedures: Requests for access to a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.310.

Contesting record procedures: Requests for amendments of a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.330.

Record source categories: Employee filing the report.

FCA—6

System name: Farm Credit Bank Personnel Records—FCA

System location: Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Categories of individuals covered by the system: Current employees of the Farm Credit banks who occupy senior officer positions; and former employees of such banks who occupied senior officer positions and have terminated employment within last five years.

Categories of records in the system: This system consists of copies of various records relating to personnel actions and determinations made concerning individuals occupying senior officer positions in the Farm Credit banks. The Personnel Folder contains information about the individual including date of birth, past and present salaries, position titles, personnel action forms which document actions, including but not limited to, appointment, reassignment, promotion, pay changes, separation, correspondence and justifications for salary increases, biographical data and awards. The service record card contains a chronology of the personnel actions taken, and also includes identifying data including name, date of birth, address and previous employment history.

Authority for maintenance of the system: 12 U.S.C. 2249, 2252

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records is used or a record may be used:

(a) by agency officials for purposes of review in connection with appointments, promotions, pay changes and other determinations requiring FCA concurrence;

(b) to provide information to Farm Credit bank directors of personnel on length of service;

(c) to provide information for agency use in preparation of statistical reports;

(d) as a data source for management information in responding to inquiries or developing statistical data for other Federal agencies.

In the event that information in this record system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

In the event that information in this record system is needed in the course of presenting evidence to a court, magistrate, or administrative tribunal, the relevant records may be referred, as a routine use, to the appropriate person to use as evidence.

Information in this record system may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee, the letting of a contract, or the issuance of a grant or other benefit.

Information in this record system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, Kardex binders, and index file drawers.

Retrievability: Records are indexed by combination of name and date of birth.

Safeguards: Records are located in lockable metal file cabinets.

Retention and disposal: After termination, the personnel folder is retained for one year beyond separation date and then destroyed. The service record card is retained for the life of the record.

System manager(s) and address: Director, Personnel Division, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Notification procedure: All inquiries about this system of records shall be addressed to: Director, Administrative Division, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Record access procedures: Requests for access to a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.310.

Contesting record procedures: Requests for amendments of a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.330.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied, except information provided by directors of personnel of the Farm Credit banks.

FCA—7

System name: Employee attendance, leave, and payroll records—FCA

System location: Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Categories of individuals covered by the system: FCA employees.

Categories of records in the system: Records consist of manual files containing payroll-related information for FCA employees which consists of various forms containing on a biweekly, year-to-date, and in some cases an annual basis, payroll and leave data for each employee including rate and amount of pay, hours worked, tax and retirement deductions, life insurance and health insurance deductions, savings allotments, savings bond and charity deductions, other financial deductions, mailing addresses, and home addresses.

Authority for maintenance of the system: 12 U.S.C. 2249, 2252

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to prepare payroll and to meet Government payroll recordkeeping and reporting requirements, and for retrieving and supplying payroll and leave information as required for agency needs.

In the event that information in this record system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

In the event that information in this record system is needed in the course of presenting evidence to a court, magistrate, or administrative tribunal, the relevant records may be referred, as a routine use, to the appropriate person to use as evidence.

Information in this record system may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee, the letting of a contract, or the issuance of a grant or other benefit.

Information in this record system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Information in this record system may be disclosed as a routine use to Federal, State and local taxing authorities concerning compensation to employees or contractors for personal services; to the Civil Service Commission, Department of the Treasury, Department of Labor and other Federal agencies concerning pay, benefits, and retirement of employees; to Federal employees health benefits carriers concerning health insurance of employees; to financial organizations concerning employee savings account allotments and net pay to checking accounts; to State human resource offices administering unemployment compensation programs; to educational and training organizations concerning employee qualifications and identity for specific courses; and to heirs, executors and legal representatives of beneficiaries.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in file folders; on pay cards, retirement cards, and leave cards.

Retrievability: Records are filed alphabetically by name.

Safeguards: Files are kept in areas which are locked after business hours and are maintained only by authorized FCA personnel.

Retention and disposal: In accordance with GSA requirements for financial and payroll-related records.

System manager(s) and address: Director, Administrative Division, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Notification procedure: All inquiries about this system of records shall be addressed to: Director, Administrative Division, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Record access procedures: Requests for access to a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.310.

Contesting record procedures: Requests for amendments of a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.330.

Record source categories: Individual on whom the record is maintained. FCA employees who approve records.

FCA—8

System name: Employee travel and vendor voucher files—FCA

System location: Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Categories of individuals covered by the system: FCA employees and other individuals who provide products and services to FCA.

Categories of records in the system: Records consist of travel vouchers, vendor vouchers, and supporting documentation.

Authority for maintenance of the system: 12 U.S.C. 2249, 2252

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to provide records of reimbursement to employees for expense incurred while in official travel status and to provide reimbursement to other individuals for products and/or services received.

In the event that information in this record system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

In the event that information in this record system is needed in the course of presenting evidence to a court, magistrate, or administrative tribunal, the relevant records may be referred, as a routine use, to the appropriate person to use as evidence.

Information in this record system may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee, the letting of a contract, or the issuance of a grant or other benefit.

Information in this record system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a con-

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tract, or the issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Travel vouchers are filed in individual folders for each employee; vendor vouchers are filed in folders.

Retrievability: Records are filed alphabetically by name.

Safeguards: Files are kept in areas which are locked after business hours and are maintained by authorized FCA personnel.

Retention and disposal: In accordance with GSA requirements for financial records.

System manager(s) and address: Director, Administrative Division, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Notification procedure: All inquiries about this system of records shall be addressed to: Director, Administrative Division, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Record access procedures: Requests for access to a record shall be directed to the Director, Administrative Division at the above address as provided in 12 CFR 603.310.

Contesting record procedures: Requests for amendments of a record shall be directed to the Director, Administrative Division at the above address as provided in 12 CFR 603.330.

Record source categories: FCA employees and other individuals executing records. FCA employees auditing and approving vouchers.

FCA—9

System name: Financial Management Records—RCA

System location: Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Categories of individuals covered by the system: FCA employees and individuals conducting business with FCA.

Categories of records in the system: Records supporting the FCA financial management system, including employee travel advance records, records of budget formulation and execution, for FCA administrative expenses, and other financial records.

Authority for maintenance of the system: 12 U.S.C. 2249, 2252

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records serve as the source for collecting and recapping financial data to provide control of collection and disbursement of revenues and reports necessary for management and other Government agencies.

In the event that information in this record system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

In the event that information in this record system is needed in the course of presenting evidence to a court, magistrate, or administrative tribunal, the relevant records may be referred, as a routine use, to the appropriate person to use as evidence.

Information in this record system may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee, the letting of a contract, or the issuance of a grant or other benefit.

Information in this record system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and binders stored in file cabinets.

Retrievability: Records are filed alphabetically by name where appropriate.

Safeguards: Files are kept in file cabinets in areas which are locked after business hours.

Retention and disposal: In accordance with GSA requirements for financial records.

System manager(s) and address: Director, Administrative Division, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Notification procedure: All inquiries about this system of records shall be addressed to: Director, Administrative Division, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Record access procedures: Requests for access to a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.310.

Contesting record procedures: Requests for amendments of a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.330.

Record source categories: FCA employees and other individuals doing business with FCA.

FCA—10

System name: Property accountability records—FCA

System location: Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Categories of individuals covered by the system: FCA employees.

Categories of records in the system: The form executed by each employee to whom accountable property is issued for official use, containing the employee's name, serial number, and description of the property charged to him.

Authority for maintenance of the system: 12 U.S.C. 2249, 2252; 40 U.S.C. 471 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Property accountability records are used by FCA to maintain control of accountable property..

In the event that information in this record system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

In the event that information in this record system is needed in the course of presenting evidence to a court, magistrate, or administrative tribunal, the relevant records may be referred, as a routine use, to the appropriate person to use as evidence.

Information in this record system may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee, the letting of a contract, or the issuance of a grant or other benefit.

Information in this record system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper forms filed in storage cabinet.

Retrievability: Records maintained in alphabetical order by employee name.

Safeguards: Records are maintained in an area which is locked after business hours.

Retention and disposal: Forms are maintained until the property is returned.

System manager(s) and address: Director, Administrative Division, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Notification procedure: All inquiries about this system of records shall be addressed to: Director, Administrative Division, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Record access procedures: Requests for access to a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.310.

Contesting record procedures: Requests for amendments of a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.330.

Record source categories: Individuals to whom property is issued.

FCA—11

System name: Procurement records—FCA

System location: Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Categories of individuals covered by the system: Individuals who provide or may provide supplies or services to FCA by contract or purchase order.

Categories of records in the system: Bids, offers, lease agreements, purchase orders, and requisitions as related to purchase transactions.

Authority for maintenance of the system: 12 U.S.C. 2249, 2252; 40 U.S.C. 471 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Procurement records and files are used by FCA as the bases for maintaining control of purchase transactions and to provide a minimum of opportunity for fraud as well as the maximum feasible opportunity for audit as related to the purchase of supplies and services obtained.

In the event that information in this record system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

In the event that information in this record system is needed in the course of presenting evidence to a court, magistrate, or administrative tribunal, the relevant records may be referred, as a routine use, to the appropriate person to use as evidence.

Information in this record system may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee, the letting of a contract, or the issuance of a grant or other benefit.

Information in this record system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are maintained in numerical order by purchase order number in file folders bearing the name of the vendor.

Safeguards: Records are maintained in an area which is locked after business hours.

Retention and disposal: Each record is retained for five years for reference purposes and then destroyed.

System manager(s) and address: Director, Administrative Division, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Notification procedure: All inquiries about this system of records shall be addressed to: Director, Administrative Division, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Record access procedures: Requests for access to a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.310.

Contesting record procedures: Requests for amendments of a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.330.

Record source categories: Individuals who make bids or offers to FCA or enter into lease or other agreements with FCA. FCA employees who prepare requisitions and purchase orders.

FCA—12

System name: Biographical files—FCA

System location: Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Categories of individuals covered by the system: FCA employees, members of the Federal Farm Credit Board, Farm Credit district directors.

Categories of records in the system: Biographical sketches and photographs.

Authority for maintenance of the system: 12 U.S.C. 2249, 2252

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Distribution to Farm Credit institutions or the public in connection with Farm Credit elections, public appearances, conferences, and on request by the public.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are arranged alphabetically by name.

Safeguards: Records are maintained in an area locked after business hours.

Retention and disposal: Records are destroyed on separation or retirement.

System manager(s) and address: Director, Information Division, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578; Director, Administrative Division, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Notification procedure: All inquiries about this system of records shall be addressed to: Director, Administrative Division, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Record access procedures: Requests for access to a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.310.

Contesting record procedures: Requests for amendments of a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.330.

Record source categories: Individual on whom the record is maintained.

FCA—13

System name: Public Information Requests File—FCA

System location: Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Categories of individuals covered by the system: Members of the public.

Categories of records in the system: Incoming letters and copies of outgoing correspondece.

Authority for maintenance of the system: 12 U.S.C. 2249, 2252

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Response to requests and reference by FCA employees in answering successive requests.

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In the event that information in this record system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

In the event that information in this record system is needed in the course of presenting evidence to a court, magistrate, or administrative tribunal, the relevant records may be referred, as a routine use, to the appropriate person to use as evidence.

Information in this record system may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee, the letting of a contract, or the issuance of a grant or other benefit

Information in this record system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Letters are stored in file folders.

Retrievability: Letters are filed alphabetically by requester name.

Safeguards: Letters are maintained in cabinets in an area which is locked after business hours.

Retention and disposal: Letters are retained one year and then destroyed

System manager(s) and address: Director, Information Division, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D C. 20578.

Notification procedure: All inquiries about this system of records shall be addressed to: Director, Administrative Division, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Record access procedures: Requests for access to a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.310.

Contesting record procedures: Requests for amendments of a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.330.

Record source categories: Individuals making public information requests and FCA employees.

FCA—14

System name: Freedom of Information Requests—FCA

System location: Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Categories of individuals covered by the system: Individuals whose requests for records fall within the scope of the Freedom of Information Act.

Categories of records in the system: Letter requests, copies of responses, and request log.

Authority for maintenance of the system: 5 U.S.C. 552

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is used for reference and reports are prepared for the Freedom of Information Act Committee, the Department of Justice, and the Office of Management and Budget.

In the event that information in this record system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

In the event that information in this record system is needed in the course of presenting evidence to a court, magistrate, or administrative tribunal, the relevant records may be referred, as a routine use, to the appropriate person to use as evidence.

Information in this record system may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee, the letting of a contract, or the issuance of a grant or other benefit.

Information in this record system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper in notebook binders.

Retrievability: Records are arranged alphabetically by name

Safeguards: Records are maintained in a lockable cabinet

Retention and disposal: Life of the record.

System manager(s) and address: Director, Information Division, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Notification procedure: All inquiries about this system of records shall be addressed to: Director, Administrative Division, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Record access procedures: Requests for access to a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.310.

Contesting record procedures: Requests for amendments of a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.330.

Record source categories: Requester and FCA employees.

FCA—15

System name: Congressional Correspondence File—FCA

System location: Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Categories of individuals covered by the system: U.S. Senators and Representatives.

Categories of records in the system: Copies of letters written by FCA employees to U.S. Senators and Representatives.

Authority for maintenance of the system: 12 U.S.C. 2249, 2252

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by FCA employees for reference to other files.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Letters are stored in file folders.

Retrievability: File folders are arranged alphabetically by name.

Safeguards: Files are kept in cabinets in an area which is locked after business hours and are maintained only by FCA files personnel.

Retention and disposal: In accordance with GSA requirements.

System manager(s) and address: Director, Administrative Division, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Notification procedure: All inquiries about this system of records shall be addressed to: Director, Administrative Division, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Record access procedures: Requests for access to a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.310.

Contesting record procedures: Requests for amendments of a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.330.

Record source categories: FCA employees.

FCA—16

System name: Federal Land Bank Loans—FCA

System location: Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Categories of individuals covered by the system: Member-borrowers whose loan applications exceed the prior-approval limits set by FCA for each bank. Member-borrowers whose loan applications and approvals are submitted under the post-review requirements set by FCA for each bank. Member-borrowers whose loans fall within the category of loan approval requirements stipulated by FCA regulation—Loan Policies and Operations, 12 CFR Part 614, Subpart N, 4450. Individuals or member-borrowers who have communicated to a Member of Congress or any Government agency in which FCA has responded to the Congressman or directly to the individual or member-borrower,

Categories of records in the system: Loan documents including name, address, loan application, type and purpose of loan, financial information submitted by the individual, analysis of financial information, security and loan agreement papers, correspondence between bank, association and FCA, loan analysis recommendation, field report and/or appraisal, tax return records if submitted by the individual, other related loan and analysis support information. Congressional and complaint letters and FCA response copies.

Authority for maintenance of the system: 12 U.S.C. 2249, 2252

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: FCA staff uses records as a basis for decision on approval or denial of loans and/or change in status of loans, to monitor bank's capabilities in credit extension, and to maintain awareness and monitor sensitive loans.

In the event that information in this record system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

In the event that information in this record system is needed in the course of presenting evidence to a court, magistrate, or administrative tribunal, the relevant records may be referred, as a routine use, to the appropriate person to use as evidence.

Information in this record system may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee, the letting of a contract, or the issuance of a grant or other benefit.

Information in this record system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are arranged by district, association, and name.

Safeguards: Records are maintained in an area locked after business hours.

Retention and disposal: Records are retained for five years and then destroyed.

System manager(s) and address: Director, Administrative Division, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Notification procedure: All inquiries about this system of records shall be addressed to: Director, Administrative Division, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Record access procedures: Requests for access to a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.310.

Contesting record procedures: Requests for amendments of a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.330.

Record source categories: The individual member-borrower, bank and association employees, FCA employees, Congressmen, and individual complainants.

Systems exempted from certain provisions of the act: This system is subjected to a specific exemption pursuant to 5 U.S.C. 552a (k)(2) to the extent that there is included in the system investigatory material compiled for law enforcement purposes.

FCA—17

System name: Production Credit Association Loans—FCA

System location: Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578

Categories of individuals covered by the system: Member-borrowers whose loan applications exceed the prior-approval limits set by FCA for each bank. Member-borrowers whose loan applications and approvals are submitted under the post-review requirements set by FCA for each bank. Member-borrowers whose loans fall within the category of loan approval requirements stipulated by FCA regulation—Loan Policies and Operations, 12 CFR Part 614, Subpart N, 4450. Individuals or member-borrowers who have communicated to a Member of Congress or any Government agency in which FCA has responded to the Congressman or directly to the individual or member-borrower.

Categories of records in the system: Loan documents including name, address, loan application, type and purpose of loan, financial information, security and loan agreement papers, correspondence between bank, association and FCA, loan analysis recommendation, field report and/or appraisal, tax return records if submitted by the individual, other related loan and analysis support information. Congressional and complaint letters and FCA response copies.

Authority for maintenance of the system: 12 U.S.C. 2249, 2252

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: FCA staff uses records as a basis for decision on approval or denial of loans and/or change in status of loans, to monitor bank's capabilities in credit extension, and to maintain awareness and monitor sensitive loans.

In the event that information in this record system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

In the event that information in this record system is needed in the course of presenting evidence to a court, magistrate, or administrative tribunal, the relevant records may be referred, as a routine use, to the appropriate person to use as evidence.

Information in this record system may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee, the letting of a contract, or the issuance of a grant or other benefit.

Information in this record system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

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Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are arranged by district, association and name.

Safeguards: Records are maintained in an area locked after business hours.

Retention and disposal: Records are retained for five years and then destroyed.

System manager(s) and address: Director, Administrative Division, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Notification procedure: All inquiries about this system of records shall be addressed to: Director, Administrative Division, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

Record access procedures: Requests for access to a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.310.

Contesting record procedures: Request for amendments of a record shall be directed to the Director, Administrative Division, at the above address as provided in 12 CFR 603.330.

Record source categories: The individual member-borrower, bank and association employees, FCA employees, Congressmen, and individual complainants.

Systems exempted from certain provisions of the act: This system is subjected to a specific exemption pursuant to 5 U.S.C. 552a(k)(2), to the extent there is included in the system investigatory material compiled for law enforcement purposes.

[FR Doc.77-27336 Filed 9-19-77;8:45 am]

FEDERAL ELECTION COMMISSION

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

Pursuant to the provisions of the Privacy Act of 1974, Public Law 93-579, 5 U.S.C. 552a(e), the Federal Election Commission hereby publishes the systems of records currently maintained. No changes have occurred since the last publication on December 14, 1976 (41 FR 54178).

Dated: August 23, 1977.

Thomas E. Harris,
Chairman, Federal Election Commission.

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FEC 1

System name: FEC requests for opinions and responses.

System location: 1325 K Street, NW., Washington, D.C. 10463.

Categories of individuals covered by the system: Individuals requesting opinions from the FEC.

Categories of records in the system: Letters requesting legal opinions and responses from the FEC.

Authority for maintenance of the system: 2 U.S.C. Section 437d(a)(7) and (9) and Section 437f.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Commissioners and staff will use this system to respond to requests for opinions. These requests and responses are available to the public upon request.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Indexed by name, date and opinion and request number and/or incoming correspondence number.

Safeguards: Locked filing cabinets.

Retention and disposal: Indefinite

System manager(s) and address: The General Counsel, FEC, 1325 K Street NW., Washington, D.C. 20463 (202/382-5162).

Notification procedure: Refer to Commission access regulation contained in 11 CFR 1.1 et seq. (41 FR 43064, September 29, 1976).

Record access procedures: Refer to Commission access regulations contained in 11 CFR 1.1 et seq. (41 FR 43064, September 29, 1976).

Contesting record procedures: Refer to Commission access regulations contained in 11 CFR 1.1 et seq. (41 FR 43064, September 29, 1976).

Record source categories: Individual requestor, persons submitting comments and the Federal Election Commission.

FEC 2

System name: FEC audits and investigations.

Security classification:

System location: 1325 K Street, NW., Washington, D.C. 20463.

Categories of individuals covered by the system: Candidates required to file statements and reports under the Federal Election Campaign Act.

Categories of records in the system: Audit and investigation data.

Authority for maintenance of the system: 2 U.S.C. Section 437d(a)(10), Section 437g(a)(2),(5) and Section 438 (a)(8),(9); 26 U.S.C. Sections 9007, 9038.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The General Counsel, Assistant Staff Director, Commissioners and their staff may use audit and investigation data for informal hearings, administrative compliance, civil litigation, voluntary compliance or to refer matters to appropriate law enforcement authorities.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Indexed by name.

Safeguards: Locked safes in limited access locations. Access is limited to FEC staff on a restricted basis and to appropriate law enforcement agencies as directed by the Commission.

Retention and disposal: Indefinite.

Systems exempted from certain provisions of the act: The following system is exempt pursant to the provisions of 5 U.S.C. Section 552a(K)(2) and accordingly implemented by regulations issued under 11 CFR 1.14.

FEC 3

System name: FEC compliance actions.

Security classification:

System location: 1325 K Street, NW., Washington, D.C. 20463.

Categories of individuals covered by the system: Individuals who have filed complaints and persons complained about (respondents), candidates filing late reports, or no reports, and cases internally generated through review and audit of reports and statements filed by candidates.

Categories of records in the system: Complaints, referrals, and responses thereto; internal investigations of reports on file at the Commission and field audit files.

Authority for maintenance of the system: 2 U.S.C. Section 437g(a)(1), (2), (5); Section 438(a)(7), (8) and (9); 26 U.S.C. Section 9006, 9038.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Compliance actions will be assigned by the General Counsel and the Assistant Staff Director for Disclosure and Compliance, to an attorney and/or investigator for investigation into the subject matter of the complaint. Administrative Compliance and civil litigation will be handled by the General Counsel's office. Knowing and willful violations may be referred to the Attorney General.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: This system is retrievable by name of complainant or respondent or compliance action number.

Safeguards: This system is kept in locked filing cabinets in a locked room.

Retention and disposal: Indefinite.

Systems exempted from certain provisions of the act: Systems exempted from certain provisions of the Act: The following system is exempt pursuant to the provisions of 5 U.S.C. Section 552a(K)(2) and accordingly implemented by regulations issued under 11 CFR 1.14.

FEC 4

System name: Public Information Mailing List.

Security classification:

System location: 1325 K Street, NW., Washington, D.C. 20463.

Categories of individuals covered by the system: Individuals who request to receive the FEC Record.

Categories of records in the system: Index cards with names and addresses.

Authority for maintenance of the system: 2 U.S.C. Section 438(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Commission staff will use list to forward copies of the FEC Record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name of individual.

Safeguards: Stored in locked filing cabinet.

Retention and disposal: Indefinite.

System manager(s) and address: Assistant Staff Director for Information Services, FEC, 1325 K Street, NW., Washington, D.C. 20463 (202/382-5162).

Notification procedure: Refer to Commission access regulations contained in 11 CFR 1.1 et seq. (41 FR 43064, September 29, 1976).

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Record access procedures: Refer to Commission access regulations contained in 11 CFR 1.1 et seq. (41 FR 43064, September 29, 1976).

Contesting record procedures: Refer to Commission access regulations contained in 11 CFR 1.1 et seq. (41 FR 43064, September 29, 1976).

Record source categories: Telephone and written requests to be placed on list.

FEC 5

System name: FEC personnel and travel.

Security classification:

System location: 1325 K Street, NW., Washington, D.C. 20463.

Categories of individuals covered by the system: Individuals who applied for employment and individuals employed at FEC.

Categories of records in the system: Resumes, applications, employment forms, travel information.

Authority for maintenance of the system: 2 U.S.C. Section 437c(f).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Staff Director and his or her designees will use the personnel system to hire employees of the Commission, and other appropriate personnel matters such as pay increases, vacation, sick leave, travel authorization, and separation from the Commission. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Indexed by name and job category.

Safeguards: Locked filing cabinets.

Retention and disposal: Indefinite.

System manager(s) and address: Assistant Staff Director for Administration, FEC, 1325 K Street, NW., Washington, D.C. 20463 (202/382-5162).

Notification procedure: Refer to Commission access regulations contained in 11 CFR 1.1 et seq. (41 FR 43064, September 29, 1976).

Record access procedures: Refer to Commission access regulations contained in 11 CFR 1.1 et seq. (41 FR 43064, September 29, 1976).

Contesting record procedures: Refer to Commission access regulations contained in 11 CFR 1.1 et seq. (41 FR 43064, September 29, 1976).

Record source categories: Personnel applications resumes, interviews, employment forms, requests for travel, etc.

FEC 6

System name: FEC candidate reports and designations.

Security classification:

System location: 1325 K Street, NW., Washington, D.C. 20463.

Categories of individuals covered by the system: Candidates for Federal office required to file reports of contributions and expenditures and designations of campaign depositories and authorized committees.

Categories of records in the system: Reports and Statements of candidates; reports by delegates and other individuals making contributions or independent expenditures on behalf of a Federal candidate but not through a political committee, candidate, or authorized committee or agent of a candidate.

Authority for maintenance of the system: 2 U.S.C. Section 432(e), 434, and 437b(a)(1).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system may be used by any person for information purposes. However, any information copied from such reports shall not be sold or utilized by any person for the purposes of soliciting contributions or for any commercial purpose.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records and/or microfilm and on-line disk storage electronic data processing system.

Retrievability: Retrievable by candidate's name or by State, in which candidate seeks election; candidate indentification number or last name for computer storage.

Safeguards: Locked filing cabinets.

Retention and disposal: Reports are preserved for a 10 year period except that reports relating solely to candidates for the House of Representatives are preserved for 5 years from the date of receipt.

System manager(s) and address: Deputy Assistant Staff Director for Information Services, FEC, 1325 K Street, NW., Washington, D.C. 20463 (202/382-5163).

Notification procedure: Refer to Commission access regulations contained in 11 CFR 1.1 et seq. (41 FR 43064, September 29, 1976).

Record access procedures: Refer to Commission access regulations contained in 11 CFR 1.1 et seq. (41 FR 43064, September 29, 1976).

Contesting record procedures: Refer to Commission access regulations contained in 11 CFR 1.1 et seq. (41 FR 43064, September 29, 1976).

Record source categories: Reports filed with the FEC.

FEC 7

System name: Certification for primary matching funds and general election campaign funds.

Security classification:

System location: 1325 K Street, NW., Washington, D.C. 20463.

Categories of individuals covered by the system: Candidates for nomination or election to the Office of President of the United States.

Categories of records in the system: Certification forms and supporting data requesting matching funds or election funds.

Authority for maintenance of the system: 26 U.S.C. Sections 9003, 9006; 26 U.S.C. Sections 9033, 9036, 9037.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Certification of eligibility for funds by presidential candidates. These files shall be available for public inspection.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: This system is indexed by name of candidate.

Safeguards: This system is kept in locked filing cabinets.

Retention and disposal: Indefinite.

System manager(s) and address: Assistant Staff Director for Disclosure and Compliance, FEC, 1325 K Street, NW., Washington, D.C. 20463; (202/382-5162).

Notification procedure: Refer to Commission access regulations contained in 11 C.F.R. 1.1 et seq. (41 FR 43064, September 29, 1976).

Record access procedures: Refer to Commission access regulations contained in 11 C.F.R. 1.1 et seq. (41 FR 43064, September 29, 1976).

Contesting record procedures: Refer to Commission access regulations contained in 11 C.F.R. 1.1 et seq. (41 FR 43064, September 29, 1976).

Record source categories: Certification reports filed with the Commission.

FEC 8

System name: Payroll Records-Federal Election Commission

System location: General Services Administration, Region 3 office; copies held by the Commission (GSA holds records for the FEC under contract).

Categories of records in the system: Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records, requests for deductions; tax forms, W-2 forms, overtime requests; leave data; retirement records. Records are used by Commission and GSA employees to maintain adequate payroll information for Commission employees, and otherwise by Commission and GSA employees who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C., generally. Also, 2 U.S.C. 437c(f).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the event that a system of records maintained by this agency to carry out its functions indicated a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a Federal, State or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant, or other benefit.

A record from this system of records may be disclosed to a Federal agency in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of Federal personnel management.

A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any state of the legislative coordination and clearance process as set forth in that Circular.

Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, also is disclosed to the State and city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury purusant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof; in response to a written request from an appropriate official of the taxing jurisdiction to the Assistant Staff Director for Administration; Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Assistant Staff Director for Administration.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security Number, in accordance with Section 7 of the Privacy Act. Public Law 93-579.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and microfilm.

Retrievability: Social Security Number.

Safeguards: Stored in guarded building, in locked filing cabinets; released only to authorized personnel.

Retention and disposal: Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address: Assistant Staff Director for Administration, FEC, 1325 K Street, NW., Washington, D.C. 20463 (202/382-5162).

Notification procedure: Refer to Commission access regulations contained in 11 CFR 1.1 et seq. (41 FR 43064, September 29, 1976).

Record access procedures: Refer to Commission access regulations contained in 11 CFR 1.1 et seq. (41 FR 43064, September 29, 1976).

Contesting record procedures: Refer to Commission access regulations contained in 11 CFR 1.1 et seq. (41 FR 43064, September 29, 1976).

Record source categories: The subject individual; the Federal Election Commission.

[FR Doc.77-27337 Filed 9-19-77;8:45 am]

[FR Doc.77-27337 Filed 9-19-77;8:45 am]

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FEDERAL LABOR RELATIONS COUNCIL AND FEDERAL SERVICE IMPASSES PANEL

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

The purpose of this document is to give notice that the systems of records identified in the notice published in the Federal Register at 41 FR 54464 continue in effect and are republished in their entirety without change. This notice is published in compliance with the requirements of 5 U.S.C. 552a(e)(4) as added by section 3 of the Privacy Act of 1974.

Dated: August 1, 1977.

By the Federal Labor Relations Council.

Henry B. Frazier III,
Executive Director.

By the Federal Service Impasses Panel.

Howard W. Solomon,
Executive Secretary.

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FLRC/FSIP—1: Personnel files on current, past, and prospective employees—FLRC/FSIP
FLRC/FSIP—2: Travel records—FLRC/FSIP

FLRC/FSIP—1

System name: Personnel files on current, past, and prospective employees—FLRC/FSIP.

System location: Council offices, 1900 E St., NW., Washington, DC 20415.

Categories of individuals covered by the system: Present and past employees and individuals who have submitted solicited or unsolicited applications for employment.

Categories of records in the system: Information regarding name; address; telephone number; marital status; birth date; Social Security Number, veteran preference; tenure; handicap; past and present salaries, grades, and position titles; letters of commendation, reprimand, charges, and decision on charges; locator files; personnel actions, including but not limited to, appointment, reassignment, demotion, detail, promotion, transfer, and separation; training files; records relating to life insurance, health benefits, and designation of beneficiary; performance ratings; awards; performance appraisals; letters of recommendation; emergency information; educational background; and special employment qualifications.

Authority for maintenance of the system: Executive Order 11491, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information contained the system is used by the Council and Panel officials for purposes of review in connection with appointments, transfers, promotions, and determination of qualifications of an individual; to provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; to provide information to a prospective employer of a Council or Panel employee or former Council or Panel employee or to an organization at the request of the employee or former employee; and to provide information to a congressional office from the record of an individual in response to an inquiry from a congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in file folders.

Retrievability: Manual-indexed by name.

Safeguards: The system is primarily maintained in a locked, metal filing cabinet, the access combination to which is known only to authorized persons. Certain information in the system, such as home address, emergency information, grade, and date of last promotion or within-grade step increase is maintained in limited-access files available only to authorized persons.

Retention and disposal: Records on current employees are retained in an active file during the course of an employee's employment with the Council or Panel. Files on past employees are retained in an inactive file. Other records in the system, such as applications for employment, are periodically reviewed and disposed of in accordance with established procedures.

System manager(s) and address:

Executive Director
Federal Labor Relations Council
1900 E St., NW.
Washington, DC 20415
Executive Secretary
Federal Service Impasses Panel
1900 E St., NW.
Washington, DC 20415

Notification procedure: An individual may obtain notification as to whether the system of records contains a record pertaining to the individual by forwarding an inquiry to the Administrative Officer, Federal labor Relations Council, Room 7P56, 1900 E St., NW., Washington, DC 20415, or by appearing in person at the above address. See Council and Panel regulations in 5 CFR 2402.4.

Record access procedures: See Council and Panel access regulations in 5 CFR 2402.5. Assistance in obtaining access the contents of records can be obtained from the Administrative Officer at the above address.

Contesting record procedures: The Council's and Panel's rules for contesting contents of records, and for appealing adverse determinations with respect thereto, are contained in 5 CFR 2402.10 and 2402.13.

Record source categories: Subject individuals; former and/or present employers of subject individuals; and other persons familiar with the individual.

FLRC/FSIP—2

System name: Travel records—FLRC/FSIP

System location: Council offices, 1900 E St., NW., Washington, DC 20415.

Categories of individuals covered by the system: Names of persons who use Council funds for travel.

Categories of records in the system: Contains the various records required to administer the travel requirements of the Council and Panel, including all places to which travel was accomplished and the costs. Included on various travel forms is the home address of the traveling individual.

Authority for maintenance of the system: Executive Order 11491, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system of records is used for budgetary purposes and for reporting to Members of Congress and other agencies when appropriate.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in file folders.

Retrievability: Manual-indexed by name.

Safeguards: Access to and use of such records are limited to those persons whose official duties require such access.

Retention and disposal: The records are maintained and disposed of in accordance with established procedures.

System manager(s) and address:

Executive Director
Federal Labor Relations Council
1900 E St., NW.
Washington, DC 20415
Executive Secretary
Federal Service Impasses Panel
1900 E St., NW.
Washington, DC 20415

Notification procedure: An individual may obtain notification as to whether the system of records contains a record pertaining to the individual by forwarding an inquiry to the Administrative Officer, Federal Labor Relations Council, Room 7P56, 1900 E St., NW., Washington, DC 20415, or by appearing in person at the above address. See Council and Panel regulations in 5 CFR 2402.4.

Record access procedures: See Council and Panel access regulations in 5 CFR 2402.5. Assistance in obtaining access to the contents of records can be obtained from the Administrative Officer at the above address.

Contesting record procedures: The Council's and Panel's rules for contesting contents of records, and for appealing adverse determinations with respect thereto, are contained in 5 CFR 2402.10 and 13.

Record source categories: Information in this system of records comes from the individual to whom it applies.

FEDERAL TRADE COMMISSION

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

Pursuant to 5 U.S.C. Sec. 552a(e)(4) the Federal Trade Commission hereby publishes the notices for the Systems of Records currently maintained by this agency. Except for five new systems (discussed below), the Systems were previously published in the Federal Register at 41 FR 39711, 41 FR 41759, 41 FR 42937, and 42 FR 6906.

REVISIONS TO NOTICES

Several system notices have been revised. These revisions, not previously published, do not represent substantive changes in the Systems but are merely made either to more accurately describe the Systems as they have existed since establishment or to reflect minor changes such as changes in System location or manager. The revisions are listed below by FTC system number.

FTC—1: "(former and current)" has been added to the description of the categories of individuals covered by the system. The fact that biographical sketches are prepared with the concurrence of the individuals concerned is noted under the description of routine uses. The description of safeguards is clarified to reflect the fact that access restrictions apply to background information. The description of retention and disposal practices is clarified to reflect the two-year retention of certain information about former Commissioners and key staff members. The title of the system manager has been changed to Public Information Assistant.

FTC—3: A new System location is indicated. Salary information is no longer a category of information in the System, and what was heretofore described as "history of work activity" has been clarified as "all case and project information both past and present."

FTC—4: The description of the categories of records in the System has been revised to clarify the fact that information about accidents involving personal injuries is also included. The description of routine uses has been similarly revised. Under the heading "Retrievability" the word "incident" has replaced the word "accident."

FTC—7: The System name, location and manager have been revised to reflect the establishment of a special unit within the General Counsel's Office that maintains the congressional correspondence files. Congressional committees and constituents have been deleted from the description of categories of individuals covered by the System because (1) committees are not individuals and (2) records concerning constituents are not organized or filed in such a way as to be part of a system of records. The reference to storage in a lockable room has been deleted, while the description of safeguards has been revised to reflect the fact that the records are stored in lockable metal cabinets. The reference to constituents has been deleted as a record source category.

FTC—8: The System location and System manager's address have been revised to conform with the Dallas Regional Office's new address.

FTC—11: The System location and System manager's address have been revised to conform with the Atlanta Regional Office's new address.

FTC—14: The description of the categories of individuals covered by the System has been revised to refer to individuals rather than letters and forms. For clarification, the individual's name and address have been added to the description of the categories of records in the System.

FTC—16: The description of the categories of individuals covered by the System has been revised to include individuals against whom complaints are received. (Such individuals are covered only in the rare instances when a complaint refers to an individual and not a company or other business entity.) For clarification, the individual's name and address have been added to the description of the categories of records in the System.

FTC—17: The description of the categories of individuals covered by the System has been revised to refer to individuals rather than addresses. For clarification, the individual's business title, if any, has been added to the description of the categories of records in the System. The descriptions of storage, safeguards, and retention and disposal practices have been revised to reflect the use of Daconics rather than Lexitron data storage equipment. To the description of retention and disposal practices has been added the fact that the mailing list is revised at least annually.

FTC—22: The name of the Division of Legal and Public Records, found under System location, has been changed to the "Records Division." A statement has been added at the end of the System notice reiterating that this is an exempt system pursuant to 5 U.S.C. Sec. 552a(k) (2).

FTC—25: The retrievability of records in the System is by correspondent's name only, and the System notice has been revised accordingly. The description of retention and disposal practices has been revised: copies of correspondence and the correspondent index card are retained for only six months from the date of the Commission response, and records are disposed of in wastebaskets. The title of the System manager has been changed from Chief to Supervisor.

FTC—26: Under System location, the addresses of the Atlanta and Dallas Regional Offices have been changed, and the address of the Denver Regional Office, which heretofore was inadvertently omitted, has been added.

FTC—28: The name of the Division of Legal and Public Records, referred to under System location, has been changed to the "Records Division." The fact that records are also sent to the Federal Records Center in Suitland, Md., has been added to the description of retention and disposal practices. A statement has been added at the end of the System notice reiterating that this is an exempt system pursuant to 5 U.S.C. Sec. 552a(k)(2).

FTC—29: A statement has been added at the end of the system notice reiterating that this is an exempt system pursuant to 5 U.S.C. Sec. 552a(k)(2).

FTC—33: Under System location, the addresses of the Atlanta, Dallas, and Denver Regional Offices have been changed. The description of retention and disposal practices has been clarified to reflect the fact that records are transferred to the Records Division (formerly the Division of Legal and Public Records) only if the preliminary investigation becomes a formal investigation; otherwise the records are retained by the office that conducted the preliminary investigation. The fact that there is no disposal system at present has also been added to the description. At the end of the System notice a statement has been added reiterating that this is an exempt system pursuant to 5 U.S.C. Sec. 552a(k)(2).

FTC—34: The System location and System manager's address have been revised to conform with the Atlanta Regional Office's new address.

FTC—35: The description of the categories of individuals covered by the System has been revised to include selected media and organizations to be reached on specific FTC matters. The description of the routine uses of the information has been clarified: the records are used to produce address labels for mailing of FTC materials by Office of Public Information and other Commission personnel. The creation of formatted statistical reports has been discontinued and, accordingly, has been deleted as a routine use. The description of record retrievability has been clarified: labels for individual addressees can be retrieved by name as well as computer-assigned identification number. The description of safeguards has been reworded for greater clarity. To the description of retention and disposal practices has been added the fact that news media and special interest (for, organizations to be reached on specific FTC matters) addressees are retained indefinitely or for a specified length of time unless removal from the list is requested by the individual.

FTC—39: The title of the Assistant General Counsel for Legal Services, referred to under System location and System manager, has been changed to Assistant General Counsel for Legal Counsel.

FTC—41: Under System location, the addresses of the Atlanta and Dallas Regional Offices have been changed.

FTC—43: The System location has been revised to indicate the location of the computer rather than the location of the computer terminal.

FTC—44; FTC—46; FTC—48: The name of the Division of Legal and Public Records, referred to under System location, has been changed to the "Records Division."

FTC—49: The name of the Division of Legal and Public Records, referred to under System location, has been changed to the "Records Division." Records in this System are also located in the Information Division of the Secretary's Office and in the Office of the General Counsel, and the description of System location has been revised accordingly. The description of routine uses has been revised to clarify that only request and appeal letters, and agency responses thereto, are available to the public for inspection and copying. The description of storage practices has been revised to reflect the fact that records in the System are stored in three locations, not just one. The fact that Freedom of Information Act

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requests are indexed by subject matter has been deleted from the description of record retrievability since only retrieval by personal identifiers is relevant for Privacy Act purposes. The description of safeguards has been revised to include lockable file cabinets. The description of retention and disposal practices has been clarified: the records are maintained indefinitely, and there is no disposal system at present. The Assistant General Counsel for Legal Counsel has been added as a System Manager.

FTC—51. Records in this System are located in the Information Division of the Office of the Secretary and in the Office of the General Counsel, and the description of System location has been revised accordingly. The description of retention and disposal practices has been clarified: the records are maintained indefinitely, and there is no disposal system at present. The Assistant General Counsel for Legal Counsel has been added as a System Manager.

FTC—52. The description of record source categories has been revised to include visual identification by administrative officers in the Commission's regional offices.

DELETIONS OF SYSTEMS

For the reasons given below the Commission deletes the following systems of records:

FTC—2, Call for Comment Mailing List (41 FR 39711): The "Call for Comment" publication and mailing list have been discontinued.

FTC—6, Complaint Cards, Dallas Regional Office (41 FR 39712): Records are no longer retrievable by personal identifier.

FTC—12, Consumer Complaint Files, Cleveland Regional Office (41 FR 39714): Records are no longer retrievable by personal identifier.

FTC—20, Correspondence with Members of Congress and Agency Officials (41 FR 39717): Files are no longer maintained; all congressional correspondence filed in FTC—7, Congressional Correspondence Coordination Unit Records, Office of General Counsel.

FTC—27, Health Unit Records (41 FR 39720): FTC Health Unit records are now covered by system number HSA BMS 0001.03 (Division of Federal Employee Health, Employee Health Records HEW/HSA/BMS) of the Department of Health, Education, & Welfare.

FTC—30, Page Count Sheet Tabulation, Dallas Regional Office (41 FR 39721): Records are no longer maintained.

FTC—37, Public Information Mailing Lists, Dallas Regional Office (41 FR 39724): Addresses are now listed by title only, not personal name.

FTC—47, Consumer Complaint/Information Files, Chicago Regional Office (41 FR 39728): Records are no longer retrievable by personal identifier.

NEW SYSTEMS

The Commission is establishing the following five additional systems of records:

FTC—2, Correspondence Control System
FTC—6, Mail Order Rule Complaint Letters, Abstracts of
FTC—15, Application for Compensation for Participation in Rulemaking Proceedings
FTC—20, Employee Locator System
FTC—38, Public Information Mailing List, Seattle Regional Office

The notices for these systems are set forth below with those for the existing systems. A report of the new systems was filed with the Director, Office of Management and Budget (OMB), the Speaker of the House, the President of the Senate, and the Chairman of the Privacy Protection Study Commission on August 8, 1977.

The routine uses described in the new systems' notices include both intra-agency uses (disclosures to agency employees who have a need for such access in the performance of their official duties within the agency) and other than intra-agency uses. In accordance with Section 552a(e)(11) of the Privacy Act, interested persons may submit comments pertaining to those routine uses set forth in the five new systems' notices that are not intra-agency uses. The Commission will consider all comments received on or before (date 30 days after publication of this notice in the Federal Register). Comments should be addressed to the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. Those routine uses that are not intra-agency uses will be adopted as of the closing date of the comment period unless notice to the contrary is published as a result of the comments received.

The Commission has requested from OMB a waiver of the 60-day advance notice requirement of OMB Circular No. A-108. If this waiver is granted, the five new systems' notices, including the intra-agency routine use disclosures, will be put into effect on the publication date of this notice or the date of the waiver, whichever is later. The routine uses that are not intra-agency disclosures will be effective on the date of their adoption if the waiver is granted or at the end of the 60-day advance notice period if the waiver is not granted.

By direction of the Commission dated August 16, 1977.

Carol M. Thomas,
Secretary.

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FTC—1

System name: Biographies of Commissioners and Key Staff Members—FTC

Office of Public Information—Room 496
Federal Trade Commission
6th Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Categories of individuals covered by the system: Commissioners and key Federal Trade Commission Staff members (former and current).

Categories of records in the system: Contains name, biographical data (such as education, employment, etc.), and in some cases a photograph and-or news release on the individual's appointment.

Authority for maintenance of the system: Federal Trade Commission Act

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Resource material for writing news releases and FTC publications, and for filling requests for information from members of the media; used by OPI staff members. (With concurrence of individual concerned, information is prepared in biographical sketch format for release to news media and general public upon request.)

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Written documents and glossy photographs in manila folders in lockable file cabinet.

Retrievability: Indexed by name.

Safeguards: Access to background information restricted to OPI staff and other agency personnel whose responsibilities require access.

Retention and disposal: Upon departure from Commission, individual's biographical sketch and photograph are filed alphabetically in a folder for former Commissioners and staff and are retained approximately two years. All other information from individual's folder is disposed of. In either case information is disposed of in wastebasket.

System manager(s) and address:

Public Information Assistant
Office of Public Information
Room 496, Federal Trade Commission
6th & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual whose biography and/or picture is contained in the system.

FTC—2

System name: Correspondence Control System—FTC

System location:

Optimum Systems Incorporated ("OSI")
5615 Fishers Lane
Rockville, Maryland 20852

Categories of individuals covered by the system: All individuals formally requesting information from, or submitting complaints to, the Federal Trade Commission (including regional offices) in writing; staff members assigned to respond to correspondence.

Categories of records in the system: Writer's name and address; nature of inquiry or complaint, including product and violation codes; name of staff members assigned to respond to letter.

Authority for maintenance of the system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by headquarters and regional office staff as a management tool for tracking correspondence coming into the Federal Trade Commission (including regional offices), including keeping abreast of assignments and response deadlines. Non-personal information is abstracted to provide statistical data on the number and types of correspondence to which the Commission responds.

Referral to person, partnership, or corporation complained about, when considered appropriate by commission staff or by another federal, state, or local governmental agency to whom matter has been referred.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Daily data temporarily held on Daconics' magnetic disk at FTC; data is then forwarded (daily) to OSI for long-term storage on an OSI magnetic disk.

Retrievability: By name.

Safeguards: Access restricted to personnel whose responsibilities require access. Access to OSI computer restricted to personnel who have knowledge of computer password.

Retention and disposal: Records are retained in OSI computer for 6 months after response to correspondence has been made, then purged from system after nonpersonal data has been added to a statistical accounting file. Retention beyond six months is possible if circumstances so require.

System manager(s) and address:

Chief, Information Systems Branch
Federal Trade Commission
6th Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Notification procedure: By mailing or delivering a written request bearing the individuals' name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom record is maintained; supervisors.

FTC—3

System name: Case/Project Tracking System—FTC

System location:

Optimum Systems Inc.
5615 Fishers Lane
Rockville, Maryland 20852

Categories of individuals covered by the system: All FTC professional and semi-professional employees and some clerical employees

Categories of records in the system: Contains name, FTC ID number, organization, occupation category, all cases and projects assigned, and all case and project information both past and present.

Authority for maintenance of the system: Federal Trade Commission Act

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Management and budgeting tool within Commission. Responses to congressional inquiries.

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Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic disk and tape

Retrievability: By case, program, organization, individual (ID no. or name)

Safeguards: Password. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Perpetual retention

System manager(s) and address:

Executive Director
Federal Trade Commission
6th and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual weekly activity reports.

FTC—4

System name: Claimants Under Federal Tort Claims Act and Military Personnel and Civilian Employees' Claims Act—FTC

System location:

Federal Trade Commission
Room 555
6th Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Categories of individuals covered by the system: Individuals who have claimed reimbursement from FTC under Federal Tort Claims Act and Military Personnel and Civilian Employees' Claims Act

Categories of records in the system: Information relating to traffic accidents and other accidents in which the FTC may be liable for property damage or loss or personal injuries.

Authority for maintenance of the system: Federal Tort Claims Act, 28 U.S.C. Sec. 2671 et seq. Military Personnel and Civilian Employees' Claims Act, 31 U.S.C. Sec. 241 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To determine whether the FTC should honor claims for personal injuries or loss or damage to property in incidents involving FTC employees. Referral to Department of Justice, GSA, or other federal agency when the matter comes within the jurisdiction of such agency. Used by Tort Claims Officer, other FTC personnel reviewing claim, and personnel of other agencies to whom a matter is referred.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in manila file folders in file cabinet.

Retrievability: The system is filed alphabetically by name of the FTC employee involved in each incident.

Safeguards: The files are stored in an unlocked file cabinet in the Office of the Tort Claims Officer. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: The records are stored for 10 years and then deposited in a wastebasket.

System manager(s) and address:

Executive Director
Federal Trade Commission
Washington, D.C. 20580

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information is obtained from claimant, FTC employee involved in incident, official police report (if any), witnesses, and insurance company representing claimant (if any).

FTC—5

System name: Commission Minutes—FTC

System location:

Federal Trade Commission
6th Street & Pennsylvania Avenue, N.W.
Room 174
Washington, D.C. 20580

Categories of individuals covered by the system: Individual respondents and proposed respondents in Commission proceedings and investigations, individuals requesting advisory opinions, and those subject to Commission disciplinary proceedings and Commission orders.

Categories of records in the system: Information on individuals generally concerns relations or transactions with or knowledge about respondents, or general business and isolated personal information on individual respondents, and other items of information relating to the individual's involvement in the matter in question.

Authority for maintenance of the system: Federal Trade Commission Act

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For use by the Commissioners and their staff, staff of the Secretary's Office, and the staff of the General Counsel's Office, as history and record of Commission actions.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Bound volumes

Retrievability: Indexed by respondents' names

Safeguards: Kept in locked safe. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Permanent retention

System manager(s) and address:

Secretary
Room 174
Federal Trade Commission
6th Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Commission records

FTC—6

System name: Mail Order Rule Complaint Letters, Abstracts of—FTC

System location:

Optimum Systems Incorporated
5615 Fishers Lane
Rockville, Maryland 20852

Categories of individuals covered by the system: Any individual whose complaint against a company or organization concerns, or is relevant to the Federal Trade Commission's Trade Regulation Rule concerning Mail Order Merchandise, 16 C.F.R. Sec. 435.

Categories of records in the system: name; address; nature of complaint (violation code and product code); date of transaction complained of, dollar amount of transaction complained of, if given; name of company complained against.

Authority for maintenance of the system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The computer system is used to produce listings summarizing complaints received about mail order merchandising, which in turn assist Bureau of Consumer

Protection and regional office staffs in taking or determining whether to take legal action against companies complained of that may be violating the Mail Order Merchandise Rule.

Referral to person, partnership, or corporation complained about, when considered appropriate by Commission staff or by another federal, state, or local governmental agency to whom the matter has been referred.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic disk and tape.

Retrievability: By name.

Safeguards: Access is restricted to those agency personnel whose responsibilities require access and who have knowledge of computer password.

Retention and disposal: Information is retained indefinitely; no disposal system at present.

System manager(s) and address:

Chief, Information Systems Branch
Federal Trade Commission
6th Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W. Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individuals who write complaints.

FTC—7

System name: Congressional Correspondence Coordination Unit Records, Office of General Counsel—FTC

System location: Congressional Correspondence Coordination Unit
Room 583
Office of General Counsel
Federal Trade Commission
Washington, D.C. 20580

Categories of individuals covered by the system: Members of Congress.

Categories of records in the system: Name; address; title; any other personal information in letter.

Authority for maintenance of the system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To respond to correspondence. To determine whether any law enforcement or other action by FTC may be warranted. Referral to other federal, state, or local government agencies for appropriate action when matter complained of or inquired about comes within the jurisdiction of such agency. Used by FTC employees and by personnel of any agency to which the matter is referred.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Referral to person, partnership, or corporation complained about, when considered appropriate by Commission staff or by another federal, state, or local governmental agency to whom matter has been referred.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila folders.

Retrievability: Indexed by name of congressman.

Safeguards: Stored in lockable metal cabinets. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Transferred to Federal Records Center at end of six years.

System manager(s) and address: Congressional Correspondence Coordinator
Office of General Counsel
Federal Trade Commission
Washington, D.C. 20580

Notification procedure: By mailing or delivering a written request bearing the individual name, return address, and signature, addressed as follows: privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580

Record access procedures: Same as above.

Contesting record procedures: Same as above

Record source categories: Congressmen.

FTC—8

System name: Congressional Inquiry Files, Dallas Regional Office—FTC

System location:

Dallas Regional Office
2001 Bryan Tower
Suite 2665
Dallas, Texas 75201

Categories of individuals covered by the system: Constututents who have written their congressional representative for aid in resolving consumer problems and members of Congress

Categories of records in the system: Contains consumer letter, letter from member of Congress transmitting the complaint, FTC's acknowledgement of the complaint, and the FTC's reply to the congressional representative

Authority for maintenance of the system: FTC Administrative Manual, 1-201.1; Federal Records Act, Section 506(a); GSA Regulations (Sec.101-11.209-3). Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To respond to correspondence. To determine whether any law enforcement or other action by FTC may be warranted. Referral to other federal, state, or local governmental agencies for appropriate action when matter complained of or inquired about comes within the jurisdiction of such agency. Used by FTC employees and by personnel of any agency to which the matter is referred.

Referral to person, partnership, or corporation complained about, when considered appropriate by Commission staff or by another federal, state, or local governmental agency to whom matter has been referred.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained generally on letterhead forms

Retrievability: Indexed by name of member of Congress

Safeguards: Records are maintained in a file cabinet locked by key. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Records are retained indefinitely

System manager(s) and address:

Regional Director
Federal Trade Commission
Dallas Regional Office
2001 Bryan Tower
Suite 2665
Dallas, Texas 75201

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom record is maintained, members of Congress.

FTC—9

System name: Consultant Files, Division of National Advertising; Bureau of Consumer Protection—FTC

System location:

Division of National Advertising

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Federal Trade Commission
Star Building
1101 Pennsylvania Avenue, N.W.
Washington, D.C.

Categories of individuals covered by the system: Consultants consisting of experts in various fields including medical and scientific.

Categories of records in the system: Contains name, curriculum vitae, resume of employment, lists of publications in field, copies of application forms submitted to FTC.

Authority for maintenance of the system: Federal Trade Commission Act

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Identification of medical doctors, scientists and other experts who are available on a consultant basis to advise professional staff members of Division of National Advertising, FTC. Used by staff members of the Division.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Letter size files in regulation cabinet

Retrievability: Indexed by name

Safeguards: Secured as are other files by locking of office door at night. Building guard stationed at building entrance. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Maintained indefinitely for future reference

System manager(s) and address:
Assistant Director
Division of National Advertising
Federal Trade Commission
Room 6124
Star Building
1101 Pennsylvania Avenue, N.W.
Washington, D.C.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom record is maintained.

FTC—10

System name: Consumer and Industry Correspondence Files, Division of Special Statutes; Bureau of Consumer Protection—FTC

System location:
Division of Special Statutes
633 Indiana Avenue, N.W.
Washington, D.C.

Categories of individuals covered by the system: Consumer and Industry Correspondents

Categories of records in the system: Correspondence

Authority for maintenance of the system: Federal Trade Commission Act, Truth in Lending Act, Fair Credit Reporting Act, Hobby Protection Act, Textile, Wool & Fibers Act, Fair Packaging and Labeling Act, Equal Credit Opportunity Act, Fair Credit Billing Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To respond to correspondence. To determine whether any law enforcement or other action by FTC may be warranted. Referral to other federal, state, or local governmental agencies for appropriate action when matter complained of or inquired about comes within the jurisdiction of such agency. Used by FTC employees and by personnel of any agency to which the matter is referred.

Referral to person, partnership, or corporation complained about, when considered appropriate by Commission staff or by another federal, state, or local governmental agency to whom matter has been referred.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in folders

Retrievability: Indexed by name—usually corporate name

Safeguards: Maintained in file cabinets. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Retained indefinitely

System manager(s) and address:
Assistant Director for Special Statutes
Bureau of Consumer Protection
633 Indiana Avenue, N.W.
Washington, D.C. 20580

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual

FTC—11

System name: Consumer Complaint Files, Atlanta Regional Office—FTC

System location:
Atlanta Regional Office
1718 Peachtree Street, N.W., Room 1000
Atlanta, Georgia 30309

Categories of individuals covered by the system: Members of the general public.

Categories of records in the system: Consists of letters from individuals filing complaints as to unsatisfactory commercial transactions and practices of various firms, businesses and individuals. System also includes a complaint log identifying individual complainants and a card file naming individual complainants.

Authority for maintenance of the system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To respond to correspondence. To determine whether any law enforcement or other action by FTC may be warranted. Referral to other federal, state, or local governmental agencies for appropriate action when matter complained of or inquired about comes within the jurisdiction of such agency. Used by FTC employees and by personnel of any agency to which the matter is referred.

Referral to person, partnership, or corporation complained about, when considered appropriate by Commission staff or by another federal, state, or local governmental agency to whom matter has been referred.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in letter size file folders and 3 inch by 5 inch index cards

Retrievability: Filed alphabetically by name

Safeguards: Filed in metal file cabinet. Office locked when unattended. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Retained for a minimum of one year and destroyed by delivering to and placing the material in local government operated incinerator

System manager(s) and address:
Regional Director
Atlanta Regional Office
1718 Peachtree Street, N.W., Room 1000
Atlanta, Georgia 30309

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary,

Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W.; Washington, D.C. 20580

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: From individual members of the public and occasionally from other federal agencies.

FTC—13

System name: Consumer Complaint Files, Division of Marketing Practices; Bureau of Consumer Protection—FTC

System location:
Division of Marketing Practices
Bureau of Consumer Protection
Federal Trade Commission
Washington, D.C. 20580

Categories of individuals covered by the system: Individuals filing complaints or requesting information

Categories of records in the system: Name; address; transaction history with persons, partnerships or corporations

Authority for maintenance of the system: Section 5 of the Federal Trade Commission Act

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To respond to correspondence. To determine whether any law enforcement or other action by FTC may be warranted. Referral to other federal, state, or local governmental agencies for appropriate action when matter complained of or inquired about comes within the jurisdiction of such agency. Used by FTC employees and by personnel of any agency to which the matter is referred.

Referral to person, partnership, or corporation complained about, when considered appropriate by Commission staff or by another federal, state, or local governmental agency to whom matter has been referred.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Varied size documents

Retrievability: Name, company involved, or alleged practice

Safeguards: Filing cabinets in secure buildings. Access restricted to those agency personnel whose responsibilities require access

Retention and disposal: Records maintained until enforcement action is final and then removed to General Service Administration for permanent storage

System manager(s) and address:
Assistant Director for Marketing Practices
Bureau of Consumer Protection
Federal Trade Commission
Washington, D.C. 20580

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Consumer; federal, state or local enforcement agencies; private organizations (e.g., Better Business Bureaus, consumer hot lines) that receive consumer complaint letters

FTC—14

System name: Consumer Complaint Files, Los Angeles Regional Office— FTC

System location:
Federal Trade Commission
11000 Wilshire Boulevard, Room 13209
Los Angeles, California 90024

Categories of individuals covered by the system: Individuals who submit complaints against companies, practices, individuals in the Los Angeles Office area.

Categories of records in the system: Name; address; information about the practices, activities, policies of organizations or individuals submitted by various complainants.

Authority for maintenance of the system: Federal Trade Commission Act

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To respond to correspondence. To determine whether any law enforcement or other action by FTC may be warranted. Referral to other federal, state, or local governmental agencies for appropriate action when matter complained of or inquired about comes within the jurisdiction of such agency. Used by FTC employees and by personnel of any agency to which the matter is referred.

Referral to person, partnership, or corporation complained about, when considered appropriate by Commission staff or by another federal, state, or local governmental agency to whom matter has been referred.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders

Retrievability: Indexed in log book by name of complainant.

Safeguards: Stored in file cabinets. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Retained for one year, then disposed of in wastepaper basket.

System manager(s) and address:
Assistant Regional Director
Federal Trade Commission
11000 Wilshire Boulevard, Room 13209
Los Angeles, California 90024.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Consumers and business complainants.

FTC—15

System name: Applications for Compensation for Participation in Rulemaking Proceedings—FTC

System location:
Division of Legal Information
Office of the Secretary
Federal Trade Commission
6th Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20580
Office of the Director—Room 460
Bureau of Consumer Protection
Federal Trade Commission
6th Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Categories of individuals covered by the system: Persons filing applications for compensation for participation in rulemaking proceedings.

Categories of records in the system: name; address; applicant's interest in the rulemaking proceeding; applicant's reasons why representation of his interest is necessary; applicant's reasons why his interest would not otherwise be adequately represented; applicant's reasons why he is unable effectively to participate in the rulemaking proceeding without financial assistance, including information relating to the applicant's economic stake in the proceeding, his ability or inability to contribute to the costs of participation, and his financial resources and status; expenses for which applicant seeks compensation.

Authority for maintenance of the system: Section 18(h) of the Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by the officers presiding over rulemaking proceedings and the staff of the Offices of the Director and Assistant Directors, Bureau of Consumer Protection, Office of the General Counsel, and Office of Policy Planning and Evaluation in determining whether to compensate applicants for expenses to be incurred in participating in rulemaking

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proceedings. All material submitted by applicants, related correspondence, and all determinations by the Director of the Bureau of Consumer Protection are placed on the public record (1) in the rulemaking record and (2) in binders devoted solely to such applications.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: (1) Stored in binders on the public record in the Public Reference Room; (2) duplicates and related internal memoranda stored in file folders in Room 460.

Retrievability: Filed under title of rulemaking proceeding and indexed by name of applicant.

Safeguards: Maintained in lockable offices.

Retention and disposal: Retained indefinitely; no present disposal program.

System manager(s) and address:

Secretary
Federal Trade Commission
(address same as System Location)
Special Assistant for Compensation
Office of the Director
Bureau of Consumer Protection
Federal Trade Commission
(address same as System Location)

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. In order for personal information in this system to be retrieved, a request must specify the title of the rulemaking proceeding.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual applicant and commenting third parties, if any.

FTC—16

System name: Consumer Complaint Letters, Seattle Regional Office—FTC

System location: Seattle Regional Office, Federal Trade Commission, 2840 Federal Building, 915 Second Avenue, Seattle, Washington 98174

Categories of individuals covered by the system: Those persons who direct a consumer complaint or request for assistance or information to the Seattle Regional Office, FTC, or those forwarding a complaint from a consumer such as a member of the media or another federal, state or local agency; individuals against whom complaints are received.

Categories of records in the system: Name; address; nature of the consumer's complaint, the name and location of the party complained of, and the supporting documents where provided.

Authority for maintenance of the system: Federal Trade Commission Act; FTC Operating Manual provides for processing of consumer complaints.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To respond to correspondence. To determine whether any law enforcement or other action by FTC may be warranted. Referral to other federal, state, or local governmental agencies for appropriate action when matter complained of or inquired about comes within the jurisdiction of such agency. Used by FTC employees and by personnel of any agency to which the matter is referred.

Referral to person, partnership, or corporation complained about, when considered appropriate by Commission staff or by another federal, state, or local governmental agency to whom matter has been referred.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained alphabetically in file cabinet

Retrievability: Alphabetical by name

Safeguards: Files are maintained in folders in a file cabinet; responsibility of file clerk. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Held two years and ther destroyed

System manager(s) and address: Regional Director, Seattle Regional Office, 2840 Federal Building, 915 Second Avenue, Seattle, Washington 98174.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Those consumers who have submitted a complaint or a request for assistance or information.

FTC—17

System name: Consumer Mailing List, Los Angeles Regional Office—FTC

System location:

Federal Trade Commission
11000 Wilshire Boulevard, Room 13209
Los Angeles, California 90024

Categories of individuals covered by the system: Individuals who have requested publications from Los Angeles Regional Office publications, FTC publications, and individuals who receive local call for comment.

Categories of records in the system: Name; mailing address; business title, if any.

Authority for maintenance of the system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to mail Los Angeles Regional Office publications, FTC publications, and local call for comment to listed names. Used by Regional Office personnel.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Daconics magnetic disk.

Retrievability: By name

Safeguards: Daconics disk storage. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: By disk erasure when consumer no longer desires publications, or local Call for Comment. List is revised at least annually.

System manager(s) and address:

Assistant Director
Los Angeles Regional Office
Federal Trade Commission
11000 Wilshire Boulevard, Room 13209
Los Angeles, California 90024

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

FTC—18

System name: Consumer Redress Lists, Compliance Division; Bureau of Consumer Protection—FTC

System location:

Compliance Division
Bureau of Consumer Protection
Federal Trade Commission
1726 M Street, Suite 1100
Washington, D.C. 20036

Categories of individuals covered by the system: Consumers entitled to redress pursuant to Commission or court order.

Categories of records in the system: Name, address, and other information pertinent to identifying consumers qualifying for consumer redress in specific proceedings.

Authority for maintenance of the system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To identify consumers qualifying for consumer redress pursuant to Commission or court order. Used by Compliance Division personnel, other FTC personnel, and personnel of other federal agencies participating in proceedings involving consumer redress.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila file folders

Retrievability: Indexed by name

Safeguards: Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Records maintained until consumer redress is completed, then disposal

System manager(s) and address:

Assistant Director for Compliance
Division of Compliance
Bureau of Consumer Protection
Federal Trade Commission
1726 M Street, Suite 1100
Washington, D.C. 20036

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580. In order for personal information in this system to be retrieved, a request must specify the name of the firm or proceeding.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Affected consumers and other members of the public; persons, partnerships, or corporations subject to consumer redress orders.

FTC—19

System name: Correspondence With Compliance Division, Bureau of Consumer Protection, Concerning Parties Subject to Commission Orders—FTC

System location:

Compliance Division
Bureau of Consumer Protection
Federal Trade Commission
1726 M Street, N.W., Suite 1100
Washington, D.C. 20036

Categories of individuals covered by the system: Persons corresponding with Compliance Division concerning parties subject to Commission orders

Categories of records in the system: Correspondence

Authority for maintenance of the system: Federal Trade Commission Act

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To respond to correspondence. To determine whether any further law enforcement or other action by FTC may be warranted. Referral to other federal, state, or local governmental agencies for appropriate action when matter complained of or inquired about comes within the jurisdiction of such agency. Used by FTC employees and by personnel of any agency to which the matter is referred.

Referral to person, partnership, or corporation complained about, when considered appropriate by Commission staff or by another federal, state, or local governmental agency to whom matter has been referred.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila file folders

Retrievability: Indexed by name of correspondent within file of each compliance matter.

Safeguards: Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Records maintained until civil penalty action or other proceedings terminated, then shipped to Legal and Public Records Division of FTC

System manager(s) and address:

Assistant Director of Compliance
(address same as System Location)

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580. In order for personal information in this system to be obtained, a request must specify the name of the firm or proceeding.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individuals corresponding with Compliance Division.

FTC—20

System name: Employee Locator System—FTC

System location:

Optium Systems Incorporated
5601 Fishers Lane
Rockville, Maryland 20852

Categories of individuals covered by the system: Current Federal Trade Commission employees.

Categories of records in the system: Name; employee number; building code and room number; office telephone number; correspondence code; contact code; mail drop code.

Authority for maintenance of the system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to produce Federal Trade Commission telephone book used by all agency personnel and mail locator listings used by mail room personnel; used by library staff to ascertain an employee's identification number for subsequent use in retrieving information from the Automated Serials Routing System (FTC—45).

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic disk and tape.

Retrievability: By name or employee number

Safeguards: Access restricted to those agency personnel with knowledge of the computer password for the system.

Retention and disposal: Information is continuously updated; obsolete data is erased from system.

System manager(s) and address:

Chief, Information Systems Branch
Federal Trade Commission
6th Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained; administrative officers.

FTC—21

System name: Counseling Records—FTC

System location:

Division of Personnel
Federal Trade Commission

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Washington, D.C. 20580

Categories of individuals covered by the system: Current employees of the Federal Trade Commission

Categories of records in the system:

a. Upward Mobility: Individual Development Plan and counseling notes.
b. Professional Training: Individual Development Plan and counseling notes.
c. Executive Development: Individual Development Plan and counseling notes.
d. Employee Relations: Counseling notes, unofficial memoranda about or given to employee concerning problem(s) which arise.
e. Debt Letters: Letters from creditors about debts owed by current employees and copies of employee responses.

Authority for maintenance of the system: 5 U.S.C. Chapter 41; Executive Order 11348; EEO Act 1972; Executive Order 11478; Title 5 U.S.C. 735.207; Executive Order 9830; 5 U.S.C. Sec. 230.101; Federal Personnel Manual Chapter 250.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Upward Mobility, Professional Training and Executive Development—Used by program director or others whose official duties require such information to provide a record of employee goals and objectives and classes needed to obtain those objectives and to maintain a record of courses taken.

Employee Relations and Debt—Used by Employee Relation Specialist or others whose official duties require such information. Information provides a record of counseling provided and resolution of problem(s). If problem results in a disciplinary action, information in file may become part of an official record.

Referral to the Civil Service Commission concerning pay, benefits, retirement deductions, and other information necessary for the Commission to carry out its Government-wide personnel management functions.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in manila folders.

Retrievability: Records are indexed by name.

Safeguards: Records are stored in lockable metal filing cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: Destroyed upon completion of the program (Upward Mobility, Professional and Executive Development Programs) or upon employee's separation from the agency (Employee Relations and Debt Counseling).

System manager(s) and address:

Director of Personnel
Federal Trade Commission
Washington, D.C. 20580

Notification procedure: By mailing or delivering a written request bearing the individual name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual to whom records pertain, supervisor, program manager, counselor.

FTC—22

System name: Disciplinary Action Investigatory Files—FTC

System location:

Records Division
Office of the Secretary
Federal Trade Commission
6th & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Categories of individuals covered by the system: FTC personnel, counsel for parties under investigatory or adjudicatory proceedings, and others participating in FTC matters, subject to investigation for possible improper or unethical conduct.

Categories of records in the system: Name, address, current employment status, subject matter of investigation.

Authority for maintenance of the system: Federal Trade Commission Act (15 U.S.C. 41) dated 9-26-14; Executive Order No. 10450 dated 8-5-54.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Determination of whether disciplinary action, including suspension or disbarment from practice before Commission, is warranted; could include transfer of information to Civil Service Commission, to a court, or to a Bar Association. Used by agency personnel assigned to investigate and handle matter and by personnel of other agencies, court, or Bar Association to whom matter is referred.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in standard letter size file cabinets, in Record Center Storage Containers, on microfilm or microfiche.

Retrievability: Indexed by individual name, company name, industry investigation title, file or docket number.

Safeguards: Unlocked file cabinets with normal building security, record center storage and security. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Closed investigatory matters retained five years and then history portion transferred to National Archives; remainder destroyed by shredding or burning. Docketed records retained five years and then transferred to National Archives.

System manager(s) and address: Secretary, Federal Trade Commission (same address as in System Location)

Notification procedure: Records in this system are generally exempt from mandatory disclosure under 5 U.S.C. Sec. 552a(k)(2). However, some individual records may be disclosable, and access to them may be requested by mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained, complainants, informants, witnesses, and Commission personnel having knowledge or providing analysis of matter.

Systems exempted from certain provisions of the Act: Pursuant to 5 U.S.C. Sec. 552a(k)(2), records in this system generally are exempt from the requirements of subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of 5 U.S.C. Sec. 552a. See Section 4.13(m) of the Federal Trade Commission Rules of Practice, 16 C.F.R. Sec. 4.13(m).

FTC—23

System name: Financial Management System—FTC

System location:

Division of Budget and Finance
Federal Trade Commission
6th & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Categories of individuals covered by the system: FTC personnel who travel or otherwise might be involved in reimbursement of expenses situations.

Categories of records in the system: Contains name and employee number of person involved in travel or otherwise reimbursed for expenses conducted in performance of official duties of FTC. Information relating to travel expenses.

Authority for maintenance of the system: Standard Government Travel Regulations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Identification and retrieval for use in financial reports of FTC. Recording information relating to expenses incurred by FTC personnel in performance of official duties.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Used by personnel of Division of Budget and Finance.

Storage: Computer hardcopy listing; computerized taped vendor file.

Retrievability: Indexed by name and employee number.

Safeguards: Records are maintained in division files and computer file; access limited to Budget and Finance personnel.

Retention and disposal: Retained per GSA retention schedules, generally 3 years; then destroyed.

System manager(s) and address: Chief, Division of Budget and Finance (same address as System Location)

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above

Contesting record procedures: Same as above.

Record source categories: Individual on whom record is maintained; personnel system.

FTC—24

System name: Financial Statements of Commissioners-elect—FTC

System location:

Office of General Counsel, Rm 568
Federal Trade Commission
Washington, D.C. 20580

Categories of individuals covered by the system: FTC Commissioners-elect.

Categories of records in the system: Financial statements of Commissioners-elect—list of personal property, stocks, bonds, indebtedness, etc.

Authority for maintenance of the system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Reviewed for adequacy of disclosure and potential conflict of interest purposes when a new Commissioner-elect requests assistance with his financial statements. Used by General Counsel and staff.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in a legal size accordion folder.

Retrievability: Indexed by name.

Safeguards: Maintained in a wooden locked cabinet in GC's Secretary's Office. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Held since 1970. Retention indefinite.

System manager(s) and address:

General Counsel
Federal Trade Commission
Washington, D.C. 20580

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, N.W., Washington, D.C. 20580

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

FTC—25

System name: General Correspondence Records—FTC

System location:

Federal Trade Commission
Room 701
6th & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Categories of individuals covered by the system: Consumers; individuals; public officials; company and corporation officers; attorneys; members of consumer groups, student groups and committees.

Categories of records in the system: Letters of complaint, inquiry, comment, petition, and/or communications concerning FTC actions and activities.

Authority for maintenance of the system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To respond to correspondence. To determine whether any law enforcement or other action by FTC may be warranted. Referral to other federal, state, or local governmental agencies for appropriate action when matter complained of or inquired about comes within the jurisdiction of such agency. Used by FTC employees and by personnel of any agency to which the matter is referred.

Referral to person, partnership, or corporation complained about, when considered appropriate by Commission staff or by another federal, state, or local governmental agency to whom matter has been referred.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Legal-size standard file cabinets; conserva files, regular size, and 3 inch by 5 inch drawers.

Retrievability: Indexed by correspondent's name.

Safeguards: Unlocked file cabinets. Office security: blue seal locked doors. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Copies of correspondence and correspondent index are retained for 6 months from date of Commission response. Records disposed of in wastebasket.

System manager(s) and address: Supervisor, Correspondence Section, Office of the Secretary, Federal Trade Commission, Washington, D.C. 20580.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom record is maintained.

FTC—26

System name: General Personnel Records (Official Personnel Folder and records related thereto): Duplicate Personnel files and Automated Records—FTC.

System location:

Automated Records
Division of Personnel
Federal Trade Commission
Washington, D.C.
Duplicate Records
Federal Trade Commission
6th & Pennsylvania Avenue, N.W.
Washington, D.C. 20580
Atlanta Regional Office
1718 Peachtree Street, N.W., Room 1000
Atlanta, Georgia 30309
Boston Regional Office
150 Causeway Street
Boston, Massachusetts 02144
Chicago Regional Office
55 East Monroe Street
Chicago, Illinois 60603
Cleveland Regional Office
1339 Federal Office Building
1240 East 9th Street
Cleveland, Ohio 44199
Dallas Regional Office
2001 Bryan Tower, Suite 2665
Dallas, Texas 75201

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Denver Regional Office
1405 Curtis Street
Suite 2900
Denver, Colorado 80202
Los Angeles Regional Office
13209 Federal Building
11000 Wilshire Boulevard
Los Angeles, California 90024
New York Regional Office
2243-EB Federal Building
26 Federal Plaza
New York, New York 10007
San Francisco Regional Office
450 Golden Gate Avenue
San Francisco, California 94102
Seattle Regional Office
28th Floor Federal Building
915 Second Avenue
Seattle, Washington 98174
Washington, D.C., Regional Office
2120 L Street, N.W.
Washington, D.C. 20037

Categories of individuals covered by the system: Current Federal Trade Commission employees.

Categories of records in the system: This system consists of a variety of records relating to personnel actions and determinations made about an individual while employed in the Federal service. These records contain information about an individual relating to birth date; Social Security Number; veteran preference; tenure; handicap; past and present salaries, grades, and position titles; letter of commendation, reprimand, charges, and decision on charges; notice of reduction-in-force; locator files; personnel actions, including but not limited to, appointment, reassignment, demotion, detail, promotion, transfer, and separation; training; minority group designator; records relating to life insurance, health benefits, and designation of beneficiary; performance ratings; data documenting the reasons for personnel actions or decisions made about an individual; awards; and other information relating to the status of the individual.

Authority for maintenance of the system: Title 5 U.S.C. Sections 1302, 2951, 4118, 4308, 4506, and Executive Order 10561, September 13, 1954.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records is used or a record may be used:

a. By agency officials for purposes of review in connection with appointments, transfers, promotions, reassignments, adverse actions, disciplinary actions, and determination of qualifications of an individual.

b. By the Civil Service Commission for purposes of making a decision when a Federal employee or former Federal employee is questioning the validity of a specific document in an individual's record.

c. By the district courts to render a decision when an agency has refused to release to current or former Federal employees a record under the Freedom of Information Act.

d. To provide information to a prospective employer of a Government employee or former Federal employee.

e. To provide data for the automated Center Personnel Data File (CPDF).

f. To provide data to update Federal Automated Career Systems (FACS), Executive Inventory File, and Security investigations index on new hires, adverse actions, and terminations.

g. To provide statistical reports to Congress, agencies, and the public on characteristics of the Federal work force.

h. To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

i. To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information or other pertinent information to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

j. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, state or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

k. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; may also be utilized to locate specific individuals for personnel research or other personnel management functions.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, magnetic tape, and punched cards.

Retrievability: Records are indexed by any combination of name, birth date, Social Security Number, or identification number.

Safeguards: Duplicate records—Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms with access limited to those whose official duties require access. Automated files—Restricted password to access data.

Retention and disposal: Duplicate files—The Official Personnel Folder (OPF) is retained indefinitely. The OPF is sent to the National Personnel Records Center within 30 days of the date of the employee's separation from the Federal service. Some records such as letters of reprimand, indebtedness, and vouchers are maintained for two years or destroyed when an individual resigns, transfers, or is separated from the Federal service. Automated files—Files of individuals are erased after they leave the FTC; only statistical turnover information is retained.

System manager(s) and address: Duplicate file—Regional Director, Regional Office (see name and address of regional office listed in location above). Automated records—Director of Personnel, Division of Personnel, Federal Trade Commission, Washington, D.C. 20580.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied, except information provided by agency officials.

FTC—28

System name: Investigational, Legal, and Public Records—FTC

System location: Records Division
Federal Trade Commission
6th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20580
(Record Center, Suitland, Maryland)

Categories of individuals covered by the system: Respondents, proposed respondents, and others in Commission investigations and law enforcement proceedings; parties requesting formal advisory opinions.

Categories of records in the system: Name and some or all of the following: address; company affiliation; age; date of birth; place of birth; employment; financial, credit, and personal history background, in the records contained in this system. This system is composed of the following files: formal investigation files; docketed and consent matters; assurances of voluntary compliance; and advisory opinions, but is limited to those files from which personal information is retrieved by the name of an individual or other identifying particular assigned to the individual.

Authority for maintenance of the system: Federal Trade Commission Act and Executive Order No. 10450, dated 8-5-54.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For use by Commission staff in investigative and adjudicative proceedings, enforcement actions, penalty proceedings, enforcement of compliance orders, issuance of complaints, negotiation of consent orders, issuance of cease and desist orders, and advisory opinions. Referral to federal, state, or local enforcement authorities for investigation and possible criminal prosecution, civil action or regulatory order. Used by Commission staff assigned to, reviewing, or supervising matter; used by Commission personnel with recordkeeping, managerial, and budgeting responsibilities; used by personnel of other agencies to whom a matter is referred.

Referral to experts, when considered appropriate by Commission staff.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on standard letter & legal size paper; magcard tapes; microfilm, microfiche.

Retrievability: Indexed by respondent or correspondent name; company name; industry investigation title; FTC internal 7-digit or 4-digit investigation number or complaint assigned number.

Safeguards: Metal legal and letter size file cabinets; official records center containers; access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Retained at FTC offices for 5 years, after which transferred to National Archives and Federal Records Center, Suitland, Md. Investigatory files, except history portion, destroyed by shredding or burning after 5 years.

System manager(s) and address: Secretary
Federal Trade Commission
6th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Notification procedure: Public records contained in this system are available upon request, as indicated below. Otherwise, records in this system generally do not contain personal information about individuals and are generally exempt from mandatory disclosure under 5 U.S.C. Sec. 552a (k)(2). However, some personal information relating to individuals may be included and, if retrievable, may be disclosable; access to such information may be requested by mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. In order for personal information in this system to be retrieved, a request must specify the name of the party subject to the investigation or adjudicatory proceeding.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual respondent or proposed respondent, company records, complainants, informants, witnesses or other third parties.

Systems exempted from certain provisions of the Act: Pursuant to 5 U.S.C. Sec. 552a(k)(2), records in this system generally are exempt from the requirements of subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of 5 U.S.C. Sec. 552a. See Section 4.13(m) of the Federal Trade Commission Rules of Practice, 16 C.F.R. Sec. 4.13(m).

FTC—29

System name: Litigation Information Management System for Investigations, Rulemaking, Adjudicatory Proceedings—FTC

System location:
Suite 452
13th & Pennsylvania Avenue, N.W.
Washington, D.C.

Categories of individuals covered by the system: Individual respondents, witnesses, informants, and interested parties in certain selected, complex investigations, or rulemaking or adjudicatory proceedings; individuals submitting comments or named in records obtained in the course of such investigations or proceedings.

Categories of records in the system: Information on individuals generally concerns relations or transactions with or knowledge about respondents, or general business and isolated personal information on individual respondents, and other items of information relating to the individual's involvement in the matter in question.

Authority for maintenance of the system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This computer system is only utilized in certain select, complex matters where data storage, retrieval, and manipulation requires such use. It is used for general law enforcement purposes (including investigation, litigation, and rulemaking) by Commission employees; used by management in allocating resources and in assessing progress of programs; used to provide information to Congress; used by consultants and contractors to create data bases and to perform calculations and interpret data for FTC attorneys; used to refer matters to federal, state, or local enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in original, microform and computer data bases.

Retrievability: Retrieved by name, title, date, company concerned, or any fact entered on data entry form (document control form).

Safeguards: Access to records only to those working on the particular matter and only within their particular function. Security and confidentiality controls prevent unauthorized access to original records and computerized records.

Retention and disposal: Retained for life of program plus any additional retention period specified by Commission. Disposal is by shredding, burning, or other physical destruction.

System manager(s) and address:
Manager, Litigation Support Division
Room 452
13th & Pennsylvania Avenue, N.W.
Washington, D.C.

Notification procedure: Records in this system generally do not contain personal information about individuals and are generally exempt from mandatory disclosure under 5 U.S.C. Sec. 552a(k)(2). However, some personal information relating to individuals may be included and may be disclosable; and access to such information may be requested by mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580. In order for personal information in this system to be retrieved, a request must specify the name of the party subject to the investigation or adjudicatory proceeding.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Public and confidential information received from industry, government, and individuals.

Systems exempted from certain provisions of the Act: Pursuant to 5 U.S.C. Sec. 552a(k)(2), records in this system generally are exempt from the requirements of subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of 5 U.S.C. Sec. 552a. See Section 4.13(m) of the Federal Trade Commission Rules of Practice, 16 C.F.R. Sec. 4.13(m).

FTC—31

System name: Payroll Processing System—Federal Trade Commission

System location:
Division of Budget and Finance
Federal Trade Commission
6th Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Categories of individuals covered by the system: All FTC personnel.

Categories of records in the system: All payroll information on individual FTC employees including basic employment information, pay and deduction information, and leave and tax information.

Authority for maintenance of the system: Public Law 89-554, Sec. 1; 5 U.S.C. Sec. 1301; Federal Personnel Manual.

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Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Salary and wage processing in accordance with applicable laws and regulations. Used by Division of Budget and Finance personnel and by other agency personnel whose responsibilities include salary and wage processing and evaluation.

Referral of unemployment compensation information to state and local unemployment compensation boards.

Referral to the Civil Service Commission concerning pay, benefits, retirement deductions, and other information necessary for the Commission to carry out its Government-wide personnel management functions.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in comprehensive computer listing and on computer tape by the Treasury Department in Philadelphia.

Retrievability: By name, social security number.

Safeguards: Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Maintained according to GSA/Archives schedules of retention and disposal.

System manager(s) and address:

Chief, Division of Budget and Finance
(address same as System Location)

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Pay forms completed by individual on whom the records are maintained; personnel system.

FTC—32

System name: Payroll—Retirement Cards—FTC

System location:

Division of Budget and Finance
Federal Trade Commission
6th Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Categories of individuals covered by the system: All Federal Trade Commission personnel who quality for Federal retirement benefits.

Categories of records in the system: Payroll information relating to retirement benefits.

Authority for maintenance of the system: 5 U.S.C. Secs. 5301, 5501, 6101, 6301, 8301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Calculation of retirement benefits. Referred to succeeding employer of U.S. Government Agency or otherwise to Civil Service Commission upon withdrawal or retirement from Federal Service.

Referral to the Civil Service Commission concerning pay, benefits, retirement deductions, and other information necessary for the Commission to carry out its Government-wide personnel management functions.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on 8 inch by 10 1/2 inch card

Retrievability: Indexed by name

Safeguards: Locked 3-drawer file cabinet. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Held for length of service of employee while at FTC; information forwarded to next employing agency or Civil Service Commission.

System manager(s) and address:

Chief, Division of Budget and Finance
(address same as System Location)

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Payroll system; personnel system

FTC—33

System name: Preliminary Investigation Files—FTC

System location: Indiana Building
633 Indiana Avenue, N.W.
Washington, D.C.
Star Building
1101 Pennsylvania Avenue, N.W.
Washington, D.C.
Gelman Building
2120 L Street, N.W.
Washington, D.C.
Pennsylvania Building
425 13th Street, N.W.
Washington, D.C.
M Street Building
1726 M Street, N.W.
Washington, D.C.
6th Street & Pennsylvania Avenue, N.W.
Washington, D.C.
Atlanta Regional Office
1718 Peachtree Street, N.W.
Atlanta, Georgia 30309
Boston Regional Office
150 Causeway Street
Boston, Massachusetts 02114
Chicago Regional Office
55 East Monroe Street
Chicago, Illinois 60603
Cleveland Regional Office
Anthony J. Celebrezze Federal Office Building
1240 East 9th Street
Cleveland, Ohio 44199
Dallas Regional Office
2001 Bryan Tower Suite 2665
Dallas, Texas 75201
Denver Regional Office
1405 Curtis Street
Suite 2900
Denver, Colorado 80202
Los Angeles Regional Office
13209 Federal Building
11000 Wilshire Boulevard
Los Angeles, California 90024
New York Regional Office
2243-EB Federal Building
26 Federal Plaza
New York, New York 10007
San Francisco Regional Office
450 Golden Gate Avenue
San Francisco, California 94102
Seattle Regional Office
28th Floor Federal Building
915 Second Avenue
Seattle, Washington 98174
Washington, D.C., Regional Office
2120 L Street, N.W.
Washington, D.C. 20037

Categories of individuals covered by the system: Respondents and correspondents in preliminary investigations.

Categories of records in the system: Information on individuals generally concerns relations or transactions with or knowledge about respondents, or general business and isolated personal information on individual respondents, and other items of information relating to the individual's involvement in the matter in question. This system is composed of files of preliminary investigations (investigations which have not yet become formal and assigned a 7-digit number), but is limited to those files from which personal information is retrieved by the name of an individual or other identifying particular assigned to the individual.

Authority for maintenance of the system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To determine whether a formal investigation or other action is appropriate. Referral to federal, state, or local enforcement authorities for investigation and possible criminal prosecution, civil action, or regulatory order. Used by Commission staff assigned to, reviewing, or supervising matter; used by Commission personnel with recordkeeping, managerial, and budgeting responsibilities; used by personnel of other agencies to whom a matter is referred.

Referral to experts, when considered appropriate by Commission staff.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained in file folders.

Retrievability: Indexed by name of respondent or correspondent.

Safeguards: Access to use of these records is limited to those whose official duties require such access.

Retention and disposal: Records are transferred to the Records Division if the preliminary investigation becomes a formal investigation; otherwise records are retained by office that conducted the preliminary investigation. No disposal system at present.

System manager(s) and address: Director of Bureau or Regional Office conducting investigation.

Notification procedure: Records in this system generally do not contain personal information about individuals and are generally exempt from mandatory disclosure under 5 U.S.C. Sec. 552a(k)(2). However, some personal information relating to individuals may be included and, if retrievable, may be disclosable; access to such information may be requested by mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. In order for personal information in this system to be retrieved, a request must specify the name of the party subject to the investigation or adjudicatory proceeding. The request should also specify the Bureau (and Division, if possible) or Regional Office conducting the investigation.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual respondent or proposed respondent, company records, compliance, informants, witnesses or other third parties.

Systems exempted from certain provisions of the Act: Pursuant to 5 U.S.C. Sec. 552a(k)(2), records in this system generally are exempt from the requirements of subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of 5 U.S.C. Sec. 552a. See Section 4.13(m) of the Federal Trade Commission Rules of Practice, 16 C.F.R. Sec. 4.13(m).

FTC—34

System name: Public Contact Report System, Atlanta Regional Office— FTC

System location:

Atlanta Regional Office
1718 Peachtree Street, N.W., Room 1000
Atlanta, Georgia 30309

Categories of individuals covered by the system: Individual members of the public who file complaints or request information either by telephone or in person concerning matters believed to be of interest or within the jurisdiction of the FTC.

Categories of records in the system: Consists of comoleted form listing the name of the individual, name of the comoany about which the individual inquires or complains and the matter complained of. System also includes an index of the individual with whom contact was made.

Authority for maintenance of the system: Federal Trade Commission Act

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Filed for future reference as to possible witnesses if company complained of should come under investigation by the FTC. Also may be used for reference to another office of the FTC or other federal agencies for law enforcement purposes when deemed approoriate. Used by Atlanta Regional Office personnel and by oersonnel of other FTC units or other agencies to whom a matter is referred.

Referral to experts, when considered appropriate by Commission staff.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Public contact forms maintained in letter size file folders; index cards consists of 3 inch by 5 inch cards maintained in card file.

Retrievability: Contact form filed alphabetically by name of company; index card filed alphabetically by name of individual.

Safeguards: Contact forms in standard file cabinet and index cards in standard card file. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Retained for a minimum of one year and disposed of by delivery to and placing in a local government incinerator.

System manager(s) and address:

Regional Director
1718 Peachtree Street, N.W., Room 1000
Atlanta, Georgia 30309

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information obtained from the individual.

FTC—35

System name: Public Information Mailing List—FTC

System location:

Office of Public Information—Room 496
Federal Trade Commission
6th Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Categories of individuals covered by the system: Individuals, businesses, and organizations which have indicated an interest in receiving FTC materials; selected media and organizations to be reached on specific FTC matters.

Categories of records in the system: Contains some or all of the following: name, title, company or organization, mailing address, occupation, and capacity/interest codes.

Authority for maintenance of the system: Federal Trade Commission Act

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Producing address labels for mailing of FTC materials by Office of Public Information and other Commission personnel.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer disk storage

Retrievability: Labels for individual addressees can be retrieved by name or computer-assigned identification number.

Safeguards: Retrieval of records is restricted to Office of Public Information and computer support personnel who have knowledge of computer password.

Retention and disposal: Records are retained until a purge action occurs or a request to delete is received. A purge action occurs when an affirmative response to a purge inquiry is not received, and each list entry receives a purge inquiry annually. News media and special interest addressees are retained indefinitely or for a specified length of time unless removal from the list is requested by the individual.

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System manager(s) and address:
Director, Office of Public Information
Room 496, Federal Trade Commission
6th Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual who wishes to receive FTC material, and FTC material, and FTC staff referring mailing list requests.

FTC—36

System name: Public Information Mailing Lists, Boston Regional Office—FTC

System location:
Boston Regional Office
Suite 1301
150 Causeway Street
Boston, Mass. 02114

Categories of individuals covered by the system: News media personnel, heads of consumer organizations, Attorneys General and key staff, heads of business organizations, selected key individuals such as legislators, government leaders, professors, etc. concerned with consumerism.

Categories of records in the system: Contains name, title, organization and address.

Authority for maintenance of the system: Federal Trade Commission Act

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is used by staff for purposes of mailing or distributing press releases and other information materials.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on a typed listing which is periodically updated

Retrievability: Indexed by name and organization.

Safeguards: Lists are maintained in a steel file in the PIO's Office. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Lists are maintained until outdated.

System manager(s) and address:
Public Information Officer
Boston Regional Office
150 Causeway St.—Suite 1301
Boston, Mass. 02114

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Boston Regional Office staff, the media, consumer organizations, materials and information supplied by the public, directories, and government officials.

FTC—38

System name: Public Information Mailing List, Seattle Regional Office—FTC

System location:
Seattle Regional Office,
28th Floor, Federal Building
915 Second Avenue
Seattle, Washington 98174

Categories of individuals covered by the system: News media personnel; heads of consumer organizations, Attorneys General, directors of Legal Services offices; county prosecutors; private attorneys; freelance writers; educators.

Categories of records in the system: Name; title; organization; address; telephone number.

Authority for maintenance of the system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is used by staff to mail or distribute press releases and other information materials.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on 5" x 8" file cards, in a notebook, and on magnetic computer tape.

Retrievability: Indexed by name of individual.

Safeguards: Information maintained in lockable office.

Retention and disposal: Information is retained until outdated or until deletion is requested by individual. List is updated at least annually.

System manager(s) and address:
Public Information Officer
(address same as System Location)

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above

Record source categories: Information supplied by the public, directories, and government officials.

FTC—39

System name: Staff Advisory Opinion Records—FTC

System location: Office of Assistant General Counsel
Legal Counsel, Room No. 576
Federal Trade Commission
6th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Categories of individuals covered by the system: Applicants for advisory opinions under Sec. 1.1 of the Commission's Rules of Practice and Procedure.

Categories of records in the system: Name and address of requester; business information; proposed courses of business action.

Authority for maintenance of the system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide staff advice responsive to public request; to maintain record of advice given for use of the staff for preparation of future staff or Commission opinions and to coordinate and assure consistency of position; possible referral to other parts of the FTC or to appropriate federal or state agencies for advice or where law enforcement action may be warranted; used by staff of Office of General Counsel and other FTC personnel or agencies to whom a matter is referred.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file folders; file cabinets.

Retrievability: Generally indexed by name of requesting party.

Safeguards: Maintained in lockable file cabinets and office. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Maintained from 6-1-62; no present disposal program.

System manager(s) and address: Assistant General-Counsel for Legal Counsel.
Room No. 576
Federal Trade Commission
6th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual proprietorship, corporation, or other business organization, or counsel representing any of them, seeking or receiving a staff advisory opinion.

FTC—40

System name: Statement of Employment and Financial Interests—FTC

System location:
Office of the Executive Director
Federal Trade Commission
6th & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Categories of individuals covered by the system: Personnel required by FTC regulations to file statements of employment and financial interests

Categories of records in the system: Contains name, organization, statement of employment and financial interests

Authority for maintenance of the system: Executive Order No. 11222 and

5 CFR Part 735

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Review of statement of employment and financial interests to ascertain whether a conflict of interest or apparent conflict of interest exists, and if so, to insure that appropriate action is taken to remove conflict. Used by senior Commission employees and members of the General Counsel's Office.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on an 8 inch by 10 1/2 inch paper

Retrievability: Indexed by name

Safeguards: Records are maintained in a combination steel vault. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Records are maintained indefinitely

System manager(s) and address:
Executive Director
Room 426
Federal Trade Commission
Washington, D.C. 20580

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th & Pennsylvania Avenue, N.W. Washington, D.C. 20580

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

FTC—41

System name: Unofficial Personnel Records—FTC

System location:
Federal Trade Commission
6th Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20580
Indiana Building
633 Indiana Avenue, N.W.
Washington, D.C.
Star Building
1101 Pennsylvania Avenue, N.W.
Washington, D.C.
Gelman Building
2120 L Street, N.W.
Washington, D.C.
Pennsylvania Building
425 13th Street, N.W.
Washington, D.C.
M Street Building
1726 M Street, N.W.
Suite 1100
Washington, D.C.
Regional Offices:
Atlanta Regional Office
1718 Peachtree Street, N.W.,
Atlanta, Georgia 30309
Boston Regional Office
150 Causeway Street
Boston, Massachusetts 02144
Chicago Regional Office
55 East Monroe Street
Chicago, Illinois 60603
Cleveland Regional Office
1339 Federal Office Building
1240 East 9th Street
Cleveland, Ohio 44199
Dallas Regional Office
2001 Bryan Tower, Suite 2665
Dallas, Texas 75201
Los Angeles Regional Office
13209 Federal Building
11000 Wilshire Boulevard
Los Angeles, California 90024
New York Regional Office
2243-EB Federal Building
26 Federal Plaza
New York, New York 10007
San Francisco Regional Office
450 Golden Gate Avenue
San Francisco, California 94102
Seattle Regional Office
28th Floor Federal Building
915 Second Avenue
Seattle, Washington 89174
Washington , D.C., Regional Office
2120 L Street, N.W.
Washington, D.C. 20037

Categories of individuals covered by the system: Current and former employees of the Federal Trade Commission.

Categories of records in the system: This system of records contains information or documents about the employment and work history of individual employees. The types of records maintained vary with each supervisor and Commission unit. Each supervisor may maintain some or all of the following records: written notes or memoranda on employee performance (i.e., Attorney Evaluation Employment Forms), leave, work assignments, disciplinary problems.

Authority for maintenance of the system: Title 5 U.S.C. Sections 4301-4308; Sections 6101-6106; Sections 6301-6326; Sections 7301-7352; Sections 7501-7533.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To be used by the employee's supervisor in evaluating performance, preparing promotion and award recommendations, preparing informal or formal disciplinary actions, approving leave, making work assignments.

Referral to the Civil Service Commission concerning pay, benefits, retirement deductions, and other information necessary for the Commission to carry out its Government-wide personnel management functions.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in file folders.

Retrievability: These records are indexed by the names of individuals on whom they are maintained.

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Safeguards: Access to and use of these records are limited to those whose official duties require such access. Personnel screening is used to prevent unauthorized disclosure.

Retention and disposal: Records are destroyed when no longer relevant to the purpose for which they were compiled and maintained. Generally, records are destroyed when the employee no longer works in the Bureau or Office which compiled and maintained the information.

System manager(s) and address: Employee supervisor, Federal Trade Commission.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual to whom record pertains; supervisors of employee.

FTC—42

System name: Basis Computerized System, Bureau of Competition—FTC

System location:

Computer Services Corporation
Infunet Center
650 N. Sepulveda Boulevard
Los Angeles, California 90245

Categories of individuals covered by the system: Professional staff of the Bureau of Competition.

Categories of records in the system: Name of professional staff member, sequence number (assigned to attorney), case assignment, deadline, expenditure of time, supervising attorney, assistant director responsible for overall case.

Authority for maintenance of the system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by supervisory personnel of Bureau of Competition for management purposes, including management of caseload and as budgeting tool.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer magnetic discs indexed by data basis.

Retrievability: By name of professional, sequence number, or other data element.

Safeguards: By password only. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Retained indefinitely.

System manager(s) and address:

Assistant Director for Evaluation
Bureau of Competition
Federal Trade Commission

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information obtained from reports from Assistant Directors, Bureau of Competition, and from professional assigned to case.

FTC—43

System name: Internal Assignment Tracking System, Office of General Counsel—FTC.

System location:

Computer Sciences Corp.
INFONET
815 Commerce Drive
Oak Brook, Illinois 60521

Categories of individuals covered by the system: Professional staff of the Office of General Counsel.

Categories of records in the system: Control number, subject and status of assignment, supervising attorney, date received, current deadline, original deadline, date completed, and, if Freedom of Information Act appeal, whether access granted.

Authority for maintenance of the system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by supervisory personnel of General Counsel's Office for management purposes, including controlling attorney workload, tracking the status of assignments, and evaluating attorney performance.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in computer.

Retrievability: By name of attorney, control number, or other data element.

Safeguards: By password only. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Retained indefinitely.

System manager(s) and address:

Administrative Officer
Office of General Counsel
Room 566
Federal Trade Commission
6th Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follow: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Assignments under responsibility of Office of General Counsel and instructions from staff.

FTC—44

System name: Assurances of Voluntary Compliance (AVC)—FTC

System location: Records Division

Office of the Secretary
Federal Trade Commission
6th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Categories of individuals covered by the system: Corporation, company, partnership, or private enterprise official(s) with matter pending before the Commission or under investigation by the Commission.

Categories of records in the system: Name, address and title of official representing the outside entity, identity of subject matter of possible violation of the law, file number, and AVC number.

Authority for maintenance of the system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Commission staff and members of the public. Used for law enforcement and management purposes by Commission staff. Available for public inspection, with no limitation or restriction on use by the public of the information contained in the assurance.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in binders in Public Reference Room.

Retrievability: Indexed by firm name and by individuals (corporate officers).

Safeguards: Maintained in lockable office. Available to the public.

Retention and disposal: No present disposal program.

System manager(s) and address: Secretary

Federal Trade Commission
(address same as System Location)

Notification procedure: By mailing or delivering written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

FTC—45

System name: Automated Serials Routing System (ASRS)—FTC

System location: Library, Federal Trade Commission

6th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Categories of individuals covered by the system: Readers of FTC Library periodicals wishing to be on the routing system.

Categories of records in the system: Name and location of reader, employee number, and name and number of periodical.

Authority for maintenance of the system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To manage serials routing among readers. Used by staff of FTC Library and other FTC employees with a need to use this system.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: On computer disk/tape.

Retrievability: By periodical number and employee number.

Safeguards: Access limited to authorized users by means of password.

Retention and disposal: Record maintained as long as reader wishes to be on the routing system.

System manager(s) and address: Librarian

Federal Trade Commission
(address same as System Location)

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

FTC—46

System name: Clearance to participate applications and the Commission's responses thereto—FTC

System location: Records Division

Office of the Secretary
Federal Trade Commission
6th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Categories of individuals covered by the system: Former members or employees of the Commission requesting authorization to appear or participate in a proceeding or investigation, formal or informal, which was pending in any manner in the Commission while such former member or employee served with the Commission.

Categories of records in the system: Name, address, current employment status, nature of any connection with the proceeding or investigation during service with the Commission.

Authority for maintenance of the system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Commission staff and members of the public. Used by the staff for the purpose of making recommendations and determinations with respect to applications for clearance. No limitation on use by the public.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in binders in Public Reference Room. Available to the public.

Retrievability: Indexed by name of applicant, by name of investigation or proceeding, and by date.

Safeguards: Maintained in lockable office.

Retention and disposal: Maintained from 1-1-69; no present disposal program.

System manager(s) and address: Secretary

Federal Trade Commission
(address same as System Location)

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

FTC—48

System name: Contacts by Persons Outside the Commission Relating to Investigations or Cases—FTC

System location: Records Division

Office of the Secretary
Federal Trade Commission
6th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Categories of individuals covered by the system: Persons outside the Commission making an oral communication to a Commission employee concerning an investigation or case pending within the Commission, with whom contact would not normally be made in the routine handling of the investigation or case. This includes, but is not limited to, a member of Congress or his staff, an official of another government agency or of the executive branch, or other person in public or private life not directly involved in the matter.

Categories of records in the system: Name and title of outside person who made contact, identity of pending Commission investigation or case, file or docket number, name and position of Commission employee contacted, date and time of contact, brief description of subject(s) discussed.

Authority for maintenance of the system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Commission staff and members of the public to determine who has contacted Commission employees about an investigation or case, who has been contacted, and a description of the subject(s) discussed.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in files in Public Reference Room.

Retrievability: Indexed alphabetically by name of outside contact.

Safeguards: Maintained in lockable office. Available to the public.

Retention and disposal: Maintained from 3-26-74; no present disposal program.

System manager(s) and address: Secretary

Federal Trade Commission
(address same as System Location)

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

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Record source categories: Individual on whom the record is maintained.

FTC—49

System name: Freedom of Information Act Requests and Appeal from Other Than Governmental Agencies and the Commission's Responses Thereto—FTC

System location:

Records Division
Office of the Secretary
Federal Trade Commission
6th Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20580
Information Division
Office of the Secretary
Federal Trade Commission
6th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20580
Office of the General Counsel
Room 551
Federal Trade Commission
6th Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Categories of individuals covered by the system: Persons filing requests for access to information under the Freedom of Information Act

Categories of records in the system: Name, address, sometimes purpose of request, and intended use of information, and agreement to pay fees, if any.

Authority for maintenance of the system: Federal Trade Commission Act, Freedom of Information Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by staff of the Secretary's Office, General Counsel's Office, enforcement Bureaus with respect to active or pending investigations or proceedings, and of the Commissioners, to make recommendations and determinations in response to Freedom of Information Act requests and appeals. Referral to the Office of Management and Budget and to the Congress for annual reports required by the Freedom of Information Act. Referral to federal enforcement authorities to assist with administrative processing and litigation.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Request and appeal letters, and agency responses thereto, are available to the public for inspection and copying.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 1. Copies of request and appeal letters, and agency responses thereto, are stored in binders in the Public Reference Room (available to the public). 2. Original request letters, copies of appeal letters (if any) and agency responses, and related internal memoranda, are stored in folders in lockable file cabinets in the Freedom of Information and Privacy Acts Branch of the Information Division. 3. Original appeal letters, copies of request letters and agency responses, and related internal memoranda are stored in folders in lockable file cabinets in General Counsel's Office.

Retrievability: Generally indexed by name of requesting party.

Safeguards: Maintained in lockable file cabinets or office.

Retention and disposal: Maintained indefinitely; no disposal system at present.

System manager(s) and address:

Secretary
Federal Trade Commission
(address same as System Location)
Assistant General Counsel for Legal Counsel
Federal Trade Commission
(address same as System Location)

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

FTC—50

System name: Holders of Registered Identification Numbers—FTC

System location: Division of Special Statutes

Federal Trade Commission
633 Indiana Avenue, N.W.
Washington, D.C. 20580

Categories of individuals covered by the system: Persons marketing wool products, textile fiber products, or fur or fur products, in commerce, who have filed an application with the Secretary of the Commission for issuance of a requested identification number pursuant to the Commission's Rules of Practice, 16 C.F.R. 1.32.

Categories of records in the system: Name of applicant, address, nature of business, nature of product.

Authority for maintenance of the system: Federal Trade Commission Act, Wool Products Labeling Act of 1939, Fur Products Labeling Act, Textile Fiber Products Identification Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Applications are used by the Commission to issue registered identification numbers to qualified applicants; such numbers are for use as required identification in lieu of the name of the person to whom the number has been issued in satisfying the identification requirement for labeling under the respective Acts identified above. Used by staff of the Division of Special Statutes and available to the public.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in files. Available to the public.

Retrievability: Indexed alphabetically by name of applicant and indexed in numerical sequence.

Safeguards: Maintained in file cabinets.

Retention and disposal: Maintained from 1-1-51; no present disposal program.

System manager(s) and address: Assistant Director of Special Statutes

Bureau of Consumer Protection
Federal Trade Commission
633 Indiana Avenue, N.W.
Washington, D.C. 20580

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom record is maintained.

FTC—51

System name: Privacy Act Requests and Appeals—FTC

System location:

Information Division
Office of the Secretary
Federal Trade Commission
6th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20580
Office of the General Counsel
Room 563
Federal Trade Commission
6th Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Categories of individuals covered by the system: Persons filing requests for access to, correction of, or an accounting of disclosures of personal information contained in system of records maintained by the Commission, pursuant to the Privacy Act of 1974.

Categories of records in the system: Name, address; sometimes purpose of request; intended use of information; agreement to pay fees, if any, and nature of correction of information requested.

Authority for maintenance of the system: Federal Trade Commission Act; Privacy Act of 1974.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by staff of the Secretary's Office; General Counsel's Office, and Commissioners, to make recommendations and determinations in response to Privacy Act requests and appeals. Referral to the Office of Management and Budget and to the Congress for annual reports required by the Privacy Act. Referral to federal enforcement authorities to assist with administrative processing and litigation.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Initial requests stored in lockable files in Secretary's Office. Appeals stored in lockable files in General Counsel's Office.

Retrievability: Indexed by request index number, date of request, and name of requester or appellant.

Safeguards: Maintained in lockable offices. Access restricted to those agency personnel whose responsibilities require access.

Retention and disposal: Maintained indefinitely; no disposal system at present.

System manager(s) and address:

Secretary
Federal Trade Commission
(address same as System Location)
Assistant General Counsel for Legal Counsel
Federal Trade Commission
(address same as System Location)

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom record is maintained.

FTC—52

System name: Equal Employment Opportunity Statistical Reporting System—FTC

System location: Optimum Systems, Inc., Rockville, Md.

Categories of individuals covered by the system: Current FTC employees.

Categories of records in the system: Coded minority group designations.

Authority for maintenance of the system: 5 U.S.C. Sections 1301, 3301, 7151, 7154, and Executive Order 10577, Nov. 22, 1954.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by the Equal Employment Opportunity Director in composite statistical form only, for analyses and reports within the Commission and to the Civil Service Commission as required by law.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored on magnetic disk.

Retrievability: Minority group designations may be retrieved by name or group, or by cross-reference to title and grade information contained in FTC System 26, General Personnel Records (Official Personnel Folder and Records Related Thereto): Duplicate Personnel Files and Automated Records.

Safeguards: Access may be obtained only by written authorization of the Equal Employment Opportunity Director.

Retention and disposal: Coded information is erased when the individual ceases employment at the FTC.

System manager(s) and address: Equal Employment Opportunity Director

Federal Trade Commission
6th Street & Pennsyvania Avenue, N.W.
Washington, D.C. 20580

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Visual identification of each employee by Division of Personnel staff and administrative officer in each regional office.

[FR Doc.77-27339 Filed 9-19-77;8:45 am]

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HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

PRIVACY ACT 1974

Systems of Records; Annual Publication

Pursuant to 5 U.S.C. 552a(e)(4), the Harry S. Truman Scholarship Foundation hereby publishes the systems of records as currently maintained by the Foundation. No changes have occurred since the last annual publication, August 27, 1976 (41 FR 36222).

August 24, 1977.

Robert E. Cleary,
Executive Secretary.

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TSF-1

System name: Payroll Records—Harry S. Truman Scholarship Foundation

System location: General Services Administration, Region 3 Office; copies held by the Foundation. (GSA holds records for the Foundation under contract.)

Categories of individuals covered by the system: Past and present Foundation employees.

Categories of records in the system: Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records; requests for deductions; tax forms; W-2 forms; overtime requests; leave data; retirement records. Records are used by Foundation and GSA employees to maintain adequate payroll information for Foundation employees, and otherwise by Foundation and GSA employees who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C., generally.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney. Records are also disclosed by providing a copy of an employee's Federal Treasury Form W-2, "Wage and Tax Statement" to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, and 5520 or in the absence thereof, in response to a written request for an appropriate official of the taxing jurisdiction to the Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, N.W., Washington, D.C. 20006. In the latter case, the request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and the solicitation of the Social Security number, and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to a written request from an appropriate city official to the Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, N.W., Washington, D.C. 20006.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and microfilm.

Retrievability: Social Security Number.

Safeguards: Stored in guarded building; released only to authorized personnel.

Retention and disposal: Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address: Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, N.W., Washington, D.C. 20006.

Notification procedure: Refer to Foundation access regulations contained in 45 CFR 1800.

Record access procedures: Refer to Foundation access regulations contained in 45 CFR 1800.

Contesting record procedures: Refer to Foundation access regulations contained in 45 CFR 1800.

Record source categories: The subject individual; the Foundation.

TSF-2

System name: General Financial Records—Harry S. Truman Scholarship Foundation

System location: General Services Administration, Central Office; copies held by the Foundation. (GSA holds records for the Foundation under contract.)

Categories of individuals covered by the system: Employees of the Foundation and members of its Board of Trustees.

Categories of records in the system: SF-1038, Application and account for advance of funds; Vendor register and vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other officers and employees of GSA and the Foundation who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C., generally; also, the Foundation's authorizing legislation, Pub. L. 93-642 (20 U.S.C. 2001).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See appendix: Records also are released to GAO for audits; to the IRS for investigation; and to private attorneys, pursuant to power of attorney.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and tape.

Retrievability: Manual and automated by name.

Safeguards: Stored in guarded building; released only to authorized personnel.

Retention and disposal: Disposition of records shall be in accordance with the HB GAS Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address: Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, N.W., Washington, D.C. 20006.

Notification procedure: Refer to Foundation access regulations contained in 45 CFR 1800.

Record access procedures: Refer to Foundation access regulations contained in 45 CFR 1800.

Contesting record procedures: Refer to Foundation access regulations contained in 45 CFR 1800.

Record source categories: The subject individual; the Foundation.

TSF-3

System name: General Informational Files—Harry S. Truman Scholarship Foundation

System location: Harry S. Truman Scholarship Foundation, 712 Jackson Place, N.W., Washington, D.C. 20006.

Categories of individuals covered by the system: Foundation employees and members of its Board of Trustees.

Categories of records in the system: General personnel information, including, among other data, copies of training and travel records, applications, suggestions, position descriptions, request for and notification of personnel action, employee performance ratings and promotion appraisals, time and attendance records, security clearances, titles, date of birth, grade, salary, employment history, home address, age, marital status, Social Security Number, home telephone number, resumes, general correspondence, and letters of recommendation. System also contains copies of official Civil Service Commission and Foundation personnel forms.

Authority for maintenance of the system: 5 U.S.C., generally; also, the Foundation's authorizing legislation, Pub. L. 93-642 (20 U.S.C. 2001).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See appendix. Completion of agency forms for requests for personnel actions, security clearances, training authorizations, travel authorizations, time and attendance records, reports, etc. Also used for issuing passes, motor pool ID, etc. Information is used "in house" for personnel evaluation and management. Information is disclosed to persons outside the agency for verifying employment/salary, preparing letters of reference at the request of the employee, making travel and training arrangements, and furnishing copies of performance appraisals to other government agencies when employees have applied for jobs elsewhere.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files

Retrievability: Manual, by name.

Safeguards: Stored in guarded building; released only to authorized personnel.

Retention and disposal: Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address: Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, N.W., Washington, D.C. 20006

Notification procedure: Refer to Foundation access regulations contained in 45 CFR 1800.

Record access procedures: Refer to Foundation access regulations contained in 45 CFR 1800.

Contesting record procedures: Refer to Foundation access regulations contained in 45 CFR 1800.

Record source categories: Official personnel records, GSA Personnel and Finance Offices, Supervisors, letters of reference or recommendation furnished by agency officials or persons from private industry, educational information supplied by colleges and universities, the subject individual.

TSF-4

System name: Applicant's Records—Harry S. Truman Scholarship Foundation

System location: Harry S. Truman Scholarship Foundation, 712 Jackson Place, N.W., Washington, D.C. 20006, and Educational Testing Service, Princeton, N.J.

Categories of individuals covered by the system: Persons nominated by colleges and universities in the United States, for consideration as potential Truman Scholars.

Categories of records in the system: Documents and certifications to assist Foundation staff in evaluating a person's application for a Truman Scholarship, including, among other documents, a listing of leadership positions held in high school and college; and of public service activities; letters of recommendation; test results; personal essay on the applicant's interest in entering public service; a statement of intent to enter the public service; certifications as to U.S. citizenship and academic standings; test scores.

Authority for maintenance of the system: The Foundation's authorizing legislation, Pub. L. 93-642 (20 U.S.C. 2001).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See appendix. Records also are released to experts and consultants hired by the Foundation or its administrative agent, Educational Testing Service, for evaluation and recommendation with respect to applicants' qualifications for a Truman Scholarship.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Manual and automated by name.

Safeguards: Stored in a guarded building; released only to authorized personnel.

Retention and disposal: Foundation retains records only of those chosen as finalists in competition (Truman Scholars and alternates); all others are destroyed.

System manager(s) and address: Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, N.W., Washington, D.C. 20006.

Notification procedure: Refer to Foundation access regulations contained in 45 CFR 1800.

Record access procedures: Refer to Foundation access regulations contained in 45 CFR 1800.

Contesting record procedures: Refer to Foundation access regulations contained in 45 CFR 1800.

Record source categories: The subject individual; the nominating institution; reference supplied by the subject individual.

APPENDIX—HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether, civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of any employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of Federal personnel management.

A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit.

A record from this system of records may be disclosed as a routine use to a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

[FR Doc.77-27340 Filed 9-19-77;8:45 am]

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INTER-AMERICAN FOUNDATION

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

In accordance with 552a(e)(4) of the Privacy Act of 1974, the Inter-American Foundation hereby publishes the Systems of Records currently maintained by the Foundation. No changes have occurred since the last annual publication on November 8, 1976 (41 FR pp. 49470–49472).

Hugh B. Key,
Acting President.

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IAF—1

System name: Conflict of Interest Files—IAF.

System location: Inter-American Foundation, 1515 Wilson Blvd., Rosslyn, Va. 22209.

Categories of individuals covered by the system: Employees of Foundation at GS 13 level and above.

Categories of records in the system: Title; Date of Appointment; Employment and financial interests, position in organization, nature of financial interest; names and addresses of creditors, character of indebtedness; interests in real property, nature of interest, type of property and address; name, address, and nature of subject matter of other persons supplying information.

Authority for maintenance of the system: 44 USC 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is used "in house".

(a) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(b) A record from this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

(c) A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Storage: Paper Files.

Retrievability: Manual. Identifier—Name.

Safeguards: Filed in locked, steel cabinets; records available to authorized persons only.

Retention and disposal: Destroyed after two years of inactivity (Being negotiated).

System manager(s) and address: General Counsel, Inter-American Foundation, 1515 Wilson Blvd., Rosslyn, Va. 22209.

Notification procedure: Contact individual listed above, or Director, Administration and Finance, Inter-American Foundation, 1515 Wilson Blvd., Rosslyn, Va. 22209.

Record access procedures: IAF access procedures are contained in Rules Safeguarding Personal Information in IAF Record.

Contesting record procedures: Contesting Record Procedures are contained in Rules Safeguarding Personal Information in IAF Records.

Record source categories: Individual himself and people named by individual to supply information.

IAF—2

System name: Foundation Fellowship Program Files—IAF.

System location: Inter-American Foundation, 1515 Wilson Blvd., Rosslyn, Virginia 22209.

Categories of individuals covered by the system: Candidates for Fellowship Program who have submitted applications and Fellows chosen for the program.

Categories of records in the system: General personnel information including home and work phone numbers, citizenship, date and place of birth, age, name and citizenship of spouse, social security number, number and ages of children, educational history, employment history, travel experience, health status, language capability, honors and publications, personal resume, letters of recommendation, grade transcripts, comments by Screening Committee, research prospectus

Authority for maintenance of the system: 44 USC 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is used "in house" for personnel evaluation and management.

(a) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(b) A record from this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

(c) A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Storage: Paper Files.

Retrievability: Manual. Identifier—Name.

Safeguards: Filed in locked, steel cabinets; records available to authorized persons only.

Retention and disposal: Disposed after three years of inactivity. (Being negotiated).

System manager(s) and address: Fellowship Coordinator, Inter-American Foundation, 1515 Wilson Blvd., Rosslyn, Va. 22209.

Notification procedure: Contact individual listed above, or Director, Administration and Finance, Inter-American Foundation, 1515 Wilson Blvd., Rosslyn, Va. 22209.

Record access procedures: IAF access procedures are contained in Rules Safeguarding Personal Information in IAF Records.

Contesting record procedures: Contesting Record Procedures are also contained in Rules Safeguarding Personal Information.

Record source categories: Individual himself, educational institutions attended; medical doctors named by individual; letters of recommendation by people identified by individual.

IAF—3

System name: Informal Personnel Files—IAF.

System location: Inter-American Foundation, 1515 Wilson Blvd., Rosslyn, Va. 22209.

Categories of individuals covered by the system: Applicants for Employment and Employees.

Categories of records in the system: General personnel information including position descriptions, training records, request for notification of personnel action, performance appraisals, time and attendance records, security clearances, employment history, home address, titles, service comp dates, date of birth, grade and salary, age, social security number, home telephone number, resume, letters of recommendation, security investigation data for non-sensitive/non-critical positions, personal qualifications statement, recommendation for performance recognition, employment staffing report, payroll change slip, notice of injury or occupational disease.

Authority for maintenance of the system: 44 USC 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is used "in house" (non-routine uses) for personnel evaluation and management.

(a) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(b) A record from this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

(c) A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Storage: Paper Files.

Retrievability: Manual. Identifier—Name.

Safeguards: Filed in locked, steel cabinets; records available to authorized persons only.

Retention and disposal: Destroyed after three years of inactivity (Being negotiated).

System manager(s) and address: Personnel Officer, Inter-American Foundation, 1515 Wilson Blvd., Rosslyn, Va. 22209.

Notification procedure: Contact individual listed above, or Director, Administration and Finance, Inter-American Foundation, 1515 Wilson Blvd., Rosslyn, Va. 22209.

Record access procedures: IAF access procedures are contained in Rules Safeguarding Personal Information in IAF records.

Contesting record procedures: Contesting Record Procedures are also contained in Rules Safeguarding Personal Information.

Record source categories: Individual himself; educational institutions; previous employers; letters of recommendations named by individual himself.

IAF—4

System name: Travel Records—IAF.

System location: Inter-American Foundation, 1515 Wilson Blvd., Rosslyn, Virginia 22209.

Categories of individuals covered by the system: IAF employees who travel and invitational persons.

Categories of records in the system: Passports, Travel Vouchers, Official Travel Authorizations, Home address, home telephone number, date and place of birth, marital status, citizenship, social security number, spouse's name, number of children, immunizations records, travel advances.

Authority for maintenance of the system: 44 USC 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is used "in house" for management of travel.

(a) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(b) A record from this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

(c) A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Storage: Paper Files.

Retrievability: Manual. Identifier—Name.

Safeguards: Filed in locked file drawer at desk; records available to authorized persons only.

Retention and disposal: Destroyed after three years of inactivity (Being negotiated).

System manager(s) and address: Administrative Assistant, Travel Division, Administration and Finance, Inter-American Foundation, 1515 Wilson Blvd., Rosslyn, Va. 22209.

Notification procedure: Contact individual listed above, or Director, Administration and Finance, Inter-American Foundation, 1515 Wilson Blvd., Rosslyn, Va. 22209.

Record access procedures: IAF access procedures are contained in Rules Safeguarding Personal Information in IAF Records.

Contesting record procedures: Contesting Record Procedures are contained in Rules Safeguarding Personal Information in IAF Records.

Record source categories: Individual himself.

IAF—5

System name: Inter-American Foundation—General Financial Records.

System location: General Services Administration, Region 3 Office; copies held by Inter-American Foundation. (GSA holds records for the Foundation under contract.)

Categories of records in the system: Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records, requests for deductions; tax forms, W-2 forms, overtime requests; leave data; retirement records. Records are used by the Foundation and GSA employees to maintain adequate payroll information for the Foundation employees, and otherwise by Foundation and GSA employees who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C., generally. Also, 91-175.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Executive Officer, Inter-American Foundation, 1515 Wilson Blvd, Rosslyn, Va. 22209. The request must include a copy

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of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Executive Officer.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security Number, in accordance with Section 7 of the Privacy Act, Public Law 93-579.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and microfilm.

Retrievability: Social Security Number.

Safeguards: Stored in guarded building; released only to authorized personnel.

Retention and disposal: Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address: Accountant, Administration and Finance, Inter-American Foundation, 1515 Wilson Blvd, Rosslyn, VA. 22209.

Notification procedure: Refer to IAF access regulations contained in 22 CFR 1003.

Record access procedures: Refer to IAF access regulations contained in 22 CFR 1003.

Contesting record procedures: Refer to IAF access regulations contained in 22 CFR 1003.

Record source categories: The subject individual: the Inter-American Foundation.

APPENDIX—INTER-AMERICAN FOUNDATION

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of federal personnel management.

A record from this system of records may be disclosed to officers and employees of a federal agency for purposes of audit.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

A record from this system of records may be disclosed as a routine use to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

[FR Doc.77-27341 Filed 9-19-77;8:45 am]

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

In accordance with 552a(e)(4) of the Privacy Act of 1974, the Japan-United States Friendship Commission hereby publishes the systems of records currently maintained by the Commission. No changes have occurred since the last complete annual publication on November 12, 1976 (41FR50196).

Dated at Washington, D.C. on August 4, 1977.

Ivan P. Hall,
Assistant Executive Director.

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JUSFC—1 Payroll records.
JUSFC—2 General Financial Records.
JUSFC—3 General Informal Personnel Files.
Appendix

JUSFC—1

System name: Payroll Records—Japan-United States Friendship Commission

System location: General Services Administration, Region 3 Office; copies held by the Commission. (GSA holds records for the Japan-United States Friendship Commission under contract.)

Categories of records in the system: Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records, requests for deductions; tax forms, W-2 forms, overtime requests; leave data; retirement records. Records are used by Commission and GSA employees to maintain adequate payroll information for Commission employees, and otherwise by Commission and GSA employees who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C., generally. Also, Public Law 94-118.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Assistant Executive Director, Japan-United States Friendship Commission, 1875 Connecticut Avenue, NW., Washington, D.C. 20009. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Assistant Executive Director.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security Number, in accordance with Section 7 of the Privacy Act, Public Law 93-579.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and microfilm.

Retrievability: Social Security Number.

Safeguards: Stored in guarded building; released only to authorized personnel.

Retention and disposal: Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address: Assistant Executive Director, Japan-United States Friendship Commission, 1875 Connecticut Avenue, NW., Washington, D.C. 20009.

Notification procedure: Refer to Commission access regulations contained in 22 CFR Chapter XII.

Record access procedures: Refer to Commission access regulations contained in 22 CFR Chapter XII.

Contesting record procedures: Refer to Commission access regulations contained in 22 CFR Chapter XII.

Record source categories: The subject individual; the Commission.

JUSFC—2

System name: General Financial Records—Japan-United States Friendship Commission

System location: General Services Administration, Central Office; copies held by the Commission. (GSA holds records for the Japan-United States Friendship Commission under contract.)

Categories of individuals covered by the system: Employees of the Japan-United States Friendship Commission and members of its Commission.

Categories of records in the system: SF-1038, Application and account for advance of funds; Vendor register and vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other officers and employees of GSA and the Commission who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C., generally; also, Public Law 94-118.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See appendix. Records also are released to GAO for audits; to the IRS for investigation; and to private attorneys, pursuant to power of attorney.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and tape.

Retrievability: Manual and automated by name.

Safeguards: Stored in guarded building; released only to authorized personnel.

Retention and disposal: Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition.

System manager(s) and address: Assistant Executive Director, Japan-United States Friendship Commission, 1875 Connecticut Avenue, NW., Washington, D.C. 20009.

Notification procedure: Refer to Commission access regulations contained in 22 CFR Chapter XII.

Record access procedures: Refer to Commission access regulations contained in 22 CFR Chapter XII.

Contesting record procedures: Refer to Commission access regulations contained in 22 CFR Chapter XII.

Record source categories: The subject individual; the Commission.

JUSFC—3

System name: General Informal Personnel Files—Japan-United States Friendship Commission

System location: Japan-United States Friendship Commission, 1875 Connecticut Avenue, NW., Washington, D.C. 20009.

Categories of individuals covered by the system: The Commission members, staff and consultants, past and present.

Categories of records in the system: Personnel action requests and notifications, statements of employment and financial interests, training material and correspondence with members of the Commission, 7-B cards, delegations of authority.

Authority for maintenance of the system: Title 5, U.S.C., generally. Also Public Law 94-118.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Manual.

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Safeguards: Stored in lockable file cabinets, released only to authorized personnel.

Retention and disposal: Disposition of records shall be in accordance with the GSA records maintenance and disposition system.

System manager(s) and address: Assistant Executive Director, Japan-United States Friendship Commission, 1875 Connecticut Avenue, NW., Washington, D.C. 20009.

Notification procedure: Refer to Commission access regulations contained in 22 CFR Chapter XII.

Record access procedures: Refer to Commission access regulations contained in 22 CFR Chapter XII.

Contesting record procedures: Refer to Commission access regulations contained in 22 CFR Chapter XII.

Record source categories: The subject individual; the Commission.

APPENDIX—Japan-United States Friendship Commission

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of federal personnel management.

A record from this system of records may be disclosed to officers and employees of a federal agency for purposes of audit.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

A record from this system of records may be disclosed as a routine use to a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

[FR Doc.77-23212 Filed 9-19-77;8:45 am]

MARINE MAMMAL COMMISSION

PRIVACY ACT OF 1974 [1]

Systems of Records; Annual Publication

The purpose of this document is to give notice that the systems of records identified in a notice published in the Federal Register at 41 F.R. 39731, as amended by a notice published at 41 F.R. 50875, continue in effect. The only subsequent change is in the location of the systems of records listed as Systems MMC-1 and MMC-3. This notice is published in accordance with Section 3 of the Privacy Act of 1974, 5 U.S.C. Section 552a(e)(4).

August 8, 1977.

John R. Twiss, Jr.,
Executive Director.

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MMC—1 Applications for Permits to Take or Import Marine Mammals or to Import Marine Mammal Products for Purposes of Scientific Research or Public Display—MMC
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MMC—1

System name: Applications for Permits to Take or Import Marine Mammals or to Import Marine Mammal Products for Purposes of Scientific Research or Public Display—MMC.

System location: Commission Offices, 1625 I Street, NW., Room 307, Washington, D.C. 20006; Commission Members' Offices, presently:

Dr. Donald B. Siniff
108 Zoology Building
University of Minnesota
Minneapolis, Minnesota 55455
Dr. Douglas G. Chapman
College of Fisheries
University of Washington
Seattle, Washington 98195
Dr. Richard A. Cooley
Division of Environmental Studies
University of California
Santa Cruz, California 95064

Committee of Scientific Advisors Members' Offices, presently:

Dr. Robert L. Brownell, Jr.
National Fish and Wildlife Laboratory
USNM, Smithsonian Institution
Washington, D.C. 20560
Dr. Paul K. Dayton
Asst. Professor of Oceanography
Scripps Institution of Oceanography
La Jolla, California 92037
Dr. L. Lee Eberhardt
2528 West Klamath Avenue
Kennewick, Washington 99336
Mr. Karl W. Kenyon
11990 Lakeside Place, N.W.
Seattle, Washington 98125
Mr. John H. Prescott
New England Aquarium
Central Wharf
Boston, Massachusetts 02110
Dr. Clayton E. Ray
National Museum of Natural History
Smithsonian Institution
Washington, D.C. 20560
Dr. Sam H. Ridgway
Biomedical Division
Naval Undersea Center
San Diego, California 92132
Dr. Tim D. Smith
Department of Zoology
University of Hawaii at Manoa
Honolulu, Hawaii 96822

Categories of individuals covered by the system: Individuals who have submitted applications, as required by the Marine Mammal Protection Act of 1972 and regulations of the Departments of Interior and Commerce, for permits to take or import marine mammals or to import marine mammal products.

Categories of records in the system: Name, mailing address, telephone number, date of birth, height, weight, color of hair, color of eyes, sex, business or institutional affiliation, education and/or experience of the applicant which qualifies him/her to conduct the proposed activities.

Authority for maintenance of the system: Title II, Section 206(5) of the Marine Mammal Protection Act of 1972, 16 U.S.C. 1406(5).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Information contained in permit applications is used by the Commission, its Committee of Scientific Advisors, the Executive Director and his staff for the purpose of reviewing such applications and making recommendations thereon, regarding proper disposition of the application, to the Secretaries of Commerce and Interior in order to carry out the duties assigned to the Commission by the Marine Mammal Protection Act of 1972. Subsequent to final disposition of the application, records are maintained for use in connection with the review of future applications submitted by the same individuals. The records contained in the system also are available for inspection by members of the public.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Maintained in 8 1/2 by 11 inch folders in vertical file.

Retrievability: Manual—indexed by name of applicant.

Safeguards: Records are maintained in an office which is accessible only to authorized persons.

Retention and disposal: Records will be retained in the Commission offices during the life of the Commission. Copies forwarded to the offices of individual Commissioners and Committee members are disposed of after disposition of the permit application, or at such other times as are deemed appropriate by the Commissioners and Committee members.

Method of disposal: No particular method of disposal is followed.

System manager(s) and address: Executive Director, Marine Mammal Commission, 1625 I Street, NW., Room 307, Washington, D.C. 20006.

Notification procedure: An individual may obtain notification of whether the system of records contains a record pertaining to him/her by forwarding an inquiry to the System Manager, or by appearing in person, at the above address. See Commission regulations in 50 CFR Part 501.3.

Record access procedures: See Commission access regulations in 50 CFR Parts 501.4, 501.5.

Contesting record procedures: The Commission's rules for contesting contents of records, and for appealing adverse determinations with respect thereto, are contained in 50 CFR Part 502.6 through 501.8. Assistance in obtaining access to or contesting the contents of records can be obtained from the System Manager at the above address.

Record source categories: Subject applicants.

MMC—2

System name: Personnel files on current, past and prospective employees and members of the Marine Mammal Commission and its Committee of Scientific Advisors—MMC.

System location: Commission offices, 1625 I Street, NW., Room 307, Washington, D.C. 20006.

[1] This document was published on August 15, 1977 (42 FR 41190). It is being republished at this time, along with the Privacy Act Rules and Regulations of the Marine Mammal Commission, as part of the 1977 Privacy Act Compilation.

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Categories of individuals covered by the system: Present and past employees, individuals who have submitted solicited or unsolicited applications for employment, members of the Commission and Committee of Scientific Advisors, and individuals who have been invited to submit personal information for consideration as a potential member of the Committee.

Categories of records in the system: Name, address, telephone number, educational background, employment history, special employment qualifications, honors and awards, research and other activities relating to position, publications, letters of recommendation, and memoranda regarding conversations between Commission staff members and previous employers concerning quality of job performance.

Authority for maintenance of the system: Title II, Section 206(5) of the Marine Mammal Protection Act of 1972, 16 U.S.C. 1406(5).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Information contained in the system is used, in conjunction with data supplied on Standard Civil Service Commission forms, for the purpose of assessing the qualification of subject individuals for appointment to the various positions described above. The Chairman of the Commission, the Executive Director, and the Administrative Officer are authorized users of the System.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 8 1/2 by 11 inch folders in a locked vertical file.

Retrievability: Manual—indexed by name.

Safeguards: The system is maintained in a locked, metal safe, the access combination to which is known only by the Executive Director, his Administrative Officer, and one member of his support staff. Other members of the staff have been instructed that they are under no circumstances to make any use of the system except in accordance with procedures promulgated by the agency pursuant to Subsection 552a(f)(3) of the Privacy Act.

Retention and disposal: Records in the system will be retained during the life of the Commission.

Method of disposal: No particular method of disposal is followed.

System manager(s) and address: Executive Director, Marine Mammal Commission, 1625 I Street, NW., Room 307, Washington, D.C. 20006.

Notification procedure: An individual may obtain notification of whether the system of records contains a record pertaining to him/her by forwarding an inquiry to the System Manager, or by appearing in person, at the above address. See Commission regulations in 50 CFR Part 501.3.

Record access procedures: See Commission access regulations in 50 CFR Parts 501.4, 501.5.

Contesting record procedures: The Commission's rules for contesting contents of records, and for appealing adverse determinations with respect thereto, are contained in 50 CFR Parts 501.6 through 501.8. Assistance in obtaining access to or contesting the contents of records can be obtained from the System Manager at the above address.

Record source categories: Subject individuals; former, and/or present employers of subject individuals; and others familiar with the individual and whom the individual has suggested as a reference.

MMC—3

System name: Research proposals and contracts—MMC.

System location: Commission offices, 1625 I Street, NW., Room 307, Washington, D.C. 20006; Commission Members' Offices, presently:

Dr. Donald B. Siniff
108 Zoology Building
University of Minnesota
Minneapolis, Minnesota 55455
Dr. Douglas G. Chapman
College of Fisheries
University of Washington
Seattle, Washington 98195
Dr. Richard A. Cooley
Division of Environmental Studies
University of California
Santa Cruz, California 95064
Committee of Scientific Advisors Members' Offices, presently:
Dr. Robert L. Brownell, Jr.
National Fish and Wildlife Laboratory
USNM, Smithsonian Institution
Washington, D.C. 20560
Dr. Paul K. Dayton
Asst. Professor of Oceanography
Scripps Institution of Oceanography
La Jolla, California 92037
Dr. L. Lee Eberhardt
2528 West Klamath Avenue
Kennewick, Washington 99336
Mr. Karl W. Kenyon
11990 Lakeside Place, N.W.
Seattle, Washington 98125
Mr. John H. Prescott
New England Aquarium
Central Wharf
Boston, Massachusetts 02110
Dr. Clayton E. Ray
National Museum of Natural History
Smithsonian Institution
Washington, D.C. 20560
Dr. Sam H. Ridgway
Biomedical Division
Naval Undersea Center
San Diego, California 92132
Dr. Tim D. Smith
Department of Zoology
University of Hawaii at Manoa
Honolulu, Hawaii 96822

Categories of individuals covered by the system: Individuals who have submitted proposals to conduct scientific research, including those to whom research contracts have been awarded.

Categories of records in the system: Name, address, telephone number, educational background, employment history, honors and awards, part research activities, publications, records of payments made to individuals pursuant to research contracts that have been awarded.

Authority for maintenance of the system: Title II, Section 206(5) of the Marine Mammal Protection Act of 1972, 16 USC 1406(5).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Research proposals, containing personal qualifications information, are utilized by the Scientific Program Director and other members of the Commission staff, outside consultants, and Members of the Commission and the Committee for the purpose of determining the merit of such proposals. Records of contract payments are utilized by the Scientific Program Director, the Executive Director and his staff, and members of the Commission and Committee for purposes of budgeting, contract review, and evaluation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 8 1/2 by 11 inch folders in a vertical file.

Retrievability: Manual—indexed by name.

Safeguards: Records are maintained in an office which is accessible only to authorized persons.

Retention and disposal: Records in the system will be retained during the life of the Commission

Method of disposal: None

System manager(s) and address: Executive Director, Marine Mammal Commission, 1625 I Street, NW., Room 307, Washington, D.C. 20006.

Notification procedure: An individual may obtain notification of whether the system of records contains a record pertaining to him/her by forwarding an inquiry to the System Manager, or by appearing in person, at the above address. See Commission regulations in 50 CFR Part 501.3.

Record access procedures: See Commission access regulations in 50 CFR Parts 501.4, 501.5.

Contesting record procedures: The Commission's rules for contesting contents of records, and for appealing adverse determinations with respect thereto, are contained in 50 CFR Parts 501.6 through 501.8. Assistance in obtaining access to or contesting the

contents of records can be obtained from the System Manager at the above address.

Record source categories: Subject individuals, Research Program Director, and othe Commission personnel administering contract payments.

MMC—4

System name: General Financial Records—MMC

System location: General Services Administration, Central Office; copies held by the Commission. (GSA holds records for Commission under contract.)

Categories of individuals covered by the system: Commission employees.

Categories of records in the system: SF 1038, Application and account for advance of funds; Vendor register and vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other officers and employees of GSA and the Commission who have a ned for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C., generally; Section 206(5) of the Marine Mammal Protection Act of 1972, 16 U.S.C. 1406(5).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See appendix. Records also are released to GAO for audits; to the IRS for investigation; and to private attorneys, pursuant to a power of attorney.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and tape.

Retrievability: Manual and automated by name.

Safeguards: Stored in guarded building; released only to authorized personnel.

Retention and disposal: Disposition of records shall be in accordance with the HB GSA Records Maintnance and Disposition System (OAD P 1820.2)/

System manager(s) and address: Executive Director, Marine Mammal Commisson, 1625 I Street, NW., Washington, D.C. 20006, Room 307.

Notification procedure: See Commission access regulations in 50 CFR Part 501.3.

Record access procedures: See Commission access regulations in 50 CFR Parts 501.4, 501.5.

Contesting record procedures: See Commission regulations in 50 CFR Part 501.6 through 501.8.

Record source categories: The subject individual; the Commission.

MMC—5

System name: Payroll records;—MMC

System location: General Services Administration, Region 3 Office; copies held by the Commission (GSA holds for Commission under contract.)

Categories of individuals covered by the system: Past and present Commission employees.96

Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records; requests for deductions, tax forms; W2 forms; overtime requests; leave data; retirement records. Records are used by Commission and GSA employees to maintain adequate payroll information for Commission employees and otherwise by Commission and GSA employees who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C., generally.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See appendix. Records also are released to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Deparment of the Treasury Form W-2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Executive Director, Marine Mammal Commission, 1625 I Street, N.W., Room 307, Washington, D.C. 20006. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Executive Director of the Marine Mammal Commission.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security Number, in accordance with section 7 of the Privacy Act, Pub. L. 93-579.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and microfilm.

Retrievability: Social Security Number.

Safeguards: Stored in guarded building; released only to authorized personnel.

Retention and disposal: Disposition of records shall be in accordance with HB GSA Records Maintenance and Disposition System (OAD P 1820.2)/

System manager(s) and address: Executive Director, Marine Mammal Commission, 1625 I Street, NW., Washington, D.C. 20006.

Notification procedure: See Commission access regulations in 50 CFR Part 501.3.

Record access procedures: See Commission access regulations in 50 CFR Parts 501.4, 501.5.

Contesting record procedures: See Commission regulations in 50 CFR Parts 501.6 through 501.8.

Record source categories: The subject individual; the Commission.

APPENDIX MMC

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license grant or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee.

A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of Federal personnel management.

A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

Disclosure may be made, as a routine use, to a Congressional office from the record of an individual contained in any of the Commission's systems in response to an inquiry from the Congressional office made at the request of that individual.

[FR Doc.77-23465 Filed 8-12-77;8:45 am]

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NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES
PRIVACY ACT OF 1974

Systems of Records; Annual Publication

In accordance with section 552a(e)(4) of the Privacy Act of 1974 (Pub. L. No. 93-579) notice is hereby given that the records of the National Foundation on the Arts and the Humanities identified in notices published in the Federal Register (41 F.R. 55308) of December 17, 1976 continue in effect.

Robert J. Kingston,
Acting Chairman and Deputy Chairman, National Endowment for the Humanities.

Nancy Hanks,
Chairman, National Endowment for the Arts.

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NFAH—1

System name: Consultants—NFAH—1.

System location: NEA—2401 E St. NW, Washington, D.C. 20506.

System location: NEH—806 15th St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Past and present members of the National Council on the Arts, the National Council on the Humanities, Advisory Panels to the Arts Endowment and Advisory Panels to the Humanities Endowment.

Categories of records in the system: Contains name, address and telephone number of individual. Contains compensation claims, travel diaries, notification of personnel actions, correspondence. May contain curriculum vitae and press clippings.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Identification of Foundation consultants and their activities; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 9 inch by 12 inch folders.

Retrievability: Indexed by name.

Safeguards: Records are maintained in lockable drawers or file cabinets.

Retention and disposal: Retained indefinitely.

System manager(s) and address: Director, Program Offices—NEA/NEH, Director, Program Information—NEA, Director, Public Information—NEH, Director, Planning—NEA, Secretary to the National Council on the Arts—NEA, Office of the General Counsel—NEH.

NEA—2401 E St. NW, Washington, D.C. 20506.
NEH—806 15th St. NW, Washington, D.C. 20506

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom record is maintained, newspapers and journals, Foundation employees.

NFAH—2

System name: Contracts—NFAH—2

System location: NEA—Office of General Counsel, Room 1338, 2401 E St. NW, Washington, D.C. 20506.

System location: NEH—Office of the General Counsel, Room 1000, 806 15th St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Individuals who have entered into contracts with the Foundation.

Categories of records in the system: Contains contract, including name and address of contractor, specific and general contract provisions, contract amendments, correspondence, relevant back-up material.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: General Accounting Office audits, general congressional oversight; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 12 inch by 10 inch folders.

Retrievability: Indexed by name and number

Safeguards: Records are maintained in a lockable file cabinet.

Retention and disposal: Retained indefinitely.

System manager(s) and address: General Counsel—NEA, Room 1338, 2401 E St. NW, Washington, D.C. 20506. General Counsel—NEH, Room 1000, 806 15th St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom the record is maintained. Foundation employees involved in contract development, administration, and execution.

NFAH—3

System name: Employee payroll and leave and attendance records and files—NFAH—3

System location: Finance Office, NFAH, 806 15th St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Foundation Employees.

Categories of records in the system: Records consist of manual files containing payroll-related information for Foundation employees. Payroll and leave and attendance records and information includes many records or information also maintained in employee's official personnel folder and related files maintained in accordance with Civil Service Commission regulations and of which notice has been given by the Commission in its notice of Governmentwide systems of personnel records. Payroll and related information consists of various forms which disclose on a biweekly, year-to-date, and in some cases an annual basis, payroll and leave data for each employee relating to rate and amount of pay, leave, and hours worked, and leave balances; tax and retirement deductions; life insurance and health insurance deductions; savings allotments; savings bond and charity deductions; mailing addresses and home addresses.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.), Federal Personnel Manual and Treasury Fiscal Requirements Manual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to prepare payroll and to meet Government payroll recordkeeping and reporting requirements, and for retrieving and supplying payroll and leave information as required for agency needs. Civil Service Commission Notice of Governmentwide Systems of Personnel Records: "C.S.C.—General Personnel Records (Official Personnel folder and records related thereto)"; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Time and attendance files maintained on 8 inch by 5 inch cards included with other information maintained in 9 inch by 12 inch folders.

Retrievability: Indexed by name.

Safeguards: Records are maintained in a lockable file cabinet.

Retention and disposal: Records maintained for three years or until audited by the General Accounting Office.

System manager(s) and address: Finance Manager, Room 807, Shoreham Building, 806 15th St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

NFAH—4

System name: Equal Employment Opportunity Case File—NFAH—4.

System location: Room 812, 806 15th St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Foundation employees and job applicants.

Categories of records in the system: Contains transcripts, documentation concerning pre-complaint counseling activities, documentation concerning filing of complaint, written records of terms of adjustment and disposition of complaint.

Authority for maintenance of the system: Title 5 CFR Chapter I, Part 713.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Implementation of Foundation program for equal opportunity in employment and personnel operations; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 9 inch by 12 inch folders.

Retrievability: Retrievable by name.

Safeguards: Maintained in lockable filing cabinets.

Retention and disposal: Retained indefinitely.

System manager(s) and address: Equal Employment Opportunity Officer, Room 812, 806 15th St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom the record is maintained. Foundation employees involved in the claim or proceeding.

NFAH/NEA—5

System name: Grant Applications—NFAH/NEA—5.

System location: 2401 E St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Individuals applying to the National Endowment for the Arts for financial assistance.

Categories of records in the system: Grant application, sample of work where appropriate.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: General Administration of grant review process; statistical research; congressional oversight and analysis of trends; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 9 inch by 12 inch folders.

Retrievability: Indexed by name and number.

Safeguards: Records are maintained in a lockable file cabinet.

Retention and disposal: After receipt of final reports, retired to National Archives. Retained in National Archives for three years. Then shipped to St. Louis, Mo.

System manager(s) and address: Grants Officer, Room 1101, 2401 E St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

NFAH/NEH—6

System name: Grant Applications—NFAH/NEH—6.

System location: 806 15th St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Individuals and institutions applying to the National Endowment for the Humanities for financial assistance.

Categories of records in the system: Grant application, sample of work where appropriate.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: General Administration of grant review process; statistical research; congressional oversight and analysis of trends; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 9 inch by 12 inch folders.

Retrievability: Indexed by name of applicant.

Safeguards: Records are maintained in a lockable filing cabinet.

Retention and disposal: After receipt of final reports, retired to National Archives. Retained in National Archives for three years. Then shipped to St. Louis, Mo.

System manager(s) and address: Grants Officer—NEH, Room 522, 806 15th St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual and institution on whom the record is maintained.

NFAH/NEA—7

System name: Grants to Individuals NFAH/NEA—7.

System location: 2401 E St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Individuals receiving grant awards (fellowships) from the National Endowment for the Arts.

Categories of records in the system: Grant application, including sample of work where appropriate, award notification letter, grant award acceptance agreement, payment schedule, relevant correspondence, final report.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: General administration

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of grant review and award process; statistical research; congressional oversight and analysis of trends; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 9 inch by 12 inch folders.

Retrievability: Indexed by name and number.

Safeguards: Records are maintained in lockable filing cabinets.

Retention and disposal: After receipt of final reports, retired to National Archives. Retained in National Archives for three years. Then shipped to St. Louis, Mo.

System manager(s) and address: Grants Officer, Room 1101, 2401 E St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom the record is maintained. Employees involved in administration of the grant.

NFAH/NEH—8

System name: Grants to Individuals and Institutions—8

System location: 806 15th St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Individuals and institutions receiving grant awards from the National Endowment for the Humanities.

Categories of records in the system: Grant application including sample of work where appropriate, award notification letter, grant award acceptance agreement, payment schedule, relevant correspondence, final report.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Administrative processing, general statistical research, congressional analysis of trends; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Information concerning grantees, principal investigator's location of grantee, title of grant, field of study, type of grantee, special characteristics, length of award, application date, date of recommendation, grant number, division and program element, amount and brief description of purpose of award is routinely forwarded to the Smithsonian Science Information Exchange (SSIE) and the Foreign Area Research Unit (FARU) in the Intelligence. and Research Office of the Department of State.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 9 inch by 12 inch folders.

Retrievability: Indexed by name of individual, name of institution, and number.

Safeguards: Records are maintained in a lockable filing cabinet.

Retention and disposal: After receipt of final reports, retired to National Archives. Retained in National Archives for three years. Then shipped to St. Louis, Mo.

System manager(s) and address: Grants Officer—NEH, Room 522, 806 15th St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom the record is maintained. Employees involved in administration of the grant.

NFAH—9

System name: Personnel Records—NFAH—9.

System location: Room 410, 806 15th St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Foundation employees.

Categories of records in the system: Contains copies of official personnel records, consultants' employment files.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Identification of Foundation Employees and their personnel records. Used for internal reporting; also referred to any appropriate agency, private organization or official in the course of an employment or security clearance investigation; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 9 inch by 12 inch folders.

Retrievability: Retrieved by name.

Safeguards: Stored in lockable file cabinets.

Retention and disposal: Retained during course of employment and for one month subsequent to termination thereof; thereafter sent to St. Louis, Mo.

System manager(s) and address: Personnel Officer, Room 410, 806 15th St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual to whom the record pertains, Foundation employees.

NFAH/NEH—10

System name: Reviewer File—NFAH/NEH—10

System location: Room 1104, 806 15th Street, NW., Washington, D.C. 20506.

Categories of individuals covered by the system: Scholars and experts in humanities who are willing to donate time to comment on applications received by the Endowment.

Categories of records in the system: Contains addresses, fields of expertise, and notations of applications forwarded for review.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended 20 U.S.C. 951 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records are used by Endowment staff, principally in the division of research grants for the purpose of mailing applications to appropriate scholars for their evaluations, which are the basis of our peer review system; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on 5 inch by 8 inch cards filed in boxes by field and on 3 inch by 5 inch cards alphabetically by name.

Retrievability: Retrieved by discipline and/or name.

Safeguards: Room locked after office hours; files are not permitted to be removed at any time from room.

Retention and disposal: Retained even when no longer used.

System manager(s) and address: Deputy Director, Division of Research Grants, Room 1101, 806 15th Street, NW., Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Available to NEH staff, through Division of Research Grants.

Record source categories: Individual to whom the record pertains; foundation employees note use of records on cards.

NFAH/NEA—11

System name: Interns—NFAH/NEA—11

System location: NEA—Office of Staff Development Officer, Room 1250, 2401 E St., NW., Washington, D.C. 20506.

Categories of individuals covered by the system: Past and present participants in the Endowment's Work Experience Internship Program.

Categories of records in the system: Contains resume and essay submitted by candidate, letters of recommendation, grant award letter, cash request, correspondence.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Identification of past and present participants in Work Experience Internship Program, general reference purposes; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 9 inch by 12 inch folders.

Retrievability: Indexed by name.

Safeguards: Records are maintained in lockable filing cabinets.

Retention and disposal: Retained indefinitely.

System manager(s) and address: Staff Development Officer, Room 1250, 2401 E St., NW., Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom the record is maintained, reference sources for individual.

[FR Doc.77-27342 Filed 9-19-77;8:45 am]

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NATIONAL SECURITY COUNCIL

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

In accordance with Section 552a(e)(4) of the Privacy Act of 1974 the National Security Council hereby publishes the system of records currently maintained. No changes have occurred since last published on September 9, 1975 (40 FR 41985).

Christine Dodson,
Staff Secretary.

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NSC 1.1.

System name: Central Research Index 1.1—NSC.

Security classification: Top Secret.

System location: NSC Staff Secretariat, National Security Council, Old Executive Office Building, Washington, D.C. 20506.

Categories of individuals covered by the system: U.S. Government officials and members of the public who correspond with or participate in foreign policy decision making with the President or his Assistant for National Security Affairs.

Categories of records in the system: Computerized management records of material processed through the NSC Staff Secretariat for Indexing, Control, and Staffing.

Authority for maintenance of the system: 50 U.S.C. 401.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Referral to Government agencies as part of status determinations on action requests of particular agencies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in computer storage form.

Retrievability: Indexed by name of public correspondent or U.S. Government source or participant.

Safeguards: Safeguarded as required for the control of Top Secret materials pursuant to Executive Order 11652 (37 FR 5207, March 10, 1972) and as described in the implementing National Security Council directive governing the classification, downgrading, declassification and safeguarding of national security information of May 17, 1972.

Retention and disposal: System contains both working and permanent records. References to institutional NSC files are maintained on an active file while records which point to Presidential documents are retired at the change of administration.

System manager(s) and address: Staff Secretary, National Security Council, Old Executive Office Building, Washington, D.C. 20506. Telephone: 202-395-3440.

Notification procedure: Same as the above.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Documents furnished by individuals.

Systems exempted from certain provisions of the act: This system of records is the index for other NSC files, except agency personnel records and files, and may be exempt from the provisions of the Privacy Act pursuant to 5 U.S.C. 552A (K)(1). Files to which this index refers may not be covered by the Privacy Act and to the extent they are subject to the Act, they may also be exempt under section (K)(1).

NSC 1.2.

System name: NSC Correspondence Files 1.2—NSC.

Security classification: Top Secret.

System location: NSC Staff Secretariat, National Security Council, Old Executive Office Building, Washington, D.C. 20506.

Categories of individuals covered by the system: Individuals corresponding with the NSC staff for the purposes described below.

Categories of records in the system: Requests by students, scholars, researchers, other Government agencies and the general public for access to official records.

Authority for maintenance of the system: 50 U.S.C. 401.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Referral to other agencies for appropriate assistance in responding to requests.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents in folders files by control number assigned upon receipt of the document. A working copy of the document is maintained on microfiche.

Retrievability: The Central Research Index (NSC 1.1) consitutes the index to this file.

Safeguards: Safeguarded as required for the control of Top Secret materials pursuant to E.O. 11652 (37 FR 5207, March 10, 1972) and as described in the implementing National Security Council directive governing the classification, downgrading, declassification, and safeguarding the national security information of May 17, 1972.

Retention and disposal: Records are permanent and are retained in NSC files.

System manager(s) and address: Staff Secretary, National Security Council, Old Executive Office Building, Washington, D.C. 20506. Telephone: 202-395-3440.

Notification procedure: Same as the above.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Correspondence with members of the public and U.S. Government officials.

Systems exempted from certain provisions of the act: (K)(1).

NSC 1.3.

System name: NSC Meetings Registry 1.3—NSC.

Security classification: Secret.

System location: NSC Staff Secretariat, National Security Council, Old Executive Office Building, Washington, D.C. 20506.

Categories of individuals covered by the system: Participants in meetings of the NSC and subordinate bodies held since January 20, 1969.

Categories of records in the system: Identifies U.S. Government officials who attended or participated in these meetings.

Authority for maintenance of the system: 50 U.S.C. 401.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: The Central Research Index (NSC 1.1) is the index to this file.

Safeguards: Safeguarded as required for the control of Top Secret materials pursuant to E.O. 11652 (37 FR 5207, March 10, 1972) and as described in the implementing National Security Council directive governing the classification, downgrading, declassification, and safeguarding of national security information of May 17, 1972.

Retention and disposal: Records are permanent and are maintained in NSC files.

System manager(s) and address: Staff Secretary, National Security Council, Old Executive Office Building, Washington, D.C. 20506.

Notification procedure: Same as the above.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Records of NSC meetings.

Systems exempted from certain provisions of the act: (K)(1).

NSC 1.4.

System name: Agency Personnel Records and Files 1.4—NSC.

Security classification: Unclassified.

System location: Administrative Office, National Security Council, Old Executive Office Building, Washington, D.C. 20506.

Categories of individuals covered by the system: Employees appointed to the NSC staff and payrolled from NSC funds and employees of other agencies detailed, either on a reimbursable or non-reimbursable basis, to the NSC staff.

Categories of records in the system: For each employee payrolled to the NSC staff, the following information is maintained:

1. Official personnel folder with contents:
   - A. SF-86 Security Investigation Data for Sensitive Position.
   - B. SF-171 Personnel Qualification Statement.
   - C. SF-50 Notification of Personnel Action.
   - D. SF-61 Oath of Office.
   - E. SF-176 Life Insurance Elective, Declination or Waiver.
   - F. SF-2809-2810 Health Benefits Form.
   - G. Treasury Form TUS 426D (or equivalent)—Payroll Change Slip, Bi-Weekly.
   - H. Memoranda of Performance Ratings together with memos requesting promotion.
   - I. Letters of commendation.
   - J. Treasury Form TUS 492—Notice of Leave Category.
   - K. SF-2815 Employee Service Statement.
   - L. SF-1150 Record of Leave Data.
2. Service record card—SF-7 History of Employment with the agency.
3. Retirement Records—SF-2806 and 2807, Records of Retirement Monies withheld from Individual Employee's Salary.
4. Health Benefits—2809, 2810, and 2811, Record of Individual's Enrollment in One of the Health Plans Available Through U.S. Government.
5. SF-50 Chronos.
6. Term of Service Records.

Authority for maintenance of the system: 5 U.S.C. 401, U.S. Civil Service Commission authority, and implementing regulations in the Federal Personnel Manual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Authorized investigative pre-employment checks.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in personnel jackets.

Retrievability: Indexed alphabetically for OPF's; SF-7's; SF-2806. SF-113—indexed by month and year.

Safeguards: Filed in combination safes which are accessed only by administrative office personnel and which are secured each evening.

Retention and disposal: OPF retained until employee leaves NSC staff by transfer at which time the file is sent to the receiving agency. Upon resignation or retirement the file is sent to the Federal Records Center in St. Louis, Missouri. Upon death appropriate forms are submitted and distributed in accordance with CSC regulation and the remainder of the file is sent to the Federal Record Center in St. Louis, Missouri.

SF-7 Retained as a permanent service record in the agency.
SF-2806 and 2807 Forwarded to CFC retirement office when employee leaves by transfer, resignation, retirement, or death.
SF-113A Copy remains in agency and is destroyed after five to ten years.
Term of service records copy remains in agency files which are periodically purged at the discretion of the administrative office personnel.

System manager(s) and address: Staff Secretary, National Security Council, Old Executive Office Building, Washington, D.C. 20506.

Notification procedure: Same as above.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories:

SF-171 from employee.
SF-186 from employee.
All other forms shown under item one are standarized within the U.S. Government and are used as directives by the Civil Service Commission.

Systems exempted from certain provisions of the act: None

NSC 2.1.

System name: Presidential Correspondence Files 2.1—NSC

Security classification: Unclassified

System location: The White House Office, Washington, D.C. 20500

Categories of individuals covered by the system: Individuals who correspond with the President or the Assistant to the President for National Security Affairs on issues of foreign policy and national security affairs whose correspondence has been referred to the NSC Secretariat for Logging, Control, and Staffing

Categories of records in the system: Correspondence

Authority for maintenance of the system: 50 U.S.C. 401

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Referral to other agencies for required assistance in responding to public inquiries

Systems exempted from certain provisions of the act: These files are maintained by the White House Staff in support of the President and are not covered by the Privacy Act of 1974 in that under the Privacy Act the White House is not considered an agency

NSC 2.2.

System name: Presidential Advisory Files 2.2—NSC

Security classification: Top Secret.

System location: The White House, Washington, D.C. 20500

Categories of individuals covered by the system: Individuals, primarily U.S. and foreign government officials, who correspond with or participate in meetings with the President or the Assistant to the President for National Security Affairs on matters of foreign policy.

Categories of records in the system: Correspondence and records of meetings with the President and the Assistant for National Security Affairs.

Authority for maintenance of the system: 50 U.S.C. 401

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: The Central Research Index (NSC 1.1) is used to identify specific records

Safeguards: Safeguarded as required for the control of classified materials pursuant to E.O. 11652 (37 FR 5207, March 10, 1972) and is described in the implementing National Security Council directive governing the classification, downgrading, declassification, and safeguarding of national security information of May 17, 1972

Retention and disposal: Records are removed from the White House Office after the change of a Presidential Administration.

Systems exempted from certain provisions of the act: These materials are maintained in support of the President and his Assistant for National Security Affairs by NSC staff personnel, acting on behalf of the President. As a result these records which are maintained in the White House Office are not subject to the provisions of the Privacy Act 1974 (5 U.S.C. 552A)

NSC 2.3.

System name: Presidential Contact File 2.3—NSC

Security classification: Unclassified

System location: Staff Secretary, National Security Council, Old Executive Office Building, Washington, D.C. 20506

Categories of individuals covered by the system: Individuals participating in meetings between the President and foreign officials

Categories of records in the system: Records of the President's meetings.

Authority for maintenance of the system: 50 U.S.C. 401

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

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Storage: Paper records.

Retrievability: The Central Research Index is used to identify specific records.

Safeguards: Documents are controlled within the NSC staff offices as required by the safeguards for control of classified materials pursuant to E.O. 11652 (37 FR 5207, March 10, 1972) and as described in the implementing National Security Council directive governing the classification, downgrading, declassification, and safeguarding of national security information May 17, 1972. Within the White House Office these documents are considered proprietary materials and are not released to members of the public.

Retention and disposal: Records are removed from the White House Office after the change of a Presidential administration.

Systems exempted from certain provisions of the act: These records are maintained in support of the Office of the President and are in no way related to the function of the National Security Council. As a result these records are not covered by the Privacy Act of 1974 (5 U.S.C. 552A).

[FR Doc.77-27343 Filed 9-19-77;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

Pursuant to 5 U.S.C. 552a(e)(4), the National Transportation Safety Board republishes notice of the maintenance of its systems of records. The complete text of the Board's systems of records was last published at 41 FR 52038, November 24, 1976. In that notice the Board proposed additional routine uses for several systems of records. Those additional routine uses became effective on December 27, 1976, when the Board had not published notice to the contrary. There have been no other changes in the systems of records.

Approved by the National Transportation Safety Board at Washington, D.C., this 10th day of August, 1977.

Kay Bailey,
Vice Chairman.

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PREFATORY STATEMENT OF GENERAL ROUTINE USES

The following previously published routine uses apply to and are incorporated by reference into each system of records set forth below:

1. Referral to law enforcement agencies of violations of the law.
2. Disclosure for discovery purposes ordered by a court.
3. Disclosure to a congressional office of the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

NTSB—1

System name: Claimants under Federal Tort Claims Act—NTSB.

System location:

National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Categories of individuals covered by the system: Persons with claims against the Government for damage to or loss of property, or personal injury or death, caused by the negligent or wrongful act or omission of any NTSB employee acting within the scope of his employment (provided that any award, compromise, or settlement in excess of twenty-five thousand dollars may be effected only with the prior written approval of the Attorney General or his designee).

Categories of records in the system: Contains claim, subrogations, legal opinion as to liability of the Government with respect to the claim, final determination, and supporting receipts.

Authority for maintenance of the system: Tort Claims Procedure, 28 U.S.C. 2671.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used to establish liability and the amount of such liability. Routine use includes, but is not limited to, referral to potential employers and for security clearance; also, see routine uses in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in system is maintained on an 8 1/2- by 10 1/2-inch form.

Retrievability: Indexed by name.

Safeguards: Records are maintained in locked file cabinets.

Retention and disposal: Records are manually kept and are retained for one year after disposition of the claim and then sent to the Federal Records Center, NARS, where they are retained for at least six years.

System manager(s) and address:

Comptroller
Bureau of Administration
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Procedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as the above.

Record source categories: Claimant and employee or employees of the Government involved in the claim and witnesses to the incident or accident.

NTSB—2

System name: Personnel Nonpermanent Records—NTSB

System location:

National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Categories of individuals covered by the system: Employees of NTSB.

Categories of records in the system: Personnel nonpermanent records not required to be kept by CSC, usually of a personal nature.

Authority for maintenance of the system: 5 U.S.C. 301 et seq., implemented by 5 CFR Part 293.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used to carry out authorized personnel programs, such as promotions. Routine use includes, but is not limited to, referral to potential employers and for security clearance; also, see routine uses in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is maintained in SF 66, on left-hand side of folder.

Retrievability: Indexed by name.

Safeguards: Records are kept in locked cabinets.

Retention and disposal: Records are manually kept and are retained until individual's employment at NTSB terminates, at which time the records are destroyed.

System manager(s) and address:

Personnel Officer
Bureau of Administration
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Procedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as the above.

Record source categories: Working papers developed during course of employment; e.g., from supervisors, including performance evaluation, letters of commendation, and ducuments which are not permanently retained.

NTSB—3

System name: Security Records—NTSB

System location:

National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Categories of individuals covered by the system: Employees, prospective employees, and potential contractors.

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Categories of records in the system: Matters pertaining to loyalty qualifications of the individuals—loyalty checks, character evaluations, crimes, past employment records, military service—investigated by NTSB and other agencies such as FBI, DOD, or CSC.

Authority for maintenance of the system: Executive Order 10450.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is used to determine qualification of an individual for employment by NTSB, or as a contractor with NTSB; also, see routine uses in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in system is stored in 9- by 12-inch file folders.

Retrievability: Information is indexed by name.

Safeguards: Records are maintained in locked cabinets or safes.

Retention and disposal: Records are kept manually and are retained by NTSB while the individual is employed by NTSB or is under contract with NTSB. Thereafter, that portion of the records representing information originating from NTSB investigation is destroyed. Investigation reports of other agencies are returned to the originating agency.

System manager(s) and address:

Personnel Officer
Director, Bureau of Administration
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Procedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as the above.

Record source categories: Loyalty checks, inquiries, NTSB field investigation reports, and other reports of NTSB and other Government agencies.

Systems exempted from certain provisions of the act: Security Record. System is partially exempt from the privacy Act of 1974 (5 U.S.C. 552a(k)) and NTSB regulation 49 CFR Part 802 (40 FR 40134).

NTSB—4

System name: Travel Records of Employees—NTSB

System location:

National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Categories of individuals covered by the system: Employees who have traveled pursuant to authorized official business of NTSB.

Categories of records in the system: Travel vouchers, which include, e.g., hotel bills, commercial car rentals, meals, telephones, mileage allowances, and training.

Authority for maintenance of the system: Travel Expense Amendments Act of 1975 (Pub. L. 94-22).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Vouchers are used to determine amounts to be paid to an employee for authorized and official travel for NTSB. Routine use includes, but is not limited to, referral to potential employers, and for security clearance; also, see routine uses in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in system is maintained on an 8 1/2- by 10 1/2-inch form.

Retrievability: Indexed by name.

Safeguards: Records are naintained in files with locks.

Retention and disposal: Records are manually kept and are maintained by NTSB for one year after payment of allowable travel espenses to employee. Thereafter, they are sent to the Federal Records Center, NARS, where they are retained for at least six years.

System manager(s) and address:

Comptroller
Bureau of Administration
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Procedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as the above.

Record source categories: Employee submitting vouchers.

NTSB—5

System name: Reports of Employees' Financial Interests and Outside Employment.

System location:

National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Categories of individuals covered by the system: NTSB employees.

Categories of records in the system: Confidential statements of financial interests and outside employment required of certain employees. The statements set forth the financial interests of the employees and members of their immediate families and specify the employment of the members of the immediate family or any other employment of the NTSB employees involved.

Authority for maintenance of the system: 5 CFR Part 735 (Federal Personnel Manual), implemented by 49 CFR Part 805.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used by authorized personnel for ascertaining conflicts or apparent conflicts of interest and for recommending appropriate action to NTSB employees. In the event of a violation or potential violation of law, whether civil, criminal, or regulatory, the records may be referred to the appropriate agency. Routine use includes, but is not limited to, referral to potential employers and for security clearance; also, see routine uses in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on 8 1/2- by 10 1/2-inch forms kept in a manila folder.

Retrievability: Indexed alphabetically by name.

Safeguards: Records are stored in a locked safe.

Retention and disposal: Records are manually kept during employment of the individual and then destroyed.

System manager(s) and address:

Personnel Officer
Bureau of Administration
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Procedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as above.

Record source categories: NTSB employees.

NTSB—6

System name: Employee Payroll, Leave, and Attendance Records—NTSB

System location:

National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Categories of individuals covered by the system: NTSB employees.

Categories of records in the system: Manual files and computer-retrievable data containing payroll-related information covering NTSB employees. Payroll, leave, and attendance records include records or information also maintained in the employees' Personnel Nonpermanent Records and related files kept in accordance with Civil Service Commission regulations and noticed by the Commission in its governmentwide systems of personnel records. Payroll and related information consists of various forms and computer-retrievable data which discloses on a biweekly, year-to-date, and/or annual basis, payroll and leave data for each NTSB employee. This data relates to the rate and amount of pay, leave, hours worked, and leave balances. It also includes tax and retirement deductions, life insurance and health deductions, savings allotments, savings bond and charity deductions, mailing addresses, and home addresses.

Authority for maintenance of the system: Federal Personnel Manual and Treasury Fiscal Requirements Manual; and Pub. L. 93-633, 88 Stat. 2168 (sec. 303(c)(3) of the Independent Safety Board Act of 1974, 49 U.S.C. 1902).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For preparation of payroll, to fulfill Government payroll recordkeeping and reporting requirements, and to retrieve and supply payroll and leave information as required for NTSB needs. Other routine uses for certain records are specified in the Civil Service Commission notice: "C.S.C.—General Personnel Records (Official Personnel Folder and records related thereto)." Routine use includes, but is not limited to, referral to potential employers, and for security clearance; also, see routine uses in Prefatory Statements.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Storage for NTSB is maintained by the Federal Highway Administration (FHWA), 400 7th Street, SW., Washington, D.C. 20590.

Retrievability: Time cards are machine-printed, 7 1/2- by 3 1/2-inch cards (FHWA Form 320A); tapes are standard 2,400-foot IBM tapes.

Safeguards: There are no safeguards for the time cards. The tapes, however, are maintained in the computer center and access is permitted only to certain specified FHWA employees or appropriate employees of contractor agencies.

Retention and disposal: The time cards are maintained in the office for the current and prior year and are thereafter sent to the Federal Records Center in St. Louis. The tapes are retained, based on the cycle of the particular system. The disposal occurs when the cycle ends. The tapes are kept by employee number, which is a number assigned to the employee on hiring.

System manager(s) and address:

Personnel Officer
Bureau of Administration
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Procedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as above.

Record source categories: NTSB employees.

NTSB—7

System name: Equal Employment Opportunity Complaint Records—NTSB.

System location:

National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Categories of individuals covered by the system: Employees of NTSB or job applicants who file complaints of discrimination with NTSB.

Categories of records in the system: Investigative files pertaining to equal employment opportunity complaints and problems.

Authority for maintenance of the system: Executive Order 11478; Pub. L. 92-261; Civil Service Regulations (5 CFR Part 713); Federal Personnel Manual, Chapter 713.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by the Equal Employment Opportunity Officer, EEO counselors, investigators, and other agency employees and their representatives where appropriate to resolve discrimination complaints. When appeals are taken, may be reviewed by officials of the Civil Service Commission's Board of Appeals and Review; officers of the courts, and attorneys for the parties; also, see routine uses in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in individual file folders.

Retrievability: Indexed by name of complainants.

Safeguards: Folders are located in lockable, metal file cabinets to which access is controlled by an NTSB employee.

Retention and disposal: Files are retained and disposed of in accordance with general records disposal schedules prescribed by the General Services Administration.

System manager(s) and address:

Bureau of Administration
Equal Employment Opportunity Officer
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Procedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as above.

Record source categories: Persons filing complaints, their representatives, EEO officials, and persons affected by or having an involvement in the area covered by the complaint.

NTSB—8

System name: Privacy Act Request Records—NTSB.

System location:

National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Categories of individuals covered by the system: Individuals who have requested personal information from the records systems of the Safety Board.

Categories of records in the system: Requests from the individual, and related correspondence and memoranda.

Authority for maintenance of the system: 5 U.S.C. 552a, sec. 2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by NTSB employees to record and efficiently process requests made under the Privacy Act of 1974. Users are each system manager for a record system covered by the Privacy Act, and those employees under his supervision who maintain and control the files for which a request is made under the provisions of the Act; also, see routine uses in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in individual file folders.

Retrievability: Indexed by name of requester.

Safeguards: Folders are located in lockable, metal file cabinets to which access is controlled by an NTSB employee assigned such responsibility.

Retention and disposal: Files are retained and disposed of in accordance with general records disposal schedules prescribed by the General Services Administration.

System manager(s) and address:

Director, Bureau of Administration
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Procedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as above.

Record source categories: Individuals requesting access to records and employees processing such requests.

NTSB—9

System name: Employee Locator Cards—NTSB

System location:

National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

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Categories of individuals covered by the system: All employees of NTSB.

Categories of records in the system: Employee names, office locations and telephone extensions, home addresses and telephone numbers, and names of persons and telephone numbers used for notification in the event of emergency.

Authority for maintenance of the system: Pub. L. 93-633 and Title 5 U.S.C. 552a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Operations and Facilities Division to provide information to the public by telephone concerning office location and office telephone extension of NTSB employees and to provide information to supervisors and other management officials of employees' home telephones or addresses in the event of official or personal emergencies. Routine use includes, but is not limited to, referral to potential employers, and for security clearance, also, see routine uses in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on cards.

Retrievability: Filed alphabetically by last name of employee.

Safeguards: Records are maintained in lockable, metal file cabinets to which access is controlled by an NTSB employee.

Retention and disposal: Files are destroyed when an individual's employment terminates.

System manager(s) and address:

Office Services Manager
Operations Facilities Division
Bureau of Administration
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Procedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as above.

Record source categories: NTSB employees whose names appear in the records system.

NTSB—10

System name: Disciplinary Action, Adverse Action, Grievance and Appeal Files—NTSB

System location:

Office of Personnel
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Categories of individuals covered by the system: Employees against whom disciplinary or adverse actions are taken by NTSB or who appeal such actions or file grievances.

Categories of records in the system: Case files showing all pertinent records relating to employee disciplinary actions, adverse actions, grievances, and appeals.

Authority for maintenance of the system: 5 U.S.C. 7501, 7511, 7512, 7521, 7531, 7532, 7533, and 7701, as implemented by 5 CFR Parts 752, 771, and 772.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide an official file on actions cited above for use of agency, concerned employees and their representatives, and appellate bodies in connection with determination of disciplinary actions, adverse actions, grievances, and appeals before the NTSB and the Civil Service Commission. Routine use includes, but is not limited to, referral to potential employers, and for security clearance; also, see routine uses in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in individual file folders indexed by name of employee against whom action is proposed or taken, or by whom appeal is filed.

Retrievability: Filed alphabetically by last name of employee.

Safeguards: Folders are located in lockable, metal file cabinets to which access is controlled by an NTSB employee.

Retention and disposal: Files are retained and disposed of in accordance with general records disposal schedules prescribed by the General Services Administration.

System manager(s) and address:

Personnel Officer
Bureau of Administration
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Procedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as above.

Record source categories: Supervisors or management officials initiating or acting on adverse personnel actions against employees and their representatives, personnel investigators, hearing officers or administrative law judges, affected employees and their representatives, and other persons affected by or having an involvement in the action proposed or taken.

NTSB—11

System name: Parking Permit Records—NTSB

System location:

National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Categories of individuals covered by the system: NTSB employees who have applied for or who have been issued parking permits.

Categories of records in the system: Application cards containing information on permit applicant and members of his car pool, if any.

Authority for maintenance of the system: Pub. L. 93-633.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to determine whether or not an employee is entitled to, or possesses, a parking permit. Routine use includes, but is not limited to, referral to potential employers, also, and for security clearance; also, see routine uses in Prefatory Statements.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on 5 by 10 inch cards.

Retrievability: Indexed by name of permit holder.

Safeguards: Maintained in a locked cabinet.

Retention and disposal: Records are maintained while employee holds a parking permit. Record is destroyed when employee no longer has parking permit.

System manager(s) and address:

Office Services Manager
Operations and Facilities Division
Bureau of Administration
National Transportation Safety Board
800 Independence Avenue, SW.
Washington, D.C. 20594

Notification procedure: Address inquiries to Director, Bureau of Administration.

Record access procedures: Procedures are detailed in NTSB regulation 49 CFR Part 802 (41 FR 22357, as amended 41 FR 43154).

Contesting record procedures: Same as above.

Record source categories: Information provided by employees desiring parking permits.

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OFFICE OF MANAGEMENT AND BUDGET

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

Pursuant to 5 U.S.C. 552a(e)(4), the Office of Management and Budget hereby publishes the Systems of Records as currently maintained by this agency. The Systems were last published in their entirety in the FEDERAL REGISTER on October 7, 1976, 41 FR 44292. The only change to the Systems has been a revision to System Notice OMB/PERSL/01, Recruiting and Applicant Records (41 FR 55006, December 16, 1976).

Velma N. Baldwin,
Assistant to the Director for Administration.

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OMB/SPD/01

System name: Clearance Office Information System

Security classification: None

System location: Office of Management and Budget, Clearance Office, Statistical Policy Division, Room 10201 New Executive Office Building, 726 Jackson Place, N.W., Washington, DC 20503.

Categories of individuals covered by the system: Employees of the Executive Office of the President and employees of agencies subject to the provisions of the Federal Reports Act who are reviewing or who have submitted for review requests for clearence under the Federal Reports Act.

Categories of records in the system: These records contain a docket number for every request for clearance under the Federal Reports Act; all materials submitted by the agency requesting clearance, including the names of agency employees directly responsible for the request and the names of those authorized to submit it; all material received from interested persons, including the names of the persons; records of all consultations including names of persons consulted; minutes of any public meeting or hearings, including the names of persons attending; a worksheet containing OMB reviewer notes and recommended action; a copy of the OMB action signed by the Clearance Officer; and copies of the approved materials. They also include computer-generated records and reports which show the name of the OMB employee assigned to the review of each pending request for clearance; the name of the employee assigned to the review of each completed review; the name of each agency clearance officer; summary reports of the number of reviews assigned to and completed by each employee for the last completed month and for the year to date; and a record of each docket borrowed by an OMB employee with the name, room number and phone number of the borrower.

Authority for maintenance of the system: 44 U.S.C. 3501-3511.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual and to officers and employees of OMB in connection with the performance of their official duties for the agency (See 'Retrievability').

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored in three electric-powered rotary files, on a reference table within the Clearance Office, and in the OMB Records Depository. In addition, docket information is stored on computer disk for use in preparing inventory and control reports and listings. Materials stored on the reference table for immediate access consist of the current inventory of reporting and record-keeping requirements cleared by OMB under the Federal Reports Act, the inventory of requests for clearance under the Federal Reports Act presently under review, and the inventory of OMB completed clearance actions for the current and preceding months.

Retrievability: Records are filed by OMB docket number except for some computer generated records which may be retrieved by agency clearance officers or the OMB reviewer number. Access to materials in the Records Depository is limited to the staff of the OMB Records Unit. There are no restrictions on access to materials in the rotary files except that no docket may be withdrawn from the file except by a member of the Clearance Office staff or by a member of the OMB staff or a member of an agency staff working under the instruction of a member of the Clearance Office staff. Except as provided below (see Safeguards) there are no restrictions to access of the material that is stored on the reference table for immediate use. Material processed in the OMB computer center is released only to authorized Clearance Office staff.

Safeguards: All records are under the immediate surveillance of Clearance Office staff during working hours. The materials in the rotary files are locked at all other times. The Records Depository is locked during nonoffice hours. The Computer Center is in a secured area.

Retention and disposal: Active dockets are retained in the Clearance Office Information System until the period of time for which they have been cleared expires. They are then transferred to the OMB Records Depository for destruction or transfer to National Archives under existing regulations.

System manager(s) and address: Clearance Officer, Statistical Policy Division, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

Notification procedure: Requests to be notified whether the system contains a record pertaining to an individual should be addressed to Assistant to the Director for Administration, Office of Management and Budget, Old Executive Office Building, 17th and Pennsylvania Avenue, N.W., (See also Chapter III, Part 1302 of Title 5, Code of Federal Regulations, (40 F.R. 34165).)

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information is obtained from material submitted by agency requesting clearance and internal OMB work plans.

Systems exempted from certain provisions of the act: Not applicable.

OMB/LIBRY/01

System name: Library Circulation System

Security classification: None

System location: Office of Management and Budget Library, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

Categories of individuals covered by the system: Employees of the Executive Office of the President.

Categories of records in the system: These records contain titles and other identifying data on materials borrowed from the OMB Library; name, room number, organization, and telephone number of borrower; and the return date for each item borrowed.

Authority for maintenance of the system: Federal Property and Administrative Services Act, Title II, Sec. 202(b)(1), 40 U.S.C. 483(b)(1).

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Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual and to officers and employees of OMB in connection with the performance of their official duties for the agency (See 'Retrievability').

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored at the circulation desk of the OMB Library.

Retrievability: Records are arranged alphabetically by last name of borrower, by title of item borrowed, by organization to which borrower belongs, and by order of input into the system.

Safeguards: Access to records is under constant surveillance by Head of Reference and Loan Section during normal working hours. Secured in locked room after work hours.

Retention and disposal: Records are retained on individual library loans only until the item is returned to the Library. Reports on the status of loans are generated daily; current and preceding day's reports are retained.

System manager(s) and address: Librarian, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

Notification procedure: Requests to be notified whether or not the system contains a record pertaining to an individual should be addressed to Assistant to the Director for Administration, Office of Management and Budget, Old Executive Office Building, 17th & Pennsylvania Avenue, N.W., Washington, D.C. 20503. (See also Chapter III, Part 1302 of Title 5, Code of Federal Regulations (40 F.R. 34165).)

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information obtained from individual to whom it pertains and from physical examination of materials borrowed.

Systems exempted from certain provisions of the act: Not applicable.

OMB/BUDGO/01

System name: Payroll and Leave Records

Security classification: None

System location: Office of Management and Budget, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

Categories of individuals covered by the system: Former and current employees of the Office of Management and Budget, the Domestic Council, and the Council of Economic Advisers.

Categories of records in the system: These records contain information relating to the individuals name, Social Security number, age, sex, marital status, appointment, tenure, employment status, and occupation series. These records also contain data as of the year to date and the most recent pay period with regard to leave earned, used, and balances, withholdings, and allotments to financial institutions.

Authority for maintenance of the system: 5 U.S.C. 301, 31 U.S.C. 66a, 44 U.S.C. 3101, 3309.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual and to officers and employees of OMB in connection with the performance of their official duties for the agency (See 'Retrievability').

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are filed in a file cabinet in the Payroll Office or in Federal Records Center Boxes in the OMB Records Depository.

Retrievability: Records are filed in chronological order by calendar year and by name. Access is limited to the staff of the Budget and Management Office and the Records Unit, and the appropriate supervisory officials, the Assistant to the Director for Administration, the Deputy Director, and the Director.

Safeguards: Only Budget and Management Office staff and the Records Unit staff have access on a regular basis. Both the Budget and Management Office and the Records Depository are locked during nonworking hours and under visual surveillance during working hours.

Retention and disposal: Temporary records subject to General Accounting Office audit are retained until completion of the audit which generally occurs every 2-4 years. Permanent records, Comprehensive Listing of Employee Master File (Form TUS 404), are retired to National Archives after 6 years.

System manager(s) and address: Budget and Management Officer, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

Notification procedure: Requests to be notified whether or not the system contains a record pertaining to an individual should be addressed to Assistant to the Director for Administration, Office of Management and Budget, Old Executive Office Building, 17th & Pennsylvania Avenue, N.W., Washington, D.C. 20503. (See also Chapter III, Part 1302 of Title 5, Code of Federal Regulations (40 F.R. 34165).)

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information obtained from employees application for employment, and withholding statements prepared by the employee.

Systems exempted from certain provisions of the act: Not applicable.

OMB/BUDGO/03

System name: Personnel Summary

Security classification: None

System location: Budget and Management Office, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

Categories of individuals covered by the system: Current employees of the Office of Management and Budget, regardless of their type of appointment. A record of the employment as of the end of the preceding fiscal year is also maintained.

Categories of records in the system: These records contain the following information on each employee: (a) name, (b) date of birth, (c) sex, (d) minority status, (e) degree, (f) date employee entered on duty with OMB or BOB, (g) type of appointment, (h) status of employment, (i) division and branch where employed, (j) occupational classification, (k) professional or nonprofessional identification, (l) grade and step, (m) annual salary, (n) daily rate, (o) service computation date, (p) date of last promotion, (q) person years of employment, and (r) occupation code.

Authority for maintenance of the system: 5 U.S.C. 301 and 44 U.S.C. 3101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual and to officers and employees of OMB in connection with the performance of their official duties for the agency (See 'Retrievability').

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Record is maintained on a computer from a commercial time-sharing firm under contract with OMB.

Retrievability: Access from the computer is restricted by an access code and is limited to two employees in the Budget and Management Office. The record, which is updated monthly is distributed to the Assistant to the Director for Administration and the staffs of the Budget and Management Office and the Personnel Office. Upon request a copy is made available to OMB's Equal Employment Opportunity Officer or his/her designee.

Safeguards: Access and distribution is limited as described above. In addition the terminals by which access can be obtained are located in the Budget and Management Office which is locked during nonworking hours. Copies of the record that are distributed internally as specified above are secured in a locked room or locked file cabinet during nonworking hours.

Retention and disposal: The record covering the most recent pay period and a record as of the end of the fiscal year are maintained. Prior copies are destroyed.

System manager(s) and address: Budget and Management Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

Notification procedure: Requests to be notified whether or not the system contains a record pertaining to an individual should be addressed to Assistant to the Director for Administration, Office of Management and Budget, Old Executive Office Building, 17th & Pennsylvania Avenue, N.W., Washington, D.C. 20503. Must provide building pass or some other form of verification that the individual is current or former employee of OMB. (See also Chapter III, Part 1302 of Title 5, Code of Federal Regulations, (40 F.R. 34165).)

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information is obtained from employees application (SF 171) and subsequent Notification of Personnel Actions (SF 50).

Systems exempted from certain provisions of the act: Not applicable.

OMB/LEGIS/01

System name: Private Relief Legislation

Security classification: Generally none.

System location: Legislative Information Center, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

Categories of individuals covered by the system: Individuals who are the subject of proposed or enacted private relief legislation.

Categories of records in the system: The information contained in these records consists of only those private relief bills requiring Office of Management and Budget review as specified in OMB Circular No. A-19, Revised. The information maintained may include copies of a draft bill proposed by an agency as defined in the Circular, copies of bills introduced in the Congress, and, if applicable, Congressional committee reports, agency memorandums and letters, OMB memorandums and letters, and other documents as may be needed in connection with the legislative coordination and clearance process. Certain individual records may also contain correspondence from and to the individual about whom the information is maintained.

Authority for maintenance of the system: Office of Management and Budget Circular No. A-19, Revised July 31, 1972.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual and to officers and employees of OMB in connection with the performance of their official duties for the agency (See 'Retrievability').

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are stored in an electronically powered rotary file.

Retrievability: Information is retrieved by name of individual, bill number, or private law number. Access is limited to the Director, Deputy Director, General Counsel, staff of the Legislative Reference Division, OMB program analysts and their supervisors.

Safeguards: Rotary power file is locked during nonworking hours and under visual surveillance during working hours.

Retention and disposal: Permanent records are maintained on private relief bills introduced during the current and prior two sessions of Congress and then transferred to the National Archives.

System manager(s) and address: Supervisor, Legislative Information Center, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

Notification procedure: Assistant to the Director for Administration, Office of Management and Budget, Old Executive Office Building, 17th & Pennsylvania Avenue, N.W., Washington, D.C. 20503. (See also Chapter III, Part 1302 of Title 5, Code of Federal Regulations (40 F.R. 34165). State name, date of birth, private relief bill number, if known, or the approximate date the bill was introduced and a general statement of the relief requested or granted.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: See item 06.

Systems exempted from certain provisions of the act: Not applicable.

OMB/PERSL/01

System name: Recruiting and Applicant Records.

Security classifications: None.

System location: Personnel Office, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

Categories of individuals covered by the system: Persons who have applied or who have been referred for employment consideration or who otherwise seek an association with the Office of Management and Budget. The automated index to the system consists of persons who have been included by the OMB Personnel staff in the Office's computer file of active OMB employment candidates.

Categories of records in the system: These records contain information relating to the education and training; employment history and earnings; appraisal of past performance; convictions for offenses against the law; results of written tests; appraisal of potential; honors, awards, or fellowships; military service, veterans preference, birthplace; birth date; social security number; names of relatives who are employed in the Federal service; legal residence; and home address of persons who have applied for employment with the Office of Management and Budget or have been referred for employment consideration by the Office of Management and Budget. The automated index consists of information concerning the availability, Civil Service status, Federal employer (if applicable), race, sex, handicap (if declared), veterans preference, legal or voting residence, birth date, education and OMB job eligibility of candidates.

Authority for maintenance of the system: Title 5, U.S.C. Section 3109, 3301, 3302, 3304, 3309, 3318, 3319 and Executive Orders 10577 and 11103.

Routine uses of records maintained in the system including categories of users and purposes of such uses:

a. U.S. Civil Service Commission to the extent the information is relevant to the Commission's decision on an OMB request.

b. A congressional office in response to an inquiry from the congressional office made at the applicant's request.

c. A requesting Federal agency, Commission or other public office if the applicant has indicated to OMB that he or she is available for referral to other agencies for consideration.

d. To anyone requesting statistical information (without personal identification of individual applicants) under the Freedom of Information Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in two forms: files of documents retained in the Personnel Office and an index maintained on a computer tape file.

Retrievability: Individual records are indexed by name, OMB control number (if applicable) and date of most recent contact. Records to be referred for employment consideration are retrieved by applicant status, availability, education, and OMB job eligibility codes. Statistical summaries and other analyses of the applicant inventory data-base will be conducted utilizing all pertinent categories of data contained in the automated index. (See Categories of Records in the System.)

Safeguards: Access to and use of the system and its records is limited to employees of the OMB Personnel staff whose official duties require having access. Files are kept in the OMB Personnel Office and in the OMB computer center. Both facilities are locked and alarmed. All output reports from the computer system will be placed in locked boxes in the computer center until retrieved by authorized personnel.

Retention and disposal: Records are retained and disposed of according to the recency of the date of last contact with the individual on whom the record is maintained under the GSA general records schedule 1.

System manager and address: Personnel Officer, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

Notification procedures: Individuals should contact the system manager. The request should be made in writing, giving full name, date of birth, the approximate date of most recent application or when and where contact with an OMB representative was most recently made, if applicable.

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Record access procedures: (See Notification Procedures.)

Contesting record procedures: (See Notification Procedures.)

Record source: Information in this system of records either comes from the individual to whom it applies or is derived from information he or she supplied, except reports from medical personnel or physical qualifications, results of examination which are made known to applicants and vouchers supplied by references.

Systems exempted from certain provisions of the act: None.

OMB/RECDS/01

System name: Researcher Request File

Security classification: None

System location: Office of Management and Budget, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

Categories of individuals covered by the system: Persons who have requested to examine official records or reference materials prepared by the Bureau of the Budget or the Office of Management and Budget

Categories of records in the system: This system of records contains the initial letter submitted by individuals asking to examine the official agency records, including a statement as to the nature and purposes of the research, their present occupation, home and/or place of employment. Brief descriptions and locations of the records reviewed, examined and copied are also maintained in the file

Authority for maintenance of the system: 5 U.S.C. 301, Title 44, U.S.C. 3101-3103, 3105, 3106.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual and to officers and employees of OMB in connection with the performance of their official duties for the agency (See 'Retrievability').

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in file folders and on index cards located in the OMB Records Depository.

Retrievability: The records are indexed and alphabetically arranged by names of individuals and cross-referenced by record or research subject. Access is restricted to the Assistant to the Director for Administration and the Records Unit.

Safeguards: Records Depository is locked during nonworking hours and is under the visual surveillance of Records Unit staff during working hours.

Retention and disposal: Files are retained for a period of eight years and then destroyed.

System manager(s) and address: Records Officer, Office of Management and Budget, 726 Jackson Place, Washington, D.C. 20503.

Notification procedure: Requests to be notified whether or not the system contains a record pertaining to an individual should be addressed to Assistant to the Director for Administration, Office of Management and Budget, Old Executive Office Building, 17th & Pennsylvania Avenue, N.W., Washington, D.C. 20503. See also Chapter III, Part 1302 of Title 5, Code of Federal Regulations (40 F.R. 34165).

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Personal information is received only from the individual. No additional data concerning the individual is added to the file.

Systems exempted from certain provisions of the act: Not applicable.

OMB/ADSER/01

System name: Staff Directory Card

Security classification: None.

System location: Administrative Services, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

Categories of individuals covered by the system: Current OMB employees.

Categories of records in the system: This system of records contains information on each employee consisting of name, address, person to notify in an emergency, home address, residence telephone number, office room number, Division or unit symbol, and office telephone extension.

Authority for maintenance of the system: 5 U.S.C. 301, 44 U.S.C. 3101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual and to officers and employees of OMB in connection with the performance of their official duties for the agency (See 'Retrievability').

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Forms are maintained in a metal file cabinet specially adapted for directory cards.

Retrievability: Records are filed in alphabetical order. Access to the record is restricted to Administrative Services Office and Budget and Management Office employees. In emergency situations, the records may be accessed by the employee's supervisor.

Safeguards: The Administrative Services Office is locked during nonoffice hours.

Retention and disposal: Record is destroyed when employee terminates employment with OMB.

System manager(s) and address: Administrative Services Officer, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

Notification procedure: Assistant to the Director for Administration, Office of Management and Budget, Old Executive Office Building, 17th & Pennsylvania Avenue, N.W., Washington, D.C. 20503. See also Chapter III, Part 1302 of Title 5, Code of Federal Regulations (40 F.R. 34165). Supply name and building pass.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information contained in the system is obtained from the employee.

Systems exempted from certain provisions of the act: Not applicable.

OMB/ADSER/02

System name: Staff Parking Application File

Security classification: None

System location: Administrative Services, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

Categories of individuals covered by the system: OMB employees who have applied for parking permits during the previous year and individuals employed by other agencies and private concerns who are riders in their carpools.

Categories of records in the system: The system contains completed OMB Forms 273 submitted by OMB employees who desire a parking permit. The form contains the following information on person making the application: name, GS grade, office or divison, room number, telephone extension, years of Federal service, home address, home telephone number, zip code, make of car and for each rider, name, home address, employer, and years of Federal service, if applicable.

Authority for maintenance of the system: General Services Administration Federal Management Circular 74-1, Suppl. 2 dated November 15, 1974 and Office of Management and Budget Office Memorandum No. 75-23.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual and to officers and employees of OMB in connection with the performance of their official duties for the agency (See 'Retrievability').

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Forms are maintained in a three-ring binder.

Retrievability: Records are kept in numerical order by parking permit number and by name. Access is limited to the Assistant to the Director for Administration, staff of the Administrative Services Office, and upon request, the individual to which the information pertains.

Safeguards: Administrative Services Office is locked during nonworking hours.

Retention and disposal: The file is maintained for one year following the close of the parking year (March 1).

System manager(s) and address: Administrative Services Officer, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

Notification procedure: Assistant to the Director for Administration, Office of Management and Budget, Old Executive Office Building, 17th & Pennsylvania Avenue, N.W., Washington, D.C. 20503. (See also Chapter III, Part 1302 of Title 5 Code of Federal Regulations (40 F.R. 34165).)

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information contained in the system was obtained from the individual to whom record pertains.

Systems exempted from certain provisions of the act: Not applicable.

OMB/BUDGO/02

System name: Staff Travel Records

Security classification: None.

System location: Office of Management and Budget, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

Categories of individuals covered by the system: Employees (current and former) of the Office of Management and Budget, the Domestic Council, and the Council of Economic Advisers regardless of type of appointment, and other individuals, who have performed travel at government expense on official business.

Categories of records in the system: These records contain the approved travel authorization, the travel vouchers submitted by the individual, memos of approval for special conveyance or actual subsistence, and receipts as may be required by the Federal Travel Regulations (FPMR 101-7).

Authority for maintenance of the system: 31 U.S.C. 66a, 44 U.S.C. 3101, 3102, 3301, 3309, and General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, Title 8, Chapter 2, Sections 4 and 5.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual and to officers and employees of OMB in connection with the performance of their official duties for the agency (See 'Retrievability').

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Current records are maintained in folders in metal file cabinets. Noncurrent records are filed in Federal Records Center Boxes in the OMB Records Depository.

Retrievability: Records are alphabetically arranged by name according to fiscal year. Access to the records described herein is restricted to staff of the Budget and Management Office, the appropriate supervisory officials, the Assistant to the Director for Administration, the General Counsel, or his designee, the Deputy Director, Director, Executive Director, Domestic Council, and Chairman, Council of Economic Advisers.

Safeguards: Only Budget and Management Office staff and the Records Unit staff have access on a regular basis. Both the Budget and Management Office and the Records Depository are locked during nonworking hours and under visual surveillance during working hours.

Retention and disposal: Current records are maintained in the Budget and Management Office until they have been audited by the General Accounting Office. Noncurrent records are maintained by the Records Unit for 6 years following which time they are disposed of in accordance with the Records Disposition Schedules established by the General Services Administration General Schedule No. 9.

System manager(s) and address: Budget and Management Officer, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

Notification procedure: Requests to be notified whether or not the system contains a record pertaining to an individual should be addressed to Assistant to the Director for Administration, Office of Management and Budget, Old Executive Office Building, Washington, D.C. 20503. (See also Chapter III, Part 1302 of Title 5, Code of Federal Regulations, (40 F.R. 34165).)

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Content of records is obtained from the individual to whom the information pertains. Additional information may be added by the Budget and Management Office staff as a result of an internal audit.

Systems exempted from certain provisions of the act: Not applicable.

OMB/CAVAD/01

System name: Veterans Education and Training Load Model

Security classification: None

System location: Office of Management and Budget Computer Center, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

Categories of individuals covered by the system: Veterans and other eligibles using VA GI Bill education benefits.

Categories of records in the system: These records contain beneficiary name, address, identification number, as well as the name and address of the training institution, type of training, amount of training, and number of dependents, date of separation from the armed forces, remaining eligibility, remaining entitlement, and other accounting data.

Authority for maintenance of the system: Budget and Accounting Act, 1921 (31 U.S.C. 1-24)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual and to officers and employees of OMB in connection with the performance of their official duties for the agency (See 'Retrievability'),

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are on magnetic tape, provided by the VA, and when not being used on the computer for the extract run, are in a tape storage area.

Retrievability: Records are arranged in numerical sequence by identification number, usually Social Security number.

Safeguards: Data is on tape, therefore there is no direct access. The tapes are locked in the computer room when not actually being used by the machine and are accessible only to one computer job. The tapes are removed from NEOB back to VA when the job is completed.

Retention and disposal: Upon completion of the extract run, the tapes are returned to the VA.

System manager(s) and address: Veterans Unit, CVA Division, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

Notification procedure: Since this file is only a duplicate of the VA Master Education File, no changes can be made at this site which will affect the utility of any of the records. For notification of whether the system contains data on a particular individual, inquiry should be made to the Assistant to the Director for Administration, Office of Management and Budget, Old Executive Office Building, 17th & Pennsylvania Avenue, N.W., Washington, D.C. 20503. (See also Chapter III, Part 1302 of Title 5, Code of Federal Regulations (40 F.R. 34165).)

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information obtained from individual applicant for training, the training institution, and the appropriate branch of the armed services.

Systems exempted from certain provisions of the act: Not applicable.

[FR Doc.77-27344 Filed 9-19-77;8:45 am]

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OVERSEAS PRIVATE INVESTMENT CORPORATION

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

Pursuant to 5 U.S.C. 552a(e)(4) of the Privacy Act of 1974, the Overseas Private Investment Corporation (the "Corporation") hereby publishes its systems of records as currently maintained. The Corporation's systems of records were originally published at 40 FR 36880, August 22, 1975.

In addition, the Corporation publishes a revised system, OPIC–19, and hereby proposes to continue the following routine use for all systems of records:

A record maintained by the Corporation to carry on its function may be disclosed to a Congressional office in response to an inquiry from the Congressional office made at the request of the individual to whom the record pertains.

The revised system concerns travel advances. The purpose of the system remains unchanged. The specific changes are that records will be stored on magnetic tape and disks in addition to file folders, records will be retrieved by surname and coded employee number (not SSAN), and records will be stored in computer files by alphanumeric coding. Special entry codes will be needed to access the data. The computer transaction records will be maintained for four years after which the data files will be erased. The changed system will become operative on October 1, 1977.

Written comments on the proposed revised system and new routine use may be addressed to Director of Personnel, Overseas Private Investment Corporation, 1129 20th Street, NW., Washington, D.C. 20527. These additional routine uses will become effective October 1, 1977 unless otherwise noted in the Federal Register.

For convenience, the systems published below include the revised routine use proposed herein.

Dated: August 4, 1977.

Rutherford M. Poats,
Acting President.

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OPIC—1

System name: Applicants (General)—OPIC

System location:

Office of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527

Categories of individuals covered by the system: Past and current applicants for employment by the Corporation.

Categories of records in the system: Contains (i) applications for employment; (ii) letters concerning employment; (iii) other information relevant to employment; (iv) interview sheets; (v) letters of recommendation; (vi) file on the status or disposition of all applications.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a data source for management information and for the production of summary descriptive statistics and analytical studies in support of the function for which records are collected and maintained or for related personnel management functions or manpower studies. Used to (i) furnish candidates for job vacancies; (ii) provide information in the record to the personnel office of another federal agency at the request of said federal agency upon the transfer or potential transfer to that federal agency of the individual to whom the information in the record pertains.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—kept in file folders and on cardex file.

Retrievability—indexed alphabetically by surname.
Safeguards—stored in metal file cabinet secured by combination lock.
Retention and Disposal—files on applicants retained as long as applicant is employment prospect but no longer than two (2) years. File on status and disposition retained throughout life of the Corporation. Disposed of by burning and/or by return to applicant.

System manager(s) and address:

Director of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527
Telephone: (202) 632-3858.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: All sources of recruitment used by OPIC, including without limitation, responses to OPIC advertisements; referrals; walk-ins; unsolicited information from applicants; university placement offices.

OPIC—2

System name: Applicants (General Counsel)—OPIC

System location:

Office of the General Counsel,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527

Categories of individuals covered by the system: Applicants for employment as attorney in the Office of the General Counsel.

Categories of records in the system: Contains (i) letters from applicants; (ii) resumes and Standard Forms 171 of applicants; (iii) intra-office memoranda; (iv) letters from the Corporation to applicants concerning interviews, offers of employment, refusals to offer employment; (v) copies of advertisements for employment; (vi) Request and Authorization of Official Travel forms; (vii) letters of recommendation.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a data source for management information and for the production of summary descriptive statistics and analytical studies in support of the function for which records are collected and maintained or for related personnel management functions or manpower studies. Used to select qualified attorneys for employment in the Office of the General Counsel.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—kept in accordion file folders.

Retrievability—indexed alphabetically by surname.
Safeguards—stored in metal file cabinet secured by combination lock.
Retention and Disposal—retained as long as applicant appears interested in employment by the Corporation but in no event longer than two(2) years. Disposed of by burning and/or by return to applicant.

System manager(s) and address:

General Counsel,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527
Telephone: (202) 632-1766

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: The individual. Persons who refer applicants.

OPIC—3

System name: Attendance and Leave Records—OPIC

System location:

Office of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.

Categories of individuals covered by the system: Present employees. Former employees during first sixty (60) days following date of their separation from the Corporation.

Categories of records in the system: Contains (i) timekeeper records and payroll change slips; (ii) recurring and special payroll reports; (iii) annual leave restoration records, memoranda and special studies; (iv) special tours of duty records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a data source for management information and for the production of summary descriptive statistics and analytical studies in support of the function for which records are collected and maintained or for related personnel management functions or manpower studies.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—kept in individual file folders and on cardex file.

Retrievability—indexed alphabetically by surname.
Safeguards—payroll change slips and timekeeper records stored in key-locked metal file cabinet. Other records stored in metal file cabinet secured by combination lock.
Retention and Disposal—retained until end of first sixty (60) days following date of individual's separation from the Corporation. Disposed of by burning.

System manager(s) and address:

Director of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.
Telephone: (202) 632-3858.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Records, files and forms of the Corporation.

OPIC—4

System name: Awards—OPIC

System location:

Office of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.

Categories of individuals covered by the system: Past and current officers and employees who have received an award from the Corporation.

Categories of records in the system: Contains (i) supporting material for nominations for and grants of: Quality Increases and other honor or cash awards; (ii) copies of certificates of award granted to officers and employees.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a data source for management information and for the production of summary descriptive statistics and analytical studies in support of the function for which records are collected and maintained or for related personnel management functions or manpower studies. Used to provide information to the Director of the Civil Service Commission, or any of his or her authorized representatives, in the course of the performance of the duties of the Civil Service Commission.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—kept in file folders.

Retrievability—filed by category of award or incentive with information therein indexed alphabetically by surname.
Safeguards—stored in metal file cabinet secured by combination lock.
Retention and Disposal—retained for first two (2) years following granting of award. Disposed of by burning.

System manager(s) and address:

Director of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.
Telephone: (202) 632-3858.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Officers, employees, records, forms and files of the Corporation.

OPIC—5

System name: Biographies of Key Employees and Board Members—OPIC

System location:

Office of Public Affairs,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.

Categories of individuals covered by the system: Officers, professional staff and members of the Board of Directors of the Corporation.

Categories of records in the system: Contains biographies of officers, professional staff and members of the Board of Directors in the form of general biographies and prepared press releases.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used (i) for news releases to local, national and international communications media in connection with publicizing the role of the Corporation in furthering the development assistance objectives of the United States; (ii) in publications of the Corporation in connection with publicizing the role of the Corporation in furthering the development assistance objectives of the United States.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—kept in file folders.

Retrievability—indexed alphabetically by surname.
Safeguards—Stored in metal file cabinet secured by combination lock.
Retention and Disposal—examined every two (2) years. Biographies of individuals no longer employed by the Corporation or no longer on the Board of Directors disposed of by burning.

System manager(s) and address: Vice President for Public Affairs,

Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.
Telephone: (202) 632-1854.

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Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: The individual; WHO'S WHO IN AMERICA; THE INTERNATIONAL WHO'S WHO; WORLD WHO'S WHO IN COMMERCE AND INDUSTRY; other recognized biographical directories catalogued at the Library of Congress.

OPIC—6

System name: Compensation—OPIC

System location:

Office of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.

Categories of individuals covered by the system: All employees of the Corporation.

Categories of records in the system: Contains records relating to (i) denials of within grade increases; (ii) appeals of denials of within grade increases; (iii) pay adjustments for Administratively Determined ("AD") employees.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a data source for management information and for the production of summary descriptive statistics and analytical studies in support of the function for which records are collected and maintained or for related personnel management functions or manpower studies.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—kept in file folders.

Retrievability—indexed alphabetically by surname.
Retention and Disposal—records of within grade denial retained as long as individual is employed by the Corporation and during first sixty (60) days following date of individual's separation from the Corporation. Other records retained two (2) years after matter finally resolved. Disposed of by burning.

System manager(s) and address:

Director of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.
Telephone: (202) 632-3858.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Records, files and forms of the Corporation.

OPIC—7

System name: Conduct and Discipline—OPIC

System location:

Office of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.

Categories of individuals covered by the system: All employees of the Corporation (i) against whom disciplinary action has been taken or is being taken; (ii) who have filed a grievance or an appeal in connection with a disciplinary action initiated by the Corporation.

Categories of records in the system: Contains (i) files of charges of the Corporation and supporting documents; (ii) employee's response to charges of the Corporation; (iii) notice of hearing, if contemplated, and report of hearing, if held; (iv) hearing recommendations or decision; (v) information relating to employee's grievance and appeal; (vi) conference reports.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a data source for management information and for the production of summary descriptive statistics and analytical studies in support of the function for which records are collected and maintained or for related personnel management functions or manpower studies.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—kept in file folders.

Retrievability—indexed alphabetically by surname.
Retention and Disposal—retained as long as individual is employed by the Corporation and during first sixty (60) days following date of individual's separation from the Corporation. Disposed of by burning.

System manager(s) and address:

Director of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.
Telephone: (202) 632-3858.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Officers, employees, records, files and forms of the Corporation.

OPIC—8

System name: Conflicts of Interest—OPIC

System location:

Office of the General Counsel,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.

Categories of individuals covered by the system: All officers and employees of the Corporation (i) with a grade of GS-13 and above; (ii) holding special positions of confidence.

Categories of records in the system: Contains Statements of Employment and Financial Interest.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to provide confidential counseling on conflicts of interest regulations and potential financial conflicts between official duty and personal financial interests.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—kept in file folders.

Retrievability—indexed alphabetically by surname.
Safeguards—stored in metal file cabinet secured by combination lock.
Retention and Disposal—retained for one (1) year after individual's date of separation from the Corporation. Disposed of by burning.

System manager(s) and address:

Deputy General Counsel,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.
Telephone: (202) 632-1766.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: The individual.

OPIC—9

System name: Employee Health and Life Insurance—OPIC

System location:

Office of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.

Categories of individuals covered by the system: All officers and employees of the Corporation who have had a problem in connection with health or life insurance obtained through the Corporation requiring claims assistance.

Categories of records in the system: Contains record of problems and their settlement.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a data source for management information and for the production of summary descriptive statistics and analytical studies in support of the function for which records are collected and maintained or for related personnel management functions or manpower studies.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—kept in file folders.

Retrievability—filed by category of insurance with information indexed therein alphabetically by surname.
Safeguards—stored in metal file cabinet secured by combination lock.
Retention and Disposal—retained as long as individual is employed by the Corporation and during first sixty (60) days following date of individual's separation from the Corporation. Disposed of by burning.

System manager(s) and address:

Director of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.
Telephone: (202) 632-3858.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Records, files and forms of the Corporation.

OPIC—10

System name: Employment (Excepted Positions)—OPIC

System location:

Office of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.

Categories of individuals covered by the system: Past and current employees of the Corporation.

Categories of records in the system: Contains (i) copies of requests to the Civil Service Commission for establishment and/or filling of excepted positions; (ii) periodic and special reports in connection with non-competitive employment; (iii) supporting documentation for nomination and approval of individual members of the Board of Directors of the Corporation.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a data source for management information and for the production of summary descriptive statistics and analytical studies in support of the function for which records are collected and maintained or for related personnel management functions or manpower studies. Used to furnish the Civil Service Commission with verification of compliance with Civil Service Commission reporting requirements on Excepted Positions.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—kept in file folders.

Retrievability—filed by category of excepted position with information indexed therein alphabetically by surname.
Retention and Disposal—retained as long as individual is employed by the Corporation and for first sixty (60) days following date of individual's separation from the Corporation. Disposed of by burning.

System manager(s) and address:

Director of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.
Telephone: (202) 632-3858.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Records, files and forms of the Corporation.

OPIC—11

System name: Evaluations—OPIC

System location:

Office of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.

Categories of individuals covered by the system: All employees of the Corporation serving under non-temporary appointment.

Categories of records in the system: Contains (i) performance evaluations; (ii) supporting material for performance ratings of unsatisfactory or outstanding; (iii) documentation of employee appeals of performance ratings.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a data source for management information and for the production of summary descriptive statistics and analytical studies in support of the function for which records are collected and maintained or for related personnel management functions or manpower studies.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—kept in file folders.

Retrievability—indexed alphabetically by surname.
Safeguards—stored in metal file cabinet secured by combination lock.
Retention and Disposal—retained as long as individual is employed by the Corporation and during first sixty (60) days following date of individual's separation from the Corporation. Disposed of by burning.

System manager(s) and address:

Director of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.
Telephone: (202) 632-3858.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Records, files and forms of the Corporation.

OPIC—12

System name: Photographs—OPIC

System location:

Office of Public Affairs,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.

Categories of individuals covered by the system: Officers, employees and members of the Board of Directors of the Corporation.

Categories of records in the system: Contains (i) portrait shots (head and shoulders) of officers, employees and members of the Board of Directors; (ii) candid shots of same individuals taken while performing an official function.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Portrait shots used in releases to local, national and international communications media (i) upon appointment of individual to post with the Corporation; (ii) as supplement to biographies; (iii) when individual makes an official appearance. Candid shots used in (i) releases to local, national and international communications media in connection with publicizing the role of the Corporation in furthering the development assistance objectives of the United States; (ii) in publications of the Corporation.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

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Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—kept in file folders.

Retrievability—indexed alphabetically by surname.
Safeguards—stored in metal file cabinet secured by combination lock.
Retention and Disposal—examined every two (2) years. Photographs of individuals no longer employed by the Corporation or no longer on the Board of Directors are disposed of by burning.

System manager(s) and address: Vice President for Public Affairs,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.
Telephone: (202) 632-1854.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: The individual. Photographs taken by employees or agents of the Corporation.

OPIC—13

System name: Placement of Handicapped Individuals—OPIC

System location:

Office of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.

Categories of individuals covered by the system: Past and current employees of the Corporation who serve (served) under competitive appointment.

Categories of records in the system: Contains records and reports of placement by the Corporation of handicapped individuals.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a data source for management information and for the production of summary descriptive statistics and analytical studies in support of the function for which records are collected and maintained or for related personnel management functions or manpower studies.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—kept in file folder.

Retrievability—indexed alphabetically by surname.
Safeguards—stored in metal file cabinet secured by combination lock.
Retention and Disposal—retained as long as individual is employed by the Corporation and during first sixty (60) days following date of individual's separation from the Corporation. Disposed of by burning.

System manager(s) and address:

Director of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.
Telephone: (202) 632-3858.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Officers, employees, records, files and forms of the Corporation.

OPIC—14

System name: Position Classification—OPIC

System location:

Office of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.

Categories of individuals covered by the system: All employees serving under Classification Act.

Categories of records in the system: Contains (i) appeals to the Civil Service Commission of position classification allocations; (ii) Whitten Amendment survey reports; (iii) survey reports and classification audits.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a data source for management information and for the production of summary descriptive statistics and analytical studies in support of the function for which records are collected and maintained or for related personnel management functions or manpower studies.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—kept in file folders.

Retrievability—filed by category of position with information therein alphabetically by surname.
Safeguards—stored in metal file cabinet secured by combination lock.
Retention and Disposal—Audit reports retained throughout life of the Corporation. Appeals retained until one (1) year following final disposition of case. Disposed of by burning.

System manager(s) and address:

Director of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.
Telephone: (202) 632-3858.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Records, files and forms of the Corporation.

OPIC—15

System name: Recruitment—OPIC

System location:

Office of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.

Categories of individuals covered by the system: Past and current employees of the Corporation.

Categories of records in the system: Contains (i) special reports and studies on recruitment efforts and/or recruitment needs; (ii) reemployment priority list of past and current employees of the Corporation.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a data source for management information and for the production of summary descriptive statistics and analytical studies in support of the function for which records are collected and maintained or for related personnel management functions or manpower studies.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—kept in file folders.

Retrievability—filed by category of report or study with information filed therein alphabetically by surname.
Safeguards—stored in metal file cabinet secured by combination lock.
Retention and Disposal—reports and studies retained three (3) years. Individual name removed from reemployment priority list two (2) years after date of separation of career employees and one (1) year after date of separation of career conditional employees. Disposed of by burning.

System manager(s) and address:

Director of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.
Telephone: (202) 632-3858.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Records, files and forms of the Corporation.

OPIC—16

System name: Retirement—OPIC

System location:

Office of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.

Categories of individuals covered by the system: All officers and employees of the Corporation within one (1) year of retirement age or of eligibility for retirement. All former officers and employees of the Corporation who have retired within immediately preceding twelve (12) months.

Categories of records in the system: Contains (i) reports and studies on retirement; (ii) problem cases (history and settlement).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a data source for management information and for the production of summary descriptive statistics and analytical studies in support of the function for which records are collected and maintained or for related personnel management functions or manpower studies.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—kept in file folders.

Retrievability—filed chronologically with information indexed therein alphabetically by surname.
Safeguards—stored in metal file cabinet secured by combination lock.
Retention and Disposal—retained for twelve (12) months following date of individual's separation from the Corporation. Disposed of by burning.

System manager(s) and address:

Director of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.
Telephone: (202) 632-3858.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Records, files and forms of the Corporation.

OPIC—17

System name: Security and Investigations—OPIC

System location:

Office of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.

Categories of individuals covered by the system: Officers and employees of the Corporation. Applicants for employment.

Categories of records in the system: Contains copies of requests for security clearances and for investigations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a data source for management information and for the production of summary descriptive statistics and analytical studies in support of the function for which records are collected and maintained or for related personnel management functions or manpower studies. Used in requesting the Auditor General, Agency for International Development, to conduct an investigation or a security check on individuals.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—kept in file folder.

Retrievability—filed chronologically with information indexed therein alphabetically by surname.
Safeguards—stored in metal file cabinet secured by combination lock.
Retention and Disposal—retained as long as individual is employed by the Corporation and during first sixty (60) days following date of individual's separation from the Corporation. Disposed of by burning.

System manager(s) and address:

Director of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.
Telephone: (202) 632-3858.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Records, files and forms of the Corporation.

OPIC—18

System name: Security Violations—OPIC

System location:

Office of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.

Categories of individuals covered by the system: Officers and employees of the Corporation who have committed a security violation.

Categories of records in the system: Contains (i) Notice of a Security Violations forms; (ii) Record of Violation forms; (iii) letters of notice of security violation.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a data source for management information and for the production of summary descriptive statistics and analytical studies in support of the function for which records are collected and maintained or for related personnel management functions or manpower studies. Used in furnishing notices of security violations to the Auditor General, Agency for International Development.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—kept in file folders.

Retrievability—indexed alphabetically by surname.
Safeguards—stored in metal file cabinet secured by combination lock.
Retention and Disposal—record retained one (1) year subsequent to violation. Disposed of by fire.

System manager(s) and address:

Director of Personnel and Administration,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.
Telephone: (202) 632-3858.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Security guards. Records, files and forms of the Corporation.

OPIC—19

System name: Travel Advances—OPIC

System location:

Office of the Treasurer
Overseas Private Investment Corporation
1129 20th Street, N.W.
Washington, D.C. 20527

Categories of individuals covered by the system: All employees of the Corporation who travel.

Categories of records in the system: Contains (i) travel advance cards; (ii) travel authorizations; (iii) return copies of travel authorizations; (iv) travel advances maintained on magnetic tape and disk (the magnetic tapes duplicate the manual files).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a data source for management information and for the production of summary descrip-

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tive statistics and analytical studies in support of the function for which records are collected and maintained or for related personnel management functions or manpower studies. Used to properly account for funds spent. Used to provide information (either entire records or statistical data) to the Assistant Administrator, or any of his duly authorized representatives, Bureau for Program and Management Services, Agency for International Development.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Kept in file folders, maintained on magnetic tape and disks.

Retrievability: Indexed alphabetically by surname and random and sequential retrieval based on coded employee number.

Safeguards: Stored in metal file cabinet secured by a combination lock and alphanumeric coding on computer files preventing direct translation. Also special entry codes are needed to access the data.

Retention and disposal: Retained for two (2) years after the date of travel authorization. Disposed of by sending to Federal Records Center. Computer transaction records maintained for four (4) years after which data files are erased.

System manager(s) and address:

Treasurer
Overseas Private Investment Corporation
1129 20th Street, N.W.
Washington, D.C. 20527

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: The individual, records, files and forms of the Corporation.

OPIC—20

System name: Travel Obligations—OPIC

System location:

Office of the Treasurer,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.

Categories of individuals covered by the system: All employees of the Corporation.

Categories of records in the system: Contains (i) travel authorization forms; (ii) reimbursement claims of employees.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a data source for management information and for the production of summary descriptive statistics and analytical studies in support of the function for which records are collected and maintained or for related personnel management functions or manpower studies. Used to properly account for funds spent. Used to provide information to the Assistant Administrator, or any of his duly authorized representatives, Bureau for Program and Management Services, Agency for International Development in the course of the performance of the duties of the Agency for International Development.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—kept in file folders.
Retrievability—indexed alphabetically by surname.
Safeguards—stored in metal file cabinet secured by combination lock.
Retention and Disposal—retained for two (2) years after the date of travel authorization. Disposed of by sending to Federal Records Center.

System manager(s) and address:

Treasurer,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: The individual, records, files and forms of the Corporation.

OPIC—21

System name: Directors (Current)—OPIC

System location:

Office of the Corporate Secretary,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D. C. 20527

Categories of individuals covered by the system: Current directors of the Corporation.

Categories of records in the system: Contains (i) resumes; (ii) date of appointment to Board of Directors; (iii) date of swearing in.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to distribute to the general public, communications media, the Board of Directors, officers and employees of the Corporation general biographical information on Board members.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—kept in file folders.
Retrievability—indexed alphabetically by surname.
Safeguards—stored in metal file cabinet secured by combination lock.
Retention and Disposal—retained throughout life of Corporation.

System manager(s) and address:

Corporate Secretary,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527
Telephone: (202) 632-1839.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: The individual. Files of the Corporation.

OPIC—22

System name: Directors (Former)—OPIC

System location:

Office of the Corporate Secretary,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D. C. 20527

Categories of individuals covered by the system: Former directors of the Corporation.

Categories of records in the system: Contains (i) resumes; (ii) date of appointment to Board of Directors; (iii) date of swearing in; (iv) date of separation.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to distribute to the general public, communications media, the Board of Directors, officers and employees of the Corporation general biographical information on Board members.

A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—kept in file folders.
Retrievability—indexed alphabetically by surname.
Safeguards—stored in metal file cabinet secured by combination lock.
Retention and Disposal—retained throughout life of Corporation.

System manager(s) and address:

Corporate Secretary,
Overseas Private Investment Corporation,
1129 20th Street, N.W.,
Washington, D.C. 20527
Telephone: (202) 632-1839.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: The individual. Files of the Corporation.

OPIC—23

System name: Employees' Payroll Records—OPIC System Location:

a.
Office of Personnel and Administration
Overseas Private Investment Corporation
1129 20th Street, NW.
Washington, D.C. 20527

b.
Office of Data Management
Agency for International Development
1975 Connecticut Avenue, NW.
Washington, D.C. 20523

c.
For Retired Files:
National Personnel Records Center
GSA
111 Winnebago Street
St. Louis, Missouri

Categories of individuals covered by the system: All employees of the Corporation.

Categories of records in the system: The Corporation's system consists of four (4) files all of which are manual files. Most of the same records held by the Corporation are also kept by the Agency for International Development as published on September 13, 1976 at 40 Federal Register 39482. The four (4) Corporation files are described below:

a. Personnel Records File—This file consists in relevant part of the employees' S.F.-50's, copies of health benefits forms and life insurance forms.

b. Employee Payroll Costs File—This file contains the following types of records: Name, Social Security Account Number, timekeeper code, gross bimonthly earnings, retirement and health insurance deductions, FICA and FIGLA deductions.

c. Service Record File—These records contain name, Social Security Account Number, birthdate, effective date of pay change and/or suspense action pay plan grade level.

d. Time Card and Pay Change Slip File—This contains name, Social Security Account Number, leave severance pay, state and federal tax deductions, FICA and comments relating to bonds, leave and W-2 mailing address.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records are transmitted to Agency for International Development which in turn transmits them to the following:

Treasury Department for payroll purposes.
Treasury Department for issuance of savings bonds.
Civil Service Commission for retirement, health and life insurance purposes.
The Social Security Administration for Federal Insurance Compensation Act.
The Internal Revenue Service for taxable earnings and withholding purposes.
The Combined Federal Campaign for charitable contribution purposes.
American Federation of Government Employees for union dues.
The States of California, New York, Pennsylvania, Maryland, Virginia and the District of Columbia for state income purposes and to other states and other tax jurisdictions as may become necessary.
The Attorney General of the United States or his authorized representative in connection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice, or carried out as a legal representative of the Executive Branch agencies.
The Internal Revenue Service for audit and inspection and investigation purposes.
The Department of Health, Education and Welfare for microfilming and producing microfiche.
A record maintained by the Corporation to carry on its function may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Kept in file folders.

Retrievability: Indexed alphabetically by surname.

Safeguards: All records stored in key locked metal file cabinet.

Retention and disposal: (i) Personnel Records File is retained until end of first thirty (30) days following date of individual's separation from the Corporation if the individual is not thereafter employed by a Federal Agency. After the thirty (30) days, records are sent to National Personnel Records Center, GSA, 111 Winnebago Street, St. Louis, Missouri. However, if following the separation from the Corporation, the individual is employed by a Federal Agency, records are maintained until that Federal Agency requests said records from the Corporation; (ii) Employee Payroll Cost File—Retained until one (1) year following date of individual's separation from the Corporation; (iii) Service Record File—Retained until end of first two (2) years following date of individual's separation from the Corporation; (iv) Time Card and Pay Change Slip File—Retained until end of first two (2) years following date of individual's separation from the Corporation.

System manager(s) and address:

Director of Personnel and Administration
Overseas Private Investment Corporation
1129 20th Street, NW.
Washington, D.C. 20527
Telephone (202) 632-3858

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Records, files and forms of the Corporation.

[FR Doc.77-27345 Filed 9-19-77; 8:45 am]

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PRESIDENT'S COMMISSION ON PERSONNEL INTERCHANGE

PRIVACY ACT OF 1974

Systems of Records

In accordance with 552a(e)(4) of the Privacy Act of 1974, the President's Commission on Personnel Interchange hereby publishes the systems of records currently maintained for the Commission. No changes have occurred since the last annual publication on September 16, 1976, page 41 FR 40050.

Barbara M. Otis,
Assistant Director/Administration.

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PCPI—1 Executive Interchange Program Records

PCPI—1

System name: Executive Interchange Program Records—PCPI.

System location:

President's Commission on Personnel Interchange
Room 1316
1900 E Street, NW.
Washington, D.C. 20415

Categories of individuals covered by the system: Nominees and participants in Executive Interchange Program.

Categories of records in the system: Nomination forms, nominee's biographical forms, personal qualifications statements (resumes), midyear and end-of-year evaluation forms, notice and acknowledgement of applicable conflict-of-interest provisions of law, miscellaneous correspondence.

Authority for maintenance of the system: Executive Order 11451 of January 19, 1969.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Biographical information on nominees for Executive Interchange assignments is furnished to private and public sector organizations which provide assignments and otherwise participate in the Executive Interchange Program.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: See Storage, Retrievability, Safeguards, Access, Retention, and Disposal below.

Storage: The records are maintained in file folders.

Retrievability: Records are indexed and retrievable by name.

Safeguards: Records are maintained in filing cabinets in a secured office and are available only to personnel authorized by the Commission on Personnel Interchange.

Retention and disposal: Records pertaining to Executives are retained in the offices of PCPI for three (3) years and then forwarded to the Federal Records Center at Suitland, Maryland where they are stored indefinitely. Records on nominees who do not receive Executive assignments are immediately forwarded to the records center.

System manager(s) and address:

Barbara Otis
Assistant Director for Administration
President's Commission on Personnel Interchange
Room 1316
1900 E Street, NW.
Washington, D.C. 20415

Notification procedure: An individual may be notified whether the systems of records contains a record pertaining to him by furnishing the following information: (1) Full name. (2) Date of birth.

Record access procedures: Information on the procedures for gaining access to and contesting the records may be obtained through the system manager and at the address indicated above.

Contesting record procedures: Same as the above.

Record source categories: Nominees for Executive Interchange assignments, nominating officials, private and public sector host organizations, and supervisory personnel at host organizations.

[FR Doc.77-27346 Filed 9-19-77;8:45 am]

SELECTIVE SERVICE SYSTEM

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

In accordance with 552a(e)(4) of the Privacy Act of 1974, the Selective Service System hereby publishes the systems of records currently maintained. No changes have occurred since last annual publication on December 9, 1976 (41 FR 53962).

August 8, 1977.

Robert E. Shuck,
Acting Director.

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SSS—4 Registrant Information Bank (RIB) Records.
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SSS—6 Reserve and National Guard Personnel Records.
SSS—7 Uncompensated Personnel Records.
SSS—8 Violator Inventory Monitoring System (VIMS).
SSS—9 Master Pay Record.

SSS—2

System name: General Files—SSS, a subsidiary of Registrant Processing Records.

Security classification:

System location: National Headquarters, Selective Service System, 600 E Street, N.W., Washington, D.C. 20435.

Categories of individuals covered by the system: Registrants of the Selective Service System and other individuals and organizations.

Categories of records in the system: Contains current and previous correspondence with individual registrants, private individuals and Government agencies, requesting information or resolution of specific problems related to registrant processing or agency operations.

Authority for maintenance of the system: Section 10(b)(3), Military Selective Service Act (50 U.S.C. App. 460(b)(3)), E.O. 9979, E.O. 9992, E.O. 11623.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Department of Justice—Refer reports received as to possible violations of the Military Selective Serice Act.

Federal Bureau of Investigation—Refer reports received as to possible violations of the Military Selective Service Act.

Department of Defense—Exchange of information respecting status of individuals subject to the provisions of the Military Selective Service Act.

Immigration and Naturalization Service—Response to inquiries concerning aliens.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: See Storage, Retrievability, Safeguards, Access, Retention and Disposal below:

Storage: Paper copies maintained in routine filing equipment.

Retrievability: Indexed by name and/or Selective Service Number and date of birth.

Safeguards: Maintained in filing areas restricted to Selective Service personnel.

Retention and disposal: Hold file intact for five years from date of latest correspondence, purge 1 percent sample for Archives and destroy balance. If 1 percent sample is not accepted by Archives, the 1 percent sample is also destroyed.

System manager(s) and address:

Mr. Byron V. Pepitone
Director of Selective Service System
National Headquarters
Selective Service System
600 E Street, N.W.
Washington, D.C. 20435
Attn: Records Manager

Notification procedure: Same as the above.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Individual registrants and private individuals and organizations, Members of the Congress acting on behalf of constituents.

Systems exempted from certain provisions of the act: None.

SSS—3

System name: Reconciliation Service Records—SSS

Security classification:

System location:

Reconciliation Service Division
National Headquarters, SSS
600 E Street, N.W.
Washington, D.C. 20435

Categories of individuals covered by the system: Vietnam era draft evaders and military deserters who have qualified for a period of alternate service as a condition for reconciliation under Presidential Proclamation 4313, signed September 16, 1974.

Categories of records in the system: Assignment File Folder—A folder in which all documents pertaining to an enrollee's period of Reconciliation Service are maintained.

Computer Printouts—Individual's name, address, place of enrollment, Selective Service or Reconciliation Service Control Number, date of birth, term of service, source of referral, enrollee job proposal codes, date of status and enrollee status.

Authority for maintenance of the system: Presidential Proclamation 4313, E.O. 11804, 5 U.S.C. 553, 50 U.S.C. App. 460(b)(3).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Referral to the Department of Justice for appropriate action in cases involving unsatisfactory participation.

Referral to the appropriate military referring authority, upon request, in cases involving the updating of military discharges.

Referral to the Presidential Clemency Board, upon request, in cases necessitating additional review.

Referral to Office of Management and Budget, upon request, in cases undergoing investigative review, in conjunction with the specific functions of these agencies.

Exchange of information with Reconciliation Service employers regarding the placement, supervision of and performance of Reconciliation Service by returnees who have agreed to perform such service.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: See Storage, Retrievability, Safeguards, Access, Retention and Disposal below.

Storage: Print-out files are maintained in print-out binders. Documents pertaining to an enrollee's status are maintained in assignment file folders. General office files are maintained in indexed file folders. All files are stored in either metal or wood storage and file cabinets.

Retrievability: The system is alphabetically indexed by state and last name.

Safeguards: Office building is secured after 5:00 PM by security guard. Entrance to the building is limited to authorized personnel only.

Retention and disposal: Print-out records are retained for 60 days and then destroyed by shredding. All other records are retained until disposal instructions are received from the Director.

System manager(s) and address:

Mr. Byron V. Pepitone
Director of Selective Service System
National Headquarters
Selective Service System
600 E Street, N.W.
Washington, D.C. 20435
Attn: Reconciliation Service Division

Notification procedure: Same as above. An individual seeking to ascertain whether or not his record is in the system, should include his name, address and Reconciliation Service Control Number when presenting his request.

Record access procedures: An individual desiring to obtain information on the procedures for gaining access to and contesting records may write to:

Mr. Byron V. Pepitone
Director of Selective Service System
National Headquarters
Selective Service System
600 E Street, N.W.
Washington, D.C. 20435
Attn: Reconciliation Service Division

Contesting record procedures: See

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Record access procedures: above.

Record source categories: Sources of records in the system are primarily established by the individual at the time and place of enrollment, based on oral and written information given by the enrollee. Other sources of information include the Report of Separation From Active Duty (DD Form 214), referral documents from the referring authority and information provided by an enrollee's employer.

Systems exempted from certain provisions of the act: None.

SSS—4

System name: Registrant Information Bank (RIB) Records—SSS

Security classification:

System location:

Computer Service Center
Selective Service System
2550 Huntington Avenue
Alexandria, Virginia 22303

Categories of individuals covered by the system: Selective Service Registrants commencing with Year of Birth 1955.

Selective Service Registrants who are medical specialists or medical specialty students born prior to the Year 1955 who have not reached age 35.

Categories of records in the system: The Registrant Information Bank (RIB) is an automated data processing system which stores information furnished by the local boards concerning registration, classification, examination, assignment and induction of Selective Service Registrants.

Authority for maintenance of the system: Section 10(b)(3) of the Military Selective Service Act (50 U.S.C. App. 460(b)(3)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Department of Justice—for exchange of information on prosecutive processing of registrants suspected of violation of the Military Selective Service Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: See Storage, Retrievability, Safeguards, Access, Retention and Disposal below.

Storage: The records are maintained on tape, input (OCR) forms and computer printouts.

Retrievability: The system is indexed by Selective Service Number.

Safeguards: a. No access to RIB from terminals.

b. Records are handled by authorized personnel of the Selective Service System only.

c. Premises are locked when authorized personnel not on duty.

d. Periodic security checks and emergency planning.

Retention and disposal: When eligible for disposal, the tapes are erased. The records stored on tape in the Registrant Information Bank (RIB) are retained, as follows:

a. Records of medical specialists and medical specialty students are retained until age 35, at which time they are automatically dropped from the system.

b. All others are retained until age 26.

The computer printouts are distributed to the National Headquarters, and destroyed when they have served their purpose by maceration, shredding or burning.

System manager(s) and address:

Mr. Byron V. Pepitone
Director of Selective Service System
National Headquarters
Selective Service System
600 E Street, N.W.
Washington, D.C. 20435

Notification procedure: The address of the agency office to which inquiries should be addressed is:

Mr. Byron V. Pepitone
Director of Selective Service System
National Headquarters
Selective Service System
600 E Street, N.W.
Washington, D.C. 20435
Attn: Manpower Mobilization Planning Div. Man.

It is necessary to furnish the following information in order to identify the individual whose records are requested.

a. Full name of the individual.

b. Date of birth.

c. Selective Service Number.

d. Mailing address to which the reply should be mailed.

Record access procedures: An individual can obtain information on the procedures for gaining access to and contesting records through:

Mr. Byron V. Pepitone
Director of Selective Service System
National Headquarters
Selective Service System
600 E Street, N.W.
Washington, D.C. 20435
Attn: Manpower Mobilization Planning Div. Man.

Contesting record procedures: Same as the above.

Record source categories: OCR forms prepared by the field elements are the input documents for all information recorded in the SSS—Registrant Information Bank (RIB) Records.

Systems exempted from certain provisions of the act: None.

SSS—5

System name: Registrant Processing Records—SSS

Security classification:

System location: Records are stored in the Federal Records Center serving the State until eligible for destruction, with the exception of certain records transmitted to the National Headquarters for storage, destruction, or eventual transfer to the Federal Records Center. Consult National Headquarters.

Categories of individuals covered by the system: Registrants of the Selective Service System.

Categories of records in the system: Individual Processing Records:

a. Registration Card—a locator card identifying the registrant.

b. Registrant File Folder and Contents—contains all information necessary for registrant's processing, including forms, statements, correspondence, and copies of documents relevant to inclusion for, or exemption or deferment from training and service under the Military Selective Service Act and Regulations.

General Processing Records:

a. Correspondence File, Alphabetical—contains information relating to registrants for whom a Registrant File Folder has not been prepared.

b. Administrative Processing Records—relating to processing of registrants for classification, examination, induction or civilian work assignments.

Authority for maintenance of the system: Section 3, 10(b)(3) and 15(b) of the Military Selective Service Act (50 U.S.C. App. 453, 460(b)(3), 465(b)), E.O. 9979, E.O. 9992, E.O. 11623.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Department of Defense—for exchange of information concerning registration, classification, enlistment, examination and induction of individuals, and availability of Standby Reservists.

Alternate service employers—for exchange of information with employers regarding a registrant who is a conscientious objector for the purpose of placement in and supervision of performance of alternate service in lieu of induction into military service.

Department of Justice—for review and processing of suspected violations of the Military Selective Service Act, or for perjury, and for defense of a civil action arising from administrative processing under such Act.

Federal Bureau of Investigation—for location of an individual when suspected of violation of the Military Selective Service Act.

Immigration and Naturalization Service—to provide information for use in determining an individual's eligibility for re-entry into the United States.

Department of State—for determination of an alien's eligibility for possible entry into the United States and United States citizenship.

Office of Veterans' Reemployment Rights, United States Department of Labor—to assist veterans in need of information concerning reemployment rights.

General Public—Registrant's Name, Selective Service Number, Date of Birth and Classification. Military Selective Service Act Section 6, 50 U.S.C. App. 456.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: See Storage, Retrievability, Safeguards, Access, Retention and Disposal below.

Storage: Records are maintained on manually prepared forms in file folders, computer printouts and correspondence files.

Retrievability: The system is indexed by name (within local board) and Selective Service Number.

Safeguards: Measures that have been taken to prevent unauthorized disclosure of records are:

a. Records are maintained by authorized personnel only, who have been trained in the rules and regulations concerning disclosure of information; offices are locked when authorized personnel not on duty.

b. Periodic security checks and other emergency planning.

c. Records transferred for storage are boxed and taped; records in transit for temporary custody of another office are sealed.

Records eligible for destruction are destroyed by maceration, shredding or burning.

Retention and disposal: Individual Processing Records:

1. Registration Card—Retained as permanent record; active to age 35.

2. Registrant File Folder and Contents—Normally destroyed at age 26, with the following exceptions:

a. Files of registrants processed as medical specialists are retained to age 35.

b. Files of registrants who are aliens (including former American Citizens who have expatriated themselves) who were last classified in an available class, or 4-C or whose last classification was 5-A immediately preceded by Class 4-C, are retained as permanent records.

General Processing Records:

1. Correspondence File, Alphabetical—Retained or destroyed, the same as 2 above.

2. Administrative Processing Records—Summary of processing is retained as long retention records. Other administrative processing records are destroyed when administrative needs are fulfilled.

System manager(s) and address:

Mr. Byron V. Pepitone
Director of Selective Service System
National Headquarters
Selective Service System
600 E Street, N.W.
Washington, D.C. 20435

Notification procedure: The agency office address to which inquiries should be addressed and the location at which an individual may present a request as to whether the Registrant Processing Records System contains records pertaining to himself is:

Mr. Byron V. Pepitone
Director of Selective Service System
National Headquarters
Selective Service System
600 E Street, N.W.
Washington, D.C. 20435
Attn: Records Manager

It is necessary to furnish the following information in order to identify the individual whose records are requested:

1. Full name of the individual.

2. Selective Service Number or date of birth and address at time of registration if Selective Service Number is not known.

3. Mailing address to which the reply should be mailed.

Record access procedures: An individual can obtain information on the procedures for gaining access to and contesting records through:

Mr. Byron V. Pepitone
Director of Selective Service System
National Headquarters
Selective Service System
600 E Street, N.W.
Washington, D.C. 20435
Attn: Records Manager

Contesting record procedures: See above.

Record source categories: Information contained in the Registrant Processing Records System is obtained from the individual, and supporting documents from other persons, federal, state and local government agencies, and institutions.

Systems exempted from certain provisions of the act: None.

SSS—6

System name: Reserve and National Guard Personnel Records—SSS

Security classification:

System location:

Manpower Administration Division
National Headquarters
Selective Service System
600 E Street, N.W.
Washington, D.C. 20435

Categories of individuals covered by the system: Currently assigned officers and Warrant Officers of the Reserve and National Guard assigned to the Selective Service System, and officers and Warrant Officers formerly so assigned.

Categories of records in the system: The records contain information relating to selection, placement and utilization of military personnel, such as name, rank, Social Security Account Number, date of birth, physical profile, residence and business addresses, and telephone numbers. Information is also recorded on unit of assignment, occupational codes and data pertaining to training, cost factors, efficiency ratings and mobilization assignments and duties, and other information relating to the status of the member.

Authority for maintenance of the system: Section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide information to the individual member's branch of the Armed Forces as required in connection with his assignment to the Selective Service System.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: See Storage, Retrievability, Safeguards, Access, Retention and Disposal below.

Storage: Records are maintained in file folders and magnetic tape or disk.

Retrievability: Records are indexed by name and Service Number.

Safeguards: Use of the records or any information contained therein is limited to employees or Reserve Forces Members whose official duties require access. The records are maintained in lockable file containers.

Retention and disposal: Personnel records for SS Reserve Forces are retained for one (1) year after separation and then disposed of in accordance with procedures provided by each Branch of Service.

System manager(s) and address:

Mr. Byron V. Pepitone
Director of Selective Service System
National Headquarters
Selective Service System
600 E Street, N.W.
Washington, D.C. 20435

Notification procedure: Inquiries should include name, address, and Social Security Account Number and be forwarded to:

Mr. Byron V. Pepitone
Director of Selective Service System
National Headquarters
Selective Service System
600 E Street, N.W.
Washington, D.C. 20435
Attn: Administrative and Logistics Division Manager

Record access procedures: Same as the above. SS Reserve Forces Members or former members who wish to gain access to their records should make their request in writing, including their full name, ranks, Branch of Service, address, and Social Security Account Number.

Contesting record procedures: Same as the above.

Record source categories: Information in this system is obtained directly from the individual to whom it applies or is derived from information he supplied or is provided by the individual Branch of the Armed Forces.

Systems exempted from certain provisions of the act: None.

SSS—7

System name: Uncompensated Personnel Records—SSS

Security classification:

System location: The Administrative and Logistics Division Manager, National Headquarters, Selective Service System, 600 E Street, N.W., Washington, D.C. 20435.

Categories of individuals covered by the system: Currently appointed uncompensated local board and appeal board members, and

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others appointed in advisory or administrative capacity, and former members appointed in an uncompensated capacity.

Categories of records in the system: The records contain information relating to the selection, appointment and separation of appointees, such as name, date of birth, mailing address, residence and business telephone numbers, state and county of legal residence, organizational location, position title, minority group code, sex code, date of appointment, physical characteristics (i.e. height, weight, etc.), length of service and occupational title.

Authority for maintenance of the system: Section 10(b)(3) of the Military Selective Service Act (50 U.S.C. App. 460(b)(3)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Department of Justice—exchange of information when required in connection with processing of alleged violations of the Military Selective Service Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: See Storage, Retrievability, Safeguards, Access, Retention and Disposal below.

Storage: Records are maintained in file folders and magnetic tape.

Retrievability: Records are indexed by name of individual, record identification number and location.

Safeguards: Use of the records or any information contained therein is limited to employees whose official duties require such access. The records are maintained in lockable file containers.

Retention and disposal: Personnel Records for uncompensated appointees are maintained for one (1) year after separation at the servicing personnel office, and then forwarded to a Federal Records Center for destruction 75 years after date of birth of the appointee.

System manager(s) and address:

Mr. Byron V. Pepitone
Director of Selective Service System
National Headquarters
Selective Service System
600 E Street, N.W.
Washington, D.C. 20435

Notification procedure: Inquiries should include name, address (state in which appointed), date of birth, and Social Security Account Number for former appointees, or record Identification Number for current appointees to:

Mr. Byron V. Pepitone
Director of Selective Service System
National Headquarters
Selective Service System
600 E Street, N.W.
Washington, D.C. 20435
Attn: Administrative and Logistics Division Manager

Record access procedures: Same as the above. Appointees who wish to gain access to their records should make requests in writing, including their full name, address (state in which appointed), date of birth and Social Security Account Number for former appointees, or record Identification Number for current appointees.

Contesting record procedures: Same as the above.

Record source categories: Information in this system is obtained directly from the individual or is derived from information he has supplied, or is provided by the agency official with authority to appoint the individual.

Systems exempted from certain provisions of the act: None.

SSS—8

System name: Violator Inventory Monitoring System (VIMS)—SSS

Security classification:

System location:

Computer Service Center
Selective Service System
2550 Huntington Avenue
Alexandria, Virginia 22303

Categories of individuals covered by the system: Alleged violators of the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

Categories of records in the system: Contains the name, Selective Service Number (if any), report of, and disposition data of, alleged violations of the Military Selective Service Act.

Authority for maintenance of the system: Section 10(b)(3) of the Military Selective Service Act (50 U.S.C. App. 460(b)(3)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Exchange of information with the Department of Justice respecting alleged violations of the Military Selective Service Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: See Storage, Retrievability, Safeguards, Access, Retention and Disposal below.

Storage: The records are maintained on tape, input (OCR) forms and computer printouts.

Retrievability: Indexed by Selective Service Number.

Safeguards: a. No access to VIMS from terminals.

b. Records are available to authorized SSS personnel only.

c. Office is locked when authorized personnel are not on duty.

d. Periodic security checks.

Retention and disposal: Upon final disposition of violator case, the tapes are erased.

The OCR input forms are destroyed by maceration, shredding or burning immediately after the information has been recorded in VIMS.

Computer printouts distributed to local boards, State Headquarters and National Headquarters are destroyed when they have served their temporary purposes by maceration, shredding or burning.

System manager(s) and address:

Mr. Byron V. Pepitone
Director of Selective Service System
National Headquarters
Selective Service System
600 E Street, N.W.
Washington, D.C. 20435

Notification procedure: Same as the above. It is necessary to furnish the following information in order to identify the individual whose records are requested:

a. Full name.
b. Date of birth.
c. Selective Service Number.
d. Mailing address to which the reply should be mailed.

Record access procedures: An individual can obtain information on the procedures for gaining access to and contesting records through:

Mr. Byron V. Pepitone
Director of Selective Service System
National Headquarters
Selective Service System
600 E Street, N.W.
Washington, D.C. 20435
Attn: General Counsel

Contesting record procedures: Same as the above.

Record source categories: OCR forms prepared by the General Counsel are the input documents for all information recorded in VIMS records.

Systems exempted from certain provisions of the act: None.

SSS—9

System name: Master Pay Record—SSS

Security classification:

System location:

Computer Service Center
Selective Service System
2550 Huntington Avenue
Alexandria, Virginia 22303

Categories of individuals covered by the system: Currently assigned civilian employees and former civilian employees who have separated during the current year and first prior calendar year.

Categories of records in the system: Contains payroll information such as name, grade, annual salary, hourly rate, address, Social Security Account Number, birth date, date of hire, service computation date, annual leave category, life insurance and health benefits deductions, Savings Bond data, and other information relating to the status of the employee.

Authority for maintenance of the system: Section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)) and Title 5, U.S.C.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Selected information by name and Social Security Account Number is furnished the Internal Revenue Service, and State and City taxing authorities.

Selected information by name, date of birth and Social Security Account Number is furnished the Civil Service Commission for retirement, life insurance and health benefit accounts.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: See Storage, Retrievability, Safeguards, Access, Retention and Disposal below.

Storage: Records are maintained in binders, on microfiche and magnetic tape.

Retrievability: Records are indexed by Social Security Account Number.

Safeguards: Use of the records or any information contained therein is limited to employees whose official duties require such access. The records are maintained in lockable file containers.

Retention and disposal: The information on the magnetic tapes is retained for two years, then erased.

The microfiche copies are retained for one year, then destroyed by burning.

The computer printouts are retained until updated, then destroyed by shredding.

System manager(s) and address:

Mr. Byron V. Pepitone
Director of Selective Service System
National Headquarters
Selective Service System
600 E Street, N.W.
Washington, D.C. 20435

Notification procedure: Inquiries should include name, Social Security Account Number, duty station (former employees should indicate last duty station with this agency) and mailing address to which the reply should be mailed. Inquiries should be mailed to:

Mr. Byron V. Pepitone
Director of Selective Service System
National Headquarters
Selective Service System
600 E Street, N.W.
Washington, D.C. 20435
Attn: Administrative and Logistics Division Manager

Record access procedures: Same as the above. Current employees or former employees who wish to gain access to their records should make their request in writing, including their full name, address and Social Security Account Number and duty station. Former employees should indicate last duty station with this agency.

Contesting record procedures: Same as the above.

Record source categories: Information in this system is obtained from the individual to whom it applies or is derived from information the individual supplied, or is provided by the agency official with authority to appoint the individual.

Systems exempted from certain provisions of the act: None.

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UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

The purpose of this document is to give notice, in accordance with the requirements of the Privacy Act, 5 U.S.C. 552a(e)(4), that the systems of records identified in notices published in the Federal Register on December 17, 1976 (41 FR 55314–55319) and amended on December 22, 1976 (41 FR 55734–55735), continue in effect.

There are no substantive changes. The only changes are: minor editorial changes, changes of room numbers for some system managers, a reduction in repetition of routine uses, and the addition of a table of contents as required by the Publication Guidelines of the Office of the Federal Register published on April 8, 1977 (42 FR 18760).

In order to save space and avoid duplication, a Prefatory Statement of Routine Uses precedes the compilation of the systems of records. This Statement contains routine uses which apply to more than one system of records. The systems of records to which a routine use applies are indicated after that routine use, and by reference, in the description of routine uses which appears in the description of each system of records. This Prefatory Statement is not a change in routine uses, but rather sets out common routine uses in one spot and thereby avoids duplication of each use in each system of records.

As required by 5 U.S.C. 552a(e)(4) the U.S. Arms Control and Disarmament Agency hereby gives annual notice of the existence and character of its systems of records, previously published in the Federal Register on December 17, 1976 (41 FR 55314–55319) and amended on December 22, 1976 (41 FR 55734–55735), as set forth below. This compilation will henceforth be used in referring to the Agency's systems of records.

Effective date. This notice shall be effective on the date of publication.

Paul C. Warnke,
Director.

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Prefatory Statement of Routine Uses

The following routine uses apply to, and are incorporated by reference into, each system of records as indicated in the parenthesis which follows each routine use.

1. Disclosure may be made to a congressional office as a routine use from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(All ACDA systems of records)

2. A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit.

(All ACDA systems of records)

3. A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

(All ACDA systems of records)

4. In the event that these records indicate a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(ACDA systems of records—numbers 1, 2, 3, 5, 6, 8, 9, 13, 14)

5. A record from this system of records may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

(ACDA systems of records—numbers 1, 2, 3, 5, 6, 8, 9, 13, 14)

6. A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

(ACDA systems of records—numbers 1, 2, 3, 5, 6, 8, 9, 13, 14)

7. A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee.

(ACDA systems of records—numbers 1, 3, 5, 6, 8, 13, 14)

8. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with that agency's responsibility for evaluation and oversight of Federal personnel management.

(ACDA systems of records—numbers 1, 2, 3, 8, 13, 14)

9. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that circular.

(ACDA systems of records—numbers 1, 3, 8, 13, 14)

ACDA—1

System name: Official Personnel Records—ACDA

System location: Agency Headquarters, Department of State Building, 320 21st St., NW., Washington, D.C. 20451

Categories of individuals covered by the system: All ACDA personnel, including consultants.

Categories of records in the system: Records relating to employment, including but not limited to personal qualifications statement, performance rating, personnel actions, insurance and conflict of interest, except to the extent controlled by the CSC.

Authority for maintenance of the system: Executive order 10561.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to ACDA management officials for use in evaluating performance and entitlement to rights under the Federal Personnel System. Also generally available to management officials in other agencies in connection with pre-employment verification.

Disclosure may be made to financial and credit institutions for loan and credit purposes to verify the employee's employment with ACDA, date of employment, present and past positions, titles, grades, salaries, and duty stations.

Routine uses of records maintained in this system shall include providing a copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, to the State, city or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Executive Officer, U.S. Arms Control and Disarmament Agency, 320 21st St., N.W., Washington, D.C. 20451. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both. Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to a written request from an appropriate city official to the Executive Officer of the Agency. In the absence of a withholding agreement, the social security number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the social security number, in accordance with Section 7 of the Privacy Act, Public Law 93-579.

Also see the Prefatory Statement of Routine Uses; the routine uses numbered 1, 2, 3, 4, 5, 6, 7, 8, and 9, apply to, and are incorporated by reference into, this system of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: The policies and practices of the agency regarding storage, retrievability, access control, retention and disposal of these records are directed by the Civil Service Commission in accordance with Federal Personnel Manual Supplement 296-31.

Storage: Same as above.

Retrievability: Same as above.

Safeguards: Same as above.

Retention and disposal: Same as above.

System manager(s) and address: Personnel Officer, Rm 5720.

Notification procedure: Privacy Act Officer, Rm. 5534.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Both internal agency sources and other federal agencies which have previously employed an ACDA employee.

ACDA—2

System name: Pending Personnel Files—ACDA

System location: Agency Headquarters

Categories of individuals covered by the system: All individuals currently under consideration for employment, including pending consultants.

Categories of records in the system: Forms relating to employment, including but not limited to personal qualifications statement, resume, and tenure, health insurance and life insurance forms.

Authority for maintenance of the system: 22 U.S.C. 2581

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by ACDA management for the evaluation of employment potential and to establish entitlement to rights under the Federal Personnel System.

Also see the Prefatory Statement of Routine Uses; the routine uses numbered 1, 2, 3, 4, 5, 6, and 8, apply to, and are incorporated by reference into, this system of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in standard file folders.

Retrievability: By last name of individual.

Safeguards: Records are maintained in a bar-lock steel cabinet.

Retention and disposal: Records are maintained only until a final decision is made regarding employment and are then either destroyed or replaced by an official personnel folder; access limited to ACDA management on a need-to-know basis.

System manager(s) and address: Personnel Officer, Rm. 5720.

Notification procedure: Privacy Act Officer, Rm. 5534.

Record access procedures: Privacy Act Officer, Rm. 5534.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained, previous employers, internal agency sources.

ACDA—3

System name: Security Records—ACDA

System location: Agency Headquarters

Categories of individuals covered by the system: All current and former ACDA employees, including employees of contractors.

Categories of records in the system: Contains questionnaires completed by the individual. Personal qualifications statement, AEC1 (Parts I & II), AEC—0115 security acknowledgement, release forms. Contains forms relating to security clearances, including letter requesting investigation, investigative reports, memo of security clearance, notification of "Q" clearance, reports of security violations and classified visit requests, may also contain memo of medical determination and memo advising of eligiblity for special clearances.

Authority for maintenance of the system: 22 U.S.C. 2585

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by a limited number of ACDA management officials and management officials of other agencies to evaluate employment potential, suitability for federal employment, and access to classified information.

Also see the Prefatory Statement of Routine Uses; the routine uses numbered 1, 2, 3, 4, 5, 6, 7, 8, and 9, apply to, and are incorporated by reference into, this system of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in standard file folders.

Retrievability: By last name of individual.

Safeguards: Files maintained in accordance with the strictest security requirements applicable to classified documents, records maintained in a three-way combination lock steel container, access only on a need-to-know basis, based on the above routine uses.

Retention and disposal: Records once established are maintained indefinitely.

System manager(s) and address: Chief of Security, Rm 5731.

Notification procedure: Privacy Act Officer, Rm. 5534.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Federal investigative agencies, State Department Medical Bureau, individual on whom the record is maintained, internal agency sources.

Systems exempted from certain provisions of the act: Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information is exempted from the provisions of the act, in accordance with subsection (K)(5) of the act and section 603.7(A)(3) of the agency regulations concurrently published, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence. Investigatory material compiled for law enforcement purposes is also exempted from the provisions of the act, in accordance with subsection (K)(2) of the act and section 603.7(A)(2) of the agency regulations concurrently published, provided however that if any individual is denied any right, privilege, or benefit to which he would otherwise be entitled by federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

ACDA—4

System name: Statements by principals during the Strategic Arms Limitation Talks, Mutual Balanced Force Reduction Negotiations, and the Standing Consultative Committee—ACDA.

System location: Agency Headquarters.

Categories of individuals covered by the system: Members of Delegations of U.S. and foreign governments concerned with the subject negotiations.

Categories of records in the system: Transcripts of official statements made by principals in negotiating sessions.

Authority for maintenance of the system: 22 U.S.C. 2551; Executive Order 11044, Sec. 4.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available as necessary background material to ACDA officers and management officials of other agencies concerned with the formulation and implementation of U.S. Arms Control objectives.

Also see the Prefatory Statement of Routine Uses; the routine uses numbered 1, 2, and 3, apply to, and are incorporated by reference into, this system of records.

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Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on computer tape.

Retrievability: Indexed by several data elements, including last name of principal. Discs are stored in accordance with strictest security measures applicable to secret/restricted data. They are loaded only upon request. Listings prepared from tapes are maintained in accordance with security requirements, according to the highest classification on the list.

Safeguards: Access limited, on a need-to-know basis, to ACDA managers and management of other federal agencies with appropriate security clearances, who are involved in formulation of arms control policy.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address: Chief, Communications and Service Section, Rm. 5666.

Notification procedure: Privacy Act Officer, Rm. 5534.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Transcripts of negotiations.

System name:

Systems exempted from certain provisions of the act: Because the information contained in this system is data classified for reasons of national security pursuant to Executive Order 11652, it has been ruled exempt from the disclosure provisions of the act by section 603.7(A)(1) of concurrently published agency regulations in accordance with sec. (K)(1) of the act.

ACDA—5

System name: Top Secret Document Control File—ACDA

System location: Agency Headquarters.

Categories of individuals covered by the system: Any individual holding a top secret document under ACDA'S physical control.

Categories of records in the system: Contains a listing of those Top Secret Documents to which an individual has had access and for which he is accountable.

Authority for maintenance of the system: Executive Order 11652, Sec. 6(E).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to ACDA management to determine personal accountability for Top Secret Documents also available as a routine use to Federal law enforcement officials to determine access to and accountability for top secret documents.

Also see the Prefatory Statement of Routine Uses; the routine uses numbered 1, 2, 3, 4, 5, 6, and 7, apply to, and are incorporated by reference into, this system of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on data index cards.

Retrievability: Through card sorting.

Safeguards: Records maintained in bar-lock steel cabinet. Access limited, on a need-to-know basis.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address: Chief, Communications and Services Section, Rm. 5666.

Notification procedure: Privacy Act Officer, Rm. 5534.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Internal agency sources.

ACDA—6

System name: Document Classifier Data Index—ACDA

System location: Agency Headquarters

Categories of individuals covered by the system: ACDA personnel with authority under Executive Order 11652 to classify documents in the interests of national security.

Categories of records in the system: Contains names listing of documents classified by a particular individual.

Authority for maintenance of the system: Executive Order 11652, Sec. 13.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to ACDA management officials and management officials of other agencies on a need-to-know basis, for the purpose of determining the original classifier of a classified document and to identify any misuse of the National Security Classification Authority.

Also see the Prefatory Statement of Routine Uses; the routine uses numbered 1, 2, 3, 4, 5, 6, and 7, apply to, and are incorporated by reference into, this system of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on data index cards.

Retrievability: Retrieved by card sorting.

Safeguards: Records maintained in a standard bar-lock steel cabinet.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address: Chief, Communications and Services Section, Rm. 5666.

Notification procedure: Privacy Act Officer, Rm. 5534.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Internal agency sources.

ACDA—7

System name: Congressional Information and Attitudes File—ACDA

System location: Agency Headquarters

Categories of individuals covered by the system: Selected U.S. Senators and Representatives

Categories of records in the system: Contains biographical material, voting records, Public Statements by members of Congress relating to arms control issues, correspondence and records of conversations and briefings by agency personnel.

Authority for maintenance of the system: 22 U.S.C. 2551.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to agency officials for background and briefing purposes.

Also see the Prefatory Statement of Routine Uses; the routine uses numbered 1, 2, and 3, apply to, and are incorporated by reference into, this system of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in standard file folders.

Retrievability: Filed by last name.

Safeguards: Maintained in bar-lock steel cabinet.

Retention and disposal: Maintained until the Subject Member of Congress leaves office.

System manager(s) and address: Congressional liason officer, Rm. 5634.

Notification procedure: Privacy Act Officer, Rm. 5534.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Congressional Directory, Congressional Quarterly, Congressional Records, Members of Congress on whom records are maintained, public speeches and minutes of meetings.

ACDA—8

System name: External Contracts (Other than Small Purchases)—ACDA

System location: Control Data Corp., 6003 Executive Blvd. Rockville, Md. 20852.

Categories of individuals covered by the system: Individuals performing work on contracts for the agency.

Categories of records in the system: Name of individual, amount of contract, date of award, title of contract, research category, fiscal year, type of business, reporting requirements.

Authority for maintenance of the system: 22 U.S.C. 2571, 2581; 40 U.S.C. 481.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to agency officials for the purpose of determining progress on agency contracts, including research and completed research in various categories and

dollar amount by fiscal year. Also available to Congressional committees for purposes of authorization hearings.

Also see the Prefatory Statement of Routine Uses; the routine uses numbered 1, 2, 3, 4, 5, 6, 7, 8, and 9, apply to, and are incorporated by reference into, this system of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on computer tape.

Retrievability: By last name of contractor or project number.

Safeguards: Computer printouts are kept in bar-lock steel cabinets; access limited on a need-to-know basis, in accordance with the above routine uses.

Retention and disposal: Records are maintained for six years after final settlement and then destroyed.

System manager(s) and address: Contracts officer, State Department Annex No. 6, Room 805.

Notification procedure: Privacy Act Officer, Rm. 5534.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained, internal agency sources.

ACDA—9

System name: Privacy Act Requests File—ACDA

System location: Agency Headquarters

Categories of individuals covered by the system: Requesters for information or other services provided by the agency under The Privacy Act of 1974.

Categories of records in the system: Requests for information or other services provided by the agency under The Privacy Act of 1974, including but not limited to agency responses thereto.

Authority for maintenance of the system: 5 U.S.C. 552A.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to agency officials for use in monitoring and evaluating requests for information or other services provided by the agency under The Privacy Act of 1974.

Also see the Prefatory Statement of Routine Uses; the routine uses numbered 1, 2, 3, 4, 5, and 6, apply to, and are incorporated by reference into, this system of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in standard file folders.

Retrievability: By last name of individual requester.

Safeguards: Records are maintained in a bar-lock steel cabinet.

Retention and disposal: Records are maintained as long as the systems of records which have been the subject of Privacy Act requests are active, or for a period of five years after the agency response to the request, whichever is longer.

System manager(s) and address: Privacy Act Officer, Rm. 5534.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Authors of Privacy Act requests.

ACDA—10

System name: Freedom of Information Act Requests

System location: Agency Library, Department of State Building, Rm. 5672, 320 21st St., NW., Washington, D.C. 20451.

Categories of individuals covered by the system: Requesters for information under the Freedom of Information Act.

Categories of records in the system: Requests for information under the Freedom of Information Act and agency disposition thereof.

Authority for maintenance of the system: 5 U.S.C. 552.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to agency officials for use in monitoring and evaluating requests for information under the Freedom of Information Act.

Also see the Prefatory Statement of Routine Uses; the routine uses numbered 1, 2, and 3, apply to, and are incorporated by reference into, this system of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on standard 3x5 file cards.

Retrievability: By last name of individual requester.

Safeguards: Records are maintained in a bar-lock steel cabinet.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address: Freedom of Information Officer, Rm. 5534.

Notification procedure: Privacy Act Officer, Rm. 5534.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Authors of Freedom of Information Act requests.

ACDA—11

System name: World Military Expenditures Mailing List—ACDA

System location: Agency headquarters, Department of State Building, 320 21st St., NW., Washington, D.C. 20451.

Categories of individuals covered by the system: Requesters of the publication "World Military Expenditures and Arms Transfers".

Categories of records in the system: Names and addresses of requesters of the publication.

Authority for maintenance of the system: 22U.S.C. 2551.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to Agency officials for use in disseminating current editions of the publication "World Military Expenditures and Arms Transfers".

Also see the Prefatory Statement of Routine Uses; the routine uses numbered 1, 2, and 3, apply to, and are incorporated by reference into, this system of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on standard 3x5 file cards.

Retrievability: By last name of requester.

Safeguards: Records are maintained in a bar-lock steel cabinet.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address: Project Officer for WMEAT, Rm. 4660.

Notification procedure: Privacy Act Officer, Rm. 5534.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Authors of requests for the publication.

ACDA—12

System name: ACDA mailing list

System location: State Department Computer Bank, Department of State Building, 320 21st St., NW., Washington, D.C. 20451.

Categories of individuals covered by the system: Requesters of information on arms control and related affairs.

Authority for maintenance of the system: Authority for maintenance of the system: 22 U.S.C. 2551.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to Agency officials for use in disseminating public information and publications concerning arms control and related affairs.

Also see the Prefatory Statement of Routine Uses; the routine uses numbered 1, 2, and 3, apply to, and are incorporated by reference into, this system of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on computer tape.

Retrievability: By last name of requester.

Safeguards: Records are maintained in the computer which has limited access for official use only by authorized personnel.

Retention and disposal: Records are maintained for two years at which time the individuals are sent an address card which must be filled out and returned or the name and address of the individual concerned will be removed from the list.

System manager(s) and address: Deputy Public Affairs Advisor, Rm. 4936.

Notification procedure: Privacy Act Officer, Rm. 5534.

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Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Authors of requests for information on arms control and related affairs.

ACDA—13

System name: Travel Authorization File—ACDA

System location: Agency Headquarters, Department of State Building, 230 21st St., NW., Washington, D.C. 20451.

Categories of individuals covered by the system: Covered by the system: Any individuals who travel on Agency business.

Categories of records in the system: Categories of records in the system: Travel authorizations and completed travel vouchers.

Authority for maintenance of the system: 31 U.S.C. 200; 31 U.S.C. 66a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to Agency officials for use in monitoring official Agency travel.

Routine uses of records maintained in this system shall include providing a copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, to the State, city or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Executive Officer, U.S. Arms Control and Disarmament Agency, 320 21st St., N.W., Washington, D.C. 20451. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both. Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to a written request from an appropriate city official to the Executive Officer of the Agency. In the absence of a withholding agreement, the social security number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the social security number, in accordance with Section 7 of the Privacy Act, Public Law 93-579.

Also see the Prefatory Statement of Routine Uses; the routine uses numbered 1, 2, 3, 4, 5, 6, 7, 8, and 9, apply to, and are incorporated by reference into, this system of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in standard file folders.

Retrievability: By last name of traveler.

Safeguards: Records are maintained in a bar-lock steel cabinet.

Retention and disposal: Records are maintained three years.

System manager(s) and address: Budget Officer, State Department Annex No. 6, Rm. 805.

Notification procedure: Privacy Act Officer, Rm. 5534.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individuals who travel on official Agency business.

ACDA—14

System name: Confidential Statement of Employment and Financial Interests Records—ACDA

System location: Agency Headquarters, Department of State Building, 320 21st St., NW., Washington, D.C. 20451.

Categories of individuals covered by the system: Special Government employees (consultants) of the Agency and individuals occupying positions listed in 22 CFR 606.735-71(a).

Categories of records in the system: Statements of Employment and Financial Interests and letters and memoranda relating thereto, except to the extent controlled by the CSC.

Authority for maintenance of the system: Exceutive Order 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to the Agency Ethics Counselor and Deputy Ethics Counsel and to other Agency personnel on a need-to-know basis as may be required in the performance of their duties. Records in the system may also be used as follows, except that information from a statement may be disclosed only upon the determination of the CSC or the ACDA Director that such disclosure is for good cause shown;

Also see the Prefatory Statement of Routine Uses; the routine uses numbered 1, 2, 3, 4, 5, 6, 7, 8, and 9, apply to, and are incorporated by reference into, this system of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in standard file folders.

Retrievability: By last name of employee.

Safeguards: Records are maintained in a three-way combination lock steel container located in the office of the Deputy Ethics Counselor.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address: Ethics Counselor, Rm. 5534.

Notification procedure: Privacy Act Officer, Rm. 5534.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individuals who file Confidential Statements of Employment and Financial Interests with the Agency.

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U.S. RAILROAD RETIREMENT BOARD

PRIVACY ACT OF 1974

Systems of Records, Annual Publication

The purpose of this document is to give notice of the existence and character of this agency's systems of records as required by 5 U.S.C. 552a(e)(4). The last such notice was published in the Federal Register on September 16, 1976 (41 FR 40051-40073).

Subsequent to this notice a new system of records, Regional Rail Reorganization Act Reimbursement System (RRB-38), was established. Notice of this system was issued December 16, 1976 (41 FR 55012).

This document also gives notice of changes to the routine uses of the records in four systems of records, the addition of a record source category to a system, the addition of categories of records to a system and editorial changes made for clarity. In addition, Appendices I and II have been revised due to location and organizational changes in the listed offices.

Routine uses "a" and "e" of Record System RRB-20, Health Insurance and Supplementary Medical Insurance Enrollment and Premium Payment System (Medicare), are being expanded to include the Health Care Financing Administration. The Health Care Financing Administration is also being added to RRB-20 as a record source category.

Routine uses "g" and "k" of Record System RRB-22, Railroad Retirement, Survivor, and Pensioner Benefit System, are being expanded to include the Health Care Financing Administration. The categories of records in this system are also being clarified by including the wording "suspension and termination dates, health insurance effective date, option, premium rate and deduction, direct deposit data and employer pension information."

Routine use "b" is being added to both Record System RRB-25, Research Master Record for Survivor Beneficiaries Under the Railroad Retirement Act and Record System RRB-26, Research Master Record for Retired Railroad Employees and their Dependents. These additions authorize the Internal Revenue Service to obtain the records in these systems.

Members of the public are invited to send their comments on these changes to the Secretary of the Board, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, no later than 30 days from the date of this edition of the Federal Register.

Dated: August 24, 1977.

By authority of the Board.

R. F. Butler,
Secretary.

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RRB-1

System name: Social Security Benefit Vouchering System—RRB

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Applicants after December 31, 1974, for benefits under Title II of the Social Security Act who have completed ten years of creditable service in the railroad industry, the spouse or survivor of such an individual.

Categories of records in the system: Name, address, social security number, type and amount of benefit, suspension and termination information.

Authority for maintenance of the system: Section 7(b)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(2))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Benefit rate information may be disclosed to primary beneficiaries regarding secondary beneficiaries (or vice versa) when the addition of such beneficiary affects either the entitlement or benefit payment.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Benefit rates, names and addresses may be released to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, act on reports of non-delivery, and to insure delivery of check to the correct address of the beneficiary or representative payee.

d. Beneficiary's name, address, check rate and date plus supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad retirement or social security benefit checks.

e. Beneficiary's name, effective date, benefit rate and months paid may be disclosed to the Veterans Administration to verify continued entitlement to benefits.

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f. Benefit rates and effective dates may be disclosed to the Social Security Administration, Bureau of Supplemental Security Income, to federal, state and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

g. Last addresses information may be disclosed to the Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

h. Benefit rates, entitlement and other necessary information may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

i. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's payment of benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and the rates of private, supplemental pension benefits and to calculate estimated benefits due.

j. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

k. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

l. Information may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act.

m. Records may be disclosed to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under Title II of the Social Security Act, as amended.

n. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

o. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

p. Information in this system of records may be released to the attorney representing an individual in connection with that individual's claim for benefits under the Railroad Retirement Act or Title II of the Social Security Act, as amended, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, magnetic tape and microforms.

Retrievability: Social security account number, full name.

Safeguards: Records are maintained in areas not accessible to the public; buildings are secured (guard service).

Retention and disposal: Paper: Individual claim folders with records of all actions pertaining to the payment of claims are shredded 25 years after the date of last payment or denial activity. Other paper listings are destroyed one year after date of issue, except for accounts receivable listings which are destroyed only after General Accounting Office audit. Magnetic tape: Tapes are updated at least monthly, writing over obsolete data. Microforms: Originals are kept for five years; duplicates for one year; destroyed by shredding.

System manager(s) and address:

Director of Retirement Claims
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's records should be in writing addressed to the System Manager identified above, including full name and social security number of the individual. Before any information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Individual applicant or his or her authorized representative, the Social Security Administration, other record systems maintained by the Railroad Retirement Board.

RRB-2

System name: Medical Examiner's Index—RRB.

System location: District Offices: See Appendix I for addresses.

Categories of individuals covered by the system: Physicians who have agreed to examine applicants.

Categories of records in the system: Physician's name, address, telephone number, medical field and specialties, special equipment available, fees, names of those examined and dates of examinations.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)) Section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C.362(l)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Name of physician.

Safeguards: Kept in a special, separate file in an area of the office accessible only to district office employees. The office is locked during non-business hours.

Retention and disposal: Maintained indefinitely; cards will be removed and destroyed upon request of the doctor. If the physician's service has proved to be too slow or otherwise unsatisfactory, the record is destroyed by shredding.

System manager(s) and address:

Director of Retirement Claims
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security account number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Physician.

RRB-3

System name: MEDICARE, Part B (Supplementary Medical Insurance) Payment System—Contracted to The Travelers Insurance Company—RRB.

System location:

Main Office: The Travelers Insurance Company
One Tower Square
Hartford, Connecticut 06115 Field Offices: See Appendix II for addresses.

Categories of individuals covered by the system: Qualified railroad retirement beneficiaries covered by MEDICARE, Part B, who file claims under the medical insurance program.

Categories of records in the system: Name, health insurance claim number, address, telephone number, description of illness and treatment pertaining to claim, indication of other health insurance or medical assistance pertinent to claim, date(s) and place(s) of physician service, description of medical procedures, services or supplies furnished, nature of illness(es), medical charges name, address and telephone of physician, Part B entitlement date, Part B deductible status.

Authority for maintenance of the system: Section 7(d) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(d)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

b. Information regarding payments and deductibles may be released to the Social Security Administration for use in administering Title XVIII of the Social Security Act, as amended, and to establish, audit and maintain account and vouchering records.

c. Records may be disclosed in a court proceeding relating to any claims for benefits under Title XVIII of the Social Security Act, as amended, and may be disclosed during the course of an appeal hearing.

d. Records may be disclosed to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under Title XVIII of the Social Security Act.

e. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

f. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the status of a qualified railroad retirement beneficiary's enrollment in Medicare and premium payment status may be released to the requesting employer for the purposes of coordinating employee supplemental welfare benefits.

g. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his entitlement and premium status may be disclosed to the labor organization official.

h. In the event that this system of records maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

i. Information in this system of records may be released to the attorney representing an individual in connection with that individual's claim for benefits under the Railroad Retirement Act or Title XVIII of the Social Security Act, as amended, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, magnetic tape and microforms.

Retrievability: Health insurance claim number, name.

Safeguards: The Travelers Insurance Company is bound by the contract set forth by the Railroad Retirement Board which contains specific instruction regarding its responsibility in claim information handled and released. It is also bound by the same regulations regarding disclosure and security of information as the Board itself.

Retention and disposal: Each Travelers' office retains material for 27 months. At the end of 27 months the material is sent to the Federal Records Center. After 2 years the Federal Records Center destroys the material.

System manager(s) and address:

Director of Retirement Claims
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Claimant, his authorized representative or his/her survivors, the Social Security Administration, physicians, hospitals.

RRB-4

System name: Microfiche of Estimated Annuity, Total Compensation and Residual Amount File—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611 District Offices: See Appendix I for addresses.

Categories of individuals covered by the system: Individual record for all railroad employees who worked in the current reporting year or one who had at least 120 service months and never filed an application for annuity or been reported to be deceased.

Categories of records in the system: Individual name, account number, service record and creditable compensation, year last worked, date of birth, sex, employer identification number, gross residual, basic annuity rate and computational data.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Entitlement information may be disclosed to primary beneficiaries regarding secondary beneficiaries (or vice versa) when the addition of such beneficiary affects either the entitlement or benefit payment.

b. Information may be disclosed to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act or the Railroad Unemployment Insurance Act.

c. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

d. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's estimated payment of unemployment, sickness or retirement benefits, the methods by which such benefits are calculated and entitlement data may be released to the requesting employer for the purposes of determining entitlement to and the rates of private supplemental pensions, sickness or unemployment benefits and to calculate estimated benefits due.

e. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

f. Information in this system of records may be released to the attorney representing an individual in connection with that individual's claim for benefits under the Railroad Retirement Act or the Railroad Unemployment Insurance Act, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Microfiche.

Retrievability: Social security number.

Safeguards: Only authorized personnel have access to these records. Fiche are kept in offices locked at the close of business each day until start of business the next day.

Retention and disposal: Shredded upon receipt of annual updated microfiche.

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System manager(s) and address:
Director of Data Processing and Accounts
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Furnished to district offices by headquarters who secured the information from the original master records.

RRB-5

System name: Master File of Railroad Employees' Creditable Compensation—RRB.

System location:
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: All individuals with compensation creditable under the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

Categories of records in the system: Individual name, social security account number, claim number, gross residual amount, last employer identification number, master file of service and compensation 1937-current.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)) and Section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(l))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Records may be transferred to the Social Security Administration to correlate disability freeze actions and in cases where the railroad employee does not acquire 120 creditable service months before retirement or death, or has no current connection with the railroad industry, to enable SSA to credit the employee with the compensation and to pay or deny benefits.

b. Service months and years may be released to the respective employees through their employers furnishing cumulative and yearly creditable compensation and service months.

c. Service months and earnings may be released to employers or former employers for correcting or reconstructing earnings records for railroad employees.

d. Information may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act and/or the Railroad Unemployment Insurance Act.

e. Employee identification and potential entitlement may be furnished to the Social Security Administration, Bureau of Supplemental Security Income, to Federal, State and local welfare or public aid agencies to assist them in processing application for benefits under their respective programs.

f. Employee identification and other pertinent information may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

g. The last employer information may be disclosed to the Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

h. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

i. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the employee's potential eligibility for unemployment, sickness of retirement benefits may be released to the requesting employer for the purpose of determining entitlement to and the rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due from the employer.

j. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his anticipated benefit may be disclosed to the labor organization official.

k. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act or the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

l. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

m. Information in this system of records may be released to the attorney representing an individual in connection with that individual's claim for benefits under the Railroad Retirement Act or the Railroad Unemployment Insurance Act, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape, paper.

Retrievability: Social security number, claim number, name.

Safeguards: Magnetic tape—computer and computer storage rooms are restricted to authorized personnel. Paper—bound in hard covers and stored on steel shelving; available to authorized unit personnel.

Retention and disposal: Magnetic tape—permanent retention; updated annually. Paper—retained five years and destroyed; last year ledger put in storage when current year ledger complete.

System manager(s) and address:
Director of Data Processing and Accounts
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Railroad employer.

RRB-6

System name: Unemployment Insurance Record File—RRB

System location: District Offices: See Appendix I for addresses.

Categories of individuals covered by the system: Claimants for unemployment benefits under the Railroad Unemployment Insurance Act and their respective employers.

Categories of records in the system: Development file containing letters from claimants, report of Railroad Unemployment Insurance Act fraud investigations and supporting evidence, erroneous payment investigations, protest and appeal requests and responses.

Authority for maintenance of the system: Section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(l))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Beneficiary identifying information may be released to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

b. Benefit rate, name and address may be referred to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, reconcile reports of nondelivery, and to insure delivery of check to the correct address of the beneficiary or representative payee.

c. Beneficiary's name, address, check rate, date and number, plus supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad unemployment or sickness benefit checks.

d. Identifying information such as full name, address, date of birth, social security number, employee identification number, and date last worked, may be released to any last employer to verify entitlement for benefits under the Railroad Unemployment Insurance Act.

e. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's payment of unemployment or sickness benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

f. Benefit rates and effective dates may be released to the Social Security Administration, Bureau of Supplemental Security Income, to Federal, State and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

g. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

h. Records may be disclosed to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under the Railroad Unemployment Insurance Act, as amended.

i. The last addresses and employer information may be disclosed to the Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

j. Disclosure may be made to a congressional office from the record of the individual in response to an inquiry from the congressional office made at the request of that individual.

k. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning this benefit or anticipated benefit may be disclosed to the labor organization official.

l. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

m. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

n. Information in this system of records may be released to the attorney representing an individual in connection with that individual's claim for benefits under the Railroad Unemployment Insurance Act, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper

Retrievability: Name, social security number

Safeguards: Kept in steel file cabinets away from the general public and are available only to district office and regional office personnel.

Retention and disposal: Shredded five years after end of benefit year in which originated.

System manager(s) and address:
Director of Unemployment and Sickness Insurance
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identiy or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Individual claimant or his authorized representative, employers, State employment and unemployment claims records, Federal, and Social Security Administration employer compensation reports.

RRB-7

System name: Applications for Unemployment Benefits and Placement Service under the Railroad Unemployment Insurance Act—RRB.

System location: District Offices: See Appendix I for addresses.

Categories of individuals covered by the system: Individuals who have made application for unemployment benefits and employment service.

Categories of records in the system: Name, address, account number, age, sex, education, height, weight, veteran status, employer, occupation, rate of pay, reason not working and last date worked, personal interview record, results of investigations.

Authority for maintenance of the system: Section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(l)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Selected information may be disclosed to prospective employers for potential job placement.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Beneficiary identification and entitlement information may be released to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

d. A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

e. Beneficiary identification, entitlement and benefit rate information may be released to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, reconcile reports of nondelivery and to insure delivery of check to the correct address of the beneficiary or representative payee.

f. Information may be referred to the U.S. Postal Service for investigation of alleged forgery or theft of railroad unemployment or sickness benefit checks.

g. Beneficiary identification, entitlement, and benefit rate information may be released to the Social Security Administration, Bureau of Supplemental Security Income, to federal, state and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

h. The last addresses and employer information may be disclosed to Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

i. Information may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Unemployment Insurance Act.

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j. Records may be disclosed to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under the Railroad Unemployment Insurance Act, as amended.

k. Identifying information such as full name, address, date of birth, social security number, employee identification number, and date last worked, may be released to any last employer to verify entitlement for benefits under the Railroad Unemployment Insurance Act.

l. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

m. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's payment of unemployment or sickness benefits, the methods by which such benefits are calculated, entitlement data and present address will be released to the requesting employer for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

n. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

o. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

p. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

q. Information in this system of records may be released to the attorney representing an individual in connection with that individual's claim for benefits under the Railroad Unemployment Insurance Act, upon receipt, of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Social security number.

Safeguards: Only authorized personnel have access to the records; offices locked during nonbusiness hours.

Retention and disposal: In routine cases, held for three years after end of benefit year in which originated. In those with adverse activities (claims denied), held for five years after end of benefit year in which originated. At end of both periods, files are shredded.

System manager(s) and address:

Director of Unemployment and Sickness Insurance
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Individual applicant or his authorized representative, present and former employers, state and federal departments of employment security, Social Security Administration and labor organizations.

RRB-8

System name: Railroad Retirement Tax Reconciliation System—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Railroad employee representatives covered under the Railroad Retirement Act.

Categories of records in the system: Employers' quarterly or annual railroad retirement report of compensation and taxes.

Authority for maintenance of the system: Section 15 of the Railroad Retirement Act of 1974 (45 U.S.C. 231n)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Service and earnings information may be released to the Internal Revenue Service and the Treasury Department to refund excess taxes.

b. Records may be disclosed to the General Accounting Office for auditing purposes.

c. Service and earnings information may be released to employers or former employers for correcting or reconstructing earnings records for railroad retirement, supplemental or unemployment/sickness employment tax purposes only, not to be construed as an extension of the statutory time limitation to amend such records.

d. In the event that this system of records maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, or local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, punch cards.

Retrievability: Name.

Safeguards: Records are maintained in areas not accessible to the public and are not permitted to be removed without authorization; secured building.

Retention and disposal: Employer and employee representatives quarterly tax returns and tax reporting reconciliation file are sent to Federal Records Center. The General Services Administration will destroy.

System manager(s) and address:

Director of Budget and Fiscal Operations
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Railroad tax reports, creditable and taxable compensation.

RRB-9

System name: Protest and Appeals under the Railroad Unemployment Insurance Act—RRB.

System location: Regional Offices: See Appendix I for addresses.

Categories of individuals covered by the system: Railroad Employees.

Categories of records in the system: Name, address, social security number, employment data, record of investigation on adverse action.

Authority for maintenance of the system: Section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C.362(l))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

b. Identifying information such as full name, address, date of birth, social security number, employee identification number, and date last worked, may be released to any last employer to verify entitlement for benefits under the Railroad Unemployment Insurance Act.

c. Beneficiary identification, entitlement and benefit rates may be released to the Social Security Administration, Bureau of Supplemental Security Income, to federal, state and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

d. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

e. Pursuant to a request from an employer covered by the Railroad Unemployment Insurance Act, information regarding the Board's payment of unemployment or sickness benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

f. If a request for information pertaining to an individual is made by an official of a labor organization of the individual concerning his benefit or anticipated benefit may be disclosed to the labor organization official.

g. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

h. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

i. Information in this system of records may be released to the attorney representing such individual in connection with the individual's claim for benefits under the Railroad Unemployment Insurance Act, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Name, social security number.

Safeguards: Only authorized personnel have access to these records which are kept in an office that is locked at the close of business each day and remains so until start of business the next day.

Retention and disposal: Destroyed by shredding no later than five years after the end of the fiscal year in which originated.

System manager(s) and address:

Director of Unemployment and Sickness Insurance
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Employee, employer and district office records.

RRB-10

System name: Legal Opinion Files—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Applicants for benefits under the Railroad Retirement Act or the Railroad Unemployment Insurance Act.

Categories of records in the system: The files include a copy of the question submitted to the Bureau of Law for an opinion and a copy of the legal opinion rendered by the Bureau of Law. There may be copies of any correspondence between the Board and the individual or his employer concerning the question presented.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)) and Section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(l))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as routine use, to the appropriate agency, whether federal, state local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper

Retrievability: Name

Safeguards: Stored in locking file cabinets; access to these files is restricted to attorneys, other employees in the Bureau of Law, and other Board employees with express permission of the head of the clerical section of the Bureau of Law.

Retention and disposal: Permanent retention.

System manager(s) and address:

General Counsel
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name, social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: The individual or his or her authorized representative, other record systems maintained by the Railroad Retirement Board, employers.

RRB-11

System name: Files on Concluded Litigation—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Railroad employees, retired railroad employees, and individuals with some creditable railroad service who are involved in litigation in which the Railroad Retirement Board has some interest as a party or otherwise.

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Categories of records in the system: Legal briefs, reports on legal or factual issues involved copies of subpoenas which may have been issued, copies of any motions filed, transcripts of any depositions taken, correspondence received and copies of any correspondence released by the Board pertaining to the case, copies of any court rulings on motions, and copies of the final decision in the case.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)) and Section 12(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(1))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred , as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Name.

Safeguards: Stored in locking file cabinets; access to these files is restricted to attorneys, other employees in the Bureau of Law, and other Board employees with express permission of the head of the clerical section of the Bureau of Law.

Retention and disposal: Permanent retention.

System manager(s) and address:

General Counsel
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611.

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: The individual himself or his authorized representative, other record systems maintained by the Railroad Retirement Board, employers, the Social Security Administration.

RRB-12

System name: Railroad Employees' Registration File—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Railroad employees.

Categories of records in the system: Railroad employee's name, address, social security number, date of birth, place of birth, mother's and father's names, sex, occupation and employer.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Name, date and place of birth, social security number, and parents' names may be disclosed to the Social Security Administration to verify social security number and date of birth.

b. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act, or Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

c. Records may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act and/or the Railroad Unemployment Insurance Act.

d. Information in this system of records may be released to the attorney representing such individual in connection with the individual's claim for benefits under the Railroad Retirement Act or the Railroad Unemployment Insurance Act, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, microfilm.

Retrievability: Social security number.

Safeguards: Stored in steel cabinets; available to authorized unit personnel.

Retention and disposal: Permanent retention.

System manager(s) and address:

Director of Data Processing and Accounts
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Railroad employee and employer.

RRB-13

System name: Disclosure of Information Files—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Railroad employees, railroad retirement annuitants, and other individuals with some creditable railroad employment on whose records a request for information, in the form of a subpoena or otherwise, has been received by the Board.

Categories of records in the system: Copies of the request or subpoena and any related correspondence received or released by the Board. Reports on and copies of any motions filed to quash a subpoena. Copies of any records which may have been disclosed.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)) and Section 12(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(1))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For internal Board use only.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Last name.

Safeguards: Stored in locking file cabinets in the Bureau of Law. Access to these files is restricted to attorneys, other employees in the Bureau of Law, and other Board employees with express permission of the head of the clerical section of the Bureau.

Retention and disposal: Retained permanently.

System manager(s) and address:

General Counsel
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System

Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Individual himself, person(s) seeking information about the individual, and other records systems maintained by the Board.

RRB-14

System name: Freedom of Information Act Register—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611 Regional Offices: See Appendix I for addresses.

Categories of individuals covered by the system: Individuals whose requests for records fall within the scope of the Freedom of Information Act.

Categories of records in the system: Lists inquiries which fall within the scope of the Freedom of Information Act. Also shows the action taken in handling the inquiry.

Authority for maintenance of the system: 5 U.S.C. 552, Public Law 93-502

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information may be furnished to the Freedom of Information Committee, the Department of Justice, and to the Office of Management and Budget in fulfilling their requirements under this Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Claim number and name.

Safeguards: Records are maintained in areas unaccessible to the general public; only authorized personnel have access to these records.

Retention and disposal: Destroyed by shredding five years after the annual report is furnished to Congress.

System manager(s) and address:

Chief Executive Officer
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Inquirer

RRB-15

System name: Covered Abandoned Railroads—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Railroad employees

Categories of records in the system: Service and compensation records of employees of abandoned railroads prior to 1937.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act, or Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

b. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Name, payroll number.

Safeguards: Available only to authorized unit personnel; building secured.

Retention and disposal: Permanent retention

System manager(s) and address:

Director of Data Processing and Accounts
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Railroad employer

RRB-16

System name: Social Security Administration Summary Earnings File—RRB

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Railroad employees and their auxiliary beneficiaries.

Categories of records in the system: Social security account number, name, date of birth, sex, social security claim status, creditable earnings from 1937 to date.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231(b)(6))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Internal use only.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape

Retrievability: Social security account number, name

Safeguards: Computer and computer storage rooms are restricted to authorized personnel; secured building.

Retention and disposal: Permanent retention

System manager(s) and address:

Director of Data Processing and Accounts
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name, social security account number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Social Security Administration.

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RRB-17

System name: Appeal Decisions from Initial Denials for Benefits Under the Provisions of the Railroad Retirement Act—RRB.

System location:
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Appellants under the provisions of the Railroad Retirement Act.

Categories of records in the system: Narrative of the facts and law pertinent to the decision made by the appeals referee.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

b. Pursuant to a request from an employer covered by the Railroad Retirement Act, information regarding the Board's payment of benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

c. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

d. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

e. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

f. Information in this system of records may be released to the attorney representing such individual in connection with the individual's claim for benefits under the Railroad Retirement Act upon receipt of a letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Claim number or social security number.

Safeguards: Decision books are limited to review by authorized Board personnel.

Retention and disposal: The decisions which are bound into book form are kept permanently.

System manager(s) and address:
Director of Hearings and Appeals
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Information contained in the claim folder of an individual consisting of evidence furnished by doctors on the appellant's behalf, and Board-designated doctors as well as any and all information the appellant desires to submit, Social Security Administration, Veterans Administration.

RRB-18

System name: Travel and Miscellaneous Voucher Examining System—RRB.

System location:
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Railroad Retirement Board employees.

Categories of records in the system: Travel vouchers, miscellaneous reimbursement vouchers.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6) and Section 12(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(1)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Identifying information and check amount may be released to the Treasury Department to issue checks.

b. Records may be disclosed to the General Accounting Office for auditing purposes.

c. Identifying information, check number, date and amount may be released to the U.S. Postal Service for investigation of alleged forgery or theft of reimbursement checks.

d. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper

Retrievability: Name.

Safeguards: Records are maintained in areas not accessible to the public and are not permitted to be removed without authorization; secured building.

Retention and disposal: Retain at headquarters for two years then to Chicago Federal Records Center—GSA will destroy when authorized by General Accounting Office.

System manager(s) and address:
Director of Budget and Fiscal Operations
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Employees travel records, memoranda from Regional Directors, and purchase orders.

RRB-19

System name: Payroll Record System—RRB.

System location:
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Railroad Retirement Board employees.

Categories of records in the system: Time, leave and payroll information.

Authority for maintenance of the system: Pay Acts as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Salary and tax information may be disclosed to Internal Revenue Service, state and city taxing authorities for tax purposes.

b. Service history including pay, benefits, salary deductions for retirement and other information necessary may be disclosed to Civil Service Commission for use in computation of civil service annuities and to carry out its Government-wide personnel management functions.

c. Computer check issue tapes may be released to the Department of Treasury for issuance of salary checks.

d. Identification information, check number, data and amount, plus other supporting evidence may be forwarded to the U.S. Postal Service for investigation of alleged forgery or theft of salary checks.

e. The last addresses and employer information may be released to Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

f. Records may be disclosed to the General Accounting Office for auditing purposes.

g. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

h. A copy of the employee's Form W-2, Wage and Tax Statement, or other similar form containing the name, social security number, taxable earnings and amounts withheld, may be released to the State, city or other local jurisdiction which is authorized to tax the employee's compensation in accordance with a withholding agreement between the State, city or other local jurisdiction and the Department of the Treasury, or in absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Director of Budget and Fiscal Operations, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois, 60611.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, tape and microfilm.

Retrievability: Social security number and name.

Safeguards: Housed in secured building and maintained in areas not accessible to the public; information released only at employee's request or to approved federal and local authorities.

Retention and disposal: Consolidated pay tapes, first two master tapes, and last two master tapes for each year. Destroy record three years after close of calendar year in which prepared by erasing tape. Security record—current check issue tape. Dispose when National Personnel Records Center receives second subsequent document covering same type of payment.

System manager(s) and address:
Director of Budget and Fiscal Operations
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Railroad Retirement Board employees personnel action, time and attendance reports, deduction authorizations.

RRB-20

System name: Health Insurance and Supplementary Medical Insurance Enrollment and Premium Payment System (MEDICARE)—RRB.

System location:
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611 District and Regional Offices—
See Appendix I for addresses.

Categories of individuals covered by the system: Qualified Railroad Retirement beneficiaries who are eligible for medicare coverage, attending physicians, chiropractors and physical therapists.

Categories of records in the system: Claim number, social security number, name, address, type of beneficiary under the Railroad Retirement Act, date of birth, method of Supplementary Medical Insurance premium payment, enrollment status, amount of premium, paid-thru date, third party premium payment information, coverage jurisdiction determination, direct premium billing and premium refund accounting, correspondence from beneficiaries, physicians suspected of overutilization and those suspended from payment by Medicare.

Authority for maintenance of the system: Section 7(d) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(d))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Beneficiary identification, enrollment status and premium deductions information may be released to the Social Security Administration and the Health Care Financing Administration to correlate actions with the administration of Title II and Title XVIII (MEDICARE) of the Social Security Act.

b. Beneficiary identification may be disclosed to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

c. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made from the record of the individual to the representative payee.

d. Data may be disclosed to Department of Health, Education, and Welfare for reimbursement for work done under reimbursement provisions of Title XVIII of the Social Security Act, as amended.

e. Jurisdictional clearance, premium rate, coverage election, paid thru date, and amounts of payments in arrears may be released to the Social Security Administration and the Health Care Financing Administration to assist that agency in administering Title XVIII of the Social Security Act.

f. Beneficiary identification, premium rate and paid-thru date may be released to effect state buy-in and third party premium payments.

g. Payment data may be disclosed to consultants to determine reasonable charges for hospital insurance payments in Canada.

h. Entitlement data may be disclosed to primary beneficiaries regarding secondary beneficiaries (or vice versa) when the addition of such beneficiary affects entitlement.

i. Records may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act and Social Security Act, as amended.

j. The last addresses information may be disclosed to Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

k. Beneficiary identification, entitlement data and rate information may be referred to the Department of State and embassy officials to aid in the development of applications, supporting evidence and the continued eligibility of beneficiaries and potential beneficiaries living abroad.

l. Records may be released to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under Title XVIII of the Social Security Act, as amended.

m. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

n. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's determination of medicare entitlement, entitlement data and present address may be released to the

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requesting employer for the purposes of determining entitlement to and rates of supplemental benefits payable under private employee welfare benefit plans.

o. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his entitlement to medicare may be disclosed to the labor organization official.

p. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act, or Social Security Act and may be disclosed during the course of an administrative appeal hearing which such records are relevant to the issue.

q. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

r. Information in this system of records may be released to the attorney representing such individual in connection with the individual's claim for benefits under the Railroad Retirement Act and Title XVIII of the Social Security Act, as amended, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, magnetic tape and microfilm.

Retrievability: Claim number, social security number, full name.

Safeguards: Records are maintained in areas not accessible by the public and are not permitted to be removed from headquarters without authorization.

Retention and disposal: Paper: Computer printouts are retained for three months, then burned; applications materials are kept permanently. Magnetic tape: Updated weekly; obsolete tape written over. Microfilm: Retained for 18 months, then shredded.

System manager(s) and address:

Director of Retirement Claims
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's records should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Applicant (the qualified railroad beneficiary), his/her representative, Social Security Administration, Health Care Financing Administration, The Travelers Insurance Company, federal, state or local agencies, third party premium payers, all other Railroad Retirement Board files, physicians.

RRB-21

System name: Railroad Unemployment and Sickness Insurance Benefit System—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611 Regional and District Offices: See Appendix I for addresses.

Categories of individuals covered by the system: Applicants and claimants for unemployment and sickness (including maternity) benefits under the Railroad Unemployment Insurance Act; some railroad employees injured at work who did not apply for Railroad Unemployment Insurance Act benefits; all railroad employees paid separation allowances.

Categories of records in the system: Information pertaining to payment or denial of an individual's claim for benefits under the Railroad Unemployment Insurance Act: name address, sex, social security number, date of birth, total months of railroad service (including creditable military service), total creditable compensation for base year, last employer and date last worked before applying for benefits, last rate of pay in base year, reason not working, applications and claims filed, benefit payment information for each claim filed, disqualification periods and reasons for disqualification, entitlement to benefits under other laws, benefit recovery information about personal injury claims and pay for time not worked, medical reports, placement data, correspondence and telephone inquiries to and about the claimant, record of protest or appeal by claimant of adverse determinations made on his claims.

Authority for maintenance of the system: Section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 351, et. seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Beneficiary identifying information may be disclosed to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Beneficiary identifying information, address, check rate, date and number may be released to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, respond to reports of non-delivery and to insure delivery of check to the correct address of the beneficiary or representative payee.

d. Beneficiary identifying information, address, check rate, date and number, plus other necessary supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad unemployment/sickness benefit checks.

e. A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

f. Under Section 2(f), the Railroad Retirement Board has the right to recover benefits paid to an employee who later receives remuneration for the same period, therefore, the Railroad Retirement Board may notify the person or company paying the remuneration of the Board's right to recovery and the amount of benefits to be refunded.

g. Under Section 12(o), the Railroad Retirement Board is entitled to reimbursement of sickness benefits paid on account of the infirmity for which damages are paid, consequently, the Railroad Retirement Board may send a notice of lien to the liable party, and, upon request by the liable party, advise the amount of benefits subject to reimbursement.

h. Records may be disclosed to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Unemployment Insurance Act.

i. Beneficiary identifying information, rate and entitlement data may be released to the Social Security Administration to correlate actions with the administration of the Social Security Act.

j. The last addresses and employer information may be released to Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

k. Benefit rate, entitlement and periods paid may be disclosed to the Social Security Administration, Bureau of Supplemental Security Income, to federal, state and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

l. Beneficiary identifying information, entitlement, rate and other pertinent data may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

m. Beneficiary identifying information and medical evidence may be released to state or local agencies required by state or local law to be informed of the existence of a legally reportable medical condition, when discovered in connection with an application for disability or sickness benefits.

n. Records may be referred to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments unde the Railroad Unemployment Insurance Act.

o. If a request for information pertaining to an individual is made by an official of a labor organization, of which the individual is a member, information from the record of the individual concerning his benefit or anitcipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

p. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's payment of unemployment or sickness benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

q. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

r. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

s. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its function, indicates a violation, or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

t. Information in this system of records may be released to the attorney representing such individual in connection with the individual's claim for benefits under the Railroad Unemployment Insurance Act, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

u. Beneficiary identifying information, entitlement data, benefit rates and periods paid may be released to the Veterans Administration to verify continued entitlement to benefits.

v. Identifying information such as full name, social security number, employee identification number, date last worked, occupation and location last worked may be released to any last employer to verify entitlement for benefits under the Railroad Unemployment Insurance Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, magnetic tape and microforms.

Retrievability: Social Security number (claim number) and name.

Safeguards: Records are maintained in areas not accessible to the public and are not permitted to be removed from headquarters without authorization.

Retention and disposal: Paper-transferred to the Chicago Federal Records Center one year after the end of the benefit year during which the case was closed. Destroyed by the General Services administration five years after the end of the benefit year. In appeal cases, retention is permanent. In benefit recovery cases, the file is transferred to the Federal Records Center if there has been no recent activity; the file is not destroyed until five years after recovery has been completed. Magnetic tape-destroyed ten years after the end of the benefit year. Microforms-destroyed ten years after the end of the benefit year.

System manager(s) and address:

Director of Unemployment and Sickness Insurance
U.S Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Applicant, claimant or his representative, physicians, employers, unemployment claims agents, labor organizations, federal, state, and local government agencies, all Railroad Retirement Board files, insurance companies, attorneys, congressmen, liable parties (in personal injury cases), funeral homes and survivors (for payment of death benefits).

RRB-22

System name: Railroad Retirement, Survivor, and Pensioner Benefit System-RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611 Regional and District Offices: See Appendix I for addresses.

Categories of individuals covered by the system: Applicants for retirement and survivor benefits, their dependents (spouses, children, parents, grandchildren), individuals who filed for lump sum death benefits and/or residual payments.

Categories of records in the system: Information pertaining to the payment or denial of an individual's claim for benefits under the Railroad retirement Act: name, address, social security number, claim number, proofs of age, marriage, relationship, and military service, creditable earnings and service months (including military service), entitlement to benefits under the Social Security Act, Veterans Administration or other benefit systems, rates, effective dates, medical reports, correspondence and telephone inquires to and about the beneficiary, record of determination and appeal by beneficiary, suspension and termination dates, health insurance effective date, option, premium rate and deduction, direct deposit data and employer pension information.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f (b)(6)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Beneficiary identifying information may be disclosed to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Entitlement and benefit rates may be released to primary beneficiaries regarding secondary beneficiaries (or vice versa) when the addition of such beneficiary affects either the entitlement or benefit payment.

d. Identifying information such as full name, address, date of birth, social security number, employee identification number, and date last worked, may be released to any last employer to verify entitlement for benefits under the Railroad Retirement Act.

e. Beneficiary identifying information, address, check rate, number and date may be released to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, reconcile reports of non-delivery, and to insure delivery of check to the correct address of the beneficiary or representative payee.

f. Beneficiary identifying information, address, check rate, date, number and other supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad retirement or social security benefit checks.

g. Beneficiary identifying information, entitlement data, medical evidence and related evaluatory data, and benefit rate may be released to the Social Security Administration and the Health Care Financing Administration to correlate actions with the administration of Title II and Title XVIII of the Social Security Act, as amended.

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h. Beneficiary identifying information, including social security account number, and supplemental annuity amounts may be released to the Internal Revenue Service, State and local taxing authorities for tax purposes (Form G-1099, for those annuitants receiving supplemental annuities).

i. Beneficiary identifying information, entitlement, benefit rates, medical evidence and related evaluatory data and months paid may be released to the Veterans Administration to verify continued entitlement to benefits.

j. Beneficiary identifying information, entitlement data and benefit rates may be released to the Department of State and embassy officials to aid in the development of applications, supporting evidence and the continued eligibility of beneficiaries and potential beneficiaries living abroad.

k Beneficiary identifying information, entitlement, benefit rates and months paid may be released to the Social Security Administration, Bureau of Supplemental Security Income, Health Care Financing Administration, to Federal, State and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

l. The last addresses and employer information may be released to the Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

m. Beneficiary identifying information, entitlement, rate and other pertinent data may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

n. Beneficiary identifying information and medical evidence may be released to state or local agencies required by state or local law to be informed of the existence of a legally reportable medical condition, when discovered in connection with an application for a disability annuity.

o. Medical evidence may be released to Board-appointed medical examiners to carry out their functions.

p. Information obtained in the administration of Title XVIII (Medicare) which may indicate unethical or unprofessional conduct of a physician or practitioner providing services to beneficiaries may be released to Professional Standards Review Organizations and State Licensing Boards.

q. Information necessary to study the relationship between benefits paid by the Railroad Retirement Board and civil service annuities may be released to the Civil Service Commission.

r. Records may be disclosed to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under Title II and Title XVIII of the Social Security Act, as amended, or the Railroad Retirement Act.

s. Records may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act.

t. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

u. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's payment of retirement benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

v. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

w. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act, and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

x. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

y. Information in this system of records may be released to the attorney representing such individual in connection with the individual's claim for benefits under the Railroad Retirement Act, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

z. The amount of a residual lump sum payment and the identity of the payee may be released to the Internal Revenue Service for tax audit purposes.

aa. The amount of any death benefit or annuities accrued but unpaid at death and the identity of such payee may be released to the appropriate state taxing authorities for tax assessment and auditing purposes.

bb. Beneficiary identifying information, including but not limited to name, address, social security account number, payroll number and occupation, the fact of entitlement and benefit rate may be released to the Pension Benefit Guaranty Corporation to enable that agency to determine and pay supplemental pensions to qualified railroad retirees.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, magnetic tape and microforms.

Retrievability: Claim number, social security number, full name.

Safeguards: Records are maintained in areas not accessible to the public, offices are locked during non-business hours.

Retention and disposal: Paper: Individual claim folders with records of all actions pertaining to the payment or denial of claims are shredded 25 years after the date of last payment or denial activity. Other paper listings are destroyed one year after date of issue, except for accounts receivable listings which are destroyed only after General Accounting Office audit. Magnetic tape: Tapes are updated at least monthly, writing over obsolete data. Microforms: Originals are kept for five years; duplicates for one year. Destroyed by shredding.

System manager(s) and address:
Director of Retirement Claims
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Individual applicants or their representatives, railroad employers, other employers, physicians, labor organizations, federal, state and local government agencies, attorneys, funeral homes, congressmen, schools, foreign governments.

RRB-23

System name: Four Percent Wage History of Railroad Workers—RRB.

System location:
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Individuals with service creditable under the Railroad Retirement Act having a social security number ending in 30, 35, 80 or 85.

Categories of records in the system: Service earnings and retirement and death data for these selected individuals.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape and microfilm.

Retrievability: By claim number.

Safeguards: Magnetic and microfilm available to authorized personnel only.

Retention and disposal: Magnetic tape retained for two years then written over. Microfilm retained for one year and shredded.

System manager(s) and address:
Director of Research
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Benefit award forms, Social Security Administration, application, disability rating and freeze determinations, and other Railroad Retirement Board files.

RRB-27

System name: Railroad Retirement Board-Social Security Administration Financial Interchange System—RRB.

System location:
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: One-percent sample of present and former railroad employees and members of their families who would have been eligible for social security benefits if railroad employment had been covered by the social security system.

Categories of records in the system: Claim number, social security number, date of birth, and administrative cost and payment data on imputed and actual social security benefits.

Authority for maintenance of the system: Section 7(c)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(c)(2))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Findings, including individual records, may be released to the Social Security Administration, determining amounts which, if added to or subtracted from the OASDI Trust Funds, would place the Social Security Administration in the position it would have been if employment covered by the Railroad Retirement Act had been covered by the Social Security Insurance Contributions Acts.

b. Information may be released to the General Accounting Office for auditing purposes.

c. Records may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape and paper.

Retrievability: Claim and social security account numbers.

Safeguards: Records are maintained in areas not accessible to the public and are not permitted to be removed.

Retention and disposal: Retained indefinitely; except that periodically, inactive materials are sent to the Federal Records Center to be retained for ten years, then destroyed by the General Services Administration.

System manager(s) and address:
Director of Research
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security account number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Annuitants, the Social Security Administration, and other Railroad Retirement Board files.

RRB-28

System name: One Percent Historical File of Railroad Unemployment and Sickness Beneficiaries—RRB.

System location:
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Individuals receiving unemployment and sickness benefits whose social security number ended in 30 for years 1939-1965 and 00 for years 1967 to date.

Categories of records in the system: Benefit data relating to the individual.

Authority for maintenance of the system: Section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(l))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Unemployment Insurance Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Tape.

Retrievability: Social security account number sequence.

Safeguards: Secured building.

Retention and disposal: Permanent file.

System manager(s) and address:
Director of Research
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Data is secured from benefit payment file used by Bureau of Unemployment and Sickness Insurance.

RRB-29

System name: Railroad Employees' Cumulative Gross Earnings Master File—RRB.

System location:
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Railroad workers whose social security account number ends in "30" who have worked in the railroad industry from 1951 through the present.

Categories of records in the system: Gross earnings by individual by month, quarter or year.

Authority for maintenance of the system: Section 7(c) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(c))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

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Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape.

Retrievability: Social Security account number.

Safeguards: Secured building.

Retention and disposal: Permanent retention.

System manager(s) and address:

Director of Research
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Data is secured from reports to the Board by railroad employers.

RRB-24

System name: Research Master Record for Lump Sum and Residual Awards Under the Railroad Retirement Act—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: A lump-sum is paid to widow or payer of burial expenses when there is no person eligible for a monthly insurance benefit. Residual payment is made to a designated beneficiary whenever entitlement to all other types of benefits has ended, provided the gross residual amount has not been exhausted by other payments.

Categories of records in the system: Master benefit file contains beneficiary characteristics, payment and administrative data for deceased employees with respect to whom lump-sum and/or residual benefits were paid.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape and microfilm.

Retrievability: By claim number.

Safeguards: Magnetic tape and microfilm available to authorized personnel only.

Retention and disposal: Magnetic tape retained for two years then written over. Microfilm retained for one year and shredded.

System manager(s) and address:

Director of Research
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Data entered from benefit award forms and application.

RRB-25

System name: Research Master Record for Survivor Beneficiaries Under the Railroad Retirement Act—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Widowed mothers, aged and disabled widow(er)s, children and parents, survivor option annuitants.

Categories of records in the system: Survivor master benefit file contains historical, computational and statistical benefit data in numerical sequence by claim number.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Records may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act.

b. Records may be released to the Internal Revenue Service for the purpose of their checking amounts shown on individual tax returns as pensions and annuities received under the Railroad Retirement Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape and microfilm.

Retrievability: By claim number.

Safeguards: Magnetic tape and microfilm available to authorized personnel only.

Retention and disposal: Magnetic tape retained for two years then written over. Microfilm retained for one year and shredded.

System manager(s) and address:

Director of Research
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Application, benefit award forms, disability determinations and Social Security Administration.

RRB-26

System name: Research Master Record for Retired Railroad Employees and their Dependents—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Retirement and pension annuitants, spouse and ineligible person (IPI) included in benefit paid.

Categories of records in the system: Retirement master benefit file contains historical, computational and statistical benefit data.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Records may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act.

b. Records may be released to the Internal Revenue Service for the purpose of their checking amounts shown on individual tax returns as pensions and annuities received under the Railroad Retirement Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape, paper listings, punch cards.

Retrievability: Social security account number.

Safeguards: Records are maintained in areas not accessible to the public and are not permitted to be removed; secured building.

Retention and disposal: Paper and punch cards are kept for 10 years, then disposed of by the Federal Records Center. Updated historical magnetic tape is kept permanently.

System manager(s) and address:

Director of Research
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security account number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Railroad employers.

RRB-30

System name: Current Year Wage Study File—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: All railroad workers with service and compensation in current year.

Categories of records in the system: Service and compensation by individual for the year.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For internal Board use only.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape.

Retrievability: Social security account number sequence.

Safeguards: Secured building.

Retention and disposal: One year retention; tapes written over and reused.

System manager(s) and address:

Director of Research
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Railroad employers.

RRB-31

System name: Twenty Percent Unemployment and Sickness Annual Summary File—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: All individuals receiving unemployment and sickness benefits in a year, whose social security account number ends in 0 or 5.

Categories of records in the system: Unemployment and sickness benefits per individual by year.

Authority for maintenance of the system: Section 12(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(1))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For internal Board use only.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape.

Retrievability: Social security account number sequence.

Safeguards: Secured building.

Retention and disposal: Five year retention; disposal by writing over tapes.

System manager(s) and address:

Director of Research
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Data is secured from benefit payment file used by Bureau of Unemployment and Sickness Insurance.

RRB-32

System name: Twenty Percent Unemployment and Sickness Monthly Summary File—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Individuals receiving unemployment and sickness benefits in the year whose social security account number ends in 0 or 5.

Categories of records in the system: Unemployment and Sickness benefits per individual per month.

Authority for maintenance of the system: Section 12(1) of the Railroad Unemployment and Insurance Act (45 U.S.C. 362(1))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For internal Board use only.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape.

Retrievability: Social security account number sequence.

Safeguards: Secured building.

Retention and disposal: One year retention; disposal by writing over tapes.

System manager(s) and address:

Director of Research
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

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Record source categories: Data is secured from benefit payment file used by Bureau of Unemployment and Sickness Insurance.

RRB-33

System name: Federal Employee Incentive Awards System—RRB.

System location:
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Railroad Retirement Board employees who have submitted suggestions or have been nominated for awards.

Categories of records in the system: Employee suggestions, special achievement awards, quality increase awards, public service awards, government-sponsored awards.

Authority for maintenance of the system: Chapter 45, Title 5, U.S. Code.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Information may be released to the public media for public relations purposes.

b. Records may be disclosed to the General Accounting Office for auditing purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: System indexed by number assigned when suggestion or nomination is received. Suggestions are cross-referenced by name of suggester and subject of suggestion.

Safeguards: Only authorized staff has access to the files.

Retention and disposal: Denied suggestions are purged and destroyed 3 years after denial date. Adopted suggestions are retained permanently as are all special achievement and quality increase recommendations.

System manager(s) and address:
Chairman, Incentive Awards Committee
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Suggestion or award submitted by suggester or nominator. Suggestions submitted by employees; recommendations for award submitted by supervisory personnel.

RRB-34

System name: Employee Personnel Management Files—RRB.

System location:
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611
Regional and District Offices:
See Appendix I of publication for addresses.

Categories of individuals covered by the system: Current employees of the U.S. Railroad Retirement Board.

Categories of records in the system: Name, address and phone number of the person to notify in case of emergency and personal physician; copies of (1) pay change slip, (2) bi-weekly statement of earnings and leave, (3) SF-52, Request for Personnel Action, (4) SF-50, Personnel Action, (5) service computation date form, (6) written requests for leave, (7) performance ratings, (8) promotion appraisals, (9) incentive awards program suggestions and awards, (10) other awards and nominations for recognition, (11) supervisory informal and formal written notes, memorandums, etc., relative to admonishment, caution, warnings, reprimand or similar notices, (12) within-grade increase materials, (13) SF-171, Employment Application, (14) credit or debt correspondence, (15) letters of commendation, (16) official position descriptions, (17) probationary letters, (18) task lists and performance standards, (19) information concerning training received and seminars attended, and (20) miscellaneous correspondence.

Authority for maintenance of the system: Section 7(b)(9) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(9)) and the Federal Personnel Manual 293-31—Subchapter S-8.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

b. Records may be disclosed in a court proceeding and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

c. A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

d. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

e. Information in this system of records may be released to the attorney representing such individual, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Name of employee.

Safeguards: Kept in lockable file cabinets or lockable desks in secured buildings, with access limited to authorized personnel.

Retention and disposal: The folder and its contents will be destroyed by hand-shredding within 30 days after the employee leaves the bureau or region. Specific materials in these files are disposed of in accordance with applicable Civil Service Commission and GSA instructions or regulations and/or applicable internal administrative directives.

System manager(s) and address: The system managers are listed below.

For departmental employees:
Director of Personnel
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611
For field employees:
Regional Director of region where person is employed
(See Appendix I of publication for addresses).

Notification procedure: Requests for information regarding an individual's record should be addressed to the System Manager identified above, including the full name and social security number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification procedure above.

Contesting record procedures: See Notification procedure above.

Record source categories: Employee, agency officials and management personnel.

RRB-35

System name: Employee Promotion Evaluation File—RRB.

System location:
U.S. Railroad Retirement Board
844 Rush Street

Chicago, Illinois 60611

Categories of individuals covered by the system: Current Railroad Retirement Board employees excluding: (1) all employees who occupy positions at the GS-14 level and above; (2) district managers, GS-13; (3) Board appointees; and (4) medical personnel, attorneys and actuaries.

Categories of records in the system: Board seniority date; employee appraisal; supervisory appraisal; application for promotions or reassignment to supervisory field positions; and an extract from the official personnel folders showing experience, education, special skills, and a synopsis of unsatisfactory or outstanding performance rating memoranda, denials of within-grade increases, letters of commendation, work-related awards, and disciplinary action memoranda and warning notices.

Authority for maintenance of the system: Railroad Retirement Board Order 75-3, written in accordance with section 7(b)(9) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(9))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

b. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

c. Records may be disclosed in a court proceeding and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

d. Information in this system of records regarding an individual's work performance for the Railroad Retirement Board may be released to the attorney representing such individual, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Name of employee.

Safeguards: Kept in lockable file cabinets in a secured building, with access limited to authorized personnel.

Retention and disposal: Retained until the employee terminates employment with the Board or enters into one of the positions exempted under "Categories of individuals" above. The material is updated as new information is received. The employee appraisals and supervisory appraisals are updated every six months. Superseded materials are destroyed by hand-shredding.

System manager(s) and address:
Director of Personnel
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be addressed to the System Manager identified above and should include the name and social security number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: The individual to whom it applies, his official personnel folder and supervisory personnel.

RRB-36

System name: Negotiated Grievance File—RRB

System location:
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Railroad Retirement Board employees who have filed a grievance under negotiated grievance procedures.

Categories of records in the system: This system of records contains information and documents relating to the filing of a grievance under negotiated grievance procedures. It will contain a copy of the grievance memorandum submitted by the employee and a copy of the final determination made by the agency. It may contain evidence submitted by the employee and/or agency in support of or contesting the grievance.

Authority for maintenance of the system: Executive Order 11491, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

b. Information in this system of records may be released to the attorney representing such individual, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Name of employee.

Safeguards: Kept in lockable file cabinets in a secured building, with access limited to authorized personnel.

Retention and disposal: Maintained for five years, then destroyed by hand-shredding.

System manager(s) and address:
Director of Personnel
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be addressed to the System Manager identified above and should include the name and social security number of the individual involved. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: The information in this system of records is obtained from the Railroad Retirement Board employee, the employee's supervisor, bureau heads, regional directors, and the chief executive officer.

RRB-37

System name: Medical Records on Railroad Retirement Board Employees—RRB

System location:
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Railroad Retirement Board headquarters' employees grade GS-12 and above, age 45 and older, and any building employee involved in a medical emergency requiring further medical treatment.

Categories of records in the system: Name, date of examination, date of birth, brief narrative statement of the employee's general health and significant medical problem, chief complaint, physical findings and recommended action.

Authority for maintenance of the system: Railroad Retirement Board Order 75-6, written in accordance with section 7(b)(9) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(9))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For internal Board use only.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Name.

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Safeguards: Locked filing cabinets, only authorized personnel are permitted to access.

Retention and disposal: Maintained until the employee terminates employment with the Railroad Retirement Board, then hand-shredded.

System manager(s) and address:

Chief Medical Officer
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's records should be in writing addressed to the System Manager identified above, including full name and social security number of the individual. Before any information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Physician, medical personnel, Railroad Retirement Board employee.

RRB-38

System name: Regional Rail Reorganization Act Reimbursement System—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Any railroad employee who may be eligible for displacement, separation, termination or moving expense payments under Title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. sections 771-779).

Categories of records in the system: Information as to the amount of displacement, separation, termination or moving expenses paid by the employer to the employee, the basis for the payment, the kind of payment made, and if applicable, the period for which payment was made, RUIA benefits paid and recovered, railroad retirement taxes paid on payments covered under Regional Rail Reorganization Act Reimbursement System, RUIA contributions paid, hours worked in railroad service, effective date of separation, health/welfare premiums, FICA contributions, moving and related expenses. Identifying information includes the name of the employee, his social security account number, his employee identification number, job and employer code.

Authority for maintenance of the system: Title V, Section 509 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. section 779).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Information received from sources other than the employer which conflicts with information furnished by the employer in support of its reimbursement claims may be released to the employer to the extent needed to resolve the conflict.

b. A list of RUIA benefit claimants, amounts paid and periods covered, plus identifying information, may be disclosed to any employer requesting reimbursement for displacement, separation, termination or moving expenses for which a reimbursement set-off must be made.

c. If a request for information pertaining to an employee is made by an official of a labor organization of which the employee is a member and the request is made on behalf of the employee, information may be released to the extent needed to respond to the inquiry.

d. Disclosure may be made to a congressional office from the employee's record in response to an inquiry from the congressional office made at the request of the employee.

e. Information in this system of records regarding a reimbursement claim pertaining to an employee may be released to the attorney representing such employee, with respect to such claim, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject employee.

f. Information may be released to private contractors to the extent needed to fulfill contract requirements.

g. Information may be released to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under the Regional Rail Reorganization Act of 1973 or the Railroad Unemployment Insurance Act (45 U.S.C. section 351 et seq.).

h. Information may be released to the Department of Justice and to courts of competent jurisdiction in response to properly issued subpoenas.

i. In the event that this system of records maintained by the Railroad Retirement Board to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, or local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, magnetic tape and microforms.

Retrievability: Social security number and name.

Safeguards: Records are maintained in areas not accessible to the public and are not permitted to be removed from headquarters without authorization.

Retention and disposal: Retained until authorized to destroy by the General Accounting Office.

System manager(s) and address:

Director of Unemployment and Sickness Insurance
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Employee or his representative, employers, unemployment claims agents, labor organizations, and all Railroad Retirement Board files.

APPENDIX I
OFFICES OF THE U.S. RAILROAD RETIREMENT BOARD

A. Regional Offices:

Region 1
730 Peachtree Street, N.E.
Room 980
Atlanta, Georgia 30308

Region 2
Federal Building
Room 3415
26 Federal Plaza
New York, New York 10007

Region 3
Anthony J. Celebreeze Federal Building
Room 493
1240 East Ninth Street
Cleveland, Ohio 44199

Region 4
Federal Building
Room 257
601 East 12th Street
Kansas City, Missouri 64106

Region 5
Federal Building
Room 18043
450 Golden Gate Avenue
Box 36043
San Francisco, California 94102

B. District Offices:

Alabama
2121 Building
Room 1532
2121-8th Avenue North
Birmingham, Alabama 35203
Federal Office Building
Room 1000B
109 St. Joseph Street
Mobile, Alabama 36602

Arizona
301 West Congress
Room 4-M
Tucson, Arizona 85701

Arkansas
Combined Communications Center
Room 308
3rd & Louisiana Streets
Little Rock, Arkansas 72201

California
U.S. Courthouse Building
Room 1507
312 North Spring Street
Los Angeles, California 90012
Federal Building
1515 Clay Street
Oakland, California 94612
Federal Building
Room E-1821
2800 Cottage Way
Sacramento, California 95825
380 West Court Street
San Bernardino, California 92401
Federal Building
450 Golden Gate Avenue
P.O. Box 36045
San Francisco, California 94102

Colorado
183 Custom House
20th & Stout Streets
P.O. Box 8869
Denver, Colorado 80201

Connecticut
770 Chapel Street
New Haven, Connecticut 06510

D.C.
1925 L Street, N.W.
Washington, D.C. 20036

Florida
400 West Bay Street
Room 244
P.O. Box 35026
Jacksonville, Florida 32202
168 S.E. First Street
Room 809
Miami, Florida 33131
Federal Building
Room 707
700 Twiggs Street
Tampa, Florida 33602

Georgia
730 Peachtree Street, N.E.
Room 980
Atlanta, Georgia 30308
719 East 65th Street
Savannah, Georgia 31405

Idaho
106 Federal Building & Courthouse
150 South Arthur Avenue
P.O. Box 1297
Pocatello, Idaho 83201

Illinois
Federal Building
31st Floor
230 South Dearborn
Chicago, Illinois 60604
132 South Water Street
Suite 517 P.O. Box 1291
Decatur, Illinois 62525
Federal Building
650 Missouri Avenue
East St. Louis, Illinois 62201

Indiana
Lakeside II Office Building
Suite 145
2250 Lake Avenue
Fort Wayne, Indiana 46805
475 Broadway
Room 504
Gary, Indiana 46402
Federal Building
Room 105
575 North Pennsylvania Street
Indianapolis, Indiana 46204

Iowa
Federal Building
Room 709
210 Walnut Street
Des Moines, Iowa 50309

Kansas
Federal Building
Room 303
444 S.E. Quincy
Topeka, Kansas 66683
The Litwin Building
Suite 100-A
110 North Market Street
Wichita, Kansas 67202

Kentucky
Federal Building
Room 377A
600 Federal Place
P.O. Box 3702
Louisville, Kentucky 40201

Louisiana
Tidewater Marine Building
Suite 422
3308 Tulane Avenue
New Orleans, Louisiana 70119
Federal Building
U.S. Courthouse
500 Fannin Street
Room 3B04
Shreveport, Louisiana 71101

Maine
Federal Building
Room 2041
P.O. Box 3590
151 Forest Avenue
Portland, Maine 04101

Maryland
George H. Fallon Federal Office Building
Room 112
31 Hopkins Plaza
Baltimore, Maryland 21201

Massachusetts
John W. McCormack P.O. & Courthouse
Room 1802 P.O. Square
Boston, Massachusetts 02109
Federal Building & U.S. Courthouse
Room 411
436 Dwight Street
Springfield, Massachusetts 01103

Michigan
Book Building
Room 1811
1249 Washington Boulevard
Detroit, Michigan 48226
Carlson Buiten Building
965 North Division Street
Grand Rapids, Michigan 49503

Minnesota
Federal Building
Room 135
515 West First Street
Duluth, Minnesota 55802
1821 University Avenue
Room 193
St. Paul, Minnesota 55104

Mississippi
301 Building

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301 North Lamar Street
Room 407
P.O. Box 2468
Jackson, Mississippi 39205
Missouri
Federal Building
Room 258
601 East 12th Street
Kansas City, Missouri 64106
Federal Building
Room 109
319 South Lamine Avenue
Sedalia, Missouri 65301
210 North 12th Boulevard
Room 233
St. Louis, Missouri 63101
Landmark Building
Room 371
309 North Jefferson Street
Springfield, Missouri 65806
Montana
Federal Building
Room 1443
316 North 26th Street
P.O. Box 1351
Billings, Montana 59103
Nebraska
New Federal Building
Room 1010
215 North 17th Street
Omaha, Nebraska 68102
New Jersey
New Federal Building
Room 707
970 Broad Street
Newark, New Jersey 07102
New Mexico
1900-A Carlisle Boulevard, N.E.
P.O. Box 30203
Albuquerque, New Mexico 87110
Federal Building
Hill Avenue and Third Street
Room 130
P.O. Box 910
Gallup, New Mexico 87301
New York
Leo W. O'Brien Federal Building
Room 116
Clinton Avenue and North Pearl Streets
Albany, New York 12207
Federal Building
Room 1106
111 West Huron Street
Buffalo, New York 14202
183 Broadway
Third Floor, Room 310
Hicksville, New York 11801
U.S. Post Office Building
Room 327
Elmira, New York 14901
Federal Building
Room 3404
26 Federal Plaza
New York, New York 10007
U.S. Courthouse & Federal Building
100 S. Clinton Street
Room 525
Syracuse, New York 13202
North Carolina
Mart Office Building
Room BB-503
800 Briar Creek Road (at Independence)
Charlotte, North Carolina 28205
Federal Building
Room 238
310 New Bern Avenue
Raleigh, North Carolina 27611
North Dakota
U.S. Post Office Building
Room 219
657 Second Avenue, North
P.O. Box 383
Fargo, North Dakota 58102
Ohio
Federal Building
Room 1030
550 Main Street
Cincinnati, Ohio 45202
Anthony J. Celebrezze Federal Building
Room 401
1240 East 9th Street
Cleveland, Ohio 44199
Federal Building
U.S. Courthouse
Room 124
85 Marconi Boulevard
Columbus, Ohio 43215
Federal Building
Room 321
234 Summit Street
Toledo, Ohio 43604
Dollar Bank Building
Room 601
Central Square
Youngstown, Ohio 44503
Oklahoma
U.S. Post Office Building
Room 146
3rd & North Robinson Streets
Oklahoma City, Oklahoma 73102
Oregon
U.S. Courthouse
Room 301
620 Southwest Main Street
P.O. Box 8369
Portland, Oregon 97205
Pennsylvania
615 Howard Avenue
Room 10
P.O. Box 990
Altoona, Pennsylvania 16603
Federal Building
Room 500
228 Walnut Street
Box B
Harrisburg, Pennsylvania 17108
William J. Green, Jr. Federal Building
Room 7224
600 Arch Street
Philadelphia, Pennsylvania 19106
Park Building
Room 311
355 Fifth Avenue
Pittsburgh, Pennsylvania 15222
U.S. Post Office and Courthouse
Washington Avenue and Linden Street
Room 301
Scranton, Pennsylvania 18503
Tennessee
1111 Northshore Drive
Building 1
Room 237, Drawer 139
Knoxville, Tennessee 37919
Clifford Davis Federal Building
Room 31
167 North Main Street
Memphis, Tennessee 38103
Federal Building
U.S. Courthouse
Room 184
801 Broadway
Nashville, Tennessee 37203
Texas
Herring Plaza
Room 1107
P.O. Box H-4394
Amarillo, Texas 79101
1100 Commerce Street
Room 3 D 14
Dallas, Texas 75242

303 North Oregon
P.O. Box 5311
El Paso, Texas 79954
819 Taylor Street
Room 10A36
Fort Worth, Texas 76102
Federal Office Building
Room 2615
515 Rusk Street
P.O. Box 61166
Houston, Texas 77208
Federal Building
Room B-404
727 East Durango
San Antonio, Texas 78206
Utah
IRS Building
Suite 102
469 South 400 East
Salt Lake City, Utah 84111
Virginia
Stanwick Building
Room 147
3661 Virginia Beach Boulevard, East
Norfolk, Virginia 23502
Federal Office Building
Room 1207
400 North Eight Street
P.O. Box 10006
Richmond, Virginia 23240
Richard Poff Federal Building
Room 516
210 Franklin Road, S.W.
P.O. Box 270
Roanoke, Virginia 24011
Washington
Federal Building
Room 942
915 Second Avenue
Seattle, Washington 98174
U.S. Courthouse
Room 492
West 920 Riverside Avenue
Spokane, Washington 99201
West Virginia
1415 6th Avenue
P.O. Box 2153
Huntington, West Virginia 25722
Wisconsin
Lewis Center Building
Room 410
615 East Michigan Street
Milwaukee, Wisconsin 53202

APPENDIX II
RAILROAD PART B FIELD OFFICES

Arkansas
700 South University Avenue
P.O. Box 51
Little Rock, Arkansas 72203
Phone (501) 664-5085
Colorado
101 University Boulevard
Denver, Colorado 80206
Phone (303) 321-2333
Georgia
P.O. Box 10066
Augusta, Georgia 30903
Phone (404) 736-4451
Illinois
2200 East 170th Street
Lansing, Illinois 60438
Phone (312) 895-0700
Indiana
3833 North Meridian Street
Indianapolis, Indiana 46208
Phone (317) 923-3471
211 West Washington Avenue
South Bend, Indiana 46601
Phone (219) 232-1481
Kansas
202 West First Street
Wichita, Kansas 67202
Phone (316) 262-1881
9800 Metcalf Avenue
Overland Park, Kansas 62212
Phone (913) 967-4000
Louisiana
551 Corporate Boulevard
P.O. Box 2711 70821
Baton Rouge, Louisiana 70808
Phone (504) 927-9800
Michigan
(Detroit Office)
1000 Travelers Tower
Southfield, Michigan 48076
Phone (313) 355-5000
200 Ottawa Avenue, N.W.
Grand Rapids, Michigan 49502
Phone (616) 454-8381
Minnesota
500 IDS Center
Minneapolis, Minnesota 55402
Phone (612) 340-4000
North Federal Building
386 North Wabasha Avenue
St. Paul, Minnesota 55102
Phone (612) 222-4171
Missouri
522 Olive Street
St. Louis, Missouri 63101
Phone (314) 231-6900
Nebraska
1815 Capitol Avenue
Omaha, Nebraska 68102
Phone (402) 341-0860
New Mexico
300 San Mateo, N.E., Suite 200
Albuquerque, New Mexico 87108
Phone (505) 266-5511
New York
P.O. Box 395
Albany, New York 12201
Phone (518) 459-8900
Ohio
1300 Fifth and Race Tower
Cincinnati, Ohio 45202
Phone (513) 369-3100
1801 East Ninth Street
Cleveland, Ohio 44114
Phone (216) 241-4646
921 Chatham Lane
Columbus, Ohio 43221
Phone (614) 457-2250
3450 West Central Avenue
Toledo, Ohio 43606
Phone (419) 531-3391
Oklahoma
Jamestown Office Park
3035 Northwest 63rd Street
Oklahoma City, Oklahoma 73187
Phone (405) 848-7881
Texas
Two North Park East
Dallas, Texas 75231
Phone (214) 750-4000
1401 Montana Street
P.O. Box 10082-79991
El Paso, Texas 79902
Phone (915) 544-1122
Four Greenway Plaza East
Houston, Texas 77046
Phone (713) 627-6211
Utah
P.O. Box 30050
Salt Lake City, Utah 84125
Phone (801) 486-3161
Wisconsin
811 East Wisconsin Avenue
Milwaukee, Wisconsin 53202
Phone (414) 276-0820

[FR Doc.77-27349 Filed 9-19-77;8:45 am]

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WATER RESOURCES COUNCIL
PRIVACY ACT OF 1974
Systems of Records; Annual Publication

In accordance with 552a(e)(4) of the Privacy Act of 1974, the Water Resources Council hereby publishes the systems of records currently maintained by the Council. No changes have occurred since the last annual publication on December 23, 1976, 41 FR page 55963.

Dated at Washington, D.C. on August 18, 1977.

Gary D. Cobb,
Acting Director.

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WRC—2 General Financial Records
WRC—3 Operating Personnel Records
WRC—4 Payroll Records
Appendix

WRC—2

System name: General Financial Records—U.S. Water Resources Council (WRC).

System location: General Services Administration, Central Office; copies held by the Council at 2120 L Street, NW., Washington, D.C. 20037. (GSA holds records for the Council under contract.)

Categories of individuals covered by the system: Council employees.

Categories of records in the system: SF 1038, application and account for advance of funds; vendor register and vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other offices and employees of GSA and the Council who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C., generally; 42 U.S.C. 1962a et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Records also are released to GAO for adults; to the IRS for investigation; and to private attorneys, pursuant to a power of attorney.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and tape.

Retrievability: Manual and automated by name.

Safeguards: Stored in guarded building, released only to authorized personnel.

Retention and disposal: Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address:

Administrative Officer
U.S. Water Resources Council
2120 L Street, NW.
Washington, D.C. 20037

Notification procedure: Contact system manager listed above.

Record access procedures: See Council access regulations in 18 CFR section 701.305.

Contesting record procedures: See Council access regulations in 18 CFR section 701.307.

Record source categories: The subject individual; the Council.

WRC—3

System name: Operating Personnel Records—U.S. Water Resources Council (WRC).

System location: Office of Program Coordination and Management, U.S. Water Resources Council, 2120 L Street, NW., Washington, D.C. 20037

Categories of individuals covered by the system: Council employees.

Categories of records in the system: These records basically consist of copies of information which is contained in the Official Personnel Folders maintained for the Council by the Agency Liaison Division, General Services Administration. As such, they are generally limited to personal qualifications statements, training records, position descriptions, locator files, performance appraisals, commendations, incentive awards, personnel actions, and adverse actions.

Authority for maintenance of the system: 42 U.S.C. 1962a et seq; Federal Personnel Manual Supplement 293-31, Subchapter S8.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Information in these records may be used by Council employees having a need to know in connection with a variety of personnel actions including transfers, promotions, qualifications determinations, and selection for training. Information may also be disclosed to educational institutions for training purposes, to other agencies to the extent relevant and necessary, and to prospective employees and other organizations at the request of the individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Manual by name.

Safeguards: Retained in locked file cabinet in secured office; released only to authorized personnel.

Retention and disposal: Records are maintained during the individual's employment with the Council. When the employee leaves the Council through transfer or other separation, the record is forwarded to the Agency Liaison Division, General Services Administration, which maintains the Official Personnel Folder. There it is screened to insure that it contains no documents that should be permanently filed in the Official Personnel Folder other than exact duplicates of papers already so filed. The record and its contents are then destroyed.

System manager(s) and address:

Administrative Officer
U.S. Water Resources Council
2120 L Street, NW.
Washington, D.C. 20037

Notification procedure: Contact system manager listed above.

Record access procedures: See Council access regulations in 18 CFR section 701.305.

Contesting record procedures: See Council access regulations in 18 CFR section 701.307.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information the individual supplied, except information provided by GSA or Council officials on pay, leave, and allowance records.

WRC—4

System name: Payroll Records—U.S. Water Resources Council (WRC).

System location: General Services Administration Region 3 Office; copies held by the Council 2120 L Street, NW., Washington, D.C. 20037. (GSA holds records for the Council under contract.

Categories of individuals covered by the system: Past and present Council employees.

Categories of records in the system: Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records; requests for deductions; tax forms; W–2 forms; overtime requests; leave data; retirement records. Records are used by Council and GSA employees to maintain adequate payroll information for Council employees, and otherwise by Council and GSA employees who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C., generally; 42 U.S.C. 1962a et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W–2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation.

The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Administrative Officer, U.S. Water Resources Council, 2120 L Street, NW., Washington, D.C. 20037. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Administrative Officer, U.S. Water Resources Council, 2120 L Street, NW., Washington, D.C. 20037.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security Number in accordance with Section 7 of the Privacy Act, Public Law 93-579.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and microfilm.

Retrievability: Social Security Number.

Safeguards: Stored in guarded building; released only to authorized personnel.

Retention and disposal: Disposition of records will be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address:

Administrative Officer
U.S. Water Resources Council
2120 L Street, NW.
Washington, D.C. 20037

Notification procedure: Contact system manager listed above.

Record access procedures: See Council access regulations in 18 CFR section 701.305.

Contesting record procedures: See Council access regulations in 18 CFR section 701.307.

Record source categories: The subject individual; the Council.

APPENDIX—WRC

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of Federal personnel management.

A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit.

Information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

A record from this system of records may be disclosed as a routine use to a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

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Title 22—Foreign Relations

CHAPTER II—AGENCY FOR INTERNATIONAL DEVELOPMENT, DEPARTMENT OF STATE

PART 215—REGULATIONS FOR IMPLEMENTATION OF PRIVACY ACT OF 1974

Sec.

215.1 Purpose and scope.
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Appendix A

AUTHORITY: Sec. 621, Foreign Assistance Act of 1961, as Amended, (22 U.S.C. 2381; 75 Stat. 445); secs. 3, 4, Administrative Procedures Act (5 U.S.C. 553; 60 Stat. 237); Privacy Act of 1974 (Pub. L. 93-579; 5 U.S.C. 552a; 88 Stat 1896).

§ 215.1 Purpose and scope.

(a) It is the purpose and objective of the Agency for International Development to collect information, revise personal data collection forms or processes, and maintain Agency records in a manner that will prevent an unwarranted invasion of privacy of those individuals who are the subjects of Agency records.

(b) These regulations establish the procedures by which an individual may obtain notification of the existence of Agency records pertaining to that individual, gain access to those records, request an amendment or correction to the records, and appeal adverse decisions to requests for amendment or correction of Agency records.

(c) The Agency separately states and publishes in the FEDERAL REGISTER a public notice of the existence and character of systems maintained by the Agency, pursuant to the provisions of sections (e)(4) and (e)(11) of the Privacy Act of 1974 (5 U.S.C. 552a; 88 Stat. 1896).

§ 215.2 Definitions.

(a) "Act" means the Privacy Act of 1974 (5 U.S.C. 552a; 88 Stat. 1896);

(b) "Agency" means the Agency for International Development, its offices, bureaus, divisions, and posts abroad;

(c) "Amend" shall include the amendment or correction of a record;

(d) "Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(e) "Maintain" includes maintain, collect, use or disseminate;

(f) "Record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

(g) "Routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected;

(h) "Statistical Record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of title 13;

(i) "System of Records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

§ 215.3 Procedures for requests pertaining to individual records in a system of records.

(a) Requests for notification of, access to, or amendment of Agency records contained in a system of record pertaining to an individual may be made in person or by mail as follows:

IN PERSON

Director, Office of Personnel and Manpower (SER/PM), Agency for International Development, Rosslyn Plaza, Room 105, 1601 North Kent Street, Arlington, Virginia 22209.

BY MAIL

Director, Office of Personnel and Manpower (SER/PM), Agency for International Development, 320 21st Street, N.W., Washington, D.C. 20523. Attention: Privacy Liaison Officer.

(b) Such request should include information necessary to identify the record, e.g., the individual's full name, date of birth, place of birth, present mailing address, system of record identification name and number, if known, and, to facilitate the retrieval of records contained in those systems of records which are retrievable by social security numbers, the social security number of the individual to whom the record pertains.

(c) With respect to a system of records which may be maintained by the Agency in offices outside the United States, an individual may inquire whether he or she is the subject of an Agency record or may request access to or amendment of such records by appearing in person or by writing to the Privacy liaison Officer, Agency for International Development, at the address given for the applicable country in Appendix A, of this part.

(d) The Director, Office of Personnel and Manpower, or his or her designee, or, in the case of an office abroad, the Privacy Liaison Officer, or his or her designee, shall, within ten (10) working days of receipt of the request, furnish in writing to the requesting individual notice of the existence or nonexistence of any records described in the request.

§ 215.4 Times, places, and requirements for identification of individuals making requests.

(a) Individuals making personal requests for notification, access or contest may do so at the place designated in paragraph (a) of § 215.3, which is open from 9 a.m. to 5 p.m. daily, except Saturdays, Sundays, and Legal Public Holidays.

(b) Individuals making personal requests for notification, access or contest at offices outside the United States may do so at the places designated in paragraph (c) of § 215.3, during the regular business hours of those offices.

(c) An individual requesting such information in person shall provide such personal identification as is reasonable under the circumstances to verify the individual's identity; e.g., driver's license, employee identification card, or medicare card.

(d) An individual requesting such information by mail shall include in his or her request a signed notarized statement to verify his or her identity and which stipulates that the individual understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is punishable by a fine up to $5,000, as provided in section (i)(3) of the Act.

(e) Verification of identity as set forth in paragraphs (c) and (d) of this section shall not be required of individuals seeking access to records otherwise available to any member of the public under the Freedom of Information Act (5 U.S.C. 552; 88 Stat. 1561).

(f) An individual who wishes to be accompanied by another person when reviewing a record shall furnish the Agency with a written statement authorizing discussion of his or her record in the presence of the accompanying person. Such statement need not contain any reasons for the access or for the accompanying person's presence.

§ 215.5 Access to requested information by individuals.

(a) Upon receipt of a request by an individual made in accordance with the provisions of § 215.3, such individual shall be granted access to any record pertaining to him or her which is contained in a system of records maintained by the Agency.

(b) Notwithstanding the provisions of paragraph (a) of this section, access will not be allowed an individual to information or records compiled by the Agency in reasonable anticipation of a civil or criminal action or proceeding.

(c) Whenever possible, access to requested records will be granted:

(1) Where the request is presented in person and the record is readily available, promptly upon receipt of the request for access, determination that access to the record may be granted, verification of the identity of the individual seeking access, and, where applicable, receipt of consent to discuss the record with a person accompanying the individual;

(2) Where the request is made by mail, the record will, whenever possible, be provided within ten (10) working days of receipt of the request.

(d) Where access to a record cannot reasonably be granted as provided in paragraph (c) (1) and (2) of this section, the Agency will acknowledge in writing receipt of the request for access and indicate a reasonable time within which access to the record can be granted.

(e) Where no reasonable means exist for an individual to have access to his or her record in person, a copy of the record may be provided through the mail. No fee will be charged for providing copies pursuant to this subsection.

§ 215.6 Special procedures: Medical records.

If the Director, Office of Personnel and Manpower, determines that the release directly to the individual of medical records maintained by the Agency could have an adverse effect upon such individual, the director will attempt to arrange an acceptable alternative (such as the release of said information to a doctor named by the individual) in granting access to such record.

§ 215.7 Request for correction or amendment of record.

(a) An individual may request the Agency to correct or amend a record pertaining to him or her which the individual believes is not accurate, relevant, timely or complete.

(b) Such request must be in writing and must be presented, in person or by mail as follows:

IN PERSON

Director, Office of Personnel and Manpower (SER/PM), Agency for International Development, Rosslyn Plaza, Room 105, 1601 North Kent Street, Arlington, Virginia 22209. Attention: Privacy Liaison Officer.

BY MAIL

Director, Office of Personnel and Manpower (SER/PM), Agency for International Development, 320 21st Street, N.W., Washington, D.C. 20523. Attention: Privacy Liaison Officer.

(c) Such requests, whether or not submitted on forms provided therefor, must set forth the following information:

(1) Identification of the system of records in which the particular record is maintained;

(2) The portion(s) of the record to be amended or corrected;

(3) The desired amendment or correction;

(4) The reasons for the amendment or correction; and the request must be accompanied by evidence, documentation, or other information in support of the request.

(d) Assistance in preparing a request to amend a record may be obtained from:

Privacy Liaison Officer, Rosslyn Plaza, Room 105, 1601 North Kent Street, Arlington, Virginia 22209.

§ 215.8 Agency review of requests for amendment of record.

(a) The Agency will examine the information requested to be amended to determine its accuracy, timeliness, and completeness, and its relevancy and necessity to accomplish a purpose of the Agency required to be accomplished by statute or by executive order.

(b) Within ten (10) working days after the receipt by the Director, Office of Personnel and Manpower, of a request made in accordance with this section, the Director shall acknowledge in writing such receipt and shall, after examination in accordance with the provisions of paragraph (a) of this section, promptly either:

(1) Make any amendment of any portion thereof which the individual believes is not accurate, relevant, timely or complete, and notify the individual of the amendment made; or

(2) Inform the individual of the Agency's refusal to amend the record in accordance with the request, the reason(s) for the refusal, and the procedures established by the Agency for the individual to request a review of that refusal.

(c) If the Agency agrees with the individual's request to amend a record, in addition to proceeding as set forth in paragraph (b)(1) of this section, it shall promptly advise all previous recipients of the record of the fact that the amendment was made and the substance of the amendment where an accounting of disclosures has been made.

(d) If unusual circumstances prevent the completion of Agency action on the request to amend within 30 days after the receipt thereof by the Director, the individual will be promptly advised of the delay, the reasons for the delay, and of the date by which the review is expected to be completed.

(e) If the Agency, after its initial examination of the record and the request for Amendment, disagrees with all or any part of the individual's request to amend, it shall:

(1) To the extent the Agency agrees with any part of the individual's request to amend, proceed as described in paragraphs (b)(1) and (c) of this section;

(2) Advise the individual of its refusal and the reason(s) therefor;

(3) Inform the individual that he or she may request a further review by the Administrator or by an officer of the Agency designated by the Administrator; and

(4) Describe the procedures for requesting such a review, including the name and address of the official to whom the request should be directed.

(f) No part of these regulations shall be construed to permit:

(1) The alteration of evidence presented in the course of judicial, quasi-judicial or quasi-legislative proceedings;

(2) Collateral attack upon any matter which has been the subject of judicial or quasi-judicial action; or

(3) An amendment or correction which would be in violation of an existing statute, executive order or regulation.

§ 215.9 Appeal of initial adverse agency determination.

(a) An individual who disagrees with the denial or partial denial of his or her request to amend a record may file a request for review of such refusal within 60 days after the date of notification of the denial or partial denial.

(b) The request for review must be in writing and may be presented in person or by mail to:

Administrator, Agency for International Development, 320 21st Street, N.W., Washington, D.C. 20523. Attention: Executive Secretary, Privacy Review Request.

Both the envelope and the letter should be clearly marked: *Attention: Executive Secretary, Privacy Review Request.* Such request should include any documentation, information or statements advanced for the amendment of the record, and a copy of the initial adverse determination.

(c) Upon receipt of the request for review, the Administrator, or an officer of the Agency designated in writing by the Administrator, shall undertake an independent review of the initial determination.

(d) If someone other than the Administrator is designated to conduct the review, he or she shall be an officer who is organizationally independent of or senior to the officer or employee who made the initial determination.

(e) In conducting the review, the reviewing official may, at his or her option, request such additional information as is deemed necessary to establish that the record contains only that information which is accurate, timely, complete and necessary to assure fairness in any determination which may be made about the individual on the basis of the record.

(f) Within 30 days after receipt of the request for review, the Administrator, or the official designated to conduct the review, shall advise the individual of the Agency's final decision. If unusual circumstances prevent the completion of the review within the 30-day period, the Agency shall, prior to the expiration of the 30-day period, advise the individual in writing of the circumstances preventing the completion of such review and inform him or her of the date by which the review is expected to be completed.

(g) If the reviewing official determines that the record should be amended in accordance with the individual's request, the Agency shall:

(1) Amend the record accordingly;

(2) Advise the individual of the amendment; and

(3) Where an accounting of disclosures has been made, advise all previous recipients of the fact that the amendment was made and the nature of the amendment.

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(h) If, after conducting the review, the reviewing official refuses to amend the record, in whole or in part, in accordance with the individual's request, Agency shall advise the individual:

(1) Of its refusal and the reasons therefor;

(2) Of the individual's right to file a concise statement of his or her reasons for disagreeing with the Agency's decision;

(3) Of the procedures for filing a statement of disagreement;

(4) That any such statement will be made available to anyone to whom the record is subsequently disclosed, together with a brief statement by the Agency summarizing its reasons for refusing to amend the record;

(5) That to the extent an accounting of disclosure was maintained, prior recipients of the disputed record will be provided a copy of any statement of disagreement and of the Agency's statement summarizing its reasons for refusing to amend the record; and

(6) Of the individual's right to seek judicial review of the Agency's refusal to amend a record as provided for in section (g)(1)(a) of the Act.

§ 215.10 Disclosure of record to person other than the individual to whom it pertains.

(a) Subject to the conditions of paragraphs (b) and (c) of this section, the Agency shall not disclose any record which is contained in a system of records by any means of communication to any person or other agency who is not the individual to whom the record pertains.

(b) Upon written request or with prior written consent of the individual to whom the record pertains, the Agency may disclose any such record to a person or to another agency as requested or authorized.

(c) Notwithstanding the absence of written consent from the individual to whom the record pertains, the Agency may disclose any such record provided such disclosure is:

(1) To those officers and employees of the Agency who have a need for the record in the performance of their duties;

(2) Required under the Freedom of Information Act (5 U.S.C. 552);

(3) For a routine use as defined in § 215.2;

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13 of the United States Code;

(5) To a recipient who has provided the Agency with adequate advance written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his or her designee, to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity authorized by law: *Provided*, The head of the agency or instrumentality has made a prior written request to the Director, Office of Personnel and Manpower, specifying the particular record and the law enforcement activity for which it is sought;

(8) To a responsible person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification will be transmitted to the last known address of such individual;

(9) To either House of Congress, and to the extent of a matter within its jurisdiction, any committee or subcommittee, or joint committee of Congress, or subcommittee of such joint committee;

(10) To the Comptroller General, or any of his or her authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(11) Pursuant to an order of a court of competent jurisdiction.

§ 215.11 Fees.

(a) Except as provided in paragraph (b) of this section, and § 215.5(e), fees for copies of records and documents will be charged at the rate of 10 cents per page (one side), limited to size-8½" by 14" or smaller.

(b) No fees will be charged for providing the first copy of a record or any portion thereof to individuals to whom the record pertains.

(c) If special handling or other than first-class mail is requested or required, the costs thereof shall be added to the basic fee.

(d) Remittance may be in the form of a check, bank draft on a bank in the United States, or postal money order, payable to the Treasurer of the United States, or cash.

(e) A receipt for fees paid will be given only upon request.

§ 215.12 Penalties and remedies.

The provisions of the Act relating to penalties and remedies are summarized below:

(a) An individual may bring a civil action against the Agency when the Agency:

(1) Makes a determination not to amend a record in accordance with the individual's request;

(2) Refuses to comply with an individual's request pursuant to 5 U.S.C. 552a (d)(1);

(3) Fails to maintain a record concerning an individual with such accuracy, relevance, timeliness and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities of, or benefits to the individual that may be made on the basis of such record, and as a result thereof a determination is made which is adverse to the individual; or

(4) Fails to comply with any other provision of section (d) of the Act in such a way as to have an adverse effect on an individual.

(b) The court may order the correction or amendment of the record, may enjoin the Agency from withholding the records, may order the Agency to produce any records improperly withheld, and may assess attorneys' fees and costs.

(c) Where a court of competent jurisdiction makes a determination that the Agency action was willful or intentional with respect to 5 U.S.C. 552a (g)(1)(c) or (d), the United States shall be liable for actual damages of no less than $1,000, the costs of the action, and attorneys' fees.

(d) Criminal penalties may be imposed against an officer or employee of the Agency who willfully discloses material which he or she knows is prohibited from disclosure, or who maintains a system of records without complying with the notice requirements.

(e) Criminal penalties may be imposed against any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses. The offenses enumerated in paragraph (d) of this section and this paragraph (e) are misdemeanors, with fines not to exceed $5,000.

§ 215.13 General exemptions.

(a) Pursuant to 5 U.S.C. 552a (j)(2), the Administrator may, where there is a compelling reason to do so, exempt a system of records within the Agency from any part of the Act, except subsections (b), (c) (1) and (2), (e)(4)(A) through (F), (e) (6), (7), (9), (10), and (11), and (i) thereof, if the system of records is maintained by the Agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of:

(1) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status;

(2) Information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or

(3) Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

(b) Each notice of a system of records that is the subject of an exemption under this section will include a statement that the system has been exempted, the reasons therefor, and a reference to the FEDERAL REGISTER issue where the exemption rule can be found.

(c) The systems of records to be exempted under section (j)(2) of the Act, the provisions of the Act from which they are being exempted, and the justification for the exemptions, are set forth below:

(1) *Criminal Law Enforcement Records.* This system of records is to be exempted from sections (c) (3) and (4), (d), (e) (1), (2), and (3), (e) (4) (G), (H), and (I), (e) (5) and (8), (f), (g) and (h) of the Act. These exemptions are necessary to insure the proper functioning of the law enforcement activity, to protect confidential sources of information, to fulfill promises of confidentiality, to maintain the integrity of the law enforcement procedures, to avoid premature disclosure of the knowledge of criminal activity and the evidentiary bases of possible enforcement actions, to prevent interference with law enforcement proceedings, to avoid the disclosure of investigative techniques, and to avoid the endangering of law enforcement personnel.

§ 215.14 Specific exemptions.

(a) Pursuant to 5 U.S.C. 552a(k) the Administrator may, where there is a compelling reason to do so, exempt a system of records, from any of the provisions of subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Act if a system of records is:

(1) Subject to the provisions of 5 U.S.C. 552(b)(1);

(2) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of the Act: *Provided, however*, That if any individual is denied any right, privilege, or benefit to which he or she would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(3) Maintained in connection with providing protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056;

(4) Required by statute to be maintained and used solely as statistical records;

(5) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(6) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) Evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

(b) Each notice of a system of records that is the subject of an exemption under 5 U.S.C. 552a(k) will include a statement that the system has been exempted, the reasons therefor, and a reference to the FEDERAL REGISTER issue where the exemption rule can be found.

(c) The systems of records to be exempted under section (k) of the Act, the provisions of the Act from which they are being exempted, and the justification for the exemptions, are set forth below:

(1) *Criminal Law Enforcement Records.* If the 5 U.S.C. 552a(j)(2) exemption claimed under paragraph (c) of § 215.13 and on the notice of systems of records to be published in the FEDERAL REGISTER on this same date is held to be invalid, then this system is determined to be exempt, under 5 U.S.C. 552(a)(k)(1) and (2) of the Act, from the provisions of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). The reasons for asserting the exemptions are to protect the materials required by Executive Order to be kept secret in the interest of the national defense or foreign policy, to prevent subjects of investigation from frustrating the investigatory process, to insure the proper functioning and integrity of law enforcement activities, to prevent disclosure of investigative techniques, to maintain the ability to obtain necessary information, to fulfill commitments made to sources to protect their identities and the confidentiality of information and to avoid endangering these sources and law enforcement personnel.

(2) *Personnel Security and Suitability Investigatory Records.* This system is exempt under U.S.C. 552a (k)(1), (k)(2), (k)(3), and (k)(5) from the provisions of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4), (G), (H), and (I), and (f). These exemptions are claimed to protect the materials required by Executive Order to be kept secret in the interest of national defense or foreign policy, to prevent subjects of investigation from frustrating the investigatory process, to insure the proper functioning and integrity of law enforcement activities, to prevent disclosure of investigative techniques, to assure the protection of the President, to maintain the ability to obtain candid and necessary information, to fulfill commitments made to sources to protect the confidentiality of information, to avoid endangering these sources and, ultimately, to facilitate proper selection or continuance of the best applicants or persons for a given position or contract. Special note is made of the limitation on the extent to which this exemption may be asserted.

(3) *Litigation Records.* This system is exempt under 5 U.S.C. 552a (k)(1), (k)(2), and (k)(5) from the provisions of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). These exemptions are claimed to protect the materials required by Executive Order to be kept secret in the interest of national defense or foreign policy, to prevent subjects of investigation from frustrating the investigatory process, to insure the proper functioning and integrity of law enforcement activities, to prevent disclosure of investigative techniques, to maintain the ability to obtain candid and necessary information, to fulfill commitments made to sources to protect the confidentiality of information, to avoid endangering these sources and, ultimately, to facilitate proper selection or continuance of the best applicants or persons for a given position or contract, and to prevent interference with a legitimate, Congressionally sanctioned activity.

(5) The following systems of records are exempt under 5 U.S.C. 552a (k)(5) from the provisions of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f):

(i) Employee Conduct and Discipline Records

(ii) Employee Relations Records.

This exemption is claimed for these systems of records to maintain the ability to obtain candid and necessary information, to fulfill commitments made to sources to protect the confidentiality of information, to avoid endangering these sources and, ultimately, to facilitate proper selection or continuance of the best applicants or persons for a given position or contract. Special note is made of the limitation on the extent to which this exemption may be asserted. The existence and general character of the information exempted will be made known to the individual to whom it pertains.

(4) *Employee Equal Employment Opportunity Complaint Investigatory Records.* This system is exempt under 5 U.S.C. 552a (k)(1), (k)(2), (k)(4), and (k)(5) from the provisions of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4), (G), (H), and (I), and (f). These exemptions are claimed to protect the materials required by Executive Order to be kept secret in the interest of national defense or foreign policy, to prevent subjects of investigation from frustrating the investigatory process, to insure the proper

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APPENDIX A—*Agency for International Development, address and locations of offices referenced in the regulations and notices*

	Mailing address	Location
I. In the United States:		
OFFICE		
State Department	A.I.D., Washington, D.C. 20523	320 21st St. NW., Washington, D.C.
State Department, Annex 2.	do	515 22d St. NW., Washington, D.C.
State Department, Annex 5.	do	1901 Pennsylvania Ave. NW., Washington, D.C.
State Department, Annex 11.	do	1401 Wilson Blvd., Arlington, Va.
Universal North Building.	do	1975 Florida Ave. NW., Washington, D.C.
Pomponio Plaza Building.	do	1735 North Lynn St., Arlington, Va.
Rosslyn Plaza "E" Building.	do	1621 N. Kent St., Arlington, Va.
Rosslyn Plaza "C" Building.	do	1601 N. Kent St., Arlington, Va.
New Cumberland	A.I.D. Excess Property Division, Building 54-5, New Cumberland Army Depot, New Cumberland, Pa. 17070.	Building 54-5, New Cumberland Army Depot, New Cumberland, Pa. 17070.
II. Abroad:		
MISSION		
Afghanistan	USAID to Afghanistan, c/o American Embassy, Kabul, Afghanistan.	Wazir Akbar Khan Mina, Kabul, Afghanistan.
Bangladesh	USAID, c/o American Embassy, Dacca, Bangladesh.	Adamjee Court Bldg. Motijheel, Dacca, Bangladesh.
Brazil	USAID to Brazil, CAIZA Postal 14-2324, Brasilia D.F., Brazil.	Ed. Bandeirantes, SCS Q. 17, Lote 2/5, Brasilia, Brazil.
British Honduras	American Consulate, Belize City, British Honduras.	Gabourel Lane and Hutson St., Belize City, Belize.
Bolivia	USAID to Bolivia, c/o American Embassy, La Paz, Bolivia.	363 Almirante Grau St., La Paz, Bolivia.
Chad	Country Development Officer, c/o American Embassy, N'Djamena, Chad.	Rue du Lt. Col. Colonna d'Ornano, N'Djemena, Chad.
Cameroon	Area Development Office, c/o American Embassy, Yaounde, Cameroon.	Rue Nachtigal, Yaounde, Cameroon.
Chile	USAID to Chile, c/o American Embassy, Santiago, Chile.	Avenida B. O'Higgins No. 1146, Santiago, Chile.
Colombia	USAID to Colombia, c/o American Embassy, Bogota, Colombia.	Carrera 10 Nr 28-49, Bogota, Colombia.
Costa Rica	Office of AID Affairs, c/o American Embassy, San Jose, Costa Rica.	Avenida 3 Calle 1, San Jose, Costa Rica.
Dominican Republic	USAID to Dominican Republic, c/o American Embassy, Santo Domingo, Dominican Republic.	Calle Cesar Nicolas Pensen and Calle Leopoldo Navarro, Santo Domingo, Dominican Republic.
Ecuador	USAID to Equador, c/o American Embassy, Quito, Ecuador.	120 Avenida Patria, Quito, Ecuador.
Egypt	USAID, American Embassy, Cairo, Egypt	5 Sharia Latin America, Cario, Egypt.
El Salvador	USAID to El Salvador, c/o American Embassy, San Salvador, El Salvador.	No. 1230, 25 Avenida Norte, San Salvador, El Salvador.
Ethiopia	USAID to Ethiopia, c/o American Embassy, Addis Ababa, Ethiopia.	Crown Prince Asfaw Wossen St., Addis Ababa, Ethiopia.
France	U.S. Mission to the OECD, c/o American Embassy, Paris, France.	13 Villa Croiz Nivert, Paris, France.
Ghana	USAID, P.O. Box 1630, Accra, Ghana	Liberia and Rowe Roads, Accra, Ghana.
Guatemala	USAID/ROCAP, c/o American Embassy, Guatemala City, Guatemala.	USAID/ROCAP, 7-86, 8th St., Zone 9, Guatemala City, Guatemala.
Guyana	USAID to Guyana, c/o American Embassy, Georgetown, Guyana.	65 Main St., Georgetown, Guyana.
Haiti	Office of AID Representative, American Embassy, Port au Prince, Haiti.	American Embassy, Harry Truman Blvd., Port au Prince, Haiti.
Honduras	USAID to Honduras, c/o American Embassy, Tegucigalpa, Honduras.	Avenida La Paz, Tegucigalpa, Honduras.
Iceland	American Embassy, Reykjavik, Iceland	Laufasvegur 21, Reykjavik, Iceland.
India	USAID to India, c/o American Embassy, New Delhi, India 11.	Shanti Path, Chanakyapuri 21, New Delhi, India.
Indonesia	USAID to Indonesia, c/o American Embassy, Jakarta, Indonesia.	Medan Merdeka, Selatan 5, Jakarta, Indonesia.
Italy	American Embassy, Rome, Italy	Via Veneto 119, Rome, Italy.
Ivory Coast	Regional Economic Development Services Offices/West Africa, c/o American Embassy, Abidjan, Ivory Coast.	5, Rue Jesse Owens, Abidjan, Ivory Coast.
Jamaica	Office of AID Affairs, c/o American Embassy, Kingston, Jamaica.	American Embassy, 43 Duke St., Kingston, Jamaica.
Jordan	American Embassy, Amman, Jordan	Jebel Amman, Amman, Jordan.
Kenya	USAID to Kenya, P.O. Box 30261, Nairobi, Kanya.	Cotts House, Eliot St., Nairobi, Kenya.
Korea	USAID to Korea, c/o American Embassy, Seoul, Korea.	New Seoul Bldg. 1503 62-7, 2-KA, Chungmu-Ro; Chung-Ku, Seoul, Korea.
Lebanon	AID Regional Training Office, c/o American Embassy, Beirut, Lebanon.	Corniche at Rue Aly Mreisseh, Beirut, Lebanon.
Liberia	USAID, P.O. Box 1445, Monrovia, Liberia	United Nations Dr., Monrovia, Libeia.
Mali	Country Development Officer, c/o American Embassy, Bamako, Mali.	Rue Testard and Rue Mohamed V, Bamako, Mali.
Mauritania	Country Development Officer, c/o American Embassy, Nouakchott, Mauritania.	American Embassy, Nouakchott, Mauritania.
Mexico	Office of AID Affairs, c/o American Embassy, Mexico D.F. Mexico.	Cor. Danubio and Paseo de la Reforma, 305, Colonia Cusuhtemoc, Mexico D.F. Mexico.
Morocco	USAID to Morocco, c/o American Embassy, Rabat, Morocco.	2 Ave. de Marrakech, Rabat, Morocco.
Nepal	USAID to Nepal, c/o American Embassy, Kathmandu, Nepal.	Rabi Bhawan, Kathmandu, Nepal.
Nicaragua	USAID to Nicaragua, c/o American Embassy, Managua, Nicaragua.	Boulevard Somoza, Managua, Nicaragua.
Niger	Area Development Office, c/o American Embassy, Niamey, Niger.	Yantala Road, Niamey, Niger.
Nigeria	USAID to Nigeria, c/o American Embassy, Lagos, Nigeria.	1/3 Moloney St., Lagos, Nigeria.
Pakistan	USAID, P.O. Box 1028, Islamabad, Pakistan.	Diplomatic Enclave, Ramna 4, Islamabad, Pakistan.
Panama	USAID to Panama, c/o American Embassy, Panama City, Panama.	USAID Main Bldg., Cemento Panama Bldg., Manuel Espinosa Batista, Panama City, Panama.

	Mailing address	Location
Paraguay	USAID to Paraguay, c/o American Embassy, Asuncion, Paraguay.	390 Kubitschek, Asuncion, Paraguay.
Peru	USAID to Peru, c/o American Embassy, Lima, Peru.	Av. Espana 386, Lima, Peru.
Philippines	USAID to the Republic of the Philippines, c/o American Embassy, Manila, Philippines.	1680 Roxas Blvd., Manila, Philippines.
Portugal	American Embassy, Lisbon, APO New York 09678.	Avenida Duque de Louie No. 39, Lisbon, Portugal.
Puerto Rico	c/o Assistant Secretary, International Exchange, Department of State, Commonwealth of Puerto Rico, San Juan, Puerto Rico.	OTC, San Juan, Puerto Rico.
Senegal	Area Development Office, c/o American Embassy, Dakar, Senegal.	BIAO Building, Place de l'Independance, Dakar, Senegal.
Sri Lanka	Office of AID Representative, c/o American Embassy, Colombo, Sri Lanka.	44 Galle Road, Colpetty, Colombo, Sri Lanka.
Sudan	AID Affairs Office, c/o Embassy of the Netherlands, Khartoum, Sudan.	Gambouria Ave., Khartoum, Sudan.
Swaziland	Office of Southern African Regional Activities, Coordination/Mbabane, c/o American Embassy, Mbabane, Swaziland.	OSARAC-Hdqts, 218 Gilfillan St., Mbabane, Swaziland.
Switzerland	U.S. Mission to International Organization, c/o Amemb, Geneva, Switzerland.	80 Rue de Lausanne, Geneva, Switzerland.
Syria	Office of A.I.D. Representative, c/o American Embassy, Damascus, Syria Arab Republic.	Chare (Ave.) Al-Mansour, Abu, Rummanih, Damascus, Syria.
Taiwan	Office of AID Affairs, c/o American Embassy, Taipei, Taiwan.	No. 2 Chung Hsiao West Road, Second Section, Taipei, Taiwan.
Tanzania	USAID to United Republic of Tantania, c/o American Embassy, Dar es Salaam, Tanzania.	National Bank of Commerce Bldg. on City Drive, Dar es Salaam, Tanzania.
Thailand	USOM, c/o American Embassy, Bangkok, Thailand.	95 Wireless Road, Bangkok, Thailand.
Togo	Area Development Officer, c/o American Embassy, Niamey, Niger.	Rue Pelletier Caventor and rue Vanban, Lome, Togo.
Tunisia	USAID to Tunisia, c/o American Embassy Tunis, Tunisia.	149 Aveneue de la Liberte, Tunis, Tunisia.
Turkey	USAID, PK 30, Cankaya, Ankara, Turkey	Cinnah Caddesi, No. 16, Ankara, Turkey.
Upper Volta	AID Country Development Officer, c/o American Embassy, Ouagadougou, Upper Volta.	Boite Postale 35, Ouagadougou, Upper Volta.
Uruguay	Office of AID, Representative/Montevideo, c/o American Embassy, Montevideo, Uruguay.	Lauro Muller 1776, Montevideo, Uruguay.
Yemen	Office of AID Affairs, c/o American Embassy, Sana, Yemen.	American Embassy, Sana, Yemen Arab Republic.
Zaire	USAID to Republic of Zaire, c/o American Embassy, Kinshasa, Republic of Zaire.	310 Ave. des Aviateurs, Kinshasa, Zaire.

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Title 1—General Provisions

CHAPTER IV—MISCELLANEOUS AGENCIES (PRIVACY REGULATIONS)

PART 415—BOARD FOR INTERNATIONAL BROADCASTING—PRIVACY ACT IMPLEMENTATION

Sec.

415.1 Purpose and scope.
415.2 Definitions.
415.3 Procedures for requests pertaining to individual records in a record system.
415.4 Times, places and requirements for the identification of the individual making a request.
415.5 Disclosure of requested information to the record.
415.6 Access to the accounting of disclosures from records.
415.7 Request for correction or amendment to the record.
415.8 Agency review of request for correction or amendment of the record.
415.9 Appeal of an initial adverse agency determination on correction or amendment of the record.
415.10 Disclosure of record to a person other than the individual to whom the record pertains.
415.11 Fees.

Authority: 5 U.S.C. 552. Pub. L. 91-579.

§ 415.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the Board for International Broadcasting (hereinafter referred to as the Board) maintains a system of records which pertains to him or her;

(b) Establish a procedure by which an individual can gain access to records pertaining to him or her which are maintained by the Board;

(c) Establish a procedure by which an individual can request amendment of records pertaining to him or her which are maintained by the Board;

(d) Establish a procedure by which an individual can request an appeal of a determination not to amend his or her records;

(e) Establish a procedure by which an individual can request an accounting of disclosures of records pertaining to him or her which are maintained by the Board; and

(f) Establish a procedure by which an individual can request that the Board not disclose records pertaining to him or her which are maintained by the Board.

§ 415.2 Definitions.

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence.

(b) The term "maintain" includes maintain, collect, use or disseminate.

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Board, including, but not limited to, his or her education, financial transactions, medical history, and criminal or employment history and that contains his or her name, or the identifying number, symbol or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(d) The term "system of records" means a group of any records under the control of the Board from which information is retrieved by the name of the individual or by some identifying number, symbol or other identifying particular assigned to the individual.

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 415.3 Procedures for requests pertaining to individual records in a record system.

An individual shall submit a request to the Budget and Administrative Officer of the Board, Suite 430, 1030 Fifteenth Street, Northwest, Washington, D.C. 20005, in person or in writing, to determine if a system of records named by the individual contains a record pertaining to the individual, or if the Board maintains any systems of record which pertain to the individual. The individual shall submit a request to the Budget and Administrative Officer of the Board which states the individual's desire to review his or her record. Individuals who require assistance in identifying systems of record, or in preparing requests identifying systems of record for access, or who need assistance in requesting amendments, may address such requests to the Budget and Administrative Officer of the Board, Suite 430 1030 Fifteenth Street, Northwest, Washington, D.C. 20005

§ 415.4 Times, places, and requirements for the identification of the individual making a request.

An individual making a request to the

§ 415.5 Disclosure of requested information to the individual.

Upon verification of identity either in person or in written form to the Budget and Administrative Officer of the Board, Suite 430, 1030 Fifteenth Street, Northwest, Washington, D.C. 20005, and in accordance with the identification provisions of § 415.4, the Board shall disclose to the individual the information contained in the record which pertains to that individual. The individual may be accompanied for the purpose by a person of his or her choosing. Upon request of the individual to whom the record pertains, all information in the accounting of disclosures will be made available. If, for any unforeseen circumstances, or in an unusual situation when it may be necessary to deny a person access, the individual will be advised of the reasons therefor, and his or her right to judicial review under 5 U.S.C. 552a (f)(4).

§ 415.6 Access to the accounting of disclosures from records.

The Privacy Act requires that with some limited exceptions individuals may request access to a list of those to whom records about them have been disclosed. Individuals seeking access to the accounting of disclosures from records pertaining to them should follow the same procedures as enumerated above for access to the records themselves. [illegible]

§ 415.9 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the Budget and Administrative Officer of the Board to correct or to amend his or her record may submit a request for a review of such refusal to the Executive Director of the Board for International Broadcasting, Suite 430, 1030 Fifteenth Street, NW., Washington, D.C. 20005. The Executive Director will, not later than thirty working days from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the Executive Director extends such thirty day period. If, after his or her review, the Executive Director also refuses to correct or to amend the record in accordance with the request, the individual may file with the Board a concise statement setting forth the reasons for his or her disagreement with the refusal of the Board and may seek judicial review of the Executive Director's determination under 5 U.S.C. 552a(g)(1)(A). A copy of the corrected record or statement of dispute will be provided to prior recipients of the information in question, to the extent that the Board has an accounting of the disclosure of that information.

§ 415.10 Disclosure of record to a person other than the individual to whom the record pertains.

The Board will not disclose a record to any individual other than to the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record pertains, except as required or permitted under 5 U.S.C. 552a(b).

§ 415.11 Fees.

If an individual requests copies of his or her record, he or she shall be charged ten cents per page for any copying charges in excess of $25.00. In cases of indigency, the Board may waive such fees. In cases where copying charges exceed $25.00, advance payment will be required.

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APPENDIX A.—*Agency for International Development, address and locations of offices referenced in the regulations and notices*

	Mailing address	Location
I. In the United States:		
OFFICE		
State Department	A.I.D., Washington, D.C. 20523	320 21st St. NW., Washington, D.C.
State Department, Annex 2	do	515 22d St. NW., Washington, D.C.
State Department, Annex 5	do	1901 Pennsylvania Ave. NW., Washington, D.C.
State Department, Annex 11	do	1401 Wilson Blvd., Arlington, Va.
Universal North Building	do	1975 Florida Ave. NW., Washington, D.C.
Pomponio Plaza Building	do	1735 North Lynn St., Arlington, Va.
Rosslyn Plaza "E" Building	do	1621 N. Kent St., Arlington, Va.
Rosslyn Plaza "C" Building	do	1601 N. Kent St., Arlington, Va.
New Cumberland	A.I.D. Excess Property Division, Building 54-5, New Cumberland Army Depot, New Cumberland, Pa. 17070.	Building 54-5, New Cumberland Army Depot, New Cumberland, Pa. 17070.
II. Abroad:		
MISSION		
Afghanistan	USAID to Afghanistan, c/o American Embassy, Kabul, Afghanistan.	Wazir Akbar Khan Mina, Kabul, Afghanistan.
Bangladesh	USAID, c/o American Embassy, Dacca, Bangladesh.	Adamjee Court Bldg. Montijheel, Dacca, Bangladesh
Brazil	USAID to Brazil, CAIZA Postal 14-2324, Brasilia D.F., Brazil.	Ed. Bandeirantes, SCS Q. 17, Lote 2/5, Brasilia, Brazil
British Honduras	American Consulate, Belize City, British Honduras.	Gabourel Lane and Hutson St., Belize City, Belize.
Bolivia	USAID to Bolivia, c/o American Embassy, La Paz, Bolivia.	363 Almirante Grau St., La Paz, Bolivia.
Chad	Country Development Officer, c/o American Embassy, N'Djamena, Chad.	Rue du Lt. Col. Colonna d'Ornano, N'Ljamena, Chad.
Cameroon	Area Development Office, c/o American Embassy, Yaounde, Cameroon.	Rue Nachtigal, Yaounde, Cameroon.
Chile	USAID to Chile, c/o American Embassy, Santiago, Chile.	Avenida B. O'Higgins No. 1146, Santiago, Chile.
Colombia	USAID to Colombia, c/o American Embassy, Bogota, Colombia.	Carrera 10 Nr 28-49, Bogota, Colombia.
Costa Rica	Office of AID Affairs, c/o American Embassy, San Jose, Costa Rica.	Avenida 3 Calle 1, San Jose, Costa Rica.
Dominican Republic	USAID to Dominican Republic, c/o American Embassy, Santo Domingo, Dominican Republic.	Calle Cesar Nicolas Pensen and Calle-Leopoldo Navarro, Santo Domingo, Dominican Republic.
Ecuador	USAID to Equador, c/o American Embassy, Quito, Ecuador.	120 Avenida Patria, Quito, Ecuador.
Egypt	USAID, American Embassy, Cairo, Egypt	5 Sharia Latin America, Cario, Egypt.
El Salvador	USAID to El Salvador, c/o American Embassy, San Salvador, El Salvador.	No. 1230, 25 Avenida Norte, San Salvador, El Salvador.
Ethiopia	USAID to Ethiopia, c/o American Embassy, Addis Ababa, Ethiopia.	Crown Prince Asfaw Wossen St., Addis Ababa, Ethiopia.
France	U.S. Mission to the OECD, c/o American Embassy, Paris, France.	13 Villa Croix Nivert, Paris, France.
Ghana	USAID, P.O. Box 1630, Accra, Ghana	Liberia and Rowe Roads, Accra, Ghana.
Guatemala	USAID/ROCAP, c/o American Embassy, Guatemala City, Guatemala.	USAID/ROCAP, 7-86, 8th St., Zone 9, Guatemala City, Guatemala.
Guyana	USAID to Guyana, c/o American Embassy, Georgetown, Guyana.	65 Main St., Georgetown, Guyana.
Haiti	Office of AID Representative, American Embassy, Port au Prince, Haiti.	American Embassy, Harry Truman Blvd., Port au Prince, Haiti.
Honduras	USAID to Honduras, c/o American Embassy, Tegucigalpa, Honduras.	Avenida La Paz, Tegucigalpa, Honduras.
Iceland	American Embassy, Reykjavik, Iceland	Laufasvegur 21, Reykjavik, Iceland.
India	USAID to India, c/o American Embassy, New Delhi, India 11.	Shanti Path, Chanakyapuri 21, New Delhi, India.
Indonesia	USAID to Indonesia, c/o American Embassy, Jakarta, Indonesia.	Medan Merdeka, Selatan 5, Jakarta, Indonesia.
Italy	American Embassy, Rome, Italy	Via Veneto 119, Rome, Italy.
Ivory Coast	Regional Economic Development Services Offices/West Africa, c/o American Embassy, Abidjan, Ivory Coast.	5, Rue Jesse Owens, Abidjan, Ivory Coast.
Jamaica	Office of AID Affairs, c/o American Embassy, Kingston, Jamaica.	American Embassy, 43 Duke St., Kingston, Jamaica.
Jordan	American Embassy, Amman, Jordan	Jebel Amman, Amman, Jordan.
Kenya	USAID to Kenya, P.O. Box 30261, Nairobi, Kenya.	Cotts House, Eliot St., Nairobi, Kenya.
Korea	USAID to Korea, c/o American Embassy, Seoul, Korea.	New Seoul Bldg. 1503 62-7, 2-KA, Chungmu-Ro; Chung-Ku, Seoul, Korea.
Lebanon	AID Regional Training Office, c/o American Embassy, Beirut, Lebanon.	Corniche at Rue Alv Mreisseh, Beirut, Lebanon.
Liberia	USAID, P.O. Box 1445, Monrovia, Liberia	United Nations Dr., Monrovia, Libela.
Mali	Country Development Officer, c/o American Embassy, Bamako, Mali.	Rue Testard and Rue Mohamed V, Bamako, Mali.
Mauritania	Country Development Officer, c/o American Embassy, Nouakchott, Mauritania.	American Embassy, Nouakchott, Mauritania.
Mexico	Office of AID Affairs, c/o American Embassy, Mexico D.F. Mexico.	Cor. Danubio and Paseo de la Reforma, 305, Colonia Cuauhtemoc, Mexico D.F. Mexico.
Morocco	USAID to Morocco, c/o American Embassy, Rabat, Morocco.	2 Ave. de Marrakech, Rabat, Morocco.
Nepal	USAID to Nepal, c/o American Embassy, Kathmandu, Nepal.	Rabi Bhawan, Kathmandu, Nepal.
Nicaragua	USAID to Nicaragua, c/o American Embassy, Managua, Nicaragua.	Boulevard Somoza, Managua, Nicaragua.
Niger	Area Development Office, c/o American Embassy, Niamey, Niger.	Yantala Road, Niamey, Niger.
Nigeria	USAID to Nigeria, c/o American Embassy, Lagos, Nigeria.	1/3 Moloney St., Lagos, Nigeria.
Pakistan	USAID, P.O. Box 1028, Islamabad, Pakistan.	Diplomatic Enclave, Ramna 4, Islamabad, Pakistan.
Panama	USAID to Panama, c/o American Embassy, Panama City, Panama.	USAID Main Bldg., Cemento Panama Bldg., Manuel Espinosa Batista, Panama City, Panama.

	Mailing address	Location
Paraguay	USAID to Paraguay, c/o American Embassy, Asuncion, Paraguay.	390 Kubitschek, Asuncion, Paraguay.
Peru	USAID to Peru, c/o American Embassy, Lima, Peru.	Av. Espana 386, Lima, Peru.
Philippines	USAID to the Republic of the Philippines, c/o American Embassy, Manila, Philippines.	1680 Roxas Blvd., Manila, Philippines.
Portugal	American Embassy, Lisbon, APO New York 09678.	Avenida Duque de Loule No. 39, Lisbon, Portugal.
Puerto Rico	c/o Assistant Secretary, International Exchange, Department of State, Commonwealth of Puerto Rico, San Juan, Puerto Rico.	OTC, San Juan, Puerto Rico.
Senegal	Area Development Office, c/o American Embassy, Dakar, Senegal.	BIAO Building, Place de l'Independance, Dakar, Senegal.
Sri Lanka	Office of AID Representative, c/o American Embassy, Colombo, Sri Lanka.	44 Galle Road, Colpetty, Colombo, Sri Lanka.
Sudan	AID Affairs Office, c/o Embassy of the Netherlands, Khartoum, Sudan.	Gambouria Ave., Khartoum, Sudan.
Swaziland	Office of Southern African Regional Activities, Coordination/Mbabane, c/o American Embassy, Mbabane, Swaziland.	OSARAC-Hdqts, 218 Gilfillan St., Mbabane, Swaziland.
Switzerland	U.S. Mission to International Organization, c/o Amemb, Geneva, Switzerland.	80 Rue de Lausanne, Geneva, Switzerland.
Syria	Office of A.I.D. Representative, c/o American Embassy, Damascus, Syria Arab Republic.	Chare (Ave.) Al-Mansour, Abu, Rummanih, Damascus, Syria.
Taiwan	Office of AID Affairs, c/o American Embassy, Taipei, Taiwan.	No. 2 Chung Hsiao West Road, Second Section, Taipei, Taiwan.
Tantania	USAID to United Republic of Tantania, c/o American Embassy, Dar es Salaam, Tantania.	National Bank of Commerce Bldg. on City Drive, Dar es Salaam, Tantania.
Thailand	USOM, c/o American Embassy, Bangkok, Thailand.	95 Wireless Road, Bangkok, Thailand.
Togo	Area Development Officer, c/o American Embassy, Niamey, Niger.	Rue Pelletier Caventor and rue Vauban, Lome, Togo.
Tunisia	USAID to Tunisia, c/o American Embassy Tunis, Tunisia.	149 Avenue de la Liberte, Tunis, Tunisia.
Turkey	USAID, PK 30, Cankaya, Ankara, Turkey	Cinnab Caddesi, No. 16, Ankara, Turkey.
Upper Volta	AID Country Development Officer, c/o American Embassy, Ouagadougou, Upper Volta.	Bolte Postale 35, Ouagadougou, Upper Volta.
Uruguay	Office of AID, Representative/Montevideo, c/o American Embassy, Montevideo, Uruguay.	Lauro Muller 1776, Montevideo, Uruguay.
Yemen	Office of AID Affairs, c/o American Embassy, Sana, Yemen.	American Embassy, Sana, Yemen Arab Republic.
Zaire	USAID to Republic of Zaire, c/o American Embassy, Kinshasa, Republic of Zaire.	310 Ave. des Aviateurs, Kinshasa, Zaire.

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Title 1—General Provisions

CHAPTER IV—MISCELLANEOUS AGENCIES (PRIVACY REGULATIONS)

PART 415—BOARD FOR INTERNATIONAL BROADCASTING—PRIVACY ACT IMPLEMENTATION

Sec.

415.1 Purpose and scope.
415.2 Definitions.
415.3 Procedures for requests pertaining to individual records in a record system.
415.4 Times, places and requirements for the identification of the individual making a request.
415.5 Disclosure of requested information to the record.
415.6 Access to the accounting of disclosures from records.
415.7 Request for correction or amendment to the record.
415.8 Agency review of request for correction or amendment of the record.
415.9 Appeal of an initial adverse agency determination on correction or amendment of the record.
415.10 Disclosure of record to a person other than the individual to whom the record pertains.
415.11 Fees.

AUTHORITY: 5 U.S.C. 552a; Pub. L. 93-579.

§ 415.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the Board for International Broadcasting (hereafter known as the Board) maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 415.2 Definitions.

For the purpose of these regulations—

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record means any item, collection or grouping of information about an individual that is maintained by the Board, including, but not limited to, his or her employment history, payroll information, and financial transactions and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as social security number;

(d) The term "system of records" means a group of any records under the control of the Board from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is comptaible with the purpose for which it was collected.

§ 415.3 Procedures for requests pertaining to individual records in a record system.

An individual shall submit a request to the Budget and Administrative Officer of the Board, Suite 430, 1030 Fifteenth Street, Northwest, Washington, D.C. 20005, in person or in writing, to determine if a system of records named by the individual contains a record pertaining to the individual, or if the Board maintains any systems of record which pertain to the individual. The individual shall submit a request to the Budget and Administrative Officer of the Board which states the individual's desire to review his or her record. Individuals who require assistance in identifying systems of record, or in preparing requests identifying systems of record for access, or who need assistance in requesting amendments, may address such requests to the Budget and Administrative Officer of the Board, Suite 430 1030 Fifteenth Street, Northwest, Washington, D.C. 20005.

§ 415.4 Times, places, and requirements for the identification of the individual making a request.

An individual making a request to the Budget and Administrative Officer of the Board pursuant to § 415.3 shall present the request at the Board offices, Suite 430, 1030 Fifteenth Street, NW., Washington, D.C. 20005, on any business day between the hours of 9 a.m. and 5:30 p.m., or in writing. The individual submitting the request should present himself or herself at the Board's offices with a form of identification which will permit the Board to verify that the individual is the same individual as contained in the record requested, such as a valid driver's permit, employee identification card, or Medicare card, or a signed statement from the individual asserting his or her identity and stipulating that he or she understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is punishable by a fine of up to $5,000. If the individual seeks access by mail, the Board will require similar identification as required of those persons requesting access to records in person, or by identifying data such as name, date of birth, or system personal identifier (if known to the individual). Requests for access to systems of record will be acknowledged within ten days of receipt. The acknowledgement will indicate whether or not access can be granted and, if so, that it will be within a 30-day period unless, for good cause shown, the Board is unable to do so.

§ 415.5 Disclosure of requested information to the individual.

Upon verification of identity either in person or in written form to the Budget and Administrative Officer of the Board, Suite 430, 1030 Fifteenth Street, Northwest, Washington, D.C. 20005, and in accordance with the identification provisions of § 415.4, the Board shall disclose to the individual the information contained in the record which pertains to that individual. The individual may be accompanied for the purpose by a person of his or her choosing. Upon request of the individual to whom the record pertains, all information in the accounting of disclosures will be made available. If, for any unforeseen circumstances, or in an unusual situation when it may be necessary to deny a person access, the individual will be advised of the reasons therefor, and his or her right to judicial review under 5 U.S.C. 552a (f)(4).

§ 415.6 Access to the accounting of disclosures from records.

The Privacy Act requires that with some limited exceptions individuals may request access to a list of those to whom records about them have been disclosed. Individuals seeking access to the accounting of disclosures from records pertaining to them should follow the same procedures as established above for access to the records themselves (see §§ 415.3, 415.4, 415.5).

§ 415.7 Request for correction or amendment to the record.

The individual should submit a request to the Budget and Administrative Officer of the Board which states the individual's desire to correct or to amend his or her record. This request is to be made in accord with the provisions of § 415.4.

§ 415.8 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of the request to correct or to amend the record, the Budget and Administrative Officer of the Board will acknowledge in writing such receipt and promptly either—

(a) Make any correction or amendment or any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his or her refusal to correct or to amend the record in accordance with the request, the reason for the refusal, and the procedures established by the Board for the individual to request a review of that refusal. Corrections or amendments will be sent to prior recipients of the record in question, to the extent that the Board has an accounting of the disclosure of the record of that information.

§ 415.9 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the Budget and Administrative Officer of the Board to correct or to amend his or her record may submit a request for a review of such refusal to the Executive Director of the Board for International Broadcasting, Suite 430, 1030 Fifteenth Street, NW., Washington, D.C. 20005. The Executive Director will, not later than thirty working days from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the Executive Director extends such thirty day period. If, after his or her review, the Executive Director also refuses to correct or to amend the record in accordance with the request, the individual may file with the Board a concise statement setting forth the reasons for his or her disagreement with the refusal of the Board and may seek judicial review of the Executive Director's determination under 5 U.S.C. 552a(g)(1)(A). A copy of the corrected record or statement of dispute will be provided to prior recipients of the information in question, to the extent that the Board has an accounting of the disclosure of that information.

§ 415.10 Disclosure of record to a person other than the individual to whom the record pertains.

The Board will not disclose a record to any individual other than to the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record pertains, except as required or permitted under 5 U.S.C. 552a(b).

§ 415.11 Fees.

If an individual requests copies of his or her record, he or she shall be charged ten cents per page for any copying charges in excess of $25.00. In cases of indigency, the Board may waive such fees. In cases where copying charges exceed $25.00, advance payment will be required.

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Title 36—Parks, Forests, and Public Property

CHAPTER X—COMMISSION OF FINE ARTS

PART 1002—RULES FOR COMPLIANCE WITH 5 U.S.C. 552a, THE PRIVACY ACT OF 1974

Sec.

1002.1 Rules for determining if an individual is the subject of a record.
1002.2 Requests for access.
1002.3 Access to the accounting of disclosure from records.
1002.4 Requests for copies of records.
1002.5 Requests to amend records.
1002.6 Requests for review.
1002.7 Schedule of fees.

AUTHORITY: Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a(f)).

§ 1002.1 Rules for determining if an individual is the subject of a record.

(a) Individuals desiring to know if a specific system of records maintained by the Commission of Fine Arts contains a record pertaining to them should address their inquiries to the Secretary, Commission of Fine Arts, 708 Jackson Place, N.W., Washington, D.C. 20006. The written inquiry should contain a specific reference to the system of records maintained by CFA listed in the CFA Notices of Systems of Records or it should describe the type of record in sufficient detail to reasonably identify the system of records. Notice of CFA Systems of Records will be made in the Federal Register and copies of the notices will be available upon request to the Secretary when so published. A compilation of such notices will also be made and published by the Office of the Federal Register in accordance with section 5 U.S.C. 552a(f).

(b) At a minimum, the request should contain sufficient identifying information to allow CFA to determine if there is a record pertaining to the individual making the request in a particular system of records. In instances where identification is insufficient to insure disclosure to the individual to whom the information pertains in view of the sensitivity of the information, CFA reserves the right to solicit from the requester additional identifying information.

(c) Ordinarily the requester will be informed whether the named system of records contains a record pertaining to the requester within 10 days of the receipt of such a request (excluding Saturdays, Sundays, and legal Federal holidays). Such a response will also contain or reference the procedures which must be followed by the individual making the request in order to gain access to the record.

(d) Whenever a response cannot be made within 10 days, the Secretary will inform the requester of the reasons for the delay and the date by which a response may be anticipated.

§ 1002.2 Requests for access.

(a) *Requirement for written requests.* Individuals desiring to gain access to a record pertaining to them in a system of records maintained by CFA must submit their request in writing in accordance with the procedures set forth in subsection (b), below.

(b) *Procedures.* (1) Content of the request. The request for access to a record in a system of records shall be addressed to the Secretary, at the address cited above; and shall name the system of records or contain a description (as concise as possible) of such system of records. The request should state that the request is pursuant to the Privacy Act of 1974. In the absence of such a statement, if the request is for a record pertaining to the requester maintained by CFA in a system of records, the request will be presumed to be made under the Privacy Act of 1974. The requester should include any other information which may assist in the rapid identification of the record for which access is being requested (e.g., maiden name, dates of employment, etc.).

(2) Requirements for identification will normally be limited to the presentation of any standard picture and signature or signature identification card, such as driver's license, so that a comparison of the signature and the signature on the original request may be made. The appearing individual will be read paragraph (3), subsection (i) to Title 5 CFR 552a which specifies the penalty for knowingly or willfully requesting or obtaining a record concerning an individual from an agency under false pretenses and asked to sign a statement attesting to the fact that he or she understands the paragraph and that he or she is, in fact, the individual who made the request (or the individual authorized to receive the disclosure by the requesting individual). This signature will be compared with the other two. If the appearing individual is other than the requesting individual, then he or she must also present a letter of introduction signed by the requesting individual so that the comparison of signature may be made.

(c) *CFA action on request* (1) A request for access will ordinarily be answered within 10 days (excluding Saturdays, Sundays, and legal Federal holidays), except when the Secretary determines otherwise, in which case the requester will be informed of the reason for the delay and an anticipated date by which the request will be answered. When the request can be answered within 10 days, it shall include the following:

(i) A statement that there is a record as requested or a statement that there is not a record in the system of records maintained by CFA;

(ii) A statement as to whether access will be granted only by providing a copy of the record through the mail; or the address of the location and the date and time at which the record may be examined. In the event the requester is unable to meet the specified date and time, alternate arrangements may be made with the official specified in paragraph (b)(1) of this section;

(iii) A statement, when appropriate, that examination in person will be the sole means of granting access only when the Secretary has determined that it would not unduly impede the requester's right of access;

(iv) The amount of fees charged, if any (see §§ 1002.4 and 1002.7); and

(v) The name, title, and telephone number of the CFR official having operational control over the record.

(A) *Access by the parent of a minor,* or legal guardian. A parent or a minor, upon presenting suitable personal identification, may access on behalf of the minor any record pertaining to the minor maintained by CFA in a system of records. A legal guardian may similarly act on behalf of an individual declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, upon the presentation of documents authorizing the legal guardian to so act; and upon suitable personal identification of the guardian.

(B) *Granting access when accompanied or represented by another individual.* When an individual requesting access to his or her record in a system of records maintained by CFA wishes to be accompanied or represented by another individual during the course of the examination of the record, the individual making the request shall submit to the official having operational control of the record a signed statement authorizing that person access to the record.

(C) *Access in response to congressional inquiries.* Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(vi) *Medical records.* The records in a system of records which are medical records shall be disclosed to the individual in such a manner and following such procedures as the Secretary shall direct. When CFA, in consultation with a physician, determines that the disclosure of medical information could have an adverse effect upon the individual to whom it pertains, CFA may transmit such information to a physician named by the individual.

(vii) *Exceptions.* Nothing in this section shall be construed to entitle an individual the right to access to any information compiled in reasonable anticipation of a civil action or proceeding.

§ 1002.3 Access to the accounting of disclosures from records.

Rules governing the granting of access to the accounting of disclosures are the same as those for granting access to the records outlined in § 1002.2, above.

§ 1002.4 Requests for copies of records.

Rules governing requests for copies of records are the same as those for the granting of access to the records outlined in § 1002.2, above (see also § 1002.7 for rules regarding fees).

§ 1002.5 Requests to amend records.

(a) *Requirement for written requests.* Individuals desiring to amend a record that pertains to them in a system of records maintained by CFA must submit their request in writing in accordance with the procedures set forth herein unless the requirement is waived by the official having responsibility for the system of records. Records not subject to the Privacy Act of 1974 will not be amended in accordance with these provisions; however, individuals who believe that such records are inaccurate may bring this to the attention of the CFA.

(b) *Procedures.* (1) (i) The request to amend a record in a system of records shall be addressed to the Secretary. Included in the request shall be the name of the system and a brief description of the record proposed for amendment. In the event the request to amend the record is the result of the individual's having gained access to the record as set forth above, copies of previous correspondence between the requester and CFA will serve in lieu of a separate description of the record.

(ii) Individuals desiring assistance in the preparation of a request to amend a record should contact the Secretary at the address cited above.

(iii) The exact portion of the record the individual seeks to have amended should be clearly indicated. If possible, the proposed alternative language should also be set forth, or, at a minimum, the facts which the individual believes are not accurate, relevant, timely, or complete, should be set forth with such particularity as to permit CFA not only to understand the individual's basis for the request, but also to make an appropriate amendment to the record.

(iv) The request must also set forth the reasons why the individual believes his record is not accurate, relevant, timely, or complete. In order to avoid the retention by CFA of personal information merely to permit the verification of records, the burden of persuading CFA to amend a record will be upon the individual. The individual must furnish sufficient facts to persuade the official in charge of the system of the inaccuracy, irrelevancy, timeliness, or incompleteness of the record.

(2) *CFA action on the request.* To the extent possible, a decision upon a request to amend a record will be made within 10 days (excluding Saturdays, Sundays, and legal Federal holidays). In the event that a decision cannot be made within this time frame, the individual making the request will be informed within the 10 days of the expected date for a decision. The decision upon a request for amendment will include the following:

(i) The decision of the Commission of Fine Arts whether to grant in full or deny any part of the request to amend the record;

(ii) The reasons for the determination for any part of the request which is denied;

(iii) The name and address of the official with whom an appeal of the denial may be lodged;

(iv) The name and address of the official designated to assist, as necessary, and upon the request of, the individual making the request in preparation of the appeal;

(v) A description of the review of the appeal within CFA (see § 1002.6); and

(vi) A description of any other procedures which may be required of the individual in order to process an appeal.

§ 1002.6 Request for review.

(a) Individuals wishing to request a review of the decision by CFA with regard to an initial request to amend a record in accordance with the provisions of § 1002.5 above, should submit the request for review in writing and, to the extent possible, include the information specified in paragraph (a) of this section. Individuals desiring assistance in the preparation of their request for review should contact the Secretary at the address provided herein.

(b) The request for review should contain a brief description of the record involved or in lieu thereof, copies of the correspondence from CFA in which the request to amend was denied and also the reasons why the requester believes that the disputed information should be amended. The request for review should make reference to the information furnished by the individual in support of his claim and the reasons as required by § 1002.5 above set forth by CFA in its decision denying the amendment. Appeals filed without a complete statement by the requester setting forth the reasons for the review will, of course, be processed. However, in order to make the appellate process as meaningful as possible, the requester's disagreement should be understandably set forth. In order to avoid the unnecessary retention of personal information, CFA reserves the right to dispose of the material concerning the request to amend a record if no request for review in accordance with this section is received by CFA within 180 days of the mailing by CFA of its decision upon an initial request. A request for review received after the 180-day period may, at the discretion of the Secretary, be treated as an initial request to amend a record.

(c) The request for review should be addressed to the Secretary.

(d) Upon receipt of a request for review, the Secretary will convene a review group composed of the Secretary and the Chairman. This group will review the basis for the requested review and will develop a recommended course of action to the office's Committee on Freedom of Information and Privacy (hereinafter referred to as the Committee). If at any time additional information is required from the requestee, the Secretary is authorized to acquire it or authorize its acquisition from the requester.

(e) The Committee is composed of:

(1) The Chairman;

(2) The Secretary;

(3) The Assistant Secretary;

(4) The Administrative Assistant.

(f) The Committee will review the request for review and the recommended course of action and will recommend a decision on the request for review to the Chairman, who has the final authority regarding appeals.

(g) The Chairman will inform the requester in writing of the decision on the request for review within 30 days (excluding Saturdays, Sundays, and legal Federal holidays) from the date of receipt by CFA of the individual's request for review unless the Chairman extends the 30-day period for good cause. The extension of and the reasons therefor will be sent by CFA to the requester within the initial 30-day period. Included in the notice of a decision being reviewed, if the decision does not grant in full the request for review, will be a description of the steps the individual may take to obtain judicial review of such a decision, and a statement that the individual may file a concise statement with CFA setting forth the individual's reasons for his disagreement with the decision upon the request for review. The Secretary has the authority to determine the "conciseness" of the statement, taking into account the scope of the disagreement and the complexity of the issues. Upon the filing of a proper concise statement by the individual, any subsequent disclosure of the information in dispute will have the information in dispute clearly noted and a copy of the concise statement furnished, as well as a concise statement by CFA setting forth its reasons for not making the requested changes, if CFA chooses to file such a statement. A copy of the individual's statement, and, if it chooses, CFA's statement will be sent to any prior transferee of the disputed information who is listed on the accounting required by 5 U.S.C. 552a(c).

§ 1002.7 Schedule of fees.

No fees will be charged for search, review, or copies of the record.

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CHAPTER VI—FARM CREDIT ADMINISTRATION

PART 603—PRIVACY ACT REGULATIONS

Sec.

603.300 Purpose and scope.
603.305 Definitions.
603.310 Procedures for requests pertaining to individual records in a record system.
603.315 Times, places, and requirements for identification of individuals making requests.
603.320 Disclosure of requested information to individuals.
603.325 Special procedures for medical records.
603.330 Request for amendment to record.
603.335 Agency review of request for amendment of record.
603.340 Appeal of an initial adverse determination of a request to amend a record.
603.345 Fees for providing copies of records.
603.350 Criminal penalties.
603.355 General exemptions.
603.360 Specific exemptions.

AUTHORITY: 5 U.S.C. 552a (f), (j), (k).

§ 603.300 Purpose and scope.

(a) This part is published by the Farm Credit Administration pursuant to the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a) which requires each Federal agency to promulgate rules to establish procedures for notification and disclosure to an individual of agency records pertaining to him, and for review, of such records.

(b) The records covered by this part include:

(1) Personnel and employment records maintained by the Farm Credit Administration which are not covered by §§ 293.101–293.111 of the regulations of the Civil Service Commission (5 CFR 293.101–293.111), and

(2) Other records contained in record systems maintained by the Farm Credit Administration.

§ 603.305 Definitions.

In this part:

(1) "Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(2) "Maintain" includes maintain, collect, use, or disseminate;

(3) "Record" means any item, collection, or grouping of information about an individual that is maintained by an agency including, but not limited to, his education, financial transactions, medical history, and criminal or employment history, and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or photograph;

(4) "System of records" means a group of any records under the control of any agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(5) "Statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by 13 U.S.C. 8.

(6) "Routine use" means, with respect to the disclosure of a record, the use of such record for a purpose that is compatible with the purpose for which it was collected;

(7) "Agency" includes the Farm Credit Administration.

§ 603.310 Procedures for requests pertaining to individual records in a record system.

(a) Any present or former employee of the Farm Credit Administration seeking access to his official civil service records maintained by the Farm Credit Administration shall submit his request in such manner as is prescribed by the Civil Service Commission.

(b) Any individual seeking to obtain from the Farm Credit Administration:

(1) Notification whether the agency maintains a record pertaining to him in a system of records;

(2) Notification whether the agency has disclosed a record for which an accounting of disclosure is required to be maintained and made available to him;

(3) A copy of a record pertaining to him or the accounting of its disclosure; or

(4) The review of a record pertaining to him or the accounting of its disclosure;

shall submit a written request to the Director, Administrative Division, Office of Administration (hereafter referred to as "Director"), Farm Credit Administration, 490 L'Enfant Plaza East, SW., Washington, D.C. 20578. The request shall state the full name and address of the individual and identify the system or systems of records believed to contain the information or record sought.

§ 603.315 Times, places, and requirements for identification of individuals making requests.

(a) The individual making written requests to the Director for information or records ordinarily will not be required to verify his identity. The signature upon such requests shall be deemed to be a certification by the requester that he is the individual to whom the record pertains, or the parent of a minor, or the duly appointed legal guardian of the individual to whom the record pertains. The Director, however, may require such additional verification of identity as he may specify in any instance in which he deems it advisable.

§ 603.320 Disclosure of requested information to individuals.

(a) The Director shall, within a reasonable period of time after the date of receipt of a request for information or records:

(1) Determine whether or not such request shall be granted,

(2) Notify the requester of the determination and, if the request is denied, of the reasons therefor, and

(3) Notify the requester that fees for reproducing copies of records may be charged as provided in § 603.345.

(b) If access to a record is denied because the information therein has been compiled by the Farm Credit Administration in reasonable anticipation of a civil or criminal action proceeding the Director shall notify the requester of his right to judicial appeal under 5 U.S.C. 552a(g).

(c) (1) If access to a record is granted the requester shall notify the Director whether the requested record is to be copied and mailed to him or whether the record is to be made available to him in person.

(2) A requester who is an individual may be accompanied by an individual selected by him when the record is disclosed, in which case he may be required to furnish a written statement authorizing the discussion of the record in the presence of the accompanying person.

(d) If the record is to be made available for personal inspection, the requester shall arrange with the Director a mutually agreeable time in the offices of the Farm Credit Administration for inspection of the record.

§ 603.325 Special procedures for medical records.

Medical records in the custody of the Farm Credit Administration which are not subject to Civil Service Commission regulations shall be disclosed either to the individual to whom they pertain or his authorized or legal representative or to a licensed physician named by the individual.

§ 603.330 Request for amendment to record.

(a) If, after disclosure of the requested information, an individual believes that the record is not accurate, relevant, timely, or complete, he may request in writing that the record be amended. Such a request shall be submitted to the Director and shall contain identification of the system of records and the record or information therein, a brief description of the material requested to be changed, the requested change or changes, and the reason for such change or changes.

(b) The Director shall acknowledge receipt of the request within 10 days (excluding Saturdays, Sundays, and legal holidays) and, if a determination has not been made, advise the individual when he may expect to be advised of action taken on the request. The acknowledgment may contain a request for additional information needed to make a determination.

§ 603.335 Agency review of request for amendment of record.

Upon receipt of a request for amendment of a record, the Director shall:

(a) Correct any portion of a record which the individual making the request believes is not accurate, relevant, timely, or complete and thereafter inform the individual in writing of such correction, or

(b) Inform the individual in writing of refusal to amend the record and of the

reasons therefor, and advise him that he may appeal such determination as provided in § 603.340.

§ 603.340 Appeal of an initial adverse determination of a request to amend a record.

(a) Not more than 10 days (excluding Saturdays, Sundays, and legal holidays) after receipt by an individual of an adverse determination on his request to amend a record or otherwise, the individual may appeal to the Deputy Governor, Office of Administration.

(b) The appeal shall be by letter, mailed or delivered to the Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, SW., Washington, D.C. 20578. The letter shall identify the records involved in the same manner they were identified to the Director, shall specify the dates of the request and adverse determination, and shall indicate the expressed basis for that determination. Also, the letter shall state briefly and succinctly the reasons why the adverse determination should be reversed.

(c) The review shall be completed and a final determination made by the Deputy Governor not later than 30 days (excluding Saturdays, Sundays, and legal holidays) from receipt of the request for such review, unless the Deputy Governor extends such 30-day period for good cause. If the 30-day period is extended the individual shall be notified of the reasons therefor.

(d) If the Deputy Governor refuses to amend the record in accordance with the request, the individual shall be notified of his right to file a concise statement setting forth his disagreement with the final determination and his right under 5 U.S.C. 552a(g)(1)(A) to a judicial review of the final determination.

(e) If an amendment of a record as requested upon review is refused, there shall be included in the disputed portion of the record a copy of the concise statement filed by the individual together with a concise statement of the reasons for not amending the record as requested. Such statements will be included when disclosure of the disputed record is made to persons and agencies as authorized under 5 U.S.C. 552a.

§ 603.345 Fees for providing copies of records.

Fees for providing copies of records shall be charged in accordance with § 602.265 of this chapter.

§ 603.350 Criminal penalties.

Section 552a (i) (3) of the Privacy Act (5 U.S.C. 552a (i) (3) makes it a misdemeanor, subject to a maximum fine of $5,000, to knowingly and willfully request or obtain any record concerning any individual from an agency under false pretenses. Sections 552a (i) (1) and (2) of the Act (5 U.S.C. 552a (i) (1), (2)) provide penalties for violation by agency employees of the Act or regulations established thereunder.

§ 603.355 Specific exemptions.

Pursuant to 5 U.S.C. 552a (k) (2), investigatory material compiled for law enforcement purposes in the following systems of records is exempt from subsections (c) (3), (d), (e) (1), (e) (4) (G), (H), and (I), and (f) of 5 U.S.C. 552a and from the provisions of this part:

Federal Land Bank Loans—FCA.

Production Credit Association Loans—FCA.

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Title 11—Federal Elections

CHAPTER I—FEDERAL ELECTION COMMISSION

PART 1—PRIVACY ACT

Sec.

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AUTHORITY: 5 U.S.C. 552a.

§ 1.1 Purpose and scope.

(a) The purpose of this part is to set forth rules informing the public as to what information is maintained by the Federal Election Commission about identifiable individuals and to inform those individuals how they may gain access to and correct or amend information about themselves.

(b) The regulations in this part carry out the requirements of the Privacy Act of 1974 (Pub. L. 93-579) and in particular 5 U.S.C. Section 552a as added by that Act.

(c) The regulations in this part apply only to records disclosed or requested under the Privacy Act of 1974, and not to requests for information made pursuant to 5 U.S.C. § 552, the Freedom of Information Act, or requests for reports and statements filed with the Federal Election Commission which are public records and available for inspection and copying pursuant to 2 U.S.C. §§ 437g(a)(6)(C) and 438(a)(4).

§ 1.2 Definitions.

As defined in the Privacy Act of 1974 and for the purposes of this part, unless otherwise required by the context, the following terms shall have these meanings:

"Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence.

"Maintain" includes maintain, collect, use or disseminate.

"Record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including but not limited to his or her education, financial transactions, medical history, and criminal or employment history and that contains his or her name, or the identifying number, symbol or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

"Systems of Records" means a group of any records under the control of the Federal Election Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

"Routine use" means the use of such record for a purpose compatible with the purpose for which the information was collected.

"Commission" means the Federal Election Committee, its Commissioners and employees.

"Commissioners" means the six appointees confirmed by the Senate who are voting members of the Commission.

"Act" means the Federal Election Campaign Act of 1971, as amended and Chapters 95 and 96 of the Internal Revenue Code of 1954.

§ 1.3 Procedures for requests pertaining to individual records in a record system.

(a) Any individual may request the Commission to inform him or her whether a particular record system named by the individual contains a record pertaining to him or her. The request may be made in person or in writing at the location and to the person specified in the notice describing that record system.

(b) An individual who believes that the Commission maintains records pertaining to him or her but who cannot determine which record system contains those records, may request assistance by mail or in person from the Staff Director, Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463 during the hours of 9 a.m. to 5:30 p.m.

(c) Requests under paragraphs (a) or (b) of this section shall be acknowledged by the Commission within 15 days from the date of receipt of the request. If the Commission is unable to locate the information requested under paragraphs (a) or (b) of this section, it shall so notify the individual within 15 days after receipt of the request. Such acknowledgement may request additional information to assist the Commission in locating the record or it may advise the individual that no record or document exists about that individual.

§ 1.4 Times, places, and requirements for identification of individuals making requests.

(a) After being informed by the Commission that a record system contains a record pertaining to him or her, an individual may request the Commission to disclose that record in the manner described in this section. Each request for the disclosure of a record or a copy of it shall be made at the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463 and to the system manager identified in the notice describing the systems of records, either in writing or in person. Requests may be made by specifically authorized agents or by parents or guardians of individuals.

(b) Each individual requesting the disclosure of a record or copy of a record shall furnish the following information with his or her request:

(1) The name of the record system containing the record;

(2) Proof as described in paragraph (c) of this section that he or she is the individual to whom the requested record relates;

(3) Any other information required by the notice describing the record system.

(c) Proof of identity as required by paragraph (b)(2) of this section shall be provided as described in paragraph (c)(1) and (2) of this section. Requests made by an agent, parent, or guardian, shall be in accordance with the procedures described in § 1.10.

(1) Requests made in writing shall include a statement, signed by the individual and either notarized or witnessed by two persons (including witnesses' addresses). If the individual appears before a notary, he or she shall submit adequate proof of identification in the form of a drivers license, birth certificate, passport or other identification acceptable to the notary. If the statement is witnessed, it shall include a sentence above the witnesses' signatures that they personally know the individual or that the individual has submitted proof of his or her identification to their satisfaction. In any case in which, because of the extreme sensitivity of the record sought to be seen or copied, the Commission determines that the identification is not adequate, it may request the individual to submit additional proof of identification.

(2) If the request is made in person, the requestor shall submit proof of identification similar to that described in paragraph (b)(1) of this section, acceptable to the Commission. The individual may have a person of his or her own choosing accompany him or her when the record is disclosed.

§ 1.5 Disclosure of requested information to individuals.

(a) Upon submission of proof of identification as required by § 1.4, the Commission shall allow the individual to see and/or obtain a copy of the requested record or shall send a copy of the record to the individual by registered mail. If the individual requests to see the record, the Commission may make the record available either at the location where the record is maintained or at a place more suitable to the requestor, if possible. The record shall be made available as soon as possible but in no event later than 15 days after proof of identification.

(b) The Commission must furnish each record requested by an individual under this part in a form intelligible to that individual.

(c) If the Commission denies access to a record to an individual, he or she shall be advised of the reason for the denial and advised of the right to judicial review.

(d) Upon request, an individual will be provided access to the accounting of disclosures from his or her record under the same procedures as provided above and in § 1.4.

§ 1.6 Special procedure: medical records. [Reserved]

§ 1.7 Request for correction or amendment to record.

(a) Any individual who has reviewed a record pertaining to him or her that was furnished under this part, may request the Commission to correct or amend all or any part of that record.

(b) Each individual requesting a correction or amendment shall send the request to the Commission through the person who furnished the record.

(c) Each request for a correction or amendment of a record shall contain the following information:

(1) The name of the individual requesting the correction or amendment;

(2) The name of the system of records in which the record sought to be amended is maintained;

(3) The location of the system of records from which the individual record was obtained;

(4) A copy of the record sought to be amended or corrected or a sufficiently detailed description of that record;

(5) A statement of the material in the record that the individual desires to correct or amend;

(6) A statement of the basis for the requested correction or amendment including any material that the individual can furnish to substantiate the reasons for the correction or amendment sought.

§ 1.8 Agency review of request for correction or amendment of record.

(a) The Commission shall, not later than ten (10) days (excluding Saturdays, Sundays and legal holidays) after the receipt of the request for a correction or amendment of a record under § 1.7, acknowledge receipt of the request and inform the individual whether information is required before the correction or amendment can be considered.

(b) If no additional information is required, within ten (10) days from receipt of the request, the Commission shall either make the requested correction or amendment or notify the individual of its refusal to do so, including in the notification the reasons for the refusal, and the appeal procedures provided in § 1.9.

(c) The Commission shall make each requested correction or amendment to a record if that correction or amendment will tend to negate inaccurate, irrelevant, untimely, or incomplete matter in the record.

(d) The Commission shall inform prior recipients of any amendment or correction or notation of dispute of such individual's record if an accounting of the disclosure was made. The individual may request a list of prior recipients if an accounting of the disclosure was made.

§ 1.9 Appeal of initial adverse agency determination on amendment or correction.

(a) Any individual whose request for a correction or amendment has been denied in whole or in part, may appeal that decision to the Commissioners no later than one hundred eighty (180) days after the adverse decision is rendered.

(b) The appeal shall be in writing and shall contain the following information:

(1) The name of the individual making the appeal;

(2) Identification of the record sought to be amended;

(3) The record system in which that record is contained;

(4) A short statement describing the amendment sought; and

(5) The name and location of the agency official who initially denied the correction or amendment.

(c) Not later than thirty (30) days (excluding Saturdays, Sundays and legal holidays) after the date on which the Commission receives the appeal, the Commissioners shall complete their review of the appeal and make a final decision thereon. However, for good cause shown, the Commissioners may extend that thirty (30) day period. If the Commissioners extend the period, the individual requesting the review shall be promptly notified of the extension and the anticipated date of a decision.

(d) After review of an appeal, the Commission shall send a written notice to the requestor containing the following information:

(1) The decision and, if the denial is upheld, the reasons for the decision;

(2) The right of the requestor to institute a civil action in a Federal District Court for judicial review of the decision; and

(3) The right of the requestor to file with the Commission a concise statement setting forth the reasons for his or her disagreement with the Commission denial of the correction or amendment. The Commission shall make this statement available to any person to whom the record is later disclosed, together with a brief statement, if appropriate, of the Commission's reasons for denying the requested correction or amendment. The Commission shall also send a copy of the statement to prior recipients of the individual's record if an accounting of the disclosures was made.

§ 1.10 Disclosure of record to person other than the individual to whom it pertains.

(a) Any individual who desires to have a record covered by this part disclosed to or mailed to another person may designate such person and authorize such person to act as his or her agent for that specific purpose. The authorization shall be in writing, signed by the individual and notarized or witnessed as provided in § 1.4(c).

(b) The parent of any minor individual or the legal guardian of any individual who has been declared by a court of competent jurisdiction to be incompetent, due to physical or mental incapacity or age, may act on behalf of that individual in any matter covered by this part. A parent or guardian who desires to act on behalf of such an individual shall present suitable evidence of parentage or guardianship, by birth certificate, certified copy of a court order, or similar documents, and proof of the individual's identity in a form that complies with § 1.4(c) of this part.

(c) An individual to whom a record is to be disclosed in person, pursuant to this part may have a person of his or her own choosing accompany him or her when the record is disclosed.

§ 1.11 Fees.

(a) The Commission shall not charge an individual for the costs of making a search for a record or the costs of reviewing the record. When the Commission makes a copy of a record as a necessary part of the Process of disclosing the record to an individual, the Commission shall not charge the individual for the cost of making that copy.

(b) If an individual requests the Commission to furnish a copy of the record, the Commission shall charge the individual for the costs of making the copy. The fee that the Commission has established for making a copy is ten cents ($.10) per page.

§ 1.12 Penalties.

Any person who makes a false statement in connection with any request for a record, or an amendment or correction thereto, under this part, is subject to the penalties prescribed in 18 U.S.C. §§ 494 and 495.

§ 1.13 General exemptions. [Reserved]

§ 1.14 Specific exemptions.

(a) No individual, under the provisions of these regulations, shall be entitled to access to materials compiled in its systems of records identified as FEC audits and investigations (FEC 2) or FEC compliance actions (FEC 3). These exempted systems relate to the Commission's power to exercise exclusive civil jurisdiction over the enforcement of the Act under 2 U.S.C. § 437d(a)(6) and (e); and to defend itself in actions filed against it under 2 U.S.C. § 437d(a)(6). Further the Commission has a duty to investigate violations of the Act under 2 U.S.C. § 437g(a)(2); to conduct audits and investigations pursuant to 2 U.S.C. §§ 437d(a)(10), 438(a)(8); 26 U.S.C. §§ 9007 and 9038; and to refer apparent violations of the Act to the Attorney General or other law enforcement authorities under 2 U.S.C. §§ 437g(a)(5) and 438(a)(9). Information contained in FEC systems 2 and 3 contain the working papers of the Commission staff and form the basis for either civil and/or criminal proceedings pursuant to the exercise of the powers and duties of the Commission. These materials must be protected until such time as they are subject to public access under the provision of 2 U.S.C. § 437g(a)(6)(C) or 5 U.S.C. § 552, or other relevant statutes.

(b) The provisions of paragraph (a) of this section shall not apply to the extent that application of the subsection would deny any individual any right, privilege or benefit to which he or she would otherwise be entitled to receive.

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Title 5—Administrative Personnel

CHAPTER XIV—FEDERAL LABOR RELATIONS COUNCIL AND FEDERAL SERVICE IMPASSES PANEL

PART 2402—PRIVACY

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2402.1 Purpose and scope.
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2402.15 Penalties.

AUTHORITY: PRIVACY ACT of 1974, Pub. L. 93-579.

§ 2402.1 Purpose and scope.

This part contains the regulations of the Federal Labor Relations Council and Federal Service Impasses Panel implementing the Privacy Act of 1974, 5 U.S.C. 552a. The regulations apply to all records maintained by the Council and the Panel that are contained in a system of records, as defined herein, and that contain information about an individual. The regulations in this part set forth procedures that (a) authorize an individual's access to records maintained about the individual, (b) limit the access of other persons to those records, and (c) permit an individual to request the amendment or correction of records about the individual.

§ 2402.2 Definitions.

For the purposes of this part—

(a) "Council" means the Federal Labor Relations Council.

(b) "Panel" means the Federal Service Impasses Panel.

(c) "Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence.

(d) "Maintain" includes maintain, collect, use or disseminate.

(e) "Record" means any item, collection or grouping of information about an individual that is maintained by the Council and the Panel including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(f) "System of records" means a group of any records under the control of the Council and the Panel from which information is retrieved by the name of the individual or by some identifying particular assigned to the individual.

(g) "Routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 2402.3 Annual notice.

The Council and Panel will publish in the FEDERAL REGISTER an annual notice describing the systems of records that the Council and Panel maintain. Those notices shall include (a) the system name, (b) the system location, (c) the categories of individuals covered by the system, (d) the categories of records in the system, (e) the Council's and Panel's authority to maintain the system, (f) the routine uses of the system, (g) the Council's and Panel's policies and practices for maintenance of the system, (h) the system manager, (i) the procedures for notification, access to and correction of records in the system, and (j) the sources of information for the system. Notices shall also be published, as required by the Privacy Act of 1974, of significant changes in or additions to the Council's and Panel's systems of records.

§ 2402.4 Existence of records requests.

(a) An individual who desires to know if a system of records maintained by the Council and the Panel contains a record pertaining to the individual must submit a written inquiry to the Administrative Officer, Federal Labor Relations Council, 1900 E Street NW., Washington, D.C. 20415.

(b) The request shall be in writing and should be clearly and prominently identified as a Privacy Act request. If the request is submitted by mail or otherwise submitted in an envelope or other cover, it should bear the legend "Privacy Act Request" on the envelope or other cover. If a request does not comply with the provisions of this paragraph, it shall not be deemed received until the time it is actually received by the Administrative Officer.

(c) The inquiry must include the name and address of the individual and reasonably describe the system of records in question by the individual. Descriptions of the systems of records maintained by the Council and the Panel have been published in the FEDERAL REGISTER.

(d) The Administrative Officer will advise the individual in writing within 10 working days from receipt of the request whether the system of records named by the individual contains a record pertaining to him or her.

§ 2402.5 Individual access requests.

(a) Any individual who desires to inspect or receive copies of any record pertaining to the individual which is contained in a system of records maintained by the Council and Panel must submit a written request to the Administrative Officer, Federal Labor Relations Council, 1900 E Street NW., Washington, D.C. 20415, reasonably identifying the records sought to be inspected or copied.

(b) The request shall be in writing and should be clearly and prominently identified as a Privacy Act request. If the request is submitted by mail or otherwise submitted in an envelope or other cover, it should bear the legend "Privacy Act Request" on the envelope or other cover. If a request does not comply with the provisions of this paragraph, it shall not be deemed received until the time it is actually received by the Administrative Officer.

(c) An individual seeking access to a record may, if desired, be accompanied by another person during review of the records. If the requestor does desire to be accompanied by another person during the inspection, the requestor must sign a statement, to be furnished to the Council or Panel representative at the time of the inspection, authorizing such other person to accompany requestor.

(d) Satisfactory identification (i.e., employee identification number, current address, and verification of signature) must be provided to the Council or Panel prior to review of the record.

§ 2402.6 Initial decision on access request.

(a) Within 10 working days of the receipt of a request pursuant to § 2402.5, the Administrative Officer shall make an initial decision whether the requested records exist and whether they will be made available to the person requesting them. That initial decision shall immediately be communicated, in writing or other appropriate form, to the person who has made the request.

(b) Where the initial decision is to provide access to the requested records, the above writing or other appropriate communication shall (1) briefly describe the records to be made available, (2) state whether any records maintained, in the system of records in question, about the individual making the request are not being made available, (3) state that the requested records will be available during the Council's and Panel's ordinary office hours at 1900 E Street NW., Washington, D.C. 20415, and (4) state whether any further verification of the identity of the requesting individual is necessary.

(c) Where the initial decision is not to provide access to requested records, the Administrative Officer shall by writing or other appropriate communication explain the reason for that decision. The Administrative Officer shall only refuse to provide an individual access to records about the individual where (1) there is inadequate verification that the requesting individual is in fact the person about whom records are maintained, (2) in fact no such records are maintained, or (3) the requested records have been compiled in reasonable anticipation of civil or criminal action or proceedings.

§ 2402.7 Special procedures: medical records.

(a) If medical records are requested for inspection which, in the opinion of the Administrative Officer, may be harmful to the requestor if personally inspected by him, such records will be furnished only to a licensed physician designated to receive such records by the requestor. Prior to such disclosure, the requestor must furnish a signed written authorization to the Council or Panel to make such disclosure and the physician must furnish a written request to the Administrative Officer for the physician's receipt of such records.

(b) If such authorization is not executed within the presence of a Council or Panel representative, the authorization must be accompanied by a notarized statement verifying the identification of the requestor.

§ 2402.8 Limitations on disclosure.

Requests for records about an individual made by persons other than that individual shall also be directed to the Administrative Officer. Such records shall only be made available to persons other than that individual in the following circumstances:

(a) To any person with the prior written consent of the individual about whom the records are maintained;

(b) To officers and employees of the Council and Panel who need the records in the performance of their official duties;

(c) For a routine use compatible with the purpose for which it was collected;

(d) To any person to whom disclosure is required by the Freedom of Information Act, 5 U.S.C. 552;

(e) To the Bureau of the Census for uses pursuant to title 13, United States Code;

(f) In a form not individually identifiable to a recipient who has provided the Council and Panel with adequate assurance that the record will be used solely as a statistical research or reporting record;

(g) To the National Archives of the United States or other appropriate entity as a record which has historical or other value warranting its preservation;

(h) To another agency or to an instrumentality of any governmental jurisdiction within or under control of the United States for a civil or criminal law enforcement activity that is authorized by law if the head of the agency or instrumentality has made a written request for the record to the Council or Panel.

(i) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual, provided that notification of such a disclosure shall be immediately mailed to the last known address of the individual;

(j) To either House of Congress or to any committee thereof with appropriate jurisdiction;

(k) To the Comptroller General in the performance of the official duties of the General Accounting Office; or

(l) Pursuant to the order of a court of compentent jurisdiction.

§ 2402.9 Accounting of disclosures.

(a) The Administrative Officer of the Council shall maintain a record ("accounting") of every instance in which records about an individual are made available, pursuant to this part, to any person other than (1) an officer or employee of the Council or Panel in the performance of his or her duties or (2) any person pursuant to the Freedom of Information Act, 5 U.S.C. 552.

(b) The accounting which shall be retained for at least 5 years or the life of the record, whichever is longer, shall contain the following information:

(1) A brief description of records disclosed;

(2) The date, nature and, where known, the purpose of the disclosure; and

(3) The name and address of the person or agency to whom the disclosure is made.

§ 2402.10 Requests for correction or amendment of records.

(a) After inspection of any records, if the individual disagrees with any information in the record, he or she may request that the Administrative Officer correct or otherwise amend the records maintained about him or her. Such request shall specify the particular portions of the record to be amended or corrected, the desired amendment or correction, and the reasons therefor.

(b) Such request shall be in writing and directed to the Administrative Officer, Federal Labor Relations Council, 1900 E Street NW., Washington, D.C. 20415. It should be clearly and prominently identified as a Privacy Act request and, if submitted by mail or otherwise submitted in an envelope or other cover, should bear the legend "Privacy Act Request" on the envelope or other cover. If a request does not comply with the provisions of this paragraph, it shall not be deemed received until the time it is actually received by the Administrative Officer.

§ 2402.11 Initial decision on correction or amendment.

(a) Within 10 working days from the date of receipt of a request for correction or amendment, the Administrative Officer will acknowledge receipt of the request and, under normal circumstances, not later than 30 days from receipt of the request the Administrative Officer will give the requesting individual notice, by mail or other appropriate means, of his decision regarding the request.

(b) The Administrative Officer's notice of decision shall include:

(1) A statement whether the request has been granted or denied, in whole or in part;

(2) A quotation or description of any amendment or correction made to any records; and

(3) Where a request is denied in whole or in part, an explanation of the reason for that denial and of the requesting individual's right to appeal the decision to the Executive Director of the Council or the Executive Secretary of the Panel, as the case may be, pursuant to § 2402.13 of this part.

§ 2402.12 Amendment or correction of previously disclosed records.

Whenever a record is amended or corrected pursuant to § 2402.11 or a written statement filed pursuant to § 2402.13, the Administrative Officer shall give notice of that correction, amendment or written statement to all persons to whom the records or copies thereof have been disclosed, as recorded in the accounting kept pursuant to § 2402.9 of this part.

§ 2402.13 Agency review of refusal to correct or amend a record.

(a) *Federal Labor Relations Council.* (1) Any individual whose request for access to, or amendment or correction of, records of the Council has been denied in whole or in part by an initial decision of the Administrative Officer may appeal that decision by filing a written request for review of that decision with the Executive Director, Federal Labor Relations Council, 1900 E Street NW., Washington, D.C. 20415, within 30 days of the receipt of notice of the initial decision.

(2) The appeal shall describe (i) the request initially made by the individual for access to, or the amendment or correction of, records, (ii) the Administrative Officer's initial decision thereupon and (iii) the reasons why that initial decision should be modified by the Executive Director.

(3) Not later than 30 working days from receipt of a request for review (unless such period is extended by the Chairman of the Federal Labor Relations Council for good cause shown), the Executive Director shall make a decision, and give notice thereof to the appealing individual, whether to modify the Administrative Officer's initial decision in any way. If the Executive Director upholds the Administrative Officer's initial decision not to amend or correct the records as requested, he shall notify the appealing individual of (i) his or her right to judicial review of the Executive Director's decision pursuant to 5 U.S.C. 552a(g)(1)(A), and (ii) of his or her right to file with the agency a written statement of disagreement setting forth the reasons why the record should have been amended or corrected as requested. That written statement of disagreement shall be made a part of the record and shall accompany that record in any use or disclosure of the record.

(b) *Federal Service Impasses Panel.* (1) Any individual whose request for access to, or amendment or correction of, records of the Panel has been denied in whole or in part by an initial decision of the Administrative Officer may appeal that decision by filing a written request for review with the Executive Secretary, Federal Service Impasses Panel, 1900 E Street NW., Washington, D.C. 20415, within 30 days of the receipt of notice of the initial decision.

(2) The appeal shall describe (i) the request initially made by the individual for access to, or the amendment or correction of, records, (ii) the Administrative Officer's initial decision thereupon and (iii) the reasons why that initial decision should be modified by the Executive Secretary.

(3) Not later than 30 working days from receipt of a request for review (unless such period is extended by the Chairman of the Federal Service Impasses Panel for good cause shown), the Executive Secretary shall make a decision, and give notice thereof to the appealing individual, whether to modify

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the Administrative Officer's initial decision in any way. If the Executive Secretary upholds the Administrative Officer's initial decision not to amend or correct the records as requested, he shall notify the appealing individual of (i) his or her right to judicial review of the Executive Secretary's decision pursuant to 5 U.S.C. 552a(g)(1)(A), and (ii) of his or her right to file with the agency a written statement of disagreement setting forth the reasons why the record should have been amended or corrected as requested. That written statement of disagreement shall be made a part of the record and shall accompany that record in any use or disclosure of the record.

§ 2402.14 Fees.

(a) Upon request the Council or Panel will provide a copy of the records to the individual to whom they pertain. There will be a charge of $0.10 per page.

(b) Any charges may be waived or reduced whenever it is in the public interest to do so.

§ 2402.15 Penalties.

Any person who knowingly and willfully requests or obtains any record concerning an individual from the Council or Panel under false pretenses shall be subject to criminal prosecution under 5 U.S.C. 552a(i)(3) which provides that such person shall be guilty of a misdemeanor and fined not more than $5,000.

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE

PART 4—MISCELLANEOUS RULES

§ 4.13 Privacy Act rules.

(a) *Purpose and scope.* (1) This section is promulgated to implement the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a) by establishing procedures whereby an individual can, as to all systems of records maintained by the Commission except those set forth in § 4.13(m) as exempt from disclosure, (i) request notification of whether the Commission maintains a record pertaining to him in any system of records, (ii) request access to such a record or to an accounting of its disclosure, (iii) request that the record be amended or corrected, and (iv) appeal an initial adverse determination of any such request. This section also establishes those systems of records that are specifically exempt from disclosure and from other requirements.

(2) The procedures of this section apply only to requests by an individual as defined in § 4.13(b). Except as otherwise provided, they govern only records containing personal information in systems of records for which notice has been published by the Commission in the FEDERAL REGISTER pursuant to section 552a(e)(4) of the Privacy Act of 1974 and which are neither exempt from the provisions of this section nor contained in government-wide systems of personnel records for which notice has been published in the FEDERAL REGISTER by the Civil Service Commission. Requests for notification, access, and amendment of personnel records which are contained in a system of records for which notice has been given by the Civil Service Commission are governed by the Civil Service Commission's notices, 5 CFR Part 297. Access to records which are not subject to the requirements of the Privacy Act are governed by §§ 4.8–4.11.

(b) *Definitions.*—The following definitions apply to this section only:

(1) "Individual" means a natural person who is a citizen of the United States or an alien lawfully admitted for permanent residence.

(2) "Record" means any item, collection, or grouping of personal information about an individual that is maintained by the Commission, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph, but does not include information concerning proprietorships, businesses, or corporations.

(3) "System of records" means a group of any records under the control of the Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual, for which notice has been published by the Commission in the FEDERAL REGISTER pursuant to 5 U.S.C. 552a(e)(4).

(c) *Procedures for requests pertaining to individual records in a record system.*—An individual may request access to his records or any information pertaining to him in a system of records, and notification of whether and to whom the Commission has disclosed a record for which an accounting of disclosures is required to be kept and made available to him, using the procedures of this subsection. Requests for the disclosure of records under this subsection or to determine whether a system of records contains records pertaining to an individual or to obtain an accounting of disclosures, shall be in writing and if mailed, addressed as follows:

Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

If requests are presented in person at the Office of the Secretary, the individual shall be required to execute a written request. All requests must name the system of records which is the subject of the request, and must include any additional information specified in the pertinent system notice as necessary to locate the records requested. If the requester desires to permit a person to accompany him to review his record, the request shall so state. Nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

(d) *Times, places, and requirements for identification of individuals making requests.*—Verification of identity of persons making written requests to the Secretary ordinarily will not be required. The signature upon such requests shall be deemed to be a certification by the person signing that he is the individual to whom the record pertains or the parent of a minor or the duly appointed legal guardian of the individual to whom the record pertains. The Secretary may require additional verification of identity as specified by him when necessary reasonably to assure that records are not improperly disclosed; provided, however, that no verification of identity will be required where the records sought are publicly available under the Freedom of Information Act.

(e) *Disclosure of requested information to individuals.*—Within ten (10) working days of receipt of a request under § 4.13(c), the Secretary shall acknowledge receipt of the request. Within thirty (30) working days of the receipt of a request under § 4.13(c), the Secretary shall inform the requester whether a system of records containing retrievable information pertaining to the requester exists, and if so, either that his request has been granted or that the requested records or information is exempt from disclosure pursuant to § 4.13(m). When, for good cause shown, the Secretary is unable to respond within thirty (30) working days of the receipt of the request, he shall notify the requester of that fact and approximately when it is anticipated that a response will be made.

(f) *Special procedures: Medical records.*—When the Secretary determines that disclosure of a medical or psychological record directly to a requesting individual could have an adverse effect on the individual, he shall require the individual to designate a medical doctor to whom the record will be transmitted.

(g) *Request for correction or amendment of record.*—An individual to whom access to his records or any information pertaining to him in a system of records has been granted may request that any portion thereof be amended or corrected because he believes it is not accurate, relevant, timely, or complete. An initial request for correction or amendment of a record shall be in writing whether presented in person or by mail, and if by mail, addressed as in § 4.13(c). In making a request under this subsection, the requesting party shall state the nature of the information in the record the individual believes to be inaccurate, irrelevant, untimely, or incomplete, the correction or amendment desired, and the reasons therefore.

(h) *Agency review of request for correction or amendment of record.*—Whether presented in person or by mail, requests under § 4.13(g) shall be acknowledged by the Secretary within ten (10) working days of the receipt of the request if action on the request cannot be completed and the individual notified of the results within that time. Thereafter, the Secretary shall promptly either make the requested amendment or correction or inform the requester of his refusal to make the amendment or correction, the reasons for the refusal, and the requester's right to appeal that determination in accordance with § 4.13(i).

(i) *Appeal of initial adverse agency determination.*—(1) If the Secretary denies an initial request under § 4.13(c) or § 4.13(g), the requester may appeal that determination to the Commission. The appeal shall be in writing and addressed as follows:

Privacy Act Appeal, Office of the General Counsel, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

The Commission shall notify the requester within thirty (30) working days of the receipt of his appeal of the disposition of that appeal, except that the thirty (30) day period may be extended for good cause, in which case the requester will be advised of the approximate date on which review will be completed.

(2) (i) If the Commission refuses to amend or correct the record in accordance with a request under § 4.13(g), it shall notify the requester of that deter-

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mination and inform him of his right to file with the Secretary of the Commission a concise statement setting forth the reasons for his disagreement with that determination and the fact that such a statement will be treated as set forth in subparagraph (ii). The Commission shall also inform the requester that judicial review of the determination is available by a civil suit in the district in which the requester resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia.

(ii) If the individual files a statement disagreeing with the Commission's determination not to amend or correct a record, it shall be clearly noted in the record involved and made available to anyone to whom the record has been disclosed after September 27, 1975, or is subsequently disclosed together with, if the Commission deems it appropriate, a brief statement of the reasons for refusing to amend the record.

(j) *Disclosure of record to person other than the individual to whom it pertains.*—Except as provided by 5 U.S.C. 552a(b), the written request or prior written consent of the individual to whom a record pertains, or of his parent if a minor, or legal guardian if incompetent, shall be required before such record is disclosed. If the individual elects to inspect a record in person and desires to be accompanied by another person, the Secretary may require the individual to furnish a signed statement authorizing his record to be disclosed in the presence of the accompanying named person.

(k) *Fees.* No fees shall be charged for searching for a record, reviewing it, or for copies of records made by the Commission for its own purposes incident to granting access to a requester. Copies of records to which access has been granted under this section may be obtained by the requester from the Secretary upon payment of the reproduction fees provided in § 4.8(c)(2).

(l) *Penalties.* Section 552a(i)(3) of the Privacy Act, 5 U.S.C. 552a(i)(3), makes it a misdemeanor, subject to a maximum fine of $5,000, to knowingly and willfully request or obtain any record concerning an individual under false pretenses. Sections 552a(i)(1) and (2) of the Privacy Act, 5 U.S.C. 552a(i)(1) and (2), provide penalties for violations by agency employees of the Privacy Act or regulations established thereunder. Title 18 U.S.C. 1001, Crimes and Criminal Procedures, makes it a criminal offense, subject to a maximum fine of $10,000 or imprisonment for not more than 5 years or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States.

(m) *Specific exemptions.*—Pursuant to 5 U.S.C. § 552a(k)(2), investigatory material compiled for law enforcement purposes in the following systems of records is exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of 5 U.S.C. 552a, and from the provisions of this section, except as otherwise provided in § 552a(k)(2):

Disciplinary Action Investigatory Files—FTC.
Investigational, Legal, and Public Records—FTC.
Litigation Information Management Systems for Investigations, Rulemaking, and Adjudicatory Proceedings—FTC.
Preliminary Investigation Files—FTC.

Title 45—Public Welfare

CHAPTER XVIII—HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

PART 1800—PRIVACY ACT OF 1974

Sec.

1800.1 Purpose and scope.
1800.2 Definitions.
1800.3 Procedures for requests pertaining to individual records in a record system.
1800.4 Times, places, and requirements for the identification of the individual making a request.
1800.5 Disclosure of requested information to the individual.
1800.6 Request for correction or amendment to the record.
1800.7 Agency review of request for correction or amendment of the record.
1800.8 Appeal of an initial adverse agency determination on correction or amendment of the record.
1800.9 Disclosure of record to a person other than the individual to whom the record pertains.
1800.10 Fees.

AUTHORITY: 5 U.S.C. 552a; Pub. L. 93-579.

§ 1800.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the Harry S. Truman Scholarship Foundation (hereafter known as the Foundation) maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 1800.2 Definitions.

For the purpose of these regulations—

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Foundation, including, but not limited to, his or her employment history, payroll information, and financial transactions and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as social security number;

(d) The term "system of records" means a group of any records under the control of the Foundation from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 1800.3 Procedures for requests for access to individual records in a record system.

An individual shall submit a request to the Deputy Executive Secretary of the Foundation to determine if a system of records named by the individual contains a record pertaining to the individual. The individual shall submit a request to the Deputy Executive Secretary of the Foundation which states the individual's desire to review his or her record.

§ 1800.4 Times, places, and requirements for the identification of the individual making a request.

An individual making a request to the Deputy Executive Secretary of the Foundation pursuant to § 1800.3 shall present the request at the Foundation offices, 712 Jackson Place, NW., Washington, D.C. 20006, on any business day between the hours of 9 a.m. and 5 p.m. The individual submitting the request should present himself or herself at the Foundation's offices with a form of identification which will permit the Foundation to verify that the individual is the same individual as contained in the record requested.

§ 1800.5 Access to requested information to the individual.

Upon verification of identity the Foundation shall disclose to the individual the information contained in the record which pertains to that individual.

§ 1800.6 Request for correction or amendment to the record.

The individual should submit a request to the Deputy Executive Secretary of the Foundation which states the individual's desire to correct or to amend his or her record. This request is to be made in accord with the provisions of § 1800.4.

§ 1800.7 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of the request to correct or to amend the record, the Deputy Executive Secretary of the Foundation will acknowledge in writing such receipt and promptly either—

(a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his or her refusal to correct or to amend the record in accordance with the request, the reason for the refusal, and the procedures established by the Foundation for the individual to request a review of that refusal.

§ 1800.8 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the Deputy Executive Secretary of the Foundation to correct or to amend his or her record may submit a request for a review of such refusal to the Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, NW., Washington, D.C. 20006. The Executive Secretary will, not later than thirty working days from the date on which the individual, requests such review, complete such review and make a final determination unless, for good cause shown, the Executive Secretary extends such thirty day period. If, after his or her review, the Executive Secretary also refuses to correct or to amend the record in accordance with the request, the individual may file with the Foundation a concise statement setting forth the reasons for his or her disagreement with the refusal of the Foundation and may seek judicial review of the Executive Secretary's determination under 5 U.S.C. 552a(g)(1)(A).

§ 1800.9 Disclosure of record to a person other than the individual to whom the record pertains.

The Foundation will not disclose a record to any individual other than to the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record pertains, unless the disclosure has been listed as a "routine use" in the Foundation's notices of its systems of records.

§ 1800.10 Fees.

If an individual requests copies of his or her record, he or she shall be charged ten cents per page, excluding the cost of any search for review of the record, in advance of receipt of the pages.

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Title 22—Foreign Relations

CHAPTER X—INTER-AMERICAN FOUNDATION

PART 1003—RULES SAFEGUARDING PERSONAL INFORMATION IN IAF RECORDS

1003.1 General policies, conditions of disclosure, accounting of certain disclosures, and definitions.
1003.2 Definitions.
1003.3 Access to records.
1003.4 Inter-American Foundation system of records requirements.
1003.5 Access to personal information from Inter-American Foundation records.
1003.6 Administrative review.
1003.7 Judicial review.
1003.8 Exemptions.
1003.9 Mailing lists.
1003.10 Reports.

AUTHORITY: 5 U.S.C. 552a.

§ 1003.1 General policies, conditions of disclosure, accounting of certain disclosures, and definitions.

(a) The Inter-American Foundation will safeguard an individual against an invasion of personal privacy. Except as otherwise provided by law or regulation its officials and employees will:

(1) Permit an individual to determine what records pertaining to him or her will be collected, maintained, used, or disseminated by the Inter-American Foundation.

(2) Permit an individual to prevent records pertaining to him or her, obtained by the Inter-American Foundation for a particular purpose, from being used or made available for another purpose without his or her consent.

(3) Permit an individual to gain access to information pertaining to him or her in the Inter-American Foundation records, to have a copy made of all or any portion thereof, and to correct or amend such records.

(4) Collect, maintain, use or disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, that the information is correct and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information.

(5) Permit exemptions from records requirements provided in 5 U.S.C. 552a only where an important public policy need for such exemption has been determined pursuant to specific statutory authority.

(b) The Inter-American Foundation will not disclose any record contained in a system of records by any means of communication to any person or any other agency except by written request of or prior written consent of the individual to whom the record pertains unless such disclosure is:

(1) To those officers and employees of the agency which maintains the record and who have a need for the record in the performance of their duties;

(2) Required under 5 U.S.C. 552;

(3) For a routine use of the record compatible with the purpose for which it was collected;

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to title 13, United States Code;

(5) To a recipient who has provided the Inter-American Foundation with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the U.S. Government, or for evaluation by the Administrator of General Services or designee to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the Inter-American Foundation specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(10) To the Comptroller General, or any authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(11) Pursuant to the order of a court of competent jurisdiction.

(c) With respect to each system of records (i.e., a group of records from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual) under Inter-American Foundation control, the Inter-American Foundation will (except for disclosures made under paragraph (b) (1) or (2) of this section) keep an accurate accounting as follows:

(1) For each disclosure of a record to any person or to another agency made under paragraph (b) of this section, maintain information consisting of the date, nature, and purpose of each disclosure, and the name and address of the person or agency to whom the disclosure is made;

(2) Retain the accounting made under paragraph (c)(1) of this section for at least 5 years or the life of the record, whichever is longer, after the disclosures for which the accounting is made;

(3) Except for disclosures made under paragraph (b)(7) of this section, make the accounting under paragraph (c)(1) of this section available to the individual named in the record at his or her request; and

(4) Inform any person or other agency about any correction or notation of dispute made by the agency of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

(d) The parent of any minor, or the legal guardian of any individual who has been declared incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

(e) Section 552a(i), title 5, United States Code, provided that:

(1) Any officer or employee of the Inter-American Foundation, who by virtue of his or her employment or official position, has possession of, or access to, Inter-American Foundation records which contain individually identifiable information the disclosure of which is prohibited by 5 U.S.C. 552a and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

(2) Any officer or employee of the Inter-American Foundation who willfully maintains a system of records without meeting the notice requirements of 5 U.S.C. 552a(e)(4) shall be guilty of a misdemeanor and fined not more than $5,000.

(3) Any person who knowingly and willfully requests or obtains any record concerning an individual from the Inter-American Foundation under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000.

§ 1003.2 Definitions.

The following definitions apply:

(a) The term "agency" includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the government (including the Executive Office of the President), or any independent regulatory agency.

(b) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence.

(c) The term "maintain" includes maintain, collect, use, or disseminate.

(d) The term "record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his or her education, financial transactions, medical history, and criminal or employment history and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(e) The term "system of records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

(f) The term "statistical record" means a record in a system of records

maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual except as provided by section 8 of title 13, United States Code.

(g) The term "routine use" means, with respect to the disclosure or a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 1003.3 Access to records.

(a) Except as otherwise provided by law or regulation any individual upon request may gain access to his or her record or to any information pertaining to him or her which is contained in any system or records maintained by the Inter-American Foundation. The individual will be permitted, and upon his or her request, a person of his or her own choosing permitted to accompany him or her, to review the record and have a copy made of all or any portion thereof in a form comprehensible to him or her. The Inter-American Foundation will require, however, a written statement from the individual authorizing discussion of that individual's record in the accompanying person's presence.

(b) Any individual may request amendment of any Inter-American Foundation record pertaining to him or her. Not later than 10 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of such request, the Inter-American Foundation will acknowledge in writing such receipt. The Inter-American Foundation will also promptly either:

(1) Correct any part thereof which the individual believes is not accurate, relevant, timely, or complete; or

(2) Inform the individual of the Inter-American Foundation's refusal to amend the record in accordance with his or her request, the reason for the refusal, the procedures by which the individual may request a review of that refusal by the Administrator or designee, and the name and address of such official.

(c) Any individual who disagrees with the Inter-American Foundation's refusal to amend his or her record may request a review of such refusal. The Inter-American Foundation will complete such review not later than 30 days (excluding Saturdays, Sundays, and legal public holidays) from the date on which the individual requests such review and make a final determination unless, for good cause shown, the Administrator extends such 30-day period. If, after review, the Administrator or designee also refuses to amend the record in accordance with the request the individual will be advised of the right to file with the Inter-American Foundation a concise statement setting forth the reasons for his or her disagreement with the Inter-American Foundation's refusal, and also advised of the provisions for judicial review of the reviewing official's determination (5 U.S.C. 552a(g)(1)(A)).

(d) In any disclosure, containing information about which the individual has filed a statement of disagreement, occurring after the filing of the statement under paragraph (c) of this section, the Inter-American Foundation will clearly note any part of the record which is disputed and provide copies of the statement (and, if the Inter-American Foundation deems it appropriate, copies also of a concise statement of the Inter-American Foundation's reasons for not making the amendments requested) to persons or other agencies to whom the disputed and provide copies of the state-

(e) Nothing in 5 U.S.C. 552a, however, allows an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

§ 1003.4 Inter-American Foundation system of records requirements.

(a) The Inter-American Foundation will maintain in its records any such information about an individual as is relevant and necessary to accomplish a purpose of the Inter-American Foundation required to be accomplished by statute or Executive order of the President.

(b) The Inter-American Foundation will collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs.

(c) The Inter-American Foundation will inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual of:

(1) The authority (whether granted by statute or Executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(2) The principal purpose or purposes for which the information is intended to be used;

(3) The routine uses which may be made of the information, as published pursuant to paragraph (d)(4) of this section; and

(4) The effects on him or her, if any, of not providing all or any part of the requested information.

(d) Subject to the provisions of paragraph (k) of this section, the Inter-American Foundation will publish in the FEDERAL REGISTER at least annually a notice of the existence and character of its system of records. This notice will include:

(1) The name and location of the system or systems;

(2) The categories of individuals on whom records are maintained in the system or systems;

(3) The categories of records maintained in the system or systems;

(4) Each routine use of the records contained in the system or systems, including the categories of users and the purpose of such use;

(5) The policies and practices of the Inter-American Foundation regarding storage, retrievability, access controls, retention, and disposal of the records;

(6) The title and business address of the Inter-American Foundation official or officials responsible for the system or systems of records;

(7) The Inter-American Foundation procedures whereby an individual can be notified at his or her request if the system or systems of records contain a record pertaining to him or her;

(8) The Inter-American Foundation procedures whereby an individual can be notified at his or her request how he or she can gain access to any record pertaining to him or her contained in the system or systems of records, and how he or she can contest its content; and

(9) The categories of sources of records in the system or systems.

(e) All records used by the Inter-American Foundation in making any determination about any individual will be maintained with the accuracy, relevance, timeliness, and completeness reasonably necessary to assure fairness to the individual in the determination.

(f) Before disseminating any record about any individual to any person other than an agency the Inter-American Foundation will make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for Inter-American Foundation purposes unless the dissemination is required pursuant to 5 U.S.C. 552.

(g) The Inter-American Foundation will maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity.

(h) The Inter-American Foundation will make reasonable efforts to serve notice on an individual when any record on such individuals is made available to any person under compulsory legal process when such process becomes a matter of public record.

(i) The Inter-American Foundation will establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record. Each such person will be instructed regarding such rules and the requirements of 5 U.S.C. 552a. The instruction will include any other rules and procedures adopted pursuant to 5 U.S.C. 552a, and the penalties it provides for noncompliance.

(j) The Inter-American Foundation will establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained.

(k) At least 30 days prior to the publication of a notice in the FEDERAL REGISTER at least annually regarding the routine use of the records contained in the Inter-American Foundation system or systems of records including the categories of users and the purpose of such

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...pursuant to paragraph (d)(4) of ... Inter-American Foundation ...

(3) Publish a notice in the FEDERAL REGISTER of any new use or intended use of the information in the system of systems, and

(4) Provide an opportunity for interested persons to submit written data, views, or arguments to the Inter-American Foundation.

§ 1003.5 Access to personal information from Inter-American Foundation records.

(a) The Inter-American Foundation will promulgate regulations, as necessary, to assure compliance with the provisions of 5 U.S.C. 552a, developed in accordance with the provisions of 5 U.S.C. 553, as applicable.

(b) Any individual will be notified upon request if any Inter-American Foundation system of records named contains a record pertaining to him or her. Such request must be in writing, over the signature of the requester. The request must contain a reasonable description of the Inter-American Foundation system or systems of records meant, as described at least annually by notice published in the FEDERAL REGISTER describing the existence and character of the Inter-American Foundation's system or systems of records. The request should be made to the Executive Officer, Inter-American Foundation, 1615 Wilson Boulevard, Rosslyn, Virginia 22209. Personal contacts should normally be made during the regular duty hours of the office concerned, which are 8:30 a.m. to 4:00 p.m. Monday through Friday. Identification of the individual requesting the information will be required consisting of name, signature, address, and claim, insurance or other identifying file number, if any, as a minimum.

(c) The department or staff office having jurisdiction over the records involved with establish appropriate disclosure procedures and will notify the individual requesting disclosure of his or her record or information pertaining to him or her of the time, place and conditions under which the Inter-American Foundation will comply to the extent permitted by law and Inter-American Foundation regulation. Special procedures will be established by the department or staff office concerned governing the disclosure to an individual of medical records, including psychological records pertaining to him or her.

(d) The department or staff office having jurisdiction over the records involved will also establish procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual for making a determination on the request, for an appeal within the Inter-American Foundation of an initial adverse Inter-American Foundation determination, and for whatever additional means may be necessary for each individual to be able to exercise fully his or her rights under 5 U.S.C. 552a.

(e) Fees to be charged, if any, to any individual for making copies of his or her record, excluding the cost of any search for and review of the record, will be as follows:

(1) Photocopy reproductions from all types of copying processes, each reproduction image $0.05.

(2) Where the Inter-American Foundation undertakes to perform for a requester or for any other person services which are very clearly not required to be performed under section 552a, title 5, United States Code, either voluntarily or because such services are required by some other law (e.g., the formal certification of records as true copies, attestation under the seal of the Inter-American Foundation, etc.), the question of charging fees for such services will be determined by the official or designee authorized to release the information under § 1.556, in the light of the Federal user charge statute, 31 U.S.C. 483a, and any other applicable law.

§ 1003.6 Administrative review.

(a) Upon denial of a request, the responsible Inter-American Foundation official or designated employee will inform the requester in writing of the denial, cite the reason or reasons and the Inter-American Foundation regulations upon which the denial is based, and advise that the denial may be appealed to the Administrator.

(b) The final agency decision in such appeals will be made by the Administrator or Deputy Administrator.

§ 1003.7 Judicial review.

Any person may file a complaint against the Inter-American Foundation in the appropriate U.S. district court, as provided in 5 U.S.C. 552a(g), whenever the Inter-American Foundation:

(a) Makes a determination not to amend an individual's record in accordance with his or her request, or fails to make such review in conformity with that section;

(b) Refuses to comply with an individual request;

(c) Fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities of, or benefits to the individual that may be made on the basis of such record, and consequently a determination is made which is adverse to the individual; or

(d) Fails to comply under any other provision of 5 U.S.C. 552a, or any Inter-American Foundation regulation promulgated thereunder, in such a way as to have an adverse effect on an individual.

§ 1003.8 Exemptions.

No Inter-American Foundation records system or systems as such are exempted from the provisions of 5 U.S.C. 552a as permitted under certain conditions by 5 U.S.C. 552a(j) and (k).

§ 1003.9 Mailing lists.

An individual's name and address may not be sold or rented by the Inter-American Foundation unless such action is specifically authorized by law. This section does not require the withholding of names and addresses otherwise permitted to be made public.

§ 1003.10 Reports.

(a) The Administrator or designee will provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any Inter-American Foundation system or systems of records, as required by 5 U.S.C. 552a(o). This will permit an evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals or the disclosure of information relating to such individuals, and its effect on the preservation of the constitutional principles of federalism and separation of powers.

(b) If at any time an Inter-American Foundation system or systems of records is determined to be exempt from the application of 5 U.S.C. 552a in accordance with the provisions of 5 U.S.C. 552a (j) and (k), the number of records contained in such system or systems will be separately listed and reported to the Office of Management and Budget in accordance with the then prevailing guidelines and instructions of that agency.

Title 50—Wildlife and Fisheries

CHAPTER V—MARINE MAMMAL COMMISSION

PART 501—IMPLEMENTATION OF THE PRIVACY ACT OF 1974

Sec.

501.1 Purpose and scope.
501.2 Definitions.
501.3 Procedure for responding to requests regarding the existence of records pertaining to an individual.
501.4 Requests for access—times, places and requirements for identification of individuals.
501.5 Disclosure of requested information.
501.6 Requests for correction or amendment of a record.
501.7 Agency review of requests for amendment or correction of a record.
501.8 Appeal of initial denial of a request for amendment or correction.
501.9 Fees.

AUTHORITY: Sec. 3, Privacy Act of 1974 (5 U.S.C. 552a(f).)

§ 501.1 Purpose and Scope.

(a) *Purpose.* The purpose of these rules is to fulfill the responsibilities of the Marine Mammal Commission (the "Commission") under Section 3 of the Privacy Act of 1974, 5 U.S.C. 552a(f) (the "Act") by establishing procedures whereby an individual will be notified if any system of records maintained by the Commission contains a record pertaining to him or her; by defining the times and places at which records will be made available and the identification requirements which must be met by any individual requesting access to them; by establishing procedures for disclosure to an individual, on request, of any record pertaining to him or her; and by establishing procedures for processing, reviewing, and making a final determination on requests of individuals to correct or amend a record pertaining to him or her, including a provision for administrative appeal of initial adverse determinations on such requests. These rules are promulgated with particular attention to the purposes and goals of the Act, and in accordance therewith provide for relative ease of access to records pertaining to an individual, and for maintenance by the Commission of only those records which are current, accurate, necessary, relevant and complete with respect to the purposes for which they were collected.

(b) *Scope.* These rules apply only to "record" contained in "systems of records," defined by the Act as follows:

> The term "record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;
>
> The term "system of records" means of group of any record under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

Notices with respect to the systems maintained by the Commission have been published in the FEDERAL REGISTER, as required by the Act. These rules pertain only to the systems of records disclosed in such notices, and to any systems that may become the subject of a notice at any time in the future.

(c) Nothing in these rules shall be construed as pertaining to requests made under the Freedom of Information Act, 5 U.S.C. 552.

§ 501.2 Definitions.

(a) As used in this Part:

(1) The term "Act" means the Privacy Act of 1974, 5 U.S.C. 552a.

(2) The term "Commission" means the Marine Mammal Commission.

(3) The term "Director" means the Executive Director of the Marine Mammal Commission.

(4) The term "Privacy Officer" means an individual designated by the Director to receive all requests regarding the existence of records, requests for access and requests for correction or amendment; to review and make initial determinations regarding all such requests; and to provide assistance to any individual wishing to exercise his or her rights under the Act.

(b) Other terms shall be used in this part in accordance with the definitions contained in section 3 of the Privacy Act of 1974, 5 U.S.C. 552a(a).

§ 501.3 Procedure for responding to requests regarding the existence of records pertaining to an individual.

Any individual may submit a request to be notified whether a system of records, with respect to which the Commission has published a notice in the FEDERAL REGISTER, contains a record pertaining to him or her. Requests may be made in writing to the Privacy Officer or by appearing in person at the Commission offices located at 1625 I Street, NW., Room 307, Washington, D.C. 20006 between the hours of 9:00 a.m. and 5:00 p.m. on any working day. Systems of records that are the subject of a request should be identified by reference to the system name designated in the Notice of Systems of Records published in the FEDERAL REGISTER. In the event a system name is not known to the individual, a general request will suffice if it indicates reasons for the belief that a record pertaining to the named individual is maintained by the Commission. Receipt of inquiries submitted by mail will be acknowledged within 10 days of receipt (excluding Saturdays, Sundays, and legal public holidays) unless a response can also be prepared and forwarded to the individual within that time.

§ 501.4 Requests for access—times, places and requirements for identification of individuals.

Requests for access to a system of records pertaining to any individual may be made by that individual by mail addressed to the Privacy Officer, or by submitting a written request in person at the Commission offices located at 1625 I Street, NW., Room 307, Washington, D.C. 20006, between the hours of 9 a.m. and 5 p.m. on any working day. Assistance in gaining access under this section, securing an amendment or correction under Section 501.6, or preparing an appeal under §§ 501.5(d) and 501.8 shall be provided by the Privacy Officer on request directed to the Commission office. An individual appearing in person at the Commission offices will be granted immediate access to any records to which that individual is entitled under the Act upon satisfactory proof of identity by means of a document bearing the individual's photograph or signature. For requests made by mail, identification of the individual shall be adequate if established by means of submitting a certificate of a notary public, or equivalent officer empowered to administer oaths, substantially in accord with the following:

City of _____ County of _____:
ss (Name of individual) who affixed (his) (her) signature below in my presence, came before me, a (Title), in the aforesaid County and State, this ____ day of _____, 19__, and established (his) (her) identity to my satisfaction.
My Commission expires _____.

The certificate shall not be required, however, for written requests pertaining to non-sensitive information or to information which would be required to be made available under the Freedom of Information Act. The Privacy Officer shall determine the adequacy of any proof of identity offered by an individual.

§ 501.5 Disclosure of requested information.

(a) Upon request and satisfactory proof of identity, an individual appearing at the Commission offices shall be given immediate access to and permission to review any record, contained in a system of records, pertaining to him or her, shall be allowed to have a person of his/her choosing accompany him/her, and shall be given a copy of all or any portion of the record. The individual to which access is granted shall be required to sign a written statement authorizing the presence of the person who accompanies him or her, and authorizing discussion of his or her record in the presence of the accompanying person.

(b) Requests made by mail to the Privacy Officer at the Commission offices will be acknowledged within 10 days from date of receipt (excluding Saturdays, Sundays, and legal public holidays). This acknowledgement shall advise the individual whether access to the record will be granted and, if access is granted, copies of such records shall be enclosed.

(c) If the Privacy Officer initially determines to deny access to all or any portion of a record, notice of denial shall be given to the individual in writing, within 30 days (excluding Saturdays, Sundays and holidays) after acknowledgement is given, and shall include the following:

(1) The precise record to which access is being denied;

(2) The reason for denial, including a citation to the appropriate provisions of the Act and of these Rules;

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(3) A statement that the denial may be appealed to the Director;

(4) A statement of what steps must be taken to perfect an appeal to the Director, and,

(5) A statement that the individual has a right to judicial review under 5 U.S.C. 552a(g)(1) of any final denial issued by the Director.

(d) Administrative appeal of an initial denial, in whole or in part, of any request for access to a record, shall be available. An individual may appeal by submitting to the Director a written request for reconsideration stating therein specific reasons for reversal which address directly the reasons for denial stated in the initial notice of denial. If access is denied on appeal, a final notice of denial shall be sent to the individual within 30 days (excluding Saturdays, Sundays and holidays), and shall state with particularity the grounds for rejecting all reasons for reversal submitted by the individual. The denial shall then be deemed final for purposes of obtaining judicial review.

§ 501.6 Requests for correction or amendment of a record.

(a) Any individual may request the correction or amendment of a record pertaining to him or her in writing addressed to the Privacy Officer at the Commission offices. Verification of identity required for such requests shall be the same as that specified in Section 501.4 above with respect to requests for access. Records sought to be amended must be identified with as much specificity as is practicable under the circumstances of the request, and at a minimum, should refer to the system name designated in the Notice of System Records published in the FEDERAL REGISTER, the type of record in which the information thought to be improperly maintained or incorrect is contained, and the precise information that is the subject of the request (for example, system name, description of record, paragraph, sentence, line, words). Assistance in identifying a record, and in otherwise preparing a request, may be obtained by contacting the Privacy Officer at the Commission offices.

(b) A request should, in addition to identifying the individual and the record sought to be amended or corrected, include:

(1) The specific wording or other information to be deleted, if any;

(2) The specific wording or other information to be inserted, if any, and the exact place in the record at which it is to be inserted, and,

(3) A statement of the basis for the requested amendment or correction (e.g., that the record is inaccurate, unnecessary, irrelevant, untimely, or incomplete), together with supporting documents, if any, which substantiate the statement.

§ 501.7 Agency review of requests for amendment or correction of a record.

(a) Where possible, each request for amendment or correction shall be reviewed, and a determination on the request made, by the Privacy Officer within 10 days of receipt (excluding Saturdays, Sundays and holidays). Requests shall be acknowledged within that period where insufficient information has been provided to enable action to be taken. An acknowledgement shall inform the individual making the request of the estimated time within which a disposition of the request is expected to be made, and shall prescribe such further information as may be necessary to process the request. The request shall be granted, or an initial decision to deny shall be made, within ten days of receipt of all information specified in the acknowledgement (excluding Saturdays, Sundays and holidays).

(b) Within 30 days (excluding Saturdays, Sundays and holidays) after arriving at a decision on a request, the Privacy Officer shall either:

(1) Make the requested amendment or correction, in whole or in part, and advise the individual in writing of such action; or

(2) Advise the individual in writing that the request has been initially denied, in whole or in part, stating, with respect to those portions denied;

(i) The date of the denial;

(ii) The reasons for the denial, including a citation to an appropriate section of the Act and these Rules; and,

(iii) The right of the individual to prosecute an appeal and to obtain judicial review should a final denial result from the appeal.

(c) In reviewing a request for amendment or correction of a record, the Privacy Officer shall consider the following criteria:

(1) The sufficiency of the evidence submitted by the individual;

(2) The factual accuracy of the information sought to be amended or corrected;

(3) The relevance and necessity of the information sought to be amended or corrected in terms of the purposes for which it was collected;

(4) The timeliness and currency of the information sought to be amended or corrected in terms of the purposes for which it was collected;

(5) The completeness of the information sought to be amended or corrected in terms of the purposes for which it was collected;

(6) The degree of possibility that denial of the request could unfairly result in determinations adverse to the individual;

(7) The character of the record sought to be corrected or amended; and,

(8) The propriety and feasibility of complying with the specific means of correction or amendment requested by the individual.

If an amendment or correction is otherwise permissible under the Act and other relevant statutes, a request shall be denied only if the individual has failed to establish, by a preponderance of the evidence, the propriety of the amendment or correction in light of these criteria.

§ 501.8 Appeal of initial denial of a request for amendment or correction.

(a) The initial denial of a request for amendment or correction, may be appealed by submitting to the Director the following appeal papers:

(1) A copy of the original request for amendment or correction,

(2) A copy of the initial denial; and

(3) A precise statement of the reasons for the individual's belief that the denial is in error, referring specifically to the criteria contained in § 501.7(c) (1-8).

The appeal must be signed by the individual. While these papers normally will constitute the entire Record on Appeal, the Director may add additional information, from sources other than the individual, where necessary to facilitate a final determination. Any such additional information added to the record shall promptly be disclosed to the individual to the greatest extent possible, and an opportunity for comment thereon shall be afforded prior to the final determination. Appeals should be submitted to the Director within 90 days after the date of the initial denial.

(b) The Director shall issue a final determination on appeal within thirty days (excluding Saturdays, Sundays, and legal public holidays) from the date on which a completed Record on Appeal (including any additional information deemed necessary) is received. Review, and final determination by the Director, shall be based upon the criteria specified in § 501.7(C) (1-8).

(c) If the appeal is resolved favorably to the individual, the final determination shall specify the amendments or corrections to be made. Copies of the final determination shall be transmitted promptly to the individual and to the Privacy Officer. The Privacy Officer shall make the requested amendment or correction and advise the individual in writing of such action.

(d) If the appeal is denied, the final determination shall state, with particularity, the reasons for denial, including a citation to an appropriate section of the Act and of these Rules. The final determination shall be forwarded promptly to the individual, together with a notice which shall inform the individual of his or her right to submit to the Privacy Officer, for inclusion in the record, a concise statement of grounds for disagreement with the final determination. Receipt of any such statement shall be acknowledged by the Privacy Officer, and all subsequent and prior users of the record shall be provided copies of the statement. The notice shall also inform the individual of his or her right, under 5 U.S.C. 552a(g)(1), to obtain judicial review of the final determination.

§ 501.9 Fees.

A fee of $0.10 shall be charged for each copy of each page of a record made, by photocopy or similar process, at the request of an individual. No fee shall be charged for copies made at the initiative of the Commission incident to granting access to a record. A total copying fee of $2.00 or less may be waived by the Privacy Officer, but fees for all requests made contemporaneously by an individual shall be aggregated to determine the total fee.

Title 45—Public Welfare

CHAPTER XI—NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

SUBCHAPTER A—GENERAL

PART 1115—PRIVACY ACT REGULATIONS

Sec.

1115.1 Purpose and scope.
1115.2 Definitions.
1115.3 Procedures for notification of existence of records pertaining to individuals.
1115.4 Procedures for requests for access to or disclosure of records pertaining to individuals.
1115.5 Correction of records.
Sec.
1115.6 Disclosure of records to agencies or persons other than the individual to whom the record pertains.
1115.7 Exemptions.
1115.6 Disclosure of records to agencies or persons other than the individual to whom the record pertains.
1115.7 Exemptions.

AUTHORITY: 5 U.S.C. 552a(f).

§ 1115.1 Purpose and scope.

This part sets forth the National Foundation on the Arts and the Humanities' procedures under the Privacy Act of 1974 as required by 5 U.S.C. 552a(f). Internal guidance for Foundation staff and other regulations implementing the Privacy Act are contained or will be contained in Foundation circulars.

§ 1115.2 Definitions.

For purposes of this Part:

(a) "Foundation" means the National Foundation on the Arts and the Humanities.

(b) "Act" means the Privacy Act of 1974 (Pub. L. 93-579).

(c) "Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence.

(d) "Maintain", used with reference to a record means to collect, to use, to disseminate, to have control over and responsibility for such record.

(e) "Record" means any item, collection or grouping of information about an individual that is maintained by the Foundation and that is retrievable by his or her name or an identifying particular, such as a number, symbol, fingerprint, or photograph of the individual. Information maintained by the Foundation includes, but is not limited to, education, financial transactions, medical history, employment history and criminal history.

(f) "Routine use" means, with respect to the disclosure of a record, the use of such a record for a purpose which is compatible with the purpose for which it was collected. The routine uses of record systems maintained by the Foundation were established pursuant to notice in the FEDERAL REGISTER.

(g) "System of records" means a group of any records under the control of the Foundation from which information about an individual is retrievable by his or her name or by some identifying particular.

§ 1115.3 Procedures for notification of records pertaining to individuals.

(a) The systems of records, as defined in the Privacy Act of 1974, maintained by the National Foundation on the Arts and the Humanities are listed annually in the FEDERAL REGISTER as required by that Act. Any person who wishes to know whether a system of records contains a record pertaining to him may appear in person at the National Endowment for the Arts, Room 1338, 2401 E Street NW., Washington, D.C. 20508 or the National Endowment for the Humanities, Room 1000, 806 15th Street NW., Washington, D.C. 20506, on work days between the hours of 9:00 a.m. and 5:30 p.m. or by writing to the Office of the General Counsel, National Endowment for the Arts or National Endowment for the Humanities, Washington, D.C. 20506. It is recommended that requests be made in writing, since in many cases it will take several days to ascertain whether a record exists.

(b) Requests for notification of the existence of a record should specifically identify the system of records involved and should state, if the requestor is other than the individual to whom the record pertains, the relationship of the requestor to that individual. (Note that requests will not be honored by the Foundation pursuant to the Privacy Act unless made (1) by the individual to whom the record pertains, (2) by such individual's parent if the individual is a minor, or (3) by such individual's legal guardian if the individual has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction).

(c) The Foundation will attempt to respond to a request as to whether a record exists within 10 working days from the time it receives the request or from the time any required identification is established, whichever is later.

§ 1115.4 Procedures for requests for access to or disclosure of records pertaining to an individual.

(a) Any person may request review of records pertaining to him by appearing at the National Endowment for the Arts, Room 1338, 2401 E Street, NW., Washington, D.C. 20506, or the National Endowment for the Humanities, Room 1000, 806 15th Street, NW., Washington, D.C. 20506 on work days between the hours of 9:00 a.m. and 5:30 p.m. or by writing to the Office of the General Counsel, National Endowment for the Arts, or National Endowment for the Humanities, Washington, D.C. 20506. (See paragraphs (b) and (c) of this section for identification requirements.) The request should specifically identify the systems or records involved. The Foundation will strive either to make the record available within 15 working days of the request or to inform the requestor of the need for additional identification or the tendering of fees (as specified in paragraph (d) of this section) within 15 working days.

(b) In the case of persons making requests by appearing at the Foundation, the amount of personal identification required will of necessity vary with the sensitivity of the record involved. Except as indicated below, reasonable identification such as employment identification cards, drivers licenses, and credit cards will normally be accepted as sufficient evidence of identity in the absence of any indications to the contrary. Records in the following systems of records, however, are considered to contain relatively sensitive and/or detailed personal information—

GRANT APPLICATIONS—NEA.
GRANT APPLICATIONS—NEH.
GRANTS TO INDIVIDUALS—NEA.
GRANTS TO INDIVIDUALS AND INSTITUTIONS—NEH.
EQUAL EMPLOYMENT OPPORTUNITY CASE FILE—NFAH NEA/NEH.
EMPLOYEE PAYROLL—NFAH.
PERSONNEL RECORDS—NFAH.

Accordingly, with respect to requests for records in these systems the Foundation reserves the rights to require sufficient identification to identify positively the individual making the request. This might involve independent verification by the Foundation as by phone calls to determine whether an individual has made a request, personal identification by Foundation employees who know the individual, or such other means as are considered appropriate under the circumstances.

(c) A written request will be honored only if it contains the following certification before a duly commissioned notary public of any state or territory (or similar official if the request is made outside the United States):

I, ---------- do hereby
(Printed name)
certify that I am the individual about whom the record requested in this letter pertains or that I am within the class of persons authorized to act on his behalf in accordance with 5 U.S.C. 552a(h).

Signature

Date

In the County of ---------- State of ---------- On this ---- day of ----
(Name of individual)
who is personally known to me, did appear before me and sign the above certificate.

Signature

Date

(s) My Commission expires ----.

However, where the record requested is contained in any of the systems of records listed in paragraph (b) of this section, the Foundation reserves the right to require additional identification and/or to independently verify to its satisfaction, the identity of the requestor.

(d) Charges for copies of records will be at the rate of $0.10 per photography of each page. Where records are not susceptible to photo-copying, e.g., punch cards, magnetic tapes or oversize materials, the amount charged will be actual

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cost as determined on a case-by-case basis. Only one copy of each record requested will be supplied. No charge will be made unless the charge as computed above would exceed $3.00 for each request or related series of requests. If a fee in excess of $25.00 would be required, the requestor shall be notified and the fee must be tendered before the records will be copied.

§ 1115.5 Correction of records.

(a) Any individual is entitled to request amendments of records pertaining to him pursuant to 5 U.S.C. 552 a(d)(2). Such a request shall be made in writing and addressed to the Office of the General Counsel, National Endowment for the Arts or National Endowment for the Humanities, Washington, D.C. 20506.

(b) The request should specify the record and systems of records involved, and should specify the exact correction desired and state that the request is made pursuant to the Privacy Act. An edited copy of the record showing the desired correction is desirable. Within 10 working days of the receipt of a properly addressed request (or within 10 working days of the time the General Counsel, National Endowment for the Arts or the General Counsel, National Endowment for the Humanities becomes aware that a particular communication not addressed as prescribed above is a request for correction of a record under the Privacy Act), the General Counsel's office shall acknowledge receipt of the request.

(c) The General Counsel's office upon receipt of such a request shall promptly confer with the office within the Foundation responsible for the record. In the event it is felt that correction is not warranted in whole or in part, the matter shall be brought to the attention of the Deputy Chairman of the Endowment involved. If, after review by the Deputy Chairman of the involved Endowment and discussion with the request or, if deemed helpful, it is determined that correction as requested is not warranted, a letter shall be sent by the Deputy Chairman's office to the requestor denying his request and/or explaining what correction might be made if agreeable to the requestor. This letter shall set forth the reasons for the refusal to honor the request for correction. It shall also inform him of his right to appeal this decision and include a description of the appeals procedure set forth in paragraph (d) of this section.

(d) An appeal may be taken from an adverse determination under paragraph (c) of this section to the Assistant Chairman/Management, National Endowment for the Arts or the Chairman, National Endowment for the Humanities. Such appeal must be made in writing and should clearly indicate that it is an appeal. The basis for the appeal should be included, and it should be mailed to the same address as listed in paragraph (a) of this section. A hearing at the Foundation may be requested. Such hearing will be informal, and shall be before the Assistant Chairman/Management, National Endowment for the Arts, the Chairman, National Endowment for the Humanities, or an appointed designee. If no hearing is requested, the request for appeal should include the basis for the appeal. Where no hearing is requested the Assistant Chairman or Chairman before whom the appeal is taken shall render his decision within thirty working days after receipt of the written appeal at the Foundation, unless the Assistant Chairman or Chairman before whom the appeal is taken, for good cause shown, extends the 30-day period and the appellant is advised in writing of such extension. If a hearing is requested, the Foundation will attempt to contact the appellant within five working days and arrange a suitable time for the hearing. In such cases the decision of the Assistant Chairman or Chairman shall be made within 30 working days after the hearing unless the time is extended and the appellant is advised in writing of such extension.

(e) The final decision of the Assistant Chairman or Chairman in an appeal shall be in writing, and, if adverse to the appellant, set forth the reasons for the refusal to amend the record and advise him of this right to appeal the decision under 5 U.S.C. 552a(g)(1)(A). The individual shall also be notified that he has the right to file with the Foundation a concise statement setting forth the reasons for his disagreement with the refusal of the Foundation to amend his record.

§ 1115.6 Disclosure of records to agencies or persons other than the individual to whom the record pertains.

Records subject to the Privacy Act that are requested by any person other than the individual to whom they pertain will not be made available except under the following circumstances:

(a) Records required to be made available by the Freedom of Information Act will be released in response to a request formulated in accordance with Foundation regulations found at 45 CFR Part 1100.

(b) Records not required by the Freedom of Information Act to be released may be released, at the discretion of the Foundation, if the written consent of the individual to whom they pertain has been obtained or if such release would be authorized under 5 U.S.C. 552a(b)(1) or (3)-(11).

§ 1115.7 Exemptions.

(a) *Fellowships and grants.* Pursuant to 5 U.S.C. 552a(k)(5), the Foundation hereby exempts from the application of section 552 a(d) any materials which would disclose the identity of references for fellowship or grant applicants contained in any of the Foundation's systems of records.

(b) *Applicants for employment.* Pursuant to 5 U.S.C. 552a(k)(5), the Foundation hereby exempts from the application of 5 U.S.C. 552a(d) any materials which would disclose the identity of references of applicants for employment at the Foundation contained in the system of records entitled "Official Personnel Folders".

Title 32—National Defense

CHAPTER XXI—NATIONAL SECURITY COUNCIL

PART 2102—RULES AND REGULATIONS TO IMPLEMENT THE PRIVACY ACT OF 1974

Sec.

2102.1 Introduction.
2102.2 Purpose and scope.
2102.3 Definitions.
2102.11 Procedures for determining if an individual is the subject of a record.
2102.13 Requirements for requesting access to a record.
2102.15 Requirements for requests to amend records.
2102.21 Procedures for appeal of determination to deny access to or amendment of requested records.
2102.31 Disclosure of record to persons other than the individual to whom it pertains.
2102.41 Fees.
2102.51 Penalties.
2102.61 Exemptions.

AUTHORITY: 5 U.S.C. 552a (f) and (k)

§ 2102.1 Introduction.

(a) Insofar as the Privacy Act of 1974 (5 U.S.C. 552a) applies to the National Security Council (hereafter NSC), it provides the American public with expanded opportunities to gain access to records maintained by the NSC Staff which may pertain to them as individuals. These regulations are the exclusive means by which individuals may request personally identifiable records and information from the National Security Council.

(b) The NSC Staff, in addition to performing the functions prescribed in the National Security Act of 1947, as amended (50 U.S.C. 401), also serves as the supporting staff to the President in the conduct of foreign affairs. In doing so the NSC Staff is acting not as an agency but as an extension of the White House Office. In that the White House Office is not considered an agency for the purposes of this Act, the materials which are used by NSC Staff personnel in their role as supporting staff to the President are not subject to the provisions of the Privacy Act of 1974. A description of these White House Office files is, nevertheless, appended to the NSC notices of systems of files and will be published annually in the FEDERAL REGISTER.

(c) In general, Records in NSC files pertain to individual members of the public only if these individuals have been (1) employed by the NSC, (2) have corresponded on a foreign policy matter with a member of the NSC or its staff, or (3) have, as a U.S Government official, participated in an NSC meeting or in the preparation of foreign policy-related documents for the NSC.

§ 2102.2 Purpose and scope.

(a) The following regulations set forth procedures whereby individuals may seek and gain access to records concerning themselves and will guide the NSC Staff response to requests under the Privacy Act. In addition, they outline the requirements applicable to the personnel maintaining NSC systems of records.

(b) These regulations, published pursuant to the Privacy Act of 1974, Public Law 93-579, Section 552a (f) and (k), 5 U.S.C. (hereinafter the Act), advise of procedures whereby an individual can:

(1) Request notification of whether the NSC Staff maintains or has disclosed a record pertaining to him or her in any non-exempt system of records;

(2) Request a copy of such record or an accounting of that disclosure;

(3) Request an amendment to a record; and,

(4) Appeal any initial adverse determination of any request under the Act.

(c) These regulations also specify those systems of records which the NSC has determined to be exempt from certain provisions of the Act and thus not subject to procedures established by this regulation.

§ 2102.3 Definitions.

As used in these regulations:

(a) *Individual.* A citizen of the United States or an alien lawfully admitted for permanent residence.

(b) *Maintain.* Includes maintain, collect, use or disseminate. Under the Act it is also used to connote control over, and, therefore, responsibility for, systems of records in support of the NSC statutory function (50 U.S.C. 401, et seq.).

(c) *Systems of Records.* A grouping of any records maintained by the NSC from which information is retrieved by the name of the individual or by some other identifying particular assigned to the individual.

(d) *Determination.* Any decision made by the NSC or designated official thereof which affects the individual's rights, opportunities, benefits, etc. and which is based in whole or in part on information contained in that individual's record.

(e) *Routine Use.* With respect to the disclosure of a record, the use of such a record in a manner which is compatible with the purpose for which it was collected.

(f) *Disclosure.* The granting of access or transfer of a record by any means.

§ 2102.4 Procedures for determining if an individual is the subject of a record.

(a) Individuals desiring to determine if they are the subject of a record or system of records maintained by the NSC Staff should address their inquiries, marking them plainly as a *PRIVACY ACT REQUEST*, to:

Staff Secretary, National Security Council, Room 374, Old Executive Office Building, Washington, D.C. 20506.

All requests must be made in writing and should contain:

(1) A specific reference to the system of records maintained by the NSC as listed in the NSC Notices of Systems and Records (copies available upon request); or

(2) A description of the record or systems of records in sufficient detail to allow the NSC to determine whether the record does, in fact, exist in an NSC system of records.

(b) All requests must contain the printed or typewritten name of the individual to whom the record pertains, the signature of the individual making the request, and the address to which the reply should be sent. In instances when the identification is insufficient to insure disclosure to the individual to whom the information pertains in view of the sensitivity of the information, NSC reserves the right to solicit from the requestor additional identifying information.

(c) Responses to all requests under the Act will be made by the Staff Secretary, or by another designated member of the NSC Staff authorized to act in the name of the Staff Secretary in responding to a request under this Act. Every effort will be made to inform the requestor if he or she is the subject of a specific record or system of records within ten working days (excluding Saturdays, Sundays and legal Federal Holidays) of receipt of the request. Such a response will also contain the procedures to be followed in order to gain access to any record which may exist and a copy of the most recent NSC notice, as published in the FEDERAL REGISTER, on the system of records in which the record is contained.

(d) Whenever it is not possible to respond in the time period specified above, the NSC Staff Secretary or a designated alternate will, within ten working days (excluding Saturdays, Sundays and legal Federal Holidays), inform the requestor of the reasons for the delay (e.g., insufficient requestor information, difficulties in record location, etc.), steps that need to be taken in order to expedite the request, and the date by which a response is anticipated.

§ 2102.13 Requirements for access to a record.

(a) Individuals requesting access to a record or system of records in which there is information concerning them must address a request in writing to the Staff Secretary of the NSC (see Section 1. above). Due to restricted access to NSC offices in the Old Executive Office Building where the files are located, requests cannot be made in person.

(b) All written requests should contain a concise description of the records to which access is requested. In addition, the requestor should include any other information which he or she feels would assist in the timely identification of the record. Verification of the requestor's identity will be determined under the same procedures used in requests for learning of the existence of a record.

(c) To the extent possible, any request for access will be answered by the Staff Secretary or a designated alternate within ten working days (excluding Saturdays, Sundays, and legal Federal holidays) of the receipt of the request. In the event that a response cannot be

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made within this time, the requestor will be notified by mail of the reasons for the delay and the date upon which a reply can be expected.

(d) The NSC response will forward a copy of the requested materials unless further identification or clarification of the request is required. In the event access is denied, the requestor shall be informed of the reasons therefore and the name and address of the individual to whom an appeal should be directed.

§ 2102.15 Requirements for requests to amend records.

(a) Individuals wishing to amend a record contained in the NSC systems of records pertaining to them must submit a request in writing to the Staff Secretary of the NSC in accordance with the procedures set forth herein.

(b) All requests for amendment or correction of a record must state concisely the reason for requesting the amendment. Such requests should include a brief statement which describes the information the requestor believes to be inaccurate, incomplete, or unnecessary and the amendment or correction desired.

(c) To the extent possible, every request for amendment of a record will be answered within ten working days (excluding Saturdays, Sundays, and legal Federal holidays) of the receipt of the request. In the event that a response cannot be made within this time, the requestor will be notified by mail of the reasons for the delay and the date upon which a reply can be expected. A final response to a request for amendment will include the NSC Staff determination on whether to grant or deny the request. If the request is denied, the response will include:

(1) The reasons for the decision;

(2) The name and address of the individual to whom an appeal should be directed;

(3) A description of the process for review of the appeal within the NSC; and

(4) A description of any other procedures which may be required of the individual in order to process the appeal.

§ 2101.21 Procedures for appeal of determination to deny access to or amendment or requested records.

(a) Individuals wishing to appeal an NSC Staff denial of a request for access or to amend a record concerning them must address a letter of appeal to the Staff Secretary of the NSC. The letter must be received within thirty days from the date of the Staff Secretary's notice of denial and, at a minimum, should identify the following:

(1) The records involved;

(2) The dates of the initial request and subsequent NSC determination; and

(3) A brief statement of the reasons supporting the request for reversal of the adverse determination.

(b) Within thirty working days (excluding Saturdays, Sundays and legal Federal Holidays) of the date of receipt of the letter of appeal, the Assistant to the President for National Security Affairs (hereinafter the "Assistant"), or the Deputy Assistant to the President for National Security Affairs (hereinafter the "Deputy Assistant"), acting in his name, shall issue a determination on the appeal. In the event that a final determination cannot be made within this time period, the requester will be informed of the delay, the reasons therefor and the date on which a final response is expected.

(c) If the original request was for access and the initial determination is reversed, a copy of the records sought will be sent to the individual. If the initial determination is upheld, the requester will be so advised and informed of the right to judicial review pursuant to 5 U.S.C. 552a(g).

(d) If the initial denial of a request to amend a record is reversed, the records will be corrected and a copy of the amended record will be sent to the individual. In the event the original decision is upheld by the Assistant to the President, the requestor will be so advised and informed in writing of his or her right to seek judicial review of the final agency determination, pursuant to Section 552a(g) of Title 5, U.S.C. In addition, the requestor will be advised of his right to have a concise statement of the reasons for disagreeing with the final determination appended to the disputed records. This statement should be mailed to the Staff Secretary within ten working days (excluding Saturdays, Sundays, and legal Federal Holidays) of the date of the requestor's receipt of the final determination.

§ 2102.31 Disclosure of a record to persons other than the individual to whom it pertains.

(a) Except as provided by the Privacy Act, 5 U.S.C. 552a(b), the NSC will not disclose a record concerning an individual to another person or agency without the prior written consent of the individual to whom the record pertains.

§ 2102.41 Fees.

(a) Individuals will not be charged for:

(1) The first copy of any record provided in response to a request for access or amendment;

(2) The search for, or review of, records in NSC files;

(3) Any copies reproduced as a necessary part of making a record or portion thereof available to the individual.

(b) After the first copy has been provided, records will be reproduced at the rate of twenty-five cents per page for all copying of four pages or more.

(c) The Staff Secretary may provide copies of a record at no charge if it is determined to be in the interest of the Government.

(d) The Staff Secretary may require that all fees be paid in full prior to the issuance of the requested copies.

(e) Remittances shall be in the form of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the "United States Treasury" and mailed to the Staff Secretary, National Security Council, Washington, D.C. 20506.

(f) A receipt for fees paid will be given only upon request. Refund of fees paid for services actually rendered will not be made.

§ 2102.51 Penalties.

Title 18, U.S.C. Section 1001, Crimes and Criminal Procedures, makes it a criminal offense, subject to a maximum fine of $10,000 or imprisonment for not more than five years or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States. Section (i)(3) of the Privacy Act (5 U.S.C. 552a) makes it a misdemeanor, subject to a maximum fine of $5,000, to knowingly and willfully request or obtain any record concerning an individual under false pretenses. Sections (i)(1) and (2) of 5 U.S.C. 552a provide penalties for violations by agency employees, of the Privacy Act or regulations established thereunder.

§ 2102.61 Exemptions.

Pursuant to subsection (k) of the Privacy Act, (5 U.S.C. 552a), the Staff Secretary has determined that certain NSC systems of records may be exempt in part from Sections 553 (c)(3), (d), (e)(1), (e)(4), (G), (H), (I), and (f) of Title 5, and from the provisions of these regulations. These systems of records may contain information which is classified pursuant to Executive Order 11652. To the extent that this occurs, records in the following systems would be exempt under the provision of 5 U.S.C. 552a(k)(1):

NSC 1.1—Central Research Index,
NSC 1.2—NSC Correspondence Files, and
NSC 1.3—NSC Meetings Registry.

Title 49—Transportation

CHAPTER VIII—NATIONAL TRANSPORTATION SAFETY BOARD

PART 802—RULES IMPLEMENTING THE PRIVACY ACT OF 1974

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802.20 Security records.

AUTHORITY: Privacy Act of 1974, Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a); Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2166 (49 U.S.C. 1901 et seq.); and Freedom of Information Act, Pub. L. 93-502, November 21, 1974, amending 5 U.S.C. 552.

Subpart A—Applicability and Policy

§ 802.1 Purpose and scope.

The purpose of this part is to implement the provisions of 5 U.S.C. 552a with respect to the availability to an individual of records of the National Transportation Safety Board (NTSB) maintained on individuals. NTSB policy encompasses the safeguarding of individual privacy from any misuse of Federal records and the provision of access to individuals to NTSB records concerning them, except where such access is in conflict with the Freedom of Information Act, or other statute.

§ 802.2 Definitions.

In this part:

"Board" means the five Members of the National Transportation Safety Board, or a quorum thereof;

"Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

"National Transportation Safety Board (NTSB)" means the agency set up under the Independent Safety Board Act of 1974;

"Record" means any item, collection, or grouping of information about an individual that is maintained under the control of the NTSB pursuant to Federal law or in connection with the transaction of public business, including, but not limited to, education, financial transactions, medical history, and criminal or employment history, and that contains a name, or an identifying number, symbol, or other identifying particular assigned to an individual, such as a finger or voice imprint or photograph;

"Routine use" means the use of such record for a purpose compatible with the purpose for which it was collected, including, but not limited to, referral to law enforcement agencies of violations of the law and for discovery purposes ordered by a court referral to potential employers, and for security clearance;

"Statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and which is not used wholly or partially in any determination concerning an identifiable individual;

"System Manager" means the agency official who is responsible for the policies and practices of his particular system or systems of record, as specified in the NTSB notices of systems or records; and

"System of records" means a group of any records under the control of the NTSB from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual, whether presently in existence or set up in the future.

Subpart B—Initial Procedures and Requirements

§ 802.5 Procedures for requests pertaining to individual records in a record system.

The NTSB may not disclose any record to any person or other agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, provided the record under the control of the NTSB is maintained in a system of records from which information is retrieved by the name of the individual or by some identifying number, symbol, or other particular assigned to such individual. Written consent is not required if the disclosure is:

(a) To officers or employees of the NTSB who require the information in the official performance of their duties;

(b) Required under 5 U.S.C. 552, Freedom of Information Act;

(c) For a routine use compatible with the purpose for which it was collected;

(d) To the Bureau of the Census for uses pursuant to Title 13, U.S. Code;

(e) To a recipient who has provided the NTSB with advance adequate assurance that the record will be used solely as a statistical research or reporting record and that it is to be transferred in a form not individually identifiable; or

(f) Pursuant to the order of a court of competent jurisdiction.

§ 802.6 Types of requests and specification of records.

(a) *Types of requests.* An individual may make the following request respecting records about himself maintained by NTSB in any system of records subject to the Act:

(1) Whether information concerning himself is contained in any system of records.

(2) Access to a record concerning himself. Such request may include a request to review the record and/or obtain a copy of all or any portion thereof.

(3) Correction or amendment of a record concerning himself.

(4) Accounting of disclosure to any other person or Government agency of any record concerning himself contained in any system of records controlled by NTSB, except (i) disclosures made pursuant to the FOIA; (ii) disclosures made within the NTSB; (iii) disclosures made to another Government agency or instrumentality for an authorized law enforcement activity pursuant to subsection (b)(7) of the Act; and (iv) disclosures expressly exempted by NTSB from the requirements of subsection (c)(3) of the Act, pursuant to subsection (k) thereof.

(b) *Specification of records.* All requests for access to records must reasonably describe the system of records and the individual's record within the system of records in sufficient detail to permit identification of the requested record. Specific information regarding the system name, the individual's full name, and other information helpful in identifying the record or records shall be included. Requests for correction or amendment of records shall, in addition, specify the particular record involved, state the nature of the correction or amendment sought, and furnish justification for the correction or amendment.

(c) *Inadequate identification of record.* Requests which do not contain information sufficient to identify the record requested will be returned promptly to the requester, with a notice indicating what information is lacking. Individuals making requests in person will be informed of any deficiency in the specification of the records at the time the request is made. Individuals making requests in writing will be notified of any such deficiency when their request is acknowledged.

§ 802.7 Requests: how, when, and where presented; verification of identity of individuals making requests; accompanying persons; and procedures for acknowledgment of requests.

(a) *Requests—general.* Requests may be made in person or in writing. Assistance regarding requests or other matters relating to the Act may be obtained by writing to the Director, Bureau of Administration, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594. The Director, Bureau of Administration or his designee, on request, will aid an individual in preparing an amendment to the record or to an appeal following denial of a request to amend the record, pursuant to subsection (f)(4) of the Act.

(b) *Written requests.* Written requests shall be made to the Director, Bureau of Administration at the address given

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above," and shall clearly state on the envelope and on the request itself, "Privacy Act Request," "Privacy Act Statement of Disagreement," "Privacy Act Disclosure Accounting Request," "Appeal from Privacy Act Adverse Determination," or "Privacy Act Correction Request," as the case may be. Actual receipt by the Director, Bureau of Administration, or his designee, shall constitute receipt.

(c) *Requests made in person.* Requests may be made in person during official working hours of the NTSB at the office where the record is located, as listed in the "Notice of Systems of Records" for the system in which the record is contained.

(d) *Verification of identity of requester.* (1) For written requests, the requester's identity must be verified before the release of any record, unless exempted under the FOIA. This may be accomplished by adequate proof of identity in the form of a driver's license or other acceptable item of the same type.

(2) For requests in person, the requester's identity may be established by a single document bearing a photograph (such as a passport or identification badge) or by two items of identification containing name, address, and signature (such as a driver's license or credit card).

(3) Where a request is made for reproduced records which are to be delivered by mail, the request must include a notarized statement verifying the requester's identity.

(e) *Inability to provide requisite documentation of identity.* A requester who cannot provide the necessary documentation of identity may provide a notarized statement, swearing or affirming his identity and the fact that he is aware of the penalties for false statement imposed pursuant to 18 U.S.C. 1001, and subsection (i)(3) of the Act. Where requested, the Director, Bureau of Administration, or his designee, will assist the requester in formulating the necessary document.

(f) *Accompanying persons.* A requester may wish to have a person of his choice accompany him to review the requested record. Prior to the release of the record, the NTSB will require the requester to furnish the Director, Bureau of Administration, or his designee, with a written statement authorizing disclosure of the record in the accompanying person's presence.

(g) *Acknowledgment of requests.* Written requests to verify the existence of, to obtain access to, or to correct or amend records about the requester maintained by NTSB in any system of records subject to the Act, shall be acknowledged in writing by the Director, Bureau of Administration, or his designee, within 3 working days after the date of actual receipt of the request by the Director, Bureau of Administration, or his designee. The acknowledgment shall advise the requester of the need for any additional information to process the request. Wherever practicable, the acknowledgment shall notify the individual whether his request has been granted or denied. When a request is made in person, every effort will be made to determine immediately whether the request will be granted. If such decision cannot be made, the request will be processed in the same manner as a written request. Records will be made available for immediate inspection whenever possible.

Subpart C—Initial Determination

§ 802.8 Disclosure of requested information.

(a) The System Manager may initially determine that the request be granted. If so, the individual making the request shall be notified orally, or in writing, and the notice shall include:

(1) A brief description of the information to be made available;

(2) The time and place where the record may be inspected, or alternatively, the procedure for delivery by mail to the requesting party;

(3) The estimated cost for furnishing copies of the record;

(4) The requirements for verification of identity;

(5) The requirements for authorizing discussion of the record in the presence of an accompanying person; and

(6) Any additional requirements needed to grant access to a specific system of records or record.

(b) Within 10 working days after actual receipt of the request by the Director, Bureau of Administration, or his designee, in appropriate cases, the requester will be informed:

(1) That the request does not reasonably describe the system of records or record sought to permit its identification, and shall set forth the additional information needed to clarify the request; or

(2) That the system of records identified does not include a record retrievable by the requester's name or other identifying particulars.

(c) The System Manager shall advise the requester within 10 working days after actual receipt of the request by the Director, Bureau of Administration, or his designee, that the request for access has been denied, and the reason for the denial, or that the determination has been made to grant the request, either in whole or in part, in which case the relevant information will be provided.

Subpart D—Correction or Amending the Record

§ 802.10 Request for correction or amendment to record.

All requests for correcting or amending records shall be made in writing to the Director, Bureau of Administration, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594, and shall be deemed received upon actual receipt by the Director, Bureau of Administration. The request shall clearly be marked on the envelope and in the letter with the legend that it is a "Privacy Act Correction Request." The request must reasonably set forth the portion of the record which the individual contends is not accurate, relevant, timely, or complete.

§ 802.11 Agency review of requests for correction or amendment of record.

Within 10 working days after actual receipt of the request by the Director, Bureau of Administration, or his designee, to correct or amend the record, the System Manager shall either make the correction in whole or in part, or inform the individual of the refusal to correct or amend the record as requested, and shall present the reasons for any denials.

§ 802.12 Initial adverse agency determination on correction or amendment.

If the System Manager determines that the record should not be corrected or amended in whole or in part, he will forthwith make such finding in writing, after consulting with the General Counsel, or his designee. The requester shall be notified of the refusal to correct or amend the record. The notification shall be in writing, signed by the System Manager, and shall include—

(a) the reason for the denial;

(b) the name and title or position of each person responsible for the denial of the request;

(c) the appeal procedures for the individual for a review of the denial; and

(d) notice that the denial from the System Manager is appealable within 30 days from the receipt thereof by the requester to the Board.

The System Manager is alloted 10 working days (or within such extended period as is provided in the section concerning "unusual circumstances" *infra*) to respond to the request for review. If the requester does not receive an answer within such time, the delay shall constitute a denial of the request and shall permit the requester immediately to appeal to the Board, or to a district court.

Subpart E—Review of Initial Adverse Determination

§ 802.14 Review procedure and judicial review.

(a) A requester may appeal from any adverse determination within 30 days after actual receipt of a denial from the System Manager. The appeal must be in writing addressed to the Chairman, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594, and shall contain a statement on the envelope and in the appeal: "Appeal from Privacy Act Adverse Determination."

(b) The Board shall make a determination with respect to the appeal within 30 working days after the actual receipt of the appeal by the Chairman, except as provided for in "unusual circumstances" infra.

(c) (1) *Review of denial of access.* If the appeal upholds the denial of access to records, the Board shall: Notify the requester in writing, explaining the Board's determination; state that the denial is a final agency action and that judicial review is available in a district court of the United States in the district where the requester resides or has his principal place of business, or where the agency records are located, or in the District of Columbia; and request a filing with the Board of a concise statement enumerating the reasons for the requester's disagreement with the denial, pursuant to subsection (g) of the Act.

(2) *Review of denial of correction or amendment.* If the appeal upholds the denial in whole or in part for correction or amendment of the record, the same notification and judicial review privileges described in paragraph (c)(1) of this section shall apply.

(d) If the denial is reversed on appeal, the Board shall notify the requester in writing of the reversal. The notice shall include a brief statement outlining those portions of the individual's record which were not accurate, relevant, timely, or complete, and corrections of the record which were made, and shall provide the individual with a courtesy copy of the corrected record.

(e) Copies of all appeals and written determinations will be furnished by the System Manager to the Board.

(f) In unusual circumstances, time limits may be extended by not more than 10 working days by written notice to the individual making the request. The notice shall include the reasons for the extension and the date on which a determination is expected to be forthcoming. "Unusual circumstances" as used in this section shall include circumstances where a search and collection of the requested records from field offices or other establishments are required, cases where a voluminous amount of data is involved, and cases where consultations are required with other agencies or with others having a substantial interest in the determination of the request.

(g) *Statements of Disagreement.* (1) Written Statements of Disagreement may be furnished by the individual within 30 working days of the date of actual receipt of the final adverse determination of the Board. They shall be addressed to the Director, Bureau of Administration, National Transportation Safety Board, 820 Independence Avenue SW., Washington, D.C. 20594, and shall be clearly marked, both on the statement and on the envelope, "Privacy Act Statement of Disagreement."

(2) The Director, Bureau of Administration, or his designee, shall be responsible for ensuring that:

(i) The Statement of Disagreement is included in the system of records in which the disputed item of information is maintained; and

(ii) The original record is marked to indicate the information disputed, the existence of the Statement of Disagreement, and its location within the relevant system of records.

(3) The Director, Bureau of Administration, or his designee, may, if he deems it appropriate, prepare a concise Statement of Explanation indicating why the requested amendments or corrections were not made. Such Statement of Explanation shall be included in the system of records in the same manner as the Statement of Disagreement. Courtesy copies of the NTSB Statement of Explanation and the notation of dispute, as marked on the original record, shall be furnished to the individual who requested correction or amendment of the record.

(h) *Notices of correction and/or amendment, or dispute.* After a record has been corrected or a Statement of Disagreement has been filed, the Director, Bureau of Administration, or his designee, shall within 30 working days thereof, advise all previous recipients of the affected record as to the correction or the filing of the Statement of Disagreement. The identity of such recipients shall be determined pursuant to an accounting of disclosures required by the Act or any other accounting previously made. Any disclosure of disputed-information occurring after a Statement of Disagreement has been filed shall clearly identify the specific information disputed and shall be accompanied by a copy of the Statement of Disagreement and a copy of any NTSB Statement of Explanation.

(i) *Disclosure to others of records concerning individuals.* Neither the Board nor other NTSB personnel shall disclose any record which is contained in a system of records maintained by NTSB, by any means of communication, including oral communication, to any person, or to another Government agency, except pursuant to a written request by, or with the prior written consent, of the individual to whom the record pertains, unless disclosure of the record is:

(1) To the Board and NTSB personnel who have a need for the record in the performance of their duties;

(2) Required under the FOIA;

(3) For a routine use published in the FEDERAL REGISTER;

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey, or related activity pursuant to the provisions of Title 13 of the United States Code;

(5) To a recipient who has provided NTSB with adequate advance written assurance that the record will be used solely as a statistical research or reporting record and that the record is transferred in a form that is not identifiable with respect to individuals;[1]

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the U.S. Government, or to the Administrator of the General Services Administration, or his designee, for evaluation to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to NTSB specifying the particular portion of the record desired and the law enforcement activity for which the record is sought;[2]

(8) To any person upon a showing of compelling circumstances affecting the health or safety of any individual;

(9) To either House of Congress or, to the extent of matter within its jurisdiction, to any committee, or subcommittee thereof, or to any joint committee of the Congress, or to any subcommittee of such joint committee;

(10) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(11) Pursuant to the order of a court of competent jurisdiction.

(j) *Notices of subpoenas.* When records concerning an individual are subpoenaed or otherwise disclosed pursuant to court order, the NTSB officer or employee served with the subpoena shall be responsible for assuring that the individual is notified of the disclosure within 5 days after such subpoena or other order becomes a matter of public record. The notice shall be mailed to the last known address of the individual and shall contain the following information: (1) The date the subpoena is returnable; (2) the court in which it is returnable; (3) the name and number of the case or proceeding; and (4) the nature of the information sought.

(k) *Notices of emergency disclosures.* When information concerning an individual has been disclosed to any person under compelling circumstances affecting health or safety, the NTSB officer or employee who made or authorized the disclosure shall notify the individual at his last known address within 5 days of the disclosure. The notice shall contain the following information: (1) The nature of the information disclosed; (2) the person or agency to whom the information was disclosed; (3) the date of the disclosure; and (4) the compelling circumstances justifying the disclosure.

Subpart F—Fees

§ 802.15 Fees.

No fees shall be charged for providing the first copy of a record, or any portion thereof, to individuals to whom the record pertains. The fee schedule for other records is the same as that appearing in the Appendix to Part 801 of this chapter, implementing the FOIA, as amended from time to time, except that the cost of any search for and review of the record shall not be included in any fee under this Act, pursuant to subsection (f)(5) of the Act.

[1] The advance written statement of assurance shall state the purpose for which the record is requested and certify that it will be used only for statistical purposes. Prior to release under this paragraph, the record shall be stripped of all personally identifiable information and reviewed to ensure that the identity of any individual cannot reasonably be determined by combining two or more statistical records.

[2] A record may be disclosed to a law enforcement agency at the initiative of NTSB if criminal conduct is suspected, provided that such disclosure has been established as a routine use by publication in the FEDERAL REGISTER, and the instance of misconduct is directly related to the purpose for which the record is maintained.

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Subpart G—Penalties

§ 802.18 Penalties.

(a) An individual may bring a civil action against the NTSB to correct or amend the record, or where there is a refusal to comply with an individual request or failure to maintain any record with accuracy, relevance, timeliness and completeness, so as to guarantee fairness, or failure to comply with any other provision of 5 U.S.C. 552a. The court may order the correction or amendment. It may assess against the United States reasonable attorney fees and other costs, or may enjoin the NTSB from withholding the records and order the production to the complainant, and it may assess attorney fees and costs.

(b) Where it is determined that the action was willful or intentional with respect to 5 U.S.C. 552a(g)(1) (c) or (d), the United States shall be liable for the actual damages sustained, but in no case less than the sum of $1,000 and the costs of the action with attorney fees.

(c) Criminal penalties may be imposed against an officer or employee of the NTSB who fully discloses material which he knows is prohibited from disclosure, or who willfully maintains a system of records without meeting the notice requirements, or who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses. These offenses shall be misdemeanors with a fine not to exceed $5,000.

Subpart H—Specific Exemptions

§ 802.20 Security Records.

Pursuant to, and limited by, 5 U.S.C. 552a(k)(5), the NTSB's system of records, which contains the Security Records of NTSB employees, prospective employees, and potential contractors, shall be exempt from disclosure of the material and the NTSB's handling thereof under subsections (d), (e)(1) and (e)(4) (H) and (I) of 5 U.S.C. 552a.

Title 5—Administrative Personnel

CHAPTER III—OFFICE OF MANAGEMENT AND BUDGET

PART 1302—PRIVACY ACT PROCEDURES

Sec.

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1302.5 Request for review.
1302.6 Schedule of fees.

AUTHORITY: Pub. L. 93-579, 88 Stat. 1896 (5 USC 553a(f).

§ 1302.1 Rules for determining if an individual is the subject of a record.

(a) Individuals desiring to know if a specific system of records maintained by the Office of Management and Budget contains a record pertaining to them should address their inquiries to the Assistant to the Director for Administration, Office of Management and Budget, Washington, D.C. 20503. The written inquiry should contain a specific reference to the system of records maintained by OMB listed in the OMB Notices of Systems of Records or it should describe the type of record in sufficient detail to reasonably identify the system of records. Notice of OMB systems of records subject to the Privacy Act will be made in the FEDERAL REGISTER and copies of the notices will be available upon request to the Assistant to the Director for Administration when so published. A compilation of such notices will also be made and published by the Office of Federal Register, in accordance with section 5 U.S.C. 552a(f).

(b) At a minimum, the request should also contain sufficient information to identify the requester in order to allow OME to determine if there is a record pertaining to that individual in a particular system of records. In instances when the information is insufficient to insure disclosure to the individual to whom the information pertains, in view of the sensitivity of the information, OMB reserves the right to ask the requester for additional identifying information.

(c) Ordinarily the requester will be informed whether the named system of records contains a record pertaining to the requester within 10 days of receipt of such a request (excluding Saturdays, Sundays, and legal Federal holidays). Such a response will also contain or reference the procedures which must be followed by the individual making the request in order to gain access to the record.

(d) Whenever a response cannot be made within the 10 days, the Assistant to the Director for Administration will inform the requester of the reasons for the delay and the date by which a response may be anticipated.

§ 1302.2 Requests for access.

(a) *Requirement for written requests.* Individuals desiring to gain access to a record pertaining to them in a system of records maintained by OMB must submit their request in writing in accordance with the procedures set forth in paragraph b, below. Due to security measures in effect in both the Old and New Executive Office Buildings, requests made in person (walk-ins) cannot be accepted, except that individuals who are employed by the Office of Management and Budget may make their request on a regularly scheduled workday (Monday through Friday, excluding legal Federal holidays) between the hours of 9:00 a.m. and 5:30 p.m. Such requests for access by individuals employed by OMB need not be made in writing.

(b) *Procedures.* (1) *Content of the Request.* (i) The request for access to a record in a system of records shall be addressed to the Assistant to the Director for Administration, at the address cited above, and shall name the system of records or contain a description (as concise as possible) of such system of records. The request should state that the request is pursuant to the Privacy Act of 1974. In the absence of specifying solely the Privacy Act of 1974 and, if the request may be processed under both the Freedom of Information Act and the Privacy Act and the request specifies both or neither act, the procedures under the Privacy Act of 1974 will be employed. The individual will be advised that the procedures of the Privacy Act will be utilized, of the existence and the general effect of the Freedom of Information Act, and the difference between procedures under the two acts (e.g. fees, time limits, access). The request should contain necessary information to verify the identity of the requester (see § 1302.2(b)(2)(vi), below). In addition, the requester should include any other information which may assist in the rapid identification of the record for which access is being requested (e.g., maiden name, dates of employment, etc.) as well as any other identifying information contained in and required by the OMB Notice of Systems of Records.

(ii) If the request for access follows a prior request under section 1302.1, above, the same identifying information need not be included in the request for access if a reference is made to that prior correspondence, or a copy of the OMB response to that request is attached.

(iii) If the individual specifically desires a copy of the record, the request should so specify.

(2) *OMB action on request.* A request for access will ordinarily be answered within 10 days, except when the Assistant to the Director for Administration determines that access cannot be afforded in that time, in which case the requester will be informed of the reason for the delay and an estimated date by which the request will be answered. Normally, access will be granted within 30 days from the date the request was received by the Office of Management and Budget. At a minimum, the answer to the request for access shall include the following:

(i) A statement that there is a record as requested or a statement that there is not a record in the system of records maintained by OMB;

(ii) a statement as to whether access will be granted only by providing a copy of the record through the mail; or the address of the location and the date and time at which the record may be examined. In the event the requester is unable to meet the specified date and time, alternative arrangements may be made with the official specified in § 1302.2(b)(1) above;

(iii) a statement, when appropriate, that examination in person will be the sole means of granting access only when the Assistant to the Director for Administration has determined that it would not unduly impede the requester's right of access;

(iv) the amount of fees charged, if any (see § 1302.6 below) (Fees are applicable only to requests for copies.);

(v) the name, title, and telephone number of the OMB official having operational control over the record; and

(vi) the documentation required by OMB to verify the identity of the requester. At a minimum, OMB's verification standards include the following:

(A) *Current or former OMB employees.* Current or former OMB employees requesting access to a record pertaining to them in a system of records maintained by OMB may, in addition to the other requirements of this section, and at the sole discretion of the official having operational control over the record, have his or her identity verified by visual observation. If the current or former OMB employee cannot be so identified by the official having operational control over the records, identification documentation will be required. Employee identification cards, annuitant identification, driver licenses, or the "employee copy" of any official personnel document in the record are examples of acceptable identification validation.

(B) *Other than current or former OMB employees.* Individuals other than current or former OMB employees requesting access to a record pertaining to them in a system of records maintained by OMB must produce identification documentation of the type described

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herein, prior to being granted access. The extent of the identification documentation required will depend on the type of record to be accessed. In most cases, identification verification will be accomplished by the presentation of two forms of identification. Any additional requirements are specified in the system notices published pursuant to 5 U.S.C. 552a (e) (4).

(C) *Access granted by mail.* For records to be accessed by mail, the Assistant to the Director for Administration shall, to the extent possible, establish identity by a comparison of signatures in situations where the data in the record is not so sensitive that unauthorized access could cause harm or embarrassment to the individual to whom they pertain. No identification documentation will be required for the disclosure to the requester of information required to be made available to the public by 5 U.S.C. 552. When, in the opinion of the Assistant to the Director for Administration, the granting of access through the mail could reasonably be expected to result in harm or embarrassment if disclosed to a person other than the individual to whom the record pertains, a notarized statement of identity or some similar assurance of identity will be required.

(D) *Unavailability of identification documentation.* If an individual is unable to produce adequate identification documentation the individual will be required to sign a statement asserting identity and acknowledging that knowingly or willfully seeking or obtaining access to records about another person under false pretenses may result in a fine of up to $5,000. In addition, depending upon the sensitivity of the records sought to be accessed, the official havin operational control over the records may require such further reasonable assurances as may be considered appropriate; e.g., statements of other individuals who can attest to the identity of the requester. No verification of identity will be required of individuals seeking access to records which are otherwise available to any person under 5 U.S.C. 552, Freedom of Information Act.

(E) *Access by the parent of a minor, or legal guardian.* A parent of a minor, upon presenting suitable personal identification, may access on behalf of the minor any record pertaining to the minor maintained by OMB in a system of records. A legal guardian may similarly act on behalf of an individual declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, absent a court order or consent, a parent or legal guardian has no absolute right to have access to a record about a child. Minors are not precluded from exercising on their own behalf rights given to them by the Privacy Act.

(F) *Granting access when accompanied by another individual.* When an individual requesting access to his or her record in a system of records maintained by OMB wishes to be accompanied by another individual during the course of the examination of the record, the individual making the request shall submit to the official having operational control of the record, a signed statement authorizing that person access to the record.

(G) *Denial of access for inadequate identification documentation.* If the official having operation control over the records in a system of records maintained by OMB determines that an individual seeking access has not provided sufficient identification documentation to permit access, the official shall consult with the Assistant to the Director for Administration prior to finally denying the individual access.

(H) *Review of decision to deny access.* Whenever the Assistant to the Director for Administration determines, in accordance with the procedures herein, that access cannot be granted, the response will also include a statement of the procedures to obtain a review of the decision to deny in accordance with section 1302.5 below.

(vii) *Exceptions.* Nothing in these regulations shall be construed to entitle an individual the right to access to any information compiled in reasonable anticipation of a civil action or proceedings. The mere fact that records in a system of records are frequently the subject of litigation does not bring those systems of records within the scope of this provision. This provision is not intended to preclude access by an individual to records which are available to that individual under other processes such as the Freedom of Information Act or the rules of civil procedure.

§ 1302.3 Access to the accounting of disclosures from records.

Rules governing the granting of access to the accounting of disclosures are the same as those for granting access to the records (including verification of identity) outlined in § 1302.2, above.

§ 1302.4 Requests to amend records.

(a) *Requirement for written requests.* Individuals desiring to amend a record that pertain to them in a system of records maintained by OMB, must submit their request in writing in accordance with the procedures set forth herein unless this requirement is waived by the official having responsibility for the system of records. Records not subject to the Privacy Act of 1974 will not be amended in accordance with these provisions. However, individuals who believe that such records are inaccurate may bring this to the attention of OMB.

(b) *Procedures.* (1) (i) The request to amend a record in a system of records shall be addressed to the Assistant to the Director for Administration. Included in the request shall be the name of the system and a brief description of the record proposed for amendment. In the event the request to amend the record is the result of the individual's having gained access to the record in accordance with the provisions concerning access to records as set forth above, copies of previous correspondence between the requester and OMB will serve in lieu of a separate description of the record.

(ii) When the individual's identity has been previously verified pursuant to § 1302.2(b)(2)(vi) herein, further verification of identity is not required as long as the communication does not suggest that a need for verification is present. If the individual's identity has not been previously verified, OMB may require identification validation as described in § 1302.2(b)(2)(vi). Individuals desiring assistance in the preparation of a request to amend a record should contact the Assistant to the Director for Administration at the address cited above.

(iii) The exact portion of the record the individual seeks to have amended should be clearly indicated. If possible, the proposed alternative language should also be set forth, or at a minimum, the facts which the individual believes are not accurate, relevant, timely, or complete should be set forth with such particularity as to permit OMB not only to understand the individual's basis for the request, but also to make an appropriate amendment to the record.

(iv) The request must also set forth the reasons why the individual believes his record is not accurate, relevant, timely, or complete. In order to avoid the retention by OMB of personal information merely to permit verification of records, the burden of persuading OMB to amend a record will be upon the individual. The individual must furnish sufficient facts to persuade the official in charge of the system of the inaccuracy, irrelevancy, timeliness, or incompleteness of the record.

(v) Incomplete or inaccurate requests will not be rejected categorically. The individual will be asked to clarify the request as needed.

(2) *OMB action on the request.* To the extent possible, a decision upon a request to amend a record will be made within 10 days, excluding Saturdays, Sundays, and legal Federal holidays. The response reflecting the decision upon a request for amendment will include the following:

(i) The decision of the Office of Management and Budget whether to grant in whole, or deny any part of the request to amend the record.

(ii) The reasons for the determination for any portion of the request which is denied.

(iii) The name and address of the official with whom an appeal of the denial may be lodged.

(iv) The name and address of the official designated to assist, as necessary, and upon request of, the individual making the request in the preparation of the appeal.

(v) A description of the review of the appeal within OMB (see § 1302.5 below).

(vi) A description of any other procedures which may be required of the individual in order to process the appeal.

If the nature of the request or the system of records precludes a decision within 10 days, the individual making the request will be informed within 10 days of the expected date for a decision. Such a decision will be issued as soon as it is reasonably possible, normally within 30 days from the receipt of the request (excluding Saturdays, Sundays, and legal Federal holidays) unless unusual circumstances preclude completing action within that time. If the expected completion date for the decision indicated cannot be met, the individual will be advised of that delay and of a revised date when the decision may be expected to be completed.

§ 1302.5 Request for review.

(a) Individuals wishing to request a review of the decision by OMB with regard to an initial request to access or amend a record in accordance with the provisions of §§ 1302.2 and 1302.4 above, should submit the request for review in writing and, to the extent possible, include the information specified in § 1302.5(b), below. Individuals desiring assistance in the preparation of their request for review should contact the Assistant to the Director for Administration at the address provided herein.

(b) The request for review should contain a brief description of the record involved or in lieu thereof, copies of the correspondence from OMB in which the request to access or to amend was denied and also the reasons why the requester believes that access should be granted or the disputed information amended. The request for review should make reference to the information furnished by the individual in support of his claim and the reasons as required by §§ 1302.2 and 1302.4 above set forth by OMB in its decision denying access or amendment. Appeals filed without a complete statement by the requester setting forth the reasons for the review will, of course, be processed. However, in order to make the appellate process as meaningful as possible, the requester's disagreement should be set forth in an understandable manner. In order to avoid the unnecessary retention of personal information, OMB reserves the right to dispose of the material concerning the request to access or amend a record if no request for review in accordance with this section is received by OMB within 180 days of the mailing by OMB of its decision upon an initial request. A request for review received after the 180 day period may, at the discretion of the Assistant to the Director for Administration, be treated as an initial request to access or amend a record.

(c) The request for review should be addressed to the Assistant to the Director for Administration.

(d) Upon receipt of a request for review, the Assistant to the Director for Administration will convene a review group composed of the Assistant to the Director for Administration, the General Counsel, or their designees, and the official having operational control over the record. This group will review the basis for the requested review and will develop a recommended course of action to the Deputy Director. If at any time additional information is required from the requester, the Assistant to the Director for Administration is authorized to acquire it or authorize its acquisition from the requester.

(e) The Office of Management and Budget has established an internal Committee on Freedom of Information and Privacy (hereinafter referred to as the Committee). The Committee is composed of:

(1) Deputy Director;
(2) Assistant to the Director for Administration;
(3) General Counsel;
(4) Assistant Director for Budget Review;
(5) Assistant Director for Legislative Reference;
(6) Assistant to the Director for Public Affairs;
(7) Deputy Associate Director for Information Systems;
(8) Deputy Associate Director for Statistical Policy;
(9) Deputy Associate Director for National Security;
(10) Budget and Management Officer;
(11) Personnel Officer.

(f) The Committee, when directed by the Assistant to the Director for Administration, will review the Office's administration of the Freedom of Information and Privacy Acts and make recommendations for the improvement thereto. In addition, the Committee, upon the request of the Deputy Director, may evaluate a request for review or appeal and recommend a decision to the Deputy Director, who has the final authority regarding appeals.

(g) The Deputy Director will inform the requester in writing of the decision on the request for review within 20 days (excluding Saturdays, Sundays, and legal Federal holidays) from the date of receipt by OMB of the individual's request for review unless the Deputy Director extends the 20 day period for good cause. The extension and the reasons therefor will be sent by OMB to the requester within the initial 20 day period. Such extensions should not be routine and should not normally exceed an additional thirty days. If the decision does not grant in full the request for amendment, the notice of the decision will provide a description of the steps the individual may take to obtain judicial review of such a decision, a statement that the individual may file a concise statement with OMB setting forth the individual's reasons for his disagreement with the decision and the procedures for filing such a statement of disagreement. The Assistant to the Director for Administration has the authority to determine the "conciseness" of the statement, taking into account the scope of the disagreement and the complexity of the issues. Upon the filing of a proper concise statement by the individual, any subsequent disclosure of the information in dispute will be clearly noted so that the fact that the record is disputed is apparent, a copy of the concise statement furnished and a concise statement by OMB setting forth its reasons for not making the requested changes, if OMB chooses to file such a statement. A notation of a dispute is required to be made only if an individual informs the agency of his disagreement with OMB's determination in accordance with § 1302.5 (a), (b) and (c). A copy of the individual's statement, and if it chooses, OMB's statement will be sent to any prior transferee of the disputed information who is listed on the accounting required by 5 U.S.C. 552a(c). If the reviewing official determines that the record should be amended in accordance with the individual's request, OMB will promptly correct the record, advise the individual, and inform previous recipients if an accounting of the disclosure was made pursuant to 5 U.S.C. 552(a)(c). The notification of correction pertains to information actually disclosed.

§ 1302.6 Schedule of fees.

(a) *Prohibitions against charging fees.* Individuals will not be charged for:

(1) The search and review of the record,
(2) Any copies of the record produced as a necessary part of the process of making the record available for access, or
(3) Any copies of the requested record when it has been determined that access can only be accomplished by providing a copy of the record through the mail.

(b) *Waiver.* The Assistant to the Director for Administration may at no charge, provide copies of a record if it is determined the production of the copies is in the interest of the Government.

(c) *Fee schedule and method of payment.* Fees will be charged as provided below except as provided in subsections a and b above.

(1) *Duplication of records.* Records will be duplicated at a rate of $.10 per page for all copying of 4 pages or more. There is no charge for duplicating 3 or fewer pages.

(2) Where it is anticipated that the fees chargeable under this section will amount to more than $25.00, the requester shall be promptly notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. In instances where the estimated fees will greatly exceed $25.00, an advance deposit may be required. The notice or request for an advance deposit shall extend an offer to the requester to consult with Office personnel in order to reformulate the request in a manner which will reduce the fees, yet still meet the needs of the requester.

(3) Fees should be paid in full prior to issuance of requested copies. In the event the requester is in arrears for previous requests copies will not be provided for any subsequent request until the arrears have been paid in full.

(4) Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the order of the Treasury of the United States and mailed or delivered to the Assistant to the Director for Administration, Office of Management and Budget, Washington, D.C. 20503.

(5) A receipt for fees paid will be given upon request.

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Title 22—Foreign Relations

CHAPTER VII—OVERSEAS PRIVATE INVESTMENT CORPORATION

PART 707—ACCESS TO AND SAFEGUARDING OF PERSONAL INFORMATION IN RECORDS OF THE CORPORATION

Subpart A—General

Sec.
707.11 Purpose.
707.12 Definitions.

Subpart B—Notification; Access to Records; Amendment; Fees

707.21 Requests for notification of, access to or records.
707.22 Amendment of records.
707.23 Fees.

Subpart C—Exceptions

707.31 Public information.
707.32 Specific exemptions.

AUTHORITY: 5 U.S.C. 552a(f); Foreign Assistance Act of 1961 (22 U.S.C. 2191).

Subpart A—General

§ 707.11 Purpose.

This Part 707 is adopted pursuant to 5 USC 552a(f) to implement the provisions of the Privacy Act of 1974, 5 USC 552a. This Part 707 establishes procedures for notifying an individual whether any system of records of the Corporation contains information pertaining to him; the times, places, and procedures to be followed by an individual seeking access to records of the Corporation containing information pertaining to him, procedures to be followed by an individual desiring the amendment of any record of the Corporation containing information pertaining to him; and the fees charged by the Corporation for making copies under this Part 707 of records of the Corporation containing information pertaining to an individual. Pursuant to 5 USC 552a(k), this Part 707 also exempts certain systems of records from some of the provisions of 5 USC 552a.

§ 707.12 Definitions.

As used in this Part 707, the terms "agency", "individual", "maintain", "record", "system of records", "statistical record", and "routine use" shall have the meaning specified for each such term in 5 U.S.C. 552a(a).

Subpart B—Notification; Access to Records; Amendment; Fees

§ 707.21 Requests for notification of, access to or records.

(a) Whenever an individual desires either notification of, access to or copies of records which are maintained by the Corporation and which may contain information pertaining to said individual, he may submit such a request to the Corporation in the form specified in paragraph (b) of this section. Such request shall be addressed to the Director of Personnel and Administration and may either be mailed to the Corporation or be delivered to the receptionist at the office of the Corporation, 1129—20th Street NW., Washington, D.C. 20527, between 8:45 a.m. and 5:30 p.m., Monday thru Friday (excluding legal public holidays). Access to records maintained by the Corporation will be provided only by appointment. No officer or employee of the Corporation shall, pursuant to the provisions of this Part 707, provide any individual with access to any records maintained by the Corporation until the Corporation shall have received from such individual a written request in the form specified in paragraph (b) of this section and verification of the identity of the individual as provided in paragraph (c) of this section.

(b) Any request under this Part 707 for notification of, access to or copies of records maintained by the Corporation shall comply with the following requirements:

(1) It shall be in writing, signed by the individual, and, except in the event such requesting individual is an officer or employee of the Corporation, duly acknowledged before a notary public or other authorized public official;

(2) It shall accurately identify the records or information to which access is sought;

(3) It shall specify the date and hour such individual wishes such an appointment; and

(4) It shall specify whether the individual also wishes copies of the information pertaining to him.

(c) Prior to providing any individual either with notification of, access to or copies of any records maintained by the Corporation that contain information pertaining to said individual, the Director of Personnel and Administration shall verify the identity of such individual. In order to verify the identity of any such individual, the Director of Personnel and Administration shall require such individual to provide reasonable proof of his identity, such as, by way of example and not limitation, a valid drivers license, identification card, passport, employee identification card and any other identifying information. The Director of Personnel and Administration shall deny any such request from any individual if he determines, in his sole discretion, that the evidence offered to verify the identity of such individual is insufficient to establish conclusively the identity of such individual. Upon denying any such request under this paragraph (c), the Director of Personnel and Administration shall promptly notify the individual in writing of such determination.

(d) In the event that the Director of Personnel and Administration shall decline any request submitted to the Corporation under paragraph (b) of this section because he determines under paragraph (c) of this section that the individual has not provided adequate evidence to verify his identity, said individual may, within thirty (30) days of the date of the notification thereof by the Director of Personnel and Administration, file a written appeal of such determination with the Executive Vice President of the Corporation. The decision of the Executive Vice President with respect to such appeal shall be final.

(e) Whenever an individual desires copies of any records in addition to personal access thereto, copies will be furnished upon payment of the fees prescribed in § 707.23 of this Part.

(f) The Corporation may require any individual who wishes to be accompanied by any other individual when reviewing any records made available under this Part 707 shall provide the Corporation with a signed, written statement authorizing discussion of the information contained in such records in the presence of such accompanying individual.

(g) Copies of records made available for review to any individual under this Part 707 may be released to a duly authorized representative of any such individual provided that such individual provides the Corporation with a power of attorney to such effect on behalf of said representative, signed by such individual and duly acknowledged before a notary public or other authorized public official. The Corporation shall require any such representative to verify his identity in accordance with paragraph (c) of this section.

(h) Original or record copies of records will not be released from the files of the Corporation. Individuals will not be permitted to disturb any record files or to remove any records from the designated place of examination within the Corporation.

§ 707.22 Amendment of records.

(a) Whenever any individual desires an amendment to any record of the Corporation to correct information in such record pertaining to him that he believes not to be accurate, relevant, timely, or complete, he may submit such a request to the Corporation in the form specified in paragraph (b) of this section. Such request shall be addressed to the Director of Personnel and Administration and may either be mailed to the Corporation or delivered to the receptionist at the office of the Corporation, 1129—20th Street, N.W., Washington, D.C. 20527, between 8:45 a.m. and 5:30 p.m., Monday thru Friday (excluding legal public holidays). Such request shall be deemed not to have been received by the Corporation until actually delivered to it or, whenever mailed, actually received by the Chief of Personnel and Administration.

(b) Any request submitted to the Corporation under paragraph (a) of this section shall comply with the following requirements:

(1) It shall be in writing, signed by the individual, and, except in the event such requesting individual is an officer or employee of the Corporation, duly acknowledged before a notary public or other authorized public official;

(2) It shall accurately identify the records and information to be amended;

(3) It shall specify the correction requested; and

(4) It shall fully specify the basis for such individual's belief that the records and information are not accurate, relevant, timely or complete; and

(5) It shall be supported by substantial and reliable evidence sufficient to permit the Corporation to determine whether such amendment is in order. Any such request shall be deemed not to have been received by the Corporation and shall be returned without prejudice whenever the Director of Personnel and Administration determines that such request either does not describe records specifically enough to permit the staff of the Corporation to promptly locate such records or does not state the amendment requested or the basis therefor in reasonably specific language.

(c) The Director of Personnel and Administration shall acknowledge in writing the receipt of any such request to correct any records not later than ten (10) days (excluding Saturdays, Sundays and legal public holidays) after the date of the receipt of such request by the Corporation.

(d) Not later than thirty (30) days (excluding Saturdays, Sundays and official holidays) after the date of the receipt of such request by the Corporation, the Director of Personnel and Administration shall either:

(1) Make any correction of any portion of such records that he determines not to have been accurate, relevant, timely, or complete and notify the individual in writing of such correction; or

(2) Inform the individual in writing of his decision to deny any portion of such request, the reason for the refusal, and the right of the individual to request a review thereof by the Executive Vice President of the Corporation under paragraph (e) of this section.

(e) In the event the Director of Personnel and Administration shall deny any portion of any individual's request to amend records, such individual may within thirty (30) days of the date of the notification of such denial, file a written appeal of such decision with the Executive Vice President of the Corporation. Such appeal may be supported by any additional written evidence and statements deemed appropriate by the individual.

§ 707.23 Fees.

The fees to be charged by the Corporation for making copies of any records provided to any individual under this Part 707 shall be twenty (20) cents per page.

Subpart C—Exceptions

§ 707.31 Public information.

Nothing in this Part 707 shall be construed as a waiver by the Corporation, either in whole or in part, of the provisions of 5 USC 552(b) or 18 USC 1905. The Corporation, to the maximum extent permitted by law, may delete information from copies of any records furnished to any individual under this Part 707.

§ 707.32 Specific exemptions.

The provisions of 5 USC 552a (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f) shall not apply to any system of records maintained by the Corporation that is—

(a) Subject to the provisions of 5 USC 552(b)(1);

(b) Investigatory material compiled for law enforcement purposes other than those specified in 5 USC 552a (j)(2);

(c) Required by statute to be maintained and used solely as statistical records;

(d) Investigatory material compiled solely for the purpose of determining suitability, eligibility or qualifications for Federal civilian employment, military service, Federal contracts or access to classified information, but only to the extent that the Corporation may determine, in its sole discretion, that the disclosure of such material would reveal the identity of the source who, subsequent to September 27, 1975, furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to such date, under an implied promise to such effect; and

(e) Testing or examination materials used solely to determine individual qualifications for appointment or promotion in the Federal service and the Corporation determines, in its sole discretion, that disclosure of such materials would compromise the fairness of the testing or examination process.

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Title 32—National Defense

CHAPTER XVI—SELECTIVE SERVICE SYSTEM

PART 1608—PUBLIC INFORMATION

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PROTECTION OF PRIVACY

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AUTHORITY: Military Selective Service Act (50 U.S.C. App. sec. 451 et seq.), 32 CFR 1604.1.

§ 1608.1 Public information policy.

The Selective Service System has a positive public information policy under which information is brought to the attention of the public. The Selective Service System brings to the public, through news releases, pamphlets, educational material for distribution to high schools, and other documents, information concerning important events, and the functions of the Selective Service System.

§ 1608.2 Definitions.

When used in this part, the following words shall have the meaning ascribed to them as follows:

(a) "Disclose" shall mean an oral or written statement concerning any such record or information.

(b) "Furnish" shall mean providing in substance or verbatim a copy of any such record or information.

(c) "Examine" shall mean a visual inspection and examination of any such record or information at the office of the local board or appeal board as the case may be.

(d) "Information" shall mean all the data in a record or records including those items on standard forms left blank, marked "Not Applicable" or the equivalent

§ 1608.3 General policy on disclosure of information.

(a) It is the general policy of the Selective Service System to make information available to the public unless the disclosure thereof is prohibited by law.

(b) Technical instructions pertaining to automatic data processing, memoranda, correspondence, opinions, data, staff studies, information received in confidence, and similar documentary material prepared for the purpose of internal communication within the Selective Service System or between the Selective Service System and other organizations or persons generally are not information available to the public.

(c) Lists of registrants may be furnished only in accordance with written instructions from the Director of Selective Service.

§ 1608.4 Available information.

(a) Upon request, current documents specifically identified as being printed for free distribution to the general public will be furnished without charge. Each individual requesting such documents shall be entitled to only one copy of each document.

(b) The Registrants Processing Manual is available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Selective Service Regulations appear in Chapter XVI of title 32, Code of Federal Regulations.

(c) The Registrants Processing Manual may be inspected at the office of any local board, the office of the State Director of Selective Service for any State or at the National Headquarters, Selective System.

(d) Each local board maintains a Classification Record (SSS Form 102) which contains the name, selective service number, and the current and past classifications for each person registered with that board. Information in this record may be inspected at the local board at which it is maintained.

(e) Any compensated employee of the Selective Service System may disclose to the former employer of a registrant who is serving in or who has been discharged from the Armed Forces whether the registrant has or has not been discharged and, if discharged, the date thereof, upon reasonable proof that the registrant left a position in the employ of the person requesting such information in order to serve in the Armed Forces.

(f) The names, position titles, grades, salaries, and duty stations of employees of the Selective Service System are public information.

(g) The names of local board members and the names and addresses of advisors to registrants will be posted in an area available to the public at each board office to which such personnel are assigned.

(h) Personal data concerning board members that relate to their legal qualifications for appointment and/or continuation in office are a matter of official record. Upon request, the executive secretary or clerk of a local board or appeal board will verify that a member of that board was legally qualified for appointment and for continuation in office without disclosing the personal data pertaining to such member without the member's consent.

§ 1608.5 Places where information may be obtained.

(a) Requests for information concerning a registrant should be directed to the local board where he is registered.

(b) Requests for information concerning the national administration of the Military Selective Service Act should be directed to the National Headquarters, Selective Service System, 1724 F Street NW., Washington, D.C. 20435.

(c) Requests for information concerning the administration of the Military Selective Service Act within a particular State should be directed to the State Director of Selective Service of that state.

§ 1608.6 Rules governing the obtaining of information.

(a) A request for information under this part should be made orally or in writing during business hours at the appropriate selective service office. When information to be furnished is not readily available, the employee responsible for obtaining the information shall advise the requester how and where it may be obtained.

(b) Although the time period allowed for inspection of documents must be sufficient to allow hand copying, the activity should not interfere with the daily business activities of the selective service office. Accordingly, the selective service employee handling the request for information or inspection should arrange for inspection of files and documents during specified hours of the business week.

(c) Any person entitled under the provisions of this part to examine any record or information shall be permitted to copy it by hand, to photograph it or to copy it by using portable copying equipment so long as the use of such equipment does not disrupt the normal operations of the office.

§ 1608.7 Identification of information requested.

(a) Any person who requests information under these regulations shall provide a reasonably specific description of the information sought so that it may be located without undue search or inquiry. Information that is not identified by a reasonably specific description is not an identifiable record, and the request for

that information may be declined.

(b) If the description is insufficient, the employee processing the request will notify the requester and, to the extent possible, indicate the additional information required. Every reasonable effort shall be made to assist a requester in the identification and location of the record or records sought. Records will not be withheld merely because it is difficult to find them.

(c) When a request is received at an office not having charge of the records, it shall promptly forward the request to the proper office and notify the requester of the action taken.

§ 1608.8 Request for information not authorized to be disclosed.

Whenever an employee receives a request for information or documents the disclosure of which is not clearly authorized by the provisions of this part that request will be immediately reported by telephone to the General Counsel, Selective Service System, for instruction as to its disposition.

§ 1608.9 Review of denials of requests for information.

(a) Complaints concerning possible abuse of discretion granted Selective Service employees under this part or failure to respond to inquiries shall be directed to the state director in the case of state headquarters or local board employees and to the Director in the case of National Headquarters employees.

(b) A requester whose request for information or documents has not been satisfied may appeal to the Director of Selective Service, 1724 F Street NW., Washington, D.C. 20435.

PROTECTION OF PRIVACY

§ 1608.10 Protection of privacy procedure—Purpose and scope.

(a) The purpose of this subpart is to provide that records of the Selective Service System are maintained as required by the provisions of the Privacy Act of 1974 (P.L. 93–579). The provisions hereof extend to records and systems of records defined in that Act as being subject thereto.

(b) The Selective Service System will not disclose any record in a system of records pertaining to an individual maintained by the Selective Service System except (1) pursuant to the provisions of the Privacy Act of 1974 (P.L. 93–579), 5 U.S.C. 552a, and (2) the provisions of this subpart.

§ 1608.11 Procedure for requests pertaining to an individual record in a system.

A request by an individual that he be informed if a system of records named by him contains a record pertaining to him should be directed to the Selective Service System office responsible for maintaining such system of records. If the request is not directed to the proper office, it will be referred by the office which receives such request to the proper office of the Selective Service System. Such office will promptly ascertain if the system of records named by the individual making the request contains a record pertaining to such individual and, thereafter, promptly inform the requester in writing of the existence or nonexistence of such record.

§ 1608.12 Times, place and requirements for identification of individuals making requests.

An individual requesting a record or information pertaining to him must make such request orally or in writing during business hours at the Selective Service System office where such record is maintained. The requester shall submit appropriate evidence to the employee responsible for maintaining such record sufficient to identify the requester as the individual to whom the requested record or information pertains. If the requester is a registrant, he should provide his Selective Service Number or date and place of registration if such number is for some reason unavailable.

§ 1608.13 Disclosure of requested information to individuals.

(a) Information contained in records maintained on a specific individual and the records pertaining to such individual may be disclosed or furnished to or examined, without charge, by the individual concerned, and any person having current written authority dated and signed by the individual concerned.

(b) A copy or copies of such records will be provided to the individuals to whom the records pertain, and to any other requester referred to in (a) above upon payment of the fees prescribed in Section 1608.22 of this part.

§ 1608.14 Special procedure—medical records. [Reserved]

§ 1608.15 Request for correction or amendment to record.

An individual shall be permitted to request amendment of a record pertaining to him and such record shall be amended as hereinafter provided. A request for amendment of a record shall be made in writing to the employee responsible for maintaining such record or information. Receipt of such request will be acknowledged in writing to the requester not later than 10 days (excluding Saturdays, Sundays and legal public holidays) after the date of the receipt of such request. Unless it is determined that the request for amendment should be refused, the responsible employee will promptly accomplish the amendment of the record or information by placing in the file the documentation submitted to support the amendment requested and taking appropriate action for the corresponding amendment of all records derived from such file. The requester will be notified of the action for amendment of his record. Notification of the amendment will be made to any known agency or person who had been furnished information from the record prior to its amendment.

§ 1608.16 Agency review of request for correction or amendment of record.

If for any reason it is determined that a request for amendment of a record or records must be refused, the individual making the request will be notified of the refusal, of the reason for such refusal; and the procedures established for the individual to request a review of the refusal by the officer designated by the Director of Selective Service for such review and the name and business address of that officer.

§ 1608.17 Appeal of initial adverse agency determination on correction or amendment.

(a) An initial determination to refuse to amend a local board or state record may be appealed in writing by the individual making the request for amendment to the State Director of Selective Service having supervision over the employee who made such determination. An initial determination to refuse to amend a National Headquarters record may be appealed in writing to the National Headquarters Division Manager having responsibility for supervision of such records.

(b) If after review the State Director or National Headquarters Division Manager concerned also refuses to amend the record, the individual making the request will be permitted to file a concise statement setting forth the reasons for his disagreement with the refusal. After such statement has been filed, the request and all relevant documentation will be forwarded promptly for final review to the Director of Selective Service whose decision will be the final action of the Selective Service System.

§ 1608.18 Disclosure of record to person other than the individual to whom it pertains.

Information contained in records in a registrant's file and records pertaining to a specific individual may be disclosed or furnished to, or examined by, the following:

(a) Any person or other agency upon submission to the employee responsible for the system of records of the prior written consent of the individual to whom the record pertains. The consent authorization must bear a current date and the signature of the individual concerned.

(b) All personnel of the Selective Service System while engaged in carrying out the functions of the Selective Service System who have a need for the record in the performance of their duties.

(c) In the case of registrants, a U.S. Attorney and his duly authorized representatives, including agents of the Federal Bureau of Investigation, whenever the registrant has been reported to the U.S. Attorney as a violator for prosecution for violating the Military Selective Service Act or the rules, regulations, or directions made pursuant thereto.

(d) Any other agency, official, or employee, or class or group of officials or employees of the United States upon written request in individual cases, but only when and to the extent specifically authorized in writing by the Director of Selective Service.

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(e) No information shall be disclosed or furnished to, or examined by, any person under the provisions of this section, until such person has been properly identified as entitled to obtain such information.

§ 1608.19 Waiver of confidential nature of information on registrants files.

The making or filing by or on behalf of a registrant of a claim or action for damages against the Government or any person, based on acts in the performance of which the record of a registrant or any part thereof was compiled, or the institution of any action against the Government, or any representative thereof by or on behalf of a registrant involving his classification, selection, or induction, shall constitute a waiver of the confidential nature of all Selective Service records of such registrant, and, in addition, all such records shall be produced in response to the subpoena or summons of the tribunal in which such claim or action is pending.

§ 1608.20 Subpoena of records.

(a) In the prosecution of a registrant or any other person for a violation of the Military Selective Service Act, the Selective Service Regulations, any orders or directions made pursuant to such act or regulations, or for perjury, all records of the registrant shall be produced in response to the subpoena or summons of the court in which such production or proceeding is pending. Any officer or employee of the Selective Service System who produces the records of a registrant in court shall be considered the custodian of such records for the purpose of this section.

(b) Except as provided in paragraph (a) of this section, no officer or employee of the Selective Service System shall produce a registrant's file, or any part thereof, or testify regarding any confidential information contained therein, in response to the subpoena or summons of any court without the consent, in writing, of the registrant concerned or of the Director of Selective Service.

(c) Whenever, under the provisions of this section, a registrant's file, or any part thereof, is produced as evidence in the proceedings of any court, such file shall remain in the personal custody of an official of the Selective Service System, and permission of the court be asked, after tender of the original file, to substitute a copy of the file with the court.

§ 1608.21 Demands of courts or other authorities for records or information protected by these regulations.

No officer or employee of the Selective Service System will comply with a request, demand or order of a court or other authority to produce information the disclosure of which is prohibited or restricted by the provisions of this part without the prior approval of the Director of Selective Service.

§ 1608.22 Fees.

Fees for copies of records are the following:

(a) Search of records is made by compensated employees of the Selective Service System without charge.

(b) The charge for copies of documents and records prepared on Selective Service System equipment is 25 cents per page.

(c) Copies will not be released to any requester until the required fee is paid in full by cash, check or money order. Checks and money orders should be made payable to the Selective Service System.

(d) Documents will be furnished without charge or at a reduced charge where it is determined that the waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(e) Where a registrant has been charged under the Military Selective Service Act and must defend himself in a criminal prosecution, or where a registrant submits to induction and thereafter brings habeas corpus proceedings to test the validity of his induction, the Selective Service System will furnish to him, or to any person he may designate, one copy of his Selective Service file free of charge.

Title 22—Foreign Relations

CHAPTER VI—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

PART 603—PRIVACY ACT POLICY AND PROCEDURES

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AUTHORITY: 5 U.S.C. 301; 5 U.S.C. 552a; 5 U.S.C. 553; 22 U.S.C. 2581; and 31 U.S.C. 483a.

§ 603.1 Purpose and scope.

This Part 603 contains the regulations of the U.S. Arms Control and Disarmament Agency implementing the provisions of the Privacy Act of 1974 (Pub. L. 93–579), 5 U.S.C. 552a. In addition to containing internal policies and procedures, these regulations set forth procedures whereby an individual can determine if a system of records maintained by the Agency contains records pertaining to him and can request disclosure and amendment of such records. These regulations also set forth the basis for denying amendment requests and the procedures for appealing such denials.

§ 603.2 Definitions.

As used in this part:

(a) "Act" means the Privacy Act of 1974 (Pub. L. 93–579), 5 U.S.C. 552a.

(b) "ACDA" and "Agency" mean the U.S. Arms Control and Disarmament Agency.

(c) "Privacy Act Officer" means the Agency official authorized to receive and act upon inquiries, requests for access and requests for amendment.

(d) "Director" means the Director of the Agency or his duly authorized representative (other than the Privacy Act Officer).

(e) "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(f) "maintain" includes maintain, collect, use, or disseminate;

(g) "record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

(h) "system of records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(i) "statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of Title 13; and

(j) "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 603.3 Policy.

(a) It is the policy of the Agency that only such information about an individual as is relevant and necessary to accomplish a purpose of the Agency required to be accomplished by statute or by executive order of the President shall be maintained in an Agency record. No information about the political or religious beliefs and activities of an individual will be maintained within such records unless specifically authorized by statute or by the subject individual, or unless pertinent to and within the scope of a law enforcement activity.

(b) The Agency will not disclose any record which is contained in a system of records to any person or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record is:

(1) to those officers and employees of the Agency who have a need for the record in the performance of their duties;

(2) required under the Freedom of Information Act, as amended (5 U.S.C. 552);

(3) for a routine use, notice of which has been published in accordance with the Act;

(4) to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13 of the United States Code;

(5) to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(7) to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(10) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(11) Pursuant to the order of a court of competent jurisdiction.

(c) Except for disclosures of information to Agency employees having need for the information in the official performance of their duties or required under the provisions of the Freedom of Information Act, an accurate accounting of each disclosure will be made and retained for five years after the disclosure or for the life of the record whichever is longer. The accounting will include the date, nature, and purpose of each disclosure and the name and address of the person or agency to whom the disclosure is made. Each such disclosure, unless made to agencies engaged in law enforcement activities in accordance with paragraph (b)(7) of this section, will be made available to the individual upon request.

(d) To the greatest extent practicable, information which may result in an adverse determination about an individual shall be collected from that individual, and he will be informed of the purposes for which the information will be used and his rights, benefits, and obligations with respect to supplying the data.

(e) The Executive Officer of ACDA and each custodian of a systems of records shall ensure that all records which are used by the Agency to make a determination about any individual are maintained with such accuracy, relevance, timeliness and completeness as is reasonably necessary to assure fairness to the individual. Whenever information about an individual contained in an Agency record is used or disclosed the custodian of the system of records in which the record is located will make every effort to assure that it is accurate, relevant, timely and complete.

(f) The Executive Officer of ACDA shall establish appropriate administrative, technical, and physical safeguards to ensure that records are disclosed only to those who are authorized to have access to them and to protect against any anticipated threats or hazards to their security or integrity which would result in substantial harm, embarrassement, inconvenience, or unfairness to any individual on whom information is maintained.

(g) Agency records pertaining to an individual shall be made available to that individual to the greatest extent possible.

(h) No lists of names and addresses will be rented or sold unless such action is specifically authorized by law, provided that names and addresses otherwise permitted to be made public will not

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necessarily be withheld when requested.

(i) All requests for information under the Privacy Act received by the Agency will be acted upon as promptly as possible. Whenever practicable a response or an acknowledgment of the request will be sent within ten days.

§ 603.4 Requests for determination of existence of records.

Any individual desiring to know whether any system of records maintained by the Agency contains a record pertaining to him shall either send a written request to the Privacy Act Officer, U.S. Arms Control and Disarmament Agency, Room 5725, Department of State Building, 320 21st Street NW., Washington, D.C. 20451, or make an oral request in person during the Agency's normal business hours at the Agency Library located in Room 804, State Annex 6, 1700 North Lynn Street, Rosslyn, Virginia. All requests for determination of the existence of records should include sufficient information to identify the system of records, such as its name or FEDERAL REGISTER identifier number if known, in addition to such identifying information as the individual's name and date of birth.

§ 603.5 Requests for disclosure to an individual of records pertaining to him.

(a) An individual desiring access to or copies of records maintained by the Agency shall either send a written request to the Privacy Act Officer, U.S. Arms Control and Disarmament Agency, Room 5725, Department of State Building, 320 21st Street NW., Washington, D.C. 20451, or make an oral request in person during the Agency's normal business hours, at the Agency Library, located in Room 804, State Annex 6, 1700 North Lynn Street, Rosslyn, Virginia. All requests for disclosure to an individual of records pertaining to him should include sufficient information to identify the record or system of records such as its name or FEDERAL REGISTER identifier number if known, in addition to such identifying information as the individual's name and date of birth.

(b)(1) Except as provided in paragraph (b)(2) of this section:

(i) If the individual making a written request is not personally known to the Privacy Act Officer or to other Agency personnel processing the request, the written request must include satisfactory evidence that the requester is in fact the individual to whom the requested records pertain. For this purpose, the Agency normally will be satisfied by the receipt of the requester's oath or attestation stipulating such facts, legally certified. Such requests must also include a statement signed by the requester declaring that he understands that it is a criminal offense to knowingly or willfully seek or obtain access, under false pretenses, to Agency records pertaining to another individual.

(ii) If the individual making a request in person is not personally known to the Privacy Act Officer or to other Agency personnel processing the request, the requester must present two identification documents (at least one of which must bear his picture) containing his signature and other suitable evidence of identity. Examples of acceptable documents are a driver's license, passport, employee identification card, or military identification card.

(2) Evidence that the requester is in fact the individual to whom the requested records pertain is not required for information which would be required to be made available to a third party under the Freedom of Information Act (5 U.S.C. 552).

(c)(1) Access to or copies of records requested pursuant to this section shall be furnished except as provided in paragraph (c)(3) of this section.

(i) To an individual making a request in person, upon verification of personal identity as required in paragraph (b) of this section, to that individual, and if the individual is accompanied by any other person, upon his request, to that person, except that the Agency may require the individual to furnish a written statement authorizing disclosure of the individual's record in the presence of the accompanying person.

(ii) To an authorized representative or designee of an individual, if the individual has provided verification of personal identity as required in paragraph (b) of this section, and submits a signed, notarized statement authorizing and consenting to access or disclosure to the representative or designee.

(iii) To a physician authorized by a signed, notarized statement made by the individual making the request, in the event that the records requested are medical records of such a nature that the Privacy Act Officer has determined that the release of such medical information directly to the requester could have an adverse effect on the requester. The individual making the request must also provide verification of personal identity as required in paragraph (b) of this section.

(2) Access to records or copies of records requested shall be furnished as promptly as possible; however:

(i) Any individual making a request in person is advised that not all records are stored at the Agency Library and that there may be a delay of more than one day before requested records are assembled and access or copies can be provided.

(ii) any individual making a request by mail is advised that while an initial acknowledgment of the request will be made in ten working days and in normal circumstances a full reply will be provided in ten working days, in unusual circumstances the full reply may take a longer period.

(3) Access to or copies of records requested pursuant to this section shall not be granted if:

(i) The individual making the request does not comply with the requirements for verification of personal identity as required in paragraph (b) of this section.

(ii) The records are exempt from disclosure pursuant to § 603.8.

(iii) Payment of fees, computed at a rate which permits recovery by the Agency of the costs incurred in making such copies, has not been received by the Agency before the copies are furnished. Unless otherwise provided by statutory or regulatory authority, the fee required by this paragraph shall be computed at a rate of $0.10 per copied page. A fee of $1.00 shall be charged for certification of a record as a true copy. No copying fee will be charged if the Agency provides a copy in lieu of granting access to the record to an individual making a request in person, and no fees will be charged for search for and review of a record. Fees of less than one dollar shall be waived, but copying fees for contemporaneous requests by the same individual shall be aggregated. Remittances may be in the form of cash, a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the Treasurer of the United States and mailed or delivered to the Privacy Act Officer, U.S. Arms Control and Disarmament Agency, Room 5725, Department of State Building, 320 21st Street NW., Washington, D.C. 20451.

§ 603.6 Requests for amendment of records.

(a) An individual may request amendment of a record pertaining to him by sending a written request to the Privacy Act Officer, U.S. Arms Control and Disarmament Agency, Room 5725, Department of State Building, 320 21st Street NW., Washington, D.C. 20451. The request should identify the record sought to be amended, specify the precise nature of the requested amendment, and state why the requester believes that the record is not accurate, relevant, timely or complete.

(b) Not later than 10 days after receipt of such request (excluding Saturdays, Sundays and legal holidays), the Privacy Act Officer will acknowledge such receipt and promptly:

(1) Make any correction of any portion of the record pertaining to the individual which the Agency considers appropriate; and

(2) Inform the requester in writing of the action taken by the Agency, of the reason for refusing to comply with any portion of the request, and of the procedures established by the Agency to consider requests for review of such refusals.

(c) The Privacy Act Officer shall refuse to amend a record if the information therein is deemed by the Agency:

(1) To be relevant and necessary to accomplish a purpose of the Agency required to be accomplished by statute or by executive order of the President; and

(2) To be maintained with such accuracy, relevance, timeliness and completeness as is reasonably necessary to assure fairness to the individual in making any determination about him; and

(3) Not to describe how the individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained.

(d) When the Privacy Act Officer agrees to amend a record, written notice

that the record has been amended and the substance of the amendment will be sent to the last known address of all previous recipients of that record shown in the Agency's Privacy Act Requests File.

§ 603.7 Appeals from denials of requests to amend.

(a) An individual who disagrees with the refusal of the Privacy Act Officer to amend his record may request a review of such refusal within 30 days of receipt of notice of the refusal. Such request should be addressed to the Director, U.S. Arms Control and Disarmament Agency, Room 5930, Department of State Building, 320 21st Street NW., Washington, D.C. 20451, and should include a copy of the written request which was refused, a copy of the denial complained of, and reasons for appeal from the denial.

(b) Review shall be made on the submitted record. No personal appearance, oral argument, or hearing shall be permitted.

(c) Review shall be completed and a final determination made not later than 30 days (excluding Saturdays, Sundays and legal holidays) from the date on which the request for such review is received. This 30-day limitation may be extended, at the discretion of the Director, for kood cause shown. The requester shall be notified in writing of the Director's final determination.

(d) If, after completion of his review, the Director also refuses to amend the record as requested, the notice to the individual shall advise him of his right to file with the Agency a concise statement setting forth the reasons for his disagreement with this refusal and of his right to judicial review pursuant to the Act.

(e) When an individual has filed with the Agency a statement of disagreement following a refusal of the Director to amend the record as requested, the Agency will clearly note that portion of the record which is disputed and will send copies of the statement of disagreement to the last known address of all previous recipients of the disputed record shown in the Agency's Privacy Act Requests File.

§ 603.8 Exemptions.

(a) As authorized by the Act, the following categories of records are hereby exempted from the requirements of sections (c)(3), (d), (e)(4)(G), (H) and (I), and (f) of 5 U.S.C. 552a, and will not be disclosed to the individuals to which they pertain:

(1) System of Records of ACDA-4—Statements by Principals during the Strategic Arms Limitation Talks, Mutual Balanced Force Reduction negotiations, and the Standing Consultative Committee. This system contains information classified pursuant to Executive Order 11652 which is exempt from disclosure by the Act (5 U.S.C. 552a(k)(1)) in that disclosure could disrupt foreign relations affecting national security.

(2) System of Records ACDA-3—Security Records. This system contains investigatory material compiled for law enforcement purposes which is exempted from disclosures by the Act (5 U.S.C. 552a(k)(2)); *Provided, however*, That if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, if furnished to the Government prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(3) Systems of Records ACDA-3—Security Records. This system contains investigatory materials compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information which is exempt from disclosure by the Act (5 U.S.C. 552a(k)(5)), but only to the extent that this disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, if furnished to the Government prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(b) Nothing in these regulations shall be construed to allow an individual access to:

(1) Any information compiled in reasonable anticipation of a civil action or proceeding; or

(2) Testing or examination material used solely to determine individual qualification for appointment or promotion in the Federal Service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

§ 603.9 New and amended systems of records.

(a) The Agency shall provide adequate advance notice to Congress and to the Office of Management and Budget of any proposal to establish or alter any system of records. Such notice shall be in a form consistent with guidance on content, format and timing issued by the Office of Management and Budget.

(b) The Agency shall publish by August 31 of each year in the FEDERAL REGISTER a notice of the existence and character of each system of records maintained by the Agency. Such notice shall be consistent with guidance on format contained in the Act and issued by the General Services Administration. At least 30 days before any new or changed routine use of records contained within a system of records can be made, the Agency shall publish notice of such new or changed use in the FEDERAL REGISTER.

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Title 20—Employees' Benefits

CHAPTER II—U.S. RAILROAD RETIREMENT BOARD

PART 200—PROCEDURES AND FORMS

§ 200.4 Protection of privacy of records maintained on individuals.

(a) *Purpose and scope.* The purpose of this section is to establish specific procedures necessary for compliance with the Privacy Act of 1974 (Pub. Law 93-579). These regulations apply to all record systems containing information of a personal or private nature maintained by the Railroad Retirement Board that are indexed and retrieved by personal identifier.

(b) *Definitions*—(1) *Individual.* The term "individual" pertains to a natural person who is a citizen of the United States or an alien lawfully admitted for permanent residence and not to a company or corporation.

(2) *System of records.* For the purposes of this section, the term "system of records" pertains to only those records that can be retrieved by an individual identifier.

(3) *Railroad Retirement Board.* For purposes of this section, the term "Railroad Retirement Board" refers to the United States Railroad Retirement Board, an independent agency in the executive branch of the United States Government.

(4) *Board.* For purposes of this section the term "Board" refers to the three member governing body of the United States Railroad Retirement Board.

(c) *Procedure for requesting the existence of personally identifiable records in a record system.* An individual can determine if a particular record system maintained by the Railroad Retirement Board contains any record pertaining to him by submitting a written request for such information to the system manager of that record system as described in the annual notice published in the FEDERAL REGISTER. A current copy of the system notices, published in accordance with paragraph (i) of this section, is available for inspection at all regional and district offices of the Board. If necessary, Board personnel will aid requesters in determining what system(s) of records they wish to review and will forward any requests for information to the appropriate system manager. Also, requests for personal information may be submitted either by mail or in person to the system manager at the headquarters of the Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611. Prior to responding to a request for information under this subsection, the system manager shall require the individual requesting such information to provide identifying data, such as his full name, date of birth, and social security number. The system manager shall respond to a request under this subsection within a reasonable time by stating that a record on the individual either is or is not contained in the system.

(d) *Disclosure of requested information to individuals.* (1) Upon request, an individual shall be granted access to records pertaining to himself, other than medical records and records compiled in anticipation of a civil or criminal action or proceeding against him, which are indexed by individual identifier in a particular system of records. Requests for access must be in writing and should be addressed to the system manager of that record system as described in the annual notice published in the FEDERAL REGISTER. Requests under this subsection may be submitted either by mail or in person at the headquarters offices of the Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

(2) The system manager shall, within ten working days following the date on which the request is received in his office, render a decision either granting or denying access and shall promptly notify the individual of his decision. If the request is denied, the notification shall inform the individual of his right to appeal the denial to the Board. An individual whose request for access under this subsection has been denied by the system manager may appeal that determination to the Board by filing a written appeal with the Secretary of the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 within twenty working days following receipt of the notice of denial. The Board shall render a decision on an appeal within thirty working days following the date on which the appeal is received in the office of the Secretary of the Board. The individual shall promptly be notified of the Board's decision.

(3) In cases where an individual has been granted access to his records, the system manager shall, prior to releasing such records, require the individual to produce identifying data such as his name, date of birth, and social security number.

(4) Disclosure to an individual of his record may be made by providing him, upon written request therefor, a copy of the record or portion thereof which he reasonably describes in his request.

(5) An individual, and if such individual so desires, one other person of his choosing, may review and have a copy made of his record (in a form comprehensible to him) during regular business hours at the location described as the repository of the record system containing such records in the annual notice published in the FEDERAL REGISTER or at such other location convenient to the individual as specified by the system manager. If an individual is accompanied by another person, the system manager may require written authorizations for disclosure in the presence of the other person from the individual before any record or portion thereof is released.

(e) *Special procedures—medical records.* (1) Upon receipt of a request made by an individual for access to medical records pertaining to him maintained by the Railroad Retirement Board, the system manager of the system of records containing the medical records in question shall, within ten working days following the date on which the request is received in his office, respond to such request as follows:

(i) If the system manager has received a written authorization from the physician or practitioner who supplied a particular medical record permitting the individual access to that record, the system manager shall grant the individual access to such record as provided under paragraph (d) of this section; or

(ii) If the system manager has not received a written authorization from the physician or practitioner who supplied a particular medical record permitting the individual access to that record, the system manager shall notify the individual that access to the record cannot be granted without such consent, and he shall further inform the individual of the name and address of the physician or practitioner who supplied the record.

(2) If the physician or practitioner who supplied a particular medical record should need to examine the record in order to determine whether disclosure of the record might be harmful to the individual, the system manager shall inform the individual that the physician or practitioner has requested the record and shall furnish the record or a copy thereof to the physician or practitioner.

(3) If the physician or practitioner who supplied a particular medical record is unavailable to give his authorization for access to that record, the system manager shall inform the individual who requested access that the record may be made available to a physician named by the individual for the purpose of making a determination as to whether disclosure of the record to the individual might be harmful to the individual and as to whether access to the record should be denied for that reason.

(4) Notwithstanding the provisions of subparagraphs (1), (2), and (3) of this paragraph and of paragraph (d) of this section, if a determination made with respect to an individual's claim for benefits under the Railroad Retirement Act or the Railroad Unemployment Insurance Act is based in whole or in part on medical records, disclosure of or access to such medical records shall be granted to such individual when such records are requested for the purpose of contesting such determination either administratively or judicially.

(5) The procedures for access to medical records set forth in this paragraph shall not apply with respect to requests for access to an individual's disability decision sheet or similar adjudicatory documents, access to which is governed solely by paragraph (d) of this section.

(f) *Request for amendment of a record.* (1) An individual may request that a record pertaining to himself be amended by submitting a written request for such amendment to the system manager as described in the annual notice published in the FEDERAL REGISTER. Requests under this subsection may be made either by mail or in person at the

headquarters offices of the Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611. Such a request should include a statement of the information in the record which the individual believes is incorrect, a statement of any information not in the record which the individual believes would correct the record, if included, and a statement of any evidence which substantiates the individual's belief concerning the inaccuracy of the information presently contained in the record.

(2) Prior to rendering a determination in response to a request under this subsection, the system manager shall require that the individual provide identifying data such as his name, date of birth, and social security number.

(3) The system manager responsible for the system of records which contains the challenged record shall acknowledge receipt of the request in writing within ten working days following the date on which the request for amendment was received in his office and shall promptly render a decision either granting or denying the request.

(i) If the system manager grants the individual's request to amend his record, the system manager shall amend the record accordingly, advise the individual in writing that the requested amendment has been made and where an accounting of disclosures has been made, advise all previous recipients of the record to whom disclosure of such record was made and accounted for of the fact that the amendment was made and the substance of the amendment.

(ii) If the system manager denies the individual's request to amend his record, the system manager shall inform the individual that the request has been denied in whole or in part, the reason for the denial and the procedure regarding the individual's right to appeal the denial to the Board.

(g) *Appeal of initial adverse determination on amendment.* (1) An individual, whose request for amendment of a record pertaining to him is denied, may appeal that determination to the Board by filing a written appeal with the Secretary of the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611. The written notice of appeal should include a statement of the information in the record which the individual believes is correct, a statement of any information not in the record which the individual believes would correct the record, if included, and a statement of any evidence which substantiates the individual's belief concerning the inaccuracy of the information presently contained in the record.

(2) The Board shall consider the appeal and render a final decision thereon within thirty working days following the date on which the appeal is received in the office of the Secretary of the Board. An extension of the thirty day response period is permitted for a good cause upon notification of such to the requester.

(3) If, upon consideration of the appeal, the Board upholds the denial, the appellant shall be so informed in writing. The appellant shall be advised that he may file a concise statement with the Board setting forth his reasons for disagreeing with the Board's decision and the procedures to be followed in filing such a statement of disagreement. The individual shall also be informed of his right to judicial review as provided under section 552a(g)(1)(A) of Title 5 of the United States Code. If disclosure has or will be made of a record containing information about which an individual has filed a statement of disagreement, that contested information will be annotated and a copy of the statement of disagreement will be provided to past and future recipients of the information along with which the Board may include a statement of its reasons for not amending the record in question.

(4) If, upon consideration of the appeal, the Board reverses the denial, the Board shall amend the record, advise the appellant in writing that such amendment has been made, and where an accounting of disclosures has been made, advise all previous recipients of the record to whom disclosure of such was made and accounted for, of the fact that the amendment was made and the substance of the amendment.

(h) *Disclosure of record to person other than the individual to whom it pertains.* (1) Records collected and maintained by the Railroad Retirement Board in the administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act which contain information of a personal or private nature shall not be disclosed to any person or to another agency without the express written consent of the individual to whom the record pertains. Such written consent shall not be required if the disclosure is not otherwise prohibited by law or regulation and is:

(i) To officers or employees of the Railroad Retirement Board who, in the performance of their official duties, have a need for the record;

(ii) Required under section 552 of Title 5 of the United States Code;

(iii) For a routine use of such record as published in the annual notice in the FEDERAL REGISTER;

(iv) To the Bureau of the Census for uses pursuant to the provisions of Title 13 of the United States Code;

(v) To a recipient who has provided the Board with advance written assurance that the record will be used solely as a statistical or research record, and the record is to be transferred in a form that is not individually identifiable;

(vi) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(vii) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(viii) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if, upon such disclosure, notification is transmitted to the last known address of such individual;

(ix) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(x) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(xi) Pursuant to the order of a court of competent jurisdiction.

(2) The Railroad Retirement Board shall maintain an accounting of all disclosures of records made under paragraph (h)(1) of this section, except those made under paragraphs (h)(1)(i) and (ii) of this section. This accounting will include:

(i) Date of disclosure;

(ii) Specific subject matter of disclosure;

(iii) Purpose of disclosure; and

(iv) Name and address of the person or agency to whom the information has been released.

The Railroad Retirement Board shall maintain the accounting for five years or the life of the system of records, whichever is longer, and make such accounting, with the exception of disclosures made under paragraph (h)(1)(vii) of this section, available to the individual to whom the record pertains upon his request. If, subsequent to disclosure of a record for which disclosure an accounting has been made pursuant to this subsection, an amendment is made to that record or an individual has filed a statement of disagreement concerning that record, the person or agency to whom such disclosure was made shall be notified of the amendment or statement of disagreement.

(i) *Annual notice of systems of records.* The Railroad Retirement Board shall publish in the FEDERAL REGISTER on an annual basis a listing of the various systems of records which it maintains by individual identifier. That notice shall provide the following for each system:

(1) The name and location of the system;

(2) The categories of individuals on whom records are maintained in the system;

(3) The routine uses of the system;

(4) The methods of storage, disposal, retention, access controls and retrievability of the system;

(5) The title and business address of the individual who is responsible for the system;

(6) The procedure whereby an individual can be notified at his request whether or not the system contains a record pertaining to him;

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(7) The procedure whereby the individual can be notified at his request how he can gain access to any record pertaining to him which is contained in the system;

(8) How the individual can contest the contents of such a record; and

(9) The categories of sources of records in the system.

(j) *Collection of information and maintenance of records.* With respect to each system of records indexed by individual identifier which is maintained by the Railroad Retirement Board, the Railroad Retirement Board shall:

(1) Maintain in each system only such information about an individual as is relevant and necessary in accomplishing the purposes for which the system is kept;

(2) To the greatest extent practicable, collect information directly from the individual when that information may result in an adverse determination about such individual's rights, benefits or privileges under programs administered by the Railroad Retirement Board;

(3) Inform each individual who is asked to supply information:

(i) The authority under which the solicitation of such information is carried out;

(ii) Whether disclosure of the requested information is mandatory or voluntary and any penalties for failure to furnish such information;

(iii) The principal purposes for which the information will be used;

(iv) The routine uses and transfers of such information; and

(v) The possible effects on such individual if he fails to provide the requested information.

(4) Maintain all records which are used by the Railroad Retirement Board in making any determination about any individual with such accuracy, relevance, timeliness and completeness as is reasonably necessary to assure fairness to the individual in the determination;

(5) Prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to paragraph (h)(1)(ii) of this section, make reasonable efforts to assure that such records are accurate, complete, timely and relevant for purposes of the administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act;

(6) Maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual to whom the record pertains or unless pertinent to and within the scope of an authorized law enforcement activity;

(7) Make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record; and

(8) At least thirty days prior to publication of information under paragraph (i) of this section, publish in the FEDERAL REGISTER notice of any new use or intended use of the information in the system and provide an opportunity for interested persons to submit written data, views or arguments to the Railroad Retirement Board.

(k) *Fees.* The Railroad Retirement Board may assess a fee for copies of any records furnished to an individual under paragraph (d) of this section. The fees for copies shall be $.10 per copy per page, not to exceed the actual cost of reproduction, and should be paid to the Director of Budget and Fiscal Operations for deposit to the Railroad Retirement Account. If payment is made by check, the check should be payable to the order of the Railroad Retirement Board. Any fee of less than $10 may be waived by the system manager if he determines that it is in the public interest to do so.

(l) *Government contractors.* When the Railroad Retirement Board provides by a contract or by a subcontract subject to its approval for the operation by or on behalf of the Railroad Retirement Board of a system of records to accomplish an agency function, the Railroad Retirement Board shall, consistent with its authority, cause the requirements of § 552a of Title 5 of the United States Code to be applied to such system. In each such contract or subcontract for the operation of a system of records, entered into on or after September 27, 1975, the Railroad Retirement Board shall cause to be included a provision stating that the contractors or subcontractors and their employees shall be considered employees of the Railroad Retirement Board for purposes of the civil and criminal penalties provided in sections (g) and (i) of the Privacy Act of 1974 (5 U.S.C. 552a (g) and (i)).

(m) *Mailing lists.* The Railroad Retirement Board shall neither sell nor rent information containing any individual's name or address, unless authorized by statute.

(n) *Disclosure of social security account numbers.* Whenever an individual is requested by the Railroad Retirement Board to disclose his social security account number he shall be informed as to whether such disclosure is mandatory or voluntary. If disclosure of the individual's social security account number is mandatory, he shall be informed of the statutory authority requiring such disclosure.

(5 U.S.C. 552a)

Title 18—Conservation of Power and National Resources

CHAPTER VI—WATER RESOURCES COUNCIL

PART 701—COUNCIL ORGANIZATION

Subpart E—Protection of Privacy

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AUTHORITY: Sec. 402, Water Resources Planning Act of 1965 (Sec. 402, Pub. L. 89–80; 79 Stat. 254, as amended (42 U.S.C. 1962d–1)) and the Privacy Act of 1974 (Pub. L. 93–579; 88 Stat. 1896 (5 U.S.C. 552a))

Subpart E—Protection of Privacy

§ 701.300 Purpose and scope.

(a) The purpose of this subpart is to set forth rules to inform the public about information maintained by the U.S. Water Resources Council relating to identifiable individuals and to inform those individuals how they may gain access to and correct or amend information about themselves.

(b) The regulations in this subpart implement the requirements of the Privacy Act of 1974 (Pub. L. 93–579; 88 Stat. 1896 (5 U.S.C. 552a)).

(c) The regulations in this subpart apply only to records disclosed or requested under the Privacy Act of 1974, and not requests for information made pursuant to the Freedom of Information Act, as amended (5 U.S.C. 552, as amended by Pub. L. 93–502).

§ 701.301 Definitions.

For the purposes of this subpart, unless otherwise required by the context:

(a) "Council" means the U.S. Water Resources Council;

(b) "Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(c) "Maintain" means maintain, collect, use or disseminate;

(d) "Record" means any item, collection, or grouping of information about an individual that is maintained by the Council, including, but not limited to, his education, financial transactions, medical history and criminal or employment history, and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

(e) "Adverse determination" means a decision by the proper Council official to deny, in whole or in part, a request from an individual for a correction or amendment of a record concerning the individual and maintained by the Council; and,

(f) "Record system" means "system of records" as defined in the Act, i.e., a group of any records under the control of the Council from which information is retrieved by the name of the individual or by some identifying particular assigned to the individual.

§ 701.302 Procedures for requests pertaining to individual records in a record system.

(a) The systems of records, as defined in the Privacy Act of 1974, maintained by the Council are listed annually in the FEDERAL REGISTER as required by that Act. Any individual may request the Council to inform him or her whether a particular record system named by the individual contains a record pertaining to him or her. The request may be made in person during business hours or in writing at the location and to the person specified in the notice describing that record system.

(b) An individual who believes that the Council maintains records pertaining to him or her but who cannot determine which records system contains those records, may request assistance by mail or in person at the Division of Program Coordination and Management, 2120 L Street, NW, Washington, D.C. 20037, during business hours (8:00 a.m. through 4:30 p.m., Monday through Friday, excluding legal holidays).

(c) The Council will attempt to respond to a request as to whether a record exists within 10 working days from the time it receives the request or to inform the requestor of the need for additional time or additional information within 10 working days. If a request is complied with within 10 working days, no separate acknowledgment will be made.

§ 701.303 Conditions of disclosure.

(a) Subject to the conditions of paragraphs (b) and (c) of this section, the Council will not disclose any record which is contained in a system of records, by any means of communication to any person who is not an individual to whom the record pertains.

(b) Upon written request or with prior written consent of the individual to whom the record pertains, the Council may disclose any such record to any person or other agency.

(c) In the absence of a written consent from the individual to whom the record pertains, the Council may disclose any such record provided such disclosure is:

(1) To those officers and employees of the Council who have a need for the record in the performance of their duties;

(2) Required under the Freedom of Information Act (5 U.S.C. 552);

(3) For a routine use compatible with the purpose for which it was collected;

(4) To the Bureau of Census for purposes of planning or carrying out a census or survey or related activity under the provisions of Title 13 of the United States Code;

(5) To a recipient who has provided the Council with adequate advance written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity authorized by law: *Provided*, The head of the agency or instrumentality has made a prior written request to the Assistant Director Program Coordination and Management specifying the particular record and the law enforcement activity for which it is sought;

(8) To a person pursuant to a showing of compelling circumstance affecting the health or safety of an individual: *Provided*, That upon such disclosure notification is transmitted to the last known address of such individual (and see § 701.306);

(9) To either House of Congress, and to the extent of a matter within its jurisdiction, any committee or subcommittee, or joint committee of Congress;

(10) To the Comptroller General, or any of his authorized representatives in the course of the performance of the duties of the GAO; or

(11) Under an order of a court of competent jurisdiction.

§ 701.304 Procedures for identification of individuals making requests.

(a) Each individual requesting the disclosure of a record or copy of a record will furnish the following information with his or her request: (1) The name of the record system containing the record; (2) proof as described in paragraph (b) of this section that he or she is the individual to whom the requested record relates; and (3) any other information required by the notice describing the record system.

(b) Proof of identity as required by paragraph (a)(2) of this section will be provided as described in paragraph (b)(1) and (2) of this section. Requests made by an agent, parent, or guardian will include the authorization described in § 701.310 (a) and (b).

(1) Requests made in writing will include a statement, signed by the individual and properly notarized, that he or she appeared before a notary public and submitted proof of identification in the form of a drivers license, birth certificate,

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passport or other identification acceptable to the notary public. In any case in which, because of the extreme sensitivity of the record sought to be seen or copied, the agency determines that the identification is not adequate, it may request the individual to submit additional proof of identification.

(2) If the request is made in person, the requester will submit proof of identification similar to that described in paragraph (b)(1) of this section, acceptable to the Council.

§ 701.305 Procedures for requests for access to or disclosure of records pertaining to individuals.

(a) After being informed by the Council that a system of records contains a record pertaining to him or her, an individual may request the Council for access to or disclosure of that record to him or her in the manner described in this section. Each such request of a record or a copy of it will be made at the place specified in the notice describing that system of records, either in writing or in person. Requests may be made by agents, parents, or guardians of individuals as described in § 701.310 (a) and (b).

(b) The request for access to or disclosure of a record should specifically identify the systems of records involved.

(c) The Council will attempt to affirm or deny a request within 10 working days from the time it receives the request or to inform the requester of the need for additional time, additional information, identification, or the tendering of fees (as specified in § 701.312), within 10 working days; except that if the request for access was not preceded by a notification request as provided in § 701.302, then the 10-day period will not begin until after such time as it has been determined that the record exists. If a request is complied with within 10 working days, no separate acknowledgement will be made.

§ 701.306 Special procedure: Medical records.

(a) An individual requesting disclosure of a record which contains medical or psychological information may name a medical doctor or other person to act as his agent as described in § 701.310 (a). Records containing medical or psychological information may be disclosed to that agent rather than to the individual at the individual's request.

(b) If the individual has not named a medical doctor as agent, the Council may determine, after consultation with a medical doctor, that disclosure of the information would have an adverse effect on the requester. The Council may then disclose that information to a medical doctor specified by the individual, rather than to that individual, either in person or by mail.

§ 701.307 Request for correction or amendment to record.

(a) Any individual who has reviewed a record pertaining to him that was furnished to him under this subpart, may request the agency to correct or amend all or any part of that record.

(b) Each individual requesting a correction or amendment will send the request to the agency official who furnished the record to him.

(c) Each request for a correction or amendment of a record will contain the following information:

(1) The name of the individual requesting the correction or amendment;

(2) The name of the system of records in which the record sought to be corrected or amended is maintained;

(3) The location of that record in the system of records;

(4) A copy of the record sought to be corrected or amended or a description of that record;

(5) A statement of the material in the record requested to be corrected or amended;

(6) A statement of the specific wording of the correction or amendment sought; and

(7) A statement of the basis for the requested correction or amendment, including any material that the individual can furnish to substantiate the reasons for the correction or amendment sought.

§ 701.308 Council review of request for correction or amendment of record.

(a) Not later than 10 days (excluding Saturdays, Sundays, and legal holidays) after the receipt of the request for the correction or amendment of a record under § 701.307, the Council will acknowledge receipt of the request and inform the individual whether further information is required before the correction or amendment can be considered.

(b) The Council will promptly review the request and either make the requested correction or amendment or notify the individual of the initial adverse determination, including in the notification the reasons for the adverse determination and the appeal procedure provided by § 701.309.

(c) The Assistant Director, Program Coordination and Management, or his designee, will, after consulting with the General Counsel, or his designee, have the primary authority to make an initial adverse determination.

(d) The Council will make each requested correction or amendment to a record if that correction or amendment will correct anything that is not accurate, relevant, timely, or complete, within the record.

(e) If the requested correction or amendment to a record is agreed to by the Council, the Council will, within 30 working days: (1) Advise the individual; (2) correct the record accordingly; and (3) where an accounting of disclosures had been made (as provided in § 701.311), advise all previous recipients (including the individual) of the record of the fact that the correction was made and the substance of the correction.

§ 701.309 Appeal of initial adverse determination.

(a) Any individual whose request for a correction or amendment, requested by him, to a record has been denied, in whole or in part, may appeal that decision to the Director of the Council.

(b) The appeal will be in writing and will:

(1) Name the individual making the appeal;

(2) Identify the record sought to be amended;

(3) Name the record system in which that record is contained;

(4) Contain a short statement describing the amendment sought; and

(5) State the name and location of the Council official who made the initial adverse determination.

(c) Not later than 30 days (excluding Saturdays, Sundays, and legal holidays) after the date on which the Council received the appeal, the Director will complete his review of the appeal and make a final decision thereon. However, for good cause shown, the Director may extend that 30 day period by not more than an additional 30 working days. If the Director so extends the period, he will promptly notify the individual requesting the review that the extension has been made and the reasons therefor.

(d) After review of an appeal request, the agency will send a written notice to the requester containing the following information:

(1) The decision and, if the denial is upheld, the reasons for the decision; and

(2) The specific civil remedies available to the requester as per section 2(g) of Pub. L. 93-579, as well as notice that additional remedies may be appropriate and available to enable the full exercise of the requester's rights at law.

(3) The right to file with the Council a concise statement setting forth the requester's reasons for disagreement with the Council's refusal to correct or amend the record.

§ 701.310 Disclosure of record to person other than the individual to whom it pertains.

(a) Any individual who desires to have a record covered by this subpart disclosed to or mailed to a person other than that individual may authorize that person to act as his agent for that specific purpose. The authorization will be in writing, signed by the individual, and will be notarized. The agent will submit with the authorization proof of the individual's identity as required by § 701.304 (b).

(b) The parent of any minor individual or the legal guardian of any individual who has been declared by a court of competent jurisdiction to be incompetent due to physical or mental incapacity or age, may act on behalf of that individual in any matter covered by this subpart. A parent or guardian who desires to act on behalf of such an individual will present suitable evidence of parentage or guardianship, by birth certificate, certified copy of a court order, or similar documents, and proof of the individual's identity in a form that complies with § 701.304(b).

(c) An individual to whom a record is

to be disclosed in person pursuant to this subpart, may have a person of his own choosing accompany the individual when the record is disclosed.

701.311 Accounting for disclosures.

(a) *Maintenance of an accounting.* (1) Where a record is disclosed to any person, or to another agency, under any of the provisions of § 701.303 except §§ 701.303(c) (1) and (2), an accounting will be made. (2) The accounting will record (1) the date, nature, and purpose of each disclosure of a record to any person or to another agency and (ii) the name and address of the person or agency to whom the disclosure was made. (3) Accountings prepared under this section will be maintained for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made.

(b) *Access to accounting.* (1) Except for accountings of disclosures made under §§ 701.303(c) (1) and (2), accountings of all disclosures of a record will be made available to the individual to whom the record relates at his or her request. (2) An individual desiring access to accountings of disclosures of a record pertaining to him or her will submit his request by following the procedures of § 701.305.

(c) *Notification of disclosure.* When a record is disclosed pursuant to § 701.303 (c)(11) as the result of the order of a court of competent jurisdiction, reasonable efforts will be made to notify the individual to whom the record pertains as soon as the order becomes a matter of public record.

§ 701.312 Fees.

(a) The Council will not charge an individual for the costs of making a search for a record or the costs of reviewing the record. When the Council makes a copy of a record as a necessary part of the process of disclosing the record to an individual, the Council will not charge the individual for the cost of making that copy.

(b) If an individual requests the Council to furnish him with a copy of the record (when a copy has not otherwise been made as a necessary part of the process of disclosing the record to the individual), the Council will charge a maximum fee of $0.25 per page (maximum per page dimension of 8 x 14 inches) to the extent that the request exceeds $5.00 in cost to the Council. Requests not exceeding $5.00 in cost to the Council will be met without cost to the requester.

§ 701.313 Penalties.

Title 18 U.S.C. Sec. 1001, Crimes and Criminal Procedures, makes it a criminal offense, subject to a maximum fine of $10,000 or imprisonment for not more than 5 years or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States. Section 552a(i)(3) of the Privacy Act (5 U.S.C. 552a(i)(3)) makes it a misdemeanor, subject to a maximum fine of $5,000, to knowingly and willfully request or obtain any record concerning an individual under false pretenses. Section 552a(i) (1) and (2) of the Privacy Act (5 U.S.C. 552a(i) (1) and (2) provide penalties for violations by agency employees of the Privacy Act or regulations established thereunder.

§ 701.314 Exemptions.

No Council records system or systems are exempted from the provisions of 5 U.S.C. 552a as permitted under certain conditions by 5 U.S.C. 552a(j) and (k).

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UMI

RESOLUTION CHART

1.0
1.1
1.25
1.4
1.6
1.8
2.0
2.2
2.5
2.8

100 MILLIMETERS

INSTRUCTIONS Resolution is expressed in terms of the lines per millimeter recorded by a particular film under specified conditions. Numerals in chart indicate the number of lines per millimeter in adjacent "T-shaped" groupings.

In microfilming, it is necessary to determine the reduction ratio and multiply the number of lines in the chart by this value to find the number of lines recorded by the film. As an aid in determining the reduction ratio, the line above is 100 millimeters in length. Measuring this line in the film image and dividing the length into 100 gives the reduction ratio. Example: the line is 20 mm. long in the film image, and 100 20 = 5.

Examine "T-shaped" line groupings in the film with microscope, and note the number adjacent to finest lines recorded sharply and distinctly. Multiply this number by the reduction factor to obtain resolving power in lines per millimeter. Example: 7.9 group of lines is clearly recorded while lines in the 10.0 group are not distinctly separated. Reduction ratio is 5, and 7.9 x 5 = 39.5 lines per millimeter recorded satisfactorily. 10.0 x 5 = 50 lines per millimeter which are not recorded satisfactorily. Under the particular conditions, maximum resolution is between 39.5 and 50 lines per millimeter.

Resolution, as measured on the film, is a test of the entire photographic system, including lens, exposure, processing, and other factors. These rarely utilize maximum resolution of the film. Vibrations during exposure, lack of critical focus, and exposures yielding very dense negatives are to be avoided.